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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Friday, March 30, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. KOHL].

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by the Reverend John E. Stait who is the assistant to the Chaplain here at the U.S. Senate.

PRAYER

The Reverend John E. Stait, Assistant to the Chaplain, U.S. Senate, offered the following prayer:

Let us pray:

For the wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, who hold the truth in unrighteousness.—Romans 1:18.

Righteous and forgiving God, help us today in the Nation's Capitol to not suppress truth and therefore not be in right relationship with one another. Help us to admit to ourselves when we have thought wrong or done wrong acts. Help us to admit to others also our shortcomings and repent and ask their forgiveness.

We so easily want to save our own lives and therefore we lost them. It is so natural to want to protect ourselves from the pain of guilt.

Help us to heed to scripture when it says, "Confess your faults one to another, and pray one for another, that ye may be healed."—James 5:16.

Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each. At 11 this morning the Senate will resume consideration of the clean air bill, S. 1630.

Right now, Senators BAUCUS and CHAFEE are meeting in my office with Senators interested in the allowance provisions of the clean air bill. Depending upon the results of that meeting and the time at which it concludes, I will shortly have an announcement for Senators on the schedule for the remainder of the day.

It is the managers' desire, which I support, to complete action on all allowance amendments today. We do not yet know and will not know until that meeting is completed whether any votes will be required in that regard. So Senators should be aware that there may be votes today, depending upon results of the meeting now underway. I will have an announcement as soon as possible.

The Senate will be in session on Monday to consider any amendments which Senators wish to offer at that time. Senators are all now aware we are going to complete action on this bill on Tuesday, so we do not want any Senator to be backed up against the deadline and feel that he or she has not had the opportunity to present his or her amendment with opportunity of a full debate. There will be ample time if Senators wish to offer amendments today or Monday or Tuesday, prior to the deadline.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair recognizes the Senator from Montana [Mr. BURNS].

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2372 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

WOLVES

Mr. BURNS. Mr. President, I would like to bring to the attention of other Senators an article by Carl Rieckmann, written in the March 2, 1990, issue of Agri News, which is an agricultural paper, which covers Montana, Wyoming, part of the Dakotas, and part of Idaho. The article is titled "Minnesota Wolves Roam Out of Their Boundaries."

Mr. President, wolves are returning to many of our northern tier States, and with their return are increasing numbers of livestock killings that are directly attributable to the wolf. As an endangered species, these wolves are completely immune from traditional methods of control. But as livestock losses climb, stockmen are starting to look for protection from depredation or for compensation of livestock losses. Such is the case in Montana, where livestock losses continue and are up a little bit this year.

Mr. President, many of my colleagues have no idea of the impact Federal law has when it comes to protecting or putting an animal on the endangered species list, such as an animal like the wolf. I recommend to them the article, and I ask unanimous consent that the article be printed in the RECORD.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MINNESOTA WOLVES ROAM OUT OF THEIR BOUNDARIES

(By Carl Rieckmann)

The wolves of Minnesota just don't pay attention to those habitat boundary lines that the federal bureaucrats draw on maps and publish in official notices for them.

Evidence is mounting that an increasing population of wolves is expanding into areas never intended as habitat as Minnesota's wolf recovery program comes off one of its worse years for depredations on domestic animals.

Against that backdrop, federal managers—with public input—are readying to redefine how the Eastern Timber Wolf Recovery Plan should proceed.

First adopted in 1978, this wolf protection/management program is undergoing a proposed update, published recently in the Federal Register, with public comment open for 60 days until March 31 and a final plan not likely until sometime during next summer.

(Interested persons may contact the U.S. Fish and Wildlife Service's regional office, which is taking comments, as follows:

Asst. Regional Director Larry Hood, USFWS, Box 45, Federal Bldg., Fort Snelling, Twin Cities, MN 55111.)

How the plan is reformulated may make a difference to farmers in northern Minnesota who face the prospect of more problems from roving wolves.

Jim Till, a wildlife biologist for U.S. Agriculture Department's Animal Damage Control (ADC) office overseeing the northern Minnesota wolf habitat, says population-growth pressures in the areas originally intended as wolf habitat appear to be encouraging migrations outside of traditional boundaries.

In Minnesota's extreme northeastern corner, there's a relatively small zone—tied in with the Boundary Waters Canoe Area Wilderness—where wolves are given absolute protection and where attacks on dogs have increased.

Then other habitat management zones in Minnesota's northeastern and northcentral areas accord various degrees of ADC management and control.

The remaining stretch of Minnesota west to North Dakota and the other two-thirds of the state lying south are in what management call Zone 5, non-wolf habitat in the plan.

But because the northeastern and northcentral zones "seem to be primarily saturated" by wolves, notes Till, the only directions the predators can travel are south and west into Zone 5.

"We do a lot of depredation control work in this area, more than we used to," observes Till, who also points out, "It's kind of the wolf nature to move around a lot."

The biologist says Minnesota's Department of Natural Resources is expected to announce a new estimated population "any day now." Its last count, about a decade old, envisioned about 1,200 wolves.

"I think there's no doubt that there's more wolves now," figures Till.

He notes ADC faces constraints in managing wolves in the non-habitat area because they usually are denning in wildlife refuges and state forests.

Through channels, the local office is seeking support to give ADC more flexibility to do some "preventive work" in Zone 5 where chronic problem areas are known to exist.

"We're not going to trap wolves just because they're there," explains Till.

"Originally, they recommended no wolves in this area, now that they're there, it might be a little easier to relax restrictions there."

Otherwise, he observes, "you're handcuffed in some areas" to help farmers.

And the reality of Zone 5 is that the percentage of farm acres increases as wolves roam further west or south from the intended wooded habitats, he notes.

The biologist says wolves are very adaptable to new turf, so long as they have deer or other food and at least small wooded areas with some adjacent brush cover to move about undetected.

With those few elements, he explains, "they can live almost anywhere."

In 1989, the Minnesota Department of Agriculture paid out its highest annual amount of compensation since 1977, when the program started, to farmers for 76 verified livestock/poultry loss claims—$43,664.

Although complaint distributions tended to be similar as in previous years, William J. Paul, ADC's district supervisor, reports 49 percent of the 1989 compensation went to five turkey operators in a northwestern Minnesota county in Zone 5.

He agrees that wolf numbers appear to be increasing in livestock production areas in Minnesota.

"Some indications of wolf depredations on livestock and poultry in 1989 were the highest recorded in the 15-year history of the FWS/USDA wolf control program in Minnesota," he says.

"In 1989, 49 complaints of wolf depredations on livestock/poultry were verified at 41 farms, and 85 wolves were captured, 75 killed in response to the depredations. Previous record indices occurred back in 1981, when there were 60 verified complaints of wolf depredation at 38 farms, and 42 wolves were captured (30 killed)."

The 1988 report looked like this: 45 wolf complaints verified at 35 farms, with 57 wolves captured and killed.

Verified 1989 cattle losses—40 animals—also were highest in the 15-year program.

Verified sheep losses were lower in 1989 than in some other years—primarily in the first half of the 1980s—but ADC reports the estimated total sheep in so-called Minnesota wolf range had declined from 91,000 head in 1979 to 16,000 in 1986.

Mr. BURNS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE FISCAL YEAR 1991 DEFENSE BUDGET

Mr. THURMOND. Mr. President, this will be a pivotal year for our Nation's defense budget. The decisions this distinguished body will make on this year's budget will impact not only on our Armed Forces and the Nation but the entire globe.

Chairman NUNN, Senator WARNER—the ranking member of the Armed Services Committee—and other committee members have begun a series of floor statements on the defense budget, which is currently under consideration in the Congress. With the exception of Senator WARNER, the crux of the speaker's comments is that the President's defense budget is not visionary enough and does not consider the events that have transpired in Eastern Europe and the rest of the world.

Mr. President, the dramatic decline of communism certainly warrants another look at what the role of our military should be as we enter the last decade of this century. Secretary Cheney was committed to us that he is, in fact, conducting this review and will provide us his assessment and recommendation in the next 4 months. Unfortunately, many of my colleagues are more interested in developing a defense budget which is not based on the threat—I repeat, the threat—but on their desire for a peace dividend.

Over the past 3 months, the Armed Services Committee has received testimony which has convinced me that the conventional threat posed by the Soviet Union is diminishing. The evidence has also convinced me that the potential for a nuclear war—and, I repeat "Nuclear War"—has declined. However, nothing presented at our numerous hearings has convinced me that the Soviet Union does not still have the capability to wage a conventional or nuclear war at some future date.

Over the past 40 years, our citizens have paid dearly in both lives and dollars to get us to this profound point in history. We have won the cold war. Yet, at this critical moment, when we should be taking a breath, analyzing where we are and where we should be going, there are some who are calling for such draconian reductions in the defense budget that we may be unable to continue to enjoy the fruits of our victory.

Mr. President, I believe we can reduce our defense budget, but we must do it wisely and cautiously. We cannot do it solely for deficit reduction at the whim of budget cutters; we cannot do it solely in the Armed Services Committee; we must do it in consonance with the administration and, particularly, the Defense Department. Secretary Cheney and the military leadership must provide a realistic roadmap to what they expect our military forces should be in the midnineties. I urge the Secretary to provide us that roadmap as soon as possible, or the train will leave the station without the engineer.

Mr. President, these are challenging times for the Congress and the administration. These are times of uncer-

tainty for our men and women in the armed services and our constituents who work in the defense industry.

The current debate on the future of our defense posture reminds me of a comment made by Winston Churchill on May 7, 1945, the day the victory in Europe was announced. His comment was, "The eagle has ceased to scream, but the parrots now will begin to chatter. The war of the giants is over and the pygmies will now start to squabble."

Mr. President, I hope the debate on our Nation's future military posture will be in keeping with the giant Nation that we are.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time for morning business be extended until 11:15 a.m., under the same conditions as previously ordered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRYOR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, I believe that we are at this time still in morning business, that morning business has in fact been extended?

The ACTING PRESIDENT pro tempore. The Senator is correct. The time for morning business has been extended until 11:15.

Mr. PRYOR. Mr. President, I thank the Chair very much.

THE AMERICAN FARMER AND AMERICA'S DWINDLING WETLANDS

Mr. PRYOR. Mr. President, I rise today to express to my colleagues in the U.S. Senate the grave concerns I have for two of America's greatest resources: the American farmer and our Nation's dwindling wetlands.

We are witness today in this country to a tragedy of potentially epic proportions that threatens the economic viability of our Nation's breadbasket, while, at the same time, undermining our valiant efforts to protect and preserve our wetland resources. The multiplicity of Federal laws and regulations, being administered by three separate departments and one independent agency of our Government, has created a bureaucratic nightmare never envisioned by the Congress.

Just when we thought we were on a path toward developing a commonality of purpose among the Federal agencies with regulatory authority over wetlands, with the publication in January 1989 of the interagency "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," with the signing of a joint memorandum of understanding between the Army Corps of Engineers, and the Environmental Protection Agency defining mitigation in connection with section 404 of the Clean Water Act, and with President Bush's declaration of a no net loss policy on wetlands, it seems that our good intentions have gone awry.

When European settlers first arrived in this country it has been estimated that 200 million acres of wetlands existed in the 48 mainland States. By the mid-1970's that figure was estimated to be 99 million acres. During a 20-year stretch between 1954 and 1974 a survey by the U.S. Fish and Wildlife Service indicated a net loss of over 9 million acres, or nearly 500,000 acres per year lost in wetlands. We can assume that a similar net loss per year has continued through the decade of the 1980's.

Agricultural development was responsible for 87 percent of these losses, with urban and other development accounting for the rest. According to the survey these losses were concentrated in the lower Mississippi River Valley, the upper Midwest and the Southeast. These losses of wetlands have created numerous problems, including increased flooding and associated costs to the Federal Government to try and reduce that flooding, reductions in habitat for numerous species important to huge sections of our recreation seeking populations, and degradation of water quality in our streams as a result of the introduction of pesticides from agricultural production.

Mr. President, I think it is extremely important that we do everything we possibly can to retain, protect and preserve the existing wetlands that lie in a natural state in our Nation today. These wetlands come in a variety of forms and conditions, and some are obviously more important than others. We desperately need a national inventory of these resources to aid us in this preservation effort.

I serve on the Migratory Bird Conservation Commission, and I have attempted to use that Commission and that post as a means of protecting these lands throughout our Nation. I have supported the Endangered Species Act and the Fish and Wildlife Coordination Act in the Congress as important tools in this effort. I have voted for increases in the Land and Water Conservation Fund and the Wetlands Loan Act to try and provide the necessary funds to allow the Federal Government to purchase valuable tracts of wetlands for preservation in perpetuity.

As a member of the Agriculture Committee I have supported the Water Bank Program and the Conservation Reserve Program to try and give incentive to landowners to set aside some of their lands for these purposes. The Swampbuster provisions of the 1985 farm bill, unpopular in some quarters, was designed to give farmers disincentives for cultivating lands that should remain in the natural wetlands State.

But, Mr. President, in my judgment the inability of our Federal regulatory agencies to coordinate a workable, reasonable approach toward managing, regulating and acquiring these valuable wetlands is circumventing the intent of Congress and creating a climate for revolution in this country. It is undermining necessary popular support that is absolutely essential if these programs are going to succeed.

There is no way the Federal Government is going to acquire, police and manage all of the wetlands that need to be preserved in this country. We will never have enough money to do that, and it would be unwise public policy to do it if we could. We simply have too many other priorities that would suffer in such a scenario.

We must rely on the support of landowners to implement the bulk of these programs.

We must gain this support by developing incentives that work and that are realistic and that are practical. We must help these landowners by clearly defining the lands that are worthy of saving by placing realistic values on their importance to habitat.

The PRESIDING OFFICER (Mr. ROBB). The Senator's 5 minutes has expired.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may proceed for 4 more minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRYOR. Mr. President, we must not undermine their support by overregulation, by unnecessary regulation. We must not redefine our Nation's basic principles of ownership by insidious regulations that amount, in a real sense, to a taking of private land. We must not place an economic burden on landowners that amounts to an after-the-fact taking of land or an after-the-fact regulation.

Yes, there are lands that are being farmed today that should have never been cleared and farmed. We know that. Swampbuster is trying to address that concern. While it may not be perfect, I think all of us are willing to look closer and make necessary changes.

Mr. President, the events that began to occur in January 1989 with the publication of the Interagency Cooperative Manual I discussed earlier, have resulted in dramatic, and I must say, tragic changes, in wetlands regulation in the State of Arkansas. For example, the amount of land now defined as wetlands for the purpose of regulation

under section 404 of the Clean Water Act has increased exponentially. In the Vicksburg and Memphis districts of the Army Corps of Engineers, which covers most of the delta in Arkansas, an additional 6 million acres of lands will now be regulated.

In eastern Arkansas alone, Mr. President, wetlands have increased from 16 percent to 84 percent on the basis of this definition alone. Most of this land is now in row crop production. The wetlands issue is to farmers what section 89 was to small business.

Throughout the Lower Mississippi Valley Division of the Army Corps of Engineers, which covers Missouri, Tennessee, Arkansas, and Louisiana, an additional 19 million acres of land will now be regulated under section 404. All of this is expected to be accomplished without the Army, or the EPA, or the Fish and Wildlife Service, adding one additional employee to service this problem.

Mr. President, this is unworkable and unrealistic. Lands that have already been cleared and placed into production must be exempted from this burdensome bureaucratic regulation. We must identify those lands that are marginal farmlands and do everything that we can to provide the incentives to landowners to allow them to revert to wetlands. But if we arbitrarily come to a farmer, and if we demand of that farmer that he or she acquire a section 404 permit to perform normal farm operations, we are at that time undermining the very foundation upon which we have built so much public acceptance of our wetlands preservation program.

Mr. President, we have no ability at present to expeditiously and fairly help that farmer with his 404 permit application. We have no reasonable and consistent mitigation formulas existing. We have no way to guarantee that farmer that he will have timely and expeditious handling of his permit application. Farmers have to depend upon being able to obtain financing, plant, harvest, and perform other normal farm operations on a very tight schedule.

Under current regulations, the Corps of Engineers attempts to complete action on section 404 permit applications within 90 days. This is entirely unacceptable, Mr. President, to that farmer in Arkansas, that farmer in Missouri, in Virginia or wherever he might be. It will drive that farmer to economic ruin. The delays will amount to frustration and will amount to defeat. The impact of this, in some cases, will amount to the public confiscation of private land.

Mr. President, I ask unanimous consent to proceed for 1 more minute.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 1 additional minute.

Mr. PRYOR. I am announcing today, that I am forming a Senate Wetlands Caucus. There is much conflict and information about wetlands, so much jurisdictional confusion within the committees of Congress, that I am today persuaded that this is an appropriate tool we need to better understand and address the major concern of States and farmers so affected.

I am hopeful that the Members representing the Mississippi River Valley, the prairie pothole regions of the Midwest, and all of the other regions were regulation threatens the economic lifeblood of our citizens, will join me in this effort to negotiate some sensible solution to this quagmire which has been created. I intend to use this floor, Mr. President, to bring together the divergent interests and regulatory officials to determine where we can make some sense of this issue and hopefully form a new consensus on how to proceed.

I urge my colleagues, Mr. President, who are concerned about our wetlands and about our farmers, to join with me in this cause.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the time for morning business be extended to not later than 11:30 under the same conditions as previously ordered.

The PRESIDING OFFICER. Is there objection? Without objection, the time for morning business is now extended to 11:30 a.m. The Senator from Connecticut is recognized.

NUCLEAR AND MISSILE PROLIFERATION

Mr. LIEBERMAN. Mr. President, following events in the world in just the last week, I have been reminded of that promotional for the very popular Jaws II movie, which said, "Just when you thought it was safe to go back into the water." Because just when we were beginning to feel optimistic about peaceful developments in the world, as a result, particularly, of our warming relations with the Soviet Union, there has been an extremely unsettling series of events which gives us pause, about how peaceful our world really is becoming.

First, of course, is the very aggressive behavior of the Soviet Union toward the valiant efforts toward the people of Lithuania to achieve independence. Beyond that are a series of stories coming from the Third World about increasing arms and increasingly oppressive behavior from Iraq.

Just 2 days ago, American and British agents arrested a series of individuals for having attempted to smuggle electronic devices into Iraq, which are capable of igniting nuclear weapons and have other military applications as well. There are news reports today that the Iraqis, for the first time, have successfully completed the installation of missile launchers which gives them the capacity to strike at targets further than they ever had the capacity to strike at before in that direction.

From China we receive intelligence reports that the Chinese are apparently shipping missiles to the Middle East, presumably to Iran, being purchased by Iran.

From Libya, headed by perhaps the most unstable leader of any country in the world today, Muammar Qadhafi, we received the unsettling news that the Libyans have achieved the capacity for in-flight refueling of their fighter bombers, which gives them the ability to deliver a much heavier, more destructive payload to targets that are further away from their home territory.

Mr. President, all of these events suggest that the world is not as safe a place today as we would like it to be. What I want to focus on particularly for a few moments this morning is the fact that even as our relations grow better with the Soviet Union, and I hope that events in Lithuania resolve themselves peacefully so there will be no interruption in our efforts to achieve greater arms control with the Soviets, we will still have some major threats to our security in world peace that will come from the Third World, from unstable countries within the Third World. I want to stress here particularly the fact that that increasing military capacity and instability in the Third World is not indigenous. It is coming from sophisticated developed industrial countries who are selling weapons and a capacity to deliver them to those Third World countries, and in the particular case of Iraq we have every reason to believe that those components were going to be used to build atomic business.

I think the United States must send a very clear message here by vigorously prosecuting the individuals involved and by going beyond that and considering the suspension of Iraq's Import-Export Bank credits for a period of time to show that continued attempt to import nuclear technology into the Third World will not be cost free. I hope that our European allies will join us in this.

I think there is some particular irony from the intelligence reports that suggested it was a British company that had assisted the Iraqis in completing installation of the missile

launchers, particularly since the British so appropriately have been outraged at the Iraqi murder of the British journalist. The Soviets and the French are Iraq's principal suppliers of weapons. We should call on them, our Western allies, and our new Eastern, European allies, to suspend arms shipments at least temporarily to the Iraqis as a sign of disapproval.

Controlling the proliferation of nuclear bombs, ballistic missiles, and chemical weapons must become a focus of our defense policy in the years ahead as hopefully our relations must continue to improve with the Soviet Union. The United States must adopt tougher laws to punish companies that export dangerous components or send technicians to help countries to develop their own indigenous programs. If these companies know they may be shut out of the U.S. market for sales of products that are either military or nonmilitary they may well think twice before contributing to the spread of nuclear capacity in the Third World.

Industrial democracies must strengthen legislation forbidding their citizens from participating in the manufacture of nuclear, chemical, or ballistic missile programs. In short, a developed world, West and East, must control the indifference and greed that have allowed individuals and entrepreneurs to contribute to the proliferation of these dangerous programs of destruction.

The United States I think can play a lead in that in working to strengthen the missile technology control regime known as MTCR. This is a set of guidelines established by the United States and six of our allies to limit missile proliferation in the Third World. These guidelines restrict the export of missiles with ranges of more than 186 miles and payload weights of more than 1,100 pounds. Clearly the MTCR should also prohibit the export of shorter range missiles such as those apparently sold by China to Iran.

Once it will happen that our allies agree on these new limits we can speak with more authority to the Chinese about the need of imposing similar restrictions on themselves.

Mr. President, the point is this: As we hopefully continue to reduce the threat of nuclear war between ourselves and the Soviet Union and achieve more arms control with that other great power, we cannot neglect the dangers inherent in the Third World's attempt to acquire these weapons of mass destruction, because to ignore this peril is to become an accomplice in this danger. The struggle against nuclear and chemical weapons and ballistic missiles is the struggle for the security of our country and the peace of the world in the years ahead.

Mr. President, we are gratefully achieving better relations with the Soviet Union which has been the major source of threat to us in the postwar period, but we have unfortunately not yet achieved, as the events show, the perfection of the human species. I think these are important points to consider as we review our defense needs in this session.

Mr. President, I thank you, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

THE ADMINISTRATION'S POSITION ON LITHUANIA

Mr. WALLOP. Mr. President, according to news accounts on Thursday, March 29, President Bush has revealed to some of our House colleagues his willingness to sacrifice Lithianian independence if it means keeping Soviet President Gorbachev in power. Meeting with four Congressmen who visited Lithuania last month, he was to have indicated to them that he was more committed to the cause of keeping Mikhail Gorbachev in office than to the cause of Lithuanian freedom. An aide to one Congressman reported this message from the meeting: "It is the policy of the United States to keep Gorbachev in power * * *."

When the Members complained—as many of my colleagues in the Senate have done—about the administration's lack of forceful support for the Lithuanians, the President challenged the Congressmen to either come up with an alternative policy, or else to fall in line with the administration. In effect, he told them "to put up or shut up."

On its face, this is a fair challenge. There is no question that the executive branch has the primary responsibility for the conduct of foreign policy, and the Congress no doubt has intruded at times on the President's prerogatives. Managing the complex, farflung military establishment and diplomatic enterprises of a superpower is an immense responsibility, and the President and his administration need our cooperation at least as often as they deserve our criticism.

The Congress is quick to carp, criticize, complain, and condemn without offering the executive branch any constructive alternatives. Indeed, from my particular vantage point on the Armed Services Committee, I would say that constant criticism—without alternatives—is a daily occurrence. Nor are our criticisms confined to this Chamber, but typically find their way—unaccompanied by alternatives or solutions—into the editorial pages and onto the air waves.

Issuing a challenge is an effective way to silence your critics, especially when you suspect they have no better solutions. But in this case, I believe the President is using what is essentially a debater's trick to avoid facing a number of legitimate questions raised in the Congress respecting the position of the United States on Lithuania. These are valid questions, and the President cannot dismiss them as the sort of frivolous posturing that some of us regrettably engage in from time to time.

In challenging our House colleagues to come up with an alternative to his policy on Gorbachev, the President has by implication challenged the entire Congress, and I propose that we take him up on it. Certainly the Senate has a role to play, as spelled out in the U.S. Constitution, in the formulating of foreign policy. I believe we should conduct a thoughtful, responsible search for constructive alternatives that we can offer to the President—offer in a spirit of cooperation, not as adversaries, but as partners.

But in order to develop constructive alternatives, we have to put some questions to the administration. We have to know what the parameters of the President's policy are. And we have to know the full extent of U.S. support for Gorbachev.

For example, the United States appears prepared to sacrifice Lithuania. What other peoples are we willing to sacrifice to keep him in power? All the Baltic States? The Ukraine? Moldavia? Soviet Georgia? If Lithuania and Estonia persist in seeking their rightful place as free nations, are we ready to stand by again idly and witness a Russian version of Tiananmen Square?

What about the former inmates of the Soviet empire—East Germany, Poland, Hungary, and Czechoslovakia? If Gorbachev decides their freedom or German unification are too upsetting to the hardliners, will we have to give our tacit support to Soviet intimidation of Eastern Europe?

As events have unfolded in Lithuania, a pattern of Soviet violations of the INF Treaty has begun to emerge in recent days—large numbers of specific violations—and evidence that the U.S.S.R. entered the INF regime with covert missile deployments, an unequivocal act of bad faith. Yet to date the United States response has been weak. Is our silence on treaty violations that undermine America's security part of the price we have to pay to keep Gorbachev in power? And to be sure, it is not a question only of silence—we also fail to act in the face of treaty violations. This is true of the INF Treaty and the ABM Treaty, breaches of which are potentially more threatening to U.S. security. Is our acquiescence—our misprision of Soviet cheating—part of the price demanded to keep Gorbachev in power?

While professing peace, the Soviets continue to modernize and expand their most threatening arsenal, their nuclear ICBM's, and to pursue their military efforts in space. They contin-

ue to supply arms and support to the totalitarian regimes in Afghanistan, in Angola, in Cuba. Must we turn a blind eye to these unrelenting threats to our interests in order to protect Gorbachev, or is his survival our only national interest?

To secure Gorbachev's position, are we going to allow the U.S.S.R. admission into the IMF, into GATT? Are we going to shore up Gorbachev's regime with massive transfusions of U.S. capital and trade credits? Are we going to save Mikhail from the hardliners by decontrolling and sending him our most advanced technology, even that which has direct military applications, and winds up in the hands of the Soviet military?

Well, these are just a few modest questions to which I would like answers. I could ask many more, but let me summarize them all in one question: "Mr. President, just what price are we willing to pay to keep Gorbachev in power?"

In all fairness, the President, General Scowcroft, and Secretary Baker are not totally unjustified in preferring Gorbachev to some unrepentant Stalinist who might be lurking in the wings. But I am afraid the administration is beguiled by a new variation on an old theme, one orchestrated assiduously in the West over the years by the KGB and other Soviet organs of disinformation. I'm speaking, of course, of the so-called Kremlin hawks versus Kremlin doves theme. For decades arms-control devotees and diplomats told us that we had better give the Kremlin doves what they demanded, and at the same time overlook dangerous Soviet behavior, or the far more dangerous hawks would assume power.

My point is simply this. If maintaining Gorbachev in power takes precedence over all other considerations of principle or prudence, then we have forfeited our freedom to act and given total leverage to the Soviet leader. And if the price we must pay to keep him, Gorbachev, in office is open-ended, if our Gorbachev-at-any-price policy results in the continued suppression of "people yearning to breathe free," if it means we blind ourselves to treaty violations and to continued subversion and aggression in the Third World—then we might as well have the hardliners back. At least under the hardliners we were less prone to self-delusion.

For years the inherent aggression and expansionism of the Soviet Empire was fueled by the Communist claim to embody an historical imperative. The triumph of Marxist-Leninism was supposed to be inevitable. But when the Soviet ruling classes finally saw that communism's historical and scientific claims were bogus, they lost that faith in the inevitability of triumph. And with that loss of faith their empire began to unravel.

As we seek to help the administration find alternatives and ways of dealing with the crisis of a military empire in collapse, let us not lose sight of the fact that Gorbachev and communism, even a temporarily revived communism, are not on the side of history. The inevitable tide of history is running against the failed Soviet imperium, and even the use of force can only stay the inevitable for a moment, not stop it altogether.

No one in this Chamber wants to precipitate a bloody crackdown on the brave Lithuanians, just as the President and his administration want to avoid it. But we have to make it clear that we are on the side of liberty, not Gorbachev's; and on the side of the hundreds of millions of restive Soviet citizens remaining incarcerated in the vast gulag. It is not in our interest, nor in keeping with our deepest national principles and our heritage, to give our moral support to their jailor, even if he does happen to be more humane than his predecessors. Our constant message to Gorbachev and to the world must be, "Let the people go."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,840th day that Terry Anderson has been held in captivity in Beirut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous unanimous-consent order, the time for morning business is closed.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. The Senate will now return to S. 1630, the clean air bill, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

AMENDMENT NO. 1425 TO AMENDMENT NO. 1293

(Purpose: Mitigation measures)

Mr. GORE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report the amendment sent to the desk by the Senator from Tennessee.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE], for himself, Mr. LAUTENBERG, Mr. BREAUX, Mr. WIRTH, Mr. PELL, Mr. KERRY, Mr. BRYAN, Mr. ADAMS, Mr. CRANSTON, Mr. LEAHY, and Mr. LIEBERMAN, proposes an amendment numbered 1425 to amendment No. 1293.

Mr. GORE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 269 beginning at line 4 strike all through line 18 (paragraph (5)) and redesignate the succeeding paragraphs accordingly.

On page 273, line 22, strike "To" and on page 273 beginning at line 23 strike all through line 9 on page 274.

Mr. GORE. Mr. President, I offer this amendment on behalf of myself, Senator LAUTENBERG, Senator BREAUX, Senator WIRTH, Senator PELL, Senator KERRY, Senator BRYAN, Senator ADAMS, Senator CRANSTON, Senator LEAHY, and Senator LIEBERMAN.

Mr. President, we live in a time of great turmoil, great change and great opportunity. Every day brings news of freedom won by peoples who have suffered political bondage for decades, and some for centuries. But, while the people of Eastern Europe finally breathe the air of political freedom, the Washington Post this week reports that they are "suffocating in . . . toxic breezes." Steeped in a hazardous chemical soup, entire villages have been condemned, and soil and water are biologically dead. The people of Eastern Europe, who have fought so valiantly for political freedom, are still the victims of environmental repression.

And, Mr. President, we are failing to heed the lesson that is so painfully being learned in Eastern Europe. The U.S. Senate is prepared to pass into law a provision that absolves industry of its responsibility to control life-threatening emissions. At a time when we should be providing leadership, when we should be setting an example in the world community, we are retreating.

Since 1970, the Clean Air Act has required sources that create unsafe exposures to control their emissions. Today—for the first time—we are saying that public health and safety are at best secondary considerations, and that people and communities can be sacrificed to excessive pollution.

In the clean air bill that is before us, companies that release cancer-causing pollutants are permitted to buy out communities and create "dead zones"—areas that, due to high concentrations of toxic air pollutants—are hostile to life and uninhabitable by human beings. In plain and simple terms, this legislation condones the creation of toxic wastelands and gives corporations license to destroy communities and scatter neighbors and friends.

Now, Mr. President, we need not read science fiction to envision what a dead zone would look like. Unfortunately, examples of industrial excess abound: In Poland, Hungary, Czechoslovakia, and East Germany irresponsible government policies have encouraged corporations to disregard public health and safety in pursuing their economic ends. The result: rivers, lands, and forests—natural resources that once were teeming with life—are now barren. And communities that were once vibrant and bustling are now vacant ghost-towns.

Just 2 months ago, I traveled to the Soviet Union and joined 1,000 delegates from 83 countries at a global forum designed to bring scientists, political and religious leaders together to discuss ways to combat the growing threats to our environment. While there, I received firsthand accounts of a truly tragic environmental and public health disaster. Choked by toxic pesticides, the Aral Sea, once larger in area than any of the Great Lakes save Superior, is vanishing from the face of the Earth. In its wake, the Aral leaves behind a desert expanse, a wasteland encrusted with toxic salts and pesticide residues. Picked up by high winds, toxins are heavy in the air and the people die of throat cancer and give birth to children plagued by a myriad of pollution-induced illnesses.

And we need not look overseas for examples of dead zones. At one time, Love Canal and Times Beach were thriving communities, places where neighbors were close, where ties to religious groups were strong, and where children grew up together, playing in neighborhood yards and attending the local schools. Now, these communities are shattered. Homes are empty and decaying. Church bells hang still. And school yards are silent.

And even as I speak, the buyout tragedy is being played out. Faced with reports of dangerously high levels of vinyl chloride in the blood of children living near its Revilletown plant, the Georgia Gulf Corp. in 1988 dismantled a Louisiana community that had been in existence for over a century. With those most at risk cleared out, Georgia Gulf now plans to increase its emissions—persumably to levels that will expose yet another community to increased risks of cancer, liver and kidney damage.

Mr. President, let us make no mistake—"Mitigation" and "Greenbelt" euphamisms aside—the bill before us today puts the Federal seal of approval on just this type of community carnage.

Mr. President, the buyout provision subverts the very purpose of clean air legislation: Unacceptable levels of toxic emissions will be tolerated; people—but not pollution—will be removed.

In fact, Mr. President, this provision sanctions a practice that EPA has determined to be illegal under the Clean Air Act. In 1984, EPA rejected the buyout approach for the control of radioactive air pollutants precisely because buyouts do not result in a reduction of emissions. EPA said:

> EPA believes that for * * * standards—that "control land"—to be valid [under section 112 of the current clean air act], they must also have an emission limiting effect.

EPA's reasoning in 1984 was sound. In public health terms, the contrast between a buyout and controlling pollution is sharp, indeed. When a source controls its emissions, cancer risks are reduced not only for persons in hot pockets of excessive risk, but also for everyone around the facility. Not only is the most exposed person protected, but lives are saved in the entire surrounding population.

But under the buyout scenario, no one outside the dead zone would benefit at all. At best, everyone else would continue to breathe the same level of cancer-causing pollution and, as the offensive plant expands, these people will become subject to still higher levels of life-threatening emissions. People all around the facility would continue to contract cancer and die.

If we examine the buyout option a little closer, still more unsavory problems emerge:

Consider for example what happens to property values. How much are affected people going to get for their homes? Once word gets out that these homes are receiving the area's heaviest concentration of cancer-causing pollution, what will they be worth on the open market? Not much. And if the only buyer is the source itself, you can bet the owners will not get top dollar.

And where will they go? Neighborhoods will be destroyed and neighbors scattered. Lives are bound up in places people live, in the friendships they form with neighbors, and in the local schools, churches, synagogues, and social clubs where neighbors congregate. What right does a company have to disperse all that? To authorize industries to destroy the facric of local communities tears at the values we extol in this Congress.

Consider also what just a slight miscalculation in risk assessment could do. Suppose the source owner uses the most up-to-date emissions dispersion model and the best available data. Suppose the modeling tells it that most exposed persons are located a quarter mile due north of the plant. But what if the true wind direction is a few degrees different from that assumed in the modeling, so that the zone that is really the most exposed is located a quarter mile northeast of the plant.

If the source reduces its pollution, this slight error in the modeling will make no difference. The most exposed persons, although misidentified, will still be protected. But, if the source used the mitigation option, it would have bought out the wrong people. Those most at risk will have no protection at all.

Consider also that—with the mitigation option—a source could actually increase its cancer-causing emissions. All it would have to do is buy out a slightly larger pocket of homes and remove the next heavily exposed people. For example, if the source removed all people with estimated cancer risks greater that 1-in-20,000—half of the 1-in-10,000 level—it could double its cancer-causing emissions, and double the cancer risk of everyone else around it.

None of these perverse possibilities could occur as long as we ensure that it remains industry's obligation—as under current law—to control its pollution. If we decide to do otherwise, then each of us must be prepared to say to communities in our own home States that they are but grist for the industrial mill. It is not likely that our constituents will be consoled by our explanation that their homes have been sacrificed in order that a deal might survive.

And let us not kid ourselves. The possibility is real that the force of the buyout option will be felt nationwide. According to a study released only yesterday by the Natural Resources Defense Council, at least 78 plants in 25 States would be authorized to invoke the buyout option. The study is only a prelminary one, but if there is error, it is likely that it is on the side of underestimating the number of plants that would buy out surrounding populations: NRDC assumed that the installation of maximum achievable control technology [MACT] would achieve a 90-percent reduction in toxic emissions. Still, countless thousands would be exposed to unacceptably high risks—some as high as 1 in 100.

Mr. President, I am not prepared to tell my constituents in Tennessee that

their homes are a proper sacrifice to industrial expansion. My distinguished friends that join me in introducing this amendment feel similarly about towns in their home States. I urge my other distinguished colleagues to join us in striking this appalling provision from the bill.

Mr. President, I had been prepared to speak at length on this. I have discussed it with the committee leadership on both sides. This is the dead zone amendment. I have spoken on it previously. I see no need to belabor the point now. I ask my colleagues on both sides to support the amendment.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I am pleased to join the Senator from Tennessee in offering this amendment. Senator GORE is a leader on environmental issues and I appreciate his work on this important issue.

Mr. President, our amendment would eliminate the so-called buyout provision in the substitute. This provision allows a facility to avoid reducing emissions of toxic, poisonous substances to levels which will protect people.

Under all of the versions of the air toxics legislation, facilities would be required to install maximum achievable control technology. MACT will significantly reduce but not eliminate risks posed by emissions of toxics. All versions of the bill also require EPA to determine the risk remaining after installation of MACT. And all establish some standard for requiring additional reductions in emissions to reduce the remaining risk.

But under the substitute, facilities could instead buy out people who live near the facility. They could continue to emit toxic pollutants at levels they otherwise would not be allowed to emit. Polluters would be allowed to move the victim of pollution, rather than curb the pollution. And uninhabitable dead zones would be created.

Surrendering to, rather than combatting air pollution, is a clear step backward. It in essence ratifies the old, discredited argument that the "solution to pollution is dilution."

The buy-out provision says that it is all right to emit toxics as long as they are diluted enough before people are exposed to them. This approach is foreign to the Clean Air Act and to all environmental law.

And it should remain foreign to the legislation we pass now. The amendments we are considering are designed to strengthen the existing law which is not working adequately.

Mr. President, the buyout provision is a precedent buster.

When the original Clean Air Act was passed in 1970, some companies responded by building tall stacks rather than cleaning up emissions. These tall stacks removed pollution from the area around the facility. But by depositing that pollution farther away, they exposed different people and areas to the pollution. We should have learned that the only answer to pollution is to prevent it, not spread it around and dilute it.

Mr. President, the buyout provision is nothing more than a horizontal tall stack.

It says to industry go ahead and pollute ground water, go ahead and contaminate surface water, go ahead and defile the land. Just make sure that you dilute the pollution. Mr. President, is this the message we really want to send to the American people?

Now there have been arguments that buyouts would result in so-called greenbelts. Industry would move people away from exposure, thus lowering everyone's cancer risk. But this argument does not hold up.

We will not have greenbelts. We would have no man's lands.

The provision in the substitute only requires polluters to buy out specific pockets of homes. Rather than achieve overall environmental protection for the affected community, the provision simply allows companies to move those most at risk. But the surrounding population, however, continues to breathe the same level of cancer—causing air.

And the buyouts are no panacea for those who relocate. In the substitute's rush to give polluting industries a break, it fails to answer a number of other questions.

What prices can these heavily exposed residents expect to receive for their homes?

Where will these people go and what will happen to this community?

What will happen to the property values of the neighboring but less exposes area?

These questions underscore the absurdity of allowing polluters to opt for buyouts.

In a few weeks we will celebrate the 20th anniversary of Earth Day. It is a day to think about how important our environment is to us and to future generations. It is a day to contemplate what we can do to improve the environmental ethic both in this country and worldwide. And it is a day to reinvigorate our efforts to preserve and enhance that ethic.

Mr. President, the buyout provision is inconsistent with the environmental ethic we will be celebrating in a few weeks. Perhaps we should call this the copout rather than the buyout provisions. It allows industries to copout of cleaning up their toxic emissions. I urge my colleagues to think about the meaning of Earth Day and avoid this copout by deleting the buyout provision and voting for the Gore-Lautenberg amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise to thank the Senator from Tennessee for his amendment and to indicate for the record that the so-called dead zone amendment is necessary because of some, perhaps, I might characterize it as confusion at the time we were negotiating changes in the air toxics provisions of this bill and the substitute that is before us.

As a person who was responsible for the underlying legislation on air toxics and the person who at least accepted some of the responsibility, along with my colleague from Montana and the Senator from New Jersey [Mr. LAUTENBERG] for some of the changes that are now being called a compromise, I rise to support the amendment offered by our colleague from Tennessee. I think it is a very, very good amendment.

I recommend its adoption.

Mr. BAUCUS. Mr. President, I appreciate the amendment the Senator from Tennessee is offering. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1425 offered by the Senator from Tennessee.

The amendment (No. 1425) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORE. Mr. President, I thank the committee leadership on both sides, and the Republican leader and the majority leader for the way in which I have been able to work with them in explaining thoroughly and discussing this amendment. I first served notice of introducing it before the last recess and asked for an extended conversation and dialog. I am grateful that we had such a conversation and dialog. I appreciate the amendment being accepted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. REID. I ask unanimous consent, Mr. President, that I be allowed to speak as if in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 2373 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the information of Senators, Senator BAUCUS and Senator CHAFEE have been meeting for about 3 hours with other interested Senators on the question of the allowance provisions in the bill. It is an important area to many Senators, and it is controversial.

It now appears unlikely that they will be able to resolve that matter today in sufficient time to present it to the full Senate for consideration and vote. Accordingly, there will be no rollcall votes today.

Senators should be aware that on Monday the Senate will be in session, and the clean air bill will be before the Senate. So that any Senator who has an amendment that he or she wishes to offer should be present on Monday to offer that amendment. We will be here for the specific purpose of receiving and considering amendments, so that Senators are not backed up against the deadline on Tuesday and have a full opportunity to debate and discuss their amendments for the full hour allotted under the unanimous-consent agreement.

There will be no votes on Monday, and we will stack votes on Tuesday on any amendments which are presented on Monday which require votes. Again, I advise and encourage Senators to come to the Senate floor on Monday, if any Senator has an amendment he or she wishes to offer, and not be backed up against the deadline on Tuesday.

Just so it is clear in advance, no request for extending the deadline on Tuesday will be considered. I hope, if any Senator is not listening, his staff will advise him or her, that no Senator should think about not bothering to offer his or her amendment on Monday or during the day Tuesday, and come Tuesday evening asking for an extension of time so that amendment can be considered. There has been more than enough time for every Senator who wishes to offer an amendment, to have it debated, to do so, and the deadline will be met. It is my hope that we can vote earlier than the deadline on Tuesday if we have completed action. But in any event, there will be no extension of the deadline, and no request for extension of the deadline will be considered.

The allowance matter will be presented to the full Senate as the first order of business Tuesday morning. The managers will have a package ready to present to the Senate at that time. So those Senators who have an interest in allowance provisions should be in touch with Senators BAUCUS and CHAFEE and should be aware that on Tuesday morning the Senate will deliberate and dispose of all amendments relating to allowances.

We will take other amendments on Monday. If any require votes, the votes will be held on Tuesday, and we will deal with the allowance provisions on Tuesday morning, for however long it takes, to deal with however many amendments are offered, and then we will devote the remainder of Tuesday, as is necessary, to deal with remaining amendments.

I hope all Senators now have a clear picture of the schedule for the next 3 days until final disposition of this legislation.

Mr. President, I again want to thank the managers, Senators BAUCUS and CHAFEE, who have devoted an extraordinary amount of time and effort to managing this bill and have spent, as I indicated, 3 hours this morning attempting to resolve this important and difficult issue of allowances. They will be able to do so and have it ready to go on Tuesday morning. I thank my colleagues very much, and I thank other Senators for their patience in considering this measure.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I am advised by the managers that no other amendments are before the Senate at this time, no other Senator is here to present an amendment on the bill. If any Senator wishes to come over, the managers will be here.

In the interim, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFSHORE AIR POLLUTION

Mr. WILSON. Mr. President, in the course of the long deliberations on the Clean Air Act reauthorization, one subject that has been of interest to a few coastal States, and most specifically my home State of California, has been a problem that has existed for several years because of an anomaly in the law. That anomaly exists between two different agencies administering two different standards with respect to air quality have been involved in administering the air sheds in adjacent areas.

Specifically the Environmental Protection Agency, as the lead agency under the Clean Air Act, has been responsible for air quality ashore. By contrast, in what seems to me to be and anomalous situation, the Department of the Interior has had responsibility for air quality over offshore drilling rigs. That is distinctly anomalous when one considers that, within a matter of a few hours, the ambient air over the rigs, because of the prevailing winds that blow it ashore, becomes the ambient air ashore or mixed with that air.

The result is that if there is a less stringent standard, as is in fact, the case administered by the Department of the Interior with regard to rigs from offshore drilling platforms, that tends to degrade the ambient air ashore which, of course, must meet the more stringent standards of the Clean Air Act as administered by EPA and State and local air pollution control districts.

Now, that just does not make sense. Here we put to heroic tests those stationary sources ashore only to find that the progress that is made by those efforts is frustrated because a less stringent standard permits dirtier air to blow ashore from offshore rigs.

About 3 years ago, in 1987, in the 100th Congress, I introduced legislation that was cosponsored by my colleague from California [Mr. CRANSTON], in which we sought to remove this anomaly from the law. We sought to have a single agency and the proper agency, the Environmental Protection Agency, be given jurisdiction for air quality over the rigs, as well as air quality ashore.

We sought a single standard that required the Clean Air Act be administered by that agency and not the different and less stringent standard

presently administered by the Department of the Interior.

I was pleased that the now majority leader, the distinguished junior Senator from Maine [Mr. MITCHELL], at that time the subcommittee chariman having jurisdiction over clean air matters, incorporated into his version, his subcommittee version of the Clean Air Act reauthorization in the 100th Congress, those provisions that I had introduced with Senator CRANSTON.

Regrettably, S. 1630, which did contain very similar provisions, is not going to be the law. Instead, we have the so-called administration, bipartisan, Senate substitute which does not contain those protections for air quality ashore in those coastal States which, like California, suffer a degradation of their onshore ambient air because of pollution blown ashore from offshore rigs.

But in fairness, we have received provisions in the committee substitute that are a substantial improvement, although not in my judgment good enough, not nearly as good as would be achieved were we to, in fact, simply transfer jurisdiction, consolidate responsibility in a single agency, and have the administration of a single and more relevant and more stringent standard.

What we have instead, under the committee substitute, is the proposed language contained in section 327, which would retain jurisdiction and responsibility for the administration of Clean Air Act standards in the Department of the Interior, but it would provide for a sharing of that responsibility with EPA.

In fact, it would call upon EPA to draft regulations which would then undergo revision by the Department of the Interior, and then the revised draft would again be returned to the administrator of EPA for his approval.

There is specific language in this new law that says:

> The regulation shall be as stringent, in terms of the level of pollution control technologies and the emission offset requirements, as those regulations applied onshore for onshore sources of air pollution in California air districts adjacent to the portion of the OCS in which the activities are occurring.

The OCS, of course, is the Outer Continental Shelf.

If, in fact, that is what we achieve, then even though this is a clumsy arrangement from the standpoint of the administration, nonetheless the result will be exactly what we had intended.

The language of proposed section 327 goes further and states:

> Such regulations may incorporate by reference as appropriate the rules of the adjacent onshore air districts.

Mr. President, it is appropriate that the regulations of the onshore adjacent air district be incorporated. It is not just appropriate; I think it should be mandatory rather than permissive, as it is in this law.

Unhappily, the reality is that were I to offer an amendment to sweep aside these changes and substitute a simpler, better provision, that amendment would be defeated. There is no doubt of that. That has been made quite clear to me and to my colleague from California.

I hope in the House a better provision will in fact be inserted in the House version of the Clear Air Act reauthorization. It is going to be my purpose, I tell the managers very candidly, to lobby House Members to support that simpler and better provision. But in fairness, this does achieve certainly the spirit of what we were seeking by my earlier bill and the amendment that was contained in the 100th Congress version of the Clean Air Act reauthorization.

So I will be fair and give credit where it is due, and at the same time, be fair and give clear notice of my intentions to work with those in the House who seek to put my original language into the House version.

I wish them success, and in fact intend to work with them to achieve success. But I will not, for very practical reasons—specifically, not having the votes to prevail—offer that language to the substitute itself.

I can only say in conclusion, Mr. President, if we are successful on the House side, we will have a better provision and a better bill. We will have achieved the desired result, which is to see to it that the air that blows ashore from such rigs as are permitted off the shore of California does not contribute to a degradation of what is already in the south coast air basin, the only air in the country designated as extremely out of attainment with the Clean Air Act standards.

And if in fact we do not prevail in an effort to amend the bill in the House, then I can only say if we are continually troubled with the degradation onshore resulting from offshore pollutant sources, that is not an acceptable situation and we will simply be compelled to revisit that issue.

It has to do with whether or not there is a superior right somehow of offshore oil drilling platforms to pollute. I say that there is not. We will see whether or not better sense prevails in the House. I hope it does.

In any case, Mr. President, we will not be offering that amendment here, but it is my intention to do everything possible to see that it is placed in the House version.

Absent success there, I will only give notice now, we will undoubtedly be compelled to revisit this issue in the future, because it is simply not fair to ask small businessmen ashore to make the kind of Herculean efforts that will be required in an extreme nonattainment area and exempt oil companies, which have a far greater ability to meet more stringent standards because of their ability to distribute it more equitably in terms of the costs, broadly based, to consumers of their products, as well as much greater technological ability to meet more stringent standards.

The PRESIDING OFFICER (Mr. REID). The Senator from Ohio is recognized.

Mr. GLENN. I thank the Chair.

(The remarks of Mr. GLENN pertaining to the submission of Senate Concurrent Resolution 113 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

SOLIDARITY SUNDAY

Mr. MOYNIHAN. Mr. President, on Sunday, April 1, the Coalition To Free Soviet Jews will be holding its annual Solidarity Sunday rally in New York City to reaffirm support for the rights of Soviet Jews. As I would like to share with my colleagues the remarks I have sent to the organizers of the event, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 29, 1990.

Rabbi HASKEL LOOKSTEIN,
Coalition to Free Soviet Jews, New York, NY.

DEAR RABBI LOOKSTEIN: I regret that a long-standing prior commitment forces me to miss Solidarity Sunday for the first time in 15 years.

I first attended this important rally for human rights in 1976 with my friends Senators Hubert Humphrey and Scoop Jackson and I returned every subsequent year.

I came back because I felt obligated to bear witness on how strongly the American people longed for a change in the Soviet Union's repressive policies towards Jews and other religious minorities. I know you shared this same sense of obligation. Every spring we gathered together in this vast Plaza and called on the Soviet Union to repudiate the lingering Stalinist legacy of state-sponsored antisemitism and to allow its beleaguered Jewish community to, in Senator Humphrey's unforgettable phrase, "live as Jews or leave as Jews."

Year after year we demanded a change in policies and year after year Soviet leaders continued in their stubborn adherence to policies that only sorely tested Soviet Jews but which placed a deep pall over every aspect to American-Soviet relations.

But this year is different! The Soviet Union of Mikhail Gorbachev has changed—and is changing—at a heady pace that can only delight all Americans who cherish religious freedom and human dignity.

And so today you are gathered not to demand a change in the discredited policies of the past but to applaud many of the changes that are taking place and to declare our conviction that these changes must continue in a fashion that enhances the freedom of all Soviet citizens and enables Soviet Jews to enjoy the basic human rights that they have sought for so long.

Those forces within the Soviet society that long for a return to the sorry policies of the past must be shown that the American people stand in solidarity with those who worked so long, and paid such a terrible price, to keep the dreams of democracy alive during the darkest hours of the Soviet nightmare. How we miss Andrew Sakharov and how proud he would be of you today!

The Soviet Union must be assured that the American people acknowledge and appreciate the positive changes that are taking place in that country and desire to see these changes continue at a pace that ensures the continued improvement of bilateral American-Soviet relations.

The world must be told that full religious rights for Jews within Russia and the swift and unimpeded free passage of those desiring to emigrate are fundamental human rights that must not be held hostage at any other domestic or foreign policy agenda.

We can do no less.

With my best wishes for a happy and meaningful Passover.

Sincerely,

D. P. MOYNIHAN.

THE DEATH OF EUGENE REVILLE

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues of the death of an exceptional man, Eugene Reville. Liz and I are deeply saddened by the loss of our friend, Gene. His time came much too soon.

Gene became superintendent of the Buffalo public schools shortly before I came to the Senate in 1976. Almost immediately he was faced with the challenge of leading his school system in the effort to carry out a court-ordered desegregation plan. That this effort was most successful and that Buffalo was spared the agony and strife that came to many other large city school districts facing similar challenges is a tribute to Gene—to his abilities as an administrator, to his talents as a leader, and most of all to his total commitment to the children of his city. This is his enduring legacy.

Under Gene's leadership, the Buffalo public school system not only became desegregated, but it also experienced a remarkable increase in the quality of the education it provides. The Buffalo Magnet School Program has become a model for the Nation, and more Buffalo schools have been singled out for national recognition and honors than in any other district in our country.

Gene Reville's accomplishments during his 36 years of service to Buffalo and its children as a teacher, principal, and chief school administrator will long be remembered. The people of Buffalo will not forget him or his work to improve the education and the very lives of the children of Buffalo. He enriched all who knew him, and for that we shall be ever mindful and grateful.

GREEK INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, I am honored to be a cosponsor of the resolution designating March 25, 1990, as Greek Independence Day.

The Greek nation was born 169 years ago after 6 hard fought years of stuggle for independence. Greek Independnce Day is a monument to the Nation and people of Greece whose influence on their own region and on America have been extensive and enduring.

Our society has benefited not only from the many invaluable contributions of 3 million Greek-Americans, but also from Greece's fundamental influence on our culture and its historic tradition of free and democratic government.

A firm and proven ally of the United States, Greece has worked with us in World War II, the Korean war, and in NATO to promote the ideals of democracy and self-determination that form the cornerstones of our respective systems of government.

On this occasion, we are also mindful of the continuing tragedy in Cyprus, and the importance of achieving a lasting peace based on the legitimate rights of both the Greek and Turkish communities. Americans care deeply about Cyprus, and we are especially concerned about the recent breakdown of talks at the United Nations. The issue of Cyprus deserves a higher place on the United States foreign policy agenda, so that we can do more to bring an end to this festering crisis.

HEALTH CARE FOR ALL AMERICANS BICOMMITTEE BIPARTISAN SENATE WORKING GROUP ON UNIVERSAL ACCESS

Mr. RIEGLE. Mr. President, since July 1989, a bipartisan group comprised of Finance Committee and Labor and Human Resources Committee members have been working in the Senate to develop a program to assure access to high quality, affordable health care for all Americans. It is a national tragedy that 37 million Americans lack any health insurance at all, public or private. Members of the working group are committed to finding a solution to assure access to affordable health care for every American as well as actions to bring the exploding cost of health care under control. The 15 members of the bicommittee, bipartisan Senate working group on universal access are leading health care policymakers, including Senators CHAFEE, KENNEDY, HATCH, MITCHELL, DURENBERGER, METZENBAUM, JEFFORDS, ROCKEFELLER, SIMON, DASCHLE, ADAMS, DANFORTH, and others.

We have compiled a document of options that this group has been considering, including recommendations of the Pepper Commission. In developing our proposal, we intend to draw on the data and recommendations of individuals and organizations having an interest in health care issues. To help us reach a consensus on a particular speech, we encourage the health care community to assess the options outlined in our document to determine which options they could endorse.

In an effort to secure the widest distribution of our options, we are placing our working group work product in the RECORD today. We would like comments on the "Details of Proposal Options," if at all possible, before the conclusion of the Senate's April recess, scheduled between April 9 and April 17. Comments could be addressed to any or all of the members of the bipartisan working group.

Mr. President, the United States spends more per capita on health care than any other nation. We currently spend over $2,000 for each person in this country on health care. That adds up to more than $660 billion annually, or nearly 12 percent of our GNP. High costs have forced families to absorb higher out-of-pocket costs and has led many to question whether we are getting appropriate value for our investment.

At the same time, there are ever growing and pressing needs. Many who have no health insurance do not even seek needed care because they know that they cannot afford it. In addition, the cost of uncompensated care, over $8 billion each year, drives up costs for everyone and is disruptive to our health care system. Clearly, our current system of private and public programs leaves huge gaps in coverage that indicates a serious maldistribution of resources.

In addition to the moral imperative, we also have an economic imperative to close the gaps. The inadequacies of our health care system affect our ability to compete internationally. For example, the Chrysler Corp.'s health care cost is $700 per vehicle which is far above our international competitors' costs. For America to compete in the world market place, all Americans have to be full partners in the economic team. In order for people to be productive, they have to be educated and healthy.

Mr. President, as chairman of the Finance Subcommittee on Health for Families and the Uninsured, one of my top priorities is to see that all Americans have access to high quality, affordable health care. The political dynamics around this issue have changed. No longer are we questioning the merits of solving the problem. The question before us today is how to accomplish the goal of universal coverage in this country. With the key experts on health policy in the Senate together with the help of individuals and organizations with an interest in

health issues, I believe that we can accomplish the goal of providing access to health care for all Americans. No one in this country should be denied medical care when they or a member of their family needs professional attention.

Mr. President, I ask unanimous consent that the text of the Senate working group document be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

BICOMMITTEE BIPARTISAN SENATE WORKING GROUP ON UNIVERSAL ACCESS

HEALTH CARE FOR ALL AMERICANS

Overview

Goal: Ensure Health Care Coverage for all Uninsured People.

Approach: Maximize private health care coverage: cover remaining uninsured through expanded public coverage.

A. Private Coverage

Pepper Commission and Working Group:

Part 1. Initiatives to expand private coverage.

Part 2. Specific initiatives for small business.

B. Public Coverage

Pepper Commission:

Public plan is created for those not covered directly through employers, and nonworking people. Plan would replace Medicaid and be financed and administered by the Federal Government.

Working Group:

Part 1. Expand Medicaid to cover all people under 100% of the Federal poverty level.

Part 2. Other public program or build on Medicaid for those at or above 100% of the poverty level. Subsidy based on ability to pay.

C. Cost Containment

Pepper Commission and Working Group:

Measures to: ensure that universal health care does not create a new round of health care cost inflation; reduce costs to businesses currently insuring workers; and bring down the long-term health care cost inflation; and address structural problems in health care system.

PRIVATE COVERAGE

Part 1: Initiatives to expand private coverage.

Part 2: Special provisions for small business.

DETAILS OF PROPOSAL OPTIONS

Part 1: Initiatives to Expand Private Coverage

Issue: Mechanism.

Pepper Commission:

Five year plan. Initially, private and public insurance reforms, regulatory reforms, and subsidies enacted to stabilize private market and encourage voluntary coverage. After 2 years, all businesses with more than 100 employees are required to provide health insurance to all employees and nonworking dependents or contribute to a public plan for them. Requirements extended to smaller employers in later years only if targets for expanding access are not met.

Working Group:

Option 1: Require all employers to provide health insurance coverage meeting Federal standards to employers and dependents.

Option 2: Combined program of incentives and disincentives to provide coverage:

Offer employers the option of providing coverage or paying a fee set as a per cent of payroll. Fee would be used to cover part of the cost of public coverage for employer's workers and dependents.

Incentives could include items in Option 3 below.

Option 3: Provide employers only incentives to offer coverage, which could include: pre-emption of state mandates; subsidies to small business offering coverage for the first time; grants to states offering programs to include coverage; establishment of high risk pools for individuals unable to purchase insurance in current market because of ill health; improvements in small employer insurance market; improvement of deductibility of premiums paid by self-employed, credit to businesses with no taxable income offering coverage; allowing employers to pay a part of the premium for coverage under a state's Medicaid plan or other public coverage.

Option 4: Establish a refundable tax credit to uninsured individuals to purchase coverage; encourage individual rather than employer selection of plan.

Option 5: Incentives/Mandates to individuals for purchase of employer provided health insurance.

Require employee to purchase for self and dependent.

Offer employee option of purchasing health insurance or payment of fee to be used in public program.

Issue: Benefit package (including premium responsibility).

Pepper Commission:

Package would be specified and employers would contribute a specified amount. The minimum benefit package includes primary and preventive care, physician and hospital care and other services. Services are subject to cost sharing, with subsidies for low-income people and limits on out of pocket spending.

Working Group:

Option 1: No package specified; employers contribute specified amount.

Option 2: Package specified, employers contribute specified amount. Benefit package could include:

(a) Catastrophic only;

(b) Basic package only with emphasis on primary and preventive care; or

(c) Basic and catastrophic package.

Option 3: Package specified as in (a), (b), or (c) above, but no employer contribution required.

Issue: Individual responsibility.

Pepper Commission:

Require individuals to accept coverage and provides subsidies for low-income people.

Working Group:

Issue: Individual participation in program.

Option 1: Uninsured individuals should be required to accept employer coverage.

Option 2: Uninsured individuals should not be required to accept coverage.

Issue: Public subsidy for low-income people.

Option 1: Provide public subsidies for cost-sharing for low-income people.

Option 2: Do not provide public subsidies for cost-sharing for low-income people.

Part 2: Special Provisions for Small Business

Pepper Commission and Working Group:

Provide improved tax treatment for self-employed, greater opportunities for pooling, reform of small business insurance market, special treatment for new, small businesses, small business subsidies under certain circumstances.

Pepper Commission:

No employer with fewer than 100 workers would be required to purchase coverage or contribute to public plan if coverage goals are voluntarily met—80 per cent of uninsured employees of all firms.

Working group has not yet defined what would be considered a small business.

Issue: Mandatory v. voluntary insurance market reform.

Pepper Commission:

Insurance reforms including requiring insurance companies to meet standards for participation in small business market. Standards include no medical underwriting, acceptance of all applicants, setting rates on same terms for all groups in a community, private reinsurance or catastrophic expenses, availability of managed care.

Working Group:

Option 1: Voluntary insurance market reform, including: allowing groups of small businesses to offer stripped-down basic plan to members of groups by exempting them from state mandates; amending current ERISA rules prohibiting the formation of multi-employer trusts (METs) in certain circumstances; allowing small business to buy-in to Medicaid or other public programs; providing seed money to states to establish small business pools; require states to establish subsidized high risk pools for uninsurable individuals and groups.

Option 2: Require insurance companies to meet Federal or State standards to participate in small business market, including: no medical underwriting; community-rated coverage, acceptance of all applicants; availability of managed care.

Option 3: Require states to establish a new, state-sponsored insurance mechanism for small businesses which would either: insure all small businesses (could be through Medicaid program), or assure, through subsidies, that businesses participating in state pool pay no more than average private market costs.

PUBLIC COVERAGE

Part 1. For people under 100 percent of the Federal poverty leve, expand medicaid.

Part 2. For those at or above 100 percent of the Federal poverty level and not covered through private coverage, expand public coverage.

Pepper Commission:

Public plan is created for those not covered directly through employers, and nonworking people. Plan would replace Medicaid and would be operated according to Federal standards.

As under Medicare, insurers may administer claims and may, under contract, offer options. States may also administer claims.

The public plan pays providers for the specified services with rates set according to the rules of the Medicare program.

The public plans subsumes Medicaid for the specified benefits. Medicaid remains intact for all services not covered by the package.

Participation in the public plan is financed through: employer contribution; individual contributions; federal revenues; state contributions equal to Medicaid expenditures for covered services adjusted for general inflation.

State Role:

State governments no longer have the responsibility for providing the specified benefit package for their low-income residents. The new public plan replaces Medicaid for

those services. Medicaid is retained for services not included in the package.

States contribute to the public program as specified above.

The state, at its option and subject to Federal rules, can administer the public plan. All aspects of the administration must be conducted through a new agency which is unconnected to the welfare or Medicaid departments.

Working Group:

Part 1: Individuals with incomes under 100 percent of the Federal poverty level.

Expand Medicaid to cover all individuals under the federal poverty level regardless of their family composition (i.e., eliminate all categorical eligibility requirements)

Issue: Program Structure.

Option 1: Keep current Medicaid system.

Option 2: Modify current Medicaid system, for example:

Change benefit package to include preventive primary care or catastrophic benefits;

Allow state maximum flexibility to design innovative delivery systems;

Redesign reimbursement, paperwork, and claims procedures;

Federalize benefits, including scope and duration;

Require enrollment in (or option to enroll in) managed care programs.

Part 2: Individuals at or above 100 percent of the Federal poverty level who are not covered through private coverage.

Create new public coverage either through existing Medicaid program or new public program.

Require individuals covered by this program to contribute toward the cost of coverage based on their ability to pay.

Issue: Program structure.

Option 1: State flexibility to establish program within Federal standards.

Option 2: Federal requirement for state to provide coverage.

Option 3: Federal program structured similar to Medicare.

Options 1, 2, or 3 could include the following: health insurance pools; extending Medicaid, e.g., Medicaid buy-in; providing flexibility within delivery of services, e.g., allow incentives for creative delivery systems such as community health centers; requiring certain delivery systems; or high risk pools for uninsurable individuals.

Issue: Sources of funding.

Option 1: Federal.

Option 2: State.

Option 3: Federal/State combination.

Option 4: Employer/ employee contribution with option 1, 2 or 3.

Issue: Benefits.

Option 1: Benefits same as those established in Medicaid, including scope and duration.

Option 2: Provided enhanced benefit structure.

Option 3: Federalize (make uniform) benefits.

Issue: Individual participation in program.

Option 1: Uninsured individuals should be required to accept employer coverage.

Option 2: Uninsured individuals should not be required to accept employer coverage.

COST CONTAINMENT

Pepper Commission:

Immediate actions to control costs: require cost sharing by individuals for medical (other than preventive) services, pre-empt state minimum insurance benefit laws, promote managed care, national commissions to review cost and utilization controls in public plan and in private sector, insurance market reforms to promote efficient delivery of services. Long-term strategies: study and demonstration projects on medical malpractice system reforms, continued support for practice guidelines and outcomes research, reduced cost shifting from uninsured and underinsured (for example, Medicaid) to insured population.

Working Group:

Option 1: Federal Government regulatory cost controls, for example: rate-setting; health planning and PRO oversight of private patients; expenditure targets.

Option 2: Alternative national initiatives.

2A: Immediate actions to control costs, develop long-term strategies.

Use of Federal leverage to implement recently enacted outcomes research/standards development legislation as payment device.

Implementation of the Agency for Health Care Policy and Research treatment practice guidelines, which could be used to establish reimbursement differentials. Would result in some initial savings and reasonable assurance to the public and payors that physicians are providing quality and appropriate care for each dollar spent. (Rand Corporation research shows that 10-30 percent of major surgical procedures being done presently are inappropriate.)

Use of public program leverage to implement cost-effective systems of care. Encourage managed care options, for example, reimbursement differentials and revised HMO Act. Require beneficiaries to enroll in managed care programs.

Direct chronically and catastrophically ill individuals to "centers of excellence," so designated because of their high quality care and their economies of scale in treating many individuals of a similar condition. This would consolidate hospital capacity.

Encourage cooperative agreements between hospitals and community health centers or other ambulatory care providers to reduce emergency room treatment for non-emergency care.

Establish grant program to states, providers, and private payers to develop and implement innovative cost control methods.

Require providers to disclose standardized cost and quality data to assist in health care purchase decisions.

Establish a National Health Cost Inflation Review Commission to set annual voluntary targets, monitor cost increases, make recommendations.

Develop measures to make recipients of care more sensitive to the costs of care, e.g., standardizing an insurance package and capping the tax deduction at the cost of the basic package or structuring co-insurance payments to increase awareness of costs.

Option 2B: Insurance market reforms.

Shift insurance industry focus from risk selection to cost-effective delivery, managed care, provider negotiations.

Anti-trust reforms to allow provider self-regulation and cooperative agreements between insurance companies and managed care providers.

Create national coordination of benefits registry to prevent duplication of benefits and thus assure appropriate insurance premium rates.

Preempt state regulation of the content of health insurance.

Option 3: Private market reforms.

Modify current tax preferences to shift coverage to insurable events, create greater consumer awareness of cost of care and benefits.

Vouchers for individual rather than group purchase of coverage.

Entoven approach: employer mandate to pay flat contribution toward health insurance coverage; employee encouraged to choose less expensive plans.

Require insurance companies to cover catastrophic illnesses, and certain preventive medical procedures and as mammograms and immunizations. This would leave individuals responsible for paying for regular doctor visists, e.g., a visit for a cold.

Option 4: Medical liability reform.

Leave acknowledged problems to states for reform.

Federal government preempts the field in terms of certain traditional malpractice reforms. For example, the Federal government could initiate a uniform cap on non-economic damages, a Federal collateral source rule or a more uniform statute of limitations rule, and allow the use of health care practice guidelines as a defense.

Federal government gives states incentives to enact certain alternative dispute resolution procedures for medical malpractice claims. These alternatives may include a voluntary, parallel arbitration procedure or a mandated administrative alternative which removes malpractice claims from the judicial system.

Federal government enacts its own alternative dispute resolution procedure for medical malpractice claims. Could include a special fund, damage determination only, improved discipline process and enforcement for physician license boards.

Explore no-fault alternatives using accelerated compensable events or other methods which are analogous to the workers compensation system.

Patient protection reforms, explore alternative, more successful methods for deterring negligence by doctors and for preventing adverse events to patients. Anti-trust changes would be necessary to allow sanctions by review organizations and licensing boards.

Explore methods of reducing insurance rates for physicians, particularly OB/GYNs.

FINANCING

Option 1: Utilizing the existing funds currently available in health care system today more effectively by private and public sector reforms.

Option 2: Specific suggestions on new sources of funding for expanding access to care, e.g., new fees or revenues.

General considerations: Aspects of the plan.

Phase-in of overall plan.

Established Commission to oversee implementation of plan.

Universal coverage would: reduce costs for businesses currently providing coverage; ensure fairer apportionment of payment responsibilities; reduce costs for small businesses through insurance market reform; and maintain control over payment rates for public program participants.

Mr. CHAFEE. Mr. President, the problem of access to health care for the uninsured is an issue which has received much attention in recent months. I believe that this will be the most important domestic issue facing our Nation in the 1990's.

We all know the grim statistics. Frustration about the cost of our system is voiced by governments, corporations, employees, and health care providers. We are spending $660 billion per year, or almost $2 billion

every day—for a system that serves far too many of us poorly or not at all. Thirty-some million Americans, 75 percent of whom are in working poor families, have no health insurance, and thus extremely limited access to any health care. We spend a greater percentage of our gross national product on health care than any other nation in the world. Yet the United States lags behind most of these countries on key measurements such as infant mortality and life expectancy.

As a society, we are living a hand-to-mouth existence with regard to health care. We don't know where the next meal is coming from, and we don't have a plan for the future. We drift from one crisis to the next, scraping together just enough of what is needed at the time—whether it be money or political will—to get us past the problem immediately at hand. And until we address this fundamental flaw, we will continue to see the signs of backlash at a health care system that does too little at too great a cost.

We must develop a national strategy for addressing the health care needs of Americans. The question is how. I believe we need to take a two-track approach. First, we must enact a structural reform of our entire health care system. Second, because this reform will take some time, we must continue to make incremental improvements in our existing programs.

As this debate progresses, we must examine a number of difficult issues—issues such as whether or not we should build on our current system or adopt a complete reform. We must examine such options as insurance market reform, malpractice relief, employer mandates, managed care, beneficiary cost-sharing, and financing. Since July of last year, I have been working with a group of my colleagues to find a solution to the problem of the uninsured. This group is bipartisan and made up of both members of the Finance Committee and the Labor and Human Resources Committee. Today, we are releasing an option paper, and ask interested groups to comment.

I have to believe that with a plan, we could make $660 billion go much further. I have to believe that by setting some priorities, grappling with the really tough questions, and yes, making some tough choices, we could deliver appropriate care to every citizen for close to what we are spending now.

We can restructure our health care system, reorder our priorities, and devise a way to deliver appropriate health care to every American. We ought to be able to do that for $660 billion per year. But to do it will take commodities that are even more scarce than money these days: creativity, sacrifice, and a great deal of political will. It will also require the cooperation and assistance of health care providers and the business community.

I look forward to receiving comments on our option paper. I thank my colleagues who have taken part in this working group and I hope that we can continue to work together toward an agreement which will solve this crisis in our health care system.

Mr. KENNEDY. Mr. President, America is facing a crisis in health care that threatens the well-being of every family and jeopardizes the viability of our entire health care system. There are too many uninsured and underinsured Americans—and the number is growing every year. Health care costs are out of control and threaten America's economic growth and ability to compete in world markets. In every city in America, essential health care institutions are threatened with collapse because they can no longer afford to care for the tidal wave of the uninsured.

The members of the bipartisan Labor-Finance Senate Working Group on the Uninsured are committed to developing and enacting legislation to assure access to affordable health care for every American and to bring the cost of health care under control.

As a step toward this goal, the group has produced the list of proposed options reprinted below. These options include the recommendations of the Pepper Commission, which provide an immensely helpful basis for moving forward.

The members of the Commission welcome comments from outside groups and health care experts, as well as Members of Congress on these options.

Mr. DURENBERGER. Mr. President, I rise to join my colleagues on the informal working group on the uninsured, in submitting for public attention a document outlining the difficult decisions we must make to assure that all Americans have access to needed health care services. Our working group was formed last session to foster bipartisan cooperation between the Senate Finance and Labor and Human Resources Committees. Several of us also served on the Pepper Commission, which will soon be issuing a report on its deliberations on the access issue and on financing of long-term care services.

This marks another important step forward in increasing the visibility of the debate on health care policy in this country. Without widespread public attention and involvement, our system will continue to experience escalating costs and widespread inequities in affordability and availability of services. While much of our concern is focused rightly on the 30-plus million Americans who lack adequate health insurance protection, the reality is that our health care system is broken for all 240 million of us who depend upon it.

To begin the task of "fixing" that system, I've been suggesting that we start by agreeing on goals for health care in this country. And, to get that debate going, I've suggested five such goals:

First, that it is Government's responsibility to find the resources to make sure that all Americans receive basic and adequate health coverage. Universal access to health care for all Americans must become a national goal, not just for one commission for the Congress, but for the White House, the Governors and the American people.

Second, the rapidly escalating cost of health care is a burden the system cannot carry for long. Health care reform begins with cost containment. It is an economic fact of life that people pay not attention to costs they don't see. As long as everybody is shifting—and nobody is paying—the cost of health care will continue to be out of control.

Third, our tax system is unfair and sends the wrong signals when it comes to health care. While millions of our wealthiest citizens receive thousands of dollars of tax free health benefits, many of our poorest and self-employed citizens cannot buy health insurance at any price.

Fourth, private insurance in this country must be reformed to some degree. The Government heavily subsidizes private insurance with tax deductions, and that gives the American people the right to say something about the kind of products and policies they offer.

And, finally, the American people need to understand the cost of Government action in this area before we start down the road. Only then can we determine what is feasible and sustainable in a political sense. None of us want to repeat the experience we had approving—and then repealing—catastrophic coverage under Medicare.

Overall, a problem of this size will not be solved by a finger in the dike solution. Each actor in the system—consumers, providers, insurers, employers, and Government—needs to be more accountable and responsible for its actions.

Mr. JEFFORDS. Mr. President, health care is a fundamental need of all American citizens. Our present health care delivery system has many inadequacies which we must rectify. On the Federal level, we are just beginning to seriously grapple with this important issue. Recently, we legislated significant changes in our Medicare payment system that will go a long way toward containing health care costs. Much still needs to be done, specifically, we must increase access to the health care system.

I commend Senator RIEGLE and Senator KENNEDY for taking the initiative to form the Bicommittee, Bipartisan Senate Working Group on Universal Access to Health Care. The time has come to thoughtfully and thoroughly review our health care policy. I will give careful consideration to all responses to the working group options and look forward to working with my colleagues on this critically important issue.

Mr. HATCH. Mr. President, I would like to join with my colleagues from the Labor and Human Resources Committee and the Finance Committee's Subcommittee on Health for Families and the Uninsured in soliciting comments on the options for improving access to health care included in today's RECORD. These options are designed to include many ways of ensuring access to health care in America.

Over a year ago, I convened a group of health care experts to advise me on solutions to the problem of the 30 million uninsured citizens in this Nation. Subsequently, I introduced S. 1274, the Comprehensive and Uniform Remedy for the Health Care System Act of 1989, the first of a series of bills to address the issue of access to health care. Later, the bipartisan working group was formed to look at areas where there could be agreement on various access issues that have been identified.

The option paper that is published in today's RECORD is a snap shot of the discussions we have had. The broad conceptual options range from mandating employers provide health insurance to reducing health care costs so that health care is more affordable. While the options represent varying perspectives on how the problem may be best addressed, the working group is in agreement that it is important to seek input from the public on these options before there are futher discussions.

I would like to encourage comments either directly to me or to other members of the working group. It is important that we know how individuals and organizations feel about these options. And, equally important, we need to know if there are other options that we have not considered,

Mr. President, I would also like to acknowledge the efforts of my colleagues on this working group. They have already contributed an enormous amount of their own time to this effort. I know that they too are committed, as I am, to finding a solution to the problem of access to health care.

Mr. SIMON. Mr. President, I am pleased to rise today, along with my distinguished colleagues on both sides of the aisle and with members of the Finance Committee, in submitting for the RECORD this document entitled, "Health Care for All Americans: Details of Proposal Options." This bicommittee and bipartisan document developed by the working group on universal access represents one step in the national debate on how to best provide health insurance to the uninsured.

There are no simple answers and, at present, there is no consensus on how to solve this grave problem which is threatening the existence of the health care system in our country. This proposal does not set out to make specific recommendations but rather provides a range of options identified by members of the working group as possible solutions to this pressing problem. This document, along with the Pepper Commission, will provide us with a solid foundation upon which legislation can be crafted to provide health insurance to the uninsured in our society.

The crisis of the uninsured is one that we are reminded of everyday. As I attend town meetings and read the mail from my constituents, I am told of frightening stories experienced by citizens without health insurance. We are all quite familiar with the statistics quoted each day in the media; 31 to 37 million Americans without health insurance, of those, 12 million are children, 8 million are between the age of 18 and 24, and two-thirds of all uninsured come from the ranks of workers and their dependents.

We can no longer sit by and watch as our Nation fails to provide for its citizens. It is an amazing contradiction that a nation with the highest standard of living ranks 22d in infant mortality. How can a nation with such wealth find itself talking about rationing health care to individuals without health insurance? How can a nation with the greatest technology find each day a new hospital closing because of inadequate support? We can no longer live with the horror stories of children being denied admittance to a hospital because their parents fail to have any health insurance.

There is no need for additional reports and commissions. The problem has been clearly defined but what we have failed to do is address how such a program will be funded. I hope my colleagues and all those involved in health care, citizens and health professionals, will examine the various alternatives outlined in this proposal. With these comments we can move forward, and solve this problem which is tearing our country apart.

Mr. DANFORTH. Mr. President, a bipartisan group of my colleagues have prepared the option paper which is being included in the RECORD today. I have only recently began participating in this group and have had only a limited role in formulating the options contained in the document. But, as I understand it, the option paper contains a full range of ideas to provide more protection for those who are without health insurance.

There are proposals in this document that I cannot now support. For example, I am skeptical of attempts to solve the access problem by mandating that employers provide coverage to those without insurance. Not only would this solution hurt the flexibility and competitiveness of American businesses, it is also bad health policy. This solution would simply layer another tier of costs on a flawed system. It is like recognizing that the structural flaws in your house have left half of your family without shelter and then attempting to solve the problem by building a brand new top floor on the house, with a new bank loan.

This Nation can ill-afford to spend much more than is already spent on its health care. In doing so, we put at risk other top priorities like the proper education of our children and the shoring up of a weakening infrastructure. The amount we spend on health care in this country is enormous. Presently, we spend over 11 percent of our GNP on health care. If growth continues at the same rate for the next decade, we will end up spending 15 percent of our GNP on health care. Last year, the provision of health care absorbed more than half a trillion dollars of our resources, and the costs of the system continue to rise at a frightening pace.

I am participating in this group because I believe that solving the access problem must be a top priority. It is a tragedy that 31 to 37 million people have no health insurance. Yet, I want to encourage the members of the group to stress comprehensive reform of our present system in order to free up resources for the cause of expanding medical protection for the most vulnerable in our society. For example, the inefficient and adversarial nature for resolving malpractice claims in this country result in billions of dollars being spent on defensive medicine every year. Meaningful reform in this area will free up badly needed resources. As other members of the bipartisan group stated in the one meeting that I attended, we should not need to increase the amounts already spent on health care in this country in order to provide some decent level of insurance coverage for everyone.

I join in introducing this document to the rest of my colleagues, and I look forward to working with this group and the rest of the Senate on this important issue.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-

29, as amended by Public Law 98-459, appoints Dr. Virginia Zachert, of Georgia, to the Federal Council on the Aging.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 2381 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

REDUCING NUCLEAR WARHEADS

Mr. BUMPERS. Mr. President, I was in Germany with three of my colleagues a couple of weeks ago, but before that, we, as members of the Arms Control Observer Group of the Senate, went to Geneva. We went to talk to our negotiators and Soviet negotiators at the START talks, chemical weapons talks.

We did not talk to the Ambassadors to the Conventional Forces in Europe talks, but we did visit on the Defense and Space talks and the Threshold Test Ban talks.

I do not know whether any of those treaties are going to be ready for signature in June for the tentatively scheduled visit by President Gorbachev in this country. What I am about to say does not deal, really, with any of the talks that I had with our Ambassadors there. It deals with something that was troubling to me before I went, and is still troubling to me.

About 1½ years ago, when the START talks first started, both parties agreed that they would cut the number of warheads on each side in half. You remember the SALT Treaty was negotiated under President Carter, and was torpedoed, probably never had much of a chance. But after the Russians invaded Afghanistan, it was shelved here because it had no chance.

But the SALT Treaty, I agree, had one very bad flaw in it. It limited the number of missiles and launchers each side could have. Everybody ultimately agreed that that was not a very good idea because it did not control the growing number of warheads in the world. Both sides just started building bigger missiles within the 2,250 limit and put more warheads on them.

And so when the START treaty talks started everybody agreed if you really want to cut the number of nuclear warheads that we and the Soviet Union have aimed at each other, you have to deal with warheads, not launchers. And so they said, "Let us cut the number of warheads on both sides to 6,000 each."

Both sides have between 12,000 and 13,000. And that was generally approved, because it was essentially a 50-percent reduction in the number of warheads on both sides. Then, within the 6,000 warheads that each side would have, they said:

> Let us make 4,900 of those deployable on ballistic missiles and the other 1,100 can be cruise missiles launched from under the wings of a B-1 or a B-52, or the bombers themselves. But only 4,900 could be on our submarines, or on our land-based ballistic missiles.

And I applauded because I thought that was a very good approach to this problem.

But let me tell you what happened since then. Since then, we have negotiated to the point where, if the treaty were signed today, we would have about 1,700 warheads and the Soviets would have about 7,700. I am quoting from an article in the Washington Post, not from anything that is classified.

And why did that happen and how did that happen? Well, it is said that, for example, we can put 20 cruise missiles on one bomber, but that that bomber will only count as 10 warheads. So we get 10 freebies.

So if you have 100 planes with 20 cruise missiles on them, under the counting rules, they would only count as 10, but they would actually be carrying 20. And so that means there are 2,000 extra warheads above the 6,000.

What else? Gravity bombs. I do not know how many bombs, gravity bombs, just old-fashioned bombs—only they are nuclear, and there is nothing old-fashioned about that—I do not know how many of those a plane can carry.

I assume certainly more than one. But the estimates are now that we are going to have well over 11,000 warheads. And because the Soviets do not have many intercontinental bombers carrying cruise missiles that can reach the United States, because of those counting rules, we are going to wind up not with 6,000 accountable warheads on each side, but we will have over 11,000 and the Soviets will have over 7,000 actual warheads.

I have said on this floor many times, Mr. President, I do not sleep any better for knowing that we maybe have a couple of thousand more warheads than the Soviet Union. One hundred warheads is enough to ruin your whole afternoon. And we have piled warhead on top of warhead to the point that it has long since lost any rational meaning.

So, where does that leave us? Well, I assume the treaty is going to be agreed to essentially as I have stated it, so it leaves us that, unless we start negotiating START II, we are almost where we were when we started.

Everybody has been rhapsodic about the START Treaty because they thought it was going to cut the number of warheads in half. And, lo and behold, the final product looks like it is just going to be a minimal cut in warheads from where we were when we started. I think this administration does not want to immediately start negotiating another treaty, at least according to a press account yesterday. They do not want to start negotiating another treaty, but the Soviets do.

Let me describe that press account for my colleagues. It deals with whether or not we ought to try to negotiate the elimination of MIRV'd land-based missiles, especially mobile MIRV'd land-based missiles.

The Soviets say it is too late to submit a proposition under which we would not go with the rail mobile MX in exchange for their destroying their SS-24. General Akhromeyev, when he was in this country about 1 year ago, said, "That might be a doable deal. Why do you not offer it? I promise you the offer will be taken seriously."

Incidentally, I think General Akhromeyev is going to be in this country again. It is said he is the one military man who has Gorbachev's ear. It would be a good thing to explore with him whether that is possible or not.

But Ambassador Nitze says, all the former chairmen of the Joint Chiefs of Staff, Brent Scowcroft, everybody says—except Dick Cheney and George Bush—that we ought not to go forward with these land-based mobile MIRV'd missiles.

What I am talking about has nothing to do with stability. When we consider the fact that we have a bunch of 10-warhead missiles out there that can be destroyed with two warheads from the other side, what is the natural inclination? As the Secretary of State said, "Senator NUNN, you use them or lose them." There is an instability attached to these missiles.

So, Mr. President, I am hoping, if the Soviets are correct, if it is too late to start negotiating the elimination of these MIRV'd mobile missiles, I strongly recommend to the Secretary of State, the Secretary of Defense, and the President that we immediately go into talks on START II and see if we cannot have a real reduction in warheads and, above all, to get rid of those MIRV'd—not just mobile—but MIRV'd land-based missiles which are so destabilizing.

Mr. NUNN. Will the Senator yield?

Mr. BUMPERS. I will be happy to yield to the Senator.

Mr. NUNN. I did not hear all the Senator's presentation, but I think he is talking about a very important subject and one I have been concerned

about for a long time. The way I see it, the step of asking the Soviets to consider getting rid of their SS-24 in exchange for us not going forward with the MX rail mobile would be an important interim step toward a long-term goal of deMIRVing all missiles on land on both sides. Then we would be talking about something that really would be stable.

But I have not heard the Soviets say it is too late to move forward with that proposal. The quote I heard from the Soviets was they would still be receptive. Has the Senator any kind of quote from Soviet leaders saying it is too late for that kind of proposal?

Mr. BUMPERS. Mr. President, it was in yesterday's Washington Post where the reporter was quoting somebody at the arms talks. Obviously this is second- and third-hand stuff. The Soviets say that it is too late to make that proposal.

I am inclined to agree with the thrust of the question and that is it is never too late.

Mr. NUNN. I would rather have the START agreement 2 months later, or 3 months later, than not take advantage of what may be the best opportunity we have had in 40 years to try to bring about a stable regime.

Mr. BUMPERS. The Senator took the words right out of my mouth.

In my opinion the world would be so much more secure, and nobody would lose any political advantage if we did not get that treaty even this year or early next year, if they can negotiate what the Senator has correctly said ought to be at least a transition toward the abolition of MIRV'd land-based missiles by going first with the mobiles.

Mr. NUNN. I could not agree more. The problem with waiting for START II is we know how long it takes to negotiate a treaty. We are going to be called on this year to put up a couple of billion dollars for the rail mobile MX—billion, not million—next year a couple of billion. We are going to spend $6 billion over the next 3 years on that system.

I have never seen the military very willing to give up things that have just been built. So, even if we try to put forward that kind of proposal in START II, in my opinion it is going to be awfully late in the game. I think, if it does not come in START I, it is going to be at least 10 times more difficult to ever dream of accomplishing it.

Once we start down the mobile MIRV'd direction, then the next step is for both sides to try to be able to locate those mobile MIRV'ds, to be able to go after them and we keep this arms race continuing and continuing—offense, defense, offense, defense, and here you go.

So I really am one of those who has urged very strongly the administration not to be bound by any kind of arbitrary deadline of having to sign a START agreement by June 1, or any other arbitrary date, when the substance of the agreement is what the American people and the world are really looking for; not the date of signature, but the substance.

Is it really going to make the world safer? That is what we ought to be asking.

If the answer to that is only marginally, when we can make it much safer, I would much prefer to have a little delay.

Mr. BUMPERS. Mr. President, I cannot tell you how pleased I am that the Senator just happened to walk on the floor and make those remarks.

I have read the Senator's comments on the first two speeches the Senator made on the floor dealing with this as well as the whole defense posture and the constraints we are under budgetwise. But I want to say, less than 1 year ago I raised this issue in Geneva at the arms control observer talks. I said, "Why not just submit to the Soviets this proposition that we will not go forward with the MX rail mobile if they will stop now and dismantle their SS-24's, which is their ccunterpart to this system."

I must say that suggestion was almost ridiculed, and they said, "You do not understand. It is naive to think that the Soviets are going to give something in exchange for something we have not built."

I said, "Well, I learned as a small boy you never know the answer to any question until you ask."

So why does the Senator not at least submit this and just see what kind of a response he gets? Subsequent to that time, my colleague may recall that General Akhromeyev was in this country, and he was quoted in the press as saying that proposition ought to be submitted, but it never has been. This idea of going forward, as the Senator correctly points out, with a $2 billion research and development of this system, when we all know that it is a very desirable goal to do away with these kinds of systems, why do we have to spend $2 billion before we at least try the Soviets out as to whether they are willing to cut this deal?

(Mr. REID assumed the chair.)

Mr. NUNN. Mr. President, I think the Senator's point is very well made. I agree with him. It is not just Akhromeyev, as important as he is. He is very important. I have talked to several other officials who feel the goal of both sides ought to be to move away from MIRV land-based missiles and have single warhead missiles. That would avoid in the future perhaps billions and tens of billions of dollars in expenditure, because as long as we have the MIRV systems on land, they are such an offensive threat that both sides are going to feel compelled to be able to destroy them at the earliest stages of any conflict.

So it is not simply how much you spend on the MX, or the SS-24, on the Soviet side, or the Midgetman or the SS-25 on our side. It is what train of expenditures and efforts those initial deployments will put into play over the next 20 years. I see that train as being much larger in terms of dollars spent to hunt missiles, find missiles and be able to destroy them at early stages because they are so threatening, because they can be made vulnerable and because, as the Senator pointed out—to take the arithmetic of it—you find a train with missiles on it and you use a very few warheads to destroy a great number of warheads.

So, there are all sorts of reasons for military advisers in a crisis to say, "Mr. President, as much as we hate to advise you of this, we think they are about to attack. If we attack first, it will be a tremendous advantage," because the arithmetic is in our favor. We do not want any general to ever have that in his mind on our side or the Soviet side. That is what stability is all about, and that is what we have been striving for for years.

We have the chance now that we have not had. No other American President has had this opportunity, in my view, to move toward a regime of stability that would, most important, make the chances of nuclear war go way down. To me that is what arms control should be all about. I thank the Senator for raising this. I think he is on to something that is enormously important. I am pleased I was able to hear part of it.

Mr. BUMPERS. Mr. President, I am so pleased the Senator is here. My purpose for being here on a lonely Friday afternoon is to speak on this subject because I have had for some time this nagging visceral feeling that the opportunity may be further away.

As my colleague correctly points out, on MX, for example, it is not just the $2 billion. It makes no sense militarily because, as he points out, for example, if we deploy one of those systems, we have four trains, with two missiles per train, that is eight missiles. And with 10 warheads per missile, that is 80 warheads, at one location.

I do not know whether Ambassador Nitze is right or not. He still believes the bolt out of the blue theory. Some people say that is not possible any more. If you read his remarks he gave at the Institute for Foreign Policy Analysis Breakfast Club—and I do not always agree with him on his approach to these things—he was making the point the other morning that this makes no sense and it makes no sense if you consider a bolt out of the blue is possible; that the Soviet Union could conceivably get 80 of our warheads for only 2 of theirs. What

kind of military sense does that make, and what kind of budgetary sense does that make when there are so many other things we can do that are much more viable for us?

Mr. NUNN. Mr. President, I say to the Senator, the best case last year for funding the rail MX mobile was based on a hope that has not been met, but I have not given up. It was the hope that we would be able to trade that for the SS-24 and the hope that mankind could then move toward saving an awful lot of money, yes, but also, much more important, toward really reducing the chances that any general in the Soviet Union or the United States would ever walk into the President or to the leader of the Soviet Union and say, "We have to hit first; we have to preempt; we have to start a nuclear war, otherwise we are too vulnerable." That is the bottom line.

As much as the odds are against it—I do not know what the odds are. Maybe they are 10,000 to 1 it will happen. If they are 10,000 to 1 now, we want to make them 100,000 to 1. If they are 100,000 to 1 now, we want to make it 1 million to 1 now. Whatever the stakes are, I want to have a quantum leap in those odds against nuclear war.

Mr. BUMPERS. Mr. President, as the Senator knows, he commands more respect in this body than any other single Senator on these issues. Not only am I pleased to hear him make these comments with regard to what I was talking about, but I want him to know that when we get down to the bill that the committee will submit to us, I, certainly on this issue, will be a staunch ally. I just think it is foolish. I must confess, I have always preferred the Midgetman. I know it is more expensive but it is so much less destabilizing. I think the rail MX makes no military or economic sense.

Mr. NUNN. Let me make one other observation. The Midgetman is more expensive because it is a new missile and his not been developed. We have to spend money on it. We do not necessarily have to deploy that in a mobile context. What we have to do is spend enough money on it so we have the ability to make the Midgetman mobile, if necessary.

But, if both sides start diminishing, and if we have in view 10 years from now the Soviets will have no SS-18's and no MIRV missiles on land, we may very well be able to put Midgetman, single-warhead missiles in silos and not put them in a mobile capacity which will save us enormous amounts of money and use those in silos, of course, as an interim step in case we ever have to go mobile, if our Trident submarines became vulnerable.

After all, that is the hedge there. We have a triad, and because that is one leg, we are not then vulnerable overall.

I hope the President will seriously consider the fact we do not have to necessarily commit now to make those Midgetman missiles mobile, although we do have to put enough money into research and development so we could make them mobile if we needed to in the future. I can see a regime on both sides where we have single warhead missiles in silos on both sides spaced out enough so that neither side—it is a one-on-one ratio and you do not get an advantage. You give up one missile, warhead, to get one. There is no reason to go first under that situation, even if you can hit the other side, if you have an arms control regime that has equal ceilings on both sides.

That, combined with single warhead missiles on both sides in silos, can save enormous amounts of money on both sides and also, more important, again, greatly reduce the chances any military adviser would ever say to any leader in the Soviet Union or the United States that we have to hit now or we are going to lose our offensive power.

Mr. BUMPERS. I will say to the Senator, I have one little vignette that will be interesting to him, and he might have been present. Back in the early 1980's, there was a group who met every 2 or 3 weeks with somebody who is presumed to be an expert on arms control. I remember Brent Scowcroft, who is now our National Security Adviser at the White House, was our guest one time, and he made an indelible impression on me because he in discussing this whole issue in a sort of macro way casually, said probably where we ought to ultimately wind up in arms control is with each side having 500 single warhead missiles in silos well spaced.

I heard the Senator make that point when he came to Arkansas last year and went out to the Little Rock Air Force Base with Senator PRYOR and myself. He made that very point at a press conference. The Senator was making it in connection with the MX, but it applies here. The whole theory being that it does not make any difference if you launch first or not. If you launch all 500 of yours on the assumption it is going to take 2 warheads to get 1 of the other side's missiles, then you are only going to knock out 250 of his 500, and he is going to have just as much left to destroy you. It is a very stabilizing thought.

But I remember it was none other than Brent Scowcroft who made that suggestion.

Mr. NUNN. That is correct. The dilemma we are in now, supreme paradox, is that the Soviets had read that Scowcroft report very carefully. That was done under Reagan and was bought on by supposedly everybody. The Soviets seemed to take the Scowcroft advice, and we have yet to take that advice, even though he made that report to President Reagan and is now the security adviser to President Bush. He is a wise man, with a lot of influence. I think President Bush is looking very carefully at these issues, and I have some hope that the Brent Scowcroft view is going to prevail.

Mr. BUMPERS. I thank the Senator very much for his comments. This has been an interesting colloquy this afternoon.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLAG BURNING ON THE FAST TRACK

Mr. DOLE. Mr. President, it was announced today by the Supreme Court that they intend to put the issue of flag burning on the fast track. I think that is certainly good news. It is good news for the flag, for the American people and those of us in Congress who want Old Glory to have the protection it deserves.

The lower courts have already confirmed what I predicted last year, the flag statute flunks the constitutionality test, and that is why the flag burners have been having a field day at Old Glory's expense. Now the Court has the opportunity to settle this issue in a timely manner, whether this statute is the airtight law that its authors claim, or if Congress will be forced this summer to reconsider the 27th amendment to the Constitution to preserve our Nation's most cherished symbol.

It is my understanding that the decision by the Court will be rendered sometime in July, and that would still give us plenty of time to act before we adjourn some time later this year to act on a constitutional amendment to prohibit burning the flag of the United States, which I think is important. I think most Americans believe it is important. If the statute does not work, something that will work will be a constitutional amendment.

NOMINATION OF TIMOTHY RYAN, JR.

Mr. DOLE. Mr. President, earlier today, the Senate Banking Committee showed some courage and good sense when it voted to endorse Tim Ryan, President Bush's outstanding nominee to head up the Office of Thrift Supervision.

The vote was a razor thin 11 to 10, and I commend the two Democratic members of the committee who voted

to allow the Ryan nomination to reach the Senate floor.

THE NEED TO MOVE QUICKLY

I do not need to tell anyone about the importance of acting—and acting quickly—to stanch the bloodletting in the thrift industry.

In 1989, the thrift industry had its worse year ever, with losses soaring to $19.2 billion. Last year, thrifts in my own home State of Kansas lost $606 million. And for each day of delay—for each day that the RTC fails to move thrifts out of the Conservatorship Program—the taxpayers of this country are being hit up to the tune of $20 million.

And now, as a result of the Olympic Federal Decision, the actions of the Acting Director of OTS are in a cloud of legal doubt.

President Bush recognized the urgency of getting a qualified person to fill the OTS post, and he chose the most qualified person available—Tim Ryan. Secretary Brady asked for an expedited hearing on the Ryan nomination, and he got it.

I commend the chairman of the Banking Committee, Senator RIEGLE, for scheduling this hearing on such short notice.

DIRECTOR OF THE OTS—A THANKLESS JOB

Not too many Americans are willing to turn their lives inside out—particularly to take a thankless job like the directorship of the OTS.

But when Tim Ryan was tapped by the President, he stepped forward, and he put his personal and professional reputations on the line.

CONCLUSION

Mr. President, Tim Ryan is the right man for the OTS job, and he deserves to be confirmed. He also deserves to have the Members of the Senate take a close look at his record—a record of accomplishment at the National Labor Relations Board, as Solicitor General to the Labor Department, and as a lawyer in private practice.

I would also ask my colleagues during the next few days to take the time to personally meet Tim Ryan. I am certain they will find him to be as qualified on a personal basis as his outstanding record suggests.

Mr. President, I ask unanimous consent that a biographical sketch of Timothy Ryan be printed in the RECORD.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH—T. TIMOTHY RYAN, JR.

T. Timothy Ryan, Jr., a resident of McLean, Virginia, is a partner in the Washington, D.C. law firm of Reed Smith Shaw & McClay. Mr. Ryan was Solicitor of Labor, U.S. Department of Labor from 1981 to 1983. He was appointed to this position by President Reagan and on March 12, 1981 his appointment was confirmed by the Senate.

Mr. Ryan is a graduate of Villanova University (A.B., 1967) and American University Law School (J.D., 1973). He is married to Judith Rush Ryan and has a daughter, Kathryn, and a son, Michael.

Mr. Ryan was formerly an attorney-advisor to Board Member Ralph Kennedy of the National Labor Relations Board. Thereafter, he was associated with the Baltimore, Maryland law firm of Venable, Baetjer & Howard. In 1976 he served as Deputy General Counsel of the President Ford Committee, and in 1980 he was Legal Counsel for the Reagan/Bush Transition. Mr. Ryan served as Special Counsel to the George Bush for President Committee in 1988. Mr. Ryan is a member of the Administrative Conference of the United States and a Board Member and former President of The American Council of Young Political Leaders. He also served as a member of the ERISA Advisory Council established by Secretary of Labor William Brock, the Overseas Private Investment Corporation and the Program for the Advancement of Commercial Technology in India.

Mr. Ryan is admitted to practice law before the United States Supreme Court, the District of Columbia Court of Appeals, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia and the Seventh Circuit Court of Appeals. He is a member of the Labor Law Section of the American Bar Association and the Federal Bar Association, as well as the Bar Association of the District of Columbia. Mr. Ryan has been named to Who's Who in America and to Who's Who in American Law.

RETIREMENT OF JAMES ATHERTON, PRESS PHOTOGRAPHER

Mr. MITCHELL. Mr. President, later today his colleagues in the Press Photographers' Gallery will be wishing Jim Atherton of the Washington Post a happy retirement.

In an era where the men and women working for our daily newspapers and manning our television stations are all too often lumped together and referred to as an undifferentiated group called "the media," professionals like Jim Atherton serve to remind us all that there is art as well as journalism in the work of bringing our daily world to the breakfast tables of American citizens.

Newspapers without photographs would be shorn of half their impact. The work of news photographers helps make concrete to the eye of the reader the events that are making history. It defines and illustrates the essence of a story; it catches history itself, sometimes, mid-stride, its guard down.

I know Jim Atherton has had a fulfilling and satisfying career. I know his colleagues in the Press Photographers' Gallery will miss him. He has earned an enjoyable retirement and I hope he enjoys it.

But I cannot help wondering if he will sometimes feel a slight twinge of regret for the history that his camera is no longer chronicling. I know that all Members of the Senate join me in wishing Jim Atherton a very happy and healthy retirement.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. KOHL) announced that on today, March 30, 1990, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

H.R. 4099. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports and documents which were referred as indicated:

EC-2677. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, notice that the Department of Veterans Affairs does not intend to request supplemental appropriations for the remainder of fiscal year 1990; to the Committee on Appropriations.

EC-2678. A communication from the Principal Deputy Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the annual report on independent research and development and bid and proposal costs for fiscal year 1989; to the Committee on Armed Services.

EC-2679. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the armed forces; to the Committee on Armed Services.

EC-2680. A communication from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting a draft of proposed legislation to authorize the use of annual Department of Defense appropriations for payments under equipment operation and equipment maintenance contracts that cross fiscal years; to the Committee on Armed Services.

EC-2681. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the

twelfth annual report on the administration and enforcement of the Fair Debt Collection Practices Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2682. A communication from the Comptroller of the Currency transmitting, pursuant to law, the annual report on the consumer complaint process of the Office of the Comptroller of the Currency; to the Committee on Commerce, Science, and Transportation.

EC-2683. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of the extension of time for a decision in Finance Docket No. 31494, Intermountain Western Railroad Company—Purchase—Union Pacific Railroad Company; to the Committee on Commerce, Science, and Transportation.

EC-2684. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the use of flight corridors in support of drug interdiction; to the Committee on Commerce, Science, and Transportation.

EC-2685. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Finance.

EC-2686. A communication from the Chairperson of the Retirement Trust, Navy Resale and Services Support Office, Department of the Navy, transmitting, pursuant to law, the annual audit report on the Trust retirement plan for the 1988 Plan Year; to the Committee on Governmental Affairs.

EC-2687. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2688. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the first annual report of the Institute for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2689. A communication from the Assistant Secretary of Transportation (Budget and Programs), transmitting, pursuant to law, the annual report of the Department of Transportation on actions taken under the Program Fraud Civil Remedies Act for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2690. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Walker River Paiute Tribe judgment funds; to the Select Committee on Indian Affairs.

EC-2691. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2692. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2693. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the annual report of the Federal Council on the Arts and Humanities on the Arts and Artifacts Indemnity Program for fiscal year 1989; to the Committee on Labor and Human Resources.

EC-2694. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, recommendations for legislative action; to the Committee on Rules and Administration.

EC-2695. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to expand the Secretary's authority to make temporary appointments of certain health care personnel employed in the Veterans Health Services and Research Administration; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 987. A bill to amend the Alaska National Interest Lands Conservation Act, to designate certain lands in the Tongass National Forest as wilderness, and for other purposes (Rept. No. 101-261).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1424. A bill to amend chapter 57 of title 5, United States Code, to provide that reimbursement for certain travel expenses related to relocation of Federal employees shall apply to all stations within the United States.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Robert W. Sweet, Jr., of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention (Exec. Rept. No. 101-19).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 2372. A bill to extend and revise agricultural price support and related programs, to provide for resource conservation and agricultural research, and to provide consumers a reliable supply of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID:

S. 2373. A bill to promote and enhance the science and mathematics literacy of elementary and secondary school students by providing grants to local educational agencies desiring to participate in curriculum choice programs, and by providing scholarships to individuals who agree to teach mathematics and science in elementary and secondary schools; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 2374. A bill to temporarily suspend the duty on chlor amino base; to the Committee on Finance.

S. 2375. A bill to temporarily suspend the duty on 3-nitrophenyl-4-beta-hydroxyethyl sulfone; to the Committee on Finance.

S. 2376. A bill to temporarily suspend the duty on 4-chloro-2-nitro aniline; to the Committee on Finance.

S. 2377. A bill to temporarily suspend the duty on amino sulfon br; to the Committee on Finance.

S. 2378. A bill to temporarily suspend the duty on acet quinone base; to the Committee on Finance.

S. 2379. A bill to temporarily suspend the duty on diamino phenetole sulfate; to the Committee on Finance.

S. 2380. A bill to suspend temporarily the duty on lasamid; to the Committee on Finance.

By Mr. BUMPERS:

S. 2381. A bill to prohibit the obligation of funds in connection with the Follow-on to Lance missile program; to the Committee on Appropriations.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. BOREN, Mr. DASCHLE, Mr. KERREY, Mr. PRYOR, Mr. HARKIN, Mr. BAUCUS, Mr. BOND, Mr. COCHRAN, and Mr. BOSCHWITZ):

S. 2382. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 and the Agricultural Trade Act of 1978, to promote and encourage the export of agricultural commodities and the products thereof, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 2383. A bill to exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

By Mr. BOREN (for himself and Mr. HEINZ):

S. 2384. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2385. A bill to establish the National Forest Foundation; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mr. LEAHY, and Mr. KERREY):

S. 2386. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to improve agricultural research and related programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN:

S. Con. Res. 112. A concurrent resolution expressing the sense of the Congress that the United States should seek to obtain an Advisory Opinion for the International Court of Justice concerning the right of self-determination of the people of Lithuania; to the Committee on Foreign Relations.

By Mr. GLENN (for himself and Mr. BOSCHWITZ):

S. Con. Res. 113. A concurrent resolution expressing the sense of the Congress on

international nuclear sales to South Asia; to the Committee on Foreign Relations.

By Mr. DASCHLE (for himself, Mr. LEAHY, Mr. BENTSEN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. GRASSLEY, Mr. HARKIN, Mr. KERREY, and Mr. SIMON):

S. Con. Res. 114. A concurrent resolution expressing the sense of Congress regarding action by the Secretary of Agriculture and the Federal Crop Insurance Corporation to restore confidence in the Federal Crop Insurance Program pending consideration of legislation on the Crop Insurance Program; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 2372. A bill to extend and revise agricultural price support and related programs, to provide for resource conservation and agricultural research, and to provide consumers a reliable supply of food and fiber at reasonable prices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL RECOVERY ACT OF 1990

Mr. BURNS. Mr. President, I rise today to introduce legislation to replace the expiring 1985 farm bill. The Food Security Act of 1985 was a revolutionary measure for agriculture. The bill I am introducing today takes it just one step further.

In 1985, the traditional role of the United States of carrying the rest of the world's agricultural production constraints were cast off. Helped by programs such as the Export Enhancement Program, we now face a much different situation.

Burdensome stocks have been reduced. The tools created by the Food Security Act of 1985 have worked to reduce much of that carryover burden. It was touted at that time as a major act and it was a marketing tool. Much work remains to be done, however. Good times have not arrived in our rural areas. We have seen good times come to both the east and west coasts, but mid-America has suffered. Many of our farm families continue to draw down their assets and mortgage their future.

The administration was the first to throw down the gauntlet on the 1990 farm bill. The Agriculture Committees in both the House and the Senate are busy holding hearings and are about to begin markup. The issues are clear.

Cost has become a major item of the debate surrounding a 1990 farm bill. The administration, no more than I, want to keep costs under control. Reducing our budget deficit and our national debt is a priority among all American people. In fact, I suppose if you went and walked up and down the street and talked to a lot of people, they would agree with you.

The goal needs to continue within reason. Conditions that hurt America so badly in the early eighties have been for the most part brought under control but they have not been eliminated.

The costs to farmers continue to rise: fertilizer, farm machinery, oil and gas, everything it takes to produce a crop, those costs continue to go up. All we have to do is go to the implement dealer in our hometowns and just see how much parts cost to fix up machinery that has gone awry. And then go to a farm auction and see old machinery being bought for just parts alone. Prices paid to farmers for their product have not gone up. In fact, in some cases it has gone the other way. Many of our farmers continue to live on borrowed time.

Agriculture, especially farming and ranching, is sort of a unique situation. If we think about it just a little bit, they are the only segment of the American economy that sells wholesale, buys retail, and pays the freight both ways. And we benefit, American society, from that kind of situation.

The American consumer pays less of his expendable dollars for food in this country than any other country in the world, especially developed countries. They grow the food that keeps us all well fed. They also grow the food that keeps the world well fed. They contribute to our balance of trade. In the modern era, our farmers have never suffered a negative trade balance.

We are always in the black. Yet the exodus from our farm communities continues. Each year there are fewer and fewer farmers to work the land, and it is also true in our small towns that serve that agricultural community. They are slowly eroding their capital base.

Also the 1990 farm bill gives me the opportunity to address those remaining imbalances. My proposal would, in essence, reaffirm this society's and Government's commitment to American agriculture to production level. My bill would raise the target price 2 percent annually to compensate somewhat for the increased prices that farmers must pay for their inputs. All we have to do is look at just the fuel costs this year alone. It is going to be much higher than it was last year and, from all predictions, it will be higher in times to come.

In addition, there will be an additional rise in target prices if the Secretary chooses to impose an unpaid land diversion program.

The purpose of my bill is not to increase Federal outlays. In fact, my proposal continues all the usual limits on Government payments, including payment limits and acreage-based limitations. But my bill is meant to increase farm income, preferably through higher returns at the marketplace.

The marketplace is where agriculture really wants to be paid. Our society and this Government has a convenant with the farmers so that they can stay in business and maintain a viable industry, also produce the foodstuffs that this country needs so much.

Food quality and food safety is our primary concern to keep this country well fed and to also feed the people who sometimes are not as fortunate as some of us.

So my bill is meant to repair some of the tears in the safety net that we have seen go away. I hope my colleagues will consider it.

Mr. BOSCHWITZ. Will the Senator yield for a comment on his farm plan?

Mr. BURNS. I sure will.

Mr. BOSCHWITZ. Mr. President, I compliment the Senator from Montana for introducing a bill that does two things, as I understand it: Raises target price to reflect the increases in overhead that the farmers are experiencing and, second, that would attach target prices to the size of the unpaid acreage reduction program.

In the case of wheat, a principal crop in the Senator's State of Montana, the underpaid setasides have been as high as 27.5 percent in recent years. That means that farmer, in the event he wishes to be part of the program, can grow nothing on 27.5 percent of the land, but yet must continue to pay the taxes, overhead, mortgage payments, and all the other costs that continue—the fixed part of his cost structure—on that land. So I compliment the Senator for entering that element into the farm bill for consideration.

While many of us have talked about it, none of us have yet, to the best of my knowledge, put it into any of the farm bills that are being offered that will be considered by the committee. The committee markup is going to begin next week. So, therefore, the Senator from Montana offers a timely new bill that will be considered and now be made part of that markup in this very relevant type of consideration; that in the event the Government compels you to lay aside land in order to qualify for the program, there has to be some balance that results. That will now be made part of our debate.

I compliment the Senator for making that part of our debate and bringing that in a more formal way to the attention and consideration of the committee.

Mr. BURNS. I thank the Senator from Minnesota. Mr. President, I do not think there has been anybody in this body who worked harder on farm legislation than Senator BOSCHWITZ of Minnesota. I thank him for that. As the debate rolls on in this farm legislation, I think it will become even more evident that this Government and this American society is dedicated to a food

production program that is good for all of us.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Recovery Act of 1990."

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to extend and revise agricultural price supports and related programs for wheat, barley, oats, oilseeds, sugar beets, honey, wool and mohair;

(2) to provide for resource conservation;

(3) to provide for agricultural research; and

(4) to provide consumers with a reliable supply of food and fiber at reasonable prices, and for other purposes.

SEC. 3. TABLE OF CONTENTS.

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TITLE I—WOOL AND MOHAIR

WOOL AND MOHAIR PRICE SUPPORT PROGRAM

SEC. 101. Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by—

(1) striking out "1990" in subsection (a) and inserting in lieu thereof "1995"; and

(2) striking out "1990" in subsection (b) and inserting in lieu thereof "1995".

TITLE II—SUGAR BEETS

SUGAR BEET PRICE SUPPORT PROGRAM

SEC. 201. Effective only for the 1991 through 1995 crops of sugar beets, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) striking out "1986 through 1990" in section 201(j)(1) and inserting in lieu thereof "1991 through 1995"; and

(2) striking out "1986 through 1990" in section 201(j)(4)(B) and inserting in lieu thereof "1991 through 1995."

TITLE III—HONEY

HONEY PRICE SUPPORT PROGRAM

SEC. 301. Effective only for the 1991 through 1995 crops of honey, subsection (b) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) striking out "1986" in subsection (b)(1) and inserting in lieu thereof "1991"; and

(2) striking out "1990" in subsection (b)(1) and inserting in lieu thereof "1995"; and

(3) striking out "1986" in subsection (b)(1)(A) and inserting in lieu thereof "1991"; and

(4) striking out "64 cents per pound" in subsection (b)(1)(A) and inserting in lieu thereof "55 cents per pound"; and

(5) striking subsection (b)(1)(B); and

(6) renumbering subsection "(C)" in subsection (b)(1)(C), "(B)"; and

(7) in the new subsection (b)(1)(B) striking "1988, 1989, and 1990", and inserting in lieu thereof "1992, 1993, 1994, and 1995".

TITLE IV—WHEAT

TARGET PRICES

SEC. 401. Effective only for the 1991 through 1995 crops wheat, the Agricultural Act of 1949 section 107 D (7 U.S.C. 1445b-2) is amended by—

(1) striking section (c)(1)(G), and inserting in lieu thereof "(G) For any crop of wheat for which marketing quotas are not in effect, the established price of wheat shall not be less than $4.40 per bushel if a 15 percent unpaid acreage reduction program is in effect; or less than $4.60 per bushel if a 20 percent acreage reduction program is in effect; or less than $4.80 per bushel if a 25 percent acreage reduction program is in effect; and

"(H) in no event shall the established price for wheat be less than $4.08 per bushel for the 1991 crop, $4.16 per bushel for the 1992 crop, $4.24 per bushel for the 1993 crop, $4.32 per bushel for the 1994 crop, and $4.40 per bushel for the 1995 crop."

LOAN RATES

SEC. 402. The Agricultural Act of 1949 is amended effective only for the 1991 through 1995 crops of wheat, by inserting after section 107 (7 U.S.C. 1445a) the following new section:

SEC. 107A. LOANS FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

"(a) LOANS.—

"(1) Nonrecourse loans.—The Secretary shall make available to producers nonrecourse loans for each of the 1991 through 1995 crops of wheat at a level determined by the Secretary that is the higher of—

"(A) not less than 75 percent, nor more than 85 percent, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 95 percent of the level determined for the preceding crop.

"(2) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the nonrecourse loan level for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for a crop; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments available to producers who are eligible to obtain a loan agreement under subsection (a),

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate, by

"(B) the quantity of wheat the producers is eligible to place under loan.

"(3) MAXIMUM QUANTITY.—For purposes of this subsection, the quantity of wheat eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the 1990 through 1995 crop years, by

"(B) the farm program payment yield established for the farm for the 1990 through 1995 crop years.

"(4) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the nonrecourse loan level determined for the crop under subsection (a) exceeds

"(B) the level at which a nonrecourse loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of wheat in an amount computed by miltiplying—

"(A) the payment rate determined under paragraph (2); by

"(B) the individual farm program acreage for the 1990 through 1995 crop years; by

"(C) the farm program payment yield for the crop for the farm for the 1990 through 1995 crop years.

"(2) PAYMENT RATE.—The payment rate for a crop of wheat under this subsection shall be the total of—

"(A) the amount by which the target price for the crop of wheat exceeds the higher of—

"(i) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the secretary (subject to paragraph (4)); or

"(ii) the nonrecourse loan level determined for the crop under subsection (a)(2).

"(3) ESTIMATED PAYMENT RATES.—

"(A) ESTIMATE.—Prior to the time period for entering into a contract to participate in the program established for a crop under this section, the Secretary shall estimate the national weighted average market price to be received by producers during the marketing year for the crop.

"(B) ELECTION.—During the time period for entering into such a contract, the producers on a farm may elect to have the estimated national weighted average market price used for determining the payment rate for payments made to the producers under paragraph (2).

"(d) REPORTING OF ACREAGE.—To be eligible to receive payments under this section, a producer shall report to the Secretary annually (by a date prior to harvest specified by the Secretary) the quantity of the farm acreage base that is devoted to the production of agricultural commodities or conserving uses.

"(e) PRODUCTION CONTROL PROGRAMS.—

"(1) IN GENERAL.—Subject to title V, the Secretary shall not require participation in any production adjustment program for wheat as a condition of eligibility for the loans or payments authorized by this section.

"(2) LAND DIVERSION PAYMENTS.—The Secretary may make land diversion payments to producers of wheat in accordance with section 426.

"(f) FAILURE TO COMPLY.—

"(1) SECRETARY.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may otherwise make the loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(2) COMMITTEES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(6)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect the program authorized by this section through the Commodity Credit Corporation.

"(g) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(i) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to the assignment of payments) shall apply to payments under this section.

"(j) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(k) TENANTS AND SHARECROPPERS.—In carrying out the program established by this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.".

NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS

SEC. 403. Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.

SUSPENSION OF MARKETING QUOTAS, AND PRODUCER CERTIFICATE PROVISIONS

SEC. 404. Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.

SUSPENSION OF CERTAIN QUOTA PROVISIONS

SEC. 405. The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.

TITLE V—BARLEY

TARGET PRICES

SEC. 501. Effective for only the 1991 through 1995 crops of barley, the Agricultural Act of 1949, section 105C (7 U.S.C. 1444d) is amended by—

(1) striking out ", and, if designated by the Secretary, barley,"; and

(2) inserting the following new section "(i) For any crop of barley for which marketing quotas are not in effect, the established price of barley shall not be less than $2.60 per bushel if a 15 percent unpaid acreage reduction program is in effect; or less than $2.75 per bushel if a 20 percent acreage reduction program is in effect; or less than $2.90 per bushel if a 25 percent acreage reduction program is in effect; and"

"(ii) in no event shall the established price for barley be less than $2.41 per bushel for the 1991 crop, $2.45 per bushel for the 1992 crop, $2.50 per bushel for the 1993 crop, $2.55 per bushel for the 1994 crop, and $2.60 per bushel for the 1995 crop."

LOAN RATES

SEC. 502. The Agricultural Act of 1949 is amended by adding the following new section—

(1) effective only for the 1991 through 1995 crops of feed grains, by inserting after section 105 (7 U.S.C. 1444b) the following new section:

"SEC. 105A. LOANS AND PAYMENTS FOR THE 1991 THROUGH 1995 CROPS OF BARLEY.

"(a) LOANS.—

"(1) NONRECOURSE LOANS.—The Secretary shall make available to producers nonrecourse loans for each of the 1991 through 1995 crops of barley at a level determined by the Secretary that is the higher of—

"(A) not less than 75 percent, nor more than 85 percent, of the simple average price received by producers of barley, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of barley, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 95 percent of the level determined for the preceding crop.

"(2) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of

"(i) the nonrecourse loan level for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for the crop, and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of barley, make payments available to producers who are eligible to obtain a loan agreement under subsection (a).

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate, by

"(B) the quantity of barley the producer is eligible to place under loan.

"(3) MAXIMUM QUANTITY.—For purposes of this subsection, the quantity of barley eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the 1990 through 1995 crop years, by

"(B) the farm program payment yield established for the farm for the 1990 through 1995 crop years.

"(4) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the nonrecourse loan level determined for the crop under subsection (a), exceeds

"(B) the level at which a nonrecourse loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of barley in an amount computed by multiplying—

"(A) the payment rate determined under paragraph (2), by

"(B) the individual farm program acreage for the 1990 through 1995 crop years, by

"(C) the farm program payment yield for the crop for the farm for the 1990 through 1995 crop years.

"(2) PAYMENT RATE.—The payment rate for a crop of barley under this subsection shall be the total of—

"(A) the amount by which the target price for the crop of barley exceeds the higher of—

"(i) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary (subject to paragraph (4)); or

"(ii) the nonrecourse loan level determined for the crop under subsection (a)(2).

"(3) ESTIMATED PAYMENT RATES.—

"(A) ESTIMATE.—Prior to the time period for entering into a contract to participate in the program established for a crop under this section, the Secretary shall estimate the national weighted average market price to be received by producers during the marketing year for the crop.

"(B) ELECTION.—During the time period for entering into such a contract, the producers on a farm may elect to have the estimated national weighted average market price used for determining the payment rate for payments made to the producers under paragraph (2).

"(d) REPORTING OF ACREAGE.—To be eligible to receive payments under this section, a producer shall report to the Secretary annually (by a date prior to harvest specified by the Secretary) the quantity of the farm acreage base that is devoted to the production of agricultural commodities or conserving uses.

"(e) PRODUCTION CONTROL PROGRAMS.—

"(1) IN GENERAL.—Subject to title V, the Secretary shall not require participation in any production adjustment program for barley as a condition of eligibility for the loans or payments authorized by this section.

"(2) LAND DIVERSION PAYMENTS.—The Secretary may make land diversion payments to producers of barley in accordance with section 426.

"(f) FAILURE TO COMPLY.—

"(1) SECRETARY.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may otherwise make the loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(2) COMMITTEES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(6) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect the program authorized by this section through the Commodity Credit Corporation.

"(g) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(i) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to the assignment of payments) shall apply to payments under this section.

"(j) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(k) TENANTS AND SHARECROPERS.—In carrying out the program established by this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.".

RECALCULATION OF MALTING BARLEY

SEC. 503. Effective for only the 1991 through 1995 crops of barley, appropriate section of the Agricultural Act of 1949, section is amended by adding the following—

(a) The Secretary shall, within forty-five days of enactment of this Act, recalculate the amount of refund of advance deficiency payment a producer of feed barley must make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) (as amended by paragraph (4) of section 201(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note), as amended by section 602 of the Disaster Assistance Act of 1989 (Public Law 101-82), and as further amended by section 1004 of the Omnibus Budget Reconciliation Act of 1989) (Public Law 101-239)).

(b) The recalculation required by subsection (a) of this section shall reduce the total amount of refund owed by a producer in an amount which reflects the impact of including the average market price for sales of malting barley in the calculations used to originally determine the amount of refund of advance deficiency payment required of such producer: Provided, That any producer of a 1988 or 1989 crop of barley who sold (or held for later sale) all or a portion of such 1988 or 1989 crop production as malting barley shall not be entitled to a reduction in the level of advance deficiency payment refund due on that portion of the crop which was actually sold (or held for later sale) as malting barley, and the Secretary shall establish a reasonable method whereby a producer may show through acceptable records the amount of 1988 or 1989 crop barley on the farm which was marketed (or held for marketing) as feed barley rather than malting barley.

(c) In the case of a producer of a crop of 1988 or 1989 barley who is determined to owe a reduced refund of advance deficiency in accordance with this section, but who prior to the enactment of this Act paid to the Secretary the initially calculated refund (or any amount in excess of the amount of the recalculated refund), then such producer shall be entitled to recoup the excess portion of such refund so paid by the producer, and the Secretary—

(1) shall repay to the producer the excess refund of advance deficiency paid by such producer as determined in accordance with this section;

(2) shall have the option to make such repayment to a producer in a lump sum or in installments within a period of time ending not later than May 31, 1991;

(3) shall, within forty-five days following enactment of this Act, notify a producer that he is entitled to a reimbursement of previously refunded 1988 or 1989 advance deficiency payments under this section, such notice to include a statement of the timing of such repayment (either in lump sum or in installments) and a notification that the amount of the reimbursement owed to the producer by the Secretary shall not bear interest if paid prior to October 15, 1990, and that the reimbursement (or portion thereof) paid after October 15, 1990, shall bear interest at a rate of at least 7 per centum per annum; and

(4) may elect to reimburse producers any excess advance deficiency payment refunds in a lump sum by utilizing negotiable generic certificates redeemable for commodities owned by the Commodity Credit Corporation if such repayment is made to the producer in full within sixty days following the enactment of this Act.

TITLE VI—OATS

TARGET PRICE

SEC. 601. Effective for only the 1991 through 1995 crops of oats, the Agricultural Act of 1949, section 105C (7 U.S.C. 1444d) is amended by—

(1) striking out "oats"; and

(2) inserting the following new section "(i) For any crop of oats for which marketing quotas are not in effect, the established price of oats shall not be less than $1.60 per bushel if a 15 percent unpaid acreage reduction program is in effect; or less than $1.75 per bushel if a 20 percent acreage reduction program is in effect; or less than $1.90 per bushel if a 25 percent acreage reduction program is in effect; and"

"(ii) in no event shall the established price for oats be less than $1.48 per bushel for the 1991 crop, $1.51 per bushel for the 1992 crop, $1.54 per bushel for the 1993 crop, $1.57 per bushel for the 1994 crop, and $1.60 per bushel for the 1995 crop."

LOAN RATE

SEC. 602. Effective only for the 1991 through 1995 crops of oats, the Agricultural Act of 1949 is amended by adding after Section 105 (7 U.S.C. 1444b) the following new section—

"SEC. 105B. LOANS FOR THE 1991 THROUGH 1995 CROPS OF OATS.

"(a) LOANS.—

"(1) NONRECOURSE LOANS.— The Secretary shall make available to producers nonrecourse loans for each of the 1991 through 1995 crops of oats at a level determined by the Secretary that is the higher of—

"(A) not less than 75 percent, nor more than 85 percent, of the simple average price received by producers of oats, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of oats, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 95 percent of the level determined for the preceding crop.

"(2) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the nonrecourse loan level for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for the crop; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of oats, make payments available to producers who are eligible to obtain a loan agreement under subsection (a).

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate, by

"(B) the quantity of oats the producer is eligible to place under loan.

"(3) MAXIMUM QUANTITY.—For purposes of this subsection, the quantity of oats eligible to be placed under loan may not exceed the product obtained by multiplying—

"(A) the individual farm program acreage for the 1990 through 1995 crop years; by

"(B) the farm program payment yield established for the farm for the 1990 through 1995 crop years.

"(4) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the nonrecourse loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a nonrecourse loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of oats in an amount computed by multiplying—

"(A) the payment rate determined under paragraph (2) by

"(B) the individual farm program acreage for the 1990 through 1995 crop years by

"(C) the farm program payment yield for the crop for the farm for the 1990 through 1995 crop years.

"(2) PAYMENT RATE.—The payment rate for a crop of oats under this subsection shall be the total of—

"(A) the amount by which the target price for the crop of oats exceeds the higher of—

"(i) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary (subject to paragraph (4)); or

"(ii) the nonrecourse loan level determined for the crop under subsection (a)(2).

"(3) ESTIMATED PAYMENT RATES.—

"(A) ESTIMATE.—Prior to the time period for entering into a contract to participate in the program established for a crop under this section, the Secretary shall estimate the national weighted average market price to be received by producers during the marketing year for the crop.

"(B) ELECTION.—During the time period for entering into such a contract, the producers on a farm may elect to have the estimated national weighted average market price used for determining the payment rate for payments made to the producers under paragraph (2).

"(d) REPORTING OF ACREAGE.—To be eligible to receive payments under this section, a producer shall report to the Secretary annually (by a date prior to harvest specified by the Secretary) the quantity of the farm acreage base that is devoted to the production of agricultural commodities or conserving uses.

"(e) PRODUCTION CONTROL PROGRAM.—

"(1) IN GENERAL.—Subject to title V, the Secretary shall not require participation in any production adjustment program for oats as a condition of eligibility for the loans or payments authorized by this section.

"(2) LAND DIVERSION PAYMENTS.—The Secretary may make land diversion payments to producers of oats in accordance with section 426.

"(f) FAILURE TO COMPLY.—

"(1) SECRETARY.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may otherwise make the loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(2) COMMITTEES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(6)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect the program authorized by this section through the Commodity Credit Corporation.

"(g) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(i) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to the assignment of payments) shall apply to payments under this section.

"(j) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(k) TENANTS AND SHARECROPPERS.—In carrying out the program established by this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.".

TITLE VII—OILSEEDS

LOANS AND PAYMENTS FOR THE 1991 THROUGH 1995 OILSEED CROPS

SEC. 701. Effective only for the 1991 through 1995 crops of flax, safflower, rapeseed (including canola), title II of the Agricultural Act of 1949 is amended—

(1) in section 201 (7 U.S.C. 1446)—

(A) in the matter preceding subsection (a), by inserting after "tung nuts," the following: "flax, safflower, rapeseed, and canola"; and

(B) by striking subsections (i) and (1); and

(2) by adding at the end the following new section:

"SEC. 204. LOAN AND PAYMENTS FOR THE 1991 THROUGH 1995 OILSEED CROPS.

"(a) OILSEED PRICE SUPPORT.—

"(1) IN GENERAL.—The Secretary shall support the price of flax, safflower and rapeseed (including canola) hereafter collectively known as oilseeds, through loans in each of the 1991 through 1995 marketing years at a level equal to not less than 75 percent, nor more than 85 percent, of the simple average price received by producers for soybeans in the preceding 5 marketing years, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the level of price support may not be reduced by more than 5 percent in any year.

"(2) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for the crop, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for a crop; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for the crop.

"(3) ANNOUNCEMENTS.—

"(A) PRELIMINARY ANNOUNCEMENT.—The Secretary shall make a preliminary announcement of the level of price support for soybeans for a marketing year not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) FINAL ANNOUNCEMENT.—The Secretary shall make a final announcement of the level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. The final level of support may not be announced later than October 1 of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(b) GRADUATED OILSEED PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of flax, safflower, and rapeseed (including canola) (hereinafter in this section collectively refered to as 'oilseeds') in an amount computed by multiplying—

"(A) the payment rate determined under paragraph (2) by

"(B) the individual oilseed base for a farm determined under paragraph (3).

"(2) PAYMENT RATE.—The payment rate for a crop of oilseeds shall be the total of—

"(A) the amount computed by multiplying—

"(i) the amount by which $5.02 exceeds the higher of—

"(I) the national weighted average market price received by producers during the marketing year for soybeans, as determined by the Secretary; or

"(II) $4.50; by

"(ii) 30 bushels per acre; and

"(B) the amount computed by multiplying—

"(i) the amount by which $4.50 exceeds the higher of—

"(I) the national weighted average market price received by producers during the marketing year for soybeans, as determined by the Secretary; or

"(II) the support price of soybeans determined under subsection (a)(1); by

"(ii) the average county yield during the 1985 through 1989 crop years, excluding the year in which the yield was the highest and the year in which the yield was the lowest.

"(3) OILSEED BASE.—The oilseed base for a farm shall be the average acreage planted to oilseeds during the 1985 through 1989 crop years.

"(c) REPORTING OF ACREAGE.—To be eligible to receive loans or payments under this section, a producer shall report to the Secretary annually (by a date prior to harvest

specified by the Secretary) the quantity of the farm acreage base that is devoted to the production of agricultural commodities or conserving uses.

"(d) PRODUCTION CONTROL PROGRAMS.—

"(1) IN GENERAL.—Subject to title V, the Secretary shall not require participation in any production adjustment program for oilseeds as a condition of eligibility for the loans or payments authorized by this section.

"(2) LAND DIVERSION PAYMENTS.—The Secretary may make land diversion payments to producers of oilseeds in accordance with section 426.

"(e) FAILURE TO COMPLY.—

"(1) SECRETARY.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may otherwise make the loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(2) COMMITTEES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(6)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect the program authorized by this section through the Commodity Credit Corporation.

"(f) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to the assignment of payments) shall apply to payments under this section.

"(i) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(j) TENANTS AND SHARECROPPERS.—In carrying out the program established by this section, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.".

TITLE VIII—GENERAL COMMODITY PROVISIONS

Subtitle A—General Commodity Provisions

FARM ACREAGE BASES AND NONPROGRAMS CROPS

SEC. 801. Effective beginning with the 1991 crops, title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended to read as follows:

"TITLE V—FARM ACREAGE BASES AND NONPROGRAMS CROPS

"SEC. 501. DEFINITIONS.

"As used in this title:

"(1) COUNTY COMMITTEE.—The term 'county committee' means the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located.

"(2) FARM ACREAGE BASE.—The term 'farm acreage base' means the total of—

"(A) sum of the 1990 crop acreage bases on program crops of the farm; and

"(B) the oilseed base on the farm.

"(3) NONPROGRAM CROP.—The term "nonprogram crop' means a commodity other than a program crop or any crop included in the oilseed base.

"(4) OILSEED BASE.—The term 'oilseed base' means the average of the acreage planted during each of the 1985 through 1990 crops to flax, safflower, and rapeseed (including canola).

"(5) PROGRAM CROPS.—The term 'program crop' means any crop of wheat, barley, or oats.

"SEC. 502. FARM ACREAGE BASE.

"(a) ESTABLISHMENT.—The Secretary shall provide for the establishment and maintenance of farm acreage bases for each farm.

"(b) LIMITATIONS.—Notwithstanding any other provision of law, to be eligible for loans or payments under this Act, the producers on a farm—

"(1) may plant program crops, or crops included in the oilseed base on acreage that is no more than the farm acreage base; and

"(2) shall devote to conservation uses all of the farm acreage base that is not planted to program crops or crops included in the oilseed base.

"(c) COMBINATION OF PROGRAM CROPS.—The producers on a farm may plant any combination of program crops and crops included in the oilseed base, if the total acreage planted to program crops and crops included in the oilseed base does not exceed the farm acreage base.

"SEC. 503. NONPROGRAM CROPS.

"(a) IN GENERAL.—The producers on a farm may plant and harvest nonprogram crops on acreage included in the farm acreage base if the producers forfeit payments prorated on the basis of the crop acreage bases established for the 1990 crop year and the oilseed base that comprises the farm acreage base, except as provided in subsection (b).

"(b) CONSERVING CROPS.—The producers on a farm may plant conserving crops on the farm acreage base of the farm without forfeiting program payments if the crops are not harvested.

"SEC. 504. FAILURE TO COMPLY.

"(a) SECRETARY.—If the failure of the producer on a farm to comply fully with the term and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may otherwise make the loans and payments in such amounts as the Secretary determines to be equitable in relation to the seriousness of the failure.

"(b) COMMITTEES.—The Secretary may authorize the county committees to waive or modify deadlines and other program requirements in cases in which lateness of failure to meet the other requirements does not affect the operation of the program.

"SEC. 505. PLANTING AND PRODUCTION HISTORY OF FARMS.

"Each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a farm acreage base for a farm to provide planting and production history of the farm for each of the 5 crop years immediatley preceding the 1990 crop year.

"SEC. 506. ESTABLISHMENT OF BASES BY COUNTY COMMITTEES.

"Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a farm acreage base with respect to any farm administratively located within the county if the farm acreage base cannot otherwise be established under this title. The bases shall be established in a fair and equitable manner, except that no such bases shall be established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

"SEC. 507. APPEALS.

"The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to farm acreage base.".

Subtitle B—Land Diversion Payments

LAND DIVERSION PAYMENTS

SEC. 802. Title VI of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 426. LAND DIVERSION PAYMENTS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, effective only for the 1991 through 1995 crops of wheat, barley, and oats, the Secretary may make land diversion payments to producers if the Secretary determines that the land diversion payments will not undermine United States agricultural competitiveness or lead to lower world market shares for affected commodities.

"(b) CONSERVATION.—

"(1) IN GENERAL.—The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(2) CONSERVATION RESERVE.—For the purpose of paragraph (1), land placed in the conservation reserve program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) shall be considered devoted to approved conservation uses.

"(c) CONTRACT OFFERS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the potential benefits to soil and water conservation and wildlife.

"(d) CONTRACT LENGTH.—The term of a land diversion contract entered into under this section may be from 1 to 5 crop years.

"(e) LIMITATIONS.—Notwithstanding any other provision of law, the Secretary shall limit the total acreage to be diverted under contracts entered into under this section and the conservation reserve program established under subtitle D of title XII of the Food Security Act of 1985—

"(1) in any county or local community so as not to affect adversely the economy of the county or local community; and

"(2) to not more than 40,000,000 acres.".

PAYMENT LIMITATIONS

SEC. 803. (a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (1)—

(A) by striking "1987 through 1990 crops" and inserting "1991 through 1995 crops";

(B) by inserting after "section)" the following: ", oilseed payments,"; and

(C) by striking "and rice" and inserting "rice, flax, safflower, and rapeseed (including canola)";

(2) in paragraph (2)(A)—

(A) by striking "1987 through 1990 crops" and inserting "1991 through 1995 crops";

(B) by inserting after "honey," the following: "flax, safflower, rapeseed (including canola),"; and

(C) by striking "clause (iii)(II)" and inserting "clause (iii)"; and

(3) in paragraph (2)(B), by striking clauses (iii) through (vi) and inserting the following new clauses:

"(iii) any gain realized by a producer from repaying a loan for a crop of a commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

"(iv) any deficiency payment received for a crop of wheat, or feed grains, under the Agricultural Act of 1949 as the result of the national weighted average market price received by producers during the marketing year for such crop; and

"(v) any loan deficiency payment received for a crop of wheat, or feed grains, under the Agricultural Act of 1949.".

(b) FOREIGN PERSONS.—Section 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308-3(a)) is amended by striking "1989 and 1990 crops" and inserting "1991 through 1995 crops".

ADVANCE DEFICIENCY AND DIVERSION PAYMENTS

SEC. 804. (a) IN GENERAL.—Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2 is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following new paragraph:

"(1) If the Secretary determines that deficiency payments will likely be made for any of the 1991 through 1995 crops of wheat, or feed grains, under this Act, the Secretary shall make advance deficiency payments available to producers for each of the crops.";

(2) in subsection (a)(2)(F), by striking clause (iii) and inserting the following new clause:

"(iii) not less than 30 percent, nor more than 50 percent, of the projected payment rate,";

(3) in subsection (a)(2)(J), by striking "acreage limitations or set-aside program" and inserting "annual program"; and

(4) in subsection (b)—

(A) by striking "1986 through 1990" and inserting "1991 through 1995"; and

(B) by striking "such payments" and inserting "the annual payments".

PRODUCER RESERVE PROGRAM FOR WHEAT, BARLEY AND OATS

SEC. 805. (a) IN GENERAL.—Effective beginning with the 1991 marketing years for wheat, barley and oats, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended to read as follows:

"SEC. 110. PRODUCER RESERVE PROGRAM FOR WHEAT, BARLEY AND OATS.

"(a) IN GENERAL.—

"(1) PROGRAM.—The Secretary shall formulate and administer a program under which producers of wheat, barley and oats may—

"(A) store wheat, barley and oats when the commodities are in abundant supply;

"(B) extend the time period for their orderly marketing; and

"(C) provide for adequate, but not excessive, carryover stocks to ensure a reliable supply of the commodities.

"(2) DISPLACEMENT.—The Secretary shall establish safeguards to ensure that wheat, barley and oats held under the program shall not be utilized in any manner to unduly depress, manipulate, or curtail the free market.

"(3) ADDITIONAL AUTHORITY.—The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

"(b) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—In carrying out the producer storage program, the Secretary shall provide original or extended price support loans for wheat and feed grains under terms and conditions designed to encourage producers to store wheat, barley or oats for a period not to exceed 18 months in order to promote orderly marketing when wheat, barley or oats are in abundant supply. Loans made under this section shall be made at such level of support as the Secretary determines appropriate.

"(2) PARTICIPATION.—The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in each producer storage program, taking into account regional differences at the time of harvest.

"(c) RATE OF INTEREST.—The rate of interest charged participants in the program authorized by this section shall be not less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury, except that the Corporation may waive or adjust the rate of interest as the Corporation determines appropriate to effectuate the purposes of this section. The Corporation may increase the applicable rate of interest in such amounts and at such intervals as the Secretary determines is appropriate to encourage the orderly marketing of wheat and feed grains securing loans made under this section.

"(d) REPAYMENT.—The Secretary may require producers to repay loans made under this section, together with accrued interest and such other charges as may be required by regulation, prior to the maturity date of the loan, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs.

"(e) ANNOUNCEMENT.—The Secretary shall announce the terms and conditions of the producer storage program as far in advance of making loans as practicable.

"(f) UPPER LIMITS.—The Secretary shall determine and establish upper limits on the total quantity of wheat and feed grains that may be stored under storage programs established under this section to be effective during the marketing year for such crop, as follows:

"(1) WHEAT.—The upper limit on the total quantity of wheat that may be stored under such programs shall not exceed 30 percent of the estimated total domestic and export usage of wheat during the marketing year for the crop of wheat, as determined by the Secretary.

"(2) BARLEY OR OATS.—The upper limit on the total quantity of barley and oats that may be stored under such programs shall not exceed 15 percent of the estimated total domestic and export usage of barley or oats during the marketing year for the crop, as determined by the Secretary.

"(g) PAYMENTS.—The program shall provide for the payment of storage payments to producers at rates equal to those paid by the Commodity Credit Corporation to commercial warehouses to encourage participation in the program. The Secretary may elect not to make the payments if the Secretary determines that the estimated market price for wheat, barley or oats is in excess of 150 percent of the current price support rate applicable to the commodity.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The Corporation may issue such regulations as are necessary to carry out this section.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—Section 208(c)(2) of the Agricultural Act of 1980 (7 U.S.C. 4001(c)(2)) is amended—

(1) in subparagraph (A), by striking "the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949" and inserting "the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for the commodity, as determined under title I of the Agriculural Act of 1949 (7 U.S.C. 1441 et seq.)"; and

(2) in subparagraph (B)(i), by striking "the then current level at which the Secretary may encourage repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949" and inserting "the higher of 140 percent of the nonrecourse loan rate for the commodity or the established price for the commodity, as determined under title I of the Agricultural Act of 1949".

EXTENSION OF THE RESERVE

SEC. 806. Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1990" both places it appears and inserting "1995".

ADVANCE ANNOUNCEMENT OF PROGRAMS

SEC. 807. Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended—

(1) by striking "1987 through 1991" each place it appears in paragraphs (1) and (2) and inserting "1992 through 1996";

(2) in paragraph (3)(B)(ii)—

(A) by striking "1991" each place it appears and inserting "1996";

(B) by striking "1990" each place it appears and inserting "1995"; and

(C) by striking "Food Security Act of 1985" and inserting "Agricultural Recovery Act of 1990".

DETERMINATIONS OF THE SECRETARY

SEC. 808. Section 1017(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1459) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949

SEC. 809. Effective only for 1991 through 1995 crops of wheat, barley and oats subsection (k) of section 408 of the Agricultural Act of 1949 (7 U.S.C. 1438(k)) is amended to read as follows:

"(k)(1) Reference made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'levels of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, barley and oats under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to loan and purchase operations for wheat, barley or oats under this Act.".

Subtitle B—Technical and Conforming Amendments

CONFORMING AMENDMENTS

SEC. 810. The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) (as amended by sections 101 and 622 of this Act) is further amended by redesignating sections 107C, 107E, and 107F (7 U.S.C. 1445b-2, 1445b-4, and 1445b-5) as sections 107B, 107C, and 107D, respectively.

TITLE IX—TRADE

Subtitle A—Eastern Europe and the USSR

SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD AID TO EASTERN EUROPE AND THE USSR

SEC. 901. The Food Security Act of 1985 (7 U.S.C. 1736-1 Sec. 113 (c)(1) is hereby amended by deleting ";" after "foreign countries" and inserting the following: "with special emphasis on Eastern Europe and the U.S.S.R.;" and strike "1990" in (7 U.S.C. 1736-1 Section 1113. (c)(9)) and insert therein "1995"; and delete "." after industry and add "; and" the following new subsection after (7 U.S.C. 1736-1 Section 1113 (3)(B);

"(C) make recommendations to the President and the Congress with respect to the progress of democracy in Eastern Europe and the USSR and how the export of United States agricultural commodities and the products thereof might foster and promote the growth of democratic institutions in Eastern Europe and the USSR."

Subtitle B—Imports from Canada

DURUM WHEAT IMPORTS

SEC. 902. (a) The Secretary of Agriculture, in consultation with the President of the National Association of Wheat Growers, shall conduct a study of the impact on domestic durum wheat growers of the importation of durum wheat from Canada into the United States.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the President of the National Association of Wheat Growers, shall submit to the Congress a report on the study conducted under subsection (a).

ALFALFA SEED IMPORTS

SEC. 903. (a) The Secretary of Agriculture shall conduct a study of the impact on domestic alfalfa seed growers of the importation of alfalfa seed from Canada into the United States.

(b) By no later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a report on the study conducted under subsection (a).

TITLE X—CONSERVATION

LIMITING THE CONSERVATION RESERVE PROGRAM

SEC. 1001. Limiting the conservation reserve to 40 million acres.

(a) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) in subsection (a), by striking "1990" and inserting "1995"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and "; and

(C) by adding at the end the following new paragraph:

"(6) during the 1991 through 1995 fiscal years, a total of not more than 40 million acres, subject to section 426(e)(2) of the Agricultural Act of 1949.".

INCLUSION OF WETLANDS IN CONSERVATION RESERVE

SEC. 1002. Section 1231(c) of the Food Security Act of 1985 (16 U.S.C. 3831(c)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may include in the program established under this subtitle a field—

"(A) at least ⅓ of which is wetland or converted wetland; and

"(B) that has been annually planted, or considered to be planted, to produce an agricultural commodity (other than an orchard, vineyard, or ornamental planting) in at least 2 of the 1981 through 1985 crop years.".

INCLUSION OF SHELTERBELTS AND WINDBREAKS IN CONSERVATION RESERVE

SEC. 1003. (a) INCLUSION IN CRP.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended—

(1) in paragraph (3)(B), by striking "establishment of—" "establishment of permanently"; and

(2) by adding at the end the following new paragraph:

(4)(A) In determining the acceptability of contract offers, the Secretary shall, under terms and conditions specified by the Secretary, accept contract offers that provide for the establishment of shelterbelts and windbreaks.

(B) The owner or operator of the land may, within the limitations prescribed under section 1231(e), specify the term of the contract.

"(C) Any land designated for use in establishing a shelterbelt or windbreak shall be eligible for participation in the program established under this subtitle regardless of the soil erosion classification of the land as determined by the Soil Conservation Service.

"(D) An owner or operator using land under this paragraph for the purposes of the program established under this subtitle shall grant an easement to the Corporation on the windbreak or shelterbelt for the useful life of the windbreak or shelterbelt. Any deed on the land shall be encumbered with the easement for the useful life of the windbreak or shelterbelt.".

"(b) COST-SHARING PAYMENTS.—Section 1234(b) of such Act (16 U.S.C. 3834(c)) is amended by inserting after "conservation measures and practices" the following: "(including shelterbelts and windbreaks)".

"(c) COUNTY CROPLAND LIMITATION.—Section 1231(d) of such Act (16 U.S.C. 3831(d)) is amended by adding at the end the following new sentence: "The limitation established under the preceding sentence shall not apply to cropland that is being used for the establishment of shelterbelts and windbreaks.".

DUTIES OF OWNERS AND OPERATORS

SEC. 1004. Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) by striking the period at the end of subparagraph (10) and inserting "; and"; and

(2) by adding at the end the following new subparagraph:

"(11) to cut weeds as needed in order to prevent the spread of noxious weeds. Such cutting shall be done only to contain the spread of such weeds and should in no way result in any direct economic benefit to the owner or operator."

TITLE XI—AGRICULTURAL RESEARCH

DROUGHT RESEARCH

SEC. 1101. (a) The Secretary of Agriculture is encouraged to conduct a study on the impact of rangeland carrying capacity during drought and, within 1 year after the date of enactment of this Act, submit to the Congress a report on such study.

(b) The study shall include—

(1) a review of existing rangeland drought research here and abroad; and

(2) a strategy for the establishment of a national rangeland drought research program, involving international, Federal, State and local agencies.

ALTERNATIVE USES FOR AGRICULTURAL PRODUCTS

SEC. 1102. (a) The Secretary of Agriculture is encouraged to conduct a study on new uses for traditional and alternative agricultural products and, within 6 months, and annually thereafter, after the date of enactment of this Act, submit to the Congress a report on such study.

(b) The annual studies shall include—

(1) a review of existing alternative uses for traditional and alternative crop both here and abroad; and

(2) a strategy for research in new uses for traditional and alternative agricultural products within the national land grant college system.

UNDERSTANDING FOREIGN MARKETS FOR AGRICULTURAL EXPORTS

SEC. 1103. (a) The Secretary of Agriculture shall conduct a study on the complexities of foreign markets and their relationship to agricultural exports within 1 year of the date of enactment of this Act, and submit to the Congress a report on such study.

(b) The study shall include—

(1) a review of existing relevant studies here and abroad; and

(2) a strategy for addressing the needs of agricultural exporters in dealing with foreign markets.

IMPROVING ENVIRONMENTAL SAFETY

SEC. 1104. (a) The Secretary of Agriculture is encouraged to conduct a study on the impact of agricultural chemicals on the environment and, within 1 year after the date of enactment of this Act, submit to the Congress a report on such study.

(b) The study shall include—

(1) a review of existing chemical use research here and abroad; and

(2) a strategy for the assessment of the environmental, economic, and social implications of continued agricultural chemical use nationwide.

TITLE XII—MARKETING

Subtitle A—Spearmint

MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

SEC. 1201. The marketing order governing the production, handling and sale of spearmint in the far west is amended by deleting "Montana and" in section (7 CFR Ch. IX Part 985.5).

TITLE XIII—RELATED AND MISCELLANEOUS MATTERS

CONTROL OF NOXIOUS WEEDS ON FEDERAL LANDS

SEC. 1301. (a) The Secretary of Agriculture, in conjunction with the Secretary of the Interior, shall carry out a program to control noxious weeds, including but not limited to leafy spurge and knapweed, on all Federal lands.

(b) The Secretary of Agriculture, in conjunction with the Secretary of the Interior, shall treat federal lands that are contiguous to private lands when such federal lands are infested with noxious weeds at levels of economic infestation, unless the Secretary of Agriculture determines that delaying treatment will optimize biological control and not cause greater economic damage to adjacent landowners.

(c) From appropriated funds made available to the Secretary for such purposes, the Secretary shall provide adequate funding for a program to train personnel to effectively accomplish the objective of this section.

BRUCELLOSIS ERADICATION

SEC. 1302. The appropriate section of the Commodity Credit Corporation Charter Act is amended by inserting at the end, the following: "And provided further, that the eradication of brucellosis be declared a national emergency, thereby allowing the use of Commodity Credit Corporation funds to finally eradicate this disease from the continental United States."

TITLE XIV—GENERAL EFFECTIVE DATE

SEC. 1401. Except as otherwise provided in this Act, this Act and the amendments made by this Act, shall become effective on the date of enactment of this Act.

By Mr. REID:

S. 2373. A bill to promote and enhance the science and mathematics literacy of elementary and secondary school students by providing grants to local educational agencies desiring to participate in curriculum choice programs, and by providing scholarships to individuals who agree to teach mathematics and science in elementary and secondary schools; to the Committee on Labor and Human Resources.

SCIENCE AND MATHEMATICS ACHIEVEMENT READINESS TEACHING ACT

Mr. REID. Mr. President, I rise today to share with my colleagues the concern I have for a growing challenge to the United States.

Mr. President, there are fewer physics teachers in this country today than there are school districts—not schools but school districts.

Mr. President, for every new math and science teacher, there are 13 math and science teachers leaving teaching. The challenge of which I speak is a challenge to the once unrivaled strength and competitiveness of the United States of America.

I do not have to tell anyone that the United States was once unquestionably the world's foremost economic power, but now, Mr. President, there is a question.

I do have to say that such a level of prestige can be attained once more. Here in the United States we have often taken our successes for granted. Increased global competition has sprung up around us so quickly that not many of us took notice until in many respects we were no longer in the lead. We cannot take the energy, force, and might of America for granted any longer. Our world is becoming more competitive by the minute. We truly have our work cut out for us in order to maintain our leadership in the world community.

The most obvious way we can begin to meet the competition and the challenges that the nineties are due to bring is by educating our children. It is nothing new to hear that international comparisons of math and science achievement show American children earning the lowest scores in the world.

Mr. President, I have behind me two charts that I think are quite illustrative of the problem. These charts show that in science achievement for 17-year-old young men and women, the United States is behind China, Japan, and the United Kingdom.

In math achievement for 17-year-old young men and women, we are behind the countries of Canada, Japan, Sweden, and the United Kingdom, yet again.

There are only a few countries on these charts that illustrate the problem we have, Mr. President. We could list other countries that score higher than the United States—many, many countries where students, even in less developed nations, than the U.S. score higher than our students.

So it saddens me to hear that the children of the United States earn low scores when this country of ours is so rich in resources. We hear so much about Japan. Of course, Mr. President, Japan does not have the resources our country does. We certainly should be outscoring them in every category, but we do not. There is no reason why American education should not be the very best in the world.

I began by stating a couple of statistics that I want to repeat. In the United States today, we have fewer physics teachers than we have school districts—not schools, school districts. For every new math and science teacher that we are getting today, we are losing 13 more math and science teachers to the private sector. Teachers are leaving math and science teaching at a rate of 13 to 1—that is for every new teacher we get 13 leave, on to do something else.

My office like every office here on Capitol Hill has been flooded with pleas from corporations. We could name them by the dozens, but Union Carbide, all kinds of aerospace industries, Merck Laboratories, are asking us to address the crisis facing them, the competitive decline of our advanced industries in the international marketplace and our inadequately-educated workforce. Such pleas call for a partnership among industry, government, and educators, to seek long-term solutions to the challenges facing our present and future work force.

Last week I received alarming news from the Nevada Superintendent of Public Instruction. The high school dropout rate in Nevada is approximately 38 percent. I was astounded by this, news which I consider to be tragic. I could not believe that in the Silver State, the State of Nevada, the fastest-growing State in the Union, that 38 percent of high school students were failing to graduate. We desperately need this 38 percent to stay in school and to graduate.

When I say "we," I mean we, the whole country needs more of our students to graduate. The figure of 38 percent, of course is high. But, Mr. President, all over the country the average is more than 25 percent.

We desperately need this 38 percent to stay in school to graduate. First, they must stay in school to absorb skills to enable them to provide for themselves, and second, they must stay in school because we desperately need them to participate in the U.S. work force.

There is a corporation in Nevada, an aerospace firm, that cannot find Americans to work in its facilities. This corporation has been forced to search outside the United States—not outside Nevada—outside the United States for qualified employees. Similar scenarios can be witnessed throughout the whole United States.

We need to better prepare our students to improve general technical literacy as well as to encourage more students to become our Nation's scientists and engineers. Despite an increasing need for Americans who are literate in math and science, very few are pursuing studies in these areas, Mr. President, particularly minorities.

In 1988, in this country of approximately 250 million people, 233 black and Hispanic Americans earned doctorates in science or engineering fields; 233. Together, black and Hispanic Americans constitute 20 percent of our Nation's population. Yet only 4 percent of employed scientists and engineers are black or Hispanic.

Black and Hispanic children currently constitute 25 percent of our public school enrollment. By the year 2000, they will constitute 50 percent.

Women as well as minorities will constitute a great percentage of our future work force, yet are grossly underrepresented in enrollment in scientific and technological disciplines at all levels of schooling.

Without a proportional participation of women and minorities in science and technical careers, we will not be able to compete in the world marketplace. These figures I have on these charts behind me, Mr. President, will be even more out of line unless we do something and do it on a nationwide basis, not a bit here and a bit there. We need a major program. We need an effective program like the one it took for us to get to the moon. Too many people enter our work force who are ill

prepared for jobs with a technology focus. We have failed to equip our students to think intelligently about environment, medicine, energy, space, and other crucial technical fields. Technology is the basis for a world class standard of living.

Mr. President, I am not talking about educating everyone to the level of a Ph.D. I am talking about educating a work force that is technologically literate. That we have failed.

Thomas Jefferson wrote in a letter in 1816 "If a nation expects to be ignorant and free in a state of civilization, it expects what never was, and never will be."

I admire Jefferson's vision of the U.S. coalition with education. If he were here today, he would likely agree that the quality of our work force largely determines our economic future.

The average time allotted to science in our elementary school systems throughout the United States is 15 minutes a day.

Of our Nation's 24,000 high schools, 30 percent of these high schools offer no physics courses. How could they? We have fewer physics teachers than school districts.

Of our Nation's 24,000 high schools 18 percent offer no chemistry courses, and 8 percent offer no biology courses.

This means that 3½ million students will graduate from high school without even having had an opportunity to take physics; 2 million students will not have had an opportunity to take chemistry; and 1 million will not have had the opportunity to take a biology course.

Such assessments clearly indicate that the math and science education of our students needs to be addressed at the elementary and secondary levels and addressed without delay. I am happy to say that many of my colleagues have acknowledged the importance of math and science and have addressed different aspects of it with proposed legislation.

I am pleased that better preparedness of both our students and teachers has been the focus of some of my colleagues. Today I would like to make a contribution toward improving science and math education by introducing the Science and Mathematics Achievement Readiness Teaching Act which will be called SMART.

This bill is designed to provide local educational agencies funds to make substantial improvements in the science and math education of their students. All too often the Federal Government has mandated to local education agencies that they introduce new and improved programs, yet has neglected to provide them with any resource with which to meet this mandate.

Given that our national needs are being threatened, I believe it is the responsibility of the Federal Government to provide greater support to U.S. education. By addressing the educational needs of our children, we can begin the trek back to the strong position we once held as the world's foremost economic power.

The recent reauthorization of school dropout programs, and passage of the National Literacy Act, and the Educational Excellence Act, illustrates the growing sentiment that education must be our Nation's No. 1 priority. Title I of the SMART Act directs the National Science Foundation and the Department of Education to approve science and math curricular packages designed to raise the science and math achievement of our students. Approved curricular packages will be offered to local educational agencies, and those agencies who wish to implement curricular programs, as approved by the National Science Foundation and Department of Education, will apply for grants with which to fund these changes. Such programs will be designed to meet the varying and diverse needs of the many local educational agencies in our Nation, including local educational agencies experiencing high dropout rates.

This title is unique because it permits money to be spent directly on our children. It does not add to the structure of an already burdensome bureaucracy. We know where the problems lie. Let us get down to the business of correcting those problems.

Title II of SMART addresses the need for well-prepared teachers. It aims to ensure that the currently diminishing supply is increased. I repeat for the third time, for every new math and science teacher coming on board, we are losing 13. SMART offers college scholarships—a 2-year commitment to teaching science or math is made in exchange for every year a scholarship is received. For 8 years of teaching math and science, you would get 4 years of free education.

The goals of SMART provide schools the Federal support they so desperately need and provide an incentive to draw large number of teachers into the profession to fill this growing need. The Federal Government has the means and the responsibility to provide support to our schools and to our children. It is time that we, the Congress, lived up to that responsibility, and that the Federal Government, as a result of our action, lives up to the responsibility that they have.

That is why, Mr. President, I am introducing this bill today. By offering our schools the ability to implement new materials and curricula, our children will be able to succeed in math and science. By offering scholarships to those willing to teach will both improve and increase our supply of teachers. I urge my colleagues to recognize the vital importance of this legislation and to support the SMART Act with their cosponsorship. Mr. President, I ask unanimous consent that the text of the SMART Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Science and Mathematics Achievement Readiness Act (SMART)".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the international competitiveness of the United States depends on a technologically capable workforce;

(2) the content and quality of elementary and secondary school science and mathematics programs strongly affect the ability of Americans to provide for their livelihoods;

(3) students in United States schools consistently score below their counterparts in other developed nations in comparative testing in both science and mathematics;

(4) enrollment in science classes at all levels of schooling is steadily declining;

(5) the average amount of time allotted to science instruction in United States elementary schools is 15 minutes per day;

(6) in 1990 more minorities will attend United States schools at a time when minorities are already underrepresented in the sciences and mathematics, indicating that an adjustment is needed in United States science and mathematics curricula to address minority needs;

(7) State and local educational agencies must have Federal assistance in order to attain educational excellence;

(8) the United States not only needs scientists and engineers, but also needs a population which is generally technically literate; and

(9) science and mathematics education curriculum reform measures are vitally needed at the elementary and secondary school levels to shape the talent pool of students, enabling Americans to meet the social and economic challenges facing the United States.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Director" means The Director of the National Science Foundation;

(2) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(3) the term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Education.

TITLE I—CURRICULUM CHOICES

SEC. 101. CURRICULUM CHOICES.

(a) NATIONAL SCIENCE FOUNDATION.—(1) The Director shall develop and compile a set of no less than 10 curriculum choices designed to enhance the science and mathematics literacy of elementary and secondary school students.

(2) The Director shall develop and compile the set of curriculum choices described

in paragraph (1) by the end of fiscal year 1991.

(3) The Director shall transmit the set of curriculum choices described in paragraph (1) to the Secretary by the end of fiscal year 1991.

(b) SECRETARY OF EDUCATION.—The Secretary shall disseminate to local educational agencies throughout the United States the set of the curriculum choices developed pursuant to subsection (a).

SEC. 102. GRANTS AUTHORIZED.

(a) IN GENERAL.—(1) The Secretary is authorized and directed to make grants to local educational agencies to implement the science and mathematics curricula developed pursuant to section 101(a).

(2) Grants awarded pursuant to paragraph (1) shall be awarded by the end of fiscal year 1992.

(3) The Secretary shall not award more than 1 grant pursuant to the provisions of this section to each local educational agency having an application approved pursuant to section 103.

(b) AWARD BASIS.—The Secretary shall award grants under this title on the basis of—

(1) the number of students served by the local educational agency; and

(2) the financial need of the local educational agency.

(c) NUMBER OF GRANTS.—The Secretary shall award not more than 1,000 grants under this title in each fiscal year.

(d) ADMINISTRATIVE COSTS.—(1) Each local educational agency receiving a grant under this title may reserve 5 percent of such funds to pay the Federal share of the administrative costs of implementing the curricula developed pursuant to subsection (a).

(2) For the purpose of this subsection the Federal share shall be 50 percent.

(3) Each local educational agency receiving a grant under this title shall supply the non-Federal share of the administrative costs of implementing the curricula developed pursuant to subsection (a) from non-Federal sources.

SEC. 103. APPLICATION.

(a) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain assurances that the local educational agency will implement the curriculum changes for which financial assistance was sought by the end of the fiscal year 1993 or return such financial assistance to the Secretary; and

(3) contain such other information and assurances as the Secretary may reasonably require.

(b) APPROVAL.—The Secretary shall approve applications which comply with the provisions of this Act.

SEC. 104. USE OF FUNDS.

Each local educational agency which receives a grant under this title shall use such grant funds to—

(1) hire teachers;

(2) provide teachers with in-service training; and

(3) purchase textbooks, and other necessary equipment and materials.

SEC. 105. EVALUATION.

(a) GUIDELINES ESTABLISHED.—The Secretary, in consultation with the Commissioner for Educational Statistics, shall develop guidelines to evaluate the success of the curriculum choices developed pursuant to section 101(a).

(b) EVALUATION.—(1) Each local educational agency receiving a grant under this title shall evaluate the success of their curriculum choices in accordance with the guidelines established pursuant to subsection (a).

(2) Each local educational agency receiving a grant under this title shall conduct the evaluation described in paragraph (1) within 2 years of receiving such grant or by the beginning of fiscal year 1995, whichever occurs first.

(3) Each local educational agency performing an evaluation pursuant to paragraph (1) shall transmit the results of such evaluation to the Secretary.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $300,000,000 for fiscal year 1991 and each succeeding fiscal year thereafter to carry out the provisions of this title.

TITLE II—MATHEMATICS AND SCIENCE SCHOLARSHIPS

SEC. 201. FINDINGS.

The Congress finds that—

(1) in order to enhance our Nation's economic productivity, and increase employment opportunities for Americans, the Nation must ensure that students are provided with at least minimal levels of technical literacy during their elementary and secondary schooling;

(2) well-prepared teachers are needed to provide United States students the science and mathematics education they need;

(3) in 1986, nearly one-third of American high school students were being taught science and mathematics courses by teachers not qualified to teach such courses;

(4) teacher salaries are such that students who display talent in technological disciplines do not pursue careers in teaching;

(5) a declining number of students are choosing science and mathematics as fields of study at both the undergraduate and graduate levels, indicating that the number of graduates qualified to teach in such fields of study is also declining;

(6) minorities and women comprise a growing proportion of the American workforce and such individuals are needed to address shortages of science and mathematics teachers; and

(7) the Federal Government has both the responsibility and the means to provide support to teachers to enable teachers to improve their qualifications to teach science and mathematics, and to encourage more persons to teach science and mathematics in elementary and secondary schools.

SEC. 202. SCHOLARSHIP PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to annually award scholarships to individuals to assist such individuals in obtaining a teaching degree.

(b) AMOUNT OF SCHOLARSHIPS.—Each scholarship awarded under this title in any fiscal year may not exceed the lesser of—

(1) the cost of tuition, board, and fees for such fiscal year; or

(2) $9,000.

(c) NUMBER OF SCHOLARSHIPS.—(1) The Secretary shall award not more than 5,000 scholarships under this title in each fiscal year.

(2) The Secretary shall award not more than 4 scholarships under this title to any 1 individual for undergraduate study.

(3) The Secretary shall award not more than 2 scholarships under this title to any 1 individual for graduate study.

(d) USE AT ANY INSTITUTION PERMITTED.—Each individual awarded a scholarship under this Act shall use such scholarship to attend any institution of higher education.

SEC. 203. ELIGIBILITY.

(a) IN GENERAL.—A student shall be eligible to receive a scholarship under this title if such individual is a citizen of the United States.

(b) CONTINUED ELIGIBILITY.—Each individual awarded a scholarship under this title shall continue to receive scholarship payments under this title only during such time as the Secretary finds that such student is—

(1) enrolled as a full-time student in an institution of higher education;

(2) pursuing a course of study approved by the Secretary; and

(3) maintaining satisfactory progress as determined by the institution of higher education which the individual is attending.

SEC. 204. APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the course of study the student will pursue;

(2) describe the cost of attendance for which a scholarship is sought; and

(3) contain such other assurances as the Secretary determines are necessary to ensure compliance with the provisions of this title.

SEC. 205. AGREEMENT.

(a) IN GENERAL.—Each individual awarded a scholarship under this title shall enter into an agreement with the Secretary.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will, within 2 years of completing such individual's course of study, teach science or mathematics in an elementary or secondary school for a period of not less than 2 years for each fiscal year such individual received a scholarship under this title;

(2) provide assurances that the individual will repay to the Secretary all or a portion of the scholarship awarded by the Secretary under this title in the event that the conditions of paragraph (1) are not complied with; and

(3) set forth procedures under which an individual who teaches less than the 2-year period required under paragraph (1) will repay the scholarship awarded under this title to the Secretary according to a schedule established by the Secretary.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $45,000,000 for fiscal year 1991 and each succeeding fiscal year thereafter to carry out the provisions of this title.

By Mr. CHAFEE:

S. 2374. A bill to temporarily suspend the duty on chlor amino base.

S. 2375. A bill to temporarily suspend the duty on 3 nitrophenyl-4-beta-hydroxyethyl sulfone.

S. 2376. A bill to temporarily suspend the duty on 4-chloro-2-nitro aniline.

S. 2377. A bill to temporarily suspend the duty on amino sulfon br.

S. 2378. A bill to temporarily suspend the duty on acet quinone base.

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S. 2379. A bill to temporarily suspend the duty on diamino phenetole sulfate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. CHAFEE. Mr. President, today I am introducing six bills to extend the duty suspension on the importation of six chemicals that are precursors used in the production of printing inks and dyes for textiles. These particular chemicals are not produced in the United States and the extension of the suspension of the duty will act to lower the overall cost of producing textiles in this country.

As we are all aware, the textile industry has been hit especially hard by imports. I want to do all I can to keep this American industry on a fair competitive footing with its foreign competition. Because our foreign competitors can print and dye their textiles without the added costs that this duty imposes, that obviously means that this duty would place our domestic industry at a competitive disadvantage.

The International Trade Commission has confirmed that there is no domestic production of these chemicals to be adversely affected by a continuation of this duty suspension. Therefore it is senseless to allow the current duty suspensions to expire at the end of this year.

These bills would extend the duty suspensions for these six chemicals from their current December 31, 1990 expiration date through December 31, 1992. These duties have been suspended for less than 2 years, since the enactment of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418. These extensions will provide 2 additional years and will give us time to study the effects of these duty suspensions on the chemical industry to determine if we should then repeal the duties outright or continue the suspensions for another period.

Mr. President, I ask unanimous consent that the six bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHLOR AMINO BASE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

"9902.31.15	4-choloro-2,5-dimethoxy aniline (CAS No. 6358-64-1) (provided for in heading 2922.29.20)	Free	No change	On or before 12/31/92"

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NITRO SULFON B.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

'9902.31.09	3-nitrophenyl-4-beta-hydroxyethyl sulfone (CAS No. 41687-30-3) (provided for in subheading 2930.90.20.008)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

S. 2376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 4-CHLORO-2-NITRO ANILINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new items:

"9902.31.10	4-chloro-2-nitro aniline (CAS No. 89-63-4) (provided for in subheading 2921.42.25)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

S. 2377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMINO SULFON BR.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

"9902.31.11	3-(4'aminobenzamido) phenyl-beta-hydroxyethyl sulfone (CAS No. 20241-68-3) (provided for in subheading 2930.90.20)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACET QUINONE BASE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

"9902.2.31.12	2, 5-dimethoxy acetanilide (CAS No. 3467-59-2) (provided for in subheading 2924.29.09)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIAMINO PHENETOLE SULFATE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

"9902.31.13	3,4 diamino phenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in heading 2922.50.30)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.●

By Mr. CHAFEE:

S. 2380. A bill to suspend temporarily the duty on lasamid; to the Committee on Finance.

TEMPORARY DUTY SUSPENSION ON LASAMID

● Mr. CHAFEE. Mr. President, I am pleased to offer legislation today that would extend a temporary duty suspension on lasamid. Lasamid is a chemical used in the manufacture of furosemide, a widely used potent diuretic, primarily prescribed in the treatment of patients who have suffered from congestive heart failures.

Furosemide is currently sold in the United States by Hoechst-Roussel Pharmaceuticals, Inc. [H-RPI] and by several other generic drug companies. However, the only company which manufacturers furosemide in the United States is H-RPI's parent, Hoechst Celanese Corp. All other furosemide sold in the United States is imported.

Hoechst Celanese produces furosemide in my State of Rhode Island by a process which involves the intensive treatment of the precursor chemical lasamid. There are no known American producers of lasamid, and its only

use is as a precursor to the production of furosemide. Since there are no domestic producers of lasamid, no domestic interests would be adversely affected by this bill. By continuing the duty suspension for lasamid, this U.S. producer will be more competitive with foreign producers, thereby benefiting the American workers who manufacture this product. It will also contribute to keeping down medical costs, by reducing costs to produce a major drug relied upon by many Americans.

This bill would extend the duty suspension for lasamid from its current December 31, 1990, expiration date through December 31, 1992. This duty has been suspended for less than 2 years, since the enactment of the Omnibus Trade and Competitiveness Act of 1988, Public Law 100-418. This extension will provide 2 additional years and will give us time to study the effect of the duty suspension on the pharmaceutical industry to determine if we should then repeal the duty outright or continue the suspension for another period.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LASAMID.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new item:

"9902.31.45	2,4 Dichloro-5-sufamoyl benzoic acid (provided for in subheading 2935.00.45)	Free	No change	On or before 12/31/92".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date that is 15 days after the date of enactment of this Act.●

By Mr. BUMPERS:

S. 2381. A bill to prohibit the obligations of funds in connection with the Follow-on to Lance Missile Program; to the Committee on Appropriations.

ELIMINATION OF FUNDING FOR FOLLOW-ON TO LANCE MISSILE PROGRAM

Mr. BUMPERS. Mr. President, I am today introducing a bill that deals with the proposed research and development of a follow-on to the existing Lance missile. For the RECORD, the Lance missile is a short-range missile that we have deployed in Germany that is nuclear tipped. The Germans are already very apprehensive about it because if there were a war and the Lance missile were used, because of its short range it would most likely fall on the Germans themselves. So they are not exactly euphoric for having this missile on their soil.

But the President, in submitting his 1991 defense budget to us, has asked for $112,228,000 for engineering development whereas this year, 1990, we are spending only $32 million. In addition to that, of course, he is also asking for a significant amount, from the Department of Energy which, as you know, develops nuclear warheads for our missiles.

The bill I am proposing today would simply halt the research and save the Government $112 million for research and development on a missile that will almost certainly never be deployed.

Mr. President, this is a case where I can only believe that the administration is developing a missile hoping that the development of the missile will push policy, namely NATO policy, on allowing the missiles to replace the existing missiles in Germany.

I have just returned from Germany. Completely aside from what I heard, I will give you some quotes on what people in Germany are saying. One senior German foreign ministry official, who is unnamed, was quoted in the New York Times as saying:

The question of modernization of the short-range nuclear missiles is a question that makes us laugh. I don't think there is any possibility of it being implemented. We don't even want a formal funeral for this issue.

Ambassador Ruediger Hartmann, West Germany's Ambassador to the Conventional Forces Talks in Europe; here is his quote:

I do not see in the present political circumstances, especially with the prospect of a treaty relationship between the Federal Republic and East Germany, any readiness on the part of our population to accept the stationing of those forces.

Egon Bahr, defense expert in the Social Democratic Party:

We won't shoot at each other. The short-range missiles can only shoot other Germans. We will not accept them.

Mr. President, when you consider the fact that the Germans obviously do not want them and you consider the fact that we are struggling with budget constraints that are unprecedented around here, this is one system that makes less sense than anything else in the budget.

Four Senators sat across the table from Helmut Kohl about 10 or 12 days ago, and I raised a question:

Mr. Chancellor, the President is asking Congress to appropriate about $200 million for research and development of the follow-on Lance.

Would you object if Congress removes that from the budget?

Everybody in the room laughed. Chancellor Kohl smiled. He said:

Well, I wouldn't presume to meddle in the internal politics or the internal policies of the United States.

But I can tell you that if Helmut Kohl were to announce today that he thought this was a dynamite idea and, yes, he did indeed want the follow-on Lance in Germany, he need not put his name on the ballot on December 2.

Right now, I think Chancellor Kohl is going to be reelected. Incidentally, I did not believe that 6 months ago. He was in great difficulty. But, because of the reunification issue, he has resurrected himself. But the best way in the world for him to unresurrect himself is to even hint that he is going to allow us to put a follow-on nuclear-tipped Lance missile in his country.

Mr. President, my colleague from Arizona, Senator MCCAIN said:

There is no point in engaging in a political contest with the West Germans over land-based missiles. We can do nothing but lose.

And he is absolutely right.

We have another missile that we are spending $119 million on next year, and it is called the SRAM-T. It would be launched from airplanes. And the SRAM-T will do just about anything the Lance missile will do.

My point is if we wanted to deploy a missile in West Germany in a hurry, the SRAM and the SRAM-T warhead would probably be just fine.

I will close, Mr. President, by quoting David Jones, who was chairman of the Joint Chiefs of Staff 10 years ago.

He said, on the deployment of the Lance missile in Germany:

I would let sleeping dogs lie on that one issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON OBLIGATION OF FUNDS FOR THE FOLLOW-ON TO LANCE MISSILE PROGRAM

Funds appropriated to or for the use of the Department of Defense or the Department of Energy for fiscal year 1991 or any subsequent fiscal year may not be obligated or expended in connection with the Follow-on to Lance missile program, and unobligated funds available to either such department for any fiscal year prior to fiscal year 1991 may not be obligated or expended after the date of the enactment of this Act in connection with such program.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. BOREN, Mr. DASCHLE, Mr. KERREY, Mr. PRYOR, Mr. HARKIN, Mr. BAUCUS, Mr. BOND, Mr. COCHRAN, and Mr. BOSCHWITZ):

S. 2382. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 and the Agricultural Trade Act of 1978 to promote and encourage the export of agricultural commodities and the products thereof,

and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL DEVELOPMENT AND TRADE ACT

Mr. LEAHY. Mr. President, I rise today to introduce the Agricultural Development and Trade Act of 1990. This bill will become the Agricultural Trade title in the farm bill that the Agriculture Committee is developing this year.

This bill addresses all areas of agricultural trade, from our food donation programs to our commercial export programs.

The bill creates a sound foundation for U.S. agricultural trade policy. A foundation that will take U.S. agriculture through the 1990's, whether there is success or failure in the current round of GATT negotiations.

I worked closely with Senator LUGAR, the ranking minority member of the committee throughout the development of this bill.

We reviewed all existing legislation; determined what we believed worked, and what did not. The product of that review is before you today. A revision from the ground up of our agricultural trade laws. A revision that attempts to achieve the following:

End the tangled bureaucracy that has plagued our food aid programs.

Improves our willingness and ability to help the truly needy countries of the world.

Establishes standards whereby the Congress can evaluate the effectiveness of our trade and food aid programs.

A truly competitive trade strategy that makes better use of scarce government and taxpayer resources.

For over 35 years, Public Law 480 has been the cornerstone of this country's food assistance programs. Thirty-six years ago, Hubert Humphrey took this floor and spoke of his dream—Food for Peace.

The words he said that day still ring true: "Democracy and freedom has no greater ally than the abundance of food."

Senator Humphrey recognized that we need more than billions for defense. We must also use our wealth and our agricultural prosperity to stand with those across the globe who face hunger and starvation.

But Public Law 480, the law that Senator Humphrey did so much to establish is now in need of significant revision. Public Law 480 was written at a time when the cold war was the primary concern of our foreign policy. And it has been amended, stretched, changed, and overcome with bureaucratic inertia over the past 40 years.

The bill we are introducing today takes Public Law 480, a bill written for the 1950's, and modifies it to meet the challenges of global hunger in the 1990's.

THE GLOBAL VILLAGE—THE WORLD WE LIVE IN TODAY

To convey the magnitude of the hunger problem, imagine living in a global village of 1,000 people.

In this village there would be 53 people from North America, 87 people from South and Central America, 120 from Africa, 155 from Europe and the Soviet Union, and 550 people from Asia.

Of the 1,000 people living in this village, 750 would be in the developing world. 140 of these villagers—an amount equivalent to the entire population of the Western Hemisphere—would be malnourished. Thirty of these 140 would be children.

In 10 years, this village will grow by 20 percent. The poverty in this village, if left unchecked, will only get worse by the year 2000.

This is the village we live in. A village where North America is dwarfed by the massive size of the world's population, but where the number of hungry equals the population of the entire Western Hemisphere.

THE CHALLENGE OF THE 1990'S

In 1954, with the enactment of Public Law 480, we took on the challenge of helping the hungry of the world. Today, with the introduction of this legislation, we rededicate ourselves to finding new ways to provide food and economic development assistance to the truly needy.

Let me share with you how our bill will improve the effectiveness of the Public Law 480 program.

Public Law 480's goals are clearly and honestly identified.

When our goal is economic development, the Agency for International Development and the PVO's will take the lead. When our goal is market development, the program will be handled by USDA.

We will no longer allow turf battles within the executive branch to prevent food from getting to the starving masses. Deadlines will be imposed on the signing of agreements under this program.

Clearer management responsibilities, as well as the elimination of self-help measures, will prevent shipments from arriving too late, during harvest in the recipient country, or at times of low prices.

Under this bill, countries that need the food will get the food. Too often, foreign policy and other concerns channel food away from the neediest countries to the most politically important ones.

Our bill responds to the economies of the very poor as well as to the advanced developing countries. Grant aid will be provided by AID to the poorest countries. Loans, with shorter terms, will be extended by USDA to those countries that can afford to incur new debt.

We will stop piling debt on more debt in the poorest, debt-ridden countries. This bill contains a comprehensive proposal to relieve the excessive debt burden that plagues the poorest countries. Without an improved debt situation, these countries can never become food secure and develop into commercial markets.

Our bill stresses the development role of food aid which has been paralyzed by an absence of long-term planning. Multiyear programming of food aid is essential to tackling the problems of poverty and food security.

We have also given more flexibility to AID in determining how best to encourage policy change in individual recipient countries. Food alone may be used to encourage reforms or local currencies can be used to fund economic development activities.

We think these reforms will help put food aid on a level playing field with other forms of development assistance.

We establish a new Food for Freedom Program to provide food and assistance to the new democracies in Eastern Europe and around the world.

We give more resources to the Private Voluntary Organizations, including indigenous PVO's, to fulfill their mission to feed the world's poor. They are on the front line and need our support.

The bill creates a food aid advisory board to encourage AID and the PVO's to find better solutions to alleviate hunger in the world. AID's inspector general is also a member of this board.

Over the years, foreign agents who arrange for the shipping of Public Law 480 commodities have been reported to abuse the program by accepting illegal commissions. This bill will require USDA to either serve as agents themselves or allow the recipient country to purchase agricultural commodities on a C&F basis.

We have established a formal mechanism for oversight to ensure that the programs meet the goals set forth.

We believe the reforms in Public Law 480 program will make the program a dependable and useful tool and give new meaning to the goal of food security and improving the lot of the world's families in the coming decade.

As John F. Kennedy stated over 25 years ago,

> So long as freedom from hunger is only half achieved, so long as two-thirds of the nations have food deficits, no citizen, no nation, can afford to be satisfied. We have the ability, as members of the human race. We have the means, we have the capacity to eliminate hunger from the face of the earth in our lifetime. We need only the will.

Our bill provides that will.

COMMERCIAL TRADE

On the commercial side, the bill tries to make sense of our complicated agri-

cultural trade laws. These laws are a tangled, confused set of statutes that have evolved on an ad hoc basis without clear standards and goals.

The bill clarifies our existing commercial trade programs by bringing together, in one piece of legislation, most of our commercial trade authorities. It eliminates redundant, contradictory provisions.

The Secretary of Agriculture will be required to operate our commercial trade programs within a long-term agricultural trade strategy that provides a focused, more competitive framework for our farm programs in the 1990's.

Our bill establishes in law clear authority and guidelines for the operation of an Export Enhancement Program which targets unfair trade practices of foreign countries.

Our bill creates a new Marketing Assistance Program with tough standards so that money spent will lead to increased U.S. agricultural exports.

We modify the Commodity Credit Corporation [CCC] export loan and credit guarantee programs to preserve the financial soundness of the program and address some of the implementation criticisms that have plagued the viability of the program.

Our bill takes the necessary steps to put the CCC loan guarantee programs in a stronger financial position entering the 1990's. Only banks in sound fiscal condition can participate in the CCC guarantee programs. Sister banks are ineligible for credit guarantees. In addition, CCC must undertake random audits to verify that commodities shipped under its programs arrive at their intended destination.

We clarify that commodities should contain at least 90 percent domestic content within the guarantee program.

Our bill reduces the duplicative reporting requirements to free up government staff to devote more of their energy to building U.S. exports.

CONCLUSION

To meet the complex and competitive environment in the 1990's, we have taken a fresh look at our food aid and commercial export programs. I believe the Agricultural Development and Trade Act of 1990 is a forward piece of legislation that will position the United States to meet the immense challenges of trade and development in the next decade. I seek your support in that effort.

I ask unanimous consent that the text of the bill appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Development and Trade Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
TITLE I—THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954
Sec. 101. Agricultural Trade Development and Assistance Act of 1954.
"Sec. 1. Short title.
"Sec. 2. Policy.
"Sec. 3. Global food aid needs.
"Sec. 4. Definitions.
"TITLE I—FOOD AND DEVELOPMENT ASSISTANCE
"Sec. 101. Food and development assistance.
"Sec. 102. Eligible countries.
"Sec. 103. Grant program.
"Sec. 104. Sales of donated commodities within recipient countries.
"Sec. 105. Local currency accounts.
"Sec. 106. Use of local currency accounts.
"Sec. 107. Concessional credit sales program.
"Sec. 108. Terms and conditions of sales.
"Sec. 109. Use of payments.
"Sec. 110. Procedures.
"Sec. 111. Value-added foods.
"Sec. 112. Use of commodity credit corporation.
"Sec. 113. Regulations.
"TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS
"Sec. 201. General authority.
"Sec. 202. Provision of agricultural commodities by private voluntary organizations and cooperatives.
"Sec. 203. Generation and use of foreign currencies.
"Sec. 204. Levels of assistance.
"Sec. 205. Food aid consultative group.
"Sec. 206. Use of Commodity Credit Corporation.
"Sec. 207. Maximum level of expenditures.
"Sec. 208. Administration.
"Sec. 209. Farmer-to-farmer program.
"TITLE III—FOOD FOR FREEDOM
"Sec. 301. Food for freedom.
"Sec. 302. Private market enhancement.
"Sec. 303. Classification of expenditures.
"TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS
"Sec. 401. Commodity determinations.
"Sec. 402. General provisions.
"Sec. 403. Debt forgiveness.
"Sec. 404. Expiration date.
"Sec. 405. Reduction in deficit in balance of payments.
"Sec. 406. Independent evaluation of programs.
"Sec. 407. Authorization of appropriations.".
Sec. 102. Amendments to section 416.
Sec. 103. Conforming amendments and technical changes.
TITLE II—THE AGRICULTURAL TRADE ACT OF 1978
Sec. 201. AMENDMENTS TO THE AGRICULTURAL TRADE ACT OF 1978.
"TITLE I—AGRICULTURAL TRADE POLICY
"Subtitle A—Purpose and Definitions
"Sec. 101. Agricultural trade policy of the United States.
"Sec. 102. Purpose.
"Sec. 103. Definitions.
Subtitle B—Program Implementation
"Sec. 110. Long-term agricultural trade strategy.
"Sec. 111. Long-term agricultural trade goals.
"Sec. 112. Establishment of priority markets.
"Sec. 113. Establishment of market plans.
"Sec. 114. Review.
"Sec. 115. Preservation of traditional markets.
"Sec. 116. Administration.
"TITLE II—AGRICULTURAL EXPORT PROGRAMS
"Subtitle A—Export Assistance Programs
"Sec. 201. Direct credit sales program.
"Sec. 202. Export credit guarantee program.
"Sec. 203. Deferred payment sales.
"Sec. 204. Marketing assistance program.
"Sec. 205. Barter of agricultural commodities.
"Sec. 206. Agricultural credit revolving fund.
"Sec. 207. Combination of programs.
"Subtitle B—Impementation
"Sec. 211. Funding levels.
"Sec. 212. Regulations.
"Sec. 213. Authorization of appropriations.
"TITLE III—RESPONSE TO UNFAIR TRADE PRACTICES
"Sec. 301. Purpose of authorities.
"Sec. 302. Export enhancement program to combat unfair trade practices.
"Sec. 303. Regulations.
"Sec. 304. Authorization of appropriations.
"TITLE IV—GENERAL PROVISIONS
"Sec. 401. Agricultural embargo protection.
"Sec. 402. Development of plans to alleviate adverse impact of embargoes.
"Sec. 403. Contracting authority to expand agricultural export markets.
"Sec. 404. Trade consultations concerning imports.
"Sec. 405. Technical assistance in trade negotiations.
"TITLE V—FOREIGN AGRICULTURAL SERVICE
"Sec. 501. Under Secretary for International Affairs and Commodity Programs.
"Sec. 502. Administrator of the Foreign Agricultural Service.
"Sec. 503. Responsibilities of the Foreign Agricultural Service.
"Sec. 504. Provision of trade assistance.
"Sec. 505. Staff of the Foreign Agricultural Service.
"Sec. 506. Authorization of appropriations.
"TITLE VI—REPORTS
"Sec. 601. Long-term agricultural trade strategy reports.
"Sec. 602. Other reports to Congress.".
Sec. 202. Amendment to the Agricultural Act of 1954.
"Sec. 108. Annual reports by agricultural attaches.
"Sec. 109. Attache educational program.".
TITLE III—GENERAL PROVISIONS
Sec. 301. Food Security Wheat Reserve.
Sec. 302. Cottonseed oil and sunflower oil exports.
Sec. 303. Agricultural fellowship program for middle income countries and emerging democracies.
TITLE IV—CONFORMING AMENDMENTS AND TECHNICAL CHANGES
Sec. 401. Amendments to the Omnibus Trade and Competitiveness Act of 1988.

Sec. 402. Amendments to the Food Security Act of 1985.
Sec. 403. Amendments to the Agriculture and Food Act of 1981.
Sec. 404. Amendments to the Food for Peace Act of 1966.
Sec. 405. Amendment to the Agricultural Act of 1949.
TITLE I—THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954
SECTION 101. AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the Agricultural Trade Development and Assistance Act of 1954.

"SEC. 2. POLICY.

"It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of such productivity to—

"(1) combat world hunger, malnutrition and their causes;

"(2) promote broad based and sustainable economic development;

"(3) expand international trade;

"(4) develop and expand export markets for United States agricultural commodities; and

"(5) use foreign currencies accruing under this Act to foster and encourage the development of private enterprise and democratic participation in developing countries.

"SEC. 3. GLOBAL FOOD AID NEEDS.

"Pursuant to the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid over present levels of about 10 million metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President increase the United States' contributions of food aid, and also encourage other donor countries to increase their contributions toward meeting new food aid requirements. It is the sense of Congress that the President should encourage other advanced nations to make increased contributions for the purpose of combatting world hunger and malnutrition particularly through the expansion of international food and agricultural assistance programs.

"SEC. 4. DEFINITIONS.

"As used in this Act:

"(1) AGRICULTURAL COMMODITY.—Unless otherwise specified, the term 'agricultural commodity' includes any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the United States Agency for International Development.

"(3) COOPERATIVES.—The term 'cooperatives' means a private sector organizaton whose members own and control the organization and share in its services and its profits and which provides business services outreach in cooperative development for its membership.

"(4) INDIGENOUS NON-GOVERNMENTAL ORGANIZATION.—The term 'indigenous non-governmental organization' means a foreign organization working at the local level to solve development problems in the foreign country in which it is located.

"(5) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a nonprofit organization (tax-exempt if a United States organization) which receives some portion of its annual revenue from the private sector and receives voluntary contributions of money.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"TITLE I—FOOD AND DEVELOPMENT ASSISTANCE

"SEC. 101. FOOD AND DEVELOPMENT ASSISTANCE.

"The President shall—

"(1) through the Agency for International Development, carry out a program through which agricultural commodities are donated under section 103 to least developed countries and economic development activities may be funded with revenue generated by the sale of such commodities in the recipient country; and

"(2) through the Department of Agriculture, establish and implement a program under section 107 to offer agricultural commodities for sale on credit to developing countries, and to carry out domestic agricultural trade development activities with the local currency proceeds associated with the repayment of such loans.

"SEC. 102. ELIGIBLE COUNTRIES.

"(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under section 103 if—

"(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development Civil Works Preference for providing financial assistance; or

"(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (c).

"(b) DEVELOPING COUNTRIES.—A country shall be considered to be a developing country and eligible for assistance under section 107 if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

"(c) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator (using the best available information) must determine that the country meets all of the following indicators of national food deficit and malnutrition:

"(1) CALORIE CONSUMPTION.—That the daily per capita calorie consumption of the country is less than 2300 calories.

"(2) FOOD SECURITY REQUIREMENTS.—That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

"(3) CHILD MORTALITY RATE.—That the mortality rate of children under five years of age in the country is in excess of 100 per 1000 births.

"(d) VIOLATIONS OF HUMAN RIGHTS.—

"(1) INELIGIBLE COUNTRIES.—The Administrator or the Secretary, as appropriate, shall not enter into any agreement under this title to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

"(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

"(B) the prolonged detention of individuals without charges;

"(C) responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

"(D) other flagrant denials of the right to life, liberty, and the security of persons.

"(2) WAIVER.—Paragraph (1) shall not prohibit the provision of food assistance to such a country if the food assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

"SEC. 103. GRANT PROGRAM.

"(a) IN GENERAL.—To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries under section 102(a) to provide commodities to such countries on a grant basis.

"(b) ALLOCATION OF ASSISTANCE.—

"(1) COUNTRY DETERMINATION.—The Administrator shall (subject to section 401) determine whether and to what extent agricultural commodities shall be made available under this section to least developed countries.

"(2) PRIORITY.—In making a determination under paragraph (1), the Administrator shaH give priority to least developed countries that—

"(A) demonstrate the greatest need for food;

"(B) demonstrate the capacity to use food assistance effectively; and

"(C) are willing to adopt policies to promote food security.

"(c) MULTI-YEAR DEVELOPMENT AGREEMENTS.—

"(1) SUBMISSION OF PROPOSAL.—Except as provided in paragraph (3), the Administrator shall, if requested by a recipient country, enter into a multi-year agreement to make agricultural commodities available under this section to such country.

"(2) TERMS OF MULTI-YEAR AGREEMENT.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include an estimate of the annual value or volume of agricultural commodities proposed to be provided to the country under the agreement;

"(B) include a plan for the intended use (on an annual basis) of the revenue generated from the sale within the country of the agricultural commodities provided under the agreement;

"(C) include a statement of the manner in which the agricultural commodities provided under the agreement, or the revenue received for such commodities, will be integrated into the overall development plans of the country;

"(D) include a plan to encourage competitive private sector participation within the country in the storage, marketing, transportation, and distribution of food assistance;

"(E) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-year agreement applies, of the necessary appropriations and agricultural commodities; and

"(F) contain such other terms and conditions as the Administrator determines to be necessary.

"(3) EXCEPTION.—The Administrator may refuse to enter into a multi-year agreement with a country under paragraph (1) if the Administrator determines that assistance should be provided to such country only on an annual basis because—

"(A) the past performance of the country in meeting program objectives does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for food aid does not extend beyond 1 year; or

"(C) other circumstances, as determined by the Administrator, indicate there is only a need for a 1 year agreement.

"(d) TRANSPORTATION OF COMMODITIES.—

"(1) HANDLING COMMODITIES.—The Administrator shall transfer, arrange for transportation, and take other steps necessary to make available to recipient countries agricultural ccmmodities to be provided under this section.

"(2) SHIPPING REQUIREMENTS.—In making determinations under this subsection, the Administrator shall consider—

"(A) the time of harvest of any competing commodities in the recipient country; and

"(B) such other concerns determined to be appropriate by the Administrator.

"(e) DEADLINE FOR AGREEMENTS.—An agreement between the recipient country and the Administrator to provide agricultural commodities under this section shall, to the extent practicable, be entered into not later than November 30 of the fiscal year in which such commodities are to be shipped.

"SEC. 104. DIRECT USES OR SALES OF DONATED COMMODITIES WITHIN RECIPIENT COUNTRIES.

"Agricultural commodities provided to a least developed country under section 103 may—

"(1) be used in the recipient country for direct feeding programs or the development of emergency food reserves, or may be distributed through normal commercial channels; or

"(2) be sold in such country by the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale distributed in accordance with section 105.

"SEC. 105. LOCAL CURRENCY ACCOUNTS.

"(a) RETENTION OF PROCEEDS.—All of the revenues generated from the sale of agricultural commodities provided under section 103 shall be deposited into a separate account in the recipient country to be disbursed in such country in accordance with local currency agreements entered into between the recipient country and the Administrator.

"(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of the account referred to in subsection (a) shall be the property of the United States, or the recipient country, as determined appropriate by the Administrator, and shall be utilized for the benefit of the recipient country. Such account shall be jointly programmed by the Administrator and the recipient country.

"(c) OVERALL DEVELOPMENT STRATEGY.—The Administrator shall consider the amounts in the accounts referred to in this section as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

"SEC. 106. USE OF LOCAL CURRENCY ACCOUNTS.

"(a) IN GENERAL.—Amounts contained in an account established under section 105(a) shall be used in the recipient country for economic development purposes, including—

"(1) the promotion of policy reforms to improve food security and agricultural development within the country and to promote broad based economically and environmentally sustainable growth;

"(2) the establishment of development projects that promote food security, alleviate hunger, and improve nutrition;

"(3) the promotion of increased access to food supplies through the encouragement of policies and programs designed to increase employment and incomes within the country;

"(4) the promotion of free and open markets;

"(5) supporting United States private voluntary organizations and cooperatives and encouraging the development and utilization of indigenous nongovernmental organizations;

"(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country to meet urgent or extraordinary relief requirements in the country or in neighboring countries, or to develop emergency food reserves;

"(7) the payment, to the extent practicable, of the costs of carrying out the program authorized in section 209; and

"(8) private sector development activities designed to further the purposes of this title.

"(b) SUPPORT OF PRIVATE INDIGENOUS NON-GOVERNMENTAL ORGANIZATIONS.—To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 105(a) shall be used by such country to support the development and utilization of indigenous non-governmental organizations and cooperatives that are active in rural development, sustainable agricultural production, and environmental protection projects within such country.

"SEC. 107. CONCESSIONAL CREDIT SALES PROGRAM.

"(a) IN GENERAL.—To carry out the policies and accomplish the objectives described in section 2, the Secretary may negotiate and execute agreements with developing countries under section 102(b) to provide for the sale, for dollars or local currencies, of agricultural commodities to such countries on a deferred payment basis and on such other terms and conditions as required by the Secretary in such agreements.

"(b) ALLOCATION OF ASSISTANCE.—

"(1) COUNTRY DETERMINATION.—The Secretary shall determine whether and to what extent agricultural commodities shall be made available under this section to developing countries.

"(2) PRIORITY.—In making a determination under paragraph (1), the Secretary shall give priority to developing countries that—

"(A) demonstrate the greatest need for food;

"(B) are listed on the priority list established by the Secretary under title I of the Agricultural Trade Act of 1978; and

"(C) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.

"(c) HANDLING OF COMMODITIES.—

"(1) ACQUISITION OF COMMODITIES.—The importing country shall acquire agricultural commodities to be financed under this section, subject to the approval of the Secretary.

"(2) TRANSPORTATION OF COMMODITIES.—Only the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent for the importing country, or both, in arranging the purchase or shipping of commodities financed under this section.

"(d) TIMING OF SHIPMENT OF COMMODITIES.—The Secretary shall determine the timing of the shipment of commodities to be provided under this section. In making a determination under this subsection, the Secretary shall consider—

"(1) the time of harvest of any competing commodities in the recipient country; and

"(2) such other concerns determined to be appropriate by the Secretary.

"SEC. 108. TERMS AND CONDITIONS OF SALES.

"(a) PAYMENT.—

"(1) DOLLARS.—Except as provided in paragraph (2), agreements entered into under section 107 shall require that payment for agricultural commodities be made in dollars.

"(2) LOCAL CURRENCIES.—The Secretary may permit a recipient country to make payment under an agreement entered into under section 107 in the local currency of such country in order to use the proceeds from such payments to carry out activities under section 109.

"(3) EXCHANGE RATE.—Payment in local currency shall be at rates of exchange which are not less favorable than the highest exchange rate legally obtainable in the country and which are not less favorable than the highest exchange rate obtainable by any other nation.

"(b) INTEREST.—An agreement entered into under section 107 shall provide that interest accrue on the payment deferred under such agreement at such rate as determined appropriate by the Secretary, but not in excess of 4 percent per annum.

"(c) DURATION.—Payments required under an agreement entered into under section 107 may be made in reasonable annual amounts over the period (not less than 10 nor more than 20 years from the date of the last delivery of commodities under such agreement) specified in the agreement.

"(d) DEFERRAL OF PAYMENTS.—The Secretary may defer the date on which the recipient country is required to begin making payment, under an agreement entered into under section 107, for a period of not in excess of 2 years after the date of the last delivery of commodities under the agreement, and interest shall be computed from the date of such last delivery.

"(e) MULTI-YEAR DEVELOPMENT AGREEMENTS.—

"(1) SUBMISSION OF PROPOSAL.—Except as provided in paragraph (3), the Secretary shall, if requested by a recipient country, enter into a multi-year agreement to make the financing of the sales of agricultural commodities available under section 107 to such country.

"(2) TERMS OF MULTI-YEAR AGREEMENT.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include an estimate of the annual value or volume of agricultural commodities proposed to be financed under the agreement;

"(B) include a statement of the manner in which the agricultural commodities provided under the agreement, or the revenue received for such commodities, will be integrated into the overall development plans of the country;

"(C) include a plan to encourage competitive private sector participation within the country in the storage, marketing, transpor-

tation, and distribution of agricultural commodities financed under section 107;

"(E) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-year agreement applies, of the necessary appropriations and agricultural commodities; and

"(F) contain such other terms and conditions as the Administrator determines to be necessary.

"(3) EXCEPTION.—The Secretary may determine not to enter into a multi-year agreement with a country under paragraph (1) if the Secretary determines that assistance should be provided only on an annual basis because—

"(A) the past performance of the country in does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for financial assistance does not extend beyond 1 year; or

"(C) other circumstances, as determined by the Secretary, indicate there is only a need for a 1 year agreement.

"(f) DELIVERY OF COMMODITIES.—Delivery of the commodities that are subject to an agreement entered into under section 107 shall be made in accordance with the terms of the agreement and shall be subject to the availability of the commodities at the time delivery is to be made, as determined by the Secretary.

"SEC. 109. USE OF PAYMENTS.

"(a) IN GENERAL.—Agreements entered into under section 107 may provide that the Secretary shall use payments made by the recipient country in the form of foreign currencies under section 108 as provided for in subsection (b).

"(b) ACTIVITIES.—The proceeds from the payments referred to in subsection (a) shall be used for one or more of the following activities:

"(1) TRADE DEVELOPMENT.—To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the recipient country.

"(2) AGRICULTURAL BUSINESS DEVELOPMENT LOANS.—To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such firms for agricultural business development and agricultural trade expansion in such recipient countries.

"(3) AGRICULTURAL FACILITIES LOANS.—To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization, distribution, or otherwise increasing the consumption of, and markets for, United States agricultural products.

"(4) TRADE PROMOTION.—To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities that the Secretary determines to be appropriate.

"(5) RECIPIENT COUNTRY.—To conduct private sector agricultural trade development activities in the recipient country, as determined appropriate by the Secretary.

"(6) RESEARCH.—To conduct research in agriculture, forestry, and agriculture, including research which is mutually beneficial to the United States and the recipient country.

"(7) U.S. OBLIGATION.—To make payments to reimburse the United States for previous obligations of the recipient country to the United States incurred under this Act or under any other law.

"(c) SPECIAL ACCOUNT.—Foreign currencies received by the Secretary under section 107 shall be deposited in an interest-bearing account to the credit of the United States and shall be used by the Secretary as provided for in this section. Any department or agency of the Government other than the Department of Agriculture using any of such currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

"(d) EXEMPTION.—Section 1415 of the Supplemental Appropriation Act, 1953, shall not apply to foreign currencies used by the Secretary under paragraphs (b)(1)-(5).

"SEC. 110. PROCEDURES.

"(a) INVITATION FOR BID.—No purchases of agricultural commodities from private stock or purchase of ocean transportation shall be financed under section 107 or 103 unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings that shall conform to such invitation and shall be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under section 107 or 103 shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary.

"(b) PROHIBITION ON COMMISSIONS.—Commissions, fees, or other payments to any selling agent or to any agent of a purchaser or grantee shall be prohibited in the purchase of agricultural commodities and ocean transportation that are financed under section 107 or 103, unless determined appropriate by the Secretary.

"(c) REPORTING OF FEES.—

"(1) REQUIREMENT.—Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid, or to be paid, by any supplier of an agricultural commodity, or any ocean transportation financed or agricultural commodity donated by the Commodity Credit Corporation under this title, to any agents, brokers, or other representatives of the importer or importing country, including a corporation owned or controlled by the importer or the government of the importing country, shall be reported to the Secretary by the supplier of the commodity or ocean transportation.

"(2) CONTENT.—A report filed under paragraph (1) shall identify the person or entity to whom the payment is made and the transaction in connection with which the payment is made.

"(3) PUBLICATION OF INFORMATION.—The Secretary shall—

"(A) maintain all information provided under this subsection for public inspection;

"(B) publish a report containing the information referred to in subparagraph (A) annually; and

"(C) forward a copy of the annual report referred to in subparagraph (B) to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) FAILURE TO FILE.—A supplier of a commodity or ocean transportation who fails to file a report under this subsection, or who files a false report, shall be ineligible to furnish, directly or indirectly, commodities or ocean transportation financed under this title for a period of 5 years.

"SEC. 111. VALUE-ADDED FOODS.

"(a) POLICY.—The Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under title II of this Act to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this title.

"(b) PARTIAL WAIVER OF REPAYMENT.—In implementing the policy declared in subsection (a), the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under section 107 with countries that—

"(1) provide assurances that the benefits of any waiver granted under this section will be passed on to the individual recipients of such foods; and

"(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

may make provisions for a waiver of payment not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

"(c) MINIMIZE IMPACT.—In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of such section on other commercial and concessional sales of whole grains and, where feasible, agreements under section 107 utilizing the authority contained in this section will provide for sales of such commodities.

"SEC. 112. USE OF COMMODITY CREDIT CORPORATION.

"(a) USE OF COMMODITY CREDIT CORPORATION.—The Commodity Credit Corporation shall acquire and make available to the Administrator such agricultural commodities as are determined under section 401 to be available to carry out agreements entered into under section 103.

"(2) CREDIT SALES.—The Commodity Credit Corporation may finance the sale and export of such agricultural commodities, whether from private stocks or from the stocks of the Commodity Credit Corporation, as are determined under section 401 to be available to carry out agreements entered into under section 107.

"(b) COSTS AND FREIGHT BASIS.—The Commodity Credit Corporation may, in carrying out the provisions of this title, make commodities available under section 103 to the recipient country on a cost and freight (c&f) basis or arrange for sales of commodities financed under section 107 to be made on a cost and freight (c&f) basis).

"(c) LIMITATION ON EXPENDITURES.—The total value of agreements entered into under this title during any calendar year shall not exceed an amount that would require Congress to appropriate in excess of $1,900,000,000 to reimburse the Commodity Credit Corporation for commodities and services provided under such agreements, in addition to any amount by which such agreements in prior years have necessitated, or will necessitate, additional appropriations to reimburse the Commodity Credit Corporation for commodities and services provided in amounts that exceed amounts authorized for prior years.

"SEC. 113. REGULATIONS.

"The Secretary or the Administrator, as applicable, shall promulgate regulations implementing the provisions of this title.

"TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

"SEC. 201. GENERAL AUTHORITY.

"The President through the Administrator may provide agricultural commodities to foreign countries on behalf of the people of the United States to—

"(1) address famine or other urgent or extraordinary relief requirements;

"(2) combat malnutrition, especially in children and mothers;

"(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

"(4) promote economic and community development; and

"(5) promote sound environmental practices.

"SEC. 202. PROVISION OF AGRICULTURAL COMMODITIES.

"(a) EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities to meet emergency food needs under section 201 through governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

"(b) NON-EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities for non-emergency assistance under section 201 through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use such commodities in accordance with this title.

"(c) FORM OF ASSISTANCE.—Agricultural commodities provided under this title may be made available for direct distribution, sale, barter, or other appropriate disposition in carrying out section 201.

"(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under this title an organization shall be—

"(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

"(2) an intergovernmental organization, such as the World Food Program.

"(e) MULTI-YEAR AGREEMENTS.—

"(1) APPROVAL.—Except as provided in paragraph (3), the Administrator shall, if requested by an eligible organization, enter into a multi-year agreement with such organization to make agricultural commodities available for non-emergency assistance through such organization under this title.

"(2) TERMS.—A multi-year agreement entered into under paragraph (1) shall—

"(A) include assurances that the eligible organization that is subject to the agreement shall provide assistance under the agreement on a multi-year basis;

"(B) include a statement that such agreement shall be subject to the availability, during each fiscal year to which such multi-year agreement applies, of the necessary appropriations and agricultural commodities; and

"(C) contain such other terms and conditions as the Administrator determines to be necessary.

"(3) EXCEPTION.—The Administrator may refuse to enter into a multi-year agreement with an organization under paragraph (1) if the Administrator determines that assistance should be provided through such organization only on an annual basis because—

"(A) the past performance of such organization does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country for food aid does not extend beyond 1 year; or

"(C) other circumstances, as determined by the Administrator, indicate there is only a need for a 1 year agreement.

"(f) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Not less than 2 percent of the amounts made available in each fiscal year under this title shall be made available by the Administrator to United States private voluntary organizations or cooperatives to assist such organizations and cooperatives in—

"(A) expanding and establishing new programs under this title; and

"(B) meeting administrative, management, personnel and internal transportation and distribution costs for carrying out programs under this title.

"(2) REQUEST FOR FUNDS.—In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds when submitting a proposal to the Administrator for an agreement under this title.

"(3) CONTENT OF REQUEST.—Such request for funds shall include a specific explanation of—

"(A) the program costs to be offset by such funds;

"(B) the reason why such funds are needed by the private voluntary organization or cooperative in carrying out the particular assistance program; and

"(C) the degree to which such funds will improve the provision of food assistance to countries of the world (particularly those in sub-Saharan Africa) suffering from acute, long-term food shortages.

"(g) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

"(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

"(2) assess and take into account nutritional and other needs of beneficiary groups;

"(3) help such beneficiary groups design and carry out mutually acceptable projects;

"(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

"(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

"(6) periodically evaluate the effectiveness of projects undertaken under this title.

"(h) PRIORITY.—In carrying out the provisions of this title, the Administrator shall give priority to United States private organizations or cooperatives.

"(i) LABELING.—Commodities provided under this title shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

"SEC. 203. GENERATION AND USE OF FOREIGN CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

"(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in the recipient country of the commodities to be provided under such agreement.

"(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the Administrator shall ensure that private voluntary organizations and cooperatives are permitted to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

"(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

"(d) USE.—Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this title may be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof provided under this title; or

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country.

"(e) SALES ASSISTANCE.—The Administrator may provide assistance to an organization or cooperative, on request, in the sale of commodities in the recipient country.

"SEC. 204. LEVELS OF ASSISTANCE.

"(a) MINIMUM LEVELS.—

"(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this title in an amount that—

"(A) for fiscal year 1991, is not less than 1,685,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,710,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,735,000 metric tons;

"(D) for fiscal year 1994, is not less than 1,760,000 metric tons; and

"(E) for fiscal year 1995, is not less than 1,785,000 metric tons.

"(2) MINIMUM NONEMERGENCY ASSISTANCE.—Within the amounts specified in paragraph (1) and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202(a) in an amount that—

"(A) for fiscal year 1991, is not less than 1,450,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,475,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,500,000 metric tons;

"(D) for fiscal year 1994, is not less than 1,525,000 metric tons; and

"(E) for fiscal year 1995, is not less than 1,550,000 metric tons.

"(3) EXCEPTION.—The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver.

"(b) USE OF VALUE-ADDED COMMODITIES.—

"(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2), be in the form of processed or fortified products or bagged commodities, including processed milk, plant protein products, and fruit, nut, and vegetable products.

"(2) WAIVER OF MINIMUM.—The Administrator may waive the requirement under paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this title will not be best served by the distribution of fortified or processed food in the amounts required under such paragraph.

"SEC. 205. FOOD AID CONSULTATIVE GROUP.

"(a) ESTABLISHMENT.—There is established a Food Aid Consultative Group (hereinafter referred to in this section as the 'Group') that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this title, and the implementation of other provisions of this title that may involve private voluntary organizations, cooperatives and indigenous nongovernmental organizations.

"(b) MEMBERSHIP.—The Group shall be composed of—

"(1) the Administrator;

"(2) the Secretary;

"(3) the Inspector of the Agency for International Development;

"(4) representatives of each private voluntary organization and cooperative participating in a program under this title, or receiving planning assistance funds from the Agency to establish programs under this title; and

"(5) one representative each from African, Asian and Latin American indigenous nongovernmental organizations determined appropriate by the Administrator.

"(c) CHAIRPERSON.—The Administrator shall be the chairperson of the Group.

"(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment and shall consult and, when appropriate, meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

"(e) ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

"SEC. 206. USE OF COMMODITY CREDIT CORPORATION.

"(a) AVAILABILITY OF COMMODITIES.—The Commodity Credit Corporation shall (subject to section 401) make available to the Administrator such agricultural commodities as the Administrator may request to implement this title.

"(b) INCLUDED EXPENSES.—With respect to commodities made available under this title, the Commodity Credit Corporation may pay—

"(1) the cost of acquiring such commodities;

"(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

"(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;

"(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

"(A) of landlocked countries;

"(B) of ports that cannot be used effectively because of natural or other disturbances;

"(C) of the unavailability of carriers to a specific country; or

"(D) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

"(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"SEC. 207. MAXIMUM LEVEL OF EXPENDITURES.

"(a) MAXIMUM EXPENDITURES.—Except as provided in (b), programs of assistance shall not be undertaken under this title during any fiscal year which call for an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

"(b) WAIVER BY PRESIDENT.—The President may waive the limitation contained in subsection (a) if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

"SEC. 208. ADMINISTRATION.

"(a) PROPOSALS.—

"(1) TIME FOR DECISION.—Not later than 45 days after the receipt by the Administrator of a proposal submitted—

"(A) by a private voluntary organization or cooperative, with the concurrence of the appropriate United States field mission, for commodities; or

"(B) by a United States field mission to make commodities available to a private voluntary organization or cooperative;

under this title, the Administrator shall make a decision concerning such proposal.

"(2) RESPONSE.—The response of the Administrator to proposals under paragraph (1) shall contain the reasons for the denial of such proposal.

"(3) DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the conditions that must be met for the approval of such proposal.

"(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline to carry out this title, the Administrator shall—

"(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment, to private voluntary organizations and cooperatives that participate in programs under this title, and to other interested persons;

"(2) make the proposed guideline available, on request, to the organizations, cooperatives, and others referred to in paragraph (1); and

"(3) take any comments received into consideration prior to the issuance of the final guideline.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

"(2) REQUIREMENTS.—The Administrator shall develop regulations with the intent of—

"(A) simplifying procedures for participation in the programs established under this title;

"(B) reducing paperwork requirements under such programs;

"(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this title, taking into consideration the problems associated with carrying out programs in developing countries; and

"(D) providing flexibility for carrying out programs under this title.

"(3) HANDBOOKS.—Handbooks developed by the Administrator to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

"(d) AMENDMENTS ENACTED IN 1990.—With respect to any amendments made to this title during 1990, the Administrator shall—

"(1) promulgate proposed regulations implementing such amendments not later than 120 days after the date of enactment of such amendments;

"(2) promulgate final regulations implementing such amendments not late than 210 days after the enactment of any amendments made to this title during 1990; and

"(3) issue revisions to Agency guidelines implementing such amendments not later than 210 days after the date of enactment of such amendments.

"(e) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a United States field mission for commodities or products that meet the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

"SEC. 209. FARMER-TO-FARMER PROGRAM.

"(a) IN GENERAL.—To further assist developing countries, middle-income countries, and newly emerging democracies to increase farm production and farmer incomes, the Administrator, in consultation with the Secretary, may, notwithstanding any other provision of law—

"(1) establish and administer a program of farmer-to-farmer assistance between the United States and such countries to assist in increasing food production and distribution and improving the effectiveness of the

farming and marketing operations of such farmers;

"(2) utilize United States farmers, agriculturalists, land grant universities and private agribusiness and nonprofit farm organizations to work in conjunction with farmers and farm organizations in such countries, on a voluntary basis, to facilitate the improvement of farm and agribusiness operations and agricultural systems in such countries, including animal care and health, field crop cultivation, fruit and vegetable growing, livestock operations, food processing and packaging, farm credit, marketing, inputs, agricultural extension, and the strengthening of cooperatives and other farmer groups;

"(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on a person-to-person basis, to such countries while enhancing the democratic process by supporting private and public organizations who request and support technical assistance activities through cash and in-kind services;

"(4) enter into contracts, cooperative agreements, or make grants to private voluntary organizations, cooperatives, land grant universities, private agribusiness or non-profit farm organizations, to the extent practicable, to carry out this section;

"(5) coordinate programs established under this section with other foreign assistance activities carried out by the United States; and

"(6) to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities.

"(b) DEFINITIONS.—

"(1) EMERGING DEMOCRACIES.—For the purposes of this section, an emerging democracy is a country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

"(2) MIDDLE-INCOME COUNTRY.—For the purposes of this section, a middle-income country is a country that has developed economically to the point where it does not qualify for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs;

"(c) MINIMUM FUNDING.—Notwithstanding any other provision of law not less than 0.1 percent of the amounts made available for each of the fiscal years 1991 through 1995 to carry out this Act, in addition to any funds that may be specifically appropriated to carry out this section, shall be used to carry out programs under this section in developing countries.

"TITLE III—FOOD FOR FREEDOM

"SEC. 301. FOOD FOR FREEDOM.

"(a) ESTABLISHMENT OF PROGRAM.—There is established under this section a program to be known as the 'Food for Freedom Program' (hereinafter referred to in this title as the 'Program').

"(b) AGREEMENTS.—The President may enter into agreements with eligible countries (as described in subsection (d)), or with private voluntary organizations or cooperatives, to provide agricultural commodities under this section to eligible countries to support the democratization of the governments of such countries, the granting of individual liberties to the people of such countries, and the promotion of economic freedom within such countries.

"(c) TYPES OF ASSISTANCE.—Commodities made available under this section may be provided on a grant basis or on credit terms, as authorized in this section.

"(d) ELIGIBLE COUNTRIES.—To be eligible to participate in the program established under this section, a country shall, as determined by the President—

"(1) have begun the transformation of the system of government of the country from a non-representative type of government to a representative democracy; or

"(2) have made commitments to introduce or expand free enterprise elements in the agricultural economy of such country.

"(e) COMMODITY CREDIT CORPORATION.—

"(1) DUTIES.—The Commodity Credit Corporation shall—

"(A) make such agricultural commodities available to the President as are determined under section 401 to be available to carry out agreements entered into by the President under this section; and

"(B) finance the sale and exportation of commodities made available under this section to the extent necessary to carry out agreements entered into by the President under this section.

"(2) PURCHASE OF COMMODITIES.—The Commodity Credit Corporation may purchase commodities for use under this section if—

"(A) the Commodity Credit Corporation does not hold stocks of such commodities at the time of such purchase; or

"(B) Commodity Credit Corporation stocks at the time of such purchase are insufficient to satisfy commitments made in agreements entered into under this section and such commodities are needed to fulfill such commitments.

"(3) EXPENSES.—The Commodity Credit Corporation may pay certain expenses in connection with the Program under this section as are described in section 206(b).

"(4) LIMITATION ON EXPENDITURES.—No funds of the Commodity Credit Corporation in excess of $100,000,000 (exclusive of the cost of commodities) in each fiscal year shall be used to carry out this section unless such excess is authorized in advance in appropriations Acts.

"(f) AGREEMENTS.—If the President enters into an agreement with a private voluntary organization or cooperative under this section, such agreement—

"(1) shall require such organization or cooperative to use any commodities provided to it under this section to carry out the purposes of this section;

"(2) may permit such organization or cooperative to sell or barter any commodities provided to it under this section, and use the amounts generated through such sale or barter—

"(A) to promote the establishment and expansion of private enterprise in the recipient country;

"(B) to aid in the production of food in the recipient country through improved agricultural research, marketing systems, and instruments of production in such country; and

"(C) to help develop commercial markets for the purchase of agricultural commodities; and

"(3) shall contain such other terms and conditions as are determined necessary by the President.

"(g) MULTI-YEAR BASIS.—An agreement entered into under this section may provide for commodities to be made available on a multi-year basis subject to the availability of funds and commodities.

"(h) TRANSSHIPMENT OF COMMODITIES.—An agreement entered into under this section shall prohibit the resale or transshipment of the commodities made available under such agreement to other countries, unless such resale or transshipment is authorized by the President.

"(i) DISPLACEMENT.—In implementing this section, the President shall, to the extent practicable, avoid the displacement of any sales of United States agricultural commodities that would otherwise be made to eligible countries and avoid disrupting foreign and domestic markets for United States agricultural commodities.

"(j) RESTRICTIONS ON AGREEMENTS.—No agreement shall be entered into under this section if such agreement would result in—

"(1) the inability of the Commodity Credit Corporation to provide sufficient commodities to carry out food assistance programs established under titles I and II, or domestic commodity programs established under titles I and II of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) or agricultural trade programs established under the Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.);

"(2) a shortage in the domestic supply of any commodities that would be required under the terms of such agreement; or

"(3) the inability of the Commodity Credit Corporation to maintain adequate carryover stocks to meet any emergency, the requirements of the Agricultural Act of 1949, or the requirements of any other Act.

"(k) REPORT OF PRESIDENT.—Not later than January 14 of each year after a year in which an agreement entered into under this section is in effect, the President shall prepare and submit, to the Committee on Agriculture and the Commitee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the commodities and funds made available under this section during the previous fiscal year.

"SEC. 302. PRIVATE MARKET ENHANCEMENT.

"(a) PRIVATE SECTOR AGRICULTURE.—To enhance the development of private sector agriculture in countries receiving assistance under this title the President may, in each of the fiscal years 1991 through 1995, use in addition to any amounts or commodities otherwise made available under this Act for such activities, not less than $20,000,000 of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs to strengthen private sector agriculture in recipient countries.

"(b) USE OF COMMODITY TRANSACTION.—To carry out this section, the President may provide agricultural commodities under agreements entered into under this Act in a manner that uses the commodity transaction itself as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

"(c) USE OF FUNDS.—The President may use the assistance provided under this section and local currencies derived from the sale of commodities under subsection (b) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the ca-

pacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural products.

"SEC. 303. CLASSIFICATION OF EXPENDITURES.

"The value of commodities made available under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or under any other Act, and provided through the programs established under this title, and any expenses incurred by the Commodity Credit Corporation in connection with the provision of commodities under this title, shall be in addition to the level of assistance provided under titles I and II and shall not be considered expenditures for international affairs and finance.

"TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS.

"SEC. 401. COMMODITY DETERMINATIONS.

"(a) AVAILABLE COMMODITIES.—After consulting with other agencies of the Government affected and within policies established by the President for implementing this Act, and after taking into account productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary of Agriculture shall, prior to the beginning of each fiscal year, determine the agricultural commodities and quantities thereof available for disposition under this Act.

"(b) POLICIES FOR IMPLEMENTING ACT.—In establishing policies for implementing this Act, the President should attempt to maintain a stable level of available agricultural commodities under this Act of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.

"(c) COMMODITIES NOT AVAILABLE.—The Secretary may suspend the eligibility of a commodity for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary at the time of exportation of such commodity.

"(d) EXCEPTION.—Notwithstanding subsection (c), the Secretary may make commodities available for disposition under this Act if the Secretary determines that some part of the supply of such commodity should be used to carry out urgent humanitarian purposes of this Act.

"(e) INELIGIBLE COMMODITIES.—

"(1) ALCOHOLIC BEVERAGES.—Alcoholic beverages shall not be made available for disposition under this Act.

"(2) TOBACCO.—Tobacco or the products thereof shall not be made available under section 104 or title II of this Act.

"(f) REPRESENTATIVES IN MARKET DEVELOPMENT ACTIVITIES.—The provisions of subsection (e)(1) shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under title I of this Act.

"SEC. 402. GENERAL PROVISIONS.

"(a) PROHIBITION.—No agricultural commodity shall be made available under this Act unless the Secretary or Administrator, as appropriate, determines that—

"(1) adequate storage facilities are available in the recipient country at the time of the exportation of the commodity to prevent the spoilage or waste of the commodity; and

"(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

"(b) CONSULTATIONS.—The Administrator or the Secretary, as appropriate, shall consult with representatives from the International Monetary Fund, the World Bank, and the government of the country that receives assistance under this Act to ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will not have a disruptive impact on the farmers or the local economy of the recipient country.

"(c) TRANSSHIPMENT.—The Secretary or the Administrator, as appropriate, may, under such terms and conditions as are determined to be appropriate, require commitments from countries designed to prevent or restrict the resale or transshipment to other countries, for use for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

"(d) USE OF PRIVATE TRADE CHANNELS.—The Secretary or the Administrator, as appropriate, shall ensure that, in providing commodities or concessional credit sales under this Act, private trade channels are used to the maximum extent practicable in the United States and in the recipient countries with respect to—

"(1) sales from privately owned stocks;

"(2) sales from stocks owned by the Commodity Credit Corporation; and

"(3) donations; and

that small businesses have adequate and fair opportunity to participate in sales made under this Act.

"(e) WORLD PRICES.—In carrying out this Act, the Secretary or the Administrator, as appropriate, shall take reasonable precautions to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

"(f) FOOD FOR PEACE.—The Secretary or the Administrator, as appropriate, shall obtain commitments from countries purchasing commodities under this Act that such countries will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

"(g) PARTICIPATION OF PRIVATE SECTOR.—The Administrator or the Secretary, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this Act.

"(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, the Secretary or the Administrator, as appropriate, shall take reasonable precautions to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made for cash dollars.

"SEC. 403. DEBT FORGIVENESS.

(a) IN GENERAL.—The President may waive the payments that would otherwise be made to the United States Government by an eligible developing country on account of food aid loan obligations of the Commodity Credit Corporation provided under this Act.

(b) ELIGIBLE DEVELOPING COUNTRIES.—A country shall be an eligible developing country for purposes of subsection (a) if—

"(1) the country meets the least developed country criteria set forth in Section 102(a); and

(2) an International Monetary Fund standby agreement is in effect with respect to that country;

(3) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

(4) even though such an agreement or program is not in effect, the country is pursuing national economic policy reforms which would be consistent with such an agreement or program.

(c) APPROPRIATIONS ACTION REQUIRED.—The authorities of this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(d) PROHIBITION ON NEW LOANS.—No food aid loans under this Act shall be provided to countries receiving debt relief under subsection (a) for a period of 5 years.

"SEC. 404. EXPIRATION DATE.

"No agreements to finance sales or to provide other assistance under this Act shall be entered into after December 31, 1995.

"SEC. 405. REDUCTION IN DEFICIT IN BALANCE OF PAYMENTS.

"The President may utilize foreign currencies received under this Act in such manner as will, to the maximum extent possible, reduce any deficit in the balance of payments of the United States.

"SEC. 406. INDEPENDENT EVALUATION OF PROGRAMS.

"(a) GRANT PROGRAM.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under section 103 that are representative of all such countries in three geographic regions and evaluate—

"(1) the uses of the commodities provided under such title in such countries; and

"(2) the uses of the special account funds established in such countries under section 106;

with respect to the impact of such uses and funds on enhancing food security in such countries and the financial management of those funds, with reference to personnel requirements to manage such funds.

"(b) CONCESSIONAL CREDIT SALES PROGRAM.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under section 107 that are representative of all countries in three geographic regions and evaluate the uses of the funds established under section 109 in such countries with respect to the impact of such uses on agricultural trade development, and the financial management of those funds, with reference to personnel requirements to manage these funds.

"(c) TITLE II PROGRAMS.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under title II that are representative of all countries in three geographic regions and evaluate the uses of the assistance provided under such title, including an evalua-

tion of the impact of such assistance on enhancing food security in such countries and an evaluation of the use of local currencies for economic development, as well as the financial management of those funds, with reference to personnel requirements to manage these funds.

"(d) REPORT TO CONGRESS.—The Comptroller General of the United States shall submit a report to the Committee on Foreign Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate on their evaluations made under this section.

"SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

"(a) REIMBURSEMENT.—

'(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act, including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under titles I, II and III of this Act for its actual costs incurred or to be incurred in carrying out such titles.

"(2) BUDGET.—In presenting the Budget of the United States, the President shall (except as provided in section 303) classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources.

"(b) VALUE OF COMMODITIES.—Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this Act, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agriculture Act of 1949 (7 U.S.C. 1421 et seq.) shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this Act.

"(c) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, if the President determines it to be necessary for purposes of this Act, the President may provide that not in excess of 15 percent of the amounts available in any fiscal year for carrying out any title of this Act may be used to carry out any other title of this Act.

"(d) COMMODITIES MADE AVAILABLE UNDER SECTION 416.—The value of commodities made available through section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) and provided under titles II or III of this Act, and any expenses incurred by the Commodity Credit Corporation in connection with the provision of such commodities, shall be in addition to the level of assistance provided under this Act and shall not be considered expenditures for international affairs and finance.

"(e) EMERGENCY ASSISTANCE UNDER TITLE II.—Of the funds appropriated to carry out title II, the Administrator shall, for each of the fiscal years 1991 through 1995, make available not less than $200,000,000 of such amounts for unforseen emergency food distribution under section 202(a), such funds to remain available until expended.

"(f) ANNUAL REPORT.—

"(1) IN GENERAL.—the Secretary and Administrator shall each prepare a report concerning the programs and activities implemented under this Act.

"(2) CONTENTS.—Each report shall include—

"(A) the levels and recipients of food and other assistance provided under this Act;

"(B) the countries in which projects or activities are implemented under this Act; and

"(C) a general description of the projects or activities implemented with funds under this Act.

"(3) SUBMISSION.—The Secretary and Administrator shall submit such reports no later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Agriculture, Nutrition and Forestry of the Senate. The Secretary may submit such report in conjunction with reports required under sections 601 or 602 of the Agricultural Trade Act of 1978."

SEC. 102. AMENDMENTS TO SECTION 416.

Subsection (b) of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended to read as follows:

"(b)(1) The Secretary may provide eligible commodities for carrying out programs of assistance in foreign countries as provided for under titles II and III of the Agricultural Trade Development and Assistance Act of 1954.

"(2) As used in this subsection, the term 'eligible commodities' means—

"(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products therof, that the Secretary determines meet the criteria described in subsection (a); and

"(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection.

"(3)(A) Except as provided in paragraph (4), the Secretary shall make available, in each of the fiscal years 1990 through 1995, to carry out programs of assistance under titles II and III of the Agricultural Trade Development and Assistance Act of 1954 not less than the minimum quantities of eligible commodities described in subparagraph (B).

"(B) The minimum quantity of eligible commodities that shall be made available for disposition under this subsection in each fiscal year shall be—

"(i) 500,000 metric tons of wheat, rice, feed grains, and oilseeds from the uncommitted stocks of the Commodity Credit Corporation, or an amount equal to 10 percent of the uncommitted stocks of wheat, rice, feed grains, and oilseeds of such Corporation as of the end of such fiscal year (as estimated by the Secretary), whichever is less; and

"(ii) 10 percent of the uncommitted stocks of dairy products of such Corporation, but not less than 150,000 metric tons of such products to the extent that uncommitted stocks are available.

"(C) The Secretary shall, to the extent practicable, make the estimation of expected year-end levels of the uncommitted stocks of such Corporation prior to October 1, of the fiscal year.

"(D) The determination of the Secretary with respect to the amount of the stocks of such Corporation that shall be made available for disposition under this subsection for such fiscal year shall be published in the Federal Register prior to October 1, of such fiscal year, together with a breakdown by kind of commodity and the quantity of each kind of commodity that shall be made availble.

"(E) The Secretary may waive the minimum quantity requirements of this paragraph for a fiscal year to the extent that there are not sufficient requests for eligible commodities under this subsection for such fiscal year.

"(4) Commodities may not be made available for disposition under this subsection in amounts that—

"(A) will in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies; or

"(B) will prevent the Secretary from fulfilling any agreements entered into under the production adjustment programs provided for in titles I and II of this Act, or other Acts administered by the Secretary.

"(5) To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection".

SEC. 103. CONFORMING AMENDMENTS AND TECHNICAL CHANGES.

"(1) REPORTING.—Section 1208(d)(2) of the Agricultural and Food Act of 1981 (7 U.S.C. 1736n(d)(2)) is amended by striking out "report submitted pursuant to section 408(a) of" and inserting in lieu thereof "reports submitted to Congress under".

"(2) AVAILABILITY OF COMMODITIES.—Subsection (e) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)) is amended—

"(A) in paragraph (1), by striking out "401" and inserting in lieu thereof "titles I or II"; and

"(B) in paragraph (4), by striking out "203" and inserting in lieu thereof "section 103".

TITLE II—THE AGRICULTURAL TRADE ACT OF 1978

SECTION 201. AMENDMENT TO THE AGRICULTURAL TRADE ACT OF 1978.

The Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.) is amended to read as follows:

"TITLE I—AGRICULTURAL TRADE POLICY

"Subtitle A—Purpose and Definitions

"SEC. 101. AGRICULTURAL TRADE POLICY OF THE UNITED STATES.

"It is the policy of the United States—

"(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

"(2) to provide food assistance to needy countries;

"(3) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

"(4) to aggressively counter unfair foreign trade practices using all available means, including export promotion programs and, if necessary, restrictions on United States imports of foreign agricultural commodities and products as a means to encourage fairer trade;

"(5) to remove foreign policy constraints to maximize United States economic interest through agricultural trade; and

"(6) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal monetary policy affecting trade.

"SEC. 102. PURPOSE.

"It is the purpose of this Act to increase the profitability of farming and to increase opportunities foir United States farms and agricultural enterprises by—

"(1) increasing the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation;

"(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

"(3) providing for the coordination and efficient implementation of all agricultural trade programs.

"SEC. 103. DEFINITIONS.

As used in this Act:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' includes any agricultural commodity or product thereof produced in the United States, wood or processed wood products, fish or livestock or value-added, fortified, or high-value agricultural products.

"(2) DEVELOPING COUNTRIES.—The term 'developing country' means a country that—

"(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

"(B) has the potential to become a commercial market for United States agricultural commodities.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of the United States Department of Agriculture.

"(4) SERVICE.—The term 'Service' means the Foreign Agricultural Service of the United States Department of Agriculture.

"(5) UNFAIR TRADE PRACTICES.—The term 'unfair trade practice' included any act, policy, or practice of a foreign country that is unreasonable or discriminatory and burdens or restricts United States agricultural exports, including—

"(A) export subsidies, including—

"(i) the provision by governments of direct subsidies to an individual, firm, or industry contingent on export performance;

"(ii) currency retention schemes or any similar practices which involve a bonus on exports;

"(iii) internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favorable than for domestic shipments;

"(iv) tax rebates on exports;

"(B) furnishing or ensuring the availability of raw materials to domestic processing operations at artificially low prices, including—

"(i) the maintenance of export taxes, duties, or charges on products that are used as inputs for the production of secondary products at levels that are higher than that levied on the secondary products;

"(ii) any other differential export tax or duty exemption;

"(iii) domestic consumption quotas;

"(iv) the assumption of costs or expenses of production, processing, or distribution by the government;

"(C) financial assistance on preferential terms; and

"(D) variable levies or restrictive licensing practices.

"An act, policy or practice is 'unreasonable' if the act, policy, or practice, while not necessarily in violaton of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"Subtitle B—Program Implementation

"SEC. 110. LONG-TERM AGRICULTURAL TRADE STRATEGY.

"(a) IN GENERAL.—

"(1) DEVELOPMENT OF MULTI-YEAR STRATEGY.—The Secretary shall develop a long-term agricultural trade strategy for the United States to guide the Secretary in the implementation of agricultural trade programs of the United States under this Act, the Agricultural Trade Development and Assistance Act of 1954, and any other Act.

"(2) GOALS.—The long-term agricultural trade strategy established under paragraph (1) shall be designed to ensure—

"(A) the efficient, coordinated use of United States agricultural trade programs.

"(B) the improvement in the commercial potential of developing country agricultural markets;

"(C) the provision of food assistance to needy countries;

"(D) the growth of United States agricultural exports; and

"(E) the maintenance of traditional markets for United States agricultural commodities;

"(b) COMPONENTS.—In developing the long-term agricultural trade strategy under subsection (a), the Secretary shall—

"(1) establish long-term agricultural trade goals under section 111;

"(2) identify priority markets for the export of United States agricultural commodities under section 112; and

"(3) establish specific market plans for each of the priority markets established under section 112.

"(c) REQUIREMENTS.—In developing the long-term agricultural trade strategy under subsection (a), the Secretary shall—

"(1) consult with the United States Trade Representative, the Secretary of State, the Administrator of the Agency for International Development, and the Agricultural Policy Advisory Committee established pursuant to section 135 of the Trade Act of 1972 (19 U.S.C. 2155);

"(2) consider the effects of exchange rate fluctuations and unfair trading practices on the competitiveness and availability of United States agricultural exports;

"(3) develop strategies that seek to encourage the commercialization of foreign markets for United States agricultural commodities;

"(4) consider the food needs of foreign countries that depend on the United States for food assistance;

"(5) develop strategies designed to make the United States a primary and dependable supplier of agricultural commodities on the world market;

"(6) consider transportation and shipping factors;

"(7) consider the differences in the markets of developed and developing countries (including the debt load of particular countries) and develop the means to increase United States agricultural exports in such markets;

"(8) develop multi-year plans for the implementation of the export assistance programs and food assistance programs established under this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts;

"(9) provide for public comment on the development of the long-term agricultural trade strategy; and

"(10) consider such other factors as the Secretary determines appropriate.

"(d) TIME.—The Secretary shall develop a long-term agricultural trade strategy under subsection (a) at least once every 3 years and may annually revise such long-term strategy.

"SEC. 111. LONG-TERM AGRICULTURAL TRADE GOALS.

"(a) IN GENERAL.—The Secretary shall develop agricultural trade goals with respect to the desired levels of United States agricultural exports and market shares over a period of not less than 3 years.

"(b) REQUIREMENTS.—The long-term agricultural trade goals established under subsection (a) shall include—

"(1) as appropriate, the agricultural trade goals for total agricultural commodities over a period of not less than 3 years;

"(2) as appropriate, the agricultural trade goals for certain specified agricultural commodities over a period of not less than 3 years;

"(3) as appropriate, the agricultural trade goals for high-value, processed agricultural commodities over a period of nat less than 3 years;

"(4) the desired levels of expenditures on agricultural export programs; and

"(5) any other statement of trade goals that the Secretary determines appropriate.

"SEC. 112. ESTABLISHMENT OF PRIORITY MARKETS.

"(a) DESIGNATION OF GROWTH MARKETS.—The Secretary shall establish a list of not less than 15 countries (or groups of countries) that are most likely to emerge as growth markets for United States agricultural commodities within the 5 and 10-year periods following the developments of a long-term agricultural trade strategy under this subtitle.

"(b) DEVELOPING COUNTRIES.—Not less than 5 of the countries identified on the list developed under subsection (a) shall be developing countries.

"(c) DESIGNATION AS PRIORITY MARKETS.—Countries identified on the list developed under subsection (a) shall be designated as priority markets for the use of United States agricultural export programs (other than those programs designed to provide food assistance and those programs under title III that are designed to combat unfair trade practices).

"(d) TARGETING OF AGRICULTURAL TRADE PROGRAMS.—The Secretary shall place a priority on the development of agricultural markets, though the use of agricultural trade programs and through other means, in those countries designated as priority markets under subsection (c) in accordance with the individual market plans established under section 113 and in accordance with the long-term agricultural trade goals developed under section 111.

"SEC. 113. ESTABLISHMENT OF MARKET PLANS.

"(a) IN GENERAL.—The Secretary shall develop individual market plans for each country (or groups of countries) designated as a priority market under section 112.

"(b) CONTENTS.—As individual market plan developed under subsection (a) shall contain—

"(1) specific plans for the use of United States agricultural trade programs to assist United States exports and market development in the specific country; and

"(2) the agricultural trade goals for the United States for that country over a period of not less than 3 years.

"(c) INDIVIDUAL MARKET GOALS.—

"(1) PRIMARILY COMMERCIAL MARKETS.—With respect to markets that have strong commercial potential, the individual market plan developed under subsection (a) for a country shall be designed to increase exports of United States agricultural commodities in that country.

"(2) HEAVILY SUBSIDIZED MARKETS.—With respect to markets in which United States exporters face unfair trade practices of other competing countries, the individual market plan developed under subsection (a) for a country shall be designed to directly combat such unfair trade practices and should result in either increased agricultur-

al trade expenditures by the targeted competitor in such market or in a decrease in the market share or the exports of the targeted competitor in that market.

"(3) MARKETS THAT ARE PRIMARILY CONCESSIONAL.—With respect to markets that are primarily concessional and are the recipients of assistance under the Agricultural Trade Development and Assistance Act of 1954, the individual market plan developed under subsection (a) for a country shall be designed to increase United States agricultural exports to such country by increasing over time, the amount of United States agricultural exports moving through commercial channels and under other export programs established in this Act, and to decrease steadily the amount of food and developmental assistance necessary under the Agricultural Trade Development and Assistance Act of 1954.

"SEC. 114. REVIEW.

"(a) FREQUENCY OF REVIEW.—Not less than once every 3 years, the Secretary shall review the agricultural trade performance of the United States based on the long-term agricultural trade strategy and trade goals developed by the Secretary under this Act.

"(b) CONTENT OF REVIEW.—In conducting the review under subsection (a), the Secretary shall—

"(1) determine whether and to what extent individual market plans were successfully implemented during the 3-year period for which the review is being conducted;

"(2) determine whether the use of certain agricultural trade programs resulted in agricultural exports or increased agricultural exports or market share in the priority markets during the 3-year period for which the review is being conducted;

"(3) determine whether the use of agricultural trade programs to combat unfair trade practices has attained the established trade goals developed under this Act during the 3-year period for which the review is being conducted;

"(4) determine the degree to which the long-term agricultural trade goals developed under this Act were reached during the 3-year period for which the review is being conducted;

"(5) conduct a country-by-country analysis of expenditures made under agricultural trade programs (under this Act, the Agricultural Trade Development and Assistance Act of 1954, and any other Act) and the export performance of the United States in such market during the 3-year period for which the review is being conducted; and

"(6) evaluate whether revisions in the long-term agricultural trade strategy, goals, or market plans developed under this Act or in agricultural trade programs are necessary to help meet the purposes of this Act.

"SEC. 115. PRESERVATION OF TRADITIONAL MARKETS.

Notwithstanding any other provision of this Act, the Secretary shall, in implementing the provisions of this Act, seek to preserve traditional markets for United States agricultural commodities.

"SEC. 116. ADMINISTRATION.

The Secretary shall promulgate regulations to implement the provisions of this title.

"TITLE II—AGRICULTURAL EXPORT PROGRAMS

"Subtitle A—Export Assistance Programs

"SEC. 201. DIRECT CREDIT SALES PROGRAM.

"(a) SHORT-TERM PROGRAM.—To promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

"(b) INTERMEDIATE-TERM PROGRAM.—Subject to subsection (d), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years.

"(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) USE OF PROGRAM.—

"(1) GENERAL USES.—The Commodity Credit Corporation may use export sales financing authorized under this section—

"(A) to increase exports of agricultural commodities;

"(B) to compete against United States agricultural export competitors for agricultural export sales;

"(C) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

"(2) COST OF FREIGHT.—The Commodity Credit Corporation may include the cost of freight from the United States tod esignated points of entry in other countries in any sale financed under this section.

"(3) GENERAL RESTRICTIONS.—Export sales financing authorized under this section shall not be used for foreign aid or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

"(e) TERMS OF CREDIT ASSISTANCE.—Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

"(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

"(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

"(f) PROHIBITION ON RESALE OR TRANSSHIPMENT.—The Commodity Credit Corporation shall, whenever feasible, obtain commitments from purchasers of commodities under subsection (d) that such purchasers will prevent the resale or transshipment of such commodities to other countries.

"SEC. 202. EXPORT CREDIT GUARANTEE PROGRAM.

"(a) SHOFT-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation may guarantee the repayment of loans made by financial institutions in the United States to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that do not exceed a 3-year period.

"(b) INTERMEDIATE-TERM CREDIT GUARANTEES.—Subject to the provisions of subsection (c), the Commodity Credit Corporation may guarantee the repayment of loans made by financial institutions in the United States to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period.

"(c) REQUIRED DETERMINATIONS.—The Commodity Credit Corporation shall not guarantee under subsection (b) the repayment of a loan made to finance an export sale unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) PURPOSE OF PROGRAM.—The Commodity Credit Corporation may use export credit guarantees authorized under this section—

"(1) to increase exports of agricultural commodities;

"(2) to compete against United States agricultural export competitors for agricultural export sales;

"(3) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(4) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

"(e) COST OF FREIGHT.—The Commodity Credit Corporation may include the cost of freight from the United States to designated points of entry in other countries in any sale guaranteed under this section.

"(f) RESTRICTIONS ON USE OF CREDIT GUARANTEES.—Export credit guarantees provided under this section shall not be used for foreign aid or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales guaranteed under this section.

"(g) RESTRICTIONS.—The Commodity Credit Corporation shall not make credit guarantees available to any country that the Secretary determines cannot adequately service the debt associated with such guarantee.

"(h) TERMS.—Contracts of guarantee entered into under this section shall continue such terms and conditions as the Commodity Credit Corporation determines to be necessary.

"(i) PROHIBITION ON RESALE OR TRANSSHIPMENT.—The Commodity Credit Corporation shall, wherever feasible, obtain a certification from purchasers that such purchasers will prevent the resale or transshipment of the commodities that are subject to the contract of guarantee issued under subsection (b) to other countries.

"(j) ELIGIBILITY OF CERTAIN COMMODITIES.—

"(1) DOMESTIC CONTENT REQUIREMENT.—Except as provided in paragraphs (2) and (3), export sales of United States agricultural commodities shall be eligible for short or intermediate-term export credit guarantees under this section if at least 90 percent of the value of such commodity is derived from agricultural commodities produced in the United States.

"(2) INABILITY TO MONITOR.—The Commodity Credit Corporation may require that any export of United States agricultural commodities shall be composed entirely of commodities produced within the United States and with goods from the United States, to enable such export to be eligible for short or intermediate-term export credit guarantees under this section, if the Commodity Credit Corporation determines that it is not practicable to monitor the export of such commodity to determine the percentage of domestic content of such agricultural commodity as a result of—

"(A) the export commodity being a bulk commodity that is not commonly stored in a manner that will enable the Corporation to determine the domestic content of the product because of the blending of the commodities with commodities produced outside the United States;

"(B) the export commodity being a blend of commodities produced both in and outside of the United States through a procedure that does not make the percentange of domestic content of such product easily verifiable; or

"(C) the determination, by the Commodity Credit Corporation, that the domestic content of the export commodity or of a particular type of export commodity is not practicable to verify.

"(3) LIMITATION OF PERCENTAGE COVERED BY GUARANTEE.—An export credit guarantee made available with respect to the export of an agricultural commodity that is not composed of commodities produced entirely in the United States shall not cover any portion of the exported commodity that was derived from agricultural commodities produced outside the United States.

"(k) INELIGIBILITY OF FINANCIAL INSTITUTIONS.—A financial institution shall be ineligible to negotiate letters of credit guaranteed by the Commodity Credit Corporation under this section if it is determined by the Corporation that such financial institution—

"(1) is not in a sound fiscal condition;

"(2) does not have sufficient experience in transactions of the type being guaranteed by the Commodity Credit Corporation; or

"(3) is—

"(A) a branch, agency, subsidiary, or home office of the foreign financial institution issuing the letter of credit; or

"(B) a branch, agency, subsidiary of any other financial institution headquartered in the same country as the foreign financial institution issuing the letter of credit.

"(l) ARRIVAL OF COMMODITIES.—The Commodity Credit Corporation shall establish procedures providing for the annual audit of a number of export transactions under this section to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

"(m) FRAUD.—No export credit guarantee issued under this section shall be valid with respect to any exporter or assignee who has knowledge of any scheme to misuse any such credit guarantee or to misappropriate any agricultural commodities the sale of which subject to such guarantee, as determined by the Secretary.

"SEC. 203. DEFERRED PAYMENT SALES.

"(a) IN GENERAL.—The Secretary may provide financing through the Commodity Credit Corporation to exporters of United States agricultural commodities that desire to provide deferred payment terms to purchasers in other countries in order to meet sales competition from other countries or to make additional export sales.

"(b) AVAILABILITY OF FINANCING.—Financing shall be available under this section only with respect to export sales to those countries that are eligible for financing under the short-term export credit sales program established under section 201(a).

"(c) ELIGIBILITY FOR FINANCING.—To be eligible to receive financing assistance under this section, the United States exporter shall—

"(1) enter into a contract to export United States agricultural commodities to a foreign country on deferred payment terms that shall not exceed a 3-year period;

"(2) provide deferred payment terms referred to in paragraph (1);

"(3) establish to the satisfaction of the Corporation that the exporter must provide such deferred payment terms in order to meet sales competition from other countries or to make additional export sales;

"(4) submit, for approval by the Commodity Credit Corporation, an export sales plan;

"(5) provide assurances, to the satisfaction of the Commodity Credit Corporation, that exports have been made in accordance with an approved plan under paragraph (4); and

"(6) comply with any other terms and conditions determined by the Corporation to be necessary.

"(d) TERMS OF REPAYMENT.—

"(1) REPAYMENT IN DOLLARS.—Payments under contracts entered into under this section to the Commodity Credit Corporation shall be made in dollars by the exporter in accordance with the terms and at interest rates contained in the approved export sales plan under subsection (c).

"(2) INTEREST.—Interest rates under paragraph (1) shall not exceed those charged for financing under the short-term export credit sales program established under section 201(a).

"(e) PERFORMANCE GUARANTEE.—The Commodity Credit Corporation may, if the Corporation determines such action appropriate to protect the interests of the United States, require a performance guarantee from the exporter at the time of the export sale.

"(f) REVIEW.—Financing agreements entered into under this section shall be subject to such other terms and conditions as the Commodity Credit Corporation determines necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

"(g) USE OF COMMODITY CREDIT CORPORATION.—The funds, facilities, and authorities of the Commodity Credit Corporation may be used in carrying out this section.

"(h) EFFECT ON COMMODITY CREDIT CORPORATION.—The authority provided under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"SEC. 204. MARKETING ASSISTANCE PROGRAM.

"(a) IN GENERAL.—The Secretary may establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for United States agricultural commodities through the provision of cost-share assistance to United States organizations that implement a market development program in a foreign country.

"(b) TYPE OF ASSISTANCE.—Cost-share assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

"(c) REQUIREMENTS FOR PARTICIPATION.—

"(1) IN GENERAL.—To be eligible for cost-share assistance under this section, a United States organization shall—

"(A) be an eligible trade organization;

"(B) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

"(C) meet any other requirements established by the Secretary.

"(2) PROVISION OF ASSISTANCE.—

"(A) VIABLE MARKETS.—Funds or commodities shall be made available for use under this section only in connection with marketing plans developed for foreign countries that are, or have the potential to be, viable commercial markets for United States agricultural commodities, the export of which would have a significant positive effect on farmgate agricultural commodity values and on financial returns to farmers.

"(B) PRIORITY BASIS FOR EXPORT ASSISTANCE.—The Secretary shall provide export assistance under this section on a priority basis—

"(i) in the case of agricultural commodities with respect to which there has been a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

"(ii) in the case of agricultural commodities for which exports have been adversely affected, as defined by the Secretary, through retaliatory actions related to a favorable decision under section 301 of the Trade Act of 1974 (19 U.S.C. 2411); or

"(iii) to counter or offset the adverse effect on the export of a United States agricultural commodity of an unfair trade practice of a foreign country.

"(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

"(1) a United States agricultural trade organization or regional state-related organization that is formed to promote the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

"(2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or

"(3) a private organization that promotes the export and sale of agricultural commodities if—

"(A) there is no organization or agency described in paragraphs (1) or (2) that represents the particular agricultural commodity that is marketed by the private organization; and

"(B) the export of the particular agricultural commodity has been hampered by an unfair trade practice of a foreign country.

"(e) APPROVED MARKETING PLAN.—

"(1) IN GENERAL.—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other marketing-oriented export promotion plan to be carried out by the eligible trade organization with respect to which cost-share assistance under this section is being requested.

"(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

"(A) specifically describe the manner in which assistance received by the eligible trade organization under this section will be expended in implementing the marketing plan;

"(B) specifically describe the manner in which funds provided by the eligible trade

organization will be expended in implementing the marketing plan;

"(C) establish specific market goals to be achieved as a result of the marketing promotion program; and

"(D) contain whatever additional requirements are determined by the Secretary to be necessary.

"(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

"(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

"(f) DURATION OF COST-SHARE ASSISTANCE.—

"(1) ONE TO THREE YEAR BASIS.—The Secretary may provide assistance under this section on a 1 to 3 year basis, subject to annual reviews for compliance with the approved marketing plan by the Secretary.

"(2) REQUIREMENTS FOR MULTI-YEAR ASSISTANCE.—In order to be eligible to receive multi-year assistance under this section, the eligible trade organization shall—

"(A) establish, to the satisfaction of the Secretary, that multi-year funding is necessary to implement a successful marketing promotion program; and

"(B) submit a marketing promotion plan that specifically describes how assistance under this section will be used on a multi-year basis.

"(g) OTHER TERMS AND CONDITIONS.—

"(1) TERMINATION OF ASSISTANCE.—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

"(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

"(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the marketing promotion program;

"(C) the eligible trade organization is not adequately contributing its own resources to the marketing promotion program;

"(D) the unfair trade practice that was the basis of the provision of assistance has been stopped and marketing assistance is no longer required to offset its effects; or

"(E) the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

"(2) AVAILABILITY OF RECORDS.—An eligible trade organization that receives assistance under this section shall maintain all records concerning the use of assistance under this program for a period of 5 years and shall permit the Secretary to have full and complete access to the financial records of the organization relating to the use of assistance under this program while such organization is a participant in this program and for a period of 5 years thereafter.

"(3) LEVEL OF COST SHARE ASSISTANCE.—Cost share assistance provided under this section to private organizations as described in subsection (d)(3) shall not exceed 50 percent of the cost of implementing the marketing plan.

"(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out the provisions of this section.

"SEC. 205. BARTER OF AGRICULTURAL COMMODITIES.

"(a) IN GENERAL.—The Secretary may donate eligible commodities in barter for foreign products by U.S. exporters and may exchange eligible commodities for strategic or critical materials.

"(b) ELIGIBLE COMMODITIES.—Unless otherwise specified, eligible commodities includes—

"(1) commodities and products thereof acquired by the Commodity Credit Corporation through price support operations, and

"(2) commodities and products thereof acquired by the Secretary or the Corporation in the normal course of business and available for disposition.

"(c) BARTER BY U.S. EXPORTERS OF AGRICULTURAL COMMODITIES.

"(1) PURPOSE.—The Secretary shall encourage United States exporters of agricultural commodities to barter such commodities for foreign products—

"(A) to prevent waste of agricultural commodities in the United States;

"(B) to acquire such foreign products needed by such exporters; and

"(C) to develop, maintain, or expand foreign markets for United States agricultural exports.

"(2) ELIGIBLE ACTIVITIES.—The Secretary may furnish eligible commodities to U.S. exporters for the following activities—

(A) to finance the distribution, handling, and processing costs of agricultural commodities in the importing country or in a country through which such commodities must be transshipped,

(B) to finance other activities in the importing country that provide food assistance to needy people.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

"(4) MULTI-YEAR AGREEMENTS.—The Secretary may enter into a multi-year agreement with a United States exporter to make eligible commodities available for barter programs.

"(5) USE OF FOREIGN CURRENCIES.—Local currencies generated through barter of eligible commodities shall be used within the foreign country—

"(A) to transport, store, distribute, and otherwise enhance the effective use of commodities;

"(B) to implement developmental programs, including income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities; or

"(C) to develop commercial sales of United States agricultural commodities.

"(d) EXCHANGE FOR STRATEGIC OR CRITICAL MATERIALS.—

"(1) IN GENERAL.—The Secretary may barter eligible commodities to acquire strategic and critical materials produced in a foreign country.

"(2) USE OF PRIVATE TRADING FIRMS.—To the maximum extent practicable, the Secretary shall solicit bids from, and utilize, private trading firms to arrange or make barters or exchanges for strategic or other materials under subsection (1).

"(3) PRIORITY OF ELIGIBLE COMMODITIES.—The Commodity Credit Corporation shall give priority to eligible commodities which are—

(A) easily storable commodites, and

(B) prime incentive goods to stimulate production of critical and strategic materials.

"(4) DETERMINATION OF STRATEGIC OR CRITICAL MATERIALS.—The President shall determine, according to section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(b))—

(A) which materials are strategic and critical materials; and

(B) the quantities and qualities of strategic and critical materials to be acquired under this section.

"(5) TRANSFER OF STRATEGIC OR CRITICAL MATERIALS TO STOCK PILE.—The Secretary shall transfer, as approved by the President, strategic and critical materials to the stock pile, as provided for by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

"(6) REIMBURSEMENT OF THE CORPORATION.—The Corporation shall be reimbursed for the strategic and critical materials transferred to the stock pile, provided that—

(A) the reimbursement shall be equal to the fair market value, as determined by the Secretary of the Treasury, of the strategic and critical materials; and

(B) such reimbursement shall be made from the funds available for the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

"(7) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained herein shall limit the authority of the Corporation to acquire, hold, or dispose of such quantity of strategic and critical materials as it deems advisable in carrying out its functions and protecting its assets.

"(e) STRATEGIC PETROLEUM RESERVE.—The Secretary shall, to the maximum extent practicable, make available at least $300,000,000 of eligible commodities for use by the Secretary of Energy in acquiring petroleum products (including crude oil) for the Strategic Petroleum Reserve (42 U.S.C. 6234), provided—

(1) the volume of petroleum products stored in the Strategic Petroleum Reserve is less than the level prescribed under section 6234 of Title 42; and

(2) the Secretary of Energy requests such commodities.

"(f) BARTER COORDINATED WITH OTHER DONATIONS.—The Secretary shall determine that the eligible commodities provided in the foreign country are incidental to other donations of the commodity in the foreign country.

"(g) PROHIBITED ACTIVITIES.—The Secretary shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

"(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

"(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

"(3) allow the resale or transshipment of eligible commodities to countries other than the intended recipient.

"SEC. 206 AGRICULTURAL CREDIT REVOLVING FUND.

"(a) ESTABLISHMENT.—The revolving fund known as the Agricultural Export Credit Revolving Fund established under section 4(d) of the Agricultural Trade Development and Assistance Act of 1954 (as such section existed prior to the date of enactment of this Act), shall be available without fiscal

year limitation for use by the Commodity Credit Corporation (hereinafter referred to in this subsection as the 'Corporation') for financing in accordance with this section and section 714c(f) of Title 15 the following—

"(1) commercial export sales of United States agricultural commodities out of private stocks or stocks owned or controlled by the Corporation on credit terms of not to exceed a 3-year period;

"(2) export sales of United States breeding animals (including, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations; and

"(3) the establishment of facilities in importing countries to improve the capacity of such countries for handling, marketing, processing, storing, or distributing fungible agricultural commodities produced in and exported from the United States (through the use of local currency generated from the sale of United States agricultural commodities).

"(b) USE.—The Corporation shall use the revolving fund only to extend credit for purposes of market development and expansion and only where there is substantial potential for developing or enhancing regular commercial markets for United States agricultural commodities.

"(c) MARKETING OPPORTUNITIES.—The Secretary shall ensure that the revolving fund is used in such a manner as to involve equitable use of the funds to finance sales to the greatest feasible number of countries consistent with maximizing market opportunities. In carrying out this objective, the Secretary shall establish procedures under which—

"(1) not less than 85 percent of the estimated amount in the revolving fund for any fiscal year shall be made available for the purposes described in paragraph (1) of subsection (a); and

"(2) not to exceed 25 percent of the estimated amount in the revolving fund for any fiscal year shall be made available for the financing of credit sales to any one country for the purposes described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Agricultural Export Credit Revolving Fund such sums as may be necessary to carry out the provisions of this section. All funds received by the Corporation in payment for credit extended by the Corporation using the revolving fund, including interest or other receipts on investments and credit obligations, in financing export sales of the types specified in subsection (a) shall be added to and become a part of such revolving fund.

"(e) TERMINATION.—The revolving fund is abolished effective October 1, 1995, and all unobligated money in such fund on September 30, 1995, shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

"(f) AUTHORITY.—The authority provided under this section shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Corporation under any other provision of law.

"(g) LIMITATIONS.—The authority provided under this subsection to incur obligations to make loans shall be effective only to the extent that such obligations do not exceed annual limitations on new direct loan obligations which shall be provided in annual appropriations Acts.

"SEC. 207. COMBINATION OF PROGRAMS.

"(a) FAILURE TO MEET FINANCIAL QUALIFICATIONS.—If a country does not meet the financial qualifications for participation in the export programs established under sections 201 or 202, the Secretary may provide agricultural commodities to such country under section 205 to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to make it possible for such country to meet such qualifications.

"(b) REVIEW.—The Secretary shall review and adjust annually the quantity of commodities provided to a country under subsection (a— to encourage such country to place greater reliance on the increased use of commercial trade to meet the qualifications referred to in subsection (a).

"(c) COMBINED CREDIT PROGRAMS.—The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits fom the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

"SUBTITLE B—IMPLEMENTATION

"SEC. 211. FUNDING LEVELS.

"(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) SHORT-TERM GUARANTEES.—

"(A) MINIMUM AMOUNTS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, not less than $5,000,000,000 in credit guarantees under section 202(a) to extend short-term credit to finance the export sales of United States agricultural commodities.

"(B) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to one percent of the amount of credit extended under the transaction.

"(2) INTERMEDIATE-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, not less than $500,000,000 in credit guarantees under section 202(b) to extend intermediate-term credit to finance the export sales of United States agricultural commodities.

"(c) MARKETING ASSISTANCE PROGRAMS.—The Commodity Credit Corporation or the Secretary shall make available for market promotion activities authorized to be carried out by the Commodity Credit Corporation under section 204—

"(1) in addition to any funds that may be specifically appropriated to implement a market development program, not less than $225,000,000 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

"(2) any funds that may be specifically appropriated to carry out a marketing assistance program under section 204.

"SEC. 212. REGULATIONS.

"The Secretary or the Commodity Credit Corporation, as appropriate, shall promulgate regulations to carry out the provisions of this title.".

"SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out this title.

"TITLE III—RESPONSE TO UNFAIR TRADE PRACTICES

"SEC. 301. PURPOSE OF AUTHORITIES.

"It is the purpose of this title to authorize the Secretary to carry out such agricultural trade programs as may be necessary to carry out the agricultural trade policy of the United States with respect to the use of unfair agricultural trade practices by foreign countries.

"SEC. 302. EXPORT ENHANCEMENT PROGRAM TO COMBAT UNFAIR TRADE PRACTICES.

"(a) IN GENERAL.—The Secretary shall carry out in accordance with this section a program to discourage unfair trade practices by foreign countries and to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities by making United States agricultural commodities price competitive.

"(b) EXPORT INCENTIVE.—In carrying out the program established under this section, the Secretary may—

"(1) make agricultural commodities, acquired by the Commodity Credit Corporation, available to United States exporters, users, processors, or foreign purchasers at no cost either directly or through the issuance of commodity certificates; and

"(2) make cash grants to United States exporters, users, and processors.

"(c) TERMS AND CONDITIONS OF PROGRAM.—

"(1) WHEN AVAILABLE.—The Secretary shall use commodities made available under this section to the extent necessary to counter or offset the adverse effect on the export of a United States agricultural commodity of the unfair trade practice of a foreign country that directly or indirectly benefits producers, processors, or exporters of agricultural commodities in such foreign country.

"(2) MARKET PRICES.—The Secretary shall provide commodities under this section to United States exporters, users, or processors or foreign purchasers to the extent necessary to make United States agricultural commodities available at the world market price in the foreign market.

"(3) INTERESTED FOREIGN MARKETS.—The Secretary shall consider providing assistance under the program established under this section with respect to sales to be made with respect to all foreign markets in which other countries are engaging in unfair trade practices, giving priority to sales to be made to buyers in those foreign markets that have been traditional markets for United States agricultural commodities and that are increasing their imports of United States agricultural commodities over previous levels.

"(4) DISPLACEMENT.—The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

"(5) PRECAUTIONS AGAINST RESALE.—The Secretary shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities receiving export assistance under this section.

"(6) COMPETITIVE DISADVANTAGE.—The Secretary shall take such action as necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of United States agricultural commodities in

any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

"(7) FREIGHT COST.—The Secretary may include the cost of freight from the United States to designated points of entry in foreign countries.

"(8) DIFFERENT COMMODITIES.—The Secretary may provide to a United States exporter, user, or processor, or foreign purchaser, under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

"(9) OTHER EXPORT PROGRAMS.—The Secretary may provide commodities under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

"(d) RESTRICTION ON PURCHASE OF COMMODITIES.—United States agricultural commodities shall not be purchased with funds available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, for the sole purpose of use under the program under this section. Such commodities or products thereof shall not be provided to a United States user, exporter, processor, or foreign purchaser under the program established under this section except by mutual agreement of such user, exporter, processor, or purchaser and the Secretary.

"(e) USE OF COMMODITY CREDIT CORPORATION.—The Secretary of Agriculture shall carry out the program established under this section through the Commodity Credit Corporation.

"(f) INAPPLICABILITY OF PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

"(g) EFFECT ON COMMODITY CREDIT CORPORATION.—The program established under this section shall not prejudice any authority of the Commodity Credit Corporation to sell surplus agricultural commodities (obtained by the Commodity Credit Corporation in the normal course of its operations) in world trade at competitive prices as elsewhere authorized by law.

"(h) FUNDING LEVELS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995, not less than $500,000,000 nor more than $900,000,000 of the funds or commodities of the Commodity Credit Corporation for the purpose of carrying the program established under this section.

"SEC. 303. REGULATIONS.

"The Secretary or the Commodity Credit Corporation, as appropriate, shall promulgate regulations necessary to carry out this title.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out this title.

"TITLE IV—GENERAL PROVISIONS

"SEC. 401. AGRICULTURAL EMBARGO PROTECTION

"(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provisions of law, if the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App 2401 et seq.) or any other provision of law, and if such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world, and if sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceed 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect, the Secretary of Agriculture shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

"(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

"(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

"(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

"(B) the farm program acreage established for the commodity; by

"(C) the amount by which the average market price per unit of such commodity received by producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

"(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

"(c) TIME FOR PAYMENTS.—The payments made pursuant under paragraph (1) of subsection (b) shall be made for each markeitng year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

"(d) COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

"(e) REGULATIONS.—The Secretary may issue such regulations as are deemed necessary to carry out the provisions of this section.

"SEC. 402. DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

In order to alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities when the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

"(1) develop a comprehensive contingency plan that includes—

"(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

"(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

"(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in clause (1)(B) of this section;

"(2) for any suspension or restriction for which compensation is not provided under section 401 of this title, develop and submit Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

"(3) for any suspension of restriction for which compensation is provided under section 401 of this title, develop and submit to Congress a plan for implementing and administering section 401; and

"(4) require the Commodity Credit Corporation, before such corporation purchases any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

"(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

"(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

"(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

"SEC. 403. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

"(A) IN GENERAL.—the Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

"(b) NOT EMPLOYEES OF THE UNITED STATES.—Such individuals shall not be regarded as officers or employees of the United States.

"SEC. 404. TRADE CONSULTATIONS CONCERNING IMPORTS.

"(a) CONSULTATION BETWEEN AGENCIES.—The Secretary shall require consultation between the Administrator of the Service and

the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, before relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

"(b) CONSULTATION WITH TRADE REPRESENTATIVE.—The Secretary shall consult with the United States Trade Representative before relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

"SEC. 405. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

"TITLE V—FOREIGN AGRICULTURAL SERVICE

"SEC. 501. UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS.

(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

(b) PROHIBITION.—The prohibition on the use of designation "Assistant Secretary of Agriculture for International Affairs and Commodity Programs" (as contained in section 501(c) of the Agricultural Trade Act of 1978 as it existed prior to the amendments to such Act made by the Agricultural Development and Trade Act of 1990) shall continue after the date of enactment of the Agricultural Development and Trade Act of 1990.

"SEC. 502. ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service to be appointed by the President, by and with the advice and consent of the Senate.

"(b) DUTIES.—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

"(c) USE OF SERVICE.—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

"(d) OTHER SPECIFICATIONS.—The Administrator may be paid at the highest level authorized under Subchapter 8 of chapter 53 to title 5 of the United States Code. Notwithstanding any other provision of law, if the Administrator was a member of the Foreign Service of the United States prior to the appointment as Administrator, the Administrator may rejoin the Foreign Service after the end of the Administrator's tenure and may retain full retirement rights and benefits as a member of the Foreign Service.

"(e) EFFECTIVE DATE.—The requirement for advice and consent of the Senate with respect to the appointment of the Administrator of the Foreign Agricultural Service shall not apply to any individual serving as such Administrator prior to the date of enactment of this Act.

"SEC. 503. RESPONSIBILITIES OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) IN GENERAL.—The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.

"(b) OTHER RESPONSIBILITIES.—In carrying out its responsibilities, the Service shall—

"(1) promote the export of United States agricultural commodities and products thereof;

"(2) facilitate economic assistance and agricultural development programs;

"(3) represent United States agricultural producers, processors and exporters in bilateral and multilateral negotiations to reduce unfair trade practices of foreign countries on agricultural trade, in cooperation with the United States Trade Representative;

"(4) collect and distribute information regarding foreign production, supply, and distribution of agricultural commodities and products thereof, and government policies affecting agricultural production and trade; and

"(5) perform such other duties as the Secretary requests.

"SEC. 504. PROVISION OF TRADE ASSISTANCE.

"(a) ESTABLISHMENT.—The Trade Assistance Office within the Service established under section 4206 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 5216) shall be maintained by the Secretary to carry out the duties described in subsections (b) and (c) of this section under the direction of the Administrator of the Service.

"(b) PRIMARY RESPONSIBILITY.—This office shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

"(c) DUTIES.—This office shall—

"(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injury by unfair trade practices; and

"(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

"SEC. 505. STAFF OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) PERSONNEL OF THE SERVICE.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

"(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

"There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this Act.

"TITLE VI—REPORTS

"SEC. 601. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

"(a) IN GENERAL.—The Secretary of Agriculture shall every 3 years prepare a Long-Term Agricultural Trade Strategy Report based upon the long-term agricultural trade strategy developed by the Secretary under title I of this Act.

"(b) CONTENTS.—The Report required in subsection (a) shall—

"(1) detail the Long-Term Agricultural Trade Strategy developed by the Secretary under Title I; and

"(2) for each report after the first report, shall review the agricultural trade performance of the United States during the previous 3-year period in light of the long-term agricultural trade strategy and trade goals developed by the Secretary for such period under this Act.

"(c) CONSULTATION.—In preparing each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with an annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213).

"(d) UPDATE.—The Secretary shall prepare an annual update to the report required in subsection (a) that shall contain a description of any revisions to the long-term agricultural trade strategy made by the Secretary and such other information as may be specified in this section or determined appropriate by the Secretary.

"(e) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report and annual update of such report that relate to recommended levels of spending on international activities year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

"(f) AVAILABILITY OF REPORT.

"(1) SUBMISSION TO CONGRESS.—The Secretary shall submit the report required in this section (and any updates to such report) to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry and the Committee on Finance of the Senate.

"(2) AVAILABILITY TO PUBLIC.—Except as provided in paragraph (2), the Secretary may make the report required in this section available to the general public.

"(3) CONFIDENTIAL.—The Secretary may designate portions of the report required in this section as confidential and not to be released to the general public if—

"(A) the Secretary determines that the release of such information would disadvantage the United States with respect to its competitors in specific foreign markets; or

"(B) any of such information is determined to be business confidential.

"(4) NOT APPLICABLE TO REVIEW OF STRATEGY.—The provisions of paragraph (3)(A) shall not be applicable with respect to the portion of the report that reviews the agricultural trade performance of the United States over a previous 3-year period in accordance with subsection (b)(2).

"SEC. 602. OTHER REPORTS TO CONGRESS.

"The Secretary shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate concerning the information set forth in this section. This information may be provided in individual reports, in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 601.

"(1) BARTER.—The Secretary shall, no later than January 15 of each year, submit a report concerning the use of the barter authorities by the Secretary or the Commodity Credit Corporation under this Act or under any other Act (except the barter provisions contained in titles I and II of the Agricultural Trade Development and Assistance Act of 1954) during the previous fiscal year.

"(2) EXPORT ASSISTANCE UPDATE.—The Secretary shall, no less than bi-monthly, submit a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this Act, the Commodity Credit Corporation Charter Act, and under the Agricultural Trade Development and Assistance Act of 1954 during the current fiscal year.

"(3) TRADE ASSISTANCE OFFICE.—The Secretary shall, no later than January 15 of each year, submit a report that describes the type of information that is currently available through the Trade Assistance Office of the Service and the type of assistance provided to persons through such office during the previous fiscal year.

SECTION 202. AMENDMENT TO THE AGRICULTURAL ACT OF 1954.

The Agricultural Act of 1954 (7 U.S.C. 1741 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 108. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

"(a) The Secretary shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

"(1) document the nature and extent of—

"(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof; and

"(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

"(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

"(b) The Secretary shall—

"(1) annually compile the information contained in such reports;

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) no later than January 15 of each year, make the compilation available to Congress, the trade assistance office authorized under section 504, the agricultural policy advisory committee, and other interested parties.

"(c) The Secretary and the United States Trade Representative shall convene a meeting, at least once a year, of the Agricultural Policy Advisory committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

"(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (c); and

"(2) expand United States agricultural export opportunities identified in such annual reports.

"SEC. 109. ATTACHE EDUCATIONAL PROGRAM.

"The Administrator shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

TITLE III—GENERAL PROVISIONS

SEC. 301. FOOD SECURITY WHEAT RESERVE.

Subsection (i) of section 302 of the Agricultural Act of 1980 is amended by striking "1990" each place it appears and inserting in lieu thereof "1995".

SEC. 302. COTTONSEED OIL AND SUNFLOWER OIL EXPORTS.

Section 301(b)(2)(A) of the Disaster Assistance Act of 1988 is amended by striking "and September 30, 1990," and inserting in lieu thereof "through September 30, 1995,".

SEC. 303. AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a fellowship program for middle income countries and emerging democracies (the "Cochran Fellowship Program") to provide fellowships to persons from eligible countries who specialize in agriculture for study in the United States.

(b) ELIGIBLE COUNTRIES.—Countries that meet the following requirements shall be eligible to participate in the program established under this section:

(1) A country that has developed economically to the point where it no longer qualifies for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereinafter referred to as "middle-income" country);

(2) A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States; and

(3) A country that has recently begun the transformation of its system of government from a nonrepresentative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this section shall be provided in order to allow the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food needs of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participation countries to help identify program candidates from both the public and private sectors of those countries.

(e) PROGRAM IMPLEMENTATION.—The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the program objectives.

(f) AUTHORIZATION OF APPROPRIATONS.—There are hereby authorized to be appropriated without fiscal year limitation such sums as may be necessary to provide funding to carry out the program established under this section, except that the amount of such funds shall not exceed:

(1) for eligible countries that meet the requirements of subsection (b)(1), 3,000,000 dollars;

(2) for eligible countries that meet the requirements of subsection (b)(2) 2,000,000 dollars; and

(3) for eligible countries that meet the requirements of subsection (b)(3), 5,000,000 dollars.

(g) COMPLEMENTARY FUNDS.—When the Secretary of Agriculture determines that it is advisable in furtherance of program purposes, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposition as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

TITLE IV—CONFORMING PROVISIONS AND TECHNICAL CHANGES

SEC. 401. AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

The Omnibus Trade and Competitiveness Act of 1988 is amended by striking sections 4201, 4202, 4205, 4206, 4211, 4212, 4213, 4305, and 4311 (7 U.S.C. 5211, 5212, 5215, 5216, 5231, 5232, 5233, 1736t note, and 1691 note, respectively).

SEC. 402. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

The Food Security Act of 1985 is amended by striking sections 1125, 1132, 1151, 1162, and 1167 (7 U.S.C. 1736t, 1736x, 2275, 1736z, and 1736aa).

SEC. 403. AMENDMENTS TO THE AGRICULTURE AND FOOD ACT OF 1981.

The Agriculture and Food Act of 1981 is amended by striking sections 1203, 1204, and 1205 (7 U.S.C. 1736i, 1736j, and 1736k).

SEC. 404. AMENDMENT TO THE FOOD FOR PEACE ACT OF 1966.

The Food for Peace Act of 1966 is amended by striking section 4 (7 U.S.C. 1707a).

SEC. 405. AMENDMENT TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 is amended by striking subsection (d) of section 416 (7 U.S.C. 1431(d)).

● Mr. LUGAR. Mr. President, the first issue the Agriculture Committee will take up in preparation for the 1990 farm bill is legislation to reform and improve our food aid programs and to maintain the growth of our export programs. The committee has worked for more than 1 year to prepare this legislation and has consulted with hundreds of individuals in the Government and private sector. This legislation reflects that wide process of consultation.

The food aid that America sends overseas is a relatively small percentage of our total export but I believe there is no greater symbol of what we stand for as a country than those shipments, boxes, bags, and containers which we have been sending for more than 40 years to those in need. This spring, farmers in Indiana and farmers all across the country can take special pride knowing that some of their crops will feed mothers and infants in the Philippines. Some will go to Calcutta where Mother Teresa feeds all the sick, the homeless, and the poor who come to her missions. Some will go to southern Sudan where a brave young missionary from Indiana, Father Todd Riebe, works in the besieged city of Juba to bring aid and comfort to thousands of starving people.

We are now in a situation where the traditional demands for food aid continue while new democracies in Eastern Europe and Central America add even more requirements on our limited resources. This means our food aid programs must work efficiently and respond rapidly. Over the years these programs have been encrusted with bureaucratic requirements—many of them imposed by Congress—that hamper quick and efficient operation. One of the major goals of this legislation is to make the process responsive to the demands that face us in the new decade.

In our commercial export and market promotion programs, we hope to maintain our record of the past 5 years by steadily increasing exports and finding new markets. Constructing this part of the legislation now is a particularly difficult task because the administration is engaged in agricultural trade negotiations in the Uruguay round. We must retain our ability to respond to unfair trade practices and break down trade barriers while maintaining the administration's flexibility to negotiate a trade agreement in Geneva that will benefit the national agricultural interest.

At the same time we need to be thinking in the long term about the agricultural potential of an Eastern Europe moving suddenly toward free market economies. These countries should be good markets for some of our products and they will likely be competitors for other countries. Likewise, the European Community is less than 2 years away from constructing a unified market and we must be thinking about the effects of that important development on American agriculture.

Mr. President, I noted at the outset that this legislation is the product of wide consultation. It contains suggestions from the administration officials who manage our aid and export programs, the private voluntary organizations and cooperatives who carry out many of our aid programs overseas, and farmers and farm groups who provide the basic commodities on which the programs are based. We intend to keep up that process of consultation and I believe there will be room for some modification of the bill throughout the legislative process. A number of Senators have introduced separate legislation affecting trade and aid programs and these must also be considered.

There are a few important issues still to be examined. There are several very interesting proposals for debt forgiveness and staff is working with the administration and the Congressional Budget Office to achieve a consensus that could be added to the bill. In a committee hearing several weeks ago I expressed concern for the need for a loan loss reserve in the GSM loan guarantee programs. However, this may not require legislation and I understand the administration is working on this concept now. Finally, of course, we need to receive a CBO estimate of the budget impact of the bill.

Mr. President, this legislation was created through an open and bipartisan process that I hope extends throughout the entire farm bill. I want to thank the chairman of the committee, my good friend Senator LEAHY, and his excellent staff for the great care and consideration they took in consulting with the administration and with my staff. Our work together to the Agriculture Committee combined with Senator LEAHY's chairmanship of the Appropriations Subcommittee on Foreign Aid and my membership on the Foreign Relations Committee give us both an extra dimension of interest in the issues that this bill addresses. Mr. President, I am pleased to cosponsor this legislation and I recommend it to my Senate colleagues.

Mr. President, I ask unanimous consent that a letter and an article relative to this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Indianapolis Star, Mar. 6, 1990]

PRIEST FEARS WAR IN SUDAN WILL RESUME—LETTER TO CITY WOMAN TELLS OF STARVATION, SHELLING

(By Lynn Ford)

An Indiana priest serving as a missionary in a civil war-ravaged nation in east Africa fears a recent break in fighting between government and rebel forces won't last.

In a letter to an Indianapolis woman who serves as his Catholic "prayer partner," the Rev. Todd Riebe of Terre Haute said widespread starvation continues in Juba, Sudan, although rocket fire ended in late January—a month dominated by escalating violence.

"There haven't been any shellings since Jan. 25—due, I'm sure, to the prayers of many," he wrote to Deborrah Thurston, a member of the Discaloed Carmelite Secular Order. "Still, we are all busy building trenches and shelters, as we suspect that January was a preview of coming attractions.

"We have a government that is willing to starve its people to death, and "liberators" who are willing to bomb entire villages and towns. If both sides are willing to sacrifice all the people, who are they fighting this war for?"

Fighting between government forces and the rebel Sudan People's Liberation Army has resulted in hundreds of thousands of deaths, many due to starvation.

Thousands of starving people reportedly are being held captive in Juba, their attempts to flee thwarted by government forces.

Father Riebe, the only American among priests serving in Juba for a Roman Catholic group known as Combont Missionaries, said relief workers continue to fly food into the nation.

"The people get 100 grams of sorghum a day," wrote the 37-year-old priest, who is headmaster of the Catholic-run Combont Secondary School in Juba. "It's just enough to keep people alive.

"The real problem, however, is peace. Without it, people cannot live."

Father Riebe's comments came in a letter dated Feb. 16 that Thurston received Thursday. He and Thurston, jail monitoring project director for the Indiana Juvenile Justice Task Force, have communicated frequently by mail since Father Riebe was assigned to the Sudan in 1985.

The priest, who sought to bring global attention to the Sudanese situation in a January letter to colleagues in Washington, D.C. and Naimbi, Kenya, said he continues to seek help.

"We have to put all possible pressure on the government and on the SPLA (Sudanese People's Liberation Army) to negotiate." he wrote to Thurston. "I have talked by radio with the U.S. ambassador in (the Sudanese capital Khartoum, and I have been in touch with the ambassador in Kenya by mail.

"The U.S. has limited influence with the SPLA and no influence with Khartoum. Perhaps our best bet is to influence other governments to stop all money and arms from reaching either party."

Israel may be aiding the liberation army in its opposition to the Sudanese government, Father Riebe wrote.

"A security man told me that they examined one of the SPLA shells that didn't explode and found it to be made in Israel," wrote the priest, who has a master's degree in journalism from Ohio State University and is a former editor of *Comboa Missions* magazine. "There's only one source for this and, as a journalist, I know that's not enough to confirm this. But here, we live on rumors."

[Text of letter from Father Todd Riebe, MCCJ]

FEBRUARY 17, 1990.

DEAR DEB: Many thanks for your letter of Jan. 31st which arrived yesterday. The food relief flights are bringing our mail—and so we are in closer contact with the world now than in "ordinary" times. Our God is the God of all consolation!

Thanks for keeping up on our situation and for the prayers and sacrifices. There hasn't been any other shelling since January 25—due, I am sure, to the prayers of many. We are all busy building trenches and shelters as we suspect that January was a "preview of coming attractions." The relief flights are easing the situation a bit. People get 100 grams of sorghum a day. It's just enough to keep people alive.

The real problem, however, is peace. Without it, people cannot live. We have to put all possible pressure on the govt. and the SPLA to negotiate. I have talked by radio with the U.S. ambassador in Khartoum and have been in touch with the amb[assador] in Kenya by mail. The U.S. has limited influence with the SPLA (they did fight with them to get relief in) and no influence with Khartoum. Perhaps our best bet is to influence other governments to stop all money and arms from reaching either party. I understand that Germany cut off all aid to Khartoum last week. The world must make negotiating a settlement the depending factor on any aid to either side. A security man told me that they examined one of the SPLA shells that didn't explode and found it to be made in Israel. There's only one source for this—and as a journalist I know that's not enough to confirm. But here we live on rumors. The fact of the matter is that a lot of countries are aiding both sides in the slaughter going on here—and even if the U.S. doesn't have influence with the SPLA or Khartoum, it does have influence with other countries. Continuing the war must be made to be more costly for both the SPLA and the government. And we must make negotiating a settlement more and more attractive.

I feel, Deb, that I have looked evil in the face here in Southern Sudan. We have a government that is willing to starve its people to death and "liberators" who are willing to bomb entire villages and towns filled with citizens all for the sake of winning a war. But if both sides are willing to sacrifice all the people—who are they fighting this war for? The answer to that is frightening.

Incidentaly [sic], both U.S. ambassadors told me that they are praying for us. At first I was consoled—but my older and wiser confreres have told me that if politicians are praying—it means our situation is really a bad one! Let us continue all the same! Again, thanks for your concern for Sudan.

Love,

TODD.●

Mr. BAUCUS. Mr. President, I am very pleased to join Senator LEAHY and other members of the Agriculture Committee today in sponsoring the Agricultural Development and Trade Act of 1990.

This is a critical piece of legislation that will hopefully be incorporated in the 1990 farm bill that the Agriculture Committee will begin action upon new week.

Mr. President, as chairman of the Senate Finance Committee's International Trade Subcommittee I am all too familiar with the international trade difficulties this Nation faces.

But the international trade picture is not universally bleak. The United States has consistently run a strong trade surplus in agricultural products.

Last year, the United States exported about 75 percent of its wheat crop and 40 percent of its soybean crop as well as significant quantities of rice, beef, corn, and many other commodities. In my State more than 85 percent of the wheat crop normally goes for export as does a growing percentage of beef production.

The success this Nation has had exporting agricultural products is no accident, it is a direct result of the hard work of American farmers. But it is also partially the result of strong agricultural export programs.

I have always been an enthusiastic supporter of those programs, including the Targeted Export Assistance Program [TEA]—renamed the Marketing Assistance Program in this bill, the Export Enhancement Program [EEP], and GSM 102 and 103 credit guarantees. These programs have been essential to our efforts to expand export markets for American farmers.

In the 1985 farm bill and the 1988 Trade Act, we introduced and later expanded upon two programs that I particularly want to highlight—TEA and EEP.

TEA is designed to direct market development funds to agriculture groups seeking to do market development efforts in foreign markets. TEA dollars have been used to fund activities ranging from trade shows to television advertising. TEA dollars have supported the export of products ranging from beef to Christmas trees.

In 1988, USDA testified that TEA was the star of the export programs. I wholeheartedly agree. I earlier introduced legislation with several of my colleagues to extend the TEA program and that suggestion has been incorporated into the legislation we are introducing today.

The EEP is another star of the export programs. Under the EEP, USDA uses surplus commodities to subsidize the export of U.S. agricultural products.

The EEP has increased U.S. wheat exports tremendously. In 1986—before the EEP program was in full swing, the U.S. share of the world wheat market was about 25 percent. In 1988—after 2 years of EEP, the U.S. share had increased to 50 percent. The EEP has put literally billions of dollars in the pockets of wheat farmers.

I was a supporter of the EEP in 1985. I successfully argued for its expansion in 1988, and I strongly support efforts to extend it in this legislation.

I am also pleased that this legislation will settle once and for all an issue that has plagued U.S. forest product exporters. The Congress has made it clear on several occasions that it considers forest products an agricultural product as the term is used in agricultural trade legislation. But there have been those in the administration that refused to accept this interpretation when it came to Government credit guarantees for agricultural exports.

This legislation very clearly resolves this question in favor of forest product exporters. Once this legislation becomes law it should be absolutely clear that the Congress intends for forest products to have access to both GSM 102 and 103.

This is not a perfect bill. I will seek to expand funding levels for TEA and EEP in the markup of the farm bill. But it is a very good bill. It extends all essential agricultural export programs and should send a strong message to our farmers and our international competitors that the United States intends to expand its agricultural exports.

Mr. BOREN. Mr. President, today I am joining with the distinguished chairman and ranking member of the Senate Agriculture Committee, Senators LEAHY and LUGAR, in the introduction of the Agricultural Development and Trade Act of 1990. The importance of international markets to American agriculture cannot be understated. For example, roughly three-fourths of the Oklahoma wheat crop is sold abroad. Unfortunately, American agriculture products too often face closed markets and heavily subsidized competition. This legislation renews and modifies our most vital export programs in an effort to meet this competition head to head.

I am proud to say that the bill is substantively similar to S. 2147, the Agricultural Trade Promotion Act of 1990, which I introduced with my colleague Senator THAD COCHRAN of Mississippi. Like S. 2147, this legislation reauthorized the Export Enhancement Program which is so critical to the U.S. wheat industry as it faces virtually limitless restitution subsidization by the European Community.

Today's legislation also renews the GSM Export Credit Guarantee Programs which greatly facilitate private financing for the sale of U.S. agricultural commodities. It is important to note that, like S. 2147, today's bill addresses two problem areas that have threatened the integrity of the pro-

grams. First, the bill redefines domestic content requirements, so the U.S. taxpayer isn't guaranteeing the sale of foreign-grown commodities. Second, the bill calls for higher standards for participating banks, so foreign banks no longer play a shell game with loans backed by the U.S. Government.

Mr. President, I would also like to comment on this bill's rewrite of Public Law 480, the 1954 law governing our international food aid programs. Through Public Law 480, we not only feed the world's hungry, we advance the structural development of the world's poorest countries and begin developing new markets for our agricultural exports in more developed countries. These various goals often produce conflicting paths for America's food aid and have sometimes confused the mission of our programs.

Even greater confusion and inefficiencies have resulted from the five-agency bureaucratic structure which oversees our international food aid system. This kitchen run by AID, USDA, State, OMB and Treasury has not produced a very tasty dish. Putting one cook in charge of each of our three food programs will provide greater accountability, unity of purpose, and clearer leadership. Under this bill, AID will run our title II donation program and our new grant program, while USDA will run the concessional loan program. This restructuring of the responsibility for Public Law 480 is a major step toward eliminating the two problems which have plagued our food aid programs.

First, missions will now be clearly defined; AID will pursue economic development under our grant programs to least developed countries, USDA will pursue market development under our loan program to developing countries, and AID will continue to provide humanitarian aid under title II. Second, with one agency at the helm of each of these three programs, I am convinced that efficiency and effective leadership will increase. I commend the work of the chairman in this regard and encourage the administration to embrace this reorganization that will remove excess bureaucracy and help our food aid programs respond to a changing world.

Again, Mr. President, I would like to thank Senators LEAHY and LUGAR for the leadership they have displayed in the crafting of this bill. I truly believe this legislation will be recognized as one of the most important titles of the 1990 farm bill.

Mr. DASCHLE. Mr. President, I am pleased to join Senators LEAHY and LUGAR in introducing the Agricultural Development and Trade Act of 1990. I want to thank Senator LEAHY and his staff for their work in developing this legislation. They have spent several months talking with parties who are involved in trade and food aid programs, and have developed a careful and thorough proposal to revamp our agricultural trade and food relief programs.

This proposal reorganizes the authority for international food relief and agriculture trade programs, and strengthens our efforts to establish and expand overseas markets for America's farmers and livestock producers. The bill represents our commitment to keep American agriculture competitive in world markets. We will not abandon American farmers and livestock producers in their struggle against trade barriers and export subsidies.

While the proposal offers several significant improvements for trade and food relief programs, there are a few provisions that deserve special mention.

FOOD FOR FREEDOM

Farmers and livestock producers have played an important role over the years in relieving hunger and in demonstrating America's support for democracy. The Food for Freedom Program established in this legislation stems from that tradition.

Food for Freedom is created to help countries that are moving from nonrepresentative forms of government to representative democracies, and that have made commitments to introduce and expand free enterprise elements in their agricultural economies. The program is designed to support the transition to democracy, individual liberties and economic freedom.

It is my expectation that the countries of Eastern Europe will be the primary beneficiaries of this program. There is a great need in these countries for food. In fact, it is the people's long frustration with food shortages at the root of the unrest from which democracy has sprung. Food aid can and will make a difference in these countries, as well as give us an opportunity to introduce the people to our agricultural products.

The legislation allows the Secretary of Agriculture to use up to $150 million to carry out this program.

EXPORTS OF VALUE-ADDED PRODUCTS

The legislation integrates value-added agricultural products into the improved export and market-development programs. This is an important step. The United States has fallen behind our competitors in exports of value-added products. By developing and expanding markets for these products we will create jobs and economic opportunities in rural areas.

A General Accounting Office study released February 2, 1990, found that the United States has fallen far behind the Europeans in exports of high-value products. The EC now holds a 41-percent share of the high-value market. The United States share is only 9 percent.

The United States has more to offer the world than only raw agricultural products. If we only export raw products, we ship economic progress overseas. We give other countries the opportunity to expand their economies through processing industries that create jobs and other economic activities. Agricultural processing can be an important stimulus for economic growth in rural areas. A 1983 study by the Department of Agriculture found that expanding our share of the world market for high-value agricultural products by 5 percent could mean 1 million more American jobs.

Increasing our share of the value-added market does not mean displacing sales of bulk commodities. Research has said that our share of the value-added trade could be increased from 7 to 15 percent without disrupting bulk exports. An increase of this proportion would have subtantial benefits: A $50-billion increase in gross national product, a $10-billion increase in Federal tax receipts and more than 1 millon in additional jobs.

The legislation makes value-added or high-value agricultural products produced in the United States eligible for market-development and export-enhancement programs. Multiyear commitments are authorized.

I am considering offering an amendment that would further develop our efforts to expand overseas markets for value-added agricultural products. The proposal I have in mind would target a portion of our market development aid to value-added research and promotion, and encourage more participation in this program.

FOOD AID

Farmers and the international development community have expressed serious concerns about the way U.S. food assistance programs have developed over recent years. Reports of aid decisions based on State Department politics instead of actual food needs, of corruption, of poor distribution systems, and of food spoiling on docks or being "dumped" at harvest time have undermined the effectiveness of the Food for Peace (Public Law 480) Program. Some people have even suggested that the program be disbanded.

In spite of the legitimate issues that have been raised about a few Public Law 480 projects, it is important to remember the many benefits of the Food for Peace Program. The essence of Public Law 480 is to target a small portion of the U.S. agricultural abundance to the poorest people in the world, thereby alleviating emergency nutritional needs, facilitating long-term support of nutritional requirements, stimulating economic development in recipient countries, supporting U.S. agriculture, and promoting future U.S. trade opportunities.

At its best, Public Law 480 can meet all these objectives. The legislation being introduced today is designed to ensure that Public Law 480 operates at its best. Perhaps the single most important improvement in the program is the establishment of solid accountability through the clear delineation of goals and responsibilities.

Under current law, a Development Coordinating Committee [DCC] comprised of the Department of State, the Department of Agriculture [USDA], the Agency for International Development [AID], the Department of Commerce, and the Office of Management and Budget [OMB] make joint decisions about all proposed Public Law 480 projects. Any one of the agencies in the DCC can block a food aid proposal, and it often appears that no agency is actually responsible for the decisions or their consequences. Under the new legislation, the DCC process would be abolished, and a "Consultative Group" including private voluntary organizations and indigenous nongovernmental organizations would be established. USDA and AID would cooperate to administer Public Law 480 projects, and each agency would be responsible for its own components of the program.

Other key aspects of the new Public Law 480 language include authorization of multiyear agreements, minimum tonnage levels, requirements that local nutritional needs as well as cultural and agricultural settings be taken into account, and provisions to improve food distribution and storage. The legislation would authorize grants and loans to the world's least developed countries for the purchase and subsequent resale of U.S. commodities. The recipient governments would use the local currency generated from food sales to finance AID-approved development projects, and the funds would be jointly administered by AID and the local government. Finally, the legislation would authorize emergency feeding projects, the farmer-to-farmer program, and nonemergency donations of commodities to private voluntary organizations and indigenous nongovernmental organizations for direct distribution, sale, barter, or other AID-approved uses.

By Mr. PRESSLER:

S. 2383. A bill to authorize an exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTAIN LANDS

Mr. PRESSLER. Mr. President, I rise today to introduce legislation authorizing an exchange of lands in South Dakota and Colorado between the U.S. Forest Service and Homestake Mining Co. Currently, Mr. President, Homestake Mining Co. owns some of the most beautiful and scenic land in the Black Hills of South Dakota. It includes Spearfish Canyon in the heart of the Black Hills National Forest—one of nature's real treasures.

The South Dakota lands involved are intermingled with National Forest lands and comprise potentially valuable additions to the Black Hills National Forest. They would contribute greatly to better public access to hunting and fishing, and enhance outdoor recreation and fish and wildlife habitat protection.

The transfer includes some 12,274 acres of land in western South Dakota and 1,410 acres in Colorado. The National Forest Service lands in Summit County, CO, are intermingled with or adjacent to privately owned and developed lands. These lands are either currently developed, permitted for ski area or local government purposes, or adjacent to developed or permitted areas or communities.

Mr. President, this land exchange has support from many environmental organizations including the Sierra Club, the South Dakota Wildlife Federation, and the Natural Resources Users' Coalition. I ask unanimous consent that letters from these organizations be printed in the RECORD immediately following my remarks.

This land exchange proposal offers an excellent opportunity to preserve some of the most beautiful land in the Nation for wildlife and for the enjoyment of the public. I hope my colleagues will act quickly to approve this legislation. I ask unanimous consent that the text of the bill be printed in full at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) The Congress finds and declares that—

(1) certain lands located within or adjacent to the Black Hills National Forest in Lawrence, Meade and Pennington Counties, South Dakota, are currently in private ownership;

(2) these lands, which are owned by Homestake Mining Company of California (hereinafter referred to as "Homestake"), are intermingled with National Forest lands and comprise potential valuable additions to the Black Hills National Forest to serve important public objectives, including but not limited to: (1) public access and opportunities for hunting, fishing and other outdoor recreation; (2) fish and wildlife habitat protection (including Blue Ribbon trout habitat in Spearfish Creek); (3) the preservation of scenic beauty; (4) public access to, and the enhancement of the outstanding scenic, natural and recreational values of Spearfish Canyon and other canyons within the Black Hills; (5) protection of the scenic backdrop to the Spearfish Canyon National Forest Scenic Byway; and (6) more efficient National Forest land management;

(3) such lands, if not acquired for addition to the Black Hills National Forest, may be sold and developed for purposes which may be incompatible with the above mentioned objectives;

(4) Homestake has offered to sell or exchange such lands, which total approximately twelve thousand two hundred and seventy-four acres, with the United States so that they may be acquired for National Forest and land conservation purposes;

(5) Homestake has identified national forest lands in Summit County, which it or local government units would like to acquire, and which are intermingled with or adjacent to privately owned and developed lands. These lands, which are either currently developed, permitted for ski area or local government purposes, or adjacent to developed or permitted areas or communities, do not appear necessary for retention in government ownership to serve the public interest or objectives, and are therefore suitable for disposal through a land exchange; and

(6) given the relative environmental and other values of the lands proposed for exchange in this Act, the land exchange set forth herein is clearly in the public interest and represents the land acquisition strategy which can best meet dual public objectives of acquiring the Spearfish Canyon and other South Dakota properties, while at the same time minimizing or eliminating cash outlays by the United States to achieve such objectives.

(b) It is the purpose of this Act to authorize, direct and expedite the consummation of the interstate land exchange and transfer set forth herein in order to further the public interest by acquiring lands in South Dakota with important values for permanent public management and protection and to transfer certain lands to non-Federal ownership in Summit County, Colorado.

SEC. 2. SOUTH DAKOTA-COLORADO LAND EXCHANGE.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized and directed to exchange lands with Homestake as set forth in this Act upon receipt of an offer from Homestake which conforms with the provisions of this Act.

(b) Except as otherwise provided in this subsection, Homestake shall convey to the Secretary of Agriculture all right, title and interest of Homestake in certain lands in Lawrence, Meade and Pennington Counties, South Dakota, which comprise approximately twelve thousand two hundred and seventy-four acres, including approximately 1,250 acres of riparian lands in Spearfish Canyon which encompass some 20 miles of stream frontage on Spearfish Creek, and which are generally depicted on maps entitled "Forest Service-Homestake Land Exchange—South Dakota Lands to Forest Service", numbered A-H, and dated February 1990; *Provided, however,* That in making such conveyance Homestake shall retain:

(1) all mineral rights in the above described lands owned, held or controlled by Homestake as of the date of enactment of this Act: *Provided further,* That any future exercise of such mineral rights shall be subject to the laws, rules and regulations of the United States pertaining to surface and other use of lands conveyed to the Secretary of Agriculture where mineral rights are reserved;

(2) all water rights within the watershed of Spearfish Creek and its tributaries

owned, held or controlled by Homestake as of the date of enactment of this Act; and

(3) cabin sites as indicated on the map numbered "A" referenced in this subsection within the watershed of Spearfish Creek and its tributaries which are intermingled with the lands to be conveyed to the Secretary of Agriculture but which are owned and permitted by Homestake to private parties and will continue to remain in private ownership.

(c) Upon receipt of title to the lands identified in subsection (a) of this section, the Secretary of Agriculture shall simultaneously convey to Homestake subject to valid existing rights and existing National Forest improvements, all right, title and interest of the United States in:

(1) approximately 1,410 acres of lands located in Summit County, Colorado, as generally depicted maps entitled "Forest Service-Homestake Land Exchange—Lands to Homestake", numbered 1-6, and dated March 1990: *Provided, however,* That the lands identified on Map number 5 and generally known as the South Frisco Bay parcel shall not be patented to Homestake unless and until the Town of Frisco and Summit County, Colorado, jointly agree to a land use plan for such parcel: *Provided further,* That if the South Frisco Bay parcel is not patented to Homestake within eighteen months of the date of enactment of this Act, the Secretary shall in lieu thereof pay Homestake cash equalization moneys without regard to the 25 per centum limitation contained in subsection 3(a) of this Act or offer Homestake timber credits pursuant to that subsection.

(2) up to forty acres of lands located in Lawrence County, South Dakota, which currently comprise thirty-eight National Forest cabin permit sites, as generally depicted on a map entitled "Forest Service-Homestake Land Exchange—Spearfish Cabin Sites to Homestake", dated February 1990, and which shall in turn be sold to the current cabin permittees by Homestake at fair market value upon application by the permittees or their successors in interest: *Provided,* That the transfer of any particular cabin site to Homestake pursuant to this subparagraph shall be contingent on the permittee's request of such a transfer: *Provided further,* That if such a request is not made, the site shall continue to be permitted by the Secretary of Agriculture in accordance with existing rules, regulations and procedures.

(d) Patents issued by the Secretary of the Interior for the lands conveyed pursuant to subparagraph 2(c)(1) of this Section shall reserve to the public, for administration by the Secretary of Agriculture or by such State or local units or agencies of government, or by private non-profit organizations, as the Secretary of Agriculture in consultation with local planning authorities determines appropriate and qualified to fulfill the purposes of the reservation:

(1) the right of access for fishing use along all streambeds (up to the ordinary high water mark) on streams which flow through the lands conveyed;

(2) a right-of-way for the Colorado Trail along its existing routes through the lands identified on Map 3 or along relocated routes as may be identified by the Secretary of Agriculture in consultation with local planning authorities;

(3) a right-of-way for relocation of the existing bicycle path through the lands identified on Map 2 to a new route as may be identified by the Secretary of Agriculture in consultation with local planning authorities.

(e) The Wheeler Administrative Site Withdrawal (C-28287) is hereby revoked.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by the payment of money to Homestake or to the Secretary subject to the 25 per centum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The Secretary shall try to reduce the amount of cash equalization to as small an amount as possible. In lieu of any cash equalization payment which may be due Homestake pursuant to this Act, the Secretary may offer Homestake a monetary credit, which shall be considered "moneys received" within the meaning of the Act of May 23, 1908, against any moneys owed the Secretary by Homestake or its agents for timber sales within the Black Hills National Forest.

(b) In order to expedite the consummation of the exchange directed by this Act, Homestake shall arrange and pay for appraisals by a qualified appraiser or appraisers mutually acceptable to Homestake and the Secretary of all lands to be included in the exchange. Such appraisals shall be completed and submitted to the Secretary for approval within sixty days of the enactment of this Act. In the event the Secretary and Homestake are unable to agree to the appraised value of a certain tract or tracts of land to be included in the exchange within one hundred and twenty days of the date of enactment of this Act, the appraisal, appraisals, or appraisal issues in dispute shall be referred to bargaining or third party resolution/arbitration as set forth in section 3 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409, 43 U.S.C. 1716(d)). In determining which of the bargaining or third party dispute resolution/arbitration mechanisms to utilize pursuant to such section, Homestake and the Secretary shall recognize that Congress has already determined that the exchange directed by this Act is in the public interest and shall give emphasis to the appraisal dispute mechanism of mechanisms which will best permit the deadlines set forth in this Act to be timely met.

(c) Upon the completion of appraisals, the exchange of lands authorized and directed by this Act shall be consummated pursuant to an exchange agreement between the Secretary and Homestake executed in accordance with the policies and procedures normally used in National Forest land exchanges. The exchange shall be consummated at the earliest possible date and in no case later than two hundred and seventy days after the date of enactment of this Act.

(d) Lands acquired by the United States within or adjacent to the exterior boundaries of the Black Hills National Forest shall be incorporated in and shall be deemed to be a part of the Forest. The exterior boundary of the Black Hills National Forest is hereby authorized to, and shall be modified to, incorporate such lands upon their acquisition by the United States. Upon their inclusion in the National Forest System such lands shall be managed in accordance with the laws, rules and regulations generally applicable to the National Forest System, unless otherwise specifically provided by this Act.

CONVEYANCE TO SUMMIT COUNTY, COLORADO

SEC. 4.

(a) The Secretary of Agriculture is hereby authorized and directed to convey to Summit County, Colorado all right, title and interest of the United States in approximately three hundred and twenty-five acres of land as generally depicted on a map numbered 7 and entitled "Summit County Landfill," dated March 1990. Such conveyance shall be completed within six months of the date of enactment of this Act and shall be subject to the following conditions:

(1) the lands conveyed shall continue to be used for solid waste disposal, expansion of the Summit County landfill, or other authorized purposes of Summit County government;

(2) in the event Summit County ever sells, exchanges or otherwise disposes of all or a portion of the lands acquired pursuant to this section, all proceeds of such sale, exchange or disposal shall accrue to the United States, or the Secretary of Agriculture may elect to reacquire, without compensation to Summit County, any or all portions of such lands which have not been used for solid waste disposal, as he determines appropriate prior to their sale, exchange or disposal;

(3) the patent issued by the Secretary of the Interior pursuant this section shall not contain a reverter provision and under no circumstances shall lands used for solid waste disposal be eligible for reversion to the United States for operation of law after the issuance of such permit.

NATURAL RESOURCES USERS' COALITION,
Rapid City, SD, March 22, 1990.

RICH HARR,
Homestake Mining Co., Land Management Division, Lead, SD.

DEAR MR. HARR: The NRUC is a coalitian of 20 environmental and outdor recreational oriented organizations with a total membership fluctuating between 300 and 3500 persons. The NRUC Officers and Board of Directors unanimously and heartily indorse the proposed South Dakota-Colorado Land Exchange which would transfer approximately 14000 acres owned by Homestake Mining Co., located in the Black Hills of SD for approximately 1300 acres of US Forest Services land in Summit County, Colorado. We see many advantages for increased public recreation and wildlife habitat enhancement by US Forest Service acquisition of the Homestake Mining Co. land in the Black Hills via the proposed exchange.

Sincerely,

GARY ENGEL,
President, NRUC.

SOUTH DAKOTA WILDLIFE FEDERATION,
March 7, 1990.

MR. RICH HARR,
Homestake Mining Land Division, Lead, SD.

DEAR RICH: I would like to express my appreciation for the tour of the proposed land exchange areas conducted by the Homestake Land Management Division. As chairman of the Public Land Committee for the S.D. Wildlife Federation I feel that the proposed exchange of Homestake Land in the Black Hills to the U.S. Forest Service for Forest Service Lands in Colorado, is a good proposal.

The presentation of the proposed exchange yourself and Jim Wainwright, including the flight over the proposed areas and the tour by vehicle, helped clarify the

value of these areas to the public. Several values are apparent and include valuable deer winter range and wildlife habitat, high quality trout fisheries, as well as aesthetic natural beauty, (Spearfish Canyon).

We feel this exchange would be beneficial from a national standpoint as well as for South Dakota because of the numbers of people who come to the Black Hills from many other states to enjoy the recreational and scenic values.

We will encourage the U.S. House of Representatives and Senate to act favorably on this proposal.

Sincerely,

DON HAUSLE,
Chairman,
Public Lands Committee.

BLACK HILLS GROUP
OF THE SIERRA CLUB,
Rapid City SD, March 23, 1990.

MR. RICH HARR,
Homestake Mining Co.,
Lead, SD.

DEAR MR. HARR: We are pleased to inform you of our support for the proposed land exchange of Homestake lands in South Dakota for U.S. Forest Service land in Colorado. These lands have been under Homestake's good care for many years. We look forward to being involved in their stewardship when they are in the public trust.

To this end we intend to pursue a Wild and Scenic River designation for the Spearfish and Spearfish Creeks. We hope we will have the support of all the parties involved here in our endeavors.

We would also like to request that Homestake consider the transferral of the mineral rights in the lands conveyed to the Forest Service, and that the latter remove these lands from mineral entry.

The Black Hills Group is not familiar with the Federal land in Colorado selected for this exchange. We will defer to Sierra Club Groups in Colorado for any concerns they might have for that land.

Respectfully yours,

MICHAEL M. MELIUS,
Conservation Chair.

By Mr. BOREN (for himself and Mr. HEINZ):

S. 2384. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities; to the Committee on Finance.

TAX TREATMENT OF CERTAIN REAL ESTATE ACTIVITIES

● Mr. BOREN. Mr. President, I join today with the Senator from Pennsylvania [Mr. HEINZ] in introducing legislation to modify the passive loss rules to allow qualifying real estate professionals to offset their real estate losses against their income on the same basis as taxpayers in all nonrental businesses.

Under the passive loss rules enacted by the Tax Reform Act of 1986, taxpayers generally may offset losses incurred in activities in which they materially participate against any income. An exception to this rule is made for all taxpayers engaged in rental activities, including rental real estate. Such taxpayers are treated as passive investors regardless of the extent of their involvement in a rental real estate activity. Because of this treatment they may not offset their real estate losses against other income, including income earned from real estate activities, even if they participate in real estate business on a full-time basis.

This treatment unfairly discriminates against taxpayers in the real estate business and is exacerbating the financial institution crisis by inhibiting the carrying and work-out of distressed properties. The legislation would remedy these problems without allowing a return to tax sheltering through real estate investments.

The bill provides that the rental real property activities of an individual engaged in the real property business will be treated in the same manner as nonrental activities under the passive loss rules. To qualify under the bill, an individual must spend at least 50 percent of his or her working time and more than 500 hours in real property operations during a taxable year. Individuals who meet these tests would then be allowed to establish their material participation in real estate activities on the same basis as individuals in any other nonrental trade or business may establish material participation in such trade or business. Tax shelter investors in real estate and others whose principal occupation is not the real property business would receive no benefit from the bill.

In addition to removing an inequity in the Tax Code, this bill could have a significant beneficial impact on the financial institutions crisis in many States. By allowing real estate professionals to offset losses from distressed properties against their income, the bill would limit defaults on savings and loan and bank loans for such properties and encourage skilled developer-owner-operators to purchase and work out the distressed properties now overhanging the real estate markets in many areas. This would prevent further deterioration in property values in many markets and a further negative spiral of the problems of financial institutions.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b)(1) Paragraph (2) of section 469(c) of such Act is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1989.●

● Mr. HEINZ. Mr. President, I rise to join with the Senator from Oklahoma [Mr. BOREN] in introducing legislation to provide that those engaged in the real property business will be treated under the passive loss rules in the same manner as those engaged in nonrental businesses. This bill is carefully targeted to remedy an inequity in the Tax Code that is causing an unjustified economic distortion. The passive loss rules now treat all persons in the real estate business as passive investors, regardless of the degree of their participation in real estate activities.

The bill recognizes that real estate development and operation is an

active industry and that real estate professionals should be subject to the passive loss rules on the same basis as persons in other industries. The bill does not provide relief from the passive loss rules for persons in other occupations who might invest in real estate to shelter their other business or professional income.

The bill establishes special tests to determine if a taxpayer is in the real estate business, and not a mere investor in real estate. The tests require that a taxpayer spend at least 50 percent of his or her working time and more than 500 hours per year in real property operations. Real property operations mean real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation management, leasing, brokerage, appraisal, and finance operations.

If a taxpayer establishes that he or she is in the real estate business, then the taxpayer is allowed to establish his or her material participation under the rules applicable to those in other businesses. Thus, only those in the real estate business will benefit from this bill, and it merely puts them on an equal footing with taxpayers in other businesses.

By allowing material participants in the real estate industry to operate under the same rules as material participants in other industries, an unfair economic distortion would be removed. This distortion now is encouraging defaults of distressed properties where the owner is unable to fund continuing losses from after-tax income, which is not required for persons in other industries. Eliminating this distortion will provide some relief from the financial institution crises by encouraging continued operation of buildings with substantial out-of-pocket losses and severe reductions in value.●

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2385. A bill to establish the National Forest Foundation; to the Committee on Agriculture, Nutrition, and Forestry.

TO ESTABLISH THE NATIONAL FOREST FOUNDATION

● Mr. DOMENICI. Mr. President, much of American's environmental greatness lies within our National Forests and Grasslands.

Vast stretches of our land—8 percent, in fact, of America—is land within the jurisdiction of the Forest Service. These lands are found in 44 of our 50 States, and in Puerto Rico and the Virgin Islands.

These lands are spectacular areas of rugged mountains, prairies, trout streams, wilderness. They are lands providing resources for America's economic greatness.

Some of my most cherished memories come from a special place in my home State of New Mexico, the Cibola National Forest. When my children were younger, we often visited Las Huertas Canyon.

We enjoyed the drive, spending afternoons together in the mountains. I still carry fond memories of the shaded stream, picnics, and the drive around the north end of the mountain with a car full of children.

The American people not only want the Federal Government to protect this resource, but I am convinced they want to participate personally in protecting and improving our forests.

As a result, Mr. President, I am today introducing the National Forest Foundation Act, legislation that will bring together the talents and resources of the private sector with those in the Forest Service to enhance the multiple-use management of our National Forests and Grasslands.

This bill would establish a charitable, nonprofit corporation to raise and direct money and other resources into our National Forests and Grasslands. Specifically, the Foundation will funnel private donations for projects to rehabilitate and enhance the natural and cultural resources on the national forests.

These donations will be used to complement ongoing Federal efforts. For instance, they might be used to protect and interpret archaeological sites, clean up visitor areas, develop and maintain trails, and plant trees.

Specifically, under this bill, the Foundation would:

First, encourage, accept, and administer private gifts of money and property to benefit the services and activities of the U.S. Forest Service;

Second, undertake and conduct activities to enhance the on-the-ground management and enjoyment of lands in our National Forest System;

Third, conduct and encourage educational, technical, and other activities that support multi-use management, research, cooperative forestry, and other Forest Service programs; and

Fourth, promote cooperation among the Forest Service, the private sector, conservation organizations, educational institutions, and the general public.

Mr. President, I see this legislation as a perfect complement to the President's "America the Beautiful" initiative. The President's initiative proposes, among other things, a reforestation program to plant more than 1 billion trees per year on private lands and in communities across America.

This bill shares many of the same goals. What "America the Beautiful" would do for private forested lands and communities, the National Forest Foundation would accomplish for our National Forests and Grasslands, using the assistance and resources of the private sector.

Achieving balanced management of America's resources requires cooperation. It requires comprehensive planning as well as sensitive administration and wise use.

The Foundation would provide a means for the private sector to actively participate in numerous projects such as buying and developing habitat for improvement, recreation development, restoring and understanding our cultural heritage, returning an abused riparian area to health, management, research, reforestation, and educational programs.

Mr. President, this concept first came to me from a former legislative fellow on my staff, a man who had served as a District Ranger in New Mexico. Like most public land managers, he was faced with the difficult task of meeting public demands for enjoyment of the National Forests, while working within limited budgets.

In seeking to reconcile these differences, he discovered the willingness to individuals and private organizations to provide their talent and resources to accomplish worthwhile projects that never were funded.

So the National Forest Foundation will provide a vehicle to facilitate that kind of cooperation, cooperation between the private sector and the Forest Service.

Under my bill, the Foundation would be governed by a 15-member Board of Directors appointed by the Secretary of Agriculture. The Chief of the Forest Service would serve as an ex officio, non-voting member.

Through its Board of Directors—consisting of trained and experienced professionals in natural resource management, law, or research—the National Forest Foundation would provide a broad and diverse multiple-use focus to a great variety of projects of interest to all Americans. Board members would serve without pay, but could be reimbursed for expenses.

Under this bill, the Secretary of Agriculture is authorized to provide the Foundation $500,000 per year during the initial 2 years of the Act. This would be start-up money.

Further, the Secretary is authorized to provide up to $1,000,000 per year for 5 years in funds, on a 1-for-1 basis, to match private contributions.

Finally, Mr. President, I would note that two other foundations have been successful in accomplishing very specific and, in many ways, similar goals to the National Forest Foundation. These are the National Parks Foundation and the National Fish and Wildlife Foundation.

These foundations have been very successful in bringing the private sector together with the public land managers to protect and enhance our public resources.

I see the Foundation as a catalyst in developing cooperative relationships with private conservation organiza-

tions, industry, the academic community, and the philanthropic community in meeting the multiple-use objectives of our National Forests and Grasslands.

Mr. President, in developing this bill I had the pleasure of working with numerous conservation organizations, and I have received a number of letters of support from these organizations.

I ask unanimous consent that the text of the bill, as well as two of letters supporting this concept, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Forest Foundation Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Forest Foundation (hereinafter referred to as the "Foundation") as a charitable and nonprofit corporation domiciled in the District of Columbia.

(b) PURPOSES.—The purposes of the Foundation are to—

(1) encourage, accept, and administer private gifts of money, real and personal property for the benefit of, or in connection with, the activities and services of the Forest Service of the Department of Agriculture;

(2) undertake and conduct activities that further the purposes for which units of the National Forest System were established and are administered;

(3) undertake, conduct and encourage educational, technical and other assistance, and other activities that support the multiple use, research, cooperative forestry and other programs administered by the Forest Service; and

(4) promote cooperation among the Forest Service, the private sector and other governmental and educational agencies and institutions.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to as the "Board"), which shall consist of fifteen Directors, each of whom shall be a United States citizen. At all times, a majority of members of the Board shall be educated or have actual experience in natural or cultural resource management, law, or research. To the extent practicable, members of the Board shall represent diverse points of view relating to natural and cultural resource issues. The Chief of the Forest Service shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—Within one year from the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall appoint the Directors of the Board. Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint one-third each of the Directors to terms of two, four, and six years respectively. A vacancy on the Board shall be filled within sixty days of such vacancy in the manner in which the original appointment was made. No individual may serve more than twelve consecutive years as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members. A chairman shall serve for a two-year term, and may be re-elected to the post during his or her tenure as a Director.

(d) QUORUM.—A majority of the current voting membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board by majority vote of the Board of Directors and that vacancy filled in accordance with subsection (b) of this section.

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties for the Foundation. Such reimbursement may not exceed such amount as would be authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(g) GENERAL POWERS.—The Board may complete the organization of the Foundation by appointing officers and employees, adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act, and undertaking other such acts as may be necessary to function and to carry out the provisions of this Act.

(h) OFFICERS AND EMPLOYEES.—(1) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services. No individual so appointed may receive pay in excess of the annual rate of basic pay of an employee of the Federal Government at grade GS-18 of the General Schedule as provided under section 5332 of title 5, United States Code.

(2) The Board shall appoint a chief executive officer who shall serve at the direction of the Board and who shall have demonstrated knowledge and experience in matters relating to natural and cultural resource conservation, management, law, or research.

SEC. 4. CORPORATE POWERS AND OBLIGATIONS.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and in foreign countries commensurate with and in support of international activities which the Secretary is authorized to carry out pursuant to other laws;

(3) shall have its principal offices in the Washington, D.C. metropolitan area; and

(4) shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(b) NOTICE AND SERVICE OF PROCESS.—The serving of notice to, or service of process upon, the agent required under this paragraph, or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(c) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(d) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to powers otherwise authorized under this Act, the usual powers of a corporation in the District of Columbia, including the power to—

(1) accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) acquire by donation, gift, devise, purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) borrow money and issue bonds, debentures, or other debt instruments;

(5) sue and be sued, and complain and defend itself in any court of competent jurisdiction (except that the Directors of the Board shall not be personally liable, except for gross negligence);

(6) enter into contracts or other arrangements with public agencies, private organizations, and persons and to make such payments as may be necessary to carry out the purposes thereof;

(7) lease space for the conduct of its activities in the District of Columbia or elsewhere; and

(8) do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) PROPERTY.—(1) The Foundation may acquire, hold and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase or exchange. For the purposes of this Act, an interest in real property shall include, but not be limited to, mineral and water rights, rights of way, and easements appurtenant or in gross. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(2) The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto.

(3) Contributions, gifts, and other transfers made to or for the use of the Foundation shall be treated as contributions, gifts, or transfers to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) STARTUP FUNDS.—For purposes of assisting the Foundation in establishing an office and meeting initial administrative and other startup expenses, the Secretary is authorized to provide the Foundation $500,000, from funds appropriated pursuant to section 10(a), per year for the two years following the date of enactment of this Act.

(b) MATCHING FUNDS.—In addition to the startup funds provided under subsection (a) of this section, for a period of five years from the date of enactment of this Act, the Secretary is authorized to provide matching funds for administrative expenses incurred by the Foundation as authorized by section 10 of this Act including reimbursement of

expenses under section 3, not to exceed then current Federal Government per diem rates.

(c) ADMINISTRATIVE EXPENSES.—At any time, the Secretary may provide the Foundation use of Department of Agriculture personnel, facilities, and equipment, with partial or no reimbursement, with such limitations and on such terms and conditions as the Secretary shall establish.

SEC. 6. VOLUNTEERS.

The Secretary may accept, without regard to the civil service classification laws, rules and regulations, any director, officer, employee or agent of the Foundation as a volunteer for purposes of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a through 558d; 86 Stat. 147).

SEC. 7. AUDITS AND REPORT REQUIREMENTS.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 through 1103; Public Law 88-504) the Foundation shall be treated as a private corporation established under Federal law.

(b) ANNUAL REPORTS.—The Foundation shall, transmit each year to Congress a report of its proceedings and activities of the previous year, including a full and complete statement of its receipts, expenditures, and investments.

SEC. 8. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation. The Foundation is not an agency or establishment of the United States.

SEC. 9. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) START-UP FUNDS.—For the purposes of section 5(a) of this Act, there are authorized to be appropriated $1,000,000.

(b) MATCHING FUNDS.—For the purposes of section 5(b) of this Act, during the five-year period following enactment of this Act, there are authorized to be appropriated $1,000,000 annually to the Secretary of Agriculture to be made available to the Foundation to match, on a one-for-one basis, private contributions made to the Foundation.

THE NATIONAL WILD TURKEY FEDERATION, INC.,
Edgefield, SC, March 28, 1990.

Hon. PETE V. DOMENICI,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the 60,000+ members of the National Wild Turkey Federation in 362 chapters in 45 states, I want to express our enthusiastic support for your bill to establish the National Forest Foundation for the benefit of, or in connection with, the activities and services of the Forest Service of the Department of Agriculture.

The National Wild Turkey Federation has had an excellent working relationship with the Forest Service for a number of years. In 1986 we signed a Memorandum of Understanding with the USDA Forest Service expressing our intent to cooperate together to enhance the management of the American wild turkey on lands administered by the Forest Service.

Since then, the NWTF has contributed more than $175,000 toward various projects with the Forest Service including habitat enhancement, wild turkey restoration, purchase of equipment, and research efforts.

Through the partnership program "Making Tracks," initiated in 1989, our cooperation with, and support for projects on National Forest System lands has increased.

Your bill to establish the National Forest Foundation will provide the opportunity for organizations like the National Wild Turkey Federation to increase their conservation efforts with the Forest Service by involving the private sector and other governmental and educational agencies and institutions thus increasing the financial resources available for our natural resources.

Sincerely,

ROB KECK,
Executive Vice President.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, DC, March 28, 1990.

Hon. PETE V. DOMENICI,
Dirksen Senate Office Building, Washington, DC.

DEAR PETE: After reviewing your proposal to establish the National Forest Foundation, we enthusiastically offer our support.

The Wildlife Management Institute is dedicated to improving resource management on the National Forest System. Considerable progress has been made in recent years, and we believe that a foundation as you envison could expedite even more positive results.

The Forest Service has aggressively implemented the Challenge Cost Share Program authorized by Congress in 1986. Millions of private dollars flow to the Service annually for fish and wildlife habitat improvement projects. We desperately need similar efforts to boost range restoration, watershed improvements and reforestation on the National Forest System. We believe that your foundation could help spread and finance Challenge Cost Share for all these resource programs, and thereby expedite forest plan implementation.

With best regard.

Sincerely,

LONNIE L. WILLIAMSON,
Vice President.●

By Mr. DASCHLE (for himself, Mr. LEAHY, and Mr. KERREY):

S. 2386. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to improve agricultural research and related programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1990

● Mr. DASCHLE. Mr. President, today I am introducing legislation on behalf of myself, Senator LEAHY, and Senator KERREY that will be the focus for the research, teaching, and extension title of the 1990 farm bill. This bill is the result of the culmination of several hearings that the Subcommittee on Agricultural Research and General Legislation has held on research over the last year. All of the hearings have had the primary goal of guiding the members of the subcommittee on what is needed in the research, teaching and extension title of the 1990 farm bill.

The legislation has three main goals: to improve priority setting and technological assessment of publicly funded agricultural research; to enhance the competitive research program, while maintaining formula funding, and provide for research programs in areas that have received inadequate attention; and to create an overall sense of order to the statutes relating to research.

Many observers and users of the agricultural research system have long been critical of the speed at which the agricultural research system adapts to changing demands. The priority setting legislation that I have developed will breathe new life into the Joint Council on Food and Agricultural Policy and the Users Advisory Board. A new focus is placed on the socioeconomic implications of our research programs through more extensive technology assessment, related to a set of overall goals for the research system.

This legislation will explicitly address certain key areas of research that have either only recently emerged or have had inadequate attention placed on them in the past. Doing more demand-related research is something that I have long advocated. In commodity policy the Government has a responsibility to try to facilitate achieving a balance between supply and demand. Too often we have focused almost exclusively on supply enhancing research that has led to the need for supply control commodity programs. We must do more research to enhance the demand for agricultural products, including developing both new crops and new uses and products. This legislation establishes a mechanism for expanding research and commercialization of new agricultural crops and products.

Farmers and consumers are concerned about protecting the quality of the Nation's water supply. You cannot open a newspaper today without reading an article on the Nation's water quality problems, and yet the research community remains behind the curve on providing the basic information needed to tackle the problems. To get the information to farmers and landowners, clear priorities must be established which will result in better coordination of water quality research efforts. This legislation will establish a research and education mandate that will give farmers the information they need to continue to protect the environment.

U.S. agriculture has the potential to be crippled from global climate. Senator LEAHY, the chairman of the Agriculture Committee, has taken a leadership role in the issue of climate change by introducing S. 1610. This legislation has been incorporated into this legislation and its provisions can lead us toward finding answers to address this important issue.

As we strive to maintain the sustainability of our planet from the threats of global climate change and water quality degradation, we must focus more on ways our farming community can contribute more while maintaining its profitability. This means paying more than just lip service to concepts such as sustainable agriculture and integrated resource management. We must actively pursue research programs that will help us implement practices that turn these concepts into reality. This bill includes legislation that Senator LEAHY has introduced which will improve the research and extension system's ability to address the concept of sustainable agriculture.

Taken together with a renewed commitment to the basic funding mechanism of our public agricultural research institutions and a new emphasis on competitive grants, this legislation will place U.S. agriculture where it needs to be in the 21st century.●

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. PRESSLER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 22, a bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem.

S. 435

At the request of Mr. REID, the names of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 2041

At the request of Mr. SYMMS, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2041, a bill to amend title XVIII of the Social Security Act to provide uniform national conversion factors for services of certified registered nurse anesthetists.

S. 2108

At the request of Mr. LEAHY, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2108, a bill to promote the production of organically produced foods through the establishment of a national standard production for organically produced products and providing for the labeling of organically produced products, and for other purposes.

S. 2152

At the request of Mr. MCCONNELL, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2152, a bill to provide for international negotiations to achieve agreement on regulation of certain precursor and essential chemicals critical to the manufacture and trafficking of illicit narcotics.

S. 2222

At the request of Mr. BRADLEY, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2342

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2342, a bill to amend the Public Health Service Act to authorize additional grants for home health care demonstration projects, to require that applications be submitted to the chief executive officer of the State concerned in connection with such grants, and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 273

At the request of Mr. BREAUX, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 273, a joint resolution to designate the week of October 7-13, 1990, as "National Health Care Food Service Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Idaho [Mr. MCCLURE] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week."

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 263

At the request of Mr. LAUTENBERG, the names of the Senator from Arkansas [Mr. PRYOR], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Resolution 263, a resolution to express the Sense of the Senate regarding the need to establish a sound national transportation policy integrating all modes of transportation and maintaining a significant Federal role.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

GORE (AND OTHERS) AMENDMENT NO. 1425

Mr. GORE (for himself, Mr. LAUTENBERG, Mr. BREAUX, Mr. PELL, Mr. KERRY, Mr. LIEBERMAN, Mr. WIRTH, Mr. CRANSTON, Mr. LEAHY, Mr. BRYAN, and Mr. ADAMS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, as follows:

On page 269 beginning at line 4 strike all through line 18 (paragraph (5)) and redesignate the succeeding paragraphs accordingly.

On page 273, line 22 strike "To" and on page 273 beginning at line 23 strike all through line 9 on page 274.

SENATE CONCURRENT RESOLUTION—112 RELATING TO AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE REGARDING LITHUANIA

Mr. MOYNIHAN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 112

Whereas the State of Lithuania was historically an independent European power and existed as a sovereign state from 1386 to 1795;

Whereas the State of Lithuania was annexed by the Russian Empire in 1795, but its people continued to resist the annexation;

Whereas Lithuania regained its independence following World War I and functioned as an independent sovereign state until 1940;

Whereas Nazi Germany and the Soviet Union reached an illegal agreement in 1939 which placed the independent State of Lithuania within the "sphere of influence" of the Soviet Union;

Whereas the Soviet Union subsequently annexed Lithuania;

Whereas the Soviet Congress of People's Deputies has condemned the German-Soviet pact as "legally untenable and invalid from the moment [it was] signed";

Whereas the Lithuanian people are a distinct ethnic group and represent the overwhelming majority of the persons living in Lithuania today;

Whereas the Lithuanian people have declared their sovereign independence from the Soviet Union; and

Whereas the General Assembly has previously requested and received from the International Court of Justice advisory opinions concerning the right of self-determination

for the peoples of Western Sahara and the legal status of Namibia;

Whereas President Gorbachev has repeatedly expressed the Soviet Union's strong desire to adhere to international legal norms and its belief that the United States and the Soviet Union should make greater use of the International Court of Justice;

Whereas it is in the interests of the United States, the Soviet Union, the people of Lithuania and the world community that disputes be resolved in accordance with principles of law rather than through the use of force: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses its grave concern regarding the situation in Lithuania;

(2) calls upon the Soviet Union to adhere to its stated acceptance of the norms of international law as they apply to Lithuania;

(3) strongly urges the President and the Secretary of State to make all appropriate efforts to ensure that either the Security Council or a special session of the General Assembly requests from the International Court of Justice an advisory opinion concerning the right of the Lithuanian people to exercise self-determination.

SENATE CONCURRENT RESOLUTION 113—RELATIVE TO NUCLEAR SALES TO SOUTH ASIA

Mr. GLENN (for himself, Mr. PELL, and Mr. BOSCHWITZ) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 113

Whereas 140 parties to the Nuclear Non-Proliferation Treaty will assemble in August to deliberate the status of that treaty in its twentieth year of existence;

Whereas section 403 of the Nuclear Non-Proliferation Act of 1978 directs the President to take immediate and vigorous steps to seek agreement from all nations to ensure that IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

Whereas France, China, and the Soviet Union have recently announced their intentions to sell nuclear reactors to Pakistan and India without any requirement for full-scope international safeguards;

Whereas both of these nations have fought three wars in 43 years and the situation in South Asia remains potentially volatile;

Whereas both nations are continuing research and development activities related to nuclear explosive devices and have in the past used peaceful nuclear technology for such purposes; and

Whereas full-scope international nuclear safeguards benefit the peace and security of all nations: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that—

(1) the sale or transfer by any nation of nuclear materials and equipment or sensitive nuclear technology to any non-nuclear-weapon state without the requirement of full-scope safeguards will undermine international efforts to halt the regional and global spread of nuclear weapons;

(2) the President should continue his efforts to encourage Pakistan, India, and other non-nuclear-weapon states that are not parties to the Nuclear Non-Proliferation Treaty to agree to full-scope safeguards;

(3) the President should urge all current adherents to the Nuclear Non-Proliferation Treaty to join the United States in seeking these objectives; and

(4) the President should continue and expand his efforts to encourage all nuclear supplier nations to require full-scope safeguards as a condition for future nuclear commerce and cooperation with all non-nuclear-weapon nations.

(b) For purposes of subsection (a)—

(1) the term "non-nuclear-weapon state" is used within the meaning of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968; and

(2) the terms "nuclear materials and equipment" and "sensitive nuclear technology" have the same meanings as are given to such terms in paragraphs (4) and (6), respectively, of section 4(a) of the Nuclear Non-Proliferation Act of 1978.

Mr. GLENN. Mr. President, the French Government announced last month that it is ready and willing to supply a nuclear reactor to Pakistan as part of a broader program of nuclear cooperation to be negotiated over the next few weeks.

I ask unanimous consent to have printed in the RECORD at the end of my remarks some recent press accounts of this development from around the world, including two notices of official opposition to this deal from the Governments of the United States and Japan.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

France's announcement comes in the wake of new Chinese nuclear offers to Pakistan and rumors that even the Soviets are considering a reactor sale. These deals appear to have broken a decade-old international embargo intended to prevent significant nuclear sales to Pakistan until it agrees to safeguard all of its nuclear facilities. In other words, let information be known about all of their facilities. That is basically what safeguards are.

In addition, both France and the Soviet Union appear willing to sell reactors to India, also without any requirement for full-scope safeguards.

The consequences of all of these nuclear deals will extend far beyond South Asia, as pressures will grow among other nuclear supplier nations to abandon full-scope safeguards as a requirement for nuclear commerce. My colleague, Senator EXON summed up France's recent announcement very well in his statement here on March 6, when he said that "* * * the French decision flies in the face of an international approach to controlling the spread of such technology—control which is slowly and dangerously eroding."

I agree with that assessment. This deal, and others like it, will certainly complicate international efforts to stop the spread of nuclear weapons. Offering nuclear cooperation without full-scope safeguards is bad enough, but offering such technology to two nations that are already engaged in a nuclear arms race is particularly hard to justify, even in the context of the billions of dollars we ourselves are providing to Pakistan. Indeed, our continuing failure to hold Pakistan to its many peaceful nuclear assurances may well have signaled to the world that America would turn a "blind eye" toward new nuclear commerce with Pakistan. That perception needs to be corrected—the time has come to open that eye.

I am not going to use this occasion to remind my colleagues about the specifics of Pakistan's continuing efforts to acquire the bomb, the repeated violations of its solemn nuclear assurances to the United States, or the growing reality of a nuclear arms race in South Asia.

Mr. President, I have discussed these efforts in previous statements over and over again on the floor and expect to address them again and again as developments warrant. I have a list of those times I have risen on the floor. I think there are a dozen or so. I ask unanimous consent they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[See *Cong. Rec.*, 16 November 1989, p. 29418; 17 November 1989, p. 29823; 22 June 1989, p. S782; 16 May 1989, p. 2306; 18 December 1987, p. 36226; 11 December 1987, p. 35187; 8 October 1987, p. 22130; 3 August 1987, p. 21954; and 8 May 1987, p. 11773.]

Mr. GLENN. Mr. President, however, the decisions by France, the Soviet Union, and China to sell nuclear reactors to mutually hostile nations in South Asia raise two fair questions. First, what difference does it make to us of these deals proceed? And second, what, if anything, can America—in partnership with France and other nuclear supplier nations—do about these growing commercial pressures on the international nuclear nonproliferation regime, pressures which may bring the benefits of nuclear energy to precisely those nations that are the least willing to accept its full responsibilities?

I believe we should be deeply concerned about all of these recent deals, for reasons that go far beyond the secret nuclear activities now underway in Pakistan and India. I would like to discuss some of these reasons.

THE SPOILS OF PROLIFERATION

The United States has for many years urged other nuclear suppliers nations to require their foreign customers to place all of their nuclear facilities under international safeguards—a condition we have required of our own foreign customers ever since enactment of the Nuclear Non-Proliferation Act of 1978.

Mr. President, I was the author of that act in 1978, the Nuclear Non-Proliferation Act. We had some choices to be made at that time. There were those in our midst who said the best way to try to control nuclear energy into the future was to let our people sell abroad, sell anywhere, encourage that, get American nuclear industry involved anywhere in the world that we wanted to go, and that way we would know what was going on. I viewed that as a rather defeatist attitude at the time.

On the other hand, there was the proposal that we try to work with foreign governments and say that there be only half a dozen or so basic suppliers of nuclear equipment and technology that could be used to make a bomb and, if we could somehow get those nations to cooperate sufficiently, we could probably for the next 12 or 15 years stop the spread of the equipment and the technology to make nuclear weapons. In that interim time period, we would do our level best to try to negotiate down the stockpiles, vis-a-vis the Soviet Union, and get some agreement on this.

Meanwhile, let us not spread sensitive nuclear technology and nuclear weapons capability to more and more nations around the world, and we ask that other nations follow our lead in not providing that kind of technology and that kind of equipment to other nations around the world.

For nations that would foreswear development of nuclear weapons, we ask them to sign the nonproliferation treaty. That treaty basically says to the United States, "We will cooperate with you in things nuclear if you foreswear going to nuclear weapons, and in return for that, we will try to cooperate with you in all the peaceful benefits of nuclear energy."

What has been the result of that? I think it has been pretty good. It has not been perfect by a long shot, but we have had some 140 nations sign up under the NPT. It gets reviewed every 5 years. It is up for review again this summer. We have 140 nations that have become parties to that treaty. So I think our policy through the years has had a pretty decent effect on curbing the technology and equipment flow that will permit more and more nations to come into a nuclear weapons capability.

What has happened over those 12 or 15 years? We have found also that, gradually, the technology spread goes on. Gradually this method, this idea, or this concept of how you go about making a nuclear weapon has spread, enough so that if the people have the equipment and a little more technology, we are going to have a breakout of many nations around the world, perhaps, with a nuclear weapons capability.

It is rather ironic that this threat comes at the particular time when we just about have some agreements with the Soviet Union, finally, to scale down some of the nuclear dangers of the world. That is one reason why I see this as being so important.

The roots of this policy go all the way back to the Acheson/Lilienthal and Baruch plans shortly after World War II, when it was already acknowledged that some form of international controls would be needed over many potentially sensitive steps of the nuclear fuel cycle. For what we viewed as security reasons then, those proposals by Acheson, Lilienthal, and Baruch were not placed into effect.

Over the years, other nations have come to see the wisdom of requiring their nuclear customers to have full-scope safeguards. Japan, for instance, now requires this condition, as do Canada, Australia, Sweden, Norway, Czechoslovakia, and Poland. Even West Germany—a nation that has suffered repeated nuclear export scandals in recent years, including this year—has shown some preliminary signs that it, too, may finally be willing to require its foreign nuclear customers to adopt such controls.

France's action, however, along with the deals announced by the Soviets and the Chinese, jeopardize not just a nuclear embargo to Pakistan—these sales together represent a direct assault on an important long-term goal of the global nuclear nonproliferation regime, an assault that may have produced some new business, but absolutely nothing by way of additional nuclear restraint.

The United States-sponsored international embargo on nuclear sales to Pakistan in particular was established for the simple reason, which surely is no secret to the French, that Pakistan has sought ever since the Indian nuclear test in 1974 to become a nuclear-weapon state; former Prime Minister Ali Bhutto once said that Pakistan would go so far as to "eat grass" to accomplish that aim. Unfortunately, it is Pakistan's poorest citizens who are eating the most grass as the nation continues to divert its scarce resources away from pressing economic development goals in order to acquire bombs. There has surely been no perestroika in Pakistan's nuclear program.

The question is, when a nation takes such steps as Pakistan has taken with its nuclear program, and then complains about an urgent national shortage of electric power, it is then incumbent on foreign suppliers to satisfy that need? The answer is obviously no. Among other goals, nuclear nonproliferation policies seek to raise the cost and expand the time required for additional nations to acquire nuclear weapon capabilities. An international nuclear embargo—even an imperfect one—serves this purpose well by encouraging proliferant nations to reassess the full costs of their nuclear policies.

In other words, the purpose of such a nuclear embargo is not simply to punish, but to offer some real economic and technological incentives for nations to conclude that the bomb is simply not worth its heavy price. The greater the "need" that both Pakistan and India now feel for nuclear energy, the greater will be their incentive to reconsider the costs of their weapon options.

Yet France has recently cited the urgent need for electricity in India and Pakistan as a reason to supply nuclear technology.

Although such an argument may well serve some business and other foreign policy interests, this argument simply does not stand up as a nonproliferation measure. The needs these countries are experiencing merely reflect the costs they are paying for proliferation. By offering nuclear technology to nations that are each actively pursuing weapon options, France, the Soviet Union, and China are simply lowering the costs that both Pakistan and India will have to pay for the bombs in their basements. And once transferred, nuclear know-how and assembled facilities cannot be summoned back home when—once again—solemn commitments are broken.

LESSONS FROM THE FRENCH CONNECTION

France, of all nations, should know better than to pursue such a course. Much like the United States, Great Britain, West Germany, and other nations with advanced nuclear industries, France has also been victimized by repeated Pakistani efforts to acquire technology and components for its bomb program. A classic example of such procurement efforts was discussed in the book, "The Islamic Bomb," which chronicled the activities of a certain individual, Mr. S.A. Butt, who, in the authors' words, "* * * would organize Pakistan's surreptitious purchasing network from a little office on the outskirts of Paris, running the most successful foray into nuclear espionage since the Soviet Union set out to penetrate Anglo-American nuclear efforts during and right after World War II." [Steve Weissman and Herbert Krosney, "The Islamic Bomb," New York Times Books, 1981, p. 47-48.]

More recently, the technical section of the Pakistani Embassy in Paris has been cited in West German press as involved in assisting an illicit export from West Germany of technology and equipment associated with tritium, a material used in H-bombs. That is right, H-bombs [Welt Am Sonntag, 25 December 1988, p. 1; translated in FBIS-WEU-88-249, 28 December 1988, p. 6.]

Late last year, the West German newsweekly Der Spiegel reported that several tons of zircaloy—a cladding material used in fabricating nuclear fuel—was obtained in France, at a high price, and transshipped to Pakistan through West German intermediaries [Der Spiegel, 6 November 1989, p. 125-131; translated in JPRS-TND-89-022, 29 November 1989, p. 37.]

But France has not been alone in suffering from violations of its nuclear export regulations and other nonproliferation controls. Using United States-origin heavy water and a Canadian reactor—both of which were supplied for peaceful purposes—India produced the plutonium used in its so-called peaceful nuclear explosion in 1974. Having learned a lesson from this experience, both Canada and the United States now require their foreign nuclear customers to have full-scope safeguards.

The Soviets have had their own problems in this area. On June 21, 1988, the Wall Street Journal reported the remarks of a Soviet diplomat acknowledging that in 1985 the Soviet Union may have been duped into illicitly providing heavy water—reportedly to India—by means of a West German intermediary. Yet this apparent disrespect for nonproliferation controls evidently did not discourage the Soviets from entering into a $8 billion industrial agreement with India in November 1988 that included finance for two 1,000-megawatt reactors, without a full-scope safeguards requirement. Earlier that year, the Soviets also leased India a nuclear-powered submarine. So much for the high price of proliferation.

These transactions bring commercial interests into direct competition with international security concerns, a tension that is particularly evident in France's recent deal with Pakistan. France argues that the specific reactor to be exported will be safeguarded, that nuclear sales will only further restrain Pakistan's nuclear ambitions, and that no sensitive nuclear fuel cycle technology will be transferred. The Soviets and Chinese have used similar arguments to rationalize their current nuclear discussions with India and Pakistan. These arguments, however, need to be weighed against Pakistan's long and well-established record of not living up to its previous nuclear assurances—a record we have discussed over and over and over again with Pakistan—particularly those assurances given to the United States, and against the ample evidence that both South Asian nations are actively pursuing their nuclear weapons options.

The massive aid we provide to Pakistan has led the United States to be justifiably accused in recent months of turning a blind eye to proliferation; at least our blindness is not so severe that it prevents us from seeing the folly in selling nuclear technology to countries actively working on the bomb. Such a policy appears even less responsible coming at a time when the purchasing nations are confronting each other over an ethnic dispute that has led both nations to war more than once in recent history. K. Subrahmanyam, one of India's leading defense analysts, summarized the situation in Kashmir in these words: "Anything is possible when two forces are facing each other and have the history that these two have." (Reuters, 1 February 1990.)

We should not, therefore, be too reassured by the argument that France and the Soviet Union would, in equanimity, like to sell reactors to India as well. The interests of the international nuclear salesmen appear once again to be ascending over security concerns in the region.

WITHER THE NPT?

The repercussions of these deals will surely extend beyond the region of South Asia. I am especially concerned about the future of the Nuclear Non-Proliferation Treaty [NPT]. Unlike the 140 nations that have become parties to this treaty, France and China not only continue to refuse to join but have even criticized the treaty as being inequitable and contrary to the sacred principle of national sovereignty. Yet if such a view is valid, why then have 140 nations voluntarily chosen to become parties to this agreement? Also, safeguards simply do not inequitably hold back the peaceful development of atomic energy—they are designed instead to hold back the secret development of bombs. That is a significant difference.

These new nuclear deals in South Asia come on the eve of an international conference that will soon take place in Geneva to deliberate the status of the NPT. The eagerness of France, the Soviet Union and China to do nuclear business with non-signatories to the NPT only serves to weaken the international nuclear regime centered on that treaty.

It is unreasonable to expect that some nations which have signed the NPT might begin to wonder if it is worthwhile to remain parties if they can obtain the benefits of nuclear cooperation without the responsibilities of treaty membership? And how long will other nuclear suppliers feel it is in their own commercial interests to sit back and watch France and other nations profit from nuclear sales based on less comprehensive nuclear conditions than these suppliers require of their own customers?

STANDARDS FOR NUCLEAR COOPERATION

There is little doubt that the international nuclear regime is now facing a crisis that no nation can afford to ignore. Under existing standards, all non-nuclear-weapon-states that are party to the NPT must have safeguards of the International Atomic Energy Agency [IAEA] over all of their nuclear facilities. These controls reassure both the nuclear nations and their buyers' neighbors that nuclear technology will be used exclusively for peaceful purposes. When nuclear cooperation takes place under these controls, all members of international society—not just those involved in specific deals—stand to benefit from the increased security produced by those controls.

Under current French policy, however, nuclear business can evidently continue as usual even if its partner is a nonsignatory of the NPT, even if the partner is operating an unsafeguarded uranium enrichment plant, even if it is building an unsafeguarded nuclear fuel reprocessing plant, even if it is secretly buying up parts for an unsafeguarded plutonium production reactor, even if it is conducting explosive tests of various components of nuclear devices, even if it cannot keep its most solemn nuclear assurances, and even if it is continuing to violate national and international nuclear export controls.

The same policy evidently now applies with respect to the nuclear cooperation standards of the Soviet Union and, of course, China. All three nations have simply brushed aside international criticism of such nuclear supply practices. "Purely a domestic affair," we are told. "Cooperation will only produce further restraint," they add.

Yet if France is so convinced that Pakistan is committed to its peaceful international nuclear commitments, why then does France not go all the way and sell Pakistan its long-sought nuclear fuel reprocessing plant as well? This is the process of making the fissile material that goes into nuclear weapons. France's evident decision not to supply such a plant raises several interesting questions: Does France not have full confidence in the ability of the IAEA to safeguard a commercial sized nuclear reprocessing plant and the plutonium it produces? Or, does France still harbor some doubts about Pakistan's ability or willingness to live up to its peaceful nuclear commitments? If the later is true, then France's case for selling a reactor is only further eroded.

As France continues to pursue such a policy, pressures will grow among other nuclear supplier nations to follow suit. Since there are many export-hungry nuclear firms in other nations, France's deal could well lead to a global free-for-all in nuclear technology and a further threat to world peace. Is this what we can now expect from the new Europe? Will Pakistan, India, and other nations interested in acquiring nuclear explosives now provide the markets needed to rescue Eu-

rope's nuclear industry from the doldrums it is now facing?

History will be the ultimate judge of France's current and past nuclear policies, just as history will judge our own policies. History will judge whether the following activities have truly served the cause of global peace:

Did the French sale of a reactor and highly enriched uranium to Iraq, a nation committed to the total destruction of its neighbor, Israel, and continued talks with the Iraqi Government on supplying a new reactor to replace the Osirak reactor that Israel bombed in 1981, serve the cause of global peace?

Did it serve the cause of global peace for France to transfer technical data for a large nuclear fuel reprocessing plant in Pakistan, a deal that was ultimately terminated in 1977, as a direct result of strong United States opposition?

Or to assist India in building an unsafeguarded breeder reactor to produce large quantities of nuclear materials that could be used in nuclear weapons?

Or to supply to Israel with an unsafeguarded reactor for plutonium production and an unsafeguarded reprocessing plant at the Dimona site for plutonium separation?

Or to supply two large power reactors to South Africa and nuclear fuel services to keep them running?

Or to supply ballistic missile technology to India, Pakistan, and Israel?

RESOLUTION ON FULL-SCOPE SAFEGUARDS

France's apparent decision to resume nuclear sales to Pakistan is thus a test not only of its commitment to halting the global spread of nuclear weapons—it is also a test of our own commitment to that goal. The easy course would be for Congress, once again, to turn a blind eye toward the new specter of proliferation. But we cannot continue to sweep these threats to the international nuclear regime under the carpet year after year without someday having to confront the deadly consequences.

That is why I believe the U.S. Congress should firmly express its concerns about foreign nuclear policies that we see as potentially dangerous to world peace. America must demonstrate its determination to support publicly the principles of nonproliferation that have guided the actions of well over 100 nations in the postwar era, those 140 signers of the Non-Proliferation Treaty. The time has come for the people of the United States to lend some support to our diplomats who have been urging France and other nations for many years not to sell nuclear reactors in South Asia and other regions without full-scope safeguards.

Mr. President, I submit today a sense-of-the-Congress resolution addressing the pending sales of nuclear reactors to South Asia without any requirement for full-scope safeguards.

Mr. President, I am pleased to have as an original cosponsor of this resolution the distinguished chairman of the Foreign Relations Committee, Senator PELL, whose long support for nuclear nonproliferation efforts are already well recognized both among his colleagues and across the country.

The preamble identifies several circumstances leading to this resolution. First, it notes that an international meeting will take place later this year to discuss the status of the Nuclear Non-Proliferation Treaty, an agreement that has for 20 years promoted international peace and security through its provisions relating to full-scope safeguards and the provision of technical assistance on the peaceful uses of atomic energy to all treaty signatories. Second, it recalls section 403 of the Nuclear Non-Proliferation Act of 1978 which directs the President to promote the international acceptance of full-scope international safeguards. Third, it states that France, China, and the Soviet Union have announced their intention to sell reactors to Pakistan and India without full-scope safeguards. Fourth, it notes that both Pakistan and India have gone to war on three occasions in 43 years and that the regional situation remains potentially volatile. Fifth, it acknowledges that each is continuing activities related to the acquisition of nuclear explosive devices, and that each has in the past used peaceful nuclear technology for such purposes. And finally, the preamble affirms that full-scope safeguards benefit the peace and security of all nations.

The body of the resolution states the sense of Congress: First, that the sale by any nation of nuclear materials and equipment or sensitive nuclear technology to nonnuclear weapon nations, without a requirement for full-scope safeguards, will undermine international efforts to halt the regional and global spread of nuclear weapons; second, that the President should continue his efforts to encourage India, Pakistan, and all other nonnuclear weapon states that are not parties to the NPT to agree to full-scope safeguards; third, that the President should urge all parties to the Nuclear Non-Proliferation Treaty to join the United States in pursuing these objectives; and fourth, that the President should continue and expand his efforts to encourage all nuclear supplier nations to require full-scope safeguards as a condition for future nuclear commerce and cooperation.

THE VALUE OF FULL-SCOPE SAFEGUARDS

I want to be very clear about my intentions in submitting this resolution. I do not expect that the global threat of nuclear proliferation will be eliminated by any magic wand, including full-scope safeguards administered by the International Atomic Energy Agency. Many nations that have agreed to these safeguards—including Iraq, Iran, Libya, and North Korea—still show some interest in acquiring nuclear weapons. Nevertheless, full-scope safeguards have an extremely important role to play in stopping the global race for the bomb.

Take Iraq, for example. Here is a nation that belongs to the Nuclear Non-Proliferation Treaty, a nation that has agreed to full-scope international safeguards, yet it continues to engage in secret efforts to acquire parts for nuclear weapons. Whether Iraq intended to use these parts at home or to reexport them to its friends in other regions is still an open question.

The fact remains, however, that Iraq is surely acting in violation of the spirit, if not the letter, of its treaty commitments. With an appropriate combination of money, secrecy, profit-hungry middlemen and unscrupulous suppliers of specialized equipment, governments of nuclear-supplier nations that regard nonproliferation as a low-policy priority, and time, Iraq will eventually acquire what it evidently is now seeking—the bomb and a long-range missile to deliver it.

No nation can steal or buy a full-fledged nuclear arsenal on the black market. In fact, the last remaining barrier facing Iraq is its lack of plutonium or high-enriched uranium to support the creation of a nuclear arsenal.

Now just imagine where we would be today if Iraq had no safeguards whatsoever, if international nuclear suppliers were selling Iraq nuclear technology without full-scope safeguards, and if the safeguard windows that now exist in Iraq were slammed shut. Is there anybody who would argue that the world would be a safer place without such safeguards? Of course not.

Safeguards provide that window. They establish a global standard. They are a benchmark for international society to confirm that its members are complying with nonproliferation commitments. They are an arms control verification measure that has no substitute, precedent, or parallel in the international arena. They are invaluable because they target the material that fuels a nuclear arms race—a nation with full-scope safeguards, implemented in accordance with the NPT, cannot build a nuclear arsenal without violating its treaty commitments.

The Iraq example contains many lessons. First, the need for eternal vigilance, even with nations that are party to the NPT; second, the value of tough export controls, aggressively and competently implemented; third, the vital importance of international cooperation in stopping proliferators in their

tracks; fourth, the continuing value of full-scope safeguards as a key nonproliferation measure, one of the last remaining legal and technical barriers separating a nation with a potential nuclear capability from a nation with a nuclear arsenal; fifth, the limits of military responses to proliferation—Israel's understandable attack on Iraq's Osirak reactor in 1981 led almost everyone to breathe a sigh of relief; yet, Israel's attack did little to halt Iraqi nuclear weapon ambitions and may well, in fact, have inflamed them; moreover, in striking a safeguarded reactor, Israel also struck at NPT and the very concept of international safeguards; and sixth, the need for greater international sanctions against nations that break their solemn international nuclear commitments—when pledges are broken, a heavy price must be paid.

ADDITIONAL MEASURES NEEDED

Thus, the main purpose of this resolution is to voice the support of Congress for America's ongoing diplomatic efforts to encourage all nuclear-supplier nations to adopt full-scope safeguards as a key condition for exports of nuclear technology and components. The unstable circumstances we are now facing in South Asia and in other regions where nuclear proliferation threatens, calls, however, for something more than just a resolution against these specific transactions. We need to come up with some constructive ideas for new areas where cooperation between nuclear-supplier nations might serve the cause of nuclear nonproliferation.

I urge France to cooperate with its ally, the United States, and not to assist the nuclear programs of nations that are clandestinely using stolen technology in the illicitly obtained equipment to build bombs. There is certainly no shortage of areas where stronger bilateral and multilateral cooperation would be in order. The potential gains from this cooperation far outweigh whatever short-term material benefits that would accrue from new nuclear business with proliferant nations.

Mr. President, I want to offer some suggestions for enhanced cooperation between all nations that are committed to stopping the global spread of nuclear weapons—let us move forward together in the following particular areas:

One. Joint development of low-enriched fuels for civilian research reactors so that bomb-grade fuels can be eliminated entirely from such reactors around the world.

Two. Joint R&D on superefficient lightwater reactors so that the world nuclear power industry can make better use of its uranium resources and reduce the urgency of plutonium use—a lot more collaborative research also needs to be done in the peaceful applications of nuclear fusion technology, in search for a safe means to permanently store spent fuel from our reactors as an alternative to nuclear fuel reprocessing, in the pursuit of superconducting materials to reduce the costs of transmitting electricity from existing power sources, and in improved measures of energy efficiency and conservation.

Three. Expanded joint research on health, safety, and environmental issues, especially at plutonium-handling facilities, so that the full costs of such enterprises can be fully evaluated.

Four. Improvements in information sharing and more collaborative international research to address the global nightmares of nuclear terrorism and proliferation.

Five. Discussions aimed at imposing joint multilateral sanctions—a form of collective nuclear security—against nations that cross the nuclear weapon threshold, even short of nuclear testing.

Six. New efforts to harmonize our respective export controls over dual-use commodities and technical know-how associated with nuclear weapon development and their means of delivery—and encouragement of stiffer domestic penalties for violations of these laws in all nations.

Seven. A renewed international commitment to collaboration in locating and in assessing the disposition of any significant quantities of bomb-usable materials that may have been lost, stolen, or diverted to illicit uses.

Eight. Creation of some common international guidelines or an inspection regime so that the military aircraft exported by both of our nations will not be used for nuclear delivery purposes.

Nine. Expanded joint research into the security of large computers to reduce the risk that they will be misused for purposes of building bombs or their delivery systems.

Ten. Increased national contributions to the IAEA for safeguards research, coupled with a renewed diplomatic commitment by all NPT parties to encourage universal membership in that treaty, and the establishment of an international fellowship program—perhaps in association with the United Nations—to promote scholarly research on nuclear nonproliferation.

Mr. President, this list provides just a sampling of the areas for enhanced cooperation in the years ahead. The list is not meant to be exhaustive or all-inclusive, and many of these proposals may already be on the agenda.

The immediate task before Congress, however, is to register our concerns about the rapidly deteriorating conditions for nuclear trade in South Asia. Today, I ask my colleagues to join me in voicing sincere concerns about these developments. The time has come to urge the French, Soviet, and Chinese Governments to reconsider their policy of authorizing exports of nuclear reactors to Pakistan, India, or any other nonnuclear weapon nation, without full-scope international nuclear safeguards.

CONCLUSION

The course I am proposing—a combination of strong opposition to the proposed South Asian nuclear sales with active support for new avenues for multilateral cooperation to stop nuclear proliferation—will surely not eliminate the never-ending global threat of nuclear proliferation. I believe it will, however, accomplish two concrete goals.

It will signal the importance the American people attach to responsible nuclear export policies and to the long-term objective of halting the proliferation of nuclear weapons.

And it will stimulate some thought and action among some of the world's greatest nations about one of the world's most difficult problems.

For these reasons alone, I urge each of my colleagues to voice their concerns about this new challenge we are now facing.

Mr. President, I ask unanimous consent that Senator BOSCHWITZ be included as a cosponsor of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I think this is an issue we, too, often take lightly and think is beyond our control. But I cannot look into the future for my children and my grandchildren. I could not look them in the eye and say we did not try, when a nuclear war and even the spectre of nuclear war is so horrible. That has been the objective ever since we worked clear back in 1978 on the Nuclear Non-Proliferation Act. The objective was to halt the spread of nuclear weaponry around the world. That is the reason I think resolutions like this one expressing the sense of the Congress, indeed, I feel the sense of the American people, are so important.

EXHIBIT 1

[From the Washington Post, Feb. 24, 1990]

THE FRENCH REACTOR

With its decision to sell a nuclear reactor to Pakistan, France has departed from the rules by which the world tries to discourage the spread of nuclear weapons. Pakistan has been working doggedly to build a nuclear bomb. It is determined to achieve nuclear parity with India, which, if it does not already have weapons, is clearly capable of producing them on short notice.

In its defense France can argue that the reactor it sends to Pakistan will be dedicated to peaceful purposes and will be subject to international inspection. Inspections have generally proved effective in preventing the diversion of fuel to military uses. The French reactor will make no direct contribution to the Pakistani bomb.

But it may make indirect contributions. The French reactor will increase the numbers of Pakistanis trained in nuclear technology and raise the level of their sophistication. Less tangibly but perhaps more harmfully, this sale suggests that at least one Western country is prepared to overlook a customer's illicit activities in the nuclear field. That will be extremely helpful to those people who, in the internal debate in Pakistan, argue that there's no need to make concessions to international rules because they aren't enforced.

To the coutrary, they have been enforced fairly well during the years by the countries with nuclear technology to sell. There have been lapses, but on the whole the performance was surprisingly good unitl recently. The general principle is that the advanced countries are not to sell this portentous technology for any purpose to any country that declines to put all of its nuclear facilities—all of them—under international inspection. This principle is getting frayed in the obsessive competition between India and Pakistan. In 1988 the Soviety Union ignored the rules when it sold two reactors to India, which runs many closed and uninspected facilities. Last fall, in a countermove, China said that it would see a reactor to Pakistan. Now France has agreed to provide another—the first Western country in some years to ignore the requirement for full safeguards.

Tension between India and Pakistan is now rising once again over Kashmir. South Asia is becoming a place where a regional nuclear war is not only imaginable but is perhaps more likely than anywhere else. Other countries can't do a great deal to diminish the prospect of that catastrophe, but they have an obligation to do what they can. One thing that they can certainly do is to refuse to sell nuclear technology to countries that, pursuing military ambitions, refuse to open all their nuclear plants to inspection.

[From Reuter, Feb. 23, 1990]

FRENCH PRESIDENT REJECTS UNITED STATES PROTEST OVER NUCLEAR PLANT SALE

DHAKA, February 23.—French President Francois Mitterrand has brushed aside a U.S. protest over the sale of a nuclear power plant to Pakistan.

"If they (the United States) want to protest, let them protest," Mitterrand, who arrived in Dhaka from Pakistan on Thrusday, told journalists. He did not elaborate.

Mitterrand told a news conference in Islamabad on Wednesday Paris was ready to provide Pakistan with a nuclear power plant under full international safeguards.

He said he had authorised French companies to present an offer quickly for the sale of a nuclear plant in collaboration with one or more foreign firms.

The United States said the sale could provoke a nuclear arms race between India and Pakistan, which have fought three wars and refused to sign a nuclear non-proliferation treaty.

Asked if he also expected India to protest, Mitterrand said: "Of course India would not be pleased. But Pakistan was also not pleased when we sold a nuclear power plant to India in 1982."

Mitterrand said he did not think Pakistan had the capability of producing an atomic bomb. "They have few elements," he said, but added "and very good scientists".

The United States criticised the decision to sell the reactor to Pakistan, saying France should have insisted on fuller safeguards.

The State Department said France had apparently only insisted on Pakistan giving guarantees on the peaceful use of the reactor itself, rather than on full International Atomic Energy Agency (IAEA) safeguards which would have forced the country to give such assurances on its entire nuclear programme.

"We believe that a full-scope safeguards requirement would have made a much more significant contribution to strengthening international non-proliferation efforts in general and in the south Asian region in particular," the statement said.

U.S. aid to Pakistan is tied to an annual assurance from the President to Congress that Pakistan does not possess a nuclear device.

Washington has frequently warned Pakistan that it views its atomic military research programme as unsafe for the region.

[From Kyodo News, Mar. 8, 1990]

CONCERN OVER FRENCH NUCLEAR DEAL WITH PAKISTAN

TOKYO, March 8.—The Japanese Foreign Ministry on Thursday conveyed its concern to France over its sale of a nuclear power plant to Pakistan without Pakistan's agreement to open all its nuclear facilities for international inspection, officials said. Hiroshi Ota, director general for science and technology affairs, summoned to the ministry of French Minister Jean-Jacques Subrenat to file Japan's concern.

Ota noted that the French nuclear sale to Pakistan, which is not a member of the Nuclear Nonproliferation Treaty, did not ensure a full-scope safeguard inspection of the facilitiy and expressed concern over the lack of such safeguards, the officials said.

Japan withholds nuclear cooperation to nonmembers of the nonproliferation treaty, which obliges signatories to conclude a separate safeguard agreement with the International Atomic Energy Agency (IAES) within 18 months.

Japan is also worried because it is difficult to monitor the management of used nuclear fuels in nations which are not members of the treaty and are not legally bound by the full-scope safeguard inspections, ministry sources said. Japan cannot remain indifferent to these situations, the sources said, referring also to the ministry's recent call to North Korea to allow outside inspection of its nuclear facilities.

The treaty signatories, which have emphasized nuclear arms reduction until now, will likely shift their attention to the issue of peaceful usage of nuclear power when they meet in August in Geneva, the sources said. The member nations gather once in five years to study implementation of the treaty.

French President Francois Mitterrand said in Pakistan last month that his Government has authorized French industrial firms to make technical and commercial offers to sell a 900 megawatt reactor.

Pakistan has tried to set up a nuclear power plant since 1982, but none of the leading suppliers of nuclear technology have submitted bids due to American pressure for Pakistan to sign the nonproliferation treaty. France, one of the five advanced nuclear nations, is not a member of the treaty.

[From Reuter, Feb. 22, 1990]

FRANCE ASSAILED FOR NUCLEAR DEAL WITH PAKISTAN

(By John Chiahemen)

President Francois Mitterrand's approval of a nuclear plant for Pakistan provoked a storm of protest from environmentalists on Thursday, and a U.S. official said Washington would keep a close watch on the deal.

Mitterrand, who is touring Asia, announced on Wednesday that Paris would provide Pakistan with a nuclear power station and settle a dispute over a previous nuclear deal. He told reporters the plant would be under full international safeguards.

Asked if he believed Pakistan's assurances that it was not producing nuclear weapons, Mitterrand said he had "decided to show full confidence in Pakistan."

The French Greens party said in a statement on Thursday that underdeveloped Pakistan had no need of a nuclear industry. "This 105.4 in 1988—needs pills, not the atomic bomb," it added.

Ronald Lehman, director of the U.S. Arms Control and Disarmament Agency, told a satellite news conference on Thursday the United States was not opposed to the peaceful use of nuclear power but added: "We have concerns about the possibility of an arms race in south Asia and we are urging restraint."

"We will be watching this extremely closely," Lehman said in Washington.

The Paris daily Le Monde quoted a U.S. spokesman as saying Islamabad had offered France insufficient safeguards.

Pakistan is widely believed to be developing nuclear weapons, and U.S.-led Western pressure forced Paris to cancel a contract to supply a nuclear reprocessing plant in 1978.

The bomb fear was echoed on Thursday by the ultra-right French opposition party, the National Front.

"The whole region is tense . . . we should not give certain countries, often unstable, the means for future adventure," party leader Jean-Marie Le Pen told a news conference.

The environmentalist group Robin Hood said it planned to mobilize a protest against what it called Mitterrand's role as a "travelling salesman" of the nuclear industry.

"We are rather shocked, worried and disappointed to see that each time Mitterrand travels abroad, it is always to sell a nuclear plant," said spokesman Jacky Bonnemains.

France is currently involved in nuclear projects in China, Hungary and the Soviet Union. It completed its first plant in 1956 and now builds a French adaptation of a U.S.-designed pressurized water reactor.

Industry sources said the Pakistani contract would be executed by Framatome, which built South Africa's two pressurized water reactors and one in South Korea.

Bonnemains said environmentalists were concerned not so much by military implications as by how a Third World country could handle waste from such plants. "Pakistan is badly organized in terms of coping with risks," he said.

[From AFP, Feb. 22, 1990]

MITTERRAND BREAKS TABOO IN RENEWING NUCLEAR COOPERATION WITH PAKISTAN

(By Rene Slama)

ISLAMABAD, February 22.—French President Francois Mitterrand has broken a longstanding taboo by agreeing to relaunch nuclear cooperation with Pakistan after more

than a decade of U.S. and Indian pressure to steer clear.

The French Leader's announcement here Wednesday, described as a "historic decision" by Pakistan Prime Minister Benazia Bhutto, has already triggered a negative reaction from the United States.

Mr. Mitterrand told a joint press conference with Ms. Bhutto that he would sanction the sale of a nuclear power plant to Pakistan, ending speculation over the issue since his three-day official visit started Monday.

The offer would "be in accordance with the international regulations, including controls and guarantees, which apply to any export of nuclear plants and materials," he said.

Asked about concerns that Islamabad would develop a nuclear weapons program, he said: "We have decided to show confidence in Pakistan."

In Washington, the State Department reacted to the announcement by saying France had no assurances the plant would not be put to military use.

"France has apparently agreed to sell a nuclear reactor to Pakistan without requiring that Pakistan accept full-scope IAEA safeguards on all nuclear activities in Pakistan, not just on the item being exported," spokesman Adam Shub said.

He said the United States opposed foreign assistance for civil nuclear programs in countries which have no nuclear weapons unless they accept all safeguards adopted by the International Atomic Energy Agency (IAEA).

"We have urged that all nuclear supplier states adopt a similar nuclear export policy," he added.

The pro-government Pakistan Times on Thursday greeted the announcement with an eight-column banner headline: "France to give nuclear power plant." A subhead read, "Deal pledged having full confidence in Pakistan's peaceful plan: Mitterrand."

The story eclipsed the Pakistan hockey team's victory in the World Cup semi-finals.

[From the Washington Times, Feb. 22, 1990]

FRANCE TO SELL NUCLEAR PLANT TO PAKISTAN

ISLAMABAD, Pakistan.—French President Francois Mitterrand announced yesterday that he has approved the sale of a nuclear power plant to Pakistan, ending a 14-year ban on French sales of nuclear energy to this country.

Mr. Mitterrand said at a news conference that "France pledges to authorize French industrial enterprises . . . to make rapidly a technical and commercial offer for the sale of a nuclear power plant to Pakistan."

He did not say how big the plant would be.

Mr. Mitterrand, on a four-day visit to Pakistan, is the first French leader to visit the country in 25 years. He leaves for Bangladesh tomorrow.

Prime Minister Benazir Bhutto said a French-supplied plant would be "open to all international safeguards and monitoring teams."

Pakistan, however, is not a signatory to the international nuclear nonproliferation treaty and refuses to sign it unless India does.

Pakistan must convince Washington each year that it does not have a nuclear weapon before Washington frees millions of dollars in loans. Mrs. Bhutto has often said Pakistan does not have a nuclear weapon, nor does it want to produce one.

"Pakistan is not trying to enter into a nuclear arms race," she said again yesterday, adding that Islamabad has pressed India to sign a regional nuclear weapons test ban. India has refused.

Mr. Mitterrand's announcement only vaguely referred to a 14-year-old dispute between Pakistan and France over a promised sale of a nuclear reprocessing plant.

France reneged on the deal because of U.S. pressure to drop the sale unless Pakistan agreed to sign international nuclear treaties and open its nuclear facilities to international monitoring teams.

Pakistan lodged a variety of complaints until a French arbitration board ruled in its favor and ordered Paris to pay a fine. No figure was ever disclosed, but Pakistani media have cited figures ranging from $250 million to $400 million.

[From the Washington Post, Feb. 22, 1990]

FRANCE TO SELL NUCLEAR POWER PLANT TO PAKISTAN

(By Steve Coll)

NEW DELHI, February 21.—France has approved the sale of a nuclear power plant to Pakistan, ending a 14-year embargo that was enacted partly in response to U.S. fears that Pakistan might use such technology to build a nuclear bomb.

French President Francois Mitterrand announced the sale today in Islamabad, the Pakistani capital, where he was concluding a four-day visit. Mitterrand and Pakistani Prime Minister Benazir Bhutto said the French-supplied plant would be used only for commercial purposes and be subject to international safeguards and monitoring.

Nonetheless, the sale is certain to renew fears in the United States and other countries about Pakistan's nuclear program and about the possibility of a nuclear arms race between Pakistan and India, which have fought three wars during the last four decades. Neither India nor Pakistan is a signatory of the Nuclear Non-Proliferation Treaty enacted in 1968 to prevent the spread of nuclear weapons.

The French announcement comes as relations between Pakistan and India are at their lowest ebb in several years because of a flare-up in a long-running dispute over the northern Indian state of Jammu and Kashmir. The dispute has generated harsh rhetoric, border skirmishes and sometimes violent demonstrations in both Pakistan and India.

India detonated a nuclear explosive device in its northwestern desert in 1974 but has said since then that it does not possess nuclear weapons and has no plans to build them. India's contention is generally accepted in the West, but U.S. specialists believe the country has the capability to build a substantial number of nuclear bombs in a short period should it choose to undertake such a program.

Pakistan never has tested a nuclear explosive, but since the successful Indian test 16 years ago, it has embarked on an aggressive and at times clandestine program to develop nuclear technology. Pakistani nationals have been convicted twice during the 1980s in U.S. courts of attempting to smuggle out of the United States sophisticated technology that could be used in the construction of a nuclear bomb.

Partly because of these court cases, the United States has made its large sums of aid to Pakistan—more than $500 million annually—contingent on a public guarantee by Pakistan that it does not possess nuclear weapons. While Pakistan has continued to assure the United States that it has adhered to this condition, some U.S. officials have said they believe Pakistan has developed the technology to construct a small number of nuclear bombs.

Prime Minister Bhutto reiterated today that Pakistan has no nuclear weapons and no plans to build them. "Pakistan is not trying to enter into a nuclear arms race," she told reporters in Islamabad.

Pakistan already has one small nulcear power plant near the southern port city of Karachi. The plant was constructed by Canadian firms and is subject to international nuclear safeguards, although there have been some reports of inspection and monitoring problems in the past.

With few fossil fuels and limited hydroelectric resources, Pakistan has been hampered by chronic shortages of electricity even as its economy has expanded rapidly in recent years. Oil imports drain a substantial portion of the country's foreign exchange, and Pakistani politicans, including Bhutto, have said commercial nuclear power is essential to meet development needs.

President Jimmy Carter cut off all aid to Pakistan during the late 1970s and urged allies such as France to halt nuclear sales because of fears about the Pakistani nuclear program. After the Soviet invasion of Afghanistan in 1979, the United States resumed aid at higher levels than before because Pakistan was seen as a critical ally in the U.S. effort to contain Soviet expansion. The Afghan rebels who helped to expel Soviet troops from Afghanistan last year are mainly based in Pakistan.

[From the Los Angeles Times, Feb. 22, 1990]

FRANCE TO SELL NUCLEAR PLANT TO PAKISTAN

(By Rone Tempest)

PARIS.—Breaking ranks with its Western allies on the issue of nuclear proliferation in the Third World, France on Wednesday approved the sale of a nuclear power plant to Pakistan, a country many experts believe has an active nuclear weapons development program.

In a joint press conference in Islamabad with Pakistani Prime Minister Donazir Bhutto, French President Francois Mitterrand announced, "France is committed to authorize French industrial enterprises, in possible cooperation with one or several foreign partners, to make a technical and commercial offer for the sale of a nuclear power plant to Pakistan."

Mitterrand, on a four-day visit to Pakistan, added that the offer is "subject to international norms and, notably, controls and guarantees that apply to all exportation of nuclear material.

Bhutto agreed that the plant will be "open to all international safeguards and monitoring teams."

However, since 1974, when neighboring India exploded its own nuclear device in the Rajasthan desert, Pakistan has been accused of numerous violations of national and international laws involving the export of nuclear weapons materials in an apparent race to match its archrival.

Because of fears regarding Pakistan's weapons program, the U.S. government in 1978 persuaded France to halt construction of a plutonium extraction plant that a French company had contracted to build and for which the Pakistanis had already partly paid. During Mitterrand's visit, the issue of the canceled contract and the money has been a key test for the shaky Bhutto government.

Both Pakistan and India have refused to sign the international agreement on nulcear non-proliferation. Since 1980, when West Germany agreed to build a nuclear power plant in Argentina, all Western countries possessing nuclear tochnology, including France and the United States, have maintained an unofficial embargo against selling larger-scale nuclear projects to all countries in the Third World that have not signed the treaty.

"There were no sales of reactors and no major nuclear fuel contracts by Western countries since 1980," said Leonard Spector, a specialist on nuclear proliferation with the Carnegie Endowment for International Peace in Washington. Interviewed by telephone, Spector contended that the French proposal, although couched in terms of international safety and inspection procedures, would contribute to a dangerously escalating spread of materials that could be used in the making of nuclear weapons.

"Coming after all we know about Pakistan's nuclear program" Spector said, "It is surprising to see a European country break ranks with other suppliers and make a sale that appears to condone the Pakistan behavior.."

At its nuclear research facility in Kahuta, near Islamabad, Pakistani scientists are believed to have developed a uranium enrichment plant that is capable of isolating an isotope found in normal uranium and concentrating it into weapons-grade material. They have also been accused of using another small reactor, supplied by the United States to produce trilium, another material used in nuclear weapons.

Since 1980, Pakastanis or suspected Pakistani agents have been charged in the United States and several European countries with attempting to smuggle materials that could be used in nuclear weapons development. In 1985, Pakistani Nazir Vaid was arrested in Houston for attempting to smuggle high-speed switches used in nuclear weapons to his country.

Some doomsday scenarios about a future nuclear war began in the India Pakistan region. In recent weeks, in fact, the two countries have been involved in a heated war of words and sober-rattling over Kashmir, a mountainous region with a mostly Muslim population. Pakistan controls the northern part of the region and India the southern part. The issue has been at the heart of two wars between the countries.

However, Spector noted that France follows the Soviet Union and China in pledging nuclear projects in the region. In 1988, the Soviet Union, which until then had participated in the unofficial embargo of developing countries that have not signed the nuclear non-proliferation treaty, agreed to sell India two nuclear power plants. The agreement was subject to international inspection, and the Soviets added the unusual provision that they would take back all the spent nuclear fuel so that it could not be converted into weapons-grade material.

Late last year, the Chinese government offered to assist Pakistan in the construction of two nuclear power plants. Many believe the Chinese have been involved in Pakistan's efforts to build nuclear weapons, particularly in the technology for a missile delivery system.

France is second in the world behind the United States in the use of nuclear power for generating electricity—in fact, it derives a larger percentage of its power from nuclear facilities than does the United States—and has a highly developed industry known for its aggressive sales in sometimes controversial settings.

The French nuclear industry, for example, assisted in the construction of the Iraqi nuclear power plant that was destroyed by Israeli jets in a 1981 raid after the government of then-Prime Minister Menachem Begin asserted that Iraq planned to use the facility to develop nuclear weapons, the so-called Islamic bomb.

[From UPI, Feb. 21, 1990]

FRANCE TO SUPPLY NUCLEAR PLANT TO PAKISTAN

(By Denholm Barnetson)

ISLAMABAD, PAKISTAN.—French President Francois Mitterrand announced Wednesday that France will provide a nuclear power plant to Pakistan, honoring an agreement signed 14 years ago despite fears Islamabad may be developing nuclear weapons.

"We have decided to show full confidence in Pakistan," Mitterrand told a joint news conference with Prime Minister Benazir Bhutto on the third day of a four-day visit.

He announced that under an agreement signed Wednesday with Pakistan, "France pledges to authorize French industrial enterprises . . . to make rapidly a technical and commercial offer for the sale of a nuclear power plant to Pakistan.

"This offer will be in accordance with the international regulations, including controls and guarantees which apply to any export of nuclear plants and materials," he said.

Mitterrand said the terms of the deal will be discussed later, "but the political decision has been taken."

France agreed in 1976 to build a 900-megawatt nuclear processing plant at Chasma in Pakistan's Northwest Frontier Province, but reneged on the deal two years later under U.S. pressure after reports Islamabad planned to build a nuclear bomb.

Pakistan had demanded France honor the deal and pay millions of dollars in compensation, including interest on a down payment of $200 million. Wednesday's agreement said the two countries would seek an "amicable settlement" on the issue of compensation.

Pakistan already has one Canadian-built 137-megawatt nuclear power plant. China promised in November to build a 300-megawatt facility to help meet the country's chronic energy shortage.

Islamabad also has a uranium enrichment laboratory but has denied reports it is using it to build a nuclear bomb. It has refused to sign the nuclear Non-Proliferation Treaty, which would require international inspection of the plant, unless arch-rival India also does so.

France has supplied nuclear powerplants to a number of countries, including India, South Korea and China, but orders have declined recently due to environmentalist lobbies.

Bhutto, calling the agreement "historic," denied it would lead to a further deterioration in relations with India, already tense over a month-old uprising in the Indian state of Jammu and Kashmir. India has accused Pakistan of backing the militants, charges Islamabad denies.

"I don't think the decision will lead to further tensions because it is under international safeguards and it will be monitored," she said.

Mitterrand said France "sold a nuclear power station to India so I don't see why it would be so scandalous to supply one to Pakistan."

Mitterrand also announced France will lend Pakistan about $30 million to help with its energy shortage.

[From Kyodo News, Jan. 31, 1990]

PAKISTAN MOVES TO SETTLE NUCLEAR PLANT PURCHASE

ISLAMABAD, January 31.—Pakistan Foreign Secretary Tanvir Ahmad left Tuesday for Paris to finalize arrangements for buying a 900-megawatt nuclear power plant from France.

Pakistan has been trying to acquire the 900-megawatt nuclear powerplant from France since 1982, but the deal reportedly has been opposed by the United States, which wants Pakistan to sign a nuclear nonproliferation treaty or allow international inspection of all its nuclear facilities.

However, the directer general of the Vienna-based International Atomic Energy Agency said at a press conference in Islamabad earlier this month that according to his information, the sale of the 900-megawatt nuclear powerplant to Pakistan has been held up only because of financial snags.

Finance Minister Ehsan Ul-Haq Piracha had paid a secret visit to Riyadh last week, apparently to seek financial support from the Saudi Arabian Government. It was Saudi Arabia which had paid the down payment for a nuclear fuel reprocessing plant contracted by late Prime Minister Zulfikar Ali Bhutto and unilaterally canceled by France in 1978.

The government of Prime Minister Benazir Bhutto has already concluded an agreement for acquiring a 300-megawatt nuclear powerplant from China in November this year.

[From the New York Times, Nov. 1, 1989]

CLASH ERUPTS ON WAYS TO HALT SPREAD OF MISSILES

(By Michael R. Gordon)

WASHINGTON, October 31.—The Bush Administration expressed opposition today to legislation to impose sanctions against companies contributing to the spread of ballistic missiles.

Richard A. Clark, Assistant Secretary of State for Politico-Military Affairs, told the Senate Foreign Relations Committee that the adoption of such legislation would hamper the Administration's efforts to stop the spread of missile proliferation through diplomatic means.

But Congressional supporters of sanctions legislation rejected the Administration's arguments, saying that the United States needed to take a tougher stand against the spread of ballistic missiles.

"Exhortation and quiet negotiations may be useful, but exhortation cannot replace sanctions," said Senator John McCain, an Arizona Republican who is co-sponsoring a sanctions bill along with Senator Albert Gore Jr., Democrat of Tennessee.

In an unusually blunt statement, a Pentagon official acknowledged publicly that the United States was trying to stop France from selling rocket technology to Brazil and India and was concerned about Israel's continuing cooperation with South Africa's missile program.

"We have taken a strong stand against the proposed French sale of liquid rocket propulsion technology to Brazil and India for their space launch vehicle programs," Henry Sokolski, acting deputy for nonproliferation policy at the Pentagon, told the committee.

CONCERN OVER ISRAELI ROLE

Mr. Sokolski added that reports of Israeli assistance to South Africa were "a matter of serious concern at the highest levels" of the Defense Department. He added the Defense Department had "discussed the possibility of Israeli-South African collaboration at the highest levels with the Israeli Ministry of Defense."

Mr. Sokolski said that the Pentagon was considering a proposal to suspend contracts with foreign companies that fail to comply with export controls intended to stem the spread of ballistic missiles.

But Mr. Clark of the State Department, Mr. Sokolski of the Pentagon and officials from the Commerce Department and Arms Control and Disarmament Agency said that sanctions legislation could hurt the Administration's efforts to work with other nations to stop missile proliferation.

"The possibility that the U.S. might act unilaterally against a foreign firm or country could seriously hamper the information-sharing mechanism," set up by Western industrialized nations to stop missile proliferation, Mr. Clark said.

"Partners who might wish to consult with us on missile-related activities of their own companies would be unlikely to do so if the result would be to invite U.S. sanctions against those companies," he added.

Mr. Clark asserted that the Administration already had sufficient authority to penalize American and foreign companies and foreign countries that contribute to missile proliferation.

SOME REMAIN UNCONVINCED

Mr. Clark's arguments did not appear to sway Congressional backers of sanctions.

"Congress must act to make illegal traffic in these technologies very hazardous to the pocketbooks of certain kinds of corporations and their subsidaries," Senator Gore said.

Despite the Administration complaints and Congressional avowls of tough action, the scope of some proposed legislation appeared to be limited.

Under the legislation proposed by Senators McCain and Gore, a company in a foreign country that is cooperating with the United States to restrain the spread of ballistic missiles could be banned from contracting with the United States for two to five years if the company violated its Government's export laws by selling banned missile technologies.

Such legislation would not appear to apply to possible sales of rocket technology to Brazil by Arianespace, the French company, because such a transaction will only occur if it is approved by the French Government. French officials say that no final decision to approve such a sale has been made, but they maintain that such a transaction is consistent with international export guidelines.

[From the New York Times, Oct. 19, 1989]

U.S. SEEKS TO STOP BRAZIL'S MISSILE-TECHNOLOGY DEAL

(By Michael R. Gordon)

WASHINGTON, October 18.—The Bush Adminsitration has begun a campaign to dissuade France from selling Brazil rocket-motor technology that American officials say could be used to make ballistic missiles.

Administration officials say the sale of the technology, which is intended for Brazil's space program, would be a major setback to Western efforts to stem the spread of ballistic missiles to the third world.

The Bush Administration has protested to the French Government against the sale and a team of State Department officials flew to Paris last week to underscore American concerns, officials said today. Britain and West Germany have also expressed concerns over the sale, Western diplomats said.

A spokesman for the French Embassy here acknowledged that France was considering the sale of missile technology to Brazil but said that no final decisions had been made.

PACKAGE DEAL FOR TECHNOLOGY

The dispute between Paris and Washington arose when Brazil solicited bids this year from Arianespace, a French company, and McDonnell Douglas, the American company, for the launching of two communications satellites. As part of a package deal, Brazil also sought rocket technology so that it could develop its own capability to launch satellites.

In an effort to win the sale, Arianespace presented a proposal that called for the transfer of technology for the Viking rocket motor, a liquid-fueled rocket motor that is used in the Arianespace launching vehicle, according to a spokesman for the Brazilian Embassy here.

McDonnell Douglas did not offer missile technology, a company spokesman said. Instead, the American company told Brazil that it was willing to give Brazilian engineering a chance to work on the space shuttle, a company said. McDonnell Douglas said it was also willing to pay the cost of educating two Brazilian engineers in the United States in propulsion technology.

LIMITS ON SHARING TECHNOLOGY

A spokesman for the Brazilian Embassy there said that Brazil favors the French proposal but added that no final decision had been made.

Bush Administration officials asset that the proposed French sale would undercut a 1987 understanding among Western nations intended to stem the spread of ballistic missiles.

That understanding states that international cooperation on space programs is allowed "as long as such programs could not contribute to nuclear weapons delivery systems," like ballistic missiles.

Bush Administration officials said the missile technology should not be provided to the Brazilian space program because Brazil has a history of deriving military rockets from its civilian space program. They said they did not believe that effective safeguards could be worked out to insure that the rocket technology provided to the Brazilian space programs does not find its way to the Brazilian military and through arms sales, to the Middle East.

French officials, however, denied that France was undercutting the pact.

A French Embassy spokesman said that the 1987 agreement explicitly allowed the transfer of technology in some instances and said that France would provide rocket-engine technology to Brazil only if adequate safeguards were worked out to insure that it is used for peaceful purposes.

If a decision is made to provide the technology to Brazil, it will be transferred in stages, the spokesman said. That will enable Paris to cut off the technology if it is being misused by the Brazilians, he said.

A spokesman for Brazil's Embassy insisted that Brazil would not use the Viking rocket motor technology for military ends. The technology, the spokesman said, is for the "peaceful space industry in Brazil, which we think we have a right to do."

[From AP, Oct. 5, 1989]

U.S. PROTESTS FRENCH PLAN TO GIVE BRAZIL ROCKET MOTOR

(By Ruth Sinai)

WASHINGTON.—Despite strong U.S. protests, the French government plans to trade Brazil sensitive rocket technology that could be used by U.S. enemies to make ballistic missiles, government and industry officials said Thursday.

France has promised to give Brazil the technology of a liquid fuel motor called Viking, which powers the Ariane space launch vehicle, the officials said. In return, the French company Arianespace would be awarded a $60 million contract for the launch of two Brazilian communications satellites, they added.

The U.S. officials, who spoke only on condition of anonymity, said French President Francois Mitterrand personally made the decision to give the technology to Brazil, promising that safeguards would be placed to prevent use of the motor for lethal purposes.

But a statement issued by the government in Paris denied a final decision had been made. "The definitive contract will be submitted to the government for approval and this contract has not yet been given" to the government, the statement said.

"This contract will have to follow certain purposes and restrictions regarding technology transfers," it said.

The United States, however, is doubtful such safeguards can be implemented effectively.

"If someone like Libya wants to use this motor to harmful purposes, who will stop them?" asked one official.

Libya has been seeking to buy from Brazil equipment and know-how in an effort to develop a ballistic missile arsenal capable of delivering chemical weapon warheads, according to U.S. experts.

Brazil, one of an estimated 20 Third World countries which have some form of ballistic missile capability, has been exporting some missile technology while and attempting to develop a more accurate and sophisticated arsenal of its own.

Word of the planned French sale was first reported by Signal magazine, published by the Armed Forces Communications and Electronic Association.

Representatives of McDonnell Douglas Corp., the St. Louis-based firm competing for the Brazilian launch contract against Arianespace, were informed of the French proposal by Brazilian officials and conveyed the information to the Defense Department, officials said.

A spokesman for McDonnell Douglas, Bob O'Brien, said that if the French "transfer is made, obviously it wouldn't enhance our chances" to win the contract. He said Brazil had been expected to announce its decision already but has not done so yet.

The United States first protested the planned French sale last July during the seven-nation economic summit in Paris, one official said.

For awhile it appeared the protest had stopped the French plan, the official said. But the French government reconsidered when it appeared France stood to lose the lucrative satellite launch contract, he said.

The United States has warned France the technology transfer would violate the Missile Technology Control Regime, a 1987 agreement to stem the proliferation of such weapons, of which France is a signatory, the official said.

But France contends the Viking motor will be used for peaceful purposes and would not violate the agreement.

The United States is still reviewing whether it can stop the deal, the official said.

SENATE CONCURRENT RESOLUTION 114—RELATIVE TO THE FEDERAL CROP INSURANCE PROGRAM

Mr. DASCHLE (for himself, Mr. LEAHY, Mr. BENTSEN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. GRASSLEY, Mr. HARKIN, Mr. KERREY, and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 114

Whereas the President's Budget for fiscal year 1991 proposes elimination of the Federal Crop Insurance Program beginning with the 1991 crop year; and

Whereas the Federal Crop Insurance Corporation is now in the process of receiving comments from the public regarding changes in the program which it plans to implement this spring for the 1991 crops utilizing funds of fiscal year 1991; and

Whereas the failure to request funds for the program and other actions by the Federal Crop Insurance Corporation, may have created doubt concerning the viability of the Federal Crop Insurance Program as a means of protecting farmers from the financial hazards of crop failures; and

Whereas doubt created about the future of the program makes it difficult for farmers to obtain credit for planning 1991 crops; and

Whereas these contradictory actions tend to unnecessarily disrupt the farm economy; and

Whereas the Secretary of Agriculture has publicly stated that the failure to request funds for fiscal year 1991 is intended to induce the Congress to address questions such as funding for both farm disaster assistance and crop insurance; and

Whereas Congress is expected to consider major legislative changes in providing producers with risk management tools through the Federal Crop Insurance Program and/or other forms of disaster assistance; and

Whereas because of time constraints, if legislative changes in the program are adopted, such changes could only be fully implemented with great difficulty before 1991 fall crops are planted by farmers: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Secretary of Agriculture and the Federal Crop Insurance Corporation should endeavor to restore confidence in the Federal Crop Insurance Program by continuing to—

(a) expend funds made available for the program;

(b) operate the program in a manner that preserves, to the maximum extent practicable, the same type of operations and current operating agreements as are being carried out in fiscal year 1990; and

(c) operate the program in the manner specified in paragraph (b) until the Congress of the United States has had an opportunity to consider appropriations for the program for fiscal year 1991, as well as legislative changes in the program to be effective for some or all of the 1992 crops.

● Mr. DASCHLE. Mr. President, many farmers in South Dakota depend on Federal crop insurance to protect them against losses and to manage their risk. Crop insurance often is required by lenders.

The President has proposed eliminating the Federal Crop Insurance Program beginning with the 1991 crop year. At this time, it is not clear whether the Congress will support the President in his proposal or continue the program in its current form, or in some improved version. The Senate soon will begin writing the 1990 farm bill. Crop insurance is an important issue in that deliberation.

The Federal Crop Insurance Corporation, by failing to request funds for the program, has created doubt among insurance providers and farmers as to the future of the program. In my State, this means winter wheat farmers may soon receive notices that their crop insurance policies may not be renewed for the 1991 crop year, which for them begins this fall.

This action will make it more difficult for some farmers to obtain credit for planting, and will unnecessarily disrupt the rural economy.

Any changes in the crop insurance program should be accompanied by an orderly transition period. Cutting off insurance at this point is not fair to farmers.

The resolution I offer today expresses the sense of the Congress that the administration restore confidence in the Crop Insurance Program by continuing to spend funds available for the program, operate the program in a manner that preserves the level of operations and current operating agreements throughout the 1991 fiscal year, or until Congress has had an opportunity to consider appropriations for the program for fiscal year 1991, as well as legislative changes in the program to be effective for some or all of the 1992 crops.

This resolution is necessary to restore confidence in the program and prevent policies from being terminated until Congress has decided the future of the program.●

● Mr. HARKIN. Mr. President. I rise today to join in calling upon the administration and the Secretary of Agriculture to restore the confidence of the American farmer in the Federal Crop Insurance Program.

As we all know, the administration has proposed the elimination of multiple peril crop insurance beginning with the 1991 crop year in its fiscal year 1991 budget submission and its 1990 farm bill proposal. The administration has proposed a permanent disaster program for farmers. That proposal is inadequate protection for farmers against disaster risk.

Pronouncements from FCIC have left our agricultural producers wondering whether there will be multiple peril crop insurance for the program for the 1991 crop year.

It is unfair to American producers to lead them to believe that the current crop insurance program is in jeopardy for the 1991 crop year. Nothing has been done by Congress to alter our current form of crop protection. It only creates unnecessary and unwarranted confusion and concern to lead farmers to fear that this important protection against financial hazards of crop failure may well be yanked out from under them even after they have signed up for the coverage.

This resolution points out these facts and requests the Secretary of Agriculture and the Federal Crop Insurance Corporation to restore the confidence in the Federal Crop Insurance Program by continuing to operate and make funds available until Congress has had the opportunity to consider appropriations for FCIC and possible changes in the program.

This is a crucial time for our American farmer as we craft the agricultural policies for the next 5 years. And this certainly is not the time to damage their confidence in the Federal Government or its current agricultural programs.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, March 30, 1990, at 10:30 a.m. to hold a oversight hearing on immigration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 30, 1990, to receive testimony on S. 639, to establish a hydrogen research and development program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISABILITY POLICY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, March 30, 1990, at 9:30 a.m. for a hearing on the Reauthorization of the Developmental Disabilities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, March 30, 1990, at 10:30 a.m. to conduct a markup on the nomination of T. Timothy Ryan, Jr., to be Director of the Office of Thrift Supervision.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EXCELLENCE IN SCIENCE AND MATH AT XAVIER UNIVERSITY OF NEW ORLEANS, LA

● Mr. BREAUX. Mr. President, a great deal of attention lately has been focused on the need for improvement in mathematics and science education in the United States. The recent Education Summit held between the Nation's Governors and President Bush stressed the need for a greater commitment to math and science instruction.

I fully support the commitment that was expressed at the Education Summit to math and science and am hopeful that Congress will recognize the need for additional resources. I want my colleagues to know, however, that there are some good things happening in this vital area of education in my home State of Louisiana. An article in the New York Times of March 28, 1990 tells of an extremely successful program at Xavier University in New Orleans, LA that has helped a number of minority students succeed in the sciences. Xavier has produced more black medical students than any other university in the United States except Howard University, which is a much larger school. An incredible 95 percent of these students go on to complete their studies and become doctors.

I am proud of the innovative professors and dedicated students at Xavier and of the work that they have done to put this program together. Institutions of higher education in Louisiana are involved in a number of innovative programs as part of an effort to broaden their students' horizons and improve conditions in Louisiana. I am glad that one of the most successful of these programs is receiving the national attention that it deserves. I recommend the Xavier program as a model for math and science instruction programs around the country, minority or otherwise. Mr. President, I ask that the New York Times article that I mentioned be entered into the CONGRESSIONAL RECORD in its entirety.

The article follows:

TINY BLACK COLLEGE TAKES HIGH ROAD IN SCIENCE

(By Susan Chira)

NEW ORLEANS.—Xavier University, a few buildings on a dot of land squeezed between a highway, a drainage canal and rows of housing projects, hardly seems the stuff of educational legend. But this small college, where students' combined S.A.T. scores average a relatively low 840, excels at a task that has daunted far bigger and richer schools; turning out black doctors and pharmacists.

With just 2,900 students, Xavier ranks second in the country, behind only the much larger Howard University, in producing black medical students, and first in producing black pharmacists.

This success stands in sharp contrast to a dismal national record in science education. Although President Bush and the governors of the states want American math and science scores to lead the world in 10 years, the United States now trails far behind. While many students fare poorly in science, blacks represent only 2.6 percent of the nation's employed scientists and engineers, the National Science Foundation reports.

LITTLE MONEY OR RESOURCES

Xavier, the only historically black Roman Catholic college in the United States, has worked with little money or resources. Until two years ago, its main science building was an old World War II barracks. Despite a new science complex built with foundation grants, students complain of scarce research equipment. Professor's salaries are low. And most students, while bright and motivated, have test scores that would disqualify them from better-known state university or Ivy League schools.

A small group of determined professors, helped by several foundation grants they drummed up, designed a system combining introductory courses that build in remedial work with students tutoring and study groups, individual attention from faculty, and outreach to budding high school scientists.

"The typical college faculty member sees his job as weeding out kids who come into science courses, in the interest of maintaining quality," said J. W. Carmichael, a chemistry professor who began Xavier's drive toward science excellence by creating a summer program for high school students in 1977. "I could always drop people from a helicopter into Lake Pontchartrain and see how many drown. But what we do is start from the shore and teach them how to swim."

Many of Xavier's techniques, explained Joseph G. Danek and Roosevelt Calbert, who oversee the National Science Foundation's programs to attract minority members and women to science careers, echo those that researchers believe work with groups intimidated by science: one-on-one contact with faculty members, support groups to combat isolation, and study groups where students solve problems together, the way they will as doctors and scientists.

SUCCESS LEADS TO GRANT

Xavier has had demonstrable success: 95 percent of those admitted to medical school become doctors. And that success helped the school gain a $1.8 million grant from the Howard Hughes Medical Institute, the largest grant that foundation has ever given to a black college.

The school's underlying philosophy is to buttress student self-confidence, often shaken in high school or at predominantly white universities, by helping them meet the high standards Xavier sets. But at Xavier, in contrast to some schools, promoting self-esteem is not a euphemism for tolerating mediocrity. As students progress, the special supports included in the introductory courses drop off, so that courses come to resemble those that students will encounter in medical or graduate school. Professors gently steer those who fail into other majors.

"Gradually, they saw away at your cane and you have to walk on your own," said Yvonne Collins, a sophomore who says she intends to become an obstetrician to help reduce high black infant mortality rates.

Deirdre Labat's biology lecture and Professor Carmichael's chemistry drill session show how Xavier works. It is early morning, and students file into the auditorium for a lecture on molecular biology, a particularly difficult topic. Professor Labat begins by summarizing what the students learned the previous week, making sure they understand the structure of DNA, the genetic building block.

SCIENCE COMES TO LIFE

Then, to illustrate protein synthesis, she grabs the cord of the overhead projector and stretches it out to represent messenger RNA, which contains the genetic coding to make new cells. A student becomes transfer RNA, which picks up amino acids and transports them to the protein synthesizing site in the cell. Tugging gently on the students' arms, she walks them through protein synthesis.

The bright red biology workbooks Xavier students carry are another innovation. Professor Labat and other biology teachers decided that most introductory science textbooks are too overwhelming, forcing students to memorize too many facts. So they drew up a workbook that told students exactly what their teachers wanted them to know.

The workbooks, one for each introductory science course, also include less conventional exercises, developed to fill some gaps Xavier teachers discovered in their students' knowledge. When solving science problems requires certain kinds of mathematical equations, the workbooks review them.

The workbooks define vocabulary words—not just difficult science terms, but words like "simultaneous" or "discrete" as well, because teachers found students were mssing test questions because they did not understand the words. The workbooks explain how to write résumés, scientific experiments and applications—skills students will need to advance their scientific careers and to apply to professional schools.

Jose Santiago, a senior who will enter the M.D.-Ph.D. program at Tulane Medical School next year, has spent two summers doing research at the University of San Diego, alongside students from Harvard, Stanford and other big-name schools. "I was the only sophomore in the lab," he said. "But I did just as well."

When he compared notes with the other students, Mr. Santiago said, he realized how much Xavier teachers, had helped him. "They do everything to encourage you here," he said. "The other students were so worried about their grades and not so worried about learning. Here you learn more than you're tested for."

"What doesn't work," said Dr. Danek of the National Science Foundation, "is taking

these kids out of 12th grade and saying, 'You need remedial work.' All that says is you're way behind. What does work is saying: 'You may be somewhat behind at this time, but you're a talented person. You're behind because your high school didn't give you opportunities. We're going to help you advance, at an accelerated rate.' "

Xavier students also said they drew support from attending a predominantly black school. Kyran Mitchell, who entered Xavier on a basketball scholarship but stayed to earn top grades in biology after he was cut from the team, said, "When you mess up at a predominantly white school, it's, 'They messed up.' "

Some of the same methods, however, are being used at predominantly white schools to encourage minority members and women to stick with science. Sam Carrier, provost at Oberlin College, says his research and Oberlin's experience show that didn't have good college preparation," he said. "We don't shatter their illusions. Nobody tells them their scores were only so-so. Most of these kids would have gotten wiped out at, big white schools. But here they've done well, and then they can compete."

LESSONS PRESSED HOME

Whatever students miss in lectures or in the workbooks, they can go over in required weekly drill sessions. At Professor Carmichael's chemistry drill the other day, students passed in their homework, picked up required chemistry and vocabulary quizzes, and pulled out their calculators. At his desk, Professor Carmichael checked how many had turned in the yellow cards on which students record the grades they receive for every quiz or homework assignment in every course. The cards which must be signed weekly by students' academic advisers, are another way Xavier guarantees that students are in frequent contact with a faculty member and that they understand exactly what standards they will be held to.

While students took the vocabulary test, the professor graded the chemistry quizzes, so that students could find out immediately what questions they got wrong and could go over the answers with him at his desk. He then gave them more practice problems in troublesome areas.

"Aw, come on, Carmichael," one student groaned as he handed back her paper. "You know what I meant."

"I can't give you an answer for what you meant to put down there," he told her.

Students who still have trouble may seek free tutoring from older students at a center open five days a week, from afternoon until late in the evening. The tutoring center is set up so that students can get help fast without stigma before the next test comes along.

WORKBOOKS AND TUTORING

The carefully crafted lectures, drills, workbooks and tutoring sessions all fill in gaps that many students do not even recognize they have. Indeed, a dozen students interviewed said they felt extremely well-prepared for Xavier and had little trouble keeping up with the courses.

That, Professor Carmichael said, is exactly what the school wants to hear. "Actually, many of these kids setting up student support groups, conducting special orientations for minority students interested in science to meet with science professors and including students in faculty research have helped raise grades and retain students.

Xavier did not always have a reputation for achievement in science. In 1977 Dr. Carmichael started a summer program, SOAR, for Stress on Analytical Reasoning, to teach students problem-solving and test-taking skills and prepare them for college science courses. SOAR expanded so that now Xavier offers high school students summer courses to help prepare them for algebra, biology and chemistry, as well as SOAR 2, which emphasizes physics, mathematics, computer science and engineering.

The summer programs, free for most students, not only help keep high school students interested in science but also became a hugely effective recruiting tool. Mr. Santiago, a New Yorker from Brooklyn, attended SOAR on a foundation grant and then chose Xavier.

DEMONSTRABLE GAINS

After the summer courses began Professor Carmichael, Professor Labat and several other faculty members began revamping the introductory science courses. From 1987 through 1989, the Association of American Medical Colleges reports Xavier placed more black students in medical school—87—than any other school in the country except Howard—158. Howard is more than four times Xavier's size.

Now, said Professor Labat and George Baker, professor of engineering, Xavier wants to steer more students into engineering and graduate school. Professor Baker has helped double engineering enrollment in 10 years, and oversees several projects, including ones for engineering students who fail at other schools. According to the National Science Foundation, blacks hold only about 2 percent of the Ph.D.'s in natural sciences and engineering. Because few of their students know black Ph.D.'s or engineers, Xavier teachers expect this to be their toughest challenge yet.●

THE APACHE HELICOPTER

● Mr. McCAIN. Mr. President, I rise today to discuss an article that appeared yesterday on page 2 of the Philadelphia Inquirer. The article is titled "Probe uncovers serious flaws in Apache helicopter." This article attacks an aircraft that the U.S. Army feels is one of our major success stories. It is based on old facts and undisclosed sources. It also makes accusations about maintenance that the Army and McDonnell Douglas Helicopter Co. have worked on in a joint effort for over a year.

Mr. President, I wish to make three points concerning the Apache and the charges made in this article.

First, there was not one mission that the Army gave the Apache helicopter to perform in Panama, or which the Army started, that was not completed. "The Apaches performed the missions as we expected them to perform," Col. Gene Cole, commander of the 82d Aviation Brigade at Fort Bragg, NC, told the Fayetteville (NC) Observer. "They did exactly what we wanted. The Apache survivability was even better than it's advertised to be.

The 11 Apaches involves in "Operation Just Cause" flew for nearly 250 hours, and 138 of these hours were at night. Only three Apaches were damaged. One took 23 small arms hits, including damage to the rotors and at least one hit in the engine, but returned to Howard Air Force Base under its own power.

In fact, Maj. Gen. Tom Arwood, the Army's deputy chief of staff for readiness, told Aerospace Daily that the pilots were pleased with the performance of the night vision system, particularly the Apache's targeting equipment, and that there were no difficult problems repairing aircraft.

Second, Mr. President, let me address the problem of spare parts. Three severe high wind conditions led to massive damage to the Army's Apache fleet during the year previous to "Operation Just Cause." In order to repair the damage done to the Apache's at Fort Hood, Fort Polk and in Europe, the Army had to make an unexpected draw down on its spare parts inventory. We knew that the spare parts situation was critical long before we went into Panama, but through the coordination of the Army and the McDonnell Douglas Helicopter Co., the Army was able to receive the spares it needed from the plant in Mesa, AZ.

Finally, let me address the source of the story. This article is based on an unpublished, unedited, bootlegged draft, and I repeat bootlegged draft, of a GAO report. Further, the article appears to come from a report that has been written to defend conclusions that were reached before the report was prepared.

The references to maintenance problems in this bootleg report deal with well known issues. These problems have been worked on by the Army and McDonnell Douglas for roughly a year and all seem eminently solvable. The fact that the spare parts were not available was well known by the Army long before the report and was the result of a series of freak storms. Taking these issues out of context from a report that has never had meaningful military review scarcely does any one a service.

Finally, Mr. President, let me say that I have talked to the Army about all of these issues. I was told that the Apache performed its mission in a superb fashion. I was told that the Apache was given missions that could not have been done by the Cobra helicopter. Let the record show that the AH-64 Apache helicopter earned high marks for the Army for its survivability, night vision capability, weapons accuracy and overall performance during "Operation Just Cause" in Panama. ●

GREEK INDEPENDENCE DAY

● Mr. METZENBAUM. Mr. President, I am pleased to join the people of Greece and Greek-Americans in the commemoration of Greek Independ-

ence Day on March 25. This day marks the end of 400 years of Greek subjugation by the Ottoman Empire, from the fall of Constantinople in 1453 until Greece proclaimed its independence in 1821.

March 25 is designated as a national day of celebration of Greek and American democracy; 2,500 years ago, Greece established the traditions of individual freedom and justice that are the cornerstones of democracy. The principle of Government by the people, based on equality under the law, is the essence of our national heritage. This precious gift of democracy has served as a bond between our two nations, and as a shining beacon for the oppressed nations of the world. As the dawn of democracy breaks across Eastern Europe and Central America, it is all the more appropriate that we honor the Greek people for the democratic heritage they have given the world.

We also owe a profound debt to Greece for its magnificent contributions to Western culture. The achievements of the Greeks in the fields of philosophy, science and the arts have had an immeasurable influence on the development of our society. Greeks and Greek-Americans continue to demonstrate their dedication to individual thought and creativity.

Today, Greece is a thriving nation that is still dedicated to the ideals of freedom, equality and democracy. I am proud to offer my congratulations to the people of Greece, and their brethren here in the United States, on the 169th anniversary of their independence.●

THE CASE OF THE STONOV FAMILY

● Mr. GRASSLEY. Mr. President, as part of the congressional call to conscience, I want to bring attention to the case of the Stonov family.

On Tuesday, I had the honor of meeting with Natalia Stonov here in Washington. Mrs. Stonov is the wife of the preeminent Soviet refusenik, Leonid Stonov.

As she say in my office, we talked for some time about the plight of Soviet Jews and her husband's life as a long-term refusenik. I would like to share their story and what I believe the United States can do to help them secure freedom.

Leonid and Natalia Stonov live in Moscow. Leonid has been refused exit since 1979. It seems that the Soviets think he harbors deep, dark secrets he gained from his job as chief of laboratory for testing herbicides and defoliants. Leonid left this job more than 12 years ago, but the Soviets still refuse him exit based on nebulous "state secret" grounds.

From the time they submitted their applications for exit visas, the Stonov's have been prevented from pursuing professional careers. He is an agricultural scientist, she is a physician.

In 1981, Leonid was stripped of his academic degrees by the Higher Attestation Commission for applying for an exit visa. The persecution they have suffered, just because they are Jewish, pervades their family roots. Leonid's father was a well-known Soviet writer, who was arrested in 1949 and accused of anti-Soviet activities. He was jailed for 10 years in concentration camps.

And in Moscow the Stonovs remain. Glasnost has not reached them. Their wall to freedom has not been torn down. The Helsinki accords are not being realized for them or the other remaining long-term refuseniks.

What must the United States do on their behalf? I believe that as long as there are long-term refuseniks being denied freedom, we have a serious issue with which we must confront the Soviets. Just as human rights has been an integral part of our diplomatic and economic relations with the Soviets for the last decade, human rights must remain on the front burner, on the top of the agenda, and be an uncompromising component of our continued relations.

We must not forget the Stonovs. I will always remember Mrs. Stonov sitting in my office, proudly wearing a Star of David around her neck. I can only wonder if she could wear it so freely in Moscow. I will remember her telling me of her fears—fears not only for her and Leonid, but fears they have for their sisters and brothers who also share their fate.

And as long as they are denied freedom, this vision will remain in my mind; especially when I am called upon, on the Senate floor, to consider legislation concerning our relations with the Soviet Union.

I must add my thanks to Leonid, who serves as the monitor in a project I established last fall. Since November, Leonid has provided me with firsthand information on refugee processing in Moscow and the status of human rights in Soviet society. I have taken his information and concerns to our Government in hopes of bringing to light problems with the process.

I have great respect for his courage in taking on such a role. However, though I value him as a crucial resource, I would gladly put my project on hold if Leonid and Natalia could join us in America. But until that day comes, we must continue to fight for their freedom.●

STRUCTURAL IMPEDIMENTS INITIATIVE

● Mr. RIEGLE. Mr. President, some of my colleagues on the Finance Committee yesterday introduced legislation to respond to the lack of progress in the important trade negotiations we are now engaged in with Japan.

As a coauthor of the Super 301 provision of the 1988 Trade Act, I share the frustration of my colleagues over lack of progress in the structural impediments initiative. I applaud the distinguished chairman of the Trade Subcommittee, Senator BAUCUS, for sending the signal that Congress expects meaningful results from these negotiations and that it is prepared to take further action if results are not forthcoming.

I was pleased to see that President Bush quickly requested a summit with the Japanese Prime Minister right after he was reelected a few weeks ago. This is the first time a President has personally intervened in a trade matter to this extent. Over half the summit was devoted to trade issues.

Since the summit, there has been the appearance of movement in Japan's negotiating position. We will know very soon whether the movement is real or just appearance. The next round of negotiations takes place in Washington next week.

I am not a cosponsor of Senator BAUCUS' bill at this time. This is not because I believe the bill goes too far. Just the opposite. If the negotiations fail, I do not think this bill would go far enough.

If the negotiations fail, the bill in essence requires that there be more negotiations—as much as another year and a half more. No action would be required even at the end of this second set of negotiations; retaliation would remain at the discretion of the administration.

I believe we will need a stronger response if the current negotiations fail. We should not be content to wait another year and a half—for a total of 2½ years—for Japan to give our products the same treatment we give theirs.

We will have a better sense of what the U.S. response ought to be after the negotiations next week. The Japanese Government will have every opportunity at that time to respond to our concerns. I would like to give them that opportunity and then decide what further action may be necessary.

Again, I share my colleagues' frustration, applaud them for sending an important signal, and look forward to working with them on this matter in the future.●

NOTRE DAME COUNCIL ON INTERNATIONAL BUSINESS DEVELOPMENT

● Mr. LUGAR. Mr. President, it has become increasingly apparent that U.S. college graduates are ill-equipped to participate productively in a global economy. I rise today to recognize a group of business students at the Uni-

versity of Notre Dame who have taken it upon themselves to address this issue. I commend these students for their initiative in forming the Notre Dame Council on International Business Development, and I ask that their statement of purpose be inserted in the RECORD.

The statement follows:

STATEMENT OF THE NOTRE DAME COUNCIL ON INTERNATIONAL BUSINESS DEVELOPMENT

The U.S. business and political communities, as well as a number of institutions of higher education, are engaged in discussions of the globalization of American commerce. Our present economic system cannot attain the goal of increased globalization and success within the global economy so long as our business school academics, business students, and corporate leaders concentrate solely on the domestic market.

Lack of practical business experience is a problem both for professors and students, especially in the area of international business. Insufficient scholarship opportunities for study and practical experience abroad leave students ill-prepared for competition in international business. Our future business leaders simply must be better equipped in the languages, cultures, ethics and business procedures of other countries.

Unfortunately, our short horizons permeate all levels of education and commerce in this country. This limited vision must be corrected before we fall too far behind other nations who, compared to ourselves, think and act on a far more international basis.

For these reasons, the students of the University of Notre Dame have set out to change this pattern and provide leadership on campus and at other learning institutions by establishing the Notre Dame Council on International Business Development. With the support of the University Administration and the Business School, this select group of students conducted a Student Forum on Globalization on March 15, 1989 entitled "Catching the Global Wave." Here the students discussed the practical application of the philosophical and ethical foundations of Notre Dame in the global business setting. The organization leaders have subsequently received formal University recognition for the Notre Dame Council on International Business Development. This organization gave an October 20, 1989 presentation to the Notre Dame Business School's Advisory Council in which suggestions for curriculum changes and the students' educational concerns were voiced.

This program is unique in that it is completely student operated. Periodic Roundtable discussions with internationally experienced business people and the inclusion of students from other universities are planned throughout 1990. This spring's Forum topic is "Europe 1992," and this summer a number of Notre Dame students will complete research internships in Europe. Close association with the Peace Institute at Notre Dame, which brings foreign students to campus for year-long study programs, also provides direct interaction with a diverse group and further allows business students to understand how commerce can be a means to promote world peace.

Interaction with alumni will be the focus of a Notre Dame International Alumni Organization, which presently is being started. This complementary program will provide the Notre Dame Council on International Business Development with another source of guest speakers, internships and career possibilities. So, while the student program increases students' international awareness, the alumni program will allow for practical application of that awareness. In effect, these two organizations will create a bridge between the world of academics and the world of international business.

The University of Notre Dame continues to exercise its role as a premier institution of higher education while promoting the necessity to focus business education on ethical behavior within the global economy.●

HONORING THE JELKIN-HARMS UNIT NO. 142, THE AMERICAN LEGION AUXILIARY OF TRIPP, SD

● Mr. DASCHLE. Mr. President, I rise today to pay tribute to the dedicated members of the Jelkin-Harms Unit No. 142 of the American Legion Auxiliary of Tripp, SD. Together with the members of the American Legion, they put valuable hours into projects for the purpose of enhancing the lives of veterans and other residents within their community. Their hard work is one of the reasons why Tripp, SD, is such a great place to live.

I am proud of the strong, visible presence of the American Legion Auxiliary in Tripp. For years, the students of the Tripp Public School District have learned many valuable lessons about alcohol and drug abuse prevention, child safety and civic pride as a result of the school programs sponsored by the American Legion Auxiliary. Each year, the students of the Tripp community are reminded of what it means to be a good citizen through the American Legion American Essay Program. I cannot think of a better group of role models for these young students than the veterans and their wives who live in Tripp and the surrounding community and know what it truly means to serve one's country.

The many fine contributions of the American Legion Auxiliary do not stop with their sponsored school activities. The American Legion Auxiliary is very proud of its recent cosponsorship of a successful community blood drive. The countless hours of volunteer service provided by the American Legion Auxiliary members are one reason the community blood drive far surpassed last year's blood donor total. This project to promote the "gift of life" exemplifies the community spirit that typifies rural areas throughout South Dakota. I am proud of the American Legion Auxiliary's efforts to enhance the lives of their fellow South Dakotans, and I am confident that rural communities, like Tripp, will continue to thrive because of their many fine contributions.●

WORDS OF INSPIRATION

● Mr. KERREY. Mr. President, I would like to enclose in the RECORD a speech given by Frank LaMere of Nebraska's Winnebago Tribe at Nebraska's annual Jefferson-Jackson Day dinner on March 24, 1990.

His speech was delivered at that point in the program listed as: "Words of inspiration." I must confess I was skeptical as he rose to speak. There is an old fashioned streak in me that recoils at creative attempts to substitute for the traditional "Invocation."

I rose like the rest of the audience to hear Frank's words. However, I was not prepared to be inspired. Instead, I expected to be embarrassed and made to feel so uncomfortable that I would be hunting for the responsible party after the meal.

As it occurred, I was falsely apprehensive. Frank LaMere moved me and helped me to remember something important. I urge my colleagues to read his words and to reflect on them. They are inspiring, offering much-needed guidance in the confusing world we find ourselves in, in the 1990's.

SPEECH BY MR. FRANK LAMERE

Senator Exon, Senator Kerrey, Senator Sanford, Congressman Hoagland, distinguished guests, fellow Democrats, an Indian orator in the 19th century once said, "Tribe follows tribe, nation follows nation, like the endless waves of the sea."

Think about that as we gather to strengthen the resolve of our party and as we work to preserve democratic values that hopefully will be here long after we are gone.

Think about the Cheyenne Indians, one time landlords of our western Nebraska Plains, who cried when they went into battle, "Nothing lives long but the Earth and the mountains, it's a good day to die," reflect, if you will, on their willingness to lay down their lives that their traditions would survive and that their people would live free.

Think about this and you will know what I have known, that we as Americans, Indians and Democrats, are not so different after all.

I come here tonight, begging the indulgence of my Winnebago elders and those in this Chamber who are more capable and more worthy of sharing with you their words of inspiration.

Knowing that I would come before this forum, I asked our creator to bestow upon this Democratic Party, the strength, the wisdom, the compassion and the willingness to continue as we have since our beginnings. To continue to remember the old, the disenfranchised, the yet unborn, to continue to defend the helpless, to empower, to provide opportunity and to stand with our working men and women. To continue to insure that this democracy will not forget the leadership role we play in the free world and the encouragement that we provide to all those who would be free.

Knowing that I would come before this forum tonight, seeking to instill, to motivate and to inspire, I looked to the press and the media in the last weeks and days to learn of democratic changes abroad that would appeal to your senses.

To learn of elections, unification, rebellion and self-government. To learn of constitutions, human rights, statesmen and freedom fighters. In short, to learn about heroes.

Indeed, I was prepared to come here extolling the virtues of foreign governments and praising the names of emerging world leaders.

But then, I thought about a young Nebraska sailor, here with us tonight, who had given his all for this country in winning the Congressional Medal of Honor. I thought of his pain and devastation, and what he has overcome. I am moved by it. I thought of the meritorious service of our Congressman and the struggles that our senior Senator faced many years ago in the jungles of Luzon and New Guinea. I have been told that he was not weak. I thought of black boys, white boys, Indian boys, and women who died trying to get home to Nebraska.

I thought of Tony Lamere, my best friend and younger brother, who at 20 years and 20 days, lost his life in Vietnam defending the Constitution. I remember my mother's broken heart and the tears of my Winnebago people. I remember his last letter to me in which he wrote, "I can take no pride like others here in being fearless or in saying that I am not afraid when I go into battle. I can only take pride in going out on patrol, day after day, being more afraid than I have ever been in my life."

These are our heroes Nebraska. They had been here all the time. They have inspired us through their sacrifice and they have paid our admission into this hall tonight. They have allowed us to stand on their shoulders and have secured for us the right to talk of things noble and democratic. They have left for us a legacy of freedom born of pain and endurance.

Do not forget these heroes, Nebraska. They are all that we have. They are the only heroes that we will ever need.●

HOUSE PASSAGE OF CHILD CARE

● Mr. DURENBERGER. Mr. President, over a year and a half after the Act for Better Child Care was introduced and 20 years after child care was first debated at the Federal level, we see a glimmer of hope in enacting the first comprehensive child care bill ever to pass the Congress. Child care is a critical national concern, both for the welfare and enrichment of our children and for the competitiveness of our economy.

While the bill passed by the House looks considerably different from the bill first introduced by the ABC Coalition, I believe this coalition deserves considerable credit for the leadership and the attention they have brought to this issue and for bringing it to the forefront of the political agenda.

I believe that the bill passed by the House reflects the lessons learned over the past 20 years—lessons that more Federal dollars, mandates, and bureaucracies do not, in and of themselves, solve problems. Experience has taught us that giving consumers the resources and information they need to make wise choices in the marketplace is the best way to both expand access and improve quality for many public services, including child care. The House bill properly adopts this concept.

It is unfortunate that the child care bill almost got side-tracked once again over an issue not even related to child care—and that is the use of vouchers in education. The education community has tried to block passage of this bill because they are concerned that permitting parents to choose the most appropriate child care program for their child through the use of a voucher system will lead to public funding of private educational institutions. This simply will not be the case. I am pleased that the House in the end chose to adopt the language Senator FORD and I added to the Senate package that lifts the restrictions on religious provided care and allows parents to choose the most appropriate form of care for their child whether it be in a church setting or not.

Changes that would have—for the first time—prohibited Federal funds to be used in religious-based child care programs would have had serious implications on the supply and affordability of child care in this country. My amendment to the Senate package—which was adopted today by the House bill—made sure that parents would be able to choose religious child care programs. This is extremely important if we are to meet the goals of this bill and ensure adequate supply levels of child care for all low-income families. An estimated one-third of all child care is provided in religious-based programs. In Minnesota, churches play a large and growing role—providing an estimated 35–40 percent of all child care services. Outside the metro area, this figure is around 25 percent ranging from a low of 5 percent in region 8 to 41 percent in region 5. Denying this choice to low-income families is absurd.

All but a handful of States have no restrictions on the use of public funds for religious-based child care programs. Indeed, Minnesota's own sliding scale fee program has no such restrictions. The fact is that allowing public subsidies to be used by parents choosing religious child care programs has worked well in Minnesota and in other States around the country. To reverse these practices would not only be a step backward in a State that prides itself for its leadership role in promoting individual choice in services but also would threaten existing programs reliant on funds received from both State and Federal programs.

The biggest winners of this breakthrough in House action, however, are the children. Most of all what is needed for so many families is additional money in their pockets so they can meet the work-family demands they face and can be assured of a quality child care program for their children while they work. We are finally on track in meeting these needs.●

YOUR MEAL TONIGHT, PRODUCED BY INDIANA FARMERS

● Mr. LUGAR. Mr. President, I would like to take this opportunity to introduce my colleagues to a distinguished group of Indiana students. These Hoosiers participated in the third annual Eighth Grade Youth Essay Contest, which I proudly sponsor in conjunction with the Indiana Farm Bureau and Bank One of Indianapolis. I would like to submit their names as an example of excellence in Hoosier education.

Each participant entered an essay on the theme "Your Meal Tonight, Produced by Indiana Farmers." I ask that the two winning essays, written by Marc Hill from Hancock County and Karah Simmons from Whitley County, be printed. As State winners of the Youth Essay Contest these two students are being honored today during a trip to our Nation's capital.

The material follows:

ESSAY BY MARC HILL, DOE CREEK MIDDLE SCHOOL, HANCOCK COUNTY

(Mrs. Carol Cummings, teacher)

As I sit on the tractor waiting for my father to unload the combin's load of soybeans into the augerwagon, I think about my meal tonight. My mom radioed in and said we will be having pork chops, mashed potatoes, gravy, corn, bread and butter and milk. Leaning back in the seat, I begin to think about my supper and Indiana agriculture.

Indiana ranks third in the country in pig production. We raise hogs so we have pork on the menu often. Pork helps the body to make cells and muscle tissue. Each person requires two servings from the meat group each day for good health.

Indiana ranks 28th in potato production. Potatoes are a very versatile food. They have carbohydrates and a major source of energy. We need three to four servings of vegetables each day. Our state ranks fifth in corn production. Corn is also a carbohydrate and a source of energy.

Our great state also ranks 14th in milk production. Milk is a wonderful source of calcium and is a major contributer to the structure of bones and teeth. Our bodies need three to four servings of milk products each day.

Indiana also produces a wide variety of other products, such as chickens, sheep, beef, popcorn, sunflower seeds, wheat, oats, apples and tomatoes.

It is very important to have a well-balanced diet. It will contribute to such things as a longer life, better health and more enjoyment out of life.

Boy, I sure wish he would hurry up. I am starving for some of that great Indiana home-grown food.

ESSAY BY KARAH SIMMONS, SOUTH WHITLEY MIDDLE SCHOOL, WHITLEY COUNTY

(Mrs. Prater, teacher)

Hey, you, there in there in the mirror? This is your body talking. You weren't going to skip breakfast, were you? I get so tired when you do that and my poor brain can hardly concentrate. Breakfast is what I need to get started on the nutrients I require every day to stay healthy and active.

Remember studying the food groups in health class. The dairy food group with

milk, cheese and ice cream helps me build and maintain bones, teeth, muscles and nerves because they are rich in calcium. Then there is the meat group. It includes meat, fish, poultry, eggs, cheese, dried beans, peas and nuts. They have protein, which every living thing needs. Without them, I become listless and fatigued. Vegetables and fruits make up the group that give me vitamins which help my vision, keeps my skin and organs in good condition, promotes steady nerves and gives me a normal appetite. Good digestion helps to convert food into energy and keeps bones and muscles healthy. I also need foods from the bread and cereal group. They supply me with carbohydrate for fuel and fiber for digestion.

Just think, I, your body, need all these nutrients, and you live in a state like Indiana where your can find so many of them. Indiana has dairy farms, hogs, cattle, sheep and chickens. It also produces grain crops, like corn, wheat and oats. Vegetables and fruits are also grown here in the spring and summer and can be stored for later use. Why, there is everything a body needs!

Now, go and have your breakfast, and don't go skipping dinner or supper either. Remember, you take care of me and give me the right nutrients and I will be healthy and here for a long time to help you enjoy your retirement!

YOUR MEAL TONIGHT WINNERS

DISTRICT WINNERS

District 1: Seth Zartman, Amy J. Van DeWalle.
District 2: Chris Hummer, Karah Simmons.
District 3: Craig A. Frey, Brandie Reid.
District 4: Gwyn Cordes, Adam Reynolds.
District 5: Stephanie Shubert, Sean Sharma.
District 6: Sara Gibbs, Marc Hill.
District 7: Trent Swartzentruber, Desha Secrest.
District 8: Lori Hertel, Anil Soni.
District 9: John Alvey, Terri Tempel.
District 10: Carmen Elliott, Travis Campbell.

COUNTY WINNERS

Allen: Pam Lontie, Jason Gerig.
Bartholomew: Anil Soni, Erin Baldwin.
Benton: Patrick Andrew Thurston, Kelli Noel Thurston.
Boone: Matt Sink, Stephanie Shubert.
Carroll: Craig A. Frey.
Daviess: Trent Swartzentrulow, Desha Secrest.
De Kalb: Chris Hummer, Danielle Bash.
Delaware: Arrick Garringer, Stormie Morgan.
Fayette: Brian Thackrey, Lori Hertel.
Franklin: Adam Mergenthal, Jill Ellis.
Fulton: Seth Zartman, Debby King.
Gibson: Greg Lear, Christy Hasenour.
Harrison: Todd Buckingham, Sunshine Kaufer.
Henry: Aaron Armstrong, Jennifer Schweizer.
Huntington: Matt Webb, Anna Rinehart.
Jefferson: Mike Howe, Stacy Ash.
Jennings: Travis Campbell, Brandi Corya.
Lagrange: Amy Wieseman.
Madison: Sara Gibbs.
Miami: Taylor Ortiz, Julie Sutton.
Newton: John Waldron, Amanda Taylor.
Nobel: Chet Smith, Jill Kunce.
Orange: Joe Sibbitt, Alicia Ragains.
Posey: Dixon Crouch, Katy McFadin.
Ripley: John Imgram, Carmen Elliott.
Rush: Roy Redd.
Shelby: Christopher Miller.
Spencer: John Wetherill.
Steuben: Adam Henderson, Kymberly Monchilow.
Sullivan: Brian Harris, Tara Weitekamp.
Tippecanoe: Stephanie Anna Rumble.
Vanderburgh: John Alvey, Jane Kim.
Wabash: Mark White, Gwyn Cordes.
Warrick: Joan Maurer.
Wells: Adam Reynolds, Shannon Pulfer.
Whitely: Matt McManama, Karah Simmons.●

HONORING THE OTTO QUANDE RENVILLE UNIT NO. 50, AMERICAN LEGION AUXILIARY OF SISSETON, SD

● Mr. DASCHLE. Mr. President, I rise today to pay tribute to the dedicated members of the Otto Quande Renville Unit No. 50 of the American Legion Auxiliary of Sisseton, SD. Together with the members of the American Legion, they put valuable hours into projects for the purpose of enhancing the lives of veterans and other residents within their community. Their hard work is one of the reasons why Sisseton, SD, is such a great place to live.

I am proud of the strong, visible presence of the American Legion Auxiliary in Sisseton. For the past 50 years, students in the Sisseton public school district have learned a lesson in patriotism from the many men and women of the American Legion who know first hand what it means to sacrifice for the good of their country. Each year, the men and women of the Sisseton American Legion present an American flag to every elementary school child who memorizes and successfully recites the Pledge of Alegiance to the Flag. Civic pride is also emphasized by the American Legion Auxiliary's annual "Government Day," during which students from Sisseton and the surrounding community tour the Roberts County Courthouse and meet and discuss issues of concern with their county's elected officials.

The lives of the elderly citizens of the Sisseton community are also enhanced by the many contributions of the American Legion Auxiliary. For example, the auxiliary provides wheel chairs, hospital beds, walkers, and other needed durable medical equipment to elderly citizens who have been recently discharged from the hospital and must rely on this medical equipment during their recuperation. Without the assistance of the American Legion Auxiliary, many elderly citizens on fixed incomes would never be able to afford this expensive durable medical equipment.

These are just a few of the many fine projects sponsored by the Otto Quande Renville Unit No. 50. Their commitment and dedication to serving their fellow citizens is a reminder that Sisseton's veterans and their families have not finished serving their country.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: calendar items numbered 678, 679 and 680, and all nominations placed on the Secretary's desk in the Marine Corps. I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Ronald W. Yates, [redacted], USAF.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Thomas R. Ferguson, Jr., [redacted], USAF.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. David J. Teal, [redacted], USAF.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE MARINE CORPS

Marine Corps nominations beginning William G. Byrne, Jr., and ending Michael V. Villalva, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 20, 1990.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDER FOR RECORD TO REMAIN OPEN

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 p.m. for statements, for the introduction of legislation, and that committees may file legislative and executive calendar business until that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am advised that Senator RIEGLE would like to make a statement.

I see the distinghished Senator from Alaska [Mr. MURKOWSKI] is here. If the Republican leader has no further business, I would be prepared to yield to the distinguished Senator.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

VIETNAM

Mr. MURKOWSKI. Mr. President, I thank the majority and minority leaders.

Mr. President, there are still some holdouts in the worldwide rush to democracy as we see it developing today. We have seen the retreat in China, and certainly in Vietnam the situation has reached a standstill.

As we look at Vietnam, we recognize the Vietnamese have largely withdrawn their troops from Cambodia. The evidence has been that they have become more cooperative in the ongoing search of the final accounting of our MIA's.

Even as we speak here today a team of United States experts is in Vietnam interviewing villagers near crash sites where American aircraft are believed to have gone down.

And the Vietnamese have further agreed to address the question of Americans who we believe were taken alive but for which no final accounting has ever been made.

Nevertheless, it is fair to say that our relationship currently with Vietnam remains very distant.

We have no formal diplomatic ties.

Trade is embargoed, and for all practical purposes, the nation of Vietnam is virtually cut off from the United States.

But the question is what cost, if any, does this impose on our Nation? What would be the result if Americans could freedly travel within Vietnam? Would that exposure help resolve the question of the possibility of Americans being held captive in that country today?

A Vietnam that is closed to United States today is still open to trade from Europe and our Asian trade partners and competitors—and they are moving in, Mr. President—the French, the Germans, and others.

Any path toward normalization with Vietnam must take several facts into account in its consideration.

First of all and foremost, we still do not have a satisfactory accounting of our MIA's, those missing in action.

The recognition that the Vietnamese Communists still play a very major role in Cambodia's ongoing civil war is evidenced by virtually every news account coming from that part of the world.

Finally, we must maintain a realization that Vietnam needs us much more than we need them.

Those facts notwithstanding, the initiation of some type of relationship with Vietnam could bring certain benefits. It could lead to the expeditious resolution of the MIA question; the issue of trade is paramount as we look at our ability to be competitive in the world marketplace, and the opportunities for trade and the potential of a labor force that could generate the same degree of productivity that we see in the ASEAN countries; and, finally, the possibility of an end to the Soviet monopoly of the Vietnamese military bases and presence in Cam Ranh Bay, and so forth.

So I bring the attention of my colleagues to the realization that the time may be developing for a people's revolution, if you will, in Vietnam as we have seen in Eastern Europe—possibly a new Vietnam that would nurture the seeds of democracy and that would lead to the development of an economic vitality that we have seen as we reflect back on the lessons of history in both our relationship with Japan today, with Germany today, both nations, which we defeated in World War II.

So I ask my colleagues to reflect on the reality that these truly are extraordinary times, and extraordinary times provide extraordinary opportunities.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. RIEGLE. I thank the majority leader.

NOMINATION OF TIMOTHY RYAN, JR.

Mr. RIEGLE. I take the floor to add a few comments on the subject that the minority leader spoke about just a few moments ago, namely, the nomination of Timothy Ryan to be Director of the Office of the Thrift Supervision.

I appreciate the kind reference that the minority leader made to the efforts of the Banking Committee to expedite the handling of that nomination.

At the specific written request of Secretary Brady, the committee acted with unusual speed to take up this nomination, and to deal with it this week.

We received the nomination papers only on Friday of last week, had a lengthy nomination hearing on Wednesday, and then under the use of emergency procedures brought the matter forward for a vote in committee this morning.

So we have tried in every way to accommodate the need for the fastest possible response to this particular job vacancy and all the factors that attach to it.

I might say that the job in question is not a single job. The person who receives that job becomes the Director of the Office of Thrift Supervision which oversees the entire savings and loan industry. But that person also gets two additional jobs. He becomes a member of the FDIC [Federal Deposit Insurance Corporation], which is responsible for providing all the deposit insurance for all savings and loans, and also becomes a member of the RTC [Resolution Trust Corporation], which is this very important responsibility to take and dispose of this mounting volume of assets that have been repossessed by the Government from failed institutions.

So these are three very, very big and important jobs that one gets in a package, if one becomes Director of the Office of Thrift Supervison.

I say today that there is no more difficult financial job in our country than that job. I say that over and above the job of being corporate controller and treasurer of any one of the corporate giants in the country or one of the Fortune 500, or any other top financial job in or out of Government, that today the person responsible for taking this job and sorting through the aftermath of the savings and loan collapse will have the single most demanding and difficult financial job in our country. So, obviously, we want someone of a towering size and capacity to tackle that assignment.

That was the issue that divided the committee quite sharply today as we took up this nomination. The vote, when it was taken, was a vote of 11 votes in favor of reporting the nomination to the Senate and 10 votes against. Obviously, the shift of one vote would have changed the outcome. So it shows, I think, how closely divided the committee was on this issue.

It was not decided on a partisan basis, as the votes themselves will indicate, in terms of how they were cast. I say on behalf of those 10, of which I was one as the chairman of the committee, we felt that the nomination was not strong enough and did not meet the standard of adequate qualification. The concern of those of us who voted that way goes to the issue of the enormous importance and complexity of this job and the need to have someone who is a bona fide financial professional, not necessarily someone out

of the savings and loan industry, but someone who certainly has a background at the highest levels of finance in this country and has been involved in very complex financial issues and matters, and who would bring a wealth of experience and know-how and professional contacts of others whose opinions may be drawn upon to be able to do this particular job.

That is important not only because you obviously want somebody that is up to the job and has the basic qualifications, but the job requires independent judgment. So while one might seek opinions elsewhere, this particular job, because it is an agency that is required by its very charter to express independent judgments, needs to have someone running it who is fully capable to draw off a wide body of experience and knowledge, albeit with outside advice, but in the end to be able to make solid, top-level, executive-level financial judgments and decisions.

So to be able to do that independently, to safeguard that aspect of the job, again leads to the qualification question of somebody who really has a towering reputation and body of professional experience over many years that would show that kind of financial track record and capability.

This issue will be coming to the Senate floor, I hope, next week. We must, today and over the weekend, try to work out the scheduling arrangements, but the thought within the Banking Committee was that upon the disposition of the legislation on clean air, that if it is agreeable with the leadership of the Senate, that this matter come up promptly.

There are other extenuating circumstances with respect to outstanding court issues and court challenges that make it necessary for us to continue to move on an expedited basis.

I take the time now just to lay that minimum foundation as an add-on to comments I made late last evening here on the floor to address this point to my colleagues.

It is very important, that I say to all my colleagues in the Senate who have not yet examined this issue closely, that would be all the Members not serving on the Senate Banking Committee, the other 79 Members of the Senate who will be taking this issue up in close detail for the first time, I urge all of you to withhold a judgment on this until you have had a chance to hear the full debate.

Obviously, any time there is a divided opinion within the committee, where one vote makes a difference as to whether or not a nomination is reported or turned down, it indicates that there is a lot of argument and factual information that ought to be weighed on both sides of the question, without in any way prejudicing the outcome. I have endeavored to run a fair process in every way, shape and form, and will continue to. I think Members ought to know that this is an important enough job, and there are enough important debating points that will be expressed and need to be heard, that I think Members ought to withhold, for now, any final judgment on this matter.

I think that also applies, even more importantly, to any phone calls they might get from the White House or any other place that says: "Look, we would like you to say today that you will vote for this guy; he is a great guy" and so forth and so on. That happens as a matter of course with nominees, regardless of administration. So that is nothing out of the ordinary. I think it is very important with respect to the serious relevance of this particular job in solving this outstanding financial problem of such incredible size in the savings and loan industry that Members will want to have all of the facts and the benefit of all of the debate before they finally make a final judgment.

There were Senators today in the committee meeting that were not quite sure how they would vote until all of the debate took place in the committee, and I suspect that may well be the case on the floor as well.

So I hope that Senators would take the committee report—we intend to have it done as quickly as it can be completed and sent to the printer—I hope that you will read it and will feel free to inquire of those of us on the Banking Committee on either side of the issue for any answers to any questions that we can provide. We will try to be helpful in any way we can.

I might say that in talking last night, myself with the nominee, we met for the first time and had a pleasant exchange, and I thought a constructive dialog back and forth.

So this issue has nothing to do with personalities as such. It has everything to do with the question of what constitutes an appropriate body of experience and qualifications to take on what is, I think without any question, the most complex, demanding and difficult financial job in the United States today.

So with that, Mr. President, I will yield back the remainder of my time and I will be prepared to discuss this item further next week.

ORDERS FOR MONDAY, APRIL 2, 1990

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1 p.m. on Monday, April 2; that, following the time for the time leaders, there be a period for morning business not to extend beyond 1:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. On Monday, Mr. President, the Senate will resume consideration of the clean air bill at 1:30 p.m.

I again urge Senators with amendments to the bill to come forward with those amendments on Monday. There will be no rollcall votes on Monday. Any rollcall votes ordered on Monday will be stacked to occur to Tuesday.

On Tuesday morning, when the Senate begins its business, it will resume consideration of the clean air bill, and the managers hope to have ready for consideration at that time a managers' package of allowance amendments.

The Senate will complete action on the clean air bill on Tuesday, no later than 8 p.m., and hopefully earlier than that. Senators should be aware that no consideration will be given to requests for extending the time for final passage of this bill.

Mr. President, I have no further business.

RECESS UNTIL MONDAY, APRIL 2, 1990 AT 1 P.M.

The PRESIDING OFFICER. Pursuant to the previous order of this body, the Senate stands in recess until 1 p.m., Monday, April 2, 1990.

Thereupon, at 2:49 p.m., the Senate recessed until, April 2, 1990, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate March 30, 1990:

THE JUDICIARY

RICHARD W. VOLLMER, JR., OF ALABAMA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA VICE WILLIAM BREVARD HAND, RETIRED.

IN THE COAST GUARD

REAR ADM. WILLIAM J. KIME, U.S. COAST GUARD, TO BE COMMANDANT, U.S. COAST GUARD FOR A TERM OF 4 YEARS WITH THE GRADE OF ADMIRAL WHILE SO SERVING.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 30, 1990:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RONALD W. YATES, [redacted] USAF.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS R. FERGUSON, JR., [redacted] USAF.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID J. TEAL, xxx-xx-xxxx, USAF.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING WILLIAM G BYRNE, JR, AND ENDING MICHAEL V VILLALVA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 20, 1990.

HOUSE OF REPRESENTATIVES—*Monday, April 2, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We exalt, O God, in the gift of freedom and the excitement of liberty, and are appreciative of all the opportunities to build and achieve in our lives. Yet, as we enjoy these gifts, so grant us, O God, the responsibility to use these gifts with wisdom and discretion, with integrity and honor. Remind us, gracious God, that You have given us commandments and moral instruction in the way of a responsible life so that we may lead good and holy lives one with another. In Your name, we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

The message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a joint resolution of the House of the following title:

H.J. Res. 500. Joint resolution to designate April 6, 1990, as "Education Day, U.S.A."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 388) "An act to provide for 5-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 393. An act entitled "Camp W.G. Williams Land Exchange Act of 1990";

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes;" and

S. 1859. An act to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes.

The message also announced, that pursuant to Public Law 93-29, as amended by Public Law 98-459, the Chair on behalf of the President pro tempore, appoints Dr. Virginia Zachert, of Georgia, from the private sector, to the Federal Council on the Aging.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC, March 30, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 3:35 p.m. on Friday, March 30, 1990 and said to contain a message from the President whereby he transmits an amendment to the International Regulations for Preventing Collisions at Sea, 1972, as amended.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

AMENDMENT TO INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-169)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, April 2, 1990.)

UNLV BASKETBALL TEAM COMPOSED OF MIDDLE AMERICANS

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, as a UNLV alumnus, I come here not to praise my team or to talk about Duke. What concerns me is what is going on in the press.

They are a young team and they are young people, 18-, 19-, 20-year-olds who have been branded by many as thugs, or disreputable young men because they are junior college or community college transfers into UNLV, and these young people are condemned for some reason because they come out of the inner cities, and they play rough, tough, and hard basketball. But as the Loyola Marymount coach stated, they are a real class act.

Ever since the beginning of the tournament, at a time when even they did not know in their own tournament that Loyola Marymount would be in the tournament, they wore a black patch for Hank Gathers of Loyola Marymount, a team we have played consistently over the years, which they respect.

The team has worked hard to get into the NCAA finals. I do not say who is going to win tonight. I am not here with bragging rights, but I do not think it is wrong for a young person to go to a junior college or community college, or to fight his way into college and have to work hard and to be an average student.

I think it is important to recognize that UNLV is a State institution, a State college with low tuition, because we believe in Nevada that every young person in this country that wants to go to college should have the opportunity to go to college. We do not want to make it so expensive like a Duke, or Harvard, or Stanford, that one cannot get in. Only the upper one-tenth of 1 percent are eligible for those institutions.

Tonight when UNLV plays basketball, look out there, look at a bunch of kids that could be your sons, kids that want their education, enjoy their school, and are average, typical Americans that live in Nevada, that enjoy our State, and could be from any State in this country.

The University of Nevada Las Vegas is Middle America. We are not an elitist school. We will be playing for the average citizens of this country. We are not a school to not be proud of. I am an alumnus of that university, and I am proud to be a UNLV alumnus, and proud that this time our team is representing us out there.

When watching tonight, just remember they are average kids. They are not the upper one-tenth of 1 percent, but they are great kids, and they are playing hard.

TRIBUTE TO THE PAGE HIGH SCHOOL PIRATES OF GREENSBORO, NC

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, this is the season to praise basketball champions, and my district is no exception.

About a week ago the Page High School Pirates of Greensboro, NC, were declared the State 4A champs. The Pirates lost not a single game during the 1989-90 season while winning 31.

The average grade point average compiled by these basketball players is 3.8. The Pirates emphasize team performance over individual statistics, unselfishness for the good of the team was their motto.

At this time in our history, Mr. Speaker, when greed appears to be universally ubiquitous, here was a basketball team whose members emphasize the importance of academics over athletics, unselfishness over personal acclaim, hard work over frivolity.

Perhaps we can all learn from the example set by the Page Pirates, North Carolina's reigning 4A boys' basketball champions.

LEAVE A WAKE-UP CALL FOR NETWORK NEWS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, last week, an anxious world learned from an overdose of press stories that President Bush has made a decision, on broccoli. The story that the President of the United States doesn't like broccoli was covered and recovered all week by a press corps seemingly anxious to torture us all with this mindless minutia.

While the world was being offered this not-quite award-winning news about the President's taste in vegetables, the television cameras and journalists covering the broccoli shipments to the White House continued to ignore the relentless march of famine and starvation in Ethiopia and Sudan, where hundreds of thousands of people are at risk of losing their lives very soon.

One expert, just returned from Sudan, told our congressional hearing that he saw old women 40 feet up in trees gathering leaves so that their families would have something to eat. Tree leaves for dinner. That's all there was. Hearings have been held in both the United States House and Senate on this impending disaster in the Horn of Africa, but not a single television camera is present to record the horror stories of those just returned from Ethiopia and Sudan to tell us of the men, women, and children bravely waging a battle against starvation.

How, I wonder, can the world's press spend a week chasing stories about broccoli and ignoring stories about mass starvation? How can they treat the light so seriously and the serious so lightly?

The winds of hunger blow every hour and every day. And, in an age when news and entertainment seem a tangled web, the issues of famine and hunger can't compete with the President's broccoli and the Trump's divorce. So will someone please leave a wake-up call for the network news. Starving men, women, and children need their attention. Now.

□ 1210

CONSIDERATION OF A CONSTITUTIONAL AMENDMENT ON FLAG PROTECTION

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, we are making progress on protecting that flag that hangs behind you here on the floor of the House.

As you know, 2 weeks ago we voted 309 to 101 to withdraw a brief filed on behalf of the House that said the Supreme Court can take its time deciding on the constitutionality of the Flag Protection Act. Luckily the House withdrew that brief and last week the Court announced that on May 25 it will hear oral arguments in a special session to determine the constitutionality of the Flag Protection Act.

If the act is upheld, that is the end of the problem. But I fear that it will not be upheld, and therefore I am very pleased that the Speaker has announced both in writing and orally to the cosponsors of the Michel-Montgomery amendment that in July after the Court hands down its opinion in June we will have a chance to vote on a constitutional amendment to properly protect our Nation's flag.

I still have at the desk discharge petition No. 7 that would compel a vote, but with the Speaker's announcement we at least know we will have a vote in July after the Court decision in June, and that is good news for those Americans who really want to properly honor and respect our Nation's flag.

CELEBRATING THE 25TH ANNIVERSARY OF THE OLDER AMERICANS ACT

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in July the Nation will celebrate the 25th anniversary of the Older Americans Act which has helped millions of senior citizens to live happier and more fulfilling lives.

I am proud to be a cosponsor of House Concurrent Resolution 276, a resolution to celebrate this important silver anniversary.

The Older Americans Act was signed into law by President Johnson on July 14, 1965. In the past 25 years, the act has provided needed funds to States for the establishment of community planning, social services, and personnel training for senior citizens.

It has also provided, in 1988 alone, over 240 milion meals to needy elderly Americans, 40 percent of which were delivered at home.

I urge my colleagues in Congress to reauthorize the Older Americans Act when it expires in 1991.

The act is a proven, successful way to ensure America's elderly have an opportunity to lead happy, productive lives.

GENERAL LEAVE

Mr. DORGAN of North Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Virginia [Mr. BOUCHER].

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from North Dakota?

There was no objection.

THOUGHTS ON CONSTRUCTION OF A NEW FARM BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. DORGAN] is recognized for 5 minutes.

Mr. DORGAN of North Dakota. I thank the Speaker.

Mr. Speaker, I will take just a few minutes today, but I did want to talk about the work of the U.S. House this week in constructing a new farm bill.

I just spoke on the floor a few minutes ago about what is happening in Ethiopia and Sudan. Hundreds of thousands of people are at risk of starvation. And not a month or two, or 6 months or a year from now; they are at risk now. These are folks who do not have enough to eat.

If anyone in this Chamber looked in the eyes of a young 1- or 2-year-old child in Ethiopia who is starving today, we would bleed for that young child. Yet that is happening in hundreds of thousands of cases.

In this country, we have something called the Farm Belt, stretching from North Dakota to Texas. We produce wonderful agricultural products. We built the most impressive, effective, ef-

ficient Farm Belt in the history of civilization.

And yet somehow the policymakers in this country have convinced us to look at our farming activities as some sort of national liability. It is not. It is a national asset of significant strength.

We produce food in great quantity. There are other people in the world who are starving.

We have found it very easy to snap our fingers and move guns to almost anybody in the world that wants them. We are wonderful at moving guns to governments that do not need them.

The question is, can we also raise food in great quantities and get food to people who in this world are desperately hungry, and do it in a way that gives those who produce it a decent return?

Now I have been hearing from my colleagues in Congress for a while about this wonderful, unprecedented economic expansion in America. They say we have had 7, 8, or 9 years of unprecedented economic expansion, economic growth? You will not witness that growth in the Farm Belt.

It has been great times in Hollywood, wonderful on Wall Street, and there are some States in between that have done quite well. About 16 States, as a matter of fact, have done very, very well.

But a whole lot of States in this country have suffered a long, protracted economic recession and North Dakota is one.

The collapse in commodity prices on the farm has thrown the Farm Belt into a literal recession. My State has had an 8-year price recession followed by 2 years of drought.

Now as we construct a farm bill this year, again working with the Committee on Agriculture in the House, what should we be trying to do? Should we be trying to decrease support prices for family farmers? I do not think so.

Everything that family farmers purchase is increasing in price: feed, seed, fertilizer, petroleum. So how can a farmer make it if what they purchase increases in price and if what they sell decreases in price?

President Bush says, "Let us take the target price for $4 per bushel for wheat down to $3.35." That is a prescription for economic failure of massive proportions in the Farm Belt.

It seems to me we ought to be developing a philosophy here in the Congress that our intent is to try to preserve the network of family farms and to construct a price support system that allows that to happen.

We do not need to pay price supports to someone who milks 3,500 cows. I do not care much about those folks. If they want to milk more than 100 cows, let them milk them at their own risk. We do not need to pay big price supports to big operators. If they want to farm two counties, God bless them. They have every right to do that in America. But the Federal Government does not have to be a financial partner.

□ 1220

However, a small family-sized farm faces an uncertainty that is not faced by another business person. Their price is subject to international whipsaws and price variations. It goes up and down, unpredictably, in ways we cannot understand or control.

For that reason, a long time ago we decided to provide some price supports for family farm units. Otherwise, when prices go down and stay down we would wash out all the family farmers. So, we built that little bridge over the price depression valley, and that was to help farmers across those international price depressions. Unfortunately, the bridge has become a set of golden arches, almost, for the largest farmers in the country.

Now, our job, it seems to me, is not to retreat on price supports, and not to decide we do not want to support family farmers. It seems to me family farmers are very important to this country. Our job is to determine how we can do that in a way that makes sense for them and makes sense for the country. It seems to me that everything we are doing in the farm bill ought to flow from this central philosophy. Our intent is to maintain and support a network of family-sized units in this country. If Americans think food is expensive now, how would they like to pay the cost of food produced by 2,000 megacorporations—then we would understand what food prices are all about.

Today, we have the highest quality food at the lowest cost of any industrial country in the world. Our agricultural system has worked to build the best system in the world, and now is losing family farms by the thousands, week after week, because they cannot make it when prices are below the cost of production.

We must do better. We can provide a better price support for family farmers at less cost to the Federal Government if we decide that it is family farmers we are going to support, rather than giant agriculture factories who want to farm county after county in America's heartland.

That is our challenge in the 101st Congress this year as we write the new farm bill.

THE INTRODUCTION OF THE INVESTMENT ADVISERS DISCLOSURE AND ENFORCEMENT ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 5 minutes.

Mr. BOUCHER. Mr. Speaker, I am pleased to be joined today by seven of my colleagues on the Energy and Commerce Committee as well as the major trade associations representing the financial planning community, consumers, and State securities regulators as I introduce the Investment Advisers Disclosure and Enforcement Act of 1990.

Our goal is to provide better investor information and protection by reforming the Investment Advisers Act of 1940. The seven members of the Energy and Commerce Committee who join me as original cosponsors include Chairman JOHN DINGELL, Subcommittee Chairman ED MARKEY, and my colleagues DENNIS ECKART, JIM COOPER, JIM SLATTERY, and RON WYDEN.

Chairman DINGELL, Chairman MARKEY, and Mr. ECKART will be making their own statements of support. Following my remarks I would like to include, for the RECORD, statements of endorsement from the American Association of Retired Persons, the Consumer Federation of America, the International Association of Financial Planners, the Institute of Certified Financial Planners, the National Association of Personal Financial Advisers, and the North American Securities Administrators Association [NASAA].

Numerous press reports and studies have documented widespread fraud and abuse by financial planners. Estimates of investor losses range from hundreds of millions of dollars to more than $1 billion annually. The estimates continue to grow, and even the lowest estimates clearly point to the need for better regulation.

Individuals lose their life savings. Parents see their children's college educations put in jeopardy. Couples who have worked to have a financially secure retirement live their senior years in poverty.

The losses occur in a variety of ways:

Some who call themselves financial planners, or something similar, have no skill or training and, through negligence and inappropriate advice, incur avoidable losses for their customers.

Some unscrupulous practitioners gain custody over their customers' funds and through churning of the accounts exhaust the funds through unnecessary expenses.

Others simply steal the money.

A more typical form of abuse is self-dealing. Self-dealing occurs when a planner encourages a client to purchase a financial product for which the planner receives a special fee or commission when the product is sold. Financial planners hold themselves out to be objective advisers, but many of them have a hidden agenda. They are more product salespersons than they are objective sources of information.

In fact, the majority of those who call themselves financial planners make most of their income from the commissions they earn on the sale of the financial products they recommend. There would seem to be an inherent conflict of interest in an adviser purporting to offer objective advice, and then making recommendations in which he has a financial interest. But this practice is in fact widespread and generally quite legal.

Studies by the Consumer Federation of America and NASSA document the enormous annual losses that occur through this self dealing process. Most typically the consumer does not know the extent of the commission, or other incentive, that the planner is receiving for offering this supposedly objective advice.

The problems are serious. The abuses are growing. Better regulation is needed.

The Securities and Exchange Commission, which has authority over the industry, has acknowledged the absence of resources adequate to police investment advisers and financial planners. The SEC's staff for this function has not grown since 1980, during which period the number of registrations has tripled.

I am therefore persuaded that the best immediate help for investors is to empower consumers with the information they need to make a fully informed decision about the financial planners they select and the recommendations they make.

That is the purpose of the legislation. The bill has five essential provisions.

First it requires all practitioners, without regard to the financial product they recommend or sell, who hold themselves out to the public as financial planners, investment advisers, or similar terms, to register as investment advisers under the 1940 Investment Advisers Act. They will then have an obligation under Federal law to place their clients' interests above their own.

Second, the bill prohibits any misrepresentation of the qualifications of the financial planner. A statement of the education and experience of the practitioner will be required.

Third, the bill mandates full written disclosure to the customer of compensation, including fees, commissions, and other nonfinancial incentives which the practitioner will receive from anyone other than the customer when particular financial products are sold. This information is vital for the customer properly to evaluate the advice he receives.

Fourth, the bill creates a private right of action to enable customers to sue for damages when they sustain losses because of 1940 act violations. Not only are we providing a significant means of redress, but the mere presence of the private right of action will act as a significant deterrent to abusive planner practices.

Finally, consistent with a current SEC legislative proposal, we have established a list of civil penalties for the Commission to pursue under the act, enabling the Commission to enforce the act without having to go to court.

The organizations endorsing our legislation today are diverse. It's not often that businesses endorse a bill that provides greater regulation for their industry.

It is also a little unusual for industries to stand together with State regulators and consumers to endorse any legislation. I want to commend each organization represented today for the spirit of accommodation they have put forth in the interest of advancing public policy.

While the legislation is a major step forward, other efforts to combat financial planner misconduct will also be required. I want to stress the importance of the SEC maintaining its cooperative efforts to work with State regulators to combat fraud in the financial planning industry. We should also provide additional resources for the SEC so that its excellent staff can improve the auditing of financial planning firms, and take action where appropriate.

Finally, I want to note ongoing negotiations with the regulated professions of accounting, securities brokerage, and lawyers over the scope of their exemptions from coverage under the 1940 act. We were not able to conclude these negotiations prior to today, but I anticipate our accommodating their special concerns before the subcommittee markup commences.

In conclusion Mr. Speaker, there is clearly a need for better consumer information regarding financial planners and more effective enforcement of both the spirit and the letter of the Investment Advisers Act. I believe that the measure we are introducing today will, when enacted make significant progress in that direction. I urge my colleagues to join me in this effort. I yield back the balance of my time.

AARP Supports New Bill To Regulate Financial Planners

Washington, DC.—The American Association of Retired Persons (AARP) lent its support today to a new bill that would regulate financial planners for the first time.

AARP announced its support for the legislation at a Capitol Hill press conference held by the bill's sponsor, U.S. Rep. Rick Boucher (D-Va.)

"AARP has become increasingly concerned about the recent proliferation of investment advice services and their adverse impact on consumers," said Martin Corry, AARP's Director of Federal Affairs. "AARP is concerned that many older people seeking financial guidance fall prey to incompetent or unscrupulous individuals who give poor investment advice or who offer questionable sales promotions."

For older consumers, this impact can be particularly devastating and can often result in the loss of accumulated savings reserved for retirement.

Since millions of older people entrust their retirement savings and investment decisions to financial planners, Corry said AARP believes Congress should address problems in the financial planning industry.

AARP is the nation's leading organization for people age 50 and over. It serves their needs and interests through legislative advocacy, research, informative programs and community services provided by a network of local chapters and experienced volunteers throughout the country. The organization also offers members a wide range of special membership benefits, including Modern Maturity magazine and the monthly Bulletin.

CFA Endorses Representative Boucher's Financial Planners Disclosure and Enforcement Act

Washington, DC.—Today the Consumer Federation of America endorses the "Financial Planners Disclosure and Enforcement Act of 1990," introduced by Representative Rick Boucher (D-VA).

"CFA estimates that consumers lose or misinvest at least a billion dollars a year at the hands of unscrupulous and incompetent financial planners," said CFA financial planning specialist Barbara Roper. "The current regulatory system is a seive. Representative Boucher's bill would go a long way toward plugging the holes."

The Boucher bill attacks the two most serious financial planning abuses: use of financial planning by con men as the perfect cover for fleecing their victims and self-dealing by so-called "legitimate" planners who planning practice is little more than the hook to catch clients for the real money-making business of selling financial products.

The bill, which would amend the Investment Advisers Act of 1940, has four key elements:

It defines all financial planners as investment advisers, thus forcing them to register with and be inspected by the Securities and Exchange Commission, as well as requiring them to serve as fiduciaries who place their clients' interests before their own.

It mandates up-front detailed disclosure of compensation, including commissions and other awards from product sponsors, in actual dollar amounts and as a percentage of recommended investments, thus enabling consumers to determine before they spend their money whose interests the planner is really representing.

It gives the SEC a means of enforcing the law, short of criminal prosecution, by creating civil penalties for infractions of the statute.

It makes it easier for defrauded consumers to sue for redress by creating a private right of action under the Act for individuals who can demonstrate financial damages resulting from violations of the Act.

"We believe this combination of prevention and enforcement is the best approach to take to protest consumers from unscrupulous financial planners," Roper said. "We urge Congress to act quickly to put these protections in place."

"When all financial planners are subject to SEC oversigtht as investment advisers, con men will find it more difficult to set up as financial planners without triggering regulatory attention," she said. "When all planners are considered fiduciaries, those whose only interest is selling products will have to find a new way of doing business."

"By hitting financial planners where it hurts, in the pocket book, the civil penalties and private rights of action provisions will create an incentive for compliance with the act that previously has not existed," she continued.

The Boucher bill stands on its own as a strong consumer protection package, since its disclosure provisions and private rights of action provide consumer protections without straining the SEC budget. But any approach to consumer protection in this area must also address the inadequacy of SEC resources. For this reason, CFA also supports legislation to allow the SEC to keep the fees it levies and to adjust those fees to reflect budget requirements. Such a proposal is currently included in the international securities law enforcement bill (H.R. 1396), and CFA urges its passage.

(Consumer Federation of America is a coalition of more than 240 pro-consumer organizations with approximately 50 million members.)

The Institute of
Certified Financial Planners,
Denver, CO, March 2, 1990.

Congressman Rick Boucher,
428 Cannon House Office Building,
Washington, DC.

Dear Congressman Boucher: In keeping with our conversations with Mr. Larry Clinton, Legislative Assistant, we are writing to lend our support to your draft legislation which we have termed: "Financial Planners as Investment Advisers Disclosure and En-

forcement Act of 1990." We believe this title better connotes a premise of the draft bill—that financial planners and those using similar titles do act as investment advisers under most circumstances and should thus be registered as investment advisers.

Registration of investment advisers is a protection for the public, and the Institute has for many years encouraged and strongly recommended registration (federal and state) for its own members who offer investment advice. For years the Institute has required disclosure in writing and in advance of an engagement, for members participation in our Direct Public Awareness Program. Our support for your holding out provision is based on our belief that the public expects to receive investment advice when they engage the services of a personal financial consultant, financial advisor, or financial planner. For example, a July, 1987 survey the Institute conducted of subscribers to Sylvia Porter's Personal Finance magazine revealed that 75% of them expected to get such services. Therefore, failure to register as an investment adviser, thus enabling one to legally give investment advice under federal law, may mislead consumers engaging the services of financial planners, advisors, or consultants. Preventing misrepresentation is a purpose of the Investment Advisers Act of 1940.

However, the Institute's support for this holding our provision is conditional on similar treatment for all investment advisers. The financial services marketplace has changed dramatically over 50 years. If it ever was equitable for an individual attorney or accountant, for example, to be excluded from registration on the basis of title, it is no longer fair to do so if he/she is offering financial planning or investment advisory services. The public is similarly entitled to basic protection with any firm or entity which, in the changed marketplace, offers or provides such services. The statute should treat all advisors equally, and not condone some doing what ever they wish while others are held to specified standards. The Institute terms this concept a "level playing field" and our support of your bill is conditioned upon this principle. Otherwise, the bill would simply add more regulation upon the regulated, placing them at a competitive disadvantage with those exempted while performing similar services for the public.

We are similary supportive of the bill's disclosure provisions. Material disclosure by investment advisers goes to the heart of the federal statute. Potential clients need and deserve full and fair disclosure about an adviser's background, business practices, fees charged, potential conflicts of interest, etc. Again, these provisions must be uniformly applied. Proper public protection means no one actually giving investment advice should be exempted.

Lastly, we believe that the bill's provision of a private right of action is a more proconsumer, less costly approach to providing consumer protection there are self-regulatory approach proposed by others. Empowerment of the consumer should keep both investment advisers and federal regulators on their toes. But again, this needs uniform application to all investment advisers to ensure blanket protection to consumers.

The Institute does not view financial planning as synonymous with investment advising. Financial planning is a broader concept and involves advice on other topics besides securities. We are working with others on the state level, where professions are regulated, to also assure public protection. Nonetheless, we are pleased to join you and others in supporting this federal legislation which would provide greater assurances of protection to the investing public, and allow qualified and competent financial planners and investment advisers, who do put client interests first, to be treated identically with those who might otherwise hide behind a regulatory exclusion in offering investment advisory services.

Thank you for your leadership.

Sincerely,

ROBERT P. GOSS, Esq., CFP,
Executive Director.
GARY W. WEBSTER, CFP,
Chairman, Government Affairs Committee.

STATEMENT OF NAPFA

The National Association of Personal Financial Advisors strongly endorses the Investment Advisors Disclosure and Enforcement Act of 1990.

Financial planning has grown rapidly in the past ten years. By some estimates,[1] more than 250,000 individuals and companies now offer financial planning services to the public. The regulation of financial planners currently falls under the purview of the Securities and Exchange Commission (SEC). Unfortunately, the SEC's budget has not kept pace with growth in the financial planning industry. Furthermore, a recent SEC study of the financial planning industry[2] indicates that many financial planners do not comply with existing regulatory requirements.

The National Association of Personal Financial Advisors (NAPFA) is a non-profit trade association whose members are practicing financial planners nationwide. NAPFA has become alarmed by the following developments:

Studies by the Consumer Federation of America and the North American Securities Administrators Association (NASAA) that indicate fraud and abuse of consumers by financial planners is a growing concern.

That the majority of financial planners hold themselves out to the public as objective advisors, yet, at the same time, earn most of their income from the sale of investment products to their clients.

That most planners who earn income from the sale of investment products do not disclose this fact, as required by law, to clients.

That the number of investment advisors registered with the Securities and Exchange Commission has increased 217% since 1980, yet the SEC's staff years devoted to investment company and advisor matters during the same period increased just 13%.

NAPFA's support of this legislation is based on our understanding, as practitioners, of the financial planning engagement. A financial planner has privileged knowledge of a client's personal financial affairs. In order to provide effective guidance in decisions about financial strategies and choices among investment products, the planner must be fully aware of all aspects of the client's financial life. With complete understanding of the client's means and circumstances, the planner can provide truly useful counsel. However, with this knowledge the self-interested planner can also render extensive, sometimes irreparable, financial damage. NAPFA has become concerned that financial planners are not taking seriously their fiduciary responsibilities to the client.

NAPFA supports the proposed legislation because it empowers the consumer and reinforces the fiduciary nature of the relationship between planner and client.

The "private right of action" provision of this bill serves notice to the thousands of individuals who use the term "financial planner" that they must act prudently and with care when providing financial advice to clients. For the consumer it offers a powerful tool for rectifying damage from an advisor who has violated his or her fiduciary duty to the client.

The "holding out" provision of this bill appropriately extends the reach of the legislation to all financial advisory relationships, regardless of terminology. It is fitting that the legislation does not attempt to define financial planning, since it is the nature of the relationship with the consumer that must be protected.

Finally, and most importantly, the compensation disclosure requirements of this bill give the consumer the information needed to be an equal partner in the financial planning engagement. Part of the planner's fiduciary duty is to inform the client about the costs of the engagement. Disclosure of costs will do three things: discourage self-interested planners from abusing clients; encourage competition in the financial planning industry; and bring the discussion of costs into the open, allowing the client the opportunity to become educated about and participate in important planning decisions.

NAPFA is extremely encouraged by this legislation. We endorse it because it is a positive step forward in protecting consumers, because it is consistent with and supports existing regulatory efforts and because it fosters good business practices in the financial planning industry.

STATEMENT OF SUSAN E. BRYANT, PRESIDENT, NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION; ADMINISTRATOR, OKLAHOMA SECURITIES COMMISSION

Thank you, Congressman Boucher.

I am here today to show the strong support of the North American Securities Administrators Association (NASAA) for the proposed "Financial Planners Disclosure and Enforcement Act." We believe this bill provides the tools needed for a meaningful federal crackdown on the fraud and abuse we have witnessed by some self-proclaimed financial planners.

State securities agencies have their hands full today fighting the growing number of con artists who masquerade as financial planners. If enacted, the proposed legislation would complement ongoing state-level initiatives to modernize and improve the laws protecting investors from unscrupulous as well as negligent financial planners.

NASAA—which, in the U.S., is the national organization of the state securities agencies—is gratified today to see that our longstanding concern about financial planner fraud and abuse has the ear of Congress. In 1988 NASAA released its 30-state study showing that more than 22,000 investors

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[1] "Financial Planning Abuses: A Growing Problem," A report of the Consumer Federation of America; July, 1987.

[2] "Financial Planners," Report of the Staff of the United States Securities and Exchange Commission to the House Committee on Energy and Commerce's Subcommittee on Telecommunications and Finance; February, 1988.

had lost a staggering $400 million in 79 major financial planning scams.

But the need for more federal enforcement is only part of the picture. This proposed legislation will also help solve the need for greater disclosure of the compensation and conflicts of those providing investment advice to the public. Studies by NASAA, the Consumer Federation of America (CFA) and the Securities and Exchange Commission (SEC) provide ample startling evidence that even otherwise "legitimate" investment advisers may be more interested in their own finances than those of their clients.

State securities agencies traditionally have played a key role in the regulation and oversight of financial planners and investment advisers and there is now a growing trend for even tighter state regulation of this industry. We are pleased to see that some of the important provisions of this proposed legislation are in fact patterned after the state model investment adviser law and regulations finalized by NASAA in 1987. As a result, NASAA encourages the adoption of the proposed Act, as currently drafted, not only to help close the gaps that exist in the federal investment adviser regulatory scheme, but also to foster even greater uniformity between state and federal regulatory provisions.

The SEC and its Investment Management Division should be commended for their valiant efforts to protect the interest of investors despite chronic limitations on staff and budget. The Division has worked effectively with states in moving in the direction of coordinated state-federal oversight of the investment advisory and financial planning industry. NASAA is pleased that the proposed legislation would allow for the continuation and even expansion of the joint state-federal programs now in place.

Congressman Boucher, NASAA appreciates your commitment to exploring new federal approaches to protecting consumers from fraud and abuse in the financial planning industry. It is abundantly clear to those of us "in the field" that the investment advisory and financial planning industry, if only because of the number of "bad apples" it has attracted, needs more scrutiny and oversight. We applaud the "Financial Planners Disclosure and Enforcement Act" as a well-drafted and serious-minded effort to get to work on the job that needs to be done on behalf of American investors.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOUGLAS) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes each day, on April 2, 3, 4, and 5.

Mr. DOUGLAS, for 60 minutes, each day, on April 3 and 4.

(The following Members (at the request of Mr. DORGAN of North Dakota) to revise and extend their remarks and include extraneous material:)

Mr. DORGAN of North Dakota, for 5 minutes, today.

Mr. WASHINGTON, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BOUCHER, for 5 minutes, today.

Mr. SKELTON, for 30 minutes, today.

Mr. HUTTO, for 5 minutes, on April 3.

Mr. WASHINGTON, for 5 minutes, on April 3.

Mr. SKELTON, for 30 minutes each day, on April 3, 4, and 5.

Mr. LIPINSKI, for 5 minutes each day, on May 1, 8, 15, and 22.

Mr. LIPINSKI, for 60 minutes each day, on May 2, 9, 16, and 23.

Mr. DURBIN, for 60 minutes, on April 3.

Ms. PELOSI, for 60 minutes, on May 15.

Mr. MILLER of California, for 60 minutes, on April 4.

Mr. NAGEL, for 60 minutes, on April 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOUGLAS) to include extraneous matter:)

Mr. MACHTLEY.

Mr. CONTE.

Mrs. MORELLA.

Mr. MCEWEN.

Mr. GEKAS.

(The following Members (at the request of Mr. DORGAN of North Dakota) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. SOLARZ.

Mr. CLEMENT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 393. An act entitled "Camp W.G. Williams Land Exchange Act of 1990;" to the Committee on Interior and Insular Affairs.

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1859. An act to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 500. Joint resolution to designate April 6, 1990, as "Education Day, U.S.A."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 388. An act to provide for 5-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On March 30, 1990:

H.R. 2692. An act to amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

On April 2, 1990:

H.R. 4099. An act to suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

ADJOURNMENT

Mr. DORGAN of North Dakota. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Tuesday, April 3, 1990, at 12 noon).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2876. A letter from the Assistant Secretary for Installations, Logistics and Environment, Department of the Army, transmitting notification of the Department of the Army's intent to study the conversion to contract performance the Commercial Activities Program, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

2877. A letter from the Chairman, National Credit Union Administration, transmitting the 1990 annual report of the Administration, pursuant to 12 U.S.C. 1752a(d); to the Committee on Banking, Finance and Urban Affairs.

2878. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-183, "Board of Education Capital Construction Contracting Authority Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2879. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-182, "D.C. Public School Nurse Assignment Act of 1987 Amendment Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2880. A letter from the Chairman, Council of the District of Columbia, transmitting copies of the D.C. Act 8-138, "District of Columbia Comprehensive Plan Amendments Act of 1989" and D.C. Act 8-184, "District of Columbia Comprehensive Plan Amendments Act of 1989 NCPC-Recommended Amendments, and Closing of Public Alleys in Square 669, S.O. 88-452, Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2881. A letter from the Secretary of Transportation, transmitting the Department's views on the bill H.R. 1463, the "National Capital Transportation Amendments of 1989"; to the Committee on the District of Columbia.

2882. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposal to offer the VIP Security Course to Nicaragua's President-Elect Chamorro's security personnel, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foriegn Affairs.

2883. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Don Melvin, of Indiana, to hold the rank of Minister during his tenure of service as the U.S. Representatives on the Council of the International Civil Aviation Organization, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2884. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2885. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled, "Debt Collection Act amendments of 1990"; to the Committee on the Judiciary.

2886. A letter from the Secretary of Veterans Affairs, transmitting the Department's views on H.R. 1397, a bill entitled the "Veterans' and Survivors' Compensation Indexing Act" and H.R. 2644, a bill to amend section 3001 of title 38 to authorize VA to require mandatory disclosure of claimants' and dependents' Social Security numbers in all claims for disability and death benefits; to the Committee on Veterans' Affairs.

2887. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend Federal laws in order to extend the low-income housing credit, and for order purposes; to the Committee on Ways and Means.

2888. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend Federal laws in order to extend the low-income Home Energy Assistance Act of 1981; jointly, to the Committee on Education and Labor and Energy and Commerce.

2889. A letter from the General Counsel, Department of Defense, transmitting draft language to transfer jurisdiction, custody, and control of the Pentagon reservation from GSA to the Department of Defense; jointly, to the Committees on Armed Services, Public Works and Transportation, and Government Operations.

2890. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes; jointly, to the Committee on Ways and Means; the Judiciary; Banking, Finance and Urban Affairs; Public Works and Transportation; and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 4009. A bill to authorize appropriations for fiscal year 1991, for the Federal Maritime Commission, and for other purposes; with an amendment (Rept. 101-440). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOUCHER (for himself, Mr. DINGELL, Mr. MARKEY, Mr. ECKART, Mr. COOPER, Mr. SLATTERY, and Mr. WYDEN):

H.R. 4441. A bill to permit private remedies to be used for the enforcement of the Investment Advisers Act of 1940, to improve the disclosure to customers of investment advisers under that act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RICHARDSON (for himself, Mr. MATSUI, Mr. TORRES, and Mr. BUSTAMANTE):

H.J. Res. 536. Joint resolution approving the findings of the Comptroller General of the United States contained in the General Accounting Office [GAO] report, dated March 29, 1990, regarding employer sanctions; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. MCEWEN:

H. Con. Res. 296. Concurrent resolution in support of Lithuanian independence; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

343. The SPEAKER presented a memorial of the Legislature of the State of California, relative to timber exports; jointly, to the Committees on Agriculture, Foreign Affairs, and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. RICHARDSON introduced a bill (H.R. 4442) for the relief of Carmen Etienne, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2121: Mr. FOGLIETTA and Mr. MORRISON of Connecticut.

H.R. 3037: Mr. VISCLOSKY and Mr. CLAY.

H.R. 3356: Mr. FAUNTROY.

H.R. 3520: Mr. TORRES.

H.R. 3909: Mr. FALEOMAVAEGA, Mr. CHAPMAN, Ms. KAPTUR, Mr. JONTZ, Mrs. MORELLA, Mr. HATCHER, Mr. QUILLEN, Ms. LONG, Mr. PANETTA, Mr. CAMPBELL of Colorado, and Mr. ATKINS.

H.R. 3998: Ms. SLAUGHTER of New York.

H.R. 4060: Mr. MRAZEK.

H.R. 4147: Mr. ACKERMAN.

H.R. 4208: Mr. FROST, Mr. MOODY, Mr. WHEAT, Mr. HATCHER, Mr. BARNARD, and Mr. FAZIO.

H.R. 4369: Mr. IRELAND and Mr. NEAL of North Carolina.

H.R. 4393: Mr. ECKART.

H.J. Res. 439: Mr. NIELSON of Utah.

H. Con. Res. 268: Mrs. MORELLA.

H. Con. Res. 289: Mr. MANTON, Mr. BATES, Mr. GEJDENSON, Mr. YATRON, Mr. ROHRABACHER, Mr. FAUNTROY, Mr. DERRICK, Mr. TORRES, Ms. PELOSI, Mr. NEAL of Massachusetts, and Mr. SYNAR.

SENATE—*Monday, April 2, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we reverence God, our Creator and our Judge, the prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

It is a good thing to give thanks unto the Lord, and to sing praises unto thy name, O most High: To shew forth thy loving kindness in the morning, and thy faithfulness every night.—Psalm 92:1, 2.

Almighty God, Lord of history and Ruler of the nations, we acknowledge Your supreme Lordship in the words of President John Adams as he welcomed Congress to this building for the first time in November 1800. He said: "It would be unbecoming the Representatives of this Nation to assemble, for the first time, in this solemn temple, without looking up to the Supreme Ruler of the Universe, and imploring His blessing.

"May this territory be the residence of virtue and happiness! In this city may that piety and virtue, that wisdom and magnanimity, that constancy and self-government which adorned the great character whose name it bears, be forever held in veneration! Here, and throughout our country, may simple manners, pure morals, and true religion flourish forever!"

Glory to God in the highest, world without end. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, following the time for the two leaders today, there will a period for morning business not to extend beyond 1:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

At 1:30, the Senate will resume consideration of the clean air bill, S. 1630. There will be no rollcall votes today. Any rollcall votes ordered relative to amendments offered today will be stacked to occur tomorrow.

The managers hope to offer a managers' package of allowance amendments tomorrow morning, with consideration of that package during tomorrow's session, as well as consideration of any other amendments which may be offered.

I again encourage Senators with listed amendments to come forward today and tomorrow to offer their amendments. The purpose of today's session is to permit any Senator who has an amendment to offer it and to permit it to be debated fully and fairly.

On tomorrow, the Senate will complete action on this bill no later than 8 p.m. It is my hope we could do so even earlier than that, but in any event not later than 8 p.m. tomorrow.

FOREIGN AID REQUEST FOR PANAMA AND NICARAGUA

Mr. MITCHELL. Mr. President, the President has asked the Congress to approve $800 million in emergency aid for Panama and Nicaragua. In response to that request the Foreign Relations Committee has moved quickly to report out an authorization bill which substantially fulfills the President's request. I hope that the Senate can proceed immediately to consideration of the authorization bill.

We recognize the need to assist the newly elected democratic Governments of Panama and Nicaragua. But we want to do it in the right way.

In the request for emergency aid for Panama and Nicaragua the administration is asking Congress to put together a jigsaw puzzle without any overall picture and without all the pieces.

By approaching foreign aid on a country by country basis and in one-shot increments, the administration has provided no overall or long-term view of how all the pieces can and should fit together. They have provided no rationale as to how this request relates to other parts of the budget—to other foreign aid spending, to defense or domestic spending, or to the deficit.

The administration asks that we approve a one-shot infusion to Panama and Nicaragua by cutting the defense budget. But they provide no information for the long-term needs in Panama and Nicaragua. And what about Eastern Europe? What about other parts of the world? What are the offsets for any other increases? Are they "zero-sum" within the foreign aid accounts, or do they require increases in the deficit or additional cuts in domestic or defense spending?

The administration does not have a 5-year plan or a 3-year or a 2-year plan for foreign aid; indeed they offer no plan at all. They have not explained how any plan would be affordable in relation to their other spending plans; they have not outlined the relationship of any plan to our national security objectives.

For example, to pay for the aid to Panama and Nicaragua, the administration now supports using defense offsets which were originally planned to be used to avoid layoffs of military personnel. Is foreign aid now more important to the administration than keeping our men and women in uniform? If so, they should say so.

I intend to have the Senate deal as quickly as possible with the genuine emergency needs for Panama and Nicaragua. But I do not believe we should appropriate the full amount requested until the administration submits a meaningful long-term foreign aid plan, relates it to the rest of the budget, and explains how it is justified in terms of our overall goals and requirements for emerging democracies as well as other nations throughout the world.

It makes little sense for the Congress to continue to lurch from country to country on piecemeal emergency foreign aid requests for different parts of the world without some kind of an overall long-term plan which spells out our Nation's overall foreign policy requirements and objectives and relates those to the budget process.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection the time of the two

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

leaders that has not yet been used will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business until the hour of 1:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized under the order, his time having been fully reserved by unanimous consent at the request of the majority leader.

MISSING THE APRIL 1 BUDGET DEADLINE

Mr. DOLE. Mr. President, it is no April Fools' Day joke: The April 1 deadline for reporting a budget resolution has come and gone without the Budget Committee scheduling a single mark up session. But, apparently no one has noticed.

How can this be? If my memory serves me correctly, the Budget Committee in January refused to give the President an extension on his budget deadline. They claimed that the, "budget could have been produced on time if—Darman—had really wanted to produce it on time."

As usual, it is always easy to criticize. But now the shoe is on the other foot and the committee is strangely silent.

It is going to be harder to put together a viable budget resolution this year than other years. That is because we have so far to go to meet the Gramm-Rudman-Hollings target. Depending on who you believe, anywhere from $37 billion to almost $50 billion to, some say, $100 billion is needed to prevent a sequester. I, personally, think we will need somewhere around the $50 billion figure.

If you remember last year we spent 10 months and over 60 percent of our rollcall votes in the Senate to reduce the deficit by only $16 billion.

To find this year's required deficit reduction amount, we will need more than time. We will need leadership which, up to now, has been in short supply. Yes, there are some tough choices we have to face up to like how to handle the Social Security trust funds, the Rostenkowski proposal, child care, long-term care, helping new democracies in Europe and Latin America, drugs and the S&L crisis. But it is not going to get any easier, from the way I look at it, if we continue to put everything off.

So I suggest that on a bipartisan basis we get down to work and not put off the markup another day. The American people, if they fully understood the ramifications of the budget process and fully understood that we have had to increase the debt ceiling to over $3 trillion—that is trillion dollar with a T—they would understand the need for action and action now on the budget.

Earlier this morning, I had the opportunity to speak with about 200 high school seniors from around the country. Their topic was the budget and the budget process. It seems to me we have, in effect, said that these young people will have less opportunity and more responsibility if those of us who are here today do not fulfill our responsibilities in acting on the budget and the budget deficit.

Mr. President, I suggest it is always difficult to put together a budget. I know when the Republicans were in control of the Senate, we had difficulty meeting the deadlines, but the deadlines are there. They are targets. I hope we can work together in meeting the deadlines so we can send a strong signal to the American people and the financial markets that we are serious about the budget and the deficit and its impact on the American and international economy.

Mr. President, I ask unanimous consent that a copy of the budget process timetable be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX VII—BUDGET PROCESS TIMETABLE: FISCAL YEARS 1989-93

January 1: Date from which deficit reduction is measured.

First Monday after January: President submits budget to Congress.

February 15: CBO issues annual report to Budget Committees.

February 25: Committees submit views and estimates to Budget Committees.

April 1: Senate Budget Committee reports budget resolution.

April 15: Congress completes budget resolution.

May 15: Appropriations bills may be considered in the House.

June 10: House Appropriations Committee reports last annual appropriation bill.

June 15: Congress completes reconciliation.

June 30: House completes action on annual appropriation bills.

July 15: President submits mid-session budget report.

August 15: OMB and CBO estimate deficit for upcoming fiscal year. Presidential notification regarding military personnel.

August 20: CBO issues its initial report to OMB and Congress.

August 25: OMB issues its initial report to President and Congress. President issues initial sequester order.

September 6: Deadline for President's explanatory message on initial order.

October 1: Fiscal year begins.

October 10: CBO submits revised report to OMB and Congress.

October 15: OMB issues its revised report to President and Congress. President issues final sequester order, effective immediately.

October 25: Congressional alternative to presidential order, if any, developed and adopted.

October 30: Deadline for President's explanatory message on final order.

November 15: Comptroller General compliance report issued.

NOMINATION OF TIMOTHY RYAN, JR.

Mr. DOLE. Mr. President, I hope the nomination of Timothy Ryan to be head of the OTS can be acted upon this week. I only briefly visited with the majority leader, but it is critical, with next week being the Easter recess week, that we take action as quickly as possible. It is an important nomination.

In my view, the nominee will be confirmed. I think the question largely will be on whether or not he has the experience. He has been in the Labor Department, a labor lawyer, a good background. He gets good marks wherever he has worked in public life. The question is whether he has the experience to deal with financial institutions. That is certainly a legitimate question.

Let me also suggest that many of us—probably all of us—have taken actions and voted to take certain actions with reference to savings and loans and financial institutions. I think if anyone looks at the record, we have demonstrated that even though there is a lot of experience in this Chamber, mistakes can be made. We do have the S&L crisis and certainly if that is the kind of experience we are looking for, I hope we do not find it. Now we are told the S&L crisis may cost the taxpayers as much as $300 billion.

So I hope we move quickly on the Ryan nomination and do that after we complete action on the clean air bill tomorrow on or before 8 p.m.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. Without objection, the time of the two leaders that remains to them under the standing order will be reserved.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

VANDERBILT COMMODORES WIN NATIONAL INVITATION TOURNAMENT

Mr. SASSER. Mr. President, I am pleased to take this opportunity to recognize the men's basketball team of my alma mater, Vanderbilt University.

Last Wednesday night in New York City, the Vanderbilt Commodores won the National Invitation Tournament with a victory over St. Louis University. This win represents more than just a trophy or an award for the school. Vanderbilt's exciting string of five victories—after being eliminated from the Southeastern Conference Tournament—is an example of the perseverance, faith, and determination of each and every member of the team and their coaches.

In his first year as the head coach for Vanderbilt, Eddie Fogler has continued the winning tradition of former coach C.M. Newton, who led the Commodores to the NCAA Tournament the past 2 years—advancing all the way to the Sweet Sixteen in 1988. Coach Fogler proved his reputation as an excellent motivator and leader of men by taking a team of players whose season appeared to be over in February and molding them into a championship unit still playing at the end of March. In addition to winning the championship, Vanderbilt placed two players—Scott Draud and Todd Milholland—on the All Tournament Team, with Draud being named as the tournament's "Most Valuable Player."

Mr. President, I share the joy and pride of the 3,000 to 4,000 Vanderbilt fans who greeted the team at the Nashville Airport last Thursday and celebrated the team's first postseason tournament title. I join with them in hoping that this is the first of many championships to come.

REPEAL OF EMPLOYER SANCTIONS

Mr. CRANSTON. Mr. President, several days ago I joined the Senator from Massachusetts [Mr. KENNEDY], the Senator from Utah [Mr. HATCH], and the Senator from Arizona [Mr. DECONCINI], in introducing Senate Joint Resolution 280, a joint resolution which would approve the finding of a recent General Accounting Office [GAO] report regarding the employer sanctions provisions of the Immigration Reform and Control Act of 1986 [IRCA].

Mr. President, the GAO report does not mince words. It confirms what many of us feared—that the use of employer sanctions, that is the imposition of civil and criminal penalties on employers who hire persons without legal authority to work in this country, results in widespread discrimination against those who are perceived as being "foreign." In other words, because of employer sanctions men and women who are U.S. citizens, permanent residents, or have legal authority to work in this country are being denied employment or are having the law selectively enforced against them.

Mr. President, we must control our borders, but this is not the way. Hundreds of thousands of employers, fearing sanctions, are refusing to hire Hispanics, Asians, and other minorities for employment because they "look foreign" or "sound foreign." No less insidious is the practice of requiring work authorization documents from only those persons who are perceived to be foreign. In my view, the human indignity and economic hardship that are the direct results of this so-called deterrent to illegal immigration are simply too great a price to pay. The cost in terms of damage to our fundamental constitutional and moral commitment to freedom from bigotry and discrimination is unconscionable. I urge my colleagues to reject this failed experiment by supporting Senate Joint Resolution 280, which provides us with the mechanism to sunset these sanction provisions.

Mr. President, while I have always been vehemently opposed to the employer sanction provisions of IRCA, GAO's recent findings exceeded my worst expectations. According to GAO estimates, which by its own admission are conservative, a staggering 891,000, or 19 percent of the 4.6 million employers in the survey population nationwide, are reported as "beginning discriminatory practices because of the law." An estimated 461,000 employers, or 10 percent of the survey population, are discriminating on the basis of national origin, and 430,000 employers, or 9 percent of the survey population, are discriminating on the basis of citizenship status. I was especially dismayed but not surprised to learn that the percentages are even higher in cities with large Hispanic and Asian populations. In Los Angeles an estimated 29 percent of the employers practiced some form of discrimination as a direct result of sanctions.

This is an intolerable situation that must be put to a stop. Since the GAO issued this report last week there have been calls to stay the course with employer sanctions, but to perhaps fine-tune the legislation and its enforcement. If the fine-tuning refers to the strengthening of the antidiscrimination provisions of IRCA, I applaud the intent, but I am not at all confident that the discrimination will dissipate as a result. National origin discrimination is on the rise in this country because of employer sanctions, and it is simply not fair for us to ask the victims of this discrimination to continue to endure it while we try to devise a way to prevent it. An absolute repeal of the sanctions is the only right thing to do.

I am also alarmed by the call of some of my colleagues to fine-tune the verification requirements of the sanctions program by mandating some form of national identity card for citizens and aliens alike. Given that much of the discrimination caused by sanctions is occurring well before employers ask for proof of work authorization, I fail to see how these cards would stem the discrimination. Further, the specter of a mandated identity card is something I believe most Americans, including myself, could not support. An America where each and every one of us is required to carry a national identity card is incompatible with the practice of freedom we currently enjoy in our society. A system of national identity cards is decidedly not the path we should be considering.

Mr. President, the sanction provisions have proven unworkable. It is time to cut our losses and repeal them. By adopting the findings of the GAO report we have an opportunity to sunset these provisions once and for all. I look forward to working closely with my friend from Massachusetts [Mr. KENNEDY] in getting the joint resolution passed. I urge my colleagues to join me in supporting Senate Joint Resolution 280.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,843d day that Terry Anderson has been held in captivity in Beirut.

HONORING THE SPRINGFIELD, SD, DWIGHT WOOD AMERICAN LEGION POST AUXILIARY UNIT NO. 132

Mr. PRESSLER. Mr. President, I recently received a very heartwarming letter from Evelyn Tjeerdsma of Springfield, SD, describing some of the activities conducted by the Dwight Wood American Legion Post Auxiliary Unit No. 132. She described some of the many projects undertaken by her local American Legion auxiliary. These projects are just a few examples of the extensive community involvement by members of the American Legion and Auxiliary throughout South Dakota and the Nation. The good deeds done by these patriotic Americans should not go unsung and this is a good opportunity to spread some good news. Mrs. Tjeerdsma lists

a variety of projects including donations to the Special Olympics, the Make a Wish Foundation, and promotion of local blood drives. The members of the American Legion and Auxiliary deserve our heartfelt gratitude for their daily contributions to the betterment of our local communities. I ask unanimous consent that Mrs. Tjeerdsma's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SPRINGFIELD, SD,
March 26, 1990.

HON. SENATOR LARRY PRESSLER: Our American Legion Auxiliary Unit #132 of Springfield, S. Dak. are proud to tell you of our accomplishments as a Unit.

Our donating of money includes for the Special Olympics, Four Chaplains, emergency Aux. fund & collect broken glasses for the needy.

The latest project is collecting "pull tabs" from any pop or beverage & these tabs in turn are sold & the money sent to "Make A Wish Foundation" in which children who are terminally ill make wishes & we help them come true, if at all possible. Their wishes may be to go to Disney Land or see a famous person who means a lot to them.

Last fall our unit became involved with the "blood doner" project in which our community are called individually by our unit & asked to give blood & when any one is in need they do not have to replace it, but we as a unit are credited for the many pints of blood given & the response was a tremendous turnout. We intend to do this again next month.

EVELYN TJEERDSMA,
Dwight Wood Post #132.

MORALITY AND RELIGION: CORNERSTONES OF EDUCATION FOR A FREE SOCIETY

Mr. HELMS. Mr. President, ever so often all of us run across young people who are especially impressive and who demonstrate an innate ability to perceive vital truths about the history and hopes of mankind.

Some weeks ago, I met a 15-year-old young man from Vienna, VA, David Chandler Seng, a ninth grader who is a student at Fairfax Christian School in Vienna. David is the kind of youngster whom one instinctively likes. During a visit to my office, David mentioned that he had written a paper which had been entered in an essay contest sponsored by the Foundation for Economic Education. I told David's mother, after reading the text of her son's paper, that in my book he is a sure winner—perhaps not in this particular contest, but certainly in the context of living a constructive and meaningful life.

Mr. President, I believe Senators will be interested in reading the essay written by David Seng. I therefore ask unanimous consent that the paper be printed in the RECORD at the conclusion of my remarks.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

MORALITY AND RELIGION: CORNERSTONES OF EDUCATION FOR A FREE SOCIETY

(By David Chandler Seng)

Education for a free society must have a moral and religious basis. John Adams once remarked, "Our Constitution was made only for a moral and religious people, and is wholly inadequate to the government of any other."[1] He also made the point that, "A patriot must be a religious man."[2] James Madison said, "The belief in a God, all powerful, wise, and good, is essential to the moral order of the world . . ."[3]

The concept of freedom (liberty) is so important in the education for a free society that it cannot be overlooked. Freedom, as commonly understood, is the idea of not being under another's unreasonable control (i.e. the power to do and think without being unduly coerced or forced). One of our founding Fathers, Thomas Jefferson, said, "Can the liberties of nations be thought secure when we have removed their only firm basis, a conviction in the minds of the people, that these liberties are . . . the gift of God?"[4]

Western morality, as held by the Founding Fathers, was the treasure and protectorate of Christianity. Christians have always held that intellectual education must not be separated from moral and religious instruction. Education is the provision for suitable instruction to fit a child for the duties of adult life. This all-encompassing education is primarily the right and duty of the parents. How can it thus be part of the normal function of the state to teach? The state should not hamper the reasonable liberty of parents in a choice of schooling and education for their children; nor may the state interfere with parental responsibility, especially in the teaching of morality and religion.

Morality may be defined as human conduct to the extent that it is freely subordinated to the ideal of what is right and fitting. Christianity has customarily held that morality and religion are essentially connected and that without religion the observance of the moral law is impossible. For this reason Christianity has long held that certain conditions are required for the growth and development of morality in the individual and society, namely: (a) a right education of the young; (b) a healthy public opinion, and (c) sound legislation.

According to Christianity, right education for the young includes early training in the home. The family is the true school of morality and its good effects will remain for a whole lifetime. It is in the home that the child learns obedience, truthfulness, purity, self-restraint, and the other primary virtues. Christianity traditionally requires that the best scholastic education is the one that is given in a moral and religious atmosphere. Morality and religion go hand in hand. Both are an integral part of the education freely chosen by parents for their children. One hundred years ago Mark Hopkins, a great American educator, college president for almost forty years, and professor of intellectual and moral philosophy, once remarked that "everywhere the tendency has been to separate religion from morality, to set them in opposition even. But religion without morality is a superstition and a curse; and anything like adequate and complete morality without religion is impossible."[5]

Religion as a basis for morality is essential for good living. Carl Jung, the psychiatrist, said, "Among all my patients, there has not been one whose problem in the last resort was not that of finding a religious outlook on life. It is safe to say that everyone of them fell ill because he had lost that which the living religion of every age has given to its followers, and none of them have been really healed who did not regain his religious outlook."[6] Religion nourishes the soul of people so they can live active, healthy and happy lives in a free society. Education must include the teaching of right conduct, which is morality in human actions, so that a free society is possible. Religion, as the guardian and promoter of morality, is a free society's strongest ally.

[1] John Howe, Jr. *The Changing Political Thought of John Adams.* Princeton University Press, 1966, p. 189.

[2] Letter to his wife Abagail Adams, written in 1775.

[3] *Madison and Witherspoon, Theological Roots of American Political Thought.* Princeton University Library Chronicle, Spring Issue, 1961, p. 125.

[4] Notes on Virginia 1781-1782.

[5] Speech in Boston, Mass., April 9, 1871.

[6] Carl G. Jung *Modern Man in Search of His Soul* New York: Harcourt, Brace and Co., 1933, p.264.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The hour of 1:30 p.m. having arrived, under the order, morning business is closed.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDENT pro tempore. The Senate will resume consideration of the pending business, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending

Mitchell amendment No. 1293, in the nature of a substitute.

Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

The PRESIDENT pro tempore. The pending question before the Senate is the Baucus amendment No. 1307 to amend 1293, the committee reported substitute.

Mr. BREAUX. I object to the proceedings on the ground a quorum is not present.

The PRESIDENT pro tempore. A point of no quorum having been raised, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to lay aside the Baucus amendment for consideration of the amendment I am about to present at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1426 TO AMENDMENT NO. 1293

(Purpose: To provide flexibility to Federal Power Marketing Agencies and others to use fossil fuels during periods of inadequate hydroelectric power generation)

Mr. PRESSLER. Mr. President, I send an amendment to the desk for Mr. ARMSTRONG, myself, and Mr. BREAUX, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. ARMSTRONG, and Mr. BREAUX, proposes an amendment numbered 1426 to amendment No. 1293.

At the appropriate place insert the following new section: Any person who enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration. Any person who sells or provides electric energy to a Federal Power Marketing Administration shall comply with the provisions and requirements of this title.

Mr. PRESSLER. Mr. President, it is my understanding that this amendment has the proper clearances on both sides. It is a simple amendment dealing with Federal hydropower. I shall not take long in explaining it since we have worked on this for several days.

I offer this amendment for myself, Mr. ARMSTRONG, and Mr. BREAUX. This amendment addresses a potential problem facing hydropower generators. Because this power resource is generated by falling water, it is seasonal and intermittent in nature. Too little water in the river can require a Federal Power Marketing Administration to purchase power to meet its contractual commitments. Too much water flowing down the river, can affect generation as well since water may have to be stored in the reservoirs to avoid flooding downstream.

The disadvantages of the intermitten seasonal nature of river flows and hydroelectricity they generate are often set by the renewable nature of the resource as well as the lack of emissions. Because of this, the Federal Power Marketing Administration and other hydropower units have entered into agreements with neighboring utilities for the scheduling, firming, and delivering of project output.

Thus, hydropower can be used in a thermal system to help meet peak demand periods and a thermal system can restore energy to the hydropower system during base load periods. These arrangements take place in the short run such as several times in a given day or in the long run such as during drought years when hydropower generation capabilities are down below the river water levels.

Similarly, when water is available for generation, the Federal Power Marketing Administration can connect that hydropower, banking it with other utilities, reducing the need to generate from thermal sources.

Our amendment simply clarifies that if a thermal unit enters into this type of agreement with a hydropower generator or a Federal Power Marketing Administration, the allowances earned are saved from utilizing hydropower which has no emissions rather than thermal which shall be applied when the thermal units are generating electric energy to pay back the hydropower. Hydropower has no emissions and therefore has no allowances. So we simply want to ensure that they are not required to buy allowances simply to get back what they owed.

Mr. JOHNSTON. Mr. President, this amendment does not change the result that would occur under general provisions of contract law and enactment of the pending substitute without this amendment. In the context of Clean Air Act changes, this amendment merely provides clarity concerning relationships between sellers and purchasers of hydroelectric energy.

Mr. PRESSLER. Mr. President, I thank the managers of the bill, and the chairman and ranking member of the Energy Committee for their assistance.

Mr. President, I know of no opposition to this amendment. I urge its adoption.

Mr. MITCHELL. Mr. President, the amendment is acceptable.

Mr. CHAFEE. Mr. President, I want to commend the Senator from South Dakota for this amendment. This takes care of a situation that involves the Federal marketing authorities when they have a situation where the hydroelectric power is not adequate and they have to rely on steam. Those steam generators cannot add the cost to whatever allowances they might be involved in. They cannot include those costs for the allowances in the rate base.

I think it is a fine amendment, and I want to congratulate the Senator from South Dakota for his thoughtfulness.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 1426) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, as I have on several previous occasions, I encourage those Senators who have amendments to present them for consideration and disposition today. As all Senators know, this bill will be voted on finally not later than 8 p.m. tomorrow. There are a large number of listed amendments. The Senate was in session Friday for the purpose of receiving amendments, and it is in session today for the purpose of receiving amendments. I encourage all Senators to come forward so as not to be backed up against the time deadline tomorrow.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1427 TO AMENDMENT NO. 1293

Mr. CHAFEE. Mr. President, on behalf of Senators HATCH, GARN, SYMMS, REID, MCCLURE, SIMPSON, BURNS, BRYAN, ARMSTRONG, and WALLOP, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to set aside the pending amendment?

Mr. CHAFEE. I do.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. HATCH (for himself), Mr. GARN, Mr. SYMMS, Mr. REID, Mr. MCCLURE, Mr. SIMPSON, Mr. BURNS, Mr. BRYAN, Mr. ARMSTRONG, and Mr. WALLOP proposes an amendment numbered 1427.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135 after line 22 add the following new subsection:

(d) Section 163(c) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (D) with a period;

(2) replacing the period at the end of subparagraph (E) with a comma and "and" and

(3) adding a new subparagraph (F) to read as follows:

"(F) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions

resulting directly or indirectly from hardrock and noncoal mining."

Mr. CHAFEE. This is an amendment almost identical to a previously accepted amendment regarding fugitive emissions resulting directly or indirectly from surface coal mines. This amendment would simply give the same consideration to the fugitive emissions from hardrock mines. It would exempt fugitive dust from surface mines from consideration in prevention of significant deterioration, so-called PSD, increment consumption determinations. There is no question that fugitive dust from surface mines can exceed PSD participate increments even after application of best available control technology.

So, Mr. President, this particularly applies to those mines which are located in sparsely populated areas. It would allow the Governor of a State to exempt hardrock mine fugitive dust emissions from measurements of increment consumption under PSD reviews except in class 1 areas.

Mr. HATCH. Mr. President, the amendment I am offering today is almost identical to a previously accepted amendment regarding fugitive emissions resulting directly or indirectly from surface coal mines. My amendment would simply give the same considerations to the fugitive emissions from hardrock mines.

This amendment would exempt fugitive dust from surface mines from consideration in prevention of significant deterioration [PSD] increment consumption determinations. There is no question that fugitive dust from surface mines can exceed PSD particulate increments even after application of best available control technology. If such dust is considered in determining compliance with the increments, it would nearly be impossible to permit new or expanded mines, which generally are located in sparsely populated areas.

This amendment would simply allow the Governor of a State to exempt hardrock mine fugitive dust emissions from measurements of increment consumption under PSD reviews, except in class 1 areas.

Mr. GARN. Mr. President, I rise to support the amendment by Senator HATCH to exempt hardrock mining activities from the so-called fugitive dust requirements of the bill which are harmful to the interests of mining operations throughout the Western United States.

Like Senator SIMPSON's amendment which was accepted by the Senate last Thursday, this amendment would disallow the inclusion of fugitive dust from increment consumption counts under the prevention of significant deteriorated [PSD] section of the Clean Air Act. As Senator SIMPSON said, "EPA and many States have determined that for purposes of increment consumption it is not necessary to count fugitive dust emissions."

The EPA readily admits it is unable to accurately conduct modeling on these legitimate mining activities. Continuing America's standard of living is directly proportionate to allowing mining activities to continue unfettered by the Clean Air Act or other regulatory restrictions which are detrimental to mining.

I believe it is high time the people who scream the loudest for clean air understand the importance of a balanced approach which this amendment by my colleague from Utah will accomplish. Air quality will not be harmed in any significant way. So, I urge its adoption by the Senate.

Mr. President, I ask unanimous consent that this information from the Bureau of Mines be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

IMPORTANCE OF THE MINERAL INDUSTRY OF UTAH IN 1989

The value of nonfuel mineral production in 1989 exceeded $1.2 billion, a record for Utah. Preliminary figures indicate that the total value of production increased 22% over that of 1988. Mine output in the State placed it in eighth place among all states in nonfuel mineral production.

Most of the increase in production was due to the strong rise in output of Utah's metal mines, especially the extraction of copper, gold, magnesium, molybdenum, and silver. The metals sector contributed more than $1 billion, or 83%, of the total value of nonfuel minerals produced in the State. Metal production in Utah ranked fourth nationally. Important quantities of industrial minerals produced in the State included cement, lime, phosphate, potash, salt, sand and gravel, and stone.

TABLE 1.—NONFUEL MINERAL PRODUCTION IN UTAH [1]

Mineral	1987		1988		1989[p]	
	Quantity	Value (thousands)	Quantity	Value (thousands)	Quantity	Value (thousands)
Beryllium concentrates (metric tons)	5,499	$6	5,308	$6	W	W
Cement (portland, thousand short tons)	935	50,565	772	39,664	W	W
Clays (short tons)	315,154	1,959	340,156	2,469	337,048	$1,872
Gem stones	NA	105	NA	370	NA	370
Lime (thousand short tons)	562	17,894	365	17,252	343	16,464
Salt (thousand short tons)	1,108	34,264	1,006	35,294	1,358	36,525
Sand and gravel:						
Construction (thousand short tons)	* 21,000	* 56,700	17,843	49,796	14,300	41,500
Industrial (thousand short tons)	6	11	3	60	5	50
Stone:						
Crushed (thousand short tons)	7,989	23,606	* 7,300	* 20,600	6,000	19,500
Dimension (short tons)	2,004	93	* 2,004	* 93	W	W
Combined value of cement (masonry), copper, gold, iron ore, magnesium compounds, magnesium metal, mercury (1987–88), molybdenum, phosphate rock, potassium salts, silver, sodium sulfate (natural, 1988–89), vanadium, and values indicated by symbol W	XX	514,661	XX	849,243	XX	1,125,203
Total	XX	699,864	XX	1,014,847	XX	1,241,484

[1] Production as measured by mine shipments, sales, or marketable production (including consumption by producers).

Note.—* Estimated. [p] Preliminary. NA Not available. W Withheld to avoid disclosing company proprietary data; value included with "Combined value" figure. XX Not applicable.

Exploration: Generally, the search for nonfuel minerals was concentrated on locating precious-metal deposits; there was a great deal of exploration activity for gold and silver in the mining districts of the Tintic area south of Salt Lake City. There was also increased interest in exploration for additional reserves of gallium and germanium in the area surrounding the Apex Mine in southwestern Utah.

Environment: Several environmental concerns were addressed by mineral producers during the year. AMAX Magnesium reported that it was installing pollution-control equipment in the firm's plant on the west side of the Great Salt Lake to reduce chlorine emissions by approximately 50%. Geneva Steel announced a plan to modernize its plant in Utah County and reduce air and water pollution; when completed, the facility was expected to control 96% of its particulate emissions compared to about 92% before the improvements.

Legislation and Government Programs: The control of hazardous waste was a major goal of the legislature in 1989. House bill 37 established a Hazardous Substances Mitigation Fund, which empowered the Health Department to take remedial action to address releases of hazardous wastes. Senate bill 95 established rules of liability whenever an emergency involving hazardous materials occurs. In addition, the Governor established the Clean Air Commission to address air-quality problems along the Wasatch Front.

The U.S. Bureau of Mines and the United States Geological Survey published "Mineral Summaries-Bureau of Land Management Wilderness Study Areas in Utah." The summaries covered approximately 3 million acres of public land currently under consideration for federal wilderness status in Utah. Joint studies were conducted on 66 of the 91 proposed wilderness areas. According

to the report, nearly 80% of the areas studied have identified mineral resources; 92% have moderate or high potential for mineral resources.

Review by Nonfuel Mineral Commodities: Dedicated in late 1988, the modernized facility at the Bingham Canyon Mine increased production of copper and byproduct metals substantially during 1989. The mine was the second largest producer of copper in the Nation. This operation and other assets were sold by the British Petroleum Co., plc, to the RTC Corp., plc, in May. The purchase price was $4.27 billion and the Utah-based company (BP Minerals America) was renamed the Kennecott Corp. The Bingham Canyon operation maintained its role as the only producer of copper and molybdenum in Utah, and the State's largest producer of gold and silver.

North of Bingham, Kennecott completed development of the Barney's Canyon gold mine. The surface mine and heap-leach operation produced its first gold in late September. Production was projected for about 10 years at an average annual rate of 2,500 kilograms (80,000 troy ounces).

Another new gold mine brought into production during the year was Tenneco Minerals' Goldstrike Mine in Washington County. Annual production from this open-pit, heap-leach operation was expected to be 1,250 kilograms (40,000 troy ounces) of gold and a similar quantity of silver for approximately five years.

Barrick's Mercur Mine in Tooele County, the largest producer of primary gold in Utah, continued to operate at full capacity. In 1989, the company announced that the mine, which began operations in 1983, had minable reserves sufficient for 14 years.

Geneva Steel continued to receive shipments of iron ore from its properties west of Cedar City. Modernization of the company's integrated steel facility near Orem was announced during the year. Management anticipated the $400-million modernization program would require 3 to 5 years to complete. The first step in the program was to install a coil box in the rolling mill for about $12 million. Late in the year, Geneva reported the second phase of the modernization would include replacement of the open hearth furnaces with basic oxygen process furnaces, installation of a catalytic system for sulfur removal, and construction of a waste water treatment plant. The two-year project was expected to cost $70 million. In October, Geneva reduced steel production by 25% because of a nationwide decline in demand.

Magnesium metal production at Rowley was up during the year since AMAX Magnesium completed a new evaporation and precipitation pond system in 1988. The operation was purchased for an undisclosed amount by the Renco Group, Inc. The new operating company was named Magnesium Corporation of America, or Magcorp.

Utah continued to lead the Nation as the principal domestic source of beryllium. In 1989, Brush Wellman celebrated its 20th year of operations in the State. Production and sales were down slightly during the year, however, because of reduced demand in the defense, computer and semiconductor markets.

Although mine production of vanadium in southeastern Utah surged briefly in response to a temporary price increase during the year, total output for the year declined from previous years. At Blanding, Umetco continued to operate its White Mesa Mill, the only facility in the Nation that can recover vanadium from uranium-vanadium ores.

In March, Hecla acquired the Apex Mine in Washington County for $5.5 million from the St. George Mining Corp. The underground mine was the only primary source of gallium and germanium in the U.S. during 1986 and 1987. During 1989, Hecla dismantled the germanium refinery and began producing sodium germanate for sale as a concentrate to other refineries. The company expected production of gallium metal and cathode copper to commence in 1990.

The value of industrial mineral production in Utah in 1989 was about $211 million. Portland cement, followed closely by construction sand and gravel and salt, was the largest component of the output. Lime, phosphate, potash, and crushed stone were other important contributors. In addition, Utah was one of the few States in the Nation which had mines that supplied magnesium compounds and sodium sulfate.

In early 1989, the Great Salt Lake Minerals and Chemical Co. (GSLM&C) resumed processing the firm's potash as a specialty fertilizer. Collection of potash had begun in late 1987 after the company's solar evaporation ponds were repaired. GSLM&C was purchased for about $34.5 million, in March 1989, by the GSL Acquisition Corp.

In February, Morton-Thiokol Inc., announced that it would spin off its subsidiary, the Morton Salt Co. Morton Salt would continue to operate its salt harvesting facility in Salt Lake County.

STATE RANKING AND PERCENT OF U.S. TOTAL 1989 (PRELIMINARY DATA)

State	Value (millions)	Rank [1]	Percent of U.S. total
Alabama	483	21	1.52
Alaska	252	34	.79
Arizona	3,190	1	10.03
Arkansas	342	28	1.08
California	2,839	2	8.93
Colorado	443	23	1.39
Connecticut	115	40	.36
Delaware [2]	6	50	.02
Dist. of Columbia			
Florida	1,578	5	4.96
Georgia	1,169	9	3.68
Hawaii	93	43	.29
Idaho	323	30	1.02
Illinois	644	17	2.03
Indiana	437	24	1.37
Iowa	292	33	.92
Kansas	292	32	.92
Kentucky	331	29	1.04
Louisiana	392	26	1.23
Maine	66	45	.21
Maryland	367	27	1.15
Massachusetts	144	39	.45
Michigan	1,586	4	4.98
Minnesota	1,283	7	4.03
Mississippi	108	42	.34
Missouri	1,092	11	3.43
Montana	637	18	2.00
Nebraska	85	44	.27
Nevada	1,996	3	6.27
New Hampshire [2]	49	47	.15
New Jersey	230	35	.72
New Mexico	1,165	10	3.66
New York	746	15	2.35
North Carolina	584	19	1.84
North Dakota	14	48	.04
Ohio	787	14	2.47
Oklahoma	221	36	.69
Oregon	199	38	.62
Pennsylvania	1,041	12	3.27
Rhode Island [2]	11	49	.03
South Carolina	399	25	1.26
South Dakota	296	31	.93
Tennessee	650	16	2.05
Texas	1,445	6	4.54
Utah	1,241	8	3.90
Vermont	520	20	1.63
Virginia	59	46	.19
Washington	451	22	1.42
West Virginia	110	41	.34
Wisconsin	202	37	.63
Wyoming	799	13	2.51

STATE RANKING AND PERCENT OF U.S. TOTAL 1989 (PRELIMINARY DATA)—Continued

State	Value (millions)	Rank [1]	Percent of U.S. total
Undistributed [3]	8		.03
Total United States	31,811		100.00

[1] Ranking based on unconcealed state values.
[2] Partial values, excludes data that must be concealed.
[3] Includes values withheld to avoid disclosing proprietary data.

The PRESIDING OFFICER. Is there further debate?

Mr. MITCHELL. The amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 1427) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I have noted the amendment which was adopted Wednesday to section 415(d)(3)(B) of the bill. I understand that the purpose of this amendment was to ensure that, "any other utility unit pollution control project, including but not limited to alterations that allow the use of natural gas as a fuel," which meets certain qualifications, would not be considered a major modification and thus would be excluded from the new source review requirements of section 111 and parts C and D of title I of the Clean Air Act.

Mr. BAUCUS. That is my understanding.

Mr. LUGAR. I have some questions concerning the provisions in the original section 415(d)(3)(B) dealing with presumptions about the project not resulting in an increase in capacity utilization of the source. Could the Senator please explain what those provisions and the other qualifications mean?

Mr. BAUCUS. I have reviewed two letters from the EPA to Timothy J. Method, Assistant Commissioner, Office of Air Management, Indiana Department of Environmental Management, dated January 30, 1990, and March 8, 1990. These letters reflect EPA's analysis of the issue to which the Senator from Indiana refers.

These letters, when read together, make it clear that future regulations or a future interpretative ruling will contain the following terms: "will not be treated as a new or modified source for purposes of said New Source Review Standards if:

(1) The source will continue to meet all current requirements and standards applicable to existing sources under the Act. This includes meeting applicable NAAQS, permit conditions, PSD increments and state implementation plan (SIP) limitations.

(2) There is no environmental harm resulting from the proposed activities. This includes conditions that the proposed activities would not *cause* the source to: (emphasis added)

(a) increase the maximum hourly actual emissions rate of any individual pollutant regulated under the Act;

(b) increase the annual emission of any pollutant regulated under the Act;

(c) adversely impact an air quality related value (e.g., visibility) in a Class I area; or

(d) allow an increase in emissions of toxic pollutants not regulated by the Act which would cause an adverse health or welfare impact.

Changes which are expected to increase emissions to the atmosphere, such as changes which increase a source's hourly operating capacity (e.g. eliminating a bottleneck), hourly emissions rate (e.g., one pollutant decreases but another increases), or utilization rate (e.g., an anticipated increase in hours of operating *resulting* from the installation of controls) would not be affected by this interpretation and could continue to be potentially subject to NSR and NSPS. The EPA will presume, however, that the addition of a control device will not, *by itself, result* in an increase in capacity utilization. However, this presumption will be overcome if there is a *clear likelihood* that operating hours or production rates will increase *because* of the installation of the control device. (Emphasis added).

In assessing whether any net increase in actual emissions of any pollutant, over representative actual emission rates, is likely to occur as a *result* of addition of controls, the reviewing agency should consider the *economic incentive* to increase production rates or hours of operations associated with the installation and use of the control device. Where increased emissions due to increased utilization of the facility are *clearly* a *likely result* from the addition of the device the change should not be considered environmentally beneficial. (Emphasis added.)

Mr. LUGAR. In other words, these letters state that increased capacity utilization would have to be caused by installation of the device?

Mr. BAUCUS. Yes.

This causation would have to be established by the Environmental Protection Agency, to overcome the presumption of no increased utilization, by means of clear evidence which the agency derives from the information submitted by the device owner or operator. The EPA must have clear evidence that the investment in the pollution control device in and of itself provides the owner or operator with an economic incentive to increase hours of operation or power production rate. Simple incremental load growth, et cetera, increased demand for power or economic dispatch of power by a power pool causing increased hours of operation or power production rates would not overcome the presumption referred to in section 415(d)(3)(B) and would not result in new source review. An owner or operator could demonstrate that increases in hours of operation, et cetera, are the result of increased load growth by analysis or computer simulation.

Mr. LUGAR. I am pleased with what the Senator has just said. Does he then believe that it is the sense of the Senate, in enacting this particular measure, that EPA, when it issues the regulations or interpretative ruling referred to in section 415(d)(3)(B) of this bill regarding presumptions, should incorporate the terms you have just recited into said regulations or interpretative ruling?

Mr. BAUCUS. Yes.

Mr. LUGAR. It is also my understanding that under a proper interpretation of the letters from EPA being put into the CONGRESSIONAL RECORD today, if installation of sorbent injection equipment is used to reduce SO_2 and causes increased PM-10 emissions, then installation of an upgraded precipitator to handle PM-10 with the sorbent injection equipment would also not trigger new source review.

Mr. BAUCUS. That is correct.

Mr. CHAFEE. Mr. President, I concur with Senator BAUCUS and Senator LUGAR'S understanding of these letters and ask unanimous consent that these two letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Chicago, IL, March 8, 1990.

Mr. TIMOTHY J. METHOD,
Assistant Commissioner, Office of Air Management, Indiana Department of Environmental Management, Indianapolis, IN.

DEAR MR. METHOD: Please be advised that my January 30, 1990, letter to you regarding the Clean Coal Technology (CCT) project at Northern Indiana Public Service Company's (NIPSCO) Bailly Generating Station, should be modified. While the Environmental Protection Agency (EPA) continues to agree with the State that Clean Air Act (CAA) provisions for new source performance standards (NSPS) and new source review (NSR) do not apply if the conditions outlined in my January 30, 1990, letter are met, some revisions are necessary.

On Page 8, the section on "Conditions for Permanent Controls or Devices to Be Considered Not Less Environmentally Beneficial" should be changed as follows:

In first paragraph, second sentence (change underlined)—

"At this time, EPA anticipates that it ruling will include a presumption that such pollution controls will not result in an environmental harm, with respect to permanent controls, if the source demonstrates that:"

In the second condition (change underlined)—

"2. There will be no environmental harm resulting from the proposed activities. This includes conditions that the proposed change would not be itself:

(a) * * * (no change) * * *;

(b) increase the annual emissions of any pollutant regulated under the CAA;" (delete the phrase "as a result of increased capacity utilization rate).

Insert new paragraph after condition 2d—

"Changes which are expected to increase emissions to the atmosphere, such as changes which increase a source's hourly operating capacity (e.g., eliminating a bottleneck, hourly emissions rate (e.g., on pollutant decreases but another increases), or utilization rate (e.g., an anticipated increase in hours of operation resulting from the installation of controls) would not be affected by this interpretation and would continue to be potentially subject to NSR and NSPS. The EPA will presume, however, that the addition of a control device will not, by itself, result in an increase in capacity utilization. However, this presumption will be overcome if there is a clear likelihood that operating hours of production rates will increase because of the installation of the device.

On page 10, a corresponding change should also be made to amend the first full paragraph as follows (change underlined):

"The EPA anticipates that its interpretative ruling will . . . In assessing whether any net increase in actual emissions of any pollutant, over representative actual emission rates, is likely to occur as a result of the addition of controls, the reviewing agency should consider the economic incentives to increase production rates or hours of operations associated with the installation and use of the control device. Where increased emissions due to increased utilization of the facility are clearly a likely result from addition of the device, the change should not be considered environmentally beneficial." (Delete last sentence of paragraph starting with "The authority . . .).

If you have any further questions, please contact Mr. Ron Van Mersbergen at (312) 886-6056.

Sincerely yours.

DAVID KEE,
Director, Air and Radiation Division.

ENVIRONMENTAL PROTECTION AGENCY,
Chicago, IL, January 30, 1990.

Mr. TIMOTHY J. METHOD,
Assistant Commissioner, Office of Air Management, Indiana Department of Environmental Management, Indianapolis, IN.

DEAR MR. METHOD: The purpose of this letter is to comment on the permit proposed by the Indiana Department of Environmental Management (IDEM) for Northern Indiana Public Service Company's (NIPSCO) Bailly generating station. The permit provides for the construction of an air pollution control device and directly related improvements under the Clean Coal Technology (CCT) program. The Environmental Protection Agency (EPA) agrees with the determination by IDEM that the State and EPA rules for prevention of significant deterioration (PSD) and new source performance standards (NSPS) are not intended to apply to the CCT project at Bailly. In other words, the project should not be considered a "major modification" under new source review (NSR) or a "modification" as set forth under NSPS provided certain requirements are met. In a separate but related

issue, EPA also agrees with the determination by IDEM that the addition of a diesel generator as a backup power supply to the scrubber to be installed at Bailly is not a major modification if the limits on operating the generator agreed to by NIPSCO are federally enforceable.

INTRODUCTION

For NSPS purposes, a modification is defined as any physical change in, or change in the method of operation of, a stationary source which increases (in terms of hourly emissions capacity) the amount of any air pollutant regulated under the Clean Air Act (Act) which is emitted by such source, or which results in the emission of any air pollutant not previously emitted. For NSR purposes, a major modification is a modification which results in a significant net emissions increase (in terms of actual annual emissions).

The EPA has become aware that these definitions can be interpreted in such a manner as to subject to NSR or NSPS, or both, certain environmentally desirable activities at existing stationary sources which neither Congress nor EPA intended to be covered by the Act's new source requirements. Moreover, NSR or NSPS coverage would, in some instances, have the effect of discouraging such activities. The EPA believes that such activities, including CCT demonstration projects, are not physical changes or changes in the method of operation, so long as they meet certain criteria discussed herein and EPA issues an applicability exclusion. Hence, such activities are not "modifications" for NSPS purposes, or "major modifications" for NSR purposes.

Over the past several months, EPA has held numerous internal meetings to discuss the Clean Air Act regulatory issues raised by the CCT program. As a result of these discussions, the EPA has decided to issue an interpretative ruling as soon as possible to provide guidance on the definition of a physical or operational change as it applies to new source requirements. In a letter dated January 5, 1990, EPA advised NIPSCO of this intention.

Essentially, this ruling would clarify that if a source solely adds or enhances systems or devices whose primary functions are the reduction of air pollution, and that are determined to be not less environmentally beneficial (as determined by the Administrator) than any emission control system or device it replaces, if any, such activities would not constitute a physical or operational change triggering new source requirements. Consequently, NSPS and PSD and nonattainment new source review would not apply to these types of activities. This interpretative ruling would include permanent, as well as temporary projects under the CCT program. However, it would not extend to projects that primarily are intended to extend the life of a plant or increase capacity. In addition, any changes, permanent or temporary, which are expected to significantly increase emissions to the atmosphere, such as changes which increase a source's hourly operating capacity (e.g., eliminating a bottleneck), hourly emissions rate (e.g., one pollutant decreases but another increases), or utilization rate (e.g., an anticipated increase in hours per year of operating resulting from the installation of controls) would still be subject to NSR and NSPS.

Based on our review of the draft permit, we believe that the Bailly project is consistent with the provisions EPA is developing for its interpretative ruling. On this basis, we have reached the conclusion that this project in particular is not subject to NSPS or major NSR requirements, so long as it continues to meet the criteria herein.

The balance of our comments outlines the grounds for EPA's conclusion and contains a discussion of the anticipated terms of EPA's upcoming interpretative rule. The EPA is still deliberating the specific terms and provisions of its interpretative ruling. While today's comments reflect EPA's current expectations of what will be contained in that document, the actual terms of the ruling may differ from those discussed herein.

BACKGROUND

A. The NSR and NSPS Provisions of the Clean Air Act

The NSR and NSPS provisions of the Act apply to wholly new facilities, and to modifications at existing facilities, when certain conditions are met. The rules governing the applicability of NSR and NSPS to modifications at existing facilities are described in detail in the EPA regulations (see 40 CFR 51.165 and Appendix S, 52.21 and 60.15). In general, the modifications that would trigger these new source requirements are those involving physical or operational changes which increase emissions over baseline levels. (In addition, for NSPS purposes under EPA regulations, a reconstruction occurs and a source is considered "new" if the physical or operational change costs more than 50 percent of the replacement cost of the affected facility, regardless of whether an emissions increase occurs). The term "physical or operational change" is construed broadly and may include the installation, use, or dismantling of pollution control equipment.

1. Background of the NSPS and NSR Modification Provisions:

The 1970 Amendments to the Act required EPA to promulgate technology-based new source performance standards applicable to the construction or modification of stationary sources that cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411(b)(1)(A). Congress decreed that, in addition to wholly raw sources, NSPS would apply to the modification of an existing source, defined broadly as: any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted. Clean Air Act section 111(a)(4), 42 U.S.C. 7411(a)(4).

The NSPS provisions were "designed to prevent new [air] pollution problems" by regulating both newly constructed sources of pollution and existing sources that increase their emissions. *National Asphalt Pavement Assoc. v. Train*, 539 F.2d 775, 783 (D.C. Cir. 1976) [*see also* H.R. Rep. No. 1146, 91st Cong., 2d Sess. 3, *reprinted in* 1970 U.S. Code Cong. & Admin. News 5356, 5358]. The effect of including modified sources as well as newly-constructed sources under the provisions of section 111 was to establish a current level of emissions above which an existing source may not pollute without becoming subject to the NSPS. In August 1977, Congress adopted further extensive changes to the Act (Pub. L. 95-95). These included review-and-permitting programs for new and modified sources combining the technology-based approach of NSPS with specific measures to insure that ambient air quality goals under the Act are met. Congress intended NSR to apply "Where industrial changes might increase pollution in an area." *Alabama Power Co. v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979). Part D applies to areas which have not met national ambient air quality standards (NAAQS) under section 109. To receive a permit in such areas, major new and modified sources must (among other things) obtain emissions offsets that assure reasonable progress toward attainment of the NAAQS and must comply with the "lowest achievable emission rate," which can be no less stringent than an applicable NSPS (see sections 171-173). The 1977 amendments also added a new Part C to the Act including, in sections 160-169, an NSR program for the prevention of significant deterioration of air quality (the "PSD" program) in areas which have attained the NAAQS. To receive a PSD permit, a prospective major new or modified source must (among other things) show that it will not exceed the available air quality "increment" (designed to prevent pollutant concentrations from deteriorating beyond certain levels), and will use the "best available control technology", which must be at least as stringent as any applicable NSPS. Both the Part D NSR program applicable to nonattainment areas and the Part C NSR program applicable to attainment areas adopted the NSPS definition of "modification," but not all the exclusions to that definition [see sections 171(4) and 169(2)(C)].

It is evident from the structure of the NSR and NSPS programs that Congress sought to focus air pollution control efforts at an efficient and logical point: the making of substantial capital investments in, or other long-term decisions regarding, pollution-generating facilities. In adopting NSR measures in particular, Congress sought to reconcile the legislative goal of environmental protection with a concurrent desire for continued economic growth [see sections 160(1)-(4)]. Consequently, a key theme of the NSR program is the careful evaluation of, and public participation in, "any decision to permit increased air pollution" [see section 160(5)]. As discussed below, the current regulations implementing NSPS and NSR were designated to apply these programs in a manner consistent with their respective statutory purposes. Today's comments represent our interpretation of these existing regulations under the facts presented by the Bailly project. The EPA expects that its upcoming interpretative ruling will further focus EPA's position on the basis legislative intent of these important programs.

2. The Two-Step Test for Modifications:

The modification provisions of the NSPS and NSR programs grow from a single statutory trunk, the very broad definition of "modification" in section 111(a)(4). Under both respective programs, EPA developed a two-step test for determining whether activities at an existing facility constitute a modification subject to new source requirements. In the first step, which is largely the same for NSPS and NSR, EPA determines whether a physical or operational charge has occurred. If so, EPA proceeds in the second step to determine whether the physical or operational change will result in an emissions increase over baseline levels. In this second step, the applicable rules branch apart, reflecting the fundamental distinctions between the technology-based programs of NSPS and the technology and air quality concerns of NSR. Briefly, the NSPS program is concerned with *hourly* emissions rates, expressed in kilograms or pounds per hour. [An hourly emissions rate is the product of the instantaneous emissions rate, i.e., the amount of pollution emitted by a

source, after control, per unit of fuel combusted or material processed, (such as pounds of sulfur dioxide emitted per ton of coal burned) times the production rate (such as tons of coal burned per hour)]. Emissions increases for NSPS purposes are determined by changes in the hourly emissions rates at maximum capacity. The NSR is concerned with total annual emissions to the atmosphere, expressed in tons per year. (Annual emissions are the product of the hourly emissions rate, which is the sole concern of NSPS, times the utilization rate, expressed as hours of operation per year). Emissions increases under NSR are determined by changes in *annual emissions* to the atmosphere.

3. Physical or Operational Change:

The very broad definition of physical or operational change in section 111(a)(4) could, standing alone, encompass the most mundane activities at an industrial facility—even the repair or replacement of a single leaky pipe or a change in the way that pipe is utilized. The definition certainly is broad enough to encompass the addition or enhancement of pollution control equipment. However, EPA has always recognized that Congress obviously did not intend to require every activity to be potentially subject to new source requirements, and that it would be administratively impracticable to do so. Accordingly, EPA has substantially narrowed this term in its NSPS and NSR regulatory definitions through the adoption of common-sense exclusions. For example, both sets of regulations contain similar exclusions for routine maintenance, repair, and replacement; for certain increases in the hours of operation or in the production rates; and for certain types of fuel switches [see 40 CFR 60.14(e); see also, e.g., 40 CFR 52.21(b)(2)(iii)]. In addition, with respect to pollution control equipment, the NSPS regulations contain an exclusion for;

"The addition or use of any system or device whose primary function is the reduction of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial [40 CFR 60.14(a)(5)]."

The EPA has held that this exclusion does not apply to a source which, upon original construction, employed wet scrubbers, but later (upon relaxation of a State plan under section 111(d)) desired to remove the control equipment, which would have resulted in much higher levels of pollution than the plant had ever emitted [*National Softwire Aluminum Co. v. EPA*, 838 F.2d 835 (6th Cir.), *cert. denied*, 109 S.Ct. 390(1988), herein after *National Southwire*]. In the past, EPA has taken various views as to whether the exclusion in section 60.14(e)(5) should apply for NSR purposes. As noted earlier, the NSR statutory definitions of modification simply adopt the NSPS definition in section 111(A)(4). In addition, the legislative history reflects that, as a general matter, Congress intended to conform the meaning of "modification" for PSD purpose to usage under NSPS [see 123 Cong. Rec. H11957 (Nov. 1, 1977)]. For this reason, EPA initially ruled that the NSPS exclusion for addition of control devices applied automatically to PSD (Memorandum from Edward E. Reich, OAQPS, and William F. Pedersen, OGC, to EPA Region VI, April 21, 1983). The EPA reversed course in a 1986 applicability determination issued for both PSD and nonattainment NSR purposes, noting that the NSPS exclusion was highly qualitative, and failed to give due account to either the air quality management component or the largely quantitative orientation of the NSR applicability regulations. (Memorandum from Gerald A. Emison, Director, OAQPS, to Regional Air Division Directors, July 7, 1986).

COMMENTS ON NSPS APPLICABILITY

An NSPS modification is any "physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies" (40 CFR 60.2). Under NSPS, emissions increases, for applicability purposes, are calculated by comparing the hourly emission rate immediately before and after the physical or operational change. All operating parameters which may affect emissions must by the same to the maximum feasible degree for the before and after testing, and tests must be conducted under representative conditions. Absent the exclusions from modifications specified at 40 CFR 60.14(e), any increase in emissions to the atmosphere over the previous emissions rate will subject the modification to NSPS [see section 60.14(a) and (b)]. In addition, modifications which would cost 50 percent or more of the cost of a comparable new facility are classified as reconstruction (see 40 CFR 60.15) and are subject to NSPS as a new source even if there is no emissions increase.

Thus, unless the reconstruction provisions come into play, it is clear that under the existing regulations NSPS would not apply to the installation or improvement of emission control equipment which reduces hourly emissions rates. If the reconstruction provisions do apply, then such changes would trigger NSPS.

Based on NIPSCO's permit application and representations made by NIPSCO's September 14, 1989 and December 4, 1989 information submittals to EPA, NSPS, would not apply to the Bailly Station if the new scrubber is not removed (i.e., if it is a permanent demonstration) because hourly emission rates will not increase as a result of the addition of these CCT controls. As a permanent CCT demonstration project, it would satisfy the requirements of the exemption contained in 40 CFR 60.14(e)(5) for the addition or use of any control system or device whose primary function is the reduction of air pollution. (The definition of "modification" for NSPS is found at 40 CFR 60.14). In addition, the Bailly project would not qualify as a reconstruction under 40 CFR 60.15.

However, the NSPS provisions could also apply to major facilities with temporary CCT demonstration projects at the end of the demonstration when the control equipment is removed and emissions rise back to the level that existed before the demonstration. Thus, while the placement of CCT controls at Bailly will reduce the hourly sulfur dioxide (SO_2) emissions rate, if NIPSCO later dismantles the CCT controls, this would result in an increase in hourly SO_2 emissions up to pre-demonstration levels and the source could be considered subject to NSPS.

Today's comments reflect EPA's position that the Bailly plant would not be subject to NSPS at the conclusion of the project, if NIPSCO decides to make it only temporary, as the result of an increase in emissions rates back up to the levels which existed before the changes were made to accommodate the temporary demonstration project. The EPA expects that its forthcoming interpretative rule will take this position with respect to all temporary CCT and similar demonstration projects which reduce emission rates. Unlike the situation presented in *National Southwire*, it is clear that the addition of pollution control in a temporary CCT demonstration was never intended to result in permanent emissions reductions. In addition, removal of temporary controls will not result in a level of emissions higher than that experienced in the past. (Reconstruction provisions, however, could subject both temporary and permanent CCT demonstration projects, and certain other emission control system installations or improvements, to NSPS. Still, as indicated by the Bailly project, the reconstruction provisions of the Act should rarely, if ever, apply to the type of activity which would be considered for exclusion from the definition of a physical change or a change in the method of operation. Thus, the triggering of the reconstruction provisions is an indication that the proposed activities are more extensive than just the addition, or replacement, of an emission control system or device, and so are not appropriate for exclusion.)

COMMENTS ON NSR APPLICABILITY

Modified sources are subject to NSR if the modification is "major." Major modifications must consist of a physical change or change in the method of operation of a major stationary source [40 CFR 52.21(b)(1)] which results in a net emissions increase of any pollutant subject to regulation under the Act that is significant. Significance levels are expressed in tons per year and differ for each pollutant [40 CFR 52.21(b)(23)]. Net emissions increases are determined [40 CFR 52.21(b)(3)] by summing all contemporaneous creditable actual emissions increases and decreases. The definition of "actual emissions" is such that generally the comparison is between actual emissions before the physical or operational change in question and the potential to emit of the facility afterwards [40 CFR 52.21(b)(21)]. If the source has not been operating near full capacity, even the addition of a control device could be considered a significant net emissions increase when comparing historic actual emissions with a new potential to emit, even though there may be a substantial reduction from historic actual emissions.

Specifically, actual emissions before the change at a facility are generally determined by averaging the emissions for the 2 years prior to submittal of the permit application (or some other period if the last 2 years are not representative of normal unit operation) [see, e.g., section 52.21(b)(2)(ii)]. Since the emissions rate after a physical or operational change cannot be predicted in advance, EPA regulations assume that a source's actual emissions will equal its maximum "potential to emit", which is based on constant full loads operation for an entire year (unless restricted by federally enforceable limitations) [see, e.g., sections 52.21(b)(21)(iv); 52.21(b)(4)]. Thus, a physical or operational change will trigger NSR if the annual potential to emit of the source is significantly greater after the change than its representative actual annual emissions before the change, unless the company agrees to federally enforceable operational restrictions which limit its potential to emit to levels not significantly greater than its actual emissions before the change. This actual-to-potential methodology applies to physical or operational changes at new or "modified" (i.e., altered or changed) emissions units [see 45 FR 52676, 52677, 52718 (1980)].

As explained below, EPA believes that this methodology generally serves the purposes of NSR because it subjects to review projects that might lead to an increase in actual pollution. However, the NSR provisions in the existing regulations could be interpreted to apply to major facilities simply installing or improving control equipment, including CCT demonstration projects, under circumstances where a permanent increase in pollution is highly unlikely.

Under EPA's prospective interpretative ruling, existing sources which would otherwise become subject to NSR only because they decide to install or improve emission controls, or participate in the CCT program or similar demonstration projects approved by EPA, would instead be excluded from NSR coverage, so long as certain criteria intended to ensure that permanent increases in actual emissions do not occur are met.

With respect to the Bailly project in particular, it appears that the plant has been operated at a rather high level of approximately 60 percent of capacity, reflecting baseload utilization of the plant. There is no indication that NIPSCO intends to increase this level of usage at any time following installation of the CCT controls. In addition, it appears that the Bailly project will meet the criteria EPA expects to set forth in its interpretative ruling for both temporary and permanent projects.

The EPA now believes it is appropriate to devise and apply such criteria both for the Bailly project and for the upcoming interpretative ruling. The EPA has recommended the position taken in its 1986 memorandum, discussed earlier, regarding use of the NSPS exclusion in 40 CFR 60.14(e)(5). While EPA continues to believe that this exclusion does not apply automatically for NSR purposes, the criteria discussed herein provide due consideration of air quality management concerns and the need for quantative analyses.

CONDITIONS FOR PERMANENT CONTROLS OR DEVICES TO BE CONSIDERED NOT LESS ENVIRONMENTALLY BENEFICIAL

As noted above, EPA is preparing an interpretative ruling which will clarify that if a source solely adds or enhances systems or devices whose primary functions are the reduction of air pollution, and which are determined to be not less environmentally beneficial, such activities would not constitute a physical or operational change triggering new source requirements. At this time, EPA anticipates that its ruling will provide that such pollution controls will be considered not less environmentally beneficial with respect to permanent controls, if they meet at least the following criteria:

(1) The source will continue to meet all current requirements and standards applicable to existing sources under the Act. This includes meeting applicable NAAQS, PSD increments, permit conditions, and State implementation plan (SIP) limitations.

(2) There is no environmental harm resulting from the proposed activities. This includes conditions that the proposed activities would not cause the source to;

(a) Increase the maximum hourly actual emissions rate of any pollutant regulated under the Act;

(b) Increase the annual emissions of any pollutant regulated under the Act as a result of an increase in capacity utilization rate;

(c) Adversely impact an air quality related value (e.g., visibility) in any Class I area; or

(d) Allow an increase in emissions of toxic pollutants not regulated by the Act which would cause an adverse health or welfare impact.

Based on the information provided by NIPSCO, it appears at this time that the Bailly project, if it is made permanent, will meet the above criteria. Accordingly, as to the Bailly project in particular, EPA believes that major NSR requirements clearly will not apply if the project is made permanent, so long as these criteria are in fact met.

TEMPORARY CCT CHANGES

In its upcoming interpretative ruling, EPA expects to follow criteria for "temporary" CCT projects which are somewhat different from those for permanent projects. The EPA likely will consider a project to be temporary if it lasts less than 5 years from the date the project commences construction. However, the ruling probably will provide that the Administrator would consider an additional period of time, up to 5 additional years, in certain cases. At the end of a temporary project, the facility would be returned to pre-demonstration conditions and hourly emission rates (or lower). It is not clear if the proposed Bailly station permit is for a permanent or temporary CCT project. It is our understanding that NIPSCO considers the first 3 years of the CCT demonstration project to be "temporary" and will view the changes as "permanent" for the following 17 years if they are continued after the 3-year period.

The EPA expects that its interpretative ruling will provide that for temporary demonstration projects, the conditions relating to actual emissions increases and hours of operation criteria under 2a, b and d above would not apply to minor, temporary variations from nominal operating conditions. Temporary increases may occur due to testing procedures or some failure in unique but unproven equipment, but should not willfully contribute to adverse health or welfare impacts. The EPA believes that the benefits inherent in CCT and other similar technology demonstration projects counterbalance the limited, temporary impacts that may occur during these temporary projects. Under the ruling, temporary demonstration project applications likely would have to meet all of the other criteria applicable to the permanent projects discussed above. This interpretation would provide the flexibility to encourage temporary demonstration projects which are considered to be environmentally beneficial overall, despite unpredictable, temporary increases in emissions of some pollutants or in the hours of operation that may occur during the course of a demonstration.

The EPA expects the ruling to state that temporary changes would become permanent in any time during or at the end of a demonstration period if the owner/operator seeks a revised applicability determination addressing all criteria applicable to permanent air pollution control system improvements. In submitting these comments, EPA is applying the above criteria in its review of the Bailly project. If NIPSCO ultimately decides that the Bailly CCT project is to become a permanent CCT demonstration, the project should meet all the criteria discussed earlier for permanent projects at the time the project is to be converted to permanent status (i.e., after 3 years).

PROCEDURES FOR ENVIRONMENTALLY BENEFICIAL EXCLUSIONS FROM APPLICABILITY

The EPA expects that under its forthcoming interpretative rule, an owner or operator proposing to make an environmentally beneficial change in an air pollution control system will be called upon to request an applicability determination from the appropriate NSR/NSPS permit authority. The request should include a general description of the facility and the proposed activity, information on the current and projected use of the facility, and sufficient information to justify a nonapplicability determination. For any air pollution control system improvement, the request should include a rationale for why the emission control system or device should be considered equal to or more efficient than existing control technology at the source.

The EPA also anticipates that its interpretative ruling will state that in providing information to the reviewing authority, an owner or operator should submit sufficient modeling to demonstrate that any new or increased emissions of unregulated toxic pollutants resulting from the change in control equipment will not cause or contribute to adverse health or welfare inpacts. The owner or operator should also demonstrate that the source will not operate at greater hourly emissions rates, or for more hours, than it has been during the most recent 2 years (or some other period, if the last 2 years are not representative of normal operation). In assessing whether actual emission increases of any pollutant are likely to occur, the reviewing agency should consider the economic incentives to increase production rates or hours of operation associated with the change. Any change which could reasonably result in increased emissions due to possible increased utilization of the facility as a result of the changes should not be considered environmentally beneficial. The authority reviewing the proposed change should explicitly determine, based on consideration of these and other relevant criteria, that the net effect will not be one of environmental harm.

OPERATING LIMITS ON NEW DIESEL GENERATOR

The EPA considers the addition of a backup diesel generator at Bailly not to be an integal part of the CCT demonstration, in that the generator could serve multiple functions once installed. In general, EPA views changes to be subject to NSR and NSPS if such changes are not strictly related to the addition of the improved air pollution control system and the changes have any possible additional application. However, EPA agrees with IDEM that the addition of a new diesel generator does not constitute a "major modification" if the State's limits on the generator's hours of operation, preventing concomitant increase in emissions from exceeding significance levels, are federally enforceable.

In closing, EPA agrees with the State that NSPS and NSR do not apply if the conditions outlined in this letter are met. If you have any further questions, please contact Mr. Ron Van Mersbergen at, (312) 886-6056 or Mr. Dom Abella at, (312) 886-6543.

Sincerely yours,

DAVID KEE,
Director, Air and Radiation Division.

Mr. CHAFEE. Mr. President, I want to mention to my colleagues and all who might be listening that the technical amendments to title I, which is the stationary source nonattainment, title II, mobile sources, and title VII, CFC's are available at the Environment and Public Works Committee, which is room 410 in the Dirksen Building, and in the respective cloak-

rooms; so if anybody wishes to inspect or review those technical amendments, they can do so in room 410 of the Dirksen Building or in either of the cloakrooms.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I further ask unanimous consent that I might be permitted to speak as though in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized as if in morning business for a period of 3 minutes.

RETIREMENT OF REPRESENTATIVE BILL FRENZEL

Mr. DURENBERGER. Mr. President, on midday last Friday, many of us here and in Minnesota were shocked to learn that the dean of our Minnesota congressional delegation, Congressman BILL FRENZEL, had decided to end that portion of his public service career which has for 20 years featured service to his district, his State, and his country as a Representative of the Third Congressional District of Minnesota.

I have known BILL FRENZEL all of my public life of 30 years. He came to the Minnesota Legislature in 1962 when Republicans were giving some life to politics in the State of Minnesota. But he gave it more than political life; he brought with him in that period of 8 years of service in the Minnesota Legislature some of the most creative approaches to both public policymaking and public policy enactment that any of us had ever seen.

So in 1970, when the Third District's Congressman Clark MacGregor decided to do the impossible, that is, to take on Hubert Humphrey for the U.S. Senate, BILL FRENZEL was chosen to represent the Third District, and he has represented it so well since then that it is hard to believe he can be replaced.

There will be as always many people seeking to do that, but none who can. All of us who have enjoyed BILL FRENZEL, and we enjoy him more with each passing year, will acknowledge the great debt that we owe him for the years that he spent both here in Washington and in Minnesota. He has been a friend to everybody in politics, a role model to all of us who have been in elected office.

He is very plain-spoken. He just says what is on his mind. He is confused sometimes as a conservative, sometimes as a Republican, sometimes as a Democrat, as a liberal, whatever it is. But that is kind of nice in this day and age where people cannot be readily categorized, and so you have to end up accepting BILL FRENZEL for what he really is. He is a very great influence today.

Unfortunately, he was never in the majority in the House of Representatives. I suggest if he were, not only would he be in a position of much greater influence than he has been as to date, but obviously he would have been selected by many for the kinds of positions, platforms, chairs, if you will, that go only with the majority status.

BILL was in the right place at the right time, but never achieved anything he wanted to achieve. But for those of us who lived with him, served with him, and loved him throughout the period of his service, I hope he knows the unique role he played in our lives and in the progress of this institution.

A lot has been written over the weekend about Congressman FRENZEL, enough to keep him going for the next 9 months or whatever he has remaining in his term, and I ask unanimous consent that the material I have been able to pick up so far be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPRESENTATIVE FRENZEL WILL RETIRE AFTER 20 YEARS

(By Craig Winneker)

Rep. Bill Frenzel (R-Minn), the ranking member of the House Budget Committee and a senior member of the Ways and Means Committee, announced Friday he will retire at the end of the 101st Congress.

In a news conference at the state capitol in St. Paul, Frenzel said, "It is not easy to break the habit patterns of 20 years, but it is now time to move on. Every Member of Congress knows when the time has come not to run again. For me, it is now."

Now in his eighth term, Frenzel, 61, was a state legislator and warehouse company president before coming to Congress in 1970. He won a seat on Ways and Means and made his mark as a strong advocate of free trade and low tax rates. Before becoming the top Republican on the Budget Committee, he was the ranking member of the House Administration Committee.

"I have no specific plans for the future," Frenzel said. "I expect to be useful in some way, but I am not looking for any more 80-hour-a-week jobs."

Frenzel also said his campaign committee, which reported a cash-on-hand balance of $389,945 on June 30, 1989, would return contributions received after Dec. 31, 1988, and would be dissolved by the end of the year. He has said that he will not convert any campaign funds to personal use.

His district comprises the Minneapolis suburbs of Bloomington and St. Louis Park, as well as other growing communities. Local political sources say the top Independent-Republican candidate to replace Frenzel would be state Sen. Jim Ramstad.

On the Democratic-Farmer-Labor party side, a growing list of possible candidates is being floated by state officials, including: former state House Speaker Harry Sieben; former state Attorney General Warren Spannaus; attorney Vance Oppermann; state Treasurer Mike McGrath; Ted Mondale, son of former Sen. Walter, and state Sen. Ember Reichgott.

Frenzel becomes the tenth sitting House Member to announce a retirement at the end of this Congress; six are Republicans and four are Democrats.

[From the Washington Post, Mar. 31, 1990]

FRENZEL RETIRING AFTER 20 YEARS IN THE HOUSE

(By Tom Kenworthy)

Rep. Bill Frenzel (R-Minn.), a 20-year veteran of the House and a leading voice on fiscal issues in Congress, announced yesterday that he will not seek reelection this year.

Frenzel, the House Budget Committee's senior Republican and a ranking minority member of the Ways and Means Committee, announced his decision at a news conference in St. Paul.

"Every member of Congress knows when the time has come not to run again," said Frenzel, who is 61 and was first elected in 1970. "For me, it is now."

Regarded as bright, hard-working and acerbic, Frenzel frequently has been influential on economic issues. Although more moderate than many in his party on social questions, he is a strong fiscal conservative and has been a tenacious fighter for free-market principles, particularly on trade and taxes.

In recent years, Frenzel has grown increasingly partisan in response to what he regarded as a tyrannical Democratic majority. This attitude was reflected in his support last year of conservative Rep. Newt Gingrich (R-Ga.) for Republican whip.

Calling Frenzel "one of the giants of this institution," House Budget Committee Chairman Leon E. Panetta (D-Calif.) said that despite their disagreements. "I can think of no one who has approached the work of the Congress, both substance and politics, with more intelligence, seriousness, commitment and integrity."

House Minority Leader Robert H. Michel (R-Ill.) said he was "devastated" by Frenzel's decision. He called the Minnesotan "the GOP's most eloquent and intelligent spokesman on budget and tax issues."

Frenzel's retirement opens up a Republican seat that is expected to be difficult for Democrats to capture. The suburban Minneapolis congressional district is the most Republican and affluent area in Minnesota.

Frenzel said at his news conference that he has no particular plans for retirement. "You ought to go out when you're hitting .300, rather than deteriorating," he said.

[From the Star Tribune, Mar. 31, 1990]

FRENZEL TO RETIRE

(By Betty Wilson and Norman Draper)

U.S. Rep. Bill Frenzel, the dean of Minnesota's congressional delegation, announced Friday that he will not run for an 11th term.

Frenzel's surprise announcement stunned the state's political establishment and

prompted a flurry of speculation about who might succeed him. The announcement comes only one month before political parties are scheduled to endorse candidates for the Third District congressional seat.

"Every member of Congress knows when the time has come not to run again," Frenzel, a 61-year-old Republican, said at a news conference at the state Capitol in St. Paul. "For me, it is now." Friends and members of the congressman's staff, many with tears in their eyes, crowded the room to hear the announcement.

Frenzel said he has no specific plans.

"I expect to be useful in some way, but I am not looking for any more 80-hour-a-week jobs," he said.

For the time being, he and his wife, Ruth, will stay in Washington, D.C., he said. Frenzel, a friend of President Bush, said he has not been offered and isn't looking for a job in the administration.

In an interview, Frenzel said he "absolutely" would rule out running for governor. He disclosed that U.S. Sen. Rudy Boschwitz as late as Thursday night had urged him to get into the gubernatorial race. Although there are six IR candidates, none has broken out of the pack.

Boschwitz said yesterday afternoon that he hadn't heard a "Shermanesque" statement of refusal from Frenzel, and that he still hopes he'll consider running for governor. A Boschwitz-Frenzel ticket this fall would be a strong one, he suggested.

Frenzel said his political committee will return contributions received since Dec. 31, 1988, and will dissolve by the end of the year. He reported a cash balance of $358,347 in his campaign kitty at the end of last year. Frenzel said he will not take any cash for personal use from his campaign funds, which he is allowed to do under federal law. Those leftover funds will be used for severance pay for employees and contributions to other candidates, he said. Federal law does not permit him to give more than $1,000 to whomever may be endorsed by the Independent-Republican Party to succeed him, Frenzel said.

At some point he will endorse a successor, but he'll wait until prospective candidates make their announcements, he said.

Frenzel was elected to the U.S. House in 1970 by a narrow margin from the sprawling suburban Third District, and by majorities as high as 70 percent ever since. The district is considered Republican territory. It includes western and southern Minneapolis suburbs, Carver County, most of Scott County, western and southern Dakota County, and a township in Goodhue County.

He is the fourth-ranking Republican on the House Ways and Means Committee and the senior Republican congressman on the Budget Committee.

Frenzel is considered a fiscal conservative and a moderate on many social issues. Although he considered running for the U.S. Senate in 1978, he would have had difficulty winning the IR endorsement because of his positions favoring abortion rights and a proposed Equal Rights Amendment.

He used a baseball analogy to explain why he's decided to step down at this time.

"You ought to go out when you're hitting .300, rather than deteriorating," he said.

At least some Democrats saw the Republican stranglehold on the district loosening with Frenzel's announcement.

"It's not a Republican lake," said Bob Coombs, Third District DFL Party chairman. "Its a pretty independent district. . . . There's a good chunk of independent voters that can go either way."

Coombs said that, before Frenzel's announcement, the party had searched with little success to find a DFL candidate for the seat. He said 12 people had been contacted through February about running against Frenzel.

"Quite frankly, we got some, 'Yeah, it might be a good idea' responses, but people weren't really interested until Bill Frenzel left."

But state Sen. Michael Freeman, DFL-Richfield, and an announced candidate for Hennepin County attorney, noted that even without Frenzel the Third is "a real tough, tough seat for a Democrat."

Freeman, who lost to Frenzel in 1978, said that although he is "very interested in being Hennepin County Attorney," he has not discounted the possibility of taking another shot at the Third District seat.

State IR Chairwoman Barbara Sykora said the field is wide open for candidates for Frenzel's seat. The Third District IR convention meets May 5 and is expected to endorse a party candidate. The district DFL convention meets April 28.

State Sen. Jim Ramstad of Minnetonka, who was at Frenzel's news conference, said he's considering running. Other names mentioned on the IR side include Hennepin County Commissioner Randy Johnson; former state Rep. Charles Halberg of Burnsville, who is running for the state Senate, and Doug Kelley of Bloomington, a candidate for governor.

A number of IR legislators also are on the list of potential candidates, including state Reps. John Himle, Bloomington; Connie Morrison, Burnsville; Sally Olsen, St. Louis Park; Kathleen Blatz, Bloomington; Dennis Ozment, Rosemount, and K.J. McDonald, Watertown.

Of those reached for comment, Blatz expressed interest and Johnson said he would take "a good, hard look" at running for the seat. Kelley said he'll stay true to his gubernatorial ambitions. Himle said he would "take a look at it," but that "the signals probably aren't right at this time."

On the DFL side, names being mentioned include Attorney General Hubert Humphrey III: state Sens. Ember Reichgott of New Hope and Freeman; state DFL Chair Ruth Stanoch, Bloomington; former House Senator Harry Sieben, Hastings; former state Sen. Emily Staples, Plymouth; former Attorney General Warren Spannaus, Bloomington, and Michael Hatch of Burnsville, a candidate for governor.

"I do live in the Third," said Reichgott. "But I think my thoughts right now are to focus on the last 10 days of the (legislative) session and complete what I have to do here. It's an idea I would like to discuss with some other people."

Sieben said he'd "have to think about it for some period of time," and Spannaus denied any interest in the seat.

Hatch said that he intended to continue his bid to unseat DFL Gov. Rudy Perpich, despite the Third District opening.

Q & A/It Was a "Hard Decision" After 20 Years

(By Betty Wilson)

U.S. Rep. Bill Frenzel talked Friday about why he's retiring after 20 years in Congress, and reflected on his years in office and the state of political affairs in the nation and in Minnesota.

Here are excerpts from an interview:

Q. When did you decide to step down?

A. Ruthie and I decided last week. I've been thinking about it a couple of years. It was a hard decision. I almost came down on the other side. It was a close one. . . . I guess there will be 30 or 40 candidates for my seat. It's going to upset the fruit basket for a while. I had to worry about that a little bit. I had to worry a little bit about other people on the ticket . . . worry about projects I am working for in the Congress and those I'm working against. I guess I think it's not a good thing for Ted Williams to be playing right field when he's 50 years old. It's not that I'm forced by some event. It's just that I think it's appropriate to do it.

Q. How has the political process changed in recent years? Has it changed for the better or worse?

A. In a nutshell, we have become a little more polarized. We have seen the decline of the political parties. When I was elected, the parties were strong and could elect candidates. They seem not only in Minnesota but elsewhere to be pretty weak. While people claim allegiance to one party or another, they are unlikely to want to work for them, less likely to want to contribute to them. Now we are in the age of the candidate and the single issue. I also believe, and this is highly subjective, that we are not getting the same caliber of person in the Congress as we were putting 20 or 30 years ago, and I am not sure whether it's better or worse, but it is a different kind of person.

Q. In the past you were almost denied endorsement by your party. Have the changes in the IR Party been part of this decision?

A. I would say it has made life less pleasant. When I ran for this I had a very strong, active party and one I could count on for help in campaigns, people to put on the streets, peddle literature, get the mail out. That's all changed. Parties have become rather more debating societies, probably less positive and more negative. But that's simply an item of personal comfort. It hasn't bothered my job at all. I don't have any war with the party in the Third District. Where we can do it together, we do it happily. Sometimes we part company. We do that happily as well. But just from a standpoint of 20 years, the party thing has made life a little more difficult for candidates. In some ways it's made it better because candidates now run the show. The party does not.

There's a whole different kind of campaigning now. In the old days we put much more reliance on volunteer resources. We rely much more on dollar resources now. So whoever comes behind me will have a different problem. The party will be much less relevant. . . . Frankly the party is not very reliable.

Q. Are you concerned about single interests?

A. I'm concerned about it. I don't want to write a law against it. However people choose to participate, by broad umbrella group or narrow unbrella group. . . . It's their own business. It's a little more difficult for candidates and officeholders to deal with the situation when single-interest groups are working the problem hard. I think, however, the American people are essentially broad-gauged. While they have intense interest in certain issues, abortion, school busing . . . ultimately 98 percent of the people judge a candidate on his own good judgment rather than those single issues.

Q. What were the high points during your career?

A. Well, I'll tell you, every day has been exciting. I remember being sworn in and just absolutely awestricken, overcome by the process. And nearly every day that I go to work in the Capitol I get goosebumps coming by the statues of the titans of the republic who have made our laws. It has been a kind of awesome experience to be down there.

I have had a few personal victories. I had good luck with the election laws in '72 when we created the Federal Elections Commission. I thought I had a personal hand in that; at least I claimed some credit for it. Some of the tax laws of the '70s, I thought I had a big hand in. In the last 10 years I have converted over to being a budgeteer. I have tried to exercise a restraining hand on what I think is the profligacy of the Senate. Every now and then we sustain a veto or beat a bill or chop a little piece off a bill and those have been the high points. Other than that it has been the privilege of serving this term with a president who is a personal friend, whom I like, whose policies I generally like. That has been a great thrill.

Q. Have you been frustrated at not being in the majority?

A. No question about it. The minority is a good noble role in our system, but it's a crummy one to have to play every day. Luckily, when I was in the Minnesota House, Republicans were in the majority each of those sessions, so that was a little more pleasant. You play the hand you are dealt.

Q. Critics say Congress isn't doing anything to effect change, that nothing is moving out there.

A. If so, I've been more successful than I've thought. The federal government in my judgment had much too heavy a hand in the lives of its citizens. I have tried to remove the federal government and where possible to transfer not only the obligations but the resources to the state. As dippy as I think the Minnesota Legislature is . . . I mean leadership. . . . I really think the citizens are better served closer to home with people who are there every day and are called to task. It isn't fair to say Congress is not accountable, but we are very heavily insulated against electoral accountability. Members of the House of Representatives have been reelected over the time I've been in Congress with a little better than a 96 percent success ratio. That's too much. At least in Minnesota occasionally we throw one of the rascals out. So I would prefer to see the federal government doing less. I would prefer to see federal programs scaled down. I would prefer to see states carrying more responsibility. If . . . that's happening, I would declare a victory.

Q. Is this a happy time, a sad time?

A. It's bittersweet. I have enjoyed the career. I have loved it. There are some great memories. I will miss some wonderful things. I would hope there are some wonderful things in the future, too.

Q. Are you independently wealthy so you won't have to look for another job?

A. Actually no. I have a modest amount of assets. But I will have to do something.

FRENZEL DROPS A BOMB: WON'T SEEK 11TH TERM

(By Bruce Orwall)

Rep. Bill Frenzel, one of the most powerful Republicans in Congress, dropped a bombshell Friday by announcing that he will not seek re-election in Minnesota's 3rd Congressional District this fall.

With 20 years of service, Frenzel, 61, is the senior member of Minnesota's congressional delegation. But his decision, based on his notion that it is time to move on, caught everyone, from his staff to political gossip mavens, off guard.

It will also touch off an intense free-for-all in pursuit of his seat, particularly among Independent-Republicans who have been waiting behind Frenzel for a long time. Within moments of Frenzel's announcement at the State Office Building in St. Paul, more than a dozen names were being touted as possible successors.

"It is an exciting and fulfilling and fun kind of life," Frenzel said. "However, there comes for everyone a time to do something else, and that time has come for me.

"It is not a good thing for Ted Williams to be playing right field when he's 50 years old," Frenzel added.

He did not speculate on his future plans. In the past, Frenzel, a good friend of President Bush, has been considered a logical selection for a post in the Bush administration, and was considered for the post of U.S. trade representative when Bush was elected. Frenzel said Friday he has no offers from Bush, and won't consider any until he has completed his term.

U.S. Sen. Rudy Boschwitz had an idea for Frenzel, though. He has spent the last two months attempting to persuade Frenzel to run for governor in Minnesota.

"I don't want to denigrate our other candidates," Boschwitz said, "but Frenzel would be a sensational candidate."

Frenzel says that he may seek elected office again in the future, but he does not want to run for governor in 1990.

At the Capitol, Frenzel's decision caught potential successors from both parties flat-footed. And he admitted that the timing of his decision gave candidates in the south metropolitan district very little time to gear up for the endorsing conventions that will be held May 5.

"I recognize that that may put some strain on the endorsement procedures," Frenzel said. "The party may want to defer its endorsing convention. . . . It's going to upset the political fruitbasket in the area for a while."

Leading the list of potential successors on both sides of the aisle are current or former legislators.

Among Independent-Republicans, Sen. Jim Ramstad of Minnesota has made no secret of his desire to run for Congress, but there are many others named as possibilities. They include state Reps. Sally Olsen, St. Louis Park; Dennis Ozment, Rosemount; Connie Morrison, Burnsville; K.J. McDonald, Watertown; former Rep. Chuck Halberg; Hennepin County Commissioner Randy Johnson; and two IR gubernatorial candidates who live in the district, Doug Kelley and David Printy.

Whoever emerges, observers at the Capitol speculated that a Republican favoring abortion rights, like Frenzel, would be the party's best bet to hang onto the seat.

On the DFL side, some of the people who have shown interest in the past are already pursuing other offices in 1990. The long list of DFLers includes state Sen. Mike Freeman, Richfield, who is running for Hennepin County attorney; Minneapolis attorney Vance Opperman, Gov. Rudy Perpich's former campaign chairman; former House Speaker Harry Sieben (or his brothers, Bill and Mike); Attorney General Hubert H. Humphrey III, who is seeking re-election; former Commerce Commissioner Mike Hatch, who is running for governor; state Sen. Ember Reichgott, New Hope; and DFL state Chairwoman Ruth Stanoch.

Hatch, however, for one, said Friday he isn't interested in the job and wants to focus on his challenge to Perpich.

Frenzel is the ranking Republican on the House Budget Committee and the fourth-ranking Republican on the House Ways and Means Committee. Both are influential posts, but Frenzel indicated he is weary of laboring in the Republican minority.

"The minority is a good, noble role in our system," Frenzel said, "but it's a crummy one to have to play every day. . . . But you play the hand you're dealt."

Frenzel said he won't walk away with any of his $300,000-plus campaign warchest, which would be legal under federal election laws until after the 1992 election—a change in federal law that is expected to provoke a lot of congressional retirements in 1992.

The Frenzel campaign will refund 1989 and 1990 contributions, pay its bills and staff and close its office, he added.

"I do not intend to take any large cash donation from my volunteer committee," Frenzel said. "If they want to buy me an ice cream cone or hamburger as a going away present, I'll let them.

When Frenzel was first elected to Congress in 1970, he said he would only serve three to five terms before hanging it up. He has introduced legislation 10 times that would limit congressional service but said Friday he has only attracted two co-sponsors in all those years.

Frenzel counts among his greatest achievements the creation of the Federal Elections Commission in the 1970s, passage of a variety of tax laws and his work on budget issues during the last 10 years, when he has tried to provide a "restraining hand" on the Democrat-controlled House.

FELLOW HOUSE MEMBERS PRAISE FRENZEL FOR EXPERTISE, INTEGRITY

(By Steven Thomma)

WASHINGTON.—The business writers sat on their hands while a stream of congressmen made their pitch on some now-forgotten trade legislation.

But when the veteran Republican lawmaker from Minnesota walked up to the microphone, they pulled out their pens and started talking notes.

"Now, we'll get some real insight," said one.

For nearly 20 years, Rep. Bill Frenzel, 61, has been one of the voices that people listened to on Capitol Hill.

They may not always have accepted what he said. He was, after all, in the minority. But they listened.

"Bill has been one of the giants of this institution," said Rep. Leon Panetta, D-Calif., the chairman of the House Budget Committee, where Frenzel had worked his way up to become the senior Republican.

"I can think of no one who has approached the work of the Congress—both substance and politics—with more intelligence, seriousness, commitment and integrity," Panetta said.

Rep. Dan Rostenskowsi, D-Ill., the chairman of the House Ways and Means Committee, of which Frenzel also was a member, called Frenzel "an able legislator, competent and conscientious . . . I hope he'll . . . somehow continue to be involved in the creation of good public policy."

The acclaim has grown in recent years as Frenzel's seniority and his expertise on tax

and trade issues have turned into plum assignments, most notably as the top Republican on the Budget Committee and as a member of the 12-person presidential commission on the budget deficit.

But many times, the brass ring of real, direct power has eluded him.

Frenzel was born in St. Paul. He received a bachelor's degree from Dartmouth in 1950 and a master's in business adminstration in 1951. He ran the family business, the Minneapolis Terminal Warehouse Co., and served in the Minnesota House from 1963 to 1970.

After winning his congressional seat in 1970 by a close 51-49 percent, he increased his hold on his suburban district. He won handily every two years after that.

In 1976 Frenzel was elected chairman of the Republican Research Committee, the first step on the ladder of the House Republican leadership.

But when he tried to move up the ladder in 1978, running for the chairmanship of the Republican Policy Committee, he was defeated by the more conservative Rep. Bud Shuster of Pennsylvania. He would never try again.

Also in 1978, he decided—after some agonzing—not to risk his House seat and run for the Senate. Two relatively unknown Republican newcomers—Dave Durenberger and Rudy Boschwitz—ran and won.

In 1988, he was widely rumored to be a possible choice for a spot in President Bush's new Cabinet, either as trade representative or secretary of commerce. He was not asked.

He said at the time that he was not disappointed, that he was happy to be staying in the House. But those around him knew he was tiring of his permanent status in the minority party.

"Years in the minority party have taken their toll on him, leading him increasingly often into the role of nay-saying curmudgeon, preoccupied as much with the indignities visited upon Republicans by the majority as with the legislation at hand," said Politics in America, a respected book on Congress.

But at least one colleague, Rep. Tim Penny, D-New Richland, said he thought Frenzel's influence on budget matters was on the rise again.

"I thought that in his current role, he was helping to make some headway," said Penny, a fellow fiscal conservative. "I would have thought that would have been very satisfying for him."

House Minority Leader Robert Michel, R-Ill., said Friday that Frenzel's counsel on fiscal issues will be missed.

"I was devastated to hear about Bill Frenzel's decision not to seek another term," Michel said. "He's been the GOP's most eloquent and intelligent spokesman on budget and tax issues for many years and has served a valuable place in the house Republican leadership.

"On a personal note, I know that this decision could not have been an easy one for him. While I regret that a man of such high caliber of personal integrity and intelligence has decided to leave public service, I wish him and his family great success and happiness in private life."

Mr. DURENBERGER. Mr. President, I conclude with a tribute to the people, 509,499 of them at last census count, who made up the Third Congressional District, who had the good judgment over the years, despite the differences with political philosophy from time to time, to keep returning him to the Congress by a very, very substantial margin.

I know that same good judgment will enable them to select a worthy successor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, I was not aware that BILL FRENZEL had announced he was going to retire. I am very, very sorry to hear that. He has been a tower of strength, judiciousness, thoughtfulness, and common sense in the House of Representatives.

I have had the privilege of dealing with BILL FRENZEL rather frequently, particularly in connection with Ways and Means matters, where he has been on the conference committees, several times.

He is going to be very, very difficult to replace. There are certain Representatives over there who have been major players in ways and means matters. I can remember when Barber Conable was of such importance on the Ways and Means Committee. BILL FRENZEL has been a very, very strong voice, particularly for free trade matters. I think he and SAM GIBBONS, of Florida have been probably the two strongest voices for free and open trade.

To have BILL leave is sad, I must say. Obviously, he has his own reasons. He served for a long time in public life. I suppose anybody can say enough is enough at some point. But to have BILL FRENZEL leave is regrettable.

I wish to him and his family all the very, very best in their coming retirement. The good side is he will be around for the remainder of this year.

The PRESIDING OFFICER. Does any other Senator seek recognition?

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, is there a pending amendment.

The PRESIDING OFFICER. There is pending the Baucus amendment to the clean air bill.

AMENDMENT NO. 1428 TO AMENDMENT NO. 1293

Mr. STEVENS. Mr. President, I ask unanimous consent that that amendment be set aside temporarily so I may offer an amendment for myself and Senator MURKOWSKI.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending amendments are set aside.

The clerk will report the amendment offered by the Senator from Alaska.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 1428 to amendment No. 1293.

Amendment 1293 is amended by inserting the following new sentence at the end of line 13 on page 529:

"For the purposes of this section, the phrase 'national security interests of the United States' shall be deemed to include domestic production of crude oil and natural gas energy supplies on the North Slope of Alaska.".

Mr. STEVENS. Mr. President, the amendment has been read. It is very simple, really.

I think the Senate realizes that the North Slope oil fields currently produce about 25 percent of our domestic oil production. The large oil and gas facilities that are there—and gas is produced with the oil, but it is currently reinjected into the ground; there is no transportation system for the gas—those facilities use halon explosion and fire protection systems. I am told these are the only means available to protect these facilities and the people that operate the great Prudhoe Bay oil fields. The phaseout of halons that is proposed by this bill would jeopardize the productive capacity of this extremely large producing field.

My amendment would make it possible for the President to issue orders to allow the continued use of halons for fire and explosion prevention systems if there is nothing that can be developed to take their place.

The systems that are used in the North Slope are enclosed in very large nodules. They are necessary to protect both the equipment and the personnel that would operate the fire suppression systems from the extreme climatic conditions that exist on the North Slope. I am sure the Senate realizes that this is an area of extreme violent temperatures, from 100 above in the summertime to 60 or 70 below in the wintertime.

Of the alternatives to halon that are available, none can be used under the circumstances of the North Slope. CO_2 cannot be used because the lethal dose is a 10-percent concentration and a 35- to 40-percent concentration is necessary for fire suppression in the circumstances that exist on the North Slope.

Water cannot be used. Obviously in the winter it is not available in large enough supplies and, besides that, water spreads hydrocarbon fires and is not an adequate substitute.

Dry chemicals cannot be used. I am told they are effective locally on fires and facility operators can use them for small fires within the North Slope in buildings, but they would be ineffective on the comprehensive transportation system for oil and the reinjection facilities for gas.

I am informed that the companies are trying to find alternatives that would be as safe and as effective as halon. EPA is working with a Government working group that is cooperating with the Halon Alternatives Research Corp., which is a nonprofit company that has been funded to work on finding halon substitutes. The Arctic oil and gas producers are helping to finance that research. But the problem is that unless there is a breakthrough in that research, this bill would phase out the use of halon before this oilfield will complete its production.

So my amendment would ensure that production and use exemption if the President finds that the continued production from the North Slope is necessary in the interests of national security.

Alaska State law requires operators to provide automatic fire extinguishing systems. It is our State law that has the requirement that a system be in place, which I think is only reasonable in view of the number of people that are involved here, and the tremendous amount of oil and gas that is produced daily. The only effective system that is available now and in the foreseeable futute is, in fact, the halon system that is there now. So I am hopeful the managers of the bill will accept this amendment.

It is a discretionary amendment and requires a finding of national security interest in order to continue the use of halon beyond the phaseout date in my State, if that is absolutely necessary to protect the people and the facilities that are so essential to continue development of the North Slope oil and gas production.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, this is a good amendment and is acceptable by this side. I commend the Senator from Alaska for this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota [Mr. BURDICK].

Mr. BURDICK. The amendment is acceptable to us.

Mr. STEVENS. I urge the adoption of the amendment, Mr. President.

The PRESIDING OFFICER. Is there a further debate date? If there be no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1428) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I shall send an amendment to the desk shortly, but first I would like to take my place among other Members of this body in recognizing the great contribution made by the managers of the bill, the majority and minority leaders of the Senate, and innumerable staff persons toward passage of this piece of legislation. I have had the privilege of working on this bill with all of these individuals at odd hours and way into the night. Within the Environment and Public Works Committee, on which I am privileged to serve, I wish to recognize the distinguished leadership of the chairman, who is present on the floor today, and the ranking member, Mr. CHAFEE, who has given us brilliant leadership, I think on both sides of the aisle.

Mr. President, I also will take this occasion to express my appreciation to Ms. Claudia McMurray, on my staff, who has worked tirelessly on this legislation from its very inception, and has given valuable counsel, not only to this Senator but to many others, and has worked very harmoniously with staff on both sides.

The PRESIDING OFFICER. The Chair reminds the Senator from Virginia, there is a pending amendment.

Without objection, the amendment is set aside.

AMENDMENT NO. 1429 TO AMENDMENT NO. 1293

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. NUNN, Mr. EXON, and Mr. BREAUX, proposes an amendment numbered 1429 to amendment No. 1293.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new subpart (f) to section 173 of the Act (as amended by the Mitchell-Dole compromise):

(f) The permitting authority of a State or political subdivision shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

(1) any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is currently permitted to test such engines;

(2) the source demonstrates to the satisfaction of the permitting authority of the State or political subdivision that it has used all reasonable means to obtain offsets, as beyond permitted levels, that all available offsets are being used, and that sufficient offsets are not available to the source;

(3) the source has obtained a finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national interest; and

(4) the source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee, which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.

Mr. WARNER. Mr. President, I would like to have the record reflect that the distinguished Senator from Nebraska [Mr. EXON], the distinguished Senator from Georgia [Mr. NUNN], and the distinguished Senator from Louisiana [Mr. BREAUX] are cosponsors of the amendment.

The PRESIDING OFFICER. Without objection the record will reflect those names added as cosponsors.

Mr. WARNER. Mr. President, I am today offering an amendment dealing with the testing of rocket engines and motors. Although the amendment has been a moving target, I believe it has been cleared by the managers on both sides, and is supported by the administration.

I think at this point I would ask the managers to indicate to the Senator from Virginia whether the amendment is indeed cleared on both sides.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Yes, the Senator from Virginia is quite correct, this amendment has been cleared on this side. It is an amendment that deals with the testing of rocket engines under certain conditions. The powers in this amendment will only have to be invoked on—I do not want to say rare occasions, but it is certainly not going to occur constantly. Therefore, we believe it is a good amendment.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. BURDICK].

Mr. BURDICK. Mr. President, I suggest the absence of a quorum so that we may discuss this matter.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, it is quite understandable to the Senator from Virginia that the majority side still has to check with one Senator. While that is being done, I will proceed to state my reasons for adoption of this amendment and then, if we have not received word from that Senator, I shall, as a courtesy to both sides, reinstitute the quorum call.

Mr. President, my amendment will ensure the continued testing of rocket engines and motors, an activity of paramount importance to our national defense. These rocket engines and motors will propel space launch vehicles and missiles which, in turn, support vital civilian and military missions. Specifically, these testing activities support such space and defense programs as the space shuttle, space station, Titan, Delta, and Atlas launch vehicles, as well as the small ICBM, Trident, and Peacekeeper missiles. In addition, overhead reconnaissance for intelligence purposes is in many ways dependent on our ability to test rocket engines and motors for launches and, again, to perform that testing within the continental limits of the United States.

The pending revision to the Clean Air Act, if enacted in its current form, could have an impact on these programs and, thus, have an impact on America's abililty to remain competitive in the space and defense fields. Under the proposed bill now before the Senate, testing facilities could well, and I underline "could well," be required to move from one State to another—depending on each State's level of air quality—or to move offshore or close completely.

Mr. President, I am confident that my colleagues in the Senate will consider such a result—that is, of moving offshore or closing down—to be contrary to the interest of the Nation.

Further, I think my colleagues would find it undesirable for one State to be pitted against another in determining which State, based on air quality, might be able to accept this type of testing activity.

Mr. President, for these reasons, I am confident that my colleagues will understand this amendment and consider it in the interest of the United States.

The States that have accepted the responsibility of supporting rocket engine and motor testing facilities have also accepted the benefits of the employment opportunities that these facilities bring, as well as national recognition attached to this activity. These types of engines and motors have been on the very forefront of America's technology. We must continue to move those perimeters forward if we are to stay competitive in the world. I am hopeful particularly that, at some point, we will also become more competitive in civilian launching of certain satellite systems.

Those States, therefore, that have provided support for and accepted the benefit of this activity for many years should not be allowed, in my judgment, to close testing facilities or send them offshore without making at least some attempt to find alternative measures that would allow these facilities to continue to operate.

Mr. President, my amendment is a very simple one. It would require that private and public companies operating rocket engine and motor testing facilities find offsetting reductions in emissions equal to the amount of the limited, short-term additional emissions associated with the installation of new or modified equipment on these facilities. I should point out to my colleagues that this amendment requires that testing facilities be subjected to the same offset requirement as all other major stationary sources must meet.

Under the amendment, State and local permitting authorities would be authorized to find offsets for emissions increases through alternative means only, and I repeat, only if the following criteria are met:

First, any modification proposed is for the purpose of expanding testing facilities;

Second, the source is unable to obtain offsets after all reasonable efforts have been used to obtain them;

Third, the source has obtained a finding from the appropriate Federal agency or department that testing at the facility is required for a program essential to our national interest; and

Lastly, the source has complied with an alternative measure designed to provide offsetting emissions reductions, imposed by the permitting authority of the State or local government.

Mr. President, I would like to address a point that may be of concern to some of my colleagues. Rocket engine and motor testing does not contribute in a significant way to current emissions levels. Testing of these sources is not a continuous process. It is quite sporadic. Generally, tests only last several seconds, with one or two tests per day per site being performed at fewer than 20 sites nationally.

Therefore, Mr. President, this is an extremely fair solution, I believe, to a most difficult and pressing problem. Clearly, rocket engine and motor testing must continue for our own national interest. And, just as clearly, we must take all necessary steps to improve this Nation's air quality. Consequently, this amendment seeks to strike a reasonable balance between those important goals by allowing local air quality authorities flexibility in fashioning alternative emissions controls.

I urge my colleagues to support this amendment, and I thank both managers for their cooperation for a number of days during which this amendment has been worked and reworked to try and meet the legitimate concerns of those Senators primarily from the States in which the testing is now being undertaken.

Mr. NUNN. Mr. President, I am pleased to cosponsor the amendment of my friend from Virginia, Senator WARNER, the distinguished ranking member of the Armed Services Committee.

He has correctly pointed out that it is essential to the national interest that we maintain, and as necessary expand or modify, our ability to test engines and motors for rockets and missiles. These engines and motors propel the space launch vehicles and missiles which support our country's vital civilian and military communications satellites, space research, and national defense. Proper testing of these engines and motors is essential to ensure launch reliability and safety.

At this time, there is no known control technology for effectively reducing rocket engine and motor emissions. At the same time, offsets for modified or expanded test facilities in nonattainment areas may not be available. Senator WARNER's amendment provides a way out of this potential impasse.

The amendment would ensure that testing requirements and environmental concerns can be met. Under appropriate safeguards, testing could proceed, and the safeguards also provide the flexibility and incentives for private industry and government officials to develop control technology or alternative offsets to preserve air quality.

State and local permitting authorities would be authorized to allow a source to offset by alternative or innovative means emissions increases from expanded testing, but only if the testing source demonstrates that sufficient direct offsets cannot reasonably be obtained and that the testing activity is essential to the national interest. The possible alternative offset means include emissions fees, which in turn shall be utilized for maximizing air quality in the affected area. These safeguards protect the public interest

and the rights and responsibilities of the permitting authorities.

I applaud Senator WARNER for this innovative resolution of an important issue. I thank the Environment Committee and the Senators from the affected States for their cooperation. Finally, I urge my colleagues to support this amendment.

Mr. DOLE. Mr. President, I am pleased to support the amendment offered by the distinguished ranking Republican on the Senate Armed Services Committee, Senator WARNER.

This amendment will ensure that the provisions of the Clean Air Act will not restrict the vital activities associated with many national security programs that rely on the continued testing of rocket engines and motors.

It does so, however, without attempting to circumvent emissions reductions. The amendment requires that launch and test facilities be subject to the same offset requirements as all other major stationary sources.

My colleague from Virginia points out that rocket and motor testing do not contribute in a significant way to current emissions levels. Nevertheless, the provisions of this amendment do not exempt these rocket launch and test facilities.

Instead, this amendment recognizes that national defense and clean air are high priorities and it manages to protect and promote both—to the benefit of U.S. national interest.

Mr. CHAFEE. Recognizing that the other side may still have problems, I just want to say on this side it has been cleared. This is a good amendment. I extend thanks to the distinguished Senator from Virginia for his thoughtfulness in bringing forth this amendment because I think it is important to our national security.

Mr. BURDICK. Mr. President, there is no objection from this side.

The PRESIDING OFFICER. Is there additional debate?

Mr. WARNER. Mr. President, I thank the managers again for their cooperation. My good friend, Senator CHAFEE, mentioned national security. If I may say, I think it is broader. It is in the national interest, security well as civilian. I am hopeful America can become more competitive in certain backup systems that are desperately needed in civilian areas. So I thank the managers of the bill.

I thank the Chair.

Mr. CHAFEE. Mr. President, I thank the Senator from Virginia for amplifying the scope. I indicated it was defense. He is quite right; it goes beyond that. It helps our international competitive position in this field that, hopefully, is going to be increasingly used as a market for American technology.

Mr. WARNER. Mr. President, I would like the record to reflect the appreciation of the Senator from Virginia to the distinguished chairman of the Environment and Public Works Committee, Mr. BURDICK. It is a privilege to serve on that committee.

Mr. INOUYE. Will the distinguished managers of the bill, the Senator from Montana and the Senator from Rhode Island, confirm for this Senator the intent of the new source permitting procedure under the substitute bill to end the existing confusion and inefficient administration under the Clean Air Act. This Senator has in mind a specific situation where the current law has resulted in a costly administrative standoff between a State and the U.S. Environmental Protection Agency. It is this Senator's understanding that the substitute bill would preclude such an administrative loggerhead through a simplified and expedited procedure for approval of State implementation plans [SIP], permitting programs, and individual permit reviews.

The current Clean Air Act created a framework for attaining and maintaining national air quality standards. The legislation relies on the States to administer and enforce the law. It provides that each State has the primary responsibility for assuring air quality in its jurisdiction. Each State has the responsibility of promulgating a State implementation plan to carry out the legislation. Under current law, EPA must approve a SIP when it determines that the plan was adopted after proper notice and hearing and provides sufficient mechanisms by which air quality requirements can be attained. The State of Hawaii established its SIP under this procedure.

Each SIP must contain a permit program to regulate the modification, construction, and operation of any major stationary source. In regions already meeting national air quality standards, no major emitting facility may be constructed without a "prevention of significant deterioration of air quality" [PSD] permit. A major emitting facility must incorporate the best available control technology for each regulated pollutant. This provision enables the permitting authority to determine the maximum achievable reduction in emissions taking into account energy, environmental, and economic considerations. And the permitting authority can then impose such limits on the proposed facility.

In 1978, EPA published notice in the Federal Register that Hawaii's SIP did not include a permit program for prevention of significant deterioration [PSD] of air quality. Under those circumstances the act mandates that EPA promulgate a Federal permitting program. Accordingly, to correct this SIP deficiency, EPA incorporated the Federal rules into the Hawaii SIP. As envisioned by the Clean Air Act, EPA urged the State to explicitly adopt State PSD rules in the SIP to supplant the Federal rules and Federal administration of the PSD permit program in Hawaii. To this date this worthwhile objective has not yet been achieved.

In response to EPA's notice, Hawaii's Department of Health began to draft a PSD permit program. As an interim measure, EPA in November 1983 partially delegated authority to the Hawaii Department of Health for the implementation and enforcement of a PSD program until the State finalized its regulations. The interim procedure provided for concurrent sharing of permitting authority by the State of Hawaii Department of Health and by the Federal EPA.

After public hearings and advisory committee review, the Governor of Hawaii approved prevention of significant deterioration regulations for the State. On April 28, 1986, Hawaii's Director of Health submitted the regulations to EPA's Region IX Administrator in San Francisco, CA, for approval and incorporation into the Hawaii State implementation program. The transmittal letter stated that approval of the prosposed revision would have the beneficial effect of allowing the State of Hawaii's Department of Health to issue permits without duplicative submissions for both State and EPA review in each instance.

On October 23, 1987, EPA's Region IX informed Hawaii's Department of Health that the State's proposed PSD rules did not comply with Federal requirements published in 1985 for stack heights nor with revised requirements for suspended particulates published in July 1, 1987. With regard to the stack height requirements, the letter noted that EPA intended to publish a notice to impose uniform rules which would cure Hawaii's SIP omission. But since the notice had not yet been approved for publication, Hawaii's proposed rules were deficient and EPA therefore returned the submission without approval.

However, rather than have the State and Hawaii revise its proposed regulations, EPA's Region IX urged that Hawaii continue to administer the PSD permit program under partial delegation. The State of Hawaii felt that another revision would be time consuming and costly; in a letter dated November 4, 1987, the State agreed to this arrangement.

It is important to note that under this arrangement, EPA retains final responsibility for permit reviews. To secure a permit, a company must explain its request to EPA as well as the State of Hawaii. The Clean Air Act, however, envisioned the States ultimately having primary responsibility.

A division of responsibilities between EPA and the State of Hawaii would work better if both employed the same judgment in applying the Clean Air Act to specific situations. This has

been difficult in Hawaii due to the island conditions pertinent to the emitting source. EPA and the State of Hawaii have had judgment perspectives which are not always consistent.

The permitting system can cause difficulty. In February 1987 a small electric utility applied for a PSD permit for two generation units to meet growing consumer demand. For a variety of reasons, the utility did not receive the permit until nearly 3 years later. According to the utility, the delay increased the threat of power outages to utility customers.

The substitute bill establishes an operating permit system for better enforcement of State implementation plan requirements. This system is streamlined to avoid the problems I have mentioned. Furthermore, as this Senator understands it, the bill managers intend the operating permit system to allow the States and EPA to take into account special conditions that may affect any particular source. This is a laudable recognition that the new operating permit system must be flexible enough to factor in local conditions in evaluating an application.

Chief responsibility for operating permits rests with the States, and EPA must approve State implementation plans unless the plans are in variance with the Clean Air Act. Furthermore, EPA should assist the States in overcoming obstacles that may stand in the way of a State's management of its own permit program. After a State implementation plan and permit plan are established, EPA will have explicit authority to review permits proposed by the States. To avoid an administrative logjam, the bill gives EPA 90 days to object. It EPA fails to object within that period and no other participant objects, the State is free to issue the permit. Since EPA can veto any permit to which it objects as being inconsistent with the requirements of the act, it should not be reluctant to transfer permit issuance authority to the States.

Is this understanding correct? Is this Senator accurate that the new permitting procedure in the substitute bill seeks to preclude the administrative deadlock regarding new source permitting that I have cited from arising with respect to operating permits and is this Senator also correct that the permitting system will take into account local conditions?

Mr. BAUCUS. Mr. President, the senior Seantor from Hawaii is correct in his understanding that the substituta bill will preclude the administrative gridlock and turf fight. EPA must work with the States to facilitate each State's administration of its own permit program. The new operating permit system would also allow flexibility for special conditions, such as conditions which may be unique to sources in the Senator's State to be taken into account. However, I do want to note that the operating permit program contained in title V of the substitute would not affect permitting under the nonattainment or prevention of significant deterioration requirements for new or modified major sources. Each State must continue to meeet the requirements or part C and D of the act which are not affected by the amendment.

Mr. CHAFEE. This Senator is in accord with the understanding of the senior Senator from Hawaii.

Mr. INOUYE. This Senator thanks the distinguished managers of the bill for their clarification and for confirmation of the bill's intent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 1429) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1430 TO AMENDMENT NO. 1293

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 1430 to amendment No. 1293.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

URBAN BUSES

On page 143, at the last line of the table, strike:

"Heavy duty buses.....1991 and after..... 0.1 gbh."

and insert in lieu thereof:

"Heavy duty buses.....1992 and after..... 0.1 gbh.".

On page 218, line 13, insert "(1)" after "(e)".

On page 218, line 20, strike "1994" and insert in lieu thereof "1997".

On page 218, line 26, strike "paragraph" and insert in lieu thereof "subsection".

On page 219, line 1, strike "1994" and insert in lieu thereof "1997".

On page 219, line 1, after "as follows" insert the following: "(A) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of one million five hundred thousand persons or more,".

On page 219, line 7, after "later model years" insert the following: "; and (B) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of less than one million five hundred thousand persons but more than one million persons, 10 per centum of new urban buses purchased or placed into service in model year 1993; 25 per centum of new urban buses purchased or placed into service in model year 1995; 60 per centum of new urban buses purchased or placed into service in 1996; and 100 per centum of new urban buses purchased or placed into service in 1997 and later model years".

On page 219, line 9, strike "paragraph" and insert in lieu thereof "subsection".

On page 219, after line 10, insert the following:

"(2) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations requiring that, beginning January 1, 1992, any urban bus operating in any area specified in paragraph (1) shall, at the time of any major engine overhaul, be retrofitted so as to comply with the emissions standards under section 202(a) applicable for model years 1992 and after to new urban buses.".

Mr. DURENBERGER. Mr. President, the amendment which is before us now modifies the provisions of the bill relating to urban buses. The bill currently has two requirements for urban transit buses. One requirement imposes a new particulate standard in 1991, and the second provision requires new urban buses to begin using alternative fuels in 1994.

The purpose of this amendment is to modestly delay each of these requirements so that bus manufacturers and transit companies have more time to meet these new standards. The tailpipe particulate standard is delayed until model year 1992 from 1991, and the alternative fuel requirement for medium-sized cities, those between 1 million and 1.5 million persons, will have until 1997 to completely phase in the alternative fuels requirement.

A third provision in this bill requires that buses, when retrofitted, meet the new particulate standards. This can be done using particulate trap technology which is just now coming to the market.

Diesel particulate emissions from buses and trucks are estimated to cause 800 cases of cancer per year. Most of the cases are attributable to urban buses, and this provision will assure that each of the 7,000 buses overhauled each year will be upgraded to dramatically reduce these emissions.

The provision was suggested to us by the State of California, and the so-called California-New York alternative buses program.

Mr. President, when we say dirty air, to most Americans, I bet most people think of that as soot that comes from a truck or bus that starts up or shifts gears right when we happen to get behind the bus. The provisions that I have outlined solve that problem. By the end of the decade we will see the end of those black clouds on all of our city streets.

Mr. President, I urge adoption of this amendment.

Mr. CHAFEE. Mr. President, just a couple of questions to the sponsor of the amendment. I notice that it is for a fairly restricted group of cities. In other words, as I read the amendment, it is for those cities that are between 1 million and 1.5 million. Is the Senator covering many cities when he limits it to those metropolitan areas? It seems to me there must be a lot of cities that are a little less than 1 million or a lot of cities that are just over 1.5 million. I was curious why he chose that group of cities.

Mr. DURENBERGER. Mr. President, the provision in the bill begins at 1 million. It does not apply to cities under 1 million. And the amendment provides an exception only for what we call medium-sized cities, those cities between 1 million and 1.5 million. All others, the larger cities over a million and a half, will comply with the requirements in the original bill.

Mr. CHAFEE. Does the original bill require a trap on those buses?

Mr. DURENBERGER. Mr. President, the original bill requires alternative fuels by the deadlines set up in the law, originally 1991, now 1992. That is an alternative fuel requirement in the original bill.

Mr. CHAFEE. I guess we could safely say then for all cities over 1 million, they are either covered by this provision which is the trap to capture the diesel emissions or they go into the alternative fuels program; that is for those over 1.5 million.

Mr. DURENBERGER. Yes. Mr. President, it is safe to say all cities over 1 million will have to comply with the alternative fuel requirement. There is only introduced here an exception for a brief period of time for the medium-sized cities between 1 million and 1.5 million but by 1997 they have to comply with the alternative fuels requirement as well.

Mr. CHAFEE. Mr. President, the amendment is acceptable on this side. I want to commend the Senator from Minnesota. He has given a lot of thought to these matters, particularly the urban mass transit problems. This is further evidence of his thoughtfulness.

Mr. BURDICK. Mr. President, there is no objection to the amendment on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1430) was agreed to.

Mr. DURENBERGER. Mr. President, I move to consider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I was pleased to work closely with the distinguished Senator from Minnesota [Mr. DURENBERGER] on the amendment he offered pertaining to urban buses.

The Senator from Minnesota was well aware of my concerns that the urban bus provision coming out of committee could have a disastrous effect on the marketing of buses by the TMC bus company in Roswell, NM.

TMC almost exclusively manufactures diesel buses and it constructs about 33 percent of all buses made in this country. The combination of a phasein of clean fuel buses in urban areas over 1 million people starting in 1991, along with the imposition of a 0.1 particulate standard in model year 1991, guaranteed that TMC would not be selling any buses for several years.

The amendment offered by Senator DURENBERGER will help the situation. His amendment delays imposition of the 0.1 standard until the 1992 model year. In addition, it contains a different phasein schedule for cities between 1 million and 1.5 million people—phasing in the clean fuel requirement between 1994 and 1997.

Mr. President, this amendment does not deal with all of TMC's problems, but it is significantly better than what was contained in the committee bill. I thank the Senator for working with me on this amendment, and I look forward to continuing a dialog with him as this legislation moves forward.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold the request for the absence of a quorum?

Mr. DURENBERGER. Yes.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the quorum call be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I thank the Chair.

Mr. President, I would like to ask the managers of the bill, if no one is seeking to offer an amendment at this time, if they have any objection to my seeking unanimous consent to proceed as if in morning business for a minute or two.

Mr. CHAFEE. Mr. President, that is perfectly suitable to this side. Frankly, just before the Senator starts, if I could make a public plea to anybody who is listening who has an amendment, either one that will be accepted or one that will not be accepted, now is the time to bring those amendments over, that amendment, or any others; either debate it, or if the managers agree to have it accepted so we can dispense with some matters that otherwise would delay us until tomorrow. How much time would he like?

Mr. COCHRAN. Two minutes.

Mr. CHAFEE. Fine.

Mr. BURDICK. We have no objection.

The PRESIDING OFFICER. Without objection, the pending matter will be temporarily set aside.

The Chair recognizes the Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. I thank the managers of the bill very much.

ABUSES UNDER THE COPYRIGHT DOCTRINE

Mr. COCHRAN. Mr. President, a recent article in a publication entitled "News, Inc." confirms that legislation is still needed to prevent abuses under the copyright doctrine of work made for hire.

I introduced legislation several years ago to redefine and give effect to the rights that freelance writers, photographers, artists, and graphic artists have in the works they create as freelance artists.

A doctrine has developed under the 1976 Copyright Act that permits publishers to cut off the rights that creators have in their works of art by requiring them to sign away those rights through language on the back of a check, providing that by endorsing the check the payee waives any rights under the copyright law to the work of art for which the check is compensation.

The effect is that when a freelance artist tries to sell a photograph to a newspaper or an article to a magazine he is often confronted with an ultimatum, in effect. If he wants to get paid, he must sign away all his rights in that work of art under the Copyright Act of 1976, legislation which was written to protect the rights of artists and other creators of works of art. This part of the law needs to be corrected and addressed by the Senate.

The Judiciary Committee held hearings last year that were very helpful and that illustrated that there is a hiatus in the law that needs to be dealt with. We hope that Senators will urge the committee to report out a remedy, if not the bill I offered several years ago, then some other legislation

to ensure that the effect of the copyright law is to protect artists' rights and creators' rights, rather than to provide an opportunity for publishers to cut off those rights as originally protected in the 1976 Copyright Act.

A recent article in News Inc., confirms that legislation is needed to prevent abuses under the copyright doctrine of "work made for hire." In an article entitled "Possession Is Still Nine-Tenths of the Law," author Sheryl Fragin discusses the impact on the newpaper industry of the recent Supreme Court decision in Community for Creative Non-Violence versus Reid. While the Court's ruling makes it more difficult for newspaper publishers to argue that they own the copyrights in freelancers' work because the freelancers are newspaper employees, the writer concludes that in practice freelancers still find it difficult to protect and enforce their rights. One example of this is the contractual practice of some publishers to require freelancers to sign work-for-hire agreements stamped on the backs of checks.

I introduced legislation last year to bar these practices and to give creators a more meaningful opportunity to benefit from the copyright protection Congress intended in the 1976 Copyright Act. The Fragin article describes difficulties that creators encounter when publishers either assume they own all copyright rights without buying them from authors or force authors to sign after-the-fact work-for-hire agreements vesting all rights in the publisher. While my bill, S. 1253, would not eliminate all difficulties, it would forbid some of the egregious practices that deprive authors of their rights without negotiation or fair compensation.

In one respect, however, the News Inc. article misses the point of my bill. In suggesting that S. 1253 has "no teeth," the author fails to understand that, rather than seeking to enlarge existing remedies, my bill seeks to restore the ability of creators to claim rights that Congress thought it guaranteed in the 1976 law. My purpose is not to supplement the copyright law with greater civil penalties, but to protect the rights of authors and artists of all types and to ensure that all of us continue to enjoy the fruits of their creativity.

Mr. President, I ask unanimous consent to have the News Inc. article printed in the RECORD, and I urge all those wishing to preserve American creative leadership to read it and to join me in seeking prompt enactment of S. 1253.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the News Inc., January 1990]

WORK-FOR-HIRE RULING—POSSESSION IS STILL NINE-TENTHS OF THE LAW

(By Sheryl Fragin)

Ever since June, when the Supreme Court refused to grant an advocacy group the copyright to an artwork it had commissioned, lawyers have been scrambling to assess how the ruling will shake out for publishers. The uncomfortable truth: Newspapers regularly violate copyright law—and probably can continue to do so with impunity.

Almost every newspaper, large or small, depends upon outside writers and photographers, whether for high school football copy or car crash photos. Under the 1976 copyright law, those freelancers hold the rights to their own work unless there is a written work-for-hire contract reassigning rights. Typically, editors don't bother with such paperwork—which is fine—while assuming they can reuse the work however they like—which is not fine.

What the Supreme Court did was make it tougher for them to skirt the law with arguments that freelancers are de facto employees whose work is owned, copyright and all, by the newspaper. It's a rationale that some lower courts have swallowed—and it wasn't entirely dismissed in June. In fact, the Supreme Court specifically refused to limit the definition of employee to formal, salaried workers. Instead, it ticked off a 12-point laundry list of qualifications. But the list, including such minutiae as who supplies the freelancer's "instrumentalities and tools," is sufficiently tangled and obscure to make it nearly impossible for publishers to satisfy.

"The way I read the decision, and the way most copyright attorneys see it, is that under those factors, most freelancers will not be employees," says Charles Ossola, a Washington, D.C., copyright lawyer who represents the Copyright Justice Coalition, an amalgam of over 50 freelancers' groups.

Nevertheless, some papers still blithely assume all rights, when no such prerogative exists. "In the main, freelance pieces are ours to syndicate," says Ruth Walker, assistant managing editor at the Christian Science Monitor. The Monitor doesn't offer picture or story contracts "It's a little more informal than that"—but routinely puts both on the Los Angeles Times/Washington Post wire. "What you do every time you sign a check from them" says freelancer Chris Norton, a regular contributor from El Salvador, "is endorse their stamp on the back saying that they have all rights." The practice, according to Bill Patry, policy planning advisor at the U.S. copyright office, is an abuse of the law.

But—and this is a big but—neither Norton nor any of their other freelancers are ever likely to complain, no less sue. With first-run story payment at $150 or less, many writers say they won't risk alienating their clients over some nominal reprint fee. In fact, they probably won't even know that their piece has been reprinted.

Sally Chew, publications director for the Committee to Protect Journalists, has done several op-eds for the L.A. Times in the past year, all of which may have been picked up over the Times wire. "I only know of one that was used," she says, "in the Wichita Eagle-Beacon—but that's because someone clipped it for me." And Chew, like others interviewed, has conflicting feelings about the practice. "From my perspective, sure I'd like to get paid, but I also like the idea of getting published in obscure parts of the country."

Even if a writer or photographer were to sue for copyright infringement, there are no prescribed fines involved unless the work has been registered with the copyright office—a highly unlikely prospect, according to the government's Patry. So most freelancers could only collect on whatever damages they could prove. More important, the law specifies that if they haven't registered, they can't recover legal fees (which would generally far outweigh what they win).

Legislation now pending in the Senate might change the status quo a bit, though scarcely raise the stakes. Proposed by Mississippi Republican Thad Cochran, it would define employee literally, and would require papers to sign freelance contracts before work is started, if they hope to reprint it. But, says one industry source, "nobody's bent out of shape about this bill," expecially not editors, who can simply rewrite rather than worry about contracts and reprint rights. The bill also has no teeth. It doesn't propose any civil penalties beyond those in the current law—meaning freelancers will still need to register their work with Washington. "The senator's bill is just to clarify the original intent of the copyright act," says Cochran's legislative assistant, Linda Roach.

The paper that would perhaps be most affected by Cochran's bill is USA Today, which often relies on freelance for its roundups and briefs. "We send a letter out every February to all our freelancers that ask them to give us the rights to their work," says Wanda Lloyd, senior editor for administration. The stories are then available to all of Gannett, free of charge. Not photos, though, according to a terse letter from USA Today managing editor Richard Curtis to Photo District News in 1988. It seems the freelancer letter had been "mistakenly" mailed to photographers—a foulup that was quickly corrected because USA Today and Gannett "have always treated freelance photographers fairly and equitably," Curtis wrote, never asking them to do work for hire. Whatever the implications for the paper's freelance writers, Cochran's bill would make the issue moot; blanket contracts are unacceptable.

Freelancers, of course, would love to see the whole concept tossed. "We oppose work for hire on more than just practical grounds; we oppose it on moral grounds," says Richard Weisgrau, executive director of the American Society of Magazine Photographers. "We're the guys who get shot in the trenches; let's at least get the credit line."

The ethics of the arrangement are actually getting a good deal of play these days, as Congress shows growing interest in "moral rights." A French concept, it would give authors—freelance or staff—the inalienable right to approve any word change or references to their work. "We're much more concerned about the application of moral rights than Cochran's bill," says ANPA lawyer René Milam. Though nothing is pending at the moment, according to Milam, Senator Dennis DeConcini (D-Arizona) held hearings on the subject in September and "wants to get it out on the table." Considering that Cochran's infinitely tamer bill has been shot down every year since 1982—not to mention that DeConcini is somewhat preoccupied with an ethics probe into his relationship with Lincoln Savings & Loan—moral rights proponents faces an uphill battle.

For some, however, the morality of the copyright issues is plain and simple. Says

National Writers Union president Alec Dubro: "You might call it copyright infringement; I call it theft. If I used your car without permission, you'd call the police."

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho [Mr. McCLURE].

AMENDMENT NO. 1431 TO AMENDMENT NO. 1293

(Purpose: Comparable controls on Canadian Electricity Imports)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1431 to amendment No. 1293.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 449, after line 19, insert the following new section:

"CERTIFICATION OF EQUIVALENT ACID RAIN CONTROLS

"SEC. 416. (a) IMPORTS OF ELECTRICITY.—Except for imports of electricity pursuant to contracts entered into prior to the effective date of the Clean Air Act Amendments of 1990, after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision, after notice and opportunity for public comment, certifying, in accordance with to subsection (b) that the nation from which such electricity is imported has established and is implementing a national program of emission requirements and controls on existing and new steam-electric utility units on a schedule and in a manner that is at least as stringent as the compliance schedules for and limitations on emissions under this Act and the Clean Air Act for similar utility units in the United States, except for imports of electricity under subsection (c).

"(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not cerfify any national program or utility unit under subsection (a) unless it is determined that—

"(1) the nation has adopted legislation or regulations which give the emissions reductions and control schedules for each pollutant the force of law and is implementing such program; and

"(2) the legislation or regulations include performance standards, reporting requirements and enforcement provisions no less stringent than those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(c) CERTIFICATION OF UTILITY FACILITIES.—Unless imports of electricity are from a nation certified under subsection (b), after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision after notice and opportunity for public comment, certifying that—

"(1) the electricity to be imported is exclusively from an identified utility unit that converts nuclear fuel or renewable energy resources to electricity; or

"(2)(A) the utility unit is subject to emissions limitations at least as stringent as those specified under this Act and the Clean Air Act; and

"(B) the utility unit will meet emissions monitoring, inspection and reporting requirements at least as stringent as those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(d) REVOCATION.—At least biennially, the Administrator, in consultation with the Secretary and the Secretary of Energy, shall review each certification made under this section and shall revoke the certification, after notice and opportunity for public comment, unless it is determined that the conditions of this section remain satisfied and for a national program under subsection (b), that the emissions reductions for each pollutant are occurring substantially on schedule in such nation. Revocation shall take effect one hundred eighty days after notice of the revocation has been published.

"(e) SUPPLEMENTARY REPORT.—The reports required by the Administrator pursuant to section (see amendment 1303, adopted March 6) shall include an analysis by the Administrator, in consultation with the Secretary and the Secretary of Energy, of the differences in emission control levels of sulfur dioxide and nitrogen oxides between Canada and the United States. The report shall include a (1) detailed analysis of the actual or projected variable costs and fixed costs associated with United States and Canadian acid rain controls among fossil-fired generation units within interconnected and competitive regions and (2) an examination, with relevant supporting cost data, of the effect of differences in such controls on energy trade.

"(f) As used in this section the term—

"(1) "Administrator" means the Administrator of the Environmental Protection Agency;

"(2) "fossil fuel" means a naturally occurring organic fuel, including coal, crude oil, and natural gas or fuel derived therefrom;

"(3) "import" means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs or trade laws of the United States:

"(4) "person" means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality);

"(5) "renewable energy resources" means primary sources of energy that are essentially inexaustible including biomass, geothermal, wind, falling water, and solar radiation; and

"(6) "Secretary" means the Secretary of State.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

The acid rain control provisions in the legislation before us will stipulate increases in imports of electricity.

Mr. CHAFEE. I wonder if I can interrupt with a quick question, Mr. President. This amendment would be subject to the 1-hour time limitation, equally divided, would it not?

The PRESIDING OFFICER. The Senator from Rhode Island is correct.

Mr. CHAFEE. I will be controlling the time on this side in opposition to the amendment.

Mr. McCLURE. The amendment I offer addresses inequities between Canada and the United States regarding the effect of differences in acid rain controls on future imports of electricity. It does so by seeking to achieve comparable atmospheric emission controls in Canada to those in the United States under Clean Air Act amendments currently pending before the Senate.

The amendment does four things: First, the amendment restricts future increases in the importation of electricity generated by fossil fuel-fired electric power plants that are subject to environmental control programs that are not equivalent to the programs provided for by the Clean Air Act, or atmospheric emission controls that are as stringent as the emissions control imposed on similar facilities in the United States under the Clean Air Act.

Second, the amendment establishes procedures by which the EPA Administrator can certify the equivalence of such program or emission limitations. The earlier amendment of Senator McCONNELL provides the information necessary for this certification.

Third, if certification of an equivalent program or emission limitations is not possible, a mechanism is provided for the imports of electricity from non-fossil generation facilities, such as hydroelectric or nuclear facilities, or renewable resource conversion facilities.

And, fourth, the amendment provides for a study of trade and other inequities created by differences between the acid rain controls in the United States and Canada.

This amendment addresses only future imports. The amendment does not affect current imports of electricity, nor does the amendment apply to future imports of electricity from non-fossil fuel-fired generating units, such as hydro or nuclear generation and renewable energy sources.

What we are seeking here, Mr. President, is a matter of future equity in our energy trade regarding fossil fuel derived electricity. From this perspec-

tive I would like to discuss several differences between the United States and Canada with respect to acid rain control, electricity imports and exports and their industrial and trade implications for all Americans.

BACKGROUND

The focus of the debate on the acid rain provisions has centered on the Eastern United States. However, acid rain is a continental problem—not simply a problem for the Northeast region. Yet, substantial regional differences do exist that cannot be taken lightly.

At stake are thousands of jobs, competition between producers of high- and low-sulfur coal, the possible investment of billions of dollars in pollution control equipment; the competitive position of energy-intensive industries in world markets; and additional importation of energy intensive materials, goods and services, as well as natural gas and electric power from Canada.

I have long been a supporter of greater free trade. And one of commodities that the United States imports in significant quantities is many different forms of energy. But, more importantly, where Canada and Mexico are concerned, energy supplies imported into the United States are often accompanied by atmospheric pollution because of differences in pollution control requirements between countries. In other instances, this difference in control requirements is undertaken consciously so as to subsidize energy and other resources intended for export into the United States.

For example, electricity is one of the principal forms of energy which is freely traded by the United States across international boundaries with Canada and Mexico.

U.S. ACID RAIN CONTROLS

The legislation before us establishes a national, market-based approach for the reduction of acid rain precursors in the amount of 10 million tons of sulfur oxides annually from fossil-fueled electricity generation facilities. For this industry, this is a 50-percent reduction for actual 1980 emission levels. In the first phase of reductions under this proposal, intrastate and intrautility emission trading would be allowed. In the second phase, full interstate trading would be allowed. Without question, even under the market-based approach in this legislation, these reductions in acid rain precursors do not lend themselves to painless solutions. Most of the large sources in the United States are coal-fired powerplants located in the East and Midwest. In many areas, such as the Southwest and along our northern border, in States as far apart as New Mexico and North Dakota, relatively new powerplants have already installed scrubbers even though they burn low-sulfur coal. In fact, most of the new powerplants built in the past 10 years across the northern Great Plains are among the cleanest in the world. Often the required pollution equipment has amounted to nearly one-third of the total cost of these new coal-fired powerplants.

CANADA'S APPROACH TO ACID RAIN

Because acid rain is a North American problem, not just our problem, the obvious question is what approach is being taken by Canada to control atmospheric pollution and acid rain precursors. It is clear that, just as regional differences have plagued the development of the acid rain program in the United States, regional differences also exist in Canada. Correction of this disparity between western and eastern Canada would go a long way to demonstrate to Western Americans the resolve of all Canadians to fashion a comprehensive solution to acid rain.

The Western provinces of Canada, including Saskatchewan, Alberta, and British Columbia, are not presently a part of the Canadian acid rain control program. By comparison, the approach being taken by the seven Eastern provinces is to impose a cap on aggregate sulfur oxide emissions. All aspects of the program being undertaken by the seven Eastern provinces is ahead of schedule. Emissions of sulfur oxides have been reduced by 40 percent below 1980 levels, and the flow of sulfur oxides from eastern Canada into the United States has been reduced by one-third.

There are significant differences in approach to Canadian and United States acid rain controls, however. While the cap on acid gases in Eastern Canada calls for a 35-percent reduction, over 80 percent of the reductions required in eastern Canada may be accomplished through retrofits of nonerrous smelter and iron sintering facilities which are economic or produce a positive return on investment. This is because 60 percent of eastern Canada's emissions of sulfur oxides are from nonferrous smelters and about 15 percent from thermal powerplants. By comparison about 70 percent of the U.S. emissions come from thermal powerplants.

But the principal difference is one of Canada's unwillingness to fashion a comparable program to that in the United States, particularly in western Canada where there effectively are no controls. The failure of Canada to impose comparable restrictions to those in the United States simply transfers production of electricity across the border to British Columbia, Alberta, Saskatchewan, New Brunswick, and Nova Scotia, where little or no emissions controls exist, yet emissions occur, and electricity is imported along with toxic emissions and acid rain.

As I will discuss later in my remarks, the bill before us and the administration's acid rain proposals are national in scope. By comparison, Canada's acid rain program does not affect fossil-fueled generation in the Western Canadian provinces of Saskatchewan, Alberta, and British Columbia. In other words, Canada's cap on sulfur-oxide emissions has a major hole in the Western United States.

Yet, under the legislation before us similar generation facilities in the United States will be subjected to the high costs associated with our quest for clean air. And due to the resultant increase in electricity imports, there will be an additional negative trade balance that will continue to grow, approaching $1 billion.

ELECTRICITY IMPORTS

There is a growing dependence in the Northeast United States on imports of electricity from Canada. A 1989 GAO report indicates that there has been an increase in the number of firm power agreements with Canada since 1985, and imports of electricity from Canada are expected to increase 79 percent between 1988 and 2000 from 40 twh to 73 twh.

Imports of electricity from Canada into New England are projected to increase from 13 percent of consumption in 1987 to 15.2 percent in 1995 and 17.8 percent by the year 2000. In order to meet this increased demand, the New Brunswick Electric Power Commission plans 1,100 megawatts of additional coal-fired capacity by 1997, of which 900 megawatts would burn 1 percent sulfur coal without scrubbers and 200 megawatts will be fluidized bed combustion of 6 to 8 percent coal. Likewise, the Nova Scotia Power Corp. plans 900 megawatts of new coal-fired capacity by the year 2000 without scrubbers.

The majority of electricity imports from Canada is generated from hydroelectric facilities, and these hydroelectric facilities are supported by thermal sources: nuclear, coal, oil, and gas. Many of these facilities are located in Western Canada, such as the Boundary Dam and Coronach powerplants in Saskatchewan. And not only do many of these facilities burn low-sulfur coal, but they have not been required to add scrubbers. Admittedly, emissions from these Western Canadian plants make up a small part of the total North American pollution. Nevertheless, many Amercians along the border in such States as North Dakota can see the pollution plume from these plants from miles away.

In the electric sector, over the next 10 years, because of planned additions of 4,000 megawatts of coal-fired capacity, utility atmospheric emissions may actually increase in British Columbia, Alberta, Saskatchewan, New Brunswick, and Nova Scotia. Only 680 megawatts of planned additions are

expected to use clean coal or scrubber technology.

The intention of Canada to seek electricity markets in the United States is supported by British Columbia's announcement of its intention to create an export agency to market electricity in the United States. This agency would serve as a single source to market firm power and energy produced by public or privately owned companies in British Columbia. Among the energy supplies to be marketed by this agency may be coal-generated electricity from Alberta.

British Columbia alone anticipates a total of about 900 megawatts of firm electricity exports to utilities in the Northwestern United States beginning in the mid-1990's. To serve this market British Columbia plans to construct a 400-megawatt hydro unit at an existing plant and a 600-megawatt coal-fired plant dedicated to the export market. Under the current policy direction taken by British Columbia, it is anticipated that this coal-fired plant would be a private sector venture.

This is just one example of the expectation of Canadian utilities to avail themselves of an opportunity to build fossil-fired generation to support electricity sales to the United States. But, importantly, these facilities will be built with little or no emissions controls. The obvious question is, how serious are Canadians about controlling acid rain?

ELECTRICITY EXPORTS

On another front, the November 9, 1989, issue of Energy Daily reports that Ontario Hydro, the large Canadian electric utility, has been buying up to 2,000 megawatts of United States power since last April in an effort to reduce sulfur dioxide emissions in certain regions of Canada due to new tough acid rain controls.

Ironically, most of the power is being generated by the American Electric Power system's high-sulfur coal-fired units in the Midwest and is being wheeled to Canada through Michigan. This situation was not discovered until last summer when Allegheny Power system atmospheric monitors registered unexpectedly high levels of sulfur oxides.

In this instance, the United States must deal with the atmospheric emissions produced in this country that are associated with satisfying Canadian electric demand. Under the pending legislation, all Americans are being asked to subsidize the environmental cleanup of these facilities through a system of allowances. The practical effect is that all Americans will be subsidizing the generation of electricity for Canadian consumption.

Meanwhile, studies are underway regarding an integrated power grid for North America. The obvious question is, is there going to be comparability in acid rain controls, should such a grid be established?

FOSSIL FUEL IMPORTS

While my amendment only deals with electricity imports, acid rain legislation before us also will increase demand for imports of other fossil fuels such as natural gas for electricity generation. As imports rise there will be an accompanying increase in emissions from natural gas extraction, processing, and transportation along U.S. borders. Unless comparable emissions controls are imposed on Canada's and Mexico's production of these fossil fuels to those in the United States, we will be not only importing their fuels but the environmental impacts and atmospheric emissions associated with their production. In addition, our negative trade balance will grow.

DOE also projects that between 1988 and 2000 total U.S. natual gas consumption will increase from 18.1 to 21.0 trillion cubic feet [Tcf]. In part, because of environmental concerns, consumption just for electricity generation is expected to increase from 3.2 to 6.2 Tcf. Natural gas imports will increase from 6 to 12 percent of energy consumption in this country. At the same time, United States natural gas imports from Canada are expected to increase from 1.2 to 1.9 trillion cubic feet—from 6 to 9 percent of consumption.

TRADE IMPLICATIONS

Apparently, while the administration believes that its acid rain proposal will increase utility costs in major industrial areas in the United States, it also believes that trade in energy between the United States and Canada should not be significantly affected. In testimony before the House Subcommittee on Energy and Commerce last October, EPA Assistant Administrator Rosenberg stated that the administration's acid rain proposal is not expected to result in a significant increase in Canadian electricity imports—above future projected levels—of any type, including imports of power generated at Canadian coal-fired powerplants.

The report is frequently cited in the ICF's October 1989 preliminary draft entitled, "Review of U.S. Trade Issues in the Context of the Administration's Acid Rain Proposal." The ICF Trade Report attempts to project the effect of the administration's acid rain proposal on energy intensive industries and electricity, coal, and natural gas trade between the United States and Canada. The ICF Trade Report then goes on to state that "the administration bill will not cause a large increase in Canadian electricity imports."

Well, I disagree. Not only do the projected import levels represent significant increases over current levels, but the legislation before us is going to exacerbate the situation.

Neither the administration nor its consultants, principally a firm called ICF, have supplied historical data to support their statements. Moreover, neither of them have provided a comparison of actual or projected variable costs or fixed costs between Canada or the United States fossil fired generation units within even interconnected and competitive regions, never mind nationally. Similarly, there has not been an examination, with relevant supporting cost data, of the effect of current environmental law on energy trade between the United States and Canada.

By comparison, the 1989 report of the Canadian National Energy Board entitled, "Canadian Energy, Supply, and Demand 1987-2005," describes the present nature of energy trade between the United States and Canada and projections for the future. As I noted earlier, due to the resultant increase in electricity imports, there will be an additional negative trade balance that will continue to grow, approaching $1 billion.

And, as I also noted earlier, neither ICF nor Mr. Rosenberg mention that the Administration's proposal is national in scope, while the Canadian program does not affect fossil-fueled generation in the western Canadian Provinces of Saskatchewan, Alberta, and British Columbia. In other words, the administration ignores the fact that Canada's cap on sulfur oxide emissions has a major hole in the Western United States. This condition will likely drive mining jobs and the generation of uncontrolled emissions of toxics, sulfur oxides, and nitrogen oxides west and north of the border, while Americans purchase Canadian power and receive their emissions.

INDUSTRIAL IMPLICATIONS

Because electricity costs can be a determining factor in the worldwide competitive position of American industry, this disparity in emission controls has major trade implications for energy intensive industries.

We are all familiar with the plight of the American aluminum industry. In 1987, there were 23 aluminum smelters in the United States, employing 17,000 employees. These smelters, located in the Pacific Northwest, the Ohio Valley, North and South Carolina, Texas, and New York, accounted for 6.3 percent of all electricity consumed in industrial applications in the United States. About one-half of these supplies came from coal-burning utilities.

Since 1980 high costs of energy have contributed to the decline in our domestic aluminum industry. The costs of the measure before us may contribute further to this decline. But, more importantly, disparities in environmental controls will contribute even further to this decline.

Some countries have offered low power rates to attract new smelter ca-

pacity. For example, owners of a new smelter in Quebec recently negotiated a 25-year contract with Hydro Quebec that provided 50 to 60 percent discounts in electric power rates for the first 5 years of operations. According to the United States Bureau of Mines, one United States company, Alumax, after canceling plans to build a new smelter in Umatilla, OR bought into the Canadian Becanour smelter, because of lower electric power rates there.

FERTILIZER PLANT IN SASKATCHEWAN

Then there is another matter of very grave concern to me. The Canadian Province of Saskatchewan is committed to expanding its industrial base, but unfortunately has historically ignored commercial realities in attempting to accomplish this political goal. Its newest industrial expansion project, announced on February 7, 1990, is a world-scale nitrogen fertilizer plant. This project, like others before it, will be an ill-conceived, quasi-governmental enterprise that can survive only by reason of subsidies and preferential treatment.

This project, known as Saferco, is of major concern to many of us who wrote the U.S. Trade Representative on March 8. The disparity in the treatment of environmental concerns is a cogent example of the indirect subsidization of industrial development for export markets in the United States. Saskatchewan has approved construction of this plant and has waived a requirement for a Provincial environmental review. By waiving such a review, the plant will be built without the benefit of objective scientific review or public hearings to consider critical environmental issues.

Given Canada's commitment to address environmental issues such as acid rain and ozone depletion, and the historic criticism by Canada of the United States on these issues, I am dismayed by Saskatchewan's decision to essentially ignore sensitive environmental concerns in its haste to construct his huge chemical plant. Its failure to assess the environmental impact of the plant raises concerns not only about this impact, but also about the competitive advantage that the Province appears to be intentionally creating for its venture by "exempting" it from an environmental impact statement.

SUBSIDY STUDY

The negotiators of the recent Canada-United States Free Trade Agreement recognized the potential for distortions in bilateral energy trade and provided three dispute resolution mechanisms applicable to energy trade. In addition, the Free Trade Agreement calls for negotiations during the next 5 to 7 years of more effective rules and discipline concerning the use of government subsidies.

By their vary nature, environmental controls create disparities, for environmental controls and regulations are but one means for the internationalization of environmental costs. And differences in environmental regulation can only be considered subsidies.

Neither the administration nor its consultant, ICF, have undertaken a detailed analysis of the actual or projected variable costs or fixed costs associated with United States and Canadian acid rain controls among fossil-fired generation units within interconnected and competitive regions. Neither has there been an examination, with relevant supporting cost data, of the effect of current environmental law on energy trade between the United States and Canada. It is important that such an analysis be performed.

SUMMARY OF AMENDMENT

Mr. President, the amendment I offer addresses equities between Canada and the United States regarding the effect of differences in acid rain controls on future imports of electricity. It does so by seeking to achieve comparable atmospheric emission controls in Canada to those in the United States under Clean Air Act amendments currently pending before the Senate.

As I stated at the beginning of my remarks, this amendment does four things: First, the amendment provides for a study of the differences between acid rain controls in the United States and Canada and the extent to which those differences create energy and natural resources trade inequities.

Second, the amendment restricts future increases in the importation of electricity generated by fossil-fuelfired electric powerplants that are subject to environmental control programs that are not equivalent to the programs provided for by the Clean Air Act, or atmospheric emission controls that are as stringent as the emission controls imposed on similar facilities in the United States under the Clean Air Act.

Third, the amendment establishes procedures by which the EPA Administrator can certify the equivalence of such program or emission limitations.

And, fourth, if certification of an equivalent program or emission limitations is not possible, a mechanism is provide for the imports of electricity from nonfossil generation facilities, such as hydroelectric or nuclear facilities, or renewable resource conversion facilities.

What we are seeking here, Mr. President, is equitable treatment regarding the generation of electricity, equity that is not assured under the measure before us. My amendment corrects this situation, and I urge its adoption.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, what this amendment does is, it would prohibit the importation of electricity generated from foreign fossil fuel utilities unless the Administrator of EPA is satisfied that the Nation, principally Canada, from which electricity was imported has established and implemented emission controls standards equal to those of the United States.

In other words, it seems to have a nice ring to it that we are cleaning up, we are imposing these requirements on our plants, 2.5 pounds of sulfur dioxide; no more than that can be emitted per million Btu by January 1, 1995. Why should not the others who are sending electricity into our country be subject to the same requirements. If EPA cannot certify that those nations have the same requirements, then that electricity cannot be imported into this country.

That has a nice ring to it, but I would like to point out the following flaws: First of all, this is clearly a violation of the General Agreement on Tariffs and Trade. One can say we do not care about that. That is what the United States is currently trying to get the rest of the nations in the world to agree to in the so-called Uruguay Round. This is extremely important to us. We are a fundamental underpinning of the General Agreement on Tariffs and Trade, the GATT. For us, as one of the prime pushers for GATT, which means so much for the future of our trade, not only in the items that are currently covered by that, we are trying to get those extended, but we are trying to move into new fields such as goods and services, such as financial services, banks, insurance, items that currently are not covered. We are pressing for that through GATT at the Uruguay Round. For us, of all people, to violate GATT would be a great mistake.

Furthermore, in connection with Canada, just in January of last year, a little over a year ago, there went into effect the United States and Canada Free-Trade Agreement, something that this Nation and Canada had worked extremely hard for, which passed this body overwhelmingly. I can remember the vote. If the opposition got more than 10 votes, I would be surprised, maybe 15 votes. The Canadian Free-Trade Agreement overwhelmingly passed.

That free-trade agreement specifically prohibits implementation of new import restrictions. It says it right there.

So this provision by the distinguished senior Senator from Idaho would violate that free-trade agreement.

What does the free-trade agreement do? It has a mechanism. As it says, no disputes will ever arise between us and Canada. Of course not. If we expect disputes to arise, that could possibly be one of them. But that free-trade agreement has a provision for handling these disputes. It has in it a dispute settlement panel. What one does is submit this complaint to the dispute settlement panel for them to come up with a determination. What is the dispute settlement panel? It is a panel that the United States has some members on, and Canada has some members on. They consider the matters that are brought before it and render a decision. That is the way to proceed under this particular amendment, not just violate the agreement flat out.

Also, it seems to me that this amendment raises broader issues than solely GATT or solely the Canadian Free-Trade Agreement. It raises the issue of whether one nation should unilaterally, that is, by itself—in other words, the United States alone—pass a law that imposes restrictions against other countries that we believe do not meet our air pollution control standards.

What happens if a country has standards that are tighter than ours? This has all kinds of possibilities.

First of all, this is a rather vague area. You cannot always tell whose standards are the tighter. Suppose somebody has a less tight standard that goes into effect earlier? That is, a tighter standard or a less stringent standard? It is clear that in many instances the Scandinavian countries have tighter air pollution control standards than we do on their books now. Are we going to say to the Scandinavian countries, it is all right, it is a free market now, it is a free playing field, if Scandinavian countries want to impose import restrictions on U.S. products, that is fine by them.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. I wonder if I might finish, then I will be glad to take any questions. I will not be long.

This has all kinds of possibilities. What if the Canadians were to unilaterally decide to impose import restrictions on United States potatoes from Idaho farms because those farmers use fertilizers that the Canadians have decided are harmful? That is an environmental matter. Clearly, fertilizers have to do with the environment.

If that amendment were adopted by the Canadians, they can say, "That is perfectly fair. Look; you adopted an amendment that says if we do not meet your air pollution control standards, you can restrict your importation of our electricity. So what is good for the goose is good for the gander, perfectly fair."

So, Mr. President, if an amendment violates GATT, it is against the Canadian Free-Trade Agreement, both very, very serious matters. I do not think we should slough off the Canadian Free-Trade Agreement. There is more trade between the United States and Canada than between any two nations in the world. People talk about our trade with Japan. That is dwarfed in size by our trade with Canada. So when we are talking about the Canadian Free-Trade Agreement, we are talking about a major factor in United States exports, probably the most important single agreement that we have in connection with our exports to a nation. Overall, of course, the undergirding law that deals with our trade relationships with the rest of the world is through GATT, which would be violated by this amendment.

Third, we get into a very broad trade issue of one nation, in this case the United States, unilaterally imposing restrictions against other countries based on pollution control standards.

Mr. President, I think this amendment could lead to all kinds of difficulties, and it is for those reasons that I oppose it.

Mr. President, at this time I ask unanimous consent to have printed in the RECORD a letter to me from the Canadian Ambassador dated today.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CANADIAN EMBASSY,
Washington, DC, April 2, 1990.

Hon. JOHN H. CHAFEE,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR CHAFEE: I understand that this afternoon Senator McClure intends to propose an amendment concerning the importation of Canadian electricity to the Clean Air bill currently under consideration by the Senate. This amendment would restrict exports of electricity from Canada to the United States unless the steam-fired power plants generating the electricity meet the same regulatory requirements as those set out in the proposed legislation now before the Senate.

Such an amendment is not required to protect either the American or Canadian environment. The current weighted average sulphur dioxide emission rate for western Canadian coal-fired power plants is approximately 0.96 lbs/MBTUs. The emission rate for new power plants in western Canada will be 0.6 lbs/MBTUs. These rates compare very favourably with comparable requirements in current, and the proposed, clean air legislation. This amendment also runs counter to the open-border objective of the Canada-United States Free Trade Agreement regarding trade in energy. It would also impose an unnecessary barrier to trade by distorting market-based competition in the supply and trade of electricity.

I hope that you will make every effort to prevent passage of the amendment.

Yours sincerely,

D.H. BURNEY,
Ambassador.

Mr. CHAFEE. Mr. President, the Ambassador, in his letter, first of all points out that it is not necessary, that the western plants of Canada are considerably below what we are emitting here, and concludes that this amendment runs counter to the open-border objective in the Canada-United States Free-Trade Agreement regarding trade in energy. That agreement specifically deals with energy, I might say. It would also impose an unnecessary barrier to trade by distorting market-based competition in the supply and trade of electricity.

Mr. CHAFEE. I would point out, Mr. President, that the distinguished junior Senator from Oregon [Mr. PACKWOOD] who is the senior Republican on the Finance Committee, is very much opposed on this amendment and would speak against it if he were here.

Mr. McCLURE. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. President, how are we going to handle this time? Is it possible for his question to be on his time and my answer to be on my time?

The PRESIDING OFFICER. Senator MCCLURE certainly may be recognized in his own right.

Mr. McCLURE. Mr. President, then I will ask a rhetorical question—I will not ask you to answer it—on my own time.

Mr. President, the Senator from Rhode Island in opposition to the amendment makes some comment about Scandinavian countries having tighter controls than we have on air pollution. The question that I would ask is how much electricity do we propose to import from Scandinavian countries?

Certainly, the Senator makes a point that this is a violation of GATT. I would point out that we already have all kind of restrictions. Certainly, again, a rhetorical question which the Senator may answer on his own time if he wishes, do I understand the Senator is opposed to having pesticide regulations that deal with the importation of food and products from foreign countries? We have that in present law.

Is it suggested that the FDA cannot establish standards upon the production of medicines that are imported into this country from other countries? Certainly not. We have such restrictions at the present time.

Are there suggestions that we have no right to talk about the safety and purity of the food that is imported from other countries? I would hope not. As a matter of fact, we have such restrictions at the present time.

What I am suggesting is that GATT is not in question here. We have a right to protect the air in this country by saying if we are going to require the producers in this country to clean up the air emissions from their plant, we have a right to expect the Canadians to do the same. We are not going to set up a system in this country that says to our producers, sorry you

cannot do it but the fellows right across the line can do it. I do not think that is what we are trying to do here.

For those of our friends who are in the Northern United States, who are concerned about acid rain deposition throughout the Northern United States, they certainly cannot ignore the fact that pollution crosses the line from Canada into the United States. We have an interchange of air across the Northern United States. For us to say you cannot do it in this country but it is fine for them to do it across the line in Canada seems to be ludicrous.

With respect to the Canadian Free Trade Agreement, certainly there is a dispute resolution clause in that treaty. But without a policy on our side, there is no dispute to resolve. Unless we pass this bill we have no standing to say anything to them about the pollution from their electricity-producing plants in Canada.

I am trying to create a mechanism by which we can at least raise a question with them. And if, indeed, it goes through the dispute resolution process, then indeed this provision might be struck down. But you cannot even raise the question unless we have a provision in our statute or in our regulation.

I hope that, not only in a position of fairness for our own industries but in terms of the clarity of the air, the effectiveness of our policy, we do not just transfer the pollution to our country from Canada and say, what you do is fine to us, because certainly it is not. The whole thrust of this amendment is to say we want to clean up the air and we want to clean up the air as it is affected by generating facilities. We do not want the Canadians, just because we close them down here, to think there is an invitation to them to build on their side of the line and then transport their pollution back across the line to us.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields.

Mr. CHAFEE. Mr. President, I would point out, in connection with the Canadian Free-Trade Agreement, that you do not go to the dispute settlement mechanism by passing a law that says you cannot import electricity from Canada from any plants that do not meet the standards that we have. That is not the way you go to the disputes settlement. Regardless of what the disputes settlement comes up with, it is over and done with when we pass a law here. That is what this bill does.

Maybe the distinguished Senator who is proposing the amendment can show me the disputes settlements language in here.

Mr. McCLURE. Will the Senator yield on my time?

Mr. CHAFEE. Yes.

Mr. McCLURE. I will not take from your time.

Mr. CHAFEE. Fine.

Mr. McCLURE. Certainly the Senator understands that, under the U.S. Constitution, treaties are the supreme law of the land, and we cannot pass a law that is in contravention of the treaty provisions. That is precisely the way you set up a dispute to be settled.

If, as a matter of fact, this were judged to be a violation of the treaty, this provision would fall. I hope that that is not the result, but that is precisely the way you raise a question under that treaty.

Mr. CHAFEE. Mr. President, I would differ from the Senator's view. This is not precisely the way you raise something that goes to the disputes settlement mechanism.

Mr. McCLURE. Will the Senator yield?

Mr. CHAFEE. Could I finish, please?

Mr. McCLURE. Certainly.

Mr. CHAFEE. Under the disputes settlement mechanism all kinds of matters come in. They may come in connection with fish or potatoes or shoes or lumber. Any number of provisions. There is a dispute. "You Canadians, you are subsidizing our timber exports or you are subsidizing the financing of your fishing vessels and therefore the fish that you are sending into this country is coming at a lower price and thus violate the free trade agreement." And under that you go to the disputes settlement mechanism. You do not get to the disputes settlement mechanism by passing a law that says Canada should not be permitted to send any fish into this Nation that is caught in a vessel that is funded under interest free loans from the Canadian Government. That is not the way you proceed to the disputes settlement mechanism.

Mr. McCLURE. Mr. President, on my time, two comments. We are not talking about fish and we are not talking about lumber. We are talking about air pollution. That is what this bill is about. How do we clean up the air over the Eastern United States? Do you clean it up by allowing the Canadians to pollute? That, on its face, is silly.

Second, if the Senator from Rhode Island does not like raising the issue this way, can the Senator tell me how else it would be raised? Upon what grounds or what possible basis would we say to the Canadians, "Clean up your own plants?" That is what this says. It does not say we are going to export our electricity production business to Canada so they can pollute and send it back to this country.

We are trying to clean up the air. I thought that was what this whole bill was about. If the Senator from Rhode Island can tell me another way to raise this issue with them under the treaty or otherwise, I would invite that kind of a response.

Mr. CHAFEE. Mr. President, first of all, I point out to the Senator that the Canadian Free-Trade Agreement is not a treaty. It is not a treaty. It is an agreement. It just did not come to the Senate for approval. It went to both bodies. It was an agreement.

Second, if the Senator has a dispute with Canada over this, the method for this is to go through the disputes settlement process just as I outlined before. We object. We object. That is the way you get there.

Mr. McCLURE. We object to what?

Mr. CHAFEE. The Senator says we object to what. We object to this electricity coming in from a plant that does not meet our standards.

This is not the way to proceed. This is in direct violation of the Canadian Free-Trade Agreement.

Mr. McCLURE. Mr. President, again on my time. The Senator from Rhode Island's opposition fails on the face of it. Saying we object to what you are doing up in your country based upon nothing, that is like kissing your sister. That just simply cannot stand.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be subtracted equally from both sides.

Who yields time? The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I think we better review the bidding on how things get to the dispute settlement process. It is not remotely related to kissing one's sister.

If you have a dispute, a problem, you ask for the formation of a dispute settlement panel. That is the way it works.

The Senator says, how do you get there? Whoever wishes to complain—it could be the government of Idaho. It could be a plant in Idaho that sees their electricity is being undercut by Canadians who are selling at a lower rate. It could be those who find objection to the acid precipitation that is coming into their State. It could be my State. We are on the receiving end, we are downwind—the State of Rhode Island. It is perfectly possible for the State of Rhode Island to do so through either its Governor or through any elected official—through a request from the State legislature, however. There are all kinds of varied ways, some of which I have pointed out.

We do not have to have a law. I am rather astonished at the suggestion that we pass a law as though it is some kind of a Supreme Court. It is not for testing of a law that one goes before the dispute settlement panel. It is to resolve a dispute, not to interpret some law. If a group wishes to go there, go there; request the formation of a panel. But this particular act in

my judgment would override the agreement.

The agreement was something we passed. It was not a treaty, it was passed by both branches of the legislature and here follow on with something that is later and, I think the Senator would agree, thus takes precedence over the Canadian Free-Trade Agreement.

Mr. BENTSEN. Mr. President, the amendment offered by the Senator from Idaho would ban imports of electricity from any country or from any utility that has not adopted emission control laws equal to those being adopted by the Clean Act Act before the Senate today.

Basically, this amendment is aimed at Canada. Canada is the only country that exports electricity to the United States.

Just about 2½ years ago, the United States signed a free-trade agreement [FTA] with Canada. The FTA only took effect in January 1989, so our two countries have barely begun to realize its benefits. But the hope is that, by eliminating all barriers to trade, both countries will gain. Studies done before the FTA was implemented showed that FTA-related economic gains in annual U.S. welfare would range from $1 billion to $3.5 billion.

This amendment clearly violates the FTA. Chapter 9 of the FTA categorizes electricity as a good for the purposes of the FTA. The FTA specifically prohibits either country from restricting imports of energy from the other. If the Senate passes the amendment offered by the Senator from Idaho, it is legislating a violation of the FTA.

This amendment suggests that the United States should discriminate against imports from Canada based on the way those imports are made. I would ask the Senator from Idaho how he would react to a Canadian ban on United States products that are made in a way that does not comply with Canadian environmental standards. Canada has regularly complained about United States acid rain. Should Canada ban United States exports that contribute to this problem? Canada has more generous social welfare programs than ours. Should they be able to ban our exports because our employers pay less? I for one do not believe this is the course that we want the FTA to go.

If what the Senator from Idaho seeks is clean air for Canada as well as the United States, a more fruitful, avenue would be through consulation with Canada, our largest trading partner. The FTA provides us a better forum for those discussions.

Therefore, I urge my colleagues to defeat the amendment.

Mr. MITCHELL. Mr. President, the statement of the Senator will speak for itself. Senator BENTSEN opposes the amendment on many of the grounds previously stated by Senator CHAFEE, including the fact that it would violate the free-trade agreement between the United States and Canada.

I would like to address that subject myself, Mr. President, if I might, briefly.

Mr. President, I voted against the United States-Canada Free-Trade Agreement. There were very few Senators who did so. I was among the small minority and I opposed it for what I felt were good and sufficient reasons. But in its wisdom the Senate approved it. It is now in force and, therefore, those of us involved in United States-Canada matters must do our best to make it work.

This amendment appears to me inconsistent with the free-trade agreement. There is a full chapter in that agreement on energy. It establishes a process for considering export measures and regulatory and other measures. And I think all of us have an obligation to make that treaty work, even those of us who opposed the treaty as I did.

Mr. President, this amendment, while I think it is well intentioned in terms of clean air—which the Senator from Idaho has made clear is his intention—misses the mark in two respects. First off, unlike the United States, in which the principal source of sulfur dioxide emissions is from utilities, in Canada the principal source has been from smelters. So attempting to apply an American program to Canada is not the best way to accomplish the common objective because the source of the problem is different in its principal aspect there than it is here.

Second, Canada has an aggressive acid rain program but it is based on a different approach than ours. In the United States we, in this law and other pollution laws, base our regulatory requirements on emissions, that is on what can be emitted from a source of pollution. In Canada, they have a deposition standard, that is what can or cannot be placed upon the earth, or upon bodies of water. So they have a different source and a different remedy. I think, trying to take our mechanism and, in effect, impose it upon them, is the wrong approach. Just as it would be in reverse.

I must say there is a certain irony in this discussion because in 1980 the United States and Canada entered into a memorandum of understanding in which the two nations committed themselves to negotiate an agreement to reduce the emissions of those materials which cause acid rain. But, in 1981 the United States effectively withdrew from those negotiations.

For 10 years the Canadians have been pressing us to go forward on a program of reaching agreement for mutual reductions and the United States has been unwilling to participate in that. It was not, of course, until President Bush was elected and reversed the position of the previous administration in that regard that discussions have resumed between the United States and Canada. In the interim, Canada has set forth a much more ambitious and aggressive program to deal with pollution emissions than has the United States. As we all know the bill we are about to vote on tomorrow contains for the first time controls on the emissions of the precursors of acid rain. Meanwhile, the Canadians have been doing something about it.

So I think in fairness to our friends and neighbors across the border, they have been pressing for action while the United States has not. They have acted while the United States has not. And what we should be doing is concentrating on our own efforts so that we can match our own rhetoric and Canadian deeds rather than taking actions which violate the agreement with Canada and also, as my distinguished colleague from Rhode Island has pointed out, violate the General Agreement on Tariffs and Trade.

Finally, Mr. President, I would say that the principal source of emissions of sulfur dioxide in this continent is the United States. If we want to do something about the problem, we should concentrate on passing this bill. The most effective way to reduce acid rain in North America is to reduce the emissions in the United States which cause acid rain. It is true there are substantial emissions in Canada but they are far less than those in the United States. And so I think we are better off if we, in effect, clean up our own house and that is the most effective thing we can do to control acid rain, both in the United States and in Canada.

For all of these reasons, and acknowledging the ultimate objective of this amendment is to have clean air in North America, it is my suggestion that the amendment be defeated and that we proceed to pass the bill as the most effective thing we can do.

Mr. President, I wonder if I might ask my colleague from Idaho and the distinguished Republican manager whether or not we could discuss the timing of the vote on this tomorrow? It seems to me we want to provide the maximum convenience for our colleagues, give them the most notice. We all understood we were not going to have any votes today, and I would like to have an agreement.

Does the Senator from Idaho have another amendment that he intends to offer tomorrow or that he may offer tomorrow?

Mr. McCLURE. If the Senator would yield, yes, I do. I think I have reserved

time for that in the morning. On a different subject.

Mr. CHAFEE. If I might ask the majority leader a question, I wonder if we might, if we have it, for each side reserve 5 minutes for debate tomorrow? It will not delay things and at least will bring people up to date about what we are talking about.

Mr. MITCHELL. Does the Senator from Idaho object to that?

Mr. McCLURE. I have no objection to that. I support that request.

Mr. CHAFEE. He may have more time. The proponents may have more time. Probably all we have is 5 minutes.

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes 30 seconds; the Senator from Rhode Island has 8 minutes 51 seconds.

Mr. MITCHELL. Might I inquire further, do I understand there will be another amendment offered and debated today that will require a vote tomorrow?

Mr. CHAFEE. That was the thought. The Senator from Alaska has one. The junior Senator from Alaska I believe is bringing one over to be debated. Yes; we see this one and one more on the horizon for tomorrow.

Mr. MITCHELL. Mr. President, might I then suggest to the distinguished Senator from Idaho and the Senator from Rhode Island, perhaps, what we can do is come in tomorrow and be on the bill at 10, take 15 minutes tomorrow, 7½ minutes to a side for wrapup arguments by the Senator from Idaho and the Senator from Rhode Island, have the vote at 10:15, and then repeat the process immediately thereafter with whatever additional amendments may be offered and then go to the amendment of the Senator from Idaho that may yet to be offered on another subject.

Mr. McCLURE. Mr. President, I ask unanimous consent this colloquy not be charged to either side on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCLURE. I thank the Chair.

I have no objection to that. I am informed we might want to check with our cloakroom before setting the exact time for the vote, but it sounds reasonable to me, and I hope upon the check we can agree to that.

In that connection, then, if we could at this time at least reserve 15 minutes for the time on the amendment, 7½ minutes on each side to be set by agreement at a later time.

Mr. MITCHELL. I believe that would mean all of the time left for the distinguished Senator from Rhode Island and a portion of the time for the Senator from Idaho, if that is agreeable.

Mr. President, as soon as I have the opportunity to discuss it further with the Republican leaders, following checking with the Republican Senators, I will have an announcement in that regard later, if that is agreeable to the Senator.

Mr. McCLURE. If the Senator will yield, that is certainly agreeable with the Senator. I wonder, Because my understanding was that it was contemplated the other amendment which I will offer tomorrow was to be offered first thing tomorrow morning, if indeed we do finish this debate and vote on this amendment, that I be recognized upon the disposition of this amendment to offer another amendment.

Mr. MITCHELL. Mr. President, I will be pleased to organize it tomorrow in whatever way is most convenient to the Senator from Idaho.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I will take a moment to respond. I do not mean to prolong the debate. Obviously, not everybody is hanging on the debate this afternoon. I hope more people are monitoring floor activity than those present in the Chamber and those not doing either may have the opportunity to review the RECORD.

I am very mindful of the fact that, indeed, we have a free-trade agreement with Canada and that we wish to make that free-trade agreement work. I ultimately voted for that agreement simply upon the basis that you cannot make it work with our neighbors to the north in Canada, we cannot make free trade work anywhere if we are not willing to undertake risk and problems in that regard. I detailed in my statement some of the arguments about why the free-trade agreement should not be a bar to this amendment.

Mr. President, I am not trying to raise the broader issue of competitiveness. I think we, by actions on this floor, have already decided that issue. We are going to clean up the atmosphere of this country regardless of what it does to competitiveness. That is how I read the debate at this time.

While we may give lipservice to the question of competitiveness, our focus at this moment on this legislation is environmental air control rather than competitiveness or jobs.

So I am not trying to raise that issue in the broad sense again. I am trying to look at this issue with the aspects of competitiveness, certainly in the background. But the primary reason I do it is to avoid the inevitable consequences of exporting our electricity capability to our neighbor who will be permitted, under their law, to cause greater pollution than they would if it was done in this country. Where is the sense in that? Where is the sense in trade policy? Where is the sense in competitiveness? But above all, in this bill, where is the sense environmentally in saying we will not let ours but we will let yours? We are going to say, build your plants, build them dirty, export your pollution to us, that is all right; we are making great strides here, we say, with respect to the environmental pollution in our own country but, we are saying, Canada, you are different, go ahead and make it dirty; it is all right with us; go ahead and make it dirty. What kind of environmental policy is that? It just does not make any sense to me.

For those who look at today's market for electricity, look at the figures we placed in the RECORD as to how much they are going to do and they are already planning to do. The utilities in New Brunswick and Nova Scotia are planning the construction of 2,000 megawatts of coal-fired plants in the next 10 years.

New England electricity imports from Canada are expected to increase 73 percent, even before we pass this bill—73 percent under current laws, regulations, and expectations. During the same period, New York and New Jersey electricity imports from Canada are expected to increase 72 percent over the same period of time, and we are saying that does not matter? Increase that percentage of importation into this country and do it with dirty plants; it is OK with us. I had expected different actions from the Environment and Public Works Committee and the managers of the bill when their concern about the environment changed to concern about being nice to Canadians. I want to be nice to Canadians, too, but I want them to act responsibly.

Mr. President, it is not responsible for either them or us to say go ahead and build all the coal-fired plants you want to and make them as dirty as you want to and we will buy your electricity. That, to me, is foolish policy. I hope the position of the managers of the bill, which has been so consistently in favor of cleaning up the environment, should not now be permitted to say go ahead and make it dirty; it is irrelevant to us.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho has 11 minutes 4 seconds remaining. The second Senator from Rhode Island has 8 minutes remaining.

Mr. CHAFEE. I am taking 30 seconds, if I might.

I am curious, has the Senator directed his comments toward Mexico in here? Is he equally discriminatory? Could he just briefly answer that question? He mentions Canada. Has he mentioned Mexico? I do not find it.

Mr. McCLURE. Mr. President, the amendment refers to the imports regardless of where they come from.

The current problem, however, is with respect to Canadian generating plants.

Mr. CHAFEE. I see Canada mentioned in here regarding the report

Mr. President, I reserve the remainder of my 7½ minutes for tomorrow.

Mr. McCLURE. Has the time of the Senator from Rhode Island expired?

The PRESIDING OFFICER. It has.

Mr. McCLURE. How much time does the Senator from Idaho have?

The PRESIDING OFFICER. 11 minutes 4 seconds.

Mr. McCLURE. Of which 7½ minutes will be reserved for tomorrow.

The PRESIDING OFFICER. Assuming there is a unanimous-consent agreement.

Mr. McCLURE. Mr. President, I ask unanimous consent that Senator CONRAD be added as original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. To further answer the Senator from Rhode Island, the amendment deals only with imports of electricity. It does not deal specifically or solely with Canada. As I said a moment ago, we are not importing any electricity from the Scandinavian countries, to the best of my knowledge, nor does anyone propose we should. I think the primary problem that I did address, as I did in my remarks, is the imports from Canada and the great increase we foresee from that source.

We have had some experience with our friends to the south in Mexico with respect to other air pollution which was exported along with the jobs and came back to our country as the jobs did not. But that is not currently the major problem. As acid deposition is in the main a problem with respect to the northeastern United States, it seems appropriate that most of our concerns should be focused upon that region and the sources of pollution that are deposited in that region.

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time save the 7½ minutes, and I do so.

The PRESIDING OFFICER. Who seeks recognition?

Who yields time?

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCLURE. Mr. President, will the Senator reserve that for a moment.

The PRESIDING OFFICER. Does the Senator withhold?

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The Senator from Rhode Island does withhold.

Mr. McCLURE. I wonder if we might ask if the time in the quorum not be charged against the 7½ minutes remaining on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that regardless of what time this McClure amendment comes up tomorrow, there be 15 minutes equally divided for debate prior to the vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHAFEE. Mr. President, parliamentary inquiry. Does that take care of any concerns about time running on this McClure amendment in the future?

The PRESIDING OFFICER. There is still 15 minutes remaining, 7½ minutes on each side, and pending any further action by the body, that would be the situation when we return to this matter tomorrow.

Mr. CHAFEE. Mr. President, regardless of what happens today, are we going to have 15 minutes equally divided tomorrow morning prior to the vote on the McClure amendment?

The PRESIDING OFFICER. The Senator is correct. There will be 15 minutes.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may yield 5 minutes or whatever time is necessary to the Senator from Alabama, and that the time not be charged against my amendment. I am doing this in order to accommodate my colleague's schedule.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. HEFLIN. Mr. President, I thank the distinguished Senator from Alaska for allowing me a few minutes to make a speech on the passage of the overall bill. I realize that he was just beginning on an amendment which I understand will be debated at length. So I do appreciate this. This does accommodate my schedule and I deeply appreciate it.

Mr. President, I rise today in anticipation of the Senate passing the Clean Air Act Amendments of 1989 tomorrow evening. I hope and predict that this bill will pass at that time by an overwhelming majority.

As all of the Members know, we did not arrive at this point in the clean air debates easily. Many members of the Environment and Public Works Committee have labored over a reauthorization of the Clean Air Act for the past decade. And this year in addition to the lengthy floor consideration of this bill—which probably is a record in regards to the lengthy floor consideration of any bill that has been before the Senate, at least during my service, and perhaps maybe even during the entire history of the Senate—the majority leader spent a great deal of time working with various Members and administration officials in order to construct a compromsie which would be filibuster-proof and veto-proof.

I want to congratulate my friend the majority leader, the Senator from Maine, for his leadership with regard to the negotiation of that compromise, and commend both the majority leader and the minority leader for their preservation of that compromise despite tremendous pressures from all sides to change the agreement.

In my opinion, as in theirs, we would not have been able to survive the many obstacles to a bill's passage such as filibusters, an excessive number of amendments, or veto threats had there not been a firm agreement between the Senate leaders and the White House on this legislation, and, I might say also, an agreement with a great number of the environmental Senators.

With respect to the substance of this agreement, I would like to mention five of the provisions in the bill which will, I believe, result in real air quality benefits for all Americans.

No. 1, this bill requires permanent, substantial reductions in emissions believed to cause acid rain, ultimately reducing sulfur dioxide [SO_2] emissions by 10 million tons per year below 1980 levels.

No. 2, this bill requires substantial reductions in tailpipe emissions for cars and light trucks beginning with model year 1994, with an even more stringent round of tailpipe controls mandated if air quality goals are not met in a sufficient number of cities.

No. 3, for the first time, this bill adopts a broad program to require the use of cleaner fuels in America's most polluted cities and in federally owned and centrally fueled fleets.

No. 4, the bill requires the use of Maximum Achievable Control Technology [MACT] to reduce 75 to 90 percent of air toxics emissions in the next 10 years and to limit any remaining risk after the application of this technology.

No. 5, the bill establishes ambitious annual ozone reduction requirements

to guarantee, for the first time, measurable progress toward meeting the ozone standards, bringing the majority of American cities into attainment with ozone standards by the end of the century.

Mr. President, as even these five points illustrate, this bill is a dramatic strengthening of current law. It is not a perfect bill by anyone's estimation. But I believe it is a bill which will pass the Senate, a bill which can hold up in conference with the House, a bill which will be signed by the President and a bill which will ultimately become the law of the land.

It is a bill which will go a long ways toward having cleaner air in America. It will go a long ways towards bringing about better health for all Americans.

I commend all of my colleagues on the Environment and Public Works Committee—Senators BURDICK, CHAFEE, MOYNIHAN, SIMPSON, MITCHELL, DURENBERGER, LAUTENBERG, BREAUX, WARNER, BAUCUS, SYMMS, REID, JEFFORDS, GRAHAM, LIEBERMAN, and HUMPHREY—for their untiring efforts with respect to this bill, and for the fine work of their staffs on this bill.

I would like, again, to commend the majority and the minority leaders, as well as the floor managers, particularly Senators BAUCUS and CHAFEE, for their skill in guiding this bill through the legislative process on the Senate floor.

I would like to again thank all of the staff members who worked so hard on this bill, and particularly Elizabeth Gardner, of my staff, whose intelligence, hard work, and vision has been superb in this endeavor.

I look forward to the opportunity to vote in favor of this landmark piece of legislation tomorrow evening.

Mr. MURKOWSKI. I thank my friend, the Senator from Alabama.

AMENDMENT NO. 1432 TO AMENDMENT NO. 1293

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is temporarily laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1432 to amendment No. 1293.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 390, line 7, after "boiler" insert "or feedstock".

On page 390, line 12, after "other" insert "combustion, precombustion, or post combustion".

On page 391, line 25, strike "of" and insert in lieu thereof "providing".

On page 392, lines 2 and 3, strike "use of fuels" and insert in lieu thereof "fuels used at the time of submission of a proposal pursuant to section 404(d)(2)".

Mr. MURKOWSKI. Mr. President, we have before us a very significant piece of legislation, the clean air bill. But there are certain aspects of it that I think I need to share with my colleagues.

Mr. President, I would add the cosponsorship of Senator CONRAD and Senator WALLOP to the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the purpose of this legislation should be to achieve the lowest possible emission levels and not specifically the amount of reduction. The problem we have here is in the clean coal portion. We have picked out certain technologies and left out others. This amendment provides utilities with the maximum degree of flexibility to achieve clean air standards. This bill promotes the use of clean coal technology with incentives, but it unnecessarily restricts the technologies that qualify.

Those technologies, Mr. President, primarily, are scrubbers. My amendment removes those unnecessary restrictions but it does not reduce or change the strict emission reduction requirements that a technology must achieve to qualify. It does not favor one technology over another. It does not favor one type of coal over another. My amendment simply gives all clean coal technologies an equal opportunity to compete in the marketplace. The results of this competition will be cleaner air at a lower cost.

That sounds, perhaps, like a panacea, but let me explain how the amendment works in phase I. The phase I part of my amendment makes two changes to the definition of qualifying phase I technology.

First, it broadens the scope of technologies that will qualify for incentives. This would allow utilities to use clean coal technologies in conjunction with another clean coal technology, or in conjunction with the new feedstock coal to meet the so-called 90-percent test.

Second, it sets a fixed baseline from which the 90-percent reduction is to be measured. That baseline is the emission level produced by the coal which the utility is burning at the time it submits its application for its qualifying phase I technology.

The effect of my amendment is to establish a definite process, a process that everybody can understand, for deciding whether a particular clean coal technology will qualify for the phase I incentive. The utility would apply the 90-percent test to the fixed baseline level to establish the target emissions level it must meet in order to pass the 90-percent test.

It would then, Mr. President, have the flexibility to select a single clean coal technology or a combination of technologies or a combination of clean coal technologies and a different feedstock coal to reach the target level.

One might ask why is this amendment needed? Why, in phase I, should we have this change? Well, section 402 says, "A qualifying phase I technology" must be a "technological system of continuous emission reduction" which achieves a 90-percent reduction in emissions.

The technological systems of continuous emission reduction is a term of art from the 1977 Clean Air Act. I understand it to mean a single technology, not a combination of technologies or a combination of technology and feedstock.

As such, a qualifying phase I technology is a single technology which, standing alone, can achieve the 90-percent reduction test. I believe this clearly limits the type of clean coal technologies that are capable of providing substantial emission reduction. My amendment would simply expand the definition to include clean coal technologies used in conjunction with a different feedstock coal.

Mr. President, it is also unclear what fuel is to serve as the baseline fuel from which the 90-percent reduction is measured. Section 402(r) simply requires a 90-percent reduction in emissions from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion. Theoretically, this could be any fuel selected by the utility.

My amendment would specify that the emissions level from the fuel being used by the utility at the time it submits its "eligible units" proposal would be the baseline emissions level from which the 90-percent reduction is measured.

How does it work? Let me give an example. Let us assume a utility unit is emitting, say 20,000 tons of sulfur dioxide at the time it submits its proposal for a qualifying phase I technology. The amendment would establish that 20,000 tons of emissions as the baseline—because we have an application of how to establish the baseline up until now—from which the 90-percent reduction is measured. The 90-percent reduction, from that baseline, would be 18,000 tons resulting in a 2,000-ton target. The unit would then have the flexibility to select any technology or combination of technologies and new feedstock coals to meet that target of 2,000 tons emissions.

How does the amendment work in phase II? Well, my amendment in phase II would modify the definition of "repowering," to ensure that precombustion technologies can qualify for the phase II incentives. These

technologies would still have to meet the criteria contained in the definition of "repowering" to qualify. They would have to: First, be capable of controlling multiple combustion emissions; second, provide improved boiler generation efficiencies; and third, achieve significantly greater solid waste reduction.

The purposes of the phase II incentive is to encourage the development of clean coal technologies. There are numerous promising precombustion precoal technologies that can meet the above criteria. It makes no sense to prevent these technologies from being eligible for the incentives in this legislation.

Why is a phase II amendment needed?

First, it may be that the precombustion clean coal technologies which treat a feedstock are covered by the definition of repowering in section 402(L). If they are not covered, they certainly should be. There is no reason to exclude them.

My amendment would modify the definition to make clear that such technologies are covered.

Last, Mr. President, the point I want to make is, this amendment promotes competition. Unlike other amendments we have debated over the last several weeks, there is absolutely no downside to this amendment. Some of those amendments have sought to relax environmental standards and thereby make it more difficult to achieve clean air. I would anticipate that the environmental community would support this amendment, Mr. President.

Others have sought to impose stricter environmental standards and, thereby, substantially increase the cost of this legislation. There have also been amendments which would have changed the programs and the process for achieving clean air standards. My amendment does none of this, Mr. President. It does not increase the cost of the legislation. It does not relax environmental standards. It does not change the manner in which the bill attempts to achieve clean air. My amendment simply promotes competition with a goal of achieving cleaner air at a lower cost for the American consumer.

A basic premise of this legislation is to allow the marketplace to determine how we will meet the clean air standards. This amendment is consistent with that premise because it allows a broad range of clean coal technology to compete. Basically, what we want is to achieve clean air. I suggest this is the best method to do it.

Mr. President, I ask unanimous consent to add Senator NICKLES as a cosponsor to the amendment. I add also, for the benefit of my colleagues, the amendment is supported by the National Coal Association and the Electric Power Research Institute.

I believe my colleague, Senator SIMPSON, is on his way to speak on the amendment as well.

Mr. President, how much time do I have remaining on the amendment?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I reserve my remaining time until we have had a determination of the parliamentary procedure in which we are going to stack these votes. So I reserve the remainder of my time.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. Senator JEFFORDS.

Mr. JEFFORDS. Mr. President, I rise in opposition to the amendment. I would like to know what the remainder of time is for the Senator from Alaska.

The PRESIDING OFFICER. Twenty-nine minutes fifty seconds.

Mr. JEFFORDS. Remaining?

The PRESIDING OFFICER. The Senator from Vermont has 29 minutes 50 seconds remaining. The Senator from Alaska has 19 minutes 50 seconds remaining.

Mr. JEFFORDS. It is my intention, Mr. President, to reserve 15 minutes of my time to be divided equally tomorrow before the vote. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I do not intend to try and debate the technical parts of this amendment. I have been involved in the negotiations on the clean air bill throughout the whole time it has been going on, including the period of time we spent with the administration. I do know that people who are interested especially in the high-sulfur coal area ought to pay very close attention to what this amendment does.

First of all, the provisions we are talking about have a couple of things which are really an attempt to ensure the soft coal industry that they will be able to have an opportunity hopefully to continue to mine soft coal of high-sulfur content and that over a course of time, we will not displace all of the workers we talked about this past week.

So those who do have an interest in high-sulfur coal areas ought to be very careful and examine this amendment closely.

There are two provisions which are involved here with respect to a "bennie," so to speak, for those who are trying to find better technology in order to utilize the high-sulfur coal. One of those is in the repowering section which says that if the new technology which you are going to use involves the need and necessity for a new boiler, that the period of time which you will have in order to be able to find out whether this technology works and to be able to take advantage of the other provisions, which I will mention in a minute, is extended by 4 years.

People who are concerned about delays obviously should be concerned about anything in an amendment which extends or allows this delay of 4 years to be available for other than the building of a new boiler.

So by adding to that provision feed stocks, it is clear that the intention of the amendment is to say that if you have some sort of technology which uses low-sulfur coal, that if the combination of those meet this provision, then you also would be entitled or could be entitled to a 4-year delay.

The second benefit, which was highly negotiated and highly sought after by those trying to find some way to continue to utilize high-sulfur coal was the provision which gives you a 2-for-1 trade on allowances. That should raise a red flag for those who are interested in allowance distribution, for any time you open the ability to receive the 2-for-1 allowance, those allowances are not infinite; they are well defined and the numbers are absolute. So if you are going to start doling out more 2-for-1 allowances, somebody is going to lose.

I come from a State which has no SO_2 emissions which are of any interest to this program and we, therefore, have no allowances and seek no allowances. So I am trying to be as evenhanded as I can be in trying to raise the issues and not necessarily argue the merits of them.

In summary, I point out of that this is and could be an extremely controversial amendment and one which those who are interested in high-sulfur coal ought to study extensively to see what it will do to the intentions of this bill and to the benefits that were given to that industry in hopes of being able to allow them to continue to be able to participate and furnish the coal from their mines.

Second, it should be of great interest to those, and there are many, who are concerned about the number of allowances that are available and to see where they are going to be distributed. They should also take care in examining this amendment to see how it affects their interests.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I will yield to my colleague from Wyoming who is going to make some remarks in support of the amendment. Before it do, I point out to my colleague, the floor manager, and the staff that this amendment does not

promote or favor one type of coal over another. It simply gives utilities the flexibility to use the best technologies available to meet the emissions standards.

Furthermore, the amendment does not affect allowances in any manner. It gives the utilities who would otherwise seek 2-for-1 allowances simply a greater flexibility.

I thank the Chair, and I yield to my colleague from Wyoming.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. MURKOWSKI. I believe the Senator needs about 4 to 5 minutes.

Mr. SIMPSON. Four minutes will be all I need, Mr. President. I thank my friend from Alaska.

Mr. President, I want to address this amendment and speak in favor of it. I represent the largest coal-producing State in the United States: Wyoming. We have a lot of technologies there that are new and exciting, many of them clean coal technologies, if you will, the precombustion cycle facilities, and I think no one should believe that this amendment is going to affect the allowance distribution one way or the other. The amendment should not affect that in any way. You receive allowances if you use technology in phase I. It does not matter if it is pre or post combustion.

So I think the argument about allowance just simply is not appropriate here. I will be glad to get into a debate on that in the future. But that is just not so.

This amendment would make it clear that precombustion technologies will be acceptable technologies under the clean coal provisions of the bill. I think it is so important we have a variety of technologies available to reduce SO_2 emissions and to ensure that all types of coal will be used in the future. The clean coal program seems to be viewed by so many as the high-sulfur coal program. That is not the case. It is important for both Eastern and Western low-sulfur coal as well.

I think we have to continue to develop an entire menu of technologies which will be available to utilities as they begin to grapple with the tough and complex SO_2 reduction requirements that will be in force after date of enactment of the bill which is before us. That is the critical thing, for this acid rain portion of the clean bill is a continuing headache for us.

Finally, I think it important utilities choosing the repowering option be able to select from more than just a narrow class of technology.

This amendment will broaden the list of available technologies without favoring one technology over another. We have in the course of the debate been giving a great deal of comment and some lip service to the notion of maximum flexibility. We talk about that a great deal.

This amendment will, indeed, provide just that, flexibility, maximum flexibility. I think it is very important, and I urge adoption of the amendment.

Mr. MURKOWSKI. I thank my colleague for supporting the amendment. I would ask if his interest in cosponsoring the amendment continues.

Mr. SIMPSON. I would, Mr. President, seek that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I appreciate that. Might I ask the Chair how much time is remaining on this side?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. MURKOWSKI. I reserve the remainder of my time.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I will comment briefly. The Senator from Wyoming did make a remark on which I should comment.

That is that there is a specific number of allowances that are set aside for utilization in developing clean coal technology.

My point was that the more that are available to be able to participate and to be able to qualify for these allowances means the fewer allowances there will be for the ones who originally were entitled to the allowances under this amendment. Therefore, there is going to be more competition for the same amount of allowances.

So thus by allowing technologies other than those intended in the agreement to be available for the high-sulfur coal areas and to broaden it by including feed stocks and other aspects of this amendment to allow low-sulfur coal people to be able to come in and take advantage of the 2-for-1 allowances is going to mean that many fewer that were agreed to to help out the high-sulfur coal industry.

Again, I do not take any particular issue on this because my State has no interest at all. But I do have a great interest in the agreement we made, and the one that was so difficult for the people who were negotiating to reach to assist in a reasonable way those who deal in the high-sulfur coal. To see this amendment go forward would raise very much the specter that this, in a sense, is a deal breaker, and I am certain it will be felt that way by those who are in the high-sulfur coal areas.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, if I might make a point. I would like to point out to the floor manager that it is not the number of utilities that can qualify. That number does not change. It just gives them the option of using alternative types of technology to achieve it.

So I would like the record to reflect that difference because I think it is significant and it might be misleading to my colleagues who suggest otherwise; that indeed we are not changing the number of utilities that can qualify for the 2 for 1. It gives those utilities a larger number of technologies from which to choose.

My question is, what is wrong with that? That encourages development of technology which reduces the emissions and provides cleaner air for all of us.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I will ask if the Senator from Alaska will yield 2 minutes so I might respond to my friend from Vermont.

Mr. MURKOWSKI. I will yield 2 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I have watched the work of the Senator from Vermont, extraordinary, during the Clean Air Act, air toxics, all phases—he has done a magnificent job—mobile sources, the whole thing, a real contributor.

I do not want to mislead. I think it is very important to note that there is not some great trick afoot, and when you represent a low-sulfur coal State, they think that that is what is up. That is not the case.

We all know you get allowances for the use of technologies. In other words, a utility gets those if they choose a scrubber or clean coal technology, and this amendment should not affect the number of allowances applied for in any way, as I see it.

I hope we would engage in that debate, because that is a distortion. No one is talking about that. There is a cap. No one is going to exceed the national cap. That is important. We all hung tough for that.

But this is just another form. It does not matter. You get the allowances for choosing these particular things. How precombustion or postcombustion or anything of that nature would enter into the basic issue of what we did agree to, I cannot even discern what that might be.

Mr. MURKOWSKI. I thank my friend from Wyoming for those remarks.

I ask, how much time is remaining on this side?

The PRESIDING OFFICER. Eleven minutes, thirty-seven seconds.

Mr. MURKOWSKI. The Senator from Alaska reserves the remainder of his time.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twenty-three minutes, nine seconds, of which 15 has been reserved for tomorrow.

Mr. JEFFORDS. Fifteen has been reserved?

The PRESIDING OFFICER. Yes. That leaves 8 minutes remaining for today.

Mr. JEFFORDS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be equally divided. The time is being charged against both sides.

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent at this time that my remaining time, which I think is about 11 minutes, be carried over until tomorrow.

Several of my colleagues have indicated an interest in speaking on behalf of the amendment. There is so little time remaining, I think it bears that request.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Mr. President, reserving the right to object, let me get a better feel on the time remaining. The leader is on his way over, and I want to make sure I do not preclude his opportunity from speaking before we close up.

The PRESIDING OFFICER. The opponents have 8 minutes remaining in today's debate, with 15 minutes having been reserved for tomorrow. That 15 minutes is to be equally divided, proponents-opponents.

Mr. JEFFORDS. I ask unanimous consent that we be allowed to perhaps proceed, but with the understanding that 5 minutes be allowed, of the time remaining, to be given to the majority leader, if he so desires, before the time expires.

The PRESIDING OFFICER. There is a unanimous-consent request currently pending.

Mr. JEFFORDS. I am sorry.

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Alaska, which is to allow the 11 minutes, 37 seconds which he currently controls to be deferred until tomorrow.

Is there objection to that unanimous-consent request?

Mr. JEFFORDS. Reserving the right to object, I think the Senator from Alaska understands my predicament, and if he desires to amend that, or else I will object and pursue——

Mr. MURKOWSKI. If I may defer to my colleague, to the floor manager, I understand his concern is the leader is about to come to the floor and may be wishing to discuss the pending amendment.

Mr. JEFFORDS. That is correct.

Mr. MURKOWSKI. I would have no objection to—Mr. President, I ask the Senator from Vermont. Is he suggesting that the majority leader have 5 minutes? I would be willing to divide that equally if that is permissible.

Mr. JEFFORDS. Let me ask if we can amend it this way: that is, we reserve the time, ask unanimous consent that, since I do not know of any other amendments that are coming at this particular moment, we go into a quorum call and that the time not be counted against this amendment until such time as the leader arrives or until such time as waiting for him is waived.

Mr. MURKOWSKI. I think that is agreeable to the Senator from Alaska. I assume the leader would not talk and have the conversation be charged against the time remaining to the Senator from Alaska. Is that correct?

Mr. JEFFORDS. It would be charged against our time.

Mr. MURKOWSKI. So I gather that the Chair will rule that the time remaining will not be charged to either side, with the exception of the leader's time, which will be charged to their side.

The PRESIDING OFFICER. The pending business before the Senate is the unanimous-consent request stated by the Senator from Alaska. If there is to be a different unanimous-consent request prior to disposing of the Senator from Alaska——

Mr. JEFFORDS. Let me object.

The PRESIDING OFFICER. There has been an objection.

Mr. MURKOWSKI. I withdraw the pending request.

The PRESIDING OFFICER. Prior to the objection, the Senator from Alaska has withdrawn his unanimous-consent request.

The Senator from Vermont.

Mr. JEFFORDS. I ask unanimous consent that we be allowed to proceed in a quorum call until such time as the majority leader arrives here for a period not to exceed 30 minutes, and that at the time the majority leader arrives here, the period of time of 10 minutes, divided evenly, be allowed for the majority leader, and the proponent of the amendment to speak, and that the remainder of the time be reserved until tomorrow.

The PRESIDING OFFICER. I advise the Senator from Vermont that, if the Senator from Vermont wishes to hold 15 minutes for debate tomorrow, he does not have a sufficient amount of time to allocate 10 minutes for debate today since his time available is 20 minutes, 9 seconds.

Mr. JEFFORDS. I withdraw that request, ask that we go into a quorum call, and that the time not be charged against the parties at this particular time.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I ask the Chair to restate the pending——

The PRESIDING OFFICER. The unanimous-consent request is the suggestion of an absence of a quorum, and at the termination of the quorum no time be charged against either the proponents or opponents. Is there objection?

Mr. MURKOWSKI. I would agree to that.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield 5 minutes to myself.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I oppose the amendment of the distinguished Senator from Alaska for several reasons: First and foremost because it directly violates the agreement negotiated with the administration on this bill.

As one who participated in the negotiations leading to the agreement, I can say to my colleagues that we explicitly and painstakingly negotiated the subjects which this amendment now seeks to change. The definition of qualifying phase I technology and the definition of repowering all were part of a lengthy discussion that dealt with these subjects during the course of negotiations.

The 2-for-1 credits that are the subject matter of this amendment were the subject of very lengthy discussions with competing points of view expressed—not just two competing points of view, several competing points of view expressed—and resolved in the negotiated agreement.

So the first point I want to make is that this amendment specifically and clearly violates the agreement that was reached with the administration with respect to this bill. And just as I have encouraged Senators to oppose other amendments which had that effect, so I urge Senators to oppose this amendment on the same grounds.

Mr. President, further, the phase I technology definition was narrowly drawn to reward the use of technology

in phase I, thus reducing the adverse economic effects in high-sulfur coal mining areas. The repowering definition first proposed by the President and adopted by the Senate Committee on the Environment and Public Works was likewise narrowly drawn to take into consideration the extra time needed when a boiler is to be refurbished. Precombustion clean coal technologies can make no similar claim and, thus, were not provided with the additional 4-year extension.

So both with respect to the subject matter of the agreement and with respect to the substance of this amendment, I believe the amendment should be defeated. And so that we can proceed to adopt this legislation, in a form that is as close to the original agreement negotiated as is possible, I urge my colleagues to join me in opposing the amendment of the Senator from Alaska.

Mr. President, I reserve the remainder of the time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I thank the chair. I thank my colleague, the majority leader. I ask that perhaps the staff go back and review what agreements were made, because it is my understanding that precombustion technology never came up in the negotiations.

I see that the majority leader is interrupted currently, and I want to take this opportunity to ask, specifically, if he recalls whether the precombustion issue ever came up in the actual agreement. The suggestion has been made by the distinguished majority leader that this violates the agreement, and it is my understanding—although I was not a party to the agreement—that clearly that portion was not part of the agreement. If the staff could provide come clarification on that, it would be beneficial to the Senator from Alaska, because certainly it is not the intention of the Senator from Alaska to delay this legislation in any way. We all want this bill to pass. But to suggest that we are violating an agreement here, when factually I think one would find, in examining the discussions in the record, that precombustion was never a part of the agreement.

The suggestion here is that the only thing we can utilize is scrubbers. The suggestion here is that you cannot use a combination of technology and clean coal. This is a suggestion that we step back 20 years in technology. What we are concerned with is emissions here, and to suggest that we cannot use clean coal technology and clean coal in a combination of technologies, I do not think in the spirit of the legislation before us that this is the intention by any means. I ask the distinguished majority leader for his recollection and that of the professional staff to address the issue of precombustion.

Mr. MITCHELL addressed the Chair.

Mr. MURKOWSKI. Does the leader care to speak, and I wonder if the time could not be charged to my time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, how much time do I have in the 5 minutes that I was previously allotted.

The PRESIDING OFFICER. The opponents have 17 minutes 4 seconds, of which 15 minutes have been reserved by unanimous consent for tomorrow. The proponents have 8 minutes 49 seconds.

Mr. MITCHELL. Mr. President, parliamentary inquiry. I understood that the 15 minutes reserved for tomorrow was equally divided, and 7½ minutes was to come off the opponents' time.

The PRESIDING OFFICER. The unanimous consent, as propounded by the Senator from Vermont, was that the 15 minutes would all come from the time of the opponents, but would be equally divided.

Mr. MITCHELL. Mr. President, I was not aware of that.

Mr. MURKOWSKI. I yield.

Mr. MITCHELL. I will speak briefly then and say——

The PRESIDING OFFICER. I understood that the unanimous-consent request of the Senator from Alaska was to allow the majority leader to respond to his question, charging the time of that response to the time of the Senator from Alaska; is that correct?

Mr. MURKOWSKI. The Senator withdraws that in favor of the unanimous-consent proposal of the Senator from Vermont. But I certainly feel that the distinguished majority leader should proceed.

Mr. MITCHELL. I do not wish to take much time, Mr. President. I have said all, really, that I have to say. I have checked with staff and have been advised that the subject was discussed at great length among the staff, and that the precise provision to be amended, which is subsection (r) appearing at the bottom of page 391 of the bill, this defines the term "qualifying phase I technology" as, in a manner to limit it to the use of scrubbers, and that the Senator from Alaska now seeks to define it in a way that would permit it to include other technologies. And that was, I am advised by staff, discussed in great detail at the staff level, and this was the understanding and the agreement reached.

So that based upon that information, I repeat my assertion, that this would directly and specifically violate the agreement.

I apologize to the Chair and to the Senator from Alaska. I was unaware that the unanimous-consent request had contemplated taking all of the time from the opponents and dividing it tomorrow. That being the case, I assume our time is up, and we will reserve the remainder of our time until tomorrow.

The PRESIDING OFFICER. The opponents currently control 15 minutes, 52 seconds, of which 15 minutes has, by unanimous consent been reserved for tomorrow.

Mr. MURKOWSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eight minutes, forty-nine seconds.

Mr. MURKOWSKI. And then tomorrow we split the remaining time evenly.

Let me take a few more moments of my 8 minutes and remind the majority leader that I do appreciate his clarification. His clarification was that the staff discussed this issue at some length, but I question whether the Members got into the actual discussion of this being a deal-breaker.

I hate to press the point, but the Senator from Alaska does not wish to suggest by any means that this is a breaker amendment; that while precombustion logically was a matter of concern among the staff, it is the intention of the Senator from Alaska that it was never agreed upon Member-to-Member that this would be a breaker as an amendment. That is what the Senator from Alaska is referring to and would hope that that is still the position of the majority leader, as it was at the staff level. Does the majority leader care to comment?

Mr. MITCHELL. Mr. President, if I may respond in the brief time I have. I was not present during all of the negotiations. I doubt any one person was, since they stretched over hundreds of hours over 3 weeks. I can only rely upon what staff says, and it is that the 90-percent reduction was discussed among the Members, and that the whole purpose of this was to protect the high-sulfur coal producing areas. That was the whole purpose of this section, which was placed in as a result of those negotiations. And, of course, the amendment of the Senator from Alaska operates in a manner directly contrary to that purpose.

So that the answer is, it is my understanding that, yes, it was discussed at great length among the staff, and to some lesser extent by the principals, and not only as a part of but it really goes to the essence of this aspect of the agreement.

I thank the Chair.

Mr. MURKOWSKI. I thank the majority leader. I obviously was not there either, so I have to depend on staff that has advised me, as I have stated to the majority leader, and that staff discussed it.

Mr. President, I understand that the phase 1 incentives are designed to encourage utilities to burn high sulfur coal but that is basically what I disagree with. We are trying to achieve clean air here, not promote one type of coal over another.

The amendment of the Senator from Alaska simply says a combination of technologies and coal can achieve the emission requirement. It makes no sense to limit our ability or our options for achieving clean air. That is what this legislation is all about.

It is difficult to understand, as I have indicated to the majority leader, that this can be concluded as a deal breaker. All we are doing is giving the utilities that must clean up their emissions a much greater ability to meet those obligations. I ask my colleagues what is wrong with that? That is what this is all about.

The scope of the understanding fixing base lines in phase one was the intent of the committee by broadening types of technologies utilities can use, two technologies equalizing greater reduction.

Why limit it only to postcombustion? What we really want is clean air.

If we are interested in achieving clean air we should adopt this amendment. The bill before us is written in favor of certain technologies over others. It limits utilities' ability to choose technologies and thereby limits our ability to achieve clean air.

We have before us a very complex piece of legislation. It is the contention of the Senator from Alaska that unfortunately this amendment pressed within the timeframe remaining here is not going to be understood by my colleagues. Hopefully, staffs are observing the debate today and can proceed with a greater understanding as to the validity of allowing the marketplace to make the determination. And clearly that is what the responsibility of this body is, and I will conclude because I believe my time is about to expire that this amendment provides the utilities with the maximum degree of flexibility to achieve clean air standards.

The bill promotes, as I have indicated, the use of clean air technologies with incentives but, as I have objected to, it unnecessarily restricts the technologies. The majority leader said scrubbers. Why only scrubbers? Why not a combination of precombustion technologies?

There are all types of technologies being developed today to provide cleaner coal. Why not encourage those in this legislation? Why is that considered a deal breaker? Certainly the justification for anything that is negative is contrary to what we are trying to achieve here and that is clean air.

My amendment removes those unnecessary restrictions and does not reduce or change or restrict the emission reduction requirements that the technologies must achieve to qualify. My amendment does not favor one technology over another. It does not favor one type of coal over another. This is not a case of eastern coal vis-a-vis western coal. My amendment simply gives all clean coal techniques an equal opportunity to compete in the marketplace. What is wrong with the marketplace determining how they are going to achieve the emission levels?

The result of this competition will be cleaner air at a lower cost to the consumer. I would ask and I would encourage all of my colleagues, who may still question the merits of this amendment to contact this Senator. The Senator from Alaska is available outside this Chamber. Staff is available to address the specific concerns.

Mr. President, how much time is remaining for the Senator from Alaska?

The PRESIDING OFFICER. The Senator from Alaska is controlling 2 minutes and 43 seconds.

Mr. MURKOWSKI. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska reserves the remainder of his time.

The Senator from Alaska should be advised that as he alone controls time at this point that time is being charged.

Mr. MURKOWSKI. Mr. President, under the circumstances I yield the remaining time that I have, and I thank the leader.

The PRESIDING OFFICER. The Senator from Alaska yields back his remaining time. All time other than the 15 minutes which is reserved for tomorrow to be equally divided has now been yielded back.

Mr. MURKOWSKI. Mr. President, if I may make an inquiry then, we have 7½ minutes equally divided tomorrow.

The PRESIDING OFFICER. There will be 15 minutes equally divided, 7½ minutes for the proponents, and 7½ minutes for the opponents.

Mr. MURKOWSKI. I thank the Chair for the clarification. Does the Chair have any idea that this vote will be stacked with other votes tomorrow?

The PRESIDING OFFICER. The Chair has no information on the time or order of consideration of this amendment.

Mr. MURKOWSKI. But I assume if I may ask, Mr. President, that the theory is at least that we will vote on this some time tomorrow?

The PRESIDING OFFICER. I assume, as the unanimous consent provided for 15 minutes of time to be reserved on this amendment tomorrow, that at the expiration of that 15 minutes there will be a disposition.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. I advise the Senator from Alaska that as of this point the yeas and nays have not been ordered on this amendment.

Mr. MURKOWSKI. Mr. President, I think it is appropriate that the Senator from Alaska requests the yeas and nays and the time to be determined by the majority leader when the votes come up.

The PRESIDING OFFICER. The Senator from Alaska is requesting the yeas and nays on this amendment at such time as the amendment is mature?

Mr. MURKOWSKI. Yes.

The PRESIDENT OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, is there a pending amendment?

The PRESIDING OFFICER. The pending amendment is No. 1307 by Senator BAUCUS, the Senator from Montana.

Mr. STEVENS. Mr. President, I ask unanimous consent that that amendment be set aside temporarily so I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1433 TO AMENDMENT NO. 1293

(Purpose: To amend Amendment No. 1293)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 1433.

On page 217, section 217 of amendment 1293 is amended by: (a) redesignating subsection (4) as subsection (5) and; (b) adding a new subsection (4) as follows:

"(4) The Administrator may waive in whole or in part the requirements of this subsection in any carbon monoxide nonattainment area in Alaska if the Administrator finds that prevailing temperatures in that area cause engine or fuel system malfunctions in vehicles using fuels meeting such requirements. The Administrator shall conduct a study to determine the effect of cold temperatures on fuels which meet the oxygen content requirements of this subsection and the feasibility of using such fuels during periods of sustained cold temperature."

Mr. STEVENS. Mr. President, the clean air bill before us mandates a 3.1-percent oxygen level for fuels sold in nonattainment areas during winter months. We have two major nonattainment areas in Alaska; Anchorage and Fairbanks. This level of oxygen is likely to be achieved by using an ethanol blend fuel, I am informed.

A 3.1-oxygen level may be difficult or impossible to obtain using ethanol

in some parts of my State. Ethanol blends separate from gasoline at temperatures lower than 20 to 30 below zero Fahrenheit, temperatures which are common in our State in winter months. This can create a more volatile situation in the fuel system which could potentially cause engine damage, we are informed.

In addition, ethanol fuels attract water, a higher ethanol content attracting more water. In a cold climate this poses a significant problem. The risk of fuel line freezeup or other engine problems associated with that is extremely dangerous at these subzero temperatures. Engine or fuel system malfunctions could leave motorists stranded in isolated areas in remote portions of my State in very difficult times.

This amendment has two functions. One, it gives the Administrator the flexibility, it is entirely discretionary, to waive the oxygenated requirements of section 217, if fuel required to be used under the section would cause engine or fuel system malfunctions. As I said that waiver is not automatic. It is purely discretionary. It is motivated by the safety considerations which have been brought about by a study conducted in my State.

We do not have the real esoteric capability of the Administrator and for that reason the second portion of this amendment will require the Administrator to perform a study to determine the feasibility of using higher oxygen content fuels in cold temperatures such as persist in Alaska in the winter months.

The study will allow us to determine which oxygenates can be safely used in Alaska or other States that have similar cold temperatures. I think ours have the lowest, persistent temperatures in the country.

Again, Mr. President, this is offered in full support of the concept of the ethanol blend fuels, but with the understanding that if we are required to have ethanol blend fuels sent to Anchorage and Fairbanks—those are the two major fuel storage centers for the whole State. That would be the fuels that would be distributed out into the west coast and up in the Arctic. We believe that some determination should be made as to whether the study that has been made in my State really is going to be the outcome of using fuels of this type. Notwithstanding the fact that we do have nonattainment levels we must meet in other fashions, we are not able to use this methanol fuel.

I would urge the managers of the bill to accept this amendment. It has been modified to meet their objections of prior language that we intended to offer.

Mr. DURENBERGER. Mr. President, until Alaska came into the Union and my colleague came into the U.S. Senate, I believe I had the right to stand here and say I represented the coldest State in the Union. There are times when in International Falls, MI, we claim to be the coldest place in the United States.

But the Senator from Alaska has a right to lay claim to the most difficult State in which to do the kinds of things that we propose to do with oxygenated fuels. He has supported the concept, as he has indicated here on the floor, on several votes that we have had. The amendment which he has proposed which requires the Administrator to make a specific finding relative to prevailing temperatures and requires the Administrator to conduct a study to determine the effect of cold temperatures on fuels, I think will benefit not only the State of Alaska but will have a benefit for some of the rest of us.

So I am authorized, on behalf of both the majority and minority managers, to say we strongly endorse the adoption of the Senator's amendment.

Mr. STEVENS. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Alaska [Mr. STEVENS].

The amendment (No. 1433) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair and I thank the distinguished Senator from Minnesota.

I might say to my colleagues, Mr. President, that the two Alaska Senators are on the floor at the present time. We also claim some very high temperatures in our State, temperatures in excess of 100 degrees in the summertime. But it is the cold country that we represent that demands amendments like this. I am pleased the Senate recognizes our problems.

AMENDMENT NO. 1434 TO AMENDMENT NO. 1293

(Purpose: To provide for economic incentives and disincentives in ozone extreme areas)

Mr. DURENBERGER. Mr. President, I now send to the desk on behalf of Senator WILSON an amendment that I believe has been approved by the Democratic manager of the bill and has approval on this side as well.

The PRESIDING OFFICER. The Senator from Minnesota is advised that the pending business is the amendment by the Senator from Montana and it will be necessary to seek unanimous consent to set aside that amendment prior to consideration of the amendment which he wishes to offer.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that we set aside the amendment which is currently pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

With that having been agreed to, the clerk will report the amendment as submitted by the Senator from Minnesota.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] for Mr. WILSON, proposes an amendment numbered 1434 to amendment No. 1293.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 81 of the amendment, between lines 17 and 18, insert the following new paragraph:

"(3) An implementation plan for an extreme area revised in compliance with this section may include measures providing economic incentives and disincentives, such as differential emission fees, marketable permits, road use and congestion fees, and emission charges, in combination with or as a supplement to regulatory requirements.

Mr. DURENBERGER. Mr. President, the amendment would allow the south coast region of California—the Los Angeles area—which is the only extreme ozone nonattainment areas in the Nation, to incorporate economic incentives in its implementation plan. These measures will be in addition to regulatory requirements. The incentives might include emission fees, road use and congestion fees and emissions charges, among other measures.

Mr. WILSON. Mr. President, this amendment will provide for economic incentives and disincentives in ozone extreme nonattainment areas.

The amendment would allow air quality regulatory authorities to use economic measures, such as incentives or disincentives, together with the standard regulatory process.

These economic tools are an important supplement to air regulatory districts because they allow them to apply additional devices to deal with intractable air quality problems.

The amendment I offer today provides that market-based incentives may be part of the weapons of the air district arsenal to attain clean air in our worst air pollution area, the "extreme nonattainment area." This amendment was developed by the executive committee of the Southern California Association of Governments [SCAG], in consultation with the South Coast Air Quality Management District [SCAQMD], the Environmental Defense Fund, the Sierra Club, and affected industries.

It is a permissive device which is not designed to replace tough air pollution

laws, but to supplement them with an additional air pollution strategy.

It would be extremely helpful to SCAG, SCAQMD and the other clean air interests in southern California if the provision for developing revised implementation plans for extreme areas explicitly recognized the role of economic incentives and disincentives.

In southern California, the problem is so serious that an ambitious, broad range of air pollution control activities will be required. All tools should be available. With the greater degree of specificity in the planning requirements for extreme areas, it is important to clarify that market-based tools are also available. The amendment I offer does not establish a mandatory requirement, but is a recognition of economic incentive and disincentive measures as a legitimate part of an implementation plan for extreme areas.

Market-based approaches can be effective in guiding individual decisions that affect air quality, because the market approach builds into these decisions the additional costs and benefits associated with these individual actions. Such economic incentives and disincentives are road use fees and congestion fees, or differential emission fees, can raise revenues to support other air quality/transportation actions, while discouraging pollution-causing activities.

In addition to SCAG, SCAQMD, Environmental Defense Fund, and National Resources Defense Council, this amendment is supported by the city and county of Los Angeles, the Los Angeles Chamber of Commerce and many elected officials in southern California. I have received many letters of support for this amendment from the city councils of many cities, such as Alhambra, Bell, Buena Park, Claremont, Long Beach, and Rialto. This is a partial list.

This amendment has been reviewed by the managers of the bill, and it has been accepted.

The amendment is not controversial, and I therefore urge its adoption.

Mr. President, I ask unanimous consent that a letter to me from the executive officer of SCAQMD be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT,
El Monte, CA, March 22, 1990.

Hon. PETE WILSON,
U.S. Senate,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR WILSON: We have reviewed the proposed amendment to S. 1630 by the Southern California Association of Governments. We support the amendment as a useful additional authorization of tools which will be useful to achieve our air quality objectives.

The amendment would authorize the District to use economic measures in combination with or as a supplement to our regulatory requirements. We believe economic measures including incentives and disincentives to be a useful element of a multi-faceted environmental regulatory program. It is important, however, that the use of these tools be discretionary rather than mandatory, so that we can maintain the flexibility necessary to select the best possible alternatives to achieve cost effective pollution control. It would be important if this amendment is adopted by the Senate that it not be changed in the legislative process to limit our flexibility to adopt the most effective control measures whether they are the result of the application of economic tools or direct emission reduction requirements.

The District continues to appreciate your support for its efforts to achieve healthy air for the citizens of Southern California.

Sincerely,

JAMES M. LENTS,
Executive Officer.

Mr. DURENBERGER. As I indicated, Mr. President, I understand this has been approved also by the Democratic manager, and I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1434) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1435 TO AMENDMENT NO. 1293

(Purpose: to provide uniform criteria with respect to transportation project conformity determinations)

Mr. DURENBERGER. Mr. President, I send a second amendment to the desk on behalf of the Senator from California.

The PRESIDING OFFICER. The pending amendment must be set aside before the Senator may offer another amendment.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that we set aside the pending amendment so that I may offer another amendment on behalf of the Senator from California.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for Mr. WILSON, proposes an amendment numbered 1435 to amendment No. 1293.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57 of the amendment, between lines 19 and 20, insert the following new sentence:

"With regard to subparagraphs (A), (B), and (C) of paragraph (2), the requirements of such subparagraphs shall comprise the statutory criteria for making transportation project conformity determinations under this Act.".

Mr. DURENBERGER. Mr. President, this second amendment on behalf of Senator WILSON, I believe, is technical in nature. I know it is acceptable both to the Democratic and Republican managers. It simply makes clear that criteria in the bill for determining the conformity of a transportation project with an implementation plan are intended to constitute the statutory criteria applicable to any individual transportation project. If that is not technical, I do not know what is.

Mr. President, I ask that the amendment be agreed to.

Mr. WILSON. Mr. President, this amendment provides uniform criteria with respect to transportation project conformity determinations in the Clean Air Act.

The language in this amendment permits a clearer interpretation of the Clean Air Act with regards to transportation projects. Without this amendment, confusion could result with the interpretation of existing law in the area of fulfilling statutory requirements for transportation projects.

The impacted air district, the South Coast Air Quality Management District, has been consulted and has no objection with the clarifying amendment.

Mr. President, this amendment has been reviewed by both managers of the bill, and has been accepted.

The amendment is not considered controversial, and I urge its adoption.

The PRESIDING OFFICER. Is there any further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

Mr. DURENBERGER. I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

THE RYAN NOMINATION

Mr. WARNER. Mr. President, at this time I would like to make some remarks about the pending nomination of Timothy Ryan, who has been nominated by the President to be the Director of the Office of Thrift Supervision and whose nomination was reported out by the Banking Committee on Friday.

The report, I understand, has been filed, and I would presume it is the intention of the leadership to schedule the debate and, hopefully, the vote prior to the Senate's going on recess. In the judgment of this Senator, there are some imperative reasons why we should address this nomination very promptly.

Mr. President, I say to the managers of the bill, while I have a considerable amount of material I would like to cover this evening, should they seek recognition at any time, I will be happy to yield the floor. Mr. President, I will make now a unanimous-consent request that I might supplement the remarks that I am about to commence for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I have known Mr. Ryan for nearly 14 years, and in the course of that rather lengthy association where he has rendered me professional advice in the capacity of a lawyer, he has been a very close friend, together with his lovely wife Judy. I watched their adoption of children. I came to know them as a family that really in so many ways stands out as the model of the generation now coming into major responsibility in the governmental sectors of America, State and Federal, and in the private sector.

It has been a remarkable, wonderful husband-wife team, and Tim Ryan, together with the support of his wife and family, has put together a splendid career. He has within his practice of law risen to the top ranks of his law firm, a major international law firm of considerable size, and in that period of time he has gained, in my judgment, extensive experience which certainly lends itself to the challenging tasks of the Office of Thrift Supervision.

When we have the heavy responsibility of advise and consent, the Senate should look for characteristics in each individual. Each individual should be examined on their own merits to determine, first, are they persons of intelligence. Have they been able to compete in their selected, chosen professions, compete in a way that they have gained recognition and have worked their way into positions of responsibility?

From my examination of the record before the Banking Committee, my knowledge of Tim Ryan, and also in the view of many other individuals who are now coming forward to give their own personal perspectives of this nominee to the Senate, Tim Ryan excelled in the law profession. He took on many, many cases and represented many clients with extremely complex problems.

So I do not think the question of his intelligence and his ability as a lawyer is at issue.

The next characteristic is personal. Is this individual one of moral character, one of integirty and indeed, one of honesty? This is a position of public trust. Considering the millions upon millions and millions of small savers all over America, the question of being honest and forthright, it seems to me, is as important as any in public service. Here again Mr. Ryan, when approached by the President's staff, gave them his entire background factually. He disclosed certain facts which now have been brought out in the press, but up front, and in an honest way he gave all that information to the FBI which was preparing his dossier for the purpose of the President and staff reviewing this nominee's background. Then, once the President had made the decision to send his name forward to the Senate, that information was made available to all members of the Banking Committee. So far as I know, each of them had full knowledge of the contents of the FBI report during the course of their deliberations on Friday. So I do not think there is any question of the man's honesty or his integrity.

The question of his specific experience is one that I can understand is of concern, first, to the members of the committee and now, as the remainder of the Senate undertakes its responsibilities to study this case, they, too, will carefully examine the specific cases and responsibilities he has handled as a lawyer. Each of us will have to make a decision on the question: Is this man, taking into consideration all of his attributes, qualified to receive the advice and consent of the Senate? In a sense, then, is the Senate to confirm the President's judgment that he be given the position of Director, Office of Thrift Supervision?

The Secretary of the Treasury, Secretary Brady, has taken a very active role in this nomination. The position for which Tim Ryan has been selected is one that is under his cognizance. He has spent extensive time with Tim Ryan. He went deeply into his background. He discussed it throughout all levels of the White House. And then, largely on the recommendation of Secretary Brady, this nomination came forward to the Senate.

Secretary Brady served as a member of the U.S. Senate. Fortunately, he knows many here personally. I think a great deal of weight should be accorded his judgment. I talked to him several times over the weekend. Together we made calls to our colleagues. Today we discussed the nomination at some length, and we in particular took into consideration the viewpoints of others who thus far have not had the opportunity to be heard from here in the Senate and outside the Senate.

At this time, Mr. President, I would like to read one letter. It is one of a number that I will put in the RECORD this evening, which I think will be of great help to those Senators who are going to, I am certain and confident, look at this nomination fairly and objectively, and determine for themselves whether or not Mr. Ryan has the character, the intelligence, and the experience to undertake this position.

This letter is dated April 2, 1990. It is addressed to the leadership of the Senate. I might add that the letter is signed both by Frank Carlucci, former Secretary of Defense, and his wife.

DEAR SENATORS DOLE AND MITCHELL: We write in support of the confirmation of Timothy Ryan to be director of the Office of Thrift Supervision.

Tim's lack of experience in the financial services industry is certainly a valid consideration. The question the Senate must face is whether Tim's strength of character and general ability outweigh that lack of experience. As those who have known him well for twenty years, we believe they do. As those who have also been involved in the public policy area for many years, we believe that in this type of crisis the ability of manage with discipline and the ability to generate public confidence are far more important than professional experience. Indeed, it seems that some of the most experienced and best known professionals are responsible for many of the problems of the financial services industry.

Financial services is not some occult science. Frank has been able to learn it after thirty years of little other than government experience. The key ingredient is judgment, a quality that seems to have been lacking in some of the most talented professionals. For all his lack of experience, Tim Ryan has judgment.

Frank would observe that he was criticized for lack of experience during confirmation hearings for, among other positions, Director of OEO, Deputy Secretary of Defense, and Under Secretary of HEW. Yet, he was able to learn his responsibilities quickly as a result of his general background in government. Tim Ryan has such a background.

We have full confidence that the Senate will sort out important considerations from sensationalized minor indiscretions committed years ago, but as those who know him well, we would like to go on record as endorsing Tim's strong moral character. He and his wife, Judy, are devoted family people who adhere to the ethical values we all hold dear. Our faith in Tim is such that for the past ten years, he has been the Executor of our estate, should we both die simultaneously. We have three children.

We have full confidence that the Congress will find Tim Ryan a forthcoming and straightforward partner. He is not a game player. On the contrary, he will give it to you as he sees it. That is a quality I know you are seeking.

Our argument is not based on fariness to an individual. Rather, it is premised on

what is best for the country. Certainly, you can find someone with more experience. But you will have to search long and hard for someone with Tim's integrity and total commitment to excellance in government.

His prompt confirmation is the best solution to a critical and time-sensitive problem. We strongly urge it.

Mr. President, I see the leader. Is it the desire of the leader to address the Senate at this time? I would be happy to yield the floor.

Mr. President, I had asked for unanimous consent which I have now received to put in other letters. I shall do that and yield the floor at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLAND & KNIGHT,
Miami, FL, March 20, 1990.

Senator SAM NUNN,
U.S. Senate,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR NUNN: As you are probably aware Timothy Ryan has been nominated for appointment as the Director of the Office of Thrift Supervision by the Bush Administration. This appointment is subject to Senate confirmation.

Tim is an old and close friend in whom I have a great deal of trust and confidence. Tim was the Solicitor of Labor who used his considerable legal skills and powers of persuasion to obtain a significant and binding agreement from the Teamsters Central States Pension Fund in response to your Permanent Subcommittee on Investigations hearings. I worked closely with Tim during that difficult time and I admired his intelligence, judgment, integrity, and forcefulness. In my opinion, second to your efforts with PSI, Tim had a significant impact with respect to cleaning up the Central States Pension and Health and Welfare Funds. I have followed Tim's career through the years and I have been impressed with his many accomplishments and with his significant ability and outstanding legal talents.

Obviously, the thrift industry is in a critical period of restructuring and requires an individual with strong leadership and extraordinary judgment and wisdom. Tim clearly possesses these qualities. I feel comfortable in asking you to review Tim's record and to support this nomination based solely on his exceptional qualifications.

I would be pleased to discuss Tim's qualifications with you. I believe Tim will welcome the opportunity to meet with you to discuss your thoughts, concerns and recommendations regarding the thrift industry. I have enclosed his resume for your review. If I can be of further assistance or if you have any questions or comments concerning Tim, please do not hesitate to contact me. I look forward to seeing you soon in Washington.

Sincerely,

HOLLAND & KNIGHT,
MARTY STEINBERG.

W. HARRISON WELLFORD,
Washington, DC, April 2, 1990.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MITCHELL: I understand that the full Senate will vote on Tim Ryan's nomination to be Director of the Office of Thrift Supervision later this week. I have known Tim Ryan for ten years, since we worked together on the Carter-Reagan transition. He handled a number of delicate problems during that sensitive period with a spirit of bi-partisan cooperation and good will.

I know him to be a hard-working, honest, intelligent person, with a strong sense of public service. He will be a strong enforcer and a breath of fresh air in the savings and loan industry. Based on my experience, I predict that he will adopt a pragmatic approach to problem solving; he is definitely not an ideologue.

Given the mess that the so-called experts have made of the savings and loan issue, an enforcement-minded pragmatist is probably a better choice than someone who has spent years in the industry. I hope you will keep these thoughts in mind when you cast your vote on Wednesday.

Sincerely,

W. HARRISON WELLFORD.

MAIN STREET PRODUCTION CO.
April 2, 1990.

Hon. GEORGE MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR GEORGE: I have known Tim Ryan for 15 years, as a fellow official in The American Council of Young Political Leaders and as a personal friend. We differ markedly on politics, obviously. But I can attest categorically to his integrity, character and commitment to public service.

I cannot pretend to know everything the job of Director of the Office of Thrift Supervision requires, but I know that if intelligence and drive are as central to it as they are to most tasks, Tim Ryan is a fine choice.

Sincerely,

HODDING CARTER III,
President.

REED SMITH SHAW & MCCLAY,
Washington, DC, April 2, 1990.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, U.S. Capitol, Washington, DC.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, U.S. Capitol, room Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: At the Senate Banking Committee hearings on the nomination of Timothy Ryan to the Director of the Office of Thrift Supervision, some senators expressed concern about Mr. Ryan's general ability to handle this job, as well as his experience in the financial services area. The purpose of this letter is to briefly respond to those concerns.

I have worked closely with Tim Ryan for the past six years. During that time, we have represented investment banking and real estate firms on difficult investment and real estate transactions involving pension plan assets. Although he has no direct Thrift Industry experience, Tim has considerable financial services experience which well qualify him for this job.

Tim is exactly the type person the country needs to address the Thrift Industry problems. He's honest, direct and not tied to any of the various constituencies interested in the S&L situation. Quite frankly, we are lucky to have a man of his quality willing to consider this job.

If I can be of any further assistance, please do not hesitate to call me.

Very truly yours,

WILLIAM B. SAXBE.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I had yielded the floor thinking the majority leader was going to seek recognition. I now am informed that he will be back shortly and therefore I would like to take some additional time with which to continue my remarks on behalf of Timothy Ryan. I will promptly yield the floor should the majority leader return and desire to seek the floor.

Mr. President, I should now like to read from a letter from the chairman of the board of Booz, Allen & Hamilton, internationally recognized management firm, dated April 2. It is also addressed to the leadership of the Senate.

DEAR SENATORS DOLE AND MITCHELL: For more than 75 years, Booz, Allen & Hamilton has been in the business of advising its clients—major Fortune 500 corporations worldwide—on leadership and strategy. Through our work with Boards of Directors, Boards of Management, CEOs and foreign governments in organizational planning and restructuring, privatization, executive evaluation and strategy development, we've often focused on the issue of how one selects the right leader to effect change and achieve success. It is in this context that I am writing to you about Timothy Ryan, now being considered for the post of director of the Office of Thrift Supervision.

We believe that there are certain key qualities which are required in a senior executive, qualities which transcend specific industry experience and which, frankly, are far more crucial.

Vision and a clearly-defined sense of purpose. An ability to put the management of the organization in proper perspective, to set the strategy and remain focused while making necessary tactical decisions.

Personal strength and conviction. Having the guts to see the process through to completion.

Intelligence, imagination and sound judgment. An ability to grasp issues and the environment in which the organizaton is operating quickly and effectively, to focus on priorities, seek and accept counsel, frame a balanced course of action.

Tough-minded and action-oriented. An ability to get things in motion, make tough decisions, stay the course, but flexible enough to adjust/adapt to significant changes and new developments.

Self-confidence and commitment to success. The courage to withstand inevitable criticisms and confidence that one knows what needs to be done.

Management Skills. The ability to manage an organization and manage a problem through to resolution and effectiveness.

Communications skills and political sensitivity. The ability to represent the organization publicly, to communicate an understanding and create acceptance of its purpose/actions, together with an understanding of political realities and their impact.

Personal integrity. This, it seems to me, needs no further explanation.

I first met Tim Ryan 15 years ago when, as a young attorney, he worked successfully on some extremely complex legal matters for Booz, Allen. His effectiveness in this role resulted in our entrusting him and his firm with some of our most sensitive and difficult issues. Our association has continued over that period and I have watched his career develop and flourish.

I can say without hesitation that he meets these criteria fully and completely, as an attorney, as a manager of sizeable organizations, as a public servant of consummate effectiveness. I endorse his nomination without reservation and with considerable enthusiasm.

On a personal note, I want to echo the comments of Senator Riegle in deploring the exposure of highly confidential information regarding Tim Ryan. When highly-qualified Americans offer themselves for public service they should not be subjected to such counterproductive and inappropriate activity.

Mr. President, this I think is representative of a dozen or more letters which have come forward, largely unsolicited, to try and help the Senate in its collective and individual evaluation of this man in a very fair manner.

Taking into consideration that he was forthright in acknowledging that about 17 years ago he made a mistake, and he experimented with a controlled substance. Controlled substances now are the cause for a nationwide war. All of us are joined in trying to rid our society of drugs. He admitted it, and he also assured me, as he did the administration, that it was a limited experiment, just one or two times, and never thereafter, ever again, did he use any controlled substance.

Mr. President, that was 15 to 17 years ago. I remember that period very well, as I was then in the service of our Government in the Department of the Navy and had under my responsibility literally hundreds of thousands of young persons serving in the Navy and the Marine Corps. I lived with that generation, their stresses and strains, both in Vietnam and here in the United States.

For the United States of America today to, in a blanket way, say that if you touched a controlled substance one or two times in that period of time, you are not qualified now to move on and accept major responsibilities in the private or the public sector that would be a terrible mistake in the judgment of this Senator. No matter how serious the mistake was.

It seems to me that that generation was subjected to a most unusual period of history, and as such, we should examine each case individually today and not write many of them off simply because they made a mistake. This is particularly true when an individual who made the mistake, up front, voluntarily discloses it as a part of the process, which the executive branch now requires. It is an important part of the process necessary to examine closely the young people who are stepping forward to take positions of responsibility.

Mr. President, I close these remarks urging Senators to look at the material that I will provide for the RECORD tonight and tomorrow. We will be joined by the minority member of the Banking Committee, Mr. GARN, who is currently in travel; otherwise, he would be with me this evening. He will put in the RECORD and make available to Senators other letters as they come in.

I think these letters will be very helpful to the Senate, reaching what I know will be a fair, objective consideration of this young American, who is willing to step forward, and take on a challenge of incalculable proportions.

Mr. President, I, once again, urge my colleagues to think carefully about this nomination sent forward by the President, with the full support of one of our former members, Mr. Brady, Secretary of the Treasury.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1437 TO AMENDMENT NO. 1293

(Purpose: To make technical changes)

Mr. MITCHELL. Mr. President, on behalf of Senators DECONCINI and MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DECONCINI (for himself and Mr. MCCAIN), proposes an amendment numbered 1437 to amendment No. 1293.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27 of the amendment, strike lines 1 through 6 and insert the following:

"(e) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement of this Act.

"(2)(A) Except as provided in subparagraph (B), each State that contains a nonattainment area shall fully implement all provisions of any implementation plan for such area that has been approved by the Administrator, in accordance with the schedules contained in the plan.

"(B) The State shall not relax a provision or schedule described in subparagraph (A) unless the Administrator has approved an alternative control measure pursuant to paragraph (3) of this subsection relating to such provision or schedule.

"(3) Nothing in this Act shall prohibit a State that contains a nonattainment area from revising the implementation plan of such State for such area to substitute an alternative control measure for a control measure in effect at the time of such revision (hereinafter referred to as an 'existing control measure'), if the State convincingly demonstrates, to the satisfaction of the Administrator, that the existing control measure is not otherwise required under this Act or under guidelines or regulations issued or promulgated by the Administrator and the alternative control measure—

(A) is not included in the implementation plan to be revised;

(B) is not otherwise required by this Act;

(C) will provide a degree of emissions control that is equal to or greater than the degree of emissions control that the full implementation of the existing control measure would provide; and

(D) will provide such degree of emissions control as expeditiously as would the full implementation of the existing control measure.

"(4) If the Administrator determines, after reasonable notice and public comment, that—

"(A) the State described in paragraph (3) has made a convincing demonstration required under such paragraph; and

"(B) the proposed revision to the implementation plan of the State meets the requirements of paragraph (1), the Administrator shall approve such revision.

Mr. DECONCINI. Mr. President, I am offering an amendment that builds upon the mandate in S. 1630, and the substitute offered by the majority leader for tough, new clean air measures coupled with additional time for attainment of standards. This in my opinion represents a sound approach.

However, in allowing this additional time for attainment, we must ensure that air quality gains made to date are not lost.

When Congress passed the 1977 Clean Air Act Amendments, many States took advantage of the new attainment deadlines in that law to postpone compliance schedules or the implementation of control measures that were already in their State plans.

EPA even consented to the relaxation of compliance deadlines in court-approved consent decrees. As a result, reductions in dangerous air pollutants were needlessly delayed.

I believe that air quality benefits that would be obtained from clean air strategies already on the books should not be postponed because Congress gives the cities more time to develop additional strategies.

Therefore, I am proposing an amendment to prohibit the relaxation of emission reduction requirements and schedules already required as part of State implementation plans [SIPS] adopted to meet the current deadlines.

In my own State of Arizona, we have made great strides toward attacking the problem of urban air pollution. We have adopted a tough auto emissions

testing program, and a mandatory oxygenated fuels program for our major metropolitan areas. These measures are the products of painstaking legislative efforts, driven largely by the mandates of the Clean Air Act. According to EPA, they should be adequate to produce attainment in Phoenix and Tucson by as early as 1991.

But without a clear signal from Congress, the opponents of these measures may seek to scuttle them, citing the additional time allowed for attainment under the legislation currently in the committee bill and the Mitchell substitute. My amendment would make abundantly clear that this legislation is intended to build upon existing control strategies, not undercut them. It requires that until an area demonstrates actual attainment of standards, new implementation plans must contain provisions at least as stringent and comprehensive as those included in the previous implementation plan.

The amendment does not impose any new burdens on State or local governments: It simply requires that they stick with control strategies that have already been adopted.

In the vast majority of cases, these are strategies that have been developed by the States themselves after thorough public debate and discussion.

My amendment does not prohibit States from modifying existing control measures to make them more efficient or effective. Modifications are prohibited only where they would make the control strategy less stringent or would relax existing deadlines.

We have made significant changes in the amendment so that it does not violate the bipartisan agreement.

I appreciate the assistance of the floor managers and their staffs in working with me on this amendment.

Also, I want to thank David Baron, assistant director of the Arizona Center for Law in the Public Interest, for his help. For over the last 6 years, the center, a nonprofit public interest law firm, has been on the frontlines in Arizona's fight for clean air.

In conclusion, these amendments to the Clean Air Act that we are considering should not be viewed as condoning delay in important clean air measures.

My amendment ensures that new steps will be taken without undermining the progress that has been made to date.

Mr. MITCHELL. Mr. President, I am advised by staff and the managers that this amendment has been cleared on both sides of the aisle.

Accordingly, I am prepared for adoption of the amendment, if there is no further debate.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1437) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I would like to ask my colleague from Montana a few questions with regard to the Outer Continental Shelf provision in the legislation.

Mr. BAUCUS. I would be happy to respond to any questions from the senior Senator from California.

Mr. CRANSTON. Would the Senator clarify the purpose of the Project Emission Reduction Fund called for in the section on Outer Continental Shelf air pollution requirements.

Mr. BAUCUS. The Project Emission Reduction Fund is intended to provide additional means whereby the oil companies can obtain offsets. Each project obtaining their offsets through this fund will have to meet the exact same offset requirements which would apply, if they had obtained their offsets directly from an offset provider. If a company chooses to obtain their offsets through the fund, a specific set of offsets from the fund will be identified for that project, and those offsets must remain in place for the entire period that the project emits air pollution.

Mr. CRANSTON. I would also like to ask the Senator to clarify the offset provisions of section 327.

Mr. BAUCUS. During the exploration, development, and production phases, the OCS project must provide sufficient offsets to meet the offset requirements associated with the project's emissions. During construction, due to the unique circumstances of OCS facilities whose construction can result in a very large amount of emissions for a short period of time, a special method of offsetting construction is provided. By way of example, if construction of an OCS project results in 300 tons of emissions in 1 year, and the peak annual operation emissions are only 100 tons, the project operator can choose to offset construction at a rate as low as 100 tons per year for 3 consecutive years. These construction offsets are in addition to the development and production offset requirements. It is intended that both the project emissions and corresponding offsets be specified in the permit issued by the Interior Department. If an OCS operator chooses to use an onshore source of offsets for an OCS project, it is intended that the Interior Secretary will have established through regulations a procedure whereby the onshore district can enforce the offsets occurring within their jurisdiction.

Mr. CRANSTON. I thank the Senator for his explanation. This resolves many of my concerns about this section of the amendment. I ask unanimous consent to have printed in the RECORD at this point a statement of intent regarding section 327.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTER CONTINENTAL SHELF ACTIVITIES (SECTION 111)

SUMMARY

The bill adds a new section 327 to the Act that requires the Secretary of the Interior, within 180 days of enactment, to promulgate requirements applicable to sources of air pollution in the Outer Continental Shelf (OCS) offshore California. The OCS requirements must be as stringent as would be applicable if the OCS sources were located in the corresponding onshore area. Specific regulations implementing the requirements must be promulgated by the Secretary after obtaining written approval from the Administrator. Procedures are included for waiving specific pollution control technology requirements due to technical infeasibility or an unreasonable threat to health and safety. A Project Emission Reduction Fund is established to facilitate the securing of offsets. For OCS areas other than California, the Secretary of the Interior is required to complete a study, within three years of enactment of this Section, which addresses the onshore impacts of current and future OCS emissions on adjacent onshore areas.

DISCUSSION OF SPECIAL REQUIREMENTS FOR OFFSHORE CALIFORNIA

OCS activities offshore California, including exploration, construction, development, and operation activities, emit a significant amount of air pollution which can adversely impact coastal air quality. This section of the bill is intended to ensure that air pollution from these OCS activities do not significantly affect the air quality in any coastal region of California. OCS air pollution will be regulated by the Secretary to protect federal and state ambient air quality standards. These requirements are intended to include, at a minimum, the applicable federal best available emission control technology (BACT) requirements and offset requirements for all new facilities; reasonably available control technology (RACT) requirements for all existing facilities; and permitting, monitoring, testing and reporting requirements for all new, modified and existing facilities. Each approval by the Secretary of an Exploration Plan or Development and Production Plan will be accompanied by findings of compliance with this Section. To maintain stringency with onshore requirements, it is also intended that the Secretary should notify the adjacent onshore air district of such findings prior to approval of the OCS activity. The regulations adopted pursuant to this legislation should minimize differences in air pollutant regulation which currently exist between OCS sources offshore California and sources located in the adjacent offshore air district.

This legislation provides the Secretary up to 180 days to establish regulations to implement Section 327. The EPA Administrator shall prepare draft regulations to implement Section 327. The EPA Administrator shall prepare draft regulations which meet

the requirements of this Section. The Secretary must obtain written concurrence from the EPA Administrator on all regulations promulgated pursuant to Section 327 prior to adoption of the regulations. It is anticipated that the Administrator will not draft a unique set of air quality requirements for the OCS.

Section 327(a)(1) requires OCS facilities to provide a quantity and type of offsets which is as stringent as would be required if the facility was located in the onshore air district. Both the project emissions and corresponding offsets will be specified in the permit issued by the Secretary. If an OCS operator proposes to use an onshore source of offsets for an OCS project, it is intended that the Secretary will have established, through regulations, a procedure whereby the onshore district can enforce the offsets occurring within their jurisdiction. During the exploration, development, and production phases, the OCS project must provide sufficient offsets each year to meet the offset requirements associated with the project's emissions. Construction emissions (which involve a substantial amount of oxides of nitrogen pollution from construction barges and other marine vessels) will also be required to be controlled and offset consistent with the requirements of the adjacent onshore air district. Due to the unique circumstances during OCS construction, wherein a large amount of oxide of nitrogen emissions occur within a relatively short period of time, a special provision has been added to allow for some non-contemporaneous offsetting of construction emissions. The bill would provide that for an OCS source whose construction resulted in, for example, 300 tons of emissions within a single year, but whose peak annual operational emissions are 50 tons a year, the construction offsets could be provided at a rate as low as 50 tons per year for a period of 6 consecutive years. If an applicant proposes to use this partially non-contemporaneous method of offsetting construction emissions, the company would be obligated to provide some of their construction offsets at the same time as they were providing offsets to cover the first few years of their production emissions.

The EPA Administrator shall delineate geographical boundaries for OCS air districts which correspond to the adjacent onshore air districts. The boundaries of such OCS air districts shall consider wind flow patterns toward shore during ozone exceedance periods and shall initially extend a distance of 25 miles from the shoreline, and can be extended by the Administrator.

The bill provides that the Secretary, with written concurrence of the Administrator and after providing for public comment, can waive a requirement for an OCS source under specified conditions. If the Secretary waives a requirements for an OCS source, the Secretary must make written findings explaining the basis for the waiver and must impose another requirement equal to or as close in stringency to the original requirement as possible. The three conditions when a requirement can be waived are as follows. First, the Secretary can waive a pollution control technology requirement and substitute an alternative technology that achieves the same level of emission control. Second, the Secretary may waive a requirement for pollution control technology that is technically infeasible or which would cause an unreasonable threat to health and safety. The third condition when a requirement can be waived for an OCS source is when the Secretary makes the finding that a requirement imposes a greater level of emission control or greater amount of offsets then is or would be imposed if the source were located within the adjacent onshore air district. This third waiver is provided solely to ensure that onshore districts do not adopt emission control or offset requirements which are arbitary and capricious and have the effect of prohibiting OCS development.

The bill provides that OCS equipment contained in a plan of exploration or development and production plan approved by the Secretary prior to enactment of the section shall be considered existing sources, as long as that equipment is not moved to another OCS source. Existing sources will be regulated at least as stringently as existing sources in the adjacent onshore air district and new and modified sources will be regulated at least as stringently as new and modified sources in the adjacent onshore air district. It is intended that the regulations shall take effect with respect to new sources or modifications to existing sources on the date of promulgation. This process is intended to ensure that the OCS facilities carry their fair-share burden for air pollution control and prevent the need for instituting more stringent regulations onshore to compensate for unmitigated OCS emissions.

The bill provides that the authority of this section shall supersede any inconsistent authorities under this Act or the Outer Continental Shelf Lands Act (OCSLA). This provision is intended solely to impose additional responsibilities for air pollution regulation under Section 5 (a)(8) of the OCSLA and to ensure regulation of marine vessel emissions, notwithstanding Section 110(a)(5) of this Act. This provision does not repeal or modify any other federal, state or local authorities with respect to air quality, or any other responsibilities of DOI under the OCSLA. In no case shall this provision allow the violation of any National Ambient Air Quality Standard.

Subsection (a)(2) of the bill establishes a Project Emission Reduction Fund (PERF). The requirements for the quantity and type of offsets must be as stringent as would apply if the OCS facility was located in the adjacent onshore air district. Specific offsets must be identified for each project, and those offsets must remain in place for the entire period that the project emits air pollution. The Secretary may, with the consent of the Administrator, allow the Fund to be used to pay for an early implementation of emission control measures planned for the future under the applicable implementation plan or other relevant laws or regulations. In the event of such early implementation of emission control measures, the reductions shall be credited as offsets against OCS emissions only for the period for which the reductions are not otherwise required under the applicable implementation plan or other relevant law or regulation in effect at the time the emission control measures are credited to a specific OCS project. The above requirements shall apply whether the PERF fees are deposited into the fund or when the Secretary approves a direct transfer of PERF fees from the OCS operator to the entity implementing the offset project.

DISCUSSION OF SPECIAL REQUIREMENTS FOR OTHER OFFSHORE AREAS

This subsection requires, for areas other than offshore California, the Secretary to coordinate air pollution control requirements for OCS emissions and emissions in the adjacent onshore areas. This subsection also requires the Secretary to complete a study of the impacts of current and future OCS emission sources on the adjacent onshore areas. It is intended that the Secretary consult with the Administrator on the scope and content of the study and on any recommended actions which are found to be necessary, based on the study results, to address significant effects on onshore non-attainment areas.

GORE AMENDMENT TO CLEAN AIR LEGISLATION

Mr. SANFORD. Mr. President, I rise today to voice my support of Senator GORE's amendment accepted on Friday that would have a proenvironmental and prohealth effect. The amendment strikes provisions that would allow plants to buy the properties of individuals living next to the plants in order to reduce the health risks of toxic emissions instead of meeting tighter emissions standards.

These provisions have been characterized as "dead zone" provisions, since they would essentially allow facilities to create new areas where no one could live or work without being exposed to health risks greater than those allowed by this bill. In these circumstances, a facility that was exposing people to a cancer risk of greater than 1 in 10,000 or 1 in a million could simply move the people, rather than reduce toxic emissions, when a compliance deadline was imminent.

While such provisions might achieve the same health goals as emission reductions in some circumstances, there are two reasons why this approach cannot be accepted. First, this is not the type of ethic we should be endorsing as Earth Day approaches. My constituents have made it clear that they believe the burden of meeting health standards for air pollutants should fall on the facility that is emitting pollutants, not those who happen to live near a plant—meaning that compliance plans should figure out how to reduce emissions, rather than how to convince people to move away from the plant. I would also point out that a mitigation strategy that would ensure that no person is exposed to a risk of greater than 1 in 10,000 could still result in unacceptable health effects, if enough people were exposed even to low risk levels.

Second, the mitigation approach would not help guard against environmental effects. Some pollutants can begin to cause environmental damage at levels lower than those which pose unacceptable health risks. Pollutants can be transported long distances, and can accumulate in the environment or act in concert with other pollutants to harm the environment. While the EPA will try to account for such effects, Senator GORE's amendment will provide an additional margin of safety for the environment by encouraging additional emissions reductions, rather than making it very difficult for EPA to take action if it is suspected that a

mitigation strategy might still allow environmental damage to result.

Mr. President, the purpose of the clean air legislation before us is to clean up our Nation's air and to reduce the health risks from toxic emissions. Senator GORE's amendment will do just that.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE RAZORBACKS AND LADY RAZORBACKS FOR A GREAT JOB IN NCAA TOURNAMENTS

Mr. BUMPERS. Mr. President, on behalf of myself and my colleague Senator PRYOR, I want to commend the University of Arkansas Razorbacks for the great job they did in the NCAA semifinals on Saturday.

David and I had an Arkansas turkey riding on the game, and unfortunately, we are going to have to deliver that turkey to Senator SANFORD of North Carolina. As we all know, he is a former president of Duke University and just as proud as a peacock today.

But we in Arkansas are equally proud of our team. Every player was superb in one or more games—and it would be unfair to pick any single player out for recognition. It was all a great team effort, and they have made this one of the most memorable years in Razorback sport history. We watched every minute of every game—except 5 minutes of the North Carolina game when CBS in Washington switched to the Clemson-Connecticut matchup.

I also want to pay special tribute today to head coach Nolan Richardson. After his first two seasons at Arkansas, when the Razorbacks were 31-30, he took a lot of criticism from many quarters. But he stood his ground, coaching as he thought best, and 3 years later the Razorbacks were in the Final Four for just the fourth time in history. They end the year as champions of the Southwest Conference, the Southwest Conference Tournament, and the NCAA Midwest Regional.

Despite the final results of their last matchup, the future looks especially bright. Coach Richardson has assembled a young team, with outstanding juniors and sophomores who will be even better next year.

I also want to recognize the achievement of the Lady Razorbacks, who had their most successful season in the history of Arkansas' women's basketball program. They not only advanced to the Elite Eight for the first time, they also won their first Southwest Conference crown. In all, they did a magnificent job.

Now I just want to know what the "Big O" said to that guy Dudek in the Texas game.

Mr. PRYOR. Mr. President, I would like to second the comments of my colleague Senator BUMPERS. We are both alumni of the University of Arkansas, and like many others in our State followed the Razorbacks closely during a truly exciting season. In our book, they are champions.

In addition to our outstanding seniors Lenzie Howell and Mario Credit, the Razorbacks have several younger players who will continue to make great contributions. Three outstanding sophomores will be back next year: Todd Day, Lee Mayberry, and Oliver Miller. Day led the Hogs in scoring this year, Mayberry was next, and the "Big O" set a new University of Arkansas record for blocked shots.

Another sophomore, Darrell Hawkins, figures to play a bigger role next season, as do juniors Ron Huery and Arlyn Bowers. But each member of the team made a big contribution that we will not soon forget.

Senator BUMPERS and I also want to pay tribute today to the Lady Razorbacks and their coach John Sutherland. Before a sold-out crowd of 7,500 at Maple Pavilion in California, the Lady Razorbacks played in their first ever NCAA Women's West Regional Championship.

During that game, the Lady Razorbacks shot better than 56 percent from the field, and were outrebounded by only 37 to 35. Their center, Delmonica DeHorney, scored a career-high 39 points and had 8 rebounds.

Despite the final score against Stanford, the Lady Razorbacks deserve a lot of credit for completing the best season in school history with a record of 25-5. They were listed in the AP top 25 for the first time, and Delmonica DeHorney was named the Southwest Conference's Player of the Year.

Delmonica, Juliet Jackson, Amber Nicholas, Blair Savage, Christ Willson, Kendall Mago, Wendy Scholtens, and the rest of the team deserve our thanks for an outstanding effort. We are very, very proud of their achievement, and wish them all the best in the seasons ahead.

ON CIGARETTE SMOKING

Mr. KERREY. Mr. President, I ask unanimous consent to have printed in the RECORD two letters that I received this week from Nebraska. The first letter is from a group of four cigarette manufacturers—the American Tobacco Co., Lorillard Tobacco Co., Philip Morris, USA, and R.J. Reynolds Tobacco Co.—to a Nebraska resident, Ms. Mae Thomsen.

In this letter to Ms. Thomsen the companies warn her of the potential of being singled out as a smoker for discriminatory tax treatment. They urge her to write her Representative to object. The letter is dated March 19, 1990.

The second letter is from Mr. Gregory P. Drew, attorney at law, Blair, NE. His letter is one line:

Mae Thompsen died of lung cancer on January 29, 1990.

Mr. President, I need say no more, and I yield the floor.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN TOBACCO CO., LORILLARD TOBACCO CO., PHILIP MORRIS U.S.A., R.J. REYNOLDS TOBACCO CO.,

March 19, 1990.

MS. MAE THOMSEN,
113 North 14th Street,
Blair, NE.

DEAR MS. THOMSEN: Are you tired of being singled out for unfair tax increases?

If you're like most smokers we know, you've had your fill of this kind of discriminatory treatment.

That's why we're writing to warn you about the proposals now pending in Congress . . . proposals that threaten your rights *and* your pocketbook.

Several of these proposals aim to double the amount of federal cigarette tax you're paying now. One proposal aims to almost triple it.

Think of it. You and your fellow smokers already pay about $10 billion per year in local, state, and federal cigarette taxes. But that's not enough to satisfy some members of Congress. They want you to pay even more!

There's only one way to stop this outrageous tax threat. You must write and call Washington now.

As American cigarette manufacturers, we care about all our customers. And we want to do all we can to help you in the battle against unfair taxes and discrimination. That's why we've joined together to alert you to this latest threat.

But there's only so much we can do. The rest is up to you. Your elected officials in Washington do care about what people back home think. But they must hear from you. If you want to head off a federal excise tax increase, you must contact Washington today.

It's easier than you think. Here's how to do it:

1. Write short, personal letters to your Federal officials.

Tell them you're fed up with unfair tax increases. Let them know you're tired of being treated like a second-class citizen!

Urge them to find other ways to reduce the deficit. Tell them loud and clear: "Don't balance the budget on the backs of smokers!"

Point out that smokers already pay far more than their fair share in excise taxes—nearly $10 billion a year!

Tell them smokers shouldn't have to foot the whole bill for programs that are everyone's concern.

ATTORNEY AT LAW,
Blair, NE, March 26, 1990.
Hon. J. ROBERT KERREY,
U.S. Senate,
Washington, DC.

DEAR SIR: Mae Thomsen died of lung cancer on Jan. 29, 1990.

Sincerely,

GREGORY P. DREW.

AMENDMENT TO INTERNATIONAL REGULATIONS FOR PREVENTION OF COLLISIONS AT SEA—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM-106

Under the authority of the order of the Senate of Janaury 3, 1989, the Secretary of the Senate, on March 30, 1990, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

Consistent with the International Navigational Rules Act of 1977 (Public Law 95-75; 33 U.S.C. 1602), I transmit herewith an amendment to the International Regulations for Preventing Collisions at Sea, 1972, as amended, which was adopted at London, October 19, 1989. The Convention on the International Regulations for Preventing Collisions at Sea (72 COLREGS) was adopted at London, October 20, 1972, to replace the 1960 Collision Regulations. The 72 COLREGS entered into force July 15, 1977, and there are currently over 100 countries party to the convention. The 72 COLREGS were previously amended in November 1981 and in November 1987 to clarify technical language in the existing regulations.

This amendment modifies the language of rule 10(d) that governs the conduct of vessels in an inshore traffice zone of a traffic separation scheme adopted by the International Maritime Organization. The amendment was designed to remove the ambiguity inherent in the words "normal" and "through traffic" as used in the existing text. This ambiguity lent itself to different interpretations by coastal states anxious to limit traffic in inshore traffic zones in order to reduce the risk of pollution from collision or stranding. The new language for rule 10(d) is phrased so that the mariner should have a better understanding of his duties and obligations with regard to the use of inshore traffic zones by ships.

Consistent with section 5 of the Inland Navigational Rules Act of 1980 (section 5 of Public Law 96-591; 33 U.S.C. 2073), this proposed amendment has been considered by the Rules of the Road Advisory Council, which has given its concurrence to the amendment.

In the absence of a duly enacted law to the contrary, I will proclaim that the amendment will enter into force for the United States of America on April 19, 1991, unless by April 19, 1990, more than one-third of the Contracting Parties have notified the International Maritime Organization of their objection to the amendment.

GEORGE BUSH.

THE WHITE HOUSE, *March 30, 1990.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1990, the Secretary of the Senate, on today, April 2, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following bill and joint resolution:

S. 388. An act to provide for 5-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes; and

H.J. Res. 500. Joint resolution to designate April 6, 1990, as "Earth Day, U.S.C."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3. An act to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes;

H.R. 2209. An act to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program, for soybean promotion, research, and consumer information, and for other purposes; and

H.R. 3847. An act to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2209. An act to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3847. An act to redesignate the Environmental Protection Agency as the Department of Environmental Protection, and for other purposes; to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

Pursuant to section 300 of the Congressional Budget Act of 1974, as amended, the Committee on the Budget was discharged from the further consideration of the following concurrent resolution; which was placed on the calendar:

S. Con. Res. 110. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1991, 1992, and 1993.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3. An act to authorize appropriations to expand Head Start programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 2, 1990, he had presented to the President of the United States the following enrolled bill:

S. 388. An act to provide for 5-year staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2696. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Immigration Reform: Employer Sanctions and the Question of Discrimination;" to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2006: A bill to establish the Department of the Environment, provide for a global environmental policy of the United States, and for other purposes (Rept. No. 101-262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Timothy Ryan, of Virginia, to be Director of the Office of Thrift Supervision for a term of five years (Exec. Rept. 101-20).

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to

appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI:

S. 2387. A bill to amend the Internal Revenue Code of 1986 to exempt Federal law enforcement officers and firefighters from the penalty tax on early distributions from retirement plans; to the Committee on Finance.

By Mr. CRANSTON:

S. 2388. A bill to provide for the striking of medals in commemoration of the Centennial of Yosemite National Park; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:

S. 2389. A bill to extend until January 1, 1994, the existing temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

By Mr. INOUYE:

S. 2390. A bill for the relief of Mark Maio Fernandez; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. HATFIELD, Mr. MOYNIHAN, Mr. KOHL, Mr. HEINZ, Mr. SIMON, Mr. MURKOWSKI, Mr. CONRAD, and Mr. BINGAMAN):

S. 2391. A bill to establish Summer Science Academies for talented, economically disadvantaged, minority participants, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KASTEN:

S. 2392. A bill to foster and enhance the wise stewardship of natural resources on America's agricultural lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EXON (for himself, Mr. GORE and Mr. GORTON):

S. 2393. A bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor of rail transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON:

S.J. Res. 283. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 2387. A bill to amend the Internal Revenue Code of 1986 to exempt Federal law enforcement officers and firefighters from the penalty tax on early distributions from retirement plans; to the Committee on Finance.

EXEMPTION FROM PENALTY TAX ON EARLY DISTRIBUTION OF RETIREMENT FUNDS TO FEDERAL POLICE AND FIREFIGHTERS

● Mr. DECONCINI. Mr. President, I rise today to introduce legislation which is a companion to S. 2250, the Federal Law Enforcement Pay Reform Act of 1990, that I introduced on March 9, 1990.

The only major recommendation of the National Advisory Commission on Law Enforcement that was not included in S. 2250 was a matter that concerned the tax penalty levied on Federal law enforcement officers who retire before age 55 and elect to receive the "alternative form of annuity" [AFA].

This legislation will amend the Internal Revenue Code of 1986 to exempt Federal law enforcement officers and firefighters from the 10 percent penalty on early distributions of their retirement funds.

Mr. President—if a Federal law enforcement officer retires today between age 50, when he becomes eligible, and age 55, when it becomes mandatory, he must pay a 10 percent penalty on the amount he paid into his own retirement account over the previous 20 to 30 years. These funds have already been taxed during the years they were earned. This younger age retirement eligibility for law enforcement was established specifically because of the rigors of the profession and the need for this group of Federal employees to be in excellent physical health and conditioning in order to perform their mission safely.

When it was drafted, the Internal Revenue Code of 1986 did not take into account the fact that many Federal officers are eligible for and take advantage of retirement prior to age 55. At one time, this penalty was levied on employees who retired prior to age 59½. The age was then reduced to 55 in order to accommodate Federal employees who were eligible for bona fide retirements. The Federal law enforcement retiree was overlooked during this process. Traditionally, Federal law enforcement officers have been encouraged to retire when they become eligible and this tax penalty is an unfair burden considering that other Federal, State, and local taxes are also in effect.

I request unanimous consent that the entire text of this bill be printed in the RECORD and I respectfully request that my colleagues join me in cosponsorship of this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM PENALTY TAX ON EARLY DISTRIBUTIONS FROM RETIREMENT PLANS FOR FEDERAL LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS.

(a) IN GENERAL.—Subparagraph (A) of section 72(t)(2) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by striking "or" at the end of clause (v), by striking the period at the end of clause (vi) and inserting ", or", and by adding at the end thereof the following new clause:

"(vii) made under title 5, United States Code, based on the employee's retiring from Government service under section 8335(b), 8336(c), 8412(d), or 8425(b) of such title, if retirement occurs after attainment of age 50."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1123(a) of the Tax Reform Act of 1986.●

By Mr. CRANSTON:

S. 2388. A bill to provide for the striking of medals in commemoration of the Centennial of Yosemite National Park; to the Committee on Banking, Housing, and Urban Affairs.

S.J. Res. 283. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park; to the Committee on the Judiciary.

CENTENNIAL OF YOSEMITE NATIONAL PARK

Mr. CRANSTON. Mr. President, I introduce today two measures to mark the centennial of Yosemite National Park. The first is a joint resolution to commemorate the park's centennial; the second would authorize the striking of medals honoring the beauty and historic significance of the park.

Yosemite National Park is truly a national treasure and indisputably the flagship of the American park system. Its dazzling panoramas and quiet nooks of spectacular beauty are found throughout the 760,000 acres of the park. I was particularly pleased to protect 95 percent of the park as wilderness when we passed the California Wilderness Act in 1984. In addition, the magnificent Tuolumne and Merced Rivers—designated wild and scenic rivers—both originate in Yosemite.

Yosemite is one of the most visited parks in the country, enjoyed by nearly 3½ million visitors each year. The monolithic grandeur of Half Dome, the drama of El Capitan and the majesty of Bridalveil Falls are images etched into the memories of these visitors. Yosemite's commanding peaks and valleys have been the inspiration of many. It's no wonder that my dear friend Ansel Adams returned year after year to produce some of our country's best and well known photographs which so richly capture the splendor of Yosemite.

In 1864, the Yosemite grant—including Yosemite Valley and the Mariposa Grove of Giant Sequoias—was deeded to California by the Federal Government. This was the first such grant recognizing the need to protect lands of unique natural beauty. This action provided the inspiration and model for the creation of the National Park System. Yosemite National Park was officially created on October 1, 1890, becoming the country's third national park after Yellowstone and Sequoia.

As we mark the centennial of Yosemite, we also affirm the commitment to preserve and protect this land for future generations. Proceeds from the sale of the centennial commemorative medals would be paid into a permanent endowment fund for Yosemite National Park. The interest on this fund would be used for back country trail development and the preservation of Sequoia groves within Yosemite.

Both of these measures were introduced by Congressman LEHMAN in the House where they received bipartisan support and were recently passed by unanimous consent. The commemorative medal bill also has the support of the U.S. Mint.

I ask for your support of this legislation to honor and commemorate the centennial of the Yosemite National Park—one of America's best loved parks.

Mr. President, I ask unanimous consent that the text of these measures be printed in the RECORD.

There being no objection, the bill and joint resolution were ordered to be printed in the RECORD, as follows:

S. 2388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yosemite National Park Centennial Medal Act".

SEC. 2. YOSEMITE NATIONAL PARK CENTENNIAL MEDALS.

(A) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission of Fine Arts.

(b) SALE OF MEDALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the medals issued under this Act shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) SURCHARGES.—All sales shall include a surcharge of $2 each.

SEC. 3. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of medals issued under this Act shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park to be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for purposes of funding special supplemental projects relating to back country trail development and rehabilitation, and the preservation of Sequoia groves within the boundaries of Yosemite National Park.

SEC. 4. SALES OF MEDALS IN NATIONAL PARK FACILITIES.

The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to allow—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in national park facilities.

SEC. 5. METAL CONTENT AND SIZE OF MEDALS.

The medals authorized to be struck and delivered under this Act shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

SEC. 6. NATIONAL MEDALS.

The medals authorized by this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 7. EXAMINATION OF RECORDS.

The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation which are related to the medals authorized by this Act.

S.J. RES. 283

Whereas the first application of a park concept originated in Yosemite with the grant of 1864 (Federal land given to California for preservation) and since that time the park has played an important role in pioneering park management concepts;

Whereas Yosemite National Park was established for the purpose of preservation of the resources that contribute to its uniqueness and attractiveness;

Whereas the United States Congress recognized the importance of preserving this great park for future public enjoyment when it established Yosemite National Park;

Whereas Yosemite National Park is a showcase of spectacular geological features, including the greatest concentration of granite domes in the world and the largest exposed granite monolith in the world;

Whereas Yosemite National Park possesses outstanding recreational values and supreme scenic attractions, including alpine and subalpine wilderness, three groves of giant sequoia trees and thundering waterfalls that are among the world's highest;

Whereas Yosemite was the birthplace of the idea of the Sierra Club;

Whereas Yosemite plays an important role in wildlife preservation and preserving biological diversity;

Whereas Yosemite is a world heritage site which has made a significant contribution to California's cultural heritage, to the national park movement, and to Yosemite's 4,000 years of cultural heritage by Native Americans;

Whereas Yosemite provides solitude and inspiration and serves as an outdoor classroom for environmental education;

Whereas each year Yosemite National Park welcomes millions of people from around the world; and

Whereas Yosemite National Park was established on October 1, 1890, and is the Nation's third oldest national park: Now, therefore be it

Resolved by the Senate and House of Representatives in Congress assembled, That the Congress hereby recognizes and commemorates the centennial of Yosemite National Park, created by Congress in 1890. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the centennial with appropriate ceremonies and activities.

By Mr. THURMOND:

S. 2389. A bill to extend until January 1, 1994, the existing temporary suspension of duty on tetra amino biphenyl; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

Mr. THURMOND. Mr. President, today I am introducing legislation to temporarily suspend the duty on the chemical tetra amino biphenyl [TAB]. This chemical is imported into the United States from West Germany. TAB is an essential raw material used in the production of a high performance fiber called "PBI."

PBI is a unique heat and chemical resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, as well as refinery workers.

Mr. President, in the 98th and 100th Congresses, I introduced similar legislation to apply duty-free treatment to TAB. This bill was ultimately incorporated into the Omnibus Tariff and Trade Act of 1984 and the Omnibus Trade Act of 1988. The current duty suspension for this chemical expires December 31, 1990.

There is still no domestic producer of TAB. Thus, the temporary suspension of duty on this chemical will not cause injury to any U.S. manufacturer of the product.

There are a large number of jobs that are directly related to production of PBI, as well as additional positions resulting from research, development, and marketing of this product. These jobs hinge on the ability of the domestic manufacturer of PBI to produce this product efficiently and at a competitive price for the available markets. Temporary removal of the import duty on this principal raw material will lower the production cost for PBI fiber and enable the domestic manufacturer to establish a competitive market for products containing PBI.

Mr. President, suspending the duty on this chemical will benefit the consumer by stabilizing the costs of manufacturing the end-use products. Further, this suspension will allow domestic producers to maintain or improve their ability to compete internationally. I hope the Senate will consider this measure expeditiously.

I ask unanimous consent that the text of this bill be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That heading 9902.29.27 of the Harmonized Tariff Schedule of the United States (19 U.S.C.

3007) is amended by striking out "12/31/90" and inserting "12/31/93".

SEC. 2. The amendment made by the first section of this Act applies with respect to goods entered, or withdrawn from warehouse for consumption, after December 31, 1990.

By Mr. INOUYE:

S. 2390. A bill for the relief of Mark Maio Fernandez; to the Committee on the Judiciary.

RELIEF OF MARK MAIO FERNANDEZ

● Mr. INOUYE. Mr. President, Mark Maio Fernandez was born on March 14, 1958, at Tripler Army Medical Center in Honolulu, HI. He was one of two twin boys born 6 weeks premature, weighing 2.5 pounds. According to the records, he became jaundiced sometime on his second or third day of life, and his jaundice condition was noticed on the third day and yielded a microbilirubin test result of 25.5 mg. A subsequent test yielded a result of 32.6 mg. bilirubin.

Excessive bilirubin is believed to be the cause of brain damage. Although it is alleged that a blood transfusion should have occurred when the bilirubin count reached 20 mg., no transfusion was performed until the 32.6 percent level.

Mr. Fernandez's brother, Wayne, is 6'5" and graduated from the University of Hawaii in 1981. He is normal, bright and will be a police officer with the Honolulu Police Department. Mark Fernandez is a young man with serious brain damage and a limited IQ slightly above the level of mental retardation. He suffers from deafness and spasticity in his lower limbs. At 5'5", he is a foot shorter than his twin brother.

As a result of his handicaps, he attended the Hawaii School for the Deaf and Blind. Although he can understand and utilize sign language, apparently his level of communication is elementary, and he is limited in his ability to deal with such ordinary matters such as money or caring for himself. In an attempt to assist himself, he has found employment as a janitor at a fast food restaurant, but his earning capacity is obviously severely restricted for the rest of his life.

In 1976, after reading about a similar case, his parents sought legal counsel and filed an administrative suit with the Department of the Army. His attorneys feel that his claims were and are strong, and medical experts from both Hawaii and the mainland testified about medical negligence and the relationship of this failure to administer a timely transfusion to the subsequent brain damage.

The trial court ruled that the claim was barred by the statute of limitations. The Ninth Circuit Court of Appeals affirmed, based on the theory that his parents should have known of the medical malpractice earlier since they were given a discharge report by the treating physician at Tripler Army Medical Center, from which they could have derived knowledge of the action.

However, the decision overlooks the fact that Mark's parents are not highly educated. Further, the report is technical and meaningless to one not trained in medicine. I believe that the members of the subcommittee will concur that the language used therein would not unduly alarm those without medical knowledge.

The bill provides only that the U.S. District Court for the District of Hawaii have jurisdiction to hear and try the case notwithstanding the statute of limitations, laches or any previous dismissal. It does not provide any direct relief for the claimant.

I ask the subcommittee to act favorably on this bill.●

By Mr. GLENN (for himself, Mr. HATFIELD, Mr. MOYNIHAN, Mr. KOHL, Mr. HEINZ, Mr. SIMON, Mr. MURKOWSKI, Mr. CONRAD, and Mr. BINGAMAN):

S. 2391. A bill to establish Summer Science Academies for talented, economically disadvantaged, minority participants, and for other purposes; to the Committee on Labor and Human Resources.

SUMMER SCIENCE ACADEMY ACT

● Mr. GLENN. Mr. President, today I rise to introduce the Summer Science Academy Act of 1990. This legislation is designed to address this Nation's severe shortage of minorities and women in the fields of mathematics, science, and engineering.

The United States now operates in a global market that places a high premium on technological innovation. Today, more than 70 percent of the goods manufactured in the United States now compete with merchandise made overseas. Innovation ensures that U.S. firms will be able to manufacture state-of-the-art, high-quality products that consumers both here and abroad will want to buy.

Yet this country may not produce enough scientists, engineers, and technical personnel to meet the demands of a dynamic, high-technology economy. Declining interest in scientific careers among young people and declining birthrates have shrunk the pool of potential scientists. In fact, the National Science Foundation predicts that by the year 2010, if current trends continue, America will suffer a shortfall of more than 560,000 scientists and engineers.

One way to avert this impending crisis is to educate and recruit more of our Nation's minorities and women into the fields of math, science, and engineering. Although these groups are becoming a greater percentage of our Nation's work force, they have traditionally been neglected as a human resource and underrepresented in these fields.

Today, black Americans make up 12 percent of our population, but they account for only 2 percent of this country's engineers and scientists. Meanwhile, Hispanics, America's fastest growing minority group, make up 9 percent of our population, but they too only account for 2 percent of our scientists and engineers. In my home State of Ohio, women receive one-half of all bachelors degrees, but receive only one-fourth of all the bachelors degrees in science and engineering.

This is, indeed, disturbing news considering that blacks and Hispanics—now 25 percent of our schoolchildren—will be 47 percent by the year 2000. These groups already constitute the majority in 22 of the 25 largest U.S. city school districts. Additionally, by the year 2000, 85 percent of our work force's net new entrants will be members of minority groups and women. Quite simply, unless we as a nation do a better job in encouraging these groups to enter a technical career, America's economy and its companies will suffer.

The legislation I am introducing today is a dramatic effort to recruit more women and minorities into the technical fields. The bill creates 20 geographically dispersed Residential Science Academies to provide talented, economically disadvantaged minority students instruction in the fields of mathematics, science, and engineering design. Each academy will provide 8 weeks of intensive instruction to 50 students in each of the grades 7 through 12. All students will return to the adademy each summer until completion of their 12th grade academy term. These students will be far from passive learners. They will learn science and math through innovative courses and materials. They will learn through group study and interactive, hands-on approaches.

The National Science Foundation will select academies through open, merit-based competition. At least 70 percent of the participants will be minority students from the poorest of circumstances for whom all books, food, lodging, and other costs will be provided. The remaining 30 percent will be talented students from other income categories whose families will be assessed fees according to their ability to pay. The cost to establish and run the summer science academies is a modest $2 million in fiscal year 1991. Over 5 years, costs will total $26 million.

Plain and simple, this legislation will open the door of opportunity to hundreds of talented youth who might otherwise not have the resources or guidance to pursue a technical career. Students will be exposed to the concepts of science and math and, conse-

quently, will gain both the self-confidence and training necessary to pursue scientific studies. These students will also serve as role models in their respective communities. They will communicate to their peers that science and math are worthy pursuits and that a technical career is attainable. Equally important, academy graduates who go on to become scientists and engineers will serve as desperately needed mentors.

That American industries will need more young people to fill their technical positions is reason enough to establish these summer academies. There is, however, another important reason. The barrier to high-paying technical jobs has inhibited this Nation's pursuit of equal opportunity for all its citizens. As long as minorities are denied access to decent jobs—due to prejudice and inadequate training—our commitment to an open and fluid society is hollow. These academies will help to break down these barriers.

In closing, I want to commend Dean Shirley McBay of MIT for her contrtibutions to this legislation. My staff, having heard she had an interesting proposal, approached her several months ago and asked her for assistance. Dean McBay and her staff responded, offering me a sensible, modestly priced and well throught out proposal for these summer academies.

I should point out that this proposal was endorsed by the quality education for minorities project, which Dean McBay serves as director. The QEM project's action council is chaired by my old friend, former Labor Secretary Ray Marshall, and includes such eminent Americans as Senators KENNEDY and BINGAMAN, Carnegie Corp. president David Hamburg, Albert Shanker, Hodding Carter, Marian Wright Edelman, Mary Harwood Futrell, and Paul E. Gray. The project's recent report, Education That Works: An Action Plan for the Education of Minorities, included among its recommended strategies for increasing the participation of minority college students in science, mathematics, and engineering, the establishment of these summer science academies.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Summer Science Academy Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) this Nation's universities are neither enrolling nor graduating enough American students into the fields of science or engineering, particularly students from underrepresented minority groups;

(2) the United States must reach out to minorities in order to address the Nation's future potential shortfall of scientists and engineers;

(3) innovative and creative approaches to recruiting and educating minority students in the science, mathematics, and engineering fields are sorely needed;

(4) Black Americans make up over 12 percent of the population of the United States, but account for only 2 percent of the Nation's employed engineers and scientists;

(5) Hispanic Americans are the fastest growing American minority group and comprise 9 percent of the Nation's population, but account for only 2 percent of the Nation's employed scientists and engineers; and

(6) American Indians, including Alaska natives, constitute one-half of one percent of the population of the United States, but make up only three one-thousandths of all the baccalaureate degrees awarded in engineering and science.

SEC. 3. STATEMENT OF PURPOSE.

The purposes of this Act are to—

(1) improve the enrollment and completion rates of minority individuals in science and engineering;

(2) improve the precollege preparation of minority students for whom a technical career is a viable option;

(3) strengthen participating students' mathamtical, science and communication skills which are essential to such students' success in high school, college and the work place;

(4) identify approaches to teaching that may be particularly effective with minority students;

(5) enhance participating students' sense of self-esteem and life skills to enable such students to successfully meet life's many challenges.

SEC. 4. DEFINITIONS.

For purpose of this Act—

(1) the term "Academy" means a Summer Science Academy established pursuant to the provisions of this Act;

(2) the term "eligible entities" means—

(A) institutions receiving financial assitance from the National Science Foundation to serve the education needs of minority students, including Resource Centers in Science and Engineering, Minority Research Centers, and Comprehensive Minority Centers; and

(B) other nonprofit educational organizations;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "parent" includes a legal guardian or person standing in loco parentis; and

(5) the term "participant" means a student enrolled in an Academy.

SEC. 5. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The National Science Foundation shall make grants to, or enter contracts or cooperative agreements with, eligible entities to establish and operate at least 20 Summer Science Academies to provide talented, economically disadvantaged, minority students instruction in the fields of mathematics, science, engineering design, and communications.

(b) SPECIAL REQUIREMETNS.—To the maximum extent possible, Academies shall be—

(1) geographically dispersed nationwide; and

(2) residential in nature.

(c) ACADEMY ENROLLMENT.—(1) Each Academy shall be ultimately responsible for serving 50 participants in each of the grades 7 through 12 for a combined annual Academy enrollment of 300 participants.

(2) In the first fiscal year in which an Academy is established, such Academy shall instruct at least 50 participants in each of the grades 7 and 8. In each succeeding fiscal year, such Academy shall instruct at least 50 participants in each of the grades taught in the preceding fiscal year and 50 participants in the next higher grade. In no event shall funds be available for instruction of participants beyond grade level 12.

(3) Participants shall continue enrollment in the Academy until successful completion of their 12th grade Academy term, at which time such participants will be considered graduates of the Academy.

(4) Enrollment slots which become available as a result of participant departures from the Academy shall be filled through criteria established by each Academy. Such criteria shall be approved by the National Science Foundation.

SEC. 6. ACADEMY SELECTION CRITERIA.

The Foundation shall establish a peer review process to select eligible entities to establish and operate Academies.

SEC. 7. PARTICIPANT SELECTION CRITERIA.

(a) IN GENERAL.—The Foundation shall establish selection criteria and procedures by which each Academy shall select and admit participants. Such selection criteria shall include—

(1) in-school academic performance and accomplishments;

(2) aptitude and expressed interest in the fields of science, mathematics, or engineering; and

(3) recommendations from potential participants, parents, church organizations, civic organizations, and other community-based or education organizations.

(b) SPECIAL RULE.—To the maximum extent possible—

(1) at least 50 percent of the participants in each grade level in each Academy shall be female; and

(2) at least 70 percent of the participants in each grade level in each Academy shall be talented, economically disadvantaged, minority students.

SEC. 8. USE OF FUNDS.

(a) IN GENERAL.—Each eligible entity receiving funds pursuant to the provisions of this Act shall use such funds to—

(1) hire and recruit permanent and visiting staff to instruct and supervise participants;

(2) provide participants and staff with lodging, food, materials, and other accommodations;

(3) provide stipends to economically disadvantaged minority participants to cover the costs of attending the Academy;

(4) assist participants in acquiring certain life skills including—

(A) respect for others;

(B) responsibilities as members of communities;

(C) conflict resolution;

(D) working with others; and

(E) basic written and verbal communication skills;

(5) provide participants with mathematics, science, engineering design, and communications experiences through—

(A) problem solving and reasoning skills development;

(B) interactive and hands-on learning; and

(C) group study and cooperative learning; and

(6) conduct such other activities as the eligible entity may determine necessary to carry out the provisions of this Act.

(b) STIPENDS.—The amount of the stipend provided pursuant to subsection (a)(3) shall be determined on the basis of the participant's or participant's parents ability to pay the cost of attending the Academy.

(c) ADMINISTRATIVE COSTS.—The Foundation may use no more than 5 percent of the funds appropriated to carry out the provisions of this Act in each fiscal year for administrative expenses.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1991, $3,000,000 for fiscal year 1992, $5,000,000 for fiscal year 1993, $7,000,000 for fiscal year 1994, and $9,000,000 for fiscal year 1995 to carry out the provisions of this Act.●

● Mr. SIMON. Mr. President, I am pleased to join Senator GLENN in sponsoring the Summer Science Academy Act of 1990. Summer residential programs for young minority students will help to restore America to a world leadership position in the sciences, and will help to reverse the decline in the number of minority students attending and completing college.

This bill will also help to, in effect, extend the school year for some of the neediest students in the country. Most of these United States have a school year of 180 days. In Japan, they attend school for 243 days. In fact, in a recent comparision of the length of the school year in 22 countries, the United States came in 21st.

The 1983 report on school reform, "A Nation At Risk," recommended increasing the school year to 200 to 220 days. But the States are having a hard time increasing their school year by just a few days. For example, just last month, the Arkansas State Board of Education voted, for the second year in a row, to delay a 5-day extention of the school year.

The modest funds provided by this bill will allow some of our most educationally disadvantaged students to continue their education through the summer in a key subject area. I commend Senator GLENN for his hard work on this issue, and I look forward to working with him to implement this much-needed program.●

By Mr. KASTEN:

S. 2392. A bill to foster and enhance the wise stewardship of natural resources on America's agricultural lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM STEWARDSHIP ACT OF 1990

● Mr. KASTEN. Mr. President, I rise today to introduce the Farm Stewardship Act of 1990, to continue the work the Congress began in 1985 to bring together our national agriculture policy and national conservation policy in the Food Security Act.

The 1985 farm bill was landmark legislation; it linked together, for the very first time, public financing of agriculture with conservation requirements. The highly erodible and wetlands conservation provisions—known as sodbuster and swampbuster—required producers who participate in most Federal farm programs to refrain from converting erodible lands and wetlands to crop production.

Accompanying this prohibition was an incentive, the Conservation Reserve Program, by which producers were rewarded for retiring cropland and establishing permanent cover for a 10-year contract period. Another provision was a domestic version of debt-for-nature swaps—providing relief on farm debt in exchange for conservation easements for environmentally sensitive lands.

The 1985 farm bill is a good foundation to build on, and that is precisely what we have to do with the 1990 farm bill.

We need to build on these forward-looking concepts—make some course corrections to improve how the 1985 provisions work—and take the next important steps to ensure progressive and responsible stewardship of our precious soil, water, wetland, and wildlife resources.

The concept of sustainability has come of age, not only for natural resources such as soil, water, and wildlife, but for social and economic factors as well. In all areas of social, economic and environmental policy, we must seek goals that will lead to optimum and sustainable results, not maximum production.

American wildlife is dependent on American agricultural practices. Most of the wildlife in our Nation lives, breeds, and dies on private agricultural lands. At an even more basic level, the health of both agriculture and wildlife depend in the long run on soil and water. Where the land or water is poisoned, where ground water or topsoil is being mined, where soil is being worn out, where vegetation is stripped, neither wildlife nor agricultural production can enjoy a secure future.

This legislation will recognize that farmers are the key stewards of our Nation's bounty, and that both agriculture and wildlife depend on the effective conservation of soil and water.

My bill, the Farm Stewardship Act of 1990, would improve the stewardship of natural resources on our private agricultural lands. We can only achieve this goal by providing an economic climate that encourages and rewards good stewardship, and by providing the solid information and assistance farmers need if they're going to make sound stewardship decisions about their soil, water, wetlands, and wildlife.

The first innovation of this bill is to put some real teeth into the wetland conservation provision, swampbuster. My bill proposes two crucial course corrections for the swampbuster wetlands conservation program. Swampbuster has not been implemented in a way that has made anyone satisfied and it has not served the cause of wetlands conservation or agriculture very well. According to data collected by the Soil Conservation Service as of January 1990, on about 33 percent of the farms receiving Federal program benefits, over 82,586 acres of wetlands have been converted since 1985.

If we extrapolate this number to a full 100 percent of producers' farms, which would not necessarily be fair statistically—but nonethless, if we extrapolate these results to all participating producers farms, it would mean the destruction of nearly 300,000 acres of wetlands. I am told that many of these converted wetlands are not being used for agricultural commodity crop production and therefore do not come under swampbuster.

Yet, according to a National Wildlife Federation study in the summer of 1989, only 26 producers have actually had Federal program money withheld. The numbers simply don't make sense—agricultural wetlands conversion is continuing, and enforcement of swampbuster has apparently not yet been directed at the individuals responsible.

I advocate two linked proposals to improve swampbuster:

First, violation of swampbuster should be effective upon conversion of the wetland, not upon planting of an agricultural commodity. Second, I propose a reduced penalty for first-time violators, provided that the converted wetland is restored or its conversion mitigated through an agreement between the Soil Conservation Service, the Fish and Wildlife Service, and the producer. The producer would have one year to accomplish the restoration; otherwise, the full penalty would be imposed.

Under my plan, the reduced penalty would be a one-time qualified amnesty for violators. Our purpose should not be to put farmers out of business, but to encourage compliance and the restoration of converted wetlands.

The second innovation of my legislation is the creation of the Farm Stewardship Program. The Farm Stewardship Program would be a voluntary program to permanently protect, through conservation easements, fragile resources including soil, water, wetlands, and wildlife. Unlike the CRP and other term set-aside programs, the Farm Stewardship Program would target those fragile resources where it will never be in the interest of the Nation to continue cropping.

Areas that would be eligible for the Farm Stewardship Program would include fragile or vulnerable natural resources of high value to the public. For example the Farm Stewardship Program could include cropped wetlands, former wetlands that can be feasibly restored, and water bank wetlands; sink holes, identified aquifer recharge areas or other areas that have a high potential to contaminate surface and ground water; endangered species habitats that are threatened by continued practices including application of certain agricultural chemicals; unique or rare wildlife habitats of significant ecological value. Beginning in 1995, certain areas of highly erodible lands would also be eligible.

A key feature of the Farm Stewardship Program is allowing the landowner to make economic uses of the conservation area that are compatible with protecting it—like hunting leases, periodic hay cutting, or managed timber harvest. Compatible economic uses would be strictly controlled through agreements between the U.S. Secretary of Agriculture, the easement manager, and the landowner. The bill encourages States and landowners to get involved in management of the easement areas.

I fully expect that this Farm Stewardship Program will be popular with farmers, conservationists and even budget watchdogs because it permanently protects fragile resources, shares the cost of protection of natural resources of high value with the farmers who are their stewards, and builds equity with public dollars.

Mr. President, I predict that the eligible lands that farmers will be interested in enrolling into the program will exceed the dollars we have to devote to the program. I have therefore proposed establishing State technical committees to oversee the technical aspects of the farm bill in each State including selecting lands eligible for the Farm Stewardship Program. Priority will be placed on those lands that do the most to restore wetlands, improve water quality, restore wildlife, and beginning in 1995, reduce soil erosion.

The bill would encourage the use of wetland and flood plain easements under the authority of the Small Watershed and Flood Protection Act. It would prohibit USDA from using Federal funds for conversion of wetlands. Such a provision will remove some of the mixed signals the Federal Government is sending on wetland conservation.

The wildlife title of my bill, which some have called nest buster, calls for the designation of the same land each year for set-aside land, and for the establishment of cover on all set-aside acreage. Set-aside acreage in perennial cover would be considered as planted to the program crop for deficiency payment purposes as long as the cover is maintained. This provision would turn the millions of acres of set-aside acreage into productive wildlife habitat.

It would also reduce erosion, improve water quality, and provide a forage reserve for use in emergency situations. Haying or grazing would be limited to certain periods in order to minimize negative effects on nesting.

Another provision will protect the producer's crop base on expiring Conservation Reserve Program contracts. It would establish national soil erosion goals approaching "T by 2000"—that is, by the year 2000, soil erosion rates should not exceed soil loss tolerance rates. The Conservation Reserve Program would be extended through 1995 but would be modified to accommodate the Farm Stewardship Program.

The title on water conservation provides that farm conservation plans will specify best management practices or other measures to ensure that farm operations are consistent with Federal and State water quality standards, and required by 1995 that these plans must be applied where standards are being violated. It seems unwise, from both policy and fiscal standpoints, to establish a major separate Federal water quality program under USDA when the States already operate a federally funded water quality program.

Finally, the "debt for nature" title builds on the 1985 Act to improve the ability of farmers to obtain debt relief in exchange for the granting of conservation easements. I believe that this option should be available to every financially troubled farmer early in the process of restructuring his farm debt. This approach pays double dividends by keeping farmers on the farm and protecting fragile resources.

Let me illustrate the potential of the debt-for-nature concept to resolve two problems simultaneously. According to the Department of Agriculture—January 25, 1990 testimony of Roland R. Vautour, Under Secretary for Small Community Development—the Farmers Home Administration alone is projected to have overall losses of $22 billion as a result of farm debt restructure and farm programs.

To put that figure in perspective of the resources we are trying to protect on American agricultural lands, that sum would purchase conservation easements on 44,000,000 acres (at an average of $500 per acre), nearly three times the total acreage of all farmed wetlands that are causing all the concern with swampbuster (17.1 million acres of cropped wetlands according to the Soil Conservation Service). That is almost 25 percent more acreage than is enrolled in the Conservation Reserve Program. We have a tremendous opportunity to manage Federal relief of farm debt to help the farmer and to protect our precious natural resources.

This title also calls for protecting resources held in the FmHA inventory, and for holding wetlands and other fragile areas as collateral to secure direct or federally insured or guaranteed loans.

I believe this bill is the essential next step in the struggle to preserve our natural heritage. Our country has been blessed with resources—it's up to us to be sensible in protecting them. As we approach Earth Day 1990—a truly global expression of our common commitment to environmental health—let us begin our concern and our activism right here at home.

Mr. President, I look forward to working with my colleagues in this body and with the Committee on Agriculture, Nutrition, and Forestry as we put together the 1990 farm bill. Together, we can make this conservation bill the law of the land—build a safe and healthy future for America—and set a responsible example for the whole world.●

By Mr. EXON (for himself, Mr. GORE, and Mr. GORTON):

S. 2393. A bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SAFE FOOD TRANSPORTATION ACT OF 1990

● Mr. EXON. Mr. President, I rise today to introduce a bill that is designed to stop an abhorrent practice that poses a serious risk to food safety. This practice involves transporting wastes or chemicals in the same vehicles that are also used to transport food. The practice is known as backhauling.

In the absence of proper protections, backhauling can be deadly. Tank trucks carrying toxic chemicals should not also carry the apple juice served at our breakfast tables. Yet, this is exactly the type of practice that has been occurring without any specific Federal regulations to either prohibit this or mandate proper decontamination.

That backhauling is a problem has been well-documented in recent months by the media and in hearings before the House and Senate. Much of the attention that has been given to this problem arises from the testimony of whistle-blowers who have stepped forward in an attempt to stop this practice; like the truck drivers in eastern Washington State who have testified that for 2 years they were ordered to haul juices, cooking oils, and other food-grade liquids in tank trucks that also carried chemicals. These and

other accounts have alerted us to the problem.

In my view, the legislation being introduced today is necessary since this practice has not been adequately addressed by the Federal agencies with existing responsibility for food safety. I am pleased that two other members of the Surface Transportation Subcommittee, Senators GORTON and GORE, have also taken an active interest in this issue, with each having proposed legislation to restrict backhaul practices. These two bills were the subject of a Surface Transportation hearing, during which a record was established leading to many of the modifications contained in this bill. The Safe Food Transportation Act of 1990, which is cosponsored by Senators GORE and GORTON, also incorporates and builds upon many of the provisions in H.R. 3386, backhaul legislation approved by the House of Representatives on March 27, 1990.

I would also like to applaud the efforts of my colleagues in the House, Congressmen CLINGER and LUKEN, for their hard work in drafting a thoughtful piece of legislation designed to eliminate this practice.

I believe the Safe Food Transportation Act of 1990 will go a long way toward ensuring the integrity of our food supply as it travels across this Nation and I urge my colleagues to support passage of this legislation.●

● Mr. GORTON. Mr. President, I would like to commend the chairman of the Senate Commerce Committee's Subcommittee on Surface Transportation, Senator EXON, for his expeditious work in writing the Safe Food Transportation Act of 1990. I would also like to thank him for including me and my staff in the drafting of this compromise bill.

Last fall, the Seattle Post-Intelligencer ran an investigative series revealing an appalling lack of oversight over food transportation practices. James Wallace, in an award-winning series of articles, detailed the shocking practice of a tank truck which alternately carried liquid foods and harmful chemicals. Many of us were shocked to learn that this practice was legal. In October, I introduced a bill to address this practice, along with another practice of backhauling garbage in refrigerated trucks that carry food.

I would like to thank Senator EXON for holding hearings on this issue last month. We received important testimony from industry groups which will be affected by the new requirements in this legislation. I was impressed by the constructive comments and suggestions that I received both at our hearing and in many meetings with industry representatives. We have tried to shape our new bill to address the many legitimate concerns which were raised. It is very clear to me that the affected industries place food safety as their top priority, and I appreciate their positive attitude and input in this process.

Mr. President, the Senate Commerce Committee hopes to consider this bill tomorrow. I expect it to have overwhelming support and I hope it will be scheduled for floor consideration as soon as possible.●

● Mr. GORE. Mr. President, anyone who has heard the stories of truckers hauling garbage or hazardous chemicals in one direction and then loading the same trucks and tankers with food—without necessarily washing them first—has to respond with outrage and disgust. That's how I responded and that's why, several months ago, I introduced S. 1904, the Clean Food Transportation Act.

After long hours of hard work and consideration on the part of all interested parties, I am now pleased to join my colleagues, Senator EXON and Senator GORTON of the Senate Committee on Commerce, Science, and Transportation, in introducing an improved bill which I believe is a more thorough and a more targeted measure aimed at reducing the horrible practice of backhauling. Just last week, the House passed a backhauling bill with overwhelming support. I am optimistic that this bill, which includes the best of all legislative efforts, will move quickly for final passage. No one will have reason to be afraid their food is contaminated simply because our laws do not specifically prohibit practices we know will create health risks.

Members of my staff have actually spoken with truckers in Tennessee who know all about the disgusting practice of backhauling. The problem is, they're afraid to share their stories publicly, afraid their candor will cost them their jobs.

We may never know, in quantifiable terms, the full extent of this problem in our country. Fear of retribution, of lost paychecks and lost jobs, along with embarrassment shared by several of the industries involved, will prevent us from ever knowing that. But that cannot stop us from letting the American people know that Congress responded quickly and effectively to address this problem, that Congress acted to ensure that dangerous backhauling is not permitted to any extent and will not endanger any consumer.

We must examine the role deregulation has played in backhauling—considering, for example, the truckers' problem of finding return shipments after off-loading food shipments—and the need for decontamination procedures which currently are unregulated. And, we must take a close look at a broader issue: our rapidly diminishing landfills. It's because we're running out of landfill space in community after community that some unscrupulous truckers are carrying trash in vehicles meant for food and traveling to landfill space in the Midwest.

However, explanations for backhauling cannot become excuses for our inaction. There is no reason good enough to justify the contamination of the food we eat, the food we serve our families. Action must be taken that considers these issues but which focuses on solutions and on stopping the backhauling.

I am pleased that the Exon, Gore, Gorton bill, the Safe Food Transportation Act, includes the provision of my bill which would involve the participation of the Motor Carrier Safety Assistance Program inspectors in enforcing the decontamination requirements. Hopefully, these inspectors will be able to help stop drivers who falsify shipping documents by stating that the previous loads were food grade, drivers like those who testified before House Committees this summer. The bill requires DOT rulemaking to make sure drivers and shippers verify that appropriate records and markings are maintained regarding food-carrying vehicles. However, no regulations are useful if they cannot be enforced.

The Exon, Gore, Gorton bill also makes great strides to end backhauling of garbage by defining what we know as trash in a way that especially targets the problem at hand. Moreover, the bill expands the scope of backhauling legislation by including rails and dry vans in the categories of food carrying vehicles that should be regulated.

By mobilizing the forces of States and Federal officials that have been represented in the Senate committee hearing a few weeks ago and in subsequent discussions on this issue, I know we can protect consumers from the objectionable practices of backhauling.

In one news report, a trucker who listened to his conscience and was eventually fired because he revealed the backhauling practices of his company was quoted as saying, "If something ends up getting poisoned from a contaminated load, well, I've tried. It's off me now." It's on our shoulders. It's our responsibility. I am pleased that we have not let the sacrifice of this trucker be wasted.●

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 567

At the request of Mr. BOREN the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method, and for other purposes.

S. 720

At the request of Mr. BOREN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 1165

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1165, a bill to provide for fair employment practices in the Senate and the House of Representatives.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1349

At the request of Mr. PRYOR, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from North Carolina [Mr. HELMS], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1624

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1624, a bill to grant a Federal charter to the National Association of Women Veterans, Inc.

S. 1629

At the request of Mr. SPECTER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1629, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

S. 1758

At the request of Mr. GLENN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1758, a bill to provide for the establishment of an Office for Small Government Advocacy, and for other purposes.

S. 2039

At the request of Mr. COCHRAN, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2048

At the request of Mr. SARBANES, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. MOYNIHAN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2177

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2177, a bill to improve the collection and dissemination of information relating to the supply of winter heating fuels, and for other purposes.

S. 2212

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2212, a bill to minimize the adverse effects on local communities caused by the closure of military installations.

S. 2229

At the request of Mr. DODD, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2240

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Florida [Mr. GRAHAM], the Senator from Oregon [Mr. PACKWOOD], the Senator from Colorado [Mr. WIRTH], the Senator from North Dakota [Mr. BURDICK], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2240, a bill to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes.

S. 2302

At the request of Mr. BOND, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2302, a bill to amend the Food Security Act of 1985 to revise and extend conservation programs under title XII, and for other purposes.

S. 2341

At the request of Mr. WILSON, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 2341, a bill to amend the Food Security Act of 1985 to authorize the targeted export assistance program, and for other purposes.

S. 2342

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2342, a bill to amend the Public Health Service Act to authorize additional grants for home health care demonstration projects, to require that applications be submitted to the chief executive officer of the State concerned in connection with such grants, and for other purposes.

S. 2347

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2347, a bill to provide essential air service to small communities, and for other purposes.

S. 2362

At the request of Mr. JOHNSTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2362, a bill to enhance the survivability and recovery of the Insular Areas from severe storms.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Virginia [Mr. ROBB], the Senator from Virginia [Mr. WARNER], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. BOSCHWITZ, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution calling upon the United Nations to repeal General Assembly Resolution 3379.

SENATE JOINT RESOLUTION 248

At the request of Mr. BOSCHWITZ, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the month of September 1990 as "International Visitor's Month."

SENATE JOINT RESOLUTION 252

At the request of Mr. BENTSEN, the names of the Senator from Mississippi

[Mr. COCHRAN] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 252, a joint resolution designating the week of April 15, 1990, through April 21, 1990, as "National Minority Cancer Awareness Week."

SENATE JOINT RESOLUTION 267

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. WARNER], the Senator from Alabama [Mr. SHELBY], the Senator from Indiana [Mr. COATS], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 267, a joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 268

At the request of Mr. BRADLEY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Maryland [Ms. MIKULSKI], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Mr. SIMON], the Senator from Maine [Mr. MITCHELL], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. SASSER], the Senator from Colorado [Mr. WIRTH], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Delaware [Mr. ROTH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 268, a joint resolution to designate April 6, 1990, as "National Student-Athlete Day."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. GRAHAM, the names of the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued in honor of Claude Denson Pepper.

SENATE RESOLUTION 263

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Resolution 263, a resolution to express the sense of the Senate regarding all modes of transportation and maintaining a significant Federal role.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

PRESSLER (AND OTHERS) AMENDMENT NO. 1426

Mr. PRESSLER (for himself, Mr. ARMSTRONG, and Mr. BREAUX) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, as follows:

At the appropriate place insert the following new section:

Any person who enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration shall comply with the provisions and requirements of this title.

HATCH (AND OTHERS) AMENDMENT NO. 1427

Mr. CHAFEE (for Mr. HATCH (for himself, Mr. GARN, Mr. SYMMS, Mr. REID, Mr. MCCLURE, Mr. SIMPSON, Mr. BURNS, Mr. BRYAN, Mr. ARMSTRONG, and Mr. WALLOP) proposed an amendment to Amendment No. 1293 (in the nature of a substitute) prepared by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

on page 135 after line 22 add the following new subsection:

(d) Section 163(c) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (D) with a period;

(2) replacing the period at the end of subparagraph (E) with a comma and "and" and

(3) adding a new subparagraph (F) to read as follows:

"(F) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions resulting directly or indirectly from hardrock and noncoal mining."

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1428

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Amendment 1293 is amended by inserting the following new sentence at the end of line 13 on page 529:

"For the purposes of this section, the phrase 'national security interests of the United States' shall be deemed to include domestic production of crude oil and natural gas energy supplies on the North Slope of Alaska.".

WARNER (AND OTHERS) AMENDMENT NO. 1429

Mr. WARNER (for himself, Mr. NUNN, Mr. EXON, and Mr. BREAUX) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Add a new subpart (f) to section 173 of the Act (as amended by the Mitchell-Dole compromise):

(f) The permitting authority of a State or political subdivision shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

(1) any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is currently permited to test such engines;

(2) the source demonstrates to the satisfaction of the permitting authority of the State or political subdivision that it has used all reasonable means to obtain offsets, as determined on an annual basis, for the emissions increases beyond permitted levels, that all available offsets are being used, and that sufficient offsets are not available to the source;

(3) the source has obtained a finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national interest; and

(4) the source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee, which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.

DURENBERGER AMENDMENT NO. 1430

Mr. DURENBERGER proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 143, at the last line of the table, strike:

"Heavy duty buses, 1991 and after ..... 0.1 gbh."

and insert in lieu thereof:

"Heavy duty buses, 1992 and after ..... 0.1 gbh.".

On page 218, line 13, insert "(1)" after "(e)".

On page 218, line 20, strike "1994" and insert in lieu thereof "1997".

On page 218, line 26, strike "paragraph" and insert in lieu thereof "subsection".

On page 219, line 1, strike "1994" and insert in lieu thereof "1997".

On page 219, line 1, after "as follows" insert the following: "(A) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of one million five hundred thousand persons or more,".

On page 219, line 7, after "later model years" insert the following: "; and (B) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of less than one million five hundred thousand persons but more than one million persons, 10 per centum of new urban buses purchased or placed into service in model year 1993; 25 per centum of new urban buses purchased or placed into service in model year 1995; 60 per centum of new urban buses purchased or placed into service in 1996; and 100 per centum of new urban buses purchased or placed into service in 1997 and later model years".

On page 219, line 9, strike "paragraph" and insert in lieu thereof "subsection".

On page 219, line 10, insert the following:

"(2) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations requiring that, beginning January 1, 1992, any urban bus operating in any area specified in paragraph (1) shall, at the time of any major engine overhaul, be retrofitted so as to comply with the emissions standards under section 202(a) applicable for model years 1992 and after to new urban buses.".

McCLURE (AND CONRAD) AMENDMENT NO. 1431

Mr. McCLURE (for himself and Mr. CONRAD) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 449, after line 19, insert the following new section:

"CERTIFICATION OF EQUIVALENT ACID RAIN CONTROLS

"SEC. 416. (a) IMPORTS OF ELECTRICITY.—Except for imports of electricity pursuant to contracts entered into prior to the effective date of the Clean Air Act Amendments of 1990, after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision, after notice and opportunity for public comment, certifying, in accordance with subsection (b) that the nation from which such electricity is imported has established and is implementing a national program of emission requirements and controls on existing and new steam-electric utility units on a schedule and in a manner that is at least as stringent as the compliance schedules for and limitations on emissions under this Act and the Clean Air Act for similar utility units in the United States, except for import of electricity under subsection (c).

"(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not certify any national program or utility unit under subsection (a) unless it is determined that—

"(1) the nation has adopted legislation or regulations which give the emissions reductions and control schedules for each pollutant the force of law and is implementing such program; and

"(2) the legislation or regulations include performance standards, reporting requirements and enforcement provisions no less stringent than those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(c) CERTIFICATION OF UTILITY FACILITIES.—Unless imports of electricity are from a nation certified under subsection (b), after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision, after notice and opportunity for public comment, certifying that—

"(1) the electricity to be imported is exclusively from an identified utility unit that converts nuclear fuel or renewable energy resources to electricity; or

"(2)(A) the utility unit is subject to emissions limitations at least as stringent as those specified under this Act and the Clean Air Act; and

"(B) the utility unit will meet emissions monitoring, inspection and reporting requirements at least as stringent as those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(d) REVOCATION.—At least biennially, the Administrator, in consultation with the Secretary and the Secretary of Energy, shall review each certification made under this section and shall revoke the certification, after notice and opportunity for public comment, unless it is determined that the conditions of this section remain satisfied and for a national program under subsections (b), that the emissions reductions for each pollutant are occurring substantially on schedule in such nation. Revocation shall take effect one hundred eighty days after notice of the revocation has been published.

"(e) SUPPLEMENTARY REPORT.—The reports required by the Administrator pursuant to section (see amendment 1303, adopted March 6th) shall include an analysis by the Administrator, in consultation with the Secretary and the Secretary of Energy, of the differences in emission control levels of sulfur dioxide and nitrogen oxides between Canada and the United States. The report shall include a (1) detailed analysis of the actual of projected variable costs and fixed coss associated with United States and Canadian acid rain controls among fossil-fired generation units within interconnected and competitive regions and (2) an examination, with relevant supporting cost data, of the effect of differences in such controls on energy trade.

"(f) As used in this section, the term—

"(1) 'Administrator'; means the Administrator of the Environmental Protection Agency;

"(2) 'fossil fuel' means a naturally occurring organic fuel, including coal, crude oil, and natural gas or fuel derived therefrom;

"(3) 'import' means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs or trade laws of the United States:

"(4) 'person' means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality);

"(5) 'renewable energy resources' means primary sources of energy that are essentially inexhaustible including biomass, geothermal, wind, falling water, and solar radiation; and

"(6) 'Secretary' means the Secretary of State.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 1432

Mr. MURKOWSKI (for himself, Mr. CONRAD, Mr. WALLOP, Mr. NICKLES, and Mr. SIMPSON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 390, line 7, after "boiler" insert "or feedstock".

On page 390, line 12, after "other" insert "combustion, precombustion, or post combustion".

On page 391, line 25, strike "of" and insert in lieu thereof "providing".

On page 392, line 2 and 3, strike "use of fuels" and insert in lieu thereof "fuels used at the time of submission of a proposal pursuant to section 404(d)(2)".

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1433

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 217, section 217 of Amendment 1293 is amended by: (a) redesignating subsection (4) as subsection (5) and; (b) adding a new subseciton (4) as follows:

"(4) The Administrator may waive in whole or in part the requirements of this subsection in any carbon monoxide nonattainment area in Alaska if the Administrator finds that prevailing temperatures in that area cause engine or fuel system malfunctions in vehicles using fuels meeting such requirements. The Administrator shall conduct a study to determine the effect of cold temperatures on fuels which meet the oxygen content requirements of this subsection and the feasibility of using such fuels during periods of sustained cold temperatures."

WILSON AMENDMENT NOS. 1434 AND 1435

Mr. DURENBERGER (for Mr. WILSON) proposed two amendments to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

AMENDMENT No. 1434

On page 81 of the amendment, between lines 17 and 18, insert the following new paragraph:

"(3) An implementation plan for an extreme area revised in compliance with this section may include measures providing economic incentives and disincentives, such as differential emission fees, marketable permits, road use and congestion fees, and emission charges, in combination with or as a supplement to regulatory requirements.

AMENDMENT No. 1435

On page 57 of the amendment, between lines 19 and 20, insert the following new sentence:

"With regard to subparagraphs (A), (B), and (C) of paragraph (2), the requirements of such subparagraphs shall comprise the statutory criteria for making transportation project conformity determinations under this Act.

ARMSTRONG (AND WIRTH) AMENDMENT NO. 1436

(Ordered to lie on the table.)

Mr. ARMSTRONG (for himself and Mr. WIRTH) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 209, Add a new subsection 211(e), as follows:

(e) ESTABLISHMENT OF A HIGH-ALTITUDE RESEARCH CENTER.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator shall designate at least one center at high-altitude conditions to provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternative fuels and conversion kits, and the development of curricula, training courses and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.

DECONCINI (AND MCCAIN) AMENDMENT NO. 1437

Mr. MITCHELL (for Mr. DECONCINI, for himself, and Mr. MCCAIN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 27 of the amendment, strike lines 1 through 6 and insert the following:

"(e) PLAN REVISIONS.—(1) Each revision to an implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement of this Act.

"(2)(A) Except as provided in subparagraph (B), each State that contains a nonattainment area shall rally implement all provisions of any implementation plan for such area that has been approved by the Administrator, in accordance with the schedules contained in the plan.

"(B) The State shall not relax a provision or schedule described in subparagraph (A) unless the Administrator has approved an alternative control measure pursuant to paragraph (3) of this subsection relating to such provision or schedule.

"(3) Nothing in this Act shall prohibit a State that contains a nonattainment area from revising the implementation plan of such State for such area to substitute an alternative control measure for a control measure in effect at the time of such revision (hereinafter referred to as an 'existing control measure'), if the State convincingly demonstrates, to the satisfaction of the Administrator, that the existing control measure is not otherwise required under this Act or under guidelines or regulations issued or promulgated by the Administrator and the alternative control measure—

(A) is not included in the implementation plan to be revised;

(B) is not otherwise required by this Act:

(C) will provide a degree of emissions control that is equal to or greater than the degree of emissions control that the full implementation of the existing control measure would provide; and

(D) will provide such degree of emissions control as expeditiously as would the full implementation of the existing control measure.

"(4) If the Administrator determines, after reasonable notice and public comment, that—

"(A) the State described in paragraph (3) has made a convincing demonstration required under such paragraph; and

"(B) the proposed revision to the implementation plan of the State meets the requirements of paragraph (1), the Administrator shall approve such revision.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Monday, April 2, 1990, at 4 p.m. to hold a hearing on the nomination of Henry Cauthen (SC) and Lloyd Kaiser (PA) to be members of the Board of Directors of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Armed Services Committee be authorized to meet in open session on Monday, April 2, 1990, at 2 p.m. to receive testimony on defense manufacturing technology and quality assurance programs in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RALPH AND RUTH MORRIS, PUBLIC SERVANTS

● Mr. DASCHLE. Mr. President, in Washington there may be many, but in South Dakota there is only one first couple of the labor movement.

Ralph and Ruth Morris have earned their informal title through 59 years of marriage, to one another and to the men and women of organized labor.

Now in his 80th year, Ralph Morris steps down as president of the Sioux Falls Trades and Labor Assembly. But, after more than a quarter century of service in that post, and a half century of untiring work for labor and for the Democratic Party, every South Dakotan knows the Morrises will never step down from caring.

I am proud to pay tribute to Ralph and Ruth Morris today. I am proud to join the city of Sioux Falls, the State of South Dakota, the NAACP, the AFL-CIO, the Sioux Falls Argus Leader, KELO-LAND TV and so many, many others who have given

Ralph and Ruth the recognition and praise they have truly earned.

Their lives are proof of the variety and richness of the tradition of public service in this Nation.

Ask them and I know they will tell you that fighting for the working families, whose hurts and needs they feel so keenly, has enriched their own lives as well.

You can see it in Ralph's feisty caring and Ruth's quiet smile. Their fight has kept them young. Their cause has kept them strong. By serving more than just themselves, by devoting two lifetimes to the well being of others, Ralph and Ruth Morris have lived a lesson we should all study well.

Instead of staring as a nation at the Trumps and billionaire tricksters of America, those who seek truly fulfilling lives ought turn their gaze on Ralph and Ruth Morris of Sioux Falls, SD. To see them clearly is to understand why serving more than just ones self is actually to serve ones self as well.

Mr. President, I am proud to call Ralph and Ruth my friends.●

THE RENAISSANCE PROGRAM: AN EXAMPLE OF PARTNERS IN EDUCATION

● Mr. DURENBERGER. Mr. President, last week, several Minnesota secondary school principals gathered to discuss the possibility of enhancing education through the use of a new program called Renaissance. The Renaissance Program is an example of how students, teachers, parents, businesses, and the community can come together to improve education.

Jostens, Inc., created the program and is the main sponsor. Jostens helps schools initiate their programs, serves as a resource for ideas and coordinates the Renaissance network so educators can learn from one another.

Renaissance is a national network of educators sharing ideas that promote and achieve excellence. It is founded on three basic principles: First, that you reward and recognize behavior you value with incentives that have value; Second, that the entire community gains when our students achieve, thus the entire community must be involved, including: parents, teachers, business leaders and students themselves; and third, that the program must be flexible enough to adapt to the differing needs of different school districts.

Schools under the Renaissance Program promote academic values by developing a program that rewards achievement. One of the most adapted ideas draws on the idea first developed in Conway, SC, that establishes a card privilege system. Students who reach a certain grade point receive special privileges like free reserved parking, free admission to athletic events, or discounts at the school bookstore. The local community can get involved by offering discounts from local merchants, free tickets to sporting or cultural events, donating T-shirts or other merchandise. Some schools have incorporated family involvement by offering family discounts like a 10-percent reduction on the phone bill. The beauty of this program is that different schools offer different privileges depending on resources and needs. Some reward "A" students, some reward "A and B" students and others offer rewards based on increases in individual GPA's.

Jostens had found that communities have an economic interest in the well-being of their schools. If a school does well, the community does well. But it also found that many businesses have not gotten involved because they either do not know how or they have not been asked. The success of the Renaissance Program is that it has gotten the entire community involved.

Jostens has sponsored over 20 State conferences, similar to the Minnesota Conference last week, and two national conferences. In the 2 years since Jostens has promoted this program over 400 schools have attended a conference, and over 200 schools have begun to incorporate Renaissance ideas into their schools. In my own State, two school districts, White Bear Lake and Alexandria, have adopted the Renaissance technique.

The success, even in this short time, has been exceptional. Dropout retention at MacArthur High School in Oklahoma reduced by 50 percent. Willow Run High School reduced its suspension rate by 54 percent. In Dardanelle High School in Arkansas the number of A and B students rose from 30 percent to 40 percent while the number of failing grades lowered from 30 to 24 percent.

If we are going to improve education in America it will take a system of cooperation between the private and public sectors. The Jostens Renaissance Program is an example of how private involvement in education can work.●

LEONARD AND WANDA SLOTKOWSKI

● Mr. DIXON. Mr. President, last Thursday, two constituents from my State left for Poland as part of the United States Agency for International Development's Volunteers in Overseas Cooperative Assistance [VOCA] Program. Leonard and Wanda Slotkowski, of Glen Ellyn, IL, who for 50 years have been making some of the best Polish sausage, liverwurst, and Polish hams you have ever tasted, are now pioneers in the United States efforts to share their expertise with the Poles.

The Slotkowski's operated Slotkowski's Sausage Co., for five decades, and recently retired. Now, as part of the VOCA's Farmer-to-Farmer Program, they will go to Poland to determine the feasibility of establishing small-scale meat processing operations, perhaps to include the participation of United States partners in a joint venture.

The business of America is business, as the saying goes. The Government and people of Poland are working hard to make that saying applicable to them, as well. Then who better to represent our system than the Slotkowski's? Leonard and Wanda are people who represent what is best about the United States. They know their industry inside and out because they started small, worked hard, made a good product, sold it at a competitive price, and paid their employees fairly.

Leonard and Wanda knew that to be successful in business, one has to work harder than the competition; get up early, stay up late, and keep a critical eye on the bottom line. They and their children worked days and nights making fine products that graced many a table in the Chicagoland area.

Their business acumen will be invaluable to the Poles. Through their efforts, Poles will learn about the free market system, about efficient distribution systems, and effective marketing systems.

The Slotkowski's will serve, in effect, as economic pioneers. As Poland seeks to wrench its economy out of the inefficient, Communist system imposed on it over 40 years ago, they need the technical and commercial assistance that people such as the Slotkowski's can provide.

Mr. President, I congratulate Leonard and Wanda Slotkowski on their upcoming mission, and thank them for their contribution to the democratization of Poland. We can be proud of the Slotkowski's and all Americans who are giving their time and expertise toward the development of the emerging democracies.

I thank my colleagues.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign

country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Ms. Allison Barnes, a member of the staff of Senator HEINZ, to participate in a program in Bologna, Italy, sponsored by the German Marshall Fund, from April 13 to 23, 1990.

The committee has determined that participation by Ms. Barnes in the program in Italy, at the expense of the German Marshall Fund, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Edward Edens, a member of the staff of Senator WARNER, to participate in a program in Iraq, sponsored by the NAAA Foundation, from March 14 to 19, 1990.

The committee has determined that participation by Mr. Edens in the program in Iraq, at the expense of the NAAA Foundation and the Union of Arab Historians, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Michael Zarin, a member of the staff of Senator DURENBERGER, to participate in a program in Iraq, sponsored by the NAAA Foundation—a privately supported domestic institution—and by the Union of Arab Historians—a privately supported foreign institution—from March 15 to 19, 1990.

The committee has determined that participation by Mr. Zarin in the program in Iraq, at the expense of the NAAA Foundation and the Union of Arab Historians, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Senator ROTH to participate in a program in Portugal, sponsored by the Wilson Center, the Tinker Foundation, the Calouste Gulbenkian Foundation, and the Luso-American Development Foundation, from March 24 to 26, 1990.

The committee has determined that participation by Senator ROTH in the program in Portugal, at the expense of the Wilson Center, the Tinker Foundation, the Calouste Gulbenkian Foundation, and the Luso-American Development Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for James Lee Price, a member of the staff of the Joint Economic Committee, to participate in a program in Brazil, sponsored by the Regional Council of Sao Paulo, the United States Information Agency [USIA], the Secretary of Science, Technology and Economic Development, the Secretary of Economic Planning of the State of Sao Paulo, BANESPA—Bank of the State of Sao Paulo and the United States Department of State, from March 25 to 30, 1990.

The committee has determined that participation by Ms. Murray in the program in Brazil, at the expense of United States Department of State, the Regional Economic Council of Sao Paulo, and USIA, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Wallace J. Henderson, a member of the staff of Senator BREAUX, to participate in a program in Iraq, sponsored by the NAAA Foundation, from March 14 to 30, 1990.

The committee has determined that participation by Mr. Henderson in the program in Iraq, at the expense of NAAA Foundation and the Union of Arab Historians, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Senator FOWLER and Steve Humphreys, a member of his staff, to participate in a program in Iraq, sponsored by the NAAA Foundation, from March 14 to 30, 1990.

The committee has determined that participation by Senator FOWLER and Steve HUMPHREYS in the program in Iraq, at the expense of NAAA Foundation and the Union of Arab Historians, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Timothy S. Bergreen, a member of the staff of Senator BREAUX to participate in a program in Iraq, sponsored by the NAAA Foundation, from March 14 to 30, 1990.

The committee has determined that participation by Mr. Bergreen in the program in Iraq, at the expense of NAAA Foundation and the Union of Arab Historians, is in the interest of the Senate and the United States.●

STRENGTHENED BY VICTORY—UNDAUNTED BY DEFEAT

● Mr. DURENBERGER. Mr. President, young people looking for a role model in public service need look no further than the career of Al Loehr, the former mayor of St. Cloud, MN. I am proud to pay tribute to Al before my colleagues, in recognition of his retirement from administration, policy, and politics.

Al is just a few years older than I, and grew up not too many miles from my home. He has woven a blanket of experience that stands the test of time, for today, Al has as many, if not more, friends than when he first entered the political arena, 25 years ago. It is true though that a commitment from, or compromise offered by Al Loehr, under any conditions, has always been looked on as first class.

This winter I ran across a profile of Al written up in the St. Cloud Daily Times. At this time, I ask that it be submitted to the RECORD, as recognition of a career built on earnest public policy and municipal growth, blended well with a sense of humor and gentleness we now know as a rare quality.

Though Al and I have technically always been on "different sides of the aisle" I would like to take this opportunity to compliment him on his lifelong commitment to good government, and to the people of St. Cloud and Minnesota. This winter has been a particularly mild one in Minnesota, and I am sure Al is thinking right now of the cabin on Grand Lake, the warm breezes and big fish—the pleasures that come with early retirement.

Mr. President, please insert for the RECORD the following article as it appeared in the St. Cloud Daily Times.

The article follows:

[From the St. Cloud Times, Jan. 12, 1990]

PUBLIC SERVICE HALLMARK OF LOEHR CAREER

(By Bill McAllister)

Al Loehr's quarter century in public life didn't leave him unbloodied, but it did leave him unbowed.

When he retired last week as a state Senate aide, Loehr, 62, left the state Capitol feeling he had been true to his principles of hard work, honesty, frugality and public service. He summed it all up as "a great privilege."

And he retires with the administration not only of friends, but also of many one-time adversaries.

True, there were as many defeats as victories for Loehr, a big, intense man with an authoritative voice.

He won three terms as mayor of St. Cloud, but he was unceremoniously dumped in 1980 by political newcomer Sam Huston.

He was state commander of the Veterans of Foreign Wars and state veterans affairs commissioner, but he narrowly missed a chance to head the U.S. Veterans Administration under President Jimmy Carter.

He was president of the Minnesota League of Cities. But he was soundly defeated in his two bids for the Legislature and his one race for state auditor.

"The whole magic of public office is being in the right place at the right time," he said recently.

Through it all, the call to public service kept summoning Loehr.

"He's a true person to work for the public," said Huston, who recently retired after nearly matching Loehr's 10 years as major. "I don't think there's self-interest at all."

In 1984, Rep. Dave Gruenes, IR-St. Cloud, thumped Loehr in the state House race. "I think his whole career has been one where people have been put first and service to people has been put first," Gruenes said recently. "Al was a perfect example of a public servant—In the highest sense."

Gov. Rudy Perpich declared Dec. 21 "Al Loehr Day in honor of Loehr's then-pending retirement as administrative aide to the Senate Local and Urban Affairs Committee.

Loehr grew up in the city's 3rd Ward, which in his youth was distinctly poor and blue collar. His father was a stone cutter during the period when granite was the city's predominant industry.

"I've always had a great deal of compassion for people who basically felt helpless," he said.

Loehr went into the Navy during the final year of World War II, working as a storekeeper 3rd class on the U.S.S. Calvert, a troop transport ship in the South Pacific. That experience eventually led to his political career.

He joined the American Legion after the war ended in 1945 and then the Veterans of Foreign Wars 10 years later.

"I had to be active," he said.

As he became aware of deficiencies in the veterans benefit system, he took on more and more responsibility within the VFW, finally becoming state commander in 1962.

In 1964, the St. Cloud area's young Liberal senator, Raymond Bares, was killed in a car accident, along with his wife and child. Loehr, a Liberal and Harry Truman fan who was the DFL field man in the St. Cloud area, ran for the open seat against Keith Hughes, a young Conservative attorney. But he lost his first public electoral contest. The race was before the era of partisan designation in legislative races, but Liberals were known to be DFLers and Conservatives generally were known to be Republicans.

"It was a clean race," he said. "Keith Hughes was a fine, effective, productive senator for St Cloud."

The race yielded an anecdote that is popular with some political insiders:

Loehr went to campaign at the Great Northern Railroad, where he had worked for 17 years as an electric welder after leaving the Navy.

But a foreman named Al Ringsmuth had Loehr ejected from the grounds. Ringsmuth, the Republican mayor of Waite Park, later sparred with Loehr when Loehr became mayor of St. Cloud.

Loehr said Ringsmuth, well-known for a combustible personality, was just a-rippin' an' a-snortin' " when he approached Loehr, and "I sensed it immediately—that something was going to happen."

Ringsmuth, who still is mayor, said: "He was a little bitter at the time, but I think that ironed out all right."

Ringsmuth and Loehr were classmates at Cathedral High School. Whatever public differences they later had, the two mayors got along well personally as mayors of adjoining cities, Ringsmuth said.

Loehr won an appointive post in 1965, when Gov. Karl Rolvaag chose him to be state veterans affairs commissioner.

Loehr said one of his biggest accomplishments was making state biggest accomplishments was making state benefits available to a group of veterans who "fell through the cracks"—those who served after World War II but before the Korean War.

He also designed the bonus for Vietnam-era veterans that became a state constitutional amendment in 1972, three years after he had left the commissioner's post. Voters approved the amendment by the greatest margin given a constitutional amendment, he said.

Rolvaag had been defeated by Republican Harold LeVander in 1966. After that, Loehr wasn't sure if he would be reappointed, despite encouragement by LeVander's chief of staff, Dave Durenberger. LeVander was defeated in 1970 by Wendell Anderson.

So when his term was up, Loehr accepted a job as emergency services director for Stearns County, in which he developed disaster response plans.

Meanwhile, St. Cloud Mayor Ed Henry was becoming engulfed in a fight between the city and St. Cloud Township over annexation. Loehr said.

Also controversial was the moving of the city's baseball field from the former Rox Park, now site of the ShopKo store in the Westgate Mall, to the current Municipal Arena site. Meatpacker Max Landy was having a feud with the city, urban renewal programs were under attack and some business operators were vehemently opposed to plans for a downtown mall and "ring" road.

Henry suddenly resigned and soon afterward took a college presidency in Indiana.

Loehr said he found himself being recruited by both Democrats and Republicans to run in the special election. He defeated Councilman-At-Large Dave Sauer by 568 votes to fill out the 17 months left in Henry's term.

Loehr said he was hurt by the perception of his being a "regal" mayor.

"I was very sensitive about that," he said. "To this day, I don't understand that. I had an open-door policy. Anybody and everybody could see the mayor. I had the media in every morning. I prided myself on knowing what was going on in the city."

He said he probably took things too seriously, however.

Part of the perception problem also might have been Loehr's habit of saying "we" or "Al Loehr" when he meant "I."

That was another misunderstanding because he was just trying to credit his family and his supporters for his success, he said.

"I don't like that word, 'I,' " he said. "The word 'I' sounds arrogant—like you can do everything as an individual. And you can't. At times, I think I was the most misunderstood person in the world."

Loehr went about implementing the mall and ring road, which sharply divided opinion in the city.

Today he stands by those decisions, although he said he's "really disappointed" that downtown business operators generally didn't spruce up their storefronts enough to make the mall work. He said he expected there eventually would be two-way traffic on parts of the ring road, a development that took place a few years after he left office.

Loehr's re-election campaign in 1972 was against Phyllis Janey, who he recalled as being an outspoken human rights advocate. He won by 4-1.

At this point, he felt good about the job. "We proved we could operate city government in a frugal manner," he said.

So in 1974, in the middle of his first full four-year mayoral term, he won the DFL endorsement to run for state auditor.

"I just felt I could make a good contribution to state government," he said.

It was a banner year for Democrats. With the Watergate scandal destroying Republicans and DFL Gov. Wendell Anderson touting the Minnesota good life on the cover of Time magazine, the DFL was at its peak.

But Loehr ran into a problem in the DFL primary election, with a defeat by Robert Mattson Jr., son of the former attorney general.

Mattson, a maverick who would become infamous in 1983 as a Minnesota state treasurer living in Florida, was "a jerk," Loehr recalled heatedly. Mattson hammered Loehr in the primary and went on to win the auditor's job.

Looking back, Loehr attributed his loss to Mattson's Scandinavian name, a mistake in listing himself on the ballot as "Alcuin G. Loehr" and his opposition to DFL platform planks that were tolerant of abortion and same-sex marriages.

Loehr does not have fond memories of his 1976 re-election campaign, although his margin of victory was a comfortable 1,200 votes.

His opponent, Alice Ford, accused him of unethical, dishonest conduct, charging that he had diverted city money for non-city purposes, he said. Although the news media found no substantation for the charges, the incident was painful, he said.

"I can say this: I was an honest person," Loehr said.

Ford later won a seat on the council, along with former anti-war activist George Mische. Together, they, along with public complaints about the design of a new bridge to be aligned with 10th Street South, made Loehr's last term rough.

Loehr said he wishes he hadn't run for re-election in 1980.

After 10 years as mayor, "you're bound to develop barnacles that you can't shed," he said. "As you go through your term in office, those things begin to build on you."

At first, Loehr's opposition was just Mische. But Huston, a civil engineer and motorcycle shop owner, jumped into the race at the last minute, earning the moniker "Sudden Sam." Huston defeated Mische in the primary and Loehr in the general election.

There was a contract in style when Huston took over at City Hall, Loehr said.

"I think Sam did a reasonably good job," he said. "Sam was a very personable guy, but he didn't want to be bothered with details. . . . Sam didn't have the crisis issues we had to deal with."

Huston's evaluation: "I think he had the City in pretty good shape. . . . It was great to follow a guy like Al Loehr in office." Huston agreed there was a style difference. "I think I tend to be relaxed and he tends to be—I don't want to say uptight—but much more stern."

Soon after losing the mayor's job in April 1980, Loehr was offered a job as top assistant to the head of the U.S. Veterans Administration.

Earlier in Carter's presidency, he had been considered for the administrator's post itself but the nod went to a severely injured Vietnam vet. Loehr turned down the assistant's position because of indaequate pay and also the possibility, soon realized, that Carter would lose the presidency to Ronald Reagan.

Loehr also had suppressed his desire for the state Senate seat, which was being vacated by DFLer Jack Kleinbaum. The seat was won instead by then-Rep. Jim Pehler, DFL-St. Cloud, a St. Cloud State University faculty member who Loehr said he has never been close to.

Loehr also turned down DFLers who wanted him to run for the House seat Pehler was vacating. That was won by Independent-Republican Gruenes.

Loehr's attention did turn toward the Legislature, though.

Sen. Robert Schmitz, DFL-Jordan, then chair of the Senate Veterans Affairs Committee, picked Loehr to be his administrative aide.

Sen. Joe Bertram, DFL-Paynesville, who now heads that committee, said Loehr was an unusually experienced staff member.

"He's always been able to offer advice," Bertram said. "There aren't too many times you can get an ex-mayor to serve as an administrative aide."

Loehr remained influential on veterans' issues even after Schmitz took over the chairmanship of Local and Urban Govern-

ment and gave up the Veterans Committee post, Bertram said. Loehr's behind-the-scenes persuasion might have made the difference when the Legislature recently decided to build a new veterans home in Luverne, he said.

Loehr was slow to give up the idea of actually being a member of the Legislature.

In 1982, he considered a primary challenge to Pehler. Loehr and Kleinbaum criticized Pehler when he endorsed George Mische's re-election bid to the St. Cloud City Council. Words were exchanged, but Pehler was unopposed for endorsement and won re-election handily.

Two years later, though, Loehr jumped in, picking up the DFL endorsement to challenge Gruenes. He said he got $100 from Mische for that campaign, demonstrating that the hatchet was buried there. But when Pehler talked about the good working relationship he had with Gruenes at the Legislature, that hurt Loehr's candidacy, Loehr said. Gruenes won in a landslide.

Loehr said he always intended to retire at age 62, although he didn't explain what was magic about the number. He feels good about meeting three presidents and working with six governors.

He has been flattered by all the attention the occasion has gotten.

His plans are vague—to spend time at his family's cottage on Grand Lake near Rockville, to visit friends and relatives.

He has agreed to serve on an advisory committee dealing with metropolitan airport planning, at the request of House Speaker Bob Vanasek. Bertram also is looking for Loehr's counsel on veterans issues.

Loehr said it's unlikely that he would seek public office again, although he considered a comeback for mayor last year and believes he could have won.

On the other hand . . . he could see himself replacing Stearns County Commissioner Bob Gambrino—if Gambrino were to retire.

When asked whether the public life of Al Loehr had definitely come to an end, Loehr allowed himself a coy smile.

"You never say never—never." ●

LEDERLE'S SUPRAX FAMILY HEALTH FUND

● Mr. DODD. Mr. President, as the number of homeless people in the United States continues to grow, homelessness is no longer an invisible problem. It is becoming commonplace to see homeless people huddled on street corners or crouched over steam grates, trying to get warm. It may surprise my colleagues to learn that families are the fastest-growing segment of our estimated 3 million homeless, and that one out of every four homeless is a child.

Homeless children have more serious health problems than their more fortunate contemporaries, and common childhood illnesses such as bronchitis and ear infections are widespread among them. These health problems were described last fall during hearings of the Subcommittee on Children, Family, Drugs and Alcoholism, which I chair.

Mr. President, I am delighted that one private sector organization has announced an ambitious and extensive program to help these children to better health; Lederle Laboratories, which first learned of this problem through the subcommittee hearings, recently announced the establishment of the SUPRAX Family Health Fund. The program will make available 10 million dollars worth of SUPRAX, Lederle's newest antibiotic, and will provide funding for innovative outreach programs to bring primary health care services to the homeless.

The program has been developed in conjunction with health care specialists at the Children's Health Fund and the National Association of Community Health Centers [NACHC]. Lederle will provide SUPRAX, at no cost to the patient, through NACHC centers and community and migrant health clinics. There are more than 600 NACHC centers in the United States which provide health care to homeless patients through more than 2,000 community and migrant health clinical sites. In addition to this donation, Lederle has made a $1 million grant to the Children's Health Fund to develop its outreach program, which uses mobile health units staffed by medical professionals to bring health care to homeless families and children.

Mr. President, I congratulate Lederle on this initiative. This is corporate volunteerism at its best. I hope that many other corporate citizens will step forward to help ease the serious problems faced by our Nation's homeless. ●

THREATS POSED BY CHINESE MISSILE SALES AND IRAQI MISSILE AND NUCLEAR PROGRAMS

● Mr. BINGAMAN. Mr. President, I rise today to address the dangerous implications of recent events that converge in what is now the world's most volatile region, the Middle East.

I refer first of all to reports appearing in the media that China may have resumed the sale of ballistic missiles to countries in the Middle East. The sale of such weapons, whatever their operational range and regardless of the type of warhead they may carry, is inherently destabilizing. I note that the statement issued March 24 by the State Department declares that the administration has made clear to the Chinese Government the risks inherent in the provision of any type of missile to countries in the Middle East. It is evident that the Chinese choose to pay little heed to the administration's advice, and may well proceed with sale of what are reported to be short-range missiles.

The threat posed by this prospective Chinese action is enhanced by reports carried in the March 30 edition of the New York Times that the administration has failed to obtain from the Chinese concrete assurances that China will not sell medium-range missiles in the Middle East. I ask that this article be inserted in the RECORD at the conclusion of my remarks. Vague assurances on the sale of medium-range missiles were the only benefit deriving from the once-secret visit of National Security Adviser Scowcroft to Beijing. However, with the Chinese refusal to clarify these assurances, in particular their refusal to agree to a definition of what is a medium-range missile, it is reasonable to question the value of any such assurance from the Chinese Government. Until China is willing to provide specific commitments on this issue, including being forthcoming on the definition of medium-range missiles, we can expect that the proliferation of ballistic missiles in the Middle East will continue at a rapid pace.

The second development with major implications for stability in the Middle East is the seizure in London of nuclear triggers destined for Iraq. In itself this would be a cause for serious concern, based on Iraq's previous attempts to arm itself with nuclear weaponry. My concern is heightened by the fact that Iraq is the Middle East country that has made the greatest strides in consolidating a ballistic missile launch capability. In fact, the threat posed by Iraq's missile program grows from month to month. The New York Times reported March 30 that Iraq has constructed fixed missile launch sites which enable Iraq to strike directly at Israel. The article suggests that the launchers are designed to retaliate against an Israeli preemptive strike similar to the 1981 bombing of the Osirak nuclear reactor. It is small comfort to know that these missiles are intended only to deter attacks on Iraq's nefarious nuclear and chemical warfare industries. They obviously themselves invite preemption. This too is an important article and I ask that it be inserted in the RECORD at the conclusion of my remarks.

It is also worth recalling that last December, the Iraqis launched what was reported to be a multistage ballistic missile with a range of 1,200 miles. Should the Iraqis be able to marry ballistic missile technology and nuclear weaponry, they would be able to threaten every country in the Middle East, and United States interests in the region as well, with nuclear blackmail or even nuclear destruction. Given Iraq's demonstrated disregard for international law in its use of chemical weapons against the Iranian Army and against its own defenseless Kurdish minority, no one can welcome Iraqi advances in either missile or nuclear technology.

These developments together demonstrate the dangers inherent in the continuing worldwide spread of ballistic missile technology. Combined with efforts by several nations to augment their arsenals with ever more destruc-

tive weapons—chemical, biological, nuclear—the proliferation of ballistic missiles makes the world an increasingly more dangerous place. It is clear to me that we must take stronger measures to reduce in a significant way the access of developing countries to missiles and missile technology. Several bills on this issue, including one introduced by myself, are pending before the Congress. I believe that these recent events demonstrate the urgency of this problem, and require that we complete action on these bills as soon as possible.

The articles follow:

[From the New York Times, Mar. 30, 1990]

IRAQ SAID TO BUILD LAUNCHERS FOR ITS 400-MILE MISSILES

(By Michael R. Gordon)

WASHINGTON, Mar. 29.—Iraq has constructed for the first time launchers for missiles within range of Tel Aviv and Damascus, according to classified American intelligence reports. While the weapons could be used for offensive purposes, American intelligence experts believe that the missiles are intended in part to discourage any possible Israeli attack on Iraqi nuclear or chemical weapon installations.

On Wednesday, American and British agents arrested five people and seized 40 Iraq-bound electrical devices that had been smuggled out of southern California. Experts say that the devices are well-suited for triggering nuclear bombs and may have other military applications.

Iraq's efforts to obtain the devices have heightened international concerns about its program to develop nuclear weapons. Experts say that Iraq has the largest chemical weapons program in the their world and is trying to develop biological weapons.

The construction of the missile launchers in Western Iraq, which has provoked concern among senior Administration officials, was described in a classified Central Intelligence Agency report prepared early this month. American intelligence about the Iraqi missile launchers was disclosed before the arrests in the Iraqi smuggling case.

CONSTRUCTION COMPLETED

The report says that Iraq recently completed the construction of six launchers for modified Scud missiles at its H-2 airfield, which an Administration official said was built by the British and is in western Iraq on the road between Baghdad and Jordan. Construction of the launchers began last June. The launchers are similar to launchers recently discovered in central Iraq, the intelligence report says.

According to the intelligence report, the launchers are the first stationary ones that Iraq has built within range of Tel Aviv or Damascus.

American intelligence experts say that they believe that the launchers are for Iraq's Al-Husayn surface-to-surface missile, a 400-mile version of the Soviet-designed Scud missiles, which Iraq fired at Iraq in the 1980-88 Persian Gulf war.

While Iraq has mobile launchers for the Al-Husayn missile that could be transported within range of Israel, American experts say that the fixed launchers may enable Iraq to fire the weapon with more accuracy.

SEEN AS BLUNT STATEMENT

The newly constructed launchers are also seen as a blunt statement by Iraq that it will retailate against any Israeli attack on its chemical weapons or nuclear installations, according to the intelligence report and senior Administration officials.

Israeli planes bombed and destroyed an atomic reactor near Baghdad in 1981 that Israel said was involved in the production of chemical weapons.

"By building fixed launchers, they want everybody to know that the launchers are there," said a senior Administration official.

The senior official said that Iraqi officials had signaled to foreign diplomats that the launchers would be used to retaliate against an Israeli pre-emptive attack against Iraqi military installations. Iraq, he said, has built up its air defenses and is improving its ability to communicate with the Jordanian and Saudia Arabian military.

Iraq's construction of launchers within range of Israel was described in a carefully worded White House statement as a "destabilizing development.

IF TRUE, WE ARE CONCERNED

"We do not comment on intelligence matters," a White House spokesman, Roman Popadiuk, said, when asked about the intelligence reports. "However, if true, we would be very concerned. We are concerned about the destabilizing effects of the spread of ballistic missiles and missile technology, especially in areas of tension."

[In Jerusalem, there was no immediate comment. On Wednesday, in response to the seizure of the triggering devices in Britain, a senior Israeli Defense Ministry official said simply, "There is no Defense Minister now, and so we are not dealing with this issue."]

About 190 conventionally armed Al-Husayn missiles were fired by Iraq at Iran in March and April 1988 in the gulf war, according to W. Seth Carus, an expert on missile proliferation at the Naval War College Foundation.

The Iranians said that the missiles, which are liquid fueled, were not very accurate, an assertion affirmed by some American officials. The Iraqis have recently said that they are improving the missile's guidance system.

MODIFIED VERSION OF SOVIET MISSILE

"From a technical standpoint, the missile's accuracy against specific military targets is probably not very good," Mr. Carus said. "But if all you want to do is hit Tel Aviv, it is more than accurate enough."

The weapon is an extensively modified version of Scud-B missiles originally provided to Iraq by the Soviet Union.

The missile was never used with a chemical warhead in the gulf war, and an Administration official, who asked not be identified, said the United States did not now know if Iraq currently had the capability to equip missile with a chemical warhead. But the official added that Iraq had a large program to develop chemical weapons and is believed to be developing chemical warfare.

Iraq has said that it is developing more modern missiles, including those of longer range. In December, Iraq asserted that it possessed a 2,000-kilometer-range missile called the Tammuz I.

[From the New York Times, Mar. 30, 1990]

BEIJING AVOIDS NEW MISSILE SALES ASSURANCE

(By Michael R. Gordon)

WASHINGTON, March 29.—The United States has sought but failed to obtain additional assurances from China that Beijing will not sell medium-range missiles to the Middle East, Administration officials said today.

The new assurances were sought during an unpublicized meeting last month between Reginald Bartholomew, the top State Department official for weapons proliferation, and the Chinese Ambassador to Washington.

Chinese missile sales have been a serious worry for the United States, which has sought to stop the spread of delivery systems capable of carrying chemical or nuclear warheads to the Middle East and other regions of tension.

When the national security adviser, Brent Scowcroft, visited China in December, the Chinese offered a general assurance that they would not sell medium-range missiles to the Middle East. China also stated that it would not sell its M-9 missiles to Syria, a medium-range weapon under development of particular concern to American officials.

But the Chinese never defined exactly what they meant by medium-range, American officials say.

American officials have tried repeatedly in recent years to get the Chinese to agree to an internationally agreed definition that missiles that can carry a 1,000 pound payload more than 160 miles is considered to be a medium-range weapon. That definition is contained in export guidelines agreed to by Western nations and was recently affirmed by Soviet officials when Secretary of State James A. Baker 3d visited Moscow.

Mr. Bartholomew, who reportedly called in the Chinese Ambassador for broad discussion of American proliferation concerns last month, is said to have renewed American efforts to clarify Beijing's general assurances that China will not sell medium-range missiles. But the Chinese have not responded, Administration officials said today.

Mr. Bartholomew's efforts, and new American diplomatic approaches to the Chinese in Beijing in recent days, comes against a background of intelligence reports that China may be preparing for a new round of missiles sales.

According to recent American intelligence reports, China may have agreed to provide Iran with at least 50 short-range surface-to-surface missiles called the 8610, a weapon with a range of about 80 miles.

The United States has also received unconfirmed reports that China might be planning surreptitious sales of M-9 missiles to Syria by routing them through South America. An Administration official said the United States had received no evidence to confirm that China has actually done that.

Other intelligence reports cite a possible link between China and artillery technology transferred to Libya and the possible transfer of missile technology to Pakistan.

More recently, a convoy of missiles that moved through Beijing last weekend toward the main north China port of Tianjin has stirred further concerns about possible Chinese missile sales.

Early speculation held that the missiles might be short-range missiles destined for Iran. An Administration official said that some intelligence analysts now say they believe that the reported convoy was not in fact headed toward the port of Tianjin and thus was not evidence of a missile sale.

The official said the Administration was not certain tht the convoy was carrying missiles but believed that it probably was tranporting short-range missiles.

China is already producing the 8610 short-range missile and is expected to begin production of the M-9 medium-range missile

and a slightly shorter-range M-11 missile by early summer, officials said.

State Department officials said they disagreed with the recent assessment by a senior Navy intelligence official that China was eagerly trying to sell its M-type missiles to the Middle East.

Rear Adm. Thomas A. Brooks, director of Naval Intelligence, noted in recent Congressional testimony that China's marketing efforts might lead to possible sales to Syria, Libya, Iran and Pakistan.●

CBO COST ESTIMATE FOR H.R. 987, TONGASS TIMBER REFORM ACT

● Mr. JOHNSTON. Mr. President, on March 30, the Committee on Energy and Natural Resources filed the report to accompany H.R. 987, the Tongass Timber Reform Act.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask that it be printed in the RECORD at this point:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 30, 1990.

Hon. J. BENNETT JOHNSTON, JR.,
Chairman, Committe on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 987, the Tongass Timber Reform Act.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: H.R. 987

2. Bill Title: The Tongass Timber Reform Act

3. Bill Status: As ordered reported by the Senate Committee on Energy and Natural Resources, March 7, 1990.

4. Bill Purpose: Title I would repeal provisions of current law that provide permanent appropriations for the Tongass Timber Supply Fund. Instead, the act would require annual appropriations to support timber management and resource conservation in the Tongass National Forest. This title would also:

Eliminate the requirement that the Forest Service (FS) provide to the timber industry a specified amount of timber from the Tongass;

Require the FS to include the Tongass in its study of lands unsuitable for timber production; and

Require the FS to maintain commercial timber harvesting buffer zones along specified sections of certain streams in Alaska.

Title II would establish 12 areas encompassing over 670,000 acres of land in the Tongass as special management areas. These areas would be managed by the FS as Land Use Designation II (LUD II) areas as set forth in the Tongass National Forest Land Management plan.

Title III would make specific, unilateral changes to two existing long-term timber sale contracts on the Tongass. Within 90 days of enactment, the FS would be required to transmit to the Congress copies of the modified contracts. The General Accounting Office would be required to audit the contract modification process and to report to the Congress within 120 days of the bill's enactment on whether the modifications are in compliance with the requirements set forth in this act.

Title IV would amend the Haida Land Exchange Act of 1986 to allow the Haida Native Corporation one year to select specified lands in exchange for other lands or selection rights.

5. Estimated Cost to the Federal Government: The elimination of the permanent appropriation for the Tongass National Forest would result in a reduction in direct spending beginning in fiscal year 1991. This reduction may be partially or entirely offset by increased appropriations for the same purpose, but that would depend entirely on future Congressional action.

Also partially offsetting these savings would be additional costs totaling $2 million to $3 million over the next five years to carry out the land exchange authorized in Title IV and for additional timber sale preparation activities resulting from maintenance of commercial logging buffer zones in Title I and from the LUD II designations in Title II.

The federal government could incur additional costs if it is required to pay damages to the holders of the two long-term timber contracts that would be unilaterally modified as a result of this bill's passage. The magnitude of any such costs would depend on future legal action that is impossible to predict at this time. It is unlikely that court settlement would occur within the next year.

The direct spending savings resulting from enactment of this legislation are shown in the following table:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Direct spending					
Repeal of Tongass timber:					
Supply fund:					
Estimated budget authority	−44	−44	−44	−44	−44
Estimated outlays	−28	−44	−44	−44	−44

The costs of this legislation fall within budget function 300.

BASIS OF ESTIMATE

Titles I and II.—Repeal of the permanent appropriation for the Tongass Timber Supply Fund would result in a reduction in direct spending of approximately $28 million in 1991 and about $44 million annually thereafter. These are the amounts that CBO projects would be spent under existing authority to support the preparation and sale of 300 million to 400 million board feet of timber annually from the Tongass.

Information from the FS indicates that the LUD II designations in Title II, along with the buffer zone requirements in Title I, would reduce the volume of timber currently available for sale or release by about 50 million board feet. CBO does not expect this reduction to result in a loss of receipts over the next five years because the FS has indicated that it would maintain currently projected harvest levels by offering timber for sale in other areas. Preparation of new timber sale areas would cost $1 million to $2 million over the next five years.

Title III.—The federal government could incur additional costs if the two companies holding long-term timber sale contracts sue the federal government and the courts determine that the unilateral modifications to the sale contracts as contained in Title III significantly affect the companies' profitability. The long-term contracts were negotiated in the 1940s to ensure the companies a sufficient quantity of timber—at prices negotiated every five years (known as operating periods)—in exchange for the operation of timber processing facilities in the region. Under current law, the contracts will expire in 2004 and 2011.

CBO has no basis for evaluating whether the federal government would be held liable or for estimating the magnitude of any potential compensation. Even if the United States is held liable, the potential range of court awards is very broad.

For instance, a court award would be relatively small if the court reasons that even after modification, the contract holders will continue to have access to adequate supplies of timber, albeit at a higher price. Under this scenario, damages could be limited to the difference between the contract price for timber under the unmodified contracts and the price under the terms of the modified contracts. Depending on what timeframe the courts use to calculate these additional costs (the time remaining in the current five-year operating period or the remaining life of the contracts), compensation under this scenario could be less than $20 million.

On the other hand, a court award could be greater if the courts conclude that enactment of this bill, including unilateral modifications to the contracts, would diminish the value of the mills and facilities built pursuant to the original contracts. Under this scenario, compensation for that reduction in value could also be required. While these amounts could be significant (perhaps as much as several hundred million dollars), CBO cannot estimate the magnitude of any potential compensation for the value of the mills and facilities.

Title IV.—Based on information from the FS and the Bureau of Land Management, CBO estimates that the land exchange authorized in Title IV would result in additional costs totaling about $1 million in 1991, primarily for boundary surveys. Information from the FS also indicates that the federal lands conveyed to the Haida Corporation would likely be more valuable than the lands the federal government would receive in exchange. This is probable because the exchange would be based on acreage and not on land value, and the choice of lands to be exchanged would be made by the Haida Corporation. This potential loss in land value would have no direct effect on the federal budget over the next five years.

6. Estimated cost to the State and local governments: Enactment of this legislation would not result in additional direct costs to state or local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 6, 1989, CBO prepared a cost estimate for H.R. 987, the Tongass Timber Reform Act, as ordered reported by the House Committee on Interior and Insular Affairs on May 31, 1989. CBO's estimate of the budget impact of that version of the bill is similar to the estimate for titles I, II, and III of this bill.

On June 23, 1989, CBO prepared a cost estimate for H.R. 987, the Tongass Timber Reform Act, as ordered by the House Committee on Agriculture on June 21, 1989. Our

estimate for that version of H.R. 987 is similar to the estimate for titles I and II of this bill.

9. Estimate prepared by: Theresa Gullo (226-2860).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.●

TRIBUTE TO FRANK LEE AND MARGARET KRAUS

● Mr. CHAFEE. Mr. President, today I would like to recognize two outstanding citizens of the State of Rhode Island and the United States of America. Frank Lee is stepping down after a successful term as commander of the Primmer-Cordeiro Post 5385 of the Veterans of Foreign Wars of the United States. Margaret Kraus is finishing her term as president of the Primmer-Cordeiro Post 5385 Ladies Auxillary. These two individuals are two examples of President Bush's Thousand Points of Light.

Under the able leadership of Mr. Lee and Ms. Kraus, the Primmer-Cordeiro Post 5385 has continued its long history of community service in Rhode Island. Founded in 1946, this post has served the community, the veterans, and the State well throughout the years. Activities such as visiting nursing homes, working in hospitals, running safety programs, coordinating Loyalty Day, and sponsoring the Voice of Democracy contest are hallmarks of the benevolence of this group.

Mr. Lee has served as commander of Post 5385 for the past year and has a long history of community service to his credit. Ms. Kraus also has a distinguished career in the service of those around her of which she can well be proud.

I ask my colleagues in the Senate to join me in recognizing the contributions and accomplishments of these two special individuals. The commitment of Mr. Frank Lee and Ms. Margaret Kraus to community service and to the Primmer-Cordeiro Post 5385 is of note to us all.●

THE SUN OF BREMERTON WASHINGTON ENDORSES TERM LIMITATION

● Mr. HUMPHREY. Mr. President, many opponents claim that congressional term limitation will unleash the bureaucracy, which will increase its power until Congress can no longer practice its oversight of the agencies. Congressional oversight is an important function, but let us not forget that Congress often forces the Executive to do things not in the national interest, like buying $1.1 billion worth of F-14's the Navy does not want, or 2,108 10-ton trucks the Army does not want.

The travesty of our present system, is that sending pork home to the district has become more important than spending taxpayer money prudently. Mr. President, imagine the change in attitude in Congress if each Member knew from the moment he or she was sworn in, that no matter how much tax money was sent to the district or State, he or she still could not make a career of Congress. Then we would begin to see the political courage and intellectual honesty.

Mr. President, I ask that a fine editorial in support of term limitation, published in the Sun of Bremerton, WA, be printed in the RECORD immediately following my remarks. I would note to my colleagues that prior to the end of session in the Washington Legislature, resolutions petitioning Congress to adopt a term limitation amendment were introduced in both Houses.

The article follows:

MOVE TO LIMIT TERMS CONTAINS A MESSAGE

A move to limit terms for members of Congress seems to be picking up momentum.

A bipartisan group—Americans to Limit Congressional Terms (ALCT)—launched a campaign the other day in Washington to get rid of the "permanent Congress" by limiting service in the House and Senate to 12 years.

Senator Gordon Humphrey, R-N.H., recently introduced a resolution calling for a constitutional amendment to restrict terms to six in the house and two in the Senate. That probably won't go far in a legislative body where the first priority of most members is to protect their jobs.

But there is a growing sentiment in the states to limit congressional terms. The South Dakota legislature has approved a resolution calling for a constitutional amendment, and more than a dozen other states are considering it.

A Gallup Poll last month indicated that 70 percent of Americans favor a limit.

The ALCT has 33 former members of Congress on its board of directors. Said cochairman James Coyne, a former member from Pennsylvania: "Members of Congress have no idea of how frustrated people are with the institution."

Let's hope that incumbent senators and representatives soon get the message. If they don't clean up their act, voters outside the Washington Beltway may do it for them.●

HONORING SOUTH DAKOTA'S ELLSWORTH AIR FORCE BASE

● Mr. DASCHLE. Mr. President, the citizens of South Dakota are extremely proud of the men and women who serve our country with such dedication Ellsworth Air Force Base. We have always known that these men and women are among the best in the Nation. Recently, the head of the Strategic Air Command, Gen. John T. Chain, Jr., visited Ellsworth Air Force Base to present a trophy to the top aircraft maintenance unit in the Strategic Air Command. The "Best in the SAC" maintenance award for its 1989 accomplishments went to the 28th Bombardment Wing's 28th Operational Maintenance Squadron, 28th Field Maintenance Squadron, 28th Munitions Maintenance Squadron, 28th Avionics Maintenance Squadron and 28th Consolidated Aircraft Maintenance Squadron.

The "Best in the SAC" Trophy has been awarded to the Ellsworth aircraft maintenance unit for the second straight year. For the 1,950 people in the Ellsworth maintenance unit, who competed against 22 similar wings in the Strategic Air Command, this award caps a year-long effort of intense training and hard work. Because of the presence of the new Strategic Warfare Center, the Ellsworth maintenance unit is not only responsible for ensuring the highest maintenance standards on the base's B-1B's, EC-135's and KC-135's, but also is responsible for maintaining visiting B-1B's, B-52's and FB-111's.

Excellence at Ellsworth Air Force Base certainly does not stop with the 28th bombardment Wing's maintenance unit. The men and women of the 28th Bombardment Wing were also recognized for their exemplary efforts by winning the 1989 Fairchild Trophy, given to the best Strategic Air Command unit in bombing and navigation competition. Without a doubt, the men and women of Ellsworth remain the best among the best.

These awards demonstrate what we, in South Dakota, have known all along—the excellent demonstrated day in and day out by the men and women of Ellsworth is the reason Ellsworth Air Force Base will continue to have an important role in our Nation's strategic force. On behalf of the citizens of South Dakota, we extend our gratitude for their outstanding accomplishments and wish them continued success in their upcoming competition for the Phoenix Award.●

RICHARD SPRINGER

● Mr. INOUYE. Mr. President, today I speak of Richard Springer. I doubt that too many of us have heard of Richard Springer, but I believe that he is worthy of our special concern and commendation, both because of the individual he was and his professional achievements.

All of us have communicated with the General Accounting Office for assistance, and all too often we do not pause to express our thanks to those men and women who stand behind the reports that have guided us in drafting bills or in passing legislation; reports that have a profound effect on our Government; reports that have assisted us in our consideration of the budget.

Richard Springer, known as Rick to his many friends, was one of the most talented and dedicated attorneys at the GAO. On November 2, 1989, he

succumbed to AIDS after a valiant 4-year battle to overcome it. Although he is no longer with us so we cannot personally thank him, I hope that these words will bring comfort to his family and his many friends.

Richard Springer began working at the GAO in 1973 after a distinguished academic career at the University of Pennsylvania and Harvard Law School, and 4 years of private practice in his home State of Pennsylvania. He quickly impressed his supervisors with his remarkable grasp of some of the most technically and legally complex issues presented to the Office. When an attorney was needed for a particularly complicated case, more often than not he was selected.

One early example was a 231-page comprehensive report prepared in 1978 by one of GAO's audit divisions for Senator Muskie, then chairman of the Senate Subcommittee on Intergovernmental Relations. Mr. Springer provided invaluable assistance in the preparation of the report. He painstakingly prepared an inventory of the 120 Federal agencies with regulatory programs and activities, summarizing their particular responsibilities and the legal authorities for each. During this same period, he was assigned a series of legal decisions to write, concerning the proper interpretation of the Postal Reorganization Act and its application to postal ratemaking and classification.

Richard Springer was an energy law expert and provided Congress with much assistance in its consideration of energy legislation. Early in this career, he set out to master the intricate network of energy legislation and the complex Department of Energy regulations, dealing with industry cost participation in energy research and development projects.

The early 1980's found Mr. Springer constantly in demand by the GAO auditors who were venturing into the field of nuclear fuel cycle activities. He accompanied them to numerous briefings of congressional staff, assisted in preparation of testimony, and clarified numerous legal points raised at the hearings. He also interviewed attorneys and other officials of the Departments of Energy, Justice, and State, and the Federal Trade Commission, as well as foreign government legal advisers and officials.

In 1985, Mr. Springer was heavily involved in two studies of whether U.S. companies that report to the International Energy Agency [IEA] should receive antitrust and breach of contract protections for their activities during international oil supply disruptions. His work on the latter issues led Senator METZENBAUM to propose, and the Congress to enact, an amendment which extended the Energy Policy and Conservation Act of 1975.

In recognition of his consistently superior work in 1981, Richard Springer was awarded GAO's Office of General Counsel Award, the highest achievement for a GAO attorney.

Although I was not privileged to know him personally, I know from his work that he was a brilliant and dedicated lawyer. I also know from the expressions of his colleagues that he was an unusually gentle and compassionate individual who possessed an engaging sense of humor. It was a source of great admiration and comfort to his friends that during the course of his illness, he rarely lost his sense of humor or his optimism. The loss of Richard Springer is surely our loss. On behalf of this body, I extend my deepest sympathies to his family and friends.●

NATIONAL STUDENT-ATHLETE DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 238, designating April 6, 1990, as National Student Athlete Day, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 268), to designate April 6, 1990 as "National Student-Athlete Day."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 268), with its preamble, is as follows:

S.J. RES. 268

Whereas the student-athlete represents a role model worthy of emulation by the youth of this Nation;

Whereas the past athletic successes of many business, governmental, and educational leaders of this Nation dispel the myth that successful athletes are one-dimensional;

Whereas such worthy values and behaviors as perseverance, teamwork, self-discipline, and commitment to a goal are fostered and promoted by both academic and athletic pursuits;

Whereas participation in athletics, together with education, provides opportunities to develop valuable social and leadership skills and to gain an appreciation of different ethnic and racial groups;

Whereas in spite of all the positive aspects of sport, overemphasis on sport at the expense of education may cause serious harm to the future of an athlete;

Whereas the pursuit of victory in athletics among the schools and colleges of this Nation too often leads to exploitation and abuse of the student-athlete;

Whereas less than 1 in 100 high school athletes have the opportunity to play Division I college athletics;

Whereas although college athletes graduate at the same rate as other students, less than 30 percent of scholarship athletes in revenue producing sports graduate from college;

Whereas only 1 in 10,000 high school athletes ever realize an aspiration of a career in professional sports, and those students who become professional athletes may expect a professional sports career of less than 4 years;

Whereas thousands of the youth of this Nation sacrifice academic achievement to the dream of professional athletics;

Whereas the practice of keeping athletes eligible for participation on a team, even at the high school level, must be abandoned for a policy of ensuring a meaningful education and degree;

Whereas coaches, parents, and educators of student-athletes must express high expectations for academic performance as well as for athletic performance; and

Whereas there is a need in this Nation to reemphasize the student in the term "student-athlete": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1990, is designated as "National Student-Athlete Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies, and activities.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, I would like to discuss briefly the schedule for the remainder of the week. I have had the opportunity earlier today to consult with the distinguished Republican leader on these matters, and we agreed that it would be useful for all Senators if we could discuss it now so that Senators will have some idea of the schedule for the remainder of the week and following the Easter recess.

First, it is my judgment, which I believe the distinguished Republican leader shares, but with respect to which I will ask him to comment directly, that there is not sufficient time this week to take up the crime legislation along with the other matters that must be taken up, which other matters we will describe momentarily, and that we would all be better served if that matter were put over until following the Easter recess and prior to the Memorial Day recess.

Accordingly, it is not my intention to call it up at this time, but rather to do so during the next work period and probably on or about May 21, which would permit nearly a full week's consideration of it in the week immediately preceding the Memorial Day recess.

I would like to ask the distinguished Republican leader for his comment in that regard.

Mr. DOLE. Mr. President, I share that view. It seems to me we would not

be able to complete discussion or action on it, in any event. We have checked with Senator THURMOND on this side, the ranking Republican on the Judiciary Committee. He certainly has no objection to the schedule announced by the majority leader. I know of no objection on this side. In fact, I think we would prefer to have it set aside until late May, as indicated by the majority leader.

Mr. MITCHELL. I thank my colleague in that regard.

Mr. President, I say to Members of the Senate, the Senate is now scheduled to vote on final passage of the clean air bill not later than 8 p.m. tomorrow, unless there are several amendments pending and offered at that time which would first have to be disposed of. So it appears likely that we will take up all or most of the day tomorrow on the clean air bill. It remains my hope we can act prior to 8 o'clock. We will not know that until during the day tomorrow as we see what amendments are pending.

There remains for consideration this week five matters that I believe we ought to at least consider the possibility of going to. The first two relate to the President's request for emergency assistance to Panama and Nicaragua. The Foreign Relations Committee has reported out the authorization bill. It is my hope that we can deal with that promptly on Wednesday, subject to a very tight time agreement that would permit us to dispose of it in a relatively short period of time with no amendments.

The reason I am suggesting that there be no amendments is that we will sometime thereafter take up the appropriations bill, and I do not see any point in our having to go twice through the same issues that will arise on one or the other of those bills. Therefore, I am proposing we simply pass quickly the authorization bill, which I believe accords substantially with the President's request with respect to aid to Panama and Nicaragua, and then have the debate and discussion on the appropriations bill.

I am not able at this time to specify a precise date or time for the appropriation bill. That will, of course, depend upon action by the Appropriations Committtee when the matter is received from the House, which I believe will occur tomorrow. I believe the House will act on that tomorrow.

I am advised by staff that on our side, the Democratic side, we are clear on doing the authorization bill without amendments. I hope we can get similar clearance on the Republican side.

In addition to those two items, we have the Ryan nomination, which I believe should be disposed of promptly, and it is my hope that we can take up the Panama-Nicaragua authorization bill first thing Wednesday under a tight time agreement and then move to the Ryan nomination.

Then there are two other matters that deal with education and training that we hope to act on, that are important bills. One is a vocational education bill, and the other is a job training bill. If, Mr. President, we could act on all or as many of those items as possible, it is my intention that we would then complete action this week. So that if, for example, we can complete action on these by Thursday night, it would not be my intention to be in session on Friday.

I would like, Mr. President, at this time to ask the distinguished Republican leader for any comments or suggestions he has in this regard.

Mr. DOLE. Mr. President, if the majority leader will yield, based on our earlier discussion in the majority leader's office, we started the process to see, first, if we can get an agreement on the Panama-Nicaragua authorization bill without amendment. We hope to be able to come back to the majority leader shortly after the policy luncheon and advise him on our success or failure in that effort.

In addition, also to be taken up tomorrow at our policy luncheon, we have started in a preliminary way to see if we can determine how much difficulty we will have with the other measures. I know of none on the Ryan nomination. I do not know how long debate might take. I know of only one amendment so far on vocational education. I am advised on the Job Partnership Training Act that there may be some difficulty, and, on the Nicaragua-Panama appropriations bill, as the majority leader has indicated, we are not saying that will not come up. We are suggesting we are not certain. It is still a question mark. I indicated to my colleagues I talked to personally if we do complete action on these matters, or as many as we can, and the majority leader then determines we cannot complete action in the balance of the week, we could conclude business by sometime on Thursday.

ORDERS FOR TUESDAY

RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its session today, it stand in recess until 9:15 a.m. tomorrow, Tuesday morning; that the time for the two leaders tomorrow be reduced to 7½ minutes each; that the majority leader be authorized to offer an allowances amendment on behalf of the two managers that will be discussed from 9:30 to 10 a.m., with the time equally divided and controlled between the two leaders or their designees, which amendment will then be called up later in the day; that at 10 a.m. Senator MCCLURE be recognized to offer his clean coal technology amendment; that following the vote on or in relation to the McClure coal amendment, the Senate return to the McClure amendment No. 1431 for the 15 minutes of debate on that amendment that have been reserved, and then vote on or in relation to that amendment; that following the disposition of the second McClure amendment, the Senate resume consideration of the Murkowski amendment, No. 1432, on which 15 minutes have been reserved for debate with a vote occurring on or in relation to the Murkowski amendment at the conclusion of the debate with no intervening action or debate.

I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. to 2:15 p.m. tomorrow to accommodate the two party conference luncheon conferences.

Mr. DOLE. Mr. President, reserving the right to object, I shall not object; just so my colleagues understand there will be a vote following each amendment. They will not be stacked. They will follow each amendment.

Mr. MITCHELL. That is correct, Mr. President.

Mr. DOLE. It is clear in the consent, but I wanted to make certain they understood.

Mr. MITCHELL. Mr. President, the Senators offering the amendments asked that they have the opportunity to have the remaining debate immediately prior to the vote on each particular amendment so that Senators would have the opportunity to distinguish them and consider the various arguments.

It was a reasonable request, and it is accommodated here, as the distinguished Republican leader points out.

Then there will be a debate, there will be 1 hour on the McClure amendment, that has not yet been offered. There will be a vote on that. Then there will be 15 minutes of debate on the McClure amendment which was offered today and debated for approximately 45 minutes. Then there will be a vote on that. Then there will be 15 minutes of debate on the Murkowski amendment, which also was offered today and debated for about 45 minutes, and then a vote on that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank the distinguished Republican leader.

Does the distinguished Republican leader have anything further?

Mr. DOLE. No.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I

now ask unanimous consent that the Senate stand in recess, under the previous order, until 9:15 a.m. on Tuesday, April 3.

There being no objection, the Senate, at 7:15 p.m., recessed until Tuesday, April 3, 1990, at 9:15 a.m.

EXTENSIONS OF REMARKS

THE FINANCIAL PLANNERS DISCLOSURE AND ENFORCEMENT ACT OF 1990

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. DINGELL. Mr. Speaker, I am pleased to join my colleagues on the Energy and Commerce Committee in cosponsoring the Financial Planners Disclosure and Enforcement Act of 1990. I particularly commend Congressman BOUCHER for all the drafting and negotiating over the past year that made it possible to introduce this bill with the endorsement of the American Association of Retired Persons, the Consumer Federation of America, the Institute of Certified Financial Planners, the International Association of Financial Planners, the National Association of Personal Financial Advisors, and the North American Securities Administrators Association.

On July 31, 1989, I introduced at the request of the Securities and Exchange Commission, along with 12 of my colleagues, H.R. 3054, the Investment Adviser Self-Regulation Act, to provide for the establishment of one or more self-regulatory organizations for registered investment advisers. These SRO's would establish qualification and business practice standards, perform inspections, and enforce compliance with the law.

The legislation we are introducing today will supplement and greatly enhance the investor protections proposed in H.R. 3054. It would mandate disclosure of vital information to investors so that they can evaluate the qualifications of the financial planners they select and the recommendations the planners make. It would require persons who hold themselves out to the public as financial planners or investment advisers to register under the Investment Advisers Act of 1940. And it would create a private right of action to enable customers to sue for damages when they sustain losses due to 1940 act violations. This right cannot be taken away by any agreement relating to compulsory arbitration.

According to NASAA, which conducted a survey of fraud in the financial planning business, some 22,000 investors lost about $400 million in financial planning frauds between mid-1986 and mid-1988. Last month, the Wall Street Journal warned investors about the serious conflict of interest issues plaguing financial planning. This problem is nationwide and deserves prompt redress.

I urge the Committee's Subcommittee on Telecommunications and Finance to hold hearings on these two bills as soon as practicable. We need to work with honest financial planners along with Federal and State regulators to clean up the industry's tarnished reputation and protect consumers from those who would enrich themselves at their clients' expense.

THE FUTURE OF EUROPE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. SOLARZ. Mr. Speaker, all of us are following with keen attention the developments in Eastern Europe and the Soviet Union. Of course, the elections in the German Democratic Republic last month were part of the unfolding drama of freedom and democracy in that part of the world.

In this connection, I am pleased to call to the attention of my colleagues a most significant address delivered on March 19, 1990, by Prof. Dr. Rita Sussmuth, president of the Bundestag, Federal Republic of Germany.

Dr. Sussmuth's lecture, entitled "The Future of Europe," took place on the campus of New York University, under the cosponsorship of Deutsches Haus, a German cultural and information center at NYU, and the Institute for East-West Security Studies, an independent research institute located in New York City.

John Brademas, our former colleague in the House, is now president of New York University. Since assuming this position some years ago, he has emerged as one of the commanding figures in the world of higher education, which does not in the least surprise those of us who knew him and worked with him when he was a Member here. During his years at NYU, he has helped to establish New York University as one of the major centers of learning and dialogue not just in New York but in the Nation.

In introducing Dr. Sussmuth, Dr. Brademas noted that:

Her wide experience makes Dr. Rita Sussmuth qualified to place the extraordinary developments of recent months into perspective. She has emphasized the need for immediate economic assistance to Poland and has also observed that successful and enduring changes in East Germany would in large part depend on the continuation of the "perestroika" policies of Mikhail Gorbachev.

Dr. Sussmuth has been a member of the Deutscher Bundestag since 1987. A professor of educational sciences at Dortmund University, she served as the Federal Minister for Youth, Family Affairs, Women and Health before her election as president of the Bundestag in November 1988.

Mr. Speaker, I insert the transcript of President Sussmuth's address at this point in the RECORD:

THE FUTURE OF EUROPE

(Address by Her Excellency Prof. Dr. Rita Süssmuth)

Dr. Brademas, Excellencies, dear friends, ladies and gentlemen, first of all, let me thank you for having invited me to New York and for granting this opportunity to discuss the future of Europe with you today. And let me say in addition that it is a good practice to discuss politics within universities. Very often, we forget from where we have come. And we don't go back.

Perhaps one remark about my biography: It is difficult for women to start in politics. We have now more. And it was even more difficult to start from [the field of] education!

But I think up to now, until now, it is a very good background. And I don't deny it.

INTERDEPENDENCE OF EUROPEAN COMMUNITY

The future of Europe will be closely related to events in Germany, particularly the events that have been taking place since November and further events in the future. But it [the future of Europe] doesn't only depend on Germany. I think it is very important to recognize and to realize that it depends on deep changes within most East European countries.

And let me say at the beginning that we will be successful within all states or countries in the democratization process or none will be. So there is no isolated solution for Germany.

GERMAN/AMERICAN PARTNERSHIP

At the same time, of course, it will have a great deal to do with German/American partnership and the future relationship between the United States and Europe. Let me express our warmest regards, especially to President George Bush, and his tremendous support for German unification during the last month.

Of course, there are some experts and also political groups already discussing if the United States will still join us in the future. My clear position is that it is not the time to separate from the United States. Just the opposite is true. We need one another. And it is very important to continue our strong alliance because, for us as Germans, we know what we did to Americans after World War II and in awful systems of terrorism.

RESULTS OF THE MARCH 18, 1990, ELECTIONS

The situation in Germany today, immediately after the first free election ever to take place in the German Democratic Republic, will be a primary factor in this equation. And perhaps my impressions are very fresh and not yet very reflective. But perhaps, it is a first impression. I will give it to you, after the results of yesterday evening.

I followed the election returns yesterday and heard additional political analysis of the results of these first elections free and secret, after fifty-eight years. It's a very long time. How to comment on them?

First, the result for the Christian Democrats—41 percent—is at the same time a decision for the Federal Government of Chancellor Kohl. And that may be misleading, I realize, for the Social Democrats because they already seemed to be sure to be the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

winners of this election. And they got the rate, the proportion, of 22 percent; the East German Communists, 16 percent; and the Liberals, 5 percent.

One thing which is amazing after forty—more than forty—years of election freedom, there are only four or five parties, as you know, from out of thirty-three groups and parties with candidates for the forthcoming of a new Parliament. And when we let aside the Alliance groups and three others—all the rest of the thirty-three have only 8 percent. So that means that very soon we will have a similar structure of parties in both countries.

VOTE FOR REUNIFICATION

Second, it is a decision in favor of a rapid process of unification. That means in terms of citizens from the GDR, a quick realization of a monetary union, of economic and social union. And I suppose that the voters gave the most votes for those they believe would better, would improve, their life conditions.

It is a vote for the accession to the Federal Republic, according to Article 23 of our Constitution. Or better, it is a vote against the preparation of a new Constitution. And it is a vote for unification but, of course—and this is very important—in accordance with the time schedule and in consultation with our European neighbors and American friends, because German unification has two perspectives, the internal one and the external one. And we don't want a quick success, but a solid success. And this can only be done with our friends and neighbors in the West and East, and not without our American friends.

Although people voted to unify as quickly as possible, they know very well that this process can only be successful when we take into account the vital interests of our partners in East and West, in West and East. And therefore, confidence is a key word in this process of unification.

IMPORTANCE OF PRUDENCE AND PATIENCE

The result of the election commits us, as Christian Democrats in the Federal Republic, to a higher level of responsibility and a careful sensitivity already expressed by Chancellor Kohl yesterday night. Because this is not the time for capital mistakes. This is the time for building up the future in Europe, peacefully and in a democratic way.

Disappointed are those intellectuals—and I mean by this, actors, poets, artists—who initiated opposition in the time of the ninth of October last year. Now they fear that in the near future, economic, financial policy might prevail. And this very moment, their critical positions are without public response. The majority of the citizens in the GDR called for liberty and wealth. And they are not willing to wait patiently for better life conditions.

This is the one problem we have to manage because we are in a process with very little patience to control emotions. Without controlling them, it can worsen.

RECENT EVENTS IN EASTERN EUROPE

Thinking back on everything that has happened in Germany and the rest of Europe since the end of last year, as I stand here before you here today at New York University, I almost have the feeling that I have seen a period of German and European history transpire in a time-lapse sequence.

We have overcome stagnation and confrontation in Europe. We have opened our borders. We have free speech, free meetings, democracy and self-determination. And finally, we now have the full abandonment of Stalinist-style communism and socialism. And I think after a long period with socialism, citizens in all East European countries and in the GDR are totally against it because they are really frustrated after such a period of being unfree.

After the emotions of a hard-fought election campaign in the GDR, we are now faced with a new situation in which the main questions are: How are things going to develop in Germany? And with the Germans? However, I would like to add the following two questions. First, has a German revolution as a part of the revolutionary process in East Europe brought about a change in Europe? And has this changed the future?

These are questions that concern all of us. The answers to them lie in three different areas. And I will attempt to give equal attention to each of them in a short way. What is involved are answers at the national level, answers at the European level, and the strength of the Atlantic relationship.

EXODUS FROM THE GERMAN DEMOCRATIC REPUBLIC

Let me begin by explaining what is involved in Germany. What concerns us most are the economic and social consequences of having opened the German/German border. Every day, about more than 2,000 people move from the GDR to the Federal Republic. The total number of transferees last year was around 340,000. Some 100,060 people have moved from the GDR to the Federal Republic thus far this year. Over 20,000 have arrived since the beginning of March.

That shows you that there is a kind of exodus from the GDR to the Federal Republic. With the political result of yesterday, there is some hope that this exodus will come to an end very soon. But we are not sure. Because people in the GDR are very impatient.

ECONOMIC UNION

The process of overcoming the division of Germany is taking place at breath-taking speed, making it difficult to manage. It is only with great difficulty that we are able to dominate this driving force. The current situation urgently requires economic and monetary union between the two German states.

Negotiation to this effect has been going on for months now. Considerable difficulty is going to be encountered in converting the GDR economy from a planned economy to a market economy, with a special system of public welfare and social guarantees. We call it, therefore, the social market economy.

Obsolete production methods in the GDR waste huge amounts of energy and create an equally huge amount of pollution. The level of productivity in the GDR is only about half what it is in the plants are generally in run-down condition. There are no efficient transport systems. There is an enormous need for renovation and renewal.

This also applies to the health sector, where there is an acute lack of physicians, medicines and medical facilities in general. Finally, there is an acute lack of telecommunications infrastructures.

Given this situation, the Federal Republic of Germany created an initiative for economic and monetary union, so as to make it possible to restructure economy of the GDR. Just how difficult this is going to be is illustrated by the following list of factors that are going to have to be dealt with: competition, price deregulation, private ownership of production facilities, reform of the tax system, liberalization of the capital market, and finally the formation of free labor unions.

Obviously, this is a tall order. And it is not something that can be done overnight. As such, the two parts of Germany are going to need time to grow together. There are dangers, and at the same time, big chances. More than seven hundred billion are necessary in the following years. It will take us time.

And after forty years of democracy in the Federal Republic of Germany, it seems to me most important to foster our democracy and the democracy in both Germanies.

FEARS OF A NEW GERMAN DOMINATION

I consider the fears being expressed in Europe and the United States unfounded that a kind of "Fourth Reich" might arise in Germany, and that Germany might become a dominant economic and financial power in the world, a gigantic economic steamroller.

I think it is not the historical situation to think in terms of old or new nationalism, or old or new super-powers. What we aim for in Europe is to become a community of responsible partners, responsible for Europe and the Third World. What we need is political and economic cooperation for mutual support.

IMPORTANCE OF ALLIES

The foreign and European policy problems arising from the German unification process are matters we will only be able to resolve together, with our partners and our allies within nations. This is not the time for neutralism.

The integration of our destiny and the future of Europe is a major responsibility for us and one we will not back away from. There is agreement on this between the politicians in the Federal Republic and those in the GDR. However, we have some difficulties in opening the minds of citizens in the GDR to European thinking. Too long was the time when they were separated from West European thinking.

And so it is important that we show them that there is no unification without European integration. And both have to go together. Because it is very important for our future, and I think for the future of other countries that it is done by human, European integration.

We do not seek German unity in isolation from the rest of Europe but rather in the European context and within the framework of the peace order and encompassing all of Europe.

REACTIONS OF OTHER NATIONS

And let me say there are very often a lot of irritations. Maybe we are not sensitive enough when we speak about the borders to Poland. Maybe we are not sensitive enough when we speak about our own problems. And other countries, especially in the Third World, are anxious that we are only concentrated on Germany or on Europe. And therefore, we need a lot of meetings and dialogue in order to explain our position and to plan unification and integration with our neighbors.

Let me emphasize that German unity is not an internal family affair for the Germans. Instead, the intention is to use it as a driving force for the unification of Europe and for further strengthening of the trans-Atlantic partnership.

We know we have still a long way before us, not only for internal reasons, but especially for external reasons. There are a lot of questions concerning the integration of the unified Germany we seek. But also we need a longer period of transition for that, especially when I think of all the questions concerned with security and defense.

We are just grateful to our friends and partners for the broad support they have provided in connection with overcoming the division of Germany. Twenty-two percent of the people in the United States share our wish for unification.

FORMAL ALLIANCES

We want to travel the difficult road that lies ahead of us together with you and our European partners. And we will continue to be a reliable partner in the time-tested system of Western democracy and in our joint alliances. We are members of NATO. There is no doubt that we continue our active role within NATO.

It is a question of stabilization in Europe. And so long as we have not worked out a new European peace offer, we have to fix those institutions which have proven their efficiency and their role for peace in Europe and all over the world.

Last year, President Bush encouraged us to be partners in leadership. To my way of thinking, this can only mean that we are first and foremost partners in a community based on responsibilty: responsibility for peace, for democracy and for human rights. Freedom, self-determination and respect for human rights as well as the other CSCE [Conference for Security and Cooperation in Europe] principles expressed in the Final Act prepare the way for the democratic revolution in Central, Eastern and Northeastern Europe.

Parallel to this, the Perestroika policy initiated by General Secretary Gorbachev became a driving force behind the broad, pro-democracy movement, emanating from Poland and Hungary. The smaller European countries have made major contributions to the democratic revolution in Eastern Europe. It is time for the Soviet Union to follow their example. The last decision concerning Article Six of the Soviet Constitution may be a good sign.

We, however, in Germany will never forget the courage of Hungarians in opening the borders to German free settlers. They open the door for freedom without asking what would be the disadvantage of doing so.

IMPORTANCE OF THE CSCE

The treaties we have concluded in the established state of trans-Atlantic relations provide us with firm ties. The same applies to the CSCE process which has now assumed an unexpected measure of vitality and importance.

The CSCE process that has developed since the Helsinki Final Act in 1975 is the best forum in which to negotiate on the future architecture for Europe as a whole. All the CSCE states—and this includes the United States, Canada and the Soviet Union—are interested in dynamic partnership and the conditions of stability and on the basis of cooperative responsibility.

I think that this will constitute the major test for the CSCE, and intensifying the CSCE process will create the potential needed to combine the restructure of Europe with the restructuring of Germany.

Today, the first CSCE conference on economic issues was opened in Bonn. The main problem in Europe is economic instability. It has threatened peace planning from Helsinki. In the future, we have to solve the different economic levels in Eastern Europe.

Therefore, it is not reasonable, perhaps even not helpful, to look for isolated solutions for the GDR.

The CSCE process has to form a framework for economic stability in Europe. The same position is expressed by the European Community in the last document. However, the way before us is still long and full of difficulties. We have to convince those who prefer to maintain existing reservations and restrictions in East/West cooperation.

UPCOMING INITIATIVES

But the timetable for all of this is already fixed. The two German states will necessarily be strong advocates of holding a special CSCE summit on the architecture of Europe as a whole before the end of this year.

The steps leading to a special summit of this kind are laid out in the "two plus four" talks agreed on in October. In the wake of yesterday's election in the GDR, joint talks will be conducted intensively between the two German governments and the four powers. These talks have already been initiated.

Parallel to this, there will be a special European Community summit at the end of April. The CSCE conference, this Fall, will be dedicated to the general structures of a European peace and security order. The conference must be a summit dedicated to stability.

POLISH BORDERS

Let me make it clear that we Germans do not want any borders shifted or any other border-related changes made in Europe. This applies first and foremost to Poland. As such, one of the first things the two German states will be doing after yesterday's election in the GDR will be to issue a joint political statement formulated by the two parliaments, the Bundestag and the People's Chamber, making it clear that the borders of the Polish nation will be secure and that we, too, consider the border permanent and inviolable.

And I proposed this already at the end of the year. And I was criticized. But I am very glad that now it is decided. The German Bundestag, of which I am Speaker, decided this definitely in March, on the eighth of March. Only a few days ago we reaffirmed in a joint statement with France that Poland is to be involved in the "two plus four" talks with the question of Poland's Western border is discussed.

In addition to this declaration, both governments, of the Federal Republic of the GDR, will prepare a treaty concerning a unified Germany and Poland. This [treaty] is without, or besides, their international guarantees. I think it is a bilateral act. It is necessary to give security and good understanding because all that we do for better understanding and even to build up friendships between our citizens and Polish citizens has no foundation when the question of borders is not clear.

Of course, we know that there is the problem of those who have lost their homes after World War II. But I think we have to be clear on this point. We started the Second World War. And we lost it. And a lot of bad things were endured by Polish people and other nations.

It is also the time to go forward, but not to forget what has been in the past.

ELEMENTS OF UNIFICATION

Let me repeat very clearly here in New York that a united Germany will only include the two German states and Berlin.

Let me say in the spirit of the CSCE Final Act that we Germans have no territorial claims against anyone. We want Germany unity together with our neighbors, with Europe, and with America. We want German unity to be a factor in European unity.

What we want is a common future for all Europeans, both in Eastern and Western Europe, in which the United States presence in Europe and European friendship with the United States would have a firm place. This is the clear German position.

For this reason, it is in our joint interest that the reforms in Eastern Europe are successful. Again, for this reason, they have a need to move ahead rapidly with a process of economic and political integration within the European Community. A united Germany will have more economic weight within a united Europe than the Federal Republic of Germany.

However, this economic strength will remain linked to the common economic and political objectives of the European Community as it develops toward European union.

1992 ECONOMIC ALLIANCE

As you are aware, an intergovernmental conference will be taking place at the end of this year on economic and monetary union within the European Community. The Germans are promoters of Europe. And they will be contributing their power to the future design of Europe at this conference.

SUMMATION

Ladies and gentlemen, one of the questions I asked at the beginning of this lecture was whether or not the process of German unification and the process of democratization in Eastern Europe have changed the prospects for the future of Europe. Europe changed. And its future will change, too.

Europe is no longer divided. The two blocs don't exist any longer. We can freely move from country to country. Europe is no longer separated into West and East Europe. The Soviet Union as a part of East Europe as well as the United States will play its important role in Europe.

It is not a good perspective to separate Europe from the United States. We need broader networks, not to return to past models of thinking and acting. Europe is open to freedom and democracy, no longer communism or socialism. Europe is open to all kinds of cooperation—economic, scientific, cultural, technical—instead of confrontation. It is open to a new security system.

Europe is changing, changing. But change needs stability. We must maintain a good defense of Western values, personal freedom, initiative and responsibility, peace, protection of nature, social justice and work for solidarity with those who are asking our help.

Stability is guaranteed by the European networks, by the institutions created after World War II, the Council of Europe, NATO, the European Community. Each of these institutions has its conscience, working together for human rights, security and economic development, for an open market. And there, we have to work carefully, without promising that very soon it is possible to open it for new members because we have, even there, to go step by step.

But we have a lot of means to have conferences and treaties in order to work together. We Germans are moving ahead towards the future of Europe with prudence, commitment and consistency. We are working towards the unity of Germany, together with our fellow Germans in the GDR, in the basis of an orderly process of gradual integration. And I think it is your concern to help us to have a good process.

Parallel to this process, we want to continue to strengthen our partnership with our American friends as well as to strengthen our integration within the European Community and in the context of our growing European peace order.

I appeal to you, our American friends, to travel this road together with us in the spirit of partnership, keep in mind our common values and our common responsibilities.

The British magazine, *The Economist,* asked at the end of the 1970s whether the Germans might be wunderkind or problem child. My answer: we learned our lessons of democracy. We are a normal nation, as others are, with good and bad attributes.

Last year, we were confronted with the radicalism on the right wing, the so-called "Republicans." Only one year later, we can say Republicans are a very small minority. Perhaps one of the best messages of the local elections in Bavaria yesterday is that they are very weak now. And they can't enter most of the parliaments. The last poll said one percent for the Republicans, and I think that is the success of democracy and, therefore, I think, it is a good message for Germany. But it is a good message for our friends.

And let us go always together.

THE ROCKY MOUNTAIN FOREST AND RANGE EXPERIMENT STATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. RICHARDSON. Mr. Speaker, I rise today to express my strong support for the vital work done by the Rocky Mountain Forest and Range Experiment Station.

The Rocky Mountain Forest and Range Experiment Station was established July 1, 1935, and included the States of Colorado, Wyoming—east of the Continental Divide—South Dakota, Nebraska and Kansas. They began by focusing on timber, range and watershed management.

Over the years, their work has grown to encompass nearly one-fourth of the Nation's land area—550 million acres in 10 States. Laboratories are located in three distinct geographic regions, each with contrasting research and management needs: the rugged mountains of the central and southern Rockies, the broad expanse of the Great Plains, and the deserts and forested plateaus of the Southwest.

Station scientists and cooperating colleges, universities and other agencies across the area, are seeking ways to improve the production of renewable resources, while protecting and enhancing environmental quality. Along with their cooperators, they are working to make the most efficient use of available skills and equipment, and solving a wide range of natural resource problems.

I believe the work being accomplished by the Rocky Mountain Forest and Range Experiment Station is vital to the continuing protection of our natural resources. I also believe that we should continue to be supportive of the station and to work with them in any way we can to ensure the longevity of our land and its resources.

I would like to take this opportunity to share with my colleagues the following statement made by Dr. Ed Wicker, the assistant director of the Rocky Mountain Forest and Range Experiment Station:

MANAGING CULTURAL RESOURCES

(Ed F. Wicker)

The material relics representing the cultures and land use of past civilizations are non-renewable resources that must be managed if they are to be available for the enjoyment and use of future generations. This resource base represents the major record of ancient mankind and linkage to present civilization. Understanding the history and prehistory of the nation depends to a large extent on our ability to interpret this record.

But reconstruction of the past is an inexact and time-consuming process. If we are to maintain the opportunity to improve understanding of our cultural past, it is imperative that we protect this resource from exploitation until scientists can evaluate and interpret its significance and value to reconstruction of the nation's heritage. One way to maintain this opportunity is through a positive, proactive cultural resources management program.

In the formative years of the Forest Service, the prevailing philosophy relating to cultural resources was one of preservation through protection. the Antiquities Act (1906) testifies to this position. Unfortunately, preservation through protection was perceived by most as synonymous with management. However, time proved this to be a false perception. As additional legislation dealing with cultural resources has evolved, we have seen a concurrent evolution of the philosophy to preservation of cultural resources through compliance with legislation. While progress is being made, we still have a way to go, and a concerned public is growing more impatient with Federal agencies entrusted with the responsibility to manage our heritage.

Although the concept of preservation still prevails, there are some current indications that the conservation concept is gaining momentum. Some of us believe that mere compliance with legislated mandates is inadequate to ensure conservation of our cultural resources for enjoyment and use by future generations. Thus, a positive, proactive concept is being advocated that will provide for the conservation of our cultural resources by integrating their management with other land use and resource management. The Forest Service is committed to this concept, but the knowledge, methodologies, and technologies for implementing the concept are not adequate.

To be successful in implementing this broader philosophy, some compromising is needed. Attitudes need to move more in the direction of conservation, and archeologists will need to assume a more active role in proactive management of these resources. Monitoring compliance to legislated mandates in itself is not sufficient.

Cultural resources are non-renewable resources of such value to warrant management. The Rocky Mountain Station is committed to this philosophy and support a strong, positive, proactive cultural resources management program. We perceive our role in this commitment as providing the information and technologies needed to implement and maintain a successful proactive management program. Also, we encourage natural resource management agencies to grasp the initiative for such protective management, and not be content with a reactive status.

TRIBUTE TO MRS. SELMA EULAU

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to Mrs. Selma Eulau, an esteemed constituent in my congressional district, who on the 13th day of February 1990, celebrated her 80th birthday, and who has rendered invaluable volunteer service throughout her life.

I commend Mrs. Eulau for her tireless and unselfish service, and for her sterling achievements, which should serve as a beacon of hope and inspiration to people everywhere.

Therefore, I wish to have entered into the RECORD the following resolution:

TRIBUTE TO HONOR MRS. SELMA EULAU ON THE OCCASION OF HER 80TH BIRTHDAY

(Resolution by Charles B. Rangel)

Whereas, Mrs. Selma Eulau is an esteemed constituent in my Congressional District in New York, who on February 13, 1990 celebrated her eightieth birthday;

Whereas, despite her length of years, Mrs. Eulau continues to actively serve in volunteer capacities throughout the community by visiting senior citizens housed in nursing homes, by working with the elderly who participate in activities at senior citizen centers, and by working at the Inwood YW-YMHA;

Whereas, Selma Eulau has been a lifelong volunteer in the Federation of Jewish Philanthropies of Greater New York;

Whereas, her volunteer activity represents the kind of tireless, unselfish and dedicated service that is needed in communities throughout this nation; and,

Whereas, her spirit of giving has so pervaded the fabric of her family and community that her service and achievements should not go without recognition: Now, therefore, be it

Resolved, That, to commemorate the eightieth birthday of and the outstanding service of Mrs. Selma Eulau, this resolution be entered into the Congressional Record.

THE BUSH ADMINISTRATION'S PLO COVERUP

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. GREEN. Mr. Speaker, as the following piece points out, "Refusal to criticize the PLO

has now become a cornerstone of Bush administration policy."

The State Department's refusal to hold the PLO accountable for its many acts of violence and inflammatory rhetoric is outrageous and clearly in violation of the terms established for the dialog the United States has entered into with the PLO. Such as approach greatly reduces incentives for the PLO to take meaningful steps toward a nonviolent resolution of the conflict, and erodes the development of trust and confidence which is essential to progress in the peace talks.

I commend the following piece from the Wall Street Journal to my colleagues, and I urge the administration to cease this senseless policy of blindly protecting the PLO from criticism or accountability.

Steven Emerson, formerly a senior editor for U.S. News and World Report, was awarded the Investigative Reports and Editors Award in 1988. Mr. Emerson specializes in national security and intelligence affairs, and is coauthor of the forthcoming book, "The Fall of Pan Am 103: Inside the Lockerbie Investigation."

[From the Wall Street Journal, Mar. 22, 1990]

THE BUSH ADMINISTRATION'S PLO COVER-UP

(By Steven Emerson)

A month ago, terrorists opened fire on a bus of Israeli tourists near Cario. Nine Israelis were machine-gunned to death. When the Palestine Liberation Organization issued a statement that appeared to justify the attack, the Egyptian government made its fury known to the PLO and the world media. And what was the official American reaction to the PLO statement? Nothing. Not a word.

Refusal to criticize the PLO has now become a cornerstone of Bush administration policy. The latest manifestation of this disposition to white-wash the Palestinian group is the report the State Department presented to Congress on Monday, as required by the PLO Commitments Compliance Act enacted last month.

In December 1988, Yasser Arafat told the world that he "renounced" terrorism and "recognized" the state of Israel. By uttering those magic words, Mr. Arafat immediately gained the recognition of the U.S. But Mr. Arafat has a long history of saying one thing and doing another. In fact, just one month before, Mr. Arafat had been denied a visa to the U.S. by the Reagan State Department because it found that, despite his claims that he had abandoned terror, he was directing terrorist acts through such front groups as Force 17 and the Hawari Organization.

CONDEMN TERROR

At the first meeting between U.S. and PLO representatives in December 1988, the Americans told the PLO—according to a list of "taking points" recently published by the Israeli government—that the dialogue would be broken off if the PLO resumed terrorism: "No American administration can sustain the dialogue if terrorism continues by the PLO or any of its factions." In addition, the U.S. required the PLO to "publicly disassociate" itself from "terrorism by any Palestinian groups operating anywhere." Finally, the U.S. said that it expected the PLO to condemm any terrorist act carried out by "any element of the PLO" and to expel that element from the PLO.

The Bush administration maintains that the PLO has met those conditions. Monday's State Department report says, "the PLO has adhered to its commitment undertaken in 1988 to renounce terrorism."

But what about the numerous terrorist attacks on Israel since December 1988? The State Department report reluctantly acknowledges that nine "border attacks"—the new diplomatic euphemism for terrorist attacks—against Israel have been-launched by "constituent groups of the PLO" over the past 14 months. Those incidents do not invalidate the report's conclusion, the report says, because "the intended target of the attack in which the report concedes that "civilians appeared to be the target." But the three attacks directed at civilians were, the report insists, neither authorized nor approved by Mr. Arafat or the PLO Executive Committee.

All of this is dangerously misleading or positively untrue. The State Department report omits any mention of the multiple terrorist attacks carried out by groups that sit on the PLO Executive Committee, including raids by Mr. Arafat's Fatah group. Constituent groups of the PLO have openly taken credit for more than 18 attempted terrorist attacks on Israel from Lebanon, Egypt, Jordan and the Mediterranean over the past 14 months. In the West Bank and Gaza, many Palestinians have been murdered at the explicit—and documented—direction of the PLO and Fatah.

As for the nine PLO that the State Department report does acknowledge, it is not true that there is no evidence about their targets. There is clear and compelling evidence that the intended target of each one of them was civilian.

To take just one example: On Jan. 26, three guerrillas armed with machine guns, grenades and explosives attempted to penetrate the northern Israeli border from Lebanon. Intercepted by Israeli soldiers, the squad was killed in a shootout. In the terrorists' possession, besides weapons, was a man revealing one—and only one—target: a kibbutz called Misgav Am. The group that claimed responsibility for the abortive Misgav Am attack—as well as five others that were equally unsuccessful—is the Democratic Front for the Liberation of Palestine, which sits on the PLO Executive Committee. One of the DFLP's senior officials, Yasser abd al-Rabbu, is the head of the PLO delegation to the U.S.-PLO dialogue in Tunis.

Confronted with this accumulation of evidence, State Department spokesman Adam Shub averred: "None of the cross-border attacks has succeeded, so we don't know what the targets would have been. Therefore we can't call them terrorist. We don't know what they were planning." The State Department dismisses the written evidence from the Misgav Am raid as "inconclusive." When offered transcripts of the confessions of captured terrorists by the Israeli government, the State Department said that the interrogations were not "reliable." When offered an opportunity to interview the captured guerrillas firsthand, the U.S. refused.

When the Bush administration finds itself unable to deny that an attack occurred, it blames some rogue Palestinian element, never the PLO itself. As Monday's report puts it, "We have no evidence in those cases or any others that the actions were authorized or approved by the PLO Executive Committee."

But this is to misunderstand how the PLO works. The PLO is an umbrella organization, and its central committees do not attempt to control the operations of its member groups. The issue is not, what does the PLO Executive Committee order or authorize; the issue is, are the groups that constitute the PLO complying with the commitment they collectively made to the U.S. in December 1988? As State Department spokesman Charles Redman said in March 1989, "If the PLO cannot or will not exercise such control, it raises questions concerning the commitment undertaken in the name of the PLO—indeed, questions about the PLO's ability to carry out its commitments."

The Bush administration is particularly at pains to avoid criticism of Mr. Arafat's own Fatah wing of the PLO. On Dec. 5, five guerrillas infiltrated the Israeli Negev from the Egyptian Sinai. They carried no identification and the labels in their clothes have been cut out—all they had were Kalashnikov rifles, explosives and 51 grenades. Israeli soldiers intercepted them.

Faced with incontestable documentation that the five were affiliated with Fatah, John Kelly, assistant secretary of state for Near East and South Asian Affairs argued before Congress three weeks ago that while "there may have been Fatah members involved," they were "operating without sanctions from their leadership." In private conversation, though, State Department officials have admitted Fatah sponsorship of the attack. It is highly unlikely that Mr. Arafat, a man who insists on approving the smallest actions of his Fatah organization, down to the purchase of its fax machines, could have been unaware of it. The attack is not mentioned in the State Department report.

The contortions the Bush administration goes through to protect the PLO can verge on the grotesque. Last August, a Palestinian fundamentalist from Gaza wrenched the steering wheel of an Israeli bus away from the driver. The bus plunged into a ravine; 15 Israelis and one American were killed. The terrorist act was captured on television, and within six hours of the incident, the Israeli government had provided a detailed accounting of the attack.

The usual unnamed State Department official termed the event "senseless" and "tragic"—but categorically refused to label it an act of terrorism.

WHY THE DELAY?

Only after two days had elapsed—and after a bitter Israeli protest that the Bush administration's failure to condemn the murder gave a "license to kill to every Palestinian individual or organization"—did the State Department see fit to label it a terrorist attack. Why the two day delay? A State Department spokesman said at the time that the U.S. had only belatedly acquired the necessary information. But in fact, according to a senior U.S. official, the real reason was that the Bush administration was afraid that the mass slaying had been a PLO operation. Only when PLO responsibility was ruled out did the administration feel free to call it a terrorist operation.

Last summer, the Israelis dispatched Yigal Carmon, the Israeli government's adviser on counter-terrorism, to Washington with proof—maps, documents, leaflets—that, despite the American "talking points," PLO groups had not ceased their terrorist raids. He also brought tapes of speeches in Arabic by Mr. Arafat in which he condoned terrorist attacks.

State Department officials at first refused to meet with Mr. Carmon, before finally agreeing to a perfunctory meeting. But the Bush administration apparently did not feel confident that others would find Mr. Carmon's documents quite so uninteresting—so he was instructed not to speak to Congress and the media.

On March 1, Secretary of State James Baker testified before Congress, ". . . we have not received or seen evidence of complicity or encouragement or acquiescence by [Mr. Arafat] of terrorist activity." If Mr. Baker has not seen the evidence, it is because he has ordered his underlings not to collect it.

UTILITY WORKERS UNION OF AMERICA, LOCAL 1-2, CELEBRATES ITS 50TH ANNIVERSARY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. MANTON. Mr. Speaker, on April 4, 1990, the Utility Workers Union of America, Local 1-2 of New York, will celebrate its 50th anniversary. The utility workers of local 1-2 have a long history of dedicated service in New York and play a vitally important role in the economic health of New York City. Every day, utility workers make certain the energy demands are met for New York's businesses, private residences, schools, hospitals, and transportation system.

Local 1-2 has fought tirelessly to improve health and pension benefits for its workers. Over the past 50 years, the union also has worked to strengthen safety standards in the utility industry. Despite this outstanding effort, utility workers continue to face many hazards on the job. Last summer, two dedicated utility workers, Joseph Malfatti and Steven Walsh, lost their lives after a mechanical failure caused a steam pipe to explode. A fire at the Hell Gate Powerplant in the Bronx this winter took the life of Luciano Seminerio. These deaths make it tragically clear that working in the utility industry will never be without risk. However, I know that local 1-2 will continue the fight to make certain safety standards and regulations provide the greatest possible protections for utility workers.

Mr. Speaker, I urge my colleagues to join me in congratulating the Utility Workers Union of America, Local 1-2 on 50 years of outstanding service in New York.

A TRIBUTE TO LT. RALPH H. FUSSNER

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. McEWEN. Mr. Speaker, as public servants, we have the frequent opportunity to meet and work with scores of dedicated individuals who play a critical role in the functions of the communities in our home States. They are our counterparts in State, local and city government who hold and faithfully execute the responsibilities for making, interpreting and enforcing the law at the local and statewide level.

Occasionally, among those many devoted State and local officials, we find an individual of such unusual distinction and accomplishment that his work requires special notice. That is my purpose in rising today.

It is with great pride and pleasure that I ask you to join me in recognizing Lt. Ralph H. Fussner (Ret.) upon his retirement from the Ohio State Highway Patrol. Upon becoming acquainted with Ralph Fussner's career, I am confident that our colleagues will be anxious to join the officers of the Ohio State Highway Patrol along with Lieutenant Fussner's family and friends in saluting his contributions to law enforcement, safety and to civic responsibility.

Lieutenant Fussner's 29-year career with the highway patrol began in August 1961 as a dispatcher at the Hamilton Post. In November 1961, he entered the patrol academy as a member of the 58th academy class, and graduated in July 1962. Following successful stints as a patrolman stationed in the Portsmouth and Georgetown posts, and was promoted to sergeant in the Hamilton post in 1968. Finally, his ascension through the ranks of the highway patrol culminated in his promotion to the rank of lieutenant on June 7, 1976, and his assuming leadership of the Xenia post. Lieutenant Fussner guided the Xenia post until his retirement on January 12, 1990.

But to fully understand and appreciate Ralph Fussner, one must look beyond his life on the job. While dutifully performing his job as a peace officer, Mr. Fussner has been an active member of the Full Gospel Business Administration. He has also served as president of the Greene County Law Enforcement Association. Ralph and his wife Marjorie have three children, including a son who has followed in his footsteps and is presently a member of the Dayton post of the highway patrol.

Ralph Fussner is one of those special people who, in addition to giving so much to their professional responsibilities, make generous use of their spare time to the added benefit of all our lives. It is difficult to place an exact value on the many contributions Ralph has made to life in Ohio, as a patrolman and as an involved citizen. It would be still harder to try to imagine what life in Ohio would have been like if we had never known Ralph Fussner. But Ohio has been fortunate, Mr. Speaker, very fortunate.

Mr. Speaker, the Ohio State Highway Patrol protects the lives and property of the citizens of Ohio every day. Through tireless effort and dedication to the duties of the highway patrol, Lieutenant Fussner earned the gratitude and respect of all whom he served. I urge my colleagues to join me today in commending Lt. Ralph Fussner for his years of honorable service as an exemplary member of the Ohio State Highway Patrol and, equally important, as a caring friend and neighbor.

Our best wishes should rightfully go to Ralph, Marjorie, and their family as they enjoy the fruits of a well-earned retirement. I know that Ralph will remain dedicated to his lifelong pursuit of an ideal: active and continuing good citizenship. It is an honor to have had Ralph's friendship for these many years. I know that his good health and faithful service will give him many years of joy ahead.

JEFF WICE: MAKING SENSE OF THE CENSUS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. SOLARZ. Mr. Speaker, yesterday, April 1, was census day. It was the day for all residents of the United States to stand up and be counted. It was the pivotal day in the most comprehensive and complicated census that our Nation has ever undertaken.

I am sure I do not have to remind my colleagues of the critical importance of a fair and accurate census. The 1990 census will determine the amount of representation each State will have in the House, and will also define the makeup of the State legislatures. The data generated by the census will greatly impact on the levels of Federal and State aid that will flow to our constitutents over the next decade.

Mr. Speaker, the census is a terribly complicated matter. But few individuals can make sense of the census like Jeffrey M. Wice, a Washington attorney who is recognized as one of the Nation's leading experts. I have known and worked with Jeff since the late 1970's when he began his tenure as the Washington representative of the New York State Assembly. Ten years ago, Jeff worked valiantly to try to prevent an undercount in New York, and this year, he is again taking a lead role in the fight to ensure a fair and accurate census.

I would like to commend to my colleagues the following profile of Jeff Wice that was written in the prestigious National Journal:

WATCHING FOR UNDERCOUNT IN 1990 NATIONAL CENSUS

(By Dick Kirschten)

April 1 is Census Day, and for most Americans, it is a wholly apolitical occasion that occurs but once every 10 years. For Washington Lawyer Jeffery M. Wice, nothing could be further from the case.

The 37-year-old Wice, who runs marathons for diversion, has been tracking the census process virtually full-time for the past dozen years. The reasons for his long-running preoccupation with the population count are purely politicial.

Wice has become something of a one-person repository of information about redistricting and reapportionment. Reporters frequently cite him as an "expert source" on court rulings and other legal intricacies that will guide next year's reallocation of political power and economic benefits.

Mostly, however, his expertise will be brought to bear on behalf of the Democratic Party. His two biggest clients are New York state's Democratic Assembly Speaker, Melvin H. Miller, and the Democratic State Legislative Leaders Association.

Wice, in an interview, said his employers share a "concern that a bad census will hurt Democrats because the populations that will be undercounted are urban and minority populations, and that is the basic strength of the Democratic Party."

At the Census Bureau, such statements rankle. A senior official who asked not to be named charged that Wice seems less interested in avoiding an undercount in 1990 than in publicizing the one that occurred in 1980. The official charged that New York City is doing less than other major cities, particularly Los Angeles, to help assure a complete count.

The official speculated that New York politicians want to discredit the census in hopes of staving off reapportionment for another 10 years, as happened following the 1920 census. New York has good reason not to welcome census results, having lost seven congressional seats since 1970 and facing an expected loss of three more next year.

But Marshall L. Turner Jr., the Census Bureau's liaison to state legislative leaders, said that Wice, whom he has known since 1978, is "well regarded on both sides of the political aisle as a legal technician" on districting matters. Turner added that during his 26 years with the bureau, he has never seen so much support from state officials, including New York's, in "trying to get a good count."

Wice, who averages one day a week in New York, worked with Assembly leaders to form a tax-exempt, not-for-profit corporation, New York Counts, that hopes to raise $100,000 for census promotion activities. In Albany, he has helped film public-service announcements about the census and has encouraged legislators to use their district offices as census community-assistance centers.

Such activities, Wice said, demonstrate that "as Democrats, we believe in a full and complete count." He says he believes, however, that undercounting inevitably will occur this year because of increases in homelessness and in non-English-speaking and immigrant populations. "It is not the bureau's fault that the fabric of America has changed so much since 1980," he said.

Wice has been immersed in politics since childhood. His father was Republican committeeman on Long Island. In high school, however, Wice became a follower of Robert F. Kennedy and has labored for Democratic causes and candidates ever since.

While attending Antioch Law School from 1978-82, Wice directed the New York Assembly's Washington office. In preparation for the 1980 census, the Assembly's Democratic leadership asked Wice "to find out what the census and redistricting are all about." At that point, he said, "the Democrats had never controlled the Assembly during a redistricting year."

Since his first visit to the Census Bureau's headquarters in 1978, Wice has concentrated on learning how to help legislative leaders and staff make use of census data and the various laws that affect the drawing of congressional and legislative district lines. His initial experience, when New York lost five House seats after the 1980 census, was a rough one. "I was the messenger who had to tell three [Democratic] Members they didn't have seats to go back to," Wice recalled.

Of all his political mentors, Wice cites the late Allard Lowenstein as the most special. A part of that legacy that motivates his current activity, he noted, is the recollection that Lowenstein "was gerrymandered out of his House seat in 1971 by Republican leaders in the Legislature."

Now affiliated with O'Connor & Hannan, a Minneapolis-based firm, Wice described his work "as a continuation of what Al Lowenstein believed in and worked for: civil rights and voter empowerment."

INTRODUCTION OF LEGISLATION TO REPEAL THE EMPLOYER SANCTIONS PROVISIONS OF THE IMMIGRATION REFORM AND CONTROL ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. RICHARDSON. Mr. Speaker, last Thursday the General Accounting Office released its third and final report on employer sanctions and the question of discrimination. Under the Immigration Reform and Control Act [IRCA], if the GAO reaches the conclusion that employer sanctions are causing a "widespread pattern of discrimination," expedited procedures are triggered to consider a joint resolution repealing these onerous provisions. I am today introducing a joint resolution to this very effect.

The GAO's conclusion is unambiguous; it states clearly that nearly 20 percent of employers are presently practicing discrimination against "foreign appearing" individuals seeking work. Furthermore, the GAO states "the discrimination GAO found is serous and requires the immediate attention of both Congress and the administration.

Mr. Speaker, despite my belief that employer sanctions would lead to discrimination, I supported the Immigration Reform and Control Act in 1986. However, my support was contingent on the understanding should the GAO find widespread discrimination, the employer sanctions provisions would be repealed. I believe a great many of my colleagues based their support on this same understanding.

I encourage the House to act on this measure quickly. To delay would only continue the injustice which has been suffered by thousands of U.S. citizens and legal residents who wish to work and build a better life. I look forward to working with all my colleagues and interested parties to assure the employer sanctions are repealed. The Congress should promote policy and legislation which removes barriers, not creates them. Let us work to remove this injustice, this barrier to opportunity.

IN SUPPORT OF H.R. 4328

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. DE LA GARZA. Mr. Speaker, I want to rise in support of H.R. 4328, a bill combining authorizations of appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal years 1991 and 1992. The package also contains miscellaneous customs and trade law provisions.

My foremost concern is the operation of the Customs Service. This is quite important to my area, the 15th District of south Texas.

The administration's request would have reduced Customs staffing positions and that is something I just do not feel we can allow to happen. I hear daily about the ever-increasing Customs workload and must say that if anything I feel more positions are needed. That is why I am happy to see that the Ways and Means Committee rejected the administration's request and authorized an increase of 694 positions over the existing appropriated level. I am also happy to see that the authorization provides for program increases requested by Customs in areas such as improvements in internal controls and money laundering enforcement, as well as increased inspectors along the southwest border.

There are many reasons this increased funding is significant, but I feel it is important to highlight that as we wage the war on drugs it is only with such funding as this that Customs will be able to effectively function.

In the years to come there is no question that the workload these agencies face will be more and more demanding. This exacting workload must be met. Our country's trade policy objectives must be met. The trade and customs laws of our Nation must be enforced. The budgets we are authorizing today will ensure that for the next 2 years they are.

CHERRY BLOSSOM PRINCESS AMY K. SULLIVAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Rhode Island's representative in this year's National Cherry Blossom Festival.

Amy K. Sullivan, of Narragansett, RI, has been selected as Rhode Island's princess for the 1990 Cherry Blossom Festival. She currently attends Georgetown University here in Washington, DC, majoring in economics.

Since 1927, our Nation has celebrated the planting of the cherry trees along the banks of the Potomac. The Cherry Blossom Festival has become a symbol of friendship and cooperation between the United States and Japan. The Festival has also become an annual occasion for celebrating the beginning of spring. The festival has grown into week-long series of events and ceremonies in the Washington area, including the celebrated Cherry Blossom Festival parade.

I would like to congratulate Amy for her selection as Rhode Island's cherry blossom princess. I wish her the very best during this year, especially during the Cherry Blossom Festival week.

CONEMAUGH VALLEY CHAPTER OF GOODWILL INDUSTRIES SALUTES VOLUNTEERS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. MURTHA. Mr. Speaker, I would like to take a moment to salute the Conemaugh Vallely Chaper of the Goodwill Industries and

Goodwill volunteers as Goodwill Week 1990 approaches.

Goodwill Week will take place this year from May 6–12. I hope that we will all take a moment that week to reflect upon the work that the Goodwill Industries and the Goodwill volunteers do year round for the people in our communities all across the country who are in desperate need of assistance. Goodwill volunteers are quietly finding food and clothing for families who are struggling to make ends meet. They are selflessly taking time out of their busy lives to help those in need, and as we reflect on the services these individuals are providing for our communities, I hope we can take the time to say thank you to them for their efforts.

I would like to say a special thank you to the individuals in the Johnstown, PA, community who make Goodwill Industries such an important organization for the people in our area who are in need of assistance. The Conemaugh Valley Chapter of Goodwill Industries will be saluting these volunteers who give so much of their time during Goodwill Week. I want to join in this salute to these special people, and wish them well in their continuing efforts to provide help to the Johnstown community.

SALUTE TO TAKOMA PARK, MD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mrs. MORELLA. Mr. Speaker, I rise today to salute the city of Takoma Park, MD. On Tuesday, April 3, 1990, Takoma Park celebrates the 100th anniversary of its incorporation as an independent municipality.

Takoma Park is a very special place. One of the oldest suburbs of Washington, DC, it was founded in 1883 by B.F. Gilbert, who served as the city's first mayor. Because of its architectural heritage—its Victorian and early 20th-century homes—one-third of the city is listed on the National Register of Historic Places.

Each spring, people from all over metropolitan Washington come to Takoma Park to see its magnificent azaleas in both public and private gardens. Many of the town's early residents were Department of Agriculture botanists who left an enduring tradition of beauty to the town.

First-time visitors to Takoma Park always notice the towering oaks, maples, elms, and other trees that line the city's streets and add grace and beauty to its homes. Several years ago, the city council, mindful of the aesthetic and environmental importance of the city's trees, passed an ordinance that prohibits the arbitrary cutting down of healthy trees.

Takoma Park's concern for the environment is also reflected in the city's successful recycling program. The first jurisdiction in Maryland to establish a mandatory recyling program for newspapers, aluminum, and glass, Takoma Park now serves as a national model for small cities.

At the heart of Takoma Park's uniqueness are its citizens who give the town its sense of community and its reputation as an energetic and progressive city. United by a common bond of concern for the special place in which they live, the people of Takoma Park are an enviable mixture of all ages, all nationalities and races, all religions, all income groups, all occupations, and all opinions.

I am proud to represent this historic, public-spirited city in the U.S. Congress.

TRIBUTE TO FIRE CHIEF LOUIS A. SHEA, JR.

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 2, 1990

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Fire Chief Louis A. Shea, Jr., on his retirement from the Fall River Fire Department after 42 years of dedicated service.

I first met Chief Shea through his son, Tim, who is a member of my Appropriations Committee staff. Chief Shea's reputation among the fire chiefs of Massachusetts is outstanding and well known. Throughout the Commonwealth, Chief Shea is recognized for his expertise in fire department management, his professionalism and his advocacy for first-class training programs and facilities. Because of this experience, Governor King appointed Chief Shea to the Massachusetts Fire Training Council, and he was reappointed by Governor Dukakis. He served on the council for 6 years.

The respect for Chief Shea extends to the professional firefighters association as well. The late and great Dusty Alward, president of the union always spoke very highly of the chief. Dusty recognized the evenhanded management, and he knew that all of the chief's tough decisions were based on the best interest of his men, the city, and the people of Fall River. This recognition is truly a testament to the fair and professional approach the chief took in managing the department.

Chief Shea began his long and distinguished career in the fire service 42 years ago, when on February 2, 1948, he joined his father as a member of the Fall River Fire Department. In fact, the Shea family had a tradition of fire service long before the chief joined the department. His grandfather, Michael Shea, joined the department in 1896 as a firefighter. In 1923 he was appointed a dispatcher and served in the same building that later would house his grandson's office as chief. Michael Shea served the city of Fall River for 42 years. Louis A. Shea, Sr., the chief's father, joined the department in 1920 and served 36 years. For 94 years, from 1896 to 1990, a Shea served on the Fall River Fire Department, providing a total of 120 years of accumulated service to the people of Fall River.

This family tradition of service was only exceeded by the chief's own distinguished career. After graduation from Coyle High School in 1942, he attended Providence College for a year, commuting each day from Fall River. During World War II, from 1943 through 1946, he served in the U.S. Navy, stationed at Bethesda Naval Hospital in Washington, DC. There the chief followed a lifelong interest in medicine. He returned to Providence College with an eye toward completing his degree and moving on to medical school. However, when he was a junior at P.C. the chief joined the fire department, working his way through school. Determined to get a college education, the chief often worked the all night shifts to earn the money he needed to attend classes during the day.

Chief Shea remained on the fire department after graduation, the first firefighter in the department's history to earn an advanced degree. He rose through the ranks, competing each time for the civil service positons. He was appointed lieutenant in 1957, captain in 1969 and district chief in 1971. In 1977, after achieving the highest score on the State administered examination, he was appointed fire chief, a position he held with distinction for 13 years.

During his tenure as the department's executive officer, Chief Shea reformed and expanded the city's emergency medical services, a project for which he was commended by the city council; he built two new fire stations and launched plans for a third; he formed an arson task force to combat a rash of arson-for-profit fires that plagued the city in the late 1970's and the early 1980's; he modernized the fleet of fire service equipment; he expanded the fire prevention and education program; he launched a regular inspection program for industries and public buildings; he fought some spectacular fires, including the internationally known Notre Dame Church fire, which threatened an entire residential neighborhood and the Kerr Mill fire, which destroyed businesses and threatened homes; and he witnessed several of his men killed in the line of duty, a tragedy for everyone, but affecting firemen hardest of all.

Chief Shea's administration was surely eventful and important for the department, but there's another aspect of the chief's leadership that is not easily quantified in specific events or statistics. The leadership quality that earned the respect of his fellow chiefs around the State and the union alike was best put in a recent editorial published in the Fall River Herald News. The paper said of the chief: "In the battle against major conflagrations, the very presence of the Chief was reassuring. A quiet, dignified man, he communicated his concern for the safety of fire victims, spectators, and his own men, who returned his confidence with steady heroism. They knew he would never ask them to endure any danger he had not experienced himself."

Mr. Speaker, it's this quiet leadership by example that earned Chief Shea his reputation for honesty, hard work, even handedness, fair play, and professionalism. At the end of this long and distinguished career, I salute the chief for his years of service and wish him the best in retirement. The city of Fall River and the State is at a loss with his retirement.

For the RECORD, Mr. Speaker, I will include several newspaper and magazine articles that highlight Chief Shea's service and career, and I am sure the House joins me in wishing him the very best:

CHIEF SHEA MADE OUR LIVES SAFER

On his 42nd anniversary—to the day—of being sworn in as a firefighter, Fire Chief

Louise A. Shea, Jr. will retire from the Fall River Fire Department Feb. 2.

For all the stress and high responsibility of his job. Chief Shea appears younger than his nearly 65 years. Throughout his 13 years as Chief, he has given an example to all public servants in the ideal use of authority—even-tempered, patient, yet clear, and consistent in purpose, and compassionate to the bereaved and the homeless.

He is proud to be a third-generation member of a family of Fall River firefighters. His grandfather, Michael Shea, joined the department in 1896; his father, Louis A. Shea Sr., in 1920. The combined service of the three men amounts to 94 years.

During his studies at Providence College, younger Louis Shea worked as firefighter on the night shift. He had thought of becoming a doctor, but, as destiny ordained, he chose a vocation that would call on all his life-saving skills.

In the battle against major conflagrations, the very presence of the Chief was reassuring. A quiet, dignified man, he communicated his concern for the safety of fire victims, spectators, and his own men, who returned his confidence with steady heroism. They knew he would never ask them to endure any danger he had not experienced himself.

The first member of the city department to hold a college degree, Chief Shea shared his humanistic view by educating the public in fire prevention. He launched a regular inspection program of industries and public buildings.

He was cited by the City Council for developing the department's emergency medical service. Back in 1973, District Chief Shea was placed in charge of the new ambulance service, which had been transferred to the Fire Department from the former Hussey Hospital. A nationally registered Emergency Medical Technician, he has also been an instructor in fire science and medical care.

After four decades of guarding the city's safety, Chief Shea has earned a more leisurely schedule. Wherever he goes, in Fall River or Maine, respect and warm affection will be with him.

FIRE SAFETY RULES FOR THE FUTURE

Retiring Fire Chief Louis A. Shea forecasts that Fire Departments of the future will face a more complex and dangerous society.

Strategy and equipment must protect firefighters from deadly fumes emitted by plastics and chemicals.

Emergency medical services must be top-notch. Soon, Fall River EMTs will have defibrillators to assist victims of cardiac arrest.

Since Proposition 2½, staffing has been reduced, yet tasks have expanded. Personnel must be in top physical condition, and develop new insights through continuing education.

New fire stations, like the proposed North End station, must be built to provide quick response to areas of growing population.

In addition, everyday citizens can help by observing fire prevention rules at home and at work. It's the best way of showing appreciation for those round-the-clock heroes, our firefighters.

FIRE CHIEF SHEA RETIRING FEB. 2

(By James N. Dunbar)

FALL RIVER.—When Fire Chief Louis A. Shea Jr. winds up a 42-year-career next month, it will end three generations of the Shea family to have served the city as firefighters.

Shea will leave the department Feb. 2, the 42nd anniversary to the day of his being sworn in as a firefighter in 1948.

It marks a tenure during which he structured a department with more services yet fewer members; built new stations and acquired new apparatus; increased fire prevention programs and mill inspections; and pressed for quicker response time.

It was also an era when new plastic goods and chemicals—and the deadly fumes they emit when ignited—demanded dramatic changes in firefighting equipment and strategy surpassing potential blazes in 90 old mill buildings citywide. Shea met those demands.

He faced some of the city's biggest fires including the Kerr Mill inferno. Also one of the saddest and most dangerous fires, the loss of Notre Dame de Lourdes Church. Shea "agonized" over potential loss of life in the latter as he made the tough decision to fall back and fight from Pleasant Street.

But except for fortune itself, Shea's leadership may never have happened.

He was eyeing medical school after graduating from Providence College's pre-med program in 1949. During his senior year he worked nights as a firefighter.

After all, his father, the late Louis A. Shea, Sr., had been a fire fighter, joining the department in 1920. So had his grandfather, Michael Shea. He joined the department in 1896 and was a dispatcher when the Pine Street fire alarm headquarters opened in 1923.

Shea, who will be 65 on April 27, in an interview Wednesday recalled his career; 13 years as chief; the changes; and what lies ahead.

"I want to retire on my anniversary date," the city native who resides with his wife Jean (Kowalski) Shea at 47 Greenlawn St. said. "I have no real retirement plans. But we've bought a house in Maine."

After graduation from Coyle High School in 1942, he did a year at PC; served in the U.S. Navy from 1943 to 1946; and was a junior at PC when appointed a firefighter in 1948. "a good friend, the late Tommy Loftus, worked all my day shifts for me so I could get my education."

Shea became the first member of the department with a college degree. "That has changed. Many of the men now have college degrees," he said.

But Shea didn't get into medical school. "Competition was very keen." So he stayed on the department. He served at several stations and rose thorugh the ranks. He was appointed lieutenant in 1957, captain in 1969 and district chief in 1971. He succeeded the late Fire Chief Thomas J. Moore in 1977.

Shea cited the "tremendous changes" since he began. "We have greater responsibility now, with emergency medical services. The environment we work in, with plastics and toxic wastes has changed too. It means more time inspecting industries—in prevention programs. More emphasis on that is forthcoming. I've enlarged the fire prevention bureau. That partly, I feel, is why we have less fire runs than ever before."

He added that: "In good economic times we have less fires. In poor times we encounter more arson. In the last few years the economy has been good and we have had much fewer big fires."

Shea remembers when most of the calls were for wood stoves, oil burners chimneys, and faulty space hearters. The later have been outlawed.

"Much or everything in use today has plastic in it. When it burns it gives off poisonous fumes. It takes a toll on firefighters. That's why we require every man to wear a mask (self contained breathing apparatus) at fires. We never wore them years ago. If one did, he was considered a sissy. We had macho people who had to be smokeaters. Well, it took its toll on them."

In 1973 Shea was given command of the emergency medical service. The former Hussey ambulance and its drivers were made part of the department.

"The program now is more sophisticated. The crews are highly trained in offering a variety of emergency medical service. The public has been very complimentary of our services," said Shea.

This year, the department will purchase defibrilators and train crews in giving vital first assistance to those suffering heart attacks. "It will save more lives with quick response and transport to medical facilities."

Service expansion is in place although the department has fewer members. "When Proposition 2½ came in the late 1970s, the department lost 37 men. We now maintain a complement of 255 men." They man eight pumpers and four ladder trucks, fire rescue and two medical rescue vehicles, and some back-up apparatus.

As a new chief in 1977, he was key to building a new Niagara fire station. Last year the new Flint Station was built. And shortly the bids will be out for a new station at the Fall River Airport to handle the population explosion in the city's North End. It will have a new, economical, combination ladder and pumper vehicle Shea has requested.

He has keyed on a program to rehabilitate fire apparatus rather than purchase new ones. "We had pumps overhauled and repainted and they came back like brand new. It gives the city another 10 to 15 years more service from them. The costs are approximately $40,000 per truck as compared to $150,000 for new trucks."

"The money amounts have changed too," said Shea. "The department now has a $9.5 million budget. When I started it was only $3.5 million. As a young firefighter I received $50 a week. The salaries now are close to $500 a week. It's only right. The responsibilities warrant the pay."

Among the unhappy memories are the Beauregard Apartments on Pleasant Street in 1983 when five occupants were killed. "It was horrible. That fire was set."

One of the good memories is work by the department in rescuing 14 people from a flaming apartment house on Blackstone Street after the two entrances were blocked by smoke and flames.

While there has been a minimal loss of life among his on-duty firefighters, Shea laments their deaths. He spoke of how Lieutenant Bernard died in a smoky fire when the officer's air supply ran out; Lt. Candeis dying when trapped in a fire on Middle Street. And "Red" Dube and John Kozior dead from heart attacks.

"It takes something out of you when you lose one of your people. One of the hardest things on the job is notifying the widow. I've had to do it several times and it never gets easier."

The changing face of the department shows a younger force than when Shea came on. "It's a much younger group generally than in years gone by," said Shea, who wears Badge Number 1, the senior of all the department's employees. "There were 103 of us who came on duty the same day. I'm the last one left."

FIRE CHIEF PREPARES TO RETIRE—SHEA REFLECTS ON LESSONS LEARNED IN 42 YEARS OF BATTLING BLAZES

(By Thomas Frank)

FALL RIVER.—The year was 1958. The place was a four-story rooming house engulfed in flames.

A tall, third-generation firefighter named Louis A. Shea Jr. ventured into the house to look for a man reported missing. Shea almost didn't come out.

He did two things firefighters would never do today: He failed to wear a mask (firefighters didn't have them) and he went in alone.

Shea couldn't find the man; then he couldn't find his way out. Smoke had almost filled the corridor and he wondered whether he would get out. He dropped to his stomach and began sliding along the floor, pounding at each door hoping it would lead to the stairway. Eventually he found it and escaped uninjured—but wiser.

"I broke the rules by going into a place like that alone," Shea said yesterday. "You should be with a partner."

Shea, chief of the Fall River Fire Department for 13 years, has many alarming and fond memories as he prepares to retire on Feb. 2, 42 years after he joined the department as a premedical student at Providence College.

State law would require Shea to retire by May, shortly after he turns 65, but Shea said he chose Feb. 2 because "it's the anniversary of my appointment. Just nostalgia, I guess."

A combination of nostalgia and fate got Shea into firefighting. His grandfather, Michael, became a city firefighter in 1896 and his father, Louis Sr., joined the department in 1920 and rose to the rank of fire-prevention inspector.

"Firefighting's in your blood," said Shea, who said he dislikes publicity and hopes to retire without a party or fanfare. In 1948, when he was a junior at PC, he joined the department, working the night shift. His grades were not good enough to get him into medical school, so Shea stayed with the Fire Department.

"I love being a firefighter," Shea said. "There's something—it's hard to explain—the adrenaline gets going and there's a lot of satisfaction doing a good job. There's a great challenge to putting out a fire."

Perhaps no challenge was greater than the massive Notre Dame Church fire in 1982, which destroyed or damaged 37 buildings, many of them homes. "The fire was raging out of control and got into heavily populated neighborhoods," Shea recalled. "I didn't know how we were going to stop it. You agonize over trying to save lives, so I decided to set up a defensive line on Pleasant Street. My biggest fear was whether people were going to get burned to death."

The fire was put out eventually, and no one was injured. But Shea attributes that to fate as well as skill: the fire began at 2 p.m. "If it was 2 a.m. I'm sure we would have had some fire deaths," Shea said.

In addition to the church blaze and two major mill fires, Shea has contended with changing responsibilities, such as mandatory inspections of mills and underground gasoline tanks, and a department that has been cut from 285 to 255 people by the restraints of Proposition 2½, which limits the taxes municipalities can collect.

"The environment is different," Shea said. "There are a great number of plastics and chemicals, which create more problems. There's greater peril to firefighters today than when everything was wood and paper."

But Shea also has seen the advent of smoke detectors in every apartment, which he calls "one of the best things we've ever had."

Shea will be the third senior department head the city has lost in recent months. Albert Mercier, administrator of the Department of Assessment, retired at the end of last year and Police Chief Ronald Andrade died in November.

Shea said his successor, who has not been appointed, will oversee a move toward greater fire prevention. Shea expects to see states require sprinkler systems in new homes and perhaps eventually in old homes.

Shea said he would have continued to work past age 65, but he is philosophical about his departure: "You get to a point when you have to let new people with new ideas come in."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 3, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 4

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1880, to revise title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates.
SR-253

Labor and Human Resources
Business meeting, to consider the nominations of Lynne Vincent Cheney, of Wyoming, to be Chairperson of the National Endowment for the Humanities, National Foundation on the Arts and the Humanities, and Glen L. Bower and Charles J. Chamberlain, both of Illinois, to be Members of the Railroad Retirement Board, and pending legislation.
SD-430

9:15 a.m.
Veterans' Affairs
To resume hearings on S. 1398 and S. 1332, bills to establish a Commission on the Future Structure of Veterans Health Care to make recommendations for the realignment or major mission change of certain medical facilities of the Department of Veterans Affairs.
SR-418

9:30 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on environmental programs.
SR-222

Armed Services
Manpower and Personnel Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on officer procurement programs and the management and operations at Military Service Academies.
SD-628

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, General Sales Manager, and Soil Conservation Service.
SD-138

Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

Banking, Housing, and Urban Affairs
To continue oversight hearings on modernizing the financial services industry.
SD-538

Foreign Relations
To hold hearings on the nominations of Nelson C. Ledsky, of Maryland, for the rank of Ambassador during his tenure of service as Special Cyprus Coordinator, Richard E. Bissell, of Virginia, to be an Assistant Administrator for Science and Technology, C. Anson Franklin, of Virginia, to be an Administrator for External Affairs, and Henrietta Hugentobler Holsman, of California, to be an Assistant Administrator for Private Enterprise, all of the Agency for International Development, and James Henry Michel, of Virginia, to be an Assistant Administrator for Latin America and the Caribbean, Agency for International Development, and to serve also as a Member of the Board of Directors of the Inter-American Foundation.
SD-419

1:30 p.m.
Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To hold hearings to review the July 1989 Summit Declaration on the Global Environment.
SD-419

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for energy and water development programs.
SD-192

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 626, to revise the Lanham Trademark Act to prohibit the importation or sale of goods manufactured outside the U.S. and bearing an identical trademark of goods manufactured within the U.S.
SD-226

Small Business
To resume hearings on the President's proposed budget request for fiscal year 1991 for the Small Business Administration.
SR-428A

2:30 p.m.
Judiciary
To hold hearings on the nominations of Joseph M. Hood, to be United States District Judge for the Eastern District of Kentucky, Raymond C. Clevenger, III, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit, Robert E. Jones, to be United States District Judge for the District of Oregon, and D. Brock Hornby, to be United States District Judge for the District of Maine.
SD-430

APRIL 5

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253

Energy and Natural Resources
To hold hearings on S. 324, to establish a national energy policy to reduce global warming and promote energy conservation and efficiency, and S. 2191, to revise the National Energy Conservation Policy Act to replace energy performance goals for Federal buildings.
SD-366

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on Navy and Marine posture.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Highway Traffic Safety Administration and the Research and Special Programs Administration.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Postal Service, and the National Archives.
SD-116

Banking, Housing, and Urban Affairs
To hold hearings on S. 2028, to revise the International Banking Act of 1978 and the Securities Exchange Act of 1934 to provide for fair trade in financial services.
SD-538

Finance
To hold hearings to examine the security of retirement annuities provided by insurance companies.
SD-215

Governmental Affairs
Business meeting, on the nomination of Richard G. Austin, of Illinois, to be Administrator of the General Services Administration, and S. 1742, to further the goals of the Paperwork Reduction Act (P.L. 96-511), and comprehensively strengthen agency responsibility and accountability of information resources management.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Foundation on the Arts and Humanities, focusing on the National Endowment for the Humanities.
SD-430

2:00 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Emergency Management Agency.
SD-192

Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense, and to prescribe military personnel levels for fiscal year 1991, focusing on chemical deterrent programs.
SR-222

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2117 and H.R. 2570, bills to designate certain lands as wilderness in the State of Arizona.
SD-366

Foreign Relations
To hold oversight hearings to review the state of the world's children.
SD-419

Judiciary
To hold hearings on the nominations of Lawrence M. McKenna, to be U.S. District Judge for the Southern District of New York, James F. McClure, Jr., to be U.S. District Judge for the Middle District of Pennsylvania, David H. Souter, of New Hampshire, to be U.S. Circuit Judge for the First Circuit, and Samuel A. Alito, Jr., of New Jersey, to be U.S. Circuit Judge for the Third Circuit.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1741, to revise the Federal Aviation Act of 1958 to increase competition among commercial air carriers at the Nation's major airports.
SR-253

APRIL 6

9:00 a.m.
Labor and Human Resources
To resume hearings to review the Bipartisan Commission Comprehensive Health Care (Pepper Commission) recommendations on universal health care issues.
SD-430

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the implementation of the Omnibus Taxpayer Bill of Rights (P.L. 100-647).
SD-215

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings on the quality of U.S. health promotion statistics.
SD-342

10:00 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Government Printing Office and the General Accounting Office.
SD-116

Banking, Housing, and Urban Affairs
To hold hearings on the General Accounting Office's final audit of the Federal Savings and Loan Insurance Corporation (FSLIC).
SD-538

APRIL 18

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the Vietnam Veterans of America, the Veterans of World War I, and the Non-Commissioned Officers Association.
SH-216

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the De-

partment of Housing and Urban Development.
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Park Service, Department of the Interior, and the National Gallery of Art.
S-128, Capitol

APRIL 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Small Business Administration, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak).
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on deficiency payment problems associated with barley.
SR-332

Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on S. 2205, to designate certain lands in the White Mountain National Forest, Maine as the Caribou-Speckled Mountain Wilderness, and as components of the National Wilderness Preservation System.
SR-485

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Eastern Europe.
SD-138

Commerce, Science, and Transportation
To hold hearings on the nomination of John K. Lauber, of Maryland, to be a Member of the National Transportation Safety Board.
SR-253

2:15 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Energy, focusing on atomic energy defense programs.
SD-116

APRIL 20

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Thomas L. Sansonetti, of Wyoming, to be Solicitor, Department of the Interior.
SD-366

APRIL 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on the cost of production.
SH-216

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192

Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgement process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the National Science Foundation and the upcoming scientific manpower crisis.
SR-253

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the jurisdiction between the Commodity Futures Trading Commission and the Securities Exchange Commission.
SR-332

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 370, to establish the American Heritage Trust to provide funding for the preservation of America's natural, historical, cultural, and outdoor recreational heritage.
SD-366

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

2:00 p.m.
Energy and Natural Resources
To resume oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

APRIL 27

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Foundation on the Arts and Humanities.
SD-430

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol
Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible employers on Indian reservations; to be followed by a business meeting to mark up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

MAY 7

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:15 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1848, to implement and provide financial assistance for a research and demonstration program for natural gas and coal cofiring technologies.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 9

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

MAY 10

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253
Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans Administration.
S-126, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony.
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on semi-conductors and the future of the U.S. electronics industry.
SR-253

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.
SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

CANCELLATIONS

APRIL 4

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

HOUSE OF REPRESENTATIVES—*Tuesday, April 3, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Open our eyes, O God, to see old problems with new vision. Encourage us to use the abilities You have given us, not only to work for good by doing what we have done before, but by lifting our sights to see the majesty of justice for every person, the beauty of respect and honor, and to know the joy of righteousness fulfilled. O God, may we never be content with what must be accomplished, but armed with Your free spirit, may we truly become the people You would have us be. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Nevada [Mrs. VUCANOVICH] please come forward and lead the House in the Pledge of Allegiance.

Mrs. VUCANOVICH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 268. Joint resolution to designate April 6, 1990, as "National Student-Athlete Day."

THE EVOLUTION OF REPUBLICAN TAX POLICY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in the first phase of the Reagan-Bush era, Republicans pushed tax cuts for the rich. We were told this would stimulate the economy, because the rich would spend wisely and create new jobs.

We see one of the returns this week when Donald Trump, a prime benefactor of these tax cuts, opens up the Taj Mahal, his billion-dollar casino. America needs new infrastructure and more money for education, not casinos.

Then Reagan-Bush entered another phase of tax policy. The borrow, borrow, spend, spend phase. The return for the economy? The biggest deficit in U.S. history and a bloated defense industry.

In the nineties, George Bush ushers in a new brand of Republican tax policy. He tells Governors and mayors: You tax, I'll spend.

But I am not surprised.

To George Bush, "lead" is a four-letter word.

CONGRATULATIONS TO UNIVERSITY OF NEVADA LAS VEGAS BASKETBALL TEAM, NCAA CHAMPIONS

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I rise today to commemorate UNLV's remarkable year on and off the basketball court. Rated as one of the up-and-coming universities in U.S. News & World Report, UNLV won the NCAA basketball championship last night.

The team overcame many obstacles this year. Greg Anthony broke his jaw earlier this year, crashing to the floor of the basketball court, but he continued to compete with a wired-shut jaw. His courage, character, and tenacity enabled him to take his game to a higher level, taking his teammates with him. Greg is as intelligent, selfless, and hard working in the office as he is on the basketball court. I know this because Greg interned in my office last summer.

Not everything has been coming up roses for UNLV this year. The basketball program has been criticized yet again for recruiting junior college players. You can choose to be a purist about basketball or a purist about people—to me the choice is simple.

In many ways, UNLV is the boys town of basketball, a school which recruits many who have been orphaned by society and makes them better basketball players, better students, and better people. It is to the credit of the program that they seek this opportunity. Clearly, the images of thugs have been replaced by images of hugs—hugs between boys who have become men through adversity and victory—who know a real love and affection for each other, their school and their State. God bless each one and God bless the State of Nevada.

YOU-DO ECONOMICS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, in 1980, then-candidate George Bush labeled candidate Reagan's economic strategy as "Voo-Doo Economics." Ten years later, in his own administration, President Bush has embraced "You-Do Economics".

The President, time after time, policy after policy, declares that there is a problem, that the Federal Government will find the solutions and that the States and localities will be responsible for funding them.

The most recent example of "You-Do Economics" is the President's newly announced transportation policy.

The President is quick to admit that our Nation's infrastructure is in disrepair. He doesn't refute that 62 percent of paved roads in the country are in need of repair, that over 240,000 of our bridges need work, or that our airports are dangerously overcrowded and that they will get worse.

The President's response, as outlined in his new initiative "moving America," is to reduce the Federal Government's financial contribution and move the burden of responsibility to the States and local governments.

For example, the President advocates that the States and municipalities raise gasoline taxes and increase fees on toll roads to meet the shortfall of Federal contributions.

To paraphrase the famous songwriter, Cole Porter, the President is telling the States: "You Do the Voo-Doo That I Won't Do."

LEGISLATION TO INCREASE EXPORT OF AGRICULTURAL PRODUCTS AND REVITALIZE GREAT LAKES MARITIME TRADE

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, today I am introducing legislation to increase the exports of agricultural products and revitalize the Great Lakes ports and maritime trade.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Presently, because of the cargo preference regulations, Wisconsin agricultural produce used in the Food for Peace Program is shipped at taxpayers' expense by rail to ports in Texas and along the gulf coast. In my opinion, there is something fundamentally wrong with a policy that requires Wisconsin produce to be shipped over 1,000 miles at great expense to be loaded on ships in the gulf coast when that could be done in Green Bay at substantial savings.

The solution which I am proposing as legislation would be to allow more cargo to be shipped out of Green Bay and the other Great Lakes ports on whatever vessels are available. This would save the taxpayers money, keep jobs in Green Bay, help northeast Wisconsin farmers export to foreign markets, and help the Great Lakes ports.

If it is grown in northeast Wisconsin, it ought to be shipped out of northeast Wisconsin ports. I ask all of my colleagues to review this legislation.

BUSH TAX POLICY TOWARD STATES: READ MY LIPS, YOU RAISE TAXES

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, Illinois Gov. James Thompson, a member of the President's own party, summed up George Bush's tax policy toward the States quite well. Thompson calls it a "read my lips, you raise taxes" policy, and his feelings are shared by Governors and mayors across the country.

For example, the administration's long-awaited transportation and infrastructure plan puts almost all the onus of rebuilding our crumbling roads on the States, even while the administration uses the billion dollar Federal transportation surplus to mask the deficit. It's no wonder Oregon Gov. Neil Goldschmidt, a former Transportation Secretary, says Bush's policy is "lip service, not road service."

When the Nation's Governors met with the so-called education President in February, Mr. Bush was full of lofty goals, but even as they implored him, he refused to help the States improve our failing public education system. He prefers that everyone else, mayors, Governors, city councils, do the work. He just wants the credit.

Mr. Speaker, the situation has gotten so bad, the States feel so betrayed, that the minority leader of the House in my home State of Florida, Dale Patchett, a Republican, has threatened to withhold transmitting Federal tax collections for transportation and other services until the President does his fair share.

The States and localities are getting sick of taking the heat for George Bush's tax deception. It's time the President read their lips.

CONGRATULATIONS TO PAT MAHEUX ON RETIREMENT FROM HOUSE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, we in the House of Representatives are about to lose through retirement the services of a devoted, conscientious employee whose work has contributed greatly to the efficient operation of this institution. Her name is Pat Maheux, a bill clerk. She has served the House of Representatives for more than 30 years.

Pat was born in Johnstown, PA, and she moved to the Greater Washington area at the age of 8, and I must say I am honored to represent her as my constituent in Wheaton, MD.

Pat met her husband Rowland at a World Series in 1956, and next month she is going to be celebrating with him their 34th anniversary. They have five children and one grandson.

She began her service on Capitol Hill as a member of the staff of a Representative from Pennsylvania in February 1951. She has during her career served a number of Members of Congress, and on various committees. She has been a journal clerk and a bill clerk.

As an active member also of the Congressional Secretaries Club, the predecessor of the Congressional Staff Club, Pat gained prominence for her able performances, demonstrating her acting and dancing talent in the annual musical shows. Appearing with Pat in those shows was another prominent talent and Capitol Hill staffer of those days, the current distinguished minority leader of the House of Representatives, BOB MICHEL.

□ 1210

Pat is known by her colleagues as having a delightfully quick and dry wit which really has been the saving grace for many of us.

As a faithful and dedicated employee of the House of Representatives, she has unfailingly continued to give that same time and energy to the care of her family, her home, to her friends as well as to her church.

So I say for all of us in the House of Representatives, congratulations and thank you, Pat Maheux, and as Thoreau once said to Emerson, "I meet you at the beginning of a new adventure." May you enjoy it.

AMERICAN FARMERS THRIVE ON LESS GOVERNMENT INVOLVEMENT, NOT MORE

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, recent action by subcommittees of the House Agriculture Committee should concern farm State members.

Both target prices and loan rates are proposed to be increased. While this seems like a laudable action that is designed to assist the farmer, they may, in fact, wind up hurting American agriculture rather than helping it.

The 1985 farm bill is working. Farmer income is up. Stocks are down. American exports of farm goods have increased significantly. Why would we want to reverse the gains we have struggled so hard to achieve by making our farmers less competitive?

Mr. Speaker, loan rates have decreased dramatically since 1985. Increasing them over the next 5 years by the proposed 7 to 30 cents would cost an estimated $1.1 billion and would make U.S. commodity prices less competitive internationally.

While I strongly agree that a vibrant agricultural sector is the key to a strong U.S. economy, I urge the Members to carefully consider the results of such proposals. American farmers thrive on less Government involvement, not more.

ROBERT HARRIS SHOULD DIE LIKE A MAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1978, Robert Alton Harris went on a spree. He terrorized and killed two young men.

He stopped the car of the first victim, he said, "Die like a man," and shot him in the head.

The second victim, a young boy, fled from the car. He ran through the woods. Harris caught him, and the young man, according to reports now filed, cried, "God, God, please help me." And Harris replied, "God can't help you now. You are going to die." And he shot him in the head, ladies and gentlemen.

Today the Supreme Court said that Mr. Harris is to get a reprieve, he is to get a break, he needs more tests.

What is unusual about this case is after he killed those two boys, he ate the hamburgers they left in the car and he took the car and robbed a bank in San Diego. Little did they know one of the arresting officers at the bank was the father of the boy who had pled for God's help in the woods.

Now is the time for Congress to act. It is time to protect innocent citizens and take care of the rights of victims.

We are overboard with the rights of these killers.

I say today this is not due process, this is undue madness in America. Congress should have Mr. Harris learn how to die and die like a man.

SANDINISTAS NOT READY TO GIVE UP ALL POWER AND PERKS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the Sandinistas do not appear to be quite ready to give up all the power and perks they have enjoyed over the past 11 years. They fought their revolution, they say, to get rid of Somoza, his corruption and the lavish life-style he and his supporters enjoyed.

The Sandinista rulers, during their years in power, seemed to be as interested in luxury and privilege as the Somozas they threw out. Who can forget Daniel Ortega's $3,000 for designer eyeglasses. Then, there are the cars and houses confiscated for the personal use and enjoyment of the Sandinista hierarchy.

Now, there is the legislation submitted by Daniel Ortega and passed by the Sandinista dominated assembly giving immunity to high-ranking Sandinista officials for any actions they may have taken during their rule.

An added little benefit thrown into the pot with this legislation, at Ortega's request, was approval of a pension for life for the President and Vice President equivalent to the salary these officials received while still in office.

Ah yes, the sacrifices Marxist revolutionaries must make to improve the life of the common people.

TIME FOR A VOTE IN PUERTO RICO

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, Congress should set a date for a plebiscite to enable the people of Puerto Rico to vote either for statehood, enhanced commonwealth status or independence.

Puerto Rico has a strong economy and 3½ million people. Puerto Ricans have fought in all our wars since World War I. While Puerto Ricans can elect local officials they can't vote for President. They have no U.S. Senators and one Resident Commissioner in the House. They lack other rights and privileges of full citizenship.

The biggest reason for Puerto Rico's strong economy is that U.S. industries there pay no Federal income tax. This exemption will not go on forever. If and when it is removed this would cause a substantial economic setback.

Another problem—if Puerto Rico should become a State, Social Security and other benefits would rise to the same level as on the mainland. This would be a major cost to the U.S. Treasury.

As it is now, the people of Puerto Rico, representing the three different viewpoints, tend to block each other at every turn.

After three hearings there last month and realizing the intensity of the people's feelings I feel Congress should set clear conditions and a date for a plebiscite next year. The people of Puerto Rico need to make a decision and move ahead together into the future.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATION TO THE LOW-INCOME ENERGY ASSISTANCE PROGRAM

(Ms. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SNOWE. Mr. Speaker, I rise today to support H.R. 4404 because it provides a $50 million dire emergency supplemental appropriation to the Low-Income Home Energy Assistance Program [LIHEAP]. I would like to express my thanks to the members of the Appropriations Committee for their efforts to correct the serious shortage of funding for this vital program.

The State of Maine was particularly affected by this winter's severe weather and high oil prices. Not only did the State suffer the coldest December on record, but Mainers were also faced with oil prices that increased an average of 80 percent in the span of 1 month.

The high cost of home heat is felt most seriously by those with low-and fixed-incomes. I was very concerned about ensuring the continued availability of funds to allow the State of Maine to help low-income families with energy assistance money. That is why I introduced H.R. 3870, which would provide a $200 million supplemental appropriation to LIHEAP. While I support the supplemental funding for LIHEAP in H.R. 4404, I believe that the funding level contained in my bill may still be needed.

Maine's Home Energy Assistance Program and the Community Action Agencies that distribute energy assistance funds have been faced with an unprecedented increase in applicants. Overall, 1,900 more applications for energy assistance had been received at the end of December than at the same time a year previous. Indeed, as of February, over 51,000 families had applied for energy assistance funds.

In order to stretch their Federal funding, Maine's Community Service Office was forced to reduce the average level of benefit assistance from $293 to $246. The lower assistance level combined with the abnormally high oil prices meant that recipients received substantially less heating oil this winter.

These demands depleted Maine's Federal low-income energy assistance grants and caused the State to seek emergency funding to keep the program funded through the remainder of the winter. Federal funding for LIHEAP, which for the State of Maine has been cut by $8 million over the last 4 years, is still desperately needed.

That is why I was encouraged by the Office of Management and Budget's announcement on February 13, 1990, that they would release $1.789 million in reserve LIHEAP funds for the State of Maine. I had written to the Department of Health and Human Services and the Office of Management and Budget requesting that all additional LIHEAP funds owed to the State of Maine be released early. I am pleased that these funds are now available to the State, but more assistance may still be required. This dire emergency supplemental helps to address this need.

Mr. Speaker, it may be springtime in Washington, but the State of Maine is still experiencing winter weather. The supplemental assistance provided by H.R. 4404 for LIHEAP is needed by the State of Maine and many other States that face similar circumstances. I urge my colleagues to support H.R. 4404.

□ 1220

EARTHTECH 90

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, if you like a fair, come to Earthtech 90, which opens tomorrow.

Earthtech 90 is designed as an opportunity to explore new technologies for environmentally sustainable economic development. "Sustainable" development means meeting society's present needs without compromising the ability of future generations to meet their own needs.

The Earthtech 90 program is composed of two events. The technology fair opens tomorrow and runs through April 8 on the Mall. The international forum will be held April 5 and 6 in 216 Hart.

Earthtech 90 is sponsored by the Environmental and Energy Study Insti-

tute in cooperation with the Environmental and Energy Study Conference.

I particulary point to three of the exhibits at the technology fair. The American Electric Power and Department of Energy exhibits will feature clean coal technologies. A National Coal Association exhibit will examine the environmental compatibility of coal production and land use. It also will look at the reclamation and wetlands development of mining sites through technological advances and innovations.

Another hundred or so exhibits await us on the Mall. I encourage colleagues to join me at the fair.0

BUDGET TRUTH

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, the Congress has, frankly, done an awful job fulfilling its responsibility to balance the budget and properly handle the Nation's finances.

Congress seems to treat the budget kind of like the weather—talk about it a lot but do very little.

Somehow Congress has developed the ability to wring hands about the deficit 1 minute, then pass a $30 billion child care package the next minute—and try to ignore the fact that the two are related.

Congress needs to do more than whine about the national debt.

I suggest that we begin by arranging the budget in such a way that it is exposed to the light of day—so that we, as well as everybody else who is interested, can see what is really going on. Let's get the hay down where the calves can get at it.

Senator SANFORD of North Carolina has a good idea. Divide the budget—at least for thoughtful consideration and analysis—into three sections:

First, trust funds: Keep that money where it belongs.

Second, debt service: Spotlight the debt cost.

Third, operating budget.

After having laid out the numbers so we can see them clearly, we should measure the deficit by the increase in the national debt rather than by some contrived number that shields us and our constituents from the real, tough truth.

This system won't automatically give some the will to solve the problem responsibly, but it will give us the basis to begin.

UNLV RUNNIN' REBELS WIN NCAA CHAMPIONSHIP

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, I rise today to honor the University of Nevada, Las Vegas Runnin' Rebels basketball team. Last night the UNLV Runnin' Rebels defeated the Duke Blue Devils to capture the 1990 NCAA Men's Division I Basketball Championship.

UNLV began the 1989-90 basketball season ranked No. 1 in most of the country's preseason polls. After amassing an amazing 35 to 5 record over the course of the season, and after a convincing 103 to 73 victory in the championship game, there is no doubt that UNLV is the best collegiate basketball team in the country.

Mr. Speaker, as an alumnus of UNLV, I am well aware of the excitement surrounding the Runnin' Rebels basketball program. I am especially happy for the UNLV student body, who has so faithfully supported their team throughout the season. I am also happy for the citizens of Las Vegas, who in my opinion are the most devoted fans in the entire country. Most of all, though, I am happy for the Runnin' Rebels themselves.

Coach Jerry Tarkanian and his talented group of young men have proven that they are true champions. Coach Tarkanian, the winningest active coach in the NCAA basketball program, has finally captured the national championship that has so long eluded him. I congratulate him and his assistants for the excellent job they have done this year.

UNLV's starting five have shown throughout the course of the season that they can play with the best of the best. David Butler, Larry Johnson, Stacey Augmon, Anderson Hunt, and Greg Anthony have proven that they not only are talented players, but that they also have the chemistry needed to win a national championship. Similarly, Moses Scurry, Barry Young, James Jones, Stacey Cvijanovich, Travis Bice, Chris Jeter, David Rice, and Brian Emerzian have shown the depth and talent of the UNLV bench.

The Runnin' Rebels have risen above the onslaught of negative stereotypes and bad press they received throughout the season by the national media. They have shown the entire Nation that they deserve the respect afforded to past champions.

Mr. Speaker, I think UNLV star forward Larry Johnson said it best after last night's victory. He said, "You can call us bad. You can call us thugs. You can call us hoodlums. But at the end of that, please, call us national champions."

DON'T LEVY THE SOURCE TAX

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to bring to Members' attention an especially insidious little levy called the source tax.

A source tax is a levy imposed on income earned within a State. After a person moves and changes residence to another State, they are still required to pay this tax. It is unfair that these people are being taxed by States where they receive no benefits, and they cannot vote. Retirees who had their income taxed the first time around while they earned it, should not be taxed a second time around.

I urge Members to cosponsor legislation introduced by my distinguished colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH]. Her bill, H.R. 1227, will prohibit States from taxing the pensions of out-of-State residents. This measure would no longer allow States to impose an income tax on pensions that retirees earn before moving to another State.

Mr. Speaker, we fought a revolution in this country over taxation without representation, and these people should not be taxed by States where they receive no benefits and cannot vote.

IN MEMORY OF MARYLAND STATE POLICE CPL. THEODORE WOLF

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, Anne Arundel County and the State of Maryland suffered a tragedy last Thursday with the death of Maryland State Police Cpl. Theodore Wolf. Corporal Wolf was gunned down early in the morning by a unknown assailant while conducting a routine traffic stop on Interstate 95 between Baltimore and Washington.

I cannot begin to express the grief that our community feels for the loss of Corporal Wolf, nor can I adequately recount his distinguished record. During his career he was recognized many times for his exceptional dedication to law enforcement. He was nominated for the Governor's Commendation for Law Enforcement in 1977 and for State Trooper of the Year in 1978. Just this past year Corporal Wolf was responsible for capturing two dangerous suspects in an abduction case after a high-speed chase, and saved the life of an Ellicott City man who had fractured his skull in a local park.

His dedication was an inspiration to all law enforcement officers; his loss is tragedy for us all. I know my colleagues will join me in offering condolences to the family and friends of Cpl. Theodore Wolf, and I hope they know that they are not alone during this difficult time.

HUSSEIN THREATENS USE OF POISONOUS GAS

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, 50 years ago Adolf Hitler threatened to use poison gas to kill millions of children, women, and men, and the world did not believe him. But he did just that.

Today, the dictator of Iraq, Saddam Hussein, is doing the same thing. He is publicly threatening to kill millions of innocent children, women, and men, and the world does not believe it. He might well do what he has threatened.

This dictator's record is clear. He used poison gas on his own Kurdish children. Newsweek showed colored photographs of children's and women's bodies piled high, killed with Saddam Hussein's poison gas.

□ 1230

The Department of State has called his outrageous statement inflammatory, irresponsible, and outrageous, and I agree. I would like to see the other Arab States denounce this bloodthirsty dictator. I would like to see our European allies and Japan do so, and I would like to see economic sanctions applied to this outlaw dictator.

Mr. Speaker, today I am introducing a resolution to this effect, and I ask my colleagues to join me in sponsoring it.

THE IRAQI THREAT AGAINST ISRAEL

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I did not know my good friend, the gentleman from California, Mr. TOM LANTOS, was going to speak on the same subject this morning that I intended to address myself. I have today's front page of one of our Washington newspapers talking about this Iraqi leader's threat to destroy half of the little State of Israel.

He talks about killing with poison gas, which is a war crime and has been since 1925. With poison gas, he would kill a 1½ to 2 million people. He comes right out and says my country has been lying to the world for 3 or 4 years.

I watched Ted Koppel's fascinating hour-long report on the revolution in Romania, and it appears that the same Communist are in control of the whole apparatus of the secret secretariat, and that all the people who died in that revolution may have shed their blood in vain.

Friday's paper talks about a concentration camp in Bulgaria that existed for 25 years under the leader that has only recently been deposed. To save ammunition, they bludgeoned those prisoners that they had not worked to death. They bludgeoned them to death, put their bodies in bags, and fed those bodies to pigs. This is a dangerous world we live in.

Mr. Speaker, I want to say to the gentleman from California that I want to get on his resolution, but I would also beg all my colleagues in the House to stop this euphoria and this talk of a peace dividend and chopping our defense budget to pieces. A strategic defense can put a shield over Israel, if not this year, sometime in the future, to save 2 million innocent women and children from a mad dog like this Hussein in Iraq.

PROPOSED SANCTIONS AGAINST CERTAIN SUPPLIERS TO IRAQ

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, yes, the President of Iraq yesterday threatened to use chemical weapons to wipe out half of Israel's population, half of all the men, women, and children in Israel.

What a cowardly, sadistic, and mind boggling threat that it. The worst part of it is that President Hussein may have the ability to carry it out, and he has been aided and abetted by many Western companies which sold him the goods to build these poison factories. Too many companies here, in Asia, and in Europe feel free to traffic in deadly weapons to outlaw nations, and the time is long overdue for our country to say that we will not allow any foreign companies to trade in America if they are going to sell these kinds of deadly poison weapons to Iraq. The time has come to tell our American companies that they can have no contracts with the Government if they are to sell Iraq the kind of poison gas they have.

Saddam Hussein is a bully. Like all bullies, unless confronted, he will not back down. It is up to the whole world not to stand by and look the other way but to call this man what he is and stop their complicity with his animalistic outrage.

A SLOWER APPROACH TO BASE CLOSING

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, today the House has before it the supplemental appropriations bill, which spares the military construction funds which are aimed at bases that are on the preliminary closure list of the Secretary of Defense. I also understand that the Appropriations Committee—and I salute them for doing this—has also withstood the pressure to cut back on funds in the category of operations and maintenance.

I happen to have a naval ordnance station, located in my district, on that list.

I realize that we have a changing world environment in which there will necessarily be cuts in military spending and closures here and abroad in our military bases, but those closures ought to come after, first of all, a national defense policy review, as well as the installation of a rational, coherent objective process for yielding those bases.

I do not think we have that process now, Mr. Speaker. I, therefore, salute the committee on having taken a very hard road, but the right road, and not to cut that money off before the list is made final following some due process of law.

LEGISLATION PENDING TO PROVIDE FINANCIAL ASSISTANCE FOR AFFORDABLE HOUSING

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise today in support of H.R. 4073.

I often say to people that we in Congress can enact the laws and regulations but that we must have the ideas. In the case of H.R. 4073 the idea has come from a union in my district in Massachusetts.

In December 1988, Local 26, the Hotel and Restaurant Workers Union of Boston, became the first union in the Nation to win an employer contributed housing benefit. What this bill will do is merely allow housing to be part of labor-management talks, and allow for the establishment and administration of a trust fund to provide financial assistance for employee housing. In a country where affordable housing has become something of an oxymoron this bill provides the kind of innovative and sensitive thinking that is required to address this very serious deficiency.

The entire membership of local 26, under the leadership of their president, Domenic Bozzotto, should be saluted for all of their fine efforts that will benefit not just their members but people all across the country for whom affordable housing or homeownership had become the impossible dream.

I would also like to thank my friend BILL CLAY, who introduced the measure and guided it through the Education and Labor Subcommittee, on Labor-Management Relations. His leadership was certainly crucial. In the same way, I would like to acknowledge

the fine work of the ranking minority member of that subcommittee, MARGE ROUKEMA. Mrs. ROUKEMA, had some genuine concerns about the measure, but once those concerns were addressed, she threw her support behind the bill and was extremely helpful in letting us discuss this today on the floor.

The lack of affordable housing is acute in my district and in the Commonwealth of Massachusetts. In fact, the entire Massachusetts delegation has recognized the need and is in support of this bill. This is by no means, though, only a regional concern. The crunch is being felt from coast to coast and the status quo will simply not meet the needs. H.R. 4073 provides a new model that can be applied in any city in any State in our country. I urge my colleagues to encourage this kind of a fresh approach to a very serious problem and vote in favor of H.R. 4073.

FORT DOUGLAS

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, since the time Fort Douglas was slated for closure by the Commission on Base Realignments and Closures, the entire Utah delegation has groped for a formula which preserves both the spirit of the base closures legislation and the interests of the greater Salt Lake community.

Today I rise to introduce a bill which strikes an equitable balance. It is a product of community consensus which will transfer 55 acres from the fort to the University of Utah, and at the same time, achieve savings for the Federal Government.

I would like to commend my colleagues from Utah for helping to forge a bipartisan solution to this problem of special concern in my district. In particular, I thank the senior Senator from Utah, JAKE GARN, for his outstanding leadership.

This bill conveys all but 64 acres of Fort Douglas to the only logical recipient, the University of Utah. The 96th U.S. Arcom will continue to conduct its Reserve activities with adequate land, the historical integrity of the fort will be scrupulously maintained, and the university will gain an exciting opportunity to create a residential campus and extend the research park.

In exchange for the land, the university will relinquish its legal option to 4,198 acres, the value of which is conservatively estimated at over $12.6 million. This is a good deal for Utah and a great deal for the Federal Government. I strongly urge your support.

IN RECOGNITION OF EARTHTECH 90

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I am pleased to salute the Earthtech 90 effort which has given us this opportunity to explore promising new technologies, no matter how large or small, which support economic development in an environmentally sensitive manner.

Mr. Speaker, in central Louisiana, 20 homeowners building upon an idea formulated by NASA scientists during extended space flights, undertook a unique project following the failure of their conventional septic tanks and drain fields. The project involves constructed wetlands, scaled down to fit the needs of individual homes.

These so-called wetlands consist of a three-compartment septic tank followed by a 210-square foot exposed rock filter covered with wetland vegetation such as cattails, canna and calla lilies, bulrushes, and elephant ears. To the casual observer, the installation looks like a flower bed bordered by attractive wood timbers.

There are no unpleasant odors, and discharges from the systems meet secondary treatment standards and generally go directly into a drainage canal.

Projects such as this demonstrate that it is possible to respond to today's needs in ways which minimize harm to the environment.

Again I salute Earthtech 90 for giving us the opportunity to expose them.

□ 1240

DO THE RIGHT THING

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, we must not allow the tax increases in the administration's 1991 budget to continue to be masqueraded behind "no new taxes" rhetoric. The truth must be known, that the new taxes are, in fact, being hidden behind user fees, excise taxes, and, once again, the burden is borne by State and local government, as well as those who represent the lower segments of this society. Most of the State and local governments are already overburdened, and increasingly we find regression as it relates to trying to move from the bottom those persons who are at the bottom of the socioeconomic level.

Furthermore, Mr. Speaker, the administration's great revenue raiser has just been found by CRS to be yet another charade, as a study reveals that a cut in the capital gains rate, a traditional break for the rich, will lose $11.4 billion over the next 4 years rather than raise $12.5 billion by the administration.

I call upon the administration to do the right thing for the poor of America, as well as for the rich.

NOT THE RIGHT THING

(Mr. BLAZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAZ. Mr. Speaker, in just a few minutes the supplemental appropriations bill is going to be considered, and I am here to make a point on behalf of the Territory of Guam.

Mr. Speaker, there is a proposal there under the category "outside the United States" to reduce military construction in the American Territory of Guam. Eighty-six percent of military construction of the Air Force is being taken out of Guam.

Mr. Speaker, it is not the right thing to do, and, my colleagues, we talk about fallback positions. We talk about the problems with the Philippines. We talk about the continuing problems with Japan now with Okinawa and in Korea. The President, the Speaker of this House, the Secretary of Defense, all the service secretaries, speak of Guam. There is always Guam.

Now, Mr. Speaker, we are talking about taking away all the things that we need to prepare Guam, and I say to my colleagues, "Please give it a thought. Give it a thought because, by removing that, you're essentially destroying the construction industry of Guam, and then you're going to come back and say that we're going to move in again."

Mr. Speaker, Guam deserves better. If we are taking the money to give it to Mrs. Chamorro, Violeta Chamorro is one person. My people on Guam, 120,000 of us, believe it or not, are also called Chamorros. Give the 120,000 Chamorros on Guam at least the same consideration given the one Chamorro in Nicaragua.

NORFOLK NAVAL SHIPYARD HONORED AGAIN FOR EXCELLENCE

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, later this month, the Norfolk Naval Shipyard will receive the first U.S. Senate Productivity Award for Continuing Improvement.

This award is given for an organization's commitment to continuous improvement and is the highest recognition that the U.S. Senate Productivity Award Board can give. The shipyard's

commanding officer, Capt. Skip McGinley, and the 12,000 dedicated men and women who work there each day are justly proud of this achievement. These men and women have given the extra effort not only to improve performance but to continue to improve. They have kept costs low and productivity high. They have adopted the principles of total quality management. And they have made their shipyard one of the most efficient anywhere.

It is not surprising, then, that this is the second time in 6 years that the Norfolk Naval Shipyard has received a U.S. Senate Productivity Award and the second time that it has been the very first Federal activity to be so honored. This shipyard has also been recognized by being awarded the Director's Award for Quality from the Office of Management and Budget, and the Commander in Chief's Award for Installation Excellence.

Mr. Speaker, I salute the fine work force and management at the Norfolk Naval Shipyard and urge them to continue to set the pace for industrial efficiency, not only in our own country, but throughout the world.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2015, PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-442) on the resolution (H. Res. 372) providing for the consideration of the bill (H.R. 2015) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1236, PRICE FIXING PREVENTION ACT OF 1989

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-443) on the resolution (H. Res. 373) providing for the consideration of the bill (H.R. 1236) to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4404, DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE, FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, AND OTHER URGENT NEEDS, AND TRANSFERS, AND REDUCING FUNDS BUDGETED FOR MILITARY SPENDING ACT OF 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 369 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 369

Resolved, That all points of order for failure to comply with the provisions of sections 302(f), 303(a)(5) and 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344, as amended by Public Law 99-177) and with clause 2(l)(6) of rule XI and clause 7 of rule XXI are hereby waived against consideration of the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990 and for other purposes. During consideration of the bill, all points of order against provisions in the bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 369 waives points of order against specified provisions of H.R. 4404, the dire emergency supplemental appropriations bill for fiscal year 1990. This rule does not provide for the bill's consideration since general appropriations bills are privileged under rules of the House. The rule also does not contain any provisions relating to time for general debate. Customarily, general debate will be limited by a unanimous-consent request by the floor manager when the bill is considered.

House Resolution 369 waives sections 302(f), 303(a)(5), and 311(a) of the Congressional Budget Act against consideration of this bill. Section 302(f), would prohibit the consideration of any legislation whose adoption would cause appropriation subcommittees' budget authority, entitlement authority, or credit authority ceilings to be exceeded.

Section 303(a)(5) would prohibit the consideration of any legislation that provides new credit authority in a given year prior to the adoption of a budget resolution for that year. Section 311(a) of the Congressional Budget Act prohibits the consideration of any legislation that would cause the budget resolutions's budget authority or outlay ceilings to be exceeded or revenue floor to be breached.

Mr. Speaker, this rule also waives clause 2(L)6 of rule XI and clause 7 of rule XXI. Clause 2(L)6 of rule XI prohibits the consideration of legislation unless the report and legislation have been available to House Members for 3 calendar days. Clause 7 of rule XXI requires the relevant printed hearings and report on legislation to be available to Members for 3 days prior to the consideration of a general appropriation bill.

Finally, Mr. Speaker, House Resolution 369 waives clauses 2 and 6 of rule XXI. Clause 2 prohibits the inclusion of unauthorized appropriations or legislative provisions in general appropriations bills and restricts the offering of limitation amendments to such bills. Clause 6 prohibits reappropriations in a general appropriation bill.

Mr. Speaker, as its name suggests, House Resolution 4404 provides money for programs that are in dire need of supplemental appropriations. As most of my colleagues are aware, this bill contains funding for Panama and Nicaragua. The bill also provides supplemental funding for several domestic programs including food stamps, unemployment, and veterans programs. This aid is truly needed, and in several instances will prevent the closure of offices that administer programs designed to help U.S. citizens in distress.

Altogether, H.R. 4404 provides for $2.4 billion in supplemental budget authority which is partially offset by defense recissions of $1.8 billion.

Mr. Speaker, I urge my colleagues to adopt House Resolution 369 and the underlying bill.

□ 1250

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, I would like to commend the chairman and the ranking Republican member of the Appropriations Committee, the gentleman from Misissipppi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE] for their strong leadership on a very difficult bill. Without restraint in the Appropriations Committee, this bill can easily become a Christmas tree.

The provisions of this rule have been ably explained by the gentleman from South Carolina [Mr. DERRICK]. I will not repeat that explanation.

However, I will note that this rule provides only waivers of points of order. It does not change the normal amending process in the Committee of

the Whole. Amendments may be offered under the 5 minute rule as long as they comply with the rules of the House. However, in this case many amendments will be precluded because the House has already spent beyond the outlay ceiling in the budget resolution, and therefore any amendment providing new outlays would be a violation of the Budget Act. Also there is a standing rule of the House which prohibits legislation on appropriations; so the number of amendments that may actually be offered is not likely to be many.

Mr. Speaker, there is money in this bill for disaster assistance, food stamps, the Unemployment Compensation Administration, Panama and Nicaragua, among other things. The amounts are reasonable under the circumstances.

I support this rule so that the House may proceed to consider this dire emergency supplemental appropriation, and it is necessary that the bill be passed.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, to begin, I would simply invite the committee's attention to the fact that this is, I believe, the fourth time in the last 5 legislative days that we have waived major provisions of the Budget Act. We are keeping our nearly perfect record of flaunting the Budget Act.

However, in this case, it is fair to say that we do not pass dire supplementals without this kind of a rule. I am not going to complain about, or necessarily ask for a vote on, this rule. If we decide that we need the supplemental, we obviously need a rule like this or we cannot bring it to the floor.

I would also invite the attention of the Members to the fact that while the Budget Act is waived in particulars that protect the items that are in the bill, the Rules Committee has wisely proposed this year to make this bill open to amendment. However, because it has not wavied the Budget Act with respect to the amendments, I would serve notice that almost any amendment that affects the money in this bill is likely to be subject to a point of order, which I am likely to raise.

With respect to the supplemental itself, I will have a statement later.

Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

(Mr. TRAFICANT asked and was given permission to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I understand how we do business. We appropriate money, then we talk about how well we do it and we come back and ask for more money. I think we all understand that by now. I think the process stinks and if we do not change it, this country is going to go bankrupt, but we all understand that and I am not going to be accused of being a demagog today, like I usually am.

I am upset with the foreign aid money in this bill. We have already come up with $14.6 billion. We have Americans literally sleeping on steel grates. The Census people are out trying to find them with flashlights at night. We have kids graduating who cannot read. One State legislature passed a law that before you can graduate, you have to be able to read at fifth grade level. Think about that.

Congress has cut revenue sharing by $3 billion. Man, we are going bankrupt. Where are we going to get this $3 billion to return to the cities of America taxpayers' hard-earned money that they paid Uncle Sam so that Uncle Sam can return the favor in kind, and do something for America?

But no, $3 billion. You want to break the bank, TRAFICANT?

So we have urban development action grants to try to help areas like mine that are economically depressed, trying to make a piece of the rock a reality. There is no piece of the rock today. UDAG has been thrown out. We are telling the American people, especially our young people, "You don't need a house. Go pitch a tent on government land."

What about water lines? What about sewers? What about bridges? What about education? What about housing for America? What about America going bankrupt?

We are paying our neighbors' rent bill while they are foreclosing on us, and not many people are listening to me. I understand that, but I predict the day will come in this country when America is going to get so upset with this place that they are going to vote everybody out, including me, and we probably all should be.

We should not be appropriating more money today for people overseas with the sad state of affairs in our own country.

Now, I have a series of amendments. Our good colleague, the gentleman from West Virginia [Mr. RAHALL] has an amendment to strike it all, and I am going to support that, and if his amendment does not prevail and I do not know what manipulative parliamentary chicanery will be employed today, but when it is foreign aid it certainly will, and I must say to one of the great chairman of the House, the gentleman from Wisconsin [Mr. OBEY], I wish he was on the side of trade, fair trade and UDAG and revenue sharing, and he is to a degree, and he is.

Mr. OBEY. Mr. Speaker, if the gentleman will yield, I am glad he corrected the record.

Mr. TRAFICANT. Yes. I do not mean that as an insult, I say to the chairman. I understand the gentleman is just doing his job and he is doing it well, and today we would like to beat the gentleman with his good job and we would like to cut foreign aid.

I will have a series of four amendments—three amendments. One would be a 10-percent cut, a 5-percent cut, and a 3-percent cut. I do not know what may pass, but God, let somebody here take a look at our own country, take a look at the drain on our dollars.

In closing, I am saddened to see where the gentleman form Minnesota [Mr. FRENZEL] will retire. He has been a great Member.

If they have taken any comments I have made, I say to the gentleman from Minnesota and the gentleman from Wisconsin [Mr. OBEY], I say to the gentleman from Wisconsin that if he has taken any of my comments to be in the negative, I would apologize. The gentleman has done a very fine job and he has put together a fine program of helping people in conjunction with America's policies; but I am saying today that Congress should reduce the amount of appropriations. I do not think we are going to strike it, but let us cut it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I want to thank my friend and colleague from the Rules Committee for yielding me some time.

I want to address my question to the gentleman from Wisconsin [Mr. OBEY] and first make a very brief statement.

First off, I want to say thank you to the Appropriations Committee, and specifically the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Wisconsin [Mr. OBEY] for their commitment to world hunger and the tremendous things they have done over the years to help, especially the children of the world. These are the ones who are dying at the rate of about 35,000 a day.

I also want to thank the committee that in this particular appropriation there is additional money to the tune of about $25 million for our refugees overseas.

I want specifically to ask the gentleman from Wisconsin [Mr. OBEY] a question about another matter relative to the Foreign Operations Committee, concerning specifically the health of children in both Panama and Nicaragua.

The health services in Panama under Noriega, it is my understanding, have deteriorated by at least 15 percent in the last 3 years. In Nicaragua,

the Pan American Health Organization estimates that 500,000 children are malnourished today.

I was disappointed, therefore, by the administration's request for assistance to these two countries. The administration request contains no money at all for children in Panama, and only $10 million for Nicaraguan children. As chairman of the Select Committee on Hunger, I believe that more attention must be paid to the immediate needs of children and mothers in both these countries. They have suffered long enough. Therefore, I believe that at least $20 million should go to meet the needs of Panamanian children, and no less than $30 million for Nicaraguan children. I would remark that these allocations, if made, would still leave $670 million for other purposes in these countries.

□ 1300

Mr. Speaker, I would ask the gentleman from Wisconsin [Mr. OBEY] if it is his view that the administration should allocate such amounts to help rebuild primary health care systems and meet the urgent needs of children and mothers in these countries out of the $720 million for Panama and Nicaragua contained in this bill and if he would use his many, many legislative talents to make this possible?

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply say that I agree with the general thrust of the gentleman's remarks. I find it regrettable, for instance, that the administration's regular appropriation request for this coming year provides a reduction in programs for children such as UNICEF, but provides an increase of $300 million in military assistance. I think that is backward given the realities and imperatives in the world.

Mr. HALL of Ohio. I take it from the gentleman's remarks that he will be watching this supplemental as it moves its way through the legislative process?

Mr. OBEY. If the gentleman will yield further, we will do everything we can to try to see to it that we take care of basic human needs, not just some of the macroitems which are habitually focused on.

Mr. HALL of Ohio. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and that I may include extraneous and tabular material on H.R. 4404, the bill about to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER ASSISTANCE, FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, AND OTHER URGENT NEEDS, AND TRANSFERS, AND REDUCING FUNDS BUDGETED FOR MILITARY SPENDING ACT OF 1990

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Massachusetts [Mr. CONTE] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from North Dakota [Mr. DORGAN] as chairman of the Committee of the Whole, and requests the gentleman from South Carolina [Mr. DERRICK] to assume the chair temporarily.

□ 1303

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 4404, with Mr. DERRICK (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the direction of the Committee on Appropriations, we bring you the bill H.R. 4404, making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

Mr. Chairman, in this bill we followed the course we used in handling the damages occurring from the San Francisco earthquake. That terrible tragedy occurred on October 16, 1989 and we prepared an all inclusive bill, on behalf of the California delegation, authorizing and appropriating which the President signed into law on October 26, 1989, 10 days later. We did this to avoid months of hearings by committees of jurisdiction. We conferred with each subcommittee on amounts.

We face the same situation here, for the title of the bill truly presents the situation we face and on which we ask your support.

I am glad to say we had the support of our Committee on Appropriations to produce a bill which met our immediate needs but held off many worthwhile amendments so as not to jeopardize the early enactment of H.R. 4404, the bill now before you. We need similar restraint in the House and in the Senate.

The bill includes: $111,000,000 for disaster assistance for damage done principally in the Southeast since January; a general provision that permits funds apportioned for the fourth quarter to be available for obligation in the third quarter; $96,000,000 for State Unemployment Insurance Administration; $50,000,000 for low-income home energy assistance; $50,000,000 for veterans medical care; $190,000,000 for mandatory veterans compensation and pensions; $510,000,000 for mandatory food stamps of which $135,000,000 is to be reserved until needed; Funds for Panama and Nicaragua, urgently requested by the President; Overturns deferrals which the executive branch had no authority to establish; and reduces funds budgeted for military spending—more than enough to offset new discretionary budget authority.

DISASTER RELIEF

The bill includes $111,000,000 related to recent disasters in the Southeast. Since the first of the year, the States of Alabama, Florida, Georgia, Mississippi, and Tennessee have been devastated by torrential rains and widespread flooding. The bill includes $20,000,000 for flood control and coastal emergencies, $31,000,000 for emergency watershed protection, $10,000,000 for the emergency conservation program, and $50,000,000 for the disaster relief program.

DISASTROUS EFFECTS OF SEQUESTRATION

As a direct result of the unanticipated inclusion of sequestration directed by the fiscal year 1990 conference on reconciliation legislation, many agencies are required to make staff reductions and to close offices that were not contemplated during the orderly appropriations process. To prevent this for State unemployment offices, we have recommended $96,000,000 in the bill. To make sure this and other programs are not forced to close, we have the following language:

Of the funds available for any account by any appropriations act for fiscal year 1990, the amount apportioned to the fourth quarter shall also be available for obligation in the third quarter of fiscal year 1990 where necessary.

This provision gives agencies a longer time to develop alternative savings proposals or to develop supplemental appropriations requests. It is important that essential services such as food inspection, air traffic safety, law enforcement efforts, and the like not be unnecessarily curtailed.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The committee has provided an additional $96,000,000 from the unemployment trust fund for fiscal year 1990, making a revised total for the account of $2,657,666,000. This account finances the administrative costs of the State employment security agencies in all the States. The amount provided will meet the emergency situation created by a funding shortfall of $96,000,000 in the Unemployment Insurance Program administered by the States.

VETERANS PROGRAMS

The 1991 request for medical care estimates a staffing level of 194,638—approximately 2,000 above the level that can currently be supported in 1990. To bridge employment levels between 1990 and 1991, a supplemental appropriation of $50,000,000 for medical care in fiscal year 1990 is recommended. This will permit the VA to increase employment to the 194,638 level by the end of the fiscal year. More importantly, it assures that a greater number of veterans will receive quality medical treatment—both on an inpatient and outpatient basis.

An increase of $190,000,000 for mandatory veterans compensation and pensions is recommended for an increased caseload and cost of benefits payments based on information provided by the Department of Veterans Affairs.

The bill includes a supplemental appropriation of $150,000,000 for the loan guaranty revolving fund. This is the amount currently estimated to be required to permit payment of claims in fiscal year 1990.

LOW-INCOME HOME ENERGY ASSISTANCE

The bill includes $50,000,000 for the Low-Income Home Energy Assistance Program. The bill calls for the Secretary of Health and Human Services to obligate these funds on the basis of relative need to those States and other entitites which promptly supplement their applications under the act for the current fiscal year demonstrating both a substantial need for and the capacity to expend the additional funds.

FIREFIGHTING

The bill includes $333,000,000 to reimburse accounts from which firefighting funds were borrowed as well as $99,800,000 to provide the Department of the Interior the same level in fiscal 1990 that was available in fiscal year 1989 for fire suppession, emergency rehabilitation and presuppression.

OPERATION AND LOW-INCOME HOUSING PROJECTS

The bill includes $72,000,000 for public housing operating subsidies to provide the increase in utility costs this winter. The funds are transferred from annual contributions for assisted housing from unobligated balances available for the balances available for the section 8 moderate rehabilitation program.

FOREIGN OPERATIONS

The bill includes a total of $870,000,000. For assistance to Panama, $420,000,000; Nicaragua, $300,000,000; sub-Saharan Africa, $30,000,000; the Caribbean, $20,000,000; migration and refugee assistance, $75,000,000; and emergency refugee and migration assistance, $25,000,000. The bill also provides, effective October 1, 1990, $400,000,000 in housing guarantee loan credits for Israel to assist Eastern European refugees resettling in Israel.

The committee has made funds available as requested and directs that it be kept informed of proposed expenditures prior to allocation.

FOOD STAMPS

The bill includes $510,000,000 for the mandatory food stamps program. The President requested "such sums as may be necessary" for this program. Rather than providing a blank check, we recommend the level estimated by the Department of Agriculture with $135,000,000 of that amount to be held in reserve to be used only to the extent it is required to meet program requirements.

All these items have resulted in this bill which deserves the title "dire emergency supplemental appropriations for disaster assistance, food stamps, unempolyment compensation administration, and other urgent needs, and transfers, and reducing funds bugeted for military spending for the fiscal year ending September 30, 1990, and for other purposes."

We have had the cooperation of the Subcommittee on Defense, of which I am a long-time member, starting with Navy, then Air Force and Defense when it was created, in reducing funds budgeted for military spending. The reductions made more than offset the discretionary budget authority provided in the bill.

With the changes which have taken place in the Union of Soviet Socialist Republics, including Russia, quite definitely a reduction and consolidation of our military is not only justified but required. We need to rely more and more on the National Guard and Reserves where the men and women contribute to the economy during the week and by and large train on the weekends. This is not only in order but is made necessary by the state of the national economy.

Thus we call for a retention of the guard units funds for which the Defense Department announced it was making deferrals in fiscal year 1990 or proposing reductions in fiscal year 1991 and beyond.

As stated in the most recent issue of the National Journal:

As the cold war winds down, U.S. troop levels are about to plunge. In the next five years hundreds of thousands of soldiers, sailors and fliers will be pushed out of the military. For those who remain, peace time duties won't be easy.

To meet this real need for the returning service men and women, my colleagues, once again we need to act now. We need to restore revenue sharing, which did so much for all our Nation for 14 years, benefiting over 39,000 cities, communities, and counties for those years. The best money we ever spent for concrete improvements selected at the local level was voted to be restored by the legislative committee of the House of Representatives 21 to 8 and our Appropriations Committee by a vote of 29 to 15. Yet it was allowed to die. After all the total cost of this program was less than one-fourth that which we spent on foreign aid.

We need to restore this program which increases our real wealth, for the only support of our paper money is our Nation itself.

Mr. Chairman, we have pending before the Appropriations Committee, H.R. 2540 which would restore this vital program.

In addition, the bill overturns deferrals which the executive branch had

no authority to establish and reduces funds budgeted for military spending—more than enough to offset new discretionary budget authority.

The leadership of each of our 13 subcommittees support and have approved this measure in line with the title.

ACTION IN PANAMA

There may be argument as to our past actions regarding Panama. What has happened, has happened. However we may feel about past events, our country needs our help now.

Mr. Chairman, I have handled defense matters since 1943 and was on the intelligence group before there was an Intelligence Committee. In some of the lesser developed areas of the world, I am of the opinion there is little difference between the ins and the outs. Indeed, as often as not, the outs will campaign against the United States rather than against the incumbent.

Occurrences to date make it obvious to me personally that we need to review the treaty that provides for transfer of the canal to Panama December 31, 1999.

I realize that under our Constitution the treaty and its modification is up to the Senate. This treaty should be modified, and unless it is we will really face a serious problem when that transfer occurs.

I hope all will realize we must support our Nation at this time and pass this bill without further amendment.

□ 1310

Mr. Chairman, we have a good bill. I wish to thank my colleagues on the Appropriations Committee. Each item in this bill has had the approval of the subcommittee chairman and the ranking Republican on that subcommittee, so it is a bill approved across the board.

May I repeat again, we did a wonderful job in connection with the earthquake in California. In 10 days we had a disaster assistance bill on the President's desk and he signed it. We need to do the same thing on these urgent emergency items that we have here.

On these things that look to the future, such as the Panama Canal Treaty, it is time we got our minds on it and did something now. I repeat again, that is up to the Senate, it was before and it is now, but it is something that we had better think about.

Mr. Chairman, I hope, in addition to the support of the Committee on Appropriations, which we already have, that we will also have the support of the House without further amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. CONTE. Mr Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4404, providing supplemental appropriations for 1990.

Today we ask your support for a commitment to build democracy in Central America—$720 million for Panama and Nicaragua. Our hopes were granted in these countries beyond expectation, and at considerable cost in Panama. Now comes the time to follow through.

Today we respond to the President's request to move quickly, by Easter. I wish we could have passed it last Thursday. But if we pass it today, as I hope we will, its fate will be tied to the Senate. At least the House will have done its part.

Today, we further define what it means to be a world power in the post cold war era—a power that supports democracy; that favors democracy; that rewards democracy; that protects democracy. I believe that support of democracy in our New World is the best investment in world peace we can make today. Democracy will not work unless there is a sound underlying economy. The economies are the critical cornerstones of these new democracies. The Sandanista slogan was "todo será mejor"—everything will be better. Now is our chance to make sure that things do get better, so peace and democracy can prevail.

The Senate majority leader announced yesterday he did not want to fully fund these requests until the President submitted an overall plan for foreign aid. The response has been piecemeal, he said. Have I been missing something?

To quote Vaclav Havel, the President of Czechoslovakia, just months ago a prisoner, "the human face of the world is changing so rapidly that none of the familiar political speedometers are adequate." So now we are supposed to stop dead in our tracks, stop responding, and come up with an overall plan?

Yes, let's come up with a plan, but first, let's meet the challenge of the most remarkable and significant changes in the world since World War II.

Mr. Chairman, the bill we bring before the House, as the chairman said, is a good one. In discretionary budget authority, it saves money. There is $1.1 billion in new discretionary spending, $870 million for foreign aid, and $248 million in domestic dire emergency programs. That is more than offset by rescissions in the Department of Defense totaling $1.79 billion. Do the arithmetic. That is a saving of $672 million in Federal spending that will accrue over time.

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Furthermore, even though the President said if he had to, he would take a bill without offsets, we come very close to making the discretionary spending, the part we control, budget neutral. I wish we could have made it totally budget neutral.

The President sent up a list of deferrals that the General Accounting Office ruled illegal. So we had to start from scratch. It took 2 weeks of exemplary work by Congressman MURTHA and Congressman JOE MCDADE and other members of the Subcommittee on Defense and the Administration to come up with $1.8 billion in rescissions that were acceptable. That yields $585 million in outlay savings, $585 million more in outlay savings than the President was willing to accept. It comes within $163 million of being budget neutral.

The centerpiece of this bill is the $870 million, the same amount requested by the President, for foreign aid: $420 million for Panama; $300 million for Nicaragua; $100 million for refugees; $20 million for the Caribbean, including Haiti; $30 million to Africa, replacing the money borrowed for the first Panama aid bill passed last month.

There are also four major additions to take care of domestic dire emergencies that have received a great deal of congressional concern.

First is $96 million for the State unemployment insurance operations. There is a shortfall of $124 million in this account, $24 million due to sequester. Small offices are closing in the States. Services are not being provided. It seems like the committee received 200 letters from Members, and hundreds more from outside groups.

There is $50 million for low-income energy. This winter saw some of the worst price gouging on heating oil and propane that has taken place in history. The cost of heating oil skyrocketed 60 percent and more in a matter of days, and came down slowly. Some States are just out of money, just when utilities start shutting off power to those who have not paid their bills.

There is $25 million in this bill to pay for energy and petroleum in Nicaragua. The least we can do is provide additional heating assistance for the poor here at home. James Buster Douglas came to Capitol Hill last week to fight for a program that kept him warm as a kid. This money is needed.

There is $50 million for VA medical care, very important, and $111 million for floods in the South.

Finally, there is $1.3 billion in entitlement funding: $510 million requested by the administration for food stamps; $340 million for veterans programs that the administration unofficially requested. We did not have to put it in here, but it is mandatory, and we have to provide it sometime. If we did not put it in here, there would just have to be another supplemental later on.

There is also $433 million for firefighting costs that have been incurred or are expected to be incurred this year. This causes the administration some heartburn. It causes others some heartburn. I am hoping there is an accommodation that can be worked out here. Maybe we can put out the fire.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Illinois [Mr. YATES].

Mr. YATES. I thank the gentleman for yielding.

Mr. Chairman, on the question of paying our bills for firefighting. I understand the gentleman is going to offer an amendment which strikes the phrase "to remain available until expended."

Mr. CONTE. The gentleman is correct.

Mr. YATES. We have no objection to that. I want to assure the gentleman, as I have assured the chairman of the Committee on the Budget, that all the funds for firefighting for the year 1990, and to some extent preceding years, none of it will be used for the year 1991, which I think is the basis for the gentleman's amendment.

Mr. CONTE. The gentleman from Illinois is correct, as he usually is. I want to thank him for his cooperation in removing any objection to this bill as it now is written with this amendment from the administration.

Mr. YATES. Mr. Chairman, the bill we are considering today provides $432.8 million for firefighting costs in the Department of Agriculture and the Interior. I would like to assure the gentleman from Massachusetts that these funds are provided for expenses incurred in fiscal year 1990 or before and not for expenses that might occur in fiscal year 1991.

All the firefighting funds in this bill are for expenses incurred in 1990 or before. Specifically, the bill provides $176.8 million for the Department of the Interior to repay funds borrowed from other accounts and to make available funds equal to the amount spent in fiscal year 1989 for firefighting emergencies in recognition of the fact that the dry conditions in the West could lead to substantial fire suppression costs during the balance of this fiscal year. The bill also provides $256 million for the Department of Agriculture to repay fully the amounts borrowed from the Knutsen-Vandenberg [K–V] trust fund for Forest Service firefighting. As the gentleman knows, the K–V trust fund is dedicated to reforestation and related activities.

The money is for bills we owe and which must be paid.

Mr. CONTE. Mr. Chairman, all in all, I urge your support for this bill. It responds to the needs in Central America. It responds to the President's timetable. It responds to a number of other supplemental requests from the administration. It addresses those domestic emergencies that require immediate attention. It provides significant offsets. In my view, as the chairman said, it is a very good-faith effort, and a responsible effort, I might say. Let us do our part to get this bill to the White House by Easter. There is a lot at stake here. The world is watching us.

I might say that BOB MICHEL, the minority leader, received a letter from Jim Baker which I would like to read the last paragraph of, and it says:

I strongly urge that the House of Representatives pass H.R. 4404 with no changes to the international affairs elements so that we can continue to move this bill through the Congress and begin to provide the support and assistance to the new democracies of Panama and Nicaragua. Democratization and demilitarization of Central America must continue."

I hope we will follow suit here and get this bill over to the Senate today.

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I reserve the balance of my time.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to my dear friend, the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I rise to comment on the Dire Emergency Supplemental Appropriations Act of 1990. I bring both good news and bad news.

The good news is that this bill comes closer to offsetting new spending than any previous supplemental appropriation bill by providing $1.7 billion in Defense budget authority rescissions to offset $1.1 billion of budget authority increases in other discretionary programs. These large reductions in budget authority this year will produce outlay reductions for several years and facilitate meeting budget targets next year.

In addition, this bill provides funds requested by the President to meet U.S. commitments to newly established democratic governments in Central America. If friendship with the United States is to have meaning then we must support our rhetoric with deeds. I must note that the administration provided full offsets for both budget authority and outlays for these foreign aid funds.

The bad news is that, despite a valiant attempt to offset new spending by cutting other programs, the bill adds $161 million to the deficit by failing to provide full offsets for increases in discretionary outlays. This is like throwing water on a drowning man. We have already exceeded the fiscal year 1990 level for total discretionary outlays by some $2.6 billion before adding this new spending.

Worse yet, the supplemental provides funds which have not been requested and for which no present need is envisioned. Four hundred and thirty-three million dollars are requested for fighting forest fires when the fire season has not even started and a mechanism already exists for providing any needed funds. This is a clear attempt to circumvent fiscal year 1991 budget constraints by loading up in fiscal year 1990. In fiscal year 1990 firefighting funds are scored as mandatory, a result of the 1990 budget summit agreement—a designation I do not agree with. Since these funds are mandatory in fiscal year 1990 they are not subject to the offset required of new spending. By providing the funds in fiscal year 1990, the committee reduces the need to provide funds in fiscal year 1991 when they may be scored as discretionary and require an offset from other programs.

An additional $50 million in unneeded disaster funds is provided to the Federal Emergency Management Agency despite the fact that the FEMA already has a balance of $379 million and projects as unused balance of $130 million from funds already on hand.

The Department of Veterans Affairs gets $50 million in unrequested funds to hire doctors and nurses when the problem is a lack of qualified applicants rather than a lack of funds. The VA did not request the funds and does not think it can spend the funds by the end of the fiscal year. Even the Veterans' Affairs Committee was surprised to find this gift in the supplemental.

The bill also allows agencies to play the standard tricks of transferring funds from slow spending accounts to fast spending accounts. NASA will be allowed to transfer $44 million from slow spending procurement and research accounts to the fast spending management account. This shift not only increases outlays in fiscal year 1990, it also reduces the effect of Gramm-Rudman sequestration and other attempts to control administrative costs.

The Department of Housing and Urban Development has similarly transferred funds that would probably never be spent to accounts where spending will occur rapidly.

The Department of Labor is permitted to use an additional $96 million from the unemployment trust fund to support State administration of unemployment programs without providing a compensating spending offset.

Mr. Chairman, this supplemental shows a recognition that there is a need for budgetary restraint by offsetting new spending by taking funds from existing sources. However, there is still a lot of smoke and mirrors and, lacking the fortuitous world circumstances which have enabled us to achieve the reductions in Defense spending, I doubt that we would have made the small steps that we have in this bill.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Guam [Mr. BLAZ].

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Mr. BLAZ. Mr. Chairman, I rise to engage in a brief colloquy with the gentleman from North Carolina [Mr. HEFNER].

Mr. Chairman, as Members know, the bill includes a proposal to remove $32 million of military funding of the Air Force in Guam.

Since I learned about this, I checked with the Air Force, and the Air Force has indicated to me a willingness to come up with a proposal for offsets elsewhere in lieu of Guam. My question to the gentleman, will he be willing to work with me and the Air Force and the Senate, prior to conference, so we could come up with some other alternatives, and save this from coming out of the territory of Guam?

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. BLAZ. Mr. Chairman, I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, we understand the gentleman's concerns, and we would like for him to understand that this was the Department of Defense recommendation. It was not something that the committee initiated. This was a Defense Department initiative, and perhaps when we go to the conference with the Senate we will do everything we can to try to come up with something that is compatible. We certainly do not wish to harm any person's district. We will do everything we can to work with the Senate, something amicable for all concerned.

Mr. BLAZ. Mr. Chairman, I thank the gentleman for his cooperation.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise to bring to the light of the House the omission from the supplemental appropriations measure of any money for domestic refugee assistance.

Frankly, Mr. Chairman, I am outraged by the failure of HHS and OMB to request supplementals for that purpose. The State Department has requested supplemental moneys for bringing in refugees, Mr. Chairman, but HHS asks not for one nickel to resettle. I think that is unconscionable.

The need is severe. The Federal Government decides to admit refugees, and the Federal Government decides where, initially, to place them, and originally the Federal Government promised to pay back the States for the full cost for the first 36 months of refugee settlement. However, Mr. Chairman, that is a promise that has not been kept. The reimbursement fell first to 31 months, then to 24 months, then to 15 months, and now, Mr. Chairman, it stands at a mere 4 months. This is a situation that is completely untenable, and represents a broken promise to the States.

Mr. Chairman, the money is badly needed. It is needed in California, it is needed in my State of Illinois, it is needed in Florida, it is needed in Massachusetts, in Pennsylvania, Virginia, and Washington—all across this country, and yet no money, not 1 cent has been requested.

I was tempted in full committee and here on the floor to offer an amendment moving certain funds from DOD for this purpose. Very frankly, I could not find an outlay that would have properly transferred, and I suspect that most Members would not have thought that this is an appropriate vehicle for reallocating spending priorities anyway.

However, Mr. Chairman, I want to point out to the membership that at some point we are going to have to much more realistically assess our obligations. If we are going to ask the States to undertake burdens and promise them the money from the Federal Government to help them fulfill those obligations, we are going to have to meet our promise and provide that money to them. I am very hopeful, Mr. Chairman, that the Senate may offer an amendment in this regard, and we get this money put into this bill because it is vitally, vitally needed.

Mr. CONTE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I would like to request the attention of the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN], to just ask a question.

Without a waiver being granted by the Senate, can any of these funds be obligated or expended?

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Without action by the Senate?

Mr. KOSTMAYER. Yes.

Mr. WHITTEN. Not to my knowledge.

Mr. KOSTMAYER. In other words, the provision of law which prohibits the expenditure or obligations of these funds without the passage of an authorization bill has not been waived in the rule granted by the Committee on Rules, but could be offered on the floor of the Senate?

Mr. WHITTEN. My understanding is that this administration backed up on this deferral business, after we voted in the committee to block it. So I do not think that issue is involved at this time, but I do not know of anything the gentleman has to worry about in the House bill.

Mr. KOSTMAYER. I am not concerned about the House. I am concerned about the Senate.

Mr. WHITTEN. I cannot disabuse the mind of the gentleman about the Senate. We cannot control them.

Mr. KOSTMAYER. Can the gentleman from Mississippi tell me what his attitude will be if a Member of the Senate offers language notwithstanding any other provision of law which would allow those funds to be expended and obligated, despite the fact that the authorization has not yet been passed?

Mr. WHITTEN. I have a long record of standing by the House position, and have no intention of changing that practice.

Mr. KOSTMAYER. WIll the gentleman from Mississippi reject that Senate motion in conference?

Mr. WHITTEN. I expect to stick by the House bill as long as we can. We do have a dire emergency, so I would not commit myself. I know of no reason for the gentleman worrying. I will not commit myself in advance to what I have not heard. There are a lot of items, the Senate has had 200 and 300 amendments.

To say in advance that I agree with the gentleman would be committing myself to something I have not seen.

Mr. KOSTMAYER. A final question. If the Senate reports an amendment in disagreement, which would waive the prohibition on the obligation of these funds—if I could complete my question.

Mr. WHITTEN. We do not know what the Senate will do, and I will not commit myself, but by and large I support the House position.

Mr. KOSTMAYER. If that were to happen, it will be necessary for the House to agree to an amendment in disagreement, is that correct?

Mr. WHITTEN. Yes, but May I say again, in confernce with the Senate, I do not make commitment in advance beyond saying I stick with the House position.

Mr. KOSTMAYER. Let me conclude by saying that I think we should pass the authorizing measure before we pass the appropriations bill.

Mr. CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KOSTMAYER] has expired.

Mr. WHITTEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I appreciate the gentleman from Mississippi yielding time to me.

We ought to pass the authorization bill before the appropriations bill. That is the way the House Committee on Rules has written the rule.

What happens, is a Senator always stands up and says: "Nothwithstanding any other provision of law," and the House can go along or not. If that happens, the gentleman from Missis-

sippi, as I understand it, will have to say——

Mr. WHITTEN. If the gentleman will yield, may I say the Senate does not seem to have any rules. They offer anything at any time.

I will not commit myself beyond what I have already said. We have a dire emergency here, and if such a think ties it up for months, which we do not want to do. I agree with the gentleman, and I will do the very best I can to support the House position.

Mr. KOSTMAYER. I hope the gentleman from Mississippi, will resist any effort to waive the prohibition, and I urge the Members of the House to disagree with the Senate amendment at the appropriate time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I would like to enter into a colloquy with the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I would be more than willing to enter into such a colloquy.

Mr. RICHARDSON. Mr. Chairman, in last year's Transportation appropriation's bill, I requested $1.5 million for design construction of the New Mexico railroad overpass project in Las Vegas, NM. The funding for this project was appropriated and earmarked for preliminary engineering, environmental studies and right-of-way acquisition.

It is my understanding that the finding was placed in this category because the committee was not authorizing or appropriating funds for new construction projects last year. However, the State of New Mexico and the City of Las Vegas have informed me that they cannot access the funds as they were appropriated because they were not earmarked for design and construction.

I would like to suggest that one remedy to this problem could be to move the already appropriated funds from preliminary engineering, environmental studies and right-of-way acquisition and place them under design and construction.

I hope to work with my colleague, the chairman of the Subcommittee on Transportation Appropriations, to arrive at a solution which would address this problem in the next available vehicle; that is the 1991 Transportation appropriations bill.

Mr. LEHMAN of Florida. Mr. Chairman, as my friend and gentleman from New Mexico knows, we have worked together in the past, and I want to assure him we will continue to work together in the future to resolve these highway problems.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for participating in this colloquy.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

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Mr. PANETTA. Mr. Speaker, I want to congratulate Chairman WHITTEN and Chairman MURTHA and the rest of the Appropriations Committee for the excellent job that was done on H.R. 4404, the dire emergency supplemental appropriations bill.

The bill includes about $1.1 million in new discretionary budget authority for foreign aid and certain domestic programs. It more than offsets this increase by rescinding about $1.7 million in defense budget authority. Chairman MURTHA, in particular, should be commended for scrubbing the defense budget to try to find the offsets in more than 100 defense accounts. Frankly, this is the sort of precedent that should be followed in all future supplementals. We have provided a "Dear Colleague" to all Members which describes the budget implications of this measure in more detail.

Mr. Chairman, I also want to commend Chairman YATES for his comment with regard to the firefighting funds which I understand deal totally with 1990 and before, which is the area that we wish to have him target those funds toward.

So for all those reasons, Mr. Chairman, we recommend to the membership that this bill does represent, not only an urgent supplemental, but one that is properly offset to cover the cost.

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of the supplemental appropriations bill. There are several important funding provisions contained in this bill, including $720 million for assistance to Nicaragua and Panama—two nations which face great hardships as they struggle to establish economic and political stability—two nations which face great challenges on the road to democracy.

However, individuals in our own Nation also cry out for our help. Contained in this bill is desperately needed domestic funding—funding for the Low-Income Energy Assistance Program, known as LIHEAP.

Mr. Speaker, in New England they say if you don't like the weather, wait a minute and it will change. Sporadic weather fluctuations were certainly characteristic of last winter in my home State of Connecticut. In November it was cold. When we waited a minute, it got colder, and then it got colder again. In fact, in December, all of New England experienced record cold temperatures. Concurrently heating oil prices soared.

Now the weather has warmed, and we have all uttered a sigh of relief. Heating oil prices have come down—the heating oil crisis seems to be over. But for many, deep economic scars linger behind.

The crisis caused many States, particularly those in the Northeast, to deplete their total LIHEAP allocation for the year. This legislation would appropriate in additional $50 million for the LIHEAP Program, in order that these States will be carried safely and warmly into the spring. And this bill will allow the Health and Human Services Department to allocate these funds to only those States that are truly in need.

As a member of the Ways and Means Committee, I am acutely aware of limited resources. But when allocating money to the LIHEAP Program, we are not talking about frivolous spending. We are talking about critical funding to carry millions of low-income Americans through the winter.

I urge my colleagues to join me in supporting this important legislation.

Mr. MONTGOMERY. Mr. Chairman I rise in support of this legislation, and to commend the leadership of the committee, Mr. WHITTEN, Mr. CONTE, Mr. TRAXLER, and Mr. GREEN of New York for the amounts contained in the bill for veterans compensation, pension and health care programs. I'm grateful to all members of the committee. They are letting veterans know that the Congress intends to stand behind the commitment we made to them.

During budget hearings held last month by our Veterans' Affairs Committee, we questioned Department officials closely about the need for a supplemental for the compensation and pension accounts. Department officials admitted to a possible shortfall and indicated they were watching the situation very carefully. It became clear during the hearings that these accounts had been understated in the budget. I am pleased to see that the bill includes funds to take care of the shortfall.

With regard to the supplemental funds for medical care, the Appropriation Committee's report states that the $50 million is intended to help eliminate some of the problems many veterans now face in getting outpatient care on a timely basis. Last year the appropriation bill passed by the House included $11.561 billion for VA medical care. This amount was intended to support a staffing level of 194,720 FTEE. Subsequently, the amount available to the Department for medical care was reduced by $236 million due to sequestration and across-the-board reductions in discretionary programs to fund the drug bill.

So I thank the committee for the $50 million in the bill but I must warn my colleagues, however, that the $50 million will not allow the VA to reopen the nursing home beds it has closed during the past year, nor will it be enough to solve most of the problems veterans are experiencing in getting outpatient care. But it will help and I urge my colleagues to support the bill.

Mr. ANNUNZIO. Mr. Chairman, I enthusiastically join Chairman G.V. (SONNY) MONTGOMERY of the House Veterans' Affairs Committee in his proposal for the panel's budget for this year. The budget recommendation proposed by Mr. MONTGOMERY of Mississippi takes a step toward correcting some of the problems accumulating in the veterans benefit deliver system over the last few years. The budget recommendation will not restore services to levels which veterans deserve and expect, but it makes progress and reverses a longstanding decline in such services.

The recommendations are $729 million in budget authority—meaning the top line the committee can spend—but this is a 2-percent increase over the Bush administration proposal. If the VA Committee proposal is approved, the Veterans' Administration could provide care to about the same number of veterans in the fiscal year ending September 30, 1991, as it provided in fiscal year 1988. The request would just get the VA back to where it was 3 years ago.

Even if enacted into law, it would not cure all the problems veterans face today in trying to get care in many VA hospitals and most outpatient clinics. It is clear that for the remainder of the fiscal year some veterans, unfortunately, will be denied care. Hopefully, this budget will begin to turn things around during the next fiscal year.

As Chairman MONTGOMERY says, this legislation lets veterans know that Congress intends to stand behind the commitment the members made to them. Included in the legislation is $50 million intended to help eliminate some of the problems many veterans now face in getting outpatient care on a timely basis. Last year, the appropriation bill passed by the House included $11½ billion for VA medical care. Subsequently, the amount available to the VA Department for medical care was reduced by $236 million due to administration action and across-the-board reductions in discretionary programs to fund the drug bill.

I thank the Budget Committee for the $50 million in the bill, but along with Chairman MONTGOMERY, I warn that the money will not allow the VA to reopen the nursing home beds it has closed during the past year, nor will it be enough to solve most of the problems veterans are experiencing in getting outpatient care.

Mr. Chairman, I join with Chairman MONTGOMERY in making it clear that the Budget Committee take no action to report the VA panel's reforms unless the savings that are derived are included in the budget as an add on for medical care so that VA will have the additional resources to fund the physician, dentist, and nurse pay legislation which is expected to be acted on in early May. The remaining savings will be necessary to provide outpatient and nursing home care to more veterans.

We must not forget our veterans. Just remember: They were there when we needed them. We should be there when they need us.

Veterans deserve a system which can deliver quality and timely services, something they have been unable to obtain in the last few years because of the drive to reduce the deficit.

Ms. PELOSI. Mr. Chairman, today, through the supplemental appropriations bill for Nicaragua and Panama, we are taking concrete steps to address the problems created, in part, by our actions in several countries in Central America.

United States policy, a trade embargo and the Contra forces we supported over the past decade have contributed to the destruction of the economy in Nicaragua. Our recent invasion of Panama left extensive damage which compounded the serious economic problems there. The funds contained in this legislation are one way to start righting our policy wrongs.

I would like to urge that we also focus our attention on righting the policy wrongs in El Salvador. Our best leverage will not cost the American taxpayer any additional money. Rather, reducing our aid to El Salvador is the best pressure we can apply.

Over the course of the past 10 years, the United States has spent $4 billion in El Salvador and the situation there has progressively worsened. Human rights violations are tragically increasing and no one has yet to be successfully convicted for human rights abuses.

The murder of the six Jesuit priests galvanized the people of the United States. President Cristiani now indicates that Colonel Benavides may simply walk away from the murders. The assassination of the Jesuits has highlighted the serious problems with the Salvadoran justice system.

The tragedy of the murders may, however, have unintended positive consequences. A number of my colleagues who had previously supported military assistance to El Salvador have now indicated their reluctance to support further aid. They, too, are frustrated with the lack of progress in resolving the crisis in El Salvador.

Mr. Chairman, tomorrow, the government of El Salvador and the FMLN are scheduled to meet with United Nations Secretary-General Perez DE Cuellar in Geneva. I believe that the growing discontent in the United States Congress about the status quo in El Salvador is helping to increase the pressure for a negotiated political settlement to the war in El Salvador. Successful negotiations are an integral part of the peace process.

I understand that efforts to address the deepening tragedy in El Salvador in this legislation were set aside at the request of Secretary of State Baker who has expressed interest in working out a bipartisan compromise.

Language has already been drafted to cut military aid and we will have several opportunities in the coming months to debate it on the floor of the House if discussions with the administration fail.

As we work to promote democracy in Central America, we should make sure that El Salvador is not left out of our efforts. Thank you.

Mr. MILLER of California. Mr. Speaker, as we debate this supplemental appropriation bill, I am sure it is gratifying for every taxpayer to know that the spirit of the Dutchy of Grand Fenwick is alive and well, and prospering, thanks for the Congress of the United States.

In case anyone forgets, the Dutchy was the mythical country in "The Mouse That Roared" that declared war on the United States in order to qualify for postwar relief assistance after its intevitable defeat.

The bill we debate today is the funding scheme of the Dutchy of Grand Fenwick come to life.

Having engaged in years of secret financial and intelligence assistance to the Noriega government in Panama, the United States finally invaded Panama and toppled Noriega. Hundreds of Panamanians—mostly civilians—lost their lives, along with nearly 30 United States soldiers. As a result of the Noriega dictatorship and the aftereffects of the invasion, the economy of Panama is severely crippled.

Having played a role in undermining the economy of Panama, this bill would appropriate $420 million to Panama.

For nearly a decade, the United States Government destroyed the economy of Nicaragua through an embargo and a war policy that drained the resources of that impoverished country. Even given the misguided economic policies of the Sandinista government, it is clear that the policies of our own Government effectively ruined the economy of Nicaragua and created great poverty and suffering.

Now that an election has been held and the Sandinista's opponent has been elected, the administration wants to channel hundreds of millions of taxpayer dollars to rebuild the economy we destroyed. H.R. 4404 would appropriate $300 million for Nicaragua, to rebuild the economy we destroyed.

It is also important to note that $30 million of this money would be used to resettle the Contras. Why? Mrs. Chamorro promises the Contras safe haven, our administration wants to finance the economic recovery of Nicaragua. Why are we spending another $30 million on the Contras? Why don't we just spend $30 to give them maps that show how to get from Honduras to Nicaragua?

I cannot support these expenditures at a time when we are being asked to cut back education for children, health care for the elderly, housing for the homeless, antidrug programs, and a host of other urgent domestic needs.

I am sure there are many legitimate needs in Nicaragua, Panama, and Grand Fenwick.

There are urgent needs right here at home, and the time has come to address them.

Mr. DORGAN of North Dakota. Mr. Speaker, I oppose this supplemental appropriations bill because I feel strongly that we make a serious mistake when we give large blocks of cash to countries like Panama.

Sending cash in these foreign aid packages will almost certainly result in waste and graft. We have seen time after time that when we send cash it is squandered, stolen or diverted. This bill has nearly $400 million for Panama without any restrictions. This makes no sense.

Yes, we do have an obligation to some of these countries. Yes we should help Panama, Nicaragua, and others. But let's help by making sure our contribution is used to help people, not to pad someones' Swiss bank account.

We can and should do a better job of crafting assistance to those countries in need of help.

I opposed the Rahall amendment to cut all of the assistance from the bill because I believe that we have a responsibility for some assistance.

But the amounts in the bill are too high, and the lack of restrictions and control over this money force me to vote against this bill.

Mr. WILLIAMS. Mr. Chairman, what do the AFL-CIO, the U.S. Chamber of Commerce, the National Governors' Association, AFSCME, and the National Conference on State Legislatures have in common this year? The answer is that they all support a fiscal year 1990 unemployment insurance supple-

mental. This money comes from the surplus in the administrative account of the FUTA [Federal Unemployment Tax Act] reserves. It covers the $96 million shortfall this year. States are suffering an average loss of 6.7 percent, with Washington's loss at 10.3 percent, Missouri's 6.9 percent, Pennsylvania's 4.6 percent, Michigan's 5.2 percent, Montana's 7.4 percent, Mississippi's 9.2 percent, and California's 9.7 percent. Every State in the United States would be faced with layoffs and workers would be faced with long lines to get their benefits without these funds.

VETERANS COMPENSATION AND MEDICAL CARE

In addition, the bill appropriates $390 million for various veterans programs. Under the measure $190 million is provided for veterans compensation and pensions. These funds are needed since the caseload in January was 5,000 over what the normal caseload is for compensation claims. The bill appropriates $150 million for loan guarantee revolving fund, which has had more home foreclosures and loan repurchases than anticipated.

The measure also contains $50 million for veterans medical care. This money is because of the decline in the number of full time employes at VA facilities. This is intended to increase the number of personnel at veterans medical facilities, particularly in rural States like Montana. Hopefully, our two facilities in Fort Harrison and Miles City will get some of these funds, but they believe $50 million is really a drop in the bucket.

FIREFIGHTING PROGRAMS

The bill appropriates $433 million for firefighting programs in the Interior and Agriculture Departments. A majority of these funds would be used to repay funds from other accounts that have been borrowed to cover the firefighting costs for this year. The administration requested no funds for these programs.

I would like to congratulate Chairman WHITTEN for being responsive to these needs.

Mr. VISCLOSKY. Mr. Chairman, today, the House of Representatives is considering a supplemental appropriation measure to meet the needs of several important programs, both domestic and foreign. Included in the legislation is a provision that earmarks $96 million for State unemployment offices. This appropriation is necessary because of a shortfall in the fiscal year 1990 unemployment insurance fund.

Due to the shortfall, one unemployment insurance office has been closed and two others are now open only 1 day per week in the congressional district I represent. The State of Indiana has closed 17 of the 44 offices statewide and been forced to lay off over 100 trained staff people. Claimants sometimes have to wait in line at those offices that have not closed for an average of 1½ to 2 hours. Needless to say, I am greatly distressed about the hardships and inconvenience these actions have caused for my constituents and all Hoosiers. Indiana would receive $1.4 million to help offset the severity of the cutbacks and personnel caused by the shortfall.

On February 20, I drafted a letter, on behalf of the Indiana delegation, that was sent to the chairman of the Appropriations Committee, to inform the committee of the situation in Indiana and ask for their assistance in addressing this problem. I would like to commend the chairman and members of the Appropriations Subcommittee on Labor, Health and Human Services, and Education as well as the chairman and members of the Appropriations Committee for their fine efforts.

I am aware that Secretary of Labor Dole has voiced her strong opposition to this particular provision and that the Bush administration does not consider the shortfall to be a dire emergency. In closing, I would ask that my colleagues join with me to ensure its approval in the Senate and enactment by the President. These funds are needed to maintain the integrity of every State's unemployment insurance program.

Mr. LENT. Mr. Chairman, as ranking Republican member of the Committee on Energy and Commerce, I rise in support of two items in H.R. 4404 which relate to the jurisdiction of our committee. These two items are the $50 million for low-income home energy assistance and almost $14 million for regulation of generic drugs by the Food and Drug Administration.

As one who represents a district in the Northeast, I can attest to the fact that the cold temperatures in December and early January caused extensive economic hardship. The retail price of home heating oil more than doubled in the span of only a few weeks, hitting $1.50 per gallon in New York.

While we have been blessed with a great deal of warm weather since January, the earlier jump in energy prices and the excess demand caused by the record cold have combined to put a drain on the funds already appropriated for low-income home energy assistance. Thus, it is advisable to appropriate an additional $50 million to supplement the $1.4 billion regular appropriation. The Committee on Appropriations directed that this money be used by States which demonstrate that they need the added funds and have the capacity to spend them, which should include New York.

As to generic drugs, the Subcommittee on Oversight and Investigations on which I serve has uncovered the shocking scandal at the Food and Drug Administration in this area. As of a court hearing last Friday, 10 guilty pleas had been entered in U.S. District Court in Baltimore. These 10 pleas included three FDA employees who took illegal payments from those seeking information and favorable treatment of their generic drug applications. In addition, three generic drug company executives and three generic drug companies have pleaded guilty to making these illegal payments. More criminal charges are expected to be filed within 90 days.

The subcommittee's investigation has found severe problems with the regulation of generic drugs beyond those relating to illegal pay-offs. Our inquiry has shown that some key generic drugs were approved based on fraudulent test samples. Violations of FDA's good manufacturing practices regulations have also been brought to light.

I expect that the Committee on Energy and Commerce will bring generic drug reform legislation to the House floor this year. In fact, I am working with like-minded colleagues on the committee to fashion a bipartisan reform package. In the interim, I support the President's request for $13.9 million in supplemental funds to be used to improve generic drug regulation and inspection of generic drug facilities.

The Nation's consumers and the Federal Treasury are counting on competition from generic drugs to hold down the price of medications. However, quality should not suffer in the name of price competition. From a strictly parochial standpoint, much of the generic drug industry is based in New York and New Jersey. Honest companies are being hurt by the acts of the dishonest elements of the industry. Thus, honest generic drug firms stand to benefit from improved regulation, as funded by this bill, which should increase public confidence in generic drugs generally.

The committee on appropriations elected not to pay for the supplemental FDA funds with a user fee, as was requested by the President. The committee report indicates that the Appropriations Committee believes that this is a matter best left to the Energy and Commerce Committee. I expect that we will, and indeed should, carefully consider such a user fee when we put together a generic drug bill later this year.

Mr. LEVINE of California. Mr. Chairman, I rise today in strong support of H.R. 4404, supplemental appropriations for fiscal year 1990. H.R. 4404 contains needed funds for a variety of domestic and foreign policy programs which Congress and the administration have identified as a priorities.

Mr. Speaker, I want to focus on one aspect of the bill now before us. This legislation provides Israel—at no cost to the United States Government—with $400 million in loan guarantees for housing for newly arrived immigrants. In light of the flood of emigres pouring into Israel from the Soviet Union, this aid is absolutely essential—and long overdue.

Israel is presently experiencing its largest influx of immigration since the years immediately after its founding in 1948. Tens of thousands of Soviet Jews have arrived in Israel in the last 18 months, and many thousands more will likely follow in the forseeable future. Indeed, legitimate fear of persecution in an increasingly unstable U.S.S.R. has prompted Jews who previously never thought to leave to apply for exit visas. The number could ultimately reach 500,000.

The United States bears a large measure of responsibility for this reality, both because we have made the free emigration of Soviet Jews a principal part of our foreign policy for 20 years, and because our Government is limiting the number of Soviet Jews who can enter this country.

It is for these reasons, Mr. Speaker, that it is incumbent upon our Government to do whatever it can to aid in the resettlement of Soviet Jews in Israel. And it is for these reasons that I find the Bush administration position on the housing guarantees so deeply disturbing.

Certainly, I welcome the administration's willingness ultimately to support these guarantees. Yet, that support has come after an extended effort to tie this issue to the issue of settlements in the West Bank and Gaza. This administration fixation has had two consequences: First, it has hurt Israel's efforts to find adequate housing for the flood of

emigres; and, second, it has encouraged the outrageous Arab campaign to obstruct this emigration.

I have previously stated publicly—and will reiterate now—that the administration should instead turn its attention to denouncing this baseless propaganda campaign. For it is reminiscent of the campaign waged 50 years ago by Arab States to restrict Jewish access to then-Palestine, at a time—1939—of clear and unambiguous need.

Mr. Speaker, I want to reassure my colleagues both that the administration concerns on the housing guarantees are groundless and that there is a pressing need for this program.

First, these guarantees simply enable Israel to receive more favorable terms for the huge loans it will take out in order to build approximately 25,000 housing units for the new immigrants. Israel has never defaulted on loans to international creditors, nor has it ever made a late payment. It is therefore unlikely that AID will have to repay the loans taken out.

Second, and tied in to the first, it is precisely because these are loan guarantees that there is no additional cost to the United States Government or taxpayer, unless Israel defaults. As I have indicated, that possibility is remote. Furthermore, the actual money spent on resettlement will come both from Israel itself and the American Jewish community, nowhere else.

Third, existing AID regulations prohibit use of any United States assistance—including loan guarantees—in the West Bank and Gaza. Israel certifies in writing each year that the foreign aid it receives is not used in these territories, and Israel has indicated it will provide the same assurances regarding the loan guarantees.

Fourth, and finally, Prime Minister Shamir and other members of the Israeli Government have publicly stated that it is not the policy of the Government to resettle Soviet Jews in the West Bank and Gaza. The facts bear this out: according to the Jewish agency, only 135 of the more than 18,000 Soviet Jewish immigrants arriving in Israel in 1990 have chosen to settle in the territories.

In conclusion, Mr. Chairman, the facts are clear: Israel requires our assistance in a monumental task which underscores the need for its existence as a refuge for the Jewish people. This Government, and this Congress, have an historic opportunity to help. We must seize the opportunity.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the provision in H.R. 4404, the dire emergency supplemental appropriations for fiscal year 1990, that would appropriate $96 million from the unemployment trust fund to cover the current shortfall in the Unemployment Insurance Program administered by the States.

Employers in California will pay an estimated half billion dollars in Federal unemployment taxes in 1990. Most of this money is targeted specifically to pay for the State and Federal administration of unemployment insurance programs. However, the Department of Labor recently notified California that there is a $120 million national shortfall in unemployment insurance funding for the current fiscal year and that California must absorb $23 million of this national shortfall. That puts over 20 percent of the problem on the shoulders of California, while the State's normal share of the national unemployment insurance budget is only about 15 percent.

Without this supplemental appropriation, California would have to cut back on programs including periodic eligibility reviews, overpayment investigations, and other services designed to maximize the benefits of unemployment insurance to both employers and claimants. Considering the taxes paid by employer every year for just these purposes, I urge my colleagues to support the appropriation of $96 million from the unemployment trust fund to cover the national shortfall in unemployment insurance funding.

AMENDMENTS OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. YOUNG of Florida: On page 4 of the bill, after line 19, insert the following:

"RESEARCH, DEVELOPMENT, TEST, AND EVALUATION"

"RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY"

"For an additional amount for 'Research, development, test and evaluation, Navy', $6,000,000 for the Navy Medical Research and Development Command to support the unrelated marrow donor program."

On page 7, line 20 of the bill, strike "$23,598,000" and insert in lieu thereof: "$29,598,000".

The CHAIRMAN. The gentleman from Florida [Mr. YOUNG] is recognized for 5 minutes in support of his amendments.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my subcommittee chairman.

Mr. MURTHA. Mr. Chairman, I want to commend the gentleman from Florida [Mr. YOUNG] for all the work he has done in this program. We have scrubbed it in addition, we have offset the money, and this is an outstanding job the gentleman has been involved in. We agree to the amendments.

Mr. YOUNG of Florida. I thank my chairman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to join the chairman of our subcommittee in commending our colleague, the gentleman from Florida, who spent about 5 years working on this piece of legislation and on this whole problem which can literally save lives. It is not often that we get an opportunity to vote on a clear-cut decision that can save the life of a citizen of this Republic. That is what this amendment is all about, and it comes from the initiative of my friend, the gentleman from Florida. Again, I congratulate the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the ranking member of the committee.

Mr. CONTE. Mr. Chairman, I join my good friend from Florida, Mr. YOUNG, in support of improving the bone marrow registry.

Thousands of people will die this year because of the lack of enough people in the registry to get a match. One woman in my district, Aleene Burt, is battling leukemia and is making a valiant effort to find a bone marrow match.

But, as my colleague knows, it takes over 20,000 people per patient to find a suitable match. The numbers of unrelated people needed for minority groups are even higher. It's a time-consuming, expensive and an often frustrating task.

By strengthening the bone marrow registry to increase its capacity and outreach efforts, we can give people, like Aleene Burt, their best shot in saving their lives.

Mr. YOUNG of Florida. Mr. Chairman, I thank Mr. CONTE for those comments.

Mr. Chairman, 20 years ago, a pediatrician and medical researcher named Dr. Robert A. Good developed a dramatic new procedure to remove the healthy bone marrow from one person and transplant it into the body of a terminally ill person suffering from leukemia and some 60 other blood diseases.

Although this was a major medical breakthrough, it was many years before it became a widely used procedure because it required such precise tissue typing that it was only practical for use when siblings were the donor and patient. Only one in four patients in need of a transplant has a matched family member to donate marrow. For the thousands of others in need of a transplant, there was little or no hope of finding a matched unrelated donor.

It was 5 years ago, after researchers determined that transplants between two unrelated individuals could be just as successful as transplants between siblings, that Congress took action to establish a national registry of volunteers who were willing to have their blood typed and be listed in a computerized system so doctors and hospitals from around our Nation could run a search to find a matched donor for a patient in need of a marrow transplant.

The Appropriations Committee in 1987 approved my amendment to a defense appropriations bill to provide funding to establish and activate this national registry. The registry became operational in December 1987 when the first match between a patient and donor took place. In the 2½ years since then, more

than 300 transplants have taken place and matches are currently occurring at the rate of 25 per month.

Mr. Chairman, in recent weeks and months I have sent to each of our colleagues stacks of information explaining the program and its urgency—in addition I have explained the details of the very successful recruiting program we sponsored in our congressional district to attract donors and sponsors willing to help defray the cost of the typing with the hope that other Members would sponsor similar recruiting programs in their districts.

There are a number of Members who have given critical support to the National Marrow Donor Program and who have been supportive every step of the way as we have provided appropriations for the program through the Department of Defense and National Institutes of Health. The chairman and ranking Republican of our Appropriations Subcommittee on Defense, JOHN MURTHA and JOE MCDADE, deserve special recognition for their support to provide the start-up funding for this program and this supplemental appropriation as do the members of our subcommittee including BOB LIVINGSTON, LES AUCOIN, and NORM DICKS. The chairman and ranking Republican of our Appropriations Subcommittee on Health, BILL NATCHER and SILVIO CONTE, have also been extremely supportive of our efforts to transfer oversight of the registry from the Navy to NIH, where the committee has provided funding for its operation and research programs. Other members of the Appropriations Committee, including VIC FAZIO, ED ROYBAL, and DICK DURBIN, have been of great help. Finally, HENRY WAXMAN, ED MADIGAN, and HOWARD NIELSON have been key players in authorizing the establishment of the National Marrow Program at the National Institutes of Health. Their Energy and Commerce Subcommittee on Health has scheduled hearings for later this month to consider legislation I soon will introduce to provide for a long-term extension of the program.

The support is so great for this program because bone marrow transplantation between matched, unrelated individuals works. It saves the lives of otherwise terminally ill individuals. Now, the only limitation on this miraculous medical procedure is the ability to beat the one in 20,000 odds and find a matched donor. The National Marrow Donor Program was established by the Congress to beat those odds and since becoming operational 2½ years ago has been a tremendous life-saving success.

In addition to facilitating matches between donors and patients, the national registry expedites the process to enhance the patients' chances of survival. Research has shown, that the sooner a bone marrow transplant takes place, the better the chances of survival.

The action we take today in approving this supplemental funding will save lives by adding as many as 60,000 volunteers to the national registry. There are more than 90,000 Americans who have already volunteered to be included in the national registry. Thousands more want to be included but cannot afford the $75 per person fee for the very precise HLA tissue typing required for this program. Our goal is to build a national registry of 250,000 volunteers and more than 1 million worldwide. Only with a registry of this size, can we be reasonably sure of being able to find a matched donor for each of the 9,000 Americans annually who need a bone marrow transplant to survive.

My amendment today provides $6 million to the Navy Medical Research and Development Command for the HLA tissue typing of thousands of volunteers on waiting lists throughout our Nation to be included in the National Bone Marrow Donor Registry. This is the amount the National Institutes of Health and the Navy estimate we need to type those currently on the wating lists.

These funds are provided to the Department of Defense because it was under the leadership of the Navy medical research department that the National Marrow Donor Program was established in 1986. The Navy has one of our Nation's premier typing and bone marrow research facilities and will oversee a two-pronged effort to recruit volunteers for the national registry.

A portion of these funds will be used to support a new program within the Department to HLA type active duty and civilian personnel, their dependents, and others who volunteer to be included in the National Marrow Donor Program. This follows my suggestion to President Bush that he institute a program within the Department of Defense to encourage military personnel and their families to be included in the registry and to type and process those who volunteer. Following my remarks, I am including copies of my letters to the President in this regard.

In conjunction with this urgent effort, the Appropriations Committee has directed that the Navy be authorized to make available through a noncompetitive sole source agreement with the National Marrow Donor Program Foundation funds to support this HLA type effort. The editorials that will follow my remarks, from the St. Petersburg Times and the Washington Post, emphasize the emergency need for these funds. The Appropriations Committee also has informed the Navy that the award of funds to the National Marrow Donor Program Foundation are contingent upon a directive from the committee that the National Marrow Donor Program cooperates with other private bone marrow registries and informs all accessing patients about the existence of the American Bone Marrow Donor Registry and other private registries.

Quite simply, this amendment is about saving lives. With the additional $6 million, which is offset from another Navy research and development account, we will increase the number of typed volunteers in the national registry to better the odds of terminally ill patients being able to find matched unrelated donors.

Mr. Chairman, this is a dramatic life saving procedure. It is today's miracle. The National Marrow Donor Program saves lives every day by matching previously terminally ill patients in need of bone marrow transplants with matched, unrelated donors. In the 2½ years since the first match through the registry, more than 300 patients have been given the living gift of life by a stranger who has been willing to make that gift.

There is also a pressing need to ensure broad ethnic representation in the registry. Research has shown that genetics play a major role in a successful transplant. This research also shows that good matches most often occur when donors and recipients have the same racial background. Black donors best match black patients. The same holds true for Hispanics, Asians, Indians, and other minority groups.

The committee has provided this emergency funding for the Navy to initiate a program to type volunteers of the Armed Forces because the services provide a wide cross section of races and ethnic backgrounds. Funds are also included to enable the Navy to contract with the National Marrow Donor Program Foundation to type volunteers of minority groups and others who are on waiting lists to join the registry but who cannot afford the lab fees for the HLA typing, which average $75 per person.

Because this is a high priority, life-saving health program, the committee has made it clear to the Department that these funds will not be subject to any budgetary limitations within the Department and will not count against any funds made available to this account in the next fiscal year.

Mr. Chairman, the legislation before us is titled a "Dire Emergency Supplemental Appropriations Bill" and the amendment I offer today fullfills a truly dire emergency need—that of saving lives by matching bone marrow donors with patients in need of the living give of life.

[From the St. Petersburg (FL) Times, Mar. 12, 1990]

BEST HOPE FOR BLOOD DISEASE VICTIMS

Partly because she was black, JoAnne Johnson lost a desperate race against time. The 19-year-old college student died of leukemia in Maryland several weeks ago, still waiting for doctors to find a compatible bone-marrow donor who might save her life.

If she hadn't been black, her chances of finding the right donor would have been tough enough—about 1 in 20,000. But because so few blacks are registered as potential donors and time was limited, her chances were virtually nil. Race is a factor because the tissue types that must be matched in donors are inherited, and much likelier to occur within the same family or ethnic group.

Some 9,000 children and adults die each year from leukemia and dozens of other blood diseases, and 16,000 others are stricken annually. To give them a better chance, Congress in 1987 established a national registry to match patients with potential donors.

The registry is already saving lives, but now a push is on to add more donors and meet the urgent need for increased racial and ethnic diversity within the donor pool.

U.S. Rep. C.W. Bill Young, a Republican who represents lower Pinellas County and who led the effort in Congress to establish the National Marrow Donor Program, is helping program officials launch a pilot project to add 5,000 new donors in Pinellas. If the local effort succeeds, it will serve as a national model for attempts elsewhere to increase the current 87,000 registrants to 250,000 in the United States and 1-million worldwide.

Newspapers frequently run stories of desperate, high-profile efforts to save individual patients. JoAnne Johnson had Jesse Jackson and Dionne Warwick appealing for donors. A young Jewish leukemia victim. Allison Atlas, currently has been befriended by actor Dustin Hoffman. One family even decided to have a second child to provide a possible donor for their stricken teen-age daughter.

But individual efforts aren't the answer for most blood disease victims. The centralized, computerized registry of potential donors seems to offer the best hope, and Congress should try harder to find the money needed to expand it. This year's budget for the marrow registry is $12-million, of which $4-million came from Congress. The registry must raise the rest.

Potential donors must be between the ages of 18 and 55 and in good health. Registration simply requires giving a blood sample to be processed in advance. Then, if you're ever asked to donate and agree to, you can do so locally and the bone marrow is transported to the patient. The donor procedure involves only light anesthesia, no surgery, little pain and quick recovery, doctors say.

Part of the registration effort will focus on getting businesses to sponsor employees who volunteer. Businesses should cooperate in any way possible, including direct donations. Another good possibility is to pick up the donor program's $75 cost of processing the blood sample of each employee who registers.

But even if they do nothing else, businesses should cooperate by allowing workers the two or three days off to make actual marrow donations, with no loss of pay if possible. Donors' expenses are paid under the program, but they're not reimbursed for lost wages or child-care costs.

Young's office has mailed information forms to residents of his district, along with a mail-in response form. A coupon is also included here for *Times* readers who wish to join the program. Pinellas residents and businesses should jump at this chance to play a leading role in saving the lives of so many children and adults.

[From the Washington Post, Feb. 23, 1990]

MONEY AND MARROW TRANSPLANTS

More than 9,000 children and young adults die in this country every year of blood diseases that could be cured by marrow transplants. One of them, JoAnne Johnson, a Silver Spring college student who died on Monday, was the object of a community-wide drive to find a donor. That search was focused on the black community—just as another young leukemia patient, Allison Atlas, has concentrated on finding Jewish volunteers—because the likelihood of finding a donor match is far greater in one's own ethnic group. The public outpouring of support for these two families in particular has been remarkable. There are now three times as many black donors listed in the national registry for marrow donors as there were before the Johnsons began their efforts only two months ago. And 14,000 Jewish names have been added, and 14 donors found for other patients because of the work of the Atlas family.

But individual efforts, no matter how heroic or productive, are not the way to address this national need. The federal government has established a national registry of donors, which now contains 75,000 names. If there were 250,000 registered, 80 percent of those in need of donors would be able to find a match. But while there are more than enough volunteers, there is not enough money to test them, a process that costs about $75 each. Creating a registry of sufficient size and diversity would cost about $15 million; keeping it up to date, about $3 million a year.

It is terrible that many people who could be saved by marrow transplants are dying. Presumably no one argues with that. Yet the administration professes to be powerless in the face of budget constraints to find enough money to make the transplant program work. In fact, there is a strong argument based on dollars alone for facilitating marrow transplants. The procedure is not a palliative but a cure. The New England Journal of Medicine published a study only this week demonstrating that unrelated donor transplants are completely successful in 80 percent of all cases. The operation replaces alternative treatment requiring hospitalization, chemotherapy, and blood transfusions over an extended period of time.

The humanitarian argument for a fully funded program is compelling, and the objections based on cost make no sense. If the administration continues to ignore this opportunity, Congress must take the lead and find the money.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 1990.

President GEORGE BUSH,
The White House, 1600 Pennsylvania Avenue NW., Washington, DC.

DEAR MR. PRESIDENT: As you know from our previous letters and discussions, one of the most fulfilling projects I have ever been involved with is the establishment of the National Bone Marrow Donor Program and Registry. It is saving lives every day.

You will recall that I first learned of the need for a national registry in 1986 when our family befriended Brandy Bly, a little 10-year-old girl suffering from leukemia who I introduced to you during one of your visits to Pinellas County. Beverly and I spent many hours reading to and playing with Brandy to give her mother some well deserved breaks from her hospital bedside. Doctors sought to treat Brandy's leukemia with a bone marrow transplant, but were unable to locate a compatible donor. Finally, as a last resort, they removed some of Brandy's own marrow, treated it with high doses of radiation and antibiotics, and reintroduced it into her body. Although this more complex and risky form of bone marrow transplantation worked, Brandy died in 1987 from other complications. But at the time of her death, her little body was finally free of leukemia.

It was during Brandy's treatment that I learned from her doctors how difficult it is to find a compatible, unrelated bone marrow donor. Doctors estimate there is a one in 20,000 chance of finding a donor whose many complex blood antigens perfectly match those of the patient. Prior to the establishment of the registry, finding a donor required hundreds of calls to hospitals and blood banks throughout our nation. The process took months and in most cases was unsuccessful.

The Congress in 1986 for the first time appropriated funds to the Navy to begin the process of establishing a computerized registry of volunteers who were willing to have their bone marrow typed and their names placed on call. As a member of the Defense Appropriations Committee, I worked closely with the Navy to ensure that they had the funding necessary to initiate this project. The Navy and the Department of Defense are to be commended for their leadership in developing this program. We initially approached the National Institutes of Health, requesting that they oversee development of the registry, but officials there were less than enthusiastic, saying the procedure was too experimental. NIH, however, became increasingly interested in this program and last year, at the direction of the House Appropriations Subcommittee on Health on which I also serve, and the House Energy and Commerce Subcommittee on Health, authority to oversee the registry was transferred from the Navy to the National Heart, Lung, and Blood Institute.

With the registry in place, the first match of a donor and recipient in need of an unrelated bone marrow transplant took place in December 1987. Since that time, 300 transplants have taken place utilizing the registry, with a greater than 70 percent success rate. Currently, there are 20 to 25 transplants performed each month. The potential for this program is limited only by the success rate of matching patients and donors. To improve the odds of finding an unrelated donor through the registry, we need to recruit and type more volunteers. Today, we have more than 70,000 volunteers in the registry and our goal is to expand the list to 100,000 by the end of this year. By the middle of this decade we hope to have 250,000 volunteers in the registry with the long-term goal of 1 million.

Our experience with this project has shown that when Americans learn of the registry and the potential for saving lives, they readily volunteer to have their marrow typed and their names placed in the registry. The two greatest limitations on our recruitment effort is getting word throughout the country that we are seeking volunteers, and finding the facilities and resources to type them. We are doing all we can to spread the word about the registry and to raise funds to pay the $75 fee for the sophisticated lab test required to type each volunteer.

In fact, we soon will launch a pilot program in my congressional district to recruit volunteers for the registry and to encourage businesses to become involved in the program by covering or defraying the cost of the lab fees for their employees who volunteer. The lessons we learn from this project will be used to develop a nationwide campaign to recruit potential donors and encourage private sector sponsorship to help defray the cost.

We can do more, though, to add to our registry. One of the greatest untapped sources of potential donors could be the men and women who serve our nation in the armed forces. The Department of Defense has played a major role in making the national registry a reality and has shown an ongoing interest and commitment to the program. In your role as Commander and Chief, I would urge you to give every possible consideration to working with the Secretary of Defense and Secretaries of the Army, Navy, and Air Force, and the Commandants of the Marine Corps and Coast Guard to make our service personnel aware of the program and to provide the facilities and resources to type those who are willing to be a part of the registry.

You have stressed throughout your Presidency that there is no boundary to the greatness we can achieve as a nation with the spirit of volunteerism the American people have shown throughout our great history. The National Marrow Donor Pro-

gram is a way people can give the living gift of life directly to another person here at home and throughout the world. As you know, Barbara has already agreed to be a national spokesman for the program and earlier this month taped a series of public service annnouncements. Your support for our efforts to add to the ranks of potential donors would be greatly appreciated, especially by those individuals and families who have been given hope where little or none existed just a few short years ago.

With best wishes and warmest personal regards, I am

Sincerely,

C.W. BILL YOUNG,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 1990.

President GEORGE BUSH,
The White House, 1600 Pennsylvania Avenue NW., Washington, DC.

DEAR MR. PRESIDENT: This is to followup my letter to you last week regarding ways in which we can increase the awareness of our nation's military personnel about the National Bone Marrow Donor Registry and provide the facilities for those who volunteer to have their blood typed and become a part of the registry.

As we discussed earlier, our men and women who have volunteered to serve in the armed forces are one of our greatest untapped potential sources of those who could join the registry. During a hearing of our Appropriations Subcommittee on Defense today, I discussed with the Senior Noncommissioned Officers of each of the services the exciting life-saving potential of this program and the need to recruit more volunteers to increase the odds of finding a successful match. Each of them was very enthusiastic about the program and on behalf of the men and women of the branch they represent, indicated an eagerness to participate in the program.

Enlisted personnel in America's military are volunteers in the truest sense of the word and their willingness to be a part of this program is symbolic of their spirit and dedication to our nation. Encouraging their participation in The National Bone Marrow Donor Registry would be an important step toward reaching our goal of recruiting 250,000 volunteers from throughout our nation.

Volunteering to give the living gift of life is exciting, especially with the limitless potential of this program. By providing the facilities and resources to type our enlisted personnel, the Department of Defense can further add to the important role it has played in the establishment and continued operation of this national program that saves lives every day.

With best wishes and personnel regards, I am

Very truly yours,

C.W. BILL YOUNG,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to ask you to join me in an exciting, nationwide effort to save lives by helping to recruit volunteers in your district for the National Bone Marrow Donor Registry.

One of the most rewarding experiences of my whole life has been leading the effort in Congress to establish this national registry—a program that is saving lives every day by bringing together a patient in need of a transplant with a matched donor. Later in this letter, I will tell you how you can be involved in this effort.

Bone marrow transplantation is a relatively new but preferred treatment for leukemia and as many as 60 other blood disorders. When successful, it is a cure. The procedure, however, requires very precise tissue, or "HLA," matching of the donor and recipient. In fact, the typing is so critical that the chances of finding a matched donor are about one in 20,000 and that is why it is so important that we mount a nationwide effort to expand the registry. Donating bone marrow has been called the "living gift of life" because the donor gives marrow (which replenishes itself easily) to a fatally ill patient whose only chance for life is a marrow transplant.

Prior to the establishment of the national registry, doctors treating patients in need of a transplant had to make hundreds of calls to individual blood banks and hospitals in search of a potential donor. In most cases, the search was futile or took so long that the patient, with the fatal illness, was no longer strong enough to undergo a transplant.

Through the goodwill of more than 87,000 individuals who have already volunteered to have their marrow typed, we have established the National Marrow Donor Program. Now, with one request, a doctor can start a computer search and in a matter of hours determine whether there is a matched donor available. Where before there was little chance of survival for these terminally ill patients, there is now hope. The first transplant utilizing the registry took place in December 1987. Since then, there have been more than 300 transplants. Currently, 20-25 transplants are performed in the United States each month. This is only the beginning for this Program which could soon help provide life for as many as 9,000 Americans a year.

In 1986, the Congress appropriated the first funds for the Navy to begin the process of establishing a computerized registry of volunteers who were willing to have their bone marrow typed and their names placed on call. As a member of the Defense Appropriations Committee, I worked closely with the Navy to ensure that they had the funding necessary to initiate this project. Oversight of the program last year was transferred by the Appropriations Subcommittee on Health, on which I also serve, to the National Institutes of Health.

This is a tremendous program whose potential is limited only by the success rate of matching patients and donors. To improve the odds of finding an unrelated donor through the registry, we need to recruit and type more volunteers. Our goal is to expand the list to 100,000 by the end of this year and to 250,000 by the middle of this decade, with a long-term goal of 1 million volunteers worldwide.

Our experience with this project has shown that when Americans learn of the registry and the potential for saving lives, they readily volunteer to have their marrow typed and their names placed in the registry. The two greatest limitations on our recruitment effort is getting word throughout the country that we are seeking volunteers, and finding the facilities and resources to type them. We are doing all we can to spread the word about the registry and to raise funds to pay the $75 fee for the sophisticated lab test required to type each volunteer.

Earlier this month, I launched a pilot program in my district to recruit volunteers for the registry and to encourage businesses to become involved in the program by covering or defraying the cost of the lab fees for their employees who volunteer. The reaction to this project has been unbelievable as thousands have volunteered to be typed and a number of major employers have agreed to cover the cost of the tests for their employees. The attached packet provides you with detailed information about our project, the very positive reaction by our local media, and endorsements of this project from President Bush and Secretary of Health and Human Services Dr. Louis Sullivan.

You can be a part of this nationwide effort to save lives by sponsoring a similar community wide effort in your district. I would be pleased to work with you and share the lessons we learned from our experience in Pinellas County, Florida.

In addition, to show support in Congress for this national effort, I am making arrangements to have all interested members typed to be included in the national registry. As you will note, the only requirement to be a volunteer donor is that you be in good health and between the age of 18 and 61. Prior to last week, the age cutoff was 55. However, during a meeting of the Board of Directors of the National Marrow Donor Program in my district March 9th, the Board, at my request, raised the maximum donor age from 55 to 61.

We would like to schedule a press conference on the Capitol steps to coincide with the typing of members. The time and date will depend on the response of members. If you would like to take part in this press conference and be typed, or if you have questions about the program or sponsoring a donor drive in your district, please let me know or call Harry Glenn of my staff at 5-5961.

With best wishes and warmest personal regards, I am

Sincerely,

C.W. BILL YOUNG,
Member of Congress.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my colleague, the gentleman from California, who has been a real ally in this effort.

Mr. FAZIO. Mr. Chairman, first of all, I want to commend my friend, the gentleman from Florida, for his ongoing leadership in this area, and I certainly want to give my support to his amendment. I would indicate also that I look forward to working not only with the gentleman from Florida but with the chairman of our Subcommittee on Health and Human Services, the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Pennsylvania [Mr. MURTHA] in this same consideration of the full appropriations for the next fiscal year, because, as the gentleman knows, this is a significant step forward but it really does not go as far as we need to go to get the 250,000 names in the bone marrow register that will really break through to a lot of people who are cur-

rently not getting any service from this wonderful effort that we have just begun to make.

Mr. Chairman, this amendment will allow us to increase the number of individuals in the National Marrow Donor Program registry.

At this time, there are approximately 100,000 names in the national registry. The goal is to reach 250,000 names.

Several months ago, only 57,000 names were in the registry, which were accumulated over a period of about 3 years. The increased number of potential donors recently added is largely the result of individual families' efforts at recruiting and testing donors, and raising the funds to pay for the testing.

I am sure that all of you have heard of the efforts of the families of Allison Atlas and JoAnne Johnson in testing potential donors. And many of us have individuals in similar need in our own congressional districts.

Unfortunately, individual testing has been necessary because the administration has refused to adequately fund this program. Consequently, many families of individuals in need of unrelated donor transplants have had to go out and raise the funds and recruit the donors themselves.

Further, many ethnic groups are underrepresented in the national registry. The greatest possibility for a member of the ethnic minority to secure a match lies with a person of a similar ethnic background. Thus far, the registry has not had enough ethnically diverse individuals represented and does not have the funds available to further test potential donors.

While the program needs at least $15 million for testing purposes, and I will be introducing legislation for a one-time authorization for that amount, the $6 million called for in this amendment to the supplemental will help ensure that there is broad ethnic representation in the registry immediately.

The $6 million, which will go for the Navy Medical Research and Development Command, will support the unrelated marrow donor program which was initiated by the Navy.

These funds will be used to support the HLA typing of active duty and civilian personnel, their dependents and others who volunteer to be included in the National Marrow Donor Program.

Should these individuals match with someone in need, they represent a good source to follow through with the actual transplantation.

In addition to military testing, a large share of the funding will go directly to the National Donor Marrow Program for the purpose of increasing minority recruitment and testing.

Funding the National Marrow Donor Program registry has become an urgent national need. I urge my colleagues to support this vital amendment which will save lives.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman from California for his comments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida [Mr. YOUNG].

The amendments were agreed to.

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in reluctant support of H.R. 4404, the Dire Emergency Supplemental Appropriations for Fiscal 1990.

Supplemental appropriations are necessary to take care of true emergency situations. None of us could have foreseen the tragedy and costs of natural disasters that hit various parts of this country. The drastic changes we have seen in the political systems of Europe and Central America have to be addressed by us in a realistic fashion.

However, supplementals, in and of themselves, are a poor way to run the fiscal policy of this country. We, as an institution, cannot afford to constantly revisit budget issues that should properly be taken care of through the regular budget process. For too long supplementals have been used as a way to skirt budget deadlines and deficit targets.

During the decade of the eighties, Congress and the White House combined to enact 27 supplemental appropriation laws. According to the Congressional Budget Office, and based upon figures provided by the Appropriations Committee, these 27 supplementals resulted in a net increase in budget authority of nearly $99 billion, and a gross increase in budget authority of more than $135 billion.

Having said that, let me explain why I must support this measure.

First, H.R. 4404 would release $96 million from the unemployment trust funds to the States. This is important if the State employment commissions are to keep up the necessary services for those individuals who have lost jobs. In Wyoming, a State that has been hard hit by the downturn in the oil, gas, and mineral industries, State and local officials were forced with the prospects of closing employment service offices in many small communities. This would mean that thousands of individuals who are already without jobs would now be required to travel hundreds of miles to file forms and receive necessary assistance. Ninety-six million dollars will not resolve this problem nationwide, but it will help many State agencies that have been hindered in doing their jobs correctly due to the budget games on the Potomac.

Second, H.R. 4404 contains for the firefighting accounts that have been deleted due to the number of fires we have experienced in the West. Arid conditions that have existed, and persist, in many areas of this country have caused the depletion of these funds much sooner than anyone could have anticipated. As someone who experienced the devastating fires in Yellowstone and its surrounding national forests, I can assure you that the destruction was extensive. I can also assure you that without the help of individuals and agencies from around this country, it could have been worse. This legislation will replenish accounts that were emptied in these efforts and assure that we will have funds available for the 1990 fires which will inevitably occur.

Third, this supplemental does a much better job of offsetting increased spending in some areas with rescissions in others. This is something that Congress has been unwilling, and unable, to do in the past.

The sum of $1.8 billion has been stricken from the Department of Defense budget, including $15 million from the MX rail garrison facility located at F.E. Warren Air Force Base in Cheyenne, and $11 million from the basic MX Program. I am supportive of these—and other—cuts because they take into account the reality of our current spending schedules and priorities but do not represent a change in the stated policy of this country.

H.R. 4404 is not perfect legislation—supplementals never are. But it does address certain specific needs in Wyoming and the Rocky Mountain region. For that reason, I rise in reluctant support of its passage and enactment into law.

Mr. WHITTEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired for general debate.

The Clerk will read.

The Clerk read as follows:

H.R. 4404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DISASTER ASSISTANCE

DEPARTMENT OF DEFENSE—CIVIL
DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

For additional expenses to meet the present emergency needs for "Flood control and coastal emergencies", $20,000,000, to remain available until expended.

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For additional expenses to meet the present emergency needs of the Soil Conservation Service, Emergency Watershed Protection Program, $31,000,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For additional expenses to meet the present emergency needs of the Agricultural Stabilization and Conservation Service, Emergency Conservation Program, $10,000,000, to remain available until expended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000 to remain available until expended.

GENERAL PROVISION

Of the funds made available for any account by any appropriations Act for fiscal year 1990, the amount apportioned to the fourth quarter shall also be available for obligation in the third quarter of fiscal year 1990 where necessary.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF JUSTICE AND THE JUDICIARY DEPARTMENT OF JUSTICE

GENERAL PROVISION

The pilot debt collection project authorized by Public Law 99-578 is extended through September 30, 1992.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $63,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $28,003,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $700,000, to remain available until expended.

ADMINISTRATIVE PROVISION

Section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended by adding the following provision at the end thereof: ": *Provided further*, That fees made available to the Federal Trade Commission and the Antitrust Division herein shall remain available until expended".

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

AMENDMENTS OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. YOUNG of Florida: On page 4 of the bill, after line 19, insert the following:

"RESEARCH, DEVELOPMENT, TEST, AND EVALUATION"

"RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY"

"For an additional amount for 'Research, development, test and evaluation, Navy', $6,000,000 for the Navy Medical Research and Development Command to support the unrelated marrow donor program."

On page 7, line 20 of the bill, strike "$23,598,000" and insert in lieu thereof: "$29,598,000".

The CHAIRMAN. The gentleman from Florida [Mr. YOUNG] is recognized for 5 minutes in support of his amendments.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my subcommittee chairman.

Mr. MURTHA. Mr. Chairman, I want to commend the gentleman from Florida [Mr. YOUNG] for all the work he has done in this program. We have scrubbed it in addition, we have offset the money, and this is an outstanding job the gentleman has been involved in. We agree to the amendments.

Mr. YOUNG of Florida. I thank my chairman.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, I want to join the chairman of our subcommittee in commending our colleague, the gentleman from Florida, who spent about 5 years working on this piece of legislation and on this whole problem which can literally save lives. It is not often that we get an opportunity to vote on a clear-cut decision that can save the life of a citizen of this Republic. That is what this amendment is all about, and it comes from the initiative of my friend, the gentleman from Florida. Again, I congratulate the gentleman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the ranking member of the committee.

Mr. CONTE. Mr. Chairman, I join my good friend from Florida, Mr. YOUNG, in support of improving the bone marrow registry.

Thousands of people will die this year because of the lack of enough people in the registry to get a match. One woman in my district, Aleene Burt, is battling leukemia and is making a valiant effort to find a bone marrow match.

But, as my colleague knows, it takes over 20,000 people per patient to find a suitable match. The numbers of unrelated people needed for minority groups are even higher. It's a time-consuming, expensive and an often frustrating task.

By strengthening the bone marrow registry to increase its capacity and outreach efforts, we can give people, like Aleene Burt, their best shot in saving their lives.

Mr. Chairman, 20 years ago, a pediatrician and medical researcher named Dr. Robert A. Good developed a dramatic new procedure to remove the healthy bone marrow from one person and transplant it into the body of a terminally ill person suffering from leukemia and some 60 other blood diseases.

Although this was a major medical breakthrough, it was many years before it became a widely used procedure because it required such precise tissue typing that it was only practical for use when siblings were the donor and patient. Only one in four patients in need of a transplant has a matched family member to donate marrow. For the thousands of others in need of a transplant, there was little or no hope of finding a matched unrelated donor.

It was 5 years ago, after researchers determined that transplants between two unrelated individuals could be just as successful as transplants between siblings, that Congress took action to establish a national registry of volunteers who were willing to have their blood typed and be listed in a computerized system so doctors and hospitals from around our Nation could run a search to find a matched donor for a patient in need of a marrow transplant.

The Appropriations Committee in 1987 approved my amendment to a defense appropriations bill to provide funding to establish and activate this national registry. The registry became operational in December 1987 when the first match between a patient and donor took place. In the 2½ years since then, more than 300 transplants have taken place and matches are currently occurring at the rate of 25 per month.

Mr. Speaker, in recent weeks and months I have sent to each of our colleagues stacks of information explaining the program and its urgency—in addition I have explained the details of the very successful recruiting program we sponsored in our congressional district to attract donors and sponsors willing to help defray the cost of the typing with the hope that other Members would sponsor similar recruiting programs in their districts.

There are a number of Members who have given critical support to the National Marrow Donor Program and who have been supportive every step of the way as we have provided appropriations for the program through the Department of Defense and National Institutes of Health. The chairman and ranking Republican of our Appropriations Subcommittee on Defense, JOHN MURTHA and JOE MCDADE, deserve special recognition for their support to provide the start-up funding for this program and this supplemental appropriation as do the members of our subcommittee including BOB LIVINGSTON, LES AUCOIN, and NORM DICKS. The chairman and ranking Republican of our Appropriations Subcommittee on Health, BILL NATCHER and SILVIO CONTE, have also been extremely supportive of our efforts to transfer oversight of the registry from the Navy to NIH, where the committee has provided funding for its operation and research programs. Other members of the Appropriations Committee, including VIC FAZIO, ED ROYBAL, and DICK DURBIN, have been of great help. Finally, HENRY WAXMAN, ED MADIGAN, and HOWARD NIELSON have been key players in authorizing the establishment of the National Marrow Program at the National Institutes of Health. Their Energy and Commerce Subcommittee on Health has scheduled hearings for later this month to consider legislation I soon will introduce to provide for a long-term extension of the program.

The support is so great for this program because bone marrow transplantation between matched, unrelated individuals works. It saves the lives of otherwise terminally ill individuals. Now, the only limitation on this miraculous medical procedure is the ability to beat the one in 20,000 odds and find a matched donor. The National Marrow Donor Program was established by the Congress to beat those odds and since becoming operational 2½ years ago has been a tremendous life-saving success.

In addition to facilitating matches between donors and patients, the national registry expedites the process to enhance the patients' chances of survival. Research has shown, that the sooner a bone marrow transplant takes place, the better the chances of survival.

The action we take today in approving this supplemental funding will save lives by adding as many as 60,000 volunteers to the national

registry. There are more than 90,000 Americans who have already volunteered to be included in the national registry. Thousands more want to be included by cannot afford the $75 per person fee for the very precise HLA tissue typing required for this program. Our goal is to build a national registry of 250,000 volunteers and more than 1 million worldwide. Only with a registry of this size, can we be reasonably sure of being able to find a matched donor for each of the 9,000 Americans annually who need a bone marrow transplant to survive.

My amendment today provides $6 million to the Navy Medical Research and Development Commend for the HLA tissue typing of thousands of volunteers on waiting lists throughout our Nation to be included in the National Bone Marrow Donor Registry. This is the amount the National Institutes of Health and the Navy estimate we need to type those currently on the waiting lists.

These funds are provided to the Department of Defense because it was under the leadership of the Navy medical research department that the National Marrow Donor Program was established in 1986. The Navy has one of our Nation's premier typing and bone marrow research facilities and will oversee a two-pronged effort to recruit volunteers for the national registry.

A portion of these funds will be used to support a new program within the Department to HLA type active duty and civilian personnel, their dependents, and others who volunteer to be included in the National Marrow Donor Program. This follows my suggestion to President Bush that he institute a program within the Department of Defense to encourage military personnel and their families to be included in the registry and to type and process those who volunteer. Following my remarks, I am including copies of my letters to the President in this regard.

In conjunction with this urgent effort, the Appropriations Committee has directed that the Navy be authorized to make available through a noncompetitive sole source agreement with the National Marrow Donor Program Foundation funds to support this HLA type effort. The editorials that will follow my remarks, the St. Petersburg Times and the Washington Post, emphasize the emergency need for these funds. The Appropriations Committee also has informed the Navy that the ward of funds to the National Marrow Donor Program Foundation are contingent upon a directive from the committee that the National Marrow Donor Program cooperates with other private bone marrow registries and informs all accessing patients about the existence of the American Bone Marrow Donor Registry and other private registries.

Quite simply, this amendment is about saving lives. With the additional $6 million, which is offset from another Navy research and development account, we will increase the number of typed volunteers in the national registry to better the odds of terminally ill patients being able to find matched unrelated donors.

Mr. Chairman, this is a dramatic life saving procedure. It is today's miracle. The National Marrow Donor Program saves lives every day by matching previously terminally ill patients in need of bone marrow transplants with matched, unrelated donors. In the 2½ years since the first match through the registry, more than 300 patients have been given the living gift of life by a stranger who has been willing to make that gift.

There is also a pressing need to ensure broad ethnic representation in the registry. Research has shown that genetics play a major rile in a successful transplant. This research also shows that good matches most often occur when donors and recipients have the same racial background. Black donors best match black patients. The same holds true for Hispanics, Asians, Indians, and other minority groups.

The committee has provided this emergency funding for the Navy to initiate a program to type volunteers of the Armed Forces because the services provide a wide cross section of races and ethnic backgrounds. Funds are also included to enable the Navy to contract with the National Marrow Donor Program Foundation to type volunteers of minority groups and others who are on waiting lists to join the registry but who cannot afford the lab fees for the HLA typing, which average $75 per person.

Because this is a high priority, life-saving health program, the committee has made it clear to the Department that these funds will not be subject to any budgetary limitations within the Department and will not count against any funds made available to this account in the next fiscal year.

Mr. Speaker, the legislation before us is titled a "Dire Emergency Supplemental Appropriations Bill" and the amendment I offer today fullfills a truly dire emergency need—that of saving lives by matching bone marrow donors with patients in need of the living give of life.

[From the St. Petersburg (FL) Times, Mar. 12, 1990]

BEST HOPE FOR BLOOD DISEASE VICTIMS

Partly because she was black, JoAnne Johnson lost a desperate race against time. The 19-year-old college student died of leukemia in Maryland several weeks ago, still waiting for doctors to find a compatible bone-marrow donor who might save her life.

If she hadn't been black, her chances of finding the right donor would have been tough enough—about 1 in 20,000. But because so few blacks are registered as potential donors and time was limited, her chances were virtually nil. Race is a factor because the tissue types that must be matched in donors are inherited, and much likelier to occur within the same family or ethnic group.

Some 9,000 children and adults die each year from leukemia and dozens of other blood diseases, and 16,000 others are stricken annually. To give them a better chance, Congress in 1987 established a national registry to match patients with potential donors.

The registry is already saving lives, but now a push is on to add more donors and meet the urgent need for increased racial and ethnic diversity within the donor pool.

U.S. Rep. C.W. Bill Young, a Republican who represents lower Pinellas County and who led the effort in Congress to establish the National Marrow Donor Program, is helping program officials launch a pilot project to add 5,000 new donors in Pinellas. If the local effort succeeds, it will serve as a national model for attempts elsewhere to increase the current 87,000 registrants to 250,000 in the United States and 1-million worldwide.

Newspapers frequently run stories of desperate, high-profile efforts to save individual patients. JoAnne Johnson had Jesse Jackson and Dionne Warwick appealing for donors. A young Jewish leukemia victim. Allison Atlas, currently has been befriended by actor Dustin Hoffman. One family even decided to have a second child to provide a possible donor for their stricken teen-age daughter.

But individual efforts aren't the answer for most blood disease victims. The centralized, computerized registry of potential donors seems to offer the best hope, and Congress should try harder to find the money needed to expand it. This year's budget for the marrow registry is $12-million, of which $4-million came from Congress. The registry must raise the rest.

Potential donors must be between the ages of 18 and 55 and in good health. Registration simply requires giving a blood sample to be processed in advance. Then, if you're ever asked to donate and agree to, you can do so locally and the bone marrow is transported to the patient. The donor procedure involves only light anesthesia, no surgery, little pain and quick recovery, doctors say.

Part of the registration effort will focus on getting businesses to sponsor employees who volunteer. Businesses should cooperate in any way possible, including direct donations. Another good possibility is to pick up the donor program's $75 cost of processing the blood sample of each employee who registers.

But even if they do nothing else, businesses should cooperate by allowing workers the two or three days off to make actual marrow donations, with no loss of pay if possible. Donors' expenses are paid under the program, but they're not reimbursed for lost wages or child-care costs.

Young's office has mailed information forms to residents of his district, along with a mail-in response form. A coupon is also included here for *Times* readers who wish to join the program. Pinellas residents and businesses should jump at this chance to play a leading role in saving the lives of so many children and adults.

[From the Washington Post, Feb. 23, 1990]

MONEY AND MARROW TRANSPLANTS

More than 9,000 children and young adults die in this country every year of blood diseases that could be cured by marrow transplants. One of them, JoAnne Johnson, a Silver Spring college student who died on Monday, was the object of a community-wide drive to find a donor. That search was focused on the black community—just as another young leukemia patient, Allison Atlas, has concentrated on finding Jewish volunteers—because the likelihood of finding a donor match is far greater in one's own ethnic group. The public outpouring of support for these two families in particular has been remarkable. There are now three times as many black donors listed in the national registry for marrow donors as there were before the Johnsons began their efforts only two months ago. And 14,000 Jewish names have been added, and 14 donors found for other patients because of the work of the Atlas family.

But individual efforts, no matter how heroic or productive, are not the way to address this national need. The federal government has established a national registry of donors, which now contains 75,000 names. If there were 250,000 registered, 80 percent of those in need of donors would be able to find a match. But while there are more than enough volunteers, there is not enough money to test them, a process that costs about $75 each. Creating a registry of sufficient size and diversity would cost about $15 million; keeping it up to date, about $3 million a year.

It is terrible that many people who could be saved by marrow transplants are dying. Presumably no one argues with that. Yet the administration professes to be powerless in the face of budget constraints to find enough money to make the transplant program work. In fact, there is a strong argument based on dollars alone for facilitating marrow transplants. The procedure is not a palliative but a cure. The New England Journal of Medicine published a study only this week demonstrating that unrelated donor transplants are completely successful in 80 percent of all cases. The operation replaces alternative treatment requiring hospitalization, chemotherapy, and blood transfusions over an extended period of time.

The humanitarian argument for a fully funded program is compelling, and the objections based on cost make no sense. If the administration continues to ignore this opportunity, Congress must take the lead and find the money.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 1990.
President GEORGE BUSH,
The White House, 1600 Pennsylvania Avenue NW., Washington, DC.

DEAR MR. PRESIDENT: As you know from our previous letters and discussions, one of the most fulfilling projects I have ever been involved with is the establishment of the National Bone Marrow Donor Program and Registry. It is saving lives every day.

You will recall that I first learned of the need for a national registry in 1986 when our family befriended Brandy Bly, a little 10-year-old girl suffering from leukemia who I introduced to you during one of your visits to Pinellas County. Beverly and I spent many hours reading to and playing with Brandy to give her mother some well deserved breaks from her hospital bedside. Doctors sought to treat Brandy's leukemia with a bone marrow transplant, but were unable to locate a compatible donor. Finally, as a last resort, they removed some of Brandy's own marrow, treated it with high doses of radiation and antibiotics, and reintroduced it into her body. Although this more complex and risky form of bone marrow transplantation worked, Brandy died in 1987 from other complications. But at the time of her death, her little body was finally free of leukemia.

It was during Brandy's treatment that I learned from her doctors how difficult it is to find a compatible, unrelated bone marrow donor. Doctors estimate there is a one in 20,000 chance of finding a donor whose many complex blood antigens perfectly match those of the patient. Prior to the establishment of the registry, finding a donor required hundreds of calls to hospitals and blood banks throughout our nation. The process took months and in most cases was unsuccessful.

The Congress in 1986 for the first time appropriated funds to the Navy to begin the process of establishing a computerized registry of volunteers who were willing to have their bone marrow typed and their names placed on call. As a member of the Defense Appropriations Committee, I worked closely with the Navy to ensure that they had the funding necessary to initiate this project. The Navy and the Department of Defense are to be commended for their leadership in developing this program. We initially approached the National Institutes of Health, requesting that they oversee development of the registry, but officials there were less than enthusiastic, saying the procedure was too experimental. NIH, however, became increasingly interested in this program and last year, at the direction of the House Appropriations Subcommittee on Health on which I also serve, and the House Energy and Commerce Subcommittee on Health, authority to oversee the registry was transferred from the Navy to the National Heart, Lung, and Blood Institute.

With the registry in place, the first match of a donor and recipient in need of an unrelated bone marrow transplant took place in December 1987. Since that time, 300 transplants have taken place utilizing the registry, with a greater than 70 percent success rate. Currently, there are 20 to 25 transplants performed each month. The potential for this program is limited only by the success rate of matching patients and donors. To improve the odds of finding an unrelated donor through the registry, we need to recruit and type more volunteers. Today, we have more than 70,000 volunteers in the registry and our goal is to expand the list to 100,000 by the end of this year. By the middle of this decade we hope to have 250,000 volunteers in the registry with the long-term goal of 1 million.

Our experience with this project has shown that when Americans learn of the registry and the potential for saving lives, they readily volunteer to have their marrow typed and their names placed in the registry. The two greatest limitations on our recruitment effort is getting word throughout the country that we are seeking volunteers, and finding the facilities and resources to type them. We are doing all we can to spread the word about the registry and to raise funds to pay the $75 fee for the sophisticated lab test required to type each volunteer.

In fact, we soon will launch a pilot program in my congressional district to recruit volunteers for the registry and to encourage businesses to become involved in the program by covering or defraying the cost of the lab fees for their employees who volunteer. The lessons we learn from this project will be used to develop a nationwide campaign to recruit potential donors and encourage private sector sponsorship to help defray the cost.

We can do more, though, to add to our registry. One of the greatest untapped sources of potential donors could be the men and women who serve our nation in the armed forces. The Department of Defense has played a major role in making the national registry a reality and has shown an ongoing interest and commitment to the program. In your role as Commander and Chief, I would urge you to give every possible consideration to working with the Secretary of Defense and Secretaries of the Army, Navy, and Air Force, and the Commandants of the Marine Corps and Coast Guard to make our service personnel aware of the program and to provide the facilities and resources to type those who are willing to be a part of the registry.

You have stressed throughout your Presidency that there is no boundary to the greatness we can achieve as a nation with the spirit of volunteerism the American people have shown throughout our great history. The National Marrow Donor Program is a way people can give the living gift of life directly to another person here at home and throughout the world. As you know, Barbara has already agreed to be a national spokesman for the program and earlier this month taped a series of public service announcements. Your support for our efforts to add to the ranks of potential donors would be greatly appreciated, especially by those individuals and families who have been given hope where little or none existed just a few short years ago.

With best wishes and warmest personal regards, I am

Sincerely,

C.W. BILL YOUNG,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 27, 1990.
President GEORGE BUSH,
The White House, 1600 Pennsylvania Avenue NW., Washington, DC.

DEAR MR. PRESIDENT: This is to followup my letter to you last week regarding ways in which we can increase the awareness of our nation's military personnel about the National Bone Marrow Donor Registry and provide the facilities for those who volunteer to have their blood typed and become a part of the registry.

As we discussed earlier, our men and women who have volunteered to serve in the armed forces are one of our greatest untapped potential sources of those who could join the registry. During a hearing of our Appropriations Subcommittee on Defense today, I discussed with the Senior Noncommissioned Officers of each of the services the exciting life-saving potential of this program and the need to recruit more volunteers to increase the odds of finding a successful match. Each of them was very enthusiastic about the program and on behalf of the men and women of the branch they represent, indicated an eagerness to participate in the program.

Enlisted personnel in America's military are volunteers in the truest sense of the word and their willingness to be a part of this program is symbolic of their spirit and dedication to our nation. Encouraging their participation in The National Bone Marrow Donor Registry would be an important step toward reaching our goal of recruiting 250,000 volunteers from throughout our nation.

Volunteering to give the living gift of life is exciting, especially with the limitless potential of this program. By providing the facilities and resources to type our enlisted personnel, the Department of Defense can further add to the important role it has played in the establishment and continued operation of this national program that saves lives every day.

With best wishes and personnel regards, I am,

Very truly yours,

C.W. BILL YOUNG,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to ask you to join me in an exciting, nationwide effort to save lives by helping to recruit volunteers in your district for the National Bone Marrow Donor Registry.

One of the most rewarding experiences of my whole life has been leading the effort in Congress to establish this national registry—a program that is saving lives every day by bringing together a patient in need of a transplant with a matched donor. Later in this letter, I will tell you how you can be involved in this effort.

Bone marrow transplantation is a relatively new but preferred treatment for leukemia and as many as 60 other blood disorders. When successful, it is a cure. The procedure, however, requires very precise tissue, or "HLA," matching of the donor and recipient. In fact, the typing is so critical that the chances of finding a matched donor are about one in 20,000 and that is why it is so important that we mount a nationwide effort to expand the registry. Donating bone marrow has been called the "living gift of life" because the donor gives marrow (which replenishes itself easily) to a fatally ill patient whose only chance for life is a marrow transplant.

Prior to the establishment of the national registry, doctors treating patients in need of a transplant had to make hundreds of calls to individual blood banks and hospitals in search of a potential donor. In most cases, the search was futile or took so long that the patient, with the fatal illness, was no longer strong enough to undergo a transplant.

Through the goodwill of more than 87,000 individuals who have already volunteered to have their marrow typed, we have established the National Marrow Donor Program. Now, with one request, a doctor can start a computer search and in a matter of hours determine whether there is a matched donor available. Where before there was little chance of survival for these terminally ill patients, there is now hope. The first transplant utilizing the registry took place in December 1987. Since then, there have been more than 300 transplants. Currently, 20-25 transplants are performed in the United States each month. This is only the beginning for this Program which could soon help provide life for as many as 9,000 Americans a year.

In 1986, the Congress appropriated the first funds for the Navy to begin the process of establishing a computerized registry of volunteers who were willing to have their bone marrow typed and their names placed on call. As a member of the Defense Appropriations Committee, I worked closely with the Navy to ensure that they had the funding necessary to initiate this project. Oversight of the program last year was transferred by the Appropriations Subcommittee on Health, on which I also serve, to the National Institutes of Health.

This is a tremendous program whose potential is limited only by the success rate of matching patients and donors. To improve the odds of finding an unrelated donor through the registry, we need to recruit and type more volunteers. Our goal is to expand the list to 100,000 by the end of this year and to 250,000 by the middle of this decade, with a long-term goal of 1 million volunteers worldwide.

Our experience with this project has shown that when Americans learn of the registry and the potential for saving lives, they readily volunteer to have their marrow typed and their names placed in the registry. The two greatest limitations on our recruitment effort is getting word throughout the country that we are seeking volunteers, and finding the facilities and resources to type them. We are doing all we can to spread the word about the registry and to raise funds to pay the $75 fee for the sophisticated lab test required to type each volunteer.

Earlier this month, I launched a pilot program in my district to recruit volunteers for the registry and to encourage businesses to become involved in the program by covering or defraying the cost of the lab fees for their employees who volunteer. The reaction to this project has been unbelievable as thousands have volunteered to be typed and a number of major employers have agreed to cover the cost of the tests for their employees. The attached packet provides you with detailed information about our project, the very positive reaction by our local media, and endorsements of this project from President Bush and Secretary of Health and Human Services Dr. Louis Sullivan.

You can be a part of this nationwide effort to save lives by sponsoring a similar community wide effort in your district. I would be pleased to work with you and share the lessons we learned from our experience in Pinellas County, Florida.

In addition, to show support in Congress for this national effort, I am making arrangements to have all interested members typed to be included in the national registry. As you will note, the only requirement to be a volunteer donor is that you be in good health and between the age of 18 and 61. Prior to last week, the age cutoff was 55. However, during a meeting of the Board of Directors of the National Marrow Donor Program in my district March 9th, the Board, at my request, raised the maximum donor age from 55 to 61.

We would like to schedule a press conference on the Capitol steps to coincide with the typing of members. The time and date will depend on the response of members. If you would like to take part in this press conference and be typed, or if you have questions about the program or sponsoring a donor drive in your district, please let me know or call Harry Glenn of my staff at 5-5961.

With best wishes and warmest personal regards, I am

Sincerely,

C.W. BILL YOUNG,
Member of Congress.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my colleague, the gentleman from California, who has been a real ally in this effort.

Mr. FAZIO. Mr. Chairman, first of all, I want to commend my friend, the gentleman from Florida, for his ongoing leadership in this area, and I certainly want to give my support to his amendment. I would indicate also that I look forward to working not only with the gentleman from Florida but with the chairman of our Subcommittee on Health and Human Services, the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Pennsylvania [Mr. MURTHA] in this same consideration of the full appropriations for the next fiscal year, because, as the gentleman knows, this is a significant step forward but it really does not go as far as we need to go to get the 250,000 names in the bone marrow register that will really break through to a lot of people who are currently not getting any service from this wonderful effort that we have just begun to make.

Mr. Chairman, this amendment will allow us to increase the number of individuals in the National Marrow Donor Program registry.

At this time, there are approximately 100,000 names in the national registry. The goal is to reach 250,000 names.

Several months ago, only 57,000 names were in the registry, which were accumulated over a period of about 3 years. The increased number of potential donors recently added is largely the result of individual families' efforts at recruiting and testing donors, and raising the funds to pay for the testing.

I am sure that all of you have heard of the efforts of the families of Allison Atlas and JoAnne Johnson in testing potential donors. And many of us have individuals in similar need in our own congressional districts.

Unfortunately, individual testing has been necessary because the administration has refused to adequately fund this program. Consequently, many families of individuals in need of unrelated donor transplants have had to go out and raise the funds and recruit the donors themselves.

Further, many ethnic groups are underrepresented in the national registry. The greatest possibility for a member of the ethnic minority to secure a match lies with a person of a similar ethnic background. Thus far, the registry has not had enough ethnically diverse individuals represented and does not have the funds available to further test potential donors.

While the program needs at least $15 million for testing purposes, and I will be introducing legislation for a one-time authorization for that amount, the $6 million called for in this amendment to the supplemental will help ensure that there is broad ethnic representation in the registry immediately.

The $6 million, which will go for the Navy Medical Research and Development Command, will support the unrelated marrow donor program which was initiated by the Navy.

These funds will be used to support the HLA typing of active duty and civilian personnel, their dependents and others who volunteer to be included in the National Marrow Donor Program.

Should these individuals match with someone in need, they represent a good source to follow through with the actual transplantation.

In addition to military testing, a large share of the funding will go directly to the National Donor Marrow Program for the purpose of increasing minority recruitment and testing.

Funding the National Marrow Donor Program registry has become an urgent national need. I urge my colleagues to support this vital amendment which will save lives.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman from California for his comments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida [Mr. YOUNG].

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS

(RESCISSIONS)

SEC. 201. Of the funds provided in Department of Defense Appropriations Acts and Military Construction Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Personnel, Air Force, $104,484,000;

Operation and Maintenance, Army, $23,305,000;

Operation and Maintenance, Navy, $38,834,000;

Operation and Maintenance, Marine Corps, $1,582,000;

Operation and Maintenance, Air Force, $19,528,000;

Operation and Maintenance, Defense Agencies, $7,132,000;

Operation and Maintenance, Army Reserve, $896,000;

Operation and Maintenance, Navy Reserve, $209,000;

Operation and Maintenance, Air Force Reserve, $1,190,000;

Operation and Maintenance, Army National Guard, $2,125,000;

Operation and Maintenance, Air National Guard, $2,199,000;

Aircraft procurement, Army, 1990/1992, $28,600,000;

Missile procurement, Army, 1990/1992, $50,700,000;

Procurement of weapons and tracked combat vehicles Army, 1990/1992, $69,400,000;

Procurement of ammunition, Army, 1988/1990, $238,000,0000;

Procurement of ammunition, Army, 1990/1992, $200,0000;

Other procurement, Army, 1988/1990, $23,000,000;

Other procurement, Army, 1989/1991, $30,000,000;

Other procurement, Army, 1990/1992, $68,100,000;

Aircraft procurement, Navy, 1988/1990, $30,000,000;

Aircraft procurement, Navy, 1990/1992, $83,000,000;

Weapons procurement, Navy, 1989/1991, $40,600,000;

Weapons procurement, Navy, 1990/1992, $21,701,000;

Other procurement, Navy, 1988/1990, $16,500,000;

Other procurement, Navy, 1990/1992, $22,378,000;

Procurement, Marine Corps, 1990/1992, $15,200,000;

Aircraft procurement, Air Force, 1990/1992, $138,679,000;

Missile procurement, Air Force, 1989/1991, $25,000,000;

Missile procurement, Air Force, 1990/1992, $110,820,000;

Other procurement, Air Force, 1989/1991, $17,900,000;

Other procurement, Air Force, 1990/1992, $45,805,000;

National Guard and Reserve equipment, Defense, 1990/1992, $25,000,000;

Research, Development, Test and Evaluation, Army, 1989/1990, $5,000,000;

Research, Development, Test and Evaluation, Army, 1990/1991, $35,000,000;

Research, Development, Test and Evaluation, Navy, 1989/1990, $5,000,000;

Research, Development, Test and Evaluation, Navy, 1990/1991, $23,598,000;

Research, Development, Test and Evaluation, Air Force, 1989/1990, $19,900,000;

Research, Development, Test and Evaluation, Air Force, 1990/1991, $237,542,000;

Research, Development, Test and Evaluation, Defense Agencies, 1989/1990, $35,000,000;

Military Construction, Navy, 1989/1993, $10,000,000;

Family Housing, Air Force, 1989/1993, $8,000,000;

Military Construction, Army, 1990/1994, $16,000,000;

Military Construction, Navy, 1990/1994, $10,650,000;

Military Construction, Air Force, 1990/1994, $37,500,000;

Military Construction, Defense Agencies, 1990/1994, $5,810,000;

North Atlantic Treaty Organization Infrastructure, 1990/ 1994, 21,925,000; and

Family Housing, Air Force, 1990/1994, $17,800,000.

(DISAPPROVAL OF DEFERRALS)

SEC. 202. (a) The Congress disapproves the following deferrals relating to the Department of Defense as set forth in the message from the President transmitted to the Congress on February 6, 1990 (H. Doc. 101-149):

Deferral No.	Item	Budget Authority
	Department of Defense, Military:	
D90-10	Aircraft Procurement, Army	16,000,000
D90-11	Procurement of Ammunition, Army	310,000,000
D90-12	Procurement of Ammunition, Army	90,000,000
D90-13	Other Procurement, Army	11,000,000
D90-14	Aircraft Procurement, Navy	200,000,000
D90-15	Weapons Procurement, Navy	13,900,000
D90-16	Shipbuilding and Conversion, Navy	592,398,000
D90-17	Shipbuilding and Conversion, Navy	324,800,000
D90-18	Aircraft Procurement, Air Force	181,700,000
D90-19	Missile Procurement, Air Force	131,000,000
D90-20	Other Procurement, Air Force	70,000,000
D90-21	National Guard and Reserve Equipment, Defense	40,900,000
D90-22	Research, Development, Test and Evaluation, Air Force	100,000,000
D90-23	Research, Development, Test and Evaluation, Defense Agencies	21,000,000
D90-24	Military Construction, Army	3,200,000
D90-25	Military Construction, Navy	16,150,000
D90-26	Military Construction, Army National Guard	18,301,000
D90-27	Military Construction, Air National Guard	36,841,000
D90-28	Military Construction, Army Reserve	16,660,000

(b) The disapproval shall be effectrive upon enactment into law of this Act and the amounts of the proposed deferrals disapproved herein shall be made available for obligation immediately upon enactment into law of this Act.

SEC. 203. (a) The appropriation "Research, Development, Test and Evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended by striking out the proviso following "Small ICBM program:" and ending with "B-1B aircraft:".

(b) Section 890.84 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".

(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".

(d) Section 8127(b) of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is hereby repealed.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that chapter II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against chapter II?

Are there any amendments to chapter II?

If not, the Clerk will read.

The Clerk read as follows:

CHAPTER III

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,609,671,408.

AMENDMENTS OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer amendments.

Mr. CONTE. Mr. Chairman, I reserve a point of order against the amendments.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] reserves a point of order against the amendments, and the Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. RAHALL: Page 10, strike lines 11 through 21.

Page 11, strike lines 4 through 11.

Page 11, strike lines 12 through 16.

Page 11, strike lines 18 through 25.

Page 12, strike lines 1 through 21.

Page 12, strike line 23 and all that follows through page 13, line 3.

Page 13, strike lines 4 through 21.

Page 13, strike line 22 and all that follows through page 14, line 2.

Page 14, strike lines 3 through 9.

Page 14, strike lines 10 through 17.

Page 14, strike line 18 and all that follows through page 15, line 16.

Page 15, strike lines 17 through 20.

Page 15, strike line 21 and all that follows through page 16, line 2.

Page 16, strike lines 3 through 8.
Page 16, strike lines 9 through 17.
Page 16, strike lines 18 through 24.

Mr. RAHALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. WHITTEN. Mr. Chairman, I reserve a point of order on the gentleman's amendments.

The CHAIRMAN. The gentleman from Mississippi [Mr. WHITTEN] reserves a point of order against the amendments.

The Chair would ask the gentleman from West Virginia, does he intend to offer these amendments en bloc?

Mr. RAHALL. Mr. Chairman, it is the sponsor's intent to ask unanimous consent to consider these amendments en bloc notwithstanding the fact that some of these amendments amend paragraphs that have not yet been read.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. OBEY. Mr. Chairman, reserving the right to object, I simply wish to ask the gentleman, if no objection is lodged to his request, does he intend solely to proceed to offer that amendment with no other amendments in mind?

Mr. RAHALL. Mr. Chairman, if the gentleman will yield, I would state that the gentleman is correct.

Mr. OBEY. Then, Mr. Chairman, I would have no objection, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia that the amendments be considered en bloc?

There was no objection.

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Mr. RAHALL. Mr. Chairman, my amendment simply strikes the foreign-aid portions of this bill.

I object to the bill because, in addition to providing needed funding for domestic programs, it also provides $870 million in foreign aid. I do not believe that we have the resources to continue assisting foreign countries while there are significant needs at home.

There is little question that many nations around the world require economic and development assistance and that any compassionate nation, which has the resources, should assist those nations whenever possible. Over the years, the United States has been such a compassionate nation.

But, Mr. Chairman, we no longer have the resources to assist foreign nations. Our deficit stands at $152.1 billion, our gross Federal debt at $2.8 trillion. Real earnings between 1973 and 1986 have declined 17 percent. Our merchandise trade deficit has risen from $19.3 to $118.5 billion since 1980.

Millions of Americans remain unemployed and millions of Americans are without homes. Millions of others live in substandard housing. We have millions who work, but do not earn adequate wages. We have millions of Americans who can not afford health care. Our youth are being poisoned by illegal drugs flooding into this Nation every day. Our roads and bridges are falling apart.

Yet, the very programs that are meant to address these problems are being cut, and State and local governments are being asked to pay a greater cost-share. EDA, ARC, the EPA construction grants program for water and sewers, UDAG, and CDBG are just a few of the domestic programs which have fallen victim to this budget cutting.

Communism is no longer the enemy; competition is. Let's retool and rebuild America first.

Just last week, the other body deflated an amendment to the Clean Air bill, offered by Senator BYRD, which would have provided approximately $500 million in financial support and job-training benefits for miners who are expected to lose their jobs as a result of the bill's acid rain provisions.

Why is it that we are so willing to make these cuts in domestic programs and deny our own workers the opportunity to prepare themselves for other jobs as a result of legislation that we are going to enact, yet we continue to provide foreign countries aid?

How can we support the rest of the world Mr. Chairman, while we turn our backs on the American people? When is it America's turn Mr. Chairman? When will we call upon those other nations who can afford it, to help those who cannot. When is it America's time? How long Mr. Chairman, must the American people bear the burden of world needs, without providing for this Nation.

I say the time is now, it is America's turn, it is West Virginia's and the rest of America's time. I want to put West Virginia first, I call upon my colleagues to put America first.

I urge my colleagues to support my amendment.

Mr. EDWARDS of Oklahoma, Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think the gentleman from West Virginia [Mr. RAHALL] got it backwards. This was the supplemental that arose out of a request from the administration to provide emergency assistance for what happened in Panama and Nicaragua, and the rest of it was added on to this bill. This started out as an assistance bill to help emerging democracies and not to have all these other things.

Mr. RAHALL. Mr. Chairman, regardless how the bill started out, what we have here today is a request of $870 million in foreign aid, and it is this gentleman from West Virginia's intent to strike this entire section.

Mr. Chairman, I believe, and certainly we can look at the need around the world to provide economic and development assistance, that we are a compassionate Nation. If we had the resources, fine. Then we should assist these nations wherever possible.

However, Mr. Chairman, I do not think just to go down and throw money into these countries is going to mean that democracy is going to sprout up the next day.

We no longer have the resources in this country to assist foreign nations. Our deficit stands at 152.1 billion; our gross Federal debt at $2.8 trillion; our real earnings between 1983 and 1986 have declined 17 percent. Millions of Americans remain unemployed, and millions of Americans are without homes. Many others live in substandard housing. We have millions who work, but they do not earn adequate wages. We have millions of Americans who cannot afford adequate health care. Our youth are being poisoned by illegal drugs flooding into this Nation. Our roads and bridges are falling apart.

Mr. Chairman, I in no way cast aspersions upon the fine gentleman from Wisconsin [Mr. OBEY], the chairman of the subcommittee, or the full committee chairman. These gentlemen support the vital programs for our people here at home. I thank them for that support, and they are needed programs, but I think it is time that we realize that communism is no longer our enemy around the world. Competition is.

My colleagues, let us rebuild America first. These other countries use our foreign aid to put their No. 1 interests first. Let America put our interest first.

Just last week, Mr. Chairman, the other body defeated an amendment to the clean air bill offered by Senator BYRD which would have provided approximately $500 million in financial support and job training benefits for miners who are expected to lose their jobs as a result of the bill's acid rain provisions. Why is it that we are so willing to make cuts in domestic programs and deny workers the opportunity to prepare themselves for other jobs, but yet we continue to provide foreign countries the tools with which to provide for their best interests and their workers? How can we support the rest of the world, Mr. Chairman, while we turn our back on the American people?

My colleagues, when is it America's turn? When are we going to call upon those other nations, who can afford it, to help those who cannot? When is it America's time?

I say, "The time is now. It is America's turn. Let's look and put America first," and I call upon my colleagues to adopt this amendment which, once again, simply removes chapter three from the bill, deleting entirely, deleting entirely, the foreign aid section of this supplemental appropriations.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the easiest thing in the world to do is to stand on this floor and say, "Let's simply eliminate every dollar in this bill for this title." It is a very easy thing to do, and it can be done if we are not serious about the United States of America. However, Mr. Chairman, if my colleagues are serious about the United States of America and our obligations to ourselves, as well as the rest of the world, they simply have to face the fact that we do not live in isolation on this globe. The simple fact is that unless we want to say here today that we are not the leader of the West, unless we want to say here today that we do not have the obligation to clean up messes which we caused, then we simply cannot in good conscience support this amendment.

Mr. Chairman, there is no number in this title which is hard and fast. No one is certain what the specific amount asked by the President for Panama and Nicaragua, for instance, is, the exact amount that ought to be provided. Reasonable people can certainly differ on that.

However, Mr. Chairman, the fact is that the lion's share of the foreign assistance funds in this bill is here for two purposes. They are here because we are in the process of ending a war in Nicaragua which we helped start in the first place, and there are winddown costs associated with the ending of that war. And it is because the Bush administration finally abandoned the unilateral militarism of the previous administration in Nicaragua, and because we worked together, the Congress and the administration, the Republicans and the Democrats alike, on a new policy, that there has been a new election in Nicaragua, and the side supported by the United States won. And we are now simply trying to help restarted that economy.

Mr. Chairman, the same is true in Panama. We simply had in that case a request from the President to provide a small amount of money to reimburse that country for the damage that was inflicted on them by our past policies with respect to Panama—first having an overreliance upon Mr. Noriega by our Government, and then, after we decided that policy was no good, the squeezing of the Panamanian economy to try to get Noriega out of office.

There are certain costs associated with American leadership, and those two expenditures demonstrate those costs. In my judgment, we have very little choice but to approve the requests made by the President.

I would also point out that we have some other obligations. For over 15 years we lectured the Soviet Union saying, "Look, you ought to let Soviet Jews out of the Soviet Union. You ought to let them go." They have now decided to do that. For the United States to say, "Well, now that you've decided to let them go, we're not going to take them," would be the height of irresponsibility.

So, Mr. Chairman, it seems to me that we have no choice but to recognize that unless we think that we can retreat into absolute isolation, we have no choice but to recognize that the bulk of what the President asks for is correct, and we ought to support him in that effort.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I appreciate the gentleman from Wisconsin [Mr. OBEY] yielding to me because he is someone who understands the details of this bill better than any of us on the floor do.

I ask the gentleman from Wisconsin, "Do I understand correctly that all of the money in title II is offset by defense cuts? Is that correct?"

Mr. OBEY. The gentleman from Pennsylvania [Mr. WALKER] is correct.

Mr. WALKER. So, therefore, supporting the amendment of the gentleman from West Virginia [Mr. RAHALL] would in fact be in favor of keeping defense spending which the Defense Department has now indicated is not needed; is that correct?

Mr. OBEY. Mr. Chairman, I do not think I can fairly say that because I do not think the amendment of the gentleman from West Virginia [Mr. RAHALL] would eliminate the defense offset. I would greatly be corrected if that is not the case.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, the gentleman from Wisconsin [Mr. OBEY] is correct. My amendment would not touch any of the defense offsets.

If I might respond to the gentleman from Pennsylvania [Mr. WALKER] in saying that all the money in this chapter that I seek to delete is not all provided for by defense offsets. If I am not mistaken, there is a $400 million transfer in there that is not provided by defense offsets, but is coming from who knows where.

Mr. WALKER. Mr. Chairman, could the gentleman from Wisconsin [Mr. OBEY] correct the record on that?

Mr. OBEY. Mr. Chairman, I would say that every dollar which is appropriated by this bill, my understanding is that that money is offset by defense reductions.

Mr. WALKER. So then what the gentleman from West Virginia [Mr. RAHALL] is doing under his amendment is cutting the defense spending, but we would not, in fact, replace it with the money going to Nicaragua and Panama and other places in the world that we think are in our security interests.

Mr. Chairman, is that the understanding of the gentleman from Wisconsin?

Mr. OBEY. The gentleman from Pennsylvania [Mr. WALKER] is correct.

□ 1400

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and in support of the aid package to Panama and Nicaragua as set forth in this bill.

The United States should support the efforts to establish a free society and a free market in Nicaragua and Panama.

Democracy is sweeping the world, and no more so than in Latin America. When President-elect Chamorro is inaugurated on April 25, for the first time in history all of Central America will be under democratic rule. Ten years ago, virtually all of Latin America suffered under some sort of dictatorship. Nicaragua and Panama are two more in the long list that have managed the transition to democracy over the past decade. Now Cuba remains the only dictatorship in the Western Hemisphere.

The new democracies in Latin America are not perfect. They have had great difficulty in terms of human rights and economic progress. The history of these countries is plagued by military domination and their economies are burdened by debt. But these flaws and imperfections do not give the United States a reason to turn its back on these countries. Indeed, this country needs to help these new democracies over these significant hurdles. The people of Nicaragua and Panama turned out to support democracy; we should make sure these efforts are not in vain.

Unfortunately, the economies of these countries have been devastated by dictatorship and conflict. Nicaragua has a long way to go to rebuild its economy from the shambles left by years of war and a Communist economic system. The economic sanctions imposed on Panama strangled that country's private sector.

This aid package is not intended to keep Panama and Nicaragua on the foreign aid dole ad infinitum. It is intended to jump-start their economies so that private economic growth can occur. This aid package can be beneficial to this country, because strong economies in Central America are an important market for American exports.

Mr. Chairman, I urge my colleagues to support this aid to Panama and Nicaragua.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I regret that the gentleman from Wisconsin [Mr. OBEY] used the phrase, "messes we have caused." I find it difficult to characterize our joining in the struggle for freedom for the people of Panama to free themselves of the tyrant, Noriega, to kick the Colombian Mafia out of their own country as causing a mess.

Mr. OBEY. Mr. Chairman, since the gentleman used my name, will the gentleman yield?

Mr. HYDE. Let me finish my statement, then I will yield, unless the gentleman insist on me yielding now, and I will yield.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding to me.

I would simply make the point on my comments with respect to the mess in Panama did not refer to our invasion of Panama. It referred to the ill-advised policy of supporting Mr. Noriega for 10 years, which led to a situation in which that was our only choice. I do believe that was a mess.

Mr. HYDE. Well, if the gentleman includes the Carter administration, then I will forego arguing that at this time, but I think that is a much more complicated situation than the phrase, "messes we have caused" alludes to.

In any event, getting rid of tyranny is not causing a mess. It is called liberation.

In addition, in Nicaragua we did not cause that war. I was one on the floor who voted, along with the gentleman from Wisconsin, for millions of dollars for the Sandinistas in the forlorn and misplaced hope that they would live up to the promises they made to the OAS in 1979 to democratize. We were wrong. They were wrong and Mr. Carter cut aid to the Sandinistas, not the United States, and because some people who lived in Nicaragua wanted to live in freedom, as we do, and decided to create a resistance and we supported them, I do not think we caused the war.

In any event, I think it is useful for us to help the economies of countries whose economies we have damaged because of our embargo and because of our sanctions.

In addition, I would say to the gentleman from West Virginia, by helping them get to their feet economically we make customers of them and we can sell them some exports, so it is not exactly a zero sum game.

I do with all my heart and soul appreciate the great gentleman from West Virginia, but I think in this instance, one of the few times, he is quite wrong.

Mr. Chairman, I yield to my friend, the gentleman from West Virginia, if he wishes to withdraw his amendment, which I doubt.

Mr. RAHALL. Well, Mr. Chairman, I appreciate the comments of the gentleman from Illinois. Certainly this gentleman has a great deal of respect for him.

I will say that it is my desire also to see that we are able to export our products to these new countries, these new democracies, but I think that we ought to first realize that we have to be in a competitive mode. We have to be able to produce those products in a competitive fashion in order for them to be attractive on the world market.

So the purpose of this amendment, and my goal overall, is to see that we in this country make ourselves competitive through job training programs, through rebuilding our infrastructure needs, through making our people feel pride in the product that we produce in this country so that it will be readily accessible for export to our new found friends.

Mr. HYDE. Well, perhaps the gentleman will join me in looking for other areas wherein we may save money, such as funding the arts or things like that, that are less significant, perhaps, than saving democracy in Central America and creating customers out of those lovely people for our products.

I thank the gentleman.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words. I support the amendment.

I have heard an awful lot of talk that we want to make customers out of these individuals so listed under our foreign aid accounts. I would like to say that we are making debtors out of the American taxpayers and we keep taking their money more and more and shipping it overseas.

Now, I agree and I can recognize that certainly this amendment will not pass, but I think it is a sad day when we continue to come to the floor and everybody gets up when we talk about foreign aid, we hit everybody who talks against it as being a demagogue.

We talk about all the great things this foreign aid is doing in helping America solve problems in the world. Most of these countries are saying, "Yankee, go home."

I think one of the most interesting things I have ever seen was on a speech I think by one of our colleagues, the gentleman from Massachusetts [Mr. FRANK] who made a statement about how it really works. He made more or less a statement that our government called the Philippines and said, "Listen, we have some money for you. Do you want the money?"

And they said, "Well, we're not sure."

"Well, come on, are you sure you don't want money? We've got it for you."

What we are doing, we are not buying friends. No one wants to listen about Chicago, Cleveland and Los Angeles. I am seeing the type of money coming up for infrastructure in those communities.

What about the people in Pittsburgh and Youngstown and Warren and Cleveland who lost their steel jobs? What about the Americans who are displaced and cannot buy a home? Getting a piece of the rock is importing a boulder from Mt. Fuji around here anymore.

Who is looking after domestic appropriations, supplemental domestic help for the American cities, for our roads, for our bridges, for our students? I think it is high time that we do.

Now, let me say this. I have got people standing miles long for section 8 housing. Where are the housing guarantees for Americans in this bill?

The politics of this bill stink. Congress, for whatever reason, has put on blinders when it comes to this foreign aid account, and every time I hear it, it is only a small fraction of our total budget.

Well, tell me, what was revenue sharing then?

The city of Youngstown relied on policemen and firefighters out of that revenue sharing account that were decimated by a loss of 55,000 jobs, and no one even offered rustproof paint. You get up and mention it, you get the long litany of international diplomacy.

Let me tell you what. This is not international diplomacy. This is stupidity. Congress is going bankrupt. We are presiding over the biggest chapter 11 in world history, right before our eyes, $3.3 trillion, and if you talk about a project for your area, that is pork barrel.

Oh, my God, you want a million dollars for a water tower for a community that does not have water? What do you want to do, TRAFICANT, break the bank? Half a million dollars for a study of infrastructure, water lines rotting, and you want to bust the bank?

Let me tell you, you are busting the bank with appropriations overseas.

I will tell you what. The American people have got to be fed up with this, but the problem is I do not think they hear about it.

I am going to support this total strike, even though there are things in here more than likely that are necessary, but I am going to cast that vote

out of defiance to this body who continue to ship money overseas and then tell us how appropriate it is. They had better not. You know, urinate on their backs, do not tell us it is raining outside.

I oppose this policy, not totally supporting the strike, but I oppose this policy, and I say before we ship money overseas let us take care of our own country first, and we are not doing that. We are not doing enough of it.

□ 1410

When this thing is all over, I will have a couple of amendments, and I would hope that the Members would look at them with favor, and also hope that they look critically at the policy statement and support the gentleman from West Virginia [Mr. RAHALL]. I am going to.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, let us be very clear about the cost of this assistance. There are offsets or deferrals for every dollar of foreign assistance spending in this bill. Nobody, and I will repeat to the gentleman from Ohio, nobody is saying: Let us come to this floor and spend more money for foreign aid. That sounds good back home in Ohio, but it is not what is in this bill. This bill takes money out of the defense budget and transfers it to other purposes to ensure our national security.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I am happy to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, could not the Congress just as well then, sir, could not they have transferred and taken this money and reinstituted Federal revenue sharing if they had so chosen? Could they or could they not have done that? They chose to put it into foreign aid. Let us clarify the record.

Mr. EDWARDS of Oklahoma. Reclaiming my time, yes, that is precisely what we have chosen to do. The three items requested by the administration in this supplemental, the provisions for Nicaragua, Panama, and refugee assistance, are needed as a result of the fact that the world has changed.

The global landscape has changed. The world is turning away from authoritarian regimes and toward democracy. And we ought not to be neutral about that.

This bill fully funds the administration's request of $300 million for Nicaragua, The Nicaraguan economy is in shambles.

The gentleman, I am sure, is glad the war in Nicaragua is over. I am glad it is over. This money is urgently needed to help the Chamorro government get on its feet, and it is not going to come a moment too soon, because the Nicaraguan planting season is going to be here shortly, and this package includes agricultural assistance for that country.

The bill includes money specifically for repatriation of the Contras. For those of us who fought long and hard for democracy in Nicaragua, the opportunity to finally help build a truly democratic and open society there is one that we cannot miss.

It provides $420 million for Panama to help rebuild the private sector, infrastructure development, pay arrearages. This is a one-time jump start for the Panamanian economy as a price for helping get rid of General Noriega.

This supplemental funds the administration's request for refugees, much of which is for Eastern European and Soviet Jews. It includes $25 million to replenish the emergency refugee fund.

It addresses the positive changes in southern Africa, providing money for democratic institution-building within South Africa. Is that not something that we have all wanted to do?

Let me state to the gentleman that he talks about doing something for the United States; he talks about doing something for national security; he talks about doing something for people in Ohio and in Oklahoma. The way we do it is to solidify democracy around the world and remove the threat from totalitarian governments to your constituents and mine.

I strongly oppose the amendment. I think the gentleman from West Virginia, as a previous speaker said, is a very fine Member of this body. I agree with him most of the time. He just simply is wrong on this one.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would also like to suggest that this House does not have to take any lectures from anybody in terms of our obligation to scrub foreign aid dollars.

The fact is that in the last 5 years, this Congress has cut almost $5 billion from the administration's foreign aid requests. We have had the largest percentage cut in the President's requests made in the foreign aid account in 4 out of the last 5 years. I do not think we have to take any lectures from anybody about our stewardship of the taxpayers' dollars with respect to these programs.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the chairman of the subcommittee, who has done a marvelous job of doing that. He and I have worked together to try to reduce the foreign aid spending, and I would repeat again that there is no increased spending in this bill. That is simply not true.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me say at the outset that I certainly commend the gentleman from Wisconsin for his handling of this whole package, including that portion regarding foreign aid, and to the gentleman from Ohio, who has incessantly but very righteously, and with good cause, come to this well and time after time talked about defending Americans and American jobs and American workers which on many occasions has found me joining him, let me say that it is unfortunate that he wants to cast this particular kind of aid in an antiworker, anti-American mold, because quite honestly it is not right. It is not appropriate.

Let me take us back to 1948. The development of the Marshall plan was something that President Truman was advised not to do. President Truman felt it was absolutely necessary after the war when most of the world was in shambles to guarantee the economy of the United States a place to sell its goods so that American factories could hire workers, buy raw materials, and produce things for export, because we could not afford to buy everything we could produce. There were not that many markets that were available that had money or an economy sufficient to buy our goods, and so the Marshall plan was created against the advice of most of his advisers, against the advice of many in the country.,

A poll taken then showed that only 14 percent of the people, United States citizens, only 14 percent favored doing what he did, and yet by having the courage to do that, by understanding that by investing overseas in various places, we develop markets which ultimately are to the benefit of American workers and American jobs and American technology, we were able to put together from the shambles of Europe and the Soviet Union a whole market that for 40 years served us well.

We did not sell in the Far East; practically nothing. Europe was everything.

We are now turning our attention south of us, the emerging markets, emerging democracies, places where we need to make the economies strong. Why? Because the same reason exists today that existed in 1948. We are losing our markets to the Japanese, and the gentleman knows very well, because he just said so, that our competitiveness has been stunted significantly by the intrusion and capability of the Japanese around the world, and we are losing our markets to the Europeans. EC 1992 is coming, and that is going to promote further problems for the United States. Hopefully it will spur competitiveness. In the short run, it is going to present another bar to markets.

What we are doing is exactly what the gentleman from Ohio wants to do, and that is to try to promote America by promoting American jobs, promoting American technology, promoting American workers to be able to work, and promoting the sales of American goods in countries where their economies now cannot afford to buy that American technology, that American product.

Mr. Chairman, this is an investment. It was an investment in 1948. It has been an investment ever since, and it is an investment now, and while I do not agree much with President Bush, as this gentleman from Ohio well knows, the reality is that for once, at least, he is doing the right thing by taking it out of the defense budget and putting it into the place where that money will be 10 times as productive as it would be in the defense budget under the new circumstances that govern the world and the circumstances we find ourselves in.

We have to be doing more of this, not less. We should not look for ways to waste money, but neither should we shrink from our obligations.

For instance, the new emerging democracies in Eastern Europe, what are we going to do? The shambles of Eastern Europe today resemble the shambles of Western Europe in 1948, and we need to be there first, now, developing our markets now, with aid, with help, making those people not only secure democratically but secure economically so that tomorrow they will want to buy the goods that we make here in the good old U.S.A. and not from Japan.

□ 1440

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Wisconsin [Mr. OBEY] I am sure remembers several months ago when I stood on the floor and offered a similar kind of amendment. It struck I think $630 million in foreign aid out of a bill, and the gentleman and I had some strong words on that evening in the House when that amendment was before us.

I mention that only because I would say this gentleman from Pennsylvania is perfectly willing to look at the foreign aid budget as one of those items that needs to be understood can be subject to cuts along the way if that is what Members should do. In this particular case though, it does not make much sense to do as some of my colleagues are suggesting.

First of all, as was just pointed out, this money has been offset. In other words, we have done exactly what has been talked about on this House floor for some period of time. We have taken money out of the defense budget and put it over for other uses that we regard as priority uses at this time. That seems to me to be a responsible course of action to take.

If we are going to fund foreign aid spending, we will do it out of the money that we otherwise would have allocated for defense.

But what struck me in the remarks that we have heard so far in defense of this amendment is the idea that somehow we would be helping this country by not putting this foreign aid into practice in places like Panama and Nicaragua.

Let me examine just one of those nations, Panama. I would suggest that during the time the authoritarian regime of Mr. Noriega that the Panama Canal was seriously jeopardized. That is not me speaking, that is a report done for this Congress speaking. We had a report done by the Panama Canal Commission which indicated that Noriega was putting the canal in jeopardy.

One of the main reasons for trying to change the situation in Panama was to assure the integrity of the canal. The integrity of that canal and its ability to operate is in the direct interests of this country. The products that float down the Ohio River, down the Mississippi, and go to the port of New Orleans are then transferred to the west coast and sold by going through the Panama Canal.

The oil that comes from Alaska is brought down through there, refined in New Orleans, and brought up the river to service Ohio and West Virginia and some of the States.

I would suggest the loss of the Panama Canal would be an absolute economic disaster for the Midwest, as it would be an economic disaster for this country. This aid we are attempting to do is to stabilize a country which now finds itself in desperate straits as a result of actions that were taken to end the authoritarian regime of Mr. Noriega, who was jeopardizing that canal. It is in fact an investment in this country for us to invest in the Panama Canal and assure that the canal continues to operate within the context of a friendly government. To not vote for this aid is to suggest we can get along without the Panama Canal.

I think to jeopardize the Panama Canal here on this floor today is absolutely wrong. I would have to say the amendments designed to cut this particular aid are amendments designed to impinge on our ability to operate the Panama Canal, and so therefore would be directly outside the national interests of this country.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be happy to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, No. 1, I opposed Jimmy Carter giving the canal up in the first place.

Mr. WALKER. But that does not do us any good at this point.

Mr. TRAFICANT. Will the gentleman continue to yield?

Mr. WALKER. I will get back to the gentleman. But I would say to the gentleman that that does not do us any good at this point. Jimmy Carter gave away the canal and it is now a reality that it operates within Panama and we have to have a stable Panama for it to operate in.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I am just speaking overall policy, both Democrat and Republican. No. 1, I think that was a foolish move. American taxpayers paid for it, fought to keep it, gave up their lives.

Second of all, Noriega was captured by freedom fighters. We turned our back on them and they shot them in the head when they liberated Noriega. We did not have to have $1 lost. We have wobbly knees. When those freedom fighters captured Noriega and asked us to shut off those roads, our military, our CIA, did not respond.

So what I am saying to the gentleman is this: We may disagree, but I do not buy that Panama rap and I do not believe we need this money for Panama.

Mr. WALKER. The gentleman from Ohio [Mr. TRAFICANT] is absolutely wrong. Even if the freedom fighters had succeeded in October, the fact is that the economy and the situation in Panama still would have been a shambles. It is not the fact that we went down with our troops and took control of the country. It is the fact that Panama is in shambles and the instability of the country is jeopardizing the canal.

The gentleman is absolutely wrong. The canal is being jeopardized if we do not go ahead and do what we have to. It does not help if the gentleman at some point in the past said he was for the Panama Canal and for what America did. The question is what is one willing to do today to assure the stability of that canal? If you are willing to support the amendment of the gentleman from West Virginia, you are against having the kind of stability that keeps the canal in place.

The CHAIRMAN pro tempore (Mr. OBERSTAR). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. TRAFICANT and by unanimous consent, Mr. WALKER of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I yield to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, let me say just briefly that our economy and national debt is in shambles. It is

time we focus in on America, because Panama is not going to save our behind when it hits the fan, sir.

Mr. WALKER. The gentleman from Ohio [Mr. TRAFICANT] is absolutely correct, and the gentleman knows I come to the floor and say that a lot. But it also is not helpful to have amendments which pull out the underpinnings of one of the major economic assets this country has, namely the Panama Canal, and that is what the gentleman is wanting to do.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say to the gentleman from Ohio [Mr. TRAFICANT] about that coup that was attempted down in Panama, there were some Members of Congress, not from my party, who objected to any action by anybody down there that might result in harming Mr. Noriega, and in fact asked the White House to notify Noriega if he was in any danger. And that forestalled any successful operation down there, unfortunately.

Mr. WALKER. Mr. Chairman, I just want to reiterate again that the point here is if you really do sincerely believe the Panama Canal is an important asset for this country, you will support the bill that was brought to us by the committee today.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the most divisive single issue that I can recall debating here in this Chamber in the last 7 years was aid to the Contras in Nicaragua. The single most divisive issue I can recall.

The most galling issue that I can recall facing in our Nation in these last 7 years was Manuel Noriega leading a totally corrupt government in Panama from top to bottom, and the United States seemingly powerless to do anything about it.

If 4 months ago any of us in this Chamber had suggested we would be standing here today and deciding how best to help the democratically elected Governments of both Nicaragua and Panama, I do not believe we would have believed that possible.

It has been pointed out by other Members here today that these foreign aid dollars in this supplemental appropriation are not drawn from domestic spending, are not drawn from highway programs, housing programs, or health programs. These dollars are drawn, as they appropriately should be, from reprogrammed defense spending. To the extent that in this new day and age we need to spend less dollars for defense, it makes I think sense to spend some of that money to help stabilize these newly elected democratic governments in Central America.

One of our earlier speakers in this debate has lamented the fact that these foreign aid dollars do little if anything for the constituents of his district or our districts. Let me just say in my district, and I suspect in almost every district represented in this House Chamber, one of the biggest threats to our constituents and their families is drugs, the sale and use of illegal drugs in this country.

Three months ago I had the opportunity to visit Panama, a country where there were not one, or two, but any number of illicit drug laboratories set up in the bush, a country where banks were used as laundromats, almost as personal laundromats by the drug cartels to launder illegal drug moneys. Today, these money launderers are on the run, and we ought to keep them on the run.

Speaking of our national interest, the canal which cuts through Panama represents still a major investment of ours as the gentleman from Pennsylvania [Mr. WALKER] suggested earlier. That canal is now in friendly hands, safe hands, hands willing and able to safeguard what remains a shipping and economic lifeline for our Nation.

When I was in Panama 3 months ago, I saw enough guns to fill this Chamber, guns that had been confiscated including assault weapons, pistols, and rifles. You name it, they had it. The reason why they had it is because Panama had been turned, not just into a drug running operation, a money laundering operation, but also into a gun-running operation that spread instability throughout Central America, an instability that most certainly is not in America's interest.

Then, there is Nicaragua. Prior to 1985, Nicaragua's principal trading partner in the world was the United States of America. We were their chief trading partner. We actually enjoyed a favorable balance of trade with Nicaragua. My guess is within the next 1 or 2 years we will be their principal trading partner once again.

□ 1430

Finally, I believe that aid to Panama and aid to the Government of Nicaragua—to the democratically elected governments of those countries—is in our naked self-interest in this Chamber and in this country. More importantly, it is also the right thing to do.

I urge the defeat of this amendment and support for the proposal of the Appropriations Committee.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first I want to congratulate the gentleman from Delaware, Mr. TOM CARPER, who just took the well for his well-thought-out and responsible statement. It is not easy to stand here on the floor and fight for foreign aid. The easy thing to do is to cut foreign aid.

I read the debates going back to 1948, when we had the Marshall plan, and then we had the Truman plan, and the Turkey-Greece plan, and that was a bitter debate with some of the same arguments that are used today by my good friend from Youngstown, and my dear, beloved friend from West Virginia. They were the same arguments that were used at that time.

There is no free world, because it costs money. It costs money to promote peace and democracy.

Yes, we spend billions and billions of dollars for war and yet, when we have a much smaller amount here for peace you want to cut them. I cannot believe it. I really cannot believe it. It must be that something happened this morning to my good friend from West Virginia, because I usually agree with him. I do not agree with him here.

The amendment the gentleman offers here today snatches defeat from the jaws of victory. The victory in Panama, as the gentleman from Delaware said so well, the victory in Nicaragua. Not once, not once did I ever vote for a nickel of money for the Contras, and I took a lot of heat from my administration on that. Now through peaceful means we stuff it to Ortega, stuff it to Ortega through the ballot box, and we have democracy, and here are these people now looking for a transfusion. That is what they want. They are lying on their backs down there in Panama and Nicaragua looking for a transfusion. This amount that we have here is a transfusion that is going to keep democracy alive in Panama and Nicaragua.

Do not deny them that transfusion. It would be a big mistake, and I hope the amendment offered here by the gentleman from West Virginia is defeated on a voice vote. Let us get on to the other amendments.

Mr. MURPHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from West Virginia. We have heard many emotional remarks made about our neighbors in Central and South America. But the basic question we are being asked here today is in addition to the billions of dollars that were appropriated by this Congress just a few months ago for foreign aid, we are now being asked to spend another billion-plus dollars in foreign aid.

We can be told that it is offset, that it is transfers from defense. If it is transfers from defense, why did the very Members who are here arguing for this expenditure today argue just as vociferously and convincingly, I

might add, a few months ago that our national defense needed this billion dollars and, therefore, it was to protect our country that this billion dollars was there? But today we find a way not to transfer it to our neighbors to the south, and to the north, and to the east and to the west.

If they think it is just pennies, it is $1 billion. If they would like to offset or transfer the money, why not take it out of the $20 billion spent last year for foreign aid? Take some from our other neighbors who perhaps do not need it as much as Nicaragua or Panama.

Let us talk about the kind of a transfer instead of transferring it out of our defense for their economic promotion.

We in Pennsylvania, West Virginia, and Ohio know what the Marshall plan brought us: steel mills in Europe, auto plants in Japan. We know what those foreign programs bring us, and that is what it will bring us, textile mills in Central America, electronics plants. That is what this will bring us, not peace and harmony. We do not buy friends, my friends, we earn friends. We do not buy them with dollars.

I say that if we are to transfer this money and it is not needed by the military, why do we not pay a little bit of our debt? We owe $3 trillion to bond holders around the world. Why do we not put that $1 billion toward that debt?

We are talking about a budget now that we cannot reconcile this year to meet Gramm-Rudman targets. Let us throw that $1 billion in and maybe it will help us reconcile it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield 15 seconds to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I will just say to the gentleman, if I can say it that quickly, by helping to rebuild the economies of these countries, as happened in Europe, what we do is provide people who have an economy, an ability that allows them to be customers and to buy products from the gentleman's district and from my district. That is what we do.

We also enable ourselves to live and our constituents to live in a more peaceful world.

When I was growing up in Oklahoma City we had bomb shelters across the street in the backyards of my neighbors' houses. My reporters back home like to ask when something like this happens: "Well, what does it mean for Oklahoma?" It means the same thing for Oklahomans as it means for Pennsylvanians. It means a more peaceful, more stable world, and that is for all of us.

Mr. MURPHY. If the gentleman wants to talk about giving them the purchasing dollar, how about the unemployed and the homeless in the United States? Let us do something for them with this $1 billion. Let us give them some purchasing power.

How about the underemployed, the young, the old who have to worry about their cost of living on Social Security? If we want to do things to help improve the economy for America, there is no better place to start than right here at home.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. MURPHY. I yield to the gentleman from Ohio who has been chomping at the bit.

Mr. TRAFICANT. Mr. Chairman, I would like to say maybe more Members should visit districts like the Pittsburgh area or West Virginia areas or Ohio area, the Rust Belt area, and maybe they will find they might be inclined to try to promulgate a program that might make a few more consumers out of people there who have no health insurance, are out on the street without work, their unemployment has run out, they are not technically listed as unemployed, but for some reasons Members do not discuss it.

As I hear the debate today, so help me God, I am under the impression that the amendments brought by the gentleman from West Virginia are going to endanger our liberty and our Constitution, no less.

I want to identify myself with the gentleman in the well today who has been here for many years fighting for those causes, and I support and identify with his remarks.

Mr. MURPHY. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from West Virginia [Mr. RAHALL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 38, noes 379, not voting 16, as follows:

[Roll No. 61]

AYES—38

Alexander	Jontz	Rahall
Applegate	Kanjorski	Roth
Bryant	Kastenmeier	Russo
Conyers	McCandless	Schroeder
Duncan	Miller (CA)	Sensenbrenner
Dyson	Miller (OH)	Stark
Eckart	Mollohan	Tallon
Fields	Murphy	Tanner
Gonzalez	Nielson	Taylor
Hall (TX)	Pease	Traficant
Henry	Perkins	Valentine
Hopkins	Petri	Washington
Jones (NC)	Poshard	

NOES—379

Ackerman	Anthony	AuCoin
Akaka	Archer	Baker
Anderson	Armey	Ballenger
Andrews	Aspin	Barnard
Annunzio	Atkins	Bartlett
Barton	Frost	Martin (IL)
Bateman	Gallegly	Martin (NY)
Bates	Gallo	Martinez
Beilenson	Gaydos	Matsui
Bennett	Gejdenson	Mavroules
Bentley	Gekas	Mazzoli
Bereuter	Gephardt	McCloskey
Berman	Geren	McCollum
Bevill	Gibbons	McCrery
Bilbray	Gillmor	McCurdy
Bilirakis	Gilman	McDade
Bliley	Gingrich	McDermott
Boehlert	Glickman	McEwen
Boggs	Goodling	McGrath
Bonior	Gordon	McHugh
Borski	Goss	McMillan (NC)
Bosco	Gradison	McMillen (MD)
Boucher	Grandy	McNulty
Boxer	Grant	Meyers
Brennan	Gray	Mfume
Brooks	Green	Michel
Broomfield	Guarini	Miller (WA)
Browder	Gunderson	Mineta
Brown (CA)	Hall (OH)	Moakley
Brown (CO)	Hamilton	Molinari
Bruce	Hammerschmidt	Montgomery
Buechner	Hancock	Moody
Bunning	Hansen	Moorhead
Burton	Harris	Morella
Byron	Hastert	Morrison (CT)
Callahan	Hatcher	Morrison (WA)
Campbell (CA)	Hayes (IL)	Mrazek
Cardin	Hefley	Murtha
Carper	Hefner	Myers
Carr	Herger	Nagle
Chandler	Hertel	Natcher
Chapman	Hiler	Neal (MA)
Clarke	Hoagland	Nowak
Clay	Hochbrueckner	Oakar
Clement	Holloway	Oberstar
Clinger	Horton	Obey
Coble	Houghton	Olin
Coleman (MO)	Hoyer	Ortiz
Coleman (TX)	Hubbard	Owens (NY)
Collins	Huckaby	Owens (UT)
Combest	Hughes	Oxley
Condit	Hunter	Packard
Conte	Hutto	Pallone
Cooper	Hyde	Panetta
Costello	Inhofe	Parker
Coughlin	Ireland	Parris
Courter	Jacobs	Pashayan
Cox	James	Patterson
Coyne	Jenkins	Paxon
Craig	Johnson (CT)	Payne (NJ)
Crane	Johnson (SD)	Payne (VA)
Crockett	Johnston	Pelosi
Dannemeyer	Jones (GA)	Penny
Darden	Kaptur	Pickett
Davis	Kasich	Pickle
de la Garza	Kennedy	Porter
DeFazio	Kennelly	Price
DeLay	Kildee	Pursell
Dellums	Kleczka	Quillen
Derrick	Kolbe	Rangel
DeWine	Kolter	Ravenel
Dickinson	Kostmayer	Ray
Dicks	Kyl	Regula
Dingell	LaFalce	Rhodes
Dixon	Lagomarsino	Richardson
Donnelly	Lancaster	Ridge
Dorgan (ND)	Lantos	Rinaldo
Dornan (CA)	Laughlin	Ritter
Douglas	Leach (IA)	Roberts
Downey	Leath (TX)	Robinson
Dreier	Lehman (CA)	Roe
Durbin	Lehman (FL)	Rogers
Dwyer	Lent	Rohrabacher
Dymally	Levin (MI)	Ros-Lehtinen
Early	Levine (CA)	Rose
Edwards (CA)	Lewis (CA)	Rostenkowski
Edwards (OK)	Lewis (FL)	Roukema
Emerson	Lewis (GA)	Rowland (CT)
English	Lightfoot	Rowland (GA)
Erdreich	Lipinski	Roybal
Espy	Livingston	Sabo
Evans	Lloyd	Saiki
Fascell	Long	Sangmeister
Fawell	Lowery (CA)	Sarpalius
Fazio	Lowey (NY)	Savage
Fish	Lukens, Donald	Sawyer
Flake	Machtley	Saxton
Foglietta	Madigan	Schaefer
Ford (MI)	Manton	Scheuer
Frank	Markey	Schiff
Frenzel	Marlenee	Schneider

Schulze	Snowe	Visclosky
Schumer	Solarz	Volkmer
Serrano	Solomon	Vucanovich
Sharp	Spence	Walgren
Shaw	Spratt	Walker
Shays	Staggers	Walsh
Shumway	Stallings	Watkins
Shuster	Stangeland	Waxman
Sikorski	Stearns	Weber
Sisisky	Stenholm	Weiss
Skaggs	Stokes	Weldon
Skeen	Studds	Wheat
Skelton	Sundquist	Whitten
Slattery	Swift	Williams
Slaughter (NY)	Synar	Wilson
Slaughter (VA)	Tauke	Wise
Smith (FL)	Tauzin	Wolf
Smith (IA)	Thomas (CA)	Wolpe
Smith (NE)	Thomas (GA)	Wyden
Smith (NJ)	Thomas (WY)	Wylie
Smith (TX)	Torres	Yates
Smith (VT)	Towns	Yatron
Smith, Denny (OR)	Traxler	Young (AK)
	Unsoeld	Young (FL)
Smith, Robert (NH)	Upton	
	Vander Jagt	
Smith, Robert (OR)	Vento	

NOT VOTING—16

Bustamante	Hawkins	Stump
Campbell (CO)	Hayes (LA)	Torricelli
Engel	Luken, Thomas	Udall
Feighan	Neal (NC)	Whittaker
Flippo	Nelson	
Ford (TN)	Schuette	

□ 1500

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Nelson of Florida against.

Messrs. WOLPE, HUGHES, and SHARP changed their vote from "aye" to "no."

Messrs. KASTENMEIER, STARK, CONYERS, HALL of Texas, and FIELDS changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1450

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to raise a question of clarification about the language in the bill dealing with funding for Haiti.

The gentleman from Wisconsin [Mr. OBEY] has responded to a very critical need in Haiti for assistance with language—and I will not go through the specifics of it—which provides $10 million for development assistance for Haiti. I just want to clarify that this language directs AID to reprogram not less than $10 million for other development assistance accounts for Haiti, and that this funding is above and beyond the current level AID is planning to spend for Haiti for this fiscal year; is that correct?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, the answer is yes.

Mr. OBERSTAR. Mr. Chairman, I would also like to inquire whether it is the chairman's intention that this additional funding not come out of funding for other Caribbean nations.

Mr. OBEY. Well, I do not think there is much money for Caribbean nations out of which it could come.

Mr. OBERSTAR. Mr. Chairman, there is a further point of real concern that I have, and that is the restrictions on the use of funding for Haiti. Current law prohibits United States financial assistance to the Government of Haiti until that government restores its 1987 constitution. That language could have the effect of denying funding for the transitional government of President Pascal-Trouillot because the Haitian Constitution will not be fully restored until they have a democratically elected civilian government in place.

The question is, given the urgency of the situation, with the reality that Haiti is moving toward elections under this interim government, will the transitional government be able to receive assistance under this supplemental appropriation bill?

Mr. OBEY. Mr. Chairman, if the administration can find the money, I would expect so.

Mr. OBERSTAR. It really ought to be the intent of Congress to provide that kind of assistance, and it ought to be the intent and purpose of the administration to reprogram at least that amount of money to get Haiti through this transitional period, or there may be no government and there may be no economy left in Haiti upon which to base another government on democratically held elections.

Mr. Chairman, I appreciate the gentleman responding to the limited circumstances under which we operate. I understand the urgency of the needs, and I urge the administration to respond with the full authorities they may have in order to help Haiti through and into what may be the beginnings of a real democracy under the elections that are now scheduled.

Mr. OBEY. Mr. Chairman, I agree with the gentleman.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. OBEY].

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer amendments. I ask unanimous consent that amendments Nos. 2, 5, 8, 11, 15, 19, 23, 27, and 30 be offered en bloc, and I further state that they represent a 5-percent reduction in appropriation and amounts listed by dollar values to the bill.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] asks unanimous consent that amendments Nos. 2, 5, 8, 11, 15, 19, 23, 27, and 30 be offered en bloc.

Is there objection to the request of the gentleman from Ohio?

Mr. CONTE. Mr. Chairman, reserving the right to object, let me state that I do not have a copy of the amendments. How do I know whether it is 10 percent or 5 percent or 3 percent?

Mr. TRAFICANT. The amendments have been delivered to the desk.

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Ohio?

Mr. CONTE. Yes, I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, the amendments have been listed and given to the desk, and they represent a 5-percent cut in the dollar values listed by that dollar amount in the categories that start with paragraph 1 and proceed through page 10, line 9, and proceed through page 14, line 9. This would be in essence a 5-percent cut to all those dollar amounts listed in the bill.

Mr. CONTE. Mr. Chairman, continuing my reservation of objection, I am asking counsel, and nobody here has the amendment. I am trying to get someone here to tell me whether it is 10 percent, 5 percent, or 3 percent. There are 32 amendments here.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield further?

Mr. CONTE. I yield to my friend, the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I listed them by number, and the ones listed represent a 5-percent cut by dollar value in the paragraphs of the bill covered from page 10, line 9, through page 14, line 9.

Mr. CONTE. Mr. Chairman, I will just have to take the gentleman's word, because I am not getting any satisfaction.

The CHAIRMAN. Let the Chair restate the request of the gentleman from Ohio [Mr. TRAFICANT]. The gentleman from Ohio has asked unanimous consent to offer en bloc the following amendments that he has placed at the desk: Amendments Nos. 2, 5, 8, 11, 15, 19, 23, 27, and 30.

Is there objection to the request of the gentleman from Ohio?

Mr. EDWARDS of Oklahoma. Mr. Chairman, reserving the right to object, if I may have the attention of the gentleman from Ohio, I would have a hard time explaining to the folks back home that I took a position on amendments Nos. 2, 5, 8, 13, or whatever those numbers are. Can the gentleman tell us what is included in these amendments? Is it an across-the-board cut? Does it include everything in the foreign aid section? Does it make exceptions? If so, what exceptions are made?

We cannot be expected to go along with it, not knowing what is offered.

The CHAIRMAN. The Chair will ask the Clerk to report the amendments at this time.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT:
Page 10, line 21, strike out "$1,609,671,408" and insert in lieu thereof "$1,529,187,838".
Page 11, line 6, strike out "$75,000,000" and insert in lieu thereof "$71,250,000".
Page 11, line 16, strike out "$25,000,000" and insert in lieu thereof "$23,750,000".
Page 12, line 4, strike out "$500,000,000" and insert in lieu thereof "$480,000,000".
Page 12, line 6, strike out "$400,000,000" and insert in lieu thereof "$380,000,000".
Page 12, line 21, strike out "$2,558,000,000" and insert in lieu thereof "$2,538,000,000".
Page 12, line 25, strike out "$420,000,000" and insert in lieu thereof "$399,000,000".
Page 11, line 19, strike out "$10,000,000" and insert in lieu thereof "$9,500,000".
Page 13, line 6, strike out "$300,000,000" and insert in lieu thereof "$285,000,000".
Page 14, line 5, strike out "$15,000,000" and insert in lieu thereof "$14,250,000".
Page 14, line 20, strike out "$25,000,000" and insert in lieu thereof "$23,750,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio that the amendments be considered en bloc?

□ 1510

Mr. EDWARDS of Oklahoma. Mr. Chairman, continuing my reservation of objection, as I understand, the gentleman from Ohio [Mr. TRAFICANT] makes reductions in parts of the bill, including the housing guarantees, but does not make reductions in the money for the eastern Caribbean or for sub-Saharan development assistance.

Is that correct? Am I reading correctly what the gentleman from Ohio is saying?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Ohio.

Mr. TRAFICANT. No, Mr. Chairman. Amendment No. 30 includes the sub-Saharan appropriation.

Mr. EDWARDS of Oklahoma. Then the gentleman from Ohio [Mr. TRAFICANT] is excluding what, only the eastern Caribbean?

Mr. TRAFICANT. Yes, that Hugo account.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. OBEY. Reserving the right to object, Mr. Chairman, is it my understanding that if the request of the gentleman from Ohio [Mr. TRAFICANT] to have these amendments considered en bloc is accepted, he will then not intend to offer any specific section-by-section amendments?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, if they are allowed to be offered en bloc and are defeated en bloc, the only other amendment I will bring will be a 3-percent cut in the same categories across the board.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I have heard some conversations earlier about Nicaragua, and I would like to say this on the record. "Please somebody, take Nicaragua." I think we have talked about Sandinistas enough.

A 5-percent cut, is a very frugal cut to an amount that probably should be cut much more.

I am not going to really take the heat of the House. I understand I am un-American, I am a demagog, I am understanding all that, and I understand that anybody who might vote for this is a phony who just wants to go back to their district and pound the pavement with their great efforts.

Mr. Chairman, let me tell my colleagues that after the first debate I am thoroughly convinced that by voting for the amendment of the gentleman from West Virginia [Mr. RAHALL] that I have literally cast doubts on America's future liberty and freedom. What a dastardly deed, to consider whacking out the foreign aid in this bill. And we all knew it was not going to pass.

So, we are talking about a 5-percent cut, and keep in mind that we keep asking the American taxpayers to bite the bullet every year. They have bitten the bullet so much that we had to legalize armor-piercing bullets so that they would have something a little tougher to digest.

Panama. I know, General Noriega, they had him captured. We did not go in to save him. They lined those liberators up and shot them in the back of the head. It would have cost America nothing to get him, nothing, no lives. We turned our backs. We went in, fine, and I agree with the President under those circumstances.

The bottom line is: My amendment, instead of giving Panama, giving Panama, $420 million, we will make available $399 million. No one has offered Ohio, Pennsylvania, West Virginia that kind of money. We cannot even get an EDA bill out. An Economic Development Administration bill in America is only $220 million, and we cannot get it out.

The Nicaragua account would be taken from $300 million to a pittance, only $285 millon. Now Nicaragua is really going to be hurt.

Israel, for housing guarantees; and I have not seen any housing for my district, from $400 to $380 million. There is still $380 million in this appropriation bill.

Mr. Chairman, it goes on, and on and on.

Now everybody talks about cutting the deficit around here, budget problems. I say, "I'm not going to vote for another cut for kids, students, parents, housing, education, infrastructure, American programs, not one more. You can label me whatever you want."

Mr. Chairman, they call me so many names that I respond to everything, but I am not going to continue to vote for this, and, if we cannot cut this thing 5 percent—and I had a 20 I could have brought, a 10 I could have brought, but I do not want to waste my colleagues' time. And, if I am wasting my colleagues' time with 5 percent, then let me tell them, "We don't need a chaplain, we don't need a Speaker, We need a shrink."

A 5-percent cut.

Mr. Chairman, I know that I cannot reserve my time, but I would like to ask all those who bash on me to give me a couple of seconds to bash at them because I have just been recognizing one fact. I, with a lot of others around here, have a new title. We are called the whipee, and we do not like it, and we are tired of seeing the money going all over except to America.

Mr. Chairman, when I asked for a half a million dollars for a water tower, that was pork barrel, busting the bank. I asked for a study that could provide drinking water in the city of Youngstown which is decimated by the loss of the steel mills that left us toxic waste.

Do my colleagues know what I was told?

"What are you talking about? We do not have money for that."

However, Mr. Chairman, we seem to find money from all those nooks and crannies for everybody all over the world, and I do not like it.

So, if I am a demagog, I am guilty. But I want to vote on the issue. Let us record the vote, and I would like to see somebody in this House send out a notice like we get through the mail saying, "Your Member voted for this. What a dastardly deed it was." I would like to see someone send out this one saying, "Your Member voted for or against this."

Mr. Chairman, I have heard about how we are transferring Peter to pay Paul, how we are being so good about it. We did not transfer this money to help America, in my opinion, one bit.

We had the Marshall plan, we had NATO, foreign assistance plans. We have the chapter 11 plan. They come over here after the war. We let them take pictures. We send them blueprints. Now they have the factories, we have the blueprints, and I am on the floor asking for a 5-percent cut.

Mr. Chairman, I am embarrassed by the cut.

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an important amendment. I think 5 percent is a good deal of money.

Benjamen Franklin said, "Little holes will sink a big ship."

If the American people were voting here, they would not be voting for this amendment or this bill. Yet, we are told that it is easy to vote against foreign aid. That is rubbish. Take a look at the last vote. It is not easy to vote against foreign aid.

Every law office here in Washington represents some foreign government, and at some point, we have to display some intellectual integrity in this body. We do have to consider the people we represent if we are truly representing the people who voted for us and put their trust and confidence in us.

Mr. Chairman, this bill shows why the American people are fed up with Congress. The real fiscal deficit is running unabated at about $200 billion a year, yet, there are still some in this Chamber who want to keep scattering taxpayers money around the world turning Uncle Sam into Uncle Sap.

Let us just stop for a minute and think about what we are doing. We are about to vote to spend almost $1 billion in what is called the dire supplemental. This bill, however well intended, is spending $870 million out of our hard-working taxpayers' money to give to other countries.

□ 1520

I do not think that is fair to the people we represent. We all know that this bill was rushed through the Appropriations Committee and there is an effort to rush it through this Congress. After all, it is called dire appropriations. Never mind the dire emergency of our own budget deficit which threatens our economic health and mortgages our children's future. Never mind the dire emergency in law and drug enforcement which threatens the safety of our streets and our neighborhoods. Never mind the dire emergency of an educational system which in some places is years behind that of other countries. Our children will face difficult times and international competition. That's when we should focus our attention.

At some point, my friends, we are just going to have to say no, that business as usual is not going to work.

This is really a sham, and I think we all know that it is a sham.

The Congress absolutely must take responsibility and treat the American taxpayers fairly. Part of that responsibility is not to vote to appropriate unauthorized spending.

I hope that my colleagues will join in putting a stop to this practice.

This legislation is the kind of old thinking, the kind of atrophied thinking that will help to bring down a great power. It saddens me.

I want America not only to be a great power in the 20th century, but also in the 21st century.

The conflict we are in today is not a military conflict, but an economic conflict. We are totally unarmed for that conflict. I know it is difficult to vote against foreign aid, but at some time we are just going to have to stand up and say that we represent the United States of America and we represent the future of our country and we have to ensure the future of our country. This type of legislation brings our country to its knees. This type of legislation does not promote the image we want in the world, as a cow to be milked. No, we are a strong horse in America, willing to pull our own load, but not a dairy cow to be milked.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment of the gentleman from Ohio. The position he has taken here is a rather moderate position and a responsible position, especially in comparison with the previous attempt and the number of votes that I received as reflected therein.

Mr. Chairman, I think what we have seen here today is the first real debate on the floor of the House about how we should direct the so-called peace dividend. The Appropriations Committee bringing this bill to the floor of the House has proposed that the money to finance the struggling democracies in Nicaragua and Panama come from rescissions in defense spending. That is very noble.

The opponents, those of us who are trying to make cuts or eliminate this foreign aid, will label us as uncaring about our responsibilities as a major world power, uncaring about the struggling democracies in Eastern Europe, uncaring about what is happening on our southern border with a friendly government in Nicaragua. We have been accused as throwing in the towel and not being willing to carry through with our responsibilities in these areas of the world.

Lest those who voted with me on the last amendment be misconstrued, let it be understood that I am not opposed to helping Panama. I am not opposed to helping Nicaragua. I am not opposed to helping many of the areas in which this bill seeks to help in the foreign arena. What I am saying is the peace dividend as proposed in this pending legislation should come home first to America, should come home to America first; be it deficit reduction, be it domestic spending or whatever, and then let us look at using amounts already allocated under our current foreign aid program, the $14 billion or $15 billion a year we already have allocated for foreign aid, much like the minority leader of the other body has proposed, let us look at that account and distribute that among our new friends around the world and help them develop democracies. It will be that account, rather than through the peace dividend account.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I am glad to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I would just say, since the gentleman has the floor and is making a very rational proposal, perhaps he would like to spell out for the Members exactly where he wants to take the money from.

Mr. RAHALL. Well, I will reclaim my time. I would just say that over the entire foreign aid budget, I believe modest reductions can be made in that program in order to help Panama, in order to help Nicaragua, and in order to help the struggling democracies. I do not think it is necessary to point the finger at any one category. Let us take it across the board from the entire foreign aid program. That would be a proposal I think would be more responsible than what we are seeing in this pending proposal.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that we have an opportunity this afternoon that is a very legitimate one to talk honestly among ourselves about why we are trying to pass this bill.

It is perfectly reasonable for those who think you can isolate America to vote for this amendment. It is perfectly reasonable for those who think that chaos in Central America will not affect us to vote for this amendment. It is perfectly reasonable for those who do not want to have Panama help us fight the drug dealers to vote for this amendment. It is perfectly reasonable for those who are prepared later on to accept the immigrants who are going to come to the United States when they cannot find any economic prosperity in their own country to vote for this amendment.

But let us not kid ourselves. The President of the United States, focusing on two countries in our own back yard, Panama and Nicaragua, countries with which we have been deeply engaged, is asking for some immediate help. The Democractic leadership of this House has gone out of its way to be responsible.

This is a serious and responsible bill. It is offset against defense spending so nobody has to go home and say they raised the deficit by a dime. It is a serious, responsible, adult effort on a bipartisan basis.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Ohio.

Mr. TRAFICANT. Am I interpreting the gentleman and his comments to suggest that a 5-percent cut to this foreign aid supplemental chapter in this bill is tantamount to being an isolationist in this body?

Mr. GINGRICH. Yes.

Mr. TRAFICANT. Can I interpret the gentleman's statement to be just that? Would the gentleman please explain and amplify it for me.

Mr. GINGRICH. Let me claim my time back, and I will be glad to say yes.

I am saying that an amendment which would guarantee that thousands of farmers in Nicaragua would not be able to plant, that we would not be able to help them, is explicitly an amendment that says to those farmers, "Why don't you see if you can join your cousins in the United States?"

I am saying explictly to my friend, the gentleman from Ohio, whom I am sure does not mean to have this happen, that this amendment only makes sense if you think isolationism will work, that if you think the United States is bound economically and bound in terms of police activities and narcotics and bound in terms of freedom to countries, which remember, we are not talking about some distant country across an ocean. We are talking about countries which are 2 and 3 days' drive from the United States. We are talking about countries on the same continent, countries where people can walk north. We are talking about in the case of Panama, a country which is actively helping us fight the drug trade and has been very helpful in the past 3 months in stopping drug dealers and in giving to us bank information to cripple the cocaine dealers from Colombia and Peru; so I am saying to my friend, who I know means well by this, I am saying to the gentleman that the effect of his amendment, which is not trivial, $6 million less for fertilizer, agricultural equipment, and spare parts, things by the way which come from the United States in all probability; $3 million less to help refugees and to demobilize the Contras through international organizations; $4 million less for economic development, including medical equipment and health training in Nicaragua; these are not small things.

I am saying that the gentleman's party's leadership and my party's leadership in a responsible adult way made a serious commitment to help our neighbors, and that to try to disrupt that commitment I think particularly since the money is offset and is not adding to the deficit is I think not a responsible position.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I want to comment on that last point, and that is that we are not talking about a runup pile appropriations bill. I have moved more Bow amendments percentage across-the-board cuts probably than any man in this Chamber, and I will continue to move them. I have never moved them on a dire emergency supplemental where we are supposed to be in an emergency status, nor have I ever moved one against a bill where all of the BA has been offset, and I think that by moving that kind of amendment we make a real mistake in what most of us believe is a serious emergency.

I thank the gentleman for yielding.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Ohio.

Mr. TRAFICANT. I think about all the fertilizer in this bill could be helping American farmers, rather than Nicaraguan farmers. I think all we have to do is ship over copies of the CONGRESSIONAL RECORD and it will probably make good fertilizer for Nicaragua.

□ 1530

The gentleman is saying that I am an isolationist. Instead of giving $300 million to Nicaragua, we would be giving, and listen to my language, giving $285 million. The gentleman is trying to make it look like an investment.

If that $15 million is isolationism, then we are all the Jolly Green Giant.

I do not buy the gentleman's argument, and I think the American people do not buy that argument either.

The CHAIRMAN pro tempore (Mr. LEVIN of Michigan). The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(By unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. Reclaiming my time, let me say this in summary to my friend from the Mahoning Valley: The Panamanian Government has been actively helpful to us in fighting drug dealers. They have turned over documents. They have helped us sort out Noriega's relationships. They have cut off the flow of cocaine that was coming through Panama, they have stopped the sale of explosives which may well have been the major source of explosives in Colombia for the drug dealers to use in their civil war.

We have now a choice in the next few minutes. We can vote yes and say to the Panamanian Government trying to be a democracy, trying to stop the flow of narcotics that, "American Congressman do not mind cutting away at you even when you are helpful," or we can vote no. We can join President Bush. We can join the Democratic leadership. We can join the Republican leadership. We can act as mature, responsible citizens who understand that whether it is narcotics or immigration or helping democracy or national defense, to turn our back and capriciously cut without any knowledge of the impact in the region is, in fact, not a mature decision, and so I would urge all of my colleagues on both sides to decisively defeat this amendment and send the word that on a bipartisan basis America will help its friends.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Georgia.

I, for one, do not question the integrity or the sincerity of the gentleman from Ohio. Moreover, as politicians, we all recognize that the sentiments he and others have expressed do reflect in large measure the sentiments which we hear in our town meetings and in other sessions with our constituents. I do not think what the gentleman is offering or suggesting is out of sync with many of the sentiments of our people back home.

For that reason, the easiest thing in the world is to vote for this amendment which would cut foreign assistance. But I think it is important for us and our constituents to understand that foreign assistance has been cut. If we go back to 1985, we were spending about $20 to $21 billion on foreign aid. Under the leadership of the gentleman from Wisconsin and the gentleman from Oklahoma, our subcommittee and the full Committee on Appropriations has cut foreign assistance from that level back to $14.5 billion. It represents roughly 1½ percent of our entire budget.

We could wipe out foreign assistance entirely and not have any significant impact on our deficit or our economy.

I concede that if the 1½ percent we are spending on foreign assistance is not well spent, if it has no direct connection with American interests, we should not spend one dime of it, and I am sure that all of us here would agree with that, but the question on this amendment and the question on this bill is whether the assistance that we are calling for here, a small amount of assistance, offset entirely by cuts in the defense budget and, therefore, having no impact on our deficit, is this assistance directly related to American interests?

I think it clearly is. Regardless of what one thinks of the policies of the 1980's in Central America, and we have had some very hot debates on that in this Chamber, the fact of the matter is we have an interest in Central America. We have an interest in stability. Our policies have been to become active and interventionist in Central America, and the fact is that imposes upon us some responsibility.

I think the leadership on both sides of the aisle, I think the President in cooperation with the leadership has taken a constructive position.

I think it would be embarrassing if this country and if this Chamber were to cut assistance to Nicaragua and Panama after we have conducted the kinds of policies we have in those countries during the 1980's.

I think that while the gentleman's amendment is certainly well intended, I think it would be an irresponsible thing for us to adopt.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I am happy to yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I just want to suggest that over that period of time we have housing and education in America, and there are 37 million people in America with no health insurance. We keep saying we cannot find the money, folks; now look, we have to find it somewhere, and I am just offering a little suggestion on an account that I think can be cut.

Mr. McHUGH. Reclaiming my time, I would say to the gentleman that 98½ percent of our budget is spent on non-foreign assistance accounts.

I agree with the gentleman that we have priorities, more important priorities, in housing and health care, and I join with the gentleman in attempting to deal with those more effectively.

By adopting the gentleman's amendment, however, we are not going to do one thing to advance the interests of health care or housing or the other items he and I both agree are needed in this country.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I want to associate myself with the gentleman's remarks.

I think it is very important for both Members of the House and the public, as well, to know that we are really talking about a bill here in terms of our total approach to foreign aid that involves less than 2 percent of our total budget.

The way the rhetoric flows on the floor, we often communicate to people that maybe we are spending 10 or 15 percent of our budget in that area. The fact is a very small percentage of our budget goes to foreign assistance, and that is because of the bipartisan work that has been done by the chairman of our subcommittee, the gentleman from Wisconsin [Mr. OBEY], the work of the gentleman from Oklahoma [Mr. EDWARDS], and the gentleman from Massachusetts [Mr. CONTE].

Indeed, this is a bipartisan approach that says that America has a role to play in the world, indeed, a small piece of our total spending. But we must, if we are going to do more than pay lip service to freedom in the world, be willing to put some of our money where our will as well as our mouth is.

Mr. McHUGH. Reclaiming my time, I thank the gentleman for his comments, and I urge my colleagues to reject the amendment, to enable us to meet our responsibilities in Central America.

We are a large, powerful, influential country. We are seeing changes in Eastern Europe in part because of our leadership. It would be wrong to adopt this amendment.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have heard a lot of flat-headed and flat-Earth speeches on this House floor in 21 years. Today is the 21st anniversary of my being sworn in into this body.

Mr. Chairman, I have to tell the Members that I have heard an awful lot of unconstructive, easy-way, cheap-shot speeches during my time here, but there have been very few days when I have heard as many of them in a row as I did today.

I would like to recite some facts. As the gentleman from New York indicated, in 1985 the foreign aid bill was $18.5 billion. Today it is $14.6 billion.

I do not think we have to apologize to anybody in terms of our having the good sense to very carefully review the budget requests of the last 5 years of Republican Presidents before we have made prudent and very large reductions in the foreign aid account.

This bill happens to take one-third of 1 percent of the amount that we spend on the military budget in any 1 year, it says we are going to take one-third of that 1 percent and move it into foreign-assistance programs instead of military programs.

I am amazed at the number of flat-headed Members in this House who will be all too happy to spend whatever it takes for whatever American-financed war is going on around the world, but would not spend a penny to prevent the necessity to fight those wars in the first place.

I noticed, for instance, that on the last rollcall, three members of my own State delegation voted to eliminate all of the foreign aid funding in this bill. Those same three Members, I would note, voted to provide $100 million in aid to the Contras.

How long is it going to take before we learn that if we want to avoid the necessity to go to war, we need to provide some of the weapons that can encourage the economic development and the political stability that can help this country avoid having to take that next step?

□ 1540

We have financed—not me, because I did not vote for it—but a lot of people who voted for that previous amendment did, have financed an armed effort in Nicaragua for the last 10 years. That has cost money. That has cost lives.

The President is now asking us to recognize that we have an opportunity to pick up the pieces in Nicaragua by providing enough economic assistance to get that economy moving again so that we can try to stabilize that country after a very long 10-year period of turmoil.

The President is asking us to do the same thing with respect to Panama. After a misguided series of actions on the part of administrations for the last 14 years, we are finally in a position where we can try to build a Panamanian society free from the kind of overbearing military control that led us to the necessity to invade that country in the first place. I think that is worth the investment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. OBEY. No, I will not.

I would suggest that it is an ignorant and a gutless response to our responsibilities to this House when we continually find the easy road and the cheap road every time an issue like this comes up. There are some Members of this House, thank God a small minority, whose motto seems to be, "I will never cast a tough vote; I will also cast the easy one."

I think when you do that, you fundamentally—well, I will not say that. It might edge me nearer the edge of the rules of the House. But I do think that we owe our constituents more.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY of Wisconsin was allowed to proceed for 1 additional minute.)

Mr. OBEY. I think we owe our constituents more than to pander to their every doubt, to pander to their every concern about dollars spent abroad.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. OBEY. No, I will not.

Mr. ROTH. You are referring to me in your debate.

Mr. OBEY. I did not refer to anybody by name.

Mr. ROTH. You referred to three of the Representatives from Wisconsin.

Mr. OBEY. There were four. Are you sure you were in that group?

Mr. ROTH. Yes.

Mr. OBEY. Count again.

Mr. ROTH. Yes. I was happy to be in that group of the gentleman from Wisconsin. Will the gentleman yield?

Mr. OBEY. No, I will not.

Mr. Chairman, I am asking for order. I want to complete my statement.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] has the time.

Mr. OBEY. The fact is the President has asked us to put politics aside, to put the gutlessness aside, and to support something which is in the interests of the United States and every single one of its taxpayers. What you ought to do is turn down this amendment and all others like them and to deliver what we promised we would deliver to the President of the United States.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to address not only some of the comments of the author of this amendment, the gentleman from Ohio [Mr. TRAFICANT], but of some of the people who have spoken in support of it.

We are told that this is an inconsequential amount of money and that it is not really going to make any difference, so why do we not cut it?

A 5-percent cut in the amount that is allocated to the petroleum program for Nicaragua, people who have just fought through a war, a bloody war, bloody on both sides, to secure their independence and their democracy, a 5-percent cut translates into the entire oil consumption of that country for a week.

A 5-percent cut in the amount that is allocated for health services in Nicaragua results in 25,000 children being deprived of oral rehydration treatment, in a country where the mortality rate is 7½ percent.

A 5-percent cut in the money allocated to the private sector would result in 100 fewer American jobs as a result of the cut in United States exports to Nicaragua.

I would say to the gentleman from Ohio [Mr. TRAFICANT] who offered this amendment, this is not a 5-percent cut. The amount of money that was originally asked for for Panama was $500 million. It has already been cut. We did that job. It has been cut from $500 million to $420 million.

Now the gentleman wants to take it down by another $21 million. You do not have your numbers right.

If every Member who got denied by the House the opportunity to get something for his district came to the floor of the House and said, "Therefore, I am going to cut out a program that is for the benefit and welfare of the people of the United States because I did not get something for my district," then the people would have reason to wonder why they sent us here in the first place.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I will not yield. The gentleman has had plenty of time.

I will say to the gentleman from Wisconsin [Mr. OBEY], whom I sometimes find myself in disagreement with, and to the gentleman from Wisconsin [Mr. ROTH], whom I usually find myself in great agreement with, today you have got it backward. Because Mr. OBEY is right, and Mr. ROTH, you are wrong. You are wrong in terms of the effect of what this would do to our security.

Somebody said this bill shows why people are fed up with Congress. No, it does not. This amendment shows why people are fed up with Congress, because we are looking at the little bitty, "Did I get mine yesterday," not what secures the cause of peace and freedom and democracy in the world. We are expected to have vision, foresight. We are expected to take care of the security of the people, not play little petty games to get our names on the front page.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I will yield to the gentleman from Wisconsin, since I mentioned his name.

Mr. ROTH. Mr. Chairman, I have always been told that when people lose an argument they start employing ad hominem arguments. They get personal. I do not know why people are getting personal on the floor. Why not stick to the merits? All we are saying is that we oppose this amendment. Our contention is that the American people are not in favor of the legislation being debated here today. That is why Congress is held in such disrepute today, because we are not following the people's wishes. We mention that the House of Representatives must represent the American people.

Mr. EDWARDS of Oklahoma. Mr. Chairman, let me resume my time. If the gentleman from Wisconsin [Mr. ROTH] knows that the American people are not in favor of supporting the government that is now helping us to wipe out the drug trafficking that was a part of the Noreiga regime, if the gentleman knows that the people of America do not want to provide support to Violeta Chamorro and her government to solidify democracy in a nation that has been under the heel of repression for years, the gentleman knows more than I do and knows more than anybody in this Chamber does.

As I pointed out earlier in addressing the gentleman from Pennsylvania, I remember when we had bomb shelters across the street. I remember when every night you wondered what was going to happen with the threat from the Warsaw Pact. We said if only we could create a spread of democracy and freedom in the world, so that our children could sleep at night peacefully.

Now we have the chance to do it. Let us not play tiddlywink games with it.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from Oklahoma [Mr. EDWARDS] yielding, and I hope the rest of my colleagues will appreciate his work as well. Between the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Oklahoma [Mr. EDWARDS], we have been through a very, very tough process here. Our subcommittee went item by item and cut this measure very, very significantly. But the bottom line was would America be willing to give support to freedom and democracy in Nicaragua and in Panama or not?

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. EDWARDS] has expired.

(By unamimous consent, Mr. EDWARDS of Oklahoma was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. Mr. Chairman, will the gentleman from Oklahoma [Mr. EDWARDS] continue to yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I must say that in those subcommittee hearings, time and time again we went through the process of how much money can we afford to give for freedom and democracy in our own hemisphere. The bottom line here is the American voice is being heard. We are going to support those people who fought for freedom in Nicaragua. In Panama we are going to insist that we continue to fight those who traffic drugs to our society, those who want to demagog the issue of foreign aid for the sake of it with no understanding at all of the process we have been through, and let them have it. But today's vote is a vote for democracy in our region, and I hope Members will support it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS] for his very good comments. Let me just remind every Member here, there is no money in this bill. It is a transfer. It is an offset. We are not spending more money for foreign aid, and anybody who tells you that this is a vote to appropriate additional money from the taxpayers' pockets is simply deceiving you. That is not true. Every penny in here is offset.

I want to compliment the gentleman from Wisconsin [Mr. OBEY], the chairman of the subcommittee, for the good work he has done on a very important appropriation.

□ 1550

Mr. APPLEGATE. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I am really surprised at the low road that this debate has taken and the personal attacks. When

I see a Member get up here and he refers to gutlessness, and he refers to the ignorance, and the cheapheads and the flatheads and the cheap-shot speeches, I think that is below the dignity of a Member, and particularly a chairman. I think it is wrong.

Why do we not get up and talk about the merits of what it is we are here to discuss? The Member from Ohio gets up, my colleague, and he is only offering a 5-percent reduction. I remember over on the other side over the years when CLARENCE MILLER used to get up and offer a 5-percent and 2-percent cut all the time, and nobody got up and said he was making a cheap shot or anything like that. Members have the right after listening to the debate to either vote yes or to vote no.

I support the gentleman from Ohio and his amendment for a 5-percent cut. I am not sure what it amounts to, $143 million or whatever it is, maybe not a whole lot of money, and I do not think that it is. I do not think that it cuts out a lot of money to the countries that are going to benefit from this bill.

But it sure is a hell of a lot money when it comes back to Americans who need it, back into my district, yes. I will say to the gentleman over here who was talking about, "Yeah, your own particular district," sure, it is my district. Why would I not be up here talking and fighting for my district? I have people in my district who are hurting. I have people in my district who come into my office and they are crying, they have tears coming down their faces because they are out of work, they do not have clothes on their back, they do not have enough to feed their families or to educate. They cannot get into a hospital to take care of the health of their children.

The gentleman says yes, this money is not necessarily going to go to them. Where is it going to go? Why would it not go to them? Why do we not just reappropriate it and bring it back, and give it to them, and put it into the pockets of Americans in this country? They worked hard for it. Why do we insist constantly on sending money out of this country to other countries and to other workers, and yet we are taking the jobs away from our own people? We are taking the jobs away from our own people.

We have a lousy, stinking trade policy in this country. We have a tendency to blame the Japanese, the Koreans, and the Taiwanese and all of these others, and they are laughing at us because we are so dumb. The Congress and the administration, we have a lousy trade policy just because we think that we have to take care of everybody else in the world, all of the workers. Let us take care of America's workers for a change.

We have a Clean Air Act that we are rushing through because the environmentalists or somebody else wants it. We are going to clean the air with no—with no consideration at all for the fact that we are going to knock out thousands of steelworkers, thousands and thousands of coal miners and utility workers. We are going to do all of that, and why are we doing it? Because we want to pacify a certain group in this country. That is why we are doing it. We have got a $500 million study going on for 10 years and it is going to come out in the fall, and it is going to say where the problem is and what effects there have been from all of this so-called dirty air.

But no way. To hell with that study. We do not need the study. We are going to do it now. We are going to knock those guys out of work, and if we could listen to the study we could save it.

All I am saying is use common sense. Let us look out for the American worker. Let us look out for the American community. Let us look out for the homeless.

I do not even think with this amount of money that we have authorized that we could reauthorize the McKinley Act. I am not sure about that, but there seems to be some debate about that, and other programs that are necessary in this country. Why do we not use the money to do those things?

It is America for Americans, and let us stand up and say where we are.

Good. I am not against helping other people in other countries. I want to do that. We are not taking it all away from them. But let us not give away the whole store, and that is the way I view it.

I say support the gentleman from Ohio in his 5-percent amendment because it is a good one, and it is a good one for America and Americans.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, that was a very stirring speech my good friend just made. He says we have to stick to the issues and should not get into personalities.

I remember the gentleman from Ohio who offered the amendment got up and said if we did not adopt his amendment we do not need a Speaker, we do not need a Chaplain, what we need is a head shrinker in here. It takes one to know one.

I do not think anybody is crazy because they are going to vote against this amendment, or for this amendment. The gentleman is right. These things should not come up in the debate. So I will speak on the merits of the issue.

My good friend over here from Wisconsin, and he is my good friend, and always has been, says we have to do more and more for our own people, and one gentleman talked about acid rain and the clean air bill and the effects of all of these things. He gets up and he says oh, we do not do anything for our people. Do Members know what we have done for his people in 10 years? In 10 years we have provided $17.1 billion in dairy subsidies, $17.1 billion. Talk about getting milked.

God bless you. God bless you, I am proud of you.

The gentleman said something about is there a cow to be milked? Is that right—the gentleman said America is not a cow to be milked?

We have been milked, the taxpayers have been milked by $17.1 billion.

The gentleman says this cut of 5 percent is not that much, and really it is not, and he mentioned CLARENCE MILLER. Remember Frank Bow? Remember who used to fight those guys? Me, because I said a cut across the board is wrong, go in with a surgical knife and cut where you think you should cut.

Let me tell Members what this 5-percent cut would do. It would cut $43 million from the total package. Of that, $5 million would come from refugee assistance, $21 million from Panama, which has already been cut. That is on top of the $80 million cut that the committee made on Panama. Nobody talks about that. The committee cut $80 million, I say to the gentleman from Ohio, [Mr. TRAFICANT], out of Panama. They put it in Africa, and they put it in other parts of this bill. So there is a $80 million cut and nobody talks about that, and this is another $21 million on top of that $80 million.

It would cut $15 million from the new Chamorro government in Nicaragua. It would cut $20 million from the Israeli housing guarantee. This amendment would cut $3.75 million for Soviet and Eastern European Jews coming to the United States and to Israel. After working for years and years, when all of us signed letters to the Russian Ambassador, sent them over there to Gromyko and to the others, and now we are going to leave these people stranded. They are opening up the doors there, and they are going to let these people out. With this cut we are talking about more than 1,350 refugees who would not get processed. I do not think Members want to do that, I really do not.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I will yield in a little while because the gentleman is my friend, he is my friend. I am going to yield to him in a little while, but let me finish here what this amendment does.

This is the number, 1,350 refugees that are slated to come to the United States. We make a total cut for Panama of $100 million below what President Bush requested. Instead of the $500 million that was promised as

a jump start for their economy, we reduce that by $100 million. That means a dead battery, Mr. Chairman, instead of a jump start.

We would be endangering that new democratic government that more than 20 American servicemen gave their lives for. What an inauguration present we are giving to Mrs. Chamorro. Congratulations, you just lost $15 million more, you just lost part of your ability to get a crop in the ground this spring so that your small farmers might have some income. Man, will they love that milking cow, that Holstein cow, and they are wonderful cows and give so much milk, great producers, and would those farmers not love to have a couple of those cows in Nicaragua so they can milk them for their kids? They are hungry. They have bellies protruding from malnourishment. It is terrible.

I think this really shows the moral leadership by the United States. Like it or not, we are seen by many around the world as being responsible for economic chaos facing Panama and Nicaragua. Now what are they going to see?

□ 1600

Now that there are, finally, governments in these countries that want to be friends with the United States, we are going to endanger their economic and their political survival by pinching pennies here today.

Billions, again, billions for war but pennies for peace and democracy. That is all.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Ohio [Mr. TRAFICANT.]

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Chairman, I took a couple of shots from the gentleman, and I accept those shots because I get them all the time. But let me tell you something: Your rhetoric does not go with me today. This is a meager cut, sir—$17 billion in dairy support is helping the American people, and it is for America. Let us separate this. Let me say one other thing. There are powerful interests.

Mr. CONTE. I yield no further.

Mr. TRAFICANT. There are——

Mr. CONTE. Mr. Chairman, I yield no further. Mr. Chairman, I want regular order.

The CHAIRMAN. The gentleman from Massachusetts has the time.

Mr. TRAFICANT. It is pretty tough to get it back, is it not?

Mr. CONTE. You bet your life I am tough.

If you do not own a dairy farm you do not get it and your people in Youngstown, OH, which I have helped many times——

Mr. TRAFICANT. But America is——

Mr. CONTE. I have helped them many times.

Mr. TRAFICANT. But we have many programs——

Mr. CONTE. Mr. Chairman——

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] controls the time.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from New York [Mr. McHUGH].

McHUGH. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has made many good points. There is one point I would like to emphasize here.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. CONTE] has expired.

(By unanimous consent Mr. CONTE was allowed to proceed for 2 additional minutes.)

Mr. McHUGH. If I may continue, the point I want to make by way of emphasis is this: The choice the Members are facing on this vote is whether we want to leave the 5 percent in the defense budget or whether we want to spend the 5 percent on economic development in Panama and Nicaragua and for refugees.

That is the issue because if the gentleman's amendment is adopted, the money will not go to the domestic needs that all of us think are important; the money will stay in the defense budget.

If the gentleman's amendment is rejected, the same money, instead of being in the defense budget, will go for economic development in Nicaragua and Panama and for the refugees we have talked about.

I think in those terms it is much more responsible, as the gentleman from Massachusetts has said, for us to reject the amendment and invest in America's interest and stability and economic development in these countries next door.

Mr. CONTE. Mr. Chairman, I urge defeat of the amendment.

The CHAIRMAN. The time of the gentleman form Massachusetts [Mr. CONTE] has expired.

The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 64, noes 354, not voting 15, as follows:

[Roll No. 62]

AYES—64

Applegate	Holloway	Perkins
Barton	Hopkins	Petri
Bryant	Hubbard	Poshard
Combest	Jacobs	Rahall
Conyers	Jenkins	Roth
Costello	Jones (NC)	Russo
Crane	Jontz	Sangmeister
Crockett	Kanjorski	Schaefer
Dannemeyer	Kastenmeier	Schroeder
Dorgan (ND)	Kleczka	Sensenbrenner
Duncan	Long	Stark
Dymally	Marlenee	Tallon
Eckart	McCandless	Tanner
Emerson	Miller (OH)	Tauzin
English	Mollohan	Taylor
Fields	Moorhead	Traficant
Gaydos	Murphy	Valentine
Hall (TX)	Nielson	Walgren
Hancock	Oakar	Washington
Hayes (IL)	Patterson	Watkins
Hefner	Pease	
Henry	Penny	

NOES—354

Ackerman	Davis	Hiler
Akaka	de la Garza	Hoagland
Anderson	DeFazio	Hochbrueckner
Andrews	DeLay	Horton
Annunzio	Dellums	Houghton
Anthony	Derrick	Hoyer
Archer	DeWine	Huckaby
Armey	Dickinson	Hughes
Aspin	Dicks	Hunter
Atkins	Dingell	Hutto
AuCoin	Dixon	Hyde
Baker	Donnelly	Inhofe
Ballenger	Dornan (CA)	Ireland
Barnard	Douglas	James
Bartlett	Downey	Johnson (CT)
Bateman	Dreier	Johnson (SD)
Bates	Durbin	Johnston
Beilenson	Dwyer	Jones (GA)
Bennett	Dyson	Kaptur
Bentley	Early	Kasich
Bereuter	Edwards (CA)	Kennedy
Berman	Edwards (OK)	Kennelly
Bevill	Engel	Kildee
Bilbray	Erdreich	Kolbe
Bilirakis	Espy	Kolter
Bliley	Evans	Kostmayer
Boehlert	Fascell	Kyl
Boggs	Fawell	LaFalce
Bonior	Fazio	Lagomarsino
Borski	Fish	Lancaster
Bosco	Flake	Lantos
Boucher	Foglietta	Laughlin
Boxer	Ford (MI)	Leach (IA)
Brennan	Frank	Leath (TX)
Brooks	Frenzel	Lehman (CA)
Broomfield	Frost	Lehman (FL)
Browder	Gallegly	Lent
Brown (CA)	Gallo	Levin (MI)
Brown (CO)	Gejdenson	Levine (CA)
Bruce	Gekas	Lewis (CA)
Buechner	Gephardt	Lewis (FL)
Bunning	Geren	Lewis (GA)
Burton	Gibbons	Lightfoot
Byron	Gillmor	Lipinski
Callahan	Gilman	Lloyd
Campbell (CA)	Gingrich	Lowery (CA)
Cardin	Glickman	Lowey (NY)
Carper	Gonzalez	Luken, Thomas
Carr	Goodling	Lukens, Donald
Chandler	Gordon	Machtley
Chapman	Goss	Madigan
Clarke	Gradison	Manton
Clay	Grandy	Markey
Clement	Grant	Martin (IL)
Clinger	Gray	Martin (NY)
Coble	Green	Martinez
Coleman (MO)	Guarini	Matsui
Coleman (TX)	Gunderson	Mavroules
Collins	Hall (OH)	Mazzoli
Condit	Hamilton	McCloskey
Conte	Hammerschmidt	McCollum
Cooper	Hansen	McCrery
Coughlin	Harris	McCurdy
Courter	Hastert	McDade
Cox	Hatcher	McDermott
Coyne	Hefley	McEwen
Craig	Herger	McGrath
Darden	Hertel	McHugh

McMillan (NC)	Richardson	Smith, Robert (OR)
McMillen (MD)	Ridge	Snowe
McNulty	Rinaldo	Solarz
Meyers	Ritter	Solomon
Mfume	Roberts	Spence
Michel	Robinson	Spratt
Miller (CA)	Roe	Staggers
Miller (WA)	Rogers	Stallings
Mineta	Rohrabacher	Stangeland
Moakley	Ros-Lehtinen	Stearns
Molinari	Rose	Stenholm
Montgomery	Rostenkowski	Stokes
Moody	Roukema	Studds
Morella	Rowland (CT)	Sundquist
Morrison (CT)	Rowland (GA)	Swift
Morrison (WA)	Roybal	Synar
Mrazek	Sabo	Tauke
Murtha	Saiki	Thomas (CA)
Myers	Sarpalius	Thomas (GA)
Natcher	Savage	Thomas (WY)
Neal (MA)	Sawyer	Torres
Neal (NC)	Saxton	Torricelli
Nowak	Scheuer	Towns
Oberstar	Schiff	Traxler
Obey	Schneider	Udall
Olin	Schulze	Unsoeld
Ortiz	Schumer	Upton
Owens (NY)	Serrano	Vander Jagt
Owens (UT)	Sharp	Vento
Oxley	Shaw	Visclosky
Packard	Shays	Volkmer
Pallone	Shumway	Vucanovich
Panetta	Shuster	Walker
Parker	Sikorski	Walsh
Parris	Sisisky	Waxman
Pashayan	Skaggs	Weber
Paxon	Skeen	Weiss
Payne (NJ)	Skelton	Weldon
Payne (VA)	Slattery	Wheat
Pelosi	Slaughter (NY)	Whitten
Pickett	Slaughter (VA)	Williams
Pickle	Smith (FL)	Wilson
Porter	Smith (IA)	Wise
Price	Smith (NE)	Wolf
Pursell	Smith (NJ)	Wolpe
Quillen	Smith (TX)	Wyden
Rangel	Smith (VT)	Wylie
Ravenel	Smith, Denny (OR)	Yatron
Ray	Smith, Robert (NH)	Young (AK)
Regula		Young (FL)
Rhodes		

NOT VOTING—15

Alexander	Ford (TN)	Nelson
Bustamante	Hawkins	Schuette
Campbell (CO)	Hayes (LA)	Stump
Feighan	Livingston	Whittaker
Flippo	Nagle	Yates

□ 1623

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Nelson of Florida against

Mr. PAYNE of Virginia and Mr. PASHAYAN changed their vote from "aye" to "no."

Ms. OAKAR, Mr. ENGLISH, and Mr. STARK changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of the supplemental appropriations providing urgent assistance to Panama and Nicaragua.

The establishment of democratic Governments in Panama and Nicaragua following the disastrous policies of the predecessor regimes requires our strong encouragement and active support.

With the vital security interests for the United States at stake in region, it is imperative that we provide the technical and financial assistance necessary to see democratic institutions survive and prosper.

If we fail to act in a positive, expeditious manner, we will be jeopardizing the sacrifices of many patriots who have fought so valiantly against tyranny and repression.

In Panama, the United Stakes seeks to help the reestablishment of democratic institutions and the regeneration of private enterprise. The basic structure and economic framework exists in Panama so that with the prompt infusion of well-targeted funding, Panama can get the boost it needs to get its economy back on its feet following the bankrupt policies of the Noriega regime. As Vice President Billy Ford told us last week, this aid package can provide the jump start the Panamanian economy needs that will ensure that Panama will not have to be coming back to the United States for more foreign aid, year after year.

In Nicaragua, we have a totally different story, but one that is just as urgent. For if we fail to act quickly, the hope of democracy, justice, respect for human rights, and the growth of a free market economy will be a short-lived dream. The Sandinistas in their last few weeks in power are doing everything they can to appropriate any remaining assets that they haven't already managed to confiscate or dissipate. When the government of Mrs. Chamorro takes office on April 25, she will have precious few resources to help her revitalize the Nicaraguan economy. She will be faced with immediate needs, and if we don't help now, it won't be possible to recapture the opportunity later.

Mrs. Chamorro called me, as I know she called others, on Tuesday to emphasize the importance of our acting quickly on this vital aid package. I call on my colleagues in the House and I make a special plea to my colleagues in the other body to act decisively and immediately to pass this aid package and get it to the President's desk for his signature.

It is literally a question of life or death: The life of reborn democracy or the death of hope and justice. Either we make a significant and effective investment now or we suffer incalculable losses in the future. There is no time to lose.

Mr. Chairman, I rise in strong support of the urgent assistance for Haiti for fiscal year 1990.

I am concerned that the United States missed opportunities in the past in Haiti to advance the transition toward democracy because we did not apply the resources necessary to reinforce the democratic movement.

Now, it appears there is an opportunity—a very fragile one—to move the democratic process forward, and it is imperative that we show the people of Haiti that there is a benefit in turning from military rule and toward establishing democratic institutions and protecting human rights.

We cannot afford to let any more time lapse without demonstrating United States support for the democratic movement in Haiti and for the efforts of the interim President to hold free and fair elections.

The amount for Haiti in this package is small, but it is a significant indication of United States support for helping the transition to democracy.

I urge my colleagues to give their strong backing for this urgent assistance for Haiti.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. OBEY. Mr. Chairman, reserving the right to object, will the gentleman assure me that the amendment that is offered, if we allow it to be offered en bloc, would be identical to the previous amendment except that the percentage is changed from 5 percent to 3 percent?

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Ohio.

Mr. TRAFICANT. That is correct. I am asking that the amendments be heard en bloc, reflecting a 3-percent cut in those paragraphs in chapter III, the foreign aid section. My request to consider the amendments en bloc would incorporate amendments Nos. 3, 6, 9, 12, 16, 20, 24, 28, and 31.

Mr. OBEY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendments will be considered en bloc, and the Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT:

Page 10, line 21, strike out "$1,609,671,408" and insert in lieu thereof "$1,561,381,266".

Page 11, line 6, strike out "$75,000,000" and insert in lieu thereof "$72,750,000".

Page 11, line 16, strike out "$25,000,000" and insert in lieu thereof "$24,250,000".

Page 11, line 19, strike out "$10,000,000" and insert in lieu thereof "$9,700,000".

Page 12, line 4, strike out "$500,000,000" and insert in lieu thereof "$488,000,000".

Page 12, line 6, strike out "$400,000,000" and insert in lieu thereof "$388,000,000".

Page 12, line 21, strike out "$2,558,000,000" and insert in lieu thereof "$2,546,000,000".

Page 12, line 25, strike out "$420,000,000" and insert in lieu thereof "$407,400,000".

Page 13, line 6, strike out "$300,000,000" and insert in lieu thereof "$291,000,000".

Page 14, line 5, strike out "$15,000,000" and insert in lieu thereof "$14,550,000".

Page 14, line 20, strike out "$25,000,000" and insert in lieu thereof "$24,250,000".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio? There was no objection.

Mr. TRAFICANT. Mr. Chairman, I heard a lot of name-calling by a couple of Members. This is the second time

they called me names. I never called them names. I think I told you personally about it before, and I will not mention it any more. I do not expect to be called names a third time by anybody in the House.

There was a comment made that it is time to help Nicaragua and Panama. The statement was made that it is time for America to come forward and additionally help Nicaragua and Panama. Evidently I am in a small minority, but I think it is time for Nicaragua and Panama to help themselves. I think it is time that we start focusing our minimum dollars on America.

This is not just a 3-percent cut. This is policy initiative. We have over a $3 trillion debt, and we are exporting manufacturing jobs. A candidate opposing Mr. Reagan in 1980 said his policies would drive us into bankruptcy, making us the leading debtor nation in the world; and that was not Jimmy Carter, by the way, it was George Bush.

You came to the floor to offer an amendment to make a cut, and you are a demagogue because you want to bash the foreign countries. Then you hear the percentage—only $16 billion, less than 1½ percent of the unified Federal budget. Why do we not just take Social Security and all the other trust funds out and tell the truth about what is going on in the first place?

Second of all, someone said we are only taking it from defense, and if we only take it from defense for these foreign aid accounts, it is going to stay in defense. Well, if we have it for foreign aid, why do we not take it out of defense and put it in education or in training for the American people?

I am tired of it. I know that Members are going to get up with very beautiful language, everybody is going to pat them on the back, and then everyone is going to go herding off and vote against this amendment.

Let me tell the Members this: That amount of $3 billion was nothing in this unified budget, and that is in fact what revenue sharing was. This account today could reinstate EDA and double the money for economic development assistance and the Appalachian Commission, No. 1, and, No. 2, it could reinstate and double the Urban Action grants that have been canceled. It could build sewers in your districts, and it could help your kids pay for some school lunches.

□ 1630

Mr. Chairman, let me tell my colleagues what the problem around here is. There are powerful forces, all right, in this country, and the powerful forces are beginning to run American policy, not Congress. I say to my colleagues, you can take off on me with that all you want. I'm prepared to debate that. I'm tired of foreign aid totally, and I understand you can't do anything about it. I sure as hell am trying.

However, Mr. Chairman, my colleagues just keep going ahead.

In addition, Mr. Chairman, I want to tell my colleagues about the mail my constituents get about the missile that JIM TRAFICANT voted against which is going to save the world.

Mr. Chairman, half of those missiles are drunk turkeys which cannot fly straight. Who is cutting them? I ask my colleagues, why don't we cut them and put them into America?

Mr. Chairman, we got a B-1 bomber shot down by pelicans, and we got people living on steel grates.

So, my colleagues are saying, We've got to cut. We've got to be responsible.

Where do you want me to cut? Job training moneys? Funds for unemployed people? Housing money so people in America might get a housing guarantee?

Where do you want to cut it, folks?

So, my colleagues come up and say, well, I'll cut that defense budget. My God, you're un-American, TRAFICANT.

Three hundred billion dollars, one hundred twenty billion for NATO, and let me tell my colleagues what. We are going bankrupt. Let us bring those people back here and spend money in America, put our country in order. And we start with defense, and we start with foreign aid, and, if there is no other place to start, we should start there.

This is a policy statement. My colleagues are going to go ahead and vote no, and I say to them, I got a thick skin, and you can't make me feel low with any vote. I can walk under a closed door with a top hat on and come back tomorrow. What we're doing is wrong in this House. We are not taking care of the American people first. And, if you stand up and talk about it with a trade policy or foreign aid, you get all kinds of names attached to it.

So remember, three strikes, you're out.

Mr. Chairman, I have taken two, and I say to my colleagues, I ain't going to take any more.

Instead of Panama getting $420 million, they would get approximately $408 million. Instead of Israel being guaranteed $400 million, they would be guaranteed $388 million. It is cutting less than a $100 million from this damned turkey.

Mr. Chairman, I want a yes vote on this, and I appreciate the help from people who are sick and tired of seeing their people go without work, cutting their food stamps, and cutting their education and getting a song and dance from every chairman down here.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Ohio.

Mr. Chairman, the arguments are the same, the authorship is the same, and the result ought to be the same. The only thing that is different is the percentage.

I would urge a no vote on the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is no need to have further debate on this. I would just remind everybody that the amendment of the gentleman from Ohio [Mr. TRAFICANT] does not transfer money to housing, it does not transfer money to the inner cities, it does not transfer money to the hospitals. All it does is leave it in the defense budget.

Mr. Chairman, it is the same argument as last time, and I urge my colleagues to vote no again.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 346, not voting 15, as follows:

[Roll No. 63]

AYES—72

Applegate	Hopkins	Perkins
Barton	Hubbard	Petri
Bereuter	Hughes	Poshard
Bryant	Jacobs	Rahall
Combest	Jenkins	Regula
Conyers	Jones (NC)	Roth
Costello	Jontz	Russo
Crane	Kanjorski	Sangmeister
Crockett	Kastenmeier	Schaefer
Dannemeyer	Kleczka	Schroeder
Dorgan (ND)	Kolter	Sensenbrenner
Duncan	Long	Sharp
Dymally	Marlenee	Stangeland
Eckart	McCandless	Stark
Emerson	Miller (OH)	Tallon
English	Mollohan	Tanner
Fields	Moorhead	Taylor
Gaydos	Murphy	Traficant
Hall (TX)	Nielson	Valentine
Hancock	Oakar	Vento
Hefner	Ortiz	Walgren
Henry	Patterson	Washington
Herger	Pease	Watkins
Holloway	Penny	Young (AK)

NOES—346

Ackerman	Bentley	Buechner
Akaka	Berman	Bunning
Alexander	Bevill	Burton
Anderson	Bilbray	Byron
Andrews	Bilirakis	Callahan
Annunzio	Bliley	Campbell (CA)
Anthony	Boehlert	Cardin
Archer	Boggs	Carper
Armey	Bonior	Carr
Aspin	Borski	Chandler
Atkins	Bosco	Chapman
AuCoin	Boucher	Clarke
Baker	Boxer	Clay
Ballenger	Brennan	Clement
Barnard	Brooks	Clinger
Bartlett	Broomfield	Coble
Bateman	Browder	Coleman (MO)
Bates	Brown (CA)	Coleman (TX)
Beilenson	Brown (CO)	Collins
Bennett	Bruce	Condit

Conte	Kildee	Rinaldo
Cooper	Kolbe	Ritter
Coughlin	Kostmayer	Roberts
Courter	Kyl	Robinson
Cox	LaFalce	Roe
Coyne	Lagomarsino	Rogers
Craig	Lancaster	Rohrabacher
Darden	Lantos	Ros-Lehtinen
Davis	Laughlin	Rose
de la Garza	Leach (IA)	Rostenkowski
DeFazio	Leath (TX)	Roukema
DeLay	Lehman (CA)	Rowland (CT)
Dellums	Lehman (FL)	Rowland (GA)
Derrick	Lent	Roybal
DeWine	Levin (MI)	Sabo
Dickinson	Levine (CA)	Saiki
Dicks	Lewis (CA)	Sarpalius
Dingell	Lewis (FL)	Savage
Dixon	Lewis (GA)	Sawyer
Donnelly	Lightfoot	Saxton
Dornan (CA)	Lipinski	Scheuer
Douglas	Livingston	Schiff
Downey	Lloyd	Schneider
Dreier	Lowery (CA)	Schulze
Durbin	Lowey (NY)	Schumer
Dwyer	Luken, Thomas	Serrano
Dyson	Lukens, Donald	Shaw
Early	Machtley	Shays
Edwards (CA)	Madigan	Shumway
Edwards (OK)	Manton	Shuster
Engel	Markey	Sikorski
Erdreich	Martin (IL)	Sisisky
Espy	Martin (NY)	Skaggs
Evans	Martinez	Skeen
Fascell	Matsui	Skelton
Fawell	Mavroules	Slattery
Fazio	Mazzoli	Slaughter (VA)
Fish	McCloskey	Smith (FL)
Flake	McCollum	Smith (IA)
Foglietta	McCrery	Smith (NE)
Ford (MI)	McCurdy	Smith (NJ)
Frank	McDade	Smith (TX)
Frenzel	McDermott	Smith (VT)
Frost	McEwen	Smith, Denny (OR)
Gallegly	McGrath	
Gallo	McHugh	Smith, Robert (NH)
Gejdenson	McMillan (NC)	
Gekas	McMillen (MD)	Smith, Robert (OR)
Gephardt	McNulty	
Geren	Meyers	Snowe
Gibbons	Mfume	Solarz
Gillmor	Michel	Solomon
Gilman	Miller (CA)	Spence
Gingrich	Miller (WA)	Spratt
Glickman	Mineta	Staggers
Gonzalez	Moakley	Stallings
Goodling	Molinari	Stearns
Gordon	Montgomery	Stenholm
Goss	Moody	Stokes
Gradison	Morella	Studds
Grandy	Morrison (CT)	Sundquist
Grant	Morrison (WA)	Swift
Gray	Mrazek	Synar
Green	Murtha	Tauke
Guarini	Myers	Tauzin
Gunderson	Natcher	Thomas (CA)
Hall (OH)	Neal (MA)	Thomas (GA)
Hamilton	Neal (NC)	Thomas (WY)
Hammerschmidt	Nowak	Torres
Hansen	Oberstar	Torricelli
Harris	Obey	Towns
Hastert	Olin	Traxler
Hatcher	Owens (NY)	Udall
Hayes (IL)	Owens (UT)	Unsoeld
Hefley	Oxley	Upton
Hertel	Packard	Vander Jagt
Hiler	Pallone	Visclosky
Hoagland	Panetta	Vucanovich
Hochbrueckner	Parker	Walker
Horton	Parris	Walsh
Houghton	Pashayan	Waxman
Hoyer	Paxon	Weber
Huckaby	Payne (NJ)	Weiss
Hunter	Payne (VA)	Weldon
Hutto	Pelosi	Wheat
Hyde	Pickett	Whitten
Inhofe	Pickle	Williams
Ireland	Porter	Wilson
James	Price	Wise
Johnson (CT)	Pursell	Wolf
Johnson (SD)	Quillen	Wolpe
Johnston	Rangel	Wyden
Jones (GA)	Ravenel	Wylie
Kaptur	Ray	Yatron
Kasich	Rhodes	Young (FL)
Kennedy	Richardson	
Kennelly	Ridge	

NOT VOTING—15

Bustamante	Hawkins	Slaughter (NY)
Campbell (CO)	Hayes (LA)	Stump
Feighan	Nagle	Volkmer
Flippo	Nelson	Whittaker
Ford (TN)	Schuette	Yates

□ 1651

The Clerk announced the following pair:

On this vote:

Mr. Stump for, with Mr. Nelson of Florida against.

Mr. HAYES of Illinois changed his vote from "aye" to "no."

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and Refugee Assistance", $75,000,000, to support emergency refugee admissions and assistance: *Provided*, That not less than $5,000,000 of the funds provided under this heading shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That funds provided under this heading shall remain available until expended.

AMENDMENT OFFERED BY MR. SAVAGE

Mr. SAVAGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAVAGE: Page 11, strike lines 4 through 11.

Mr. SAVAGE. Mr. Chairman, my amendment would delete the section on migration and refugee assistance.

That section provides $75 million for refugee admissions and assistance in the United States and in Israel, principally for refugees from the Soviet Union and Eastern Europe. There is no limit or no ceiling that is on how much should go to Israel. There is a floor; it has to be at least $5 million of that amount, but presumably all could go to Israel, $75 million.

The problem I have with that is that we have already given to Israel more than 20 percent of our foreign aid budget, some $3 billion to a little tiny nation with only 4 million people, and now we are talking about giving possibly another $75 million.

We can just compare that to the fact that for all the 45 sub-Saharan African nations with a population of some 300 million, only $30 million, as compared to $3 billion, and now $75 million more.

I want to just point out that the Haitians who fled oppression and went into Florida were given concentration camps, not a subsidy for their relocation.

Members may have seen the MacNeil/Lehrer Report last night on PBS television, when he pointed out that the Israelis are providing $13,000 per refugee family for the first year of residence, and it does not even require them to seek employment during that time. Yet, they want $75 million more from us.

I tell the Members that I have some unemployed steelworkers in my district who would like to get $13,000 a year while they are not having to seek employment. I tell the Members that we need to start at home, as the prior speaker has said, and I want to say that it seems to me we need to give more attention to America's needs above and over the wants of Israel and that phony argument that, well, if we do not give it to Israel, it will just remain in the defense budget.

I just want to remind the Members that it takes no more votes to take it right back out of that defense budget and give it to some of our senior citizens for long-term medical care or to some of our needy students for post-secondary education, and it takes no more votes to do that than it does to take it out of that defense budget and give it to Israel today.

I say no more money for the wants of Israel while we let the needs of America go. Go back to your districts and ask people in your districts, those who may be unemployed, those who may need some loans, those who suffer from a lack of medical care, and when you tell them that we have no money in our Federal budget for that, but we can give $75 million more to refugees who are already being paid $13,000 a year just to migrate from some nation that is not compelling them to leave, and they are not refugees at all, I say, think about America.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take the 5 minutes.

The principal effects of this amendment would be to tell 27,000 Soviet refugees who are scheduled to come into this country that there is no room in the inn after we have asked the Soviet Union for almost 15 years to let them go.

I do not think that anybody in this room believes that is wise policy, and I think we understand the content of the amendment and the authorship.

Mr. Chairman, I would ask for a "no" vote.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I urge a "no" vote on this amendment. This amendment does all the wrong things for all the wrong reasons.

Mr. DREIER of California. Mr. Chairman, nearly all of us in this Chamber have at one time or another signed a letter in support of a Jewish family seeking to join their relatives in the United States. Or perhaps one urging the Soviet Government to allow an elderly person to come to the West for medical care, or to

visit a loved one. I think it would be accurate to say that congressional mail on this one issue overshadowed nearly every other issue during the past decade.

Well, our persistence paid off. The combination of Ronald Reagan's tough policies toward Soviet aggression around the world, continued congressional pressure, and a collapsing economy finally convinced the Soviet leadership that their emigration policies should be relaxed.

Hope, long a rare commodity in the Russian Jewish community, has returned for those oppressed for centuries, first in czarist Russia, and for the past 70 years in Stalinist Russia.

This amendment would send us back to these repressive times. Mr. SAVAGE wants to shut the windows of hope for the Jewish people. He wants to slam the door on their aspirations and dreams. His amendment would eliminate $75 million of refugee assistance to those emigrating from the oppression in Russia.

For years, we have urged the Soviets to open their doors. Now they are doing just that, but by adopting the Savage amendment, we would be denying these refugees the resources they need to start their lives over in a new home. For this reason, I urge my colleagues to reject this amendment.

Keep hope alive.

Mr. WEISS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois. This amendment would delete the section of this bill that provides $400 million in loan guarantees to the Israeli Government for housing and infrastructure projects for newly arrived immigrants to Israel. I also oppose the gentleman's amendment which would delete the provision of $75 million for refugee admissions and assistance in the United States and in Israel. These amendments are a slap in the face to the hundreds of thousands of Soviet refugees whom we have tried to help emigrate for the past 15 years. I believe that the gentleman misperceives the reality of their situation.

The gentleman from Illinois states that the Israeli Government is not only permitting, but also promoting and encouraging refugee settlement in occupied territory. He states this as one reason he opposes the loans. So far, however, less than 1-percent of the Soviet Jewish immigrants chose to live on the West Bank and they are not being encouraged to go there. The Israeli Government has no program for settling Soviet immigrants on the West Bank. The Jewish agency, which builds new housing for immigrants, has no plans to build any for Soviet immigrants on the West Bank. It even denies its usual first-year living subsidy to immigrants who choose to live on the West Bank.

The gentleman, in arguing on behalf of his amendment, further states that the Soviet refugees are not refugees at all. Soviet emigrants, however, clearly meet the Immigration and Naturalization Services criteria for refugee status; an emigrant must show a "well-founded fear of persecution." Soviet Jews certainly have such a well-founded fear. They have suffered centuries of pogroms and anti-Semitic violence in czarist Russia. In the past 70 years of Soviet rule they have been victims of a campaign of state-sponsored cultural genocide. Jewish religious activity was suppressed, and Jewish religious leaders and activists were beaten and imprisoned. Religious schools were closed and all Jewish political parties banned.

Today, after centuries of repression, discrimination, and harsh crackdowns, Soviet Jews are still being victimized. While up to now there have been no recent pogroms against Jews, the number and severity of anti-Semitic incidents and threats are accelerating at a frightening rate. What once were interpreted as isolated incidents can no longer be viewed as anything but organized intimidation; they are advanced by a highly organized movement with an extensive network of supporters.

For the last 15 years, the United States has recognized the precarious situation of Soviet Jews. We must continue to help them emigrate and begin new, free, safe lives. The two amendments before the House today would move us in precisely the opposite direction, and I urge my colleagues to oppose them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. SAVAGE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 2, noes 418, not voting 13, as follows:

[Roll No. 64]

AYES—2

Crockett
Savage

NOES—418

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Callahan
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten

Williams	Wolpe	Young (AK)
Wilson	Wyden	Young (FL)
Wise	Wylie	
Wolf	Yatron	

NOT VOTING—13

Bustamante	Hayes (LA)	Udall
Campbell (CO)	Livingston	Whittaker
Feighan	Nelson	Yates
Flippo	Schuette	
Ford (TN)	Stump	

1716

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for the "United States Emergency Refugee and Migration Assistance Fund", $25,000,000 to remain available until expended.

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE

Not less than $10,000,000, of the funds made available in Public Law 101-167 for the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, shall be made available for assistance to Haiti: *Provided,* That any of such funds made available for Haiti may be used for any of the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961 and also may be used to finance critical imports.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

Notwithstanding provisions of Public Law 101-167, during the fiscal year 1990, total commitments to guarantee loans shall not exceed $500,000,000 of contingent liability for loan principal: *Provided,* That of this amount $400,000,000 in commitments to guarantee loans shall be available on or after October 1, 1990, and shall be available only for the purpose of providing housing and infrastructure in Israel for newly arrived immigrants in that country: *Provided further,* That such guarantees for housing and infrastructure in Israel for newly arrived immigrants shall be made available for loans made during or after fiscal year 1991, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961: *Provided further,* That section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments to guarantee loans for housing and infrastructure in Israel: *Provided further,* That section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "2,558,000,000".

AMENDMENT OFFERED BY MR. SAVAGE

Mr. SAVAGE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAVAGE: Page 12, delete lines 1 through 21.

Mr. SAVAGE. Mr. Chairman, this amendment deletes the section that provides $400 million in loan guarantees to the Israeli Government for housing and infrastructure projects for newly arrived immigrants to Israel. I object to it for four reasons.

First of all, for those Members who may have viewed the MacNeil/Lehrer Report on PBS TV last night, it showed evidence that the Israeli Government is not only permitting but promoting refugee settlement in occupied Palestinian territory. If they are promoting refugee settlement in occupied Palestinian territory on the one hand and we are going to help the housing program of the Israeli Government, but on the other hand we have seen on television the Israeli troops demolishing homes of Palestinians who are already there, demolishing homes of Palestinians on the one hand, we are being asked to give $400 million in a loan guarantee for housing programs that encourages other houses in the same territory for refugees from Eastern Europe.

□ 1720

The third reason is that in my district I could use some home loan guarantees. I have homeowners who are losing through mortgage foreclosures. If they could get some home loan guarantees, they may keep the homes right in the Second District of Illinois where they already live and are being evicted.

And finally, I could use some section 8 subsidies for apartment dwellers in the second district and that program is being phased out, phased out in the United States because we say we do not have any money, but then providing a $400 million loan guarantee for housing in Israel.

Also, America's bridges are falling down. We need highway repairs.

Again I say let us put the needs of America above the wants of Israel.

Mr. OBEY. My Chairman, I move to strike the last word. Again I think we understand the content and we understand the authorship, and I ask for a "no" vote on the amendment.

Mr. CONTE. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, any comment on this amendment would only serve to magnify it. I ask for a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. SAVAGE].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SAVAGE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is present.

A recorded vote is demanded. Those in favor of taking this vote by recorded vote will rise and remain standing until counted.

An insufficient number has arisen.

Mr. SAVAGE. Mr. Chairman, I made the point of order that a quorum is not present.

The CHAIRMAN. The Chair informs the gentleman from Illinois that a quorum is present.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ECONOMIC SUPPORT FUND

PANAMA

For an additional amount for the "Economic Support Fund", $420,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for Panama: *Provided,* That of this amount up to $15,000,000 may be used for a debt-for-nature swap and for immediate environmental needs.

NICARAGUA

For an additional amount for the "Economic Support Fund", $300,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for Nicaragua: *Provided,* That of this amount $30,000,000 shall be for assistance to support the voluntary demobilization, repatriation and resettlement of members of the Nicaraguan resistance and their families: *Provided further,* That such assistance referred to in the previous proviso shall be provided through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, unless the President notifies the Committees on Appropriations in accordance with the procedures contained in section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

ADMINISTRATIVE EXPENSES

Up to $10,000,000, of the funds made available under the headings "Panama" and "Nicaragua" may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under such headings.

CARIBBEAN

For an additional amount for the "Economic Support Fund", $15,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for countries in the Caribbean: *Provided,* That not more than fifty percent of the funds made available by this paragraph shall be allocated to any one country.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will try to be brief. I was prepared to offer an amendment that would limit aid to Panama for one very simple reason, and that is that up to this point there has been no agreement between the Panamanian Government and the American Government about money laundering. We all know illegal drugs are a plague on this country. We all know there is no profit for the drug dealers if they cannot spend the money, and that is where the money launderers come in.

We also know that Panama and money laundering were, under the Noriega regime, linked. The Panama-

nian banking system under the Bank Secrecy and under the Bank Confidentiality Act and other acts was a haven for the funds from money launderers.

Mr. Chairman, if we simply replace Noriega, with his machete and his army fatigues, with people who may wear suits but are participating in money laundering, we have not accomplished very much.

It is for that reason that our Government has endeavored to come to an agreement with the Panamanian Government. But that agreement is not yet reached.

Unfortunately, if this appropriation bill were to pass without the preceding authorization bill which has not yet passed, that money would be given to the Panamanian Government for the next 2 years, $500 million, unfettered, with no limitation on money laundering.

As much as I think we must help Panama after Operation Just Cause, I think it would be a travesty to hand Panama hundreds of millions of dollars if they continue to launder money, the same money that poisoned our children on our streets when it came to drugs. That is why I had prepared the amendment.

But, after working with the gentleman from Pennsylvania [Mr. KOSTMAYER], talking to the chairman of both of the committees, the gentleman from Florida [Mr. FASCELL], as well as the chairman of the Subcommittee on Appropriations, the gentleman from Wisconsin [Mr. OBEY], I have been assured that the law today is and the law will be henceforth—we will not change it here in this House—that money cannot be spent on this appropriations bill until the authorization bill passes. And the authorization bill at least has passed out of the Committee on Foreign Affairs and it does indeed have some pretty tough language on money laundering.

So I am not going to introduce this amendment, in the hope and the prayer and in the confidences given to me by both people on this side of the aisle as well as those in the administration that we will pass a very tough money laundering proposal in the authorization and that the appropriation will not be spent until the authorization is passed and signed into law.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I am happy to yield to the gentleman from Pennsylvania [Mr. KOSTMAYER], whose leadership in this area has been exemplary.

Mr. KOSTMAYER. I thank the gentleman for yielding.

Mr. Chairman, what the gentleman from New York [Mr. SCHUMER] is saying is that giving this money to Panama ought to be contingent on an agreement between Panama and the United States which deals with the issue of money laundering. I think that is a perfectly reasonable proposition.

There is not any reason on Earth we should provide this level of assistance without an agreement, signed, sealed, and delivered by the Panamanians and by the United States that this money laundering problem is going to be dealt with.

The administration has lobbied against this language. Those of us who serve on the authorizing committee have included language in the authorization bill similar to the language offered by the gentleman from New York [Mr. SCHUMER] and will bring that language to the floor, we hope, in a couple of weeks.

I strongly endorse and support what the gentleman from New York has done.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. Mr. Chairman, I yield to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentlemen for yielding.

Mr. Chairman, I want to compliment the gentleman on his amendment. It would seem to me if Panama were serious about stopping drug trafficking and money laundering between now and the time that the authorization bill comes to the floor, they would take positive steps to show good faith in wanting to finally rid themselves of this reputation as being a big money laundering operation.

I thank the gentleman for yielding.

Mr. SCHUMER. I thank the gentleman for his point. It is extremely well taken.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Delaware [Mr. CARPER]. He has been a leader on this issue also.

Mr. CARPER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York makes a very good point. The debate earler contained a statement by the gentleman from Pennsylvania who made an equally good point. That is, we should authorize before we appropriate, and I hope that the kind of concerns that Mr. SCHUMER has raised do not fall by the wayside and we are ultimately able to authorize on this bill to ensure some conditions are set and met before we appropriate the funds.

Mr. SCHUMER. I thank the gentleman from Delaware.

Mr. CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

Mr. SCHUMER. Mr. Chairman, I think the message ought to be clear that this body should not and will not vote for any more aid to Panama until there is a tough law that prevents Panama from being a haven for money laundering of drug money.

I thank the gentleman from Pennsylvania, Illinois, and Delaware for their help and support.

□ 1730

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

HURRICANE RELIEF AND RECOVERY ASSISTANCE FOR THE EASTERN CARIBBEAN COUNTRIES

For an additional amount for the "Economic Support Fund", $5,000,000, for countries in the Eastern Caribbean, to remain available until September 30, 1991: *Provided*, That such funds shall be available only for additional hurricane relief, recovery, and rehabilitation assistance for those countries that were victims of Hurricane Hugo.

SUB-SAHARAN AFRICA

For an additional amount for the "Economic Support Fund", $25,000,000, to remain available until September 30, 1991, which shall be made available for assistance for sub-Saharan Africa: *Provided*, That of this amount $10,000,000 shall be for assistance for Namibia, $2,500,000 shall be for assistance for Mozambique, $2,500,000 shall be for assistance for Zambia, and $10,000,000 shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal sufferage within a united South Africa, as follows:

(a) SUPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(b) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.

SUB-SAHARAN AFRICA DEVELOPMENT ASSISTANCE

For an additional amount for "Sub-Saharan Africa, Development Assistance", $5,000,000, to remain available until September 30, 1991.

NOTIFICATION PROCEDURES

Prior to each obligation of funds made available for the "Economic Support Fund" and "Sub-Saharan Africa, Development Assistance" in this Act, the Committees on Appropriations of the House of Representatives and the Senate shall be notified in accordance with section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

PEACE CORPS

Amounts appropriated under the heading "Peace Corps" by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), may be made available for activities of the Peace Corps in Czechoslovakia.

EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

Notwithstanding the first proviso contained under the heading "Limitation on Program Activity" under "Title IV—Export Assistance" of Public Law 101-167, the medium-term financing program of the Export-Import Bank shall not exceed the gross obligations for the principal amount of direct loans contained under such heading in Public Law 101-167.

TECHNICAL CORRECTION

Effective as of November 21, 1989, the 11th proviso under the heading "Migration and Refugee Assistance" in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167, 103 Stat. 1211) is amended by striking "sixth proviso" and inserting "ninth proviso".

CHAPTER IV

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

FIREFIGHTING

For an additional amount for "Firefighting", $176,800,000, to remain available until expended.

AMENDMENTS OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. CONTE: On page 17, line 8, strike ", to remain available until expended".

And on page 17, line 13, strike ", to remain available until expended".

Mr. CONTE (during the reading): Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Chairman, this amendment would simply limit the availability of funds appropriated for firefighting costs to fiscal year 1990.

The amendment has been agreed to by Chairman YATES, and I want to thank him for accepting this modification and commend him for his leadership in properly and fully funding the costs of Federal firefighting.

I agree with him. We ought to pay our bills on time, and not borrow to the detriment of other important programs.

Mr. Chairman, I hope this amendment will be accepted.

The bill provides $433 million to repay funds borrowed to fight last year's fires and to provide adequate resources for the upcoming season.

The Interior Department is allocated $176.8 million, and for Forest Service is allocated $265 million to repay the K-V fund.

The Budget Committee and CBO scored these funds as mandatory, and it seems to be the committee's intent that the money be spent in this fiscal year.

The administration has raised some concerns about making these funds available beyond fiscal year 1990.

In the statement of administration policy, OMB has requested that a change be made to "ensure that any funds not spent on emergency fire suppression activities in fiscal year 1990 would not be available to fund discretionary programs in fiscal year 1991." As I understand it, this was not the intent of the committee, and my amendment would satisfy the concerns of the administration. OMB would find these provisions acceptable if this amendment were adopted.

The amendment will further clarify the committee's intent that these funds be spent for cost incurred in fiscal year 1990.

Again, the amendment simply makes the firefighting funds available for fiscal year 1990 only, the reason for including them in the first place.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

On behalf of the gentleman from Illinois [Mr. YATES], the chairman of the Subcommittee on Interior, I want to say the bill includes $333 million to reimburse accounts from which firefighting funds were borrowed, as well as $99,800,000 to provide the Department of the Interior the same level in fiscal 1990 that was available in fiscal year 1989 for fire suppression, emergency rehabilitation, and presuppression. There is no objection to the amendments offered by the gentleman from Massachusetts.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise too, in strong support of this measure. It is critically important, and I urge my colleagues to support it.

Mr. Chairman, I rise to express my strong support for H.R. 4404, the dire emergency supplemental appropriations for fiscal year 1990. This is a critically important measure, which comes at a critically important time. I commend the gentleman from Mississippi [Mr. WHITTEN] and the ranking minority member, the gentleman from Massachusetts [Mr. CONTE] for his outstanding work to expedite this measure.

This bill appropriates a total of $616 billion in new budget authority and authorizes $155 million in transfer authority. In addition, the bill rescinds $1.8 billion in previously appropriated defense funds to offset newly appropriated funds. This bill accommodates the administration requests for foreign assistance to Nicaragua and Panama, and it provides funding for Veterans Affairs benefits and loan guarantees. The bill provides our National Forest Service with the funding it needs to fight fires throughout our Nation.

Mr. Chairman, this measure also provides $400 million in housing loan guarantees to Soviet refugees who are relocating to Israel, as well as $70 million in general refugee assistance which will do much to ameliorate the financial problems encountered by our growing numbers of refugees throughout the world.

Accordingly Mr. Chairman, I urge the unanimous adoption of this measure.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. CONTE].

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST SERVICE FIREFIGHTING

For an additional amount for "Forest Service Firefighting", $256,000,000, to remain available until expended.

CHAPTER V

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $96,000,000 from the Employment Security Administration account in the Unemployment Trust Fund, which shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

All funds collected in fiscal year 1990 in accordance with section 353 of the Public Health Service Act shall be credited to this account, to remain available until expended, for necessary expenses associated with the survey and certification of clinical laboratories.

FAMILY SUPPORT ADMINISTRATION

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for "Low income home energy assistance", $50,000,000 to remain available until October 31, 1990: *Provided*, That the Secretary shall obligate these funds on the basis of relative need to those States and other entities which promptly supplement their applications under the Act for the current fiscal year demonstrating both a substantial need for and the capacity to expend the additional funds.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

I just want to let my close friend, the gentleman from Kentucky [Mr. NATCHER], know how much I appreciated his help in putting this bill together, and especially to thank from the bottom of my heart, for his hard work in getting the $50 million for low-income home energy assistance. We have worked together for many, many years now. I look forward to working with the gentleman for many, many years in the future.

Mr. WOLPE. Mr. Chairman, I move to strike the last word.

I rise, like the gentleman from Massachusetts, to express my strong support for this appropriations supplemental. I want to draw particular attention to the home energy assistance program. These dollars are critical. Too many people have been forced, in recent years, to make critical choices between food and fuel.

The harsh reality is that low-income energy assistance funds have been significantly reduced over the past several years. Between fiscal year 1985 and fiscal year 1990, LIHEAP funding was cut by over $700 million. Now, President Bush is calling for an additional $343 million in cuts. In Michigan, the fiscal year 1991 outlay has been reduced by 25 percent from fiscal year 1990.

These cuts in low-income home energy assistance have meant extreme hardship to the LIHEAP-eligible population. Only about 30 percent now receive the help they so urgently need. Statistics show that 900,000 households or 2.7 million people were dropped from the program from fiscal year 1987 to fiscal year 1989.

Mr. Chairman, living without utilities is a prescription for disaster and, as gruesome newspaper headlines often remind us, even for death. While the Federal deficit must be reduced, it should not be done at the expense of the elderly and the poor. Our most vulnerable citizens should not be forced to make the difficult choice between food and fuel next winter. That is what this supplemental appropriation is all about, and I urge its passage.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise simply to extend my thanks to the distinguished gentleman, the chairman of the Subcommittee on Health and Human Services, and the distinguished minority member for dissolving the problem with respect to the unemployment staffing problem in this country. It was a serious problem, and I appreciate and thank all Members concerned with that.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF EDUCATION

STUDENT FINANCIAL ASSISTANCE

The amount made available for the 1990–91 award year under this heading in the Department of Education Appropriations Act, 1990, for subpart 1 of part A of title IV of the Higher Education Act, as amended, shall be available first to meet any insufficiencies resulting from the payment schedule for Pell Grants published by the Secretary of Education for the 1989-90 award year.

CHAPTER VI

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $510,000,000, of which $135,000,000 shall be placed in reserve to be used only to the extent that such amount is required during the current fiscal year to meet program requirements.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

For an additional amount for generic drug activities of the Food and Drug Administration under section 505(j) of the Food, Drug, and Cosmetic Act, $13,900,000.

CHAPTER VII

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $190,000,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

For an additional amount for "Loan guaranty revolving fund", $150,000,000, to remain available until expended.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $50,000,000: *Provided,* That, notwithstanding any other provision of law, not less than $7,227,000,000 of the sums appropriated under this heading in fiscal year 1990 shall be available only for expenses in the personnel compensation and benefits object classifications.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Medical administration and miscellaneous operating expenses", $1,300,000, to be derived by transfer from "Construction, minor projects".

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

Of the sum appropriated under this heading for fiscal year 1990, the amount available for expenses of travel is increased by $1,000,000.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(TRANSFER OF FUNDS)

For an additional amount for "Payments for operation of low-income housing projects", $72,000,000, to remain available until September 30, 1991: *Provided,* That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount.

COMMUNITY PLANNING AND DEVELOPMENT

URBAN HOMESTEADING

(TRANSFER OF FUNDS)

For an additional amount for "Urban homesteading", to be derived by transfer from the Urban Development Action Grants account, all unobligated balances available at the end of fiscal year 1989 and, after the transfer of $50,000,000 to the Community Development Grants account pursuant to Pulic Law 101-144, all other amounts deobligated in fiscal year 1990: Provided, That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: Provided further, That the amount transferred may be used only for reimbursement to the Federal Housing Administration Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e): Provided further, That the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

INDEPENDENT AGENCIES

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", $32,970,000, of which $18,000,000 shall be derived by transfer from "Research and development' and $14,970,000 shall be derived by transfer from "Space flight, control, and data communications".

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriations contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. The proviso under the heading "Department of the Interior, Bureau of Land Management, Firefighting" in Public Law 101-121 is amended by inserting "full" before the word "repayment" in the proviso, and by inserting at the end thereof "prior to the expenditure of any of such funds for any other purposes".

SEC. 303. In Public Law 101-148, Military Construction Appropriations Act, 1990, the last proviso under "Military Construction, Defense Agencies" is hereby repealed.

SEC. 304. Notwithstanding any other provision of law, all projects contained in the State list included in House Report 101-307, for which funds were appropriated in Public Law 101-148, are hereby authorized for appropriations and for construction or execution.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 24, after line 5, add the following new section:

SEC. 305. None of the funds provided in this Act shall be provided to any nation where it is made known to the President that the nation is providing military or economic assistance to Cuba.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is a rather self-explanatory amendment. It says none of the funds of the act may be used in any nation providing military or economic assistance to Cuba. I think it is an amendment that is going to be readily accepted on both sides.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, in order to save time, I am happy to agree to this.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for offering the amendment. It is a good amendment, and I am very pleased to support it.

Mr. WALKER. Mr. Chairman, I thank the gentlemen for their support on it. This is an amendment that is mainly preventive in nature, in hope that in a changing world, we do not have money flowing out of countries toward Cuba, and hopefully this amendment will make that point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990".

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having assumed the chair, Mr. DORGAN of North Dakota, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4404) making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

□ 1740

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill.

Mr. MILLER of Ohio. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill, H.R. 4404 to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 59, not voting 12, as follows:

[Roll No. 65]

AYES—362

Ackerman	Dyson	LaFalce
Akaka	Early	Lagomarsino
Alexander	Eckart	Lancaster
Anderson	Edwards (CA)	Lantos
Andrews	Edwards (OK)	Laughlin
Annunzio	Emerson	Leach (IA)
Anthony	Engel	Lehman (CA)
Aspin	English	Lehman (FL)
Atkins	Erdreich	Lent
AuCoin	Espy	Levin (MI)
Baker	Evans	Levine (CA)
Ballenger	Fascell	Lewis (CA)
Bartlett	Fazio	Lewis (GA)
Bateman	Fish	Lightfoot
Bates	Flake	Lipinski
Beilenson	Foglietta	Livingston
Bennett	Ford (MI)	Lloyd
Bentley	Frank	Lowery (CA)
Bereuter	Frost	Lowey (NY)
Berman	Gallegly	Luken, Thomas
Bevill	Gallo	Lukens, Donald
Bilbray	Gejdenson	Machtley
Bilirakis	Gekas	Madigan
Bliley	Gephardt	Manton
Boehlert	Geren	Markey
Boggs	Gibbons	Marlenee
Bonior	Gillmor	Martin (IL)
Borski	Gilman	Martin (NY)
Bosco	Gingrich	Martinez
Boucher	Glickman	Matsui
Boxer	Goodling	Mavroules
Brennan	Gordon	Mazzoli
Brooks	Goss	McCloskey
Broomfield	Gradison	McCollum
Browder	Grandy	McCurdy
Brown (CA)	Grant	McDade
Brown (CO)	Gray	McDermott
Bruce	Green	McEwen
Bryant	Guarini	McGrath
Buechner	Gunderson	McHugh
Bunning	Hall (OH)	McMillan (NC)
Burton	Hall (TX)	McMillen (MD)
Byron	Hamilton	McNulty
Callahan	Hammerschmidt	Meyers
Campbell (CA)	Harris	Mfume
Cardin	Hastert	Michel
Carper	Hatcher	Miller (WA)
Carr	Hawkins	Mineta
Chandler	Hayes (IL)	Moakley
Chapman	Hefley	Molinari
Clarke	Hefner	Mollohan
Clay	Herger	Montgomery
Clement	Hertel	Moody
Clinger	Hiler	Morella
Coble	Hoagland	Morrison (CT)
Coleman (MO)	Hochbrueckner	Morrison (WA)
Coleman (TX)	Hopkins	Mrazek
Collins	Horton	Murtha
Condit	Houghton	Myers
Conte	Hoyer	Nagle
Cooper	Huckaby	Natcher
Costello	Hunter	Neal (MA)
Coughlin	Hutto	Neal (NC)
Courter	Hyde	Nowak
Cox	Inhofe	Oakar
Coyne	Ireland	Oberstar
Darden	Jacobs	Obey
Davis	James	Olin
de la Garza	Jenkins	Ortiz
DeFazio	Johnson (CT)	Owens (NY)
Dellums	Johnson (SD)	Owens (UT)
Derrick	Johnston	Oxley
DeWine	Jones (GA)	Pallone
Dicks	Jones (NC)	Panetta
Dingell	Kaptur	Parker
Dixon	Kennedy	Parris
Donnelly	Kennelly	Pashayan
Douglas	Kildee	Paxon
Downey	Kleczka	Payne (NJ)
Dreier	Kolbe	Payne (VA)
Durbin	Kolter	Pelosi
Dwyer	Kostmayer	Perkins
Dymally	Kyl	Pickle

Porter	Schumer	Tauke
Poshard	Serrano	Tauzin
Price	Sharp	Taylor
Pursell	Shaw	Thomas (CA)
Quillen	Shays	Thomas (GA)
Rangel	Shuster	Thomas (WY)
Ravenel	Sisisky	Torres
Regula	Skaggs	Torricelli
Rhodes	Skeen	Towns
Richardson	Skelton	Traficant
Ridge	Slattery	Traxler
Rinaldo	Slaughter (NY)	Udall
Ritter	Slaughter (VA)	Unsoeld
Roberts	Smith (FL)	Valentine
Robinson	Smith (IA)	Vander Jagt
Roe	Smith (NE)	Vento
Rogers	Smith (NJ)	Visclosky
Rohrabacher	Smith (TX)	Volkmer
Ros-Lehtinen	Smith (VT)	Vucanovich
Rose	Smith, Robert (OR)	Walgren
Rostenkowski	Snowe	Walsh
Roukema	Solarz	Washington
Rowland (CT)	Solomon	Watkins
Rowland (GA)	Spence	Waxman
Roybal	Spratt	Weber
Sabo	Staggers	Weiss
Saiki	Stallings	Weldon
Sangmeister	Stangeland	Wheat
Sarpalius	Stearns	Whitten
Savage	Stenholm	Wilson
Sawyer	Stokes	Wise
Saxton	Studds	Wolf
Schaefer	Sundquist	Wolpe
Scheuer	Swift	Wyden
Schiff	Synar	Wylie
Schneider	Tallon	Yatron
Schroeder	Tanner	Young (AK)
Schulze		Young (FL)

NOES—59

Applegate	Hancock	Pease
Archer	Hansen	Penny
Armey	Henry	Petri
Barnard	Holloway	Pickett
Barton	Hubbard	Rahall
Combest	Hughes	Ray
Conyers	Jontz	Roth
Craig	Kanjorski	Russo
Crane	Kasich	Sensenbrenner
Crockett	Kastenmeier	Shumway
Dannemeyer	Lewis (FL)	Sikorski
DeLay	Long	Smith, Denny (OR)
Dickinson	McCandless	Smith, Robert (NH)
Dorgan (ND)	McCrery	Stark
Dornan (CA)	Miller (CA)	Upton
Duncan	Miller (OH)	Walker
Fawell	Moorhead	Williams
Fields	Murphy	
Frenzel	Nielson	
Gaydos	Packard	
Gonzalez	Patterson	

NOT VOTING—12

Bustamante	Ford (TN)	Schuette
Campbell (CO)	Hayes (LA)	Stump
Feighan	Leath (TX)	Whittaker
Flippo	Nelson	Yates

□ 1802

The Clerk announced the following pairs:

On this vote:

Mr. Nelson of Florida for, with Mr. Hayes of Louisiana against.

Mr. Bustamante for, with Mr. Stump against.

Mr. KASICH changed his vote from "aye" to "no."

Mr. UDALL changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "nay" on rollcall No. 64.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 300

Mr. PACKARD. Mr. Speaker, I ask unanimous consent to withdraw my name from the list of cosponsors of House Joint Resolution 300, a joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished majority leader the program for the balance of the day, tomorrow, next week, et cetera.

Mr. Speaker, I yield to the distinguished gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I thank the distinguished minority leader for yielding to me.

Today from this point forward we will complete work on the suspensions; however, we will hold the recorded votes off until tomorrow, and we will have those votes first thing.

Then on Wednesday, April 4, we will also have consideration of H.R. 2015, the reauthorization for the Economic Development Administration and Appalachian Regional Commission, with an open rule, 1 hour of debate. Upon completion of that bill and its vote, we will recess for the Easter district work period. My anticipation would be that that could be at a reasonable hour in the afternoon.

On Wednesday, April 18, and Thursday, April 19, which is the week after the week we are out for the spring recess, the House will reconvene and consider H.R. 1236, the Retail Price Maintenance Act, with an open rule, 1 hour of debate, and H.R. 644, the Wild and Scenic Rivers Act, designating the east fork of the Pecos River, with an open rule, 1 hour of debate.

Other legislation may also be scheduled for this period. Members will receive adequate notice before we reconvene.

A schedule for the month of April will be distributed tomorrow.

I can just say to the Members that with the exception of Monday, April 30, we do not contemplate votes on Mondays and Fridays.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Might I inquire, tomorrow on the rolling of any rollcalls for the suspensions today will begin at what hour tomorrow?

Mr. GEPHARDT. I believe we start at noon.

Mr. MICHEL. The gentleman made mention of our return after the Easter recess on Wednesday. It is the one measure that would be taken up that day and the other measure on Thursday, or just whatever is convenient for those two days?

Mr. GEPHARDT. We anticipate that on that day we will take up one bill, H.R. 1236, the Retail Price Maintenance Act, and that the other legislation for the week will go on the next day.

We will have a full schedule for the gentleman tomorrow.

Mr. MICHEL. There would be votes expected, obviously, on that Wednesday when we return.

Mr. GEPHARDT. On that Wednesday, that is correct.

Mr. MICHEL. Mr. Speaker, I thank the distinguished leader.

ANNOUNCEMENT OF DEMOCRATIC CAUCUS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I just wanted to remind Members on the Democratic side that we will have a Democratic Caucus tomorrow morning at 9 a.m. in the House Chamber for the purpose of ratifying committee assignments at 9 a.m.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I. the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, April 4, 1990.

FEDERAL MARITIME COMMISSION AUTHORIZATION, FISCAL YEAR 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4009) to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes as amended.

The Clerk read as follows:

H.R. 4009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that not to

exceed $2,000 may be expended for official reception and representation expenses.

SEC. 2. Subsection (h) of section 18 of the Shipping Act of 1984 is amended by striking "its establishment" and inserting "all of its members have been duly appointed".

SEC. 3. Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended as follows:

(1) by inserting "including intermodal movements, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation systems," between the word "generally," and the word "and" and subsection (1)(b); and

(2) by inserting the following new subsections:

"(5) The Commission may initiate a rule or regulation under subsection (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under subsection (1)(b) of this section.

"(6) In furtherance of the purposes of subsection (1)(b) of this section—

"(a) the Commission may, by order, require any person (including any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answers to questions; and

"(d) a person who fails to file a report, answer, documentary material, or other information required by this subsection shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under subsection (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations acts, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under subsection (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty of not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission many refuse to disclose to the public a response or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under subsection (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including agreements authorizing preferential treatment at terminals preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the part or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under subsection (1)(b) of this section, and shall collect any fees imposed by the Commission under subsection (9)(d) of this section; and

"(b) The Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspend under subsection 7(d) or subsection 9(b) of this section, or after its right to use another tariff has been suspended under those subsections, is subject to a civil penalty of not more than $50,000 for each day that is is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

SEC. 4. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise, or Great Lakes trades, or the fisheries of the United States for the following vessels:

(1) Arctic Sounder (United States official number 569927),

(2) HMS Bounty (United States official number 960956),

(3) Captain Daryl (United States official number 643920),

(4) Cherokee V (United States official number 570746),

(5) Ernestina (United States official number 136423),

(6) Lady Rose Anne (United States official number 604040),

(7) Mariner III (United States official number 225459),

(8) Salisa M (United States official number 265653), and

(9) Solitaire (United States official number 521894).

The SPEAKER pro tempore (Mr. HARRIS). Is a second demanded?

Mr. LENT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4009, as amended, a bill to authorize appropriations for the Federal Maritime Commission for fiscal year 1991, and other purposes. The funds authorized by this bill will enable the Federal Maritime Commission, an independent agency, to carry out its responsibilities to administer and enforce the statutes affecting our waterborne foreign and domestic commerce.

H.R. 4009 authorizes appropriations of $15,894,000 for the Commission for fiscal year 1991. This amount is identical to the administration's budget request. It is an increase of $442,000 over the fiscal year 1990 appropriation of $15,650,000.

The bill extends the date for filing the final report of the Advisory Commission on Conferences in Ocean Shipping. This action is necessary because present law requires the advisory commission to submit its report to the President and the Congress by October 20, 1990. However, not all of the Commission's members have been appointed. H.R. 4009 extends the filing date to 1 year after all the members have been duly appointed.

It strengthens the FMC's authority to address and correct unfair practices in our waterborne foreign commerce. It also authorizes issuance of appropri-

ate coastwise trading and U.S. fisheries documents for nine vessels.

The Merchant Marine Subcommittee held a hearing on the bill on February 22, 1990. It was reported unanimously by the subcommittee on March 21, 1990, with an amendment by Representative LENT and with an amendment which I offered.

My amendment provided that not more than $2,000 of the authorized funds may be expended by the FMC for official reception and representation expenses.

Representative LENT's amendment strengthens the FMC's ability to respond to unfair shipping practices by foreign governments and their agents. Under present law, the Commission is hampered by limited procedural and remedial authority. This modification clarifies the FMC's jurisdiction and broadens its enforcement options.

The full Merchant Marine and Fisheries Committee marked up the bill on March 28, 1990. With one additional amendment, it was unanimously ordered reported.

The amendment added the text of H.R. 4276, which authorized the issuance of appropriate coastwise and U.S. fisheries documents to nine vessels.

Mr. Speaker, this bill has the unanimous support of the members of the Committee on Merchant Marine and Fisheries. The acting chairman of the Federal Maritime Commission testified before the Subcommittee on Merchant Marine in favor of the bill as introduced and has expressed support for the amendments affecting the Commission. The bill deserves the support of this House, and I urge its passage.

□ 1810

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4009, a bill to authorize appropriations for the Federal Maritime Commission [FMC] for fiscal year 1991, and in doing so, I want to extend my commendation to the distinguished gentleman from North Carolina, the chairman of Committee on Merchant Marine and Fisheries for his leadership in getting this bill to the floor.

This legislation has been carefully considered by the House Merchant Marine and Fisheries Committee. The funding level contained in this bill is $15,894,000—identical to the administration's request. This budget represents a slight increase of $442,000 above the fiscal year 1990 appropriation for the FMC.

The Acting Chairman of the FMC testified before the Merchant Marine Subcommittee endorsing this funding level and indicating that it would enable the Commission to carry out their statutory responsibilities.

Mr. Speaker, this legislation also contains a provision which will broaden the FMC's authority to look at international trade practices used by foreign ship operators that unfairly restrict American vessels. This language is drawn from H.R. 3185, a bill that I introduced earlier in this session to compliment the provisions included in the Foreign Shipping Practices Act of 1988, which the Congress enacted as part of the Omnibus Trade Reform bill.

Specifically, this language would improve the FMC's authority to address and correct conditions unfavorable to shipping in the foreign trade. There are four key elements to this provision.

First, it will clarify the scope of section 19(1)(b) of the Merchant Marine Act, 1920 by indicating that shipping includes intermodal movements and certain land-based activities which are integral to shipping.

Second, it will specify those persons to whom relief under section 19 of the law is available by expressly stating who may file a petition for relief under that section.

Third, it will empower the Commission to use compulsory processes to obtain information concerning unfavorable conditions and, at the discretion of the FMC, it will provide for discovery in proceedings under section 19.

Fourth, it will make available to the Commission a broader range of remedies to correct unfavorable conditions.

The FMC has successfully employed their existing authority under section 19 on a number of occasions against a wide variety of practices of foreign governments and their agents. This legislation is recognition that shipping practices and conditions have changed since section 19 was originally enacted and it will provide the Commission with suitable authorities to enable them to respond to changing conditions. The result will be that section 19 will become a more modern and efficient tool that the FMC can use to address unfair shipping practices in our water-borne foreign commerce.

Mr. Speaker, the other principal provision of H.R. 4009 is a section which provides for congressional authorization for coastwise trading privileges for 9 vessels. The Merchant Marine and Fisheries Committee reviewed each case involving these vessels and determined that it would be appropriate for Congress to grant coastwise privileges to these particular vessels.

Mr. Speaker, I urge our colleagues in the House to support this legislation and to join us in sending this bill to the Senate for their consideration and hopefully expeditious enactment.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4009, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4009, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 4, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on tomorrow, Wednesday, April 4, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ARIZONA WILDLIFE REFUGE WILDERNESS ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2571) to provide for the designation of certain National Wildlife Refuge lands as wilderness in the State of Arizona, as amended.

The Clerk read as follows:

H.R. 2571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Wildlife Refuge Wilderness Act of 1990".

SEC. 2. WILDERNESS DESIGNATION AND MANAGEMENT.

(a) DESIGNATION.—In furtherance of of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, Arizona, which comprise approximately 14,606 acres, as generally depicted on a map entitled "Havasu Wilderness" and dated March 13, 1990, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, Arizona, which comprise approximately 9,220 acres, as generally de-

picted on a map entitled "Imperial Refuge Wilderness" and dated March 13, 1990, and which shall be known as the Imperial Refuge Wilderness.

(3) Certain lands in the Kofa National Wildlife Refuge, Arizona, which comprise approximately 511,000 acres, and certain other public lands comprising approximately 5,300 acres which are hereby added to and incorporated within such refuge (and which shall be managed accordingly), all as generally depicted on a map entitled "Kofa Wilderness" and dated March 13, 1990, and which shall be known as the Kofa Wilderness.

(4) Certain lands in the Cabeza Prieta National Wildlife Refuge, Arizona, which comprise approximately 803,418 acres, as generally depicted on a map entitled "Cabeza Prieta Wilderness" and dated March 13, 1990, and which shall be known as the Cabeza Prieta Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act which govern areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the United States House of Representatives and with the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, United States Department of the Interior.

(d) WATER.—(1) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved rights shall be in the date of enactment of this Act.

(2) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate steam adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment, 43 U.S.C. 666.

(3) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The federal water rights reserved by this Act are specific to the wilderness areas located in the State of Arizona designated by this Act. Nothing in this Act related to reserved federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.".

(3) MILITARY ACTIVITIES.—Nothing in this Act, including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as—

(1) precluding or otherwise affecting continued low-level overflights by military aircraft over such refuge or the maintenance of existing associated ground instrumentation, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or

(2) precluding the Secretary of Defense from entering into new or renewed agreements with the Secretary of the Interior concerning use by military aircraft of airspace over such refuge or the maintenance of existing associated ground instrument, consistent with management of the refuge for the purpose for which such refuge was established and in accordance with laws applicable to the National Wildlife Refuge System.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to raise and extend their remarks on H.R. 2571, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. UDALL], the chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, a month ago, the House of Representatives overwhelmingly passed H.R. 2570, the Arizona Desert Wilderness Act. That bill set aside about 1.1 million acres of Bureau of Land Management territory as wilderness. Today, the House considers the other half of the Arizona wilderness package, H.R. 2571, which addresses four wildlife refuges in my State.

This measure matches the administration position and has been reported without opposition from both the Interior and Merchant Marine and Fisheries Committees. It would designate about 1.4 million acres of wilderness on the Havasu, Imperial, Kofa, and Cabeza Prieta refuges in southern and western Arizona.

Wilderness designation will not bring any great changes to the current administration of these refuges. They were studied and positively recommended for wilderness in the administrations of Presidents Nixon and Ford and have been managed as wilderness since that time. Today, we are proposing to formalize the regime that has governed the refuges for at least 15 years.

Some in Arizona have charged that wilderness designation will change the very purposes for which these refuges were established and managed. But there is absolutely no basis for this. The refuges were created for certain wildlife conservation purposes and so they will remain. Wilderness is simply an overlay, prescribing certain terms and conditions for how the land managers and the public are to achieve the refuges' existing purposes.

Kofa, for example, was established largely for the protection and propagation of desert bighorn sheep. In the 15 years of de facto, administrative wilderness management of Kofa, the population of bighorns has continued to grow and now provides stock for sheep transplants to other refuges and habitats throughout the West. The administration has testified that the activities common in the refuges today—for example, donations of time and labor to construct water catchments by organizations such as the Arizona Desert Bighorn Sheep Society—will continue.

In addition, the committee has maintained public access within this 663,000-acre refuge by working with interested groups and individuals in Arizona to design a mutually agreeable road network in Kofa. Kofa has always been interlaced with dirt roads and ways. In 1974, the administration proposed that 275 miles of these roads be left open and 82 miles closed. Last year, the administration amended its proposal to leave 329 miles of roads open and 28 miles closed. At a meeting on January 6, 1990 in Yuma, representatives of sportsmen, conservationists, recreation and wildlife management organizations hammered out an agreement on a network of 326 miles of open roads and 31 miles of closed roads. This agreement is reflected in its entirety in the committee bill.

The 860,000-acre Cabeza Prieta refuge is one of the largest and most magnificent stretches of protected desert lands in America and perhaps the world. The bill, as amended by the Merchant Marine Committee, designates all but about 57,000 acres as wilderness and leaves open the Camino del Diablo and Tule Wells roads for public access.

Because Cabeza Prieta is a part of the larger Barry M. Goldwater Air Force Range, the committee had to consider the continuation of military

training flights over the refuge. The current, acceptable arrangement between the Departments of Defense and Interior is preserved by the bill. The core principle underlying this arrangement is that military overflights, even low-level missions, are allowed to continue, subject to reasonable terms and conditions necessary to protect refuge and wilderness resources.

Upon introduction of this bill, I stated that we would have to consider the possible addition of the Tinajas Altas range to Cabeza Prieta, as was recommended by the President in 1974. There is no question that Tinajas Altas would be an admirable addition to the refuge. Nor is there any question, at least in my mind, that administration of the area to date has been unsatisfactory. However, Congress handed land management authority for the entire Goldwater range to BLM just 4 years ago and the agency has stated its commitment to guarding the delicate and worthy resources of Tinajas Altas and the rest of the range while providing for necessary military activities. I think they deserve the chance to succeed or fail at this task before Congress considers the possibility of adding the area to the refuge.

Mr. Speaker, this legislation is a hallmark in the protection not only of Arizona's natural heritage but also of the beauty and wildlife that is conserved for all Americans. I want to thank my colleagues in the Arizona congressional delegation and on the Merchant Marine and Fisheries Committee for their timely assistance in bringing this bill before the House today.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me congratulate the chairman of the full committee, the gentleman from Arizona [Mr. UDALL], for having this particular piece of legislation before the House today.

The House will probably recall that less than a month ago we dealt with another Arizona wilderness bill, and I wish to assure the House that for the foreseeable future I hope this is the extent of Arizona wilderness legislation for the 101st Congress.

This bill deals with about 1.3 million acres which are contained in four wildlife refuges located in the State of Arizona. All four of these areas have been designated for wilderness or recommended for wilderness designation since 1974. All have been managed to protect their wilderness value since that time.

As a result of very lengthy and very serious negotiations among the Arizona congressional delegation and their staffs and the parties interested in wilderness designations in our State, we have come to agreement on this legislation.

I should point out two or three specific points. First of all, in the Kofa National Wildlife Refuge, after, again, lengthy negotiations and discussions with users of the refuge, we have managed to come up with a system of public access, a network of roads and trails within that refuge consisting of some 326 miles that will be open to the public, 51 miles, incidentally, more than was originally recommended in the 1974 recommendations.

Second, I need to deal with the issue of water rights. The water rights language in this bill is precisely the same as the language that was contained in the Arizona desert wilderness bill, the BLM wilderness act, adopted by the House approximately 1 month ago.

The intent of that language is to direct the Secretary to protect the wilderness water rights including the filing by the Secretary of a claim for such rights in the courts of the State of Arizona.

□ 1820

In that forum, along with all other water claims filed in Arizona—a general stream adjudication—the Federal wilderness water right granted in this legislation is to be adjudicated, with a priority date of the date of enactment of this bill.

The language further states these wilderness water rights are not necessarily in addition to any existing water rights the Federal Government may have acquired. The extent of the federal wilderness water right should be determined in the State adjudication and quantification process, along with the claims of all other water right holders.

This language is our solution for Arizona, for these wilderness designations. The bill language states this reserved water rights solution is not intended to be the solution for wilderness reserved water right issues in other states. We fully realize other states, with different water right adjudication processes, may find different solutions to meet their particular needs. These issues should be decided on a State-by-State basis. Generic water rights languages will not work for every State in which water rights are such a crucial issue.

Finally, the Cabeza Prieta National Wildlife Refuge has been used for many years as an overflight area for military training purposes. It is basically a part of the Goldwater Air Force Range, and was originally withdrawn by statute in 1962.

The language in the bill allows continued low-level training overflights by military aircraft and maintenance of associated ground equipment, in accordance with existing, new, or revised memorandum-of-understanding between the Department of Defense and the Department of the Interior.

This is a bill that has been worked on for a long time by the Arizona delegation with the leadership of the gentleman from Arizona [Mr. UDALL]. It has had extensive hearings and negotiations with interested parties in the State, as well as with out-of-State environmental interests. It has our nearly unanimous support in the Arizona delegation, and I urge my colleagues to support the adoption of H.R. 2571.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2571 as reported by the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries. Let me thank the members of the Merchant Marine Committee, specifically Chairman JONES and subcommittee Chairman STUDDS for their cooperation on this matter.

Mr. Speaker, this is a bill introduced and championed by our friend and colleague from Arizona, the distinguished chairman of our committee, Chairman UDALL. It is the second part of the overall wilderness legislation for Arizona that the Committee on Interior and Insular Affairs, under his leadership, is bringing before the House this year. This has been over a 15-year struggle to achieve this wilderness designation for these wildlife refuges. The other bill, H.R. 2570, addresses the designation of wilderness on Arizona lands managed by the Bureau of Land Management, and that bill passed the House on February 28 by a vote of 356 to 45.

This bill deals with the designation of wilderness in Arizona on lands managed by the Fish and Wildlife Service as units of the National Wildlife Refuge System. In all, some 1.3 million acres of these lands would be designated as wilderness, including about 5,300 acres which the bill would transfer from BLM management for inclusion in the Kofa Refuge unit.

This wilderness designation is an important step, Mr. Speaker, but it is not a new idea. In fact, what this bill does is generally to adopt Presidential recommendations dating back to 1973 and 1974. Those recommendations were transmitted to the Congress after the review process that the Wilderness Act required for all roadless areas of 5,000 acres or more, and every roadless island, within the National Wildlife Refuge System and other Federal lands. The purposes of this review was to determine the suitability of these areas for inclusion in the National Wilderness Preservation System, and to provide a basis for recommendations to Congress for designation of wilderness areas.

Of course, the management of an area recommended for wilderness has to take that recommendation into account, so that the wilderness values of

a recommended area will be protected until Congress makes a decision with respect to the recommendation.

As a result, Mr. Speaker, a bill such as this one, which essentially adopts Presidential recommendations with respect to wilderness designations, will result in little if any change in the way in which the areas have been managed since the recommendation.

By the way, I ought to note for the information of the House that these recommendations from 1973 and 1974 are not the oldest Presidential wilderness recommendations still pending here in the Congress. Just with respect to the National Wildlife Refuge System, there are at least two recommendations that date back to 1969.

The four refuges within which this bill would designate wilderness areas are Havasu National Wildlife Refuge, Imperial National Wildlife Refuge, Kofa National Wildlife Refuge, and the Cabeza Prieta National Wildlife Refuge. Each of these has very special and unique resources and values, which are discussed at some length in the Interior Committee's report, and each will be a notable and valuable addition to the National Wilderness Preservation System.

The Havasu and Imperial Refuges are located along the Colorado River and include very rugged mountainous areas, where the wilderness areas would be. The Kofa and Cabeza Prieta Refuges are outstanding desert areas that contain a wide diversity of terrain features and wildlife habitat as well as recreational opportunities. Together, the wilderness designations made by this bill will make a very significant contribution to the wilderness system.

Mr. Speaker, when H.R. 2570, the Arizona BLM wilderness bill, was on the floor of the House last month, much of the debate centered on the way that bill addressed the question of water rights associated with the wilderness areas designated by the bill. Members will recall that the House adopted an amendment dealing with that matter that was offered by the gentleman from Arizona [Mr. RHODES], and which Chairman UDALL and I joined in sponsoring. After that action by the House, the Interior Committee adopted a resolution to revise H.R. 2571 so that its water-rights provisions would be the same as those of H.R. 2570 as passed by the House.

Thus, Mr. Speaker, section 2(d) of the bill now before the House is identical to subsection 2(g) of H.R. 2570, the Arizona Desert Wilderness Act of 1990 as passed by the House of Representatives on February 28, 1990, and has the same intent and effect.

It would explicitly reserve, with respect to each of the wilderness areas designated by the bill, a quantity of water sufficient to fulfill the purposes for which those areas are designated, with the priority date of these reserved Federal rights being the date of enactment of the bill.

Paragraph (2) of the subsection would require the Secretary of the Interior and all other officers of the United States to take all necessary steps to protect these reserved rights, including the filing by the Secretary of a claim for such quantification in any appropriate general stream adjudication in Arizona courts to which the United States is made a party under the McCarran amendment and which is conducted in accordance with that provision of existing law.

As I noted when we debated this same language in the context of H.R. 2570, none of this language would have the effect of changing existing law with respect to this matter of the quantification of Federal reserved water rights.

Specifically, the McCarran amendment permits the United States to be joined as a defendant in a general stream adjudication, and under these circumstances, the Federal water right may be quantified as part of the adjudication. However, under existing Federal law the Federal courts share concurrent jurisdiction over Federal water rights, and that concurrent jurisdiction of the Federal courts would not be changed by either this bill or H.R. 2570. Federal officials will thus retain all the options they now have, including going into Federal courts if, for example, the officials conclude that an appropriate State adjudication is not available or that the State process doesn't adequately protect the Federal interest.

Of course, as a practical matter, Mr. Speaker, under existing law and practice water rights such as those reserved by the bill are generally quantified through appropriate proceedings in State courts, even though there is also concurrent jurisdiction in Federal courts, and so quantification of the Federal water rights reserved by this bill and H.R. 2570 will most likely occur in the courts of Arizona through general stream adjudications, except where special circumstances such as the special status of the Colorado River would produce a different result.

Mr. Speaker, as I said before, existing law and practice in this area are working well. They aren't "broken" and don't need "fixing," and both H.R. 2570 and this bill would leave them intact.

Finally, Mr. Speaker, the bill addresses the relationship between the Defense Department and the Fish and Wildlife Service with respect to the Cabeza Prieta Refuge. That refuge is overlain by the Barry Goldwater Air Force Range, which has been withdrawn for military use until the year 2001 by the Military Lands Withdrawal Act of 1986. Overflights and related activities there are governed by an interagency agreement, and after a careful review the Interior Committee concluded that that agreement strikes an acceptable balance between the need of the military for these activities and the need to protect the refuge and its resources and values, including wilderness values. The bill includes language—in section 2(e)—to make it clear that low-level overflights consistent with the restrictions in the existing interagency agreement—or renewals of the agreement—can continue, as can the maintenance of existing ground facilities associated with those flights.

In summary, Mr. Speaker, this is a good and important bill that will give congressional approval for wilderness designations recommended some time ago. It will protect important wilderness and other values, while providing for continued sound management of these areas as part of the National Wildlife Refuge System. The Arizona delegation, and especially Chairman UDALL, can take pride both in this bill and in H.R. 2570, already approved by the House. Together these bills will leave a lasting legacy for the people of Arizona and the Nation. I urge passage of the bill.

Mr. DAVIS. Mr. Speaker, I rise in support of H.R. 2571, the Arizona Wildlife Refuge Wilderness Act of 1990, which provides wilderness designation for four wildlife refuges in Arizona, pursuant to the Wilderness Act of 1964, in order to protect important segments of the fragile and unique desert ecosystems of the Southwest.

The wilderness designations in H.R. 2571 are based on recommendations made by Presidents Nixon and Ford during the mid-1970's pursuant to the wilderness study reviews mandated by the Wilderness Act. The bill was modified by the Interior Committee and the Merchant Marine and Fisheries Committee to incorporate various acreage adjustments requested by the administration.

Mr. Speaker, an area within a national wildlife refuge which is designated as wilderness remains part of the National Wildlife Refuge System, and is subject to the jurisdiction of the Fish and Wildlife Service. A wilderness designation does place certain restrictions on the kinds of management activities and public uses which may take place within a wilderness area. For example, it generally prohibits commercial activities, motorized access and the construction of new roads, structures, and facilities in wilderness areas. However, it does provide limited exemptions for livestock grazing, preexisting motorboat and aircraft use, and some commercial recreation such as guiding or rafting trips.

Public activities such as hiking, camping, or hunting would not be prohibited by a wilderness designation. Moreover, the Fish and Wildlife Service testified at a hearing before the Merchant Marine and Fisheries Committee that it is not concerned that wilderness designations contained in H.R. 2571 would adversely affect their wildlife conservation programs or unduly restrict their wildlife management options. In fact, the Fish and Wildlife

Service has managed most of the acres designed as wilderness under H.R. 2571 as de facto wilderness since the Wilderness Review Study which identified these areas was completed 17 years ago. Under existing wilderness management policy, a wide range of wildlife management activities are, and will continue to be, allowed in the four Arizona wildlife refuges.

A number of hunters were initially concerned that the wilderness designations under H.R. 2571 would greatly limit road access and thus make hunting more difficult or impossible. According to the Fish and Wildlife Service, a compromise was reached in January of this year regarding access roads linking the wilderness units that should satisfy the various user groups, including hunters, without diminishing the wilderness value of these areas.

H.R. 2571 also addresses the issue of adjudication of water rights. The Interior Committee and the Merchant Marine and Fisheries Committee have reached a bipartisan compromise on this issue, and I believe the language we have before us today in H.R. 2571 is noncontroversial and is supported by all parties.

Mr. Speaker, in closing I would like to say that the Arizona Wildlife Refuge Wilderness Act of 1990 as amended is a very good bill, and I ask my colleagues to adopt this measure.

Mr. JONES of North Carolina. Mr. Speaker, today I rise in support of Mr. UDALL's H.R. 2571, the Arizona Wildlife Refuge Wilderness Act, which was jointly referred to the Interior and Insular Affairs Committee and the Merchant Marine and Fisheries Committee.

The Committee on Merchant Marine and Fisheries has jurisdiction over matters affecting the U.S. Fish and Wildlife Service and the National Wildlife Refuge System, so it has a strong interest in all bills proposing to designate wilderness within national wildlife refuges. My committee has jurisdiction over the National Wildlife Refuge System Administration Act, the primary statutory authority governing the management of national wildlife refuges. That act authorizes the use of a very broad array of habitat management and wildlife conservation activities by wildlife refuge managers. The formal designation of wilderness within a wildlife refuge restricts the use of some of these management authorities otherwise available to a refuge manager. A refuge wilderness designation, therefore, implicitly amends the Refuge Administration Act as it is subsequently applied to the new wilderness area. It is for this reason that my committee has a jurisdictional interest in the way a wilderness proposal might affect the future management of a given wildlife refuge.

My committee has carefully reviewed the merits of the wilderness proposals for the four Arizona wildlife refuges covered by H.R. 2571 and strongly supports the designation of wilderness for those refuges. The Fish and Wildlife Service recently testified in front of my committee in favor of H.R. 2571, and indicated that the wilderness designations included in the bill will not adversely affect or unduly restrict wildlife management operations on these four desert wildlife refuges.

Furthermore, H.R. 2571, as amended, incorporates compromises on management issues such as access, Federal water rights, and military activities. These compromises should accommodate the various user groups on these refuges, including hunters, without diminishing the wilderness value of these areas.

In order to accommodate the personal request of my dear friend, MO UDALL, my committee expedited consideration of this bill. I think that Chairman UDALL, subcommittee Chairman VENTO, and the Arizona delegation should be proud of their hard work on an excellent bill. This bill will help protect an important part of the desert heritage of this country.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 2571, the Arizona Wildlife Refuge Wilderness Act.

Just over a month ago, we passed the Arizona Desert Wilderness Act affecting 1.1 million acres of land in the State of Arizona within the jurisdiction of the Bureau of Land Management. This bill builds upon that effort, setting aside four wildlife refuges in the State in the same protective wilderness status.

The four refuges—the Kofa, the Cabeza Prieta, the Imperial, and Havasu National Wildlife Refuges—total 1.3 million acres in southwestern Arizona.

The water rights language in this bill is identical to that which we included in the Arizona BLM wilderness bill. It is designed to ensure that the Federal reserved water rights for these wilderness areas will be quantified in the courts of the State of Arizona.

Mr. Speaker, it is my understanding that the administration supports this bill. I urge my colleagues' support.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2571, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FUNDS TO ACQUIRE LAND FOR EMERGENCY SHELTERS UNDER INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986

Mr. McDERMOTT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1813) to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

The Clerk read as follows:

S. 1813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433(e)) is amended—

(1) by inserting ", or purchase or lease of land or facilities for," after "renovation of" in paragraph (1),

(2) by striking out "subject to contracting" in paragraph (3) and inserting in lieu thereof "subject to contracting or available for grants", and

(3) by adding at the end thereof the following new paragraphs:

"(4) Funds appropriated under the authority of this subsection may be used by any Indian tribe or tribal organization to purchase or lease any land or facilities if—

"(A) the Secretary of the Interior determines that no Federal land or facilities are reasonably available for emergency shelters or halfway houses described in subsection (a) to serve the needs of that Indian tribe or tribal organization, and

"(B) the Indian tribe or tribal organization enters into an agreement with the Secretary of the Interior that requires the Indian tribe or tribal organization to use the land or facilities for emergency shelters or half-way houses described in subsection (a).

"(5) Nothing in this Act may be construed—

"(A) to limit the authority for contracts with, or grants to, Indian tribes or tribal organizations under the Indian Self-Determination Act for the construction, improvement, renovation, operation, repair, land acquisition, or maintenance of tribal juvenile detention facilities, emergency shelters, or half-way houses, or

"(B) to require a lease of tribal facilities to the United States to qualify for financial assistance for the facilities under this or any other Act.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington [Mr. MCDERMOTT] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. MCDERMOTT].

GENERAL LEAVE

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks on S. 1813, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a rather simple bill. It amends section 4213 of the Indian Alcohol and Substance Abuse Act of 1986. That section authorizes the appropriation of funds for the construction or renovation of facilities as emergency shelters or halfway houses for Indian youth who are victims of alcohol or substance abuse.

As some of the small tribes of western Washington sought to take advantage of this section, they encountered

a defect in the law which prevented them from developing an emergency shelter for their youth. The tribes had identified an available facility to serve as a shelter and proposed to acquire the land and facility. They were advised, however, that the Bureau of Indian Affairs had no authority to use section 4213 funds to acquire land.

This bill amends section 4213 to provide that such funds can be used to purchase or lease any land or facilities for a shelter or halfway house if the Secretary of the Interior determines that there are not reasonably available Federal facilities and the tribe agrees to use the lands for that purpose.

Mr. Speaker, this bill was jointly referred to the Committees on Interior and Insular Affairs and Energy and Commerce. I am including for the RECORD a letter from Chairman DINGELL noting the jurisdiction of his committee, but concurring in our action on this bill.

Mr. Speaker, enactment of S. 1813 represents no new costs to the United States. It is supported by the administration and I know of no opposition. I urge passage of the bill.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, March 27, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter outlining your Committee's action on S. 1813, a bill to amend section 4213 of the Indian Alcohol and Substance Abuse Act of 1986, and your desire to take this bill to the House floor expeditiously.

The Committee on Energy and Commerce, which shares jurisdiction over this legislation, is appreciative of the need to enact this provision, and is willing to forego action on the bill in order that it can be brought quickly before the House.

I am appreciative of your cooperation, and request that you make our correspondence on this issue a part of the legislative record.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. Speaker, I would like to acknowledge the gentleman from Colorado [Mr. CAMPBELL] for his chairing of the markup.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1813, a bill to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land or facilities, either by purchase or lease, for emergency treatment shelters.

The 1986 Act currently authorizes the Secretary of the Interior and the Secretary of Health and Human Services: First, to make available local Federal facilities; second, to lease tribally owned or leased facilities; and third, to construct new facilities or renovate existing facilities owned by the tribes on their reservations.

The act does not give either Secretary or the tribal grantees the authority to use the funds provided under the act to acquire land and facilities to carry out the purposes of the act. This oversight should be corrected, and enactment of S. 1813 will do the job.

S. 1813 includes two important prerequisites to meet before Federal funds appropriated under this act may be used to acquire land or facilities. First, the Secretary of the Interior must determine that no existing Federal land or facilities are reasonably available to serve the emergency shelter needs of the tribe or tribal organizations. Second, the tribal grantee must enter into an agreement with the Secretary establishing that the land or facilities to be acquired will in fact be used for emergency shelter or halfway houses in accordance with the purposes of the act.

I urge my colleagues to support passage of S. 1813 as reported by the Committee on Interior and Insular Affairs.

□ 1830

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of S. 1813, a bill which will permit funds provided under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 to be used to acquire land or facilities for emergency shelters and halfway houses, if there are no suitable Federal facilities or land available, in order to serve Indian youth with alcohol or substance abuse problems.

In 1984, our colleague in the House from South Dakota, now that State's junior Senator, and this Member began work on what became the Indian Youth Alcohol and Drug Abuse Prevention and Treatment Act. Our efforts stemmed from a plea to us from Indian leaders in our States and elsewhere, who informed us that the number one health and social problem on the reservation was the abuse of alcohol and illicit substances. In 1986, after much consultation with tribal leaders nationwide, nine hearings across the country, and significant refinements to the bill we had introduced in 1984, our bill passed the House and was folded into the first omnibus alcohol and drug abuse prevention bill.

One of our major concerns was that young people involved with alcohol and drug-related offenses were more often than not detained or cared for in inappropriate facilities. Many youth involved with alcohol and/or drugs need protection—perhaps from their own violent home lives—as well as emergency intervention of the sort that can prevent an escalation of their problems to the point of serious criminal involvement.

However, most reservations do not have emergency shelters or halfway houses for youth, which means that they are often held—even for their own protection—in jail facilities with adult offenders. The passage of this legislation is necessary, for the situation on Indian reservations is unlike nonreservation areas, where States are required by the Juvenile Justice and Prevention Act to maintain separate facilities for adults and juveniles. The principal of keeping juveniles apart from adults is founded on the commonly shared and reasonable conviction that exposure of young people to hardened or experienced criminals can harm them. It was our intent to see that Indian youth had, to the extent possible, the same protections as non-Indian youth. This legislation is necessary to further our original intent.

While this Member would want to be very careful about any effort to purchase or lease land or facilities for emergency shelters or halfway houses for Indian youth, simply because of the serious need to protect prevention and treatment dollars, it is also clear that the assistance offered in such facilities has the potential to minimize the need for more restrictive and long term residential treatment. In addition, well-timed and effective emergency assistance may prevent young people from entering the criminal justice system. For several reasons, therefore, it is crucial to provide alternative shelters and emergency facilities if none actually exist, and I urge my colleagues to support S. 1813.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Washington [Mr. MCDERMOTT] that the House suspend the rules and pass the Senate bill, S. 1813.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1096, PROVIDING FOR USE AND DISTRIBUTION OF SEMINOLE INDIAN AWARD

Mr. DARDEN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1096) to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151,

and 73-A of the Indian Claims Commission.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

(For conference report and statement, see proceedings of the House of March 29, 1990.)

The SPEAKER pro tempore. The gentleman from Georgia [Mr. DARDEN] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. DARDEN].

GENERAL LEAVE

Mr. DARDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report on S. 1096.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DARDEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on S. 1096. S. 1096 authorizes the distribution of funds awarded to the Seminole Indians in judgments against the United States for the wrongful taking of their lands in the State of Florida in 1823 and 1834.

The only significant controversy associated with this legislation was how the award in Indian Claims Commission dockets 73 and 151 was to be divided between the Seminole Nation of Oklahoma, on the one hand, and the three Seminole tribal entities of Florida. This award was for an initial amount, in 1976, of $16,000,000. The fund, with earned income since 1976, now totals nearly $48,000,000. What has prevented this money from being paid to the Indians has been the complete inability of the Indians from the two States to agree upon a division formula.

As passed by the Senate, S. 1096 provided that it would be divided with 75.404 percent going to the Oklahoma tribe and the remainder, 24.596 percent, going to the three Florida tribes. This division is based upon relevant population comparisons and is supported by the administration and past precedents of the Congress in similar situations.

The inability of the tribes to agree stalled the legislation in the House and, as a consequence, a compromise was adopted to advance the legislation in the legislative process. The compromise provided that the Oklahoma tribe would get 73 percent and the Florida Seminole 27 percent.

Upon consideration by the committee of conference, it was felt that there simply was not sufficient reason to deviate from the general rule of division based upon comparative populations as advocated by the administration and as contained in the Senate bill. The conferees decided that these funds are not public funds subject to allocation based upon political compromise, but that they are the private property of the Seminole Indians and should be divided based upon a rational and equitable formula.

As a consequence, the conferees recommend that the House recede from its amendments to the Senate bill and adopt the position of the Senate.

Mr. Speaker, I urge adoption of the conference report.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me just note briefly that this is the third bill on the Suspension Calendar that the Committee on Interior and Insular Affairs has brought to the floor here today. The majority has brought in a fresh Member to manage each of these bills while I have stood up here alone fending them off. I presume that they believe that they can wear me down, but I can assure the gentleman from Georgia it takes more than three of them to get to me or through me.

Mr. Speaker, I rise in support of the conference report on S. 1096, a bill to provide for the use and distribution of funds awarded the Seminole Indians by the Indian Claims Commission.

The single issue for resolution at the conference was the appropriate division of the award as between the Florida and Oklahoma Seminole groups. Senate action on this bill divided the award 75.404 percent and 24.596 percent between the Oklahoma and Florida groups, respectively; House action divided the award 73 percent and 27 percent, respectively. For the following reasons, I supported the House conference motion to recede from the House action in favor of the Senate action on S. 1096.

The conference action has a solid factual basis—the judgment award is divided on the basis of extensive and exhaustive research regarding the relative populations of the contending tribal groups.

The conference action supports the most equitable division of the award—the division approved in conference is based on the most accurate census and membership roll records of the tribal groups closest to the time of the wrongful taking; any other division of the award would have substantially diminished the share given to the Florida Seminole groups.

The conference action acknowledges the validity of the statutory process set forth in the Indian Judgment Fund Distribution Act—authorizing the Secretary of the Interior to research and make recommendations to Congress as to the appropriate division and distribution of such awards. All affected beneficiaries to this award were afforded extensive opportunities, both with the Secretary and in the Congress, to debate the appropriate division of the award.

Federal agencies are often accused of being arbitrary with regard to their treatment of the individuals they are responsible for serving. A review of the record of S. 1096 reveals to me that the Secretary of the Interior and his staff have been scrupulously fair and honest in the attention given to the research and reports on the appropriate division of the Seminole Indian judgment fund award. I am pleased that the conference action can be described in a similar manner.

I urge my colleagues to support approval of the conference report on S. 1096.

□ 1840

Mr. Speaker, I reserve the balance of my time.

Mr. DARDEN. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I rise in support of S. 1096, a bill providing for the use and distribution of the Indian Claims Commission funds appropriated in 1976 for the Seminole Indians of Florida and Oklahoma.

Mr. Speaker, I was a member of the conference committee appointed on this bill and participated in the deliberations on this bill as a member of the Committee on Interior and Insular Affairs.

Mr. Speaker, I have a keen interest in American Indian affairs, and I am pleased to have been a participant in this decision.

Mr. Speaker, although I voted in favor of the House position of the conference committee, I am now supporting the majority position to recede to the Senate language.

While there is much dispute within the Seminole community as to how these funds should be distributed, and the Seminoles of Florida have some compelling arguments as to why we should look again into the division made by the Indian Claims Commission, the funds have been appropriated for 14 years and during that time they have not helped one Seminole Indian.

Additionally, the distribution recommended by the Indian Claims Commission is not a hasty or arbitrary one. Much work went into determining an appropriate distribution, and this recommendation has been reviewed by the Department of the Interior.

As much as I want to help out the Seminoles from the State of Florida, a time comes when as a Congress we need to stop looking backward and move forward.

While there is dispute as to how the funds should be divided, there is no dispute that the funds need to be distributed.

For these reasons, Mr. Speaker, I urge my colleagues to vote today to accept the Senate position on this bill.

Mr. RHODES. Mr. Speaker, I feel capable of handling Mr. UDALL, Mr. VENTO, Mr. MCDERMOTT, Mr. DARDEN; Mr. FALEOMAVAEGA is too much for me and I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Speaker, I would like to express my disappointment in the conference report on S. 1096. This legislation provides for the distribution and use of funds that were awarded to the Seminole Indian Tribe by the Indian Claims Commission in 1976. I feel it is unfair that the bill allocates 75.404 percent of the funds to the Oklahoma Seminole Nation and only 24.596 percent to the Seminole Tribe of Florida.

The past injustices waged against the Seminole Tribe constitute a dark chapter in our Nation's treatment of American Indians. In 1823, the Federal Government seized Seminole land in Florida and forced the tribe to resettle in Oklahoma. Many died during their long trip to Oklahoma, and many remained in Florida and hid in the Everglades. Clearly, both the Florida and Oklahoma Seminoles incurred great losses, losses too great to ever quantify.

To right this terrible wrong, the Indian Claims Commission awarded the Seminole Indian Tribe $16 million in 1976 for the lands that were seized in 1823. Over the years, this award has grown to nearly $50 million. The Claims Commission, however, failed to make a judgment on the exact division of this award between the descendants of the tribe in Oklahoma and in Florida. During this time, the funds have never been distributed because the Oklahoma and Florida tribes have failed to reach an agreement on an acceptable division.

The Bureau of Indian Affairs recommended that the funds be split 75.404 to 24.596 percent in favor of the Oklahoma Seminoles. This recommendation was based on census data from a date in the early 20th century, a date almost 80 years later than the actual taking of the land. As a result, the BIA's reliance on this irrelevant data makes their recommendation for the distribution of the funds seem arbitrary and unfair.

Another important point of contention is that the Oklahoma Seminoles received over $4 million in treaty payments while the Florida tribe received no similar compensation. In the past, Federal courts have ruled that both emigrant and nonemigrant Indian tribes have an equal right to share in treaty benefits. The Florida Seminoles had a clear right to share in the treaty payments and, since they did not, these payments received by the Oklahoma group should be factored into the division of the judgment funds.

The use of irrelevant population data and the unshared treaty payments led the Florida Seminoles to argue that an adjustment should be made to the 75.404 percent to 24.596 percent BIA recommendation. Just taking the treaty payments into account would increase Florida's share of the judgment funds to 30 percent.

The Interior Committee considered these issues and approved a bill which divided the funds on a 73 to 27 percent basis. Although we did not believe a mere 2 percent adjustment to the BIA recommendation was sufficient, the Florida delegation accepted the Interior Committee's version in the spirit of compromise and in order to avoid a floor fight between the Florida and Oklahoma delegations.

The House conferees clearly had substantive arguments to support a 73 to 27 percent division during their conference on S. 1096 with the Senate. Unfortunately, the House agreed to recede to the Senate position, a 75.404 to 24.596 percent split, before any of the important issues were raised.

The concession on the part of the House conferees to the Senate position neglects the legitimate concerns of the Florida Seminoles. This group approached Congress in the hopes of settling a longstanding dispute in a fair and equitable manner. Instead, the Florida Seminoles have once again been treated unjustly by the Federal Government. Their lands were seized in the 1830's; they were denied a share of the treaty payments in the 1850's and 1860's; and now, in 1990, they have been denied equitable compensation for these past injustices. The Florida Seminoles deserve better treatment from Washington.

Mr. DARDEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Georgia [Mr. DARDEN] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1096.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PREPARATION OF VOLUME ENTITLED THE "COLUMBUS IN THE CAPITOL"

Mr. BATES. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 275) providing for the preparation of a volume entitled "Columbus in the Capitol," and for other purposes.

The Clerk as follows:

H. CON. RES. 275

Whereas Christopher Columbus was a great and courageous explorer whose voyages of discovery are well known;

Whereas the year 1992 marks the 500th anniversary of the discovery of America by Christopher Columbus in the year 1492; and

Whereas paintings, statues, and other works of art depicting the life and exploits of Christopher Columbus are displayed, both permanently and in special exhibits, in the Capitol and at other locations within the Capitol grounds: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That, as part of the observance of the 500th anniversary of the discovery of America, there shall be prepared a volume describing works of art honoring Christopher Columbus, as displayed, both permanently and in special exhibits, in the Capitol and at other locations within the Capitol grounds. The volume shall—

(1) be entitled "Columbus in the Capitol";

(2) contain descriptions and illustrations of such works of art; and

(3) be prepared under the direction of the Joint Committee on Printing, with the assistance of the Office of the Architect of the Capitol and such other congressional entities as the Joint Committee may require.

SEC. 2. During the year 1992, the Architect of the Capitol shall carry out a program of special exhibits of works of art honoring Christopher Columbus.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. BATES] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BATES].

Mr. BATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Christopher Columbus—or, in Spanish, Cristobal Colon—was a great and courageous explorer whose voyages of discovery are well known. This son of Italy, born in Genoa in the House of the Weaver Domenico Colombo on a day unrecorded for history, went to sea at the age of 14. He discovered America by prophecy rather than by astronomy. "In the carrying out of this enterprise of the Indies," he wrote to King Ferdinand and Queen Isabella in 1502, "Neither reason nor mathematics nor maps were any use to me: fully accomplished were the words of Isaiah."

The year 1992 marks the 500th anniversary of the discovery of America by Christopher Columbus. In his initial voyage, the larger of his three ships, the *Santa Maria*, was about 117 feet long, while the *Nina* and the *Pinta* measured only 50 feet in length. This fleet left the Canary Islands on September 6, 1492. The faith and will power of Columbus guided the expedition for several weeks during which all that was visible was the open sea. Two hours after midnight, on October 12, a sailor saw land from the prow of the *Pinta*—the great discovery was made!

Today, paintings, statues, and other works of art depicting the life and exploits of Christopher Columbus are displayed, both permanently and in special exhibits, in the Capitol and at other locations within the Capitol Grounds. We now resolve in this House of Congress that, as part of the observance of the 500th anniversary of the discovery of America, there shall be prepared a volume describing works of art honoring Christopher Columbus, as displayed both permanently and in special exhibits in this building, the Capitol site, and home of our na-

tional Government. I am pleased to be a sponsor of the resolution commissioning the preparation of this volume, to be entitled "Columbus in the Capitol." Surely, the exhibit and the commemorative catalogue that we authorize today will provide a special opportunity for many Americans to become discoverers of Columbus.

Mr. ANNUNZIO. Mr. Speaker, I rise in support of House Concurrent Resolution 275, which I introduced, to authorize the preparation of a pamphlet that pictures and describes the works of art in the Capitol and the Capitol Grounds honoring Christopher Columbus. I thank the gentleman from California, [Mr. BATES], for his cooperation in reporting the resolution.

The 500th anniversary of the discovery of America is only 2 years away, and our Nation is planning many grand celebrations. Here, in our Capitol Building, are paintings, frescos, busts, and other works of art that reflect our recognition of those remarkable voyages by the Genoese admiral that led to the opening of a whole New World. It is no wonder that the King of Spain conferred upon him the rank of "Admiral of the Ocean Seas."

This resolution calls for the preparation of a publication, and not for its printing. When it has been written and the photographs taken, we will be back with a printing resolution.

Mr. Speaker, I am pleased that so many of my dear friends in the House have joined me in sponsoring this small token in honor of Columbus. I am sure that they will join me in the future as more such events are planned.

I am, for example, exploring the possibility of returning to the Capitol the great statue of Columbus that stood for over a 100 years on the east front. It was removed during the east front reconstruction. Through lack of care, it has fallen into disrepair, but I am informed that it can be restored and returned to a place of honor for the 1992 celebration.

Mr. Speaker, this resolution is but a small part of our program for honoring Christopher Columbus. I urge its passage now so that the pamphlet will be ready for the quincentennial celebration.

GENERAL LEAVE

Mr. BATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 275, the concurrent resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BATES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 275, a bill which provides for the preparation of a volume entitled "Columbus in the Capitol." The year 1992 marks the 500th anniversary of the discovery of America by Christopher Columbus. In anticipation of this event, the bill directs the Joint Committee on Printing to prepare a volume containing descriptions and illustrations of works of art honoring Christopher Columbus displayed in the Capitol and on the Capitol Grounds. It also directs the Architect of the Capitol to carry out a program of special exhibits of works of art honoring Christopher Columbus in the year 1992. As an original cosponsor of House Concurrent Resolution 275, I want to stress its importance in light of the coming celebrations marking the 500th anniversary of the discovery of America by Christopher Columbus.

There are numerous paintings, statues, and other works of art in permanent and temporary displays in the Capitol and in other locations on the Capitol Grounds which depict the life and exploits of Columbus. It is fitting and appropriate that Congress create a volume of descriptions and Illustrations of these works of art to bring all the various works together in one commemorative volume. This resolution will commission such a volume to honor Christopher Columbus and the artists that produced these works. "Columbus in the Capitol" will serve as a reference for historians and a historic and artistic guide to visitors to our Nation's Capitol.

The volume of works of art created by this resolution will be an important part of the National Christopher Columbus 1992 celebration. It will also be the first permanent and official record of Christopher Columbus artworks in the Capitol, thereby becoming a historic document to be used in future celebrations honoring Christopher Columbus.

I want to thank my distinguished colleague from Illinois, Mr. ANNUNZIO, for his work on the resolution. I also want to thank the members of the Italian-American Foundation for their work on organizing and promoting the festivities for the Christopher Columbus 1992 celebration. This celebration will not only commemorate the achievements of Christopher Columbus, but will celebrate the many contributions that Italian-Americans have made to our culture over the centuries since the discovery of America.

House Concurrent Resolution 275, along with several other pieces of legislation pertaining to the 500th anniversary of the discovery of America by Christopher Columbus, will surely make for a richer and more rewarding celebration in 1992. I fully support this resolution and urge its immediate passage.

□ 1850

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from California [Mr. BATES] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 275.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDING THE LABOR-MANAGEMENT RELATIONS ACT OF 1947 TO PERMIT PARTIES TO BARGAIN TO ESTABLISH TRUST FUNDS FOR EMPLOYEE HOUSING

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4073) to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

The Clerk read as follows:

H.R. 4073

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMPLOYEE HOUSING TRUST FUNDS.

Section 302(c)(7) of the Labor Management Relations Act of 1947 (29 U.S.C. 186(c)(7)) is amended—

(1) by striking out "or" at the end of subparagraph (A); and

(2) by inserting ", or (C) financial assistance for employee housing" after "dependents of employees" in subparagraph (B).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin by thanking the Republican members of the Education and Labor Committee and especially the gentlewoman from New Jersey, Mrs. ROUKEMA, for their assistance on this legislation.

Section 302 of the Taft-Hartley Act prohibits payments by employers to representatives of their employees for purposes other than those specified under section 302(c). Because Congress has enacted a general prohibition and set forth only specific exceptions, a labor-management trust providing employee housing assistance otherwise unlawful unless also excepted.

H.R. 4073 amends section 302(c) of the Taft-Hartley Act to permit the establishment of housing trusts. It provides that the establishment of a housing trust shall be a permissible subject

of bargaining rather than a mandatory subject of bargaining. Further, the comprehensive regulatory scheme governing existing section 302(c)(7) plans would be fully applicable to the employee housing assistance trusts created under this bill. H.R. 4073 is identical to S. 1949, a bill that passed the Senate unanimously on November 22, 1989.

Allowable assistance under H.R. 4073 would include, for example, payments to employees for down payments, closing costs, bank fees, mortgage interests buydowns, and initial rental costs such as security deposits and first month's rent. Plans providing these benefits through trusts established pursuant to this measure will be employee welfare benefit plans subject to the requirements of the Employee Retirement Income Security Act of 1974 [ERISA]. H.R. 4073 is not to be construed to extend ERISA jurisdiction to the provision of financial assistance by employers for employee housing such as relocation assistance, temporary housing for special assignments, or migrant labor housing if such assistance is provided solely from the general assets of an employer.

Enactment of this bill will further important public policies.

Today, half a million Americans are homeless and in many areas of the country rising housing costs are placing the ability of workers to own their own homes beyond reach. This legislation promotes a private sector solution to the increasing difficulties workers face in obtaining affordable, decent housing.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such as as I may consume.

Mr. Speaker, I rise in support of passage of H.R. 4073, legislation to amend the Labor Management Relations Act of 1947 to provide for jointly administered trust funds to provide housing assistance to employees.

The other body passed an identical measure, S. 1949, under unanimous consent in the closing hours of the last session of Congress, with the approval of ranking minority member Senator HATCH, and without opposition from the Department of Labor or the White House.

Since the Senate bill passed without hearing or markup, I was concerned that the Taft-Hartley Act would be amended without adequate inquiry into its implications. The Subcommittee on Labor-Management Relations, has recently held hearings on the effectiveness of ERISA enforcement procedures at the Department of Labor. At those hearings, the Department's Inspector General expressed the view that these enforcement procedures were so lax as to precipitate a major crisis in the pension/employee welfare benefit plan area. This raised substantive questions in the absence of hearings on H.R. 4073. In the face of the controversy over ERISA enforcement procedures, I asked the Solicitor of Labor, the Assistant Secretary for Pension and Welfare Benefits, and the Inspector General for legal analyses of this legislation, its enforcement under ERISA, and its interaction with ERISA's fiduciary standards and prohibited transaction rules. At this point, Mr. Speaker, I would ask that the text of their letters to me be included in the RECORD at the conclusion of my statement, by unanimous consent.

The letters I received from DOL informed me that with improved ERISA enforcement, and with this trust fund's purpose to be itself the direct source of housing assistance to employees in the form of rental security deposits, down payment assistance, collateral for mortgage assistance, closing costs and bank fees, the administration of the funds will be well within ERISA's fiduciary standards and prohibited transaction rules. I remain concerned that as the number and value of these trust funds grows, their purposes will eventually be tested against ERISA to provide various other kinds of assistance not envisioned—and not prohibited—by this bill. Nevertheless, I am satisfied that the Department of Labor has no objection, and I support the legislation.

It is important to stress that this new category of trust fund will be a permissive subject of collective bargaining. By amending section 302(c)(7) of the Taft-Hartley Act, H.R. 4073 incorporates the proviso to that section which states clearly that this is a permissive subject of bargaining. Therefore, employers are not required to bargain over, or to establish housing trust funds. Nor can organized labor undertake a lawful strike over an employer's refusal to establish such a fund.

Letters from the Solicitor of Labor and Assistant Secretary of Labor for Pension and Welfare benefits are included in the Committee record on this bill and give sound legislative guidance on how this legislation will interact with the provisions of ERISA.

I would like to commend the chairman of the Labor-Management Relations Subcommittee, Congressman BILL CLAY, for his leadership, and his cooperation in ensuring that the committee report provides sound legislative history for the future as to the parameters of this bill.

Since the Taft-Hartley Act was first passed in 1947, the Congress has periodically created several exceptions to that act's prohibition on payments between employers and labor unions.

H.R. 4073 represents yet another effort to address problems that face employees with mutual cooperation between labor and management, by establishing trust funds to provide housing assistance. As the ranking Republican on the Housing and Community Development Subcommittee, I have long been aware of, and sensitive to, the fact that housing prices are out of the reach of many Americans. For this reason as well, I am sympathetic to the goals of this bill.

Local 26 of the Hotel and Restaurant Workers Union in Boston has earned a real victory today. It is their innovation in creating the first housing trust fund of this kind, which will become a reality with the passage of H.R. 4073, and its eventual signing by the President.

The letters follow:

U.S. DEPARTMENT OF LABOR,
Washington, DC, February 22, 1990.

Hon. MARGE ROUKEMA,
Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN ROUKEMA: I have received your February 1 letter regarding the proposed amendment to the Taft-Hartley Act which would permit the creation of ERISA trust funds to provide "housing assistance to employees." I will attempt to respond to your questions in order:

(1) Despite the concerns of the Office of Inspector General (OIG) regarding ERISA enforcement, we have always acknowledged that the vast majority of employee pension and welfare plans are being operated in accordance with the law. We have no reason to believe, at this time, that trusts to provide housing assitance if authorized by Congress, will be any different. However, based upon the OIG's experience with Taft-Hartley pension and welfare trusts (see the response to question 4), it is highly likely that there will be some fraudulent housing assistance trusts and some individuals associated with these trusts who are "bad apples."

As a result, there will be a need for vigilant enforcement by the Department of Labor, (DOL) and in this regard I can only reiterate my testimony before the Labor-Management Relations Subcommittee. DOL's Pension and Welfare Benefits Administration (PWBA) has not adequately enforced the provisions of ERISA, particularly with respect to the criminal remedies which are needed to deter professional thieves and racketeers Further, the OIG believes that if permitted, it can effectively use its resources and expertise to conduct criminal investigations focusing on these types of professional criminals and major frauds. While trusts involving housing assistance may entail particular nuances related to the housing industry, it is probable that most fraud in these trusts will be similar to other types of ERISA pension and welfare plan fraud and will involve kickbacks, bribery, and the skimming of plan assets through exorbitant administrative fees.

If ERISA-covered housing assistance trusts are sanctioned by Congress, the OIG would certainly be prepared to investigate potential criminal activities. This can be done either through our Office of Labor Racketeering (OLR) if there is a organized crime/labor racketeering nexus, or through our Office of Investigations, *if* the jurisidictional restrictions imposed by the March, 1989 Department of Justice opinion are removed or modified.

(2) This question, which involves ERISA's fiduciary standards and prohibited transaction rules, is more appropriately addressed to PWBA, which has much much more expertise in these areas than the Office of Inspector General.

(3) A cap on administrative expenses is certainly an option, as it would provide a standard by which to measure the reasonableness of costs. However, I am not convinced that such a cap would assist in preventing wrongdoing. Professional white-collar thieves can almost always find a way to defraud ERISA trusts and a cap may only result in more front companies, additional layers of administration, and a greater reliance on bookkeeping tricks and deception. Further, as a practical matter, it may be difficult to impose a cap, even on a percentage basis, which would be equitable to all housing assistance trusts, since some trusts necessarily and legitimately have higher administrative costs. Finally, ERISA already imposes an indirect cap on expenses, albeit vague and difficult to enforce, through the "prudent man" and other fiduciary standards.

(4) Pursuant to a telephone conversation with Cathy Johnson from your staff, I have enclosed a representative summary of OLR cases involving the abuse of Taft-Hartley trusts.

(5) My suggestions concerning the interaction of Taft-Hartley and ERISA involved improved criminal enforcement. OIG has encountered several types of Taft-Hartley trusts which are not covered under ERISA and are therefore more difficult to prosecute under federal law.

The Taft-Hartley Act permits employer payments for the establishment and operation of joint labor-management committees designed to improve, among other things, labor-management relationships, job security, and organizational effectiveness. The fund which is established under this provisions is not covered by ERISA.

The Taft-Hartley Act also permits employer payments to provide supplementary pay benefits, and according to Department of Labor advisory opinions, these are also not covered under ERISA. We are specifically aware that ILA locals and employer associations have established "container royalty funds" to provide supplementary pay benefits.

Although these types of trusts are subject to general federal fraud provisions, they are not subject to 18 U.S.C. 664, which prohibits embezzlement and theft from employee benefit plans. One way to address the problem is by adding a new provision to Title 18 to specifically make embezzlement from these funds a federal crime. Another option is to legislatively ensure that these types of trusts are covered under ERISA (thus making them subject to 18 U.S.C. 664).

I hope that these responses are helpful. I would be glad to meet with you at your convenience to discuss our concerns about ERISA enforcement in greater depth.

Sincerely,

RAYMOND MARIA,
Acting Inspector General.

U.S. DEPARTMENT OF LABOR,
Washington, DC, March 6, 1990.

Hon. MARGE ROUKEMA,
Ranking Minority Member, Subcommittee on Labor-Management Relations, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CONGRESSWOMAN ROUKEMA: This is in response to your letter of February 1, 1990 requesting my views on various questions raised concerning S. 1949, which would amend section 302(c)(7) of the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing. I hope the following information is of assistance to you.

Question 1. Whether, given the current effort to maximize ERISA enforcement, creating yet another trust is appropriate at this time.

Answer. While it is somewhat unclear as to the specific types of benefits intended to qualify as "financial assistance" for employee housing" benefits, our understanding is that this term is intended to be limited to financial assistance for mortgage collateral, closing costs, down payments, etc., for individuals. If this is the case, the benefits would not be dissimilar to those provided through educational assistance plans which are currently covered by Title I of the Employee Retirement Income Security Act (ERISA). This type of benefit program has not typically been subject to the same degree of risk or abuse identified in other types of employee benefit programs. For this reason, I would not anticipate that extending ERISA coverage to housing trust funds would have any appreciable effect on our ERISA enforcement efforts.

Question 2. Whether a housing trust fund can be administered in accord with ERISA's fiduciary standards and prohibited transaction rules—I am specifically concerned with rules concerning geographical and investment diversity, and those prohibiting selling a trust asset to a party in interest. I am concerned that as housing trusts become a more regular feature of collective bargaining agreements over time, the law be sufficient to prevent the sale of housing outright to employees or to deter any subterfuge designed to evade the law.

Answer. There is nothing in Title I of ERISA that would preclude the administration of a housing trust fund in accordance with ERISA's fiduciary standards and prohibited transaction rules. While the provisions of Part 4 of Title I generally require plan fiduciaries to diversify plan investments so as to minimize the risk of large losses, and specifically prohibit a number of transactions between plans and parties in interest involving plan assets, these provisions generally do not apply to the provision of specific benefits to participants and beneficiaries under an employee benefit plan. It is my understanding that any particular provision of financial assistance for housing pursuant to S. 1949 would be the provision of a benefit and would not necessarily involve a decision as to how to invest the assets of a plan. Accordingly, the fiduciary of a housing trust fund would not need to be concerned about the diversification and prohibited transactions provision with respect to the more provision of benefits under such a fund.

S. 1949 describes the benefits under 302(c)(7) as "financial assistance for employee housing" and, while not entirely free from doubt, it does not appear that such benefits are intended to include a direct sale of property by a housing trust (i.e., plan) to an employee (i.e., party in interest).

Question 3. Whether it would be pertinent for us to consider placing a cap on administrative expenses for all Taft-Hartley trusts, and whether, in your view, such a cap would assist in discouraging wrong-doing.

Answer. The administrative expenses paid by employee benefit plans have long been of interest and concern to the Department. However, I believe that the establishment of any type of cap on such expenses would be a very difficult undertaking given the various types and sizes of plans, as well as the various forms of plan administration which would have to be taken into account in establishing a cap. In addition, I am concerned that any preestablished cap may ultimately be viewed as a "safe harbor" amount, which could lead to an increase in administrative expenses in many instances.

Question 4. Any other suggestions you may have for improving Taft-Hartley interaction with ERISA, such as a statutory exclusive benefit rule, non-discrimination rules or other means to insure that benefits are provided solely to and fairly among employees.

Answer. Under current law, the fiduciaries of an employee benefit plan providing benefits described in section 302(c) of the Labor Management Relations Act of 1974 are subject to the fiduciary responsibility provisions of Title I of ERISA. Among other things, these provisions require that plan fiduciaries discharge their duties solely in the interest of, and exclusively for the purpose of providing benefits to, the participants and beneficiaries under the plan. I believe the standards imposed on fiduciaries under ERISA are sufficient to ensure that benefits are provided solely to and fairly among employees. Accordingly, I am not prepared to recommend any statutory changes to ERISA or the Labor Management Relations Act in this area.

I hope this information is responsive to your inquiries. If I can be of any further assistance to you, please do not hesitate to contact me.

The Office of Management and Budget has advised us that there is no objection to the presentation of this letter to Congress, from the standpoint of the Administration's program.

Sincerely,

DAVID GEORGE BALL.

U.S. DEPARTMENT OF LABOR,
Washington, DC, March 6, 1990.

Hon. MARGE ROUKEMA,
Subcommittee on Labor-Management Relations, Washington, DC.

DEAR CONGRESSWOMAN ROUKEMA. This is in response to your letter of January 23, 1990, requesting my views concerning various questions posed in light of S. 1949, which would amend the Labor-Management Relations Act of 1947 to allow the creation of trust funds to provide financial assistance for employee housing. I apologize for the delay in responding, but the questions you raise are important ones, the answers to which have implications beyond the boundaries of S. 1949. I hope the following responses are helpful to you in your deliberations concerning this bill.

Question 1. Would ERISA's prohibited transaction rules prevent trustees from agreeing that any construction or modification of dwellings owned by the trust be built or improved by organized labor, as opposed to an open bidding process?

Answer 1. While it is somewhat unclear as to the specific types of benefits intended to qualify as "financial assistance" for employee housing benefits, our understanding is that this term is intended to be limited to mortgage collateral, closing costs, down payments, etc. for individuals. In any case, whether the fiduciary decision to imple-

ment any particular plan provision which limits the benefit of financial asisstance to construction or modification of dwellings done by organized labor is prohibited pursuant to ERISA's prohibited transaction rules contained in section 406 will depend on the facts and circumstances of each case. Thus, ERISA's prohibited transaction rules would not necessarily prevent a plan fiduciary from following such a plan provision. For example, if none of the employers who had employees covered by the plan were engaged in the business of construction, and the persons to be benefitted by such a plan provision were not otherwise parties in interest (excluding those persons who are plan participants and parties in interest merely because they are employees of an employer described in ERISA section 3(14)(C)), a fiduciary decision to implement such a plan provision would not violate the provisions of section 406. However, the prohibited transaction provisions of section 406 are not the only provisions of ERISA which outline the duties of fiduciaries with regard to the provision of plan benefits.

Section 404, in relevant part, requires fiduciaries to perform their duties prudently and solely in the interest of, and for the exclusive purpose of providing benefits to, the plan participants and beneficiaries. In the investment context, the Department has stated that in deciding whether and to what extent to invest in a particular investment, a fiduciary must ordinarily consider only factors relating to the interests of plan participants and beneficiaries in their plan benefit. A decision to make an investment may not be influenced by a desire to stimulate a particular industry or generate employment for the participants as employees, unless the investment, when judged solely on the basis of its economic value to the plan, would be equal to superior to alternative investments available to the plan. (See the Department's information letter to Union Labor Life Insurance Company dated July 8, 1988—a copy is enclosed).[1] I believe that a similar analysis is appropriate, for example, when a fiduciary is determining whether to implement a plan provision which limits the plan benefit of financial assistance to construction or modification of dwellings done by organized labor.

Question 2. If diversification of investment is a requirement under ERISA, isn't this incompatible with trust funds being used to purchase or develop housing for sale to employees, if such a project would require a large percentage of trust fund assets? Would trustees also face restrictions on geographic concentrations of investments under ERISA that could ostensibly be at odds with a housing purchase or development scheme?

Answer 2. It is my understanding that any particular provision of financial assistance pursuant to an S. 1949 plan would be the provision of a benefit and would not necessarily involve a decision to invest the assets of the plan. Indeed, the type of trust funds which would be created pursuant to S. 1949 would be ERISA covered welfare plans as defined in section 3(1) only because such funds would be providing a certain benefit described in section 302(c) of the Labor-Management Relations Act of 1947—financial assistance for employee housing.[2] As mentioned above, the fiduciary responsibility provisions of part 4 of Title I of ERISA will apply to the provision of a benefit pursuant to an an ERISA covered plan. Those fiduciary rules will, however, apply somewhat differently in the context of a provision of a benefit as opposed to decisions concerning lthe safeguarding and investment of plan assets. For example, if the plan provided a housing benefit in the form of grants to participants for use as down payments on their homes, the Department would not view these grants as violations of ERISA section 406(a)(1)(D) which prohibits transfers of plan assets to parties in interest including employees of contributing employers. The diversification requirement of part 4 is a requirement concerning the investment of plan assets, and is not applicable to the mere pay out of plan benefits. Nothing in S. 1949 would require plans to provide a housing benefit in the form of a plan investment. Thus, in administering such benefits, a fiduciary would not necessarily be concerned with the diversification requirement relating to the investment of plan assets.

Question 3. It is my understanding, admittedly imperfect, that in order to effectuate a housing purchase or development plan under a 302(c)(7) trust, trustees may have to seek an exemption from the Department of Labor from rules regarding investment and geographical diversity, the prohibition against social investing or clarifications regarding arms-length transactions.

Answer 3. As previously discussed, the provision of the financial assistance benefit contemplated in S. 1949 should not necessarily cause a plan fiduciary to violate the prohibited transaction provisions of ERISA, and, thus, an exemption from such provisions would not appear to be required by the legislation. Also, as previously discussed, the provision of the benefit of financial assistance is not necessarily an investment of plan assets but may be structured solely as a pay out of a benefit. Thus, the investment issues raised would not necessarily be relevant to the payment of this type of benefit. To the extent that a fiduciary of any particular S. 1949 trust fund might need relief from the fiduciary duties described in ERISA sections 403 and 404, the Department does not have the authority to issue exemptions with regard to these statutory provisions. Because it is not apparent that S. 1949 would require widespread administrative exemptions in order to effectuate its purpose, I cannot comment on the efficacy of enacting further legislation in this area.

I hope these answers are responsive to your requests, and I would be happy to provide any further assistance if necessary. The Office of Management and Budget has advised us that there is no objection to the presentation of this letter to Congress, from the standpoint of the Administration's program.

With best regards.

Sincerely,

ROBERT P. DAVIS.

U.S. DEPARTMENT OF LABOR,
Washington, DC, July 8, 1988.

Re Union Labor Life Insurance Company,
Identification Number: F-3353A.

Mr. JAMES S. RAY,
Connerton, Ray & Simon,
Washington, DC.

DEAR MR. RAY: This is in response to your request on behalf of the Union Labor Life Insurance Company (ULLICO) concerning ULLICO's Mortgage Separate Account J (the J Account), a pooled separate account which is designed to invest in mortgages which generally are secured by properties built or improved primarily with union labor. Specifically, your request concerns the application of the fiduciary responsibility provisions of section 404(a)(1) of the Employee Retirement Income Security Act of 1974 (ERISA) to the operation of the J Account in accordance with the structure set forth in your request, and to an employee benefit plan's investment of a portion of its assets in the J Account.

You represent that ULLICO established the J Account in 1977 primarily as a means for plans to invest a portion of their assets in a diversified pool of high quality first mortgages on residential and income-producing properties, earning a return competitive with returns from comparable investments available in the marketplace. ULLICO also designed the J Account incidentally to help support the unionized sector of the building and construction industry. To achieve this incidental goal, ULLICO commits to make mortgages for the J Account which first satisfy rigorous, generally accepted financial standards, and, in addition, which will be secured by properties built or renovated primarily by union labor.[1]

You further represent that the underwriting criteria used by ULLICO for both its general account and the J Account conform to those which are recognized as generally accepted by reasonably competent, professional mortgage lenders. ULLICO solicits and receives loan proposals from a variety of sources, including borrowers and developers, brokers, mortgage bankers, unions and designated correspondents.[2] ULLICO re-

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[1] Indeed, in one factual context, the Department utilized a similar approach in analyzing a prohibited transaction issue under section 406(a)(1)(D). In an October 23, 1985, advisory opinion to the Electrical Industry of Long Island Annuity Fund (a copy of which is enclosed), the Department stated that in determining whether a fiduciary investment decision which would clearly indirectly benefit some unidentified, as well as undetermined, contributing employers (and, hence, parties in interest) would violate the prohibited transaction provision of section 406(a)(1)(D) precluding the indirect use of plan assets for the benefit of a party in interest, one must examine the facts and circumstances surrounding the plan's investment to determine whether it is made for the purposes of providing such a prohibited benefit. The Department continued by saying that a plan investment which is made subject to a condition which can reasonably be expected to result in a benefit to one or more parties in interest would violate section 406(a)(1)(D) (as well as sections 403 and 404 of the Act) if it involves greater risk or a lesser return to the plan than a comparable transaction that is not subject to such a condition.

[2] Section 3(1) of ERISA defines an "employee welfare benefit plan" as including any plan, fund, or program which was heretofore or is hereafter established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants any benefit described in section 302(c) of the Labor Management Relations Act, 1947.

[1] You note that not all mortgage loans from the J Account are secured by properties built by contractors employing only union labor. The J Account has made (and currently carries) a substantial amount of loans secured by projects located in states with "right-to-work" laws, where statutes prohibit enforceable agreements requiring the use of only union tradesmen. However, in such states, ULLICO requires the borrower to agree to use only contractors who are signatory to collective bargaining agreements with unions affiliated with the local AFL-CIO Building Trades Council. Finally, some portions of the projects which the J Account has financed may have been undertaken by non-union companies and workers, where, for example, union tradesmen are not available.

[2] You represent that any transactions between the J Account and a party in interest with respect

ceives such proposals from parties intending to utilize non-union labor as well as parties intending to use only union labor. You have indicated, however, that most of those who apply to ULLICO for loans are aware of ULLICO's union-only condition, and that ULLICO officials may mention this condition to applicants who might not otherwise be aware of it.

Initially, the Mortgage Department of ULLICO originates possible investment opportunities, elicits written mortgage loan applications and submissions, performs the underwriting, negotiates acceptable loan terms and prepares a summary of the proposed mortgage and recommendation for presentation to ULLICO's Mortgage Subcommittee. Next, ULLICO's financial vice president typically reviews the proposal, with particular attention to certain financial factors, such as the financial statements and credit worthiness of the proposed borrower. In a third phase of the process, the Mortgage Subcommittee, a subcommittee of the Finance and Investment Committee of the Board of Directors of ULLICO, reviews the proposal and recommendation, and approves or rejects the loan. Finally, the full Executive Committee ratifies the approval of the Mortgage Subcommittee.

ULLICO considers a broad range of physical, economic, financial and related factors with respect to all loans for its general account and the J Account. Those factors include:

(1) Location of the property which will secure the loan;

(2) Description of the security;

(3) Valuation of the security—loans secured by income-producing property do not exceed a loan to value ratio of 75 percent;

(4) Ability to repay—ULLICO considers a number of factors including the borrower's track record and income and expense projections with respect to the proposed project;

(5) Terms of the loan; and

(6) Diversification—by geography, size of loans, type of properties and type of tenants.

Upon approval of a proposed loan by the Mortgage Subcommittee, ULLICO prepares and issues a commitment letter, setting forth the terms and conditions of the proposed loan. The borrower's signifies acceptance by signing the commitment and paying the commitment fee. The union labor condition is included in the loan commitment. You represent that ULLICO will not commit to or fund a mortgage loan which does not meet its investment criteria, regardless of the requirement to use union labor. The promise of a borrower or developer to use union labor will not cause ULLICO to waive or compromise the requirements which all its investments must satisfy.

Sections 403(c) and 404(a)(1) of ERISA require, among other things, that a fiduciary of a plan act prudently, solely in the interests of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries.

It is the position of the Department that, to act prudently, a plan fiduciary must consider, among other factors, the availability, riskiness, and potential return of alternative investments for his plan. Because the mortgage loans which the J Account makes causes it to forego other investment opportunities, such a loan would not be prudent if it provided the investing plans with less return, in comparison to risk, than comparable investments available to the plans, or if it involved a greater risk to the security of plan assets than other investments offering a similar return.

The Department has construed the requirements that a fiduciary act solely in the interest of, and for the exclusive purpose of providing benefits to, participants and beneficiaries as prohibiting a fiduciary from subordinating the interest of participants and beneficiaries in their retirement income to unrelated objectives. Thus, in deciding whether and to what extent to invest in a particular investment, a fiduciary must ordinarily consider only factors relating to the interests of plan participants and beneficiaries in their retirement income. A decision to make an investment may not be influenced by a desire to stimulate the construction industry and generate employment, unless the investment, when judged solely on the basis of its economic value to the plan, would be equal or superior to alternative investments available to the plan.

Thus, it would not be inconsistent with the requirements of sections 403(c) and 404 of ERISA for the J Account to make loans on properties which are constructed or improved with union labor, so long as the J Account's investment process assures that loans made by the J Account will be at prevailing market terms, i.e., that the terms for projects with the union-only condition in fact reflect the terms prevailing in the overall mortgage market. In this regard, we wish to point out that if mortgage loans which satisfy both ERISA's fiduciary standards and the union-only condition are unavailable for investment by the J Account, the prudence and exclusive purpose requirements of sections 403(c) and 404 of ERISA would require that the fiduciaries of the J Account select comparable investment opportunities which are available to the Account.

We trust that this information will be helpful to you.

Sincerely,

ROBERT J. DOYLE,
Acting Director of
Regulations and Interpretations.

DEPARTMENT OF LABOR,
Washington, DC, October 23, 1985.

Re Annuity Fund of the Electrical Industry of Long Island Identification Number: F-2521.

RALPH P. KATZ,
Delson & Gordon, New York, NY.

DEAR MR. KATZ: This is in response to your letter of September 23, 1982, in which you requested clarification regarding the application of the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA) to a proposed investment by the Annuity Fund of the Electrical Industry of Long Island (the Fund). Specifically, you inquired whether a prohibited transaction would occur if the trustees of the Fund made an investment which was part of an overall agreement obligating an insurance company to invest a specified amount of insurance company assets in construction mortgages whithin the geographic jurisdiction of the union whose members are participants in the Fund. The agreement would further require the insurance company to make such investments in construction projects employing only labor represented by unions affiliated with the AFL-CIO. You state that the trustees will make the investment after determining that the investment rate of return is equal to of greater than similar investments bearing similar risks.

Section 406(a)(1)(D) of ERISA prohibits a fiduciary with respect to a plan from causing the plan to engage in a transaction which the fiduciary knows or should know constitutes a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of any assets of the plan. Section 406(b)(1) and (2) of ERISA further prohibit a fiduciary with respect to a plan from dealing with the assets of a plan in his or her own interest or for his or her own account, or acting in any transaction on behalf of a party or representing a party whose interests are adverse to the interest of the plan or its participants.

Section 3(14) of ERISA defines the term party in interest to include a fiduciary, an employer any of whose employees are covered by the plan and any employees of such employer.

We wish to point out, as we have done in prior correspondence regarding this matter, that ERISA's general standards of fiduciary conduct apply to your proposed investment course of action. Sections 403(c) and 404(a)(1) of ERISA require, among other things, that a fiduciary of a plan act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries. As you know the Department, on a number of occasions, has expressed its views as to the meaning of these requirements in the context of investment decision-making.

We have stated that, to act prudently, a plan fiduciary must consider, among other factors, the availability, riskiness, and potential return of alternative investments for his plan. Because the investment you propose causes the plan to forego other alternative investment opportunities, such an investment would not be prudent if it provided plan with less return, in comparison to risk, than comparable investments available to the plan, or if it involved a greater risk to the security of plan assets than other investments offering a similar return.

We have construed the requirements that a fiduciary act solely in the interest of, and for the exclusive purpose of providing benefits to, participants and beneficiaries as prohibiting a fiduciary from subordinating the interests of participants and beneficiaries in their retirement income to unrelated objectives. Thus, in deciding whether and to what extent to invest in a particular investment, a fiduciary must ordinarily consider only factors relating to the interests of plan participants and beneficiaries in their retirement income. A decision to make an investment may not be influenced by a desire to stimulate the construction industry and generate employment, unless the investment, when judged solely on the basis of its economic value to the plan, would be equal or superior to alternative investments available to the plan.

Thus, it would not be inconsistent with the requirements of sections 403(c) or 404 of ERISA for plan fiduciaries to select an investment course of action that reflects noneconomic factors, so long as application of such factors follows primary consideration of a broad range of investment opportunities that are, economically, equally advantageous.

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to a plan investing in the J Account would be exempted from the restrictions of section 406(a) of ERISA by Prohibited Transaction Exemption 78-19 (43 FR 59915, December 22, 1978).

Based on the representations made in your letter, it does not appear that the arrangement you describe would involve a prohibited transaction of the kind described in sections 406(a)(1)(A), (B) or (C) of ERISA (relating to sales, leases or other exchanges of property, loans or other extensions of credit and the furnishing of goods, services or facilities). In addition, it does not appear that the arrangement involves a direct transfer of plan assets to, or use of plan assets by or for the benefit of, a party in interest of the kind described in section 406(a)(1)(D) of the Act. Nonetheless, it is reasonable to infer that the arrangement will result in some benefit to parties in interest with respect to the plan, *i.e.* contributing employers and their employees. Thus, it is necessary to determine whether the arrangement would involve an indirect use of plan assets for the benefit of a party in interest. In the circumstances you describe, where the arrangement would be prohibited, if at all, solely as an indirect use of plan assets for the benefit of a party in interest,* the Department believes that it is appropriate to examine the facts and circumstances surrounding the plan's investment to determine whether it is made for the purposes of providing such a prohibited benefit. Since this is an inherently factual determination, the Department is not prepared to issue an advisory opinion regarding the specific arrangement described in your letter. In our view, however, a plan investment which is made subject to a condition which can reasonably be expected to result in a benefit to one or more parties in interest would violate section 406(a)(1)(D) (as well as sections 403 and 404 of the Act) if it involves greater risk or a lesser return to the plan than a comparable transaction that is not subject to such a condition.

This letter constitutes an advisory opinion under ERISA Proc. 76-1. Accordingly, this letter is issued subject to the provisions of that procedure, including section 10 thereof, relating to the effect of advisory opinions.

Sincerely,

ELLIOT I. DANIEL,
Assistant Administrator for Regulations and Interpretations.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, today I rise to express my enthusiastic endorsement and support of H.R. 4073. This bill—which adjusts the Labor-Management Relations Act of 1947 to include housing trust funds on the list of negotiable employee benefits—represents a real victory for American working men and women.

I want to thank Chairman CLAY, Mrs. ROUKEMA, and the Subcommittee on Labor-Management Relations for their hard work and cooperation with the Massachusetts delegation and others on this bill. H.R. 4073 will empower working men and women with a real and workable option for overcoming the severe problem of affordable housing.

For too long we have heard politicians and Government officials lament the lack of affordable housing. Yet, despite all the rhetoric, all the commissions and all the studies, the problem is only getting worse. Middle- and low-income workers are rapidly being priced out of the housing market and there is simply no place else to go.

But, Mr. Speaker, while the experts in Washington were consulting and complaining, a dedicated and resourceful group of Boston workers and their employers decided to stop talking and start acting. In December 1988, local 26 of the Boston Hotel & Restaurant Employees—the largest union in Boston—negotiated a contract with hotel management which included a housing trust fund among its benefits. Both labor and management recognized that through their concerted partnership a viable plan could be arrived at which could help working men and women contend with the prohibitively expensive Boston housing market.

Since then, the 5,000 members of local 26 have worked tirelessly to ensure that all obstacles to their initiative are removed—they have found out the hard way how difficult it is to find and keep affordable housing in Boston. Even though the majority of the union members of local 26 hold down more than one job, 78 percent cannot afford to buy an apartment in Metropolitan Boston and 98 percent cannot afford to buy a house. Many of these workers and their families are paying more than 50 percent of their combined household income to live in substandard and overcrowded housing and many live with the constant threat of eviction or homelessness.

The housing trust fund is a simple, effective means of attacking this problem at no cost to the taxpayer and no strain to local, State, or Federal Government. The Deputy Assistant to the President has endorsed this program. With the help of President Bush and Secretary Kemp, we should replicate this program in every State.

I admire these working men and women of Boston and I thank them for reminding us that real solutions to real problems are out there. While we were talking, they were acting; and they have found a way of turning the dream of home ownership into a reality for themselves and all American workers.

□ 1900

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK Mr. Speaker, I thank the gentleman from Missouri for yielding time to me.

Mr. Speaker, I want to say that this is one of those rare occasions when it seems to me that congratulations are due all around—in the first instance, to the Hotel Workers of Boston, which engaged in a very creative idea, and to those with whom they bargained. They are going to make a significant contribution to housing in the greater Boston area, and they have set a model other people might feel free to use.

I want to express my appreciation to the chairman of the subcommittee for his willingness to move this bill so quickly to meet a deadline. I would express my appreciation particularly to my friend, the gentlewoman from New Jersey, with whom I serve on the Housing Subcommittee. Given the legitimate questions she had, I think she behaved in a way that I wish others would emulate. She raised her questions, they were answered, and she responded in a very responsible fashion.

This is a good moment, a time when we have had all kinds of cooperation between labor and management, between the public and private sectors, and between the executive and legislative branches. That is going to help in this situation.

The reason I say this, Mr. Speaker, is that the good news is too often overlooked. If somebody was fighting with somebody here, it would have gotten a lot more attention. If there had been a major issue of dispute between the hotel workers and the employers, or if the ranking minority member had punched the chairman of the committee, or if there had been some other kind of acrimony, we would have made some news. I hope people will pay attention to the fact that a very important issue here has been resolved in a conciliatory way and in a way that is going to further some responsible public objectives.

Mr. CLAY. Mr. Speaker, I have no further requests for time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do want to thank my colleague, the gentleman from Massachusetts [Mr. FRANK], for those kind words. I think he has made a very important point. Often these kinds of cooperation go unrecognized, even now, even though we are engaged in considering landmark legislation here.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING], the distinguished ranking Republican member of the full committee.

Mr. GOODLING. Mr. Speaker, today we are considering H.R. 4073, legislation that would amend the Labor-Management Relations Act to permit employer contributions to trust funds for the purpose of providing housing assistance to employees and their families.

*This kind of arrangement should be distinguished from a plan investment made subject to a condition which in effect makes the transaction an indirect sale or loan.

I rise not in opposition to the legislation but, rather, to express my concern over the procedural background of the bill and the hope that this process—or, rather, the lack thereof—truly proves to be the exception and not the rule.

H.R. 4073 was passed by the Senate in the closing hours of the last session without any committee consideration, and no hearings on the bill were held before any committee in the House. While no substantive problems with the legislation have surfaced—and certainly efforts were made to garner comments from the public—I remain uneasy over the somewhat cavalier decision to dispense with hearings on the bill. I would, no doubt, be less troubled by this had I not noticed what appears to be a growing effort on the part of the majority to short circuit the legislative review process in general. Perhaps I am overstating things here and I am seeing ghosts where none exist, but I think a few examples will bear me out.

Currently, the Education and Labor Committee is marking up H.R. 3200, a complex initiative which would, among other things, amend the Age Discrimination in Employment Act and reverse the Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts. The subcommittees of jurisdiction had only one hearing on the bill, and, to make matters worse, those subcommittees were discharged, over the objection of the minority, without marking up the bill. Accordingly, we are now at full committee without having the benefit of the learning process which subcommittee consideration is intended to provide. Another bill dealing with amendments to the Age Act, H.R. 1432, the Age Discrimination in Employment Waiver Protection Act, was afforded only one hearing. Similarly, the Americans With Disabilities Act, a major new civil rights initiative, was discharged from the appropriate subcommittees after only two hearings, with no markup, and brought immediately to full committee markup. Unfortunately, this expedited process of review now threatens to reapeat itself with H.R. 4000, the Civil Rights Act of 1990, a major revision of our Nation's employment civil rights laws. H.R. 4000 was never referred to a subcommittee for consideration, and markup at full committee will soon be scheduled. History appears to be repeating itself.

Mr. Speaker, my point is a simple one. Congress has a fairly straightforward process for considering the appropriateness of legislation. Subcommittees are to thoroughly explore whether legislation is needed to address a perceived problem, and then to craft legislation if a need is identified. That process should basically be repeated at the full committee level. This is how good legislation is developed, step by step, and were the process not frequently avoided or subverted I would be embarrassed to describe it here. However, that now appears to be a trend to allow special interest groups to write whatever bill they feel the need and to rush the bill through the committee structure as quickly as possible before any possible opponents have time to coalesce, much less understand the legislation. I sincerely hope that I am wrong on this, but the conclusion is hard to avoid.

Mr. Speaker, passing legislation is a serious business that affects millions of Americans. We in Congress owe the public the time and effort necessary to ensure that the laws we pass are truly the best that can possibly be developed. I fear we are not fulfilling that duty.

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Texas [Mr. BARTLETT], a member of the committee.

Mr. BARTLETT Mr. Speaker, I rise in very strong support of this legislation and would note that I have supported this legislation from the first time it was raised last year. I did raise two points in commenting on and supporting the legislation.

□ 1910

First, employee benefits should be freely negotiated in the marketplace between the employee and the employer. Those benefits should not be mandated by the Federal Government or any other level of government. This bill at its heart simply permits those negotiated benefits to be negotiated and to occur. The concept of negotiated benefits, instead of mandated benefits, it seems to me could be and should be extended to other areas of noncollective bargaining employee benefits such as an increased emphasis by Congress on cafeteria plans, on pension portability and extension of compensatory time for employees, if that is what they choose. The negotiated benefits are good, not bad. Mandated benefits are bad, not good. This bill is a negotiated benefits, bill, so it is good legislation.

Second, I want to note for my colleagues that I am at the end of a process of preparing legislation to be introduced later this year that would provide for legislatively, a whole set of employee rights, of rights that would be guaranteed to employees as employees as opposed to either management or organized labor representing or employing those employees. It seems to me that this would be the first ingredient. In fact, I had included this piece of legislation in the employee rights legislation that I planned to introduce. If this is passed and signed into law prior to the introduction, then I will be able to declare victory and delete it.

Mr. Speaker, the legislation of employee rights could and should for the 1990's introduce a whole set of additional employee rights, such as a right to seek a ballot vote in a collective-bargaining situation, a right to compensatory time off in lieu of cash overtime, a right to join or to rejoin from a labor union and a variety of other rights, a right to freedom from violence in the workplace and a variety of other rights that ought to be guaranteed by the Federal Government.

Mr. CONTE. Mr. Speaker, I want to express my strong support today for H.R. 4073, a bill which would make housing trust funds an optional subject of collective bargaining.

This is not simply a bill amending labor law for a worthy but theoretical future purpose. It is a piece of legislation which is tremendously important to a lot of people, and if it does not pass this year, some hard work will have been wasted and many people's hopes will be dashed.

The Boston hotel workers last year negotiated a contract which set up a trust fund to help its members find affordable housing. The idea was innovative and important, and they were able to come to an agreement on it with Boston's hotel management. Unfortunately, their idea was almost too innovative—when they had signed the contract, they found that under American labor law, housing was not a legal subject of collective bargaining.

But the hotel workers didn't give up. They built up one of the most impressive campaigns for statewide support I've ever seen—bringing together labor unions, labor law professors, State legislators, and the Massachusetts congressional delegation—and brought to the Congress a bill to make housing trust funds a legal subject of collective bargaining. Their bill passed the Senate unanimously last fall, and it now falls to the House to pass it before their contract's deadline expires on May 31.

I am pleased to join the entire Massachusetts delegation and my friend Congressman CLAY as an original cosponsor of this bill. The bill is a tribute to the hard work, creativity, and persistence of the hotel workers union, and I endorse it with pride. I ask all my colleagues here to support it.

Mrs. ROUKEMA. Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of the time of the gentleman from Missouri [Mr. CLAY].

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 4073.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Commit-

tee on Education and Labor be discharged from further consideration of the Senate bill (S. 1949) to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing, an identical bill to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMPLOYEE HOUSING TRUST FUNDS.

Section 302(c)(7) of the Labor Management Relations Act of 1947 (29 U.S.C. 186(c)(7)) is amended—

(1) by striking out "or" at the end of subparagraph (A); and

(2) by inserting ", or (C) financial assistance for employee housing" after "dependents of employees" in subparagraph (B).

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4073) was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed, H.R. 4073 and S. 1949.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HATE CRIME STATISTICS ACT

Mr. SCHUMER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1048) to provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert: That (a) this Act may be cited as the "Hate Crimes Statistics Act".

(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for the calendar year 1990 and each of the succeeding 4 calendar years, about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term "sexual orientation" means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act.

(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(5) The Attorney General shall publish an annual summary of the data acquired under this section.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 1994.

SEC. 2. (a) Congress finds that—

(1) the American family life is the foundation of American Society,

(2) Federal policy should encourage the well-being, financial security, and health of the American family,

(3) schools should not de-emphasize the critical value of American family life.

(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.

The SPEAKER pro tempore. Is a second demanded?

Mr. GEKAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SCHUMER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to rectify the deplorable fact that there are currently no reliable nationwide figures on the incidence of hate crimes, the House last June passed H.R. 1048, the Hate Crimes Statistics Act. The vote was 368 to 47.

Hate crimes can and do victimize our neighborhoods, and our neighbors. Just recently, in my own district, a black family's new home in a predominately white neighborhood was firebombed after a series of phone calls warned the previous owner not to sell to blacks. It is indisputable that no one person, or group of people, should be victimized because of who they are perceived to be. Hate crimes cannot be tolerated in our society.

H.R. 1048 provides for the collection and publication of statistics on crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity. It is a long-awaited piece of legislation that provides us with an opportunity to begin the counterattack against crimes motivated by hatred. This bill is a necessary first step toward combating hate crimes in a systematic and comprehensive manner.

Legislation similar to H.R. 1048 passed the House in both the 99th and 100th Congresses. Each time, however, the bills were left pending before the other body at the time of adjournment. The other body has not acted favorably on H.R. 1048, and by a vote of 92 to 4. We in the 101st Congress, therefore, have the opportunity to bring about the enactment of the Hate Crimes Statistics Act.

The other body made a number of changes in the bill. On balance, those changes do not weaken the bill and I urge my colleagues to agree to the new language.

One change the other body has made is in the crimes for which data will be collected. Some of the crimes included in the House version have been removed, like theft or robbery, and new crimes have been added, such as forcible rape. In addition, the other body has removed language specifically authorizing the Attorney General to expand the categories of hate crimes for which data can be collected.

Modifying the list of crimes to be monitored makes no important change to the substance of the bill. It does not weaken or undermine the purposes of the bill. The groups and organizations who support the House version of the bill have no objections to the changes.

Similarly, we can delete the language regarding the Attorney General's authority to expand the categories of hate crimes for which data will be collected without weakening the bill. This language is hortatory since section 534 of title 28 of the United States Code already gives the Attorney General the necessary authorization. The groups and organizations supporting the House version do not object to this change.

Finally, the other body has added findings on the importance of the American family. I am unaware of any opposition to the new language. The findings reaffirm values that each and every one of us, on both sides of the aisle, hold dear, and I see no reason to oppose adding the new language.

Now is the time for Congress to begin the fight against hate crimes. The crime statistics which will be collected as a result of this legislation will provide our Nation's law enforcement agencies with the data required to develop strategies to combat hate crimes. Support for this legislation is widespread in both Houses and among law enforcement and civil rights

groups actively. The administration strongly endorses the bill.

I urge my colleagues to support the motion.

My colleagues, before reserving the balance of my time, I think several thanks are in order. First, as I mentioned, the gentleman from Pennsylvania [Mr. GEKAS] for his active leadership on this proposal and his generosity in moving the bill forward despite the fact that there was an amendment that he had put in which the House supported, which the Senate did not have in its bill. I would also like to thank the gentleman from Michigan [Mr. CONYERS], the former chairman of this subcommittee, for pushing the legislation during the past few Congresses, and we will be hearing from him in a few minutes. Finally, I would like to thank the gentlewoman from Connecticut [Mrs. KENNELLY] for initiating the campaign for the legislation several years ago.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from New York [Mr. SCHUMER] for the prefatory remarks to the eventual passage of this legislation.

Mr. Speaker, this bill, the steam which is encompassed in this bill, has traveled a tortuous path to this moment, and those of us who have worked around it, and with it and through it are poised now for the final act of final passage.

There is not any community that I know of in the large urban setting at least which has not had incidents of hate crimes and their disastrous consequences for the community, and my communities, the communities in my district are no exception to that rule.

As a matter of act, Mr. Speaker, a very serious one occurred in the last 2 years in which a synagogue was devasted by graffiti and other kinds of vandalism in Harrisburg, the capital city of Pennsylvania.

So, this legislation comes at a time in our societal history where we have reported incidents upon which to base the thrust of this legislation, to gather statistics and, therefore, be in a better position as a larger society to deal with those incidents as unfortunately they may occur in the future.

□ 1920

As was also stated by the chairman of the subcommittee, the gentleman from New York, I had some questions about the overall shall we say atmosphere of the bill, because I felt that the original language as proposed in the original bill back in the 99th Congress when the gentleman from Michigan and I were handling this legislation, the gravamen of the offense surrounded those constitutionally protected classes of people that we had generally understood to be included in race questions and ethnicity questions and religous questions. Later the item of sexual orientation was added in different forms until finally it reached the Senate language which we now have before us.

My only objection, and it was not an objection to the inclusion of that terminology, but rather not to allow that particular kind of language to be raised to the same level of constitutionally protected classes of people as were those included in race and religion, for instance.

So with the concurrence of many who were working to get this bill through, we concocted language that would allow the Attorney General to include in his role of gathering statistics of visible and invisible, but palpable hate crimes, any kind of hate crime victims that the Attorney General might in his wisdom and in his discretion feel would fall within the purview of this legislation. That is why I was happy to see the other side and others who were were working with us accept that kind of proposal on my part.

Then when the battle changed arenas and went over to the Senate, the machinations which occurred over there, which are still a mystery to me, not only in this legislation but in a lot of other matters, convoluted this whole idea in such a way that it left me with more questions to ask of some individual Members of the Senate before I could come to this point.

Unfortunately, I must acknowledge that my efforts, and they were yeoman efforts, believe me, fall on unyielding ears, is the best way I can phrase it, and today although I am frustrated by that, I am confident that the bill in its present form will do what the sponsors want it to do, what we who have worked with it desire it to cover, and the satisfaction that I have that the Attorney General will indeed as the chairman of the subcommittee also opines does have the authority which would be included in the language which I would have included, all of that puts me in a position in which I strongly support the legislation now and hope to see the day before all of us no longer Members of Congress when hate crimes will no longer be a part of the American scene, but until that time we will have done something about it.

Mr. Speaker, I rise in support of H.R. 1048 as amended by the Senate and urge its passage today.

My support for legislation that would require the Attorney General to gather statistics on hate crimes dates from its first consideration by the House during the 99th Congress. I questioned the legislation that passed the House during the 100th Congress because it added hate crimes committed against those who were not in constitutionally protected classes, namely persons who were victimized solely because of their sexual orientation. I felt that if we were going to step outside constitutionally protected classes it was unduly restrictive to limit that move merely to one group and that provision should be made for other groups, such as the elderly against whom crime may in the future become a significant concern. During consideration of this bill in the House during this Congress, I succeeded in offering an amendment noting the Attorney General's discretion to collect data on other appropriate groups.

Although my language contained in the House-passed bill is not reflected in the Senate amendment, I am satisfied that its absence results from the agreement of all that it is not necessary. The Attorney General already has the discretion to acquire data on crime against other appropriate groups under the authority of 28 U.S.C. 534, which is the same section of law we cite in requiring him to acquire data on the groups named in this bill. It is expected that he will exercise this discretion to consider whether the list we give him today should be supplemented as evidence of crimes against various groups may warrant.

I wish also to reiterate that this legislation should not be read as placing any group that is not already there in a constitutionally protected class. It is a statistics gathering bill aimed at determining where law enforcement resources should best be directed and what priority should be assigned to crimes against members of individual groups. The bill creates no new crimes and, as section (b)(3) notes, establishes no causes of actions.

Mr. Speaker, I urge support for H.R. 1048, as amended by the Senate.

Mr. SCHUMER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. CONYERS], a former chairman of the subcommittee and now chairman of the Government Operations Committee.

Mr. CONYERS. Mr. Speaker, what a great day in our legislative history when after three Congresses we have now come together in near unanimous agreement, Republican, Democratic, the executive branch, the House, and the Senate, to take a concerted action on the collection of data, of statistics, of incidents that really mar the whole character of our democratic society, that of the perpetration of racially motivated violence.

I can remember when the gentlewoman from Connecticut [Mrs. KENNELLY] came to me as the chairman of the Criminal Justice Subcommittee and brought this matter to our attention.

I can remember when the gentleman from Massachusetts [Mr. FRANK] brought another portion of this matter to our attention.

I can remember the ranking member of this subcommittee, the gentleman from Pennsylvania [Mr. GEKAS] determining that this was a matter upon which we had no other alternative to move forward.

Yes, there were sticking points, but the fact that this simple measure is so important in the movement of civil

rights that I come to the well very grateful to all of the Members here, the new subcommittee chairman and the distinguished gentleman from Illinois [Mr. SIMON] in the other body, who has now brought us all together.

If we began to list the number of incidents that will now be reported, we would be here until after midnight. It is incredible as we on this committee know about the nature and extent of the incidents that forced us to bring this measure into the Federal Criminal Code.

I am very, very proud of the work that everyone has done on this matter. I think the civil rights movement will recognize this as a civil rights measure, because that is really what it is.

I am pleased to note that the President of the United States has now accepted the legislative decision of both bodies and we will very, very shortly have a signing which I think will be important for people in all parts of the country, even in the areas where this may not be a problem, if there is such a part of the United States.

I am very pleased to have had a role to play in this measure. I thank the gentleman from New York.

Mr. GEKAS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania [Mr. GEKAS], for yielding me this time.

I rise in opposition to this measure. Let me state initially that if the reach of this bill would be limited to determining and gathering statistical data based on prejudice, or the manifestation of prejudice or hate crimes on race, religion or ethnicity, I would support this legislation.

I think where the mistake is being made in its adoption is for the first time in the memory of this Member of Congress in the history of legislation at the Federal level, we will change and adopt as a matter of public policy sexual orientation on a par with what we have traditionally brought within the protected classes of the 1964 Civil Rights Act, namely, race, religion and ethnicity. That I think is the change in what this would accomplish that I think is not good public policy, because what we are doing really we are saying as a matter of policy in this country in interpreting the 1964 Civil Rights Act that we will equate sexual orientation on the basis of the traditional coverages, race, religion and ethnicity.

I notice also that the Senate changed a word in the bill to which these crimes would relate. When it went out of the House it was threat. The Senate changed it to intimidation. I do not know about you, but when you look at the crimes that we are going to be gathering statistical data on, murder, manslaughter, rape, assault, simple assault, arson, destruction, damage or vandalism of property, and then you add intimidation into it, you really get to a good question.

What and how do you define intimidation? Bear in mind that beauty is in the eye of the beholder. Are we now passing a law at the Federal level whereby we are going to have data based on what is going on in somebody's head independent of action?

1930

The reason I phrased it that way is because all of those other crimes on which we will gather data result in impact on people that an objective person can easily identify and itemize and report, but with intimidation, I question that, quite candidly.

I think very seriously there is a constitutional question on precision that can be identified in legislative enactment with the use of that term and, of course, the court system someday will respond to that in an appropriate case.

I noticed also that the Senate added a provision on section 2, that American family life is the foundation of American society, and I would like to ask the gentleman from New York [Mr. SCHUMER] a question relating to the definition of this term "American family life."

Does the term "American family life" as used in section 2 include homosexual relationships?

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I think if the gentleman reads the language, it does not comment one way or the other on that position. It was added in the Senate, and he ought to ask those in the other body who brought it what they intended, but just to simply read it, I do not think it talks about that. It does not address that issue.

Mr. DANNEMEYER. Would the gentleman say it included it?

Mr. SCHUMER. I would say it does not address that issue is what I had answered the gentleman.

Mr. DANNEMEYER. Maybe the gentleman would look on page 3, lines 3 through 5, which says:

> Nothing in this act shall be construed nor shall any funds appropriated to carry out the purpose of the act be used to promote or encourage homosexuality.

So would the gentleman not say that that language would seem to indicate that the term "American family life" did not include homosexual relationships? Would the gentleman not say that?

Mr. SCHUMER. I would say the gentleman is coming to his own conclusion, but one that might not be reached by lots of other people who read the same language.

Mr. DANNEMEYER. Since the gentleman, as I understand it, is a proponent of this legislation, if he has an opinion, I would be interested in his.

Mr. SCHUMER. I told the gentleman that I think the legislation, the clauses in section 2, that he mentions, do not address the question that he is asking, so it is neutral on it.

Mr. DANNEMEYER. Then I would ask a question about the term "intimidation."

Mr. SCHUMER. If the gentleman wishes to know, he has not.

Mr. DANNEMEYER. No; I was just getting to that. In the first section of the bill on line 10, it uses the term "intimidation." Does the term "intimidation" as used in section 1 include verbal assaults?

Mr. SCHUMER. No; it does not. The term "intimidation" conforms to the UCR, the crime reports, Universal Crime Reports.

Mr. DANNEMEYER. It does not include the term "verbal assaults" then?

Mr. SCHUMER. That is correct.

Mr. DANNEMEYER. I thank my colleague for his response to those questions.

Mr. Speaker, let me say just in concluding that it is important, I think, for our society to gather statistical data on hate crimes based on prejudice, because we, as a society, are struggling to divest any of us of crimes that fit into that category, but I think we should also recognize that one of the major struggles that will encompass the States and the Federal Government of the 1990's is whether or not this country will equate homosexuality on a par with the heterosexual lifestyle.

Believe me, whether we like to accept it or not, there are persons outside of this Chamber who are crowing; namely, in the homosexual community, that when this legislation includes sexual orientation the homosexual community of America has made a major victory, because they now have something in the law which they have sought diligently for the last 20 years whereby they will equate homosexuality on a par with the traditional coverage of the 1964 Civil Rights Act; namely, race, religion, and ethnicity. It is for these reasons that I oppose this legislation.

Mr. SCHUMER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the subcommittee who has played a very active and constructive role in making sure that this legislation becomes law.

Mr. FRANK. Mr. Speaker, I want to thank the chairman of the subcommittee and the ranking minority member.

Once again, we have an excellent example of the legislative process at its

best. The chairman of the subcommittee took over and worked to get this bill into very good shape. I want to particularly acknowledge the generosity of the ranking minority member.

Like him, the workings of the other body sometimes puzzle me, and I do not understand why his perfectly reasonable amendment was not acceptable to them. I do not understand why the prospect of having to deal with his amendment threw them into an even greater dither than sometimes is over there.

But the fact is that for reasons beyond our control the amendment of the gentleman from Pennsylvania, which was a reasonable amendment, raised all kinds of procedural problems over there.

I just wanted to acknowledge the gentleman's generosity in receding. I think he made his point, and many of us will continue and join with him to try to make that point, if it requires letters to the Attorney General, or if other cases come up where we think the Attorney General ought to use that authority, and I think many of us would be glad to join with him. I wanted to acknowledge the willingness of the gentleman from Pennsylvania to help us advance this legislation.

I know a wide range of people in the religious and ethnic and other communities are grateful to him, and I want to add to that.

Mr. SCHUMER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], who really helped initiate the whole campaign for this legislation several years ago, and it must be a wonderful evening for her to see this legislation finally come to pass.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of adopting the Senate amendments to the Hate Crime Statistics Act. They say that when you wait for something for a long time, the end of waiting is always the hardest. That's how I feel about the Hate Crime Statistics Act.

I first introduced a hate crimes bill, almost identical to this one, on February 4, 1984 in response to a series of incidents with religious overtones in my district. Six years later, after passing the House three times, and now the Senate, this bill is finally on the brink of becoming law.

And in those 6 years, crimes which manifest hate because of one's ethnicity, religion, or sexual preference have upset all too many communities throughout these United States.

Experts say they think that threats and other hate crimes against minority groups are increasing. This law will let us know the facts. One need only read the newspaper to notice that there are more reports of assaults against homosexuals. Statistics collected by the Anti-Defamation League of B'nai B'rith indicate that over 1,400 anti-semitic incidents occurred in 1989! And yet last year we boast: our 90 arrests in such crimes were three times those for 1988.

Identifying and classifying crimes of hatred are first, yet critical steps in helping law enforcement officers uncover trends to combat these crimes. These crimes not only defame property and injure individuals, but they diminish the whole community in which they exist.

I urge my colleagues to join me in supporting this bill.

Mr. BROOKS. Mr. Speaker, I rise in support of the motion. Last June this body passed H.R. 1048 by a vote of 368 to 47. The other body has now acted, approving the bill by an equally huge margin—92 to 4.

The legislation calls for the collection and publication of statistics about crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity. The crimes for which this data will be collected include murder, forcible rape, aggravated assault, and arson. By giving data with which to assess the scope and patterns of crimes, motivated by hatred, this bill will enable law enforcement agencies to combat hate crimes in a more systematic and comprehensive manner than is currently possible.

The other body made a number of changes in the bill that we passed. Those changes, however, do not weaken or significantly alter the bill. The Department of Justice must still collect and publish data on hate crimes.

There is widespread support for the legislation. A partial listing of those who endorse the legislation includes 30 attorneys general, the National Institute Against Prejudice and Violence, the Anti-Defamation League of B'nai B'rith, the Arab-American Anti-Discrimination Committee, various church and religious organizations, the American Bar Association, and the ACLU. Joining these groups is the administration. The President and Attorney General Thornburgh have on several occasions expressed their personal support for the legislation.

Mr. Speaker, I urge my colleagues to support the motion so the measure can be sent to the White House and signed into law.

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 1048, the Hate Crimes Statistics Act.

Mr. Speaker, it is truly tragic when acts of racially motivated violence, vandalism, and sometimes murder become common occurrences. It is tragic, and a national disgrace. And yes, Mr. Speaker, there has been a significant and unsettling increase in the number of crimes committed with a disturbing, recurring motive, one American's hatred for another.

Nearly every day, I hear of a different tragedy motivated by hate, and the victims of this violence are not only those who are on the wrong end of a clenched fist, tire iron, or gun. As long as this violence continues, we are all victims.

The greatness of our Nation comes from our diversity and the blood and sweat of immigrants from every corner of the globe. When one of our citizens commits a vicious crime against another because of ethnic, cultural, racial, or other differences, the most basic tenets of this Nation's principles are threatened.

Mr. Speaker, we must fight these crimes, and we must do so first by learning their depth and scope.

The Hate Crimes Statistics Act establishes a system to collect data on all incidences of criminal acts that manifest prejudice based on race, religion, sexual preference, ethnicity, and others. This information is vital if we are to educate the public about hate crimes and begin to combat the dangers they epitomize.

Mr. Speaker, for too long too many Americans have endured senseless, hate-inspired violence. This legislation is the first step to understanding the extent of this poison within our society, and then forming a strategy to end the crimes which rise from this hatred.

In a nation founded on freedom and the concept of equal rights for all, this should be one of our highest priorities.

I urge my colleagues to join me in supporting this vital legislation.

Mr. BRENNAN. Mr. Speaker, I strongly urge my colleagues to join me in support of the Hate Crimes Statistics Act. This legislation will bring much needed attention to the heinous violence and criminal activity which is directed at specific racial and religious groups in our society.

This week's Time magazine cover story on America's multiracial society is testament to our Nation's growing melting pot. Bigotry cannot, and will not, be accepted in this Nation of growing cultural diversity.

Regretfully, some segments of our society are continuing to be singled out as the object of violence and criminal activity simply because of their race, religion, ethnicity, or sexual orientation. It is imperative that we determine where and why these types of crimes are occurring. Because the Hate Crimes Statistics Act will provide for the collection of data regarding crimes of hate and prejudice, it will allow us to eliminate this discrimination by targeting our resources against it.

In a broader sense, this measure will allow us to protect the freedoms, that define this great Nation. I strongly urge my colleagues to join me in support of the Hate Crimes Statistics Act.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HARRIS). The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1048.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXPRESSING SENSE OF CONGRESS THAT THE PRESIDENT DESIGNATE A SPECIAL ENVOY TO NEGOTIATE RELEASE OF AMERICANS HELD HOSTAGE IN LEBANON.

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 271) expressing the sense of the Congress that the President should designate a special envoy to negotiate the release of Americans held hostage in Lebanon, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 271

Whereas United States citizens Terry Anderson, Thomas P. Sutherland, Frank Herbert Reed, Joseph James Cicippio, Edward Austin Tracy, Alann Bradford Steen, Jesse Jonathan Turner, Robert Bruce Polhill, and Lieutenant Colonel William R. Higgins (presumed murdered but not confirmed) were taken hostage in Lebanon and have not been released;

Whereas many other foreign citizens are being held hostage in Lebanon;

Whereas many of these hostages have not seen their families for more than 3 years;

Whereas the hostages' captivity is an affront to their most basic human rights;

Whereas there was a ceremony in Lafayette Square in Washington, District of Columbia, on March 16, 1990, commemorating the 5th anniversary of Terry Anderson's captivity in Beirut; and

Whereas despite the best efforts of the executive branch under current arrangements, these hostages remain in captivity: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress hereby renews its appeals to those holding the hostages in Lebanon to free them out of compassion for their plight.

(b) the Congress embraces the cause of those who on March 16, 1990, commemorated the 5th anniversary of the captivity of Terry Anderson.

(c) The Congress expresses its deepest sympathy for the families of the hostages in Lebanon.

(d) The Congress—

(1) encourages international efforts to secure the freedom of the hostages in Lebanon, and

(2) urges all countries with direct or indirect influence over the kidnappers (including Iran and Syria), and those supporting the kidnappers, to press for the immediate, safe, and unconditional release of the hostages.

(e) It is the sense of the Congress that the President should accelerate efforts to secure the immediate and unconditional release of the hostages in Lebanon—

(1) through increased efforts by personnel of the Department of State and other United States diplomatic officials, and

(2) by urging multinational organizations, such as the European Community and the United Nations, to exercise their influence to help secure the hostages' release.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

□ 1940

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 271 as amended. This resolution represents the sense of the Congress that the President should make the release of Americans held hostage in Lebanon a high priority and should accelerate efforts to obtain their release.

This resolution is the result of the outstanding efforts of our colleague, LOUISE SLAUGHTER of the State of New York, and I commend her for her leadership on this matter. The amended resolution before Members today is the product of discussions between the several Members of Congress, the Committee on Foreign Affairs and the Department of State.

The administration has no objections to this resolution, and I commend my colleagues for their efforts to work to revise portions of the original resolution to meet the concerns of the State Department and thereby expedite consideration of this important statement on a sensitive, but crucial, foreign policy issue. In the last 5 years, a few foreign policy issues have caused more frustration, more concern, and more anguish for Americans than the continued captivity of the nine American hostages in Lebanon.

Mr. Speaker, this resolution: Calls for renewed effort to obtain the release of the hostages; and expresses the deepest sympathy for the families of the hostages.

This resolution also specifically: encourages international effort to secure the release of all the hostages; urges all countries with direct or indirect influence over the kidnapers, including Iran and Syria, to press for the immediate, safe, and unconditional release of the hostages; calls for increased State Department efforts; and urges multilateral organizations, including the European Community and the United Nations, to exercise their influence to help secure the hostages' release.

Mr. Speaker, this is an important statement on an important issue at a time when there is considerable public talk about the hostages and some new diplomatic efforts appear to be underway. The resolution is non-controversial and I urge its adoption.

Mr. Speaker, I am pleased to yield such time as she may consume to the principal sponsor of this resolution, the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON] for yielding. I want to thank the gentleman from California [Mr. DYMALLY] for holding the hearing on this resolution, and to the gentleman from Indiana [Mr. HAMILTON], the gentleman from Florida, [Mr. FASCELL], and to the gentleman from Michigan [Mr. BROOMFIELD] for their help in getting this through. I was pleased that the committee voted unanimously to support this resolution. I am grateful for that support.

Mr. Speaker, 4 weeks ago we were very excited with notions that perhaps the hostages might soon be freed. This is not the first time that our hopes have been lifted, only to be dashed.

My constituent Terry Anderson has been held now for 5 years. It is hard for us to realize as we live our lives day by day for 5 years a human being has been held hostage, away from his family and away from all those who love him.

The 4 years that I have been in Congress, I have stood on the floor of this House on the occasions of the anniversary of his snatching off the street in Beirut and on the times of his birthday to remind my colleagues that Terry Anderson still languishes in prison.

Just yesterday in his hometown of Batavia, NY, as I walked down the street I noticed the yellow ribbons hanging from the lampposts and the trees and the places of business, looking bedraggled in the rain, just the same little reminder that Terry is still there and that we want him back.

Every year church services are held where we have prayer, not only that Terry will be coming home soon, but that Terry will be coming home whole.

I think about Peggy Say and the rest of Terry's family who still live back in Batavia. Every time I look at Peggy and recognize the incredible courage she has shown and the absolute tirelessness she has, Peggy Say should be everybody's sister. She never gives up. She lives in hope. She follows every possible lead. She begs everyone she sees for help. She never lets any of us forget that Terry and the others are hostages.

With the exception of Peggy and the press groups and what we do here on this floor, we have not made a statement by Congress that those people matter to us, that we want those hostages home. So I felt it was important that we go on record with a vote in the U.S. House of Representatives that we know that our citizens are being held.

Every day of our lives we should remember that somewhere in a house or a building in South Beirut a hostage of mine sits, chained by one arm to a wall, without knowledge of his family, without knowing that his father and brother have died, without any idea of the life of his little girl, who is now 5, and sits and tries to keep himself sane and hopes that his country will not forget him.

I join in that hope tonight that if we pass this resolution, that the House of Representatives of the United States of America has said very forcefully, "We will not forget. We want you back."

Mr. Speaker, I thank all Members for their support.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I can certainly understand the concern of the gentlelady, the sponsor of the bill, because of her constituent Terry Anderson's captivity.

This is a truly complicated situation and I trust that what we say and resolve today will not create false hopes for an easy and swift resolution of this great problem.

Hostage-taking in the Middle East has now bedeviled three straight administrations. It shows how helpless a major world power can be in the face of determined fanatics.

President Bush deserves our praise for his sensitive and balanced approach to handling the hostage situation. I am confident that he is doing everything possible to resolve this tragic problem.

As longstanding problems are being resolved all around the world and justice is prevailing, all of us are hopeful that a resolution of the hostage situation will be forthcoming. Peace will never come to the Middle East through the barrel of a gun. Violence, terrorism, and hostage taking will not solve the complex and deep-rooted differences that divide the people of that area of the world.

Peace and justice will come through negotiations and a fair resolution of the difficult issues that plague that region. Our Government will continue to try to play a positive and constructive role in bringing stability to the Middle East. Holding innocent Americans and others hostage is a cruel way to address a problem. Justice demands that the hostages be freed from their long captivity.

I urge my colleagues to support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 271, legislation introduced by my esteemed colleague from New York, Congresswoman LOUISE SLAUGHTER. This measure would assist in laying groundwork for a quick and expeditious end to the living nightmare that has constituted life in misery for our fellow citizens held hostage in Lebanon.

As the distinguished Member from New York has for so long, and so eloquently, reminded us: America cannot merely sit back and forget our own citizens that have for years suffered agony in chains of bondage. We in Congress, as well as all of government, have a moral responsibility to do all that we can to ensure that our citizens are brought home safely—now—not at some indefinite point in the future.

Although I can understand the administration's adoption of the policy of nonnegotiation with terrorists and religious extremist elements, over a half-decade has passed, and Terry Anderson still languishes with his seven brothers in captivity. Clearly, this policy has not produced any positive result.

With the spiritual leader of Hezbollah, Sheik Fadlallah, and the administration of Iranian President Rafsanjani, recently advocating that 1990 shall be the last year of hostage captivity and that hostage taking is not in accordance with the principles of Islam, a changing political climate is evident in the Middle East.

Our Government cannot continue to ignore these entreaties for a resumption of dialog with Iran, especially since they are accompanied by the clear statement that American hostages should go free without preconditions.

Mr. Speaker, House Concurrent Resolution 271 sends a forceful message to President Bush. Now is the time for decisive action, utilizing all avenues of diplomacy and international influence, to bring our citizens back home. I cannot more strongly urge our colleagues to support passage of this measure that shows we care—and that we have not forgotten our fellow Americans and our hearts go out for their families and loved ones.

□ 1950

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], our minority whip.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding time to me. I do not think I will use all the time.

Mr. Speaker, first I want to praise the gentleman from Michigan [Mr. BROOMFIELD] for dramatically improving this resolution from the original draft. I want to come back to that in a minute and ask some questions about the resolution to make sure that in fact it does state accurately the concern that President Bush has already expressed and the concern that I think the State Department officials are expressing.

But I also want to thank the Democratic leadership for bringing this resolution up, because I think the particular week is a very appropriate time to look at the question of terrorism and hostages in the Middle East, and in the context of the recent revelations about Iraq, both the revelations about their effort to smuggle devices that are important in making nuclear weapons, and the revelation about the dictator of Iraq who has threatened to use poison gas, and in effect has been threatening civilian populations with massive casualties or massive deaths, this resolution should remind all of us that there is a barbaric, brutal, terrorist nature in the Middle East, and we should be reminded that it is not just the groups that are in the Bekka Valley, but the Syrian dictatorship which shelters the terrorists and the Libyan and Iranian dictatorships which finance the terrorists, and the Iraqi dictatorship which is now threatening mass terrorism and all share a common hostility to Western values, to the democratic process and to human rights as we understand them. In effect, not only should we be concerned about the current hostages in Lebanon, but we should also recognize that all of us could be held hostage in the next decade by a kind of dictatorial anti-Western attitude in Syria, Iraq, Iran, and in Libya which literally could threaten the major cities of Europe in the near future, and which could ultimately, by early in the next century, threaten the United States.

I think all of us have to recognize two very large issues which come out of this. The first is that we need to work both with the Israelis in developing a tactical missile defense, and in building our own strategic defense in order to stop Iraqi missiles, in order to be able to protect Western Europe and Israel and the United States from the kind of terrorist dictatorships which this resolution reminds us of. In addition, we have an obligation to rebuild the human intelligence capabilities of the United States, intelligence capabilities which are still woefully lacking, and which are particularly important in terms of terrorists.

But I would like to ask two questions just to make sure from the Democratic side that I understand the sense of the resolution. On page 3 where it says:

> It is the sense of the Congress that the President should accelerate efforts to secure the immediate and unconditional release of the hostages.

I am curious, are there any particular steps that are contemplated? My impression is that the President, in fact, is desperately concerned about the hostages and would very much like to see them released as soon as possible and as unconditionally as possible.

I just wondered if our friends had any specific actions they wanted to recommend?

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, first of all let me say I agree with the observation the gentleman makes that the President is deeply concerned about these hostages. The fact of the matter is that many of us, at least, do not know what the President or others are doing to secure the immediate and unconditional release of the hostages. I am not able to identify for the gentleman tonight specific steps that have been taken.

I do not know that I quarrel with that fact. I do not think I should be able to identify them.

But we do say that we want him to do everything possible here and to accelerate the efforts. I might say that this language has been approved by the administration.

Mr. GINGRICH. Good. I appreciate the gentleman making that point. I just want to say that it is in the spirit of a dramatically improved resolution on a bipartisan basis, and a recognition that the administration is trying, I think, very diligently to achieve walking a very narrow line, doing everything they can for the hostages while at the same time refusing to negotiate with terrorism, recognizing that that would simply increase the potential of future hostage taking.

So I would urge a yes vote in the context of that understanding.

Mr. BROOMFIELD. Mr. Speaker, I yield 8 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me. Some of my concerns are those that have been expressed already by the minority whip, and I also want to begin by saying that this resolution, insofar as it expresses our concern about our hostages, and insofar as it identifies us with the families and their suffering, is certainly an appropriate resolution to bring to the floor and to have considered.

But I must say that when I read through this resolution I became somewhat concerned about language that I found on page 3 of this resolution. I would like to ask a couple of questions also about it.

It says: "It is the sense of the Congress that the President should accelerate efforts to secure the immediate and unconditional release of the hostages in Lebanon," and then cites a couple of examples below that. If I could ask the gentleman from Indiana, chairman of the committee, please, is there anything in that language that implies in any way criticism of the President or the efforts that he is making?

Mr. HAMILTON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, frankly I do not know what efforts the President is making. I think the purpose of the language, so far as I know, is simply to raise the priority of the issue, and urge him to do all that he possibly can do.

I do not read the language as being critical of the President, but simply to say that we want him to accelerate every effort possible, and insofar as I know at this point he is in full accord with that language.

Mr. WALKER. I thank the gentleman for his response.

My concern stems from this: I think we have every reason to believe, based upon what the administration has said, that indeed they are in agreement that this is accelerated and something that should be high priority. As a matter of fact, I think the President said at a couple of points that the highest priority his administration had in terms of their dealings with the Middle East and their foreign policy is to try to work on the hostage issue.

If the gentleman from Indiana and I do not know what they are doing, as he stated just a couple of minutes ago, that is probably appropriate. This is not the kind of diplomacy that is well conducted in public. So therefore, when we begin to urge these kinds of things on the President, it can imply criticism simply because we do not know what is going on, and I just want to make absolutely certain that there was no intent in this resolution to be critical of the President and the efforts that he is making. Do I have the gentleman's assurance?

Mr. HAMILTON. You have my assurance that it was certainly not my intent to be critical of the President with respect to the efforts that he is making.

Mr. WALKER. In the next phrase it says: "through increased efforts by personnel of the State Department and other United States diplomatic officials." That is one way in which we are to accelerate efforts to secure the immediate, unconditional release. Can someone explain to me, either the gentleman or the author of the resolution, what we mean by increased efforts by the personnel of the Department of State in this regard?

Mr. HAMILTON. Mr. Speaker, if the gentleman will yield, I am not able to respond in terms of very specific efforts that we have in mind. I think what we are saying here in effect in the language is that we want everything done that can be done to assure and to gain the release of the hostages.

Mr. WALKER. Should the personnel of the Department of State, for example, be in direct touch, negotiating with terrorist nations as a part of this particular part of the resolution? One of the things that we have said right along the way is that we are unwilling to negotiate with terrorists, as a matter of fact, and one of the things that has been of most concern in the whole Iran/Contra controversy was the issue of dealing directly with terrorist nations. Is there anything in this resolution that can be implied to be telling the personnel of the Department of State and/or the U.S. diplomatic officials to deal directly with terrorist nations on the hostage issue?

Mr. HAMILTON. If the gentleman will yield, I do not think I am the one to try to state administration policy. But my understanding of policy with respect to dealing with the captors of the hostages is that we will not make any concessions in attempting to get them. We have not said I think that we will not talk with them, and I am not sure about the word "negotiate." I do not think we have said that we will not negotiate.

□ 2000

My understanding of policy is that we will not make concessions to nations who hold terrorists or other captors.

To that extent I may have some difference in understanding with the gentleman from Pennsylvania as to what policy may be.

Mr. WALKER. That may be a more accurate reflection, but it is my understanding, for example, that we do have diplomatic talks going on with the PLO and a number of other organizations in that part of the world who are terrorist states. Obviously we have had contacts with a number of nations, including some of those named in the resolution, like Iran and Syria, about these matters.

These are going on. But it says, "Increased efforts by the personnel of the Department of State." And that is what concerns me. If what we are doing is demanding them to go further than what they are now doing in terms of the talking, that does begin to sound like we are talking about negotiating, and in negotiations both sides give away a little. That is exactly our concern here, that we are now informing the administration that it is OK to begin to find little points of negotiating stance with terrorist nations. That would be unacceptable to this gentleman.

Mr. HAMILTON. Perhaps I can help by saying this, that there is no intent in this resolution to urge a change of policy with respect to terrorism in this country. All we are saying is that we want everything done that can be done to get those hostages back. There

is no language of criticism here that is implied. We simply want to assure that every effort is being made to get the hostages back.

Mr. WALKER. And we have no reason to believe that everything that can be done is not being done at the present time and there is nothing in this resolution which indicates that, is that correct?

Mr. HAMILTON. If the gentleman would yield, I simply do not know what is being done. They could be doing everything, they could be doing nothing. I do not know. I am not privy to that information.

Mr. WALKER. I thank the gentleman. That is obviously a problem here, but as we have pointed out before, there is the issue of confidentiality being very important in this whole process, and I got to tell you that this resolution then is a little disturbing when we imply that we do know and that there ought to be things done which are increased efforts.

If the gentleman is saying that that simply means that we endorse the present policy and they are doing everything they can, that is fine, and this resolution goes along with that; I do not have a problem.

If what we are saying is because we do not know, we assume they are not doing everything that should be done and this then becomes mildly critical and we say they ought to go beyond negotiating stances that they have announced in public, then I do think there may be some controversy about that particular language.

Mr. HAMILTON. I do not think there is any language in this resolution that would suggest that we are critical of the policy of the United States with respect to dealing or not dealing with terrorist nations.

The gentleman, I think, goes far beyond the intent of the language, far beyond the explicit words of the resolution when he talks about a possible change in policy being implicit here or explicit. I just do not think that it is involved in the language at all.

Mr. WALKER. That is what I am trying to clarify in all honesty, I tell the gentleman.

Mr. HAMILTON. It is certainly not intended.

Mr. WALKER. If there is no intention here to drive policy in a different direction that we are going——

Mr. HAMILTON. Again, if the gentleman would yield, I can assure the gentleman there is no intent to change policy with respect to terrorism in the language of this resolution.

Mr. WALKER. Well, but incumbent on that is also the question of dealing on hostages, because the hostages are being held by terrorist nations and by terrorist groups. So we are not changing policy on terrorists, and I also want to make certain that we are also not demanding something on hostages that puts the administration, to use the colloquial, between a rock and a hard place.

Mr. HAMILTON. Let me just say we are not trying to put the administration between a rock and a hard place, we are not trying to change policy with respect to terrorists or with respect to hostages.

Mr. WALKER. I thank the gentleman. That is very helpful.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 271, expressing the sense of the Congress that the President should make the release of Americans held hostage in Lebanon a high priority and should accelerate efforts to this end.

We must not ever forget the plight of the hostages who have been in captivity for so long and who have endured the most inhumane conditions.

The U.S. Government must spare no effort to gain the release of the hostages. However, in so doing we must make it absolutely clear that the U.S. Government won't bend to blackmail. We must impress upon those who are holding the hostages that they will not achieve any political gains by holding these innocent civilians who through their captivity have been denied their most basic human rights.

I strongly support House Concurrent Resolution 271 which urges all countries with direct or indirect influence over the kidnappers, including Iran and Syria, to press for the immediate, safe and unconditional release of the hostages. It is my hope that the efforts of the United States Government, together with the United Nations and other multinational organizations will result in the immediate release of the hostages so that they may be reunited with their loved ones. House Concurrent Resolution 271 serves to place as a high priority on the diplomatic agenda the release of the 8 Americans who are held hostage as well as the other foreign citizens wo are being held hostage in Lebanon. The resolution calls attention to the recent fifth anniversary of the captivity of Terry Anderson.

The loved ones of the hostages have our deepest sympathy. In closing, let me say any and all efforts must be undertaken to end the tragic plight of the hostages. Let's bring them home.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Concurrent Resolution 271 expressing the sense of Congress that the President should make the release of Americans held hostage a high priority and accelerate efforts to this end. I supported this resolution when it was before the Foreign Affairs Committee, upon which I serve, and I urge its speedy adoption here today.

This resolution notes the continued unwarranted captivity of American hostages in Lebanon including Terry Anderson, Thomas Sutherland, Frank Reed, Joseph Cicippio, Edward Tracy, Alann Steen, Jesse Turner, and Robert Polhill. It also embraces the cause of those who held a ceremony here in Washington last month to bring attention to the fifth anniversary of Terry Anderson's captivity in Lebanon.

Unfortunately, the hostage situation is a very complex one. Above all, it is a frustrating one. Like the issue of American servicemen still missing and unaccounted for in Indochina—the POW/MIA issue—we have Americans being held against their will for no legitimate reason, longing families at home waiting for some word about the fate of their loved one, intense but thus far unsuccessful efforts by our Government to resolve this situation satisfactorily, and questions about those missing.

The situation facing our hostages is, indeed, a very tragic one. We know that they have been beaten, terrorized, and treated in a most inhumane manner. I find it extremely hypocritical that these terrorists who claim to "work for God" have abused every moral standard in the Islamic religion they profess to follow. They are not Islamic fundamentalists; they are terrorists. The prophet Mohammed and his cousin Ali, the spiritual leader of the Shiite moslems, preached compassion and understanding. Yet, neither of these basic religious principles have been followed at the least by the terrorists holding our hostages or their deranged Iranian supporters. Theirs is clearly the work of the devil, not God as they claim.

The claims by the terrorists that these Americans are spies are simply outrageous. On the contrary, these Americans were providing important educational and social services to Lebanese. They are teachers, scholars, and journalists. Take the case of Terry Anderson. His captors speak much of their people's suffering. Tony Anderson was there to report that and bring it to the attention of the world, hopefully prompting efforts to right the wrongs. Taking him hostage, therefore, was clearly a disservice to those the terrorists hyocritically claim to serve. The same is true of others, like Frank Reed. Frank ran a school for Lebanese to help Lebanese youngsters learn to read and write. Education and understanding are key ingredients to national reconciliation in Lebanon and improving the standard of living for all—especially the Shiites. Hence, again, the terrorists are hurting their own people in addition to innocent Americans.

This resolution also expresses deepest sympathy to the hostages' families. Waiting for some word—praying for the best, fearing the worst—these families have not given up hope. I hope their prayers will be happily answered soon and that they will not have to wait as long as many of the families of Americans missing in Southeast Asia. There is a very human side to this tragedy. Frank Reed hasn't been around to watch his inquisitive young son Tarik grow up. Terry Anderson hasn't even seen his daughter born after he was taken captive. For the sake of their children, who don't understand politics and are too young and innocent to be responsible for any of the world's problems, these "daddies" should be released immediately.

House Concurrent Resolution 271 renews our appeal to those holding the hostages to free them out of compassion. As I have already noted, holding these innocent hostages is a grave injustice. It seriously harms, not helps the so-called cause of the captors.The humanitarian thing to do, the morally right thing to do, is to release the hostages.

Today's resolution also recognizes the efforts of the President and expresses the

sense of Congress that the President should make the hostages' release a high priority—something he has already done—and accelerate efforts to this end. I warn those who attack the administration that they are treading on very thin ice. I know that President Bush, like President Reagan, would like nothing more than to bring our hostages home safely. I know that he is pursuing every available and appropriate avenue in an effort to achieve this objective. However, like our efforts to gain the fullest possible accounting of Americans missing in Indochina, this is a very frustrating process. In the latter case, the real answers and the real obstacles lie not in Washington, but in Hanoi. In the former case the "stonewalls" are in Beirut, Damascus, and Tehran, not here.

I know many efforts are taken, by necessity, very quietly and discreetly out of public view. Because they aren't on the evening news doesn't mean they aren't happening, as some here claim erroneously. Yet, we are dealing with unreasonable thugs in a hostile land. Because of them our efforts have been frustrated and of only limited success.

I also caution those who demand we give in to the terrorists. To do so jeopardizes every American around the globe and creates the potential for the taking of others as hostages. Furthermore, the Iran-Contra affair, about which some of my colleagues have used to attack President Reagan, was part of an effort, some claim, to trade arms for hostages. Whether it was or wasn't, it is plain to me that this is not the way to go—though it is key to note that a hostage was released at the time of these dealings. It is very easy to criticize the administration. It is a lot harder to formulate new approaches and efforts that the administration has not already tried—particularly when the captors are not responsive. I strongly support President Bush's efforts in this humanitarian cause and I believe this resolution gives him reinforcement from Congress.

In Southeast Asia we talk about both POW's—prisoners—and MIA's—those missing and unaccounted for. The same, unfortunately, is also true for Lebanon. While this resolution before us today focuses on the prisoners, we must not forget about the two prisoners who are now missing and possibly murdered, namely William Buckley and Col. William Higgins. I know the President hasn't. The terrorists claimed to have "executed" both men. But, no remains have been repatriated or even acknowledged. The longing families of these men also wait for answers and human decency dictates that these answers come soon. Unfortunately, I'm not so sure just how "human" these terrorists are.

Our unity in supporting the President's efforts to secure the release of all our hostages and our steadfastness in keeping this humanitarian issue a high priority sends the signal to the hostages' captors and others around the world—like the terrorists' supporters in Tehran—that we have not forgotten nor will we. This resolution is part of that signal and I urge its expeditious adoption.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 271, expressing the sense of the Congress that the President should make the release of Americans held hostage a high priority and accelerate efforts to this end. I want to commend the gentlelady from New York [Ms. SLAUGHTER] for her outstanding work on this important measure.

This bill notes that the continued captivity of our American hostages in Lebanon is unacceptable. This measure demonstrates clearly and unequivocally that the U.S. Congress grieves with the hostage families. Terry Anderson, Lt. Col. William R. Higgins, who is presumed murdered but unconfirmed, Thomas Sutherland, Frank Reed, Joseph Cicippio, Edward Tracy, Alann Steen, Jesse Turner, and Robert Polhill must be released. The intransigence of Syria and Iran on this issue is painfully apparent to those of us who closely follow developments in the Middle East.

Mr. Speaker, our President has done an outstanding job in keeping this issue on the front burner. This measure renews our appeal to those holding our hostages, to release them out of compassion. Accordingly, I urge all of our colleagues to support this resolution.

Ms. SNOWE. Mr. Speaker, I rise in support of this resolution.

Three weeks ago marked the fifth year anniversary of the capture of longest held American hostage in Lebanon, Associated Press reporter Terry Anderson. Mr. Anderson is joined in his plight by 7 other Americans and 10 other western hostages from 6 different countries.

This resolution highlights the humanitarian tragedy of this troubling anniversary. It expresses Congress' deep sympathy for the families of the hostages, and calls for accelerated diplomatic efforts to obtain their immediate and unconditional release.

During committee markup, a modest change was made in this resolution introduced by the gentlelady from New York [Ms. SLAUGHTER]. The resolution was modified to remove the suggestion that the President should consider appointing a special envoy to negotiate with those holding western hostages in Lebanon.

We made this change to refrain from taking any action that could be perceived as undermining the extraordinary efforts already being made by the President and others both within and outside of the administration. Now is not the time to give even the appearance of a political division on this issue that could be exploited by the hostage holders or that would give the impression that the United States would make a profitable target for future abductions or terrorist acts. I understand that with this change, the State Department and administration now supports this resolution.

During the past few weeks, heightened attention has been given to the plight of the hostages. In this short period, conflicting statements and rumors have surfaced. In Lebanon, Syria, and Iran, a variety of sources have suggested that some breakthrough on the hostages was imminent. As many sources, however, have strongly denied any such possibility.

This demonstrates one of the great frustrations of this issue. Time and again over the past few years such reports have surfaced leading to heightened expectations. We all hope that there is some substance to these rumors, that 1990 will indeed prove to be, as some have suggested, the year of the hostages' release.

Mr. Speaker, I urge adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 271, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title was amended so as to read:

Concurrent resolution expressing the sense of the Congress that the President should make the release of Americans held hostage in Lebanon a high priority and should accelerate efforts to this end.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 271, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

IN SUPPORT OF LITHUANIAN INDEPENDENCE

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 289) in support of Lithuanian independence.

The Clerk read as follows:

H. CON. RES. 289

Whereas the historic nation of Lithuania has been an integral part of European civilization for centuries;

Whereas the people of Lithuania established a free and democratic nation-state on February 16, 1918;

Whereas the United States Government recognized the independent Government of Lithuania on July 27, 1922;

Whereas the United States Government has never recognized Lithuania's incorporation into the Soviet Union on August 3, 1940;

Whereas throughout a 50-year history, every administration since President Franklin Roosevelt's has offered unwavering support for the people of Lithuania in their heroic efforts to obtain self-determination.

Whereas the people of Lithuania have made significant strides over the last 2 years in rebuilding an independent society and are building new institutions and adopting democratic practices;

Whereas the new President of the legislature of Lithuania appealed for diplomatic

recognition by democratic nations on March 17, 1990;

Whereas the people of Lithuania gave a clear mandate for the restoration of independence to their new legislators in the multiparty elections on February 24, 1990;

Whereas the new legislature of Lithuania has demonstrated great courage in exercising the mandate for democracy and self-determination given to them in those multiparty elections;

Whereas those same legislators declared the restoration of an independent Republic of Lithuania on March 11, 1990;

Whereas recent democratic development in Lithuania represent the fruition of the shared democratic goals and aspirations of the people of Lithuania, which have been long supported by the people of the United States;

Whereas the new Government of Lithuania will have to gain control over Lithuania's borders and economy, and it will therefore need effective political support in its negotiations with the Government of the Union of Soviet Socialist Republics if it is to be successful in those negotiations;

Whereas a major threat to the new Government of Lithuania is the growing economic pressures being imposed by the Soviet Union;

Whereas the Government of Lithuania will need to seek credits and markets in the West to maintain the Lithuania economy;

Whereas the Soviet Government has not yet recognized the action of the Lithuanian Parliament in declaring Lithuania independent;

Whereas the Soviet Government has undertaken action, including staging military maneuvers and ordering Soviet military units to assert more active and visible control over Lithuanian installations, in an apparent attempt to intimidate the Lithuanian Parliament and people; and

Whereas more recently, Soviet President Gorbachev has ordered citizens of Lithuania to hand over any weapons they hold to Soviet authorities within 7 days and has ordered tighter controls on the ability of foreigners to visit Lithuania: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That the Congress—

(1) congratulates the people of Lithuania on the recent successful multiparty elections in Lithuania;

(2) wishes the new Government of Lithuania well in its decision to carry out the will of the Lithuanian people, expressed in the recent elections, to restore the independence of Lithuania;

(3) congratulates the new Supereme Council of the Republic of Lithuania and welcomes its efforts to expand democratic institutions and practices in Eastern Europe;

(4) urges the Government of the Union of Soviet Socialist Republics to recognize and respect the aspirations of the people of Lithuania by entering into immediate, constructive negotiations with the new Government of Lithuania on an equal basis;

(5) urges the Government of the Union of Soviet Socialist Republics, in the spirit of peaceful cooperation and friendship between our 2 countries, to refrain from acts of political, military, and economic intimidation that would impede the progress of negotiations with Lithuania or diminish Lithuania's long-term economic viability;

(6) considers that the use of force by the Soviet Union to suppress the democratic aspirations of the people of Lithuania and their desire for national sovereignty would be a gross violation of Lithuanian human rights and political freedom and a serious and tragic setback in United States-Soviet relations;

(7) believes the Soviet Union has no right to use force against Lithuanians peacefully exercising their democratic rights, and President Gorbachev and other Soviet leaders should clearly understand that the use of force against the Lithuanian people would have severe repercussions for United States-Soviet relations;

(8) supports the President's strong commitment to the doctrine of nonrecognition of the forced incorporation of territory, such as occurrred in the Baltic States in 1940, and urges the President to reaffirm his commitment to an independent and democratic Lithuania and to seek ways to actively demonstrate that commitment;

(9) urges the President to plan for and take those steps, at the earliest possible time, that would normalize diplomatic relations between the United States and the new Government of Lithuania; and

(10) urges the President to seek effective political support among our allies for Lithuanian self-determination.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 289, a resolution in support of the right of the Lithuanian people to independence. This resolution addresses an important foreign policy issue confronting the world; at this time and an issue which can have serious implications for United States-Soviet relations.

I want to commend the gentleman from the State of Illinois [Mr. DURBIN] and the gentleman from the State of Michigan [Mr. BROOMFIELD], the ranking Republican on the Committee on Foreign Affairs, for their outstanding leadership on this issue. This amended resolution is the product of their efforts, as well as considerable discussion with other Members and the Department of State.

The amended resolution before us takes into account most, but not all, of the concerns raised by the Department of State. As I understand their position, the State Department cannot support the resolution before us, but the Department prefers the amended resolution before us to other resolutions on this subject.

Mr. Speaker, there have been some encouraging signs in Lithuania over the last few days: the Lithuanians have indicated a willingness to step back from immediate confrontation and to tone down the rhetoric. Lithuania's President has said that he wants to avoid precipitous action and that he can agree to a referendum. It is hoped that the Soviets can match this restraint. Tensions remain high in Lithuania and in the Baltic States and further restraint on both sides is something that must be encouraged. Confrontation would be counterproductive and the situation could easily get out of hand.

Soviet Foreign Minister Shevardnadze arrived in Washington today for important meetings with U.S. officials. I suspect that the subject of Lithuania will be high on the agenda of our talks with the Soviets. It is, therefore, both important and appropriate for the House of Representatives to speak on this issue.

As we discuss and vote for this resolution, we must recognize the tough dilemma this resolution presents. On the one hand, we want to help Lithuania secure its independence, sooner rather than later, and we do not want to take a weak approach or appear to be sanctioning repressive Soviet actions. On the other hand, we do not want to encourage Lithuania to take actions which will invite or provoke a military crackdown, or lead to Soviet moves which would kill or undermine the reform process in the Soviet Union. This dilemma should not silence us or prevent a debate, but it should be a reminder of the critical nature of the problem.

Mr. Speaker, the central message of this resolution is threefold. First, the resolution speaks out against the use of force. Second, the resolution urges negotiations between the newly elected government of Lithuania and the Soviet Government in Moscow as the only practical way of resolving differences between Vilnius and Moscow.

Third, the thrust of the resolution sets an important marker for United States-Soviet relations. We must make it clear to the Soviets that their government cannot do certain things without paying a price.

There are some people who, with good reason, feel that this resolution should not be addressed, suggesting that it raises a sensitive internal Soviet issue at a difficult time when debate here can only add fuel to the fires of nationalist sentiment sweeping large portions of the Soviet Union and can only be detrimental to United States-Soviet ties.

I share some of those concerns, but I also take the view that the Soviets must understand the depth of feeling on this issue in the United States and the fact that a peaceful, negotiated

resolution of the problems in Lithuania will be essential to further steps in the process of improving United States-Soviet relations.

In 1990, we are on the brink of achieving an historic agreement with the Soviets in a number of areas, including conventional and strategic arms control. The Soviets must surely realize that how they handle the issue in Lithuania will affect the extent and quality of our relations. We want United States-Soviet relations to improve and we want to achieve historic breakthroughs in all areas of United States-Soviet relations, but a confrontation must be avoided in Lithuania to keep our ties on the current track.

Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

□ 2010

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the Chairman of the Europe and Middle East Subcommittee, the gentleman from Florida [Mr. FASCELL] and the gentleman from Illinois [Mr. DURBIN] for their work in bringing this resolution to the floor.

This great House has an opportunity today to show the world that America is not afraid to project its ideals.

A short while ago, a small, brave country did what a young, courageous America did more than 200 years ago. The tiny Republic of Lithuania proclaimed its independence from a great military power.

This resolution urges the normalization of relations with the democratically elected government of Lithuania as soon as possible.

This language may seem ambiguous, and in fact it is. I would have preferred some tougher language. I'd prefer that we state in bold, clear language that we recognize not only the independence of Lithuania, but the legitimacy of its government, as well.

But the most important thing is not the different phrases that we may or may not use, but that this body go on record right now to show the government of Lithuania some degree of support.

And it sends a message to the Soviet Union. It says that Congress is in no mood to tolerate Soviet aggression against the people of Lithuania.

This is a good opportunity for Gorbachev to show that he takes his own reforms seriously. What we've heard for the last 5 years is a Gorbachev who talks about peace and glasnost and perestroika and democracy.

What we have seen so far in Lithuania is a Gorbachev who issues ultimatums, seizes schools, storms hospitals, evicts diplomats and reporters, and intimidates the people and the Parliament with Soviet tanks.

Glasnost and perestroika hang in the balance.

This resolution will also send a message to those around the world who love freedom and are not afraid to fight for it. It says that America has not lost sight of the principles that made it strong.

This is a good time to recall our own Declaration of Independence. Many of the great reform movements around the world in the last 200 years have based their goals on the ideals contained in America's Declaration.

The most relevant phrase in that document for the situation today says that governments derive their just powers from the consent of the governed.

That is a principle that has been violated in the Republic of Lithuania for the last 50 years.

Today would be a good time to show the world that America still places the same faith in self-determination that it did 200 years ago.

I urge my colleagues to support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I believe that no matter what happens tomorrow, next week, next month, I think all Members know that Lithuania will become an independent nation again. As history is our teacher, there is no doubt that events have gone so far and have reached a point that Lithuania cannot return to the past. It has been fighting for its identity for the last 50 years. That fight should now be over.

It is very clear that Mr. Gorbachev really meant what he was talking about when he said glasnost and perestroika, but if he continues to mean what he said, then he cannot have it both ways. He cannot allow Czechoslovakia, a Romania, a Hungary, an East Germany, and then say "No," to the republics. Nineteen Ninety will be remembered as the year where a Lithuania can return to the habits of the heart, Lithuanians can once more say from their hearts, "We will be free."

That is why tonight this resolution is so important, and so important that nations who know freedom, who take it for granted, who literally have it day in and day out, reach their hands to Lithuania and be very clear to Mr. Gorbachev that this small nation that has fought for its identity for 50 years, the time has come—Lithuania must be independent again.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. LEACH], the ranking member on the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs.

Mr. LEACH of Iowa. Mr. Speaker, I rise first to support the President's restraint, and second to support the initiative before Members. The two, in my judgment, are not in contradiction.

Thomas Paine, in this polemic "The Rights of Man" in words later paraphrased by Barry Goldwater, once noted that: "Moderation in temper is always a virtue; moderation in principle is always a vice." It is key that Soviet leadership and Russian people understand that the restraint of the President, his decision not to return to confront is designed to underscore that Lithuania is an issue of indigenous self-determination, not foreign-inspired insurrection, and that a courageous people is not going to be used as a pawn in an East-West conflict.

However, in case there is any question where America stands, this Congress, this administration, the American people, are four squarely on the side of self-determination. We hold as a self-evident truth that Lithuania was never legally incorporated into the Soviet Union. A dirty deal made 50 years ago between two dirty men—Hitler and Stalin—should not be honored by civilized people, within or without the Soviet Union.

There are times in the affairs of states when moral stands must be taken. This issue presents such a circumstance. It is no accident that 10 American administrations, commencing with Franklin Roosevelt and including George Bush, acknowledged the independence of all the Baltic States.

While at first blush it might be argued that the Lithuanian struggles pits two threads in American history—the imperative of self-determination implicit in the Revolutionary War and the imperative of union—an undivided house—implicit in the Civil War in contradestination, it must be pointed out that the Civil War analogy is flawed because all of our States (only one seceding of which—Texas—was a former country) entered the union voluntarily. The analogy is also flawed because the purpose of the Civil War was to end slavery, to advance human freedom, rather than restrict individual rights and aspirations.

Unlike the United States, Lithuania is showing the world that the Soviet Union is a collection of nation states, a boiling, rather than a melting pot. As Members of Congress understand, article 72 of the Soviet constitution gives all 16 Soviet republics the explicit right of secession. Unfortunately, no enabling legislation has ever been adopted. Such legislation is reportedly under consideration today in Moscow, but lest there is doubt if it is designed as a catch-22, an approach which recognizes a right but then stifles its implementation, it will be impossible for the United States to respect a Soviet

constitutional process, thus impossible for the United States to take any stand except one directly confrontational of Moscow and directly supportive of the Lithuanian Government.

Finally, as a reminder to free people everywhere who want to support the changes under way in the Soviet Union, the tanks flexing their armor today, the troops stationed today in what last week was an independent newspaper office, the visas withdrawn this week from foreign journalists, the diplomats recently ousted from Lithuanian soil, stand as a cheering reminder that the Tiananmen Square mentality is tragically alive and well in Soviet occupied Lithuania, as well as China.

In salute to the courage of President Landsbergis and the Lithuanian people, we in Congress can do no less than to stand up for our revolutionary individual rights heritage, and point out how repressive and antirevolutionary Soviet Marxism is.

□ 2020

Mr. Speaker, it is the democracy of Thomas Jefferson and Thomas Paine, not Mikhail Gorbachev, that Congress must reflect upon today. The Lithuanian people deserve our support, because with courage and fortitude they so unmistakably embody our principles.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. DURBIN], the chief sponsor of the resolution.

Mr. DURBIN. Mr. Speaker, let me first express my gratitude to the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], the cosponsor of this resolution, the gentleman from Michigan [Mr. BROOMFIELD], and, of course, the gentleman from Indiana [Mr. HAMILTON], chairman of the subcommittee. Without their assistance in bringing this issue to the floor in a timely fashion, we might not have been able to address the issue at this moment. I thank them for their cooperation in crafting the resolution and bringing it to the floor.

Mr. Speaker, whether the United States is losing its position as the dominant economic force in the world, few would dispute the fact that we continue to show leadership in the world as a voice for democracy. The revolutionaries of Eastern Europe quote our Founding Fathers to rally their people, they parade with banners written in English to link their message with America, and they visit this very Chamber to validate their leadership in the world community of free nations.

The role of the United States as inspiration and guardian of democratic values and human rights is not always an easy one. Today our leadership is being tested in the case of Lithuania.

For 50 years the U.S. foreign policy under Democratic and Republican Presidents alike has been consistent. We have refused to recognize the forced annexation of Lithuania and the Baltic nations into the Soviet Union. We rejected the secret agreement between Hilter and Stalin which destroyed the independence of Lithuania, and we stood our ground for half a century for Lithuania's sovereign rights.

That policy and that message were not lost on the people of Lithuania, and on February 24, after years of planning and hope, the people of Lithuania went to the polls in a free and open election and voted by a margin of 80 percent to declare their independence. Make no mistake, the Lithuanians knew the momentous task they faced, but they also knew, or thought they knew, where their democratic ally of 50 years, the United States, would be. Today, only 3 short weeks after their declaration of independence, the people of Lithuania have endured brutal intimidation by Moscow.

Mr. Gorbachev promised a peaceful resolution of Lithuania's future, with no use of military force, but his actions betray his words. As we meet today, America's diplomats have been expelled from Lithuania, and foreign journalists have been forced to leave. Soviet tanks and armored vehicles rumble through the streets of Vilnius. Soldiers occupy Government buildings and newspapers. Young Lithuanians are forcibly rounded up and punished for their refusal to serve in the Soviet Army.

While Mr. Gorbachev applies the pressure to bring this tiny Baltic nation to its knees, Lithuania waits for word that the United States has not abandoned its foreign policy in the Baltic or the dreams of the Lithuania people.

The United States today, as it has for 50 years, holds the lifeline to Lithuania. If we loosen our grip and it slips away, the dream of freedom in Lithuania may be lost for another 50 years.

Today Mr. Shevardnadze arrived in Washington for meetings with the Secretary of State. When he arrived at this airport, he was asked immediately about the situation in Lithuania. He said, and I quote from the Soviet press story:

> You must understand the importance of that question for the Soviet Union and the Soviet people. Our main weapon in resolving any issue . . . is dialog, honest dialog.

I would say to Mr. Shevardnadze that in Lithuania dialog, honest dialog, is possible without tanks, without military planes, without troops, and without pressure. I would say "Dialog Mr. Shevardnadze, honest dialog, is possible with foreign diplomats and foreign reporters standing by." Lithuania has been standing ready for this dialog for 3 weeks, today the fourth delegation of Lithuanians traveled to Moscow in an attempt to open this dialog. The burden is now on the Soviet Union to join Lithuania at the table.

Let us hope that the events of the last few hours indicate that things are on the improving curve, as we hope and will it, in the country of Lithuania. But if the darkest days should come and if that wall of silence should fall around Lithuania, let them hear the words of this resolution from this Congress in the greatest democracy in the world; let them hear that we still stand with Lithuania if it is the last word they hear before the Iron Curtain descends on Lithuania.

Mr. Speaker, from around the world, our hopes and our prayers are for peace and freedom in Lithuania, in the Soviet Union, and around the world.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington [Mr. MILLER], member of the Committee on Foreign Affairs and one of the last Congressmen to visit Lithuania following the multiparty elections just recently.

Mr. MILLER of Washington. Mr. Speaker, I thank my distinguished colleague, the gentleman from Michigan, for yielding me this time.

Mr. Speaker, this is an awesome occasion, not just for the people in Lithuania but for the people of the United States, and it is time to reflect back 50 years to when Hitler and Stalin entered into that infamous pact to divide up Eastern Europe.

It was pursuant to that pact that Lithuania was occupied by Soviet troops, who came and occupied an independent Lithuania, an independent Latvia, and an independent Estonia. That pact is today recognized by the Soviet Union as being illegal.

Then, after Lithuania had been occupied by the Nazis and then again by Soviet forces, we entered into what in this country we refer to as the cold war. But what was the major cause of that cold war? It was the occupation of independent nations in Eastern Europe by Soviet troops and the refusal of the Soviets to withdraw their armed forces.

Many nations in Eastern Europe suffered that fate. Now Lithuania wants to reclaim its freedom and independence, just as Poland and Czechoslovakia and Hungary have reclaimed theirs.

My distinguished colleague, the gentleman from Indiana, says that we call for restraint in this resolution by both sides, and certainly we do want restraint by both sides. But after all, when we look at restraint, it is not the Lithuanians who are sending troops and tanks into the Soviet Union, it is not the Lithuanians who are kicking diplomats and journalists out of the

Soviet Union, and it is not the Lithuanians who are breaking into hospitals in Moscow. No, it is the Soviet Union that has been violating restraint.

The Lithuanians are a brave people. Those of us who visited Lithuania in our congressional delegation know how brave and steady and heroic they are. This is the time in the United States and in this Congress to base our foreign policy on what I think are two very good themes: First, consistency with our principles longheld, the principles of human rights and self-determination and independence that we believe in, and, second, to be consistent and steady with the foreign policy that we have pursued in previous years. For 50 years we have pursued a policy of not recognizing the Soviet occupation of Lithuania, and for 50 years the policy of all administrations, as embraced in the platforms of both political parties, has been to welcome an independent Lithuania.

Mr. Speaker, I agree with my colleague, the gentleman from Michigan, that this resolution could be stronger. But it does indeed express our feelings for the people of Lithuania. It does put us on record as supporting recognition at the earliest possible time, and it does put us on record as advising the Soviets that if they use force to settle this dispute, there will be, and I quote, "severe repercussions" in the relations between our two countries.

Mr. BROOMFIELD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, not long ago President Vaclav Havel of Czechoslovakia delivered an inspirational address to a joint meeting of this Congress about democracy and the human spirit. That image of a dissident playwright turned president is one of the most stirring proofs that democracy is winning in Eastern Europe.

□ 2030

And yet, Mr. Speaker, the new President of Lithuania makes this former playwright, Vaclav Havel, look like a career politician. Dr. Vytautus Landsbergis is a professor of music. He teaches piano at the conservatory of music at Vilnius. He is soft-spoken and mild-mannered and, like the other leaders of the Sajudis independence movement, he is an intellectual. This is the unlikely general that is leading the fight against the Red Army in Lithuania.

Mr. Speaker, before he became the President of Lithuania, Dr. Landsbergis and I met in my Washington office. We sat down and wrote out the first version of this resolution to support Lithuanian independence. By the time I departed Washington as one of Speaker FOLEY's four-member delegation to the Lithuanian elections, we had gathered over 80 cosponsors. Today, 6 weeks after the Lithuanians swept the Moscow Communists out of office in their elections and 3 weeks after their new parliament declared, reaffirmed, its independence, the Soviet Union is cracking down with violence.

Mr. Speaker, our resolution today congratulates the Lithuanian people on their multiparty elections. It calls on the Soviet Union to respect their independence and to give up its forceable occupation of Lithuania which America has never recognized over half a century. It condemns the use of force which Gorbachev promised he would not use, but which the tanks, and the soldiers and the paratroops show he is, in fact, already using to intimidate the Lithuanian people.

Today our resolution is supported by the leadership of both parties. It answers the call of Landsbergis and the free people of Lithuania for American recognition and support. With this resolution we proudly state America's solidarity with the peaceful Lithuanian revolution.

The message to the Soviet Union from the U.S. Congress should be clear. Give up your unholy empire, and let your colonies go. Stop intimidating as the czars, and the Stalins, and the Khrushchevs and the Brezhnevs. Live in peace with the independent, democratic nations on your borders who offer no threat to you.

Mr. Speaker, Lithuania will be free, and with this resolution the United States can make it clear we intend to stand shoulder to shoulder with the free people of Lithuania.

Mr. Speaker, I am proud to urge my colleagues to vote in favor of this resolution in support of Lithuanian independence.

Mr. BROOMFIELD. Mr. Speaker, I failed to indicate that there are three other Members that were with the gentleman from Washington [Mr. MILLER] on that trip to Lithuania: the gentleman from Illinois [Mr. DURBIN], the gentleman from California [Mr. Cox], and the gentleman from Texas [Mr. SARPALIUS]. Those three should be included, too, and the fact that they were all together.

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 289, expressing the sense of Congress in support of the Lithuanian people in their desire to seek independence.

We, the American people, must remain firm in our support and conviction in seeking to bring about Lithuanian independence. In my view, the United States Government must spare no effort in seeking cooperative efforts to gain Lithuanian independence. House Concurrent Resolution 289, represents one small step in seeking to bring about this end.

I strongly recommend and support our passage of House Concurrent Resolution 289 which congratulates the peoples of Lithuania on their recent multiparty elections and wishes the new Government of Lithuania well in its efforts to restore Lithuanian independence. This resolution is straightforward in urging the Soviet Union to both recognize and respect the aspirations of the Lithuanian people in seeking independence and encourages the Soviet Union to enter into immediate, meaningful, and constructive negotiations with the new Lithuanian Government on an equal basis in order to reach agreement on Lithuanian self-determination.

House Concurrent Resolution 289, also serves to caution the Soviet Union to refrain from political, military, or economic intimidation of Lithuania and warns that the use of force by the Soviet Union against Lithuania would have serious repercussions for the current and evolving state of United States-Soviet relations. Clearly, any such actions by the Soviet Union would be both grave and tragic. In this regard, House Concurrent Resolution 289, expresses the belief of Congress that the Soviet Union has no right to force the Lithuanian people from their peaceful exercise of their democratic rights. Finally, House Concurrent Resolution 289, supports the President in his commitment to the doctrine of negotiation and urges him to reaffirm his personal commitment to an independent and democratic Lithuania in an active way.

As the situation of Lithuania demonstrates, the age of democracy is upon us. It is my hope that passage of House Concurrent Resolution 289, further facilitates the dawning of this new era in world affairs.

Mr. MICHEL. Mr. Speaker, I rise in support of the resolution.

Lithuanian independence is an issue that in recent weeks has come to transcend questions of national sovereignty and diplomacy. It has become an issue that symbolizes not only the fate of Lithuania, but the fate of Mr. Gorachev's glasnost and perestroika.

The best solution—the only solution that meets the standards of international justice—is one in which the voice of Lithuanian people is heeded and ultimately acted on.

Lithuania, in the official view of our Government, as enunciated under no fewer than 10 Presidents of the United States, is "in" but not "of" the Soviet Union. The only question is how Lithuanian independence can become a reality in the full sense of the term.

If intimidation and the show of force succeed, Mr. Gorbachev may think he has won a victory, but it will be short lived. Glasnost and perestroika initiatives will have suffered irreparable, perhaps fatal, damage. His relationship with our country will seriously deteriorate. I cannot believe this is what he wants.

If the spirit of glasnost and perestroika means anything at all, aside from rhetorical flourishes, it means not only listening to calls for justice, but acting upon them.

It is reported in today's New York Times that Lithuanian President Landsbergis says it is not a question of power being "handed over the very next day." In making that statement he has shown admirable diplomatic sensitivity at a critical juncture. Mr. Gorbachev should be encouraged to do the same.

At a time like this, when the wrong word, even the wrong intonation, can have a profound effect on events, the very last thing the United States needs is an emotional, dema-

gogic reaction. We cannot afford the luxury of provocative rhetoric if it is the Lithuanian people who are ultimately going to pay the price.

There are different kinds of courage and one kind is the courage to take care, to be responsible while being responsive.

I believe this resolution has that quality. It reaffirms our commitment to the independence of Lithuania and, at the same time, avoids the easy appeal to emotion that costs us nothing, but that might cost the Lithuanians everything.

The courage to take care, especially when the lives and the independence of others is at stake, may not appeal to everyone, but it is the only moral and, in my view, effective way to go in this case.

Mr. GEPHARDT. Mr. Speaker, in this tense and critical moment—the first real crisis of the post-cold war era—it is important for the people of Lithuania and the Government of the Soviet Union to how that the American people are as one on this issue. When it comes to standing for freedom, we are not divided by party or ideology; we are united in conscience.

President Bush is right to emphasize the need for a peaceful solution and self-determination. But the Congress, too, has a role to play. As the branch of government closest to the American people, we can best articulate what is in the hearts of our countrymen. The American people are saying that they want a peaceful solution to the Lithuanian situation—and they want the outcome to be a free Lithuania.

Mr. Speaker, the American people, and the American Government, support freedom and self-determination for the people of Lithuania, and we believe President Gobachev must only pursue a peaceful resolution of this crisis; one that respects those principles. The best way for the United States to affect the situation in Lithuania is by using our influence with the Soviet Union, to help them understand that the use of force will definitely harm our relations.

This resolution does just that—and we are indebted to Representative DURBIN, Chairman FASCELL, and Chairman HAMILTON for bringing this resolution to the floor. I urge my colleagues to join me in giving support to the legitimate aspirations of the Lithuanian people.

Mr. LAGOMARSINO. Mr. Speaker, as an original cosponsor of House Concurrent Resolution 289, I rise in strong support of this timely measure congratulating the Lithuanian people on their recent successful multiparty elections and their decision to restore Lithuania's rightful independence and urging the Soviet Union to respect this right of Lithuanian self-determination. As a member of the Baltic Freedom Caucus, I also supported incorporating this resoluton as an amendment to our foreign aid bill.

The new Lithuanian Parliament voted 124 to 0 to declare independence from the Soviet Union. This dream of self-determination and independence is finally beginning to be realized after 50 years of illegal Soviet occupation that began with the illegal Hitler-Stalin secret pact. We have never recognized the annexation of this once independent nation into the Soviet empire. Today, I'm encouraged that we are officially expressing congressional—the American people's—support for the Lithuanian people and their efforts to regain their sovereignty.

While I am very encouraged by events in this Baltic State, I am also very concerned about Soviet reactions to the Lithuanian people's choice and about ultimate Soviet intentions. This resolution recognizes the great uncertainty of this time. Unlike the incredible events in Eastern Europe, the Communist Soviet Government does not view Lithuania, or the other Baltic States of Latvia and Estonia, as satellites but as integral parts of the Soviet Union. Lithuania is a very important, very crucial test case and precedent setter for the Soviet Union. How they will continue to react, I don't know. While so far President Gorbachev has shown restraint, he has flexed the Red army's military muscle through seizing various strategic sites in Lithuania and conducting threatening military exercises in this State.

By supporting and encouraging the Lithuanian people, I believe that we are sending a strong message to the Soviet Union. For perestroika to work and Gorbachev to succeed, the Soviets desperately need Western assistance and trade. I believe we should keep the Soviets' handling of this Lithuania situation in the forefront during our consideration of increasing ties with and benefits to the Soviets. We care about events in Lithuania. We care about the freedom of the Lithuanian and other captive peoples. How they are treated will directly impact on the future of United States-Soviet relations.

This resolution also wisely urges the President to gain the support of our allies in both helping Lithuania directly, through credits and technical assistance, and indirectly through standing firm with us against any aggressive Soviet moves. As in Eastern Europe, United efforts will lead to much faster and more encompassing success.

I am encouraged by this morning's news that both the Lithuanian Government and the Soviet Government are trying to find ways to diffuse the increasing tensions. I believe our outspoken support will help resolve this issue in a positive way—one that results in true Lithuanian independence.

I am pleased that this resolution has been expeditiously considered by the Foreign Affairs Committee, upon which I serve, and now by the full House. I urge my colleagues to join me in strongly supporting it. Thank you.

Mr. DURBIN. Mr. Speaker, over 3 weeks ago, the new Government of Lithuania declared its independence from the Soviet Union. This historic act was taken with the expectation that Lithuania's friends in the West would follow their warm words of encouragement with moral and practical steps of support.

It was the United States, after all, that for 50 years refused to recognize the forcible annexation of Lithuania by the Soviet Union. Our unswerving observance of the nonrecognition policy had kept alive hopes during the long, dark period of Soviet rule for a free and independent Lithuania. Who would have questioned that the West, upon hearing of Lithuania's independence, would not welcome her back to the family of nations?

Certainly not President Landsbergis and the people of Lithuania. For 3 weeks, they have waited courageously for the West to recognize their accomplishment and support them in their quest for constructive negotiations with the Soviet Union.

They have done so in an atmosphere of military and psychological intimidation. Tanks have rolled by the Parliament building, Soviet fighter planes have flown low over the capital of Vilnius, Soviet troops have stormed Lithuanian hospitals and beaten and detained deserters from the Soviet Army. Just this past weekend, the Soviets for the first time took over an agency of the Lithuanian Government, the state prosecutor's office, and installed their own henchmen.

Through it all, President Landsbergis and his people have waited to hear from us, first with great hope and now with deepening disappointment. Why is it, they ask, that our friends have not come to our side? Why is it that the West cannot detect in the increasingly hostile Soviet response a hardening of will, one that preys on the moral ambiguity of others?

I hope, Mr. Speaker, that the House of Representatives will not allow these questions to go unanswered, and that we will express our support for the people of Lithuania by passing House Concurrent Resolution 289. I would also ask that an appeal issued by President Landsbergis and his government to the Congress, as well as a recent statement by Lech Walesa, be entered into the RECORD. Two courageous men, each with a lifetime of experience living under Soviet domination, asking for one thing: That all nations of the world, including the Soviet Union and the United States, recognize the aspirations of the Lithuanian people to be free.

VILNIUS, MARCH 29, 1990.

DEAR SENATORS AND CONGRESSMEN: By the will of the people of Lithuania, we, the Supreme Council of Lithuania, were elected on a platform to reestablish the Republic of Lithuania, continuing its statehood, returning it to Europe and to the family of free nations. And we have done it. But now the freedom of Lithuania is in great danger.

For this reason, I would like to state very clearly:

Support for Lithuania is support for freedom and democracy in Eastern Europe. This support will also undoubtedly help Mr. Gorbachev: it would stop him from making a great mistake.

The recognition of the government of the reestablished Republic of Lithuania that we request is a very important step towards strengthening peace in the world. As we wait with strong hearts and with no weapons in our hands, we await your help in this difficult struggle against militarism and aggression, in this struggle for peace and justice.

Yours, with trust and hope,

VYTAUTAS LANDSBERGIS,
President of the Supreme Council of the Republic of Lithuania.

STATEMENT OF LECH WALESA TO PRESIDENT MIKHAIL GORBACHEV WITH RESPECT IN RECENT EVENTS IN LITHUANIA

GDANSK, POLAND,
March 27, 1990.

To: Mr. Mikhail Gorbachev, President of the U.S.S.R., Moscow.

DEAR MR. PRESIDENT: The beginning of the policies of glasnost and perestroika, the renunciation of the political monopoly of the CPSU, and the return of the nations of the republics the rights that had been taken away from them are all genuine achievements that have been made possible by your courageous policies. However, Soviet actions in Lithuania that do not conform to the spirit of the policies you have followed over recent years fill me with great anxiety.

Violation of Lithuania's sovereignty is an action directed against the process of creation of a new democratic European order. The history of the U.S.S.R. and Eastern Europe shows that the use of force and threats in order to solve world problems has been discredited, and condemned many times over by world opinion.

I appeal to you, Mr. President, to cease policies of military pressure and to begin a political dialogue with the Government of Lithuania.

LECH WALESA.

Mr. DOUGLAS. Mr. Speaker, today we will enact a very strong resolution calling for normalization of relations with Lithuania. In this morning's statewide paper in New Hampshire appeared an excellent editorial exposing Western infatuation of Gorbachev. Gorbachev is soon to show himself as Stalin with a smile. I commend Mr. Nackey Loeb for a well-aimed shot.

[From the Manchester (NH) Union Leader]

(By Nackey Loeb)

History Awaits Lithuania's Fate

As a key point in world history, what is about to happen in Lithuania deserves every bit as much attention as the destruction of the Berlin Wall.

Right now, America must mostly watch and wait, for it is Gorbachev who must make the next move.

However, in keeping with our national commitment to stand on the side of those who seek freedom, we should have the guts to recognize the government of Lithuania. It may seem like a meaningless gesture to us. But to the Lithuanian people, such recognition might give them the strength they need to continue the battle.

When Gorbachev plays his cards, as he must, we will finally know the real man with the smiling face and well-tailored suits. If he throws the full forces at his command into subduing the Lithuanian nation, then we will know that we have been conned by a leader in need of Western acceptance. And, if not, communism might be seen to go down in defeat in the near future.

Lithuania is where it must happen. Despite the terrible death and destruction perpetrated by communism through the years, it has failed to dim the light of freedom, which burns yet in the hearts of people.

A year ago, no one thought it possible that the Berlin Wall could come down. Now, as we watch the situation developing in Lithuania, those who considered communism invincible may have to change their minds about that as well.

Mr. YATRON. Mr. Speaker, I strongly condemn the recent steps of the Soviet Government to suppress the Lithuanian independence movement. The brave Lithuanian people have taken a bold step to realize their democratic aspirations. They have done so peacefully and have acted consistent with the Helsinki Final Act, to which the Soviet Union is a signatory.

President Gorbachev has consistently maintained that he will not use force in addressing the Lithuanian question. I call on him to keep this pledge and to resolve the situation peacefully and through negotiations. The Lithuanian leadership has shown tremendous courage, fortitude, and a willingness to discuss their intentions amicably with the Soviet Government.

President Gorbachev should put an end to the blatant harassment, threats, ultimatums, and intimidation. I am deeply concerned that the takeover of certain buildings, the apprehending of the Lithuanian troops, the Soviet troop movements and helicopter overflights might serve as a prelude to more severe action. Soviet use of force in Lithuanian, will produce unpredictable and severe repercussions in United States-Soviet bilateral relations.

I strongly support House Concurrent Resolution 289. It sends a timely and important message not only to the Soviet leadership and the Lithuanian people, but to all those concerned about respect for human rights.

The resolution congratulates the Lithuanian people on their recent elections and efforts to establish democratic institutions and independence; it also calls on the Soviet Union to refrain from the use of force and to engage in peaceful negotiations with Lithuanian representatives. The measure further urges the President to normalize diplomatic relations with the Lithuanian Government and to seek support among our allies for Lithuanian self-determination.

As chairman of the Subcommittee on Human Rights and International Organizations, and as a primary sponsor of House Concurrent Resolution 289, I will continue all my efforts in support of the Lithuanian people as they continue to overcome the years of Soviet domination.

The United States has never recognized the illegal Soviet incorporation of the Baltic States, including Lithuania. I call on the President to reaffirm and to demonstrate our commitment to an independent and democratic Lithuania.

Mr. KOSTMAYER. Mr. Speaker, in 1776, embracing the principles of freedom and self-determination, we declared our independence from King George III. Over 200 years later, another declaration of independence, has occurred: The declaration of Lithuania's independence from the Soviet Union.

In multiparty elections held on February 24, 1990, the people of Lithuania gave a clear mandate to their new legislators for the restoration of national independence. On March 11, 1990, the new parliament of Lithuania demonstrated great courage in exercising this mandate for democracy and self-determination by officially declaring the restoration of an independent Republic of Lithuania.

The Soviet Union, which in 1940 forcefully occupied and annexed Lithuania as a result of secret agreements between Hitler and Stalin, refuses to recognize the will of the Lithuanian people. The Soviet Government, through the use of military intimidation and economic threats, is preventing the Lithuanian leadership from carrying out its governmental functions. This is occurring even though last November the Soviet Congress of People's Deputies declared the Soviet-Nazi Pact to be null and void and the annexations illegal.

It is crucial that the United States make clear its support for Lithuanian sovereignty and the Government of the Republic of Lithuania. I urge the President to extend diplomatic recognition to the duly elected Government of Lithuania. Additionally, the President must call on the Soviet Union to refrain from further acts of coercion or intimidation through military, political, or economic means and to immediately enter into meaningful negotiations with the Lithuanian Government. There must be no doubt that our relationship with the Soviet Union will be strongly affected by Soviet behavior in Lithuania.

The Lithuanian people have made plain their wish for freedom, and it behooves us, as responsible leaders of a nation grounded in that shared principle love of freedom, to support the Lithuanian people in their valiant struggle for independence.

Mr. PORTER. Mr. Speaker, I rise in support of House Concurrent Resolution 289, and commend the authors of the resolution and the committee for moving it to the floor in such an expedited fashion.

I fully support the longstanding United States position that rejects the incorporation of Lithuania and the other Baltic States into the Soviet Union. The pact signed in 1939 between Stalin and Hitler was disgraceful. It represents the worst of an era in European history characterized by the complete abandonment of individual choice and national identity.

All nations of the world who value human rights and personal freedoms should denounce the agreement and support self-determination for the people of Lithuania.

The current tension in Vilnius represents President Gorbachev's toughest test. It was his reform that allowed the people of Lithuania to speak openly about their longfelt desire and right to self-determination. And it was Mr. Gorbachev who first allowed open public discussion of the shameful policies of Joseph Stalin. This discussion has led to the predictable demand of Lithuania and the other Baltic States to right the wrong that was inflicted on them 50 years ago.

President Gorbachev must not answer these cries with tanks and intimidation. The situation calls for negotiations and consensus, compromise and trust, not the heavyhanded and unjust Soviet policy of intimidation now being practiced in the streets of Vilnius.

As cochairman of the Congressional Human Rights Caucus, I urge all Members to support this important resolution and to continue to support the Lithuanian people in their quest for independence and self-determination.

Mr. SMITH of New Jersey. Mr. Speaker, Lithuanian President, Vytautas Landsbergis, has again sought agreement with the Kremlin to sit down and begin a dialog about the Republic of Lithuania's "legal status * * * in relation to the Soviet Constitution and international law." Yesterday, President Landbergis sent a communication to President Gorbachev

further explaining how the Lithuanians sought "by means of agreements and a gradual takeover of certain functions [how they] would consolidate independence."

The discerning leadership in Lithuania recognizes that their movement to full independence requires a gradual, systematic transfer of power to govern the territory. Mr. Speaker, the leadership of Lithuania and Soviet leader Gorbachev stand at the brink of a critical development in the Union of Soviet Socialist Republics. The world is watching—and hoping. Mr. Speaker, I believe we must stand with those who aspire democratic rights and national sovereignty—the newly restored Republic of Lithuania.

Mr. Speaker, at this crucial time the United States must reaffirm its commitment to an independent and democratic Lithuania. The United States has never recognized Lithuania's corporation into the Soviet Union and we must normalize diplomatic relations with the new Government of Lithuania. It is advisable that the United States appoint an ambassador demonstrating our commitment to and support for the new Lithuanian Government's decision, in response to the voters, to restore the independence of Lithuania. They need that international support.

Last week the Foreign Affairs Committee approved a resolution carefully outlining these concerns and calling on the Soviet Union to immediately enter constructive negotiations with the newly elected Government of Lithuania. The resolution, which I cosponsored, outlines United States concerns that political, military, and economic intimidation would impede the progress of negotiations and possibly diminish Lithuania's long-term economic viability. Mr. Gorbachev must refrain from these intimidating responses to the declaration of an independent Republic of Lithuania on March 11.

Mr. Speaker, I encourage my colleagues to support House Concurrent Resolution 289 which was reported out of the Foreign Affairs Committee last week. Time is not on our side on this issue. The United States position must be unambiguous and in support of the Lithuanian people who elected their new legislators in February and handed them a clear mandate for the restoration of independence for the Republic of Lithuania.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 289, in support of the right of the Lithuanian people to independence.

On February 16, 1918, the people of Lithuania established a free and democratic nation-state. For the last 50 years, every administration since President Franklin Roosevelt's has offered unwavering support for the people of Lithuania in their quest for independence.

That quest for independence came to fruition on March 11, 1990, when the new and courageous legislature of Lithuania declared the independence of the Republic of Lithuania. Now, we here in the United States must demonstrate its unequivocal support for the aspirations of the Lithuanian people. This is a difficult period. The new Lithuanian Government will have to gain control over Lithuania's border and economy. In addition, it will need political support from the United States.

Last week the Soviet Union increased its attacks on the Government and people of Lithuania. From low-level aerial harassment to tanks marching through city streets, the Soviet Army has been unrelenting. On Friday March 30, Soviet Interior Ministry troops seized the building housing the Lithuanian Justice Ministry and installed a Soviet Military Procurator.

Mr. Speaker, this important resolution wishes the new Lithuanian Government well in its decision to carry out the will of the Lithuanian people. It also urges the Soviet Union to refrain from using force to stifle the changes taking place in Lithuania.

I commend the gentleman from Washington [Mr. MILLER] and the gentleman from Illinois [Mr. DURBIN] for their outstanding work on this measure, and I urge its unanimous adoption.

Mr. KLECZKA. Mr. Speaker and fellow Members, I rise today in support of House Concurrent Resolution 289, a measure supporting Lithuanian independence.

The urgency of Lithuania's struggle to regain its liberty prompted me to become an original cosponsor of this resolution and a founding member of the Baltic Freedom Caucus.

Now is the time for America to speak up for a small nation trying to reassert its sovereignty and reinstitute democracy.

We cannot, and must not, ignore Lithuania in its hour of greatest need. As Soviet military provocations increase daily, the administration has grown strangely silent.

While caution is an important element of diplomacy, we will not appear cautious if we allow Soviet tanks to crush Lithuania's freedom and to institute a brutal military occupation.

What sort of message would that send to our newly democratic friends in Poland, Hungary, and throughout Eastern Europe?

America values its improved relationship with the Soviet Union and its President, Mikhail Gorbachev—but surely not at the expense of Lithuanian freedom.

One of the most important provisions of House Concurrent Resolution 289 urges President Bush to take steps, at the earliest possible time, to normalize diplomatic relations between the United States and Lithuania.

While not welcome in Moscow, American moves toward recognition of the recently reestablished Republic of Lithuania would demonstrate our commitment to the new state and might ward off a Soviet invasion.

To delay further, only invites the Soviets to continue and to accelerate their gradual destruction of the new government. For 50 years, America has encouraged Baltic freedom—to not support it now would be unforgivable.

Mr. EDWARDS of Oklahoma. Mr. Speaker, tomorrow we will vote on a resolution concerning Lithuanian independence.

As a direct result of an agreement made by Adolf Hitler and Josef Stalin—two of the most tyrannical leaders in history—the Lithuanian people have suffered under Soviet oppression for half a century. But now, the Lithuanian people have taken the bold step of declaring independence from the Soviet Union. The United States must now stand firmly with what is right: support for Lithuanian independence from the Soviet empire. To remain silent at this moment when freedom is at stake in Lithuania is to acquisce in whatever President Gorbachev may do to retain his empire.

The United States Government has never recognized the forcible incorporation of any of the Baltic States into the Soviet Union. It is now time for the United States Congress to express its strong support for the brave people of Lithuania. Mr. Gorbachev has promised not to use force to deny the legitimate Lithuanian aspiration for independence—but at the same time Soviet tanks are rumbling through Vilnius, Red Army troops are occupying government buildings and members of the secret police are beating young men who have refused to serve in the Soviet Army. Gorbachev has ordered all Lithuanians to surrender their personal firearms—an ominous sign of his intent. The fact is that Gorbachev has already used force.

Mr. Speaker, this is a balanced resolution. We are all cognizant of the delicacy of the situation. No one in this body wants to undertake action which could spur the further use of force by the Soviet Union. But we must speak out. This resolution responds to the urgent appeal of the new President of the democratically elected Lithuanian Legislature by urging President Bush to take steps to normalize relations between the United States and Lithuania. It also calls upon the Soviet Union to enter into immediate negotiations with the new Government of Lithuania on an equal basis. And it sends a clear message to Gorbachev: any intimidation—whether it be through military, economic or political means—will place severe strains on United States-Soviet relations.

Mr. Speaker, the people of Lithuania have gone out on a limb for freedom and democracy in their country. The issue for Gorbachev and his policies could not be more clear: If he crushes Lithuanian freedom the way Stalin crushed Hungarian freedom in 1956 and the way Brezhnev crushed Czechoslovak freedom in 1968, Gorbachev can expect the same kind of United States response his predecessors received. The stakes could not be higher.

Mr. ANNUNZIO. Mr. Speaker, as an original cosponsor, I rise to express my strong support for House Concurrent Resolution 289, a bill to affirm the support of the House of Representatives with regard to the declaration of independence by the Republic of Lithuania.

For 50 years, the United States has condemned the forcible incorporation of the Baltic States, including Lithuania, by the Soviets. We have never recognized this illegal action, and every President from President Franklin Roosevelt to President Ronald Reagan has reiterated our longstanding commitment and support for the people of Lithuania in their quest for a free and independent state.

However, like many of my colleagues in the House of Representatives, I am frustrated and appalled that our President has not followed this longstanding policy, and has not taken a strong stand in reaffirming our country's 50-year position of nonrecognition of Soviet domination and incorporation.

After 50 years of our constant condemnation of the Soviets for their illegal occupation, was it too much for the people of Lithuania to expect that the United States and the other

Western powers would not immediately come to the aid of the Lithuanian people, and recognize the reassertion of an independent state—a free state forcibly and illegally taken away from them 50 years ago? After all, the Lithuanian legislature did not break away from the Soviet state; they were never a part of it, and the declaration of independence on March 11, 1990, is a restoration and reaffirmation of Lithuanian independence.

It is my strong belief that the President's silence on this issue is tragically helping to legitimize and recognize this illegal control the Soviets have maintained over the last 50 years.

Mr. Speaker, the United States must act. Democratic movements are sweeping across Eastern European countries, including the countries forcibly incorporated by the Soviets, yet the United States had remained silent.

I urge my colleagues in the House of Representatives to approve this legislation to demonstrate our unwavering support for the people of Lithuania in their quest for freedom, and more importantly, I urge President Bush to take immediate action to recognize the Republic of Lithuania as a free and independent state.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Concurrent Resolution 289, which expresses the right of the Lithuanian people to independence. I compliment the gentleman from Illinois [Mr. DURBIN] for his leadership in this matter and I am proud to be a cosponsor.

Ten years ago when Americans first got word of Poland's independent trade union, Solidarity, we reacted with caution and concern. This was especially so here in Washington. Word was passed that Solidarity, while moving toward our shared goals of democracy and freedom, had adopted confrontational tactics and was asking for trouble.

Let's face it, we Americans have grown used to orderly changes within a stable political process. It is sometimes too easy to forget that we have had our share of unrest and confrontation on the way to our cherished independence and freedom.

Thanks to the brave patriots of Lithuania, we are again reminded that freedom can seldom be won without confrontation, and that timing cannot always be neatly controlled. President Landsbergis and his countrymen have acted with courage and resolve. Americans must join them in their fight for democracy and freedom especially when it makes us nervous to do so.

House Concurrent Resolution 289 provides the support and the pressure that the people of Lithuania need. It urges the President of the United States to reaffirm his commitment to an independent and democratic Lithuania and urges him to move toward normalizing diplomatic relations with the new Government of Lithuania at the earliest possible moment. Finally, it urges the Government of the Soviet Union to refrain from acts of political, military, and economic intimidation.

I urge my colleagues to support the resolution.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of House Concurrent Resolution 289, legislation honoring the courageous efforts of the Lithuanian people that have brought them to the brink of freedom and independence for the first time in 50 years.

As the representative of one of the most active Lithuanian communities in the United States, I proudly have stood together on many occasions with them to remind the world of our hopes and prayers for freedom in Lithuania. In fact, a busload of Lithuanian-Americans from Pinellas County is on its way to our Nation's Capitol to be here Wednesday for final consideration of this resolution. For us, it is an exciting time to see what is happening in the world, knowing that Lithuania will be the next nation in the Soviet-bloc to regain its right of self-determination.

The people of Lithuania have shown the world that military power and Government oppression cannot suppress the burning desire for freedom. There is no denying the freedom movement that has swept so much of the world these past 6 months and nowhere does the desire for freedom burn brighter than in Lithuania. Despite 50 years of occupation and oppression by Soviet troops, and a continuing campaign by the Communist government to eliminate their cultural heritage, traditions, language, and religion, Lithuania is at the threshold of freedom and independence.

Lithuanian-Americans in Pinellas County, the United States, and throughout the world can take pride in the role they have played in providing support and encouragement to family and friends there. Our strong and vibrant local Lithuanian community has led a nationwide show of support for the people of this great Baltic State. We cannot, however, lessen our resolve to see a free and independent Lithuania. If the Soviet Union is sincere in expanding the freedoms and liberties of the Soviet people, then let them grant independence now to these peaceful and freedom-loving people.

Mr. Speaker, the United States is the beacon of hope for freedom-loving people throughout the world and it is important at this critical juncture in the history of Lithuania that we reiterate our steadfast support for its people and Government as they reemerge from the bonds of Soviet dominance and communism. This resolution today not only sends a strong message of support from the Congress, but it also puts the Soviet Union on notice that our Nation is closely watching its every action and that any continued dialog with the United States is dependent upon their response to the cry of freedom and independence from the Baltic people.

Ms. OAKAR. Mr. Speaker, I rise in support of House Concurrent Resolution 289. I would like to commend the gentleman from Illinois, Mr. DURBIN, for his work on this resolution. I would also like to thank the distinguished subcommittee chairman, Mr. HAMILTON, for bringing this legislation to the floor in such a timely manner.

When the Red army occupied the Baltic States in 1940, we refused to recognize their incorporation into the Soviet Union. Lithuania, Latvia, and Estonia had been sovereign republics and members of the League of Nations.

For 50 years, the United States has affirmed support for Baltic independence and opposition to aggressive expansion, with the dream that some day their nightmare of foreign occupation and oppression would end; 23 days ago the Republic of Lithuania restored an independent and democratic government. The dream the United States has supported for 50 years became a reality.

I urge President Gorbachev to respect the sovereignty by immediately ceasing political and military harassment and violence and to enter into negotiations on an equal basis with Lithuania on their future relations as neighboring countries. While the Soviet Union and Lithuania differ over whether Lithuania was ever legally incorporated into the Soviet Union, even the Soviet constitution recognizes the right to secession. Differences over the semantics of independence can be worked out. The point is, that the principle of Lithuanian independence be upheld.

It is also imperative that our country play a positive role in the Lithuanian Independence Movement. This is a brave nation that has applied the non-violent tactics and principles of Mahatma Gandhi and Martin Luther King to restore its independence, and they are calling for our support.

I urge President Bush to respond positively to the appeal of the Lithuanian people for recognition. This would keep faith with the position we have consistently taken for the past 50 years and it would strengthen the negotiating hand of President Landsbergis at the time when he and his nation are most vulnerable. Our support and attention can make the critical difference between independence and the loss of liberty and lives. Extending our hand to the new Lithuanian Republic would also negate the bitter fruits of the infamous nonaggression pact, struck by history's greatest mass murderers more than half a century ago.

In the past year we witnessed the continuation of the decolonization process, which was set into motion following World War II with the end of the British and French empires. Moscow will have to accommodate itself to the loss of its empire as well. Our country, itself a product of decolonization, must recognize the positive currents of history and support their flow toward freedom and self-determination. The brave Republic of Lithuania has taken a firm and unequivocal stand for independence; a stand that is firmly based on international law and the organized free will of the people.

For two generations, we supported the aspirations of the Baltic peoples. This generation of Lithuanians now affirms its right and its intention to rejoin the community of sovereign nations. As a nation of free men and women, we cannot forget our own origins and we cannot ignore our abiding commitment to freedom and independence. The United States now has the obligation to tell the Lithuanian people that we understand their struggle, we support their efforts and we recognize their republic.

I urge all Members to support this resolution.

Mr. BLILEY. Mr. Speaker, I stand here today to urge my colleagues to take notice of the secession crisis that is taking place in Lithuanian. It has been 3 weeks since the Lithuanian Parliament declared its independence from the Soviet Union yet already, Soviet troops are moving into the capital, Vilnius. They have

occupied the Lithuanian Communist Party headquarters and seized Lithuanian deserters of the Soviet Army.

Since 1795, the Lithuanian people have been forced to live under the religious, political, and cultural repressions imposed interchangebly by both the Russians and Germans. In 1920, Russian leaders signed a peace treaty with the Lithuanian Government recognizing full right of self-determination, freedom to secede from the state, full sovereignty and independence for both the Lithuanian people and their territory. However, with the outbreak of World War II, Lithuania, acting as a buffer state between the Soviet Union and Hitler's Germany, was one of the first to experience the aggression and fury of the war. As an occupied territory during the war, the Lithuanian people experienced communism and Soviet domination and eventually were completely subsumed into the Soviet Union.

I want to take this opportunity to point out that the Lithuanians have been fighting desperately for their independence, for the very freedoms we Americans have lead the battle to defend over the past several decades. The United States has never recognized the annexation of Lithuania into the Soviet Union so now is not the time for us to turn our backs on the people of Lithuania. They need our support and we have a responsibility to give them that support.

We have already witnessed that communism as a political and economic theory does not work. We have seen Mr. Gorbachev initiate some democratic and economic reforms in his own country as well as permit the release of the occupied Eastern bloc countries from the Warsaw Pact. The countries in the Eastern bloc have won their independence and are now basking in the freedoms that accompany that sovereignty. The United States has been supportive through all paths of assistance, yet we stand unheeding and uncommitted to Lithuania's cry for independence?

The United States has been a stalwart of freedom, protecting the rights that accompany sovereignty and democracy. The Soviet Union has occupied Lithuania for 50 years while we have denied that occupation. It is time for the United States to establish diplomatic relations with this Baltic republic. The United States must continue to preserve democracy for those who so desire to share in its fruits. We cannot sit by and let Soviet aggression place fear in the Lithuanian people. This cannot be another incident like that which took place in China last summer. Our support for freedom and democracy must not wane now as it did when the Communist forces of China ran down students who were peacefully making their voices heard for the freedoms they so desired. Lithuanians have the right to enjoy freedom as much as the Chinese students who frought for it almost a year ago. Communist aggression seems to have reared its ugly head once again, when unprecedented advancements away from the Communist theory had been taking place around the world.

Mr. Speaker, once again, I urge my colleagues to make their voices heard. We cannot allow the Soviets to think that we are reconciliatory when human rights and democracy are in question. We cannot allow the Soviets to feel that our trust for them is so deep that we cannot see the aggression that is taking place in Lithuania. The United States cannot look through the rose-colored glasses of emotion and faith in Soviet words. We cannot stand by and permit a peaceful revolution for democracy and freedom turn into a devastating show of force and violence. It is out responsibility to help protect the Lithuanian right to sovereignty and ensure them of our support for their battle.

Mr. WOLPE. Mr. Speaker, I rise in support of House Concurrent Resolution 289, a resolution in support of Lithuanian independence.

Mr. Speaker, 50 years ago the United States affirmed its commitment to democracy and self-determination by refusing to recognize the Soviet Union's illegal annexation of Lithuania. This decision remained the bedrock of United States policy toward the Baltic States and served as a source of inspiration to the Lithuanians, Estonians, and Latvians, who rightly assumed that they would always enjoy the support of the United States in their quest for freedom.

Now that Lithuania has taken the courageous role to declare its independence, we must be prepared to match our actions to our words. The resolution before the House today is a simple but very important statement which allows us to do just that. The resolution congratulates Lithuania on her efforts to restore independence, calls on the Soviet Union to refrain from using military force in the new republic and encourages the Soviet and Lithuanian Governments to enter into negotiations. Most importantly, however, this resolution urges President Bush to stand by our time-honored commitment to an independent and democratic Lithuania, free from the rule imposed on it by the Stalinist regime.

The past few weeks have been very trying for the newly formed Government of Lithuania. But under the leadership of President Landsbergis the Republic of Lithuania has demonstrated tremendous resolve and has held fast to non-violent means. It is now incumbent on the Congress of the United States to provide the moral and political support required during this crisis.

Mr. Speaker, I urge the support of my colleagues for this resolution.

Mrs. MARTIN of Illinois. Mr. Speaker, earlier this month in declaring the restoration of an independent Republic of Lithuania, the freely elected government of that nation acted boldly and with great courage.

In doing so, they put to its most rigorous test the commitment of General Secretary Gorbachev and the leadership of the Soviet Union to true reform. The Soviets are not reacting well.

While Moscow continues to respond in comforting tones to the concerns being expressed by the international community regarding their reaction to events in Lithuania, ominous steps have been taken. In the last several days Moscow has paraded its tanks through Vilnius, raided a Red Cross center and arrested Lithuanian citizens, occupied government buildings, and, most recently and most ominously, ordered more Soviet troops into Lithuania and all foreign journalists out. New thinking, it seems, doesn't preclude the use of old and tragically familiar methods.

In issuing their courageous declaration the Lithuanian people also put to the test America's long-stated commitment to a free and independent Lithuania. I'd give our side much higher marks than the Soviets, but I believe that our actions—including today's passage of House Concurrent Resolution 289—leaves something to be desired.

It is toward the Congress of the United States that people the world over look for support in the struggle for freedom, self-governance, and national self-determination. And it is from the Congress of the United States that the most unqualified support for that objective should come.

A clear statement from this body and from the Senate in support of immediate diplomatic recognition of the Republic of Lithuania by the Government of the United States would send the clearest possible and the most appropriate message to the leadership in Moscow: we do not regard Lithuanian independence as a matter for negotiation unless those negotiations are about when, and not about if or in what compromised form, independence will be recognized by the Soviet Union.

By our action today, I hope that we do not suggest either to the Soviets or to the Lithuanian people that the Congress of the United States is prepared to accept anything less.

Mr. BRENNAN. Mr. Speaker, I am very pleased at the bold move which the House took today in voting to pass a resolution supporting Lithuanian independence.

I strongly support this resolution, which underscores Congress' support of, and admiration for, the courageous people of Lithuania, and which urges the Soviet Union to recognize and respect the Lithuanian people's desire for independence and freedom.

For 50 years the United States has rightly refused to recognize the forcible annexation of Lithuania by the Soviet Union, and the beginning of the end of this illegal occupation took place 3 weeks ago when the newly elected Lithuanian Government declared its independence.

President Landsbergis, the Lithuanian Parliament, and the Lithuanian people have taken a bold and historic step toward democracy, and I believe the United States must strongly support their efforts. I call upon President Gorbachev to refrain from use of force, and to recognize the will of the Lithuanian people to be free.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of the resolution and of Lithuanian independence. Every year for the past 15 years, I have celebrated Lithuania's Independence Day of 1918 with Lithuanians in my district. They are proud of their heritage and proud of their friends and relatives in Lithuania who have struggled to keep the culture and heart of Lithuania alive throughout half a century of Soviet domination. Now, 50 years after Soviet tanks first moved in, Lithuania's independence again hangs precariously in the balance, and United States support for its freedom has never been so critical.

The United States has never recognized the forced occupation and illegal annexation of Lithuania by the Soviet Union. We have maintained the diplomatic missions established in

1922 when the United States and Lithuania exchanged ambassadors. I fully support Lithuanian independence. I oppose soldiers being beaten and dragged from Red Cross protection. I oppose the Soviet invasion of the office of the attorney general whose job it is to enforce the laws adopted by the democratically-elected Lithuanian government. I oppose the Soviet arms buildup in Lithuania as an attempt to intimidate Lithuanians who, with legitimate aspirations, have demonstrated a great, well-articulated willingness to negotiate solutions to the problems of Lithuanian and Soviet relations.

This resolution recognizes these issues and more and urges President Bush "at the earliest time possible to take those steps necessary to normalize diplomatic relations between the United States and the new Government of Lithuania." That time is now. We must openly support the courageous people of Lithuania in their search for independence.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HARRIS). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 289, as amended.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 289.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

OVERLY COMPLEX SMALL BUSINESS REGULATIONS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, several weeks ago on the floor of this House, I said that Federal rules, regulations, and redtape are causing great harm to the small businesses of this Nation.

Now the Atlanta Constitution reports that approximately 400,000 small businesses have done away with their employee pension plans in the last 5 years for which statistics are available.

The reason: excessive and overly complex regulations.

The Atlanta newspaper said:

Small businesses across America are retiring their pension plans on grounds that federal regulations are making the owners prematurely old.

The business owners complain that federal regulations are too complex.

One businessman is quoted as follows:

They keep changing the law. If they'd leave the things alone, maybe we could learn how to deal with them.

A pension lawyer says in the same article:

Congress passes this general law, then you end up with 100 pages of complicated regulations trying to explain the law.

Today we seem to have a government, of, by and for the bureaucrats, instead of a government for the people.

Now, sadly, we find that our own Federal Government is causing millions of employees around the country to lose their pensions.

We all need to work to make our laws simpler and easier to understand so that they can be more effective and helpful to ordinary people.

MANY SMALL BUSINESSES SCRAPPING PENSION PLANS

(By Hank Ezell)

Small businesses across America are retiring their pension plans on grounds that federal regulations are making the owners prematurely old.

The business owners complain that federal regulations are too complex, the cost for attorneys and other outside advisers is too high, and the rewards to their businesses are too small to make employee pensions worthwhile.

"They keep changing [the law]," said Rockey Tripodi, a partner in Consulting Services Inc. of Atlanta. "If they'd leave the things alone, maybe we could learn how to deal with them."

Among small businesses, the number of pension plan terminations skyrocketed during the late 1980s. "We probably did more terminations last year than we did new plans," said Atlanta lawyer Ken Russell, who specializes in pension law. "It's been that way for two or three years now."

In 1987, the most recent year with complete statistics, 73,443 companies with fewer than 100 employees terminated their pension plans, according to the Internal Revenue Service.

That was down from a 1985 peak of 86,139, but significantly up from 27,628 in 1980. Experts believe the relatively high, late-1980s level of terminations will continue.

The overall trend is also down: 46 percent of the full-time work force had employer-financed pensions or retirement plans in 1988, down from 50 percent in 1979, according to the Social Security Administration.

That suggests that in small businesses, as well as large, fewer Americans in the future will have the protection of a company-backed pension as their retirements approach.

Historically, small businesses have been pension-shy. According to a 1988 study by the IRS, only 11 percent of the work force in firms with fewer than 10 employees are covered by pensions, including both defined-benefit and defined-contribution plans.

In defined-benefit plans, workers are promised a specified benefit after retirement, usually paid for by the employer and usually calculated according to earnings and years of service.

They are different from defined-contribution plans, which include most profit-sharing and 401(k) plans. such plans usually include amounts invested by both worker and employer, and the payout from them depends on the value of the investments when they are cashed in.

The small-firm numbers compare with pension coverage of 40 percent in firms of 50 to 99 employees and 67 percent in firms with 250 or more employees.

Business owners have a variety of complaints. Among them:

Complex regulations. "Congress passes this general law, then you end up with 100 pages of complicated regulations trying to explain the law," Mr. Russell said.

The cost of expert advice. "Every year when I would get the bill, I would just get livid," said Roy DeLafosse, president of Custom Plastics Inc. in Decatur. "My biggest problem was that we were paying $1,500 to $2,000 a year to have the funds monitored and have reports filed." The costs took a stinging bite out of the fund's investment income of about $4,000 or $5,000 a year, he said. The fund contained about $60,000 or $70,000 when Mr. DeLafosse terminated it last year.

Paper work goofs, even from the experts. "Every time I had to unsnarl something, I would get livid all over again," Mr. DeLafosse added.

On the other side of the equation, business operators argue, the pension plans offer no significant rewards. Mr. DeLafosse said his nine employees were not interested in retirement benefits. "They were interested in their spending power each week," he said. "We felt we were getting no benefit from an employee standpoint."

From Washington, D.C., the reaction to all those complaints is mixed.

"It isn't so much that the rule books are complicated as that Congress changes the rules so often," said Judith E. Bekelman, a spokeswoman for the Pension Benefit Guaranty Corp. That executive branch agency is studying the costs to business of running pension plans and the particular objections to various proposed changes. "Mostly what this administration is opposing is change for change's sake," she said.

On Capitol Hill, a Senate staff member who specializes in pension legislation said the most common complaint about small businesses is it not that they cancel pensions, but that they never establish any.

But she added that Simplified Employee Pension plans, which can be established without expert help by any company with 25 or fewer employees, have not become popular.

The required federal form is "no more than 10 lines," she added. "I can't think of how much easier you can get. There is an easy option for small business, and they're not taking it."

THE SQUEEZE ON PENSIONS

46 percent of private sector workers had company-financed pension plans in 1988, down from 50 percent in 1979.

At least 73,000 pension plans covering 100 or fewer employees have been terminated

each year from 1983 to 1987, the last year with full data. In 1980, the total was 27,628.

The smaller the firm, the less likely it is to offer a company-paid pension. Only 22 percent of workers in companies employing 10 to 24 workers had pensions in 1988. For firms with 250 or more employees, the figure was 67 percent.

(Sources.—Internal Revenue Service, Pension and Welfare Benefits Admninistration.)

COMMENT ON HURRICANE OFA

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, on earlier occasions I shared with my colleagues in the House the destruction of the Samoan Islands caused by Hurricane Ofa with winds in excess of 165 miles per hour. This hurricane ravaged the islands and left many people without food, shelter, or water.

Mr. Speaker, the Federal Government's response to this natural disaster has been tremendous, and I commend our Federal officials from the administration and the officials from the Federal Emergency Management Agency for their quick and decisive action immediately following the hurricane's departure from the territory.

Mr. Speaker, I want to note in particular the activation of our local reserve company, that is Company B, 100th Battalion, 442d Infantry, and I want to say the men and women of this unit performed their duties and responsibilities with distinction. This is reflected in the able leadership of the unit's commanding officer, 1st Lt. Kyle Keomalu. A graduate of Kamehameha Schools and the University of Hawaii ROTC Program, Lieutenant Keomalu did an outstanding job by mobilizing some 66 reservists who were on active duty from February 17, 1990 through March 19, 1990.

Mr. Speaker, I want to commend Mr. Tommie Hamner of FEMA, our Governor Peter Coleman, Senator DAN INOUYE, Orator Fuga Tolani Teleso, and Capt. Mapu Jamias for their support and assistance to convince the Department of the Army to activate our Reserve unit. In honor of those who responded to the call for active duty, I submit their names to be made part of the RECORD.

Mr. Speaker, I am also pleased to share with my colleagues a copy of a resolution recently passed by the legislature of American Samoa commending the representatives of the various Federal agencies who were on-island to assist with the recovery program. I submit the resolution to be made part of the RECORD.

Mr. Speaker, I also want to note a special rescue operation that was conducted by certain members of Company B, 100th Battalion, 442d Infantry—and, as such, these individuals were each presented with the U.S. Army Achievement Medal for their heroic conduct by rescuing a resident who was seriously injured after he had fallen from a steep and dangerous mountainous ridge.

Mr. Speaker, I commend Lepapamatietie Hunkin, Richard Samuelu, Leo Tafua, Jr., Tutuila Manase, Robert Godinet, and Seleu Fiame for the special recognition they received from the Army, as I am certain their peers, relatives, and friends are all proud of this award.

The resolution and a list of participants follows:

SENATE CONCURRENT RESOLUTION 43

(A Senate concurrent resolution commending FEMA, the Red Cross, Seabees, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA and the personnel thereof for their timely and considerate service generously given on behalf of the government and people of American Samoa.)

Whereas, the inhabitants of American Samoa were subject to Hurricane Ofa in the first part of February 1990; and

Whereas, the citizens experienced considerable concern for the personal safety of its people and the considerable property damage caused by Hurricane Ofa; and

Whereas, after the Hurricane the inhabitants of American Samoa were without power, water, or food; and

Whereas, FEMA, the Red Cross, Seabees, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA and the personnel thereof provided immediate and timely service as soon as it was humanly possible; and

Whereas, this service consisted of restoring power lines, providing food supplies, and considerable financial assistance to private citizens, to the government, to non-profit organizations and to businesses; and

Whereas, this work was commenced immediately after the Hurricane left the Islands; and

Whereas, the prompt attention provided by FEMA, the Red Cross, Seabees, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA greatly reduced the anxiety and concerns of the citizens of American Samoa; and

Whereas, Lieutenant Sorrells of the Seabees expressed his gratitude to the people of American Samoa who generously opened up their homes and hearts to the Seabees, providing them with food, entertainment and lodging; and

Whereas, the experience of the Seabees was duplicated among the personnel of FEMA, the Red Cross, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA; amd

Whereas, as a consequence both the citizens of American Samoa and the personnel of the Seabees, FEMA, the Red Cross, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA have gained a renewed appreciation for each other; and

Whereas, it is fitting and proper to honor and thank the Seabees, FEMA, the Red Cross, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA and all of the personnel therein for their prompt and efficient service in our time of greatest need; and

Whereas, the Seabees, FEMA, the Red Cross, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA and all of their personnel will long be remembered and appreciated by the people of American Samoa; and

Whereas, even though words do not adequately express our appreciation it is nevertheless deeply felt.

Now, therefore, be it resolved by the Senate of the Territory of American Samoa, the House of Representatives concurring:

That, the Legislature of American Samoa, does hereby thank the Seabees, FEMA, the Red Cross, U.S. Army, U.S. Marines, U.S. Navy, U.S. Air Force, U.S. Coast Guard, and SBA and all of the personnel working therein for their timely and competent service rendered immediately after the occurrence of Hurricane Ofa; and

Be it futher resolved, that the President of the Senate Letuli Toloa is respectfully requested to present this concurrent resolution at an appropriate ceremony to: the Honorable Dick Cheney, Secretary of Defense; Mr. Abbe Keith, Job Director for the Red Cross; Mr. Tommie Hamner, Federal Coordinating Officer for FEMA; Lieutenant Sorrells, Commanding Officer for the Seabees; Mr. Ken Shuman, Branch Manager for SBA; Mr. Fuga Tolani Teleso; and to all personnel working within these organizations.

NAMES OF PARTICIPANTS

NAME AND RANK

Laupola, Tauapai, 2LT.
Mauga, Tuamaalo, F., SSG.
Salevao, Maua N., SSG.
Amataba, Pita S., SGT.
Filemoni, Talogaga, SGT.
Tiai, Frank F., SGT.
Unutoa, Franklin F., SGT.
Aasa, Fafagu I., SPC.
Asaeli, Soai U., SPC.
Faamausili, Tausala, SPC.
Faitala, Iupelisiliva, SPC.
Hochee, Rudolph M., SPC.
Hunkin, Lepapamatietie M., SPC.
Letuli, Uluao F., SPC.
Mapu, Siupapa, SPC.
Memea, Timothy F., SPC.
Meleisea, Iona S., SPC.
Moananu, Ellis V., SPC.
Nomura, Masao, SPC.
Ofagalilo, Malaki K., SPC.
Samuelu, Richard I., SPC.
Satele, Teutusi P., SPC.
Siamu, Setefano, SPC.
Spencer, Carl R., SPC.
Tafua, Leo, Jr., SPC.
Tarrant, Jack, Jr., SPC.
Taumua, Noaese T., SPC.
Vaitautolu, Liugalua, Jr., SPC.
Ahkuoi, Willie C., PFC.
Asuega, Fitifiti J., Jr., PFC.
Failauga, Cliffton, PFC.
Faumuina, Molitau, Jr., PFC.
Felise, Michael J., PFC.
Godinet, Robert A., PFC.
Manase, Tutuila P., PFC.
Sappa, Sonny J., PFC.
Sataua, Itai, Jr., PFC.
Tauiliili, Posini, Jr., PFC.
Fiame, Selu L., PV2.
Mageo, Lui I., PV2.
Seumalo, Ionatana S., PV2.
Hoching Gus P., PV1.
Uhrle, Jack P., SFC.
Seumalo, Sofa, SPC.
Faataualofa, Herman, PFC.
Esau, Ielino A., SPC.
Keomalu, Kyle K., 1LT.

Tilei, Maleine B., SFC.
Falealii, Telea T., Jr., SFC.
Leovao, Lalotoa S., SSG.
Leo, Siuai, SGT.
Jamias, Mapu S., CPT.
Zampier, Michael P., SGT.
Reed, Jay L., SGT.
Kalava, Lester K., SFC.
Horn, Mathew A., Maj.

VACATION OF SPECIAL ORDER

Mr. COX. Mr. Speaker, I ask unanimous consent that the 5-minute special order granted for today to the gentleman from California [Mr. MCCANDLESS] be vacated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, during the debate on the Savage amendment to the dire emergency supplemental appropriations bill, H.R. 4404, I was unavoidably detained by committee business in my office. Had I been present I would have voiced my strong opposition to the amendment and voted against it.

BOB TRAXLER RECEIVES VFW'S HIGHEST HONOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, several weeks ago, it was my privilege to attend the annual Veterans of Foreign Wars Congressional Banquet here in Washington. A crowd of more than 2,200, including many of our colleagues, gathered to see our friend BOB TRAXLER, the distinguished gentleman from Michigan, receive the VFW Congressional Award, the organization's highest honor. Last week, he received the American Legion's highest award.

An Army veteran himself, Bob has displayed a keen sensitivity to the concerns and needs of the Nation's veterans. He has been especially outspoken in his efforts to get adequate funding for our veterans' hospitals. Last year, he led the effort in getting the Congress to pass a major supplemental for the Department of Veterans Affairs.

In presenting this prestigious award to Chairman TRAXLER, VFW Commander-in-Chief Wally Hogan said:

Through his concern for people, programs and the welfare of his community and the Nation, Congressman Traxler has earned the respect and esteem of not only his constituents, but also his colleagues in the Congress.

How true that statement is Mr. Speaker.

BOB TRAXLER is a good friend of veterans. They and their families are very fortunate to have such an effective champion in their corner. I am pleased—as I'm sure you are—to see him receive such well-deserved recognition for his work in behalf of those who have defended America and others who desire to be free.

THE SAVINGS AND LOAN SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, the New York Times and a number of other newspapers, magazines, and even some television and radio broadcasters have noted over the past few weeks that the savings and loan scandal is receiving a strange reception in Washington. The Times 2 weeks ago on the front page of its News of the Week section stated that they were baffled by the silence in Washington about this savings and loan association scandal which seems to be galloping on.

Mr. Speaker, I agree that this silence is baffling.

Mr. Speaker, we have had a number of loud discussions about obscenity of the past few months, and that debate is still going on. I would like to talk about obscenity tonight in another key, a new kind of obscenity, the old kind of obscenity, but different from the obscenity which is obsessed with some photographs and obsessed with the fact that out of 80,000 projects that have been sponsored by the National Endowment for the Arts, some 25 projects have been controversial.

□ 2040

That discussion goes on and it is about a different kind of obscenity. The obscenity which I am concerned with is a second definition that appears in Webster's Collegiate Dictionary. Webster says that obscene is anything which is abhorrent to morality or virtue.

I think that the silence about the savings and loan association scandal is abhorrent to morality or virtue. In Washington the silence about the true dimensions of the savings and loan association scandal has now become obscene. The low level of debate, the absence of official discussion, the conscious studied silence is obscene. I am concerned about the savings and loan association not because I am a banker or an accountant or an MBA or claim to have any authority or knowledge that is special in helping to solve the problem. I am concerned about the savings and loan association scandal, the fact that it drains so much revenue, so much of the taxpayers' money away from other things, because I have been here 8 years. I am in my eighth year in Congress, and for 8 years I have been going back to tell my constituents that we cannot do anything about building more houses for the homeless because we have a deficit, because we do not have the money, or because we do not admit we have the money for that purpose.

I have had to tell the people who are concerned about the DRG's the fact that we have sick people, people with grave illnesses are pushed out of hospitals because their time is up in accordance with the DRG, that we cannot do anything about that, or Washington will not do anything about it because they are preoccupied with the deficit. We do not have money to provide decent health care. On and on it goes.

I am concerned about the fact that 9 years ago there was a debate which was seriously discussed considering catsup a vegetable in order to make the school lunch program less expensive. You do not provide a second vegetable, just catsup would serve the purpose in order to make school lunches less expensive.

Some of the same people who offered that kind of solution to save the Government money have become completely silent about the savings and loan association debacle. There are some people who are noted for their fiscal conservatism who have not spoken at all on this subject.

I am happy to state that I am not guilty of silence, the kind of silence that the New York Times referred to and some of the other articles have referred to. I have spoken out consistently against the monstrous savings and loan association bailout program. I have seen it from the very beginning as a threat to any addressing of the problems faced by my constituents ever. We will never be able to address the problems of homelessness and have the Federal Government get back into the business of building homes for low-income people who cannot afford housing any other way.

I have no faith that we will ever have enough money to meet the challenge of education and move toward the goal of becoming first in math and science by the year 2000 or eliminating illiteracy by the year 2000. I have no faith that can happen if all the money available is going to be drained off by the savings and loan association bailout.

We appropriated last year $50 billion, that is billion. Now, part of it was on budget and part was off budget and we made a big deal about that, but I want the people out there, ordinary laymen to understand, that on budget or off budget, there is only one U.S. Treasury. The money is printed in only one place, and if you are spending $50 billion, it is all the same in the final analysis. The U.S. economy is only one economy. It is impacted by interest rates driven up by that kind of maneuver. The money available to take care of the deficit will not be

there if we continue to spend $50 billion for the bailout of an industry which produces nothing.

There are some people who have assumed that the Government is doing what it must do, what it legally is bound to do, and that is by bailing out the savings and loan industry, by interjecting socialism into our banking industry in this country, we are paying off the depositors, those depositors that we had guaranteed their money up to $100,000, and that is our obligation and our duty, and that is what is happening.

There are people out there who assume that is all that is happening, and they are satisfied that our Government is acting responsibly; but the truth of the matter is that we have doubled the cost of the bailout by going far beyond the areas of our legal obligation, our legal obligation to pay off any depositor up to $100,000. We have gone beyond that. It would cost us at the time of the passage of the savings and loan association bailout bill last year, the estimate was $100 billion, which would have been the cost to pay off all the depositors and to get out of the business of running banks and let the private sector take care of their problems. Well, we did not do that. We are attempting to bail out everybody. We are attempting to bail out the Japanese bankers. We are attempting to bail out the Arab sheiks. Everybody who had money in the banks above $100,000, we are attempting to save their money, too, and of course there is this vague statement about our duty to save the integrity of the American banking industry. We cannot let the world see large numbers of banks go under and the Government not guarantee the money of those people who have funds beyond the depositors' amount of $100,000.

So we have taken on an obligation. We have assumed responsibilities that were not legally ours. The taxpayers are being swindled out of large sums of money to be beyond the obligation of the Government. It is important to understand that from the very beginning.

My concern is that no matter how much money is produced by this peace dividend that we are all waiting for and have a right to wait for, we have labored for many years under the assumption that if we ever reach the situation where there is peace in the world we can release the billions of dollars that are being plowed under in the armaments race, so we have a right to expect a peace dividend. I hope that it is really coming, but if we do not do something fast about the savings and loan monster, we are going to find that every dollar, every penny that is produced by the peace dividend will be gobbled up by the savings and loan association bailout. That is the situation we are faced with. Nobody wants to talk about it. But where do you get the billions and billions of dollars to keep the bailout operation going as it is presently constituted?

Rumors are that the President will be coming back to ask the Congress for another $30 billion to $40 billion or $50 billion. In addition to the $50 billion already appropriated last year, we may have another appropriation request of $30 billion to $40 billion or $50 billion, you know, tens of billons of dollars. It does not matter. The rumors are very vague. By the time the request hits the Congress it may be much higher.

Where does it all stop? Let me just go back and say that among those people who have spoken out—and there have been a few who have spoken out—I include myself as early as October 12, 1988. I called for an audit of the savings and loan industry. That was long before the President came to the Congress and admitted that there was a major problem. October 12, 1988, was before the big deal was made with a number of failing savings and loan associations and existing banking enterprises which led to a huge write-off. Billions of dollars were written off before December 1988, in taxes, you know. When you write off taxes, that is the same as spending money, because what they write off and what they allow to serve as write-off means it has to be recovered from the taxpayers.

□ 2050

On October 12, I said we needed some kind of audit. The rumors were that we had a debacle on our hands. Something had to be done and done fast. Of course, that was ignored.

On February 22, 1989, I raised the question, as I read the paper, and I got my information the same place other citizens get information, other Congressmen also get their information, I raised the question about whether the savings and loan associations constitute a network of racketeering enterprises, those that were failing.

The failing savings and loan associations, according to articles that I read, were permeated with crooked deals, inflated land values, all kinds of things were happening, and it seemed like a network of racketeering enterprises. It has been developed, unfortunately, in collusion with our own regulatory government agencies, some of our own regulatory government agencies, and I thought that investigations by the FBI and law enforcement agencies should be quickened. I thought prosecutions by the Justice Department should become more aggressive and more intense.

On February 28 I characterized the S&L bailout legislation, and by then the President had proposed legislation, and I saw that legislation as the introduction of socialism into the banking industry, and I saw it as representing a grave threat to the economy of the country, because it makes the Government responsible for bailing out the private sector and bailing out the private sector in the area where billions and billions of dollars are necessary to be put forward by the taxpayers.

On March 2, 1989, I discussed the S&L bailout as a major drain on Federal funds that might be otherwise used for critically needed domestic concerns such as education.

I serve on the Committee on Education and Labor. I am very concerned about the fact that our country has fallen behind the other nations of the free world, the other industrialized nations. Our students, our very best students, and let us not talk about averages, our very best students in science and math, when they are in competition with the best students of the other nations, industrialized nations, they score very low. Out of 16 different nations that participated in the competition, we scored third from the bottom. We should be concerned about education, not only in places like my district where we have a grave problem of the whole infrastructure in danger of collapse, we need buildings, we need seats, we need decent books in the library. Books sometimes are 20 and 30 years old. We need a number of things to save a situation from a total calamity in certain parts of my district, but the very best schools, at the same time, the very best schools in our country also need Federal assistance in order to remain competitive in the kind of education they produce in a world which more and more will be dependent on our commercial and industrial ability. We will be dependent on that in order to compete.

On May 10 I said that the $157 billion S&L bailout will adversely affect American taxpayers, their children, and their grandchildren for years to come. We do not know yet how badly things will be, but when we see the emergence of all of these problems, the junk bond empire starting to collapse; large numbers of savings and loan associations held junk bonds, billions of dollars going down the drain in that direction, and each time it happens, each time a savings and loan association goes under, our Government now, under the bill that was passed by Congress, our Government now steps in to assume responsibility for all the problems of that savings and loan association.

One fact that has come out, as I looked at the articles and the information that is now available, is we are not only talking about savings and loan associations, ladies and gentlemen. Large numbers of banks, regular banks, are also failing.

On May 23 I said that the S&L bailout, the bill that was passed, and that was the day we passed the bill in the House, I said that it was one of the largest commitments ever made by the U.S. Government for a peacetime expenditure, and I think since then research has borne me out, that it is the largest commitment that the U.S. Government has ever made in peacetime, a $157 billion commitment, and when we put all the pieces together, that is the size of the commitment.

On August 3, I pointed out again that the S&L bailout costs were still increasing. They had increased to an estimated $370 billion above; they were much above what President Bush had indicated when the bill passed in the House; a giant swindle against the American taxpayers, I said, was getting even larger.

Those are some important facts that we keep getting, and while there is silence in Washington, and nobody in Washington, and many people who are quite responsible and ought to talk more about this issue, the debate level ought to be raised, and while we are not doing it, there are books being written; there are articles being written. Some of them go into great detail about the kind of calamity we are facing, but tonight I just wanted to take a few minutes to discuss a few facts that have come out of some of these articles and some of this further investigation.

Let us take a look at the Resolution Trust Corporation. That was a major entity created to oversee the disposal of the assets or the negotiation of arrangements to deal with the failed institutions. Once they go into the Resolution Trust Corporation, all of the bad deals that they have made become the responsibility of the Federal Government. The taxpayers then are responsible for bailing out the situation, selling off the real estate, and I suppose the yachts that have been bought by some of the board members of S&L's will have to be sold, the dining rooms full of special crystal that they bought, all of the kinds of things, limousines that have been bought with this money; they all have to be disposed of by the Resolution Trust Corporation.

How do they hire the staff for the Resolution Trust Corporation? I asked one of my staff to find out how does one get a job with the Resolution Trust Corporation. Have they established some kind of merit system? Does one have to take a civil service test? How are they hiring these people?

There is no procedure which requires them to participate in the merit system. The Resolution Trust Corporation, I suppose maybe in certain places, the Democrats are dividing them in half with the Republicans, or maybe the Republicans are taking all the positions. There are now 2,300 people hired by this new bureaucracy that we created in the bailout bill, 2,300 people. I suppose most of them are in Texas and the other States which had the largest number of failed savings and loan institutions. So we will find most of those jobs have gone to Texas, which does help the economy in terms of the crooks have taken the money from the banks, expended it on deals, many of them have gotten rich, and we do not have an investigative judicial setup which is able to deal with them fast enough, so some of those same rich crooks are buying back their property, and maybe some of them are working for the Resolution Trust Corporation. They can get jobs.

They know the situation, so they can go to work for the Resolution Trust Corporation. There is nothing to prohibit that except one little proviso.

They did think a little bit, according to an employee of the Resolution Trust Corporation. Any former employee of a savings and loan association that has failed can apply for a job and get one provided they did not contribute to at least $50,000 of the thrift's total loss. In other words, people from the failed banks who are responsible for this debacle, the same people who participated in this network of racketeering enterprises can come back now and they can work for the Resolution Trust Corporation provided they did not contribute to at least $50,000 of the thrift's total loss.

Who sits around and figures out how much each employee contributed to the total loss? You know, I do not know. What kind of tests do they have for that? How extensive is that screening process? Or is this just a proviso that was thrown in that nobody seeks to enforce?

Probably as things are moving, nobody is enforcing that. Employees who helped to create the problem are now the beneficiaries of this new bureaucracy. They are employees of Resolution Trust Corporation, which the taxpayers are funding.

This Resolution Trust Corporation expects to eventually employ 6,000 employees. They now have 2,300. They expect to eventually employ 6,000. That is based on assumptions that the number of savings and loan associations failing is limited to the projections that have been made by the administration. But private sector people, the authors of these articles, have made it quite clear that the number of failed institutions will be far greater.

Therefore, the Resolution Trust Corporation will be hiring many more employees. That is just something we ought to think about. It is one of those critical questions we ought to ask as we go forward. Are the same people responsible for this debacle benefiting greatly from it as people who can buy back their own assets, as people who can get jobs in the process of selling off and negotiating these deals out?

□ 2100

Many of these people should be in jail. Many of them, if they had been responsible for the loss of similar amounts of money any other way, would be in jail. But what has happened with the whole bailout process is that we have revealed a great softness, a great softness with respect to white collar crime. We are not moving ahead to prosecute the people responsible for stealing billions of dollars.

One gentleman who heads one large bank parades around self-righteously and reminds us he is against pornography. One of the heads of the largest failed banks parades around and says he is against pornography, and therefore he seems to be asking for some kind of dispensation with respect to a bank that has lost billions of dollars. Many widows and people who had had faith in that investment process, some of it which was not covered by a government guarantee, lost money. But he parades around, indignant about the fact that his empire has been taken over, and reminds us he is against pornography. He is one of the most obscene gentleman on the face of our society at this point.

Billions of dollars are stolen, and we treat these people with great respect. We are afraid to call a criminal a criminal. People who have committed economic crimes are criminals who have an impact on the lives of many people living, many taxpayers. Every taxpayer already will be saddled with about $1,000 in order to pay for the bailout as it is now.

As we move along and find more and more banks that have failed, taxpayers will be saddled with even larger amounts of responsibility in terms of the money that will go into the bailout of these banks. Yet we treat these people with greater respect.

We are soft on white collar crime. We are very excited and emotional about violent crime. I can understand that. When a situation happens like the Willy Horton situation, you can take it, put it on television, and its appeals to something in us which is very basic. The gut reaction is to be very indignant, very upset.

I had a situation where my son has been mugged, and I know what it means, how you feel. He wants to get revenge on the people that do it.

I had a situation with a house that had been robbed, and you have to stand by and see your wife and your stepdaughter crying because the jewelry has been taken. It is an emotional response in terms of hating criminals

who commit immediate specific crimes, and it is proper.

But what we do not have and what we have to do is update taxpayers, citizens. We have to all update our intentions and understand that people who commit economic crimes, people who steal billions of dollars, are tearing away the structure of our society. They are committing crimes. They are making crime pay. They are making crime pay, and it is very painful. Not only do they take money which has to be replaced by taxpayers, but the process of that replacement disrupts our society in many other ways.

We do not have the money to pay for housing. We do not have the money to pay for the building of housing for low income persons. We do not have the money to provide decent medical care.

We take money from the cities and cannot give them back money to help build the infrastructures of the cities. We have eliminated revenue sharing, so many States, and cities are in deep trouble. They do not get any money back from the Federal Government. You pay your income taxes and it does not come back in the form of revenue sharing any more. That was something good, a useful innovation that we had, which was wiped away.

Yet at the same time we have to contemplate bailing out all of these racketeering institutions with billions and billions of dollars. We should stop and think about what the result, what the impact of these economic crimes are, what the impact is on the generation that is here right now, and what it will be in terms of the generation to come. Because part of the process is to roll over the cost for future generations.

I also want to talk about the fact that the process of investigation of the judicial process of prosecution is shrouded in mystery, in secrecy.

It is hard to find out what is happening to the people who are guilty of embezzling, losing our money through incompetence and other tricks. It is hard to find out.

The FBI had 282 failed institutions under investigation in 1987. As of February 1990 they had 530 institutions that had failed under investigation.

Here is an interesting fact: of the 530 institutions that were under investigation by the FBI in February 1990, 276 of these institutions were banks, regular banks; 234 were savings and loan associations; 20 were credit unions.

I think it is important to note that fact that 276 were regular banks, because it means that the scandal is so much broader and will get so much wider than we ever anticipated.

We are dealing with more than savings and loan associations. We are dealing with failing American financial institutions, failing as a result of the last 9 years of deregulation, of greed, of collusion between the regulators and those who were to be regulated.

It is galloping on. The white collar criminals, the number of white collar criminals to be discovered, is multiplying every day. The number of pending bank fraud and embezzlement cases with losses that exceeded $100,000, for example, in 1986, was 2,948. By September 1987 it increased to 3,393. By September 1988 we had 3,446. By September 1989 the total number, the cumulative number under investigation for fraud and embezzlement in cases where the losses exceeded $100,000, was 3,605.

Of that number, 2,278 were regular banks. Regular banks. There were 95 credit unions, 2,278 banks, and 654 savings and loan associations.

In 1987 the FBI conducted investigations that resulted in 740 convictions and pretrial diversions in cases where losses exceeded $100,000. Sometimes they were convicted and sometimes they had pretrial diversions.

In 1988 there were 751. In 1989 there were 791. It is very interesting that the number remains stable. The number of investigations and convictions remains pretty stable, while the number of failing banks is increasing exponentially. It is doubling, tripling.

There is something wrong with the whole investigative process and the whole apparatus.

I merely want to open the discussion tonight. Tomorrow I would like to bring a list of books, I would like to bring a list of articles. I think that those who cannot find facts need help. I would like to do anything possible to raise the level of debate in Washington. I think it is our responsibility as representatives of the people to tell the truth about the savings and loan associations.

This is an obscenity which you should not let your children learn about on the street. This is a massive set of crimes that are cumulating. They will have an impact on our economy. They will have an impact on domestic expenditures. It could well wipe out the peace dividend that so many Members are expecting.

It is important to have discussions in Washington go forward about the budget, projections of the budget over the next 3 years, and have discussions go forward about the economy, discussions go forward about the priorities in terms of education, all these discussions go forward without anybody mentioning the problem of the savings and loan associations and the fact they are going to drain off all of the revenue necessary to make these things happen. It is a scandal in itself.

Our silence in the Congress, our silence here in Washington, is obscene. We should be more responsible. It is morally repugnant to see the silence continue. I hope that we will end the silence here in Washington and talk among ourselves and talk to the people of the United States about the savings and loan association scandal.

Mr. Speaker, I yield back the balance of my time.

IS THIS THE AMERICAN WAY?

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentlewoman from Marland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, we come to Congress to represent our constitutents and to serve our Nation—to work to improve our communities, States, and Nation in the best light of our knowledge. Sometimes we succeed and sometimes the status quo prevails.

That old saying "the more things change the more they remain the same" seems to be true quite often.

That is the best way I know to describe the struggle we have in our trade relations with Japan and in ourefforts to restore and nourish our industrial base.

That expression certainly applies to the story I read in the newspaper last month. A New York Times story by Steven Weisman, dated March 11, Tokyo explained about a forthcoming meeting of former government leaders from Japan and the United States certainly caught my attention.

Titled "Ex-Leaders of U.S. and Japan To Meet" and subtitled "Worries About Tensions Lead Former Chief Executives To Plan Talks in May." At first balance it looked all right, but as I read the story I kept wondering is this meeting the American way of representative government? What is their official policymaking role?

The article stated:

> Concerned about tensions between United States and Japan a group of former officials of both nations was reported today to be planning a conference on mutual problems that is to be attended by several former American Presidents and Japanese Prime Ministers.

It went on to say that:

> The newspaper attributed information about the meeting to unidentified Government sources. But Robert C. McFarlane, a former national security adviser to President Reagan, confirmed the newspaper report in Tokyo, saying plans were at a tentative stage among various leaders.

According to the article only Mr. Carter has accepted the invitation and a formal response from Presidents Reagan and Nixon had not been received.

It sounded good and then I started to question when I read the next paragraph. It quoted, Mr. McFarlane said:

> This is one of two or three efforts centered on American centers of scholarship designed to improve understanding between

the two countries, looking to the longer term U.S.-Japan relationship.

Before fully examining my reservations I read a bit further. The article stated:

A Japanese official confirmed that Mr. Takeshita was also expected to attend, but plans for Mr. Nakasone and Mr. Uno would not be confirmed.

It also said, "Mr. Takeshita, who resigned from office last year to take responsibility for an influence peddling scandal in his government, is due to meet with Mr. Bush in Washington," next week, and that Mr. Takeshita "is in a strong position to block or approve action sought by the United States."

The leading Japanese paper The Yomiuri said:

The meeting would provide the last negotiating opportunity to resolve a range of trade disputes that have worsened relations between Tokyo and Washington. But Mr. McFarlane and the Japanese official said the conference would not deal with specific trade issues.

They said:

Instead, it would try to deepen understanding about how to create better political economic and security ties between the two countries at a time when most publicity is focused on the nearly $50 billion annual trade deficit that the United States has with Japan.

The article explained that:

American and Japanese officials with longstanding ties to one another have become worried about recent opinion polls showing that Americans have reacted negatively to the rise of Japanese economic power and the surge of Japanese private investment and real estate purchases in the United States.

Now just who would pay for this conference of former Government officials and scholars was not clear. The article explained:

Details about who would sponsor or pay for the session were not available although on the Japanese side officials said the planning was not by the Government, but the leadership of the governing liberal Democratic Party of Prime Minister Toshki Kaifu.

It stated, "several influential party officials are also expected to attend according to Mr. McFarlane and the Japanese newspaper."

By the time I finished this article, warning signals and questions raced through my mind.

Recently, I raised questions about the policy debate being tilted to reflect the Japanese viewpoint. I had included in the RECORD the New Republic article by John Judis called "the Japanese Megaphone."

This article pointed out—as did my speech in 1988, "Who Makes Policy Them Or Us"—the details on how our think tanks, lobbyists and publicists are "tilting the policy debate about our economic future to reflect Japanese views and not those of the American people."

John Judis pointed out—

To influence directly the White House and Congress, Japan has assembled a virtual who's who's of lobbyists and advisers in Washington. The Japanese have hired more than 110 former government officials. Almost every important ex-trade official works for the Japanese in some capacity.

He also said,

Many lawyers and public relations men who enjoy or have enjoyed high White House connections work for the Japanese.

The article explained that—

The money is also creating what the Japanese call "structural corruption"—a kind of systemic bias that does not require conscious acts of corruption by yields much the same results.

The thought occurred to me that owning 40 percent of our debt certainly is a powerful systemic bias or "economic occupation"—whatever you want to call it.

Also included in the article was a revealing statement about the Japanese. It said:

Japan and America's other economic rivals do not condone these sorts of interlocking relationships between their own governments and foreign lobbyists, reasoning that they make it too hard for the government to distinguish between its interests and those of its competitors. In Japan no self-respecting lawyer, let alone former government official, is willing to lobby for an American company.

We know the Japanese viewpoint about interlocking relationships between their government and foreign lobbyist. I started thinking. Who are these people representing the American side. Although some of them have held elective office and others appointive positions—they are not now acountable to, nor do they official represent the American people.

I remembered the reaction when our highly respected former President, Mr. Reagan, went to Japan and received the $2 million which the Japanese offered to him. People were upset and he still receives criticism about his trip. Although highly regarded, he no longer represents the American people in an elective position and that was the explanation he gave for accepting a fee of $1 million per speech for two speeches.

Some of the other people involved in the conference on both sides have helped to craft the policies that created this problem. Not only Judis is raising flags about our scholars and publicists and former Government officials.

My friend Pat Choate, vice president for Policy Analysis, TRW, has a book coming out on how the Japanese have bought influence in Washington through our former Government officials.

We do not know who these people are who are participating in the conference in Hawaii, though at least one of our former Presidents will attend.

That reminded me. We didn't know who was attending the recent U.S. Memories meeting in Texas and look what happened. That meeting was the final organizational effort of American chip makers trying to make DRAM chips.

Attending were people just forming joint ventures with the Japanese or they had a joint venture with them, the Japanese. Also attending were some lobbyists or industry counselors—whatever you want to call them—who had clients like Toshiba and Mitsubishi. Business Week, in an editorial raised the question that some of the companies might have been threatened with the loss of their suppliers if they went through with the effort.

What was reported in the newspapers was American business just was not ready and did not think long term. It sounds like something else occurred instead of American business not being ready.

Sounds more like a hot box to me. We all know what that is. Anyone of us in a volunteer organization or in politics understands the term "hot box." Most of us have been in one at sometime in an organization or a family relationship. A hot box is something you do to pressure someone to your way of thinking.

Well, apparently the stops were pulled out by the Japanese and it certainly looks like American business was pressured in a hot box or at the very least some of the Americans involved had a conflict of interest.

The U.S. Memories story was not the only thing I remembered. As I read I thought about Marvin Wolf's book "The Japanese Conspiracy" which spelled out how the Japanese Government has targeted segments of American business.

I remembered Jack Anderson's stories on how greedy American fastener distributors went to Japan and the Japanese obliged them by making counterfeit fasteners for the American market so guns did not fire, tanks did not run, and the list goes on.

I know first hand about this because Tommy Grant, an independent fastener distributor from Houston, TX, who pushed this issue and first brought it to my office. After my staff did some investigative work, we then presented it to my colleague, the Honorable JOHN DINGELL. He did a fantastic job with this serious problem.

I also thought of the speech I gave last month about Allied Signal and how the Japanese have tried to steal Allied's amorphous metal process. Doesn't sound like too much does it—amorphous metal process—until you realize it is a $2 billion business and will revolutionize metallurgy in the 21st century. It has great applications to aerospace and superconductors in addition to cutting energy costs.

Then I thought about the company Go-Video with a double deck VCR, the next generation of VCR's.

The Japanese are anxious to stop that. No wonder. The VCR is 50 percent of the electronics export of Japan and electronics are one-third of the Japanese total export. We could get a big chunk of their export and certainly help our trade deficit—plus we could get back into the semiconductor business in a big way.

Then I thought about our beef agreement and how the Japanese bought ranches and set up meat processing plants before they signed the beef agreement. Consequently, the Japanese beef market is being opened but by Japanese companies growing beef in the United States. And they still control the price in Japan. The consumer in Japan is still paying $60 to $70 per pound in Japan because they do not have a free market there and the consumers in Japan are also paying dearly for these high-handed methods that the Government applies in controlling the market.

I remember the statement in a Wall Street Journal article in November that "dollars don't belong to the nation of their current owners, but to the nation in which they are invested."

Fine sounding statement—but there are many strings to these investments—and most of all, according to the IRS they are not paying their fair share of taxes.

And the editorial in the Wall Street Journal on March 9 titled "Why The Fire Sale?" came to my mind.

It states, "What does the U.S. Government have against the dollar?" Is it Bush administration policy to make sure the Japanese get a better bargain on their next Rockefeller Center?

The editorial goes on to ask the questions that the so-called Japanese bashers have been asking about how lowered valued dollars help domestic industry. The editorial stated that "when the American Government attacks the dollar, it attacks the net worth of every American."

The Wall Street Journal editorial also stated what we have been pointing out that "we should get our money's worth"—which we have not been doing.

I thought of all these stories and what has happened in our efforts to negotiate with the Japanese and was this a genuine opportunity to correct some of the issues I have mentioned.

Then I realized that this is the way the Japanese have been doing business with us all the time. They call a meeting—discuss and agree to a solution and then continue to pursue their goals in the Japanese manner. This is why the American people are getting angry.

I sensed another story in this and finally, I faced the pressing question that had been bothering this former newspaper reporter.

The Japanese newspaper, the Yomiuri stated the meeting would provide "the last negotiating opportunity" to resolve a range of trade disputes that have worsened between Tokyo and Washington."

That sound ominous to me. What did he mean "the last chance?" If this is the last chance then why do we have people who are not elected to represent us negotiating our last chance? This is not the American way of representative government.

We expect our elected and appointed Government officials to give a public accounting of what they have done. We all know what the Freedom of Information Act means. How do we have a FOYIA request with a meeting of unidentified people who are not representative of the American people—and scholars, who according to John Judis are tilting the policy debate to reflect the Japanese viewpoint and not the American people. Seems to me that somewhere the American people have been lost in this shuffle.

And—who pays for this conference. Is it private funds—do we pay or are the Japanese paying? Who is deciding the agenda? The American people should be very concerned about the particulars this meeting.

As a former reporter I hope and believe that American reporters will be digging into this story. There are too many unanswered major questions which affect our future.

It does in the end come back to "the more things change the more they remain the same." The Japanese way of doing business is to have an ad hoc meeting to plan their goals and agenda. The American way is to be on the record with officials who are accountable to the voters—but this is not what they are doing.

Mr. Speaker, it would appear that the American people deserve to have serious negotiations done by people who are accountable to them—not unidentified scholars and former officials who have conflict of interest and are responsible to the private sector. I am concerned when we begin to do business in this manner. I think the American people are too. After all, we are supposed to be a "government of the people, by the people, and for the people."

□ 2130

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STUMP, for today and the balance of the week, on account of family medical emergency.

Mr. YATES, for today after 4 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COX) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each day, on April 3 and 4.

Mr. MACHTLEY, for 5 minutes, on April 4.

Mr. YOUNG of Florida, for 60 minutes, on April 17.

(The following Members (at the request of Mr. OWENS of New York) to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. POSHARD, for 5 minutes, on April 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. YATES, in the Committee of the Whole, on H.R. 4404, today.

Mr. CONTE, in colloquy with Mr. YATES on H.R. 4404, in the Committee of the Whole.

Mr. YOUNG of Florida, and to include extraneous material on H.R. 4404, in Committee of the Whole, today.

Mr. MICHEL, during consideration of Lithuanian resolution.

(The following Members (at the request of Mr. COX) and to include extraneous matter:)

Mr. GEKAS.

Mr. VANDER JAGT.

Mr. SOLOMON in three instances.

Ms. ROS-LEHTINEN in three instances.

Mr. DOUGLAS in two instances.

Mr. LAGOMARSINO.

Mr. THOMAS of California.

Mr. KYL.

Mr. GALLEGLY.

Mr. WYLIE.

Mr. MEYERS of Kansas.

Mr. FIELDS.

Mr. MADIGAN.

Mr. GREEN.

Mr. DORNAN of California.

Mr. GUNDERSON.

Mr. LIGHTFOOT.

Mr. BLILEY.

Mr. DAVIS.

Mr. HANSEN.

Mr. SCHUETTE.

Mr. EDWARDS of Oklahoma.

Mr. MACHTLEY in five instances.

Mrs. ROUKEMA.

Ms. SCHNEIDER.

Mr. MCCANDLESS.

(The following Members (at the request of Mr. OWENS of New York) and to include extraneous matter:)

Mr. WALGREN in three instances.
Mr. SOLARZ.
Mr. SCHUMER.
Mr. TOWNS.
Mr. ROE.
Mr. ECKART.
Mr. LANTOS.
Mr. DINGELL.
Mr. EDWARDS of California.
Mr. WAXMAN.
Mr. FAUNTROY.
Mr. STARK in three instances.
Mr. GLICKMAN.
Mr. LEHMAN of Florida.
Mr. WILLIAMS.
Mr. TALLON.
Mr. MOODY.
Mr. TORRES in two instances.
Mr. LEVINE of California.
Mr. DOWNEY.
Mr. YATRON.
Mr. GRAY.
Mr. BRUCE.
Mr. CLAY.
Mr. RICHARDSON.
Mr. LIPINSKI.
Mr. MINETA.
Mr. BROWN of California.
Mr. TORRICELLI.
Mr. KENNEDY.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 268. Joint resolution to designate April 6, 1990, as "National Student-Athlete Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 32 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, April 4, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2891. A letter from the Assistant Secretary of the Army (Installations, Logistics and Environment), Department of Defense, transmitting notification of the Army's intention to initiate lethal chemical disposal operations, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

2892. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting the 1989 annual report of the Council; to the Committee on Banking, Finance and Urban Affairs.

2893. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31494, "Intermountain Western Railroad Company—Purchase—Union Pacific Railroad Company, Boise Group Ranch Lines" has extended the time period for issuing a final decision by 70 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2894. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31530, "Wilmington Terminal Railroad, Inc.—Purchase and Lease—CSX Transportation, Inc, Lines Between Savannah and Rhine, and Vidalia and Macon, GA" has extended the time period for issuing a final decision by 30 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2895. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission in Finance Docket No. 31469, "South Carolina Central Railroad Company, Inc.—Purchase—CSX Transportation, Inc, Lines Between East Greenville and Laurens, SC" has extended the time period for issuing a final decision by 120 days, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

2896. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the International Travel Act of 1961 to provide for the charging, collection, and enforcement of fees to recover the costs of the U.S. Travel and Tourism Administration's activities, and for other purposes; to the Committee on Energy and Commerce.

2897. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Thailand for defense articles and services (Transmittal No. 90-31), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2898. A letter from the Assistant Secretary for Budget and Programs, Department of Transportation, transmitting the agency's annual report on the Program Fraud Civil Remedies Act for the year ending September 30, 1989, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2899. A letter from the Director, Office of Personnel Management, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2900. A letter from the Secretary of Veterans Affairs, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2901. A letter from the Secretary, Department of the Interior, transmitting the 1989 section B report on national historic and natural landmarks that have been damaged or to which damage to their integrity is anticipated, pursant to 16 U.S.C. 1a-5(a); to the Committee on Interior and Insular Affairs.

2902. A letter from the Director, Bureau of Land Management, transmitting the final eligibility and suitability report for the Upper Klamath Wild and Scenic River Study, pursuant to Public Law 100-557, section 104 (102 Stat. 2790); to the Committee on Interior and Insular Affairs.

2903. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a copy of the decision ordering a grant of defector status in the case of a certain alien, pursuant to 8 U.S.C. 1182(a)(28)(1); to the Committee on the Judiciary.

2904. A letter from the President, American Academy and Institute of Arts and Letters, transmitting the annual report of the activities of the Academy-Institute during the year ending December 31, 1989, pursuant to section 4 of its charter (39 Stat. 51); to the Committee on the Judiciary.

2905. A letter from the Acting Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation to improve the financial management of the Department of Justice and for other purposes; to the Committee on the Judiciary.

2906. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting the biennial report on coastal zone management for fiscal years 1988 and 1989, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, pursuant to 16 U.S.C. 1462; to the Committee on Merchant Marine and Fisheries.

2907. A letter from the Acting Chairman, Federal Maritime Commission, transmitting the Commission's annual report for the fiscal year ending September 30, 1989, pursuant to 46 U.S.C. app. 1118; to the Committee on Merchant Marine and Fisheries.

2908. A letter from the Acting Administrator, General Services Administration, transmitting a copy of a lease prospectus for the Department of Commerce, Patent and Trademark Office, Crystal City, VA, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2909. A letter from the Secretary of Transportation, transmitting the fifth annual report of activities under the Commercial Space Launch Act, as amended, pursuant to 49 U.S.C. app. 2621(a); to the Committee on Science, Space, and Technology.

2910. A letter from the Under Secretary for Acquisition, Department of Defense, transmitting the report on Department of Defense procurement from small and other business firms for the period October 1989 through January 1990 (fiscal year 1990), pursuant to 15 U.S.C. 639(d); to the Committee on Small Business, April 3, 1990.

2911. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise the copayment formula for those non-service-connected veterans with the means to contribute toward the cost of their care; to the Committee on Veterans' Affairs.

2912. A letter from the Chairman, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc., transmitting the 61st annual report of the work and operations of the Gorgas Memorial Laboratory for the fiscal year ending September 30, 1989, including a report on the audit of the Institute, pursuant to 22 U.S.C. 278a; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

2913. A letter from the Chairman, Physician Payment Review Commission, transmitting the Commission's annual report, pursuant to 42 U.S.C. 1395w-1(c)(1)(D); jointly, to the Committees on Ways and Means and Energy and Commerce.

2914. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend title 31 of the United States Code to provide a permanent, indefinite appropriation for the

reimbursement of Federal Reserve Banks for services performed as fiscal agents of the United States in support of administering the public debt; jointly, to the Committees on Appropriations; Banking, Finance and Urban Affairs; and Ways and Means.

2915. A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Intelligence (Permanent Select); Armed Services; the Judiciary; Post Office and Civil Service; Ways and Means; and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. H.R. 4073. A bill to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing (Rept. 101-441). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 372. Resolution providing for the consideration of H.R. 2015, a bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 (Rept. 101-442). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 373. Resolution providing for the consideration of H.R. 1236, a bill to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing (Rept. 101-443). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3520. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990 and 1991, to provide for greater consistency in laws and regulations governing the transportation of hazardous materials in intrastate, interstate, and foreign commerce, and for other purposes; with an amendment (Rept. 101-444, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4197. A bill amending the Clean Air Act with respect to research and development activities; with an amendment (Rept. 101-445, Pt. 1). Ordered to be printed.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 3848. A bill to require the appropriate Federal depository institution regulatory agency to revoke the charter of any Federal depository institution which is found guilty of a crime involving money laundering of monetary transaction report offenses and to require the Federal Deposit Insurance Corporation and the National Credit Union Administration Board to terminate the deposit insurance of any State depository institution which is found guilty of any such crime; with amendments (Rept. 101-446). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3968. A bill to amend the Organ Transplant Amendments Act of 1988 to change an effective date; with amendments (Rept. 101-447). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CROCKETT (for himself, Mr. HAWKINS, Mr. CONYERS, Mr. CLAY, Mr. STOKES, Mr. DELLUMS, Mr. RANGEL, Mr. FAUNTROY, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. DIXON, Mr. GRAY, Mr. DYMALLY, Mr. SAVAGE, Mr. OWENS of New York, Mr. TOWNS, Mr. WHEAT, Mr. HAYES of Illinois, Mr. ESPY, Mr. FLAKE, Mr. LEWIS of Georgia, Mr. MFUME, Mr. PAYNE of New Jersey, and Mr. WASHINGTON):

H.R. 4443. A bill to promote economic development in sub-Saharan Africa and the Caribbean; jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; and Ways and Means.

By Mr. HAMMERSCHMIDT (by request):

H.R. 4444. A bill to amend the Airport and Airway Improvement Act to authorize appropriations for fiscal years 1991 through 1995, and for other purposes; jointly, to the Committees on Public Works and Transportation; Science, Space, and Technology; and Ways and Means.

By Mr. FASCELL:

H.R. 4445. A bill to authorize assistance for emerging democracies in Eastern Europe and Central America, to enact foreign assistance authorization legislation, to authorize appropriations for the Peace Corps, the Department of State, and the U.S. Information Agency, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DOWNEY:

H.R. 4446. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of insurance companies; to the Committee on Ways and Means.

By Mr. FAUNTROY:

H.R. 4447. A bill to amend the Export-Import Bank Act of 1945 to direct the Export-Import Bank of the United States to expend all amounts appropriated to carry out the Interest Subsidy Program for the purposes of such program, and to extend such program through the end of fiscal year 1992; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GUNDERSON:

H.R. 4448. A bill to require the Federal Communications Commission to amend the syndicated exclusivity and network nonduplication rules to protect the community of one State that falls in the primary market of a broadcaster in another State; to the Committee on Energy and Commerce.

By Mr. LEVIN of Michigan (for himself, Mr. SWIFT, Mr. MOODY, Mr. MCDERMOTT, and Mr. FAUNTROY):

H.R. 4449. A bill to amend titles XVIII and XIX of the Social Security Act to require providers of services and health maintenance organizations under the Medicare and Medicaid Programs to assure that individuals receiving services will be given an opportunity to participate in and direct health care decisions affecting themselves; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HERTEL (for himself, Mr. STUDDS, and Mr. DAVIS):

H.R. 4450. A bill to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. OWENS of New York:

H.R. 4451. A bill to authorize the establishment of a National Committee on Education; to the Committee on Education and Labor.

By Mr. OWENS of Utah (for himself, Mr. HANSEN, and Mr. NIELSON of Utah):

H.R. 4452. A bill to direct the Secretary of the Army to convey to the University of Utah a portion of the property constituting Fort Douglas, UT; to the Committee on Armed Services.

By Mr. ROTH:

H.R. 4453. A bill to amend the Food Security Act of 1985 to eliminate barriers to Great Lakes maritime trade, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

By Mr. STARK:

H.R. 4454. A bill to establish certain trade sanctions to foreign nations that are not signatory to the Nuclear Test Ban Treaty by January 1, 1992; to the Committee on Ways and Means.

H.R. 4455. A bill to establish certain trade sanctions to foreign nations that are not signatory to the Nuclear Weapons Non-Proliferation Treaty by January 1, 1992; to the Committee on Ways and Means.

H.R. 4456. A bill to combat nuclear proliferation through the imposition of trade and other sanctions; jointly, to the Committees on Foreign Affairs; Ways and Means; and Banking, Finance and Urban Affairs.

By Mr. VANDER JAGT:

H.R. 4457. A bill to amend the Internal Revenue Code of 1986 to provide for integration of the corporate and individual income tax systems; to the Committee on Ways and Means.

By Mr. WILLIAMS:

H.R. 4458. A bill to suspend the implementation of program exclusivity regulations of the Federal Communications Commission in broadcasting areas adjacent to time-zone borders and to require the Federal Communications Commission to devise revisions to the regulations to protect programming opportunities of viewers in those areas; to the Committee on Energy and Commerce.

By Mr. RICHARDSON:

H.R. 4459. A bill to authorize the Secretary of the Interior to enter into a contract for the construction of facilities at the Navajo Academy on the Navajo Reservation; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

By Mr. WISE:

H.R. 4460. A bill to amend the Clean Air Act to provide benefits to workers terminated as a consequence of revision of the standards of that act, and for other purposes; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. WASHINGTON (for himself, Mr. BUSTAMANTE, Mr. CARPER, Mr.

SMITH of Florida, Mr. HAYES of Illinois, Mrs. COLLINS, Mr. OWENS of New York, Ms. OAKAR, Mr. TOWNS, Mr. BILIRAKIS, Mr. FOGLIETTA, Mr. HORTON, Mr. HAWKINS, Mr. WAXMAN, Ms. PELOSI, Ms. KAPTUR, Mr. FALEOMAVAEGA, Mr. MCNULTY, Mrs. SAIKI, Mr. WALSH, Mr. EVANS, Mr. RANGEL, Mr. MADIGAN, Mr. GEREN, Mr. LAFALCE, Mr. FORD of Tennessee, Ms. LONG, Mr. FROST, Mr. ACKERMAN, Mr. FAZIO, Mr. LEWIS of Georgia, Mr. EMERSON, Mr. FAUNTROY, Mr. RICHARDSON, Mrs. LOWEY of New York, Mr. HILER, Mr. MACHTLEY, and Mrs. MEYERS of Kansas):

H.J. Res. 537. Joint resolution designating June 3 through June 9, 1990, as "National Children's Community Immunity Week"; to the Committee on Post Office and Civil Service.

By Mr. GEJDENSON:

H.J. Res. 538. Joint resolution designating September 9 through 16, 1990, as "National Occupational Safety Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER:

H.J. Res. 539. Joint resolution to designate September 1990 as "Jewish Community Center Month"; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.J. Res. 540. Joint resolution designating the month of May 1990 as "National Foster Care Month"; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.J. Res. 541. Joint resolution to encourage international cooperation against national leaders implicated in the international narcotics trade; to the Committee on Foreign Affairs.

By Mr. YATRON:

H.J. Res. 542. Joint resolution designating the week of November 12, 1990, through November 18, 1990, as "National Critical Care Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. BILBRAY (for himself and Mrs. VUCANOVICH):

H. Con. Res. 297. Concurrent resolution commending the Runnin' Rebels of the University of Nevada at Las Vegas for winning the 1990 National Collegiate Athletic Association Men's Basketball Championship; to the Committee on Post Office and Civil Service.

By Mr. YATRON (for himself, Mr. BEREUTER, Mr. FASCELL, Mr. BROOMFIELD, Mr. GILMAN, and Mr. OWENS of Utah):

H. Con. Res. 298. Concurrent resolution condemning the deliberate and systematic human rights violations by the Government of Iraq; to the Committee on Foreign Affairs.

By Mr. LIGHTFOOT:

H. Res. 374. Resolution to amend the Rules of the House of Representatives to require that committee reports accompanying bills include estimates of their costs computed on a per taxpayer basis; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

344. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to recognizing the achievements of women in combat positions; to the Committee on Armed Services.

345. Also, memorial of the Legislature of the State of California, relative to a national day of remembrance of the 75th anniversary of the Armenian genocide; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 214: Mr. LANTOS, Mr. MYERS of Indiana, and Mr. WELDON.

H.R. 222: Mrs. MORELLA.

H.R. 286: Mr. FUSTER and Mr. SCHIFF.

H.R. 529: Mr. RICHARDSON, Mrs. COLLINS, Mr. SMITH of Vermont, Mr. ROYBAL, and Mr. WHEAT.

H.R. 530: Mr. RICHARDSON, Mrs. COLLINS, Mr. SMITH of Vermont, Mr. FORD of Tennessee, Mr. ROYBAL, and Mr. WHEAT.

H.R. 726: Mr. MARKEY.

H.R. 727: Mr. MARKEY.

H.R. 995: Mr. MINETA and Mr. MYERS of Indiana.

H.R. 1083: Mr. KOLBE, Mr. VOLKMER, Mr. HOYER, Mr. WEISS, Mr. PAYNE of Virginia, Mr. COOPER, Mr. INHOFE, and Mr. GAYDOS.

H.R. 1163: Mr. DEFAZIO, Mr. ATKINS, Mr. BOUCHER, and Mr. JONES of Georgia.

H.R. 1637: Mr. SMITH of Vermont.

H.R. 1646: Mr. BENNETT.

H.R. 2085: Mr. PASHAYAN.

H.R. 2378: Mr. CHAPMAN.

H.R. 2418: Mr. HERTEL.

H.R. 2564: Mr. BILIRAKIS.

H.R. 2596: Mr. SHAW.

H.R. 2613: Mr. BRENNAN.

H.R. 2615: Mr. BOUCHER.

H.R. 2690: Mr. DEFAZIO.

H.R. 2761: Mr. CLARKE.

H.R. 2836: Mr. WILLIAMS.

H.R. 2881: Mr. PACKARD and Mr. VALENTINE.

H.R. 2948: Mr. DYMALLY.

H.R. 2951: Ms. SNOWE.

H.R. 2952: Ms. SNOWE.

H.R. 3004: Mr. ROWLAND of Connecticut and Mr. LENT.

H.R. 3122: Mr. MACHTLEY.

H.R. 3210: Mr. KILDEE, Mr. PORTER, and Mr. YOUNG of Florida.

H.R. 3319: Mr. SAXTON.

H.R. 3344: Mr. GEKAS, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Florida, Mr. POSHARD, Mr. RITTER, Mr. BUNNING, Mrs. KENNELLY, and Mr. ROE.

H.R. 3639: Mr. DENNY SMITH, and Mr. CLINGER.

H.R. 3732: Mrs. BENTLEY, Mr. BRYANT, Mr. FISH, Mr. GRANT, Mr. MOORHEAD, Mr. MADIGAN, Mr. COMBEST, Mr. LEATH of Texas, Mr. SPENCE, Mr. FROST, Mr. WEBER, Mr. DORGAN of North Dakota, and Mr. HERGER.

H.R. 3762: Mr. BORSKI, Mr. MADIGAN, Mr. MCCOLLUM, and Mr. BATES.

H.R. 3773: Mr. RICHARDSON.

H.R. 3859: Mr. PAYNE of New Jersey and Mr. PENNY.

H.R. 3864: Mr. ATKINS.

H.R. 3880: Mr. TALLON, Mr. CARPER, Mr. WILSON, Mr. SAXTON, Mr. MARKEY, and Mr. JACOBS.

H.R. 3914: Mr. DUNCAN, Mr. STAGGERS, Mr. LOWERY of California, Mr. GOSS, Mr. APPLEGATE, Mr. MURTHA, Mr. FORD of Tennessee, Mr. MARKEY, Mr. DELLUMS, Mr. SHAYS, Mr. STUDDS, Mr. NATCHER, Mr. FOGLIETTA, Mr. CHAPMAN, Mr. WOLPE, Mr. MCNULTY, Mr. INHOFE, Mr. TRAFICANT, Mr. BARNARD, Mr. JOHNSTON of Florida, Mr. RAY, Mr. MORRISON of Connecticut, Mr. WEISS, Mr. SHAW, Mr. ENGEL, Mr. SMITH of New Jersey, Mr. GRANT, Mr. SMITH of Texas, Mr. MCDERMOTT, Mr. GEREN, Mr. BURTON of Indiana, Mr. KLECZKA, Mr. LANTOS, Mr. LEHMAN of California, Mr. GLICKMAN, Mr. BROWN of Colorado, Mr. STEARNS, Mr. CLAY, and Mr. JACOBS.

H.R. 3933: Mr. EVANS.

H.R. 3958: Mr. BUNNING, Mr. CRANE, Mr. CHAPMAN, Mr. IRELAND, Mr. HALL of Texas, Mr. HUBBARD, Mr. HILER, Mr. BEVILL, Mr. APPLEGATE, Mr. THOMAS A. LUKEN, Mr. HARRIS, Mr. BAKER, and Mr. LEWIS of California.

H.R. 3961: Mrs. COLLINS.

H.R. 3979: Mr. MANTON and Mr. JOHNSON of South Dakota.

H.R. 3980: Mr. SPRATT.

H.R. 4026: Mr. SPENCE, Mr. WILLIAMS, and Mr. MCCRERY.

H.R. 4032: Mr. DAVIS.

H.R. 4033: Mr. DAVIS.

H.R. 4042: Mr. ARMEY, Mr. GEKAS, Mr. SMITH of New Hampshire, Mr. CARPER, Mr. PORTER, and Mr. FISH.

H.R. 4043: Mr. PALLONE.

H.R. 4065: Mr. DERRICK.

H.R. 4073: Mr. LIPINSKI, Mr. ECKART, Mr. PETRI, Mr. GORDON, Mr. FISH, Mr. YATES, Mr. ENGEL, Mr. WELDON, and Mr. STOKES.

H.R. 4095: Mr. JAMES, Mr. DWYER of New Jersey, Mr. HERTEL, Mr. FAZIO, Mr. EMERSON, Mr. GALLO, Mr. KOLTER, Mr. ACKERMAN, Mr. TOWNS, Mr. REGULA, Mr. ATKINS, Mr. GILLMOR, and Mr. ANTHONY.

H.R. 4098: Mr. FLIPPO.

H.R. 4110: Mr. CLAY, Mr. UDALL, Mr. LEWIS of Georgia, Mr. THOMAS A. LUKEN, Mr. ATKINS, Mr. WOLPE, Mr. SLATTERY, Mr. PARKER, Mr. MAVROULES, Mr. MOODY, Mr. MATSUI, Mr. JONES of North Carolina, Mr. FORD of Tennessee, Mrs. COLLINS, and Mr. BRYANT.

H.R. 4121: Mr. PERKINS, Mr. HUBBARD, Mr. BUNNING, Mr. HOPKINS, Mr. NATCHER, Mr. WEBER, Mr. TALLON, Mr. LIGHTFOOT, Mr. MONTGOMERY, Mr. MCEWEN, Mr. ESPY, Mr. HEFNER, Mr. MARTIN of New York, Mr. BURTON of Indiana, Mr. SKEEN, Mr. GILLMOR, Mr. HORTON, Mr. JONES of North Carolina, Mr. TAUKE, Mr. MARLENEE, Mr. EMERSON, Mr. DYSON, Mr. HILER, Mr. PETRI, Mr. HASTERT, Mr. WATKINS, Mr. BAKER, Mr. DEWINE, Mr. STANGELAND, Mr. SMITH of Vermont, Mr. THOMAS of Georgia, Mr. APPLEGATE, Mr. ARMEY, Mr. SOLOMON, Mr. QUILLEN, Mr. LEATH of Texas, Mr. SUNDQUIST, Mr. DENNY SMITH, Mr. BROWN of Colorado, and Mr. ECKART.

H.R. 4124: Mr. BLILEY, Mr. GALLEGLY, and Mr. PACKARD.

H.R. 4138: Mr. ACKERMAN.

H.R. 4139: Mr. GOODLING, Mr. NOWAK, Mr. CONTE, and Mr. SMITH of Vermont.

H.R. 4164: Mr. LEWIS of Georgia.

H.R. 4183: Mr. WILLIAMS.

H.R. 4189: Mr. ANTHONY.

H.R. 4201: Mrs. COLLINS and Mr. BILBRAY.

H.R. 4233: Mr. MOODY.

H.R. 4250: Mr. KANJORSKI, Mr. WILSON, Mr. HANSEN, Mr. TOWNS, and Mr. SCHULZE.

H.R. 4254: Mr. DARDEN.

H.R. 4262: Mrs. KENNELLY.

H.R. 4264: Mr. HOAGLAND, Mr. LAGOMARSINO, Mr. JONES of North Carolina, Mrs. BOXER, Mr. GILLMOR, Mr. SIKORSKI, and Mrs. COLLINS.

H.R. 4274: Mr. JENKINS and Mr. DE LA GARZA.

H.R. 4291: Mr. MATSUI and Mr. BROWN of California.

H.R. 4324: Mr. THOMAS A. LUKEN, Mr. FAUNTROY, Mr. ATKINS, Mr. BONIOR, and Mr. HAYES of Illinois.

H.R. 4329: Mr. SLAUGHTER of Virginia.

H.R. 4347: Mr. SMITH of Vermont.

H.R. 4369: Mr. SHUMWAY and Mr. APPLEGATE.

H.R. 4393: Mr. GEJDENSON.

H.R. 4411: Mr. BATES and Mr. RANGEL.

H.J. Res. 350: Mr. BALLENGER.

H.J. Res. 427: Mr. BILIRAKIS, Mr. BRENNAN, Mr. CARPER, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. DE LUGO, Mr. DICKS, Mr. DOWNEY, Mr. DYMALLY, Mr. FLIPPO, Mr. GRANT, Mr. HENRY, Mr. HOYER, Mr. KASICH, Mr. KENNEDY, Mr. KOLTER, Mr. LIVINGSTON, Mr. MARTINEZ, Mrs. MEYERS, of Kansas, Mr. NAGLE, Mr. ORTIZ, Mr. SKELTON, and Mr. SPRATT.

H.J. Res. 436: Mr. LEWIS of Georgia.

H.J. Res. 452: Ms. PELOSI, Mr. BUSTAMANTE, Mr. ESPY, Mrs. LLOYD, Mr. GORDON, Mr. MOODY, Mr. HOCHBRUECKNER, Mr. SKEEN, Mr. STAGGERS, Mr. FRANK, Mr. OLIN, Mr. SCHUETTE, Mr. FORD of Tennessee, Mr. SPENCE, Mr. JACOBS, Mr. BOEHLERT, Mr. FAWELL, Mr. ROBINSON, Mr. CONYERS, Mr. WHEAT, Mr. COOPER, Mr. HUGHES, Mr. POSHARD, Mr. LENT, Mr. SMITH of Iowa, Mr. SAWYER, and Mr. ENGLISH.

H.J. Res. 453: Mr. MATSUI, Mr. DIXON, Mr. BROOKS, Mr. BLILEY, Mr. LEHMAN of Florida, Mr. FAUNTROY, Mr. VANDER JAGT, Mr. BEVILL, Mr. INHOFE, Mr. OWENS of Utah, Mr. CLAY, Mr. MCDERMOTT, Mr. FUSTER, Mr. FLIPPO, Mr. MURTHA, Mr. TAUZIN, Ms. OAKAR, Mr. MCDADE, Mr. NATCHER, Mr. YATES, Mr. CROCKETT, Mr. WOLF, Mr. COSTELLO, Mr. ROE, Mr. DE LUGO, Mr. RAHALL, Mr. BENNETT, Mr. MOORHEAD, Mr. ACKERMAN, Mr. HYDE, Mr. TOWNS, Mr. TAUKE, Mr. BOUCHER, Mr. YATRON, Mr. FROST, Mrs. LLOYD, Mr. EVANS, Mr. HUGHES, Mr. BILBRAY, Mr. FAZIO, Mr. JONTZ, Mr. LAGOMARSINO, Ms. KAPTUR, Mr. NEAL of North Carolina, Mr. PANETTA, Mr. SMITH of Iowa, Mr. FRENZEL, Mr. MCNULTY, Mr. SPRATT, Mr. HAWKINS, Mr. MACHTLEY, Mr. DE LA GARZA, Mr. BUSTAMANTE, Mr. SAWYER, Mr. SAXTON, Mr. PALLONE, Mr. HARRIS, Ms. PELOSI, Mr. SKEEN, Mr. FALEOMAVAEGA, Mr. SKELTON, Mr. RAY, Mr. TALLON, Mr. SHUMWAY, Mr. HEFNER, Mr. HAMMERSCHMIDT, Mrs. ROUKEMA, Mr. DORNAN of California, Mr. ENGEL, Mr. HANSEN, Mr. TRAFICANT, Mr. SHAYS, Mr. FAWELL, Mr. WHEAT, Mr. PRICE, Mr. MOAKLEY, Mr. STUDDS, Mr. BONIOR, Mr. GONZALEZ, Mr. WEBER, Mr. VOLKMER, Mr. CLEMENT, Mr. BATES, Mr. SOLOMON, Mr. EMERSON, Mr. MRAZEK, Mrs. SAIKI, Mr. FISH, Mr. ESPY, Mrs. BOXER, Mr. ROBINSON, Mr. SMITH of New Hampshire, Mr. BARTLETT, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. CONTE, Mr. QUILLEN, Mr. SCHUMER, Mr. CARPER, Mr. GUNDERSON, Mr. COBLE, Mr. KOSTMAYER, Mr. LEVINE of California, Mr. HAYES of Louisiana, Mr. MAVROULES, Mr. SABO, Mr. HORTON, Mr. APPLEGATE, Mr. SOLARZ, Mr. WILSON, Mr. MARKEY, Mr. VENTO, Mr. MILLER of Washington, Mr. WHITTEN, Mr. GALLO, Mr. BILIRAKIS, Mr. STAGGERS, Mr. BERMAN, Mr. LIPINSKI, Mr. ROBERTS, Mr. SAVAGE, Mr. KASICH, Mr. HAYES of Illinois, Mr. WELDON, Mr. BORSKI, Mr. RICHARDSON, Mr. LEWIS of Georgia, Mr. MCGRATH, Mr. BURTON of Indiana, Mr. OWENS of New York, Mr. CARDIN, Mr. BOSCO, Mr. ROWLAND of Georgia, Mr. RAVENEL, Mr. MCCLOSKEY, Mr. GUARINI, Mr. DYMALLY, Mr. COUGHLIN, Mr. PAYNE of New Jersey, Mr. GEKAS, Mr. MCMILLEN of Maryland, Mr. THOMAS A. LUKEN, and Mr. RINALDO.

H.J. Res. 457: Mr. DREIER of California, Mr. RINALDO, Mr. ARMEY, Mr. PETRI, Mr. SCHAEFER, Mr. FRANK, Mr. BUECHNER, Mrs. MEYERS of Kansas, Mr. CAMPBELL of Colorado, Mr. PENNY, and Mr. BEREUTER.

H.J. Res. 459: Mr. FOGLIETTA, Mr. BERMAN, Mr. SANGMEISTER, Mr. COYNE, Mrs. COLLINS, and Mr. FLIPPO.

H.J. Res. 460: Mr. DARDEN, Mr. STAGGERS, Mr. DIXON, Mr. DREIER of California, Mr. DYMALLY, Mr. ESPY, Mr. FAZIO, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Georgia, Mr. LIVINGSTON, Mr. SARPALIUS, Mr. WEISS, Mr. ROBERTS, Mr. PASHAYAN, Mr. WISE, Mrs. MORELLA, Mr. BORSKI, Mr. DOUGLAS, Mr. ORTIZ, Mr. SMITH of New Jersey, Mr. HENRY, Mr. CHANDLER, and Mrs. BYRON.

H.J. Res. 467: Mr. BEVILL, Mr. BUECHNER, Mr. SOLOMON, Mr. MORRISON of Connecticut, Mr. ACKERMAN, and Mr. LEVINE of California.

H.J. Res. 486: Mr. PORTER, Mr. FAWELL, and Mrs. JOHNSON of Connecticut.

H.J. Res. 495: Mr. DE LA GARZA, Mr. GONZALEZ, Mr. EVANS, Mr. BATES, Mr. OXLEY, Mr. LIPINSKI, Mr. FALEOMAVAEGA, Mr. TANNER, Mr. SAWYER, Mr. FRENZEL, Mr. HARRIS, Mr. ROYBAL, and Mr. DYSON.

H.J. Res. 518: Mr. HORTON, Ms. KAPTUR, Mrs. BOXER, Mr. SPENCE, Mr. WEBER, and Mrs. COLLINS.

H.J. Res. 519: Mr. GRANDY, Mr. TAUZIN, Mr. OWENS of New York, Mr. ESPY, and Mr. BEVILL.

H. Con. Res. 172: Ms. SNOWE and Mr. RHODES.

H. Con. Res. 227: Mr. ACKERMAN.

H. Con. Res. 252: Mr. CLAY, Mr. LANTOS, Mr. LEHMAN of California, Mr. GEREN, Mr. MCDERMOTT, Mr. GRANT, Mr. SMITH of New Jersey, Mr. ENGEL, Mr. WEISS, Mr. RAY, Mr. BARNARD, Mr. FOGLIETTA, Mr. CHAPMAN, Mr. WOLPE, Mr. STUDDS, Mr. DELLUMS, Mr. FORD of Tennessee, Mr. MURTHA, Mr. GOSS, and Mr. APPLEGATE.

H. Con. Res. 264: Mr. ANNUNZIO, Mr. APPLEGATE, Mr. ARMEY, Mr. ASPIN, Mr. BALLENGER, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mr. BILBRAY, Mr. BOSCO, Mr. BUNNING, Mr. BUSTAMANTE, Mr. CARPER, Mr. CONYERS, Mr. ECKART, Mr. FASCELL, Mr. GALLEGLY, Mr. GALLO, Mr. GEJDENSON, Mr. GOSS, Mr. GREEN, Mr. HAYES of Illinois, Mr. HILER, Mr. HOCHBRUECKNER, Mr. INHOFE, Mr. MACHTLEY, Mr. MADIGAN, Mr. MARKEY, Mr. MAZZOLI, Mr. MCMILLEN of Maryland, Mr. MFUME, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. NOWAK, Ms. OAKAR, Mr. OLIN, Mr. PANETTA, Mr. PORTER, Mr. PRICE, Mr. RANGEL, Mr. RINALDO, Mr. ROWLAND of Connecticut, Mr. SCHIFF, Ms. SCHNEIDER, Mr. SCHUMER, Mr. SKAGGS, Ms. SLAUGHTER of New York, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. SUNDQUIST, Mr. UDALL, and Mr. YOUNG of Alaska.

H. Con. Res. 271: Mr. GILMAN, Ms. SNOWE, Mr. LEACH of Iowa, Mr. GALLEGLY, Mr. DONALD E. LUKENS, Mrs. MEYERS of Kansas, Mr. HOUGHTON, Ms. ROS-LEHTINEN, and Mr. BURTON of Indiana.

H. Con. Res. 288: Mr. MCDADE, Mr. COSTELLO, Mr. FAZIO, Mr. BROWN of California, Mr. SUNDQUIST, Mr. GREEN, and Mr. TOWNS.

H. Con. Res. 289: Mr. HATCHER, Mr. DREIER of California, Mr. VISCLOSKY, Mr. WOLPE, Mr. RHODES, Mr. CRANE, Mr. MCGRATH, Mr. STUDDS, Mr. MAVROULES, Mr. HUTTO, Mr. PANETTA, Mr. TORRICELLI, Ms. SCHNEIDER, Mr. SMITH of New Hampshire, Mr. JAMES, and Mr. WAXMAN.

H. Con. Res. 290: Mr. DYSON, Mr. GEJDENSON, and Mr. RAVENEL.

H. Con. Res. 291: Mr. RINALDO, Mr. GALLEGLY, Mr. PALLONE, Mr. BILIRAKIS, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. MCGRATH, and Mr. DENNY SMITH.

DELETION OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 300: Mr. PACKARD.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

148. By the SPEAKER: Petition of the Council of the District of Columbia, relative to funding of abortions; to the Committee on Appropriations.

149. Also, petition of the Town Council of Ione, WA, relative to revising the Cable Communications Policy Act of 1984 to open the cable industry to more competition; to the Committee on Energy and Commerce.

150. Also, petition of the City Council of Burlington, VT, relative to support for Federal child care legislation; jointly, to the Committees on Education and Labor and Ways and Means.

SENATE—*Tuesday, April 3, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will be led in prayer by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*In the beginning God created the heaven and the earth. * * * And God saw every thing that he had made, and, behold, it was very good.*—Genesis 1:1, 31.

Creator God from whom, through whom, to whom are all things, to Thee be glory forever. As the Senate prepares to vote on the clean air bill after long, complicated, difficult struggle, grant that the product of their efforts will be an expression of gratitude to Thee, for the good Earth and all the blessings afforded its inhabitants. Help us never to forget that the struggle was not against the perfect environment, created for our benefit, over which Thou dost make us stewards. But it is human greed, ambition, selfishness, carelessness, laziness, that cause it. That the product of progress has produced not only great benefit but also tragic pollution. Help us to be grateful, patient God, for the bountiful blessings the Earth and its atmosphere afford and to take more seriously than ever our stewardship.

For the glory of God, and the welfare of the people, in Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized for 7½ minutes under the order.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the time for the two leaders has been reduced to 7½ minutes each. At 9:30 this morning the managers' package of allowance amendments will be available, and there will be 30 minutes of debate on that package.

At 10 o'clock this morning Senator MCCLURE will be recognized to offer his clean coal technology amendment with 1 hour of debate on that amendment controlled in the usual form. A rollcall vote on or in relation to the McClure clean coal technology amendment will occur no later than 11 o'clock this morning.

Upon completion of that vote, the Senate will return to the McClure Canadian electricity amendment No. 1431 with 15 minutes remaining of debate on that amendment with a rollcall vote to occur on or in relation to that amendment following that 15 minutes of debate. Once that vote has been concluded there will be 15 minutes for debate on the Murkowski clean coal amendment No. 1432 with the vote occurring on or in relation to that amendment upon the completion of that 15 minutes of debate.

That means, Mr. President, Senators should be aware that three votes will occur this morning on the three amendments I have just described, two by Senator MCCLURE and one by Senator MURKOWSKI. The Senate will recess from 12:30 until 2 p.m. for the respective party conferences and, upon reconvening at 2:15, will resume consideration of the clean air bill with final passage to occur sometime during the day today.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and all of the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, seeing no other Senator seeks recognition, to proceed for not to exceed 5 minutes as in morning business for the purpose of introducing a joint resolution and making a few comments thereon.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there objection? Hearing none, it is so ordered. The Chair recognizes the distinguished President pro tempore, Mr. BYRD, of West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. I ask unanimous consent that I may speak during this period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BYRD pertaining to the introduction of Senate Joint Resolution 284 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLEAN AIR ACT AMENDMENTS OF 1989

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell amendment No. 1293, in the nature of a substitute.

(2) Baucus amendment No. 1307 (to amendment No. 1293), to grant Administrator authority to authorize limited production of halons after the year 2000 if necessary for aviation safety purposes.

(3) McClure amendment No. 1431 (to amendment No. 1293), to restrict the importation of electricity generated from foreign fossil fuel utilities.

(4) Murkowski amendment No. 1432 (to amendment No. 1293), to redefine the terms "repowering" and "qualifying phase I technology."

PACKAGE OF ALLOWANCE AMENDMENTS

Mr. BAUCUS. Mr. President, the managers of the bill, the Clean Air Act, have been negotiating with Senators who have allowance amendments. It was our intent in the last several

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

days to put together a package of allowances that the managers would recommend to the Senate and at a later point today, either late morning or sometime in the afternoon, the managers would then offer that package to the Senate for the Senate's consideration.

If Senators had allowance amendments that were not in the package, of course Senators could offer those amendments any time for the Senate's consideration.

The bare, skeletal outlines of the allowance package are as follows. Again, I remind Senators that this is the package that the managers recommend to the Senate and the managers will offer the package later today for the Senate's consideration. But I felt at this point, at about 10 in the morning, it would be appropriate for the Senate to be on notice as to the contents of the package so that Senators could have an opportunity to examine it, to go through it, so that Senators at a later time today will be in the best position to know how they wish to consider various components of the package.

The total package will reallocate 71,000 allowances per year between the year 2000 and the year 2010. That is 71,000 allowances. That is the total number of allowances that will be covered by this package. That 71,000 allowances will be the number of allowances that will be reallocated per year between the year 2000 and the year 2010.

After the year 2010, 60,000 more allowances will be reallocated. That would be 123,000 allowances total per year that would be reallocated under this package. Again, after the year 2010, 123,000 allowances per year.

We, the managers, also attempted to correct a generic problem with the bill. These allowances are generally generic, that is the total number of allowances covers the generic amendments that Senators have offered. The package, however, does include some very small allocations with respect to specific plants.

At this point I will say, Mr. President, that we shaved down the number of allowances that would be allocated to plant-specific amendments. It is our view that to be generally fair to Senators, it makes more sense to shave down some of the plant-specific allowances.

We must remember that all of the reallocations come out of someone else's allocation. So, where Senators offer amendments and receive the benefit of reallocations, because it is a generic amendment or benefit because it is a plant-specific amendment, those reallocations come out of the hide of other plants throughout the country.

The first one is the Johnston-Breaux amendment. That amendment specifically allocates allowances to gas-burning utility plants. The intent of that is to cover curtailments. That amendment, however, does not take effect until the year 2010. This amendment essentially implements a commitment that the bipartisan negotiators made to assist gas-burning plants that faced potential curtailments and other possible interruptions. This amendment will affect about 22 States and it will affect allowances, as I said, only after the year 2010, and the impact will be about 60,000 allowances.

The second is the Wirth-Dole amendment. The Wirth-Dole amendment applies to municipally owned, small, clean plants. It will give an extra allocation in recognition of their limited ability to bank allowances. The total impact of that alone will be 10,000 allowances per year.

The third is the Graham-Mack amendment. This amendment allows extra allocations for utilities in Florida in recognition of that State's unique population growth. Florida is growing at a rate faster than other States, and their energy demand will increase proportionately. That amendment also grants allowances at the request of the administration to a DOE-funded clean coal project in Tallahassee, FL. The total impact would be 43,000 allowances.

Fourth would be the Fowler-Hatfield amendment. That amendment gives incentive allowances for use of renewable energy for purposes of avoiding SO_2 emissions. It gives bonus allowances to utilities.

It counterbalances the provisions in the bill and gives about 3.5 million bonus allowances as incentives to use scrubbing of high-sulfur coal to reduce SO_2 emissions. The impact of that amendment will be 8,000 allowances per year for the year 2000 to the year 2010.

In addition, we have adopted the McConnell amendment. We have modified that provision. Senator McCONNELL earlier asked for 20,000 allowances. It is now modified down to 5,000 allowances. It is a small allocation to a Florida plant subject to mandatory coal conversion under the Fuel Use Act.

In addition, we have adopted the Metzenbaum-Glenn amendment. This has been modified by the managers. The amendment would give extra allowances for plants converting from nuclear to coal. The impact will be 5,000 allowances.

Finally, we have adopted the Kohl-Kasten amendment. The managers have also modified that as a compromise. It allows extra allowances for a plant in a cooperative system that lost a nuclear plant. It has no impact after the year 2000. It will have an effect only for 5 years in phase I. I believe that is approximately 2,000 allowances in phase I.

Again, Mr. President, this is a package. The total effect of the package will be about 71,000 allowances annually for the years 2000 to 2010 and 123,000 allowances after the year 2010. Those allowances will be annual allowances. It is the intent of the managers to offer this package later today.

Again, we are announcing the provisions of the package at this point so that Senators can be on notice so they can debate the package when it is before the Senate later today.

Mr. President, copies of amendments are available to staff and to Members of the Senate in the Democratic and Republican Cloakrooms.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, anytime we deal with this matter of allowances, particularly as it affects other people, and whatever we give here in effect takes away from some others, it becomes very, very difficult.

I point out that from the year 2000 to the year 2010, we are dealing with 71,000 allowances. That is 71,000 out of 8,900,000 allowances. We are talking on a yearly basis. So that comes down to less than 1 percent; 71,000 is less than 1 percent of the 8.9 million.

In the postyear 2010, we are dealing with 113,000 allowances under the proposal we have here. That would amount to 1.5 percent of the 8.9 million.

So, therefore, I think it is safe to say, Mr. President, in order to take care of these particular problems that arose—and they are legitimate problems; we recognize that, otherwise, we would not have maintained them in the proposal that subsequently will be presented—we are not hurting anybody else in any significant fashion.

In other words, yes, we are touching the others to 1.5 percent, but I hardly consider that as a significant amount. Yes, at the same time, by doing that, we are able to handle these difficult problems that confronted Senators, both from other States and indeed their States. That is what we are talking about; the problems that arose within their States or, in a generic fashion, to a type of installation that will be proposed and installed in not just one State but throughout a broad spectrum of States.

The PRESIDING OFFICER. Under the previous order, the pending amendments are laid aside and the Senator from Idaho [Mr. McCLURE] is now recognized to offer an amendment on which there will be 1 hour of debate equally divided.

The Chair recognizes the Senator from Idaho.

AMENDMENT NO. 1348 TO AMENDMENT NO. 1293

(Purpose: Applicability of new source requirements to certain upgrades of existing facilities under titles I and IV)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself and Mr. MURKOWSKI, proposes an amendment numbered 1348 to amendment numbered 1293.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1)(A) on page 390, amend lines 6 through 19, to read as follows:

"(l) The term (1) 'clean coal technology' means any technology included on a list to be published not later than December 31, 1992, and amended from time to time, by the Administrator, with the concurrence of the Secretary of Energy. Such list shall include—

"(A) the following clean coal technologies: atmospheric or pressurized fluidized bed combusion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, derivatives of one or more of these technologies, and any other technology capable of simultaneously reducing or removing emissions of sulfur oxides and oxides of nitrogen;

"(B) any oil and/or gas-fired utility unit which has been awarded clean coal technology demonstrations funding as of January 1, 1991, by the Secretary of Energy; and

"(C) any additional technologies, including precombustion, combustion or post-combustion technologies, or any feedstocks derived therefrom which technology or feedstock provides improved performance relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1989, as determined by the Administrator, with the concurrence of the Secretary of Energy, based upon consideration of the following criteria: efficiency of energy consumption, number of pollutants controlled, effect on the derating of a boiler, reduction of volumes of by-product solid and other wastes, and differences in availability dates.

"(2) 'clean coal unit' means a utility unit that utilizes a clean coal technology.

"(3) 'retrofit' means, for purposes of section 409, to install a clean coal technology at an existing utility unit with equipment or facilities utilizing a clean coal technology. Such term includes replacement of all or part of an existing utility unit with equipment or facilities utilizing clean coal technology at the same site.

"(4) 'replace' or 'replacement' means, for the purposes of section 409, to retire an existing utility unit and replace such unit with a new clean coal unit at the same or a different site, but only if—

"(A) the new clean coal unit is designated under section 409(a) by the owner or operator of the existing utility unit as replacing such unit,

"(B) the existing unit will be retired from service on or before the date on which the designated new unit enters commercial service, [and]

"(C) the new unit is located in the same air quality region as the existing unit, and

"(D) any allowances otherwise available to the existing unit pursuant to section 409(c) shall be transferred to the designated replacement unit.".

(B) On page 444, line 10, after "SEC. 415." delete existing subsection (a) and redesignate subsections (b) through (e) as new subsections (a) through (d), respectively.

(2) on page 435, amend from lines 3 through page 437, line 20, to read as follows:

"RETROFIT AND REPLACEMENT

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be retrofitted as a clean coal unit or replaced with a clean coal unit designated by the owner or operator of the existing unit, for the purposes of complying with the requirements under section 405. The owner or operator shall, as a part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such retrofit or replacement and an executed contract for the majority of the equipment for such unit and such other information as the Administrator may require by regulation. If the owner or operator of an existing unit proposes to retrofit or replace such unit with a clean coal unit that uses a clean coal technology listed under section 402(l), and such proposed retrofit or replacement is incorporated in a compliance plan under section 408(b) and an approved permit under section 408(d), approval of such permit shall be deemed to satisfy the requirements of the first sentence of this subsection.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for the unit to be retrofitted or replaced from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act.

(2) If—

(A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to retrofit or replace such unit with a clean coal unit, and

(B) such owner or operator thereafter satisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.

then such extension shall be available until no later than December 31, 2003.

"(3) Any retrofit or replacement unit or any unit qualifying under paragraph (2), which receives an extension until December 31, 2003, may elect to receive an additional two-year extension until December 31, 2005, provided that the allowances issued to that unit shall be reduced during such period after the unit is placed in service as the Administrator may prescribe (but not less than two years) by the excess of (A) the aggregate number of allowances which the unit received and used during the two-year period that the extension applied, over (B) the aggregate allowances to which the unit would have been entitled (but for the extension) under section 405.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. In the case of any existing unit that is to be retrofitted as a clean coal unit, the source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the clean coal technology.

"(2) Effective on that date, the source shall be subject to the requirements of section 405. Allowances for the year in which the source is removed from operation to install the clean coal technology shall be calculated by multiplying 1.20 lbs/mmBtu by the existing utility unit, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for calendar years after the year the retrofit or replacement is complete shall be calculated by multiplying 1.20 lbs/Btu of sulfur dioxide by the existing utility unit's baseline divided by 2,000.

"(4) An owner or operator of an existing unit satisfying the requirements of subsection (a) while using petroleum coke as a fuel shall be eligible for the same regulatory incentives under section 415(b)(1) as a qualifying clean coal technology.

"(5) Allowances issued to a replacement unit described in section 402(1)(4) shall be reduced during such period after the replacement unit is placed in service as the Administrator may prescribe (but not less than four years) by an amount equal to the excess of (A) the aggregate number of allowances issued under paragraph (1) and used by the existing unit during the extension period provided under subsection (b) over (B) the aggregate allowances to which the existing unit would have been entitled (but for this section) under section 405 during the calendar years that paragraph (1) applied.

"(d) CONTROL REQUIREMENTS.—Any source qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant listed as a criteria pollutant under section 108 of the Act shall not be subject to the requirements of parts C and D of this Act for that pollutant.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D for any source qualifying for an extension under this section, that will increase its actual emissions as specified in section 409(d)."

"(g) APPLICABILITY OF NEW SOURCE REQUIREMENTS.—No existing utility unit or source subject to this title shall be subject to any standard under section 111(b) or be

required to obtain a permit under sections 165 or 173 as a result of any physical or operational change that occurs at such unit or source after the date of enactment of this title provided that any such change in the unit's or source's physical and operational design does not increase the maximum potential capacity of the unit or source to emit criteria air pollutants under its physical and operational design.".

(3) on page 447, modify lines 12 through 14, to read as follows: "pollutant listed as a criteria pollutant under section 108 of the Act, except that the potential post-repowering emissions from that pollutant do not exceed the potential pre-repowering emissions for that pollutant as a result of the demonstration project.".

Mr. McCLURE. Mr. President, this is the clean coal technology amendment which was reserved under the prior unanimous-consent agreement. There are a number of Senators who are interested in the amendment and who have indicated either a desire to cosponsor and/or a desire to speak with respect to the amendment. So I am going to be very brief in my introductory remarks so I may be able to yield to others when they come to the floor.

Mr. President, this amendment deals with clean coal technologies and WEPCo. In summary, the amendment—

Clarifies the definition of clean coal technology to conform with the bipartisan agreement;

Expands the definition of clean coal technology and repowering to include not only technologies that achieve simultaneous emission reductions of sulfur oxides and nitrogen oxides but other technologies that meet certain energy and environmental criteria;

Designates a safe harbor list of clean coal technologies eligible for the repowering incentives provided under section 409, consistent with the list in the Mitchell substitute;

Provides for an additional 2-year extension of phase II compliance deadline for units using an eligible clean coal technology from December 31, 2003, as in the Mitchell substitute, until December 31, 2005, provided that the source repays any necessary allowances required by the additional 2-year extension, as in the pending Byrd amendment;

Allows replacement units to similarly qualify for the extensions provided to repowered units under section 409. However, the replacement units will be subject to new source review;

Allows the phase II extension to continue for qualifying clean coal units until December 31, 2005 in the event that the innovative technology proves to be economically or technologically infeasible;

Provides a WEPCo fix to all existing electric utility units that undergo physical or operational changes that do not increase the maximum potential capacity of the unit under its physical and operational design.

In this regard, my amendment would conform the Mitchell substitute to the bipartisan agreement in three respects:

First, the amendment would exempt repowered nondemonstration projects from new source performance standard requirements, rather than from new source review permitting requirements.

Second, the amendment would conform the bill to the bipartisan agreement so that the WEPCo fixes would apply for demonstration and nondemonstration repowered projects that do not result in an emission increase of "any criteria pollutant."

Third, clarifies that permanent demonstration repowering projects shall receive a WEPCo fix if their post-repowering potential emissions do not exceed their prerepowering potential emissions, as specified in the bipartisan agreement.

In addition, the amendment contains all amendments, so far adopted by the Senate, to the definition of clean coal technology and section 409. A more detailed explanation of my amendment follows:

NEW SOURCE REVIEW

Mr. President, the Mitchell-Dole substitute does not fully conform to the WEPCo fix described in the summary of the Senate bipartisan agreement by providing the WEPCo fix to nondemonstration projects repowering with a clean coal technology.

My amendment would correct this inconsistency by providing an exemption for these projects from the New Source Review, as specified in the bipartisan agreement.

The Senate bipartisan agreement outlines the incentives to be provided to those utility units that voluntarily use or demonstrate innovative clean coal technologies. In the case of repowered nondemonstration clean coal projects, the agreement provides an exemption from New Source Review if the unit's postrepowering actual emissions do not exceed the unit's prerepowering actual emissions.

New Source Review is a term of art which refers to the permitting requirements that are applicable to new and modified sources under parts C and D of the Clean Air Act. In contrast, new source performances [NSPS] are technology-based performance standards imposed on new or modified sources under section 111 of the act. The NSPS requirements are separate and distinct from the permitting requirements imposed Under New Source Review. This interpretation is beyond dispute and is followed by all, including EPA.

Mr. President, I ask unanimous consent that a letter dated January 30, 1990 from EPA Region 5 to the Indiana Department of Environmental Management regarding Northern Indiana Public Service Co.'s Bailly generating station be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Chicago, IL, January 30, 1990.

MR. TIMOTHY J. METHOD,
Assistant Commissioner, Office of Air Management, Indiana Department of Environmental Management, Indianapolis, IN.

DEAR MR. METHOD: The purpose of this letter is to comment on the permit proposed by the Indiana Department of Environmental Management (IDEM) for Northern Indiana Public Service Company's (NIPSCO) Bailly generating station. The permit provides for the construction of an air pollution control device and directly related improvements under the Clean Coal Technology (CCT) program. The Environmental Protection Agency (EPA) agrees with the determination by IDEM that the State and EPA rules for prevention of significant deterioration (PSD) and new source performance standards (NSPS) are not intended to apply to the CCT project at Bailly. In other words, the project should not be considered a "major modification" under new source review (NSR) or a "modification" as set forth under NSPS provided certain requirements are met. In a separate but related issue, EPA also agrees with the determination by IDEM that the addition of a diesel generator as a backup power supply to the scrubber to be installed at Bailly is not a major modification if the limits on operating the generator agreed to by NIPSCO are federally enforceable.

INTRODUCTION

For NSPS purposes, a modification is defined as any physical change in, or change in the method of operation of, a stationary source which increases (in terms of hourly emissions capacity) the amount of any air pollutant regulated under the Clean Air Act (Act) which is emitted by such source, or which results in the emission of any air poluant not previously emitted. For NSR purposes, a major modification is a modification which results in a significant net emissions increase (in terms of actual annual emissions).

The EPA has become aware that these definitions can be interpreted in such a manner as to subject to NSR or NSPS, or both, certain environmentally desirable activities at existing stationary sources which neither Congress nor EPA intended to be covered by the Act's new source requirements. Moreover, NSR or NSPS coverage would, in some instances, have the effect of discouraging such activities. The EPA believes that such activities, including CCT demonstration projects, are not physical changes or changes in the method of operation, so long as they meet certain criteria discussed herein and EPA issues an applicability exclusion. Hence, such activities are not "modifications" for NSPS purposes, or "major modifications" for NSR purposes.

Over the past several months, EPA has held numerous internal meetings to discuss the Clean Air Act regulatory issues raised by the CCT program. As a result of these discussions, the EPA has decided to issue an interpretative ruling as soon as possible to provide guidance on the definition of a physical or operational change as it applies to new source requirements. In a letter

dated January 5, 1990, EPA advised NTPSCO of this intention.

Essentially, this ruling would clarify that if a source solely adds or enhances systems or devices whose primary functions are the reduction of air pollution, and that are determined to be not less environmentally beneficial (as determined by the Administrator) than any emission control system or device it replaces, if any, such activities would not constitute a physical or operational change triggering new source requirements. Consequently, NSPS and PSD and nonattainment new source review would not apply to these types of activities. This interpretative ruling would include permanent, as well as temporary projects under the CCT program. However, it would not extend to projects that primarily are intended to extend the life of a plant or increase capacity. In addition, any changes, permanent or temporary, which are expected to significantly increase emissions to the atmosphere, such as changes which increase a source's hourly operating capacity (e.g., eliminating a bottleneck), hourly emissions rate (e.g., one pollutant decreases but another increases), or utilization rate (e.g., an anticipated increase in hours per year of operation resulting from the installation of controls) would still be subject to NSR and NSPS.

Based on our review of the draft permit, we believe that the Bailly project is consistent with the provisions EPA is developing for its interpretative ruling. On this basis, we have reached the conclusion that this project in particular is not subject to NSPS or major NSR requirements, so long as it continues to meet the criteria discussed herein.

The balance of our comments outlines the grounds for EPA's conclusion and contains a discussion of the anticipated terms of EPA's upcoming interpretative rule. The EPA is still deliberating the specific terms and provisions of its interpretative ruling. While today's comments reflect EPA's current expectations of what will be contained in that document, the actual terms of the ruling may differ from those discussed herein.

BACKGROUND

A. The NSR and NSPS Provisions of the Clean Air Act

A. The NSR and NSPS provisions of the Act apply to wholly new facilities, and to modifications at existing facilities, when certain conditions are met. The rules governing the applicability of NSR and NSPS to modifications at existing facilities are described in detail in the EPA regulations (see 40 CFR 51.165 and Appendix S. 52.21, 60.14 and 60.15). In general, the modifications that would trigger these new source requirements are those involving physical or operational charges which increase emissions over baseline levels. (In addition, for NSPS purposes under EPA regulations, a reconstruction occurs and a source is considered "new" if the physical or operational change costs more than 50 percent of the replacement cost of the affected facility, regardless of whether an emissions increase occurs). The term "physical or operational change" is construed broadly and may include the installation, use, or dismantling of pollution control equipment.

1. Background of the NSPS and NSR Modification Provisions:

The 1970 Amendments to the Act required EPA to promulgate technology-based new source performance standards applicable to the construction or modification of stationary sources that cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411(b)(1)(A). Congress decreed that, in addition to wholly new sources, NSPS would apply to the modification of an existing source, defined broadly as: any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted. Clean Air Act section 111(a)(4), 42 U.S.C. 7411(a)(4).

The NSPS provisions were "designed to prevent new [air] pollution problems" by regulating both newly constructed sources of pollution and existing sources that increase their emissions. *National Asphalt Pavement Assoc. v. Train*, 539 F.2d 775, 783 (D.C. Cir. 1976) [*see also* H.R. Rep. 1146, 91st Cong., 2d Sess. 3, *reprinted in* 1970 U.S. Code Cong. & Admin. News 5356, 5358]. The effect of including modified sources as well as newly-constructed sources under the provisions of section 111 was to establish a current level of emissions above which an existing source may not pollute without becoming subject to the NSPS. In August 1977, Congress adopted further extensive changes to the Act (Pub. L. 95-95). These included review-and-permitting programs for new and modified sources combining the technology-based approach of NSPS with specific measures to insure that ambient air quality goals under the Act are met. Congress intended NSR to apply "where industrial changes might increase pollution in an area." *Alabama Power Co. v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979). Part D applies to areas which have not met national ambient air quality standards (NAAQS) under section 109. To receive a permit in such areas, major new and modified sources must (among other things) obtain emissions offsets that assure reasonable progress toward attainment of the NAAQS and must comply with the "lowest achievable emission rate," which can be no less than stringent than an applicable NSPS (see sections 171-173). The 1977 amendments also added a new Part C to the Act including, in sections 160-169, an NSR program for the prevention of significant deterioration of air quality (the "PSD" program) in areas which have attained the NAAQS. To receive a PSD permit, a prospective major new or modified source must (among other things) show that it will not exceed the available air quality "increment" (designed to prevent pollutant concentrations from deteriorating beyond certain levels), and will use the "best available control technology", which must be at least as stringent as any applicable NSPS. Both the Part D NSR program applicable to nonattainment areas and the Part C NSR program applicable to attainment areas adopted the NSPS definition of "modification," but not all the exclusions to that definition [see sections 171(4) and 169(2)(C)].

It is evident from the structure of the NSR and NSPS programs that Congress sought to focus air pollution control efforts at an efficient and logical point; the making of substantial capital investments in, or other long-term decisions regarding, pollution-generating facilities. In adopting NSR measures in particular, Congress sought to reconcile the legislative goal of environmental protection with a concurrent desire for continued economic growth [see sections 160(1)-(4)]. Consequently, a key theme of the NSR program is the careful evaluation of, and public participation in, "any decision to permit increased air pollution" [see section 160(5)]. As discussed below, the current regulations implementing NSPS and NSR were designed to apply these programs in a manner consistent with their respective statutory purposes. Today's comments represent our interpretation of these existing regulations under the facts presented by the Bailly project. The EPA expects that its upcoming interpretative ruling will further focus EPA's position on the basic legislative intent of these important programs.

2. The Two-Step Test for Modifications:

The modification provisions of the NSPS and NSR programs grow from a single statutory trunk, the very broad definition of "modification" in section 111(a)(4). Under both respective programs, EPA developed a two-step test for determining whether activities at an existing facility constitute a modification subject to new source requirements. In the first step, which is largely the same for NSPS and NSR, EPA determines whether a physical or operational change has occurred. If so, EPA proceeds in the second step to determine whether the physical or operational change will result in an emissions increase over baseline levels. In this second step, the applicable rules branch apart, reflecting the fundamental distinctions between the technology-based purposes of NSPS and the technology and air quality concerns of NSR. Briefly, the NSPS program is concerned with hourly emissions rates, expressed in kilograms or pounds per hour. [An hourly emissions rate is the product of the instantaneous emissions rate, i.e., the amount of pollution emitted by a source, after control, per unit of fuel combusted or material processed, (such as pounds of sulfur dioxide emitted per ton of coal burned) times the production rate (such as tons of coal burned per hour)]. Emissions increases for NSPS purposes are determined by changes in the hourly emissions rates at maximum capacity. The NSR is concerned with total annual emissions to the atmosphere, expressed in tons per year. (Annual emissions are the product of the hourly emissions rate, which is the sole concern of NSPS, times the utilization rate, expressed as hours of operation per year). Emissions increases under NSR are determined by changes in annual emissions to the atmosphere.

3. Physical or Operational Change:

The very broad definition of physical or operational change in section 111(a)(4) could, standing alone, encompass the most mundane activities at an industrial facility—even the repair or replacement of a single leaky pipe or a change in the way that pipe is utilized. The definition certainly is broad enough to encompass the addition or enhancement of pollution control equipment. However, EPA has always recognized that Congress obviously did not intend to require every activity to be potentially subject to new source requirements, and that it would be administratively impracticable to do so. Accordingly, EPA has substantially narrowed this term in its NSPS and NSR regulatory definitions through the adoption of common-sense exclusions. For example, both sets of regulations contain similar exclusions for routine maintenance, repair, and replacement; for certain increases in the hours of operation or in the production rates; and for certain types of fuel switches [see 40 CFR 60.14(e); see also, e.g., 40 CFR 52.21(b)(2)(iii)]. In addition, with respect to pollution control equipment, the NSPS regulations contain an exclusion for:

"The addition or use of any system or device whose primary function is the reduc-

tion of air pollutants, except when an emission control system is removed or is replaced by a system which the Administrator determines to be less environmentally beneficial [40 CFR 60.14(e)(5)]."

The EPA has held that this exclusion does not apply to a source which, upon original construction, employed wet scrubbers, but later (upon relaxation of a State plan under section 111(d)) desired to remove the control equipment, which would have resulted in much higher levels of pollution than the plant had ever emitted [*National Southwire Aluminum Co.* v. *EPA*, 838 F.2d 835 (6th Cir.), *cert. denied*, 109 S.Ct. 390 (1988), herein after *National Southwire*]. In the past, EPA, has taken various views as to whether the exclusion in section 60.14(e)(5) should apply for NSR purposes. As noted earlier, the NSR statutory definitions of modification simply adopt the NSPS definition in section 111(a)(4). In addition, the legislative history reflects that, as a general matter, Congress intended to conform the meaning of "modification" for PSD purposes to usage under NSPS [see 123 Cong. Rec. H11957 (Nov. 1, 1977)]. For this reason, EPA initially ruled that the NSPS exclusion for addition of control devices applied automatically to PSD (Memorandum from Edward E. Reich, CAQPS and William F. Pedersen, OGC, to EPA Region VI, April 21, 1983). The EPA reversed course in a 1986 applicability determination issued for both PSD and nonattainment NSR purposes, noting that the NSPS exclusion was highly qualitative, and failed to give due account to either the air quality management component or the largely quantitative orientation of the NSR applicability regulations. (Memorandum from Gerald A. Emison, Director, CAQPS to Regional Air Division Directors, July 7, 1986).

COMMENTS ON NSPS APPLICABILITY

An NSPS modification is any "physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies" (40 CFR 60.2). Under NSPS, emissions increases, for applicability purposes, are calculated by comparing the hourly emission rate immediately before and after the physical or operational change. All operating parameters which may affect emissions must be the same to the maximum feasible degree for the before and after testing, and tests must be conducted under representative conditions. Absent the exclusions from modifications specified at 40 CFR 60.14 (e), any increase in emissions to the atmosphere over the previous emissions rate will subject the modification to NSPS [see section 60.14 (a) and (b)]. In addition, modifications which would cost 50 percent or more of the cost of a comparable new facility are classified as reconstruction (see 40 CFR 60.15) and are subject to NSPS as a new source even if there is no emissions increase.

Thus, unless the reconstruction provisions come into play, it is clear that under the existing regulations NSPS would not apply to the installation or improvement of emission control equipment which reduces hourly emissions rates. If the reconstruction provisions do apply, then such changes would trigger NSPS.

Based on NIPSCO's permit application and representations made by NIPSCO's September 14, 1989 and December 4, 1989 information submittals to EPA, NSPS would not apply to the Bailly Station if the new scrubber is not removed (i.e., if it is a permanent demonstration) because hourly emission rates will not increase as a result of the addition of these CCT controls. As a permanent CCT demonstration project, it would satisfy the requirements of the exemption contained in 40 CFR 60.14(e)(5) for the addition or use of any control system or device whose primary function is the reduction of air pollution. (The definition of "modification" for NSPS is found at 40 CFR 60.14). In addition, the Bailly project would not qualify as a reconstruction under 40 CFR 60.15.

However, the NSPS provisions could also apply to major facilities with temporary CCT demonstration projects at the end of the demonstration when the control equipment is removed and emissions rise back to the level that existed before the demonstration. Thus, while the placement of CCT controls at Bailly will reduce the hourly sulfur dioxide (SO_2) emissions rate, if NIPSCO later dismantles the CCT controls, this would result in an increase in hourly 802 emissions up to pre-demonstration levels and the source could be considered subject to NSPS.

Today's comments reflect EPA's position that the Bailly plant would not be subject to NSPS at the conclusion of the project, if NIPSCO decides to make it only temporary, as the result of an increase in emissions rates back up to the levels which existed before the changes were made to accommodate the temporary demonstration project. The EPA expects that its forthcoming interpretative rule will take this position with respect to all temporary CCT and similar demonstration projects which reduce emission rates. Unlike the situation presented in *National Southwire*, it is clear that the addition of pollution control in a temporary CCT demonstration was never intended to result in permanent emissions reductions. In addition, removal of temporary controls will not result in a level of emissions higher than that experienced in the past. (Reconstruction provisions, however, could subject both temporary and permanent CCT demonstration projects, and certain other emission control system installations or improvements, to NSPS. Still, as indicated by the Bailly project, the reconstruction provisions of the Act should rarely, if ever, apply to the type of activity which would be considered for exclusion from the definition of a physical change or a change in the method of operation. Thus, the triggering of the reconstruction provisions is an indication that the proposed activities are more extensive than just the addition, or replacement, of an emission control system or device, and so are not appropriate for exclusion.)

COMMENTS ON NSR APPLICABILITY

Modified sources are subject to NSR if the modification is "major." Major modifications must consist of a physical change or change in the method of operation of a major stationary source (40 CFR 52.21(b)(1)] which results in a net emissions increase of any pollutant subject to regulation under the Act that is significant. Significance levels are expressed in tons per year and differ for each pollutant [40 CFR 52.21(b)(23)]. Net emissions increases are determined [40 CFR 52.21(b)(3)] by summing all countemporaneous creditable actual emissions increases and decreases. The definition of "actual emissions" is such that generally the comparison is between actual emissions before the physical or operational change in question and the potential to emit of the facility afterwards [40 CFR 52.21(b)(21)]. If the source has not been operating near full capacity, even the addition of a control device could be considered a significant net emissions increase when comparing historical actual emissions with a new potential to emit, even though there may be a substantial reduction from historic actual emissions.

Specifically, actual emissions before the change at a facility are generally determined by averaging the emissions for the 2 years prior to submittal of the permit application (or some other period if the last 2 years are not representative of normal unit operation) [see, e.g., section 52.21(b)(2)(ii)]. Since the emissions rate after a physical or operational change cannot be predicted in advance, EPA regulations assume that a source's actual emissions will equal its maximum "potential to emit", which is based on constant full load operation for an entire year (unless restricted by federally enforceable limitations) [see, e.g., sections 52.21(b)(21)(iv); 52.21(b)(4)]. Thus, a physical or operational change will trigger NSR if the annual potential to emit of the source is significantly greater after the change than its representative actual annual emissions before the change, unless the company agrees to federally enforceable operational restrictions which limit its potential to emit to levels not significantly greater than its actual emissions before the change. This actual-to-potential methodology applies to physical or operational changes at new or "modified" (i.e., altered or changed) emissions units [see 45 FR 52676, 52677, 52718 (1980)].

As explained below, EPA believes that this methodology generally serves the purposes of NSR because it subjects to review projects that might lead to an increase in actual pollution. However, the NSR provisions in the existing regulations could be interpreted to apply to major facilities simply installing or improving control equipment, including CCT demonstration projects, under circumstances where a permanent increase in pollution is highly unlikely.

Under EPA's prospective interpretative ruling, existing sources which would otherwise become subject to NSR only because they decide to install or improve emission controls, or participate in the CCT program or similar demonstration projects approved by EPA, would instead be excluded from NSR coverage, so long as certain criteria intended to ensure that permanent increases in actual emissions do not occur are met.

With respect to the Bailly project in particular, it appears that the plant has been operated at a rather high level of approximately 60 percent of capacity, reflecting baseload utilization of the plant. There is no indication that NIPSCO intends to increase this level of usage at any time following installation of the CCT controls. In addition, it appears that the Bailly project will meet the criteria EPA expects to set forth in its interpretative ruling for both temporary and permanent projects.

The EPA now believes it is appropriate to devise and apply such criteria both for the Bailly project and for the upcoming interpretative ruling. The EPA has recommended the position taken in its 1966 memorandum, discussed earlier, regarding use of the NSPS exclusion in 40 CFR 60.14(e)(5). While EPA continues to believe that this exclusion does not apply automatically for NSR purposes, the criteria discussed herein provide due consideration of air quality management concerns and the need for quantitative analyses.

CONDITIONS FOR PERMANENT CONTROLS OR DEVICES TO BE CONSIDERED NOT LESS ENVIRONMENTALLY BENEFICIAL

As noted above, EPA is preparing an interpretative ruling which will clarify that if a source solely adds or enhances systems or devices whose primary functions are the reduction of air pollution, and which are determined to be not less environmentally beneficial, such activities would not constitute a physical or operational change triggering new source requirements. At this time, EPA anticipates that its ruling will provide that such pollution controls will be considered not less environmentally beneficial, with respect to permanent controls, if they meet at least the following criteria:

(1) The source will continue to meet all current requirements and standards applicable to existing sources under the Act. This includes meeting applicable NAACS, PSD increments, permit conditions, and State implementation plan (SIP) limitations.

(2) There is no environmental harm resulting from the proposed activities. This includes conditions that the proposed activities would not cause the source to;

(a) increase the maximum hourly actual emissions rate of any pollutant regulated under the Act;

(b) increase the annual emissions of any pollutant regulated under the Act as a result of an increase in capacity utilization rate;

(c) adversely impact an air quality related value (e.g., visibility) in any Class I area; or

(d) allow an increase in emissions of toxic pollutants not regulated by the Act which would cause an adverse health or welfare impact.

Based on the information provided by NIPSCO, it appears at this time that the Bailly project, if it is made permanent, will meet the above criteria. Accordingly, as to the Bailly project in particular, EPA believes that major NSR requirements clearly will not apply if the project is made permanent, so long as these criteria are in fact met.

TEMPORARY CCT CHANGES

In its upcoming interpretative ruling, EPA expects to follow criteria for "temporary" CCT projects which are somewhat different from those for permanent projects. The EPA likely will consider a project to be temporary if it lasts less than 5 years from the date the project commences construction. However, the ruling probably will provide that the Administrator would consider an additional period of time, up to 5 additional years, in certain cases. At the end of a temporary project, the facility would be returned to pre-demonstration conditions and hourly emission rates (or lower). It is not clear if the proposed Bailly station permit is for a permanent or temporary CCT project. It is our understanding that NIPSCO considers the first 3 years of the CCT demonstration project to be "temporary" and will view the changes as "permanent" for the following 17 years if they are continued after the 3 year period.

The EPA expects that its interpretative ruling will provide that for temporary demonstration projects, the conditions relating to actual emissions increases and hours of operation criteria under 2a, b and d above would not apply to minor, temporary variations from nominal operating conditions. Temporary increases may occur due to testing procedures or some failure in unique but unproven equipment, but should not willfully contribute to adverse health or welfare impacts. The EPA believes that the benefits inherent in CCT and other similar technology demonstration projects counterbalance the limited, temporary impacts that may occur during these temporary projects. Under the ruling, temporary demonstration project applications likely would have to meet all of the other criteria applicable to the permanent projects discussed above. This interpretation would provide the flexibility to encourage temporary demonstration projects which are considered to be environmentally beneficial overall, despite unpredictable, temporary increases in emissions of some pollutants or in the hours of operation that may occur during the course of a demonstration.

The EPA expects the ruling to state that temporary changes would become permanent at any time during or at the end of a demonstration period if the owner/operator seeks a revised applicability determination addressing all criteria applicable to permanent air pollution control system improvements. In submitting these comments, EPA is applying the above criteria in its review of the Bailly project. If NIPSCO ultimately decides that the Bailly CCT project is to become a permanent CCT demonstration, the project should meet all the criteria discussed earlier for permanent projects at the time the project is to be converted to permanent status (i.e., after 3 years).

PROCEDURES FOR ENVIRONMENTALLY BENEFICIAL EXCLUSIONS FROM APPLICABILITY

The EPA expects that under its forthcoming interpretative rule, an owner or operator proposing to make an environmentally beneficial change in an air pollution control system will be called upon to request an applicability determination from the appropriate NSR/NSPS permit authority. The request should include a general description of the facility and the proposed activity, information on the current and projected use of the facility, and sufficient information to justify a nonapplicability determination. For any air pollution control system improvement, the request should include a rationale for why the emission control system or device should be considered equal to or more efficient than existing control technology at the source.

The EPA also anticipated that its interpretative ruling will state that in providing information to the reviewing authority, an owner or operator should submit sufficient modeling to demonstrate that any new or increased emissions of unregulated toxic pollutants resulting from the change in control equipment will not cause or contribute to adverse health or welfare impacts. The owner or operator should also demonstrate that the source will not operate at greater hourly emissions rates, or for more hours, than it has been during the most recent 2 years (or some other period, if the last 2 years are not representative of normal operation). In assessing whether actual emission increases of any pollutant are likely to occur, the reviewing agency should consider the economic incentives to increase production rates or hours of operation associated with the change. Any change which could reasonably result in increased emissions due to possible increased utilization of the facility as a result of the changes should not be considered environmentally beneficial. The authority reviewing the proposed change should explicitly determine, based on consideration of these and other relevant criteria, that the net effect will not be one of environmental harm.

OPERATING LIMITS ON NEW DIESEL GENERATOR

The EPA considers the addition of a backup diesel generator at Bailly not to be an integral part of the CCT demonstration, in that the generator could serve multiple functions once installed. In general, EPA views changes to be subject to NSR and NSPS if such changes are not strictly related to the addition of the improved air pollution control system and the changes have any possible additional application. However, EPA agrees with IDEM that the addition of a new diesel generator does not constitute a "major modification" if the State's limits on the generator's hours of operation, preventing concomitant increases in emissions from exceeding significance levels, are federally enforceable.

In closing, EPA agrees with the State that NSPS and NSR do not apply if the conditions outlined in this letter are met. If you have any further questions, please contact Mr. Ron Van Marzbergen at (312) 886-6056 or Mr. Dom Aballa at (312) 886-6543.

Sincerely yours,

DAVID KEE,
Director, Air and Radiation Division.

Mr. McCLURE. Mr. President, contrary to the terms of the bipartisan agreement, section 409(a) of the Mitchell-Dole substitute provides repowered nondemonstration projects with an exemption from the NSPS requirements, rather than from the New Source Review permitting requirements. This amendment would correct this inconsistency by exempting such repowered projects from the requirements of parts C and D, as provided under the bipartisan agreement.

CRITERIA POLLUTANT AMENDMENT

The Mitchell-Dole substitute does not fully track the Senate bipartisan agreement which provides WEPCo fixes for demonstration and nondemonstration repowered that do not result in an emission increase of any criteria pollutant. The amendment would make conforming changes to the bill in accordance with the earlier distributed explanation of the bipartisan agreement.

The Senate bipartisan agreement outlines the incentives to be provided to those utility units that voluntarily use or demonstrate innovative clean coal technologies. In the case of demonstration and nondemonstration units repowering with a clean coal technology, the agreement provides WEPCo fixes if the repowering does not result in an emission increase of any criteria pollutant. Criteria pollutant is a term of art that refers only to those pollutants for which EPA has promulgated national ambient air quality standards under section 108 of the Clean Air Act. To date, EPA has promulgated such air quality standards for six pollutants: sulfur dioxide, oxides of nitrogen, particulate matter, carbon monoxide, ozone, and lead.

The Mitchell-Dole substitute fails to track the bipartisan agreement on this point. With respect to repowered nondemonstration projects, section 409(d) provides a WEPCo fix only to those

repowering units that do not result in an emission increase of "any pollutant regulated under the act". However, other pollutants besides the six criteria pollutants listed above are regulated by EPA under the act, such as mercury, beryllium, fluorides, vinyl chloride, and hydrogen sulfide. Under the Mitchell-Dole substitute, an increase in any of these pollutants could also prevent a repowered project from receiving the WEPCo fix, even though no increase in one of the criteria pollutants would result. A similar problem arises for demonstration repowered projects, except that section 415(d)(3)(A) of the Mitchell-Dole substitue expands even further the scope of the emission increase test to include any pollutant whether or not it is a criteria pollutant or otherwise regulated under the act.

The amendment would make conforming changes to the bill so that the WEPCo fixes would apply if an emission increase would not result for any criteria pollutant.

PERMANENT DEMONSTRATION REPOWERING PROJECTS

This amendment further clarifies that permanent demonstration repowering projects shall receive a WEPCo fix if their post/repowering potential emissions do not exceed their prerepowering potential emissions, as specified in the Senate bipartisan agreement.

An inconsistency exists between the proposed statutory language of the Mitchell-Dole substitute, amendment 1293, and the Senate bipartisan agreement regarding the WEPCo fix to be provided to permanent demonstration repowering projects.

The bipartisan agreement provides that such projects shall be exempt from the new source performance standards imposed under section 111 and part C of the Clean Air Act if the repowering does not result in an emission increase. In determining whether an emission increase has occurred, the agreement specifies the EPA shall compare prerepowering potential emissions against postrepowering potential emissions at the unit in question.

The Mitchell-Dole substitute fails to track this clear language of the bipartisan agreement. Section 415(d)(3)(A) only identifies that postrepowering potential emission will be the standard of measure, but is silent regarding the standard of measure to determine prerepowering emission levels. This lack of specificity could permit EPA to compare prepowering actual emissions against postrepowering potential emissions. Such a comparison represents EPA's original position in the WEPCo case and would make it considerably more difficult, if not impossible, for permanent demonstration repowering projects to receive their NSPS and part C exemptions.

The proposed amendment would correct this problem by adding clarifying language indicating that EPA shall employ a potential-to-potential comparison in determining whether an emission increase has occurred at the repowered project in question.

WEPCO

Mr. President, this amendment addresses recent EPA interpretations regarding application of the new source requirements of the Clean Air Act. The EPA decisions are embodied in a series of interpretations commonly referred to as the WEPCo decisions.

If the EPA is permitted to apply its interpretations in administering the acid deposition title of the bill, the market-based control program intended by title IV will be undermined and a serious electric reliability problem could be created.

BACKGROUND

Beginning in fall 1988, EPA issued the first in a series of unprecedented decisions which represent an extreme extension of new source requirements to existing sources. These decisions require application of stringent new source controls to projects that involve like-kind replacement of deteriorated equipment, where the replacement has no effect on the plant's original design capacity. EPA's new policies have been extended to projects that would improve air quality such as the installation of pollution control equipment, fuel conversions from oil to gas, and clean coal technology projects.

The WEPCo decisions were first initiated by an EPA ruling involving a refurbishment project at a plant owned by Wisconsin Electric Power Co. [WEPCo]. In that decision the EPA determined that stringent new source controls would be applied to units undertaking refurbishment of deteriorated equipment. This refurbishment was undertaken to restore reliable operations of the existing powerplant unit.

In several subsequent decisions the EPA extended application of the WEPCo decision to other projects such as equipment changes that improve efficiency, installation of pollution control equipment, fuel conversions from oil to gas, and programs to demonstrate clean coal technolgoies.

ICF ASSUMPTIONS

In determining the economic impact and emissions projections of the acid deposition title ICF Resources Inc., the organization relied upon by EPA for analysis of title IV, assumed that utility plants could undertake major refurbishment projects, could develop clean coal technologies, and could switch to lower polluting fuels without triggering the WEPCo decision. The ICF evaluations also assumed that each powerplant would undergo refurbishment to improve reliability and increase efficiency when the unit reached age 30. And finally, ICF assumed that these refurbishment would restore lost capacity from these older units and allow them to operate for an additional 25 to 35 years. Each of these activities would trigger new source requirements under the WEPCo decisions, but EPA had ICF assume that they could take place without any new source review.

In a separate ICF study it was concluded that if units undertaking refurbishment were subject to the WEPCo decision thereby requiring units to undergo new source review and possible installation of control equipment, flexibility in the development of acid rain control strategies would be eliminated and control costs could be increased by $1 to $7 billion annually.

CONCLUSIONS

The legislation before the Senate imposes an emissions cap how utilities achieve reductions, consequently should be left to decisions by the utility, hence the market-based control program. If, however, the WEPCo interpretations must be considered in determining compliance strategies, then a whole separate set of considerations are required and least costly methods of control no longer govern reduction decisions.

Furthermore, without refurbishment and other needed repairs and replacements, some older smaller units will have to shut down. Those that do not shut down face delays in making needed repairs while undergoing a lengthy new source review process. Applied economic research [AFR], an expert in electricity supply forecasting, has determined that the WEPCo interpretations could affect the reliability of the supply of electricity to as many as 138 million people through 1995, especially States in the Midwest, South, Mid-Atlantic, and New England.

The WEPCo interpretations simply preclude utilities from selecting the most cost-effective control strategy. They also impede the development of clean coal technologies and they discourage, or preclude, compliance strategies based on conversions to natural gas. Finally, they would inhibit changes that reduce costs and improve efficiency; that is, allow a utility to produce more electricity with the same amount of fuel.

SUMMARY OF WEPCO FIX

A simple amendment to title VI would solve all of the problems that EPA has created with the WEPCo interpretations. The currently pending amendment would provide that a unit can undertake physical or operational changes without triggering new source requirements so long as it does not emit more than it was designed to emit.

I wish to emphasize that the amendment does not modify the emissions

cap; it does not change or disturb allowances. It simply provides utilities the greatest degree of flexibility possible in determining which plants to control or over control, whether to switch fuels, use new clean coal technologies or keep units in operation in order to meet electricity demand.

In an era of concern about this Nation's competitiveness, the Agency now invokes new source review, which can take over a year, when an owner proposes to change a facility to improve efficiency or to restore reliable operations. EPA's current interpretations of WEPCo represent bad environmental, energy and economic policy.

Mr. President, for the reasons I have mentioned, I urge adoption of this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the current Clean Air Act provides that when a utility makes a major modification that results in increases in air pollution, the EPA is to treat it as if it were a new source. If they make a major modification, then it is treated as if it is a new source, so you are subject to the new source performance standards.

The rationale is that the new dose of pollution has the same effect on the local air shed as that of a brandnew unit. Thus, the modified utility, if the modifications will result in emissions increases, must meet new source performance standards and must also meet the requirements for new sources in nonattainment areas—that is an area that is not in conformity with the law, with the goals—or those for new sources in attainment areas. In other words, if it is already an attainment area, then there must be what they call PSD, prevention of significant deterioration.

What this amendment does is to revise a case that was decided, the so-called WEPCo, Wisconsin Electric Power Co., case, and would weaken current law. The amendment would have the effect of exempting the modification of utility plants from EPA review no matter how much additional pollution resulted from the modification.

The amendment that is currently before us exempts a utility modification from new source performance treatment if the modification does not result in an increase in the modified plant's maximum potential to emit. That is what this amendment talks about. If there is no increase in the maximum potential to emit, then it is exempt as compared to that of the plant before the modification.

This approach sounds like it precludes any increase in emissions, but this is not the case. In other words, you think, well, you are not going to go above its potential, so therefore you are not changing what the situation used to be. The problem with this approach is that it does not reflect the practical effect of the modification. A modification would take—I think it is important to follow this, Mr. President—an old, underutilized plant with relatively low emissions, transform it into a "just like new plant" and enable it to operate much more extensively and produce many more emissions.

According to EPA, average actual—we are not talking potential, we are talking actual—SO_2 or NO_x emissions from existing utilities are only 37 percent of potential emissions and particulates are only 44 percent of potential emissions. This is because the older plants are operating well below their maximum capacity. To allow a refurbished utility to emit at its old potential levels could permit an almost two-fold increase in emissions.

What we are pointing out is that plants have not been operating at their potential. They have been operating at an actual. So you then take an old plant and you fix it up, refurbish it, and suddenly it is not operating at the old, relatively low actual emissions, but you are much higher, you are up far closer to the so-called potential. In other words, you are getting, in some instances, twice as much emissions than you previously had from this plant.

So this amendment could permit a powerplant, even one where its emissions directly affected a national park, for example, to refurbish or add a new boiler, to double its NO_x and particulate emissions, triple its SO_2 emissions and cover these SO_2 emissions by purchasing allowances and never have to demonstrate what impact this would have on visibility or other air quality standards.

Similarly, a powerplant could increase emissions in a nonattainment area. Let us take Houston or Boston, any city. Take my home city of Providence. A powerplant could increase emissions in one of these nonattainment areas and neither have to demonstrate air quality impacts nor be required to offset these increases of emissions as they are required to do under existing law.

The PRESIDING OFFICER. The time allocated to the Senator from Rhode Island has expired.

Mr. CHAFEE. If I might take 2 more minutes, Mr. President.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 more minutes.

Mr. CHAFEE. Mr. President, for the reasons I pointed out, this is not a good amendment. There has been some suggestion about the agreement, and apparently people do not like to hear that we entered into an agreement with the administration, trying to come to certain conclusions. We made—"we" being those on the Environment Committee—certain concessions; the administration made certain concessions. We arrived at this agreement. This amendment would certainly break that agreement in a substantial way.

So, Mr. President, for the above reasons, I hope that the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield myself such time as I may consume, and I do so only to answer a couple of points the Senator from Rhode Island has made.

First of all, yes, indeed, there was an administration agreement, and, in part, what this amendment seeks to do is to have the committee comply with the agreement to which the Senator referred. The bill as written does not conform to the bipartisan agreement as announced. Part of the purpose of this amendment is to get the bill to actually conform to what the agreement was.

Second, with respect to the fact that there is a difference between actual emissions and potential emissions, the Senator is correct, but that is possible under current law. That does not change current law. As a matter of fact, the only thing that would inhibit a dirty, old powerplant from increasing its emissions by increasing its online power is whatever may be referred to in a State implementation plan, and the SIP is not affected by this amendment. If there is a SIP, it applies; if there is not a SIP, to does not apply. What you are really talking about is, do you want to get old powerplants cleaned up to the extent that they operate today and to the extent they might operate.

Let us take an example, assuming that there is not a SIP which would prohibit this action, an old plant that is operating at 10 percent of its capacity, and as a supplement to the newer, cleaner plants in the same system, they desire to retrofit that plant to make it cleaner. Absent this amendment, all they would have to do is crank the old plant up and operate it for a period of time until they qualify with the baseline requirements and then they can retrofit.

In the meantime, they have greatly increased their pollutants. Would it not be better to grant them the opportunity to retrofit that plant and clean it up instead of requiring them to go through the period of gross emissions

in order to qualify under the current law which they could do under the current law or under this bill?

There is a reason for us to try to clean up the old plants and encourage their retrofit. That is a large part of what we are trying to do in this bill, to get the old systems cleaned up to newer standards. What we are saying in this particular instance is let them clean up that power plant, the old power plant, by retrofitting it with more energy efficiency.

Let us take an example. An old plant that, say, is operating at 33- or 34-percent efficiency and can increase its efficiency to 44 percent. Let us take that as an example. A 10-percentage points increase in its energy efficiency with no increase in emissions, that is good energy policy. It is thought not bad environmental policy because, as a matter of fact, if you do that the emissions per unit of output are lower than they would be under the current operating regime.

I hope everybody is for that. I cannot imagine anybody is really opposed to that. That is what we attempt to do under this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself 5 minutes.

Mr. President, in the judgment of this manager as a member of the bipartisan agreement, in fact the Senator who was in charge of the negotiations of the bipartisan agreement, this amendment is a deal breaker. This amendment is a deal breaker essentially because it significantly expands the definition of clean coal technology.

The question of clean coal technology was very thoroughly debated during the bipartisan negotiations. That is, how many years should the clean coal technology definition be extended? How many years can a utility avoid complying with the provisions of the act because it was installing clean coal technologies? And, what is the definition of clean coal technology? How expansive should the definition of clean coal technologies be?

This is a very very important point because the more broad the definition of clean coal technology the more utilities will be able to postpone the years in which they are getting reductions in emissions.

The more reductions in emissions are postponed, that is the fewer the number of tons of reductions, and consequently the fewer the number of allowances will be gained particularly under the Byrd-Mitchell-Domenici, and the Byrd-Bond provisions, then the fewer allocations will be available to other States.

This question was very, very thoroughly debated. Again, there is a tension, a tradeoff, between those States that want allowances, particularly the clean States and the growth States. On the other hand those States in the Midwest want allowances so they can sell those allowances to help pay for the cleanup.

Because this was negotiated, because the bipartisan negotiators reached an agreement, we all felt that was an agreement that we must stick with. The amendment offered by the Senator from Idaho changes the definition of clean coal technology to such a degree that it is a deal breaker.

That is the main reason I believe this amendment should be opposed.

But second, the amendment also has the effect of dirtying the air compared to current law because under the amendment a plant would be able to increase emissions very significantly, and not have to conform with either NSPS, under new-source review, or under PSD.

For those two reasons, I think this amendment should be soundly rejected, Mr. President.

If this amendment is agreed to, Senators should be on notice that it will very significantly reduce the allowances that are granted to this State. The estimates are that the effect of this amendment would be 10 to 20 percent fewer cumulative tons of emissions reduced, and therefore, 10 to 20 percent fewer allowances given to utilities.

If there are fewer allowances, Senators should know that their States will be adversely impacted by the effect of this amendment.

I, therefore, very strongly suggest that this amendment not be adopted. I reserve the remainder of my time.

Mr. McCLURE. Mr. President, I yield myself 2 minutes. Mr. President, the assertion that this would increase pollution is flatly false. There may be a genuine misunderstanding of the effects, but as I said before, if there is an old plant out there that is dirty and it cannot continue to operate under existing law, it can continue to operate if there is no SIP in place that prohibits it. It can continue to operate up to its plant capacity, much dirtier than it is today.

The second point I would wish to make is with respect to the entitlements question, the allowances question. It would require every existing plant to take the maximum allowable action under this amendment to have the kind of significance the Senator from Montana has indicated.

I think that is highly speculative. It is not at all likely to happen. As a matter of fact, this is probably not going to affect a great number of plants very significantly. But in the instances when it would, why would we require that plant to operate with no emissions controls? They are the dirtiest, oldest plants that we have. Why would we require them to operate for a period to qualify under the baseline provisions in order to qualify for retrofit? That is ridiculous.

On the face of it, it is bad policy, and all this amendment does is gives them some opportunity to operate in such a manner that they can retrofit without having to go through that preliminary dirty emissions phase. That makes good sense to me. We have, under programs that came from the Energy and Natural Resources Committee and other sources through this Congress, enacted into law clean coal technology expenditures of almost $7 billion. This bill will nullify much of that expenditure.

Does it make sense for us to throw-away $7 billion worth of research when, with a very modest adjustment in the existing bill, it is possible for us to reap the profit from some of that investment the taxpayers of this country have made?

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, if I might have 4 minutes.

Mr. BAUCUS. Mr. President, I yield 4 minutes.

Mr. CHAFEE. Mr. President, if I might put this in a simplistic fashion, what the Senator is saying is that old plants are permitted to emit. He is right. They are not subject to the new source performance standards.

The rationale that is behind permitting these old plants to emit is first of all, they are inefficient, and at some point they are so inefficient they are going to be replaced. And there you come in with a new plant and a clean plant.

Those old plants that are still going are what we call backup plants. In other words, the potential of the plant—this is important—is let us say x megawatts. But the plant is essentially a backup plant. It is not used continually. It is only rarely used. Or it is used at most at a half x. Therefore its emissions are not substantial, not anywhere close to what their potential could be.

Here is what the Senator is saying. He is saying that it makes sense not to replace this plant but to upgrade it, to retrofit it—not totally make a new one of it, but retrofit it so that it gets up toward x, its total potential. He is saying that is perfectly all right. As long as you are are retrofitting it and get to the x, the potential, we are not again going to require any emission controls.

Here is the flaw. The flaw is in his argument that we are not seeing the end of these plants. We are not seeing them either go out or be reused in a very reduced fashion.

So, in effect, he is increasing the total amount of emissions that are occurring in our Nation. The whole purpose of the Clean Air Act is to reduce

these emissions, so he wants to get around that. In effect, you could say that he is creating a great big loophole. That is not what we want. The whole purpose of this act is to clean up the air of the Nation, whether it is with NO_x—I might mention that we are talking NO_x emissions, which cause ozone. That is why I mentioned previously the difficulties with the nonattainment areas.

So, Mr. President, it is a bad amendment. It creates a whole new area of emissions that never would exist. He said, they might exist because the potential is there. The fact is they do not exist, because these plants are not there for potential. They are used as backup. I hope that the amendment would be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. I yield myself 2 minutes.

Mr. President, up to a point, I agree with the Senator from Rhode Island, but beyond that point, I cannot agree with his assessment of the effect of the amendment. If, as a matter of fact, an old plant is retrofitted and in effect becomes a new plant totally, it would be subject to a new source performance standard under the bill or under my amendment. That is not changed, except in some very technical ways in which tradeoffs between types of emissions may be involved, where that would solve the problem; that is my description of that particular aspect.

My amendment would solve the problem that might be a problem under the bill. Again, what this does is to make it possible for us to use some of that technology which we have developed after $7 billion of expenditure by the taxpayers, in developing clean coal technologies that could be applied to old plants to make them operate more efficiently and without any increase in pollution.

It does not make any sense to this Senator to have invested $7 billion in the development of new technologies, and even though they would result in no increase in pollution say, I am sorry, you cannot use those to increase the energy efficiency of the plant. Remember—and I stress this—if you increase the energy efficiency and do not increase the gross emissions from the plant, you have increased the pollution efficiency per unit of output. You get more output with no more pollution, and that is good from an environmental standpoint. Why the committee wants to put on blinders and say we do not want that, do not want you to increase energy efficiency, it troubles me. I do not know what kind of a preoccupation we have to blind us to the opportunity to improve our energy efficiency with no detriment to the environment.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, the bill currently provides that if you do not increase the emissions, you are not subject to the new source performance standards. What the Senator is doing is driving a Mack truck through this, polluting, I might say, at the same time, because he is not willing to have those restrictions imposed; and for the reasons I pointed out, that the new result of the Senator's amendment is increased pollution, I do not think it is something that we want.

He keeps referring to $7 billion, which apparently is a reference to the clean coal technology development. I can only assume that. Somehow the suggestion is given that we have not done anything about clean coal technology in here. Well of course, we have. We have given a delay for those plants that install the clean coal technology to meet the emission control standards. We have done a whole series of pluses, you might say, and given advantages to the clean coal technology. We have not just blown away the investment of $7 billion. So that is a red herring that is being submitted, I suggest, in this argument.

The PRESIDING OFFICER. Who yield time?

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume. The essential point of this is that it is a deal-breaker. That is the sum and substance of this amendment.

We discussed this subject, clean coal technology. We discussed the definition, and we discussed the time within which plants would be able to install clean coal technology to otherwise avoid provisions in the bill which require reductions in allowances. This whole question was thoroughly debated among the bipartisan negotiators and with the administration. We reached an agreement as to the definition of clean coal technology, an agreement as to phase 1 allowance allocations, and an agreement as to phase 2 allowance allocations.

Senators should know that if this amendment is adopted, it will have the effect of reducing allowances to their States in very many cases. The EPA estimates there will be an additional 10 to 20 percent in tons of SO_2 emitted cumulatively after the year 2000, a potential cumulative increase in emissions of 10 to 20 percent after the year 2000.

So, Mr. President, in addition to the arguments made by the Senator from Rhode Island as to the pollutant effect and the adverse effect to the environment, I say that the whole separate reason this amendment should be defeated is that it is a deal-breaker. It breaks the deal. For that reason alone, this amendment should be soundly defeated and, again, not because it breaks the deal, but because the effect of breaking the deal is that it is going to have then an adverse effect on very many States. I think Senators should be aware of that.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, just to respond very briefly and then I will yield to Senator McCONNELL. In a very brief fashion, I wish to respond to the Senator from Montana. Let me say this. The Senator said there would be an increase in pollution. That is impossible under the amendment. He would have to misunderstand the amendment to say that.

It may delay the achievement of reductions which otherwise might occur. That is a possibility, but let us be clear what we say, that is not an increase in pollution.

Second, with respect to the impact upon allowances in various States, that is likely to be very minimal, but it is also even more likely that the areas in which these plants would be refitted with more energy-efficient combustion processes developed by the clearn coal technology are precisely the States where the allowances will be necessary.

So while it may reduce the pool of overall allowances very, very marginally, it is going to occur precisely where it ought to occur, in the dirty States. That, to me, seems to be a useful addition to this bill.

Mr. BAUCUS. Will the Senator yield for a question?

I do not understand the Senator's point. If allowances are reduced, allowances are reduced nationwide, virtually, not only in those States in the Midwest, for example, that might have older plants that would benefit from the Senator's amendment, but also from States in the West; my State of Montana, for example, would get fewer allowances. The State of Wyoming would get fewer allowances. Other Western States would get fewer.

Mr. McCLURE. Mr. President, the point I was making, and I will make it again, that if indeed you have an old and dirty plant and you can apply new clean coal technology to that plant in its combustion processes to the extent that it has an impact upon the allowances in that State, that is beneficial to that State in terms of the overall energy efficiency, the cost to the consumer, impact upon the industry. I think that is favorable.

I yield 5 minutes to the Senator from Kentucky.

Mr. McCONNELL. Mr. President, the pending amendment is a good amendment, and I want to speak in favor of it. As a Senator from a major coal-producing State, I believe it is important that we develop new technologies to permit the future coal-fired generation of electricity in an environmentally responsible and cost-effective manner.

The President's clean air proposal contained a 3-year extension of time for repowering clean coal technologies, as did the committee bill, S. 1630. The Byrd-Bond proposal provided for a 5-year extension for a broad range of clean coal technologies. The bipartisan agreement now before the Senate contains an extension for repowering technologies from the January 1, 2000, phase II deadline. The pending amendment, in my view, is a modest change in the bipartisan agreement which will produce major benefits for our country. This amendment, among things, increases the deadline another 2 years and includes replacement or new units in the definition of repowering technologies in the bill.

Many of the clean coal technologies that can quality for the extension of time and other incentives under this legislation are those which are most efficient and cost effective. Unfortunately, they will not be fully demonstrated and guaranteed for commercial use until the year 2005.

It is true that many of these technologies are currently being demonstrated on a small scale. It will take considerable time, however, to install and operate these technologies on a large enough scale and for sufficient periods of time before industry gains confidence in them and they are commercially available.

Mr. President, the Energy Committee, of which I am a member, held hearings earlier this year at which we heard testimony from the Department of Energy and from manufacturers and consumers of clean coal technologies regarding when these technologies would be available. That testimony indicated that almost none of the technologies planned or under development will be ready before the year 2000, and in the case of advanced technologies to reduce both sulfur dioxides and nitrogen oxides, before the year 2004 and beyond.

Mr. President, this is why the amendment before us is so important. In my opinion, if we have already decided to provide an extension for some of these technologies, we need to allow enough time and incentives to encourage their widespread commercial use.

Mr. President, this extending the deadlines is not only good for the coal in my State, it also is good for the environment. The clean coal technologies that will receive the extension under this amendment can meet or exceed the emission reduction requirements for sulfur dioxide [SO_2] and nitrogen oxides [NO_x] in this bill.

Several of them can reduce both sulfur dioxide and nitrogen oxides, whereas conventional technology, that is, scrubbers, are only capable of reducing SO_2. These new technologies also are improvements over scrubbers because they do not produce as much waste byproduct which often requires costly disposal.

Finally, many of these technologies are more efficient than scrubbers and can produce an equal amount of electricity using less coal, thereby reducing the emissions of carbon dioxide associate with global warming.

More importantly, Mr. President, these technologies represent a way for us to utilize our coal resources to meet the anticipated growth in demand for electricity. Presently, nearly 50 percent of the electricity generated in this country comes from coal. It is estimated that this number will grow to 60 percent by the year 2010.

At the same time, our need for new power generation will increase by as much as 138,000 megawatts by the year 2000, according to the Energy Information Administration of the U.S. Department of Energy. Coal is going to be with us well into the next century as an energy source and clean coal technologies will permit us to burn coal in an environmentally prudent manner.

This amendment also adds replacement units to those types of clean coal technologies eligible for the extension.

These are new units which replace old, dirty powerplants. If we are to encourage the future use of clean coal technologies, we must also encourage their use at new plants. One way to do this is to make such plants eligible for the extension. The bipartisan agreement limited the extension to repowering units only, that is, to existing plants where a new technology is installed.

Adding clean coal replacement units will not increase in any great amount emissions during the extension period. A number of restrictions are placed on units which operate during the extension period.

For example, the old unit must be shut down before the new unit is placed in operation. Also, allowances for the new unit are to be obtained from the old unit or acquired by the owner or operator. Finally, the new replacement unit must be located in the same air quality control region as the old unit and the new units must comply with all Clean Air Act permitting requirements.

Mr. President, as I understand the amendment, it also provides a payback feature that requires replacement units to put back any extra allowances used during the extension period. These allowances would be paid back over a period to be determined by the EPA Administrator and would be equal to the amount of allowances used by the existing unit during the extension period which are above the allowances the unit would have received if it had operated under the phase II reduction program during the same period.

I believe this payback of allowances is fair and reasonable. It addresses the concern of those who believe the extension period for clean coal technologies will allow excessive emission of pollutants after the year 2000. It also responds to the concerns of Senators, like my colleague from New Mexico [Mr. DOMENICI], who wish to protect the delicate balance of the bipartisan agreement with respect to the allowances on a regional basis.

This payback provision preserves the integrity of the bipartisan agreement by keeping all allowances used within the same air quality control region and with existing owners or operators who would be using allowances anyway to generate electricity at older, existing units.

Mr. President, we need the benefits of new, clean coal technologies in order to meet future energy growth and to meet the tough new clean air requirements of S. 1630 once enacted. An extension of time for these technologies is critical to the development and widespread commercial use of clean coal technologies. This amendment is reasonable and will provide some assurances that clean coal technologies will be used in the future.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, let us sum up what we are doing here and what the amendment proposes to do. What the Senator's amendment proposes is, he wishes to creep up to the maximum potential of every old plan. His answer to that is, well, these plants are spewing out the potential now, and what I am doing is putting in this new technology, and I am just going to have them get up to that potential under my new proposal, but that ignores the facts.

The facts, Mr. President, are these plants are not operating at their maximum potential now. That is just a plain fact. These plants are old and they are only used in this standby capacity. They are not operating at their potential.

What the Senator's amendment seeks to do under the current law if they upgrade these plants, they have to meet new source performance standards which deal with emission control. That is the whole purpose of his amendment. He does not want the expense of these emission controls. That is why he is for the amendment. That is the whole purpose of the amendment—to avoid the expense of the emission controls.

I might further point out that there is a good deal of talk of clean coal technology, but his amendment does

not solely require clean coal technology. It is not built around clean coal technology. That is not required in order to qualify for this new exemption that he seeks. Any new technology will qualify. It is not clean coal technology, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. McCLURE. Mr. President, I do not need the Senator from Rhode Island to tell me what I have in my amendment. Aside from the fact it is not his place to tell me what I mean by the amendment or have in my mind about the amendment, the Senator is flatly wrong in his assumptions or conclusions about my motivation.

This is an energy efficiency amendment. I do not quite understand the argument that has been made by the Senator from Montana with respect to allowances. If you do not clean up any pollution, you do not get any allowances. So you argue that this is not going to clean up any pollution but it is going to create a lot of allowances. That is logically inconsistent.

As a matter of fact, this is an energy efficiency amendment designed to allow us to use those technologies which have been developed with the expenditure of taxpayers' funds so that we can increase the energy efficiency of our powerplants in this country. This bill does not prohibit it or weigh against it. That is my motivation. That is the purpose, that is the result.

It cannot have the effect the Senator from Montana says with respect to allowances. It does not have the effect that some have suggested of creating a loophole.

The Senator from Rhode Island must assume—perhaps I am wrong in making this assumption on his part—that somebody in a power industry out there is going to go out and make foolish expenditures of money just for the sake of making the expenditures of money. Why would they do that if they gain nothing in energy efficiency, they gain nothing in pollution control? Why would they make an expenditure? Just for the fun of it? I doubt very much that is the result.

They would do it only if indeed it increases the economic efficiency and operation of one of these old plants. Yes, indeed, it might result in the extension of life of an old plant, and to the extent that it did so, it might delay the application of even cleaner technology that might be applied during the same period of time. But we would do that in order to achieve greater energy efficiency and that is good policy for this country. I cannot think of any reason why we would not want to do it.

If there are any reallocations because of replacement allowances, they must be paid back under the provisions of this bill. It is simply as nearly neutral on allowances as an amendment could be, and, as a matter of fact, I see no reason to oppose it on the basis of impact upon allowances.

I do not want to overstate it, but I think it is clear that if there is an extension because of this, the allowances granted by the extension would have to be paid back. That is provided for in the amendment. If, as a matter of fact there is no cleanup in the pollution, there are no allowances granted, and, therefore, I cannot see that it would have very dramatic impact upon allowances under any conceivable circumstances.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

Mr. President, the effect of the amendment is to allow more plants to delay compliance in the year 2000 and year 2004, that is the effect of the amendment, as the definition of clean coal technology is expanded. Therefore, more plants will be able to delay the date by which they have to conform to the provisions of the bill. That would mean there would be fewer reductions in calendar year 2000, fewer reductions in tons, because more plants will be delaying. That means there will be fewer allowances to allocate out of the bonus pool. That is because the bonus pool is tied to the size of the reductions achieved in the year 2000. That is the simple effect of this amendment.

Now, Senators should be aware of that, the fact the Senator from Idaho did agree that there would be reduction allowances. The debate is, I suppose, how many reductions there would be. The EPA estimates that with a similar provision—it did not specifically analyze the McClure amendment—but a similar provision would have the effect of 10 to 20 percent fewer allowances to be allocated under the bonus in phase II. That is the effect of the amendment.

It is for that reason, as well as the reasons that it will tend to make the air dirtier, again because more plants would be out from under the clean coal definition contained in this bill I again urge the amendment not be adopted.

The bottom line is why should we use Federal funds under the guise of the clean coal technology program on facilities which would be allowed to increase their emissions over current levels?

That is the bottom line.

I reserve the remainder of my time.

Mr. McCLURE. Mr. President, I do not know just exactly how to respond to the continued statements being made in opposition to the amendment which I think are inaccurate because I say they are inaccurate and then they are repeated, and I again say they are inaccurate and again they are repeated.

I would stress to the managers of the bill and to their staffs, please read the amendment; not my lips, the amendment. Because the amendment says that if indeed, on these repowering technologies, the modifications being proposed would cause no net increase in pollution. This is because the amendment would require those qualifying projects who elect to use the additional 2-year extension to December 31, 2005, to pay back any excess emission allowances into the Government's pool once the new facility is completed and operating but in no case later than December 31, 2005. That is provided in the amendment. Emission repayment is also a requirement of the second provision regarding replacement facilities.

So let me reiterate that emissions that occur under this type extension will be repaid and therefore the amendment will not pose any additional costs or burden on any other project or region of the country.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no Senator yields time, the time will now be deducted equally from both sides.

Mr. McCLURE. Mr. President, I ask unanimous consent Mr. McCONNELL be added as an original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I commend the Senator from Alaska for offering this amendment, and I rise to support it. It is a good amendment, and deserves the support of Senators.

The Mitchell-Dole substitute to S. 1630 unnecessarily restricts the category of technologies that qualifies for the bill's clean coal incentives. What difference should it make which technology achieves the reductions under the bill? Why should not utilities have the flexibility to meet the objectives of the legislation in the manner that is most efficient and cost effective? If the bill provides that flexibility, then consumers will benefit as well through lower cost power.

The Murkowski amendment removes the bill's restrictions and gives every technology an equal opportunity to compete. If we adopt the amendment, the result will be cleaner air at a lower cost.

The Murkowski amendment, among other things, modifies the definition of "repowering" to ensure that precombustion technologies can qualify for the phase II incentives. These technologies would still have to meet the criteria contained in the definition of "repowering." In other words, they would have to control multiple emis-

sions, provide improved boiler generation efficiency, and achieve significantly greater solid waste reduction.

There are numerous precombustion clean coal technologies that can meet these criteria. It makes no sense to exclude them.

For example, North Dakota has vast deposits of lignite which is a low sulfur, low Btu, high moisture coal that is used most economically in a powerplant in a mine-mouth operation. The Murkowski amendment would encourage the use of clean coal technologies that produce an efficient boiler fuel by reducing the high moisture content of lignite, by reducing both sulfur dioxides and oxides of nitrogen, and by reducing the solid wastes.

Mr. President, this amendment does not relax the standards of the bill. It does not increase the cost of the legislation, and it does not change the manner in which the bill attempts to achieve clean air. It is a good and reasonable amendment that brings fairness to the clean coal technology provisions of the bill. I urge its adoption.

Mr. McCLURE. I am prepared to yield back the remainder of my time if the managers concur.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

Mr. CHAFEE. Mr. President, I move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is this a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from Rhode Island.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 64, nays 33, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—64

Adams	Cohen	Gorton
Baucus	Cranston	Graham
Bentsen	D'Amato	Harkin
Biden	Daschle	Hatfield
Bond	DeConcini	Heflin
Boschwitz	Dixon	Hollings
Bradley	Dodd	Humphrey
Breaux	Durenberger	Inouye
Bryan	Exon	Jeffords
Bumpers	Fowler	Kassebaum
Chafee	Gore	Kasten
Kennedy	Mitchell	Rudman
Kerrey	Moynihan	Sanford
Kerry	Nunn	Sarbanes
Kohl	Packwood	Sasser
Lautenberg	Pell	Simon
Leahy	Pressler	Stevens
Levin	Pryor	Warner
Lieberman	Reid	Wilson
Mack	Riegle	Wirth
McCain	Robb	
Mikulski	Roth	

NAYS—33

Armstrong	Ford	McConnell
Bingaman	Garn	Metzenbaum
Boren	Glenn	Murkowski
Burdick	Gramm	Nickles
Burns	Grassley	Rockefeller
Byrd	Hatch	Shelby
Cochran	Heinz	Simpson
Conrad	Helms	Specter
Danforth	Johnston	Symms
Dole	Lott	Thurmond
Domenici	McClure	Wallop

NOT VOTING—3

Coats	Lugar	Matsunaga

So, the motion to lay on the table, the amendment (No. 1438) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1431 TO AMENDMENT NO. 1293

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of amendment 1431 offered by the Senate from Idaho [Mr. McCLURE]. There is 15 minutes of debate on this amendment equally divided and controlled by the Senator from Montana [Mr. BAUCUS].

Mr. McCLURE. Mr. President, parliamentary inquiry. In order to modify the amendment, do I have to have unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Mr. President, it would be my desire—and I would call the attention of the managers to this request—to add, at the end of the amendment, a compliance with GATT provison, reading as follows:

The provisions of this action shall not apply if the President submits to the Congress a written statement certifying that the provisions of this section violate the obligations of the United States under the General Agreement on Tariffs and Trade or the United States-Canada Free-Trade Agreement.

Mr. President, I ask unanimous consent to modify my amendment accordingly.

The PRESIDING OFFICER. Is there objection to the modification proposed by the Senator from Idaho?

Mr. MOYNIHAN. Mr. President, reserving the right to object, I will not object.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I do observe that the Senator from Idaho has made an amendment which would make only somewhat less unacceptable his previous amendment which, in my view, would violate our free-trade agreement with Canada, and is totally unacceptable. I will not object. I would just like to make that point.

The PRESIDING OFFICER. Is there objection to the modification proposed by the Senator from Idaho?

If not, the amendment is so modified.

The amendment, as modified, is as follows:

On page 449, after line 19, insert the following new section:

"CERTIFICATION OF EQUIVALENT ACID RAIN CONTROLS

SEC. 416. (a) IMPORTS OF ELECTRICITY.—Except for imports of electricity pursuant to contracts entered into prior to the effective date of the Clean Air Act Amendments of 1990, after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision, after notice and opportunity for public comment, certifying, in accordance with to subsection (b) that the nation from which such electricity is imported has established and is implementing a national program of emission requirements and controls on existing and new steam-electric utility units on a schedule and in a manner that is at least as stringent as the compliance schedules for and limitations on emissions under this Act and the Clean Air Act for similar utility units in the United States, except for imports of electricity under subsection (c).

"(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not certify any national program or utility unit under subsection (a) unless it is determined that—

"(1) the nation has adopted legislation or regulations which give the emissions reductions and control schedules for each pollutant the force of law and is implementing such progam; and

"(2) the legislation or regulations include performance standards, reporting requirements and enforcement provisions no less stringent than those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(c) CERTIFICATION OF UTILITY FACILITIES.—Unless imports of electricity are from a nation certified under subsection (b), after January 1, 1994, it shall be unlawful for any person to import electricity, unless the Administrator, in consultation with the Secretary and the Secretary of Energy, has published a decision, after notice and opportunity for public comment, certifying that—

"(1) the electricity to be imported is exclusively from an identified utility unit that converts nuclear fuel or renewable energy resources to electricity; or

"(2)(A) the utility unit is subject to emissions limitations at least as stringent as those specified under this Act and the Clean Air Act; and

"(B) the utility unit will meet emissions monitoring, inspection and reporting requirements at least as stringent as those specified under this Act and the Clean Air Act, and that the information contained in such reports is available to the Administrator and the Secretary upon request.

"(d) REVOCATION.—At least biennially, the Admininistrator, in consultation with the

Secretary and the Secretary of Energy, shall review each certification made under this section and shall revoke the certification, after notice and opportunity for public comment, unless it is determined that the conditions of this section remain satisfied and for a national program under subsections (b), that the emissions reductions for each pollutant are occurring substantially on schedule in such nation. Revocation shall take effect one hundred eighty days after notice of the revocation has been published.

"(e) SUPPLEMENTARY REPORT.—The reports required by the Administrator pursuant to section (see amendment 1303, adopted March 6th shall include an analysis by the Administrator, in consultation with the Secretary and the Secretary of Energy, of the differences in emission control levels of sulfur dioxide and nitrogen oxides between Canada and the United States. The report shall include: (1) a detailed analysis of the actual or projected variable costs and fixed costs associated with United States and Canadian acid rain controls among fossil-fired generation units within interconnected and competitive regions and (2) an examination, with relevant supporting cost data, of the effect of differences in such controls on energy trade.

"(f) As used in this section, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'fossil fuel' means a naturally occurring organic fuel, including coal, crude oil, and natural gas or fuel derived therefrom;

"(3) 'import' means to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs or trade laws of the United States;

"(4) 'person' means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality);

"(5) 'renewable energy resources' means primary sources of energy that are essentially inexhaustible including biomass, geothermal, wind, falling water, and solar radiation; and

"(6) 'Secretary' means the Secretary of State.

"(g) COMPLIANCE WITH GATT.—The provisions of this section shall not apply if the President submits to the Congress a written statement certifying that the provisions of this section violate the obligations of the United States under the General Agreement on Tariffs and Trade or the United States-Canada Free-Trade Agreement.".

Mr. McCLURE. I thank the Chair, and I thank my colleague for permitting that modification to be made. That obviously was done in order to try to answer some of the criticism of the violation of free-trade agreement arguments that have been made.

Mr. President, throughout this debate amendments have been characterized——

Mr. MOYNIHAN. Mr. President, I am sorry to interrupt but the Senator is making an important point and we cannot hear.

The PRESIDING OFFICER. The point made by the Senator from New York is well taken. The Senate is not in order. Any Senator desiring to carry on conversation is asked to retire to the Cloakroom.

The Senator from Idaho may proceed.

Mr. McCLURE. I thank the Chair.

Mr. President, throughout this debate, amendments have been characterized as cap busters. The opposite is true in this amendment. Our failure to pass this amendment is the cap buster. There is a major hole in Canada's cap on their emissions of sulfur oxides. The three western Provinces of Canada do not participate in Canada's acid rain control program. In other words, they, not us, have busted the cap.

My amendment addresses this inequity in acid rain controls between Canada and the United States by, first, seeking to achieve comparable atmospheric emissions controls in Canada to those in the United States under these Clean Air Act amendments which are applicable to imports of electricity.

Second, the amendment establishes procedures for the certification of comparable acid rain controls as a condition of new contracts for the importation of electricity imports.

Third, if certification of an equivalent program or emission limitations is not possible, imports are permitted from nonfossil generation facilities such as hydroelectric or nuclear facilities, or renewable resource conversion facilities.

Fourth, the amendment provides for a study of trade and other inequities created by differences between the acid rain controls in the United States and Canada.

This amendment applies only to future imports. This amendment does not effect current imports of electricity, nor does the amendment apply to future imports of electricity from nonfossil fuel fired generating units such as hydro or nuclear generation and renewable energy sources.

It has been alleged that this amendment is a violation of the Canadian Free-Trade Agreement. If so, so is the CFC provisions in the Mitchell substitute, section 512 of page 541, which also prohibits certain substances and consumer products from importation into the United States unless the country of origin has comparable CFC controls. This CFC provision is structurally the same as my amendment.

If my amendment violates the Canadian Free-Trade Agreement, so does the CFC's provisions.

Mr. President, I urge adoption of my amendment.

I reserve the remainder of my time.

Mr. BAUCUS. Mr. President, I yield 4 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, we want to expand imports of electricity from Canada. Canada is the only country that is exporting electricity to us. We just signed a free-trade agreement about 2½ years ago, and that was after more than 2 years of negotiations.

Mr. President, studies have shown that we would have an economic gain to this country of some $1 billion to $3.5 billion by putting a free trade agreement into effect with Canada. The agreement is just beginning to be implemented. One of the things we fought hard for—and the Canadians were very strong for—and finally made some concessions to get, was a dispute settlement mechanism. That is what should be used to address this situation.

I must say there is no question in my mind but what the amendment violates GATT at a time when we are working to settle the Uruguay round by the end of this year, and which we will be voting on early next year. To take this kind of an action in direct violation of GATT I think would be a serious mistake.

The amendment would restrict imports from Canada based on how electricity is made. Just think what it would mean if Canada turned that one around and said it was going to restrict imports from this country based on how products are made in this country. Remember that they have been concerned for a long, long time over acid rain, and because of that have taken much more aggressive, much more complete steps in trying to cut back on air pollution than we have. If they started trying to crank that into the cost of products we made here, we would see this thing coming back to haunt us.

In addition, insofar as the health programs of Canada and what they pay for the employee, if they tried to pass those kinds of costs back to us, once again it would be something that would make free trade a mockery between our two great countries.

We are talking about a country like Canada with lakes and forests, which they zealously want to protect. We have been dragging our feet on clean air legislation to clean up acid rain to protect those resources.

So I strongly believe we ought to use dispute settlement mechanisms that have been set up between Canada and the United States under the free-trade agreement. I urge very strongly that this body reject this violation of the GATT and the free-trade agreement with Canada.

Mr. McCLURE. Mr. President, I yield myself 30 seconds. I ask the Senator from Texas if he has read section 512 of the bill that is before us that deals with CFC's.

Mr. BENTSEN. I have not examined that specific provision but if the Sena-

tor is trying to chose something that he thinks violates GATT or violates the free-trade agreement I do not see that as any excuse to compound the problem by passing this amendment.

Mr. McCLURE. Mr. President, I yield myself an additional 30 seconds.

I thank the Senator for his response. The reason I ask the question, it seems curious to me that the committee produces a bill which has within it section 512 and then objection is raised to an amendment on the floor. I assume if the committee had thought of this amendment themselves it would have been all right. I only suggest that because the CFC provision is an absolute ban on imports on precisely the same basis as my amendment. If my amendment is subject to that criticism, then certainly the leadership substitute is also subject to that criticism.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield myself 1 minute.

Mr. President, I would like to respond to the point made by the Senator from Idaho. First of all, the CFC provisions in the leadership substitute bill are general as they apply to all countries. They do not apply just to Canada. They do not apply to any single country. They apply to all countries. It does not single out one country, Canada, as does the Senator's amendment.

Mr. McCLURE. Will the Senator yield?

Mr. BAUCUS. If I may finish.

No. 2, Canada has signed the Montreal protocol, which significantly calls for the reduction of CFC's. The Senator's amendment on the other hand applies to the country of Canada. It certainly does not apply to very many countries. Maybe Mexico.

Mr. McCLURE. Will the Senator yield on that point because that was the point I wanted to make?

Mr. BAUCUS. I will yield to the Senator on the Senator's time. I want to say that I was very much a part of the negotiations on the Canadian Free-Trade Agreement and I can tell the Senator that if this amendment were adopted, that if this were a subject of those negotiations, we would have a different agreement. We probably will not even have an agreement with Canada.

Mr. McCLURE. Mr. President, yielding myself 30 seconds, I apologize for trying to interrupt the Senator from Montana, but he made the statement my amendment applies to only one country. It does not. It applies to all countries.

Mr. BAUCUS. How are we going to import power from Germany?

Mr. McCLURE. I will yield on the Senator's time, not mine.

As a matter of fact, the amendment on the face of it applies to any country. Certainly, our neighbors are the ones from whom you would expect to get electricity, not from countries further away. But again, this is structurally identical with the CFC provision.

Mr. BAUCUS. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 3 minutes, 17 seconds under his control, and the Senator from Idaho has 2 minuts, 48 seconds.

Mr. BAUCUS. Mr. President, we do not have a lot of time left. I yield 2 minutes to the Senator from New York.

Mr. MOYNIHAN. I thank the Senator.

Mr. BAUCUS. I apologize to the Senator. We only have 7½ minutes total. I yield 2½ minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, may I speak in tandem with the chairman of the Finance Committee, the distinguished Senator from Texas, who said this would be a violation of the GATT. May I add as one who has been involved in the Canadian Free-Trade Agreement that this would be a violation of the agreement with Canada, which specifically provides that there will be no restrictions on the import of electricity of power between one country to the other.

May I point out that Ontario Hydro imports electricity from fossil fuel burning plants in Ohio, but in the main, what have in the trade is north-south. We bring in hydroelectricity from the far northern running rivers of Quebec and other provinces. It is the most exceptional opportunity American industry has for clean fuel, clean power, inexhaustable power. It is one of the great virtues of the free-trade agreement, and in report language we confirmed it.

We will not interrupt this movement. To adopt this amendment would be in violation of that understanding. It would be so deeply violative of American interests in clean energy. After all, what is this all about but clean energy?

Incidentally, you could never distinguish exactly where power was generated. It gets all mixed up in the grids. Whatever we do, do not let us deny America this access of the most important possible kind, and further violate one of the great trade achievements of the 1980's

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, how much time do I have?

The PRESIDING OFFICER. There are 22 seconds remaining.

Mr. BAUCUS. I yield the entire 22 seconds to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I briefly say that we had a discussion, and I said Sweden might retaliate against us. The proponent of the legislation, with considerable scorn, pointed out that Sweden does not sell the electricity. So this is strictly directed against Canada and Mexico, possibly.

The PRESIDING OFFICER. All the time allocated to the Senator from Montana has expired.

The Senator from Idaho controls 2 minutes 48 seconds.

Mr. McCLURE. Mr. President, I must say to my friend from New York that he has apparently not read the amendment or listened to the debate. That is a totally irrelevant and extraneous matter. This amendment does not cover hydroelectric energy. I am puzzled by the argument of the Senator from New York about something that is not even before the body at this time.

This is an issue about whether or not we are going to export industry to Canada so they can dirty up the air. That is what it is all about. We have in this bill a very careful set of regional balances. The biggest argument we had on the floor is how to balance regional interests. What we have done is share costs across the country on this amendment to clean up the air. Every area of this country has to share the costs. It was carefully distributed, but we are carefully exempting Canada. "Go ahead, Canada, dirty up the air. We will get your pollution. That is all right with us." Everybody in this country will pay. Canada alone is exempted. That is ridiculous.

If you want clean air, then we have the opportunity to say in areas of this country that otherwise will be discriminated against, clean up your air in Canada, as we clean up our air in this country, and do not export our industry to Canada so they can have a dirty industry while ours have to clean up. That is exactly what this issue is all about.

I urge the adoption of the amendment.

The question is whether it is violative of the Canadian Free-Trade Agreement, not a violation of GATT. The Canadian Free-Trade Agreement, I hope, has been solved by the addition to the amendment this morning. I thank my colleague for permitting the modification.

The PRESIDING OFFICER. The Senator has no time remaining. If the Senator wishes to make a motion, it would be in order. The yeas and nays have not been requested. The Senator has 24 seconds remaining.

Mr. BAUCUS. Mr. President, I know the Senator from New York would like to clear a point that is a bit ambiguous. I ask unanimous consent to have 2 additional equally divided.

The PRESIDING OFFICER. Without objection, the debate will continue 2 additional minutes.

Mr. MOYNIHAN. Mr. President, I am advised by the distinguished man-

ager on this side of the aisle that the provision in the amendment before us applies to all electricity. It does not distinguish. I read the language.

It shall be unlawful for any person to import electricity—

Import electricity, not one or the other kind, but electricity in general.

I make the further point that electricity gets very much mixed up as it wheels around grids, and finding its source may be a very difficult thing. I am sorry if I have given the impression to the Senator from Idaho that I misunderstood his amendment. I feel that I understood it very well. I am confirmed in this matter by the Senator from Montana, the manager of the bill.

The PRESIDING OFFICER. The time allocated to the Senator from Montana has expired.

Mr. McCLURE. Mr. President, the Senator from Montana is a very careful student of this legislation. If he read the amendment, I am sure he did not give the advice to the Senator from New York. If he did give that advice to the Senator from New York, he is also guilty of not having read the amendment. Read the last section on page 5. It says, "biomass, geothermal, wind, falling water, and solar radiation." It clearly does not apply to hydro. I am sorry if my friends have not taken the trouble to read the amendment.

Mr. BAUCUS. Mr. President, I must ask unanimous consent for an additional 1 minute evenly divided.

The PRESIDING OFFICER. Is there objection?

Without objection, each side will be allocated 30 seconds.

Mr. BAUCUS. I do not mean to get at picky points here. I think that is unbecoming of the Senate, frankly, but it is certainly clear that the effect of this amendment is to ban the importation of power essentially. I will read the first part. "Except for imports of electricity." It does not say whether it is hydroelectric or whatever.

The PRESIDING OFFICER. The additional 30 seconds has expired.

Mr. McCLURE. Mr. President, we do not have time to read the entire amendment. I wish people had read it before this point. Again, in addition to the provision I mentioned earlier, page 3 of the bill on line 4 says, "The electricity to be imported is exclusively from an identified utility unit that converts nuclear fuel or renewable energy resources to electricity," and so on. There is no question that applied only to fossil fuel plants and not to hydro.

The PRESIDING OFFICER. All time as expired.

The question is on agreeing to the amendment of the Senator from Idaho.

Mr. CHAFEE. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there is sufficient second?

There is a sufficient second. The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—57

Adams	Fowler	Mack
Baucus	Gore	Metzenbaum
Bentsen	Graham	Mikulski
Bingaman	Gramm	Mitchell
Boren	Grassley	Moynihan
Bradley	Harkin	Nickles
Bryan	Hatfield	Nunn
Bumpers	Hollings	Packwood
Chafee	Inouye	Pell
Cochran	Jeffords	Pryor
Cranston	Kassebaum	Reid
D'Amato	Kennedy	Riegle
Danforth	Kerrey	Robb
Daschle	Kerry	Sanford
Dodd	Kohl	Sarbanes
Dole	Lautenberg	Sasser
Domenici	Leahy	Warner
Durenberger	Levin	Wilson
Exon	Lieberman	Wirth

NAYS—40

Armstrong	Glenn	Pressler
Biden	Gorton	Rockefeller
Bond	Hatch	Roth
Boschwitz	Heflin	Rudman
Breaux	Heinz	Shelby
Burdick	Helms	Simon
Burns	Humphrey	Simpson
Byrd	Johnston	Specter
Cohen	Kasten	Stevens
Conrad	Lott	Symms
DeConcini	McCain	Thurmond
Dixon	McClure	Wallop
Ford	McConnell	
Garn	Murkowski	

NOT VOTING—3

Coats	Lugar	Matsunaga

So the motion to lay on the table the amendment (No. 1431), as modified, was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1432 TO AMENDMENT NO. 1293

The PRESIDING OFFICER. The Senate will resume consideration of amendment 1432 offered by the Senator from Alaska [Mr. MURKOWSKI]. There will be 15 minutes for debate equally divided and controlled in the usual form.

Who yields time?

If no one yields time, time will be divided equally.

Time will be equally divided.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, the purpose of my amendment, which was proposed yesterday, is to provide utilities with the maximum degree of flexibility to achieve clean air standards. The bill promotes the use of clean coal technology with incentives, but it unnecessarily restricts the technologies that qualify. Mr. President, this bill simply prescribes scrubbers.

My amendment removes the unnecessary restrictions. It does not reduce or change the strict emission reduction requirements that a technology must achieve to qualify. It does not favor one technology over another. It does not favor one type of coal over another.

My amendment simply gives all clean coal technologies an equal opportunity to compete in the marketplace. The result of this competition will be cleaner air at a lower cost.

Mr. President, I would add for the RECORD the cosponsors of this bill, Senator NICKLES, Senator WALLOP, Senator CONRAD, and Senator SIMPSON. Those organizations indicating support are the Clean Coal Technology Coalition and the Electric Power Research Institute.

Mr. President, I reserve the remainder of my time as needed.

Mr. BOSCHWITZ. May I ask, may I be made a cosponsor of the Senator's amendment?

Mr. MURKOWSKI. I am very pleased to add the Senator from Minnesota.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Without objection the Senator from Minnesota is added as a cosponsor.

Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. CHAFEE. Mr. President, what this does is it extends to low-sulfur coal the benefits that were negotiated by Senators BYRD, BOND, and others, for the use of technology in phase I of the acid control program. In other words, it is extending to low-sulfur coal what was in high-sulfur coal, and that is for them to debate. But the second part of the amendment would allow precombustion technology, combined with the use of low-sulfur coal, to qualify for repowering benefits in phase II of the Acid Control Program.

That is a lot of words. What does it all mean?

It means that this will be a deferral in meeting the reduction requirements. They are meant to currently meet those requirements by the year

2000. This pushes them off to the year 2004. And the term "repowering" is confusing here. Currently, repowering, under the law as we know it, is defined to require innovative, not commercially available technology that gets substantial environmental benefits and requires major investment by the utility. That definition is weakened in this amendment.

So, Mr. President, those various reasons, the deferral that takes place unnecessarily from the law as we have it in the existing measure, and the fact that it extends these benefits to low-sulfur coal that were negotiated for high-sulfur coal, of course make it a deal breaker in the agreement that was originally made with a whole series of Senators.

So, Mr. President, for those reasons we are in opposition to it.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, if I may yield myself 1 minute to respond to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I point out, Mr. President, that the phase II technologies must still meet the criteria in the bill and satisfy the Administrator of EPA. EPA has the discretion to accept or reject a clean coal technology. That is their job. We are just saying that we should not limit the number of people who can come in and make their pitch to EPA. It is just as simple as that.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be equally divided.

The Senator from Minnesota.

Mr. BOSCHWITZ. May I ask the Senator from Alaska a question? Would not his amendment lower CO_2, carbon dioxide emissions, because this bill, while lowering SO_2 emissions increases emission of CO_2 which is, of course, the principal greenhouse gas? That is one of the reasons I am supportive of the Senator's amendment.

Mr. MURKOWSKI. I think that my colleague from Minnesota is correct. It would give utilities greater flexibility to use other fuels and other technologies, which should lead to substantially greater reductions in emissions.

Mr. BOSCHWITZ. I might point out one of my problems with this bill, I say to the Senator from Alaska——

The PRESIDING OFFICER. Does the Senator from Alaska yield any time?

Mr. MURKOWSKI. I yield 30 seconds to my colleague.

Mr. BOSCHWITZ. Is the fact that by effectively mandating scrubbers in this bill, you are lowering the energy output in those energy-producing plants and, thereby, in order to have the same energy outputs in effect, causing new energy plants to be built, thereby increasing CO_2 output.

I think the Environmental Defense Fund estimates 240 million tons of additional CO_2 will be emitted. The EPA uses a figure of 70 million tons, which is one of the disappointments of this bill.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I would like to address the perception that this amendment is a deal breaker. But Mr. President, we have heard that before in this debate.

The Lautenberg amendment was supposed to be a deal breaker, but it was adopted and the bill is still here. The Daschle amendment was a deal breaker, but it was adopted and the bill is still here.

There is no reason for this amendment to be a deal breaker. It does not change the allocation of allowances. It simply allows a larger class of technologies to compete for those allowances. If promoting competition is contrary to the deal, then, there is something wrong with the deal. We want to promote competition, not limit it.

Mr. President, I disagree with the assertion that this amendment is a violation of the agreement. Precombustion technology was discussed at the staff level. That was acknowledged by the majority leader yesterday. However, it appears that it was not agreed to at the Member level, as the distinguished majority leader and I discussed yesterday. Precombustion technology clearly was not part of the agreement on a Member level.

Mr. President, I reserve the remainder of my time. I ask the Chair how much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 56 seconds. The Senator from Montana has 4 minutes and 40 seconds. Who yields time?

Mr. GLENN. Will the Senator from Montana yield?

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise to make, obviously, very brief remarks. I cannot see how this can be interpreted any other way except an effort to try and push in the fuel switching.

That was not the intent, as I understood it. This expands the definition of repowering to allow fuel switching to be credited toward 90 percent of the emissions reduction requirement. From the debate we had here on the Byrd amendment, and so on, we know the impact this has on high-sulfur coal and our efforts to try and hold down the unemployment in those areas. How can this be interpreted in any way except this is supposed to push us into fuel switching as a means of meeting the emissions requirement?

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I just make one final——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GLENN. I urge all the midwest Senators and those from coal-producing States to oppose this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself 1 minute.

Mr. President, I come from a Western State. Western States would like this amendment because it does encourage fuel switching. We, in the West, want fuel switching, and we want as much fuel switching as we can get. Nevertheless, as a manager of this bill and as a manager of the bipartisan negotiations, I must say that this does break the deal. This is a deal-breaker. This is a deal-breaker for the reasons indicated by the Senator from Ohio. The negotiations attempted to strike a balance among all regions of the country, so that it is fair to all regions of the country.

We discussed the definitions of clean coal technology, we discussed 2-to-1 credits, we discussed precombustion and we agreed precombustion would not fit into the definition of clean coal technologies. A balance was struck.

I would like to support the amendment, but I feel duty bound as the manager of the bill to report to the Senate this does break the deal. The Senator from Rhode Island and I have opposed amendments that are deal-breakers and upset the balance. I feel I must, therefore, oppose the amendment. Senators should know that this amendment does upset that balance. This amendment is a deal-breaker.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. The Senator from Alaska has 56 seconds?

The PRESIDING OFFICER. That is correct.

Mr. MURKOWSKI. Mr. President, I would respond to my colleague and the floor leader that, precombustion technology was not part of the deal. It was discussed on a staff level at great length, but the staff does not have the responsibility here; it is the Members.

Mr. President, this bill mandates the installation of scrubbers. That will create problems because it takes a powerplant 12 months to install scrubbers. We are going to have a problem finding the power when we shut a plant down for 12 months to put in scrubbers.

The opportunity to shift to low-sulfur coal to achieve attainment of

lower emission levels without a shutdown is available to us in this amendment.

Mr. President, we have heard a lot of debate about the cost of this bill. We are all concerned about cost. Every Senator's objective is that we get the cleanest air for the lowest cost.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MURKOWSKI. I request support of this amendment. I think it is in the interest of not only clean air, but the consumer.

Mr. HEINZ addressed the Chair.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 minute.

Mr. HEINZ. Mr. President, I want to express my deep concern and reservations about this amendment. Whether it is considered to break the deal that has been talked about here, it will certainly break the back of what is going to be left of the Appalachian and midwestern coal industry.

As the Senator from Alaska points out, there is a clear purpose to this amendment. That is to benefit low-sulfur coal. Clearly, that benefit will only be achieved at the expense of high-sulfur coal. We have tried to avoid pitting region against region, worker against worker. But none of us is oblivious to the fact the bill before us already imposes heavy burdens on the high-sulfur coal miners of my region of the country. As a result, we debated the Byrd amendment on this Senate floor for many days. Unfortunately, we lost the Byrd amendment. I ask unanimous consent to continue for 1 additional minute.

The PRESIDING OFFICER. The Senator does not have 1 additional minute. He has 32 seconds.

Mr. BAUCUS. Mr. President, how much time remains?

The PRESIDING OFFICER. Thirty seconds remains.

Mr. BAUCUS. How much time does the proponent have?

The PRESIDING OFFICER. No time remaining for proponent.

Mr. BAUCUS. Mr. President, in fairness, I ask unanimous consent, if the Senator wants to speak an additional minute, if the Senator from Alaska so desires he also be granted an additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I agree to that.

Mr. BAUCUS. May I amend that? I notice the Senator from Missouri would also like to speak on the amendment. I ask unanimous consent that there be 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. Who yields time?

Mr. HEINZ. Mr. President, I ask for 1 of those minutes.

Mr. BAUCUS. I yield 1 minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President—and I will not take all my minute—we in our region are already going to experience economic difficulties as a result of this bill as it stands.

Were the Murkowski amendment to prevail, it would add to those economic woes, unemployment, and difficulties, and many of us I fear would be compelled to oppose the entire bill. This is something we would rather not do, but it will be a result if the Murkowski amendment happens to prevail. I urge its defeat.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 1 minute.

Mr. BOND. Mr. President, I appreciate the manager allowing me this minute to say very briefly—and it must be brief in this time—that we have negotiated long and hard to come up with an equitable way to share the burden among those States which have a heavier share of the burden in cleaning up acid rain. Because of the way this measure has been constructed, the only way that utilities targeted for cleanup can recoup some of the additional costs which they must pay to achieve the overall goals of reducing sulfur dioxide emissions more in their plants than they contribute in percentage to the total emissions of sulfur dioxide is to be able to trade allowances. This amendment of the distinguished Senator from Alaska provides more incentives even for low-sulfur coal. It is a significant disadvantage to those States which have already given at the office.

I will address the problem of emissions credits and trading later. I urge the defeat of this amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 10 seconds.

Mr. MURKOWSKI. I believe there was a unanimous-consent agreement for additional time, Mr. President.

The PRESIDING OFFICER. The Chair corrects itself. The Senator from Alaska has 2 minutes remaining.

Mr. MURKOWSKI. I am sorry; I did not hear the Chair.

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes remaining.

Mr. MURKOWSKI. Mr. President, the bill managers have stated that the purpose of the phase I technology section is to encourage the use of high-sulfur coal. But what happens to our goal of using the marketplace to attain greater emissions reductions if utilities must use high-sulfur coal to get the benefits of a time extension and 2-for-1 allowances? We are limiting utilities to a narrow range of options which may well be more expensive than other options. We are going to be responsible to the consumer for that.

We are limiting the ability of the marketplace to work, which is contrary to our open American society. The consumer ratepayer is going to be stuck with paying the price tag. It is going to be high. We should not give the consumers of this country higher electric bills simply because this bill favors certain technologies or certain types of coal.

I conclude my remarks, Mr. President, with this observation. We have heard a lot of debate about the cost of this bill. Every Senator's objective is to get cleaner air at the lowest possible cost. My amendment is consistent with that objective. My amendment removes limitations on our ability to find the most cost-effective way to achieve clean air. It does not reduce or change the emission reduction requirements of the bill. It does not favor one technology over another. It does not favor one type of coal over another. It does not foreclose the use of high-sulfur coal.

My amendment simply gives all clean coal technologies an equal opportunity to compete in the marketplace. The result of this competition will be cleaner air at lower cost. I yield back the remainder of my time.

CLEAN AIR LEGISLATION TO BENEFIT MONTANA

Mr. BAUCUS. Mr. President, for the past 2 months the Senate has been considering clean air legislation. As the floor manager of the bill, I have been working hard to ensure that legislation is fair to Montana.

Here are some of the highlights of the clean air legislation that will benefit Montana.

ACID RAIN

The acid rain provisions will achieve a 10-million-ton reduction in sulfur dioxide [SO_2] emissions by the year 2000. These provisions are the most prowestern provisions since Congress began considering acid rain legislation over a decade ago. The provisions will require SO_2 reductions in two phases using a freedom of choice approach, without mandated scrubbing or cost sharing.

NO MANDATED COST SHARING

Montana ratepayers will not pay for sulfur dioxide reductions at polluting Midwestern utility plants. Montana ratepayers have already had to foot

more than a $500 million bill for pollution control technology.

NO MANDATED SCRUBBING FOR DIRTY PLANTS

The percent reduction provision from the 1977 Clean Air Act is repealed. This provision set an emissions rate for new western plants which forced these plants to scrub low-sulfur coal.

BONUS CREDITS FOR CLEAN PLANTS

An additional 20 percent extra set of pollution allowances which can be sold, applied to dirty plants, or saved for future plant construction. These allowances are included in the bill to recognize past efforts by clean utilities that have already reduced SO_2 emissions. It provides a cushion that allows growth in States with clean plants without violating SO_2 emissions requirements.

NO NO_x REDUCTIONS UNTIL THE YEAR 2000

Utilities in Montana will be required to meet a NO_x emissions rate in the year 2000 using low-NO_x burners and total emissions averaging. This provides a cost-effective way to reduce NO_x emissions. But, if after using a low-NO_x burner they still can't achieve the emissions rate, the utility can use an alternative rate.

PROMOTES THE USE OF LOW-SULFUR COAL

Montana's low-sulfur coal producers will play a major role in reducing SO_2 emissions. Utilities with high SO_2 emissions can select the cheapest and most effective way to reduce their emissions. The can use low-sulfur coal, install clean coal technology, scrub, or find other methods. Because of this flexibility, perhaps 15 million tons of Montana's low-sulfur coal will be used by utilities as a way to reduce SO_2 emissions.

NONATTAINMENT—CARBON MONOXIDE, PARTICULATES

The nonattainment provisions reflect a real bargain. It gives communities that have failed to meet their nonattainment deadlines new realistic deadlines. The emphasis in the bill, however, is not on the final deadline. The emphasis is on achieving steady progress before the deadline by requiring specific incremental progress over defined periods for ozone, carbon monoxide, and particulate matter.

In Montana, every city meets the standards for ozone, so nothing is required. However, eight cities are in nonattainment for PM-10—particulate matter smaller than 10 microns in size. These cities include Libby, Kalispell, Polson, Ronan, Missoula, Butte, and Lame Deer. Most of the exceedances are due to residential wood burning, reentrained road dust, and industrial sources. Montana's cities in nonattainment will have 5 years to reach PM-10 attainment.

Three cities are also in nonattainment for carbon monoxide: Missoula, Billings, and Great Falls. Auto exhaust, residential wood burning, and industrial sources are the cause of carbon monoxide problems. Montana's cities in carbon monoxide nonattainment will have 5 years to reach attainment.

PROMOTES THE USE OF ETHANOL TO REDUCE CARBON MONOXIDE

Ethanol and other oxygenated fuels are required in cities with the worst smog problems. Increasing the use of ethanol will clean up the air and increase the demand and prices for corn and other farm commodities used in making methanol.

REQUIRES REDUCTIONS IN PARTICULATES LIKE WOOD SMOKE

Wood smoke particulates are a major concern in many cities in Montana. This bill helps to reduce these particulates by requiring EPA to publish control techniques guidelines [CTG's] that explain how to reduce these emissions. The bill specifically requires a CTG for the curtailment of residential wood burning.

NO METHANOL MANDATES

For the first time, alternative fuels like ethanol, methanol, compressed natural gas, reformulated gas, and electricity will play their part in reducing vehicle emissions. But it does not mandate methanol, which would require a new distribution network and create serious economic problems for service stations in Montana and across the Nation.

AIR TOXICS

Every year billions of pounds of toxic pollutants are emitted into the air. Many of these chemicals cause cancer and other serious illnesses. In Montana alone, major industry sources emitted over 5 million pounds of air toxics in 1987. These sources emitted chemicals like lead, arsenic, cadimum, toluene, ammonia, benzene, and others. The bill would control emissions from these major sources.

REQUIRES MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY

Major sources in Montana that emit more than 10 tons of any one of the 191 pollutants listed in the bill, or 25 tons of any combination, will be required to control these emissions by applying maximum achievable control technology [MACT]. Once in place MACT will reduce emissions by 90 percent or more.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. CHAFEE. Mr. President, I move to table the amendment by the Senator from Alaska and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS], the Senator from Indiana [Mr. LUGAR], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—65

Adams	Fowler	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Graham	Mitchell
Bond	Grassley	Moynihan
Bradley	Harkin	Nunn
Breaux	Hatfield	Packwood
Bryan	Heflin	Pell
Bumpers	Heinz	Pryor
Byrd	Inouye	Reid
Chafee	Jeffords	Riegle
Cochran	Johnston	Rockefeller
Cohen	Kassebaum	Roth
Cranston	Kennedy	Rudman
Danforth	Kerrey	Sanford
Daschle	Kerry	Sarbanes
DeConcini	Kohl	Sasser
Dixon	Lautenberg	Shelby
Dodd	Leahy	Simon
Durenberger	Levin	Specter
Exon	Lieberman	Wirth
Ford	Mack	

NAYS—31

Armstrong	Gorton	Nickles
Bingaman	Gramm	Pressler
Boren	Hatch	Robb
Boschwitz	Helms	Simpson
Burdick	Hollings	Stevens
Burns	Humphrey	Symms
Conrad	Kasten	Thurmond
D'Amato	Lott	Wallop
Dole	McCain	Warner
Domenici	McClure	
Garn	Murkowski	

NOT VOTING—4

Coats	Matsunaga
Lugar	Wilson

So the motion to lay on the table the amendment (No. 1432) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, I rise today to express my concerns about the clean air compromise, specifically those provisions regarding acid rain, because those provisions will have negative environmental impacts on our efforts to combat global warming. I have been involved in the issue of global warming for several years now. In 1988 I addressed the United Nations General Assembly about it and this year, I am joining Senator GORE and five other Senators to host an interparliamentary conference on global warming here in Washington. While I understand that we may not be able to comprehensively address

the threat of global warming in this clean air bill, I am concerned that the compromise may actually intensify the problem.

For instance, by advancing the date on the phase I acid rain reductions by 1 year, the compromise may well create 3½ million extra tons of SO_2 reductions. These reductions will be used under the Byrd-Bond plan to give allowances on a 2-to-1 basis to any utility that installs scrubbers and reduces emissions beyond 1.2 pounds per million Btu's. Thus, scrubbers are virtually mandated because you would not otherwise get the 2-for-1 bonus allowances.

But while scrubbers reduce sulfur dioxide emissions, they also reduce the generating efficiency of coal-generating power plants by about 5 percent. So for every 20 scrubbers installed, a new plant must be built, in effect, as SO_2 goes down, CO_2 goes up by 5 percent on this basis alone—and powerplants are the largest single contributor of CO_2, which is, of course, the principal greenhouse gas, additionally, scrubbers increase CO_2 emissions beyond the 5 percent due to the loss of energy efficiency, because the calcium carbonate, or limestone, in the scrubber reacts with the sulfur in the scrubbed emissions to release even more carbon dioxide.

Under the President's proposal and I believe under the Senate committee bill, carbon dioxide emissions would have been reduced along with sulfur dioxide emissions because utilities would have had the freedom to choose among a variety of SO_2 emissions reduction methods, similar to the amendment just offered by Senator MURKOWSKI. According to the environmental defense fund, these reductions would have amounted to 240 million tons of CO_2, annually—that is more than one-third of all utility emissions of carbon dioxide—and utilities, of course, are the principal emitters of carbon dioxide. Even the EPA, whose models do not take into account cofiring or the use of natural gas—both very clean methods of producing power—estimates that under the President's bill CO_2 emissions would have been reduced by 70 million tons annually.

Great strides are being made in the development of environmentally sound methods of energy production. For example, gas cofiring significantly reduces sulfur dioxide and carbon dioxide emissions in direct relation to the amount of gas substituted for coal. Coal cleaning removes about 30 percent of the sulfur when it is cleaned before the coal is burned. And an even newer technology, fluidized bed combustion, reduces sulfur dioxide emissions 90 percent, just like scrubbers, without the accompanying loss in efficiency. If the market were allowed to guide sulfur dioxide reductions, these other technologies would be used by more utilities, and even more efficient emissions reduction technologies would be developed.

Instead, we have the same old story that has been occurring here for the past 15 years. In the 1977 Clean Air Act amendments, all new coal-burning utilities were required to meet new source performance standards, the so-called NSPS requirements. Under this legislation, all new sources were required to remove 90 percent of their sulfur emissions, regardless of the type of coal they burned or the amount of sulfur they emitted. This basically mandated that all new sources install scrubbers because there was no technology other than scrubbers to achieve the required percentage reduction.

While this policy saved the high sulfur coal industry in 1977, it led to unnecessarily expensive investments and greatly increased carbon dioxide emissions. Utilities in clean States outside of the East, like my State of Minnesota and Wyoming, had to install scrubbers, even though they burned low sulfur coal and had much lower sulfur dioxide emissions rates than those utilities in the Midwest that used high sulfur coal. At a cost of $100 to $300 million to install the scrubber, this was no small investment.

In addition to all the problems mentioned above, scrubbers have another major environmental drawback related to their byproduct. The byproducts of the wet scrubbers that would be favored under this compromise pose a huge solid waste problem. Each year, a 1,000-megawatt scrubbed plant produces 1 square mile of waste 1 foot deep. Over a 30-year life of such a plant, this equals 1 square mile of byproducts 30 feet deep. That is the equivalent of a lake of about 640 acres. And that is for just one plant.

The compromise agreement on this bill, while it would save one-third to one-half of the coal-mining jobs in the high-sulfur coal industry that would have been lost under the President's proposal—because the President's proposal did not give bonus allowances defined in such a way as to virtually mandate scrubbers—is simply not a sound environmental policy.

Do we have to dirty our air in order to clean it? I do not think so. But that is what we are doing in this bill. That is why I am so surprised that the acid rain title of this bill, crafted by many here in the Senate deemed to be environmentalists, has this environmentally negative consequence.

I understand that politics is politics and that politics is the art of compromise and the possible and that compromise is very often necessary. I do not understand, however, how those who advocate environmental protection can support policies that contribute to other environmental problems. but, then, a lot about this whole clean air debate has been ironic.

I am disappointed that in forging a compromise to clean up our Nation's air my colleagues were unable to fashion a sounder, more farsighted approach, and I hope they will be able to respond to some of the concerns that I have raised here today.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there be a period for morning business and that the junior Senator from Connecticut be permitted to speak for up to 7 minutes.

The PRESIDING OFFICER (Mr. WIRTH). Is there objection? The Chair hears none. It is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator BOSCHWITZ be permitted to speak for up to 15 minutes and at the conclusion of Senator BOSCHWITZ' remarks the Senate stand in recess until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut is recognized for 7 minutes.

"VILNIUS, LITHUANIA" OR "VILNIUS, U.S.S.R."?

Mr. LIEBERMAN. Mr. President, there has been an interesting dispute going on among the editors of one of the largest newspapers in my home State of Connecticut about how to list the dateline of their stories from Lithuania. Some of the editors apparently said that the story should be datelined "Vilnius, Lithuania" because the country had declared its independence. Others said the stories should be datelined, "Vilnius, U.S.S.R." because Lithuania was not yet a free land.

Mr. President, the debate which I am afraid paralleled a similar debate raging here in Washington has now been rendered meaningless because all foreign journalists have been thrown out of Lithuania, taken to Moscow, so that now all datelines on stories about Lithuania presumably will read "Moscow." I hope that is not the course that events follow in Lithuania itself.

Mr. President, the news today brings yet another indication of aggressive action by the Soviet Government against the Lithuanian people. The Soviets have closed the border between Poland and Lithuania. This is just the latest in a series of aggressive acts by the Soviet Government against the Lithuanian people which began with the occupation of the local Communist Party headquarters, that is that headquarters that is loyal to the independent Lithuanian Government.

The Soviets, as you know, broke into a hospital and arrested a number of Lithuanian soldiers. They then occupied the printing press on which independent newspapers have been printed, and ejected the national prosecutor, who is loyal to the independent Lithuanian Government.

Mr. President, as these acts have gone on, one after another, I am afraid that the American Government has been painfully silent or at best, ambivalent. I understand that the logic of the administration's policy with regard to Lithuania is that we have a lot at stake in Mr. Gorbachev's survival at a difficult time, and that we want to achieve difficult arms agreements with them, and if we only wait and follow with this respectful policy toward the Soviet Union, eventually the Baltic States will be free. But, instead, I think what we have seen has given us no cause for encouragement that that policy is working.

In fact, in the midst of our silence, our mumbling and neutrality, the Soviets continued to tie a rope around the neck of the Lithuanian people, and they pulled it tighter and tighter with each passing day. Just yesterday, President Landsbergis of Lithuania courageously attempted to moderate his position and said that, yes, the Lithuanian people declared independence, but they understood it would not come immediately. He sent a delegation to Moscow.

The ball is clearly in the Soviets' court, but it is not clear that our new friend and presumed partner, Mr. Gorbachev, is responding to those acts of moderation by the Lithuanian people. That is why I fear that the policy that the American administration is following is having no good effect. As I watch it, I remember that old admonition that the hottest places in hell are preserved for those who in time of moral crisis maintain their neutrality.

This administration has continued to maintain its neutrality, speaking as if we had two friends involved in this dispute, and as if there was a moral equivalency between the Soviet position and the Lithuanian position. There is no moral equivalency. The Lithuanian people are right, and Mr. Gorbachev's Soviet Government is wrong.

The Lithuanian people are a distinct people. They have a separate history, a separate culture, and a separate language. They have a separate religion. They have all indications of nationhood.

We, as you know, have refused to recognize the annexation, the aggressive acquisition of Lithuania and domination of that country by Stalin for now more than 50 years as part of the treaty, the pact that Stalin entered with Hitler during the Second World War.

For us to have spent all these years appealing to the Soviets to free the Baltic peoples and urging the Baltic peoples to demonstrate the courage to seek their independence, and now at this moment when they have had the courage to do just that, that we stand on the sidelines is to me a crime, and one that all of us should renounce.

Mr. President, a couple of weeks ago I was in a minority in this Chamber voting for a resolution that would have extended recognition to the independent Lithuanian states and asked for an exchange of Ambassadors.

The more time that passes, the more that I watch the effect of the neutral position of our Government, the more I see the Soviets acting to extinguish one after another element of Lithuanian independence, the more I feel the original vote was correct and we should send an Ambassador, or attempt to send an Ambassador to Lithuania.

Later this week, Soviet Foreign Minister Shevardnadze is coming to Washington to meet with President Bush and Secretary of State Baker. Personally, I wish that meeting was not occurring. Personally, I wish that meeting between the American Government and Mr. Shevardnadze was postponed. The thought of diplomats meeting in our capital with our Government while their country is in the business of suppressing the yearnings of an independent people for freedom has too many horrible echoes and remembrances of earlier times in history during this century when that has occurred.

But if this meeting goes forward, I hope and pray that at least President Bush and Secretary of State Baker, before they get to the issues on the agenda, will put one issue at the top, and that is to make perfectly clear to Mr. Shevardnadze that the behavior of the Soviet Government in Lithuania is unacceptable, and, more than unacceptable, that if this continues, it will jeopardize all of the hopes that we have in this country and presumably people in the Soviet Government and people around the world have for greater arms control agreements and greater trade agreements.

Mr. President, like everyone else in this Chamber of both parties, I deeply support and hope for a greater arms control and greater and better econmic and diplomatic relations between ourselves and the Soviet Government. But they cannot go forward at any cost. History tells us that if we abandon our principles in pursuit of strategic gain, we and the world are ultimately the losers.

Mr. President, I thank you for this opportunity to speak these words, and I yield the floor.

ADDITIONAL COSPONSOR—SENATE CONCURRENT RESOLUTION 106

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that Senator WIRTH be added as a cosponsor to a resolution that was offered by myself and Senator MOYNIHAN last week dealing with Jerusalem.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. BOSCHWITZ. Senator WIRTH told me he was not here and able to communicate to us his desire to be a cosponsor of that resolution at that time.

Mr. President, I also ask unanimous consent the remarks that I will now make be printed in the RECORD at the conclusion of the debate but prior to the vote on the last amendment, vote number 51.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks referred to appear at the appropriate place in the RECORD in accordance with the above order.)

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m.

Thereupon, at 1:12 pm., the Senate recessed until 2:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I thank the Chair. I rise to commend Senator DOMENICI and also to give belated support to an amendment that he offered last week on the subject of rural fugitive dust. The amendment of the distinguished Senator mandates that the Environmental Protection Agency undertake a 3-year national study of rural areas that are not meeting the particulate ambient standards due to the suspension of natural soils in the air. The result of this study will be reported to the Congress to help us determine whether those rural areas should be required to meet the 5-percent annual emissions reductions that are included in the clean air bill.

I understand and appreciate the Senator's concerns about this issue, and I take this opportunity to share with my colleagues some past experiences I encountered with the Environmental Protection Agency on this issue during the 1970's.

At that time, I was a Member of the other body. I was representing my

State of Iowa for the third district. My entire State is composed of 34 million acres of farmland. We also have 78,000 miles of rural roads, none of which are hard surfaced, or at least none of those 78,000 miles are hard surfaced. We do have about 20 percent of our roads hard surfaced.

This whole issue for my State brought my concern as to what the EPA was doing when they rejected the Iowa State implementation plan to meet the ambient air quality standards. That was under the 1977 Clean Air Act amendments. That is the last Clean Air Act that this bill we are dealing with now works with.

Back in the 1970's, the plan that was created by Iowa State officials was designed to protect the health and welfare of Iowa citizens while considering the unique rural characteristics of our State. The State officials recognized agricultural States should not be penalized because of wind-blown dust from farm fields or from normal traffic going up and down the rural roads.

Nonetheless, the EPA felt that they were better judges of the public welfare of Iowans from their offices here in the Washington suburbs of Virginia and Maryland. So they decided to require us to clean up dirt on our farms. Maybe in a very technical way it was not a case of cleaning that up, but it was a case of if any dust came from that property, private property, or in the case of the roads, the county property, then that dust so raised would have to be kept within the property boundaries.

Anybody who knows anything about agriculture, anybody who knows anything about driving up and down rural roads, knows that is not the real world. And yet that is what the EPA was trying to do.

I know many of you may laugh at the absurdity of this requirement even though it was made 11 years ago. However, it was not a joke to most people who understand the situation, and it was not a joke at that time to the people of Iowa and other agricultural areas in the United States because these people were going to pay for it in the lack of productivity. Mostly, that means just doing nothing on the farms of the Midwest, if you can imagine that, just not farming at all, because whenever you are involved in that process you are going to raise some dust or, in the case of the counties, the citizenry of these areas would have to pay the taxes to do whatever could be done.

There are some things that can be done on rural roads to keep the dust down to some extent but not totally. But there is nothing I know of, if you are on a farm, except doing nothing, if you want to keep the dust down.

It was not a joke to the farmers who were already losing the battle to maintain farm-to-market roads and bridges in a safe condition, and it was not a joke to the industries interested in moving to and expanding in Iowa. The requirements proposed by the EPA, if implemented, at that time would have inhibited any further industrialization in Iowa due to offsets. The offsets meant that a new industrial facility emitting particulates would be allowed to build only if they were able to achieve reductions in their current level of particulate emissions. However, in a State such as my State of Iowa, which is lightly industrialized, the only means of reduction was to clean up farm and road dust as the offset.

Obviously, though, all of these requirements would have had a very negative impact on Iowa's attractiveness to industry. Why did the EPA insist on having us clean up the dirt on our farms? Well, not because the rural fugitive dust was damaging to the health of Iowans, but the reason that they gave was to protect Iowa's public welfare, whatever that meant.

When I pressed them in the late seventies on a definition, EPA stated that it was primarily referring to visibility, the ability to see better, wherever you were in our State.

Ironically, they were the ones, the bureaucrats involved, who could not see the issue very clearly. The main failure of the EPA during the debate was their unwillingness to recognize the uniqueness of America, to understand the uniqueness of farming, to understand that when you are tilling the soil you have no control over how fast the wind is blowing or whether or not there is enough mositure in the ground. But there are certain times of the year you have to be there working or you are not going to get your crops planted so that you can raise the food needed in America.

I shared with my House colleagues an article written by Mr. William Burger, who was at that time chairman of the Iowa Development Commission, a commission involved with bringing industry to the State of Iowa.

I would like to share a few excerpts from this article for the consideration of my colleagues. These excerpts from his statement underscore the EPA's failure to understand the unique rural characteristics of Iowa and other agricultural States. I quote:

> The Environmental Protection Agency's tenative rejection of two key provisions in Iowa's clean air plan is a classic example of bureaucratic shortsightedness. While clinging to misconceptions about Iowa's rural oriented economy and the requirements for mandatory pollution control equipment, EPA has lost hold of an indispensable tool * * * common sense. Common sense has a large hand in Iowa's fugitive dust problems for several reasons—

And also in the development of that policy.

> The most prominent being that Iowa's industry is already meeting the standards and cleaning up its share of pollutants. The heart of the issue needs to be addressed. Iowa is an agricultural State with 94 percent of its land devoted to agricultural use. Natural background pollutants account for roughly one third of Iowa's air quality while cities and industries add approximately another third. The rest is rural fugitive dust which the winds carry into urban areas. Dust in Iowa is a fact of life. It is uncontrollable—a lid can't be put on it, filters can't catch it, and pavement can't be poured over all of it.

Then he concludes by saying:

> Farmers, as resourceful as they are, can't grow corn from concrete.

I believe this uniqueness of rural America is the heart of the problem in the Clean Air Act addressed by the Domenici amendment. I commend him for attempting to resolve this problem by requiring the EPA to deal with this issue from a commonsense perspective.

I only hope that the present EPA administration will exercise more understanding than previous ones. That is what is so important about Senator DOMENICI's study. At least we are going to have somebody looking at it. There is a mandate from Congress to take all of these factors into consideration.

Just in case, 3 years from now, somebody at EPA comes up with the idea that there must be a control on fugitive dust that is emitted as a result of normal farming practices, I hope they also come up with a conclusion of how are we going to feed America, how are we going to feed the world, because I think that is very basic.

During the debate on Senator DOMENICI's amendment, Senator CHAFEE of Rhode Island said this:

> I applaud the study this amendment requires. It is important to make sure farmers are not going to be hampered at planting time or harvest time with burdensome dust regulations.

I compliment Senator CHAFEE for his statement on that amendment. I think I should like to amend that statement to say it is pretty important that farmers are not going to be hampered at planting time or harvest time with any regulations on fugitive dust, because if there is any assumption around here that you can have some sort of regulations on fugitive dust emitted from the normal farming operations, then the people in this body are not living in the real world. I invite them to the Midwest to see how things must be done if the farmers of America are going to continue to put food on the tables of the consumers of America, with the consumers of America spending the least percentage of disposable income, at about 16 percent, of any consumer anywhere in the world.

I yield the floor.

Mr. SYMMS. Mr. President, parliamentary inquiry. What is the parliamentary situation?

The PRESIDING OFFICER. Amendment No. 1307 is the pending business.

AMENDMENT NO. 1439 TO AMENDMENT NO. 1329

(Purpose: To allow communities to decide whether or not plants exceeding the emission limitations imposed by subsection 112(f) of the the Clean Air Act do, in fact, impose upon the community an "unacceptable" risk)

Mr. SYMMS. Mr. President, I ask unanimous consent that the pending amendment be set aside. I send an amendment to the desk that is part of the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], proposes an amendment numbered 1439 to amendment No. 1293.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in amendment No. —, insert the following:

Community Involvement in Closing Decisions

Section 112 of the Clean Air Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. . COMMUNITY INVOLVEMENT IN CLOSING DECISIONS.—No plant, facility, or source shall be required to cease operations, nor shall be put in jeopardy of ceasing operations because of action taken with respect to its permits, fees, or fines, as a result of exceeding the standards issued pursuant to subsection (f) of this section, unless and until such time as a question shall have been placed in referendum before the community exposed to the risks which exceed the standard, and at least 50 percent respond in the negative. Prior to the issuance of any standard prusuant to subsection (f), the Administrator shall, by rulemaking, determine the appropriate methodology for conducting such referenda. The question placed before the exposed population shall be worked as follows:

Question: Shall (name of plant, facility, or source) remain in operation notwithstanding the fact that the U.S. Environmental Protection Agency has projected the possibility that an individual born and standing on the fenceline of this (plant, facility, or source) for 70 years may be subjected to a lifetime cancer risk of greater than (1 in 10,000 or 1 in 1,000,000).

Even should less than 50% respond in the negative, no plant, facility or source may increase its emission of the substance or substances whose risk was the subject of referendum beyond the level emitted at the time the question was placed in referendum. Should a standard issued under subsection (f) be based on an exposure other than 70 years at the fenceline, the question posed may be modified to reflect the actual exposure assumption used:

Mr. SYMMS. Mr. President, just so I might know, is my understanding correct there is 1 hour of time equally divided?

The PRESIDING OFFICER. That is correct.

Mr. SYMMS. Mr. President, I yield myself 10 minutes.

Mr. President, the background of this amendment is that it has been before the Senate over the course of the last few weeks and it has been withdrawn from consideration. One of the most controversial provisions of the Senate clean air bill is the issue of at what point is the operation of a plant so dangerous that the Federal Government should go in and shut the plant down. That is in the air toxic provisions of the bill.

Mr. President, the President's bill contains no shutdown standard, but states that the EPA can regulate any risk it deems reasonable. Mr. President, I know the closed-door compromise has worked on this issue, and Senator DOMENICI and others have made a real contribution to the effort here. But in my opinion we still run the risk by definition that the plant can be shut down.

As I say, the President's bill contains no shutdown standard. It requires the plant to install the maximum achievable control technology. Almost by definition this MACT is everything a plant can do to curtail emissions short of shutting down. The President's bill also goes further to state that EPA has the authority to regulate any risk it deems as unreasonable that exist beyond MACT.

The committee bill specifically declared that 1 in 10,000 lifetime risk to the maximum theoretical exposed individual is an unreasonable risk level, and yet if a plant cannot meet that standard it must shut down.

This leaves the bill before us in place unless Congress amends it at a future date but allows some large industries to conduct multimillion-dollar population risk studies that identify the most exposed actual person instead of the theoretical.

Remember, when I talk about the most exposed person, Mr. President, these are 1-in-10,000 and 1-in-1-million risk standards that are standards that apply after a plant has installed, after, the maximum achievable control technology. Almost by definition therefore these are standards that are purposefully intended to call into question the contained operation of the plant because it imposes what the bill deems to be unacceptable risk to the local population.

Rather than have Congress or the EPA impose its views on what is acceptable risk, some professional toxicologists and public health experts are suggesting that the community exposed to the risk should decide for themselves whether it is acceptable or not acceptable. I call this shedding a bright light on the risk and then allowing the individuals to choose for themselves in fact whether the risk is acceptable or unacceptable. It allows for the local community to decide which they value the highest, the jobs supplied by the plant or the theoretical risk provided by shutting it down.

My bright light amendment would require a local referendum be conducted prior to the EPA shutting down any plant under the 1 in 10,000 or 1 in 1 million standards of S. 1630. This is just simply protection so that the local communities affected by the EPA, the affected population, will have to say so as to whether they close the plant. They may say just because this most affected person that stands stark naked for 70 years, breathes this air for 24 hours a day, never leaves the place, never takes a bath, and they should have some rat full of jillions of grams of some toxic material to get a cancer they could develop, they might get a chance of 1 cancer in 10,000 more than otherwise, the community can weigh what that risk is and vote on the issue.

The arguments for the amendment if viewed on an individual-by-individual basis, 1-in-10,000 risk in cancer, translates into a theoretical chance of 1 additonal cancer case every 700,000 years. When dealing with such small risk numbers it is entirely possible that some Americans may resent the EPA or the Congress telling them that they must lose their livelihood because they are exposed to risks greater than this.

Mr. President, perceptions of what is acceptable risk differ from person to person. Coal miners subject themselves to yearly risks of 1 in 799. A law enforcement officer's annual risk is closer to 1 in 4,500 in 45. At the same time a rock climber faces a risk of 1 in 3,125 every time he or she goes climbing. These individuals face these risks voluntarily because they feel the benefit or the enjoyment makes the risk acceptable.

It is possible that some Americans may doubt the validity of the rat study on which the plants emissions were deemed as hazardous, or maybe some Americans may question the procedure used by EPA to extrapolate the risk to humans from that rat study.

It is entirely possible that some Americans may challenge whether they were exposed to the same risks upon which EPA bases its shutdown decisions, and perhaps most importantly maybe there are Americans who know a little more about their communities than those of us on the banks of the Potomac here inside the beltway know. They look at the cost to their communities in lost jobs, in lower incomes, the worse diets, poorer quality health care, declining infrastructure, less safe roads and bridges as a result of closing plants.

I want to repeat what it costs, what happens to communities that close plants. They lose their jobs, or they get lower incomes, they get worse diets, poorer quality health care, they have a declining infrastructure, and more hazard on the roads and bridges. We add those things together. They may decide that 1 in 10,000 is an acceptable risk in order to keep all the other good things in the community.

Let me give you an example. The distinguished Presiding Officer comes from North Carolina, a State that is famous for furniture production. A small town in North Carolina very easily could have its main income source be a furniture manufacturer. Because the furniture manufacturer uses several highly volatile lacquers and finishes, they may need a skilled fire crew available in case of an emergency. Since the local community cannot afford the level of fire suppression equipment needed the company subsidizes the local fire station so that it is capable to meet their needs.

Mr. President, I know this happens all over America. Only recently in my State, the hospital in Cascade, ID, would have closed had it for not been for a grant given by Boise Cascade Corp. to the local hospital so that those people would not have to travel many, many miles through very mountainous roads in very inclement weather in certain times of the year to reach a hospital in McCall, or a hospital in Weiser, ID.

Mr. President, the same thing could be true in any place in the country. So the furniture manufacturers emit some chemicals on the list of title III of the bill. It is possible they could be subjected to shutdown standards in the bill. But of course, if they were ordered to be shut down by EPA, then the firehouse would shut down and people's risks of having a fire that would burn up their house and risk the lives of their families would be worse, and they could be as high as 1 in 1,200 instead of 1 in 10,000.

It makes no sense to shut the factory down to eliminate a hypothetical risk of 1 in 10,000 to the most exposed individual only to subject the entire population to a very real risk that could be 10 times greater. Fire is a real risk to families who live in wood frame houses.

I know that is hypothetical situation but I think every Senator could think about instances in their State where some community and affected population could be closed down and lose their positions.

So I am just saying that this amendment puts a little integrity into this process. It would accomplish what Americans are truly asking. It allows them to decide for themselves what would best improve their environment, their lives, and their long happiness.

That is why I would ask my colleagues to support the bright light amendment that I am offering which would place the decision of the affected population at the end result. I will just read to my colleagues the way this amendment is stated.

The actual amendment says the community involvement closing—I have read this before on the floor, but the question would be on the ballot.

Mr. President, how much time have I used?

The PRESIDING OFFICER. 10 minutes.

Mr. SYMMS. I yield myself 1 more minute.

Mr. President, the question would say on the ballot that the name of the plant, say the ABC Furniture Co. in such-and-such North Carolina, for example, shall remain in operation notwithstanding the fact that the U.S. Environmental Protection Agency has projected the possibility that an individual born and standing on the fence line of this plant for 7 years may be subjected to a lifetime cancer risk of greater than 1 in 10,000, or 1 in a million.

Following that, Mr. President, say they have a vote, and 75 percent of the people vote in the negative, not to close the plant, keep it open. If they voted to keep the plant open, then no plant facility or source may increase its emission of the substance or substances whose risk is subject to the referendum.

This is not a blanket invitation to have a referendum and get worse. This is simply a way for Americans, who are the affected population, by EPA's own statements and own process, would have a vote before their plant closes. Up until the time the plant closes, they would still have to pursue the technology chase for 1 in 1 million, still have to pursue and comply with the 1 in 10,000, use the maximum available technology, the best they can use.

I think it is a very reasonable amendment. I think it supports and adds to what was worked out in the majority leader's office, where there will be a study, and this would not impact that at all. It would say at the end of the line, maybe 10 years from now, before this starts happening, that when those plants start being ordered to be closed by EPA, that the local community, the affected population, shall have a vote on whether they want to take the risk on the air toxics part of the bill or close the plant.

I reserve the remainder of my time.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we discussed this amendment in the past. I am not sure whether the Senator brought it up just for discussion or whether he brought it up and withdrew it. In any event, this is a very odd amendment, I might say. He talks about the community voting on whether the plant should be closed or not, or to quote the language, "nor shall it be put in jeopardy of ceasing operations."

I do not know what "in jeopardy of ceasing operations" means. Because of actions taken with regard to permits or fees as a result of exceeding the standards.

Then there is going to be this referendum before the community, and those who can vote are in this community.

What is the community? Who knows? Is it to be within 500 yards of the plant, or is it to be the town, or is it to be the city, or is it to be just some newly drawn lines?

Mr. SYMMS. If the Senator will yield, I can answer that. The way the law is crafted, the law states that the population of an area are affected; therefore, the plant must either close down, or you impose so many costs on it that they cannot go ahead and meet that standard. That is how it affects the air toxics part of the bill.

Mr. CHAFEE. I am trying to ascertain who votes. I will quote the language: "The Administrator shall by rulemaking determine the appropriate methodology for conducting such a referendum."

This puts the EPA Administrator in an extraordinary position. Somehow he has to determine who is eligible to vote. What about aliens? What about nonresidents? What about those who just rent in the area but do not own? What about those who have just shown you for a relatively brief time they might be staying with an in-law for a maximum of a month, and then this referendum is going to occur?

It seems to me that suddenly we have made an election official out of the Administrator of the EPA. As I say, it is not in any existing political unit. It is hard enough to conduct special elections in an existing political unit where you can go down the voting list, see who is eligible and who is not. This would set up a whole new standard, a new area, which is defined as the community, exposed to the risks.

Mr. President, on that very basis alone, I believe the amendment should be rejected.

But let us go on to the next point. What we are dealing with here, Mr. President, are health standards. Do we really want to get into a situation where, by a slim majority, by 51 percent of what this community is, they say, we do not care what the health standards are? You can put us in jeopardy, this plant is so important for us. What about the other 49 percent who vigorously opposed this? Are they there to be exposed to these toxic

emissions that are deemed unsafe? I do not think we want to put the American public, the public surrounding a plant, into this kind of position, whereby a vote of 51 to 49 percent, they can say, forget this other group over here. You do not count. You may just be children or you may just be pregnant women. But that is all right. We have decided that you are going to continue to be exposed to these toxic air emissions that EPA deems are unsafe for your health.

So, Mr. President, for these reasons, I hope that the amendment would be rejected.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I yield myself 3 minutes.

Mr. President, first off, to the good Senator from Rhode Island, he says that we are going to make an election official out of the EPA Administrator. That is not correct at all. This bill makes the assumption that the EPA goes in and says who the exposed population is. That is the basis on which they order the plant closed. That is the basis on which they order new equipment. Maybe that is so costly that the plant closes as a result of it because of the affected population.

My amendment says that the EPA Administrator would then have to conduct rulemaking on that, and the tradition in America is that the local election officials handle elections. We do not in Washington, DC. We try to set every other standard, but we have allowed people the privilege of running their own elections in the different communities in America.

So what EPA would do, if they have this great wisdom to say this plant is affecting a population, these people that are affected would be the ones who would vote. Who gets to vote would be deemed by the community, I would assume, on who the eligible voters are in the community. Or the EPA could, as the amendment says, have rulemaking that sets standards that the local community would have to have these elections. We do not have to have every "t" crossed here.

No. 2, Senator CHAFEE makes the point—and I respect his concern about the health standards—that maybe we are taking a risk here if we allow the local community to vote on the health standard. But I suggest to my colleagues that that is exactly what the U.S. Senate is doing and what the U.S. House will be doing on voting. If this is in fact a health standards bill, we are setting these standards in this bill that say that if the risk is 1 in 10,000—meaning 1 more cancer in 700,000 years, and that is only a maximum-exposed person who stands out there stark naked, never takes a breath, breathes the air 24 hours a day for 70 years, hardly your typical person, and the Congress will vote on that.

But it is OK, I guess, to drink the water out of the Potomac River, to vote on that, but down on the banks of the river in North Carolina, maybe they do not think they are smart enough to vote in their own town, as to whether they should do it. That is my whole point.

We are doing that by passing this law, voting politically, to set so-called standards that somebody thinks are important because you shoot a rat full of poison, and he gets cancer, then they come back with the toxicology studies and say here is the risk for this most exposed individual, and not only is it 1 in 10,000, but if you achieve 1 in 10,000, you have to be constantly spending money, striving toward 1 in 1 million.

I yield myself 2 more minutes.

I say to my colleages that if the closing of the furniture plant, say, in North Carolina or some other plant in Idaho, causes the fire station and the hospital to close because that the company was paying for those kinds of facilities, then we know the people's risk is going to be much greater to die a death of fire than it would have been maybe with some air toxics emitted from the plant.

All I am saying is that I believe that those people and those locally affected communities are highly qualified to make that decision, more so than we are in this city.

I would say one other thing. While I was home on the last break, in dealing with the elemental phosphate industry in my State, some of the major American corporations in that business there all inform me there is no question that they will not invest any more money in those kinds of businesses in the United States. The threat of this bill is absolutely terrifying to them as to whether they will be able to maintain what it is they are doing now and be cost competitive.

So there is a high cost going with this bill. There is a very high cost, and the American people are being asked to bear that cost, the working men and women, and they are going to pay for it with lower wages; they are going to pay for it with no jobs. There are fire departments, hospitals, churches, schools, roads, highways, you name it; there will be many others that will be closed.

Mr. President, I ask unanimous consent that the distinguished senior Senator, Senator HELMS from North Carolina, be added as a sponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I reserve myself such time as I may consume.

Mr. President, this amendment should be rejected. It is a very beguiling amendment. It is a very deceptive amendment. It is also inaccurately drawn.

This amendment on the surface has some appeal. Why should not the local community have a referendum on whether or not the plant in that community should continue in operation?

I will tell you why it should not, or why it certainly should not under this amendment. Under this amendment if any plant, any source, is subject to a permit under this act, is subject to a fee under this act, is subject to a standard under this act, it would be in a position to claim that it, the source, may be adversely affected, may suffer some adverse economic effects if that fee, if that permit, if that standard were to go into effect.

That essentially would place the permitting process, the fee process, and the standard process entirely in the hands of the source or the facility, and the public would have virtually no protection; certainly they would not under the EPA because that would allow that industry, that source, to be in virtual control of the regulatory process.

Any plant faced with a potential permit, potential fee, or potential standard would simply claim adverse economic effect and force the permit writer, force the agency setting the fee, force the agency setting the standard to choose between a very expensive referendum or writing a much less stringent requirement.

That, I submit, is not in the public interest. That is why it is a very beguiling amendment, and it is really an amendment disguised to give some sanity to the process, but in effect virtually eliminates any public health control, and certainly would eliminate, seriously dilute the efforts of the EPA, or more precisely, Mr. President, the efforts of the local permitting agency. In almost every case that would be the State or perhaps in some cases a local community.

Second, the amendment makes no sense because it really does not apply to this bill. I do not know what bill the drafter of the amendment has in mind.

The amendment contemplates the residual risk provisions to be, in this amendment anyway, maximum exposed individual for 70 years who may be subjected to a lifetime cancer risk of 1 in 10,000 or 1 in 1 million. That is the exact language of the amendment.

Mr. President, I do not know what bill the Senator is referring to. It is not this bill. The standard in this bill is not this theoretical maximum exposed individual. It is not the theoreti-

cal residual risk that the writer of this amendment contemplates in his amendment. The standard in the bill is actual man, and it is site-specific. It is not at all what the Senator from Idaho seems to think.

So, Mr. President, for all those reasons, not only does this amendment not allow any protection of public health, as I see it, at least very little, but in addition the amendment seems to be applying to another bill, not this bill.

I think the amendment should therefore not be adopted.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I just call to the attention of the distinguished floor manager from Montana that it says right here at page 2 of the amendment:

Prior to the issuance of any standard pursuant to subsection (f)—

It is not just any person or any bill; it is subsection (f) of this bill:

the Administrator shall, by rulemaking, determine—

And so on.

If you look up above it, earlier in the page:

No plant, facility, or source shall be required to cease operations, nor should be put in jeopardy of ceasing operations because of action taken with respect to its permits, fees, or fines, as a result of exceeding the standards issued pursuant to subsection (f) * * *.

It is not just anywhere in this bill. It is referenced down at the bottom on line 25:

Should a standard issued under subsection (f) * * *.

It is only subsection (f), the air toxics, that portion we are referring to.

Mr. BAUCUS. May I respond to the Senator's inquiry? As I read the amendment though, it seems——

Mr. SYMMS. I yield on our time.

Mr. BAUCUS. On line 12, page 2:

Shall * * *.

Et cetera—

for 70 years may be subjected to a lifetime cancer risk of greater than 1 in 10,000 or 1 in 1 million.

That is not the provision of this bill. The question that the Senator wishes to put is inaccurate.

Mr. SYMMS. It is. Subsection (f) is default; (a) through (g) are the first part of the bill, and (f) is the default part, and then——

Mr. BAUCUS. Since we are on my time, may I say to the Senator, the standard, the operable standard with respect to whether a plant is facing a shutdown is not the standard set forth in the Senator's amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are prepared to vote on this amendment and yield back the remainder of our time, if the Senator from Idaho is also willing to yield back the remainder of his time. We are prepared to vote on this amendment.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, just for clarification for my colleagues, subsection (f) of the bill, which this addressed—and I yield myself such time, and it will take a couple minutes to clarify this.

The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is a known, probable, or possible human carcinogen. For each such pollutant (or stream of pollutants containing carcinogens) the Administrator shall establish two simultaneous applicable standards including—

(A) a standard which eliminates all lifetime risk of carcinogenic effects greater than 1 in 10,000 to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory; and.

(B) a standard which eliminates all lifetime risks of carcinogenic effects greater than 1 in 1 million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory.

No consideration of cost, cost effectiveness, economic energy, or other factors or technological feasibility shall be included in the determination of the appropriate level of any emissions standard under this subsection.

(2) Any standards promulgated under this subsection shall be effective upon the date of promulgation.

Now that is the end of that. That is the entire section (f) which my amendment speaks to. Then you go on to (g), and then you start on the part that Senator DOMENICI worked out, which I am hopeful will ultimately have an impact on this.

But my amendment is only a failsafe and it is on section (f), I say to my colleagues. It has no impact in any other part of the bill. But this is one thing that I think all Americans need to understand. When we talk about people voting on health standards, we are voting on this kind of a standard here in the U.S. Senate to impose on the working men and women of America at a great expense and a great risk of all other factors that may impact them.

For example, if people have to give up working in what might be a relatively safe furniture factory and go take a job being a logger, their risks would be much higher than the 1 in 10,000 working as a log skidder on a logging job somewhere. I just think that that is the point that needs to be made very clear. I hope my colleagues will support the amendment. It will not interfere in any way with the Domenici portion of the bill, which goes on section (g) standards to protect health and the environment and work practice standards and other requirements.

I guess, if the chairman is ready to vote on this amendment, unless he has further comments, I am prepared to go ahead and go to a vote.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Montana.

Mr. BAUCUS. I think we are essentially prepared to yield back the remainder of our time.

There is one point I failed to mention and that is, for Senators who are interested, that this is a deal breaker. We did discuss the standards under which a plant may or may not have to shut down in the air toxics title of the bill. The provisions in this amendment go much beyond the provisions that we negotiated and discussed quite extensively during the bipartisan negotiations.

This amendment very definitely breaks that deal. There was a very delicate balance agreed to by the negotiators. This amendment upsets that balance. For that reason, in addition, this amendment should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield myself 1 more minute.

The PRESIDING OFFICER. The Senator from Idaho has 6 minutes remaining.

Mr. SYMMS. Mr. President, this will only take me 1 minute to say. I say with all due respect to my colleagues who were in on this so-called good political deal, and I agree it may have been a great political deal, but to the working men and women that are affected, it is a lousy deal. It is a lousy deal if they end up not having a say-so in meeting this standard. This is right in the text of the legislation that we are about to pass. It says, eliminate all of this standard of 1 in 10,000 or 1 in 1 million; they have to be in this technology chase.

Mr. President, the chances of the Presiding Officer, who loves to get out on the golf course—and he gets to do very little of it with his hard work here in this Chamber—but his chances are 50 in 1 million to get struck by lightning. We are legislating 1 in 1 million that would.

What kind of situation are we in here, where we are saying that we have all the wisdom here in the Congress here inside the beltway; we know what we are going to do; we are not going to give those people a chance to

even vote on this outrageous risk of 1 in 1 million.

The EPA may walk in, the ecotopians will walk in some day and say this plant is closed. These folks may say, "Here, we are the affected population. We want to keep it open. We are not hurting anybody else." It has nothing to do with acid rain, nothing to do with any other factors of global warming or ozone depletion, strictly air toxics based on this standard of 1 in 10,000, 1 in 1 million.

I would love to see somebody running for office running against Senators that voted for this kind of a ridiculous standard and let them explain it to the people that are losing their jobs. Now, I agree with my colleagues, this will not happen in the near future. You could probably run for office maybe one more time for the next 6 years, maybe two more times before they start closing the plants.

But it is in the legislation, and the ecotopians will be much stronger if things continue to go the way they are. They will be out there, like policemen on every corner, checking all these little flumes coming out of the plants. They will start closing plants, and they will be closing them in your States then, and it is going to affect people that you represent.

I urge my colleagues to vote for this amendment.

I reserve the remainder of my time, but I will yield it back if we are ready to end the debate.

Mr. BAUCUS. Mr. President, I will make one very short comment.

This is a very interesting discussion here. This is a theoretical amendment dealing with a theoretical subject. The Senator from Idaho says that the standard is 1 in 1 million. That is theoretical. The bill does not have that provision in it. That is why the amendment is theoretical. The irony, Mr. President, is that we have a very strong letter from the steelworkers who apparently would like to have the theoretical standard that the Senator from Idaho mentioned, but the provision in the bill frankly has a shutdown standard that is quite a bit lower than that; which is to say, the steelworkers in this country, the workers that the Senator from Idaho is concerned about, actually want standards that are as tough as standards that the Senator from Idaho is worried about, which are not in this bill. There is a double irony in all this argument. So I again urge the amendment be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I yield myself 1 more minute. I must comment on that. I want to get on to a vote on this amendment, but this amendment has no impact on whatever standards affect the steel production in this country.

This amendment simply states that under section (f) of this bill, if this standard is imposed to close a plant, that the affected population that EPA says are affected get to vote on it. That is all it says. I cannot get it any more simple than that for my colleagues.

I would simply state that the original concept of the Clean Air Act was that the decisions would be made in States and communities to impact clean air plants. This just takes the air toxics portion and allows the affected population to have a say so whether they close their plant or not. That is all it says. There is nothing else that should be read in the amendment. I can see nothing wrong with that consent in the United States of America.

I reserve the remainder of my time.

Mr. BAUCUS. Mr. President I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana yields back the 18 minutes and 18 seconds.

Mr. SYMMS. Mr. President, I yield back all of my time.

The PRESIDING OFFICER. All time has expired.

Mr. CHAFEE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island [Mr. CHAFEE] to table the amendment of the Senator from Idaho [Mr. SYMMS]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Indiana [Mr. LUGAR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 82, nays 15, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—82

Adams	Conrad	Harkin
Baucus	Cranston	Hatfield
Bentsen	D'Amato	Heflin
Biden	Danforth	Heinz
Bingaman	Daschle	Hollings
Bond	DeConcini	Humphrey
Boren	Dixon	Inouye
Boschwitz	Dodd	Jeffords
Bradley	Domenici	Johnston
Breaux	Durenberger	Kassebaum
Bryan	Exon	Kasten
Bumpers	Ford	Kennedy
Burdick	Fowler	Kerrey
Burns	Glenn	Kerry
Byrd	Gore	Kohl
Chafee	Gorton	Lautenberg
Cochran	Graham	Leahy
Cohen	Grassley	Levin
Lieberman	Pressler	Shelby
Mack	Pryor	Simon
McCain	Reid	Simpson
Metzenbaum	Riegle	Specter
Mikulski	Robb	Stevens
Mitchell	Roth	Warner
Moynihan	Rudman	Wilson
Nunn	Sanford	Wirth
Packwood	Sarbanes	
Pell	Sasser	

NAYS—15

Armstrong	Helms	Nickles
Dole	Lott	Rockefeller
Garn	McClure	Symms
Gramm	McConnell	Thurmond
Hatch	Murkowski	Wallop

NOT VOTING—3

Coats	Lugar	Matsunaga

So, the motion to lay on the table the amendment (No. 1439) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed to morning business for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Montana is recognized for 2 minutes under morning business.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 2403 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CLEAN AIR ACT AMENDMENT OF 1989

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1440 TO AMENDMENT NO. 1293

(Purpose: To clarify the roles of the various Federal agencies involved in the prevention of accidental chemical releases)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 1440 to amendment No. 1293.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 319, after line 10, insert the following new section:

"CHEMICAL PROCESS SAFETY MANAGEMENT

"SEC. 303. (a) The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than twelve months after the date of enactment of this section, the Secretary of Labor, in coordination with the Administrator, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highway hazardous chemicals in the workplace.

"(b) The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986, Title III of the Superfund Amendments and Reauthorization Act [SARA]. The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

"(c) Such standard shall, at minimum, require employers to:

"(1) develop and maintain written safety information identifying, workplace chemical and process hazards, equipment used in the processes, and, technology used in the processes;

"(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of the workplace effects of a range of releases, estimation of the health and safety effects of such a range on employees;

"(3) consult with workers and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

"(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation and emergency responses;

"(5) periodically review the workplace hazard assessment and response system;

"(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

"(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

"(8) ensure contractors and contract employees are provided appropriate information and training;

"(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(b) of SARA;

"(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

"(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

"(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

"(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and,

"(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

"(d) Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 304(k).".

On page 325, line 17, after "section" insert the following: ", including a review of the standard required under section 303 of the Clean Air Act Amendments of 1989,".

On page 334, after line 17, insert the following new sentence: "Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this section, workers and their representatives shall have the same rights to participate in such inspections as provided for in the Occupational Safety and Health Act.".

On page 330, beginning at line 17, strike paragraph (6) and insert the following in lieu thereof:

"(6) The Board shall coordinate its activities under paragraph (5) with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where a sudden, accidental release involving the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.".

On page 333, after line 16 insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

"(11) The Board may make recommendations with respect to the safety of chemical production, processing, handling, and storage to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than one hundred and eighty days after receipt thereof. The response to the Board's recommendation shall indicate whether the Secretary will—

"(A) initiate rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation, or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.".

Mr. JEFFORDS. Mr. President, the amendment I am offering is a fairly simple one. It has a handful of provisions designed to increase the coordination of the various Federal agencies with regard to chemical releases, as well as articulating OSHA's role in this regard.

First, it would require the Occupational Safety and Health Administration to promulgate a chemical process safety standard to require employers to take several steps to prevent accidental releases of toxic chemicals, and to set up procedures to mitigate and respond to releases should they occur.

Among the items it calls for is training of workers and contractors in emergency response. This training is intended to be equivalent to that provided for under Superfund. This does not mean that there will be one across-the-board hourly requirement, rather, that the training should be commensurate with an employee's responsibilities in an emergency.

Second, the amendment would protect the right of States and localities to enact more stringent environmental laws as currently provided for in the amendments, while keeping intact the current Federal-State partnership structure for worker safety.

Third, the amendment would require a review of the OSHA standard by EPA as part of its coordination functions.

Fourth, it would grant workers so-called walkaround rights when EPA or the Chemical Safety Board conducts an investigation.

Fifth, it requires the Board and OSHA, which have overlapping authorities to enter into a memorandum of understanding to avoid duplication. This agreement is designed to result in some allocation of responsibilities so that we do not waste Federal resources with the conduct of parallel investigations.

Given the Board's mission, in some cases duplication will be unavoidable. The amendment makes clear that the Board should always investigate accidents with a public impact or with the potential for public impact. For example, if a release failed to produce public harm simply due to the fortuitous direction of the wind, then the Board should certainly investigate.

Finally, the Board would be authorized to report to OSHA as well as EPA on proposals for future regulations. Like EPA, OSHA would be obliged to either proceed or formally respond to such a suggestion from the Board.

Mr. President, this amendment should result in a somewhat better use of our resources. It will also result in a safety standard being promulgated to

protect workers in very short order. I urge its adoption.

In summary, this is an amendment that is significant but rather simple and which has been agreed to by many parties who we have discussed it with over a number of weeks. Basically, what it does is coordinate the efforts of the Chemical Safety Board with other Federal agencies to ensure we do not have unnecessary duplication of effort if we have an accident in the release of dangerous chemicals into the air or other matters under the jurisdiction of the chemical board. It allows and provides for coordination, for instance, with OSHA, to ensure agencies which have dual responsibility to protect workers not stumble over each other with respect to investigations. It ensures that the efforts of the Secretary are involved in taking whatever action is necessary to prevent similar occurrences in the future. It also provides for other additional coordination with respect to solutions.

At this point, after working with all the various people who will be involved, we believe, at least I am told I have everbody in line. They are happy with the amendment. Therefore, at this point, I yield the floor.

The PRESIDING OFFICER. Is there further discussion on the Senator's amendment? The Senator from Montana.

Mr. BAUCUS. Mr. President, the amendment offered by the Senator from Vermont helps clear up some potential difficulties in this bill. There were potential questions and ambiguities concerning the rolls of OSHA and EPA concerning fence lines around plants.

I want to thank the Senator for offering this amendment. I think this does help clarify and clear up some ambiguities. The managers on this side are prepared to accept the amendment.

Mr. DURENBERGER. Mr. President, the managers on this side are also willing to accept the amendment. Before we do, though, I want to express my appreciation to my colleague from Vermont for his patience with those of us who originally authored this particular provision. Over a period of time, they have been wrestling with how you coordinate with the most appropriate Federal agencies. The Senator from Vermont, both in his past life in the House and now, has been very actively involved with the Occupational Safety and Health Act and has demonstrated a very serious concern for getting the most out of chemical safety, both on the Chemical Safety Board side and on the side of the Department of Labor and the Occupational Safety and Health Administration.

While we spent many hours, maybe too many hours, negotiating the specific terms of this agreement, I think the final language of the amendment, with its coordination language between the new agency, the important agency on chemical safety, and the existing requirements of the Occupational Safety and Health Administration has made it a stronger provision. I want to congratulate the Senator from Vermont for his efforts to do that and indicate we, too, support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1440) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1441 TO AMENDMENT NO. 1293

(Purpose: To clarify application of antitrust laws)

Mr. BAUCUS. Mr. President, on behalf of the Senator from Ohio [Mr. METZENBAUM], I offer an amendment. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the previous amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Senator METZENBAUM, proposes an amendment numbered 1441 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert new section 403(1) as follows:

"SEC. 403(1). APPLICABILITY OF THE ANTITRUST LAWS.—

"(1) Nothing in this section affects—

"(a) the applicability of the antitrust laws to the transfer, use or sale of allowances, or

"(b) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.".

Mr. BAUCUS. Mr. President, this amendment that I offer on behalf of the Senator from Ohio would clarify that the antitrust laws in existing Federal Energy Regulatory Commission authority over unfair methods of competition would apply to the transfer, use, or sale of emission allowances created under section 403 of the Clean Air Act. Application of these laws would prevent a situation in which a new company or an existing company wishing to expand capacity could not obtain enough allowances to increase production because existing companies were hoarding their emission allowances with the intent of preventing any new competition.

I urge adoption of the amendment on behalf of the Senator from Ohio.

Mr. DURENBERGER. Mr. President, there is no objection on this side. I recommend adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1441) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1442 TO AMENDMENT NO. 1293

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendment will be set aside.

The clerk will report the amendment by the Senator from Kansas.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. HELMS, Mr. SHELBY, Mr. COCHRAN, Mr. THURMOND, Mr. BOSCHWITZ, Mr. INOUYE, Mr. NICKLES, Mr. HEFLIN, Mr. BURNS, Mr. BOREN, Mr. BOND, Mr. MCCONNELL, Mr. SYMMS and Mr. PRYOR, proposes an amendment numbered 1442.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 318, after line 24, add the following new subsection:

"(x) HEALTH AND ENVIRONMENTAL EFFECTS OF PESTICIDE USE.—

"(1) The authorities of this section shall not be available for the purpose of protecting public health or the environment from adverse effects which may result from the use of a pesticide in a commercial agricultural operation where such use is regulated pursuant to the authority of the Federal Insecticide, Fungicide and Rodenticide Act.

"(2) For purposes of this subsection, the term commercial agricultural operation means any activity conducted for the production of one or more agricultural products or commodities and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.".

Mr. DOLE. Mr. President, America's farmers are getting ready for the coming planting season and are prob-

ably not paying much attention to the clean air debate. By their very nature, farmers are the original environmentalists. They operate in a clean environment and are largely unaffected by many of the problems that we face in urban areas that the Clean Air Act is designed to address.

However, there is a great risk that this bill could be extended in an unreasonable way to farmers and farm operations in the regulatory, implementation and enforcement process simply as a matter of interpretation.

Just as we have attempted to address real concerns of small business, small communities, small oil and gas producers and other entities that individually are not responsible for the urban dirty air problems this Nation faces, farmers and farm operations are potential candidates for unreasonable regulation under the broad authority of this bill.

One confusing aspect of the clean air bill we are debating today is the treatment of the use of agricultural pesticides by farmers under the bill. Currently, if farmers use pesticides, they must comply with the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA].

FIFRA is a very technical and precise law covering specific directions such as dosage rates, methods of application, instructions for dilution and types of application apparatus, including frequency and timing of applications, and other limitations and restrictions on pesticide use. In fact, it is a criminal act under FIFRA to apply a pesticide in a manner inconsistent with labeling instructions. Severe penalties could be imposed.

Requirements under the Clean Air Act could force farmers to use a different dosage required for a particular crop or take acreage out of cultivation just to comply. This amendment is designed to ensure that pesticide application requirements under FIFRA are not adversely affected by inconsistent requirements and controls under the Clean Air Act.

I am pleased to be joined by Senators HELMS, SHELBY, COCHRAN, THURMOND, BOSCHWITZ, INOUYE, NICKLES, HEFLIN, BURNS, BOREN, BOND, MCCONNELL, SYMMS, and PRYOR as cosponsors of this amendment.

Farmers are already faced with a tremendous challenge to provide the American consumer with an adequate food supply. We can only expect food prices to go up and farmers to quit farming when we load them up with unnecessary Federal regulations.

I believe the American farmer believes in clean air and an environmentally safe world. The Senate should respect that by adopting this environmentally sound amendment.

The amendment has been discussed and negotiated and cleared I understand by the managers on each side.

Mr. BAUCUS. Mr. President, the distinguished minority leader is correct. We have looked at the amendment and think it helps clarify a potential conflict.

Mr. DURENBERGER. Mr. President, I recommend adoption of the amendment of the Senator from Kansas.

Mr. BOSCHWITZ. Mr. President, I am concerned that many farmers will be asked to comply with yet another very complex set of regulations due to this bill. As things stand now, farmers are subject to rules and regulations for the farm programs through not less than five Federal agencies: The Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Army Corps of Engineers, the Fish and Wildlife Service, and the Environmental Protection Agency. In addition to all this, they have to deal with many State and local agencies as well.

The last thing farmers need is another set of regulations under the Clean Air Act. The Federal Insecticide, Fungicide, and Rodenticide Agency already regulates the registration and use of agricultural chemicals, and FIFRA is currently working on regulations for the disposal and storage of these chemicals. The Department of Transportation already regulates the shipment of them as well.

Senator DOLE's amendment does not allow farmers to ignore any of their environmental responsibilities. It would simply ensure that the American farmer does not have to deal with yet one more set of Federal rules by eliminating the unnecessary duplication of already existing regulatory authority. I support this amendment and encourage my colleagues to do the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1442) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. I thank the managers.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. What is the inquiry by the distinguished senior Senator from New Mexico?

Mr. DOMENICI. What is the pending business?

The PRESIDING OFFICER. The pending business is the Baucus amendment to No. 1307.

Mr. DOMENICI. Is it appropriate for the Senator from New Mexico to speak for 5 minutes on the bill at this point?

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMENICI. I thank the Chair. Mr. President, I will try to not take longer than 5 minutes, and if this holds up any business they want to conduct, the managers should inform me.

The PRESIDING OFFICER. The Senator is advised there is no time limit to debate on the bill itself.

Mr. DOMENICI. I thank the Chair. Nonetheless, I make that commitment to the managers. I really do not want to hold up business if they have amendments.

Mr. President, I rise because I know this evening we are going to pass a historic clean air bill., I had the privilege as a Senator to work on the first two significant clean air bills passed in Congress. It has been almost 13 years since we had a major environmental cleanup bill passed by both Houses of Congress. I hope this one leaves the Senate, does not spend a long time in the House, and that in the not too distant future the President will sign it into law. Obviously, there has been a lot of debate and discussion, a lot of negotiation, and a lot of thought given to this bill.

I wish to thank a few people because I think you do not get to this stage in the development of a major new environmental cleanup bill without a lot of people having done a lot of work and putting a lot of time and energy into trying to get us down the path of cleaning up the environment.

So I want to start by congratulating and thanking the President for his effort. Clearly we would not be here if he had not sent us a very good bill with some very innovative and exciting ideas. Principally, it addresses the longstanding acid rain problem.

Obviously the committee, Senator BAUCUS, Senator CHAFEE, and clearly the majority leader, Senator MITCHELL, and our minority leader, Senator DOLE, and many others contributed to getting us to this point.

Obviously, this is not just an ordinary situation. Much in it is needed. Much in it should be a signal to the world, especially the industrial world, that they too have a responsibility to clean up the environment as America and they engage in this new decade of world prosperity.

Clearly our competitors in the industrial world have to follow suit in a number of areas and clean up their environment.

Having said that, I want to just indicate that the acid rain provisions are not only historic because we are going to substantially reduce acid rain at the turn of the century, but because of the way we did it.

Clearly, there are some real gambles in this acid rain cleanup. But I think we came down on the right side. What we have done is put an actual cap on America's production of sulfur dioxide. That is rather historic when you think that with changing times, with world needs, we put a cap on. That cap is not to be exceeded.

We hope that we can live well, prosper, and still stay within that cap. But the other innovative process was, as we reduce that sulfur dioxide, to give to those plants and those energy producers that are reducing this sulfur dioxide some allowances so they can use those allowances within their system, so they will be sold in the future for growth that may be needed.

So if we have roughly 19 million tons of SO_2, we are going to put a new cap on of 10. That gives roughly 8.9 million that are available when we get down to that point that we can continue to exchange by way of allowances and still remain within the cap.

This is using the marketplace in a new and different way to control the environment, and to reward those who are cleaning up. And although that is not always exactly fair—it cannot be—I think we have done our very best to allocate those allowances in a way that will help those States with the highest costs, not penalize those who are already clean, and yet will have to have allowances for growth.

I think that is rather historic. Clearly some States will have some big economic burdens. But I think we are learning in this legislation, in some of the debate that occurred on some of the major amendments, that when you ask American industry, large or small, be it a petrochemical plant or a utility company, to spend money on cleaning up the environment that they are part of, somebody pays the bill.

So we will have added costs to the American environment. I do not think anybody denies that. Those who call themselves proenvironment do not deny that. Those who are environmentalists might deny that.

We know if you are going to spend 8 years out from this point in time $19 billion a year cleaning up this economy, that $19 billion reflects in the costs of something that the American people are going to be buying, selling, or using.

Yet we are prepared to say we want to do that much because the environment is very, very important to our people and to the world, and clearly to our children and future generations.

So that is a rather historic one. Then we have been beset for years with a section of the Clean Air Act called air toxics. We have never been really able to enforce it very well. Part of that is because we do not know enough about certain things. Part of it is because it is very, very difficult to establish a standard that can be implemented fairly and that we know enough about to carry out.

So we have received almost no control in that area. We have done two very significant things in this bill. We have said to all the major emitters of those kinds of air toxics, "You are going to begin to ratchet that down under maximum available control technology," very expensive items, yet it is going to be applied to the next 5, 7, 8 years across the board to those who are significant producers of air toxics of the type we have not been heretofore controlling, benzene and the like, that we think produce cancer because we know cancer is produced from some of them—in animals, and in research.

So we are asking America to begin to ratchet down. That will get rid of anywhere from 85 to 90 percent of that group of pollutants in the United States' ambient air environment. That is a historic step because we do not need any standards and we do not need to go to court and argue about it. We are just going to do that based on a standard called maximum available control technology.

The part that follows that is very contentious. Some people think we did not do enough, but this Senator thinks we did exactly right. That is called the residual risk. When we are finished with that first round, what do we do next? Some would think we should now and here today in this bill set a standard for that particular residual risk. We felt, those of us who worked on this bill, that indeed we want to take that second step.

But we did something rather historic in this bill because for the second go-around, the residual risk, once we made that first round of air toxic cleanup—very expensive, very historic, and many American businesses are going to pay for that. We put in this bill the first, I believe, formal risk assessment effort.

You will find in this bill for the residual risk part a mandated National Academy of Sciences study on how we should evaluate in a science risk environment, how we should look at those toxics and come up with some way to adequately model and really assess the risks. That will be a first.

I am sure the National Academy of Sciences and some of their experts are very excited about this opportunity to apply science and real knowledge to this base to give American lawmakers and policymakers some real objective way to evaluate these kinds of risks in our society.

And we follow that up with a blue ribbon commission that will implement it, and then we say, if we do not follow their implementation suggestions here in the Congress under some expedited processes, then obviously we set a standard that will be a fallback standard that is very, very strong and stern. It seems to me that that is a very good approach.

For those who think we should do more right now, some of us would say, why should we not let the first phase work its way through while we do this with the scientists of our country; we do not lose anything. If it turns out that in fact they can help us do this in an orderly manner and really know what we are doing and what the risks are and what we are asking America to pay for, what do we lose? We would not be ready for the residual risk implementation anyway. And if this process fails because we do not get some good recommendations or we will not adopt them in the U.S. Congress or the President vetoes them, then we did put in a very strong standard that would take effect in the second round of air toxic cleanups. I think this is good law, and with the science base that we have in America, I think it is time we do things like this.

Obviously, one might ask or suggest that the Senator from New Mexico seems rather interested and enthused about this. I do, and I am, because I had something to do with it. I have been thinking for a long time that we ought to have some risk assessment potential in this country. We ought to have scientists tell us some of these risks in an objective way, because we have risks all around us all the time, Mr. President. When we wake up every day, we accept a certain amount of risks. Some of them we never bother to evaluate. We just say, "that is living." Others, we say we do not want to take the risk. Sometimes we do not know what the risk is, and we regulate it.

Clearly, this approach, where we ask the scientists to look at it from the health risks and give us some real information, has been a long time coming, but I frankly believe it is high time, and it will serve us well. Obviously, there are three or four other provisions in this bill that are truly exciting. We are attempting to get nonattainment areas down where they are in attainment. It is not easy to get Los Angeles down into attainment, and we can sit here all day and order them to do it. But I can remember Ruckelshaus, EPA Director 16 years ago, ordered them to do something, and it turned out they could not do it, because they would have had to take all

the cars off the road 2 or 3 days a week.

I compliment those who put this together. It is not perfect. No clean air bill is perfect. Risks are taken that we do not quite understand. Economic costs are born that sometimes we are mistaken about, but I truly believe this would be, if it stands the test of going to the other side of the Capitol and if it finally stands the test of going up Pennsylvania Avenue and getting a signature, and it is something like this, like we have here today, it will have been a credit to the U.S. Senate, and the weeks that we have spent on the floor, in committee, and in prefloor conferences, because it will be good for us, and it will be something that the American people will thank us for and of which we can be proud. I yield the floor.

The PRESIDING OFFICER (Ms. MIKULSKI). The senior Senator from New Mexico yields the floor.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Madam President, I ask unanimous consent that I might proceed as in morning business for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Madam President, I rise today to invite all of my colleagues to visit the Earthtech 90 Technology Fair and Exhibition on the National Mall. Beginning tomorrow and continuing through Sunday, Earthtech 90, which is sponsored by the Environmental and Energy Study Institute [EESI] and cochaired by Senator GORE and myself, will have on exhibition some of our Nation's promising new technologies that will help us achieve environmentally sustainable development as we enter the next century.

The purpose of Earthtech 90 is to elevate the issue of environmentally sustainable development on the national agenda. We hope to accomplish this in two ways. First the technology fair will give Members of Congress, other policymakers, and the public the opportunity to examine firsthand examples of technologies, products, and strategies that conserve resources or prevent damage to the environment. Second, on Thursday, and Friday, here in the Senate, we are holding four international forums—linking Capitol Hill via satellite with Europe and Japan—to bring together high-level representatives of business, public interest groups, academia, and governments. Our forums will explore how the public and private sectors can work together to stimulate innovation and encourage the widespread use of environmentally sustainable strategies.

Situated next to the Smithsonian's Air and Space Museum, visitors to the Earthtech 90 Technology and Exhibition Fair will have the opportunity to view over 90 exhibitions ranging from an electric car to a 60-foot-tall wind turbine that produces energy from wind generation.

Therefore, Mr. President, I invite all of my colleagues to take a few minutes from their busy schedules and hop on one of our ethanol-fueled shuttle buses that will be shuttling passengers to and from the Capitol every hour over the next 2 days and visit the future at the Earthtech 90 Technology Fair and Exhibition on the Mall.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CLEAN AIR ACT AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Madam President and Members of the Senate, the Clean Air Act has not been amended for 13 years. Often during that time I have warned the Senate that our failure to act was permitting increases in health and environmental damage due to air pollution. Now we are on the brink of action. The pending legislation is a strong step forward from current law. I urge its adoption.

The Senate faces a simple choice: This clean air bill or no clean air bill. We have a choice between making statements or making laws. For me, the choice is clear. We have had 13 years of statements, and the air in some places has gotten dirtier. Now we need a law to make the air cleaner everywhere.

This bill will do that. It is sound and comprehensive legisation. It dramatically expands and strengthens the clean air law and does it in the most-cost-efficient manner possible.

This bill controls acid rain; current law does not. This bill phases out CFC's; current law does not. This bill effectively controls toxic air pollutants; current law does not. Current law has no direct acid rain reduction program.

Sulfur dioxide emissions and emissions of nitrogen oxides are not controlled now due to concerns about acid rain. This is a serious flaw in the existing act, and it must be corrected. The pending bill will do so.

In 1981, I introduced the first legislation to control emissions of pollution that cause acid rain. That legislation would have required an 8-million-ton reduction in sulfur dioxide emissions. By contrast, the pending bill requires as a 10-million-ton reduction in sulfur dioxide emissions below 1980 levels. It is, therefore, more demanding than the first acid rain control bill introduced 9 years ago. By any standard, this bill requires a significant reduction—almost 50 percent of total U.S. sulfur dioxide emissions and over one-half of utility emissions.

By targeting specific plants and prohibiting the EPA from issuing more than 8.9 million allowances at the end of the reduction period, the bill assures that the full 10-million-ton reduction will be achieved and maintained. The bill imposes a national cap on sulfur dioxide emissions. That is an essential provision. Without it, we would have to revisit his issue in the near future as growth in emissions overtook our efforts.

In eloquent testimony before the Environment and Public Works Committee, public health experts testified that acid rain should be controlled "solely on the basis of health considerations."

The acid rain control provisions of this bill should reduce the number of children, asthmatics, and elderly suffering respiratory ailments from acid aerosols. Lakes, forests, and streams should be subject to less acidification and leaching of heavy metals.

Emissions of nitrogen oxides, critical to both acid rain and urban smog formation, are also controlled. Under the acid rain title, NO_x emissions will be reduced by 2 million tons through imposition of technology requirements on utility boilers. Current law has no comparable reduction requirement.

Air toxics is another example of how current law has failed to adequately address an important health and environmental issue. Section 112 of the act, which addresses the air toxics issue, has been a failure for 20 years. During that time, the Environmental Protection Agency has managed to regulate emissions of only seven toxic air pollutants. Meanwhile, States have stepped into the breach and regulated over 700.

The air toxics provisions of this bill will require controls on almost 200 hazardous pollutants within the next 2 to 10 years. Over 1 million tons of toxic air pollutants are expected to be reduced every year as a result of the installation of maximum achievable control technology, or MACT. Hundreds of industrial source categories will be required to install control technology. Phase I control standards will reduce cancer-causing emissions from each regulated source by 90 to 95 percent.

The toxics provisions of the bill also address specific environmental concerns. They provide for a Great Lakes and a coastal waters pollution prevention program. They also provide a program to control accidental releases of toxic emissions and create a Chemical Hazard Accident Investigations Board, similar to the National Transportation Safety Board, to investigate chemical accidents.

Current law provides for no such authority nor does it adequately regulate the thousands of harmful chemicals that are being used today.

One of our Nation's most pressing pollution problems is ozone, better known as smog. Smog is formed primarily in urban areas, during the warm summer months when emissions of volatile organic compounds, or VOC's, mix with nitrogen oxide emissions in the presence of light and heat.

Over 100 million Americans live in areas that fail to meet the health-based air quality standard for ozone. This is unacceptable. The history of the Clean Air Act shows that optimistic assumptions and lack of clarity will inevitably result in increases in pollution. The phenomenal growth in some areas has resulted in increased emissions which have overtaken existing pollution control efforts.

It is ironic that the area with the most stringent pollution control program in the country, southern California, is also the area with the most severe smog problem. Of course, its geography and climate are unique. But this experience demonstrates that without meaningful action, other American cities could become as polluted as Los Angeles.

The bill gives the States and the EPA new tools to combat this problem. In the past, the act was clear only as to the required date of attainment. Few interim requirements were specified. The legislation before us goes much further. For the first time, there is a requirement that there be specific regular reductions of 3 percent each year in emissions of the volatile organic compounds which cause smog.

In addition, precise control measures are required. For example, in all but the least dirty areas, enhanced vehicle inspection and maintenance is required. Stage II vapor recovery is also required. Reasonably available control technology is mandated for smaller sources in more severely polluted areas. States retain the authority to go beyond the Federal minimum.

If a State fails to submit a plan that EPA can approve, or if a State fails to implement such a plan, then the Federal Government will impose sanctions and ultimately require Federal pollution control measures, including the 3-percent annual reduction in emissions of volatile organic compounds.

This provision has been the subject of much discussion. Current law requires the EPA to prepare and implement a Federal implementation plan whenever a State fails to submit an acceptable State implementation plan, or fails to implement a plan which has been approved by the EPA. The bill eliminates the requirement that the Federal plan be comprehensive and requires instead that emissions would have to be reduced by 3 percent a year.

This change actually strengthens current law, because the existing provision has never been voluntarily used by the EPA and, as a result, in 20 years has not resulted in any reduction in emissions. In place of a general, unutilized authority that has produced no results, we are imposing a specific requirement of an annual 3-percent reduction in emissions.

States play a special role in air pollution control policy. The Clean Air Act envisions a partnership between the States and the Federal Government to clean up the air. Experience has shown that without strong Federal guidance, local pressures can overwhelm pollution control efforts. In this legislation, the Federal program is strengthened.

But the bill does not try to provide all the answers for the States. Some State officials have clamored for ever more specific Federal pollution control requirements, so that they will have little discretion to exercise when they do their jobs. While I am willing to support a strong Federal program. I do not believe it should be up to the Federal Government to do the job of both the Federal and State pollution control agencies. Accordingly, the bill leaves some of the decisions to the States, as is appropriate.

To control urban smog, mobile sources must be controlled. Mobile sources create about half of our urban smog problem and about 90 percent of our Nation's carbon monoxide pollution problem. New controls on pollution from cars and trucks are badly needed. The last standards to be imposed by the Environmental Protection Agency were promulgated under court order, after the EPA failed to exercise its duty to set standards for heavy-duty engines.

The bill before us requires that a new round of tighter tailpipe standards be imposed beginning in model year 1993. If a sufficient number of cities are still failing to meet health-based air quality standards by the year 2000, a second round of even tighter tailpipe standards is mandated. It should be noted that the second round of tighter tailpipe standards, so hotly contested this year, were not even included in the Environment Committee's bill in the last Congress, S. 1894.

The Senate Environment Committee bill, S. 1630, required two separate rounds of reduction in motor vehicle emissions. The first would have mandated substantial reductions in emissions by the model year 1993; the second would have mandated further reduction by the model year 2003. The compromise requires a first round, then establishes an objective air quality test to determine whether the second round will be needed. That test is as follows: There are 31 areas of the country now classified as seriously not in attainment with the law's air quality standards. Four of them are in California. All are required under the bill to come into compliance by the year 2000. If by then 12 or more of the 27 serious areas outside of California are still not in compliance, then the second round of reductions in tailpipe emissions will be required. If, however, 11 or less of such areas are not in compliance, then the second round will not be required.

The compromise on this issue was made necessary by the President's adamant opposition to the second round. During the negotiations which led to the compromise, this was the provision on which the administration's representatives were most insistent. While I personally prefer the unconditional mandate of a second round, I believe the compromise is fair and reasonable under the circumstances. In any event, given the history of the Clean Air Act, and the difficulty of achieving the reductions in emissions of air pollutants even when required by law, there is little doubt that the second round will occur.

The bill also requires vehicles to meet the applicable Federal standard for 10 years, or 100,000 miles, whichever occurs first. Current law requires vehicles to meet the standards for 5 years or 50,000 miles. Since most vehicles deteriorate over time, this is a significant improvement in pollution control.

The bill requires, for the first time, direct controls on both the vehicle and the fuel it uses, as means of reducing pollution. The alternative fuels requirements will require use of reformulated—cleaner—gasoline in those urban areas with the dirtiest air. Other areas can also opt in and require similarly clean fuel.

These provisions should reduce smog-forming emissions by about 80 percent, and air toxics emissions from mobile sources should be reduced by about 75 percent.

The bill also requires, for the first time, controls on the volatility of gasoline. This will significantly reduce emissions of ozone-forming organic chemicals. New urban buses and rebuilt buses will have to be cleaner and they will have to use cleaner burning fuels.

Areas with high levels of carbon monoxide pollution will have to use fuel with a higher oxygen content to help control such emissions. This is

important because carbon monoxide can be harmful to fetuses and those with pulmonary problems.

The global environment is threatened and must be protected. The depletion of the protective ozone layer (not the ozone found in our urban areas) is a serious problem. It is caused by manmade emissions of chlorine compounds known as chlorofluorocarbons, or CFC's. The bill requires a complete phaseout of CFC's by the year 2000. Methyl chloroform, another ozone-depleting chemical, is also required to be phased out. Phaseout of CFC substitutes, known as HCFC's, is also required by the year 2030. There are no comparable provisions in current law.

In the 13 years since the Clean Air Act was last amended, old problems have persisted and new ones have arisen. There are no simple, inexpensive answers to these problems. But the cost of inaction will be higher than the cost of this bill. The past president of the American Public Health Association has estimated that there are 50,000 premature deaths every year due to exposure to air pollution and that this number may double or triple if we fail to act.

A Harvard researcher testified that 2 to 5 percent of all illness and death in this country is associated with exposure to air pollution.

Some argue that we need more study before embarking on such an extensive control program. But the studies repeatedly confirm the need for action. We can no longer delay. The American people want action. They demand action. And they are right.

Study after study relates air pollution to hospitalization for children, to decreased lung function, to potentially permanent damage. Even as we debate these issues, the human and environmental toll rises.

The studies tell us what we already know. We have already waited too long. The estimates of the health costs keep increasing. This year the American Lung Association estimates we may spend $100 billion per year on health care costs associated with air pollution. The time to act is now. I urge my colleagues to join me in voting for this much-needed comprehensive clean air legislation.

We began to learn in this century that our planet and its surrounding atmosphere exist in a fragile balance.

It is time to use our knowledge and act to halt the destruction, to reverse the damage where possible, and to recognize that the future of all nations rests as much the survival of a livable Earth as it does on armaments and diplomacy.

In 1945, when the scientists of the Manhattan project gathered in the New Mexico desert to see the practical results of their work, some of them seriously feared that the explosion of an atomic bomb would cause combustion of the oxygen in the atmosphere. They wondered if the air itself would catch fire.

The air did not catch fire. But what those scientists could not predict and did not imagine about their invention has proven just as deadly over the years as what they actually feared.

Today, we must acknowledge that we have been conducting an enormous experiment with our world. And we still cannot predict how it will come out.

We cannot take this experiment into a desert to test it. But if we do not halt it, we run the risk that the world itself will become a lifeless desert, a silent proof that the last environment prediction came true.

It is our obligation to see that this does not happen. Each of us is on this Earth for a short time. We do not own forever the land we inherit from our fathers. Rather, we are stewards, holding the Earth's natural resources in trust for future generations. We can, and we must, convey to them the very basics of healthy human life—pure water, unpoisoned land and, today, clean air.

A LONGTIME COMING

Mr. BAUCUS. Madam President, the last time we passed a Clean Air Act was December 1977.

That was a long time ago. The budget deficit was less than $50 billion. The bilateral trade deficit with Japan was less than $8 billion.

Muhammed Ali was heavyweight champion of the world. Eddie Murray was the American League's Rookie of the Year. "Annie Hall" was the Academy Award winning movie.

Only 37 of us were in the Senate. ROBERT BYRD, the chairman of the Appropriations Committee and President pro tempore, and QUENTIN BURDICK were the junior Senators from their States. Our majority leader, Senator MITCHELL, had just begun working as the U.S. attorney in Portland, ME.

Since then, we have passed RCRA, Superfund, and seven reconciliation bills. We have overhauled the Social Security system and the Criminal Code. We have passed two comprehensive trade bills. We have reformed the Tax Code.

In fact, since we passed that last Clean Air Act, we have enacted a total of 3,882 public laws.

But one law has not been enacted: a new Clean Air Act.

We sure did try. The Environment and Public Works Committee held scores of hearings and markups, and reported clean air bills four different times.

But each was blocked. As a result, smog, toxic pollutants, and acid rain continue to corrode our lungs, overtax our hearts, destroy lakes and streams, and cause thousands of illnesses and deaths.

LEADERSHIP

We have, today, the opportunity to end 13 years of stalemate by finally passing a new Clean Air Act. We owe this opportunity to the leadership of two men.

The first is President Bush. There have been times, these past few months, when I have wondered whether others in the administration, and the Republican Party, share the President's commitment to environmental leadership.

But let us give credit where credit is due. President Bush broke the logjam and made this bill possible.

The second is our majority leader, GEORGE MITCHELL. And he has provided strong leadership through a difficult and exhausting process.

I remember one late-night negotiating session in room S-224, just outside the majority leader's office. It was after midnight. We were tired. We were not making much progress. Senator MITCHELL turned to me and said, if I may paraphrase, "MAX, this is the craziest process I've ever been involved in. Not as majority leader. Not as a Senator. In my life!"

But he stuck with it, responding to every new problem with a new solution. Finding a new compromise, finding a creative way to reach an agreement. Emerson was correct: "When nature has work to be done, she creates a genius to do it."

Others also have played critical roles. Senator CHAFEE, who has spent hundreds of hours with me, managing this bill. Chairman BURDICK; Senator DOLE; Senators DURENBERGER, BREAUX, and JEFFORDS—members of the core group of Senators; Senator SIMPSON, who was there when the chips were down. And let me add that former Senator Stafford, a former committee chairman tried tirelessly during his tenure in the Senate, to enact clean air legislation. His efforts should not go unnoticed.

THE LONG DEBATE

It has been one long, exhaustive process. There is an old joke about spending a year in Philadelphia one afternoon. I felt like I spent a lifetime on the Senate floor this March.

The 1970 bill took 2 days of floor debate. The 1977 bill took 3. This bill has taken 21 days and 150 hours.

Not only has the debate been long, it has been extraordinarily complex. Esoteric terms have been flung around: RACT, MACT, and BACT; FIP's and SIP's; NO_x and SO_x; and VOC's and CTG's.

At times, it has been like debating in a foreign language.

Such complexity is inevitable, of course, when dealing with this subject. The Federal-State relationship is complex; the regulatory process is complex; the technology is complex; the

chemistry is complex; and, of course, the politics are very complex.

So I thank all Senators for their patience. I have seen the glazed eyes. I have sensed their frustration.

But I can say that for all its complexity, for all its difficulty, this bill is very much worth it.

Let me tell you why.

PROVISIONS OF THE BILL

As we speak, 150 million Americans are breathing dirty air.

This year, betwen 5 and 10 million will get sick, or die prematurely, because of dirty air.

And then there are the economic costs—rising health care expenses, lost workdays, crop damage and structural erosion.

By passing this bill, we will take several important steps to reduce the deadly toll taken by dirty air.

For starters, we set new requirements for cities that do not meet current clean air standards. We require them to make steady, measured progress toward truly clean air.

If they do not make progress, then it is no more, well, that is OK. We are Mr. nice guy. Instead, the ax will fall. They will be subject to tough sanctions, like a ban on the construction of new pollution sources.

That means that there will be a dramatic reduction in smog. And the American people will benefit.

We establish tighter controls on automobiles and fuels, including a second round of tailpipe emission controls if we have not achieved sufficient progress by 2004.

Again, that means a reduction in smog. And the American people will benefit.

We require strict controls on emissions of 191 toxic pollutants.

That means reduced exposure to carcinogens. And the American people will benefit.

We impose new controls that will reduce SO_2 emissions by 10 million tons a year.

That means reduced damage from acid rain. And the American people will benefit.

Finally, we establish a tough new program to eliminate CFC's and other ozone-depleting chemicals.

That means reduced exposure to deadly ultraviolet rays. And the American people will benefit.

Another point. From the perspective of a Western Senator, the bill corrects a longstanding injustice. At long last, it creates a level playing field for low-sulfur coal. That means expanded markets for Montana and other Western coal companies.

PERFECTION AND COMPROMISE

Now, some critics say that these provisions do not go far enough.

They say that we diluted the original committee bill during our negotiations with the administration.

In the abstract, they are absolutely right.

But we are legislators, not philosphers. Our job is not to produce the best bill imaginable. It is to produce the best bill that can pass.

Let us face it. The original committee bill did not have the votes to survive a filibuster. The compromise that we negotiated with the administration makes some concessions. but it retains the core provisions of the original bill. More important, it improves dramatically on current law.

Edmund Burke wrote that:

All government—indeed every human benefit and enjoyment, every virtue and every prudent act—is founded on compromise.

This bill, 13 years in coming, is in fact a compromise. But it is a compromise that will provide lasting benefits to the American people.

CONCLUSION

Madam President, this is not just another piece of legislation. Most of us were not here when the last clean air bill passed. We may not be here when the next one passes. So let me close with the words of Senator Muskie, who wrote the clean air laws of 1970 and 1977.

Clean air legislation, he said,

Requires a new perspective. We all must recognize that the quality of our air is * * * essential, to the quality of our environment and the quality of our lives upon this planet.

We should keep this perspective in mind as we cast our votes. Passage of S. 1630 will improve the quality of our environment and the quality of our lives upon the planet. By doing so, it will leave our children, and our grandchildren, a powerful legacy—of stronger hearts, stronger lungs, and good health.

I urge all Senators to support the bill.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I ask unanimous consent that certain items to which I will allude in my remarks be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Madam President, for several years, as Senate majority leader and Senate minority leader I was opposed to letting acid rain legislation be called up for floor debate for a number of reasons: First, its cost in terms of coal miners' jobs; second, the increased cost in utility rates to residential users of electricity; third, the adverse impact on the ability of our industries to compete in foreign markets as a result of the increased energy costs; fourth, the increased costs to consumers resulting from higher electric rates borne by commercial users; fifth, insufficiency of scientific evidence regarding causal relationships between sulfur dioxide and nitrogen oxide emissions and alleged damage to forests, lakes, crops; and sixth, the need for sufficient leadtime to develop and deploy advanced clean coal technologies that will allow us to achieve simultaneously the goals of environmental improvement and a more secure energy future.

Faced with the election of either George Bush or Michael Dukakis as President, I warned the coal industry—both the workers and operators—the utilities, and the residential commercial, and industrial users of electricity that they could expect strong White House pressure for acid rain legislation in the 101st Congress. Senate action on such legislation will occur later today, and I congratulate the joint leadership and the two managers of the bill on their efforts and on their hard work.

From the outset, I have made it clear that I support the goals of this legislation. Protecting our environment and improving the quality of our air are important national goals. We owe it to ourselves, to our children, and our children's children to preserve and protect the quality of our environment.

Yet, I believe we also have a responsibility to pass legislation that is balanced. Legislation that pits one region of our country against another is unwise. Legislation that needlessly creates conflict between our environmental policies and our economic and energy policies is unwise. I have stressed the need for balance.

When this bill was first brought before the full Senate in January, it did not, in my opinion, reflect the appropriate level of balance. The mobile source provisions were overly burdensome and threatened to impose tremendous new costs on both the producers and purchasers of automobiles. The air toxic provisions threatened to shut down critical domestic industries. The acid rain provisions threatened to raise electric rates for millions of residential, commercial, and industrial consumers in a number of States and throw thousands of coal miners and other workers out of their jobs, thereby imposing tremendous hardships on them, their families, and their communities.

It was my belief that, absent significant changes, the legislation reported by the Senate Committee on Environment and Public Works was unworkable and unfair. Significant changes have been made in the past several weeks.

The air toxics provisions have been substantially modified. The residual risk standards have been made more reasonable. For some industries, such as our domestic coke industry, the residual risk requirements will be delayed 30 years. The unreasonable

shutdown standards contained in the original committee bill have been relaxed. The tens of thousands, if not hundreds of thousands, of jobs that would have been put at risk by the original committee bill are no longer threatened, we are told.

Likewise, the mobile source provisions have been made more reasonable, thereby eliminating, we are informed, the threatened loss of thousands of jobs in our domestic auto industry. Even with respect to acid rain, some progress was made when parts of the Byrd-Bond proposal were incorporated in the substitute now before us. I believe these incentives will help to lessen the job losses that are certain to occur in the high-sulfur coal regions of our country.

However, as grateful as I am to the joint leadership for working with Senator BOND and myself and our colleagues from other Appalachian and Midwestern coal States to mitigate the impact of this bill on our electric ratepayers and our coal mineworkers, I am fearful that these ratepayers and workers will still be forced to bear a disproportionate share of the cost of this legislation. Yes, the number of mineworkers and nonmineworkers who will lose their jobs has been reduced. Yes, the impact on electric ratepayers pay have been reduced. But the price these ratepayers and workers will have to pay remains high.

Althoughy the Byrd-Bond incentives that have been incorporated into the leadership substitute will reduce the costs our regions will have to bear, I believe the impact of these incentives has been compromised. For example, in winning acceptance of our phrase I technology incentives, we were forced to accept a cap on those incentives which will limit their effectiveness. In addition, 5 million new emissions allowances were created in phase II and distributed, free of charge, across the country. These additional allowances will only diminish the ability of utilities forced to make substantial emissions reductions in phase I to recover the costs of making such reductions through the sale of allowances.

According to the Environmental Protection Agency, 3,000 to 5,000 high-sulfur coal mineworkers will lose their jobs between now and 1995, if this legislation becomes law; 10 to 11 thousand more will lose their jobs between 1995 and the year 2000. In all, according to EPA, 35 percent of high-sulfur coal jobs will be eliminated as a direct result of this legislation over the course of the next 10 years. That is why other Senators and I decided to offer some cushion for those men and women whose jobs we know will be lost.

Job losses in the other titles of the bill have been largely addressed. Most of the job losses, if any, in other industries will occur after the year 2000. It is only in the high-sulfur coalfields that 3,000 to 5,000 mining jobs will most certainly be lost by the end of 1995. So we Senators felt a responsibility to try to do something about that.

The Senate is about to vote on a bill which will take away the livelihoods of 3,000 to 5,000 men and women who work in the mines. These are real people, with real families, who live in States with already high unemployment and whose existing skills are difficult to transfer to other employment. At first, I did not expect that our attempt to address the hardship that this legislation is going to cause and, thus, create a safety net would meet with the opposition of both the White House and the joint Senate leadership. I never believed that President Bush would veto this bill over such a provision, even though his representatives told me they were philosophically opposed to such an approach. And I do not believe it yet.

I was not surprised to learn of the opposition of the White House. Their philosophical opposition extends to many programs which would help working people cope with the difficulties of putting food on the table and raising their children. But, this was a different case. This was not just another dying industry. This was not just the free market working its will. This was Government action taking jobs away, just as surely as if it were mailing out pink slips.

I felt that there was a responsibility to address that injustice, and so we Senators offered our solution.

I was offered a compromise by the White House and the leadership that was little more than a nod toward the problem. The formula for qualifying for the compromise program was so rigged that only three States and Puerto Rico might currently qualify. Only one State in that group produces high-sulfur coal, and that State is West Virginia.

The paper which was handed to me containing that proposal was labeled "Proposed Alternative to Byrd Amendment," with the second page titled "What This Means to West Virginia."

From that misguided offer, I could see that I would do better negotiating with myself. From that offer, I could see that there was little understanding—little understanding—and no sympathy for the plight of the American coal miner. From that offer, it was apparent that the powers that be wanted this bill in spite of what it would do to 5,000 coal miners and their families and their communities.

I was charged with being unfair to others in the labor force, although I had the support of most labor unions for my proposal. I was charged with trying to kill the bill, although I had the support of the clean air coalition. I even offered to modify my amendment to extend the 70-60-50 provisions to all other workers who might also lose their jobs, and to cap the funds to be expended so they would not exceed the cost of the proposal offered to me by the White House and the joint leadership and my offer was rejected. That proposed amendment will be printed in the RECORD, as has already been granted, following my remarks.

The rest is history. The amendment lost. Now we are going to pass this bill knowing full well what it will do to the jobs of 5,000 men and women in phase I. Clean air is being extracted from the hides of those men and women, and this Senate is so hungry for this legislation that we have turned our backs on them.

We are so hungry that we cowed in the face of a veto threat that was clearly a bluff. We have made a judgment here to let those 5,000 men and women and their families and communities suffer, just as surely as if we had taken a vote on the suffering. And, in fact we did.

The next day—last Friday morning—I picked up the Washington Post to read the front page coverage on the defeat of the amendment that I had offered on behalf of myself and other Senators. It was on the left side of the top of the front page. It was titled, "Aid Rejected for Miners Hurt by Acid Rain Curb."

Immediately to the right, there was an account of House passage of the child care bill over a Presidential veto threat. And that story was titled "$30 Billion Child-Care Bill Passes House; Veto Threatened." I thought that that particular juxtaposition said a lot.

Madam President, I want to vote for new clean air legislation. I am disappointed that I am unable to vote for this bill. But, I cannot vote for legislation that will destroy the livelihood of thousands of hard-working men and women. I cannot vote for legislation that could bring economic ruin to communities throughout the Appalachian and Midwestern States.

Clean air need not be bought at the expense of economic growth, lost jobs, and human suffering. I am sure that this bill will be passed by the Senate. I will not be one who will vote for it. I can only vote no and hope that, as this legislation works its way through the House and through conference, it will be improved. I can only hope that when this bill comes back to the Senate from conference, it will be a bill that I can support.

Out on the roads they have gathered, a hundred-thousand men,
To ask for a hold on life as sure as the wolf's hold in his den.
Their need lies close to the quick of life as rain to the furrow sown:
It is as meat to the slender rib, as marrow to the bone.
They ask but the leave to labor, for a taste of life's delight,

For a little salt to savor their bread, for houses water-tight.
They ask but the right to labor, and to live by the strength of their hands—
They who have bodies like knotted oaks, and patience like sea-sands.
And the right of a man to labor and his right to labor in joy—
Not all your laws can strangle that right, nor the gates of Hell destroy.
For it came with the making of man and was kneaded into his bones,
And it will stand at the last of things on the dust of crumbled thrones.

EXHIBIT 1

PROPOSED ALTERNATIVE TO BYRD AMENDMENT

* Trade Adjustment Assistance benefits to workers:

In a firm if a significant number or portion of its workers have been totally or partially separated or are threatened to become so, and

Sales or production of the firm have decreased, and

Clean Air Act Amendments of 1989 was the direct and primary cause of the job loss

* Additional benefits (as defined below) to workers:

In States that have average unemployment rate at least 140 percent of national average for the prior 24 month period;

In industry that has lost at least 18 percent of its workforce in the State within the prior 24 month period.

* Additional benefits:

26 weeks of additional TAA benefits.

TAA benefit tied to average wage of workers in the affected industry within the State (rather than average wage of all workers in the State), not to exceed 150 percent of maximum UI benefit in State.

* No application for benefits after December 31, 1995.

* Authorization for appropriations not to exceed $125 million annually.

WHAT THIS MEANS TO WEST VIRGINIA *

West Virginia, Mississippi and Puerto Rico are the only jurisdictions which currently meet the unemployment test.

According to Department of Labor the average wage of West Virginia coal miners is approximately $37,800. Assuming total compensation is approximately 125 percent of wages, coal miners would receive an average benefit of $636 in year 1, $545 in year 2, and $454 in year 3 under the Byrd amendment.

Depending on the year, these benefit amounts could be either 29 percent, 33 percent or 40 percent higher for at least a 12 month period when the displaced worker is in an approved training program. No other training, job search, or relocation assistance is provided.

Under this alternative, West Virginia coal miners would be eligible to receive $375 in weekly TAA benefits (150 percent of $250, which is the maximum unemployment insurance benefit in West Virginia). In addition, the coal miner would receive benefits to cover the cost of training which average $4,000 per worker nationally, or $77 per week. The displaced coal miner would also receive relocation assistance which the Department of Labor estimates at $1,000 per worker.

* Figures should be checked with Department of Labor.

[From USA Today, Mar. 27, 1990]

WHITE HOUSE BACKS OFF ON CLEAN AIR BILL

(By Paul Clancy and Jessica Lee)

The White House stepped back Monday from its threat to scuttle the clean air bill if it includes a costly provision to protect coal miners who could lose their jobs.

White House opposition to the plan—sponsored by Sen. Robert Byrd, D-W.Va.—to spend $500 million to replace lost income by miners remains strong, said Roger Porter, Domestic policy adviser.

But the Bush administration wants a clean air bill too much to see it go down the drain because of what some have termed a killer amendment.

"If we get a sound piece of environmental legislation, such as the clean air bill, with the Mitchell-Dole compromise to the Byrd amendment tacked on, that would not kill the bill," Porter said.

Sens. George Mitchell and Bob Dole—Democratic and Republican leaders—are offering a compromise on a Byrd proposal to soften the job loss for Appalachian miners if power plants are required to burn less high-sulfur coal.

Monday, Mitchell said the proposal essentially is for expanded job training and partial compensation for jobs lost as a direct result of the bill.

But it doesn't come close to Byrd's latest plea for up to $500 million to replace lost income for three years, plus retraining and relocation assistance.

Byrd, the former majority leader, and Mitchell, his successor, both are within a vote or two of winning a showdown.

The Byrd amendment is the last major stumbling block to Senate passage.

Byrd has not responded to the Mitchell-Dole offer.

It's frustrating for the bill's sponsors. "My own view is, let's vote," says Sen. John Chafee of Rhode Island, the bill's Republican floor leader. "There's a fair chance we'd defeat it."

AMENDMENT INTENDED TO BE PROPOSED BY MR. BYRD TO THE AMENDMENT (NO. 1293) PROPOSED BY MR. MITCHELL

On page 567 of the amendment No. 1293, on line 20, strike out "dioxide.'." and insert in lieu thereof the following:

"dioxide.".

TITLE VIII—RELIEF FOR TERMINATED WORKERS

BENEFITS

SEC. 801. The Clean Air Act is amended by adding at the end thereof the following new title:

"TITLE VI—RELIEF FOR TERMINATED WORKERS

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Relief for Terminated Workers Act'.

"PURPOSE

"SEC. 602. The purpose of this title is to help minimize the effects on workers who are terminated from their employment as a result of the enactment into law of the provisions of this Act, as added by the Clean Air Act Amendments of 1990.

"DEFINITIONS

"SEC. 603. As used in this title, the term—

"(1) 'terminated coal mine worker' means any individual employed as a coal mine worker on the date of the enactment of this title, and who, after having been employed, prior to or after such date of enactment, as a coal mine worker for a period in excess of 6 months, is terminated at anytime thereafter from such employment as a direct result of the enactment into law of the provisions of this Act, as added by the Clean Air Act Amendments of 1990;

"(2) 'eligible terminated employee' means any individual, other than a terminated coal mine worker, employed on the date of the enactment of this title, and who, after having been so employed, prior to or after such date of enactment, for a period in excess of 6 months, is terminated at any time thereafter from such employment as a direct result of the enactment into law of the provisions of this Act, as added by the Clean Air Act Amendments of 1990; and

"(3) 'Secretary' means the Secretary of Labor.

"PROGRAM OF BENEFITS

"SEC. 604. (a) Prior to the expiration of the 180-day period following the date of the enactment of this title, the Secretary of Labor, by regulation, shall establish and carry out—

"(1) a program to provide benefits for terminated coal mine workers, and

"(2) a program for eligible terminated employees in accordance with this title.

"(b) Prior to the issuance of such regulations, and from time to time thereafter, the Secretary shall consult with the appropriate Committees of Congress with respect to such regulations and the implementation of this title.

"TERMINATION ALLOWANCES

"SEC. 605. (a) In promulgating regulations pursuant to section 604, the Secretary shall include provisions which assure that, under such program, a terminated coal mine worker and an eligible terminated employee shall be entitled to a monthly termination benefit computed as follows:

"(1) The monthly termination benefit for the first 12-month period following the date on which a terminated coal mine worker or an eligible terminated worker is first determined to be a terminated coal mine worker or an eligible terminated worker shall be an amount equal to 70 percent of such worker's average monthly compensation determined by computing the total compensation received by the worker, including benefits, during the last 12 months immediately prior to his employment being terminated, and by dividing the total compensation by the number of months actually worked by such worker during such 12-month period, thereby producing the average monthly compensation.

"(2) The monthly termination benefit for the second 12-month period following the date on which a terminated coal mine worker or eligible terminated employee is first determined to be a terminated coal mine worker or an eligible terminated employee shall be an amount equal to 60 percent of the amount of the average monthly compensation of such worker computed in accordance with paragraph (1) of this subsection.

"(3) The monthly termination benefit for the third 12-month period following the date on which a terminated coal mine worker or an eligible terminated employee is first determined to be a terminated coal mine worker or an eligible terminated employee shall be an amount equal to 50 percent of the amount of the average monthly compensation of such worker computed in accordance with paragraph (1) of this subsection.

"(b) Each monthly termination benefit to which a terminated coal mine worker or an

eligible terminated employee is otherwise eligible under this section shall be reduced by an amount equal to the amount of any earnings of such worker from employment during the period for which such benefit is payable, and shall be further reduced by any benefits to which such worker is otherwise entitled as a result of having been employed as such a worker.

"(c) Any such worker and his representative shall be furnished by the employer of such worker with such worker's average monthly compensation and average monthly time paid for, computed in accordance with the provisions of this title, together with the data upon which such computations are based, within 30 days after the worker notifies the Secretary in writing that he has been terminated from employment. Such worker shall make such information available to the Secretary.

"RETRAINING AND EDUCATION PROGRAMS

"SEC. 606. At any time during the 3-year period described in section 605(a), any terminated coal mine worker or eligible terminated employee while engaged in a full-time retraining or educational program certified by the Secretary, after consultation with the appropriate Committees of Congress, as appropriate for purposes of this title, shall, while satisfactorily participating, receive, in addition to the benefit under section 605, an amount, not to exceed in the aggregate, $4,000 for a period not to exceed 12 months.

"OTHER FINANCIAL ASSISTANCE

"SEC. 607. For the purpose of any law, other than this Act, providing Federal benefits or assistance to an individual based on need as determined by the earnings of that individual, benefits under this title shall be deemed earnings for the purpose of determining whether such individual qualifies for benefits or assistance under such law.

"TERMINATION OF BENEFITS

"SEC. 608. Benefits payable under this title shall cease on the date of the death of the individual entitled to such benefits.

"LENGTH OF BENEFITS

"SEC. 609. Any terminated coal mine worker or eligible terminated employee shall be entitled to benefits, in accordance with this title, for the 36-month period following the date on which such worker first becomes so terminated, or for a period of months following such date equal to the number of months that such worker was employed in the job from which he was so terminated, whichever is less.

"PAYMENT OF BENEFITS

"SEC. 610. (a) The Secretary shall be responsible for the payment of all benefits provided workers pursuant to this title.

"(b)(1) There are authorized to be appropriated to the Department of Labor such sums as may be necessary, not to exceed $470,000,000, and such sums shall remain available until expended, to meet the obligations payable pursuant to section 604(a)(1) of this title. In any fiscal year, the Secretary shall limit the total benefits payable under section 604(a)(1) to an amount not in excess of the appropriation provided in advance for such fiscal year. If the requirements of this title for the payment of such benefits exceed the limitation set herein, benefits so payable shall be reduced to the extent necessary to comply with such limitation.

"(2) There are authorized to be appropriated to the Department of Labor such sums as may be necessary, not to exceed $342,500,000, and such sums shall remain available until expended, to meet the obligations payable pursuant to section 604(a)(2) of this title. In any fiscal year, the Secretary shall limit the total benefits payable under section 604(a)(1) to an amount not in excess of the appropriation provided in advance for such fiscal year. If the requirements of this title for the payment of such benefits exceed the limitation set herein, benefits so payable shall be reduced to the extent necessary to comply with such limitation.

"(3) There are authorized to be appropriated to the Department of Labor, annually, such sums as may be necessary to provide for additional administrative expenses to be incurred by the Secretary in carrying out his functions under this title.

"REPORTS

"SEC. 611. (a) The Secretary shall report annually to the Congress with respect to the carrying out of the provisions of this title, together with the recommendations, if any, of the Secretary.

"(b) Within 12 months of enactment and annually thereafter until utility unit emissions reductions and controls are fully implemented, the Secretary shall determine the potential adverse employment effects (including the number of jobs at risk of termination and the schedule for job termination) of title IV of this Act on the coal mine workers of the Gascoyne Mine, Knife River Coal Mining Company, Bowman County, North Dakota, and report such determination along with supporting information to Congress together with any recommendations.

"RETROACTIVE CLAIMS

"SEC. 612. Claims pursuant to this title based upon terminated employment must be filed not later than 180 days following the date on which such termination occurred. Claims for termination which took place during the period beginning on the date of the enactment of this title and the date on which the program established by the Secretary pursuant to section 604 becomes operative may be made within the 180-day period following the date on which such program becomes operative.

"TERMINATION

"SEC. 613. No application for benefits under this title may be filed after December 31, 1995.".

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1443 TO AMENDMENT NO. 1293

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Without objection, it is so ordered. The clerk will report the amendment of the senior Senator from Louisiana.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1443.

Mr. JOHNSTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 446, beginning on line 3, strike the entirety of subsection (d) through line 2 on page 449.

On page 449, line 3, redesignate subsection (e) as new subsection (d).

On page 449, following line 19, insert the following new section 416:

"APPLICABILITY OF NEW SOURCE REQUIREMENTS

"SEC. 416. No existing utility unit subject to this title shall be subject to any standard under section 111(b) or be required to obtain a permit under section 165 or section 173 as a result of any physical or operational change that occurs at such unit after the date of enactment of this title provided that any such change does not: (a) increase the maximum hourly emissions of any criteria air pollutant, based on the most recent 10 years of operation; (b) cause or exacerbate the exceedence of any national ambient air quality standard promulgated pursuant to section 109; or (c) cause the exceedence of any PSD increment or visibility protection limitation promulgated pursuant to part C."

Mr. JOHNSTON. Madam President, this is a fix for the so-called WEPCo problem. The problem is that the Environmental Protection Agency's WEPCo decision provides a disincentive for utilities to modify their units to generate electricity more cleanly. The reason that the decision creates a disincentive is that the units become subject to the new source review procedure, that is, the new source performance standards and/or new source review under prevention of significant deterioration standards. Under the WEPCo decision, if you have a dirty unit and you want to improve the performance of that unit in order to make it work better, more efficiently, more cleanly, more reliably, then you would be subject to the new source performance standards and/or new source review.

This can be the case even where the modifications, such as converting from oil or coal to natural gas, will in practice lower emissions. In other words, an electric utility can be trying to improve the efficiency of its unit, actually lower emissions under normal operating conditions and yet may be subject to the new source performance standards and/or new source review as a consequence of the formula with which EPA in its WEPCO decision has chosen to compare pre-modification and post-modification emissions in order to determine whether the modification will result in an emissions increase.

As a result of the WEPCo disincentive, utilities do not make the modifications, and we will have dirtier air. The WEPCo decision also deters utili-

ties from programs to maintain or restore efficient operation at existing powerplants. As a result, electric service will deteriorate at utilities as reserve margins decrease due to maintenance and modifications.

This amendment, Madam President, provides threshold that so long as the post-modification emissions do not exceed the maximum hourly emissions of any criteria air pollutant based on the most recent 10 years of operation, new source performance standards and/or new source review will not be triggered.

You pick a period within the 10 years, and if post-modification emissions do not exceed the maximum hourly emissions during the previous 10-year operating history, then that is the new threshold for it. This permits the threshold to reflect how the plant was actually intended to be operated by the utility rather than how it was operated during the period immediately prior to the modification when the plant may have been significantly derated.

In other words, if you have a very inefficient plant which needs modification, but in the period immediately prior to D-day the plant was operating at a lower efficiency and output, then it would act as a limitation. This does away with that, making it the hourly emissions in the most recent 10-year period the standard. At the same time this condition guards against utilizing the plant's all-time maximum potential to emit as the threshold.

The amendment also includes conditions that will guard against these modifications creating local air quality problems. In other words, it does not allow this amendment to be used to pierce the threshold of nonattainment areas.

Madam President, the Bumpers-Breaux-Bingaman amendment sought to deal with the WEPCo issue in a limited context, and was a good amendment. However, it did not go far enough to be a comprehensive solution to the problem. Therefore, we have proposed this amendment.

Madam President, I believe that EPA's WEPCo interpretation has created serious problems both from a perspective of achieving cost-effective emissions reductions and from the perspective of maintaining reliable electric generation. I believe that a legislative clarification is necessary in order to remedy the uncertainty and confusion that has resulted from EPA's WEPCo interpretation.

I believe my amendment represents a good approach to addressing the WEPCo issue. I regret that time does not allow us to work out a mutually acceptable legislative language package prior to final passage of the clean air amendments in the Senate.

Madam President, in view of time constraints, and after conversations with my friend from Montana, the distinguished floor manager, I have agreed to withdraw my amendment. However, I remain interested in pursuing a resolution of this issue that represents both good energy policy and good environmental policy. I trust that the conferees will devote their energies to such a solution.

So I address my concerns to the distinguished Senator from Montana, and ask if he is willing to address this matter in conference in a sympathetic manner.

Mr. BAUCUS. Madam President, the Senator from Louisiana raises a somewhat vexing problem; that is, the so-called WEPCo fix. This generally concerns an EPA determination which was upheld by a circuit court of appeals, namely that the EPA ruling, a fairly tight ruling that significant modifications would require new source review, tends to be an additional burden utilities face.

The Senator from Louisiana wishes to expand the instances and circumstances under which a utility can repower and modify, and yet not be subject to new source review, and therefore not be subject to NSPS or perhaps even specific deterioration with respect to the various air quality air sheds.

I appreciate the Senator offering this amendment. I also appreciate that we did not have sufficient time before final passage of this bill to work out a resolution in a manner that meets the objectives of both the Senator from Louisiana as well as the managers of the bill. But I give the Senator every assurance that in conference we will try to find a way to accomplish the objectives that the Senator from Louisiana is seeking, so long as they are consistent with the overall thrust of the bill, so long as we still have the overall tonnage cap, and so long as we do not unnecessarily upset the allocation of allowances that at this point are in a delicate balance.

I very much appreciate the Senator's concern. As one of the conferees to this bill, in conference I will try to find a solution that will accomplish the objective sought by the Senator from Louisiana so long as we can reach an accommodation that does not upset this allocation of balance that we have tentatively reached.

I am sure that the distinguished Senator from Louisiana understands that this is an amendment that the managers would have to oppose. Our views on the WEPCo case were expressed last week during our discussion of the Bumpers-Breaux amendment.

This Senator would have to oppose the Senator from Louisiana's amendment as currently drafted. In particular, while the Senator's amendment includes conditions intended to guard against the creation of local air quality problems, I am concerned whether in operation this amendment as drafted would protect local air quality to the extent desired and intended by the current Clean Air Act. Unfortunately, time does not allow us an opportunity to work out the best way to accomplish both this goal and that of the proposed amendment.

In conclusion, Mr. President, while I cannot support the Senator's amendment as currently drafted, the Senator from Louisiana in offering his amendment has raised a number of very important conclusions. Again, I give the Senator every assurance that in conference we will try to find a way to accomplish the objectives that the Senator from Louisiana is seeking consistent with the overall thrust of both the bill and the underlying Act as reflected in the concerns that I have expressed.

Mr. JOHNSTON. Madam President, I thank the Senator for his assurances. I know he does have a delicate problem of balancing not only allocations but the competing requirements of efficient electric generation along with clean air. Those are formidable balancing elements that he has dealt so well with.

I might say not only on this amendment, but on other amendments, I think the Senator from Montana has done a marvelous job on this bill. He has been told that over and over again, and he deserves the praise he has received. And he has received it from me. He has had a big job, he and his staff. Because he has been so fair on these other amendments it reassures us that he is going to be fair as well as diligent in trying to work this out in conference.

So with thanks, I withdraw the amendment.

The PRESIDING OFFICER. Is there objection to the withdrawal? Without objection, the amendment is withdrawn.

The amendment (No. 1443) was withdrawn.

Mr. BOND. Madam President, we have heard today——

The PRESIDING OFFICER. Will the Senator withhold? The Presiding Officer now notices about seven people standing. It is hard for the Presiding Officer to know who will be seeking recognition.

Mr. BOND. I thank the Chair.

Madam President, we have heard a great deal of dicussion today as we prepare for what we expect will be the passage of this historic clean air bill. For some 13 years, I believe, this body has talked about and thought about the problem of clean air. This year we had a change in circumstance. President George Bush came forward with a clean air package and he said this was a top environmental priority of the Bush administration. He put the

effort of the administration, the EPA and other Federal agencies behind it.

We have also had the outstanding leadership of the managers of the bill, Senator BAUCUS, Senator CHAFEE on this side, obviously the direct involvement in and the strong leadership of Senator MITCHELL, and the support of Senator DOLE. I might also mention on this side of the aisle that Senator DOMENICI has played an absolutely critical role in assuring that the bill reaches the point where we can go to final passage.

One critical decision in the bill was how to alleviate some of the burdens that the acid rain section placed upon midwestern utilities in the cleanup of sulfur dioxide emissions. Under the proposals that have been discussed for some time, the midwestern utilities burning high-sulfur coal were targeted for a much larger share of the cleanup than the share of sulfur dioxide they contribute to the environment.

To achieve a reasonable compromise, the midwestern Senators met together as a group under the leadership of the distinguished President pro tempore, Senator BYRD of West Virginia. Through his energy, guidance, and leadership, we were able to develop a compromise which has become known as the Byrd-Bond compromise. Under that proposal, utilities in the Midwest would get credits for early reductions of sulfur dioxide emissions. There would be double credits for those utilities which met the more stringent phase 2 requirements in phase 1, the 1.2 pounds per million Btu's instead of 2.5 pounds per million Btu's and there would be a 2-year delay for utilities which installed scrubbers. These were the essential elements of the compromise.

A utility which cleans up its sulfur dioxide emissions below 2.5 pounds per million Btu's in the first phase will earn allowance credits. The number of tons it reduces will be credits that it could use at a later time, if it wished to grow and thus increase its use of its emissions, or it could sell those credits to other utilities which needed the additional allowances to cover their growth and resulting emissions increases.

The system of allowance trading and the 10-million-ton cap on annual SO_2 emissions were the acceptable methods for assuring that midwestern utilities could recover some of their costs for making reductions far beyond their contributions to the problem.

During our negotiations on allowance trading, questions of equity were raised by other parts of the country, as well. For example, in the so-called clean States, which have already spent a great deal of money to clean up utility emissions, there was concern that they might not be able to respond to demand for growth and expand their generating capacity. Certain high growth areas of the country said, "We will generate more emissions, because we are getting more jobs." And thus, they argued, they must have allowances to cover the increase in emissions from fossil fuel generated electricity.

The problem is that when we give these credits to other areas, they must be taken away from the Midwest utilities which generated them in the first place through their SO_2 reductions. The Midwest utilities, I can say from experience, have themselves expended considerable amounts of money in cleaning up their emissions of sulfur dioxide. The ratepayers in those States are paying the costs of those cleanups. They will pay even more in the future. When those credits are taken away, therefore, there is less opportunity for the utilities to recoup their costs by selling those allowances. Thus, this was the reason that the negotiations over the allocation of allowances were very, very difficult. Our discussions became a very difficult regional battle, pitting various utility systems and States against each other.

I believe as a result of the unfailing patience and good will of the committee chairman, and the ranking member, Senator MITCHELL and Senator DOMENICI, we came to a good resolution of that problem. Many people may have heard of the Mitchell compromise, as amended by the Domenici and the Simpson proposals. Essentially, this compromise took some of the allowance credits that will be generated by the midwestern utilities targeted for reductions and allocates them to other areas where they have either already cleaned up or where there will be high growth in the future.

Today, I assume, we will accept another amendment which allocates another pool of allowances to deal with situations where equity requires some readjustment. Included in the list are States where powerplants are in the process of construction or where there are very small utilities, which would not find it feasible to install the expensive technology needed to clean up sulfur dioxide emissions without imposing undue burdens on the ratepayers.

With those changes, with those reallocations, has come some lessening of the value of the allowance credits to the utilities in the Midwest which must install expensive scrubbers. A devaluing of the allowances could mean higher utility rates. This, in turn, could be devastating to a family, to a household paying electric utility bills. But far more dangerous is the impact it could have on the economy itself, because electric utility rates are in fact included in the decisions that businesses make about where they are going to locate, particularly manufacturing facilities that require a good bit of electricity to operate.

To the extent that the growth States have said that they need more allowances to grow, this is what this system envisioned; with their increasing growth, and increasing economic activity, it was thought they would be in a position to buy those allowances from the utilities which had installed the expensive technology to generate the credits.

To the extent that they are being granted additional allowances, they can grow, without having to purchase those allowances from midwestern utilities. To carry this to an extreme, the designation of growth States would become self-fulfilling.

I can already cite anecdotes where businesses and manufacturing operations have moved from the Midwestern States to those so-called high-growth States. If utility rates go up another 40 to 50 percent, obviously, many of our midwestern manufacturing operations would move to other areas.

Nevertheless, I think that we have struck a reasonable compromise. It is one of those compromises in which most parties are sullen but not rebellious, often described as the mark of a good compromise.

I say, however, that we have given as much as we can give. We will not be able to recoup, in our midwestern region, as much of the additional costs which we are required to bear, as we would like. We are making additional investments and incurring additional costs so that other facilities emitting sulfur dioxide will not have to clean up.

Madam President, I believe that we have struck a reasonable balance in a very, very difficult situation which will assure that there is some relief for the Midwest and for those utilities, ratepayers, families, and employers who must pay higher costs. I believe that all in all, we have come up with a tough but fair bill. It is a bill which strikes a balance between the clear, and I think widely accepted, need to clean up our air, versus the economic costs.

I think that everyone will have the opportunity to pay a bit more because of the clean air bill, whether it is purchasing electricity from a utility, whether it is purchasing a car, or purchasing some other product, there will be additional costs. But for all of us, there will be the benefit of cleaner air. That cleaner air will be a heritage that we will pass on to future generations.

I again wish to add my words of congratulation to the President for his leadership; to the majority leader, to the minority leader for their willingness to work with us as we resolve these extremely difficult and very contentious problems; to the chairman, Senator BAUCUS; to the ranking member, Senator CHAFEE; for their un-

failing goodwill and good humor as we pounded on them, as we baseeched them, sometimes not in the friendliest of manners, as we sought to deal with problems that we saw to be very real and very compelling for the people of our States and for the economies of our States.

I thank them for their courteousness and for their understanding.

I urge my colleagues to support this measure.

I yield the floor.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Kansas.

AMENDMENT NO. 1445 TO AMENDMENT NO. 1293

(Purpose: To establish emissions standards and ash disposal requirements for solid waste incineration units)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself, the Senator from Minnesota, Mr. DURENBERGER; Mr. SHELBY; Mr. COCHRAN; Mr. CHAFEE; Mr. GRAHAM; and Mr. MACK, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. DURENBERGER, Mr. SHELBY, Mr. COCHRAN, Mr. CHAFEE, Mr. GRAHAM, and Mr. MACK, proposes an amendment numbered 1445 to amendment No. 1293.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. I also ask unanimous consent to add the distinguished senior Senator from North Dakota [Mr. BURDICK] as cosponsor, and the distinguished manager of the bill, Senator BAUCUS from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the amendment that has just been sent to the desk is intended to mitigate the Nation's solid waste problem. Incineration of municipal and other solid waste makes a lot of sense, and we want to give a green light to this technology which will provide a good—if partial—solution to this growing problem.

If we can provide our citizens with the reassurance that municipal and other solid waste will be burned in a safe and environmentally sound manner, it will be easier to site these incinerators.

Everyone hears about the Nimby syndrome—the not-in-my-backyard situation—where local citizens protest the siting of a nearby facility. That syndrome usually applies to these incinerators. We want to try and allay some of our citizens' fears—in a responsible manner.

The Environment Committee, in trying to address these same concerns, made a laudable attempt to set minimum standards for municipal incinerators. In doing so, however, the committee amendments went too far by using large municipal incinerators as the model for all combustors. We have made some changes to the original committee legislation so that real and important differences in size, class, and type of technology used by incinerators in other settings are recognized.

This change will ensure that hospitals, for example, are not precluded from incineration. Several years ago this body responded to needles washing up on the beaches of New Jersey, New York, Rhode Island, and Connecticut. It passed the Medical Waste Tracking Act, which encouraged onsite incineration for medical facilities. Those hospitals which incinerated onsite were exempted from tracking requirements because they wouldn't have to transport their waste. It would have been ironic if we negated the positive effects of the Medical Waste Tracking Act by making it virtually impossible for hospitals to incinerate their waste.

I became aware of the problem in the original legislation when I was informed by the Hadley Regional Medical Center in Hays, KS, that it was about to install a new and modern combustion unit to serve as a regional medical waste incineration unit. Prior to that, the hospital had used a sanitary landfill. The legislation would have precluded the use of this modern, new incinerator. That got my attention. I then found that similar problems existed for smaller modular incineration systems widely used throughout the Nation for dealing with municipal waste for rural areas and small communities. Industrial incinerators—those burning only industrial wastes for their own facilities—also would have been unable to meet the requirements of the bill.

What we have worked out with the committee—and I thank the distinguished Members from Minnesota, Montana, and Rhode Island for their assistance—is language that takes various size incinerators into account. It allows some flexibility so that incineration can be used in an appropriate manner depending on the waste stream. That flexibility is important also because it means we will not have to worry about trucks hauling waste all over the countryside to get it to a large regional incinerator. Hauling waste may make sense in some cases, but I don't want to mandate that kind of inflexibility to small rural communities out in Kansas, Minnesota, Montana, or anywhere.

Also, we have included ash management and recycling provisions in this bill. I expect that the major solid waste issues will be dealt with thoroughly when RCRA is taken up next year. However, since ash management is so closely associated with incineration—especially in siting decisions—we agreed to address it in this bill.

Finally, regarding recycling. We have included language that provides for recycling if and only if there is a market for the separated materials and if sufficient capacity exists to actually recycle. Recycling makes sense if the materials are actually recycled. What we want to avoid is the kind of situation we see in the District of Columbia, where mountains of newspapers—which are supposed to be recycled—are piling up because nobody in the government knows what to do with them. The market doesn't seem to be there, and the storage capacity is fading fast. We are asking for a plan to be drawn up by the municipalities to ensure that they have the markets and the capacity to make a recycling program work.

This amendment makes sense. It encourages incineration that will give the public confidence that public health and the environment are protected. It has been approved by the managers of the bill, and I again thank them for their help and for cosponsoring the amendment.

I also ask unanimous consent the distinguished Senator from Virginia [Mr. WARNER] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I am pleased to join today with my colleague from Kansas. Senator DOLE and other distinguished colleagues including the chairman of the Committee on Environment and Public Works, Mr. BURDICK, to propose an amendment to this bill. The amendment is to the municipal waste combustion provisions of the pending amendment. These issues were not covered by the bipartisan agreement. This amendment, however, reflects a great deal of work by our chairman and by other members, including the distinguished Republican leader.

The environmental problems associated with municipal waste combustion first came to the attention of the Senate in the fall of 1987 when Senator BURDICK introduced an amendment to the comprehensive clean air reauthorization bill which the committee was then considering. Since that time there have been dozens of meetings and countless hours spent in the effort to perfect this legislation.

I would share with our colleagues in the Senate some observations which serve as a foundation for this bill.

First, the Nation is experiencing a solid waste disposal crisis. If not in every community, a substantial number of our towns, cities and counties are struggling with the problems

of waste disposal and facing hurdles never before seen. The crisis is principally a landfill capacity crisis. It is reflected in the cost of new landfill capacity and the distance that solid waste is now hauled to reach an operating dump. It is driven by an increasing concern for the environmental risks associated with landfills and the local opposition to siting new, even if more safety designed, landfill units.

The crisis is causing a revolution in the way we handle our solid waste. One part of that revolution is the commitment to garbage incineration and resource recovery. The other part is a new effort to make recycling, composting and waste reduction work for whole communities.

A second proposition is a theme the committee heard again and again in our hearings on the solid waste disposal crisis which were chaired by Senator BAUCUS during the 100th Congress. There is a four-part hierarchy for managing solid waste. It begins with waste reduction. Waste that is not generated at all is the best kind of waste. It goes on to recycling and treatment, which includes incineration and resource recovery, as the second and third part. And the hierarchy concludes with disposal of residual materials in a secure landfill. This legislation recognizes that heirarchy and recognizes that municipal waste combustion is not just a free-standing source of air pollution, but part of the solution to another pressing environmental problem—our land disposal crisis.

The third proposition recognizes the commitment that has already been made by cities and counties across the country to respond to the crisis. A report by the Environmental Protection Agency issued in 1987 indicates that 110 municipal waste combustion units were already operating; 210 more were in the planning, permitting or construction phases. Those facilities involve a commitment of nearly $17 billion by local government to the incinerator option.

In my home State of Minnesota, nearly one-half of the municipal solid waste stream is signed up for a garbage burner. If all of the planning facilities are completed we will have 14 units in Minnesota including one which is the largest capital project ever undertaken by the our largest county. So it's a substantial commitment and one the Congress must respect and understand as it prepares to legislate in this area. Local government already has a substantial financial commitment at risk.

The fourth proposition is that Federal air emissions and ash disposal standards for municipal waste combustion units are necessary. Generally, the massburn and RDF units that are being built are major sources of air polution subject to permits by State or local air pollution control agencies. But the permitting requirement only applies to the so-called criteria pollutants like carbon monoxide, particulates, nitrogen oxides and sulfur dioxide. There are currently no Federal guidelines for the toxic pollutants—that is, heavy metals and unburned organics—which are certainly the more important air pollution problem associated with waste combustion.

And Federal law is confused on the subject of ash. Is it a hazardous waste or not? Under the current policy—a policy which is not enforced because of the uncertain character of the existing ash testing protocol—ash from an incinerator may be hazardous on one day and safe on the next. That uncertainty needs to be fixed legislatively.

EPA has made progress in addressing the air emissions issue. In 1987 it announced that two control technologies—acid gas scrubbers and particulate controls—would be a minimum requirement in State permits for new facilities which are major sources of criteria pollutants. And in November of last year the Agency proposed a new source performance standard for municipal incinerators which includes standards defining good combustion practices along with the scrubber and particulate control requirement.

As a fifth proposition, we believe it is essential that the Congress state as clearly and quickly as possible the standards which we expect these units to meet. Finding a national consensus on these questions in legislation this year will avoid unnecessary expense and further confusion.

The sixth and final proposition reflected in this legislation is a determination that technology-based standards may be the best foundation for air emissions regulations. Technology-based standards are an alternative to the health-based regulations which are more typical under other sections of the Clean Air Act. For instance, section 112 of the law requires EPA to regulate toxic air pollutants to "provide an ample margin of safety to protect public health." In the 18-year history of the Clean Air Act, EPA has listed only eight pollutants for regulation under section 112. By way of comparison, in that same period a handful of States with active air toxics programs have set standards for 708 toxic air pollutants.

There are a large number of air toxics emitted by municipal waste combustion units. They include metals, like lead and cadmium; acid gases, like hydrochloric acid and sulfuric acid; and organics with special concern for dioxins and furans, but including perhaps hundreds of other substances. Setting a health-based standard for each of these pollutants taken one at a time would doubtless take EPA years and years. We can't afford to wait.

Fortunately, it appears that a strategy combining three basic technologies, acid gas scrubbers, good combustion—that is, adequate temperature, time, and turbulence—and particulate emissions control can do an effective job in removing the whole range of pollutants of concern. This technology is available; it's affordable; and it's effective in reducing risks to human health and the environment. The fundamental purpose of the air emissions provisions in the legislation we introduce today is to assure that these control technologies will be applied at all facilities—new and existing—and will be operated near their maximum control efficiency.

This amendment includes five major provisions. First, it requires EPA to issue new source performance standards for municipal incinerators, for medical waste incinerators and for incinerators burning commercial and industrial waste. These standards would be based on the three available technologies—good combustion, acid gas scrubbers, and particulate control—which I described a moment ago.

Second, the amendment requires the promulgation of numerical emissions limitations for several pollutants including carbon monoxide, particulates, sulfur dioxide, hydrogen chloride, lead, cadmium, mercury, and dioxins. These numerical standards are intended to press the management and operation of each facility to assure that the pollution control measures installed are operated to achieve the maximum benefit economically affordable.

Third, this amendment includes a requirement that areas served by waste combustion units develop programs which achieve a 25-percent recycling rate in the areas which are served by an incinerator.

Fourth, the amendment includes other management provisions for monitoring emissions, training incinerator operators, and issuing operating permits.

Finally, the ash disposal provisions in the amendment allow four options for the facility operator. First, ash may be disposed in a facility with two liners, leachate collection, and ground water monitoring. This is similar to the disposal regime for hazardous waste under subtitle C of the Solid Waste Disposal Act. Second, ash may be monofilled in a facility with a single liner, leachate collection, and ground water monitoring. As a third option, ash which is both treated and which passes a test to detect toxic leachate may be disposed of in a sanitary landfill meeting all other criteria under the Solid Waste Disposal Act. And finally, ash may be reused or recycled provided that it meets standards for each specific type of reuse established by EPA.

There are many other important provisions in this legislation which I would encourage my colleagues to review and consider. Municipal waste combustion is a rapidly growing industry and element in the budgets of city and county governments across the Nation. These facilities have great promise as one part of the response to the solid waste disposal crisis. But they also present substantial environmental challenges.

In conclusion, Mr. President, I would again commend the distinguished chairman of the Environment and Public Works Committee and for other members, especially the distinguished Republican leader Senator DOLE, for the many hours that they have spent studying these issues and developing this legislation.

Mr. President, I would urge adoption of the amendment.

Mr. BAUCUS. Mr. President, I am in favor of this amendment.

Mr. DOLE. Mr. President, I am happy to yield 10 minutes to the Senator.

Mr. BAUCUS. I do not know of anybody who opposes this amendment.

Mr. President, the amendment offered by the distinguished minority leader, in conjunction with the Senator from Minnesota and the Senator from Florida, establishes a comprehensive and environmentally protective program for municipal solid waste incinerators. The amendment requires the regulation of air emissions from municipal waste incinerators and the ash from these facilities. I believe the amendment addresses many of the concerns with the original provisions that have been raised by several of my colleagues and by others.

Mr. President, this amendment is included in S. 1630 because it is needed to fill three holes in existing law.

First, today, many existing incinerators are operating without adequate air pollution controls. As a consequence, particulates, acid gases, metals, dioxins, furans, and other organic chemicals are released to the air. When people are exposed to these pollutants—especially those living near the incinerator—they can cause cancer and other serious health effects.

Beyond the universe of existing incinerators, 200 or more new incinerators are being planned. Seventy-two of these are in the advanced stages of construction.

These new incinerators must be designed and operated properly to minimize the release of these pollutants if we are to protect the public.

This amendment plugs this hole by requiring stringent controls on incinerators. The amendment is flexible leaving considerable discretion to the EPA. The amendment does not specify the level or type of controls.

Rather it directs EPA to set limits for carbon monoxide, particulates, sulfur dioxide, hydrogen chloride, and combustion temperature.

Moreover, because not all incinerators are alike—they handle different types of waste with different Btu values—the amendment also directs EPA to establish one set of standards for municipal incinerators, another set for hospital incinerators and small units, and another set for industrial incinerators. That distinction is very important because those categories are much different.

Specifically, the amendment directs EPA to develop special requirements for smaller incinerators—like those used by hospitals—to address their special needs. This will allow hospital incinerators and other small units to safely burn their waste without all the controls that are needed at large incinerators.

Mr. President, the amendment also recognizes that some incinerators should not be regulated at all by these requirements. As such, the amendment exempts secondary materials recovery facilities from these requirements because their specific purpose is to recover valuable materials—like palladium from used catalysts. These operations are exempt to encourage greater reuse and recovery of materials rather than discarding them in landfills.

The amendment also exempts facilities regulated under the Public Utilities Regulatory Policy Act [PURPA]. These facilities are important because they are actually cogenerators of electricity. They turn waste into energy.

The second hole in the law is what to do with the ash that is generated by the incinerator.

Municipal ash comes in the form of fly ash and bottom ash. It often contains high amounts of metals. Frequently the metal concentrations are high enough to be considered hazardous.

The problem is that the proper methods for managing this ash is currently uncertain. Although the ash sometimes could be considered hazardous because of its metals content, it is unclear if it must be managed in a hazardous waste facility. This is because municipal ash is derived from burning municipal waste. That is solid waste, not hazardous waste. As a result, neither the cities nor the waste industry are sure how to manage it and this is creating problems in siting new incinerators.

Because of this ambiguity in the law, this amendment clarifies the status of ash disposal. It states that municipal ash is to be regulated as a solid waste under subtitle D of RCRA, and not as a hazardous waste under subtitle C of RCRA. Specifically, this amendment requires that ash is to be controlled under special standards. Standards that require treatment, monitoring, and disposal in a lined municipal landfill or in a dedicated ash monofill.

Now Mr. President, some have said that we do not need to include ash management standards in the clean air bill.

Let me remind everyone that ash is only generated because waste is burned. Without incinerators, there would be no incinerator ash.

Let me also mention that incinerator ash is not benign. It is laced with arsenic, cadmium, lead, and other metals. And when improperly managed these metals can leach into the ground water and contaminate drinking water supplies.

If we were only to control the air emissions from incinerators we will have addressed only half of the problem. But if we want to ensure that incinerators are safe, and their ash residue is managed properly we must also include ash management standards.

The final hole that this amendment plugs is to stress the importance of source separation and recycling prior to incineration. The amendment helps to clarify how incinerators fit into the larger waste management system.

The hard, cold reality is that incinerators in many communities are being blocked out of fear that it will mean the end to recycling. That is, once an incinerator is in place, recycling will not occur.

Now Mr. President, some have been very critical of mandating a recycling requirement in this bill. Some have said that recycling belongs in RCRA. As chairman of the subcommittee with jurisdiction over RCRA I agree that recycling will be a major issue in the RCRA reauthorization.

But source separation and recycling are very important and closely linked to more efficient incineration.

Let me explain.

By separating waste prior to incineration and then recycling it will reduce both the air emissions and the contaminants in the ash. Metals in air emissions and ash like lead, cadmium, arsenic, and others come from inks, plastics, batteries, appliances, and other sources are not destroyed by combustion. They end up in air emissions or in the ash.

But separating these materials prior to incineration means lower emissions in the air and ash. And this can reduce a community's long-term liability because there will be less of a chance of an environmental disaster.

What is more, once separated, these materials can be reused and recycled. Currently, we only recycle about 10 percent of the waste. We will boost this to 25 percent with this amendment and ensure that materials like glass, paper, and aluminum will be recycled and not incinerated or put in a landfill.

Recycling also has other benefits. It saves energy and resources. Aluminum can recycling is a great example. Producing an aluminum can with recycled aluminum takes 95 percent less energy than from virgin aluminum.

Recycling also creates jobs. Many local communities will need people for curbside collection of materials, or to run a central recovery facility, to sort it, bail it, and ship it to a market.

Mr. President, source separation and recycling makes good sense. That is why, for the first time in law, that materials that should not be incinerated, are separated from the waste stream and not incinerated.

And that is why this amendment includes a recycling requirement. It sets a 25-percent recycling requirement as a condition for operating an incinerator. But if 25 percent cannot be met—perhaps because a recycling market is not available—it allows the State to set an alternative recycling level.

By including these requirements, this amendment ensures that source separation and recycling will play a major role prior to incineration.

Finally, Mr. President, some of my critics have said that we really do not need this amendment because a couple of recent events have altered the need for this amendment.

What my critics are referring to are two recent court decisions, and the EPA rulemaking on municipal incineration. Let me be very clear. These events do not in any way lessen the need for this amendment.

It is true that last November, EPA proposed standards to control the air emissions from municipal incinerators. This helps to plug part of the hole and I commend the EPA for their action.

EPA's proposal includes many of the requirements that are needed to protect the public from air emissions from improperly designed and operated incinerators.

It sets emissions limits for toxic metals, toxic organics, and acid gases.

It sets operating standards to ensure optimum combustion in order to help reduce pollutants.

And it includes a requirement that 25 percent of the reusable components of municipal trash be separated as a condition of getting a permit.

Unfortunately EPA's proposal is not adequate in a couple of areas.

First, it is limited to larger municipal incinerators. It ignores hospital incinerators, small incinerators, and other industrial incinerators. Most of these units operate without controls and belch pollutants such as dioxins, furans, and arsenic into the air.

A second area where EPA's rulemaking is deficient, is that it does not include standards for ash management. Ash, as I said earlier, is generated when waste is incinerated. Ash contains metals often at levels that are high enough to be considered hazardous. Proper management of ash is critical to ensure the public's safety.

Now it is also true that in two recent court decisions—one in New York, and one in Chicago, the courts ruled that municipal ash should be managed as a solid waste. But this does not provide us with enough certainty. These decisions are likely to be appealed, so the question of how to manage the ash may still be uncertain. This question needs to be clarified by statute and regulation once and for all.

Finally, EPA's rulemaking includes a requirement for source separation of the waste prior to incineration. This makes some sense because noncombustable materials should not be incinerated.

Unfortunately, EPA's rulemaking does not tell us what to do with the separated wastes. Is it to be recycled, or is it to go to a landfill? A recycling requirement like the one we have in this amendment is needed to ensure that the materials that are separated in accordance with EPA's rulemaking are recycled and do not end up in landfills.

Mr. President, I believe that the time to plug these holes is now. Municipal incinerators are playing a larger role when they have played in the past.

Many cities—that are running out of landfills—are scrambling to find new places to dispose of their waste. As many as 200—are looking at incinerators as a way to reduce the need for more landfills. And as an added benefit they see incinerators as a partial answer to their land disposal problems.

City officials see incinerators as a way to reduce the volume of waste by 70 to 90 percent. They see incinerators as a way to reduce the need for more landfills. And as an added benefit they see incinerators as a way to produce energy from the waste itself.

If we are to ensure that these incinerators are designed and operated safely—if we are to ensure that the ash is safely managed we should adopt this amendment.

And if we are to ensure that incineration is part of a larger waste management scheme—that includes source reduction, recycling, and landfilling we should adopt this amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank both managers of the bill. I indicated this was a long negotiation. I certainly want to thank the staff all around.

There are some areas we felt we could have made further changes. I am particularly concerned about the provision to which the American Hospital Association was just seeking to add two words, "as appropriate" on page 5, to give some more flexibility. The wording is:

(5) The performance standards promulgated under section 111 and this section and applicable to solid waste incineration units shall specify, as appropriate, numerical emission. * * *.

We were not able to negotiate those two words, "as appropriate." It seems to me that they would have been given more flexibility but at least I wanted the RECORD to reflect that, and, hopefully in the conference, this can be visited again because there are improvements to be made.

We thank all those who were helpful and those on the staffs of Senator DURENBERGER, Senator BAUCUS, Senator CHAFEE, and others who worked with our staff and other Member's staffs and others on this particular change.

Mr. President, maybe other people want to speak on the amendment. The Senator from North Carolina was kind enough to yield to me. I said I would just take about 30 seconds. It has taken longer. I wonder if I might ask that we may proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I had hoped that the Senate would produce a clean air bill that I could support without serious reservation and in good conscience, but this bill fails the test. I recognize that the news media and politicians back home will proclaim that those of us who cannot support this bill are somehow "against" clean air and a clean environment.

In short, the outcry will come largely from those who have never seen this 567-page bill, let alone studied it or the impact it will have on the working men and women of America. Nevertheless, I can see the newspaper headlines, the pious editorials and cartoons now with the usual sneering references to "the dirty dozen," or something like that.

Such characterizations are absurd, because the Senate is about to pass a bill that will cost the taxpayers billions of dollars, while putting at risk the jobs of countless hundreds of thousands of working people in North Carolina and the Nation. The estimates of jobs that will be put at risk run into the millions.

Mr. President, considering all aspects of the legislation that is now about to pass the Senate, I simply cannot do that to men and women who deserve some consideration from us, and who must have their jobs to provide for their families.

How many jobs will be lost? Nobody knows the answer to that—not the President, not Mr. Reilly of the EPA, nor any Member of the Senate. But privately, in that cloakroom and elsewhere, and sometimes publicly, most if not all of the above acknowledge that

the toll on the American people will be enormous and probably devastating.

That is why I fully understood the deep feelings of the distinguished Senator from West Virginia, Mr. ROBERT C. BYRD, former majority leader, presently the chairman of the Appropriations Committee and President pro tempore of the Senate, last week when he pleaded with Senators to support his amendment to help the coal miners of his State who will lose their jobs. That was really the first acknowledgment in this body that many, many jobs—not only of coal miners but across the spectrum—will be lost.

I could not and did not support Senator BYRD's amendment, and I told him why. But I nonetheless understood and admired his concern for the people of his State, because I have precisely the same concerns about the people of North Carolina.

Jobs will be lost, perhaps by the thousands, perhaps by the countless thousands, in North Carolina's industries—textiles, furniture manufacturing, and many others.

Is there no concern for what happens to the workers in my State, or in Senator BYRD's State, or in any of the other States? Senators will say, yes they are concerned—but. But what? Every one of us in this Senate knows that many jobs will be lost once this bill is signed into law—if it is signed into law.

The legislation about to be approved by the Senate has been referred to a thousand times as a compromise. Yes, it is indeed a compromise because it was well-known that the original clean air bill would never have passed the Senate. According to White House estimates, that bill would have cost the taxpayers $42 billion per year. But the Business Roundtable put the cost of the original bill at $54 billion. On the other hand, the administration estimates that even this compromise will cost $22 billion per year, whereas the Business Roundtable predicts the compromise will cost $46 billion per year. But who can vouch for these estimates? I repeat: Nobody, nobody knows what the actual cost will be. We just know it is going to be enormous.

This is a very complex bill, comprised of 7 titles and 567 pages. Senators confess privately that they do not fully understand it or even its implications. There are provisions in the bill that I could support. I could support, for example, the acid rain title, and the alternative fuels sections of the ozone nonattainment title. I could perhaps support this bill if acid rain and alternative fuels were the only provisions in the bill.

But there are so many other provisions, such as the section designed to control toxic chemicals, that I cannot support. These provisions are sure to put people out of work and saddle small businesses with incredible costs.

I simply cannot close my eyes to the devastating consequences of these provisions. I hope the harshness of this section will be lessened by the House of Representatives, or in conference by both the House and Senate.

ACID RAIN

Mr. President, all of us have been concerned about the acid rain problem for a long time. In North Carolina, we have beautiful forests along the Blue Ridge Parkway. I know what is happening to Mount Mitchell where many trees are dying. Acid rain appears clearly to be a contributing cause. So I support the general policy of reducing the emissions of sulfur dioxide which cause acid rain.

There has been much debate as to the extent of the acid rain problem. Some contend that there is no problem at all; while others claim that disaster is near.

The debate was finally put to rest by the exhaustive 10-year study by the National Acid Precipitation Assessment Program [NAPAP]. The NAPAP program reviewed more than 5,000 studies and documents on acid rain. About 400 scholars and reviewers were involved in preparing these reports.

The director of the NAPAP study concluded that "the sky is not falling, but there is a problem that needs addressing." He emphasized that "acid rain does cause damage, but the amount is less than we once thought * * *."

The NAPAP report included several important findings. For example: Acid rain has not been shown to be a significant factor contributing to current forest health problems in North America; and that acid rain is not responsible for regional crop yield reduction. Furthermore, the report states, the number of acidic lakes are a relatively small percentage of all lakes nationwide.

Thus, the consensus of the scientific community appears to be that acid rain is indeed a problem, but not as grave as had originally been proclaimed.

So the question is not whether we should try to reduce emissions of sulfur dioxide. No, the real question is, What level of reductions should we seek? This clean air bill requires a reduction of 10 million tons. Some people wonder: Is there anything magic about the 10-million-ton figure?

The obvious answer is no. The 10-million-ton figure was picked arbitrarily. The same environmental benefits can be achieved with an 8-million-ton reduction—and for half the cost. The director of the NAPAP study confirmed this in a letter to Congress in which he stated, "if emissions or deposition were to change by 7 to 13 percent, the regional patterns of the effects * * * would likely change, but such changes would not likely be measurable."

So why was it necessary to increase the cost by 50 percent by requiring a 10-million-ton reduction instead of 8 million tons—when the environmental benefits are the same? I do hope that the House, and the House-Senate conferees, will consider this issue because in the end, it is the consumers and the taxpayers who will foot the bill.

When this clean air bill was originally introduced, I felt that the acid rain provision treated North Carolina inequitably. It was a double whammy on the people of my State. North Carolina electric power ratepayers have already paid for cleaner air because our power companies use low sulfur coal.

But we were about to get hit again in the original bill, which used a formula that gave utilities allowances, or credits, based on the capacity or use of each unit during 1985–87. Thus, a utility could emit SO_2 only in accordance with the number of allowances they possessed. This had the effect of locking in North Carolina utilities at very low capacities because they had used only about 40 percent of their coal-burning capacity during 1985–87.

The result was that States like North Carolina were penalized for having had good performance and low use of coal during 1985–87. So under the original bill, North Carolina utilities would have been forced to buy additional allowances or credits from other utilities in order to use the other 60 percent of their units.

Obviously, North Carolina ratepayers would ultimately pay these additional costs. It was estimated that the original bill would have forced Duke Power to raise its rates by 10 to 12 percent; CP&L by 11 to 15 percent.

So we sought relief for North Carolina. We worked with Senator BYRD, and with midwestern Senators, to fashion a compromise more equitable to North Carolina and other low capacity States. We also expressed our concerns to Senator MITCHELL and the Environment Committee. As a result, Senator MITCHELL agreed to modify the acid rain title to give low-capacity States, like North Carolina, additional allowances. This will help us to meet our expected future growth without having to incur unnecessary and inequitable costs. It will also reduce the rate increase for Duke Power from 10 to 12 percent down to around 5 to 7 percent.

Needless to say, this will save the ratepayers of North Carolina substantial amounts of money over the years.

OZONE NONATTAINMENT

The bill also sets some tough standards for areas that are not inattainment. There are 101 cities that have ozone or smog levels above the current standards and 44 cities that have carbon monoxide problems.

Ozone is formed from volatile organic compounds [VOC's] or nitrogen

oxides [NO_x], which are emitted from cars and many businesses. Cars account for about 50 percent of the ozone—or urban smog—problem; and businesses such as dry cleaners and beauty shops account for the other 50 percent of that problem.

So there are two ways to address the smog problem: control industrial emissions and control car emissions. Title I applies to industrial emissions, also called stationary sources. The title requires businesses in serious nonattainment areas to put on reasonable available control technology [RACT], if they are a major source defined as a source emitting more than 100 tons of NO_x or VOC. The bill also requires those areas to implement vehicle inspection and maintenance programs and to install stage II vapor recovery systems at large gas stations. This is the large nozzle on the gas pump that recovers gas vapors when you pump your gas.

The nonattainment section in the compromise bill, I acknowledge, is substantially better than the original bill. The compromise bill does not require controls on small businesses that emit less than 100 tons of pollutants. The compromise also deleted a prohibition on the "netting" of various pollution sources within a plant, which will give businesses more flexibility.

Second, title II applies to mobile sources, including cars and light-duty trucks. The bill sets two phases of tailpipe standards that must be met by all cars. The first phase goes into effect for 1993 autos and is similar to the standards already adopted in California. Auto emissions of VOX's and NO_x must be reduced by 22 and 60 percent respectively, and will add about $100 to the price of each car. The second phase will take effect in 2003 only if more than 12 of 27 cities in the serious category are still in nonattainment in year 2001.

There is also a section in the bill that deals with alternative fuels. The compromise bill required the EPA to issue standards for alternative fuels to achieve a 12-percent reduction in air toxic emissions in phase I. These alternative fuels would be marketed in the nine "dirtiest" cities. New cars will have to meet the EPA standards by 1995.

Mr. President, during the debate on this bill, several alternative fuels amendments were offered. These amendments were considered strengthening amendments or environmental amendments. I regard them as commonsense amendments.

It makes sense to use more alternative fuels because doing so will help reduce air pollution and our dependence on foreign oil. The United States now is importing 53 percent of the oil used in this country. This is an all-time high, and it is a threat to our national security. I am absolutely convinced that we must seek ways to decrease our addition to foreign oil. Alternative fuels will help accomplish that objective while, at the same time, reducing air pollution. It is a win-win solution to two serious problems.

I supported three common sense, or environmental, amendments dealing with alternative fuels: Wirth-Wilson, Daschle, and McCain. I opposed the Lautenberg amendment that would have weakened the alternative fuel provision.

The Wirth-Wilson amendment, had it not been defeated, would have required reformulated gasoline, or alternative fuels, in all 40 seriously polluted cities. It would also have required a second phase of tailpipe standards on cars in the year 2003 if the EPA concluded it was an effective way to reduce air pollution.

Mr. President, some expressed surprise that I supported this amendment. But if they had looked at the merits of the amendment, they would not have been surprised. It would have been a triple win because it would have reduced air pollution, reduced our dependence on foreign oil, and reduced the burden on small businesses.

Since I have already discussed the first two points, I will focus on the third one.

Actually, the logic is simple. Reductions in air pollution can be achieved by regulating emissions from cars and businesses. The bill sets a level of reductions that must be achieved by the States. The more reduction from cars, the less reduction States have to impose upon small businesses. The cost of imposing a second phase of tailpipe standards is about the same as the cost of power windows on an automobile.

So instead of forcing small businesses to put on expensive controls, this amendment would have spread the cost among a larger group. That is why the National Federation of Independent Businesses supported the Wirth-Wilson amendment, and that is why I supported it.

I likewise supported the Daschle amendment requiring reformulated gasoline. The amendment, approved 60 to 39, requires cleaner gasoline through the use of alternative fuel additives such as ethanol, methanol, and other oxygenate compounds. It makes sense to use our abundant homegrown corn to make ethanol instead of using so much foreign oil.

Lastly, I supported the McCain amendment to provide incentives for solar and renewable energy development. The financial incentives would have encouraged investors to tap this underutilized source of energy.

TOXICS TITLE

Mr. President, the toxics section of this bill causes me the greatest concern. This title identifies 200 chemicals that are deemed harmful; it requires the EPA to control their emissions. In phase I, every factory or small business that emits as little as 10 tons of a listed chemical will be forced to install exceedingly expensive control technology. These controls are supposed to reduce emissions by 90 percent.

The bill also requires a second phase of controls if there is still a significant risk posed by the chemical. If there is a residual risk, businesses must put on even more controls or shut down. So businesses will be forced to put on additional controls despite the fact the emissions were reduced by 90 percent.

Want a few examples of the magnitude of the cost of this? A printing company could be forced to install $100,000 to $250,000 worth of control technology. A dry cleaner could face $75,000 in additional costs, auto body shops face $30,000 to $60,000 in costs, and even bakeries could be required to install emissions control equipment.

The implications for North Carolina are obvious: The furniture and textile industries will be particularly hard hit. Furniture companies employ 93,000 people in North Carolina. They may be forced to install incinerators. I asked our furniture manufacturers what this would cost them and what effect those additional costs would have on their business. One company told me that incinerators would cost them between $6 and $9 million, which will put the company out of business.

The textile industry likewise cannot afford such huge additional costs, particularly at a time when they are facing an ever-increasing level of textile imports. Many jobs are already being lost as a result of this deluge of textile imports. Cone Mills and Milliken have just announced that they were closing two plants.

So, contrary to the opinion of some in Congress, the textile industry cannot absorb huge additional capital expenditures—which is precisely what this bill will demand. It is estimated that control technology for one textile plant could cost $5 million or more.

Mr. President, all of this will translate into higher prices and lost jobs. That is the bottom line—jobs will be lost. And we do not even know if it is necessary.

CFC TITLE

I have great concern about this bill's CFC title that forces the United States to act unilaterally to phase out CFC's and HCFC's instead of working within the framework of international negotiations. The problem of substances depleting the Earth's stratospheric ozone layer requires a worldwide solution.

Would it not be more sensible to act in concert with the international community? It will do little good for the United States to eliminate these chemicals if other countries refuse to

do the same. Surely, this ill-advised provision will be revised in conference.

A final note: The Senate did agree to my amendment to delete the $75 million of the U.S. taxpayers money that otherwise would have been handed out to foreign countries. This little giveaway was slipped into the bill. Steve Phillips, my alert staffer, spotted it and recognized that it amounted to a bribe. So my amendment at least saved U.S. taxpayers the $75 million.

So, Mr. President, I will conclude as I began. I cannot in good conscience support this bill, recognizing that it is not fair to the working people of America who will unquestionably lose their jobs as a result of this legislation. It is not fair to the taxpayers because a bill costing far less than this one could achieve just about the same benefits for the environment. And it is not fair to the small business men and women of our country who will be driven into bankruptcy by the enormously expensive and unnecessary costs of compliance with this bill if it should become law.

I reiterate my hope that better and less costly legislation will emerge from the House of Representatives, and/or the House-Senate conferees.

Mr. President, my friend, Pat Buchanan, produced a column published yesterday that eloquently details the problems with this legislation. I ask unanimous consent that the relevant portion of his column be printed in the RECORD at the conclusion of my remarks.

I also ask unanimous consent that an article by Warren Brooks and a summary of the jobs at risk be printed in the RECORD at the conclusion of my remarks.

Mr. President, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLEAN AIR ACT: NO NATIONAL DEMAND NOR A PROVEN NEED

(By Patrick Buchanan)

This country is going to wind up paying a hellish price for President Bush's campaign pledge to be the environmental president; and Mr. Bush may end up paying a political price as well.

According to The Wall Street Journal, the acid rain provisions of the Clean Air Act alone will cost industry $4.1 billion—even though a federal study found that acid rain damages only 1 percent of the trees in the Northeast, and perhaps 750 lakes. For a few million bucks, every one of the lakes could be lined, with better results. Why, then, are we killing West Virginia's soft-coal industry?

Cost of the bill to industry, yearly, is estimated at $22 billion to $45 billion. American automakers would have to add $600 to the price of each car to cut an extra 1 percent from emissions blamed for smog.

How many jobs are at risk?

Sen. Robert Dole, Kansas Republican, put in the record a state-by-state analysis, Indiana could lose 200,000 jobs, Michigan, 220,000, Ohio, 326,000, Texas, 184,000, California, 330,000, Grand total: 3.8 million. If those numbers hold, we may be in for a nice recession.

Two decades ago, this country committed itself to clean air and water. We did the right thing; but the cost was great. In countless industries, our competitive edge was lost; millions of jobs moved offshore; productivity fell. Challenged today by West Germany and Japan, can we afford risking 4 million more jobs for marginal gains in air quality and fighting bugaboos like global warming and acid rain? Is anybody doing a cost-benefit analysis for the United States?

If this bill passes, writes columnist Warren Brookes, "it is Armageddon for the Bush administration. We can just kiss the U.S. goodbye. All the Reagan years down the drain. It's that serious."

How did we reach a point where the White House is terrified of the impact of a bill Mr. Bush proposed? The problem lies in politics.

Lacking in governing philosophy, the "vision thing" as he calls it, Mr. Bush is a textbook pragmatist, with a simple and honorable ambition: be a good president. But, when, in an age of ideology, a pragmatist is confronted by a millitant movement such as modern environmentalism, which identifies itself with the public interest and is backed up by the press, the natural disposition is to compromise .

There simply never was a national demand nor a proven national need for the Clean Air Act of 1990.

[From the Washington Times, Apr. 2, 1990]

COSTLY SMOG ON THE HILL

(By Warren Brookes)

Last week environmentalists groaned when the proposal by Sens. Pete Wilson, California Republican, and Timothy Wirth, Colorado Democrat, to impose California alternative fuels and tailpipe standards on the rest of the country by 1994 went down to crushing defeat.

Even, so, White House officials admit to this column the actual costs of the Senate/White House compromise will be from $12 billion to as much as $24 billion above its "veto-line" target of $22 billion. As one said, "we have a lot of work to do in the House and in conference to get back to that level."

In spite of this huge cost escalation, the administration is being savaged, as The Washington Post's columnist Mary McGrory wrote, for "selling out to the smog lobby." She said even Senate Majority Leader George Mitchell, Maine Democrat, "who has as good an environmental record as anyone in the Congress, has shown more solicitude about protecting the deal than protecting the environment."

She contrasted this pusillanimous approach with California's tough approach to ozone: "California isn't afraid of Detroit. The Senate trembles at the mention of Lee Iacocca's name," and "doesn't want to upset the boardrooms of the auto companies or the oil barons."

For a Washington scribe riding the $6 billion Metro system (at $80 dollars in federal taxpayer subsidy per ride), paying 20 cents more per gallon and $8 billion a year for less than 2 percent added emissions reduction looks cheap at half the price.

But for the rest of the nation, the Wilson/Wirth bill was $100 billions of maniacal madness. In the first place, all U.S. cities, except those in California, are in compliance with the Environmental Protection Agency's toughest-in-the-world ozone standards 99.4 percent of the time, while even California complies 94 percent of the time.

In the second place, in 1989 (data which the EPA refuses to release because it would destroy their bill) there were only 97 total exceedances nationwide in the 104 non-California cities. That's less than one per city. By contrast, there were 233 exceedances in the 10 California cities. (See Table.) The notion that the rest of the nation should spend $8 billion to keep Californians company is absurd.

Even without Wirth/Wilson, industry's Clean Air Working Group (CAWG) estimates the Senate "compromise" bill on surface ozone alone "would cost $14.3 billion more per year than the administration plan to achieve comparable ozone attainment levels."

In the third place, even those attainment levels represent extreme modeling bias. What does it mean to be in "non-attainment"? It means one measuring device located in the maximum possible exposure area of a city has to go over the EPA ozone standard for only one hour on each of two days in a year.

As a top Bush official said off the record, "Now isn't that silly? Here we are, restructuring whole industries with multibillion-dollar competitive effects on the strength of that kind of extreme, nonsensical measurement." Especially when U.S. pollution-control spending ($85 billion) is double that of the entire 12-nation European Community ($42 billion) and four times the equivalent per capita level of Great Britain.

The travesty of this is that while even the EPA admits the mathematical cancer risk of surface ozone is less than 1,100 a year, its own models use untested assumptions that overstate that risk at least 100 times. In test after test in which individuals have been made to jog in confined rooms filled with 10 times the compliance level of ozone, the worst documented health problems turn out to be 10 minutes of coughing, entirely reversible.

"We're talking about spending more money on reducing this infinitesimal risk by 2 percent, than we spend on the entire National Health Institutes budget. Does that make any sense?"

Yet that extreme approach to regulation is characteristic of the bill the Senate is now debating. In every area, the costs infinitely outweigh either health or environmental benefits. A number of even moderate senators are beginning to realize this.

That's why last Thursday Mr. Mitchell tried and failed to get unanimous consent to set tomorrow as the deadline for a final vote on the entire Clean Air bill and retaliated by ordering around-the-clock debate.

Complicating his task is solid evidence the compromise violates President Bush's veto line of $22 billion. Last Tuesday, CAWG's analysis by Dale Denny, former chairman of EPA's Air Pollution Research Committee, showed White House negotiators had only managed $8 billion from the original "Green Monster" (S. 1630) instead of the $20 billion they claimed.

Where industry had estimated the costs of the original bill at $54.6 billion, it now cost it at about $46.6 billion. Where the EPA had originally cost S. 1630 at $42 billion, its current cost even by its logic should still be about $35 billion.

That may explain why, as of Monday White House Chief Economic Adviser Michael Boskin had not responded to a March 2 letter from five Senate Republicans asking for an updated cost estimate on industry compliance costs, said to range up to $25 billion.

Another reason: Even if (as is reported) Mr. Boskin had caved in to the deliberately low-balled EPA cost estimates, he could not ignore last week's passage of the Wirth Cold Start Amendment on carbon monoxide which adds $2.5 billion to the compromise. That would automatically qualify the bill for Mr. Bush's veto.

Mr. Boskin's spokesman admitted "the letter and the estimates have been going through a number of revisions, even as we speak." Those revisions are said to show that even considering a low probability on the various "triggering" clauses in the compromise, the cost is 50 percent higher than the veto line, and "allowing reasonable probability, the cost could be double," one estimator admitted. Small wonder a top White House aide told us last week "the compromise was a disaster."

OZONE EXCEEDANCES

	1989	1985–89 average
Percentage of time out of attainment:		
104 non-California cities	0.3	0.7
10 California cities	6.3	7.2
Exceedances/year:		
104 non-California cities	97.0	267.0
Per city	.9	2.6
10 California cities:	233.0	268.0
Per city	23.3	26.8
Los Angeles	118.0	135.5

JOBS AT RISK IN NORTH CAROLINA BY THE PROPOSED CLEAN AIR ACT AMENDMENTS [1]

Industry	Senate compromise (90 percent MACT) (1 in 10,000 residual risk)		Original Senate bill (98 percent MACT) (1 in 1,000,000 residual risk)		Small business affected by permitting section		Total jobs at risk by the compromise bill (1+3)
	Number of plants	Employment	Number of plants	Employment	Number of plants	Employment	
Construction	0	0	0	0	462	1,939	1,939
Food	0	0	5	934	37	3,568	3,568
Tobacco	0	0	12	34,622	0	0	0
Textiles	4	1,796	24	14,448	0	0	1,746
Wood and lumber	5	1,003	14	1,989	11	122	1,125
Furniture	15	5,870	75	31,584	0	0	5,870
Paper	5	2,874	7	3,919	0	0	2,874
Printing	2	10	14	1,111	395	5,008	5,018
Chemicals	5	1,809	14	5,661	172	8,397	10,202
Oil refining	2	100	2	100	0	0	100
Rubber and plastics	2	1,088	8	7,806	0	0	1,088
Glass and concrete	2	434	6	1,578	0	0	434
Metal	1	375	1	375	45	724	1,099
Machinery	2	100	2	100	0	0	100
Electronics	0	0	1	3,750	40	2,870	2,870
Transportation	1	50	2	750	0	0	50
Wholesale trade	1	27	11	310	0	0	27
Personal services	0	0	0	0	374	2,544	2,544
Business services	0	0	0	0	60	1,100	1,100
Auto services	0	0	0	0	306	1,195	1,155
Health services	1	551	2	551	0	0	551
National security	1	50	1	50	0	0	50
Total	49	16,135	224	114,736	1,902	27,427	43,562

[1] Business Roundtable Study, February 1990, "An Analysis of Jobs-at-Risk and Job Losses Resulting from the Proposed Clean Air Act Amendments," Drs. Robert W. Hahn and A. Steger.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I want to briefly address the bill. I understand my distinguished friend from Colorado has an amendment that the manager is ready to take. I would like to accommodate him, but then I would like to be heard briefly on the bill.

The PRESIDING OFFICER. The time on this amendment is controlled by the Senator from Kansas.

Mr. DIXON. Well, on the amendment it is.

Mr. DOLE. If there are no other speakers on the amendment, I would yield back any time.

The PRESIDING OFFICER. Is all time yield back on the amendment?

Mr. DIXON. Excuse me, the Senator from Kansas has not concluded his amendment? I apologize.

Mr. DOLE. This is one the Senator from Illinois is cosponsoring.

Mr. DIXON. I cosponsored that, and I support it enthusiastically. I yield the floor.

Mr. DOLE. I yield back the remainder of my time.

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 1445) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, my friend from Colorado has now been kind enough to indicate that I can proceed, and I will proceed very briefly.

Mr. President, I rise today to let the record show the reasons influencing my vote on the Clean Air Act Amendments of 1990, S. 1630.

I have come to the floor more than half a dozen times to express my views on this bill as it went through its many changes. As the bill evolved, I called for balance and fairness, pointing out inequities in the acid rain title, and economic inefficiencies in the air toxics section. Among the amendments that I offered, along with Senator GORTON from Washington, was an amendment to preserve the competitiveness of U.S. businesses that will be injured as a result of the unilateral actions the United States will take to clean the air. That amendment failed, but the closeness of the vote revealed that many other Members are also concerned about the grave implications this bill will have for the U.S. economy. Perhaps it will take some time before the economic effect of this bill will be realized, but I assure you, this issue is not going away.

It is true that this bill has gone through many transformations which have helped make things less devastating for the industrial heartland. I want to make sure that my friends, the majority leaders, the floor managers, and others who labored to fix this bill, for about 1 month in a room just off this floor, know that I am profoundly grateful to them. But the truth is, the bill which was pulled off the floor shortly after being called up on January 23, was in need of major surgery. Unfortunately, in the acid rain section, what has been performed was only minor surgery.

Before I go on to describe the serious problems that remain in the acid rain title, I feel compelled to mention the areas where the compromise greatly improved the bill. First, I am pleased that the current law's definition of a major source in the ozone nonattainment section will be retained. This will permit small businesses to remain in operation while still attacking the real causes of urban smog.

Second, I think it was a wise decision to allow nonattainment sources to net

out increases and decreases in emissions following plant modernizations. This will actually encourage pollution-saving plant upgrades because businesses will not be penalized for making modifications.

Third, as a representative of a car manufacturing State, I am very pleased that a compromise was reached on second round tailpipe controls. Tying the second round of controls to whether there is a need for further controls for cities to reach attainment is an example of a balanced approach that I wish was the rule, rather than the exception, in this bill.

A fourth important change to the bill involves an assessment of residual risk under the air toxics title. I very much support the provisions requiring the National Academy of Sciences to review our risk assessment methodologies, and the subsequent revision of those methods based upon the findings of the academy's study. Because of the enoromous costs of controlling emissions, it is important that risk assessment attempt to approximate actual risk to real people, rather than theoretical risk to hypothetical persons.

Finally, a fifth, and very prudent, change to the bill in the air toxics section deals with the treatment of coke oven emissions. I support the compromise which allows coke ovens to achieve a lowest achievable emission rate in lieu of shutting down for failure to meet a theoretical residual risk standard. I support this not only because we manufacture a great deal of steel in Illinois, but because I feared for the entire national economy if we were to lose the ability to make steel in this country.

Mr. President, as I see it, these are the most significant changes to the first three titles of the bill; and I am very pleased that they have been made. Unfortunately, title IV, the acid rain title, was not sufficiently amended. The acid rain section is without doubt the most divisive issue in the bill, and I sincerely appreciate the leader's and the floor managers' willingness to listen to the problems this section creates for the Midwest. However, following months of regular meetings and an untold number of staff-hours devoted to finding an equitable solution for the Midwest, a fair compromise for the Midwest was not reached.

The Midwest received too little through the negotiating process, and perhaps that was all that we could achieve, considering the structure of the acid rain bill at the start of the negotiating process. The acid rain bill which was reported out of committee—a committee, I might add, that has not one member from the industrial Midwest, and not one member from a high-sulfur coal State—was so fatally flawed that we never had a chance of amending it into an equitable bill. The parameters given to us by the committee in terms of what changes would be acceptable were so restrictive that there was no possibility to make the significant changes.

I would like to elaborate on how both the administration's and the Senate committee's acid rain titles were designed to be against the Midwest from the start. As my colleagues know well by now, I am not pleased by the way the bill before us has allocated the costs among States for cleaning up our national acid rain problem. The bill seeks to get 90 percent of acid rain reductions in the first phase from just nine States. I suppose that would be fair if these nine States were responsible for all of the pollution, but that is not the case. In fact, these States contribute only 51 percent of the total sulphur-dioxide emissions.

It makes sense to seek the lowest cost emission reductions first, and I recognize that there is potential to make relatively more cost-efficient reductions in the nine States targeted by the bill. It does not make sense to me, however, that a great number of States will actually be allowed to increase their sulfur-dioxide utility emissions as a result of this bill. Mr. President, the following 18 States will be permitted to increase their utility emissions from 1980 levels, while my State is being asked to cleanup more than its proportionate share: Vermont, Connecticut, Delaware, Arizona, Louisiana, North Dakota, Kansas, Nebraska, Oklahoma, Montana, Wyoming, Colorado, New Mexico, Utah, Arkansas, Nevada, Oregon, and Texas. I note that 8 of these 18 States are represented on the committee that reported the bill, and that the 9 States required to make excess reductions are not represented on the committee.

Mr. President, the increases these States will be given amount to 910,000 tons—nearly 1 million tons worth of increases in annual emissions are being handed out to certain States, while nine States make extra reductions to pay for them. Not only is that infuriating to a Senator from one of those nine States, but it is also confounding that we would take these drastic measures to protect the environment with one hand, while the other hand partially wipes away our gains.

Fairness has not been achieved. Nine States will make a disproportionate share of this country's investment in acid rain control, and the other beneficiaries of this investment will not share in the cost. Illinois is being targeted for big reductions under the principle that polluters should pay. The problem with that is that only some polluters have been identified and asked to contribute to the solution. This bill violates the very polluter pay principle that its sponsors tout, and instead, a very conscious decision was made to place nearly all of the burden on nine targeted States in the Midwest.

Mr. President, someone unfamiliar with the facts would assume that the Midwest plants were our only—or even our biggest—source of sulfur and nitrogen oxides—but that is not the case. I would like to set the record straight with regard to this misperception. I have already mentioned the 18 States that will increase their utility sulfur emissions by nearly 1 million tons. It might be assumed that these States are being rewarded for being extraordinarily clean, but in fact, some of these States are among the biggest SO_2 polluters in the country. New Mexico, Louisiana, Arizona, and Texas rank sixth, fifth, second, and first in terms of industrial emissions of sulfur dioxide. Texas is the No. 1 industrial SO_2 polluter, and No. 3 overall sulfur polluter, and yet its utilities will be allowed to pump 333,000 more tons of sulfur into the air than they did in 1980. Texas' increased emissions will offset over one-half of the reductions required of my State. Not to single out the State of Texas, let me point to Arizona. In 1985 Arizona put 718,000 tons of sulfur in the air. As a result of this bill, Arizona will now put 786,000 tons into the air. Louisiana, the Nation's fifth biggest industrial SO_2 polluter, will increase its utility emissions by 86,000 tons annually. Mr. President, this bill is skewed.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a list of States that will increase their utility SO_2 emissions as a result of S. 1630.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. My point is not to pick on any particular State. It is simply to show the absurdity of exempting a State like Texas, which has the largest overall emissions of nitrogen oxides—another constituent of acid rain—and which emits more sulfur dioxide than my own State of Illinois. It is not fair that certain polluting States should get a free ride on my State's investment to control a national problem. If we are going to target just a few of the emitters of acid rain precursors, then we must spread the burden nationally. This is no different than the savings and loan bailout. Very few States were actually responsible for the S&L crisis, yet the entire country paid to bail out the industry. We did this because the vitality of the thrift industry is important to the whole country—not just California or Texas. The whole country wants clean air, and we cannot expect my folks in Illinois and a few other States to pay the whole cost while other States get to increase their emissions.

This issue is also very much like a natural disaster that requires the country to rally to the aid of the injured for the sake of the whole. Environmentalism is like a wind that is sweeping through the country, and in most places it will be like a welcome breeze of fresh air. But in southern Illinois, this clean air bill is roaring in like Hurricane Hugo, leaving nothing but unemployment in its path. The economic devastation in towns like West Frankfort, Pinckneyville, Christopher, Zeigler, and Centralia will be so severe that we ought to be able to apply for Federal disaster assistance. The Nation's heart, and its pocketbook, went out to the unfortunate people who suffered the ravages of Hurricane Hugo and the San Francisco earthquake. I think that the American people, as a whole, feel that the Government is also obliged to assist people when it is itself responsible for causing local economic disaster. We, the Government, are about to cause economic devastation to a part of my State that will be just as severe, and more long term, than what Hugo did to the Southeastern States.

As a consequence of the inequity of the acid rain title, the State of Illinois predicts nearly 20,000 of my constituents might lose their coal mining and related jobs. Hundreds of thousands of my constituents could experience utility rate increases of 20 to 25 percent, which amounts to several hundred dollars per year. My constituents will do this to control a problem where the benefit will be realized in Canada and New England, while they continue to pay to subsidize cheap electric rates for customers of Northwestern hydroprojects, and cheap water rates for Western farm irrigation. I ask my colleagues, where is the justice here?

We offered proposals to share the cost of the cleanup through generation fees, excess emission fees, industrial emission fees, and through tax credits for those that were required to make disproportionate reductions. Any of these proposals would have restored a little bit of equity to the acid rain reduction plan the bill lays out, but we were defeated at every turn. I know the opponents of these amendments said that we should not be paying dirty States to clean up their problem. Well, what about all of the dirty States that are let off the hook entirely, some of which actually will increase their emissions? Should they not help share the burden? Mr. President, I am just trying to point out that if we are going to call some States dirty because their sulfur emissions happen to come from utilities, and call other States clean because their emissions come from industrial sources, we are going to have a fairness problem. There are many ways we could have helped to remedy this problem.

I have spoken of the attempts the Members representing the Midwest and Appalachia, with the able leadership of the President pro tempore, have made to do anything and everything we could possibly think of to try to prevent high-sulfur coal from going down the tubes. We tried cost sharing using an electrical generation fee, we tried cost sharing using an excess emissions fee, we tried fees on industrial emissions, and we have tried countless different permutations of the above—but we have been defeated at every turn. On the floor we tried to get some modest tax help—the same help the West got when it put on its scrubbers, but we were not permitted that help. We have tried everything possible to prevent legislating people out of a job, and we have been told by the majority of Members that we cannot do that. We have been told that all of the ways we could possibly keep high-sulfur coal miners in business will not be allowed. Then we came before the body, and we pleaded one more time for fairness. We said if we are going to make this conscious decision to put high-sulfur coal miners out of a job, then let us have the decency and humaneness to help these people back into a productive life by giving them some unemployment compensation. But, again, our efforts were defeated.

I have also mentioned the amendment Senator GORTON and I offered to level the playing field between U.S. businesses that must meet the tough new clean air laws, and their foreign competitors who are exempt. I have not yet mentioned the amendment I attempted to get accepted that would have required all diesel fuel to be desulfurized. It is terribly inefficient for us to create differentiation in the distillate fuel pool, and my amendment would have prevented that. Without my amendment, farmers, farm cooperatives, diesel distributors, and others will not have to keep separate storage tanks for on-road and off-road diesel. In addition, we will lost the environmental benefit of desulfurizing 60 percent of the distillate fuel market. The reason I was told the amendment could not be accepted was that home heating fuel, used primarily in the Northeast, might be increased by a few cents per gallon. I wish my constituents could pay only a few cents extra in their energy bills to clean up sulfur dioxide.

Perhaps, the crowning blow to all those who fought for a fair and commonsense bill came when the Senate defeated the amendment on Canadian utility plants. This amendment, which failed 57 to 40, would have required Canadian utilities to have acid rain controls as stringent as United States utilities before they could sell us electricity. How can I tell our coal miners that they no longer have a job because acid rain is hurting Canadian and Northeastern lakes, when Canada will not even clean up its own utilities?

So how I must cast my vote one way or another for this bill, knowing full well of the injustice it does to my State, but also being fully aware of the public's support for cleaner air. I do not think that I could, in good conscience, allow this bill, which is so unfair to my own State, to be enacted into law with my support. I thank God that more populous States, such as Illinois, have greater proportional representation in the House of Representatives, and that the House will get a crack at this bill before it is sent to the President. After a great deal of thoughtful deliberation, I have decided to vote against this bill. However, I believe that there is an opportunity for this bill to be corrected in the House, where the State of Illinois has 22 Representatives. Two of the Illinois Members, Congressmen Ed MADIGAN and TERRY BRUCE, sit on the committee with jurisdiction over the clean air bill. I think it is possible that these two very able men, and other Midwestern Representatives, will be successful in fashioning a bill that is more fair. I know that this bill will pass regardless of which way I vote. The way I cast my vote, therefore, is largely symbolic with respect to this particular legislation. What I hope to symbolize by voting against this bill is that ALAN DIXON wants and supports clean air, but he wants a fair, national, equitable bill.

I sincerely hope and pray that the House will adequately address the acid rain provisions of this bill—title IV—So that I can support the final conference report on this bill, and vote for a fair, decent, clean air bill.

EXHIBIT 1

STATES THAT WILL INCREASE THEIR UTILITY SO_2 EMISSIONS AS A RESULT OF S. 1630

[In tons]

	1980 emissions	2005 emissions	Increase in emissions
1. Texas	295,000	628,000	333,000
2. Arkansas	27,000	95,000	68,000
3. Louisiana	21,000	107,000	86,000
4. New Mexico	79,000	99,000	20,000
5. Vermont	0	1,000	1,000
6. Connecticut	29,000	76,000	47,000
7. Delaware	51,000	56,000	5,000
8. North Dakota	79,000	132,000	53,000
9. Kansas	102,000	118,000	16,000
10. New England	48,000	71,000	23,000
11. Oklahoma	45,000	104,000	59,000
12. Montana	23,000	32,000	9,000
13. Wyoming	128,000	153,000	25,000
14. Colorado	71,000	92,000	21,000
15. Utah	25,000	43,000	18,000
16. Arizona	84,000	148,000	64,000
17. Nevada	38,000	93,000	55,000
18. Oregon	4,000	11,000	7,000
Total			910,000

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, on March 7 of this year the Senate voted

in support of an amendment by my friend and distinguished colleague from Ohio, Senator GLENN. In doing so, the Senate preserved the existing Clean Air Act statute regarding regulation of radioactive emissions from facilities licensed by the Nuclear Regulatory Commission by the EPA and by State and local governments.

However, during the debate over this issue a troubling concern arose. I speak of the potential for States to abuse their Clean Air Act authority by barring the siting or the operation of commercial or government nuclear facilities for reasons that are not based on legitimate public health concerns.

Specifically, section 122(c) of the Clean Air Act allows States or local governments to set stricter radiation emission standards than set by the Environmental Protection Agency. Under this Clean Air Act authority, a State or political subdivision of that State is able to put into force laws or regulations which would discriminate against a particular facility, without affecting other types of radiation sources in that jurisdiction. In effect, this could result in a prohibition of the siting of a nuclear facility—or even the shutdown of an existing facility—even though the jurisdiction might at the same time accept far greater hazards from other radiation sources. I believe that this raises a troubling set of concerns about the national issue of nuclear facility siting that we must address.

I defer to the distinguished chairman, Senator GLENN, for his comments on this important issue.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, my distinguished colleague from Colorado has, indeed, raised a very important matter. It is an unresolved matter which I, too, believe requires further clarification. As I stated in our earlier discussion on this issue, I have very consistently maintained, and I want to emphasize this, that States should not have veto power over nuclear facility siting.

However, as I also stated in my remarks regarding my amendment to preserve the existing Clean Air Act radionuclide authorities that have been in effect and have worked for 13 years, the Clean Air Act legislation is not the appropriate place to address this important structural issue of States rights. Moreover, the correspondence over this issue to the Senate by over 20 State attorneys general clearly shows the need to resolve this very complicated matter in dialog with the States. Unfortunately, such a dialog has not been adequately developed.

I repeat the fact that all we are doing is leaving in place existing law that has worked for 13 years. Do we have to protect against its misuse? Yes, but not on a crisis basis on this bill.

Thus, I would like to propose this specific issue be addressed in title V of S. 2006, the Department of Environment Act, which I and my colleagues have introduced and which President Bush fully supports.

This title of that particular bill creates a commission on improving environmental protection, chosen by the President and the congressional leadership, to examine and make recommendations on environmental management as well as the integration of Federal environmental laws and other authorities to improve the ability of the United States to protect the environment. This commission will look into overlap between many agencies, and this is a very clear-cut example of some of those overlapping authorities. It is clear that the issue of whether there is legitimate concern over the potential for abuse of States rights under the Clean Air Act for regulating radionuclides is a very important issue that this Commission should address.

I propose to draft very specific language for S. 2006 to require the Commission on Improving Environmental Protection to address the issue of State regulation of radionuclides, and I support the concern of my distinguished colleague from Colorado that States base their Clean Air Act radionuclide standards on credible scientific evidence and that those standards be demonstrated to substantially reduce the risk to public health and safety from radiation exposure.

The question of how we might effectively guarantee that States do not unjustly abuse the powers they have under the Clean Air Act is a difficult one. We do not want to end up with a proposal to deal with this theoretical issue that unnecessarily impedes what has been, overall, responsible and effective use of these powers by State and local Governments for 13 years. I believe that this issue requires more study, full hearings, and consultation with the States and other affected parties. I believe the Commission is better able to deal with the complexities inherent in this issue.

Mr. WIRTH. Mr. President, I thank my distinguished colleague for his consideration of this issue. So far, State and local governments have used their authorities under the Clean Air Act in a most responsible way. It is our expectation that they will, of course, continue to do so. If any State or local Government did abuse this authority, however, it is my hope that the Senate would give a high priority to examining that situation and that the Senator from Ohio will join me in seeing that this is done.

I thank the Senator and look forward to working with him to assure that the Commission embodied in title V of S. 2006 takes a serious look at this important issue.

I thank my distinguished colleague from Ohio.

Mr. GLENN. Mr. President, I congratulate my colleague for bringing this up. It is an area that does need to be straightened out. I think this particular bill at this particular time is not the place for it. I would agree with him completely, if there is any State or local Government that abuses this authority, we will give high priority to examining that situation, and I look forward to working together on it.

AMENDMENT NO. 1446 TO AMENDMENT NO. 1293

Mr. WIRTH. Mr. President, I have an amendment to the bill. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. Without objection, the pending amendment is laid aside.

The bill clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1446 to Amendment No. 1293.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 183, after line 10, insert "(A)" and "(6)".

On page 184, after line 23, insert the following:

(B) The Governor of a State containing an area classified as a serious carbon monoxide nonattainment area under section 187(a) with a population of 250,000 or more, who requests that the standards specified in subparagraph (1)(A) apply in such area, may request that in addition to such standards a certification standard for carbon monoxide emissions apply to vehicles made available for purchase or placement into use in such area pursuant to subparagraphs (1)(B) and (1)(C). The certification standard requested pursuant to this paragraph shall not be less than 1.0 grams per mile for emissions of carbon monoxide from light duty vehicles and an equivalent level for emissions from light duty trucks. The Administrator shall approve a request for a certification standard under this paragraph if the Administrator determines that no fewer than two motor vehicle manufacturers are already producing vehicle models (not including conversions pursuant to subparagraph (1)(F)) for purchase or placement into use under paragraph (1) that meet the requested certification standard and that all other requirements of this paragraph are met. The credit provisions in subparagraph (1)(C) and the exemption provisions in subparagraph (1)(K) shall apply with respect to certification standards approved pursuant to this provision. The requirements of paragraph (4) shall not apply with respect to such certification standards. When a vehicle that operates on two kinds of fuels is certified for the purposes of this provision, it shall be certified on one fuel only after all traces of the other fuel that can practically be removed from the vehicle's fuel system have been removed.

Mr. WIRTH. Mr. President, my colleagues have heard me speak, probably to the point of being anesthetized, about the carbon monoxide problem that exists in high-altitude counties. We have had trouble working out how this problem, which is very different from the ozone problem in most cities, can be handled.

The amendment before us has been worked on, and I want to thank particularly my distinguished colleague from Michigan, Senator LEVIN, who probably knows as much or more about this bill as anybody on the floor, and my distinguished colleague from Louisiana [Mr. BREAUX], who has been sort of the father of the fleet program, for their support for this amendent.

The purpose of this amendment, very simply, is to allow the Governors of States with these concentrations of carbon monoxide, cities like Denver, Albuquerque, Phoenix, Las Vegas, Seattle, and Spokane, to opt into a fleet program if that fleet program will make a significant contribution to cleaning up carbon monoxide. The Administrator has to grant a request from the Governors, and that request will be approved by the Administrator, if vehicles are being built which meet the standard, if this can be done with natural gas, propane or electric vehicles and if test results have shown that methanol vehicles can meet the standards as well. If all of these additional cities opted into the program, it would represent less than a 10-percent increase in the size of the compromise program which already includes the largest American cities.

Again, I thank Senator LEVIN and Senator BREAUX for their help in this matter and thank the managers of the bill for their patience as I have been hammering on the door on carbon monoxide, and I think this will greatly help to resolve the problems that we have a high altitude.

I again thank Senator LEVIN and Senator BREAUX and the managers of the bill. I yield the floor.

ALTERNATIVE FUELS AMENDMENT

Mr. LEVIN. Mr. President, the Senator from Colorado has offered an amendment that would permit certain States with a serious carbon monoxide problem to request a carbon monoxide emissions standard for alternative fuel fleet vehicles sold in that area.

Some concern has been expressed that a carbon monoxide standard of 1.0-grams-per-mile may not be possible to meet even with the experimental fleet vehicles covered by this provision. I will not oppose the amendment as drafted because it does not mandate such a standard.

The Wirth amendment would not authorize the establishment of any carbon monoxide standard unless fleet vehicles already in production by at least two original equipment manufacturers meet that standard.

In other words, if some fleet vehicles already in production have a lower level of carbon monoxide emissions that other such vehicles, the amendment authorizes a State with a serious carbon monoxide problem to specify that they want the low carbon monoxide vehicles.

This amendment is narrowly drawn to apply only to States that opt in to the fleets program under paragraph (a)(6) of the alternative fuels provision—and only if all other requirements for opting in having been met.

Further, the carbon monoxide standard specified is a certification standard and would not apply to vehicles in customer use, as do other standards in this bill. In my view, these limitations provide adequate assurance that no carbon monoxide standard will be specified unless fleet vehicles are actually available that meet the standard.

Finally, this amendment is appropriate because it provides the only way that a State can adopt a carbon monoxide standard for the fleets program. As currently drafted, the opt in section of the Alternative Fuels Program authorizes States only to request the applicability of the emissions standards proscribed under paragraphs (1) and (2)—that is, hydrocarbons and toxics standards. This amendment would permit States with severe carbon monoxide problems to request carbon monoxide standards for fleet vehicles in appropriate circumstances.

On the basis of these understandings, Mr. President, I do not oppose the amendment proposed by Senator WIRTH.

Mr. CHAFEE. Mr. President, this amendment is agreeable to both managers of the bill. I am authorized to speak in behalf of the majority in connection with this amendment and also on behalf of the minority. This amendment is acceptable to both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. BREAUX. Mr. President, it is not agreeable to me. It is not something that I think is essential or needed because I think the compromise that was reached after 20-some-odd days of discussion of this area and other areas of the bill with regard to provisions for ultraclean vehicles was an acceptable compromise the way it was put together in the bill.

I really think that the provisions of the bill before the Senate cover the concerns of the Senator from Colorado. I have always felt that when we dealt with this in the committee bill, on page 183, when we talked about the right of States to opt into these programs that were not mandated by the legislation, we covered situations such as that in Colorado, which are concerned about carbon monoxide.

The real working language of the legislation at that point states that the Governor of the State may request that any other area be brought in under these requirements for the fleet vehicles, both for Federal fleets and for private fleets and for other vehicles. The language in the substitute amendment says the administrator shall approve any such request where the Governor of the State has made a determination that inclusion of the area in the clean fuel vehicle program is appropriate and would result in progress toward attainment of any national ambient air quality standards.

The national ambient air quality standards include standards for CO. Therefore, if a Governor felt that his area was affected by carbon monoxide, that Governor under the existing bill, in my opinion, would be able to make a request and the administrator would, in fact, have to approve the request of that State, based on their concerns about carbon monoxide not being up to the national ambient air quality standards. It is my understanding that the Senator from Colorado is concerned that he wants his area to have the option to be included. It is included already because it is very clear that the national ambient air quality standards include standards for carbon monoxide as well as standards for the other pollutants we are trying to address.

The amendment apparently tries to limit the expanded activities to six cities in the United States, and those cities are above the population of 250,000.

I felt that it was not needed, it was not necessary. There is an awful lot of concern about trying to go too far, too fast at too great a cost, but I am not going to raise any objections. I think it is outside the scope. I have discussed it with the Senator from Colorado in great depth as well as with the Senator from Michigan. I think my points are accurate. I think my concerns are legitimate.

However, having said that, in the interest of trying to work toward a good clean air bill, I will not object or call for a vote.

Mr. SIMON. Mr. President, I ask unanimous consent that I could address the general nature of this bill for 5 minutes immediately after the adoption of this amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object.

Mr. CHAFEE. I do not want to object but we do have some amendments we are trying to get through. We will be putting out a call for people to come forward with amendments. There will be a slot in there, I am sure, if the Senator could just hold back a while so that we can take care of this amendment and maybe some

others. Then there certainly will be time, I am sure.

Mr. SIMON. I would appreciate it, if there is objection to that, then I would ask my colleague from Colorado, who controls the time, if he would yield 5 minutes to me.

Mr. WIRTH. Excuse me?

Mr. SIMON. I ask my colleague from Colorado, who controls the time on this amendment, whether he would yield 5 minutes to me.

Mr. WIRTH. I do not control the time on this at all. The amendment is up for consideration to be voted on.

I have 1 hour on this. I am sorry. I forgot the previous unanimous consent. If we might, I think we ought to follow regular order.

The PRESIDING OFFICER (Mr. ROCKEFELLER). If the Chair could interrupt at this point, the Senator from Colorado does control the time and the Chair would appreciate it if Senators speaking could talk to each other through the Chair.

Mr. WIRTH. Mr. President, I appreciate the concerns of the Senator from Illinois but a lot of other people I know have been waiting as well. Perhaps we ought to follow the suggestion of the managers, follow the regular order on this, complete this amendment and then move, if we might, to further discussions. We have been waiting in line for this amendment for a good deal of time. Senator BREAUX and Senator LEVIN came over. Maybe we can move to the completion of the amendment, Mr. President.

Mr. SIMON. Mr. President, I do not want to prolong this thing. I am asking for a gesture that I conceded to a lot of other Members over the years. If I could again ask for 5 minutes immediately after the adoption of this amendment, I would appreciate it.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President. I do not want to object, but I am willing to submit my amendment. It has been approved, and I will submit my remarks if I could just do it.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, the Senator may proceed afterward.

Is all time yielded back?

Mr. WIRTH. I yield back the remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1446) was agreed to.

Mr. WIRTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have to say this is an issue that I have agonized on. It is not an easy issue. There are some real pluses to this bill.

First of all, the farmers in Illinois benefit, including benefiting by two amendments, one of which I was a principal sponsor of. The second thing is, obviously, the people in Illinois to get cleaner air. I have a long history of being active in that area. Back when I was a State legislator, I was the chief sponsor of the bill that put the teeth in the Illinois Air Pollution Control Act so that it could be enforced.

But I am concerned with what is happening to the Midwest, to the State that the Presiding Officer represents, and to the State of Illinois specifically. I guess what tipped the balance for me, frankly, was the rejection of the amendment offered today by Senator MCCLURE which said that if Canada is going to send down electricity here, Canada should comply with similar clean air regulations.

The rejection of that meant we were giving advantage to Canada coal miners over United States coal miners in the production of energy.

What concerns me about the bill, on the negative side—this is what is tipping me in the direction of voting against it, though I recognize it is going to pass, and I see my good friend from Texas here on the floor—is that the No. 1 polluter in terms of sulfur dioxide in this Nation today is the State of Texas, and under this bill 330,000 additional tons can be emitted into the air while the State of Ilinois, the State of West Virginia, and other States where we emit 51 percent totally of the sulfur dioxide, are asked to get rid of 90 percent of what is required. The injustice of that, and the injustice of that to coal miners in my State, to coal miners in other Midwest States, is just so gross that I cannot as this bill not stands vote for it.

Second, it means increases in utilities, and in the State of Illinois we already pay the second highest utility rates of any State in the Nation. To ask us to pay even higher utility rates as this bill does is not fair.

So my hope is the House will consider the amendments that we rejected here that would have been more fair to the Midwest.

I hope that, finally, we have a conference report that I can support. I would like nothing better. I am a strong advocate of clean air. But I am also a strong advocate of justice. This is really a bill that is not fair to Illinois, nor to the other States of the Midwest.

So reluctantly, I am going to cast a negative vote.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 1447 TO AMENDMENT NO. 1293

(Purpose: To clarify that area sources for which specific standards are applied shall be regulated under those standards and not under other tangential authorities)

Mr. SYMMS. Mr. President, I send an amendment to the desk on behalf of myself and Senator MCCLURE and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, and Mr. MCCLURE, purposes an amendment numbered 1447.

Mr. SYMMS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 253, after line 22, insert the following new subparagraph:

"(E) The Administrator shall not be required to conduct any review under this paragraph or promulgate emissions limitations under subsections (f) or (g) for any category or subcategory of area sources which is listed pursuant to subsection (c)(2) and for which an emissions standard is promulgated pursuant to subsection (d)(5).

On page 253, line 23, strike "(E)" and insert in lieu thereof "(F)".

Mr. SYMMS. Mr. President, my colleague from Idaho and I have sent to the desk an amendment. The amendment clarifies that small area sources listed in title III, which are given their own standards under the area source provisions found in subsection 112(d), are not then subject to the other residual risk requirements in subsections (f) and (g).

These area sources may include many very small businesses, including paint shops, printers, or drycleaners. The task of conducting an alternative demographic risk analysis, or absent that, complying with the 1-in-10,000 or 1-in-1,000,000 risk standards in subsection (f) would be impossible for such small businesses.

It is precisely for that reason that the bill before us contains authority for the Administrator to regulate such area sources with a unique standard of their own, that authority being continued in subsection (d)(5). A question remains, however, as to whether the bill is sufficiently clear that area sources regulated under (d)(5) are not then to be regulated under (f) and (g).

My amendment merely states this fact expressly: if an area source standard is issued by the Administrator under (d)(5), those sources are not then subject to (f) and (g).

I understand that the managers of the bill are willing to accept this clarification.

Mr. MCCLURE. I rise in support of the amendment of my colleague from

Idaho. A number of small businesses in our State, many of them representing small town drycleaners, have contacted me regarding this amendment. To them, this clarification is absolutely vital. As extremely small air toxics sources, they do not feel that the risks they pose to their community are large. And, when taken individually, they are not. Even according to the committee report on S. 1630, it is only when their emissions as an entire source category are combined that they even account for between 0.1 and 0.2 percent of all toxics emissions.

Consequently, to impose on each individual area source the same degree of regulation that you would impose on a major air toxic source is unmerited. The authority existing under subsection (d)(5) exists to give the Administrator another option for regulation of these sources. The amendment of my colleague from Idaho clarifies that this option is an "alternative to" and not "additive on top of" the emissions controls required under subsections (f) and (g).

Mr. SYMMS. I thank the leadership for accepting the amendment. It is my understanding they will.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MOYNIHAN. Mr. President, I would take a moment if I could to express my support for one particular amendment to title III of the bill that will be offered on behalf of, among others, the Senator from Idaho [Mr. SYMMS]. This amendment clarifies the application of the residual risk test for air toxics to area sources.

Area sources pose an especially difficult air toxics problem. EPA estimates that up to 80 percent of the risk from air toxics in urban air is from area sources. The sources are often numerous, small, and widely distributed throughout populated areas.

Historically, EPA has found it difficult to deal with these area sources. The traditional approach of promulgating emission standards or alternative designs and work practice standards were often inappropriate and cumbersome for regulating many of the area sources.

In preparing the clean air bill, the Environment and Public Works Committee tried to provide EPA with the tools needed to deal effectively with area source emissions of air toxics. Specifically, section 112(k) was added. This section also establishes the goal of reducing the risk from exposure to air toxics by 75-90 percent and mandates that the reductions must be achieved within 9 years from the date of enactment.

Area sources may also be controlled under section 112(c) using the more traditional approaches. However, area sources are required to use cost-effective and generally available control technology. This requirement was included to encourage the Administrator to adopt technology-based standards for area sources, whenever possible. Clearly, this requirement is less demanding than the maximum achievable control technology required for major point sources.

Neighborhood drycleaners are one example of an area source. Many of these small businesses use a toxic air pollutant, perchloroethylene or PERC, as their drycleaning solvent. In 1985, EPA published a Federal Register notice stating their intention to list PERC as a hazardous air pollutant and to develop emission standards under current law. The proposed emission standard for drycleaners includes controls on vent emissions and specifications of workplace practices to minimize evaporative losses.

The drycleaning industry has stated that they support EPA's latest draft proposal for a standard. This standard would probably control 50 percent of the emissions from older drycleaners, and up to 95 percent of the emissions from newer establishments. The standard for drycleaners should be implemented in a timely fashion: it should not be delayed for another 9 years.

So, it is appropriate to require technology-based standards for drycleaners as described under section 112(c). The problem which arises, however, is the residual risk test. EPA expects the residual risk for most drycleaners to be around 5 in 100,000. EPA would have to prepare a standard which would reduce the residual risk to less than 1 in 1,000,000 as a goal. Such a standard may not be possible—especially not with cost-effective and generally available control technology.

It was the committee's intent to provide the EPA Administrator with the tools to reduce ambient urban air toxics risk by at least 75-90 percent. It was the committee's intent to encourage the use of technology-based controls, even for sources like drycleaners. It was not the committee's intent to reshape the drycleaning industry. This technical amendment will make the wording of the bill conform with the committee's intent.

Mr. BAUCUS. Mr. President, we have examined the amendment offered by the Senator from Idaho and accept the amendment.

Mr. CHAFEE. Likewise, Mr. President, on this side, we have examined the amendment and approve of it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1447) was agreed to.

Mr. SYMMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1448 TO AMENDMENT NO. 1293

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, and Mr. HATCH, proposes an amendment numbered 1448.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 230, line 2, after "sources" insert: "Notwithstanding the provisions of this paragraph, the Administrator shall not be required to aggregate the emissions of a research or laboratory facility with emissions of other units within a contiguous area and under common control, to determine whether such a research or laboratory facility is a major source, but such emissions shall be aggregated with such other units for purposes of determining whether such units are subject to regulation under subsections (f) and (g). For purposes of this section, research or laboratory facility means any stationary source whose primary purpose is to conduct research and development into new processes and products, provided that such source is operated under the close supervision of technically trained personnel, and does not produce a substantial quantity of products for commerical sale in commerce."

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senator HATCH.

This amendment is very important to the competitiveness of American industry because it will assure that industry R&D efforts will not be unduly impeded by this bill. The ability of industry to innovate—to develop new and improved products or more efficient manufacturing processes—depends on research and development.

Under title III of S. 1630 as reported, research and development facilities located on the same plant site as major manufacturing facilities will be subject to the same control and permitting requirements as the manufacturing operations even though the actual emissions from the research facilities are insignificant and would not on their own require any regulation. This anomaly occurs because S. 1630 requires regulation of all sources at a major emitting facility.

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My amendment provides that R&D facilities will not be grouped with the manufacturing operations when EPA sets the technology standard, if the EPA Administrator so determines. Let me stress that this is not a mandatory exemption for R&D facilities. It leaves it up to the administrator's discretion. It merely assures that low emission research and development facilities that are located on the same site as a manufacturing facility will not be grouped with and regulated as part of the manufacturing facility. R&D facilities that qualify as major sources will be regulated as a separate category. Furthermore, the R&D emissions will be included in the aggregation of the plant sites' emissions to determine if the plant site requires further regulation under the residual risk provisions.

R&D facilities typically have a large number of process vents, and low and very changeable emissions. It would not be unusual for such a facility to have over 300 vents, all of which would have to be controlled and permitted, as the bill is now written. This may be a virtually impossible task since it would require that the operator anticipate what chemicals may be emitted over the course of the permit period and in what amounts.

Implementing the controls may be equally difficult. For example, a chemist may use a gallon of hydrochloric acid 1 day to cause a reaction in a process and the next day use a half gallon of a volatile organic chemical to purify the product of the reaction. The mandated control technology for the hydrochloric acid could be a scrubber while the control for the VOC might be a condenser or a carbon ventsorb. It is simply not feasible to change the controls as the research progresses. These unique characteristics must be taken into account if the EPA sets any standards for R&D facilities.

Mr. President, the solution to many of the problems this bill addresses ultimately depends upon the fruits of R&D.

A cure for cancer depends on R&D.

The development of less-polluting processes for making products depends on R&D.

More energy-efficient processes to lessen the emissions of pollutants that destroy the ozone depends on R&D.

Thus, it simply makes no sense to unnecessarily hamstring R&D by this bill. My amendment protects against delays in R&D while also assuring protection of public health concerns.

Mr. President, I am hopeful that, and I understand, the EPA has no objections to the amendment. I hope the managers will accept the amendment.

Mr. BAUCUS. Mr. President, I thank the Senator from Iowa.

This is a good amendment. We are prepared to accept it on this side.

Essentially, it takes into consideration the special circumstances where certain research and laboratory facilities, in order to fully conduct the research that is appropriate for them and the different emissions and consequences to be unnecessarily hamstrung by the bill, and this amendment recognizes that problem. It is a good-faith effort to clarify it, and we accept the amendment.

Mr. DURENBERGER. Mr. President, I think the Senator from Iowa has recognized some important sections of this particular part of the bill that need to be amended, and particularly the R&D section.

We support the amendment as well.

The PRESIDING OFFICER. Is there further debate on the amendment? If there be no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1448) was agreed to.

Mr. DURENBERGER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1449 TO AMENDMENT NO. 1293

(Purpose: To provide for clean alternative fuels)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment No. 1449 to amendment No. 1293.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, strike lines 1 through 13, page 154 and insert in lieu thereof the following:

"(9) the term 'covered fleet operator' means any person who, on or after January 1, 1990, controls the operation of 20 or more fleet vehicles registered in, or primarily operating in, any area which has a 1988 ozone design value of 0.18 parts per million or greater or area for which a Governor requests coverage pursuant to section 212(a)(7); and who, on or after such date, provides a facility or facilities for the central refueling and maintenance of such vehicles in the normal course of business. For purposes of this paragraph—

"(i) the term person means and individual, corporation, partnership, association, State, municipality, and political subdivision of a State; and

"(ii) each motor vehicle operated by person controlling, controlled by or under common control with any person shall be treated, under regulations of the Administrator, as operated by a single person."; and

(b) on page 156, strike line 3 and all that follows through line 2, page 161 and insert in lieu thereof the following:

"(B) FEDERAL GOVERNMENT PROGRAM.—

"(i) For model years 1995 and 1996, 30 per centum, for model years 1997 and 1998, 60 per centum, and for model years after model year 1998, 90 per centum, of all light-duty vehicles and light-duty trucks purchased or leased for more than 120 days by any agency, department, instrumentality, or any quasi-or independent instrumentality of the United States and primarily operating in areas classified as serious, severe or extreme ozone nonattaintment areas under section 181(a), shall comply with the emissions standards prescribed under subparagraph (A).

"(ii) With respect to vehicle model years 1995 and 1996 only, the Administrator may include a lesser percentage of such vehicles under this subparagrpah if the Administrator determiens that the required percentage cannot be feasibly acheived or would impose unreasonable costs. For model years after 1998 the Administrator may require a percentage less than 90 per centum, but in no event less than 60 per centum, if the Administrator determines that a higher percentage would impose unreasonable costs, including costs associated with vehicle acquisition, fueling facilities, operation, maintenance, safety, reliability and resale value.

"(iii) REQUIRED OPERATION.—The Administrator of General Servcies, the Post Master General, and the Secretary of Defense with the concurrence of the Administrator, after consultation with the Secretary of Energy, shall, before October 1, 1993, issue regulations to ensure that a vehicle acquired pursuant to this subparagraph—

"(I) shall be supplied with appropriate clean alternative fuel in its primary area of operation, using commercially available fueling facilities to the maximum extent practicable; and

"(II) shall be operated exclusively on such fuel except when operated so as make it impracticable to obtain such fuel.

"(iv) CONSIDERATION.—

"(I) Funds appropriated for carrying out this subparagraph shall be applied on a priority basis, for expenditure first in areas of the United States which the Administrator determines have the most severe air pollution problems.

"(II) A Federal officer or agency responsible for deciding which types of clean alternative fuel vehicles to acquire in order to comply with this subparagraph shall consider as a factor in such decision which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent.

"(v) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of Section 211 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services shall not include the incremental costs of clean alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator of General Services determines that appropriations provided pursuant to this subparagraph are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional fueled vehicles.

"(vi) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this subparagraph shall be applicable only—

"(I) to the portion of the cost of acquisition, maintenance and operation of vehicles acquired under this subparagraph which ex-

ceeds the cost of acquisition, maintenance and operation of comparable conventional fueled vehicles;

"(II) to the portion of the costs of fuel storage and dispensing equipment atttributable to such vehicles which exceeds the costs for such purposes required for conventional fuel vehicles; and

"(III) to the portion of the costs of acquisition of clean alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional fueled vehicles.

"(vii) VEHICLE COSTS.—The incremental cost of vehicles acquired under this subparagraph over the cost of comparable conventional fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(viii) EXEMPTIONS.—The requirements of this subparagraph shall not apply to vehicles—

"(I) with respect to which the Secretary of Defense has certified to the Administrator that an exemption is needed based on national security consideration; or

"(II) used for law enforcement or emergency purposes.

"(ix) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be required to carry out the provisions of this subparagraph: *Provided, That* such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this subparagraph shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949, as amended.

"(x) Nothing in this subparagraph shall be construed to require conversion of new or existing vehicles capable of operating on gasoline or diesel fuel only to a clean alternative fuel in order to achieve compliance with this subparagraph.".

Mr. GRAMM. Mr. President, as our colleagues are aware, GSA has a responsibility of operating the Federal fleet, and, under this bill, that Federal fleet will use methanol and natural gas. GSA is concerned that because of technical problems in the bill that they were not going to have the wherewithal to get the program off to a start.

I thank Rebecca A. Johnson, acting Deputy Administrator, for calling this to my attention. She has tried to alert the executive branch of government to the problem and she knew that my State produces clean-burning natural gas that will be used in the Federal fleet, and that I would be receptive.

I am happy to have an opportunity to offer this amendment, to be sure that GSA has the clear legislative mandate to get the Federal fleet up and running, using the alternative fuel that will help improve the environment.

I thank my colleagues for accepting the amendment.

Mr. BAUCUS. Mr. President, we do accept the amendment and urge its adoption.

Mr. DURENBERGER. Mr. President, on the Republican side, we also accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BREAUX. Mr. President, I want to make a couple of comments on this amendment. It clarifies some very important questions that were raised with regard to how much the fleet provisions cover.

I think the Gramm amendment clearly points out that the Government should only have to acquire new vehicles, not to convert existing vehicles; it clarifies that the Federal Government is not covered by both the Federal fleet requirements and the private fleet programs; and it also clarifies that appropriated funds can be used by GSA to offset any loss of revenues that they may incur by selling used ultraclean vehicles. They may sell them at a loss, and they can used appropriated funds to offset any of those losses.

I congratulate the Senator for the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 1449) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1450 TO AMENDMENT NO. 1293

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1450.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 343, line 6, strike "(3)" and insert in lieu thereof "(9)".

On page 283, line 12, after the period insert the following: "(iii) Notwithstanding the provisions of this section, reconstruction of any source of coke emissions qualifying for an extension shall not subject such source to emissions limitation under subsections (f) or (c) more stringent than those established in subparagraph (A)(ii) or subparagraph (B)(iii).".

On page 236, line 11, after "substance" insert "or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycylic organic matter) removing certain unique chemical substances."

On page 237, after line 20, insert the following:

"(D) The Administrator shall remove one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meets the removal requirements of subparagraph (C). The Administrator must grant or deny a removal petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a removal petition has been filed within ninety days of the enactment of this subparagraph.".

In page 241, after line 9, insert the following:

(8) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall withdraw the source category from the list if it is appropriate because of action taken under either subparagraphs (C) or (D) of section (b)(3).

On page 253, after line 22, add the following:

"(E) In establishing standards for the control of unique chemical substances of listed pollutants without CAS numbers under subsections (f) or (c) the Administrator shall establish such standards with respect to the health and environmental effects of the substances actually emitted by sources and direct transformation byproducts of such emissions in the categories or subcategories.

On page 253, redesignate subparagraph (E) as (F).

Mr. SPECTER. Mr. President, this amendment deals with a number of categories relating to this bill which designates, on the list regulating toxic air pollutants, 17 broad categories of pollutant compounds referred to as pollutants without a CAS number.

The listing of these categories does not distinguish among many unique chemical substances included in them. Therefore, the bill will result in many substances being regulated by emission standards based on the risk posed by very different toxic pollutants within the same broad pollutant or compound category.

The amendment which I have submitted, which has been cleared on both sides, would remedy this defect by allowing a party to petition EPA to substitute one or more unique chemical substances that are the specific toxic pollutants of concern in place of broad categories.

Before EPA could promulgate emission standards for a specific substance within a broad category, EPA would have to grant or deny a substitution petition filed within 90 days of the bill's enactment.

The burden of proof would appropriately be on the petitioner. The proposed amendment would also require separate emission standards for unique chemical substances that pose risks that are significantly different from risks posed by other substances within the same pollutant or compound category.

This provision would ensure that unique chemical substances which are noncarcinogenic are regulated on the basis of the specific risks posed by the unique chemical substance and not on the basis of known carcinogen, or a severely toxic pollutant in the same pollutant or compound category.

Mr. President, I have taken the trouble to read this statement verbatim because it is so complicated. Ordinarily paraphrasing makes more sense. I would like at this point to compliment Edmund Morrison Ruffin, of my staff, who has done yeoman work, as have so many staffers in this Chamber during the course of January, February, March, and now into April.

The work that has been done on this bill is really profound as we have wrestled with an enormous number of very complicated subjects. I think this bill will successfully provide an enormous improvement of clean air quality and at the same time, being as specific as possible as this amendment does, provide that toxic concentrates that are so broad that they restrict commercial activity are only listed for compounds that threaten public health. That is the essential purpose of this amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have had a variety of discussions over a fairly long period of time with the Senator from Pennsylvania with regard to the compounds issue and one other issue that has been a particular problem for him. This involves a process of what we call delisting, in other words, a process by which particular industries can petition EPA to get off of the list of toxic compounds.

Having spent a fair amount of time, as the Senator from Pennsylvania indicated, trying to do this right, I think he has found an appropriate way to produce a good regulatory process. So I would endorse and recommend the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Minnesota. This amendment has been the subject of considerable discussion, to put it mildly, and I think we have reached an accommodation that ensures public health is protected.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1450) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1451 TO AMENDMENT TO 1293

(Purpose: To clarify definition of reconstruction)

Mr. SPECTER. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside and the clerk will state the pending amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1451 to amendment No. 129.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 283, line 12, after the period insert the following:

"(iii) Notwithstanding the provisions of this section, including paragraph (6)(D), reconstruction of any source of coke oven emissions qualifying for an extension shall not subject to such source to emissions limitations under subsections (f) or (g) more stringent than those established in subparagraph (A)(ii) or subparagraph (B)(iii).

Mr. SPECTER. Mr. President, the purpose of this amendment is to clarify provisions of the bill as they would relate to reconstruction of coke ovens. Coke ovens, given the nature of the technology, are often rebuilt as a matter of routine maintenance. It is possible that coke oven facilities which qualify for an extension under title III may have to be rebuilt after residual risk standards have been promulgated in 1997. This amendment clarifies that these coke ovens will not be subject to residual risk standards if they have to be rebuilt during the period of their extension in order to continue compliance with emissions limitations set forth as conditions for the extension. In addition, this amendment would eliminate an inconsistency in title III which would in effect dissuade the rebuilding of coke ovens for fear it would subject them to more stringent standards as they would relate to new sources, which they, in fact, are not.

Existing coke ovens on their current plant sites should be encouraged to be replaced so that the older, less clean ones will be eliminated. This amendment will allow compliance with the LAER standards in the bill without being exposed to the uncertainty of whether the rebuilt facilities would be in compliance with the law.

Mr. President, it is obvious that steel is a very, very vital factor in our economy, and has been for a long time. Doubtless, it will be for a long time in the future. And the coke ovens are a component of the steelmaking process which are necessary and, while some may hope that coke ovens will be eliminated—and perhaps the technology will advance to that state based on the facts at hand—we have to be very careful to maintain this important technology while guaranteeing clean air and providing for appropriate health standards. So long as these coke ovens do remain necessary for the production of steel, we have to anticipate these kinds of considerations.

This amendment, too, has been subject to very extensive analysis by the managers of the bill and I think accommodates the health concerns while allowing for the replacement of coke ovens. Replacement will make these facilities cleaner than keeping the older ones in operation. As long as the technology requires the use of such ovens, this is an appropriate course.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, this amendment, too, deals with the air toxics, title I of the this legislation, and a particular problem faced by the steel industry in this country. Most American steel comes from my home State, but I have rarely seen a coke oven like they have in Pennsylvania. That is the other end of the process. We generate the ore, and then it eventually gets combined with coke.

There is a real problem with the steel industry in this country that relates to the air toxics amendment. We are trying in a variety of ways to deal with it. One of the ways with the bipartisan agreement is to extend the time involved to meet the reduced sulfur standard on out to the year 2020. The Senator from Pennsylvania indicated the problem with the steel industry. They have to continually reconstruct these coke ovens. They are brick ovens of one kind or another subject to a lot of heat or pressure, and they are constantly in the process of rebuilding. The industry refers to that as maintenance rather than reconstruction, the problem being that if it were considered reconstruction, if it were considered that they had to meet source performance standards, then a lot of technological demands would fall on the industry before you ever got to the year 2020, which was our real concern as far as the industry is concerned.

But this particular amendment, again, very carefully and very appropriately crafted, provides that the extension would not be affected by the rebuilding of the coke oven so long as

the coke oven continues to meet the 3-percent test or whatever other tests are built in. So I compliment the Senator for his efforts, not just on behalf of the industry, but to make sure that this is a workable title I to the clean air bill. I recommend adoption of the amendment.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Minnesota for those comments. Again, I thank my own staff, Morrie Ruffin, and many other staffers, who worked so long because there has been much careful analysis to what has happened on these amendments being adopted.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DURENBERGER. I indicate that the majority side also approves the agreement on this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1451) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator JOHNSTON be added as a cosponsor on the previous amendment, the one immediately prior to the amendment that has been just been adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

Mr. BOSCHWITZ. Mr. President, I rise today to offer an amendment to the Clean Air Act. My amendment would authorize the U.S. Geological Survey to undertake a special study of the water quality of the Mississippi River from Lake Itasca to the Gulf of Mexico.

Many cities in the 10 States that border the river derive their water from it, and each year millions of people use the river for recreation, swimming, boating, fishing, and hunting. Yet, little is known about the quality of water which flows through this great river system, especially in the portion north of St. Louis.

Mr. President, I believe that the U.S. Geological Survey is well suited to do such an assessment of the quality of the Mississippi River. For the last 110 years it has provided the Nation with valuable and highly reliable information on natural resources.

My amendment would require the USGS to consult with the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and the appropriate States, and report its findings and recommendations to Congress by December 1, 1992. It would also require the USGS, in consultation with the other agencies, to establish a framework for the study, which could be used as a model for future projects to enhance the water quality of the river. The amendment authorizes $2 million to complete the study.

Mr. President, this study will give us a better understanding of where potential and existing sources of pollution exist along the Mississippi River. I urge my colleagues to support my amendment, which will help us to determine what remedial steps are needed to protect the quality of the river's water.

Mr. BAUCUS. Mr. President, I agree with my good friend from Minnesota that such a comprehensive study of the contaminants in the Mississippi River is definitely needed. While the quality of our air certainly affects the river's water quality, and it makes sense to include this amendment in clean air legislation now before us, I believe it would be even more appropriate to include these provisions in the legislation authorizing projects for the U.S. Army Corps of Engineers. The Environment and Public Works Committee will soon be marking up the bill. I would note that the Committee on Energy and Natural Resources has jurisdiction over the U.S. Geological Survey and they may have concerns regarding this proposal.

Mr. BOSCHWITZ. I am well aware of that but I must tell my good friend from Montana that because surface waters are greatly impacted by the quality of the air, I believe that the clean air bill is an appropriate vehicle to attach my amendment. Also, as some of my colleagues have stated, this is a bill that is going to pass.

Mr. CHAFEE. I would like to join with my distinguished colleague from Montana in support of the amendment. But because of committee jurisdiction I would be concerned that the House might not agree to this amendment in the clean air conference.

Mr. BOSCHWITZ. I appreciate the support of the bill managers for my amendment. I am confident that the Senator would show the same persistence in conference that you have shown here on the Senate floor and that my amendment will survive. However, in an effort to make your job in conference a bit easier, I may be willing withdraw my amendment. But before I do, I want to be assured that my proposal will be offered to the legislation reauthorizing the U.S. Army Corps of Engineers.

Mr. CHAFEE. I will be happy to offer your Mississippi River water quality study as an amendment during the committee's markup.

Mr. BOSCHWITZ. Could one of you give me an estimate of when you plan to go to markup?

Mr. BAUCUS. I expect we will be marking up the bill later this spring and would expect that the bill will be passed and signed into law before the end of the 101st Congress.

Mr. BOSCHWITZ. Mr. President, with such assurances of action on my amendment, I will withdraw it from the Clean Air Act and look forward to working with my colleagues to see that it is added to the legislation reauthorizing the U.S. Army Corps of Engineers. I thank my colleagues for their cooperation.

Mr. JEFFORDS. Mr. President, in developing the alternative fuels program for this bill, we sent performance standards to ensure that many types of clean fuel would be able to compete. While other proposals may have prejudiced one fuel over another, this bill's program, as it relates to the passenger vehicle fleet, is designed to allow for vehicles powered by natural gas, propane, electricity, methanol, ethanol, reformulated gasoline, and any other fuel that can meet the performance standard.

We have set a performance standard that is designed to achieve, beginning with model year 1999, a 30-percent reduction in ozone-forming volatile organic compounds compared to the baseline vehicle, which is the tier I car proposed by the President in his original bill. According to EPA, this car, meeting a tailpipe exhaust standard of 0.25-gram-per-mile nonmethane hydrocarbons, having new evaporative controls and operating on 1989 certification gasoline is presently calculated to produce total in-use emissions of ozone-forming VOC's of 0.95 gram per vehicle mile.

So, in setting the performance standards for passenger vehicle fleets, we looked at the overall emissions from the vehicle and sought to reduce these by 30 percent from the President's tier I automobile, as defined by the administration bill. A conscious effort was made to allow reformulated gasoline to compete in the alternative fuels program. The 30-percent reduction target represents the best estimate of the maximum extent to which gasoline can be reformulated and used in vehicles with improved control technology to reduce smog-producing emissions, and achieves similar reductions as compared to the much discussed M85 vehicle.

There are no guarantees that a reformulated gasoline can be produced at a price that is competitive with the other fuels that are competing for this market, but in keeping with the fuel neutral nature of the plan, sponsors of the bill sought to prescribe a performance standard that is not biased toward or against any industry.

Now, although the program is designed to achieve a 30-percent reduction from the President's tier I auto-

mobile, the statutory standard expressed in the legislation calls for a limit on total in-use emissions of ozone-forming hydrocarbons of 0.66 gram per mile. Further, the Administrator may adjust this standard under certain conditions.

Mr. President, I wonder if I could address a couple of questions to Senator CHAFEE to clarify the intent of this provision. My understanding is that the 0.66 figure can be adjusted if EPA finds that the 0.95 figure misrepresents projected emissions from the baseline vehicle. Could the Senator comment on this point?

Mr. CHAFEE. The Senator is correct in pointing out that the emission standard can be adjusted. The 0.95 figure is a projection of emission levels from a car that has not been built, and incorporates refueling, evaporative running loss, and exhaust emissions. Because some have expressed concern that one or more of these estimates might be a little on the high side, and because we wanted to achieve the reduction targets of 30 percent, we have authorized the EPA Administrator to adjust the 0.66 figure if, upon review, the original 0.95 number is found to overstate the emission estimate of the baseline vehicle.

Mr. JEFFORDS. It is my understanding the EPA is confident of the 0.95 estimate and that adjustments should not result in a major changes in the phase II alternative fuels standard. Does the Senator from Rhode Island see this recalculation provision to be an attempt at an indirect mandate of one fuel or another.

Mr. CHAFEE. No; that is not the intent. The goal of the alternative fuels program is to get a 30-percent improvement over the President's tier I car. Combined with such minor technical modifications to the automobile as are necessary to maximize the emission reduction performance, reformulated gasoline should be able to compete. The 30-percent improvement should result in a significant air quality improvement, but is not designed to mandate any certain fuel.

Mr. JEFFORDS. Just one final clarifying point. Could the Senator describe what automobile will be used to certify that the alternative fuel VOC emission standards are met?

Mr. CHAFEE. It is my understanding that EPA will use vehicles of the same model year as apply to the alternative fuels program. These vehicles must meet all applicable exhaust, evaporative, refueling and running loss standards as specified in section 202.

Mr. JEFFORDS. I thank the Senator and yield the floor.

AMENDMENT NO. 1452 TO AMENDMENT 1293

(Purpose: To provide for a study by the Administrator of the Environmental Protection Agency on acid deposition in the western United States)

Mr. CHAFEE. Mr. President, on behalf of Senators MCCAIN and BOSCHWITZ, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendment will be sent aside. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. BOSCHWITZ (for himself, and Mr. MCCAIN), and Mr. WILSON, proposes an amendment numbered 1452 to amendment No. 1293.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 455 of the amendment (No. 1293), line 9, redesignate subsection (f) as subsection (e).

On page 455 of the amendment (No. 1293), between lines 8 and 9, insert the following new subsection:

(f)(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

(A) the occurrence and effects of acid deposition on surface waters located in that part of the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, climatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississippi River. The Task Force shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

Mr. CHAFEE. Mr. President, this amendment would insure that the Western United States is included in the ongoing national program to monitor and study the potential occurrence and effect of acid deposition.

Mr. MCCAIN. Mr. President, my amendment will ensure that the Western United States is included in the ongoing national program to monitor and study the potential occurence and effect of acid deposition. I believe it has been accepted by the managers of the bill.

I want to compliment the leadership, the administration and the Senate for what I regard as a monumental accomplishment on the acid rain title of the Clean Air Act amendments. For many years we have been trying to formulate a comprehensive and fair national strategy to deal with this serious environmental threat. At long last, it appears we are about to accomplish that lofty, and some thought impossible, task.

The 10-million-ton reduction in acid rain pollutants provided for in this bill should finally arrest this insidious and complex problem so it can no longer take its toll on our forests, lakes, and streams. Nevertheless, this legislation wisely leaves in place a system to continue monitoring and studying acid deposition to ensure that the goals of the bill are met.

My amendment will see to it that this valuable program is not concentrated exclusively on the Northeastern portion of the country where in the past, the effects of acid deposition have been most acute. My legislation directs the Administrator to monitor and study the potential occurence and effects of acid deposition west of the Mississippi as well.

We have the expertise, as well as predictive computer models in place and at our disposal. We should not fail to apply these resources to assist the West. Under the acid rain agreement, the West has been given emission credits to accommodate increasing population growth and power demands in the region. We do not anticipate that environmental problems will result. But, my amendment will ensure that we keep a close eye on the situation. It will make sure that we have the most advanced and current data to help us determine if at any time there is a need to update State or National air quality policy to protect western resources.

Again, I thank the leadership for their support, and look forward to the rapid approval of this amendment and this landmark legislation.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, I am authorized to say, on behalf of the majority floor manager of the legislation, that he is supportive of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1452) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to consider the vote and the motion to lay on the table is agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I want to clarify a very narrow issue of concern to my State. It regards what happens under this amendment to a company that is currently building a new or modified production facility, pursuant to a valid construction permit, when it incurred no obligation under current law to obtain offsets as a condition of obtaining its construction permit.

Is it correct that the company would not be required under the provisions of the amendment to obtain offsets as a condition of being issued its operating permit?

Mr. BAUCUS. The Senator is correct. The company would not have to obtain offsets in order to be issued an operating permit under the amendment. The amendment makes no change in current law in this area.

Mr. GORE. Then it is also correct that if the company builds its facility consistent with the requirements of the construction permit which was issued prior to enactment of the amendment, the company may subsequently obtain an operating permit without meeting any additional obligations relating to obtaining offsets, even if the area in which the company is building its facility moves from a classification which did not require offsets to one which does?

Mr. BAUCUS. That is correct. In effect, the company is grandfathered under the amendment just as it would be under current law. So the company would not be required to obtain offsets as a condition of obtaining its operating permits even if the operating permit is applied for by the company after enactment of the amendment. Of course, the company may be subject to future requirements, as determined by the State, for reductions which may be needed to help the area meet its nonattainment percentage requirements.

Mr. GORE. I thank the Senator.

Mr. KOHL. Mr. President, very shortly the Senate will vote on final passage of S. 1630, a bill to update and improve the Nation's current clean air law. I am pleased to lend my support to this historic legislation. The bill will improve the Nation's air quality in three important ways: It will reduce the unhealthy urban smog which smothers our cities; it will reduce the amount of cancer-causing toxics which are released into the air each year; and it will reduce acid rain emissions which harm the public health and hurt our lakes and forests.

This is by no means a perfect bill. But it represents a compromise between several competing goals shared by the vast majority of people in this country. On one hand, the legislation makes significant strides toward improved public health and safety. It also goes a long way toward greater environmental protection. On the other hand, the bill recognizes the legitimate concerns of business and industry, which provide the jobs, products, and services that are vitally important to this country.

This legislation demonstrates that a healthy environment and a healthy economy are not incompatible. Quite the contrary, each affects the other, and each benefits the other. It makes no sense to have a strong economy and job growth, if the health and productivity of the American work force is seriously impaired by dirty, unhealthy air. What good is a healthy economy if we have unhealthy children? Equally true, it makes no sense to have clean air and a healthy environment, if millions of able-bodied Americans can't find jobs. There is a necessary and beneficial tradeoff between jobs and the public health, and I think this bill reflects that tradeoff.

There should be no question in anyone's mind that this bill imposes new costs on the U.S. economy. There will be a price to pay for cleaner air. But I believe those costs will be distributed as fairly and evenly as possible in most cases. I realize that the American consumers will end up paying the lion's share of the costs, but I think most people are willing to pay for a healthier environment. They realize that the costs of inaction will be higher for ourselves and for future generations. In other words, the dollars that we spend now to clean up the air will be a wise investment in the future economy of this Nation—dollars well spent, in my opinion.

I am especially pleased that several amendments which I offered are now part of this bill. My amendments were aimed at giving Wisconsin's businesses and utilities credit for their early and substantial investments in air pollution control. The State of Wisconsin has led the Nation in environmental protection measures, and our companies have already paid the costs of curbing dirty emissions. They should not be asked to pay twice, and my amendments will help to prevent that.

For example, one amendment will allow companies in Wisconsin to participate in a program designed to encourage and reward early reductions of toxic emissions. Provisions in the air toxics section of the bill would exempt toxic emitters from specific control technology requirements if they voluntarily reduce their overall toxic emissions by 90 percent between 1985 and 1993. Companies in Wisconsin, however, would have been unfairly excluded from this program because of new State regulations on toxic emissions. To correct that inequity, my amendment redefined the term "voluntary" so as to include State-mandated reductions of toxic emissions. The amendment has the effect of rewarding rather than punishing, States which move ahead of the Federal Government to protect the environment. That makes good environmental sense, plain and simple. Furthermore, the amendment makes the bill vastly more fair to business and industry in Wisconsin.

Another amendment which I offered, and which is now part of the bill, is designed to give utilities credit for early reductions in sulfur-dioxide emissions. Because of Wisconsin's landmark 1985 acid rain law, requiring statewide acid rain emissions to be reduced by 50 percent between 1980 and 1993, Wisconsin's utilities have already made significant reductions in their SO_2 emissions, and will continue to make improvements. In phase I of the acid rain control program, Wisconsin's utilities will be emitting SO_2 at a rate far below the standard required by this bill. My amendment allows utilities to get credit for being cleaner than necessary in phase I, which can be banked for later use in meeting the post-2000 emissions standards in phase II. The amendment simply insures that Wisconsin's industrial, commercial, and residential ratepayers will not be unfairly penalized because of the State's progressive acid rain law. In addition, by giving utilities nationwide an incentive to make early reductions, my amendment will help clear the air more quickly. That's good for the ratepayers, good for the public health, and good for the Nation's lakes and forests.

Another amendment which I offered to the acid rain section of the bill will insure that two of Wisconsin's newest and cleanest utility plants, Edgewater 5 in Sheboygan and Pleasant Prairie 2 in Kenosha, can be operated at maximum efficiency levels, thereby providing cheap, clean power to meet Wisconsin's electricity demands well into the next century. By helping to keep power rates lower, the amendent also encourages economic growth and job creation in the State.

A third amendment which I offered to the acid rain section of the bill, which was adopted earlier today, will help to keep utility rates lower for thousands fo people in rural Wisconsin who are served by Dairyland Power. My amendment will allow the utility to operate one of its plants, La Crosse/Genoa, at a higher capacity than the original bill would have allowed, to compensate for capacity lost when a nuclear plant was decommissioned.

In addition, I am pleased that this legislation protects Wisconsin's favorable 1989 court settlement, which requires the EPA to finally step in and force the State of Illinois to clean up the dirty emissions from Chicago. These unhealthy ozone-producing emissions have long plagued southeastern Wisconsin. I fought attempts by the administration to insert a provision in the bill which would have overturned Wisconsin's court victory, and let Chicago off the hook for at least another decade. Fortunately, those provisions were kept off this bill, keeping Chicago on track toward cleaner air in the near future. That's good for the health of Wisconsin residents. That's also good for businesses in Wisconsin, which have already shouldered an unfair cleanup burden in the Lake Michigan basin relative to their competitors in Illinois.

And most importantly, I am pleased that this legislation incorporates provisions which I authored to protect the Great Lakes from toxic contamination. These provisions authorize an expanded monitoring system to measure the amount of airborne toxics entering the Great Lakes. Other provisions in the bill which I have supported will require stricter controls over emissions of the seven most critical toxic pollutants which are poisoning the fish and birds in the Great Lakes. I feel very strongly about the need to protect the Great Lakes, and I'm satisfied that this legislation will make a real contribution to that effort.

In closing, I commend the Environment Committee members, and their staffs, as well as the Senate leadership, for steering this very complicated and controversial bill to final passage today in the Senate. Again, while it may not be perfect, this legislation is a great start in the right direction. Although I supported several unsuccessful attempts to strengthen the bill in key areas, I am satisfied that the final product represents a fair compromise and a vast improvement over current law. The time has come to end the debate, and get to work cleaning up the air. We owe it to ourselves, and we owe it to our children. I support this legislation, the Clean Air Act Amendments of 1989, and I urge all my colleagues in the Senate to vote in favor of final passage.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, today, within, hopefully, an hour and a quarter, Senators are going to be voting on S. 1630, the Clean Air Act amendments of 1990. How we cast this vote will have as much impact on the public health of our citizens as any action the Senate takes this year.

Mr. President, it is no secret in this body that pressure from the administration—indeed, filibuster and veto threats—led to a process of compromise, and weakening of this legislation that I found very disappointing. When the so-called compromise came before the Senate, I committed myself to seeing if we could do better, to seeing if we could strengthen the bill, and bring it back closer to the bill that was approved by the Environment Committee. I felt, and I feel, that the bill before us could have, and should have, been stronger to get the job done.

However, Mr. President, the issue before us now is whether Americans are better off or worse off if we pass this legislation. The answer to that question is clear. If we defeat this bill, we reject significant revisions of existing law which overall are undoubtedly an improvement. If we defeat this bill, we end the process for strengthening the Clean Air Act. If we defeat this bill, the health and welfare of Americans will be adversely affected. So, although we could have done better, I will vote to approve this legislation. And I will endeavor in the period ahead to improve the bill further.

The bill that the Senate will pass this evening makes significant progress toward cleaning up our air. It has been 13 years since the Congress last addressed the Clean Air Act. Thirteen years of attempts to do better, to remove the poisons from our air, have been stalemated and blocked. People have suffered from polluted air and will continue to suffer unless we act. We should approve this legislation which will reduce some of these health threatening conditions. And then we must continue fighting to make a significant achievement even better if we can.

It was important to fight to give Americans the strongest possible bill, Mr. President. Our people want clear air, they want a safe environment, they want to pass on to future generations a habitable Earth with air fit to breathe. We owe it to them to take the steps necessary to accomplish that.

First, to approve this bill and then to fight on to see if we can improve it further. And, in my comments, Mr. President, I would like to call attention to the work of some very close friends and esteemed colleagues. Senator MAX BAUCUS, who has worked tirelessly, and who has worked to improve the bill to a condition that was fit, and yet passable, and I compliment him on his outstanding achievement.

I also, Mr. President, want to make note of the majority leader's efforts in this behalf. GEORGE MITCHELL served as executive assistant to Senator Ed Muskie, from 1962 to 1965. Senator Muskie is one known throughout our history as the one perhaps most interested in protecting our environment and cleaning up our air and cleaning our oceans. The first clean air bill, that was in 1970, had Senator Muskie as the father of that legislation.

So while we may have disagreed tactically, we may have disagreed strategically, but in the end, each of us wanted to protect the health and wellbeing of the American public and to give them as good a bill as we could get. So, Mr. President, I join in with my colleagues to encourage passage of this legislation.

Mr. President, this bill helps the state of our Nation's air in important ways. It includes provisions to address ozone and carbon monoxide nonattainment, airborne air toxics, acid rain, and depletion of our ozone layer. For the record, I would like to review some of these.

The clean air amendments contain requirements to help reduce levels of smog and carbon monoxide. Areas which have not yet attained health standards for ozone and carbon monoxide must achieve measurable progress until the standards for these pollutants are achieved. Service stations in ozone nonattainment areas will be required to install equipment on gasoline pumps to reduce emissions of ozone forming hydrocarbons. These areas in violation of ozone and carbon monoxide standards must also put into place vehicle inspection and maintenance programs to identify cars with faulty equipment that fails to do the job. And EPA will have to take action to control pollution that currently goes unchecked.

Of particular importance to New Jersey, is a provision I sponsored with others in the Northeast region to stop other States from sending their pollution into our States, harming the health of our residents and putting an impossible burden on our industries. This program would regulate pollutants transported from upwind States which make it impossible to achieve health standards. In New Jersey, the Department of Environmental Protection says that on some days even if we shut down the entire State, we would be in violation of some health standards because of pollution coming over from other States. These provisions would insist that even areas which are achieving health standards within the Northeast transport region would be required to adopt reasonably available and cost-effective controls.

The Clean Air Act amendments establish programs to reduce emissions of pollutants from cars and to slow down the rapid increase in vehicle miles traveled. They require the production of cleaner cars and cleaner

fuels although cars will not be as clean as they should or could be. Vehicle manufacturers must install systems to alert drivers when an emissions control system is malfunctioning. New transit buses, and centrally fueled and maintained fleet vehicles in urban areas, will have to use cleaner fuels such as natural gas to reduce emissions. And vehicles using diesel fuel will have to significantly reduce their emissions of toxic particulate emissions.

Mr. President, on an issue on which I have worked long and hard, and which is of particular importance to New Jersey, with its concentration of industrial sources, the amendments also retain large parts of the air toxics bill I sponsored, along with Senator DURENBERGER, and significantly improve current law. This legislation includes many of the important elements of the Environment and Public Works Committee bill to control the everyday release of toxic poisons into our air.

In this area, Mr. President, we are starting from ground zero. EPA regulates virtually no airborne toxic pollutants. The amendments retain the provisions of the Durenberger-Lautenberg legislation and will require significant reductions in these toxic airborne pollutants. They set up an ambitious schedule to require industrial facilities to install the maximum achievable control technology for stopping these toxics from entering the air we breathe. In the Senate version of the bill, EPA will have to control 191 of these toxic pollutants compared to the handful now regulated. To date, EPA has failed to use existing law to require controls on most of these facilities. And they require EPA to establish a program to monitor atmospheric deposition of toxics into the Great Lakes and, of special concern to New Jersey, into coastal waters.

In another important step, the amendments build on the Emergency Planning and Community Right-To-Know Program enacted in 1986 by establishing a program to reduce the threat of chemical accidents. This was also part of the legislation I originally introduced with Senator DURENBERGER in 1987 to address toxic and chemical accidents and was thoroughly debated during committee consideration of the bill. The bill creates an independent chemical safety board, like the National Transportation Safety Board, to ensure that chemical accidents will be subject to thorough investigations. In time, I am hopeful that this innovation will play as significant a role in preventing chemical catastrophes as the NTSB does in preventing airplane crashes or train wrecks.

Further, under this section of the bill, companies using threshold amounts of acutely hazardous substances would have to prepare hazard assessments. And EPA is charged with issuing regulations to actively prevent accidents.

Mr. President, in a real tribute to the Senate majority leader, who has been working to control acid rain since he entered the Senate, the amendments require controls on utilities and other sources to reduce acid rain significantly and protect the environment. And it includes the Environment and Public Works Committee provisions to phase out the use and production of chlorofluorocarbons and halons which destroy the ozone layer and contribute to global warming.

If I had my way, we would be approving a tougher bill. In some respects, which have been noted during the debate, this bill weakens existing law. In my judgment, in some respects it fails to take adequate enough steps to clean up our air over the next decades. Mr. President, this is not the kind of program where we can come back in a year or two and tinker with the provisions and requirements. This is an air program that will take us into the next century. For that reason, I felt it was imperative that we have the strongest, most forward looking bill we could write. To this end, I offered and supported a number of amendments which I felt more adequately addressed the environmental challenges we face as we enter the 21st century.

In a few cases, we prevailed. The Senate adopted the Gore-Lautenberg amendment to strengthen controls over airborne toxics. In other cases we fought to further reduce emissions from cars or to strike provisions which will make it harder to achieve health standards. We did not prevail, but these amendments received considerable support. I think they would have been successful if they could have been considered on their merits, without having to also take into account filibuster and veto threats issued by opponents of the bill and the administration.

Mr. President, we would have been stopped dead in our tracks months ago if it were not for the commitment, patience, and perseverance of the Senate majority leader, Senator MITCHELL, and the efforts of other committtee members, particularly Senators BAUCUS, CHAFEE, DURENBERGER, and LIEBERMAN. All of us have worked on various parts of this bill for years. Not until today have we been able to secure Senate approval for any strengthening of this landmark statute. I want to work with my colleagues in the months ahead to send to the President the strongest possible clean air bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. FOWLER. Mr. President, my amendment to establish a renewable energy technology reserve within the allowance system has been included in the block of allowance amendments proposed by the leadership and the bill managers earlier today. I believe this amendment will strengthen the Clean Air Act, speed reductions in air pollution, and set our country more firmly on a course toward greater compatibility between energy production and environmental protection, between our economic and ecological well-being.

This renewable allowances amendment, which I propose along with my colleagues Senators HATFIELD and MCCLURE, promotes clean air technology. It offers the only direct incentive supporting the stated purposes of this title: "To encourage the use of renewables and clean alternative technologies."

Senators MATSUNAGA, NUNN, REID, and BRYAN are also sponsors of this amendment, which has been endorsed by a coalition of environmental, public interest, and renewable energy groups. I ask unanimous consent that the letter of endorsement from these groups be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. EXPORT COUNCIL
FOR RENEWABLE ENERGY,
Arlington, VA, April 2, 1990.

Hon. WYCHE FOWLER, Jr.,
U.S. Senate, Washington, DC.

Subject: Fowler-Hatfield Renewable Energy Amendment to Title IV of Clean Air Act Amendments.

DEAR SENATOR FOWLER: The undersigned seven environmental, energy efficiency, renewable energy, and public interest associations would like to express their strongest support for the Fowler-Hatfield Renewable Energy Amendment to Title IV of the Clean Air Act Amendments.

The proposed amendment very wisely would grant allowances to operators/owners of affected electricity generating sources who, after January 1, 1991, generate electricity by means of solar, geothermal, biomass, or wind resources or who purchase electricity from a power source that uses these renewable forms of energy.

Very importantly, the Hatfield-Fowler proposal is very reasonable; it would not violate emissions "caps," and it will be restricted in its applications, since emissions credits will be based upon the lowest emitting coal- or oil-fired unit of the operating company that applies for the allowances.

This amendment would give utilities greater flexibility in complying with the requirements of S. 1630, the Clean Air Act Amendments, and it would provide an incentive for improving the environment at an earlier date than provided for in the bill.

The Fowler-Hatfield Amendment is a very reasonable proposal that will help reduce the precursors of acid rain and CO_2 emissions; therefore, we strongly endorse this amendment and would like to express our sincere appreciation to you and the Honorable Mark Hatfield for showing the foresight to introduce such a proposal.

Respectfuly yours,

American Wind Energy Association, Arlington, VA; Environmental and Energy Study Institute, Washington,

DC; Citizens Action, Washington, DC; National Wood Energy Association, Arlington, VA; Public Citizens, Washington, DC; Solar Energy Industries Association, Arlington, VA; Union of Concerned Scientists, Washington, DC.

Mr. FOWLER. It has taken years of hard work by the distinguished majority leader, members of the Committee on the Environment and Public Works and many other of our colleagues in the Senate to get to this point—and I commend the majority and minority leaders and the distinguished managers of this bill on their tireless efforts to bring this compromise to the floor.

The Clean Air Act of 1970 was a major step forward in dealing with a problem which was truly out of control at the time. That legislation raised awareness of the issue, raised the hopes of people who in many parts of the country had become accustomed to filthy air, raised their hopes that foul air was not a fact of life they had to put up with. Since that legislation was passed we have seen great improvements in some places, while great problem areas have remained. In spite of our legislative efforts through the act of 1970 and the amendments of 1977, nonattainment is increasing, not decreasing. The 101 cities affected represent the majority of the population of the United States.

We have always known that it is not easy or inexpensive to balance a growing and productive economy with clean air and a healthy climate for our citizens. That is nothing new, and that is why it has been such a struggle even to get to this point. However, a broad and growing consensus among our people for cleaner air and a cleaner environment does exist. It is time for us to decide if we are going to settle for air quality standards that expose our people and their children to a lifetime of danger. It is time to decide how long our sympathy for industries, individual businesses and cities that fail to meet existing air quality standards is going to extend.

I am pleased that the leadership compromise we have before us looks at this problem of clean air in its totality. That has not been easy to accomplish. Different States have different concerns. Different industries have different interests. We must avoid a narrow focus in order to maintain an overall balance.

I believe there is another important factor we must add to this already complicated equation. As we deliberate on how to get the cleanest air in the most cost-effective manner, we must not overlook the potential of conservation and renewable energy technologies that are inherently clean. We will not ever have to debate how to clean up their air pollution, or how we can pay to do that, because renewables simply do not have the adverse impacts of current energy sources. We are, of necessity, preoccupied with the immediate task of cleaning up existing air pollution caused by present power generation technologies. We can clean up what we've got, but we also need to look to the future, to the alternatives that emerging technologies will provide.

Renewable energy sources such as solar, wind, and geothermal are emissions free. This amendment will bring these and other renewable sources on line to lay a foundation for better air quality. That makes it the only allowances amendment predicated on air pollution prevention. That is because it is the only one that addresses the fundamental need to shift to cleaner technologies. Every other allowance proposal we are discussing assumes that utilities will continue to rely almost exclusively on fossil fuels.

Last year Congress passed and the President signed into law a bill I introduced, S. 488, authorizing legislation to restore research funds and encourage the development of renewable energy and energy efficiency technologies and bring them to market. We know how to harness energy from clean and virtually inexhaustible renewables; solar, photovoltaics, geothermal, wind, biomass.

Lets look at what else we have done legislatively to foster the promise of renewables. The Public Utility Regulatory Policies Act [PURPA] clarifies that private owner producers using renewable energy and natural gas have the right to connect to the utility grid and to be paid fair market prices for power. But that is about all it does. By no means could this be considered a subsidy for renewables.

The McCain amendment created a more stable regulatory environment for solar and renewable technologies in the long term. The Fowler-Hatfield amendment would complement the McCain amendment by providing utilities with an immediate, limited incentive to consider adopting renewable technologies.

I am offering this amendment to make renewables an integral part of our clean air policy, as well as our energy policy. Renewables can play a strong role in bringing our economic, energy and environmental interests together into a more beneficial correlation.

We are coming to grips, in the clean air legislation, with the costs of powering our economy and purifying the atmosphere. With a little foresight we can also see that renewable systems can easily and cost-effectively be integrated into the existing utility sector, increasing power supplies without increasing pollution.

Mr. President, my amendment encourages utilities to begin adopting renewable energy technologies right now. It would do that by offering incentive allowances, to utilities that buy or generate power from new renewable plants—including solar, wind, geothermal, and biomass—beginning in 1991. I specify that only sulfur dioxide reductions from new renewables plants are eligible—to prevent utilities from using this provision as a loophole, and gaining allowances by merely tapping existing renewables facilities on a temporary basis. Under this amendment, the utility can benefit only by promoting new and long-term investment in the renewables industry.

This very small reserve of allowances will help build more renewable sources into our energy infrastructure. And, what is more directly relevant to the legislation now on the floor, the creation of renewables allowances—that can be earned as early as 1991—will get the process of cleaning up our air started sooner.

Development of renewables is important to meet our energy needs. At the same time, these technologies, along with increased energy efficiency, can greatly reduce emissions of acid rain precursors and global warming gases. That makes them a potent weapon against catastrophic climate change, widespread respiratory disease, crop and forest damage, and the poisoning of our lakes and streams.

I hope that as we work on this clean air bill, and craft solutions to existing emissions problems, we will also have the foresight to recognize the potential of renewables for the energy and environmental needs of the future. I urge my colleagues to adopt this amendment, and give renewables the place they deserve in the fight for clean air.

AMENDMENT NO. 1453 TO AMENDMENT NO. 1293

Mr. BAUCUS. On behalf of Senator MITCHELL, I send to the desk the allowance allocation amendments which I described this morning and ask they be considered en bloc. I also ask unanimous consent Senator CHAFEE be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Without objection, the pending amendment is set aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. MITCHELL, for himself, Mr. JOHNSTON, Mr. BREAUX, Mr. BINGAMAN, Mr. WIRTH, Mr. BRYAN, Mr. BOREN, Mr. BUMPERS, Mr. COCHRAN, Mr. PRYOR, Mr. BENTSEN, Mr. NICKLES, Mr. GRAMM, Mr. DOLE, Mrs. KASSEBAUM, Mr. MACK, Mr. GRAHAM, Mr. LEVIN, Mr. FOWLER, Mr. HATFIELD, Mr. MCCLURE, Mr. MATSUNAGA, and Mr. CHAFEE, proposes amendment numbered 1453 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 425, line 13, add the following:

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2000.".

At the end of section 405, insert the following new subsection:

"(j) CERTAIN MUNICIPALLY OWNED POWERPLANTS.—

"(1) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2000.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned coal-fired utility unit with nameplate capacity less than 25 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2000.".

On page 424, line 11, strike "." and insert in the following in lieu thereof: ": *Provided* That, after January 1, 2000, the Administrator shall allocate and issue for each unit with a nameplate capacity equal to, or greater than, 1000 MWe that commences, or has commenced commercial operation, on or after October 1, 1990, but not later than June 30, 1991, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.50 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2000.".

On page 413, in the item relating to "La Crosse/Genoa" in table A, strike "19,090" and insert in lieu thereof: "22,700".

On page 416, line 16, beginning with the word "In" strike all through line 24; on line 25, strike "paragraph (1), after" and insert in lieu thereof: "(2) After".

On page 425, after line 12, insert the following:

(i)(1) In addition to allowances allocated pursuant to this section, the Administrator shall allocate and issue annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a state that

(A) has experienced a growth in population in excess of 25 per centum between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 issued by the U.S. Department of Commerce, and

(B) had an installed capacity of more than 30,000,000 kw in 1988,

in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section, provided that the number of allowances allocated and issued pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated and issued to each unit under this subsection.

(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 per centum or more as of the date of enactment of the Clean Air Act Amendments of 1989, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970 and (D) which is owned by a utility company whose combined kilowatt-hour sales have increased by more than 20 per centum between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1989, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1), provided that the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated and issued to each unit pursuant to this paragraph.

At the end of section 402(1), following the word "Energy.", insert the following:

"For the purpose of this title, the term repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.".

On page 417, after line 10, insert the following:

"(4) After January 1, 2000 the Administrator shall allocate and issue annually for each unit subject to the emissons limitation requirements of paragraph (1) for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor mutiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided,* That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated and issued for each unit under this paragraph."

On page 413 of the amendment, between Table A and line 1, insert the following new subsections:

"(e) RENEWABLE ENERGY TECHNOLOGY RESERVE.—(1) Notwithstanding any other provision of law, beginning on January 1, 1995, the Administrator may allocate from a Renewable Energy Technology Reserve a tonnage amount equal to a total of 80,000 tons of allowances for emissions of sulfur dioxide pursuant to section 403, in an annual amount to be determined by the Administrator subject to paragraph (2) to owners or operators of affected units at affected sources. Such allowances shall be allocated to an owner or operator described in this subparagraph in an amount calculated pursuant to paragraph (2) if, beginning on January 1, 1991, such owner or operator—

"(A) generates electricity at a new renewable energy power plant (as defined in paragraph (4)); or

"(B) purchases electric energy generated at a new renewable energy power plant owned or operated by any person other than the owner or operator of an affected source.

"(2) The Administrator shall allocate annual allowances from the Renewable Energy Technology Reserve pursuant to paragraph (1) as follows:

"(A) Any annual allowance allocated under this subparagraph shall be allocated in a tonnage amount equal to the number of kilowatt hours generated or purchased by the owner or operator (as described in paragraph (1)), multiplied by the emissions rate of the lowest emitting coal- or oil-fired unit of the operating company applying for the allowance (as defined by the Administrator in concurrence with the Secretary of Energy, and excluding any oil- and gas-fired unit with an average annual fuel consumption for calendar year 1985 that, on a Btu basis, exceeded 90 per cent consumption in the form of natural gas), divided by 2000. (The product of such calculation shall be divided by 100 to reflect the conversion rate between Btus and kilowatt hours, assuming a heat transfer of 10,000 Btus per kilowatt hour).

"(B) Allowances allocated under this paragraph shall be allocated in accordance with the order of receipt of applications for such allowances

"(3) Beginning on January 1, 2000, the Administrator shall deduct a tonnage amount equal to 8,000 tons per year for a period of 10 years from the annual allocation of allowances for units subject to the requirements of section 405 on a pro rata basis. Such allowances shall be deposited in the Renewable Energy Technology Reserve. The pro rata share for each such unit shall be calculated on the basis of the allowances that would be allocated pursuant to subsections (b)(1), (3) (4) and (5) (c)(1), (2) and (3); (d)(4); (e); (f); (g)(1), (2) and (4); (h)(1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6), of subsection (d); of section 405.

"(4) As used in this subsection, the term 'new renewable energy power plant' means a power plant for which construction is initiated on or after January 1, 1991, or which realizes a significant increase in energy output (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) attributable to the replacement of renewable energy equipment

(as defined and determined by the Administrator, in concurrence with the Secretary of Energy) installed prior to January 1, 1991, by more efficient or productive renewable energy equipment (as determined by the Administrator in concurrence with the Secretary of Energy), and that operates primarily on energy derived from—

"(A) solar sources;

"(B) geothermal sources;

"(C) biomass sources; or

"(D) wind sources.

"(f) APPLICATION FOR ALLOWANCES FROM THE RENEWABLE ENERGY TECHNOLOGY RESERVE.—The owner or operator of an affected unit under subsection (a) may submit an application to the Administrator at any time after January 1, 1991, for allowances from the Renewable Energy Technology Reserve to be calculated using the formula described in subparagraph (A) of subsection (e)(2). Such application shall include—

"(1) the number of kilowatt hours the affected units generated or purchased from a new renewable energy power plant as defined in subsection (e)(4); and

"(2) documentation of kilowatt hours generated or purchased as recorded in a certified meter reading from the point of entry into the utility grid, or in an executed sales contract.

"(g) ACTION BY ADMINISTRATOR.—(1) The Administrator, in consultation with the Secretary of Energy, shall approve or disapprove an application submitted pursuant to subsection (f) not later that 6 months after receipt of the application. If an application proposal does not meet the requirements of subsection (f), the Administrator shall disapprove the application.

"(2) If the Administrator approves an application submitted pursuant to subsection (f), the Administrator shall notify the applicant in writing of the number of allowances to be received pursuant to this paragraph. On or after January 1, 1995, the Administrator shall allocate allowances for the affected units in accordance with the amount specified in the written notification described in this subparagraph upon written request by the owner or operator of the affected units at the affected source.

Mr. BAUCUS. Mr. President, this is the allowance package I described earlier this morning. It is intended to smooth out small inequities and inefficiencies in the generic allocation system and relieve hardships for certain specific plants. The package will reallocate approximately 71,000 allowances per year between the year 2000 and 2010. After the year 2010, this amendment package will reallocate approximately 123,000 allowances per year.

The more precise amendments offered by individual Senators are as follows:

The Johnston-Breaux amendment, cosponsored by 10 additional Senators, will allocate allowances to gas-burning plants beginning in the year 2010. This is intended to implement the commitment made during the original bipartisan negotiations to provide gas-burning units facing curtailments to operate during curtailment or interruptions in supply.

As I said, the allocation would end in the year 2010. Under the compromise, the allocation would end in 2010. Under the amendment that is included in this package, the allocation will continue past the year 2010. These allocations will be made to gas plants in about 22 States. Therein, the generic nature of this amendment. it would have no impact on allowance allocations between 2000 and 2010, but it would reallocate 60,000 allowances beginning after the year 2010.

Another amendment included in the package is the Wirth-Dole amendment. This amendment would make small additional allocations to small units; that is, those that generate under 40 megawatts for oil and gas or under 25 megawatts for coal. These units would also have to be municipally owned and they would have to be clean emitters. This amendment would allocate approximately 10,000 allowances beginning in the year 2000.

The purpose of this amendment is to assist financially limited utility systems that would not have the opportunity to bank allowances that other systems have under the compromise allocation.

Another portion of this package amendment is the amendment offered by Senators FOWLER and HATFIELD. This would create a special incentive allocation of allowances to utilities that use renewable energy. The purpose is to use allowances to induce utilities to turn to various renewable options in order to encourage our country to move in that direction.

The substitute amendment before the Senate provides a total of 3.5 million allowances as bonuses or incentives for using scrubbing as a method for reducing SO_2. Therefore, this Fowler amendment, as part of the package, would be in a sense an offset, using a modest total of 8,000 allowances per year to create incentives to use renewables.

In addition, the package includes the Graham-Mack amendment. This provision would make a special allocation of allowances to the State of Florida because of the unique growth pressures, population pressures, and energy pressures in that State. We feel that Florida should have additional allowances to accommodate that growth. The amendment would provide 43,000 annual allowances and reallocated beginning the year 2000.

There is a unique part of this package I might touch on now, Mr. President. That is the inclusion of roughly 5,000 allowances that were proposed by Senator LEVIN. He is offering an amendment to include 5,000 allowances intended to deal with this particular problem that utilities face with unusually high growth and demand.

This is an amendment that the Senator from Michigan earlier sought to be included. It was on an earlier list. It was his understanding that there would be no plant-specific reallocation allowance amendments either. He dropped his amendment and did not push it.

Now the Senate in this package is considering plant-specific amendments. The managers thought it only fair and equitable that Senator LEVIN be allowed to pursue his 5,000 reallocation allowance as well. We have included it, consequently, in the package.

The package also includes the amendment offered by Senator KOHL from Wisconsin which makes a small additional allocation of allowances between the year 1995 and 2000 only, just for that 5-year period, to a unit owned by a co-op system that has suffered the decommissioning of a nuclear plant and had to shift to coal. This provision would have no impact on allowances after the year 2000.

Finally, the package includes a special allocation sought by Senators METZENBAUM and GLENN for plants involved in nuclear to coal conversion in the State of Ohio. The package would, therefore, reallocate 7,500 allowances for that particular plant beginning the year 2000.

This is somewhat complicated, Mr. President. All of these provisions have been intensely negotiated over the last several days; indeed, the last several weeks.

I believe the package which the managers are now offering is a good compromise; it is a good consensus. At the appropriate point, I urge the Senate to adopt this reallocation. It will help eliminate and alleviate some inequities that otherwise would occur.

The PRESIDING OFFICER. Is there further debate on the package amendment? The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the contents of the amendment have been outlined very skillfully and accurately by the distinguished majority floor manager of this legislation.

I would like to pay tribute to the senior Senator from New Mexico, Senator DOMENICI, who has worked so hard to this whole matter of allowances. I might say I do not think there is a Senator in this body who knows more about the allowance situation than the senior Senator from New Mexico. He has taken a special interest in it, not because it deals necessarily with his State, although he recognized right from the beginning that any time we give out these allowances, it affects others in one manner or another. It has to come from somewhere because, obviously, we have a cap and we continue the cap. So the more these allowances, the less there is for the others.

I point out that the total allowances in a year are 8.9 million. So this amendment has barely affected those in the post-2010 era. There will be about 130,000 allowances affected here, which is about 1.5 percent of the

total acid rain allowances that we have available.

So, Mr. President, I think it is a good amendment. We have tried to be fair in taking care of those who, through a variety of circumstances, have special requirements, and I believe this is a just result. Mr. President, I join in urging the acceptance of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Florida.

Mr. GRAHAM. Mr. President, I do not wish to prolong the vote on this matter, but I wish to extend my personal thanks to Senator BAUCUS, to Senator CHAFEE, Senator DOMENICI, Senator GRAMM, and others who have worked on this. The issue, as it relates to my State, which Senator BAUCUS briefly outlined, is the one that is occasioned by the rapid growth and the increased demand for utility service which that growth will cause.

I very much appreciate the understanding of that issue and the very appropriate response which is contained in this amendment. I thank my colleagues for their understanding, and I welcome them either on a temporary or permanent basis to our State with confidence that they will be provided all of the pleasures that come with adequate electrical generation.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS. Mr. President, I, at this point want to pay particularly strong regards and thanks to all Senators who were involved in these negotiations. Senators WIRTH, DOLE, FOWLER, GRAHAM, MACK, KOHL, METZENBAUM, GLENN, LEVIN, and others very vigorously pressed their amendments from their particular points of view, in some cases in behalf of certain plants that were unfairly disadvantaged on behalf of generic changes.

At the same time, they were not all successful in getting all of the allowance reallocations requested very simply because we are dealing with a zero sum game. That is, we have a cap on total allowances, and so far every amendment that reallocates allowances, there are allowances that are taken away somewhere else.

We are dealing now with a total of approximately 130,000 allowances, which is not a major amount. It amounts to slightly over 1 percent of the allowances involved. But for every amendment that passes that reallocates allowances in behalf of a particular State or system or plant, those allowances are taken away from somewhere else. Therein lies the rub.

Consequently, all Senators involved, including the Senators I mentioned, as well as those, including myself and others, who represent other parts of the country that would have allowances taken away from them, worked very diligently, very much in good faith, and I want to very strongly thank those Senators for those good-faith efforts. There was no acrimony, no bitterness. Everyone worked diligently.

I see the Senator from Florida. He worked very diligently. The people of the State of Florida have a very strong advocate in the Senator from Florida. I must say, Senator GRAHAM, as well as Senator MACK, worked very hard. They represented their States very well, as do other Senators who were involved in these negotiations.

Mr. CHAFEE. Mr. President, I would like to join in commending those Senators who showed forbearance. They were vigorous in behalf of their States, but nonetheless recognized we had to reach an agreement.

Previously, I mentioned the distinguished senior Senator from New Mexico, who worked very, very hard on this and was a key factor in arriving at this conclusion. I would also like to mention Senator GRAMM from Texas, who was also deeply involved, because he is knowledgeable of this particular area, the allowances, and he put a good deal of time in on it. His contributions were extremely constructive. Also, Senator BOND from Missouri was very, very active and helpful in this area.

The PRESIDING OFFICER. Who yields time?

Mr. WIRTH. Mr. President, will the distinguished manager of the legislation yield me 2 minutes?

The PRESIDING OFFICER (Mr. BRYAN). The question propounded by the Senator is how much time is yielded to him.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from Colorado.

Mr. WIRTH. Mr. President, the Wirth-Dole amendment is also cosponsored by Senators ARMSTRONG and KASSEBAUM. It is intended to correct an oversight in the bill.

The bill as it stands provides acid rain allowances to powerplants based on their 1985 emissions rate and the amount of power they generated in the years 1985-87.

Unfortunately, there are a number of small, clean powerplants operated by municipal utilities in a number of States across the country which aren't easily put into this formula.

These plants provide backup power for municipal utilities whose primary source of power is the wholesale power market, but who need their own generation capacity to meet peak loads or to provide backup for times when power is not available on the wholesale market.

Many of these plants did not run at all in 1985. They are not required to have the same sort of analysis of their emissions rates that larger plants are. Many of these plants run very intermittently, in ways that make calculating a baseline for them virtually impossible.

Yet without allowances, these plants would not be able to be used at all beyond the year 2000. It would, I believe, be counter to the purposes and fairness of the bill not to see that these small, clean powerplants get allowances which will enable them to continue to operate.

The amendment proposes to direct the Administrator to provide allowances to units owned by municipalities which are smaller than 40 megawatts—for oil-and gas-fired units—or smaller than 25 megawatts—for coal-fired units. This only applies to units emitting less than 1.2 lbs/mm Btu of sulfur dioxide.

These are all very small units. New baseload powerplants are commonly 1,000 megawatt plants.

Each of the qualifying units under this amendment would receive allowances equal to the lesser of first, its actual 1985 emissions rate times the fuel consumption of the unit at a 60-percent capacity factor, or second, its allowable—SIP imposed—emissions rate times its fuel consumption at a 60-percent capacity factor.

The EPA estimates that this will result in allocation of about 10,000 tons of allowances to these utilities. That is about one-tenth of 1 percent of the allowances.

Without these allowances, small municipal utilities like the Arkansas River Power Authority, which supplies power to towns in southeast Colorado, will not be able to continue to do their job—to provide reasonably priced electricity to the communities they serve.

This utility, and others like it, should not be punished by this bill. They are operating clean plants. They are operating those plants in a way that most efficiently serves their customers.

Mr. President, I thank Senators DOLE, KASSEBAUM, and ARMSTRONG for their help on this issue, and I thank the managers of the bill on both sides of the aisle for supporting our amendment. I think it is a reasonable accommodation of consequences of the bill that the drafters had not taken into account, and I urge my colleagues to support it.

I thank the managers of the bill. I thank the distinguished Senator for his help.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BAUCUS. Mr. President, I believe we are prepared to vote on the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, before I proceed I would like to recognize the inspiriting work of the distinguished managers of the bill, Senators BAUCUS and CHAFEE. Their commitment, persistence, and patience deserves much praise, and I thank them for it.

In regard to the bill itself, there has been already and will continue to be a great deal of debate on its costs and benefits. In this context, it should be said that environmental laws impose a tax that is paid by society as much as any other tax. Where the costs of this bill are imposed on public utilities, as they are in the case of acid rain controls, it is near to certain that these costs will be passed on to every consumer. Such costs are as much a tax as any tax on income.

Similarly, this bill will impose a tax of sorts on those who lose their jobs as a result of it. We cannot know with any precision who these individuals will be, but the effect of the bill on them will be real and unavoidable. The taking of a livelihood is, it may be said, a form of confiscatory taxation.

The Senate, by a vote of 50 to 49, chose not to provide recompense to coal miners and other workers who will lose their jobs. To the miner who loses his job, and to the community in which he lives, this tax is a harsh one. Many miners may lose their jobs at a point in life where getting to another region, to another occupation, is difficult. The closeness of this vote is a striking measure of our concern for the problem.

This issue of quantifying the impact of what we are doing is one reason why, in the Committee on Environment and Public Works we determined to continue NAPAP—the National Acid Precipitation Assessment Program—indefinitely. NAPAP will now be asked to determine the costs and the benefits of the acid rain control program that the Senate will vote on shortly.

In addition, we have included in the bill a simple heuristic device to show our progress, or lack of it. The committee accepted a provision to create and update a National Acid Lakes Registry—a listing of acidified bodies of water. We will be able to see if the number goes up or down, and if so, by how much.

The only reliable forecast we have of how acidified surface waters might respond to the bill comes from a joint NAPAP-EPA effort called the direct/delayed response project. It projects, for the Northeastern United States, that an emissions control program of the magnitude we are considering will reduce the number of acidic lakes by 80 over the next 50 years. If extrapolated to the entire U.S. population of acidic lakes, we could predict—with a fairly large margin of error—that about 600 lakes would recover, again measured over 50 years. If no emissions controls are enacted, the number of acidified lakes in the Northeast will remain roughly the same.

Such a registry will allow us to verify these predictions. Perhaps they are correct. Perhaps not.

However, these two amendments adopted by the committee apply only to the acid rain portion of the bill before us. This is why I offered on March 7, together with the majority leader, Senator MITCHELL, and the Republican leader, Senator DOLE, an amendment which instructs EPA to measure the benefits and costs of this bill and of the Clean Air Act as a whole—inasmuch as what we do today amends the Clean Air Act of 1970. In this examination, we will no doubt have some surprises. Our theories will be tested. Some will survive, others will change.

If this provision becomes a part of the final bill, as I believe it must, this will be the most ambitious effort of its kind in the history of social legislation.

The effort will be complex—we know how to measure some costs and benefits, but not all. These things are notoriously difficult to express in terms of dollars. Indeed, it may not be possible to assign reasonable dollar values to all of the effects. But, perhaps, the effects can be described and communicated in other ways. But as you begin to think about such things—when you try to put a number on them—you have already learned more than you knew.

This effort will fit well with the proposed Bureau of Environmental Statistics. The legislation to elevate EPA to Cabinet status that the Senate will consider in a few weeks would create such a new bureau to collect and analyze environmental data. The Bureau of Environmental Statistics will centralize data collection and compilation, ensure a high level of quality in the data collected, and analyze and report on such data in an objective way. Or so we hope.

The structure of the Bureau is modeled after several other Federal data collection and statistical analysis organizations, including the Bureau of Labor Statistics, the Energy Information Administration, and the Department of Education's Center for Statistics.

We have long recognized the importance of data collection and analysis. Our Nation's 20th census is now underway, fulfilling the Constitutional requirement and providing us with a wealth of information. More than 100 years ago, in 1867, when Congress established a Bureau of Education, the first purpose of the Federal education agency was collection of "such statistics and facts as shall show the condition and progress of education in the several States and territories."

These data collection and analysis efforts are not rapid things. It may require decades of data to detect and understand societal or environmental trends. The Bureau of Labor Statistics is older than the Department of Labor: It has collected and analyzed employment data since 1888. But even with all of this experience, we did not get monthly unemployment statistics until 1942. They had to learn what to measure and how to report it. The Bureau of Environmental Statistics will have to learn such things too.

All too often the collection and analysis of environmental data has been haphazard at best. The complexity of environmental matters requires that we collect and analyze environmental data on a systematic and continuing basis. This is the philosophy which has guided the BLS, and we ought to bring this philosophy to environmental problems.

The data provided by the Bureau of Environmental Statistics must be readily available to Congress and the public. And the data must be believed—perceived as free of political influence. It is important that the Bureau be a credible, independent statistical entity.

Last week, our colleagues in the House of Representatives attempted to ensure the independence of the Bureau by limiting administration control of the organization and its reports. These restrictions are opposed by the White House.

The credibility of data can be assured without such measures. EPA and the new Bureau of Environmental Statistics must and will conduct its business openly. Its data, analytical methods, and conclusions must be available for public scrutiny and for peer review by the scientific community.

Dr. Milton Russell, chairman of the NAPAP Oversight Review Board, recently discussed the importance in a democratic society of public participation in complex scientific issues. Addressing the scientists gathered at the NAPAP International Review in Hilton Head, Dr. Russell discussed the relationship which must be developed between scientists and the public. He said:

> Those who would introduce new technologies are not in a position of equals negotiating within a partnership, but of worthy petitioners seeking consent, and doing so by trying to convince those with the power that the endeavor is worthy, and in their best interests. * * * informing the public is a duty that the public is owed, not a boon that a scientist can grant. * * * what is to be

communicated is what the public wants to know, not what the scientists want to tell.

The message is both disturbing and hopeful. It is disturbing because it challenges the glowing sense of self righteousness and altruism which most scientists and engineers feel as they do their jobs, confortable in the belief that they are acting in the best interest of their fellow man. But it is hopeful in that it offers a prospect for dulling the sharper edges of conflict that are absorbing so much attention and emotional energy. Controversies will not disappear, but once the decision processes are clear and the place of technology within society is recognized by all, those controversies will lose some of the intensity of moral crusades.

We have a technological culture, but it is embedded within a social and political culture we call democracy. That democracy places the rights of individuals and their wishes in first place. Our people will not stand to be victims—or even beneficiaries—of technological forces beyond their control. But if this control is unwisely applied, technology cannot flourish, and its promise will fade.

We must remember that full public participation in the issues is not only desirable, it is necessary. This is the lesson of Dr. Russell's comments. It is a lesson which EPA, even as it becomes a Cabinet-level Department, ought to make a fundamental principle of its efforts.

Mr. BAUCUS. Mr. President, I appreciate the comments of the Senator from New York.

Mr. CHAFEE. Mr. President, I too appreciate the Senator's comments.

ALLOWANCES FOR RENEWABLE ENERGY

Mr. JOHNSTON. Mr. President, the leadership package of allowance amendments being considered today contains a provision that would establish a renewable energy subsidy program in the Environmental Protection Agency. This provision creates reserve of 80,000 allowances that would be issued to utilities that generate electricity or purchase electricity from a renewable energy powerplant.

I would oppose this provision if there were a chance to oppose it on its own merits. I will explain why in a minute. Unfortunately this provision is surrounded by a package of amendments that I and many of my colleagues support.

We will have to vote on the package as a whole, accepting the bad with the good. Under the present parliamentary situation we must vote for the bad to get the good. So the package will be adopted. The contents of the package have been selected to get the votes. I will support the package, but I oppose this piece of it.

Mr. President, the creation of a special reserve of Clean Air Act allowances to be distributed as a pure subsidy to renewable energy—or to any other currently popular cause—is a very bad idea. If this idea successfully proliferates, it will severely compromise and politicize the allowance system.

Here is how the system proposed would work. A reserve would be created that contains 80,000 allowances. These allowances would be skimmed from the pool of allowances that would otherwise be available to the owners or operators of affected units at affected sources. We don't know how much this reserve will be worth, because we don't know what the value of an allowance will be. But it is not a trivial sum. If an allowance is worth $1,000, an amount that I understand may not be too far off, the reserve will be worth $80 million.

EPA would issue allowances from the reserve to the owner or operator of an affected unit that generates or buys electric energy from a renewable energy powerplant. Allowances would issue on a first-come, first-served basis until the reserve is exhausted. In this context renewable energy is solar energy, geothermal energy, energy derived from biomass, or wind energy.

An eligible renewable energy powerplant would be a plant for which construction was initiated after December 30, 1991, or which realizes a significant increase in energy output from replacement of equipment installed prior to January 1, 1990. The number of allowances issued by EPA would be based on the emission rate of unit owner or operator's cleanest coal or oil plant in pounds of SO_2 per million Btu.

This provision is not free. It removes on the order of $80 million from the allowance system, assuming an allowance is worth $1,000. It removes more if an allowance is worth more. The provision takes allowances from some utilities and gives them to others in a way that is totally unrelated to the purpose of the allowance system. While it takes allowances from the many to give to the few, the value of these allowances is spread over many kilowatt hours of electricity produced from renewable energy.

The value of the subsidy can be calculated if one knows the value of an allowance. Assume the value is $1,000. Then the subsidy is worth 0.2 cents per kilowatt hour for a utility emitting the national average rate of 0.4 pounds of SO_2 per million Btu. By comparison, the average cost of electricity to residences in the United States last year was about 8 cents per kilowatt hour. The proposed subsidy only amounts to 2.5 percent of the price paid by residential users of electricity.

So this subsidy, however well intentioned, cannot make much difference. It is just too small on a kilowatt hour basis. To have a significant impact on renewable energy production, the subsidy would have to be at least 10 times as great, or 2 cents or more per kilowatt hour. At the level proposed, this subsidy cannot be a significant factor in the financing of new renewable energy powerplants.

Because this subsidy cannot make a difference, it will go to projects that would be built anyway. It therefore amounts to a windfall.

This is the kind of thing that would come out if the normal legislative process, involving hearings, had been followed. A program could be designed that would make a difference and would not simply confer a windfall on some wood chip burner that would be built in any event or some geothermal project that already planned to expand its supply.

The Energy and Natural Resources Committee has the jurisdiction over "solar energy systems" under rule XXV 1.(g)(1)13 of the Standing Rules of the Senate. The committee would hold the hearings and mark up the legislation. The committee has done so in the past where renewable energy is concerned. Recent laws enacted include Public Law 101-218, the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, and Public Law 98-370 that established the Committee on Renewable Energy, Commerce and Trade.

When it is discovered how small the subsidy is, there will be calls to expand the number of allotments issued. Enactment of this subsidy will also lead to demands on the allowance system for other worthy causes, just as the crude oil entitlements program of the 1970's was used to subsidize various energy propositions unrelated to the purpose of that program. Under the crude oil entitlements system of the 1970's, entitlements were issued to subsidize numerous sources of energy, including at one time or another, heavy California crude oil to the east coast and Michigan, and electricity produced from burning cherry pits.

The weight of these special allotments eventually destroyed the entitlements program. This provision would be the first attempt to divert allowances for a use unrelated to the purpose of the allowance system. It will not be the last.

Allowances are transferable. They will be bought and sold. Allowances are another form of money: Money not printed by the mint, not included in the budget, and not subject to appropriations acts. This money would be distributed by the Administrator under the provision in question, solely to transfer money to producers of electricity from renewable energy.

Numerous additional objections to the provision would be cited.

Most facilities receiving the subsidy will be qualifying facilities under the Public Utilities Regulatory Policies Act, so this provision applies a new level of subsidy to PURPA benefits.

Solar energy follows the cycle of the Sun. Electricity from the Sun there-

fore substitutes for gas-fired peaking power, not coal-fired baseload capacity. So there is no relation between the solar aspects of this proposal and SO_2 reduction.

The subsidy depends on the price of an allowance, which is variable and uncertain. So the subsidy is variable and uncertain and therefore less valuable.

The provision issues allowances for renewable energy plants operating primarily on renewable energy. The term is undefined in the proposal, so the renewable energy plant could presumably use up to 50 percent fossil fuel and still qualify.

The provision issues allowances for renewable energy plants that realize significant increase in energy output. The term is also undefined. Allowances are earned by the entire plant, not just the increased output. So all existing renewable energy plants become eligible if they just increase output. This weakness simply compounds the windfall.

Mr. President, we are not going to have the opportunity to address these issues in the Senate. Perhaps they can be addressed elsewhere. The process that has been followed so far has produced "something for renewable energy" on the Clean Air Act amendments legislation. It has not produced good renewable energy legislation.

Mr. METZENBAUM. Mr. President, this amendment would help correct a provision in the acid rain title which could hurt a clean powerplant which is about to come on line in my State.

This facility, the Zimmer plant, is going to use a state-of-the-art scrubber which removes the maximum level of sulfur dioxide from the coal. Zimmer will use 10 percent of Ohio's coal production and will support 1,000 coal mining jobs.

It is also a special facility in that it is the first powerplant to be converted from nuclear to coal. This amendment will ensure that Zimmer, which is under construction and has been for several years, is not penalized unfairly. It simply ensures that the Zimmer plant will receive more emission allowances.

Without it, the owners of Zimmer would have had to reduce emissions from their other plants beyond the reductions already made to achieve compliance with the phase II requirements of the legislation. This would have further increased the cost of the bill to Ohio ratepayers. On the other hand, the owners could have decided to switch to low-sulfur coal. This would have thrown more Ohio coal miners out of work. I am pleased the managers agreed to work this out to avert further damage to Ohio.

Mr. HATFIELD. Mr. President, I rise in support of the leadership allowance package and, specifically, an amendment contained therein that Senator FOWLER and I proposed regarding renewable energy. I would like to thank the leadership and Senators BAUCUS and CHAFEE in particular for accepting this amendment as part of the committee-approved package. I would also like to thank Senators MCCLURE, MATSUNAGA, NUNN, REID, and BRYAN for cosponsoring this initiative.

Currently, renewable technologies provide 9 percent of the Nation's electric power. However, nonhydro renewables account for less than 3 percent of that power supply, and very few renewable facilities are owned by utilities. This amendment provides a small incentive to encourage utilities to become acquainted with renewable technologies and to help move them into the mainstream.

Specifically, our amendment will provide an incentive, in the form of allowance credits, for utilities to use renewable technology to meet future resource demands. Allowances will be issued on a first-come basis from an 80,000 renewable energy allowance reserve to utilities using qualifying renewable sources. Qualifying renewables are defined in the legislation to embody emerging technologies such as solar, biomass, wind, and geothermal sources.

The allowances will come from a pro rata reduction of the phase II pool of allowances. Starting in the year 2000, 8,000 tons will be deducted from that pool for 10 years. This reduction equals less than one-tenth of 1 percent of the allowances available every year during phase II of the acid rain program.

The allowance credits earned for commensurate power production will equal 1 year of emissions from a state-of-the-art coal- or oil-fired facility—estimated to be below 0.4 tons of sulfur dioxide per million Btu's. This cost in terms of allowances is small considering that the level of emissions that would be backed-out by using renewable technology instead of coal is probably much higher. The average emission level from existing plants is 1.7 tons of SO_2 per million Btu's.

If the goal of this bill is to promote cleaner air, what could be more compatible than to provide incentives for emerging renewable technology? Every megawatt of power produced by solar, wind, geothermal, or biomass technology reduces the need to acquire fossil-fuel-based generating capacity—and the air emissions that go with it.

As we crafted this amendment, I had hoped that hydroelectric power would also be included in the definition of qualifying renewables. As my colleagues are aware, I come from a region of the country rich in clean, renewable hydropower. The mechanisms for siting water impoundments work very well in the Northwest and balance the needs of our fishery resources with power production, agriculture, and other often-competing uses. However, it became apparent very quickly that, for reasons unrelated to emissions reduction, there was very little support for including hydropower in this bill.

While the Northwest undoubtedly had something to gain by having hydropower in the bill, I agreed to drop it in the hope of furthering the amendment's chances. I did this because I am committed to seeing major generating capacity from renewables in the future. Also, I believe that renewable technology has the potential to sharply reduce hazardous air pollution. That, Mr. President, is why I strongly support this amendment.

Once the cap in the acid rain title of S. 1630 takes effect, utilities are going to need renewable technologies to provide the electricity necessary to serve increases in demand. The amendment that Senator FOWLER and I have offered will help utilities to become familiar with these technologies prior to the compliance dates within this bill. This is an important point. Only through the use of renewables, do we have the chance not only to meet the emissions cap, but to actually improve upon it while not compromising other environmental objectives. If it takes 80,000 allowance credits to help get renewable energy's foot in the door, it is a small price to pay for the future promise of clean, renewable power generation.

Mr. President, there is no better time to be debating this amendment than the day before the "Earth Tech" technology fair opens. Some of my colleagues undoubtedly will be visiting the exhibits on the Mall and attending briefings on the technologies displayed there. While fossil fuels have their place in today's market, it is those new technologies that will ultimately power the future growth of this country. This amendment represents one small step in realizing that goal.

Mr. SYMMS. Mr. President, I would like to discuss briefly the system created for the trading of allowances for sulfur dioxide emissions under the legislation pending before us. Throughout the clean air debate of the past year, the free trading of allowances among the owners and operators of affected units has been recognized as an integral component of the acid rain control program. The administration in particular has placed great emphasis on the use of market forces in this way to allow industry to make environmental changes in the most efficient and cost-effective manner.

The administration's original proposal, S. 1490, provided for allowance trading in an open market, and the Senate committee has embraced the principle as well. In fact, in its report

on S. 1630, the committee stressed that "[t]he transferability of allowance * * * is the key both to the strong environmental policy sought in new title IV of the act and to the flexibility the title creates for sources in choosing the means for complying with their emissions obligations." [p. 316] The committee also pointed out that allowance trading would reap significant cost savings, stating that "the flexibility created by the allowance-trading system alone has been estimated by the EPA to produce a nationwide cost-savings of 50 percent in phase I of the program, 14 percent to 20 percent when the program is first fully implemented at the beginning of phase II and a 20 percent cost-savings in 2010." [p. 316] I'm sure the gentleman recognizes just how vital allowance trading is to the success of the entire acid rain control program.

Mr. BAUCUS. I certainly do. In its discussions on the acid rain title, the group of 15 unanimously agreed that flexible allowance trading is essential. In fact, the issue was not even in question. We all recognized that prompt and expedited allowance trading would help ensure that total reductions would be achieved in the most cost-effective manner and that reduction costs would be allocated equitably.

Mr. SYMMS. I appreciate the Senator's support on this point. To be most effective, the allowance system must be as open, rapid, and flexible as possible, while assuring that the total emission reductions provided for in the legislation are achieved. I would like to clarify exactly how allowance trading would work in practice because some questions have been raised about the degree of flexibility the bill provides to the owners and operators of affected sources.

Under the bill, EPA must allocate annual allowances to the owner or operator of affected units at an affected source equal to the applicable annual tonnage emission limits. [Section 403(a)] An allowance is defined as "an authorization issued to an affected source by the administrator * * * to emit, during or after a specified calendar year, 1 ton of sulfur dioxide." [Section 402(c)] The legislation states that allowances "may be transferred among the owners or operators of affected sources under this title" pursuant to regulations to be promulgated by EPA. [Section 403(b)] However, transfers are not effective until EPA receives and records "written certification of the transfer, signed by a responsible official of each party to the transfer." This certification and recordation requirement clearly contemplates transfers of allowances between owners and operators of affected sources. It in no way suggests that transfers of allowances for affected units among affected sources which are all owned or operated by the same entity or utility system must be certified by that entity or system and recorded by EPA. Is that correct?

Mr. BAUCUS. Yes, I say to the Senator, that is correct. For example, if an owner or operator of two or more affected sources wished to take allowances allocated for one of those sources and use them for another source within the same company or system, that would be permitted without certification and recordation. As you have pointed out, the legislation provides for the transfer of allowances between two different owners or operators of affected sources, and the requirement of written certification signed by a responsible official of each party to the transfer would apply only when distinct owners or operators were involved. In effect, this certification requirement could only apply when the owners or operators of two distinct entities effect a transfer, since it envisions a contractual agreement between two entities. If the owner or operator of an individual utility system wanted to reallocate its allotted allowances within, the owner or operator would have to ensure that the total emissions for all affected units within its system did not exceed the annual limits set in the legislation.

Mr. SYMMS. That is an important point to emphasize. The legislation requires each owner or operator of affected units to submit a compliance plan to EPA outlining how each source will meet the emission requirements under the bill, does it not?

Mr. BAUCUS. It certainly does. The compliance plan must accompany the permit application and it must include a certification that the owner or operator will comply with the requirements of title IV in all circumstances. The legislation also allows EPA to require from the owner or operator of two affected sources an integrated compliance plan providing an overall plan for achieving compliance at the affected sources. We expect EPA to use this integrated compliance plan approach to give owners and operators of affected sources the greatest flexibility in complying with the emission limits applicable to their systems.

Mr. SYMMS. I thank the Senator for this clarification and would like to raise an additional point about the allowance trading system. The legislation before us provides for the issuance of annual allowances which may not be used prior to the calendar year for which they are issued but which may be carried forward to future years if unused in that calendar year. In order to promote maximum flexibility, the legislation also permits the transfer or trading of anticipated allowances prior to the actual issuance of such allowances. As I understand this language, an owner or operator who expected to receive certain allowances could commit to transfer them to another owner or operator before actually having received them. Is that correct?

Mr. BAUCUS. Yes; that is accurate.

Mr. SYMMS. Perhaps the Senator might also address the reverse situation—in other words, the case in which an owner or operator wishes to trade an allowance after the calendar year to which it applies has expired. While the legislation does not specifically address this situation, I expect owners or operators to have comparable flexibility to trade unused allowances in this situation. Accordingly, I would expect EPA to allow for a reasonable period—at least 90 days, if not longer—after the end of the calendar year for owners and operators to trade allowances applicable to that year. Does the Senator agree?

Mr. BAUCUS. I certainly do. This flexibility would allow utilities to "close their books" for emissions and allowances for a calendar year in an orderly fashion. It would also allow utilities to make adjustments for unexpectedly high emissions that may occur near the end of the calendar year, for example. We certainly would expect that the regulations that EPA promulgates will ensure that utilities have a reasonable period of time after the close of a calendar year to complete their allowance transactions for that year. During this period, the owner or operator of an affected unit would have the option to buy or sell the necessary allowances for that calendar year.

Mr. SYMMS. I thank the Senator. Such a provision in the regulations would carry out our intent to provide maximum flexibility for owners and operators who wish to trade allowances and to ensure that the sulfur dioxide control program is as cost-effective and as market-oriented as possible. I also note that the bill provides that emission trading allowances may be bought and sold.

Mr. REID. Mr. President, I am pleased to join Senators FOWLER, HATFIELD, MCCLURE, and MATSUNAGA in sponsoring this amendment.

This amendment recognizes that the cleanup of conventional sources of fossil-fueled energy need not be the sole means for minimizing the environmental harm resulting from power production.

Owners and operators of conventional power plants that emit above the NSPS limits will be the beneficiary of the incentives, the marketable allowances, to produce electricity cleaner.

We have spent considerable time in recent weeks talking about "clean coal," "super-clean, coal-fired plants," and "non-polluting natural gas facilities." Clearly, we must move in the direction of low- or non-polluting industrial practices or power production when compared to our position today.

The alternative of maintaining the status quo, allowing heavy emitters to continue to spoil the air we breathe and the environment in which we live, is clearly no longer a tenable position.

We also need to move in the direction of real alternatives to the conventional power production options: Renewables.

Our objectives with clean air legislation include improving the quality of the air that we breathe, reducing the emissions of criteria and hazardous pollutants into our environment, and ensuring that ecosystems and other environmental values are protected.

Virtually no source of emissions is untouched by this legislation. We know that only too well by now; no one lets us forget it.

It is far-reaching legislation and will be one of the most significant pieces of legislation during this session, if not the most significant. It is, and it must be, comprehensive.

Is energy from renewable sources clean energy?

What environmental risks do we face from producing energy from the primary sources of energy today?

What cleanup costs are avoided in dealing with the power production wastes from the variety of energy sources?

I ask unanimous consent that this entire comparison of emissions of pollutants by energy source type be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMISSIONS OF POLLUTANTS FROM ELECTRIC POWER GENERATION: THE TOTAL FUEL CYCLE [1]

[Tons per gigawatt hour]

Energy source	CO_2	NO_x	SO_x	TSP	CO	HC	Nuclear waste	Total
Conventional coal	1058.191	2.986	2.971	1.626	0.267	0.102	NA	1,066.143
Fluidized bed coal	1057.090	1.551	2.968	1.624	0.267	.102	NA	1,063.602
Natural gas IGCC	823.993	0.251	0.336	1.176	NA	NA	NA	825.756
Nuclear	8.590	.034	.029	.003	.018	.001	3.641	12.316
Photovoltaic	5.890	.008	.023	.017	.003	.002	NA	5.943
Biomass [2]	[3] 0	.614	.154	.512	11.361	.768	NA	13.409
Geothermal	56.8	TR	TR	TR	TR	TR	NA	56.8
Wind	7.4	TR	TR	TR	TR	TR	NA	7.4
Solar thermal	3.6	TR	TR	TR	TR	TR	NA	3.6
Hydropower	6.55	TR	TR	TR	TR	TR	NA	6.55

[1] Meridian Corporation, "Energy System Emissions and Material Requirements," Prepared for the Deputy Assistant Secretary for Renewable Energy, U.S. Department of Energy, Washington, DC, February, 1989, pp. 25–29.
[2] Carbon Dioxide data adapted by the Council for Renewable Energy Education from Dr. Robert L. San Martin, Deputy Assistant Secretary for Renewable Energy, "Environmental Emissions from Energy Technology Systems: The Total Fuel Cycle," U.S. Department of Energy, Washington, DC, Spring, 1989, p. 5. Other emissions data from Assistant Secretary for Environment, Safety, and Health, "Energy Technologies and the Environment, Environmental Information Handbook," Office of Environmental Analysis, U.S. Department of Energy, October 1988, pp. 333–334.
[3] With Biomass Fuel Regrowth Program.

Note.—TSP: Total Suspended Particulates. NA: Not Applicable. TR: Trace Elements. The total fuel cycle includes resource/fuel extraction, facility construction, and plant operation.

There are alternatives to conventional power sources. Let me summarize from the comparison that was prepared by the Council for Renewable Energy Education.

For the total fuel cycle, the combined sulfur and nitrogen oxides emissions per gigawatt hour generated is more than 4 tons for a fluidized bed coal plant and nearly 6 tons for a conventional coal plant.

By comparison, combined So_x/NO_x emissions from solar, wind, and geothermal energy plants are at trace levels; this means below 0.005 ton. Finally, combined So_x/NO_x emissions from a biomass energy plant are below 1 ton.

To put this into perspective, a conventional powerplant built today would be approximately 1,200 megawatts of electrical power. If this plant would operate at full capacity, in 1 hour it would produce 1,200 megawatt hours of electrical power. One gigawatt is 1,000 megawatts.

The environmental case for renewable energy sources is apparent, but the economics are not. Utility companies have faced a similar problem with cleanup costs for their dirtiest plants.

What makes cleanup feasible is the economic advantage offered by the allowances or incentives.

The creation of an incentive out of the marketable allowances to foster installation and operation of renewable technologies as, for example, replacement of a heavily polluting fossil fueled plant is a modest investment for a potential windfall benefit to the environment. After all, are we not looking to reduce emissions?

I must profess that I am excited about the prospects for utilizing the renewable energy sources addressed by this amendment. I am excited because of my personal experiences in seeing this technology in operation and recognizing its potential.

During this last recess, I had the opportunity to visit the largest operational solar energy power plant in the world in Kramer Junction, CA.

This plant is owned and operated by the Southern California Edison Co. in a joint venture with an independent power producer, Luz, International.

It is a modular plant in that additional units can be added to it. Already greater than 200 megawatts in 1989, it is expected to expand to 600 megawatts by 1994.

Mr. President, I ask unanimous consent that the article from Forbes magazine describing this project be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WARMING TREND

(By James Cook)

Even before dawn breaks over the Sierras, computer systems begin positioning some 540,000 parabolic mirrors to catch the light at Luz International's 840-acre solar electric generating station at Kramer Junction in California's Mojave Desert. Row upon row, the mirrors lock on the sun as it rises and follow it across the sky until dusk, focusing its rays on a thin, black-coated stainless steel pipe. The sun heats the stream of synthetic oil that flows through the pipe to 735 degrees Fahrenheit. Circulated through heat exchangers in a nearby power block, the superheated oil flashes water into steam, and the steam drives a conventional turbine generator to produce electricity for sale to Southern California Edison in Rosemead, Calif.

The world of tomorrow here today? A part of it anyway. It took over four years and $750 million for Luz to get this far, but get there it did. The Luz generating units now in operation, each rated at 30,000 kilowatts, claim the distinction of being the first really commercial-scale thermal solar energy installations in the world.

Scale is one thing, profits another. The Luz plants, owned by a consortium of corporate investors, have depended on various state and federal benefits available to encourage development of alternative energy sources. Without such help Southern California Edison wouldn't be paying higher than market price for the electricity it now takes from Kramer Junction under a 30-year contract, including 7 years at fixed prices. And without various tax benefits, investment in the project would not make much economic sense. Even so, the Luz plants are getting close to being fully competitive. The newest can produce power for under 12 cents a kilowatt-hour, about what a lot of new nuclear power stations do.

Headquartered in Los Angeles, Luz was founded in 1979 by a Rhode Island-born Israeli electrical engineer, Arnold J. Goldman, and a French-born Israeli textile manufacturer, Patrick Francois. Luz was the biblical site of Jacob's ladder, which Jacob renamed Bethel, the place where God dwells, when he saw the angels commuting between heaven and earth. That image gives you some sense of the company's aspirations.

Goldman, now a taut, dark haired, 45-year-old Californian, is a man of parts. Armed with an engineering degree from the University of Southern California, he put in some time with such corporations as Litton Industries. And then, on his own, he designed one of the first word processors, started an outfit called Lexitron Corp. to produce it, and eventually sold out to Raytheon. By then, he had already begun fooling around with solar energy—not photovoltaic cells of the sort Chronar Corp. claims will soon become competitive in the utility market (Forbes, Dec. 12, 1988), but thermal solar power using solar heat to produce steam for conventional electrical generation. Goldman designed the heat-collection elements and the sun sensors and computer controls that are at the heart of the Luz system. His partner, Patrick Francois, drummed up the money to get the project off the ground.

With some initial backing from a joint U.S.-Israeli research agency, Francois and Goldman rounded up nearly $40 million from a group of private investors, including San Francisco's CP National, which owns 38% of the stock.

The proceeds went initially into research and development and later into manufacturing facilities in Israel. "The technology was more or less there," says Francois. "The idea was to take what had been a kind of lab experiment and bring it up to commercial scale."

With seven plants currently in operation, Luz earned $5 million on $155 million in sales last year. Most of that, though, came not from solar power production but from the sale of equipment Luz manufactured to build the various plants. Luz manages and maintains the plants but has no equity in them to speak of. The plants were built as limited partnerships, with large corporate investors like Potomac Electric and Prudential Insurance providing the required debt and equity.

"We saw ourselves as an equipment manufacturer," Francois explains. "We had better use for our money reinvesting in development to keep ahead of declining energy prices and declining tax rates. We started somewhere around 24 cents per kilowatt-hour, but we knew we had better be able to go to 5 cents to 6 cents per kilowatt-hour if we were going to get into the business. You do that either by reducing the cost of the equipment or by increasing the efficiency of output."

The first of five 80-megawatt solar units, a giant step ahead in scale, is slated to go into production at Harper Lake, Calif., 12 miles from Kramer Junction, later this year. The new units will cost about $1 billion altogether, boast more than twice the capacity of Kramer Junction and produce power at less than 8 cents a kwh. For Luz, that means commercial solar energy will at last have arrived.

And not a moment too soon. The tax benefits will run out with the completion of the first of the five new units, and the fixed-price power contracts with Southern California Edison will end after completion of the last of the five plants. So the question is, where does Luz go from there?

The answer is, into the solar energy business for the first time, with the present owners very likely selling stock to the public as they go. "As of 1990," says James C. Bazor, Luz' chief operating officer, "we expect our system to compete on pure economics without any tax breaks."

Bazor joined the company last April to provide the professional management Luz needs if it's going to compete on equal terms in the energy market. He surely knew what he was getting into. He came over from Blount, Inc., the contractor that built the Luz plants.

Jim Bazor doesn't see Luz solar units driving fossil fuel or nuclear plants out of business ("We cannot provide power for base loads") nor even making much of a dent outside the American Southwest ("because of the obvious link with the sun"). But Luz can provide peaking power, potentially lots of it, in summer, when air-conditioning sends power demand through the roof. Peaking power will be needed in the years ahead, Bazor says, and that's what Luz is ideally equipped to provide.

The economic and marketing prospects are so encouraging that Luz is already negotating with potential customers in Spain, India and Israel and trying to drum up business in Arizona and New Mexico. In such places Luz hopes to supply solar energy systems and hardware, not to operate power plants. "There is no reason for power companies not to own and operate solar equipment the way they do any other power source," says Bazor. "If you can have environmentally benign power on economic terms, why would you go to a nuclear plant or anything else?"

Why, indeed. An argument that even the arch-conservative utility industry is likely to find compelling.

Using space-age coatings technology, and optimal demand usage/isolation relationships, this facility has demonstrated that solar energy is closing in on economic viability.

The potential for greater use of solar energy for large-scale application exists and, moreover, it is environmentally benign.

On more than one occasion, I have had the opportunity to drive through the Altamont Pass and marvel at the windmill farms.

In 1989, the total electric power generation in the Altamont Pass exceeded 1,000 gigawatthours; enough to meet the residential needs of nearly half a million people.

Mr. President, I ask unanimous consent that the press release from the American Wind Energy Association describing the increase in wind electricity generation during the 1980's and the reduction in cost of production be printed in the RECORD at this point.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

MARCH 26, 1990.

WIND ENERGY DURING THE 1980'S—DRAMATIC INCREASE IN ELECTRICITY GENERATION

WASHINGTON, DC—The American Wind Energy Association (AWEA) today released a summary of wind energy's power producton during the 1980s. The report, "Wind Energy in the 80s—A Decade of Development," was prepared by AWEA's West Coast Representative Paul Gipe and is based upon records maintained by electric utilities, wind farm operators, and the California Energy Commission.

In 1989 alone, there was a 17% growth in wind-generated electricity in the United States. There are now more than 14,000 commercial-size wind turbines in California and Hawaii, and these turbines provide a total installed capacity to electric utilities of approximately 1,400 Megawatts (MW).

The costs of wind-generated electricity have declined from 25 cents per kilowatthour (kWh) in 1981 to as low as 5 cents per kWh at the most outstanding sites in 1989. More typical wind sites produce electricity for 7 to 9 cents per kWh.

"Wind energy technology has made remarkable progress over the last decade," according to Randall Swisher, Executive Director of the American Wind Energy Association. "In 1981, the industry was virtually non-existent as a source of utility power, producing only 10,000 kilowatt-hours (kWh), or about enough to serve two homes. In 1989 in California wind generated 2.125 billion kWh, enough to serve the residential needs of a city of over 900,000 people—more than the population of either San Francisco or Washington, D.C.," Swisher said.

Several factors now make it less costly to produce electricity by wind power. Wind turbine efficiency, as measured by what is known as "capacity factors," has increased steadily, rising from an average of 13% in 1985, to almost 25% for new turbines in 1989. (The best performing projects have a capacity factor of over 40%.)

In the first few years of commercial development, technical failure was common. In 1981, for example, the first utility-connected wind turbines were only functioning about 60% of the time. Turbines that have been introduced in the last few years have availability (reliability) factors of over 95% whenever suitable wind speeds exist.

"Even though we have seen great progress in wind's productivity, our goals are far from being met," Swisher said. "Our goal is to achieve a 5 cent per kWh target at typical wind sites sometime between 1995 and 2000. This would make wind fully competitive with conventional technologies such as coal. The major question facing wind technology in the meantime is how to compete with heavily subsidized conventional fuels," Swisher concluded.

A significant comment by Randall Swisher, executive director of the American Wind Energy Association, was that "the major question facing wind technology * * * is how to compete with the heavily subsidized conventional fuels." By providing these incentive allowances to conventionally fueled facilities only, will further widen this gap. This is the wrong message to send.

Finally, in the great State of Nevada, we are beginning to realize the opportunity to utilize the energy potential from our natural thermal springs. In Steamboat Springs, for example, tapping this source of geothermal power has elevated Nevada into a position of being one of the leaders nationwide and worldwide.

We have just begun to realize the opportunity that renewables can offer us after years of neglect through the 1980's.

The unfulfilled promise to better utilize renewable sources of energy to replace or supplement existing conventional sources can no longer be tolerated.

The opportunity can no longer be wasted.

This day signifies the 10th week that this clean air bill will have been the order of business for the Senate. The progress that was made has been tedious at times; nevertheless, we have made progress.

Now is not the time to sell America short. Now is the time to send the right message.

The R&D budget for renewable energy has diminished over the last decade from over $800 million to nearly one-tenth of that level this year. While care for the environment was put on hold during the last decade, the effort to include renewables as an essential element in the power production mix suffered a similar fate.

The Congressional Research Service has reported that "acid rain, air pollution, and other environmental problems linked to conventional generating systems also make renewable power technologies an attractive alternative."

It is a real alternative that can make headway in pollution-free energy production

With this clean air bill, we must send a message in the strongest of terms that pollution prevention is our ultimate objective. Process and front-end cleanup are the ways to minimize environmental degradation; back-end cleanup is inefficient and usually results in an environmental threat that has been transformed into another media: solid or liquid waste.

Tonight, the time certain by which the vote will take place on this bill, is the eve of the opening of Earthtech 90. This is the technology fair organized under the chairmanship of our colleagues, Senators GORE and HEINZ.

Renewable energy sources will be displayed as potential answers to tomorrow's questions.

Many of my colleagues may have seen the wind generator already constructed on the Mall on their trek today. The technology fair will have on display potential solutions, products, and strategies that will focus our sights on the achieving environmentally sustainable development: economic development and environmental protection in harmony.

This amendment provides us with a meager beginning to send this loud and strong message that we have begun to solve tomorrow's environmental problems today, that we have acted responsibly in fostering renewables, and that nonpolluting energy belongs in our national energy mix.

I urge my colleagues to support this amendment enthusiastically.

CLASS OF 85 AMENDMENT

Mr. JOHNSTON. Mr. President, I am pleased that my amendment has been included in the package of so-called "allowance" amendments laid down before the Senate. This amendment is co-sponored by Senators BREAUX, BENTSEN, BINGAMAN, WIRTH, BRYAN, BOREN, BUMPERS, COCHRAN, PRYOR, NICKLES, and GRAMM. The amendment affects only units that utilize natural gas greater than 90 percent of the time. Forty-five percent of Louisiana's electric generation is supplied by these very clean units.

Louisiana is a very clean State. Our average rate of SO_2 emissions is less than 0.2 bls./mmBtu, well below most other States. Much of our electricity is supplied by clean fuels such as natural gas and low sulfur coal. I am proud of Louisiana's efforts to protect the environment.

However, the substitute does not allow the very clean units that burn primarily natural gas the flexibility to burn oil in the event of a natural gas interruption. Interruptions are outside a utility's control and can occur in the course of normal operations or during an emergency.

The problem is most acute after 2010. During the years 2000 to 2009, gas units are provided allowances sufficient to permit them to burn oil 10 percent of the time. After 2010, these units would not be provided with the necessary allowances. Requiring clean fueled units to search out and purchase allowances from dirtier units in order to provide normal service to its customers is patently unfair.

My amendment ensures that utilities can burn oil in the event of a natural gas interruption that is beyond the control of the utility. It is good policy to encourage the continued use of clean fueled generation. This amendment does that.

I understand that this amendment is supported by the leadership and the administration. Furthermore, my amendment is fully consistent with the agreement—it does not increase overall emissions or "break the cap."

Mr. President, we all support clean air. My amendment is consistent with this objective. I thank my colleague, Senator BREAUX, and the rest of the committee for working with me on this.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum, and I ask consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, when I described the package amendment, I neglected to describe the McConnell amendment which also is included in the package. The amendment offered by the Senator from Kentucky would grant special allowance to the utilities forced to convert to coal in the 1980's under the Federal Fuel Use Act.

The package amendment is modified insofar as the scaled back original request. The original request from the Senator was 20,000 allowances. This package scales that down to 5,000. That 5,000 is included in the total number of allowances to be reallocated.

For the sake of full disclosure, it is appropriate to also mention the fact which does include that 5,000 allowances would be allocated. That request was made by the Senator from Kentucky.

I see the Senator from Maine on the floor. I yield 1 minute to the Senator from Maine.

Mr. COHEN. If I might have 1 minute. I thank the Senator.

Mr. President, we have arrived at a very historic moment in the Senate. For the first time in 13 years, we are poised to enact broad legislation that recognizes a need to take strong action in the control of air pollution.

There are a number of people on the floor at this moment I want to take a moment to commend. I commend the Senator from Montana, and also Senator CHAFEE for his extraordinary effort in holding this coalition together in support of the legislation.

The person most responsible for bringing us to this point is my colleague from Maine, Senator MITCHELL. I know that he has dedicated nearly 10 years of his life to bringing this legislation to a conclusion.

I commend the minority leader, Senator DOLE, because he demonstrated time after time that without his leadership and commitment to this legislation, it would not have been possible.

It is not possible to comment on the passage of this important legislation without also recognizing the strong leadership and commitment to clean air that Senator DOLE has demonstrated during our deliberations. We could not have passed a bill without the minority leader's support and dedication to this issue. The part he has played in ensuring cleaner air for this Nation's citizens must be acknowledged and praised.

Since we last enacted Clean Air Act legislation in 1977, we have witnessed the deterioration of our Nation's air, mostly as a result of the pollution we allow to spill from our cars, factories,

and power plants. More than 100 areas in our country now violate Federal standards for ozone; 40 areas violate the standards for carbon monoxide, and 58 areas violate the standards for particulate matter. The result is a serious, unavoidable health threat to millions of American citizens. In addition to the threat to human health, our air pollution problems have had adverse effects on our lakes, streams, forests, and they have caused the degradation of our national parks, to the detriment of all citizens.

The bill being considered by the Senate reflects a monumental effort, involving hours of debate, both on the Senate floor and in numerous meetings and conversations. The Senate leaders and floor managers have done an admirable job in bringing diverse views together in an effort to write legislation that takes strong steps to achieve clean air. I believe this legislation meets that goal, and I am pleased to support it.

There has been a lot of criticism leveled at this bill, and I have supported amendments to strengthen it in certain areas. But it is of premier importance, in my view, to pass a bill that is significantly stronger than existing law and moves us well toward the national goal of a clean and healthful environment. This bill accomplishes that. We must enact laws within the confines of reality, and the reality here is that significant opposition to approving a stronger act exists. We must enact clean air legislation now, we must do what we can to strengthen current requirements, and we must recognize the consequences of hlding out for an ideal bill. If we do not pass a bill now, our opportunity will be lost for some time. Our hardest work remains ahead of us as agreement with the other body must occur before enactment of a final law. So, let us move ahead now, and not lose the chance to strengthen current law.

The need for clean air has long been on the minds of Maine residents as they have witnessed the deterioration of their lakes and streams due to acid rain. And no matter how much the State worked at reducing the level of pollution causing acid rain, it was not enough. We have been forced to turn to those polluters in distant States whose emissions travel with the prevailing winds to the Northeastern States like Maine and to Canada. This bill's requirements for a 10-million-ton reduction in sulfur dioxide emissions and a 3-million-ton reduction in nitrous oxide emissions over the next 10 years will take us a long way toward seeing the improved health of our natural resources. In achieving these significant reductions, we have been able to hold fast to the important principle of "polluter pays."

We have been seeking acid rain controls for 10 years now, and the issue is a very familiar one to Mainers. During the 10-year span, however, an equally pervasive threat has drifted into Maine in the form of smog. During the summer of 1988, Acadia National Park, located many miles up the Maine coast, posted its first-ever health warning because the ozone level exceeded acceptable standards. This announcement came as a great shock to many who have enjoyed the beauty of Acadia and other parts of Maine. But the fact was that heavy smog, caused by the mix of auto pollution with heat and sunlight, and crept along the coast with increasing intensity until it seriously affected one of the Nation's most beautiful parks. As a result of that incident, many citizens in Maine now have even deeper concerns about the effect of other cities' pollution on Maine.

The requirements in this bill for cities and other nonattainment areas to come into compliance with accepted health standards are meaningful, and I hope they will be more successful than previous requirements have been. By imposing tighter tailpipe standards for cars, trucks, and other vehicles, by requiring incremental progress over a specified period of time, and by getting a better handle on the number and type of pollution sources that exist, polluted areas, including those in Maine, should be able to come into compliance within the timeframes specified.

In addition to urban smog, auto emissions, and acid rain, the bill also addresses a number of other important air pollution issues.

One of the most health-threatening forms of air pollution comes in the form of toxic air emissions from a wide variety of sources. Some emissions occur on an everyday basis, while some are a result of accidents that often have drastic consequences. The EPA has done a woefully inadequate job of establishing emissions standards for the hundreds of toxic pollutants that exist. In 18 years, the Agency has regulated only some sources of seven chemical pollutants. Several hundred chemicals remain unregulated, to the detriment of human health.

The bill requires the EPA to set health-based standards for approximately 200 hazardous air pollutants, and then define sources of those pollutants for the purpose of implementing the standards. All sources must install the strongest technology available. After this occurs, the EPA must then review emission levels to determine whether a significant health risk continues to exist despite the application of the best technology. If that health risk does exist, the source must achieve further reductions so that the risk to human health is reduced.

This new air toxics control program is a very significant step forward in the effort to control air pollution. I believe it will result in significant improvements in the protection of human health from cancer risks and other threats.

Another important problem tackled by the bill is the pollution that has caused the deterioration of the ozone layer in our upper atmosphere. The bill mandates the phase-out of the use of chlorofluorocarbons by the year 2000 and prohibits the use of HCFC's by the year 2015 for new uses and by 2030 for existing uses. While this sets the United States on a unilateral course toward eliminating the use of these chemicals, it is an important course because we generate a significant amount of the world's total. International negotiations to eliminate this global threat will proceed, with the United States in the lead.

From letters I have received in my office, and through an Earth Day contest I have sponsored for Maine students, it is obvious that our children are deeply concerned about the environment. They believe a clean environment is crucial to their successful future, and they are watching what their parents and other adults do to ensure an improved environment.

I hope that enactment of this legislation will enable us to show our children that we adults can make an effort to improve the environment. The challenge is a great one, but the time is at hand. Passage of this bill is in all our interests, but particularly because of our children. They deserve no less.

Mr. BAUCUS. Mr. President, I think the managers are prepared to yield back the remainder of the time.

The PRESIDING OFFICER (Mr. BRYAN). Is all time yielded back? The Chair is inquiring as to whether all the time is yielded back.

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1453) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that on the table.

The motion to lay on the table was agreed to.

ACID RAIN TITLE

Mr. BUMPERS. Mr. President, I want to turn the attention of the managers of the bill to title IV, the acid deposition provisions, and in particular to sections 403, 405, and 406. I would like the managers' help in understanding: First, the language in section 403(a) dealing with pro rata reductions of allowance allocations; second, the language in section 405(a)(2) on pro rata reductions of allowance allocations; and three, the way in which the reserve fund in para-

graph 405(a)(2) integrates with other provisions of section 405 and section 406.

My specific concern is how the provisions would affect Arkansas' clean coal units. First, am I correct that in the year 2000, when phase II of the Acid Rain Program begins, total utility emissions of sulfur dioxide will be capped at 8.90 million tons and that a total of 8.90 million allowances will be allocated to affected utilities across the country? Second, that from the years 2000 through 2009, the EPA Administrator will have a reserve of up to 5.30 million extra allowances, or 530,000 allowances annually, to distribute to affected utilities according to applicable provisions of the bill? Third, that this reserve is funded so to speak, with reductions in emissions of sulfur dioxide achieved in the year 2000.

Mr. BAUCUS. Yes, the Senator is correct.

Mr. BUMPERS. So there are two sources of allowances available to the Administrator during the years 2000 through 2009, one totaling 8.90 million a year, the other a temporary reserve totaling up to 530,000 a year. After the year 2009, total allowances would be limited to 8.90 million. Who did the drafters of the Mitchell-Dole substitute intend to be the recipients of these reserve allowances?

Mr. BAUCUS. One purpose of the reserve is to accommodate—to the greatest extent possible—the allowance requirements of the so-called Class of '85 utilities—i.e., those with 1985 emissions rates below 1.2 lbs/mmBtu—which, because of low utilization during the 1985-87 baseline period, would not be able to get the full benefit of the Class of '85 allowance allocation—which is based on 1985-87 utilization. It is also intended to provide allowances to clean States as defined in section 406, and to the utilities operating at a higher than 1.2 lb. rate that also had low utilization in the baseline period. Many of these are in the Midwest and the Southeast.

Mr. BUMPERS. Arkansas' utilities are among those utilities with a Class of '85 problem. All of our coal-fired units have emissions below 1.2 lbs. mmBtu and are therefore covered by section 405(d) of the substitute amendment. In addition, Arkansas would qualify as a clean State under section 406. I understand that the Environmental Protection Agency has estimated how many allowances each State will qualify for under the substitute amendment. Can the managers tell me how many allowances Arkansas will be eligible for: One, if our Governor elects to have the Administrator allocate allowances under section 406; and two, if the Governor does not so elect?

Mr. BAUCUS. According to preliminary EPA estimates, between 2000 and 2009, Arkansas would receive approximately 95,000 allowances if it elects to come under section 406 and 91,000 allowances if it does not. After the year 2009, Arkansas would continue to receive about 91,000 allowances under the compromise. As a result of Senator JOHNSTON's amendment providing for additional allowances to gas-fired units beyond 2010, however, the number of Arkansas allowances will be greater than 91,000 after 2010.

Mr. BUMPERS. A further point of clarification, under the technical amendments to be proposed by the managers and circulated last week, do the managers intend that clean coal units that elect to come under 405(d)(3)(A)(ii) and B(ii) will not draw allowances from the reserve, created pursuant to section 405(a)(2), for the 2-percent baseline boost?

Mr. BAUCUS. The Senator is correct. The 20-percent baseline boost available to clean coal units can be accommodated within the 8.90 million pool of allowances.

Mr. BUMPERS. Now, section 403 authorizes the Administrator to make pro rata reductions in allowance allocations in order to assure that total annual emissions from utility units do not exceed 8.90 million tons. Section 405(a)(2) authorizes the Administrator to make further reductions in the allowance allocations for each affected utility if he finds that there are not 5.30 million tons of reductions in the year 2000. In other words, Arkansan units could be subject to two so-called rachet provisions—one to get down to 8.90 million tons, and a second to ensure that the reserve created pursuant to section 405(a)(2) contains 5.30 million allowances at the outset even if less than a 5.30-million-ton reduction is achieved in the year 2000. I am very concerned about these potential reductions because my utilities will be counting on every one of those 95,000 allowances in order to operate their clean coal units.

What assurances can the managers provide me that when all of the allocation formulas—other than those allocations from the reserve—are computed for the eligible utilities under this bill, they will not total more than 8.90 million?

Similarly, what degree of confidence do the managers have that there will be 5.30 million tons of emissions reductions to fully fund the section 405(a)(2) reserve in the year 2000? Can the managers provide me with an estimate of the margin of error in that number?

And, since the Administrator's obligation to issue 530,000 allowances from the reserve each year 2000-2009 appears to be absolute, where will the allowances come from to fully fund the reserve if there is not a full 5.30-million-ton reduction in 2000?

Finally, what is the worst case scenario for a pro rata reduction of allowances? And what share of that reduction would be assigned to Arkansas?

Mr. BAUCUS. As the compromise was introduced on March 5, we had a high degree of confidence that the allocation formulas in title IV would result in the allocation of no more than 8.90 million allowances. However, during the course of the debate, Senators have offered, and in some cases we have accepted, amendments that would increase the total number of allowances to be allocated beyond a total of 8.90 million tons. These, of course, would result in a pro rata reduction of each unit's allocation, so that the total number of allowances issued pursuant to all the allocation formulas, including those added by the amendments, would not exceed an 8.90 million total.

As for the level of emission reductions achieved in calendar year 2000, there are several factors that could prevent the Acid Rain Program from achieving 5.30 million tons of SO_2 emissions reductions in 2000. First, bonus allowances awarded to phase I units that use scrubbers could be applied by units in lieu of making actual reductions in that year. Second, some units that qualify for the compliance deadline extension granted for the use of clean coal repowering technology would not be making expected reductions in 2000.

In some ways, I believe I have described the assumptions that would underly a worst-case scenario, but one other should be noted and that would be massive noncompliance by the utilities themselves.

Arkansas' stake in this can be described as follows: Arkansas utilities receive 1 percent of the 8.90 million allowances. For each increment of 10,000 allowances that would have to be reallocated pursuant to any pro rata reduction necessary to maintain the 8.90 million allowance limit, Arkansas utilities would lose 100 allowances, or 1 percent of the total reallocated.

Mr. BUMPERS. I thank the Senator for his explanation, although the scenario he describes makes me very uncomfortable. I would again urge the managers and the conferees on this bill to do everything they can to protect the interests of the clean Class of '85 utilities and the clean States such as Arkansas.

Mr. CONRAD. I would like to ask the floor manager to clarify some aspects of the NO_x amendment offered recently by Senator LOTT. First, it is my understanding that low NO_x burners are not effective in controlling NO_x emissions from cyclone boilers.

Mr. BAUCUS. That is my understanding.

Mr. CONRAD. I would ask further whether the amendment is intended to

require selective catalytic reduction technology on cyclone boilers.

Mr. BAUCUS. The intent of the amendment is to require NO_x controls that are reasonable in cost. If the cost of selective catalytic reduction were to remain in excess of low NO_x burner technology, such technology would not be required for cyclones. There have been significant changes in the types and costs of NO_x controls and we do not know what the most effective controls will be at the end of the century.

Mr. CONRAD. I thank the floor manager.

Mr. KOHL. There are provisions in the clean air bill regarding carbon monoxide nonattainment which may subject two areas of the country to transportation controls when such controls may not be necessary to achieve clean air standards. I am referring to Oshkosh, WI and Steubenville, OH.

Mr. GLENN. The States of Wisconsin and Ohio are currently attempting to bring these two areas into compliance by requiring extensive controls on emissions from stationary sources located in those areas.

Mr. METZENBAUM. I would also like to point out that in my State of Ohio emissions from one steel company appear to be the primary source of the carbon monoxide exceedences.

Mr. KASTEN. The problem in Oshkosh, WI is primarily due to carbon monoxide emissions from inboard and outboard marine engines tested along the Fox River.

Mr. GLENN. It is my understanding that both States are bringing these sources under control and expect to have them in compliance in the near future.

Mr. METZENBAUM. We have letters from EPA Region V which recognize that stationary sources are the primary contributors to the carbon monoxide problems in these areas. I ask unanimous consent that these letters be printed in the RECORD.

Mr. KOHL. We believe that these areas are unique and that transportation controls may be inappropriate. Could the Senator from Montana give his interpretation of this legislation as it affects these two areas?

Mr. BAUCUS. The EPA letters indicate that with respect to these two specific areas, transportation controls may be unnecessary if stationary sources are deemed to be the primary contributor and are brought under control in a timely manner. This legislation should not alter this situation.

Mr. President, I ask unanimous consent that the letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Chicago, IL, March 23, 1990.

DONALD F. THEILER,
Director, Bureau of Air Management, Wisconsin Department of Natural Resources, Madison, WI.

DEAR MR. THEILER: This letter concerns the information sent to Region V on March 23, 1990, as well as technical materials submitted previously regarding carbon monoxide levels in Winnebago County. Based on our review of this information, it appears the carbon monoxide problem is attributable to a point source. If the Administrator in his final action supports our initial finding, then mobile source controls would not be required.

Region V is looking forward to working with your office in resolving this problem. Please contact me if we can be of further assistance.

Sincerely yours,

DAVID KEE,
Director, Air and Radiation Division.

ENVIRONMENTAL PROTECTION AGENCY,
Chicago, IL, March 29, 1990.

PATRICIA P. WALLING,
Chief, Division of Air Pollution Control, Ohio Environmental Protection Agency, Columbus, OH.

DEAR MS. WALLING: This letter concerns information discussed with Region V over the last 2 weeks regarding the carbon monoxide problem in Jefferson County (Steubenville) Ohio. Based on those discussions, we understand that the State believes that the carbon monoxide problem in this area is attributable to a point source. If after State submittal and United States Environmental Protection Agency review of the necessary technical materials, the Administrator, in his final action, supports this conclusion then mobile source controls would not be required in this area.

We are looking forward to working with your office to resolve this issue. Please contact me if we can be of any further assistance.

Sincerely yours,

DAVID KEE,
Director, Air and Radiation Division.

Mr. PELL. Mr. President, I want to make sure that the Clean Air Act, as amended, specifically targets a study of atmospheric deposition to Great Lakes and coastal waters to include coastal waters and coastal estuarine systems in New England.

The goals of this worthy study are spelled out in admirable detail, but I want to be sure that the phrase coastal waters includes our New England coastal systems both above and below the tidal zone.

In Rhode Island, for example, the effects of atmospheric deposition are felt first in our rivers and streams before they are felt in our beautiful Narragansett Bay.

Mr. BAUCUS. I thank the Senior Senator from Rhode Island, Mr. PELL, and I appreciate his concern. It is our intent to include New England's coastal estuarine systems in this study.

Senator CHAFEE. I too, want to assure my colleague, the senior Senator from Rhode Island, Mr. PELL, that his concerns have been met in this legislation.

Mr. PELL. I thank my colleagues for their prompt and favorable consideration.

Mr. BAUCUS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1454 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, on behalf of Senator HEFLIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is their objection to laying aside the pending amendment? Hearing none, the clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. HEFLIN, proposes amendment numbered 1454 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 248, line 18, after "units," insert the following:

"considering the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions and the costs of such technologies."

On page 249, line 3, strike "(C)" and insert "(D)."

On page 249, line 13, strike "(D)" and insert "(E)."

On page 249, line 24, strike "(E)" and insert "(F)."

On page 250, line 5, strike "(F)" and insert "(G)."

On page 249, line 3, before "(D)," insert the following:

"(C) The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than four years after the date of enactment of this paragraph, a study to determine the threshold level of mercury."

On page 249, line 9, after "paragraph." insert the following:

"The studies required by subparagraphs (A), (B), and (C) shall be placed in the relevant docket for any rulemaking that would establish emissions standards under subsection (d) for particulates or mercury from electricity utility steam generating units and shall be considered by the Administrator, along with other public comments, before any such standard is promulgated."

Mr. HEFLIN. Mr. President, this amendment deals with the regulation of electric utility steam generating units under title III of the Clean Air Act Amendments of 1989. As my colleagues know, the President's bill provided for a 3-year study of these emis-

sions, with a decision on regulations to be made after the completion of that study. The substitute which is currently being considered also contains a subsection that provides for studies of particulate and mercury emissions from utility units. It requires, however, that standards for these emissions be promulgated 5 years after enactment of this legislation. Under my amendment, which represents an important improvement in the substitute, the Administrator would consider the results of the very important EPA studies of particulate and mercury emission before setting any standards for these emissions.

The Administrator would also take into account an additional study which is required under my amendment. This study will be performed by the National Institute of Environmental Health Sciences which is a part of the centers of Disease Control [CDC]. Under my amendment, the Institute is asked to determine the threshold level of mercury. Based on that study and the other mandated mercury study, EPA will be able to determine if there is a need to set a human health based standard for mercury emissions under section 112(d)(4). On that point, I would like to submit for the RECORD a letter from Senator DURENBURGER, the author of much of this provision in the air toxics title which deals specifically with mercury emissions from powerplants. This letter specifically outlines the importance of subsection (d)(4) with respect to mercury emissions from this source.

While this clean air bill has been intensely scrutinized, I believe that through attention to these small details we have avoided the imposition of tremendous unintended and perhaps unnecessary costs to utility ratepayers while preserving or improving the environmental and health benefits we seek.

Mr. BAUCUS. Mr. President, the substitute amendment which is currently being considered contains a subsection that provides for studies of particulate and mercury emissions from utility plants. It requires that standards for these emissions be promulgated 5 years after enactment of this legislation.

Under the amendment offered by the Senator from Alabama, the Adminstrator would consider the results of certain EPA studies of particular and mercury emissions before setting standards for those emissions. Essentially, it would require certain studies be conducted and that the Administrator consider those studies before adopting requirements with respect to particulates of mercury emissions.

Mr. President, I am assured by the minority manager of the bill that this amendment is also acceptable to that side.

With that representation, I am prepared to yield back my time and, on behalf of Senator CHAFEE yield back his time, and urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The amendment (No. 1454) is agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 1455 TO AMENDMENT NO. 1293

Mr. WIRTH. Mr. President, Senator ARMSTRONG and I have an amendment numbered 1455 to the bill which has been agreed to on both sides. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to setting aside the pending question and conceding to the Senator's unanimous-consent request?

Hearing none, without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. Wirth] for himself and Mr. ARMSTRONG, proposes an amendment numbered 1455.

Mr. WIRTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 208, add a new subsection 211(e), as follows:

(e) ESTABLISHMENT OF A HIGH-ALTITUDE RESEARCH CENTER.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator shall designate at least one center at high-altitude conditions provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternate fuels and conversion kits, and the development of curricula, training courses and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.

Mr. WIRTH. Mr. President, this Armstrong-Wirth amendment concerns light-duty vehicle emissions research. As you know, there is an established center already doing this type of testing and research. It is the National Center for Vehicle Emissions Control and Safety [NCVECS] located at the Colorado State University in Fort Collins, CO. EPA has used the center since 1977 for research on this issue. Given the increased need for additional indepth information and intensive research on auto and light duty truck emissions (so as to continually work toward better policies for achieving cleaner air), it makes sense to continue the relationship between NCVECS and EPA. The purpose of this amendment would be to strengthen that relationship, and further EPA research goals in the light-duty emissions arena.

Besides its historic association with EPA, other important facts to note about NCVECS include:

The purpose of the center is to help States with research and training efforts in the area of vehicle emission control.

NCVECS is involved in the development of materials and training for almost all of the inspection and maintenance [I/M] programs across the United States.

Research efforts have ranged from conducting EPA's national tampering survey for the last 5 years, to in-house laboratory experiments for the State of Colorado on effects of diesel emissions on opacity at high altitude.

NCVECS has in-house FTP [Federal Test Procedure] capacity. This recently acquired equipment allows it to conduct high-altitude vehicle emission research.

NCVECS has a cadre of well-informed experts from a variety of disciplines available onsite.

NCVECS has the capability of conducting valid, independent, and unbiased research, without Federal, State, or local interference.

NCVECS has the facilities with sufficient potential and flexibility to accommodate necessary high-altitude equipment, vehicles and, personnel as required for a full, effective high altitude test center.

NCVECS has a 12-year reputation for excellence in vehicle emission training, development, and research.

NCVECS is located at high altitude as defined in the Clean Air Act.

This amendment is agreed to by both sides.

The PRESIDING OFFICER. Is there further debate on the amendment No. 1455 offered by the Senator from Colorado?

The Senator from Montana, Mr. BAUCUS.

Mr. BAUCUS. Mr. President, the majority and minority managers have had an opportunity to examine the amendment offered by the Senator from Colorado. It is a good amendment.

We accept it and yield back the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1455) is agreed to.

Is there a motion?

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WIRTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WIRTH. I thank the distinguished Republican leader and manager of the bill for their consideration.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, in a moment or two I am going to propose a modified Nickles-Heflin-Dole amendment as a substitute for titles V and VI of amendment No. 1293. This in most respects is the same permitting and enforcement amendment that was voted on by the Senate last week. We had two votes. We won the first vote and came very close on the second vote.

After the second vote I entered a motion to reconsider the vote. I am not going to call up that motion now. This will just be an amendment that will be offered under my reservation of the three leadership amendments. It will be one of those amendments.

I think there was a lot of misunderstanding what we intended and what our amendment actually does. The amendment preserves the strong environmental goals of this legislation but it gives greater certainty to the 50,000-or-so sources out there who will be covered under this bill so that they will not have to keep dealing with a changing set of requirements that are unnecessary to protect the public health and environment.

Our staffs—along with the White House, EPA, and Justice Department staffs—met with the committee staffs to address their concerns. A number of changes were made to meet these concerns, guaranteeing vital safeguards in the bill and providing strong enforcement authority.

In view of the late hour and how close we are to completing action on this important measure, as I have indicated I will offer a modified amendment for myself, the Senator from Alabama, and the Senator from Oklahoma, Senator HEFLIN and Senator NICKLES. In order to reduce the time of the Senate to be required to go through the reconsideration process this amendment changed from the original Nickles-Heflin-Dole amendment and that modification will be explained by the distinguished Senator from Oklahoma.

In brief we have added a new requirement for an approvable State permit plan. We have placed a 12-month time limit on the State agency for consideration of permit applications. This amendment would require the State to grant or deny an application for a permit or a permit renewal within 12 months of the date the application was determined to be complete.

We had intended that the EPA would set an appropriate time limit for State approvals. However, during the debate on this amendment, it became clear several Senators preferred to set a reasonable time for the legislation rather than defer setting the deadline to EPA.

This change helps the sources waiting to be permitted and also helps the public. Sources will now be assured of timely notice from the State about what their requirements would be under the Clean Air Act.

The public and the environment will be assured that emission limits will be established by the State agency and imposed on sources within a set time.

The White House, EPA, and Justice Department—with whom we worked closely during the entire process—support the change. And I hope some Senators who voted against the amendment will listen carefully. There is not much time left for debate. This is an important amendment. Keep in mind it is going to affect 50,000 businesses and some are going to be in your State. We are not trying to undo anything. We are just trying to have a little more certainty and flexibility.

AMENDMENT NO. 1456 TO AMENDMENT NO. 1293

(Purpose: To insert a new title V and VI)

Mr. DOLE. Mr. President, I send the amendment to the desk, as I indicated earlier on behalf of myself, Senator HEFLIN, Senator NICKLES, and others.

The PRESIDING OFFICER. Is there objection to setting aside the pending question to amendment No. 1307?

Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. NICKLES, Mr. HEFLIN, Mr. NUNN, Mr. MCCLURE, Mr. MCCONNELL, Mr. SIMPSON, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. SYMMS, Mr. MURKOWSKI, Mr. ARMSTRONG, Mr. FORD, and Mr. SHELBY proposes an amendment numbered 1456.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, first I wish to compliment Senator DOLE and Senator HEFLIN. This is basically the same elements of the so-called Nickles-Heflin-Dole amendment which we discussed at length. Actually, I think we have discussed it at length over the last couple days, and we had a couple of close votes, and I think procedurally most of my colleagues are aware of the fact that this issue would be revisited.

I am hopeful that my colleagues will look seriously at the elements of the amendment. I believe we have had extensive debate. I do not expect to repeat all the debate that we have had in the past but to summarize. It is vitally important for the environment to have a permitting section that works, and to have an enforcement section that works.

This amendment is at the request of both the Administrator of the Environmental Protection Agency and also the Department of Justice. They have helped to write and develop this amendment because they want to have a system that will work.

We have made a couple minor modifications to the previous amendment, a couple of suggestions that were made by colleagues to make this a better section, to insure that the States will act promptly in making the decision on the permits. States will have to make a final determination on a permit application. Once that application is complete, the State permitting authority has to decide and act upon it in 12 months.

I think that is a positive amendment. It is a substantive amendment. It is an important amendment. So I hope my colleagues will look at that.

Again, we have crafted this amendment very carefully. Both sections work together. It is vitally important for the environment. Incidentally, if someone characterizes this amendment again and says this guts permitting and enforcement, they just do not understand the amendment. This amendment provides for significant enforcement. This amendment provides for a permitting section that will work.

Again I encourage my colleagues to think about this amendment, and I hope support it. If not, what we are going to have under the so-called Baucus-Chafee approach, or under the committee approach, is a logjam, a logjam of permits that are going to be stacked up at the EPA headquarters.

Businesses all across the United States are going to be filing permit applications, which they need to do under the law to be in compliance, but these applications may not be acted upon and therefore they may not be granted. Therefore, a lot of jobs, a lot of new construction that we would like to see happen in the United States, unfortunately will be happening in other parts of the country, or maybe will not happen in the United States. They will be happening in Mexico, or maybe in Canada, or in other countries. We do not want that to happen.

There are significant differences. I will highlight the major differences between the Dole-Heflin-Nickles

amendment and the so-called Baucus-Chafee amendment.

The differences are significant, one of which is that we allow a preference for construction permits, a preference. We do not want construction permits to be bogged down in the morass of waiting in line for approval by the permitting authority.

If the construction permit does not go forward, then the plant is not built, the expansion is not made. That is the reason, I tell my colleagues, the majority leader and you others, the building and trades industry of the AFL-CIO supports our amendment, because they want to see jobs in the United States, not just jobs exported into other countries. So that is an important provision.

We also provide in our amendment some operational flexibility for companies so they can change some of the various compositions of their work product and make those changes. Unfortunately, under Chafee-Baucus it cannot happen. So if a company that produces a wide variety of products needs to make some changes, they have to go file a permit application. If that permit application is not acted upon, they cannot get a permit, they cannot make changes, they cannot be competitive, they lose jobs. And we do not want that to happen. We want the jobs to stay in the United States. We want U.S. firms to be environmentally safe, but we also want to be competitive. We want jobs in America and we want to minimize the job loss.

So companies need the operational flexibility. Our amendment provides that. Unfortunately, it is not provided for under the Baucus-Chafee approach.

Another major difference—and maybe the Senator from Alabama [Senator HEFLIN] would like to allude to this—but under the Baucus-Chafee approach, citizens can take an action against EPA discretionary decisions, and to me I think that would be a serious mistake.

What we will have under the Baucus-Chafee approach is that permit decisions, when people are filing for permits, et cetera, they will have people challenging EPA for making a discretionary decision. And so when EPA makes that decision and a citizen group may bring suit and maybe the citizen group has environmental concerns but it could be, or it might be some organization that is not really interested in any change whatsoever—they can file suit against EPA for making that discretionary decision. We would not do that under the Dole-Heflin-Nickles amendment.

There are very significant differences between our amendment and the Baucus-Chafee amendment. Our amendment certainly does streamline the process and I think would make the permitting and enforcement process work.

Again, we have support by the Department of Justice, we have support by EPA, we have support by the Chamber of Commerce, the NFIB, the National Association of Manufacturers, the building and trades industry of the AFL-CIO. It is a good, solid, well-reasoned, well thought out amendment that will help make the permitting and enforcement section work.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Chair would inquire of the sponsors of the amendment, who controls time?

The proponents have 5 minutes 45 seconds as offered by the distinguished Republican leader.

Mr. DOLE. I yield control of the time to the Senator from Oklahoma.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I am happy to yield to my colleague from Alabama such time as he requires.

Mr. HEFLIN. Mr. President, I will not take long. We voted on this twice. I think everybody knows what the issues are and I think we might as well go ahead.

There has been a change made to go back to the Environment and Public Works Committee. When a State agency does not act on a permit within 12 months, then the industry is caused to cease to operate.

I have argued previously and I have called this the cross-examination amendment. If you believe that fairness dictates that you ought to have a right of cross-examination, then you will vote for the Nickles-Heflin-Dole or the Dole-Heflin-Nickles, however it might be arranged. I think it is basic fairness. I think everybody knows the issue, everybody has made up his mind, and I think we ought to go ahead and vote.

Mr. BAUCUS. Mr. President, how much time is remaining on each side?

The PRESIDING OFFICER. Twelve minutes and 24 seconds on your side, and 3 minutes 39 seconds on behalf of those who offered the amendment.

Mr. BAUCUS. Mr. President, I yield myself 3 minutes.

Mr. President, it sounds like this is the same amendment. There may be some minor modifications, but from the statements of the Senator from Alabama and the statements of the Senator from Oklahoma, it sounds like virtually the same amendment earlier offered by the Senators from Oklahoma and Alabama which would extend the permit shield provisions so broadly as to, in effect, allow a source to pollute on matters that are not covered by the permit that would be issued by the permitting agency.

Second, it sounds like the amendment also contains a long list of opportunities to review an enforcement decision made by the permitting agency. The substitute bill before the Senate goes further than current law in bending over backward to give sources the opportunity for preenforcement review, much beyond current law. The earlier Nickles amendment, and it is apparent it is the same Nickles amendment, has this long service of four, maybe even five levels of review which in many respects is a lawyer's relief act and would very much prevent the enforcement provisions of the Clean Air Act.

In addition, Mr. President, subsequent to the earlier debate on the Nickles amendment, the Senate did agree to a modification which made it clear the discretionary action by the Administrator or the permitting agency would not be subject to a citizen suit.

Mr. NICKLES. Will the Senator yield?

Mr. BAUCUS. Very briefly.

Mr. NICKLES. Did the Senator state that a modification has already been made?

Mr. BAUCUS. That is what the Senator said.

Mr. NICKLES. Did the Senator say that applied to all four? There are four different sections that applied to EPA discretionary authority that allowed citizen suits, under the original Baucus-Chafee approach as discussed by Senator SPECTER, that allowed citizen suits against EPA on discretionary activity.

Does the Senator take care of each one of those sections?

Mr. BAUCUS. I might say to the Senator further, the reason for opposing this amendment is the Senator's amendment is coming up at such a late date. I do not know what is in the Senator's amendment. The Senate does not know what is in the Senator's amendment. So it is hard to know which, or agree to which earlier modification applies to the Senator's amendment.

We have already voted on this amendment several times. Under the last vote we defeated it. Very simply, the Clean Air Act means nothing if it cannot be enforced.

The amendment offered by the Senator from Oklahoma very dramatically reduces the enforcement provisions of this bill. And if enforcement provisions of this bill are diluted to such a degree as propounded by the Senator from Oklahoma, then many of the provisions of the Clean Air Act will be virtually useless. It will not amount to anything.

If we are going to clean up this Nation's air, Mr. President, if we are going to successfully enforce the provisions of this bill, we have to have enforcement provisions that work, that gives rights to people of this country

to be sure, as much as possible, that the air is going to be cleaner than it otherwise might be.

For those reasons, Mr. President, and others we debated earlier, I strongly urge the Senate to reaffirm its last vote. And the last vote was to reject the Nickles amendment.

The VICE PRESIDENT. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask for 3 minutes.

Mr. BAUCUS. I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we voted on this amendment a week ago today. And now at 2 minutes of 8 when the final gun goes off, when there is no time for further discussion or even investigation, we are presented with a 32-page amendment.

The distinguished Republican leader says it is different. The distinguished Senator from Oklahoma says it is not different; we ought to know what is in it because it has not changed much. And that is what the Senator from Alabama said. I do not know whether it has or has not changed because you would have to be a magician to look through this and determine whether it is changed or not.

Mr. President, the Nickles amendment preempts State actions in citizens suits to enforce new requirements. It makes compliance with the permit a complete defense. When we are talking about shields, we are talking about somebody who gets the permit, and then that is a shield, nothing else can take place, even though it would prevent the State, the only way they could make changes is if they found actual harm to public health.

Now, actual harm, what does that mean? Somebody drops dead from the emissions that have arisen? Furthermore, we have not yet taken care of the citizen suit provision that is in this amendment. I assume. Who knows? Nobody has read it. That permits the Federal Government to come in at the last moment and stand in the shoes of the citizen who has brought this suit all the way from the beginning. The citizen has to notify the Federal Government, "Look, I am going to sue that polluter."

The Federal Government says, "No, you go ahead. We do not want any part of it."

So the citizen, at his own expense, takes this case all the way up through even the circuit court, and just as he is going to get the final award the Federal Government steps in and says, "We are stepping in. We are going to take over." Big Brother is coming in.

That is not fair at all. Everybody recognizes that.

So, Mr. President, for the very same reasons that we voted to reject this amendment a week ago today, I ask we do the same thing tonight.

The VICE PRESIDENT. Who yields time?

Mr. NICKLES. Mr. President, how much time is remaining?

The VICE PRESIDENT. The Senator from Oklahoma has 3 minutes and 39 seconds. The Senator from Montana has 6 minutes.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, just to make a couple of final comments. My colleagues from Montana and Rhode Island said that there were some changes. But it is interesting to note they said that they were willing to make some changes in their amendment because they do not think that EPA should be able to be sued for making discretionary decisions. But it is uncertain whether that change had been made yet. And it is uncertain whether it applied to all four sections. I think it is vitally important that when the change is made, that it apply to all four sections.

I have a letter from the Attorney General. I will put it in the RECORD. But the Attorney General said that under Baucus-Chafee EPA would be sued for making discretionary decisions. EPA is going to make thousands and thousands of discretionary decisions under either proposal. But if we allow EPA to be sued every time they make a discretionary decision, the whole permitting process is just going to be bogged down with litigation.

So with the Baucus-Chafee approach, if we do not amend it as requested by the Attorney General, we are going to have litigation galore, and that will not help the environment. What we will have is EPA using their precious resources defending themselves instead of going out after the polluters.

Then I heard my colleague say, well, this guts compliance, this guts enforcement. That is totally false.

I have on this chart, and we are about out of time, but we have a formal review by an administrative law judge. If he agrees with EPA that there is a violation, that polluter has to stop.

Under the Chafee-Baucus approach, they have an informal review by an EPA employee, a bureaucrat. That bureaucrat can impose fines, $25,000 a day, shut down businesses, put people out of work. This can be appealed under Chafee-Baucus. It can be appealed to the circuit court. There are not very many circuit courts. A circuit court has a three judge panel. Under our approach, it goes to the district court. There are many more district courts. There is only one judge. It is a much more expedited procedure.

Incidentally, I might mention under Chafee-Baucus, if they decided they needed to order a source to comply, they could not. They would have to remand it back to the district court which has injunctive authority. We are already at the district court, so if the district court wanted to issue an injunction and say "Polluter stop," they would have to stop. So ours would be a much more streamlined process. It is a process that would work.

This was not dreamed up by Senator NICKLES. It was put together by the Justice Department. They used a lot of common sense. It would provide real enforcement. So those people who say this amendment lacks enforcement or would gut enforcement do not understand the amendment.

This is a good amendment. It is one which is proenvironment. It will help the environment, and I hope my colleagues will support it.

I reserve the remainder of my time.

The VICE PRESIDENT. Who yields time?

Mr. CHAFEE. I will take 30 seconds.

Mr. BAUCUS. I yield 30 seconds to the Senator from Rhode Island.

The VICE PRESIDENT. The Senator from Rhode Island is recognized for 30 seconds.

Mr. CHAFEE. We always worry about those who are out in the firing lines, and there has been talk about whether this is easier to enforce or is not. The statement is pro environment.

Here is a letter from the State and Territorial Air Pollution Program Administrators, those who have to enforce the law, and they write: We urge you to oppose the Nickles-Heflin-Dole amendment.

The people who have to enforce the law, this is what they have to say.

Mr. NICKLES. Will the Senator yield? They do not enforce the law. It is the Justice Department that enforces the law and EPA enforces the law. It is not them. They implement the law.

Mr. CHAFEE. There is no question about it, and they are opposed to your amendment.

The VICE PRESIDENT. The Senator's 30 seconds have expired.

Mr. DOLE. When is the letter dated?

Mr. CHAFEE. The 26th. It has not changed.

The VICE PRESIDENT. Who yields time? If no one yields time, the time is deducted equally from both sides.

Mr. NICKLES. How much time do I have remaining?

The VICE PRESIDENT. The Senator from Oklahoma has 58 seconds. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, my colleague mentions a letter by some group that was dated some time ago. That letter came out about the same day we made the original modification. We made modifications to this bill to make it work better.

I think it is vitally important, again, to emphasize to my colleagues that we need a permitting program and an enforcement program that works.

I might mention that the original language was written by EPA and the Department of Justice. They studied it and they said, "Wait a minute, we need to have this more in concert with the Clean Water Act."

They made some mistakes in the Clean Water Act, so they have learned from that.

So both the Justice Department and EPA said, let us learn from our mistakes. Let us come up with a better, more streamlined approach that will help implement the Clean Air Act. And that is what this Senator wants to do. I want to have a Clean Air Act that will work. Frankly, I have been told by enough people, including the administration, including the people who have to enforce the act, that changes need to be made. The companies will be stacked waiting in line for permit applications that will cost jobs in the United States. We do not want that to happen.

The VICE PRESIDENT. The time of the Senator has expired. The Senator from Montana.

Mr. BAUCUS. I yield myself 1 minute.

Mr. President, despite what the Senator from Oklahoma says, it is the judgment of this manager of the bill that this is, in fact, a gutting amendment. There is no question about it. This amendment very dramatically dilutes the enforcement powers of the permitting agency or the appropriate enforcement officials. It also makes it very difficult for people of this country to try to enforce the provisions of this bill. It will be difficult having these provisions enforced. This is a gutting amendment.

I must say, Mr. President, in the West we also call this an ambush. Here it is, a few minutes before the final hour. It is a 34-page amendment. Nobody has a chance to read the amendment. This is an ambush. Frankly, Mr. President, I think this ambush should be rejected for the tactics that are being used here, let alone the provisions of the amendment.

Mr. President, I yield the remainder of my time to the majority leader.

The VICE PRESIDENT. The majority leader is recognized for 3 minutes and 8 seconds.

Mr. MITCHELL. Mr. President, I urge my colleagues to reject this amendment. A Senator who votes for final passage of this bill, and votes for this amendment, is voting to create an authority on one hand and then to make it difficult to enforce that authority on the other hand. The two go together. A right that cannot be enforced is not a right. An authority that cannot be exercised is not an authority.

The issue here is whether we are going to, on the one hand, create the impression of dealing with the problem of clean air and then take the authority away from the EPA.

The Senator from Oklahoma cited a list of people who favor his amendment. Here is a letter from those who have to enforce the law, the State and Territorial Air Pollution Program Administrators, the Association of Local Air Pollution Control Officials. They oppose this amendment. They are the ones who are charged with the responsibility of enforcing the law and they know what impediments this will create to that authority.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STAPPA/ALAPCO,
Washington, DC, March 26, 1990.

Hon. JOHN H. CHAFEE,
U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR CHAFEE: Last week, on behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we wrote to you expressing our concerns with an amendment—authored by Senators Don Nickles, Howell Heflin and Robert Dole—that would significantly weaken the permitting program proposed by you and other Senate leaders. Since that time, the Nickles-Heflin-Dole amendment has been changed in several respects. However, notwithstanding these recent changes, STAPPA and ALAPCO still have some significant concerns.

Perhaps our greatest concern with the most recent version of the Nickles-Heflin-Dole amendment is that it prohibits permitting agencies from revising the requirements of a permit during its five-year life unless it can be demonstrated that there is "actual harm to public health." As we stated in our earlier letter, this provision could easily allow a permitted source to escape regulatory requirements for almost five years, if such requirements are issued after a source has obtained its permit.

This provision clearly represents not only a significant relaxation to our existing permitting program, but also a loophole that would impede state and local efforts to ensure the timely and effective control of sources of air pollution. STAPPA and ALAPCO urge you to oppose the Nickles-Heflin-Dole amendment.

Sincerely,

BRADLEY J. BECKHAM,
STAPPA President.
JAMES M. LENTS,
ALAPCO President.

Mr. MITCHELL. I specifically and categorically reject the argument presented by the Senator from Oklahoma that the Baucus-Chafee amendment permits citizen suits for discretionary acts. It does not do so. That is an erroneous argument. It is misplaced. It does not describe what is in this bill, whether the Attorney General says it or not.

He is just another person and another lawyer, and his opinion counts for no more than any individual Senator's, especially since the Attorney General is obviously pursuing the policy of the administration.

I can assure my colleagues, if the policy of the administration were in favor of this amendment they would have a letter from the Justice Department saying that it did not provide such authority for such suits, and every Member of this Senate knows that.

Finally, Mr. President, let me say it is hard to reach changes in a 32-page amendment presented 22 minutes before the hour a week after it was debated. But so far as I can see, one change made in the amendment is that it makes it easier for citizen suits to occur than it did under the original Nickles-Heflin amendment. By imposing the 1-year deadline, that creates a threshold within which citizen suits can then be maintained that would not have been possible under the Nickles-Heflin amendment, as proposed.

So in that one respect, the amendment changed, as far as I can tell, and this was a very quick review because we only had the amendment 20 minutes ago. It makes it easier to bring citizen suits than was the case in the original Nickles-Heflin amendment.

Basically, I say to Members of the Senate, there is one issue here. Do we want to enforce the law once we pass the law? Do we want to give the EPA the tools to do what we say we want them to do when we enact the clean air bill? That is the issue here.

A vote against this amendment is a vote to enforce the law that we are about to enact. A vote for this amendment is a vote to say we are creating this authority, but we want to make it tough to have it implemented.

I urge the defeat of this amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. All time has expired. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, since last week I have availed myself of the opportunity to more thorough study to the issues raised by the Nickles amendment. As a result of extensive discussions with Senators on both sides of the issue, and a thorough review of legal concerns raised by the Department of Justice, I have concluded that the Nickles amendment does in fact represent a necessary improvement to the clean air bill.

In particular, the Justice Department has demonstrated the serious problems that would be raised by the bill's provisions regarding citizens' suits based on violations that occurred wholly in the past. Under current law, which I support, citizen plaintiffs can sue for past violations which may

recur, or which present the possibility of additional or continuing harm. However, in the Supreme Court's decision in the Gwaltney case, the Court held that under the identical provisions of the Clean Water Act, citizen suits are not authorized for purely past violations which present no prospect of recurrence or continuing harm. Thus, if the past violator has put in place remedial measures that clearly and conclusively eliminate the cause of the violation, there is no valid basis for a citizen suit.

This reasoning is especially compelling since the citizen plaintiff lacks constitutional standing to sue for a past violation which presents no prospect of present or future harm. Three members of the Supreme Court stated in Gwaltney that a plaintiff would have no standing under the Constitution to sue a defendant which is in full compliance when the suit was filed. I see no reason to jeopardize the constitutionality of the citizen suit procedures with a questionable authorization of citizen suits for wholly past violations.

Further, I note with approval several changes the Senator from Oklahoma has made which clearly improve his amendment. First, it establishes a deadline of 12 months for States to approve permits. Under the Nickles amendment, as modified, if a State does not approve a permit within 12 months then a right of action is created to force the State to act. This is an important improvement over the previous Nickles amendment which had no such deadline.

Further, the amendment has been modified so that permits within the bill could be modified if they pose "actual harm to public health or the environment." The addition of the word "environment" significantly modifies the standard against which the Administrator of the EPA would make his decision to seek changes to existing permits.

At another point in the Nickles amendment, as pending before the Senate, there is a provision to give States the authority to modify permits to protect against a "serious risk to public health or the environment." Again, this language has been changed to add the words "or the environment."

I recommended these changes to the Senator from Oklahoma, and I am pleased that he accepted them. In my view, they are improvements over the Nickles language last considered by the Senate.

Mr. BIDEN. Mr. President, I would like to address generally a few of the enforcement issues raised by my colleagues during debate on the amendment offered by Senators NICKLES and HEFLIN.

When the details of the enforcement title were first made available, I raised concerns about some of the details. Perhaps the most glaring one was a section everyone agreed was an unintended mistake, the provision that has been described as potentially resulting in 50 years in jail for a bookkeeping error.

The negotiations organized by the Senate leadership did not address the enforcement provisions, but the Environment Committee leadership worked to resolve many of the issues involved in separate meetings. As changes were proposed in the enforcement title, many of the provisions I viewed as problematic were fixed, including the risk of an unintended bookkeeping error landing a small business owner in jail. New proposals from both sides that I believe would have been wrong to adopt as part of our Nation's environmental policy were dropped or modified.

During the course of those efforts, I heard what the administration wanted in the title, what industry wanted, but most important what the public needs to have confidence that the other sections of this bill are implemented in a timely manner. Title VI of the leadership amendment balances those often conflicting interests. I have remaining concerns, but with the administration's proposals as the alternative at this time, we should stick with the provisions of the leadership amendment.

I heard during earlier debate that changes are needed to make the enforcement provisions workable. I am not sure what was meant by workable, but I am concerned that it meant that the bad actors, polluters who have raised fighting environmental compliance to a miserable art form, would have many more opportunities than justified to delay compliance with environmental standards.

I heard my distinguished colleague from Wyoming, Senator SIMPSON, remark on the recent trial of Captain Hazelwood, captain of the *Exxon Valdez*, noting that the emotions of the moment can overwhelm a commitment to justice. But the review process for administrative orders in the leadership amendment allows for the orderly and factual review that is so important.

The leadership amendment allows for fast action by the Environmental Protection Agency in emergency situations, when the public's health is threatened. That is only prudent and no one disagrees with that authority. But for the more insidious cases, the slower acting ones in which the public's health is at risk over the long term, no rush to decision is allowed. Title VI allows for review by the Environmental Protection Agency and for court appeals after a decision is made, but it balances these protections with a determination that delay for delay's sake will not be allowed.

I also heard charges that small businessmen could be thrown in jail for failing to maintain records that are not even considered material to reports required for the EPA. This charge illustrates one of more frustrating aspects of the debate over the enforcement provisions. Many of the characterizations of the enforcement provisions do not reflect what is contained in the leadership amendment. To set the record straight, under the leadership amendment, a person knowingly would have to make a false material statement or knowingly fail to file material information to be subject to penalties.

Throughout the amendment proposed by Senator NICKLES, I find a recurring notion that industry demands some higher level of protection than individuals can expect to receive. The leadership amendment establishes conditions in which reasonable people will reach different conclusions. Some of those conclusions may be in industry's favor, others will not. Companies will have the chance to make their case. But we cannot create a situation in which polluters have all the advantages.

When the enforcement provisions of the original bill are compared to what the adminstration asked for, it is obvious that the committee came a long way to accommodate their conerns. When the enforcement title of the leadership package is compared to what we need to protect the legitimate rights of individuals and companies, the title assures there will be no "kangaroo courts" on environmental compliance questions.

And when the enforcement title is compared with the desire of the public to see their air cleaned up, the title in the leadership amendment leaves greater assurance progress will be made.

As was stated in earlier debate, the enforcement and permitting titles of the Clean Air Act are the heart of the law. Tough standards and deadlines are meaningless if we have no way to push companies to meet them, or impose proper penalties if they ignore them. I support the provisions of title VI of the leadership amendment and urge my colleagues to continue to reject the administration's proposals should they again be voted on by the Senate.

The VICE PRESIDENT. The question is on agreeing to amendment No. 1456, offered by the Republican leader.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—49

Armstrong	Glenn	Murkowski
Bond	Gorton	Nickles
Boren	Gramm	Nunn
Boschwitz	Grassley	Robb
Burns	Hatch	Rockefeller
Byrd	Heflin	Roth
Coats	Heinz	Rudman
Cochran	Helms	Shelby
Conrad	Humphrey	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
DeConcini	Lott	Symms
Dixon	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Ford	McClure	
Garn	McConnell	

NAYS—51

Adams	Fowler	Matsunaga
Baucus	Gore	Metzenbaum
Bentsen	Graham	Mikulski
Biden	Harkin	Mitchell
Bingaman	Hatfield	Moynihan
Bradley	Hollings	Packwood
Breaux	Inouye	Pell
Bryan	Jeffords	Pressler
Bumpers	Johnston	Pryor
Burdick	Kennedy	Reid
Chafee	Kerrey	Riegle
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Dodd	Leahy	Simon
Durenberger	Levin	Wilson
Exon	Lieberman	Wirth

So the amendment (No. 1456) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, we are now past 8 o'clock. Theoretically, other amendments are in order but I am unaware of any amendments that Senators have to offer at this point. Mr. President, I see the Senator from Wyoming on the floor. He may have an amendment.

The VICE PRESIDENT. The Senate is not in order.

Mr. SIMPSON. Mr. President, we have reviewed the procedural situation, 10 minutes equally divided on any remaining amendments. It that correct?

Mr. BAUCUS. That is correct.

Mr. SIMPSON. I will proceed so that our Members can get about the evening's business. I see some very nattily attired.

AMENDMENT NO. 1457 TO AMENDMENT NO. 1295

Mr. SIMPSON. I send an amendment to the desk, and ask for its immediate consideration.

The VICE PRESIDENT. Without objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] proposes an amendment numbered 1457.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 245, line 17, add to Section 112(d) the following new subsection:

"(10) No standard for radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under sections 111 or 112.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The VICE PRESIDENT. The Senator from Montana is correct. Will the Senator from Wyoming suspend? Will those Senators desiring conversation please retire from the Chamber?

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I hope Senators will pay close attention to this. We had an amendment several days ago, which was debated thoroughly with regard to the regulation of radionuclides. In that measure there was a great deal of debate about the preemption of the States. It seemed that many did not want to preempt the States' authority to issue radionuclide standards which are necessary to protect public health.

Mr. GLENN. Mr. President, may we have order? This is a very important proposal.

The VICE PRESIDENT. The Senator from Ohio is correct. Will the Senate please come to order?

Individuals desiring conversations please either cease conversations or retire from the Chamber.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I appreciate the attention. It will not last long. This prior amendment on radionuclides stimulated a great deal of discussion on the preemption of the States, stringency requirements, and so on.

The real issue was dual regulation of radionuclides by the NRC and by the EPA. This is not known as a nuclear power amendment. We have not sighed and cried about it, but what you effectively have done is hurt some facilities in America that you may not have intended to.

The current NRC regulatory program covers not only nuclear powerplants. You also have byproduct facilities such as research reactors, hospitals, clinics using nuclear isotopes, and the radiopharmaceutical industry. Under this regulatory program, the NRC-licensed facilities are required to meet particular safety standards, including specific limits on all of these radioactive emissions. In addition, all facilities licensed by the NRC are required to reduce their emissions to levels which are as low as reasonably achievable, or ALARA.

The NRC regulatory program, including the ALARA principle, has established exposure limits which are extremely low. EPA currently believes that these limits are adequate to protect public health with an ample margin of safety.

So where we are now is a presentation of an amendment. Let me read it to you so there is no whizbangs in it. It does not talk about State preemption. Here is what it says. I hope you will listen carefully. It is not long.

No standard for radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission (or in an agreement State) is required to be promulgated under this section if the Administrator—

That is the Administrator of the EPA—

determines, after consultation with the Nuclear Regulatory Commission that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard of limitation in effect under section 111 or 112.

That is the extent of the amendment. It is simply to provide that there be no dual regulation which is expensive and disruptive. Still at any time the Administrator of the EPA feels the NRC is not doing what they should be doing, they have the right to intervene. Under this amendment, EPA will not be required to issue Clean Air Act regulations for radionuclides emitted from NRC-licensed facilities if the Administrator determines that the existing regulatory program established by NRC pursuant to the Atomic Energy Act is adequate to protect public health with an ample margin of safety—the standard under current section 112.

Although dual regulation will result in increased compliance costs for all NRC-licensed facilities, the added costs will be felt particularly by hospitals and doctors practicing nuclear medicine and radiopharmaceutical companies which produce nuclear isotopes for use in the diagnosis and treatment of disease. These added costs will adversely affect the availability of radioactive materials which are much needed and widely used in medical research, diagnosis, and therapy.

Passage of this amendment will allow EPA to replace the emission standards issued by EPA in November 1989, for NRC-licensed facilities, incuding nuclear powerplants, uranium fuel cycle facilities, and byproduct facilities, if that agency concludes that the existing NRC regulatory program adequately protects public health. I strongly urge EPA to reconsider these regulations in light of this amendment.

Dual regulation is expensive and burdensome for the regulated and the regulator, yet it is the consumer who will ultimately pay the increased costs. This amendment will eliminate dual regulation unless it is shown that additional regulation is necessary, and will in no way affect the authority of the States to regulate even more stringently radionuclide emissions from whatever source.

I reserve the remainder of my time.

Mr. GLENN addressed the Chair.

The VICE PRESIDENT. Who yields time? The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Wyoming. Mr. President, this is the same vote basically that we had before here in the Senate. It was defeated by a vote of 61 to 36. By that margin, the Senate affirmed that no change can take place in this bill with respect to the regulation of radionuclide emissions.

Now is not the time to revisit an issue which has already been settled by this body. Mr. President, it has been 13 years under the current law. What I did with that vote before, what the Senate did with that vote before, was say it is not that broken down. Should it be reconsidered? Yes. It should be reconsidered. But do we need on this bill to make this kind of a change that changes the State law, State responsibilities this much?

The Senate expressed itself on that. With a little change of language we are asked to consider this change again.

I have said repeatedly that I agree absolutely and 100 percent that States should not be able to abuse their authority under this to prevent what might be a Federal proposal to license or provide facilities within certain States. This is a Federal authority. I want to make sure that there is no misunderstanding of that.

I am not proposing that we make such strict standards that the standards could be used to prevent the Federal facility from coming into a particular State no matter what was best for the whole United States of America.

The EPA Clean Air Act standards are definitely more protective than those of the Nuclear Regulatory Commission. Under the existing statutory authority, the 1977 Clean Air Act, EPA has set an overall public radiation exposure limit of 10 millirem per year for NRC facilities and all other radiation emitters.

That is 50 times more protective than the 30-year-old standard that some 6,000 NRC byproducts, source and special nuclear facilities, have. So this is hardly the time to return to a more lax system of radiological protection. We plan to address this.

I think there needs to be protections put in. But changing a 13-year-old law that has worked well, has not caused any problems, is just not what we should do be doing here on this Clean Air Act in a short time when we already have voted on on this once with a vote of 61 to 36. This is the same subject revisited.

I reserve the remainder of my time.

The VICE PRESIDENT. Who yields time?

Mr. SIMPSON. Mr. President, how much time do I have remaining?

The VICE PRESIDENT. The Senator from Wyoming has 1 minute and 36 seconds, and the opposition has 2 minutes 10 seconds.

Mr. BAUCUS. Will the Senator yield 30 seconds?

Mr. SIMPSON. Yes.

Mr. BAUCUS. Mr. President, as the majority manager of the bill, I am prepared to accept this amendment.

This amendment fulfills an agreement that we attempted to reach in the committee. That is that there would not be dual regulation to both the Nuclear Regulatory Commission and EPA. Preemption does not exist. If the States want stronger standards, they can do so. The public health must be protected, it states. For all those reasons, I accept the amendment. The managers accept this amendment.

Mr. GLENN. Mr. President, I object.

Mr. SIMPSON. Mr. President, how much time do I have?

The VICE PRESIDENT. The Senator from Wyoming has 45 seconds.

Mr. SIMPSON. I yield 25 seconds to my colleague from Louisiana.

Mr. BREAUX. I will be very brief. This amendment in no way resembles, in any way, the amendment we voted on previously. This amendment in no way effects the States' rights to do anything more in greater restrictions. They would still have that right to do it under this amendment. The only thing this does is clarify that EPA is going to regulate radionuclides under the Atomic Energy Act, not under the Clean Air Act. It is vastly different from the previous vote. It should be accepted. We have a tremendous problem having an agency regulate the same thing under two different statutes. This amendment corrects it.

Mr. SIMPSON. Mr. President, I yield 5 seconds to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we are prepared to accept the amendment, absent a challenge for a vote.

The VICE PRESIDENT. The Senator has 18 seconds reserved.

Mr. GLENN. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COATS. Mr. President, I am pleased that is this 11th hour on consideration of this monumental legislation, S. 1630, the Clean Air Act Amendments, a compromise amendment is being offered concerning Federal regulation of radionuclides.

This amendment will continue to preserve the right of individual States to regulate nuclear facilities for the further protection of their citizens. At the same time, the amendment will allow the Environmental Protection Agency to regulate these facilities if it finds Nuclear Regulatory Commission regulations to be inadequate.

The Environmental Protection Agency is charged with the task of enforcing current Federal environmental law for protection of the health and safety of the American people. I believe EPA should be allowed to fulfill its mission.

Even more important, individual States should have the option of imposing stricter standards, if their imposition is deemed necessary to protect the health and safety of its citizens. This option is an integral element of current Federal environmental law, and should be retained. This is why I supported the Glenn-Heinz amendment, which passed the Senate last month.

The Glenn-Heinz language is not perfect, however, and in fact it has many flaws. One important flaw is the compliance burden which dual regulation entails. Additional regulation is the last thing organizations affected under this amendment need. That is why I am pleased that an amendment is being offered today which represents a compromise between these two positions.

This amendment will allow EPA to regulate radionuclides, but would require that the EPA Administrator first conclude that NRC regulation is inadequate to protect public health. In addition, an individual State's right to require tougher restrictions is fully protected.

I believe this amendment represents the "best of both worlds," and is a fair compromise which I hope will result in a more effective and streamlined process for regulation of emissions from radionuclides.

The VICE PRESIDENT. The opposition has 2 minutes, 9 seconds.

Mr. GLENN. Mr. President, we were given this change just seconds before

it came up on the floor. In fact, I had not been given this amendment in enough time to even complete reading the short amendment before the distinguished Senator from Wyoming brought it up. As I understand it, this would abrogate existing standards, but it could possibly abrogate existing standards and have the effect of doing exactly the same thing that we turned down with the 61-to-36 vote before. It just comes at it from a different direction. As I understand the intent, that is exactly what would happen.

Mr. President, this has been in effect for 13 years and has not caused any problem. I fail to see why it is such a big issue here, just as we are preparing to make a final vote on this bill. We voted on this basic principle 61 to 36, and this has changed a little bit, but if there are areas of this which I do not undertand, it is because we were only given this seconds before it came up on the floor. I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, please hear this, this proposal was circulated to Senator GLENN's staff last week. There is no secret as to what happened. It was just a case of them rejecting everything we proposed. This is not what was voted on last time. This amendment seeks to avoid dual regulation of radio nuclides under this bill. That is all it is. It does not have anything to do with State preemption. A lot of hospitals will be put out of business if we do not do it.

The VICE PRESIDENT. The time for the Senator from Wyoming has expired.

Mr. GLENN. Mr. President, this is not the same amendment. I respectfully disagree with my colleague from Wyoming. We were given a copy of what might be proposed, but the copy that I was given just seconds before the Senator from Wyoming stood up to address this body was different from the one that we had before. So we did not have it.

We voted on this basic issue. The language is changed some, but why take it up now? What is the rush for this? It has not been a problem for 13 years. My position is that it preserves the existing situation that has served us OK for 13 years. Do we need to protect against States having a preemptive right to do what they want to do, no matter what the Federal benefit might be? I say, yes, and I urge people to vote for my position on this. Mr. President, I move to table the amendment.

The VICE PRESIDENT. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—33

Adams	Gore	Mitchell
Bentsen	Graham	Moynihan
Biden	Harkin	Packwood
Bradley	Hatfield	Pell
Bryan	Kennedy	Reid
Bumpers	Kerrey	Riegle
Byrd	Kerry	Rockefeller
Conrad	Lautenberg	Roth
Dixon	Leahy	Sarbanes
Dodd	Metzenbaum	Sasser
Glenn	Mikulski	Wirth

NAYS—67

Armstrong	Fowler	McCain
Baucus	Garn	McClure
Bingaman	Gorton	McConnell
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hatch	Nunn
Breaux	Heflin	Pressler
Burdick	Heinz	Pryor
Burns	Helms	Robb
Chafee	Hollings	Rudman
Coats	Humphrey	Sanford
Cochran	Inouye	Shelby
Cohen	Jeffords	Simon
Cranston	Johnston	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
Daschle	Kohl	Symms
DeConcini	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	
Ford	Matsunaga	

So the motion to lay on the table amendment No. 1457 was rejected.

The VICE PRESIDENT. The question is now on the amendment offered by the Senator from Wyoming. The yeas and nays have been ordered.

Mr. SIMPSON. Mr. President, I would vitiate the yeas and nays.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 1457) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senate will please come to order.

The Senate will please come to order so we can proceed to hopefully passage of this bill. The Senate will please come to order.

The Senator from Montana.

AMENDMENT NO. 1458 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, I have a clarifying amendment which I send to the desk and ask for its immediate consideration.

The VICE PRESIDENT. Without objection, it is so ordered. The pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 1458 to amendment No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 385, after line 14, insert the following: "The Administrator shall conduct, and transmit to Congress not later than two years after the enactment of this Act, a study of the emissions of hazardous air pollutants from motor vehicle tire incineration facilities and the feasibility of substituting appropriate tire recycling procedures for current and projected tire incineration facilities. There are authorized to be appropriated such sums as may be necessary.".

Mr. BAUCUS. The amendment requires a study on tire burning facilities, review of NO_x emissions from test cells, CTG's for bakeries if appropriate, a modification of desulfurization for the North Slope of Alaska, and modification of extreme ozone nonattainment offset requirements. The amendment has been cleared by the minority manager and I ask for its immediate consideration.

Mr. CHAFEE. It is agreeable to this side, Mr. President.

The VICE PRESIDENT. All time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 1458) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr President, many of us believe that environmental protection and economic growth are compatible. For this reason we applauded President Bush for his leadership in proposing a long overdue reauthorization and strengthening of the Clean Air Act.

When the President made his proposal last June, it was recognized that it would have profound impacts on our economy and our Nation's energy future. The President's proposal reflected a balance between our desire for enhanced protection of public health, a cleaner environment, and sustained economic growth. That balance was achieved, in part, by providing regulated industry with sufficient flexibility to adopt cost-effective pollution control technologies.

Nevertheless, the costs associated with achieving the anticipated environmental benefits were some $19 billion annually. Thus, many of us were disturbed by the substantially higher initial cost estimate for the measure reported by the Committee on Environment and Public Works which exceeded $40 billion annually.

In large part, the higher costs associated with the committee bill stemmed from the prescriptive nature of the

legislative language, which were accompanied by marginal, incremental environmental benefits. Because of a heightened public awareness of the environment, perceived, as opposed to real, threats to the environment have brought us to the point where the tendency is to act to restrict and inhibit actions not only by industry but by the American people. As a consequence, this legislation essentially prescribes the very lifestyle of many Americans.

We are talking about increase gas taxes, gas rationing, prohibitive bridge tolls, a shift to electric or natural gas powered cars, odd-even driving days, and a massive program of upgrading mass transit. Press reports in California estimate that compliance with Federal Clean Air Act requirements in northern and southern counties may necessitate a $2-per-gallon gasoline tax and $5 bridge tolls.

Throughout this debate we have returned to the recurring question: Do the environmental benefits of this legislation outweigh the economic costs? For me, the answer is no.

But a more critical question is, do the environmental benefits of this legislation outweigh the restrictions on individual freedom that pervade this measure. Again the answer is no.

As a consequence of this legislation, barbed wire fences will stretch across the American landscape restricting the movement of people, restricting use of the personal car, specifying the gasoline that we can use in our personal cars, and restricting consumer products, not to mention the restrictions that will be imposed on industry at significant costs to the American consumer.

Many of these restrictions are based not on scientific data but on perceived threats to the environment. All to frequently overly restrictive theoretical standards are being imposed to address inconclusive threats to public health. There is to much guesswork where the consequences of a particular risk assessment is the devastation that proud families experience from job loss. What benefit is there to a clean environment if, in the process, we needlessly close down vital industries, and place thousands of people out of work? When do we begin to question whether the incremental benefits are worth the swollen costs? This is particularly true with respect to the controls on new automobiles. National controls are being imposed on all new automobiles in order to respond to the special circumstances that exist in California and New England.

For the most part, what flexibility there was in the President's proposal has vanished on the winds of clean air as once again the Congress proposes to substitute its scientific and technical judgment for that of EPA in an attempt to make up for a perceived lack of environmental progress over the last decade.

But more importantly, this legislation abandons the principle that the pollutor pays—a cornerstone of environmental legislation since the 1967 Clean Air Act. This legislation departs from that principle, and such a depature will have significant implications for future economic growth of many regions of our country but, in particular, rural and Western States.

In his January 19 letter, the President enunciated five tests of balance and reasonableness that need to be preserved if we are to achieve a balance between the environmental progress and economic growth that the American people demand. Foremost among these is that the bill not impose aggregate costs on the economy that exceed the considerable costs already embodied in the administration's bill.

In response to this concern, on February 2, Senate leaders and administration officials began extenisve discussion that led to the substitute now pending before the Senate. Out of those discussions came a deeper understanding of the full implications of this legislation for all Americans.

While I was a part of those discussions, I must observe that only a small fraction of the issues of concern were discussed. Early in the process the agenda was restricted to the same 24 provisions of major concern to the administration.

Many other issues identified as matters of concern by fellow Members and the administration were purposely not discussed due to the pressures of time and the preference of the bipartisan managers. These additional concerns have been reflected in the 100 plus amendments to this measure already adopted. And this does not include the several hundred so-called technical amendments to be offered by the floor managers; many of which are substantive in nature, even if agreed to by the administration.

But, more importantly, while a large cross section of the Senate participated in those discussions for the most part their participation was meaningless. The outcome of the deliberations did not represent an agreement between the full Senate leadership and the administration; rather, it was preordained to represent an agreement between the Committee on Environment and Public Works and the administration.

In many instances, the agreement is smoke-and-mirrors. For example, the costs of tier II tailpipe standards are hidden behind a trigger which the administration can assume will not be pulled—therefore the costs of the provision can be scored at zero. However, the Senate negotiators can assume it will be triggered—therefore they can assume the environmental benefits of the additional national controls.

Nevertheless, the economic consequences of the bipartisan agreement that resulted from this negotiation, and is currently pending before the Senate, will be felt by all Americans. Many of its provisions were formulated to deal with the urban air pollution problems of the Northeast and California. Nevertheless, the costs are now going to be imposed on all Americans—rural and urban alike.

ACID RAIN

Among the matters addressed by this legislation is the control of acid rain precursors. These acid rain provisions establish rigid emission caps on all existing electric power plants and a requirement that, after the year 2000, all new, grassroot energy facilities must secure sufficient offsets to achieve zero emissions on a net basis. These requirements will have significant effects on both economic growth and the growth of electricity supplies regionally and nationally.

From its inception in 1967, Federal clean air legislation has advanced on the principle that the polluters pay. With this legislation national policy departs from that principle, and this departure has significant implications for future economic growth in many Southern and Western States. Where and when growth occurs, if at all, will be determined by a federally mandated allowance trading system.

Since 1967, new electric power plants in many Western States have borne the cost of installation of the best available control technology. Now, in order to grow, these Western States must purchase pollution licenses to be derived from allowances created and sold by midwestern and eastern pollutors to defray their costs of control. This is totally unfair and in my opinion an outrageous imposition of majority will as a political expedient on a vulnerable minority.

ALTERNATIVE MOTOR VEHICLE FUELS

In the area of alternative fuels, we once again are about to adopt environmental policies without understanding their energy policy implications—in this instance, it is proposed that the Federal Government create a new, artificial market for alternative fuel vehicles.

What our country needs instead is a well-though-out, coherent, and comprehensive energy strategy designed to satisfy the needs of American consumers well into the 21st century. The goals of such an energy strategy must be: First, to clearly identify the objectives to be achieved; second, to specify in detail the means by which those objectives are to be realized; and, third, to garner political consensus and public acceptance.

In no arena is this need greater than the requirement for secure, long-term

supplies of transportation fuels. Our continued reliance on gasoline as our principal automobile fuel creates significant economic, energy, and environmental consequences for all Americans.

TOXICS

One of the most pervasive provisions of this measure concerns the control of toxic air pollutants. Under the bipartisan agreement, steps are taken to soften the so-called bright-line standards applicable to sources of hazardous air pollutants. However, the Senate simply has not gone far enough to achieve any common sense on this issue.

Under the committee-reported measure, these standards were applied to the so-called theoretical maximum exposed individual over a 70-year lifetime. By comparison, the substitute provides for site specific risk assessment, thus individual facilities will be afforded the opportunity to rebut the regulatory assumptions of the EPA when applying the bright-line standards. While the substitute has moved us in the right direction there is nevertheless a clear and blatant misunderstanding and misuse of this entire area of risk assissment. This methodology should be used as a tool, not a hammer to force industry to prove itself innocent. These provisions thus remain among the most onerous and absurd in the measure before us.

FUELS

With respect to coal, the substitute before us does not recognize the critical role that coal must serve in our country's long-term energy future. If this role is to be satisfied for the benefit of all Americans, national energy and environmental policies encourage the retirement and replacement of old electric power plants with more efficient and cleaner facilities.

After spending over $7 billion on the commercialization of clean coal technologies in recognition that environmental protection and economic growth can be compatible, the measure before us encourages the installation of scrubbers and life-extension of existing facilities at the expense of energy efficiency and long-term environmental quality.

By rejection of my clean coal amendment and that in the Byrd-Bond acid rain proposal, the Senate is committing our country to a high-cost environmental strategy that does not reflect the long-term energy requirements of the United States. Both goals could have been achieved simultaneously. But the substitute before us fails to do so.

The substitute before us ignores current trends in oil imports. While everyone is willing to talk about oil imports, no one is willing to do anything about it. Instead, this new program is prompted by the failure of about 100 areas in our country to meet the ozone ambient air quality standard mandated by the Clean Air Act.

I am one of those that believe that the marketplace can take care of most problems which might arise, regardless of magnitude, and therefore we need not do anything. Well this is not true when it comes to environmental regulations. The substitute before us imposes a straightjacket on the marketplace so that cost-effective solutions are not feasible.

Unless we develop and implement a comprehensive energy-environmental strategy, it is without question that at some point in the not too distant future, we will once again wake up and find ourselves in the midst of a national energy crisis. And once again both our energy and environmental interest will suffer from hastily created policies to satisfy political imperatives.

Our national reliance on the automobile as our principal source of transportation has significant energy and environmental implications for all Americans. Clearly our ability to find an alternative to gasoline as our transportation fuel must play an important and critical role in any national energy policy.

Over the years, the Department of Energy has examined several alternatives to extend or replace gasoline. Alcohol fuels have received the most attention as neat fuels or in low-concentration blends with gasoline. Each alternative fuel has its own unique characteristics and customer acceptance.

Too few people realize that today the United States is more than 54 percent dependent on imported oil and that we are more dependent than we were at the time of the 1973 Arab oil embargo. Of necessity, any Federal mandate for the use of alternative fuels should not, indeed must not, foster greater dependence on imports.

THE PROCESS

Mr. President, we are often quick to characterize this body as the most deliberative legislative body of the Congress. Great care is taken not to set precedents that may infringe on the rights of Members to debate and offer amendments.

Yet with respect to this measure, a complex process has evolved whereby amendments are reviewed and cleared by not just committee staff members, but administration representatives from OMB, EPA, and the Department of Energy.

This process has served to dampen debate since failure to obtain clearance assured opposition by the floor managers. But, and more importantly, representatives of the administration were able to cross the fine line of constitutional separation of the legislative and executive branches of government and directly influence the final form and substance of the measure before us, as if this were a parliamentary rather than a bicameral legislative body.

If this were not bad enough, during the last few days we have been informed of various packages of so-called technical amendments, which are under review by EPA and OMB and committee staff. The obvious question is why, if these are truly technical amendments, do they require administration comments or approval? Such review and approval, by its very nature, suggest that some, if not many, of these amendments are, in fact, substantive in nature and thus should be individually presented to the Senate for consideration.

I recognize in making this statement that is not feasible under the present time agreement to do so.

I also feel it is important to note that many of the amendments deal with provisions already amended by the Senate, yet a copy of the currently amended substitute is not available to individual Members, although 100 plus amendments have already been adopted. Consequently, it is not feasible to fully review the so-called technical amendments to ascertain their full import.

CONCLUSION

Although the measure before us represents progress, there is little reason to celebrate. After years of drought, the American people deserved more from its leadership. Instead of discussing national policies, this debate has been plagued with regional disputes over the distribution of acid rain allowances.

Because many State regulatory actions are not supported by their citizens, Federal preemption is being sought. Yet if the costs of these programs are going to be accepted they need to be understood by the very citizens at whom the benefits are directed. Right now those costs are not understood.

Many of us believe that environmental protection and economic growth can be compatible. For this reason we applauded President Bush's for his leadership in proposing a long overdue reauthorization and strengthening of the Clean Air Act.

The President's proposal reflected a balance between our desire for enhanced protection of public health, a cleaner environment, and sustained economic growth. But that balance no longer exists. The flexibility no longer exists for industry to pursue cost-effective pollution control technologies. And American consumers will ultimately bear these unnecessary costs.

Throughout this debate we have returned to the recurring question: Do the environmental benefits of this legislation outweigh the economic costs? For me, the answer is definitely "No."

But a more critical question is, do the environmental benefits of this leg-

islation outweigh the restrictions on individual freedom that pervade this measure. In my judgment, they do not.

AMENDMENT NO. 1307 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, I ask for the regular order.

The VICE PRESIDENT. The question is on agreeing to amendment No. 1307.

The amendment (No. 1307) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1459 TO AMENDMENT NO. 1293

(Purpose: To make technical and conforming amendments to titles I, II, VI, and VII)

Mr. CHAFEE. Mr. President, I send to the desk an amendment to make technical and conforming amendments to titles I, II, VI, and VII and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. BAUCUS, proposes an amendment numbered 1459 to amendment No. 1293.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. McCLURE. Mr. President, reserving the right to object, and I will not object, but I want everyone to note as they look at that stack of paper that just went to the desk and the stacks of papers which will follow it in terms of the technical amendments, you are buying the pig in the poke. I have been down this road more than once before and you are going to be amazed at what it is that is just now happening. I do not object.

The VICE PRESIDENT. Without objection, it is so ordered.

(The text of the amendment (No. 1459) is printed in today's RECORD under "Amendments Submitted.")

Mr. CHAFEE. Mr. President, all of these amendments have been available since yesterday, and have been reviewed by the administration. I urge their adoption.

The VICE PRESIDENT. Do the Senators yield back their time?

Mr. BAUCUS. Mr. President, I might just add to the statement of the Senator from Rhode Island that these amendments that have been available for some time and reviewed by staff. In addition, I might say if there are needs for technical corrections to the technical amendments, there will be an appropriate time in conference to take care of them. They have been reviewed.

The VICE PRESIDENT. Is all time yielded back?

Mr. DOLE. Mr. President, let me indicate on the technical amendments, I think they have been gone over by EPA staff, by the White House staff, by OMB staff and some I think we are just going to have to take on faith. If there has been a mistake made, I think people on both sides have acted in good faith. There are about 200 pages of technical amendments if anybody wants to leaf through them this evening before you go home.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment (No. 1459) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1460 TO AMENDMENT NO. 1293

Mr. BAUCUS. Mr. President, I send a technical amendment to the desk to title IV of the pending amendment.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 1460 to amendent No. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

(The text of the amendment (No. 1460) is printed in today's RECORD under "Amendments Submitted.")

Mr. BAUCUS. Mr. President, we have more technical amendments. I urge the these technical amendments be adopted.

The VICE PRESIDENT. Does the Senator yield back the time? Do all Senators yield back the time?

The question is on agreeing to the amendment.

The amendment (No. 1460) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1461 TO AMENDMENT NO. 1293

(Purpose: To make technical amendments to title III of the pending amendment)

Mr. DURENBURGER. Mr. President, I send a technical and conforming amendment to title III to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBURGER] proposes an amendment numbered 1461 to amendment No. 1293.

Mr. DURENBURGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

On page 231, beginning at line 7, strike all through line 9 (paragraph (8)) and insert in lieu thereof the following:

"(8) The term "owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"(9) The term "existing unit" means any stationary source other than a new source.".

On page 231, line 10, strike "(9)" and insert in lieu thereof "(10)".

On page 232, line 26, (unnumbered lines) following "95487" strike "Cresols/Cresylic acid (isomers and mixtures)" and insert in lieu thereof "o-Cresol".

On page 232, line 27, following "108394" strike "Cresols/Cresylic acid (isomers and mixture)" and insert in lieu thereof "m-Cresol".

On page 232, line 28, following "106445" strike "Cresols/Cresylic acid (isomers and mixtures)" and insert in lieu thereof "p-Cresol".

On page 234, line 24 (unnumbered lines) strike "91255" and insert in lieu thereof "91225".

On page 234, line 50 (unnumbered lines) following "95476" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "o-Xylenes".

On page 234, line 51, following "108383" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "m-Xylenes.

On page 234, line 52, following "106423" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "p-Xylenes".

On page 235, footnote 3, strike "aspect ratio (fiber length divided by fiber diameter) greater than 3" and insert in lieu thereof "aspect ratio (fiber length divided by fiber diameter) greater than or equal to 3".

On page 235, footnote 3, delete the period at the end of the footnote and insert in lieu thereof. ", as emitted from production of fiber and fiber products.".

On page 237, line 3, after "qualifies" insert ", as a result of emissions to the air of such pollutant,".

On page 237, line 13, before "human" strike "the".

On page 237, line 25, strike "of section 104(i)".

On page 238, after line 8, insert the following new paragraph:

"(6) The Administrator may not list elemental lead as a hazardous air pollutant pursuant to this subsection.".

On page 240, line 18, strike "(d)(1)" and insert in lieu thereof "(d)(2) or (d)(4)".

On page 240, line 20, strike "shall not be required to list" and insert in lieu thereof "may delete from the list".

On page 241, line 14, after "subsection (c)." insert "The Administrator may distinguish among classes, types and sizes of sources within a category or subcategory in establishing such standards, except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence.".

On page 241, beginning at line 18, strike "each air pollutant subject to this section" and insert in lieu thereof "each hazardous air pollutant emitted by any source in the category or subcategory.

On page 243, line 3, after "stringent" insert ", and may be more stringent".

On page 243, line 9, after "thirty" insert "or".

On page 243, beginning at line 17 strike ", and may be more stringent".

On page 243, line 23, strike "the" and insert in lieu thereof "a".

On page 245, after line 14, insert the following:

"(9) Notwithstanding the provisions of paragraph (2), for categories and subcategories of sources of hazardous air pollutants engaged in mining, extraction, beneficiation, and processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials, the Administrator shall not consider the substitution of, or other changes in, metal- or mineral-bearing raw materials that are used as feedstocks or material inputs, or metal- or mineral-bearing materials processed or derived from such feedstocks or materials in setting emissions standards, work practice standards, operating standards or other prohibitions, requirements or limitations under this section for such categories and subcategories. The prohibition of the preceding sentence shall not apply to the substitution, modification, or changes of chemicals (not including metal- or mineral-bearing materials) used in mining, extraction, beneficiation, or processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials which is necessary to reduce air emissions of such chemicals and for which substitutes that are safe and effective in performing the intended function of the chemical to be substituted are reasonably available.".

On page 245, line 15, strike "(9)" and insert in lieu thereof "(10)".

On page 246, beginning at line 10, strike "not later than three years after such date" and insert in lieu thereof "not later than four years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 246, beginning at line 15, strike "not later than five years after such date" and insert in lieu thereof "not later than six years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 246, beginning at line 20, strike "not later than ten years after such date" and insert in lieu thereof "not later than ten years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 249, line 9, after "paragraph." insert the following: "Such standards shall be consistent with the requirements of subsection (d) and take into account such information on cost and feasibility as is contained in the study required by subparagraph (B).".

On page 250, beginning at line 17, strike all through line 23 and insert in lieu thereof "The".

On page 251, line 2, strike "(s)" and insert in lieu thereof "(r)".

On page 251, line 2, strike "Board." and insert in lieu thereof "Board, with respect to such report. Prior to the evaluation of remaining risks pursuant to paragraph (8), and after notice and opportunity for comment, the Administrator shall publish revised Guidelines for Carcinogenic Risk Assessment or a detailed explanation of the reasons that any recommendations contained in the report of the National Academy of Sciences will not be implemented.".

On page 251, line 6, after "Commission" insert "established by subsection (u)".

On page 251, line 14, strike "(i) (4)-(8)" and insert in lieu thereof "(i)(4) through (i)(8)".

On page 251, line 24, after "result" insert "of".

On page 252, beginning at line 11, strike "section 104(i) of".

On page 253, line 24, after "Commission" insert "established by subsection (u)".

On page 257, line 10, strike "his" and insert in lieu thereof "the minority leader's".

On page 259, line 22, after "Commission" insert "established by subsection (u)".

On page 260, beginning at line 6, strike all through line 9 and insert in lieu thereof the following:

"third time followed by a vote on final passage. This subparagraph is enacted as an exercise of the rulemaking power of the House of Representatives and of the Senate.".

On page 264, line 14, strike "act" and insert in lieu thereof "Act".

On page 226, line 5, strike "standard" and insert in lieu thereof "standard, regulation".

On page 266, line 9, strike "standard" and insert in lieu thereof "standard, regulation".

On page 266, beginning at line 13, strike "After the effective date of any emissions standard under this section, no air pollutant may be emitted from any source in violation of an emissions standard under this section or" and insert in lieu thereof "After the effective date of any emissions standard, limitation or other requirement promulgated under this section, no person may operate any source in violation of such standard, limitation or regulation or an".

On page 266, line 24, strike "(15)" and insert in lieu thereof "(14)".

On page 267, line 7, strike "(7)" and insert in lieu thereof "(6)".

On page 267, line 9, strike "safety" insert "(unless a more stringent limitation is necessary to protect the environment)".

On page 267, line 17, strike "risk".

On page 267, line 20, strike "(7)" and insert in lieu thereof "(6)".

On page 268, line 13, after "person" insert "living within the vicinity of the source".

On page 269, line 19, strike "(6)" and insert in lieu thereof "(5)".

On page 270, line 5, strike "or health risk assessment".

On page 270, beginning at line 8, strike "or health risk assessment".

On page 270, line 10, strike "(7)" and insert in lieu thereof "(6)".

On page 272, line 3, strike "(7)" and insert in lieu thereof "(6)".

On page 272, beginning at line 6, strike "and health risk assessment".

On page 274, line 10, strike "(8)" and insert in lieu thereof "(7)".

On page 272, line 12, strike "and health risk assessment".

On page 272, line 22, strike "or health risk assessment".

On page 273, beginning at line 17, strike "and health risk assessment".

On page 273, beginning at line 24, strike "or health risk assessment".

On page 275, line 14, strike "(9)" and insert in lieu thereof "(8)".

On page 274, beginning at line 20, strike "or health risk assessment".

On page 274, beginning at line 24, strike "or site-specific health risk assessment".

On page 275, beginning at line 5, strike "or health risk assessment".

On page 275, beginning at line 6, strike "or health risk assessment".

On page 275, line 11, strike "or health risk assessment".

On page 276, beginning at line 4, strike "For purposes of this subparagraph the phrase "all available technology and operational controls" shall include all measures which are technically feasible including process modifications and materials substitution to reduce emissions of hazardous air pollutants for the source.".

On page 277, line 17, strike "(10)" and insert in lieu thereof "(9)".

On page 277, line 18, after "(1)" insert "or (2)".

On page 278, line 3, strike "(11)" and insert in lieu thereof "(10)".

On page 278, line 19, after "satisfying" insert "at a minimum".

On page 279, line 9, strike "(e)(7)" and insert in lieu thereof "(e)(8)".

On page 280, line 10, strike "(12)" and insert in lieu thereof "(11)".

On page 281, line 9, strike "(13)" and insert in lieu thereof "(12)".

On page 282, line 10, strike "administrator" and insert in lieu thereof "Administrator".

On page 282, line 13, strike "(14)" and insert in lieu thereof "(13)".

On page 282, line 22, strike "(15(A)(i)" and insert in lieu thereof "(14)(A)(i)".

On page 283, beginning at line 16, strike "in lieu of the requirements of subsections (d), (f), and (g)".

On page 283, line 22, strike "((B)(iii)" and insert in lieu thereof "(B)(iii)".

On page 284, line 7, strike "(A)(i)(I)" and insert in lieu thereof "(A)(ii)(I)".

On page 284, line 9, strike "(1)".

On page 289, line 17, strike "(e) (1)(A) or (3)" and insert in lieu thereof "(e)(1)(A) or (e)(3)".

On page 290, line 20, strike "section" and insert in lieu thereof "paragraph".

On page 293, line 24, strike "(4)" and insert in lieu thereof "(3)".

On page 294, line 1, strike "and (3)".

On page 295, line 2, strike "Insecticide" and insert in lieu thereof "Insecticide,".

On page 296, line 9, strike "(5)" and insert in lieu thereof "(4)".

On page 296, line 10, strike "(4)" and insert in lieu thereof "(3)".

On page 297, line 1, strike "(6)" and insert in lieu thereof "(5)".

On page 297, line 11, strike "(7)" and insert in lieu thereof "(6)".

On page 299, line 15, strike "ecological" and insert in lieu thereof "environmental".

On page 302, beginning at line 12, strike all through line 23 (subsection (m)).

On page 302, line 24, strike "(n)" and insert in lieu thereof "(m)".

On page 303, line 11, strike "(o)" and insert in lieu thereof "(n)".

On page 307, line 24, strike "(p)" and insert in lieu thereof "(o)".

On page 308, line 14, strike "(q)" and insert in lieu thereof "(p)".

On page 309, line 7, strike "(r)" and insert in lieu thereof "(q)".

On page 309, line 20, strike "(s)" and insert in lieu thereof "(r)".

On page 311, line 3, strike "(w)" and insert in lieu thereof "(u)".

On page 311, line 19, strike "(t)" and insert in lieu thereof "(s)".

On page 311, beginning at line 20 strike "within one hundred and five days of the close of the fiscal year for each fiscal year" and insert in lieu thereof "every three years".

On page 312, beginning at line 20, strike all through line 22 (subsection (u)).

On page 312, line 23, strike "(v)" and insert in lieu thereof "(t)".

On page 314, line 7, strike "(W)" and insert in lieu thereof "(u)".

On page 314, line 20, strike "(s)" and insert in lieu thereof "(r)".

On page 319, before line 1, insert the following:

"OTHER PROVISIONS"

On page 319, after line 10 insert the following:

"(c) Prior to establishing standards under section 112(d) for sources employing Frasch sulfur extraction and processing technology, the Administrator shall establish a health threshold for hydrogen sulfide. Emissions standards with respect to hydrogen sulfide for sources employing Frasch sulfur extraction and processing technology shall be established at levels which protect public health with an ample margin of safety, unless a more stringent standard is necessary to protect the environment.".

On page 327, beginning at line 14, strike "The requirements of this subsection shall be enforced in the same manner as the requirements of section 114. The Administrator is authorized to issue administrative orders pursuant to section 113 to assure compliance with the requirements of this subsection."

On page 327, after line 19, insert the following:

"(7) After the effective date of any hazard assessment requirement promulgated pursuant to this subsection and applicable to a facility, it shall be unlawful for any person to operate such facility until such hazard assessment has been prepared or updated as provided in this subsection. For purposes of section 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, any requirement imposed under this subsection shall be treated as a standard in effect under section 112."

On page 327, line 20, strike "(7)" and insert in lieu thereof "(8)".

On page 335, after line 2, insert the following paragraph and redesignate the succeeding paragraphs accordingly:

"(12) After the effective date of any reporting requirement promulgated pursuant to paragraph (5)(C) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such paragraph. The Administrator is authorized to enforce any regulation or requirement established by the Board pursuant to paragraph (5)(C) using the authorities of section 113. Any request for information from the owner or operator of a facility made by the Board or by the Administrator under this section shall be treated, for purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, as a request made by the Administrator under section 114 and may be enforced by the chairperson of the Board or by the Administrator as provided is such sections.".

On page 339, after line 4, insert the following:

"(4) After the effective date of any regulation or requirement imposed under this subsection or subsection (g), it shall be unlawful for any person to operate a facility subject to such requirement in violation of such requirement.".

On page 339, line 5, after "enactment" insert " of this subsection".

On page 341, line 12, after "116," insert "120,".

On page 341, line 13, after "307" insert "and other enforcement provisions of this Act".

On page 343, line 6, strike "(3)" and insert in lieu thereof "(9)".

On page 284, line 21, insert the following:

"(D) Any facility qualifying under this subparagraph and requesting an alternative emissions limitation under subsection (i), shall submit the requisite information under subsection (i), two years prior to the date of compliance for the facility under subparagraph (A)(ii) or (B)(iv).".

Mr. DURENBERGER. As previously indicated, this amendment is technical conforming. It is largely recommendations from the Environmental Protection Agency and others to make it conforming to amendments considered on the floor. I ask that it be agreed to.

The VICE PRESIDENT. Is all time yielded back?

The question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from Montana.

Mr. BAUCUS. Mr. President, I believe this is the last amendment before final passage.

The VICE PRESIDENT. The Senate will suspend for 1 moment. May we have order for the final technical amendment?

The Senator from Montana.

AMENDMENT NO. 1462 TO AMENDMENT NO. 1293

(Purpose: To establish priority with respect to clean coal regulatory incentives for units located in states where state utility commissions have taken certain actions; to encourage states to provide equitable clean coal incentives for both investor-owned and noninvestor-owned utilities, and for other purposes)

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of the Senator from North Carolina [Mr. SANFORD] and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. SANFORD, proposes an amendment numbered 1462 to amendment no. 1293.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

The amendment is as follows:

Add the following new subsection to Section 415, and redesignate other subsections accordingly:

"(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where:

(1) the state regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the state or states in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

(2) the state regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to non-investor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction."

Mr. BAUCUS. This amendment makes technical changes with respect to the clean coal FERC regulatory incentives. It has been cleared on both sides.

The VICE PRESIDENT. Do all Senators yield back time?

Mr. CHAFEE. This side concurs and yields back its time.

The VICE PRESIDENT. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

VOTE ON AMENDMENT NO. 1293, AS AMENDED

The VICE PRESIDENT. Are there further amendments to the leadership substitute?

If there be no further amendments to be offered, the question is on agreeing to the joint leadership substitute as amended.

The amendment (No. 1293), as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON THE COMMITTEE SUBSTITUTE, AS AMENDED

The VICE PRESIDENT. The bill is open to further amendment. If there be no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLARIFYING THE INTENT OF AMENDMENTS TO THE CLEAN AIR ACT OFFERED DURING SENATE FLOOR CONSIDERATION

Mr. SIMPSON. Mr. President, I believe some clarification is in order regarding some of the amendments I offered during consideration of the Clean Air Amendments of 1990. I offered several amendments which were

adopted on voice vote that may need some clarification.

The Simpson amendment requiring environmental impact statements on Federal forest fire policy was meant to ensure that Federal agencies fully take into account the health effects of their fire policy with regard to the potent carcinogens that are contained in wood smoke. The fire review team that reviewed the policy after the devastating Yellowstone fires of 1988 barely touched on the issue of health effects. I believe the American people deserve to have their health adequately protected and to that extent I believe it is necessary to reexamine forest fire policy with that emphasis in mind.

In addition to health effects the Federal agencies and Federal land managers must also take into account and study the effects on visibility in class I areas and in other areas that are caused by Federal forest fire policy. During the devastating fires of 1988 we saw a huge cloud of smoke cover five or six States and that resulted in significant visbility impairment in class I areas and in other areas. These factors must also be taken into account in developing Federal forest fire policy. Many of the Federal land managers who are invovled in managing national parks or class I areas like to talk about visibility protection and how scenic vistas must be protected in our national parks. Yet these same land managers favor a forest fire policy which creates huge volumes of smoke and very significant visibility impairment. It seems to me you can not have it both ways.

The Senate also considered the Adams-Simpson visibility amendment which requires Governors in various regions of the country to look at pollution sources in their regions and make recommendations to the EPA Administrator for controlling those sources if they reduce visibility. In this vein I would note that the environmental impact statements required by Simpson amendment should be included in any consideration that the governors give to regional haze or visibility problems.

Wood Smoke may pose a very significant health threat when individuals are exposed to it chronically and the EPA Administrator may need to regulate cancer causing chemicals from wood smoke in the future.

Mr. PELL. Mr. President, we are nearing the end of a very long road toward passage of a new clean air bill—a road that many of us have traveled for quite some time.

We owe a tremendous debt to the bipartisan leadership which hammered out this compromise measure. It is far from perfect, but it clearly is a big step toward our mutual goal of protecting the health of our citizens and our planet.

Although leaders on both sides had to endure broadsides from their traditional allies, I have been most impressed by the strength, vision, and tenacity of the majority leader and of the minority floor manager.

The senior Senator from Maine [Mr. MITCHELL] has been battling to improve the clean air bill since he came to the Senate. I, too, am accustomed to working over a span of years to enact legislation, but his tenacity is a model to us all.

My colleague, the junior Senator from Rhode Island [Mr. CHAFEE] has done an exemplary job of negotiating a tough compromise and sticking to it in the face of strong, and sometimes strident, opposition.

When I cite their examples of environmental leadership, I do not mean any slight to other leaders—including the majority floor manager, the senior Senator from Montana [Mr. BAUCUS] who have done more than their part.

As we know, leadership carries with it the weight of special obligations and responsibilities. There were times and there were votes when the burden of the compromise must have been extraordinarily frustrating.

GEORGE MITCHELL and JOHN CHAFEE are environmentalists, but I found them on the other side of several key amendments to strengthen the Clean Air Act. I believe their votes were not against the measures, but to protect the compromise.

Throughout the consideration of the Clean Air Act, I have joined in fighting weakening amendments and in supporting strengthening amendments. We lost some big ones, but we also won a few.

I joined my colleagues the junior Senator from Colorado [Mr. WIRTH] and the junior Senator from California [Mr. WILSON] in introducing an amendment to require the development of clean cars through more effective conventional tailpipe controls and development of clean fuel vehicles.

I also joined my colleague the junior Senator from Massachusetts [Mr. KERRY] in introducing an amendment to restore the Federal authority already established in the current Clean Air Act. The threat of Federal intervention is behind some of the most ambitious urban cleanup plans.

Both of these amendments, sadly, were defeated by narrow votes, but other strengthening amendments which I joined in introducing did not meet this fate.

Among those strengthening amendments that did not meet defeat was an important measure that I joined the junior Senator from Tennessee [Mr. GORE] in introducing to eliminate permission for "toxic sacrifice" zones.

Our successes in strengthening the Clean Air Act compromise, however, were limited because of the leadership alliance that was formed to defend the compromise.

Even on votes that were unrelated to the environment, such as the social justice amendment offered by the senior Senator from West Virginia [Mr. BYRD], measures were defeated by the narrowest of margins.

I voted to provide limited special assistance to these miners, because the Clean Air Act targets high-sulfur coal for some of its most intense restrictions. There is no doubt that miners will be hurt by passage of this act.

Frankly, I would have preferred a stronger, as well as a more compassionate, Clean Air Act. Senate passage represents one of the first important steps down a long road, through many hazards, toward enactment into law.

During the negotiations along that road, the Clean Air Act will face many attempts to amend and weaken its provisions. As with any negotiations, I believe we should be asking for the whole loaf of bread and not half a loaf.

Although it is far from perfect, the Clean Air Act represents a substantial improvement over the existing law.

I support final passage because, as I said earlier, I believe this measure is an important step toward our goal of protecting the health of our citizens and our planet.

The Clean Air Act represents a good start, but much work remains to be done. As we approach Earth Day 1990, we are reminded that—after decades of environmental progress—our work has just begun.

Mr. RUDMAN. Mr. President, today the Senate concludes 2 months of deliberations on S. 1630, the Clean Air Act Amendments of 1989. The result is a hard fought comprehensive bill to improve the environment and public health, and I am proud to support it.

A few have vigorously criticized this effort for being a capitulation to polluters. They compare this measure to their perception of perfection, and are prepared to live with nothing, and ever dirtier air, if they cannot have everything. Still others call this bill too stringent and costly. The simple fact is that, in any bill of this magnitude, anyone can find provisions they do not like.

Mr. President, I am happy to say that, today, reason has prevailed over extremism and the American people are the winners. It is true that, in some respects, this bill is a compromise. But, it greatly strengthens the existing Clean Air Act and sets out a vigorous program for the improvement of our Nation's air quality. As Senator MITCHELL noted a couple of weeks ago, if we fail to pass this bill there probably will not be a bill in this century.

One of my principal concerns throughout this debate has been to ensure that the Senate enact tough

acid rain control provisions something I have been working for since coming to the Senate 9 years ago. Acid rain control is critical to the health and environment of the people of New Hampshire, but it has been strongly opposed by regional and industry interests. I am pleased to say the final package effectively retains the total reductions originally called for by S. 1630. More specifically, the compromise before us will achieve nearly 95 percent of the reductions of sulfur dioxide emissions originally prescribed in S. 1630 by the year 2000, and is expected to achieve greater reductions of nitrogen oxide emissions by that time. The agreement also retains the much needed cap on emissions after the year 2000. These are excellent provisions that I hope will bring about the eventual end to the problem of acid rain pollution in this country.

Another area of concern is mobile source pollution. The bill contains aggressive provisions to reduce volatile organic compounds and nitrogen oxide emissions from motor vehicles by 22 and 60 percent respectively by the year 1995. Furthermore, automobile manufacturers must further reduce tailpipe emissions by 50 percent if a number of larger cities do not meet the health standard for ozone by the year 2000. The agreement also includes an innovative and comprehensive clean fuels program designed to achieve significant reductions in motor vehicle emissions by improving the fuel. I should emphasize that these provisions are a great improvement over current law, contrary to the arguments being made by some in the environmental community.

The final bill also contains much needed provisions to regulate toxic air emissions. According to the Environmental Protection Agency, 2.7 billion pounds of highly toxic chemicals were released into the atmosphere in 1987. Chemicals such as benzene, mercury, lead, ammonia, and many others which lead to chronic health problems are released into the air every day. This is especially troubling since EPA, which currently has regulatory authority over air toxic emissions, has chosen to regulate only some sources emitting seven chemicals in the 18 years since the enactment of the original Clean Air Act. The bill before us lists 191 chemicals to be regulated by EPA and requires sources emitting these chemicals to install stringent control technology, leading to nearly a 90-percent reduction of emissions within 10 years. These provisions are likely to be costly and burdensome to industry. However, I believe it is a necessary price to pay in order to protect the public health.

Many other provisions contained in S. 1630 are designed to improve current law, including those regulating emissions from stationary sources in nonattainment areas as well as chemicals which contribute to the depletion of the stratospheric ozone layer.

In total, Mr. President, this is an excellent compromise which will meet one overriding objective: the achievement of clean, healthy air for all Americans. I applaud the floor managers, Senators BAUCUS and CHAFEE, for their herculean efforts to steward this legislation, as well as Senators MITCHELL and DOLE for keeping this important legislation on track. I urge my colleagues to support this measure.

ACID RAIN—CLASS OF '85 PROBLEM

Mr. BUMPERS. Mr. President, I rise in support of the bipartisan compromise on the Clean Air Act amendments, specifically the provisions dealing with acid rain. The Mitchell-Dole substitute on acid rain will lead to significant reductions in the emissions of sulfur dioxide and nitrogen oxide; it will allow utilities the freedom to choose the most cost-effective strategies to control those pollutants; and it will be fair to all of the regions of this country.

I want to express my appreciation to all of the Senators who worked long and hard to hammer out an agreement on the acid rain control title. I especially want to thank the majority leader, Senator MITCHELL and the distinguished floor managers, Senator BAUCUS and Senator CHAFEE, for their responsiveness to my particular concerns with the acid rain title as reported by the Environment Committee.

For my State of Arkansas, the substitute amendment represents a vast improvement over S. 1630 or the President's bill. Arkansas' coal-fired plants are amontg the cleanest in the United States, with State permit levels of 1.2 pounds SO_2 per mmBtu or less, and operating histories well below permitted levels. In fact, our Independence Electric Station near Batesville is the cleanest nonscrubbed unit in the country. We burn clean Wyoming coal, two-thirds of the cost of which is transportation to Arkansas.

Both the President's bill and the committee reported bill would reduce SO_2 emissions by 10 million tons by January 1, 2000. This reduction is achieved by requiring electric utilities to reduce their emissions of SO_2 to a rate of no more than 1.2 pounds per mmBtu by the year 2000 and is maintained by a cap of 8.9 million tons on emissions after the year 2000. Clean units—those that currently have emission rates of less than 1.2 pounds mmBtu—are held to an even stricter standard in the year 2000 and beyond based on their emissions in 1985 and their utilization in the 1985–87 timeframe.

In my view, S. 1630 was unfair to Arkansas because it penalized our already clean utilities. Because S. 1630 used 1985 emission rates—an unusually clean year for Arkansas plants—as the basis for measuring the tonnage cap applicable to utilities in the year 2000, the committee bill could have forced Arkansas' utilities to install very expensive scrubbers. Although Arkansas plants continue to use low-sulfur coal and have emission rates well below 1.2 pounds mmBtu, the extremely low-emission rates we were able to achieve in 1985 cannot be replicated in the future. Looking ahead to the year 2000, Arkansas utilities found that they would be unable to operate their clean coal plants at the levels needed to meet projected demand, without installing emissions control technology or purchasing allowances—from utilities that are currently much dirtier than Arkansas plants—from an uncertain market. The potential costs to Arkansas ratepayers from S. 1630 were unacceptably high.

Thus, Arkansas found itself with a Class of '85 problem—an inequitable situation resulting from the use of 1985 emission rates and 1985–87 fuel consumption in the bill's tonnage cap formula. I notified Senators BAUCUS and MITCHELL of my concerns and proposed some solutions for their consideration. In addition, when the Energy and Natural Resources Committee held hearing on the energy impacts of S. 1630 in January, I discussed this problem at length with the EPA witness, Assistant Administrator William Rosenberg. Everyone agreed that the problem needed to be addressed.

The solution provided by the bipartisan agreement is not 100 percent of what I sought for the utilities in Arkansas but it is very close. In general, the compromise provides Arkansas utilities with much greater operational flexibility than either the President's bill or the committee reported bill. If the allowance trading system operates reasonably well under the new law, no Arkansas units will have to scrubbed to earn operational credits.

Crafting a solution to the Class of '85 problem was challenging, however. While a number of utilities shared a problem with the 1985 baseline, individual situation differed and a solution for one State did not necessarily help another State. Enormous credit is due to the participants in the bipartisan negotiations and their staffs for fashioning a Class of '85 provision that addressed everyone's concerns to the greatest extent possible. Senator DOMENICI deserves special recognition for developing a proposal to provide States with very low average SO_2 emissions rates, such as Arkansas, with an alternative basis to qualify for allowances to help accommodate future growth in the decade after the year 2000. Again, I thank the leadership and the managers for their understanding of and attention to Arkansas' concerns. While, it is too early to know what the House bill will provide on

this issue, I urge the managers of this bill to assure, at the very least, that the compromise fashioned for the Class of '85 and clean States is not weakened in conference with the House and to look for opportunities to improve the allowance trading system.

Finally, because of the complexity of the acid rain title and the importance of its provisions to my State, I would like to engage the managers of the bill with a brief colloquy on those provisions.

Mr. ARMSTRONG. Mr. President, I am voting this evening in favor of S. 1630, the Clean Air Act Amendments of 1989. This is one Senator who has been waiting a very, very long time to cast this vote in favor of tough new rules to clean up America's air. And, for the good this bill does, I will be voting for it with great enthusiasm and a deep sense of satisfaction.

But there are also provisions in this bill that give me great pause and cause me to have decidedly mixed feelings about it. Some of the provisions may ignore science or congressionally commissioned study results, such as the 10-year National Acid Precipitation Assessment Program. Also, I believe some of the provisions use clean air concerns to mask a much broader agenda—regulating growth in the West and departing from the traditional concept of multiple use of our public lands. I think the bill ceded to EPA permitting and enforcement powers that are virtually unlimited; to do so requires a profound trust in the benevolence of this agency that I do not share or think at all prudent. Finally, some provisions may prove extremely punitive and burdensome to business, particularly small businesses.

So I do have very mixed feelings about this bill, but on balance, I believe it meets the test that it is far preferable to the status quo and much better than any bill a future Congress is likely to pass. So, flaws and all, I am going to vote for it.

I must admit, when the Environment and Public Works Committee reported this bill, I had very serious doubts about whether this bill could clear the Senate and whether I could even vote for it. But the compromises agreed to by Senate and administration negotiators have made the committee bill much more palatable than it was when reported by the committee.

I think continuing to improve our air is critical. I have been outspoken around here and in Colorado on the need to move forward, to build on our successes, and I have made this one of my top personal priorities.

I believe we have made great progress in cleaning up our air, both nationally and in Colorado. Since the first Clean Air Act was passed in 1955, it has become an American success story. Today, ambient levels of lead and oxides of nitrogen are well within acceptable health thresholds in most parts of the United States.

Even despite the proliferation of the automobile—source of so much air pollution—America's public health profile has shown steady improvement. Our new cars today have high-tech emission controls that can and do reduce:

Hydrocarbons by 96 percent;

NO_x by 76 percent; and

CO by 96 percent.

One clean air commentator reminisced about that day long ago when "There were about 8,000 cars in the United States, only 10 miles of concrete pavement, few spray cans to destroy the ozone layer * * *. The air was relatively unpolluted * * * and our average life expectancy was 47 years." Today, our life expectancy is up to 75 years and climbing, while the incidence of incurable disease—including cancer—has plummeted.

Colorado exceeds our national progress in cleaning up the air we breathe. Colorado's air—and especially Denver's air—leave a lot to be desired, but there is some reason to think we are on the right track.

Ozone, the pollutant that is choking Southern California is not a clean air problem in Colorado.

Carbon monoxide [CO], which has always been a major part of the Colorado clean air puzzle, has been so reduced—mainly through newer and cleaner cars, and augmented by mandated oxy fuels in winter and improved inspection and maintenance—that even Denver may soon meet the EPA standard for CO. We violated that standard on 150 days in 1970, but on only 36 days in 1986. In 1989, we were in violation only 6 days; and, in the CO season this winter, Denver passed inspection on all but 2 days late last fall. Not long ago, I called for Colorado to launch an ambitious campaign to clean up its air and cut our total CO emissions by half before 1992. I believe we are well on our way to meeting that goal.

Particulates are visible pollution, such as the infamous Brown Cloud in the Denver Metro region; woodburning and dust are key components. Colorado had 19 communities around the State—from small ski towns to the metro area—with serious particulate problems. Strict local controls on woodburning and increased street paving and street sweeping have meant most of Colorado will meet the EPA's particulate standard by the end of this year, though probably not by the June deadline in current law.

But although we have come far in this effort, Mr. President, much remains to be done. The strict technological requirements we enacted for new cars in the 1977 amendments played a considerable part in Colorado's progress in reducing CO emissions. However, current vehicle emission reductions will be overwhelmed in Colorado by the year 2010, due to a projected doubling of vehicle miles traveled in the Denver metropolitan area, so there is a strong imperative to do more.

THE GOOD IN THIS BILL

In my opinion, there are three main points where the bill delivers for Colorado and for the country.

First, it addresses ozone and CO emissions with new technological requirements for vehicles—not only cars, but light- and heavy-duty trucks. In addition, stricter tailpipe standards may be triggered in the future if certain cities continue to fall short of clean air goals. The tailpipe standards build on what are generally regarded as the successful effort in the 1977 clean air amendments, and this provision may do more to clean up Colorado's air in the next 20 years than all the rest of the bill combined.

Second, the acid rain provisions in this bill will reduce sulfur dioxide emissions by 10 million tons or more every year, and cap annual emissions at 12 million tons a year. The acid rain provisions of the bill rely on market-oriented allowances to emit pollutants, while emphasizing clean coal technology and fuel switching that should benefit clean, low-sulfur western coal.

Third, this bill represents the first effort to get serious about limiting the toxics with which we have been gradually poisoning ourselves. The toxics provisions of S. 1630 list the chemicals and chemical families which must be controlled as toxic emissions. Industry is required to install technology achieving maximum emissions control. Any remaining emissions of listed toxics are measured for any residual health risk.

THE BAD IN THIS BILL

I remain deeply concerned about five other aspects of this bill, however, which I think should be tagged for very close scrutiny in the future.

First, I have already mentioned my mistrust of the vast discretion being conferred on EPA by this bill; its permitting and enforcement powers are so greatly expanded that I think we will have to be very alert to how EPA behaves. It will have to do a lot better, in my opinion, than it has with its similarly expansive powers under the Clean Water Act and, frankly, I fully expect Congress to find itself sweeping up the debris from this bull-in-a-china-shop EPA it is creating.

Second, there is real doubt in my mind that the allowance system in the acid rain provision will actually work as planned. It is essential, in my opinion, for the market availability of allowances to work so the market can make available unused allowances to a growing West which needs them. I am especially interested in seeing that the West—with its clean coal and no con-

tribution to the acid rain problem—is not unfairly treated when the allowance system goes into effect. Congress will have to watch this like a hawk in the future, or one of the most important rationales of the bill will be undermined.

Third, the possible residual risk measurement in the toxics section continues to cause concern. The residual risk provision—the maximum exposed individual test of someone spending their entire lifetime of 70 years outdoors at the factory fence, downwind, inhaling emissions—appears to be extremely unrealistic as a measure of cancer risk. Also, small businesses can be grouped as area sources and would have to meet the same tough standard.

Fourth, I am concerned about the overall cost of the bill. President Bush has vowed to veto a clean air bill if its cost to the country comes in at much over $20 billion a year. That is a staggering amount of money, and one the Senate bill now exceeds, probably by a large amount.

Which leads me to my fifth and final reservation. If the bill that finally emerges from negotiations with the House of Representatives goes much further than the Senate bill in terms either of more regulation or greater cost, I would have a very hard time supporting it when it comes again before the Senate.

On the other hand, the conferees may well improve the bill and, if so, I would be more enthusiastic about this legislation.

Mr. KERREY. Mr. President, its been some 13 years since the Congress last amended the Clean Air Act. The American people have waited a long time for its revision and strengthening. Today, I am pleased to join in voting for the passage of a strengthened Clean Air Act.

The need for a revision and strengthening of our Nation's clean air laws is very clear. Millions of Americans are exposed to unhealthy and unsafe air. Today, 20 years after the act's original passage, almost 100 urban areas still violate the Federal ozone standard. Since 1970, the EPA has only managed to establish safe exposure levels for seven chemicals, far short of the several hundred air toxics listed in the original Clean Air Act. There are serious short- and long-term health effects that we can no longer neglect. Aside from the human health costs, our country's air quality has a negative economic and ecological impact.

The bill that we have before us is the result of a long process through which a final package has been achieved through compromise. The very fact that we are here about to vote on a final package is a tribute to the majority leader. No one individual has worked as hard as Senator MITCHELL over the years to bring us to this vote. He has been tenacious, tough and very fair. At moments when it seemed that no further progress could be made he has found middle ground between opposing sides. He has put his reputation on the line and he has not failed us. Senator BAUCUS also deserves credit for his work, as does Senator CHAFEE. Additionally, the Senate Environment and Public Works staff has been helpful in assisting the particular problems faced by each State.

The task has not been easy. The issues are complicated. The compromise we are considering today is a balance among many interests, and as with any compromise it has been criticized from many camps as insufficiently strict, as unduly harsh, and as unnecessary.

Mr. President, there are elements of this bill that I would like to see strengthened. I and other Senators have faced difficult decisions. In considering a number of amendments we have had to weigh our wish to strengthen the current proposal against the risk that the passage of strengthening amendments would make the bill veto bait; that it would break the agreement between the Senate leadership and the administration. I accept the word of the President when he states that he would have vetoed a bill that broke substantially with the agreement. My greatest concern has been that we would not enact a clean air bill. We should not allow the perfect to be the enemy of the good.

Based on this concern, I have chosen to vote against amendments that I would like to have supported, tightening of tailpipe emissions, strengthened the alternative fuel provisions, tightened the provisions covering air toxics, among others. Even without the inclusion of these provisions I believe that we have created a bill that will yield demonstrable health, economic, and ecological benefits. The bill is not perfect but it is far better than current law. The American people have waited long enough for cleaner air. Further, I do not think this is the last time we will visit these issues.

I appreciate that the costs associated with this bill are high, yet so are the costs of inaction. Some areas of the country will face hardships. It is possible that Nebraska will face modest increased costs associated with this bill. Nebraskans will not, however, face the high increases in energy costs and other costs that we might expect in other regions.

Nebraska has the good fortune of being a relatively clean State since we are close to the Powder River Basin in Wyoming, a source for low-sulfur coal. We are also fortunate to have relatively new generating facilities.

I was very concerned about a specific provision in the initial acid rain title of the bill. In specifying the baseline period, the time period that determines the normal operating capacity for powerplants, the bill selected the 1985–87. Unfortunately, that timespan coincided with a severe farm crisis that crippled our economy. Needless to say, our power producing capacity during this period was very low. The original bill out of the Senate Environment and Public Works Committee failed to recognize this low capacity problem. I am very pleased that Senators MITCHELL and BAUCUS were able to provide assistance to low capacity generators in a number of States This assistance will be in the form of a pool of allowances that will be available to low capacity generators, including Nebraska utilities that meet the provision's requirements. This provision was included without breaking the sulfur dioxide cap established by the legislation.

There have also been other improvements in the bill. I am pleased that the Senate included an amendment that I drafted in conjunction with Senator DASCHLE, EXON, HARKIN, DIXON, and DOLE that provided the EPA Administrator the discretion in deciding whether to require small farm operations to file hazard assessment reports for handling normal amounts of anhydrous ammonia. If the EPA Administrator determines that requiring each farmer to file a separate report will not yield public safety benefits, he or she can relieve farmers from having to waste dollars on just one more report.

I am also pleased to have joined with Senators DASCHLE, HARKIN, DOLE, and others in cosponsoring an amendment that requires cleaner burning conventional gasoline in nine severely polluted cities beginning in 1994. The bill also includes a provision mandating a 3.1-percent oxygen content requirement for carbon monoxide nonattainment areas. These amendments not only help ensure cleaner air, but are potentially good for grain-based fuels and fuel additives.

These are minor victories compared to the overall result: a thoroughgoing revision and strengthening of the Clean Air Act. Mr. President, I yield the floor.

Mr. DODD. Mr. President, I rise to express my support for S. 1630, the Clean Air Act.

It has been 13 long years, since 1977, since the Clean Air Act has been reauthorized. Economic and regional conflicts foiled clean air legislation throughout the 1980's—those and the Reagan administration's notion that dirty air was overemphasized and was, anyway, merely the price of progress.

While air quality has improved considerably since the original passage of the Clean Air Act in 1970, significant problems remain. Over 100 areas in

the United States do not meet minimal health standards established by the act for ozone, more than 40 areas have failed to attain the carbon monoxide standard and 58 areas exceed the health standard for particulate matter.

Knowledge of the detrimental health effects of toxic air pollutants has far outstripped the regulatory schedule—leaving an unacceptable gap between controllable risks and a regulatory program to address them.

Early concerns regarding the negative effects of acid deposition have given way to concrete evidence of lake acidification, forest dieback, materials, and visibility damage, and the negative health effects caused by acid deposition and its precursors.

New evidence concerning global warming and its potentially cataclysmic consequences add urgency to the need for near-term action, especially with regard to known ozone-depleting chemicals for which substitutes are readily available.

Unfortunately, during the past decade, a silent health crisis was largely ignored by Congress. Air pollution—smog, acid rain, airborne toxics, and ozone depletion—threaten the American public with cancer, birth defects, lung diseases, and other crippling injuries.

Americans have been saying for years that they want cleaner air. The hard questions—the ones on which the legislation has been hung up for a decade—concern the cost. Who pays, and how much?

The United States is now spending approximately $30 billion a year to hold down air pollution. That is not excessive; it is, for example, a little less than annual spending on cigarettes and tobacco.

It is large enough, however, to have an impact, particularly since some industries and some States inevitably bear heavier burdens than others.

What we have before us is a compromise on clean air which satisfies neither side of the issue completely. Nobody is entirely happy with the compromise clean air bill worked out between the leadership and the Bush administration. Frankly, it is not the bill that I would have written. But it is a balanced compromise, a strong bill that will make a measurable and welcome improvement in existing law—and in the air we breathe.

I am proud of my record, built over my 16 years in the Congress, as a strong environmentalist. But throughout the long debate over the past several months, I supported the leadership coalition when various so-called strengthening amendments were considered because I realize that we must have progress on clean air without perfection.

The compromise bill that we are about to vote on is a triumph of common sense. Without substantial give and take, the legislation was destined to run head-on into a filibuster. The first major assault on the country's air pollution problems in over a decade now has a brightened prospect of becoming law, with much of its toughness intact.

If the bill is passed and enacted into law, the costs of containing air pollution will be raised. The quality of the air also will be improved. Passage of this clean air bill will mark the end of a decade of legislative paralysis, and in that case there is one sure winner: the breathing public.

Probably the most important provision in the compromise bill is the one that expands and tightens the rules on toxic substances in the air—chemicals that make people sick, most of them emitted by industrial processes. The country has learned a lot about air chemistry in the past 20 years. The present clean air law controls only seven toxics. The compromise bill would cover 187 and require every industry to use the best available technology to reduce emissions.

The acid rain provisions of the bill, an issue of concern to all of us in New England, targeting a 10 million ton reduction in sulfur dioxide emissions from powerplants in the next decade, also are an important part of the compromise bill.

Other sections of the bill, concerning airborne industrial pollutants and urban smog, were weakened when compared to the original Senate bill. I must say, Mr. President, that I would not have favored such weakening provisions had I been involved in crafting the compromise.

But even those of us who are strong advocates of tough environmental legislation realize that we all must be prepared to make sacrifices in order to get a bill passed. I am pleased that even these so-called weaker provisions represent tougher environmental standards beyond existing law.

Mr. President, I am also pleased that two of my amendments, one relating to the testing of jet engines, an important industry in my home State of Connecticut, and the other relating to minority owners of jointly funded electric generation facilities, were adopted as part of the final clean air bill.

I wish to commend the majority leader, Senator MITCHELL, for his outstanding work in bringing this legislation to reality. Ever since he has been in the Senate the majority leader has been the leader on clean air legislation.

I also wish to commend the two managers of the legislation, Senator BAUCUS and Senator CHAFEE, for their outstanding work as well.

For the past 10 years, these three Senators worked tirelessly to see to it that the Senate pass clean air legislation.

Finally, I wish to recognize the interest of President Bush who put forth his own clean air bill and was willing to negotiate with the Senate so that a compromise bill could be passed.

Mr. President, the clean air legislation we are about to pass will improve health protection to the American public and provide additional assurances that it will be protected from unreasonable health risks over which it has no control.

With passage of this historic legislation, the long deadlock over clean air legislation will be broken. Instead of rhetoric, we will now have results. And those results will improve the quality of the air that everyone breathes.

Mr. BOND. Mr. President, in expressing thanks to the many people who labored long and hard to achieve a workable compromise I must express a very special thank you and my sincere gratitude to Claire Heffernan, of my staff, and Rusty Matthews and John Wood, of Senator BYRD's staff.

Mr. BRADLEY. Mr. President, it has been 13 years since the Senate last produced legislation on clean air. While some areas have seen improvement in air quality, smog problems have spread beyond the cities to afflict rural areas. We have learned more about the effect of ozone levels on human health, on forests and on agricultural productivity. We have learned about the impact of CFC's in creating the Antarctic ozone hole. We have learned that emissions of sulfur dioxide and nitrogen oxides do indeed cause acid rain.

In those 13 years, our behavior has exacerbated air pollution problems. We are driving more: total vehicle miles traveled in the United States increased by one-third to over 2 trillion miles. The current law does not offer Americans adequate protection from human-produced atmospheric poisons. In short, in the last 13 years, the case for passage of a strong clean air law has become overwhelming.

The Environment and Public Works Committee produced a strong bill that addressed the problems of air pollution. The bill went far toward cleaning our Nation's air. Some Senators and the President said that the bill went too far. They complained that the bill was too costly.

Faced with a Presidential veto, members of the committee, under the leadership of the majority leader, began negotiations with the White House and those who threatened to block action on the bill. The committee bill's champions were forced to accept loopholes, exceptions, and complexity in the compromise. As a result, this bill is not as strong as it could be to protect

the health of Americans from air pollution.

One amendment to the compromise language was offered by my colleague from New Jersey [Mr. LAUTENBERG] and rejected unwisely by the full Sente. The amendment, which I cosponsored, would have protected Americans as fully as we should be from exposure to toxic chemicals. It would have brought the single largest source of toxic chemical emissions in the country—auto emissions—under regulation. But the Senate rejected the opportunity to protect Americans from toxic chemcial emissions from mobile sources. Over one-half of all deaths from exposure to toxic chemicals in the air are caused by emissions from mobile sources, yet the bill denies EPA power to regulate those emissions. The estimated $1.5 billion per year the Lautenberg amendment would cost was deemed "too expensive."

Yet the Senate, by increasing the gasohol subsidy, was prepared to forego $1 billion in funding for mass transit and highway development and has endorsed higher gasoline prices for slight or no health benefit. So clearly, some policy choices have been made that do not use health or the environment as a yardstick.

The Senate also rejected other measures to protect Americans from pollution from automobiles. Americans drive about 2 trillion miles per year, and the figure is climbing. A Clean Air Act that fails to address pollution from automobiles in a very strict fashion fails to attack the major source of smog. Without stringent controls on automobile emissions and the expansion of effective public transportation, we will not clean the air as sufficiently as we could. In the long run continuing growth in auto use will overwhelm the controls we have imposed. The Nation's air—and New Jersey's air—will not get as clean as it should.

I have some addition concerns. The controls on nitrogen oxides in this bill should have been stronger. Nitrogen oxides are not only a major precursor of acid rain, they also are an essential precursor for the formation of photochemical smog, and they are a major component of the brown haze that settles over so many of our cities. The nitrogen oxide controls placed on utilities in this bill need to be beefed up particularly, given the multiple problems caused by these pollutants. Controls are needed not just on utilities, but on industrial burners. Stronger rules on nitrogen oxide emissions from cars are achievable, but they were rejected by the Senate when second-round emissions controls were rejected.

Another issue that deeply concerns me is the Senate's failure to ban leaded gasoline in a timely fashion. In the compromise proposal, lead in gasoline was to be phased out at the earliest next January, and most likely, not until 1993. Faced with the threat to delete this phaseout entirely, the committee accepted an amendment which extends the time for phaseout by an additional 2 years. I opposed the amendment because each year the ban is put off, another million pounds of lead are spewed into the air to end up in water supplies and the soil around our homes. Given the latest alarming information on the incidence of lead poisoning in our children, a ban today is far more appropriate than any postponement. Yet, in order to save some unknown number of farm vehicles, which could have continued to use leaded gasoline indefinitely under the bills original provisions, from "valve wear," we have allowed many times the amount of leaded gasoline needed for protection of farmers to be marketed nationwide in our cities and elsewhere. Such actions made no sense and belittle our collective efforts for a clean environment.

So, Mr. President, I am sorry, as I know the members of the committee and the leadership of the Senate are, that the bill before us does not do all that it can and should to clean the air.

Nonetheless, even with its shortcomings, this bill does in fact represent a significant improvement over existing law. I will vote for passage of the legislation. This legislation, despite its unnecessary expense, will clean the air. And that is the bottom line. This legislation will produce cleaner air, and it will improve the health of Americans.

The bill is complex, it addresses a myriad of issues, and there are some noteworthy virtues. Twenty years after Congress first set clean air goals for our cities, we finally have a bill that requires steady progress toward reducing smog. For the first time, Federal law will protect states from pollution that blows in from neighboring States. This source of pollution is so crucial to New Jersey that it is doubtful that we could meet air quality standards even if all New Jersey's sources of smog were shut down, unless neighboring States took action.

Other provisions of this legislation reduce the exposure of all Americans to airborne toxic chemicals and carcinogens. That is a major achievement. To date, EPA has only managed to regulate seven chemicals. This legislation will initially force the regulation of 187 toxic chemicals, and alter the process by which chemicals are regulated. This bill will end a 20-year legacy of inaction on regulating the poisons emitted by the industrial processes.

Another important element of this legislation is the visionary program it includes to address a major, global environmental issue, the destruction of the stratospheric ozone layer. This bill commits the United States not only to the elimination of CFC's, the most damaging group of chemicals, but also to the elimination of related chemicals. This latter group may be less severely damaging to the ozone, but they still deplete the global shield against ultra-violet radiation.

Another important victory and an important precedent for future environmental law, is the inclusion of an absolute cap on emissions of sulfur dioxide from utilities. In the long run, the cap ensures that emissions of acid rain pollutants does not continue to climb. An absolute cap on emissions makes emissions a scarce and marketable commodity, and encourages businesses to invest in research to reduce them. Harnessing the powers of the market to control pollution must be the direction of environmental protection in the future.

Senator BAUCUS, Senator CHAFEE, and especially the majority leader, Senator MITCHELL, deserve the substantial credit for the writing and shepherding of this bill through this phase of the legislative process.

As the people in Eastern Europe find their voices, one of their first complaints has been the poor quality of the environment, and particularly the severe air pollution. The costs of dirty air in East Germany, Poland, the Soviet Union, and elsewhere have been staggering. Americans believe that economic well-being requires clean air. A healthy economy and a healthy environment are in fact, compatible goals.

I have mixed feelings about this legislation and, given the importance of clean air to all Americans, that is unfortunate. This bill will clean the air. It does not do as much as it should, and the costs to the economy and to the Treasury, will be greater than they need have been. Getting any legislation has required compromise. It is unfortunate that the threat of a Presidential veto has weakened the bill's ability to clean the air in a more thorough way. Achieving clean air for all Americans will require our best efforts and continued vigilance. This bill is an important step, but we still have more to do.

Mr. KERRY. Mr. President it has been 13 years since Congress last had the courage and the muster to address the Clean Air Act. And today, after a month of floor debate and hundreds of hours of meetings and discussions, the Senate is ready to vote on its version of the Clean Air Act.

I want to take a moment if I may to commend the able majority leader, Senator MITCHELL of this diligence in ensuring that this bill made it to the Senate floor and then today to passage. He is an environmental leader and one who has worked hard on this critical issue for as long as I have known, him. I applaud his success in

moving the legislation through the Senate at a time when so many interests—regional, economic and most importantly the interests of the health of our citizens were pulling the act in so many directions.

Mr. President, today I will vote for the passage of the Clean Air Act and send it on to meet later in conference committee with a version that is currently being crafted in the House of Representatives. Is the Senate bill a perfect bill? No, I am sorry to say it is not. Is it an improvement over current law? Yes, I believe it is. Mr. President, the reality is this, last year, the Senate Environment and Public Works Committee voted a great piece of legislation out of committee by a 15 to 1 vote. That initiative was masterful and is one that would have made a serious difference in achieving healthier air quality for our citizens.

So what happened? The fact of the matter is Mr. President, our supposed environmental leader, the President of the United States, George Bush, sent his team to Capitol Hill with the clear message, if the bill cost more than he wanted it to, then he was going to veto it. Mr. President the Clean Air Act of 1970 made protection of the public health the primary purpose of air pollution control. It declared that when public health considerations conflicted with other concerns, that public health be given top priority. Health standards were declared the primary standards. For President Bush, however I am sorry to note, polluter's costs were at least as high a priority. This was all too clear from the message he delivered during the negotiations before the bill came to the Senate floor. For more than 20 days the Bush team negotiated in a back room off the floor of the Senate and whittled away at the fine work of the Environment and Public Works Committee. The President had the opportunity to accept the committee bill, but no, Mr. President, instead he chose to chip away at it, to diminish its protection.

Cost the President says is the issue. Some industry estimates suggest that the bill could cost as much as $22 billion a year. According to the American Lung Association, the health cost associated with dirty air is $100 billion a year. And who pays Mr. President, the industries and businesses across America in health insurance and treatment costs. Even using their own figures one can look at the cost still this way. Either we pay 20 cents to prevent the effects of dirty air on our citizen's health, or a full dollar later in health costs to repair the damage unclean air produces. And those are only the health care costs.

Agricultural damages from polluted air cost over $5 billion a year and damages to statues and buildings from acid rain alone are estimated to run over $2 billion dollars in repairs. Forest and stream, and pond damage, tourism losses and the like could cost additional billions of dollars. So if cost is the issue for the President, then he is confusing that issue with how to limit the price tag. Clearly clean and healthy air will save this Nation tens of billions of dollars and untold human agony.

The bill before us is a compromise, it could have been much better and I suppose it could have been worse. It contains strong provisions to reduce acid rain, limits certain air toxics, and makes some improvements to reduce smog pollution.

Today industries belch out billions of pounds of hazardous toxic air pollutants. In addition, automobiles, trucks and buses spew over 50 percent of America's cancer causing air toxics. In the past the Clean Air Act only required the EPA to control 7 toxic chemicals, this legislation increases that list to 191 and requires all major sources emitting these pollutants to use maximum available control technology known as MACT to control these carcinogens within 10 years. Some estimate that this will decrease the air toxics from major industrial sources by almost 90 percent, and that Mr. President is a great improvement. The legislation also requires the EPA to create a program which will monitor the atmospheric deposition of toxics into both the Great Lakes and coastal waters and for the tourism and fishing industry in my State, I commend the importance of that provision.

Where the bill falls short with regard to air toxics Mr. President, is not with the section dealing with large industrial sources which spew out almost half of the air toxics in the United States, but the problem lies in the fact that it does nothing to eliminate the other half of our air toxics which come from motor vehicles. Mr. President according to the EPA 56 percent of the deaths associated with air toxics come from cars, buses and trucks. The committee bill included a provision that addressed air toxics from motor vehicles, and during the negotiation process the President's emissaries sought to have it eliminated; and unfortunately, they were successful. Last year the President said that toxic air pollution results in 3,000 cancer cases a year. His goal was to reduce this amount by 75 percent. The President is saying one thing and sending his folks to the Hill with another message. He could have easily accepted the committee bill and really done something to achieve that 75 percent reduction but instead he did not.

With regard to ozone pollution known more commonly to us as smog, the bill again makes some improvements but unfortunately falls short in some very significant areas. In 1977, Congress gave areas in the country with severe auto-related pollution 10 years, until 1987, to achieve healthful air quality. As late as 1982, the EPA testified that a majority of the areas were going to miss that deadline. The fact is, that now in 1990, 13 years later, there are 101 areas in this country still suffering from chronic smog; 44 areas with carbon monoxide pollution and more than 50 areas suffering unhealthful levels of fine particulate pollution.

Anyone can suffer from the ill effects of smog pollution. Across this country over half of our citizens live in areas where health standards are not being met. Those especially vulnerable to this pollution include 31 million children, 19 million elderly, 6 million asthmatics, and 7.5 million individuals with chronic lung disease.

On its face, the bill sets up an ambitious system which places new requirements on cities to achieve ozone attainment. It asks cities to attempt to make steady progress toward lowering their smog pollution. Specifically ozone nonattainment areas must reduce VOC's the main ozone pollutant, by 4 percent a year for the first 6 years; then 3 percent a year until the ozone standard is met. The compromise bill also requires some cities to have vehicle inspection and maintenance programs in place as well as stage two vapor controls and transportations control measures.

Mr. President, on paper these look like impressive improvements. But the tools to make this happen I fear have been if not eliminated, severely undermined. The bill includes compliance loopholes that States and industries can drive a Mack truck through which may weaken the bill beyond the current law in this area. Since the first Clean Air Act was enacted, states have been required to develop and carry out plans which would help them eliminate smog pollution and achieve ozone attainment. States and localities have had the legal authority and the Federal Government has had the power to review the plan, and in cases when States fail to implement a plan, or their plan is insufficient, the Federal Government is supposed to come in and implement a Federal plan that will do the job. The threat of Federal Government intervention has forced many States to implement tough plans. In addition, when the Federal Government or the States did not institute an adequate plan, the mandatory requirement under the law has placed the ultimate enforcement tool in the courts, where citizens can sue to force Government action. Mr. President this Federal implementation provision is the meat of the current law. The compromise bill before us today, however, repeals the Federal responsibility and in doing so eliminates an im-

portant incentive to states to achieve clean air.

In addition to stripping away the enforcement lever of the Federal Government, the compromise also provides a loophole which has not existed in current law, that provides a waiver in the pollution control requirements if the industry thinks it will cost too much. The bill includes a provision which says that any Governor from any State can walk away from pollution control requirements whenever he or she conclude that pollution controls cost too much. There is nothing wrong with considering the cost of clean up. Existing law has cost considerations built into the choice of pollution control for every single facility. Not only would this new provision be a paperwork nightmare for States, it would also be an open invitation for polluters to pressure States into emission control concessions. The 1970 law makes health protection the basis for the law. This new loophole places health as a second tier consideration when compared to cost.

Third, the smog title of the bill before us today no longer requires that reasonably available control technology or RACT, be applied to as many existing sources as necessary to reach the health standards in the law. The EPA is no longer given the discretion to control smaller, stationary sources emitting smog forming compounds. Under current law they have had that authority. The bill we are voting on today says that controls must only be required on sources emitting more than 100 tons of pollution per year if they are in serious ozone nonattainment areas, and those sources emitting 50 tons of pollution a year if they are in extreme ozone nonattainment areas. The sad reality is that according to the Congressional Office of Technology Assessment, small stationary sources emitting less than 50 tons of pollution per year, are responsible for nearly half of the Nation's smog forming emissions and are by far the fastest growing segment of the emission inventory.

Mr. President, these three examples I have just pointed out are serious retrenchments from current law. Again like the other concerns I have expressed with the bill before us, none of these provisions which minimize current law were in the committee bill. All three were born out of the negotiation process. None of these ideas were pushed by industry or any Senators for that matter. They were insisted on by the President's men who said the President would not support the bill if he did not get his way.

Like most air pollution, smog is a pollutant that knows no State boundaries. Even if one State works hard to clean up its smog, another State may choose not to. Without a Federal mandate, States are not likely to meet the ambitious reduction plan that is set out in the bill, and consequently our cities will continue to choke on smog. The President could have accepted the committee bill and kept a strong current law with EPA at the helm, but instead he insisted on weakening this section of the Clean Air Act which enforces smog pollution reduction.

Mr. President as you know, I offered an amendment on the Senate floor which would have returned the bill to current law in all of these areas, but unfortunately it was targeted as a deal breaker and Senators who expressed support in the past for the provisions of my amendment felt compelled to vote against it. Unfortunately it lost by a handful of votes. I am pleased to note however, that on the very next day after the vote on the Kerry amendment, the House Energy Committee voted 38 to 2 to include my current law amendment in the House bill. So I am very optimistic that we will visit this issue later in conference committee and do what is right to achieve clean air in our cities.

With regard to tail pipe standards, the bill before us today requires tighter controls on automobiles to reduce air pollution. Automobiles account for 50 percent of America's smog forming hydrocarbons. Under the bill, by 1995 all motor vehicles must reduce their hydrocarbon emissions by 22 percent and their nitrogen oxide emissions by 60 percent. That provision is a good one. However the bill before us today missed the opportunity to do an even better job in the so called second round of tailpipe emissions. In the compromise a second round of reductions goes into effect in 2004, only if 12 cities are still too polluted. In essence if 11 cities are still too polluted no new emissions are required. I can not understand this kind of thinking, but that is what the compromise bill requires. Like other provisions, the committee bill mandated tighter controls on automobiles than the compromise. Again the President was the driving force to weaken this section of the bill and was successful in doing so.

The bill includes some new and important provisions that will help prevent the further depletion of the ozone layer. Not to be confused with low level ozone, the ozone layer screens out harmful ultraviolet rays. The bill before us today requires complete phase out of Chlorofluorocarbons known as CFC's and phases out other ozone depleting chemicals. I applaud this section of the bill.

In the area of acid rain control I am pleased to say the bill is a serious improvement over current law. Mr. President, I participated in the acid rain negotiations on this bill and I must concede that they were probably the most contentious of all of the negotiations on the bill. Acid rain has been an issue I have worked on for many years. My State of Massachusetts has suffered the effects of acid rain for decades. Too many of our rivers, lakes, and streams are lifeless or dying, and significant parts of our forests are in serious decline. Acid rain is literally eating the faces off our historic statues, and the health costs associated with acid deposition has grown steadily.

Each Congress since coming to the Senate I have introduced an acid rain reduction bill. I am pleased that the bill before us will significantly decrease the acid rain pollution that has been falling on the New England States and Canada for far too long.

Mr. President, the evidence is all too clear, acid rain continues to wreak havoc on our environment and produce devastating health effects on our citizens. Although the United States has made some serious efforts to improve the air we breathe, experts say that we still emit roughly 15 percent of the world's sulfur dioxide [SO_2], and 25 percent of the globe's nitrogen oxide [NO_x].

The United States cannot reduce air pollutants worldwide, but as the primary contributor we can act as a model and lead the world in addressing the Earth's environmental woes. The acid rain section of the bill before us today when fully implemented will reduce SO_2 emissions by 10 million tons below the 1980 levels and cap emissions at these levels by the year 2000. Total emissions equal approximatley 23 million tons. This bill will achieve a reduction of just under half of that pollution and that is significant.

The bill before us today is a polluter pay bill. That is the way it should be. At this moment I want to commend again the majority leader for his work on ensuring that we got a bill where the polluters pay. A few years ago Mr. President that seemed close to impossible.

The acid rain provisions provide flexibility to utilities and States. Again there is no cost sharing, and it does not mandate scrubbers. It leaves it up to utilities to reduce pollution in a manner that they deem most effective. It also provides future growth states with an ability to grow.

Mr. President, while the endless debate has been raging about acid rain, Massachusetts and other States, particularly Northeastern States, have been suffering damage. In fact last year, frustrated by the absence of National Clean Air legislation, Massachusetts went ahead with tough new restrictions designed to reduce acid rain emission within the State. The regulations stem from a 1985 law, on which I had the pleasure to work as the Massachusetts Lieutenant Governor, which caps the amount of sulfur dioxide allowed to be emitted in the State. The new proposed regulations are

similar to what we can expect to see nationally from this bill.

Some have asked why Massachusetts was willing to impose such tough standards on itself, when it only contributes 1.3 percent of the SO_2 nationwide, particularly when the majority of SO_2 that falls on the State comes from other States. The answer is simple, the State's rivers, lakes and streams, forests, buildings and now even marine life have suffered for far too long from the ill effects of acid rain. Therefore even the modest improvements that such a cap can produce is necessary. And furthermore, Mr. President, in Massachusetts we recognize that our emissions do flow downwind to neighboring States, and it is our responsibility to curb these emissions.

Although Massachusetts has responded to this information definitively by enacting one of the most comprehensive acid rain control bills in the country which mandates substantial reductions in both sulfur dioxide and nitrogen oxide emissions within the State, they cannot do it alone. And for that reason I am pleased that the bill before us today will do nationally what Massachusetts has already set in motion.

The acid rain provisions are good, and I applaud their inclusion.

Mr. President, there is no simple answer with regard to cleaning up the air that we breathe. There are no simple solutions that everyone will endorse. The cost of a clean air bill is high, but the health and other related cost of no bill is even greater. The bill we have before us today does not have everything I would have liked. The process is not over however, and as the legislation works its way through the House of Representatives there will, I hope, be measures added that strengthen what I have outlined as areas which need improvement.

Mr. President, 20 years ago this month over 20 million citizens across our Nation turned out and demonstrated their concern about the environment. Through parades, teach-ins, nature walks, cleanup efforts, lectures and concerts, Americans told policy makers they wanted real change to save our future environment. Earth Day 1970 provided a powerful impetus to Congress and the Federal Government for the passage of the original Clean Air Act, which we are voting on today. As we embark on Earth Day 1990, and the 20th anniversary, it seems only too fitting that we should pass a stronger, more comprehensive Clean Air Act. Mr. President, let us not forget today after decades of struggle, the environment is no longer an issue about "quality" of life but rather life itself; no longer an issue about how we choose to live but whether we survive at all. The Clean Air bill before us today will move us in the right direction, although with less urgency than is required.

AIR TOXICS DISCUSSION

Mr. DOMENICI. Mr. President, as we move toward completion of our consideration of the Clean Air Act, I wanted to spend a few moments to discuss the compromise that has been worked out on the toxics air pollutants title of the bill.

As one of the members who worked so hard to fashion the language, I believe it is important to focus on what the final agreement does—the benefits that it will provide our society.

First, the basic structure of the air toxics title is to require an initial level of tight controls for all major sources of toxic air releases. This level of controls is determined strictly on the basic of the availability of technology, not on any defined risk to the public.

While questions have been raised regarding the suitability of requiring every emitter of air toxics to incur the cost of install such technology, irrespective of the risk it poses, the basic concept of technology requirements is a necessary first step to assure the public that measures are being taken to address this serious public health threat.

It is expected that the installation of this technology will reduce emissions of air toxics from large industrial sources by approximately 90 percent or more from uncontrolled levels. This is significant reduction, particularly since stationary sources are estimated to be responsible for only roughly 20 percent of the cancer deaths in this country due to toxic air emissions.

It is the second, risk-based phase of the Senate program that has generated so much concern and discussion. After the first round of technology is installed, EPA will be required to evaluate the remaining residual risk from all sources that emit known—as well as suspected—carcinogens.

The bill as reported out of committee required that EPA calculate this risk by determining if the source presented risk greater than 1 in 10,000 to "the individual in the population who is most exposed to emissions." This is premised on a theoretical model assuming continuous exposure to the pollutant by a person standing at the fenceline of a plant for 70 years. After this level was achieved, it was further required that additional reductions occur until a one-in-a-million level of risk is reached.

This so-called bright line standard on its surface has a certain appeal. However, many of us were concerned that such a standard required a level of certainly that cannot be achieved from the current risk assessment process.

The assumptions and methodologies that the Environmental Protection Agency has traditionally employed are conservative in their assumptions about whether a chemical can cause cancer in people, the potency of the chemical, the durations of exposures and the amounts people actually absorb. Such conservation assumptions can lead to overcontrol in many instances. On the other hand, such uncertainties in the science could mean that we are missing certain risks, and despite many conservative assumptions, may not be adequately protecting the public from certain particularly potent chemicals.

Many of us have been persuaded that the best minds of the scientific community need to look into this matter more thoroughly before we proceed with a program where major decisions are going to be made based on a process fraught with uncertainly.

While I don't pretend to have a complete understanding of the technical issues involved in risk assessment, I do know that a number of influential scientists have raised concerns about the need to refine the process.

Almost all of the information that we have developed regarding potential cancer risks derives from animal studies or human epidemiological investigations in which chemical exposures are many times higher than concentrations of pollutants in the ambient air. Consequently, in order to develop an estimate of the cancer risk to humans who are exposed to ambient air concentrations of a chemical, the risk of cancer potency observed at relatively high exposure levels must be extrapolated downward, often by several orders of magnitude.

The problem that scientists confront in attempting to do this is that the true shape of the so-called dose-response curve is not known for the vast majority of chemicals, and actually may never be known. Consequently, a number of critical assumptions and policy choices must be made to estimate the cancer potency or risk at atmospheric concentrations to which the general public may be exposed.

Unless there are data to suggest otherwise, EPA assumes that there is no threshold for the carcinogenic effect of a hazardous air pollutant, and that the dose-response curve is linear. In the case of animal data, EPA utilizes the 95 percent upper confidence limit of the unknown parameters. This approach, EPA acknowledges, does not produce the most probable estimates of the risk, but, instead, identifies an upper limit to the risk.

When a risk assessment is based on human epidemological data, EPA's approach produces an estimate of low-exposure risks that may very well be one or two orders of magnitude higher—that is, 10 or 100 times higher—than the actual levels of risk.

With my statement, I am including a copy of an article that appeared in the Washington Post on Monday, March

26, which discusses the problems with all the models which extrapolate dose-response.

I have only touched on some of the uncertainties relative to risk assessment methodology. What this short discussion does tell us is that we need to learn much more about this process. And because an evaluation of residual risk under this bill will not occur for 5 to 10 years, we do have the time to take positive steps forward.

Consequently, I and others, put forward a proposal during negotiations on toxics calling for a National Academy of Sciences comprehensive review of current risk assessment methodology used by EPA and alternative approaches and the preparation of a report with recommendations on how the process can be improved. As a result of these recommendations, EPA would revise its "Guidelines for Carcinogenic Risk Assessment," as appropriate.

The proposal also establishes a Risk Assessment and Management Commission to review the NAS study and other relative information and provide the Congress with its legislative recommendations on how to proceed with the residual risk process.

An expedited review process for Congress' review of the Commission recommendations is incorporated in the bill. This is an extremely important provision because if the Congress does not act on the report, then by default, EPA must proceed with residual risk determinations based on a 1-in-10,000 risk to an actual—not a hypothetical—person.

I cannot stress more strongly to this body how important it is that a future Congress seriously evaluate this matter before the default kicks in. In 5 years time, our knowledge of science should be significantly advanced. The National Academy will be preparing a comprehensive study that will be examining the many uncertainties that I have raised earlier. All of this additional information must be available to the Congress so that a reasoned decision can be made on how to evaluate residual risk.

Mr. President, I ask unanimous consent that the earlier-referenced Washington Post article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 26, 1990]

MEASURING CHEMICALS' DANGERS: TOO MUCH GUESSWORK?

(By Malcolm Gladwell)

When scientists calculate whether pesticide residues kill little children or automobile exhaust causes cancer, there comes a point when they put aside their hard data and their complex theorems and make a guess.

They know the effect of massive doses of each chemical on rats and mice. But public policy is about humans, not animals, and it must apply to chemicals often found in very small amounts. To draw any conclusions about the real world from what they have seen in the laboratory, scientists have had to speculate.

For 20 years, toxicologists have lived with this uncertainty in trying to measure the dangers posed by the chemicals we eat, drink and breathe. But when rising public concern about potentially dangerous chemicals is in conflict with rising costs of eliminating risk, society is faced with increasingly difficult choices. Many scientists are beginning to argue that the guesses made in the name of risk assessment are no longer good enough.

"Many of the leading people in the field are getting very suspicious about animal tests and what they mean," said Bruce Ames, director of the environmental health center at the University of California at Berkeley. "I think we may be being led down the wrong path."

A LINEAR ASSUMPTION

The problem arises from the fact that the risks of developing cancer from typical exposure to many toxic chemicals may be in the range of one in a million or even less. That means that for a laboratory animal experiment to have a chance of detecting a chemical's carcinogenicity at realistic doses, it would have to use millions of animals.

Because that is hardly practical, scientists do the next best thing. They feed a far smaller group of rats or mice a much higher than normal amount of the chemical. It is understood that this creates an unrealistically high incidence of cancer. Then the researchers extrapolate backward to estimate how many cancers would have been caused at a more realistic dose.

In extrapolating, both the Environmental Protection Agency and the Food and Drug Administration make what is called a linear assumption. Or example, if 50 out of 100 rats got cancer from eating a bowl of a particularly nasty chemical every day, then federal health officials assume that at half a bowl a day, half as many would get cancer, and at quarter bowl, a quarter would get sick and so on down to the point where if the rats were nibbling on the chemical only once a month, just one or two would develop tumors.

This is called a linear assumption because a graph of it, called a dose-response curve, would be as straight as a yardstick (see diagram).

Here is where the controversy begins. Although it seems logical that the risk of cancer should change in proportion to the chemical dose, that is only a guess—a guess that is now being called into question.

"When it comes right down to it, why should we expect nature to give us dose-response curves that follow any predictable mathematical formula?" said John Bailar, a toxicologist at Montreal's McGill University. "Why should they follow a straight line or some regular curve? I don't think you can make an iron law about these things."

What if, for example, a chemical is so potent that it poses a grave risk in even the smallest amounts? If low doses do about as much damage as is possible, then large doses could not make much difference. The dose-response curve in this case would be shaped like a kind of street lamp, rising very sharply in the beginning and leveling off at higher doses (See diagram, based on findings for vinyl chloride, a potent carcinogen). If policy decisions are made on the assumption of a straight-line relationship, the risk of intermediate doses would be underestimated.

It may be that a bowlful of this chemical every day, like the hypothetical nasty chemical, still kills 50 out of 100 rats. But a nibble every month, which the linear assumption guessed was killing just one or two, might actually cause cancer in 15 or 20 rats.

Or consider the opposite. What if high doses of a chemical are needed to trigger the comples chain of events that cause cancer? This is a well-known phenomenon among some carcinogens. Formaldhyde is an example (See diagram). In such cases the risk of cancer would look like a hockey stick, increasing only slightly until the critical mass of the chemical is reached and then rising sharply.

Here as well the typical extrapolations about the dangers of low doses might be wrong. A bowl of this chemical, like the hypothetical nasty chemical, might still kill 50 out of 100 rats. But a quarter dose might not even come close to killing a quarter of the rats. If that quantity fell below the cancer threshold, it wouldn't be any more dangerous than a monthly nibble.

The differences among various dose-response curves have implications for policy-making. A chemical the government thinks is safe for human consumption might not be safe at all if its curve resembles the street lamp. Hockey stick chemicals, on the other hand, could be pronounced unacceptable risks when in fact at realistic doses they are virtually harmless.

Large sums spent to reduce exposures to a hockey-stick chemical to extreme lows might buy very little added safety. The money might be better spent redoubling efforts to protect society against street-lamp chemicals.

A "DEFAULT POSITION"

How might chemicals deviate from the yardstick model? Vinyl chloride, a street lamp chemical, is dangerous because the body processes it into another substance that causes potentially cancerous mutations. But the body can only metabolize a limited amount of vinyl chloride at one time. While cancer risks from the chemical rise steeply at lower doses, they level off as the body can no longer process any more of it.

At the same time, recent research into how cancer begins lends some credence to the idea that some chemicals may have a hockey stick shaped-Curve. For example, the greatest risk of cancer from chemical toxins appears to be when cells are dividing rapidly, replacing cells killed by the toxins.

But low levels of a chemical might not cause enough cell damage to kill cells and cause rapid cell proliferation. In many cases, wholesale cell killing—with its accompanying increased risks of cancer—occurs only when a toxin reaches a critical level in the body.

The problem, however, is that scientists understand very few chemicals well enough to know which model they fit, if any.

"Our position is that linear dose extrapolations are the only ones we can justify as a general principle," said David Gaylor, director of the biometry staff of the National Toxicology Program. "It's a default position unless there is convincing evidence to the contrary, which there rarely is. It would be very risky to assume hockey sticks as a rule."

"In most cases the [government's] procedure probably overestimates cancer risks,"

said John Graham, a professor at Harvard University's School of Public Health. "In some cases they are probably underestimating it, and sometimes they might be right on the mark. But what we have to keep in mind is that no one really knows the right answer."

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from New Mexico for his comments on risk assessment—and for his support for a National Academy of Sciences analysis of this most important issue.

Throughout the hearings on the clean air bill, the Environment and Public Works Committee listened to the controversies and uncertainties in health risk assessment. But such risk assessment is elemental in all that we seek to do—to protect the health of our citizens. To do so, we must have the facts. We must bring the best science possible to the task. For that reason, during the committee markup, I discussed with committee members the idea of having the National Academy of Sciences conduct a review of risk assessment methodologies and to have NAS recommend to EPA how best to improve such assessments. The final compromise contains a NAS study, and again, I thank the Senator from New Mexico for his efforts and contributions in this regard.

This clean air bill imposes great responsibilities upon EPA. Be it air toxics, ozone nonattainment, acid deposition, or stratospheric ozone depletion, these problem areas involve complex scientific and technical issues. Indeed. Some of which EPA has not really learned how to do. But we must. The problems are complex, and environmental data are still highly variable. But we must not be overwhelmed by complexity—and we must commit to a persistent effort—long-term measurement and analysis—to overcome the uncertainties.

Finally, let me say, Mr. President, that despite the complexity of the scientific issues, EPA must always conduct its business openly. The data, the analytical methods, and the conclusions must all be available for public scrutiny and for scientific peer review. As Dr. Milton Russell, chairman of the NAPAP Oversight Review Board, recently reminded the scientists gathered at the NAPAP International Review in Hilton Head, "informing the public is a duty that the public is owed, not a boon that a scientist can grant." It is a duty which EPA, even as it becomes a Cabinet-level Department, ought to make a fundamental principal of its efforts.

GRAND CANYON VISIBILITY

Mr. DOMENICI. Mr. President, my colleagues from Arizona and I are here today because of a mutual concern—visibility degradation in our national parks. The citizens of New Mexico, like the citizens of Arizona and indeed all Americans, are very concerned about air quality in our national parks and other areas designated as class I under the Clean Air Act.

When the Clean Air Act Amendments were passed in 1977, Congress established a program to address the visibility issue. I have been concerned that the program has not been implemented as Congress intended and hoped. My colleagues from Arizona and I have discussed this issue in detail, especially as it relates to the Grand Canyon. We have discussed the deterioration of visibility in the Grand Canyon and the need for the Park Service and EPA to continue to aggressively investigate the cause of visibility impairment, particularly by continuing the review and analysis of the impact of two large, uncontrolled powerplants that are within 75 miles of the park—the Navajo and Mohave powerplants. Because of these concerns, we want to take a moment before the Senate completes action on the clean air bill to raise this issue with Senators, particularly the chairman and ranking member of the Environment Committee.

Mr. DECONCINI. My distinguished colleague from New Mexico is absolutely correct. Senator MCCAIN and I have discussed with Senator DOMENICI the current efforts to address the visibility in class I areas, with a special interest in the Grand Canyon. As the Senate knows, the National Park Service and EPA have started to work on this issue. These agencies have determined that visibility in the Grand Canyon is being impaired by sources outside the boundaries of the National Park. Specifically, the Park Service and EPA have identified the Navajo Generating Station in Page, AZ as a significant contributor to wintertime visibility impairment. Accordingly, the EPA has filed a notice of proposed rulemaking to require a significant reduction of sulfur dioxide emissions from this powerplant.

Mr. MCCAIN. My friend the senior Senator from Arizona has described the situation accurately. The EPA's regulatory action is particularly significant because this case is one of the first tests of the plume blight provisions contained in the Clean Air Act. Visibility protection, as Senators know, is broken into two phases. Phase 1 is plume blight, and the other of course, is regional haze. The Senator from New Mexico raises an excellent point about the vital need to implement these important programs. The EPA's efforts with respect to Navajo breaks new ground and is promising to all of us who have been concerned about the lack of action on the visibility program.

While scientific study and review of the data pertaining to Navajo continues, we have every expectation that the administrative process will proceed in a timely and proper fashion. This bodes well for the Grand Canyon. But, just as importantly, this action establishes the workability of the visibility program—an important precedent which can be applied to benefit national parks and class I regions throughout the country. We continue to monitor this process closely, as we must do everything we can to protect the canyon and our other national treasures.

Mr. DOMENICI. I am sure the perspective of my colleagues from Arizona relating to the issues associated with the visibility at the Grand Canyon is helpful to Senators. I know we share a common commitment to protecting our national parks. Perhaps the Senator from Arizona could share with the Senate the timeframe within which regulatory actions are expected to take place. He knows of my concern that the final disposition of this matter occur as soon as possible.

Mr. DECONCINI. As I stated previously, the EPA filed a notice of proposed rulemaking on February 9, requiring the Navajo Generating Station to reduce sulfur dioxide emissions. The Office of Management and Budget is currently reviewing this draft proposal. Concurrently, as Senator MCCAIN alluded to, the National Academy of Sciences in association with the Department of the Interior, EPA, and the Department of Energy has empaneled the Committee on Haze in National Parks and Wilderness Areas. The committee was established, in part, to review Park Service data with respect to visibility impairment at the Grand Canyon. In fact, the panel is meeting this week at the canyon. In addition, the Salt River Project, in cooperation with the Park Service and EPA is conducting a comprehensive scientific analysis concerning visibility. This study is scheduled to be completed in October 1990. Finally, I would note that there is a court order governing the pace of the regulatory activity to assure a timely resolution of the issues.

Mr. MCCAIN. The Senator has expressed it well. That is why we are confident that the administrative process involving Navajo is on track. I would also say that advancing the regulatory process and the science in this field will help us understand and address Grand Canyon visibility impairment on a comprehensive basis. I have in mind, specifically the Mohave Generating Station in southwest Nevada. Mohave is located within 60 miles and downwind from Grand Canyon National Park. Because of its proximity to the park, we have an obligation to determine what contribution that particular might be making to visibility impairment. Last September, I wrote the Administrator of the Environmental Protection Agency, William Reilly,

asking him to assess Mohave's contribution. The agency responded that it did not have the financial resources required to conduct the necessary analysis—a point I will address in greater detail in a moment.

As I wrote the Administrator:

Only by comprehensively addressing the problem to include all contributors, can we hope to achieve our air quality goals at the Grand Canyon and meet the legal mandates of the Clean Air Act.

In fact, last week the Senate adopted an amendment which the three of us supported, which will move us in that direction. I would like to commend the Senator from New Mexico for his significant contribution to that amendment. The visibility amendment authorizes additional funds for the implementation of the visibility program—a critical step to effectively tackle the issue of regional haze. I should say that in light of the EPA's response to my letter regarding the Mohave plant, I, along with Senator DECONCINI and Senator DOMENICI, will work to obtain funding authorized by the Senate visibility amendment to study this source so that if it is contributing to Grand Canyon visibility impairment, appropriate regulatory action can be taken.

The amendment will further lead to visibility improvement at Grand Canyon National Park by creating a Grand Canyon Visibility Transport Commission. This commission will provide a coordinated means of identifying and addressing all sources of visibility degradation. The Commission should be especially helpful in addressing pollution sources outside of the immediate vicinity of the canyon, particularly the impact we suffer from pollutants emanating from the Los Angeles Basin.

Mr. DOMENICI. I thank the two distinguished Senators from Arizona. It is my hope that the visibility amendment this body passed several weeks ago will do just that. Many of us spent significant time crafting an amendment that will provide the necessary resources to address the problems involved in assessing visibility impairment and attributing the problems to specific sources and source regions. I am very encouraged that the Administrative process appears to be on track. My friends from Arizona and I would like to put the Senate on notice that we intend to be vigilant in ensuring continued progress. Where a source of visibility impairment has been identified and regulatory action is warranted, we must be prepared to act decisively to prevent undue delay or obstruction. If the administrative process breaks down, which we hope it will not, I would want to work with my colleagues to legislatively remedy such a situation.

Mr. DECONCINI. That's an important point. I am sure that I speak for my colleague, Senator MCCAIN, in saying that the Senator from New Mexico expresses our sentiments exactly. I would like to conclude by saying that Congress must accept responsibility for making sure that the laws we enact are implemented to the fullest extent possible. By doing this, we will protect the Canyon and the other parks in the west.

Mr. MCCAIN. I agree wholeheartedly treasure of importance to us all, and I would hope that the entire Congress would echo and support our sentiments.

NATIONAL UTILITY REFERENCE FILE DATA

Mr. DOMENICI. Mr. President, as we move toward closure on clean air legislation, I wanted to address one specific issue pertaining to allowances for New Mexico. In calculating allowances during the Senate's consideration, EPA has relied on the 1985 numbers generated under the Acid Precipitation Assessment Program, commonly referred to as "NURF" data. We have relied on this data in making our decisions on how to proceed on this legislation. Let me discuss this in terms of a specific powerplant in New Mexico—the Escalante Generating Plant operated by Plains Electric.

This plant is a one-unit facility that began operation 1985. It is superclean—scrubbing clean New Mexico coal by 90 percent. Its emissions limit is 0.2, and the plant often operates well below that limit.

Under the acid rain section of this bill, allowances for existing units are based on the average of 1975-87 emissions, as recorded by the Department of Energy in Form 767. If such forms were not filed, then the baseline is established using 1985 National Acid Precipitation Assessment Program Emissions Inventory, version 2, National Utility Reference file (commonly referred to as the NURF data).

In 1985, Plains Electric filed a Form 767 for financing purposes only. In other words, they were not filing this form in the usual manner.

Consequently, it would be inappropriate to establish this plant's baseline using the figures that were filed for 3 years on Form 767. Instead, I assume that in the calculating the allowances for Escalante, EPA will use as its baseline, NURF data. What that means is that the NURF data of 2,353 tons for Escalante, with the 120 percent formula will provide this plant with 2,823 tons of allowances.

I would like to clarify this point with the manager. Is this because his understanding.

Mr. BAUCUS. I am pleased to respond to the Senator from New Mexico. My staff has reviewed this situation and the Senator is correct.

It is appropriate to base allowances for Escalante on NURF data, and by doing so, Escalante will receive an allowance of 2,823 tons per year.

I am happy to clarify the situation of the one plant and thank the Senator for bringing it to the Senate's attention.

STUDY OF SAFER TIRE RECYCLING

Mr. PELL. Mr. President, I am pleased to report that the Clean Air Act, as amended, includes a measure which I proposed to address the need for more information on tire recycling and alternatives to tire incineration.

I wrote this measure to direct the Environmental Protection Agency to conduct and transmit to Congress, within 1 year of enactment, a study of the emissions of hazardous air pollutants from motor vehicle tire incineration facilities.

It also directs EPA's Administrator to include in that study a report on the feasibility of substituting appropriate tire recycling procedures for current and projected tire incineration facilities.

I share the concern of many Rhode Island residents that a proposed tire recycling facility in a neighboring State may pose a significant threat to our health, our environment and our principle source of drinking water.

Our situation is far from unique and, I believe, the nation needs a detailed and impartial analysis of the risks posed by tire incineration facilities and the benefits of alternative recycling procedures.

The same tires that carry us for tens of thousands of miles, unfortunately do not disappear after their useful life has apparently ended.

Tire dumps pose an environmental risk—they are not only an eyesore and a health hazard, they may catch fire, burn for days and release toxic plumes of smoke and oil.

We must find and foster alternatives, including recycling options, because incineration—even under controlled conditions—is just too threatening to those who live downwind.

I appreciate the consideration and prompt favorable action given to my measure by the senior Senator from Montana [Mr. BAUCUS] and by the junior Senator from Rhode Island [Mr. CHAFEE].

Mr. LIEBERMAN. Mr. President, soon we will cast a vote on final passage of the Clean Air Act. I have lived with this issue so long that I will probably have dreams about it once its gone from our agenda.

But as long as I have been dealing with the Clean Air Act in this session. I am aware that there are others in this Chamber who have been associated with it for a much longer time. Senator MITCHELL, our distinguished majority leader, deserves great credit for his history of concern about clean air, and for his leadership in pulling together the majority that will vote in

favor of this legislation tonight. Without Senator MITCHELL's patience, diligence, dedication to the cause of environmental protection, we would not today be on the verge of passing what is the most significant environmental legislation of the past 20 years.

I also wish to express my admiration and respect for the role played by Senators BAUCUS and CHAFEE in fashioning this bill. With enormous perserverance and good humor, Senator BAUCUS carried this bill through long hearings, markups and negotiations. His willingness to work with and accommodate his colleagues, while at the same time maintaining his commitment to the bill's goals, have been critical to the success of the process.

Senator CHAFEE has been crucial in conveying the enormously complex technical issues in this bill to his colleagues and to the American public, and he played a vital role in building the kind of bipartisan support that is so necessary to passage of the legislation.

It is, for me, the most important vote I have had the opportunity to cast since I arrived in this body last year. I was proud to play a role in helping to shape the bill, through my work on the Environment and Public Works Committee. And I thank the majority leader for giving me the opportunity to participate in the negotiations with the administration over the legislation. It was very difficult for me to decide to support several strengthening amendments to the compromise as it emerged from those negotiations; in Connecticut however, I believed I owed it to my constitutents to go the extra step to try improve the quality of our air which is among the most polluted in America.

That effort was not successful, but I, nonetheless believe this legislation represents a giant step forward in protecting our environment and our health. It will make substantial reductions in the pollution that causes acid, rain, smog, ozone depletion, global warming, and toxic emissions. It will combat the kinds of health problems associated with dirty air, including heart disease, emphysema, cancer, and other diseases that kill and injure Americans every year. It will help us reduce the cost of health care associated with pollution-related disease.

There will be some added costs for Americans associated with this legislation. Some say it will cost us $21 billion a year. I believe that is an inflated figure, but even if it is not, consider this: Americans spend about $21 billion a year on soft drinks. I believe the American people are prepared to spend as much for cleaner air each year as they spend to buy a Coke or a Pepsi.

In fact, I believe that, when it comes to protection of the environment, the American people are ahead of the politicians, press, and pundits. They know that pollution not only harms the world around them, but it harms them and their families. They want strong action, and they're willing to pay for it.

The American people will welcome the Clean Air Act. It is an historic moment for this body, and for the country. I am proud to vote for the Clean Air Act; it will mean cleaner and healthier air for us all.

Mr. LEVIN. Mr. President, I am pleased to support S. 1630, the Clean Air Act Amendments of 1990, as modified by the Mitchell-Dole substitute. I am proud to be an original cosponsor of the Mitchell-Dole substitute, and I plan to cast my vote in favor of the amended bill.

This is an historic measure, one which will enable us to make dramatic progress in addressing the pervasive problem of air pollution.

If enacted, this bill would, for the first time, set specific benchmarks for progress toward clean air in our dirtiest cities. It would establish tough new standards limiting emissions from motor vehicles. It would require the use of clean fuels to further reduce emissions where such reductions are needed the most.

The bill would limit emissions of toxic air pollutants for the first time, requiring the use of maximum achievable control technologies to reduce emissions from each source of such pollutants. If these technologies are not adequate to reduce health risks to an acceptable level, further reductions would be required.

The bill would mandate the reduction of sulfur dioxide emissions by 10 million tons a year below 1980 levels. It establishes a cap on annual sulfur dioxide emissions, beginning in the year 2000. It would establish tight new performance standards for emissions of nitrous oxides from utilities, beginning no later than 1993.

Mr. President, these are dramatic changes to existing law. Some of these steps will be costly, but we cannot expect to fight air pollution without some sacrifice. I believe that this is an equitable bill that fairly spreads the burden of reducing emissions across all segments of our society that contribute to air pollution.

As others have stated, this bill is the product of lengthy and difficult negotiations conducted in the majority leader's office. These discussions were fair and balanced, and I commend the members of the Committee on Environment and Public Works and the representatives of the administration for the patience with which they heard out, and attempted to address, the concerns of Senators.

I particularly wish to thank the majority leader, Senator MITCHELL, and the chairman and ranking minority member of the Subcommittee on Environmental Protection, Senators BAUCUS and CHAFEE, who worked together to achieve a balanced compromise approach. I think we all recognize that this bill could never have reached this stage without the dedication, strength, and persistence of our majority leader.

Mr. President, nobody will get everything that they wanted out of this bill. I know, for example, that the automobile industry feels that the emissions requirements placed on both conventional and alternative fuel vehicles are very stringent, will be very expensive to implement, and indeed, may not even be technologically feasible to meet.

Under this bill, the automobile industry would be required to:

Reduce tailpipe emissions by 30 percent in 1993 and by an additional 50 percent in 2004;

Double the useful life of emissions equipment from 50,000 miles to 100,000 miles;

Comply with strict inspection, maintenance, and recall requirements;

Develop and install on-board computers to identify malfunctions and deteriorations in emissions equipment;

Install on-board cannisters to recapture evaporative emissions during refueling;

Meet strict new cold temperature emissions standards starting in 1993, and standards that are twice as strict beginning in 2000;

Reduce emissions still further through an alternative fuels program in the country's dirtiest cities, beginning in 1995; and

Meet even tighter emissions standards with vehicles sold to the Federal Government and to private fleet owners.

I share some of the automobile industry's concerns about these provisions. I do not believe that we should be enacting into law standards that cannot be met. I have stated in the past my own belief that the so-called second round of auto emissions controls—which are included in the bill—will yield minimal emissions reductions at a very high cost.

At the same time, however, I am aware that this same bill has been criticized by some environmental organizations for watering down the original committee approach too much.

I do not agree.

This bill is balanced. The mobile sources provisions, for example, don't resolve all of the auto industry's concerns with the bill—far from it—but they do address some of the industry's major concerns. These provisions don't do everything the environmentalists would like, but they do contain tight, technology-forcing standards that will give us substantially cleaner air.

Mr. President, I am pleased to support this bill. I am proud of what we

have achieved, and I sincerely hope that we will be able to move forward and enact this bill into law.

Mr. President, I participated extensively in the negotiations on mobile sources. I would like to briefly describe the agreement that we reached on this title of the bill.

To a large extent, the mobile sources agreement reflects a compromise proposal that Senator MITCHELL and I put forward to resolve disputes on title II of the bill. The final agreement, like the original Mitchell-Levin proposal, addresses tier II tailpipe standards, alternative fuels, carbon dioxide emissions, tier I tailpipe standards, and ultraclean vehicles.

First. With regard to tier II tailpipe emissions requirements, the amendment would retain the so-called tier II automobile tailpipe standards in the bill, while requiring the EPA to study the cost effectiveness of a broad range of other emissions reduction strategies, including both mobile and stationary sources. If the EPA determined that another plan would achieve the same reductions as tier II standards and would be more cost effective, the alternative plan would be submitted to Congress for consideration under expedited procedures.

This is the same approach included in the original Mitchell-Levin proposal. In addition, the amendment includes a so-called trigger mechanism, under which the tier II standards would go into effect only if they are needed to achieve clean air.

On this issue, Mr. President, our colleagues on the Environment Committee feel that the tier II emissions standards in the bill are a technologically feasible and economically feasible means of achieving necessary reductions in hydrocarbon, carbon monoxide, and nitrogen oxide emissions. I happen to disagree, and I believe that the administration shares my skepticism.

At the same time, I am pleased that we have been able to overcome our differences and reach a mutually acceptable agreement on this issue.

Under this approach, we are assured that we will get the emissions reductions sought by the committee if they are needed. On the other hand, those who share my belief that the specific approach selected by the committee is not the most cost-effective means of achieving these reductions will have an opportunity to prove their case to EPA and the Congress. I believe that this is a fair and balanced compromise.

Second. With regard to alternative fuels, the original Mitchell-Levin proposal provided simply and directly that there would be no mandated production or sales of alternative fuel vehicles. The specifics of an alternative fuels program which would meet these criteria were left up to further negotiations.

The administration, which has strongly advocated a clean alternative fuels program, accepted our premise that there would be no front-door or back-door mandated production or sales of alternative fuel vehicles and worked with us to craft a mutually acceptable program.

This program has three basic elements: (a) a program for the use of clean alternative fuel vehicles by Federal agencies and in private fleets; (b) general requirements for emissions reductions through the use of clean fuels in severe and extreme nonattainment area; and (c) "opt-in" and "opt-up" provisions allowing the expansion of these programs in certain circumstances.

In addition, the amendment makes it clear that California—which has already proposed its own clean alternative fuels program—is free to go its own way and establish its own standards and requirements.

Each of the three elements of the clean fuels program has been carefully designed to avoid the mandated production and sales that we all agreed to avoid.

a. The fleets program, which was crafted largely by Senator BREAUX, requires the purchase of low-emission vehicles by Federal agencies and operators of private, centrally fueled and centrally maintained fleets. This approach will create a substantial demand for such cars, giving motor vehicle manufacturers a real incentive to bring them into production. However, the provision does not contain any production or sales mandate, direct or indirect.

b. The general program contains phase I and phase II standards, each of which would require substantial reductions in mobile source emissions in the Nation's most polluted areas. EPA is required to provide at least one option for achieving these pollution reductions through the use of reformulated gasoline—thereby avoiding the problem of a back door mandate of vehicle production or sales.

Under phase I of the general program EPA is required to specify a reformulated gasoline which will achieve the required reductions without any change to the vehicle. An auto manufacturer who opts to meet the phase I requirement through the use of reformulated gasoline is required only to produce vehicles that meet the other standards in the bill.

Under phase II of the general program EPA is required to specify a reformulated gasoline which will achieve the required reductions without any change to the vehicle, unless the Administrator determines that it is not technologically and economically feasible to meet the standard through changes to the fuel alone.

If the Administrator makes this determination, EPA is required to specify a reformulated gasoline that gets as close as possible to achieving the standard, and auto manufacturers are required to make minor technical modifications to optimize emissions when the vehicle is operated on reformulated gasoline. If the standard still cannot be achieved, the Administrator must set an interim performance standard at a level that can be achieved.

In the absence of this waiver provision, phase II would be a back door production mandate, because the only way to meet the standard would be by producing and selling a certain percentage of methanol—or other clean fuel cars—whether there was a buyer available or not.

c. There are several different opt-in and opt-up provisions in the bill, but all operate on the same premise—that there will be no front door or back door mandated production or sales of alternative fuel vehicles. Each of these opt-in and opt-up provisions is subject to a finding by the Administrator that it is feasible to produce and deliver the vehicles and fuels sought in the timeframe established by the State.

First, a State may choose to increase the percentage of clean vehicles that private fleetowners are required to purchase. Like the basic fleet requirement, this is a purchase requirement, not a mandated production or sales requirement.

Second, a State may require that all cars sold in the State meet the emissions requirements set under either the California program or the fleets program. This provision is not a production or sales mandate because only cars that are already in production may be required for sale under this program. This is the reason for singling out cars meeting the standards already established under the California program and the fleets program.

Finally, a State may seek to ensure that a portion of the cars sold in the State meet the same standards as cars already being sold under the California or fleets programs. Again, nothing in this section is intended to require the production of cars that are not already being sold under the California program or the fleets program.

If a State chooses this final opt-up approach, it must provide purchase incentives to ensure that the cars will actually be bought. The program doesn't go forward unless the Administrator determines that the demand incentives in the State plan are sufficient to ensure the level of purchases sought by the State and that it is feasible to produce and distribute the vehicles and fuels sought in the time frame provided.

The requirement placed on manufacturers under this approach is to begin the production and distribution of vehicles in accordance with normal busi-

ness practices and to make reasonable efforts to promote and sell the vehicles at a price comparable to the price at which the vehicles are sold in other areas. The amendment makes it clear that no specific level of production or sales may be mandated, and that if sales fall short of State objectives—and manufacturers have met their obligations—the remedy is to revise the plan to include additional purchase incentive or reduce the State targets.

Third. The amendment offered by Senators MITCHELL and DOLE, like the original Mitchell-Levin proposal, also deleted the automobile carbon dioxide emissions standards from the bill. On this point, I believe that global warming is an important issue that should be addressed by the Congress. However, this important issue deserves a balanced approach, in the context of a comprehensive bill, instead of an amendment which imposes arbitrary and burdensome standards on a single industry.

Fourth. The compromise amendment would modify the tier I tailpipe standards in the bill to correspond somewhat more closely to the standards already adopted in California. These changes give automobile manufacturers a 3-year phase-in period and a small allowance for deterioration of emissions equipment between 50,000 and 100,000 miles in use. Even with these modifications, however, the tier I standards in the bill remain tougher than either the existing California standards or the current House proposal—the so-called Waxman-Dingell compromise.

Fifth. Finally, the compromise amendment would add a new provision to the bill, requiring the EPA to report to Congress on the feasibility and cost effectiveness of using ultraclean vehicles to reduce pollution and to develop a plan to foster joint private-public development of ultraclean vehicle technology.

New vehicle technologies are on the horizon now that could reduce emissions levels far below current levels. I am pleased that my colleague from Vermont, Senator JEFFORDS, joined me in pressing for this study in the course of our negotiations on this title of the bill.

One of my major concerns with S. 1630, as it was reported by the committee, was that it would squander financial and engineering resources on short term, incremental changes in existing cars, making technological breakthroughs in clean vehicle technology unlikely.

I am particularly pleased that the Mitchell-Dole amendment will not only reduce the burden on available financial and engineering resources, but will also direct the Administrator of the Environmental Protection Agency, in coordination with other appropriate Federal agencies, to develop a plan to foster joint private-public development of utlraclean vehicle technologies.

Such a joint private-public effort should once again push our country to the forefront of automotive technology, and yield real, significant improvements in air quality in the next century.

My thanks to Senators MITCHELL, BAUCUS, CHAFEE, and their staffs, and my particular thanks to Peter Levine of my staff. Peter Levine made a unique and extraordinary contribution to this bill. His tenacity and intellect made a major, positive difference for my State and the Nation.

Mr. COATS. Mr. President, I would like to make a short statement in favor of the McClure amendment, which was tabled earlier today by a vote of 64 to 33.

I support all four major elements of the McClure amendment. I have been a strong proponent of clean coal technologies from my first days in Congress, and I continue to believe that clean coal technologies are the most cost effective, environmentally sound compliance strategy for not only complying with the bill before us today, but as an abundant, readily accessible and inexpensive resource for post-2000 energy supply.

About 70 percent of the coal reserves in the United States come from so-called high-sulfur coal, or coal which emits more than 1.2 pounds per million Btu. It makes little sense, in my opinion, to pass a law which makes it national policy never to utilize these coal reserves.

Now the legislation before us today, the Mitchell-Dole substitute amendment to S. 1630, the Clean Air Act Amendments, does include some clean coal technology incentives. The substitute amendment allows a 4-year extension, to the end of 2003, for technologies which are categorized as repowering. However, I believe that many other technologies hold as much, if not more, promise as repowering technologies. It makes sense, then, to pass a law which is flexible enough to allow their development.

For this reason, I support provisions in the McClure amendment which would extend the phase II compliance deadline until December 31, 2005, for eligible technologies. I believe this extension will provide additional incentives for the use of clean coal technologies. Furthermore, because of the provision in the amendment requiring any allowances issued after 2002 to be paid back, extension of the deadline for clean coal technologies will result in no net loss to the environment. In fact, I believe that the use of clean coal technologies, many of which produce over 95 percent emissions reduction, are beneficial to the environment.

I also believe it is important to allow EPA, in consultation with the Department of Energy, to expand the list of technologies eligible for the clean coal incentives provided in the bill. In Indiana we have a clean coal technology demonstration project which I believe holds a great deal of promise for the future use of high-sulfur coal in a cost-effective manner. But under the provisions of the substitute amendment to S. 1630, other companies choosing to take advantage of this technology would not be eligible for the clean coal incentives.

I believe it makes little sense to spend billions of dollars to sponsor innovative clean coal technology demonstration projects if we are going to exempt the technologies developed from the incentive provisions of the bill.

Another provision of the amendment which I believe is important, and which I strongly support, is language exempting units which use clean coal technology from the application of the WEPCo decision, which would require compliance with new source performance standards for utility units which have been retrofit with new technology.

Under the provisions of the bill, sulfur dioxide emissions will be reduced by nearly half by the year 2000. There is no reason to penalize utilities which are trying to comply with these stringent requirements in the most cost-effective manner possible. This same reasoning applies to NO_x emissions, which are reduced by 2 million tons by the year 2000 in S. 1630. Language specifically exempting units from the WEPCo decision is essential to Midwestern utilities which will already be heavily impacted under the bill.

Finally, I support language in the amendment which would expand the definition of "repowering" clean coal technologies to include those existing affected units which are being replaced by an entirely new unit located at a different site. In other words, under this provision, an older, dirtier powerplant would continue to receive allowances as though it was being repowered with a clean coal technology. In reality, a new unit would be built, utilizing an approved technology.

While this provision would result in excess generation of emissions in the short term, the amendment contains a "payback" provision, which would require the utility to make up for emissions generated over what allowances would normally have been issued in compliance with the bill.

In effect, by encouraging the building of newer, cleaner powerplants, this provision would be a great boon to the environment, and in the long term would result in far fewer emissions,

not just of sulfur dioxide, but of all other pollutants currently emitted by older power plants.

In conclusion, I believe it is in the interest of the environment, the economy and the consumer to encourage the use of clean coal technologies to comply with Clean Air Act requirements for sulfur dioxide emissions. I am disappointed that the amendment was tabled.

Mr. BREAUX. Mr. President, today is a day for which many of us have worked long and hard. Today is the day on which the U.S. Senate will pass the first reauthorization and strengthening of the Clean Air Act since 1977. Many of our colleagues have worked tirelessly in pursuit of this important goal, but none more than the distinguished majority leader, Senator MITCHELL. His efforts, combined with the tenacity and leadership of the distinguished managers of the bill, the Senators from Montana and Rhode Island, have been instrumental in bringing us to this important day.

Much has been said of the bill we are soon to pass. Critics are never in short supply. Yet, you need not subscribe to and endorse each and every feature of this bill to recognize that it is among the most important legislation that has been considered by the 101st Congress. The scope of this legislation is extraordinary, and the results of its passage will likely be felt for decades. I am proud to have played a role in its development and in crafting the difficult compromises necessary to ensure its passage by the Senate.

I would like to take a few minutes to touch upon several topics that I think are particularly deserving of comment. Title III of S. 1630 includes a wholesale rewrite of section 112 of the Clean Air Act, which deals with the regulation of hazardous air pollutants. The existing section 112 has been a disappointing failure that has resulted in the regulation of only a handful of toxic air pollutants over the past two decades. The revision of section 112 contained in the bill, on which I have worked closely with the distinguished Senator from Minnesota, Senator DURENBERGER, and other members of the Environment and Public Works Committee, will ensure that rapid progress is made in dramatically reducing carcinogenic and other toxic air emissions through the application of stringent control technologies. Rather than continuing to allow the current situation of endless debates over the health effects of exposure to particular pollutants before controls go into place, this legislation will ensure technology controls are applied to control these pollutants. In the limited circumstances in which even these control measures are insufficient, further controls can be applied or sources can be compelled to close their doors.

A significant feature of the air toxics title is the risk-based test for carcinogenic emissions that is to be applied after control technologies are in place. The new section 112(f) directs the Administrator of EPA to promulgate two simultaneously applicable emissions standards for categories or subcategories of emissions sources. One standard must be sufficient to eliminate lifetime risks of carcinogenic effects to the most exposed individual, MEI greater than 1 in 10,000; the second standard must eliminate such risks greater than 1 in 1 million. Assuming that Congress does not further modify the residual risk portion of section 112 in response to the recommendations of the Risk Assessment and Management Commission established under section 112(w), these would be the presumptive standards with which sources must comply after the application of the initial round of control technology.

However, a source can be granted an alternative emissions limitation under section 112(i) upon a demonstration by the owner or operator of the facility, to the satisfaction of the U.S. Environmental Protection Agency or the State, that this alternative emissions limitation provides the most exposed actual person living within the vicinity of the source will not experience an individual lifetime risk of cancer exceeding one in ten thousand. This alternative emissions limitation should be no less stringent than the technology standards issued under section 112(d), and does not exempt a source from having to apply all available technology and operational controls to reduce risks unless a source can prove, again to the satisfaction of the U.S. Environmental Protection Agency or the State, that the cancer risks to the most exposed actual person do not exceed one in one million.

The alternative emissions limitation option under section 112(j) will be based on site-specific health assessments that are performed according to methodology specified by EPA regulations. There will be no opportunities for local public hearings and the public will also have a formal opportunity to comment on the site-specific health assessments.

The alternative emissions limitation option allows use of information about the actual risks to an actual person living in the vicinity of a facility. A facility owner or operator deserves the right to know how effective their substantial investment in control technology is in reducing risks as the public has the right to demand protection of their health with an ample margin of safety.

Let me now direct my remarks to alternative fuels, an important new program. The most important aspect of this program, as contained in section 212(1), is the ultra-clean alternative fuel fleet vehicle requirements. This program provides a market-driven, incentive-based way of introducing alternative fuel vehicle technology and low emission fuels into the general marketplace. By focusing on passenger cars and light-duty vehicles it targets the vehicles most amenable to new technologies.

The program begins by requiring the Federal Government fleet to begin using clean fuel vehicles and alternative fuels in the serious, severe and extreme ozone nonattainment areas. The program begins with model year 1995 vehicles, requiring 30 percent of new vehicles purchased or placed into service in those nonattainment areas to meet a performance standard of 0.25 grams per mile of total in-use emissions of ozone-forming volatile organic compounds and a 75-percent reduction of air toxic emissions, as measured from a conventional-fueled, current technology vehicle. The percentages of new vehicles meeting the performance standard increases to 60 percent in model year 1997 and 90 percent in model year 1999 and after. If EPA determines the 90-percent requirement would impose unreasonable costs to the Federal Government, then a lesser percentage could be specified but in no event less than 60 percent.

There are two advantages in using the Federal fleet to help pave the way for new vehicle technologies and new alternative fuels. The first advantage is the Federal fleet is comprised of a fairly limited mix of vehicle model types. Automobile manufacturers will be able to respond more easily in the early years of this program if there is a more limited spectrum of fleet vehicle models upon which they can focus their engineering efforts. The second advantage is that the Federal Government will help ensure alternative fuels are available in the general marketplace through establishing fueling facilities in the 40 serious, severe and extreme ozone nonattainment areas.

The private fleet program begins with model year 1997 vehicles. The private fleet program requirement is limited to the nine cities with the worst ozone nonattainment problems, those with ozone design values at or above 0.18 parts per million, or those cities who demonstrate the need for the air quality benefits to be derived from an alternative fuel fleet program. It makes sense to focus the substantial investments in new alternative fueling infrastructure, such as natural gas compressor stations, and the introduction of vehicles capable of operating on alternative fuels in those areas with the worst air quality problems.

The private fleet program provides the covered fleet operator with the option, at the operator's sole discretion, to purchase clean alternative fuel vehicles from the motor vehicle manu-

facturer, the original manufacturer of the vehicles, as is the case today, or to purchase clean alternative fuel vehicles which have been converted from gasoline or diesel.

The private fleet provision provides an exemption to the fleet operator if a suitable clean alternative fuel vehicle is not available from a motor vehicle manufacturer. The Administrator of EPA is directed to promulgate regulations which will in turn be used by the Governor of a State, containing an area where this program applies, to determine whether a suitable vehicle is available and whether an exemption shall be granted to a covered fleet operator. The underlying reason for the exemption is the expectation that motor vehicle manufacturers will be able to provide the majority, but not every single variety, of vehicles utilized by fleets. Thus, when the occasion arises that a particular vehicle type is not available, a fleet operator can seek an exemption.

The fleet operator has the option of using a converted vehicle in lieu of a vehicle produced by a motor vehicle manufacturer, but is not mandated to do so. As specified in section 212(a)(1)(F)(ii), as amended in section 206 of the substitute, a covered fleet operator is not required to utilize vehicle conversions to achieve compliance.

The amendment does direct the Administrator to promulgate regulations for the conversion of gasoline or diesel-powered vehicles. These regulations will require that vehicle converters meet stringent requirements for certification, warranty, recall, and other requirements, as specified in the substitute. This provision is intended to be an air quality protection measure, and should not be construed as requiring a fleet operator to utilize a converted vehicle if a clean alternative fuel vehicle is not available from the original manufacturer of the vehicle.

The private fleet program is limited to fleet operators who, as of January 1, 1990, own or lease 20 or more fleet vehicles which are centrally fueled and maintained. It makes sense to focus on central fueling facilities to introduce alternative fuels into the marketplace and central maintenance facilities because of the special maintenance requirements of the alternative fuel vehicle technology and the costs associated with installing alternative fueling facilities.

For the purposes of determining whether a vehicle is covered by the amendment, the intent is that the vehicle is considered to be centrally fueled if it is fueled at a facility that the operator of the vehicle returns to on a routine basis in the normal course of doing business. It is not intended that the definition of central fueling apply to fleet operators who use public fueling facilities, such as service stations, where the locations of those fueling facilities are geographically dispersed. The intent is to cover fleet operators who have fairly routine daily routes they cover in the normal course of business.

Mr. President, the legislation now pending before us is critically important to helping achieve and maintain clean air. I will vote to pass this legislation, and I urge my colleagues to join me. It is time to move this bill forward to conference and, ultimately, to enact it into law.

I appreciate having had the opportunity to participate in drafting and shaping this landmark legislation. The technical and policy directives contained in the Clean Air Act will take us into the next millennium, and hopefully will achieve our goal of protecting public health and the environment from adverse effects associated with air pollution. I want to particularly thank the distinguished chairman of the Subcommittee on Environmental Protection, Senator BAUCUS, and the ranking member, Senator CHAFEE, in guiding our work. I sincerely thank my distinguished colleagues and their staffs for their long hours in helping to shape this bill.

CLEAN AIR AMENDMENTS ADOPTED DURING COMMITTEE CONSIDERATION

Mr. SIMPSON. Mr. President, I would take this opportunity to clarify the intent of two amendments that I offered during the Environment Committee's consideration of the clean air bill before us today. Both of these amendments were adopted on unanimous votes.

The first amendment I would like to clarify was my amendment dealing with best available control technology [BACT] under prevention of significant deterioration [PSD] provisions of the Act. The amendment added the phrase "clean fuels" to the definitions of BACT in order to add a technical change to the law that was needed to correctly repeal the percentage reduction requirement. The addition of the term "clean fuels" indicates to the EPA Administrator that he may consider the use of very clean fuels in meeting the BACT requirements.

Currently EPA reviews PSD permits on a case-by-case basis and makes BACT determinations. EPA has informed me in the Western States that the average BACT determination for fossil-fueled powerplants is 0.6 pounds of SO_2 per million Btu's or below. We know that in certain very limited instances that there is coal that could meet this requirement and we know that natural gas, and cofiring of coal and natural gas can meet this emission limit. The amendment was meant to apply to a very narrow range of circumstances where very clean coals could result in the same emission rate as the use of technology. This amendment would not result in any increase in emissions in the West or any other part of the United States. It was my sole intention to allow the use of clean fuels only where the emissions rate would approximate that which would be required under a technology requirement.

Another amendment I offered in committee deals with fugitive dust models for surface mines. This amendment was meant to direct the EPA Administrator to develop more accurate models for fugitive dust emissions from coal surface mines. Currently, EPA employs a model which was developed for a point source and it does not accurately predict real world emissions from coal surface mines which are not point sources in the classical sense. EPA must develop this model in a timely fashion and while the model is being developed, existing mines may continue to use empirical forms of modeling and monitoring to comply with the EPA regulations. Existing mines may also use State-adopted emission factors.

New mines or mine expansions which are permitted after the date of enactment must use the old model until EPA develops the new model and may continue to use State-approved emission factors. Any mine expansion or new mine that has begun the permitting process prior to the date of enactment shall be considered an existing mine under this amendment. In developing a new model, EPA must take into account the fact that mining operations move from point to point and that there may be various sources of dust within the boundaries of a mined area which may also move from time to time.

Mr. WIRTH. Mr. President, as I have traveled around my home State of Colorado during the last year or so, one of the clearest messages I have received is that people are concerned about the quality of our environment, and they are willing to make some real changes in their lives to help preserve the Earth's fragile life support system.

People want us in the Congress to pass a strong bill to strengthen the Clean Air Act of 1977. I am glad that the United States Senate will soon approve a good clean air bill and send it on to the House of Representatives.

The fact that we are reaching the point of a vote on final passage means to me that all of us in this body owe an enormous debt of gratitude to the majority leader. As a member of the House of Representatives during much of the Reagan administration, I fought many battles to just maintain the status quo—to keep the EPA funded and operating, and to defeat efforts to weaken the Clean Air Act.

Today, we are approaching a vote on final passage on legislation to strengthen the Clean Air Act. We will soon prove the skeptics wrong—and the majority leader deserves our

thanks and our appreciation for the superb job he has done, often under trying circumstances, in shepherding this bill through the Senate.

In the words of the New York Times, March 6, 1990, there can be "progress without perfection." There is much to applaud in this compromise, which the majority leader, the Senator from Montana, the Senator from Rhode Island, and many others worked so hard to put together.

But while this is a good bill, I also believe there are several places where it could have been better. I would like to highlight some of those in my statement. But I also want to emphasize the positive points that I see in this legislation.

ACID RAIN

Acid rain control is the hallmark of this legislation. For a decade or more, scientists have been telling us that sulfur dioxide and nitrogen oxide emissions from electric utilities and other sources are destroying lakes and streams hundreds of miles downwind of those pollution sources. And for nearly as long, scientists and citizens have been urging us to cut emissions by 50 percent to stop acid rain.

Opponents of acid rain controls have argued that we just didn't have enough information to assess the link between emissions and deposition. Others argued that we couldn't even be sure that acid rain is a serious threat, or that its costs didn't justify a legislative solution. But the public long ago had rendered its verdict—the people of this country think it is time to dramatically cut emissions so we can prevent the loss of more lakes and more miles of streams.

This bill will do that, Mr. President, and I want to reiterate my appreciation for the time and energy the majority leader and so many other Senators invested in making that happen.

This bill is good environmental policy for those areas that were being devastated by acid rain. It is also good news for the Western States.

Colorado, like so many other States in the Rocky Mountain region, has already made the investments to clean up emissions from our powerplants. I and many of my colleagues have long argued that we in the West should not have to also pay to clean up powerplants in the East—and this bill sticks with the principle of polluter pays.

Many of my colleagues and I also urged that an acid rain bill should provide utilities with the freedom to choose how they meet the legislation's stringent new emission standards. Again, this bill preserves that important principle of freedom of choice—and it will make Colorado's abundant natural gas and Colorado's high-Btu, low-sulfur coal strong competitors in the search for clean-burning fuels for powerplants.

The leadership's substitute bill is built on an innovative emissions trading program that minimizes the cost of the acid rain package. This is an approach that Senator HEINZ and I advocated in our Project '88 report on cost-effective environmental initiatives, and which was subsequently championed by the President.

In giving credit where credit is due, there is no question that, particularly with regard to acid rain, the leadership of President Bush has made a tremendous contribution to our efforts. His tackling the acid rain problem head on, and finding a way to deal with it that makes economic as well as environmental sense.

We have done a lot of fine tuning of those provisions in the course of our consideration of this bill, much of which I believe to have served the public well. I offered an amendment to insure fair treatment of independent power producers—power generators other than utilities—which I believe made this a better bill.

That fine tuning also included an amendment I offered to insure that small municipal generators were not left out of the bill by virtue of their smallness. This problem was brought to my attention by the Arkansas River Valley Power Authority, and with the help of the managers of the bill, we were able to include in the bill provisions ensuring that this utility, and others like it, would receive the acid rain allowances they need to continue their operations in the future.

MOBILE SOURCES

Mr. President, across the country there are 44 urban areas which still have not met the national clean air standards for carbon monoxide. And more than 100 areas still have ozone pollution that exceeds the national standards. As a result, more than 150 million Americans live in areas that exceed the standards that the EPA has set to protect Americans' health. Those high pollution levels represent a serious health problem for this Nation and it is past time we began to address that problem.

Cars and trucks are an overwhelming part of the problem. In Colorado, mobile sources account for more than 75 percent of carbon monoxide pollution, as well as 50 percent of Denver's brown cloud.

Today's cars run much cleaner than cars produced 10 years ago. But Americans are driving more cars, and they are driving those cars more miles. That is certainly true in Colorado, where we now drive an average of 35 million miles every day—and where the total vehicle miles traveled is predicted to nearly double by the year 2010.

Unless we do something to control emissions from mobile sources, the sheer number of miles driven will overwhelm the steps we already have taken to reduce vehicle emissions.

COLD STARTS

That is why I have been working for several years for tough new standards to control carbon monoxide emissions from cars when they are started in cold weather. It can take as much as 5 minutes for a car's emission control equipment to warm up and begin operating effectively in cold weather. During that time, the car is essentially running without emission controls. Multiply that one car by the tens of thousands of cars that are being started at the same time at the end of every business day and you get a sense of the problem—a huge amount of pollution being generated in a very short time.

The lack of a cold-start requirement is a primary reason that 44 areas exceed the pollution standards. Getting a tough cold-start provision will make a very big dent in Denver's carbon monoxide pollution well into the next century. This bill contains a tough cold-start standard for light duty vehicles, and that represents a big step forward.

DIESEL FUEL

Another big step forward for Denver and other western cities is this bill's requirement that the sulfur content of diesel fuel must be reduced. More than 40,000 diesel vehicles operate along Colorado's front range, and they consume 206 million gallons of diesel fuel every year. Even though these diesel vehicles are only 2 percent of all cars and trucks, they emit as much as 3½ tons of particulates into the air on a winter day. Those emissions are a major contributor to the brown cloud. Those particles are also very small and, when inhaled, are deposited deep within our lungs along with literally thousands of other chemicals, many of which can cause cancer.

The new diesel fuel standards in this legislation will significantly reduce the health risks caused by diesel emissions, and will reduce Denver's brown cloud by as much as 5 percent. That is a major step forward.

ALTERNATIVE FUELS

In addition, the leadership amendment to the Clean Air Act includes an important component on alternative fuels. These measures will lead to the use of reformulated gasoline in some ozone nonattainment areas, and will require some fleet vehicles in our most polluted cities to use clean-burning fuels like natural gas and methanol.

The leadership also accepted an amendment I offered to enable cities with carbon monoxide pollution to reap the same types of benefits that the program in the leadership amendment was designed to deliver to cities with ozone pollution problems.

These are the kinds of steps that we need to take to break America's addic-

tion to the gasoline engine. But I believe that this bill could have, and should have, done much more toward that end.

Senator WILSON of California and I offered an ambitious amendment to strengthen this part of the bill. That amendment lost because it was portrayed as a "deal breaker." I regret that. I believe the Wirth-Wilson amendment would have improved this bill, by setting up an ambitious program to clean up gasoline, to use domestically produced fuels, and to make alternatives to gasoline an everyday reality in America by early in the next century.

TOXICS

Finally, Mr. President, I want to mention the section of this bill dealing with toxic pollutants. I understand the concerns of some of our colleagues about whether we should rely predominantly on technology-based standards for controlling toxic chemicals in the air.

But I also recognize how far we have come in the last 10 years in dealing with this whole issue of toxic emissions; 6 or 7 years ago, I may well have been the first Member of the House of Representatives to introduce a comprehensive bill to regulate the enormous range of airborne toxic chemicals.

I know from first-hand experience how hard it is to find a way to deal uniformly with all of those different chemicals. I want to commend the majority leader and our colleague from Louisiana Senator BREAUX, again, for their hard work in trying to find a compromise on this very difficult issue.

LOCAL CONCERNS

Finally, Mr. President, in reviewing what this bill does include, I want to thank the managers of the bill for their consideration of local issues that we brought to their attention. I went to the managers with concerns brought to me by the Arkansas River Power Authority about the affects of the acid rain section of the bill on their future operations, and we were able to work out an amendment that dealt with those concerns.

I asked the managers for their help in supporting critical research on ways to control pollution from vehicles, and they supported proposals that I and Senator ARMSTRONG had worked on with the Colorado Department of Health, Colorado State University, and the Colorado School of Mines. I want to thank the managers again for their willingness to consider these proposals on their merits, and for their help in seeing that they were included in the final bill.

Mr. President, I think this is a good bill. But as the New York Times, the Denver Post, and my hometown newspaper all editorialized, it could be a better bill. I would like to take a few moments to outline where I think we could—and should—make improvements.

IMPROVEMENTS WE SHOULD HAVE MADE

Mr. President, the Colorado Department of Health has told me that if Denver is going to keep carbon monoxide pollution under control—once we meet the Clean Air Act standards for this pollutant, which we hope to do by the middle of this decade—we are going to have to do three things. The first is to reduce emissions from cold engines, which this bill does.

The second is to make sure that pollution control equipment continues to meet emission standards for the full useful life of vehicles. Existing law only requires auto makers to show that this equipment will last for 50,000 miles. The original Senate bill would have changed that by requiring pollution control equipment to last for the full useful life of a car or truck—100,000 miles.

The leadership amendment now before the Senate will dilute that requirement. It requires that the emission control equipment last for 100,000 miles, but, and this is a very big "but," the bill's fine print relaxes the emission standards for the second 50,000 miles.

Mr. President, many people think we should be mandating both a tougher emission standard and a 100,000-mile useful life standard. At a minimum, we should insist that pollution controls last for the life of a car—and we should not relax emission standards as part of the bargain. For the price of a hubcap or two, we can produce catalytic converters that will last for the life of a car—we should be insisting on that.

The third thing the Colorado experts have said we must do to keep Denver's air clean in the next decade is cut back on emissions from individual cars and trucks. One way to do that is to set tougher emission standards. I support that. The bill before us may require tougher standards, if a large number of cities are still suffering from ozone pollution as the decade ends. I hope that the final bill sent to the President does better.

A TOUGHER ALTERNATIVE FUELS PROGRAM

Another way to achieve the same goal would be to develop an aggressive program for the use of alternative fuels and clean-running cars. And while the bill's alternative fuels provisions are good, this is one area where I think we need to make them even better to protect the air millions of people breathe every day.

What should we be doing?

First, we should require oil companies to clean up the gasoline we use. If we know how to take cancer-causing chemicals and smog-forming chemicals out of gasoline—and we do—then there is no reason we shouldn't require this to be done, as broadly as possible.

Second, we should require that commercial and government fleets convert to alternative fuels in most ozone and carbon monoxide nonattainment areas beginning in 1994; and we should do everything we can to introduce nearly pollution-free vehicles powered by hydrogen, electricity, and solar power by the end of the century.

Third, we should be promoting the widespread use of clean-fueled vehicles by the general public starting in Los Angeles and our most polluted cities.

Is that a doable goal, Mr. President? Of course, it is. As President Bush has said, we must find a way to reconcile the automobile with the environment. Alternative fuels, such as ethanol, natural gas, and propane offer the potential for enormous reductions in pollution—and will also help us reduce our trade deficit and enhance our energy security. We should be embracing these new fuels and these new technologies with enthusiasm.

Finally, Mr. President, I would like to outline some of my other concerns with the substitute amendment. I raise these in part because I am disturbed by the precedent we may be setting, and in part because I am not convinced we should be changing the existing Clean Air Act in some of these areas:

For example, section 172 of the existing Clean Air Act requires nonattainment cities to work steadily toward cleaning up their air. Mayor Pena of Denver, and others, have argued eloquently that we should not relax the pressure on cities to clean up their air.

But the leadership amendment will significantly weaken existing law by permitting cities to get a waiver from additional requirements if they believe the costs of clean air are too high. I think every American has the right to breathe clean air, and I don't believe we should let cities avoid tough measures to meet minimum health standards because economists think it will be too expensive.

Another example, Mr. President, is that the substitute amendment seems to eliminate the requirement for the EPA to prepare an attainment plan if the State fails to do so. While the EPA has not had to actually prepare many plans on its own, the threat of such action has been essential to the completion of good clean air plans in States like Arizona and Colorado. I do not understand why we are changing that part of the Clean Air Act.

As I have said Mr. President, I think this is a good bill, and I am deeply gratified by the majority leader's diligent efforts to pass a clean air bill. I do think this bill could be stronger in several respects. I have tried to outline the areas that are of greatest concern to me. We can do better—we can always do better. But when the debate

is behind us, I intend to support this bill enthusiastically.

This is not the end of the fight. It is a new beginning. The steps I have advocated which go beyond what this body has accepted now will be debated again—and I expect to advocate them again, if, as seems likely, the steps we take now do not prove sufficient to the very, very tough goal of achieving clean, healthy air for every American.

This bill represents an important step. But let us not forget the goal—clean air for every American. Let us keep that goal clearly in view, and resolve to keep working for it.

Mr. HEFLIN. Mr. President, I would like to address a series of questions and observations about the provisions of the Mitchell-Dole substitute dealing with MACT standards for coke ovens, to the distinguished Senator from Montana, one of the Senators most involved in developing this substitute.

In fashioning the provisions of title III of the substitute dealing with coke oven emissions, we found it necessary to supply more detail in the language of the legislation than usual.

We wanted to assure that technology-based standard emission standards under section (d), referred to in the Committee report as Maximum Achievable Control Technology [MACT] were set at levels indicative of the best performing coke ovens now in operation. Also, we wanted to differentiate between the level of MACT to which all coke producers would be held, and a more aggressive and capital intensive technology-based requirement. Specifically, because of the potentially large capital costs associated with meeting this more aggressive requirement, we included a provision deferring the residual risk requirements of title III until 2020 for sources which committed to this requirement as encouragement to coke producers to substantially reduce their emissions as soon as possible.

This meant that we needed to be somewhat precise in the descriptions of the performance standards under the MACT concept that would apply to coke oven emissions. Specific numbers such as 8 percent leaking doors, 5 percent leaking offtakes, and 16 seconds per charge were written into the legislative language. Even so, these numbers are not sufficient detail to constitute a complete regulation. EPA will need to promulgate additional regulatory detail before the owners of coke ovens will know what is needed to comply with MACT. The first of those regulations is required to be promulgated not later than 2 years after enactment, although EPA has done much of the regulatory development in connection with the National Emission Standard for Hazardous Air Pollutants [NESHAP] for coke oven emissions proposed in April 1987.

This leads to my question. First, it is my understanding that the term "coke oven emissions" as used in section 112 is consistent with the use of this term in that proposed NESHAP. Is it the understanding of the distinguished Senator that the concept of the coke oven NESHAP will be followed in other matters as well, such as the method by which the leaking door percentage and the time limit on charging emissions will be measured. In particular, I seek assurance that the standards of section 112 (d)(8) and (i)(15)(A)(ii) and (B)(iii) are not never to be exceeded standards, but standards that would be expressed as a logarithmic mean of several events, as in the 1987 NESHAP.

Mr. BAUCUS. Mr. President, the Senator is correct in his understanding. To give meaning to the precise numbers of those provisions, EPA will need to supply methods for determining compliance through rulemaking. As subsection (i)(15)(C) provides, these will be national test methods. I fully expect that these standards will involve the statistical treatment of data on observations, in a manner similar to the 1987 NESHAP for coke oven emissions.

Mr. HEFLIN. Mr. President, I thank the Senator. My second question relates to the interrelationship between the provisions of sections 112 (d)(8) and (i)(15)(A)(ii) and (B)(iii) and the basic definition of MACT in subsection (d). It is my understanding that paragraph (8) generally describes what EPA is to promulgate as MACT for coke ovens and that the levels specified in that paragraph are intended to be the levels EPA will promulgate as MACT. The Agency, however, could approve an alternative means of emission limitation such as a positive capture system in lieu of numerical leakage rate restrictions if it achieves at least an equivalent level of control. It is my understanding that only in subsection (i)(15)(B)(iii) is it intended that EPA may vary from the specified leakage rate restrictions, including the 3-percent rate for doors, in setting emission standards for independent coke producers. It is also my understanding that the MACT performance standards could be met by whatever means a coke producer prefers and EPA would not be expected to add any equipment standards such as requiring the installation of new doors to these performance standards.

Mr. BAUCUS. Mr. President, the Senator has accurately described the effects of these provisions.

Mr. BIDEN. Mr. President, during the weeks the Senate has debated reform of the Clean Air Act, several references have been made to the historic nature of this effort. For the first time in 13 years, the laws regulating pollution of our Nation's air will be improved.

I am not convinced this is a historic moment in the truest sense of the word. I believe overdue may be a more appropriate term. Recognizing that we are doing what should have been done years ago underscores the risks of failing to send this bill to the President.

The national debate on clean air has alerted us to many aspects of environmental law that I believe had not been focused on before. One of those aspects is a disagreement over the will or ability of business to address voluntarily their pollution problems.

Environmental law is unique in demanding that industry meet goals which are often criticized as unobtainable. Consider laws that affect transportation, health, agriculture, defense or just about any other area. For those laws and the programs they establish, there is a much greater certainty that the goals can be met.

For defense, our Nation's security is not based on a weapons system that is not even on the drawing board. In agriculture, we do not set policy on the expectation that a miracle crop or hybrid will appear to solve all our problems. In health, we do not set programs on the expectation that a particular disease will be cured by the turn of the century.

But so often, those are the types of assumptions we make in environmental law, particularly in clean air legislation. No solution may be in hand, but goals are set and businesses are required to meet them. This approach often requires a leap of faith, but the record shows that it works.

One of the most important titles in this bill seeks to regulate emissions of air toxics. The standards are tough. Emissions are to aim for levels that present a cancer risk of less than 1 in 1 million to the public. Latitude is provided for industries that can show the goal is impossible. This section of the bill was heavily criticized by industry.

But let us make one point clear: Companies have until well past the turn of the century to meet that goal. They have over a decade to study a production process, look for improvements and modifications, and make those changes.

Opponents claim the goal is unreachable, dismissing out of hand the evidence that by setting far-reaching goals, we often spur the development of innovations to reach them.

When Senator Edmund Muskie pushed through the original Clean Air Act in 1970, auto tailpipe emission standards were based on what was needed to end smog alerts in our Nation's cities. Technology to meet those standards was uncertain and far from proven. The goal was set anyway.

A recent Washington Post article related part of the history of the development of the catalytic converter, the invention that made it possible for

automakers to meet the emission standards. The article described how an engineer named Dick Klimisch worked 6 years and spent $1 billion of General Motors' money to find the right combination of elements to convert engine pollutants into water, carbon dioxide and nitrogen.

Without passage of the Clean Air Act in 1970, does anyone believe that General Motors would have invested $1 billion in Dick Klimisch's lab? The automakers are not alone among American industries in being reluctant to address their pollution problems without government direction. Their burden may be heavier than most. Time and time again, a deadline has been to focus industry resources on an aspect of business—pollution control—that is thought to be of little importance to owners or shareholders.

Mr. President, I ask unanimous consent that copy of the Washington Post article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. Mr. President, the catalytic converter was a bigger jump in technology than most environmental laws can ever expect to bring about, but it is by no means an isolated example of successful forcing of technology. Reformulated gasoline is the latest example of an unpredicted result tough environmental standards can bring to the market.

Until ARCO's announcement last August of the development of a reformulated gasoline that cuts emissions from cars built before 1975 by 15 percent, changes in the constituent parts of gasoline was not perceived as having a large role in addressing air quality problems. After the announcement, gasoline's role in cutting auto emissions received a great deal more attention.

What led ARCO to invest in the development of the new gasoline? A New York Times article of August 16, 1989, shed some light on factors in their decision. Quoting from the article:

> ARCO, acknowledged that the changes involved in devising its new fuel for older cars were simple and could have been made a long time ago if the company had felt the need to do so * * * [ARCO's] incentive for devising the new formulation was the growing threat posed by regulations in California and proposed rules in Washington, D.C.

The technology sat on the shelf for years because not enough was done to pull it into the market. Finally, air quality in Los Angeles reached such abysmal levels that regulations opened a market. The purpose of aggressive environmental legislation is to create a market for similar products before conditions reach the equivalent of the 100 days of smog suffered by Los Angelenos.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BIDEN. Mr. President, finally, from my experience with efforts to establish a national pollution prevention program, I repeatedly have found that American industry has an impressive capability to solve or reduce pollution problems when they give them the attention they deserve. Industry may squawk about the impossibility of meeting emission goals through end-of-pipe technology, but regulatory and liability threats in other environmental laws have led more and more companies to look at ways to eliminate pollutants at the front end of the process. As beneficial as pollution prevention is, it is clear it did not develop without a push from vigorous environemental regulation.

EPA predicts that wider adoption of pollution prevention could cut hazardous waste generation by one-third. Hundreds of case studies show that companies will find ways to prevent air pollution in the first place rather than install the expensive scrubbers and other technological fixes that are commonly viewed as the only way to meet heightened standards. The leadership amendment makes prevention the first priority for facilities in addressing emissions of hazardous pollutants.

Mr. President, I have described the impact of tough environmental standards for two reasons. First, because during the course of this debate the American public has heard conflicting claims that standards called for in the bill are feasible or impossible, cost effective or outrageously expensive. But a review of the record clearly shows that in environmental law, we must reach beyond the known and the comfortable. In doing so, we challenge engineers as well as the public.

Second, I wanted to illustrate that the concern some have that environmental regulation automatically means lifestyle disruption or burdensome changes is usually unfounded.

In 1980, offical attitudes took a dramatic turn that led to a decade of inaction on the environment. The environmental movement fought rearguard battles, struggling for symbolic victories. There was no middle gound and progress was unheard of. Conditions again changed for 1990, and tactics must change with them. In contrast to the 1980's, I do not believe the public will accept another decade of inaction on clean air should improvements be so clearly needed.

We can return to clean air legislation in this decade. What we are passing today is not the last word on clean air for decades to come. The 13 years since Congress last reauthorized the Clean Air Act should be viewed as the exception rather than the rule. All Americans know the environment is an issue that cannot be ignored; and we also know that it affects each of us in unforeseen ways.

This bill has been criticized for not taking huge strides, as the original Clean Air Act did. Some view that as a good development, but many who have waited over a decade for reform of this law do not. The standard of some the most ardent supporters of clean air legislation was not met, but it should be clear that this legislation is far too important to let pass by.

For 8 years, in the face of intransigent and insurmountable opposition from the administration, clean air legislation made no progress. That stone wall is gone. We now have a President who recognizes the need for reform of the Clean Air Act. But he has made clear his own limit on how far to go.

There was a temptation during debate on this bill to test that limit. The President's line in the sand at $20 billion forced some hard choices on the negotiators and on the Senate. We had to decide whether the gains of an amendment that would push the projected price tag above the President's limits were worth scuttling the whole bill. The decision was whether to accept only that legislation which pushes well into the unknown or to get back on course with a bill the President will sign.

I am not prepared to chance a veto if the bill crosses that line. The President may not be committed to the aggressive clean air legislation that many of us believe is needed, but he has laid down the parameters he is willing to accept. Staying within those guidelines, we can still make tremendous progress on cutting auto emissions, reducing pollutants from industrial plants, and cleaning up the air in our Nation's cities.

This bill cuts sulfur dioxide emissions by 10 tons. Would we see any reduction in that pollutant by the end of the century if we failed to pass this legislation?

The bill calls for emission standards for 191 hazardous air pollutants. Would the process of setting those start if this bill is not signed into law? In 19 years of EPA efforts to regulate those emission, seven pollutants have been listed. A rapid increase under current law is unlikely.

The bill calls for at least one round of tighter auto tailpipe standards and most likely a second round in the year 2004. Does anyone believe that even the first round of standards would be in place if this bill fails?

The bill establishes a much stronger permit program for large emitters, and that program will be a mechanism to ratchet down those emissions. Will that happen without reform?

The bill will help develop alternatively fueled vehicles, cleaner gasoline, and reformulated gasoline. Will those improvements, crucial to the short and long-term quality of our Nation's air, come about in the absence of reform of the Clean Air Act?

There are dozens of other improvements that will be needlessly delayed if we fail to send this legislation to the President. Those are the real costs of killing this bill. Hypothetical benefits of waiting for more receptive conditions do not match up with the costs of further delay.

There is a second temptation that I was concerned about. That is the writing of detailed prescriptions to dictate exactly how environmental problems should be solved. I do not believe that is the proper role of Congress. One strength of the original Clean Air Act, as I described earlier, is that it set broad standards. We must make sure those standards are properly drawn and met, but we should avoid the urge to wander into determining the best way to meet those standards.

When Senator Muskie drafted the Clean Air Act in the late 1960's, he based the standards on what was needed to protect public health. The bill reported by the Environment Committee last year did the same. The committee bill indicates the steps we may well have to take in the future to make our air healthy. I viewed the criticism of the committee-reported bill as a reflection of how far we have to go in reconciling our need for healthy air with entrenched attitudes that resist making the necessary changes.

There are those who would attempt to reverse those attitudes in one grand motion, who would seek to ignore the lessons of the past and accept only the pinnacle in legislation. While I understand the reason behind those feelings, I do not believe they are in the best interests of our Nation's air.

Clean air legislation is never easy. This bill will affect each one of us in hundreds of ways every day. But that is because dirty, polluted air leaps from hundreds of sources, all of which must do their part to end their contribution to the problem.

For the present, we must be satisfied with enactment of this bill. For the future, we must never again allow it to develop that merely bringing clean air legislation before the Senate is considered an historic event. This bill is long overdue, and it is time we put in place such clearly needed reforms.

EXHIBIT 1

AUTO-POLLUTION DEBATE HAS RING OF THE PAST—DESPITE SUCCESS, DETROIT RESISTS

(By Michael Weisskopf)

DETROIT.—In 1967, when Dick Klimisch of General Motors Corp. began delving into the black art of "catalysis" as a possible cure for auto pollution, he attracted few believers.

Working in a tiny GM laboratory, Klimisch spent the next six years and $1 billion of GM's money to prove the skeptics wrong. Nicknamed "Captain Catalyst," he searched the periodic table until he found the right chemical combination to catalyze, or trigger, a reaction in the exhaust system of an automobile that rendered noxious emissions into harmless gases.

The "catalytic coverter," encased in a stainless steel vessel and connected to the engine of virtually every new car since 1975, not only assured that the auto industry could comply with the ambitious tailpipe standards of the 1970 Clean Air Act. It also became the nation's most powerful weapon against urban smog—a signal contribution still trumpeted by Detroit as proof of its ingenuity and commitment to clean air.

But the history of catalytic converters reveals another side of Detroit. The industry refined the technology only after Congress imposed strict limits and deadlines and foreign car makers threatened to develop cleaner engines. It lobbied forcefully against passage of the standards in 1970, calling them unobtainable, disastrously expensive and environmentally unnecessary. It pressed its case right up to the date of installing the first catalytic converters, and even after the devices put millions of cars into compliance, it fought to have the standards relaxed for cars and not extended to trucks.

Now as Congress attempts to strengthen the Clean Air Act, Detroit's ability to take another big slice out of tailpipe pollution is a major issue. Once again, automakers and their powerful political sponsors in Washington insist that it is not feasible or necessary and that congressional dictates to do so would be financially ruinous. They say the catalytic converter has done just about everything it can do.

To critics, it is a familiar refrain from an industry capable of changing only when forced by statutory deadline.

"We have to look at industry's arguments in light of our past experiences," said Michael Walsh, former director of the Environmental Protection Agency's mobile source program. "Their public posture is always much more pessimistic than technical reality. No place is that more evident than with the catalytic converter. As we consider the next generation of controls, we have to keep that lesson in mind."

Few experts outside the industry dispute that a new generation is needed. Cars are the primary source of ozone smog, a serious respiratory irritant created when two tailpipe pollutants—hydrocarbons and nitrogen oxides—are baked in sunlight.

Emissions of the two pollutants have been substantially curbed by the catalytic converter, which refined a process used since medieval times to chemically transform substances into almost everything from beer to high-octane gasoline.

But the gain in air quality has been limited because the number of vehicle miles traveled nationwide since 1970 has nearly doubled. And the explosive growth of autos projected for the next 15 years threatens to wipe out the gains altogether.

Smog is less of an acute health threat today in the most polluted cities of the 1960s, such as Los Angeles and New York, where hot summer weather drove people to hospital emergency rooms. But it is far more pervasive than 20 years ago, exceeding health standards in more than 100 cities, including Washington, and in once-pristine places such as Acadia National Park in Maine.

More also is known today of smog's withering effect on farmlands and forests as well as its role as a "greenhouse gas" that traps solar heat and raises Earth's temperature.

Nevertheless, Detroit has managed for the past decade to block tighter emission controls by wielding formidable political power.

The Big Three automakers are among the most generous congressional campaign donors, contributing $2.2 million to Senate and House candidates since 1981, according to the Public Interest Research Group. And with dealerships in virtually every congressional district and sizable plants in more than a quarter of them, the industry has a built-in grass-roots organization to pressure lawmakers.

But the industry's greatest political asset is Rep. John D. Dingell (D-Mich.), chairman of the House Energy and Commerce Committee. Dingell, whose wife lobbied for GM before their marriage in 1981 and still works in its Washington office, protects the auto interests of his Detroit district with the tenacity of a mother hen.

Dingell frequently intervenes to delay or scuttle regulations aimed at car makers, and he kept clean air legislation out of his committee during the 1980s, except when the Reagan administration tried to roll back tailpipe standards early in the decade.

Even in the current congressional battle over revising the Clean Air Act, Dingell has helped limit damage to Detroit. He agreed to sponsor President Bush's package but only after making sure it omitted the tough auto provisions of other bills, such as a second tightening of standards early next century and requirements for greatly increased gas mileage. And he maneuvered to water down Bush's most ambitious plan—mass production of clean-fuel cars.

Automakers were not as well placed 20 years ago when Sen. Edmund S. Muskie (D-Maine) was Congress's most influential voice on clean air. Impatient with earlier anti-smog efforts, Muskie decided to force the production of clean cars by setting standards based on the health needs of cities, not on Detroit's view of what was feasible.

His legislation, passed by Congress in 1970, called for 90 percent cuts in hydrocarbons and carbon monoxide by 1975 and the same for nitrogen oxides by 1976.

It was a few years earlier that the possibility of using catalytic converters as an antipollution device first attracted attention. The idea came from independent suppliers of the devices to oil refineries for use in transforming petroleum into high-octane gasoline. Why not use the same catalysts to neutralize the byproducts of gasoline burned in car engines?

Detroit was not receptive. The main problem was lead, then injected into gasoline to reduce engine knock and boost octane. Industry officials argued that lead would ruin the devices. Anyway, they argued, catalytic converters would never survive the jostling they would receive in cars.

Whether Detroit gave catalysts a fair hearing is open to dispute. In 1969, the automakers were charged by the Justice Department with conspiring to delay the development of antipollution devices. The antitrust suit was settled later that year when the companies, without conceding wrongdoing, agreed to stop any illegalities.

At GM, meanwhile, interest in catalysts grew with the hiring in 1967 of Klimisch, then 28 and fresh from a job at E.I. Du Pont de Nemours and Co. experimenting with cheaper was of catalyzing petroleum moles-

cules into synthetic fabric for women's underwear.

In two years, Klimisch found by trial and error that a catalyst containing precious metals—platinum and palladium—retains enough oxygen when exposed to the high temperatures of engine exhaust to convert hydrocarbons into water vapor and harmless carbon dioxide, and carbon monoxide into carbon dioxide.

When the converter, then a vessel of ceramic beads coated in precious metals, survived an in-house road test of 50,000 miles, "We couldn't believe it," Klimisch recalled. "The conventional wisdom was that we'd never get it to last so long."

The breakthrough persuaded GM President Edward Cole to issue a historic and startling statement on Jan. 15, 1970. Speaking to the Society of Automotive Engineers, he called on oil companies to take lead out of gasoline to facilitate the use of catalytic converters in cars. Throwing down the gauntlet, he announced that starting with 1971 models, all GM cars would be able to run on unleaded gasoline.

In Washington, however, GM joined Chrysler Corp. and Ford Motor Co. in opposing standards proposed by Muskie that seemed obtainable in Klimisch's lab. Lee A. Iacocca, then Ford's executive vice president, said in September 1970 that the limits "could prevent continued production of automobiles" and "do irreparable damage to the American economy."

Opposition persisted in the early 1970s as Detroit pleaded with the EPA to suspend the standards under a waiver clause in the 1970 law. By 1973, Chrysler President John J. Riccardo called the limits still "beyond the capability of known technology." His company attempted to muzzle an independent catalyst manufacturer from lobbying for the technology by threatening loss of Chrysler business, informed sources said.

And a GM official testified at a spring 1973 EPA hearing that forcing Detroit to install the devices in 1975 models would be technically and economically disastrous.

In May 1973, the EPA agreed to relax the standards for two years. But with catalytic converters proving to be a boon to fuel efficiency and performance, GM announced six weeks later that all of its 1975 models would be equipped with the devices.

"The industry did not use good judgment in the public relations aspect of the issue," said David Cole, son of the late GM president and director of an independent auto research center at the University of Michigan.

Klimisch explained that GM did not have access until 1973 to platinum and palladium mined in South Africa to produce catalysts for millions of cars per year. He spent most of his time after 1969 experimenting with base-metal substitutes.

By 1981, after another precious metal—rhodium—was found to strip oxygen from nitrogen oxides and turn them into harmless nitrogen, the catalytic converter finally allowed Detroit to reach and even exceed the federal standards.

The converters now shaped as ceramic honeycombs washed in precious metals, have been fitted in more than 110 million U.S. cars and are exported to Europe and Japan.

The devices have been so successful that Congress is considering legislation to require further reductions in tailpipe emissions beyond the 96 percent cut already attained in hydrocarbons and carbon monoxide and 76 percent in nitrogen oxides.

The industry says that while it may be able to slightly improve the converters, the target for early next century conditionally set in the clean air bill now under consideration in the Senate—reductions of 98.7 percent in hydrocarbons and carbon monoxide and 95.2 percent in nitrogen oxides—is not feasible technologically, and even if it were, it would cost too much.

"We can't squeeze much more out of the catalytic converter," said Klimisch, now director of environmental activities in GM's corporate offices.

As usual, feasibility is debatable. The California Air Resources Board has found that with adjustments, the catalytic converter can achieve the higher standards for up to 40,000 miles. Even the EPA acknowledges that the standards can be achieved but questions whether they are worth the increased costs; estimates range from $125 to $500 a car.

"I came out of the whole exercise with catalytic converters as a technological optimist in what the industry can do," said Walsh, the EPA's top auto pollution expert in the 1970s and now a private consultant. "When you give them a challenge, they meet it."

EXHIBIT 2

ARCO OFFERS NEW GASOLINE TO CUT UP TO 15% OF OLD CARS' POLLUTION

(By Matthew L. Wald)

WASHINGTON, August 15.—In a first step in its strategy to make gasoline environmentally competitive with cleaner alternatives. ARCO announced today that it would replace leaded gasoline at its California pumps with a "reformulated" fuel that could cut pollution from cars manufactured before 1975 by up to 15 percent.

The new gasoline could also be used in off-road vehicles, construction equipment and other vehicles that use leaded fuel.

ARCO acknowledged that the changes involved in devising its new fuel for older cars were simple and could have been made long ago if the company had felt the need to do so.

"We're already selling all the gasoline we can make," said James S. Morrison, executive vice president of ARCO. He said the company's incentive for devising the new formulation was the growing threat posed by regulations in California and proposed rules in Washington, DC.

The new fuel will cost about 2 cents a gallon more to produce. ARCO said it would absorb the cost.

ARCO, the leading marketer of gasoline in Southern California, the region of the nation with the strictest environmental controls, also said it hoped to introduce reformulated gasoline for newer vehicles that use unleaded gasoline in the next three to five years.

OTHER COMPANIES TO FOLLOW

Industry experts said other companies were likely to follow ARCO's lead in introducing fuel formulated for low pollution, known as "designer" gasoline, as a response to proposals in Washington and in California that would force auto makers to design and sell large numbers of cars using methanol, compressed natural gas and other alternative fuels to meet new clean-air standards.

"They are seeing the writing on the wall," said Bill Kelly, a spokesman for the South Coast Air Quality Management District in Los Angeles, which confirmed ARCO's claims for the new fuel. "They want to remain players here. They think they can do it through pushing gasoline formulation and technology."

The company said that the changes to improve the environmental performance of unleaded gasolines are also thought to be relatively simple, but that it needed to engage in extensive testing, and would face heavy expenses in reconfiguring refineries.

The gasoline companies face tough targets. Methanol can cut the air pollutants emitted from new cars by 50 percent. But they believe that a much smaller saving might make their product environmentally competitive because it could be quickly introduced on all cars.

ARCO said that in tests its new fuel for pre-1975 cars reduced evaporative emissions of smog-causing chemicals from them by 21 percent, cut carbon monoxide by 9 percent, nitrogen oxide by 5 percent and hydrocarbons by 4 percent.

POLLUTION FROM PRE-1975 CARS

Such reductions are among many that are important in reducing overall vehicle pollution, like the introduction of equipment at gas stations to reduce evaporation when cars are filling their gas tanks. Pre-1975 cars are thought to account for as much as 30 percent of all vehicle pollution in Southern California, where mild weather allows vehicles to last longer, and California officials hailed today's announcement.

"This gasoline will be most helpful in reducing emissions from older cars that do not have sophisticated emission-control systems," said Jananne Sharpless, chairwoman of the California Air Resources Board.

A 20-year-old car puts out 8 to 10 times as much pollution as a new car, Ms. Sharpless said.

Jerry Martin, a spokesman for the board, said the board's staff was working on proposed regulations for cleaner-burning fuel. "We'd like to see the entire fuel industry move in the direction that ARCO has," he said.

The new fuel will have the same octane as leaded fuel, 88, Mr. Morrison said, but it will have less butane, making it less prone to evaporation. Evaporation of unburned fuel is a leading source of the chemicals that combine, in the presence of sunlight, to form ground-level ozone. California has already forced refiners to cut the butane content lower than other areas of the country.

OZONE-PRODUCING CHEMICALS

The new ARCO fuel also cuts olefins and aromatics, a group of chemicals that help make ozone. It cuts benzene, one aromatic, by 50 percent and sulfur by 80 percent. The company also added methyl tertiary butyl ether, known as MTBE, an additive used by many refineries to raise octane. MTBE raises the oxygen content of the fuel, which promotes cleaner burning. Cars will perform as well or better, the company said.

ARCO said it was naming the new gasoline, which will be introduced Sept. 1, Emission Control 1, or EC-1. ARCO said it would sell the fuel at its more than 700 stations in Southern California, from Santa Barbara to San Diego. It will be dispensed from the pumps that now hold leaded fuel. Since those pumps have a wide nozzle—designed to prevent the introduction of leaded fuel into cars that need unleaded—EC-1 will not be available to drivers of newer cars.

Industry experts say that other oil companies, spurred by President Bush's proposal for fleets of cars running on anything but gasoline, are developing similar products.

"Everybody is looking at reformulated gasoline right now," said Gere Smith, a spokesman for Philips Petroleum, in

Bartlesville, Okla. "Everybody is looking at whatever it's going to take."

Terry F. Yosie, vice president for health and environment at the American Petroleum Institute, said, "It's an indication of how seriously the industry's taking the clean-air issue, and looking at its own products."

"IT REALLY REGISTERED"

ARCO said it started work in March, after California's South Coast Air Quality Management District proposed a 20-year plan that would eliminate gasoline-powered cars in favor of vehicles using methanol, ethanol, compressed natural gas and electricity. "It really registered that we were going to have to do something," Mr. Morrison said.

That plan was approved today by the California Air Resources Board in Sacramento.

Nationally, 13 percent of the gasoline sold is leaded, said the American Petroleum Institute, and that 13 percent fuels about 18 percent of the cars on the road. Old cars consume a disproportionately smaller share of the gasoline because they are driven fewer miles each year than new cars, experts say, but even driving those short distances, they produce more than their share of pollution.

Mr. Morrison said that ARCO hoped other would follow its lead, and that his company would provide the specifications to the new fuel to any refiner that asked. But there is no secret to the new formulation, he said. "They could buy a gallon and analyze it," he said.

Mr. CONRAD. Mr. President, I rise to express my support for the Mitchell-Dole substitute to S. 1630, a bill to amend the Clean Air Act. I had hoped that Congress would enact clean air legislation during the 100th Congress; I am optimistic that Congress will enact clean air legislation during this Congress.

The air quality in many regions of the country is intolerable, and there is room for improvement in others. Americans deserve better. The ability to breath healthy air and live in a clean environment is a right every bit as fundamental as those found in the Bill of Rights.

As the majority leader said in his statement following last year's failed attempt to amend the act, "[a]ir pollution is a man-made phenomenon. We have it within our power to control it. What we cannot control is the fact that human beings depend on air to survive."

I commend my colleague from North Dakota and the chairman of the Senate Committee on Environment and Public Works, Senator BURDICK, and the chairman and ranking member of the Subcommittee on Environmental Protection, Senator BAUCUS and Senator CHAFEE, for their dedication and determination to bring this matter to the floor.

I also recognize and thank the majority leader, Senator MITCHELL, for the outstanding leadership he has demonstrated during this long debate. He has tirelessly devoted over 10 years of his legislative career to ensuring that Americans live healthier lives.

The bill before us contains comprehensive titles on attainment, mobile sources, air toxics, acid rain, permits, enforcement, and ozone. Many will claim that the Mitchell-Dole substitute to S. 1630 is too tough and others will argue that it falls short of what we need. Indeed, most Members of this body, including myself, would have drafted the bill differently if given the opportunity.

Legislating, however, involves the art of compromise and is the art of the possible. If Congress is able to enact new amendments to the Clean Air Act, then everyone will have made sacrifices and everyone will have made concessions. It has been 12 years since Congress last revised the Clean Air Act—a testament to the need for compromise to ensure a healthy environment.

I am proud to say that North Dakota is a leader in the fight to save our air. It is one of only three States—together with Arkansas and Hawaii—that meet all of the Federal standards for ambient air quality. An extraordinary accomplishment given the fact that North Dakota is an energy-producing State—a State that not only provides electricity to its residents, but exports electricity to other regions of the country.

These accomplishments have not been without a price, however. We have invested over $350 million in sulfur dioxide removal systems, and our operation and maintenance costs for those systems are $23 million per year. More than 70 percent of our electrical generating capacity is fitted with scrubbers.

It has been the objective of the congressional delegation from North Dakota to ensure that the bill recognizes these accomplishments and investments. I believe that it does. With respect to sulphur dioxide emissions, several examples illustrate my point.

First, the bill excludes direct cost-sharing; North Dakota ratepayers will not have to pay for other States to clean up their emissions.

Second, there is no mandated scrubbing for plants. The bill repeals the percentage reduction provisions of the 1977 act, which forced plants in North Dakota to install scrubbers while plants in other regions got by with cheaper pollution controls.

Third, the bill recognizes the unique properties of the lignite coal. The bill permits lignite boilers in attainment States to continue to emit at 1985 levels.

As for emissions of oxides of nitrogen, no North Dakota boilers will be affected by the NO_x reductions until at least the year 2000. Further, cyclone boilers are exempt from NO_x reductions unless new technology is developed that would not cost more than low-NO_x burners for other power sources. North Dakota uses cyclone boilers for 40 percent of its generating capacity.

Tangential boilers will have a maximum allowable rate of 0.450 lbs/mmBtu's. Before 1997, a more stringent rate may be set only if new, more effective low-NO_x burners are available. Any new rate would go into effect January 1, 2000. Half of our power in North Dakota comes from tangential boilers. and most of these boilers meet the 0.450 standard. Also, an alternative emissions rate can be specified for boilers which cannot meet NO_x emission standards after properly installing and using low-NO_x burners or other approved technology.

The bill includes emissions averaging, which allows owners of affected boilers to average their total emissions to meet the NO_x standards. It also excludes a trading system for NO_x, which helps a State like North Dakota from having to purchase pollution allowances for any growth in NO_x emissions.

Finally, I am pleased that the bill will promote the use of ethanol and other oxygenated fuels in cities with the worst smog problems. These sections of the bill are "win-win" provisions for agriculture and the environment.

It has also been my objective to assure that the bill contains a rational relationship between cost and benefits. A healthy environment and a healthy economy are not mutually exclusive. A very marginal increase in air quality must always be weighed against the cost of producing that increment. Contrary to what some might assert, this is not and should not be a bill based upon health standards alone.

As a member of the Senate Committee on Energy and Natural Resources, I have also been concerned that clean air legislation be considered in the context of a national energy strategy. As is so often the case these days, energy and environmental issues are entwined, and the relationship will only grow closer. The chairman of the Energy Committee, Senator JOHNSTON, held hearings in January on this subject, and the hearings have enhanced the debate on this bill.

I am satisfied that the Mitchell-Dole substitute to S. 1630 is an improved version of the bill reported by the committee with respect to these matters.

As comprehensive as the bill is, there is one major omission, and that is the failure to address the effects of international air pollution.

As the Committee on Environment and Public Works noted in its report on S. 1630, air pollution recognizes no State or international borders. The bill adddresses emissions problems within the United States but is silent on the subject of international pollution.

I was an original cosponsor of the McClure amendment, which would have established fairness and balance in international energy trade, and I am disappointed that it was not adopted.

North Dakota, a State that borders two Canadian provinces, is very familiar with the problems of international transboundary emissions. As an energy producer, we are also very sensitive to the impacts of U.S. legislation on international competition. While more than 70 percent of North Dakota's generating capacity is scrubbed, in Canada, not a single coal-fired unit is fitted with a continuous emission control device.

If cleaner air is our objective, then we must be vigilant in our attempts to include other nations in our effort.

As stewards of this planet, we have a moral obligation to convey clean air to future generations. This bill is one of the most important pieces of legislation that Congress will consider this session, and I am pleased to support it.

Mr. THURMOND. Mr. President, 2 months ago during the opening of this debate on clean air, I stated my support and cosponsorship of S. 1490, the clean air legislation forwarded to the Congress by President Bush. At that time, I also mentioned a few concerns I had with S. 1630, the clean air bill reported by the Environment and Public Works Committee which we have been considering.

Since that time, there have been many long hours of negotiations between the majority leader, Senator MITCHELL, the Republican leader, Senator DOLE, the managers of this bill, Senators BAUCUS and CHAFEE, the Environmental Protection Agency, and several others. The administration, the two leaders, and the managers are all to be commended for their hard work. The result of the negotiations is the compromise substitute leadership amendment. Comprehensive in scope, this amendment addresses ambient air quality standards, mobile source controls, alternative fuels, air toxics, acid rain, the permitting of businesses, the protection of the ozone layer, and enforcement authority.

Mr. President, although this is not a perfect bill, it is one which truly represents the great art of compromise. The bill contains some provisions of which I do not approve. However, taken as a whole, I believe it is a fair bill, and I am pleased to support it. This legislation should provide health benefits to all Americans in the decades ahead.

Mr. WALLOP. Mr. President, tonight the Senate is voting on perhaps the major legislative issue of this session of Congress. The debate has extended from winter into spring and in the process, we have managed to provide something for everyone. But, is the final product in the best interest of our country? My conclusion must be no, this bill should not be passed.

This is the second clean air bill passed by the Senate during my term of office. In 1977, I served on the Environment Committee, and participated in the drafting of that year's reauthorization. I supported the bill, but my support came reluctantly.

The 1977 bill turned out to be a bad one for the Western States—as we were burdened with cleanup requirements for our utilities that did not apply to the worst polluters in the Midwestern States. Western Senators also learned a lesson from that experience. A major reason for the lengthy legislative drafting of today's bill is our desire to ensure a fair bill.

My good friend from Wyoming, AL SIMPSON, has undertaken an incredible task in fighting for an equitable bill. Taking into account the effect of the bill on Wyoming, my State has fared well. I have no apologies. We deserve every benefit we receive from this bill. And Senator SIMPSON has worked hard for them. Our low-polluting, low-sulfur coal will continue to find a market. Our powerplants, which emit miniscule amounts of sulfur dioxide, will finally receive credit for past sacrifices. From these perspectives, the bill is attractive to both Senators from Wyoming.

But this bill affects all Americans and therein, it fails. It will set back, even ignore, the $8 billion we have already invested in clean coal technology. It postpones, and very expensively, the fight to control the most toxic powerplant emissions, namely the nitrous oxides.

We have neglected, in fact, refused to deal with the permitting changes the administration required. This means that American industry cannot be certain that once permitted to invest in new plants, they can depend on their investment to come to production with any certainty. All these provisions count, Mr. President, against American industry and American jobs with no commensurate environmental improvement. We have allowed our emotions to run in front of our technology.

One of the most promising clean energy capabilities of the future—nuclear energy—will be put at great risk. The cost of this risk damages our own clean air attainment expectations while adding to the potential for Japanese dominance in the world of nuclear energy technology.

There are other provisions which deflect my enthusiasm for this legislation. I cannot accept the cost to our economy. We sometimes forget that we are involved in a global economy. Competition and costs do not stop at our borders. That is the reason I supported the free trade agreement 2 years ago. Simply put, this bill decreases the ability of American industry to compete in the global marketplace.

Once the Dole-Mitchell compromise was reached, I asked the administration to provide an accurate cost estimate of the package—specifically whether it would violate the parameters the President had set for supporting the bill. I have received no response. I know that the real costs of this bill exceed what was said to be acceptable to the White House.

EPA has estimated the cost at $24 billion, but the Business Roundtable provided a "best case" estimate of $46 billion for the three major provisions. The disparity is too great, especially when both agree on the amount of pollution the bill will remove.

What this means is that automakers will spend $7.5 billion a year to reduce emissions by 1 percent. The bill even goes so far as to provide the formula petroleum companies must follow in developing gasoline. American industry will receive an annual bill of $4.1 billion to reduce acid rain, which the Government's National Acid Precipitation Assessment Project study indicates damages barely 0.1 percent of the trees in the East, and 750 of the thousands of lakes in the region. In fact, this legislation will deacidify only 75 lakes, at the cost of $4 billion per lake!

A study by the Harvard Institute on Economic Research on Environmental Regulation and Economic Growth concludes that the type of action we are taking today retards economic growth due to reduced productivity, and higher operating and financial costs. Some argue that the health benefits outweigh the negative impacts on our economy. But, the issue of health risk and exposure is very unsettled.

I have previously discussed this issue in regards to asbestos—one example of a substance for which there is no consensus on the actual health risk, yet which is now regulated by EPA. We have no clear theory on public health risks, yet this bill will mandate controls for a whole list of unknown risks. I understand that the National Academy of Science will finally be studying methods for health risk assessment, but for now, we will make demands without knowing why.

We made mistakes back in 1977. We are making even more mistakes today. This time, I will reluctantly have to vote against this legislation.

Mr. HEINZ. Mr. President, this is the first major revision of the Clean Air Act in 13 years. It is overdue.

Our Nation has not achieved our clean air goals. Our current regulatory system is failing to solve the problems we indentified more than a decade ago. Moreover, emerging science has made us aware of new dangers: global warming, the disappearance of the protective ozone shield, and the long-

term effect of toxic air emissions on public health.

The need for urgent action is evident. This legislation meets that need.

Today, for example, over 100 million Americans are exposed to urban smog because they live in areas that fail to meet ozone standards. Under current law for ozone nonattainment, communities are merely required to meet a certain goal by a certain time. There is no mechanism to ensure steady progress towards the goal. There is no strategy to separately address the pollution generating components affecting the quality of the air. There are no realistic penalties for communities that fail to meet the goal. And, consequently, far too many communities have not met the ozone standard.

Our bill would provide the strategy and mechanisms missing from current law. Under this legislation, the Nation's air will improve steadily from year to year.

Some of my constituents believe that this bill is too strong. This is a tough bill. It will make significant improvements in the public health of millions of people. It will also impose significant costs on businesses. Should this legislation become law, it would represent the most stringent air pollution control law on the books in the world today.

Our legislation will force automakers to reduce smog-causing pollutants, demand that coal-fired utility plants cut back on sulfur dioxide emissions that cause acid rain, phase out production of ozone-depleting CFC's, and require steel, oil, chemical, and other manufacturers to restrict nearly 200 toxic substances in the air.

In the first round of controls, air toxic emissions will be reduced by 90 percent. Sulfur dioxide emissions, the precursors of acid rain, will be reduced by 10 million tons. By 1995, all vehicles coming on the road will have reduced their hydrocarbon emissions by 22 percent and their nitrogen oxide emissions by 60 percent. In the most severely impacted cities, beginning in 1997, fleets of more than 20 vehicles will be required to use alternative fuels that reduce ozone emissions by 80 percent and toxics by 75 percent.

Mr. President, we have labored long and hard to achieve these goals using least cost solutions. I believe the marketplace is far too important to be either a foe or a bystander in our pollution prevention efforts. As an ally, market mechanisms can help us achieve far more in the way of pollution prevention at far less cost to the economy as a whole. I am proud that the President cited Project 88, a report commissioned by the Senator from Colorado [Mr. WIRTH] and I, as the basis for the credit-trading program included in the acid rain title which is designed to introduce market forces into the achievement of our environmental goals.

Mr. President, we have been successful in improving this legislation during the long Senate debate. For instance, the Boschwitz amendment will provide small business with the assistance they need to comply with the law despite their limited resources. The Glenn-Heinz amendment will preserve the rights of States and communities to regulate at more stringent levels the emissions of radionuclides, and that is an important reaffirmation of our Federal system of government.

As a whole, I believe that this bill is a good piece of legislation. It is not perfect.

This bill would be better if it contained the Byrd-Heinz amendment to provide meaningful transition and training assistance to workers who will lose their jobs as a result of this bill, and it would be far better if it contained the Specter-Heinz amendment to maintain stable coal markets to avert job losses by providing a tax credit for companies to install clean coal technologies.

I share the anger of my colleagues from the Appalachian region. The Senate refused to recognize the disproportionate burden that this bill places on our region of the country. Some of my colleagues from the region have said that this bill is so unfair that they will be compelled to vote against. I am not persuaded, as they evidently are, that we can no longer influence the fairness issue, that all is lost for our people and our States. I, for one, will continue to advocate consideration of our region's special needs not only as this bill moves forward in the House, but also on other legislative vehicles that come before the Senate.

Mr. President, clean air is in our Nation's interest. Despite our differences, and despite our regional concerns, each of us is elected to advance the national interest. I believe this bill does, and I will support it.

I congratulate President Bush, without whose initiative this process would not have started, the majority leader, whose selfless work over many years has brought us to this point today, and my colleagues in the Senate, whose atention to these complex and difficult issues has been meticulous. This is sound legislation. It is important legislation. I urge my colleagues to vote for it.

Mr. WARNER. Mr. President, the Senate is about to conclude action on a landmark piece of legislation to amend the Clean Air Act. Mr. President, S. 1630, as amended by the Mitchell-Dole compromise and certain other amendments approved on the floor in the last few weeks, is certainly one of the most important pieces of legislation that I have considered since coming to the Senate almost 12 years ago.

The legislation to be put to a vote later today is comprehensive in nature: It provides for a renewed attack on ozone and carbon monoxide pollution in our cities, as well as much-needed new regulation of acid rain and toxic air pollutants. Additional controls in these areas are vital to the health and welfare of all Americans.

Mr. President, when I took the floor to discuss this legislation in January, I stated my hope that the Senate could work to produce a strong, yet fair and cost-effective clean air bill. In my view, Mr. President, the Senate will in all likelihood produce just such a bill today. I will state to my colleagues that S. 1630, as amended, is not a perfect bill, but it does go a long way to bring balance to the process of restoring our air quality. There is no doubt that this legislation will impose great costs on the economy as a whole, and to all American consumers individually. However, the proposal before the Senate for final consideration in large part brings those into line with the amount of benefits produced.

Mr. President, in my analysis of S. 1630, as amended, I have found much that will be helpful to the citizens of the Commonwealth of Virginia. First and foremost, the Senate bill sets strict but realistic deadlines for all areas out of attainment to comply with with health standards for ozone. The Senate clean air bill will, therefore, provide the measures necessary for nonattainment areas like northern Virginia, Richmond, and Norfolk to improve air quality for all of its citizens.

The Senate bill will also address the problems of acidification in the lakes and rivers of Virginia and of visibility in the Shenandoah National Park. It will also set standards to reduce toxic air emissions in our State. All of these benefits will come to Virginians with some sacrifice—indeed, the whole country will have to make sacrifices—but at a greatly reduced cost compared to the costs imposed by the original S. 1630.

Mr. President, I think the Senate has worked hard to produce a strong, effective bill at a reasonable cost. The managers of the bill have labored many long hours to bring the bill to this point. I have worked closely with the managers, other Members of the Committee on Environment and Public Works, as well as other Members of the Senate to do my part to produce just such a credible piece of legislation. I commend my colleagues for a job well done.

Mr. SIMPSON. Mr. President, it has been a long and tortuous road we have taken in trying to get a clean air bill passed. There have been many detours along the way and fits and jerks of progress. But today we finally have completed the first half of the jour-

ney. We must still complete conference committee consideration after the House acts—and that will be a long and grueling task.

We would not be voting on final passage of this bill if it were not for the courage and fine leadership of George Bush, GEORGE MITCHELL, and BOB DOLE. I would take this opportunity to single out President Bush for special praise because he was the catalyst that helped bring all the critically needed participants together. Without the President's leadership and willingness to put clean air legislation forward I doubt that the rest of us could have pulled it off.

Then I can't help but observe that GEORGE MITCHELL was a real stalwart and vital advocate over the last 3 months. The majority leader exhibited tenacity, courage, and conviction in conducting negotiations on a clean air compromise. He fully recognized that the bomb throwers on both sides of the issue were not going to play a constructive role and he forged ahead undaunted by their inflammatory press releases and statements.

I would be remiss if I didn't mention BOB DOLE and his staff and their remarkable participation in all of the deliberations. Senator DOLE deserves a great deal of credit for his fine leadership and his willingness to get involved in some very tough issues.

Then we have the two warriors in the trenches—JOHN CHAFEE and MAX BAUCUS—who have sat here on the floor day in and day out. They have been very patient and constructive and we all appreciate their diligence.

And my sincere thanks to my strong right arm throughout, Brent Erickson. He did a superb job for me and made me very proud of a young man I have known nearly all my life. And my thanks to Lucy Swartz who was a steady source of support and assistance on the radionuclide issue.

I would also like to take a moment to thank Governor Sununu and the Alliance for Acid Rain Control. Governor Sununu helped form this group of Governors who have advocated acid rain reduction and flexibility and many of the things that are in this bill. We often hear people who like to bash around Governor Sununu, but that is only because he is so capable and accessible to us all. He is a fine instrument in the orchestration of this bill and was always available to us.

This bill is landmark legislation and the American people have been well served by the Senate. I don't agree with everything in this bill and I know the conference committee may be even more difficult than Senate consideration. But I feel now that the President will sign a clean air bill into law this year and the American people will have what they deserve—cleaner air and a recognition of certain economic realities that accompany it. It is a good piece of work.

Mr. DURENBERGER. Mr. President, tonight after years of trying and weeks of debate, the Senate will pass a clean air bill that will give the United States of America the cleanest, safest, and healthiest air in the industrialized world. It reduces, across the board, all air pollutants: Sulfur dioxide, cancer causing toxics, carbon monoxide, particulates, and ozone.

The result is air we can breathe with confidence and certainty because we will have cleaner cars, trucks, and buses; we will have cleaner factories, powerplants, and industries; and we will have cleaner vistas, skylines, and horizons. This, Mr. President, is an accomplishment to be proud of and that will save millions of citizens unnecessary suffering.

Over the past few weeks the Senate has been debating legislation to reauthorize the Clean Air Act. I believe this may be the most important piece of environmental legislation which has ever been put on the Senate Calendar. With the active support of the President of the United States, we may soon witness the signing of legislation that will determine the quality of our environment well into the next century.

It is my purpose today to briefly review the air quality problems which are addressed by this legislation, to summarize its major provisions.

ACID RAIN

Acid rain has been of major concern to Minnesotans for most of the past decade. The northeastern portion of our State which contains some of the most beautiful wilderness resources in the Nation is an area extremely sensitive to acid deposition. Minnesota, acting on its own, has already established an aggressive program to reduce the pollutants which can cause damage to our lakes and forests.

Sulfur dioxide and oxides of nitrogen, the two pollutants which cause the acid rain problem, are propelled into the atmosphere by smokestacks and tailpipes all across America. The yearly loading for each of these pollutants is approximately 20 million tons. The sulfur dioxide comes principally from electric powerplants burning coal. The nitrogen oxides are about half from industry and half from our cars and trucks.

These pollutants can travel hundreds of miles from their point of release to the place where they affect the environment. Tall smoke stacks designed to protect public health from sulfur dioxide pollution in areas close to powerplants have made these pollutants a major issue on a continental scale. It is the issue that divides us most frequently from our best friend in the community of nations. The sensitive resources of our Canadian friends to the north are being ravaged by pollutants produced in our industrial heartland.

The damage caused by acid rain includes destruction of aquatic resources as lakes and streams are made sterile. The acids do billions of dollars in damage to manmade materials including buildings and monuments. The sulfates and nitrates which are precursors of acid rain reduce visibility in national parks in the Eastern United States and are beginning to threaten vistas in the West. The acid aerosols which form from these particulates are now recognized as a public health problem which may contribute significantly to bronchial disease. And finally, these pollutants may play a role in the decline of Eastern forests at high elevations which has occurred at an accelerating pace in recent years.

Acid rain is an issue which excites sharp regional passions. The Northeast is the area of the country which suffers most of the damage. The industrial Midwest mines and burns the high sulfur coal which is causing most of the damage. The West has abundant supplies of low sulfur coal and the Southeast produces natural gas—two fuels which the producing regions would like to sell as part of the solution. That mix of interests has meant deadlock in the Congress on clean air for almost a decade.

The acid rain title of the bill being considered by the Senate is based on the legislation proposed by President Bush. It reduces sulfur dioxide emissions by 10 million tons below 1980 levels by the year 2000. After the year 2000, sulfur dioxide emissions are capped. Any powerplant wishing to increase emissions or any new powerplant coming on line must secure offsetting SO_2 reductions at another facility.

The emissions reduction and the permanent cap are to be implemented through an allowance system. Each powerplant is to be granted specific allowances which permit emissions based on a plant-by-plant pollution limit. Powerplants which do not emit as much SO_2 as their allowances would permit because they have cleaned up to very stringent levels are free to sell those allowances to other utilities that emit more. In this way, both the 10 million ton emissions reduction and the permanent cap can be implemented in the most cost-effective manner.

The bill reported by the committee also mandates reductions in the emission of oxides of nitrogen from new and existing powerplants and from large diesel and turbine engines. The bill has a goal of reducing NO_x emission by 2 million tons below the levels that would otherwise be experienced in 2000.

NONATTAINMENT

Clean air legislation must also address the difficult problem of urban

pollution. Under the Clean Air Act, EPA has set standards to protect the public health from a handful of pollutants which cause a widespread threat. These are pollutants like ozone—which to most people is smog—and carbon monoxide—a pollutant which comes principally from the tailpipe of cars. These are city problems, generally. More than 100 million Americans live in cities which do not meet the Federal health standards for smog and carbon monoxide.

Back in 1970 when the Clean Air Act was passed, two strategies were developed for smog and carbon monoxide. Since much of the problem is attributable to cars and trucks, EPA was told to set air pollution standards for vehicles. And the second part of strategy relied on the States to develop plans for controlling emissions from industrial sources in areas where the standards were being exceeded.

The Federal Motor Vehicle Control Program—as the strategy for cars and trucks is called—has been a great success. Carbon monoxide emissions from the tailpipes of new cars are about 90 percent lower than emissions from cars that were manufactured in 1970. Hydrocarbon emissions—that is generally gasoline vapors—which are the primary element in smog formation have also been reduced by about 90 percent. Another pollutant contributing to smog—the nitrogen oxides—have also been reduced by about 75 percent. As we review the Clean Air Act, I think we must keep in mind how much progress has actually been made in controlling emissions from the automobile.

There is more that can be done, of course. One of the difficult remaining problems on carbon monoxide is high emissions during the cold weather months. Minneapolis and St. Paul, as one might expect, have a cold weather carbon monoxide problem and are in nonattainment for this pollutant. Engines and pollution control systems just don't function as effectively when the car is started on a cold winter morning. The catalytic converter which reduces these pollutants does not function until it heats up to several hundred degrees. And a cold engine makes more pollution because the fuel doesn't burn well.

There is reason to believe that modifications in auto pollution control can be made which will contribute to a further substantial reduction in the carbon monoxide nonattainment problem. One technology is a second catalytic converter located nearer the engine block. It would light off immediately and handle the pollution until the big catalyst was hot enough to take over. It's not possible to move the big catalyst closer to the engine, because if they get too hot, they burn up and you get no pollution reduction. The small light off catalyst near the engine block would be bypassed as soon as the larger catalyst began to function. The bill the Senate is about to pass will require such technology.

On the ozone side, the biggest difference we can make in the motor vehicle contribution to the air pollution problem is a matter of the fuel rather than the car itself. Gasoline is not a simple compound. It is made up of many different chemical elements. And the mix has changed over the years. As oil markets changed some chemicals available in abundant amounts have become much cheaper than others. For instance, butane is much cheaper than gasoline and can be added to gasoline in large quantities without greatly reducing the performance of the fuel. But butane—as everyone who has flicked a Bic lighter knows—produces much more vapor than gasoline. As oil refiners have added more butane to motor fuels, more hydrocarbon vapors have been released to the atmosphere to cause smog and other pollution problems.

So, the bill will prevent the oil companies from adding butane to the fuel. This will actually save the consumer money. On hot days most of the butane was evaporating before it reached the engine anyway. The gas tank heats up as a car is operated. The fuel in the tank heats up and vapors are formed. These vapors may be released from the gas cap or they may travel through the car to a canister that collects evaporative emissions and feeds them to the engine. The problem is that these canisters weren't designed to handle lots of butane emissions. So the butane was escaping the canister, before it could be used as fuel. Consumers have been paying to fill their tank with fuel that never reaches the engine and creates tremendous air pollution problems, as well. That problem is fixed by the bill.

We can also put ethanol into our fuel to reduce the air pollution problem. Ethanol is made from corn. Minnesota is the Nation's third leading corn-producing State. The ethanol contains extra oxygen atoms. This extra oxygen improves the combustion process and reduces the amount of air pollutants that are produced. For instance, combustion which might have produced a lost of CO—carbon monoxide—is improved to produce CO_2 when extra oxygen from ethanol is present. CO is a poison. Carbon dioxide is what we breathe out when we exhale. The bill requires that fuel containing extra oxygen be used in all the cities like St. Paul where violations of the Federal health standard for carbon monoxide occur. I am pleased to say that I was the sponsor of that requirement. The ethanol will be produced from surplus corn.

So, we've made great strides on the mobile source side of the nonattainment question, but more can be done. The same cannot be said for the other half of this process, the State planning effort. The original 1970 statute gave the States 3 years to write and implement plans that would assure attainment of the public health standards. When large numbers of areas still had not attained healthy air by 1977, the Congress enacted sweeping amendments to the law that gave States up to 10 more years, to December 1987. That deadline has now passed and the failure to meet standards is still a critical problem in dozens of cities—102 cities fail the ozone standard; 44 fail the carbon monoxide standard.

We have made some progress. The number of days when the air is unhealthy have been fewer in this decade. For many of the cities with the worst pollution problems, the highest levels of pollution have been brought down dramatically. And a substantial number of cities have actually attained the ozone and carbon monoxide standards.

But these modest successes are not the major theme in this story. Anyone making an objective report on the State planning process of the Clean Air Act must say that the effort has largely failed to produce results. Many of the control strategies promised by the States have never been implemented or were implemented in only a halfhearted way. This is a program that is broke.

And simply repeating the same old cycle one more time—even if we all promise to be serious this time—is not going to solve the problem. To some extent the planning process invites failure. A State implementation plan is a promise to achieve a healthy air quality at some distant date 5 or 10 years in the future. To support the promise the plan must make all sorts of assumptions. Emissions of air pollutants must be projected years into the future. Planners tend to underestimate growth so that emissions will be lower. If emissions are too high to project attainment, control strategies must be proposed. Planners tend to greatly overestimate the efficacy of these control strategies. And the promise strategies must be implemented. Politicians find ways to delay and deflect these control strategies when the time for implementation arrives.

We need to do at least three things to remedy this problem. First, we need better tools for the planning process. The bill requires that many cities develop detailed emissions inventories and use sophisticated air quality models to understand their pollution problem. In many areas these tools have not been applied in the past.

Second, we need more resources at the State level to carry out implementation plans once they are proposed. The bill imposes fees on stationary

sources as a way to raise money for State air pollution programs. The stationary source fees are $25 per ton of emissions, so the clean operator will pay less than those who are still emitting at high levels.

And third, we need to force emissions down on a regular basis. Rather than complicated 10-year plans that try to take into account 1,000 factors that may affect air quality, we need to count pollution by the ton and insist that each year and every year the number of tons goes down. That's in the bill. A 4-percent reduction in the emissions of hydrocarbons and carbon monoxide in the ozone and CO nonattainment areas every year.

AIR TOXICS

The third major issue addressed by this legislation is toxic air pollutants. Under the Clean Air Act these substances are called hazardous air pollutants. They are generally cancer-causing substances, but other health and environmental problems may also be caused by air toxics.

There are hundreds of air toxics of concern. Some examples are mercury, arsenic, asbestos, benzene, radionuclides, perchloroethylene which is used as dry cleaning fluid, ethylene oxide which is a sterilant used in hospitals, toluene which is a major component of gasoline, ammonia used in fertilizer, methyl isocyanate which was the chemical building block of a fertilizer released at Bhopal, and dioxin which is a byproduct of combustion whenever chlorine is present in the fuel.

OSHA regulates about 500 air toxics in the workplace. A few States with active programs have regulated a total of 708 different toxic air pollutants. Recently, major manufacturing facilities were required to report their toxic emissions. The total for the firms required to report was 2.7 billion pounds. That is estimated to be about one-fifth of all toxic emissions in the United States as only a portion of the very largest sources were required to report.

Most of the air toxics discussion focuses on cancer. EPA estimates that something like 2,700 cancers are caused each year in the United States as the result of toxic air emissions.

Well, you might say that is a relatively small problem compared to other environmental risks or health problems which result from careless lifestyles. There are approximately 450,000 fatal cancer cases in the United States each year; 2,700 cancers in a population of 250 million is a 1-in-100,000 risk, which to some is an acceptable price to pay for an industrial society. And if the risks were spread evenly among the whole of the population with each of us bearing an equally small portion, perhaps air toxics wouldn't be on the congressional agenda.

But risks are not spread evenly. Those living near point sources of industrial emissions may face very high cancer risks—1-in-1,000 or even 1-in-100 are typical risks for those persons who experience maximum exposure to various categories of industrial emissions. For one pollutant, butadiene, which is used to make tires, the risks at some sites are by EPA's projections 3-in-10. That is there will be 3 excess cancers for every 10 people maximally exposed at these sites. That's simply not an acceptable price whatever the benefits of this particular chemical.

Risks can also be elevated as the result of the urban soup of pollutants that some Americans are forced to breathe. So it's not just the national cancer incidence that is of concern. It is also the high risks faced by those individuals who experience extraordinary exposures in some communities.

And, of course, it is not only cancer. Many of the air toxics, especially the metals, can lead to other adverse health effects. And in recent months we have become aware of the environmental effects of these pollutants. The most dramatic evidence of damage is coming out of my region of the country, the Great Lakes. It is estimated that 80 percent of the toxics loading up Lake Superior is air deposition and that even for Lake Michigan—whose problems we normally associate with industrial discharges to rivers and tributaries—50 percent of the toxics are from air deposition.

That's the routine side of the air toxics problem—everyday emissions from industry, commerce, and transportation sources. But we have also been awakened to the problem of sudden, catastrophic releases as the result of the catastrophe which occurred in Bhopal, India, and a series of accidents here in the United States.

Again, I'll start with some EPA statistics. The Agency keeps something called the acute hazards events data base which recorded 11,048 chemical accidents between 1980 and 1985. These accidents killed 309, injured another 11,341 and forced the evacuation of 464,677. EPA thinks the data base captures about the problem. These accidents resulted in the release of 420 million pounds of air toxics.

As part of its work on this accident data base, EPA analyzed 29 events with the highest potential for damage to health and the environment. These events were compared to the release at Bhopal which killed 3,000 and injured over 200,000 others. Considering only the toxicity and volume of the chemicals released in the 29 United States events, 17 of these events had the potential for more damage than Bhopal and all 29 had the potential of 50 percent or more of the Bhopal effect. That few were killed or injured in these accidents is due principally to the location of the facilities and the weather at the time of the release.

So here's a summary of the problem. A background cancer risk of 1-in-100,000—from a few dozen air toxics that EPA has studied—dramatically higher risks for some portion of the population—noncancer effects—growing evidence of environmental damage—and an increasing number of catastrophic events which cause immediate death and injury and release large quantities of toxic pollutants.

EPA has not done a good job of controlling toxic air pollution under the existing Clean Air Act. In 18 years EPA has listed only eight pollutants and standards have been issued for only some sources of seven. During that same period of time, the handful of States with active air toxic programs have written standards of one type or another for 708 different pollutants. That suggests the size of chasm which yawns between the problem and the solution at the Federal level.

The Air Toxics Program which is now before the Senate is based on legislation which I introduced last year. Subsequently, President Bush submitted a bill containing a very similar program.

The air toxics title begins by establishing a list of approximately 200 hazardous air pollutants. The list in the bill was prepared by EPA.

Any source emitting any one of these pollutants in quantities greater than 10 tons or any combination greater than 25 tons is classified as a major source and subject to regulation under the bill.

In addition to the list of pollutants, EPA is to establish a list of source categories for purposes of promulgating standards. Each major source is placed in a category. The emissions standards apply to sources in a category refineries, smelters, boilers, incinerators, chemical plants, cotton gins, POTW's, coke ovens, et cetera, rather than to pollutants. There may be 150-250 source categories.

For each category of sources, EPA will promulgate a standard which requires the installation of maximum achievable control technology [MACT] by the sources in the category. MACT standards are generally best available technology standards and can take cost into account. In setting MACT standards, EPA is to give priority to pollution prevention measures like process changes and materials substitution. Standards for all source categories are to be promulgated within 10 years. Existing sources must comply with MACT standards not later than 3 years after they are promulgated.

Any source which makes a voluntary reduction of 90 percent in emissions of hazardous air pollutants before De-

cember 31, 1992, will be granted an exemption from the MACT standards which would otherwise apply to the source.

It may be that the MACT technology-based standards will not reduce emissions sufficiently to remove all risks to health and environment of concern. If significant risks remain, EPA is to tighten the standards 5 years after the initial MACT standard is promulgated.

Each source subject to these standards will be required to apply for a permit. The permit and enforcement aspects of the program will be managed by the States.

In addition to major sources, the bill also has area source program. Area sources are the small, but possibly numerous sources, of toxic pollutants. Dry cleaners, service stations, paint shops, wood stoves, cars and trucks, pesticide applications, and so on. Although the risks from each source are small, EPA believes that in the aggregate area sources may cause as much as 75 percent of the cancers in some urban areas.

S. 1630 adds new provisions to the Clean Air Act to prevent chemicals accidents like that which occurred at Bhopal and require efforts to mitigate the effects of those accidents that do occur.

The bill establishes a five-member Board to investigate chemical accidents which cause death, injury, or severe property damage. The authorities and activities of the Board are similar to those exercised by the National Transportation Safety Board. The Board is to determine the probable cause of each chemical accident under its jurisdiction—those at fixed facilities—and to make recommendations to EPA on measures that might be adopted to reduce the risk of accidents. The Board would have no regulatory authority of its own.

EPA is authorized to promulgate accident prevention, detection, and correction regulations including requirements for design, operation, maintenance, and training at facilities handling extremely hazardous substances. These regulations would generally be issued in response to recommendations for safety improvements made by the Board.

So, that's a general outline of the bill and the problems that it is designed to address. It's a very comprehensive piece of legislation which will affect the lives of all Americans. In addition to the hundreds of individual provisions, one overriding issue which has developed is the cost of clean air. The President, as I said, has submitted a clean air bill of his own. It is a good bill. But it doesn't go as far as the bill which is pending in the Senate. It doesn't deal with the CFC's which are attacking the stratosphere and breaking down the shield which protects Earth from ultraviolet radiation. It doesn't include a string health standard for air toxics. It doesn't address the problem of municipal garbage burners. It doesn't make any start at all on the problem of global warming. In each of those areas the Senate bill is a little stronger, pushes a little bit more.

Of course, the President's bill costs less. We currently spend about $32 billion per year on air pollution in the United States. As a percentage of GNP that's less than we were spending at the beginning of the last decade. The President's bill would add about $20 billion to the price tag by the year 2005. Not tomorrow, but over a 15-year period of time. The Senate bill would be somewhat more expensive—and the debate has come down to how much more can we afford?

Compared to the costs of poor health, lost work days, acid lakes and forests, vistas that are never seen, climate changes that melt ice caps and turn the birch forest of northern Minnesota to grasslands—the Senate bill is a big savings for our country. We can afford the effort it calls for. We need the protection which it provides for the health of our people, the unspoiled beauty and bounty of our natural resources, and for the quality of life on our planet.

The VICE PRESIDENT. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1630), as amended, was ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have not been ordered.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. There being no further debate, the bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 89, nays 11, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—89

Adams	Bond	Bumpers
Armstrong	Boren	Burdick
Baucus	Boschwitz	Burns
Bentsen	Bradley	Chafee
Biden	Breaux	Coats
Bingaman	Bryan	Cochran
Cohen	Hollings	Moynihan
Conrad	Humphrey	Murkowski
Cranston	Inouye	Nunn
D'Amato	Jeffords	Packwood
Danforth	Johnston	Pell
Daschle	Kassebaum	Pressler
DeConcini	Kasten	Pryor
Dodd	Kennedy	Reid
Dole	Kerrey	Riegle
Domenici	Kerry	Robb
Durenberger	Kohl	Roth
Exon	Lautenberg	Rudman
Ford	Leahy	Sanford
Fowler	Levin	Sarbanes
Gore	Lieberman	Sasser
Gorton	Lott	Shelby
Graham	Lugar	Simpson
Gramm	Mack	Specter
Grassley	Matsunaga	Stevens
Harkin	McCain	Thurmond
Hatch	McConnell	Warner
Hatfield	Metzenbaum	Wilson
Heflin	Mikulski	Wirth
Heinz	Mitchell	

NAYS—11

Byrd	Helms	Simon
Dixon	McClure	Symms
Garn	Nickles	Wallop
Glenn	Rockefeller	

So the bill (S. 1630) as amended, was passed; as follows:

TITLE IV—ACID DEPOSITION CONTROL

SEC. 401. The Clean Air Act is amended by adding the following new title:

"TITLE IV—ACID DEPOSITION CONTROL

"FINDINGS AND PURPOSES

"SEC. 401. (a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels;

"(3) the problem of acid deposition is of national and international significance;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment; and

"(7) control measures to reduce precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of ten million tons from 1980 emission levels, and, in combination with other provisions of this Act, of nitrogen oxides emissions of approximately two million tons from 1980 emission levels, in the forty-eight contiguous States and the District of Columbia. It is the intent of this title to effectuate such reductions by requiring compliance by affected sources with prescribed emission limitations by specified deadlines, which limitations may be met through alternative methods of compliance provided by an emission allocation and transfer system. It is also the purpose of

this title to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as a long-range strategy for reducing air pollution and other adverse impacts of energy production and use.

"DEFINITIONS

"SEC. 402. As used in this title—

"(a) The term 'affected source' means a source that includes one or more affected units.

"(b) The term 'affected unit' means a unit that is subject to emission reduction requirements or limitations under sections 403(e), 404, 405, 406, 407, 409, or 410 of this title.

"(c) The term 'allowance' means an authorization, issued to an affected source by the Administrator under this title, to emit, during or after a specified calendar year, one ton of sulfur dioxide.

"(d) The term 'baseline' means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ('mmBtu's'), calculated as follows:

"(1) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF). For non-utility units, the baseline is the NAPAP Emissions Inventory, Version 2. The Administrator may exclude periods during which a unit is shutdown for a continuous period of four months or longer.

"(2) For any other non-utility unit that is not included in the NAPAP Emissions Inventory, Version 2, the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the administrator shall prescribe by regulation to be promulgated not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(3) CORRECTION OF DATA.—The Administrator shall, upon application or on his own motion, by December 31, 1991, correct any factual errors in data from which affected Phase II units' baselines or actural 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

"(e) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(f) The term 'compliance plan' means a plan submitted pursuant to section 408 describing how the source will comply with all applicable requirements under this title, including a schedule and description of the method or methods for compliance and certification by the owner or operator that the source is in compliance with the requirements of this title.

"(g) The term 'continuous emission monitoring system' (CEMS) means the equipment as required by section 412, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 412 of this title).

"(h) The term 'existing unit' means a unit (including units subject to section 111) that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990. Any unit that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990 which is modified, reconstructed, or repowered after the date of enactment of the Clean Air Act Amendments of 1990 shall continue to be deemed an existing unit for the purposes of this title. For the purposes of this title, existing units shall not include simple combustion turbines.

"(i) The term 'generator' means a device that produces electricity and which is reported as a generating unit pursuant to Department of Energy Form 860.

"(j) The term 'new unit' means a unit that commences commercial operation on or after the date of enactment of the Clean Air Act Amendments of 1990.

"(k) The term 'permitting authority' means the Administrator, or the State or local air pollution control agency, with an approved permitting program under part B of title III of the Act.

"(l) The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler generation efficiency and with significantly greater solid waste reduction relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1990. For the purpose of this title, the term 'repowering' shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"(m) The term 'reserve' means the bank of allowances established by the Administrator either under section 404(a)(2) or under section 405(a)(2).

"(n) The term 'State' means one of the forty-eight contiguous States and the District of Columbia.

"(o) The term 'unit' means a fossil fuel-fired combustion device.

"(p) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For non-utility units, the term 'actual 1985 emission rate' means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(q) The term 'utility unit' means a unit that serves a generator in any State that produces electricity for sale. For purposes of this title, a unit that cogenerates steam and electricity shall be considered a utility unit if the unit supplies more than one-third of its potential electric output capacity and more than twenty-five megawatts electrical output to any utility power distribution system for sale.

"(r) The term 'allowable 1985 emissions rate' means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall determine the annual equivalent of that emissions limitation to establish the allowable 1985 emissions rate.

"(s) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 per centum reduction in emissions of a pollutant from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"(t) The term 'alternative method of compliance' means a method of compliance in accordance with one or more of the following authorities:

"(1) the purchase and use of allowances in addition to those allocated to a unit directly by the Administrator, at sale in accordance with section 403(a)(2);

"(2) the purchase and use of allowances in addition to those allocated to a unit directly by the Administrator, at auction in accordance with section 403(a)(3);

"(3) the use of transferred allowances held between allowance holders pursuant to section 403(b);

"(4) a substitution plan submitted and approved in accordance with subsections 404 (b) and (c);

"(5) a phase I extension plan approved by the Administrator under section 404(d), using qualifying phase I technology as determined by the Administrator in accordance with that section; or

"(6) repowering with a qualifying clean coal technology under section 409.

"(u) The term 'commenced' as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

"(v) The term 'commenced commercial operation' means to have begun to generate electricity for sale.

"(w) The term 'construction' means fabrication, erection, or installation of an affected unit.

"(x) The term 'industrial source' means a unit that does not serve a generator that produces electricity, a 'non-utility unit' as defined in this section, or a process source as defined in section 410(e).

"(y) The term 'non-utility unit' means a unit that serves a generator that produces electricity which sells no more than one-third of its potential electric output capacity and no more than twenty-five megawatts electrical output to any utility power distribution system.

"(z) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"(aa) The term 'life-of-the-unit, firm power contractual arrangement' means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, for the life of the unit.

"SULFUR DIOXIDE ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS

"SEC. 403. (a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title, in an amount equal to the annual tonnage emission limitation calculated under section 404, 405, 406, 409, or 410 except as otherwise specifically provided elsewhere in this title. Except as provided in sections 405(a)(2) and 410, beginning January 1, 2000, the Administrator shall not allocate or issue annual allowances to emit sulfur dioxide pursuant to section 405 in such an amount as would result in total annual emissions of sulfur dioxide from utility units in excess of 8.90 million tons: *Provided,* That the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were issued. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the annual allowances allocated for each unit subject to the requirements of section 405, based on allowances allocated pursuant to subsections (b) (1), (3), (4) and (5); (c) (1), (2) and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h)(1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405. Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator shall issue allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 408. If an existing unit is, or would be, subject to the requirements of section 404, 405, or 406 is removed from operation after the date of enactment of the Clean Air Act Amendments of 1990, such removal from operation shall not affect the number of allowances allocated or issued for the unit annually as provided in section 408.

"(2)(A) FIXED PRICE SALE OF ALLOWANCES.—In accordance with the provisions of this paragraph, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990, shall offer and sell allowances, at a price of $1,500 per ton (adjusted for inflation to the date of payment based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1990 and annually thereafter) in accordance with regulations for the use of allowances pursuant to subsection (b). The number of allowances offered and sold under this paragraph that can become useable in any given calendar year shall not exceed one hundred thousand. The Administrator shall offer to sell the maximum number of allowances permitted under this subparagraph and shall complete such sales as provided further under this paragraph. No allowance offered and sold under this paragraph shall become useable (i) prior to the year 2000, and (ii) until two calendar years after the calendar year in which it has been offered.

"(B) Beginning ninety days after the promulgation of regulations and anytime thereafter, an applicant under this paragraph may submit an application or applications for the purchase of allowances. An applicant shall demonstrate that (i) the applicant is, or will be an owner or operator of a unit subject to subsection (e), and (ii) the applicant has entered into binding agreements to construct the unit for which the allowances are being sought or that the public service commission with jurisdiction over the unit has given its approval for the construction and operation of the unit. No applications may be: (i) for the purchase of more than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of twenty years, or (ii) for the purchase of allowances that become useable in a given calendar year in an amount greater than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of one year.

"(C) The Administrator shall approve or disapprove applications no later than ninety days after submission by the applicant. Notwithstanding the fact that the approval of applications may exhaust the supply of allowances available to subsequent applicants in a given year, the Administrator shall consider applications in order of submission and, subject to the restrictions of subparagraph (A), approve such applications if the requirements of subparagraph (B) are met. If an application that would otherwise be approved would exhaust the supply of allowances in a given year, the Administrator shall offer to sell only those allowances in the application that are still available to be offered. The Administrator shall calculate an estimated purchase price to the applicant according to subparagraph (A) and rules promulgated under this paragraph. Such estimated purchase price shall reflect the discounted present value of the payments that the applicant would otherwise make if it were to pay for the allowances applied for on a year-to-year basis, and shall provide for the use of a discount rate equal to an interest rate on short-term borrowing by the Department of the Treasury. Each applicant shall be required to pay earnest money equal to one half per centum of the estimated purchase price within six months of approval of the application. Upon the receipt of such payment the Administration shall issue to the applicant a letter certifying that the applicant is eligible to purchase allowances as specified in the approved application and stating that such eligibility shall expire one year and one day prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (D).

"(D) The Administrator shall promulgate regulations not later than thirty-six months after the date of enactment of the Clean Air Act Amendments of 1990 specifying: (i) one or more payment options (accounting for the earnest money paid for under subparagraph (C)) for purchase of allowances applied for under this paragraph, and (ii) methods by which an applicant can decrease, without penalty, the number of allowances purchased relative to the number of allowances applied for. Not later than one year and one day prior to the calendar year in which any of the allowances that have been reserved in accordance with an approved application become useable, the applicant who wishes to purchase such reserved allowances shall make a payment to the Administrator as specified in regulations promulgated under this subparagraph. If the applicant does not make such payment, the earnest money paid under subparagraph (C) shall be forfeited and the applicant's eligibility to purchase the allowances applied for shall expire. Following each payment specified in the regulations, the Administrator shall issue the allowances paid for to the approved applicant and on a pro-rata basis deduct, from the allowances allocated pursuant to subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h) (1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued. The Administrator shall record the transfers of allowances as a result of each sale in accordance with the requirements of subsection (b). Within ninety days of the issuance of allowances, all funds collected as a result of the sale of such allowances under this paragraph shall be disbursed on a pro-rata basis to the owners or operators of the affected units from whose allocations the allowances are deducted. No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. Any allowances that are available for sale under this paragraph, and that remain unsold as of one year prior to the calendar year in which they become useable, shall be added to the allowances available for sale at auction under paragraph (3).

"(3)(A) ALLOWANCE AUCTION.—In accordance with the provisions of this paragraph, the Administrator shall conduct auctions of allowances no less than twice in each calendar year beginning in calendar year 1995 and in each year thereafter. In conducting such auctions the Administrator, in accordance with the requirements for the use of allowances pursuant to subsection (b), may sell both allowances which are useable in the calendar year in which an auction is held and allowances which are not useable until a specified calendar year following the auction: *Provided,* That—

"(i) no allowance sold in an auction under this paragraph shall be useable prior to the year 2000;

"(ii) except for allowances contributed under subparagraph (D) of this paragraph and allowances added under subparagraph (D) of paragraph (2), the total number of allowances sold in auctions under this paragraph that can become useable in any given calendar year shall not exceed one hundred thousand; and

"(iii) in each calendar year beginning with the year 2000, the number of allowances that have been previously sold at auction and that become useable in such year together with the number of allowances that are offered for sale at auction in such year and become useable in such year shall not be less than one hundred thousand.

In each auction the Administrator shall offer to sell long-term streams of allowances

consisting of allowances that are not useable until specified calendar years following the auction. Such long-term streams shall be sufficient to permit the operation of units that in the aggregate would use no less than seven thousand five hundred allowances per year for a period beginning no earlier than the calendar year following such auction and not less than fifteen years thereafter. Allowances not sold in long-term streams shall be offered no later than two years from the calendar year in which they become useable. Not later than thirty-six months after the enactment of the Clean Air Act Amendments of 1990, the Administrator, after consultation with the Secretary of the Treasury and the Chairman of the Federal Energy Regulatory Commission, shall promulgate regulations setting forth the method by which each auction shall be conducted. The regulations shall assure that the auction is open to any person who may hold allowances pursuant to this section and shall not require that a minimum price be met for the purchase of allowances. Allowances awarded at auction may be used for any purpose subject to the provisions of this title. Persons awarded allowances pursuant to each auction shall be required to pay a specified per centum of the total purchase price within a specified period of time subsequent to the date of award, as set forth in the regulations promulgated under this paragraph, except as otherwise provided in subparagraph (B). Upon the receipt of such payment the Administrator shall issue to the person a letter certifying that the person is eligible to purchase allowances as specified according to the bid and award and stating that such eligibility shall expire one year prior to the calendar year in which any of the allowances becomes useable. Within ninety days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (B).

"(B) Not later than one year prior to the calendar year in which any of the allowances awarded to a person becomes useable, such person who wishes to purchase such awarded allowances shall pay to the Administrator the balance of the purchase price. In the case of an award of allowances in which one or more allowances are useable in the year of award, the person who wishes to purchase such allowances shall pay the full purchase price within a specified period of time less than a year after the award, as set forth in the regulations promulgated under this paragraph. If the person does not consummate a purchase, any amount previously paid shall be forfeited and the person's eligibility to purchase such allowances shall expire. The Administrator shall issue the auctioned allowances as purchased to the person and on a pro rata basis deduct, from the allowances allocated pursuant to subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j) and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(C) Within ninety days of the issuance of allowances, all funds collected as a result of the sale of allowances under this paragraph shall be disbursed to the owners or operators of the affected units from whose allocations the allowances are deducted. Such disbursement shall be on a pro-rata basis except with respect to proceeds from the sale of contributed allowances under subparagraph (D). No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. The Administrator shall make information publicly available concerning the nature, price, and results of each auction including the prices of successful bids and shall record the transfers of allowances as a result of each auction and purchase in accordance with the requirements of subsection (b).

"(D) Any holder of allowances may contribute to any auction allowances and shall receive the proceeds from the auction of such allowances. Allowances contributed for auction under this subparagraph may be useable in the calendar year in which an auction is held or may not be useable until a specified calendar year following the auction in accordance with the requirements for allowance use specified in subsection (b). Allowances that are contributed and sold shall be deducted from the allowances allocated to the owner or operator making the contribution. The holder of such allowances may specify a minimum sale price and time of payment provided that the Administrator finds that doing so would not interfere with the purposes and functioning of the auction.

"(4) The regulations promulgated under paragraphs (2) and (3) and the discretion exercised by the Administrator in conducting sales and auctions shall be consistent with the competitive functioning of a national market for allowances and preservation of competition in the electric power industry. Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 2001 decrease the number of allowances sold in, and modify other terms of, the sales and auctions provided under paragraphs (2) and (3) if the Administrator finds that such changes would be consistent with the competitive functioning of a national market for allowances and the preservation of competition in the electric power industry. Pursuant to the regulations the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

"(b) ALLOWANCE TRANSFER SYSTEM.—Allowances issued under this title may be transferred among designated representatives of the owners or operators of affected sources under this title and any other person who lawfully holds such allowances, as provided by the allowance system regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the issuance, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was issued, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, including allowances issued to units subject to phase I requirements (as described in section 404) which are applied to emissions limitations requirements in phase II (as described in section 405). Transfers of allowances shall not be effective until written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator. Such regulations shall permit the transfer of allowances prior to the issuance of such allowances. Recorded pre-issuance transfers shall be deducted by the Administrator from the number of allowances which would otherwise be issued to the transferor, and added to those allowances issued to the transferee. Pre-issuance transfers shall not affect the prohibition contained in this subsection against the use of allowances prior to the year for which they are issued.

"(c) INTERPOLLUTANT TRADING.—Not later than January 1, 1994, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances, for nitrogen oxides allowances.

"(d) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate, not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990, a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit requirements pursuant to section 408, without any further permit review and revision. If the Administrator determines that the use of a code that prescribes safety standards for equipment design, procedures, and systems developed by a professional organization or entity (including the American National Standards Institute and the American Society of Mechanical Engineers) is appropriate, the Administrator shall require the use of such code.

"(e) NEW UTILITY UNITS.—After January 1, 2000, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g) (2) or (3) of section 405. New utility units may obtain allowances from any unit allocated allowances under this title. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Such allowance may be limited, revoked, or otherwise modified in accordance with the provisions of this title or other authority of the Administrator. Such allowance does not constitute a property right.

"(g) PROHIBITION.—It shall be unlawful for any person to hold, use, or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator. It shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for use for that unit for that year by the owner or operator of the unit. Allowances may not

be used prior to the calendar year for which they were issued. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected sources of their requirements and liabilities under this Act.

"(h) Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(i) APPLICABILITY OF THE ANTITRUST LAWS.—

"(1) Nothing in this section affects—

"(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

"(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, 'antitrust laws' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

"PHASE I SULFUR DIOXIDE REQUIREMENTS

"SEC. 404. (a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 404(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless (i) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or (ii) the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions. The owner or operator of any unit in violation of this section shall be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 411 of this title.

"(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between: (A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and (B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this section that the Administrator finds would have occurred in the absence of the imposition of such requirements. Not later than June 1, 1996, the Administrator shall adjust, if necessary, the number of allowances remaining in the reserve to reflect the actual emissions reductions achieved by such units during calendar year 1995 as measured by CEMS pursuant to section 412. Such an adjustment shall be deemed necessary if the sum of the reductions actually achieved in calendar year 1995 and the number of allowances issued from the reserve, created pursuant to this paragraph, in calendar year 1995 to eligible phase I extension units pursuant to subsection (d) does not equal the reductions projected by the Administrator for calendar year 1995. In making any such adjustment, the Administrator shall take into account, inter alia, whether emissions reductions achieved by any unit subject to the requirements of this section resulted from reduced utilization of the unit as compared with its baseline or from shutting the unit down and whether additional emissions of sulfur dioxide from units not subject to the emissions limitations of this section occurred as a result of those units' provision of electrical generation to compensate for the reduced output resulting from any affected unit's reduced utilization or shutdown. Pursuant to subsection (d), the Administrator shall issue allowances from the reserve established hereinunder until the earlier of such time as all such allowances in the reserve are issued or December 31, 1999.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 408 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

"(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

"(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, the substitute unit or units, based on the baseline for each unit, as defined in section 402(d), multiplied by the lesser of the unit's allowable 1985 emissions rate;

"(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

"(6) such other information as the Administrator may require.

"(c) ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.—

"(1) The Administrator shall take final action on such substitution proposal in accordance with section 408(c): *Provided*, That the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

"(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 408. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 403. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds for use allowances to emit not less than the units total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 411 of this title. If a substitution proposal is disapproved, the Administrator shall issue allowances to the original affected unit or units in accordance with subsection (a).

"(d) ELIGIBLE PHASE I EXTENSION UNITS.—(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 408 for an extension of two years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds for use allowances to emit not less than the unit's total annual emissions for each of the two years of the period of extension. To qualify for such an extension, the affected unit must either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 408, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

"(2) Such extension proposal shall—

"(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

"(B) provide an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

"(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

"(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

"(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

"(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 408, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with

the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the title.

"(4) In order to determine the number of proposals eligible for allocations from the reserve and the number of allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraphs (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

"(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

"(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

"(C) the difference between the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, and the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

"(5) Each eligible phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, in calendar year 1995, the Administrator shall issue to each eligible phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall issue to each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds for use allowances to emit not less than the unit's total annual emissions.

"(6) In addition to allowances specified in paragraph (5), the Administrator shall issue to the owner or operator of each eligible phase I extension unit employing qualifying phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction provided for in paragraph (4), not to exceed the difference between (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000, and (B) the tonnage level specified under subparagraph (D) of paragraph (2) of this subsection. However, the number of allowances issued shall be reduced, on a pro rata basis, as the result of any adjustment by the Administrator's June 1, 1996 recalculation of the level of the reserve under subsection (a)(2) of this section.

"(7) After January 1, 1997, in addition to any liability under this Act, including under section 411, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (3) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)

State	Plant Name	Generator	Phase I Allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
	Bartow	1	4,190
Georgia	Bowen	1	56,330
		2	54,770
		3	71,750
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
		7	21,480
Illinois	Baldwin	1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
	Grand Tower	4	5,910
	Hennepin	2	18,410
	Joppa Steam	1	12,590
		2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
		3	13,890
	Vermilion	2	8,880

Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)—Continued

State	Plant Name	Generator	Phase I Allowances
Indiana	Bailly	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E. W. Stout	5	3,880
		6	4,770
		7	23,610
	F. B. Culley	2	4,290
		3	16,970
	F. E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H. T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,440
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750
		5	3,670
		6	12,280
	Warrick	4	26,980
Iowa	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,300
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	1,125
		2	12,840
		3	12,350
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,890
		2	24,330
	C. P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
		2	38,480
Michigan	J. H. Campbell	1	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,490

Table A.—Affected Sources and Units in Phase I and Their Sulfur Dioxide Allowances (tons)—Continued

State	Plant Name	Generator	Phase I Allowances
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire.	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
		7	38,510
	Muskingum River	1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270
	Martins Creek	1	12,660
		2	12,820
	Portland	1	5,940
		2	10,240
	Shawville	1	10,320
		2	10,320
		3	14,220
	Sunbury	4	14,080
		3	8,760
		4	11,450
Tennessee	Allen	1	15,320
		2	16,770
		3	15,670
	Cumberland	1	86,700
		2	94,840
	Gallatin	1	17,650
		2	17,310
		3	20,020
		4	21,260
	Johnsonville	1	7,790
		2	8,040
		3	8,410
		4	7,990
		5	8,240
		6	7,890
		7	8,980
		8	8,700
		9	7,080
		10	7,550
West Virginia	Albright	3	12,000
	Fort Martin	1	41,590
		2	41,200
	Harrison	1	48,620
		2	46,150
		3	41,500
	Kammer	1	18,740
		2	19,460
		3	17,390
	Mitchell	1	43,980
		2	45,510
	Mount Storm	1	43,720
		2	35,580
		3	42,430
Wisconsin	Edgewater	4	24,750
	La Crosse/ Genoa	3	22,700
	Nelson Dewey	1	6,010
		2	6,680
	N. Oak Creek	1	5,220
		2	5,140
		3	5,370
		4	6,320
	Pulliam	8	7,510
	S. Oak Creek	5	9,670
		6	12,040
		7	16,180
		8	15,790

"(e) RENEWABLE ENERGY TECHNOLOGY RESERVE.—(1) Notwithstanding any other provision of law, beginning on January 1, 1995, the Administrator may allocate from a Renewable Energy Technology Reserve a tonnage amount equal to a total of 80,000 tons of allowances for emissions of sulfur dioxide pursuant to section 403, in an annual amount to be determined by the Administrator subject to paragraph (2) to owners or operators of affected units at affected sources. Such allowances shall be allocated to an owner or operator described in this subparagraph in an amount calculated pursuant to paragraph (2) if, beginning on January 1, 1991, such owner or operator—

"(A) generates electricity at a new renewable energy power plant (as defined in paragraph (4)); or

"(B) purchases electric energy generated at a new renewable energy power plant owned or operated by any person other than the owner or operator of an affected source.

"(2) The Administrator shall allocate annual allowances from the Renewable Energy Technology Reserve pursuant to paragraph (1) as follows:

"(A) Any annual allowance allocated under this subparagraph shall be allocated in a tonnage amount equal to the number of kilowatt hours generated or purchased by the owner or operator (as described in paragraph (1)), multiplied by the emissions rate of the lowest emitting coal- or oil-fired unit of the operating company applying for the allowance (as defined by the Administrator in concurrence with the Secretary of Energy, and excluding any oil- and gas-fired unit with an average annual fuel consumption for calendar year 1985 that, on a Btu basis, exceeded 90 per centum consumption in the form of natural gas), divided by 2,000. (The product of such calculation shall be divided by one hundred to reflect the conversion rate between Btu's and kilowatt hours, assuming a heat transfer of ten thousand Btu's per kilowatt hour).

"(B) Allowances allocated under this paragraph shall be allocated in accordance with the order of receipt of applications for such allowances.

"(3) Beginning on January 1, 2000, the Administrator shall deduct an tonnage amount equal to eight thousand tons per year for a period of ten years from the annual allocation of allowances for units subject to requirements of section 405 on a pro rata basis. Such allowances shall be deposited in the Renewable Energy Technology Reserve. The pro rata share for each such unit shall be calculated on the basis of the allowances that would be allocated pursuant to subsections (b)(1), (3), (4), and (5); (c)(1), (2), and (3); (d)(4); (e); (f); (g)(1), (2), and (4); (h)(1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6), of subsection (d); of section 405.

"(4) As used in this subsection, the term 'new renewable energy power plant' means a power plant for which construction is initiated on or after January 1, 1991, or which realizes a significant increase in energy output (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) attributable to the replacement of renewable energy equipment (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) installed prior to January 1, 1991, by more efficient of productive renewable energy equipment (as determined by the Administrator in concurrence with the Secretary of Energy), and that operates primarily on energy derived from—

"(A) solar sources;

"(B) geothermal sources;

"(C) biomass sources; or

"(D) wind sources.

"(f) APPLICATION FOR ALLOWANCES FROM THE RENEWABLE ENERGY TECHNOLOGY RESERVE.—The owner or operator of an affected unit under subsection (a) may submit an application to the Administrator at any time after January 1, 1991, for allowances from the Renewable Energy Technology Reserve to be calculated using the formula described in subparagraph (A) of subsection (e)(2). Such application shall include—

"(1) the number of kilowatt hours the affected units generated or purchased from a new renewable energy power plant as defined in subsection (e)(4); and

"(2) documentation of kilowatt hours generated or purchased as recorded in a certified meter reading from the point of entry into the utility grid, or in an executed sales contract.

"(g) ACTION BY ADMINISTRATOR.—(1) The Administrator, in consultation with the Secretary of Energy, shall approve or disapprove an application submitted pursuant to subsection (f) not later than six months after receipt of the application. If an application proposal does not meet the require-

ments of subsection (f), the Administrator shall disapprove the application.

"(2) If the Administrator approves an application submitted pursuant to subsection (f), the Administrator shall notify the applicant in writing of the number of allowances to be received pursuant to this paragraph. On or after January 1, 1995, the Administrator shall allocate allowances for the affected units in accordance with the amount specified in the written notification described in this subparagraph, upon written request by the owner or operator of the affected units at the affected source.

"PHASE II SULFUR DIOXIDE REQUIREMENTS

"SEC. 405. (a) APPLICABILITY.—(1) After January 1, 2000, each steam-electric existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 411 of this title.

"(2) Following the issuance of permits pursuant to section 408 to the owners or operators of units subject to the emissions limitation requirements of this section, the Administrator shall calculate the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 2000, achieved as result of compliance by units subject to this section with the emissions limitation requirements of subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d). In calculating such reductions the Administrator shall compute for each unit subject to the emissions limitation requirements of section 404 the difference between: (A) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000. For each unit not subject to section 404, but subject to the emissions limitation requirements of subsections (b) and (c) of this section, except for those units granted an extension pursuant to section 409, the Administrator shall compute the difference between: (A) the product of each unit's baseline multiplied by the lesser of its allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect the utilization of such plants that the Administrator finds would have occurred in the absence of the imposition of emissions limitation requirements. The Administrator shall establish a reserve of allowances equal in number to the tons so calculated and adjusted to reflect the actual emissions reductions achieved during calendar year 2000, as measured by CEMS pursuant to section 412, up to a limit of 5.30 million allowances. If the Administrator determines that the total of actual emissions reductions achieved in calendar year 2000 is less than 5.30 million tons, the Administrator shall deduct from each unit's annual allocation its pro rata share of 10 per centum of the difference between 5.30 million tons and actual emissions reductions achieved in calendar year 2000. Each unit's pro rata share shall be calculated on the basis of allowances that would be allocated in subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d). Notwithstanding any other provision of this paragraph, pursuant to section 403, subsections (b)(2), (c)(3), (d)(3) (A), and (B), (g)(3), (h)(2) of this section, and section 406(a), the Administrator shall issue annually 530,000 allowances from the reserve established hereunder for calendar years 2000 through 2009.

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 per centum capacity factor.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 per centum in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated non-attainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided*, That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated and issued for each unit under this paragraph.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—

"(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is less than 250 MWe to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with a total fossil fuel steam-electric generating capacity greater than 250 MWe and less than 450 MWe which serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1990 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the units total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emis-

sions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 per centum capacity factor.

"(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—

"(1) After January 1, 2000, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(3)(A) At the election of an operating company, after January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1), allowances in an amount equal to either (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (1) and section 403. Allocations made pursuant to clause (i) shall include allowances subject to the restrictions imposed pursuant to section 403(a)(1) as well as allowances from the reserve created pursuant to subsection (a)(2) of this section.

"(B) At the election of the operating company, after January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (2), allowances in an amount equal to either (i) the product of the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, divided by 2,000, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (2) and section 403. Allocations made pursuant to clause (i) shall include allowances subject to the restrictions imposed pursuant to section 403(a)(1) as well as allowances from the reserve created pursuant to subsection (a)(2) of this section.

"(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect only one formula for the allocation of allowances as provided under subparagraphs (A) and (B), which elected formula shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall issue allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

"(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate and issue in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2000.

"(5) After January 1, 2010, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate of less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(6) After January 1, 2010, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(7) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, such unit may use any three consecutive years between 1980 and 1989 in calculating its baseline, as defined in section 402(d)(1).

"(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and a numerical factor of 120 per centum divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit the lesser of whose actual or allowable 1985 emission rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during 1985, 1986, and 1987 on a Btu basis was 90 per centum or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(g) UNITS THAT COMMENCE OPERATION BETWEEN 1985 AND DECEMBER 31, 1995.—(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1985, but not later than September 30, 1990 to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate and issue to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000: *Provided,* That after January 1, 2000, the Administrator shall allocate and issue for each unit with a nameplate capacity equal to, or greater than, 1,000 MWe that commences, or has commenced commercial operation, on or after October 1, 1990, but not later than June 30, 1991, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.50 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(3) After January 1, 2000, the Administrator shall allocate and issue to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu, divided by 2,000.

"(4) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been issued a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Indus-

trial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq. repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 1.20 lbs/mm/Btu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions.

"(5) Any unit that is a qualifying small power production facility or qualifying cogeneration facility within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act (16 U.S.C. (17)(c) or 796(18)) that—

"(A) has commenced operation as of December 31, 1989, or

"(B) has entered into a power sales contract prior to December 31, 1989, shall not be subject to the emissions limitations pursuant to this section, or to any other provisions of this title, except if the Administrator has approved a designation of such unit under section 410.

"(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PER CENTUM OIL CONSUMED.—(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during 1985, 1986 and 1987 on a Btu basis exceeded 90 per centum in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) Beginning January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annualy for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(i)(1) In addition to allowances allocated pursuant to this section, the Administrator shall allocate and issue annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

"(A) has experienced a growth in population in excess of 25 per centum between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 issued by the United States Department of Commerce, and

"(B) had an installed capacity of more than 30,000,000 kw in 1988,

in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: *Provided*, That the number of allowances allocated and issued pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated and issued to each unit under this subsection.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 per centum or more as of the date of enactment of the Clean Air Act Amendments of 1990, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970 and (D) which is owned by a utility company whose combined kilowatt-hour sales have increased by more than 20 per centum between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1990, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): *Provided*, That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated and issued to each unit pursuant to this paragraph.

"(j) CERTAIN MUNICIPALLY-OWNED POWER PLANTS.—(1) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned coal-fired utility unit with nameplate capacity less than 25 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU

"SEC. 406. (a) ELECTION OF GOVERNOR.—In addition to allocations of allowances pursuant to subsections (b) (1), (3), (4) and (5); (c) (1), (2) and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405, upon the election of the Governor of any State, with a 1985 state-wide annual sulfur dioxide emissions rate equal to or less than 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, the Administrator, in lieu of allocations pursuant to subsections (b)(2), (c)(3), (d)(3) (A)(i) and (B)(i), (g)(3), and (h)(2) of section 405, shall allocate and issue allowances from the reserve created pursuant to section 405(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

"(b) NOTIFICATION OF ADMINISTRATOR.—Not later than January 1, 1997, each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate and issue allowances pursuant to section 405.

"(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate and issue allowances to units subject to the provisions of this section pursuant to section 405.

"NITROGEN OXIDES EMISSION REDUCTION PROGRAM

"SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of section 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided*, That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially-fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable

emission limitations for tangentially-fired and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided,* That no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

"(1) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

"(2) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act amendments of 1990, that the owner or operator—

"(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

"(2) has properly operated such equipment for a period of fifteen months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

"(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III—

"(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

"(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsection (b)(1), (b)(2), or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b)(1) and (b)(2).

"If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

"PERMITS AND COMPLIANCE PLANS

"SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by operating permits issued in accordance with the provisions of this section and part B of title III of this Act. Not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations consistent with regulations required to be promulgated under title III of this Act to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit in accordance with this title and part B of title III to implement the requirements of sections 403, 404, 410, 411, 412, 413, and 414. Such permit shall supersede any permit application and proposed compliance plan submitted by the owner or operator under subparagraph (1). Any permit issued by the Administrator, or by a State with a permit program approved under part B of title III of this Act, shall prohibit each of the following:

"(1) exceedances of applicable sulfur dioxide or nitrogen oxide emissions limitations,

"(2) annual emissions of sulfur dioxide or nitrogen oxides in excess of the applicable emissions limitation under this title, unless, in the case of sulfur dioxide, the owner or operator holds allowances to emit not less than the total annual emissions of the affected unit or source,

"(3) the use of any allowance prior to the year for which it was issued, and

"(4) contravention of any other provision of the permit.

"(b) PERMIT APPLICATIONS AND COMPLIANCE PLANS GENERALLY.—Permit applications required by this seciton shall be submitted by the designated representative of the owner or operator of the unit, shall identify each person on whose behalf allowances will be received, and shall specify the nature and extent of the interest of each person. Each permit application shall be submitted by the designated representative of the owner or operator and shall be accompanied by a compliance plan for the source to comply with its requirements under this title. The compliance plan shall provide all necessary information on the schedule and means by which the source will comply with its annual tonnage emissions limitation, as provided under this title, including specification of the owner's or operator's intent to use an alternative method of compliance, and the owner's or operator's certification that such owner or operator will comply with the requirements of this title in all circumstances, including, but not limited to, those in which such owner or operator fails for whatever reason to secure any such additional allowances necessary to achieve compliance. The Administrator may also require—

"(1) for a source, a demonstration of compliance with any other applicable emissions limitation or requirement under this Act, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to the affected sources under section 404 as follows—

"(1)(A) Not later than thirty months after the date of enactment of the Clean Air Act Amendments of 1990, the designated representative of the owner or operator of each affected source under sections 404 and 407 shall submit a permit application and proposed compliance plan for that source in accordance with regulations issued by the Administrator. The permit application and proposed compliance plan shall be binding on the owner and operator, and be enforceable for purposes of this Act, until a permit is issued by the Administrator for the source pursuant to this section and title III of this Act. During pendency of the permit application and proposed compliance plan, the designated representative of the owner or operator may amend such application or plan automatically provided that the Administrator is given prior notification of such amendment.

"(B) In the case of a compliance plan for an affected source under sections 404 and 407 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit as compared with the baseline prescribed in section 402(d), or by shutting down the unit, the owner or operator shall include in the proposed compliance plan a specification of the unit or units that will provide electrical generation to compensate for the reduced output at the affected source, or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The unit to be used for such compensating generation, which is not otherwise an affected unit under sections 404 and 407, shall be deemed an affected unit under section 404, subject to all of the requirements for such units under this title, except that allowances shall be allocated to such compensating unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000.

"(2) The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within six months after receipt of a complete submission. The Administrator may approve a compliance plan in whole or in part, and with such modifications or conditions as may be necessary consistent with the orderly functioning of the allowance

system and to ensure the emissions reductions contemplated by this title.

"(d) SECOND PHASE PERMITS.—(1) To implement sections 403, 405, 406, 407, 409, 410, 411, 412, 413, and 414, each State in which one or more sources subject to those sections are located, shall submit a comprehensive and enforceable permit program to the Administrator for approval in accordance with this title and part B of title III. The Administrator shall approve any permit program meeting the requirements of this title and part B of title III.

"(2) The designated representative of the owner or operator of each affected source under section 405, including an affected unit under section 409, shall submit a permit application and proposed compliance plan (which shall include a description of any alternative method of compliance) for that source to the permitting authority, not later than January 1, 1994.

"(3) Not later than July 1, 1995, each State with an approved permit program pursuant to this section and part B of title III of this Act shall issue permits with all necessary compliance plan requirements and conditions to the owners and operators of existing affected sources under section 405, that satisfy the requirements of this Act. In the case of a State without an approved permit program, or a State that fails to issue permits to all of its existing affected sources by July 1, 1995, the Administrator shall, not later than July 1, 1996, issue a permit with all necessary compliance plan requirements and conditions to the owner or operator of each such affected source. The Administrator or permitting authority may approve a compliance plan in whole or in part and with such modifications or conditions as may be necessary consistent with the orderly functioning of the allowance system and to ensure the emissions reductions contemplated by this title.

"(4) The owner or operator of any unit subject to the requirements of section 406 shall submit a permit application and proposed compliance plan for such unit to the permitting authority not later than July 1, 1997. Not later than January 1, 1998, the permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title and part B of title III, including any appropriate monitoring reporting requirements.

"(5) The designated representative of the owner or operator of any unit subject to the requirements of section 407 shall submit a permit application and proposed compliance plan for such unit to the permitting authority, not later than January 1, 1997. The Administrator shall, not later than July 1, 1998, issue a permit and compliance plan to the owner or operator of each such affected source that has not been issued a State permit. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(e) NEW UNIT PERMITS.—(1) Each State shall submit a comprehensive and enforceable operating permit program for new units to the Administrator for approval, as provided under part C of title III. The Administrator shall take final action on complete new unit permit program submittals within one year of their receipt.

"(2) The designated representative of the owner or operator of each source that includes one or more new units shall submit a permit application and proposed compliance plan to the permitting authority not later than twenty-four months prior to January 1, 2000, or to commencing commercial operation of the new unit, whichever is later. The permitting authority shall issue a permit and compliance plan to the owner or operator of the new unit that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(f) ELECTION UNIT PERMITS.—(1) Each State shall submit a comprehensive and enforceable operating permit program for election units under section 410 to the Administrator for approval, as provided under part B of title III. The Administrator shall take final action on complete election unit permit program submittals within one year of their receipt.

"(2) The owner or operator of each source that includes one or more election units shall submit a permit application and proposed compliance plan to the permitting authority with the proposed election designation. The permitting authority shall issue a permit and compliance plan to the owner or operator of the election unit that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(g) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of a permit application and proposed compliance plan under this section, the permit applicant may submit a revised permit application and compliance plan, in accordance with the requirements of this section or part B of title III.

"(h) PROHIBITION.—It shall be unlawful for an owner or operator and its designated representative (1) to fail to submit a permit application or proposed compliance plan in accordance with the deadlines specified in this section or otherwise to fail to comply with regulations implementing this section, or (2) to operate any source subject to this title except in compliance with the terms and requirements of a permit application and proposed compliance plan, or a permit and compliance plan issued by the Administrator or a State with an approved permit program.

"(i) MULTIPLE OWNERS.—No permit under this section shall be issued to an affected unit until the designated representative of the owner or operator has filed a certification concerning the holding and distribution of allowances. Where there are multiple holders of a legal or equitable title to or a leasehold interest in such a unit, or where a utility purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, the certification shall (1) state that allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual share or, (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, state that allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directively or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person.

"REPOWERED SOURCES

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be repowered with a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed and binding contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act, and shall continue to be subject to requirements under this title as if it were a unit subject to section 405.

"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator thereafter satisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment utilizing another clean coal technology or other available control technology, then such extension shall continue until December 31, 2003.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan emissions limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. The source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(2) Effective on that date, the unit shall be subject to the requirements of section 405. Allowances for the year in which the unit is removed from operation to install the repowering technology shall be calculated as the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for such existing utility units for calendar years after the year the

repowering is complete shall be calculated as the product of the existing unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(d) CONTROL REQUIREMENTS.—Any unit qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant regulated under the Act shall not be subject to any standard of performance under section 111 of this Act.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D of title I of this Act for any source qualifying for an extension under this section.

"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirement of this section, or any regulations of permit requirements to implement this section, including the prohibition against emitting sulfur dioxide in excess of allowances held.

"ELECTION FOR ADDITIONAL SOURCES

"SEC. 410. (a) APPLICABILITY.—The owner or operator of any unit that is not; nor will become, an affected unit under section 403(e), 404, or 405, or that is a process source under subsection (e), that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this title. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 408. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit, or source, shall be issued allowances, and be an affected unit for purposes of this title.

"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

"(c) EMISSION LIMITATIONS.—Annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

"(d) PROCESS SOURCES.—The Administrator shall establish a program under which the owner or operator of a process source that emits sulfur dioxide may elect to designate that source as an affected unit for the purpose of receiving allowances under this title. The Administrator shall, by regulation, define the sources that may be designated; specify the emissions limitation; specify the operating, emission baseline, and other data requirements; prescribe CEMS or other monitoring requirements; and promulgate permit, reporting, and any other requirements necessary to implement such a program.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c) or (d), in accordance with section 403. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 403. Affected sources under this section shall be subject to the requirements of sections 403, 408, 411, 412, 413, and 414.

"(f) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown: *Provided*, That such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993 meeting the requirements of subsection 211(i) of this Act.

"(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993, through December 31, 1999.

"(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2,000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

"(C) REFINERY ELIGIBILITY.—As used in this subsection, the term 'small refinery' shall mean a refinery or portion of a refinery—

"(i) which has bona fide crude oil throughput of less than eighteen million two hundred and fifty thousand barrels per year, as reported to the Department of Energy, and

"(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than fifty million one hundred eighty-seven thousand and five hundred barrels per year, as reported to the Department of Energy.

"(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is one thousand and five hundred.

"(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed thirty-five thousand.

"EXCESS EMISSIONS PENALTY

"SEC. 411. (a) EXCESS EMISSIONS PENALTY.—The owner or operator of any unit or process source subject to the requirements of sections 403, 404, 405, 406, 407 or 409, or designated under section 410, that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(l). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the operator holds for use for the unit for that year, multiplied by $2,000. Any such penalty shall be due and payable without demand to the Administrator as provided in regulations to be issued by the Administrator by no later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Any such fee shall be deposited in the United States Treasury pursuant to the Miscellaneous Receipts Act. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source that emits sulfur dioxide during any calendar year in excess of the unit's emissions limitation requirement or of the allowances held for use for the unit for the calendar year, shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within sixty days after the end of the year in which the excess emissions occurred, submit to the Administrator, and to the State in which the source is located, a proposed plan to achieve the required offsets. Upon approval of the proposed plan by the Administrator, as submitted, modified or conditioned, the plan shall be deemed as a condition of the operating permit for the unit without further review or revision of the permit. The Administrator shall also deduct allowances equal to the excess tonnage from those issued for the source for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

"(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a) for inflation, based on the Consumer Price Index, on the date of enactment and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a penalty and offset under this section to fail (1) to pay the penalty under subsection (a), (2) to provide, and thereafter comply with, a compliance plan as required by subsection (b), or (3) to offset excess emissions as required by subsection (b).

"MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS

"SEC. 412. (a) APPLICABILITY.—The owner and operator of any source subject to this title shall be required to install and operate CEMS on each affected unit at the source, and to quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow at each such unit. The Administrator shall, by regulations issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for any alternative monitoring system that is demonstrated as providing information with the

same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations or the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title.

"(b) FIRST PHASE REQUIREMENTS.—Not later than thirty-six months after enactment of the Clean Air Act Amendments of 1990, the owner or operator of each affected unit under section 404, including, but not limited to, units that become affected units pursuant to subsections (b) and (c) and eligible units under subsection (d), shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each affected unit that has not previously met the requirements of subsections (a) and (b) shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(d) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation which shall be issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 411 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"GENERAL COMPLIANCE WITH OTHER PROVISIONS

"SEC. 413. Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"ENFORCEMENT

"SEC. 414. It shall be unlawful for any person subject to this title to violate any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit to emit sulfur dioxide in excess of allowances held for use for such unit shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES

"SEC. 415. (a) DEFINITION.—For purposes of this section, 'clean coal technology' means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

"(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit powerplant emissions. The regulatory incentives shall include—

"(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

"(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

"(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

"(A) the program initially will have a five-year life;

"(B) the program will cover no more than four units in each technology class; and

"(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

"(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

"(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

"(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsection (b) or (c), give priority to units located in States where—

"(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

"(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

"(e) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—

"(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project conducted under title II, section 101(d) of the Further Continuing Appropriations Act of 1985 (section 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 per centum of the total cost of the demonstration project.

"(2) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

"(3) PERMANENT PROJECTS.—(A) For permanent clean coal technology demonstration projects that constitute repowering as defined in section 402(l) of this title, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

"(B) Any permanent clean coal technology demonstration project that constitutes a retrofit project and, notwithstanding the provisions of paragraph (1), any other utility unit pollution control project, including, but not limited to, alterations that allow the use of natural gas as a fuel, where such project constitutes a retrofit pollution control project and where such project complies with the State implementation plans for the State in which the project is located, and with other requirements necessary to attain and maintain the national ambient air quality standards shall not be deemed to be a major modification subject to the review and permitting requirements of part C or D of title I: *Provided*, That the project will not result in a significant net increase in actual emissions of any pollutant regulated under this Act. For purposes of this subsection, the Administrator shall presume that a retrofit project will not result in an increase in the capacity utilization of the source. This presumption may be overcome if the Administrator concludes, based on information submitted pursuant to regulations or interpretative rulings promulgated under this section, that there is a likelihood that hours of operation or rates of production will increase because of the retrofit project. For purposes of this subsection, 'retrofit project' is defined as the permanent installation or operation of an emissions control system or device designed primarily to improve the control or prevention of emissions of any air pollutant, other than a repowering as defined in section 402(l) of this title.

"(4) EPA REGULATIONS.—Not later than twelve months after the date of enactment, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

"(f) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—Because the use of clean coal technologies is in the national interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

"(1) Preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

"(2) elimination of retroactive 'used and useful' reviews for clean coal technologies;

"(3) rapid amortization of clean coal technology expenditures; and

"(4) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.".

FOSSIL FUEL USE

SEC. 402. (a) Any person who enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

(b) A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration. Any person who sells or provides electric energy to a Federal Power Marketing Administration shall comply with the provisions and requirements of this title.

REPEAL OF PERCENT REDUCTION

SEC. 403. (a) REPEAL.—Section 111(a)(1) of the Clean Air Act is amended to read as follows:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than three years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new fossil fuel fired electric utility units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit sulfur dioxide at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section prior to such revision.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as the provisions of section 403(e) of the Clean Air Act remain in effect.

(d) BACT DETERMINATIONS.—Section 169(3) of the Clean Air Act is amended by inserting: ", clean fuels," after "including fuel cleaning,".

ACID DEPOSITION STANDARDS

SEC. 404. Not later than thirty-six months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(a) identification of the sensitive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(b) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(c) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(d) description of the measures that would need to be taken to integrate such standard or standards with the control program required by title IV of the Clean Air Act;

(e) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(f) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new source performance standards and the requirements of title IV of the Clean Air Act.

NATIONAL ACID LAKES REGISTRY

SEC. 405. The Administrator of the Environmental Protection Agency shall create a National Acid Lakes Registry that shall list, to the extent practical, all lakes that are known to be acidified due to acid deposition, and shall publish such list within one year of the enactment of this Act. Lakes shall be added to the registry as they become acidic or as data become available to show they are acidic. Lakes shall be deleted from the registry as they become nonacidic.

INDUSTRIAL SO_2 EMISSIONS

SEC. 406. (a) Not later than January 1, 1995 and every five years thereafter, the Administrator of the Environmental Protection Agency shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, for all years for which data are available, as well as the likely trend in such emissions over the following twenty-year period. The reports shall also contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

(b) Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator of the Environmental Protection Agency shall take such actions under the Clean Air Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 405(g)(5) of the Clean Air Act, under section 111(b), as well as promulgation of standards of performance for existing sources, including units subject to section 405(g)(5) of the Clean Air Act, under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) Regulations promulgated under section 405(b) shall not prohibit a source from electing to become an affected unit under section 410.

SENSE OF THE CONGRESS ON EMISSION REDUCTIONS COSTS

SEC. 407. It is the sense of the Congress that the Clean Air Act Amendments of 1990, through the allowance program, allocates the costs of achieving the required reductions in emissions of sulfur dioxide and oxides of nitrogen among sources in the United States. Broad based taxes and emissions fees that would provide for payment of the costs of achieving required emissions reductions by any party or parties other than the sources required to achieve the reductions are undesirable.

CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

SEC. 408. (a) The National Acid Precipitation Assessment Program created by Public Law 96-294 shall be continued pursuant to this section. The Chairman of the Joint Chairs of the National Acid Precipitation Task Force shall be the Administrator of the Environmental Protection Agency.

(b) The Task Force shall sponsor monitoring and research in the Federal agencies and in the scientific community that is necessary to understand the effects of the emissions control program created by this title. The Task Force shall undertake cost-benefit analyses of the effects of the emissions control program created by this title.

(c) The Task Force shall provide for the collection of information regarding—

(1) natural and anthropogenic emissions of the precursors of acid deposition;

(2) actual levels of all types of acid deposition;

(3) the status of ecosystems (including forests and terrestrial waters), materials, and visibility affected by acid deposition; and

(4) the costs and benefits of the control program created by this title.

The Task Force shall assure that this data is interpreted in such a way as to allow interested persons to determine as accurately

as possible the total effects of the emissions control program created by this title.

(d) The Task Force shall provide for the maintenance and updating of models that describe the interaction of emissions with the atmosphere such as the Regional Acid Deposition Model, and models that describe the response of ecosystems to acid deposition.

(e) The Task Force shall make a unified budget recommendation. Every two years beginning in 1992, the Task Force shall submit a report to the President and the Congress describing the results of its investigations and analysis of the effects of the emissions control program contained in this title.

(f)(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

(A) the occurrence and effects of acid deposition on surface waters located in that part of the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, elimatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississippi River. The Task Force shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

(g) There are authorized to be appropriated the amount of $10,000,000 per year to carry out the purposes of this section, to remain available until expended.

MONITOR ACID RAIN PROGRAM IN CANADA

SEC. 409. (a) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of State, the Secretary of Energy, and other persons the Administrator deems appropriate, shall prepare and submit a report to Congress on January 1, 1994, January 1, 1999, and January 1, 2005.

(b) The report to Congress shall analyze the current emission levels of sulfur dioxide and nitrogen oxides in each of the provinces participating in Canada's acid rain control program, the amount of emission reductions of sulfur dioxide and oxides of nitrogen achieved by each province, the methods utilized by each province in making those reductions, the costs to each province and the employment impacts in each province of making and maintaining those reductions.

(c) Beginning on Janaury 1, 1999, the reports shall also assess the degree to which each province is complying with its stated emissions cap.

REPORT ON CLEAN AND TECHNOLOGIES EXPORT PROGRAMS

SEC. 410. The Secretary of Energy in consultation with the Secretary of Commerce shall provide a report to the Congress within one year of enactment of this legislation which will identify, inventory and analyze clean coal technologies export programs within United States Government agencies including the Departments of State, Commerce, and Energy and at the Export-Import Bank and the Overseas Private Investment Corporation. The study shall address the effectiveness of interagency coordination of export promotion and determine the feasibility of establishing an interagency commission for the purpose of promoting the export and use of clean coal technologies.

ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 411. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

STUDY OF BUFFERING AND NEUTRALIZING AGENTS

SEC. 412. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

ASBESTOS IN SCHOOLS

SEC. 413. (a) Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) EPA INFORMATION OR ADVISORY.—The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State governors information or an advisory to—

"(A) facilitate public understanding of the relative risks associated with in-place asbestos-containing building materials;

"(B) promote the least burdensome response actions;

"(C) describe the limited circumstances in which asbestos removal is necessary to protect human health; and

"(D) describe the relative risks associated with removal of asbestos-containing building materials.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished and redistributed as appropriate, to reflect new scientific findings.".

(b) Title II of the Toxic Substances Control Act is amended by adding the following new section at the end thereof:

"ASBESTOS HEALTH EFFECTS STUDY

"SEC. 216. The Administrator in conjunction with the Health Effects Institute shall conduct a study to identify, characterize, and quantify risks to human health from exposure to each form of asbestos, including but not limited to the health effects of serpentine and amphibole fibers, and report to Congress within twenty-four months after enactment of this section. Not later than ninety days after completion and submission of such study, the Administrator shall report to Congress with recommendations for modifications or changes, if any, to statutory or regulatory requirements under this Act. Such recommendations shall be based on the findings of the study prepared under this section and such other information as the Administrator deems appropriate.".

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I just want a moment of time to have a brief colloquy with the Senator from Montana and perhaps the other floor manager, Senator CHAFEE. But in any event, I ask if the Senator would concur that we have dealt with, as completely as we think we could, the percentage reduction in the acid rain section of the bill. I would inquire of the floor manager, if we have not completed our work in that area, left some vestiges of that reprehensible provision, that we could work on that in conference together. Does the floor manager concur in that?

Mr. BAUCUS. Mr. President, I very much agree with the statement of the Senator from Wyoming. It is a snake out in the weeds. It is not yet dead. We have beat on it. It is practically dead. But it is true that we made major advances in repealing the percentage reduction, a very heinous, objectionable provision that is in the current law.

When we go to conference, that would be a good opportunity for us to make the best effort to repeal percentage reduction. The Senator makes a very good point. We made a major advance toward repeal of the percentage reduction, but when we go to conference we will try to go further.

Mr. CHAFEE. Mr. President, if there is anybody in this Senate who has been associated with percentage reduction, it has been the distinguished Senator from Wyoming. On my death bed, if I receive a notice that Senator SIMPSON is coming to look at this near corpse, I will think, ah, percentage reduction. I think we have beaten percentage reduction to death, but if we have not given it that death blow, we can follow up in some other fashion and get rid of it finally.

Mr. SIMPSON. Mr. President, the cadaverous figure that will be hanging over the death bed of the Senator from Rhode Island will be the shade of ALAN K. SIMPSON.

I want to thank these two remarkable people, Senator BAUCUS and Senator CHAFEE, for their ultimate patience and courtesy to all of us in a terribly intense several weeks. They did a superb job with great equanimity and great courtesy, and I think they are a tribute to the Senate in this instance and always in other cases. I thank the Chair.

EXPRESSIONS OF GRATITUDE

Mr. BAUCUS. Mr. President, I extend my deepest gratitude to the

staff that has worked even more than Senators on this bill. Frankly, I do not know where the staff has found the energy to devote the time and attention they have to this bill. Senators have stayed up late at night negotiating, sometimes past 2 or 3 in the morning. We would think we were tired. The staff had not even begun to work when we left. They were here in the morning when we returned at sometimes 8 o'clock, 7:30.

I would like to read the names of the people to whom I am personally very indebted and very grateful. They are David Strauss, staff director of the EPW Committee; Mike Shields, from my home State of Montana; Kate Kimball. I do not know anybody who worked harder and knows the intricacies of this bill more than Kate Kimball; Cliff Rothenstein; Joe Goffman.

I pay particular attention and note particularly Jennifer Hess. Jennifer was particularly concerned with the mobile source and stationary source provisions of this bill. She delivered her second child, Andrew McLean Beach, just a couple weeks ago. During one of the more intense points when we were working on this bill, in one of the sessions back in the room just off the floor, just a week or two prior to the delivery Jennifer fainted. She was working so hard. I am particularly grateful and indebted to her.

I mention also Lynn Schlosser. He has worked very diligently, as has everyone else, including Zach Church, Ingrid Utech, Janice Nace, and Karen Spence.

Those are just a few on the majority side. I know there are others who worked with the majority leader, who worked with the individual Senators, some Senators on the committee, some Senators not on the committee.

Mr. President, I frankly find it virtually impossible to understand how hard they have worked and the degree to which they have dedicated themselves to this bill. It is miraculous and I just want them to know they are very special people. We tip our hats to them. I do not see how they did it.

The PRESIDING OFFICER (Mr. EXON). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join in the tribute to the staff. The distinguished floor leader of the bill left it to me to cover those who worked particularly hard on our side, and I will read their names: Bob Hurley, who is the minority staff director; Kathy Cudlipp, whom we all know, who has been involved with clean air for so many, many years; Jimmie Powell, who masters the toxic air emission area like none of us have ever seen before; Steve Shimberg, counsel to the minority, who was here constantly and of tremendous help; and Steve Rody.

I also join in the tribute to the majority staff that Senator BAUCUS listed. It is a staff that has worked as a unit, regardless of whether they were on the majority or minority side. They have been terrific. This bill is a very, very complicated bill. There is no way in the world that the Senators could master what is in it.

Now, Mr. President, I would like to talk a little bit about those Senators with whom I have had the privilege of working. I start off with the majority leader. As I have said so many, many times, there is nobody in this Senate who knows this legislation better and is more eloquent in discussing it than the majority leader, Senator MITCHELL. I think it is only fair to say it is his baby. He has been nursing this along for years. As a mater of fact, he has constantly protested that he does not want to make a life's work out of it, and I am glad that he no longer has to make a life's work out of it, although there is a conference where we will be calling upon him.

Senator BAUCUS, from Montana, who is the chairman of the subcommittee and the floor manager for this legislation, has done a terrific job. He has been patient. He has many times made painful votes that were perhaps contrary to what he believed, but the agreement was an agreement and he stuck with the agreement in order to get a bill. He overlooked the fact that perfection might lie down the road somewhere; that he had to make these votes. I tip my hat to him for what he has done.

Senator DOLE, on our side, made these tough votes and lead us along, mustered the votes. We would never have won some of these crucial votes, 49, 50, without the tremendous support of Senator DOLE.

Senator DURENBERGER was here all the time. He is an expert in some particular section where we turned over the leadership, certainly on this side; toxic air emissions, for example. He was tremendous.

And the same for Senator JEFFORDS from Vermont.

I would like to also include what we might call the allowance twins. I mentioned them before, Senators DOMENICI and GRAMM.

So it has been a great pleasure to work on this legislation. We are not through yet. We have many more rows to hoe, particularly in the conference and what follows thereafter.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 2410 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I join my colleagues, Senator BAUCUS and Senator CHAFEE, in expressing gratitude to the members of the staff, both majority and minority, who each devoted very large portions of their lives over the past year to bring this legislation to reality. Particularly in the last 3 months, each of these staff members has devoted hundreds of hours, often working throughout the night to help us, the Members of the Senate, advance the legislation.

They all deserve the gratitude of the American people and, while some may recognize the names or faces of the Senators involved, very few Americans will recognize the names and faces of the staff persons. So their reward must be the certain knowledge that they participated in a tremendous achievement for the American people, legislation which will make life safer and better for millions of Americans for years to come.

I would like to again publicly acknowledge the gratitude I feel to the President of the United States who supported clean air legislation, went beyond that and presented his own bill, and with whom we worked cooperatively to reach this result. We did not and do not agree on every provision in the bill. But I think it clear that we would not be at this point but for the President's support and efforts, and for that I am grateful, as I am to my colleague, the distinguished Republican leader, Senator DOLE, with whom we have worked very closely now over the past few months and whose efforts to maintain the seemingly fragile compromise and to see it through to completion were indispensable and I am very grateful to him.

Finally, Mr. President, I cannot find the words to express the sense of gratitude I feel to Senator BAUCUS and Senator CHAFEE, two friends and colleagues with whom I have worked for nearly 10 years on the Senate Environment Committee to write and enact clean air legislation. We faced many obstacles.

Looking back over that 10-year period, there were a great many disappointments, keen disappointments; three times in the 1980's the committee reported clean area legislation—and everyone understands that just to get to the point of reporting a bill out of committee requires a tremendous

effort—only to fail to see it enacted. This time the committee produced under the tremendous leadership of its chairman, Senator BAUCUS, the subcommittee chairman, the most sweeping, comprehensive, and most effective bill yet, and we were able to bring it to completion with an overwhelming vote of support, 89 to 11, here in the Senate.

That has been an enormous tribute to perseverance, to their insistence, to their skill and to the commitment that they brought to this task. The more difficult something is, perhaps the better the victory.

I can say with my colleagues that it took 10 years, but right now I feel as though it were worth it, and if for no other reason that it gave me the opportunity to work even more closely and to become even more friendly on a personal and professional level with two of the finest persons I ever had the privilege to know, let alone work with, Senator BAUCUS and Senator CHAFEE. So I am very, very grateful to them.

Mr. President, I would like to mention two persons just briefly, one I mentioned in the press conference previously, but I think it should be part of the record. That is Roger Porter of the President's staff, who represented the President throughout the negotiations that led to this legislation. Mr. Porter conducted himself with enormous skill, integrity, ability, candor, and forthrightness.

When the negotiations were over, I told the President personally, and I now repeat publicly, that the President was superbly represented in the negotiations by Mr. Porter. The President should be pleased and commended for the quality of the person representing him in this effort.

We did not agree on many issues. We still do not agree on many issues. But the disagreements were never personal or disagreeable, and Mr. Porter always stated the administration's position in a very forthright and effective manner. I think all of my colleagues who participated in the negotiations would agree with that.

Finally, I cannot help but mention the person who has been, besides my parents, the most influential in my life and the most influential with respect to environmental legislation, and that is Senator Muskie, to whom reference has been made several times here. He was, in my judgment, the greatest environmental legislator in our Nation's history, the man who wrote these laws from scratch.

It is one thing to be revising laws and extending and improving them; it is another to create them as he did. He was the pioneer, the creator of environmental law in our society. It is my great honor to succeed him in the Senate. And to him I express gratitude not only on my own personal behalf, but for all Americans whose lives have been made safer and better as a result of his efforts. He was an inspiration to all of us, everyone here, and the man who made everything which followed him possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I know the hour is late. I certainly express my thanks to all of our colleagues and to a great number of staff people. Sometimes we fail to appreciate, particularly on my own staff, Jim Whittinghill, deputy staff director, who also spent I do not know how many hundreds of hours on this particular legislation. And Barbara Bankoff, who we consult with in the leaders' office, had been an invaluable help in many, many areas. Plus outstanding staff people from the Department of Energy, CEA, EPA, White House, Justice and Interior. The list of names are as follows:

DOE: Linda Stuntz, Doug Carter, Ted Williams, Carmen DiFiglio, Len Coburn, Mike Delello, and Dean Burridge.

CEA: Dick Smallensee and Howard Gruenspecht.

EPA: Bill Reilly, Bill Rosenberg, Jim Strock, Rob Brenner, Kate Fay, Jeanette Wiltse, Tom Kiernan, John Beale, Nancy Kete, Jill Grant, Keith Mason, Alan Eckert, Rich Osias, Charlie Carter, Howard Hoffman, Michael Winer, Kevin McLean, Mike Alushin, Dick Wilson, Stan Meiburg, Bill Harnett, and Brian McLean.

White House: Roger Porter, Bob Grady, Boyden Gray, Rob Fairweather, John Schmitz, David Rifkin, David Sloane, and Teresa Gorman.

Justice: Mark Haag, Jennifer Haverkamp, and Ann Shields.

Interior: David O'Neal, Barry Williamson, and Alby Modiano.

In each and every case they were directly involved and deeply involved on a daily and hourly basis and I do not know how many total hours were consumed in the majority leader's office because I was not there all the time, but some of them were, and it must have been hundreds of hours plus weekends, plus half the night. So I think in each case it is another demonstration of the dedication that our public, not just public officials, but that our civil servants have in the job they do. And many times it goes unnoticed and many times they are criticized, being part of the bureaucracy. I can say in this instance I do not know of any of those that I know personally that did not give every minute of their time and every ounce of their effort.

So we made history today. We passed the clean air bill. We have laid down a marker for future generations. It is a bill that dwarfs previous attempts. And I was on that committee at the time Senator Muskie was leading the efforts on the environment and I agree with the commenting earlier made by the majority leader that Senator Muskie certainly should be recognized a sort of the pioneer and sort of led the way in cleaning up the environment, and I was honored to be on that committee and had some opportunity to work with Senator Muskie at that time.

I would simply say that we have not done enough. It is not tough enough. And let us keep in mind we are not finished yet. This is one step. We have a House bill that is in the process. We have a conference where we will have differences between the House and Senate, between the Congress and the administration, and between different groups who have a right to speak up during the conference. It is called interest groups, not particularly special interest groups, but they may be environmental. It may be the private sector. And all of these voices must be heard and it must be reconciled before a bill finally comes back to us for final action.

So I would say that those who wanted rhetoric, well, they had their rhetoric. But those who wanted results, we had the results tonight, broad bipartisan support, precisely what we set out to do when it started. There really were no partisan differences. Once we agreed that certain amendments would in effect be deal breakers, then it became I think the responsibility of many of us to make certain that that did not happen.

So I would say, as I have said before, that certainly the distinguished majority leader deserves special credit and special congratulations because, notwithstanding the fact we were able to work together, first, he understood the bill and, second, he had the responsibility as the majority leader to get it done.

I did not have that responsibility. I wanted to help. But if it did not happen, I could say, "Well, I cannot help it; I do not have enough votes."

So I certainly commend the majority leader and the President of the United States and my colleagues, Senator BAUCUS, Senator CHAFEE, Senator DURENBERGER, and others.

Mr. President, the Senate has just made history. With the passage of the clean air bill, we have lain down a marker that future generations will look back upon and say, thank you, this is the day we turned the corner. This is the day we started to win the fight for cleaner air and a healthier America.

For more than a decade, concerned Americans have been demanding action. Today we have delivered.

From ground zero, we have crafted landmark legislation that dwarfs any previous attempt to clean up the air we breathe: It's massive in scope; com-

plex, comprehensive, and costly. But the bottom line says, it was worth it.

Some special interests say we haven't done enough. The bill isn't tough enough. Compared to what? Compared to current law, this act looks like the Declaration of Independence.

The Senator wanted a bill. The majority leader wanted a bill. The President of the United States wanted a bill. And so did the American people.

Together, we got the job done. For those who wanted rhetoric over results, I say you can breathe easier—thanks to the leadership of George Bush and GEORGE MITCHELL.

Mr. President, not since 1977—13 years ago—has the Congress passed a reauthorization of the Clean Air Act. Due to our failure to act, more than 50 percent of the population of the United States now lives in areas which are out of compliance with the national ambient air quality standards set by the Federal Government.

During these 13 years, the Clean Air Act has almost become the second Civil War, pitting State against State, alcohol fuels against hydrocarbon fuels, hard coal against soft coal, and unions and business owners against professional environmentalists.

Into this fray came a true environmental hero—George Bush. The President was willing to put his enormous popularity at risk to achieve dramatically significant advancements in the cleanliness of the air we all breath.

Without question, we would not be at this point today without the leadership of our President; without the environmental commitment he made to the American people during the Presidential campaign; and without his forceful action to ensure those promises were met by the Congress of the United States.

In joining my colleague, the distinguished majority leader, in sponsoring the substitute before us today, I intended to address critics of the legislation—whether against it for being too weak, or too strong—with the fact that we have achieved a good, tough, yet responsible stewardship of the quality of our Nation's air.

This has been a difficult bill for the Senate to consider. There were no magic wands for us to wave. We had to sit down, roll up our sleeves, and sift through stack after stack of studies, recommendations, and, at times, pure speculation. But after days and weeks and months of dedicated and determined work, we ended up with a good, solid package.

I don't think we have rushed a bill through. As a matter of fact, the Senate consumed 21 days on this bill. No issue that I am aware of escaped intense scrutiny.

Some critics charge that we should have adopted two amendments—one which would have imposed what are called Federal implementation plans and a second which would have imposed unprecedented new costs and other requirements on fuel and automobiles.

As I said in earlier statements, although Federal implementation plans may sound like a reasonable, get-tough, policy, they will not work. We simply don't have the Federal personnel to test the tailpipe of every car, to visit every factory, dry cleaner, baker and gasoline pump. This would have resulted in a total breakdown in any area with a Federal implementation plan and would have resulted in worse—not better—air quality.

The second amendment, although very well intentioned, just went too far. There are areas in the country which may need to require ultra-clean vehicles and ultra-clean fuels. Los Angeles, for example, has such severe air pollution problems that some fuels we haven't even considered will be necessary to bring that area into attainment. But we don't need this approach everywhere.

That is the reason I joined with the junior Senator from South Dakota and a number of other colleagues in proposing an amendment to require reformulated gasoline—reformulated gasoline with fewer toxics and more oxygen—to be used in all vehicles in the most polluted cities. In the first year alone, this one amendment will require the use of 18 billion gallons of cleaner fuel than was originally proposed in the substitute. This is a major, achievable, and yet responsible, amendment.

We have debated jobs on the floor. Let me state very clearly once again—this bill will cost thousands of jobs and affect thousands of others. The majority of these jobs won't be from identifiable plant closings. Rather, it will come from a decision to invest in pollution control rather than keeping 100 percent current employees; it will come from complying with the act as opposed to giving raises, health benefits, parental leave, or the long list of other initiatives some of my colleagues continue to demand.

But, the bill has strong, defensible benefits. Health costs will be reduced, air will be tangibly cleaner, and we will be able to hand to our children a country far less polluted than it was on the day that they were born.

This has not been an easy struggle. Regional, as opposed to partisan, differences has to be put aside for the benefit of the Union. Long days and nights had to be invested. And every Senator had to delve into the minutiae.

Many of my Republican colleagues spent what to some Senators would seem to be careers on this bill, including those on the Committee on Environment and Public Works—Senators CHAFEE, SIMPSON, SYMMS, DURENBERGER, WARNER, JEFFORDS, and HUMPHREY. Other gave untold hours in addition to their other duties. Finally, I would like to congratulate two Senators on the other side of the aisle. First, the distinguished chairman of the Appropriations Committee, and President pro tempore, ROBERT C. BYRD of West Virginia. The residents of that State got even more than they could have imagined when they sent him to Washington, and he has represented them with dignity and tenacity.

The majority leader, GEORGE MITCHELL, deserves great credit for the success of this bill. He has been subjected to unfair criticism and chronic complaining. Yet he has proceeded fairly and patiently, keeping his sight on our goal of a cleaner healthier America, I congratulate him on this success, and look forward to our service together across this sometimes wide, sometimes very narrow center aisle of the Senate.

Mr. BAUCUS. Mr. President, I join the majority leader, the minority leader, and Senator CHAFEE in expressing gratitude for the content of this bill, and also for the efforts that everyone has undertaken.

I can think of no bill in the two terms that I have been in the Senate which is as sweeping, as comprehensive, and yet as much in the public interest, truly in the public interest, as this bill.

We pass many bills, Mr. President—tax bills, reconciliation bills. We confirm Presidential appointments. We take many actions here. But I cannot think of any other effort which is as comprehensive and yet as much truly in the public interest as this bill. I, therefore, am very gratified to be associated with it.

I also cannot think of any other effort which not only required but which exercised so much teamwork to ensure the passage of a major bill, beginning with the President—the President's green light, the President's strong interest in the passage of clean air legislation, indeed his submission of a major bill to the Senate. He was, in a sense, the team leader. He helped initiate the clean air legislation this year.

However, I think the true team leader, the true quarterback, the one who is most responsible for the passage of this truly important bill is the majority leader, Senator MITCHELL.

I cannot find the words that express my admiration for his skills, his intelligence, his creativity, his patience—and certainly his patience—his willingness, and his energy to go the extra mile to find a way to pass a bill that truly is in the best public interest. And certainly his demeanor, his manner, his courtesy, his dignity, which also helped clear the passage of this bill.

I again cannot find the words to express the degree to which I appreciate

what he has done. I say all this because the American people should realize that it is the majority leader, it is Senator MITCHELL, probably more than any other person on the face of this Earth, who is most responsible for the passage of this bill.

Indeed, were it not for Senator MITCHELL, I am quite confident, Mr. President, that either this clean air bill would not pass or, if it were to pass, it would be so diluted, it would be so chopped up, it would be such a mishmash that we would not here tonight be speaking so proudly in favor of it.

The American people should recognize that it is Senator MITCHELL primarily who is most responsible for this major, very important legislation.

That is not to diminish the efforts of the minority leader, Senator DOLE. Senator DOLE's involvement, too, was integral and necessary for the passage of this bill. And certainly Senator CHAFEE, who has been on this committee, who has worked more, spent more time for more years in reaching this moment tonight than I, by far.

Mr. President, I am just a part of this process. I helped. I stood here on the floor. I helped to put a few of the pieces together. I have done all that I can, all that I could humanly call up to try to aid in finding a solution to the passage of this bill.

But it is others, frankly, who deserve lion's share of the credit—certainly the majority leader, the President, Senator DOLE, and Senator CHAFEE. And the American people should, too, realize not only the majority leader, but those other Senators, as well as the President, who deserve major credit for this bill.

I suppose, Mr. President, we are waxing eloquent tonight because we just finally passed this bill and we want to savor our victory. We want to savor this moment where we truly have done so much, in our judgment, for the public interest.

But beside all that and beyond that, I believe very strongly that, after the House passes a similar bill and after we have adopted a conference report and the President signs the bill, not only the Senate but House Members and the executive branch and the American people will be further down the road toward breathing cleaner air. And tonight we are taking one step down that road, a major step, but certainly a step that we all savor tonight.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT S. 1630, AS PASSED

Mr. BAUCUS. Mr. President, I ask unanimous consent that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING NATIONAL AUCTIONEERS WEEK APRIL 1-7 1990

Mr. DOLE. Mr. President, this week 5,000 members of the National Auctioneers Association, with headquarters located in Overland Park, KS, are celebrating National Auctioneers Week. Under the leadership of President Ronald Faison of Zebulon, NC, and President-Elect Wayne Stewart of Audubon, IA, The centuries old tradition of the auction still plays an important role in cities and rural communities across the Nation.

OPEN FORUM WITH COMPETITIVE BIDDING

Whether the auctioneer is selling livestock, grain, classic automobiles, real estate, or fine antiques, the excitement of the event and the enthusiasm of the crowd bring good fun and good business. The Federal Government, preferring a competitive setting to stimulate good prices in an open forum, uses the auction to dispose of surplus and used property.

Auctioneers will have an increasing role in the sale or Government property. Last year, Congress recognized the important role for auctioneers when it passed the financial Institutions Recovery, Reform and Enforcement Act. In that legislation, auction marketing is specifically included as a method for disposing of assets from failed thrift institutions.

A recent issue of the Auctioneer magazine describes the dynamics of a public auction in an article which I ask unanimous consent be printed at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DISCOVER THE EXCITEMENT DURING NATIONAL AUCTIONEERS WEEK

Auctioneers throughout the United States and Canada will be calling attention to the many advantages of the auction method of marketing during National Auctioneers Week. Sponsored by the 5,000-member National Auctioneers Association (NAA). This year's observance is scheduled for April 1-7th.

By some accounts, the auction dates back to 500 B.C. But auctioneers aren't content to rest upon the accomplishments of their venerable past. Instead, they are playing a vital role in today's ecomony and looking eagerly toward the 21st century.

Today's auctioneers are more than fast talkers. They are professionals, knowledgeable in a wide range of marketing skills. And the auction, once thought of as the sale of last resort, has been recognized as an alternative capable of turning valuable property into instant cash for the seller.

Many auctioneers learned the basics of their profession through the intensive instruction offered at one of the several privately operated auction schools, while others got into the business though home study or under the tutelage of an older, experienced practitioner. After embarking upon their new careers, many have continued their educations by attending the educational seminars and workshops conducted by the NAA and the various state associations. Other have enrolled in the program sponsored by the Certified Auctioneers Institute, an organization affiliated with the NAA.

While an estimated 23 million Americans attend auctions annually, a surprising number of people have never discovered the advantages offered by auction marketing and are apprehensive about what they will encounter at an auction.

Perhaps one of the most misunderstood aspects of the auction is the rapid-fire chant of the auctioneer. In the simplest terms, the chant is merely a series of numbers connected by "filler words" that allow the buyers time to think between bids. Rhythm is as important as speed in developing an effective chant, but nothing is more vital than clarity. Auctioneers will adjust their speed, depending on the bidding experience level of their crowd, and the numbers in a good chant will be readily understood.

Upon arrival at the auction site, you should register for a bidder number and read the rules printed on it or displayed on posters. Don't be embarrassed to ask questions if you don't understand a policy. You should also inspect the merchandise carefully, as most is sold on an "an is-where is" basis. This means it is not guaranteed.

We've all heard the old story about the fellow who attended an auction, scratched his nose and came home with an item he hadn't intended to buy. Well, don't be frightened away by such tales—the auctioneer realizes when you are bidding and when you are not.

In order to bid at an auction, you must make contact with the auctioneer or the ringperson. To do this, hold up up bidder card, your hand, or shout "yes." The auctioneer will make eye contact with you, take your bid and immediately turn and seek another bid. You may remove yourself from the process at any point by shaking your head "no." And, should the auctioneer misinterpret your signal, simply report the mistake right away.

The important thing to remember is that the procedure is easily understood—and fun. Over the years, the auction method of marketing has proved an effective price-setting mechanism that takes into account current market variables. That's true whatever commodity is being sold. The pricing of such raw materials as grain, tobacco, and wood are directly tied to the auction block, yet the auctioneer also helps establish the value of more glamorous commodities such as fine art and antiques.

The objectivity and fairness of a well-run auction is often favored by the courts to carry out their decrees and by executors and trustees to help fulfull their responsibilities. The legal presumption is that a public auction of property to the highest bidder is a sales among disinterested third parties and that the result will be the best and highest available price.

The auction method has long been associated with rural America, but today you're just as likely to find it being used in a major metropolitan area as selling livestock down on the farm. While more livestock is sold at auction than by all other sales methods combined, the auctioneer is equally at home amid the sophistication of a charity fundraiser. The fast-pace wholesale auto auction, developed in the 1930's as a device to help balance dealer inventories, continues to thrive, while other auctioneers set records for the sale of the classic Duesenbergs and '57 Chevys favored by automobile collectors.

One of the fastest-growing segments of the auction industry is concerned with the sale of real estate. Today, the competitive bidding process is being used to sell everything from urban residences to farmland, from industrial plants to apartment complexes. The reason is simple—it works.

With the auction, time-consuming private negotiations are eliminated, and the auctioneer's focused-marketing skills bring in the maximum number of qualified buyers. Prior financing arrangements ensure earlier closure of the sale, and money the seller might have had to spend for insurance, taxes, and maintenance while the property was "on the market" is freed for more productive purposes.

The auction advantage isn't limited to the private sector. Local, state and federal agencies have disposed of surplus property worth tens of millions of dollars through auctions.

Auctioning excess public property is a "win-win" situation for both the government and the taxpayer. Whether it's the town council offering surplus office equipment or the Resolution Trust Corp. disposing of prime real estate acquired from a failed S&L, auctions generate the best prices. And they do through competitive bidding under full public scrutiny.

The auction can be the best place to buy what you're looking for—or sell what you have—at a fair market price.

200 MEMBERS IN KANSAS

Mr. DOLE. I join Kansas Auctioneers Association President Leland W. Boesker of Moundridge and Col. L.H. "Bing" Carter of Gardner, a longtime leader in the profession, and more than 200 members from Kansas in encouraging everyone to experience auction fever by attending an auction during National Auctioneers Week.

MRS. SUE ROYAL TOWNSEND, CORONER OF AIKEN COUNTY

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mrs. Sue Royal Townsend, a valued friend and the able coroner of my home county of Aiken, SC, for her innovative efforts to reduce traffic fatalities. Mrs. Townsend, who has served as Aiken County Coroner since 1982, is a dedicated public servant. I believe that her program, which was highlighted in the March 12, 1990, edition of the Augusta Chronicle, could prove extremely beneficial to every county in America.

Last year, South Carolina State Representative Edward Simpson (Clemson) introduced legislation to require that the locations of traffic fatalities be marked by white crosses. Although the bill was tabled in the house of representative's education committee, the impetus behind it was not to be forgotten.

Upon receiving permission from the South Carolina State Highway Department, Mrs. Townsend began painting white crosses to mark the location of traffic fatalities in her county. The crosses, which are 2 by 2½ feet, serve to remind passing motorists of dangerous areas and will hopefully encourage them to drive more carefully. According to Mrs. Townsend, the program has received nothing but positive responses in the community.

In 1989, 996 people lost their lives as the result of traffic accidents in South Carolina. In Aiken County, 37 of these deaths will be marked with white crosses by a coroner who is attempting to raise triumph from tragedy. I commend Sue Townsend for her commitment to this endeavor, and I urge my colleagues to consider supporting similar programs in their communities. As Mrs. Townsend has so appropriately demonstrated, we must do all that we can to ensure the safety of the citizenry who we as public officials have been elected to serve.

I ask unanimous consent that the Augusta Chronicle article, entitled "White Markers Carry Deadly Message" be included in the RECORD immediately following my remarks, and I encourage each of my colleagues to read it in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Augusta Chronicle, Mar. 12, 1990]

WHITE MARKERS CARRY DEADLY MESSAGE

(By Diane Spitzer)

AIKEN.—White crosses dot the highways in Aiken County—a constant reminder of those who died there.

They are a message from the coroner, who has seen each of the traffic fatalities.

The white spray-painted 2-by-2½-foot crosses are there to show the exact spots where people have died in traffic accidents. Coroner Sue Townsend said she hopes the crosses will make people drive more carefully.

"The purpose of it first of all is for people to be aware that it's happened and maybe they'll slow down because that's a dangerous area," she said.

When a person dies in an accident, family members often like to go to the scene, Mrs. Townsend said, and the crosses are there to help them find it.

Cynthia Clark's son, Bryan, was killed in a March 4 traffic accident on Interstate 20 in Aiken County near the South Carolina-Georgia line. Mrs. Townsend marked the scene with a cross.

"I'm still looking for it, but when she told me the road had been marked, I got a warm feeling, like how nice that is," Mrs. Clark said. "It's nice because parents do wonder. 'Where did it happen?' I think it's a nice, warm thing that she's doing for the families because families want to know.

"I'd like to see the crosses all across the state, so people would be aware how dangerous the road is," Mrs. Clark said.

Mrs. Townsend began painting the crosses on the road in April after she got the idea from a bill that was introduced in the South Carolina Legislature that would have required the locations of traffic fatalities be marked by white crosses. The bill was introduced by Rep. Edward Simpson, R-Clemson, but was tabled in the House of Representatives Education Committee.

"I thought it was a neat idea so I got permission to do it," she said. "I have gotten nothing but positive responses."

Mrs. Townsend remembers the first cross she painted. It was on Piney Heights Road in Langley, where a young girl was killed in an accident.

Some interpreted that first cross as proof a satanic cult was involved in the girl's death. Mrs. Townsend said someone even covered the cross with black paint.

"I tried to make it real clear then that I was the one who painted the cross in the road, and there wasn't a cult doing it."

There were 37 traffic deaths in Aiken County last year. Mrs. Townsend said she hasn't painted crosses at each of the locations, but her goal is to get them all done by this summer.

"I can't forget any spot that I've worked in this county. I have some families who call me and say 'Why haven't you put a cross there?'

"Hopefully this spring we're going to go back and try to put them all down. I want these families to know those people haven't been forgotten."

Mrs. Townsend said she tries to put the crosses down immediately after a fatal accident, while the roads are still blocked. But sometimes she forgets and other times she can't do it because the roads are wet.

State highway patrolmen do try to help her though.

"While I've been attending to other matters, they have done them for me," she said. "We work as a team out there. In fact, they will remind me that I have forgotten the cross."

It has only cost Mrs. Townsend about $3 to paint the crosses in the road. She has a plastic and wooden stencil of a cross, and she found a case of paint that is used for painting the white lines in the road in the county maintenance shed.

Aiken County is the only county in the state to paint crosses on the road.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,844th day that Terry Anderson has been held in captivity in Beirut.

TRIBUTE TO MARGARET V. O'HARA ON HER 100TH BIRTHDAY

Mr. LEVIN. Mr. President, I am privileged to have the opportunity to wish Ms. Margaret V. O'Hara a happy 100th birthday on this 3d day of April, 1990.

Born in Mount Pleasant, MI, to Francis P. O'Hara and Anna J. Monahan, Margaret O'Hara went on to graduate from Sacred Heart Academy in Mount Pleasant, MI. She is also a graduate of Wayne State University and has received a life teaching certificate from Central Michigan University.

Margaret V. O'Hara taught for 50 years in Michigan's public school system, and she has spent the majority of her teaching days at the Greenfield Union School in Detroit, MI.

On Sunday, April 8, 1990, there will be a reception in her honor celebrating her 100th birthday with family and friends. I am pleased to extend birthday wishes to Margaret O'Hara, whose dedication to the education of our young provided an enduring contribution to her community, her State, and her Nation.

PROF. JACK WALKER OF THE UNIVERSITY OF MICHIGAN

Mr. LEVIN. Mr. President, I come before the Senate to commemorate the life and contributions of Prof. Jack Walker, the chair of the Department of Political Science at the University of Michigan.

Professor Walker died on January 29, in an automobile accident in California. He was on sabbatical serving as a fellow at the Center for Advanced Study in the Behavioral Sciences in Stanford, CA.

Professor Walker authored two books, wrote numerous articles, received the Guggenheim Fellowship, and was a senior fellow at the Woodrow Wilson International Center for Scholars.

In addition, Professor Walker served as an LSA associate dean for academic appointments from 1984 to 1987. He was also a research scientist at the Institute of Public Policy, serving as its director from 1974 to 1979.

Mr. President, academia has lost a true and respected scholar in Professor Walker. He will be deeply missed by family, friends, and colleagues.

Mr. BREAUX. Mr. President, this week I have the privilege of participating in the 2000/Love tennis celebration to End World Hunger by the Year 2000. 2000/Love features four of our brightest tennis stars, Ivan Lendl, John McEnroe, Andre Agassi, and Tim Mayotte, who will play exhibition matches tonight at the Capital Centre. Most of the proceeds from 2000/Love will benefit the Hunger Project and a smaller amount will go to D.C. Hunger Action. The organizations hope to raise $300,000 from the event.

Mr. President, 950 million people—one-fifth of the world's population—suffer from chronic malnutrition. One out of every five human beings spend all their waking hours thinking about and looking for food. Malnutrition claims 35,000 people each day and more than a quarter of a million children every month. At present, Ethiopia, Somalia, and the Sudan are in the grip of famine and millions of people are threatened.

The Hunger Project is a worldwide effort to raise the world's consciousness about the problem of hunger. As of January 1990, more than 6 million people in 152 countries have declared their commitment to the end of the persistence of hunger by enrolling themselves in the Hunger Project. In addition, it has staff and volunteer operations in 22 countries.

However, hunger is not confined to sub-Saharan Africa, South Asia, and Latin America. Thirty-two million Americans, one-third of them children, live in poverty. Many, if not most of these people are hungry. Many of America's hungry live here in our Nation's Capital. D.C. Hunger Action is an information clearinghouse for Washington, DC. It maintains lists of emergency food providers in the Capital, documents the extent of hunger in the District of Columbia, and advocates legislation addressing the hunger crisis.

The battle against hunger must be fought on several fronts. The United States and other nations provide emergency food assistance to famine-stricken regions. Unfortunately, corrupt officials and civil war have prevented much of this food from reaching the people who need it. Limited food giveaways have also occurred in this country.

However, environmental degradation and poor farming methods pose greater long-term problems for solving the problem of hunger. Climatic change is reshaping and expanding the world's deserts, especially in Africa. Alternating periods of drought and heavy rainfall also contribute to soil erosion, as do the poor farming methods prevalent in many Third World countries. Deforestation, which may provide farmland for a short period, eventually contributes to changes in rainfall and temperature patterns, which then lead to desertification.

Mr. President, there are a host of other issues which the world will have to address as part of any solution to the hunger crisis. Health care in the developing world, especially for children under five, must be improved. Basic education must be improved as well, especially for women. Studies have shown that educating women lowers the mortality rate of their children, and results in increased food production. Most importantly, according to a 1986 study by the United Nations, they have fewer children. Slowing the rate of population growth in impoverished countries is a vital component of the war on hunger.

Although eradication of hunger is costly and must compete with other foreign and domestic priorities for scarce Federal dollars, the world is undergoing a remarkable transformation that could result in a concerted effort by the industrialized North to help the poorer nations of the south. 2000/Love estimates that it will cost $3 billion a year to end chronic hunger, both at home and abroad. This estimate puts a worldwide assault on hunger well within the realm of possibility, especially if the anticipated cuts in defense expenditures by NATO and Soviet bloc forces are realized.

Mr. President, I salute the organizers and the players who have helped to make tonight's exhibition possible. I know that my colleagues join me in supporting 2000/Love's goal of eliminating hunger by the turn of the century so that no member of the family of man shall go without food.

RHODE ISLAND RESIDENT RECEIVES NEH/READER'S DIGEST AWARD

Mr. PELL. Mr. President, I am proud to note that a constituent of mine has recently received a prestigious award for excellence in education. Mr. Jeffrey E. Simpson of Middletown, RI, has been named one of 52 teacher-scholars of the year by the National Endowment for the Humanities. One elementary or secondary teacher from each State, the District of Columbia, and the U.S. Virgin Islands was selected from among 566 applicants. Mr. Simpson will receive a substantial cash award allowing a year's leave during which he will pursue studies in Romantic poetry. His school, St. George's High School in Middletown, RI, will receive $500 for the expansion of their library.

The award, now in its second year, was established by the Endowment in conjunction with Reader's Digest to encourage increased scholarship among teachers. Mr. Simpson's receipt of the award reflects the tremendous faith the Endowment has in his future as an educator. I would like to extend my sincere congratulations to Mr. Simpson and to wish him well in his academic pursuits and career as an educator.

UNLV RUNNIN' REBELS CAPTURE NCAA CHAMPIONSHIP

Mr. REID. Mr. President, all Nevada is smiling today after watching the University of Nevada-Las Vegas Runnin' Rebels capture the NCAA national basketball championship last night in Denver, CO. The UNLV Rebels ran all the way to a 103–73 victory over the Duke University Blue Devils. This 30-point margin was the widest ever in a NCAA championship game—103 points is also the most points ever scored by a team in the

history of the NCAA finals. After a highly successful season and tournament wins against some tough teams, the taste of victory was sweeter than any of the thousands of Rebel fans, including myself, could have imagined.

Let me take this opportunity to pay a public tribute to the Runnin' Rebels, a group of exceptionally talented athletes, and their able and dedicated coach, Jerry Tarkanian. Working together they brought UNLV its first-ever national title. These fine young men have given the State of Nevada, the city of Las Vegas, and their own university reason to be proud.

This was Coach Tarkanian's 17th season at UNLV and throughout his years here, he has committed himself to building a basketball team that strives toward the ideals of athletic excellence and sportsmanship. It is obvious by last night's performance that the Runnin' Rebels have realized these goals.

Twice before, in 1977 and 1987, Coach Tarkanian has skillfully led the Runnin' Rebels down the road to the Final Four. The Rebels' rise to national recognition has paralleled the development of the university itself. Nevada is the fastest growing State in the country and Clark County, which is home to UNLV, is one of the fastest growing regions. That is why it is so important that UNLV receive the national attention it deserves. Not only is the university proud of its championship basketball team, but it is proud to be rated one of the West's up-and-coming universities in the October 1989 edition of U.S. News & World Report.

The Runnin' Rebels have done a great service to their school and to the State of Nevada by spreading the word across the country that Las Vegas has more to offer than bright lights and gambling halls. These young men represent Las Vegas with all the expertise, charm, and flair that they exhibit on the basketball court. And in return, the southern Nevada community has opened up its arms to support the burgeoning university and the Runnin' Rebels. Few Nevadans, old and new, have been able to resist catching the Rebel fever which has made the thousands of fans, clad in their scarlet and grey, just about as famous as the players themselves. And it is obvious to those across the Nation who watched last night's game that the Runnin' Rebels and their fans are a combination that just cannot be beat—something Nevadans knew all along.

Mr. BRYAN. I heartily concur with the comments just made by my senior colleague.

REGARDING IRAQ

Mr. PELL. Mr. President, Iraq's President, Saddam Hussein, has taken a very dangerous course with regard to chemical weapons. His latest statements demonstrate that Iraq is one of a handful of nations who do not yet understand that chemical weapons are viewed as anathema by most of the civilized world. Threatening to use these abhorrent weapons is irresponsible and provocative.

We must remember that Iraq used chemical weapons illegally against Iraq on a number of occasions in the course of the Iran-Iraq war, and Iraq gassed its own citizens in 1988. Against this background, Saddam Hussein's boasts and threats are particularly chilling. I urge that he cease and desist from these bellicose policies and actions lest he create problems he will deeply regret.

These latest threats by Iraq underscore the importance of legislative action at an early date to erect effective sanctions against nations that use chemical weapons illegally or against their own citizens. The Senate will have an opportunity to address this issue when it takes up S. 195, the Chemical and Biological Weapons Control Act of 1989. This bill, which I introduced and which currently has more than 30 cosponsors, was reported unanimously by the Committee on Foreign Relations late last year.

CONGRESSIONAL PAY

Mr. REID. Mr. President, recently my colleagues and I were confronted with the difficult matter of congressional pay. A complex issue by nature, the situation became particularly tense in the charged political arena. Amidst the many passionate voices, reason and logic were difficult to hear.

Like many of my colleagues, I needed to study the issue not the politics. When I was finally able to close the doors to my office, I was delighted to read "Pay Raise Proposals for Members of Congress, Top Officials and Federal Judges: Issues and Outlooks." Once again, the Congressional Research Service proved itself as an invaluable resource.

In this CRS report James McGrath at the Library of Congress prepared an excellent, well-researched paper. Congress will surely revisit the matter of congressional pay. For those who are seriously interested in this complex issue, I highly recommend Mr. McGrath's valuable contribution to this debate.

MESSAGES FROM THE HOUSE

At 7:49 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1096) to provide for the use and distribution of funds awarded the Seminole Indian in dockets 73, 151, and 73-A of the Indian Claims Commission.

The message also announced that the House has passed the following bills, without amendment:

S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters; and

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2697. A communication from the Secretary to the Interstate Commerce Commission, transmitting, pursuant to law, notice that the Commission in Finance Docket No. 31469 has extended the time period for issuing a final decision by 60 days; to the Committee on Commerce, Science, and Transportation.

EC-2698. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on Department of Defense procurement from Small and Other Business firms for the period October 1989 through January 1990; to the Committee on Small Business.

EC-2699. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of establishing standards and specifications for agricultural products; to the Committee on Agriculture, Nutrition and Forestry.

EC-2700. A communication from the Assistant Secretary of the Army (Installations, Logistics & Environment), transmitting, pursuant to law, notification of the intent to study the conversion to contract performance of a commercial activity being performed by Department of Defense employees; to the Committee on Armed Services.

EC-2701. A communication from the Secretary of the Navy, transmitting, pursuant to law, notification of a proposal to transfer the submarine *Requin* to the Carnegie Institute, Pittsburgh, Pennsylvania; to the Committee on Armed Services.

EC-2702. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notification that the Commission in Finance Docket No. 31530 has extended the time period for issuing a final decision by 60 days; to the Committee on Commerce, Science, and Transportation.

EC-2703. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notification of the Department's intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2704. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management

Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2705. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on progress in implementing the Great Lakes Water Quality Agreement with Canada; to the Committee on Environment and Public Works.

EC-2706. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Incentives Arrangements Offered by Health Maintenance Organization and Competitive Medical Plans to Physicians"; to the Committee on Finance.

EC-2707. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2708. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on activities undertaken to implement the Commercial Space Launch Act of 1984 and the Commercial Space Launch Act Amendments of 1988; to the Committee on Commerce, Science, and Transportation.

EC-2709. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation entitled "Debt Collection Act Amendments of 1990"; to the Committee on Governmental Affairs.

EC-2710. A communication from the Acting Director of the Office of Government Ethics, transmitting a draft of proposed legislation to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics; to the Committee on Governmental Affairs.

EC-2711. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for the financing of the retirement system of the Public Health Service Commissioned Corps on an actuarially sound basis; to the Committee on Governmental Affairs.

EC-2712. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the annual report of the Office under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2713. A communication from the General Counsel of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the annual report of the Service under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2714. A communication from the Attorney General of the United States, transmitting, pursuant to law, notification that in appealing the grant of a preliminary injunction in Olympic Federal Savings and Loan Association v. Director, Office of Thrift Supervision; to the Committee on the Judiciary.

EC-2715. A communication from the Chairman of the National Commission on Libraries and Information Science, transmitting a draft of proposed legislation to improve the operation of the United States National Commission on Libraries and Information Science, and for other purposes; to the Committee on Labor and Human Resources.

EC-2716. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, section 5004(a)(3)(A), United States Code, to raise the Department of Veterans Affairs' minor construction cost limitation from $2 million to $3 million, and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-446. A resolution adopted by the City Council of Duluth, Minnesota favoring the reauthorization of the Low-Income Home Energy Assistance Program and an increase in appropriations for the program; to the Committee on Appropriations.

POM-447. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES TO RECOGNIZE THE ACHIEVEMENTS OF WOMEN IN COMBAT POSITIONS

"We your Memorialists, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the Second Regular Session, most respectfully present and petition the President and the Congress of the United States as follows:

"Whereas the 225,000 women serving in the Armed Forces of the United States comprise almost 11 percent of the total strength of the armed services; and

"Whereas the women who are now serving in the armed forces have sought and received assignments that are likely to expose many of them to hostile fire, such as serving in the military police and as helicopter pilots; and

"Whereas 771 female soldiers joined in the invasion of Panama and many of them participated in combat operations distinguishing themselves with valor; and

"Whereas many of the women carried full combat gear and participated in active engagement with Panamanian Defense Forces, but are nonetheless not entitled to receive a Combat Infantryman Badge because of Army regulations that limit the badge only to certain types of units; and

"Whereas it is equitable to ensure that when women soldiers are exposed to the same risks as their male counterparts they will receive the appropriate honors and credit; now, therefore, be it

"RESOLVED: That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to direct the Department of Defense to change Army regulations so as to ensure that a Combat Participation Badge is available to all who face hostile fire, regardless of unit designation, and to take other action necessary in order that the women who distinguished themselves in the invasion of Panama are recognized with all appropriate honors; and be it further

"RESOLVED: That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 7: A bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Ac through the fiscal year 1995.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Jo Anne B. Barnhart, of Delaware, to be Assistant Secretary for Family Support, Department of Health and Human Services.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

James B. Edwards, of South Carolina, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1991;

James B. Edwards, of South Carolina, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1993;

William D. Phillips, of Missouri, to be an Associate Director of the Office of Science and Technology Policy;

Eugene Wong, of California, to be an Associate Director of the Office of Science and Technology Policy;

Donald Robert Quartel, Jr., of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 1994;

Henry J. Cauthen, of South Carolina, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1994;

Lloyd Kaiser, of Pennsylvania, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1994; and

Robert Marshall White, of Minnesota, to be Under Secretary of Commerce for Technology.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the National Oceanic and Atmospheric Administration and the Coast Guard, which were printed in full in the CONGRESSIONAL RECORDS of January 23 and 25, and March 5, 1990, and ask unanimous

consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. REIGLE, from the Committee on Banking, Housing, and Urban Development:

Edward W. Kelley, Jr., of Texas, to be a member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 1990; and

Robert H. Swan, of Utah, to be a Member of the National Credit Union Administration Board for the term of six years expiring August 2, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, and Mr. EXON):

S. 2394. A bill to extend and review agricultural price support and related programs for the 1991 through 1995 crops of wheat, feed grains, oilseeds, and other commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2395. A bill to temporarily suspend the duty on metal oxide varistors; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 2396. A bill to amend title 38, sections 5002(d), 5004(a)(3)(A), and 5009(i)(2) United States Code, to raise the Department of Veterans Affairs' minor construction cost limitation from $2 to $3 million, and for other purposes; to the Committee on Veterans Affairs.

S. 2397. A bill to amend title 38, United States Code, to expand the Secretary's authority to make temporary appointments of certain health care personnel employed in the Veterans Health Services and Research Administration; to the Committee on Veterans Affairs.

By Mr. DANFORTH (for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. LOTT, Mr. PACKWOOD, Mr. BURNS, Mr. PRESSLER, and Mr. BOND):

S. 2398. A bill to authorize the continuation of the National Senior Olympic Games; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. MCCAIN, Mr. LOTT, Mr. PACKWOOD, Mr. BURNS, Mr. PRESSLER, and Mr. BOND):

S. 2399. A bill to authorize the registration of the word mark "National Senior Olympics"; to the Committee on Commerce, Science, and Transportation.

By Mr. ARMSTRONG:

S. 2400. A bill to amend section 7430 of the Internal Revenue Code of 1986 with respect to eligibility of taxpayers to receive attorney fees and other costs; to the Committee on Finance.

By Mr. KASTEN:

S. 2401. A bill to amend the Food Security Act of 1985 to eliminate barriers to great lakes maritime trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 2402. A bill for the relief of Mary P. Carlton and Lee Alan Tan; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 2403. A bill to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2404. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Lady Rose Anne*; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN (for himself and Mr. HATCH):

S. 2405. A bill to direct the Secretary of the Army to convey to the University of Utah a portion of the property constituting Fort Douglas, UT; to the Committee on Armed Services.

By Mr. CRANSTON (by request):

S. 2406. A bill to amend title 26, United States Code, to require the Secretary of the Treasury to disclose certain information from the files of the Internal Revenue Service to the Secretary of Veterans Affairs for the purpose of verifying entitlement to, and determining the correct amount of, title 38, United States Code, pension benefits; to the Committee on Finance.

By Mr. BENTSEN:

S. 2407. A bill to amend the Public Health Service Act with the respect to the size of the service areas of qualified organ procurement organizations, and to provide for the establishment of a temporary advisory committee to make certain recommendations with respect to the procurement and transportation of human organs; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 2408. A bill to establish a system for labeling of plastic resin products, and to promote recycling of plastics and use of degradable plastics; to the Committee on Environment and Public Works.

By Mr. FOWLER (for himself, Mr. DOLE, Mr. PRYOR, Mr. BOND, Mr. COCHRAN, Mr. BOREN, Mr. CONRAD, Mr. BAUCUS, Mr. KERREY, Mr. HEFLIN, Mr. HELMS, Mr. MCCONNELL, and Mr. DASCHLE):

S. 2409. A bill to develop and promote environmentally sound agricultural practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN:

S. 2410. A bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on dispositions of stock in domestic corporations by 10 percent foreign shareholders; to the Committee on Finance.

By Mr. BYRD:

S.J. Res. 284. A joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. BRADLEY, and Mr. HEINZ):

S. Res. 267. A resolution to express the sense of the Senate that the President ought promptly send to the Senate nominations for the vacancies on the Social Security Board of Trustees; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr EXON, Mr. SIMON, Mr. D'AMATO, Mr. SPECTER, Mr. BAUCUS, and Mr. REID):

S. Con. Res. 115. A concurrent resolution express the sense of the Congress regarding future funding of Amtrak; to the Committee on Commerce, Science, and Transportation.

By Mr. D'AMATO (for himself and Mr. DECONCINI):

S. Con. Res. 116. A concurrent resolution commending Poland and Prime Minister Mazowiecki for their courageous and resolute stand in permitting charter flights to carry Soviet Jews to Israel; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY (for himself, Mr. DASCHLE, Mr. HARKIN, Mr. CONRAD, and Mr. EXON):

S. 2394. A bill to extend and revise agricultural price support and related programs for the 1991 through 1995 crops of wheat, feed grains, oilseeds, and other commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM INCOME AND FLEXIBILITY ACT

● Mr. KERREY. Mr. President, I am pleased to join my colleagues, Senators DASCHLE, HARKIN, CONRAD, and EXON, in introducing the Farm Income and Flexibility Act of 1990.

This legislation is more that the product of several Senators from the Plains States. It reflects the views and recommendations of the thousands of farmers and ranchers that we have heard from over the past several months.

In the hearing and meetings that we have held with producers, they told us—

They are frustrated by the complexity and rigidity of today's farm programs;

They are fearful that target prices and loan rates will continue their 5-year decline; and

They are concerned that environmental pressures will stampede Congress into imposing stringent new regulations dictating how they must farm.

Today I am pleased to tell those farmers and ranchers that the bill we are introducing addresses each of these concerns.

Our bill would provide producers the income protection they need and the planting freedom they desire so that they—rather than the Government—can decide which crops to grow. This needed flexibility, coupled with more equitable price support levels for various commodities, will allow producers to be more responsive to market signals and make it easier for them to conserve soil and reduce chemical use by following sound crop rotation practices.

In the process of granting producers more flexibility, I believe we have developed a program that is far simpler as well. The result should come as welcome relief to producers who in the 1980's spent more time filling out paperwork at their ASCS office than their forefathers did behind a plow.

The legislation would accomplish these objectives by—

Abolishing the current crop-specific base system in favor of returning to a Normal Crop Acreage [NCA] base for the entire farm;

Providing cost-of-production increases in target prices and higher, but still market-clearing loan rates; and

Offering higher income support levels for certain crops, such as soybeans, oats, and barley, so that increased planting flexibility will not result in unwarranted acreage shifts to the major commodities for which the Government today guarantees a relatively higher target price.

Mr. President, I must point out another major concern held by those who produce the food that feeds our Nation. They are dismayed and resentful because the Department of Agriculture is as likely to criticize our farm programs as it is to defend those same programs before a consuming public.

I share that concern. In my view, the administration has failed to offer consumers or taxpayers any rationale for maintaining our farm programs. The administration had a chance to make that case to the public when they unveiled their farm bill proposals in early February, but they let that opportunity, and others, pass by.

Why should these farm programs be continued? Why should the Federal Government continue to provide a system of price supports for farmers?

Let me give three reasons. First, the inherent instability that afflicts agricultural production is unlike that facing any other industry. Farmers do not know when they plant a crop whether that crop will fail or produce a record harvest. That risk can threaten the best of farmers, and consumers can ill-afford to leave the supply of the most basic commodity—food—to the vagaries of nature.

When they are well managed, our farm programs allow us in good years to isolate surplus production in farmer-held reserves that can be released when drought or other natural disasters threaten a sudden drop in food production. Thus these programs help us to temper both the very low and very high prices that can wreak havoc for producers, the livestock industry, and consumers.

Second, it is a fact that Americans have the best bargain in the world when it comes to food costs. According to the United Nations and the U.S. Department of Agriculture, U.S. consumers today spend just 10.4 percent of this disposable income on food—the lowest level in history and less than consumers in any other country.

What's more, the producer's share of each dollar spent on food has dropped to an all-time low. In 1988, according to USDA, farmers and ranchers received only 30 cents of each dollar spent on food consumed at home. That is a drop of 19 percent from the level of just 8 years ago, when, in 1980, producers received 37 cents of each food dollar.

Third, farm program costs do not account for a disproportional share of total Federal outlays. The cost of Commodity Credit Corporation price support programs is estimated to be $8.2 billion in fiscal year 1990 and $10.5 billion in fiscal year 1991. Both figures represent less than 1 percent of the Federal budget in those years.

If we secure the $12 billion that we believe is needed to maintain a reasonable farm program in fiscal year 1991, such a cost would still represent less than 1 percent of the Federal budget, less than the average of farm program costs during the decade of the 1980's, and about the same share of the budget that was spent on agriculture during the "boom" years of the 1970's.

I would like to make one final point, Mr. President. This bill includes, for the first time, a declaration from Congress to the Secretary of Agriculture regarding the wheat and feed grain ending stock quantities that must be maintained to ensure that farm prices remain at reasonable levels. The purpose of this section is to ensure, as I believe we can, that our farm programs are managed in such a way that producers, consumers, and taxpayers all stand to gain from our farm policy.

Mr. President, I ask unanimous consent that a summary of the legislation and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Income and Flexibility Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—WOOL AND MOHAIR

Sec. 101. Extension of wool and mohair price support program.

TITLE II—WHEAT

Sec. 201. Loans, payments, and acreage reduction program for the 1991 through 1995 crops of wheat.
Sec. 202. Nonapplicability of certificate requirements.
Sec. 203. Suspension of land use, wheat marketing allocation, and producer certificate provisions.
Sec. 204. Suspension of certain quota provisions.
Sec. 205. Nonapplicability of section 107 of the Agricultural Act of 1949 to the 1991 through 1995 crops of wheat.

TITLE III—FEED GRAINS

Sec. 301. Loans, payments, and acreage reduction program for the 1991 through 1995 crops of feed grains.
Sec. 302. Nonapplicability of section 105 of the Agricultural Act of 1949 to the 1991 through 1995 crops of feed grains.

TITLE IV—OILSEEDS

Sec. 401. Loans for oilseeds for 1991 through 1995 marketing years.

TITLE V—SUGAR

Sec. 501. Sugar price support.

TITLE VI—GENERAL COMMODITY PROVISIONS

SUBTITLE A—ACREAGE BASE AND YIELD SYSTEM

Sec. 601. Acreage base and yield system.

SUBTITLE B—WHEAT AND FEED GRAIN ENDING STOCKS

Sec. 611. Wheat and feed grain ending stocks.
Sec. 612. Public comment on wheat and feed grain programs.

SUBTITLE C—MISCELLANEOUS COMMODITY PROVISIONS

Sec. 621. Payment limitations.
Sec. 622. Advance deficiency and diversion payments.
Sec. 623. Advance recourse commodity loans.
Sec. 624. Interest payment certificates.
Sec. 625. Commodity Credit Corporation sales price restrictions.
Sec. 626. Disaster payments.
Sec. 627. Multiyear set-asides.
Sec. 628. Supplemental set-aside and acreage limitation authority.
Sec. 629. Producer reserve program for wheat and feed grains.
Sec. 630. Normally planted acreage.
Sec. 631. Special grazing and hay program.
Sec. 632. Advance announcement of programs.
Sec. 633. Determinations of the Secretary.
Sec. 634. Application of terms in the Agricultural Act of 1949.
Sec. 635. Normal supply.
Sec. 636. National Agricultural Cost of Production Standards Review Board.

SUBTITLE D—HONEY

Sec. 641. Honey price support.

SUBTITLE E—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 651. Conforming amendments.

SUBTITLE F—EFFECTIVE DATE

Sec. 661. Effective date.

TITLE I—WOOL AND MOHAIR

SEC. 101. EXTENSION OF WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "1990" each place it appears in subsections (a) and (b) and inserting "1995".

TITLE II—WHEAT

SEC. 201. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAM FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

The Agricultural Act of 1949 is amended—

(1) effective beginning with the 1991 crop of wheat, by repealing sections 107A, 107B, and 107D (7 U.S.C. 1445b, 1445b-1, and 1445b-3); and

(2) effective only for the 1991 through 1995 crops of wheat, by inserting after section 107 (7 U.S.C. 1445a) the following new section:

"SEC. 107A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAM FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

"Notwithstanding any other provision of law:

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of wheat at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) MINIMUM LEVEL.—The loan and purchase level determined under paragraph (1) shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subsection may not be less than $2.75 per bushel.

"(3) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for wheat, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wheat; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

"(4) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of wheat in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the acreage on the farm planted to the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) DEVOTING ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage reduction program under subsection (d)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the acreage of the farm (as determined in accordance with subsection (d)(2)(A)) equal to more than 8 percent of the acreage of the farm for the crop planted during the previous crop year (hereinafter referred to in this subparagraph as the 'previous acreage'), or all of the previous acreage, to conservation uses (except as provided in subparagraph (G))—

"(I) the portion (or all) of the previous acreage of the farm in excess of 8 percent of the acreage devoted to conservation uses (except as provided in subparagraph (G)) shall be considered to be planted for the purpose of determining the normal crop acreage farm base in accordance with section 503 and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (d)(2)(C); and

"(II) the producers shall be eligible for payments under this paragraph on the acreage.

"(ii) PAYMENTS.—Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the previous acreage of the farm to conservation uses (or other uses as provided in subparagraph (G)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The normal crop acreage farm base and wheat farm program payment yield of the farm shall not be reduced due to the fact that a portion (or all) of the previous acreage of the farm was devoted to conserving uses (except as provided in subparagraph (G)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop of wheat on a greater acreage than the acreage actually planted to wheat.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to wheat in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage reduction or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(C) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) the weighted average market price in a State received by producers in the State during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop.

"(ii) WEIGHTED AVERAGE MARKET PRICE.—In determining the payment rate, per bushel, for established price payments for a crop of wheat under this subparagraph, the Secretary shall use the weighted average market price in a State, per bushel of wheat, received by producers in the State during the first 5 months of the marketing year for the crop, as determined by the Secretary.

"(D) ESTIMATED PAYMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of each of the 1991 through 1995 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for the crops, estimate the weighted average market price in each State, per bushel of wheat, received by producers in the State during the marketing year;

"(II) by December 15 of the marketing year, use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in established price payments estimated to be payable with respect to the crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(ii) TIME FOR ELECTION.—Producers shall elect the payment option authorized by clause (i) at the time of entering into a contract to participate in the program established by this section for the crop.

"(E) ESTABLISHED PRICE.—The established price for wheat shall not be less than $4.00 per bushel for each of the 1991 through 1995 crops of wheat, except that the established price for wheat for each of the crops shall be adjusted to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, taxes, and wage rates in the calendar year, as determined by the Secretary.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(G) CONSERVING CROPS.—The Secretary may permit, subject to such terms and con-

ditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material.

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(I) the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage that the producers were prevented from planting to wheat or other nonconserving crops in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established by the Secretary; by

"(III) a payment rate equal to 33⅓ percent of the average of the established prices for the crop.

"(ii) FORM OF PAYMENT.—Payments made by the Secretary under this subparagraph may be made in the form of cash.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the wheat acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the wheat acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(c) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of wheat shall be determined under title V.

"(d) ACREAGE REDUCTION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, except as provided in subparagraph (E), if the Secretary determines that the total supply of wheat, in the absence of an acreage reduction program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat an acreage reduction program as described in paragraph (2).

"(B) CONSERVATION ACREAGE RESERVE FACTOR.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831).

"(C) ANNOUNCEMENTS.—If the Secretary elects to put an acreage reduction program into effect for any crop year, the Secretary shall announce the program not later than June 1 prior to the calendar year in which the crop is harvested.

"(D) ADJUSTMENTS.—Not later than July 31 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

"(E) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, the producers on a farm must comply with the terms and conditions of an acreage reduction program and, if applicable, a land diversion program.

"(2) ACREAGE REDUCTION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—If a wheat acreage reduction program is announced under paragraph (1), the reduction shall be achieved by applying a uniform percentage reduction to the acreage of wheat planted for harvest on each wheat-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Producers who knowingly do not comply with the acreage reduction program shall be ineligible for wheat loans, purchases, and payments with respect to that farm.

"(C) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm equal to the number of acres required to be withdrawn from the production of wheat shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(3) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, or the production of guar, sesame, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage reduction program (including a program conducted under subsection (b)(1)(B)) or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(iii) ADVERSE ECONOMIC EFFECTS.—Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.

"(D) SUMMER FALLOW PRACTICES.—In determining the quantity of land to be devoted to conservation uses under an acreage reduction program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(4) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of wheat, whether or not an acreage reduction program for wheat is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The land diversion pay-

ments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(5) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—Any acreage required to be devoted to conservation uses and any additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(6) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement only by reducing any acreage reduction requirements or land diversion requirements, if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may not modify the agreement to provide for deficiency payments to be made to producers in any manner that is inconsistent with subsection (b)(1).

"(e) VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—If a wheat acreage reduction program or a land diversion program is announced under subsection (d) for a crop of wheat, the producers on a farm shall be considered to have met the requirements of such program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the wheat production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to wheat under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for wheat for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of wheat shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the normal crop acreage farm base; and

"(C) be considered to have complied with the terms and conditions of the wheat acreage reduction program or land diversion program for the crop, even though the acreage planted to wheat on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of wheat produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess wheat is produced less the quantity of wheat produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of wheat may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) in an amount that reflects the quantity of wheat that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess wheat production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any wheat that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for wheat for the farm.

"(f) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(g) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(i) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(j) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(k) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(l) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) ACREAGE REDUCTION PROGRAM FOR OTHER COMMODITIES.—The Secretary may require that, as a condition of eligibility of

producers on a farm for loans, purchases, or payments under this section, the producers on the farm comply with any acreage reduction program that is in effect for any other commodity planted for harvest on the farm.".

SEC. 202. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.

Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.

SEC. 203. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.

Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.

SEC. 204. SUSPENSION OF CERTAIN QUOTA PROVISIONS.

The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.

SEC. 205. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF WHEAT.

Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.

TITLE III—FEED GRAINS

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAM FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

The Agricultural Act of 1949 is amended—

(1) effective beginning with the 1991 crop of feed grains, by repealing sections 105A, 105B, and 105C (7 U.S.C. 1444c, 1444d, and 1444e); and

(2) effective only for the 1991 through 1995 crops of feed grains, by inserting after section 105 (7 U.S.C. 1444b) the following new section:

"SEC. 105A. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAM FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

"Notwithstanding any other provision of law:

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of corn at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

"(2) MINIMUM LEVEL.—The loan and purchase level determined under paragraph (1) shall not be less than 75 percent, nor more than 85 percent, of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period, except that the loan and purchase level for a crop determined under this subsection may not be less than $2.10 per bushel.

"(3) REPAYMENT.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under paragraph (1) or (6) for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for feed grains, as determined by the Secretary.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for feed grains; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

"(4) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(5) OTHER FEED GRAINS.—The Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of grain sorghums, barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 401(b).

"(b) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments for each of the 1991 through 1995 crops of corn, grain sorghums, oats, and barley, in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the acreage on the farm planted to the crop; by

"(iii) the farm program payment yield for the crop for the farm.

"(B) DEVOTING ACREAGE TO CONSERVATION USES.—

"(i) ACREAGE CONSIDERED PLANTED.—If an acreage reduction program under subsection (d)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the acreage of the farm (as determined in accordance with subsection (d)(2)(A)) equal to more than 8 percent of the acreage of the farm for the crop planted during the previous crop year (hereinafter referred to in this subparagraph as the 'previous acreage'), or all of the previous acreage, to conservation uses (except as provided in subparagraph (G))—

"(I) the portion (or all) of the previous acreage of the farm in excess of 8 percent of the acreage devoted to conservation uses (except as provided in subparagraph (G)) shall be considered to be planted for the purpose of determining the normal crop acreage farm base in accordance with section 503 and for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (d)(2)(C); and

"(II) the producers shall be eligible for payments under this paragraph on the acreage.

"(ii) PAYMENTS.—Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the previous acreage of the farm to conservation uses (or other uses as provided in subparagraph (G)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. The projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The normal crop acreage farm base and feed grain farm program payment yield of the farm shall not be reduced due to the fact that a portion (or all) of the previous acreage of the farm was devoted to conserving uses (except as provided in subparagraph (G)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop of feed grains on a greater acreage than the acreage actually planted to feed grains.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to feed grains in accordance with clause (i) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage reduction or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(C) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for a crop of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the crop exceeds the higher of—

"(I) the weighted average market price in a State received by producers in the State during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop.

"(ii) WEIGHTED AVERAGE MARKET PRICE.—In determining the payment rate, per bushel, for established price payments for a crop of feed grains under this subparagraph, the Secretary shall use the weighted average market price in a State, per bushel of feed grains, received by producers in the State during the first 5 months of the marketing year for the crop, as determined by the Secretary.

"(D) ESTABLISHED PRICE FOR CORN.—The established price for corn shall not be less than $2.75 per bushel for each of the 1991 through 1995 crops of corn, except that the established price for corn for each of the crops shall be adjusted to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, taxes, and wage rates in the calendar year, as determined by the Secretary.

"(E) ESTABLISHED PRICE FOR OTHER GRAINS.—The established price for each of the 1991 through 1995 crops of grain sorghums, oats, and barley shall be not less than $2.61 per bushel for grain sorghums, not less than $2.27 per bushel for oats, and not less than $2.72 per bushel for barley, except that the established price for grain sorghums, oats, and barley for each of the crops shall be adjusted to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, taxes, and wage rates in the calendar year, as determined by the Secretary.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(G) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material.

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(I) the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage that the producers were prevented from planting to feed grains or other nonconserving crops in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(II) 75 percent of the farm program payment yield established by the Secretary; by

"(III) a payment rate equal to 33⅓ percent of the established price for the crop.

"(ii) FORM OF PAYMENT.—Payments made by the Secretary under this subparagraph may be made in the form of cash.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the feed grain acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the feed grain acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting feed grains or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this subparagraph with respect to an individual farm so as to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(c) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of feed grains shall be determined under title V.

"(d) ACREAGE REDUCTION PROGRAM.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, except as provided in subparagraph (E), if the Secretary determines that the total supply of corn, grain sorghum, barley, oats, or rye, in the absence of an acreage reduction program, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any of the crops an acreage reduction program as described in paragraph (2).

"(B) CONSERVATION ACREAGE RESERVE FACTOR.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the conservation acreage reserve established under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831).

"(C) ANNOUNCEMENTS.—If the Secretary elects to put an acreage reduction program into effect for any crop year, the Secretary shall announce the program not later than September 30 prior to the calendar year in which the crop is harvested.

"(D) ADJUSTMENTS.—Not later than November 15 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

"(E) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, the producers on a farm must comply with the terms and conditions of an acreage reduction program and, if applicable, a land diversion program.

"(2) ACREAGE REDUCTION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—If a feed grain acreage reduction program is announced under paragraph (1), the reduction shall be achieved by applying a uniform percentage reduction to the acreage of corn, grain sorghum, barley, oats, or rye, respectively, planted for harvest on each feed grain-producing farm.

"(B) INELIGIBILITY FOR LOANS, PURCHASES, AND PAYMENTS.—Producers who knowingly do not comply with the acreage reduction program shall be ineligible for feed grain loans, purchases, and payments with respect to that farm.

"(C) MALTING BARLEY.—The Secretary may provide that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage reduction under this paragraph if the producer has previously produced a malting variety of barley for harvest, plants barley only of an acceptable malting variety for harvest, and meets such other conditions as the Secretary may prescribe.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm equal to the number of acres required to be withdrawn from the production of feed grains shall be devoted to conservation uses, in accordance with regulations issued by the Secretary.

"(3) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, or the production of guar,

sesame, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage reduction program (including a program conducted under subsection (b)(1)(B)) or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage.

"(iii) ADVERSE ECONOMIC EFFECTS.—Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.

"(4) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage reduction program for feed grains is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) ADVERSE EFFECTS ON COUNTY OR LOCAL COMMUNITY.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(5) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—Any acreage required to be devoted to conservation uses and any additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(6) PARTICIPATION AGREEMENTS.—

"(A) EXECUTION.—An operator of a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) TERMINATION OR MODIFICATION.—The Secretary may, by mutual agreement with producers on a farm, terminate or modify any such agreement only by reducing any acreage reduction requirements or land diversion requirements, if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may not modify the agreement to provide for deficiency payments to be made to producers of feed grains in any manner that is inconsistent with subsection (b)(1).

"(e) VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—If a feed grain acreage reduction program or a land diversion program is announced under subsection (d) for a crop of feed grains, the producers on a farm shall be considered to have met the requirements of the program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of feed grains in excess of the feed grain production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to feed grains under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for feed grains for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of feed grains shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the normal crop acreage farm base; and

"(C) be considered to have complied with the terms and conditions of the feed grain acreage reduction program or land diversion program for the crop, even though the acreage planted to feed grains on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of feed grains produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess feed grains are produced less the quantity of feed grains produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of feed grains may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) in an amount that reflects the quantity of feed grains that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess feed grain production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any feed grains that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for feed grains for the farm.

"(f) DEFAULTS; WAIVER OF DEADLINES.—

"(1) DEFAULTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, pur-

chases, and payments, the Secretary may, nevertheless, make the loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(2) WAIVER OF DEADLINES.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(g) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(h) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(i) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(j) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(k) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(l) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) ACREAGE REDUCTION PROGRAM FOR OTHER COMMODITIES.—The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the producers on the farm comply with any acreage reduction program that is in effect for any other commodity planted for harvest on the farm.".

SEC. 302. NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains.

TITLE IV—OILSEEDS

SEC. 401. LOANS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS.

Effective only for the 1991 through 1995 crops of soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax and such other oilseeds as the Secretary of Agriculture may determine, title II of the Agricultural Act of 1949 is amended—

(1) in section 201 (7 U.S.C. 1446)—

(A) in the matter preceding subsection (a), by striking "tung nuts," and inserting the following: "soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax and such other oilseeds as the Secretary may determine,"; and

(B) by striking subsections (i) and (l); and

(2) by adding at the end the following new section:

"SEC. 204. LOANS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS.

"(a) DEFINITION OF OILSEEDS.—As used in this section, the term 'oilseeds' means soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax and such other oilseeds as the Secretary may determine.

"(b) RECOURSE LOANS.—The Secretary shall support the price of oilseeds through recourse loans in each of the 1991 through 1995 marketing years as provided in this section.

"(c) LOAN LEVELS.—

"(1) SOYBEANS.—The loan level for each of the 1991 through 1995 crops of soybeans shall be $6.25 per bushel.

"(2) SUNFLOWER SEEDS, CANOLA, RAPESEED, SAFFLOWER SEEDS, AND FLAX.—The loan level for each of the 1991 through 1995 crops of sunflower seed, canola, rapeseed, safflower seed, and flax shall be $0.125 per pound.

"(3) OTHER OILSEEDS.—The loan level for each of the 1991 through 1995 crops of oilseeds, other than oilseeds referred to in paragraph (1) or (2), shall be such level as the Secretary determines will take into account the historical price relationship between each type of oilseeds and soybeans, the prevailing loan level for soybeans, and the historical oil content of each type of oilseeds and soybeans.

"(3) ADJUSTMENT.—Notwithstanding paragraphs (1) and (2), the Secretary may reduce the loan level established for a crop of oilseeds under this subsection by an amount not to exceed 10 percent of the level, if the Secretary determines that the reduction is necessary to—

"(A) discourage excessive plantings of oilseeds and the buildup of excessive stocks;

"(B) maintain the support level of soybeans relative to the support levels for alternative crops, taking into account any acreage reduction programs in effect for the crops;

"(C) maintain domestic and export markets for oilseeds; or

"(D) minimize the cost associated with a program carried out under this section, taking into account the need to maintain a viable and competitive domestic oilseed industry.

"(4) EFFECT ON FUTURE YEARS.—Any reduction in the loan level determined under paragraph (3) shall not be considered in determining the loan level for subsequent years.

"(d) REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall permit a producer of oilseeds to repay a loan made under this section for a crop at a level that is the lesser of—

"(A) the loan level determined for the crop; or

"(B) the prevailing world market price for the applicable oilseed, as determined by the Secretary.

"(2) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(A) a formula for determining the prevailing world market price for oilseeds; and

"(B) a mechanism by which the Secretary shall periodically announce the prevailing world market price for oilseeds.

"(e) MARKETING YEAR.—

"(1) SOYBEANS.—For purposes of this section, the marketing year for soybeans shall be the 12-month period beginning on September 1 and ending on August 31.

"(2) OTHER OILSEEDS.—For purposes of this section, the marketing year for each type of oilseeds, other than soybeans, shall be prescribed by the Secretary by regulation.

"(f) ANNOUNCEMENTS.—

"(1) PRELIMINARY ANNOUNCEMENT.—The Secretary shall make a preliminary announcement of the level of price support for each type of oilseeds for a marketing year not later than July 15 of the year prior to the marketing year for the crop. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(2) FINAL ANNOUNCEMENT.—The Secretary shall make a final announcement of the level of price support not later than November 15 of the year prior to the marketing year for the crop of oilseeds.

"(g) CROSS-COMPLIANCE.—Notwithstanding any other provision of law—

"(1) the Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for price support for oilseeds;

"(2) the Secretary shall not permit the planting of oilseeds for harvest on acreage required to be devoted to conservation uses or diverted from production under any other Federal Government program;

"(3) the Secretary may not authorize payments to producers to cover the cost of storing oilseeds; and

"(4) oilseeds may not be considered an eligible commodity for any reserve program.".

TITLE V—SUGAR

SEC. 501. SUGAR PRICE SUPPORT.

Effective only for the 1991 through 1995 crops of sugar beets and sugarcane, title II of Agricultural Act of 1949 (as amended by section 401 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446)—

(A) in the matter preceding subsection (a), by striking "honey, and milk" and inserting "honey, milk, sugar beets, and sugarcane"; and

(B) by striking subsection (j); and

(2) by adding at the end the following new section:

"SEC. 205. SUGAR PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

"(a) IN GENERAL.—The price of each of the 1991 through 1995 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

"(b) SUGARCANE.—The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate but not less than 18 cents per pound for raw cane sugar, except that the level may be increased under subsection (d).

"(c) SUGAR BEETS.—The Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines is fair and reasonable in relation to the loan level for sugarcane.

"(d) INCREASE IN SUPPORT PRICE.—

"(1) IN GENERAL.—The Secretary may increase the support price for each of the 1991 through 1995 crops of domestically grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

"(2) REPORT.—If the Secretary makes a determination not to increase the support price under subparagraph (A), the Secretary shall submit a report containing the findings, decision, and supporting data for the determination to the Committee on Agriculture of the House of Representatives and

the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) ANNOUNCEMENTS.—The Secretary shall announce the loan rate to be applicable during any fiscal year under this section as far in advance of the beginning of that fiscal year as is practicable consistent with the purposes of this section.

"(f) TERM.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature before the end of the fiscal year.".

TITLE VI—GENERAL COMMODITY PROVISIONS

Subtitle A—Acreage Base and Yield System

SEC. 601. ACREAGE BASE AND YIELD SYSTEM.

Effective beginning with the 1991 crops, title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended to read as follows:

"TITLE V—ACREAGE BASE AND YIELD SYSTEM

"SEC. 501. PURPOSE.

"The purpose of this title is to prescribe a system for establishing normal crop acreage farm bases and program yields for the wheat, feed grain, upland cotton, extra long staple cotton, rice, and soybean and other oilseed programs under this Act that is efficient, equitable, flexible, predictable, and promotes maintenance of water quality, natural soil fertility, and international competitiveness for United States agricultural commodities.

"SEC. 502. DEFINITIONS.

"For purposes of this title:

"(1) COUNTY COMMITTEE.—The term 'county committee' means the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located.

"(2) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax, and such other oilseeds as the Secretary may determine.

"(3) PROGRAM CROP.—The term 'program crop' means any crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

"SEC. 503. NORMAL CROP ACREAGE FARM BASES.

"(a) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of normal crop acreage farm bases for the 1991 through 1995 crop years.

"(b) DETERMINATION BY COUNTY COMMITTEE.—The county committee, in accordance with regulations prescribed by the Secretary, shall determine the normal crop acreage farm base for a farm for a crop year.

"(c) CALCULATION.—The normal crop acreage farm base for a farm for a crop year shall consist of the total of—

"(1) the crop acreage bases for all program crops for the 1990 crop year (established under this title as it existed before the amendment made by section 601 of the Farm Income and Equity Act of 1990); and

"(2) the average of the acreage planted or considered planted to all oilseeds during the 1986 through 1990 crop years.

"(d) ACREAGE CONSIDERED PLANTED—For the purpose of subsection (c), acreage considered planted to a crop referred to in subsection (c) shall include—

"(1) any acreage required to be devoted to conservation uses and diverted acreage on a farm;

"(2) any acreage on the farm that producers were prevented from planting to the crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers; and

"(3) any acreage on the farm which the county committee determines is necessary to be included in establishing a fair and equitable farm acreage base.

"SEC. 504. FARM PROGRAM PAYMENT YIELDS.

"(a) IN GENERAL.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each of the 1991 through 1995 crop years.

"(b) CALCULATION.—The farm program payment yield for a program crop for any farm for each of the 1991 through 1995 crop years shall be not less than—

"(1) the farm program payment yield established for the crop on the farm for the 1990 crop year under this title (as it existed before the amendment made by section 601 of the Farm Income and Flexibility Act of 1990); or

"(2) the average of the harvested yields for program crops on the farm during the immediately preceding 5 years, excluding the year in which the yield was the highest and the year in which the yield was the lowest.

"(c) ADJUSTMENTS.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any program yield for any program crop for any farm if the program yield for the crop on the farm does not accurately reflect the productive potential of the farm because of the occurrence of a natural disaster or other similar condition beyond the control of the producer.

"SEC. 505. PLANTING AND PRODUCTION HISTORY OF FARMS.

"Effective for each of the 1991 and subsequent crop years, each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a normal crop acreage farm base or farm program payment yield for a farm for a crop year to provide planting and production history of the farm for each of the 5 crop years immediately preceding the crop year.

"SEC. 506. ESTABLISHMENT OF BASES AND YIELDS BY COUNTY COMMITTEES.

"Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a normal crop acreage farm base and farm program payment yield with respect to any farm administratively located within the county if the normal crop acreage farm base or farm program payment yield cannot otherwise be established under this title. The bases and yields shall be established in a fair and equitable manner, but no such bases or yields shall be established for a farm if the producer on the farm is subject to sanctions under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) for cultivating highly erodible land or converted wetland.

"SEC. 507. APPEALS.

"The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to normal crop acreage farm bases and farm program payment yields.

"SEC. 508. PAYMENTS AND OTHER BENEFITS.

"(a) LIMITATION ON COMBINED ACREAGE.—In order to be eligible for any deficiency payment or other benefit under this Act with respect to any crop year, the producers on a farm shall limit the combined acreage devoted to the production of program crops and oilseeds to a number of acres equal to the normal crop acreage farm base established under this title for the farm for the crop year.

"(b) PLANTING FLEXIBILITY.—Unless otherwise provided by law, the Secretary shall permit the producers on a farm to devote the acreage as the producers may choose to the production of any crop or oilseed, except that the producers shall comply with the requirements of paragraph (1) with respect to the combined acreage devoted to program crops and oilseeds. The Secretary shall ensure that the planting of nonprogram crops will not reduce the normal crop acreage base for a farm.".

Subtitle B—Wheat and Feed Grain Ending Stocks

SEC. 611. WHEAT AND FEED GRAIN ENDING STOCKS.

Effecting beginning with the 1991 crops of wheat and feed grains, section 425 of the Agricultural Act of 1949 (7 U.S.C. 1433d) is amended to read as follows:

"SEC. 425. WHEAT AND FEED GRAIN ENDING STOCKS.

"(a) FINDINGS.—Congress finds that—

"(1) a fundamental goal of Federal farm programs is to maintain year-to-year ending stocks of agricultural commodities at levels that are both adequate and manageable;

"(2) producers of agricultural commodities are provided improved opportunities to earn reasonable income from the market by policies that seek to avoid price depressing surpluses through the maintenance of adequate and manageable ending stocks;

"(3) consumers of agricultural commodities (including the livestock and processing industries) are well-served by the price and supply stability that results from the maintenance of adequate and manageable ending stocks;

"(4) the cost to taxpayers associated with farm programs is minimized by the maintenance of adequate and manageable ending stock levels that allow agricultural producers to receive a fair price for their commodities; and

"(5) the position of the United States as a reliable and competitive supplier of agricultural commodities to the world market is enhanced by policies that take into account projected export demand in determining adequate and manageable ending stock levels for United States commodities.

"(b) GOALS.—In order for the United States to achieve the goal declared in subsection (a) (1), the Secretary shall (except as provided in subsection (d)) use all authorities available to the Secretary (including authority to expand markets for United States commodities and to implement acreage reduction programs) in a manner intended to ensure that quantities of wheat and feed grains on hand in the United States on the final day of the marketing year each of the 1991 and subsequent crops of wheat and feed grains will not exceed—

"(1) in the case of wheat, 20 percent of the total domestic and export use for each crop of wheat, as determined by the Secretary; and

"(2) in the case of feed grains, 15 percent of the total domestic and export use for each crop of feed grains, as determined by the Secretary.

"(c) PROCLAMATIONS.—Except as provided in subsection (d), the Secretary shall proclaim, as a quantity of bushels, the ending stocks goal established under subsection (b) for each crop of wheat and feed grains not later than—

"(1) in the case of wheat, the date on which the acreage reduction program for the crop of wheat is announced under this Act; and

"(2) in the case of feed grains, the date on which the acreage reduction program for the crop of feed grains is announced under this Act.

"(d) DIFFERENCES BETWEEN ENDING STOCK GOALS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may proclaim ending stocks goals under subsection (c) that are different from the ending stocks goals established under subsection (b).

"(2) REPORT.—If the Secretary proclaims ending stock goals in accordance with paragraph (1), the Secretary (on the day the proclamation is is issued) shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the reasons why the Secretary has determined that the ending stocks goals established under subsection (b) are inappropriate. The report shall include an estimate of the likely change in prices received by producers and costs to the Federal Government expected to result from the decision of the Secretary to diverge from the ending stocks goals established under subsection (b).".

SEC. 612. PUBLIC COMMENT ON WHEAT AND FEED GRAIN PROGRAMS.

Effective beginning with the 1991 crops of wheat and feed grains, title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 426. PUBLIC COMMENT ON WHEAT AND FEED GRAIN PROGRAMS.

"(a) IN GENERAL.—In order to further the policies established in section 425 and to ensure that producers and consumers of wheat and feed grains are provided with reasonable opportunity to comment on the price support and acreage reduction program for each of the 1991 and subsequent crops of wheat and feed grains, the Secretary shall request public comment regarding the programs in accordance with this section.

"(b) WHEAT.—

"(1) OPTIONS.—Not less than 60 days before any price support and acreage reduction program is announced for a crop of wheat under this Act, the Secretary shall propose for public comment various program options for the crop of wheat.

"(2) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(3) ESTIMATES.—In announcing the program for a crop of wheat under this Act, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(c) FEED GRAINS.—

"(1) OPTIONS.—Not less than 60 days before any price support and acreage reduction program is announced for a crop of feed grains under this Act, the Secretary shall propose for public comment various program options for the crop of feed grains.

"(2) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(3) ESTIMATES.—In announcing the program for a crop of feed grains under this Act, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.".

Subtitle C—Miscellaneous Commodity Provisions

SEC. 621. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (1)—

(A) by striking "1987 through 1990 crops" and inserting "1991 through 1995 crops"; and

(B) by striking "(excluding any deficiency payments described in paragraph (2)(B)(iv) of this section)";

(2) in paragraph (2)(A), by striking "1987 through 1990 crops" and inserting "1991 through 1995 crops"; and

(3) in the first sentence of paragraph (2)(B)—

(A) by inserting "and" at the end of clause (ii);

(B) by striking clauses (iii) through (vi) and inserting the following new clause:

"(iii) any gain realized by a producer from repaying a loan for a crop at a lower level than the original loan level established under the Agricultural Act of 1949."

(b) FOREIGN PERSONS.—Section 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308-3(a)) is amended by striking "1989 and 1990 crops" and inserting "1991 through 1995 crops."

SEC. 622. ADVANCE DEFICIENCY AND DIVERSION PAYMENTS.

(a) IN GENERAL.—Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) is amended—

(1) in subsection (a)(1), by striking "1988 through 1990" and inserting "1991 through 1995"; and

(2) in subsection (b), by striking "1986 through 1990" and inserting "1991 through 1995".

(b) CONFORMING AMENDMENT.—Section 1002 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1446) is amended by striking "Effective only for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, section" and inserting "Section".

SEC. 623. ADVANCE RECOURSE COMMODITY LOANS.

(a) IN GENERAL.—Section 424 of the Agricultural Act of 1949 (7 U.S.C. 1433c) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

(b) CONFORMING AMENDMENT.—Section 1003 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1447) is amended by striking "Effective for the 1986 through 1990 crops, the" and inserting "The".

SEC. 624. INTEREST PAYMENT CERTIFICATES.

(a) IN GENERAL.—Section 405(b)(1) of the Agricultural Act of 1949 (7 U.S.C. 1425(b)(1)) is amended by inserting after "programs, for" the following: "the 1991 through 1995 crops of".

(b) CONFORMING AMENDMENT.—Section 1004 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1447) is amended by striking "Effective only for the 1986 through 1990 crops, section" and inserting "Section".

SEC. 625. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

Effective only for the marketing years for the 1991 through 1995 crops, section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended—

(1) in the third sentence—

(A) in the second proviso, by striking "section 103(a)" and inserting "section 103"; and

(B) by striking the language following the third colon and inserting the following: "*Provided*, That, notwithstanding any other provision of law, the Corporation may not sell any of its stocks of wheat, corn, grain sorghum, barley, oats, and rye, respectively, at less than (A) 115 percent of the current national average loan rate for the commodity, adjusted for the current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, or (B) if the Secretary permits the repayment of loans made for a crop of the commodity at a rate that is less than the loan level determined for the crop, 115 percent of the average loan repayment rate that is determined for the crop during the period of the loans.";

(2) in the fifth sentence, by striking "current basic county support rate including the value of any applicable price-support payment in kind (or a comparable price if there is no current basic county support rate)" and inserting the following: "current basic county loan rate (or a comparable price if there is no current basic county loan rate)"; and

(3) in the seventh sentence, by striking ", but in no event shall the purchase price exceed the then current support price for such commodities" and inserting: "or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for the commodities for unrestricted use".

SEC. 626. DISASTER PAYMENTS.

Effective only for the 1991 through 1995 crops of peanuts, sugar beets, sugarcane, soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax, and such other oilseeds as the Secretary of Agriculture may determine, title II of Agricultural Act of 1949 (as amended by sections 401 and 501 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446), by striking subsection (k); and

(2) by adding at the end the following new section:

"SEC. 206. DISASTER PAYMENTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS, OILSEEDS, SUGAR BEETS, AND SUGARCANE.

"(a) DEFINITION OF OILSEEDS.—As used in this section, the term 'oilseeds' means soybeans, sunflower seeds, canola, rapeseed, safflower seeds, flax, and such other oilseeds as the Secretary may determine.

"(b) PREVENTED PLANTING.—If the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage on the farm intended for peanuts, oilseeds, sugar beets, or sugarcane to peanuts, oilseeds, sugar beets, sugarcane, or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary may make a prevented planting disaster payment to the

producers in an amount equal to the product obtained by multiplying—

"(1) the number of acres so affected but not to exceed the acreage planted to peanuts, oilseeds, sugar beets, or sugarcane for harvest (including any acreage that the producers were prevented from planting to the commodity or to other nonconserving crops in lieu of peanuts, oilseeds, sugar beets, or sugarcane because of drought, flood or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(2) 75 percent of the farm program payment yield established by the Secretary; by

"(3) a payment rate equal to 50 percent of the loan and purchase level for the crop.

"(c) REDUCED YIELDS.—If the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of peanuts, oilseeds, sugar beets, or sugarcane that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary may make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan and purchase level for the crop for the deficiency in production below 60 percent for the crop.

"(d) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.".

SEC. 627. MULTIYEAR SET-ASIDES.

Section 1010(1) of the Food Security Act of 1985 (7 U.S.C. 1445i(1)) is amended—

(1) by striking "beyond the 1990 crops" and inserting "beyond the 1995 crops"; and

(2) by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 628. SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.

(a) IN GENERAL.—Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended—

(1) by striking "section 105C or 107D" and inserting "section 105A or 107A"; and

(2) by striking "1986 through 1990" and inserting "1991 through 1995".

(b) CONFORMING AMENDMENT.—Section 1011 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1454) is amended by striking "Effective for the 1986 through 1990 crops of wheat and feed grains, section" and inserting "Section".

SEC. 629. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

Clause (2) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended by inserting before the semicolon at the end the following: ", except that the amount shall not be less than the higher of (A) 26½ cents per bushel, or (B) rates paid by the Commodity Credit Corporation to commercial warehouses".

SEC. 630. NORMALLY PLANTED ACREAGE.

Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended—

(1) by striking "1990" each place it appears and inserting in lieu thereof "1995"; and

(2) in subsection (c), by striking paragraph (2) and inserting the following new paragraph:

"(2) the acreage on the farm planted to the crop.".

SEC. 631. SPECIAL GRAZING AND HAY PROGRAM.

The first sentence of section 109(a) of the Agricultural Act of 1949 (7 U.S.C. 1445d(a)) is amended by striking "1990" and inserting "1995".

SEC. 632. ADVANCE ANNOUNCEMENT OF PROGRAMS.

Section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended—

(1) by striking "1987 through 1991" each place it appears in paragraphs (1) and (2) and inserting "1992 through 1996";

(2) in paragraph (3)(B)(ii)—

(A) by striking "1991" each place it appears and inserting "1996";

(B) by striking "1990" each place it appears and inserting "1995"; and

(C) by striking "Food Security Act of 1985" and inserting "Farm Income and Flexibility Act of 1990".

SEC. 633. DETERMINATIONS OF THE SECRETARY.

Section 1017(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1459) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 634. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.

Effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice, subsection (k) of section 408 of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended to read as follows:

"(k)(1) Reference made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, and rice under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, and rice under this Act.".

SEC. 635. NORMAL SUPPLY.

Notwithstanding any other provision of law, if the Secretary of Agriculture determines that the supply of wheat, corn, upland cotton, or rice for the marketing year for any of the 1991 through 1995 crops of the commodity is not likely to be excessive and that program measures to reduce or control the planted acreage of the crop are not necessary, such a decision shall constitute a determination that the total supply of the commodity does not exceed the normal supply and no determination to the contrary shall be made by the Secretary with respect to the commodity for the marketing year.

SEC. 636. NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD.

Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1990" and inserting "1995".

Subtitle D—Honey

SEC. 641. HONEY PRICE SUPPORT.

Effective only for the 1991 through 1995 crops of honey, title II of the Agricultural Act of 1949 (as amended by sections 401, 501, and 626 of this Act) is further amended—

(1) in section 201 (7 U.S.C. 1446), by striking subsection (b); and

(2) by adding at the end the following new section:

"SEC. 207. HONEY PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

"(a) LOANS, PURCHASES, AND OTHER OPERATIONS.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 56.86 cents per pound, as determined by the Secretary.

"(b) REPAYMENT.—The Secretary may permit a producer to repay a loan made to the producer under this section for a crop at a level that is the lesser of—

"(1) the loan level determined for such crop; or

"(2) such level as the Secretary determines will—

"(A) minimize the number of loan forfeitures;

"(B) not result in excessive total stocks of honey;

"(C) reduce the costs incurred by the Federal Government in storing honey; and

"(D) maintain the competitiveness of honey in domestic and export markets.

"(c) PLEDGING ADULTERATED OR IMPORTED HONEY AS COLLATERAL.—

"(1) IN GENERAL.—If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this section, such person shall, in addition to any other penalties or sanctions prescribed by law, be ineligible for a loan, purchase, or payment under this section for the 3 crop years succeeding such determination.

"(2) ADULTERATED HONEY.—For purposes of paragraph (1), honey shall be considered adulterated if—

"(A) any substance has been substituted wholly or in part for such honey;

"(B) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

"(C) such honey is for any other reason unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.".

Subtitle E—Technical and Conforming Amendments

SEC. 651. CONFORMING AMENDMENTS.

(a) MISCELLANEOUS COMMODITY PROVISIONS.—The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) (as amended by sections 201, 622, and 624 of this Act) is further amended by redesignating sections 107C, 107E, and 107F (7 U.S.C. 1445b-2, 1445b-4, and 1445b-5) as sections 107B, 107C, and 107D, respectively.

(b) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Effective beginning with the 1991 crops, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) (as amended by sections 401, 501, 626, and 641 of this Act) is further amended—

(1) by striking subsections (a), (b), and (e) through (l);

(2) in the first sentence—

(A) by inserting "(a)" before "The Secretary"; and

(B) by striking "as follows:" and inserting "in accordance with this title.";

(3) in subsection (c), by striking "subsection (d)" and inserting "this title"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(c) HONEY.—Section 405A(a) of the Agricultural Act of 1949 (7 U.S.C. 1425a(a)) is amended—

(1) by striking "section 201(b)" both places it appears and inserting "section 207"; and

(2) by striking "section 201(b)(2)(B)" and inserting "section 207(b)(2)".

Subtitle F—Effective Date

SEC. 661. EFFECTIVE DATE.

Except as otherwise provided in title I through this title, such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of a commodity.

SUMMARY OF THE FARM INCOME AND FLEXIBILITY ACT OF 1990

ACREAGE BASE REDEFINED TO PROVIDE FLEXIBILITY

Establishes a Normal Crop Acreage (NCA) base for each farm that is the total of the farm's current crop-specific basis (wheat, corn, sorghum, oats, barley, etc.), plus the acreage planted to oilseeds (soybeans, sunflowers, canola, flax, etc.) on the farm during the past 5 years.

Abolishes crop-specific bases and requires that farm program benefits be provided only for the commodity actually planted.

Producers may plant any mix of program crops and oilseeds they desire within their NCA. They may plant any non-program, non-oilseed crop they choose without losing NCA base history, although no farm program payments may be made on such crops.

TARGET PRICES IMPROVED

Provides cost of production increases in wheat, corn, sorghum, oats, and barley target prices, beginning with the 1991 crop. Requires that deficiency payments be calculated based on average wheat and feed grain prices in each state (rather than national average prices). This assures that all farmers will receive the same support levels.

LOAN RATES INCREASED

Repeals the "Findley" provision for wheat and feed grains, continues the basic loan rate formula (i.e., 75–85% of the average price received by producers during the past 5 years, excluding the highest and lowest years), but establishes minimum wheat and corn loan rates as follows: wheat, increased from $1.95 to $2.75; corn, increased from $1.57 to $2.10.

This removes the Secretary's authority to unilaterally lower loan rates by 20% and reduces government budget exposure.

OILSEEDS, OATS, BARLEY GIVEN EQUAL TREATMENT

Raises income support levels for certain commodities (oilseeds, oats, and barley) to levels that are fair in relation to target prices for wheat and corn, in order to provide equal income protection to producers of these crops and to discourage unwarranted acreage shifts between commodities under NCA flexibility.

Oilseeds—establishes a marketing loan of $6.25 per bushel for soybeans and 12.5 cents per pound for sunflowers, canola, safflowers, and flax with authority for USDA to reduce the statutory loan rate by up to 10 percent in any one year. These recourse loans may be repaid at prevailing world prices or the loan rate, whichever is less. Each farm's entire oilseed production would be eligible for the loan.

Oats/Barley—increases the oats target price from $1.45 to $2.27 per bushel, and the barley target price from $2.36 to $2.72, and provides for cost-of-production adjustments in these levels for the 1991–1995 crops.

ACREAGE REDUCTION PROGRAMS (ARPS) MODIFIED

Authorizes separate ARPs for each program commodity, but prohibits ARPs for oilseeds. Thus, the amount of a farm's NCA that must be idled in order for producer to qualify for benefits under annual price support programs will depend on the mix of crops that the producer chooses to plant and the ARP, if any, that may be in effect for each commodity.

OPTIONAL BUSHEL-BASED PROGRAM ESTABLISHED

Permits each producer who wishes to adopt alternative agriculture practices the option to comply with an acreage reduction program that may be announced by agreeing not to market, barter, donate, or use on the farm a quantity of wheat or feed grains in excess of an amount of bushels equal to the farm's acreage planted to the commodity times the average annual yield on the farm during the previous 5 years, reduced by the same percentage as any ARP that may be in effect for the commodity.

Any excess quantity may be stored and carried forward for use in future years (e.g., during a drought) to meet a farm's bushel allocation in those years.

Under this program, a producer may meet any ARP requirement for wheat or feed grains by agreeing to limit the amount of grain marketed from the farm by the same percentage as any ARP requirement, rather than by removing acreage from production.

WHEAT AND FEED GRAIN ENDING STOCKS TARGETED

Establishes ending stock targets equal to 20% of total projected use for wheat (approximately 500 million bushels) and 15% for feed grains (approximately 1.2 billion bushels, in the case of corn).

The Secretary of Agriculture is authorized to diverge from these targets, but only if the Secretary provides to Congress a statement of the change in farm prices and cost to the taxpayer that will result from the different ending stock targets that the Secretary may announce.

IMPROVED OPPORTUNITY FOR PUBLIC COMMENT ON WHEAT AND FEED GRAIN PROGRAMS

In order to encourage the Secretary of Agriculture to adhere to the wheat and feed grain ending stock targets established in the bill, and to enhance the public's opportunity to provide input as USDA determines the details of annual farm programs, the secretary is required, when seeking public comment on the various options that may be proposed for annual acreage reduction programs for wheat and feed grains, to provide an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option. Identical information must accompany each program as it is announced.

FARMER-OWNED RESERVE (FOR) PROGRAM EXTENDED

Extends current law with respect to the FOR program for wheat and feed gains, but provides that storage payments made to farmers with FOR grain must be made at the *higher* of the present rate of 26.5 cents per bushel, per year, *or* the average rate paid by the Commodity Credit Corporation (CCC) to commercial grain elevators storing government-owned grain.

SUGAR, HONEY, AND WOOL PROGRAMS EXTENDED

Extends the current sugar, honey, and wool programs through 1995.●

Mr. DASCHLE. Mr. President, I rise today together with my colleagues Senator HARKIN, Senator KERREY, Senator CONRAD, and Senator EXON, to introduce FIFA, the Farm Income and Flexibility Act of 1990. This legislation provides a viable alternative to the policies embodied in the admnistration's farm bill proposal.

An alternative approach to our Nation's farm programs is needed, given the consequences of the 1985 farm bill. One of its few redeeming features is that, by pumping billions of dollars into deficiency payments, it enabled some producers to hang on. But what about the thousands that have gone out of business since 1985? To prevent this from recurring, producers need to get more of their income through higher market prices.

In the effort to achieve international competitiveness, grain prices have been driven way below world equilibrium levels by the farm programs in an attempt to regain and maintain world market share. I question whether this has been the most effective way to ensure demand for our farmers' products. This philosophical premise of the 1985 bill has been shown by events to have been largely a mistake.

Unfortunately the administration's response to the needs of American agriculture for the nineties is lacking. I have previously called the proposal a fill-in-the-blank proposal because it fails to address the tough issues such as where to set target prices. But it also has blanks in terms of outlining an administration vision of any new direction for American agriculture. It's just more of the same until such time as we get sold down the river in GATT.

The one so-called new idea in the bill is in fact the already discredited idea of decoupling. Except this time it is being presented to Congress in the guise of flexibility. But let there be no mistake, this is the wolf in sheep's clothing. By tying program payments to 1990 bases, producers payments will be decoupled from their plantings, even if the payment rate is determined by market prices. This kind of decoupling would have a disastrous effect on the price stabilizing role of the program. Without the link between payments and production, balancing supply and demand will become practically impossible.

While I applaud the administration for endorsing the normal crop acreage approach, by imposing decoupled payments on the system, its usefulness is greatly diminished. Unless the support price imbalances between program crops and the oilseeds are corrected, we will be setting the stage for huge destabilizing shifts in crop acreage around the country. Specifically, the administration's proposal discriminates against crops such as barley and

oats that are important in many parts of the country, including my State of South Dakota.

These are deficiencies in the 1985 farm bill that the administration's proposal fails to address. However, there are programs that predate the 1985 bill that are working well that the administration wants to tinker with. The wool and honey programs are two programs that have an outstanding performance record. The adage "if it ain't broke, don't fix it" should apply to these programs.

The same can almost be said of the administration's proposal for the farmer-owned reserve. While the program may need some adjustments, it does not need to be eliminated, which is what, in effect, the administration's so-called revisions would do.

One final note on the administration's proposal that will be addressed in separate legislation: proposing the termination of the crop insurance program is one of the most controversial actions this administration has taken in agricultural policy since President Bush was elected. Going cold turkey on the program is simply impractical, quite aside from the merits of the program. Producers are making their new crop year planting decisions now and need to know that insurance will be available to them. It is my hope that Congress will do everything possible to see that the current program is fully funded this year.

In spite of my serious reservations with the administration's proposal, I do appreciate the effort that Secretary Yeutter and his staff have put into their plans. There are positive elements and I look forward to working with the administration to resolve the differences that we have.

The legislation we are introducing today offers a strong new direction for American agriculture. It is strong on prices and therefore strong on assuring higher farm income. It is strong on giving producers the flexibility to plant what they want and not tying them into producing for the program. It is a strong environmental proposal because of greater flexibility and allowing producers a bushel-based payment option.

The decline in farm income, that we have so often heard Senator CONRAD describe, can be reversed by this proposal by ensuring higher prices for farmers. By raising loan rates and indexing target prices to cost of production, farmers will get better returns from the market, and know that they have income protection that will not be eroded by inflation. Together with the implementation of a marketing loan for oilseeds, this legislation ensures the viability of wheat, feedgrains, and oilseeds producers.

The Normal Crop Acreage [NCA] approach, with a realignment of support prices and payments tied to what is actually produced on the base, allows producers the freedom to diversify their crop production practices. This will allow for more environmentally beneficial farming practices and create greater economic opportunity for producers.

The realignment of target prices is particularly critical for barley and oats, both of which are tremendously important to the State of South Dakota. The State ranked first in oats production in 1987 and third in 1988. The State also grows between 700,000 to 1 million acres of barley each year.0

The record will clearly show that, with barley production costs and target prices over the decade of the eighties clearly out of line, our producers have had woefully inadequate income protection. Only in 1986 did the target price actually cover production costs, and since then, because of the 1985 farm bill, the gap has widened dramatically. Perhaps that's why acreage dropped by almost 30 percent between 1985 and 1988.

That was the good news when you compare it to what has happened to this country's oats industry. The target price for oats has never been anywhere near covering producers' costs of production, and the gap between them is just getting bigger. So, despite the amazing increase in demand for oats for human consumption, we have been unable to increase our domestic production. Harvested acreage declined from 8.2 million acres in 1985 to 5.6 million in 1988. No wonder oats have been flooding across the border from Canada.

The realignment of these support prices, bringing the oats and barley target prices to $2.27 and $2.72 respectively and introducing a soybean marketing loan of $6.25, will not only ensure adequate protection for producers, but will encourage stable production patterns between commodities. With tighter stocks management that this bill requires of USDA, the programs can be administered more easily and USDA's role in affecting the market will be made more explicit. The new farm bill must force USDA to publicly acknowledge the huge influence its program decisions have on the market and producers' incomes.

Mr. President, in summary, this legislation will provide for higher farm income and allow producers greater planning flexibility, all under simplified rules that benefit both producers and USDA.

Mr. HARKIN. Mr. President. I am very pleased to join with my colleagues in introducing this commodity legislation today. A strong new farm bill is essential to ensure the survival of family farms, to support the efforts of American farmers to maintain and open foreign markets, and to sustain the economic base of small towns and rural communities.

To find out what farm families and rural communities need in a new farm bill we took the Agriculture Committee out of Washington for field hearings and conducted mail surveys and town meetings. We did that because we want a farm bill that serves the needs and the goals of rural America—a farm bill written here in this country with the advice and involvement of people living on farms and in small towns, not at a negotiating table in Geneva or elsewhere.

We believe the commodity legislation we are introducing today will serve the needs of rural America, now and into the 1990's, and do so responsibly within the limits of the Federal budget.

THE NEED FOR ADEQUATE FARM INCOME

Farmers are very concerned about the prospects for farm income in the coming decade. The past decade served as a bitter reminder that a healthy agriculture is essential for a sound rural economy and strong rural communities. The message is clear: low farm income brings economic devastation and human tragedy to rural America. We must not forget that lesson as we craft a new farm bill.

To be sure, the situation is better for farmers and rural communities now than it was a few years back, but it is a tenuous recovery that could easily turn around.

So I am very disappointed in the way our own Secretary of Agriculture is painting an unrealistically rosy picture of the farm economy in order to sell the administration's policies. Secretary Yeutter says that net farm income is at record levels and that is what the public and urban members of Congress are led to believe. But when those figures are adjusted for inflation it is clear that we had much higher net farm income in many previous years.

President Bush's budget calls for cutting $1.5 billion in commodity program spending next year. A cut of $1.5 billion distributed among the commodity programs would translate into a 14-cent cut in the corn target price and a 20-cent cut in the wheat target price. But even if cuts are avoided and target prices are frozen, inflation will eat away at farm income. If the corn target price stays at $2.75, by 1995 the target price would really be only $2.15 in 1989 dollars with inflation at 5 percent.

And remember, in 1970 we spent 2.5 percent of the Federal budget on commodity programs. Commodity program spending is now less than 1 percent of the budget, and if the administration has its way it will be down to eight-tenths of 1 percent.

Our bill provides for target price adjustments beginning with the 1991 crop to take into account increases in the prices farmers pay for production

inputs. We establish a new loan program for soybeans and other oilseeds and increase the target prices for oats and barley. And we require that farmers be paid the same as commercial warehouses for storing grain in the farmer owned reserve. Deficiency payments will be calculated on the basis of average market prices in each State rather than national average prices in order better to reflect the actual prices farmers receive for their crops.

FARM PROGRAM FLEXIBILITY

Farmers also want more freedom under the farm program to make their own planting decisions. Our bill will establish a Normal Crop Acreage [NCA] program to provide this flexibility in order to encourage crop rotations and planting in response to the market.

Ours is a simplified and understandable NCA program. The NCA base for a farm consists of the total of current program crop bases plus the average acreage planted to oilseeds over the past 5 years. Within the NCA base the farmer may plant any crop, including legumes or grasses, without affecting the NCA base history. Farm program payments will be made only for program crops and oilseeds actually grown.

ENVIRONMENT AND CONSERVATION

Farmers also need changes in commodity program rules to enable them to address environmental and conservation concerns. Our Normal Crop Acreage Program will facilitate crop rotations. In addition, our bill establishes an optional program allowing producers to limit the actual quantity of bushels they market or use instead of idling acreage under acreage reduction programs. This option provides environmental benefits by allowing a farmer to produce the same number of bushels on a larger number of acres through less intensive production practices.

MARKETING LOAN PROGRAM FOR OILSEEDS

I want to give some additional attention to a part of our bill that I believe is especially important to my State of Iowa. The bill establishes a new marketing loan program for soybeans and oilseeds. The loan rate for soybeans will be $6.25 a bushel, with USDA having authority to lower the loan rate by no more than 10 percent. The loan rate under the current program is $4.53 a bushel.

The loan may be repaid at either the loan rate or the prevailing world price, whichever is lower. Our bill will put our U.S. soybean producers in a strong position to sell at world prices and compete for their fair share of international markets.

It is clear that our soybean producers need such a program to hold and regain international market share. U.S. exports of soybeans have fallen by 35 percent since 1979, while world trade in soybeans has increased by 21 percent. U.S. soybean acreage has fallen nearly 10 million acres since 1979. Hence, over the past 10 years, U.S. soybean production declined 15 percent while world soybean production increased 15 percent.

The planting flexibility of the Normal Crop Acreage program in our bill combined with the marketing loan program will encourage farmers to grow more soybeans. In Iowa, about one-fifth of corn acres are in continuous corn. Rotating with soybeans has positive agronomic and environmental effects. Crop rotation often results in a 10- to 15-percent increase in yields and savings in fertilizer, insecticide, and possibly herbicide costs. It takes about 1.2 pounds of nitrogen to grow a bushel of corn following corn, but only about 0.8 pound of nitrogen to grow a bushel of corn following soybeans.

The most important aspect of the oilseeds marketing loan program, though, is the protection it provides for farm income for producers. Soybean production in Iowa for 1989 was nearly 323 million bushels. If the price could be increased by 50 cents a bushel, that would mean $160 million in additional income for Iowa farmers in 1 crop year.

Mr. President, this is a good bill for farmers and rural America.●

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2395. A bill to temporarily suspend the duty on metal oxide varistors; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

● Mr. MACK. Mr. President, I am introducing legislation today to temporarily suspend the duty on metal oxide varistors. Before we made the transition to the harmonized tariff schedules, metal oxide varistors entered the United States duty free, as these items are not produced in the United States. Under the new tariff system, the duty on metal oxide varistors suddenly jumped to six percent. This duty increase occurred simply because of the substantial differences in nomenclature between the old and new tariff systems. This legislation will resolve this inequity, and I hope that my colleagues will support the bill.●

By Mr. CRANSTON (by request):

S. 2396. A bill to amend title 38, sections 5002(d), 5004(a)(3)(A), and 5009(i)(2) United States Code, to raise the Department of Veterans Affairs' minor construction cost limitation from $2 million to $3 million, and for other purposes; to the Committee on Veterans' Affairs.

INCREASE IN MINOR CONSTRUCTION COST LIMITATION

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2396, a bill to increase, from $2 to $3 million, the minimum amount of Department of Veterans Affairs construction projects classified as major construction projects. The Secretary of Veterans Affairs submitted this legislation by letter dated March 26, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 26, 1990, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2396

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

That Chapter 81 of title 38, section 5002(d), United States Code, is amended by striking from section 5002(d) the language "medical facility which is expected to involve a total expenditure of more than $2,000,000," and inserting in lieu thereof the phrase "major medical facility project as defined by section 5004(a)(3)(A)."

SEC. 2. Chapter 81 of title 38, section 5004(a)(3)(A), United States Code, is amended by striking the dollar threshold stated in section 5004(a)(3)(A) "$2,000,000," and inserting in lieu thereof "$3,000,000,".

SEC. 3. Chapter 81 of title 38, section 5009(i)(2), United States Code, is amended by striking the dollar threshold stated in section 5009(i)(2) "$2,000,000" and inserting in lieu thereof "$3,000,000".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, March 26, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, section 5004(a)(3)(A), United States Code, to raise the Department of Veterans Affairs' minor construction cost limitation from $2 million to $3 million and for other purposes." It is requested that the bill be referred to the appropriate commmittee for prompt consideration and enactment.

The draft measure would amend title 38, section 5004(a)(3)(A), by changing the dollar threshold which, in part, defines a VA major medical facility project, from $2 million to $3 million. Corresponding amendments are required to title 38, section 5002(d), which requires the Secretary to consider the sharing of health-care resources with the Department of Defense when projects cost over $2 million and section 5009(i)(2) which provides that funds in the revolving fund may be expended for a project or more than $2 million for the con-

struction, alteration, or acquisition of a parking facility.

The proposal to increase the minor construction limitation from $2 million to $3 million is primarily based on the need to stay current with inflation. While inflation is indeed the primary element in the request for an increase in the minor construction limitation, program efficiency is also an important element in this proposal. The trend towards planning a project into multiple smaller projects or phases, each with its own distinct identity is becoming more prevalent in order to keep within the current $2 million limitation. Each of these projects or phases require the full administrative process from inception to completion. Increasing the minor construction limitation to $3 million would help reduce the possible need for multiple projects or phasing and increase administrative productivity on projects. The proposal would produce these savings by reducing the need for multiple projects and through program efficiencies but savings are not quantifiable.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

Section 1 of the draft bill would amend section 5002(d) of title 38 to provide that the Secretary will consider the possibility of a sharing agreement with the Department of Defense as an alternative to all or part of a major medical facility project. This proposed change ties the statutory requirement to all major medical facilities projects as defined by section 5004(a)(3)(A). That is, all medical facility projects for which appropriations are sought as "major construction" projects.

Instead of using a specific dollar level, section 5002(d) would be amended to indicate that consideration to the option of sharing must be given before the "construction, alteration, or acquisition . . . of a major medical facility." Under the existing statute "major medical facility project" is defined as "a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2 million." *See* 38 U.S.C. § 5004(a)(3)(A) (1989).

Section 2 of the draft bill would amend section 5004(a)(3)(A) of title 38 to increase the statutory minor construction cost limitation from $2 million to $3 million. This proposed change reflects increased costs for construction as a result of inflation.

Section 3 of the draft bill would amend section 5009(i)(2) of title 38 to increase the dollar limit currently set forth in the statute thereby making it consistent with the proposed changes.

Current law (38 U.S.C. § 5004(a)(3)(A) and the Construction, Minor, appropriation language) limits the cost of minor construction projects to $2 million or less. This level has been in effect since Fiscal Year 1981. Prior to Fiscal Year 1981, the cost limitation for minor projects was $1 million.

By Mr. CRANSTON (by request):

S. 2397. A bill to amend the title 38, United States Code, to expand the Secretary's authority to make temporary appointments of certain health care personnel employed in the Veterans Health Services and Research Administration; to the Committee on Veterans' Affairs.

TEMPORARY APPOINTMENT OF CERTAIN HEALTH CARE PERSONNEL

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2397, a bill to expand the Department of Veterans Affairs' authority to make temporary appointments of certain health care personnel. The Secretary of Veterans Affairs submitted this legislation by letter dated March 21, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 21, 1990, transmittal letter and enclosed analysis of the draft bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2397

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4114(a)(3) of title 38, United States Code, is amended—

(a) by striking out the second sentence in subparagraph (A) and inserting in lieu thereof the following:

"Temporary full-time appointments of persons who have successfully completed a full course of training as a nurse, physical therapist, practical or vocational nurse, occupational therapist, or pharmacist in a recognized school for that occupation, approved by the Secretary, and who are pending registration or licensure in a State or certification by a national board recognized by the Secretary, shall not exceed two years."

(b) by inserting after the first sentence in paragraph (C) the following:

"A student who has a temporary appointment under this paragraph and who is pursuing an academic program leading to a degree in physical therapy, occupational therapy or pharmacy approved by the Secretrary may be reappointed for a period not to exceed the duration of such student's academic program."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 21, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to expand the Secretary's authority to make temporary appointments of certain health care personnel employed in the Veterans Health Services and Research Administration." We request that it be referred to the appropriate committee for prompt consideration and enactment. Provisions similar to those in the enclosed draft bill were included in the larger S. 1004, introduced at our request on May 16, 1989, by Senator Cranston. The other provisions of that larger draft bill have been enacted or dropped. However, VA continues to experience difficulty recruiting qualified health care professionals and the need to expand VA's appointment authority in that regard remains a concern. Thus, we are submitting a new draft bill, containing only the relevant portions of our earlier proposed bill, for consideration.

The enclosed draft bill would expand the temporary appointment authority under 38 U.S.C. § 4114(a)(3) for graduate nurses, physical therapists, practical or vocational nurses, occupational therapists, and pharmacists. VA continues to experience critical staffing shortages in these health-care professions. The current statute, which limits temporary appointments of such professionals to one year, places the VA at a serious disadvantage when competing against other health-care employers for this scarce pool of health care professionals.

Under current Office of Personnel Management regulations, Va employees with temporary appointments for one year or less are ineligible for health care and life insurance benefits. See 5 C.F.R. § 870.202(a)(1) and § 890.102(c). Private employers, competing for the same scarce personnel, routinely offer such benefits to graduates when they are first employed, making VA employment less desirable to new recruits. In addition, graduate health-care professionals who receive temporary appointments under section 4114(a)(3)(A) are employed with the expectation that, upon becoming registered, licensed, or certified, they will be converted to a probationary appointment under 38 U.S.C. § 4103(3) (with full benefit status). A graduate whose temporary appointment expires before he or she receives the requisite license, certification, or registration is likely to seek employment elsewhere, further frustrating VA efforts to ensure continuity and staffing stability.

The proposed amendment would authorize the VA to appoint graduate health-care personnel who have successfully completed a full course of training as a nurse, physical therapist, practical or vocational nurse, occupational therapist, or pharmacist, in a program approved by the Secretary and who are awaiting registration or licensure in a State, or certification by a national board recognized by the Secretary, for up to two years. This extended temporary appointment period would enable such personnel to obtain health care and life insurance benefits. It would also reassure graduates considering career options with the VA that they do not risk a break in employment pending licensure within the two-year timeframe, a time during which prospective licensees might be enticed to accept employment outside the VA.

The draft bill would also amend 38 U.S.C. § 4114(a)(3)(C) by authorizing the reappointment of students who hold a temporary appointment under section 4114(a)(3), for a period not to exceed the duration of the student's academic program. This authority would apply only to students pursuing an academic program leading to a degree in physical therapy, occupational therapy and pharmacy, which has been approved by the Secretary. The law currently allows temporary appointments of most medical

support personnel for one year (section 4114(a)(3)(A)) but does not permit reappointment (section 4114(a)(3)(C). This current authority has been used to appoint students who are enrolled in good standing at an accredited school in one of the above-listed occupations, but in many cases the one-year appointment terminates before the student receives his or her degree. This interruption in the "internship" hinders the VA's opportunity to employ, observe, and identify promising students, and results in the loss of potential career personnel in these occupations.

The proposed amendment provides for reappointment, as opposed to extending the initial appointment period. Accordingly, the period of initial appointment can serve as an opportunity for VA to assess the student's performance and potential. The proposed amendment would allow the VA to reappoint such students for a period not to exceed the duration of their academic program leading to a degree. With appropriate orientation and supervision, such students could be appointed as technicians and perform duties of increasing sophistication consistent with the level of training they have completed. Moreover, because the draft bill would enable more stable employment relationships with students during their training, permanent VA employment may be more attractive to the students. Thus, the proposed change would help VA meet current staffing needs in these occupations as well as enhance the Department's opportunity to recruit and retain promising students for career service. There are no costs associated with this draft bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF DRAFT BILL

Section 1(a) of the draft bill would amend 38 U.S.C. § 4114(a)(3)(A) to authorize temporary full-time appointments for up to two years of persons who have successfully completed a full course of training as a nurse, physical therapist, practical or vocational nurse, occupational therapist, or pharmacist, and who are awaiting registration or licensure in a State, or certification by a national board recognized by the Secretary. The training must have been in a recognized school for that occupation, approved by the Secretary. This section (4114(a)(3)(A)) currently limits such appointments to one year. The draft bill adopts language from a similar provision in section 4114(a)(3)(A) which permits the appointment of graduate nurses who are awaiting registration, for a period not to exceed two years. The draft bill would delete this provision, but the same appointment authority for graduate nurses would be encompassed in the broader provision which the draft bill proposes as its replacement.

Section 1(b) of the draft bill would amend 38 U.S.C. § 4114(a)(3)(C) by authorizing the reappointment of students who hold a temporary appointment under section 4114(a)(3), for a period not to exceed the duration of the student's academic program. This authority would apply only to students pursuing an academic program leading to a degree in physical therapy, occupational therapy and pharmacy, which has been approved by the Secretary. The law currently allows temporary appointments of most medical support personnel for one year (section 4114(a)(3)(A)) and does not permit reappointment (section 4114(a)(3)(C)). The proposed amendment is similar to existing authority in section 4114(a)(3)(C) which permits VA to reappoint nursing students for a second year, in that it provides for reappointment as opposed to extending the initial appointment period.

By Mr. DANFORTH, (for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. LOTT, Mr. PACKWOOD, Mr. BURNS, Mr. PRESSLER, and Mr. BOND):

S. 2398. A bill to authorize the continuation of the National Senior Olympic games; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. MCCAIN, Mr. LOTT, Mr. PACKWOOD, Mr. BURNS, Mr. PRESSLER, and Mr. BOND):

S. 2399. A bill to authorize the registration of the word mark "National Senior Olympics"; to the Committee on Commerce, Science, and Transportation.

NATIONAL SENIOR OLYMPIC GAMES

Mr. DANFORTH. Mr. President, today I am introducing two bills to allow senior citizens to continue to participate in the U.S. National Senior Olympic [USNSO] games.

The USNSO was created in 1985 in order to provide citizens over age 55 with the opportunity to compete in a national Olympiad. The first National Senior Olympics were held in St. Louis in 1987. This event attracted over 2,500 participants, including athletes from Canada and Taiwan.

After the conclusion of this successful event, the U.S. Olympic Committee [USOC] informed the USNSO that it could use the word "Olympics" no longer. Despite considerable discussion, the USOC would not modify its position.

On March 29, 1988, I joined 17 other Members of the Senate in writing to the USOC to urge it to permit the USNSO to continue to use the term "Olympics." The USOC indicated that it would not object to local "Senior Olympics," but it would not permit a national "Senior Olympics." According to the USOC, such games would "compete programmatically or financially with the U.S. Olympic effort."

Mr. President, the USOC's decision is wrong. By passing the Amateur Sports Act of 1978, Congress recognized that an effective coordinating body is essential to developing competitive Olympic teams. But the USOC's mission is not limited to fielding strong teams. The Commission is directed by law to establish national goals for amateur athletic activities. This applies to all Americans. The USOC has done a commendable job with the Special Olympic for disabled Americans and the Junior Olympics for young Americans. The USOC fully recognizes and supports these important competitions as part of the Olympic movement. In the case of the Special Olympics, the USOC permits use of the name "Olympics" because the competition is directed by a member organization which performs an enumerated purpose of the Amateur Sports Act. The Junior Olympics enjoy this privilege as a result of a grandfather clause in the original law passed by Congress to incorporate the USOC. In both cases, Congress acknowledged its support for these competitions in statute. The time has come for Congress to promote a National Senior Olympic competition. The law must be expanded to afford Americans over the age of 55 the opportunity to participate in an official Olympiad.

The USOC has the authority to permit the USNSO to use the Olympic name. To date, the USOC has refused. The Supreme Court has upheld the plain meaning of the Amateur Sports Act which grants the USOC complete authority over use of the name "Olympics." Negotiations between the USOC and the Senior Olympics have not resolved this issue. The only solution is to change the law to reflect the importance of a National Senior Olympic competition.

The first bill that I am introducing amends the Amateur Sports Act of 1978 to authorize the USNSO to use the name "Olympics" in order to promote athletic competition among our Nation's senior citizens. The second bill will permit USNSO to register "National Senior Olympics" as its trademark under the Lanham Act.

Mr. President, these are modest measures, but they are important to the Senior Olympics. Elderly Americans should have the same opportunity as disabled Americans and young Americans to participate in official Olympic games. I urge my colleagues to support these bills.

Mr. PRESSLER. Mr. President, I am pleased to join my distinguished colleague, Senator DANFORTH, in introducing legislation to authorize the registration of the World Senior games as the "National Senior Olympics," and provide for the continuation of the National Senior Olympic games. Since its inception in 1985, the U.S. National Senior Olympics [USNSO] have been denied use of the trademark "Olympics" by the U.S. Olympics Committee. This legislation would permit use of the trademark "Olympics" by the USNSO.

I have actively supported the senior games since their first event in 1987. For the past 2 years, I have served on the advisory board for the games. These competitions recognize the value of fitness and health to older Americans. The World Senior games

emphasize exercise and athletics while providing an excellent opportunity for senior citizens to meet other seniors.

The use of the "Olympics" trademark would enhance the visibility of the World Senior games and promote a very worthwhile event. The promotion of healthy physical activity is as important for senior citizens as it is for the youth of America.

By Mr. ARMSTRONG:

S. 2400. A bill to amend section 7430 of the Internal Revenue Code of 1986 with respect to eligibility of taxpayers to receive attorney fees and other costs; to the Committee on Finance.

ELIGIBILITY FOR ATTORNEY FEES AND OTHER COSTS

● Mr. ARMSTRONG. Mr. President, imagine you are walking down the steps of the Tax Court, finally victorious after a 4-year running battle with the Internal Revenue Service over a $10,000 claim against you for additional taxes owed. The judge in the case ruled in your favor, the IRS was wrong all along.

As you reach the bottom of the steps, you shake hands with your lawyer and he hands you his final bill for $8,000. Out of no fault of your own as the court has decided, the Federal Government through its agent the IRS has caused you to lose $8,000, not to mention months and years weeks of worry.

Under current law, you may recover reasonable litigation and administrative costs, such as professional fees, court costs, et cetera, incurred in defending yourself but only if you prevail in the case and if you can prove the IRS "was not substantially justified" in pressing its case. Not only is the burden of proof on you as the taxpayer, but you have a very murky standard to meet in order to recover your costs.

The facts are, the IRS claimed you owed additional tax, the Tax Court ruled in your favor, and you're out $8,000. Whether the IRS thought it had a good case or not is completely irrelevant. You have suffered a financial loss at the hands of the Government and you should be entitled to recover the full $8,000.

The Senate recognized the inequity in this situation when it shifted the burden of proof to the IRS as part of the Technical and Miscellaneous Revenue Act of 1988. Under the Senate's provision, the IRS was required to prove its position was substantially justified. This provision in the Senate's bill was dropped in conference.

I believe it only fair for a taxpayer to be compensated to the extent he incurs costs in successfully defending himself against claims of the IRS. While the Senate's position in 1988 was an improvement over current law, I believe it missed a basic principle. Whether the IRS was substantially justified and whoever is tasked with proving justification is irrelevant to the fact the taxpayer has suffered a financial loss at the hands of the Government through no fault of his or her own.

This situation is unfair and unacceptable. Therefore, I am introducing legislation with a single purpose: to remove the standard of "substantially justified" and replace it with the simple rule that if the taxpayer prevails in a tax dispute with the IRS, then the taxpayer may recover the costs of defending himself.●

By Mr. KASTEN:

S. 2401. A bill to amend the Food Security Act of 1985 to eliminate barriers to Great Lakes maritime trade, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AGRICULTURAL EXPORT REVITALIZATION ACT

● Mr. KASTEN. Mr. President, I rise today to address a matter of great importance to the State of Wisconsin. It is also a matter of plain common sense.

As my colleagues well know, agriculture is the foundation of Wisconsin's economy. Wisconsin has long been the Nation's leader in producing a whole array of agricultural products, and agriculture is the lifeblood of countless small communities in what is largely a rural State.

A second key component of Wisconsin's economy is the Great Lakes. These huge and majestic bodies of water provide natural resources, tourism, and trade for the State.

Unfortunately, right now there is a Federal law which is devastating these two key sectors of Wisconsin's economy. This law simply must be changed.

The 1985 farm bill made changes to Public Law 480—the Food for Peace Program. Everyone supports the Food for Peace Program. Over the years, it has been a very successful foreign aid tool. This program, which involves the shipment of agricultural products to needy, less fortunate nations, has been a tremendous help in our battle to end world famine and hunger.

However, the 1985 farm bill changed the way in which we ship Food for Peace cargoes. This change has raised the cost of the program, and forced us to ship less grain overseas than might otherwise be possible.

Specifically, the 1985 farm bill increased the cargo preference requirement for the Food for Peace Program—the amount of goods which must be sent on U.S.-flagged vessels—from 50 percent to 75 percent of all goods shipped. It also guaranteed, through a set-aside, a short-term continuation of Food for Peace shipments to the Great Lakes.

This change was called for to help the U.S. shipbuilding industry. Our domestic shipbuilders have long been under siege by foreign competition. It was argued that increasing the percentage of U.S. ships carrying Food for Peace cargoes would spark a demand for more U.S. ships—thus helping the domestic shipbuilding industry.

But Mr. President, this has not happened. There has been no real increase in U.S. shipbuilding activity since the enactment of the 1985 farm bill.

What has taken place, however, is a steep decline in Food for Peace trade activity in the Great Lakes region. The Port of Milwaukee, for example, handled 220,000 tons of Food for Peace cargo in 1987. Last year, they handled 70,000 tons. So far this year, they have not handled any.

Why is this the case? It is more costly for a ship to come up the St. Lawrence Seaway into the Great Lakes than it is to simply head for a saltwater port. Foreign-flagged vessels are willing to do it—U.S.-flagged ships are not. The higher the cargo preference requirement mandated by Federal law, the worse Great Lakes ports do.

So even though grain products can be purchased at far less cost in Milwaukee than elsewhere, they must be shipped 1,500 miles south to be put on a U.S. vessel—instead of being loaded on a foreign ship in Milwaukee. This simply does not make sense. It imposes inefficiencies on the system, and it hurts Wisconsin's farmers. The farm community in my State is being damaged by a Federal policy which forces them to compete unfairly with other regions of the country. We should not be pitting farmer against farmer—but instead working for a sensible policy which we can all unite behind.

I support the U.S. shipbuilding industry. I have a number of shipbuilders in my State. I feel we should have Federal policies which will preserve our shipbuilding capability. But increasing the cargo preference requirement has not made a difference. All it has done is shift exisitng ship business from the Great Lakes to saltwater ports. This is not right.

We need to get back to a more honest policy. Today I am introducing legislation, the Agricultural Export Revitalization Act, which will reverse this unfortunate aspect of the 1985 farm bill. Specifically, the Agricultural Export Revitalization Act would do three things. First, it would restore the Great Lakes set-aside for 3 more years. Second, it would gradually reduce the cargo preference requirement on Food for Peace cargoes. From 75 percent in 1990, we would shift to 65 percent in 1991, 55 percent in 1992 and 50 percent thereafter. Third, it would direct the Secretary of State to begin a new round of discussions with the Canadian Government aimed at eliminating tolls on the St. Lawrence

Seaway—tolls which further add to Great Lakes shipping costs.

When enacted, the Agricultural Export Revitalization Act would return Food for Peace cargo preference requirements to their historic levels. This would give Great Lakes ports the opportunity to compete freely and fairly for Food for Peace cargoes. It would give Wisconsin a fighting chance to save more than 3,000 jobs that are directly linked to port activity. It would provide new export markets for Wisconsin farm products. It would reduce inefficiencies in the Food for Peace Program. And it would help save the Government money.

I urge my colleagues to give their strong support to the Agricultural Export Revitalization Act.●

By Mr. BAUCUS:

S. 2403. A bill to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes; to the Committee on Energy and Natural Resources.

MONTANA INTERIM ROADLESS LANDS RELEASE AND CONSERVATION ACT

Mr. BAUCUS. Mr. President, today I rise to introduce the Montana Interim Roadless Lands Release and Conservation Act. For more than a decade, I have listened to Montanans on the roadless lands issue. My mail on this issue has numbered in the tens of thousands of letters. By 1988, Congress has held over 100 hours of hearings on Montana wilderness.

Last summer, I added to this record by holding four hearings in Montana. In 2 days, I heard from over 700 Montanans. I remained at each hearing until every single Montanan in the room had a chance to speak.

Consistently, one message came through loud and clear: It is time to settle this issue, and it is time to settle it in a balanced, evenhanded fashion. It is time to move Montana forward and put this issue behind us.

I call on all Montanans to join me by adopting this balanced interim approach called for in my bill. While I will keep an open mind to suggested modifications, I must caution everyone that based on my years of experience with this issue, I believe this bill represents a balance that is in Montana's best interest. I hope that we can act quickly to put this issue to rest.

Mr. President, last fall, President Bush paid Montana the honor of a visit to help us celebrate our 100th year as a State.

Inspired by the grandeur of our Big Sky Country, the President said something I, and most other Montanans, agree with:

> Montanans have made a decision never to let environmental exploitation go unchecked. We can have a sound ecology and a strong economy.

In a word, the President advocated balance.

I believe Montana's future depends upon achieving such a balance. Traditional industries like timber, mining, and agriculture remain the backbone of our economy.

Without these natural resource jobs, many of our children will be forced to leave Montana. Yet, without our open spaces and wild lands, many of these same young Montanans would have little incentive to remain.

And other less traditional industries are beginning to discover what some of us have known all along: Montana is a great place to live and a great place to do business.

For instance, tourism is on the upswing, pumping almost $1 billion a year into our economy. And other new businesses, like Patagonia's mail order operation in Bozeman, were lured to Montana by the high quality of life our wild lands and clean environment help assure.

While President Bush spent only a brief time in my home State, his comments captured the mood of Montana's mainstream. We're not much interested in extreme or one-sided solutions to complex problems. Montanans want balance.

COMMON SENSE FROM MONTANA'S MAINSTREAM

Two weeks ago, the Great Falls Tribune conducted "man on the street" interviews with a number of Montanans about the future of our State. In almost every interview, these Montanans expressed a desire for balance. They expressed an unquenchable optimism that we can create jobs and conserve our land.

I'd like to take a moment to share some of these mainstream voices of Montana common sense with the Senate: Steve Marquesen, a restaurateur from Columbia Falls:

> We need our environment, but we need our timber industry too * * *. Montanans should take some real pride in what we are. We have our problems, but our quality of life—including the slower pace, mountains, and scenery—is much better than any other place.

Ray Soulsby, a rancher from Stanford:

> Montanans need to learn to use their resources, but not use them up * * *. We need to take care of the land; it's all we've got.

Rosemary Caton, a flower shop owner from Laurel:

> We have two challenges. One is providing jobs and getting new industry to come to Montana. The other is keeping our land beautiful and wild.

And, finally, Tom Sebase, a computer businessman from Polson:

> Montana's biggest obstacle is the fight between environmentalists and the people who are pro-industry. Because of that, Montana is stifled. I'd like to see a balance reached between our traditional economy and new ideas.

Steve, Ray, Rosemary, and Tom echo the views I hear almost every weekend when I return home. Times are tough in Montana. We need jobs. But we don't want to lose the natural values that make Montana special.

With our economy relying heavily upon natural resources, achieving such a balance will always involve a degree of struggle and compromise between competing interests.

Yet, when it comes to deciding the future of our remaining roadless lands, this struggle has, at times, escalated to fight beyond the bounds of reason. Crass politics and genuine personal convictions on both sides have combined to pit Montanan against Montanan in a struggle that never seems to end.

Sadly, when the conflict rises to this level, there are no winners; all Montanans lose.

A BALANCED BILL

It's time to call a truce. Let's put narrow special interests aside and seek middle ground. We must find a balanced solution and move forward to face other issues confronting Montana as we enter our second century of statehood.

That is why today I am introducing the Montana Interim Roadless Lands Release and Conservation Act of 1990.

Given the level of emotion surrounding this issue, no Montana roadless lands bill is going to be totally noncontroversial. But there is land which has been proposed over and over again for release or wilderness.

In order to solve as much of this problem as we can now, I propose dealing with as many of these consensus areas as we can now. This approach will release more land and protect more areas. It will also leave fewer areas to be decided to a later date.

By solving part of the roadless lands question, this bill will conserve sensitive lands and create jobs for our natural resource industries.

It will release approximately 3.2 million acres of currently roadless lands to nonwilderness multiple-use management. Many of these newly released lands are rich in natural resources. And that means jobs for Montanans.

For example, my bill releases over 1 million acres of timber the Forest Service has identified as suitable for harvest. This makes available roughly 97 percent of the harvestable timber on Montana's national forests for nonwilderness multiple use. Last October, in testimony before a joint hearing of the Senate Agriculture and Energy Committees, Forest Service Chief Dale Robertson testified that a bill releasing roughly this amount of timber would eliminate a big problem facing his agency's timber program in Montana.

At the same time, my bill would permanently protect approximately

870,000 enivronmentally sensitive roadless acres. These are the headwaters of our famed blue ribbon trout streams, our most sensitive wildlife habitat, and our prime back country recreation areas.

This added protection means holding onto a part of what's best about Montana—our clear running trout streams, our unrivaled big game populations, our natural beauty and our solitude.

Protecting these lands also has an economic benefit. The important Montana businesses of outfitting, tourism, and recreation rely on these lands remaining wild.

For those controversial lands that have been neither released nor designated as wilderness, difficult questions remain to be answered by a future Congress. However, I believe this partial approach will narrow the issues and make it easier for a future Congress to revisit the issue and finish the job.

As with previous roadless lands bills I have supported, my bill carefully excludes from wilderness all groomed snowmobile trails and all patented mining claims. My bill also protects the rights of those prospectors who have staked unpatented claims in newly designated wilderness areas.

The partial approach outlined in my bill identifies for wilderness or for release those lands upon which a consensus currently exists. However, I remain open to evidence that there are additional lands which can now be released or made wilderness. Thus, if before this legislation is enacted, it can be shown that consensus exists on other lands, I will seriously consider new proposals for their disposition.

This same openminded approach also holds true for the uniquely national issue of release language. My bill includes release language that I know can pass Congress. This is the same fundamental release language approved by the Senate Energy Committee last year when it reported the Idaho wilderness bill sponsored by that committee's distinguished ranking member and former chairman, Senator MCCLURE.

While I will oppose any radical attempt to change release language, the language included in this bill represents a starting point. There are many within industry and the Forest Service who contend the existing RARE II language is outdated because of the development of the forest plans on Montana's 10 national forests and recent court cases. This is a complex legal issue. But I believe fundamental fairness dictates that industry receive nothing more and nothing less than the same degree of release agreed to by Congress in the 1984 compromise.

Therefore, I am willing to amend my bill to include revised release language. However, let's not pretend such changes will happen overnight. Unlike the strictly Montana issues of acreage and boundaries, release language is an issue setting national precedent. Future wilderness bills in other States could be affected by changed release language in a Montana bill.

As a member of the Agriculture Committee, I am willing to do what I can to bring about revised release language. Yet I cannot do this alone. Any changes must meet with the approval of the chairmen of the Energy and Agriculture Committees, industry and the conservation community. Absent such a broad-based consensus, new release language is unlikely to pass this Congress.

In closing, Mr. President, for more than a decade I have listened to what Montanans want on this issue. My mail on this issue has numbered in the tens of thousands of letters. By 1988, Congress had held over 100 hours of hearings on Montana wilderness.

Last summer I added to this record by holding four hearings in Montana. In 2 days, I heard from over 700 Montanans. I remained at each hearing until every single Montanan in the room had had a chance to speak.

Consistently, one message came through loud and clear: It's time to settle the issue in a balanced fashion and move Montana forward.

Therefore, I call on all Montanans to join me by adopting this balanced interim approach. While I remain willing to compromise on anything but what's right for Montana's land and people, I must caution that based on my years of experience with this issue, I believe my bill represents a balance that is Montana.

I hope we can act quickly to put this issue to rest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montana Interim Roadless Lands Release and Conservation Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people;

(2) the existing Department of Agriculture Land and Resource Management Plans for National Forest System's lands in the State of Montana have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that—

(A) do not possess outstanding wilderness attributes; or

(B) do possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values,

which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

SEC. 3. WILDERNESS DESIGNATIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately 25,000 acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated April 1990, which shall be known as the Italian Peaks Wilderness.

(2) Certain lands in the Beaverhead National Forest, Montana, which comprise approximately 79,500 acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated April 1990, which shall be known as the East Pioneer Wilderness.

(3) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, Montana, which comprise approximately 38,000 acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed (North Big Hole, Storm Lake, Upper East Fork)", dated April 1990, which are incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(4) Certain lands in the Bitterroot and Lolo National Forests, Montana, which comprise approximately 55,600 acres, as generally depicted on a map entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated April 1990, which are incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness.

(5) Certain lands in the Custer National Forest, Montana, which comprise approximately 5,800 acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated April 1990, which shall be known as the Lost Water Canyon Wilderness.

(6) Certain lands in the Custer National Forest, Montana, which comprise approximately 5,700 acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed (Timberline Creek, Stateline, Mystic Lake)", dated April 1990, which are incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(7) Certain lands in the Deerlodge National Forest, Montana, which comprise approximately 40,300 acres, as generally depicted on a map entitled "Flint Creek Range Wilderness Proposed", dated April 1990, which shall be known as the Flint Creek Range Wilderness.

(8) Certain lands in the Deerlodge, Bitterroot, and Lolo National Forests, which comprise approximately 64,800 acres as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated April 1990, which shall be known as the Stony Mountain Wilderness.

(9) Certain lands in the Flathead National Forest, Montana, which comprise approximately 10,250 acres, as generally depicted on a map entitled "Bob Marshall Additions—Proposed (Limestone Cave, Slippery Bill)", dated April 1990, which are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(10) Certain lands in the Flathead National Forest, Montana, which comprise approximately 184,320 acres, as generally depicted on a map entitled "Jewell Basin/Swan Wilderness—Proposed", dated April 1990, of which—

(A) the part marked for inclusion in the Bob Marshall Wilderness is incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness; and

(B) the remaining part shall be known as the Jewell Basin Wilderness.

(11) Certain lands in the Flathead National Forest, Montana, which comprise approximately 960 acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated April 1990, which are incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(12) Certain lands in the Gallatin National Forest, Montana, which comprise approximately 7,000 acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed (Republic Mountain, Tie Creek, Dexter Point)", dated April 1990, which are incorporated in and shall be deemed to be a part of the Absaroka-Beartooth Wilderness.

(13) Certain lands in the Gallatin National Forest, which comprise approximately 22,000 acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated April 1990, which shall be known as the Earthquake Wilderness.

(14) Certain lands in the Gallatin National Forest, Montana, which comprise approximately 23,000 acres, as generally depicted on a map entitled "Cowboys Heaven Wilderness—Proposed", dated April 1990, which shall be known as the Cowboys Heaven Wilderness.

(15) Certain lands in the Helena National Forest, Montana, which comprise approximately 15,000 acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated April 1990, which shall be known as the Mount Baldy Wilderness.

(16) Certain lands in the Helena National Forest, Montana, which comprise approximately 19,000 acres, as generally depicted on a map entitled "Electric Peak Wilderness—Proposed", dated April 1990, which shall be known as the Electric Peak Wilderness.

(17) Certain lands in the Helena National Forest, Montana, which comprise approximately 10,500 acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed (Big Log)", dated April 1990, which are incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(18) Certain lands in the Helena National Forest, Montana, which comprise approximately 8,500 acres as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated April 1990, which shall be known as the Black Mountain Wilderness.

(19) Certain lands in the Helena National Forest, Montana, which comprise approximately 26,000 acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated April 1990, which shall be known as the Camas Creek Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately 21,900 acres, as generally depicted on a map entitled "Nevada Mountain Wilderness—Proposed", dated April 1990, which shall be known as the Nevada Mountain Wilderness.

(21) Certain lands in the Helena National Forest, Montana, which comprise approximately 60,000 acres, as generally depicted on a map entitled "Elkhorns Wilderness—Proposed", dated April 1990, which shall be known as the Elkhorns Wilderness.

(22) Certain lands in the Kootenai National Forest, Montana, which comprise approximately 51,500 acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated April 1990, which shall be known as the Scotchman Peaks Wilderness.

(23) Certain lands in the Lolo National Forest, Montana, which comprise approximately 94,000 acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated April 1990, which shall be known as the Great Burn Wilderness.

(24) Certain lands in the Lolo National Forest, Montana, which comprise approximately 60,830 acres, as generally depicted on a map entitled "Quigg Wilderness—Proposed", dated April 1990, which shall be know as the Quigg Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (referred to as the "Secretary") shall file the maps referred to in subsection (a) and legal descriptions of each wilderness area designated by subsection (a) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary of Agriculture may correct clerical and typographical errors in the maps and legal descriptions submitted pursuant to paragraph (1).

(3) Each map and legal description referred to in paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by subsection (a) shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in subsection (a), any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) ACQUISITION OF LANDS IN THE BLACK MOUNTAIN WILDERNESS.—The Secretary, under authority of other law, shall give special attention to the acquisition of lands within the Black Mountain Wilderness.

(e) WILDERNESS AREA PERIMETERS.—(1) Congress does not intend that the designation of a wilderness area in subsection (a) will lead to the creation of protective perimeters or buffer zones around the wilderness area.

(2) That nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(f) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in subsection (a) shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and section 108 of the Act entitled "An Act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(g) COLLECTION DEVICES.—(1) Within the wilderness areas designated in subsection (a), neither the Wilderness Act (16 U.S.C. 1131 et seq.) nor this Act shall be construed to prevent the installation and maintenance of hydrological, meteorological, or climatological collection devices and ancillary facilities subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available.

SEC. 4. CONSOLIDATION OF WILDERNESS AREAS.

(a) CONSOLIDATION.—In order to consolidate existing contiguous wilderness areas, the lands comprising the Great Bear Wilderness Area designated by the Act entitled "An Act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana", approved October 28, 1978 (92 Stat. 2062; Public Law 95-546) and the Scapegoat Wilderness Area designated by the Act entitled "An Act to designate the Scapegoat Wilderness, Helena, Lolo, and Lewis and Clark National Forests, in the State of Montana", approved August 20, 1972 (86 Stat. 578; Public Law 92-395) are incorporated in and deemed to be a part of the Bob Marshall Wilderness.

(b) REFERENCES TO WILDERNESS AREAS.—The designations of the Great Bear Wilderness Area and the Scapegoat Wilderness Area are abolished, and any reference to the Great Bear Wilderness Area or the Scapegoat Wilderness Area in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the part of the Bob Marshall Wilderness Area formerly so designated.

SEC. 5. WATER RIGHTS.

(a) FINDINGS.—The Congress finds that the waters within the wilderness areas designated by section 3(a) are headwaters, and

accordingly, that there is no effect on downstream appropriation of waters.

(b) RULES OF CONSTRUCTION.—Nothing in this Act—

(1) shall be construed to affect valid existing water rights as provided under Montana State law;

(2) is intended to affect the determination of expressed or implied reserved water rights as determined under other laws; or

(3) is intended to create any precedent or implication as to the manner in which the courts should treat the issue of water rights with respect to downstream wilderness areas, if any, that may be designated by a future Act of Congress.

SEC. 6. STATE FISH AND WILDLIFE AUTHORITY.

In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests in Montana.

SEC. 7. RELEASE TO NONWILDERNESS USE.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the Second Roadless Area Review and Evaluation Program (RARE II);

(2) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas through its Land and Resource Management Plan for the National Forests; and

(3) the Congress has made its own examination of the National Forest System roadless areas in the State of Montana and of the environmental impacts associated with alternative allocations of such areas.

(b) DIRECTION RESPECTING CERTAIN LANDS.—On the basis of such review, the Congress determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in States other than Montana, that statement shall not be subject to judicial review with respect to National Forest System lands in the State of Montana;

(2) with respect to the reviews of lands in the State of Montana that were conducted by the Department of Agriculture in wilderness studies pursuant to Public Law 94-557, in RARE II, and in the unit plans and the Forest Plan for the Beaverhead National Forest that were in effect prior to completion of RARE II, those reviews shall be deemed for the purposes of the initial land management plans required for those lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plan, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless prior to that time the Secretary finds that conditions in a unit have significantly changed;

(3) except for lands designated as wilderness in section 3(a) and lands described in section 8, the lands in the State of Montana referred to in paragraph (2) that have been subjected to study for designation as wilderness, and all parcels of land in the State of Montana of less than 5,000 acres (regardless whether they have been studied for designation as wilderness), shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), and those lands need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land and resource management plans;

(4) if revised land and resource management plans in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and other law, lands not recommended for wilderness designation and lands not described in section 8 need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of those plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 and other law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) DEFINITION.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), the term "revision" shall not include an amendment to a plan.

SEC. 8. LANDS NEITHER DESIGNATED AS WILDERNESS NOR RELEASED.

(a) MANAGEMENT.—(1) Subject to valid existing rights, the lands described in subsection (b) shall be managed by the Secretary to maintain and preserve their current natural roadless qualities and to assure that Congress has an unimpaired opportunity to consider their status in the future.

(2) Nothing in this section shall—

(A) have any effect on the law applicable to travel plans for national forests within the State of Montana; or

(B) preclude such management activities as the Secretary deems necessary in the event of fire or infestation of insects or disease.

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) comprise the following areas, as described in maps that the Secretary of Agriculture shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives:

Area name	National Forest	Net acres
Tobacco Roots	Beaverhead	17,700
West Big Hole	Beaverhead	86,000
Line Creek Plateau	Custer	20,680
Pryor Mountains	Custer	12,020
North Fork	Flathead	117,380
Crazy Mountains	Gallatin	96,100
McKay Creek	Kootenai	14,200
Galena	Kootenai	19,300
Cabinet Face East	Kootenai	55,600
Cabinet Face West	Kootenai	15,300
Chippewa Creek	Kootenai	1,700
Catarack Creek	Kootenai	17,900
Rodrick	Kootenai	22,900
Gold Hill	Kootenai	10,800
Grizzly Peak	Kootenai	6,000
Trout Creek	Kootenai	31,400
Buckhorn Ridge	Kootenai	22,600
Tenderfoot Deep Creek	Lewis & Clark	93,400
Choteau Mtn.—Volcano Reef	Lewis & Clark	19,840
Deep Creek	Lewis & Clark	41,900
Renshaw Mountain	Lewis & Clark	46,000
Silver King-Falls Creek	Lewis & Clark	77,440
Teton River High Peaks	Lewis & Clark	35,000
Cube Iron-Silcox	Lolo	36,000
Clearwater-Monture	Lolo	68,600
Sheep Mtn.	Lolo	30,400

SEC. 9. SPECIAL MANAGEMENT AREAS.

(a) DESIGNATION.—For the purposes of conserving and protecting the exceptional scenic fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations of special management areas are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, Montana, comprising approximately 3,900 acres, as generally depicted on a map entitled "Mount Helena Education and Recreation Area—Proposed", dated April 1990.

(2) The Ross Creek Cedars National Recreation Area located in the Kootenai National Forest, Montana, comprising approximately 700 acres, as generally depicted on a map entitled "Ross Creek Cedars Biological Area—Proposed", dated April 1990.

(3) The Cottonwood Lake National Recreation Area located in the Deerlodge National Forest, comprising approximately 8,300 acres, as generally depicted on a map entitled "Cottonwood Lake National Recreation Area—Proposed", dated April 1990.

(4) The Gibson Reservoir National Recreation Area located in the Lewis and Clark National Forest, Montana, and comprising approximately 24,100 acres, as generally depicted on a map entitled "Gibson Reservoir National Recreation Area—Proposed", dated April 1990.

(b) MAPS.—(1) The Secretary shall file the maps described in subsection (a) with the Committee on Energy and Natural Resources of the Senate, and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical errors in the maps described in subsection (a).

(3) Each map described in subsection (a) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—(1) Except as otherwise provided in this subsection, the Secretary shall administer the special management areas designated in subsection (a) as recreation areas in accordance with the laws applicable to the National Forest System.

(2) The Secretary may permit management activities in the areas designated in subsection (a) if such activities are compatible with the purposes for which the areas were designated.

(3) The use of motorized equipment in the special management areas designated in subsection (a) may be allowed if such activi-

ty is compatible with the purposes for which the areas are designated.

(4) The grazing of livestock in special management areas designated in subsection (a), where established prior to the date of enactment of this Act, shall be permitted to continue subject to applicable law.

(5) The Secretary shall manage the Mount Helena Recreation Area with a focus on education, and all management activities in that area shall be conducted in a way that provides the public with education on natural resources protection and management.

(6) The special management areas designated in subsection (a) shall be administered as components of the National Forests in which they are located. Land and resource management plans for the affected National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974, shall emphasize achievement of the purposes for which the areas are designated.

(7) Nothing in this section shall preclude such measures as the Secretary deems necessary in the event of fire or infestation of insects or disease.

(d) WITHDRAWAL.—Subject to valid existing rights, all federally owned lands within the special management areas designated in subsection (a) are withdrawn from all forms of entry, appropriation, and disposition under the geothermal and mineral leasing laws.

SEC. 10. ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA.

(a) DESIGNATION.—The area of the Helena and Deerlodge National Forests comprising approximately 175,700 acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated April 1990, is designated as a national recreation and wildlife area. and shall hereafter be managed generally as a national recreation area that emphasizes enhancement of big game habitat.

(b) MAPS.—(1) The Secretary shall file the map described in subsection (a) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and the map shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical errors in the map described in subsection (a).

(3) The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION.—(1) Subject to subsection (d), the Secretary shall administer the area so as to achieve the purposes of a national recreation and wildlife area that emphasizes enhancement of big game habitat. Where compatible with such emphasis, management also shall provide for recreational opportunities and the maintenance and enhancement of habitat for nongame species.

(2) The Secretary may permit management activities in the Elkhorns National Recreation and Wildlife Area if such activities are compatible with the purposes for which the Elkhorns National Recreation and Wildlife Area was designated.

(3) The Elkhorns National Recreation and Wildlife Area shall be administered as a component of the Helena and Deerlodge National Forests. Land and resource management plans for those National Forests prepared in accordance with the forest and Rangeland Renewable Resources Planning Act of 1974, shall emphasize achieving the purposes for which the area is designated.

(d) ELKHORNS-2.—(1) The lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless, except that motorized equipment may be used by the Secretary after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(2) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws.

(e) PREVENTIVE MEASURES.—Nothing in this section shall preclude such measures as the Secretary deems necessary in the event of fire, or infestation of insects or disease.

SEC. 11. BADGER TWO-MEDICINE AREA.

(a) WITHDRAWAL.—(1) Subject to valid existing rights, until Congress determines otherwise, all federally owned lands as depicted on a map entitled "Badger Two-Medicine Area", dated April 1990, comprising approximately 116,600 acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe in exercise of valid treaty rights within the Badger Two-Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger Two-Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease that is subject to the limitation imposed by subparagraph (A) shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) JOINT LAND MANAGEMENT PLAN.—(1) The Forest Service shall cooperate with the Blackfeet Tribe in the preparation of a joint land management plan for the Badger Two-Medicine Area.

(2) The land management plan described in paragraph (1) shall consider a range of management options, including—

(A) all of the uses required to be considered by the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.); and

(B) the protection and preservation of areas used by members of the Blackfeet Tribe for cultural or religious purposes.

(3) The Forest Service shall provide technical assistance to the Blackfeet Tribe in preparation of the land management plan.

(c) APPLICATION OF LAW.—(1) Development and review of the land management plan described in subsection (b) shall be subject to applicable existing law, including the National Forest Management Act of 1976 (90 Stat. 2949), and shall, after the opportunity for public comment and review, be incorporated into the Land and Resource Management Plan for the Lewis and Clark National Forest.

(2) An action taken pursuant to this subsection shall not be considered to be a significant amendment or revision of the Land and Resource Management Plan for the Lewis and Clark National Forest.

(d) COMPLETION OF PLAN.—It is the intent of Congress that the Forest Service and the Blackfeet Tribe shall complete the land management plan described in subsection (b) by no later than 3 years after the date of enactment of this Act. After opportunity for public review and comment, the plan shall be submitted to Congress. Congress shall consider the plan within 2 years after receipt and, if it deems necessary, enact legislation to implement the plan.

(e) TREATY RIGHTS.—Nothing in this section shall be construed to diminish, prejudice, add to, or otherwise affect the treaty rights of the Blackfeet Tribe in the Badger Two-Medicine Area or the rights of the United States.

SEC. 12. PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

(a) IN GENERAL.—The Secretary of Agriculture shall, notwithstanding any other law, exchange lands and interests in lands with Plum Creek Timber, L.P. (referred to in this section as the "company") in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title to approximately 8,130.67 acres of land of the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately 9,181.74 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals as required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal oil and gas lease numbers 49432, 32843 and 55325; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1)(B), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary of Agriculture shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary of Agriculture shall execute and deliver to the company easements over federally owned lands for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future roads as are needed to provide the

United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) REVOCATION OF ORDER OF WITHDRAWAL.—The order of withdrawal contained in Executive Order No. 30-Montana 7-Phosphate Reserve, dated October 9, 1917 (960 acres, more or less), insofar as it applies to the lands conveyed by the United States in the transactions authorized by this section, is revoked.

(e) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as the Secretary of Agriculture and the company may agree to. The Secretary of Agriculture shall notify the appropriate committees of Congress of any correction made pursuant to this subsection.

(f) TIMING OF TRANSACTION.—It is the sense of Congress that the conveyances authorized by this section should be completed within 90 days after the date of the enactment of the Act.

(g) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary of Agriculture.

SEC. 13. PLUM CREEK LAND EXCHANGE-GALLATIN AREA.

(a) IN GENERAL.—The Secretary of Agriculture shall, notwithstanding any other law, acquire, by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title to approximately 37,752.15 acres of land of the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately 12,414.06 acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 23290, 29230, 40389, 5367Q, 40215, 38678, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary of Agriculture shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary of Agriculture shall execute and deliver to the company to easements for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future rights-of-way as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as the Secretary of Agriculture and the company may agree to. The Secretary of Agriculture shall notify the appropriate Committees of Congress of any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the sense of Congress that the acquisition authorized pursuant to this section should be completed within 90 days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall be national forest lands administered by the Secretary of Agriculture.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

SEC. 14. SEVERED MINERALS EXCHANGE.

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Inc. (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within 2 years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary of Agriculture and the company, the Secretary of Agriculture may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary of Agriculture pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary of Agriculture and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To assure that the wilderness or other natural values of the areas are not affected, a formal appraisal shall not be required for any mineral interest proposed for exchange, but the Secretary of Agriculture and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary of Agriculture and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying Company lands, the Secretary of Agriculture and the Bureau of Land Management may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH BLM.—(1) The Secretary shall consult with the Bureau of Land Management in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under that Act.

SEC. 15. LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT.

(a) FINDING.—The Congress has sufficiently reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Number) and approximately 2,500 acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated March 1990, for wilderness designation and finds that those lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land

Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The Congress directs that the areas described in subsection (a) are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

SEC. 16. MISCELLANEOUS.

(a) SIGNIFICANCE OF ACTIONS.—Actions taken pursuant to this Act shall not be considered to constitute a significant amendment or revision of the land and resource management plans for national forests in the State of Montana.

(b) MINERAL SURVEYS.—The Congress directs the Secretary of the Interior and the Secretary of Agriculture to expeditiously complete mineral surveys for roadless lands within the State of Montana, as provided in the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2404. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Lady Rose Anne*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "LADY ROSE ANNE"

● Mr. MACK. Mr. President, I rise to introduce a bill authorizing issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Lady Rose Anne.*

Lady Rose Anne was built in Swansboro, NC in 1976 by Uniflite Inc. The owner, Mr. Pasquale Caprio, purchased the vessel in November 1989 with the hope of mounting a charter fishing and dive boat business. Mr. Caprio indicated the initial restriction was placed on the vessel due to the first owner being an illegal alien. All the subsequent owners have been U.S. citizens.

Senator GRAHAM and I have reviewed Mr. Caprio's request for a waiver and feel a waiver should be granted for the *Lady Rose Anne.*●

By Mr. GARN (for himself and Mr. HATCH):

S. 2405. A bill to direct the Secretary of the Army to convey to the University of Utah a portion of the property constituting Fort Douglas, UT; to the Committee on Armed Services.

FORT DOUGLAS LAND TRANSFER

● Mr. GARN. Mr. President, I rise today on behalf of myself and Senator HATCH to introduce legislation which would transfer a portion of the property constituting Fort Douglas to the University of Utah. This legislation came as a result of the Defense Secretary's Commission on Base Realignment and Closure December 1988 recommendation to close Fort Douglas with the exception of the Reserve component functions, which will be retained within the fort.

I supported the establishment and recommendations of the Base Closure Commission as a means of addressing the controversial issue of base closures. The Department of Defense has tried to realign bases for economy and close other bases which have marginal value. However, because of political opposition it became impossible to actually move ahead with base closures. In order to remove this parochial element from the process, Congress agreed to allow an independent commission to study the base closure proposals and determine which bases could be closed to save money and not compromise legitimate military base functions. No single bases have been set aside for special consideration to remain open. I believe that the Congress has acted responsibly in this endeavor.

The Commission acknowledged that Fort Douglas is positioned in the center of the University of Utah campus which severely restricts the fort's operational flexibility. In fact, the University of Utah already manages and operates approximately 75 percent of the original Fort Douglas military reservation. Hence, the University of Utah is the logical recipient of the surplus Army land. In the search for the best use of the land, the Utah delegation unanimously agrees that the University of Utah constitutes the most appropriate use of the land.

Consistent with the Base Closure Commission, this bill retains the Reserve Component activity on a portion of Fort Douglas. This proposal is also consistent with the specific recommendations made by the Army reserves for the continued use of part of the facility. These recommendations are currently being reviewed by the Secretary of the Army. I am firmly committed to preserving the military reserve portions at Fort Douglas. This bill attempts to strike a balance between the Reserve Component requirements and the University of Utah's use of the surplus land. Because this bill does not attempt to draw any specific boundaries, the decision about which portions to declare excess will be determined solely by the Secretary of the Army.

The legislation represents more than a year of negotiations with State and local officials, the local residents and with the affected Federal agencies. Unlike with many of the other bases slated for closure across the country, there is unanimity of purpose with those that are interested in Fort Douglas. Namely, that the University of Utah be provided the property.

Fort Douglas is unusual in that 45 acres of the installation have been designated as a national landmark. The base chapel, the museum, the parade grounds, and several other facilities are listed on the National Register of Historic Places and are provided protection under Federal law. This legislation requires that if these properties are surplus they will be maintained consistent with historical preservation requirements.

Fort Douglas and the University of Utah have been cooperative neighbors for decades. I believe that this land exchange legislation is crafted in such a manner that this healthy relationship between the two institutions will continue in the future.

Mr. President, I ask that a copy of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF FORT DOUGLAS, UTAH, TO THE UNIVERSITY OF UTAH.

(a) CONVEYANCE.—(1) Except as provided in paragraphs (2), (3), and (4), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the property conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the property conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

(4) In connection with the property retained for Army Reserve activities and the property constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the property conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the property retained.

(b) CONSIDERATION.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this Act and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the

Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) CONDITION.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agree to maintain and operate, as provided in paragraph (2), the Army museum located on the property conveyed to the University of Utah pursuant to this Act; and

(B) the University of Utah agree—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the property referred to in clause (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the property referred to in clause (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior.

(d) REVERSIONARY RIGHT.—If the University of Utah uses the property conveyed pursuant to subsection (a) for any purpose other than educational or research purposes, all right, title, and interest in and to such property shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DEADLINE FOR CONVEYANCE.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this Act.

(f) JOINT USE OF UTILITY SYSTEMS.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the secretary considers necessary to protect the interest of the United States.

(h) ADDITIONAL EXCESS PROPERTY.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).●

Mr. HATCH. Mr. President, I am privileged to cosponsor this bill with my Utah colleague, Senator GARN, and to commend his leadership in its development.

This bill acknowledges what I believe to have been the best way to resolve this explosive issue of transferring land from our community of military reservists and satisfying the demands of the Department of Defense by proposing a conflict resolution that works.

More than 1 year of intense, sometimes conflicting discussions went into the fashioning of this bill. From the outset, I took the position that I would refrain from expressing an opinion until the Salt Lake community had submitted its recommendations for a land use plan. I am convinced that this process has worked well and that all interests have been well represented.

I must say that, at the outset, I joined only six Senators in opposing the creation of the Base Realignment and Closure Commission. I felt that the military threat to our national interests was too unclear, that there was great uncertainty as to how the Reserve components would be restructured in the event of overseas troop withdrawals, and that there were more immediate and certainly more promising sources of defense budget savings that could be found. Nor was I particularly pleased about the proposal to politicize the Base Commission staff, which I believe was avoided in the final analysis. I also believed, at one point, that I could further develop Fort Douglas by bringing to it the Army's Troop Support Command in St Louis. "TROSCOM," as it is referred to, was on a strip of land far too small for its 5,000 employees. And, most of TROSCOM's maintenance and equipment servicing work was done at Tooele Army Depot. With a $200 million annual procurement budget as well, TROSCOM was a natural tenant for Fort Douglas. The Army and the Base Commission rejected my request on the grounds that TROSCOM's space was sufficient. I note with some regret, Mr. President, that the Army has now decided to break up TROSCOM and scatter its functions to its other commodity commands.

On the positive side, I am very pleased with the outcome. The University of Utah is the best custodian for this valuable conveyance. And I welcome the generous offer of the State of Utah to maintain the Army Museum. Let me add parenthetically that this museum is a treasure trove of information on the so-called Buffalo Soldiers, black Army units that were posted there 92 years ago. The history of their rich association with the Utah community is something of deep pride to me.

I also hope that as we see the prospects for overseas U.S. force reduction grow daily, that the 96th Army Reserve Command will prosper. Salt Lake City is one of a very few cities in the Nation to host what is becoming a major mobilization activity. Fort Douglas will continue to host a full general hospital, the largest type of medical unit in the Defense Department. The interchange between the University of Utah Medical Center and the 96th ARCOM is something I sought to preserve at all costs.

Mr. President, I believe that we can now move forward and develop Fort Douglas in a way that will meet the future needs of our community and our Nation.

By Mr. CRANSTON (by request):

S. 2406. A bill to amend title 26, United States Code, to require the Secretary of the Treasury to disclose certain information from the files of the Internal Revenue Service to the Secretary of Veterans Affairs for the purpose of verifying entitlement to, and determining the correct amount of, title 38, United States Code, pension benefits; to the Committee on Finance.

DISCLOSURE OF CERTAIN INFORMATION TO THE DEPARTMENT OF VETERANS AFFAIRS

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2406, a bill to provide the Department of Veterans Affairs with access to certain third-party and self-employment tax data for purposes of verifying incomes of VA pension applicants and recipients. The Secretary of Veterans Affairs submitted this legislation by letter dated March 15, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 15, 1990, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE AUTHORITY.

Section 6103(1) of the Internal Revenue Code of 1986 (26 U.S.C. § 6103(1)) is amended by adding at the end thereof the following new paragraph:

"(12) Disclosure of certain limited return information to the Department of Veterans Affairs.—

(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—Upon written request, the Secretary shall furnish to the Secretary of Veterans Affairs return information with respect to the name and social security account number (or numbers, if the individual involved has more than one such number) of a taxpayer, and the nature, source, and

amount of a taxpayer's earned and unearned income from the Internal Revenue Service files.

(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for the purpose of, and to the extent necessary in, verifying entitlement to, and determining the correct amount of benefits under title 38, United States Code, chapter 15, survivors' and disability pension claims, including programs protected under the savings provisions of Section 306, Public Law No. 95-588.

SECTION 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 6103(p)(3)(A) of title 26, United States Code, is amended by striking "(1)(1), (4)(B), (5), (7), (8), (9), (10), or (11)," and inserting in lieu thereof "(1)(1), (4)(B), (5), (7), (8), (9), (10), (11), or (12),".

(b) Section 6103(p)(4) of title 26, United States Code, is amended by striking "(1)(1), (2), (3), (5), (10), or (11)" and inserting in lieu thereof "(1)(1), (2), (3), (5), (10), (11), or (12)".

(c) Section 6103(p)(4)(ii) of title 26, United States Code, is amended by striking "(1)(1), (2), (3), (5), (10), or (11)" and inserting in lieu thereof "(1)(1), (2), (3), (5), (10), (11), or (12)".

The Secretary of Veterans Affairs,
Washington, March 15, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: The enclosed bill and section-by-section analysis are presented for your consideration as a proposal responding in part to the general error detection program recommendations offered by the President's Private Sector Survey on Cost Control (commonly referred to as the "Grace Commission") for the Department of Veterans Affairs (VA). Essentially, this proposed legislation would allow VA access to tax return information maintained by the Internal Revenue Service (IRS) so that a more accurate evaluation of eligibility for, or the correct amount of, income based VA pension benefits could be made with an anticipated result of significant cost savings for the VA (i.e., $61 million in Fiscal Year 1991 as proposed in the President's budget).

Recognizing the IRS's legitimate concern over privacy and voluntary taxpayer compliance interests, the scope of the proposed bill is narrowly designed to allow VA access to IRS tax return information (i.e., income data from third party returns similar to that now disclosed under 26 U.S.C. 6103(l)(7) for Deficit Reduction Act of 1984 (DEFRA) programs) for making determinations in only the VA pension program (i.e., rather than all current or future VA benefits programs with an income or employment status reporting requirement). Moreover, survivors' and disability pension under Chapter 15, title 38, United States Code, is the primary VA benefits program with such a reporting requirement for eligibility, at least in terms of number of persons reporting. We currently have in excess of 1.3 million pension claimants, including veterans and their surviving spouses and children. Accordingly, this is the program which has received the most detailed and extensive consideration of the value of the availability of the IRS information to the VA.

Currently, the VA provides an income-based or "means test" pension benefit to veterans permanently and totally disabled (38 U.S.C. 521), their surviving spouses (38 U.S.C. 541), or their surviving children (38 U.S.C. 542). Additional limited pension benefit authority is also granted by Section 306 of Pub. L. No. 95-588 and Section 9 of Pub. L. No. 86-211. On an annual basis, the Department reviews the continued eligibility of persons receiving pension benefits. This review determines whether the annual amount of that benefit, which under current law is reduced $1 for $1 based on income, should be adjusted according to changes in an individual's income. Those individuals receiving pension benefits are required to submit an annual income report listing all sources and amounts of income. As indicated by the Grace Commission Report, "The pension area, in particular, could contain many errors caused by incomplete reporting, misinterpretation of the AIQ forms, or fraud" (Commission Report, "Report on the Veterans Administration," 1983, at p. 26). Thus, the Commission suggested in Recommendation No. VA 2-2 (p. 27 of the report) that the VA pursue all possible computer matching opportunities.

The Department has already established regular computer matching of income data with other Federal entities such as the Social Security Adminsitration (SSA) and the Office of Personnel Management. (Parenthetically, we note that the VA is not currently obtaining any data from the SSA which is subject to 26 U.S.C. § 6103. The data exchange which we have been pursuing for years with the SSA is limited to exchange of VA and SSA benefit payment information.) These matches and various audits by the VA Inspector General (IG) have tended to confirm the suspicions of the Grace Commission. However, not all possibilities for verifying pension income reports have been legally available for exploration. The VA, without access to IRS taxpayer records and IRS information return records, remains unable to monitor effectively and to verify income from third party sources, such as wages, interest, or retirement benefits. With access to IRS information, the VA would be in a better position to detect fraud and control possible issuance of incorrect payments.

We have sought state information in this regard; however, while all states currently are required to have centralized wage reporting systems, several states have statutory provisions preventing the disclosure of state wage information for computer matching administrative activities. Also, states' records are variable in content, posing administrative problems in pursuing multiple matches, and usually reflect "running quarters" which do not necessarily provide a true annual picture of income. Nevertheless, even assuming all states would agree to participate, the VA would still have no system for verifying other income from private sector sources. These sources, moreover, are not required to comply with VA requests for information. Indeed, the VA is generally barred from seeking and financial institutions are generally barred from releasing information about account holders' records under the Right to Financial Privacy Act of 1978, Title XI of Pub. L. No. 95-630, as amended (12 U.S.C. §§ 3401-3422).

There is only one easily accessible, consolidated, and reliable source of information for almost all types of income, namely IRS records. We need access to the information returns filed by employers and financial institutions, etc., to verify income and to detect instances of unreported or underreported income.

This was validated in a recent GAO report entitled "VETERANS PENSIONS: Using Tax Data to Vertify Income Can Identify Significant Potential Erroneous Payments," which was completed in March 1988. That report concluded that Congress should consider amending the Internal Revenue Code of 1986 (26 U.S.C. § 6103(1)(7)) to grant VA access (i.e., for purposes of verifying income reported by pension beneficiaries and applicants) to the same earned and unearned income information that section 2651(k)(1) of the DEFRA, Pub. L. No. 98-369, already authorizes 55 Federal, state and local agencies who administer seven specified income-based or affected benefits programs (e.g., aid to families with dependent children, medicaid, supplemental security income, unemployment compensation, and food stamps) to receive for use in "determining eligibility for or the correct amount of benefits."

That conclusion came from analyzing the detailed, quantitative results derived from computer matching of a representative sample of VA pension records with IRS return information. The cost effectiveness of such matching was amply supported by the data which revealed that with access to tax data the VA would have been able to identify $157.2 million in potential overpayments to 134,200 pension beneficiaries in 1984. The GAO estimated that the cost effectiveness of using tax data to verify income reported by pension beneficiaries to the VA (i.e., in the annual self-reporting questionnaire form the Department solicits from those beneficiaries) was at a favorable ratio of 11:1.

In addition to the cost benefits, the GAO concluded that the Treasury Department's policy that alternate sources of income information must be exhausted prior to seeking IRS data was neither practicable nor efficient in this instance. For example, the GAO observed that if the VA were to redesign the annual questionnaire, this would not be a substitute for independently verifying income using third-party reported tax data. Neither would requiring pension beneficiaries to annually submit to the VA copies of IRS Form 1040 be acceptable because: (1) not all pension beneficiaries meet the minimum income necessary for filing a return; (2) the 1040 Form would not provide independent verification of the accuracy of the income reported; and (3) VA access would be more intrusive of personal privacy in that details extraneous to the needs of the pension program would be unnecessarily disclosed. Further, the GAO acknowledged that resorting to quarterly wage information from the individual 50 states was impractical, even if all state agencies cooperated and data accuracy was ensured, because, for example, state wage data excludes earned income for the following categories of individuals: Federal military and civilian personnel, railroad workers, and the self-employed. Moreover, interest or dividend information (i.e., other than from the IRS Form 1099 file) cannot be sought by or disclosed to the VA by financial institutions due to the Right to Financial Privacy Act, and it would be an administratively very difficult task for the VA to obtain this information from every corporation or business.

In light of the foregoing, we believe that justification exists for expanding IRS authority to disclose tax return information to the VA for purposes of determining eligibility and payment amounts for pension benefits. State and local agencies currently access IRS information for use in verifying eligibility and correct payment amounts for certain Federally funded benefits programs. The VA should be afforded similar access to IRS return information in order to make

such determinations in its major income-based program, disability and survivors' pension.

Savings would be realized primarily through the prevention of future overpayments (i.e., cost avoidance). Additional savings will be realized by collecting receivables that will be created from past overpayments on accounts where reduction, rather than termination, occurs. In these types of cases, the overpayment is simply offset against a claimant's future monthly benefits. Other traditional means of collection would be used in cases where benefits are terminated.

The VA pension benefits program has a Fiscal Year 1991 Budget request of approximately $3.8 billion. In addition, we estimate savings of $61 million in Fiscal Year 1991 from this proposal and strongly believe the potential exists for realizing significant cost savings for the VA pension program over the next 5 years. Indeed, as noted above, the GAO with access to IRS tax data identified $157.2 million in potential overpayments to 134,200 pension beneficiaries in 1984. Moreover, shortly following that GAO finding, the Congressional Budget Office (CBO) projected a $698 million net savings over a 5 year period while commenting on several bills similar in purpose to our proposed bill which were introduced in the second session of the 100th Congress (i.e., S. 2611, section 309 of H.R. 5114 and section 703 of S. 2011), but which included three other VA means-tested programs. Comparable CBO estimates were projected on virtually identical bills introduced later in the first session of the 101st Congress (i.e., S. 1633, section 704 of S. 13, section 5701 of S. 1750 and section 11650 of H.R. 3299).

Additional evidence of substantial savings can be found in the results of early VA computer matching projects using wage information. The first two completed projects were: (1) Selected Federal employment and retirement records with VA pension records, and (2) State of Georgia wage files with VA pension records. The first project was a limited Federal matching experience involving selected Federal records (including Office of Personnel Management employment and retirement files and Department of Defense active service and retirement files). This project alone uncovered an overpayment amount of $7.5 million which, in some cases, included years of overpayments.

The second project was an IG audit in Georgia involving an automated match of the VA's compensation and pension payment system with Georgia's Bureau of Employment Security's wage file. About 1,600 cases were sent to the VA Regional Office in Atlanta for adjudicative review after earnings and employment status were confirmed with employers. During the review, the Regional Office verified 989 erroneous payments. These cases involved $5,922,019 in overpayments with an average value of $5,987. In many cases, the overpayments included amounts developed over a period of several years. The review also documented annual cost avoidance by the prevention of future payments in 471 cases. The total annual cost avoidance was $1,042,225, averaging $2,212.

Our experience with computer matches of state wage and VA pension benefits information has now expanded to states other than Georgia (i.e., Florida, Missouri, New York, Texas, Virginia, Maryland, Connecticut, Pennsylvania, Tennessee and Washington State), and has reinforced our belief that significant cost savings can be accomplished both from recoupment of overpayments and from cost avoidance. As a result of the computer matches of wage information from the states (including Georgia) listed above, 17,952 cases were sent to VA regional offices for adjudicative review after earnings and employment status were confirmed with employers. With that process having been nearly completed (i.e., 16,142 cases as of January 18, 1989), the VA regional offices in the above states verified 7,940 erroneous payments totaling over $48 million in overpayments. Also documented were 2,918 cases in which cost avoidance through prevention of future overpayments would result in an annual savings of approximately $6.8 million. (Note: Of the total overpayments, over $43 million (or 71.3 percent), involving 5,666 cases was determined to have been received fraudulently.)

An aggressive approach to verifications, aided by IRS information, would prevent many overpayments and result in cost avoidance savings. This effect would directly result from claimants' knowledge of the Department's improved verification ability and from claimants' corresponding efforts to report correctly the income information on which their claims are initially or subsequently reviewed. The present misreporting should be reduced to the fullest extent possible. We believe that access to IRS information for verification and for continuous monitoring will go a long way to achieving this end. We recognize that, as claimant reporting improves, the incidence of overpayments and cost avoidance will diminish. A greater proportion of future cost avoidance and savings will be achieved through this deterrent effect on claimant reporting.

Projecting from our experience with computer matches of earned income we expect to find similar results from unearned income matches. However, because of the current bar to disclosure of IRS information to the VA and the unavailability of any other efficient verification source, no refinement of the earlier cited cost savings is possible.

Recognizing the need for additional personnel and resources to effectively administer a VA-IRS computer match, VA is planning to request an additional 100 full-time equivalent employees at a cost of $3.7 million for FY 1991. This request is, however, contingent upon the passage of this legislation granting VA authority to access IRS information.

The relatively low cost of matching IRS return information with VA files is especially significant when considering the alternatives. If no verification occurs, misreporting may well intensify or, at least, remain at the current level. Verifications from alternative sources are administratively very difficult because of a variety of legal barriers (such as the bar against financial institutions releasing information about account holders' records) or cost prohibitive, or at least much more costly than automated matching with a single source, i.e., the IRS records.

More importantly, we do not believe it is sound public policy, regardless of the amounts involved, to allow recipients of need or income-based programs to continue to misrepresent their income to a Federal agency while at the same time the Federal government voluntarily blinds itself, but not states, to available information. Although records and information submitted to the Government for tax purposes should, in our opinion, be confidential, we do believe that such confidentiality should not be absolute. Under certain circumstances, confidentiality considerations should and do yield to other significant concerns, such as the maintenance of the integrity of Government benefit payment programs.

Extending IRS disclosure authority as contemplated under the bill would not unwarrantedly invade the privacy of those taxpayers who participate in the VA pension program. Under this bill, the beneficiary taxpayer would be treated no differently than those 80 million taxpayers participating in the DEFRA programs referred to above. Moreover, this group of taxpayers may already include many of our pensioners who are also beneficiaries under these other programs which already participate in matches with IRS records. Finally, the VA would use IRS information in almost all cases only as a starting lead for purposes of directing the Department to other primary sources for independently verifying or corroborating income information. IRS information will be destroyed as soon as it is no longer needed.

In any event, with respect to confidentiality of the information to be received from the IRS, it should be noted that the VA is committed to treating claims information and sensitive medical records with confidentiality. Twenty-eight million veterans and dependents who have claims or are eligible for VA benefits have records covered by existing Federal privacy laws (e.g., 38 U.S.C. §§ 3301, 3305, 4132; the Privacy Act of 1974, 5 U.S.C. § 552a). Under these laws, the VA is accustomed to routinely providing extensive protections for sensitive data in veterans' medical records, claims folders, and other types of program records. The VA can and will provide appropriate confidentiality for all IRS data.

An issue related to intrusion of taxpayer privacy is the Treasury Department's concern that an invasion of privacy for nontax purposes may tend to erode voluntary taxpayer compliance with the income tax laws. We believe that concern is largely diminished under our bill which provides only limited access to IRS tax data. The scope of the bill permits VA access to only the Social Security Number, name and the nature (i.e., earned or unearned), source and amount of income of a taxpayer.

This information is, in many cases, obtainable from third-party returns (similar to that now disclosed under 26 U.S.C. § 6103(l)(7) for DEFRA programs) rather than directly from individual taxpayer's returns. This is noteworthy in that those entities which submit income information to the IRS (e.g., employers reporting employee earned income on a W-2 Form and financial institutions reporting interest and dividend information on Form 1099) will continue to report taxpayer income information regardless of privacy instrusion because they are required by law to comply with IRS reporting requirements.

As to the "due process" provisions of the bill, we note that these are compatible with existing VA adjudication procedures: (1) a predetermination notice explaining the proposed action and informing an individual of his or her rights; (2) an opportunity for a personal hearing, submission of rebutting evidence, and representation by a veterans' service organization, agent or lawyer; (3) at least one 60-day period and successive 60-day periods for further development and review of the case depending upon the extent of an individual's desire to pursue his or her rights; and (4) notice of a final decision and available appellate rights (if an overpayment is created, additional information is provided concerning debt collection

processing). Even after the VA has begun implementing its final decision, evidence submitted by an individual warranting a reversal of that determination will be carefully reviewed according to the above procedures and appropriate action taken, including in some cases, allowed restoration of benefits pending completion of development and final decisionmaking. Thus, any potential adverse action taken against a VA claimant or beneficiary as a result of receipt of IRS information would be accomplished only after independent verification and extensive "due process" procedures.

In closing, we add one final point. It is apparent from the foregoing that this proposal has been considered from a number of vantage points. Real savings from collection of identified overpayments and future costs avoidance cannot be doubted. Further, we believe our proposal adequately safeguards the privacy of Federal beneficiaries involved in the proposed disclosure. There could also be a concern that disclosure might reduce individual taxpayer compliance with the Federal tax laws, resulting in a significant loss of tax revenue. Where, as in this case, however, the tax related information is derived not from individual taxpayers but from third parties (i.e., businesses, banks, corporations and other institutions), it is difficult to identify how such taxpayer noncompliance could arise.

Thank you for the opportunity to present this timely legislative proposal for your consideration.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

This proposal would amend the Internal Revenue Code of 1986 by adding a new paragraph to subsection 6103(1) of title 26, United States Code, which concerns disclosure of returns and return information for purposes other than tax administration. The bill would require the IRS to release taxpayer wage and unearned income information upon the written request of the Secretary of Veterans Affairs for use in determining eligibility for, or the correct amount of, VA pension benefits, which are based upon income.

The VA requires only a limited portion of the wide ranging information included in the definition "return information" of 26 U.S.C. § 6103(b)(2). The scope of our draft bill (i.e., as delineated in section 1 of the bill) is narrowed to permit VA access to only the Social Security Number, name and the nature (i.e., earned or unearned), source and amount of income of a taxpayer. This information is, in many cases, obtainable from third party returns (similar to that now disclosed under 26 U.S.C. § 6103(1)(7) for Deficit Reduction Act of 1984 (DEFRA) programs). The process will not, in most cases, require access to the return filed by the taxpayer including address and personal exemption information. Moreover, the obtained information would be restricted in use for only the purpose of conducting periodic computer matches by Social Security Number and name to achieve income verification of all disability and death pension claims.

The Secretary already has authority under 38 U.S.C. § 3006 to request and be provided information from other Federal agencies "for purposes of determining eligibility for or amounts of benefits, or verifying other information with respect thereto." However, this bill would remove the restrictions placed upon the IRS by the Tax Reform Act of 1976 (Pub. L. No. 94-455) regarding nontax use of IRS tax files—at least for this limited VA purpose.

In effect, enactment of section 1 of the bill would place the VA in a similar situation to other Federal agencies and even state and local agencies who administer specified benefits programs (AFDC, Medicaid, SSI, food stamps, etc.) which now have access to certain IRS income information under 26 U.S.C. § 6103(1)(7) for purposes of administering those income-based benefits programs. In contrast to these programs, however, the VA would be authorized to received not only "unearned" income information from the IRS but wage information as well. Access to limited return information by other agencies was, as with the VA, initiated by a recommendation of the "Grace Commission." Such access would assist the VA in administrating its programs and in controlling fraud, waste and abuse.

Detailed procedures for accomplishing this matching of VA and IRS income information would be contained in a memorandum of understanding between the VA and IRS once this access authority exists. Since the VA would access return information only through computer matching techniques, any potential IRS concern over disruption of its administrative activities should be lessened.

In addition, the VA will afford each claimant procedural due process before taking any action to suspend, reduce, terminate or deny any benefit based upon income. Nothing in this proposed legislation would eliminate or reduce the entitlement of any qualified VA beneficiary. It would merely allow the VA to use an effective instrument, previously provided to other Government agencies, to ensure that the furnishing of pension-based benefits is in accordance with statutory requirements.

In this regard, the VA will apply the formal mechanism outlined in the DEFRA guidelines adopted by Congress when it enacted the present means-test disclosure authority of 26 U.S.C. § 6103(1)(7). (See, H. Rep. 861, 98th Cong., 2d Sess., at pp. 1410-1412). Moreover, under the VA's already existing procedures, the claimant would be allowed an opportunity to present evidence to rebut or clarify the information received from the IRS. this rebuttal/clarification process requires complete reconsideration of the pending decision by the VA. Each claimant will have the usual right to a personal hearing before a decision becomes final.

The VA would ensure confidentiality of all information which it obtains from the IRS. In implementing a matching program with the IRS, the VA will adhere to existing guidelines under the Computer Matching and Privacy Act of 1988 (Pub. L. No. 100-503) for such programs. The Department also will modify benefit applications and income report forms to notify claimants and affected beneficiaries that the income information reported is subject to verification through IRS record checks.

Section 2 of the bill would conform the VA to the safeguards on the use of IRS return information provided for similar disclosures to other agencies imposed by 26 U.S.C. § 6103(p)(4). It would also relieve the IRS of the burden of making a Privacy Act (i.e., 5 U.S.C. § 552a(c)) accounting of routine disclosures made to the VA.

By Mr. GLENN:

S. 2408. A bill to establish a system for labeling of plastic resin products, and to promote recycling of plastics and use of degrable plastics; to the Committee on Environment and Public Works.

RECYCLABLE AND DEGRADABLE PLASTICS LABELING ACT

● Mr. GLENN. Mr. President, it is with great pleasure that I come before the Senate today to introduce the Recyclable and Degradable Plastics Labeling Act of 1990. This legislation can play a role in our effort to reduce the amount of plastic waste that is accumulating in our landfills.

The accumulation of solid waste in our municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. Plastic is now estimated to account for 7 percent of the 150 million tons of solid waste produced in this country each year. By the year 2000 this figure is expected to rise to 10 percent. The solution to the solid waste problem will be multifaceted. Science is providing us with agricultural commodity based plastic products which will degrade in months or years rather than centuries. Recycling of plastics, which is in its infancy, also offers great promise. Both recycling of plastics and use of degradable plastics will play a role in easing the burden of solid waste disposal.

Mr. President, this legislation addresses the need to be able to identify the type of resin used in plastic containers in order to promote recycling and use of degradable plastics. Currently only two types of plastic resins are readily recyclable. These are the resins used in milk jugs and soda bottles that can be recognized by the containers themselves. Other resins that are recycled are generally processed together into a junk plastic with limited applications. A labeling system would make it possible to recycle more plastic resins into more products.

My interest in solutions to the solid waste problem is not new. In 1988 I chaired a hearing of the Committee on Governmental Affairs focusing on the extent of Federal and private sector efforts in developing standards for degradable plastics. Last year I introduced S. 1237, the Degradable Commodity Plastics Procurement and Standards Act. This bill focused on the development of uniform definitions, standards, and research methods for degradable plastic products. The bill I am introducing today builds on S. 1237. It provides the consumer and the recycler with the information that is needed to dispose of this plastic waste in the most environmentally sound manner. This is true not only for degradables, but also other plastics that can be recycled.

Mr. President, this bill is basic and straightforward. It will require that most plastic containers manufactured or sold in the United States be labeled as to resin type. A triangular symbol will be molded or printed on the container and will identify the plastic type by number as well as by an abbreviation. The required labeling system expands on one that has already been accepted by a number of States and includes degradable plastics. The bill establishes penalties for noncompliance and charges the Environmental Protection Agency with rulemaking and enforcement.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) reduction of solid waste through recycling and use of biodegradable plastics can have a positive impact on the problem of solid waste accumulation in municipal landfills, and can conserve resources and save money;

(2) there are presently no national standards for labeling plastic products to distinguish resin type, or whether the product is biodegradable;

(3) the existence of national standards and requirements for labeling resin type and biodegradability will promote recycling and encourage use of biodegradable products; and

(4) the Federal Government should assist in promotion of recycling and use of degradable plastic products.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) PLASTIC CONTAINER.—The term "Plastic Container" means a vessel with a capacity of 8 fluid ounces or more, made of plastic designed to hold some commodity, including, but not limited to, plastic bottles and plastic garbage and leaf bags.

(2) DEGRADABLE.—The term "degradable" means the ability of a material to be reduced, by exposure to microorganisms, light or chemicals, to environmentally benign subunits within the shortest period of time consistent with the material's intended use, but in no event greater than a 5-year period.

(3) PLASTIC.—The term "plastic(s)" means a material that contains as an essential ingredient one or more organic polymeric substances of large molecular weight, and at some stage in the manufacture or processing into finished articles can be shaped by flow.

SEC. 3. LABELING.

(a) IDENTIFICATION OF PLASTIC RESIN.—Within the 12-month period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to require manufacturers of plastic containers, manufactured or offered for sale in the United States to take such action as may be necessary to assure that such containers are labeled to identify the plastic resin used in its manufacture in accordance with this Act.

(b) SYMBOL.—The label required under subsection (a) shall consist of a triangular-shaped symbol comprised of three equal-length arrows, such arrows being curved at the apexes of the triangular-shaped symbol with the heads of the arrows pointing in a clockwise direction. A specific number within the symbol and a series of letters immediately below the base of the symbol will identify the specific type of plastic resin from which the container was produced, as follows:

(1) The number "1" and the letters "PETE" for polyethelene terephthalate.

(2) The number "2" and the letters "HDPE" for high density polyethylene.

(3) The number "3" and the letter "V" for vinyl.

(4) The number "4" and the letters "LDPE" for low density polyethylene.

(5) The number "5" and the letters "PP" for polypropylene.

(6) The number "6" and the letters "PS" for polystyrene.

(7) The number "7" and the word "OTHER" for other resins or multiple resins.

(8) The number "8" and the word "DEGRADABLE" for degradable resins.

(c) LABELING UNIFORMITY.—No State or political subdivision thereof may enforce any requirement of State or local law applicable to the labeling of any plastic container required by this Act, including any penalties for violations thereof, unless such requirement is equally as stringent as the provisions of this Act. No State or political subdivision thereof may enforce any ban under State or local law on manufacture, sale, distribution, or use of any plastic container if such container displays a label in conformance with the requirements of this Act.

SEC. 4. PENALTY.

(a) CIVIL PENALTY.—Any person or entity which violates this Act shall be subject to a civil penalty assessed by the Administrator of the Environmental Protection Agency of not more than $5,000 for each offense.

(b) CIVIL PENALTY.—Any person or entity which knowingly violates this Act shall be guilty of a misdemeanor and upon conviction shall be fined under title 18, United States Code, imprisoned for not more than one year, or both, for each offense.

SEC. 5. MONITORING.

The Administrator of the Environmental Protection Agency shall, by regulation, establish and implement a system for monitoring compliance and enforcement of the provisions of this Act.

SEC. 6. REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of the Environmental Protection Agency shall prepare and submit, to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, a progress report that contains the following information:

(1) information as to the extent of enforcement of compliance with the provisions of this Act;

(2) information as to the problems, if any, incurred in the administration of the provisions of this Act;

(3) statistics on the number and type of violations detected and prosecuted by the Federal Government and by the States; and

(4) a summary of personnel and financial resources required to implement this Act.

SEC. 7. AUTHORIZATION.

There is authorized to be appropriated such sum as may be necessary to carry out this Act.●

By Mr. FOWLER (for himself, Mr. DOLE, Mr. PRYOR, Mr. BOND, Mr. COCHRAN, Mr. BOREN, Mr. CONRAD, Mr. BAUCUS, Mr. KERREY, Mr. HEFLIN, Mr. HELMS, Mr. MCCONNELL, and Mr. DASCHLE):

S. 2409. A bill to develop and promote environmentally sound agricultural practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CONSERVATION PROMOTION ACT

Mr. FOWLER. Mr. President, I rise today to introduce the Conservation Promotion Act of 1990, to ensure the responsible stewardship and sustained productivity of America's farmlands. I am pleased to join with original cosponsors Senators DOLE, PRYOR, BOND, COCHRAN, BOREN, CONRAD, BAUCUS, KERREY, HEFLIN, HELMS, MCCONNELL, and DASCHLE.

As we approach the 1990 farm bill, issues of environmental protection and food safety are receiving an unprecedented emphasis—and rightly so. I think it is important to point out that this is not occuring strictly at the behest of consumers and environmentalists. Farmers are also leading the drive for improved conservation and stewardship.

Every hearing I have held as chairman of the Forestry and Conservation Subcommittee, every poll of farmers conducted around the country bears out my belief that our farmers are committed to the sustainability of agriculture, the elimination of health risks, and the safeguarding of our natural resources.

Fortunately, we laid a strong foundation for further improvements in the conservation provisions of the 1985 farm bill. Those programs, such as the conservation reserve, have been extremely successful. We have received excellent cooperation throughout the agricultural community, and it is very clear that farmers are willing to do more, that they support the strengthening of these programs, and they are interested in even more far-ranging reforms of agricultural practices. In fact, farmers are already ahead of our legislative efforts.

Pesticide applications leveled off toward the end of the 1980's, and a recent poll of Iowa farmers showed that 93 percent would like to further reduce their use of agricultural chemicals. The majority of respondents were motivated by health and stewardship concerns, as well as the prospect of reducing production costs.

Another phenomenon that demands our attention is the unprecedented experimentation by our farmers with integrated pest management, pest man-

agement practices, low-input and even organic farming going on in the fields of America.

The legislation I am introducing today incorporates the many workable environmental innovations in American agriculture today and places them into a single comprehensive package. This practical approach to improved stewardship encompasses a preventative approach to water quality, a range of voluntary options for farmers to protect wetlands and an expansion of the Conservation Reserve Program to cover even more environmentally sensitive areas. In the area of integrated crop management, this legislation calls for increased research in improved techniques, and base protection for farmers who are willing to adopt these innovations.

Over the past 2 years, since we began the process of writing the 1990 conservation title, I have worked with environmental, consumer, and commodity groups to fashion solid proposals that can gain broad support.

Mr. President, balancing economic and environmental concerns is always difficult, and it can prove divisive. I believe, however, that we will see a broad spectrum of environmentalists and farmers coming together on these issues, united by a strong ethic of stewardship. In this climate, I am confident that we will adopt a conservation title that meets the practical needs of our farmers. I believe it will also respond to public demands for a cleaner environment, and satisfy the public interest in sustainable agriculture, natural resource protection, and food safety.

Meeting such a broad range of goals is an ambitious project. I believe that this legislation does strike the proper overall balance in tying Federal farm programs to farmland conservation. It breaks down the unnatural barriers—too often created by Government programs—between traditional agriculture and basic ecology. Most importantly, it works of the very practical principle that our farmers in the field are, and must continue to be, our front line for environmental protection in American agriculture.

The Conservation Promotion Act has been endorsed by a broad range of agricultural organizations, including the American Agriculture Movement, American Soybean Association, National Association of Conservation Districts, National Cotton Council, U.S. Rice Producers Legislative Group, National Association of Wheat Growers, National Barley Growers, Georgia Peanut Commission, American Sugar Cane League, Alabama Farmers Federation, National Corn Growers Association, American Society of Farm Managers and Rural Appraisers, Dairymen, Inc., Delta Council of Mississippi, National Sunflower Association, Southeastern Poultry Association, Midwest Sustainable Coalition, Georgia Farm Bureau, National Family Farm Coalition, National Farmers Union, Florida Sugar Cane League, Southwestern Peanut Growers Association, North Carolina Peanut Producers Association, and the American Beekeepers Federation.

Mr. DOLE. Mr. President, today I am pleased to join with Senator FOWLER and others in introducing legislation to better conserve our soil and enhance the quality of our water—two vital concerns to farmers and others in rural America. I want to commend Senator FOWLER and others in the agricultural community for their leadership in an area that is of growing concern to more and more Americans. I am also pleased to note that the legislation we are introducing today is supported by a majority of the agricultural community, including the National Association of Wheat Growers, the National Association of Conservation Districts, the National Corn Growers Association, and the American Soybean Association.

I believe this bill, along with Senator BOND's and Senator LUGAR's conservation bills, provide good starting points for our deliberation on the conservation title of the 1990 farm bill. These bills have much in common with my "Environmental Conservation Acreage Reserve Program,"—ECARP—introduced in 1988.

The legislation being introduced today addresses concerns about protecting our land, water, and wildlife areas. It calls for an expanded CRP, with an increased emphasis on enrolling wetlands, shelterbelts, and windbreaks, and promotes environmentally sound agricultural practices.

WATER QUALITY AND THE ENVIRONMENT

Mr. President, farm families care more than anyone else about their primary assets—the land and its water. They are the closest to our soil and water resources and care the most about their quality. Regardless of what some groups might like people to think, no one has more at stake or cares more than our own farm families.

PROVISIONS

The bill introduced today woud accomplish several objectives. It would extend CRP authorization for a total of not less than 40 million acres nor, at the discretion of the Secretary, more than 50 million acres. Signups would extend through 1995. It encourages the enrollment of environmentally sensitive land, including sinkholes, filter strips, wetlands, and other areas that involve groundwater protection.

The bill calls for the establishment of several new programs that would encourage the nurturing of our soil, water, and wildlife resources. A Soil Restoration Program would be established for multiyear land restoration, and a wetland easement program would be developed.

The legislation has other important features. It expands research and provides additional technical assistance to enhance conservation-oriented agricultural practices.

The legislation also directs additional resources to the Midwest States through reauthorization and expansion of the Great Plains Conservation Program. It targets additional resources to the Midwest States, in a fiscally sound manner, to further promote conservation and protect our environment.

BUDGET CONSIDERATIONS

Because the bill gives the Secretary considerable discretion, it gives the CRP needed flexibility. It allows the Secretary to target acres that would provide the greatest environmental benefits for the dollars spent. With $1.7 billion going annually for rental payments on the 34 million acres currently enrolled, fiscal accountability is a critical element. It is an element that will be a focal point of not only environmental policy discussions, but of the farm bill debate in general.

CONCLUSIONS

Mr. President, this legislation helps balance the concerns of farmers, environmentalists, and the Federal Government. By directing our financial resources toward environmentally sensitive land, we can provide for the betterment of our land and water, to the benefit of future generations.

My 1988 ECARP principles, Senator LUGAR's and Senator BOND's conservation bills, and this piece of legislation provide a groundwork for conservation discussions under the 1990 farm bill. These pieces of legislation are a strong foundation, supported by a majority of the agricultural community, through which we can reach a compromise on the conservation issue.

I plan to work closely with Chairman LEAHY, and Senators LUGAR, BOND, and FOWLER, as well as others, in pulling together an environmentally responsible conservation package that is supported by our agricultural community and that helps keep America a leader in world agriculture.

Mr. COCHRAN. Mr. President, I join my distinguished colleague from Georgia, Senator FOWLER and the distinguished Republican leader, Senator DOLE, in cosponsoring the Conservation Promotion Act of 1990, a bill to provide for the conservation of our environment and natural resources while ensuring the continued success of the Nation's agricultural sector.

This bill incorporates many of the key provisions of Senator BOND's Agricultural Conservation Research and Enhancement Act of 1990, which I cosponsored last week, and expands on many of the successful conservation

initiatives established by the 1985 Food Security Act.

Initiatives such as the Conservation Reserve Program play a significant role in protecting fragile cropland and promoting the renewal of our natural resources. This bill authorizes a discretionary expansion of the Conservation Reserve Program to include a wider array of environmentally sensitive agricultural lands. It also creates a program for the restoration and protection of our wetlands habitats.

In addition, this bill promotes the safe water supply essential to sound agricultural practices. It also expands research and provides additional assistance to enhance conservation-oriented agricultural practices.

The Conservation Reserve Program ensures the protection of valuable topsoil. Last year, approximately 34 million acres were enrolled in this program. When trees and other vegetation reach maturity on this acreage, soil erosion will be reduced by an estimated 600 million tons annually.

Conservation is very important to Mississippi farmers. Last year, nearly 750,000 acres of Mississippi's farmland was placed in the Conservation Reserve Program. Further, over 70 percent of Mississippi's delta region, my State's most productive farming area, can be classified as wetlands areas.

There is obvious linkage between environmental protection and agriculture. Since farmers depend on the environment for their livelihood, they have a strong interest in improving America's conservation practices.

I urge Senators to support this long-term legislative commitment to the conservation and preservation of our natural resources essential to the health and prosperity of our Nation.

Mr. PRYOR. Mr. President, I am honored to join as an original cosponsor today on a piece of legislation that should prove to be a critical turning point in agriculture's quest to maintain and improve the environment from which it produces the bountiful and stable food supply we all enjoy. This bill has endured a healthy lengthy process of probing discussions in order to reach this point of introduction, which should symbolize the thought and effort required to produce the Conservation Promotion Act of 1990.

A strong degree of commitment has also been necessary in order to reach such a balanced and beneficial piece of legislation. This commitment, best exemplified by my colleague from Georgia, Senator FOWLER, has provided a forum for the voices of the environment and agriculture to offer contributions and direction as we attempt to craft a major portion of the conservation title of the 1990 farm bill. Many have long made a ready distinction between farmers and environmentalists. I have long contended that farmers are environmentalists, serving as our primary stewards of the land. The role of the farmer in this capacity is reflected in this bill, which should result in a responsible and improved protection of the environment as well as adequate production of agriculture.

There are several provisions in this bill that I have been fortunate enough to have had the opportunity to be active on, those being the Soil Restoration Program, the Water Storage Program, and a provision that helps make our wetlands regulations more practical. The Soil Restoration Program will make it possible to enroll additional land in the Conservation Reserve Program by expanding the eligibility of land and enrolling it for 3 years instead of 10. Obviously, this should become a vital provision in improving our soil quality. The Water Storage Program creates the opportunity for farmers to build reservoirs for surface water storage, in hopes of allowing our ground water supply to replenish itself more quickly and completely each year. Producers would be able to count any land used for such storage facilities as set aside. In the wetlands provision, we have succeeded in developing a practical measure for saving those valuable natural resources without further advancing the maturity of the "Frankenstein Monster" that currently guides wetland policy. Under the wetlands provision in this bill, there will not be any additional drainage or clearing of wetlands, but there will be a consistent and commonsense approach that will enable farmers to continue farming the land they have always farmed, in some cases for generations. These measures are reflective of the entire Conservation Promotion Act of 1990 in that they strike a meaningful and constructive balance between the environment and food production.

The leadership and role of Senator FOWLER in developing this important legislation cannot be overemphasized. He has led agriculture to the table, at times kicking and screaming, and shown the way in which agriculture can increase its contributions toward preserving our environment. Simply stated, this coalition would not have been possible had it not been for WYCHE FOWLER. Of course, guidance and thought from Senator DOLE and Senator BOND assisted in keeping this effort together. The cooperation that characterized the dialog has enabled us to introduce something that is good for the environment, good for the farmer, and ultimately good for the consumer. Most importantly Mr. President, this will prove to be good for the generations who follow us.

Mr. MCCONNELL. Mr. President, today I join my colleague from Georgia as we introduce the Conservation Promotion Act of 1990. This bill would establish a new 5-year conservation program for our Nation's agricultural producers. The provisions in the act would build upon and strengthen the 1985 Food Security Act in several areas where some important needs have been identified.

Agriculture has rebounded in the last 5 years partly due to improving domestic and world economic conditions but most importantly due to the policy guidelines established in the 1985 Food Security Act. U.S. growth has been stable, exports are on the rise, our trade balance is improving, the income-to-debt ratios for agriculture are favorable, and farm incomes have improved dramatically. At the same time public support of the agricultural sector is now down to half its peak level in 1986. During this same period of time we have made impressive progress on the conservation and environmental agenda for the Nation. Much has been accomplished in a very short period of time by our Nation's agricultural, conservation, and environmental groups without any major adverse effects on our ability to economically meet the world's food and fiber production needs.

Some very significant conservation and environmental achievements have been made over the last 5 years since enactment of the 1985 Food Security Act. Our Nation's agricultural producers have responded to the many challenges added to their daily agendas by the important provisions for conservation concerns in title XII of the 1985 act. The Department of Agriculture, its cooperating agencies, the State and local conservation districts, along with this Nation's agricultural producers have cooperated very effectively in striving to ensure that the goals and objectives of the Congress outlined in the legislation would be met.

Since 1985, we now have 33.9 million acres in the Conservation Reserve Program with nearly 2.2 million acres planted to trees, about 410,000 acres of cropped wetlands are enrolled, 143,000 acres of land subject to scour erosion are enrolled, and 49,000 acres of filter strips alongside our Nation's rivers and streams are now enrolled in the program. In total, the Conservation Reserve Program will result in 655 million tons of erosion reduction annually when vegetative levels called for in the 10-year contracts with producers are fully established. This reduction in erosion represents nearly 21 percent of all the national cropland erosion.

In addition, we now have about 1.4 million producers across the country with conservation plans for their highly erodible cropland covering some 139 million acres. I believe this is a testament not only to the excellent assistance from our Federal and State cooperating conservation agencies but to the genuine concern of our Nation's farmers and ranchers. Nearly 30 per-

cent of the acres planned already have conservation systems applied as of this date. Wetland determinations have been completed for 25 percent of participating farmers.

I am very proud that Kentucky just last year added 5,600 new conservation district cooperators to their rolls bringing the total to nearly 98,000 cooperators. About three-fifths of Kentucky's 5.4 million acres are considered highly erodible; all of these acreages now have approved conservation compliance plans. In addition Kentucky has 416,000 acres in the Conservation Reserve Program, 3,000 acres of which are in trees, 13,000 acres of which have wildlife plantings, and over 2,000 acres devoted to environmentally sensitive wetlands, scour erosion areas, and for filter strips surrounding creeks and streams. All of our Nation's farmers and ranchers have responded positively and effectively to the concerns we all share for the sensitive and fragile environment in which we live. The hallmark for consistency and continuity in our Nation's agricultural policies with respect to commodity production, commerce, trade, and conservation began with passage of the 1985 Food Security Act.

Yet, Mr. President, with all of the accomplishments we must recognize that not all of the goals set out in our 1985 Food Security Act have been fully achieved. A stellar effort was made and the efforts are not only commendable but in many regards quite remarkable. However, the 1985 act did specify a 40- to 45-million acre Conservation Reserve Program with the expectation that up to 12.5 percent of the reserve be devoted to trees. These goals are realistic and reasonable. With some adjustments in program participation provisions we can address surface and ground water quality concerns along with wildlife and wetlands preservation needs while still maintaining viable agriculture. Many of the potential environmental benefits were overlooked or simply could not be adequately addressed given the priorities for erosion control reduction, time, and available resources, as well as the absence of some legislative authorities needed to tackle difficult environmental problems in implementing the 1985 act provisions.

It is important that we learn from our past experiences and move at this time to improve and refine our efforts through this 1990 bill. We must recognize that we now have the opportunity to build upon strengths in the 1985 act and address today's important conservation and environmental needs. We must, at the same time, continue to build and improve on the fabric of our agricultural economy. While I am a strong proponent of conservation and environmental concerns, the advancements which are made should be prudent and judicious to the Nation's agricultural producers. Fairness, equity, and practicability need to be at the forefront in our considerations of what can and ought to be done today.

Our Nation's first and foremost environmentalists have always been agricultural producers; they are the stewards of the land, they drink water from our Nation's streams, lakes, and ground water acquifers. They are concerned about the quality and condition of the land, air, and water resources and they are prepared to do their part in addressing the problems. The bill being introduced today reflects this concern, commitment, and builds upon the significant conservation and environmental achievements we have made in the last 5 years.

In Kentucky we are very proud and honored that the Environmental Protection Agency just announced a $105,000 supplemental award to us for our already approved $578,000 program to implement the section 319 Non-point Source Program. Kentucky was one of only 12 States to receive such a supplemental award. The honor award was bestowed as a result of EPA's recognition of the resolve and commitment of our citizens to voluntarily address the nonpoint source problems. Our divisions of water, conservation, and agriculture worked closely in concert with one another and with the conservation districts to develop a realistic, workable, and effective implementation strategy. This is the first award of this nature ever received by Kentucky and it exemplifies the commitment we have for the environment and our citizens resolve to do something constructively and voluntarily.

The 1990 bill establishes a minimum 40-million acre conservation reserve with discretion to the Secretary to target an additional 10 million acres for environmentally sensitive lands. In order to sustain the soil and water conservation accomplishments the producers' crop base would be protected and the producer would also have the option of an additional 5-year extension of existing contracts. This will give the Secretary the latitude and direction needed to address today's important environmental issues and give producers the correct incentives to retain and maintain marginal land in vegetative cover where it is best suited. Provisions of the bill in this area includes sinkholes in karst areas, wetlands, wellheads, and wildlife areas. These are very important concerns in Kentucky since 60 percent of our 25 million acres has some karst topography about 2 million of it in the major cropland areas and we also have about 150,000 acres of wetlands in these same areas. In Kentucky, we are concerned about these environmentally sensitive areas and we support the development of a variety of options and alternatives to resolve the problems. Giving the Secretary discretionary authority to use the Conservation Reserve Program as an option for producers where no other viable alternative exists will add to the choices available to address critical environmental problems.

One of President Bush's high priorities and one explicitly addressed by this 1990 act is the strong program to provide incentives for planting trees which are so important for protection and preservation of our soil, air, and water resources. I am a supporter of the America the Beautiful campaign and recognize, as I know you do Mr. President, that in spite of our best efforts in implementing the 1985 Food Security Act we simply did not do enough to get trees planted, particularly hardwoods. In the 1990 bill, marginal land which has not been cropped would now be eligible for the Conservation Reserve Program if placed in trees. The bill also strengthens the provisions to encourage long-term contracts for wetlands, windbreaks, and shelterbelts.

Several other important provisions are contained in the bill to ensure consistency for producers. These improvements will help to eliminate potential inequities in treatment measures for land that graduates from the CRP, eliminate some unrealistic ownership requirements on land obtained through foreclosure or bankruptcy, and provide more equitable criteria for those who may wish to consider whole farm enrollment.

In implementing the 1985 Food Security Act one of my principal concerns was judicious and fair treatment of our producers in Kentucky who, as a result of their unique agricultural produce, used long-term rotations as a part of their normal operations. I was very happy to report to my constituency the cooperative attitude of the Soil Conservation Service in development of their conservation compliance plans to be considerate, workable, and economically realistic. Without a pragmatic approach to development of these compliance plans it would have been sure bankruptcy for many of Kentucky's producers. As I understand it from my colleagues this was also the case in many other States as well.

Agriculture in Kentucky is not only a very important sector of our economy, but it is also substantially more diversified than generally perceived. Yes, Kentucky is the No. 1 producer of our Nation's tobacco products and tobacco is our primary crop. However, few realize that we are third in the Nation for forage and hay, in the top 15 for livestock and major grain production, and in the top 20 and growing for dairy products. We continue to seek means to strengthen our livestock and dairy industry. The concerns of the Nation and the import of conser-

vation and environmental issues are broadly shared by Kentucky's citizens; we have a diversified economy, and we are very interested in all titles of the Food Security Act. Solutions and considerations to our collective concerns about environmental improvement and conservation of the Nation's resources must take the tack of prudent, practical, and pragmatic measures which do not impose unnecessary costs, hardship, or regulations on our Nation's agricultural producers.

Another important provision of the bill would clarify producer responsibility for compliance only to that land upon which they have control. Under previous legislation it was possible for a producer renting land to be adversely affected by a landlord's decisions on or from land not controlled by the tenant. The 1990 bill rectifies this inequity. The bill further establishes a multiyear set-aside program to enhance measures designed to build soil tilth and fertility on acreages which otherwise may have been left idled to weeds.

In order to help build our knowledge base on chemical use this bill directs the Secretary to develop, analyze, and disseminate information on the farm use of chemicals, nutrients, and other inputs in agriculture. Some promote mandatory reporting of chemicals and nutrients used in agriculture; others promote stricter regulations on use and certification. The premise being that overapplications occur frequently and purposefully. Such a premise ignores the fact that use of these inputs are an important component in costs of production and producers strive diligently to economize in every area possible. Rates of applications are important concerns but equally and perhaps overriding is the timing and methods of application relative to crops grown, soils, climate, topography, expected weather conditions, and proximity to potentially affected water. What is really needed and what is supported in this bill is accelerated information, education, technical, and financial assistance to our Nation's producers.

Contributions and concerns of our chemical industry have been negligently overlooked in much of the debate in this area. This is one of the most heavily regulated industries in our country. Chemical manufacturers have espoused a constructive, responsible, and progressive attitude on environmental concerns numerous times and are aggressively pursuing the development of environmentally safer chemicals. There continue to be advances in technology through research, innovation, and product introduction demonstrating the real and legitimate concerns about the environment which are shared by chemical manufacturers. Some of the more recent product developments are for materials which quickly degrade in the environment, which have negligible toxicity levels, leave little or no residue on crops or in the environment, do not affect water quality, and require less active ingredients. Such products are now available in the market for certain compounds and more are in development. The industry is also developing safer packaging, storage, and application methods for agricultural producers. Technology is responding to the public plea, maybe not as fast as many would like, but the positive response is there and it is important that we recognize this progress.

While I share the concerns about chemical and nutrient occurrence in our surface and ground waters there is still a great deal of debate in the scientific community about how, when, and by what means these materials got into our water. In considering the merits for different methods to obtain better information on imputs used in agriculture it is, as I said before, extremely important that we keep in mind what is reasonable and practicable. Mandatory reporting of chemical use begs the technical considerations, the handling, storing, timing, and methods of applications, and oversimplifies the basis for concern about how and why certain materials may have entered the environment and what should be done to resolve the problems. I believe, very strongly, that a voluntary information program is the best way to obtain improved insight into today's concerns about chemical use in agriculture. Directing the Secretary to develop, analyze, and disseminate information on farm use of chemicals, nutrients, and other inputs with voluntary participation by producers is the most prudent means to obtain this information today and it is the method specified in our bill.

Another important area addressed in this 1990 bill is for restoration of wetlands that had been converted for crop production. Producers would have the option for voluntary restoration of these wetlands with cost sharing available to help defray the expenses or they may exercise rights to grant permanent easements. Many producers in this country already have long-term rotations including grasses and legumes for building soil tilth and fertility, some of the land included in rotations of this type may also have some small areas meeting wetlands criteria. In the 1990 bill, producers with a cropping history for any period of 6 years between 1975 and 1985 on wetlands would be exempted from the so-called swampbuster provision on these acres. Another important provision in the bill is for mitigation in the case where a producer may find it necessary to convert existing wetlands for cropping purposes. In cases such as this, the producer must comply with mitigation requirements to replace and replenish a wetland area of like size and quality as that converted. The provisions of the bill in this area will ensure no further loss of wetlands and strongly supports President Bush's "no net loss of wetlands" policy.

An important provision in the 1990 bill which transcends all of the compliance components is the handling of circumstances where a violation may occur. Current legislation jeopardizes all Federal program participation benefits a producer may be receiving regardless of severity of the infraction, many of which may in fact involve minor acreages or unintended mistakes and misinterpretations on the part of producers. The 1990 bill rectifies this complication, avoids unfair or harsh treatment, and directs the Secretary to develop and implement guidelines to enforce the intent of Congress in a fair, judicious, and equitable manner by linking penalties which may be necessary for compliance violations to severity and/or frequency of infractions.

Water quality is one of the major focal points for redirecting and strengthening efforts through the 1990 bill. In the 1990 bill USDA is directed to substantially enhance its technological development efforts for practices and measures which agricultural producers can use to reduce the risk of water contamination from their operations. Increased research, education, information, technical assistance, and financial assistance are cornerstones of the accelerated water quality program. Effective measures and practices will be included in field office technical guides. Close coordination, collaboration, and linkages with the nonpoint source implementation plans of States are directed in order to help prioritize the allocation of Federal resources. The bill also stipulates the provision of assistance to improve our knowledge base through cooperation in efforts to develop and enhance correlated information on soils and water quality monitoring data. The bill also authorizes the USDA to provide assistance to private citizens for the purpose of defraying costs for testing the quality of water coming from their wells. A strong retraining program for extension personnel will further improve our ability to provide the most up-to-date information and technology available to our Nation's agricultural producers.

For agricultural producers willing to accept the challenge and risks for developing innovative integrated crop management systems the bill provides base and crop yield history protection. Producers trying new and innovative techniques face the uncertainty of natural events but also the risk of charting some new paths. The bill establishes a research base of 3 million acres for integrated crop management systems with a 5-million acre cap per

year over the last 4 years of the program. Commodity program participation payments for producers involved in the research program will be protected. The Secretary is directed to develop technical guides for these new crop management systems and to establish a voluntary stewardship program for producers who may wish to try some or all components of the integrated crop management systems.

Mr. President, our 1990 bill is a comprehensive effort to meld together, in a consistent framework, the legitimate conservation and environmental concerns we all share with our continued needs to provide a healthy vigorous economic setting for agriculture. This 1990 bill strengthens its predecessor 1985 Food Security Act in important areas for environmental and conservation enhancements in a setting which promotes equitable, fair, and pragmatic solutions to the problems.

By Mr. LEVIN:

S. 2410. A bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on dispositions of stock in domestic corporations by 10 percent foreign shareholders; to the Committee on Finance.

FOREIGN TAX EQUITY ACT

Mr. LEVIN. Mr. President, I am pleased today to introduce the Foreign Tax Equity Act of 1990. This is a companion bill legislation recently introduced in the House of Representatives by the chairman of the Ways and Means Committee, Congressman DAN ROSTENKOWSKI.

This legislation is designed to enhance our ability to make sure that foreign owned or controlled companies that carry on trade or business in the United States pay their fair share of taxes. It also has the goal of making sure that foreigners who own a significant amount of stock in U.S. corporations and who sell that stock are not treated any more favorably than U.S. taxpayers in the same situation.

As things stand now, there appears to be almost a black hole into which the profits from some foreign companies doing business in the U.S. seem to disappear. For example, in 1986 foreign controlled domestic corporations had more than $500 billion in receipts, but paid only $3 billion in U.S. taxes.

At a minimum, these facts raise the likelihood that some foreign-owned or controlled companies are engaging in a shell game in which the profits start in the United States and end up abroad. In light of the stiff challenges which may U.S.-owned and controlled corporations have in competing with their foreign counterparts located in this country, and in light of the huge Federal budget deficit, we cannot tolerate or afford being the victims of sleight of hand games by foreign controlled or owned corporations doing business here. The IRS should focus more of its attention on making sure that foreign owned or controlled corporations are not adding insult to injury by improving their competitive edge through tax evasion and, then, shifting the extra tax burden to hard-working Americans. With all the challenges facing us, now is not the time for foreign companies to star in an updated version of "How to Succeed in Business By Not Really Paying."

Legislation which was enacted last year increased the reporting requirements with respect to transactions between foreign corporations and any corporation which is at least 25 percent foreign owned and which is either a domestic or foreign corporation that conducts a trade or business in the United States. The bill which I am introducing today will allow the Internal Revenue Service to examine these transactions for more tax years than last year's legislation did. Under this legislation, the IRS could look at open tax years of firms currently being audited. It would also allow the IRS to extend the statute of limitations for 3 years beyond the current statute of limitations. In addition, this legislation would extend the coverage of these enhanced reporting requirements to all foreign corporations that carry on trade or business in the United States. This provision would, thereby, extend coverage to foreign branches which are doing business in the United States but not incorporated in the United States.

This legislation is also designed to correct a current inequity in the tax code. Currently, if U.S. taxpayers sell shares in a corporation doing business in this country, they must pay tax on any gain which results from the sale. Foreign taxpayers who own stock in the same U.S. corporation and sell that stock are not now required to pay tax on a similar gain. The legislation I am introducing today attempts to correct that imbalance by requiring that foreign corporation or nonresident aliens that own 10 percent or more of the stocks in the U.S. corporation incur a tax liability on the gain that results from the sale. The income would be treated as effectively connected with the conduct of a U.S. trade or business. Under this legislation, the tax would be collected, in the first instance, by withholding 10 percent of the gross proceeds from the transaction. If this is later found to exceed the foreign taxpayers' actual tax liability, then they would be eligible for a refund. However, this bill does not override any existing treaty to the extent that the treaty would prevent imposition of the tax on a person that is a qualified resident of a treaty country.

Mr. President, the Joint Committee on Taxation estimates that the Foreign Tax Equity Act will raise approximately $1 billion over 5 years. It will also be a step in the direction of restoring fairness to the tax code, which is something that is always important, but which we are more conscious of every year as April 15th approaches.

Mr. President, I ask unanimous consent that a text of this legislation be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Tax Equity Act of 1990".

TITLE I—TREATMENT OF CERTAIN FOREIGN-OWNED CORPORATIONS

SEC. 101. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any summons issued after such date of enactment, and

(3) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

without regard to when the taxable year (to which such information, summons, or records relate) began.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 102. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during the taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the

extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) of such Code is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any summons issued after such date of enactment, and

(3) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

without regard to when the taxable year (to which such information, summons, or records relate) began.

SEC. 103. EXTENSION OF STATUTE OF LIMITATIONS FOR CERTAIN FOREIGN-RELATED DEFICIENCIES.

(a) GENERAL RULE.—Subsection (c) of section 6501 of the Internal Revenue Code of 1986 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) CERTAIN FOREIGN-RELATED DEFICIENCIES.—

"(A) IN GENERAL.—If, before the expiration of the time prescribed by this section for the assessment of any foreign-related deficiency (determined with regard to extensions under paragraph (4))—

"(i) the Secretary determines that such deficiency cannot be accurately assessed before the expiration of such period by reason of delay or other actions of the taxpayer which prevented the timely assessment of such deficiency, and

"(ii) The Secretary sends by certified or registered mail a notice of such determination to the taxpayer,

the Secretary may extend the period during which such deficiency may be assessed by an additional period of not more than 3 years. Not more than 1 extension may be made under the preceding sentence with respect to any deficiency.

"(B) FOREIGN-RELATED DEFICIENCY.—For purposes of subparagraph (A), the term 'foreign-related deficiency' means—

"(i) any deficiency of a domestic corporation which is 25-percent foreign-owned to the extent such deficiency is attributable to a transaction directly or indirectly with a related party who is a foreign person, and

"(ii) any deficiency of a foreign corporation with respect to the taxes imposed pursuant to sections 882 and 884.

"(C) JUDICIAL PROCEEDINGS.—

"(i) REVIEW.—Notwithstanding any law or rule of law, any taxpayer to which a notice of a determination under subparagraph (A) has been mailed shall have the right to begin a proceeding to review such determination not later than the 90th day after the day on which such notice was mailed. If such a proceeding is not begun on or before such 90th day, such determination by the Secretary shall be binding and shall not be reviewed by any court.

"(ii) JURISDICTION.—The United States district court for the district in which the taxpayer resides or is found shall have jurisdiction to hear any proceeding brought under clause (i). Any order or other determination in such a proceeding shall be treated as a final order which may be appealed.

"(iii) SUSPENSION OF STATUTE OF LIMITATIONS.—If the taxpayer brings a proceeding under clause (i), the running of any period of limitations under this section or section 6531 with respect to the deficiency to which the proceeding relates shall be suspended for the period beginning on the date on which the notice under subparagraph (A) was mailed and ending on the date on which there is a final determination in the proceeding. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding.

"(D) DEFINITIONS.—For purposes of this paragraph, the terms '25-percent foreign-owned', 'foreign person', and 'related party' have the respective meanings given such terms by section 6038A(c).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any deficiency—

(1) for any taxable year ending after the date of the enactment of this Act, or

(2) for any taxable year ending on or before such date of enactment if the period during which such deficiency may be assessed under section 6501 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by subsection (a)) has not expired before such date of the enactment.

TITLE II—TAX ON DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS

SEC. 201. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For

purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 21-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period after March 19, 1990, and before the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) of such Code is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) of such Code (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after March 19, 1990, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date 6 months after the date of the enactment of this Act.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any disposition pursuant to a written binding contract in effect on March 19, 1990, and at all times thereafter before the disposition.

(3) COORDINATION WITH TREATIES.—

(A) IN GENERAL.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition if such disposition is by a qualified resident of a foreign country and the application of such sections to such disposition would be contrary to any treaty between the United States and such foreign country which was in effect on March 20, 1990, and at the time of such disposition.

(B) QUALIFIED RESIDENT.—For purposes of subparagraph (A), the term "qualified resident" means any resident of the foreign country entitled to the benefits of the treaty referred to in subparagraph (A); except that such term shall not include a corporation unless such corporation is a qualified resident of such country (as defined in section 884(e)(4) of the Internal Revenue Code of 1986).

By Mr. BYRD:

S.J. Res. 284. Joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week"; to the Committee on the Judiciary.

NATIONAL GIVE THE KIDS A FIGHTING CHANCE WEEK

Mr. BRYD. Mr. President, in the 100th Congress, I sponsored a joint resolution to highlight the efforts of a number of organizations that assist children and their families in seeking treatment for craniofacial deformities. The joint resolution designating the "National Craniofacial Deformity Awareness Week" was passed by the Congress and signed by the President in 1988.

Since that time, efforts to treat youngsters with craniofacial deformities have become even more noted and published. Organizations such as the International Craniofacial Foundations, Inc., and the National Foundation for Facial Reconstruction have not only served Americans but have also opened their hearts to Soviet children, giving those boys and girls a fighting chance to lead normal and productive lives.

Today, I am introducing a joint resolution to designate the week of September 16–22, 1990. as "National Give the Kids a Fighting Chance Week."

Its is estimated that as many as 200,00 victims of craniofacial deformities are under the age of 5. These children are often hidden from the outside world so that they may be protected from the rude stares and cruel comments of strangers.

Many families are unaware that effective treatment may be available for these children. I hope, that with the passage of this joint resolution, we can continue to focus the public's attention on the thousands of children who suffer from the physicial and emotional trauma brought on by craniofacial deformities.

With the designation of the week of September 16, 1990, as "National Give the Kids a Fighting Chance Week," we shall aid the efforts of the organizations that help individuals, many of whom have believed they were outcasts of society, to live normal; and productive lives.

I ask my colleagues to join me in cosponsoring this joint resolution.

ADDITIONAL COSPONSORS

S. 273

At the request of Mr. HEINZ, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of do-

nations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 341

At the request of Mr. HOLLINGS, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 341, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1067

At the request of Mr. GORE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1067, a bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.

S. 1355

At the request of Mr. BUMPERS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1355, a bill to assist private industry in establishing a uniform residential energy efficiency rating system, and for other purposes.

S. 1358

At the request of Mr. RIEGLE, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1358, a bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable to a recipient of disabled adult child's benefits and certain other beneficiaries and to provide for continued entitlement to disability and Medicare benefits for such individuals, and other purposes.

S. 1361

At the request of Mr. FOWLER, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1361, a bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays under certain conditions, and for other purposes.

S. 1458

At the request of Mr. WALLOP, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1458, a bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1630

At the request of Mr. REID, his name was added as a cosponsor of S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1630, supra.

S. 2079

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2079, a bill to amend the Immigration and Nationality Act to provide for temporary protected status for Lebanese nationals.

S. 2210

At the request of Mr. D'AMATO, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of S. 2210, a bill to provide for preservation of competitive rail freight service routes in the Northeastern United States.

SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATE JOINT RESOLUTION 240

At the request of Mr. SYMMS, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Delaware [Mr. ROTH], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 240, a joint resolution designating the week of June 10, 1990, through June 16, 1990, as "Multiple-Use Sustained-Yield Week."

SENATE JOINT RESOLUTION 271

At the request of Mr. WALLOP, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Vermont [Mr. JEFFORDS], the Senator from Maine [Mr. MITCHELL], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. COATS], the Senator from California [Mr. WILSON], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. MOYNIHAN], the Senator from Florida [Mr. MACK], the Senator from Virginia [Mr. WARNER], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 271, a joint resolution to designate July 10, 1990 as "Wyoming Centennial Day."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the names of the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE CONCURRENT RESOLUTION 97

At the request of Mr. D'AMATO, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of the Congress with respect to popular anti-Semitism in the Soviet Union.

SENATE CONCURRENT RESOLUTION 99

At the request of Mr. PRYOR, the names of the Senator from Maryland [Mr. SARBANES], the Senator from California [Mr. CRANSTON], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Concurrent Resolution 99, a concurrent resolution expressing the sense of the Congress concerning the 25th anniversary of the Older Americans Act of 1965.

SENATE CONCURRENT RESOLUTION 102

At the request of Mr. DIXON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 102, a concurrent resolution expressing the sense of the Congress regarding the existing borders between Germany and Poland.

SENATE CONCURRENT RESOLUTION 106

At the request of Mr. BOSCHWITZ, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Concurrent Resolution 106, a concurrent resolution expressing the sense of the Congress concerning Jersusalem and the peace process.

SENATE RESOLUTION 239

At the request of Mr. DECONCINI, the name of the Senator from Missis-

sippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 239, a resolution expressing the sense of the Senate denouncing the military offensive in Angola and urging an immediate ceasefire.

SENATE RESOLUTION 263

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Resolution 263, a resolution to express the sense of the Senate regarding the need to establish a sound national transportation policy integrating all modes of transportation and maintaining a significant Federal role.

AMENDMENT NO. 1432

At the request of Mr. MURKOWSKI, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of amendment No. 1432 proposed to S. 1630, a bill to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

SENATE CONCURRENT RESOLUTION 115—TO EXPRESS THE SENSE OF THE CONGRESS REGARDING FUTURE FUNDING OF AMTRAK

Mr. LAUTENBERG (for himself, Mr. EXON, Mr. SIMON, Mr. D'AMATO, Mr. SPECTER, Mr. BAUCUS, and Mr. REID) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. CON. RES. 115

Whereas Amtrak, the National Railroad Passenger Corporation, was established by the United States Congress in 1971 to assume operation of rail passenger services in this country;

Whereas Amtrak now operates 220 trains daily over a 24,000 mile route system, and also owns or controls the high speed Northeast Corridor rail line between Washington, D.C., and Boston, Massachusetts;

Whereas Amtrak has and will continue to reduce its dependence on Federal funding which has declined from $896,300,000 in fiscal year 1981 to $604,000,000 in fiscal year 1990, a reduction of 56 percent in constant dollars;

Whereas Amtrak covers an increasing percentage of its total costs from its own revenues, and the revenue-to-cost ratio has improved from 48 percent in fiscal year 1981 to 72 percent in fiscal year 1989, and a projected 75 percent in 1990;

Whereas it is now Amtrak's specific goal to eliminate its need for any Federal operating support and cover 100 percent of its operating costs from its own revenues by the year 2000;

Whereas Amtrak revenues in fiscal year 1989 were $1.27 billion, an increase of 14.7 percent over 1988, which resulted from increases in transportation, real estate, mail and express, and corporate development revenues;

Whereas Amtrak provided transportation for more than 21.4 million intercity passengers in 1989 and carried 17.4 million commuter passengers for State commuter authorities;

Whereas Amtrak generated 5.86 billion passenger miles in fiscal year 1989 and the ratio of passenger miles per train mile (an indicator of the number of passengers riding the average train one mile) increased from 177 in fiscal year 1987 to 188 in fiscal year 1989, reflecting the increased density of passengers on Amtrak trains;

Whereas Amtrak is an ongoing business and any drastic reduction in public support, or the elimination of Federal funds, would force the corporation in bankruptcy and threaten the end of the rail passenger service across the country;

Whereas the Federal and State governments have invested heavily to modernize Amtrak facilities, purchase new rolling stock, and upgrade the high speed Northeast Corridor, which raised the value of Amtrak's net assets to over $4 billion, all of which would have to be sold at scrap value if rail passenger service were eliminated;

Whereas some 23,700 Amtrak employees in 44 States would become unemployed if the corporation received no public funds and was forced into bankruptcy;

Whereas termination of rail passenger service would trigger $2.7 billion in Amtrak liability to pay labor protection to affected employees, and if Amtrak is rendered insolvent, labor would turn to the United States Government for payment of these claims;

Whereas an Amtrak shutdown of the Northeast Corridor would drastically increase the cost, and disrupt the provision of daily commuter service by New Jersey Transit, the Southeastern Pennsylvania Transportation Administration, the Maryland Department of Transportation, and the Massachusetts Bay Transit Authority, for the approximately 180,000 people per day who use these carriers over Amtrak owned and operated rail lines in Washington, D.C., Maryland, Pennsylvania, New Jersey, New York, and Massachusetts;

Whereas the shutdown of the Northeast Corridor would disrupt freight service provided by Conrail and other carriers on the Corridor, which serve numerous businesses including General Motors, Ford, Chrysler, DuPont, General Foods, and General Electric;

Whereas Amtrak carries more than twice as many passengers between and among the Northeast Corridor stations of New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington, than all airlines combined, and over one-third of all air and rail passengers daily between Washington, D.C., and New York alone;

Whereas a shutdown of intercity rail service in the Northeast Corridor would strain already busy and overcrowded airports along the Atlantic seaboard;

Whereas Amtrak provides needed transportation for lower-income and elderly travelers and serves numerous locations that have no other means of public intercity transportation;

Whereas both Amtrak's labor and management workers have made efforts to improve productivity, and as such, Amtrak will be the first railroad in this country to operate its trains nationwide under totally revised and modernized work rules;

Whereas all major industrialized Western nations have taken pride in establishing rail service and publicly funding their passengers systems;

Whereas Congress has consistently supported a balanced national transportation network, including the financial support of various modes of transportation, making this country the most mobile in the world and making travel available to persons of all income levels;

Whereas part of this balanced transportation system established by Congress has included the provision of intercity rail passenger service; and

Whereas Congress has voted numerous times to authorize and appropriate sufficient funds to operate a national rail passenger system and has rejected efforts to eliminate Federal funding for Amtrak: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) Amtrak should be supported by the Federal Government at a level that will enable it to continue to operate a national railway system, to acquire new passenger equipment and modernize its maintenance facilities, and to continue the progress that has been made to improve its financial performance and service levels; and

(2) the Secretary of Transportation and the Administrator of the Federal Railroad Administration should work closely with Amtrak management to—

(A) identify areas and assist in implementing changes that will further lower Amtrak's dependence on public funding without adversely affecting service;

(B) insure that safety is given the highest priority possible as part of the management's responsibility to provide rail passenger service; and

(C) take steps to preserve and ensure the adequacy of the national rail passenger infrastructure as a key element in a balanced national transportation system.

SEC. 2. A copy of this resolution shall be transmitted to the President, the Secretary of Transportation, and the Administrator of the Federal Railroad Administration.

Mr. LAUTENBERG. Mr. President, I rise today to introduce a sense of the Congress resolution reaffirming the support of this body for the National Railroad Passenger Corporation, better known as Amtrak. I am pleased to be joined by Senators SIMON, EXON, D'AMATO, SPECTER, BAUCUS and REID.

For years, the administration has sought to eliminate Federal funding for Amtrak. These efforts, fortunately, have been thwarted by Congress. Congress understands the importance of Amtrak and has preserved a strong, national rail passenger system for the millions of Americans who depend on that service.

Amtrak is a vital link to our national transportation network. Its elimination would have dramatic implications for transportation in this country. Let's look at the facts. In 1989 Amtrak served 38.9 million people and operated 220 trains daily over a 24,000-mile route system in 44 States. In addition, approximately 180,000 commuters in a number of States rely on Amtrak's rails each and every day to get to and from work.

A large percentage of Amtrak's passengers travel along Amtrak's Northeast corridor line, one of the Nation's most important transportation assets. In 1989, Amtrak carried over 30,000

noncommuter passengers every day between the cities located on the Northeast corridor. The importance of Amtrak in my region can hardly be overestimated. Twice as many passengers traveled by Amtrak between and among the Northeast corridor stations of New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington as on all the airlines combined. If this service were eliminated, most of these riders would be forced to fly between Washington and New York. To carry just the 4,400 passengers who daily travel between New York and Washington, and additional 60-70 airline flights would be required each day. Anyone who is familiar with the congestion in our skies knows that that just isn't possible.

But the harsh effects would not be limited to the Northeast corridor passengers. Nearly half of Amtrak's riders and two-thirds of its revenues come from its noncorridor operations. These are principally long-haul services, whose passengers are largely poor and elderly travelers. Over 100 communities served by Amtrak have no air service and approximately the same number have no direct intercity bus service. Thirty-one communities served by Amtrak have neither air nor bus service. For these communities, Amtrak is the primary or sole mode of public transportation.

Discontinuing Amtrak service would also produce an immediate unemployment impact. Amtrak currently employs 23,500 people and 400 employees with other railroads, nationwide. Under current law, the discontinuance of Amtrak service would trigger $2.7 billion in legally imposed labor protection. payments to Amtrak employees over a 6-year period. Amtrak's assets would be in sufficient to pay the labor protection claims, and Amtrak's employees would look to the Federal Government for payment. Thus, despite the termination of rail passenger service, the taxpayer would be required to fund a multibillion-dollar bailout for Amtrak. In addition, the U.S. Government would have to pay the enormous administrative costs in dealing with the Amtrak bankruptcy estate, distributing necessary real estate and property to other users, and handling creditors.

Amtrak is a tremendous success story. Its growth and success have come in the face of major budgetary constraints. From fiscal year 1981 to fiscal year 1990 Federal support from Amtrak declined from $896.3 million to $604 million, a reduction of 56 percent in constant dollars. Yet during that time, virtually all of Amtrak's performance indicators improved. Revenues were up in fiscal year 1989 to $1.27 billion, an increase of 14.7 percent over 1988. It's revenue to cost ratio has improved from 48 percent in fiscal year 1981 to 72 percent in fiscal year 1990, and a projected 75 percent in fiscal year 1991. Each year Amtrak gets more and more efficient and more important to a balanced national transportation network.

In spite of all this, the administration's new transportation policy calls for the elimination of Amtrak funding. This is short-sighted and ignores the long-term needs of our country. Further, it ignores the fact that Amtrak has a specific plan to eliminate the need for Federal support by the year 2000.

With short-term Federal capital support and a few other steps, Amtrak projects that it will be able to recover 100 percent of its operating costs in 10 years. But, rather than encourage this, the administration would cut off Amtrak now. The result: the loss of intercity passenger rail service, instead of a system that could be self-sustaining within the decade—a feat that no other industrialized country, even those with major rail commitments, has come close to accomplishing.

As chairman of the Appropriations Subcommittee on Transportation, I have worked closely with Graham Claytor, Amtrak's president, to make Amtrak less dependent on Federal funding while maintaining and improving service. Amtrak should have the opportunity to continue these efforts, and I will work with Mr. Claytor in this endeavor.

Mr. President, I ask Congress to reaffirm the view that Amtrak should remain a viable entity for its millions of passengers who depend on its existence. I urge my colleagues to support this resolution.

SENATE CONCURRENT RESOLUTION 116—COMMENDING POLAND

Mr. D'AMATO (for himself and Mr. DECONCINI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 116

Whereas the Soviet Union is allowing the largest outflow of Soviet Jews in modern history;

Whereas in the face of Arab pressure and threats of terrorist retaliation the Soviet Union has slowed negotiations with Israel on direct charter flights for Soviet Jews to Israel and Hungary temporarily terminated such flights; and

Whereas Poland has announced that it will allow charter flights to carry Soviet Jews to Israel: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby commends Poland and Prime Minister Tadeusz Mazowiecki for their courageous and resolute stand in the face of terrorist intimidation.

● Mr. D'AMATO. Mr. President, I rise to introduce a concurrent resolution commending Poland and Prime Minister Tadeusz Mazowiecki for reaffirming the policy of allowing charter flights to carry Soviet Jews to Israel in the face of Arab and terrorist pressure.

Soviet Jewish emigration has reached peaks never before imagined possible. President Gorbachev has opened the floodgates. This policy, however, is his and his alone, and, as we are seeing in Lithuania, Gorbachev's high wire act is always subject to an unexpected fall.

More worrisome still, Gorbachev's policy of openness has reawakened nationalist impulses throughout the Communist bloc. One of the more deplorable pieces of baggage associated with this rise of nationalism is a parallel rise of anti-Semitism. Pamyat, the Russian nationalist group, has raised the spectre of pogroms.

The threats of Pamyat are being taken seriously. It is imperative that we take advantage of the opportunity President Gorbachev has provided, and see that everything be done to ease the flow of Soviet Jews out of the Soviet Union and to Israel. Unfortunately, a serious impediment has arisen that has given even the Soviets pause.

The Arab States, and, more ominously, various terrorist groups, concerned that the influx of Soviet Jews into Israel will help Israel to win the battle of demographics against the Palestinians have threatened retaliation against states that allow charter flights to carry Soviet Jews to Israel.

In reaction, the Soviet Union has slowed negotiations with Israel over such direct flights and Hungary temporarily halted them outright. Poland, however, undaunted by these threats, has reaffirmed its willingness to allow charter flights to carry Soviet Jewish refugees to Israel.

Mr. President, I think Poland deserves our highest praise for its steadfast position. Terrorist threats, as we learned most recently, and most horribly, over Lockerbie, Scotland, are not to be taken lightly. I offer this resolution in acknowledgment of the bravery of the Polish people.●

SENATE RESOLUTION 267—RELATIVE TO VACANCIES ON THE SOCIAL SECURITY BOARD OF TRUSTEES

Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. BRADLEY, and Mr. HEINZ) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 267

SEC. 1. FINDINGS.—The Senate finds that—

(1) in the Social Security Amendments of 1983, Public Law 98-21, Congress made provision for two members of the public, one Democrat and one Republican, to serve on the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds for four-year terms;

(2) in September 1984 President Reagan nominated the first public trustees, and these nominees were confirmed by the Senate the same month. The statutory terms of the first public trustees expired in September 1988, and subsequent recess appointments by President Reagan of the same individuals to the same posts expired on November 22, 1989;

(3) President Bush has not so far nominated any individuals to fill the posts of public trustees, and the posts remain vacant;

(4) the Social Security Act requires the Social Security Board of Trustees to report to the Congress not later than the first day of April of each year on the operation and status of the trust funds; and

(5) April 1 has passed and the Board of Trustees has not submitted the required report on the status of the trust funds by the required due date.

SEC. 2. SENSE OF THE SENATE.—It is the sense of the Senate that the President should send to the Senate nominations for two public trustees to fill the current vacancies on the Social Security Board of Trustees, and upon confirmation such trustees should be afforded full participation in the preparation of this year's trustees report.

Mr. MOYNIHAN. Mr. President, I rise to submit a resolution to express the sense of the Senate that the President ought promptly send to the Senate nominations for the vacancies on the Social Security Board of Trustees. I am joined by Senators BENTSEN, BRADLEY, and HEINZ.

As you know, Mr. President, in the Social Security Amendments of 1983 Congress made provision for two members of the public, one Democrat and one Republican, to serve on the board of trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds. The public trustees are nominated by the President and confirmed by the Senate for 4-year terms. The other trustees are the Secretaries of Treasury, Labor, and Health and Human Services, who serve ex officio.

In September 1984, President Reagan nominated the first public trustees, and the nominees were confirmed by the Senate the same month. Their statutory terms expired on September 28, 1988, and subsequent recess appointments of the same individuals expired at the end of the last session of Congress. The posts have been vacant since.

On June 13, 1989, Senator BENTSEN, the distinguished chairman of the Finance Committee, and I, as chairman of the Social Security Subcommittee, wrote President Bush to recommend that Dr. Alicia Munnell, senior vice president and director of research, Federal Reserve Bank of Boston, be nominated as the Democratic public trustee.

Mr. President, the statutory duty of the Board of Trustees is to hold the trust funds. But perhaps their most important specific task is to submit to the Congress an annual report on the status of the trust funds. Under the Social Security Act, the annual trustees report is to be submitted no later than April 1. It is now April 3 and there is as yet no report.

To be sure, the reports have been late before. But since 1984 the report has been prepared with the participation of public trustees, and this year it will not be. There are none.

Mr. President, the present situation is regrettable. I offer this resolution to draw attention to the matter in the hope that we may promptly put public trustees in place so that they may get on with the preparation and submission of the annual report.

I ask unanimous consent to include in the RECORD at the conclusion of my remarks a letter to President Bush from Lawrence T. Smedley of the National Council of Senior Citizens, urging the President to fill the vacancies on the Social Security Board of Trustees, and a copy of the letter that Senator BENTSEN and I wrote to the President last June on this subject.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, March 28, 1990.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The National Council of Senior Citizens is quite concerned about the continuing vacancies of the two public trustee positions on the Old Age Survivors' Disability and Hospital Insurance Board of Trustees. For over a year now, no permanent appointment has existed for either the Republican or the Democratic slot. Currently, there is no nominee before the Senate Finance Committee.

It is our understanding that Senators Bentsen and Moynihan have suggested Alicia Munnell as the public member representing their party. Dr. Munnell is known to us at the National Council of Senior Citizens and we have the highest opinion of her. If another candidate of similar quality is not available, we see no reason to delay in submitting her nomination.

For us and millions of beneficiaries, the Social Security Board of Trustees is a serious matter. We find it unacceptable that vacancies continue for these positions. We hope, Mr. President, that you will act promptly on this matter.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, June 13, 1989.

Hon. GEORGE H.W. BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to recommend Dr. Alicia Munnell, Senior Vice President and Director of Research, Federal Reserve Bank of Boston, for the post of Democratic public trustee of the Social Security Trust Funds.

As you may know, in the Social Security Amendments of 1983 (Public Law 98-21) Congress made provision for two members of the public, one Democrat and one Republican, to serve on the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds for four-year terms. The purpose was to increase citizen involvement and confidence in the Social Security system. The public trustees are nominated by the President and confirmed by the Senate. The other trustees are the Secretaries of Treasury (Managing Trustee), Labor, and Health and Human Services, who serve ex officio.

In 1984 President Reagan appointed Ms. Suzanne Denbo Jaffe, a Democrat, and Mrs. Mary Falvey Fuller, a Republican, to be the first public trustees. Their statutory terms expired last year, and they presently serve under recess appointments of January 3, 1989.

It is our hope that you will consider nominating Dr. Munnell this year to be the next Democratic public trustee of the Trust Funds. Dr. Munnell is particularly well qualified for this post by virtue of her exceptional knowledge of the budgetary, economic, and policy issues related to the accumulating Trust Fund reserves, a knowledge demonstrated in her many published writings in this area. We are including Dr. Munnell's resume for your reference.

Thank you for your consideration of our recommendation.

Sincerely,

LLOYD BENTSEN,
Chairman,
Committee on Finance.
DANIEL PATRICK MOYNIHAN,
Chairman,
Subcommittee on Social Security and Family Policy.

AMENDMENTS SUBMITTED

CLEAN AIR ACT AMENDMENTS

McCLURE (AND MURKOWSKI) AMENDMENT NO. 1438

Mr. McCLURE (for himself, Mr. MURKOWSKI, and Mr. MCCONNELL) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, as follows:

(1)(A) on page 390, amend lines 6 through 19, to read as follows:

"(l) The term (1) 'clean coal technology' means any technology included on a list to be published not later than December 31, 1992, and amended from time to time, by the Administrator, with the concurrence of the Secretary of Energy. Such list shall include—

"(A) the following clean coal technologies: atmospheric or pressurized fluidized bed combusion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, derivatives of one or more of these technologies, and any other technology capable of simultaneously reducing or removing emissions of sulfur oxides and oxides of nitrogen;

"(B) any oil and/or gas-fired utility unit which has been awarded clean coal technology demonstrations funding as of January 1, 1991, by the Secretary of Energy; and

"(C) any additional technologies, including precombustion, combustion or post-com-

bustion technologies, or any feedstocks derived therefrom which technology or feedstock provides improved performance relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1989, as determined by the Administrator, with the concurrence of the Secretary of Energy, based upon consideration of the following criteria: efficiency of energy consumption, number of pollutants controlled, effect on the derating of a boiler, reduction of volumes of by-product solid and other wastes, and differences in availability dates.

"(2) 'clean coal unit' means a utility unit that utilizes a clean coal technology.

"(3) 'retrofit' means, for purposes of section 409, to install a clean coal technology at an existing utility unit with equipment or facilities utilizing a clean coal technology. Such term includes replacement of all or part of an existing utility unit with equipment or facilities utilizing clean coal technology at the same site.

"(4) 'replace' or 'replacement' means, for the purposes of section 409, to retire an existing utility unit and replace such unit with a new clean coal unit at the same or a different site, but only if—

"(A) the new clean coal unit is designated under section 409(a) by the owner or operator of the existing utility unit as replacing such unit,

"(B) the existing unit will be retired from service on or before the date on which the designated new unit enters commercial service, [and]

"(C) the new unit is located in the same air quality region as the existing unit, and

"(D) any allowances otherwise available to the existing unit pursuant to section 409(c) shall be transferred to the designated replacement unit.".

(B) On page 444, line 10, after "SEC. 415." delete existing subsection (a) and redesignate subsections (b) through (e) as new subsections (a) through (d), respectively.

(2) on page 435, amend from lines 3 through page 437, line 20, to read as follows:

"RETROFIT AND REPLACEMENT

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be retrofitted as a clean coal unit or replaced with a clean coal unit designated by the owner or operator of the existing unit, for the purposes of complying with the requirements under section 405. The owner or operator shall, as a part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such retrofit or replacement and an executed contract for the majority of the equipment for such unit and such other information as the Administrator may require by regulation. If the owner or operator of an existing unit proposes to retrofit or replace such unit with a clean coal unit that uses a clean coal technology listed under section 402(l), and such proposed retrofit or replacement is incorporated in a compliance plan under section 408(b) and an approved permit under section 408(d), approval of such permit shall be deemed to satisfy the requirements of the first sentence of this subsection.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for the unit to be retrofitted or replaced from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act.

(2) If—

(A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to retrofit or replace such unit with a clean coal unit, and

(B) such owner or operator thereafter satisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.

then such extension shall be available until no later than December 31, 2003.

"(3) Any retrofit or replacement unit or any unit qualifying under paragraph (2), which receives an extension until December 31, 2003, may elect to receive an additional two-year extension until December 31, 2005, provided that the allowances issued to that unit shall be reduced during such period after the unit is placed in service as the Administrator may prescribe (but not less than two years) by the excess of (A) the aggregate number of allowances which the unit received and used during the two-year period that the extension applied, over (B) the aggregate allowances to which the unit would have been entitled (but for the extension) under section 405.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. In the case of any existing unit that is to be retrofitted as a clean coal unit, the source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the clean coal technology.

"(2) Effective on that date, the source shall be subject to the requirements of section 405. Allowances for the year in which the source is removed from operation to install the clean coal technology shall be calculated by multiplying 1.20 lbs/mmBtu by the existing utility unit, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for calendar years after the year the retrofit or replacement is complete shall be calculated by multiplying 1.20 lbs/Btu of sulfur dioxide by the existing utility unit's baseline divided by 2,000.

"(4) An owner or operator of an existing unit satisfying the requirements of subsection (a) while using petroleum coke as a fuel shall be eligible for the same regulatory incentives under section 415(b)(1) as a qualifying clean coal technology.

"(5) Allowances issued to a replacement unit described in section 402(1)(4) shall be reduced during such period after the replacement unit is placed in service as the Administrator may prescribe (but not less than four years) by an amount equal to the excess of (A) the aggregate number of allowances issued under paragraph (1) and used by the existing unit during the extension period provided under subsection (b) over (B) the aggregate allowances to which the existing unit would have been entitled (but for this section) under section 405 during the calendar years that paragraph (1) applied.

"(d) CONTROL REQUIREMENTS.—Any source qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant listed as a criteria pollutant under section 108 of the Act shall not be subject to the requirements of parts C and D of this Act for that pollutant.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D for any source qualifying for an extension under this section, that will increase its actual emissions as specified in section 409(d)."

"(g) APPLICABILITY OF NEW SOURCE REQUIREMENTS.—No existing utility unit or source subject to this title shall be subject to any standard under section 111(b) or be required to obtain a permit under sections 165 or 173 as a result of any physical or operational change that occurs at such unit or source after the date of enactment of this title provided that any such change in the unit's or source's physical and operational design does not increase the maximum potential capacity of the unit or source to emit criteria air pollutants under its physical and operational design.".

(3) on page 447, modify lines 12 through 14, to read as follows: "pollutant listed as a criteria pollutant under section 108 of the Act, except that the potential post-repowering emissions from that pollutant do not exceed the potential pre-repowering emissions for that pollutant as a result of the demonstration project.".

SYMMS (AND HELMS) AMENDMENT NO. 1439

Mr. SYMMS (for himself and Mr. HELMS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630), supra, as follows:

At the appropriate place in amendment No. —, insert the following:

COMMUNITY INVOLVEMENT IN CLOSING DECISIONS

Section 112 of the Clean Air Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. . COMMUNITY INVOLVEMENT IN CLOSING DECISIONS.—No plant, facility, or source shall be required to cease operations, nor shall be put in jeopardy of ceasing operations because of action taken with respect to its permits, fees, or fines, as a result of exceeding the standards issued pursuant to subsection (f) of this section, unless and until such time as a question shall have been placed in referendum before the com-

munity exposed to the risks which exceed the standard, and at least 50 percent respond in the negative. Prior to the issuance of any standard pursuant to subsection (f), the Administrator shall, by rulemaking, determine the appropriate methodology for conducting such referenda. The question placed before the exposed population shall be worded as follows:

Question: Shall (name of plant, facility, or source) remain in operation notwithstanding the fact that the U.S. Environmental Protection Agency has projected the possibility that an individual born and standing on the fenceline of this (plant, facility, or source) for 70 years may be subject to a lifetime cancer risk of greater than [1 in 10,000 or 1 in 1,000,000].

Even should less than 50 percent respond in the negative, no plant, facility or source may increase its emission of the substance or substances whose risk was the subject of referendum beyond the level emitted at the time the question was placed in referendum. Should a standard issued under subsection (f) be based on an exposure other than 70 years at the fenceline, the question posed may be modified to reflect the actual exposure assumption used.

JEFFORDS AMENDMENT NO. 1440

Mr. JEFFORDS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill (S. 1630), supra, as follows:

On page 319, after line 10, insert the following new section:

"CHEMICAL PROCESS SAFETY MANAGEMENT

"SEC. 303. (a) The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than twelve months after the date of enactment of this section, the Secretary of Labor, in coordination with the Administrator, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highway hazardous chemicals in the workplace.

"(b) The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986, Title III of the Superfund Amendments and Reauthorization Act [SARA]. The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

"(c) Such standard shall, at minimum, require employers to:

"(1) develop and maintain written safety information identifying, workplace chemical and process hazards, equipment used in the processes, and, technology used in the processes;

"(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of the workplace effects of a range of releases, estimation of the health and safety effects of such a range on employees;

"(3) consult with workers and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

"(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation and emergency responses;

"(5) periodically review the workplace hazard assessment and response system;

"(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

"(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

"(8) ensure contractors and contract employees are provided appropriate information and training;

"(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(b) of SARA;

"(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

"(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

"(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

"(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and,

"(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

"(d) Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 304(k).".

On page 325, line 17, after "section" insert the following: ", including a review of the standard required under section 303 of the Clean Air Act Amendments of 1989,".

On page 334, after line 17, insert the following new sentence: "Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this section, workers and their representatives shall have the same rights to participate in such inspections as provided for in the Occupational Safety and Health Act.".

On page 330, beginning at line 17, strike paragraph (6) and insert the following in lieu thereof:

"(6) The Board shall coordinate its activities under paragraph (5) with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where a sudden, accidental release involvin the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.".

On page 333, after line 16 insert the following new paragraph and redesignate the succeeding paragraphs accordingly:

"(11) The Board may make recommendations with respect to the safety of chemical production, processing, handling, and storage to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than one hundred and eighty days after receipt thereof. The response to the Board's recommendation shall indicate whether the Secretary will—

"(A) initiate rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation, or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.".

METZENBAUM AMENDMENT NO. 1441

Mr. BAUCUS (for Mr. METZENBAUM) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Insert new section 403(1) as follows:

"Sec. 403(1) Applicability of the antitrust laws.

"(1) Nothing in this section affects

"(a) the applicability of the antitrust laws to the transfer, use or sale of allowances, or

"(b) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.".

DOLE (AND OTHERS) AMENDMENT NO. 1442

Mr. DOLE (for himself, Mr. NICKLES, Mr. SYMMS, Mr. HELMS, Mr. SHELBY, Mr. COCHRAN, Mr. THURMOND, Mr. BOSCHWITZ, Mr. INOUYE, Mr. HEFLIN, Mr. BURNS, Mr. BOREN, Mr. BOND, Mr. MCCONNELL, and Mr. PRYOR) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and

others) to the bill S. 1630, supra, as follows:

On page 318, after line 24, add the following new subsection:

"(x) HEALTH AND ENVIRONMENTAL EFFECTS OF PESTICIDE USE.—

"(1) The authorities of this section shall not be available for the purpose of protecting public health or the environment from adverse effects which may result from the use of a pesticide in a commercial agricultural operation where such use is regulated pursuant to the authority of the Federal Insecticide, Fungicide and Rodenticide Act.

"(2) For purposes of this subsection, the term commercial agricultural operation means any activity conducted for the production of one or more agricultural products or commodities and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.".

JOHNSTON AMENDMENT NO. 1443

Mr. JOHNSTON proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 446, beginning on line 3, strike the entirety of subsection (d) through line 2 on page 449.

On page 449, line 3, redesignate subsection (e) as new subsection (d).

On page 449, following line 19, insert the following new section 416:

"APPLICABILITY OF NEW SOURCE REQUIREMENTS

SEC. 416. No existing utility unit subject to this title shall be subject to any standard under section 111(b) or be required to obtain a permit under section 165 or section 173 as a result of any physical or operational change that occurs at such unit after the date of enactment of this title provided that any such change does not: (a) increase the maximum hourly emissions of any criteria air pollutant, based on the most recent 10 years of operations; (b) cause or exacerbate the exceedence of any national ambient air quality standard promulgated pursuant to section 109; or (c) cause the exceedence of any PSD increment or visibility protection limitation promulgated pursuant to part C."

TRADE AND COMPETITIVENESS ACT

BENTSEN (AND PACKWOOD) AMENDMENT NO. 1444

(Ordered to lie on the table.)

Mr. BENTSEN (for himself and Mr. PACKWOOD) submitted an amendment intended to be proposed by them to the bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 3 years, as follows:

On page 106, after line 3, insert:

SEC. . OTHER TECHNICAL AND MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.—

(1) Subsection (e) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337(e)) is amended by adding at the end thereof the following new paragraph:

"(4) The proceeds from the forfeiture of any bond posted under paragraph (1) or (2) shall be deposited into the general fund of the Treasury of the United States."

(2) Paragraph (1) of section 337(g) of the Tariff Act of 1930 (19 U.S.C. 1337(g)(1)) is amended by adding at the end thereof the following new sentence: "The Commission may delay issuing an exclusion or a cease or desist order under this paragraph until the completion of all (or a portion of) the investigation with respect to the complaint if the Commission determines such delay is appropriate."

(3) Subparagraph (C) of section 337(g)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(g)(1)(C)) is amended—

(A) by striking "or otherwise" before "fails to appear", and inserting a comma; and

(B) by isnerting before the semicolon ", or otherwise substantially fails to meet the requirements for participation in the investigation".

(4) Section 337(n) of the Tariff Act of 1930 (19 U.S.C. 1337(n)) is amended by adding at the end thereof the following new paragraph:

"(3) Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protection orders issued by the Commission in connection with investigations or other proceedings under this section shall be treated as information described in section 552(b)(3) of title 5, United States Code."

(5) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS TO SECTION 777 OF THE TARIFF ACT OF 1930.—

(1) Subparagraph (A) of section 777(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1677f(c)(1)(A)) is amended by inserting "customer names," after "classified information".

(2) Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended by adding at the end thereof the following new subsection:

"(g) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c) or (d), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code."

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(c) AMENDMENTS TO THE UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988.—

(1) Section 313(n) of the Tariff Act of 1930 (19 U.S.C. 1313(n)) is amended—

(A) by inserting ", except an article" before "made from or substituted for", and

(B) by striking "of 1988" the second place it appears and inserting a comma.

(2) Section 313(o) of the Tariff Act of 1930 (19 U.S.C. 1313(o)) is amended by adding at the end thereof the following new sentence: "This subsection shall apply to vessels delivered to Canadian account or owner, or to the Government of Canada, on and after January 1, 1994."

(3) U.S. Note 1 to subchapter XIII of chapter 98 of the Hrmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by adding at the end thereof the following new paragraph:

"(c) For purposes of this subchapter, the shipment to Canada on or after January 1, 1994, of an article entered into the United States under heading 9813.00.05 shall not constitute an exportation, unless the article is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988."

(4) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) in subsection (a)(5)—

(i) by striking subparagraph (A) and inserting:

"(A) the date of notice of any determination described in paragraph (1)(B) or a determination described in clause (i), (ii), or (iii) of paragraph (2)(B),", and

(ii) by striking out the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the date as of which a binational panel has dismissed the binational panel review for lack of jurisdiction and any interested party seeking review under paragraph (1) has provided timely notice under subsection (g)(3)(B),"; and

(B) in subsection (g)(3)—

(i) by striking "or" at the end of subparagraph (A)(ii), by striking the period at the end of subparagraph (A)(iii) and inserting ", or", and by adding at the end of subparagraph (A) the following new clause:

"(iv) a determination which a binational panel has determined under paragraph (2)(A) is not reviewable.", and

(ii) by inserting "or (IV)" after "subparagraph (A)(i)" in subparagraph (B).

(5) Section 777(d) of the Tariff Act of 1930 (19 U.S.C. 1677f(d)), as added by section 501(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, is amended—

(A) in paragraph (1)(A), by striking "(but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement)", and by adding at the end thereof the following new sentence: "If the administering authority or the Commission claims a privilege as to a document or portion of a document in the administrative record of the proceeding in question and a binational panel finds that in camera inspection or limited disclosure of that document or portion thereof is required by United States law, the administering authority or the Commission, as appropriate, may restrict access to such document or portion thereof to the authorized persons identified by the panel as requiring access and may require such persons to obtain access under a protective order described in paragraph (2).";

(B) in paragraph (1)(B)—

(i) by inserting ", and persons under the direction and control," after "employees" in cause (ii),

(ii) by striking "and" at the end of clause (ii),

(iii) by striking all after "in order to" in clause (iii) and inserting "make recomendations to the Trade Representative regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement, and"; and

(iv) by adding at the end thereof the following new clause:

"(iv) any officer or employee of the government of Canada designated by an authorized agency of Canada to whom disclo-

sure is necessary in order to make decisions regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.";

(C) in paragraph (3)—

(i) by striking "or" after "violate," each place it appears, and

(ii) by inserting "or knowingly to receive information the receipt of which constitutes a violation of," after "violation of," each place it appears; and

(D) in paragraph (4)—

(i) by striking "or" after "for violation,", and

(ii) by inserting "or receipt of information with reason to know that such information was disclosed in violation of," after "violation of,".

(6) Section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by adding at the end thereof the following new paragraph:

"(4) If the Canadian Secretariat described in chapter 19 of the Agreement provides funds during any fiscal year for the purpose of paying, in accordance with Annex 1901.2 of the Agreement, the Canadian share of the expenses of binational panels, the United States Secretariat established under section 405(e)(1) may hereafter retain and use such funds for such purposes."

(7) Section 408(c) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking all after "persons" and inserting "who would otherwise be entitled under Canadian law to commence procedures for judicial review of a final antidumping or countervailing duty determination made by a competent investigating authority of Canada."

(8) Section 409(b)(3)(A) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking "section 305" and inserting "section 308".

● Mr. BENTSEN. Mr. President, I am today submitting an amendment on behalf of myself and Senator PACKWOOD that we may propose as an amendment to H.R. 1594, a bill to make miscellaneous and technical changes to various trade laws. The administration has asked the Congress to consider certain technical amendments to the United States-Canada Free-Trade Agreement Implementation Act of 1988. Similarly, the International Trade Commission has asked the Congress to consider certain amendments to sections 337 and 777 of the Tariff Act of 1930. The amendments being proposed by the International Trade Commission arise as a result of amendments made by the Omnibus Trade and Competitiveness Act of 1988.

The purpose of submitting these amendments today is provide an opportunity for interested persons to review and comment on the proposed amendments prior to the consideration of H.R. 1594 by the Senate. It would be my intention to offer these amendments unless they prove controversial.

Mr. President, I am including with this statement a summary of the amendments, and I ask unaimous consent that the summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROPOSED AMENDMENTS TO TRADE AND COMPETITIVENESS ACT OF 1988

AMENDMENTS TO SECTION 337 OF TARIFF ACT OF 1930

The Act provides for the first time that complainants post a bond as a prerequisite to temporary relief. The Conference Report provides that a forfeited bond go to the Treasury. The proposed amendment of subsection 337(e)(2) places this requirement in the statute.

The Commission has customarily issued default orders in section 337 cases. The Act provided explicit statutory authority for this practice. The proposed amendment of subsection 337(g)(1) endorses the Commission's long-standing practice of delaying default remedial orders, when appropriate, until the end of the investigation. This avoids the risk that orders will be issued on invalid or unenforceable rights and burdensome seriatim review of remedial orders by the President.

In providing explicit authority for default orders in subsection 337(g)1, the Act may have limited authority to issue such orders to cases in which the respondent fails to appear or answer the Complaint. The proposed amendment would endorse the Commission's practice of issuing default orders in cases in which the respondent otherwise fails to participate in an investigation in any substantial way.

The Commission is obligated by subsection 337(n) to protect confidential information developed in these investigations. Among the sanctions the Commission may issue for violation of a protective order is a private letter of reprimand. This proposed amendment, which parallels a proposed amendment to subsection 777 of Title VII, permits the Commission to withhold from inquiries under the Freedom of Information Act (FOIA) files of investigations of violations of protective orders to assure that private sanctions remain private.

PROPOSED AMENDMENTS TO TITLE VII OF THE TARIFF ACT OF 1930

The Act amended subsection 777 of Title VII to provide release of all confidential information under administrative protective order (APO). The disclosure of customer lists has impaired Commission investigations because counsel have contacted customers to influence their responses to agency requests for information. The CIT has held that disclosure is for the purpose of effective advocacy and not to empower counsel to act as independent investigators. *SNR Roulements* v. *United States*, 13 CIT . 704 F. Supp. 1103, 1109 (1989). Therefore, this amendment would permit the Commission to withhold customer names to assure unbiased responses to agency inquiries.

The Commission is obligated to protect information released under APO by a system of sanctions for violations. Among the sanctions available to the Commission are private letters of reprimand. Without the ability to protect the records of private reprimands, this sanction would be unavailable. In order to assure that private sanctions remain private, the Commission and Commerce must be able to withhold from Freedom of Information Act (FOIA) inquires, the records of investigations of APO violations. Amended subsection 777(g) would provide this authority.

TECHNICAL AMENDMENTS TO DUTY DRAWBACK UNDER THE U.S.-CANADA FREE-TRADE AGREEMENT

FTA PROVISION

With certain exceptions, the U.S.-Canadian Free Trade Agreement (FTA) eliminates duty drawback for bilateral trade as of January 1, 1994 (or later if jointly agreed). Duty drawback provides for the return of duties on imports when they are substituted or incorporated into a good subsequently exported. Continuation of duty drawback between the United States and Canada would allow imports from third countries to benefit from the elimination of the tariffs under the FTA. Under the FTA, drawback would continue for specified drawback eligible goods including:

Citrus products;

Apparel made from third-country fabric and subject to MFN tariffs;

Other specified products if jointly agreed by the United States and Canada; and

Goods that are subsequently re-exported unaltered (and thus subject to MFN tariff in the consuming country).

TECHNICAL LEGISLATIVE CHANGES

The first technical change would re-insert in the U.S. implementing act the phrase "except an article" so that drawback could continue after January 1, 1994, for the drawback eligible products specified in the FTA. The exclusion of those words would (1) prohibit drawback for the products that should remain eligible for drawback and (2) continue drawback for all other products. Without amendment, the United States would implement on January 1, 1994, the reverse of what was intended by the FTA.

The second technical amendment inserts the date on which drawback will be prohibited for ships containing parts imported from third countries. The FTA implementing act banned immediately duty drawback for these products when traded between the United States and Canada. The technical amendment delays the ban until January 1, 1994, as intended.

The third technical amendment corrects an omission in the FTA implementing act. It provides that third-country goods temporarily imported into the United States under bond must pay U.S. duty if incorporated or substituted for goods subsequently exported to Canada after January 1, 1994.

SUMMARY OF PROPOSED AMENDMENTS TO TITLE IV OF THE U.S.-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Title IV of the United States-Canada Free-Trade Agreement Implementing Act (the Act) implements Chapter 19 of the Free Trade Agreement (FTA). Twelve specific amendments, addressing nine issues, are being proposed to title IV.

1. The first amendment would resolve an inconsistency between the FTA and the Act. Currently, the FTA requires a request for binational panel review to be filed within 30 days after a final determination, while the Act requires such a request to be filed within 30 days after an antidumping or countervailing duty order. The amendment would alter the deadline for filing a request for panel review to conform to the time limits in the FTA.

2. The second group of amendments would permit an interested party that had timely indicated its preference for review by a domestic court to obtain court review if the binational panel finds that it lacks jurisdiction because some other party, which had

requested panel review, lacked standing. This group of amendments provides time limits for filing a summons and complaint in the appropriate court.

3. An amendment would permit release of privileged information in an administrative record, but only under tightly controlled procedures that would limit release and use of such information to the same types of circumstances under which it would be released and used in a judicial proceeding.

4. The next amendment would permit release of business proprietary information in an administrative record to independent consultants under the direction or control of counsel. This mirrors the access available in court proceedings.

5. A proposed amendment would permit release of business proprietary information to Canadian government officials, to the same extent and for the same purposes as such information would be released to United States government officials.

6. The amendment would extend the reach of sanctions to reach violations of protective orders that would be subject to sanction in administrative proceedings.

7. The FTA provides that the U.S. and Canadian sections of the binational Secretariat are to share costs. An amendment would allow the U.S. Secretary to retain funds received from the Canadian Secretary to defray Canada's share of expenses incurred. Under current law, the U.S. Secretary must transfer all funds received to the U.S. Treasury.

8. The last two amendments are purely technical. One refers to an erroneous description of persons to be served and the other identifies an incorrect citation.

9. In addition, we have orally alerted the Senate Finance Committee to the fact that the Tariff Act of 1930 contains two sections designated as 777(d). This duplication resulted when the Act and another bill were enacted in the same year.●

CLEAN AIR ACT AMENDMENTS

DOLE (AND OTHERS) AMENDMENT NO. 1445

Mr. DOLE (for himself, Mr. DURENBERGER, Mr. SHELBY, Mr. COCHRAN, Mr. CHAFEE, Mr. MACK, Mr. GRAHAM, Mr. BURDICK, Mr. BAUCUS, Mr. WARNER, Mr. BUMPERS, Mr. DIXON, Mr. BOREN, Mr. GRASSLEY, and Mr. PRESSLER) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 343, beginning at line 22, strike all through line 14 on page 385 and insert in lieu thereof the following:

"SEC. 130. (a) NEW SOURCE PERFORMANCE STANDARDS.—

"(1)(A) The Administrator shall establish performance standards and other requirements pursuant to section 111 and this section for each category of solid waste incineration units. Such standards shall include emissions limitations and other requirements applicable to new units and guidelines (under section 111(d) and this section) and other requirements applicable to existing units.

"(B) Standards under section 111 and this section applicable to solid waste incineration units combusting municipal waste with capacity greater than 250 tons per day shall be promulgated not later than six months after the date of enactment of this section.

"(C) Standards under section 111 and this section applicable to solid waste incineration units with capacity equal to or less then 250 tons per day combusting municipal waste or units combusting hospital waste, medical waste and infectious waste shall be promulgated not later than twenty-four months after the date of enactment of this section.

"(D) Standards under section 111 and this section applicable to solid waste incineration units combusting commercial or industrial waste shall be proposed not later than thirty-six months after the date of enactment of this section and promulgated not later than forty-eight months after the date of enactment of this section.

"(E) Not later than eighteen months after the date of enactment of this section, the Administrator shall publish a schedule for the promulgation of standards under section 111 and this section applicable to other categories of solid waste incineration units.

"(2) Standards applicable to solid waste incineration units promulgated under section 111 and this section shall reflect the greatest degree of emission reduction achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard)—

"(A) has been achieved in practice by a solid waste incineration unit in the same category, excluding periods of malfunctioning or misoperation, or

"(B) is contained in a State or local regulation or any permit for solid waste incineration units in the category, and will be implemented at such units,

whichever is more stringent, unless the Administrator determines that such degree of emissions limitation will not be achievable by units to which the standards apply or was adopted for reasons that are not nationally applicable or is otherwise not appropriate as a nationally applicable standard. In determining the emissions limitation to be required under section 111 and pursuant to this subsection, the Administrator shall take into account the performance of all units which achieve, in whole or in part, emissions limitations more stringent than current standards and may subsequently exclude units from consideration only to the extent provided in this subparagraph. The Administrator shall distinguish among classes, types (including mass-burn, refuse-derived fuel, modular and other types of units), and sizes of units within a category in establishing such standards. Emissions limitations and other requirements applicable to existing units may be less stringent than such limitations and requirements applicable to new units.

"(3) Standards under section 111 and this section applicable to solid waste incineration units shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to human health or the environment.

"(5) The performance standards promulgated under section 111 and this section and applicable to solid waste incineration units shall specify opacity (as appropriate) numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. The Administrator may promulgate numerical emissions limitations or provide for the monitoring of post combustion concentration of surrogate substances, parameters or periods of residence time in excess of stated temperatures with respect to pollutants other than those listed in this paragraph.

"(6) Not later than five years following the initial promulgation of any performance standards and other requirements under this section and section 111 applicable to a category of solid waste incineration units, and at five year intervals thereafter, the Administrator shall review, and in accordance with this section and section 111, revise such standards and requirements.

"(b) EXISTING UNITS.—

"(1) Performance standards under this section and section 111 for solid waste incineration units shall include guidelines promulgated pursuant to section 111(d) and this section applicable to existing units. Such guidelines shall include as provided in this section each of the elements required by subsection (a) (emissions limitations), subsection (c) (monitoring), subsection (d) (source separation, recycling and ash management), subsection (e) (operator training) and subsection (f) (permits) of this section.

"(2) Not later than one year after the Administrator promulgates guidelines for a category of solid waste incineration units, each State in which units in the category are operating shall submit to the Administrator a plan to implement and enforce the guidelines with respect to such units. The State plan shall be at least as protective as the guidelines promulgated by the Administrator and shall provide that each unit subject to the guidelines shall be in compliance with all requirements of this section not later than three years after the State plan is approved by the Administrator but not later than five years after the guidelines were promulgated. The Administrator shall approve or disapprove any State plan within 180 days of the submission, and if a plan is disapproved, the Administrator shall state the reasons for disapproval in writing. Any State may modify and resubmit a plan which has been disapproved by the Administrator.

"(3) The Administrator shall develop, implement and enforce a plan for existing solid waste incineration units within any category located in any State which has not submitted an approvable plan under this subsection with respect to units in such category within two years after the date on which the Administrator promulgated the relevant guidelines. Such plan shall assure that each unit subject to the plan is in compliance with all provisions of the guidelines not later than five years after the date the relevant guidelines were promulgated.

(b)(4) Publicly owned existing municipal waste incinerators which are permtted by a state agency responsible for the protection from contamination of the water resource of the state and for the enforcement of a coordinated statewide solid waste management program designed to achieve a 30 percent reduction by the end of 1994 of municipal solid waste prior to final disposal or incineration, and which, after recycling, utilize resource recovery for at least 75 percent of their solid waste management disposal technology for their solid waste flow control area, and for which either of the following

applies: (A) a health risk assessment completed prior to the effective date of enactment of this section in accordance with state regulatory guidelines has concluded that the associated health risk is negligible; or (B) a retrofit of acid gas scrubbing or baghouse particulate control systems would cause diversion of refuse to a landfill where the municipal waste incinerator does not control tipping fees or accessibility, shall be deemed to be in compliance with paragraph (2)(C) and (D), when such incinerators are equipped with a dry sorbent injection system which is installed and operated in accordance with guidelines published by the Administrator.

The Administrator shall promulgate a schedule for compliance with the standards required by this subsection. In no event shall such schedule provide for compliance with such standards later than the date six years after the enactment of this section.".

"(c) MONITORING.—The Administrator shall, as part of each performance standards promulgated pursuant to subsection (a) and section 111, promulgate regulations requiring the owner or operator of each solid waste incineration unit—

"(1) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect human health and the environment;

"(2) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and

"(3) to report the results of such monitoring.

Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures validated on solid waste incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating an exceedance of any standard under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.

"(d) SOURCE SEPARATION, RECYCLING AND ASH MANAGEMENT.—

"(1) As part of any performance standard or guidelines for solid waste incineration units combusting municipal waste promulgated pursuant to this section and section 111, the Administrator shall include regulations for recycling applicable to jurisdictions served by such units. Such regulations shall provide, beginning twelve months after promulgation of performance standards under subsection (a)(2), that no permit shall be issued under this Act to a solid waste incineration unit combusting municipal waste unless each of the jurisdictions served by the municipal waste incineration unit (as designated by the State in accordance with section 4006 of the Solid Waste Disposal Act) has been certified by the director of the solid waste program for the State in which the unit is to be located in compliance or subject to an enforceable schedule to be in compliance with all solid waste planning requirements under the Solid Waste Disposal Act with respect to planning and the director has approved a plan for each jurisdiction (enforceable pursuant to subsection (h) against the jurisdiction) which will achieve a municipal waste recycling rate of at least 25 per centum of the municipal waste (but not including construction waste) generated within the service area of the unit, (i) before such unit begins operation or four years after a permit is issued for the unit, whichever is later, if such unit is a new unit, and (ii) not later than five years after the date of enactment of this section if such unit is an existing unit. If the director determines that recycling at such rate is not economically feasible or that recycling capacity does not exist to achieve such rate, the director shall establish an alternative rate. Any determination under the preceding sentence shall be reviewed not less frequently than every two years. The director may provide additional time, but not to exceed five additional years, for jurisdictions served by an existing unit to achieve the recycling rate required by this subparagraph, provided that any such extension shall include annual milestones which demonstrate progress toward achieving the required rate. The Administrator (or a State with a program approved under subsection (g)) is authorized to use the authorities of section 113 to enforce the requirements established under this paragraph. Yard waste shall not be credited for more than 40 per centum of the recycled waste volume for purposes of the recycling requirement under this paragraph.

"(2)(A) At the time of promulgating any performance standard for a category of solid waste incineration units, the Administrator shall publish guidelines identifying items or materials that should be removed from municipal or solid waste to be combusted in such units, the removal of which has been demonstrated in the judgment of the Administrator to reduce the concentration of the pollutants identified in subsection (a)(5) over and above the concentration of such pollutants after treatment by the post-combustion technologies set forth in subsection (a) (3) and (4) (to the extent that standards for the category units are based on the availability of such technologies for units in the category).

"(B) Nothing in this section or section 4011 of the Solid Waste Disposal Act shall authorize the Administrator to prohibit or limit the mining, processing or manufacture of any product, article or substance for any purpose.

"(C) Regulations under this section shall require the operator of any solid waste incineration unit to establish contractual requirements or other appropriate notification and inspection procedures sufficient to assure that the unit does not receive any waste required to be placed in a facility permitted under section 3005 of the Solid Waste Disposal Act.

"(3) Except as provided in this subsection, the Administrator shall not require solid waste recycling or materials separation with regard to the waste combusted by a solid waste incineration unit pursuant to the authority under this Act. Nothing in this section shall diminish the authority of the Administrator to require recycling and materials separation under the Solid Waste Disposal Act.

"(4) Effective 12 months after the date of enactment of this section, the disposal or combustion of lead-acid batteries in solid waste incineration units is prohibited. The Administrator shall publish guidelines with respect to the management of discarded lead-acid batteries.

"(5)(A) Beginning twelve months after the date of enactment of this section, no permit may be issued under this Act to a solid waste incineration unit unless an ash management plan has been submitted for the ash from such unit. The application for each permit to be issued to a new or modified municipal waste incineration unit or renewal or issuance of a permit for an existing unit, shall include a reasonable demonstration of adequate capacity to treat, manage, or dispose of the ash produced by the unit for a period of not less than five years in compliance with the requirements of section 4011 of the Solid Waste Disposal Act. Demonstrations required by this paragraph shall be updated every five years as required by subsection (f).

"(B) The Administrator may promulgate regulations or issue guidelines for the implementation of this paragraph which shall provide that, to the extent practicable, demonstrations are based on the characteristics of ash from the solid waste incineration unit as determined by testing methods prescribed pursuant to section 4011 of the Solid Waste Disposal Act. The initial demonstration required for new or modified solid waste incineration units under this paragraph shall be based on the characteristics of the ash from units of comparable design (including pollution control equipment and ash treatment systems) combusting similar waste streams.

"(C) Notwithstanding any other provision of this Act or the Solid Waste Disposal Act, no person may operate a solid waste incineration unit unless adquate capacity is available to treat, manage or dispose of the ash produced by the unit in compliance with section 4011 of the Solid Waste Disposal Act.

"(e) OPERATOR TRAINING.—Not later than twenty-four months after the enactment of this section, the Administrator shall develop and promote a model State program for the training of solid waste incineration unit operators. The Administrator may authorize any State or privateentity, to implement a State program for the training of solid waste incineration unit operators if the State or private entity has adopted a program which is at least as effective as the model program developed by the Administrator. Beginning on the date thirty-six months after the date on which performance standards and guidelines are promulgated under subsection (a) and section 111 for any category of solid waste incineration units it shall be unlawful to operate any unit in the category unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training program meeting the requirements established by the Administrator under this subsection.

"(f) PERMITS.—Beginning thirty-six months after the promulgation of a performance standard under subsection (a) and section 111 applicable to a category of solid waste incineration units, each unit in the category shall operate pursuant to a permit issued under this subsection and part B of title III. Notwithstanding any other provision of this Act, each permit for a solid waste incineration unit combusting municipal waste issued under this Act shall be issued for a period of up to thirty years and shall be reviewed every five years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines—

"(1) that the unit is not in compliance with all standards and conditions contained in the permits; or

"(2) capacity to treat or dispose of the ash from such unit in compliance with section 4011 of the Solid Waste Disposal Act for a five-year period after such determination has not been demonstrated.

Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed five years, and only after public comment and public hearing. No permit for a solid waste incineration unit may be issued under this Act by an agency, instrumentality or person that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or the State shall require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or the State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment. The Administrator's determination under the preceding sentence is a discretionary decision.

"(g) STATE PROGRAMS.—Any State may submit to the Administrator a proposed State program for implementation and concurrent enforcement of the requirements of this section. The Administrator shall approve or disapprove any State program proposed under this subsection within 180 days of submission. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization for such State. Each State program approved under this subsection shall, at a minimum, including permitting requirements for each new and existing solid waste incineration unit located in the State. Any permit issued by a State may be reviewed and withdrawn by the Administrator on the Administrator's own motion or upon a showing by any person that the conditions contained in such permit are not in compliance with the requirements of this Act.

"(h) EFFECTIVE DATE AND ENFORCEMENT.—

"(1) Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to new solid waste incineration units shall be effective as of the date six months after the date of promulgation.

"(2) Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to existing solid waste incineration units shall be applicable as expeditiously as practicable after approval of a State plan under subsection (b)(2) (or promulgation of a plan by the Administrator under subsection (b)(3)) but in no event later than five years after the date of such standards of requirements are promulgated.

"(3) After the effective date of any performance standard, emissions limitation or other requirement promulgated pursuant to this section, it shall be unlawful for any owner or operator of any solid waste incineration unit to which such standard, limitation or requirement applies to operate such unit in violation of such limitation, standard or requirement or for any other person to violate an applicable requirement of this section.

"(4) For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each performance standard, emissions limitation or other requirement established pursuant to this section including any requirement for recycling imposed under subsection (d) by the Administrator or a State or local government, shall be treated in the same manner as a standard of performance under section 111 which is an emissions limitation. Actions to enforce compliance with the recycling requirements of subsection (d)(1) may only be brought against the governments of the jurisdictions served by the unit, * * * agreement between the governments of the jurisdictions served by the unit and the owner or operator of the unit that the owner or operator will be responsible for compliance with some or all aspects of the requirements of subsection (d)(1) in which case an action to enforce may be brought against the owner or operator of the facility with regard to the aspects of the recycling requirement for which it is responsible.

"(5) Any civil penalty imposed by a court against a unit of local government under this Act for violations of this section shall be paid into a trust fund or comparable mechanism established by a court or the State and shall be applied in support of public programs or activities, as authorized by the court (or a fund administrator appointed by the court), that serve to enhance the protection of human health and the environment of the persons residing within the jurisdiction of such unit of local government but shall not be used to comply with requirements established under this section, section 111 or section 4011 of the Solid Waste Disposal Act.

"(i) DEFINITIONS.—As used in this section—

"(1) The term 'solid waste incinceration unit' means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term 'solid waste incineration unit' does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals, (B) qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such incinerators comply with opacity limitations to be established by the Administrator by rule.

"(2) The term 'new solid waste incineration unit' means a solid waste incineration unit the construction or modification of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit. Any solid waste incineration unit which combusts municipal waste and is granted an operating permit with a term of thirty years pursuant to subsection (f) shall be considered a new solid waste incineration unit for the purposes of this section upon the expiration date of such permit.

"(4) The term 'modified solid waste incineration unit' means a solid waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section or section 111.

"(5) The term 'existing solid waste incineration unit' means a solid waste incineration unit which is not a new or modified solid waste incineration unit.

"(6) The term 'municipal waste' means refuse (or refuse-derived fuel) collected from the general public more than 30 per centum of which consists of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as glass and metal including household wastes and waste from institutional, commercial, and industrial sources, but does not include industrial process wastes or medical wastes.

"(7) The term "solid waste" and "medical waste" shall have the meanings established by the Administrator pursuant to the Solid Waste Disposal Act.

"(j) OTHER AUTHORITY.—

"(1) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard relating to solid waste incineration units that is more stringent than a regulation, requirement, or standard in effect under this section or under any other provision of this Act.

"(2) Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements under any other authority of law, including the authority to establish for any such air pollutant a national ambient air quality standard, except that no solid waste incineration unit subject to performance standards under this section and section 111 shall be subject to standards under section 112 of this Act. Solid waste incineration units shall not be affected units for purposes of title IV of this Act.

"(3) No requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1) (D) or (E)) or under section 172(b)(6) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section.

(b) Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than".

(c) Prior to the promulgation of any performance standard for solid waste incinceration units combusting municipal waste under section 111 or section 130 of the Clean Air Act, the Administrator shall review the availability of acid gas scrubbers

as a pollution control technology for small new units and for existing units (as defined in 54 Federal Register 52190-52304 (December 20, 1989), taking into account the provisions of subsection (a)(2) of section 130 of the Clean Air Act.

ASH MANAGEMENT AND DISPOSAL

SEC. 307. (a) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section:

"MUNICIPAL WASTE COMBUSTION ASH

"SEC. 4011. (a) IN GENERAL.—(1) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units, as may be necessary to protect human health and the environment. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units shall be subject to this section and subtitle and not subject to the provisions of subtitle C. The provisions of section 3007, 3008 and 3013 shall apply to ash from municipal waste incineration units and the requirements of this section to the same extent that such sections apply to hazardous wastes and the requirements of subtitle C.

"(2) For the purposes of this section, the term—

"(A) 'municipal waste incineration unit' means a solid waste incineration unit combusting municipal waste as such terms are defined in section 130 of the Clean Air Act; and

"(B) 'treatment' means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or permanently fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, may pose a threat to human health or the environment and includes testing of such ash to assure that criteria promulgated under subsection (e) are satisfied.

"(3) Regulations promulgated under this section may establish requirements that apply to fly ash separately, to bottom ash separately, or to the combination of fly ash and bottom ash.

"(b) DISPOSAL.—(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of a double liner consisting of one flexible membrane liner and a composite liner with a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) groundwater monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of liners designed, operated, and constructed of materials to prevent the migration of any constituent into and through such liners during the period such facility remains in operation (including any postclosure monitoring period). For the purposes of this section the term 'composite liner' means a liner which consists of a flexible membrane liner and at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1×10^{-7} centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3)(A) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a) shall authorize the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner designed, operated and constructed of materials to prevent the migration of any constituent into and through such liner during the period the monofill remains in operation (including any postclosure monitoring period), ground water monitoring and a leachate collection system.

"(B) For the purpose of paragraph (4), a monofill (containing only ash from municipal waste incineration units) with two or more flexible membrane liners, a leachate collection system above and between such liners and ground water monitoring is determined to be an alternative design which will prevent the migration of any hazardous constituent into ground water or surface water at least as effectively as the design requirements of subparagraph (A).

"(C) If fly ash is to be disposed in monofill containing solely or substantially fly ash, such ash shall be treated pursuant to treatment standards established under this section before disposal or such monofill shall be constructed with an additional liner and a leachate detection and collection system between the liners.

"(D) Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse affects on human health or the environment.

"(4) The design requirements of paragraphs (1) and (3) shall not apply if the owner or operator of a solid waste management unit utilizing an alternative design demonstrates to the State, and the State finds, that the alternative design will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the design requirements of paragraphs (1) or (3) of this subsection. The State shall not solely or substantially rely upon location characteristics to make any determination under this paragraph. States may authorize such alternative design requirements only under a permit program approved by the Administrator as required under subsection (f) of this section. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any determination made by a State under this subsection. The Administrator shall make a decision on any appeal within one hundred and eighty days.

"(5) Liner requirements imposed under paragraph (1) or (3) of this subsection or subsection (c) shall include provisions for quality control and quality assurance with respect to the design and installation of the liners.

"(6) Nothing in this section shall be interpreted, construed or applied to require the routine testing of ash which is disposed in a landfill or monofill meeting the requirements of this subsection.

"(c) DISPOSAL IN SANITARY LANDFILLS.—Regulations promulgated under subsection (a) may allows disposal of ash from municipal waste incineration units in sanitary landfills with at a minimum one liner, leachate collection and ground water monitoring and otherwise meeting the requirements of revised criteria promulgated under section 4010(c), if (1) such ash is routinely tested and does not fail any criteria under subsection (e); and (2) any fly ash so disposed (including any fly ash combined with bottom ash) has undergone treatment (as defined in subsection (a)) in accordance with regulations for treatment promulgated under this section and such treated fly ash is separately tested and does not fail any criteria established under subsection (e). For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment. Ash may not be disposed of in units that are created as a result of vertical expansion of an existing waste disposal facility unless the owner or operator of such facility demonstrates, and the State finds, that there will be no settling (that would impair the integrity of any required liner, leachate collection or leak detection system, final cover, or any other structural component of the landfill containment system) of the waste upon which the proposed unit is to be built. In no event may such ash be disposed in a landfill from which the Administrator or the State has determined there is a release into ground water or surface water, unless such release would not require corrective action pursuant to Federal or State law or regulation or landfill that is in violation of Federal or State regulations or other requirements.

"(d) REUSE.—(1) The regulations under this section shall include such requirements applicable to the reuse and recycling of the ash from municipal waste incineration units, including criteria and routine testing procedures, as may be necessary to protect human health and the environment. The Administrator shall develop such regulations for the specific end uses of such reused or recycled ash. In developing such regulations, the Administrator shall consider, to the extent feasible and appropriate, all potential pathways of human and enviromental exposure, including both short-term and long-term, to hazardous constituents of such ash from such recycling and reuse. The pathways to be considered shall include, but not be limited to, inhalation, ingestion as a consequence of incorporation of the ash or any hazardous constituents into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its hazardous constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash. At a minimum the Administrator shall consider with respect to such recycling and reuse, appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) Such regulations shall require treatment of ash from municipal waste incineration units before any such ash is recycled or reused to protect human health and the environment. Such regulations shall specify those levels or methods of treatment that, taking into account the potential pathways of exposure identified in paragraph (1)—

"(A) substantially reduce the likelihood of migration of ash or its hazardous constitutents so that short-term and long-term threats to human health and the environment are minimized;

"(B) satisfy any criteria and routine testing procedures included in the regulations under paragraph (1); and

"(C) assure that the recycling or reuse of such ash is protective of human health and the environment.

"(3) If the Administrator fails to promulgate regulations under this subsection, no person may reuse or recycle ash from a municipal waste incineration unit after the date thirty-six months after the date of enactment of this section unless such ash is treated and leachate from an extraction procedure toxicity test applied to such ash does not exceed standards established pursuant to section 1412 of the Safe Drinking Water Act.

"(e) CRITERIA AND TESTING.—(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units under this section, the Administrator shall, not later than 18 months after the date of enactment, promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider, to the extent appropriate and feasible, all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompanying testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and ash from municipal waste incineration units, including seasonal variations in the constitutents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding the maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by a factor of one hundred or more shall, unless the Administrator establishes a more stringent requirement, constitute a failure of the test required by this section.

"(2) When disposal of ash occurs pursuant to subsection (c) or (d), the Administrator shall require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing of ash from such unit to test such ash in accordance with the appropriate criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the appropriate criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility in compliance with subsection (b) (1) or (3), or shall be treated (as defined in subsection (a)) in accordance with regulations promulgated under section (a) and shall be demonstrated to satisfy all applicable criteria promulgated under this subsection before disposal (pursuant to subsection (c)) or reuse (pursuant to subsection (d)).

"(4) The Administrator shall seek to validate the criteria and testing procedures established pursuant to this subsection by conducting a program of analysis of leachate produced at facilities disposing or reusing ash from municipal waste incineration units.

"(f) PERMITS.—(1) Beginning thirty months after the date of enactment of this section any facility receiving ash from municipal waste incineration units for the purpose of treatment, storage, reuse, recycling, or disposal shall be subject to a permit program or other system of prior approval and conditions comparable to those required by section 4005(c).

"(2) Before the issuance of a permit or other prior approval to any person with respect to any facility for treatment, storage, reuse, recycling or disposal of incinerator ash, the Administrator or the State shall provide for public notice and the opportunity for an informal public hearing, in accordance with the provisions of section 7004(b)(2) of this Act.

"(g) CORRECTIVE ACTION.—(1) Corrective action regulations issued pursuant to subsection 4010(c), when promulgated shall apply to any facility regulated under this section. The Administrator may establish such additional requirements for units regulated under this section as may be necessary to protect human health and the environment.

"(2)(A) Until such time as regulations are promulgated pursuant to paragraph (1), whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action or such other response measure as the Administrator deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

"(B) Any order issued under this subsection may include a suspension or revocation of authorization to operate, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.

"(C) Regulations promulgated under subsection (a) shall require corrective action for all releases pursuant to Federal or State law or regulation of hazardous constituents from any solid waste management unit at a facility seeking a permit under this section, regardless of the time at which waste was placed in such unit. Permits issued under this section shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(h) CLOSURE.—Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities for a period of not less than thirty years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

"(i) STATE PROGRAMS.—(1) Beginning eighteen months after the date of enactment of this section, any State may submit to the Administrator a proposed program for implementation and concurrent enforcement of the requirements of this section which may be considered and approved by the Administrator in accordance with the procedures established in section 4007. State programs approved under this subsection shall contain provisions assuring that each facility receiving ash from a municipal incineration unit obtains a permit or other form of prior approval as provided in subsection (f). Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization of such State program under this subsection.

"(2) Nothing in this section shall prohibit any State or political subdivision thereof from imposing any requirement with respect to the management, handling, storage, treatment, transportation, reuse, recycling or disposal of ash from municipal waste incineration units which is more stringent than any requirement established under this section.

"(4) Any person who registers for export of ash from a municipal waste incineration unit under paragraph (3) of this section shall file with the Administrator no later than March 1 of each year, a report which summarizes exports of ash undertaken pursuant to such registration: the information reported shall address each of the items for registration set forth in paragraph (3)(B).

"(J) EFFECTIVE DATES.—(1) Regulations promulgated under this section shall be effective upon promulgation, except that requirements promulgated pursuant to subsection (b) or (c) with respect to the disposal of ash from municipal waste incineration units shall be effective on and after the date forty-eight months after the date of enactment of this section.

"(2) Beginning eighteen months after the date of enactment of this section and until the effective date of disposal requirements promulgated pursuant to subsection (b) or (c), ash from municipal waste incineration units shall not be disposed in landfills unless such landfills have, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meet the criteria for sanitary landfills issued under this subtitle.

"(3) Notwithstanding the provisions of paragraph (2), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from each municipal waste incineration unit be disposed in a facility with a liner, leachate collection and ground water monitoring beginning eighteen months after enactment of this section, on a showing by the owner or operator of any such unit that sufficient capacity to dispose of ash in compliance with such requirements is not available for the unit taking cost into consideration. No variance granted under this paragraph shall extend for a period longer than thirty months after the date of enactment of this section.

"(4) Notwithstanding the provisions of paragraph (1), the Administrator or a State may grant on a case-by-case basis a variance

from the requirement that ash from municipal waste incineration units be disposed only in landfills meeting the requirements of subsection (b) or (c) beginning forty-eight months after the date of enactment of this section, on a showing by the owner or operator of any such unit that good faith efforts were made to satisfy such requirement but the unit will fail to do so for reasons not in control of the owner or operator of such unit. No variance granted under this paragraph shall extend for a period longer than seventy-two months after the date of enactment of this section.

"(5) If the Administrator fails to promulgate regulations under subsection (a) for the disposal of ash from municipal incineration units, no person may dispose of ash in a landfill after forty-eight months after the date of enactment of this section unless such landfill satisfies the requirements of subsections (b)(1) or (b)(3).

"(K) PROHIBITION.—(1) Beginning on the effective date of any regulation or requirement under this section it shall be unlawful to manage, handle, store, treat, transport, reuse, recycle, or dispose ash from a municipal waste incineration unit otherwise than in accordance with such regulation or requirement or a State program approved pursuant to subsection (i).

"(2) Prior to and after the effective date of regulations under this section, the Administrator may use the authorities of section 3008 to enforce the requirements of this section. In the case of a violation in a State which is authorized to implement and enforce a program under subsection (i), the Administrator shall give notice to the State in which a violation has occurred prior to issuing an order or commencing civil action under section 3008.".

(b) The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item at the end thereof:

"Sec. 4011. Municipal waste combustion ash.".

(c) Subsection (i) of section 3001 of the Solid Waste Disposal Act is repealed.

CONSULTATION

SEC. 308. Notwithstanding the provisions of the Federal Advisory Committee Act, prior to promulgation of any regulations, requirements, or guidelines pursuant to section 130 of the Clean Air Act or section 4011 of the Solid Waste Disposal Act, the Administrator shall consult with elected officials of State and local governments, or their representatives or representatives of their organizations which may develop plans, administer programs, issue permits, promulgate regulations or take corrective action under such sections to receive their advice and recommendations on such regulations, requirements and guidelines.

WIRTH AMENDMENT NO. 1446

Mr. WIRTH proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 183, after line 10, insert "(A)" after "(6)".

On page 184, after line 23, insert the following:

(B) The Governor of a State containing an area classified as a serious carbon monoxide nonattainment area under section 187(a) with a population of 250,000 or more, who requests that the standards specified in subparagraph (1)(A) apply in such area, may request that in addition to such standards a certification standard for carbon monoxide emissions apply to vehicles made available for purchase or placement into use in such area pursuant to subparagraphs (1)(B) and (1)(C). The certification standard requested pursuant to this paragraph shall not be less than 1.0 grams per mile for emissions of carbon monoxide from light duty vehicles and an equivalent level for emissions from light duty trucks. The Administrator shall approve a request for a certification standard under this paragraph if the Administrator determines that no fewer than two motor vehicle manufacturers are already producing vehicle models (not including conversions pursuant to subparagraph (1)(F)) for purchase or placement into use under paragraph (1) that meet the requested certification standard and that all other requirements of this paragraph are met. The credit provisions in subparagraph (1)(C) and the exemption provisions in subparagraph (1)(K) shall apply with respect to certification standards approved pursuant to this provision. The requirements of paragraph (4) shall not apply with respect to such certification standards. When a vehicle that operates on two kinds of fuels is certified for the purposes of this provision, it shall be certified on one fuel only after all traces of the other fuel that can practically be removed from the vehicle's fuel system have been removed.

SYMMS (AND McCLURE) AMENDMENT NO. 1447

Mr. SYMMS (for himself and Mr. MCCLURE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 253, after line 22, insert the following new subparagraph:

"(E) The Administrator shall not be required to conduct any review under this paragraph or promulgate emissions limitations under subsections (f) or (g) for any category or subcategory of area sources which is listed pursuant to subsection (c)(2) and for which an emissions standard is promulgated pursuant to subsection (d)(5).

On page 253, line 23, strike "(E)" and insert in lieu thereof "(F)".

HARKIN (AND HATCH) AMENDMENT NO. 1448

Mr. HARKIN (for himself and Mr. HATCH) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 230, line 2, after "sources" insert:

"Notwithstanding the provisions of this paragraph, the Administrator shall not be required to aggregate the emissions of a research or laboratory facility with emissions of other units within a contiguous area and under common control, to determine whether such a research or laboratory facility is a major source, but such emissions shall be aggregated with such other units for purposes of determining whether such units are subject to regulation under subsections (f) and (g). For purposes of this section, research or laboratory facility means any stationary source whose primary purpose is to conduct research and development into new processes and products, provided that such source is operated under the close supervision of technically trained personnel, and does not produce a substantial quantity of products for commercial sale in commerce."

GRAMM AMENDMENT NO. 1449

Mr. GRAMM proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 154, strike lines 1 through 13, page 154 and insert in lieu thereof the following:

"(9) the term 'covered fleet operator' means any person who, on or after January 1, 1990, controls the operation of 20 or more fleet vehicles registered in, or primarily operating in, any area which has a 1988 ozone design value of 0.18 parts per million or greater or area for which a Governor requests coverage pursuant to section 212(a)(7); and who, on or after such date, provides a facility or facilities for the central refueling and maintenance of such vehicles in the normal course of business. For purposes of this paragraph—

"(i) the term person means and individual, corporation, partnership, association, State, municipality, and political subdivision of a State; and

"(ii) each motor vehicle operated by person controlling, controlled by or under common control with any person shall be treated, under regulations of the Administrator, as operated by a single person."; and

(b) On page 156, strike line 3 and all that follows through line 2, page 161 and insert in lieu thereof the following:

"(B) FEDERAL GOVERNMENT PROGRAM.—

"(i) For model years 1995 and 1996, 30 per centum, for model years 1997 and 1998, 60 per centum, and for model years after model year 1998, 90 per centum, of all light-duty vehicles and light-duty trucks purchased or leased for more than 120 days by any agency, department, instrumentality, or any quasi- or independent instrumentality of the United States and primarily operating in areas classified as serious, severe or extreme ozone nonattainment areas under section 181(a), shall comply with the emissions standards prescribed under subparagraph (A).

"(ii) With respect to vehicle model years 1995 and 1996 only, the Administrator may include a lesser percentage of such vehicles under this subparagraph if the Administrator determines that the required percentage cannot be feasibly achieved or would impose unreasonable costs. For model years after 1998 the Administrator may require a percentage less than 90 per centum, but in no event less than 60 per centum, if the Administrator determines that a higher percentage would impose unreasonable costs, including costs associated with vehicle acquisition, fueling facilities, operation, maintenance, safety, reliability and resale value.

"(iii) REQUIRED OPERATION.—The Administrator of General Services, the Post Master General, and the Secretary of Defense with the concurrence of the Administrator, after consultation with the Secretary of Energy, shall, before October 1, 1993, issue regulations to ensure that a vehicle acquired pursuant to this subparagraph—

"(I) shall be supplied with appropriate clean alternative fuel in its primary area of operation, using commercially available

fueling facilities to the maximum extent practicable; and

"(II) shall be operated exclusively on such fuel except when operated so as make it impracticable to obtain such fuel.

"(iv) CONSIDERATION.—

"(I) Funds appropriated for carrying out this subparagraph shall be applied on a priority basis, for expenditure first in areas of the United States which the Administrator determines have the most severe air pollution problems.

"(II) A Federal officer or agency responsible for deciding which types of clean alternative fuel vehicles to acquire in order to comply with this subparagraph shall consider as a factor in such decision which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent.

"(v) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of Section 211 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services shall not include the incremental costs of clean alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator of General Services determines that appropriations provided pursuant to this subparagraph are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional fueled vehicles.

"(vi) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this subparagraph shall be applicable only—

"(I) to the portion of the cost of acquisition, maintenance and operation of vehicles acquired under this subparagraph which exceeds the cost of acquisition, maintenance and operation of comparable conventional fueled vehicles;

"(II) to the portion of the costs of fuel storage and dispensing equipment atttributable to such vehicles which exceeds the costs for such purposes required for conventional fuel vehicles; and

"(III) to the portion of the costs of acquisition of clean alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional fueled vehicles.

"(vii) VEHICLE COSTS.—The incremental cost of vehicles acquired under this subparagraph over the cost of comparable conventional fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(viii) EXEMPTIONS.—The requirements of this subparagraph shall not apply to vehicles—

"(I) with respect to which the Secretary of Defense has certified to the Administrator that an exemption is needed based on national security consideration; or

"(II) use for law enforcement or emergency purposes.

"(ix) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be required to carry out the provisions of this subparagraph: *Provided*, That such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this subparagraph shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949, as amended.

"(x) Nothing in this subparagraph shall be construed to require conversion of new or existing vehicles capable of operating on gasoline or diesel fuel only to a clean alternative fuel in order to achieve compliance with this subparagraph.".

SPECTER (AND JOHNSTON) AMENDMENT NO. 1450

Mr. SPECTER (for himself and Mr. JOHNSTON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 343, line 6, strike "(3)" and insert in lieu thereof "(9)".

On page 283, line 12, after the period insert the following: "(iii) Notwithstanding the provisions of this section, reconstruction of any source of coke emissions qualifying for an extension shall not subject such source to emissions limitation under subsection (f) or (c) more stringent than those established in subparagraph (A)(ii) or subparagraph (B)(iii).".

On page 236, line 11, after "substance" insert "or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycylic organic matter) removing certain unique chemical substances."

On page 237, after line 20, insert the following:

"(D) The Administrator shall remove one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meets the removal requirements of subparagraph (C). The Administrator must grant or deny a removal petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a removal petition has been filed within ninety days of the enactment of this subparagraph.".

On page 241, after line 9, insert the following:

(8) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall withdraw the source category from the list if it is appropriate because of action taken under either subparagraphs (C) or (D) of section (b)(3).

On page 253, after line 22, add the following:

"(E) In establishing standards for the control of unique chemical substances of listed pollutants without CAS numbers under subsections (f) or (c) the Administrator shall establish such standards with respect to the health and environmental effects of the substances actually emitted by sources and direct transformation byproducts of such emissions in the categories or subcategories."

On page 253, redesignate subparagraph (E) as (F).

SPECTER AMENDMENT NO. 1451

Mr. SPECTER proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 283, line 12, after the period insert the following: "(iii) Notwithstanding the provisions of this section, including paragraph (6)(D), reconstruction of any source of coke oven emissions qualifying for an extension shall not subject such source to emissions limitations under subsection (f) or (g) more stringent than those established in subparagraph (A)(ii) or subparagraph (B)(iii)."

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 1452

Mr. CHAFEE (for Mr. BOSCHWITZ, for himself, Mr. MCCAIN, and Mr. WILSON) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 455 of the amendment (No. 1293), line 9, redesignate subsection (f) as subsection (g).

On page 455 of the amendment (No. 1293), between lines 8 and 9, insert the following new subsection:

(f)(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

(A) the occurrence and effects of acid deposition on surface waters located in that part or the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, climatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississipi River. The Task Force shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

MITCHELL (AND OTHERS) AMENDMENT NO. 1453

Mr. BAUCUS (for Mr. MITCHELL, for himself, Mr. JOHNSTON, Mr. BREAUX, Mr. BINGAMAN, Mr. WIRTH, Mr. BRYAN, Mr.BOREN, Mr. BUMPERS, Mr. COCHRAN, Mr. PRYOR, Mr. BENTSEN, Mr. NICKLES, Mr. GRAMM, Mr. DOLE, Mrs. KASSEBAUM, Mr. ARMSTRONG, Mr. MACK, Mr. GRAHAM, Mr. LEVIN, Mr. FOWLER, Mr. HATFIELD, Mr. MCCLURE, Mr. MATSUNAGA, and Mr. CHAFEE) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 425, line 13, add the following:

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2000.".

At the end of section 405, insert the following new subsection:

"(j) CERTAIN MUNICIPALLY OWNED POWERPLANTS.—

"(1) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2000.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally owned coal-fired utility unit with nameplate capacity less than 25 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.2 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2000.".

On page 424, line 11, strike "." and insert in the following in lieu thereof: ": *Provided* That, after January 1, 2000, the Administrator shall allocate and issue for each unit with a nameplate capacity equal to, or greater than, 1000 MWe that commences, or has commenced commercial operation, on or after October 1, 1990, but not later than June 30, 1991, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.50 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2000.".

On page 413, in the item relating to "La Crosse/Genoa" in table A, strike "19,090" and insert in lieu thereof: "22,700".

On page 416, line 16, beginning with the word "In" strike all through line 24; on line 25, strike "paragraph (1), after" and insert in lieu thereof: "(2) After".

On page 425, after line 12, insert the following:

(i)(1) In addition to allowances allocated pursuant to this section, the Administrator shall allocate and issue annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a state that

(A) has experienced a growth in population in excess of 25 per centum between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 issued by the U.S. Department of Commerce, and

(B) had an installed capacity of more than 30,000,000kw in 1988,

in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section, provided that the number of allowances allocated and issued pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated and issued to each unit under this subsection.

(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 per centum or more as of the date of enactment of the Clean Air Act Amendments of 1989, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970 and (D) which is owned by a utility company whose combined kilowatt-hour sales have increased by more than 20 per centum between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1989, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1), provided that the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated and issued to each unit pursuant to this paragraph.

At the end of section 402(1), following the word "Energy.", insert the following:

"For the purpose of this title, the term repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.".

On page 417, after line 10, insert the following:

"(4) After January 1, 2000 the Administrator shall allocate and issue annually for each unit subject to the emissons limitation requirements of paragraph (1) for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor mutiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided*, That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated and issued for each unit under this paragraph."

On page 413 of the amendment, between Table A and line 1, insert the following new subsections:

"(e) RENEWABLE ENERGY TECHNOLOGY RESERVE.—(1) Notwithstanding any other provision of law, beginning on January 1, 1995, the Administrator may allocate from a Renewable Energy Technology Reserve a tonnage amount equal to a total of 80,000 tons of allowances for emissions of sulfur dioxide pursuant to section 403, in an annual amount to be determined by the Administrator subject to paragraph (2) to owners or operators of affected units at affected sources. Such allowances shall be allocated to an owner or operator described in this subparagraph in an amount calculated pursuant to paragraph (2) if, beginning on January 1, 1991, such owner or operator—

"(A) generates electricity at a new renewable energy power plant (as defined in paragraph (4)); or

"(B) purchases electric energy generated at a new renewable energy power plant owned or operated by any person other than the owner or operator of an affected source.

"(2) The Administrator shall allocate annual allowances from the Renewable Energy Technology Reserve pursuant to paragraph (1) as follows:

"(A) Any annual allowance allocated under this subparagraph shall be allocated in a tonnage amount equal to the number of kilowatt hours generated or purchased by the owner or operator (as described in paragraph (1)), multiplied by the emissions rate of the lowest emitting coal- or oil-fired unit of the operating company applying for the allowance (as defined by the Administrator in concurrence with the Secretary of Energy, and excluding any oil- and gas-fired unit with an average annual fuel consumption for calendar year 1985 that, on a Btu basis, exceeded 90 per cent consumption in the form of natural gas), divided by 2000. (The product of such calculation shall be divided by 100 to reflect the conversion rate between Btus and kilowatt hours, assuming a heat transfer of 10,000 Btus per kilowatt hour).

"(B) Allowances allocated under this paragraph shall be allocated in accordance with the order of receipt of applications for such allowances

"(3) Beginning on January 1, 2000, the Administrator shall deduct a tonnage amount equal to 8,000 tons per year for a period of 10 years from the annual allocation of allowances for units subject to the requirements of section 405 on a pro rata basis. Such allowances shall be deposited in the Renewable Energy Technology Reserve. The pro rata share for each such unit shall be calculated on the basis of the allowances that would be allocated pursuant to subsections (b)(1), (3) (4) and (5) (c)(1), (2) and (3); (d)(4); (e); (f); (g)(1), (2) and (4); (h)(1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6), of subsection (d); of section 405.

"(4) As used in this subsection, the term 'new renewable energy power plant' means a power plant for which construction is initiated on or after January 1, 1991, or which realizes a significant increase in energy output (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) attributable to the replacement of renewable energy equipment (as defined and determined by the Adminis-

trator, in concurrence with the Secretary of Energy) installed prior to January 1, 1991, by more efficient or productive renewable energy equipment (as determined by the Administrator in concurrence with the Secretary of Energy), and that operates primarily on energy derived from—

"(A) solar sources;

"(B) geothermal sources;

"(C) biomass sources; or

"(D) wind sources.

"(f) APPLICATION FOR ALLOWANCES FROM THE RENEWABLE ENERGY TECHNOLOGY RESERVE.—The owner or operator of an affected unit under subsection (a) may submit an application to the Administrator at any time after January 1, 1991, for allowances from the Renewable Energy Technology Reserve to be calculated using the formula described in subparagraph (A) of subsection (e)(2). Such application shall include—

"(1) the number of kilowatt hours the affected units generated or purchased from a new renewable energy power plant as defined in subsection (e)(4); and

"(2) documentation of kilowatt hours generated or purchased as recorded in a certified meter reading from the point of entry into the utility grid, or in an executed sales contract.

"(g) ACTION BY ADMINISTRATOR.—(1) The Administrator, in consultation with the Secretary of Energy, shall approve or disapprove an application submitted pursuant to subsection (f) not later that 6 months after receipt of the application. If an application proposal does not meet the requirements of subsection (f), the Administrator shall disapprove the application.

"(2) If the Administrator approves an application submitted pursuant to subsection (f), the Administrator shall notify the applicant in writing of the number of allowances to be received pursuant to this paragraph. On or after January 1, 1995, the Administrator shall allocate allowances for the affected units in accordance with the amount specified in the written notification described in this subparagraph upon written request by the owner or operator of the affected units at the affected source.

HEFLIN AMENDMENT NO. 1454

Mr. BAUCUS (for Mr. HEFLIN) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 248, line 18, after "units" insert the following:

"considering the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions and the costs of such technologies."

On page 249, line 3, strike "(C)" and insert "(D)."

On page 249, line 13, strike "(D)" and insert "(E)."

On page 249, line 24, strike "(E)" and insert "(F)."

On page 250, line 5, strike "(F)" and insert "(G)."

On page 249, line 3, before "(D)" insert the following:

"(C) The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than four years after the date of enactment of this paragraph, a study to determine the threshold level of mercury."

On page 249, line 9, after "paragraph." insert the following:

"The studies required by subparagraphs (A), (B) and (C) shall be placed in the relevant docket for any rulemaking that would establish emissions standards under subsection (d) for particulates or mercury from electricity utility steam generating units and shall be considered by the Administrator, along with other public comments, before any such standard is promulgated."

WIRTH (AND ARMSTRONG) AMENDMENT NO. 1455

Mr. WIRTH (for himself and Mr. ARMSTRONG) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra; as follows:

On page 208, Add a new subsection 211(e), as follows:

(e) ESTABLISHMENT OF A HIGH-ALTITUDE RESEARCH CENTER.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator shall designate at least one center at high-altitude conditions to provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternate fuels and conversion kits, and the development of curricula, training courses and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.

DOLE (AND OTHERS) AMENDMENT NO. 1456

Mr. DOLE (for himself, Mr. HEFLIN, Mr. NICKLES, Mr. NUNN, Mr. MCCLURE, Mr. MCCONNELL, Mr. SIMPSON, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. MURKOWSKI, Mr. ARMSTRONG, Mr. FORD, Mr. SHELBY, and Mr. SYMMS) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 455 of the amendment No. 1293, beginning with line 12, strike out all through line 25 on page 512 and insert in lieu thereof the following:

TITLE V—PERMITS

SEC. 501. The Clean Air Act is amended—

(1) by inserting after the heading "TITLE III—GENERAL" the subheading "PART A—MISCELLANEOUS and

(2) by adding at the end of title III the following:

"PART B—PERMITS

"DEFINITIONS

"SEC. 350. As used in this title—

"(1) The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is a major stationary source or major emitting facility as defined in section 302(j).

"(2) For sources subject to standards issued under section 112 of this Act, the term 'area source' shall have the meaning given in that section.

"(3) The term 'schedule of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an applicable implementation plan, emission standard, emission limitation or emission prohibition.

"(4) the term 'permitting authority' means the Administrator, or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"PERMIT PROGRAMS

"SEC. 351. (a) After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate any source subject to title IV, a major source, any other source (including an area source) subject to standards or regulations under sections 111 or 112, or any other stationary source designated by regulations promulgated by the Administrator, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained prior to construction. The Administrator may, in the Administrator's discretion, after notice and opportunity for public comment promulgate regulations to exempt one or more source categories from the requirements of this subsection if the Administrator finds that such an exemption is warranted, and would be consistent with protection of the public health, welfare, and the environment; *Provided further* that the administrator shall in making such determination, consider the costs and benefits as one of the many factors to be considered.

"(b) Not later than twelve months after the date of enactment of this title, the Administrator shall promulgate regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include:

"(1) Requirements for permit applications, including a standard application from and criteria for determining in a timely fashion the completeness of the applications;

"(2) Monitoring and reporting requirements.

"(3) (A) A requirement under State or local law that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable costs of developing and administering the permit program, including, but not limited to, the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this section, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the air pollution control agency demonstrates that, except as otherwise provided in clauses (ii) through (iv) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, unless the Administrator determines that a lesser amount would meet the requirements of subparagraph (A).

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The fee calculated under clause (i), shall be increased (consistent with the need to cover reasonable costs) in each year beginning after the year of enactment of this section by the percentage, if any, by which the Producer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Producer Price Index for the calendar year 1989.

"(C) (1) If the Administrator determines, under section 351(c), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under section 351(g), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees (but only to the extent the permitting authority has failed to collect or to provide for collecting such fees) from the sources identified under subparagraph (A) without regard to the requirements of subparagraph (B).

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 per centum of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of title 26, of the United States Code (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected.

"(iv) Any fee required to be collected by an air pollution control agency under this subsection shall be utilized solely to support the air pollution control permit program of such agency, as provided in this paragraph.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have and exercise adequate authority to—

"(A) issue permits that issue compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not less than one year and not greater than five years;

"(C) assure that upon issuance or renewal, permits include emission limitations and other conditions required by section 353(a);

"(D) (i) terminate, modify, or revoke and reissue a permit for a material inaccuracy in the permit that renders the permit inconsistent with the Act, or

"(ii) modify or revoke and reissue a permit if EPA promulgates regulations after the permit is issued, and modification of the permit to implement such regulations is necessary in order to protect against a serious risk to public health or the environment.

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and appropriate criminal penalties;

"(F) ensure that no permit will be issued if the Administrator timely objects to its issuance under section 354; and

"(G) extend a permit's term if a timely and complete application for renewal is made, until the permitting authority takes final action upon the renewal application.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, and for processing such applications for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications.

"(7) Authority and procedures to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 352(e), subject to the provisions of section 114 of this Act.

"(8) Adequate and expeditious procedures for permit modification, and procedures to assure that preference be accorded to the processing of applications for any permits required for new or modified major sources under section 165, 172, or 173.

"(9) Procedures and other requirements to minimize, to the maximum extent practicable, duplication, needless paperwork, and delays in the issuance of permits under this title.

"(10 Requirements that—

"(A) If a permit applicant identifies the composition of emissions under the reasonably anticipated operating conditions of the permitted facility, the permit shall set forth the emission limitations, standards, and other requirements that would apply under all such reasonably anticipated operating conditions, and

"(B) The emission limitations and other permit terms shall allow the owner or operator of a facility to make changes in the operation of the facility that might shift permitted emissions from one source to another within the same facility, as authorized by a codifying or modifying permit, without the necessity for a permit modification, provided that the owner or operator provides written notification specifying changed permit requirements to the permitting authority not less than seven calendar days prior to any such change, and that the permit includes such emission limitations and other requirements as are necessary to assure that the modified requirements will be enforceable and will not cause any net increase in the total actual emissions from the facility; and

"(11) procedures and requirements that comply with subsection 112(j).

"(12) Authority and procedures to provide:

"(A) a right of action for any person to proceed against the State to compel a decision granting or denying permit or permit renewal if such decision has not been reached within one year of receipt of a permit application that has been deemed complete;

"(B) that no permit shall be denied after the filing of such an action on the grounds that the permit was incomplete; and

"(C) that if the State decides to deny the permit after such an action has been filed, the State shall specify the statutory or regulatory grounds for such denial.

"(c) Not later than three years after the enactment of this title, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority and obligation to carry out the program. Not later than one year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator shall approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b) of this section. If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within one hundred and eighty days after receiving notification. If the Governor fails within such period to resubmit an approvable program, the Administrator may in the Administrator's discretion take either or both of the following actions:

"(1) apply any of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); or

"(2) promulgate a program, or portion of a program, under this title.

"(d) The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may in such notice retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this provision should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(e) INTERIM APPROVAL.—If a program submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full

approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than two years after such approval, and may not be renewed.

"(f) EFFECTIVE DATE.—The effective date of a permit program, or interim program, approved under this title, shall be the effective date of approval by the Administrator.

"(g) Whenever the Administrator makes a preliminary determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, he shall notify the permitting authority of such determination and the reasons therefor. Such notice shall be made public. If the permitting authority fails to take action to assure adequate administration and enforcement, the Administrator may in the Administrator's discretion, but not before ninety days after issuing such notice, take one or more of the following actions:

"(1) withdraw approval of the program or portion by rule;

"(2) propose to apply any of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); or

"(3) promulgate a program, or portion of a program, under this title.

"PERMIT APPLICATIONS

"SEC. 352. (a) Any source specified in section 351(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates:

"(1) the effective date of a permit program or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 351(a).

"(b)(1) The regulations required by section 351(b)(1) shall include a requirement that there is submitted with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every six months.

"(2) The regulations shall further require the permittee to periodically certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report, consistent with provisions of the permit, and to promptly report, consistent with provisions of the United States Constitution regarding self-incrimination, any violations of such requirements to the permitting authority.

"(c) Any person required to have a permit shall, not later than thirty months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The Administrator, in consultation with the permitting authority shall establish a schedule for submission of all or part of the application by sources or categories of sources (including any class, type, or size within such category) within the 30-month period in a manner that minimizes administrative burdens. The Administrator may base the schedule on the amount of emissions from the sources or categories of sources, air quality considerations, or such other factors as he may consider relevant. The Administrator, in consultation with the permitting authority, may extend the date for submission of permit applications by any source or category of sources for up to an additional 18 months if the Administrator determines in his discretion that insufficient resources are available to assure adequate review of such permit applications by the permitting authority or the Administrator. No additional extensions may be granted.

"(d) Except for sources required to have a permit prior to construction under sections 112, 165, 172, or 173, if an applicant has submitted a timely and complete application for a permit required by this title, but final action has not been taken on such application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 351(a) before the date on which the source is required to submit an application under subsection (c) of this section.

"(e) A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

"(f)(1) Any permittee may submit an application for a modification of the permit at any time during the permit's term.

"(2) Whenever the permitting authority finds that a permit omitted a material requirement of the Act that should have been incorporated therein, or that a new requirement applicable to the permittee has been promulgated under procedures identified in section 353(f)(2), it shall provide effective notice to the permittee. The permittee shall apply for a permit modification within thirty days after receipt of such notification when the omission of an existing requirement is involved, and with regard to new requirements within such time as set forth in these new requirements. Such a modification shall be treated as a codifying permit for purposes of Section 354.

"(3) If a permittee has received notification of an omission of an existing requirement under paragraph (2) of this subsection, and has not submitted a complete application for modification within the required thirty-day period, such source shall be deemed not to have a permit with respect to emissions subject to the requirements that were the subject of the notification."

"PERMIT REQUIREMENTS AND CONDITIONS

"SEC. 353. (a) Each permit issued under this title shall include emission limitations and standards, and such other measures, including schedules of compliance where appropriate, as are necessary to assure compliance with applicable requirements of this Act.

"(b) The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act. The Administrator shall take into account the cost and feasibility of such requirements, and the extent to which they are needed to assure compliance.

"(c)(1) Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulations under subsection (b) of this section. Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

(2) A permit for a source that is an affected source under title IV shall prohibit a source from emitting sulfur dioxide in excess of allowances it holds. No permit modification shall be required for increases in emissions authorized by allowances acquired through trading or otherwise under title IV, provided that the increase complies with other requirements of the Act.

"(d) The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 352.

"(e)(1) The permitting authority may issue a single permit to an owner or operator authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(2) A single permit may be issued for a facility with multiple sources.

"(f)(1) Compliance with the terms and conditions of a permit issued in accordance with the requirements of this part shall be deemed compliance with:

"(A) all requirements of this act in existence at the time the permit is issued that are explicitly addressed by such terms and conditions; and

"(B) except as provided in paragraph (2), all requirements that are promulgated after the permit is issued, unless the Administrator finds that actual harm to public health or the environment would result during the period prior to the expiration of the permit;

"(2) Notwithstanding paragraph (1) of this subsection, compliance with the terms and conditions of a permit shall not be deemed compliance, for purposes of any enforcement action commenced by the Administrator, with requirements that are promulgated or approved by the Administrator pursuant to the procedures for informal rulemaking in section 553 of title 5 of the United States Code, or in Section 307(d) of this Act, provided that the permitted shall have been notified of such requirements under Section 352(f) of this Act;

"(3) In any action to enforce a requirement omitted from a permit, the relevant circumstances of the omission, including whether the source in good faith provided information to the permitting authority, the materiality of any failure to provide such information, the materiality of the requirements omitted from the permit, and

any mistakes of the permitting authority, shall be relevant to whether any penalty should be assessed and to the amount of such penalty. No enforcement action shall lie if the omission is the fault of the permitting authority and the source had provided the appropriate information in its permit application;

"(4) Notwithstanding the provisions of paragraph (1), compliance with a permit issued under this title shall not alter, modify or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirements to comply with any order issued under section 303.

"NOTIFICATION TO ADMINISTRATOR AND OTHER STATES

"SEC. 354. (a)(1)(A) Each permitting authority shall transmit to the Administrator a copy of each draft permit released for public comment, and such other information as the Administrator may by rule require in order to carry out his duties under the Act. The permitting authority shall provide notice, in accordance with regulations promulgated by the Administrator, of each permit proposed to be issued by the authority, and, except as provided under subparagraph (B), transmit a copy of each such proposed permit to the Administrator for review under subsection (b).

"(B) A proposed permit shall not be required to be forwarded to the Administrator for review under subsection (b) whenever the permitting authority states in the public notice of the permit that it is a codifying permit—which is defined as a permit that implements, and does not change any material requirement of, any applicable implementation plan or other regulation or standard promulgated by the Administrator—unless—

"(i) the Administrator notifies the permitting authority, not later than the close of the public comment period that the permit is a modifying permit, which is defined as a permit that does not so implement such requirements; or

"(ii) the final permit modifies any provision in the permit submitted for public notice.

Any decision by the administrator whether to issue a notification under clause (i) shall be committed to agency discretion and not subject to judicial review.

"(2) The permitting authority shall notify all States whose air quality may be significantly affected by a modifying permit for a major source of each draft permit released for public comment, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(3) For purposes of paragraph (2), emissions from a permitted source may significantly affect air quality in any State within fifty miles from the source. The Administrator may enlarge or reduce this distance by rule.

"(4) The notice required under paragraph (1)(A) for a draft modifying permit shall include a concise description of the manner in which the draft modifying permit does not implement, or otherwise changes the requirements of, any applicable implementation plan or other regulation or standard promulgated by the Administrator.

"(b) No permit shall be issued if the Administrator (1) within ninety days after receipt of the proposed permit under subsection (a)(1)(A) of this section, or (2) within ninety days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with the applicable implementation plan or other applicable emission limitations, standards, or other applicable requirements of this Act. The Administrator may object to a modifying permit only if it would result in emissions regulated under an applicable implementation plan that are greater than under such plan (unless such emissions are either offset by reductions from another permitted source or are accounted for under an applicable implementation plan approved by the Administrator), or would not comply with another applicable requirement of this Act. The Administrator shall provide with the objection a statement of the reasons for the objection. A copy of any objection and statement shall be provided to the applicant.

"(c) If the permitting authority fails within ninety days after the date of the objection, to submit a permit revised to meet the objection, the Administrator shall promptly issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection. A failure of the Administrator to object to a modifying permit submitted for review under subsection (a)(1)(A) of this section shall be subject to judicial review under section 307(b).

"(d) The Administrator may, by regulation, require that specified modifications to requirements of the applicable implementation plan with respect to specified categories of sources (including any class, type, or size within such category) be made only through a revision to the applicable implementation plan.

"(e)(1) The Administrator may waive the requirements of subsections (a) and (b) of this section at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program.

"(2) The Administrator may by regulation establish categories of sources (including any class, type, or size within such category) to which the requirements of subsection (a) and (b) of this section shall not apply.

"(3) The Administrator may exclude from any waiver under this subsection notification under paragraph (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(f) If the Administrator finds that cause exists under section 351(b)(5)(D) to terminate, modify, or revoke and reissue a State or local permit under this title, the Administrator shall notify the permitting authority of such finding. The permitting authority shall, within ninety days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such ninety day period for an additional ninety days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b) of this section. If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within the period prescribed in subsection (c) of this section, the Administrator, may, after notice and in accordance with duly promulgated procedures, terminate, modify, or revoke and reissue the permit.

"RELATION TO OTHER AUTHORITY

"SEC. 355. (a) Nothing in this title shall prevent an air pollution control agency from establishing additional permitting requirements not inconsistent with this Act.

"(b) Nothing in this title shall be construed to authorize the Administrator, or a State, or other permitting authority, to modify or revoke any allowance granted under title IV, or to alter or amend any requirement of sections 111 or 112.

"(c) For the purposes of this Act, any permit properly issued or revised shall become part of and supersede any inconsistent portion of, the applicable implementation plan, and shall have the effect specified in section 353(f).

"(d) In promulgating any standard under section 111 or 112, the Administrator shall identify which sources or categories of sources (including any class, type, or size within such category) subject to such standard shall be subject to this title.

SEC. 502. Section 304(f)(1) is amended to read as follows:

"(1) an emission limitation, standard of performance, or an emission standard, or a schedule or timetable of compliance that is currently legally enforceable;"

COORDINATION OF PERMITS

SEC. 503. All permits issued under this part shall, to the maximum extent practicable, be coordinated and consolidated with all other permits required under this Act.

CONFORMING AMENDMENTS

SEC. 504. (a) Title I—Attainment and Maintenance of Ambient Air Quality Standards.

(1) On page 38, line 13, following "respectively)", replace the period with "; and", and add a new subparagraph (C), as follows:

"(C) Notwithstanding any other provision of this Part, for any State, upon the approval or promulgation of all or part of a permit program under Part B of Title III of this Act, permits for the operation of major stationary sources shall be issued in accordance with the requirements of that program, in lieu of the requirements of this Part, but only to the extent that program applies to such sources."

(2) On page 64, line 25, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(3) On page 104, line 8, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(4) On page 117, line 23, strike "It" and insert in lieu thereof the following: "Except as provided under section 172(c)(6)(C), it".

(b) Title III—Air Toxics.

(1) On page 284, line 23, following "paragraph (2)", insert the following: "or paragraph (6)".

(2) On page 292, delete lines 4 through 6, and insert in lieu thereof the following:

"(6) Notwithstanding any other provision of this subsection, for any State, upon the approval or promulgation of all or part of a

permit program under Part B of Title III of this Act, permits for sources subject to any emissions standard under this section shall be issued in accordance with the requirements of that program in lieu of the requirements of this subsection, but only to the extent that program applies to such sources."

(3) Page 285, lines 3 to 5, delete from "the Administrator" through "subsection.", and insert in lieu thereof: "The State or the Administrator, but only to the extent that the Senate has an approved program consistent with this subsection or the Administrator has promulgated a program under Part B of Title III."

(c) Title IV—Acid Deposition.

On page 428, lines 18 through 20, delete all through "Act.", and insert in lieu thereof the following:

SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by permits issued in accordance with this section and Part B of Title III of this Act."

TITLE VI—ENFORCEMENT AND REAUTHORIZATION

SEC. 601. (a) The heading of section 113(a) of the Clean Air Act is amended by replacing the words "FINDING OF VIOLATION" with "NOTIFICATION AND COMPLIANCE ORDERS".

(b) Section 113(a)(1) of the Clean Air Act is amended as follows:

(1) In the first sentence, after "finds that any person", insert the words "has violated or"; and following the words "shall notify the person" replace "in violation of" with "who violated".

(2) In the second sentence,

(A) strike the words "If such violation extends beyond the thirtieth day after the date of the Administrator's notification," and insert in lieu thereof the words "At any time after the expiration of thirty days following the date on which such notice of the violation is issued,"; and

(B) strike all after "of such plan" and insert in lieu thereof the following: ", may issue an administrative penalty order under subsection (d), or may bring a civil action under subsection (b), without regard to the period of the violation (subject to section 2462 of title 28 of the United States Code). Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation."

(c) Section 113(a)(2) of the Clean Air Act is amended as follows:

(1) Insert the words "or approved permit program" after "applicable implementation plan" in the first sentence.

(2) Insert the words "or permit program" after "in which the plan", "enforce the plan", "enforce such plan", and "requirement of such plan".

(3) Strike the "or" at the end of section 113(a)(2)(A), redesignate subparagraph "(B)" as "(C)", and insert the following new subparagraph (B):

"(B) by issuing an administrative penalty order under subsection (d) of this section, or".

(4) Insert the following new sentence at the end of section 113(a)(2): "Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.".

(d) Section 113(a)(3) of the Clean Air Act is amended as follows:

(1) Insert the words "has violated or" before the words "is in violation of" in the first sentence.

(2) Strike the words "section 111(w)" and all that follows down through "(relating to inspections, etc.), he" and insert in lieu thereof the following new language: "any requirement or prohibition of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), section 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions or for the payment of any fee owed the United States under this Act, the Administrator:".

(3) Strike the words "or he" before the words "may bring a civil action" and insert in lieu thereof the following words: "may issue an administrative penalty order in accordance with subsection (d);".

(4) Insert after the words "may bring a civil action in accordance with subsection (b)" the words "or section 305, or the United States may commence a criminal action in accordance with subsection (c).".

(e) Section 113(a)(4) of the Clean Air Act is amended by deleting the first sentence and inserting at the end thereof: "An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State, the Administrator, or a court in an action brought under section 304, from assessing any penalties nor otherwise affect or limit enforcement under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act, or a term or condition of any permit or applicable implementation plan promulgated or approved under this Act. The provisions of subsections (d)(2), (d)(4), and (d)(5) of this section shall apply to any order issued under this subsection.".

(f) Section 113(a)(5) of the Clean Air Act is amended to read as follows:

"(5) Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirements of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

"(A) issue an order prohibiting the construction, modification or operation of any major stationary source in any area to which such provisions apply;

"(B) issue an administrative penalty order in accordance with subsection (d); or

"(C) bring a civil action under subsection (b)(5).

Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such finding for any such violation.".

(g) Section 113(b) of the Clean Air Act is amended to read as follows:

"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person which is the owner or operator of any source subject to title IV, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, whenever such person—

"(1) has violated or is in violation of any requirement of an applicable implementation plan (such action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of a finding that such person is violating such requirement); or

"(2) has violated or is in violation of any requirement or prohibition of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or any order or notice issued pursuant to section 113(a), section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under these provisions or for the payment of any fee owed the United States under this Act; or

"(3) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

Any action under this subsection may be brought in the district court of the United States or the district in which the violation is alleged to have occurred, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, and to collect any fees owed the United States under the Act and any noncompliance assessment and nonpayment assessment owed under section 120 and to award any other appropriate relief. Notice of commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party or parties against whom such action was brought in any case where the court finds that such action was unreasonable.".

(h) Section 113(c) of the Clean Air Act is amended to read as follows:

"(c) CRIMINAL ENFORCEMENT.—

"(1) Any person who knowingly fails to pay any fee owed the United States under this title, title III, or title IV, shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per

day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who negligently releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, which release such person knows could place another person in immediate danger of death or serious bodily injury and who thereby places another person in immediate danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emissions standard or limitation or for which a permit under Part B of title III is in effect, or for which any other relevant standard under this Act has been set, a release of such pollutant in accordance with such standard or permit shall not constitute a violation of this paragraph.

"(3) Any person who knowingly violates any requirement or prohibition of an applicable implementation plan, or of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any prohibition of title IV (relating to acid deposition control), or any final order or notice issued pursuant to section 113(a), section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than five years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who knowingly—

"(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly and materially alters, conceals or fails to maintain or file, any notice, application, record, report, plan, or other document required pursuant to this Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State); or

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act;

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not mroe than two years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than fifteen years, or by both. Any person committing such violation who is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emission standard or limitation or for which a permit under Part B of title III is in effect, or for which any other relevant standard under this Act has been set, a release of such pollutant in accordance with such standard or permit shall not constitute a violation of this paragraph.

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except in that proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(D) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.".

(i) Section 113(d) of the Clean Air Act is ameanded to read as follows:

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND PROCEDURES GOVERNING ADMINISTRATIVE COMPLIANCE ORDERS.—

"(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day for each violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) has violated or is violating any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than 30 days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person is violating such requirement); or

"(B) has violated or is violating any requirement of section 111(d)(2)(B), 111(e), or 111(j) of this title (relating to new source performance standards), section 112(i) of this title (relating to standards for hazardous emissions), section 114 of this title (relating to investigatory authority), section 126(d) of this title (relating to interstate pollution), section 157 of this title (relating to stratospheric ozone), section 176(a)(1) of this title (relating to sanctions), section 185(c) of this title (relating to consumer and commercial products), section 185(d) of this title (relating to hazardous waste facilities), section 327 of title III (relating to outer continental shelf requirements), sections 351(a) or 352(c) of title III (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or any order or notice issued pursuant to section 113(a), section 113(d), or section 167 of this title, or section 303 or section 307 of title III, including, but not limited to, a requirement of any rule, order, waiver or permit promulgated, issued, or approved under those provisions or for the payment of any fee owed the United States under this Act; or

"(C) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the administrative action.

"(2)(A) An administrative penalty order under paragraph (1) or an order under subsection (a) of this section shall be issued by the Administrator after opportunity for a hearing on the record in accordance with sections 554 and 556 of the title 5 of the United States Code. The Administrator may issue rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to whom the order is to be issued of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within thirty days of the date the notice is received by such person. An order issued under this subsection or subsection (a) shall become final if no hearing is requested within thirty days or upon issuance of the order following the hearing provided for in this paragraph.

"(B) The Administrator may compromise, modify, or remit, with or without condi-

tions, any administrative penalty which may be imposed under paragraph (d)(1).

"(3) The Administrator may implement through regulation, after consultation with the Attorney General, a field citation program for appropriate minor violations, which authorizes the issuance of field citations assessing civil penalties not to exceed $5,000 per inspection. During any six month period, the total penalty assessed under this paragraph for any single facility shall not exceed $25,000. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection, or to whom an order is issued under subsection (a) of this section or under paragraph (1) of this subsection, may seek review of such assessment or order in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within thirty days following the data the assessment or order becomes final, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the assessment or order was issued within 10 days. Such court shall not set aside or remand such assessment or order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or assessment constitutes an abuse of discretion. Such order or assessment shall not be subject to review by any court except as provided by this paragraph. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty or fails to comply with an order—

"(A) after the order or assessment has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of title 26, United States Code, from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.".

(j) Current section 113(e) of the Clean Air Act is deleted in its entirety and replaced with the following new section 113(e) and 113(f);

"(e) PENALTY ASSESSMENT CRITERIA.—

"(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with orders under section 303, administrative subpoenas under section 307(a), and actions under section 114 of this Act, where the violator had sufficient cause to violate or fail or refuse to comply with the order, subpoena, or action.

"(2) A penalty may be assessed for each day of each violation. For purposes of determining the number of days of violation for which a penalty may be assessed under subsection (b) or (d)(1) of this section, or section 304(a), or an assessment may be made under section 120, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator proves by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) MONETARY AWARDS.—The Administrator may pay an award, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a civil judicial or administrative judgment of liability for any violation of this Act enforced under this section. Any officer or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. An authorized contractor acting as a representative of the Administrator shall be considered an employee of the United States for purposes of this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.".

REVIEWABILITY OF ADMINISTRATIVE ORDERS

SEC. 502. (a) Section 307(b)(2) of the Clean Air Act is amended by adding at the end thereof: "Notices issued under sections 113 or 120, orders under section 303, administrative subpoenas under section 307(a), and actions under sections 114, 206(c) and 208 of this Act are not considered final actions for purposes of this section. Such orders, subpoenas, and actions shall be subject to judicial review only in a proceeding commenced by the United States under sections 113, 120, 204 or 205, or in a citizen suit commenced under section 304, to enforce the subpoena or action. No such order, subpoenas, or action may be challenged in any citizen suit under section 304 unless the Administrator and the Attorney General are notified in writing of such challenge.".

(b) Section 307(e) of the Clean Air Act is amended by inserting at the end thereof the following: "Subpoenas issued under section 307(a), orders under section 303, and actions under sections 114, 206(c) and 208 of this Act may only be reviewed in a proceeding commenced by the United States under section 113, 120, 204, or 205, or in a citizen suit under section 304, to enforce the subpoena, order, or action.".

(c) Section 307(b)(1) of the Clean Air Act is amended by striking "under section 113(d) of this title," immediately before "under section 119 of this title" in the second sentence.

COMPLIANCE CERTIFICATION

SEC. 603. (a) Section 114(a)(1) of the Clean Air Act is amended by—

(1) inserting ", on a one-time, periodic or continuous basis" immediately before "to (A) establish and maintain";

(2) inserting "audit procedures" immediately before "or methods, (D)";

(3) inserting "procedures or" immediately before "methods, at such locations,";

(4) inserting "during such continuous periods" immediately before ", and in such manner as the Administrator";

(5) striking "and" immediately before subparagraph (E); and

(6) redesignating subparagraph (E) as (G) and inserting the following new subparagraph: "(E) keep periodic or continuous records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical, (F) submit compliance certifications in accordance with section 114(a)(3); and".

(b) Section 114(a) is amended by adding the following new paragraph:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (i) identification of the applicable requirement that is the basis of the certification, (ii) the method used for determining the compliance, status of the source, (iii) the compliance status, (iv) whether compliance is continuous or intermittent, (v) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement the Act.".

(c) Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

CONTRACTOR INSPECTIONS

SEC. 604. (a) Section 114(a)(2) of the Clean Air Act is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)," immediately before "upon presentation of his credentials".

(b) Section 114(c) is amended by striking "except that such record," and all that follows in the subsection and inserting "any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) shall be considered an employee of the United States for purposes of the provisions of section 1905 of title 18. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports or information to other officers, employees or authorized representatives of the United States (including any authorized contractor acting as a representative of the Administrator), or to any State concerned with carrying out this Act, or when relevant in any proceeding under this Act.".

ADMINISTRATIVE ENFORCEMENT SUBPOENAS

SEC. 605. Section 307 of the Clean Air Act is amended by redesignating subsection (a)(1) as subsection (a), and, in that newly designated subsection, striking "or" before "section 202(b)(5)" and inserting "any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under section 113, section 114, section 120, section 205, section 206, section 208, section 303 or section 306 of the Act," immediately after "section 202(b)(4) or 211(c)(3)".

EMERGENCY ORDERS

SEC. 606. Section 303(a) of the Clean Air Act is amended by—

(1) striking "the health of persons, and that appropriate State or local authorities have not acted to abate such sources" and inserting "public health or welfare, or the environment";

(2) revising the second sentence to read "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.";

(3) striking the last three sentences in their entirety; and

(4) inserting the following at the end of the subsection:

"Prior to taking action under this section, the Administrator shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the action proposed to be taken is based. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than sixty days, unless the Administrator brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the Administrator brings such an action within the sixty-day period, such order shall remain in effect for an additional fourteen days or for such longer period as may be authorized by the court in which such action is brought.".

CONTRACTOR LISTINGS.

SEC. 607. Section 306(a) of the Clean Air Act is amended by—

(a) striking "(1)" after "section 113(c)"; and

(b) inserting at the end thereof "For convictions arising under section 113(c)(4), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(4). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person."

JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION

SEC. 608. Section 307(b)(1) of the Clean Air Act is amended by adding at the end thereof the following: "A petition for reconsideration by the Administrator of any otherwise final agency action shall not render the action nonfinal for purposes of judicial review nor extend the time within which a petition for review may be filed, and shall not postpone the effectiveness of the agnecy action.".

CITIZEN SUITS AND PETITIONS

SEC. 609. (a) CIVIL PENALTIES.—

(1) Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (a)(2)), including those pursuant to a consent judgment, payable to the special fund as established in subsection (g), taking into account the factors listed in section 113(g)".

(2) Section 304 of the Clean Air Act is amended by adding the following new subsection:

"(g) PENALTY FUND.—Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services, which shall be available for appropriation, and remain available until expended for use by the Environmental Protection Agency to finance air compliance and enforcement activities.".

(3) Paragraph (2) of subsection 304(c) of the Clean Air Act is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. In such intervention, the Administrator may substitute himself as the plaintiff with regard to any claim for civil penalties. Upon such substitution, the citizen plaintiff's claims for civil penalties shall abate. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(b) NATURE OF VIOLATION.—Section 304(a) of the Clean Air Act, is amended by subsection (a), is further amended by—

(1) striking the word "or" at the end of paragraph (2) and inserting the following new paragraph (4) at the end of paragraph (3):

"(4) against any person who operates any source requiring a permit under section 351(a) without such a permit, except as provided in section 352(d), or who is alleged to be in violation of any condition of such permit or of a temporary operating permit issued under section 112."

(2) adding at the end thereof the following: "Where a provision of the Act mandates that the Administrator shall take specified action when certain preconditions are met, and the Administrator has taken final action finding such preconditions, the court's power to compel the specified action under paragraph (2) shall not depend upon whether the Administrator has published notice of such final action in the Federal Register."

(c) NOTICE TO THE GOVERNMENT.—Section 304(c) is amended by adding the following new paragraph:

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to forty-five days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(d) UNREASONABLE DELAY.—Section 307(d)(1) of the Clean Air Act is amended by inserting before the last sentence the following:

"However, actions under this subsection shall be subject to the provisions of subsection 706(1) of title 5 of the United States Code.".

(e) PETITIONS.—Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(i) PETITIONS.—(1) Any interested person shall have the right to petition the Administrator to issue, amend, reconsider, or repeal any regulation issued under the authority of this Act, unless such right is expressly limited by any other provision of this Act.

"(2) To the maximum extent practicable, within six months after receiving a petition, the Administrator shall publish in the Federal Register a finding as to whether the petition presents substantial information indicating that the petition has merit. In the event the petition is found not to present such information, the Administrator shall deny it and publish notice of such denial with notice of the finding required by the preceding sentence.

"(3) In the event the Administrator finds that the petition presents substantial information indicating that it has merit, the Administrator shall immediately undertake a review of the regulation that is the subject of the petition, and shall either grant or deny such petition within twelve months of the date of the Federal Register finding, except that in the case of a petition for reconsideration under section 307(d)(7)(B), the Administrator shall grant or deny the petition not later than twelve months after receiving such petition. In any case in which the Administrator grants a petition, the Administrator shall take final action in response to any such petition within a reasonable time.".

ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS

SEC. 610. (a) Section 167 of the Clean Air Act is amended by striking "the construction of a major emitting facility" and inserting in lieu thereof "the operation, construction, or modification of a major emitting facility"; and

(b) inserting at the end thereof the following: "An order issued by the Administrator under this section shall become effective upon issuance. Any person to whom such an order is issued may request a hearing under section 307(h) of this title. If a hearing is requested but not commenced within the time provided by regulation, such order shall be automatically stayed, and no penalties for

noncompliance shall accrue thereafter, until such hearing is commenced.".

(c) Section 307 of the Clean Air Act is amended by adding the follwing new subsection:

"(h) (1) The Administrator shall provide any person to whom an order is issued under section 167 of this title an opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue rules for procedures for hearings under this subsection, including provisions for an expedited hearing. If a request for a hearing is not made within 30 days, the order shall be final and not subject to review by any court or agency.

"(2) Once a final decision in a hearing under paragraph (1) of this subsection has been issued, the person to whom the order was issued may seek review in the United States District Court for the District of Columbia, or for the district in which the violaiton or emergency is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within thirty days following the date of the final decision. Within thirty days thereafter, the Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the final decision was issued. Such court shall not set aside or remand such order or final decision unless there is not substantial evidence in the record, taken as a whole, to report the finding of a violation or unless the Administrator's decision constitutes an abuse of discretion. After the person to whom the order was issued has exercised its right to an administrative hearing and, where applicable, judicial review, or after the time for requesting such hearing or review has passed, the validity of the order shall not be subject to review by any court or agency.".

MOVABLE STATIONARY SOURCES

SEC. 611. Section 302 of the Clean Air Act is amended by adding the following subsection:

"(q) STATIONARY SOURCE.—The term "stationary source" means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes.".

ENFORCEMENT OF NEW TITLES OF THE ACT

SEC. 612. Section 120(a)(2)(A)(ii) of the Clean Air Act is amended by striking "section 111 or 112" and inserting "sections 111, 112, 167, 303, 351(a) or 352(c), or with any requirement or prohibition of title IV,".

AUTHORIZATIONS

SEC. 613. Title III of the Clean Air Act is amended by adding at the end thereof the following new section:

"(c)(1) there are authorized to be appropriated $120,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to make grants to the States pursuant to section 105. In addition there are authorized to be appropriated $50,000,000 for each of the fiscal years ending September 30, 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D.

"(2) There are authorized to be appropriated $90,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the research and development activities authorized by sections 103 and 104 and other sections of this Act.

"(3) In addition to the sums authorized by paragraphs (1) and (2) there are authorized to be appropriated $250,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the activities authorized under this Act.".

SIMPSON AMENDMENT NO. 1457

Mr. SIMPSON proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 245, line 17, add to section 112(d) the following new subsection:

"(10) No standard for radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any, State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under sections 111 or 112.

BAUCUS AMENDMENT NO. 1458

Mr. BAUCUS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 385, after line 14, insert the following: "The Administrator shall conduct, and transmit to Congress not later than two years after the enactment of this Act, a study of the emissions of hazardous air pollutants from motor vehicle tire incineration facilities and the feasibility of substituting appropriate tire recycling procedures for current and projected tire incineration facilities. There are authorized to be appropriated such sums as may be necessary.".

CHAFEE AMENDMENT NO. 1459

Mr. CHAFEE proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

1. On page 30, line 3, after "(unless", add the following: "the Administrator determines that other measures are more appropriate or".

2. On page 39, line 7, after "appears," add the following:

"by inserting 'and' at the end of subsection (a)(2), and by replacing the semicolon and 'and' at the end of subsection (a)(3) with a period and deleting paragraph (4) of subsection (a),".

3. (a)(1) On page 11, after line 13, add the following:

"(7) The Administrator may, in the Administrator's discretion, at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of enactment of this paragraph, in accordance with the procedures under paragraph (1)."

(2)(i) On page 8, line 14, after "(1)" add "or (7)".

(ii) On page 8, line 18, strike "or (4)", and insert in lieu thereof ", (4), or (7)".

(b) On page 125, after line 21, add the following:

ADDITIONAL REQUIREMENTS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR DIOXIDE, NITROGEN OXIDES, OR LEAD

Sec. 109A. New requirements for areas designated D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 4:

"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Dioxide, Nitrogen Oxides, or Lead

"PLAN SUBMISSION DEADLINES

"Sec. 195. (a) Any State containing an area designated or redesignated under section 107(f) as nonattainment with respect to the national primary air quality standards for sulfur dioxide, nitrogen oxides, or lead subsequent to the date of enactment of this section shall submit to the Administrator, within 18 months of the designation or redesignation, an applicable implementation plan meeting the requirements of section 110 and this part.

"(b) Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur dioxide or nitrogen oxides as of the date of enactment of this section, but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately prior to the date of enactment of this section, shall submit to the Administrator, within 18 months of enactment of this section, an implementation plan meeting the requirements of section 110 and subpart 1 (except as otherwise prescribed by section 196).

"ATTAINMENT DATES

"Sec. 196. (a) Implementation plans required under section 1959(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation or redesignation.

"(b) Except as provided in subsection (c), implementation plans required under section 195(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years from the date of enactment of this section.

"(c) Implementation plans for nonattainment areas for sulfur dioxide or nitrogen oxides with plans that were approved by the Administrator before the date of enactment of this subpart but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevent primary standard within 5 years from the date of such finding.

4. On page 39, after line 2, add the following:

(E) A new subsection (d) is added as follows:

"(d) PROHIBITION ON USE OF OLD GROWTH ALLOWANCE.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1989) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1989) or under section 110(d)(4) that its applicable

implementation plan containing such allowance is substantially inadequate."

5. (a) On page 90, line 9, delete "115, 120, and 304,", and insert in lieu thereof the following:

"120, 304, and 307 and other enforcement provisions of this Act".

(b) On page 90, line 10, after "(4)", strike all through "(2)." on line 13, and insert in lieu thereof the following:

"Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure adequate, he shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.

(c) On page 90, line 20, after "equipment", add "measures", and on line 21, after "processes", insert "methods".

(d) On page 91, line 6, strike "ozone precursors', and insert in lieu thereof "volatile organic compounds".

(e) On page 91, line 8, strike the semicolon and "and" and all that follows through line 11, and insert in lieu thereof the following:

"or motor vehicles, non-road vehicles, and non-road engines as defined under section 216."

6. (a) On page 13, line 23, strike "and".

(b) On page 14, line 2, after "year", add the following:

", procedures for estimating motor vehicle miles of travel,"

(c) On page 14, line 2, after "and", add "emissions factors for".

(d) On page 14, line 5, strike the period, and insert in lieu thereof a semicolon and "and" and the following:

"(3) guidelines for emission reduction requirements of this Act (including, but not limited to, preparation of base inventories, accounting for stationary and mobile source growth, and calculating the emission reductions that are creditable toward specific reduction requirements)."

7. On page 24, line 6, strike all following the comma through "revision," on line 8; beginning on line 13, strike "by" and everything through the end of the parenthetical on line 14 and insert in lieu thereof "by such date".

8. On page 25, line 18, strike "within" and all that follows through "(2)" on line 19.

9. On page 60, line 5, strike "that" and all that follows through "available" on line 8, and insert in lieu thereof the following: "designated nonattainment for ozone under section 107(f)(3)".

10. (a) On page 60, line 16, after "available", add "as determined by the Administrator".

(b) On page 60, line 18, strike "same" and all that follows through "Administrator" on line 19, and insert in lieu thereof the following:

"interpretation methodology issued by the Administrator most recently before the date of enactment of this subpart".

11. (a) On page 61, line 21, strike "classified" and insert in lieu there "designated".

(b) On page 62, line 1, strike "107 and" and insert in lieu thereof "107(d)(5) and classified pursuant to".

(c) On page 62, line 10, after "Administrator", add the following:

"(or in the calendar year of classification, in the case of an area subsequently designated nonattainment under section 107(d)(5) and classified pursuant to this subpart)."

(d) On page 92, lines 16-17, after "attainment", add the following:

", and then shall be submitted, to the extent required, in accordance with the maintenance plan".

12. (a) On page 63, line 4, after "submitted", insert "as expeditiously as practicable but no later than 18 months after the date such revision is submitted to the Administrator, and shall show such emissions".

(b) On page 63, line 6, after "was", insert "required to be".

(c) On page 63, line 6, after "Administrator", insert the following:

", or another appropriate year if such emission data are shown not to be reasonably available".

(d) On page 63, line 8, after "thereafter.", add the following:

"The State shall make such statements, or the data contained therein, available to the Environmental Protection Agency, upon request."

13. (a) On page 69, line 4, after "value", add the following:

", as determined by the Administrator under section 181(a),".

(b) On page 69, line 11, replaces the period with a semicolon and strike "The design" and all that follows through "subpart;" on line 15.

14. On page 75, line 21, after "beginning", insert the following:

"in the first calendar year that commences on or after the date".

15. (a) On page 100, line 6, strike "which" and all that follows through "available" on line 9, and insert in lieu thereof the following:

"designated nonattainment for carbon monoxide under section 107(f)(3)".

(b) On page 100, line 11, strike "the standard" and insert in lieu thereof the following:

"the national primary ambient air quality standard for carbon monoxide averaged over an eight-hour period".

16. (a) On page 101, line 1, after "available", insert ", as determined by the Administrator,".

(b) On page 101, line 3, strike "same" and all that follows through "Administrator" on line 4, and insert in lieu thereof the following:

"interpretation methodology issued by the Administrator most recently before the date of enactment of this subpart".

17. On page 102, lines 15-17, strike "classified" and insert in lieu thereof "designated"; strike "107 and" and insert in lieu thereof "107(d)(5) and classified pursuant to"; after "subsection)" add "a"; and strike "inventories" and insert in lieu thereof "inventory for the calendar year of classification".

18. (a) On page 77, line 21, replace the period with a semicolon and add the following:

"(7) Within the timeframes provided in that section, such revisions are as required by section 212(a)(8) to implement the clean alternative fuel vehicle program with respect to the Federal government fleet program described in section 212(a)(1)(B)."

(b) On page 80, line 10, replace the period with a semicolon and add the following:

"(3) within the timeframes provided by that section, such revisions as are required by section 212(a)(8) to implement the clean alternative fuel vehicle program with respect to the private fleet program described in section 212(a)(1)(C) and the general vehicle requirements described in section 212(a)(2)."

19. (a) On page 58, line 15, strike "110(a)(2)" and insert in lieu thereof "110(b)(2)".

(b) On page 65, line 21, strike "107 of" and insert in lieu thereof "107(d)(5) and".

(c) On page 69, line 23; page 77, line 25; and page 103, line 3, strike "107" and insert in lieu thereof "107(d)(5)".

20. On page 115, line 5, strike "1993" and insert in lieu thereof "1994".

21. On page 69, lines 18-19, strike "172(a)(6), section 173, and title V", and insert in lieu thereof the following:

"172(c)(6) (as it relates to requirements for permits for the construction of new or modified major stationary sources), and 173(a)".

22. (a) On page 53, lines 11-12, strike "and operation".

(b) On page 53, line 16, strike "173" and insert in lieu thereof "173(a)".

23. (a) On page 31, line 17, after "SAVINGS CLAUSE", insert "(1)".

(b) On page 31, after line 24, add the following:

"(2) In the case of an area to which, immediately prior to the date of enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in section 110(a)(2)(I) as in effect immediately prior to the date of enactment of the Clean Air Act Amendments of 1990 applied by virture of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately prior to the date of enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(6)(A) (as redesignated by this Act), insofar as they relate to the permit requirements for construction of new or modified major stationary sources, and section 173(a) (relating to construction permit programs for such sources) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide in effect as of the date of enactment of this paragraph), respectively.

24. (a) On page 69 line 3, after "(2)", add "(A)".

(b) On page 69, line 4, strike "in" and all that follows through "subpart" on line 5, and insert in lieu thereof a comma and "as determined under section 181(a),"

(c) page 69, line 11, change the period to a semi-colon and strike all that follows through "subpart;" on line 15.

(d) On page 69, after line 15, add the following:

"(B) For any such area that is not required to comply with the requirements of subsection (a)(1), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1989) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of enactment of this section, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program."

25. (a) Page 61, after line 14, add the following:

"(e) Any area that is not designated nonattainment for ozone under section 107 as of the date of enactment of this section, and that is subsequently redesignated to nonattainment for ozone under section 107, shall, at the time of the redesignation, be classified by operation of law in accordance with the table under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified as of the time of the classification under subsection (a), except that any absolute, fixed date applicable in connection with any requirement is extended by operation of law by a period equal to the length of time between the date of enactment of this section and the date the area is classified.

(b) Page 102 after line 2, add the following:

"(e) Any area that is not designated nonattainment for carbon monoxide under section 107 as of the date of enactment of this section, and that is subsequently redesignated to nonattainment for carbon monoxide under section 107, shall, at the time of the redesignation, be classified by operation of law in accordance with the table under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified as of the time of the classification under subsection (a), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of enactment of this section and the date the area is classified.

(c) On page 119, line 5, strike "enactment of this subpart" and insert in lieu thereof, "designation of such area as nonattainment for PM-10."

(d) On page 124, line 15, strike "enactment of this subpart" and insert in lieu thereof, "designation of such area or areas as nonattainment for PM-10".

27. On page 29, line 21, insert "a" before "subsequent".

28. On page 30, line 24, delete "one."

29. On page 33, line 10, replace the "," with "or".

30. On page 47, line 24, strike "moratorium is available" and insert in lieu thereof "Administrator may apply such prohibition".

31. On page 53, lines 1-2, strike "No major stationary source of any pollutant shall be constructed or modified" and insert in its place, "No person shall construct or modify a major stationary source of any pollutant".

32. On page 60, between lines 11 and 12, strike "more than 20 per centum but not more than 50 per centum" and insert in lieu thereof, "more than 20 per centum but less than 50 per centum"; and strike "more than 50 per centum but not more than 120 per centum" and insert in lieu thereof, "Equal to or greater than 50 per centum but not more than 120 per centum".

33. On page 67, beginning on line 14, strike "persons within the area transferring gasoline to a motor vehicle fuel tank from a gasoline dispensing system use a fill nozzle" and insert in lieu thereof "owners or operators of gasoline dispensing systems within the area install and operate a system", and on line 24, strike "sell" and insert in lieu thereof "dispense".

34. On page 71, line 12, insert after "12 per centum" the following: "(in addition to the reductions required under paragraph (2))".

35. On page 91, beginning at line 19, strike "reductions in nationwide emissions of volatile organic compounds of 4 per centum below the level of such emissions in the calendar year of enactment of this subpart" and insert in lieu thereof: "a 90 per centum reduction in uncontrolled emissions of volatile organic compounds from such facilities".

36. On page 73, line 20, strike "lessor" and insert "lesser".

37. On page 104, line 8, insert "for any person" "after unlawful".

38. On page 117, line 23, insert "for any person" after "unlawful".

39. On page 131, line 1, strike "Administrator" and insert in lieu thereof "Secretary", and after "regulations" insert "promulgated under paragraph (1)".

40. On page 132, line 18, change "Sec. 112" to "Sec. 112(a)" and on page 134, line 16, add the following:

"(b) Section 302(e) is amended by inserting ', or an Indian tribe or authorized tribal organization or Alaska Native village or organization' at the end thereof.".

41. On page 134, line 12, strike "than such responsibility may be assumed or maintained by a State." and insert in place thereof "than this Act requires of a State."

42. On page 54, line 15; page 108, line 24; page 109, line 11; page 110, line 3, and page 111, lines 7, 17 and 21, strike "(g)" and insert in lieu thereof "(e)".

AMENDMENTS TO TITLE II

1. In Table 1b on page 138, after the line beginning "PM", insert "CO", "3.4 gpm", and "4.2 gpm" in that order under the appropriate headings.

2. On page 139, in the heading for Table 1d, strike "GASOLINE" and insert in its place "DIESEL".

3. In Table 1e on pages 139 and 140, strike "tailpipe certification" after "0.2" and "1.7" in the lines beginning "No_x" and "CO", and insert "gpm." in its place in both instances.

4. On page 142, in line 2, insert "to" after "attributable".

5. In Table 2 on page 143, insert "EXHAUST" after "Table 2.—", strike "3,750" in the first line that begins "Trucks" and insert in its place "3,751", and insert "urban" before "buses" in the line beginning "Heavy", strike "1992 and after——0.1gbh" and insert in lieu thereof "1991——0.25gbh", and insert on the following line "Heavy duty urban buses——1992 and after——0.1gbh".

6. On page 143, in line 3, strike "(2)" and insert in its place "(9)".

7. On page 144, line 9, strike out "regulation" and insert in lieu thereof: "regulations".

8. On page 154, line 6, strike "212(a)(7)" and insert in lieu thereof, "212(a)(6)".

9. On page 154, in line 15, strike "tail pipe" and insert in its place "exhaust emission."

10 On page 154, in line 20, after "which" insert ", as of the date of enactment," and strike "presently".

11. On page 154, in line 22, strike the first "of".

12. On page 156, in line 14, insert a comma after "trucks".

13. On page 158, in line 5, strike "Post Master" and insert in its place "Postmaster".

14. On page 161, in line 24, strike "emission".

15. On page 162, in line 5, strike "reduction".

16. On page 162, in line 8, strike "(2)".

17. On page 162, in line 12, strike "reduction".

18. On page 164, in line 16, insert "Tables 1a and 1c of" after "under".

19. On page 165, in line 2, strike "from" and insert in its place "for".

20. On page 170 in line 2, insert "of" after "date".

21. On page 172, in line 1, strike "performance" and insert in its place "emission".

22. On page 172, in line 5, strike "performance" and insert in its place "emission".

23. On page 172, in line 8, strike "(2)" and insert in its place "(ii)".

24. On page 172, in line 10, strike "after".

25. On page 172, in line 21, strike "(2)" and insert in its place "(ii)".

26. On page 173, in lines 5 and 6, strike "VEHICLES, FUEL SYSTEMS, AND".

27. On page 174, in line 3, after "under" insert "section".

28. On page 174, in line 5, strike "opts" and insert in its place "elects".

29. On page 178, in line 22, strike "one" and insert in its place "each".

30. On page 188, in line 15, strike "Paragraph" and insert in its place "clause".

31. On page 188, in line 17, strike "State" and insert in its place "area".

32. On page 188, in line 21, strike "State" and insert in its place "area".

33. On page 189, in line 5, strike "request" and insert in its place "revision".

34. On page 193, in line 2, after the first "to" insert "or greater than".

35. On page 193, line 6, through page 194, line 10, move the language that starts with "Administrator" and ends with "period." to page 195, in line 15, after the second "the".

36. On page 193, in line 11, after "sold" insert "to a date later than October 1, 1994,".

37. On page 195, in line 14, strike the "s" after "requirement".

38. On page 199, in line 14, strike "219" and insert in its place "216".

39. On page 199, in lines 14 and 15, strike "(as redesignated by section 206)".

40. On page 201, in line 3, strike "by" and, in lines 3 and 4, strike "of the Clean Air Act Amendments of 1990".

41. On page 201, line 21, insert "its" before "useful".

42. On page 203, beginning on line 1, strike "(except in the case of onboard emission control diagnostic equipment required by section 216)".

43. On page 209, in line 4, after "vehicles" insert "or engines".

44. On page 209, in line 6, after "vehicles" insert "or engines".

45. On page 210, line 14, insert after "State": "vehicle emission control".

46. On page 218, line 14, strike out "the Clean Air Act Amendments of 1989" and insert in lieu thereof: "this section".

47. On page 226, line 10, strike out "(c)" and insert in lieu thereof: "(e)".

48. On page 226, line 12, insert after "(d)": "ENFORCEMENT".

49. On page 226, line 12, insert after "(1)": "CIVIL PENALTIES".

50. On page 226, line 13, insert after "(1)": "of this section".

51. On page 227, line 5, Insert after "b)": "of this section".

52. On page 227, lines 12, 13, and 16, and on page 227, line 25, strike out "alternative" and insert in lieu thereof: "low polluting".

53. On page 142, in line 2, insert "to" after "attributable".

54. In Table 2 on page 143, insert "EXHAUST" after "Table 2.—", strike "3,750" in the first line that begins "Trucks" and

insert in its place "3,751", and insert "urban" after "duty" in the line beginning "Heavy".

55. On page 143, in line 3, strike "(2)" and insert in its place "(9)".

56. On page 144, line 9, strike out "regulation" and insert in lieu thereof: "regulations".

57. On page 154, in line 15, strike "tail pipe" and insert in its place "exhaust emission."

58. On page 154, in line 20, after "which" insert ", as the date of enactment," and strike "presently".

59. On page 154, in line 22, strike "of".

60. On page 156, in line 14, insert a comma after "trucks".

61. On page 158, in line 5, strike "Post Master" and insert in its place "Postmaster".

62. On page 161, in line 24, strike "emission".

63. On page 162, in line 5, strike "reduction".

64. On page 162, in line 8, strike "(2)".

65. On page 162, in line 12, strike "reduction".

66. On page 164, in line 16, insert "Tables 1a and 1c of " after "under".

67. On page 165, in line 2, strike "from" and insert in its place "for".

68. On page 170, in line 2, insert "of" after "date".

69. On page 172, in line 1, strike "performance" and insert in its place "emission".

70. On page 172, in line 5, strike "performance" and insert in its place "emission".

71. On page 172, in line 8, strike "(2)" and insert in its place "(ii)".

72. On page 172, in line 10, strike "after".

73. On page 172, in line 21, strike "(2)" and insert in its place "(ii)".

74. On page 173, in lines 5 and 6, strike "VEHICLES, FUEL SYSTEMS, AND".

75. On page 174, in line 3, after "under" insert "section".

76. On page 174, in line 5, strike "opts" and insert in its place "elects".

77. On page 178, in line 22, strike "one" and insert in its place "each".

78. On page 188, in line 15, strike "Paragraph" and insert in its place "clause".

79. On page 188, in line 17, strike "State" and insert in its place "area".

80. On page 188, in line 21, strike "State" and insert in its place "area".

81. On page 189, in line 5, strike "request" and insert in its place "revision".

82. On page 193, in line 2, after the first "to" insert "or greater than".

83. On page 193, line 6, through page 194, line 10, move the language that starts with "Administrator" and end with "period." to page 195, in line 15, after the second "the".

84. On page 193, in line 11, after "sold" insert "to a date later than October 1, 1994,".

85. On page 195, in line 14, strike "s" after "requirement".

86. On page 199, in line 14, strike "219" and insert in its place "216".

87. On page 199, in lines 14 and 15, strike "(as redesignated by section 206)".

88. On page 201, in line 3, strike "by" and, in lines 3 and 4, strike "of the Clean Air Act Amendments of 1990".

89. On page 201, line 21, insert "ITS" before "useful".

90. On page 209, in line 4, after "vehicles" insert "or engines".

91. On page 209, in line 6, after "vehicles" insert "or engines."

92. On page 210, line 14, insert after "State": "vehicle emission control"

93. On page 218, line 14, strike out "the Clean Air Act Amendments of 1989" and insert in lieu thereof: "this section".

94. On page 226, line 10, strike out "(c)" and insert in lieu thereof: "(e)".

95. On page 226, line 12, insert after "(d)": "ENFORCEMENT".

96. On page 226, line 13, insert after "(1)": "of this section".

97. On page 227, line 5, insert after "(b)": "of this section".

98. On page 227, lines 12, 13, and 16, and on page 227, line 25, strike out "alternative" and insert in lieu thereof: "low polluting".

99. On page 137, in line 3, insert "(a)" after "SEC. 201." and add after line 6 on page 143, a new subsection (b) to section 201:

(b) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare, taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard.".

100. On page 137, in line 14, after "tables." insert "The remaining 60 and 20 per centum of each manufacturers's 1993 and 1994 model year vehicles, respectively, shall be subject to the emissions standards in effect with respect to 1992 model year vehicles."

101. On page 139, in Table 1e, and on page 140, in Table 1f, strike the references to footnote 1 in the lines beginning "HC". On page 140, after Table 1f, strike the text of footnote 1. On page 140, in line 1, before "When" insert "The 0.6 gpm total vehicle hydrocarbon emissions standard specified in Tables 1e and 1f shall be revised as appropriate by regulation by the Administrator if the Administrator determines that the total hydrocarbon emissions standard that is equivalent to a 0.125 gpm exhaust hydrocarbon emissions standard vehicle when operating on model year 1990 certification gasoline (indolene) with a Reid vapor pressure of 9.0 pounds per square inch, is a standard other than 0.6 gpm."

102. On page 140, in line 5, after "212(a)(2)" insert "in that area". On page 140, in line 5, strike "All" and insert in its place "Except for section 212(a)(2)(A)(iv) and the requirements in section 212(a)(2)(B)(ii) concerning the specification of a reformulated gasoline, all".

103. On page 144 line 4 strike "operated" and insert in lieu thereof: "tested".

104. On page 152 line 10, after "accurately identifying" insert: "for the useful life as established under this section".

105. On page 152 line 19, redesignate subparagraph (C) as (D), and insert the following new subparagraph (C):

"(C) storing and retrieving fault codes specified by the Administrator, and".

106. On page 157, in line 7, after "in" insert "each of the".

107. On page 162, in lines 24-25, strike "areas in which they are registered or primarily operated" and insert in its place "nonattainment area".

108. On page 163. in line 15, after "to" insert "the provisions of sections 203, 204, and 205,".

109. On page 163, in lines 16 and 17, strike "warranty".

110. On page 163, in line 17, after "207," insert "the requirements of section 208".

111. On page 163, in line 21, after "sections insert "203, 204, 205," after "206" insert a comma followed by "208".

112. On page 167, in line 11, insert "and" before "that". On page 167, in line 12, insert "reasonably" after "not". On page 167, in line 18, insert "or clean alternative fuel" after "fuel". On page 167, in line 18, strike "or" and insert in its place "and". On page 167, in line 19, insert "reasonably" after "not".

113. On page 174, in line 1, strike "can be" and insert in its place "will meet the standards prescribed under subparagraph (A) when".

114. On page 176, in line 7, strike "paragraph" and insert in its place "subsection". On page 176, in line 11, after "paragraph" insert "or paragraph (3)". On page 176, in line 19, strike "paragraph" and insert in its place "subsection".

115. On page 185, in line 2, after "containing" insert "any area specified in paragraph (1) or (2) or". On page 185, in line 3, after "program" insert "pursuant to paragraph (6)".

116. On page 185, in line 6, after "vehicles" insert "purchased or placed into use by covered fleet operators".

118. On page 194, in line 14, after "established" insert "by paragraph (1) or".

119. On page 197, in line 14, after "manufacturers," insert "importers".

120. On page 197, in line 21, strike "or" and after "208" insert", or 211".

121. On page 204, line 13, after "or in a vehicle" delete "used solely for competition in vehicle racing" and insert in lieu thereof: "designed solely for competition which is not capable of operating on streets and highways,".

122. On page 204, line 16, after "(pertaining to new stationary sources)" delete "or section 202 (pertaining to motor vehicles)".

123. On page 210, after line 15, add:

(c) RECALL TESTING OF CLEAN ALTERNATIVE FUEL VEHICLES.—Section 207(c) of the following new paragraph:

"(6) In determining in-use compliance by vehicles and engines in actual use with the emissions standards prescribed under section 212(a), the provisions of this section shall be applied with such modifications as are necessary to reflect the provisions of section 212(a)(4).".

124. On page 210, line 26 and page 211 line 6, strike out "or" the first time that it appears and insert after "sale,": "supplied, offered for supply, dispensed, transported,".

125. On page 211, line 1, insert after "into commerce": "or imported".

126. On page 212, line 4, strike out "refiner,".

127. On page 212, line 6, insert after "purchaser": "-consumer".

128. On page 212, line 21, insert after "sale,": "supply, offer for supply,".

129. On page 213, line 7, add the following to the end of paragraph (2): "The Administrator may establish an equivalent aromatic level to the cetane index specification in paragraph (1).".

130. On page 213, line 11, strike out "0.05 per centum (by weight)" and insert in lieu thereof: "0.10 per centum (by weight)".

131. On page 213, line 21, insert after "sale,": "supply, offer for supply, dispense, transport,".

133. On page 214, line 22, insert after "sold": ", offered for sale, supplied, offered for supply, dispensed, transported, or introduced into commerce".

134. On page 214, line 26, insert after "offer for sale": ", supply, offer for supply, dispense, transport,".

135. On page 216, line 8, insert after "sale,": "supply, offer for supply, dispense, transport,".

136. On page 216, line 13, strike out "nine" and insert in lieu thereof: "twelve".

137. On page 216, line 15, strike out "guidelines" and insert in lieu thereof: "regulations".

138. On page 217, line 6, insert after "selling": "or offering for sale"; and insert after "retail": "outlets".

139. On page 220, at the end of the page insert a new subsection (c) and redesignate the following subsections accordingly:

"(c) PROHIBITED ACTS.—(1) Section 203(a)(4) of the Clean Air Act is amended by striking out the period at the end and inserting in lieu thereof: '; and'.

"(2) Section 203(a) of the Clean Air Act is amended by inserting the following new paragraphs after paragraph (a)(4):

'(5) for any owner or operator of urban buses to purchase or place into service a new bus that does not comply with the requirements of section 212 or regulations prescribed under such section; or

'(6) for any person to manufacture, except for export, sell, of introduce into commerce a motor vehicle engine or non-road engine (or a vehicle containing such an engine) that does not comply with the requirements of section 218 or regulations prescribed under such section.' "

140. On page 221, line 4, strike out "or" the first time that it appears and insert after "(4)": ", (5), or (6)".

141. On page 221, line 11, strike out "or" and insert after "(4)": ", (5), or (6)".

142. On page 222, lines 7-8, strike out "or savings".

143. On page 222, line 11, insert after "requirements, ": "action taken to remedy the violation,".

144. On page 221, lines 4 and 11, insert "or regulations prescribed under paragraph (a)(1), (a)(2), (a)(6), or (a)(7) [except (a)(7)C)(iii) of section 212" after "203(a)".

145. On page 221, lines 14 and 16, strike "such section" and insert in lieu thereof "section 203(a)".

146. On page 221, line 16, insert "or regulations prescribed under section 212(c)" after "section".

147. On page 226, line 14, insert "of this section or paragraph (a)(5), (a)(7)(C)(iii), (a)(9), or (a)(11) of section 212" after "(k)".

148. On page 226, line 19, insert "or paragraph (a)(5), (a)(7)(C)(iii), (a)(9), or (a)(11) of section 212" after "section".

149. On page 227, line 2, insert "of this section or paragraph (a)(5), (a)(9), or (a)(11) of section 212" after "(k)".

150. On page 227, after line 7, insert the following new subsection:

(d) INJUNCTIVE RELIEF.—

(1) Section 204(a) of the Clean Air Act is amended by inserting the following phrases immediately after "section 203 (a) ": "and of the regulations prescribed under paragraph (a)(1), (a)(2), (a)(6), or (a)(7) of section 212, to compel the establishment and maintenance of records, the making of reports, and the provision of information under subsection (c) of section 212, and to award other appropriate relief".

(2) Section 204(b) of the Clean Air Act is amended by inserting a comma and the words "compel such actions, and award such relief" immediately after "violations".

151. On page 222, line 16, insert after "(c)": "ADMINISTRATIVE ASSESSMENTS".

152. On page 222, line 22, strike out "assessed" and insert in lieu thereof: "sought against each violator in a penalty assessment proceeding".

153. On page 222, line 25, insert after "554": "and 556".

154. On page 223, line 1, insert after "discovery": "and other".

155. On page 223, line 2, insert at the end thereof: "Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 15 days of the date the notice is received by such person. The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection."

156. On page 223, line 8, insert after "requirements,": "action taken to remedy the violation,".

157. On page 224, lines 3 through 5, strike out "Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business" and insert in lieu thereof: "District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides or where such person's principal place of business is located".

158. On page 224, line 6, strike out "of appeal".

159. On page 224, line 8, insert after "notice": "by certified mail".

160. On page 224, line 10, strike out "promptly" and insert after "copy": ", or certified index, as appropriate,".

161. On page 224, line 11, insert after "issued": "within thirty days".

162. On page 224, line 18, insert at the end thereof: "In any such proceeding, the United States may seek to recover civil penalties assessed under this section."

163. On page 225, line 14, insert after "interest,": "the United States' enforcement expenses, including".

164. On page 225, strike out line 21 through page 226, line 9.

165. On page 226, line 14, strike out "or" the first time that it appears and insert after "(k)": ", or (1) of this section".

166. On page 226, line 16, insert after "(b)": "of this section, or any owner or operator of urban buses who violates regulations prescribed under section 212 concerning operation of such buses on low polluting fuel,".

167. On page 226, line 17, strike out "$25,000 per day of violation" and insert in lieu thereof: "the sum of $25,000 for each and every day of each such violation or the amount of economic benefit resulting from the violation".

168. On page 227, line 1, strike out "or" and insert after "(j)": ", or (1) of this section".

169. On page 227, line 2, strike out "or" and insert after "(k)": ", or (1) of this section or under section 212 concerning operation of urban buses on low polluting fuel".

170. On page 227, line 7, insert after "States.": "In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district."

171. At end of page 228, insert as new section 224 of the bill:

SEC. 224. FUEL AND FUEL ADDITIVE IMPORTERS.—Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(m) FUEL AND FUEL ADDITIVE IMPORTERS AND IMPORTATION.—For the purposes of this section, the term 'manufacturer' includes an importer and the term 'manufacture' includes importation.".

Add at an appropriate place in the bill the following new section:

"SAVINGS PROVISIONS AND EFFECTIVE DATES

SEC. . (a) Except as otherwise expressly provided in this Act, no suit, action, or other proceeding lawfully commenced by the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, shall abate by reason of the taking effect of the amendments made by this Act.

"(b) All rules, regulations, standards, orders, determinations, contracts, certifications, authorizations, delegations, notices, guidance, or other actions duly promulgated, issued, made or taken by the Administrator pursuant to the Clean Air Act as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

"(c)(1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on the date of enactment of this Act.

"(2) The Administrator's authority to assess civil penalties under section 205(c) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act. Civil penalties for violations that occur prior to such date and do not continue after such date shall be assessed in accordance with the provisions of the Clean Air Act in effect immediately prior to the date of enactment of this Act.

"(3) The civil penalties prescribed under sections 205(a) and 211(d)(1) of the Clean Air Act, as amended by this Act, shall apply to violations that occur on or after the date of enactment of this Act. Violations that occur prior to such date shall be subject to the civil penalty provisions prescribed in sections 205(a) and 211(d) of the Clean Air Act in effect immediately prior to the date of enactment of this Act. The injunctive authority prescribed under section 211(d)(2) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act.

"(4) For purposes of paragraphs (2) and (3), where the date of a violation cannot be determined it will be assumed to be the date on which the violation is discovered."

AMENDMENT TO TITLE VII

On page 519, line 11, insert "manufactured prior to January 1, 2015" immediately after "personal effects".

On page 533, strike lines 6 through 18.

On page 153, strike lines 24 through 26, and renumber the following definitions on pages 154-155 as appropriate.

On page 154, in line 3, strike "fleet vehicles" and insert in its place "light-duty vehicles or light-duty trucks that are centrally maintained and use as their primary fuel source, a central refueling station, which are". On page 161, in line 5, strike "fleet vehicles" and insert in its place "light-duty vehicles or light-duty trucks". On page 162, in line 1, strike "covered".

On page 197, in line 2, after "and" insert "overall emission of".

On page 137, in line 14, add at the end of paragraph (1); "Except as provided below in paragraphs (2) and (3), the emission standards prescribed under this paragraph shall apply to vehicles from 2004 and later model years."

On page 138, in line 3, strike "exceed" and insert in its place "have four or more exceedances of". On page 138, in line 4, strike "or four or more instances". On page 139, in line 5, strike "exceed" and insert in its place "have four or more exceedances of", and, in lines 6 and 7, strike "or four or more instances".

1. On page 484, following line 2, insert the following new paragraphs and renumber subsequent paragraphs accordingly:

(1) Insert the words "or permit program" after "applicable implementation plan" in the first sentence.

(2) Insert the words "or permit program" after "in which the plan" in the first sentence.

(3) Insert the words "or permit program" after "enforce the plan" in the first sentence.

(4) Insert the words "or permit program" after "enforce such plan" in the third sentence.

(5) Insert the words "or permit program" after "requirement of such plan" in the third sentence.

TECHNICALS

2. On page 488, lines 16 and 17, strike "by the Administrator".

3. On page 488, line 24, insert a comma after "Code".

4. On page 489, line 16, strike "under" and insert in lieu thereof "pursuant to".

5. On page 489, line 16, insert a comma after "Code".

6. On page 492, line 2, insert a comma after "Code".

7. On page 492, line 3, strike "of" and insert in lieu thereof "for'.

8. On page 499, line 11, strike "(i)" and insert in lieu thereof: "(j)".

9. On page 506, lines 3 and 6, strike "113(c)(2)" and insert in lieu thereof "113(c)(4)".

10. On page 506, line 15, strike "extended" and insert in lieu thereof "extend".

11. On page 506, line 25, strike the last closed parenthesis mark immediately before the quotation mark.

12. On page 507, line 9, strike "Paragraph" and insert in lieu thereof "Paragraph".

13. On page 507, line 14, strike "two" and insert in lieu thereof "to".

CLARIFICATION ON ENDANGERMENT DEFENSE

14. On page 490, line 4, immediately before "a release of", insert the following:

"or for which any other relevant standard or limitation regarding emissions into the ambient air of such pollutant has been set under this Act,".

15. On page 492, line 18, immediately before "a release of", insert the following:

"or for which any other relevant standard or limitation regarding emissions into the ambient air of such pollutant has been set under this Act,".

BAUCUS AMENDMENT NO. 1460

Mr. BAUCUS proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

(The amendment of Mr. BAUCUS will appear in a future issue of the RECORD.)

DURENBERGER AMENDMENT NO. 1461

Mr. DURENBERGER proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

On page 231, beginning at line 7, strike all through line 9 (paragraph (8)) and insert in lieu thereof the following:

"(8) The term "owner or oeprator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"(9) The term "existing unit" means any stationary source other than a new source.".

On page 231, line 10, strike "(9)" and insert in lieu thereof "(10)".

On page 232, line 26, (unnumbered lines) following "95487" strike "Cresols/Cresylic acid (isomers and mixtures)" and insert in lieu thereof "o-Cresol".

On page 232, line 27, following "108394" strike "Cresols/Cresylic acid (isomers and mixture)" and insert in lieu thereof "m-Cresol".

On page 232, line 28, following "106445" strike "Cresols/Cresylic acid (isomers and mixtures)" and insert in lieu thereof "p-Cresol".

On page 234, line 24 (unnumbered lines) strike "91255" and insert in lieu thereof "91225".

On page 234, line 50 (unnumbered lines) following "95476" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "o-Xylenes".

On page 234, line 51, following "108383" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "m-Xylenes.

On page 234, line 52, following "106423" strike "Xylenes (isomers and mixtures)" and insert in lieu thereof "p-Xylenes".

On page 235, footnote 3, strike "aspect ratio (fiber length divided by fiber diameter) greater than 3" and insert in lieu thereof "aspect ratio (fiber length divided by fiber diameter) greater than or equal to 3".

On page 235, footnote 3, delete the period at the end of the footnote and insert in lieu thereof. ", as emitted from production of fiber and fiber products.".

On page 237, line 3, after "qualifies" insert ", as a result of emissions to the air of such pollutant,".

On page 237, line 13, before "human" strike "the".

On page 237, line 25, strike "of section 104(i)".

On page 238, after line 8, insert the following new paragraph:

"(6) The Administrator may not list elemental lead as a hazardous air pollutant pursuant to this subsection.".

On page 240, line 18, strike "(d)(1)" and insert in lieu thereof "(d)(2) or (d)(4)".

On page 240, line 20, strike "shall not be required to list" and insert in lieu thereof "may delete from the list".

On page 241, line 14, after "subsection (c)." insert "The Administrator may distinguish among classes, types and sizes of sources within a category or subcategory in establishing such standards, except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence.".

On page 241, beginning at line 18, strike "each air pollutant subject to this section" and insert in lieu thereof "each hazardous air pollutant emitted by any source in the category or subcategory.

On page 243, line 3, after "stringent" insert ", and may be more stringent".

On page 243, line 9, after "thirty" insert "or".

On page 243, beginning at line 17, strike ", and may be more stringent".

On page 243, line 23, strike "the" and insert in lieu thereof "a".

On page 245, after line 14, insert the following:

"(9) Notwithstanding the provisions of paragraph (2), for categories and subcategories of sources of hazardous air pollutants engaged in mining, extraction, beneficiation, and processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials, the Administrator shall not consider the substitution of, or other changes in, metal- or mineral-bearing raw materials that are used as feedstocks or material inputs, or metal- or mineral-bearing materials processed or derived from such feedstocks or materials in setting emissions standards, work practice standards, operating standards or other prohibitions, requirements or limitations under this section for such categories and subcategories. The prohibition of the preceding sentence shall not apply to the substitution, modification, or changes of chemicals (not including metal- or mineral-bearing materials) used in mining, extraction, beneficiation, or processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials which is necessary to reduce air emissions of such chemicals and for which substitutes that are safe and effective in performing the intended function of the chemical to be substituted are reasonably available.".

On page 245, line 15, strike "(9)" and insert in lieu thereof "(10)".

On page 246, beginning at line 10, strike "not later than three years after such date" and insert in lieu thereof "not later than four years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 246, beginning at line 15, strike "not later than five years after such date" and insert in lieu thereof "not later than six years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 246, beginning at line 20, strike "not later than ten years after such date" and insert in lieu thereof "not later than ten years after the date of enactment of the Clean Air Act Amendments of 1990".

On page 249, line 9, after "paragraph." insert the following: "Such standards shall be consistent with the requirements of subsection (d) and take into account such information on cost and feasibility as is contained in the study required by subparagraph (B).".

On page 250, beginning at line 17, strike all through line 23 and insert in lieu thereof "The".

On page 251, line 2, strike "(s)" and insert in lieu thereof "(r)".

On page 251, line 2, strike "Board." and insert in lieu thereof "Board, with respect to such report. Prior to the evaluation of remaining risks pursuant to paragraph (8), and after notice and opportunity for comment, the Administrator shall publish revised Guidelines for Carcinogenic Risk Assessment or a detailed explanation of the reasons that any recommendations contained in the report of the National Academy of Sciences will not be implemented.".

On page 251, line 6, after "Commission" insert "established by subsection (u)".

On page 251, line 14, strike "(i) (4)-(8)" and insert in lieu thereof "(i)(4) through (i)(8)".

On page 251, line 24, after "result" insert "of".

On page 252, beginning at line 11, strike "section 104(i) of".

On page 253, line 24, after "Commission" insert "established by subsection (u)".

On page 257, line 10, strike "his" and insert in lieu thereof "the minority leader's".

On page 259, line 22, after "Commission" insert "established by subsection (u)".

On page 260, beginning at line 6, strike all through line 9 and insert in lieu thereof the following:

"third time followed by a vote on final passage. This subparagraph is enacted as an exercise of the rulemaking power of the House of Representatives and of the Senate.".

On page 264, line 14, strike "act" and insert in lieu thereof "Act".

On page 226, line 5, strike "standard" and insert in lieu thereof "standard, regulation".

On page 266, line 9, strike "standard" and insert in lieu thereof "standard, regulation".

On page 266, beginning at line 13, strike "After the effective date of any emissions standard under this section, no air pollutant may be emitted from any source in violation of an emissions standard under this section or" and insert in lieu thereof "After the effective date of any emissions standard, limitation or other requirement promulgated under this section, no person may operate any source in violation of such standard, limitation or regulation or an".

On page 266, line 24, strike "(15)" and insert in lieu thereof "(14)".

On page 267, line 7, strike "(7)" and insert in lieu thereof "(6)".

On page 267, line 9, strike "safety" insert "(unless a more stringent limitation is necessary to protect the environment)".

On page 267, line 17, strike "risk".

On page 267, line 20, strike "(7)" and insert in lieu thereof "(6)".

On page 268, line 13, after "person" insert "living within the vicinity of the source".

On page 269, line 19, strike "(6)" and insert in lieu thereof "(5)".

On page 270, line 5, strike "or health risk assessment".

On page 270, beginning at line 8, strike "or health risk assessment".

On page 270, line 10, strike "(7)" and insert in lieu thereof "(6)".

On page 272, line 3, strike "(7)" and insert in lieu thereof "(6)".

On page 272, beginning at line 6, strike "and health risk assessment".

On page 274, line 10, strike "(8)" and insert in lieu thereof "(7)".

On page 272, line 12, strike "and health risk assessment".

On page 272, line 22, strike "or health risk assessment".

On page 273, beginning at line 17, strike "and health risk assessment".

On page 273, beginning at line 24, strike "or health risk assessment".

On page 275, line 14, strike "(9)" and insert in lieu thereof "(8)".

On page 274, beginning at line 20, strike "or health risk assessment".

On page 274, beginning at line 24, strike "or site-specific health risk assessment".

On page 275, beginning at line 5, strike "or health risk assessment".

On page 275, beginning at line 6, strike "or health risk assessment".

On page 275, line 11, strike "or health risk assessment".

On page 276, beginning at line 4, strike "For purposes of this subparagraph the phrase "all available technology and operational controls" shall include all measures which are technically feasible including process modifications and materials substitution to reduce emissions of hazardous air pollutants for the source.".

On page 277, line 17, strike "(10)" and insert in lieu thereof "(9)".

On page 277, line 18, after "(1)" insert "or (2)".

On page 278, line 3, strike "(11)" and insert in lieu thereof "(10)".

On page 278, line 19, after "satisfying" insert "at a minimum".

On page 279, line 9, strike "(e)(7)" and insert in lieu thereof "(e)(8)".

On page 280, line 10, strike "(12)" and insert in lieu thereof "(11)".

On page 281, line 9, strike "(13)" and insert in lieu thereof "(12)".

On page 282, line 10, strike "administrator" and insert in lieu thereof "Administrator".

On page 282, line 13, strike "(14)" and insert in lieu thereof "(13)".

On page 282, line 22, strike "(15)(A)(i)" and insert in lieu thereof "(14)(A)(i)".

On page 283, beginning at line 16, strike "in lieu of the requirements of subsections (d), (f), and (g)".

On page 283, line 22, strike "((B)(iii)" and insert in lieu thereof "(B)(iii)".

On page 284, line 7, strike "(A)(i)(I)" and insert in lieu thereof "(A)(ii)(I)".

On page 284, line 9, strike "(1)".

On page 289, line 17, strike "(e) (1)(A) or (3)" and insert in lieu thereof "(e)(1)(A) or (e)(3)".

On page 290, line 20, strike "section" and insert in lieu thereof "paragraph".

On page 293, line 24, strike "(4)" and insert in lieu thereof "(3)".

On page 294, line 1, strike "and (3)".

On page 295, line 2, strike "Insecticide" and insert in lieu thereof "Insecticide,".

On page 296, line 9, strike "(5)" and insert in lieu thereof "(4)".

On page 296, line 10, strike "(4)" and insert in lieu thereof "(3)".

On page 297, line 1, strike "(6)" and insert in lieu thereof "(5)".

On page 297, line 11, strike "(7)" and insert in lieu thereof "(6)".

On page 299, line 15, strike "ecological" and insert in lieu thereof "environmental".

On page 302, beginning at line 12, strike all through line 23 (subsection (m)).

On page 302, line 24, strike "(n)" and insert in lieu thereof "(m)".

On page 303, line 11, strike "(o)" and insert in lieu thereof "(n)".

On page 307, line 24, strike "(p)" and insert in lieu thereof "(o)".

On page 308, line 14, strike "(q)" and insert in lieu thereof "(p)".

On page 309, line 7, strike "(r)" and insert in lieu thereof "(q)".

On page 309, line 20, strike "(s)" and insert in lieu thereof "(r)".

On page 311, line 3, strike "(w)" and insert in lieu thereof "(u)".

On page 311, line 19, strike "(t)" and insert in lieu thereof "(s)".

On page 311, beginning at line 20 strike "within one hundred and five days of the close of the fiscal year for each fiscal year" and insert in lieu thereof "every three years".

On page 312, beginning at line 20, strike all through line 22 (subsection (u)).

On page 312, line 23, strike "(v)" and insert in lieu thereof "(t)".

On page 314, line 7, strike "(W)" and insert in lieu thereof "(u)".

On page 314, line 20, strike "(s)" and insert in lieu thereof "(r)".

On page 319, before line 1, insert the following:

"OTHER PROVISIONS"

On page 319, after line 10 insert the following:

"(c) Prior to establishing standards under section 112(d) for sources employing Frasch sulfur extraction and processing technology, the Administrator shall establish a health threshold for hydrogen sulfide. Emissions standards with respect to hydrogen sulfide for sources employing Frasch sulfur extraction and processing technology shall be established at levels which protect public health with an ample margin of safety, unless a more stringent standard is necessary to protect the environment.".

On page 327, beginning at line 14, strike "The requirements of this subsection shall be enforced in the same manner as the requirements of section 114. The Administrator is authorized to issue administrative orders pursuant to section 113 to assure compliance with the requirements of this subsection."

On page 327, after line 19, insert the following:

"(7) After the effective date of any hazard assessment requirement promulgated pursuant to this subsection and applicable to a facility, it shall be unlawful for any person to operate such facility until such hazard assessment has been prepared or updated as provided in this subsection. For purposes of section 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, any requirement imposed under this subsection shall be treated as a standard in effect under section 112."

On page 327, line 20, strike "(7)" and insert in lieu thereof "(8)".

On page 335, after line 2, insert the following paragraph and redesignate the succeeding paragraphs accordingly:

"(12) After the effective date of any reporting requirement promulgated pursuant to paragraph (5)(C) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such paragraph. The Administrator is authorized to enforce any regulation or requirement established by the Board pursuant to paragraph (5)(C) using the authorities of section 113. Any request for information from the owner or operator of a facility made by the Board or by the Administrator under this section shall be treated, for purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, as a request made by the Administrator under section 114 and may be enforced by the chairperson of the Board or by the Administrator as provided is such sections.".

On page 339, after line 4, insert the following:

"(4) After the effective date of any regulation or requirement imposed under this subsection or subsection (g), it shall be unlawful for any person to operate a facility subject to such requirement in violation of such requirement.".

On page 339, line 5, after "enactment" insert " of this subsection".

On page 341, line 12, after "116," insert "120,".

On page 341, line 13, after "307" insert "and other enforcement provisions of this Act".

On page 343, line 6, strike "(3)" and insert in lieu thereof "(9)".

On page 284, line 21, insert the following:

"(D) Any facility qualifying under this subparagraph and requesting an alternative emissions limitation under subsection (i), shall submit the requisite information under subsection (i), two years prior to the date of compliance for the facility under subparagraph (A)(ii) or (B)(iv).".

SANFORD AMENDMENT NO. 1462

Mr. BAUCUS (for Mr. SANFORD) proposed an amendment to amendment No. 1293 (in the nature of a substitute) proposed by Mr. MITCHELL (and others) to the bill S. 1630, supra, as follows:

Add the following new subsection to section 415, and redesignate other subsections accordingly:

"(d) PRIORITY FOR UNITED LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where:

"(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

"(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to non-investor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 2, 1990, at 10 a.m. to hold a hearing on and to consider the nomination of J. Anne B. Barnhart to be Assistant Secretary for Family Support of the Department of Health and Human Services.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 3, 1990, at 9:30 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, April 3, 1990, at 10 a.m. to hold hearings on modernizing the financial services industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, April 3, 1990, at 11:30 a.m. to hold the nomination hearing of John C. Foltz to be Administrator of the Federal Grain Inspection Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban affairs be allowed to meet during the session of the Senate, Tuesday, April 3, 1990, at 2 p.m. to hold hearings on the nominations of Robert C. Larson and Philip C. Jackson to be members of the Oversight Board of the Resolution Trust Corporation; and to vote on the nominations of Edward Kelley to be a member of the Board of Directors of the Federal Reserve System and Robert Swan to be a member of the National Credit Union Administration Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the full committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., April 3, 1990, for a hearing to receive testimony from the Department of Energy on its decision plan related to the opening of the waste isolation pilot plant in Carlsbad, NM, and on any proposed legislation to withdraw the public lands surrounding the Wipp site.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 3, 1990, at 9:30 a.m. to hold a hearing on the Department of Justice authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet in a joint hearing with the Select Committee on Aging of the House of Representatives during the session of the Senate on Tuesday, April 3, at 9:30 a.m. for a hearing on Alzheimer's disease—the unmet challenge for research and care.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Children, Families, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, April 3, at 9 a.m. for a hearing on children of war.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Tuesday, April 3, 1990, at 2 p.m. to hold a hearing on NASA's mission to planet Earth.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, April 3, at 2:30 p.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, April 3, at 9:30 a.m., for a hearing on the nomination of Richard Grant Austin, to be Administrator of the General Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, April 3, at 10 a.m. to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, April 3 at 2:30 p.m. for a hearing on S. 1883, the

Tobacco Product Education and Health Protection Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PARENTING MAGAZINE ARTICLE ON CHILD ABDUCTION

● Mr. DIXON. Mr. President, I rise to bring to the attention of my colleagues, an article which appeared in this month's edition of Parenting magazine, on the subject of international parental child abduction. Entitled, "Crimes of the Heart," it paints a grim picture for parents whose American-born children are snatched away from them by the noncustodial parent. The article states toward its conclusion that it is the consensus of the parents, politicians, and others the magazine talked to, that nothing will really change in the battle against international parental child abduction until the U.S. Government regards international parental child abduction "on an equal footing with strategic, economic, and other major concerns. * * * In fact, as more and more Americans continue to marry foreign nationals, the problem will continue to grow."

Mr. President, I have been working to address this tragic situation for a number of years now. Most recently, my bill, S. 185, the International Parental Child Abduction Act, was passed by the Judiciary Committee without opposition. I look forward to its early consideration here on the floor of the Senate.

The bill would simply make the crime of international parental child abduction a Federal felony. Incredibly, this heinous act is not considered a Federal offense. Are we serious about dealing with international parental child abduction? Passage of S. 185 says unequivocally that we are.

I ask that the article to which I referred be reprinted in the RECORD.

The article follows:

[From Parenting magazine, April 1990]

CRIMES OF THE HEART

(By Rebecca Poole)

Ralph Chastain was sitting at the kitchen table in his Arpelar, Oklahoma, home sipping a cup of coffee. He was talking with his wife, Tina, about where they should take their family out to lunch that afternoon to celebrate Valentine's Day. His four-year-old son, Ryan, was playing in the den with Tina's three children from her former marriage, when someone knocked on the front door. Tina, bundled up in her bathrobe, got up to answer it. A couple of minutes later she returned to the kitchen, her face ashen, with a deputy sheriff standing at her side. "Ralph," she said, trembling, "it's Maria. She's gotten the sheriff and she wants Ryan."

Ralph's grip on his coffee cup tightened. Tina quickly told the kids to stay in the den. This was the moment the couple had been dreading for two years. It was Ralph's ex-wife, Ryan's mother.

Ralph had met his first wife in the Miami airport in the winter of 1980, when Ralph, then 30 years old, was on his way to a connecting flight to Boliva for a job on an oil-drilling rig. He struck up a conversation at a concession stand with Maria Rodriguez, a friendly young Colombian woman with dark eyes and a sparkling smile. Within a year they married. And on January 16, 1983, Maria gave birth to their brown-haired son, Ryan.

Soon after Ryan's birth, Maria began to act very erratically. She had frequent temper tantrums and would sometimes refuse to change her son's diapers while Ralph was at work. During that time, Ralph learned that Maria's former roommate had recently been sent to jail for selling cocaine. When Ralph questioned Maria about it, she admitted that she used to help him sell drugs. Ralph was shocked, and he later learned that Maria was still involved in the drug trade. Their marriage fell apart, and a judge awarded Ralph sole custody, which was never contested by Maria. Instead, she abruptly left town after the court's ruling. A year later she came back and tried to gain custody of Ryan, but failed. Ralph didn't hear from her again. Not until a couple of years later, when the knock on the door on that chilly Valentine's Day morning in 1987.

Ralph put down his coffee cup and walked with the sheriff to the front door, where Maria was waiting outside. He told Maria and the sheriff that they didn't have the authority to take Ryan away, but he said he'd think about where and when it might be appropriate for her to visit him. Maria insisted that she be allowed to take Ryan to her home in Miami, and she eventually brought the matter to court. Despite Ralph's vehement protests, the judge granted Maria visitation privileges and ordered Ralph to put Ryan on a plane early in June for a six-week stay with his mother.

Shortly after Ryan arrived in Miami, Tina called to check up on him. Ryan answered the phone. He said he had spent "a long time" riding around in a taxi with his mother's new husband, who didn't speak English. "He smokes cigarettes that stink," the four-year-old said, "and people were tying bags of white powder around my stomach."

Ralph and Tina soon caught a flight to Miami, where they discovered that Maria and Ryan had just packed up and moved. Panicked, the Chastains called the police. An officer referred them to the Dade County Missing Persons Bureau, where they learned that Ryan had been issued a passport. A few weeks went by before one of the Missing Persons investigators called with this report: "Maria's home was being used as a safe house," he said, "where I suspect drugs were being dealt. I also believe Ryan and his mother have left the country. If this is the case, we're fighting a losing battle."

A couple of months later, they received a handwritten letter from Maria. It had no return address but bore a Colombian postmark. She wrote that Ryan was with her, and that he was going to stay with her. That was in August of 1987.

Since they received that letter, Ralph and Tina have spent thousands of dollars on attorneys and private investigators but haven't uncovered any more clues as to Ryan's whereabouts. They say they are now very close to bankruptcy, and in an effort to keep their attorney on the case, they've arranged to give him half of the proceeds of the sale of their home.

"We still have all of Ryan's toys and clothes here," says Tina, trying to hold back her tears. "And I keep telling my other kids that Ryan will be coming back. But they've lost faith in our legal system. They watch the news coverage of Colombia, and they know what's going on in that country. The other day my ten-year-old daughter, Alina, looked up at Ryan's picture on the mantel and said, 'Mom, he's never coming home, is he?' I told her not to lose hope. One of these days, he will be back."

In the past ten years, thousands of American children have been illegally abducted by one of their parents and forced to live in a foreign country. The exact number of such abductions is difficult to assess, since many of the kidnappings go unreported. Nearly 3,000 cases have been filed with the U.S. State Department since 1975, and the number is increasing every year. But according to Margaret Strickland, a children's rights advocate and the author of Parental Kidnapping: An International Resource Directory, the number of cases filed with the State Department is merely a "drop in the bucket."

Children are being taken to every corner of the world, with West Germany, Mexico, Italy, and the United Kingdom topping the list. Usually, the parents fleeing with their kids are foreign nationals returning to their homelands, or people who have family, business, or religious ties to another country. Often they have lost custody disputes with their former spouses, and under the guise of a weekend retreat or an afternoon outing, they snatch their child. Some of these parents—U.S. citizens included—look at other countries as a place to retreat from a situation gone wrong or a society they believe has treated them unjustly. Sometimes the abducting parents are driven solely by their love for their children—a love so blinding that they often lose sight of their children's best interests and haphazardly pull them into the middle of a psychologically damaging tug-of-war. But there are also cases where the primary motive is simply to seek revenge against the former spouse.

Although abducting children and taking them to another state is almost always a felony offense in the United States, there are no federal laws to prevent a parent from taking a child out of the country, so long as all the travel documents are in order. This absence of legal recourse leaves many parents of missing children desperate for help. Some, like the Chastains, spend their life savings on investigators and attorneys, and every free moment searching for their child. Many don't even know where to look, and others fortunate enough to know where their child has been taken often have no means of getting him back.

Parental child abduction is very rarely an extraditable offense. But even if it were, most parents who snatch their kids have dual nationalities, and countries won't permit extradition of their own citizens except under extreme circumstances, usually for federal felonies such as murder and terrorism. In an attempt to help halt the hundreds of foreign abductions that occur every year, an international agreement known as the Hague treaty was negotiated in 1980; it requires nations that harbor "wrongfully removed or retained" children to return them to the country they lived in before the abduction.

The United States didn't sign the Hague treaty until July 1, 1988, so it has no jurisdiction over the many child kidnappings that occurred before that date. (The United

States is guilty of harboring abducted children, too, although according to one international affairs expert, "Unlike many other countries, the U.S. courts have been very fair about sending kids back—no matter who you are or where you're from.") The provisions of the Hague treaty also only apply to those children who have been taken to the 12 other signatory countries: Australia, Austria, Canada, France, Hungary, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Thus far, the State Department reports that 14 children have been returned to the United States as a result of this agreement. However, there is general consensus among parents, politicians, and private investigators familiar with international abductions that many more children could be returned, if only the State Department would make a greater effort to resolve the problem.

Holly Planells was one of the first parents to publicly chastise the U.S. government for failing to assist her in her efforts to recover her kidnapped son. A tall, gregarious 27-year-old, she sits in the living room of her modest, one-bedroom apartment in Brentwood, New York, petting her golden collie shepherd. On the coffee table behind her sits a portrait of her only child, Huey, who was abducted by his father in August of 1986—just before his third birthday—and taken to Jordan.

"Parental kidnapping is child abuse," she says emphatically. "It's psychological torture. And our government refuses to do much about it. If we can't even stand up to our allies on an issue involving innocent children, this country doesn't have a prayer in the foreign affairs arena."

Holly and her ex-husband, Bassam Aqqad, were both 20 years old when they met at the University of Tennessee in 1982. Holly got pregnant soon after they married. Bassam, a Palestinian who had left Jordan to go to school in the United States several years earlier, wasn't happy about the pregnancy; still a student, he hadn't even thought about having children, and he expected Holly to get an abortion. But she refused, and on October 5, 1983, she gave birth to Yousef Bassam (Huey) Aqqad. Despite Bassam's initial objections, Holly says, he loved Huey, and treated him as his little "showpiece." The relationship between Holly and Bassam, however, began to sour. They bickered constantly, and Bassam became so possessive of Holly that he often insisted she stay home all day and night and do nothing but take care of Huey.

Holly wanted out of the marriage. When she broached the topic with Bassam, he threatened to take Huey to Jordan to live with his mother if Holly ever dared to leave him. Holly filed for divorce anyway, and was awarded sole custody of their son. Still worried that Bassam might follow through on his threats, she pleaded with the court to allow him only supervised visitations. Holly's hopes were dashed when the judge said her fears were unfounded, and she was ordered to drop Huey off with Bassam for one weekend every month.

For seven months, the arrangement went smoothly. Huey frequently spent his weekend visits playing with his cousins at a deli owned by Bassam's family. By Sunday afternoon, Bassam would have Huey all packed and ready to go back to Holly's.

But one Sunday when Holly drove over to pick up Huey at his Aunt Tanya's house to take him home, she saw one of her nieces sitting on the front steps. She looked upset and frightened by the sight of Holly. "What's wrong?" Holly asked as she got out of her car. "Are you okay?"

"Huey and Bassam never came home last night," the five-year-old stammered. "We think they went to Jordan."

"What?" Holly exclaimed. She dashed past the little girl and up the stairs. Bursting into the house, she found Tanya and a couple of her girlfriends sitting huddled together in the bedroom, all of them crying.

"Where Huey?" Holly shrieked. "Where's my son!"

Tanya looked up, tears streaming down her face. "Bassam took him to Jordan," she sobbed. "I had nothing to do with this, Holly! Believe me, this isn't my fault!"

Within two months, Holly showed up unannounced on the doorstep of Bassam's home in Amman, Jordan. She was accompanied by her mother and the then Jordanian ambassador to the United States, Mohammed Kamel, who had driven them from the airport to Bassam's home and had assured Holly that he'd help get Huey on the next plane back to the United States.

"When Bassam's family opened the door," Holly said, "they were shocked to see us, but they let us in and asked in a friendly way, 'Why didn't you tell us you were coming?' as if we were some unexpected dinner guests. The whole scene was incredible. Bassam wasn't there, but Huey was. He looked like hell. He was in ripped pajamas and he hadn't been bathed in a long time. When he saw me he seemed so traumatized and confused, like he had been hit over the head with a baseball bat. I threw my arms around him and kissed him, told him how much I loved him.

"The ambassador talked to Bassam and his family," Holly says, "but he finally just told me. 'You and Bassam should settle your differences and get remarried. That's the only way you can both have your son.' " (Parenting made repeated attempts to contact Bassam in Jordan, but he refused to take any of the telephone calls.)

Each year, Holly and her mother can usually save enough money to pay for a one-to two-week trip to see Huey in Jordan, although now when they arrive at Bassam's house, they're often treated like criminals.

"We're usually locked inside a small section of their apartment," Holly explains. "We sit and play with Huey for eight or ten hours a day while one or two people keep watch. Huey's forgotten his English, and he only speaks Arabic now. I have to ask Bassam's new wife to help translate."

Since Huey is recognized as a Jordanian citizen and is now governed by Jordanian law, it would be illegal for Holly to take her son out of the country—unless she has written permission from Huey's father. Only pressure from the U.S. State Department could possibly persuade Jordan to return Huey to the United States. And this action will likely be brought to bear only if the U.S. Government is compelled by its citizens to act on such cases.

So Holly continues to fight to bring Huey home. She has written letters to Jordan's Queen Noor (a former U.S. citizen and a native of Connecticut), made numerous television appearances on talk shows such as "Geraldo," "The Today Show," and "Larry King Live," worked with Senator Alan Dixon's office in Illinois to urge the United States to ratify the Hague treaty, and started the nonprofit organization American Children Held Hostage, which educates the public about the abduction crisis. Today she's an expert on international parental child abduction. Even so, she still can't get her little boy back.

Because of the increasing number of cases like Holly's, the State Department recently set up a desk that handles parents' inquiries. There is also now an official in every U.S. embassy who works as a liaison for parents searching for their children; if the child's location is known, a consular officer will try to visit him and report on his health and living conditions—so long as the abducting parent doesn't object. If there is evidence of child abuse or neglect, the U.S. embassy will ask local authorities to intervene, which may mean placing the child in a local foster home. But many parents and lawmakers charge that the State Department's efforts are merely cosmetic measures that temporarily appease parents but rarely aid in the location or recovery of a child.

Says Frances Jones, spokesperson for the Bureau of Consular Affairs at the State Department, "These are tricky and complicated cases. But we're working hard on them." Of the 2,954 child abduction cases filed since 1975, the State Department says 1,720 have been "resolved"—meaning the child has been returned, or has turned 18 years old, or the parent has "satisfactory visitation rights." Another 376 are "inactive," because the parent hasn't followed up on the initial inquiry or there has been no activity on the case for two years.

According to the office of Senator Dixon, however, the State Department's figures are misleading. "I know of hundreds of parents who have been actively looking for their kids for years," says Sarah Pang, Dixon's special assistant in international affairs, "but they've stopped working with the State Department because it hasn't been helpful. So their case is put in the 'resolved' or the 'inactive' file. The number of kids who've actually been returned to this country is very, very small—statistically you can't even count them."

Dixon, sponsor of the Senate bill that would make foreign abductions a federal felony, says, "I'd like to see those State Department documents [on resolved child abduction cases]. I've never had a case where the State Department has helped * * * and, regrettably, there isn't any sense of outrage around the country about these abductions."

Dixon maintains that if the State Department chose to pressure countries—particularly U.S. allies—we'd see many more children being returned. "I just cannot believe that we couldn't get more kids returned as a part of our exchange of amenities between nations," he says. "I hate to say it, but the parents who do get their kids back are the ones who put some money together and hire a soldier of fortune to do the job. Of course you can get your head blown off doing that * * * but those guys usually get the job done. I don't advocate this [recovery method], but I recognize the facts."

So does Holly Planells. "The question that keeps haunting me," she says, "is whether rekidnapping Huey back from Jordan is the best thing to do. It's a difficult decision. And it costs $50,000 to $200,000 to hire someone to get back your child, which is money I don't have. But more and more I'm starting to convince myself that that's the way to do it. I've worked for three-and-a-half years with the system—the State Department, attorneys, everyone—and it hasn't gotten me anywhere."

Patrick Buckman is the kind of person Holly may turn to someday. He makes it his business to snatch back abducted children.

A 50-year-old, San Francisco-based private investigator, Buckman has worked on more than 120 child abduction cases over the past 15 years. Clad in a well-pressed dark suit and tie, Buckman sips a glass of wine in a San Francisco café as he recounts the cases he and his staff have worked on.

"The only way to recover a child is to go get him" Buckman says, although he admits he's seen too many desperate parents throw away their last penny on people who lack the experience and the know-how to help them find their child. While he believes reabducting a child is a parent's only viable hope, he also says the emotional and financial costs are high. Since lives are often in jeopardy and expenses are frequently great, his recovery fees usually vary from $25,000 to $100,000—and there are never any guarantees. Recovering a child involves much more risk today than it did ten years ago, he says, because the increase in terrorism and drug smuggling has made many countries very cautious about who's crossing their borders. And, as he makes clear to parents considering his services, the methods used to retrieve a child are sometimes more traumatic than the initial abduction.

When 34-year-old Leslie Rizzo was divorcing her Italian husband, Marco, he threatened to take their four-year-old son, Tony, away from home in the suburbs of Dallas to live with him in Italy. After Marco, a professional actor, was awarded unsupervised visitation privileges for one week every month, he carried through with his threat. That was in the fall of 1986.

Leslie immediately hired an attorney and contacted the State Department and the police, but was unsuccessful in locating her son or her ex-husband. Then she called Patrick Buckman.

Buckman listened to her story and looked at some photographs of Tony and his father, a heavy-set man with dark hair and a mustache. If they were in Italy, as Leslie suspected, Buckman said it would cost at least $50,000 to try to get her son back. Leslie got a loan from a bank and told Buckman, "You're my last hope. Let's do it."

One of Buckman's female investigators kicked off the search by becoming a regular patron of Marco's favorite bars and restaurants in Dallas. Within a month she had befriended some of his buddies and through them learned that Marco and Tony were in Milan. She eventually passed along a phone number for the house where they were staying.

Buckman relayed the number to some contacts in Italy, who, a few days later, were able to trace it to a house just outside of Milan. "Once I knew that's where he was living," Buckman says, "Tony's mother and I prepared to leave for Italy."

Leslie and Buckman left Dallas on February 12, 1987. On the way to Milan, they stopped in London, Bern, and Innsbruck to set up some safe houses where they could hide if things went wrong. They met with a number of Buckman's contacts, who helped him set up escape routes from Italy.

Within a week, they were in Milan. It was 34 degrees and a rainstorm had just hit. Buckman and Leslie checked into a small hotel on the outskirts of town, and the next morning they drove by Marco's house in their rental car and parked down the road. It was still raining. Leslie and Buckman took turns peering through binoculars at the house. They sat there for five days and never saw a single person enter or leave.

Buckman began to suspect that Marco and Tony had moved, and eventually the owner of the corner cafe confirmed his suspicion. "I could see this was going to take much longer than planned," Buckman recalls. "Leslie didn't have much money to pay for all the expenses, and here we were back at square one."

Buckman and Leslie started touring the local theaters. To disguise herself, Leslie dyed her long, blond hair black, and wore dark sunglasses and a floppy hat. She and Buckman watched dozens of actors rehearse for plays. On the third day, an attractive, burly man stepped onto the stage, and Leslie grasped Buckman's arm. *"That's him!"* she said.

They followed Marco as he drove from the theater to his new home in his late-model Citroën. After spending a few days staking out his house and following him through his daily routine, Buckman came up with a plan: Every morning Marco dropped off Tony at a daycare center on his way to work. At noon, the kids always had an outdoor recess. Buckman decided to snatch Tony on the playground. Tomorrow.

The following morning, Buckman and Leslie sat in the car near Marco's house and waited for Tony and his father to appear. The wait seemed interminable this time, but the two finally walked out of the house, climbed into their car, and drove away, with Buckman trialing them from a safe distance. Marco pulled up in front of the daycare center, and a woman walked to the car to greet them and take Tony inside. Buckman and Leslie parked across the street and watched Marco drive away. It was 9:00 a.m., and Buckman and Leslie sat in the car until noon, when the kids and several daycare attendants started filing out of the center onto the playground.

"That's him with the red coat playing on the swing, right?" Buckman asked.

Leslie nodded, biting her lower lip.

"Well, let's go," he said, as he buttoned up his coat and opened the car door. Just as Buckamn stepped out of the car, Marco's brown Citroën pulled up directly in front of them. Buckman quickly retreated. He watched Marco walk briskly to the playground. Marco spoke briefly with one of the teachers, then walked hand in hand with Tony back to his car, and the two of them drove off. Bitterly disappointed, Buckman and Leslie followed them through town onto a freeway heading south.

"We were so tense, cold, and completely worn out," says Buckman. "But something made me say, "We'll do it today, anyway. I don't care how it gets done, we can't go on like this.' "

After two hours of driving, Marco pulled up in front of a theater in downtown Genoa. Marco and Tony walked into the building. Buckman and Leslie sat in their car, wondering what to do next. Then ten minutes later, Tony reappeared holding the hand of a tall, very muscular man. Neither Buckman nor Leslie knew who he was. They watched the two of them walk down a narrow, winding street lined with little shops.

"This is the time," Buckman said. He drove past Tony and the man, parked up the street, and left the engine running. Then he turned toward Leslie. "Okay, remember our plan," he said. "Do not leave the car under any circumstances until you see the man go down."

Buckman opened the car door, stepped out into the street, and walked toward Tony and his companion. As they passed each other, Buckman whirled around and struck the man from behind in such a way that he was temporarily unable to move (a method Buckman won't reveal). Right on cue, Leslie jumped from the car and grabbed her son, and she and Buckman leapt back into the car and locked the doors. Tony was screaming, and people started running toward them. A woman was yelling in Italian, "He kidnapped that boy! He kidnapped him!"

Buckman sped out onto the narrow street, but the road was blocked by a delivery truck about 50 feet in front of him. People started pounding on the hood and the doors, yelling *"Polizia! Polizia! Polizia!"* Leslie was trying to calm Tony, who was hysterical, and Buckman shifted the car into reverse. "These people better get out of the way!" Buckman yelled, as he sideswiped a parked car and backed into a side street. People were still yelling at him and shaking their fists. Police sirens were sounding nearby, and Buckman could see lights flashing in his rearview mirror. "I kept thinking, if we get caught, Leslie's going to lose her child and I'm going to jail," Buckman recalls. With the police right behind him, Buckman skidded around several street corners. The police car slammed into a tree, and Buckman narrowly escaped numerous head-on collisions. Once he got on the highway, he drove straight to the border of France, since it was the closest exit out of Italy. They made it through the border check and after spending one night in Nice, they caught a train to Paris—a seven-hour trip.

They arrived in Paris in mid afternoon and boarded another train for the two-hour ride to Lille in northern France, where they checked into a hotel. They were exhausted and nervous, but relieved they were finally safe; they arranged to rest there for a couple of days. Although shaken by the whole event, Tony was by now delighted to be reunited with his mother. Buckman made a reservation for a flight to London. Then he called a friend in Italy to thank him for his help. When his friend picked up the phone, he told Buckman, "They're tracing your call." And hung up.

Buckman immediately gathered up Leslie and Tony and they abandoned the hotel, leaving all their extra clothes and possessions behind. They took a train to Calais where they boarded a ferry to Dover, England. There they took a cab to a popular video arcade, where Buckman called a contact in London, one of the people he and Leslie had met with three weeks earlier. "You're in a lot of trouble," his contact said, and a couple of hours later picked them up and took them to their safe house. That evening, Buckman turned on the radio to listen to the news. The first report he heard was about the kidnapping of four-year-old Tony Rizzo, who was mysteriously snatched from a street in Genoa by a six-foot-three man with dark brown hair and a young, black-haired woman. There was an all-points bulletin out throughout western Europe for their arrest.

"I really thought this was it," says Buckman. (He later learned that the man he had knocked down was a Socialist party dignitary in Genoa, a friend of Marco's.) His contact set them up with another man who gave Buckman a tight-fitting business suit, a fake mustache, some reading glases, and new passports for the three of them. Leslie put on a brown wig and dyed her son's hair red. The man then put them on a flight to Ireland, where they transferred to a flight to Atlanta, Georgia.

"Once we got to Atlanta, I figured we were finally safe," Buckman says, "but as the plane landed, there was an announcement over the intercom that the plane was going

to be held up on the runway. Within 15 minutes, the Atlanta police department and the FBI boarded and asked the three of us to get off. We figured they had us now."

As it turned out, however, the officials were there to help Leslie and Buckman, for they had gotten reports from Interpol, an international police agency, that Marco was on his way to the United States to rekidnap his son. Leslie and Tony were able to travel safely home to Dallas, and they eventually relocated on the East Coast.

Most parents who succeed in getting their children back—by whatever methods—must face the fact that life will never be quite the same. "Parents don't want to believe that once they've recovered their child, they're subject to having that child stolen from them again," says Buckman, who was hired to reabduct one child from Scandinavia three separate times. "In many cases these families have to live a different kind of life—they just can't put their kid on a bus and send him to school like everyone else. If they can hire me to recover their child, what's to preclude the other parent from hiring someone else to steal that child back?"

Some parents refuse to subject their child to such recovery attempts for fear that they will only further traumatize him. The State Department also discourages such desperate measures, not only because they are illegal, but because of the potential physical and psychological damage to the child. Nevertheless, if more parents had the means to fund such rescue missions, there's no doubt more would occur. As Buckman pointed out, while the downside of a successful counter-abduction may be a different kind of life, for some parents, life without their child is no life at all.

If you listen to the parents, politicians, and investigators involved in the abduction issue, the consensus is clear: Until it becomes part of the U.S. government's policy to regard the welfare of abducted children on an equal footing with strategic, economic, and other major concerns, nothing will really change. In fact, as more and more Americans continue to marry foreign nationals, the problem will continue to grow.

As a few concerned citizens and legislators push for new diplomatic and political resolutions to this crisis, many parents whose children are missing are left with only the hope that someday, perhaps, their children will grow up to learn that they have a parent in America who cares desperately for them. It's a hope that keeps many parent forever searching.

(Rebecca Poole is the articles editor at Parenting. Note: Some names, dates, events, and places in this article have been changed.)●

LONG BEACH NAVAL SHIPYARD

● Mr. WILSON. Mr. President, I rise this morning to salute the dedicated and hard-working men and women of the Long Beach Naval Shipyard.

Although we hear little from these folks who work on the drydocks or along the pier, they sustain the frontline of America's critical effort to keep our naval forces modernized and effective. Their quiet labor does nothing less than guarantee the Nation's ability to project its troops and military power to the far corners of the world on a moment's notice.

More than 4,000 people keep this yard operating every day, and their diligence has made Long Beach one of the great success stories of the Navy's civilian labor force.

During 1988 and 1989, for example, the Long Beach team completed all of its surface ship overhauls on time or ahead of schedule. In the process, they set new records for the timely completion of both DD-963 modernizations and new threat upgrade projects.

They have also proven efficient in west coast naval repair competitions and enjoy the Navy's seal of approval by holding an official combat systems certification.

But the employees of the shipyard, Mr. President, have also realized the need for cutting back operations and saving money in these tough financial times. Recently, they managed to return to the Navy more than $20 million in anticipated expenditures as a result of upholding the Long Beach tradition of quick yet quality performance.

In addition, the yard has sacrificed 45 percent of its manpower since 1985 and just completed a major restructuring last December.

And most importantly, of the eight naval shipyards nationwide, Long Beach was the only one to actually make money—a whooping $36 million—last fiscal year.

Why, then, Mr. President, did the Defense Department announce that it would study the Long Beach Naval Shipyard for possible closure?

Why does the Government tell us that a profitmaking public facility represents a bad deal for the American people?

Why does it try to find budget reductions from a west coast shipyard that has already cut itself to the core?

Why has not DOD looked more to radical procurement reforms or needless construction projects at offshore locations to find the savings that we all desire?

Finally, Mr. President, why does the Navy identify Long Beach as a target when the maritime forces of the future will train closer to home, deploy to more world trouble spots from bases near home, and therefore need more vessels repaired at home?

We cannot forget that Long Beach is the only public shipyard with direct access to the great Pacific itself and the Navy's only nonnuclear surface ship overhaul yard on the west coast. Her people stand ready to care for and give new life to a variety of vessels from the super battleships and carriers that advertise America's power on the high seas to the cruisers, frigates, and destroyers which support them.

Only a half day's steaming time from the Pacific Fleet, the shipyard rests within 100 miles of 25 percent of the Navy's entire complement of ships.

Furthermore, Long Beach holds a special significance for California since the Golden State home ports fully 31 percent of the Navy's surface fleet.

The Navy itself, Mr. President, recognized the strategic significance of this facility by concluding in a formal study as late as 1987 that the Long Beach Naval Shipyard was needed for continued support of surface ship complex combat systems.

Because of the outstanding record of this yard, I have been proud to actively support it as a member of both the Senate and the Armed Services Committee. I never had to apologize or make excuses for Long Beach. I always had a great story to tell and made sure that the Defense Department heard it and acted upon it by balancing the distribution of ship repair work, keeping the yard's core labor force in place, and giving Long Beach a fair chance to compete.

We now face a new challenge, Mr. President; that of finding real and lasting savings in the military budget. Long Beach represents a bargain for the America taxpayers, and that is the message I will repeatedly send to the Department of Defense as it determines what domestic bases to close and what bases it must preserve for the country's national security. The strategic position, efficiency, and record of accomplishment that the Long Beach Naval Shipyard has offered to the United States should make this place a national treasure, not the whipping boy of Pentagon budget analysts.●

KASHMIR

● Mr. DECONCINI. Mr. President, the breakup of the great Empires in the postwar period has caused turmoil in many parts of the world. Few regions have suffered more, however, from instability and ethnic and religious strife than the Indian subcontinent. In addition to domestic turmoil, we have seen almost continual warfare and tension between the two great nations that emerged from the end of British colonial rule.

The history of the conflict between Pakistan and India is too complicated and tragic for us to delve into on the Senate floor. These nations have fought three full scale, conventional wars since independence. The rights and wrongs of this conflict will undoubtedly be debated by historians for years.

It is a terrible tragedy that tenions are beginning to escalate once again over the ruggedly beautiful territory of Kashmir. India and Pakistan have gone to war twice, in 1948 and 1965, over what one Mogul Emperor referred to as "Paradise on Earth." Unfortunately, the New York Times re-

ported in February that several officials and diplomats believe that the chances of a new armed conflict are about 50–50.

In 1949, the United Nations Security Council brought about an end to the fighting between India and Pakistan in the first war over this mountainous province and, with the approval of both the parties in the conflict, promised a plebiscite among the inhabitants on Kashmir's future. Unfortunately, the Indian Government has never allowed a free plebiscite in Kashmir. By denying the right of self-determination to the Muslim majority, which constitute 85 percent of Kashmir's population, India has ensured that the province would be racked by constant protest and unrest.

Discontent over India's rule in Kashmir has again boiled over. The New York Times reports that demonstrations by proindependence Muslim militants have drawn as many as 300,000 people. Amnesty International has expressed concern over the killing of more than 50 civilians—by Indian security forces—during these demonstrations. One of the victims was reported to be a 9-year-old boy. The Indian Government also responded by expelling all foreign journalists from the province, creating an atmosphere where similar abuses by the security forces will be more difficult to detect.

Whatever the arguments offered by the Indian Government that it must maintain public order, it should be obvious to all that strong arm tactics will ultimately prove to be futile or even counterproductive. Events over the last year in Eastern Europe, Central America, South Africa, and even the Soviet Union have shown how potent a force is the idea of freedom. India itself, after showing the power of nonviolent protest in achieving its own independence from Britain, must surely understand the aspirations of Kashmir's people. The Indian presence in Kashmir, which day-by-day looks more like a military occupation, is a blot on the proud record of the world's largest democracy.

As a member of the United Nations Security Council, the United States has consistently supported a plebiscite to allow the people of Kashmir the opportunity to determine their own future. Unfortunately, the Soviet Union has used its veto to block any further action on a plebiscite. We can only hope that changes in the Soviet Union will result in a fresh look at this issue by the Kremlin leadership.

In the meantime, we must call on India to reassess its position on Kashmir and adhere to its original commitment to settle the Kashmir problem through the ballot box. The peace within Kashmir and the region as a whole depend on India's answer.●

TRIBUTE TO LAKE CITY BASKETBALL TEAM

● Mr. BOSCHWITZ. Mr. President, I rise today to salute an extraordinary group of young men, and their coaches, who recently were crowned class A basketball champions of the Great State of Minnesota.

The Lake City Tigers recently won their third Minnesota State basketball championship, and I want to take a moment to congratulate them on their achievement, and to say a few words about the coach who has directed Lake City to these championships, Jerry Snyder.

Jerry has been coaching young men for nearly 30 years in Minnesota, and has amassed more than 400 wins during a distinguished career, winning nearly 70 percent of his games in that span. He teaches a very disciplined style of basketball, emphasizing defense, and anyone who has watched his teams play will tell you that he finds a way to get the most out of his available talent. More important, however, is the fact that his sense of honor and sportsmanship are evident in his teams and in his manner.

Lake City is one of Minnesota's more beautiful towns, Mr. President, sitting alongside Lake Pepin, protected by the bluffs of the Mississippi River. They take great pride in their basketball teams, and indeed they have had a great deal of success in both their boys' and girls' programs over the years. This latest championship is a tribute to the entire town, and to its support of its educational and athletic programs.

Finally, I should add that in honor of his work this year, and indeed in recognition of 28 years of coaching, Jerry Snyder's fellow coaches voted him the honor of Minnesota Coach of the Year. To that honor I add my congratulations, and to his team and the entire of town of Lake City I say congratulations on a job well done, and I ask that the list of team members and coaches be printed in the RECORD.

MINNESOTA CLASS A CHAMPION LAKE CITY TIGERS

Coaches: Jerry Snyder, Leo Fausch, and Henry Dison.

Players: Erik Brunkow, Gary Brown, Brock Lortscher, Tony Wise, Troy Diepenbrock, Paul Schad, Erik Sievers, Tony Heise, Brett Stolzenberg, Jason Oeltjen, Brent Meincke, Duren Moses, Chris Sommerfield, Cris Gastner, and Trent Sanders.

Student managers: Keith Zanto and Terry Walker.

Athletic director: Jim Baker.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.5 billion in budget authority, and over the budget resolution by $4 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $114.6 billion, $14.6 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 2, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through March 30, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 26, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS. AS OF MAR. 30, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Budget authority	1,325.9	1,329.4	−3.5
Outlays	1,169.2	1,165.2	4.0
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	2,989.6	3,122.7	−133.1
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	114.7	107.3	7.4
Deficit	114.6	[2] 100.0	[3] 14.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 268. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

PARLIAMENTARIAN STATUS REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS MARCH 30, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,917	791,226	
Other legislation	639,255	638,374	566
Offsetting receipts	−237,825	−233,738	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session			
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−2	5	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−2		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−624	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	32	
Vaccine improvement program trust fund	7	7	
Federal payment to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−800		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	448	398	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	238	238	
Disaster relief	−1,100	−883	
Total entitlement authority	−1,757	62	
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of March 30, 1990	1,325,905	1,169,160	1,060,266
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		3,960	
Under budget resolution	3,495		5,234

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

PUBLIC HOUSING MANAGEMENT IMPROVEMENT ACT OF 1990

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of S. 2301, the Public Housing Management Improvement Act of 1990. Our Nation's current public housing system needs to be restructured to provide the proper incentives for public housing authorities to provide families with the greatest quality of life possible. Senator BOND's legislation begins to tackle this problem.

This Nation currently spends over $4 billion annually to sustain our public housing system. Some of this housing is adequate, safe, and well managed—providing a comfortable living environment for families and children. However, other public housing projects do not meet these standards. They are traps in which our citizens fight crime and drugs, constantly battling the downward spiral out of which only the strongest can climb.

It has not always been this way. Over the years we have turned a low and moderate income, up-and-out housing system into an intergenerational welfare net. We have made public housing a place for only those families on the Federal rolls. And we have forced the housing authorities to become dependent on Federal handouts/transfer payments as well.

Currently, no positive incentives exist to promote efficient, result-oriented administration of our $4 billion Federal investment in public housing. Additionally, heavily centralized accounting and management systems make it virtually impossible for HUD to hold local housing agencies accountable for their administration of specific public housing projects. No one knows what it costs to run a specific project. Nor is it easy for a resident to get a centralized maintenance department to come and fix a broken window.

Because of the lack of positive incentives within the system, a poorly run housing authority receives just as much funding as a well-managed one. And, in some circumstances, the worse a housing authority has performed, the more Federal funding it has received. The simple concept of encouraging and rewarding good performance is absent from this system. And so is any mechanism to crack down on consistently poor performance.

S. 2301, the Public Housing Management Improvement Act of 1990, will improve the current situation by giving HUD the tools to: First, establish management standards for PHA's; second, evaluate how PHA's comply with these standards; third, provide incentives for good management and performance; and fourth, crackdown on PHA's that are not in compliance with national standards.

Under this legislation, HUD will devise objective performance standards to measure how well PHA's are doing. Once these standards have been established, HUD is to designate both high performing and troubled housing agencies and is given a series of powers to reward and punish PHA's accordingly.

These changes will give greater flexibility to and accountability for the Nation's public housing system. Currently, PHA's that would like to perform well have their hands tied behind their backs by stringent rules and regulations that prevent them from making necessary changes. On the other hand, PHA's that are not performing up to par continue to receive a steady stream of funding and are not given any reason to change the way they perform. The current regulations that allow these two extremes to occur must be altered.

Additionally, such legislation diminishes the complexity that has developed within the public housing system. S. 2301 takes much of the power out of the hands of the Federal Government, which does not have the capacity to understand the inner workings of each local PHA, and puts more power into the hands of State and local governments. This will allow programs that have become too complex at the Federal level to be more accountable for their actions, and to better serve the taxpayer who provides for such programs.

The complexity and lack of accountability that has come to define the American public housing system is not a new phenomenon but rather the result of decades of unforeseen changes in America's cities coupled with misguided Federal and local housing policy. The taxpayer and, more importantly, the families living in this housing, deserve better. It is time to reexamine this Federal approach to housing families in need. I am pleased to support my friend from Missouri [Mr. BOND] in his effort to provide flexibility within our public housing system and place accountability where it functions best—at the local level.●

UNANIMOUS-CONSENT AGREEMENT

Mr. BAUCUS. Mr. President, as in executive session I ask unanimous consent that at such time as the Senate considers the nomination of Robert W. Sweet, Jr., there be 20 minutes of debate equally divided between Senator BIDEN and Senator THURMOND or their designees; that at the conclusion of yielding back of time the Senate vote on the nomination, without any intervening action, that the motion to

reconsider be tabled, that the President be notified, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT DURING RECESS OF SENATE

Mr. BAUCUS. Mr. President, I ask unanimous consent that during the recess of the Senate, committees may file reported Legislative and Executive Calendar business on Wednesday, April 11, from 12 noon to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY AND METAL CASTING COMPETITIVENESS RESEARCH ACT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar Order No. 493, H.R. 1243, the metal casting competitiveness research bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1243) to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Metal Casting Competitiveness Research Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) metal casting is an important process for manufacturing many items imported into or exported from the United States.

(2) the encouragement and maintenance of a technologically advanced United States metal casting industry is essential to the competitiveness of many American industries;

(3) maintaining a viable metal casting industry is vital to the national security and economic well-being of the United States;

(4) the promotion of technology competitiveness and energy efficiency in the United States metal casting industry by the Federal Government is necessary to maintain a viable metal casting industry;

(5) many metal casting companies lack the resources to conduct metal casting research alone, placing them at a serious competitive disadvantage;

(6) the support of university-based research in metal casting is important in promoting technology development and providing industy with qualified engineers; and

(7) by combining the resources of the Federal Government, universities, industry, and private organizations, to conduct research and development activities, substantial technological benefits will result to the metal casting industry.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "applicant" means:

(A) an educational institution;

(B) a consortium of educational institutions;

(C) a consortium of an educational institution or educational institutions with one or more of the following: Government-owned laboratories, private research organizations, nonprofit institutions or private firms;

that is located in a region where the metal casting industry is concentrated;

(2) "census region" means one of the four census regions (Northeast, South, Midwest, and West) that are designated as census regions by the Bureau of the Census;

(3) "Department" means the Department of Energy;

(4) "educational institution" means a degree granting institution;

(5) "non-Federal source" means the United States metal casting industry, related industries, industry-related associations, individuals, organizations, universities, State agencies, or other entities supporting the metal casting industry;

(6) "metal casting industry" or "industry" means the industries identified by codes numbered 3321, 3322, 3324, 3325, 3363, 3364, 3365, 3366, and 3369, in the Standard Industrial Classification manual published by the Office of Management and Budget in 1987;

(7) "Secretary" means the Secretary of Energy.

SEC. 4. ESTABLISHMENT OF PROGRAM.

The Secretary, acting in accordance with authority provided in the Federal Non-Nuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), shall establish a Metal Casting Competitiveness Research Program (hereafter in this Act referred to as the "Program") for the purpose of performing and promoting the performance of research and development on issues related to the technology competitiveness and energy efficiency of the United States metal casting industry.

SEC. 5. OPERATION OF PROGRAM.

(a) SOLICITATION OF PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit and select proposals on a competitive basis from applicants to carry out the program under section 4. In order for a proposal to be considered by the Secretary, the applicant shall have in existence at the time the proposal is submitted the following qualifications:

(1) the available space, support services, and technical capability to carry out research under the program;

(2) a multidisciplinary research staff experienced in metal casting or other directly related technologies; and

(3) the facilities and equipment capable of conducting testing or demonstration of metal casting or related processes.

(b) PROPOSAL CRITERIA.—Each proposal shall—

(1) demonstrate the support of the metal casting industry by describing—

(A) how industry has participated in deciding what research activities will be undertaken;

(B) how industry will participate in the evaluation of the applicant's progress in research and development activities; and

(C) the extent to which industry funds are committed to the applicant's proposal.

(2) demonstrate a commitment from non-Federal sources of a financial share not less than 35 per centum but no more than 50 per centum of the proposal's cost. For purposes of determining the non-Federal financial share, the fair market value of equipment, services, materials, technology transfer activities, and other assets directly related to the proposal's cost shall be included;

(3) include a single or multiyear management plan that outlines how the research and development activities will be administered and carried out;

(4) state the annual cost of the proposal and a breakdown of those costs; and

(5) describe the technology transfer mechanisms the applicant will use to make available research results to industry and to other researchers.

(c) CONTENT OF MANAGEMENT PLAN.—The management plan set forth in subsection 5(b)(3) shall—

(1) outline the basic research and development activities expected to be performed;

(2) outline who will conduct those research activities;

(3) establish the time frame over which the research activities will take place; and

(4) define the overall program management and direction by—

(A) identifying managerial, organizational and administrative procedures and responsibilities;

(B) outlining how the coordination of research and development between the individuals and organizations involved will be achieved;

(C) providing how implementation and monitoring of the progress of research projects after receipt of funding from the Secretary will be achieved;

(D) providing how recommendations and implementations on modifications to the plan will be achieved; and

(E) providing sufficient rationale to support the plan's costs.

(d) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select proposals for funding. The Secretary shall attempt to select at least four proposals. The Secretary shall select the proposals that—

(1) will best result in carrying out needed research and development in one or more of the following general areas—

(A) Environmental Technologies;

(B) Computer Modeling;

(C) Substitute Alloy Development;

(D) Net-Shape Casting;

(E) Gating Systems Design;

(F) Treatment, disposal and recycling technology of waste streams;

(G) Techniques and processes to improve energy efficiency in melting technology;

(H) Increased Yield Improvement;

(I) Melting and Pouring Research

(J) Molding Processes Modernization;

(K) Die Cast and Foundry-Associated Metals Processing Technologies; and

(L) Other areas of research, which in the judgment of the Secretary after consulting with the Board established in section 7, further the purposes of this Act;

(2) represent research and development in specific areas identified in the "Metal Casting Research Priorities" developed annually by the Board pursuant to subsection 7(b)(1);

(3) to the greatest extent possible and subject to available appropriations, ensure that at least one applicant is selected from each of the four census regions of the country where the metal casting industry is concentrated;

(4) demonstrate strong industry support;

(5) ensure the timely transfer of technology to industry; and

(6) otherwise best carry out the purposes of this Act.

(e) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Act, the Secretary shall provide to each applicant selected the financial and technical assistance and other incentives that are necessary and appropriate to carry out the purposes of this Act.

(f) NATIONAL METAL CASTING RESEARCH INSTITUTE.—Each recipient of financial assistance under subsection (d) shall be known as a "National Metal Casting Research Institute".

SEC. 6. REVIEW.

(a) EVALUATION OF RESEARCH ACTIVITIES.—The Secretary shall regularly monitor and evaluate the research activities of the applicants selected. After considering the reports of the Board provided for in subsection 7(b)(2), the Secretary shall determine whether each applicant selected has complied with the management plan submitted in the original proposal and any modifications made since.

(b) ANNUAL REPORT.—Each selected applicant in the program shall provide an annual report to the Secretary that explains the progress made, compliance with the management plan, whether changes are needed and are being made to the management plan, and what new research is planned.

(c) DISCONTINUATION OF FUNDING.—In the event a selected applicant has substantially failed in the implementation of the management plan and research activities, the Secretary shall discontinue funding.

(d) SOLICITATION OF NEW PROPOSALS.—Upon completion or discontinuance of any research activity authorized in section 5, the Secretary shall, using available funds appropriated pursuant to this Act, solicit new research proposals as set forth under the terms of this Act.

SEC. 7. INDUSTRIAL ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—Within sixty days after the date of the enactment of this Act the Secretary after consulting with representatives of trade and technical associations of the metal casting industry shall establish an Industrial Advisory Board (hereafter in this Act referred as the "Board") to provide guidance and oversight in implementing the selection criteria and operation of the program. The Board shall be composed of nine members who are selected by the Secretary and who shall be individuals from the metal casting industry or individuals affiliated with industry contributors. At least one member of the Board shall be chosen from each of the four census regions of the country. Each Board member shall serve for a term not to exceed five years, but may be reappointed for successive terms.

(b) REVIEW AND RECOMMENDATIONS.—(1) Within one hundred and eighty days after the date of the enactment of this Act and annually thereafter, the Board shall develop from the general research areas identified in section 5(d) and submit to the Secretary a list of Metal Casting Research Priorities. Such list shall, to the greatest extent possible, identify specific areas of research that would be considered of a priority nature to the United States metal casting industry.

(2) On an annual basis the Board shall—

(A) review the Secretary's solicitation and selection of research proposals and make recommendations as to how each such activity can be altered so as to better achieve the purposes of this Act; and

(B) review the research activities of each selected applicant, and the selected applicant's management plan, and report its findings and recommendations to the Secretary.

(c) DURATION OF THE BOARD.—The Board shall exist for the life of the Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this Act $20,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995.

SEC. 9. PROTECTION OF PROPRIETARY RIGHTS.

Activities under this Act shall be subject to section 5 of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (102 Stat. 4075).

SEC. 10 REPORTING.

The Secretary shall in each year's Departmental budget request to Congress provide a detailed review of the progress of the research and development activities authorized under this Act.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, that the bill be advanced to third reading and passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1243), as amended, was passed.

Mr. BAUCUS. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIVE AMERICAN LANGUAGE ACT

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 476, S. 1781, regarding the preservation of Native American languages.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1781) to establish as the policy of the United States the preservation, protection, and promotion of the rights of Native Americans to use, practice, and develop Native American languages, to take steps to foster such use, practice, and development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Native American Language Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American Languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) the term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 4. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native Americans language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 5. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 6. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this Act;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this Act; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this Act.

(b) By no later than the date that is 1 year after the date of enactment of this Act, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this Act.

USE OF ENGLISH

SEC. 7. Nothing in this Act shall be construed as precluding the use of Federal funds to teach English to Native Americans.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR WEDNESDAY

RECESS UNTIL 10 A.M. MORNING BUSINESS

Mr. BAUCUS. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. Wednesday, April 4; that following the time for the two leaders there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that, at 11 a.m., the Senate go into executive session to consider the nomination of Timothy Ryan, to be the Director of the Office of Thrift Supervision.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAUCUS. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10 a.m., Wednesday, April 4.

There being no objection, the Senate, at 10:14 p.m., recessed until Wednesday, April 4, 1990, at 10 a.m.

EXTENSIONS OF REMARKS

TRIBUTES TO POLISH PRIME MINISTER MAZOWIECKI

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, we were recently given the high privilege of receiving the Honorable Tadeusz Mazowiecki, the remarkable Prime Minister of the Republic of Poland, on his first state visit to the United States.

Over the course of his visit, Prime Minister Mazowiecki held many important meetings, including two with the President, and made numerous public appearances in Washington, Chicago, and New York. I was personally honored to be present for many of those events.

Prime Minister Mazowiecki is a man of great intellect and thoughtfulness. Unlike many politicians who feel that the merit of a particular position increases in direct relationship to the volume with which it is pronounced, Mr. Mazowiecki puts great stock in an understated demeanor noted for its dignity and depth.

It is entirely fitting, of course, that the Prime Minister of Poland conduct that nation's affairs of state with great dignity. As the Prime Minister reminded us in Chicago, it has been the rightful claim to live in dignity which has again inspired a wave of political reform in Poland and around the world.

And despite his quiet delivery, I think all Members will agree that we heard the Prime Minister.

We heard him when he delivered Poland's unassailable claim to the right of secure and inviolable borders.

We heard him when he stressed the need for an all-Europe structure in which Poland will play its rightful—and prominent—role.

We heard him when he called for a renewed and strengthened partnership between the United States and Poland—a relationship needed now more than ever, by both nations.

I urge all my colleagues to heed what we have heard, and to join me in rededicating ourselves to the support of programs designed to make real the aspirations of the freedom-loving people of Poland.

As a further matter, Mr. Speaker, I wish to bring to the attention of my colleagues one of the more stirring moments of the Prime Minister's visit. The occasion was a ceremony, held in New York City at the Cathedral of St. John the Divine, on March 26, to celebrate the awarding of the first Cathedral Peace Prize to Prime Minister Mazowiecki.

Notable among the moving statements made at that ceremony were two in particular; one by our colleague, the gentleman from New York [Mr. SOLARZ], the other by Mr. Jan Nowak, the Polish patriot and trusted adviser on Poland to both the administration and the Congress.

In both statements, the authors, each in his own way, offers an eloquent tribute to the courage, vision, and leadership of Prime Minister Mazowiecki, and to the great movement for political democracy and economic reform which he symbolizes.

I hope my colleagues will agree with me that these statements should be made a part of the permanent record of this body. Accordingly, I include the statements in their entirety at this point in the CONGRESSIONAL RECORD.

ADDRESS BY REPRESENTATIVE STEPHEN J. SOLARZ

This is an extraordinary moment in the history not only of our country but of the world. Nineteen ninety, like 1848, 1914, and 1945, is likely to be remembered as marking the end of one epoch and the beginning of another.

From Stettin in the Baltic to Trieste in the Adriatic, the iron curtain has ascended all across Europe. In one Central and Eastern European country after another, crypto-Stalinist dictatorships are being transformed into genuine parliamentary democracies.

This past weekend the first free and fair elections in over forty years were held in Hungary. Last week they took place in East Germany. And before the year is over, Czechoslovakia, Roumania, and Bulgaria will be holding truly free and fair elections as well.

In the Soviet Union itself we are witnessing the gradual emergence of a multi-party system and the ineluctable dissolution of the last of the great empires.

And if anyone doubts the truly profound character of these remarkable political transformations, I have in my hand a card which should lay those doubts to rest. It is the business card of the Washington correspondent for Poland's communist newspaper. And printed on this card is the phrase: "Number One Opposition Paper of Poland."

I chose my example carefully, because the truth is that the winds of democracy which are now sweeping away the political debris of discredited dictatorships all across Central and Eastern Europe first began to blow in Poland. And if it hadn't been for the triumph of political pluarlism in Poland in 1989, democracy never would have come to the other great countries of Eastern and Central Europe in 1990.

It started with the election of a Polish pope in 1978.

It gained momentum when the Holy Father made his first pastoral visit to the land of his birth in 1979, and the millions of Poles who came out to see him got a sense of their own strength and solidarity, while simultaneously providing the definitive answer to Stalin's cynical question "How many divisions does the Pope have?"

It received a boost when an anonymous electrician climbed the fence at the Lenin shipyard in Gdansk a year later and lent his political genius and tactical skills to the establishment of Solidarnosc.

It was kept alive during the years of martial law by Zbigniew Bujak and the other leaders of underground Solidarnosc, who proved the truth of Stalin's aphorism that "establishing communism in Poland is like trying to put a saddle on a cow."

And it was finally and fully resurrected by the roundtable agreement and the elections last year, in which the people of Poland, given the first opportunity in fifty years to freely and fairly determine their own destiny, threw out the communists and made possible the establishment of the government led by the good and decent man we honor by our presence here today—Prime Minister Tadeusz Mazowiecki.

So it seems to me that we have a very special obligation to Prime Minister Mazowiecki, and to the Polish people, whose personal courage and political creativity made it all possible.

History is filled with the stories of Poles who have come to the aid of others. Sobieski's lifting of the siege of Vienna in 1683, Kosciusko's contribution to our own revolution in 1776, and the brave Polish soldiers, sailors, and airmen who fought alongside the Allies to liberate Europe from the Nazis in the 1940s, all made a critical contribution to the cause of freedom in other lands.

In view of what Poland has done for America and Europe, it is time for America and Europe to start doing something for Poland.

This is not just a question of sentiment. It is very much a matter of our own self-interest. If democracy in Poland should fail, if economic reform should make things worse rather than better, it would inevitably jeopardize the experiments in political pluralism and market economics elsewhere in Central and Eastern Europe—not to mention the Soviet Union itself.

So we have an enormous stake in the survival and success of democracy and free enterprise in Poland, which is why I believe that if we could spend literally trillions of dollars over the last forty years to defend Western Europe from the threat of Soviet military aggression, we can surely afford billions of dollars in investments, credits, and debt relief to consolidate democracy in Eastern Europe.

George Bernard Shaw once wrote: "Some men see things as they are and ask why. Other men dream things that never were and ask why not." Prime Minister Mazowiecki and the people of Poland are dreaming of things that, at least in their part of the world, never were, and it is up to us to help him turn those dreams—the dreams of peace, pluralism, and prosperity—into an enduring reality.

ADDRESS BY JAN NOWAK

Mr. Prime Minister, distinguished guests. It is more than a privilege to address this distinguished gathering. In my 45 years of life in exile, I never lost hope that one day Poland would be free again. But with each passing year, I had less and less hope that I would live long enough to see Poland's resurrection.

And here the dream comes true.

We gather here to welcome a man who is leading his nation back into the family of free and democratic peoples.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I feel deeply moved by the ecumenical character of this event and grateful to our hosts. Ecumenism—the brotherhood of people of different creeds, race, nationalities and political outlook—can be summed up in one word: Solidarity.

The Solidarity movement represents the best of Poland's historical heritage, and admitted openly what was wrong.

Solidarity has rejected violence.

In 1981, the movement was crushed by the police and the military. People were kidnapped, beaten and killed. Others were fired from their jobs and thrown into jail. But years of this brutal persecution failed to provoke Solidarity into violence.

Solidarity won its astounding victory because of the strength of its spirit and the unity of the Polish people—their courage, their determination, their collective will and their fierce perseverance.

Solidarity seeks reconciliation and dialogue with its enemies.

Solidarity seeks reconciliation and dialogue with its enemies. There was no hanging or lynching in Poland. No vengeance. No revenge. Tadeusz Mazowiecki was jailed for two years by General Jaruszelski. He was villified by the media under the general's control. Yet today we witness an unusual spectacle. The former victim joins hands with his oppressor to assure a peaceful transition from a totalitarian regime to democracy, from a monopolistic state economy to a free market.

Solidarity rejects collective responsibility and negative stereotypes applied to any people.

Solidarity does not seek to stir bitter memories. It seeks friendship and reconciliation with its neighbors. Even while still an underground movement, Solidarity was reaching out to its neighbors in Czechoslovakia and Hungary, Lithuania, the Ukraine and East Germany. Friendly contacts and cooperation were established with the reform movements in all these countries.

As a result of Potsdam and Yalta, one third of Poland's lands were annexed by the Soviet Union. Even today, two million Poles remain behind the Soviet border. But the Poland of Mazowiecki does not raise territorial claims against its neighbors. It wants to live in peace and friendship with all its neighbors within the existing borders.

At the present moment, Poland is seeking reconciliation with her German neighbors on the same basis—respect for Poland's territorial integrity and acceptance of the existing borders as final and inviolable. Mr. Mazowiecki's recent efforts to remove any ambiguity on this issue are important for the future peace and security of Europe. The experience of recent history tells us that any potential source of conflict is better eliminated while it is still only a spark—before that spark turns into a fire.

With all its strengths, Solidarity may well have lost its long struggle without the strong support and protection of the Catholic Church. Under the leadership of those two great men, the late primate of Poland, Cardinal Stefan Wyszinski, and the former Archbishop of Krakow, Cardinal Karol Wojtyla, the Polish Church underwent a remarkable evolution. It became the champion and defender of the freedom of conscience. . . . not just of its faithful, but of all people, regardless of religious allegiance, believers and non-believers alike. The Church became a fortress. Every man and every woman persecuted for their convictions found safety and protection behind its walls. The defense of human rights for all—of every religion, race and nationality—has been a principal theme of the pontificate of John Paul II. It was this Polish Pope who made the pilgrimage to the synagogue to embrace his Jewish brothers and put an end to 2,000 years of discord between Christianity and Judaism.

Europe and the world still have much at stake in the ultimate success of the ideals represented by Solidarity. Their success in Poland will provide a shining example to other nations of East Central Europe. Their failure would be a severe blow to the emerging democracies throughout this vital region. Failure could mean a return to despotic regimes of various brands and colors and to disruptive nationalistic conflicts.

I met Prime Minister Mazowiecki in Warsaw in the early days of last September when he was forming his Cabinet. The problems and dangers he was facing seemed insurmountable. He was taking over a terrible legacy of communist rule:

An economy in shambles;

Enormous foreign debts;

Runaway inflation;

Labor unrest;

An ecological disaster area;

And the hostility of an entrenched bureaucracy, still clinging to its power and privileges.

It called for tremendous courage to accept responsibility in the face of this almost certain defeat.

I asked myself the question: How can this self-effacing man, whose health is so fragile, handle this kind of superhuman task?

Will he not be swept away in two or three months by a wave of unrest and riots by a people in despair over their growing poverty?

Today, six months later, desperate efforts to stop the inflation have reduced real wages by 40 percent. Unemployment is soaring and people are struggling to put bread on the table for their children.

But Poland is a country of miracles.

At the very height of these new hardships, the popularity and approval ratings of Prime Minister Mazowiecki have reached an unprecedented 87 percent! In their collective wisdom, the Polish people have placed their trust and their hopes for a better future in the integrity and dedication of Tadeusz Mazowiecki.

Last Thursday, I was waiting at the Arlington National Cemetery as the Prime Minister placed a wreath on the coffin of Ignacy Paderewski. The crypt was open. The coffin moved forward. Two prime ministers of Poland were meeting on American soil.

Paderewski had taken over the reins of government in Poland as it was emerging again as a nation after 123 years of being partitioned. The country was devastated by war. Poland had no boundaries, no administration, no army. It was fighting for survival on all these fronts. But against overwhelming odds it did survive and enjoyed two decades of relative peace and prosperity as a sovereign and independent nation.

Paderewski 70 years ago and Mazowiecki today are the embodiment of the same ideals and values.

Last Thursday in Arlington, I thought to myself: Paderewski would be proud of this man who succeeded him after another long era of darkness.

I felt I could hear him whisper: God help you, Tadeusz Mazowiecki. You will prevail. Poland will win.

PENNSYLVANIA SENDS WINNERS FROM HAMPTON HIGH SCHOOL TO NATIONAL FINALS OF HISTORICAL PICTORIAL MAP CONTEST

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. WALGREN. Mr. Speaker, I would like to honor three high school students from the 18th Congressional District whose "Discover Early America" map entry will be representing the State of Pennsylvania at the national finals of the "Discover Early America: The National Historical Pictorial Map Contest" scheduled for May in Washington, DC. Michelle Lamory, Sarah Schneider, and Anne Marie Pollack submitted their entry at the high school level and will compete against other high schools across the country.

After winning the congressional district level competition in February, these Hampton students went on to win at the State level round of the contest on March 30 at Dickinson College, Carlisle, PA, and received the distinguished honor of representing the Commonwealth of Pennsylvania at the national finals.

Now in its second year, the "National Historical Pictorial Map Contest" is designed to encourage students to study geography in relation to historic events in early America. As noted in a Washington Post editorial after the first year of the program, "This graceful linking of visual skills, class teamwork, and the bicentennial theme offers an easy-to-replicate approach to the otherwise large and slippery idea of putting where in context with when and what."

Using an outline map, contestants depict historical events and geographical locations—such as a quill in Pennsylvania to represent the signing of the Constitution in Philadelphia or a teapot in Massachusetts to represent the Boston Tea Party. Key elements of the competition are historical accuracy, artistic creativity, and imagination.

The students completed a special outlined map of the original 13 colonies by illustrating significant events, persons, and places that shaped the Colonial and Founding eras of our country. As stated by Mr. Paul Hoffman, teacher at Hampton High School, "Nothing helps instill an understanding of geography better than a map, especially a map the student has created."

As winners of the State level competition, Hampton High School will receive a cash award of $500, and will enter the national level of competition to compete for a trip to Washington, DC, and a prize of $5,000. Second and third place winning schools will receive $3,000 and $1,000 respectively for the purchase of educational materials. In addition, first place winners and their teachers will be honored at a reception at the Supreme Court, hosted by Chief Justice Warren E. Burger and will have their entry displayed at the National Museum of American History.

I would like to thank all of those schools and teachers who participated in this fine pro-

gram designed to encourage students to study the early development of the United States.

I salute Hampton High School for their outstanding achievement, hard work, and dedication.

FUEL EFFICIENCY DECLINES FOR THE SECOND STRAIGHT YEAR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. STARK. Mr. Speaker, I would like to include in the RECORD a small article that appeared in the Wall Street Journal on March 20, 1990. The article discusses the fact that new car fuel efficiency has dropped for the second year in a row.

If domestic automobile manufacturers simply employed fuel economy technology currently in existence, their cars could average 39 miles per gallon by the year 2001. And, according to the Energy Conservation Coalition, if we raised the fuel economy standards from the current level of 27.5 miles per gallon to a level of 40 miles per gallon for cars and 30 miles per gallon for light trucks by the year 2000, we could save 2.4 million barrels of oil per day by the year 2005.

[From the Wall Street Journal, Mar. 20, 1990

NEW-CAR FUEL EFFICIENCY DROPS SECOND YEAR IN ROW

WASHINGTON.—New-car fuel efficiency declined for the second consecutive year, according to reports by the Environmental Protection Agency and the Transportation Department.

The EPA said an increase in heavier, more powerful cars was responsible for the drop in efficiency of domestic and imported passenger cars to 28.2 miles per gallon for 1990 model cars from 28.3 mpg the year before.

The fuel efficiency of passenger cars peaked in 1988 at 28.7 mpg after a decade of gradual increase from 19.9 mpg in 1978. The 1990 level of 28.2 mpg rolls back the fuel efficiency to the 1986 level.

Imported cars continued to be considerably less gas-thirsty than American cars, with an average of 29.9 mpg compared with 26.9 mpg for domestic cars. But the EPA pointed out that the gap is closing fast, as the efficiency of foreign makes drops precipitously. For 1989, imports had average fuel efficiency of 30.6 mpg, while American cars had an average of 27.1 mpg.

The biggest drops in efficiency from 1988 through 1990, the EPA report said, were at Isuzu, Toyota and Subaru. Fuel efficiency for each of those makers' cars dropped 9% over the two-year span.

A SALUTE TO MARIA ELENA TORAÑO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to recognize the accomplishments of Maria Elena Toraño. Maria Elena was sworn in by Vice-President QUAYLE on March 22, 1990, as a member of the newly created Commission on Minority Business Development. The Commission was later received in the Oval Office by President Bush.

The Commission on Minority Business Development was established to explore and evaluate the effectiveness of the Federal Government's existing minority business assistance programs. It is a bipartisan Commission and is headed by Mr. Joshua I. Smith who is the owner of the ninth largest black firm in the country. The Commission plans to conduct a series of hearings and dialog sessions where minority business owners will be able to communicate their concerns regarding these programs. Upon completion of the 2-year study, the Commission will report its findings as well as its recommendations to President Bush.

Maria Elena is a member of the board of directors of the Latin American Manufacturers Association and was appointed to represent the interests of this national trade organization as well as those of Hispanic-owned businesses in general. She has long been at the forefront of advocating innovative reform programs which directly affect the Nation's minority businesses. In 1980, Maria Elena founded META, Inc., and serves as its CEO and president. META is a management consulting firm with headquarters in Miami and offices in Fort Lauderdale and Washington, DC.

During the past few months Maria Elena has been honored with several important awards. She has received the Governor's Small Business Award and a ranking in the Hispanic Business 500. More recently, Maria Elena was selected as 1 of 3 honorees to receive the Anti-Defamation League's Women of Achievement award at a luncheon to be held April 4 in Miami. The National Association of Women Business Owners and the Beacon Council, in association with SCORE and the Community Coalition for Women's History, selected Maria Elena as one of Miami's top eight outstanding women business owners. This first-time award is given to pioneering women who own successful businesses in the community and who are active in encouraging other potential female entrepreneurs to follow in their example. Maria Elena was also among the women recognized by Metro-Dade County for their outstanding achievement and contributions to the community.

Mr. Speaker, it is an honor and a pleasure to congratulate Maria Elena Toraño on her recent achievements. She will surely contribute her insight and expertise to the Commission on Minority Business Development, helping to lead the way and fulfill President Bush's mandate. Her dedication and tenacity are an inspiration to our community, and will now be a part of this national Presidential Commission.

MARILYN COHEN HAS ENRICHED THE GLENS FALLS AREA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SOLOMON. Mr. Speaker, many times I have risen to pay tribute to outstanding people in the 24th District of New York. In every case it has been to honor someone who has given an extraordinary amount of time to enriching the community, and to making it better than it was before.

Even by those standards, the individual I speak of today is truly special.

Marilyn Cohen of Glens Falls is retiring after 35 years of service with the United Cerebral Palsy Association of the Tri-Counties. Let me tell you a little about her.

She worked her way through Cornell University and Columbia University's physical therapy program. After graduation she helped organize a physical therapy at Glens Falls Hospital, where she later helped start a cerebral palsy clinic.

Marilyn Cohen later realized that she had a special gift for helping severely disabled children, and in 1965 she accepted the position of executive director with UCP. Since 1965, when UCP consisted of little more than small classes in area schools and churches, it has grown to the extent that Mrs. Cohen now works with a $3 million annual budget and supervises 91 employees ranging from social workers and psychologists to teachers and therapists.

In 1989 alone, UCP has served 735 people. Characteristically, Mrs. Cohen is quick to credit others for her accomplishments. But those of us familiar with her work know that she has been the guiding spirit and an inspiration to the entire community.

Her ability and compassion have earned her many friends. Those friends are honoring with a retirement party this Friday.

Mr. Speaker, let us add our own tribute today to Marilyn Cohen, a great friend, and a great American.

LEGISLATION CONCERNING THE TAXATION OF LIFE INSURANCE COMPANIES

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation to reform the manner in which life insurance companies are taxed by the Federal Government. This legislation is intended to make the taxation of the life insurance industry more rational. It builds on reports concerning life insurance company taxation provided to the Congress by the General Accounting Office and the Department of the Treasury. Significantly, it is also designed to increase the amount of Federal income taxes paid by the life insurance industry.

First and foremost, the legislation would repeal section 809 of the Internal Revenue Code. The add-on tax of section 809 was enacted in 1984 on the assumption that the economic income of a mutual life insurance company could not be accurately measured. This special tax was in large part designed to meet certain predetermined segment shares of taxes. At the time that the add-on tax became law, it was believed that it was impossible to identify separately payments to owners, which are not normally deductible, and payments to customers, which are deductible. However, since 1984, this assumption has been widely criticized.

Mutual life insurance companies are not the mysterious corporate phenomena some would make them out to be. It is possible to measure the economic income of both stock life insurance and mutual life insurance companies. Both the Department of Treasury and the General Accounting Office reached this conclusion in separate recent reports to the Congress. Under the so-called prepayment analysis, the economic income of mutual companies is accurately measured for tax purposes if the full amount of premiums, including any capital contributions, is included in income even though policyholder payments are deducted. Thus, the imputation of income to mutual life companies under the add-on tax of section 809 is unnecessary. As the Treasury Department noted:

A tax on paid-in capital combined with a full deduction of dividends to policyholders (the situation of mutual companies without the additional tax under section 809) is equivalent in present value terms to the exclusion of capital contributions combined with no deduction for dividends to shareholders (the situation of stock companies issuing only nonparticipating policies).

By imputing income to mutual life companies in lieu of imposing a tax on economic income, these companies pay tax not on what they make, but on what other companies earn. This is absurd. Since when does the Internal Revenue Code tax people based on their neighbor's income? Life insurance companies, like other corporations, should be taxed on their own economic income.

My legislation would replace the add-on tax of section 809 with a tax on the equity returns life companies make to participating policyholders by paying policyholder dividends. Policyholders today may avoid tax on any equity returns that they receive in the form of policyholders, which would be difficult to measure, the legislation would impose a proxy tax on companies issuing dividend-paying business.

The legislation would also require life insurance companies to amortize a portion of so-called deferred acquisition costs. These expenses, primarily the commissions paid by companies to sales agents, are immediately deductible under the regular corporate income tax. Because generally accepted acounting principles reflect the view that the expenses incurred in issuing insurance policies result in the creation of an intangible aset which has an income producing value beyond the year in which it is created, amortizing acquisition costs is sound tax accounting policy. Under the 1986 Tax Reform Act, other industries were required to match the expenses of creating an asset with the income received as a result of the asset's creation. There is no reason why the life insurance industry should not be required to abide by the same principles. In addition, this provision will insure that notwithstanding the replacement of section 809, the life insurance industry will pay its fair share of taxes.

While I am confident that this legislation will increase tax revenues from the life insurance industry, I have not received a final estimate for my legislation from the Joint Committee on Taxation. A brief summary of the legislation follows:

DOWNEY LIFE INSURANCE BILL

(1) Repeal Section 809, effective January 1, 1991. True-up for 1990 not affected.

(2) Impose a proxy tax on stock life and mutual life insurance companies, including the life insurance subsidiaries of non-life insurance companies, effective January 1, 1991.

The proxy tax will operate as a surtax on the amount of equity allocable to a life company's participating business.

The following are the rates of the proxy tax:

Small life companies: 0.167 percent of the company's applicable equity base.

Mid-size life companies: 0.34 percent of the company's applicable equity base.

Large life companies: 0.667 percent of the company's applicable equity base.

(3) Amortize 50 percent of the costs of commissions paid by life insurance companies over 7 years.

Repeal amortization of acquisition expenses under alternative minimum tax.

Small life insurance companies would be permitted to expense up to $10 million in commissions.

The amortization of agent's commissions would be phased-in over four years generally.

MIMI SILBERT AND DELANCEY STREET

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LEVINE of California. Mr. Speaker, I would like to share with my colleagues an article from the San Francisco Chronicle about my good friend Mimi Silbert and the Delancey Street Foundation. As the article explains in further detail, Delancey Street recently completed the construction of an impressive $14 million building which will serve as their headquarters and residence in the coming years.

Delancey Street is a phenomenally successful organization. Residents come into the program ready to turn their lives around, but lacking the necessary skills and self-confidence to do so. At Delancey Street, residents teach each other, and help each other to succeed.

Mimi Silbert is the driving force behind the organization, and the Embarcadero project in particular. Her persistence in seeking financing, donations of materials, and other support made the apparently impossible happen. I encourage my colleagues to read the following article, and to join me congratulating Mimi Silbert and everyone at Delancey Street in their most recent success.

MIMI SILBERT STAYS TOUGH FOR DELANCEY

(By Ruthe Stein)

Mimi Silbert, president of Delancey Street Foundation, was showing the foundation's new $14 million headquarters on the Embarcadero—soon to be home to 350 one-time drug addicts, felons, prostitutes and derelicts—to a coalition of homeless people.

Silbert shepherded the group through the Mediterranean-style complex of apartments, each with its own balcony or flower box, and shops, pointing out the movie theater, health club, Jacuzzi and heated outdoor pool.

The list of amenities made her laugh.

"Our whole pitcher is how tough life is at Delancey Street, how you have to start at the bottom," she told the group. "Now that we have this building, how are we going to make that convincing? It is difficult to explain that (residents) are still struggling—damn it."

The struggle is admittedly different now than it was in 1971 when the organization was founded by the late John Maher on the premise that nobody was too down and out to be rehabilitated. Then the struggle was for recognition.

Now Delancey Street has become almost too well known. Since "20/20" aired a segment in December on the lavish new headquarters, built almost entirely by the residents, Hollywood producers have been after Silbert, 47, to let them make a movie about this incredible success story.

Representatives for Jon Peters and Peter Guber of "Batman" fame were so delighted when Silbert finally returned their call that they sent flowers to her three secretaries. Freddie Fields, who produced "Glory," has flown to San Francisco twice to see her.

Silbert's response to being wooed by Hollywood exemplifies how unswayed she is by celebrity, as well as her know-how in making the most of every opportunity.

She has been through this before and learned that financing for a film about a rehabilitation program is hard to come by. Jane Fonda—"Janie," as Silbert calls her—had the rights to the Delancey Street story for four years. She wanted to play Silbert but was unable to get the project off the ground.

So Silbert listened to what these Hollywood hotshots had to say and then sweetly asked them whether they would consider screening some of their upcoming movies for distributors at the Delancey Street facility.

Her idea in creating a state-of-the-art screening room was to make money from renting it out. She also hopes to be able to hold onto the films for a few more days to show them at benefits for Delancey Street.

The second time Fields came courting, Silbert convinced him to talk to Delancey Street residents, many of whom are minorities, about the making of "Glory," which deals with the heroics of black soldiers during the Civil War.

SHE HOLDS IT TOGETHER

Much of the success of Delancey Street, which brings in $6 million a year through its homegrown moving company and catering, printing and wholesale marketing businesses, derives from its president's creative finagling.

Silbert, who has doctorates in criminology and psychology from the University of California at Berkeley and who studied philosophy in Paris with Jean-Paul Sartre, became involved with Delancey Street in the early '70s after falling in love with its mercurial

founder, Maher. They lived together for 10 years, and he helped raise her twin sons from an early marriage.

In the mid-'80s, Maher, a child alcoholic, began drinking again and resigned from the organization. He died of a heart attack in 1988 at 48.

Delancey Street did not fall apart when Maher did, largely because of Silbert, who was Maher's co-president for years. It was her drive that got the new headquarters built against all odds.

BUILD IT YOURSELF

Almost all the actual building was done by residents, saving an estimated $16 million. At most, 10 of the residents had done construction work before, and the most experienced among them learned what he knew pouring concrete for the handball court at San Quentin.

Silbert convinced the Bank of America to give the foundation a $10 million unsecured loan, and also talked local unions into training her people, who then train others at Delancey Street.

"The only way to do this building was to talk it into existence," she said. "I was very chesty. I would have meetings with people and they'd say things like, 'How can your bozos really do this? This takes skill.' And I would get outraged and say, 'Absolutely. We'll be able to learn.' But secretly I was in terror.

"We have a saying at Delancey Street about everything, which is to 'act as if.' We say to our people, we know you don't know how to speak, but just walk around saying 'please' and 'thank you' and if you act it long enough, you will become a person who talks that way.

"So we were all marching around this absurd site, you know, with buildings and stuff on it, saying, 'Oh, yeah, we'll put this down and then we'll drop those piles.' Every one of us was acting as if, and every one of us knew that the others were acting as if we knew what we were doing, and then eventually we convinced ourselves."

Silbert, who is 5 feet tall and weighs 95 pounds, got behind the bulldozer and pulled the last building down herself.

"Whatever the people at Delancey Street do, I try to do. These people have never seen what a boss is. When you're on the bottom, you have this distorted view that the people at the top don't do anything."

She says that the design of the headquarters—only the retail space is visible from the street, and the apartments are hidden—was inspired by places she had seen in Europe.

"They are lovely from the outside with the flowers and flower boxes, and then you look inside the courtyard, and there is a mother shrieking with frying pans and kids. That's exactly it. Inside, I'm going to be shrieking to the residents, but it will be all peaceful and beautiful to the street."

Now that her sons are away at college, her Delancey Street family gets all the attention. Silbert, who often works 15 or more hours a day, acknowledges that she doesn't have much of what other people would call a personal life.

"But I don't think of Delancey Street as a job, so to me that is a personal life. I do go to plays and to the museum and to restaurants, but when I do those things, I bring with me a few Delancey Street people. Then I have the terrific opportunity of not only seeing the play, but seeing someone see a live play to eat Chinese food for the first time in their lives.

"I don't date. I had probably the best relationship I can think of in which we shared a life and a dream. Since John died, I have been just completely consumed with getting our new complex done."

That has almost been accomplished. Delancey Street residents are putting the final touches on the building and hope to move in at the end of this month. Silbert will live there as well.

ROOM FOR GROWTH

The primary reason for the move is to allow for growth. The new complex will house 700 residents, twice the number the organization can now accommodate. More than 90 percent of the applicants have had to be turned away from the foundation's three other buildings in San Francisco, Silbert says. Two of them have been sold, and the Divisadero building will house administrative offices.

"When you see yourself saying no to almost everybody, it is horrible. It would have been the death of us, absolutely. Without the space, we couldn't have kept going, because the biggest problem we fight in Delancey Street is hopelessness—the feeling that everything is bull—and nothing is ever going to work out.

"It is our people who have to turn people away. We don't have a staff. It isn't like social workers saying no to clients. So our people say to themselves, 'Somebody gave me a chance, and I'm not giving someone else a chance,' and that leads to despair and despair is our biggest enemy."

The space will finally show Silbert to do something that has been on her agenda for years: teach people outside Delancey Street ths skills that have made the foundation so successful (it boasts a success rate of close to 90 percent). She has already started. The coalition of homeless people hopes to put San Francisco's street people to work building homes for themselves.

The new headquarters are tangible proof of Delancey Street Foundation's mission, Silbert says.

"That people who have never done anything, people who always thought they couldn't do anything, people who have been destructive their whole lives can actually build something physical and see it. We have guys that just break down crying, saying things like, 'For the rest of time these walls are going to be here, and I put them up.'

"It is just extraordinary. I mean, we can't get over it ourselves."

PATIENT SELF-DETERMINATION ACT OF 1990

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LEVIN of Michigan. Mr. Speaker, today I am introducing legislation, along with Mr. SWIFT, Mr. MOODY, Mr. MCDERMOTT, and Mr. FAUNTROY, with the purpose of ensuring that a person's right to determine their own health care future is respected. This bill, the Patient Self-Determination Act, addresses those situations in which competent individuals specify, in advance, what kind of treatment they do or do not want—or who should make those decisions—should they become unable to do so. The bill will help individuals to establish these advance directives by educating them and their health care providers about their rights.

SELF-DETERMINATION

By any measure, health care decisions are among the most important and personal decisions people make. Medicine has recognized this, and has moved toward encouraging patients to be active participants in their health care planning. It is widely agreed that more active involvement in planning and treatment by patients facilitates good outcomes and demonstrates respect for patients' dignity and autonomy.

The principle of patient self-determination is manifested most clearly in the fundamental right of patients to accept or refuse medical treatment. Many of the most difficult and troubling decisions to refuse treatment occur at the end of life. It was not so long ago that these decisions were the exclusive province of individuals and their families. However, as health care technology has produced more ways to prolong life—and prolong the process of dying—more and more people are dying in institutions, rather than at home. In 1939, only 37 percent of the population died in institutions; now, between 80 and 85 percent do so. More technology means more choices to make. About 80 percent of the deaths in institutions involve some decisions to apply, withhold, or withdraw some medical procedure.

Last December, the case of Nancy Cruzan sparked national debate when it was argued before the Supreme Court. In that case, the family of a young accident victim in a persistent vegetable state asked to have her surgically implanted feeding tube removed. A lower court ruled that the tube could be removed. The Missouri Supreme Court overturned that ruling, saying that Nancy Cruzan's wishes were not known. Although cases like this gain much attention, they represent only a small fraction of the estimated 10,000 people in this country in states of permanent unconsciousness, who are being kept alive by technology that didn't exist a few years ago. We find it especially tragic and lamentable when such personal issues are dealt with in the impersonal arena of a courtroom.

Although technological advances provide more alternatives, technology itself gives us no guidance concerning which of the alternatives should be chosen. As one ethicist has noted, we can provide artificial hearts or kidneys, but not artificial judgment. Judgments about life-sustaining treatment, as with all treatments, should be made by those who are primarily affected by them: Patients in consultation with their families and physicians. Such decisions are a matter of personal beliefs and values.

Over the last 15 years, courts have consistently upheld the right of competent patients to refuse medical treatment, even when such a decision may mean that death comes earlier than it otherwise would have. These court decisions have been based on rights of informed consent, liberty, and privacy, which state that people should be free of unwanted and uninvited bodily invasion. These rights, in turn, are based on the ethical principle of autonomy, which holds that the choices persons make for themselves should be respected.

WHAT ARE ADVANCE DIRECTIVES?

Unfortunately, many people lose their capacity to decide about treatment. It has been increasingly accepted that these people can retain and exercise their autonomy making decisions in advance. The vast majority of State legislatures have acted to preserve the right of self-determination for those patients who lose their decisionmaking, capacity. Forty-four States have passed some form of advance directive legislation, which maintains the freedom of patients to determine their medical future. Advance directives include living wills, in which competent people make their wishes known about how they would like to be treated in the event they become incompetent. Another form is the durable power of attorney for health care, in which the patient designates a person to make such decisions, and can also specify what some of those decisions should be.

Support for advance directives is widespread. Polls show that over 80 percent of people questioned favored giving people the choice to withhold extraordinary medical treatments. Almost 80 percent of physicians in a recent survey expressed favorable attitudes toward advance directives, and fewer than 2 percent expressed negative attitudes. The President's Commission for the Study of Ethical Problems in Medicine has endorsed the use of surrogate decisionmakers, and has encouraged institutions to adopt clear and publicly available policies. The American Medical Association and the American Bar Association have endorsed the use of advance directives, as have groups including the National Council of Churches, the Catholic Health Association, the American Jewish Committee, and the American Association of Retired Persons.

Last year the Joint Economic Committee issued a report summarizing a series of hearings held on "The Future of Health Care in America." One of those hearings concerned ethical issues in health care, and testimony was obtained from several prominent practitioners and medical ethicists. The summary of these hearings reported a broad consensus among the experts that "recognizes the right of patients to accept, refuse, or withdraw from medical treatment, even if this action is likely to result in the patient's death. * * * In addition, this consensus supports the use of advance directives, that is, living wills or power of attorney on health care, by individuals to specify their wishes regarding medical treatment in the case they become unable to make health care decisions."

In spite of this high level of support, recent surveys show that only 9 to 15 percent of the population have executed advance directives. We believe this low number is due, in part, to a lack of knowledge. State laws vary in terms of what advance directives they recognize, and in the exclusion of some populations or treatments, such as artificial nutrition and hydration. Although the news media typically cover prominent cases such as those of Karen Quinlan and Nancy Cruzan, information provided about specific options granted or denied in State laws is exceedingly rare. Lack of knowledge about rights may inhibit discussion of, and advance planning for, medical care needs.

The fact is that health care providers themselves are unclear about the laws in their States. A survey in Colorado found that 23 percent of doctors are not familiar with living wills, and 74 percent are not familiar with durable powers of attorney. In a similar survey in Arkansas, only 38.4 percent of doctors reported being familiar with State advance directive laws. There is no reason to believe that these numbers would be any different in other parts of the country. One possible result of this ignorance is that physicians may make treatment decisions basd on fears of malpractice liability, rather than on sound medical judgment and discussion with patients and families. In fact, there has never been a successful malpractice case against a health service professional for withdrawing or withholding treatment from a patient who had requested it, either at the time or in advance.

WHAT THIS BILL DOES

The major provision of the Patient Self-Determination Act requires health care providers, as a condition of Medicare and Medicaid participation, to maintain policies concerning advance directives. Specifically, it requires providers to inform patients of their rights—under State law—to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advance directives. Providers would be required to inquire whether the individual has an advance directive, to document this, along with any treatment wishes the patients may have, and to implement these directives to the extent permissible under State law. Providers would be required to provide—individually or in assocation with other providers—for educational programs for staff, patients, and the community on self-determination issues.

Other provisions of the bill would require a study of the implementation of the act, and an education campaign to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions.

BENEFITS OF THE BILL

This legislation is designed to remove several of the barriers to full patient self-determination that were reported by the Joint Economic Committee in their 1989 report, including "physicians' ignorance of the law and fear of medical malpractice liability; patients' lack of information on their options, especially on advance directives," and a "lack of institutional policies on ethical issues."

Perhaps the major benefit to be derived from these policies is more humane and effective medical treatment. This act will increase communication among patients, families, and health care providers. Not only will this make a difference in specific cases, but it could improve doctor-patient relationships. It is generally agreed that better doctor-patient relationships are associated with shorter hospital stays and other benefits. Empowering individuals to make decisions—and families to be actively involved in consultations—will increase the understanding of all parties concerned. Under these conditions, doctors may be less likely to overprescribe procedures for "defensive medicine" purposes.

The trend toward greater family and patient involvement, as mentioned before, is not a new one. Our culture places a high value on health planning and prevention. Establishing guidelines for decisions to be made in the event that we become incapacitated is just one part, an important part, of taking care of the full range of plans about our well-being. In this regard, the Joint Committee for the Accreditation of Health Care Organizations requires hospitals to have policies regarding patient rights and responsibilities, including "Do Not Resuscitate" policies, under which patients can choose to have cardiopulmonary resuscitative services withheld. According to a recent survey, about two-thirds of all hospitals already have policies covering advance directives, although virtually all of these policies leave it up to the patient to introduce the discussion, without being informed. This bill supports and encourages these trends.

WHAT THIS BILL DOES NOT DO

It is important to emphasize what this bill does not do. First, it does not create any new rights. The right to accept and refuse treatment, and to make these decisions in advance, has been upheld by courts across the country, even in States with no advance directive law. This bill simply empowers patients, via better information and communication, to avail themselves of options they already have. Second, this bill takes no stand on what particular decisions people should make. We recognize the intensely personal nature of these decisions; thus the importance of having the locus of the decision be the individual. Finally, this bill does not require people to execute advance directives. For a variety of reasons, patients may wish to waive their right to execute advance directives. This bill ensures that that decision itself is based on information rather then ignorance.

It is ironic that many people lose the capacity to make health care decisions just at times when the most important decisions need to be made. We want to prevent some of the cumbersome and tragic situations that can arise from this by empowering individuals at all points during their lives. The Patient Self-Determination Act continues the trend to have patients, doctors, and families communicate and develop decisions that preserve the well-being and dignity of the person, the integrity of the medical profession, and the laws of the State.

KTRH RADIO BEGINS ITS SEVENTH DECADE OF SERVICE TO HOUSTON

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. FIELDS. Mr. Speaker, 60 years ago, Houstonians lucky enough to own radio receivers were probably shocked and surprised to hear the following words: "Testing, testing. This is KTRH . . . making equipment tests. We'd appreciate hearing from anyone who might be receiving this signal."

I don't know how many Houstonians responded to that request back in March 1930, but I can say that from that during the last 60

years, radio station KTRH has grown to become an institution in Houston. Indeed, on March 25, KTRH entered its seventh decade of service to Houston and the entire gulf coast of Texas. The station has undergone tremendous change during the 60 years it has been on the air—but than again, so has Houston. And KTRH radio has been a full partner in the progress that has seen Houston grow to become the Nation's fourth largest city—a cosmopolitan city with a diverse population, and with an increasingly diversified economy affected by developments across the Nation and around the world.

Since the station aired its first official broadcast, on March 25, 1930, KTRH radio has been an integal part of Houston, TX. In good times and bad times, during boom and bust, KTRH radio has provided Houstonians with music, entertainment and news.

Today, Houstonians and men and women all along the Texas gulf coast, tune to KTRH more than any other radio station to stay abreast of news developments that affect them and their city. Perhaps most important, KTRH's all-news format has kept Houstonians and Texas gulf coast residents informed of threats to their safety during the unpredictable hurricane season and during other periods of threatening weather.

Houstonians know that be tuning their radios to 740 AM, they will be given the most accurate and most up-to-the-minute information available on weather, world and national news developments, local happenings, sports scores, business news and traffic tieups. The highly dedicated and professional news staff at KTRH serves the needs of Houstonians 24 hours a day—and we Houstonians appreciate their hard work, their dedication and their commitment to serving their community.

That appreciation is reflected in the ratings success enjoyed by KTRH. In the fall 1989 Arbitron ratings, KTRH is currently in eighth place in the seven-county Houston-Galveston market. It is the only AM radio station in the top 10, and tops the second highest-rated AM station by almost 2 to 1.

Back in the 1930's, before accurate audience listener ratings were available, KTRH was known more for its innovative programming and illustrative staff than for its high ratings.

The station's first programs included such live performers as Paul Berge's Rice Hotel Orchestra, whistler Tex Lynn and blind pianist Floyd Tilton. The station also tapped into the CBS radio network's theater production, Mr. and Mrs.

In 1934, KTRH contributed two programs to the CBS radio network, the more influential being Vox Populi, or Voice of the People, which was the Nation's first man-on-the-street interview show. The program was hosted by Harry Greer, who conducted his interviews on the corner of Texas and Main streets, just below the Rice Hotel, in which KTRH was headquartered. The corner was as far as the microphone wires would allow. Since then, KTRH has changed and grown, and its microphone wires now span the globe.

During the 1940's and 1950's—before the advent of television—KTRH provided Houstonians with a mix of music and entertainment, which included reading the Sunday newspaper funnies to young people.

By the 1960's, television had replaced radio as the source of entertainment for most Americans, and FM radio stations threatened the very existence of traditional AM radio stations. KTRH began the 1960's playing middle-of-the-road music, but switched to a news-talk format in the mid-1960's. It retained its news-talk format until the mid-1980's, when it adopted its present all-news format.

Among the personnel who have worked at KTRH over the years are Walter Cronkite, Dan Rather, Jim Nance, Velma Cato and John Breen. While other men and women who have worked, or who currently work, at the station may not be as well known, they display the same high level of professionalism and dedication to their station, to their city and to their neighbors—the men and women who live in Houston and along the Texas Gulf Coast.

Mr. Speaker, I hope you will join with me in taking this opportunity to salute and thank the employees and officials of KTRH radio on the occasion of the station's 60th anniversary of serving Houston. Houston, and even possibly KTRH itself, will face many challenges in the years ahead. But if the past is a guide, both our city and KTRH radio will overcome those challenges and grow bigger and stronger—and they will do so a full partners in progress.

A TRIBUTE TO HAMPTON HIGH SCHOOL STUDENTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. WALGREN. Mr. Speaker, Today I pay tribute to a very special group of high school students from the 18th Congressional District who will be representing the State of Pennsylvania at the National Competition on the Bicentennial of the Constitution and the Bill of Rights. These students from Hampton High School recently competed in the Pennsylvania State Mock Congressional Hearing Competition sponsored by the National Bicentennial Commission and Center for Civil Education in California. The team placed first overall at the State level.

I would like to acknowledge the members of the Hampton team who accepted the challenge to study and defend the Constitution as a living document: David Ablauf, Jennifer Allison, Craig Anderson, Brian Baker, Bob Bauman, Michael Best, Aimee Brick, Steve Byrne, Brett Caruso, Bryan Engle, Tara Enie, David Evans, Niema Jones, Ben Martin, Oliver Mihm, Laurie Mink, John Pasquaretle, Wayne Reed, Doug Rowland, Amy Jo Seamen, Michael Stewart, Bonnie Weimer, Jim Wisniewski, Jenna Yendell, Candace Zaiden, Justin Zang, Joerg Zeppenfeld, and Paul Ziegler.

These outstanding political science students were fortunate to have Mrs. Sally Durrant as their adviser and teacher. Mrs. Durrant has been the initiating force in bringing the National Bicentennial Competition curriculum to the Hampton students for the past 3 years. In the first year of competition, her political science class won second place at the State level. I commend Mrs. Durrant for fostering in this next generation of American citizens an understanding of the background and history of the unique system of government created by our Constitution.

Several other individuals deserve recognition for their part in the students' success: Mr. Paul Hoffman and Mr. Ron Poister, teachers at Hampton High School who served as judges for their local competition as well as the law firm of Meyer Darragh who provided their expertise; Mr. David Dunton, Mr. Dennis Fisher, Ms. Michelle Soergel, Ms. Deirdre Krymski, Mr. Scott Zawitz and Mr. Jim Bromley for their special assistance to Mrs. Durrant. In addition, Hampton High School Board and especially Dr. Charles Erdeljac, principal, for their ongoing support of this fine program.

The National Bicentennial Competition provides an excellent opportunity for students to understand the principles and ideals that underly and give meaning to the writing, ratification, and implementation of the basic documents of American democracy—the American Constitution and Bill of Rights. I am very proud of the Hampton High School students and faculty for grasping the importance of this challenge to Americans to gain a deep appreciation of the significance of our Constitution, its place in our history and in our lives today.

Best of luck at the National Competition in Washington, DC in May.

THE PRICE OF THE DEBT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. STARK. Mr. Speaker, the General Accounting Office has just released its 1989 annual report entitled, "Facing Facts."

I thought the chapter entitled "The Price of the Debt," was particularly powerful in explaining to all Americans why during a period of relatively full employment, we have to do more to get this 800-pound gorilla of yearly deficits off our backs.

The essay follows:

THE PRICE OF THE DEBT

In 1975, interest payments on the public debt amounted to 13 percent of the general fund budget of the United States. In 1980, they totaled 17 percent. In 1989, they totaled 27 percent, or $241 billion. What this means, in other words, is that a quarter of the budget of the United States now buys nothing. It does not go to fight the war on drugs, or broaden educational opportunities for the young, or enhance the nation's security, or expand access to health care. It simply pays interest on a $3 trillion debt.

THE ENORMITY OF THE DEBT BURDEN

Just a decade and a half ago, the public debt stood at about $500 billion, one-sixth of what it is today. At the present rate of increase, it will soar by another $1 trillion—to $4 trillion—in just the next 4 years. Should we undergo a recession during this period, the loss of federal revenues will cause the debt to rise even faster.

This trend must not be allowed to continue. It drains us of resources we cannot

afford to waste. It deprives our leaders of the flexibility to meet new challenges—in their response, for instance, to the emerging events in Eastern Europe. It inhibits their ability to initiate or expand needed programs, provide resources in times of emergency, or even maintain the level of investment in government necessary to provide the public with basic services. It affects our competitive position in the world, inhibiting, for example, investment in research and development. It forces the United States to borrow more from foreign lenders, which means that interest rates must be high to attract their capital. This, in turn, hinders the flexibility of policymakers to hold the value of the dollar at a low enough level to keep imports relatively expensive, make our export goods more attractive, and reduce our record trade deficits. In addition, Treasury securities sold to finance the debt soak up trillions in private savings that otherwise might be invested in American business and industry—in plant modernization and other activities that would lead to higher productivity and economic growth.

In one way or another, our growing public debt affects all of us. The lack of flexibility it imposes on the government affects the education of our children, our response to environmental challenges, and our ability to deal with such corrosive problems as drugs in our cities and housing for the poor and homeless. It hinders the ability of American industry to compete in world markets. In short, it costs us more than dollars. It costs us opportunities.

THE FACTS ABOUT THE DEBT

Public concern with the condition of our government's finances is more widespread than it once was, but still not what it should be. Perhaps this is because, by the government's own figures, the budget crisis has already begun to come under control. The deficit, $212 billion in 1985, was officially reported at $152 billion in 1989 and is supposed to shrink to $100 billion in fiscal year 1990 (the year that began Oct. 1, 1989). Under the Gramm-Rudman-Hollings (GRH) deficit reduction program, we are supposed to be on a course toward a balanced budget by 1993. In reality, however, we are not.

The official figures conceal the fact that the imbalance on the nontrust-fund side of the budget is actually larger today than in 1985, the year in which GRH was enacted. In 1985, the nontrust-fund deficit was $266 billion. In 1989, it was $276 billion.

How have the facts about the government's finances been concealed? By several means, including deficit projections that are based on overly optimistic economic forecasts and accounting gimmicks—such as moving paydays from one fiscal year to another—that are an embarrassment to all involved. But what most distorts the deficit picture is the merging of the operations of federal trust funds with expenditures for the rest of the government.

The Social Security trust fund now operates at a surplus of $53 billion a year, soon to exceed $100 billion a year. When the Congress decided in 1983 to raise payroll taxes, its intent was to build a trust fund to finance investments to support the retirement of the baby boomers in the next century. Instead, the Social Security trust fund—along with other federal trust funds whose surpluses amount to $71 billion a year—is being spent right now to run the government. For purposes of meeting GRH deficit reduction targets, the trust fund surpluses are counted against the federal operating deficit. The bottom line of this "unified" budget shows a shrinking overall deficit. But if we exclude the trust funds, it is apparent that the government is operating at a loss at least $124 billion greater than the official figures indicate.

We are supposed to be making progress on the deficit. We are not. It is time to face this fact, and to act upon it.

A RESPONSIBILITY TO THOSE WHO FOLLOW US

The deficit problem can be solved. But the first step is to acknowledge, at long last, that without major changes in our spending and taxing policies, the problem will continue to grow. When we rely on optimistic forecasts and budgetary chicanery to create the appearance of a lower deficit, we only fool ourselves. And when we use the growing surpluses in the Social Security and other trust funds to offset the government's operating deficit, we only obscure the fact that the operating deficit is growing, too.

This year, GAO once again recommended against the use of trickery in budget making, and set forth an extensive proposal for restructuring the unified budget to reveal what's really going on—that is, to include separate subtotals for Social Security and other trust activities. Further, it would provide sections and subtotals for the government's business-type activities and investment activities.

GAO has also reiterated the need for a comprehensive, bipartisan budget strategy. Consensus and tough decisions are required if we are to straighten out our troubled finances and free ourselves to meet the enormous opportunities the times present us. Coming generations should not be deprived of these opportunities due to our negligence. They should not have to pay the price for our inability to get our financial house in order. For their sake as well as our own, we must begin to spend and tax more wisely. Doing so is our only means of returning the nation to fiscal health.

A SALUTE TO THE MIAMI LATIN KIWANIS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to congratulate the Miami Latin Kiwanis and its officers for the wonderful labor they have been doing since they received their charter on February 6, 1975.

The Miami Latin Kiwanis have continually served as a charitable organization, especially aware of the needs of underprivileged children in Miami. In addition to scholarships for needy Latin children, the organization also provides the opportunity for needy children to attend summer camp, visit Disney World, and participate in other events sponsored by the Miami Latin Kiwanis.

The Miami Latin Kiwanis are expertly led by: President Roberto Ibarra; First Vice President Carlos M. Trueba; Second Vice President and Secretary Oscar Mormeneo; Treasurer Nestor Javech; and past President Orlando G. Martinez. Their dedication and enthusiasm is an example of their love for our community in Miami. The Miami Latin Kiwanis have worked to help our young people. Mr. Speaker, I applaud the example they have set for all the citizens of Miami and wish them much success in all their endeavors.

CHARLES A. DEVITTO WILL LEAVE LASTING LEGACY IN WARRENSBURG

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SOLOMON. Mr. Speaker, we all have special places in our hearts for those quiet heroes in our district, men and women who rarely capture headlines but who nevertheless enrich their communities and reflect honor on their professions.

Today it is my privilege to single out one such individual in the 24th District of New York, Charles A. DeVitto of Warrensburg.

Mr. DeVitto is retiring after 32 years of service as an elementary school teacher and principal. In that capacity he has had a positive influence on countless young people.

He holds a bachelor of science degree in elementary education and a master of science degree in administration from SUNY Plattsburgh. He began his teaching career in Mineville, in 1958, and also taught in the Moriah and South Glens Falls systems before being appointed elementary principal of Warrensburg Central School in 1965.

During his years at Warrensburg, Mr. DeVitto distinguished himself as a firm disciplinarian, a farsighted planner, and a creative innovator. Even more important was his reputation with everyone who dealt with him as an honest man.

He is married to the former Constance Nolan. They have raised three daughters, Kelly, Kristen, and Kim, all three of whom are presently attending colleges in the State university system.

Mr. Speaker, my admiration for Mr. DeVitto also is based on his contribution to the Warrensburg Kiwanis. As a fellow Kiwanian, I reserve special respect for professional people who also give of themselves to enhance the life of the entire community. Mr. DeVitto is just such a civic-minded man, and the entire community of Warrensburg is proud of him.

He will be honored at a special June 2 dinner. Mr. Speaker, I ask you and all Members to join me and his many other friends in saluting him today with a heartfelt "well done."

HONORING THE ASSOCIATION OF JEWISH PROFESSIONALS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. ENGEL. Mr. Speaker, this month, an important new organization in New York City, the Association of Jewish Professionals, is celebrating its first year of activity. In a short period of time, the AJP has established itself as a major force in the New York metropolitan area. By bringing together community leaders

from many professions, the AJP has been able to create innovative programs and address a wide range of important issues.

One of the first goals the AJP met was to establish a scholarship fund to help needy students. Many of the founding members of the AJP are concerned educators who have recognized the need to improve our educational system. They have been joined by public servants, lawyers, judges, and other businessmen who also seek to improve education and other professional areas.

The AJP has also planned conferences, seminars, and workshops designed to counsel, professionals and assist in career advancement. Its members have also reached out to other groups that share their goals and ethics. The result is a network of community organizations dedicated to improving the lives of New Yorkers.

I wish to congratulate the founding members of the Association of Jewish Professionals on all the accomplishments they have made in just 1 year's time. I know that they will continue their fine work in the years ahead.

DELTA DAYS IN THE NATION'S CAPITAL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. FAUNTROY. Mr. Speaker, Delta Sigma Theta Sorority, Inc., which was incorporated in 1930, has demonstrated a vital concern for social welfare, academic excellence, and cultural enrichment through its 5-point program which includes educational development, economic development, international awareness and involvement, physical and mental health, and political awareness and involvement; and

There are over 175,000 members and more than 825 chapters of Delta Sigma Theta Sorority, Inc., in the United States, West Germany, Korea, and the Caribbean; and

Delta Sigma Theta Sorority, Inc., is sponsoring Delta Days in the Nation's Capital in Washington, DC, on April 3–4, 1990. Delta Days in the Nation's Capital is designed to emphasize the sorority's responsibility to communicate with, and to organize its members and the public in an effort to impact congressional legislation in preparation for issue-related challenges that lie ahead. As part of its national social agenda, the sorority frequently implements programs which educate and mobilize members to form networks toward affecting national, State, and local issues and policies.

I, therefore, urge all Members to join me in commending Delta Sigma Theta Sorority, Inc., for its 77 years of public service and political action, and convey to the sorority best wishes for continued success in future endeavors.

SIERRA CLUB CALLS FOR U.S. RETURN TO UNESCO

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. TORRES. Mr. Speaker, I rise today to inform my colleagues that the Sierra Club has endorsed a U.S. return to UNESCO, the United Nations Educational, Scientific, and Cultural Organization.

The following letter to President Bush from the director of the Sierra Club outlines why U.S. membership in UNESCO is important to organizations in this country and around the world who are working on global environmental problems:

SIERRA CLUB,
San Francisco, CA, March 15, 1990.

Hon. GEORGE BUSH,
President of the United States, the White House, 1600 Pennsylvania Avenue NW., Washington, DC.

DEAR MR. PRESIDENT: The Sierra Club is deeply concerned about United States leadership and cooperation in protection of Earth's environment worldwide. It is essential that the U.S. be an active participant in all global forums relevant to the environment.

For that reason, the Sierra Club believes that the United States must now rejoin UNESCO, the United Nations Educational, Scientific and Cultural Organization. UNESCO's science program had spearheaded international cooperation in environmental science over 30 years ago, before the term was even in use, with its research programs in oceanographic and water resources. It sponsored creation of the World Conservation Union. Its Man and the Biosphere program, now two decades old, is specifically dedicated to ecological research and management and to the preservation of biological diversity.

Today, one of our most urgent problems is building an environmental awareness among peoples everywhere, including in the economically hard-pressed developing countries. Because of its unique access to education ministries, especially in developing countries, UNESCO's new mandate for introducing environmental education into school curricula around the world is an especially pressing priority. Similarly, UNESCO is now spearheading inquiries by international social science into the social and human dimensions of global change, including the environmental sustainability of development.

The United States withdrew from UNESCO in 1984 because of political controversies and management problems. These issues seem largely resolved under the agency's new leadership. Global environmental problems loom so large that it is inconceivable that the United States should any longer stay outside a major U.N. agency that has significant environmental responsibilities.

We urge you to move quickly to bring the United States back into full membership.

Sincerely,

MICHELE PERRAULT,
Director and International Vice President.

ONE OF THE BEST WORKING NEWSPAPERMEN

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. EDWARDS of California. Mr. Speaker, on March 17, Walter T. Ridder passed away at his home in McLean, VA, after a long illness. Walter's death was received with great sadness by me and my family and by his many friends and admirers in Congress.

The Miami Herald on March 18 had this to say about the loss of Walter-Ridder:

Known for his charm, wit and kindness, the lean, aristocratic Ridder was a third-generation newspaperman, who once proposed his own epitaph: "His heart was in the newsroom, not in the counting-house."

His first paying job was as an $18-a-week reporter for The Hartford Times; his last was as a member of the board of directors of Knight-Ridder, from which he retired in 1989. Knight-Ridder is the parent company of The Miami Herald.

In between he worked at Ridder newspapers in Duluth, Minn., St. Paul, Minn., and Gary, Ind.; served as a war correspondent in Europe during World War II; ran the information service for the Marshall Plan in Paris; and for many years headed the Ridder papers' Washington bureau.

He was decorated with the War Department's Award of Merit, St. Olav's Medal from King Haakon of Norway and the West German Order of Merit for his services to that country after the war.

Ridder was born on April 1, 1917, in New York City, the son of Victor Frank Ridder and his wife, Marie. His grandfather, Hermann Ridder, came to the United States from Germany shortly before the end of the last century and bought an interest in a German language paper in New York, The Staats-Zeitung.

That was the root of the Ridder publishing empire, which grew to include 19 newspapers, radio and television stations, mostly in the Midwest and West, at the time of the merger with Knight Newspapers in 1974.

"Walker-Ridder, was one of the principal architects of Knight-Ridder, an outstanding correspondent and editor, Washington bureau chief, publisher and director," said James K. Batten, chairman and chief executive officer of Knight-Ridder.

"All of us who knew him and shared the joys of newspapering with him are saddened by his passing. He was much beloved by his friends on the Knight-Ridder board of directors and all around our company."

Ridder received his bachelor's degree in American history and literature from Harvard University in 1939. After short stints at The Trenton Times, without pay, and The Hartfold Times, he went to work for his family's pattern Duluth.

Starting in the circulation department, he soon asked to be transferred to the editorial side. He later wrote that while "the other departments of a newspaper are indisputably necessary, the heart and soul of journalism rested in the reporters, copy desk men, rewrite men and editors."

In 1941, he came to Washington as correspondent for The St. Paul Pioneer Press-Dispatch, another Ridder paper. He joined the U.S. Army in 1942 and rose to the rank

of technical sergeant before being discharged in 1943 because of poor hearing.

He then became a war correspondent in the European theater representing the St. Paul and Duluth newspapers as well as the North American Newspaper Alliance. He covered the liberation of the Nazi death camp at Dachau in 1945, using his fluent German to translate the gruesome scene for an American general. He also covered the liberation of Norway, Sweden and Finland.

Ridder returned to the Ridder Washington bureau after the war. But in 1947, he was asked to head the information department of the Marshall Plan during the rebuilding of Europe. He was the originator of a radio station that beamed programs into East Germany, an early predecessor of Radio Free Europe. He also developed a text-book on the Marshall plan, along with Ambassador John McCloy, that was used in the West German school system.

Ridder returned to Washington in 1952, where he remained except for six years as publisher of The Gary (Ind.) Post-Tribune from 1967 to 1972.

I was particularly touched in reading the letter to the Washington Post on March 20, written by veteran newspaperman and TV commentator Tom Braden in his tribute to Walter Ridder. I reprint it below:

ONE OF THE BEST WORKING NEWSPAPERMEN

In a lifetime that ended last Saturday, Walter Ridder successfully defined one of the shibboleths of the reporter's trade. The shibboleth is that he who owns a newspaper or is a member of a family that owns newspapers is not really a working newspaperman, doesn't belong on the bus or is on the bus only by virtue of his pocketbook.

I was set straight about the shibboleth on a day in 1964. An outlander from California, I had joined Stewart. Alsop and Rowland Evans for lunch, and they were discussing Hubert Humphrey's vice presidential hopes. Midway through the conversation, Alsop produced a pile of clippings from the St. Paul Pioneer Dispatch. Each had to do with Humphrey, and each bore the byline of that paper's Washington bureau chief, Walter T. Ridder.

Before Alsop could pass the clippings on to Evans and begin a recitation of what he had learned from them, I came out with the shibboleth. After all, Walter Ridder belonged to a family of publishers. What would he know that was news?

At which point both Evans and Alsop jumped all over me. "Look, Braden, every working newspaperman in this town is reading the St. Paul Pioneer Dispatch because Walter Ridder is covering Humphrey and covering Humphrey better than anybody else. So shut up and listen."

So much for shibboleths. Walter Ridder fought this particular shibboleth all of his working life. Dutifully he took his turn as a publisher—the Gary, Ind., Post Tribune. But it was after relinquishing this job that he made the remark that must have caused angry snorts from cousins and uncles in every office of the publisher at every Ridder newspaper across the country: "My heart," he said, "was always in the newsroom, not the countinghouse."

For the last several years, Walter Ridder was almost deaf, almost blind, almost wholly crippled, obviously trying courageously. Which is why it is important to point out for the benefit of outlanders who have come along since that time not so long ago, he was known by his contemporaries as "one of the best working newspapermen in this town."

On March 23, a memorial service was held for Walter. Following is an accounting of that service as reported by the Washington Post.

RIDDER EULOGIZED

(By Martha Sherrill)

His family, old-guard friends and newspaper cronies were shuffled together at the Sheraton-Carlton Hotel yesterday afternoon to remember Walter Ridder, the Washington newsman who died last weekend at 72.

The memorial service began somberly—hymns sung by Wendy Morgan—and ended with all 400 gathered joining in "The Battle Hymn of the Republic." There was a nostalgic performance by members of the Gridiron Club, who sang bits Ridder had written for club skits as far back as 1962. There were reminiscences, mostly funny anecdotes that gave a sense of Ridder, beloved for his enthusiasm for newspapering, and for his wit and good nature despite illnesses that for many years had disabled him.

"I would describe him as a *blithe spirit,*" said eulogist Clark Clifford, "the greatest blithe spirit—or perhaps more correctly, the *blithest blithe spirit.*" For 21 years, Clifford and Ridder served on the boards of Ridder News, and then Knight-Ridder News. "I was excited and challenged by the reach of his mind. It was always searching and expanding. His horizons were broadening at all times. And I always looked forward, with great anticipation, to our visits."

Robert Ridder delivered several sweet stories about "the best older brother anybody's ever had," and their childhoods—charmed by nurses, tennis lessons, boarding schools and ocean liner trips to Europe (when their parents took a separate liner).

And their camaraderie. "Once when I was with Walter we were driving in the automobile on a country road, and a policeman stopped the car. There was nothing really unusual about that except that Walter was 11 and I was 9."

Rick Ridder read a letter written by his father that showed his wry wit. Daughter Cary Ridder Alberswerth read the poem "Sea Fever" by John Masefield: "I must go down to the sea again, to the lonely sea and sky . . ." as a tribute to her father's boating.

Afterward there was a reception in a sundrenched tent abutting the hotel. Ridder's widow, Marie, greeted everyone—the former columnists and columnists Rowland Evans, Robert Novak, David Broder, Tom Braden, Clayton Fritchey, Philip Geyelin, Hodding Carter; Washington Post Co. Chairman Katharine Graham; Washington socialites Evangeline Bruce and Jayne Ikard; United Press International White House correspondent Helen Thomas. Former senator Eugene McCarthy came, and former ambassador from Sweden Count Wilhelm Wachtmeister with Countess Ulla.

Walter Ridder is survived by his wife, Marie, whom he married in May 1948; four children: Cary—Mrs. David Alberswerth of Washington, DC; Stephanie—Mrs. John Beardsely of Bethesda, MD.; Victor F. "Rick" Ridder of Denver, CO; and Pamela Ridder of New York City; and seven grandchildren.

There are three sisters, Joan—Mrs. David Challinor of Washington, DC; Gretchen—Mrs. Peter Nicholas of New York City; Esther Ridder of New York City; and a brother, Robert Ridder of St. Paul.

Mr. Speaker, I know that many of my colleagues were distressed to learn of Walter's death. My wife, Edith Wilkie, and I were particularly saddened because we knew personally Walter and his dear wife, Marie, and we had spent in the past many happy hours with them and their children.

WHY I AM PROUD OF AMERICA

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. THOMAS of Wyoming. Mr. Speaker, I would like to take this opportunity to congratulate a fine young Wyomingite, Sara Love Lauer.

Ms. Lauer is a 17-year-old senior at Powell High School, interested in pursuing a career in law. This young woman participated in the Voice of Democracy broadcast script writing contest. Her script "Why I am Proud of America" which discussed the freedom of choice, won first place in the Wyoming statewide competition.

The Voice of Democracy scholarship program started 43 years ago with the endorsement of U.S. Office of Education and the National Association of Broadcasters, Electronic Industries Association, and State Association of Broadcasters. In its fifth year the Veterans of Foreign Wars assumed sole sponsorship responsibility.

This past year more than 137,000 students participated from over 8,000 schools. Over 4,800 VFW posts and 4,000 ladies auxiliaries sponsored the program and over 2,300 radio and TV stations cooperated.

It is obvious that the participation in this program was extremely high and the competition for the scholarships rigorous. It is therefore an honor to have a student from Wyoming receive such an award. The people of Wyoming are very proud of Sarah and her academic accomplishments.

A copy of Sarah's script is attached, and I commend it to my colleagues.

WHY I AM PROUD OF AMERICA

(By Sara Love Lauer)

When I was a little girl I had already decided what I was going to be when I grew up. I was going to be a famous actress, the kind that everyone followed around desperately seeking my autograph. When I got a little older, I knew that that dream was just immature and shallow; I was going to be a doctor. I would find the cure to cancer and serve all mankind, that was my destiny. A few years later I realized I hated science and could never become a doctor. My dream was clear. I was going to represent America in basketball, in the Olympics. I practiced every day at noon and evening after school, and I was good too, but soon I noticed that everyone was getting taller and I wasn't. I then reluctantly admitted that I was too short to play basketball, but it was OK. I know now where my true talents were. I loved to argue, and I rarely lost. I joined debate my sophomore year in high school and then decided once and for all I would go to law school and become a lawyer.

Now I'm a senior in high school, and I have my whole life ahead of me to become

anything I want. I live in America. If I work hard, I can accomplish anything. It's my choice. I can choose to be rich or to be poor. I can choose my future. That's what America is all about. That's why I'm proud of America. The freedom of choice.

Choice is a simple word with so much meaning. It is the essential component of America.

As a teenager I see the freedom of choice being tested everyday. In my senior class there are three pregnant girls. Each of them are faced with similar situations, but each will choose a different solution. One might get married, one might put her baby up for adoption, and one might have the baby alone and quit school.

As seniors we are all being asked to choose a college. All of us are being faced with the same dilemma, yet all of our decisions will be radically different. Some might go to Harvard, some might go to the junior college in town, and some might not go at all.

Many of us are eighteen or will be in a matter of months. We will have the opportunity to vote in the next election. Some of us will register, learn about the candidates and vote accordingly, many will register and not vote, and many will not register.

Many of my classmates as young adults are exploring their religion and new religions. Many love and admire the religion of their parents and will never change. Many will look at new religions and convert, and some will simply not be religious.

In my school and schools across America all teenagers are being faced with the choice about drugs. Thousands and thousands of teens will try drugs and become addicted. Thousands will try them once and never touch them again, and thousands will never try drugs.

As an American I look at the choices our country has had to make. Settlers made the difficult choice to come to America. Scared of the unknown, many left their families behind hoping for a better life in a strange land.

Our forefathers made the choice to fight for America's independence. Battling against many odds and losing many men. America won. The Constitution was formed along with the choice of a democratic government. Our nation was dividing; the North chose to fight against brothers and friends in the South, wanting desperately to reunite America.

The blacks were treated badly, finally we chose to free them from their slavery, yet for many more years we still treated them cruel and inhumane. Women were slowly gaining more rights and respect. World War II was chosen to be fought with pride. Each vet was welcomed home with parades after conquering the evil Hitler. A choice was made to send a man to the Moon, helping us to make great progress in space, and start an era of technology.

Each individual person in America, and America as a country is constantly faced with choices. Many times we make the right decisions, and all too often we make the wrong decisions, but good or bad we take the consequences. We rejoice in our victories and learn from our defeats. We as humans have been given the ability to reason and to understand, but our country has made it possible to use those abilities to their fullest. That's why I'm proud of America.

HOPE COLLEGE WOMEN'S BASKETBALL TEAM WINS NCAA DIVISION III CHAMPIONSHIP

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. VANDER JAGT. Mr. Speaker, It is with admiration and heartfelt congratulations that I rise today to pay tribute to the Hope College Women's Basketball Team, who on March 17, won the NCAA Division III Women's Basketball Championship. The Hope College "Flying Dutch," headed by Sue Wise, the National Division III Basketball Coach of the Year, won in the closing seconds of the championship game on clutch free throw shooting. The final score against St. John Fisher College of Rochester, NY, was 65–63.

I know that their fellow students and indeed many young people throughout the country will benefit from the marvelous example the members of this outstanding team have provided us all. This is a team who gave its all through strength, determination, and dedication. I am proud to be an alumnus of Hope College and a big fan of the Flying Dutch. This team's accomplishments serve as a model I know we all hope others follow both on and off the court.

I am pleased to bring the Flying Dutch to the attention of my colleagues, whom I know will join me in saluting them for a job exceedingly well done. I am sure you will also enjoy the following article that appeared in the Holland Sentinel, chronicling the victory of the Flying Dutch.

HOPE: NO. 1 IN DIV. III

(By Leo Martonosi)

The impossible dream. But 10 years later.

Hope College women's basketball team's 65–63 NCAA Division III victory over St. John Fisher of New York Saturday night in the Civic Center compared to USA's stunning hockey gold medal of 1980.

The Flying Dutch (24–2) rallied from a 20-point second half deficit to stun the No. 1 ranked Lady Cardinals (31–2) to win the school's first national team championship.

Two free throws with 0:00 reading on the clock by Dina Disney enabled Hope to pull out the victory.

"I do believe in miracles and we had no doubt that Dina would make the free throws," said a drained Hope Coach Sue Wise. "Dina is such a pressure person (sank her last 37 free throws over a 16-game period). There was never a doubt on her face that she wouldn't make them."

"We said a little prayer after they (St. John Fisher) called a time out trying to psych Dina," Wise continued.

Wise became the second straight NCAA coach to take a team to a national title in her first year as coach. Last year it was Michigan's Steve Fisher who accomplished the same feat.

"I'm truly thankful and have been blessed by God," said Wise.

What was Disney, who was fouled thinking about when she stepped to the free throw line after the officials ruled the time clock buzzer had not gone off?

"I kept saying a Bible verse Philippians 4:13 ("I can do all things in Him who strengthens me.") said Disney.

Phillip Kahler, the coach of the Lady Cardinals, showed a lot of class in the loss, which was more difficult for his two assistant coaches and his players to accept.

"Just being here is great," said Kahler, who compiled a 5–1 record in his days as the coach of the Aquinas College men's teams against Coach Russ DeVette and his Hope College Flying Dutchmen.

"This was a great game between two great teams," Kahler said. "Someone had to win and someone had to lose.

"We aren't going to cry over spilled milk. We didn't lose the game with the controversial foul at the end," insisted Kahler. "We lost it four minutes earlier. Hope just played better defense and nobody has put that kind of pressure (full-court zone press) on us all year like they did."

Disney, who tied the score with an NBA 3-point bomb with 13 seconds left, finished with a team-high 20 counters. Holly VandenBerg and Michele Sterk followed with 14 and 13 points in that order for the NCAA champion Flying Dutch.

Susan Heidt, who nailed 15 straight free throws the night before against Heidelberg, made 9 of 11 this time around plus 8 field goals for 25 points for the Lady Cardinals.

Chipping in with 14 and 10 markers for St. John Fisher were Michelle Skovrinski and Michelle Winship.

The never-say-die attitude of the Flying Dutch paid off, according to VandenBerg, who returned from a journey to Bloomington Indiana, five hours earlier.

"This team never quits," said VandenBerg, who drove to Bloomington, Ind., for a successful grad school interview at Indiana University after Friday night's semifinal win over Centre, Ky.

Hope was twice down by 20 points. The first at 52-32 with 12:13 to play and the second at 56-36 three minutes later. But with the nearly capacity crowd which was made up primarily of Hope people yelling their lungs out, the Flying Dutch drew closer. Hope was still down 60–47 with 4:13 remaining when the Flying Dutch outscored St. John Fisher 18–3 the rest of the contest.

"Incredible," said Disney of the comeback. "Just incredible."

Wise said it wasn't one thing that turned the game around but three.

"We had nothing to lose when we put on the press," Wise noted. "But I believe they had three straight turnovers with the last one being picked off in the corner that really seemed to inspire us."

St. John Fisher still had a chance to win after Disney's 3 point bomb, but one of the Lady Cardinals committed an offensive foul with five seconds remaining. After Hope's inbounds pass was intercepted by Heidt, Lissa Nienhuis knocked the ball loose and Dina Disney was fouled trying to get her hands on the loose ball just before the horn sounded.

The officials gathered at midcourt with the official timer and came away with their hands pointing one-and-one.

"It was the officials who ruled time had not gone off and not the timer." said Tom Renner, director of college relations for Hope.

Also helping Hope to the national title beside Disney, VandenBerg and Sterk were Nienhuis (8 points, and game-high 9 assists), Heidi Carigon (4 points), Robin Schout (2 points), Anna Marie Postmus (3 rebounds, 1 block) and Melinda Maurits (4 points, 1 block, 1 rebound).

"Schout's second half basket really gave us a spark." insisted Wise.

The two-pointer by Schout ended a 20-point Hope dry spell Her basket cut Fisher's lead to 52-34.

Hope scored many first half baskets with the crowd helping them by counting down the shot clock 6, 5, 4, 3, 2, 1.

"I can't say enough about our fans," said Wise. "They're the best and they made a difference again tonight."

The first half was action-packed with neither team calling a time out or putting in a substitute for the first 10:54. And that only came about when Wise inserted Maurits for Postmus, who was charged with her second foul.

St. John Fisher managed to hold a 30-28 halftime margin, which turned out to be the point difference but vise versa for the game.

Two Hope players—Disney and VandenBerg—were named to the all-tournament first-team.

Joining Disney and VandenBerg on the all-tourney team from St. John Fisher were Heidt and Roxanne Chupp. Also named to the Squad was Heidelberg's Dortha Ford.

GREEK INDEPENDENCE DAY

SPEECH OF

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 21, 1990

Mr. WALGREN. Mr. Speaker, the United States has a rich ethnic diversity and every nationality contributes to the unity of our country. Through the recognition of significant contributions of each individual group, our Nation gains greater strength and harmony. I am pleased to cosponsor House Joint Resolution 473, a resolution designating March 25, 1990 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

Our Founding Fathers based our system of government on the principles of democracy defined in Ancient Greece. In an address made in Greece over 2,000 years ago, Pericles stated:

Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man possesses.

These basic principles define American society today.

As the Greeks struggled for independence from the Ottoman Empire during the early 1800's, Greek citizens looked to the United States as an example of the freedom for which they fought. Greek intellectuals translated the Declaration of Independence of the United States and used it as the basis for their own declaration. The United States became the role model for a new democracy emerging in Greece just as it serves as a role model for the emerging democracies in Eastern Europe today.

It is with pleasure that I join with my colleagues in honoring the spirit of democracy born in Ancient Greece and kept alive in the continued struggle for freedom throughout the world.

CANADA'S SENSIBLE APPROACH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. STARK. Mr. Speaker, the American health care insurance system is in a free fall, with employers, unions, and insurance companies daily finding new reasons not to insure people or honor the commitments made in the past.

Changes clearly are coming. We have a lot we could learn from our neighbor to the north. The following is an excellent op ed from the Los Angeles Times of March 26, 1990:

[From the Los Angeles Times, Mar. 26, 1990]

CANADA'S SENSIBLE APPROACH

(By Ernest Conine)

Forty-eight percent of the American people fear that they could not afford good medical care if they became critically ill, according to one poll. Nine out of 10 believe that the health-care system needs fundamental change. Two-thirds tend to favor a national health-insurance system of the sort enjoyed by Canadians.

The politicians, however, are not impressed. As a key California congressman observed, "It's hopeless to get a comprehensive [health] plan passed in the United States, politics being what it is."

Although Congress uses the budget squeeze to justify inaction, the problem basically isn't money. It's the failure of the American health-care system to give us our money's worth.

Americans spend more for medical care than any people on Earth—more than $600 billion a year, which figures out to $2,500 per person, or more than 11% of the gross national product. Relative to population, we spend 40% more than the Canadians, 61% more than the Swedes, with their supposedly bloated welfare state, 85% more than the French and 130% more than the Japanese.

Yet, whereas these countries provide medical care for all their citizens, 37 million Americans have no health insurance at all. And our enormous outlay notwithstanding, life expectancy in this country is lower than in many other modern societies. In infant mortality we rank 22nd in the world, behind Canada, Japan, Western Europe and even some Third World countries.

Meanwhile, medical costs—and health-insurance premiums for both employers and employees—continue to soar.

The existing system, with its emphasis on health insurance provided through employers, supplemented by government-supported programs for the poor, has unfortunate side effects.

Welfare recipients have a disincentive to seek work because they will lose Medicaid coverage.

Job mobility is discouraged because employers are reluctant to take on new workers with ailments or disabilities that would trigger increases in company-paid insurance premiums.

Wages are depressed as employers try to offset rising health-insurance premiums.

Employers' enormous medical insurance costs act as a tax on exports, reducing the ability of U.S. companies to compete with producers in countries where health care is financed through national insurance.

It is little wonder that the Canadian system is attracking interest. That system isn't perfect. But Canadians spend much less than we do on medical care, live longer and score better in such indicators as infant mortality and heart-disease fatalities.

The Canadian plan guarantees comprehensive medical and hospital coverage to everybody in the country. People choose their own doctors. There are no deductibles and no extra charges beyond the prescribed rates and fees, which are set in negotiations between the medical profession and provincial governments.

Canadian doctors might prefer the free-wheeling U.S. system. But their incomes compare well with other professionals in Canada—and there has been no big flight of physicians to the United States.

U.S. politicans, however, recoil from national health insurance because they fear it would cost more—and are convinced that the voters share President Bush's well-known aversion to new taxes. To the extent that they address the issue at all, they incline toward legislation requiring all employers either to provide adequate medical insurance or pay taxes for a government safety-net program.

Even this approach lacks sufficient support, which is just as well. It would penalize U.S. global competitiveness even more than now and, in the long run, would take more money out of our pockets than would national health insurance as companies passed on their higher costs to consumers.

The Canadian approach makes much more sense—especially if combined with reform of U.S. liability laws, which force doctors to pay big malpractice insurance premiums and encourage them to order unnecessary tests.

With a universal system, we would no longer need separate taxpayer-supported systems for the poor, the elderly, veterans and the like, nor would there be much need for private health insurance.

Savings in administrative costs would help, too. About 8.5% of health spending in this country goes for administration, compared with only 2.5% in Canada. The difference lies in the enormous paper work generated by hundreds, even thousands of different medical plans here, compared with Canada's single basic system.

The biggest obstacle to decent medical care in America is not the cost in dollars, but the resistance of entrenched interests in the medical and insurance industries to fundamental change in a system that costs too much and delivers too little.

IN HONOR OF OCCUPATIONAL THERAPY RECOGNITION MONTH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Ms. LEHTINEN. Mr. Speaker, I rise today to bring your attention to Occupational Therapy Recognition Month which is being celebrated in April. In Miami, a group of occupational therapists are gathering this week to pay tribute to the thousands of dedicated professionals who help bring hope and independence to

people of all ages who need help with their disabilities.

Millions of people every year are temporarily or permanently disabled by birth defects, illness or injury. Skilled help by occupational therapists allows those who need help to live independent, productive and satisfying lives. Occupational therapists help them become less dependent on others for their daily needs. They help people avoid costly institutional care and enable them to learn job skills and seek productive more lives.

On Thursday, April 5, occupational therapists in Miami will gather at a reception at Palmetto Medical Plaza to honor their colleagues and help raise awareness about the contributions by their profession. I want to make special mention of Teresita Rasco, an occupational therapist who is one of the organizers of the Miami Occupational Therapy Forum, Elizabeth Brinegar and Joy Verrusio of Bon Secours Hospital, Carmen R. Cohen, vice president of marketing and program development at West Gables Rehabilitation Hospital, who will be guest speaker, and Mike Nolan, also of West Gables Rehabilitation Hospital. I ask my colleagues in Congress to join me in recognizing the valuable work and compassion by these dedicated occupational therapists.

AL BROWN: A MODEL FOR ALL PUBLIC SERVANTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SOLOMON. Mr. Speaker, please join me in paying tribute to Al Brown.

Al Brown has retired after more than 29 years on the Malta Town Broad in the 24th New York District. When people in our district think of public service, they think of Al Brown. When I say I am going to miss him, I know I speak for everyone in the town of Malta.

Mr. Speaker, like many of the Members of this body, I got my start in politics on the local level. Before concerning myself with Federal deficits and strategic arms talks, I concerned myself with school board levies, potholes, and police cruisers. And that is the way it should be. That's the only level of government many Americans experience close-up, the level that affects their lives the most on a daily basis.

And that is where people like Al Brown excel, in those local governments that are most responsive to the needs of the people. I do not need to tell anyone on this floor, Mr. Speaker, that to stay in office—any office—for over 29 years you have to be doing something right. And Al Brown has been doing right by the people of Malta since his first day in office.

Mr. Speaker, there will be a testimonial retirement dinner for Al Brown on Monday, April 16. Let us add our own testimonial today to Al Brown, a great public servant and a great American.

THE 10TH ANNIVERSARY OF RAIN HOME ATTENDANT SERVICES, INC.

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. ENGEL. Mr. Speaker, 10 years ago this June, a leading Bronx community group, Regional Aid for Interim Need Inc. [RAIN] began a service that has become a vital part of the lives of hundreds of Bronx residents—RAIN Home Attendant Services.

Under the guidance of director Murray Kaufman and RAIN's founder Bea Castiglia, the home attendant service has allowed the elderly and disabled to avoid being sent to nursing or group homes prematurely. Certified and trained home attendants help meet their clients' daily needs and enable them to continue living in their homes with pride and dignity. For 10 years, the service has provided high quality care to more than 1,000 clients in the northeast and northwest Bronx.

Every nurse, case coordinator and social workers deserves congratulations on the 10th anniversary of RAIN Home Attendant Services. The pride and dedication they have exhibited has made their program a model for quality home care services. Their success is proof that compassionate care can be provided to the elderly and disabled in their own homes. I believe health care providers throughout the United States can learn much from the many services delivered by RAIN.

I extend thanks and congratulations to Bea Castiglia and Murray Kaufman for the leadership they have exhibited, and on behalf of my constituents I wish them many, many more years of success.

PRIME MINISTER COMPTON URGES UNITED STATES NOT TO SIDELINE THE CARIBBEAN

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. CROCKETT. Mr. Speaker, in my capacity as chairman of the Subcommittee on Western Hemisphere Affairs I recently led a delegation to Saint Lucia and the Dominican Republic for the purpose of evaluating the success of United States aid programs in the Caribbean.

What we found was that despite the best intentions of the Caribbean Basin Initiative [CBI], the region has suffered from benign neglect. We found that in spite of U.S. calls to countries around the globe to open their markets to free tade, our own markets have remained almost impenetrable. In fact, instead of increasing, United States aid and trade with the Caribbean have declined dramatically since the initiation of the CBI.

In his opening address to the consultation in Saint Lucia, the Prime Minister of Saint Lucia, the Right Honorable John Compton, spoke eloquently of these very issues. While freedom and democracy are breaking out all over the world, he called on the United States not to forget those in this hemisphere that have remained democratic throughout, saying, "Our friends in the U.S. Congress and in the administration, should ensure that notwithstanding the dramatic events in Eastern Europe and Central America, we in this region, while not being 'headlined,' should not be 'sidelined' to languish in a state of underdevelopment."

The entire text of the Prime Minister's eloquent address follows:

ADDRESS BY RT. HON. J.G.M. COMPTON, PRIME MINISTER, SAINT LUCIA

Mr. Chairman, Honourable Ministers and Officials from other Caribbean countries, Ladies and Gentlemen: Let me in your name and on your behalf welcome to Saint Lucia Mr. George Crockett of the U.S. House of Representatives, a tried and tested friend of the Caribbean and his team of officials and advisers.

Perhaps I will take this opportunity to thank Representative Crockett for his determined effort in keeping the interest of the Caribbean area on the U.S. national agenda at a time when events of such a world shaking nature are taking place outside of the Caribbean, and in particular to thank him for his efforts in reforming and improving upon the Caribbean Basin Recovery Act now before Congress and known as C.B.I. II, the economic charter under which the relationship between the U.S.A. and the Caribbean is conducted.

This meeting is but one of a series of discussion sessions being conducted under the guidance of Rep. Crockett.

Since the last session in Barbados, the entire world has watched unfolding, the dramatic events of Eastern Europe and Central America. The shock waves of the crash of the Berlin Wall has sent tremors felt in the remotest parts of the world. This monstrosity which was so often bathed in the blood of freedom seekers, was the scene of champagne parties; "Perestroika" and "Gasnost" have acquired a momentum of their own, and the fresh winds of change ushered in have now become a veritable hurricane.

In geopolitical terms, this is a most welcome development and should be encouraged, and the Western world which has so long advocated these changes should undertake programmes to sustain and accelerate them.

However, the parable of the Prodigal Son should not be repeated here. While the return of Eastern Europe to the democratic fold should be celebrated with the killing of the proverbial "fatted calf"; while the democratic processes in the Central American countries of Nicaragua, Panama, El Salvador and Honduras should be similarly celebrated, we, who throughout the years have been steadfast in sustaining the democratic values in this region; we who inspite of our trials and adversities have never turned to the Colonels or the Commissars for solutions, should not be excluded from the table and forced to gather the crumbs. Our friends in the U.S. Congress and in the Administration, should ensure that notwithstanding the dramatic events in Eastern Europe and Central America, we in this region, while not being "headlined", should not be "sidelined" to languish in a state of underdevelopment.

We in the Caribbean now face one of our greatest challenges as we prepare to enter the 21st century.

While there has been a call for a New Marshall Plan for Eastern Europe, the call for a "Columbus Plan" to celebrate the 500 years of association of this Region with Europe, goes largely unheeded. While after nearly three years of effort the Support Group for Guyana has not been successful in raising a mere $35 million for Guyana, the same group of nations could, within a period of three months, mobilise a rescue package of $1,000 million for Poland.

What we in this region are seeking are not "handouts" but rather a "hand up"—an opportunity to earn our living. Not Food Aid, but access to markets for our products; not mere promises and polite rhetoric but policies fairly administered without the bureaucratic pitfalls and administrative hurdles which so often obstruct the lofty goals approved by Governments. The promises of the C.B.I. should not be the Trials of Tantalus, always receding from our thirsty lips; but rather should be a door of opportunity through which men and women of enterprise can freely enter in search of a better and fuller life.

It is in this context that I welcome these series of consultations, to see how we, whose association with the United States of America is linked not only by history and geography, but by the common ideals which we share; how we, by our own efforts and through our shared experiences, through a system of free enterprise and access to markets, can remove from our region, the scourage of poverty and want, which through the centuries have been the constant companions of the majority of our people.

The principal instrument which we have forged to achieve this noble objective was the Caribbean Basin Recovery Act or the CBI as it is popularly known. The intent of this Act was to offer to beneficiary countries access to the U.S. markets for a wider range of products; direct economic assistance for improvement of our infrastructure base to facilitate this process, and capital investment to stimulate the private sector.

Let us for a moment examine frankly whether these goals have been met. The cold statistics shorn of polite rhetoric will lead us to the conclusion that the CBI has not lived up to its early promise. Direct economic assistance for the development of our infrastructure has been drastically reduced and is now 35% below previous levels. What is most amazing in this context is that not even the most successful programme have been spared. For example, only the most persistent and vocal efforts of the OECS leaders and the Caribbean Development Bank saved the most successful programme of the Basic Needs Trust Fund from the knife. But similar representations were unsuccessful with respect to the Youth Skills Programme—a programme so important to us that our Governments in spite of the termination of U.S. aid have continued this project with their own meagre resources.

Investment which was never a flood, has slowed to a mere trickle. In trade, the picture is even less encouraging and the balance of trade against the Caribbean worsens with each succeeding year. The countries of the Caribbean can therefore not be blamed for the U.S. trade deficit.

Let us take a few examples to illustrate the point. Trade with the Bahamas which presidential aspirants can reach by "Monkey Business" in one hour, has declined from $1.3 billion in 1983 to $285 million in 1988 and Trinidad and Tobago whose recovery is vital to the entire CARICOM region has fared no better, and U.S. trade with that country has declined over the same period from $1.5 billion to $846 million. In the case of Barbados the decline was from $203 million to $53 million and with Guyana the decline was some 22% and yet we are termed "beneficiary countries" under the CBI. It would appear that we need a new definition of the term "beneficiary."

In trade, protectionism—whether legal, administrative or bureaucratic—appears to be the rule rather than the exception. Without one scintilla of scientific evidence, many of our agricultural products are deemed harmful to health as soon as they begin to penetrate the U.S. market.

Sugar, one of the major exports of five of our CARICOM countries, lives constantly in the shadow of the Sword of Damocles. The sugar quota is often arbitrarily reduced and in its place "food aid" is offered—stripping a country of its very self-respect. Sugar imported into the U.S. since 1982 has fallen from a 50% of domestic consumption to a mere 7% in 1988 with hundreds of millions of dollars lost in export earnings, and thousands of jobs in an industry which is the mainstay of the economy of five of our countries. At the same time, the American taxpayer spends $48 billion to subsidize domestic producers. While the recent increase in the quota is welcome, the arbitrariness with which this quota is adjusted does not lend itself to long term planning.

Many of our countries which live by the export of bananas to Europe must brace themselves for changes in that market. The Single Europe Act in 1972 will open the door to competition in that market which our products must face. This calls for diversification, not only in agriculture but in this entire economy. For this, assistance is needed not only in access to new markets for new crops, but to diversify into other fields such as tourism for which our countries, with the proximity to the U.S. markets hold a particular advantage. But there must be investment in this field in both the private and the public sectors.

Many of our countries because of the progress made by our own efforts, are now being denied access to concessionary funding from international institutions and our projects are too small to attract World Bank funding. It is therefore to our traditional friends that we must look for that extra push to get us on the road to sustained growth.

This meeting here today following upon the recent visit of Vice President Quayle to the region, is reassuring that in the headline grabbing events in other parts of the world, there is a forum to address the Caribbean concerns.

I therefore welcome you to St. Lucia and hope that the preparations for this meeting will contribute to its success.

EDUCATION: CULTIVATING THE INVENTORS OF TOMORROW

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SAWYER. Mr. Speaker, I would like to share with our colleague an article written by Edwin J.C. Sobey, Ph.D., for the March 22 edition of my hometown newspaper, the Akron Beacon Journal.

Dr. Sobey, the executive director of the National Invention Center, Akron, OH, the new home of the Inventors Hall of Fame, offers an insightful yet commonsense plan for parents who want to encourage their children's interests in science and mathematics.

"Will the great inventors of this next century be Americans?" asks Dr. Sobey. His response reflects the concerns of a wide range of Americans in the academic and research communities who fear that America's poor standing in international comparisons of math and science skills will translate into an inability to maintain our technological and innovative edge.

Dr. Sobey proposes that parents work in a close partnership with teachers to help reveal the dual fascination of math and science to young students. Both in the classroom and in the living room, all of us must work with our children to show them that we share a genuine interest in learning and that exploring these important disciplines can be both enjoyable and rewarding.

I highly recommend this article to my colleagues and the Nation. Dr. Sobey is right. It is not too late to cultivate the Edisons, the Bells, the Carvers, and Marconis of tomorrow, if we work with our children today. In Ed Sobey's words, "Let's start tonight."

[From the Beacon Journal, Mar. 22, 1990]

WHY DO OUR CHILDREN FAIL IN SCIENCE AND MATH?

(By Edwin J.C. Sobey)

Where are the Edisons and Bells and Marconis of the next century?

Are they enrolled in school and developing the insatiable curiosity to explore and develop the technologies of tomorrow?

Will the great inventors of the next century be Americans?

It is not xenophobic fear that directs this question, but concerns of whether this nation will continue to share in the economic rewards of technological innovation.

Sadly the answer is no.

We as a nation are not preparing the next generation of inventors. The intellectual resources needed to fuel the next technological revolution are not being prepared at home. But they could be. We could make a radical transformation that would have enormous benefits. And we could start now.

Every year new test scores show that American students are falling behind their peers around the world.

Students in Third World nations, where beasts of burden are not uncommon, score as well or better than our students, who are exposed to home computers, space camps and video technology.

Why do our students fail in science and mathematics?

Nearly every child trundles off to a school with an inquisitive mind and a yearning to learn. Kids love science and want to experiment, that is, to try things out. But some change their minds in a few years, and by the time the high school counselor asks them what courses they want to take, for too many, science isn't on the list.

I submit that there is no biological reason for this mass defection from science. We, the nation, are convincing kids that sicence is not fun or worthy of their pursuit.

So where do we go to find the inventors of the next century? The system is failing us, and it is time to act.

If changes are to occur, then every citizen, every parent, every friend of education must step forward to be a part of the solution.

Every parent must carve out more time to work with his or her children, to work on homework, to help them on projects, and to listen to their ideas.

Parents need to seek out the resources in their communities: the museums, libraries and zoos that can spark the interest and imagination of their children.

Nothing else in the education system could have as immediate or long-lasting impact as improving parental involvement. Nothing. And it can start now. We need not wait years for studies or legislation. We must not wait for the education profession, we can act now.

Here are seven specific actions that parents can take, starting tonight, that will improve their child's education.

Parents need to spend time with their children every school night. Parents need to show concern with homework and school progress. They need to help with and provide inspiration for homework and school projects.

Parents need to ask about assignments nightly and expect to see papers and test results. If they show concern, their children will understand that they too should be concerned.

Parents can encourage a child's other interests outside of school. That is, encourage their hobbies. Almost any active hobby will entail use of basic education skills and will foster learning in many different fields.

Active participation means skill development, research and reading, experimenting, questioning, exploring, observing and working towards a goal. These are the same skills needed in science and other fields.

If a child doesn't have hobbies, how do you get started? Try visiting a museum or attending an arts performance. Take a family hike or visit an adult hobbyist. When you see a spark of interest, nurture it.

A real benefit of hobbies is that they can build interest that will carry a child to learn in new areas. Another benefit is that the television stays turned off.

The more things that you can help the child become interested in, the less you will hear, "There's nothing to do except watch television."

Encourage creative expression. Listen to questions and treat them as the serious inquiries that they are. Encourage children to express their ideas and create stories and games. Help them write them down or draw pictures of them. What could be better for your children than learning to better express himself or herself in written, spoken or visual language?

Choose toys carefully. Children learn more from play than they ever will from classroom lessons. If you choose toys that encourage creativity and thought you are putting the tools of learning in the hands of your children.

If you choose those overly complex toys that can only do one or two activities, you are wasting your money. These always look interesting on the store shelves but they don't allow creative uses. After a few days they end up buried in the closet.

Read with your children. Set up a nightly routine in which you sit down together to read. Older children can read to you, but will still enjoy having you read. They will develop a love of books and reading. And, the television will last years longer.

Talk to the teachers. Let them know you are concerned. Don't let them brush you off or give you technical jargon. Make sure you understand them and they understand you. Most teachers want to help your child to learn. By forming an alliance with them you will better succeed and your involvement can help them to be better and more caring professionals.

Visit your child's classroom. You need to know how it operates. Spend a few minutes watching what goes on. Don't evaluate the activity, watch the expressions on the faces of the children.

Are they actively participating in projects? Are they eagerly engaged in their tasks? Is learning fun for them? If not, maybe you need to have your child reassigned to another teacher. If you are not assertive for your child's rights to a good education, who will be?

Where will the inventors of the next century come from? Unless we change our system of educating our youth, they will not come from America.

Yet we can make great improvements today for so little money, without government direction and without waiting for the education establishment. We must each play a role. Today's the day to change our future and to start the inventors of the 21st century on their way.

Let's start tonight.

A TRIBUTE TO DAVID MANNERS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LAGOMARSINO Mr. Speaker, I would like to have the following tribute which was written by the Reverend Jonathan Sinclair Carey on behalf of my constituent, David Manners, included in the RECORD.

A TRIBUTE TO DAVID MANNERS

On April 30th a most extraordinary American citizen celebrates his ninetieth birthday in Santa Barbara: Mr. David Manners. To movie audiences of the 1930s, his was a household name; yet today he is generally forgotten by the public, much to his own satisfaction, it must be said. But today, on the occasion of his birthday, Mr. Manners is worthy of a public tribute on account of his many contributions to this country.

Mr. Manners was born in Nova Scotia of British parents, actually christened Rauff de Ryther Aklom and able to claim William the Conqueror as a direct ancestor. He attended Trinity School in New York City, a member of the Class of 1919. Upon graduation, he entered the University of Toronto to study forestry; but he soon determined he was meant to trod the boards, not study their composition. Leaving college, much to the chagrin of his Cambridge-educated father, the budding thespian went to New York City, adopting his mother's maiden name as his disapproving father did not want him to bring the family name into disrepute by his choice of profession.

He appeared in several major Broadway productions. Eventually he went to California and landed a leading role in the 1929 classic anti-war film *Journey's End.* Yet for many people, he is probably better know for his role in the classic gothic horror film *Darcula,* which has scared generations of movie-goers since its release in 1931. Between 1929 and 1936 he appeared in some forty films, including *Kismet* (1930), *The Millionaire* (1931), *A Bill of Divorcement* (1932), *The Mummy* (1932), *The Black Cat* (1934), *A Woman Rebels* (1936), and *Hearts in Bondage* (1936). Mr. Manners co-starred with a virtual *Who's Who* of the film industry, including such legendary performers as Loretta Young, Katherine Hepburn, George Arliss, Boris Karloff, Bela Lugosi, Ruth Chatterton, Eddie Cantor, Carole Lombard, and Claudette Colbert.

Yet in 1936 Mr. Manners left films to pursue other interests, including a return to the legitimate stage and an acclaimed appearance in *Lady Windemere's Fan* in the 1940s. He has written a number of books and articles through some five decades. Indeed, for the past ten years this intrepid individual has owned a word processor and continues to write and to publish, mostly poetry and philosophy. As an example of his thought, three years ago he published *Awakening from the Dream of Me.* As he states in the first chapter, "We dream away our lives wrapped in cocoons, patterning our lives on the past, repeating old errors. Only when we awake from the mortal dream do we discover the reality of our being."

No words could more eloquently express Mr. Manners' philosophy of life. Quite frankly, he has no great wish to relive those movie or stage days, however most people may yearn for such nostalgia. His concern is with the present, with trying to discover, or to awaken to, the meaning of truth and eternal values in this world today. As he has also written, "This world is full of magic. The impossible *is* ever possible." Politicians should be as optimistic, and philosophical, as this prophet.

By all accounts, David Manners is an American sage. And we are fortunate to have him claim us as his adopted country. As I understand it, in 1930 Mr. Manners was making a film in England. One night he was wandering around London, struggling to find his way in the notorious fog. Suddenly he saw the Stars and Stripes appear in a light and realized he was standing in front of the American Embassy. In that moment he also realized that indeed he was an American, despite his British and Canadian ancestry. Returning to the United States, he applied for citizenship. Almost sixty years later, he still displays the American flag presented at the ceremony by his front door.

So on the happy occasion of his ninetieth birthday, I am happy to pay tribute to this most private of individuals and to his many achievements, now including attaining the rank of nonagerian. I am sure that other Americans, as well as would have his father if he were still alive, join me today in expressing our best wishes and gratitude to David Manners, actor *emeritus* and active philosopher-poet, for his stellar contributions to American culture.

NEED FOR REGULATORY EXPANSION FOR FINANCIAL PLANNERS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. ECKART. Mr. Speaker, it has been concluded that regulation over investment advisers and financial planners has been lax, to say the least. Limited resources at the Securities and Exchange Commission [SEC], the lack of regulatory direction from Congress and the increasing number of individuals employed

in the investment adviser/financial planner field—the number of advisers has tripled from about 4,600 to 14,000 since 1980—have resulted in inadequate protections for investors.

Some individuals providing investment advice are not required to register with the SEC because they are called financial advisers, financial consultants, or investment consultants instead of the traditional investment adviser. This loophole has allowed many individuals to practice their profession without regulation and has permitted many to abuse the profession and bankrupt customers through bad investments.

Representative BOUCHER has introduced the Financial Planners Disclosure and Enforcement Act of 1990, which would tighten up certain provisions contained in the Investment Advisers Act of 1940. I have cosponsored this bill to give needed protection to investors.

This bill would mandate that any individual claiming to be a financial adviser, or other titles denoting a profession which provides investors with advice, would be included in the definition of investment adviser and hence required to register with the SEC. It would also mandate up-front disclosure of compensation to inform potential clients the type of payment that is required for services rendered. Under this bill, either the SEC or clients will have an opportunity to file charges against an investment adviser for alleged abuses of the system. The SEC will have the authority to file civil penalties while customers will have the opportunity of filing complaints through private rights of action.

During continued deliberation of this bill, I hope to address other concerns I have about the investment adviser industry and the effectiveness of the SEC to enforce laws and regulations. I, along with Messrs. MARKEY and BOUCHER, requested the General Accounting Office to examine the investment adviser profession, the effectiveness of SEC oversight and additional statutory and regulatory changes which would benefit the industry and the general public.

While we are still awaiting GAO's final recommendations, some important issues have been revealed. Currently the general public equate registered with the SEC with the good housekeeping seal of approval. Registering with the SEC is nothing more than disclosing address of business, past experience, education and any criminal record. The SEC does not test the applicants' ability to manage clients' funds and render sound investment advice.

GAO estimates that 60 percent of registered investment advisers are never inspected, and of the advisers inspected, 80 percent of them are in violation of some securities regulations—mostly in the area of disclosure, fee structure, and bookkeeping. Either a self-regulatory organization needs to be established to monitor activities of registered advisers, or the SEC needs more resources to adequately oversee this growing profession.

I also call on Congress to examine further the existing fee structure. Currently, anyone who wishes to register with the SEC must pay a one-time fee of $150. Oftentimes, large investment firms with hundreds of investment advisers, register the company as a single investment adviser, hence paying only $150 for the whole firm. We must investigate the possibility of altering the fee structure and possibly earmarking any increased revenue for the SEC for better investment adviser oversight.

I look forward to working with Mr. BOUCHER to close some of the regulatory loopholes that currently exist in the law and provide more adequate protection for investors.

RABBI MENACHEM M. SCHNEERSON, 40TH ANNIVERSARY COMMEMORATION

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. TOWNS. Mr. Speaker, today I rise to commemorate the 40th anniversary of Rabbi Menachem M. Schneerson's leadership of the Lubavitcher Rebbe.

During the Rebbe's four decades of inspired leadership, Lubavitch has become the world's largest Jewish outreach organization, maintaining centers in almost every Jewish community throughout the world.

These educational and social service institutions serve a variety of functions for all Jews, regardless of background or affiliation. Programs geared to humanitarian endeavors reach beyond the Jewish community to all mankind. In the United States alone, more than 180 centers serve every State in the Union.

In addition to the United States, Lubavitch institutions have been established in diverse areas around the world, including Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Costa Rica, England, France, Holland, Hong Kong, Hungary, Italy, Morocco, Paraguay, Peru, Scotland, Soviet Union, South Africa, Spain, Switzerland, Tunisia, Uruguay, Venezuela, and West Germany.

This man of vision and drive, began his life of service to others many years ago. After emigrating to the United States in 1941, he was appointed by his father-in-law to head his newly founded organizations: Merkos L'inyonei Chinuch, the education arm of the Lubavitch movement; Machne Israel, the movement's social service organization, and Kehot Publication Society, the Lubavitch publishing department.

Shortly thereafter, Rabbi Schneerson began writing his scholarly notations to various Chassidic and Kabbalistice treaties, as well as a wide range of responses on Torah subjects. With publication of these works his genius was soon recognized by Jewish scholars the world over.

In 1950, Rabbi Menachem M. Schneerson, ascended to the leadership of the flourishing movement. Lubavitch institutions and activities soon took on new dimensions. These educational and social service institutions serve a variety of functions for the entire specturm of Jews, regardless of background or affiliation. Indeed those programs geared to humanitarian endeavors reach out beyond the Jewish community to all mankind. In the United States alone, more than 180 centers serve every State in the Union.

Under the Rabbi's guidance, the Lubavitch publishing house, Kehot Publication Society, has become the largest Jewish publishing house in the world. It publishes and distributes millions of books, pamphlets, cassettes and educational materials in Hebrew, Yiddish, English, Russian, Spanish, French, Portuguese, Italian, Arabic, Farsi, Dutch, and German.

In his mission to provide a sense of community, the Rebbe has established special education facilities for alienated youth and young adults. In addition to attempting to fulfill the mission to young people, the rabbi has established full-time yeshivas for Jewish men and women in Chabad-Labavitch centers and synagogues around the world. These classes have opened new horizons to people with little or no background in Torah study.

In addition, to working actively to serve, the rabbi, is a systematic and conceptual thinker. His unique analytical style of thought has resulted in a monumental contribution to Jewish scholarship. More than 125 volumes of his talks, writings, correspondence, and responsa have been published to date.

Rabbi Menachem Schneerson's brilliant insights into the human experience and world events, genuine compassion for others, strong leadership and profound thinking have made him a legend in his lifetime, and won him the admiration, respect and awe of all those who have come to know him.

EARTHTECH 90

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. ROE. Mr. Speaker, the start of Earthtech 90 tomorrow will mark a turning point for the environmental preservation of cur planet. This initiative will marshal business, government, and all private citizens to share the responsibility for protecting and preserving their global habitat.

Earthtech 90 is an effort to bring forth the environmental conscience that must, from this moment on, be our guide in planning the world's future economic and social development.

We must make a commitment to a new way of thinking. We must develop environmental scruples. We must plan every new technology and every new product based on a deep-seated belief that we are fundamentally responsible for the Earth's survival, each day, and every day.

Our environmental problems require a two-pronged approach. On the one hand, we must have the initiatives and incentives that Earthtech 90 represents. On the other hand, we must move forward aggressively to expand our research programs designed to help us better understand global change and its implications. Together, these efforts will bring forth the best judgments for development of the most practical solutions.

I want to commend the sponsors of this important event, the Environmental and Energy Study Institute and the Environmental and Energy Study Conference. The cochairmen of Earthtech 90, my distinguished colleagues

Senator AL GORE and Senator JOHN HEINZ, are to be especially complimented for their foresight and commitment.

REMEMBERING THE ONGOING PLIGHT OF SOVIET JEWRY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GREEN. Mr. Speaker, I should like to commend the Greater New York Coalition for Soviet Jewry and other Jewish organizations for keeping the problems of Soviet Jewry in the political and public forefront through important activities such as the Rally of Response/Solidarity Sunday which took place at the United Nations on April 1, 1990.

Under Mikhail Gorbachev's policies of glasnost, advances have been made in the areas of wider emigration rights for Soviet Jews, release of major long-term refuseniks, and sanctioning of Jewish cultural and religious activities. In 1989, 12,915 Soviet Jewish emigrants arrived in Israel. In just the first 2 months of 1990, that number has already reached 10,569. In all, over 1 million Soviet Jews have begun the emigration process to leave the Soviet Union. Israel needs the help of its friends and supporters in the United States and elsewhere in order to settle successfully and assimilate this large influx of immigrants.

While there is a growing fear of anti-Semitism among Jews in the Soviet Union, Arab States continue to pressure the Kremlim to scale back the Soviet Jewish exodus to Israel.

Raising public awareness about the ongoing needs of Soviet Jews is instrumental to ensuring that the advances made for Soviet Jews under the policies of Mikhail Gorbachev are retained in spite of pressure from the Arab nations. There is a corresponding need to keep the problems and concerns of Soviet Jewish emigration and general United States' policy toward Israel in the United States political forefront, especially in light of President Bush's recent remarks about East Jerusalem, which have confused both the American public and its decisionmakers regarding our policy towad Israel.

I strongly support the right of all Jews in the Soviet Union and anywhere in the world to freely emigrate to Israel and other countries in which they are allowed to live, work, and worship without fear, intimidation, or discrimination. I encourage the Government of the Soviet Union to continue its current positive policies on Jewish emigration.

I take this opportunity to applaud the efforts of the Greater New York Coalition for Soviet Jewry, the Jewish Community Relations Council, the National Conference on Soviet Jewry, the Simon Wiesenthal Center, and the United Jewish Appeal-Federation of Jewish Philanthropies of New York, for keeping the needs of Soviet Jewish emigrants to Israel and other countries, including the United States, in the political and public forefront.

A TRIBUTE TO BOB HUBER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a longtime friend and colleague for his service to my hometown of Simi Valley, CA. Last weekend, Robert O. Huber was named Citizen of the Year by the Simi Valley Chamber of Commerce. I can assure you it is an honor that was long overdue.

For more than two decades, Bob has been there when his community called. Both in his business career and in his civic involvement, Bob has selflessly given of his time and talents to make Simi Valley a better place to live and work.

Besides serving with me on the Simi Valley City Council for 4 years, Bob has served in leadership roles with a number of civic organizations, including the Boy Scouts, the YMCA, the Rotary Foundation, the United Methodist Church, and the United Way.

During his long business career in Simi Valley—first as founder of Huber Chapel Mortuary, and for the past 11 years as an attorney in private practice—Bob has played a key role in community affairs. He personally wrote the industrial development resolution that started the city's commercial and industrial development program in 1971; he organized a business group that was instrumental in keeping gambling out of the city in 1972; he initiated the city's tree preservation ordinance and its affordable housing committee; and he even conceived the city's official slogan.

Bob has been recognized many times for his dedication to his community. His honors include the Simi Valley Chamber of Commerce's Man of the Year Award, Rotarian of the Year, the Jaycee Distinguished Service Award, the Rotary Club Paul Harris Fellow Award, and being named one of five outstanding young men in California in 1973 by the State Jaycees.

Mr. Speaker, it's truly an honor to be able to share Bob Huber's proud record of accomplishments with my colleagues. And with his wife, Laurie; and their sons, Todd and Chris, I'm sure my colleagues join with me in congratulating him and recognizing him for his outstanding service to his community.

WHY I AM PROUD OF AMERICA

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. HANSEN. Mr. Speaker, it is my privilege to pay tribute to a young constituent from my district, Max David Roth. He is the recent State winner from Utah of the Voice of Democracy broadcast scriptwriting contest. More than 137,000 secondary school students participated in the contest this year, submitting essays on "Why I am Proud of America." David's essay is well-crafted and insightful, and I encourage my colleagues to take a moment and read it:

WHY I AM PROUD OF AMERICA

(By Max David Roth, Utah winner of the 1989/90 VFW Voice of Democracy Scholarship Program)

I go to see my Grandma quite a bit. We talk, play cards and watch T.V. Sometimes I pick up a book in her apartment. It's a collection of the works of Norman Rockwell, and I always flip to a picture that never fails to give me chills. I think it depicts better than anything why I'm proud of America. It's part of Rockwell's freedom series and it's titled "Freedom of Speech". An ordinary man stands in his jacket, plaid shirt, and faded jeans addressing a town meeting. His face expresses the fear known to anyone who has spoken in public and the determination of a man who truly believes in what he's saying. He's not a statesman, or general, or an aristocrat. He's just a man with something to say and, because of this great nation, the right to say it. America's hero lives in the body of this nameless man and in every man or woman with the courage to take a stand on an issue.

America is so wonderful because it was the first modern nation to realize that if everyone has a say, somebody's going to come up with some pretty good ideas. This simple concept we call democracy has lasted 200 years now and has proven to the world that a nation with roots in liberty will grow fuller, stronger, and more beautiful than any nation with roots in oppression.

Now I know all of this sounds corny. I have a lot of trouble addressing a subject like America, or liberty without sounding corny. Maybe I've watched "Mr. Smith Goes to Washington" a few too many times on my VCR. Maybe I believe too much in Norman Rockwell's America. Maybe I listened too long to my grade school teachers who first mentioned such names as Washington, Jefferson, and Lincoln in reverent tones. But, I don't think I did.

I remember when my grandpa gave us an encyclopedia for Christmas when I was in the third grade. I used to look up the presidents and just sit and stare at those huge articles. Some of those guys had five or six whole pages. I couldn't imagine where these men came from or what made them so great. I saw them as gods, perfect in every way. Their accomplishments seemed impossible and their ideas expressed a genius that I could never hope to attain. Then I read about them and learned that Washington didn't really want to be president, Jefferson opposed ratification of the Constitution, and Lincoln was somewhat of a social misfit who lost as many elections as he won. Ironically, this information was more pleasing to me than I care to say. It made me realize that great men need not be perfect. It struck me that the great men in our history didn't come from anyplace special. Some were rich and some were a lot poorer than I am. The only thing that made them standout was that they had ideas and more importantly, the courage to voice those ideas. They believed in freedom and were willing to risk everything to gain it.

The effect of their courage is still being felt across the globe as new heroes spring up demanding from their governments the same respect that we've enjoyed for two centuries. When such events unfold I can't help but feel proud of the great Americans who started it all. Maybe some of those America's heroes began by standing up in a town meeting and saying their piece, and maybe someday I could do the same thing as well, or better. Maybe I could become

president and lead the free world. It might sound like a kid's dreams, but where else can a kid dream like that? Besides, it just might happen, after all, this is America.

PUEBLO SCHOOL'S SUCCESS CATCHES U.S. EDUCATORS' EYE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. RICHARDSON. Mr. Speaker, I rise today to commend Santa Clara Day School in Santa Clara Pueblo, NM, for its nomination for the U.S. Department of Education's Elementary School Recognition Program.

Santa Clara Day School has developed innovative programs to promote education among its Indian students. These programs stress the importance of their Indian cultural heritage. The teachers at Santa Clara teach both English, and Tewa, which is Santa Clara's native language. Parents and grandparents also participate in the childrens' education. The approach that Santa Clara has taken with the teaching of their children has caught the eye of Federal educators who are planning a visit to take a closer look at programs the school has developed.

Mr. Speaker, I am very proud of the success Santa Clara Day School has achieved in bettering the education of their Indian students. I would like to take this opportunity to share the following article on Santa Clara Day School with my colleagues.

[From the Journal North, Mar. 22, 1990]

PUEBLO SCHOOL'S SUCCESS CATCHES U.S. EDUCATORS' EYE

(By Camille Flores)

SANTA CLARA PUEBLO.—Santa Clara Day School provides an atmosphere where children can assert themselves with confidence as Indians in a mostly non-Indian world, says school principal Solomon Padilla.

The 116-student elementary school has been nominated for the U.S. Department of Education's Elementary School Recognition Program and targeted for a visit from federal educators who want to take a closer look at programs the school has developed.

"We're teaching them to be proud of their culture in a predominantly non-Indian world," Padilla said.

The programs developed slowly and with help from a community, he said. The principal, who is a non-Indian, has been at the school for 20 years, three years as teacher and 17 as principal. "The school's greatest asset is the pueblo itself.

"Parents and grandparents participate in the education. When everybody is watching over the schools, the children are made to feel real important," he said.

The school was built in the 1920s, but until 1976 English was the only language spoken there. And until teachers decided to write and deliver their own curriculum about five years ago, lessons weren't geared to teaching Indian children.

Today, teachers greet students, "Un sengi thaamuu enyae," which in Tewa means, "Good morning, students." All subjects in kindergarten through third-grade are taught in both Tewa, the native language of the Santa Clara people, and English.

"What they learn in one language is reinforced in the other," Padilla said, adding that the school is working to expand bilingual education through the sixth-grade."

When kindergarten teacher Frances Harney asked her students this week, "What is an Indian," they responded: "It's dancing around the fire at night," "speaking native tongue," "singing," "eagle dances," "baking bread," and "making pottery and jewelry."

These culturally rich experiences have been integrated into lesson plans that make everything from computers to math relevant to an Indian child, Harney said.

"Children who are culturally comfortable just learn better—that's what we've found," Padilla said.

About half the teachers at the day school are Indian, but Padilla is quick to point out teachers are chosen solely for their qualifications to teach pueblo children. "Everyone wants to live in this area, so we are able to pick the best," he said.

"We're not textbook oriented," Harney said. "We use a hands-on approach to teaching, because that's how our children learn best."

The school's computer laboratory is nearly always in use, even after school, by students who write, edit and publish their own newspaper, Tewa Timeline. Students even published a calendar using the computers that includes student art, essays and poems.

Arlene Romero's sixth-graders use the computers (one for every four students) during class time to correspond with pen pals at a non-Indian school in Colorado. Next month the students will travel to visit their writing buddies at Steele Elementary School in Colorado Springs and present a play they wrote themselves, Tewa Cinderella.

In all grades, special emphasis is placed on "inter-generational projects," Padilla said. Third-graders are working with "grandparents" from the pueblo's senior citizen center to write a history of Santa Clara Day School. Students are expected to be involved in important aspects of pueblo life, such as dances and cleanup projects.

Of the Eight Northern Indian Pueblos, Santa Clara is the third largest in population, but more Indian children attend Santa Clara Day School than attend any of the other pueblo schools, Padilla said. And even though Santa Clara children are eligible to attend state schools or private schools outside the pueblo, "most chose to stay here," he said.

The school is open to Indian children and is accredited by the state, the U.S. Department of Education and by the North Central Association of Colleges and Schools, for which Padilla serves as evaluator for other member elementary schools. Non-Indians may attend the pueblo school, but must pay tuition.

TRIBUTE TO JOSHUA TORCZYNER

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in paying a well-deserved tribute to Joshua Torczyner for his heroic efforts in saving the lives of those whose lives where threatened by Adolf Hitler and the Nazi machine of destruction.

Joshua Torczyner—who now lives in Burlingame, CA, in my congressional district—was born in Vienna, Austria, in 1910. As a young man, he joined the Maccabi organization, a Jewish youth scouting organization in Germany and Central Europe, which encouraged and assisted settlement in Israel as the Nazis rose to power in Germany. Maccabi was a source of hope, inspiration, and assistance to thousands of Jews in Europe. Maccabi members were instrumental in the rescue of Jews and in their resistance to Nazi extermination programs.

In Vienna, Joshua Torczyner became leader of the rescue and emigration effort, and in that role encountered the infamous SS Col. Adolf Eichmann. Mr. Torczyner defied Eichmann and implemented a grand scheme to smuggle Jews out of Vienna through a major underground effort.

Later Joshua Torczyner became the head of the World Maccabi Aid Committee in Geneva, Switzerland, and in 1940–41 he was involved in the Jewish underground in Belgium. He managed to escape from the Nazi war machine by fleeing to Cuba, and he later moved to the United States.

Since coming to California, Mr. Torczyner has been active in Jewish affairs in the bay area and throughout California. He is the owner of Pacific Diamond Co. in San Francisco, and as I mentioned, he resides in Burlingame.

Mr. Speaker, I am delighted and honored to pay tribute to Joshua Torczyner, a man who was a bright beacon of light to his fellow men during a period of terror and darkness.

LOCAL 18 OPERATING ENGINEERS DEDICATE NEW OFFICE

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. WYLIE. On Saturday April 7, 1990, Local 18, International Union of Operating Engineers, will dedicate its new Columbus, OH, office at 1180 Dublin Road with a flag raising and ribbon cutting ceremony.

As this ceremony takes place, this outstanding labor organization which has had a tremendous impact on the State of Ohio and the lives of its citizens will officially enter its 51st year of service to our Nation. Local 18 actually came into being on October 1, 1939, when six autonomous local unions became the International Union of Operating Engineers, Hoisting and Portable Branch with territorial jurisdiction in 85 of Ohio's 88 counties and 4 from northern Kentucky.

In the 50 years since, local 18 members have been involved in numerous construction projects in Ohio, including:

Ravenna Ordnance Plant, Curtiss-Wright Plains in Columbus and Cincinnati, Plum Brook near Sandusky, a naval ordance plant in Canton, and improvements at Patterson and Wright fields in Dayton during World War II.

Construction of the 7-mile $8.6 million Columbia Parkway in Cincinnati, a Public Works Administration project of the early 1940's.

Construction of the Ohio Turnpike across the northern section of the State from Indiana to Pennsylvania in the mid-1950's.

Highway and university construction projects in the 1960's.

Perry Nuclear Power Plant construction in 1977.

"Operation Jobs-Highways," a $1.9 million highway construction and jobs program, and a shoring of the State's crumbling infrastructure in the 1980's.

In 1942 a book about local 18 was published. What was said then in this publication, The Book of Local 18, holds true today and bears repeating:

To progress together, labor must meet the changing conditions of industry equally as they occur * * *. Local 18 is alert to the fact that Agreements with employers means little unless the employer can make money. This is his incentive to remain in a business which will continue to create jobs * * *. It takes two to make a business bargain, and both must profit if is to last. This Local accepts the soundness of two-way responsibility * * *. Local 18 offers the best possible means available to operate a job with qualified and satisfied operators.

While the road ahead is never precisely clear, it is safe to predict that whatever occurs in Ohio from a standpoint of construction in the 1990's and beyond will be accomplished because of this "partnership" and those who make up he membership of local 18. I am certain that my colleagues join me in saluting local 18 and in recognizing the many significant and valuable contributions of organized labor throughout this Nation's history.

H.R. 3847, LEGISLATION ELEVATING EPA TO CABINET LEVEL STATUS

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GLICKMAN. Mr. Speaker, last week, I made a statement during consideration of H.R. 3847, a bill elevating the Environmental Protection Agency to Cabinet level status. I spoke out against the bill during general debate; however, after the House of Representatives accepted all of the strengthening amendments and rejected the weakening amendments offered on the House floor, I decided to support this legislation. I was originally opposed to the bill because I felt that President Bush was using it so he could be remembered as the environmental President as well as the education President, the transportation President, and the pro-family President. I objected to his creation of yet another Cabinet department just to make the point that he is committed to the environment.

During the past decade or so, we have added four new chairs to the Cabinet table. My point in speaking against the bill was that if we are going to create a Department of Environmental Protection, we should combine all of the environmentally related offices of our Government and give the new Department some real responsibility and clout. I feared that as a Cabinet level department, the EPA would lose its independent status and become a vehicle for the administration's policy. Without an expansion of its powers, we risk reducing EPA's responsiveness to Congress' mandate to clean up the environment. I argued that a seat at the Cabinet table is no substitute for a commitment to clean up our air and water.

Ironically, the Bush administration opposes this legislation as it was passed by the House of Representatives. In fact, the only provision the administration supported was the Hastert amendment which entirely gutted the bill, stripping it down to a simple gesture of elevating the EPA to Cabinet level status. It's too bad that President Bush confuses form over substance.

I decided to support this bill once the major strengthening amendments were agreed to: the Synar amendment establishing the basis for regional administrator appointments without regard to political affiliation; the Martin amendment increasing the number and improving the training of criminal and civil investigators at the new Department; the Roe amendment to create an environmental research institute to support long-range environmental research; and Eckart amendment making Federal departments and agencies subject to Resource Conservation and Recovery Act regulations. These amendments will seriously strengthen the independent enforcement of our environmental laws. If we want to be serious about the environment, we must give this agency some authority, resources, and real commitment, not just a resolution on paper.

SUPPORT FOR WORKERS' RIGHTS IN S. LICHTENBERG

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. CLAY. Mr. Speaker, as we begin the work of the second session of this the 101st Congress, I am reminded of a statement made by Ms. Barbara H. Lewis a textile worker at S. Lichtenberg, a Georgia employer. As I am sure many Members are aware, the employees of that company are in a battle for survival.

Nearly 2 years after voting to be represented by the Amalgamated Clothing and Textile Workers Union, management still refuses to cooperate with the official bargaining representative. The National Labor Relations Board has issued complaints containing over 140 charges of Federal labor law violations. The majority of the complaints stem from racial and sexual discrimination, and a number of law suits have been filed.

Our deeds in the coming year will greatly affect those who are perched on that fence between welfare and the working poor. We should heed their cries for self respect and human dignity.

The following statement by Barbara H. Lewis was made on September 14, 1989, at the Congressional Black Caucus Labor Braintrust Workshop:

REMARKS OF BARBARA HINES LEWIS

Thank you for the opportunity to speak here today, to tell you about the struggle we've experienced for almost two years at S. Lichtenberg factories located in Louisville and Waynesboro, Georgia.

Today's workshops are about the future of minorities in the workforce, and for those of us who live in eastern Georgia, we are worried about our future. I worked at the Delila plant for eight years, before being terminated this past May. During those eight years, I worked in almost every department. Then, in May, I was permanently laid off. They closed down my area, and found another job in the plant for my supervisor, who was white, but not for me. Four black workers have trained her for her new job. As for me, I've worked all through the plant and they said they didn't have another job available.

I know I was terminated and so were a lot of the others because of our involvement to make a change. We are fighting for a better future for ourselves and our children. Over a year ago, we voted to join the Amalgamated Clothing and Textile Workers Union (ACTWU). Even though the company did everything they could think of to stop us, we voted by an overwhelming margin—413 to 185—for the union. We needed a union because we thought that when you retire, after ten or twenty years of service for this company, you are entitled to something. At S. Lichtenberg, we don't have a pension plan. Last year a black woman who worked there for 22 years, and was making $5.45, retired, and the company didn't even say thank you. But when two whites retired after thirteen years each, they got silver trays and their picture in the paper. It may not seem like a big thing, but when you give your whole working life for a company, and they treat whites one way and blacks another, it hurts and you feel it.

One reason we wanted a union is we don't make enough money. Hard labor but cheap pay. Most people start at minimum wage and after ten years still aren't making more than $6 an hour. A lot of them, as I am, are single parents, and you can't really make ends meet for you nor your children on those kinds of wages. S. Lichtenberg offers very few benefits. Our health insurance has a $500 deductible yearly, and if you want family coverage, you have to pay more than $30 a week for it. I don't even know anyone who has family coverage, because no one can afford it.

The main reason we wanted a union is that we wanted respect. One woman worked for ten years at the Samsons plant. Her seven year old son was diagnosed as having cancer. The company gave her a hard time about the time she was taking off to go with him to the hospital for treatments. They told her she should find somebody else to take him instead. Eventually they came up with an excuse and fired her.

I was brought up to believe in doing a good job of whatever you do and being proud of it. My father was a seasonal worker and my mother a factory worker, and together they sent eleven children through high school and some through college. To me that's something I've got to be proud of. But the Lichtenberg Company doesn't treat its employees with respect. The owners came down from New York in the 1960s and 70s and set up their plants in these small towns in Georgia. At first, there were a lot of white workers, but over the years, most of them found better jobs, and when we started to organize, the plants

were at least 90% black. For most of the people there, our ancestors were slaves on the plantations. Now, there's a lot of unemployment. Burke County, where the Samsons plant is, still has one of the highest unemployment rates in all of Georgia; for two weeks before I came up here, unemployment in Burke County was 11%.

In Louisville, where I live, blacks are about 65% of the people, with brilliant ideas but no power. There are about 5 wealthy whites that control the town and hinder its progress. We have in the center of town a slave market, the only one that is still standing in the state of Georgia. Tourists find it interesting, but we blacks view it differently. We see in it the slave mentality that many whites want us to have, and our still not having an equal opportunity in society.

So we organized, we voted to join the union, but the company didn't stop fighting us even after we won by such a huge majority. They paid thousands of dollars to their lawyers and filed objections to the election. The Judge finally said this July, over a year after the election, that all of their objections were without merit, and recommended to the National Labor Relations Board that ACTWU be certified. But the company appealed, and we're still fighting. Meanwhile, they've laid off and fired a lot of people; we've filed over 140 charges for unfair labor practices because of how they've treating union supporters. We filed race and sex discrimination charges with the Equal Employment Opportunity Commission last December.

While the company is treating us this way, they continue to sell their curtains and draperies to the Army, Navy, and Air Force, to sell on military bases all over the country. The way we see it, the US government and the taxpayers' money is aiding this company to discriminate against us. We later found out they hadn't even filed the forms they're supposed to as a federal contractor to show they are obeying anti-discrimination laws. So now we've filed a complaint with the Office of Federal Contract Compliance, and several members of the Congressional Black Caucus are asking the agency to investigate our situation. I think it will not only help workers at Samsons and Delila, but it will show the truth to what was said at the civil rights march in Washington in August, that there will be no retreat on civil rights, no matter what the Supreme Court does.

This workshop is about the future of blacks in the workforce. So what about the future? One thing that working with the union has done, it has made us know that the only way the future will be better is if we stand together and fight for it. This past year and a half, many of us began to realize we weren't just fighting for our own futures, or even just our children, but for a better future for Black people all over the South. Because unions are one of the most important ways we come together and win the dignity and respect we deserve, and until we have equality in the workplace, its hard to really have it anywhere else. If you don't have equality in your paycheck, or equality in a chance for a promotion, how do you teach your children they are really equal in life and have them believe you?

It has helped a lot that we have gained support from people across the country. Dr. Joseph Lowery, Reverend Jesse Jackson and others have spoken out on our behalf. We've been on the NBC Today Show, and in the Washington Post and all kinds of other newspapers. Right now the Jewish Labor Committee and the Coalition of Black Trade Unionists and the National Organization of Women and lots of other groups are getting their affiliates to get involved to help us. If the Lichtenbergs would listen, they would know that we just want to build a better future for all of us. One way or another, we plan to build that future, even if it takes the support of everybody who believes in justice in the whole United States.

I want to thank Congressman Hayes and Congressman Clay for inviting me here today to talk about our struggle. I would like to leave you with a poem I wrote, which was inspired by what we have been going through:

IT'S A COMING

(By Barbara Hines Lewis)

Yas sir I sees a better day is coming.
Afser while, if I don't—
Maybe my chullen—can run anusher mile.
Us done bored us burdens in thee heat of thee day
King Jesus thee head Mas-sir done he'ed us pray.
Us started out a long time in them cotton fields
Sanging his be over soon,
And looking to them hills.
Us couldn't read, sho' couldn't write
But got a pray through in thee wee hours of thee night.
Yas sir us barely made it off a wing and a prayer
Cause us never forgot King Jesus was there.

And through workshops like this and the help of people like you, the workers at Samsons and Delila truly believe It's A Coming.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleauges, an outstanding young individual from the Fifth Congressional District of Illinois who has completed a major goal in his scouting career. On Saturday, June 23, 1990, at St. Rene Goupil Hall located in Chicago, IL, Joseph LeCompte will be honored at an Eagle Scout Court of Honor.

It is important to note that less than 2 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. This young individual has clearly demonstrated such abilities through his dedicated community service and deserves special recognition.

In light of the commendable leadership and courageous activities performed by such a fine young man, I ask you, my fellow colleagues, to join me in honoring Joseph LeCompte for attaining the highest honor in Scouting—the Eagle Scout. With God's blessings, let us wish him the very best in all of his endeavors.

LITHUANIAN INDEPENDENCE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. BLILEY. Mr. Speaker, I stand here today to urge my colleagues to take notice of the secession crisis that is taking place in Lithuania. It has been 3 weeks since the Lithuanian Parliament declared its independence from the Soviet Union yet already, Soviet troops are moving into the capital, Vilnius. They have occupied the Lithuanian Communist Party headquarters and seized Lithuanian deserters of the Soviet Army.

Since 1795, the Lithuanian people have been forced to live under the religious, political, and cultural repressions imposed interchangeably by both the Russians and Germans. In 1920, Russian leaders signed a peace treaty with the Lithuanian Government recognizing full right of self-determination, freedom to secede from the state, full sovereignty and independence for both the Lithuanian people and their territory. However, with the outbreak of World War II, Lithuania, acting as a buffer state between the Soviet Union and Hitler's Germany, was one of the first to experience the aggression and fury of the war. As an occupied territory during the war, the Lithuanian people experienced communism and Soviet domination and eventually were completely subsumed into the Soviet Union.

I want to take this opportunity to point out that the Lithuanians have been fighting desperately for their independence, for the very freedoms we Americans have lead the battle to defend over the past several decades. The United States has never recognized the annexation of Lithuania into the Soviet Union so now is not the time for us to turn our backs on the people of Lithuania. They need our support and we have a responsibility to give them that support.

We have already witnessed that communism as a political and economic theory does not work. We have seen Mr. Gorbachev initiate some democratic and economic reforms in his own country as well as permit the release of the occupied Eastern bloc countries from the Warsaw Pact. The countries in the Eastern bloc have won their independence and are now basking in the freedoms that accompany that sovereignty. The United States has been supportive through all paths of assistance, yet we stand unheeding and uncommitted to Lithuania's cry for independence?

The United States has been a stalwart of freedom, protecting the rights that accompany sovereignty and democracy. The Soviet Union has occupied Lithuania for 50 years while we have denied that occupation. It is time for the United States to establish diplomatic relations with this Baltic republic. The United States must continue to preserve democracy for those who so desire to share in its fruits. We cannot sit by and let Soviet aggression place fear in the Lithuanian people. This cannot be another incident like that which took place in China last summer. Our support for freedom and democracy must not wane now as it did when the Communist forces of China ran

down students who were peacefully making their voices heard for the freedoms they so desired. Lithuanians have the right to enjoy freedom as much as the Chinese students who fought for it almost 1 year ago. Communist aggression seems to have reared its ugly head once again, when unprecedented advancements away from the Communist theory had been talking place around the world.

Mr. Speaker, once again, I urge my colleagues to make their voices heard. We cannot allow the Soviets to think that we are reconciliatory when human rights and democracy are in question. We cannot allow the Soviets to feel that our trust for them is so deep that we cannot see the aggression that is taking place in Lithuania. The United States cannot look through the rose-colored glasses of emotion and faith in Soviet words. We cannot stand by and permit a peaceful revolution for democracy and freedom turn into a devastating show of force and violence. It is our responsibility to help protect the Lithuanian right to sovereignty and ensure them of our support for their battle.

THE CENTENNIAL ANNIVERSARY OF THE GLADWIN MASONIC LODGE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SCHUETTE. Mr. Speaker, ladies and gentlemen of the House, I rise today to pay tribute to the Gladwin Masonic Lodge, which on April 7, 1990, will celebrate its 100th anniversary.

The history of Freemasonry in America is long and distinguished, dating to 1730, with the founding of the first lodges in Boston and Philadelphia. The first Masonic book published in the Western Hemisphere was written by no less distinguished an author than Benjamin Franklin, an early leader in Pennsylvania's Freemason movement. Other Freemasons who figured prominently in the American Revolution include John Hancock, Paul Revere, and George Washington, and a total of 14 American Presidents have been Freemasons.

Using the tools and implements of the builder, Masons seek to teach basic moral truths, emphasizing the fatherhood of God and the brotherhood of mankind. Like Masonic lodges throughout the world, the Gladwin Masonic Lodge gives generously of its time and talents to community service and charity. It awards an academic scholarship each year for the outstanding math or architecture student of Gladwin High. The Gladwin Masons sponsor and participate in their city's annual Memorial Day parade and ceremony. They are also active in the war against juvenile diabetes, a special project of the Freemasons nationally.

Mr. Speaker, my colleagues in the House, please join with me in honoring the 100 years of exemplary service given by the Gladwin Freemasons, and extending our best wishes to the Most Worshipful Grand Master Thomas C. Cross of the Freemasons of the State of Michigan as he rededicates Gladwin Lodge No. 397 for the purpose of practicing the craft of Masonry.

EARTH DAY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. BROWN of California. Mr. Speaker, the 20th anniversary of Earth Day is only 19 days away. Efforts are underway to celebrate this occasion around the world. The reason for this is simple: the environmental problems facing us today have reached global proportions.

What is needed at this juncture in the course of human history is a fundamental, world-wide reappraisal of the role of technology in our lives. We must all reconsider our attitudes toward the develcpment and application of technology. The modern use of technology to dominate and change nature may need modification as we adopt the concept of sustainability. As Aldo Leopold observed in A Sand County Almanac:

By and large, our present problems is one of attitudes and implements. We are remodelling the Alhambra with a steam-shovel and are proud of our yardage. We shall hardly relinquish the shovel, which after all has many good points, but we are in need of gentler and more objective criteria for its successful use.

The impetus for such a shift in attitude commenced 20 years ago with the first Earth Day. The environmental demonstrations of April 1970 captured the attention of politicians and forced the environment onto the national political agenda. And yet, clearly what we are doing today with our technologies is not sustainable.

It is not too late, however, to reverse this trend. What is needed to make this 20th anniversary of Earth Day successful is a world wide demonstration of everyone's personal commitment to take immediate steps to help preserve the planet—to develop an environmental ethic. The fate of the earth and of future generations rests on our shoulders. On April 22, lets show the world that we care deeply about the environment and that we are committed to its protection.

IN HONOR OF P.S. 179 ON ITS 75TH ANNIVERSARY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to P.S. 179 of Kensington, Brooklyn, as it celebrates its 75th anniversary on May 6, 1990.

Let us go back in time to remember the individuals and organizations that made P.S. 179 a reality. In 1909, the Kensington and Parkville Improvement League started their campaign to procure money for the construction of a new school. Through tireless commitment and unceasing dedication, the league finally gathered together funds to build P.S. 179—the Kensington School.

Upon completion P.S. 179 was said to be the most modern and up to date school in all of greater New York. It accommodated 2,100 pupils and a nurse was always in attendance. Among its feature was an open air classroom with a kitchenette attached for anemic children.

On May 6, 1915, the Kensington school open its doors to Brooklyn's youth. I possessed a full complement of officers and teachers, and students were able to begin work immediately. On hand was Mr. Henry Ludwig, the first principal, and Ms. Clementine Witte, the first assistant principal.

Through the years, P.S. 179 illustrated its commitment to higher learning, not only through education but through its active role in the Brooklyn community. Inspired by the proclamation of President Wilson declaring it to be our patriotic duty to grow vegetables on all available land, P.S. 179 started a community farm surrounding the rest of the community to take part. During World War I, the school planted victory gardens and sold Liberty Bonds, and even hosted a gala bazaar to raise war funds.

Today, P.S. 179 continues its fine tradition. The faculty is committed to enriching children's lives and preparing them to be well-rounded individuals. We can be assured that through their efforts, our youth will strive to reach their full potential. The Kensington school is a model learning institution that should serve as an example to other schools throughout our great Nation.

Mr. Speaker, please join with me in honoring P.S. 179 on its 75th anniversary. The school's dedication to education and its commitment to the Brooklyn community, young and old, has earned our deepest gratutide.

THE SOCIAL SECURITY TRANSITIONAL BENEFIT COMPUTATION ACT

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MADIGAN. Mr. Speaker, I rise today to urge my colleagues to sign discharge petition No. 4 to the Social Security Transitional Benefit Computation Act of 1989.

Back in 1972, when Congress enacted annual cost-of-living increases for Social Security beneficiaries, it used a formula which mistakenly credited workers for both inflation and wage increases. In an effort to correct the mistake, Congress passed the Social Security amendments on December 15, 1977 which created what is now commonly known as the notch. Notch babies, who now wish to be called notch victims, are those individuals who were born between 1917 and 1921. As a result of the 1977 legislation, these notch babies receive up to $100 a month less in benefits than those beneficiaries born just before them.

The Social Security Transitional Benefit Computation Act would ease this discriminatory difference in benefits by establishing a more gradual 10-year period of transition to the changes in benefit computation rules which were enacted in the 1977 notch amendments. Seven million people are affected by

the 1977 transition formula. Seven million people are receiving lower benefits simply by virtue of the year in which they were born. It is important for all Members of the House to have the opportunity to vote on this issue. Therefore, I urge my colleagues to ease this inequity and join me in signing discharge petition No. 4.

KANSAS TOOLING AND MACHINING INDUSTRY

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mrs. MEYERS of Kansas. Mr. Speaker, I am proud to announce that Jose Tomez of Kansas City, MO, an apprentice with A&E Tool & Die Co. of Kansas City, KS, is a regional winner in the National Tooling & Machining Association's [NTMA] 18th Annual Apprentice Contest. A&E Tool & Die Co. is sponsoring Mr. Tomez in the contest.

This conest draws attention to the importance of the tooling and machinery industry to our Nation's economy. This industry is essentially the means of production for our country's manufacturing sector.

The contest is open to all fourth year apprentices employed by NTMA member companies. Finalists in the contest are among the very best in the tooling and machining industry. With a shortage of skilled tool and diemakers, Jose Tomez' skills will be greatly appreciated in an industry which generates annual sales in excess of $20 billion.

Mr. Tomez is competing with 13 other regional winners throughout the United States in the finals competition currently being held in Meadville, PA. I welcome Mr. Tomez' specialized skills in the tooling and machining industry, and would like to take this opportunity to wish him well in the competition.

SALUTE TO THE UNIVERSITY OF WISCONSIN BADGERS 1990 NCAA HOCKEY CHAMPIONS

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MOODY. Mr. Speaker, I am privileged to honor the University of Wisconsin Badger Hockey Team who defeated Colgate University 7 to 3 this past weekend to win the 1990 NCAA Hockey National Championship.

Coach Jeff Sauer's squad displayed incredible poise and skill in bringing home the Badger's fifth national championship in 17 years. Skating to the cry of "Drive for Five," the Badgers also won the 1990 Western Collegiate Hockey Association regular season and playoff titles.

Wisconsin was led by seniors John Byce, Rob Mendel, Mark Osiecki, Steve Rohlik, Tom Sagissor, Gary Shuchuck, and Chris Tancil, Other members of the national championship team include Sean Hill, Doug McDonald, Barry Richter, Rob Andringa, Dennis Snedden, Don Granato, John Parker, Brett Kurtz, Tray Tuomie, Roger Sykes, Jon Helgeson, Chris Nelson, Duane Derksen, Jason Francisco, Jon Michelizzi, and Matt Glaesman. I congratulate these fine players, as well as Coach Sauer, assistant coaches Mike Kemp, Peter Johnson, Ian Perrin, Bill Howard, and Athletic Director Pat Richter.

The Badgers used a ferocious defense and an aggressive, crisp passing offensive to treat the thousands of Badger fans to an exciting and rewarding year. These student athletes have displayed the talent and class to rank as one of college hockey's alltime great teams.

Mr. Speaker, I join the greatest hockey fans in the world and Wisconsin alumni throughout the country in saluting this truly outstanding collegiate team.

MARX LEVA CELEBRATES 75TH BIRTHDAY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LEHMAN of Florida. Mr. Speaker, for over 50 years, my cousin, Marx Leva, has been a quiet, effective force in this city. On the occasion of his 75th birthday, I thought it would be appropriate to briefly review a few of the highlights of this remarkable man's life.

Marx Leva was born in Selma, AL, where he established a perfect academic record through high school. He studied at the University of Alabama, where he distinguished himself. As a native of Selma myself, I can say that in those days opportunities in our hometown were limited. Marx set high goals for himself, however, and he achieved them. He graduated from Harvard Law School, where he made Law Review, and clerked for Supreme Court Justice Hugo Black.

During World War II, Marx served his country ably and honorably, first on the War Production Board and later as a naval officer facing combat in the Mediterranean Sea. He later served as an aide to General Eisenhower and Admiral Forestal, and he was the principal author of the Reunification Act. He also served as Assistant Secretary of Defense. Since that time, he has been a successful Washington attorney.

Mr. Speaker, I know my colleagues join me, his family and friends in extending our warmest congratulations to Marx Leva on his 75th birthday.

WHAT DOES IT COST TAXPAYERS?

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. LIGHTFOOT. Mr. Speaker, have you ever wondered how much each new spending bill would cost per taxpayer? Would taxpayers be so supportive of new spending programs if they knew that it would cost them personally?

For example, H.R. 3, the new child care bill, is estimated to have a price tag of nearly $30 billion. That breaks down to $83.36 per individual taxpayer. That amount may seem insignificant, but when coupled with other new expenditures Congress has or will pass, the taxpayers' tab begins to add up.

That's why I have introduced a resolution to amend the rules of the House to require the committee report on every bill authorizing or appropriating funds to list a cost estimate of the bill per taxpayer.

The resolution would take effect at the beginning of the next Congress and cost estimates would be based on the most recent year's figures. The report would be required to give a cost estimate for the first 3 years following a bill's enactment, based on the current estimate of the number of taxpayers.

I hope my colleagues will join me in the effort to restore some perspective to the new spending bills this body continues to approve without giving consideration to the cost to the taxpayers to this country.

THE REVITALIZATION OF EAST FALLS

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GRAY. Mr. Speaker, I rise today to pay tribute to the revitalization of a very old landmark in East Falls, one of Philadelphia's historic neighborhoods.

Just a few minutes from center city Philadelphia, nestled inside a scenic spot right along the Schuylkill River, East Falls nonetheless seems like a world apart. With its gently rolling hills, its gracious houses, and its stately mansions, this charming neighborhood has a style, texture, and flavor all its own.

And yet, East Falls is an important part of the fabric of the city and its history. Ridge Avenue itself was once a well-traveled path of the Lenni Lenape Indians. During the Revolutionary War, George Washington's Army camped on the site of the Queen Lane Reservoir, and Lafayette set up his own headquarters on what is now McMichael Park. And in 1808, the Nation's first kindergarten opened on Midvale Avenue in East Falls.

The community boasts more than its share of prominent citizens, both past and present. They include Senators, council people, several former mayors, and Thomas Mifflin, a signer of the Constitution. Olympic sculling champion and businessman John B. Kelly lived and raised his family here and it was at the Liberty Theater that his daughter Grace, the Princess of Monaco, first caught the admiration of her public.

During Philadelphia's heyday as a great industrial city and a center for the textile trade, East Falls was home of Dobson's Textile Mill. The largest individually owned producer of woolens in the United States, Dobson's made rugs, upholstery fabrics, and other goods for an international market. A grateful Union Army kept itself warm in blankets made at this East Falls landmark.

Now, only the buildings of the mill remain—10 handsome, solid structures of native Wissahickon schist, recently nominated for landmark status on the National Register of His-

toric Places. But they will once again be an integral part of the vitality of the neighborhood. Thanks to vision and innovation, the Dobson's Mill, with the 13 surrounding acres will be transformed into a site which will include 300 residences and commercial space. The architectural integrity of the existing buildings will be preserved and this part of East Falls will again be alive with residents and commerce.

Please join me in applauding this historic rebirth.

MOUNT WASHINGTON CELEBRATES ITS 55TH YEAR OF ASSOCIATION WITH THE NATIONAL WEATHER SERVICE

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. DOUGLAS. Mr. Speaker, April 1990, will mark the 55th year of Mount Washington's direct association with the Weather Service of the U.S. This partnership has been a valuable and productive asset in the forecasting of the weather.

The history of the Mount Washington Observatory is intertwined with the measuring and experimenting of the weather. The first Government interest in the mountain occured in 1870. The U.S. Army Signal Corps recognized the value of Mount Washington and established a year-round occupation of the summit in order to observe and forecast the weather. This Army post lasted until 1892, on a year-round basis, and continued until 1896, as a summer observation post.

In 1934, the Government's interest in the mountain was reborn as a result of a 231 mile-per-hour wind, the highest surface wind velocity ever recorded, prompting the U.S. Weather Bureau to establish its office on the mountain in 1935. The Government's personnel was later replaced in the 1950's by the observatory's own staff.

The mountain was also found to be useful during World War II as research was performed there on aircraft icing. The discoveries made there helped make modern air travel safer.

Today, the Mount Washington Observatory still serves as a invaluable asset for the National Weather Service and as a major tourist attraction. The facility reports eight times daily on synoptic and airways observations using the standard NWS procedure for forecasting on climatological purposes. These services are performed for an annual fee of only $23,000, which is less than half the salary of a single forecaster.

The observatory also fills many other vital functions such as initiating its own research, and performing research for government and for private contractors. The research performed at the facility ranges from experiments in radio propagation, to investigations into aspects of cloud physics. Annually, the laboratory participates in the Cold Regions Research Programs and Environmental Laboratories in Hanover, NH.

The observatory complements its scientific value by being the repository for historical artifacts of the White Mountain region. This along with its proven research capabilities makes Mount Washington worthy of honoring its 55th year of direct association with the Weather Service of the United States.

RESTORE LOCAL PROGRAMMING

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GUNDERSON. Mr. Speaker, the talk around local coffee shops in a few small communities in rural western Wisconsin has not been so much about the Federal deficit or the remarkable changes in Eastern Europe—but instead the spotlight over the last few months has centered around the loss of programming on local cable television.

The problem began on January 1, 1990, when the new syndicated exclusivity—syndex—and modified network nonduplication rules went into effect. The rules essentially allow all commercial television stations licensed to a television market which is within the geographic zone within which the television is entitled to enforce its exclusivity rights, regardless of whether they are carried on the cable system, to request syndex blackout protection. Thus, all duplicating programming carried over a cable system must, if requested, be blacked out. A geographic zone is anything within a 35-mile radius.

Concurrent with its new syndex rules, the FCC modified its rules on nonduplication of network programming. Local television stations may require a cable community unit, located in whole or in part within the geographic zone for a network program, to delete duplicative network programming broadcast by distant stations.

The FCC rules were not intended to result in blackout or disconnection of local broadcasts. One of the primary objectives of these communities' initial franchising requirements was to ensure that local or Wisconsin broadcasts would be carried to the greatest extent possible over their cable systems. Yet the law has forced one cable company to drop its three western Wisconsin network affiliates. Now those subscribers must get network shows from Minnesota television stations. As you might expect, many local cable TV subscribers are up in arms, and rightly so, by the enforcement of this law which has resulted in the loss of Wisconsin programming.

The deletion of these channels has already resulted in the loss of subscribers to the local cable system. It is further expected that the loss of these channels will have an adverse impact upon city franchise fees and local business revenues since local business will lose an important source of advertising. Further, the residents of these communities no longer have access to broadcast channels with a strictly Wisconsin identity.

On one final note, I received a letter from a Mrs. Kathryn Thalacker, from Hudson, WI, that I would like to share with you. Mrs. Thalacker wrote,

Congressman Gunderson, please, help this area have access to all the Wisconsin television possible. Please, help keep us knowledgeable about our State's political scene. Please, help us become familiar with our State's leaders when running for office * * * and please, do all you can to keep citizens west of the Knapp Hill informed, interested Wisconsinites.

Mr. Speaker, I do intend to help. Today, I am introducing legislation that would require the Federal Communications Commission to amend the syndicated exclusivity and network nonduplication rules to protect the community of one State that falls in the primary market of a broadcaster located in another State, if that local community represents less than 1 percent of the total viewing audience of the area of dominant influence of such a broadcaster.

I encourage my colleagues to join me in helping to alleviate this injustice since surely the syndex and nonduplication rules did not intend for this to happen.

TRIBUTE TO A.C. LYLES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. WAXMAN. Mr. Speaker, I rise today to congratulate Mr. A.C. Lyles on his receipt of the Boy Scouts of America Jimmy Stewart Good Turn Award.

A.C. is truly a self-made man. He began with Paramount Pictures 50 years ago distributing bumper stickers and handbills for the Florida Theater. A.C. later worked his way up to become head of his own production unit at Paramount.

Mr. Lyles has lead a varied, interesting life. Through the years he has received many honors. Some of those highlights include: In 1966, he was awarded, along with John Wayne, the famous Golden Spurs Award for his work producing westerns. In 1984, then-President Ronald Reagan presented him with the George Washington Award of the Freedoms Foundation. Lyles was also appointed by Reagan to the national board of ACTION, the Federal domestic volunteer agency, and to the President's Advisory Council on Private Sector Initiatives.

Mr. Speaker, A.C. Lyles is vibrant proof that the American dream is alive and well. I congratulate him on his extraordinary accomplishments and the Boys Scouts for their choosing such a deserving awardee.

NATIONAL OCCUPATIONAL SAFETY AWARENESS WEEK

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GEJDENSON. Mr. Speaker, today I have introduced legislation that would designate September 16–23, 1990, as National Occupational Safety Awareness Week.

More than 6.4 million occupational injuries and illnesses are reported each year. Nearly one-half of these injuries were serious enough

for the worker to have lost work time or to have experienced restricted work activity. Furthermore, these cases resulted in approximately 54 million lost work days in 1988 alone. These numbers reflect an alarming upward trend in on-the-job injuries and illnesses that has occured in last several years. In 1987, the Bureau of Labor Statistics [BLS] estimated that injury and illness incident rates climbed from 7.9 percent to 8.3 percent. In 1988, the BLS statistics show yet another increase from 8.3 percent to 8.6 percent.

This legislation has been widely endorsed by the International Association of Industrial Accident Boards and Commissions. I urge my colleagues to cosponsor National Occupational Safety Awareness Week and bring attention to the importance of on-the-job safety for both employees and employers. Prevention of work-related crises through safety awareness can have a substantial impact on the Nation's safety and health picture.

TRIBUTE TO DR. WILLIAM WARFIELD

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. BRUCE. Mr. Speaker, I rise today to honor Dr. William Warfield, a distinguished performer and professor of music at the University of Illinois at Urbana-Champaign. In May of this year, this fine musician and academician will retire from full time teaching.

William Warfield was born on January 22, 1920, and began to develop his musical appreciation and talents at the early age. A young admirer of the singing of Paul Robeson and the artistry of Marian Anderson, Dr. Warfield remembers singing "Deep River" before a school assembly and first experiencing the marvelous feeling of accepting his audience's applause.

At the age of 18, he won first place in the National Music Educators League competition and a scholarship to the Eastman School of Music. After earning his bachelor's degree in 1942, he entered the military and served in the intelligence unit, making use of his fluency in Italian, French, and German. With the end of World War II, he returned to the Eastman School and completed his master's degree.

William Warfield's wide range of professional performances include an appearance in the broadway show, "Call Me Mister," in 1947 and his Town Hall debut recital in 1950. In 1951, he played the role of Joe in Jerome Kern's "Showboat," and his rendition of "Old Man River" became an immediate sensation. He first performed what would become one of his most memorable roles, that of Porgy in "Porgy and Bess," in 1952. Since that time, Dr. Warfield's pursuits have taken him all over the world, and he has appeared as a guest artist in numerous international festivals.

His talents have gone unrecognized as his awards include an alumni citation from the Eastman School of Music, an honorary doctorate from the University of Arkansas, and a Grammy Award in 1984 for his narration of Copeland's Lincoln Portrait.

In 1974, William Warfield accepted a position on the faculty of the University of Illinois School of Music, where he presently presides as division chair. His contributions to young musicians as teacher and mentor have endeared him to thousands of students and he is held in high regard by all with whom he has worked and performed.

I would like to take this opportunity to wish him the best during his retirement and thank him on behalf of the Urbana-Champaign community that has greatly benefited from his love of music.

IN RECOGNITION OF 100 YEARS OF SUCCESSFUL BUSINESS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in congratulating a local business in my congressional district upon its 100th anniversary.

Millers Mutual Insurance Co., was founded in Harrisburg on March 26, 1890, by a locally organized group of flour and grain millers. As a "mutual plan" insurer, the company was owned by its policyholders. That tradition continues to this day. Also continuing to this day is Millers' reliance on the basic principles on which it was founded.

Millers employs 88 people, has 350 independent agents in the middle Atlantic region and provides special agri-business risk management services in 36 States.

Mr. Speaker, our country was founded on farming and agriculture. The values of this industry—hard work, quality production, and love of the land—are fortunately still with us as we enter the 21st century. By insuring agricultural properties, Millers provides Pennsylvanians with a vital service—it allows our farmers to go about their important work without fear of a disaster wiping out their savings. Thus, Millers helps preserve those values so dear to Pennsylvanians and all Americans.

I congratulate Millers Mutual Insurance Co., on work well done.

GREAT LAKES SHIPPING AND MARITIME PRIORITIES FOR THE 101ST CONGRESS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. DAVIS. Mr. Speaker, the Great Lakes is important to the shipping and maritime segment of the national economy. Recently, the 1990 Seaway Review Magazine included an article on this subject entitled, "Identifying Shipping and Maritime Priorities," authored by Timothy A. Mohler, chairman of the Great Lakes Task Force. In that article he reports on Great Lakes priorities and the work of both the Great Lakes Task Force and the Great Lakes Commission. I thought it would be a service to relate their concern today.

Specifically, the article points out that Great Lakes transportation has been the foundation on which the regional and national manufacturing economies were built. Industrial activity will change over time as new products and markets are developed. Economic growth is subject to periodic cycles. The Great Lakes shipping industry as part of this dynamic economy adjusts as circumstances require and anticipates future challenges and opportunities.

The Great Lakes Task Force is a voice for the shipping and maritime interests in that region. The principal message of the task force is a clear and concise articulation of policy priorities aimed at protecting this valuable economic sector and improving its performance. I am pleased to be able to highlight and support these priorities. These priorities include steel import relief, Soo Lock and connecting channel construction, domestic cabotage law compliance, enactment of Great Lakes set-aside, enforcement of other preferences for government cargoes, appropriate dredging material disposal, shipbuilding enhancement, rejection of Coast Guard user fees, and icebreaker *Mackinaw* modernization.

A brief background on what these organizations are may be useful. The Great Lakes Task Force membership include various port, union, and maritime industry organizations. The Great Lakes Commission, an eight-State compact agency, provides support services to the task force. The task force was organized 20 years ago in response to congressional concern over conflicting views and requests from the region's maritime and shipping interests. Thus, the Great Lakes Task Force provides a valuable forum for the individual organizations to openly and thoroughly discuss these issues. When agreement is reached, the Great Lakes Task Force speaks for a united body of maritime and shipping interests.

This week in its annual meeting in Washington, DC, Mr. Mohler identified and reported on the Great Lakes Task Force legislative priorities for this Congress. Although those of us who represent the Great Lakes region are keenly aware of these priorities, I thought it would be helpful to include in the RECORD the Great Lakes Task Force Report to the 101st Congress regarding these legislative priorities. I urge all of my colleagues to read this report carefully and thoughtfully as it bears importance for the entire U.S. economy. The complete text of that report follows:

LEGISLATIVE PRIORITIES—GREAT LAKES TASK FORCE REPORT TO THE 101ST CONGRESS

The Great Lakes Task Force provides a voice for the maritime and shipping interests in the Great Lakes region, identifying and articulating legislative priorities of the region for both federal and state legislators. Task Force membership includes various port, union and maritime industry organizations. The Great Lakes Commission, an eight-state compact agency, provides secretariat services to the Task Force.

THE REGION

The region of interest to the Task Force comprises the North Central portion of the United States which bounds the Great Lakes along with western sections of Pennsylvania and New York and northern Minnesota. The hinterland served by Great Lakes ports extends west through Montana, south through Missouri and Kentucky and

includes several Canadian provinces to the north. The Great Lakes states comprise less than one-sixth of the land area of the continental U.S., yet account for one-third of the country's population and over 40 percent of the value of U.S. manufactured goods.

STEEL IMPORT RELIEF

The Great Lakes Task Force urges Congress to support extension of the Voluntary Restraint Arrangement (VRA) program for steel imports. The VRA program, initiated by the President in 1984, involves the negotiation of bilateral agreements with major steel exporting countries. The goal of the program is to reduce annual imports of finished steel products to 18.5 percent of the U.S. market for a five-year period and to reduce annual imports of semi-finished steel to 1.7 million tons.

The Steel VRA Program will expire in September 1989 unless it is extended. The unfair trade practices of steel exporting countries which prompted the VRA program have not been eliminated. Excess foreign capacity in steel production, a principal factor in spurring the rise in imports remains, although some countries have begun to rationalize their industries. The current VRAs have been successful in reducing imports but because of a slow program start-up and no agreements with certain key export countries, import volumes for the five-year (1985-1989) period will be higher than expected.

The domestic steel industry is still vulnerable to an uncontrolled influx of foreign steel and the current steel recovery with its vast modernization and reinvestment schedule will be jeopardized without VRA program continuation. Implementation of new steel import restraint legislation will provide for increased purchases of domestic steel, increased profitability for steel producers, additional funds for capital investment by steel producers and stabilized employment in the steel industry.

SOO LOCKS AND CONNECTING CHANNELS

The need for a second large lock at Sault Ste. Marie, Michigan is widely recognized within the Great Lakes region and in Congress. Authorization for a new large lock was contained in P.L. 99-662, the Water Resources Development Act of 1986.

In the Great Lakes, 40 percent of the U.S. bulk cargo fleet is restricted to the existing Poe Lock because of vessel length and/or beam dimensions. These 29 lake carriers also represent two-thirds of fleet carrying capacity.

The proposed new lock would be designed to replace two old and outmoded smaller locks. Justification for lock construction is based on the need to maintain efficient lock operations and to reduce the risk of dependency on the existing large lock. In addition, the Soo Lock's importance in serving the nation's steel industry and hence its role in national defense is an acknowledged fact.

Channel modifications for the Great Lakes connecting channels such as those changes proposed for the upper St. Marys River and the planned Soo Locks construction are subject to cost share provisions of P.L. 99-662. Although the replacement lock was originally proposed as a 100 percent federally funded project, conference committees action resulted in a 25 percent non-federal share (during construction) and 10 percent non-federal share (over 30 years) requirement. At an estimated $240 million cost for the new lock, the non-federal share amounts to over $84 million.

The Great Lakes Task Force urges Congress to appropriate funds for a replacement lock at Sault Ste. Marie, Michigan and for necessary connecting channel improvements. These waterways and the Soo Locks complex serve international navigation and Canadian lake carriers are a major beneficiary. The cost share plan for related new construction could discriminate against U.S. commercial navigation and would certainly create financial difficulties for the U.S. iron ore and steel industries. Also, grain exports by North American producers would be handicapped.

The Jones Act refers generally to U.S. law that governs domestic transportation of goods and passengers by water. Section 27 of the Merchant Marine Act of 1920 requires that such transportation between U.S. points must be in U.S.-built and U.S. citizen-owned vessels that are Coast Guard documented. The Jones Act and other cabotage laws were enacted to protect and foster the United States-flag merchant marine.

The Great Lakes Task Force strongly opposes any action that would weaken the Jones Act or change its purpose and scope. Particular reflagging measures which relate to national security situations or circumstances requiring short-term response are not inconsistent with the Task Force position.

Protection of the Jones Act goes along with measures intended to strengthen the merchant marine. The Great Lakes Task Force acknowledges the work of the Commission on Merchant Marine and Defense. The Commission, created in 1986, has conducted an intensive review of the U.S. flag shipping industry and its vital connection with military preparedness. The Commission's final report with recommendations and an action strategy was presented to the President in February 1989 and should be considered by the new administration and the 101st Congress. However, those recommendations pertaining to a 100 percent cargo preference requirement for foreign and cargo, including P.L. 480 shipments, are not supported by certain Great Lakes port and terminal interests.

A serious threat to the Jones Act developed during negotiations on the U.S./Canada Free Trade Agreement (FTA). Canadian maritime interests wanted access to U.S.-protected shipping, but Congressional opposition influenced negotiations and FTA provisions were revised accordingly. However, continued vigilance is needed to ensure that future U.S./Canada trade matters do not harm the U.S. maritime industry.

The Canadian situation is of particular interest to the Great Lakes Task Force because nearly all waterborne trade between the U.S. and Canada on the Great Lakes is carried by Canadian vessels. In 1986, the General Accounting Office reported on this situation, identifying the reasons for the staggering imbalance. Shipbuilding subsidies and favorable tax rules for Canadian operators stand out among the major reasons why nearly all cross-lake trade is delivered on Canadian bottoms. As is demonstrated by the Canadian shipping case. U.S. carriers are sometimes at a disadvantage and the Jones Act affords needed protection for the domestic maritime commerce of the United States.

U.S. FLAG SHIPPING ON THE GREAT LAKES

The Great Lakes are now without any U.S. flag liner service after years of such service. This is a difficult situation and is a major obstacle in securing government preference cargoes for Great Lakes ports. The lack of U.S. flag service may jeopardize future P.L. 480 Food for Peace shipments. The December 31, 1989 expiration of the Great Lakes P.L. 480 set-aside as provided for in the 1985 Omnibus Farm Bill will exacerbate the region's problem with this commodity category.

Without U.S. flag overseas vessels, the possibility of military household and equipment shipments is eliminated. Preference cargoes entail significant dockside labor. When U.S. vessels are used shipboard labor requirements help maintain the Merchant Marine and provide trained seamen for possible duty in times of national emergency.

The Great Lakes Task Force urges legislators to encourage the expansion of U.S.-flag vessel service in the Great Lakes as one method of solving this problem. A waiver of the three-year wait requirement for reflagged vessels to carry non-military preference cargo would help to reduce the problem. Also, the establishment of a military "outport" at a Great Lakes port irrespective of current cargo flows could induce new U.S. flag service for the region.

DREDGING AND CONFINED DISPOSAL FACILITIES

The Great Lakes Task Force recognizes the important contribution that confined disposal facilities (CDFs) for dredged material have made to Great Lakes commercial navigation and improving water quality. There is a long-term need for commercial harbor dredging in the Great Lakes along with a means to dispose of dredged material in an appropriate manner. Under the existing CDF authorizing legislation (Section 123, P.L. 91-611), 26 CDFs have been built in the Great Lakes since 1970 and several are under construction or are planned. The prevalence and persistence of contaminated sediments in many Great Lakes commercial harbors coupled with a government policy aimed at protecting water quality and enhancing commercial navigation focuses attention on dredging activities and their impact on the environment.

As CDF filling progresses, the need for additional sites for particular project areas will arise. In the next several years, the need will increase—over half of the CDFs will be full (original design capacity) by 1993. Current Corps policy indicates that any new CDFs for an existing commercial navigation project will be constructed under prior project authority which in some cases may entail a substantial non-federal cost share. The Task Force supports the need for a General Accounting Office study of the Great Lakes CDF program to assess potential non-federal cost share issues for new CDFs.

GREAT LAKES SHIPBUILDING

An integral part of the Great Lakes maritime infrastructure is the region's shipbuilding and repair industry. The industry is comprised of several major and numerous smaller yards and "topside" repair facilities. They contribute not only to the economic vitality of the region and the nation but to national security as well.

The economic benefits generated by the Great Lakes shipbuilding and repair industry include the thousands of jobs in the major yards, in allied supplier industries and ship docking firms serving the deep-draft bulkers calling at the yards for repairs. For instance, a study prepared by International Maritime Associates determined that $130 million in repair and maintenance work for the U.S. Great Lakes bulk fleet would be generated between 1987 and 1991. That amount does not include repair and maintenance revenue generated by dredges, tugs, barges and passenger/excur-

sion vessels which would accrue to smaller facilities on the Great Lakes.

The economic benefits of those revenues may be reduced in the future, however, because of the Free Trade Agreement signed between the United States and Canada. The FTA's tariff provisions mandate a ten-year phaseout of the 50 percent ad valorem customs fee on non-emergency vessel repairs performed in Canadian yards. Coupled with the advantages of the currency exchange rate and government-paid health benefit costs, the repeal of the 50 percent ad valorem fee will give the Canadian shipbuilding industry an advantage over its U.S. counterpart on the Great Lakes.

The Great Lakes shipbuilding base is a proven, cost effective and reliable national security asset. From the construction of submarines during World War II to the building of minesweepers essential for operations such as those conducted in the Persian Gulf, the shipyards on the Great Lakes have contributed greatly to naval shipbuilding needs. To preserve this asset, the Department of Defense must let shipbuilding contracts of levels at which shipyards can make reasonable profits and must also seek means to provide work to the regional shipbuilding base on the Great Lakes.

COAST GUARD USER CHARGES

The 100th Congress rejected United States Coast Guard (USCG) user charges and should be commended for its opposition to yet another potential burden for the Great Lakes maritime industry. However, new user charge proposals may be forthcoming.

The Great Lakes Task Force is opposed to Coast Guard user charges because they are, in plain terms, nothing more than additional taxes on the maritime industry. The "services" to be covered by such user charges benefit other interests as much, if not more, than the maritime industry. To make ship owners, port authorities, and seamen pick up the tab for Coast Guard activities such as vessel and terminal inspection, licensing of maritime personnel and domestic icebreaking would be unfair. For example, aids to navigation, for all appearances a purely maritime function, are maintained just as much to protect life, environment, and property. Coast Guard icebreakers play an important role in flood control as well as keeping navigation lanes open during the winter freeze-up and spring break-up.

The factor of additional costs attributed to user fees cannot be overlooked. The competition between transportation modes often boils down to pennies per ton. Even a minimal fee for Coast Guard services could divert cargo from the Great Lakes.

The Coast Guard's current role requires continued full federal funding. Whereas the USCG was almost totally oriented to commercial safety and regulation, the organization now is an integral part of our national defense capability, heavily engaged in drug interdiction and committed to environmental protection. Even the traditional commercial assistance functions are multi-mission. The Coast Guard's budget must come from general revenues now more than ever. We ask Congress to continue to fund the Coast Guard from general revenues and to oppose Coast Guard user charges.

SAVE THE "MACKINAW"

In early 1988 the U.S. Coast Guard announced a series of budget reduction measures including the deactivation of the Great Lakes icebreaker *Mackinaw.* The 290-foot, high-powered vessel was relegated to "caretaker" status after the spring ice season.

The *Mackinaw* has provided exceptional ice-breaking service to commercial navigation and has been invaluable in thwarting ice jams and related flooding along the Great Lakes connecting channels. The vessel is the only Great Lakes-stationed U.S. Coast Guard vessel capable of breaking heavy ice and operating on multiple day missions. Without the *Mackinaw.* U.S. commercial shipping could lose its competitive position and the Great Lakes region would also suffer.

Recent budget support will allow the *Mackinaw* to operate during the 1989 spring ice season but continuing budget problems may result in permanent retirement of the valuable vessel. The vessel's relatively large complement of shipboard personnel results in sizable outlays. Great Lakes maritime interests have proposed a modernization program for the *Mackinaw* that would permit it to operate more efficiently and with fewer sailors. The Great Lakes Task Force urges Congress to provide sufficient funds to modernize the *Mackinaw.*

ATHLETES AND SCHOLARS AT DUNBAR SENIOR HIGH SCHOOL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. FAUNTROY. Mr. Speaker, it is a great honor for me to bring to your attention, and to the attention of all Members of the House, a most distinguished group of young athletes and scholars—superstars, all of them, attending Dunbar Senior High School in the District of Columbia.

All of us can be proud of the special achievements of these young students, their faculty, and their coaches. I am especially proud at this moment as I pay tribute to their achievements at Dunbar Senior High School, my high school alma mater.

ATHLETES

The boys varsity basketball team, 1989–90 season, has had a record of 34 wins and 3 losses. Among many honors and titles, they have been named "1990 City Champions," "1990 Interhigh League Champions," and "1989 Kingdom of the Sun Champions, Ocala, Florida."

CRIMSON TIDE ROSTER

Name	No.	Height	Weight	Class
Damon Singletary	10	6'3"	175	Junior.
Jermaine Brown	11	5'7"	140	Sophomore.
Romeo Roach	12	5'4"	160	Junior.
Deon Murray	13	6'1"	155	Senior.
Cedric McFadden	14	6'2"	170	Senior.
Johnny Rhodes	15	6'4"	170	Junior.
James Marshall	21	6'6"	210	Junior.
Kenyatta Massey	22	6'7"	210	Senior.
James Berry	24	6'4"	200	Junior.
Jerome Logan	25	6'10"	215	Senior.
James Washington	31	6'8"	220	Junior.
Michael Smith	32	6'8"	210	Senior.

Head coach: Michael A. McLeese.

Assistant coaches: Truhan McCray and Lafayette Mosely.

Scorekeeper: Angela Washington.

Video coordinator: Clifford N. Gibbs.

Managers: Rodney Williams and Marissa Holley.

Trainer: Fred Mathis.

Athletic administrator: Robert T. Graves.

Athletic director: Clarence E. Bell.

Individual honors: Washington Post "All Metropolitan and All Interhigh"—Michael Smith and Deon Murray.

Super Star News "All Washington"—Michael Smith, Deon Murray, and James Marshall. This is but a small number of the individual awards received by these gifted young athletes.

SCHOLARS

Scholarship at Dunbar Senior High School has always been of the highest calibre, with faculty and students sharing a sense of intellectual adventure, creativity, and accomplishment.

By way of paying tribute to these high standards, I am proud to commend the following students who began this year with at least a 3.3 grade-point average: LaRon Adams, Crystal Baker, LaTonia Boyd, Tawana Brock, Zebuion Brooks, Joseph Brown, Melissa Calhoun, Lisa Debysingh, Cherie Edelin, Nigel Ennels, LaShawn Franklin, Dwayne French, Tanya Headley, Michelle Herriott, Darchelle Jackson, Paulette Jackson, Veronica Jenkins, Derrick Johnson, Robin Kearnery, Nkeisha Maddox, Nicole Mighty, Milton Mooya, Jasmine Myers, Loretta Page, Lorenzo Paige, Kimberly Parker, Stephen Reeves, Marcia Robinson, Sheryl Robinson, Melanie Routh, Sharmella Simpson, Katina Shoulars, Keena Simon, Damon Singletary, Marcus Spells, Harriette Whorley, Lary Wydor, Sharnita Young.

Faith Baker and Shawn Chase began this school year with a 4.0 grade-point average.

Jasmine Myers was a National Achievement Scholarship Program semifinalist and commended in the 1990 National Merit Scholarship Program. Melisse Calhoun, Danique Fields, Brian Givens, and Benjamin Tett were commended National Scholars.

Tanya Headley was United States Ambassador to Israel, and Kimberly Parker has been selected to be a participant in the NBC Washington Minority Youth Training Program. Danique Fields participated in the Minority Introduction to Engineering Program at the Coast Guard Academy in New London, CT during July.

There were special honors earned in the foreign languages—Arabic, Latin, Italian, and Spanish, and in the science fair.

I want to pay special tribute to the leadership and guidance of Principal Eva R. Rousseau in keeping Dunbar Senior High School a beacon of light and learning. As citizens of Washington, DC, as parents, we thank you and your faculty for your inspired work with our young people.

A TRIBUTE TO ST. AGATHA'S SENIOR CITIZENS CENTER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the new officers of the St. Agatha's Senior Citizens Center in Woonsocket, RI.

The president of St. Agatha's Center will be Stanley Czarn while the seat of vice president will be shared by Eddie Horrax and Lucille McDonald. Hazel Lafleur will be the secretary, and Doris Robidoux will fill the role of treasurer.

I would like to wish my best to the new officers of St. Agatha's Senior Center and hope that they continue to create a spirit of love for their 270 enthusiastic members. Their dedicaiton to the center is a testament to their unselfish devotion and desire to maintain an active organization for their fellow members.

RETIREMENT OF MAYOR DENNIS R. FELLOWS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. TORRES. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Mayor Dennis R. Fellows of the city of Artesia. Mayor Dennis R. Fellows was first elected to the city council in 1974. He has held the office of mayor four times in his 16 years of service to the city of Artesia: 1976, 1981, and 1989.

The mayor is presently the city's representative to the Los Angeles County City Selection Committee; a director of two county sanitation districts; and is the city's representative to the U.S. Conference of Mayors. Mr. Fellows has served at various times on the City Finance Committee, the City Industrial/Commercial Development Committee, the City Law Enforcement Committee, director of Sister City Committee, and delegate for the Southern California Rapid Transit District.

Mr. Fellows is active in other organizations in the city of Artesia. He serves as treasurer of the Concordia Lutheran Church, is a member of the Lion's Club, participates in chamber of commerce events, and has been a member of the Rotary Club.

Mr. Fellows is an accountant for the firm of Soeteway & Dykstra. He attended the University of Wisconsin and California State University. He and his wife, Jo Ann have two daughters, Lisa and Kathy. The family became residents for Artesia in 1972.

Mr. Speaker on April 17, 1990, Mayor Dennis R. Fellows will retire as a member of the Artesia City Council after dedicating 16 years of loyal service. He has given his time unselfishly to the people and community of Artesia. His contributions will be remembered and his presence will be missed. I wish him good luck on a well deserved retirement.

INTRODUCTION OF H.R. 4457 "THE CORPORATE AND INDIVIDUAL INCOME TAX SYSTEMS INTEGRATION ACT OF 1990"

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. VANDER JAGT. Mr. Speaker, today I am introducing H.R. 4457, the "Corporate and Individual Income Tax Systems Integration Act of 1990."

In part because of the bias toward debt under our tax system, corporate debt levels today are at record levels. U.S. corporations are awash in debt, because capital raised in the form of debt leads to deductible interest payments for the corporation, whereas dividends paid on a corporation's equity are not deductible. These basic tax rules have resulted in a multitude of leveraged buy-outs over the past few years, and, as we see today, numerous bankruptcies and debt restructurings. The potential risks inherent in the current situation of higher debt levels for our financial institutions should be apparent. Likewise, concerns on the part of the Federal Government as both the regulator of financial institutions and as the deposit insurer must be increasing. The thrift crisis which we are in the process of addressing only serves to underscore this point.

It is time to consider whether a basic change in our tax system should be made to remove the bias toward debt financing over equity financing. The best way to neutralize the current bias toward debt financing is by implementing an integrated tax system between the corporate and individual taxpaying levels. Integrating the tax system in the way proposed in H.R. 4457 would encourage corporations to raise capital by issuing stock rather than debt.

The United States is one of the few major Western trading nations that does not have some form of integration between the corporate and individual tax systems. Given the trends in the globalization of finance, integration could help given our institutions a more level competitive playing field, and cheaper sources of capital.

H.R. 4457 accomplishes these goals by grossing-up—by the amount of the corporate tax—amounts distributed to equity holders and debt holders of a corporation. The grossed-up amount—the actual amount received, plus the corporate tax—would be includable in the receipt's gross income, but would carry with it a tax credit equal to the amount of tax paid at the corporate level with respect to the distribution.

As a consequence, corporate earnings distributed to equity holders and debt holders would be taxed at the 14-percent marginal rate at the corporate level. The tax would be in the form of the withholding tax, which could be credited against the income tax liability of the recipient of distributions from the corporation.

The benefits of H.R. 4457 are obvious:

First, it would move the current U.S. tax system toward one that was fully integrated between the corporate and individual levels. Second, it would significantly reduce the incentive to design corporate capital structures wtih heavy amounts of debt, because the treatment of debt and equity would be basically comparable. Third, significant compliance improvement with respect to the taxation of dividends and interest and could be realized, because taxes on both those forms of income would be collected at the corporate level, rather than the individual level.

Improvements in compliance would help to offset the ostensible revenue loss attributable to enacting this proposal.

I view introduction of this legislation as only one step in a long process whereby the United States would move toward an integrated tax system. Many issues need to be debated and addressed before such a system is enacted. Given both the staggering existing levels of corporate debt and the fact that many of our international competitors have systems of corporate and individual taxation that are integrated, at least partially, I believe that a national debate on this issue should occur, involving many participants from both the public and private sector. I encourage my colleagues to consider H.R. 4457 in this context.

A TRIBUTE TO THE NEWLY ELECTED OFFICERS OF CREPEAU COURT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the recently elected officers of Crepeau Court in Woonsocket, RI, who were sworn in during their annual Christmas party December 12, 1989.

The president of Crepeau Court will be Florence Charron, while the seat of vice president will be filled by Bernadette Plante. The newly elected Hortense Lamoureux will serve as treasurer and the new recording secretary will be Stella Miszriewicz.

Throughout the year residents of Crepeau Court take part in many social events. Most notable are their St. Patrick's Day, Mother-of-the-Year, and Christmas parties.

I would like to wish my best to the new officers of Crepeau Court and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion to their fellow tenants.

HONORING FRANCES C. VALENCIA, COMMUNICATION WORKERS OF AMERICA LOCAL 9400

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Frances C. Valencia, secretary-treasurer of the Communication Workers of America, local 9400 who is retiring after 47 years of working on behalf of

labor. Fran will be honored at a special dinner on Friday, April 13, 1990.

Frances C. Valencia began her career with Pacific Bell as an operator in 1943, that same year she also became a union representative for the Federation of Women Telephone Workers. During the period from 1943 to 1974 she was a district union representative, a member of the FWTW Bargaining Council and vice president. Fran remained a vice president with the Federation of Women Telephone Workers when they affiliated with the Communication Workers of America in 1974 and became secretary/treasurer in 1980. She held that position until her retirement in February, 1990.

Throughout her career, Fran has worked in the community and has been active in the legislative/political action arena. She has volunteered her time and worked on many political campaigns, including my own.

In addition, Fran still found the time to be active in the United Farm Workers activities and the Labor Council for Latin American Advancement [LCLAA]. She held such offices as secretary/treasurer of the State LCLAA, and executive board member of the national LCLAA.

Fran has been honored for her selfless devotion to many causes. She received the CSSE Pueda Award for distinguished service from LCLAA in September, 1985; the 1987 Labor Latino Heritage Award from the Catholic Labor Institute; and was honored by her own CWA National Union in 1986 in recognition for invaluable contributions to her union.

Mr. Speaker, on April 13, 1990, the members of the Communication Workers of America, local 9400 will say farewell to a dynamic and caring individual. I ask my colleagues to join with me in a salute to a fine person and special friend, Frances C. Valencia, for her outstanding record of service to the community and to the working men and women of America. And, we wish her best wishes for a happy retirement.

A TRIBUTE TO ALBERT THOMAS HENLEY

HON. NORMAN Y. MINETA

OF CALIFORNIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MINETA. Mr. Speaker, we rise today to pay tribute to Albert Thomas Henley, a friend and a dedicated public servant who will retire later this spring after 43 years of distinguished service to the Santa Clara Valley Water District, first as legal counsel and later as general counsel.

After Albert received his law degree from Stanford University in 1941, he went on to serve in the U.S. Infantry and Counter-Intelligence Service for the next 6 years.

In 1947 he began his long and illustrious career as a specialist in California water law in private practice and as legal counsel to the Santa Clara Valley Water Conservation District and other local water agencies. In 1968, Albert joined the water district as general counsel. He has served admirably since.

Albert Henley has played a vital role in many legislative landmarks, including the Santa Clara-Alameda-San Benito Water Authority Act, the San Benito County Water Conservation and Flood Control District Act, the Santa Clara Valley Water District Act, and others too numerous to mention here.

In addition to his legislative achievements, he has lectured both here and abroad and has written extensively on California water law. His many works include the invaluable "Evolutions of Forms of Water Users Organizations in California," published by the California Law Review (45 CLR 665).

We will miss Albert's special insight and wisdom. Most of all, we will miss his gift of lightening even the most difficult of circumstances with his delightful good humor and anecdotes. His broad understanding of California water law is legendary and he should be forewarned that he will be called on from time to time to refresh our memories with his knowledge and stories of old legislative battles.

To say we are sorry to see Albert Henley leave is an understatement. But while we are bidding farewell to a friend today, his wife, Miriam, his family, and love for overseas travel will be gaining his undivided attention.

Mr. Speaker, water is the lifeblood of the West. Albert Henley, with his dedication and knowledge, helped in a very real sense to make northern California bloom. For that we are forever grateful.

We would like to say thank you to a friend and dedicated public servant to so many over the years, Albert Henley. We wish him the best as he begins his retirement.

REMEMBERING DR. MARTIN LUTHER KING, JR.

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. DINGELL. Mr. Speaker, I rise in honor of the Rev. Dr. Martin Luther King, Jr., who is being honored by United Automobile Workers local 600 in Dearborn, MI on April 8, 1990. Unfortunately, I am unable to attend the special memorial service. But, I do want to take this opportunity to let the members of UAW local 600 know that I share their regard for Dr. King's lifetime of good work to protect the civil rights of not only blacks, but all Americans, and to shield all of our society's less fortunate.

Legislation being considered by the Congress, in response to several regressive Supreme Court decisions, may profoundly influence Dr. King's legacy and civil rights law for years to come. Some of the proposals would markedly expand civil rights coverage for certain groups and provide for more effective enforcement procedures. Recent congressional effort has focused on the Civil Rights Restoration Act, Fair Housing Amendments Act, and the Americans With Disabilities Act.

As dramatic as these events in Congress are, a host of recent Supreme Court decisions have recontoured the judicial landscape for enforcement of civil rights laws and constitutional rights. The concern for personal privacy balanced against the Government's obligation to protect the public health and safety were highlighted by two employee drug-testing decisions by the Supreme Court, the Webster ruling, and decisions on affirmative action and minority business set-asides.

The gains initiated by Dr. King can never be taken for granted. The Congress and courts must continue to protect the civil rights of all Americans. Through my capacity as a Member of the U.S. Congress, I pledge my support to protect these constitutional rights.

A TRIBUTE TO THE OFFICERS OF THE SACRED HEART SENIOR CITIZEN CLUB

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MACHTLEY. Mr. Speaker, I rise to honor the recently elected officers of the Sacred Heart Senior Citizens Club in Woonsocket, RI.

The president of the Sacred Heart Senior Citizens Club will be Irene Vadenais while the seat of vice president will be filled by Richard Plath. Rita Cassavant will serve as secretary, and Edna Hendricken will fill the role of treasurer.

Throughout the year the 300 members of the Sacred Heart Senior Citizens Club partake in many social events. Most notable are their monthly parties such as their July Clambake, August picnic and Mother and Father's Day celebrations. This year on September 20 the club will be celebrating its 17th anniversary.

I would like to wish my best to the new officers of the Sacred Heart Senior Citizens Club and hope that they continue to create a spirit of love within their group. Their dedication is a testament to their unselfish devotion and desire to create an active organization for their fellow members.

RAIN HOME ATTENDANT SERVICES, INC.

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. SCHEUER. Mr. Speaker, over the past 10 years, RAIN Home Attendant Services, Inc. has assisted thousands of elderly and disabled residents of the Bronx to live comfortably in their own homes and to avoid institutionalization by providing a competent level of in-home services under the Medicaid Program.

The lives of many elderly, disabled, and other home-bound individuals have been enriched by the high quality personal care provided to them by a caring, professional staff of home attendants, registered nurses, and personnel specialists, all of whom are ably backed by competent administrators and a diligent office staff.

An affiliate of Regional Aid for Interim Needs, Inc. [RAIN] has helped bring some sunshine to many Bronx residents living in the twilight of their golden years. Its staff members have shown empathy, concern, and a high degree of professionalism in the delivery of services ranging from ambulation—assisting someone to move about—to bathing, feeding, light housekeeping, and personal grooming. Caring home attendants have also provided companionship for many homebound elderly who do not have relatives to whom they can turn for assistance, encouragement, or just to chat.

I commend RAIN Home Attendant Services, Inc. for its devoted efforts over the last 10 years to make the lives of so many elderly, disabled, and home-bound Bronx residents a little easier and more enjoyable.

RAIN, as we commonly know it, has always been a sustainer of life. For many of my constituents in the northeast Bronx, RAIN, Inc. has been a sustaining force enabling them to lead fuller, healthier, and happier lives. I hope that it will continue to do so for many years to come.

THE TRAGEDY OF KASHMIR

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. TORRICELLI. Mr. Speaker, in 1947 the British Government accepted the inevitability of the partition of its massive colony on the Indian subcontinent into the present-day nations of India and Pakistan. It was mutually agreed among the parties that the colony's more than 500 princely states opt for inclusion in Pakistan or India, taking into account the wishes of their people. All but three, the states of Junagadh, Hyderabad, and Kashmir, did so. In Junagadh and Hyderabad, the Indian army settled the question by intervention, but clearly the Hindu majority in both states would have chosen the same course had their wishes been asked.

In Kashmir, however, the 85-percent Muslim majority and their Hindu ruler had opposing inclinations. As a consequence, the area became a flash point between the two infant nations leading to the first of three wars between Pakistan and India. In early 1948, the Government of India took the matter of the conflict before the United Nations Security Council, and a year later in January 1949, the Security Council, with the support of both the Indian and Pakistani Governments, adopted a proposal for a plebiscite in Kashmir in order to allow its inhabitants the right of self-determination. However, U.S. Admiral Chester W. Nimitz, chosen as the Plebiscite Administrator, was unable to make any progress on the plebiscite, despite his best efforts.

For 40 years, through two more wars and continuous unrest in Kashmir, the Government of India prevented a plebiscite from bringing freedom of choice to Kashmiris and peace to the region. The Indian Government moved during this time from initial agreement to the plebiscite proposal to a rejection of it in the mid-fifties based on Pakistan's entry into a security relationship with the United States. As a member of the Security Council, the United States has consistently supported the right of self-determination for the people of Kashmir. The Soviets, however, mirroring India's opposition to the plebiscite, used its Security Council veto to deny further action or discussion with regard to the conflict.

In recent months, Kashmir has witnessed an unfortunate upsurge of violence. Indian press accounts have reported continued protests in Kashmir, including a demonstration in the capital, Srinagar, which involved 400,000 persons, fully half of the city's population. Indian Government forces have reacted strongly to the unrest, and Amnesty International has called for an investigation into reports that since January 21 as many as 50 unarmed demonstrators have been killed by Indian security forces.

This month, the U.S. Department of State issued the following statement:

We deplore the loss of life in Kashmir. We are disturbed at the rising number of casualties. We strongly urge the Government of India to restrain its security forces from using deadly force against unarmed people. We continue to believe that political dialogue is a way to address the problems of Kashmir and we urge such dialogue begin at the earliest possible time.

But the fighting continues, and the dying goes on.

Without a resolution on Kashmir, dangerous tensions in the region between India and Pakistan will continue, for the governments of the two nations will remain at loggerheads as long as Kashmir is in dispute. Conversely, a settlement of the dispute would remove the single, largest obstacle to improved Indo-Pakistani relations and could well usher in a new era of friendship and cooperation. It is past time for the world's largest democracy to live up to its principles and its promise. It is past time, as well, for the world's most powerful democracy, the United States, to take an active role in seeking to defuse this conflict and to assume a position of leadership in directing the world's attention toward a renewed effort for a plebiscite. It is time now for ballots, not bullets, time for a plebiscite in Kashmir which could fundamentally alter the history of the subcontinent, and with it, our chances for a peaceful world.

THE ELECTIONS OF OFFICERS OF THE JOHN F. KENNEDY MANOR

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the recently elected officers of the John F. Kennedy Manor in Woonsocket, RI.

The president of the John F. Kennedy Manor will be Laureni Leclerc, while the seat of vice president will be filled by Margaret Robin. Irene Pelypec will serve as secretary and Eva Lamoureux will be the new treasurer.

The officers were sworn in on December 16, 1989, during the annual Christmas party.

I would like to wish my best to the new officers of the John F. Kennedy Manor and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion to their fellow tenants.

A TRIBUTE TO THE GUYANA ART AND CULTURAL CENTER OF BROOKLYN, NY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. OWENS of New York. Mr. Speaker, I wish to pay tribute to the Republic of Guyana Arts and Educational Center in Brooklyn, NY and its director and codirector, Drs. Thomas E. and Marguerite C. Thompson. They have dedicated much time and effort to sharing the rich culture and heritage of Guyana, South America, and the West Indies with the wider population of our country.

This committed team, without compensation, also serves as facilitators of educational and vocational guidance in preschool, elementary, secondary, college and adult education to not only migrating families to this country, but also to students throughout the New York metropolitan area.

This center began over 10 years ago in historic Brooklyn out of a great need to help educate and expose people from different cultural backgrounds of the Caribbean and the Americas to the valuable contributions that each has played to make our city, State and country great. Encouraged by the wise response of the various activities such as lecture series, films, exhibits and multicultural programs at Boys and Girls High School, Fenimore Street United Methodist Church, The Weeksville School and Bedford-Stuyvesant Restoration Arts and Cultural Center, all of Brooklyn, NY, the center has been praised for its strong commitment to our inner city youth. In addition, exhibits have also been viewed at the United Nations Lobby and the U.N. Church Center in New York. Programs designed by the center's directors have been used throughout the Nation including such cities as far south as New Orleans, LA and as far west as Los Angeles, CA, as part of its curriculum development.

One notable highlight of the center's outreach curriculum is the R.E.D.D. Program [Reading, Enrichment, Development and Dissemination]. This Saturday's program provides excellent opportunities for children at the center to develop language, reading and oral history skills through a rich involvement in personal interviews, music, books and creative writing.

Among those that have shared their lives and talents with children include Queen Mother Moore, historian; Tom Feelings, author and artist; Ambassador H.A. Vaughn, noted author and diplomat; nationally known recording artist Noel Pointer and Joan Maynard, artist and historian of the Society for the Preservation of Weeksville and Bedford-Stuyvesant History.

In addition, parents and children—most particularly those newly arrived from the English speaking Caribbean area—have been intro-

duced to the various cultural and educational institutions of the community at large. Field trips and tours of landmarks have also been included as part of the learning/teaching experience. Census and voter registration materials and lectures on the value of exercising the rights of citizenship to newly sworn citizens have been a key focus of this organization.

Lectures on Guyana and the surrounding area, its history, yesterday, today, and the future have been presented in public schools, colleges and other social organizations throughout New York City and New York State.

The formation of a steel band called "The Guyana All Stars Steel Orchestra" has been developed by this center that has shared concerts—both classical and folk music—for listening and dance. Outstanding folk singers of the colorful region share tradition in song and dance that depict family, village, and community customs that have been carried over into our cultural exchange in America.

Annual art shows highlight a week of celebration of Guyana Independence beginning on or near May 24 for more than 10 years. Through the years 2,000 adults and school children both public and private look forward to being a part of this cultural event which is held at the Bedford-Stuyvesant Restoration Cooperatives Center for Art and Culture, with Mr.T. Gunn serving as director.

The book "Outstanding Guyanese of America", by Dr. T.E. Thompson, director of the center, is used nationally and internationally in libraries, schools, consulates, and offices providing valuable information. Moreover, other publications sponsored by the center have been distributed throughout the New York City Public School system, providing an excellent reference tool to illustrate the various contributions the people of Guyana have made.

Guyana is located on the northern part of South America and is bounded on the north by the Atlantic Ocean, on the south by Brazil, on the east by Venezuela and on the west by Suriname.

Guyana was formerly a colony of Great Britain from 1831—at which time it assumed the name British Guiana—and remained under British rule until it attained its independence on May 26, 1966. It was declared a republic on February 23, 1970. The new country took the name Guyana, an aboriginal Indian word meaning "Land of Many Waters".

When slavery was abolished in 1834, exslaves refused to work for their former masters, even for wages. They left their plantations and established their own village communities. Immigrants were then brought from many parts of the world, such as Portugal, the United States, China, and India. Today the country's population reflects its Chinese, Portuguese, Indian European, Amerindian, and African ancestry. Each of these six groups have made contributions toward the country's progress, and today as a result, we are seeing the emergence of one people, one nation, one destiny.

The center's director, Dr. Thomas E. Thompson says that one of the center's primary goals is to preserve the history of Guyana as a leader in the Third World, thus helping build a sense of continuity, knowledge, self esteem and self worth for the present and future generations of Brooklyn's youth. This is especially imperative for those of African-Caribbean descent. He feels that young African-Caribbean Americans in particular will have a better understanding and deeper appreciation of their strengths and abilities once they know of their ancestors that came to this country under incredible odds and overcame them to be productive members of our country.

Statistically, it has been stated that the largest concentrated population of Guyanese and West Indians in America live in Brooklyn, NY and it environs. Many of these newly arrived citizens from these areas aid their former communities on a regular or disaster basis. These efforts and projects are supported by the center.

A working and visiting site was located on Rogers Avenue in the Flatbush Area of Brooklyn, which many organizations such as the Hawthorne Street Block Association, the Allied Organization of Guyana, the Guyana Circle, the United Methodist Women and the National Association of West Indian Americans have used as a meeting place.

This center has served with its leaders as a legacy of courage and commitment through the efforts of its director and co-director, Drs. Thomas E. and Marguerite C. Thompson. Through the efforts of these two strong individuals, generations of Brooklyn residents will continue to learn about their heritage and be inspired to be citizens of not only Brooklyn but the world. It has been said that not only did a tree grow in Brooklyn but a center of learning as well.

SELF-DETERMINATION FOR PUERTO RICO LAUDED BY NEW YORK TIMES

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. FUSTER. Mr. Speaker, my colleagues have heard me many times address the issue of a political status plebiscite in Puerto Rico which would be sanctioned by the Congress. This is a unique opportunity, in the best tradition of self-determination, for the Congress to spell out to the 3.3 million American citizens in Puerto Rico precisely what it is prepared to offer in terms of an enhanced commonwealth status, which I favor, or statehood, or independence.

Moreover, it is a unique opportunity for the Congress to commit itself—if self-determination is to be more than just empty rhetoric—to honoring the results of that plebiscite, which would be held in the summer of 1991 so as not to conflict with the general elections of 1992.

It is this desire of Puerto Ricans across the political spectrum to decide their ultimate political status that correctly prompted the New York Times to remark in a lengthy editorial last Sunday, April 1, that "Puerto Rico's right to self-determination * * * is unarguable and fundamental." The perspective and balanced editorial, which I am inserting in the RECORD today, concludes by noting that Congress should now specify "clearly and fairly what Puerto Ricans can expect, whichever way they vote."

That is crucial to the process, Mr. Speaker. As you know, President Bush, in an appearance before a joint session of Congress a year ago, proposed such a plebiscite in Puerto Rico, endorsed the principle of self-determination, and repeated his well-known preference for statehood. I do not share that preference, even though I have great respect for the institution of statehood itself. The historical record will show that commonwealth status, which was created by the Congress in 1952, has worked very well indeed, and has shown itself to be in the best interests of both Puerto Rico and the United States.

At any rate, Mr. Speaker, legislation to authorize the plebiscite which President Bush spoke of was marked up by the Senate Committee on Energy and Natural Resources, which has primary jurisdiction, last August. Some of us consider S. 712, known as the Puerto Rico Status Referendum Act, to be unbalanced, tilting as it does toward the perceived economic benefits of statehood. But at least S. 712 serves as a vehicle to implement the will of the three major political parties in Puerto Rico, all of which uncharacteristically joined together early last year to support the principle of a binding status plebiscite.

Following the Senate Energy Committee action, the House Subcommittee on Insular and International Affairs held its first plebiscite hearings in both Washington and Puerto Rico earlier this year. As a result of these Senate and House hearings, some of which have been televised live back to Puerto Rico, enormous expectations have been created among island residents about the ongoing legislative process, and the anticipated wrapping up of that process, in Washington. It is a developing problem which we in the Congress must face head-on, and should not allow to fester, because we all know that not too much more time remains in this legislative year.

Thus, Mr. Speaker, I urge my colleagues to focus more on the issue of Puerto Rico's political status so that we might have a bill by the end of this legislative year. I am of course aware of the many other important items on our congressional agenda but I strongly appeal to my colleagues to make every effort, in the current legislative process, to help their fellow American citizens in Puerto Rico to realize that cherished dream of full self-determination. To that end, I commend to your attention the following editorial in the New York Times of April 1, 1990:

[From the New York Times, Apr. 1, 1990]

THE 51ST AND 52D STATES: LET PUERTO RICANS DECIDE THEIR FATE, BUT FAIRLY

Puerto Rico is not America's Lithuania, but it is unhappy with its status as a highly dependent commonwealth. An overwhelming majority of 3.3 million islanders are agreed that they want change. But as Congress is learning, agreement stops there. What adds to the perplexity is a parallel but unrelated campaign to grant statehood to the District of Columbia.

A Senate bill supported by the Bush Administration would offer Puerto Ricans a chance to choose, by a binding vote next year, statehood, improved commonwealth

status or independence. The problem is to assure a fair choice. If one or another side has plausible reasons for charging bad faith, the referendum could prolong the argument it is meant to end.

Polls for the first time show a narrow majority of Puerto Ricans now favors statehood. As sentiment has shifted, so has the tone of a longstanding debate. Statehood supporters now join with advocates of independence in decrying colonialism. Those clamoring for enhanced commonwealth status contend that the Senate bill is frontloaded unfairly in favor of statehood.

The argument springs from a complicated history. The U.S. acquired Puerto Rico from Spain almost incidentally in 1900. In 1917, Puerto Ricans became U.S. citizens, but not until 1947 did they elect a Governor. Five years later, Congress approved an ingenious commonwealth arrangement, giving a Spanish-speaking island home rule and exemption from Federal taxes but no vote in Federal elections.

Economically, the plan made sense. Using an additional tax break known as Section 936 of the revenue code, Puerto Rico has provided generous incentives for mainland investors. But politically, the island has been virtually a ward of Congress, without the clout it would wield with two senators and six or seven representatives, plus a Presidential vote.

This sense of being second-class citizens has given potent impetus to the statehood campaign. As statehood sentiment has waxed, so has uncertainty about Puerto Rico's tax exemptions, causing investors to hold back. To end the debate once and for all, Gov. Rafael Hernandez Colon, a commonwealth advocate, proposed a binding referendum.

But he now faults the Senate bill as "terribly, dangerously unbalanced." It would phase in Federal taxes and phase out Section 936 over four years. Meanwhile, says the Congressional Budget Office, statehood could cost other U.S. taxpayers as much as $9.4 billion in additional Federal social spending; more than half the island's population remains below the national poverty line.

A very different view is taken by former Gov. Carlos Romero Barceló, a statehood proponent. He persuasively cites similar preferential treatment granted other incoming states. Congress can redress the balance by rewording the commonwealth choice to give its proponents more of what they seek: an increased international role, an open port for air carriers, a voice in Federal appointments and jurisdiction over natural resources.

What is unarguable and fundamental is Puerto Rico's right to self-determination. The choice is primarily between two forms of association with the United States. Even the minority favoring independence relies on reason rather than passion. Congress can reciprocate by specifying clearly and fairly what Puerto Ricans can expect, whichever way they vote.

A TRIBUTE TO THE OFFICERS OF THE HANORA LIPPETT APARTMENTS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the reelection of the officers of the Hanora Lippett Apartments in Woonsocket, RI, who were installed at a dinner in their honor on November 9, 1989.

The president of Hanora Lippett Apartments will remain Doris Turcotte, while Irene Vadnais will continue in her role as vice president. Rena Godin will remain secretary and the role of treasurer will continue to be filled by Theresa Berube.

The residents of the Hanora Lippett Apartments are well known in the community for their monthly suppers, summer cookouts, and Wednesday night Bingo.

I would like to wish my best to the officers of the Hanora Lippett Apartments and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion and desire to create a home for their fellow tenants.

FRAMEWORK FOR UNITING GERMANY

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. KENNEDY. Mr. Speaker, many of my colleagues share my concern about how to determine the most appropriate role that the Congress should play in the reunification process now underway in Europe. We want to guarantee a method which provides for the most peaceful, fair and respectful process possible. With this in mind, I would like to introduce into the CONGRESSIONAL RECORD the following article which suggests using the Commission on Security and Cooperation in Europe [CSCE] as a basis for a final treaty. The article, by Stanley R. Sloan of the Congressional Research Service, appeared in the March 27 edition of the Christian Science Monitor, and I am sure they will find it of great interest:

The process of reorganizing Europe for the post-cold-war era has begun. The East and West German governments are shaping a unified German state. The Four Powers—the United States, the Soviet Union, France and Great Britain—are discussing the international aspects of unification.

All parties to this "two-plus-four" process agree that the interests not only of Germany but also of other states should be taken into account in the process of German unification. But there is very little agreement on the final sum of the two-plus-four equation. Toward the end of the year, President Bush, Soviet President Gorbachev, and the other leaders of the 35-member Conference on Security and Cooperation in Europe (CSCE) will meet to consider German unification and other questions about Europe's future.

European governments are moving toward a consensus that the CSCE should become the overarching framework for decisions on the future of Europe. But skeptics, some prominently placed in the Bush administration, contend that the 35-nation group is too diverse to be an effective decisionmaking body. They argue that traditional antagonisms, as between Greece and Turkey, would frequently block consensus, and that even small countries like Malta could exercise a veto.

The doubters also note that the basis for the CSCE—the 1975 Helsinki "Final Act"—is not a treaty and therefore not legally binding on the members. This criticism may in fact be the key to a solution. One of the few apparent ways to deal with the concerns of countries that are not involved in the two-plus-four negotiations, and with the U.S. Congress's interest in playing a role, would be to transform an amended CSCE Final Act into a treaty.

The CSCE Final Act lays out a set of guidelines for cooperation among states in promoting peace, economic cooperation, and human rights in Europe. This "declaration on principles guiding relations between participating states," which would be the heart of a new treaty, usefully precludes any changes in European borders except through peaceful means. And it could be amended to reflect the outcome of the two-plus-four negotiations.

These terms might include, for example, promises not to station NATO forces in Germany's eastern territory and German reaffirmation of its commitment not to become a nuclear power. The conventional-arms control talks now going on in Vienna and projected negotiations on removing U.S. and Soviet short-range nuclear weapons from Europe could clearly be brought under the CSCE umbrella.

In addition, the declaration could be strengthened to acknowledge clearly the legitimacy of all treaties, bilateral accords, and organizations in Europe that contribute to the goals articulated in the Final Act. This "grandfather clause" would spread the CSCE umbrella over a wide range of present institutions, such as the German Community, the Western European Union, and the Council of Europe, as well as over new institutions deemed necessary in the future. It could also provide the basis for continued adherence of current NATO members to the North Atlantic Treaty, whose principles are worth preserving even if the organization itself becomes less relevant to new political realities.

This approach might prove cumbersome. Some governments might regard the Final Act's provisions acceptable as political commitments but not as legal obligations. Going down this road thus would not be easy. But, at the moment this approach, based on a set of guidelines already accepted by 35 states, presents an option against which other approaches could be measured.

Giving the Final Act legal standing would provide an institutional way for the United States and the Soviet Union to remain constructively involved in future European developments while at the same time supplying the international framework for German unification. It might also make it possible to forge the drafting of a peace treaty to end World War II, a process that the Germans would like to avoid.

This framework could make it easier for the Soviet Union to swallow the membership in NATO of a united Germany, or other suggested arrangements to integrate German military forces with those of its neighbors. This could develop under the

auspices of the European Community or the Western European Union.

A CSCE treaty would also allow Congress to participate through the ratification process in the creation on a new European order. This would help establish a strong domestic foundation for a leading U.S. role in the process of strengthening democratic insitutions across Europe and in the construction of a more cooperative European security system.

Sincerely,

JOSEPH P. KENNEDY,
Member of Congress.

QUESTIONS ABOUT THE SUPERCONDUCTING SUPER COLLIDER [SSC]

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Ms. SCHNEIDER. Mr. Speaker, one of the difficult budget issues for Congress this year will be how to provide funding for the superconducting super collider [SSC]. Although the administration proposed $318 million for this project in the fiscal year 1991 Department of Energy budget, questions remain about magnet construction, international participation, and competition with other programs.

Therefore, I thought my colleagues would find the following editorial by Congressman SHERWOOD BOEHLERT useful and request that it be entered into the RECORD:

[From the Washington Post, Apr. 1, 1990]

COLLIDING WITH SCIENTIFIC PRIORITIES

When Congress begins debating the future of the Superconducting Super Collider (SSC) this week, more will be at stake than an $8 billion piece of physics equipment.

The White House Science Office recently enumerated four priorities for U.S. technology policy, each of which carries a multibillion dollar price tag. The four were: improving education at all grade levels, understanding global climate change, making American industry more competitive and building a national supercomputer network connecting all universities.

These are hard priorities to argue with, and the SSC would detract from all. The supercomputer network, for example, was not included in the administration's 1991 budget proposal because funds were scarce.

Yet the most recent increase in the estimated cost of the SSC—$2 billion—would more than pay for the five-year networking initiative. And the network, which would eventually link every college and university in the country, would improve research and education in all fields of science (including high-energy physics).

Industry is unimpressed with the SSC. When top industrial researchers were asked to rank the importance of major science projects last summer, the SSC ended up dead last.

In that survey by the Industrial Research Institute, the SSC was viewed as less deserving of funding than the human genome project, the hypersonic plane, the space station or even the Strategic Defense Initiative. These results held true even when researchers from corporations with contracts for the projects were eliminated from the survey.

The current state of the project was stated quite candidly by the president's science adviser, D. Allan Bromley, in congressional testimony last month. He said the SSC was about to move "from the conceptual design to the point where the real honest professionals sit down and say, 'All right, we have got to build this thing and start putting together the design.' "

"Putting together the design" includes figuring out how to fabricate the key components of the SSC—its magnets. A Department of Energy review panel concluded that the magnets "are not satisfactory for operation . . . and therefore the magnet design cannot be considered completed at this time."

The Congressional Budget Office adds, "Allowing more time for the DOE's magnet [research] might be well advised. Consrtuction began on a previous accelerator before the magnet problems were solved, leading to cancellation of the project after $224 million had been spent."

Yet more than half of the administration's $318 million request for the SSC for 1991 is categorized as money for construction, including $15 million for site preparation.

The Department of Energy is just as far from completing its financing plans as from finishing its technical ones. The department has been assuming that $1 billion will be supplied by foreign partners, but no commitments have been made.

DOE officials have always displayed a disturbing ambivalence about raising foreign funds for the SSC even though scientists from all over the world will be using the equipment and the resulting data.

Under increased scrutiny, the project's supporters have gone on the offensive, accusing SSC opponents of being anti-science.

Even though higher priority science projects have arisen, even though the project is being redesigned, even though science is becoming more international, even though the federal budget is strained, the SSC supporters object to the most benign changes in their plans, such as a two-year delay in construction spending or relying more on foreign funds.

Further, Deputy Secretary of Energy Henson Moore is quoted as saying that without the SSC "this country risks being underfunded in basic research." Actually, it is the SSC itself that threatens to wreck basic research—pouring billions into the narrowest of research fields while other ventures with greater ramifications for both basic human understanding of science and industrial progress go wanting.

THE AFA VERSUS THE TRUTH

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 1990

Mr. McCANDLESS. Mr. Speaker, when individuals or groups intentionally use falsehoods, half-truths, and incorrect information in an effort to raise money, I believe that our constituents should be warned. Specifically, I would like to address my comments to a group calling itself the American Family Association [AFA].

I have received a number of inquiries from my constituents about articles which were printed in the AFA Journal: about a letter asking for money for the AFA signed by Donald E. Wildmon; and about a full page ad asking for money for the AFA which appeared in USA Today. Unfortunately, but seemingly by design, the article, the ad, and the letter contain several serious inaccuracies and misrepresentations about a vote which took place in the House of Representatives on September 13, 1989.

At issue is Federal support for the National Endowment of the Arts [NEA] and their funding of highly offensive and objectionable "works of art." I am opposed to the use of American taxpayers' dollars to pay for, or to promote, offensive art. But I cannot, and do not, condone the AFA's use of deception and misrepresentation.

During the consideration of H.R. 2788, the Department of Interior appropriations for fiscal year 1990, which contained funding for the NEA, I supported efforts to restrict and reduce funding for the NEA. After the legislation passed the House, it went to the Senate where an amendment, offered by Senator JESSE HELMS to restrict Federal funding for works of art deemed to be obscene or indecent, was adopted. After the Senate passed H.R. 2788, it was sent to a conference committee, made up of a small number of Senators and Congressmen, whose task it was to resolve the between the House and Senate versions of the bill.

On September 13, the issue came before the House of Representatives. However, the issue was not "an amendment * * * which would have prohibited the NEA from using your tax dollars to support such exhibits," as the AFA has incorrectly reported several times. Rather, the issue was a motion to instruct the House conference members on H.R. 2788. Not only did the AFA fail to correctly explain the true nature of the issue, but it also failed to explain that a motion to instruct is not binding on either the House or the Senate, and is largely procedural.

Congressman RALPH REGULA, a senior member of the Appropriations Committee, moved that the House conferees address the concerns raised by the Helms amendment. While the Helms amendment certainly was well intended, it was generally felt that the actual language was vague and ambiguous, and was subject to a court challenge. Specifically, the amendment failed to provide a standard by which a work was to be judged obscene or indecent, and further failed to designate the entity that would make that determination. The Regula motion provided the conferees with the opportunity to work with Senator HELMS in an effort to enact an effective ban on the Federal funding of obscene or indecent material. As such, I found the Regula motion to be acceptable, and voted to support its passage by voting for the previous question.

To characterize that vote, as the AFA has, as a vote for "supporting the NEA in its abuse and misuse of tax dollars," is a gross misrepresentation of the facts. For an organization which claims to support family values, to resort to falsehoods designed to enrage people for the expressed purpose of raising money for itself, is inexcusable. Such an orga-

nization is not deserving of either money or credibility.

In passing, I should note that had the previous question failed on the Regula motion, Congressman DANA ROHRABACHER would have offered a motion to have the conferees simply accept the Helms language without the opportunity to address some of the questions surrounding it. For the reasons I have already stated, I preferred the Regula approach, but would have supported the Rohrabacher motion had the Regula motion failed. However, no one from the AFA has bothered to ask me about this.

The AFA has previously misrepresented the facts when, in its January 1990 issue of the AFA Journal, it carried an article supposedly written by Congressman ROHRABACHER. Because he neither wrote the article, nor gave the publication permission to use his name, Congressman ROHRABACHER took the highly unusual step of disavowing the article.

Mr. Speaker, our constituents deserve the facts and the truth. Unfortunately, apparently in its zeal for money, the AFA has overlooked both.

HOUSE OF REPRESENTATIVES—*Wednesday, April 4, 1990*

The House met at 12 noon.

The Reverend Dr. Samuel J. Wooldridge, Calvary Bible Church, St. Marys, WV, offered the following prayer:

Our Heavenly Father, I ask You today that You give these Representatives the wisdom of God to help our great country on the path of our forefathers.

Give to these Representatives the burden of Christopher Columbus to establish a nation where Jesus is Lord.

May these Representatives give themselves to the same cause of Benjamin Franklin "to give ourselves according to the commands of God." May these men and women remember that the desire of our forefathers was for us, as a nation, to be an example to all other nations for the glory of God.

Let these here today make it their life's desire to say with Sam Adams, "No King but King Jesus."

Give to these Representatives wisdom in matters of the life, freedom, and liberty under God's control. Help these, O Heavenly Father, to keep our America free from becoming a godless nation. Let us all strive to hold the cause of God close to our being. "Let us search and try our ways and turn again to the Lord." Let us say with Thomas Jefferson, "I tremble for my country when I reflect that God is just, and that His justice cannot sleep forever."

Help us, O God, to return to our forefathers' desire for our America.

In His precious name we ask. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania [Mr. WALGREN] come forward and lead us in the Pledge of Allegiance?

Mr. WALGREN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

INTRODUCTION OF REV. DR. SAMUEL J. WOOLDRIDGE

(Mr. MOLLOHAN asked and was given permission to address the House for 1 minute.)

Mr. MOLLOHAN. Mr. Speaker, it is my privilege to welcome Dr. Samuel J. Wooldridge, pastor of the Calvary Bible Church in St. Marys, WV, to the House of Representatives this morning.

Throughout Dr. Wooldridge's 22 years in the pastorate, he has touched many lives through a number of different mediums. He has started three churches as well as one Christian school.

He has sponsored radio ministries and he has ministered to the blind. He currently serves as president of Fundamental Literature for the Blind, which distributes books on cassette tapes around the world.

Dr. Wooldridge has written a series of books and pamphlets on issues as diverse as marriage, money, depression, and Christian growth.

Mr. Speaker, the people of St. Marys are the richer for Dr. Wooldridge's presence, and I welcome him to this Chamber.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1243. An act to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1781. An act to establish as the policy of the United States the preservation, protection, and promotion of the rights of Native Americans to use, practice and develop Native American languages, to take steps to foster such use, practice and development, and for other purposes.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND LABOR

The SPEAKER laid before the House the following resignation as a member of the Committee on Education and Labor:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 4, 1990.

Hon. THOMAS FOLEY,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby tender my resignation from the Committee on Education and Labor.

Respectfully,

PETER J. VISCLOSKY,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS MEMBER TO SELECT COMMITTEE ON AGING

The SPEAKER. Pursuant to the provisions of clauses 6 (f) and (i) of rule X, the Chair appoints the gentleman from Utah [Mr. OWENS] as an additional majority member to the Select Committee on Aging.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 375), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 375

Resolved, That the following Members be, and are hereby, listed to the following standing committees of the House of Representatives:

Committee on Banking, Elliot L. Engel, New York;

Committee on Education and Labor, José E. Serrano, New York, to rank after Craig A. Washington, Texas;

Committee on Government Operations, Dennis E. Eckart, Ohio;

Committee on Small Business, José E. Serrano, New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT OF THE HOUSE FROM WEDNESDAY, APRIL 4, 1990, TO WEDNESDAY, APRIL 18, 1990 AND RECESS OR ADJOURNMENT OF THE SENATE FROM THURSDAY, APRIL 5, 1990 OR FRIDAY, APRIL 6, 1990 TO WEDNESDAY, APRIL 18, 1990

Mr. GEPHARDT. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 299) providing for an adjournment of the House from April 4, 1990 to April 18, 1990 and a recess or adjournment of the Senate

from April 5 or April 6, 1990, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 299

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, April 4, 1990, it stand adjourned until 12 o'clock meridian on Wednesday, April 18, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, April 5, 1990, or on Friday, April 6, 1990, pursuant to a motion made by the Majority Leader, or his designee, it stand in recess or stand adjourned until 12 o'clock meridian, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Wednesday, April 18, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, April 18, 1990, the Speaker and the minority leader be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 18, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 18, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FEDERAL RESPONSIBILITY TO SET AND ACHIEVE GOALS

(Mr. TANNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, in recent months, it has become clear that the administration is long on setting worthwhile national goals, but short on living up to its responsibility to help achieve them. Instead, State and local governments are left to confront difficult, complex—and yes—expensive policies with few, if any, Federal resources.

The Secretary of Education came out last year with a list of improvements needed in education, something we all support. The Secretary of Transportation has declared that fixing the Nation's vital transportation system is in the national interest; again something we know is true. The list goes on and on.

These declarations, regretably, are nothing more than cheers from the sidelines. Governors, State legislatures, mayors, and city councils have been left the task of achieving those goals and with the burden of paying for them.

I share the frustrations of the talented men and women who serve their States and communities. I am convinced that there is a Federal responsibility to not only set goals but to achieve them.

We all know people who talk a good game. Back home we have a saying that describes them: "Big hat, no cattle."

□ 1210

LET US REMOVE VIOLATORS OF OUR ENVIRONMENTAL LAWS FROM WASTE DISPOSAL BUSINESS

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, all Americans are rightly concerned about toxic and hazardous waste pollution. I think, though, that Americans would be even more concerned if they found out that toxic and hazardous polluters can actually get paid by the Government to clean up the pollution.

To remedy this I have introduced legislation, along with my distinguished colleague from Oklahoma, MIKE SYNAR, that will give the Environmental Protection Agency the authority it needs to remove violators of our environmental laws from the waste disposal business.

Our legislation requires that all firms and individuals seeking contracts from the EPA disclose extensive information about the owners and key employees involved in their companies. And further, any found to have violated our environmental laws would be banned from receiving EPA contracts.

Mr. Speaker, it is time to take the profit out of pollution. I urge every one of my colleagues to cosponsor this important legislation.

PASSING THE BUCK TAKES ON A NEW MEANING

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, President Bush has given a new meaning to the old expression about passing the buck. Unfortunately, when it comes to increasing taxes, it is not the buck he is passing but the responsibility for collecting the buck.

Time after time President Bush has called on State and local governments to raise taxes to fund the programs he says we need as a nation. When he talks about no new taxes, he obviously has all fingers on both hands crossed. He loves new taxes as long as the Governor of Texas, the Governor of California and the Governor of New York are the ones proposing them. Not only does he love these new taxes, he makes it impossible for States to function without new taxes.

There is great irony in all this. Few days pass when officials from my State do not ask me why the Federal Government keeps collecting aviation and highway taxes and yet refuses to spend all the taxes even though there are pressing needs in road construction and airport safety. The Bush administration, of course is using these taxes to hide the size of the Federal budget deficit.

And so, Mr. Speaker, we have a President who loves taxes when they are collected by another layer of government and even loves Federal taxes when he can hoard them and not spend them for the specific purpose for which they are raised.

Its time that President Bush stops this fiscal charade. It is time for a little honesty.

COLA FREEZE PROPOSAL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, 2 months ago our President stood in this Chamber and said "Don't mess with Social Security." Today I'm asking my colleagues to honor that request.

Incredibly, there are Members of this Congress who want to shake up what is now a financially sound Social Security System.

First came a prominent Member of the other body. He wants to cut the

Social Security trust fund. Then, while the shockwaves were still reverberating that Social Security might once again be headed for broke, one of our prominent colleagues proposed a 1-year freeze in senior's cost-of-living adjustments.

These two proposals make a brutal one-two punch into the guts of our nations seniors—all under the guise of deficit-reduction.

Mr. Speaker, one proposal threatens the future integrity of a system seniors have counted on for more than 50 years. The other plan would pull the rug out from under that system today. My mail reflects building anxiety about just what exactly are we doing up here.

Yes, the Congress has to get serious about real deficit reduction—there's no question about it. But the way to accomplish our budget goals is not to sock it to our seniors. The way to reduce our deficit is to get rid of waste and unnecessary programs while making new programs pay for themselves. No matter how you draw it, the bottom line must always be the same—we are not going to raid the Social Security System.

PRESIDENT BUSH SEES NATIONAL PROBLEMS AS STATE AND LOCAL PROBLEMS

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, 200 years ago, after 8 years under the old Articles of Confederation, the Founding Fathers concluded that a weak and feeble national government was a dangerous and inadequate way to try to run a great nation. So they junked the Articles of Confederation and adopted our great Constitution.

Two hundred years of unparalleled progress is testimony to the wisdom of that decision.

It is also compelling evidence of what can be achieved when we join together in common purpose; sharing our revenues to invest in ourselves; and expressing our collective will through a national government willing to act.

That is why I am perplexed, Mr. Speaker. I cannot understand—poised, as we are on the edge of the 21st Century—why President Bush seems to think that same weak and feeble role for the national government, which was so wisely rejected 200 years ago, is what we need today.

For in the final analysis, there is no difference between a national government unable to act, and a national government unwilling to act. The end result is the same.

The President continues to proclaim that national problems are now State and local problems; and he continues to announce that Federal Government responsibilities are now State and local government responsibilities.

Mr. Speaker, this is no way for a great nation to prepare to meet the 21st century.

REDUCING PAPERWORK AND SIMPLIFYING PENSION AND BENEFIT LAWS

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation which will reduce paperwork and simplify complicated employee benefit definitions. Employers will soon be required to report their number of highly compensated employees. My bill will clarify the term, highly compensated, to be employees earning in excess of $75,000. The current proposed definition is confusing, overly complex and time-consuming for employers.

My legislation will also make a uniform definition of compensation as wages or earned income. Under current law, compensation is defined in several ways making pension laws much more confusing.

Finally, my bill would delay the imposition of reporting requirements until 1992; or, until a burden study to analyze the costs to employers of reporting the number of highly compensated employees has been completed.

Let us give our employers some breathing room and support legislation to simplify our overly complex pension and benefit laws.

CHAI LING: A SOURCE OF INSPIRATION TO CHINESE FOR DEMOCRATIC REFORM IN CHINA

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today the world celebrates the freedom of Chai Ling, one of the top student leaders in last spring's pro-democracy movement in China. Chai Ling's escape from China is significant because she led the last group of students out of Tiananmen Square and is one of the few living witnesses to the massacre on the night of terror in Beijing. Chai Ling was heard from last after the massacre when she videotaped a message detailing the assault on the demonstrators. In that message she told of her concern for the movement, for the protestors and for her own safety.

Following that she was placed on China's most-wanted list.

Outside of China, however, this 23-year-old's efforts earned international recognition and a nomination for the Nobel Peace Prize. Her brave and heroic efforts still serve as a source of inspiration to many Chinese who still hope for democratic reform in China.

Today in China is Qing Ming, the official day of mourning in China. While the Government increases its security because it fears the people, the people of China remember those who gave their lives for the pro-democratic movement. Today they may celebrate the fact that a leader of that movement is finally safe.

We here in the House of Representatives must by our actions never forget the martyrs of democracy in China.

ADDING REASON, COMPASSION AND COMMON SENSE TO THE SOCIAL SECURITY SYSTEM

(Mr. CHANDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, I rise today to enlist my colleagues' support for legislation that would correct an unintended, but serious flaw in current Social Security rules. The flaw is a bias against certain divorced persons.

Together with my colleague from Washington, Mr. SWIFT, I have offered legislation to correct that bias.

Mary Blackwood is a retired woman in Port Angles, WA, who lost her Social Security benefits after she and her husband were divorced and he returned to work.

She lost the benefits because of rules mandating a 2-year waiting period for persons eligible to receive benefits based on their former spouse's account. When Mrs. Blackwood's ex-husband returned to work, his actions effectively suspended her benefits for 2 years.

Our bill would correct this injustice by eliminating the 2-year waiting period for anyone who has received benefits for 12 consecutive months or in every month from age 62 until their divorce.

Although cases like Mrs. Blackwood's are rare, they still cause untold hardship for senior citizens who rely on Social Security.

In the spirit of compassion, I urge my colleagues to join me in sponsoring this commonsense bill.

□ 1220

DOUBLE STANDARD ON DRUG USE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush picked Timothy Ryan to head the Office of Thrift Supervision, even though Mr. Ryan has admitted abusing drugs. Mr. Ryan said,

and I quote, "I smoked marijuana and I used cocaine perhaps once or twice."

Let me remind Members here, we put people in jail for cocaine. America imports 60 metric tons of cocaine a year. In fact, with this admission, Mr. Ryan could not sit in the driver's seat of a Trailways bus, but the President wants to put him in the driver's seat of this savings and loan fiasco.

Now what really gets complicated, there is a prisoner in Indiana, Brett Kimberlin, that said that he had sold Vice President QUAYLE drugs while the Vice President was a student at law school. Now, frankly, the Vice President denied it, and I tend to believe him. However, I think we should investigate it. This is a war on poor people, not drugs, and evidently what we're putting kids on the streets in jail for, we are willing, to overlook and pardon the same behavior of people in high places. This is not the type of double standard that Congress should tolerate.

SUPPORT SOCIAL SECURITY

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, there are media reports that an increasing number of Democratic party leaders are endorsing the Moynihan plan to reduce Social Security revenues.

This could be popular at first, because everyone loves a tax decrease.

But, reducing Social Security revenues now, only means that in the future, there will be one of two equally bad results for the American people:

First, Social Security will again run out of money, or;

Second, future workers will have to pay oppressive Social Security taxes.

Although I agree that we need a budget change to take Social Security out of the total Federal budget calculations, it is wrong to place a short-term political gain ahead of the future welfare of the American people, which is what reducing Social Security revenues means.

I will fight to keep our Social Security System solvent for not only today's retirees but for the generations of retirees to come.

$3 TRILLION AND COUNTING

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, yesterday this House answered the President's call and voted to give $720 million to Panama and Nicaragua.

That's $1,200 for every man, woman, and child in those two countries. Today, the U.S. Treasury announced that the national debt has reached $3 trillion. It would require $12,000 from every man, woman, and child in America to pay it off. Who is kidding whom along Pennsylvania Avenue?

PRO-BUSH PLEDGE NOT TO "MESS WITH SOCIAL SECUITY"

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, our President said it best when he made a promise not to "mess with Social Security." I join my Republican colleagues in the fight to save Social Security.

Since President Bush's pledge, the Democrats have proposed cutting the Social Security payroll tax, returning the system to pay as you go, and freezing COLA's for 1 year. They assert that first, the trust fund reserves are worthless IOU's—the truth is that the reserves are invested in Treasury obligations, and the Treasury pays the trust fund substantial interest payments; second, the reserves are sufficiently high to return to the pay-as-you-go system—the truth is that we adopted the current system in 1983 because we realized the pay-as-you-go philosophy left the system vulnerable; and third, the payroll tax is regressive—the truth is that the Social Security System is the most progressive element of the Federal budget. Let me elaborate on the regressive versus progressive argument. Lower income retirees receive disproportionately more benefits; that is, they get back a much larger fraction of their average earnings than higher income retirees.

Let us look at the facts through all of this fiction. And let us not mess with Social Security.

URGE CORRECTION OF UNFAIR LEGISLATION

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, I want to refer to the remarks made just earlier by my colleague, the gentleman from Washington [Mr. CHANDLER], who is a member of the Committee on Ways and Means, and has introduced a bill over which that committee has jurisdiction, on behalf of a constituent of mine.

She has been caught in a classic example in which a citizen is caught in a crack between legislative intent and common sense. The law was written to address a very real abuse. Unfortunately, it has inadvertently created a situation that is unfair to people in Mrs. Blackwood's position. Mr. CHANDLER's bill would correct that, and it deserves fast attention by the Committee on Ways and Means, and passage by this House.

CONGRATULATIONS TO SENATE ON CLEAN AIR ACT

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it is not often that any Member of this House takes the well to praise the actions of the other body. I am doing that today because I believe that the action that they took late last night in passing the Clean Air Act was historic and very important.

Not since 1977 has the U.S. Senate reported out a clean air bill. I will say, Mr. Speaker, as a gentleman in this House who represents the area of this country with the highest number of first-stage smog alerts in the entire Nation, I believe that it is very important for this House to move ahead and bring about a very, very strong Clean Air Act.

Of course, I do not want to jeopardize jobs or opportunities for anyone. However, I do believe it is important that we do, finally, recognize and actually implement a strong clean air bill.

NATIONAL RECYCLING POLICY URGED

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, on Earth Day 20 years ago we witnessed an environmental teach-in that began to inform the public on environmental issues and how we can try to stop environmental degradation.

On this anniversary, the 20th, we must go beyond teaching and enact Federal policies that will encourage local recycling initiatives like the one in my county, because our future depends on it.

We have passed the important environmental issues legislation, including the oil spill prevention bill, and elevating the EPA to Cabinet status, and now that the Senate has passed a clean air bill, we will begin to act on it, as well. I think this is an appropriate way for Members to begin Earth Month.

However, we are still missing the best opportunity to preserve national resources, to save money, to conserve energy, because we have no Federal recycling policy. Our Nation's environmental and energy policies will not be complete until recycling becomes a major focus. Unless we remove from reliance on nonrenewable energy and material resources, we will not have the sustainable economy, and we cer-

tainly will not be sustaining our environment.

My own county, as I mentioned before, has an ambitious program that is now being started in the other three counties in the 30th Congressional District. I am very proud of that, and look forward to seeing that as a national policy.

□ 1230

SOCIAL SECURITY AND FAIRNESS

(Mr. CAMPBELL of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CAMPBELL of California. Mr. Speaker, I rise to address the question of Social Security. Let me point out one thing about the present system and fairness.

Right now we have people working and the money they put into Social Security goes to their own retirement. That is fair. Because of the baby boom after the Second World War, we have more people working right now, and money is being put aside for the time when they will need it. That is fair.

What is not fair is the proposal by Senator MOYNIHAN which would say that those people who could now be putting money into the Social Security trust fund will not have to, and instead when they retire, we will simply raise the taxes on our children.

When we speak against the budget deficit, we speak about the unfairness of intergenerational transfer. When we speak about health care, we speak about the unfairness of ignoring the young people who are in need. Yet when we come to Social Security, it appears as though Senator MOYNIHAN and those who follow his proposal here in the House would willingly tax the children of present workers to pay their benefits. I suggest to the Members that is unfair, and I suggest that President Bush had it right when he said, "Don't mess with Social Security."

Preserve Social Security, I say to the Members of this House and the other body, and take the issue of fairness to our children.

LEGISLATION TO TERMINATE PRODUCTION OF "STEALTH" BOMBER

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, the problems facing the B-2 "Stealth" bomber seem to grow with each passing day. One day the cost goes up, the next day the prime contractor is named in yet another Justice Department investigation, and the following day the Air Force reveals that our fleet of B-52's will be viable cruise missile carriers until the year 2030.

The handwriting is on the wall, Mr. Speaker, and B-2 supporters know it. Therefore, let me make a new appeal to our colleagues to support the Rowland-Kasich-Dellums legislation. I ask the Members to join the 125 Members of this body who are supporting this legislation, which would terminate the production of B-2's beyond the 15 aircraft which have been paid for to date. What it keeps in place is research and development funding.

Most of the cosponsors of the B-2 termination support the concept of Stealth technology and believe that it should be pursued. But we cannot support a procurement rate that jeopardizes the financial future of the military. Even the Air Force has revised its cost estimate of the B-2, saying that the B-2 is now pegged at just over $75 billion.

Mr. Speaker, for the sake of the future of the Air Force, the need to reduce our own crushing deficit, and plain common sense, let us stop building B-2's now. Fly it, then buy it, but always remember—buyer beware.

SUPPORT URGED FOR EDA REAUTHORIZATION

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Mr. Speaker, I rise today to join with my colleagues in supporting the reauthorization of the Economic Development Administration and, specifically, H.R. 2015. I especially want to support this measure because EDA play such an important role in rural economic development, a subject close to my heart. Two weeks ago this body passed H.R. 3581, the Rural Economic Development Act of 1990, a measure which will bring significant change for the better to rural areas across this country. EDA and the Rural Economic Development Act will work together to better serve our Nation's distressed rural communities. This partnership is clearly reflected by the fact that EDA representatives will serve as members of the Rural Economic Development Review Panels established by H.R. 3581.

EDA's economic development districts are public-private partnerships which allow local elected officials, business leaders and community representatives to work with development professionals in creating long-term plans for revitalizing and sustaining rural areas. No doubt, EDA's financial participation in many cases is the crucial link to making a rural economic development project reality. The record speaks for itself. Although EDA's 1988 investment in projects was a modest $127 million, this amount ultimately leveraged $1.5 billion in local and private sector funds. In fact, this investment has resulted in the creation of 56,729 long-term jobs.

Mr. Speaker, I urge my colleagues to join with me today in supporting the passage of H.R. 2015.

A REPORT ON THE SOVIET UNION'S "LAST GULAG"

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I rise today on behalf of the prisoners in Perm Labor Camp 35 in the Soviet Union. Perm 35 has been called the "last Gulag" perhaps because it holds many of the remaining alleged Soviet political prisoners.

Last August, my colleague CHRIS SMITH and I were the first United States officials permitted to inspect a Soviet political camp—Perm 35. Last week, our head of the United States Prison Bureau, Michael Quinlan, who is our top correctional official, visited the same Soviet labor camp. He was joined by Chuck Colson, head of Prison Fellowship International, in a visit to several Soviet camps and prisons for an exchange of ideas, to offer expertise and also to further advance the opening up of the Soviet gulag.

I am deeply saddened that Mr. Colson and Mr. Quinlan met many of the same prisoners we met last year.

Goldovich—Sentenced to 15 years for treason to the motherland for attempting to cross the Black Sea in a rubber raft in 1985, when emigration was denied to him.

Klimchak—Sentenced for treason also for trying to flee the repression of a previous era by crossing the Iranian border, carrying short stories deemed nationalistic by the Soviets.

Kazachkov—Again, denied the right to emigrate and sentenced on espionage charges for meeting with a U.S. consular official. Then sentenced again in prison to 3½ years not in Perm 35, but the even stiffer regime of Chistopol Prison. This occurred after our visit with him and after his efforts to form a Helsinki monitoring group to monitor conditions in Perm 35.

Lubman—More than a decade of harsh punishment in Perm 35 for writing a manuscript exposing corrupt Soviet officials.

There are others facing similar excessive punishment for basically political acts committed during the Brezhnev era.

Mr. Speaker, we are led to believe that this is not the way the Soviets do business in the Gorbachev era. For months, the U.S. Helsinki Commission, Ambassador Richard Schifter, others in the State Department and Congressman SMITH and myself have

sought the release of these and other prisoners on humanitarian grounds.

These men should be released.

APRIL 4, 1990—A DAY OF REMEMBRANCE OF THINGS PAST

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, today is April 4, 1990, and I want to remind my colleagues that on April 4, 1968, 22 years ago, an assassin's bullet felled Dr. Martin Luther King, Jr., and that in the decade of the 1960's we lost four of the brightest, most courageous young men this Nation has ever produced—John F. Kennedy on November 22, 1963; Malcolm X on February 25, 1965; Martin Luther King, Jr., on April 4, 1968; and 2 months later, Robert F. Kennedy on June 5, 1968.

Their only crime was that they saw pain and wanted to heal it, and that they saw war and wanted to stop it. Born in this century, tempered by war, they wanted to build a world free of the barbarism of war and decadence, of racism and the scourge of poverty.

I hope at a time when the East-West tensions are winding down and resources are being released that we will join in their memory to build a nation and a world of justice where none shall prey upon the weakness of others, a nation and a world of plenty where greed and poverty will be eliminated, and, above all, a nation and a world of sisterhood and brotherhood where success is founded upon the kind of service that these four men sought to render this Nation, and where honor is given for the kind of nobleness that their lives represented.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, today, I am proud to introduce a joint resolution honoring the work and dedication of the more than 1.2 million women veterans in this Nation.

Women have served in and with the military service since our country was founded. Despite the fact that women are officially excluded from combat duty, we all know that many women veterans have served admirably under very difficult and dangerous circumstances. This was clearly demonstrated recently by the activities of women in the military action in Panama.

"National Women Veterans Recognition Week" is a time for this Nation to express our gratitude to all women veterans for their service. It is also a time for women to remember their years in uniform and take pride in their many contributions made to the security and well-being of this great country.

Mr. Speaker, "National Women Veterans Recognition Week" already has over 100 original cosponsors. I urge the rest of my colleagues to join me in supporting this important resolution.

□ 1240

TRIBUTE TO DR. MARTIN LUTHER KING, JR. AND ADAM CLAYTON POWELL, JR.

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, today we recognize two individuals who gave their lives in the fight for civil rights, Dr. Martin Luther King, Jr., who died on April 4, 1968, and the Reverend Congressman, Adam Clayton Powell, who died on April 4, 1972. Both of them in their own way made a mark in history, by defining justice to all of society, by trying to assure that all persons in this society would have rights and access to be able to function within a society that considers itself the model of democracy for the whole world. Long before the changes in Eastern Europe came Martin Luther King, Jr., and Adam Clayton Powell, Jr., expressing the sense of righteousness, a sense of indignation on behalf of those who did not fulfill the moral obligations to see all human beings on the basis of the content of their character rather than the color of their skin.

Mr. Speaker, today, as we memorialize them, they represent the models out of which others have evolved to try to change the very fate of the Nation and the world in which we live. The evidence of what is happening in Eastern Europe today builds on the shoulders of Martin Luther King, Jr., and Adam Clayton Powell, Jr.

MOYNIHAN PROPOSAL TO CUT THE SOCIAL SECURITY PAYROLL TAX

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, I rise today to express my opposition to Senator MOYNIHAN's plan to cut the Social Security payroll tax and to express my surprise that the Democratic National Committee endorses it.

Mr. Speaker, this proposal endangers the Social Security trust fund reserves and could lead to substantially higher taxes when current obligations become due. The Moynihan proposal puts the future stability and integrity of the Social Security system in doubt and only creates problems where solutions are needed. It is unfair to future generations to eliminate reserves created for them and paid for by them.

Mr. Speaker, I do not know why the Democrats would endorse such a plan eagerly. Maybe they simply saw a surplus that they could not figure out a way to spend.

We may not know why the Democrats may want to threaten Social Security, but the American people should know that President Bush and the Republicans will try to do all they can to keep those Democratic hands off those Social Security benefits.

THE PRESIDENT'S TRANSPORTATION PLAN ABANDONS FEDERAL RESPONSIBILITIES

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I rise today to support officials in my State of Utah who are not favorably moved by the "moving America" part of the President's transportation plan. He wants the States and local governments to raise their taxes.

Mr. Speaker, this is nothing more than a shell game played to hide deficit spending with our Nation's trust funds, sticking it to the States and local governments and abandoning Federal responsibilities.

For nearly a decade now we have paid billions of dollars in taxes on each gallon of gasoline and each airline ticket with faith that this money would go into trust funds for maintenance of our highways and airports.

However, Mr. Speaker, while these billions of dollars in surplus remain unspent, our highways have been allowed to deteriorate, our bridges have become unsafe, our airports out of date. Our transportation system is no longer a worldwide symbol of our Nation's vitality. It is becoming a bumpy road to nowhere.

My colleagues, this is like a bank telling someone on Christmas Eve that it has decided to keep the money being put into Christmas club accounts because the bank is short of cash. State and local governments in Utah and all over this country are quite rightly saying, "Bah Humbug," to the President's plan. The latter-day Scrooge in the White House needs a visit from the Ghost of Reagan Past.

REMEMBERING ROBIN GATWOOD

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I am a cosponsor of House Joint Resolution 467, a resolution to authorize and request the President to proclaim Sep-

tember 21, 1990, as National POW/MIA Recognition Day. While September is several months away, I want to use the opportunity of my cosponsorship of this legislation to relate a personal story.

I have a special interest in the continued search for missing servicemen in Southeast Asia because the son of a friend of mine is among the missing. During the Vietnam conflict, Robin Gatwood, a fighter pilot, was shot down and reported missing. Since that time his father, Dr. Robin Gatwood, has been a leader in the effort to locate our missing servicemen.

I can only imagine the frustration and pain that parents, spouses, and friends continue to feel, knowing that loved ones could still be alive and held captive in Southeast Asia. I know from talking with Dr. Gatwood that one of the sources of this frustration is the U.S. Government. The process of locating missing men has been, and continues to be, a long seemingly unending process. The very least we can do as a legislative body is to continue to call attention to this issue by proclaiming a day of recognition.

We must continue to send the message to Hanoi that we will not forget our fellow citizens. This resolution will help achieve that goal.

CRACKING DOWN ON PENNY STOCK FRAUD AND ABUSE

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, worthless penny stocks are the ripoff vehicle of choice for growing numbers of fly-by-night operators who work out of boiler rooms to try to rip off the elderly and the vulnerable.

So, Mr, Speaker, I am particularly pleased to join today with the gentleman from Michigan [Mr. DINGELL], the gentleman from Massachusetts [Mr. MARKEY], and the gentleman from New Jersey [Mr. RINALDO] in introducing legislation to crack down on penny stock fraud and abuse.

Our legislation mandates increased disclosure of the risks of these stocks, gives regulators additional tools to bar the crooks from promoting these stocks and creates a new system of review to block the sale of inherently fraudulent penny stock offerings.

Mr. Speaker, last year, at the direction of the gentleman from Massachusetts [Mr. MARKEY] I held a hearing of our subcommittee in Portland to examine this important financial issue. We saw a little bit of the high pressure sales tactics that are being used to bilk unsuspecting investors of an estimated $2 billion each year. It is high time that we stop these blank check offerings that are really a black hole for most investors, and I commend our colleagues to the bipartisan legislation that we introduced today.

WHY THE FEDERAL GOVERNMENT IS $300 BILLION IN DEFICIT EVERY YEAR

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, we hear charges from the other side of the aisle that President Bush is violating his "no new tax" pledge by relying on State and local governments to pick up responsibilities, responsibilities that the other side of the aisle would prefer were left totally to the Federal Government.

Mr. Speaker, one of the reasons the Federal Government is bankrupt, that the Federal Government is basically $300 billion in deficit every year, is because the Federal Government has taken on every task that needs to be taken on around the United States, co-opting local government, and State government and the private sector and co-opting local funds right along with those responsibilities.

President Bush offers us a responsible alternative. He is not for raising taxes, which would be the most irresponsible alternative. Instead he is seeking to refocus on federalism and to make sure that the Federal Government, along with the State and local governments, performs their tasks responsibly.

THE PENNY STOCK REFORM ACT OF 1990

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, I am pleased to announce the introduction of the Penny Stock Reform Act of 1990 today, a comprehensive effort to clean up the rampant fraud now pervading the penny stock market. The gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, joins with me in the introduction of this legislation today along with the gentleman from New Jersey [Mr. RINALDO], the ranking minority member, and the gentleman from Oregon [Mr. WYDEN]. Joining as well as the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from California [Mr. MOORHEAD], and the gentleman from Maryland [Mr. MCMILLEN]. In particular I would like to note the extraordinary contributions of the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Oregon [Mr. WYDEN] and their staffs who have been so dedicated to developing legislation in this area.

As my colleagues can imagine, we are looking for additional cosponsors. We believe this is a very important piece of legislation which has an excellent change of passing this year, and we are looking for additional support from Members of this House.

Mr. Speaker, last fall the Subcommittee on Telecommunications and Finance held two hearings to examine the problem of fraud in the penny stock market. According to the findings of the North American Securities Administrators Association's 50-State survey, investors lose $2 billion or more each year due to fraud and abuse in the penny stock market.

□ 1250

The legislation that we are introducing today would expand the Securities and Exchange Commission's authority to bar crooked promoters and consultants from the Securities business, mandate that all penny stocks trade through an automated quotation system and greatly expand disclosure.

We believe it is an excellent bill. We would like your support, and we look forward to its swift passage this year.

LITHUANIAN INDEPENDENCE

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, not long ago President Vaclav Havel, of Czechoslovakia, delivered an address to a joint meeting of this Congress that talked about democracy and the rebirth of the human spirit. It was a stirring image, reminding us that democracy is winning in Eastern Europe.

Mr. Speaker, the new President of Lithuania makes President Vaclav Havel look like a career politician. Dr. Vytautas Landsbergis is a professor of music. He teaches piano at the Conservatory of Music in Vilnius. Last year, before he was President of Lithuania, Dr. Landsbergis and I met in my office across the street to write out the first version of a resolution supporting Lithuanian independence. By the time I left for the February elections in Lithuania, we had gathered already 80 cosponsors.

Today this Congress will vote on a resolution in support of Lithuanian independence that is supported by the leadership of both the Democratic and Republican Parties. The message from this Congress to the Soviet Union will be clear. America has never recognized the forcible incorporation of Lithuania into the Soviet Union. We want a stop to the violence against the Western press and the innocent Lithuanian people. Lithuania will be free, and I am proud as a consequence of the vote today that the American people and this Congress will stand shoulder to shoulder with her.

DEMOCRATIC PARTY CAN NO LONGER BE TRUSTED ON SOCIAL SECURITY

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it has been very worthwhile to have several Members today focus attention on the stunning reversal done by the Democratic Party on the issue of protecting the Social Security System and Social Security benefits. It is a leader of the Democratic Party who has proposed doing away with Social Security COLA's this year. It is a leader of the Democratic Party who proposed abandoning the bipartisan accord on Social Security of 1983, thereby jeopardizing the integrity of the Social Security System. It is the National Democratic Party that has gone on record as supporting the abandonment of the bipartisan accord, and thereby have said to generations of Americans now paying Social Security taxes that there may be no benefits for them in the future. For a party that has long billed itself as a defender of Social Security, this is a big switch. What this switch says is clear. The Democratic Party can no longer be trusted on Social Security.

WE MUST STAY THE COURSE OF JEWISH FAMILIES EMIGRATING FROM SOVIET UNION

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, we have seen some enormous changes in the world in the last year. Where there was once silence and oppression, there are now new voices of hope. The wall that separated East from West for so long has been torn down, and in its place is a negotiating table.

But for many Jewish families who dreamt for years of emigrating to the West, these changes have turned their dreams into reality. We are right to welcome and praise the increase of Jewish emigration from the Soviet Union, but in our enthusiasm and praise we cannot close our eyes to the thousands of families who are still waiting to emigrate. We cannot close our eyes to those who because of supposed "state secrets" from jobs they held 15 years ago, supposedly, are still denied exit visas. We cannot close our eyes to those would-be immigrants who now have to wait for 1 year because the Soviet Union is restricting flights to Israel.

The Jackson-Vanik amendment has been an appropriate and legitimate standard against which to measure Soviet emigration policies. In our economic and political relations with the Soviet Union, we must remain insistent about free emigration rights, and forceful in protesting the arbitrary treatment of long-term refusniks. Change in the Soviet's emigration policies must be pushed to a just conclusion. Our steadfastness of purpose has accomplished a great deal. Now we must stay the course.

PRESIDENT BUSH'S NO TAX PLEDGE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute.)

Mr. HANCOCK. Mr. Speaker, my colleagues on the other side of the aisle have mentioned several times today that President Bush's no tax increase pledge only applies to the Federal Government, that he is in fact advocating tax increases at the State and local levels.

Let us get the facts straight. State and local problems and lack of funds emanate from a wasteful and bloated Federal Government which has over the past 50 years of a Democrat-controlled Congress preempted the prerogatives of State and local governments.

More specifically, we have moved State and local governments tax bases to Washington, DC. It is time we discontinued this course. Over time, this is one of the things President Bush's no tax increase pledge will accomplish.

LIMIT FURTHER PRODUCTION OF THE B-2 BOMBER

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, there is more bad news for the B-2. The Director of the Congressional Budget Office, Mr. Reischauer, has just written our colleague, the gentleman from Ohio [Mr. KASICH], a letter wherein he indicates that the cost estimate of the B-2 has now been increased by some $6.5 billion over the most recent administration estimate. In this letter, Mr. Speaker, the CBO Director indicates that this is due to the fact that the administration has underestimated the inflation rate in their proposal, and in addition to that has also not adequately accounted for modifications that the program anticipates, and lastly, the other reason is that the current estimate of the B-2 learning curve assumes efficiencies and cost reductions are realized more rapidly than has been the case for other aircraft, including the B-1B bomber.

Mr. Speaker, I would just observe that this is another reason why I urge my colleagues to join me and my friend, the gentleman from Ohio, and my friend, the gentleman from California in cosponsoring H.R. 3978, which proposes to limit further production of the B-2 to the 15 that are under production and save the taxpayers of this country some $35 billion to $40 billion.

□ 1300

SAVE THE EASTERN MARKET

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, the city of Washington, DC has come up with yet another brilliant idea. This time the idea entails the shelling and remodeling of historic Eastern Market. I know that many of you, like myself, have been going to the Eastern Market for years. The fresh fruit and produce that arrives every Saturday from farmers all the way from West Virginia to the Eastern Shore in Maryland attract visitors and residents alike. Although it is an unpretentious place, national publications like the Washington Post, New York Times, Vanity Fair, and Conde Nast Traveler, have recognized and sung the praises of the greatness of the food, produce, and atmosphere.

And now what is the D.C. administration proposing? As part of a neighborhood revitalization project they have tacked on a costly provision to remodel Eastern Market for the whopping sum of $3.8 million. This amount can only be considered additional, wasteful debt. When the District of Columbia is suffering from severe infrastructure problems, they should be directing their precious funds to more worthwhile and necessary projects like making the roads serviceable, and addressing the ridiculously high crime rate. The great historical institution of Eastern Market does not want, need, or require any doctoring. The D.C. government annually informs Congress about the efficient and frugal system that they run, I hope that this absurd proposal is not an indication of the District of Columbia's efficiency and frugality.

Going into the Eastern Market all of your senses are greeted—the sights of the beautiful fruit and vegetables, the wonderful smells of fresh breads and meats, and the sound of chattering and laughter by relaxed and happy workers and visitors. All of this would change dramatically, and for the worse, if the city of Washington gets its way and succombs to the sterility, superficiality, and greed of chain eateries.

The officials who so brilliantly concocted this plan seem to be completely oblivious to the fact that this act would totally destroy the charm and atmosphere that make it so popular and so unique. Through renovation are they thinking of creating another Union Station? A place with chain eateries? A place where longstanding concessionaires like Tommy Glasscoe

are no longer wanted or appreciated? Mr. Glasscoe and those like him have helped to create the history and atmosphere that is such a great part of Eastern Market. In fact, without them, Eastern Market could not exist.

What we have here is the blatant manipulation by a city bureaucracy of the city code to do away with a part of the District of Columbia history despite the wishes of residents and patrons. I recognize it for what it is because as a three-term mayor of a major metropolitan city, I fought hard against the city bureaucracy which tried to use the city code to push through its own agenda.

While this project would be incurring huge debts, taking moneys away from virtually necessary projects and essentially mortgaging the District of Columbia even more, it would all be money wasted. The patrons who now frequent Eastern Market and enjoy it as it is, would stop visiting Eastern Market. They would stop going to Eastern Market because the essence of the place would be gone. Then, there would not even be the patrons to help alleviate the costs that the District of Columbia would have heaped on Eastern Market.

The so-called renovation would completely and utterly destroy a historical, cultural, and social center of Capitol Hill. The notion that the D.C. government could even consider dropping a $3.8 million bomb on the Eastern Market is unbelievable. Let us not fix what ain't broke—keep Eastern Market out of meddling hands—keep it as it is.

HOUSE CONCURRENT RESOLUTION 271 SEEKS RELEASE OF HOSTAGES

(Mr. MAZZOLI asked and was given permission to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I rise in very proud support of House Concurrent Resolution 271, which was passed by this body last evening. It is a sense-of-Congress resolution expressing the fervent desire that the President of the United States seek the release of the hostages who have been held in Lebanon for these many years, and to put that release as a high priority and do everything in his power and this Nation's power to expedite and accelerate the release of these people.

House Concurrent Resolution 271, Mr. Speaker, would be always of interest to every American and to all of us as citizens of this country, but it is of special importance to people from Kentucky. One hostage, Terry Anderson, who has been held now for over 5 years—March 16 was the fifth terrible anniversary of his incarceration—has a sister, Peggy Say, who is now a resident of west Kentucky in the District, I believe, of my friend from the First District, the gentleman from Kentucky [Mr. HUBBARD]. Therefore, I hope, as a Kentuckian, as a citizen of this country, and really as a citizen of the world, that House Concurrent Resolution 271, authored by my friend the gentlelady from New York [Ms. SLAUGHTER], is swiftly moved by the other body, and does, indeed, help us seek and realize the release of these hostages.

IF WE WAIT, THEY WILL BUY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, Baltimore baseball fans do not often agree with George Steinbrenner, the owner of the Yankees, but we are as concerned as he that a Japanese company has bought the Double A Birmingham Barons.

This is another Japanese test for Americans to face.

Americans like TV—and now the Japanese make most of our TV's.

Americans love cars—and now Honda makes America's No. 1 selling car.

Americans love movies—and now Sony owns Columbia Pictures.

Baseball is America's pastime—and now the Japanese are in the ballpark, in the stands, ready to take the field.

When will the umpires call "foul"? You cannot say the Japanese can make baseball better, can make it smaller—it does not apply—90 feet will always be the distance from third to home.

But they can own and take control of the only business the Supreme Court has decided is not subject to antitrust laws.

And one of America's favorite songs "Take Me Out to the Ballpark" could be changed to "Buy Me Some Suchi with Crackerjacks."

And to paraphrase the award winning film "Field of Dreams"—if we wait—they will buy.

INTRODUCTION OF A BILL REGULATING PENNY STOCKS

(Mr. RINALDO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RINALDO. Mr. Speaker, today, I joined Congressman DINGELL, the chairman of the Energy and Commerce Committee; Congressman MARKEY, the chairman of the Subcommittee on Telecommunications and Finance, and RON WYDEN, the gentleman from Oregon, in introducing a bill to significantly increase the regulation of the penny stock market. That makes today an important day in the history of investment in this country.

The penny stock market has been a continuing source of investor fraud. Every year thousands of investors fall victim to penny stock schemes aggregating in the millions of dollars, but that individually are each so small that in most cases they slip between the cracks of law enforcement. Federal and State securities regulators have applied their limited resources to the problems of the penny market for years, but have not been able to effectively protect investors.

The bill introduced today mandates increased securities industry self-regulation of the penny stock market. This is an entirely different approach from the traditional problem solving suggestion of increased Government regulation. The securities industry is being called upon to help clean up its own house and the combined resources of the Federal Government, the States and the industry, may finally put an end to this terrible abuse of small investors.

In the weeks to come I am looking forward to the debate on this important bill and I urge all my colleagues to support our efforts.

PRAY FOR HOSTAGES IN LEBANON

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I want to join the gentleman from Kentucky sitting in the Chair in an appeal to our fellow Americans over this religious holiday that we are about to take to pray for our eight Americans and the other European hostages who are held in some horrible dungeon confinement in the Middle East.

The hostage crisis that ended after the Vietnam war where Americans were held missing in action against their will, and have now, I guess, drifted into a historical footnote to history, because it has been, after all, since 1973 since we had the majority of our POW's returned. We have now passed, as the gentleman pointed out, Mr. Speaker, the halfway point on March 16, just a few days ago, the longest held hostage, a Kentuckian, Terry Anderson, or, rather, his sister has now become a Kentuckian, we passed the 5-year point; the longest American POW who was returned was an American Army Green Beret major named Floyd Thompson. He was held 1 week shy of 9 even years.

So Terry Anderson is now half a year past the midpoint of the longest held American throughout the 214 years of our history.

This is a sad situation as we celebrate the resurrection of Jesus Christ. This beautiful Easter holiday I would

ask every American in our great Nation of 250 million people to find some moment either on Good Friday or on that joyous Easter celebration day when more Americans go to church probably than any other day other than the birth of Christ, Christmas.

Please, pray for the speedy return of the 24 hostages held in the Middle East and our 8 Americans.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 1048, by the yeas and nays; and

House Concurrent Resolution 289, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

HATE CRIME STATISTICS ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 1048.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 1048, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 18, not voting 13, as follows:

[Roll No. 66]

YEAS—402

Ackerman	Boehlert	Clarke
Alexander	Boggs	Clement
Anderson	Bonior	Clinger
Andrews	Borski	Coble
Annunzio	Bosco	Coleman (MO)
Anthony	Boucher	Coleman (TX)
Applegate	Boxer	Collins
Archer	Brennan	Condit
Aspin	Brooks	Conte
Atkins	Broomfield	Conyers
AuCoin	Browder	Cooper
Baker	Brown (CA)	Costello
Ballenger	Brown (CO)	Coughlin
Barnard	Bruce	Courter
Bartlett	Bryant	Cox
Barton	Buechner	Coyne
Bateman	Bunning	Craig
Bates	Bustamante	Crockett
Beilenson	Byron	Darden
Bennett	Callahan	Davis
Bentley	Campbell (CA)	de la Garza
Bereuter	Campbell (CO)	DeFazio
Berman	Cardin	Dellums
Bevill	Carper	Derrick
Bilbray	Carr	DeWine
Bilirakis	Chandler	Dickinson
Billey	Chapman	Dicks
Dingell	Kildee	Perkins
Dixon	Kleczka	Petri
Donnelly	Kolbe	Pickett
Dorgan (ND)	Kolter	Pickle
Douglas	Kostmayer	Porter
Downey	LaFalce	Poshard
Dreier	Lagomarsino	Price
Duncan	Lancaster	Pursell
Durbin	Lantos	Quillen
Dwyer	Laughlin	Rahall
Dymally	Leach (IA)	Rangel
Dyson	Leath (TX)	Ravenel
Early	Lehman (CA)	Ray
Eckart	Lehman (FL)	Regula
Edwards (CA)	Lent	Rhodes
Edwards (OK)	Levin (MI)	Richardson
Emerson	Levine (CA)	Ridge
Engel	Lewis (CA)	Rinaldo
English	Lewis (FL)	Ritter
Erdreich	Lewis (GA)	Roberts
Espy	Lightfoot	Robinson
Evans	Lipinski	Roe
Fascell	Livingston	Rogers
Fawell	Lloyd	Rohrabacher
Fazio	Long	Ros-Lehtinen
Fields	Lowery (CA)	Rose
Fish	Luken, Thomas	Rostenkowski
Flake	Lukens, Donald	Roth
Foglietta	Machtley	Roukema
Frank	Madigan	Rowland (CT)
Frenzel	Manton	Rowland (GA)
Frost	Markey	Roybal
Gallegly	Martin (IL)	Russo
Gallo	Martin (NY)	Sabo
Gaydos	Martinez	Saiki
Gejdenson	Matsui	Sangmeister
Gekas	Mavroules	Sarpalius
Gephardt	Mazzoli	Savage
Geren	McCandless	Sawyer
Gibbons	McCloskey	Saxton
Gillmor	McCollum	Schaefer
Gilman	McCrery	Scheuer
Glickman	McCurdy	Schiff
Gonzalez	McDade	Schneider
Goodling	McDermott	Schroeder
Gordon	McGrath	Schuette
Goss	McHugh	Schulze
Gradison	McMillan (NC)	Schumer
Grandy	McMillen (MD)	Sensenbrenner
Grant	McNulty	Serrano
Gray	Meyers	Sharp
Green	Mfume	Shaw
Guarini	Michel	Shays
Gunderson	Miller (CA)	Shuster
Hall (OH)	Miller (OH)	Sikorski
Hall (TX)	Miller (WA)	Sisisky
Hamilton	Mineta	Skaggs
Hansen	Moakley	Skeen
Harris	Molinari	Skelton
Hastert	Mollohan	Slattery
Hawkins	Montgomery	Slaughter (NY)
Hayes (IL)	Moody	Slaughter (VA)
Hayes (LA)	Moorhead	Smith (FL)
Hefley	Morella	Smith (IA)
Hefner	Morrison (CT)	Smith (NE)
Henry	Morrison (WA)	Smith (NJ)
Herger	Mrazek	Smith (TX)
Hertel	Murphy	Smith (VT)
Hiler	Murtha	Smith, Denny (OR)
Hoagland	Myers	Smith, Robert (OR)
Hochbrueckner	Nagle	Snowe
Horton	Natcher	Solarz
Houghton	Neal (MA)	Solomon
Hoyer	Neal (NC)	Spence
Hubbard	Nowak	Spratt
Huckaby	Oakar	Staggers
Hughes	Oberstar	Stallings
Hutto	Obey	Stangeland
Hyde	Olin	Stark
Inhofe	Ortiz	Stearns
Ireland	Owens (NY)	Stenholm
Jacobs	Owens (UT)	Stokes
James	Oxley	Studds
Jenkins	Packard	Sundquist
Johnson (CT)	Pallone	Swift
Johnson (SD)	Panetta	Synar
Johnston	Parker	Tallon
Jones (GA)	Parris	Tanner
Jones (NC)	Pashayan	Tauke
Jontz	Patterson	Tauzin
Kanjorski	Paxon	Taylor
Kaptur	Payne (NJ)	Thomas (CA)
Kasich	Payne (VA)	Thomas (GA)
Kastenmeier	Pease	Thomas (WY)
Kennedy	Pelosi	Torres
Kennelly	Penny	Torricelli
Towns	Vucanovich	Whitten
Traficant	Walgren	Williams
Traxler	Walker	Wilson
Udall	Walsh	Wise
Unsoeld	Washington	Wolf
Upton	Watkins	Wolpe
Valentine	Waxman	Wyden
Vander Jagt	Weber	Wylie
Visclosky	Weiss	Yatron
Volkmer	Weldon	Young (AK)
	Wheat	Young (FL)
	Whittaker	

NAYS—18

Armey	Hammerschmidt	McEwen
Burton	Hancock	Nielson
Combest	Holloway	Shumway
Crane	Hopkins	Smith, Robert (NH)
Dannemeyer	Hunter	
DeLay	Kyl	
Dornan (CA)	Marlenee	

NOT VOTING—13

Akaka	Ford (TN)	Stump
Clay	Gingrich	Vento
Feighan	Hatcher	Yates
Flippo	Lowey (NY)	
Ford (MI)	Nelson	

□ 1330

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida and Mr. Clay for, with Mr. Stump against.

Messrs. ARMEY, DORNAN of California, MARLENEE, McEWEN, HUNTER, and HAMMERSCHMIDT changed their vote from "yea" to "nay."

Mr. PETRI changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair will advise Members that the Chair will reduce to 5 minutes the time for an electronic vote on the additional motion to suspend the rules on which further proceedings were postponed.

IN SUPPORT OF LITHUANIAN INDEPENDENCE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 289) as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 289) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 3, not voting 14, as follows:

[Roll No. 67]

YEAS—416

Ackerman	Dixon	Jenkins
Akaka	Donnelly	Johnson (CT)
Alexander	Dorgan (ND)	Johnson (SD)
Anderson	Dornan (CA)	Johnston
Andrews	Douglas	Jones (GA)
Annunzio	Downey	Jones (NC)
Anthony	Dreier	Jontz
Applegate	Duncan	Kanjorski
Archer	Durbin	Kaptur
Armey	Dwyer	Kasich
Aspin	Dymally	Kastenmeier
Atkins	Dyson	Kennedy
AuCoin	Early	Kennelly
Baker	Eckart	Kildee
Ballenger	Edwards (CA)	Kleczka
Barnard	Edwards (OK)	Kolbe
Bartlett	Emerson	Kolter
Barton	Engel	Kostmayer
Bateman	English	Kyl
Bates	Erdreich	LaFalce
Beilenson	Espy	Lagomarsino
Bennett	Evans	Lancaster
Bentley	Fascell	Lantos
Bereuter	Fawell	Laughlin
Berman	Fazio	Leach (IA)
Bevill	Fields	Leath (TX)
Bilbray	Fish	Lehman (CA)
Bilirakis	Flake	Lehman (FL)
Billey	Foglietta	Lent
Boehlert	Frank	Levin (MI)
Boggs	Frenzel	Levine (CA)
Bonior	Frost	Lewis (CA)
Borski	Gallegly	Lewis (FL)
Bosco	Gallo	Lewis (GA)
Boucher	Gaydos	Lightfoot
Boxer	Gejdenson	Lipinski
Brennan	Gekas	Livingston
Brooks	Gephardt	Lloyd
Broomfield	Geren	Long
Browder	Gibbons	Lowery (CA)
Brown (CA)	Gillmor	Luken, Thomas
Brown (CO)	Gilman	Lukens, Donald
Bruce	Glickman	Machtley
Bryant	Gonzalez	Madigan
Buechner	Goodling	Manton
Bunning	Gordon	Markey
Burton	Goss	Marlenee
Bustamante	Gradison	Martin (IL)
Byron	Grandy	Martin (NY)
Callahan	Grant	Martinez
Campbell (CA)	Gray	Matsui
Campbell (CO)	Green	Mavroules
Cardin	Guarini	Mazzoli
Carper	Gunderson	McCandless
Carr	Hall (OH)	McCloskey
Chandler	Hall (TX)	McCollum
Chapman	Hamilton	McCrery
Clarke	Hammerschmidt	McCurdy
Clement	Hancock	McDade
Clinger	Hansen	McDermott
Coble	Harris	McEwen
Coleman (MO)	Hastert	McGrath
Coleman (TX)	Hatcher	McHugh
Collins	Hawkins	McMillan (NC)
Combest	Hayes (IL)	McMillen (MD)
Condit	Hayes (LA)	McNulty
Conte	Hefley	Meyers
Conyers	Hefner	Mfume
Cooper	Henry	Michel
Costello	Herger	Miller (CA)
Coughlin	Hertel	Miller (OH)
Courter	Hiler	Miller (WA)
Cox	Hoagland	Mineta
Coyne	Hochbrueckner	Moakley
Craig	Holloway	Molinari
Crane	Hopkins	Mollohan
Dannemeyer	Horton	Montgomery
Darden	Houghton	Moody
Davis	Hoyer	Moorhead
de la Garza	Hubbard	Morella
DeFazio	Huckaby	Morrison (CT)
DeLay	Hughes	Morrison (WA)
Dellums	Hunter	Mrazek
Derrick	Hutto	Murphy
DeWine	Hyde	Murtha
Dickinson	Inhofe	Myers
Dicks	Ireland	Natcher
Dingell	James	Neal (MA)
Neal (NC)	Rowland (GA)	Stangeland
Nielson	Roybal	Stark
Nowak	Russo	Stearns
Oakar	Sabo	Stenholm
Oberstar	Saiki	Stokes
Olin	Sangmeister	Studds
Ortiz	Sarpalius	Sundquist
Owens (NY)	Savage	Swift
Owens (UT)	Sawyer	Synar
Oxley	Saxton	Tallon
Packard	Schaefer	Tanner
Pallone	Scheuer	Tauke
Panetta	Schiff	Tauzin
Parker	Schneider	Taylor
Parris	Schroeder	Thomas (CA)
Pashayan	Schuette	Thomas (GA)
Patterson	Schulze	Thomas (WY)
Paxon	Schumer	Torres
Payne (NJ)	Sensenbrenner	Torricelli
Payne (VA)	Serrano	Towns
Pease	Sharp	Traficant
Pelosi	Shaw	Traxler
Penny	Shays	Udall
Perkins	Shumway	Unsoeld
Petri	Shuster	Upton
Pickle	Sikorski	Valentine
Porter	Sisisky	Vander Jagt
Poshard	Skaggs	Visclosky
Price	Skeen	Volkmer
Pursell	Skelton	Vucanovich
Quillen	Slattery	Walgren
Rahall	Slaughter (NY)	Walker
Rangel	Slaughter (VA)	Walsh
Ravenel	Smith (FL)	Washington
Ray	Smith (IA)	Watkins
Regula	Smith (NE)	Waxman
Rhodes	Smith (NJ)	Weiss
Richardson	Smith (TX)	Weldon
Ridge	Smith (VT)	Wheat
Rinaldo	Smith, Denny (OR)	Whittaker
Ritter	Smith, Robert (NH)	Whitten
Roberts	Smith, Robert (OR)	Williams
Robinson	Snowe	Wilson
Roe	Solarz	Wise
Rogers	Solomon	Wolf
Rohrabacher	Spence	Wolpe
Ros-Lehtinen	Spratt	Wyden
Rose	Staggers	Wylie
Rostenkowski	Stallings	Yatron
Roth		Young (AK)
Roukema		Young (FL)
Rowland (CT)		

NAYS—3

Crockett	Nagle	Obey

NOT VOTING—14

Clay	Gingrich	Stump
Feighan	Jacobs	Vento
Flippo	Lowey (NY)	Weber
Ford (MI)	Nelson	Yates
Ford (TN)	Pickett	

□ 1337

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution in support of the right of the Lithuanian people to independence."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. AKAKA. Mr. Speaker, I was unavoidably detained on the Senate side and was not able to vote on rollcall No. 66, H.R. 1048, the Hate Crime Statistics Act. Had I been here, I would have voted "aye."

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 67.

□ 1340

ORGAN TRANSPLANT AMENDMENTS ACT OF 1988 EXTENSION

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3968) to amend the Organ Transplant Amendments Act of 1988 to change an effective date.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

Mr. BILIRAKIS. Mr. Speaker, reserving the right to object, I do not object, but I rise to ask the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce to explain very briefly this bill to the rest of us.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, organ procurement organizations are local agencies responsible for retrieving organs. They must be certified by the Health Care Financing Administration, and recertified every 2 years, in order to receive Medicare payments. When they come up for recertification this spring, they will be subject to a new, more ambitious standard of performance than when they were originally certified. This standard was adopted by the Congress in 1988, with a delayed effective date.

As many as half of the 72 existing OPO's may be in jeopardy of not meeting the new standard and being denied recertification. If that occurred, it would seriously harm the organ transplant program. The bill before us now, H.R. 3968, will delay the applicability of the new standard until January 1, 1992. This will preserve the status quo and avoid decertifications, giving us time to carefully reexamine the applicable standard.

I urge the members to agree to this unanimous-consent request and to adopt the bill today.

Mr. Speaker, I would ask the gentleman from Florida to yield to the gentleman from Pennsylvania [Mr. WALGREN] to further address the substance of this legislation, since the bill before us is the product of his activities.

Mr. BILIRAKIS. Mr. Speaker, I am glad to yield to the gentleman from Pennsylvania.

Mr. WALGREN. Mr. Speaker, I thank the gentleman for yielding.

I rise to underscore the importance of the House passing this bill and to say how marvelous it is to see the House act so swiftly when there is a real need. And there is a real need in this instance. All of us know instinctively the importance of the national organ procurement system. We have witnessed families and parents in what often amounts to almost a race with death to try to find a matching organ for one of their children when that child's life is literally at stake.

We have had growing pains or starting-up pains as we have tried to establish over these last several years a national organ procurement system. It is one that has been give much lipservice but little money. But it is important that these organizations that are in the field be able to continue.

In the past, in 1988, we required them to find at least 50 organs a year, and that requirement was in place by this spring, so literally half of the procurement organizations would be required to be decertified by the Department of Health and Human Services this spring if we do not extend this date. Obviously we need to build on the foundation they have started.

The chairman of the Subcommittee on Health and the Environment is planning reauthorization hearings on organ transplants this summer. We ought to do this in the right way, and the way to do that is to not shut these organizations down now but to extend this date.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BILIRAKIS. Mr. Speaker, continuing my reservation of objection, I would merely supplement the remarks of my colleagues with whom I serve on the committee. I commend and thank the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], and the gentleman from Pennsylvania [Mr. WALGREN] for their comments and for their interest in this subject.

I would merely add that we oftentimes question what the proper role of the Federal Government might be, and I should think that the Federal Government must be involved when it comes to something like this, when only the Federal Government can actually motivate and encourage a Federal national registry of this type.

Mr. Speaker, I wish to commend also my colleague, the gentleman from Florida [Mr. YOUNG], who shares Pinellas County in Florida with me. The gentleman from Florida [Mr. YOUNG] has played a very large part in the national registry of bone marrow donors.

I would merely like to add, Mr. Speaker, that even though this is not part of this bill, because we are merely extending the time, I am very hopeful that we can come up with some sort of a solution to this business of registering, because for a person to even be tested to determine whether or not they might become a part of the registry, it costs them $75 per person as a fee. It rubs me a little wrong that a person has to pay in order to be able to volunteer his name and his future bone marrow.

We know that a bone marrow transplant is a cure for more than 60 formerly fatal blood disorders such as leukemia and aplastic anemia. The only limitation on this program is our ability to bring together matched donors and patients.

Mr. Speaker, again I commend my subcommittee chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the bill, as follows:

H.R. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(c)(3) of the Organ Transplant Amendments Act of 1988 (42 U.S.C. 273 note) is amended to read as follows:

"(3) The amendment made by paragraph (1)(A) shall take effect on January 1, 1991.".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after the enacting clause and insert in lieu thereof: That section 402(c)(3) of the Organ Transplant Amendments Act of 1988 (42 U.S.C. 273 note) is amended by striking "until 2 years" and all that follows and inserting "until January 1, 1992.".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations."

A motion to reconsider was laid on the table.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT AMENDMENTS OF 1989

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call us House Resolution 372 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 372

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2015) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill (H.R. 4435) as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

□ 1350

Mr. Speaker, House Resolution 372 is an open rule providing for the consideration of H.R. 2015, the Public Works and Economic Development Act Amendments of 1989. This is a bill that would amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

This resolution is a straightforward rule. It is open and provides for 1 hour of general debate, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs.

The rule makes in order the text of H.R. 4435 as an original bill for the purpose of amendment. This bill is simply a combination of two reports from the committees of original jurisdiction on this bill; it makes no substantive changes to H.R. 2015. The

rule further states that H.R. 4435 is to be considered by titles, with each title considered as having been read.

Finally, Mr. Speaker, this rule provides for one motion to recommit with or without instructions.

Mr. Speaker, this rule provides for the consideration of a bill that would provide new authorizations for both the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965. It would also amend these programs to meet current needs. As some of my colleagues will remember, the administration has not supported reauthorization of these programs since their expiration in 1982.

Mr. Speaker, evaluations of the existing EDA and ARC programs have shown them to be highly successful Federal investments. The funds provided through these programs have leveraged billions of dollars in private capital, created and saved millions of private sector jobs, and returned billions of tax dollars to Federal, State, and local treasuries.

In my region of South Carolina alone, these programs have recently supported an industrial and business development center in Pendleton, SC; a 5-million-gallon water storage facility in Greer; and a water line for Anderson County.

Our country needs to continue developing its infrastructure if we are to remain competitive in international markets. In doing this we should fully utilize all of our country's regions. H.R. 2015 is designed to ensure that the Economic Development Administration and the Appalachian Regional Commission contribute to the goal of nurturing and diversifying the economies of urban and rural communities in the United States.

Mr. Speaker, House Resolution 372 is a straigthforward rule that will facilitate the consideration of this bill. I urge my colleagues to adopt this rule and the underlying bill, H.R. 2015.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the members of the two committees with jurisdiction over this bill, the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs, for their hard work in bringing this bill to the floor of the House.

The programs authorized in this bill, the Economic Development Administration and the Appalachian Regional Commission have made major contributions to economic growth in my region of the country. In the years these programs have been in effect there has been great improvement. There is still much more to be done, and it is crucial that both the Economic Development Administration and the Appalachian Regional Commission be continued.

The rule that is before us today is the right way to bring this legislation to the floor. There are no restrictions on the normal open amending process. There are no waivers of the Budget Act and there are no waivers of the rules of the House. This is the kind of rule we should use more often.

Mr. Speaker, I ask for a yes vote on this rule, so that the House may proceed promptly to the consideration of the legislation to authorize the Economic Development Administration and the Appalachian Regional Commission.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 372 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2015.

The Chair designates the gentlewoman from New York [Ms. SLAUGHTER] as the Chairman of the Committee of the Whole, and requests the gentleman from Florida [Mr. BENNETT] to assume the chair temporarily.

□ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2015) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, with Mr. BENNETT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 15 minutes, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 15 minutes, the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 15 minutes, and the gentleman from California [Mr. SHUMWAY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2015, a bill designed to help some of our Nation's most economically distressed communities move toward economic growth and stability.

The bill contains two titles. Title I, the National Development Investment Act, revises and reauthorizes the programs of the Public Works and Economic Development Act by providing economic tools to local communities that need special assistance. Title II amends the Appalachian Regional Development Act consistent with the policies endorsed by the Appalachian Governors.

H.R. 2015 is substantially the same as H.R. 2686 which passed the House in the 100th Congress by a bipartisan vote of 330 to 89 and is similar to bills which overwhelmingly passed the House in the three preceding Congresses.

Many Members know from firsthand experience of communities in their own districts that have benefited from successful economic development programs. There is a continuing urgency to maintain a Federal role in targeting economic programs to areas that have been bypassed during periods of national economic expansion such as we have recently experienced. The strength of our national economy depends on the cumulative effect of self-sufficient and productive local and regional economies. It is essential that we develop and maintain our Nation's economic strength in order to deal with the effects of changing world economies.

This legislation is the result of extensive legislative and oversight hearings and indepth evaluations of existing programs. Many hours of hard work over a period of several years have been expended by both the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs. I want to commend the gentleman from Illinois, Congressman GUS SAVAGE, chairman of our Subcommittee on Economic Development, who guided H.R. 2015 through our committee.

I also want to thank former chairmen of the Economic Development Subcommittee. The dedicated leadership of Congressman JIM OBERSTAR, of Minnesota, over a period of several years was instrumental in bringing about this carefully constructed economic development initiative, and Congressman HENRY NOWAK, of New York, worked hard during his chairmanship to garner support.

Thanks are also due Representative BOB MCEWEN, of Ohio, who was ranking Republic member of the subcommittee last year and Representative RON PACKARD, of California, who recently took over that position, for their active cooperation in reporting in H.R. 2015, and Representative JOHN PAUL HAMMERSCHMIDT, of Arkansas, ranking Republican member of the full committee, and Representative

BILL CLINGER of Pennsylvania, former ranking member of the subcommittee whose contributions to the legislation and whose constant support and effort helped make this bill possible.

Special thanks also go to members of the Banking, Finance and Urban Affairs Committee, especially to Chairman GONZALEZ and to Congresswoman MARY ROSE OAKAR, who chairs the Subcommittee on Economic Stabilization, for their fine work.

The National Development Investment Act emphasizes a local leadership role, greater private sector and intergovernmental cooperation and coordination than is found in existing law, and greater leveraging of the Federal dollars. The bill authorizes grants of up to 50 percent for basic public infrastructure, for locally administered revolving loan funds to assist small businesses to set up employee stock ownership organizations, for other projects that promote small business development and job creation as well as for planning and assisting in preparing investment strategies.

Eligibility is based on distress criteria that target funds to areas of need where there is potential for success. The long-term designation under existing law is eliminated and applicants must demonstrate distress with each application.

The bill authorizes $276 million for the National Development Investment Act and $185 million for the Appalachian Regional Commission programs for each of the fiscal years 1991, 1992, and 1993. These authorization levels are considerably lower than the pre-1982 levels and reflect the committee's strong commitment to helping reduce the Federal deficit while maintaining a Federal role in regional and subregional economic development. These programs provide the foundation for growth and productivity and serve an essential national economic and social purpose.

Mr. Chairman, I urge passage of H.R. 2015 and I reserve the balance of my time.

□ 1400

Mr. HAMMERSCHMIDT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, once again we have before us a bill to reauthorize the programs of the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC].

The House has expressed strong support in the four previous Congresses for legislation reauthorizing these programs, which since 1965, have provided the impetus for revitalization and development in economically distressed areas. With each bill, the Public Works and Transportation Committee has worked diligently and in bipartisan fashion to address legitimate concerns raised about these programs.

The bill before us today is one with eligibility criteria sufficiently narrowed so that the modest amount of Federal funds authorized are specifically targeted to the most distressed areas of the country and to those projects with the greatest potential for success. And the authorization levels specified in this bill are considerably reduced from those prior to 1982 when we made the first of our four attempts to reauthorize these programs.

Several significant reforms are made in the EDA and ARC programs by this bill. Areas eligible for EDA assistance have been reduced from close to 80 percent to roughly 40 percent of the Nation. Limitations have been imposed on the grant and loan amounts which can be awarded for an eligible project. Long-term designations of distress are eliminated and annual certifications are mandated. Most importantly, the bill requires comprehensive, coordinated planning between State and local officials to insure that long term successful economic development strategies are implemented.

One can argue over various provisions of an EDA reauthorization bill and over certain aspects of the overall program. However, there really should be no argument as to the validity of needs in economically distressed communities throughout this country. The economic expansion of the past few years has not reached into all segments of the population. Communities in many areas have seen their basic public infrastructure facilities collapse or hover at the brink of collapse. There can be no economic growth or expansion for those areas under such circumstances.

H.R. 2015 represents an important effort toward the rebuilding of those vital public infrastructure facilities it authorizes $200 million a year over 2 years for grants for the construction repair and rehabilitation of those facilities as well as to create revolving loan funds to stimulate the growth of small businesses. Emphasis is placed upon the leveraging of private funds and the development of long-term economic recovery strategies designed to aid distress areas in attaining economic self-sufficiency.

H.R. 2015 also extends the highway and nonhighway programs of the Appalachian Regional Commission, in line with the current request of the Appalachian Governors. Continued economic development assistance is provided to be utilized toward area redevelopment programs and the construction of the developmental highway system for one of the most economically depressed areas of the country.

I commend Chairman GLENN ANDERSON; our Economic Development Subcommittee chairman, GUS SAVAGE; the subcommittee's former ranking Republican member, BOB MCEWEN; and the current ranking Republican member, RON PACKARD for their leadership in crafting this legislation. The program reforms included in this measure need to be enacted into law, and I hope this will be the Congress in which we do just that.

Mr. HAMMERSCHMIDT. Madam Chairman, I ask unanimous consent to yield the balance of my time and that time to be controlled by the gentleman from California [Mr. PACKARD], the chairman of the subcommittee.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Ms. OAKAR. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I appreciate the opportunity to be one of the floor managers of H.R. 2015, to support one of the finest bills I think relative to economic development, creation of jobs, trying to wipe out poverty in this country, the Public Works and Economic Development Amendments of 1989.

First of all, I want to thank many of the members of the committees for supporting this bill and for their cooperation. I want to thank the committee chairman, the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE], the minority leader of the full committee; my minority leader, the gentleman from California [Mr. SHUMWAY] who is always extremely cooperative, for their bipartisan spirit in addressing the bill.

I want also to thank the committee chairman, the gentleman from Massachusetts [Mr. MOAKLEY] and the ranking member, the gentleman from Tennessee [Mr. QUILLEN] and the Rules Committee for giving us an open rule and dealing with the rule expeditiously.

In addition, it is always a pleasure to deal with the committee chairman, the gentleman from California [Mr. ANDERSON] and the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from Illinois [Mr. SAVAGE], who is the chairman of the subcommittee; the gentleman from California [Mr. PACKARD], the gentleman from Ohio [Mr. MCEWEN], and others. They do a terrific job for us in this country relative to Public Works, and it is a pleasure to have this bill sent to both committees, because we work in a spirit of cooperation.

Madam Chairman, the bill amends the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

Basically, I will revise and extend my remarks, but I want to say that testimony has supported the fact that national monetary and fiscal policy has not reached all areas of our country in a timely and equitable manner. The EDA and the ARC programs have targeted areas of our country that are most in need, provide for an economic development policy which includes financial assistance by the Federal Government in economically distressed areas of our country.

Just to give you a statistic that I think is important, and this bill has been a part of law since 1965, but as of 1981 the EDA with a modest investment has generated 1.4 million jobs in the private sector, leveraged $9 billion in private capital and was responsible for returning $6.5 billion annually to Federal, State, and local treasuries.

With respect to the Appalachian program that we have on the books, per capita income in the Appalachian region has risen 10 percent. More than 1 million jobs have been created, and the poverty level has declined 54 percent in this formerly isolated region.

Madam Chairman, let me also add, and I want to emphasize this, we had during our subcommittee hearings members of the Energy Department and the Pentagon testify about the relevance of title IX. Title IX of the Public Works and Economic Development Act of 1965 authorizes the EDA to provide special economic development and adjustment assistance in areas experienced or threatened by sudden and severe economic dislocation, as well as areas suffering long-term economic deterioriation.

Recently this committee which I chair, the Economic Stabilization Subcommittee of the Committee on Banking, Finance and Urban Affairs, heard testimony from the administration, as I mentioned, on the sectorial economic ramifications concerning future defense reductions and the consequences of such cuts on the microeconomy, the industries, the work force, and the communities where defense production has taken place.

In other words, this title will specifically target areas that must have an economic recovery and must maintain something that was formerly a defense industrial base. They will be able with some help and some planning and some seed money from the Government to be able to translate their defense base to a civilian industrial base.

We do not want to see dramatic losses of jobs in this country when we reduce the defense budget. Title IX specifically seems to address in a small part that problem.

Indeed, no Member wants to witness economic disruption within their districts, so I would certainly want my colleagues to know that the administration in this respect did testify that the EDA was the best vehicle to facilitate such a transition.

Madam Chairman, for this reason and the fact that the EDA and ARC have demonstrated their viability and success and because these programs have shown that a subnational economic development policy is cost-effective, I want to have a really resounding success with this bill, because frankly we ought to be doing more targeting and we ought to be doing more for economic recovery in this country. We ought to be doing more to help those communities who have roads and bridges that need repair, to target areas of poverty.

I think, Madam Chairman, in this spirit when we are seeing the liberation of so many countries in Eastern Europe and indeed throughout the world, we have to ask ourselves, where is our revolution? I think, it has to be related to the quality of life of our people, and that certainly relates to economic recovery so that we can be competitive in the global economy, as well as to improve the quality of life of our own American citizens.

H.R. 2015 amends the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965. The bill was reported by the Committee on Public Works and Transportation with amendments on November 17, 1989. The bill was reported, as amended, by the Committee on Banking, Finance and Urban Affairs, with a quorum present on March 22, 1990. H.R. 2015 is the product of extensive hearings in both committees. Similar legislation has passed the House previously with bipartisan support—most recently in the 100th Congress when it passed the House 330 to 89.

Title I of the bill revises and extends the Public Works and Economic Development Act of 1965. It provides authorization for appropriations for fiscal years 1991, 1992, and 1993 at $250 million each year for programs and planning and $26 million for salaries and expenses for the Economic Development Administration [EDA]. Program assistance is provided for development investment assistance and investment strategy, planning, evaluation, and demonstration programs. Grants may be used for new construction and improvement of public facilities; to establish revolving loan funds to (1) stimulate small business growth and (2) set up employee stock ownership organizations; and for community development organizations to help small businesses by reducing interest rates for economic development project activities. Grants may also be used for economic development planning and the management assistance for colleges and universities.

Title II provides authorization for appropriations annually for fiscal years 1991, 1992, and 1993 for the Appalachian Regional Commission [ARC]. It authorizes $144 million for the development of highway and local access roads; $37.5 million for nonhighway programs; and $3.5 million for salaries and expenses.

Mr. SHUMWAY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I hesitate to rise and speak in opposition to this bill after the chain of speakers who have just spoken to us in favor of it. But I do rise in opposition to it.

I was opposed to it in the Committee on Banking, Finance and Urban Affairs, and my opposition continues to this day.

I would simply like to express some of the reasons for my opposition to the Members here this afternoon.

This bill addresses largely areas of need, needs which have been met by local and State governments, and it seems to me needs now that the answers lie more in the realm of local and State governments than they do with the Federal Government.

Certainly those of us here in the House of Representatives feel very keenly the need to address Federal deficits and to reach out for ways to bring our budget into balance. Congress has the responsibility to balance the budget, and so to do that we must make many sacrifices.

I think we have to scrutinize more carefully than ever we have before multimillion-dollar programs such as this one, and we also have to scrutinize those programs that only cost a few million. Actually there should be no spending program approved just because it happens to be small.

The administration's recently announced transportation plan recognizes that public-works spending is usually more responsive to the needs and desires of taxpayers when the control and the responsibility for that spending are closer to home. Pork-barrel projects are more easily carried on on the near anonymous Federal level.

I am afraid the Economic Development Administration and the Appalachian Regional Commission prove this argument rather than disprove it.

Madam Chairman, I was going to offer an amendment which would address the problem of pork-barrel tagons on bills like this, but for reasons that I will announce in a few moments, I am not going to offer that amendment, but I wanted to point out that actually my first preference if I were to offer an amendment would be to strike funding for these programs except perhaps for enough dollars to oversee the wind-down, administrative expenses.

This was the approach taken by the Reagan administration for the past several years, and I think that ap-

proach was responsible, because it reflected the fact that we are talking here about only temporary programs. They were designed and developed to help a few distressed areas in our country, and actually they did expire on September 30, 1982. They have been kept alive during the years since only by the ongoing appropriations process.

The program, for example, for the EDA has been expanded to cover some 80 percent of the Nation and, indeed, it has taken on the appearance of a general entitlement program. I am sure that that will be the tenor of the arguments here today, but at the same time it has become a very convenient vehicle for adding on what we commonly refer to as pork-barrel projects, projects that are designed to favor one area of the country, projects that could not pass muster on their own accord, because they obviously are parochial in their nature and designed to favor just one or a few number of Members.

I offered an amendment in the committee as we debated this bill which would have stricken the funding except for those administrative expenses. That amendment was defeated, and I am sure that were I to offer that amendment here today the same would happen here.

There is a great deal of support for these programs in the House. But I would ask the Members that, in light of our budgetary squeeze and in light of our desire to prune back on pork-barrel-type projects, that in the future we look more carefully at programs like these and, indeed, I would call upon the administration to do so as well. Because we are going to have to find ways to be more responsible in our spending habits.

Bills like these, I think, are the ones that cry out for that kind of careful, close scrutiny, and I would hope that in the future we will be able to provide it.

For those reasons, Madam Chairman, I do rise in opposition to the bill, and I urge my colleagues, as they vote upon this bill in a few moments, to think carefully on both sides of this issue.

Madam Chairman, I reserve the balance of my time.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Madam Chairman, I rise in support of H.R. 2015 and H.R. 4435 and urge Members of the House to pass it by an overwhelming vote. It is a great pleasure for me, as chairman of the Subcommittee on Economic Development and sponsor of this legislation, to join with my colleagues on both the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs who have worked to bring this bill to the House floor.

It is substantially the same as the bill that passed the House in the 100th Congress by a strong bipartisan vote and those that passed overwhelmingly in the three previous Congresses.

The bill provides urgently needed Federal investment dollars to severely depressed regional and subregional areas that have been bypassed during times of national economic growth. It is designed to assist those areas and industries and groups within those areas in their efforts to nurture existing resources, to promote growth and diversification and to create or retain permanent jobs in the private sector.

H.R. 2015 has two titles: Title I, known as the National Development Investment Act, revises the existing programs of the Public Works and Economic Development Act and authorizes new economic development programs through fiscal year 1993. Title II extends the Appalachian Regional Development Act through fiscal year 1993 and reflects policies adopted by the Appalachian Governors to meet current needs within the region.

The National Development Investment Act itself contains three titles which provide for an Economic Development Assistance Program in title I, an Investment Strategy, Planning and Demonstration Program in title II, and for administration of the act in title III. It utilizes the experience and capabilities gained over the years, incorporating the positive elements of past and present development activities and dropping those elements of the existing programs which have been highly criticized.

This bill retains technical assistance provisions and grant programs for States, local governments, economic development districts, Indian tribes, and development organizations. Development assistance grants include those for site preparation, construction, or improvement of public facilities; for capitalizing locally administered revolving loan funds to provide loans for small business growth and to promote employee stock ownership organizations; and for community development corporations to reduce interest rates for small business development projects. The Federal financial responsibility is reduced to 50 percent for public facilities grants which can go up to 80 percent under existing law. The Federal match for the revolving loan funds is also 50 percent and the fund for small business loans is limited to $1 million. The limit on grants to each applicant under the economic development assistance programs has been increased to $4 million from the $2 million contained in the previously passed bills.

Funds are also available—up to 75 percent Federal share—for economic development planning, including preparation of development investment strategies; for universities and colleges to provide managerial and technical assistance; and for evaluations and demonstration programs.

Eligibility is determined by any one of three distress criteria: Unemployment of 1 percent above the national average for the previous 2-year period; or per capita income 80 percent of the national average; or sudden and severe economic distress due to loss of a major employer. This bill limits the eligibility criteria so that only areas with the greatest need will receive assistance. Moreover, it does away with the long-term eligibility of existing law by requiring applicants to demonstrate distress with each new application. Under this bill, about 39.7 percent of the Nation's population would be eligible in contrast to existing legislation which covers about 80 percent.

In addition, each applicant is required to prepare a long-range development investment strategy which will be an important element in evaluating applications for eligibility. It must be a realistic, action document that will analyze the economic problems involved, identify specific elements that will reflect cooperation and coordinated development efforts and mutually supporting projects in distress areas, and show active participation by the private sector and other non-Federal governmental units. Communities will prepare their own strategies, set their own priorities and direct their own destinies.

The broader approach envisioned by the development investment strategy replaces the project-by-project approach of the existing legislation and could, in fact, include coordination with efforts of various jurisdictions. This is a major improvement which should permit the linking of several projects for a more comprehensive recovery and greater leveraging of the Federal dollar.

Annual authorizations for the National Development Investment Act for fiscal years 1991, 1992, and 1993 are $200 million for project grants, $50 million for planning and $26 million for salaries and expenses.

Title II of H.R. 2015 extends for 3 years the Appalachian Regional Development Act. Despite the considerable economic improvements over the years resulting from development initiatives of the Appalachian Regional Commission, the region still lags behind most other areas of the Nation in economic opportunity and quality of life. It is still trying to overcome the recession of a few years ago, which was a serious setback to the region, the decline of the steel and coal industries and the effects of changing national and international economies in recent years.

The amendments contained in this bill are designed to assist the Commis-

sion's efforts to meet the new challenges of today's world economy. In addition to $3.5 million for salaries and expenses, $144 million is authorized annually through 1993 for up to 80 percent Federal share to construct additional miles in the Appalachian highway system, which is an important catalyst for promoting and developing private sector business and industry.

For the area development programs, $37.5 million is authorized representing a 50-percent Federal share. Funds could be used for projects to provide basic needs in the region's most severely distressed and underdeveloped counties and areas. In addition, program funds will focus on economic and human resource development projects regionwide aimed at improving economic competitiveness, business development, and community infrastructure, at providing worker training and retraining to enhance manpower skills, at encouraging industrial and enterprise development programs, and at promoting State and local government and private sector initiatives for developing and sustaining economic growth and stability.

The assistance provided by the Federal Government under this bill is not excessive. It requires substantially larger contributions by local communities than in the past. It represents an investment by the Federal Government in our Nation's depressed subregional areas and is an essential ingredient in increasing the ability of all regions of our Nation to be more productive and competitive in meeting the needs of a changing world economy.

This legislation has been overwhelmingly supported in the House in the last three Congresses. In the 100th Congress, it passed by a vote of 330 to 89, in the 99th Congress by a vote of 290 to 96; in the 98th Congress by 306 to 113; and in the 97th by 281 to 95. Over the years, amendments to terminate the EDA by striking funding from the appropriations bills were soundly defeated. These votes are a clear indication of the support in this body for these programs.

We are hopeful that the other body will finally move to take action on this legislation. I urge my colleagues in the House to continue their strong support and overwhelmingly pass H.R. 2015. In that way, we can send a strong signal to the other body that we continue to view these programs as having an important role in our National economy.

Madam Chairman, a copy of the summary of H.R. 2015 follows my remarks:

SUMMARY OF H.R. 2015 TO REVISE AND EXTEND EDA AND ARC

Title I of the bill revises and extends Public Works and Economic Development Act of 1965; provides authorizations for Fiscal years 1991, 1992 and 1993 at $250 million each year for programs and planning and $26 million for salaries and expenses.

To qualify, applicants must meet one of three distress criteria—

(1) Unemployment 1% above national average, previous 24 months;

(2) Per capita income 80% of national average (latest statistics);

(3) Significant job loss due to sudden economic dislocation.

Qualified applicants: States, counties, cities, towns, economic development districts, Indian tribes and development organizations.

Program assistance provided:

DEVELOPMENT INVESTMENT ASSISTANCE (TITLE I)

Grants for new construction and improvement of public facilities (including site preparation)—up to 50% Federal share.

Grants to establish revolving loan funds to stimulate small business growth—$1 million limit and 50% Federal match.

Grants to establish revolving loan funds to set up employee stock ownership organizations—50% Federal match.

Grants to community development organizations to help small businesses by reducing interest rates for economic development project activities.

Technical Assistance by Secretary.

$4 million limit on grants under this title to each applicant, except for grants to promote employee ownership organizations.

STRATEGY, PLANNING, EVALUATION AND DEMONSTRATION (TITLE II)

Grants for economic development and strategy planning.

Grants to colleges, universities and other groups to provide management and assistance—75% Federal match to costs.

Authorizes evaluations and demonstration programs. Results to be reported to Congress within 90 days of completion.

Development Investment Strategy required, to include: inventory of community resources, industries and businesses; infrastructure available and needed; workforce skills; land available; showing of non-federal matching funds; showing of private sector willingness to invest; description of industry/business to be created or expanded; demonstration of participation by representative percentage of small business concerns owned and controlled by socially and economically disadvantaged individuals.

Application Procedure:

Submit to Secretary of Commerce with Development Strategy.

Certify area meets distress criteria, and performance responsibilities.

Secretary reviews for approval/rejection based on consideration of several factors including severity of distress, anticipated increase in permanent employment, extent of private sector and non-federal involvement.

Subsequent applications must demonstrate new showing of distress.

Title II of the bill amends Appalachian Regional Development Act of 1965.

Provides authorizations annually for Fiscal Years 1991, 1992, 1993.

For Development Highway and local access roads, $144 million up to 80% Federal share); for non-highway programs, $37.5 million (up to 50% Federal share); for salaries and expenses, $3.5 million.

Allows funds to be used for projects and programs to assist the most severely distressed and underdeveloped counties; for revolving loan funds for business assistance loans; for establishing business incubators; for community infrastructure projects; for on-site employee training and programs to enhance manpower skills; and for other initiatives directed toward developing and sustaining economic growth and stability.

Mr. PACKARD. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the bill, H.R. 2015, before the House today reauthorizes the Economic Development Administration and the Appalachian Regional Commission. The programs, in existence since 1965, have been funded through the appropriations process since the authorization for them ran out in 1982.

The Members of the House, in bipartisan manner, have overwhelmingly supported reauthorizing these programs in past Congresses. The bill has, however, died in each case from inaction in the Senate.

We can stand here today and debate the merits of these programs, whether or not the program has been a success, or whether or not this program should be funded all afternoon. In all honesty, these programs will probably be funded through the appropriations process, regardless of the vote today.

While I generally have problems with programs such as these, I do support the bill H.R. 2015 because it contains reforms that will improve the manner in which these programs are administered.

The eligibility requirement is strengthened in the bill so that it will reduce the percentage of population eligible for EDA funding from 80 to 40 percent of the population of the Nation. This is a significant change, and would possibly dramatically affect these programs.

Strict limitations have been imposed on the grant and loan amounts which can be awarded to eligible projects. No longer can communities be designated as being long-term distress areas. This bill requires annual certification to see which communities are eligible under the requirements of the bill.

These programs have absorbed a great deal of criticism from the administration as not being successful and of being mismanaged. I hope that the reforms contained in this bill will be adopted so that the sometimes just criticisms and concerns of these programs can be taken care of. I ask my colleagues to join me in support of this bill and its reforms because quite frankly, it's better than current law.

I commend Chairman ANDERSON; Congressman HAMMERSCHMIDT, the ranking member of the full committee; Congressman SAVAGE, chairman of the Subcommittee on Economic Development; Congressman MCEWEN, the former ranking member of the subcommittee; all for their fine work on formulating this reform bill.

□ 1420

Ms. OAKAR. Madam Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Chairman, I rise in strong support of this proposal to continue investing in the Nation's economic future.

I serve as a member of the Commerce Subcommittee of the Appropriations Committee that appropriates funds for the Economic Development Administration.

In deciding whether to reauthorize the programs administered by the Economic Development Administration we should first ask, and answer, the proverbial political questions:

"What has EDA done for us lately?"

"Why should taxpayers support the reauthorization of the EDA economic development assistance programs?"

"Is it worth the investment of tax dollars in an era of deficits?"

When I became a Member of Congress in 1969 northeast Arkansas was losing population because citizens were unable to find work at home. Since 1969 thousands of private sector jobs have been created to provide employment—16,000 of those jobs were made possible because of the investments of the Economic Development Administration in the local economies in need of public works to attract industry and jobs. Local needs that are not met by local and State Government.

If America is to be competitive in today's global economy, we must invest more, not less, in the Nation's public works infrastructure such as education facilities, industrial parks, highways and bridges, and water and waste disposal systems.

The 1980's have been termed the decade of disinvestment in America. We cannot allow this trend to continue into the 1990's. We cannot afford to continue to allow our public works infrastructure to crumble and our people to go without the training they need if we are to compete in a global economy.

Since they began 25 years ago, the investment programs managed by the Economic Development Administration have established an extraordinary record of assisting communities and people to help themselves become and continue to be self-supporting, taxpaying citizens.

Investments made in America by EDA programs have paid handsome dividends in generating and maintaining private sector jobs; in helping local communities, counties and regions in building ports, industrial parks, and water systems; and, in aiding in the construction of vocational-technical schools where people can learn the skills necessary to gain and hold jobs.

EDA investments have aided in the creation of 16,000 private sector jobs in the First Congressional District of Arkansas and 80,000 statewide in the last 25 years—an impressive record of accomplishment.

EDA job-generating investments are moneymakers for government treasuries at all levels of government. This fact has been documented by many studies. In fact, studies have shown that the taxes paid by holders of jobs created by EDA funding repay EDA's entire investment every 18 months. What a deal!

People in at least 60 First Congressional District communities, towns, and cities have benefited from EDA investments totaling about $46.5 million.

These have included: Ash Flat, Augusta, Batesville, Bay, Black Oak, Blytheville, Brinkley, Brookland, Bono, Burdette, Caldwell, Calico Rock, Clarendon, Clinton, Caraway, Cash, Cave City, Corning, Cotton Plant, Delaplaine, Earle, Forrest City, Greers Ferry, Heber Springs, Helena, Hughes, Imboden, Jonesboro, Lafe, Lake City, Madison, Mammoth Spring, Manila, Marianna, Marion, Marked Tree, Marmaduke, Melbourne, Monette, Mountain View, Newport, Osceola, Pangburn, Paragould, Parkin, Piggott, Pocahontas, Portia, Powhatan, Rector, Salem, Stuttgart, Sunset, Trumann, Valley View, Walnut Ridge, West Helena, West Memphis, Wheatley, and Wynne. This is only a partial list.

All of the 24 counties in the First Congressional District of Arkansas have benefited from EDA's planning and technical assistance.

It is appropriate to be specific about some of the results of EDA's investments in First Congressional District of Arkansas. Due to the time restriction we are working under, I will cite just a few to show the good results EDA's programs have helped produce throughout First Congressional District. This has been repeated all across Arkansas and the Nation.

At Pocahontas, an EDA investment of $517,000 made it possible for the city to construct a new municipal center.

Corning, AR, is a city of about 3,650 persons. EDA helped them establish their industrial park—700 people have jobs in industries located in that park. The industries range from furniture manufacturing to rice drying.

At Forrest City, EDA investments aided in improving an industrial park—8 industries employing 1,200 people have located in that park since the work was accomplished. They are Reltoc, Bear Brand Products, Yale, Sanyo Manufacturing Co., Airtherm, Charles Townsend Co., Mid-South Foam, and Charles Todd Co. None of these were operating in Forrest City, which has a population of about 12,000, before the industrial park improvements were made.

In addition, Forrest City Grocery has recent broken ground for a construction of a distribution center at this industrial park. And, Pepsi-Cola has requested bids on construction of a distribution center in the same industrial park.

Also, a $1,121,000 investment by EDA made it possible for the Forrest City School District to construct a public safety building.

Forrest City is located in one of the most severely economically distressed countries in the Nation.

An EPA investment of $22,000 in a port site study for Phillips County, AR, is generating equally dramatic results.

Less than 2 weeks ago the voters of Phillips County, AR, another of the most severely economically distressed counties in the Nation, agreed to tax themselves in order to support construction of a new slackwater harbor on the Mississippi River. The vote to increase their sales tax was an overwhelming 4,843 for to 1,483 against. The tax revenues will be used to pay the local cost share, about $12 million, of the project in which the Federal Government, through the Corps of Engineers, is a partner.

In the long term that slackwater harbor project is expected to generate 30,000 new private sector jobs in the region.

As I indicated at the beginning of my remarks, education is a key to America's ability to successfully compete in the current global economy. In the past, EDA investments have assisted in the establishment of area vocational-technical schools and skills training centers, including a number in Arkansas.

EDA provided $585,272 of the $1 million cost of building the Black River Vocational-Technical School at Pocahontas. Thus far, 27,000 students have received training at Black River.

With its faculty and staff of 55 persons, the school now provides instruction in 15 programs. These include automated data processing, aviation mechanics, commercial food service, computerized accounting, diesel engine repair, licensed practical nursing, and respiration therapy. It also provides classes for members of volunteer fire departments.

Students trained at this school are better able to enter the work force and command a higher salary than they would otherwise. I don't know what value some would put on this type of investment, but I believe these students would term it of the utmost value. Their future is certainly brighter because of it.

Over the years Black River graduates have served on my staff. The quality of their performance has been excellent testimony for the training they received.

These kinds of contributions by EDA are investments in the future—train-

ing people so they can obtain jobs and support their families by becoming tax-paying citizens.

In the First Congressional District of Arkansas, which I have the privilege of representing, EDA investments have been used to great advantage. The projects range from industrial park construction and improvement to expanded health care facilities to training students for better jobs. These are investments in America and its people. They are investments which have paid and will pay great dividends, here at home.

One citical factor in the success of EDA programs has been the requirement that local officials and community leaders be directly involved in the decisionmaking on investments in their areas. Local people know their problems and needs. Since EDA programs began in 1965, Congress has made certain they are a part of the solution.

Another vital element of the achievements of EDA's economic development programs in Arkansas and many other States has been the assistance, dedication, and knowledge contributed by multicounty economic development districts. These are governed by boards composed of elected officials and community leaders from the areas they serve. They are staffed by small bands of well-trained and committed professionals.

This economic development legislation makes clear that Congress intends that participation by local officials, community leaders, and the multicounty districts continue to be a fundamental part of economic development decisionmaking.

There are two aspects of this proposal which are of particular concern to me. These are the funding levels it would authorize and the level at which the EDA cost-share of projects is capped.

Since 1981, funding for EDA programs has been cut by about 75 percent. I believe Congress should be putting more, not less, into these programs; however, I recognize that the tight Federal budget and struggle to bring down the deficit limits our ability to do that at this time.

Limiting the EDA cost-share to 50 percent in all cases, regardless of the specific economic distress and unemployment situation, could be a major obstacle to program participation by some of the Nation's most distressed areas. I hope that during this debate, and the ongoing consideration of this legislation, Congress will respond to the problem of the limited cost-sharing resources available to such areas.

Congress has successfully fought off 10 years of efforts by Presidents to kill EDA economic development assistance programs. We have done so because elimination of these programs will make it even more difficult for areas to invest in facilities to aid in attracting industry.

It is time for the Congress to pass this economic development proposal and send a message to the Nation that it means to reverse the dangerous tread of slashing funds intended for investment in America. Let us not continue the decade of disinvestment.

Mr. SHUMWAY. Madam Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Madam Chairman, I rise in opposition to H.R. 2015, and I would note that the Secertary of Commerce and the Federal Cochairman of the Appalachian Regional Commission [ARC] will recommend that the President veto this bill if presented to him in its current form.

H.R. 2015 would authorize $828 million for the Economic Develpment Administration [EDA] during fiscal years 1991 through 1993 and $555 million for Appalachian Regional Commission during the same period.

This is essentially the same bill as H.R. 2686 that was introduced in but not enacted by the 100th Congress, and is similar to bills in the 99th, 98th, and 97th Congresses which were not enacted by those Congresses. In fact, authorization for EDA and ARC expired in 1982. These programs have only been kept alive through the appropriations process, in which they have become a channel for pork-barrel projects which would probably not have otherwise received Federal funding.

Begun 25 years ago as part of the Great Society, these two programs were intended to eliminate pockets of poverty in areas where a small percentage of the population lived. Today, however, some 80 percent of the country is qualified for EDA assistance, and ARC has grown to include 20 million people in West Virginia and parts of 12 other States, an area stretching more than 1,000 miles from one end to the other.

Furthermore, as the senior House Republican on the Joint Economic Committee, I would remind my colleagues of the need to balance the budget and conserve taxpayers' money. The budget deficit reduction goals for the coming years will be difficult to meet. This authorization of $1.4 billion is one expense that we can and must forgo if we are to achieve the fiscal responsibility required of us.

For these reasons, I urge a no vote.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Madam Chairman, I want to thank you for your leadership and commend Congressman SAVAGE for his efforts in developing H.R. 2015, the Public Works and Economic Development Act Amendments of 1989. Also, Congressman HAMMERSCHMIDT, Congressman MCEWEN, the former ranking minority member on the subcommittee, and Congressman PACKARD, the present ranking minority member, have all been very active in creating this bill, and I want to thank them also for their leadership and support.

Madam Chairman, I strongly support this bill. There are many areas of our Nation that have not benefited from economic growth. And in these areas both the Economic Development Administration and the Appalachian Regional Commission have demonstrated that public-private partnerships do work. Both of these agencies provide the necessary seed money that allow distressed communities to improve their economic bases. In my district, a rural district in Virginia, an EDA Revolving Loan Program has been established to attract industries to the region and help developing industries establish themselves. One planning district commission received a $1 million EDA grant and with the assistance of State and local governments and private funds has made over $2 million in loans funding projects totaling over $24 million creating more than 1,000 jobs. This example clearly demonstrates that providing seed money results in attracting greater private investment in specific projects. Also, we have other examples in our district of how EDA has provided the simple things that many Americans take for granted—such as a sewer system in a small town that only had septic tanks that continuously leaked—or the development of industrial parks that result in new business entering an area and creating new jobs.

While I am speaking about experiences within my largely rural congressional district, this bill is intended to benefit both urban and rural communities to ensure the improvement of our Nation. Funds are distributed broadly throughout the Nation. During the course of the hearings on this bill, our subcommittee heard from diverse demographic groups ranging from Appalachia to inner cities suffering from severe economic distress. They all clearly demonstrated that it is very important that we continue to maintain the public-private partnership relationship between State and local and Federal partnership that exists in both EDA and ARC.

Through both of these agencies, we are working toward a central goal: improve the quality of life of all Americans. By striving to improve our distressed areas, we will aid in improving the entire economic strength of our Nation and ultimately place our Nation in a stronger position to compete internationally. Another Public Works and Transportation Subcommittee, the Subcommittee on Surface Transportation, just completed a

series of hearings on the post-Interstate Highway System and the full committee held a hearing just last week on the importance of infrastructure to our Nation. The common thread that went through all of these hearings was our Nation must be built on a solid foundation, solid infrastructure investment in order to be a viable international competitor. This bill before us today is one important means of providing that sound footing broadly by aiding our particularly distressed areas.

This body has been consistent in supporting legislation to reauthorize both the EDA and the ARC. I support this piece of legislation and I urge my colleagues to vote for H.R. 2015.

□ 1430

Mr. PACKARD. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SHUSTER] one of the ranking members of the committee.

Mr. SHUSTER. Madam Chairman, it is easy for Members from prosperous congressional districts to say that this legislation is not needed. But the fact is this is precisely the kind of legislation that we should be focusing on in this Congress, because this is not throwing money across the United States everywhere whether it is needed or not. Rather this is targeted funds.

In fact, in the past, there has been some valid criticism of this program saying that we were too inclusive, and the committee acted responsibly to change the criteria and to tighten up the criteria to the point that instead of about 80 percent being eligible it is going to be cut in half. That is a step in the right direction, to focus, to target where this money is most badly needed.

I happen to represent 10 counties in Appalachia, central Pennsylvania, counties which historically have suffered double digit unemployment, 15 percent, 18 percent unemployment. But thanks to the Economic Development Administration and ARC, and an awful lot of local involvement and commitment, those double digit unemployment rates have dropped dramatically, and today most of the counties in my congressional district are down, and instead of 15 percent unemployment they have 5 percent, 6 percent, 7 percent unemployment. We have cut our unemployment in half, largely thanks to these very programs.

Yet, ladies and gentlemen, the job is only half done. It is ony half done because there are still counties across America which are suffering very high unemployment, double digit unemployment, and those are precisely the kinds of counties that are targeted here and should be targeted, and we should vigorously support this very specific, precise legislation so that we can invest in America, and not only invest in America, but even more importantly, invest in that part of America which most badly needs our commitment and our investment.

We talk about infrastructure. Here is a bill that focuses and supports the development of infrastructure in those counties and communities of America which most badly need that commitment.

So I urge Members to vigorously support this legislation. It is precisely the kind of investment we need for a better America as we move into the next century.

Mr. SHUMWAY. Madam Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Madam Chairman, I rise in support of the bill.

These two programs—ARC and EDA—exist to help those pockets in this country that fall behind, that continue to scrape along, that missed the train that's brought this country the longest and best economic expansion since World War II.

Yes, our national economy has changed, and strengthened. But the areas many represent—now, only now, are making the progress for which the founders of these programs longed.

ARC and EDA have been essential parts of that progress, reversing decades of poverty, despair, underdevelopment and outmigration.

And they work by giving seed to the efforts of communities, which want nothing more than a little assistance in lifting themselves up.

EDA

We need to reauthorize EDA, which since 1982 has relied on the willingness of my appropriations subcommittee to restore funds from year to year.

It's the only agency in the Federal Government devoted to helping communities in depressed areas—tying grants to bird-in-hand situations—producing infrastructure, financing, job leverage, and development to needy regions, particularly the rural ones.

ARC

In ARC we have a leader and a partner, working toward giving the people of Appalachia simply a better way of life.

I could offer many examples, but let me relate just one.

My district has one of the largest school dropout rates in the Nation.

My counties secured from ARC, a $50,000 grant, with which they formed a self-help, 27-county educational improvement program called "forward in the fifth."

Today that organization, 27 counties and hundreds of volunteers strong, has a $300,000 annual budget, all private. And that one organization is keeping kids in school, broadening their horizons, providing career counseling to help our young people learn where an education can lead them, and getting GED's to adults who had long ago dropped out and given up.

It will change my district, providing an educated population that will attract jobs and prepare us for a new decade.

Both ARC and EDA are serving that mission. And it could not be more necessary now. Everyone of us knows the transformation our economy is undergoing—it's happening at a historic rate. New technologies are altering the number and types of workers needed; new industries are emerging. And yet, we have areas without the most basic instruments they need to cope in this new world, like education and infrastructure.

We owe it to these communities to help them not just turn things around, but gear up to play ball in this new environment. With ARC and EDA at their side, they can excel, recruit, train and develop; building self-sustaining economies that will employ, feed and house people, without reliance on the many social welfare programs that do so now.

I ask you to support the modest vehicles that spur these efforts in ARC and EDA.

Mr. ANDERSON. Madam Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Madam Chairman, I thank the distinguished gentleman for yielding, and I rise in strong support of H.R. 2015, the legislation to reauthorize the U.S. Economic Development Administration.

I could add to the litany of success stories, but time does not permit it.

Madam Chairman, I rise today to express my strong support of H.R. 2015, legislation to reauthorize the U.S. Economic Development Administration.

I do not think there are many agencies in the Federal Government which operate as efficiently, or contribute as many benefits to our economy, as the EDA. Over the years, the EDA has directed millions of dollars into economically distressed communities around the country, to help them make badly needed infrastructure improvements and develop new strategies for creating jobs.

These efforts have helped create the right climate for industries to expand or relocate to distressed areas. The bottom line has been new jobs, new tax ratables, and a tremendous boost for many communities which need help.

Madam Chairman, if you are looking for an example of the EDA success story, I would proudly direct your attention to my congressional district in southern New Jersey. In the mid-1970's, my district had one of the highest unemployment rates in the country—upwards of 20 percent in some areas.

Many older, smokestack industries had gone out of business and few companies were moving in to replace them. What is more, many communities lacked the paved roads, water and sewer lines and other basic

services they needed to attract new business growth.

Under the guidance of the EDA, we formed the first regional economic development district in New Jersey, comprised of Atlantic, Cumberland, Cape May and Salem Counties. The purpose of the organization was to help diversify our industrial base and promote new economic development opportunities throughout the region. I am pleased to say this effort has been a great success.

Since 1979, the South Jersey economic development district has attracted more than $12 million in Federal investments, and has helped create more than 2,500 new jobs in the four-county area. Through the assistance of the EDA, we have constructed a marine research laboratory in bivalve which is helping to revitalize the shellfishing industry in the Delaware Bay; new industrial parks in Bridgeton, Millville, Vineland, Hamilton Township, and Cape May; a seafood processing plant in Cape May; new facilities at the Salem port; reconstruction of the boardwalk in North Wildwood; a new terminal at the Bridgeton port; and an expansion of the Vineland produce auction to help our farmers.

It is doubtful that any of these projects, and the many benefits they have generated, would have come about without the assistance of the EDA. At a time when so many Federal programs have been cut back or terminated, the EDA remains one of the few sources of Federal assistance that distressed communities can turn to for help.

The agency does a great job. The administrators and staff at EDA are extremely competent. They work very closely with the local officials to help target their programs to areas of greatest need. Southern New Jersey is really coming into its own these days, and a lot of the credit has to go to the EDA.

Madam Chairman, each of the last two administrations has been trying to shut down the EDA for the last 8 years. I think that would be a terrible mistake. While our economy may indeed be doing well overall, there are still many parts of the country and many small communities in particular which need help. Our future economic growth is going to depend in large part upon our ability to rebuild our infrastructure, and the EDA will play a major role in that effort.

H.R. 2015 would authorize a total of $276 million in each of the next 3 fiscal years for the EDA, including funds for construction, planning and administration. It is a good bill and I would urge my colleagues to support it.

Mr. PACKARD. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], a member of the committee.

Mr. CLINGER. Madam Chairman, I rise in very strong support of this measure, and I guess that is not too unexpected when considering, as the chairman indicated, I am a former chief counsel of the Economic Development Administration and worked there for 2 years. But I think my service there has given me the incentive to really follow this program over a long period of time, and I want to state categorically that the charge that used to be leveled at EDA by our former colleague, Mr. Stockman, that EDA created no jobs anywhere is absolutely wrong, and I think that we have had had testimony to that here today from a number of Members.

We have seen the results that EDA can produce in areas of great distress, and it does create jobs. I can vouch for that from my experience both in the agency and since coming to Congress.

This bill is basically the same one that passed in the last three Congresses, and it has passed by an overwhelming margin. It has never become law because the Senate, for one reason or another, has not acted.

So the EDA does survive because of the appropriations process, but the point is that the grants and loans that are presently made under the program are made under the old Public Works and Economic Development Act of 1965. And it is absolutely true, 80 percent of the country now qualifies, and that is ridiculous. This bill changes that. It tightens and targets the program to areas of greatest distress.

I would take exception with our colleague from Ohio who said that that has resulted in large numbers of pork barrel projects. I can assure the ladies and gentlemen here that the screening process for the projects that any project must go through at EDA to receive funding is the most vigorous in Government. They have to meet very, very high standards before they are funded. It may be true that we have put projects in areas that perhaps did not deserve them because they had too low an unemployment rate, but the fact is I am convinced that every project that has been funded has been a worthwhile project.

□ 1440

Two other points in my very limited time: First, the gentleman from Pennsylvania [Mr. SHUSTER] has made one of them earlier. That is this bill addresses what we all agree is a crisis in this country. It is the infrastructure crisis.

This program is going to give support to the areas, the communities, the small towns and cities that need desperately to address this infrastructure crisis.

The second item is this program continues title IX. Title IX is for sudden and severe dislocations. Ladies and gentlemen, we are going to have some severe dislocations in this country as we see the defense budget being reduced. There are going to be communities that are going to be hurt badly by this, and what this bill will do is provide the vehicle by which we can address those dislocation problems.

I urge strongly the support for this bill.

Ms. OAKAR. Madam Chairman, I yield 1 minute to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. ANDERSON. Madam Chairman, I also yield 1 minute to the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Madam Chairman, I rise today to voice my strong support for the reauthorization of the Appalachian Regional Commission, which was created 25 years ago.

When President Lyndon B. Johnson signed the Appalachian Regional Development Act of 1965, he opened the door for major improvements in the region covering 13 States.

This new program enabled the Federal Government and the States to work together to address the economic problems of one of our Nation's most important regions.

Johnson noted that renewing the strength of Appalachia adds strength for all America. I believe that is true today.

The region of Appalachia has many natural and human resources, which we as a nation cannot afford to waste. These resources enrich all of us. By the same token, their neglect is a drain upon our National Treasury.

The Appalachian Regional Commission was founded on the concept of great vision. That vision called for the economic development of an impoverished region by building an infrastructure that would serve the people of the region as well as the industry that must be attracted to it.

We have just come to the end of a most unfortunate period in our legislative history. From 1981 through 1988, the administration did not share this vision of economic development. It did not support the ARC Program. It worked actively to eliminate it.

Apparently, the current administration sees things differently. The administration's 1991 budget includes $50 million for the ARC. But while this recognition is welcome, it is merely a token.

Spread among 13 States, this amount does not begin to address Appalachia's problems. It does not recognize that Appalachia is still trying to catch up from the devastating effects of the recession of the early 1980s; it does not recognize that unemployment is still significantly higher in the majority of the Appalachian States than in the rest of the Nation, especially in coal mining and manufacturing areas where many jobs have been permanently lost.

The bill before us today recognizes Appalachia's needs. It emphasizes completion of critical portions of the Appalachian highway system, which has brought more jobs than any other program to the region. It provides funds that may be used in the region's poorest counties, to enable their residents to achieve acceptable standards in clean drinking water and safe sewage disposal facilities.

It emphasizes the creation of additional jobs—always a major commission goal—but it also provides support for development of the region's human resources through vocational education and training and with funding for local health care projects.

In short, it will continue to work to develop those resources that are so vital to our entire Nation's economic health.

This bill represents an investment in our future. It is a program that I believe my colleagues from all parts of the Nation can take pride in and I urge you to join me in supporting it.

Mr. SHUMWAY. Madam Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Madam Chairman, I am caught in that great dilemma which is very familiar with us, each Member of Congress, from time to time. On the one hand I want to support the President's proposals for deficit reduction and the eventual balancing of the budget, which is extremely important to all Americans.

Of course that includes my constituents.

On the other hand his reductions as proposed for the Appalachian Regional Commission are visited against my very same constituents where, for a generation now, we have noted significant advances particularly in highway construction because of the outlays that have been permitted for the Appalachian Regional Commission.

This bill then goes into a new 3-year funding program at higher levels than the President would wish to see for the Appalachian Regional Commission.

What do I do? I believe that for the moment I must, in the interest of totally scrutinizing the entire budgetary picture, support this legislation, to be able to report back to my constituents that we are looking very closely at the continuation of funding for the Appalachian Regional Commission, particularly in highway construction.

But at the same time I will say to them as I say here on the floor that I believe the deficit reduction and the balancing of the budget in the long run is better for us here in our parochial interest at home even though it might appear we are voting against the bill that would strike home with some beneficial results.

So continuing on that dilemma, I today will vote for the bill as it now stands, consult further with my constituents, look at the overall picture of the deficit reduction for which we all yearn and the balanced budget to which we all want success to come, and then reiterate my position on the floor and make the record clear once and for all.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the chairman.

Madam Chairman, President Kennedy campaigning during the 1960 campaign for the presidency, visited the Appalachian regions of this country. He saw the poverty, he saw the distress and despair that existed within the Appalachian hollows. At that time he saw the need for such a program as economic development in the Appalachian Regional Commission. He made that promise to the people of the Appalachian hills and to the people of West Virginia in that State of West Virginia.

Unfortunately, his tenure expired before he carried through on his promise, but President Johnson and this Congress carried through on that promise in 1965.

In the 25 years since, we have seen progress being made; we have seen people employed, roads built, health facilities built, wastewater treatment, business indicators, industrial parks, vocational schools, we could go on and on.

But as has already been mentioned, progress has been made but much more progress needs to be made. Throughout the Appalachian regions of this country, throughout the rural portions of this country today, we see where highways are very difficult to build. We have been devastated by the loss of airline service because of deregulation; we have been devastated by the loss of truck service because of trucking deregulation; we have been devastated by a loss of bus service because of busing deregulation.

We could go on and on about how the rural parts of this Nation have been isolated and cut off from the major markets of this country.

A very important part of the Appalachian Regional Commission is the Appalachian highway program.

There is an effort to supplement and build upon highways in this country, upon our highway interstate system to provide access for the rural people of this Nation to reach the major markets so that they can have access to the transportation systems that exist in the big cities.

There are examples of where EDA has targeted distressed areas in this country and has been so helpful. Overall, however, we must look at the fact that this bill today is very important to the development of our infrastructure, to the uplifting of our people's spirits in order to become productive and job-occupying citizens of this country.

Madam Chairman, I urge support of this legislation.

The Economic Development Administration [EDA] targets economically distressed areas for assistance. EDA grants finance roads, waste water treatment, business incubators, industrial parks, vocational schools and other projects important to the creating of new jobs and long-term development. The EDA also provides small businesses with the necessary start-up funding essential to begin operation. While it is difficult to successfully measure the direct effectivenss of EDA due to its mission, various econometric analyses have supported the notion that EDA has had a positive effect on employment.

In its 24-year history, the ARC has made tremendous progress in broadening the economic base of the 13-State Appalachian Region and in improving the quality of life for the over 20 million people who live there. The most important mission of ARC is the construction of the Appalachian Development Highway System. According to a survey conducted by the ARC, more than 81 percent of the 695,000 jobs created in the region between 1980 and 1986 were in the 241 Appalachian counties with a completed Appalachian development or interstate highway. Significantly, in those 241 counties, the unemployment rate is 1.5 points lower than in the rest of the region.

These programs have suffered from continued neglect. This bill will authorize the funds we should appropriate for these important programs. Yesterday, this body voted without my help to send more aid to foreign countries in a supplemental appropriations bill than this bill would provide in the next fiscal year for domestic assistance programs. It has been my contention that Congress has not provided the needed funds for domestic programs. Yesterday, I was told that I am wrong, and that we are willing to support our own economic development. Here is your chance to demonstrate your support for economic development in the poorest areas of our country. I urge you to vote for this important legislation.

Mr. PACKARD. Madam Chairman, I yield 1½ minutes to a member of the committee, the gentleman from Michigan, Mr. FRED UPTON.

Mr. UPTON. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise in strong support of this reauthorization bill.

We all know that the authorization for the EDA and the ARC expired back in September 1982. We all know that the Congress has repeatedly passed appropriation bills funding both programs in spite of strong administration opposition.

On August 6, 1987, 3 years ago, I took a step that recognized reality. I stood right here on the House floor, spoke on behalf of reauthorizing EDA, and voted in favor of targeting EDA programs to the areas that needed it most.

Earlier that year, I had voted with 145 colleagues to eliminate appropriations for EDA. But on that autumn day almost 3 years ago, I realized the bottom line. These programs would continue to exist regardless of whether or not a reauthorization bill passed. The votes were simply not there to eliminate the EDA; EDA and ARC

would continue to exist with or without an authorization bill—through appropriations.

From that basic reality, I concluded then—as I do now—that the most responsible thing for Congress to do is to reform the EDA to make sure those appropriated funds are wisely spent in communities that truly need it.

The reauthorization bill before us today is substantially similar to the reform which I supported in 1987. It is clear that the Federal Government does not need to be handing out economic development assistance to the Beverly Hills' of the world. This bill proposes to accomplish that goal by making eligibility contingent upon real needs. Real needs such as those evident in innercity urban areas as well as distressed rural areas.

If anything, the situation with respect to funding the EDA in the 1990's is that much more clear. Funding of EDA will continue. Therefore, I urge Congress to recognize reality by supporting an improved EDA. Furthermore, I urge the administration to take a step into reality by dropping its objections to this bill.

□ 1450

Mr. PACKARD. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. GRANT], a member of the committee.

Mr. GRANT. Madam Chairman, to the Members who spoke in opposition to this bill, I would like to say one thing: That I do not think that this Congress or this President or anyone else is going to balance this budget on the backs of the poor people of this Nation. We are simply not going to allow that. It is not appropriate. It is extremely important for Members to send that message that we do not want that to happen.

Sure, we need money to fight the drug war. Sure, we need money to teach kids to read. Sure, we need money for other laudable purposes, but can Members name me one more laudable goal than to give the human beings in America a decent job? I cannot think of one.

If a person has a job, it is not a sterile thing. They can send their kids to school. They can buy a car. They can pay for a home, the American dream. They can do wonderful things with a job. They cannot do without a job. Above all, as the gentleman from West Virginia said, it restores human dignity to human lives.

Now, the Economic Development Administration was created to stimulate the economy. Before we can create a job, we have to have roads, we have to have a place for an industry to locate, we have to have sewer lines, we have to have treatment plants, we have to have other things such as hospitals, schools, even recreation to make it attractive.

Last year, because of the actions of this Congress, we put $120 million, $120 million as an investment into America. That led to $1.5 billion of local and private investment in America. Guess what that did? It created 57,000 jobs, jobs for humans, where they could go to work every day and do those things that I just mentioned.

This is a program that works. It works for all Americans. We need to make some improvements. That is why we are having this reauthorization bill. It is appropriate that we should do so. This is not just another pork barrel piece of legislation. This is a piece of legislation as an investment, as some say, in America. But more importantly than that, it is an investment in human lives. I urge our very, very strong support for this measure.

Mr. ANDERSON. Madam Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Madam Chairman, I rise today in strong support of the reauthorization of the Economic Development Administration. I firmly believe that EDA has been a good investment by the Government.

The goal of the Economic Development Administration is to provide financial assistance to create or retain permanent jobs by providing for the expansion, establishment, or retention of plants or programs in distressed areas. In my opinion the Economic Development Administration has made a steady contribution over the years. As I look back over the years, several communities in my area have profited with cooperation with EDA.

With the cooperation of the EDA Director, Joe B. Swanner, in Austin, EDA was a participant in the development of the University of Texas Buescher Science Center in Smithville, TX. That facility now operates out of four buildings, employs over 250 top scientists, and is one of the most advanced laboratories for the study of carcinogens. This facility would not have been possible without the original investment by the Economic Development Administration and the University of Texas.

Today at the Buescher Science Center we have visiting researchers from all over the world and it is considered one of the premier cancer study laboratories in the United States. This project alone is worth all the support we can give to the Economic Development Administration and I urge my colleagues to vote for full funding for the Economic Development Administration.

Mr. SHUMWAY. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PACKARD. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Madam Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Madam Chairman, I am always glad to rise in support of this legislation, and I do want to congratulate the chairmen of the authorizing committees and subcommittees, and the ranking minority members for moving H.R. 2015 to the floor for consideration at this time. It is an important bill; it supports two effective agencies—EDA and ARC.

Yesterday, during debate on the foreign assistance section of a supplemental appropriations bill the argument was made that this Congress was not doing enough to support certain disadvantaged and certain impoverished regions in this Nation. I agree with that. We need to do more. Through H.R. 2015, it is one way to do it.

I have seen the benefits of Federal economic development assistance programs to local and State governments, and I encourage its continuance. The EDA has provided seed funds to spur job creation or job retention projects, and achievements have been many. We have heard them all over this afternoon, Madam Chairman, from Alabama, to Arkansas, to West Virginia, to Mississippi.

The policy of targeting Federal economic assistance funds is very appropriate, and in these days of scarce dollars, it seems that targeting the funds to help the most needed of communities is imperative and is what we ought to do.

Let me say that I do believe we ought to extend these very valuable programs. I do support the passage of H.R. 2015.

Ms. OAKAR. Madam Chairman, I yield 45 seconds to the distinguished gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Madam Chairman, I rise in strong support of H.R. 2015 to reauthorize the Appalachian Regional Commission, and the Economic Development Administration.

The dean of the West Virginia delegation, who preceded me in remarks, eloquently described the benefits of the ARC and the EDA to infrastructure in West Virginia. Some people have criticized that as being pork barrel. They ought to understand that these programs have proven themselves invaluable, not only with regard to public works projects, but leveraging private efforts to develop businesses that will be ongoing private jobs in our area.

The EDA and ARC have both participated in a mid-Atlantic aerospace center in Harrison County that will be a state-of-the-art airport rehabilitation facility, a West Virginia discovery lab, and a medical life sciences medical park in Clarksburg, WV.

I think that the Congress, as they consider the reauthorization, ought to consider how important it is to our area not only for infrastructure development, but also in leveraging private enterprise. I urge support of this legislation.

In my own area, these programs have proven themselves invaluable to important economic development projects. Both the EDA and the ARC are leveraging private efforts to develop a mid-Atlantic aerospace center in Harrison County that will be a state-of-the-art airplane rehabilitation facility. The EDA has supported the West Virginia University discovery lab, which offers facilities for the development of innovative technologies important to West Virginia's small manufacturers. The EDA has also contributed to a life sciences medical park in West Virginia, and a software development center at Wheeling Jesuit College.

These are not pork barrel projects, Madam Chairman. They are, rather, examples of the Federal Government supporting the efforts of private individuals to revitalize their local economies.

The need is there, Madam Chairman. The only remaining question is why the rest of the country should pay attention to it. Without being glib, the answer to that question, quite simply, is that it is the neighborly thing to do.

In a very real way, Madam Chairman, the strength of this Nation derives from our ability to maintain a sense of community across a huge geographic area and among a large and increasingly diverse population. Our willingness to create and support programs that explicitly ask the relatively well off to give to those in need is a measure of that sense of community. It strengthens us, it ties us closer together. These programs remind us that this Nation is more than a collection of States and this society is more than a collection of separate economic strata.

Those who argue that we should eliminate programs like the Economic Development Administration and the Appalachian Regional Council essentially deny that sense of community. To their way of thinking, it is a Darwinian jungle out there: If you can't find a job in West Virginia, they argue, well, you can always vote with your feet. If you're living in a ghetto in Philadelphia, well you probably somehow deserve your fate.

Madam Chairman, I think most people in this country reject that approach, and I ask my colleagues to support this reauthorization.

Ms. OAKAR. Madam Chairman, I yield myself the remainder of the time.

I hope we get a resounding positive vote on this legislation, to send a signal that we really do want programs that reflect a public-private partnership, as EDA does, and the Appalachian-ARC legislation does, because we really are seeing the elimination of program like UDAG, et cetera. I, for one, think that it is terrible.

I hope my colleagues will send a resounding positive vote so we can signal to the administration that we like this program and we want to see it expanded and continue.

Mr. McDADE. Madam Chairman, I rise in support of two historically productive and vitally needed programs to notheastern Pennsylvania and the Nation. The Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC] have a exemplary record of bringing jobs, enterprise development, and a higher quality of life to many less advantaged areas of the Nation.

H.R. 2015, the Economic Development Administration authorization, will allocate $276 million for the next 3 fiscal years for the Economic Development Administration of the Commerce Department and over $50 million a year for investment strategy, planning, evaluation, and demonstration programs. The measure also authorizes a total of $185 million for the Appalachian Regional Commission, including $114 million a year for highway programs and $37.5 million a year for nonhighway programs.

These funds will be utilized to build safer highways through rural areas which are in great need of repair and improvement. United States Route 15, a component of the Appalachian Throughway, which traverses my district, has one of the highest accident and fatality rates in the State of Pennsylvania and the Nation. Pennsylvania needs the transportation funds provided through the ARC to correct the many hazardous conditions on Route 15 which are intolerable for a major U.S. highway. Clearly, numerous roads in other Appalachian States are in need of similar repairs.

The measure additionally provides States, local governments, economic development districts and nonprofit organizations with economic development planning grants which can be utilized to improve the job-creating capacity of the local economic infrastructure. The effectiveness of this program was demonstrated by the Northern Tier Regional Planning and Development Committee which recently administered 40 loan and grant applications which created over 800 local jobs.

Funding provided through EDA and ARC has additionally been utilized by the Northern Tier Regional Planning and Development Committee to support hospitals, construct badly needed sewer systems, conduct day care feasibility and senior citizen centers studies. Clearly, the ability of these programs to provide the fundamentals of life like: secure jobs, safe roads for commerce, clean water, effective sewer systems and the opportunity to fulfill intrepreneurial skills are invaluable and must not be allowed to be terminated.

Recent administrations have proposed phasing out EDA and ARC. However, successive Congresses, with my support, have wisely fought for their survival and the resultant economic benefits that have been brought to the American people. The economic returns from this Federal partnership with local business can be measured not only in jobs created but in revenues returned to the Federal treasury from profit producing businesses and workers.

Neither program has been authorized since 1982, although EDA and ARC programs have been funded annually through appropriations measures. As a member of the House Appropriations Committee, I have resolutely supported appropriation bills that kept these programs alive and vital. I will continue to work diligently with my colleagues this year in passing this necessary piece of legislation to reauthorize EDA and ARC. I strongly urge your support of H.R. 2015.

Mr. COLEMAN of Texas. Madam Chairman, I rise today at least in part reluctantly in support of the legislation on the floor.

As a representative of one of the most needy regions of the country, I am very supportive of the concept of regional economic development, such as that which we are considering for the Appalachian region. At the same time, I want to remind my colleagues that I have introduced legislation to authorize a Border Regional Commission for our Nation's Southwestern region for the last two congressional sessions, and my legislation has not been the subject of a hearing this session in any of the four full committees or seven subcommittees to which it was referred, despite the fact that it is supported by 32 of my colleagues and was cosponsored by 34 Members in the 100th Congress.

Last session, the bill to establish a Border Regional Commission was the subject of a hearing by the Subcommittee on Housing, and was later marked up by this subcommittee and the full Committee on Banking, Finance and Urban Affairs. This session, however, neither this committee nor the other committees with jurisdiction—Education and Labor, Energy and Commerce, or Public Works and Transportation—have been able to schedule consideration of this legislation.

The need to grant Federal assistance for economic development in the border region is evident. Out of 25 communities in the Nation with the lowest per capita income, four are in Texas, along the United States-Mexico border. This bill would assist distressed communities where unemployment rates, per capita income figures, or plant closings or other major economic dislocation occur. In my congressional district in El Paso, we have had double-digit unemployment rates for several years. The most recent per capita income figures available, for 1987, show that El Paso's per capita income was 46 percent of the national average. Whereas the national average was $16,444, El Paso's was $7,723. Aside from these persistently high unemployment rates, there are also environmental and health problems, high levels of poverty, high dropout rates, low levels of educational attainment, high population growth rates, poor housing, and poor transportation that is not conducive to economic development. Yet despite these many problems, the population in these areas continues to multiply.

For example, the 30-county border region held an estimated 1.4 million people in 1980. By 1984, this estimate had grown to 1.6 million, and is expected to reach 2.4 million by the year 2000. This increased population will in all likelihood have few resources, little income, and a low tax base, but will create a need for more highways, jobs, more schools and housing, more airports, and sewage and water treatment plants. Resolving these problems along the Southwest border creates additional challenges in a region such as ours with the unique international and geographic factors that come into play. State and local governments have dealt with these problems and their consequences as best they can. Un-

fortunately, the situation has proven too massive for individual local governments to grapple with, and conditions have worsened as a result.

In addition, the Nation's Southwestern border is host to hundreds of thousands of residents who lack in basic housing necessities, as they are forced to live without access to running water and sewage collection services. These communities, which we commonly refer to as "colonias," are the result of long-term neglect in this area of the country, and a comprehensive approach is needed to make any significant impact in the problems in the region. My bill seeks to alleviate this problem by addressing the root causes of the colonias as well as other conditions in the region by assisting State and local governments in dealing with the special economic and human resource problems in the region.

The Border Regional Commission I propose is patterned after the Appalachian Regional Commission, our country's first commitment to regional economic development. The creation of the ARC in 1965 authorized a broad spectrum of economic development programs to contribute to the growth of the 397-county Appalachian region. I trust the Members representing communities in Appalachia realize I am not opposing the Appalachian Regional Commission. On the contrary, I agree that certain communities in our country need Federal assistance because of factors found in the area which make it more difficult for them to deal with problems that other parts of the country would be able to address. However, I also hope to have their support in recognizing the needs of the border areas.

Alleviating the problems of the border region requires a new approach. Even once the drinking water and sewage disposal problems in the colonias are resolved, there will remain many other problems both in the colonia communities and in the many other economically depressed counties along the border. The Border Regional Commission would address the root causes that have created the problem in the colonias: housing, education, unemployment, and health, and would address in a comprehensive manner the range of problems found in the border area.

I thank those colleagues who have supported my efforts in this regard in the past, and I hope to have an opportunity to work with the chairmen of the committees with jurisdiction in having my bill heard.

Mrs. LLOYD. Madam Chairman, I rise in strong support of legislation to reauthorize the Economic Development Administration [EDA] and the Appalachian Regional Commission [ARC].

This legislation is imperative to the Appalachian region of the United States which, while rich in natural resources and cultural diversity, lags far behind the rest of the Nation in economic growth. Its stated purposes—to assist the region in meeting its special problems, to promote its economic development, and to reaffirm the framework for joint Federal and State efforts toward providing the basic facilities essential to its growth, are essential to strengthening the entire region.

This bill reflects the continued concerns of the Congress about problems relating to inequities in the economies and fiscal capacities that exist between some communities and regions, as well as our continued interest in a Federal commitment designed to achieve better economic balance nationwide.

H.R. 2015 is designed to ensure that the Economic Development Administration and the Appalachian Regional Commission contribute to the goal of nurturing and diversifying the economies of both urban and rural communities. These programs have a proven track record of success in Tennessee and it is essential that valuable State and local projects which receive assistance under this act go forth. I urge my colleagues to join with me in strongly supporting H.R. 2015.

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The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

All time has expired.

Pursuant to the rule, the amendment in the nature of substitute consisting of the text of the bill H.R. 4435 shall be considered as an original bill for the purpose of amendment and each title shall be considered as having been read.

The clerk will designate title 1.

Mr. ANDERSON. Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendment in the amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL DEVELOPMENT INVESTMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Public Works and Economic Development Act Amendments of 1990".

SEC. 102. AMENDMENT TO PUBLIC WORKS AND ECONOMIC ACT OF 1965.

The Public Works and Economic Development Act of 1965 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'National Development Investment Act'.

"(b) TABLE OF CONTENTS.—

"TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE
"Sec. 101. Findings and purposes.
"Sec. 102. Development investment assistance.
"Sec. 103. Qualifying applicants and limitations on locations of projects.
"Sec. 104. Application for grant.
"Sec. 105. Distress requirements.
"Sec. 106. Development investment strategy.
"Sec. 107. Limitations on revolving loan funds.
"Sec. 108. Federal share.
"Sec. 109. Limitations.
"Sec. 110. Community development corporations.
"Sec. 111. Obligation of funds.
"Sec. 112. Authorization of appropriations.
"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION
"Sec. 201. Investment strategy and planning.
"Sec. 202. Evaluation and demonstration.
"Sec. 203. Federal share.
"Sec. 204. Obligation of funds.
"Sec. 205. Authorization of appropriations.
"TITLE III—ADMINISTRATION
"Sec. 301. Definitions.
"Sec. 302. Appointment of assistant secretary.
"Sec. 303. Consultation with other persons and agencies.
"Sec. 304. Administration of assistance.
"Sec. 305. Powers of the Secretary.
"Sec. 306. Certification.
"Sec. 307. Savings provisions.
"Sec. 308. Annual report.
"Sec. 309. Prevailing rate of wage.
"Sec. 310. Record of applications.
"Sec. 311. Records and audit.
"Sec. 312. Nondiscrimination requirements.
"Sec. 313. Authorization of appropriations.

"TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE

"SEC. 101. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds and declares the following:

"(1) Historical and structural economic patterns in national and world markets have resulted in disparate economic conditions among various areas and communities in the United States.

"(2) Some areas and communities suffer from substantial and persistent unemployment and underemployment.

"(3) Economic distress caused by structural problems, severe dislocations, or cyclical downturns adversely affects communities and areas and their residents, industry sectors, and groups within the population. Among the most severely affected in distressed areas are socially and economically disadvantaged individuals from groups which suffer the effects of past and present discriminatory practices.

"(4) The changing national and global economies over the past decade have created new problems and challenges for the Nation. Our trade deficit has increased to serious proportions while our export of manufactured goods to other nations has dropped dramatically, and our export of industrial jobs to other nations has reached an alarming level.

"(5) The private sector remains the ultimate generator of employment and economic growth, but the public sector must reverse decades of infrastructure neglect as a necessary concomitant to private business stability and expansion.

"(6) It is in the national interest to develop a partnership between the public and private sectors to plan and implement development and adjustment activities to alleviate such distress.

"(7) Delivering and coordinating Federal assistance to economically distressed areas and industries and groups within those areas is crucial to the health of the national economy and the well-being of the Nation's citizens.

"(b) PURPOSES.—The Congress declares that the purposes of this Act are—

"(1) to promote balanced national growth and economic development by providing Federal aid to distressed areas in—

"(A) planning and financing public works,

"(B) promoting business assistance and other development activities to foster additional long-term employment opportunities for the unemployed and underemployed, and

"(C) benefiting the socially and economically disadvantaged, through the stimulation of private investment through Federal assistance;

"(2) to make the Nation's industrial and commercial resources more competitive in national and international markets;

"(3) to build, rehabilitate, and repair public infrastructure where it is inadequate to support and encourage private investment in the area;

"(4) to recognize and rely upon improved State and local governments' capacity to direct their own destinies; and

"(5) to link public and private funds to foster coordination of resources between these sectors, in order to leverage the maximum investment in the long-term economic vitality of all areas.

"SEC. 102. DEVELOPMENT INVESTMENT ASSISTANCE.

"(a) GRANTS.—Upon application of an applicant qualifying under section 103 and subject to the provisions of this title, the Secretary is authorized to make a grant to such applicant for one or more of the following:

"(1) CONSTRUCTING AND IMPROVING PUBLIC FACILITIES.—Construction, repair, rehabilitation, and improvement of public facilities, including demolition of existing structures and other site preparation measures, and the acquisition of land and other public works improvements to encourage and support private development.

"(2) REVOLVING LOAN FUNDS.—Establishment of revolving loan funds to promote establishment and growth of small businesses and to retain firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs.

"(3) EMPLOYEE STOCK OWNERSHIP PLANS.—Establishment of revolving loan funds to promote establishment of qualified employee ownership organizations which prevent economic dislocation, facilitate economic adjustment, or contribute to economic diversification and long-term economic vitality.

"(b) TECHNICAL ASSISTANCE.—Upon application of an applicant qualifying under section 103 and subject to the provisions of this title, the Secretary may provide technical assistance for improving and enhancing economic development.

"SEC. 103. QUALIFYING APPLICANTS AND LIMITATIONS ON LOCATIONS OF PROJECTS.

"(a) APPLICANTS FOR DISTRESSED LOCAL GOVERNMENTS.—The following entities may apply for assistance under section 102 for projects and activities to be carried out in the jurisdictional area of a unit of local government which meets the requirements of section 105:

"(1) STATE GOVERNMENT.—The State in which the unit of local government is located may apply if—

"(A) such unit has a population of less than 50,000; and

"(B) such unit is located outside the boundaries of an economic development district.

"(2) LOCAL GOVERNMENT.—The unit of local government may apply; except that—

"(A) in any case in which the unit of local government has a population of less than 50,000 and is located outside the boundaries of an economic development district, such unit must consult the State in the preparation of the grant application; and

"(B) in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(3) ECONOMIC DEVELOPMENT DISTRICT.—The economic development district in which the unit of local government is located may apply.

"(4) ECONOMIC DEVELOPMENT ORGANIZATION.—A private or public nonprofit organization established for economic development purposes and representing an area within the jurisdictional area of the unit of local government may apply if—

"(A) such unit has a population of 50,000 or more;

"(B) such unit is located outside the boundaries of an economic development district; and

"(C) the grant application has been approved by such unit.

"(b) APPLICATIONS FOR INDIAN LANDS.—An Indian tribe may apply for assistance under section 102 for projects and activities to be carried out on lands owned by, or held in trust for, such tribe if such lands meet the requirements of section 105.

"(c) APPLICATIONS FOR POCKETS OF POVERTY.—The following entities may apply for assistance under section 102 for projects and activities to be carried out in an area which meets the requirements of section 105 and is located in the jurisdictional area of a unit of local government which has a population of 50,000 or more and does not meet such requirements:

"(1) LOCAL GOVERNMENT.—The unit of local government may apply; except that in any case in which the unit of local government is located within the boundaries of an economic development district, such unit must consult such district in the preparation of the grant application.

"(2) DEVELOPMENT ORGANIZATION AS APPLICANT.—A private or public nonprofit organization established for economic development purposes and representing the area meeting the requirements of section 105 may apply if such organization consults the unit of local government in the preparation of the grant application.

"SEC. 104. APPLICATION FOR GRANT.

"(a) CONTENTS.—An application for assistance under this title shall include, but need not be limited to—

"(1) a certification that the area over which the applicant has jurisdiction meets the requirements of section 105; except that—

"(A) in any case in which the applicant is a State, economic development district, or an organization described in section 103(a)(4), the certification must be for the area over which the concerned unit of local government has jurisdiction;

"(B) in any case in which the applicant is an Indian tribe, the certification must be for lands owned by, or held in trust for, such Indian tribe; and

"(C) in any case in which the applicant is an organization described in section 103(c)(2), the certification must be for the area such organization represents;

"(2) a certification relative to the performance of any responsibilities which the Secretary has agreed to accept under section 306; and

"(3) a development investment strategy prepared in accordance with section 106.

"(b) FACTORS TO BE CONSIDERED IN APPROVAL PROCESS.—In approving applications for assistance under this title, the Secretary shall give consideration to—

"(1) the severity of distress in the area for which the grant is to be made;

"(2) the extent to which the grant will result in increased, or more stabilized, permanent employment in such area;

"(3) the ratio of private sector investments committed in such area to the amount of the grant applied for;

"(4) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the expansion of employment opportunities;

"(5) the effectiveness of the development investment strategy and the degree to which the proposed project contributes to its implementation (including the strategy's relationship to economic problems identified in the strategy), expands employment opportunities in the existing labor market, provides incentives to retain private businesses, expands or improves public facilities, and encourages private investment; and

"(6) the extent to which the strategy and activities are consistent with State and local goals and contribute to long-term economic growth and private sector employment opportunities and establish an overall strengthened economic and business environment which will be self-sustaining.

"(c) LIMITATION ON ASSISTANCE FACILITATING RELOCATIONS.—No assistance may be provided under this title for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation would not significantly and adversely affect employment in, or the economic base of, the area from which the industrial or commercial plant or facility would be leaving.

"SEC. 105. DISTRESS REQUIREMENTS.

"(a) CERTIFICATION.—In order to be eligible for assistance under this title, the applicant must certify that the area which is required by section 103 to meet the requirements of this section meets one or more of the following criteria:

"(1) The area has a per capita income of 80 percent or less of the national average.

"(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

"(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(b) DOCUMENTATION OF DISTRESS.—Documentation of distress shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Secretary unless it is determined to be inaccurate. The most recent statistics available must be used.

"SEC. 106. DEVELOPMENT INVESTMENT STRATEGY.

"(a) PREPARATION AND CONTENTS.—Except as provided in subsection (b), an applicant for assistance under this title shall prepare a development investment strategy for the area which is required by section 103 to meet the requirements of section 105. The development investment strategy must—

"(1) identify the economic development problems sought to be addressed by the grant;

"(2) identify past, present, and projected future economic development investments in such area and public and private participants and sources of funding for such investments;

"(3) identify the extent to which the development investment strategy takes into account—

"(A) availability of developable land and space in the area;

"(B) public works, public service, and development facilities in the area;

"(C) availability of low-cost capital;

"(D) tax policy on investments in the area;

"(E) level of skill of the labor force; and

"(F) ability of State and units of local government to provide financial assistance in the management and implementation of the strategy;

"(4) set forth a strategy for addressing the economic problems identified in paragraph (1) and discusses the manner in which the strategy will solve such problems;

"(5) provide a description of the projects necessary to implement the strategy, an estimate and analysis of the costs and anticipated benefits of implementing the strategy, and an estimate of the timetables for completion of such projects;

"(6) provide a summary of public and private resources which are expected to be available for such projects; and

"(7) provide a comprehensive plan which demonstrates participation in all phases of the development and implementation of the development investment strategy by a representative percentage of small business concerns owned and controlled by socially and economically disadvantaged individuals, as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

"(b) CONSULTATION OF STATE OR ECONOMIC DEVELOPMENT DISTRICT.—In any case in which a unit of local government is the eligible applicant under section 103(a)(2), the unit of local government shall consult the State or economic development district, respectively, in the preparation of a development investment strategy.

"(c) APPROVAL OF DEVELOPMENT ORGANIZATION'S STRATEGY.—In any case in which a private or public nonprofit development organization within a unit of local government is the eligible applicant under section 103(c)(2), the organization must consult the unit of local government in the preparation of the organization's development investment strategy.

"SEC. 107. LIMITATIONS ON REVOLVING LOAN FUNDS.

"(a) PURPOSES AND USES OF GRANTS.—Grants under section 102(a) shall be for the purposes of stimulating small business development and promoting economic growth which contributes to an improved local tax base and the creation of permanent employment opportunities. Such grants may only be made to establish or recapitalize a revolving loan fund which will be used only—

"(1) for making loans or guaranteeing loans to small businesses for initial or working capital, or the purchase, rehabilitation or expansion of facilities or equipment; and

"(2) for making loans or guaranteeing loans to businesses if a relatively small amount of capital is needed to complete financing necessary to retain the business in the area.

"(b) DISTRESS REQUIREMENTS.—A grant made under section 102(a)(2) shall be made on the condition that the revolving loan fund established or recapitalized pursuant to such grant shall be used only for providing assistance described in subsection (a) in areas which meet the requirements of section 105.

"(c) LIMITATION ON AMOUNT OF GRANT.—No grant for the establishment or recapitalization of a revolving loan fund under section 102(a)(2) shall be made for more than $1,000,000.

"(d) CREDIT ELSEWHERE TEST.—No loan or guarantee shall be made from a revolving loan fund established or recapitalized pursuant to a grant under section 102(a)(2) unless the financial assistance applied for is not otherwise available from private lenders on terms which in the opinion of the administrator of the revolving loan fund will permit the accomplishment of the project.

"(e) TERMS OF GRANTS.—

"(1) USE ASSURANCES.—Any applicant for a grant for establishment or recapitalization of a revolving loan fund under section 102(a)(2) shall give assurances that amounts of any loan which are repaid to the fund will be available only for the purposes set forth in subsection (a).

"(2) REPAYMENT ASSURANCES.—No loan or guarantee may be made from a revolving loan fund established or recapitalized pursuant to a grant under section 102(a)(2) unless the applicant for such loan or guarantee provides reasonable assurance of repayment of the loan.

"(3) GRANTEE AS ADMINISTRATOR.—The grantee of any grant for establishment or recapitalization of a revolving loan fund under section 102(a)(2) shall administer the fund.

"(f) CONSIDERATION OF PAST PERFORMANCE.—In determining whether or not to make a grant for recapitalization of a revolving loan fund established or recapitalized pursuant to a grant under section 102(a)(2), the Secretary shall consider past performance of such fund.

"SEC. 108. FEDERAL SHARE.

"(a) CONSTRUCTION AND IMPROVEMENT PROJECTS.—The amount of any grant for a project described in section 102(a)(1) shall be that amount which when added to amounts available from all other sources is sufficient to complete such project, except that in no event shall the amount of any such grant exceed 50 percent of such cost of completing the project as determined at the time of the grant application. No additional funds shall be granted or otherwise made available under this Act for any project described in section 102(a)(1) for which a grant has been made under this Act.

"(b) ESTABLISHMENT OF REVOLVING LOAN FUNDS.—The amount of any grant for the establishment of a revolving loan fund under section 102(a) shall not exceed an amount which is equal to the amount of funds available from all other sources for the establishment of such revolving loan fund. The amount of any additional grant for the recapitalization of a revolving loan fund previously established with a grant under section 102(a)(2) shall not exceed an amount which is equal to ⅓ of the amount of funds available from all other sources for such recapitalization.

"(c) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 102(a), the Secretary may reduce or waive any non-Federal share required by this section.

"SEC. 109. LIMITATIONS.

"(a) OBLIGATIONS IN A STATE.—Except for expenditures to Indian tribes, not more than 15 percent of the appropriations made for a fiscal year pursuant to this title may be expended in any one State.

"(b) OBLIGATIONS TO A PERSON.—The Secretary shall not obligate more than $4,000,000 in any fiscal year to any person (including any State or local government or public organization) for grants under this title, other than grants for establishment of qualified employee ownership organizations.

"SEC. 110. COMMUNITY DEVELOPMENT CORPORATIONS.

"(a) GRANTS.—The Secretary may make grants to community development corporations to assist small businesses by reducing the interest rates for economic development activities to be carried out by such businesses in areas meeting the distress requirements of section 105.

"(b) AGGREGATE AMOUNT.—The aggregate amount of grants under this section may not exceed $10,000,000 in any fiscal year.

"SEC. 111. OBLIGATION OF FUNDS.

"(a) BY MAY 31.—Not later than May 31 of each fiscal year, the Secretary shall obligate for grants under this title not less than 50 percent and not more than 60 percent of the funds appropriated for such fiscal year pursuant to this title.

"(b) BY SEPTEMBER 30.—Not later than September 30 of each fiscal year, the Secretary shall obligate for assistance under this title the remaining funds appropriated for such fiscal year pursuant to this title.

"SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title, to be available until expended, $200,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Not more than 25 percent of the amount appropriated pursuant to this section for any fiscal year shall be expended to carry out section 102(a)(2).

"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION

"SEC. 201. INVESTMENT STRATEGY AND PLANNING.

"(a) GRANTS FOR ECONOMIC DEVELOPMENT PLANNING.—The Secretary is authorized to make grants for economic development planning, including the preparation of development investment strategies under section 106 and the payment of administrative expenses, to—

"(1) any State,

"(2) any economic development district,

"(3) any Indian tribe,

"(4) any county if the jurisdictional area of such county meets the requirements of section 105 and is located outside of the boundaries of an economic development district, and

"(5) any other unit of local government with a population of 50,000 or more if the jurisdictional area of such unit meets such requirements and is located outside of the boundaries of an economic development district.

The Secretary is also authorized to make grants for preparation of a development investment strategy under section 106 to any unit of local government with a population of 100,000 or more if the jurisdictional area of such unit meets the requirements of section 105 and, in any case in which such unit is located within the boundaries of an economic development district, such unit consults the district in the preparation of the investment strategy.

"(b) COMPREHENSIVE PLANNING REQUIREMENT.—Planning carried out under this section shall be a part of a comprehensive planning process and shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

"(c) PREPARATION OF STATE PLANS.—Any State economic development plan prepared with assistance under this section shall be prepared by the State with the active participation of units of local government and economic development districts located in whole or in part within such State and shall set goals for economic development within such State.

"(d) ANNUAL STATE REPORTS.—Each State receiving assistance under this section shall submit to the Secretary an annual report on the planning process assisted under this section.

"(e) DISTRICT AND LOCAL PLANS CONSISTENT WITH STATE PLAN.—Any economic development planning by an economic development district or a unit of local government for which a grant is made under this section shall be consistent with the State economic development plan for the State in which such district or unit is located.

"(f) COORDINATION OF RESOURCES.—Grants under this section shall be used, to the maximum extent possible, to provide coordination of investment for community facilities, economic development, manpower training, and transportation services.

"(g) ENCOURAGEMENT OF ASSISTANCE.—Each applicant for assistance under this section is encouraged to provide project planning, financial analysis, marketing, management, feasibility studies, and other technical and financial assistance to communities and neighborhoods within its boundaries.

"SEC. 202. EVALUATION AND DEMONSTRATION.

"(a) EVALUATION OF DEVELOPMENT INVESTMENT EFFORTS.—The Secretary is authorized to conduct a program of evaluation of Federal, State, and local development investment efforts in order to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States; and

"(2) assist in formulating, implementing, or improving programs at the National, State, or local levels which are designed to increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b) DEMONSTRATION PROGRAMS.—

"(1) IN GENERAL.—The Secretary is authorized to conduct demonstration programs to test the feasibility of new ways to increase productivity and growth designed to make the steel industry and related industries more competitive, to encourage the use and development of innovative technology and research in economic development, to match the labor force with projected labor markets, to improve United States competitiveness, and to encourage economic diversity and regional balance.

"(2) REPORTS.—Not later than 90 days after completion of each demonstration program conducted under this subsection, the Secretary shall transmit to Congress a report on the results of such program.

"(c) ADMINISTRATION.—Programs authorized under subsections (a) and (b) of this section may be carried out by the Secretary acting through the staff of the Department of Commerce, in cooperation with or by the provision of funding to other departments or agencies of the Federal Government, or by contract.

"(d) GRANTS FOR MANAGEMENT AND TECHNICAL ASSISTANCE.—The Secretary is authorized to make grants to colleges, universities, and other organizations to establish and support ongoing programs which provide to businesses and units of local government management and technical assistance for the purposes of promoting productivity, economic development, and employment opportunity.

"SEC. 203. FEDERAL SHARE.

"(a) ECONOMIC DEVELOPMENT PLANNING.—The amount of any grant under section 201 may not exceed 75 percent of the cost of economic development planning or of the preparation of a development investment strategy.

"(b) MANAGEMENT AND TECHNICAL ASSISTANCE.—The amount of any grant under section 202(d) may not exceed 75 percent of the cost of establishing and supporting the ongoing management and technical assistance program.

"(c) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of costs under this section, the Secretary shall give consideration to all contributions both in cash and in kind, including space, equipment, and services.

"(d) INDIAN TRIBES.—In the case of a grant to an Indian tribe under section 201, the Secretary may reduce or waive any non-Federal share required by this section.

"SEC. 204. OBLIGATION OF FUNDS.

"Not later than December 31 of each fiscal year, the Secretary shall obligate for grants under section 201, 90 percent of the funds appropriated for such fiscal year pursuant to this title, other than those funds made available for purposes of section 202. The remainder of such funds shall be obligated during such fiscal year only for making grants under section 201 in areas meeting the criteria set forth in section 105(a)(3).

"SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title, to be available until expended, $50,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.

"(b) LIMITATION ON AMOUNT FOR SECTION 202.—Of sums authorized to be appropriated under subsection (a) of this section, not to exceed $13,000,000 in fiscal year 1991 and not to exceed $15,000,000 in each of fiscal years 1992 and 1993 shall be available for purposes of section 202.

"TITLE III—ADMINISTRATION

"SEC. 301. DEFINITIONS.

"For purposes of this Act—

"(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' means—

"(A) an economic development district designated on or before January 1, 1990, under section 403(a)(1) of the Public Works and Economic Development Act of 1965; and

"(B) any district within a State which is designated by the Secretary, which district is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than one county and does not contain within its boundaries any part of another economic development district designated under subparagraph (A) or under this subparagraph.

"(2) JURISDICTIONAL AREA.—The term 'jurisdictional area' means the area over which a unit of local government has jurisdiction.

"(3) INDIAN TRIBE.—The term 'Indian tribe' means the governing body of an Indian tribe, an Indian authority or tribal organization or entity, an Alaska Native village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior, except that the term 'Indian tribe' shall also include those bodies, authorities, organizations, entities, or groups not recognized by the Secretary of the Interior, if such body, authority, organization, entity, or group is recognized as a tribe or other similar appropriate entity by the State in which it is located and such State holds land in trust on behalf of such tribe or other similar appropriate entity.

"(4) QUALIFIED EMPLOYEE OWNERSHIP ORGANIZATION.—The term 'qualified employee ownership organization' includes a qualified employee trust as defined in section 3(c)(2) of the Small Business Act, except that—

"(A) such term shall not be limited to plans maintained by small business concerns or to loans guaranteed under such Act;

"(B) in the case of any form of financial assistance, the principles of section 3(c)(2)(B) of such Act shall apply under regulations prescribed by the Secretary; and

"(C) there shall be periodic reviews of the role, in the management of the concern involved, of employees to whose account stock is allocated.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(6) SMALL BUSINESS CONCERN.—The term 'small business concern' means a business that is independently owned and operated, is not dominant in its field of operations, and meets such other criteria as the Secretary, after consultation with the Administrator of the Small Business Administration, may by regulation establish, including numbers of employees and dollar volume of business by industrial classes.

"(7) STATE.—The term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"(8) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"SEC. 302. APPOINTMENT OF ASSISTANT SECRETARY.

"The Secretary shall administer this Act with the assistance of an Assistant Secretary of Commerce, established by section 601 of the Public Works and Economic Development Act of 1965. Such Assistant Secretary shall perform such functions as the Secretary may prescribe.

"SEC. 303. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

"The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment. The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

"SEC. 304. ADMINISTRATION OF ASSISTANCE.

"No grant shall be approved under this Act unless the Secretary is satisfied that the

project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"SEC. 305. POWERS OF THE SECRETARY.

"(a) LIST OF POWERS.—In performing his duties under this Act, the Secretary is authorized to do the following:

"(1) Adopt, alter, and use a seal, which shall be judicially noticed.

"(2) Hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary may deem advisable.

"(3) Request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act. Each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

"(4) Acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act.

"(5) Procure by contract the temporary or intermittent services of experts and consultants or organizations therefor as authorized by section 3109(b) of title 5, United States Code, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) in accordance with section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"(6) Sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne, or final, shall be issued against the Secretary or property of the Secretary.

"(7) Establish such rules, regulations, and procedures as the Secretary may deem appropriate in carrying out the provisions of this Act.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act (including subsection (a)(6)) shall be construed to except the activities under this Act from the application of sections 517, 547, and 2679 of title 28, United States Code.

"SEC. 306. CERTIFICATION.

"(a) ACCEPTANCE.—The Secretary may discharge any of his responsibilities relative to a project for which a grant may be made under title I of this Act by accepting a certification by the applicant of the applicant's performance of such responsibilities.

"(b) RESCISSION OF ACCEPTANCE.—Acceptance by the Secretary of an applicant's certification under this section may be rescinded by the Secretary at any time if, in the opinion of the Secretary, it is necessary to do so.

"(c) REGULATION.—The Secretary shall issue such guidelines and regulations as may be necessary to carry out this section.

"SEC. 307. SAVINGS PROVISIONS.

"(a) AFFECT ON PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the Secretary or Assistant Secretary or any other officer in his or her official capacity or in relation to the discharge of his or her official duties under the Public Works and Economic Development Act of 1965, shall abate by reason of the taking effect of the amendment by section 102 of the Public Works and Economic Development Act Amendments of 1990, but the court may, on a motion or supplemental petition filed at any time within 12 months after the effective date of such amendment, showing a necessity for the survival of such suit, action, or proceeding to obtain a settlement of the questions involved, allow such suit, action, or proceeding to be maintained by or against the Secretary or Assistant Secretary or such other officer of the Department of Commerce as may be appropriate.

"(b) EXISTING REGULATIONS AND PROCEEDINGS.—All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, before the effective date of such amendment, by any agency, officer, or office pertaining to any functions, powers, and duties under the Public Works and Economic Development Act of 1965 shall continue in full force and effect after such effective date until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

"SEC. 308. ANNUAL REPORT.

"The Secretary shall make a comprehensive and detailed annual report to Congress of operations under this Act for each fiscal year beginning after the year ending September 30, 1990. Such report shall be printed and shall be transmitted to Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 309. PREVAILING RATE OF WAGE.

"(a) GENERAL RULE.—All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, commonly known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a–276a–5).

"(b) ASSURANCE.—The Secretary shall not extend any financial assistance under this Act for any project without first obtaining adequate assurance that the standards required by subsection (a) will be maintained upon the construction work.

"(c) FUNCTION OF SECRETARY OF LABOR.—The Secretary of Labor shall have, with respect to the standards required by subsection (a), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. App.), and section 2 of the Act of June 13, 1934 (48 Stat. 948; 40 U.S.C. 276c).

"SEC. 310. RECORD OF APPLICATIONS.

"The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of each application approved for a grant under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant.

"(2) The amount and duration of the grant for which application is made.

"(3) The purposes for which the proceeds of the grant are to be used.

"SEC. 311. RECORDS AND AUDIT.

"(a) GENERAL RULES.—

"(1) RECORDS.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which—

"(A) fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

"(B) review the efficiency, economy, and effectiveness of the project carried out under this Act.

"(2) REPORTS TO SECRETARY.—Not later than January 11 and July 11 of each year, each recipient shall transmit a report to the Secretary containing all information prescribed under paragraph (1) which relates to all activities carried out during the preceding period relating to grants made to it under this Act. Each report submitted in January of each year shall include an audited statement of funds spent on the project or undertaking during the preceding fiscal year. Such statement shall be prepared in accordance with chapter 75 of title 31, United States Code, or agency regulations governing the audit of nonprofits.

"(b) ACCESS TO INFORMATION.—For the purpose of reviewing the efficiency, economy, and effectiveness of programs carried out under the provisions of the Act, including audit and examination, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient, subrecipient, contractor, or subcontractor that are pertinent to assistance received under this Act.

"SEC. 312. NONDISCRIMINATION REQUIREMENTS.

"In administering this Act, the Secretary may not—

"(1) discriminate in favor of or against any qualified applicant based on the fact that the area in which the project would be located is either rural or urban in character;

"(2) create separate allocations of funds to provide assistance for urban and rural areas unless such allocations are based on objective findings of relative levels of distress in areas qualified for assistance under this Act; or

"(3) deny assistance to a qualified applicant based on the fact that the project area is located in a State which has a low level of unemployment.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for salaries and administrative expenses to carry out the provisions of this Act $26,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Appropriations under this Act shall remain available until expended. Any contract entered into pursuant to this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.".

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Appalachian Regional Development Act Amendments of 1990".

SEC. 202. FINDINGS AND PURPOSES.

Section 2 of the Appalachian Regional Development Act of 1965 is amended—

(1) in subsection (a) by striking out the period at the end of the 6th sentence and inserting in lieu thereof "and in severely distressed and underdeveloped counties and areas lacking resources for basic services."; and

(2) by adding at the end of such section the following new subsection:

"(c) The Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economics over the past decade have created new problems and challenges for rural areas throughout the Nation and especially for the Appalachian region. Thus, the problems of the region are not only to provide the infrastructure necessary to economic and human resource development, to develop its industry, and to generate a diversified regional economy, but to make the region's industrial and commercial resources more competitive in national and world markets. It is, therefore, also the purpose of this Act to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitive challenge through improving the skills of the region's manpower, adapting and applying new technologies for the region's businesses, and improving the access of the region's businesses to the technical and financial resources necessary to their development while continuing to address the need to provide basic services for the more disadvantaged areas of the region so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across this Nation.".

SEC. 203. AUTHORIZATIONS FOR ADMINISTRATIVE EXPENSES.

Section 105(b) of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and not to exceed $3,500,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Of amounts appropriated pursuant to the preceding sentence for each of fiscal years 1991, 1992, and 1993, not to exceed $1,000,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff.".

SEC. 204. EXTENSION OF LEASE TERMS.

Section 106(7) of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1993".

SEC. 205. HIGHWAY SYSTEM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(g) of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and $144,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.".

(b) FEDERAL SHARE.—

(1) GENERAL RULE.—Section 201(h)(1) of such Act is amended by striking out "70 per centum" and inserting in lieu thereof "80 percent".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to projects approved after March 31, 1979.

SEC. 206. DEFINITIONS.

(a) UPDATING OF COVERED FEDERAL GRANT-IN-AID PROGRAMS.—The first sentence of section 214(c) of the Appalachian Regional Development Act of 1965 is amended by striking out "December 31, 1980" and inserting in lieu thereof "October 1, 1994".

(b) LIMITATION ON COVERED ROAD PROJECTS.—The second sentence of such section is amended by inserting "authorized by title 23, United States Code" after "road construction".

SEC. 207. PROGRAM DEVELOPMENT CRITERIA.

Section 224(a) of the Appalachian Regional Development Act of 1965 is amended by inserting before the semicolon at the end of paragraph (1) the following: "or in a severely distressed and underdeveloped county or area lacking resources for basic services".

SEC. 208. REMOVAL OF LIMITATION.

Section 224(b) of the Appalachian Regional Development Act of 1965 is amended—

(1) by striking out "(2) to finance" and all that follows through "(3)" and inserting in lieu thereof "(2)"; and

(2) by striking out "(4)" and inserting in lieu thereof "(3)".

SEC. 209. MAXIMUM FEDERAL SHARE.

Section 224 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) MAXIMUM FEDERAL SHARE.—Notwithstanding any other provision of this Act, after September 30, 1990, grants made with funds authorized under this Act shall not exceed 50 percent of the costs of any project approved under this Act (except projects under section 201); except that, notwithstanding any limitation of any other Federal law, such grants may increase the Federal contribution to any project being carried out under such other law and eligible for financial assistance under this Act to such percentage as the Commission determines appropriate within the limitations of this Act.".

SEC. 210. GRANTS FOR ADMINISTRATIVE EXPENSES AND DEMONSTRATION PROJECTS.

(a) GENERAL RULE.—Section 302(a)(3) of the Appalachian Regional Development Act of 1965 is amended—

(1) by inserting after "technical assistance" the following: "(including technical assistance for business development and stabilization and application of technologies and productivity improvement)";

(2) by inserting after "training programs" the following: "(including on-site employee training and programs to upgrade employability of the region's people)"; and

(3) by inserting after "demonstrations" the following: "(including demonstrations of service consolidations and other methods of increasing efficiency of local governments, the establishment and operation by States, public agencies, or nonprofit development organizations of revolving funds for business assistance loans, the establishment and operation of business incubators and the provision of industrial facilities and equipment by public agencies and nonprofit organizations on such terms (including terms of reasonable recovery of grant funds upon resale) as are approved by the Commission, and the acquisition and development of land)".

(b) LIMITATIONS ON DEMONSTRATION GRANTS.—Subsection (b)(1) of such section is amended—

(1) by striking out ", (3), or (4)," and inserting in lieu thereof "or (4),";

(2) by inserting "or economic" after "energy"; and

(3) by striking out the second sentence and inserting in lieu thereof the following: "Funds in energy enterprise development loan funds established with grants previously approved by the Commission under this section may, upon approval of the Commission pursuant to section 303, after the date of the enactment of the Appalachian Regional Development Act Amendments of 1990, be made available for the purposes authorized in subsection (a)(3).".

SEC. 211. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.

Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following: "In addition to the appropriations authorized in section 105 for administrative expenses and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the Commission, to be available until expended, to carry out this Act, $37,500,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.".

SEC. 212. EXTENSION OF TERMINATION DATE.

Section 405 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1993".

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, insert the following new section:

SEC. . BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE COMMISSION.—If the Appalachian Regional Commission, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so desires, the Commission is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Commission shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Commission shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Commission shall also report to the Congress on the number of contracts

covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Commission" means the Appalachian Regional Commission.

(2) DOMESTIC FIRM.—The term "Domestic Firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this is the standard "buy American" amendment.

Madam Chairman, I commend the authors of this bill and all the respective chairmen involved.

This is the standard "buy American" amendment, and I am pleased with the fact that the leadership has agreed to this particular amendment.

Ms. OAKAR. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Cleveland, OH.

Ms. OAKAR. Madam Chairman, I rise in support of the amendment and I want to compliment the gentleman. I think the spirit of the entire legislation is to create jobs for Americans, and I support the gentleman's amendment.

Mr. TRAFICANT. Madam Chairman, I appreciate the support of the gentlewoman from Ohio.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I am glad to yield to the chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Madam Chairman, we have reviewed the gentleman's amendment. It is acceptable on our side, and I urge its adoption.

Mr. PACKARD. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the vice chairman of the subcommittee.

Mr. PACKARD. Madam Chairman, I thank the gentleman from Ohio for yielding.

Madam Chairman, we support the amendment. It has a very narrow application to programs being reauthorized, and we have no objections to its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. WHITTEN. Madam Chairman, I move to strike the last word.

Madam Chairman, let me say to my colleagues that we, in this country, seem to have neglected to make a distinction between investment spending and that which lasts 24 hours.

On yesterday, I presented to the House a dire emergency supplemental bill (H.R. 4404) and pointed out that we have to take care of our own country. Today, I appeared before the Committee on Government Operations and pointed out that the wealth behind our country is the country itself. I am for balancing budgets. In our Committee on Appropriations, we have held our total of appropriations since 1945 $173 billion below the recommendation of Presidents.

But there is one thing we should do. We should change our rules for investment spending—that which lasts 100 years, which contributes to our economy, and which should be considered different from that spending which lasts 24 hours.

I am for a balanced budget. I have worked toward a balanced budget, because we need stability. But let us keep in mind that wealth is material things, and paper money is something that the Federal Reserve bank can issue and is issuing.

We have since 1981 increased our debt over $2 trillion, but not because of what we spend taking care of our country, which is the only thing we must take care of. I happen to come from an Appalachian region. Money has been well spent there.

May I say today, in view of the legislation we see in view of what we read, hundreds of thousands of troops are going to be released, we are going to cancel a lot of military contracts, and those folks are going to be looking for jobs.

To prepare for that, by all means we should restore revenue sharing, since with one-fourth of what we spend annually on foreign aid, we can look after over 39,000 communities in this country where the people locally have practically fought each other to be sure they got their dollar's worth.

Why do we do that? Because that is our wealth, and we had better get ready now so when this shift in our work force takes place, we can take care of it.

I do not know of anything that has done greater service than the EDA, and I do not know anything that has had better results than revenue sharing. So I say, and I repeat it now, that our money has nothing behind it except our country. That being true, we had better look after our country. The idea of a budget request of over $1 trillion but with no new starts for investment in our country is not looking after our country. I say again that we had better do it.

Let us keep this in mind. We can leave all the money in the world and a wornout land to our children and they will never make it. But if we take care of our own country, they could set up their own financial system. So I say to the Members that nothing I know of has contributed more to the well-being of this country and to my immediate section than the Appalachian program. It is selective, and the local people contribute to it. That gives it a sense of value.

I plead with the Members, let us start looking after our country, not because we are opposed to all these other things, but so we can afford the other things. Let us look after our country first, because we must give attention to investment spending where the benefits are felt for many years. And we need to change the House scoring rules so we can look at that and not have it charged up to annual expenses.

Madam Chairman, I hope the Members will go along with this bill.

Mr. WOLPE. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the legislation to revise and extend programs of the Economic Development Administration and the Appalachian Regional Commission. This bill represents a needed Federal commitment to economic development, and recognizes the importance of strong intergovernmental and public-private partnership efforts to deal with problems of unemployment, of underinvestment, and of economic dislocation.

H.R. 2015 addresses three aspects of the public economic development role that cannot be addressed effectively other than by a Federal program.

First, there is a need for Federal funds to help create the infrastructure necessary for job creation and retention. Scores of communities, in Michigan and across the country, must adjust to the economic realities of the 1990's and take advantage of new opportunities for economic growth and diversification. EDA programs provide a vehicle to help them make that transition.

Second, there is a need for business finance resources to complement public infrastructure investments, especially in small towns and rural areas. Michigan and other States have implemented numerous programs to meet the ongoing development finance needs of new and small companies. However, an injection of Federal funds like that proposed in H.R. 2015 is needed to buttress State efforts in economically distressed areas that have a significant level of need.

Third, only the Federal Government can effectively maintain an emergency response program to provide help to communities facing a sudden and severe economic crisis, such as the impending closure of a major plant or military base.

EDA-assisted projects overall have encouraged high levels of private development activity and helped increase local job opportunities. In Michigan, for example, EDA funds have helped improve industrial park sites and upgrade water and sewer systems, as well as support development planning and staff capacity efforts. Nationally, $120 million in EDA public works grants helped leverage $1.5 billion in private monies in fiscal 1988 alone, according to agency data—returning $12.5 for every $1 invested. H.R. 2015 will continue EDA's traditional role of investing in public works and infrastructure projects, requiring that Federal resources be matched by recipients to stimulate greater private investment in commercial and industrial activities.

The bill calls for improved economic development planning, in the form of a development investment strategy, rather than perpetuate the project-by-project approach of current law. The shift in program planning emphasis from building for the sake of building to laying a base for current and future economic development activities will ensure more efficient use of Federal resources and help avoid the scattershot approach of past programs. The strategy is intended not only as a planning document, but an economic development action plan.

The bill also addresses a major complaint about current EDA programs by including more rigorous targeting criteria. Funds would be channeled to communities manifesting considerable economic distress such as high unemployment, or economic dislocation such as a plant closing. Long-term designation would be eliminated; areas would have to requalify as distressed each time they applied for EDA funds.

EDA programs deserve formal reauthorization and I congratulate the Committees on Public Works and Banking on the solid approach to economic development they have crafted in this legislation. EDA programs have limped along since 1982 without congressional authorization, in the face of stiff opposition from the Reagan and Bush administrations. States such as Michigan have done an excellent job in sparking local economic development activities, but they can not do it alone. In passing H.R. 2015, the House will underscore the essential Federal role in local economic development strategy-making and project implementation. This type of Federal investment is essential to the Nation's economic well-being. If distressed areas are not helped, and they fall into an even deeper decline, the ultimate Federal cost in years to come will be much more substantial.

□ 1510

AMENDMENT OFFERED BY MR. GRANT

Mr. GRANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRANT: Page 17, line 17, strike ", except that in" and insert ". In".

Page 17, line 19, after the period insert the following:

The Secretary may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of completing a project described in section 102(a)(1) for an area which the Secretary determines is one of the most distressed of the areas meeting the distress requirements of section 105; except that the Secretary may not increase such percentage for more than 25 percent of the grants made in any fiscal year. In developing guidelines for determining which areas are the most distressed, the Secretary shall consider whether (1) the median family income for the area for the most recent 24-month period for which data is available is less than or equal to 75 percent of the national average median family income for such period, or (2) the average unemployment rate for the area for such period is greater than or equal to 2 times the national average unemployment for such period.

Mr. GRANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GRANT. Madam Chairman, I yield to the gentleman from West Virginia [Mr. RAHALL].

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Madam Chairman, I ask unanimous consent to offer an amendment and ask that it be allowed to be considered en bloc with the amendment of the gentleman from Florida.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. RAHALL: Page 41, line 6, after the first period insert the following:

The Commission may increase the maximum percentage of a grant from 50 percent to not more than 80 percent of the costs of a project approved under this Act for a county which the Commission determines is one of the most distressed counties in the Appalachian region; except that the Commission may not increase such percentage for more than 25 percent of the grants made in any fiscal year.

Mr. RAHALL (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GRANT. Madam Chairman, I spoke a few moments ago about how much I do like this bill. I do like this bill. I think we need it.

What this bill does basically is to put some constraints on both these programs, badly needed constraints. It is long overdue, and I think that in the wisdom of the legislative body that we are going to do that.

However, Madam Chairman, in some instances we put a few too many constraints on these programs. What our amendments do, Madam Chairman, is the gentleman from Illinois [Mr. SAVAGE], the distinguished chairman of the subcommittee, the gentleman from West Virginia [Mr. RAHALL] and I have crafted an amendment which would make provisions for the most severely distressed, economically, distressed, areas of America.

As with any illness, and in this we are talking about economic illness of course; as with any illness, even a physical illness, some are more serious than others. One may have a broken bone, and it may be a compound fracture as compared to just a simple fracture. We could have a common cold, or we could have pneumonia. Economic illness is the same thing.

Madam Chairman, there is no question that we have an illness in some parts of our country, and what we are doing is trying to address those illnesses.

Our amendment basically provides that the provision in the bill, which now places a maximum Federal share on any grant at 50 percent, be extended at the discretion of the Secretary to 80 percent in those instances where there is severe economic distress. There are provisions in the amendment that suggest that the Secretary should take into consideration the unemployment rate in the area, that they should take into consideration the median family income in the area applying for the grant, and we think that it addresses not only the needs of America, but the severe need in some parts of America.

Mr. RAHALL. Madam Chairman, I rise in support of the amendment.

Madam Chairman, H.R. 2015 reduces the maximum allowable Federal cost share for EDA construction and improvement projects and for ARC nonhighway programs from 80 to 50 percent. This proposed change is meant to conform to fiscal reality. However, both EDA and ARC were specifically designed to assist distressed communities. I believe that reducing the Federal cost share to 50 percent with no discretion to provide greater funding would circumvent the very intent of these important programs.

There is nothing in existing law which forces EDA or ARC to provide a cost share higher than 50 percent. However, if this discretion is removed entirely, they will be prohibited by law to provide a higher cost share in the

event that the applicant community does not have the available funds.

Our amendments represent a compromise. They would grant the Secretary and the Commission limited discretion to provide up to 80 percent Federal cost share for areas that are determined to be the most distressed. However, the number of grants made at increased Federal percentage may not exceed 25 percent of the total grants made by EDA or ARC in any fiscal year.

This flexibility is important. I do not have data for around the country but I know that in West Virginia, 18 counties have been designated by EDA as areas which are eligible to receive cost shares higher than 50 percent based upon the level of distress in those areas.

During fiscal year 1988, ARC funded 35 projects in its 90 distressed counties at above the 50 percent level. In fiscal year 1989, 23 projects in the distressed counties were funded at more than 50 percent from a total project count of approximately 275 in fiscal year 1989.

Clearly the need is there for some discretion to fund projects at a higher Federal share. I urge my colleagues, particularly those who overwhelmingly voted yesterday to send considerable aid to foreign countries, to join us in helping the poorest communities in our own country.

Mr. HAMMERSCHMIDT. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I rise in support of the amendments of the gentleman from Florida [Mr. GRANT], the gentleman from West Virginia [Mr. RAHALL], and the gentleman from Illinois [Mr. SAVAGE].

H.R. 2015 was originally drafted as a reform bill, designed to limit Federal funding in local projects, encourage more private sector involvement, and ensure that the local commitment is high. These amendments are the result of a compromise and I will support them.

The bill under consideration would limit EDA's share of a public facilities project and ARC's share of a nonhighway project to 50 percent of the total cost. The Grant-Savage-Rahall amendments would allow the Secretary of Commerce and Appalachian Regional Commission to make very limited exceptions to this rule, and allow certain projects to exceed this 50-percent ceiling.

The Secretary or Commission would be able to increase the Federal share in such projects up to 80 percent for areas determined to be among the most distressed. Criteria guiding the determination of what constitutes most distressed would be promulgated by the Secretary or Commission. The Federal share could not be raised for more than 25 percent of grants made in any fiscal year.

Because increasing the Federal share would only be permitted with approval of the Secretary or Commission and under very limited circumstances, this amendment maintains the integrity of the reforms contained in H.R. 2015. I commend my colleague from Florida for his expertise in helping to draft these compromise amendments. Along with Mr. RAHALL and Mr. SAVAGE, Mr. GRANT's knowledge of the EDA Grant Program and how this legislation would impact upon his and similar districts were key in reaching this workable compromise.

I support this amendment, and I hope my colleagues will as well.

Mr. GRANT. Madam Chairman, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Florida.

Mr. GRANT. Madam Chairman, I want to make one point to my colleagues, and that is that the contributions that the Secretary shall make are not necessarily limited to the two mentioned in the amendment. There are others that the Secretary might mention, might take into consideration rather, including financial constraints such as a constitutional cap on taxing authority, those kinds of things, and I just wanted to make that point.

Mr. HAMMERSCHMIDT. Madam Chairman, I certainly agree with the gentleman from Florida [Mr. GRANT]. I believe that is the consensus of our full committee, and we need to make some legislative history to make the point.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendment of the gentleman from Florida [Mr. GRANT] and the gentleman from Illinois [Mr. SAVAGE], as well as the amendment of the gentleman from West Virginia [Mr. RAHALL]. Both of these amendments address the issue of providing up to 80 percent Federal funding for projects in the most distressed areas.

I believe these amendments are good public policy, and I support them.

Mr. CLINGER. Madam Chairman, I move to strike the requisite number of words.

I do rise in support of this very finely crafted amendment by the gentleman from Florida [Mr. GRANT] and the gentleman from West Virginia [Mr. RAHALL] our colleagues. EDA and the Appalachian Regional Commission, after all, were founded, originally created, to assist those communities in this country which are distressed, and are having a tough time making it and who need that little extra help. So, it would be very ironic if in passing this legislation we were to exclude the communities that were in most desperate need of help, those that were really having the hardest possible time addressing their very real needs.

So, Madam Chairman, I think this amendment does something that is very necessary. It is going to provide the kind of flexibility to the Assistant Secretary that is going to be essential to see that this program is carried out equitably for all concerned.

I would point out that most of the grants that are going to be made on this program will be made at the 50-percent level, and that is important because we recognized over time that the projects where the communities are expected to put up some of the resources are going to select higher quality projects, but, on the other hand, we do have communities where they are not going to get into the game at all unless they are given more help.

Now there are going to be those who, perhaps, would say this goes back to the old formula, what we have in the existing law, the 90 percent, and that there were abuses under that program, but I would point out that this amendment limits the amount that will go out under this amendment to only 25 percent of the grants that could go out on this program would be over the 50-percent level.

More importantly, I think the amendment gives the discretion to the Assistant Secretary and to the Commission to make the determination where it is absolutely necessary.

We have learned, I think, over time that there are some communities in which it would just not be worthwhile to put the money in. I mean it is unfortunate that some communities are basket cases, and we are never going to be able to, with the minimum amount we have available, to save them. We know what those factors are, and we have to have available land, we have to have an available work force, we have to have the potential for a tax base. There are a number of factors that go into this.

□ 1520

So this program can be limited to those communities that do not have the wherewithal now, but do have the criteria, the factors, where a minimum investment by the Federal Government could make a very real difference; so this I think is a well-crafted amendment. It is one that I believe deserves the support of this body.

Mr. PACKARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this amendment expands the amount of the Federal share up to a possible 80 percent, but limits the eligibility to the most distressed areas, and further limits that only 20 percent of the available grants in any fiscal year exceed the 50-percent Federal share as mandated in the bill.

I have some problems essentially with this effort; however, I recognize

that the amendment is a product of a compromise that has been worked out among several Members and their staffs. While I have some reservations about moving away from the fundamental reforms that we have worked hard for in this bill, I am willing to accept this compromise, recognizing that it will provide some communities that otherwise could not participate to participate in the EDA grants.

Therefore, I ask my colleagues to support this amendment.

Ms. OAKAR. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the amendment. I think that some will say, "Oh, we're going back to the old formula," but the fact is that like many bills that come to the floor, we ought to view the problems of poverty and need in a national perspective. It may not affect my district or the districts of others, but it certainly affects areas like West Virginia, which I think the gentleman from West Virginia [Mr. RAHALL] eloquently has talked about so often.

For that reason and other reasons, I want to compliment the gentleman from Florida [Mr. GRANT] and the gentleman from West Virginia [Mr. RAHALL]. I think it is a worthy amendment. I have no reason to object, and urge its adoption.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Florida [Mr. GRANT] and the gentleman from West Virginia [Mr. RAHALL].

The amendments en bloc were agreed to.

Mr. SHUMWAY. Madam Chairman, I move to strike the last word.

Madam Chairman, I prepared two amendments to be offered to H.R. 2015, which would direct that appropriations for the Economic Development Agency [EDA] and the Appalachian Regional Council [ARC] be made only for projects selected through the agencies' standard selection procedures. In other words, the amendments seek to prevent earmarking of funding for legislatively mandated projects.

In my view, remedial action is needed because EDA and ARC have become channels for irresponsible pork barrel spending. However, closer examination has revealed that the problem is much broader than I originally believed; the amendments will not serve the intended purpose. While they would take a step toward limiting the discretion of the Appropriations Committee, they would do nothing to shake up EDA and ARC, or to make those agencies realize that they must improve the manner in which they function. In my opinion, the agency is failing to be responsive to the needs of economically disadvantaged areas in some cases, and serving such needs was the reason EDA was established. As I prepared these amendments, EDA was less than forthcoming in cooperating with my requests for information concerning its practices and procedures. My amendments would not correct those serious flaws. Furthermore, the amendments would not really solve the problem of earmarking by the Appropriations Committee; as long as Congress tolerates the practice, it would continue.

Suggesting these ideas, however, will not only send a loud and clear message to EDA—it will also send an important message to the Appropriations Committee. In this time of scarce Federal dollars and budget restrictions, pork barrel spending simply will not be tolerated. The Appropriations Committee should exercise both discretion and responsibility. Philosophically, I am opposed to dictatorial policies. The amendments I had prepared were somewhat in contradiction to that philosophy. I believe that, by not offering these amendments, I am more accurately stating my concerns, and am directing the attention of the Appropriations Committee, my colleagues in the House, and the agencies themselves to some very troubling problems.

Finally, let me make it clear that I am not throwing away the text of these amendments. I am simply not offering them at this time, to allow for changes to be made not only by the agencies, but also throughout the appropriations process. If no progress becomes evident in the future, that will be the time to determine appropriate remedial language to address ongoing problems.

Mr. McEWEN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I join my colleagues in support of this legislation. I specifically would like to applaud the statement of the gentleman from California who pointed out that it has been the desire of many of us to make this program workable to the cause for which it was intended. If one were to travel throughout the Appalachian regional area, if one were to see where the Economic Development Administration has been assigned to do its task, there are many excellent examples of where areas that have been abandoned by the rest of our economy and our Nation were able to come to the aid of a school district or a county where there was no medical service at all, or where there was no clean water or sewers, and strides have been made as a result by the Economic Development Agency, and the Appalachian Regional Commission.

I therefore strongly support this reauthorization, but encourage my colleagues also to do what has to be done, and that is to see that this is enacted into law, that those recommendations and changes that are the product of the hearings of the Public Works Committee and the other committees of jurisdiction, make sure that they are not just another expression of concern by this body, but that they are passed by the other body as well and presented to the President. Then all of us can look at this program and see where these improvements can be made, where the oversight and finger manipulations of the Appropriations Committee that has taken actions that are unbecoming this body, that has mandated programs that are without the purview of the Appalachian Regional Commission, and yet they were directed to make those expenditures, and as a result it is an embarrassment to them. It is an embarrassment to us, and it is a disservice to those who live in those sections of our country that need this assistance very dearly.

This bill does that. This bill does make those improvements. This bill does say that those who are most in need will receive the funds.

I think this improvement is a tremendous step forward for both those agencies, that as I say have done great good for our Nation; so I urge my colleagues that in voting for this that you not see it as a region of the country that is being benefited, but that our entire Nation is being benefited, and especially so that this legislation must be enacted into law, signed by the President and a new life and a new lease given to the Economic Development Administration and the Appalachian Regional Commission and those who are dependent upon their services for adequate care.

Mr. APPLEGATE. Madam Chairman, I move to strike the requisite number of words. I rise in support of the bill. I rise in support, although a little bit late, on behalf of the Rahall-Grant increase, which I was very happy to see passed.

The EDA and the ARC, I think as most people have said and I have heard, is an investment in America. It is an investment in America's children. It is an investment in America's families. It is an investment in America's communities. It is an investment into the quality of life for many Americans who have been denied their jobs, who have been denied a quality of life in certain sections of the country. These programs have been extremely successful.

Let me just say this, that these programs, the Appalachian Regional Commission has been the most successful in its concepts in the history of this country.

□ 1530

It has raised the literacy rate in the area of Appalachia. It has provided better education. It has helped to subsidize and built vocational educational schools. It has lowered the poverty level. It has helped to provide grants where grants are necessary to help people and to help the communities, the communities who have been hurt over the years because of a tremendous amount of loss of jobs.

In my area where foreign imports have caused 15,000 jobs to go down the tubes in the steel mills, we will never get those back, and when people are not working, communities without workers are communities without funds.

With the clean air bill that seems to be rushing through the Congress right now, we stand to lose thousands more of steelworkers' jobs. We stand to lose thousands of coal mining jobs, and we stand to lose hundreds of small businesses which are dependent upon these steelworkers and dependent upon these coal miners.

I say that we have got to have this kind of legislation if we are going to meet the needs of the people, people who have paid taxes in. We have lost the UDAG's, as I heard my good chairman talk about. We have lost revenue sharing. We do not have this money available to us. We just cannot continue to have it taken away from us. It is double jeopardy is what it is.

When my area worked and when my thousands of steelworkers were working and when my thousands of coal miners were working, we helped to fund all the rest of the programs throughout the United States because we prospered. We are now not prospering, and all we are doing is asking you to support a bill that will now help us. Just remember the past. It might return, and someday you who live in the prospering communities across America might get stripped of some of your luxuries and you may have to look back to some of your old friends.

I am very glad to see this bill where it is and the support that it has. I appreciate everybody supporting it as they have. It will help America, and it will help Americans.

Mr. WALKER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this has been a very nice love fest out here on the floor today, and it is certainly a compliment to the committee that they have worked hard enough on a bill to bring all these disparate elements together in support of this particular piece of legislation. There have been a lot of fine words said about it.

We have not had very much discussion though about a few facts that might want to be considered by Members as they consider this particular bill. We have not had much discussion today, for instance, about deficits. We have not heard very much about deficit spending out here today.

The reason why I bring that up is because I have been on the floor on a lot of occasions listening to Members come to the floor and wondering where deficits came from. They do not come from Congress we are always told. I mean, some of us have raised the point along the way that Congress might be responsible for some of this spending that ends up being deficits, and we have been told over and over again that, by particularly Members from the majority side, "Oh, no, deficits never start here. The deficits are the administration's responsibility. We have had Presidents, and we have had that Ronald Reagan down there just overspending like mad. It is his responsibility. Now we have got George Bush, and it is his responsibility that we have deficits."

I think maybe we ought to raise maybe one little point about the bill we have got here. This is a bill where the administration zeroed out in its budget EDA. This bill now proposes to spend over the next 3 years $828 million in a program that the administration zeroed out in an attempt to try to do something about the deficit. This bill proposes to spend in the Appalachian Regional Commission $555 million. The administration, over that same period of time, has asked for $155 million. There is a little $400 million difference there. If you add that to the $828 million, somewhere here we have come up with a $1.3 billion problem that we do not talk about.

Somehow that is one of those little deficit numbers that just gets forgotten.

I have another little problem, and that is that somewhere this money that we authorize in these programs gets taken out of the hide of something somewhere. It is fine to talk about all of the good things this program did. There is some difference of opinion with that when the EDA defaults on about 50 percent of the loans it gives out. There is some question to believe that maybe these programs have not worked quite as well as some people claim, but that is beside the point. The point is that when this money gets over into 302(b) allocations, it comes out of the hide of programs that, I think, are fundamental to this Nation, too.

One of the places this money has been taken out of is science and technology. One of the places where this money has been stripped out is in doing the high technology work that this country needs to be done, and we find then that the moneys that this administration is coming up with to expand the research budgets of the country get undermined when these programs come up against it and we lose our ability to address the future.

Why will we not have jobs in the 21st century? If we do not make the investment in science and research now. We will not get jobs in the 21st century by continuing to do things where we start with the belief that the way that this country progresses is because of what government does for people.

I would suggest that it really does make sense to believe in what people do for themselves is what is going to help us in the next century, and giving them the tools, the science and research tools, to progress in the next century is what is going to make it for the country.

So this $1.3 billion of spending over and above what the administration has asked for is real money. It will cause deficits. It will cause a lack of investment as a result of those deficits. It will come out of the hide of science and technology, among other things, in the future.

Those are considerations Members might want to give that have not been discussed very loudly today.

Mr. TRAFICANT. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I do not want to take all the 5 minutes.

But I am not surprised; we talked yesterday about deficits, as well. I do not know of anybody who got on the floor yesterday when we talked about a supplemental foreign aid bill who talked about deficits. We talked about taking the money that was already in defense, transferring it, and it was really not coming out of the hide of anybody.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. No; I will not yield.

Mr. WALKER. I just wanted to ask the gentleman: How did the gentleman vote on the bill yesterday?

Mr. TRAFICANT. Madam Chairman, I said I will not yield. I think everybody knows how I felt about the bill yesterday. There were some good parts of the bill that I was prepared to vote for. I think everybody knows the gentleman's feelings on the foreign aid section. I am not going to question Members' motives, but just to say this today, that when we stand up today and talk about deficits for a part of America that has been hit harder than anybody else, and my district is not in the Appalachian region, but I have to give credit to the chairman, the gentleman from Ohio [Mr. APPLEGATE], and he and I share part of Columbiana County, who was able to get the House to put Columbiana County into the Appalachian Regional Commission, and I commend him on behalf of the few constituents I have in that county, commend him for that move, and I commend everyone in this House

today who has taken it upon themselves to look at a section of America that has been literally decimated.

We are not breaking the bank, and I am not going to get us into a big brouhaha here. Every time I hear somebody stand up about deficits, we are talking about people who sometimes do not have shoes. Their kids cannot get to school some days. Both parents are working, and at the schools, if there is bad weather, they do not even send the kids home, because there is no one home to greet the kids.

We are talking about, what, $400 million a year. We are going to bust Uncle Sam's back and the bank? Come on, now, this is exactly what we are talking about, and the policy that should be discussed in this House, and I just hope that the Members realize that is what we are talking about here today.

I commend Members like the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from California [Mr. PACKARD], and many others on that side of the aisle who realize the hardship that people have whom we represent, and that there is nothing un-American about this bill.

This is America today.

Mr. DE LA GARZA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, my colleagues, I rise in support of this legislation for a very personal reason, that I was part of the Congress that first established EDA.

For some unknown reason, subsequent administrations have always attacked it, have always tried to cut the funding, and have always tried to do away with the EDA.

From all of the programs that impact in my congressional area, my congressional district, let me say that we have what is known as the Rio Grande Valley Economic Development Council, with all representatives from all the area.

□ 1540

I have another part of my district that belongs to another one, and another part that belongs to another one. But for now let me just mention the Rio Grande Valley Development Council. They have a slide presentation in which they show you slide by slide the project that was funded in whole or in part by EDA. It has the name of the company.

You can leave there and go to the community and see the project in existence operating. There are parking lots full of workers' cars.

This is the only area outside of agriculture. In agriculture we suffer and die every other year it seems like. But the EDA, the Port of Brownsville, the Shrimp Port Basin, the Military Highway Water Supply District, these are the types of projects that we have brought to our area from EDA.

This is the kind of project that I like to vote for, and I know that most of my colleagues will also, the one where you can trace the dollar from the taxpayer to the Treasury to the business to the worker. This is part of the enhancement of the GNP. This is part of reducing unemployment. These are jobs that are clearly jobs, daily jobs, unlike agriculture that you have to suffer by.

So it makes you feel good to see a parking lot of workers' cars. These are old year cars, but nonetheless, the people are working.

I would dare say that this has been one of the best programs. The Economic Development Administration has been administered with no scandal. I challenge anyone to go find like what you have found in other agencies. There is no scandal. Joe Bailey Swanner was the one that handled the Texas and Southwest area for many years, and he was a dedicated public servant. He worked with us. I am here to attest to the fact that EDA has made jobs in my district and anyone can come and I can take you to the plant.

We are now having new research and technology that has come into the picture. Fruit of the Loom is going to build a plant outside of Arlington, TX. What we are going to do there in part with the help of EDA is bring the cotton to the gin, gin it, throw the bale into the next building, textile, make the material, throw the material into the next building, make the Fruit of the Loom products. Cotton is going to come in on this side, Fruit of the Loom is going to have the final product at the other end of this long building.

This is what we have been talking about in rural America. This is what we have been talking about, enhancing the availability.

Those people with those cars in that parking lot pay taxes, more than what we first loaned them through EDA, loans or grants. I think this is what we are looking for. I think we should do more of this, make taxpayers out of people that have no other recourse but to receive assistance from the government.

I am here to personally attest to the fact that the program has been well run, thanks to the people in my local area and to the people at EDA who have managed it, the people that have received the grant and/or loan, have been responsible, and in the end everyone has won. We have more money coming into the Treasury, we have more people off the unemployment lists, and it makes you feel good to see that your tax dollar went for something like that.

Mr. COX. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to H.R. 2015. I do so reluctantly, as a member of the Economic Development Subcommittee, because the authorizations would greatly exceed our budget. H.R. 2015 would authorize appropriations totaling $828 million during fiscal years 1991–93 for the Economic Development Administration [EDA] despite the fact that the President's 1991 budget proposes to terminate EDA. H.R. 2015 also authorizes appropriations totaling $555 million during fiscal years 1991–93 for ARC, compared to the $155 million proposed by the administration for those years.

President Bush believes and I agree that decisions to undertake economic development projects with only local benefits are more appropriately made and financed by private investors or State and local governments. I also believe that the goals of EDA programs can be better met at the Federal level through the administration's national policies of fostering economic expansion and job creation. In the case of highly distressed areas, incentives such as those in the administration's enterprise zone proposal would be more effective than the EDA programs.

Despite my reservations, I could support the enactment of H.R. 2014 if it were amended substantially to:

Delete the appropriations for EDA and retain only those provisions that would improve EDA program management in the event funds are appropriated for EDA; and

Limit the appropriations authorizations for the ARC to $50 million in fiscal year 1991, $52 million in 1992, and $53 million in 1993.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. COX. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Madam Chairman, I am sorry the gentleman from Ohio [Mr. TRAFICANT] left the floor. I wanted to carry on a dialog with the gentleman about the point I was making.

Yesterday the gentleman from Ohio [Mr. TRAFICANT] came to the floor and did indeed raise a lot of questions about deficits when it came to the supplemental appropriations bill. But this gentleman noticed on the final vote that the gentleman from Ohio [Mr. TRAFICANT] voted for the final bill, all $2 billion of it, including the money that was in there for foreign aid.

Some Members opposed the bill yesterday and voted against it because we were as worried about deficits yesterday as we are today. I will vote against this bill because I think that it does become a deficit add-on bill.

As I say, I wish the gentleman from Ohio [Mr. TRAFICANT] was here so we could discuss the topic. If one is going to worry with deficits, it has to be an everyday kind of concern.

Madam Chairman, I thank the gentleman from California [Mr. Cox] for yielding.

Ms. OAKAR. Madam Chairman, I move to strike the requisite number of words.

The gentleman from Ohio [Mr. TRAFICANT] was not here to defend himself, but I would like to note for the record, without commenting on the merits, that the gentleman did offer amendments to reduce foreign aid 3 percent and 5 percent. I think that should be stated for the record.

Just briefly I would like to say that with this modest investment of this bill in the last few years, it has generated $4.7 billion by the private sector in investment, generated 1.4 million jobs, leveraged $9 billion in private capital, and was responsible for decreasing the deficit because it returned $6.5 billion annually to the Federal, State, and local treasuries.

The CHAIRMAN. Are there any more amendments to the bill?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HARRIS) having assumed the chair, Ms. SLAUGHTER of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 2015), to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, pursuant to House Resolution 372, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. HARRIS). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 82, not voting 11, as follows:

[Roll No. 68]

YEAS—340

Ackerman	Fish	Machtley
Akaka	Flake	Madigan
Alexander	Foglietta	Manton
Anderson	Ford (MI)	Markey
Andrews	Frank	Martin (IL)
Annunzio	Frost	Martin (NY)
Anthony	Gallo	Martinez
Applegate	Gaydos	Matsui
Aspin	Gejdenson	Mavroules
Atkins	Gekas	Mazzoli
AuCoin	Gephardt	McCloskey
Baker	Geren	McCrery
Ballenger	Gibbons	McCurdy
Barnard	Gillmor	McDade
Bateman	Gilman	McDermott
Bates	Gingrich	McEwen
Beilenson	Glickman	McGrath
Bennett	Gonzalez	McHugh
Bentley	Goodling	McMillen (MD)
Berman	Gordon	McNulty
Bevill	Gradison	Mfume
Bilbray	Grandy	Michel
Boehlert	Grant	Miller (CA)
Boggs	Gray	Miller (OH)
Bonior	Green	Mineta
Borski	Guarini	Moakley
Bosco	Gunderson	Molinari
Boucher	Hall (TX)	Mollohan
Boxer	Hamilton	Montgomery
Brennan	Hammerschmidt	Moody
Brooks	Harris	Morrison (CT)
Broomfield	Hatcher	Morrison (WA)
Browder	Hayes (IL)	Mrazek
Bruce	Hayes (LA)	Murphy
Bryant	Hefner	Murtha
Bunning	Henry	Myers
Bustamante	Herger	Nagle
Byron	Hertel	Natcher
Callahan	Hoagland	Neal (MA)
Campbell (CO)	Hochbrueckner	Neal (NC)
Cardin	Holloway	Nowak
Chandler	Horton	Oakar
Chapman	Houghton	Oberstar
Clarke	Hoyer	Obey
Clay	Hubbard	Olin
Clement	Huckaby	Ortiz
Clinger	Hughes	Owens (NY)
Coleman (MO)	Hunter	Owens (UT)
Coleman (TX)	Hutto	Packard
Collins	Inhofe	Pallone
Condit	Jacobs	Panetta
Conte	James	Parker
Conyers	Jenkins	Parris
Cooper	Johnson (CT)	Pashayan
Costello	Johnson (SD)	Patterson
Courter	Johnston	Paxon
Coyne	Jones (GA)	Payne (NJ)
Craig	Jones (NC)	Payne (VA)
Darden	Jontz	Pease
Davis	Kanjorski	Pelosi
de la Garza	Kaptur	Perkins
DeFazio	Kastenmeier	Pickett
Dellums	Kennedy	Pickle
Derrick	Kennelly	Poshard
DeWine	Kildee	Price
Dickinson	Kleczka	Quillen
Dicks	Kolter	Rahall
Dingell	Kostmayer	Rangel
Dixon	LaFalce	Ravenel
Donnelly	Lancaster	Ray
Dorgan (ND)	Lantos	Regula
Downey	Laughlin	Richardson
Duncan	Leath (TX)	Ridge
Durbin	Lehman (CA)	Rinaldo
Dwyer	Lehman (FL)	Ritter
Dymally	Lent	Robinson
Dyson	Levin (MI)	Roe
Early	Levine (CA)	Rogers
Eckart	Lewis (CA)	Ros-Lehtinen
Edwards (CA)	Lewis (GA)	Rose
Emerson	Lightfoot	Rostenkowski
Engel	Lipinski	Roth
English	Lloyd	Roukema
Erdreich	Long	Rowland (CT)
Espy	Lowery (CA)	Rowland (GA)
Evans	Lowey (NY)	Roybal
Fascell	Luken, Thomas	Russo
Fazio	Lukens, Donald	Sabo
Sangmeister	Snowe	Valentine
Sarpalius	Solarz	Vander Jagt
Savage	Spence	Vento
Sawyer	Spratt	Visclosky
Saxton	Staggers	Volkmer
Scheuer	Stallings	Vucanovich
Schiff	Stangeland	Walgren
Schneider	Stark	Walsh
Schroeder	Stokes	Watkins
Schuette	Studds	Waxman
Schulze	Sundquist	Weber
Schumer	Swift	Weiss
Serrano	Synar	Weldon
Sharp	Tallon	Wheat
Shuster	Tanner	Whitten
Sikorski	Tauzin	Williams
Sisisky	Taylor	Wilson
Skaggs	Thomas (GA)	Wise
Skelton	Torres	Wolf
Slattery	Torricelli	Wolpe
Slaughter (NY)	Towns	Wyden
Smith (FL)	Traficant	Yatron
Smith (IA)	Traxler	Young (AK)
Smith (NJ)	Udall	Young (FL)
Smith (VT)	Unsoeld	
Smith, Robert (OR)	Upton	

NAYS—82

Archer	Goss	Porter
Armey	Hancock	Pursell
Bartlett	Hansen	Rhodes
Barton	Hastert	Roberts
Bereuter	Hefley	Rohrabacher
Bilirakis	Hiler	Saiki
Bliley	Hopkins	Schaefer
Brown (CO)	Hyde	Sensenbrenner
Buechner	Ireland	Shaw
Burton	Kasich	Shays
Campbell (CA)	Kolbe	Shumway
Carper	Kyl	Skeen
Carr	Lagomarsino	Slaughter (VA)
Coble	Leach (IA)	Smith (NE)
Combest	Lewis (FL)	Smith (TX)
Coughlin	Livingston	Smith, Denny (OR)
Cox	Marlenee	Smith, Robert (NH)
Crane	McCandless	Solomon
Dannemeyer	McCollum	Stearns
DeLay	McMillan (NC)	Stenholm
Dornan (CA)	Meyers	Tauke
Douglas	Miller (WA)	Thomas (CA)
Dreier	Moorhead	Thomas (WY)
Edwards (OK)	Morella	Walker
Fawell	Nielson	Whittaker
Fields	Oxley	Wylie
Frenzel	Penny	
Gallegly	Petri	

NOT VOTING—11

Brown (CA)	Ford (TN)	Stump
Crockett	Hall (OH)	Washington
Feighan	Hawkins	Yates
Flippo	Nelson	

□ 1614

The Clerk announced the following pair:

On this vote:

Mr. Nelson of Florida for, with Mr. Stump against.

Messrs. CARR, SHAW, and BARTLETT changed their vote from "yea" to "nay."

Mr. DORGAN of North Dakota changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their re-

marks and include therein extraneous material on the bill just passed.

The SPEAKER (Mr. HARRIS). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO HAVE UNTIL 6 P.M., THURSDAY, APRIL 12, 1990, TO FILE REPORTS ON H.R. 4329, THE AMERICAN TECHNOLOGY PREEMINENCE ACT OF 1990 AND H.R. 4380, SUPERCONDUCTING SUPER COLLIDER PROJECT AUTHORIZATION ACT OF 1990

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology have until 6 p.m. on April 12, 1990, to file a report on H.R. 4329, the American Technology Preeminence Act of 1990, and a report on H.R. 4380, the Superconducting Super Collider Project Authorization Act of 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. MACHTLEY. Mr. Speaker, reserving the right to object, I wonder if this has been cleared, and I yield to the gentleman from New Jersey [Mr. ROE] for an answer.

Mr. ROE. Mr. Speaker, it has been cleared with the gentleman from Pennsylvania [Mr. WALKER].

Mr. MACHTLEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FIGHTING FOR FAIRNESS: THE RURAL HEALTH CARE COALITION'S 1990 INITIATIVES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I believe that affordable health care must be available to all Americans. Today, the mounting crisis facing our Nation's health care system threatens access to these critical services.

In recent years, small communities and towns across our country have been particularly hard hit by escalating health care costs as one rural hospital after another has been forced to close its doors.

In northeast Arkansas, the plight of rural health care providers is dire. The American Hospital Association reports that in 1988, 43 rural community hospitals closed. Two of those were in the First District of Arkansas. Right now, four more hospitals in the First District face the same fate.

Other indicators of health care effectiveness reflect the severity of this situation. For example, in the Mississippi Delta, the infant mortality rate is substantially higher than in the rest of the Nation.

Faced with these realities, we must recognize that the need for more dependable and more accessible health care in rural America is indisputable.

The successes of the Rural Health Care Coalition over the past few years have given me hope that it is possible to build a solid health care system across rural America. This year, I am joining forces with 143 other members of the coalition to introduce our 1990 legislative reforms.

The Rural Health Care Coalition's bills for this year propose equitable Medicare payments to rural hospitals, the establishment and expansion of State offices of rural health, educational assistance for allied health professionals, and the revitalization of the National Health Service Corps.

These provisions will build upon our past accomplishments and help ensure that all Americans—regardless of how old they are, how much money they earn, or where they live—have access to health care.

Rural hospitals are a crucial linchpin in our health care system. Health care providers and administrators have repeatedly warned that the closure rate of these hospitals jeopardizes care for the sick, but a constituent of mine offered the most convincing reason for supporting these hospitals.

His 56-year old father died because the hospital in his community had been forced to close. He told me,

I hope this will make some people take notice of the tragedy that can and does happen when a rural hospital closes and a person has to drive so far to get help. I'm sure Dad isn't the only one who died for no reason and leaves behind loved ones who keep thinking—if only the hospital hadn't closed.

We cannot afford to allow any more tragedies like this to occur because a rural hospital has to close its doors. Rural hospitals and physicans rely more heavily on Medicare revenue than urban providers, but receive significantly smaller Medicare payments. This inequity threatens the quality of care in my district and in rural areas across the country.

Our rural hospital payment equity bill would eliminate the disparity in reimbursement rates for fiscal year 1991 and require the Secretary of Health and Human Services to reevaluate the way in which we compensate rural hospital employees.

Another significant problem which the coalition's package addresses is how to improve the supply of health care providers in rural America.

Every one of the 24 countries in my district has been designated a medically underserved area. As my constituents know, the simple truth is that if there isn't a doctor in your town, you will wait until you are much sicker to seek treatment. The cost of medical shortages, both in dollars and in suffering, is unacceptable.

The coalition's bill to reauthorize the National Health Service Corps will encourage health care professionals to practice in rural areas where they are so desperately needed.

In some of the hospitals and clinics in my district, the corps doctors are the only providers of primary care services. We recommend an infusion of new funds into this program in order to recruit more physicans and midlevel practitioners to these regions.

In addition, we propose to expand funding for allied health education. Physical thereapists, occupational thereapists, registered nurses, and dentists are in short supply in rural areas, and the coalition's bill will encourage more young people to enter these allied health fields.

Three-quarters of the funds authorized through this proposal are targeted at professionals who care for the elderly and disabled. In my State, which has the second highest percentage of elderly residents in the country, this bill is especially important.

Mr. Speaker, the coalition's legislative proposals for 1990 make important strides toward safeguarding the viability of our rural hospitals and practitioners. I strongly support its bipartisan goals, and encourage my colleagues on both sides of the aisle to do the same.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1526

Mr. DORGAN of North Dakota. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Minnesota [Mr. SIKORSKI] be stricken as a cosponsor of H.R. 1526.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

STATUS ON THE AMERICANS WITH DISABILITIES ACT

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I am pleased to rise today to bring to the House's attention that the Committee on Public Works and Transportation, by a vote of 45 to 5, reported favorably on the Americans with Disabilities Act.

That means that we have now had that bill reported favorably out of three of the four committees to which it was assigned. There have been 120 votes for it and 8 votes against it. Clearly, there is overwhelming sup-

port on both sides of the aisle. President Bush has strongly endorsed this legislation.

It is a bipartisan bill that seeks to make accessible employment, transportation, communication, and places of public accommodation to those in our society who are disabled. There are 43 million such Americans.

I see on the floor a number of people who have been very, very important in the success of that bill, not the least of which is the gentleman from California [Mr. ANDERSON] who is on the floor. I also might observe that my good friend, the gentleman from Texas [Mr. BARTLETT], has also been a very significant laborer on behalf of receiving reasonable accommodations on Americans with Disabilities Act, and I want to thank all of those who have worked on it so diligently at this time, and say that I look forward to its early passage upon our return to the House of Representatives. I know that the President looks forward to signing this bill in the near future.

CONSIDERING THE NATIONWIDE CONSEQUENCES OF THE CLEAN AIR ACT

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, yesterday, the Senate passed the most comprehensive revision of the clean air laws in 13 years. The House version will be on the floor in the next few weeks or months.

While we all support the concept of clean air, I am very concerned about the economic consequences we in Midwest will face if this bill becomes law are worth the environmental gains. Either way, consumers and workers look to be losers.

Mr. Speaker, I support a cleaner environment, but I am concerned that the Midwest will take a disproportional hit with the clean air act revisions. The only study commissioned by the U.S. Government does not in anyway support the claim that the Midwest pollution is causing the "acid rain" destruction of lakes in the Northeast.

I urge my colleagues in the House to consider the consequences of this bill nationwide when we debate it here in the House.

According to an article in Monday's Dayton Daily News, some 19,000 coal miners in Ohio, Pennsylvania, West Virginia, Indiana, and Illinois could lose their jobs because of restriction, on high sulfur coal in the bill. Utility customers will face higher bills, too.

The article follows:

[From the Dayton Daily News, Apr. 2, 1990]

CLEAN-AIR LEGISLATION BRINGS SOME TOUGH CHOICES

(By Jon Talton)

Just a year ago, environmentalism was a low-risk way for politicians, left and right to pad their moral assets; Who could argue with mom, apple pie and the environment?

Now comes the morning after, and we must face the real-life human and economic costs of ideas and intentions.

No longer just a glib campaign promise, the Bush clean-air legislation moving through Congress could be one of the most significant influences on the economy in coming years.

The costs will be high: at least $21 billion a year as businesses are forced to make changes to clean up smog and acid rain. The real losers, of course, will be consumers and workers—especially in the Midwest—who will pay higher prices and face lost jobs.

Moreover, the added costs and regulation will be a sizable drag on U.S. competitiveness already burdened by rules from Washington.

In return, backers say, the United States will end up with the cleanest air, cars and power plants of any industrialized country. In addition, cancer death will drop, acid rain damage to forests will cease and a beginning can be made in addressing global warming.

That, at least, is the rehtoric. But a closer look shows more messy trade-offs.

For example, some 19,000 coal miners in Ohio, West Virginia, Pennsylvania, Indiana and Illinois could lose their jobs depending on how severely Congress seeks to curtail use of high-sulfur eastern coal to deal with acid rain. Midwestern utility consumers could face much higher bills, too.

But Draconian measures against high-sulfur coal may not yield more improvements than would be achieved over a somewhat longer length of time as industries are modernized. In addition, a $500 million government study indicates acid rain has caused relatively little damage to forests and lakes, and no harm to crops or health.

This pattern repeats itself throughout close examination of the clean-air proposals; hard economic consequences versus marginal environmental or health gains, in a climate of dividend and uncertain scientific opinion.

Business itself has a habit of exaggerating costs, when in the past the economy has proven itself remarkably able to adapt to changes and stress. But we should not delude ourselves into thinking there will be no cost.

The estimated $21 billion annual price tag for the clean air bill will be added onto an estimated $80 billion a year already spent in this country to comply with environmental regulation. Many companies have simply closed as a result, and we can expect more to do so.

This cost will hit industries, such as autos and steel, already struggling in a tough global marketplace. It could extend into smaller businesses. And in every case, the cost is ultimately passed along to consumers.

The broad question facing the nation is how to turn legitimate environmental concerns into effective policy that does not choke the prosperity that allows us to worry about clean air in the first place. Then we have to worry about getting the world to go along.

But even that's not the real flesh-and-bone issue. Such a large economy as ours can endure a lot. But policy picks invariably winners and losers, whether they be regions or individuals.

The danger with ill-conceived environmental policies is that they disproportionately hurt the neediest segments of society. If those policies take away avenues of economic empowerment, then no amount of welfare can undo the damage.

It's ante up time for the environmental politicians.

SAFETY DEFECTS SURFACE IN JAPANESE PRODUCTS

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, as we all know, Americans have a tradition of being tough on themselves—and we are often quick to criticize products made in America—and quick to attribute better qualities to products made abroad. Yet we know, as Lee Iacocca has been reminding us, that American products can be the best in the world.

As American consumers, we should remember that imported products are often produced where there is little or no regulation or system of product liability which the American marketplace relies on to protect consumers. And, that is true not just of less developed countries, but of our major trading partners like Japan, which has no law governing recalls or requiring reporting of defects.

Last Thursday, the Washington Post carried a report on an embarrassing wave of product recalls in Japan. The problem is not just poor quality control but safety involving TV sets that could catch on fire.

It is crucial that Amerian consumers be protected from unsafe foreign consumer products. As the chairman of the Subcommittee with jurisdiction over the Consumer Product Safety Commission, I have written to the CPSC, urging the Commissioner to investigate whether foreign TV sets sold here are subject to the same safety defects and to make clear to the manufacturers involved that unsafe imports have no place in this country.

Mr. Speaker, I submit my letter and the news report on these problems for the RECORD, as follows:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, April 3, 1990.

Hon. JACQUELINE JONES-SMITH,
Chairman, Consumer Product Safety Commission, Washington, DC.

DEAR CHAIRMAN JONES-SMITH: I am very concerned with the growing number of recalls of defective Japanese appliances and its implications for the safety of American consumers. For your reference, I have enclosed two articles which discuss this serious problem.

As you can see, since January, four Japanese electronics companies have recalled hundreds of thousands of color television sets that suddenly smoked or caused fires. While these recalls apparently took place in

Japan, the companies involved also sell many TV sets in the United States. It is very possible that the defects which caused these problems in TV sets sold in Japan may also be present in TV sets sold in the United States.

I am particularly concerned because the articles point out that Japan has no law governing recalls or defect reporting for non-automotive products. The article notes that one company, Pioneer, quietly began fixing some defective TV sets and did not issue a public recall notice for nine months. Sony took almost four months to issue a public recall notice for six TV models. Furthermore, the Japanese Ministry of Trade and Industry discovered, in its last annual inspection, that more than 30 percent of manufacturers violated government safety standards.

I urge the CPSC to investigate this matter. It is crucial that the CPSC make clear to foreign manufacturers that unsafe consumer products will not be tolerated in the United States and that the lax attitude about recalls and defect reporting that is apparently the case in Japan does not apply in this country. This situation raises several important questions:

Whether any of the recalls referred to in the articles took place in the United States;

Whether the defects that have been reported in the Japanese TV sets sold in Japan may also be present in similar sets sold here and, if so, what action the manufacturers and the CPSC have taken to correct the problems;

Whether the manufacturers involved take their defect reporting and recall responsibilities, required in the US under section 15 of the Consumer Product Safety Act, more seriously here than they do in Japan;

Whether the companies involved will adopt the new, tighter voluntary safety standard, developed by a committee of the Electronic Industries Association of Japan, for their TV sets sold here; and

Whether the apparent lack of effective Japanese government safety regulation of Japanese manufacturers increases the burden on US taxpayers and the CPSC to ensure that products imported into the US meet applicable safety standards and do not contain safety defects.

I know you share my concern about the importance of protecting American consumers from dangerous imported products and I look forward to your response to these questions.

Sincerely,

DOUG WALGREN, *Chairman,*
Subcommittee on Commerce,
Consumer Protection and
Competitiveness.

APPLIANCE RECALLS SHAKE JAPAN AS HIGH TECH OUTRACES INSPECTORS

(By Mari Yamaguchi)

TOKYO.—The race to cram more technology and power into Japanese television sets and computers sometimes has left quality inspectors behind, leading to smoking appliances and an embarrassing wave of recalls.

The recalls, following a series late last year involving some new model Japanese cars with faulty parts, have revived recollections of a time when "made in Japan" was a label of derision in the United States.

Since January, four Japanese electronics giants Sony Corp., Matsushita Electric Industrial Co., Pioneer Electronics Corp. and Toshiba Corp. have issued nationwide public notices—recalling hundreds of thousands of color TV sets that suddenly smoked or caused minor fires, Seiko Epson Corp. recalled laptop computers that smoked.

"Safety for consumers has been ignored while (companies) concentrate on technology and sales to survive in the competitive market," said Michiko Aoyama, a director at the government-backed Japan Consumer Information Center.

"I'm afraid the quality of Japanese products is declining due to imperfect quality control that cannot catch up with the speed of technological advance," she said.

Toshiba spokesman Yuji Wakayama said: "We have tried so hard to add as many features as possible while reducing the cost as low as possible. The accidents mean production under such conditions has reached the limit."

With the increasing popularity of home videos, electronics companies have been making larger screen televisions that require higher internal voltage. The recent smoking cases were traced to defects in high-voltage circuits.

Late last year, Toyota recalled thousands of its luxury Lexus cars in the United States after defects were found in the cruise-control mechanism and a brake light. Nissan earlier recalled nearly 38,000 cars in Japan.

The most recent recalls brought a warning from the Ministry of International Trade and Industry. It told the Electronic Industries Association of Japan, which groups 600 manufacturers, to investigate thoroughly, tighten safety and quality control, and adopt regular procedures for recalls.

On Wednesday, a special committee of the association announced a draft for tighter safety standards in TV sets' high-voltage circuits, to be adopted voluntarily by 11 Japanese manufacturers, and standardized procedures to handle defects.

The changes could be reflected in new products within a year, said Ryuji Iwasaki, the association's vice president.

"Generally speaking, our new voluntary safety standards require a substantial change in designs and production," said Hiroshi Wada, Sharp Corp.'s director of product planning.

This probably would result in a 2 percent price increase, he added.

Except for motor vehicles, Japan has no law or government guidelines on recalls or reporting of defects in products, giving companies a great deal of leeway in responding to problems.

"We think it is our mission to repair defects to ease our conscience," Toshiba's Wakayama said.

He added, however, that while the problem televisions smoked or burned the tables on which they sat, they "did not kill and hurt people, or burn down houses."

Industry and trade ministry official Takashi Yonehara said, "The recent TV accidents resulted mainly from complex designs and lack of quality controls."

In the ministry's last annual inspection, more than 30 percent of manufacturers were found to have violated government safety standards in products, and MITI will start announcing the names of violators, he added.

A government report in February criticized companies for not promptly giving public notice and reporting defects to industry and trade officials.

Pioneer quietly began repairs for 9,135 defective TV sets last spring, and already had fixed some 8,000 before issuing a public recall notice nine months later, company officials acknowledged.

Sony's public recall notices for six color TV models came almost four months after the first report last October of a Sony set starting to smolder in a home in western Japan.

Sony said it took time to trace the problem to a high-voltage component that had a tendency to overheat after long use.

"We admit our reaction was not quick enough. . . . I guess we could have done better," said Koichi Izukura, a Sony spokesman.

"But we thought we had to be fully prepared obtain parts and send them to service stations and so on before we made the public announcement so that our customers could get service right away," he said. The recall will cost Sony about $6.6 million, Izukura added.

Naokazu Takeuchi, spokesman for the Japan Consumer Union, one of the largest Japanese consumer groups, argues that notification of possible dangers should come before anything else.

He also says the government should help process consumer claims, to speed remedies and spread information more widely.

Atsushi Nakamura, a spokesman for the Japan Bar Association, said consumers should be protected by a product liability law, as in the United States, so that victims of product defects do not have to settle for small compensation from manufacturers.

Industry and trade official Tomosaburo Yano said the ministry has urged electronics and automakers unofficially to make safety a top priority when considering whether to recall their products.

"Companies that don't work hard to improve their products will become losers in the market," Yano said.

INTRODUCTION OF LEGISLATION TO REFORM TITLE XIX OF SOCIAL SECURITY ACT TO HELP HOLOCAUST SURVIVORS

(Mr. WEISS asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I am introducing legislation today that would enable Holocaust victims who reside in nursing homes or receive home- or community-based care to keep their war reparations payments from the Federal Republic of Germany. I invite my colleagues to join as cosponsors.

West Germany makes reparations to Holocaust survivors as an attempt to compensate, in some measure, for the severe physical and psychological injuries and the loss of opportunity that resulted from the Holocaust. In the United States, however, reparations recipients who receive Medicaid benefits may not keep their reparations if they reside in a nursing home, or if they receive medical treatment from home- or community-based services. This situation results from an inconsistent and unfair Medicaid procedure.

Medicaid regulations instruct officials not to count reparations as income when determining initial eligibility for Medicaid benefits. Once eligibility is established, however, Medicaid officials count the reparations as income in their determination of how much the patient must contribute to

the cost of their care. The inauspicious result: these Holocaust survivors do not get to keep the compensatory moneys.

Because reparations are meant to make amends for past injustices against Holocaust victims and not to support basic needs, I am introducing legislation to correct this unfair and inconsistent Medicaid policy. My bill amends title XIX of the Social Security Act to disregard reparations from the post-eligibility computation of income for individuals who reside in nursing homes or receive home- or community-based services.

It is my hope that this bill can be enacted expeditiously to allow these victims to receive their compensation. Although the reparations can not wipe out the suffering, they can make a difference by improving the quality of life for a Holocaust survivor.

A copy of the bill is printed below:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. DISREGARDING GERMAN REPARATION PAYMENTS FROM POST-ELIGIBILITY TREATMENT OF INCOME UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(r)(1) of the Social Security Act (42 U.S.C. 1396a) is amended by inserting "there shall be disregarded reparation payments made by the Federal Republic of Germany and" after "under such a waiver."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to treatment of income for months beginning more than 30 days after the date of the enactment of this Act.

FINANCIAL PROBLEMS CONFRONTING MEDIUM-SIZED HOSPITALS

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PASHAYAN. Mr. Speaker, in the Washington Post of March 25, 1990, Representative JAMES H. SCHEUER of New York detailed in an article several financial problems confronting Medicare. On February 14, 1990, in the Fresno Bee, Mr. T.M. Johnson, the director of the Kaweah Delta District Hospital in Visalia, CA, illustrated the serious financial responsibility that Medicare places on our national hospitals. I should like to insert Mr. Johnson's article into the RECORD.

At my request, Kaweah Delta Hospital sent me a letter recounting the administrative costs that Federal programs can impose on the hospital. I place into the RECORD the letter and payment sheet that details Medicare's unfair compensation to Kaweah Delta Hospital for legitimate medical expenses.

Kaweah Delta Hospital is a 280-bed facility and the largest hospital between Fresno and Bakersfield. It is the most sophisticated hospital within easy reach of half of million residents of the southern San Joaquin Valley, many of whom live on farms in the surrounding countryside. Yet it receives only 40 percent of its outpatient surgery cost from Medicare. Unreasonable expenses that hospitals like Kaweah Delta must now absorb can only result in the deterioration of medical care for those who cannot afford private medical insurance and must rely on Medicare.

America can improve top quality medical service to all Americans, rich or poor, by relieving the financial burden that our current Medicare system places on hospitals.

Our Nation's physicians, health care workers, administrators, and supporting staff all deserve our praise and thanks for providing such technologically advanced and comprehensive medical care to all Americans. But, Mr. Speaker, I fear that high quality health care will deteriorate unless we shall relieve the unfair financial burden that our national hospitals now bear. It is particularly troublesome to realize that hospitals serving a large area and population, such as Kaweah Delta, might have to curtail or cancel many of its programs if corrective measures shall not be made.

[From the Fresno Bee, Feb. 14, 1990]

LETTER TO THE EDITOR:

Recently there was an article in the Bee about the importance of having a national health-care policy that would bring to our country a more rational system for access to health-care and for payment of health-care services. The need for such policy has never been greater.

Today's hospitals have a dual responsibility. First and foremost, they are humanitarian organizations that are here to take care of the needs of the sick and injured. Americans have determined that health care is a basic right for all citizens. Society has determined that health care should not be withheld in quality or quantity on the basis of any factor other than the best judgment of that patient's medical needs.

However, in today's environment, the hospital is also a business enterprise, and as such must apply sound business principles to the management of its resources. The difficulty lies in the fact that neither government, private industry, nor business are willing to pay for the humanitarian services performed by a hospital. The government has expressed a willingness to pay, but in reality it pays only what its limited budget allows, not what the true cost of care is. Business and industry have flatly stated that they want to pay only for the cost of care for those individuals they insure, or for those to whom they are responsible. This leaves a gap in payment sponsoring that is growing each year in hospitals throughout the nation.

The results are now becoming obvious. Hospitals are closing in many communities because they can no longer afford to run both a humanitarian and a business enterprise. In other communities, access is being curtailed to certain high-cost services, such as trauma care. These problems will continue and will worsen until a national health-care policy is established that deals with the questions of how health will be provided and who will pay for health-care services.

If an individual is without food, we don't require the local grocers to provide food to that person without cost, Similarly, if a person suspected of a crime is without representation, we do not ask the attorneys to represent the client without compensation. We don't ask landlords to provide free housing for people without a home.

In health care, however, we have asked physicians and hospitals to fulfill a humanitarian role, but there has been no agreement on the payment for carrying out that role.

In today's competitive environment, that places all health care providers in a very tenuous position. The leaders of both our state and national legislative bodies need to grapple with this dilemma very soon, because the unraveling of the health care system is already beginning.

T.M. JOHNSON,
Executive Director,
Kaweah Delta District Hospital, Visalia.

KAWEAH DELTA DISTRICT HOSPITAL,
Visalia, CA, February 22, 1990.

Hon. CHARLES PASHAYAN,
Cannon House Office Building, Washington, DC.

DEAR CHIP: At the Washington Legislative Visits, you asked for some specific information on the Medicare DRG payment system. I have attached to this letter a sample of twelve patients that we received payment for in February of this year. These twelve patients represent a variety of problems and diagnosis, and the bottomline shows that we were paid 43% of the charges. As you can see, it varies all over the map with some procedures resulting in a profit from the hospital, but several of the more serious procedures resulting in substantial losses. Overall, we lose money on Medicare. For outpatient (Part B) procedures, we are paid 40% of the charges. That is outrageous.

I recently received a complaint from a patient who was concerned about their itemized statement and several charges on that statement they felt were unjustified. As it turns out, this was a Medicare patient and the total bill was $10,843.30. The patient was complaining about several items on there, such as a pair of slippers at $3.20, an incontinent brief at $24.95, and several packages of Chuxs at $5.20 per pack. The Medicare program paid $9,106.80 for this stay, resulting in a loss of $1,736.50. It took us awhile to review the patient's bill, and in fact there was a couple of minor billing errors that we did correct. Nevertheless, we were still paid 15% less on this bill than the actual charges, and the patient still complained.

I hope this information is of use to you in understanding further the problems facing hospitals in dealing with the Medicare program. Attached also is a recent article I wrote for the Fresno Bee, which describes this dilemma in other terms.

Kindest personal regards,

T.M. JOHNSON,
Executive Director.

SAMPLE DRG CHARGES/PAYMENT, KAWEAH DELTA DISTRICT HOSPITAL, VISALIA, CA, FEBRUARY 1990

Diagnosis	DRG No.	LOS	Charges	Payment	Var.
Kidney/urinary tract procedures	315	3	$4,210	$10,626	$6,416
Major joint replacement	209	18	12,997	10,607	(2,390)
Vein ligation/stripping	119	46	39,650	12,041	(27,609)
Limb amputation	113	55	55,303	17,205	(38,098)
Craniotomy	001	39	85,442	20,471	(64,971)
Respiratory disease with ventilator	475	52	125,061	39,699	(85,362)
Stomach procedure	154	26	34,374	16,962	(17,412)
Reconstructive vascular procedure	110	8	8,722	16,015	7,293
Septicemia	416	4	1,876	6,353	4,477
Upper limb amputation	014	3	1,532	4,956	3,424
Lower extremity procedure	218	11	8,018	6,371	(1,647)
Pneumonia	089	10	7,502	5,457	(2,045)
Total			384,687	166,763	(217,924)

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 299. Concurrent resolution providing for an adjournment of the House from April 4, 1990 to April 18, 1990, and a recess or adjournment of the Senate from April 5 or April 6, 1990.

THE BAILOUT OF THE SAVINGS AND LOAN INDUSTRY

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 5 minutes.

Mr. MACHTLEY. Mr. Speaker, on April 15, millions of taxpayers see red as they fill out their tax returns. This year, it is the red ink we do not see that should cause outrage.

Bailing out the savings and loan industry will cost the average taxpayer anywhere from $2,000 to $4,000 each.

Not all at once, true—but that is little consolation as the savings and loan industry continues to lose money at the rate of $3 million an hour, 24 hours a day. In fact, just during the 5 minutes for this speech, the taxpayers will spend $250,000 bailing out the savings and loans.

Last year, I voted against a $50 billion taxpayer bailout of the "thrift" industry. In remarks published in the CONGRESSIONAL RECORD, I argued that the legislation grossly underestimated the ultimate cost of cleaning up the thrift insolvencies and that the bill did not effectively guarantee aggressive enforcement of the civil and criminal penalties against those who created the mess.

Now that this bill has been law for almost a year, experts report that the $50 billion taxpayer bailout is sure to cost taxpayers more than $150 billion over the next 40 years. Moreover, Congress has discovered that more than 2,300 S&L fraud and embezzlement cases are stalled because the Justice Department doesn't have enough investigators and prosecutors.

It should be noted that in the Northeast there were virtually no thrift failures. It was primarily a phenomenon of the South and Southwest. Part of this is explained by our having a more stable real estate climate. However, a great deal of credit should go to northeastern savings and loans for displaying the integrity and prudence that has kept them healthy.

If the savings and loan executives in other regions of the country had been as ethical and responsible as those in the Northeast, this crisis would not have happened.

News reports during debate over the bailout last year told of unconscionable acts of greed by numerous executives. One individual, for example, "paid" himself with a hunting club membership and three beach houses where he and his wife ran up tabs of over $750,000 a year, a $6 million fleet of five planes and six pilots, and $5.5 million in art for the thrift offices.

Prosecuting guilty S&L executives who abused their power in siphoning off their customers' money is imperative. We must make clear that depositors' money backed by the Federal Government is not a private slush fund.

While the bailout law established a mechanism that is supposed to ensure that a problem like this never happens again, there are serious questions that remain about the effectiveness of this mechanism to both solve the immediate concerns and to prevent another catastrophe in the future.

We need to reexamine the structure of our Nation's Federal deposit insurance system, and the role of risk within that system. As we know, one of the major influences on the S&L failures was the lack of responsibility certain thrifts felt toward their depositors. The system was not set up to invite such a cavalier attitude. The Federal Savings and Loan Insurance Corporation was set up in 1934 with only a $5,000 insurance limit for thrifts.

Over the years, Congress made little changes in the growing system of deposit insurance other than to increase the insurance limits periodically. However, in 1980, the House Banking Committee chairman persuaded the conference committee on the banking bill to raise the limit from $40,000 to $100,000—a $60,000 increase in 1 year.

Because raising the insurance rate made it more practical to split million-dollar deposits into insurable chunks and distribute them to the thrifts that paid the highest interest, some observers think the insurance rate increase to $100,000 led to the collapse of the thrift industry. We need to determine whether the insurance guarantee should be as high as $100,000.

And what about so-called double-dipping? Should we continue to allow large investors to split their multiple deposits of $100,000 in a variety of thrifts and to federally insure all of these deposits—100 percent—backed with a taxpayer guarantee?

Congress needs to accept some responsibility for having allowed the S&L problem to grow and grow until it became an uncontrolled catastrophe in 1989. Congress may prefer to lay all blame on Federal regulators who were too loose in warning thrift against taking risks with depositors' money, but Congress was equally negligent in not warning regulators to do more. The truth is, some in Congress were too influenced by special interest lobbyists and their own personal financial interests to vigorously protect the public good.

If there is a single overriding lesson to be learned from this fiscal disaster, it seems to me to be this: to avoid future bailouts of this kind, we need to be vigilant year round, not just when headlines warn of disaster. By then, the damage has usually already been done.

INTRODUCTION OF NFIP LEGISLATION

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, today this Member introduced a major initiative, comprehensive legislation to create a program for the mitigation of flood and erosion damage through amendments to the National Flood Insurance Program. It is entitled National Flood Insurance Compliance, Mitigation, and Erosion Management Act of 1990.

Since 1978, approximately 50,000 or 2 percent of the structures insured under the NFIP have flooded two or more times and incurred over $1 billion in damages. In addition, approximately 20,000 insured structures have sustained flood damages exceeding half of their value. Erosion along the tidal waters of the United States and the shores of the Great Lakes has also damaged or destroyed numerous other buildings and will do so with increasing regularity in the future as a result of the passage of time, projected sea level rise, and increases in erosion rates.

Despite this high level of past damage, no Federal progam exists to relocate, elevate, or floodproof these flood-prone buildings in order to prevent future damages. The legislation being introduced would create a com-

prehensive Federal program to evaluate and provide technical assistance and funds for the mitigation of flood and erosion damages to these structures, thereby reducing the vulnerability of the Federal Government to flood losses. Under the plan, owners of certain flood-prone or erosion-prone structures could take out an additional line of insurance for the purpose of performing a cost-effective and technically feasible mitigation action in the event that another flood damages their homes or businesses. The purpose is to permanently solve or at least reduce flood problems and not to simply pay flood claims to allow repairs, only to have floods and damage occur again and again.

Mr. Speaker, I would like to assure my colleagues that this bill is designed to be revenue neutral and would require no new appropriations. It would be self-supporting. Likewise, it would not jeopardize the solvency of the National Flood Insurance Fund [NFIF], but reduce current threats to its solvency from catastrophic storms. The NFIF is critical to assure that moneys paid into it by policyholders are available in adequate amounts in the event of catastrophic flood damages, such as those caused by Hurricane Hugo.

Mr. Speaker, the general encouragement offered by the chairman of the Banking Subcommittee on Policy Research and Insurance, the distinguished gentleman from Alabama, [Mr. ERDREICH] to this Member to explore the problems addressed by this legislation is certainly appreciated. Finally, Mr. Speaker, this Member would add that the concepts of flood and erosion damage mitigation which undergird this legislation appear to have the backing of numerous environmental and planning groups, and organizations representing State governments; their reaction to this specific legislative effort is therefore, expecially welcomed and encouraged. I would urge my colleagues to examine the proposed Natural Flood Insurance Compliance, Mitigation, and Erosion Management Act of 1990 and join me in supporting it through cosponsorship.

□ 1630

APRIL FOOLS AMERICA

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, I rise today to ask that an end be put to the April Fool's joke that the administration is playing on the country.

Last week the Justice Department launched a major publicity blitz by announcing that $395 million would be spent to assist local law enforcement. As chairman of the Subcommittee on Government Information, Justice, and Agriculture which has conducted congressional oversight on the war on drugs I have some serious misgivings about the Attorney General's assertions.

I find it particularly ironic that the administration is patting itself on the back for awarding this money because—April Fools America—most of it would not have been available had Congress not provided $150 million more than the President requested for State and local law enforcement assistance.

Last year the subcommittee began an extensive investigation into the management of the same assistance programs that the Attorney General praises in his press releases. The preliminary findings of this investigation raise serious questions about Mr. Thornburgh's claim that "these grants will assist State and local criminal justice agencies in carrying out their part of the war on drugs by attacking the problem on Main Street."

For example, Thornburgh noted that the Justice Department would "grant $395 million for antidrug abuse work in 1990 to the 50 States, five territories, and the District of Columbia." April Fools America—what Mr. Thornburgh fails to note is that this funding also is to be used for programs relating to stolen property, white collar crime, antiterrorism, domestic violence and jail construction. Certainly the funding devoted to these issues is not wasted, but to imply that State, county, and local law enforcement units are directing it all toward fighting drugs is incorrect.

As for the notion that all of this money is finding its way to Main Street—April Fools America. The subcommittee has identified at least 34 think tanks, study institutes, and trade associations that are currently the recipients of Justice Department Anti-Drug Abuse Act funds. Millions of dollars in discretionary grants have been given to these groups to produce training information, crime data or reports that supposedly benefits local law enforcement. In an effort to find out about the effectiveness of some of these efforts my subcommittee polled over 1,600 State, county, and local law enforcement officials about their knowledge of this assistance. What we learned from this survey was startling.

A police chief from a small Utah community responded that "It seems a mystery as to what grants are available and how to apply." A rural Wisconsin official noted that in 18 years of law enforcement he had never heard of any assistance from the Federal Government and an Ohio police chief told us that just trying to find out about assistance is "very difficult." My home State of West Virginia has not received one grant from this program. Sadly, a report issued by the U.S. Conference of Mayors in January showed that less than half of the money granted from DOJ's discretionary program in 1989 actually reached a State, county, or local agency.

Are things improving in this program? April Fools America—the toll free telephone number the Department of Justice lists in the Federal Register for discretionary grant information cannot even provide you with an application. It doesn't much matter anyway; DOJ officials tell us 80 to 90 percent of the money is already earmarked anyway.

Despite this, Thornburgh notes that the "war on drugs must be fought at all levels, local, State, Federal, and international." On this note we all agree but, were the implications not so staggering, some of the administration's efforts would be nothing short of comical. Take for example a program the Justice Department created with drug funds to stem child pornography, prostitution, and drug abuse. This is a wonderful idea but—April Fools America—the Department decided that "McGruff the Crime Dog" will get 27 times more money this year than their program for antichild pornography, prostitution, and drug abuse. That's taking a real bite out of crime.

To stamp out workplace drug abuse the administration has started a random drug testing program of employees at the Department of Transportation—April Fools America. The testing procedure is so primitive that the results can be masked by substituting a certain clear soft drink for urine.

My subcommittee will conduct a series of hearings on these issues this spring. The first hearing will be on the administration of the discretionary grant programs, followed by another on block grants.

It is my profound hope that we can fulfill the promises the Attorney General makes to our State, county, and local law enforcement officials. However, I think it is important that we back up this rhetoric with a serious commitment to making the programs Congress and the administration have created work as they were intended.

Cartoon crime dogs, drug bugs, think tanks, and press releases won't win this war.

TRIBUTE TO THE LATE MILLARD EVELYN TYDINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. DYSON] is recognized for 5 minutes.

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to a former colleague of this House and a predecessor of mine from the First Congressional District of Maryland, who would have

celebrated his 100th birthday on Friday, April 6.

I am speaking of Senator Millard Evelyn Tydings, who served in both Houses of Congress and was a decorated hero of World War I. He was a man who throughout his life set an elevated standard of excellence in every activity in which he joined.

Millard Tydings was born in Havre de Grace, MD, in 1890 and educated in Hartford County's public schools and universities. He earned a law degree from the University of Maryland and was elected to the State House of Delegates in 1916.

Delegate Tydings political career was interrupted by World War I. He enlisted in the Army in 1917 as a Private and fought in France where he rose rapidly through the ranks and played a crucial role in the Allied victory at Etrayes Ridge. Lacking the artillery support to cover advancing troops, Lieutenant Colonel Tydings improvised a plan to redeploy his machineguns in order to provide maximum protection during the assault. Millard Tydings' plan of battle at Etrayes Ridge has been taught at West Point ever since.

Returning to Maryland, Delegate Tydings resumed his seat in the State house in 1919, where he served as Speaker before moving to the State senate in 1922. Millard Tydings came to Washington in 1923 and served in the 68th and 69th Congresses as a Representative of Maryland's First Congressional District. In 1926, he was elected to the U.S. Senate. His service to Maryland and the Nation was greatly appreciated during his 24 years in the Senate.

As a legislator, Senator Tydings amassed many achievements. While in the State legislature, he passed the bill which created the University of Maryland as we know it today. In the U.S. Congress, he authored the Philippine Independence bill and fought on the Senate floor for a pay-as-you-go Social Security reform remarkably similar to recent proposals which we have seen.

To those who knew him, Millard Tydings' dedication and concern for his fellow human beings stood out in everything he did. In recognition of the valuable service which our former colleague gave in Congresses past and the enduring legacy of his accomplishments, I ask my colleagues present today to join me in paying homage to Senator Tydings. We were all enriched by his presence.

VETERANS DESERVE BETTER TREATMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, I rise today to bring to the attention of my colleagues an editorial from the Westchester Gannet newspapers which should be required reading for this Congress. The editorial, "Veterans Deserve Better Treatment * * *", "highlights the urgent need for improved health care services for those who, over the years, have served our country at great personal risk.

The editiorial says, "veterans who were promised care in the V.A. system should not be sent begging for charity treatment somewhere else. Nor should they be offered second rate care because the V.A. can't figure our how to deal with problems of staffing and services."

As we work on the budget and appropriations measures, I think it is absolutely critical that we address these urgent needs. I insert the editiorial in the RECORD in its entirety.

[From the Gannet Westchester Newspapers, Mar. 6 1990]

VETERANS DESERVE BETTER TREATMENT * * *

If you do not believe the nation incurred any special debt to those who served in the armed forces, whether in peace or in war, then the plight of the Veterans Affairs medical system may not be of particular note.

But it you believe, as we do, that the nation has an obligation to its veterans, then recent reports of understaffed hospitals and misplaced priorities are particularly disturbing.

A two-month investigation by the Gannet News Service found the Department of Veterans Affairs, for all the publicity attendant to its elevation to cabinet status, is being denied the money it needs to do its job and may lack the sense of direction needed to focus its limited resources to do the most good.

The V.A. is being stiffed in President Bush's next budget to the tune of $1 billion. And that is only the money needed to maintain the status quo in a hospital system sorely in need of improvement.

Although there is some disagreement over cause and response, Gannet Westchester Newspapers' reporters found that even the officials who run the V.A. hospitals in Montrose and in the Bronx admit they have been forced to curtail services because of problems recruiting staff and lack of adequate funding from Washington.

Both hospitals have in fact shrunk at a rate much faster than the gradual decline in the ranks of American veterans.

In five years, the Franklin Delano Roosevelt Veterans Affairs Hospital in Montrose went from 1,400 beds to fewer than 900. The Bronx Veterans Affairs Hospital once was able to care for 1,700 inpatients but now has only 775 beds in use. Still, with 13,000 unused beds systemwide, the V.A. keeps up a healthy construction budget, mainly to satisfy the Congressional taste for pork.

At the same time, the V.A. pays for a wide range of costly medical research, only some of it is focused on the medical problems shared by many veterans. The V.A. has mounted only a miniscule research effort into the effects of Agent Orange, and has done comparatively little to investigate post-traumatic stress disorder, two serious medical concerns of Vietnam vets.

Research programs seem to be designed not so much to meet the needs of veterans as to satisfy the medical colleges that maintain affiliation with V.A. hospitals.

The V.A. says those affiliations are vital to professional recruiting. What of the $1 billion or more the V.A. will need in additional funding during the next fiscal year. There simply is not enough money to do both, along with a lack of resolve within the V.A. to set the priorites appropriate to its principal obligation.

Although time and peace have thinned the ranks somewhat, one in 10 Americans has served in the armed forces.

Those 24 million veterans are getting older, since 1980, the number of vets 65 or older has doubled, to 6 million. Older vets are more likely to need medical care. Even so, the Montrose hospital, for example, will operate during 1990 with some $600,000 less than it was allotted in 1989.

Medical care is expensive. If the federal government does not live up to its obligation through the V.A., the aging veteran population will have a fiscal impact somewhere else in the medical care system.

But veterans who were promised care in the V.A. system should not be sent begging for charity treatment somewhere else. Nor should they be offered second-rate care because the V.A. can't figure out how to deal with problems of staffing and services.

When the Veterans Administration was elevated to cabinet status there was reason to believe it signaled a renewed commitment on the part of Congress and the president.

Clearly, and sadly, it has not turned out that way.

* * * INCLUDING MORE NURSING-HOME CARE

The aging of the veteran population not only increases the demand for medical servics, but it presents a demand for a different kind of care.

Despite the documented, and anticipated increase in the number of older vets, the V.A. system has been slow to respond to the need for nursing-home beds. While some 3 million veterans passed the 65-year age milestone during the 1980s, the V.A. added fewer than 4,000 nursing-home beds to its nationwide system.

Even now, V.A. administrators are touting proposals to build a nursing home in Montrose. That there is a need for the facility is undisputed.

But the V.A. is prepared to pay only 65 percent of the cost, giving the bill for the rest to the State.

Given the late start the V.A. has gotten in meeting the need for nursing homes across the nation, it is understandable that the agency would want States to help pay the high cost of catching up.

INFANT MORTALITY AWARENESS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. HARRIS] is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, I rise today to introduce a House joint resolution to designate May 13, 1990, as Infant Mortality Awareness Day. It is my hope that this commemorative legislation will make more Americans aware of our Nation's deplorable infant mortality rate.

As a member of the Task Force on Infant Mortality in the House Sunbelt caucus, I am pleased to be the primary sponsor of legislation to help our babies. This legislation is an important part of the task force's goal to educate and inform the public about infant mortality. It is a special honor that the task force has

chosen me to lead the drive for this commemoration.

In Alabama, we have one of the highest infant mortality rates in our country. Individuals can and should make a difference. In Greene County, AL, the efforts of Dr. Sandral Hullett and the West Alabama Health Services have dramatically improved the lives of mothers and babies in this county. I applaud the efforts of others who are working to improve the lives of mothers and infants.

The statistics about infant mortality are indeed sobering. It is a tragedy that more than 38,000 infants will likely die this year before their birthday. Each death represents a personal tragedy for one family. In addition, the international ranking of the United States on infant mortality has declined from 6th in the 1950's to 22d in the 1980's. While other nations have improved their standing, the United States has fallen farther behind.

The solution to the problem is complex. Proper prenatal care has been found to be the single greatest contributor to the birth of a healthy baby, but one in three pregnant women do not receive early and comprehensive prenatal care in the United States. Prenatal care includes regular and consistent visits by pregnant women to their health care practitioners. This regular and consistent care may be one part of the problem. In rural Alabama, transportation can be a great barrier to access to care.

Another important factor is birthweight of babies when they are born. Low birthweight has been found to be a significant determinant of infant mortality and yet 7 percent of all babies born in this country are born below a healthy birthweight. To ensure proper birthweight both nutrition and prenatal counseling can help. However, in certain high-risk cases, other medical services are necessary to prevent low birthweight.

Finally, our Nation needs to ensure that healthy babies are a priority. For every dollar spent on prenatal care on high-risk mothers, there can be a savings of more than $3. In many cases the initial investment by the State and Federal Governments can be expensive. However, providing preventive care can yield savings from high-risk infants. The expansion last year of the Medicaid Program to cover pregnant women and their infants up to 135 percent of the Federal poverty level will certainly help to ensure more care for our neediest citizens.

I hope this educational effort will make this year's Mother's Day a special day for our Nation's infants. The birth of healthy babies to healthy mothers should be the goal of all Americans.

HELPING THE HOMELESS IN PITTSBURGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, the problem of homelessness has mushroomed in our country over the last several years. No one knows just how many women, men, and children in the United States have no home. But we do know that the problem has grown enormously; and we know that while our Nation's wealth is vast, the Federal Government's commitment to ensuring low-income housing has been entirely inadequate.

The problem is daunting. But fortunately, a number of communities around the country have made a serious commitment to providing housing for those who lack it. I am proud to say that Pittsburgh, the city I represent in Congress, is making an extraordinary—and, in some respects, a very successful—effort to help the homeless, and we have learned some lessons along the way that could prove useful for other large cities.

Last Saturday, the Washington Post printed an excellent article on how Pittsburghers are fighting homelessness. I commend it to my colleagues, and I ask that it be reprinted in the RECORD.

PITTSBURGH FINDS DIVERSITY WORKS IN FIGHT ON HOMELESSNESS

(By Gwen Ifill)

PITTSBURGH.—When the local advisory committee on homelessness meets in the cafeteria of St. Joseph's House of Hospitality every three months, no single conference table can accommodate everyone. Political leaders are likely to be there, but so are representatives from the Allegheny County health department, the Urban League and the University of Pittsburgh as well as local leaders of four different religious denominations.

This kind of broad-based response to homelessness has helped this city of 387,000 dodge the bullet that is crippling cities like New York, Chicago and Washington.

An indication of the city's success is that it is rare to see someone sleeping on downtown streets. And, at a time when many cities are scrambling to find enough shelter space, shelters in Pittsburgh are being closed.

"We have to believe that we have at least stanched the tide, not stopped it," said Kenneth Winograd, a member of the advisory commission who has worked on the city's homeless problem since 1983. "We are very certain [that] if we weren't here we'd look like other cities where you can't walk on the streets without tripping over people."

Under the loose leadership of the advisory committee, federal, state and corporate funds have been funneled to dozens of autonomous public and private organizations. These groups provide support services such as food banks and soup kitchens as well as a network of "bridge" programs that provide counseling, job training and housing to encourage "clients" to build independent lives.

Like similar efforts in Portland Ore., and Sacramento, Calif., Pittsburgh's experience shows the effectiveness of a decentralized approach based on a community-wide consensus that homelessness is not unsolvable.

While many local governments struggle to implement court orders and engage in ongoing battles over government funding, Pittsburgh activists and government officials are unabashedly lofty about their ability to battle homelessness.

"One of our goals is to eventually eliminate the shelters," said Robert Nelkin, an Allegheny County official who serves on the advisory committee. "We really would like to get out of the shelter business," he said.

In fact, the number of shelters in the city and its environs has shrunk from 25 to 15—none with more than 45 beds.

In 1987, the city rejected a plan to turn an old downtown YMCA building into a posh hotel in favor of giving a nonprofit developer the opportunity to create Wood Street Commons, a 259-unit, single-room occupancy apartment building that has 35 shelter beds.

"From the very beginning we determined we would not view shelter as the solution to the problem," said Winograd, a human services consultant who conducted the city's first needs assessment of the homeless problem in 1983.

In many respects, Pittsburgh differs substantially from other urban areas that have sought to cope with rising homelessness and a declining industrial base. The rivers, bridges and tunnels that carve the city into geographically separate neighborhoods also have served to break the homeless problem down into manageable chunks.

Perched at the confluence of the Ohio, Allegheny and Monongahela rivers, Pittsburgh has not attracted transients the way many other eastern cities have.

"New York is a magnet for homelessness; in Pittsburgh you almost know the homeless population," said Bryce Maretzki, a research and development associate at Action Housing Inc., a nonprofit agency. "It is not as overwhelming as it is in other cities. It is a personal problem that the community deals with in a neighborhood grass-roots way."

One such neighborhood-based effort is a housing facility for single men run by the East End Community Ministries, a coalition of 43 churches. There, the Rev. Dana Gold has posted a sign over the entryway that reads: "This is a House of Heroes."

Gold, a Presbyterian minister who was ordained to serve the homeless, has run the transitional shelter for more than three years. When she began, half of the house's 15 residents had substance abuse problems; now 90 percent do. All have a history of institutionalization or long-term homelessness.

Now they are expected to participate in job training, career development and outreach programs, meet with Gold for counseling once a month and help maintain the three-story apartment building that has been turned into apartments and common living areas for the residents.

One small room on the ground floor is equipped for job hunting: it contains a desk, a telephone with an answering machine, and a Bible.

The churches, Gold said, have banded together to make their outreach efforts more effective.

"They're urban churches in a poor area," she said. "It's their way to minister to the community in a concrete way."

East End Community Ministries feeds 800 families a month and operates shelters, drop-in centers and counseling services.

In the nearby town of Braddock, Debra House opened last year in a former convent to provide counseling, furnished rooms and job-training opportunities for single women and their children. Newly carpeted, equipped with kitchens and painted in pastels, it now offers lodging to 12 women and their families.

Cynthia Parrotte, 31, moved into Debra House last May with her two small daughters and pays $78 a month for her modest room while she takes accounting and business management courses at the Community College of Allegheny County.

"I'm ready to go on," she said. "They got me started. I hope to be out of here by June."

Organizers point to clients like Parrotte, who came to Debra House from a Salvation Army shelter, as an example of how homeless people can be helped back to self-sufficiency.

Allegheny County's multi-pronged effort has no headquarters and no single funding source. Participants say this is its salvation.

"Everybody needs a little more money," said Winograd. "But there is not one governmental breast to which they go to get nurtured. They have to do it in a number of ways."

Federal money is the scarcest commodity. Homeless assistance money parceled out through the McKinney Act, these providers say, is too hard to get and never goes far enough.

"Individuals and churches are the mainstay," said Nelkin. "Government is the Johnny-come-lately."

But government is still an important part of the mix. When the Federal Emergency Management Agency slashed the region's funding because its unemployment rate had dropped to 3.5 percent, the Pittsburgh-Allegheny County Private Industry Council conducted its own study to prove that the rate was actually 2 percent higher.

Moreover, the council said, the region was still suffering from the lingering effects of the economic dislocation that occurred during the last decade's downturns.

Jonathan Zimmer, the executive director of Action Housing Inc., credits Pittsburgh's success in addressing its homelessness problem to the diffuse nature of the response.

"We didn't figure there was the brain power in any one place to solve the problem," Zimmer said.

In 1985, Pittsburgh was rated as the nation's most livable city, a tourist-attracting designation that delighted community leaders. Zimmer said the region's response to homelessness also has made it a better place to live.

"Pittsburgh has gone through terribly difficult times, constantly striving to become a great city," he said. "The homeless problem has the potential to make the community more human."

THE EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. DONNELLY] is recognized for 5 minutes.

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today, along with my colleague, Congressman STUDDS of Massachusetts, to overturn a policy of the Internal Revenue Service with respect to self-employed fishermen. Recently, the Internal Revenue Service has been aggressively pursuing fishing boatowners in New Bedford, MA for alleged back taxes owed. In our view, the IRS policy is incorrect and unfair; furthermore, it amounts to the Service changing the rules in the middle of the game.

Mr. Speaker, the tax status of fishermen on small vessels has been specifically addressed by the Congress in the past. In general, individuals who work on small boats are generally not subject to employment tax withholding on their income. Rules achieving this result were added to the Internal Revenue Code in 1976. Since then, fishermen in this category have complied with the law and have paid their taxes. They thought—and rightly so—that we in Congress had clarified the rules.

They were right—until now. After more than a decade of relatively trouble-free experience with the law, the IRS has, without warning, changed the rules. They are retroactively applying a new standard by which the fishermen are expected to comply. The IRS is challenging the relationship which the fishermen have with the boatowners—a relationship which dates back to the whaling days of New England in the 1600's. We believe that this is unfair—and is made even more outrageous by the fact that almost certainly, the fishermen at issue have fully complied with the law. Yet the IRS refuses to confirm or deny whether the fishermen have so complied. They are perfectly willing to allow the boatowners to go to court and possibly force them to lose their livelihood over a law that is, at worst, unclear.

Mr. Speaker, as a member of the Committee on Ways and Means, I proposed an amendment to clarify this issue last year as part of the budget reconciliation legislation for fiscal year 1990. Unfortunately, due to rules set forth by Chairman ROSTENKOWSKI, I was not able to offer my amendment because my proposal had not been the subject of a hearing. Before withdrawing my amendment, however, I received assurances from the Assistant Secretary of the Treasury for Tax Policy that the IRS would not act precipitously to go after fishing boat owners until the Congress had had an opportunity to consider my amendment. Congress has not yet had a chance to do so, and I am therefore taking the first step today by introducing this legislation.

At a hearing last year on my proposal, the Treasury Department testified in support of it as a method of clarifying the law. Now that the hearing process has been completed, the committee will be free to take up my amendment as soon as it meets to consider tax legislation this year. I expect that that process will occur early this summer, and I would strongly advise that the Internal Revenue Service not violate the commitment made to the Committee on Ways and Means last year by moving forward on this issue until Congress has had an opportunity to consider my legislation.

Let me say in closing, Mr. Speaker, that I am always reluctant to propose retroactive changes to the income tax laws as I am in this case. However, here, retroactivity is completely justified. The Internal Revenue Service changed their interpretation of the law in midstream, with no warning, and expected the fishing boat owners in New Bedford to play along. If the IRS is going to retroactively change their interpretation of the law, then so can—and so must—Congress.

Mr. Speaker, I submit a technical description of my legislation for the RECORD.

DESCRIPTION OF LEGISLATION

PRESENT LAW

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of determining wages subject to employment taxes if (1) the individual receives no other compensation other than a share of the boat's catch, and (2) the operating crew of the boat is normally made up of fewer than 10 individuals.

EXPLANATION OF PROVISION

Under the proposal, service as a crew member on a fishing vessel is treated as meeting the exclusion from the definition of employment even if, in addition to a share of the boat's catch, the individual receives an additional amount of compensation (such as the additional amount described in Situation 1 of Rev. Rul. 77-102,[1] or any similar payment designed to have substantially the same effect). This rule applies only if (1) the additional amount does not exceed $50 per trip, (2) payment of the amount is contingent on the attainment of some minimum level of catch, and (3) the amount is paid solely in recognition of the individual's performance of additional duties, such as those of mate, engineer, or cook, for which it is traditional in the industry to receive such additional compensation.

The proposal would modify the present-law regarding the maximum crew size by providing that, in general, the operating crew of the boat normally must consist of 10 or fewer individuals. This requirement is only satisfied with respect to a quarter if during the immediately preceding four quarters the boat's operating crew consisted of 10 or fewer individuals on at least 50 percent of the trips made during that period.

EFFECTIVE DATE

The proposal would generally be effective for taxable years beginning after December 31, 1990.

The provision relating to additional compensation, however, would be effective for taxable years beginning after December 31, 1984, unless the payor treated such remuneration as being subject to employment taxes when paid.

The change from "fewer than 10" to "10 or fewer" is a change in statutory language. No inference is intended with respect to the correct interpretation of present law. For example, no inference is intended with respect to the permissible method under present law of determining whether the requirement that the crew normally be made up of fewer than 10 individuals is satisfied.

[1] 1977-1 C.B. 299.

PENSACOLA WALL SOUTH PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, over 58,000 United States troops were killed or listed as missing in action as a result of the Vietnam war. Unfortunately, the horrors of that war have had a drastic impact upon many of the brave and courageous members of our Armed Forces who served there and the families and friends who lost loved ones. Clearly, vivid memories of the Vietnam war still linger today for many Americans.

The Vietnam Veterans Memorial is one of the most visited of all memorials in Washington as thousands of people each year view the black granite wall which lists those who gave the ultimate sacrifice in defense of freedom and democracy. Just as important, it serves as a source of healing

for those who still suffer the mental and physical wounds associated with that war.

On December 7, 1987, a portable replica of the memorial came for 1 week to Pensacola, the largest city in Florida's First Congressional District. The wall evoked immense emotion, and it sparked interest in placing a permanent memorial somewhere in the area.

Since that day over 2 years ago, plans have been made to construct a half-size replica of the Vietnam Veterans Memorial in Pensacola's Admiral Mason Park. The idea of a Wall South has received widespread support. It has been endorsed by State and local veterans organizations and numerous civic groups, and military commissary stores in the Southeast region have given their support by pledging to donate a certain percentage of the sale of various items. Mr. Nelson Wellborn and Mr. Lenny Collins lead the Wall South effort in Pensacola, and they, along with the many others who are involved, should be commended for their dedication and many hours of hard work toward this honorable endeavor.

The Pensacola City Council has OK'd the Wall South proposal with the stipulation that it must show public support of at least $400,000 by July 4 of this year. It is estimated that the entire project, including in-kind contributions, will cost approximately $1 million.

If completed, this project would provide thousands of people the opportunity to experience the sensation of the Vietnam Veterans Memorial without having to incur the time or expense of traveling to Washington, DC. Mr. Speaker, I fully endorse the Wall South project. It is truly a worthwhile endeavor which I sincerely hope will receive the support which it needs to be completed.

□ 1640

IN TRIBUTE TO C.R. SMITH, SECRETARY OF COMMERCE IN THE LYNDON JOHNSON ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, it is my sad duty to inform this House that the United States has lost one of the true giants of this century—one of the pioneers of commercial aviation, an outstanding member of the Lyndon Johnson Cabinet, and a world-renown art collector and philanthropist—C.R. Smith of Texas.

C.R. Smith passed away earlier today after a long battle with poor health. He would have been 91 years old this September.

C.R. Smith played one of the central roles in the development of commercial and military aviation in the United States. He was the individual primarily responsible for building American Airlines from a small, unprofitable operation into a leader in world air transportation. During World War II, he was appointed to help establish the Air Transport Command [ATC], which provided air transportation for the Army in all military theaters. By the end of the war, ATC had grown to be one of the largest military commands, with more than 200,000 personnel. C.R. Smith served as a major general and deputy commander of the ATC, and earned the Distinguished Service Medal, the Legion of Merit, and the Air Medal. He was also named a Commander of the Order of the British Empire for his work with British military forces.

In 1934, he became the president of American Airlines, and except for his military service he served as chief executive until 1968, when his lifelong friend President Lyndon Johnson appointed him to be Secreatry of Commerce. He served as Secretary during the last year of the President's administration. And he later returned as interim chairman of American Airlines in 1973, before finally retiring in 1974.

Born in the town of Minerva, TX, C.R. Smith majored in business administration at the University of Texas and was later honored by the university as a distinguished alumnus. His legacy to the university includes a truly invaluable collection of western art he began to accumulate in the 1930's which includes some of the most outstanding works of Charles Russell and Frederick Remington, which he donated to the university.

Mr. Speaker, while we mourn the loss of this remarkable, unbelievably warm and kind man, we remember his monumental contributions to the United States and the State of Texas. He was one of a kind, a true giant of his times, and we are all richer for having him touch our lives.

ASK PRESIDENT TO RESOLVE LITHUANIAN CRISIS BEFORE U.N.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, 25 days ago, the democratically elected Government of the Republic of Lithuania declared independence from the Soviet Union. The response from Moscow has been demands for billions in economic reparations, inflammatory rhetoric, and armored personnel carriers.

Unfortunately, the response from the administration has been lukewarm—despite continued pleas for recognition from Vilnius. Mr. Speaker, for the past 50 years, we steadfastly have refused to recognize that the Soviet occupation of Lithuania conveyed Soviet sovereignty, and therefore have maintained separate diplomatic relations with that nation of 3.7 million people through the presence of a Legation here in Washington, DC. The Legation's Charge d'Affaires currently conducts the diplomatic business of Lithuania although he does not have the full diplomatic presence, nor the status of an Ambassador.

Earlier in the day, this body voted overwhelmingly in favor of a resolution asking the President to recognize the Landsbergis government. It is my hope that the President will recognize the changed circumstances in Lithuania by elevating the Legation to full Embassy status.

This elevation surely would be a boost to the Lithuanian people and clearly would complement the Lithuanian Parliament's recent decision to grant Ambassador-at-Large status to the current Charge d'Affaires—Stasys Lozoraitis. Shouldn't we, as the leader of the free world, be the first to allow him to use his new title? I certainly hope so.

Yesterday, during a press conference at the Lithuanian Legation, the Charge d'Affaires was asked about the United States response to the plight of his country. Roughly stated, his reply was that politicians and diplomats can't ever expect to get 100 percent of what they seek. Well, Mr. Speaker, I'm not so sure that we are giving even 25 percent on this one. It is for this reason that I rise today to introduce a resolution that seeks to move the administration to take positive action on behalf of the people and democratic Government of Lithuania.

Mr. Speaker, the sense of the House resolution that I am introducing today, encourages the President to bring the case of Lithuania before the United Nations Security Council and/or other relevant international councils. To date, there has never been a peace treaty resolving the territorial and legal questions surrounding the illegal occupation of Lithuania.

Over the past few weeks, the Soviets clearly have ratcheted up their campaign of intimidation, first by calling for all guns to be turned in and then by occupying government buildings and seizing so-called deserters. As I see it, we have all the ingredients for another Prague Spring.

Mr. Speaker, today, many of my constituents of Lithuania heritage joined those from elsewhere in the United States in a peaceful demonstration here in Washington. Their plea is for the President to back the Landsbergis government and the Lithuanian people who have dared to declare freedom from the U.S.S.R. yoke.

Mr. Speaker, I believe that it is time to ask the President to bring the

matter of Soviet aggression up before the United Nations Security Council—or any other international councils he should choose—in order to persuade the Soviets to cease their occupation of Lithuania.

Mr. Speaker, that is exactly what my resolution calls for. It is to express the sense of the House of Representatives that the President should bring the matter of the Soviet occupation of the Republic of Lithuania before the United Nations and other international organizations.

I am joined as original cosponsors on this by the gentlewoman from Hawaii [Mrs. SAIKI], the gentleman from North Carolina [Mr. COBLE], the gentleman from Texas [Mr. LAUGHLIN], the gentleman from New Mexico [Mr. SKEEN], the gentleman from Maryland [Mr. MFUME], and the gentleman from Alabama [Mr. HARRIS].

□ 1650

INTRODUCTION OF LEGISLATION TO PROVIDE APPROPRIATE MEDICAL PEER REVIEW FOR PHYSICIANS AND HOSPITALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. LAUGHLIN] is recognized for 5 minutes.

Mr. LAUGHLIN. Mr. Speaker, I have come to the floor several times to talk about my concern about the health care problems facing our Nation. I have come once again to discuss a problem in this area, but this problem was brought about, probably unintentionally, by legislation enacted by the Congress.

In 1986, Congress enacted the Consolidated Omnibus Budget Reconciliation Act of 1985, otherwise known as COBRA. Section 1867 of this act was amended to provide for Federal regulatory requirements for the transfer of patients with emergency medical conditions and for women in active labor.

The intent of the COBRA amendments were laudatory, namely to prevent inappropriate hospital transfers for economic reasons or "hospital dumping." Unfortunately, under COBRA, the determinations of what is an appropriate transfer for medical reasons is left up to the determination of the inspector general of the Department of Health and Human Services. The fines for a violation of the COBRA amendments is up to $50,000.

The weight of these fines is intended to deter inappropriate transfers from being ordered, but perhaps what is less obvious is that these fines may deter appropriate transfers.

I want to emphasize that I do not condone hospital dumping. Any physician or hospital that engages in this practice should be prosecuted to the fullest extent of the law and assessed the heaviest fine possible.

In the test case of this statute, which occurred in my district, the Office of Inspector General fined the physician $25,000—payable immediately. The Office of Inspector General did not interview the physician prior to assessing the fine to get the physician's side of the story. The Office of Inspector General did not even want to hear the physician's story.

Mr. Speaker, this is not a fair or reasonable process. Physicians and hospitals should not face these heavy fines and costs of defending these charges without the benefit of appropriate peer review for medical necessity. This is particularly critical for physicians in our rural areas where patient transfers of emergency cases have to be made over great distances in order to save lives.

In these cases, peer review for medical necessity is preferable to an inspector general investigatory process in which the target is not even interviewed.

Mr. Speaker, I want to emphasize that the issue here is access to necessary medical peer review. Unless appropriate medical review of these cases is required, appropriate patient transfers will be jeopardized. Plainly put, this will endanger lives. This is not a situation that we can tolerate in a rural health care system that is already suffering from closures and a declining supply of practicing physicians.

This is why, I, along with several of my colleagues, am introducing a bill to provide appropriate medical peer review for our Nation's physicians and hospitals. The bill I am introducing today stipulates that the Medicare peer review organizations [PRO's] be required to review for medical necessity all alleged dumping violations. Under my legislation, this PRO review would be binding, meaning the OIG could not levy fines in those transfers found to be medically appropriate by PRO.

Mr. Speaker, this legislation in no way lessens the fines or penalties for a violation of the COBRA statute. It merely provides for a formal and binding review of these alleged violations by PRO's. Given the complexity of medicine as it is practiced today, we should provide no less when it comes to second-guessing physicians' judgments about providing medical care and delivering babies.

As a former prosecuting attorney, I know how important due process protections are in the legal system. In our system of justice, we give murderers, robbers, dope dealers, and rapists a hearing before we assess punishment against them. Mr. Speaker, even Manueal Noriega is afforded these kinds of protections. Under the legal systems we proceed cautiously because people's reputations, freedom, and even lives are at stake in the process. The same kind of caution should be applied when we question the judgments of physicians and hospitals providing emergency medical care.

This is especially true if we expect physicians and hospitals to continue to practice medicine in remote parts of this country. Yet, under the COBRA amendments, physicians in this country aren't even afforded the opportunity for medical review by a group of their peers on alleged dumping violations.

This bill asks only that we give our doctors a hearing before we assess punishment.

Mr. Speaker, I am proud to be joined in this important piece of legislation by the following cosponsors:

ORIGINAL COSPONSORS

Congressman Alexander of Arkansas,
Congressman Archer of Texas,
Congressman Barton of Texas,
Congressman Bryant of Texas,
Congressman Bustamante of Texas,
Congressman Chapman of Texas,
Congressman Clement of Tennessee,
Congressman Costello of Illinois,
Congressman Coleman of Texas,
Congressman DeLay of Texas,
Congressman Fields of Texas,
Congressman Frost of Texas,
Congressman Geren of Texas,
Congressman Hall of Texas,
Congressman Ortiz of Texas,
Congressman Parker of Mississippi,
Congressman Sarpalius of Texas,
Congressman Stenholm of Texas,
Congressman Tanner of Tennessee, and
Congressman Wilson of Texas.

THE IMPORTANCE OF THE B-2 TO AMERICAN NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 60 minutes.

Mr. SKELTON. Mr. Speaker, one of the most crucial debates of this year concerns the future of the B-2 bomber. The outcome of the debate will determine whether or not the United States remains the finest Air Force in the world. It will determine whether or not the U.S. Air Force will remain in the bomber business.

In an era of serious arms control negotiation, we want to reduce forces in such a fashion that those that remain are not vulnerable to the nuclear forces of the other side.

Bombers contribute to strategic stability for various reasons. First, they take hours to reach the target. Second, they can only be used in a retaliatory capacity because of their slow speed. Third, that slow speed, when compared to missiles, gives time for policy decisions to be carefully considered. Preliminary questions can be reassessed, either confirmed or reversed.

During a crisis, time is usually a decisionmaker's most precious commodity.

Mr. Speaker, we are in a transition period at this stage of the nuclear era. Thirty years ago the inaccurate single-warhead ICBM posed a far lesser threat to the forces of the other side than today's accurate multiwarheaded ICBM's found in the arsenals of both sides, the Soviet Union and the United States.

Unfortunately, these technological improvements proved to be politically destabilizing. Now, we want to go back to a more stable situation that prevailed 30 years ago. We want to make this transition with the Soviet Union through the arms reduction talks taking place in Geneva.

Let me stress that the purpose of deterrence has always been to prevent war, not to fight one. Fostering deterrence is more an art than an exact science. It is an extremely complicated task, and I would be kidding you if I told you I understood all of the details involved with that link, our nuclear strategy with our force posture with our arms control positions in Geneva, but I do know that strategy and force posture and arms control efforts must be coordinated in a way that reduces nuclear forces in a stable manner.

The improved political relationship that now exists between the United States and the Soviet Union should open the way for a much lower nuclear balance between the two countries: cheaper, less threatening, and more conducive to the aims of nonproliferation.

This transition period into which we have entered is also one marked by lower defense expenditures. In the United States the defense budget has undergone 5 years of real cuts—where increases in defense spending have not matched increased costs due to inflation. The budget deficits of the past decade led to the enactment of the Gramm-Rudman Deficit Reduction Act in the mid-1980's and defense spending was not exempted.

The collapse of the Berlin Wall last fall added a second reason for cutting the defense budget. Events in Eastern Europen and in the Soviet Union convinced many in this country that the threat posed by the Soviet Union had diminished. The talk in Washington became one of trying to figure out how to spend the peace dividend.

While developments that have taken place in the Soviet Union are for the most part positive for American interests, no one can be certain where they will ultimately lead. It is a period of uncertainty in the world. The warnings of some of us that defense cuts can be made but should be done so on a gradual basis, over a period of 5 years are not very popular in some quarters of the Congress or in some areas of the country.

The French thinker Alexis de Tocqueville observed that "the most dangerous time for a bad government is when it starts to reform itself." This is precisely the situation in which the Soviet Union finds itself today. Reform efforts during the regimes of both Louis XVI and Nicholas II ended in revolutions whose consequences in blood and treasure reached far beyond the borders of France and Russia. The historian Paul Kennedy has written, "Those who rejoice at the present day difficulties of the Soviet Union and who look forward to the collapse of that empire might wish to recall that such transformations normally occur at very great cost, and not always in a predictable fashion." Our capacity to lead during this period of instability will be vastly reduced if we rush to cut our defense budget, reduce forces overseas unilaterally, and withdraw from our commitment.

So how do the elements of nuclear strategy, budget cuts, and uncertainty in the world that I have described affect the B-2 debate now taking place in Congress? Each in its own way affects the debate profoundly. First, let me acknowledge that I believe there are legitimate arguments on both sides of the B-2 debate. While I strongly support continuing the B-2 program, opponents can make a strong case for their position by citing the high cost of the program and the diminished threat posed by the Soviet Union. These to me are the two best arguments for the other side.

A third argument that opponents sometimes use is to say that the bomber is not invisible to radar. Correspondent Mike Wallace highlighted this argument in his story about the B-2 on the February 18, 1990, edition of "60 Minutes." The point was made that the Australian Jindalle radar can track the B-2 at ranges of 1,500 miles.

This is a very weak argument and the opponents lose credibility by making it. The Air Force has used a talanted cadre of PHd's—scientists, engineers, and analysts—from government, industry, and academia to examine potential air defenses to counter stealthy aircraft. They have not yet been able to turn up any conventional or unconventional air defense scheme to detect the B-2 in a militarily useful way. Let me quote a recently issued Department of the Air Force document entitled "B-2 Survivabilty Against Air Defense Systems."

* * * During test activities, air defense sensor components will occasionally detect stealthy air vehicles * * *. What can convincingly be argued and supported by tests is that the B-2 cannot be consistently detected, tracked, or engaged at militarily useful ranges in typical operational scenarios.

More to the point, we already have many years of experience with stealth by way of the F-117 Stealth fighter. In hundreds of flight tests run against a variety of air defenses, it has proved the concept of stealth technology fundamentally sound. The B-2 is, and will remain, a highly survivable and lethal weapon.

However, let me address the two legitimate arguments of high cost and the diminished threat used by opponents of the B-2.

I want to address the issue of the B-2's cost directly and put it into some perspective. First, while expensive, the B-2 is affordable. As a percentage of the Department of Defense procurement budget the cost of the 9-year procurement program is estimated at 1.3 percent. The 4-year B-1B program percentage was 1.6 percent; the comparable figure for the 9-year B-52 program was 1.4 percent. Second, much of the investment cost in new tools and manufacturing techniques required by the use of composite materials will yield a continuing flow of benefits for years to come. This is a significant addition to the Nation's industrial base since all future fixed-wing combat aircraft will use stealth technology. In fact, the technology is already being used in the Air Force's advanced tactical fighter and the Navy's A-12 attack bomber. Third, if the B-2 is around as long as the B-52 it will prove to have been an economical investment. The venerable stratofortress will still be part of the Strategic Air Command at the turn of the century. It will have outlasted two generations of ICBM's. Three generations of SLBM's, and a fleet of ballistic missile submarines. With the special hangars designed to protect the B-2 from the elements, it should be around as long as the B-52.

What leads me to conclude that the B-2 would be a good investment for the security of the United States? A very good case can be made for reasons of technology, arms control, and force structure. The technological argument is that most profound one. Much the way the advent of the submarine in the early part of this century fundamentally transformed naval warfare, the advent of the Stealth bomber will transform air combat. Ships visible on the waters' surface became invisible under the water as submarines. Just a handful of German submarines in the early years of the Second World War almost won the fight against Britain. It wasn't until 1943 that the battle of the Atlantic was finally won. Vast resources had to be devoted to that fight—in men, money, ships, aircraft, and new tactics—to defend the convoys that were the lifeline for Britains survival.

In the late 20th century, we have entered the era of visible and invisible aircraft, those that can be tracked by radar and those that cannot. Partial exploitation of stealth technology was found in the SR-71 Blackbird surveil-

lance aircraft and the B-1B bomber. Further development of the technology occurred with the F-117 Stealth fighter and the advanced cruise missile. The B-2, designed with stealth technology in mind, represents the most advanced use of the technology—in design, materials, and avionics. In its primary strategic role, the B-2 renders obsolete approximately $350 billion of Soviet investment in air defenses which includes 10,000 radars, some 3,000 interceptor aircraft, and over 8,000 SAM launchers. The combination of a manned penetrating bomber, the B-2, and air-launched cruise missiles, on B-52 and B-1B bombers, will prevent the Soviet Union from concentrating all its air defense efforts on a single threat. Stealth technology incorporated in the B-2 will force the Soviet defense establishment to devote more of its military resources to air defense, a much more benign activity from the United States point of view. It is far better to have them spend on defense than offense.

Arms control provides a second argument for the production of the B-2.

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The current arms control regime between the United States and the Soviet Union favors bombers. Under the START counting rules, the non-cruise-missile bomber counts as only one weapon, regardless of its bomber load. Bombers are viewed as stable because their relatively slow speed precludes their use as first-strike weapons. They do not threaten the rapid escalation associated with ballistic missiles and can be canceled or recalled.

Maintaining a substantial force of strategic bombers is the third reason for proceeding with the B-2; 132 B-2's will contribute to the maintenance of such a force, along with B-1's, B-52's, and FB-111's currently in the force. In the early 1960's the United States possessed a bomber force that consisted of more than 1,600 aircraft—1,200 B-47's and 400 B-52's. We actually produced about 2,000 B-47's and 700 B-52's in the 1950's and 1960's. By 1990 we will have a strategic bomber force of less than 350 aircraft. Should opponents of the B-2 succeed in canceling the program, that force would fall to less than 200 bombers. Half that force would be 40 years old by the year 2000.

One alternative might be to reopen the B-1B production line. Yet the B-1B will find it increasingly difficult to penetrate improved Soviet air defenses over the next decade. The strategic triad of bombers, intercontinental ballistic missiles, and submarine-launched ballistic missiles has supported our national strategy of deterrence and maintained the peace for over 30 years. Without the B-2, the United States would be unable to maintain the effectiveness of the bomber leg of the triad against improving Soviet air defense.

Mr. Speaker, another argument can be made in favor of the B-2. In both Korea and Vietnam, strategic bombers were used in combat. Conventional strategic bombardment requirements are likely to grow in the future, especially in the Third World as the number of foreign bases decline. From bases in Guam, the United States, and Diego Garcia, the B-2 can reach any target in the world with one aerial refueling. In the Libyan raid, for example, 35 support aircraft and 84 combat aircraft participated in that action. Over 130 crew members were put at risk. A very much smaller force of B-2 aircraft and KC-10 tankers, two bombers and three tankers, could have performed that mission delivering the same payload. Would the Air Force really risk the B-2 in such a mission? I think so. A drastically reduced number of people and aircraft would be put at risk in such a contingency. Even more important, the invisibility provided by Stealth technology would vastly improve the chances for the return of men and aircraft from such a raid.

Mr. Speaker, we are producing a penetrating bomber that will be hard to shoot down by any potential foe. And yet we are faced with the irony that it is Members of Congress who are trying to shoot it down. Before these critics try to shoot down the B-2 by focusing on its cost, I hope that this description of its merits will provide some needed perspective to a program I believe is vital to the future security of our country.

This vote this year on the B-2 will be a crucial one—we have had many such votes in the Congress over the past 200 years. Back in 1939 the House of Representatives voted against a $5 million appropriation to bolster the fortifications on the island of Guam. The empire of Japan at that time, saw that vote as a signal that the United States would not defend its interests in the Pacific. It was the wrong signal to send. Later this year we will have the opportunity to send a signal about whether or not this country is serious about maintaining the U.S. Air Force in the bomber business. I hope we send the right signal, not one we will regret at some future time.

PUT AN END TO THE GOVERNMENT SUBSIDIZATION OF RUNAWAY INDUSTRIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 60 minutes.

[Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation that will bring an end to the current practice of government purchases of agricultural goods produced through illegal and abusive labor practices.

As many of my colleagues know, there has been a mass exodus in recent years by the American agricultural produce industry to foreign nations, particularly developing countries. The attractiveness of these countries for agricultural processing is very simple. They can employ workers willing to work under some of the worst conditions in the world for extremely low wages. This same produce, grown in the United States and processed in these countries, is being sold to the U.S. Government and paid for by taxpayer dollars.

I do not believe that the U.S. Government should be supporting exploitative labor practices by indirectly subsidizing this practice. There is no reason why we should be paying for agricultural products, produced in foreign countries, by firms paying less than subsistence wages and that are allowing sweatshop like conditions. This is not only wrong morally but fiscally. In addition, the safety of the food is now endangered by the poor decontamination procedures used in many of these countries. This is not a phenomenon that the Federal Government should support. But that is just what is happening.

Further, farmers and agricultural workers in the United States must be able to compete on an even playing field. Why should the U.S. Government help subsidize a foreign industry that is competing unfairly with American firms? Thousands of agricultural workers have lost their jobs due to this unfair advantage. By requiring foreign firms to show that they are adhering to minimum labor standards, this advantage will be taken away from countries using exploitative labor practices. To put it simply, we need a fair competitive structure in which American industry and labor can compete.

My bill would ensure that any foreign agricultural producer supplying produce to the U.S. Government adheres to current labor standards in the United States. The bill would amend the Walsh-Healey Government Contracts Act of 1936 to include foreign processed agricultural produce. The Walsh-Healey Act forbids the purchase of any product, except agricultural produce, from a company that does not meet minimal labor standards under the Fair Labor Standards Act. The Act was designed to ensure that the Federal Government was purchasing goods from firms that practiced fair labor standards. The thought back in 1936 was that the U.S. Government should set an example when purchasing goods. I believe that still holds true. Unfortunately, the Walsh-Healey Act does not specifically include agricultural produce. Since its passage, agency regulations have explicitly exempted agricultural purchase.

My bill would simply add agricultural produce to those products purchased by the Federal Government for coverage under the Act. The Federal Government should not be supporting poor labor standards. Let us withdraw the Federal Government's support in the exploitation of labor. I strongly urge my colleagues to support this bill.

NATIONAL EARTHQUAKE HAZARD MITIGATION AND INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 30 minutes.

Mr. BROWN of California. Mr. Speaker, today the gentleman from New York [Mr. BOEHLERT] and I are introducing legislation to establish a national program for earthquake insurance and hazard mitigation. This bill, which is modeled after the National Flood Insurance Program, will help prepare the United States for inevitable future earthquakes.

Mr. Speaker, the United States is not prepared for major, urban earthquakes. The most expensive natural disaster in the history of our Nation was last October's Loma Prieta earthquake, which resulted in 62 deaths, an estimated $6 billion in direct damages, and perhaps twice that much in total costs. Yet we all know that the Loma Prieta earthquake was not the big one. Sometime in the next 30 years, a major earthquake will almost certainly strike one or more major urban centers in the United States. It could happen in California, but it could also be in the Pacific Northwest, the Mississippi Valley, or even along the east coast.

The costs of such a disaster will be staggering. Damages could approach $100 billion, with casualties in the thousands. The financial and social consequences could affect the entire Nation; however, many of these consequences can be averted through implementation of a national plan for earthquake hazard mitigation and insurance.

Earthquakes have been one of my prime legislative concerns over the past 15 years. I have sat through numerous, lengthy congressional hearings during this period, usually right after a major earthquake has caused great damage in an area that was not adequately prepared. These hearings often have titles such as "Lessons Learned From the Loma Prieta Earthquake," or "Lessons Learned From the Whittier Narrows Earthquake," or "Lessons Learned From the Soviet Armenian Earthquake." Well, what lessons have we learned from these disasters?

The message we have heard over and over, from the scientists, engineers, urban planners, and business and community leaders, is this: The only way to reduce the danger of earthquakes is to build safer houses, safer office buildings, and safer highways and bridges. From a collapsed home in Armenia to the Cypress Freeway in Oakland, every earthquake teaches us that the danger is not the earthquakes—the danger is the structures that surround us.

This legislation incorporates those lessons. It is a comprehensive approach to earthquake hazard mitigation, linked to the implementation of a national earthquake insurance program. The bill was crafted by incorporating the recommendations of those experts who best understand the danger of earthquakes. Let me give you two examples.

Lloyd S. Cluff, chairman of the California Seismic Safety Commission, recently testified as follows before the House Subcommittee on Science, Research and Technology:

> Public policy should encourage hazard mitigation and insurance as a means to lessen the Government's disaster assistance exposure and improve our ability to recover financially after a catastrophic earthquake * * *. A federally backed program that can reduce hazards and speed recovery after a devastating earthquake is important to California and the Nation.

George K. Bernstein, chairman of the Expert Review Committee of the National Earthquake Hazards Reduction Program, said the following to the House Banking Committee:

> Insurance is a most efficient, expeditious and comprehensive method of compensating victims of disasters. But without hazard mitigation, the guarantee of compensation from insurance will also create an incentive for irresponsible construction * * *. What is necessary is legislation that creates incentives and the will to act in States, localities and individuals so that new construction is built in recognition of the earthquake hazard * * * and available insurance is purchased.

Earthquakes are not confined to California—they are truly a national problem. Earthquakes have occurred in almost every State. Over half of the damaging earthquakes that have struck the United States in the past 250 years have occurred outside of California. Many people are unaware that the three largest historical earthquakes in the continental United States occurred at New Madrid, MO, near Memphis, in 1811 and 1812. At that time, the New Madrid area was sparsely populated, and damage was limited. Now, 35 million people live in that region. It is entirely possible that a major earthquake along the New Madrid Fault would make the Loma Prieta Earthquake pale in comparison.

The fact is, 39 States—and about three-quarters of the U.S. population—are vulnerable to moderate or severe earthquakes. Mr. Speaker, I must point out that even Washington, DC, is not exempt. A March 25 article in the Washington Post addressed this issue explicitly, and concluded that "Washington—like most East Coast cities—is at significant risk." Furthermore, the earthquake threat in the United States is growing with each passing day. There are two important reasons for this increasing risk. The first is geologic: As forces within the Earth's crust accumulate over time, there is an increasing chance that the crust will suddenly rupture along a fault. The second is demographic: Growing population, expanding urban centers, and increasingly sophisticated and costly infrastructure. Thus, the 1906 San Francisco earthquake—the magnitude 8.2 "Big One" that leveled the city—caused less damage in terms of 1990 dollars than the much smaller Loma Prieta earthquake of last October.

Estimates of the immediate consequences of a major, urban earthquake point to tens of billions of dollars in damages, and hundreds or even thousands of casualties. The Federal Emergency Management Agency [FEMA] has developed earthquake loss models for several earthquake-prone areas of the United States, which predict social and economic disruption that will severely compound the immediate earthquake damage. Destruction of bridges, water, and power lines, and emergency service facilities may seriously compromise any ability to respond once the earthquake is over. Old houses, lacking earthquake-resistant construction measures, would collapse, leaving hundreds of thousands of people homeless.

The effects would radiate far beyond the area of direct damage. In the case of Memphis, gas transmission pipelines that supply most major cities in the Northeast with natural gas could be severed, and strategic bridges across the Mississippi River might collapse. A major California earthquake could severely damage our semiconductor industry or paralyze the operation of major banks. A magnitude 8.0 Seattle earthquake could cause major disruption of our aeronautics industry, and generate a tidal wave that would inundate all low-lying areas.

The viability of the insurance industry itself could be jeopardized by such a disaster. Ironically, although few homeowners currently are insured for earthquake damage, insurance companies would still find themselves liable for huge claims from fire, liability, workman's compensation, and commercial policies. The insurance industry estimates that a major California earthquake could result in as much as $50 billion in claims, which would severely deplete industry reserves, and force the industry to liquidate assets. This in turn could have an adverse effect on financial markets throughout the country.

In spite of the national threat from earthquakes, less than 10 percent of all American homes are covered by earthquake insurance. Even in California, where insurance companies were required to offer earthquake policies, only about one-quarter of the State's homeowners have elected to purchase coverage. It has been estimated that over 90 percent of the losses to home-

owners from the Loma Prieta earthquake were uninsured.

This situation is accentuated by the absence of earthquake-resistant construction in many areas. Few regions have instituted construction codes that are commensurate with the earthquake threat. Some areas have strong building codes for new construction, but no meaningful provisions to increase the earthquake resistance of older buildings. Many of the homes that were destroyed during the Loma Prieta earthquake could have been saved by simple, inexpensive measures such as better anchoring to foundations or stronger shear walls on the ground floor.

Why do not homeowners buy earthquake insurance? There are many reasons. One explanation is the high price of premiums, and the high deductible levels offered by most companies. Another is the perception—especially outside of California—that earthquakes are not a serious problem. A third consideration is the insurance companies themselves, who are reluctant to open themselves up even further to the potentially huge losses which could result from a major earthquake.

Thus, most homeowners face the risk of earthquakes with no insurance and unsafe homes. If a house is destroyed by an earthquake, most Americans have only one place to turn: Federal disaster aid. Because homeowners know that disaster aid will be available after an earthquake, the Federal Government is in effect subsidizing inadequate home construction.

Any solution to the earthquake hazard and insurance problem must reduce the risks that Americans face from earthquakes, while minimizing the social and financial disruption after a major earthquake, and reducing the unfunded liability now shouldered by the Federal Government in the form of disaster aid, A Federal program that links earthquake hazard mitigation and earthquake insurance can provide the legal and financial incentives to achieve all of these goals.

Mr. Speaker, our proposed legislation, which is modeled after the National Flood Insurance Program, has three primary objectives:

First. To reduce loss of life and property from earthquakes through a program of earthquake hazard mitigation.

Second. To protect homeowners from the disastrous impact of a major earthquake by providing low-cost insurance coverage to those who live in earthquake-prone areas.

Third. To protect the Federal Government, insurance industry, and other institutions from sudden and disruptive losses associated with major earthquakes.

Our legislation will empower the Director of FEMA, in conjunction with other agencies in the National Earthquake Hazards Reduction Program [NEHRP], to identify all States and communities in the United States that are at risk from earthquakes, and to establish criteria for reducing casualties and damages from earthquakes. These loss reduction criteria will include not only earthquake-resistant construction standards for new homes, but also mitigation standards for all essential public structures, as well as lifelines such as water, power, communications, transport, and emergency services. Individual earthquake-prone States or communities will use these criteria to develop building codes and land use requirements that are appropriate to their individual level of earthquake risk. Any community that adopts acceptable loss reduction measures will be eligible to participate in the National Earthquake Insurance Program.

Earthquake-resistant construction is not expensive. Most estimates show that seismic safety design for new buildings will increase the construction costs, on average, by less than 1 percent. Furthermore, the greatest additional expense reflects the cost of educating architects and builders; in most cases there is no need for expensive new materials. As the design community becomes more familiar with the techniques necessary for earthquake safety, many construction projects can be made earthquake safe with no appreciable rise in construction costs.

The cost of making old buildings safer is more difficult to assess. For many structures, very simple, inexpensive provisions will be sufficient, such as bracing gas water heaters, or anchoring wood-frame houses more securely to their foundations. Only in the case of seismically hazardous essential public structures, such as hospitals and fire stations, might substantial renovation be required.

The Federal Government will provide earthquake insurance for any community that adopts acceptable measures for reducing damage from earthquakes. All homeowners or home buyers in earthquake-prone areas who finance their homes with federally backed loans will be required to purchase this insurance. Premiums will be deposited into a National Earthquake Insurance fund, from which payments for earthquake losses will be drawn. No Federal assistance or federally backed loans will be available on homes that are in violation of adopted local or State seismic building codes. Furthermore, communities that choose not to adopt adequate building codes and land use planning will be ineligible for Federal assistance and loans for development.

These provisions have the effect of mandating earthquake-resistent construction—for all buildings and facilities, not just private homes—in earthquake-prone regions. The message is simple: The Federal Government should not subsidize the construction of unsafe homes and facilities, and it should not accept the risk associated with such buildings.

The National Earthquake Insurance Program would have the effect of providing affordable insurance for all homeowners who live in earthquake-prone regions. Today, the cost of earthquake insurance is unreasonably high. This is because there are too few policyholders, so insurance companies cannot sufficiently spread the risk. A National Earthquake Insurance Program would lower the price of earthquake insurance, even in areas of high risk. Rates would reflect the type of construction and degree of risk, but old structures would be eligible for lower-than-actuarial rates, in order to keep insurance affordable. Annual premiums for homeowners in low risk, areas would be negligible. Those who live in areas of no known earthquake risk would pay nothing at all.

In addition to insurance for homeowners, this legislation would establish a reinsurance program and fund in order to assure necessary insurance coverage for the secondary results of a major earthquake, such as fire, liability, and workman's compensation. This program will guarantee that insurance companies will be able to pay all claims resulting indirectly from an earthquake, without excessively depleting insurance industry reserves. The reinsurance program would be activated after an earthquake only if the insurance industry sustains losses in excess of 10 percent of the total value of their premiums.

Insurance rates charged to the industry will be determined on a strictly actuarial basis. Premiums will be paid into a national earthquake reinsurance fund, from which reinsurance losses covered by the program will be paid. Should the fund be depleted, the director of the program is empowered to borrow necessary additional funds from the Treasury. These funds will be repaid by future premiums deposited into the reinsurance program.

Many people will look at the teeth of this bill and conclude that they are too sharp, that they pose too serious a threat to communities across the Nation. I can understand this reaction, but urge all observers to do a careful analysis of both my legislation and the real dimension of the earthquake risk before jumping to conclusions. It is important to recognize that local communities will have the responsibility of developing their own approach to meeting the guidelines issued by the Government, that FEMA will have a year after enactment of the legislation to issue thse guidelines, and that communities will get another 18 months after that to develop their mitigation

plan. The additional expense of earthquake resistant construction is far less than some have suggested, while the benefits of such measures must not be overlooked.

I have studied the issue of earthquake insurance at great length, with the help of many outside experts, and have concluded that without appropriate mitigation provisions, a nationwide earthquake insurance program would not adequately protect the national interest, and without a tough enforcement provision, communities will not take the necessary steps to prepare for a major earthquake.

The legislation we are introducing today contains the best mechanism we could come up with to achieve a successful earthquake insurance program. We know that this is only the beginning of the process, and we look forward to discussing this legislation with representatives of the building, banking and insurance industries, as well as city, State, and county officials.

Mr. Speaker, our legislation offers a comprehensive approach to the problems of earthquake hazards and earthquake insurance. We have developed a strategy that provides incentives for earthquake-prone communities to build safer homes, buildings and lifelines, by linking the damage reduction and insurance programs directly to the availability of federally backed loans and assistance for any and all development in earthquake-prone areas. We believe that this program will save the Federal Government billions of dollars, by lessening the immediate impact of major earthquakes, substantially reducing the need for Federal disaster relief, and hastening the recovery process. More importantly, by achieving these goals, the program will save lives and protect the property of the nearly 200 million Americans who live in earthquake-prone regions. we must start preparing for earthquakes now, rather than merely responding to them. The time has come to reduce the disastrous consequences of major urban earthquakes. I urge my colleagues to join with us to cosponsor this important piece of legislation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. DURBIN), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MACHTLEY) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, today and 60 minutes, on April 19, 26, and 60 minutes, on May 2 and 3.

Mr. YOUNG of Florida, for 60 minutes, on April 18.

Mr. BEREUTER, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, on April 18.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. LAUGHLIN, for 5 minutes, today.

Mr. WASHINGTON, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HARRIS, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. DYSON, for 5 minutes, today.

Mr. DONNELLY, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BROWN of California, for 60 minutes, on April 24.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

(The following Member (at the request of Mr. LAUGHLIN) to revise and extend his remarks and include extraneous material:)

Mr. PANETTA, for 60 minutes, today.

(The following Members (at the request of Mr. BROWN of California) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of New York, for 60 minutes, on April 25.

Mr. JONTZ, for 60 minutes, on April 18.

Ms. LONG, for 60 minutes, on April 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MACHTLEY) and to include extraneous matter:)

Mr. COURTER.

Mr. RINALDO.

Mr. BAKER.

Mr. PURSELL.

Mr. PARRIS in two instances.

Mr. THOMAS of California.

Mr. WHITTAKER.

Mr. DORNAN of California in two instances.

Mrs. ROUKEMA in two instances.

Mr. SOLOMON.

Mr. LEWIS of California.

Mr. ARCHER.

Mrs. MARTIN of Illinois.

Ms. SCHNEIDER.

Mr. VANDER JAGT.

Mr. BROOMFIELD in two instances.

Mr. LENT.

Mr. GEKAS.

Mr. IRELAND.

Mr. MACHTLEY in five instances.

Mr. BLILEY.

Mr. GILMAN in three instances.

Ms. ROS-LEHTINEN in three instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. NEAL of Massachusetts in two instances.

Mr. RAY.

Mr. DINGELL in three instances.

Mr. WEISS.

Mr. JONTZ.

Mrs. COLLINS in two instances.

Mr. JACOBS.

Mr. YATRON.

Mr. BEILENSON.

Mr. TORRICELLI.

Mr. HARRIS in two instances.

Mr. BRUCE in two instances.

Mr. GUARINI.

Mr. STARK in two instances.

Mr. ROWLAND of Georgia.

Mr. DORGAN of North Dakota.

Mr. NELSON of Florida.

Mr. JONES of North Carolina.

Mr. SWIFT.

Mr. SAWYER.

Mr. THOMAS of Georgia.

Mr. LAFALCE.

Mr. SABO.

Mr. HUTTO.

Mr. COOPER.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1781. An act to establish as the policy of the United States the preservation, protection, and promotion of the rights of Native Americans to use, practice and develop Native American languages, to take steps to foster such use, practice and development, and for other purposes; to the Committee on Education and Labor.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval a joint resolution of the House of the following title:

On April 3, 1990:

H.J. Res. 500. Resolution to designate April 6, 1990, as "Education Day, U.S.A."

ADJOURNMENT TO WEDNESDAY, APRIL 18, 1990

Mr. BROWN of Californa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. LEWIS of Georgia). Pursuant to the provisions of House Concurrent Resolution 299, 101st Congress, the House stands adjourned until 12 noon, Wednesday, April 18, 1990.

Thereupon (at 5 o'clock and 22 minutes p.m.), pursuant to House Concurrent Resolution 299, the House adjourned until Wednesday, April 18, 1990, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2916. A letter from the Secretary of Housing and Urban Development, transmitting the Department's first report on the Supportive Housing Demonstration Program, pursuant to 42 U.S.C. 11387; to the Committee on Banking, Business and Urban Affairs.

2917. A letter from the Attorney General, transmitting the 1989 annual report on recommendations for coordination of Federal juvenile delinquency programs and activities, pursuant to 42 U.S.C. 5616(c); to the Committee on Education and Labor.

2918. A letter from the Secretary of Health and Human Services, transmitting the seventh report on the status of health personnel in the U.S. health professions, pursuant to 42 U.S.C. 292h(d) (1), (2); to the Committee on Energy and Commerce.

2919. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to require the Secretary of Health and Human Services to impose fees under the Federal Food, Drug, and Cosmetic Act for the review of applications for marketing approval for new human and animal drugs, antibiotics, medical devices, biological products, and for other purposes; to the Committee on Energy and Commerce.

2920. A letter from the General Counsel, Federal Housing Finance Board, transmitting a report on the Board's activities under the Freedom of Information Act, during calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2921. A letter from the Acting Solicitor, U.S. Commission on Civil Rights, transmitting a report of the Commission's activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552; to the Committee on Government Affairs.

2922. A letter from the Secretary of Energy, transmitting the 1989 annual report of the Bonneville Power Administration, pursuant to Public Law 89-448, section 3(a) (80 Stat. 200); to the Committee on Interior and Insular Affairs.

2923. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the interim report on the Demonstration Program of Mandatory Drug Testing of Criminal Defendants, pursuant to Public Law 100-690, section 7304(f) (102 Stat. 4465); to the Committee on the Judiciary.

2924. A letter from the Secretary of Transportation, transmitting the annual report of the Maritime Administration for the fiscal year 1989, pursuant to 46 U.S.C. app. 1118; to the Committee on Merchant and Fisheries.

2925. A letter from the U.S. Trade Representative, transmitting a copy of a report describing petitions filed and investigations conducted concerning certain unfair intenational trade practices, pursuant to 19 U.S.C. 2419; to the Committee on Ways and Means.

2926. A letter from the U.S. Institute of Peace, transmitting the second biennial report of the U.S. Institute of Peace, covering fiscal years 1988 and 1989, pursuant to 22 U.S.C. 4611; jointly, to the Committees on Foreign Affairs and Education and Labor.

2927. A letter from the President, U.S. Institute of Peace, transmitting the audit of the Institute's accounts for the fiscal year 1989 conducted by certified accountants from the firm of Ernst & Young, pursuant to 22 U.S.C. 4611; jointly, to the Committees on Foreign Affairs and Education and Labor.

2928. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a copy of report entitled "Surveillance and Enforcement of Sewage Sludge Dumping," pursuant to Public Law 100-688, section 1004 (102 Stat. 4150); jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

2929. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting a copy of report entitled "Progress in Stopping Ocean Dumping," pursuant to Public Law 100-688, section 1002 (102 Stat. 4148); jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

2930. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to withdraw certain public lands in Eddy County, NM, and for other purposes; jointly, to the Committees on Armed Services, Energy and Commerce, and Interior and Insular Affairs.

2931. A letter from the Assistant Secretary of the Interior (Policy, Budget and Administration), transmitting the Bureau of Land Management and the Fish and Wildlife Service reports on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act through March 1, 1990, pursuant to Public Law 101-121, section 318(h) (103 Stat. 750); jointly, to the Committees on Appropriations, Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEREUTER:

H.R. 4461. A bill to revise the National Flood Insurance Program to provide for mitigation insurance coverage and claims payments to reduce damages to structures suffering severe or repetitive flooding or subject to shoreline erosion, to promote compliance with requirements for mandatory purchase of flood insurance, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROWN of California (for himself and Mr. BOEHLERT):

H.R. 4462. A bill to require earthquake hazard reduction measures and establish a Federal earthquake insurance and reinsurance program, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONTE (for himself, Mr. MINETA, and Mr. WHITTEN):

H.R. 4463. A bill to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the east court of the National Museum of Natural History building, and for other purposes; jointly, to the Committee on House Administration and Public Works and Transportation.

By Mr. STARK:

H.R. 4464. A bill to amend title XVIII of the Social Security Act to require periodic certification of the qualification of physicians as a condition of payment for physicians' services under the Medicare Program; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. DE LA GARZA (for himself and Mr. MADIGAN):

H.R. 4465. A bill to encourage, promote, and support tree planting and forest improvement projects on non-Federal lands, to authorize the Secretary of Agriculture to establish a rural tree planting program and a community tree planting program, to authorize the President to designate a private nonprofit organization as the National Tree Trust Foundation, and for other purposes; to the Committee on Agriculture.

By Mr. DE LUGO (for himself and Mr. BLAZ):

H.R. 4466. A bill to amend title 32, United States Code, to authorize the Governors of the Virgin Islands and Guam (rather than the President) to appoint the adjutant general for their respective National Guards; to the Committee on Armed Services.

By Mr. DELLUMS (for himself and Mr. MILLER of California):

H.R. 4467. A bill to rename the Ernest Orlando Lawrence Livermore National Laboratory; to the Committee on Armed Services.

By Mr. DONNELLY (for himself and Mr. STUDDS):

H.R. 4468. A bill to amend the Internal Revenue Code of 1986 to modify the employment tax treatment of certain crew members on fishing vessels; to the Committee on Ways and Means.

By Mr. GEJDENSON:

H.R. 4469. A bill to amend title 10, United States Code, to require the Secretary of the Navy to permit and facilitate the construction in U.S. shipyards and related facilities of combatant vessels and components for allies of the United States; to the Committee on Armed Services.

By Mr. WAXMAN:

H.R. 4470. A bill to amend the Public Health Service Act to establish a program of grants to provide preventive health services with respect to acquired immune deficiency sydrome; to the Committee on Energy and Commerce.

By Mr. GEJDENSON (for himself and Mr. MILLER of Washington):

H.R. 4471. A bill to make persons who are nationals of countries that are members of the European Community ineligible to certify products produced outside the United

States for compliance with occupational safety and health standards and requirements established by the Secretary of Labor until the Secretary of Commerce certifies that the European Community is setting product standards and requirements in an open and fair manner and has established equitable rules for the testing and certifying products for compliance with product standards and requirements; to the Committee on Education and Labor.

H.R. 4472. A bill to make persons who are nationals of countries that are members of the European Community ineligible to certify products produced outside the United States of compliance with energy conservation requirements prescribed under the Energy Policy and Conservation Act, until the Secretary of Commerce certifies that the European Community is setting product standards and requirements in an open and fair manner and has established equitable rules for testing and certifying products for compliance with product standards and requirements; to the Committee on Energy and Commerce.

H.R. 4473. A bill to make persons who are nationals of countries that are members of the European Community ineligiible to certify products produced outside the United States for compliance with standards and requirements established by the Food and Drug Administration for medical devices, electronic products, infant formula, animal feeds and drugs, drugs intended for human use, food, and color additives until the Secretary of Commerce certifies that the European Community is setting product standards and requirements in an open and fair manner and has established equitable rules for testing and certifying products for compliance with product standards and requirements; to the Committee on Energy and Commerce.

H.R. 4474. A bill to make persons who are nationals of countries that are members of the European Community ineligible to test or certify products produced outside the United States for compliance with emission standards and requirements issued under the Clean Air Act, until the Secretary of Commerce certifies that the European Community is setting product standards and requirements in an open and fair manner and has established equitable rules for testing and certifying products for compliance with product standards and requirements; to the Committee on Energy and Commerce.

By Mr. ROWLAND of Georgia (for himself, Mr. TAUKE, Mr. DERRICK, Mr. BLILEY, Mr. THOMAS of Georgia, Mr. LEWIS of California, Mr. SOLOMON, Mr. FAZIO, Mr. SMITH of New Hampshire, Mr. BROWN of California, Mrs. PATTERSON, Mr. YOUNG of Alaska, Mr. MATSUI, Mr. SARPALIUS, Mr. KOLTER, Mr. MURPHY, Mr. TOWNS, and Mr. YOUNG of Florida):

H.R. 4475. A bill to amend title XVIII of the Social Security Act to provide relief from certain Medicare regulations relating to physicians services; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GEJDENSON (for himself and Mr. MILLER of Washington):

H.R. 4476. A bill to make persons who are nationals of countries that are members of the European Community ineligible to test or certify products produced outside the United States for compliance with certain standards and requirements of the Federal Communications Commission, until the Secretary of Commerce certifies that the European Community is setting product standards and requirements in an open and fair manner and has established equitable rules for testing and certifying products for compliance with product standards and requirements; to the Committee on Energy and Commerce.

By Mr. GLICKMAN (for himself, Mr. ECKART, Mr. OLIN, Mr. LEACH of Iowa, Mr. FRANK, Mr. SWIFT, and Mr. WYDEN):

H.R. 4477. A bill to establish a Markets and Trading Commission in order to combine the functions of the Commodity Futures Trading Commission and the Securities and Exchange Commission in a single independent regulatory commission, and for other purposes; jointly, to the Committees on Energy and Commerce and Agriculture.

By Mr. GUARINI (for himself, Mr. ROE, Mr. HUGHES, Mr. PAYNE of New Jersey, Mr. PALLONE, Mr. TORRICELLI, Mr. DWYER of New Jersey, Mr. GALLO, Mrs. ROUKEMA, Mr. COURTER, Mr. SAXTON, Mr. SMITH of New Jersey, and Mr. RINALDO):

H.R. 4478. A bill to amend the Hazardous Liquid Pipeline Safety Act of 1979 to require the Secretary of Transportation to promulgate regulations to ensure the safety of underwater pipelines, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. HALL of Ohio:

H.R. 4479. A bill to require that reports to Congress by the Department of Agriculture contain any comments of principal investigators outside the Department whose studies were used in such reports about departmental summaries; to the Committee on Agriculture.

By Mr. SWIFT (for himself, Mr. DREIER of California, Mr. MOAKLEY, Mr. BRUCE, Mr. TANNER, Mr. MCCLOSKEY, Mr. BILBRAY, Mr. LEWIS of California, and Mr. CAMPBELL of California):

H.R. 4480. A bill to facilitate the provision of homeowners insurance against the risk of catastrophic earthquakes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DORGAN of North Dakota (for himself, Mr. FLIPPO, Mr. SYNAR, Mr. TAUKE, Mr. PICKLE, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. PENNY, Mr. STANGELAND, Mr. VOLKMER, Mr. STENHOLM, Mr. EMERSON, Mr. ALEXANDER, Mrs. SMITH of Nebraska, Mr. LANCASTER, Mr. GRANT, Mr. RAHALL, Mr. POSHARD, Mr. SARPALIUS, Mr. ESPY, Mr. WATKINS, Mr. UPTON, Mr. HARRIS, Mr. SMITH of Texas, Mr. GUNDERSON, Mr. ENGLISH, and Mr. ROWLAND of Georgia):

H.R. 4481. A bill to amend title XVIII of the Social Security Act to equalize the standardized amounts paid to hospitals located in rural and urban areas for the operating costs of inpatient hospital services under part A of the Medicare Program, and for other purposes; to the Committee on Ways and Means.

By Mr. STENHOLM (for himself, Mr. TAUKE, Mr. SYNAR, Mr. ALEXANDER, Mr. BOUCHER, Mr. BRUCE, Mr. COMBEST, Mr. COOPER, Mr. DAVIS, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. EMERSON, Mr. ESPY, Mr. GRANT, Mr. HALL of Texas, Mr. HARRIS, Mr. HATCHER, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. LANCASTER, Mr. POSHARD, Mr. RAHALL, Mr. ROWLAND of Georgia, Mr. SARPALIUS, Mr. SLATTERY, Mr. SMITH of Texas, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. UPTON, Mr. VOLKMER, and Mr. WATKINS):

H.R. 4482. A bill to amend the Public Health Service Act to establish a program of grants to the States with respect to offices of rural health; to the Committee on Energy and Commerce.

By Mr. DORGAN of North Dakota (for himself, Mr. RICHARDSON, Mr. SYNAR, Mr. TAUKE, Mr. JONTZ, Mr. JOHNSON of South Dakota, Mr. PENNY, Mr. VOLKMER, Mr. STANGELAND, Mr. EMERSON, Mr. LANCASTER, Mr. GRANT, Mr. BOUCHER, Mr. RAHALL, Mr. POSHARD, Mr. ESPY, Mr. SMITH of Texas, Mr. HALL of Texas, Mr. BATES, Mr. TOWNS, Mr. DEFAZIO, Ms. SNOWE, Ms. SCHNEIDER, Mr. SCHIFF, Mrs. SMITH of Nebraska, and Mr. WILLIAMS):

H.R. 4483. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of nurse practitioner and clinical nurse specialist services provided in rural areas; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BRUCE (for himself, Mr. FALEOMAVAEGA, Mr. POSHARD, Mr. TOWNS, Mrs. COLLINS, Mr. FUSTER, Ms. PELOSI, Mr. FOGLIETTA, Mr. KOLTER, Mr. KILDEE, Mrs. BENTLEY, Mr. ENGEL, Mr. WALGREN, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. VOLKMER, Mr. SYNAR, Mr. COOPER, Mr. ALEXANDER, Mr. STANGELAND, Mr. DORGAN of North Dakota, Mr. EMERSON, Mr. ESPY, Mr. SARPALIUS, Mr. BOUCHER, Mr. RAHALL, Mrs. SMITH of Nebraska, Mr. SLATTERY, Mr. GRANT, Mr. WATKINS, Mr. SMITH of Texas, Mr. HARRIS, Mr. HALL of Texas, and Mr. LANCASTER):

H.R. 4484. A bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish a Division of Allied Health Professions within the Health Resources and Services Administration, to initiate a pilot program concerning allied health research, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BRUCE (for himself, Mr. MOODY, Mr. MADIGAN, Mr. RICHARDSON, Mr. WYDEN, Mr. HALL of Texas, Mr. TAUKE, Mr. SYNAR, Mr. WHITTAKER, Mr. SMITH of New Jersey, Mr. KASTENMEIER, Mr. OBERSTAR, Mr. JOHNSON of South Dakota, Mr. GLICKMAN, Mr. HEFNER, Mr. NIELSON of Utah, Mr. SMITH of Texas, Mr. SHAYS, Mr. AKAKA, Mr. ROSE, Mr. KILDEE, Mr. CHAPMAN, Mr. GUNDERSON, Mr. ALEXANDER, Mr. STANGELAND, Mr. CRAIG, Mr. FAZIO, Mr. ROWLAND of Connecticut, Mr. DURBIN, Ms. PELOSI, Mr. MURTHA, Mr. ENGLISH, Mr. PAYNE OF VIRGINIA, Mr. JOHNSTON of Florida, Mr. NAGLE, Mr. MARKEY, Mr. SCHIFF, Mr. SAWYER, Mr. SLATTERY, Mr. YATRON, Mr. ROBERTS, Mr. WILLIAMS, Mr. LIGHTFOOT, Mrs. SAIKI, Mr. PENNY, Mr. COOPER, Mr. EMERSON, Mr. ESPY, Mr. HARRIS, Mr. MAVROULES, Mr. EVANS, Mr. MORRISON of Connecticut, Mr. CROCKETT, Mr. SKELTON, Mr. THOMAS A. LUKEN, Mr. HUTTO, Mr. ROWLAND of Georgia, Mr. SARPALIUS, Mr. RAHALL, Mrs. SMITH of Nebraska, Mr. BEREUTER, and Mr. GRANT):

H.R. 4485. A bill to amend title XVIII of the Social Security Act with respect to payment for certified registered nurse anesthetists under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WYDEN (for himself, Mr. TAUKE, Mr. WALGREN, Mrs. UNSOELD, Mr. BOEHLERT, Mr. SHAYS, Mr. STAGGERS, Mr. MCDERMOTT, Mr. FAUNTROY, Mr. DORGAN of North Dakota, Mr. ATKINS, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. HARRIS, Mr. MARTIN of New York, Mr. LEWIS of Georgia, Mr. GLICKMAN, Mr. LIGHTFOOT, Mr. FROST, Mr. RAHALL, Mr. STALLINGS, Mr. JACOBS, Mr. WOLPE, Mr. JONTZ, Mr. SYNAR, Mr. DEFAZIO, Mr. HATCHER, Mr. MORRISON of Washington, Mr. NEAL of North Carolina, Mr. ROWLAND of Connecticut, Mr. PENNY, Mr. NAGLE, Mr. AUCOIN, Mr. MCNULTY, Mr. MOODY, Mr. WILLIAMS, Mr. NIELSON of Utah, Mr. RHODES, Mr. STANGELAND, Mr. COOPER, Mr. EMERSON, Mr. ESPY, Mrs. SMITH of Nebraska, Mr. WATKINS, Mr. BEREUTER, and Mr. SMITH of TEXAS):

H.R. 4486. A bill to amend title XVIII of the Social Security Act to permit payment under the Medicare Program for services of physician assistants in all settings; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RICHARDSON (for himself, Mr. COOPER, Mr. SLATTERY, Mr. WAXMAN, Mr. TAUKE, Mr. SYNAR, Mr. ALEXANDER, Mr. BRYANT, Mr. BOUCHER, Mr. DORGAN of North Dakota, Mr. EMERSON, Mr. ESPY, Mr. GORDON, Mr. GRANT, Mr. HARRIS, Mr. JOHNSON of South Dakota, Mr. JONTZ, Mr. POSHARD, Mr. PRICE, Mr. RAHALL, Mr. ROWLAND of Georgia, Mr. SARPALIUS, Mrs. SMITH of Nebraska, Mr. SMITH of Texas, Mr. STANGELAND, Mr. TOWNS, Mr. WATKINS and Mr. WISE):

H.R. 4487. A bill to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps and to establish a program of grants to the States with respect to offices of rural health;

BY Mr. HASTERT:

H.R. 4488. A bill to amend the Internal Revenue Code of 1986 with respect to method of rounding used in adjusting tax rates and certain other amounts for inflation; to the Committee on Ways and Means.

By Mr. HOAGLAND:

H.R. 4489. A bill to amend the Federal Deposit Insurance Act to provide that the liability of certain depository institutions for losses incurred by affiliate depository institutions does not cease after the affiliation ceases; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HOCHBRUECKNER (for himself, Mr. BROWN of California, Mr. TALLON, Mr. OLIN, Mr. DYSON, Mr. GORDON, Mr. MRAZEK, Mr. ROE, Mr. STOKES, Mr. SCHEUER, Mr. MORRISON of Connecticut, Mr. GEJDENSON, Mr. DOWNEY, and Mr. ENGLE):

H.R. 4490. A bill to require the Secretary of Agriculture to conduct research on composting of wastes; to the Committee on Agriculture.

Mr. JONES of North Carolina:

H.R. 4491. A bill to amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203); to the Committee on Merchant Marine and Fisheries.

By Mr. JONTZ (for himself, Mr. KOSTMAYER, Mr. BROWN of California, Ms. SCHNEIDER, Mr. MRAZEK, Mr. STARK, Mr. BRYANT, Mr. SCHEUER, Mr. RAVENEL, Ms. SLAUGHTER of New York, Mr. HOAGLAND, Mr. DELLUMS, Mr. EDWARDS of California, Ms. PELOSI, Mr. MORRISON of Connecticut, Mr. ROE, Mr. BEILENSON, Mr. HOCHBRUECKNER, Mr. MFUME, Mr. NAGLE, Mr. LEWIS of Georgia, Mr. JOHNSTON of Florida, Mr. LANTOS, Mr. KASTENMEIER, and Mr. PORTER):

H.R. 4492. A bill to provide for the protection of the remaining ancient forests on the Federal lands of the States of Washington, Oregon, and California, and for other purposes: jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. KENNEDY (for himself, Mr. CONYERS, Mr. WHEAT, Mrs. LOWEY of New York, Mr. MCCURDY, Mr. SCHEUER, Mr. ROSE, Mr. HOYER, Mr. ATKINS, Mr. ENGEL, Mr. FLAKE, Mr. TRAFICANT, Mr. SAWYER, Ms. OAKAR, Mrs. SCHROEDER, Mr. VENTO, Mr. SERRANO, Mr. SIKORSKI, Mr. TORRICELLI, Mr. KASICH, Mr. NEAL of Massachusetts, Mr. LAFALCE, Mr. WEISS, Mr. ACKERMAN, and Mr. FAUNTROY):

H.R. 4493. A bill to require health warnings to be included in alcoholic beverage advertisements and for other purposes; to the Committee on Energy and Commerce.

By Mr. LAFALCE (for himself, Mr. MCDADE, and Mr. OLIN):

H.R. 4494. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to limit the liability under that act of lending institutions acquiring facilities through foreclosure or similar means and corporate fiduciaries administering estates or trusts; to the Committee on Energy and Commerce.

By Mr. LAUGHLIN (for himself, Mr. ALEXANDER, Mr. ARCHER, Mr. BARTON of Texas, Mr. BRYANT, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. CLEMENT, Mr. COSTELLO, Mr. COLEMAN of Texas, Mr. DELAY, Mr. FIELDS, Mr. FROST, Mr. GEREN, Mr. HALL of Texas, Mr. LEATH of Texas, Mr. ORTIZ, Mr. PARKER, Mr. SARPALIUS, Mr. STENHOLM, Mr. TANNER, and Mr. WILSON):

H.R. 4495. A bill to amend section 1867 of the Social Security Act to require that, before enforcing sanctions under the hospital "anti-dumping" provisions, a peer review organization must find that a violation has occurred; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. LLOYD (for herself, Mr. HORTON, Mr. COBLE, Mr. HALL of Texas, Mr. CARPER, Mr. LEVIN of Michigan, Mr. LAUGHLIN, Mr. SCHEUER, Mr. REGULA, Mr. RIDGE, Mr. RINALDO, Mr. RITTER, Mr. ROBINSON, Mr. ROE, Mr. ROGERS, Mr. ROSE, Mrs. ROUKEMA, Mr. ROWLAND of Georgia, Mr. RUSSO, Mr. SABO, Mr. SANGMEISTER, Mr. SARPALIUS, Ms. SCHNEIDER, Mr. SCHUETTE, Mr. SHUSTER, Mr. SISISKY, Mr. SKEEN, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Florida, Ms. SNOWE, Mr. SOLOMON, Mr. SPENCE, Mr. SPRATT, Mr. STAGGERS, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. TALLON, Mr. TANNER, Mr. TAUZIN, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. VALENTINE, Mr. MCCLOSKEY, Mr. MCMILLAN of North Carolina, Mr. MCMILLEN of Maryland, Mr. MACHTLEY, Mr. MANTON, Mr. MARKEY, Mr. MARTIN of New York, Mr. MAVROULES, Mr. MFUME, Mr. MILLER of Ohio, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. MURTHA, Mr. NAGLE, Mr. NATCHER, Mr. NEAL of North Carolina, Mr. NOWAK, Mr. MRAZEK, Ms. OAKAR, Mr. OBERSTAR, Mr. OLIN, Mr. ORTIZ, Mr. OWENS of New York, Mr. PARKER, Mr. PARRIS, Mr. PASHAYAN, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. PICKETT, Mr. POSHARD, Mr. PRICE, Mr. QUILLEN, Mr. RAHALL, Mr. RAVENEL, Mr. RAY, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDREWS, Mr. ANTHONY, Mr. APPLEGATE, Mr. ASPIN, Mr. BALLENGER, Mr. BARNARD, Mrs. BENTLEY, Mr. BEVILL, Mr. BILBRAY, Mr. BOEHLERT, Mrs. BOGGS, Mr. CLEMENT, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Mr. BRENNAN, Mr. BROWDER, Mr. BUSTAMANTE, Mr. BRUCE, Mr. BRYANT, Mrs. BYRON, Mr. CALLAHAN, Mr. CHAPMAN, Mr. CLARKE, Mr. CLAY, Mr. TRAXLER, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. COMBEST, Mr. CONTE, Mr. COOPER, Mr. COYNE, Mr. DARDEN, Mr. DAVIS, Mr. DELLUMS, Mr. DERRICK, Mr. DICKINSON, Mr. DONNELLY, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EMERSON, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FASCELL, Mr. FAZIO, Mr. FLIPPO, Mr. FORD of Tennessee, Mr. FRANK, Mr. FROST, Mr. GAYDOS, Mr. GEPHARDT, Mr. GILMAN, Mr. GINGRICH, Mr. GOODLING, Mr. GORDON, Mr. GRANT, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HOLLOWAY, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. VOLKMER, Mr. WALGREN, Mr. WATKINS, Mr. WEISS, Mr. WELDON, Mr. WHITTEN, Mr. WILLIAMS, Mr. WILSON, Mr. WISE, Mr. YATRON, Mr. YOUNG of Alaska, Mr. JENKINS, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Mr. KOLTER, Mr. LEHMAN of California, Mr. LANCASTER, Mr. LEATH of Texas, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. LONG, Mr. THOMAS A. LUKEN, Mr. HUNTER, Mr. HUTTO, Mr. SLAUGHTER of Virginia, Mr. COSTELLO, Mr. FLAKE, Mr. GEREN, Mr. GRAY, Mr. SERRANO, Mr. GUARINI, and Mr. LEHMAN of Florida):

H.R. 4496. A bill to provide for orderly imports of textiles, apparel, and footwear; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. RINALDO, Mr. WYDEN, Mr. DINGELL, Mr. RICHARDSON, Mr. MOORHEAD, and Mr. MCMILLEN of Maryland):

H.R. 4497. A bill to amend the Federal securities laws to eliminate abuses in transactions in penny stocks, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MILLER of California (for himself, Mr. BEILENSON, Ms. PELOSI, Mr. HAYES of Illinois, Mr. STARK, Mr. KLECZKA, Mr. VENTO, Mr. OWENS of Utah, Mr. RANGEL, Mr. FAUNTROY,

Mr. BATES, Mr. TOWNS, Mr. EDWARDS of California, Ms. KAPTUR, Mr. RAHALL, Mr. MARKEY, Mr. KOSTMAYER, Mr. GEJDENSON, Mrs. SAIKI, Mrs. BOXER, Mr. FRANK, Mr. TORRES, Mr. ATKINS, Mr. MCDERMOTT, Mr. YATES, Mr. COLEMAN of Texas, Mr. LEHMAN of Florida, Mr. WEISS, Mr. PALLONE, and Ms. SCHNEIDER):

H.R. 4498. A bill to amend the Colorado River Storage Project Act, to direct the Secretary of the Interior to establish and implement emergency interim operational criteria at Glen Canyon Dam, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOORHEAD (for himself, and Mr. LOWERY of California):

H.R. 4499. A bill to authorize additional appropriations to increase Border Patrol personnel to 6,600 by the end of fiscal year 1992 and to make available amounts in the Department of Justice Assets Forfeiture Fund for this additional Border Patrol personnel; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 4500. A bill to amend the Walsh-Healey Act to provide that contracts for processed food will be covered by that act; to the Committee on the Judiciary.

By Mr. PARKER:

H.R. 4501. A bill to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PAXON:

H.R. 4502. A bill to amend the Low-Level Radioactive Waste Policy Act to prohibit the disposal of low-level radioactive waste at a site where the Secretary of Energy has expended Federal funds to decontaminate a facility used to store high-level radioactive waste; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. PEASE:

H.R. 4503. A bill to protect the integrity of the Social Security trust funds and to reform the budget process; to the Committee on Government Operations.

By Mr. ROTH:

H.R. 4504. A bill to repeal the prohibition on security assistance and arms sales for Chile; to the Committee on Foreign Affairs.

By Mrs. ROUKEMA (for herself, Mr. ANNUNZIO, Mr. BOSCO, Mr. CONTE, Mr. DEFAZIO, Mr. DOWNEY, Mr. LAFALCE, Mr. FASCELL, Mr. FAZIO, Mr. FOGLIETTA, Mr. GALLO, Mr. GUARINI, Mr. LAGOMARSINO, Mr. MAZZOLI, Mr. MILLER of California, Mr. MOAKLEY, Mrs. MORELLA, Mr. OBERSTAR, Mr. PALLONE, Mr. PANETTA, Ms. PELOSI, Mr. RINALDO, Mr. RUSSO, Mr. TORRICELLI, Mr. TRAFICANT, and Mr. VENTO):

H.R. 4505. A bill to require the Secretary of the Treasury to issue a series of engravings in commemoration of the 500th anniversary of the discovery of America by Christopher Columbus; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROWLAND of Georgia (for himself, Mr. WAXMAN, Ms. PELOSI, Mr. HOYER, and Mrs. BYRON):

H.R. 4506. A bill to require the Secretary of Health and Human Services to review and revise the list of dangerous contagious diseases used in the exclusion of aliens from the United States; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. SABO:

H.R. 4507. A bill to amend title XIX of the Social Security Act to clarify the coverage of personal care services under Medicaid plans; to the Committee on Energy and Commerce.

By Mr. SCHULZE (for himself, Mr. ARCHER, and Mrs. JOHNSON of Connecticut):

H.R. 4508. A bill to amend the Internal Revenue Code of 1986 to simplify the definitions of highly compensated employee and compensation for pension plan purposes, and for other purposes; to the Committee on Ways and Means.

By Mr. STANGELAND:

H.R. 4509. A bill to promote sustainable agriculture, integrated crop management, and best management practices systems that will increase farm profitability, strengthen efforts to protect surface and ground water quality and other natural resources, and for other purposes; jointly, to the Committees on Agriculture and Public Works and Transportation.

By Mr. STUDDS:

H.R. 4510. A bill to encourage boating and maritime safety and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 4511. A bill clarifying sections 27 of the Merchant Marine Act and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. THOMAS of California:

H.R. 4512. A bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income; to the Committee on Ways and Means.

By Mr. VENTO (for himself and Mr. SIKORSKI):

H.R. 4513. A bill to expedite the naturalization of aliens who served with special guerrilla units in Laos; to the Committee on the Judiciary.

By Mr. VENTO (for himself, Mr. UDALL, Mr. FASCELL, Mr. MILLER of California, Mr. RAHALL, Mr. DE LUGO, Mr. LAGOMARSINO, Mr. KOSTMAYER, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. GEJDENSON, and Mr. LEACH of Iowa):

H.R. 4514. A bill to require action to protect Antarctica by directing the Secretary of the Interior to prepare a plan for establishing an Antarctica World Park, to require interim protection of Antarctica, and for other purposes; jointly, to the Committees on Interior and Insular Affairs; Merchant Marine and Fisheries; Science, Space, and Technology; and Foreign Affairs.

By Mr. WALGREN:

H.R. 4515. A bill to authorize a high speed rail transportation development and commercialization program, to establish a national high speed rail transportation policy, to promote development and commercialization of high speed rail transportation by providing Federal guarantees of certain investments in high speed rail transportation facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WEISS:

H.R. 4516. A bill to amend title XIX of the Social Security Act to disregard reparation payments from the Federal Republic of Germany from the post-eligibility computation of income for individuals who are institutionalized or receiving home or community-based services; to the Committee on Energy and Commerce.

By Mr. WYDEN:

H.R. 4517. A bill to amend title XVI of the Social Security Act to give disabled individuals the same beneficial work incentives that are available to blind individuals; to the Committee on Ways and Means.

By Mr. WYDEN (for himself, Mr. VENTO, Mr. TAUKE, Mr. HORTON, Mr. SMITH of Florida, Mr. HUGHES, Mr. EMERSON, Mr. OWENS of New York, Mr. RANGEL, Mr. FOGLIETTA, Mrs. BOXER, Mr. BORSKI, Mr. BEREUTER, Mrs. SAIKI, Mr. LEWIS of Georgia, Mr. KOLTER, and Mrs. COLLINS):

H.R. 4518. A bill to amend title XIX of the Social Security Act to require coverage of respiratory care services for certain ventilator-dependent individuals under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS (for himself, Mr. SOLARZ, Mr. ROYBAL, Mr. GUARINI, Mr. HEFNER, Mr. MURPHY, Mr. AKAKA, Mr. MATSUI, Mr. BLILEY, Mr. DORNAN of California, Mr. MINETA, Mr. FASCELL, Mr. HENRY, Mr. HOYER, Mr. MONTGOMERY, Ms. SLAUGHTER of New York, Mr. RAVENEL, Mr. APPLEGATE, Mr. LEWIS of Florida, Mr. PARRIS, Mr. CRAIG, Mr. WOLF, Mr. RANGEL, Mr. TOWNS, Mr. BOEHLERT, Mr. WHITTAKER, Ms. KAPTUR, Mr. LAGOMARSINO, Mr. BATES, Mr. ROWLAND of Connecticut, Mr. HORTON, Ms. PELOSI, Mr. ROE, Mr. FAUNTROY, Ms. LONG, Mr. ESPY, Mr. DEFAZIO, Mr. MRAZEK, Mr. HAMMERSCHMIDT, Mrs. BOXER, Mr. BROWN of California, Mr. BOUCHER, Mr. DE LA GARZA, Mr. BROWN of Colorado, Mr. PAXON, Mr. MCDADE, Mr. EMERSON, Mr. SHUMWAY, Mr. MOAKLEY, Mr. MCNULTY, Mr. MCGRATH, Mr. BORSKI, Mr. BUSTAMANTE, Mr. YOUNG of Alaska, Mr. CARPER, Mr. MCDERMOTT, Mr. CLARKE, Mr. CLEMENT, Mr. BOSCO, Mr. BEVILL, Mr. EVANS, Mr. ROWLAND of Georgia, Mr. AUCOIN, Mr. NIELSON of Utah, Mr. CONYERS, Mr. DYMALLY, Mr. FUSTER, Mr. GILMAN, Mr. HATCHER, Mr. HUTTO, Mr. HYDE, Mr. IRELAND, Mr. JONES of Georgia, Mr. KOLTER, Mr. MILLER of Washington, Mr. LEWIS of California, Mr. DE LUGO, Mr. HARRIS, Mr. FROST, Mr. DERRICK, Mr. COSTELLO, Mr. BENNETT, Mr. OWENS of Utah, Mr. PALLONE, Mr. PASHAYAN, Mr. JONTZ, Mr. PURSELL, Mr. QUILLEN, Mr. ROSE, Mr. REGULA, Mr. SCHEUER, Mr. GEKAS, Mr. SPRATT, Mr. TALLON, Mr. TRAXLER, Mr. STOKES, Mr. SMITH of New Jersey, Mr. STAGGERS, Mr. TRAFICANT, Mr. FEIGHAN, Mr. SYNAR, Mr. FALEOMAVAEGA, Mr. HUGHES, Mr. YATRON, Mr. MCEWEN, Mr. PANETTA, Mr. STUMP, Mr. SCHIFF, Mr. SCHUETTE, Ms. OAKAR, Mr. BONIOR, Mr. DINGELL, Mr. FAZIO, Mr. VALENTINE, and Mr. JOHNSON of South Dakota):

H.J. Res. 543. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS:

H.J. Res. 544. Joint resolution congratulating Jones Metropolitan High School of Business and Commerce, on the 50th anniversary of its establishment; to the Committee on Post Office and Civil Service.

By Mr. CONTE (for himself, Mr. MINETA, and Mr. WHITTEN):

H.J. Res. 545. Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

By Mr. HARRIS (for himself, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOUCHER, Mr. BROWDER, Mr. COOPER, Mr. ESPY, Mrs. PATTERSON, Mr. PRICE, Mr. ROWLAND of Georgia, Mr. ERDREICH, Mr. FLIPPO, Mr. GRANT, Mrs. LLOYD, Mr. RAVENEL, Mr. PAYNE of Virginia, Mr. BARNARD, Mr. SOLOMON, Mr. THOMAS A. LUKEN, Mr. RAHALL, Ms. OAKAR, Mr. DERRICK, Mr. HAWKINS, Mr. TRAFICANT, Mr. PANETTA, Ms. SLAUGHTER of New York, Mr. ALEXANDER, Mr. LEATH of Texas, Mr. MCEWEN, Mr. HALL of Ohio, Mr. HUCKABY, Mr. MILLER of California, Mr. JENKINS, Mr. PARKER, Mr. ANTHONY, Mrs. BOGGS, Mr. GAYDOS, Mr. PICKLE, Mr. WHITTEN, Mr. MOLLOHAN, Mr. RHODES, Mr. LEWIS of California, Mr. UPTON, Mr. HAMMERSCHMIDT, Mr. CARDIN, Mr. DIXON, Mr. SMITH of Iowa, Mr. DWYER of New Jersey, and Mr. SAVAGE):

H.J. Res. 546. Joint resolution designating May 13, 1990, as Infant Mortality Awareness Day; jointly, to the Committees on Post Office and Civil Service and Energy and Commerce.

By Ms. ROS-LEHTINEN:

H.J. Res. 547. Joint resolution proposing an amendment to the Constitution of the United States to safeguard crime victims' rights; to the Committee on the Judiciary.

By Mr. WEBER (for himself, Mr. STENHOLM, Mr. JONES of North Carolina, Mr. BROWN of California, Mr. ROSE, Mr. HATCHER, Mr. TALLON, Mr. STAGGERS, Mr. STALLINGS, Mr. JONTZ, Mr. JOHNSON of South Dakota, Mr. HARRIS, Mr. CAMPBELL of Colorado, Mr. ESPY, Mr. SARPALIUS, Mr. DYSON, Mr. MADIGAN, Mr. MARLENEE, Mr. HOPKINS, Mr. STANGELAND, Mr. ROBERTS, Mr. EMERSON, Mr. GUNDERSON, Mr. LEWIS of Florida, Mr. ROBERT F. SMITH, Mr. SCHUETTE, Mr. GRANDY, Mr. WALSH, Mrs. BENTLEY, Mr. BROWN of Colorado, Mr. BRUCE, Mr. COSTELLO, Mr. DE LA GARZA, Mr. DORGAN of North Dakota, Mr. EVANS, Mr. HOCHBRUECKNER, Mr. HORTON, Ms. KAPTUR, Mr. KASICH, Mr. LEACH of Iowa, Mr. LIGHTFOOT, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MCEWEN, Mr. OBERSTAR, Mr. OXLEY, Mr. SHARP, Mr. TANNER, Mr. WHITTEN, Mr. NATCHER, Mr. BEVILL, Mr. TRAXLER, Mr. WILSON, Mr. MCHUGH, Mr. SABO, Mr. AKAKA, Mr. WATKINS, Mr. DWYER of New Jersey, Mr. CHAPMAN, Mr. RITTER, Mr. BUNNING, Mr. IRELAND, Mr. ANDERSON, Mr. BATEMAN, Mr. BOUCHER, Mr. LEVIN of Michigan, Mr. FAUNTROY, Mr. ORTIZ, Mr. BILIRAKIS, Mr. GREEN, Mr. SKEEN, Mr. GEKAS, Mr. NAGLE, Mr. CARPER, Mr. ROE, Mr. THOMAS A. LUKEN, Mr. WYDEN, Mr. SKELTON, Mr. PAYNE of New Jersey, Mr. HUGHES, Mr. MCCOLLUM, Mr. DYMALLY, Mr. ROYBAL, Mr. BONIOR, Mr. PARKER, Mrs. LLOYD, Mr. BURTON of Indiana, Mr. FALEOMAVAEGA, Mr. GALLEGLY, Mr. GOODLING, Mr. GRANT, Mr. HAMILTON, Mr. HUNTER, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. LIVINGSTON, and Mr. LEWIS of California.

H.J. Res. 548. Joint resolution designating the week of August 19 through 25, 1990, as "National Agricultural Research Week"; to the Committee on Post Office and Civil Service.

By Mr. WEISS:

H.J. Res. 549. Joint resolution designating the Mozart Bicentennial at the Lincoln Center in New York City, NY, as the national observance of the 200th anniversary of Wolfgang Amadeus Mozart's death; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT:

H. Con. Res. 299. Concurrent resolution providing for an adjournment of the House from April 4, 1990 to April 18, 1990 and a recess or adjournment of the Senate from April 5 or April 6, 1990; considered and agreed to.

By Mr. BILBRAY (for himself and Mrs. VUCANOVICH):

H. Con. Res. 300. Concurrent resolution commending the Runnin' Rebels of the University of Nevada at Las Vegas for winning the 1990 National Collegiate Athletic Association Men's Basketball Championship; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS (for himself, Mr. HAWKINS, Mr. CONYERS, Mr. CLAY, Mr. STOKES, Mr. RANGEL, Mr. FAUNTROY, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. DIXON, Mr. GRAY, Mr. CROCKETT, Mr. DYMALLY, Mr. SAVAGE, Mr. OWENS of New York, Mr. TOWNS, Mr. WHEAT, Mr. HAYES of Illinois, Mr. ESPY, Mr. FLAKE, Mr. LEWIS of Georgia, Mr. MFUME, Mr. PAYNE of New Jersey, and Mr. WASHINGTON):

H. Con. Res. 301. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1991, 1992, and 1993 by providing a blueprint for the Nation to reorder its fiscal and social priorities, resolve severe domestic crises, secure the national defense, and meet the global challenges of merging democracies and the developing world; to the Committee on the Budget.

By Mr. GOSS:

H. Con. Res. 302. Concurrent resolution expressing the sense of the Congress regarding terms of office for Members of the Congress; jointly, to the Committee on House Administration and the Judiciary.

By Mr. WEBER:

H. Con. Res. 303. Concurrent resolution commending the National Mental Health Leadership Forum and the National Advisory Mental Health Council for cosponsoring a series of public hearings addressing mental health topics; to the Committee on Energy and Commerce.

By Mr. HOYER:

H. Res. 375. Resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mrs. BENTLEY (for herself, Mrs. SAIKI, Mr. COBLE, Mr. LAUGHLIN, Mr. SKEEN, Mr. MFUME, Mr. HARRIS, Mr. DORNAN of California, and Mr. ARMEY):

H. Res. 376. Resolution expressing the sense of the House of Representatives that the President should bring the matter of Soviet occupation of the Republic of Lithuania before the United Nations and other international organizations; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

346. By the SPEAKER: Memorial of the 50th Legislature of the State of Wyoming, relative to the legislature's opposition to the intrusive nature of the management of the Alcohol, Drug Abuse and Mental Health Block Grant; to the Committee on Energy and Commerce.

347. Also, memorial of the Legislature of the State of Alaska, relative to requirements for the carriage of oil in double-hulled tankers; to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. NELSON of Florida introduced a bill (H.R. 4519) for the relief of M4 Data, Inc. to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. DAVIS.
H.R. 92: Mr. DENNY SMITH.
H.R. 214: Mr. KOLTER.
H.R. 286: Mr. PICKETT and Mr. GOSS.
H.R. 303: Mr. GEREN, Mrs. ROUKEMA, and Mr. CONYERS.
H.R. 930: Mr. NELSON of Florida.
H.R. 1307: Mr. BLAZ, Mr. DORNAN of California, and Mr. DONALD E. LUKENS.
H.R. 1383: Mr. WALGREN.
H.R. 1461: Mr. BOUCHER.
H.R. 1540: Mr. CAMPBELL of Colorado and Mr. POSHARD.
H.R. 1676: Mr. DELLUMS.
H.R. 1807: Mr. FAUNTROY, Ms. PELOSI, Mr. PENNY, Mr. RANGEL, Mr. BRYANT, and Mr. BONIOR.
H.R. 2269: Mr. HAYES of Louisiana.
H.R. 2288: Mr. MRAZEK.
H.R. 2460: Mr. BARNARD.
H.R. 2580: Mr. MCDERMOTT.
H.R. 2584: Mr. WISE, Mr. MOLLOHAN, Mr. WASHINGTON, Mr. FASCELL, Ms. KAPTUR, Mr. PERKINS, Mr. HERTEL, and Mr. KASTENMEIER.
H.R. 2664: Mr. LEWIS of Georgia.
H.R. 2816: Mr. ERDREICH.
H.R. 2954: Mr. BOSCO.
H.R. 3158: Mr. WEBER and Mr. CROCKETT.
H.R. 3239: Mr. OXLEY and Mr. BONIOR.
H.R. 3243: Mr. ANNUNZIO.
H.R. 3272: Mr. EDWARDS of Oklahoma, Mrs. LOWEY of New York, and Mr. GILLMOR.
H.R. 3365: Mr. OWENS of New York and Mr. POSHARD.
H.R. 3380: Mr. JOHNSON of South Dakota, Mr. DIXON, Mr. GRANDY, and Mr. FISH.
H.R. 3389: Mr. BILIRAKIS, Mr. RAVENEL, Mr. OWENS of New York, Mr. MARKEY, and Mr. SOLARZ.
H.R. 3409: Mr. MINETA.
H.R. 3500: Ms. SCHNEIDER.
H.R. 3525: Mr. YATRON, Mr. PENNY, Mr. BUSTAMANTE, Mr. PAYNE of Virginia, Mr. STANGELAND, and Mr. TOWNS.
H.R. 3530: Mr. GEJDENSON.
H.R. 3577: Mr. DAVIS, Mr. HILER, and Mr. TAUZIN.
H.R. 3643: Mr. HUBBARD, Mr. BUNNING, and Mrs. SAIKI.
H.R. 3711: Mr. SUNDQUIST, Mrs. MORELLA, and Mr. JONTZ.

H.R. 3732: Mr. CLARKE, Mr. PALLONE, Mr. MURTHA, Mr. BILIRAKIS, Mr. SWIFT, Mr. KOLTER, Mr. SMITH of Vermont, Mr. KOSTMAYER, Mr. MONTGOMERY, and Mr. DOWNEY.

H.R. 3800: Mr. HAMILTON, Mr. HOAGLAND, Mr. PAYNE of Virginia, Mr. VALENTINE, and Mr. ENGLISH.

H.R. 3824: Mr. OWENS of Utah, Mr. CARPER, Mr. ECKART, Mrs. SCHROEDER, and Mr. DAVIS.

H.R. 3827: Mr. LEWIS of Georgia, Mr. STUDDS, Mr. MILLER of California, and Mrs. BOXER.

H.R. 3828: Mr. LEWIS of Georgia, Mr. STUDDS, Mr. MILLER of California, and Mrs. BOXER.

H.R. 3836: Mr. MILLER of Washington, Mr. HOUGHTON, Mr. WOLPE, Mr. SHARP, Mr. POSHARD, Mr. FISH, Mr. ROWLAND of Connecticut, Ms. SCHNEIDER, Mr. KILDEE, Mr. ROBINSON, Ms. SLAUGHTER of New York, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. SUNDQUIST, Mr. VISCLOSKY, Mr. ACKERMAN, Mr. BOSCO, Mr. DEFAZIO, Mrs. MORELLA, Mr. LIVINGSTON, and Mr. BILBRAY.

H.R. 3899: Mrs. SAIKI.

H.R. 3906: Mr. PRICE, Mr. HUBBARD, Mr. CLARKE, and Mr. STALLINGS.

H.R. 3911: Mr. ATKINS, Mr. FISH, Mr. HYDE, Mr. LEWIS of Georgia, and Mrs. COLLINS.

H.R. 3914: Mr. ACKERMAN, Mr. MAZZOLI, Mr. FEIGHAN, Mr. BRYANT, Mrs. JOHNSON of Connecticut, and Mr. PACKARD.

H.R. 3922: Ms. ROS-LEHTINEN, Mr. HAYES of Illinois, Mr. MCMILLEN of Maryland, Mr. KOLTER, Mr. WALSH, Mrs. SAIKI, Mr. DORNAN of California, and Mr. MAVROULES.

H.R. 3923: Mr. JOHNSTON of Florida and Mr. CONDIT.

H.R. 3934: Mr. MAZZOLI and Mr. HUBBARD.

H.R. 3942: Mr. BEILENSON, Mr. CROCKETT, Mr. DE LUGO, and Mr. LEWIS of Georgia.

H.R. 3943: Mr. CROCKETT, Mr. DE LUGO, and Mr. LEWIS of Georgia.

H.R. 3957: Mr. ANDREWS and Mr. HYDE.

H.R. 3970: Mr. HENRY, Mr. JOHNSON of South Dakota, Mr. RAHALL, Mr. JAMES, Mrs. UNSOELD, Mr. ROGERS, Mr. TOWNS, Mr. VENTO, Mr. FAZIO, and Mr. PARKER.

H.R. 3973: Mr. OWENS of Utah.

H.R. 3978: Mr. GRANDY, Mr. LEACH of Iowa, Mr. SCHUMER, Mrs. ROUKEMA, Mr. BORSKI, Mr. TANNER, Mr. WILLIAMS, Mr. FEIGHAN, Mr. TALLON, Mr. MARTINEZ, Mr. MURPHY, Mrs. KENNELLY, and Mr. WYDEN.

H.R. 3979: Ms. OAKAR and Mr. JOHNSTON of Florida.

H.R. 3992: Mr. ROWLAND of Connecticut, Mrs. BOXER, Mr. FAUNTROY, Mr. CLAY, and Mr. ACKERMAN.

H.R. 4042: Mr. PAYNE of New Jersey.

H.R. 4060: Mr. BRUCE and Mr. HOUGHTON.

H.R. 4080: Mr. HUGHES.

H.R. 4084: Mr. BOUCHER, Mr. MCDERMOTT, Mr. RANGEL, Mr. FAUNTROY, Ms. PELOSI, Mrs. COLLINS, Mr. WHEAT, Mr. FAZIO, Mr. KOSTMAYER, Mr. GEJDENSON, Mr. CROCKETT, Mr. FROST, Mr. ECKART, Mr. PALLONE, Mr. DWYER of New Jersey, Mr. TOWNS, Mr. FORD of Tennessee, Mr. ESPY, Mr. HAYES of Illinois, Mr. PAYNE of New Jersey, Mr. DYMALLY, Mr. SCHEUER, and Mr. EVANS.

H.R. 4101: Mr. HUCKABY and Mr. FISH.

H.R. 4118: Mr. HUGHES.

H.R. 4191: Mr. WOLPE.

H.R. 4195: Mr. APPLEGATE, Mr. DEWINE, Mr. GUNDERSON, Mr. HENRY, Mr. OXLEY, and Mr. PORTER.

H.R. 4207: Mr. STENHOLM, Mr. DE LA GARZA, and Mr. GEREN.

H.R. 4212: Mr. TAUZIN, Mr. LIVINGSTON, Mr. CHAPMAN, Mr. WILSON, Mr. MANTON, Mr. ROE, Mr. TALLON, Mr. BAKER, Ms. KAPTUR, Mr. HUCKABY, Mr. TRAFICANT, Mr. PERKINS, Mr. LANCASTER, Mr. NAGLE, Mr. BILIRAKIS, and Mr. RIDGE.

H.R. 4222: Mr. YATES.

H.R. 4224: Mr. GALLEGLY.

H.R. 4252: Mr. DOUGLAS.

H.R. 4261: Mr. BONIOR, Mr. MOODY, and Mr. SUNDQUIST.

H.R. 4268: Mr. GORDON, Mr. BEILENSON, Mr. TRAFICANT, Mr. SAVAGE, Mr. MAZZOLI, Mr. PICKETT, Mr. FAUNTROY, Mr. DEFAZIO, Mr. DWYER of New Jersey, and Mr. MORRISON of Connecticut.

H.R. 4280: Mr. MOODY.

H.R. 4288: Mr. VOLKMER, Mr. JOHNSON of South Dakota, Mr. DERRICK, Mr. JONTZ, Mr. TALLON, Mr. WEBER, Mr. FLIPPO, Mr. DORGAN of North Dakota, and Mr. SKELTON.

H.R. 4336: Mr. WILSON, Mr. PICKLE, Mr. LAFALCE, Mrs. JOHNSON of Connecticut, Mr. MCNULTY, Mr. SOLOMON, Mrs. KENNELLY, Mr. PACKARD, and Mr. ROWLAND of Connecticut.

H.R. 4349: Mr. PENNY and Mr. FAUNTROY.

H.R. 4350: Mr. AKAKA.

H.R. 4363: Mr. DEFAZIO, Mr. WEBER, Mr. TAUKE, and Mr. LEACH of Iowa.

H.R. 4367: Mr. PETRI, Mr. ROE, Mr. ANDREWS, and Mr. DWYER of New Jersey.

H.R. 4369: Mr. DYMALLY, Mr. HUGHES, Mr. MARTIN of New York, Mr. QUILLEN, Mr. SMITH of Florida, and Mr. WALGREN.

H.R. 4374: Mr. PAYNE of New Jersey.

H.R. 4397: Mr. STALLINGS and Mr. DWYER of New Jersey.

H.R. 4411: Mr. STARK.

H.R. 4412: Mr. HOLLOWAY, Mr. BEILENSON, Mr. THOMAS A. LUKEN, and Mr. RANGEL.

H.J. Res. 431: Mr. BONIOR, Mr. SUNDQUIST, Mr. MAVROULES, Mr. CLEMENT, Mr. HAWKINS, and Mr. ACKERMAN.

H.J. Res. 439: Mr. NATCHER, Mr. BEVILL, and Mr. APPLEGATE.

H.J. Res. 457: Mr. BROWN of Colorado, Mr. AUCOIN, Mr. COYNE, Mrs. SAIKI, and Mr. ATKINS.

H.J. Res. 481: Mr. MCEWEN, Mr. BUSTAMANTE, Mr. WALGREN, Mr. JONES of Georgia, Mr. LANCASTER, Mr. BORSKI, Mr. JONES of North Carolina, Mr. HUBBARD, Mr. BARNARD, Mr. ROE, Mr. SMITH of Florida, Mr. VENTO, Mrs. LOWEY of New York, Mr. SCHUMER, Mr. GUARINI, Mr. GREEN, Mr. GONZALEZ, Mrs. MORELLA, Mr. MFUME, Mr. KANJORSKI, Mr. HAYES of Louisiana, Mr. MCDERMOTT, Mr. KOLTER, Mr. SCHEUER, Mr. CLARKE, Mr. HARRIS, Mr. HYDE, Mr. MCDADE, Mr. GUNDERSON, Mr. MILLER of California, Mr. HENRY, Mr. BATES, Mr. FLIPPO, Mr. SMITH of Texas, Mr. ROSE, Mr. DARDEN, Mr. DONNELLY, Mr. APPLEGATE, Mr. FRENZEL, Mr. HORTON, Mr. BEVILL, Mr. MORRISON of Connecticut, Mrs. KENNELLY, Mr. BOSCO, Mr. STENHOLM, Mr. MURPHY, Mr. MCNULTY, Mr. BRUCE, Mrs. SAIKI, Mr. SMITH of Vermont, Mr. SAXTON, Mr. MRAZEK, and Mrs. BOXER.

H.J. Res. 487: Mr. GEJDENSON.

H.J. Res. 495: Mr. PORTER, Mr. BARTLETT, Mr. GORDON, Mr. WEISS, Mr. WOLPE, Mrs. MARTIN of Illinois, and Mr. VANDER JAGT.

H.J. Res. 501: Mr. BERMAN, Mr. PORTER, Mr. HYDE, Mr. WISE, Mr. KILDEE, Mr. HERTEL, Mr. HUGHES, Mr. MORRISON of Connecticut, Mr. BUSTAMANTE, Mr. CONYERS, Mr. SOLARZ, Mr. FROST, Mr. NEAL of Massachusetts, Mr. SMITH of Florida, Mr. CLEMENT, Mr. BRENNAN, Mr. HARRIS, Mr. GRAY, Mr. APPLEGATE, Mr. GORDON, Mr. SISISKY, Mr. FEIGHAN, Mr. VENTO, Mr. FASCELL, Mr. ACKERMAN, Mrs. MORELLA, Mr. NOWAK, Mr. DOUGLAS, Mr. HOYER, Mrs. KENNELLY, Mr. JACOBS, Mr. LEHMAN of Florida, Mr. MADIGAN, Mr. RANGEL, Mr. PANETTA, Mr. LEWIS of Georgia, Mr. NELSON of Florida, Mr. MAVROULES, and Mr. DORNAN of California.

H.J. Res. 513: Mr. HALL of Ohio, Mr. FISH, Mr. BLILEY, Mr. WEBER, Mr. ROE, Mr. YATRON, Mr. FALEOMAVAEGA, Mr. SHUMWAY, Mr. WYDEN, Mr. HEFNER, Mr. MANTON, Mr. GALLEGLY, Mr. HUBBARD, Mr. VALENTINE, Mr. ROBERT F. SMITH, and Mr. LAGOMARSINO.

H.J. Res. 521: Mr. WOLF, Mr. ANNUNZIO, Mr. EVANS, Ms. KAPTUR, Mrs. UNSOELD, Mr. LAGOMARSINO, Mr. BOUCHER, Mr. GALLEGLY, Mrs. SAIKI, Mr. RANGEL, Mr. DWYER of New Jersey, and Mr. PALLONE.

H.J. Res. 535: Mr. STARK, Mr. HEFNER, Mr. GRANDY, Mr. MILLER of Washington, Mr. HOCHBRUECKNER, Mr. FEIGHAN, Mr. BENNETT, Mr. BLILEY, Ms. SLAUGHTER of New York, Mr. NEAL of North Carolina, Mr. FASCELL, Mr. IRELAND, Mr. BAKER, Mr. BEVILL, Mr. COSTELLO, Mr. PAYNE of New Jersey, Mrs. MARTIN of Illinois, Mr. INHOFE, Mr. DEWINE, Mr. HENRY, Mr. GALLEGLY, Mr. GONZALEZ, Mr. BROWN of California, Mr. WAXMAN, Mr. CLARKE, Mr. MCGRATH, Mr. HAWKINS, Mr. MACHTLEY, Mr. STALLINGS, Mr. MAZZOLI, Mr. FLIPPO, Mr. BONIOR, Mr. LEHMAN of Flordia, Mr. LEWIS of Florida, Mr. HAYES of Illinois, Mr. HOAGLAND, Mr. OLIN, Mr. DE LUGO, Mr. LIPINSKI, Mr. SMITH of Florida, Mr. MARTINEZ, Mr. RINALDO, and Mr. DE LA GARZA.

H. Con. Res. 5: Mr. BOSCO.

H. Con. Res. 98: Mr. FALEOMAVAEGA, Mr. LOWERY of California, and Mr. PACKARD.

H. Con. Res. 129: Mr. SANGMEISTER and Mr. FAUNTROY.

H. Con. Res. 140: Mr. DAVIS.

H. Con. Res. 208: Mr. SMITH of New Jersey.

H. Con. Res. 252: Mr. ACKERMAN.

H. Con. Res. 259: Mr. VENTO, Mrs. COLLINS, Mr. TRAFICANT, Mr. EDWARDS of California, Mr. MARKEY, Mr. SMITH of Vermont, Mr. BERMAN, Mr. BOEHLERT, Mr. ROE, Mr. PURSELL, Mr. SAWYER, Mr. BENNETT, Mr. THOMAS A. LUKEN, Mr. ROSE, Mr. HOCHBRUECKNER, Mr. DIXON, Mr. LEHMAN of Florida, Mr. MCDERMOTT, Mr. YATRON, Mr. DERRICK, and Mr. BRUCE.

H. Con. Res. 264: Mr. AUCOIN, Mr. GEREN, Mr. LAFALCE, Mr. NIELSON of Utah, Mrs. SAIKI, and Mr. SMITH of Vermont.

H. Con. Res. 276: Mr. REGULA, Mr. POSHARD, Mr. HYDE, Mr. LANTOS, Mr. FROST, Mr. WATKINS, Mr. LAGOMARSINO, Mr. GEJDENSON, Mr. NIELSON of Utah, Mr. FALEOMAVAEGA, Mr. FISH, Mr. STOKES, and Mr. MONTGOMERY.

H. Con. Res. 280: Mr. EMERSON, Mr. NOWAK, Mr. APPLEGATE, Mr. LEWIS of Georgia, Mr. HAYES of Louisiana, Mr. DORGAN of North Dakota, Mr. WOLPE, Mr. JOHNSON of South Dakota, Mr. ROSE, Mr. WISE, Mr. YATES, Mr. LANCASTER, Mr. CLARKE, Mr. MCEWEN, Mr. FAZIO, Mr. COLEMAN of Texas, Mr. TOWNS, Mr. FISH, Mr. OWENS of New York, Mr. VENTO, Mr. JONTZ, Mr. HOCHBRUECKNER, Mr. MILLER of Washington, Mr. VISCLOSKY, Mr. BATES, Mr. ALEXANDER, and Mr. JONES of Georgia.

H. Con. Res. 281: Mr. BEILENSON and Mr. MARTINEZ.

H. Con. Res. 287: Mr. BILBRAY, Mrs. BOXER, Mr. PORTER, Mr. SIKORSKI, Mrs. COLLINS, Mr. BERMAN, and Mr. MARKEY.

H. Con. Res. 290: Mr. BILBRAY, Mr. CONTE, Mr. ECKART, Mr. FOGLIETTA, Mr. GALLO, Mr. GREEN, Mr. THOMAS A. LUKEN, Mr. DENNY SMITH, Mrs. SAIKI, Mr. SERRANO, Mr. FLAKE, Mr. MILLER of Washington, Mr. PAXON, and Mr. TOWNS.

H. Res. 41: Mr. BALLENGER.

H. Res. 312: Mr. FAWELL, Mr. ROSE, Mr. ACKERMAN, and Mrs. COLLINS.

H. Res. 314: Mrs. MEYERS of Kansas.

H. Res. 349: Mr. KANJORSKI.

H. Res. 351: Mr. GALLEGLY and Mr. GRANT.

H. Res. 365: Mr. ACKERMAN, Mr. ARMEY, Mr. BROOMFIELD, Mr. CROCKETT, Mr. DORNAN of California, Mr. DWYER of New Jersey, Mr. FRANK, Mr. GALLO, Mr. HYDE, Mr. LENT, Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. RINALDO, Mr. WALKER, and Mr. WILSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1526: Mr. SIKORSKI.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1236

By Mr. DOUGLAS:

Strike all after the enacting clause and insert the following language:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price Fixing Prevention Act of 1990".

SEC. 2. PROHIBITION AGAINST RESALE PRICE FIXING.

In any civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3), and alleging a contract, combination or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of such good or service entered into an agreement to set, change, or maintain the price (other than a maximum price) or such good or service for resale shall be sufficient to constitute a violation of such section."

SENATE—Wednesday, April 4, 1990

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The earth is the Lord's, and the fulness thereof; the world, and they that dwell therein.—Psalm 24:1.

O beautiful for spacious skies,
For amber waves of grain,
For purple mountain majesties
Above the fruited plain!
America! America!
God shed His grace on thee,
And crown thy good with brotherhood
From sea to shining sea!

O beautiful for pilgrim feet,
Whose stern impassioned stress
A thoroughfare for freedom beat
Across the wilderness!
America! America!
God mend thine every flaw,
Confirm thy soul in self-control,
Thy liberty in law!

("O Beautiful for Spacious Skies," Katharine L. Bates, 1893, Samuel A. Ward, 1882, verses 1 and 2.)

Gracious Father in Heaven, forgive our failure to be good stewards of the land You gave us. Renew us in our dedication to this stewardship. In the name of the Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 4, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the time of the two leaders is reserved.

In my capacity as a Senator from Virginia, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

LITHUANIA'S QUEST FOR FREEDOM

Mr. D'AMATO. Mr. President, one of the most moving speeches that this Senator has ever heard was given on November 15, 1989, by a gentleman who demonstrated what courage and the fight for freedom means. That gentleman was Lech Walesa. In his speech before the Congress, Lech Walesa recalled the decade of the Solidarity movement, when as a young worker in the shipyards of Gdansk, as he said, he leaped over the wall to join his comrades. He recalled that there were warnings and condemnations that accompanied the rise of Solidarity. Those were not warnings, Mr. President, that came from the Soviets. They went something like this: "What are those Poles up to? They're mad. They're jeopardizing world peace and European stability. They should be quiet. They shouldn't get on anybody's nerves."

Walesa gave us a message. He said those people who enjoyed freedom had it. They were condemning us to a quiet fate, a fate of being dominated, that we should have no freedom so that they could enjoy tranquility, normalization of relations, and that by the Poles standing up for freedom and calling out for it, somehow that might jeopardize peace.

A decade later the naysayers are saying the same thing about Lithuania's quest for freedom. Why, they are concerned about their stability, their tranquility, the movement toward democracy for which they hope. But yet the illusion is somewhat clouded by reality, by the Soviet tanks rumbling into Lithuania, by the expulsion of the free press.

By the way, Mr. President, let me suggest what a travesty, the great media of the world, particularly those that come from democracies which protect the right of free speech. They have an obligation to recount the facts as they take place. They are like little puppy dogs. They go out without even a whimper. The Soviets tell them, "Out of Lithuania," and out they go. Maybe they are afraid they will lose access to other areas, whether it be in the Soviet or some other place, maybe under the guise of saying they are acting responsibly, not to inflame the situation. They do not know what that means, by the way, "inflaming the situation."

We are saying to people, we are not going to send guns; we are not sending bombs; we are not sending anarchists but a message of freedom and hope; that we are one with those who crave the right of self-determination; that we are not going to stand by and see a people oppressed.

We should be saying to Mr. Gorbachev very clearly, "If you want to talk about peace, then demonstrate it. If you want our credits, if you want our technology, understand that there is a price, and the price is a rather reasonable one, that is, that you do not insulate people; that we are not going to stand aside as if this is going to take place."

It is like the "Wizard of Oz"; we are afraid to look behind the screen to see who is there. I think it is time to show what the real Gorbachev is about. We should not set conditions on what people should do and how long they should wait. That they should wait 5 years for their freedom, imagine that. We have the audacity to suggest what terms and conditions people should have imposed before they have their own freedom, and their inalienable right that we have talked about. I think we have become so blinded by "Gorbymania" that we do not want to distinguish reality from that myth, from that conception. We so desperately want to put aside the fears that come and the anxieties that come as a result of the mindless race toward confrontation, and certainly I want to do that, too. I do not think we should be blinded.

Mr. President, I am going to attempt to go to Lithuania, leaving later today. President Landsbergis has indicated that the Foreign Minister is going to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

meet me and attempt to see if we cannot get access to Lithuania.

I do not have a Soviet visa. But I do have visa No. 3 that was given by the Lithuanian Republic and issued to me, to have an invitation from the Republic of Lithuania. I will be bringing with me the resolution which this body passed as it relates to Lithuania to demonstrate our solidarity and our encouragement of a movement as a peaceful movement. I underscore that peaceful movement in the resolve and determination that people have the right to freedom and independence.

It seems to me that those who say we should be quiet, we should be circumspect, we should not be seen as the Lithuanian struggle for democracy, are suggesting that we give tacit approval to the Soviet occupation, domination, use of threats and fear, and intimidation. Let the record say very clearly when you send tanks in, when you occupy buildings, when you close the borders down, when you move the press out, that is certainly use of force and may be more in the factor of psychological warfare, but it certainly is a demonstration that I do not believe the United States should be quiet and silent about nor should our Western Allies.

I hope, and I do believe, that our President will indicate to the Soviet Foreign Minister very clearly in his visit here that there will not be the so-called move toward normalization that they seek; there will not be the credits they have been asking for; there will not be better trade unless and until the Soviets give to the Lithuanian people the freedom and the independence that they are entitled to under God's law, and yes, under the law that we have recognized for this past 50 years.

Mr. President, I think it is important to show the world that the message of freedom is a message of hope, and that the United States stands committed with the people and the inalienable rights of the people of Lithuania to that freedom.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOVEMENT ON DEFICIT REDUCTION

Mr. KOHL. Mr. President, it is budget season again. And in the great tradition of all budget deliberations, deadlines have already been missed.

But there has also already been some important movement on the budget. I shall take a moment to comment on some of those developments.

In the Washington Post last Friday, the distinguished assistant Republican leader, Senator SIMPSON, made a commonsense call for straightforward deficit reduction.

Last Thursday, the distinguished chairman of the Senate Budget Committee introduced a strong budget resolution to kick off his committee's deliberations.

Finally, Senator KENT CONRAD along with a bipartisan group of Senators sent a letter to the President and the congressional leadership urging a cooperative effort to craft a meaningful deficit reduction package.

I come here today to salute these efforts. I also take this opportunity to urge that we do whatever we can to convert this grassroots momentum into substantive, face-to-face meetings. Let us start talking to each other directly instead of through editorials, RECORD statements and letters.

Senator SIMPSON's editorial pointed to the Rostenkowski deficit reduction plan as a solid step that we should carefully consider. Like my friend from Wyoming, I have trouble with many parts of it.

But the point is not the problems I have with the plan. The point is that the Rostenkowski proposal sets the standard to which all other proposals must meet.

Having read the editorial, I then opened the RECORD and saw that the chairman of the Senate Budget Committee has taken up this challenge. Senator SASSER last week introduced Senate Concurrent Resolution 110.

This excellent proposal represents a strong plan under which we can achieve real deficit reduction. Like the Rostenkowski plan, Senator SASSER's bill uses honest economics, avoids short-term tricks and calls for sacrifice on all parts of the budget. This is a recipe for serious progress.

Finally, Senator KENT CONRAD convened an off-the-record meeting of 20 Senators and the Director of the Office of Management and Budget. The meeting was aimed at getting us off the dime with respect to the budget stalemate.

The participation in his meeting cut across party and ideological lines. No matter what your political bent, everyone there knew that we had to do something about the deficit and that nothing serious can be done unless we do it together.

Senator CONRAD has now followed up that meeting with a letter to the President and the congressional leadership. I sincerely hope that his call is heard.

Mr. President, it appears to me that everyone knows where we have to go. Senators SIMPSON and SASSER have shown that they can stand the heat of the kitchen. Senator CONRAD has given voice to the grassroots concerns.

We now need to talk to each other and to the White House so that we achieve a bipartisan package for deficit reduction.

Obviously, there is room for movement on all sides. We should seize the opportunity and get this deficit reduction burden behind us. Only then can we go forward with the many other demands of governing this great country.

Mr. President, I ask unanimous consent that the editorial appearing in Friday's Washington Post by Senator SIMPSON be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OUT OF THE DISMAL DEFICIT SWAMP

(By Alan K. Simpson)

There is a specter haunting Congress; the specter of honest deficit reduction.

It is separating those who "talk the talk" from those who "walk the walk." Danny Rostenkowski (D-Ill.), chairman of the House Ways and Means Committee, has dared to speak the unspeakable: that our monstrous deficit can be eliminated only with some real discomfort—for every one of us. For many in Congress, this is the most terrifying and stultifying of thoughts. People in discomfort are simply not as keen on reelecting incumbents.

The federal deficit can be compared to a huge, dark chasm that widens every year. We must bridge it now if we are ever to reach long-term fiscal stability.

In effect, Rostenkowski has suggested throwing out a kind of "rope bridge" over the other side. Everyone in the old campground will have to contribute an old shirt or two or a couple of worn-out pairs of pants if it's going to be long enough. Rostenkowski has challenged us to either come up with a better way of getting across, or "fork over," or watch our children and grandchildren tumble into the widening maw.

We could simply accept at face value the plan he put forth. Or we could tell Rosty not to covet our old togs, then make a noose out of his own rope and string him up with it.

Unfortunately, the latter option is precisely what many seem to want to do. Every element of his plan—and core of any serious deficit reduction plan—is going to be political quicksand to various members of Congress. Rostenkowski really stuck his neck out; the temptation to hack at it is undeniably tough to resist. Freeze Social Security COLAs for one year? You bum! Increase gasoline taxes? Whoa! Place all tax cuts on the back burner? Gadzooks!

My friend Senator Daniel Patrick Moynihan criticized Rostenkowski's plan because it would not balance the budget without considering the Social Security surplus ["It's a Matter of Trust, Rosty," op-ed, March 22]. But we will never even approach that distant obstacle until we get over the foothills by balancing the unified budget.

Moynihan's plan would move us directly away from the verdant hills and right into the swamp, by increasing the deficit further through the reduction of Social Security payroll taxes. The logic cited; it would

"force" the government into making the "tough choices" necessary to reduce the deficit. Gad! What more inducement do we need than what we have right now? Adding pressure doesn't solve a single problem. Congress has not been ashamed or pressured into making any "tough choices" by $3.1 trillion dollars of debt and the Gramm-Rudman-Hollings law. Will the extra dose of "good" debt cause a revolution in our collective budgetary conscience? I sure doubt it.

Moynihan's article implies that in the '80s some sinister villains in the Treasury Department conspired to "raid" our Social Security reserves. But the truth is our Social Security surplus has been mandated by law for 50 years to be used to buy Treasury bonds and similar issues.

The true problem lies with that huge existing deficit. The Social Security reserves have bought Treasury bonds that have then financed only consumption, not savings. The "power of the purse" behind the reality resides cozily right here with us in Congress.

Rostenkowski's proposal is to attack our government's absence of spending restraint with a plan. Moynihan's is merely to expose it—moreover, to expose it by exacerbating it! Pat would shift the burden of meeting the baby boom's Social Security obligations onto the spindly shoulders of some future generation in the hope that by doing so we will inspire in ourselves the decency not to saddle them too with an ever-growing federal deficit. Sure.

I'm not endorsing all elements of Rostenkowski's proposal. But we should all endorse and admire the spirit in which it was made and contribute some spirit and energy of our own. It's so easy to be a critic. It's flashier to chop a plan to shreds than to create a new one. So I offer a humble challenge of my own and commend it to Republicans and Democrats alike; those who stand ready to rip apart and ridicule this proposal must be prepared to offer a thoughtful substitute—"a better one," in Rosty's terms, in what it really, and clearly and painfully does for deficit reduction. If we confine the next rush of dialogue to improving the Rostenkowski challenge instead of undermining it, we then stand a better chance of bequeathing a fiscally stable government to those who follow us.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990

Mr. HOLLINGS. Mr. President, today, I, along with my senior colleague Senator THURMOND, and Senator MITCHELL, Senator DOLE, Senator SANFORD, Senator HELMS, Senator FORD, Senator LOTT, Senator MIKULSKI, Senator HEINZ, Senator HEFLIN, Senator BREAUX, Senator COCHRAN, Senator BUMPERS, Senator COHEN, Senator BYRD, Senator D'AMATO, Senator DECONCINI, Senator HATCH, Senator DIXON, Senator KASTEN, Senator DODD, Senator BURNS, Senator FOWLER, Senator ROTH, Senator GORE, Senator INOUYE, Senator RUDMAN, Senator JOHNSTON, Senator SPECTER, Senator LEAHY, Senator WARNER, Senator METZENBAUM, Senator MURKOWSKI, Senator JEFFORDS, Senator NUNN, Senator MCCONNELL, Senator PRYOR, Senator REID, Senator RIEGLE, Senator ROCKEFELLER, Senator SASSER, Senator SHELBY, Senator SIMON, Senator MOYNIHAN, Senator SARBANES, Senator PELL, Senator BURDICK, Senator KENNEDY, Senator LEVIN, Senator LAUTENBERG, Senator BRYAN, Senator DASCHLE, Senator KERRY, and Senator LIEBERMAN, some 55 cosponsors in all, Mr. President, am introducing a new textile, apparel, and footwear trade bill. The bill expresses our commitment to the economic security of this country.

For the last 15 months, textile industry leaders have been meeting with the administration to try to reach agreement on some proposal to stem the flood of imports. While they were meeting, imports went up 12.7 percent and the textile and apparel trade deficit reached $26.5 billion. Again, in January of this year, imports were up almost 10 percent. The textile industry is suffering: Profits are down 71 percent, new orders are down 9 percent, shipments are down 4.5 percent, and inventories are up 7 percent. With those kinds of figures, you can expect we have had some job losses and plant closings. In 1989:

Springs closed a plant in Gaffney, SC, with a loss of 220 jobs;

Pendleton closed a plant in Sellersville, PA, loss of 100 jobs;

Parkdale Mills, Belmont, NC, 115 jobs;

The Bibb Co., Roanoke Rapids, NC, 90 jobs.

Burlington, Dalton, GA, 50 jobs; and

Hartex in El Paso, TX, 400 jobs.

In 1990, closings have begun to accelerate. Last Tuesday, we lost 800 jobs in the Carolinas, we closed 2 plants and cut employment in half in another. Also:

Hart Wool in Holyoke, MA, 50 jobs;

Levi Strauss in San Antonio, TX, 1,100 jobs;

Piedmont Industries in Greenville, SC, 225 jobs;

Health-Tex in Guin, AL, 225 jobs;

Farah in El Paso, TX, 150 jobs; and

VF Corp. in Guntersville, AL, over 450 jobs;

Springs Industries, Anderson, SC, 400 jobs.

For comparison's sake, let us look at how the European Community and the United States have fared under the Multifiber Arrangement. The European Community started the decade with a $5 billion deficit in textile and apparel trade. The United States had a $4.7 billion deficit. In 1986—the latest figures I have—the European Community had a deficit of $1 billion. In contrast, the United States had a deficit in 1986 of $21.2 billion. And, of course, we had a $26.4 billion deficit this year. What accounts for this difference? The willingness of the European Community to vigorously use the Multifiber Arrangement to control their imports and our unwillingness to do so.

As I think about working with, yet, another administration on textile and apparel trade, I feel like Yogi Berra must have felt when he said, "It's déjà vu all over again." My association with this issue goes back over three decades and encompasses the administrations of eight Presidents.

During the Eisenhower administration, I testified as Governor of South Carolina before the U.S. Tariff Commission and took the textile industry's case to the President. Promises were made, but relief did not follow.

During the Kennedy administration, the President made good on his campaign pledge to me that he would negotiate fair treatment for the textile industry. Under the Civil Defense Mobilization Act, a formal determination was made that textiles ranked second, only to steel, in their importance to our national security. President Kennedy followed up by negotiating a seven-point accord governing trade in cotton textiles.

In 1968, along with Senator Cotton of New Hampshire, I sponsored a textile bill that passed the Senate only to die in the House. In 1978, both Houses passed a textile bill by substantial majorities, only to be vetoed by President Carter. We continued to press the case, and in 1979, the Carter administration issued a white paper on textiles which led to more vigorous enforcement of our trade agreements and stabilization of textile imports.

However, in the 1980's, the Reagan administration's hands-off, see-no-evil policy of inaction and nonenforcement unleashed a flood tide of textile and apparel imports. The Congress passed two textile bills during the Reagan administration. Each time President Reagan vetoed the overwhelming will of the Congress. The Reagan administration's record was one of broken promises and cavalier indifference to the textile industry.

And now we have spent 15 months on the promises of the Bush administration. It is time to quit talking and take some action. Under the Constitution, we have a responsibility to regulate commerce with foreign nations and we should fulfill that responsibility. Let us state again our present position. During the 1980's, imports grew on average 12 percent a year, while our domestic market grew only about 1 percent a year, so our industry lost 11 percent market share annually this decade. If that trend continues, Mr.

President, we will not have a textile industry left in the year 2000.

The U.S. industry heretofore has invested heavily, over $18 billion in the last 9 years, $2 billion a year; and productivity has increased 4 percent a year, almost twice that of all manufacturing.

However, if we do not establish an effective import policy, no one in his right mind is going to continue that investment. The investment will wane, and productivity will drop. And we will come around here and say, "Well, we have to get more productive; we have to get more competitive."

The truth of it is, when we have no industry left at the end of the century, people will be blaming the loss of productivity on our workers, but that really will not be the case. It will be the lack of political productivity on behalf of us here in Government.

The bill we are introducing here today is very similiar to the bill this body considered in 1988. The bill will impose global quotas on textiles and apparel with 1 percent growth annually, freeze footwear imports at the 1989 levels, provide for a quota auctioning pilot program in 1991 for one-fifth of the imported textiles and apparel, and give increases in quotas to countries who increase their purchases of U.S. farm products.

There are two changes. Products of Canada and Israel are exempted from the bill. We have free-trade agreements there and we want to honor those. And the Caribbean Basin Initiative countries are guaranteed their 1989 market share.

The CBI imports alone amounted to 11 percent of all apparel imports last year, so we have taken care of all considerations and concerns that we have had on the House and the Senate side. We have taken care; we are living in the real world. We all want to begin developing the CBI. We have guaranteed them their percentage and any that may be negotiated by the administration under the global policy.

I think it is an outstanding bill that has been gotten together by our industry, both management and labor. We are now at the crossroads. The real question is whether or not this industry shall persist as an industry on its own. We need a sound, effective trade policy.

I urge my colleagues to support the bill. I am delighted to yield to my distinguished senior colleague, the Senator from South Carolina.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile, Apparel, and Footwear Trade Act of 1990".

SEC. 2. POLICY.

The policy of this Act is to—

(1) relate the growth of textile and clothing imports to the growth of the domestic market in order to prevent further disruption of the United States textiles and textile products markets, damage to United States textile and clothing manufacturers, and loss of job opportunities for United States textile and clothing workers; and

(2) maintain a viable United States nonrubber footwear industry by preventing further damage to United States nonrubber footwear manufacturers and loss of job opportunities for United States nonrubber footwear workers.

SEC. 3. FINDINGS AND DETERMINATIONS.

(A) FINDINGS.—The Congress finds that—

(1) with respect to textiles and textile products—

(A) the current level of imports of textiles and textile products from all sources, more than 165 countries, reached nearly 12.1 billion square meter equivalents in 1989, an increase of 13 percent over 1988 imports; this level of imports is 3 times the level of imports in 1980, a rate of increase that was not foreseen when the United States granted trade concessions benefiting foreign suppliers of textiles and textile products, and represents over 1.4 million job opportunities lost to United States textile, apparel, and fiber workers;

(B) imported textiles and textile products contain five million bales of cotton which is equivalent to 40 percent of annual cotton production in the United States; eight out of every ten bales of cotton contained in imported textiles and clothing are foreign grown cotton; sustained massive increases in imports of cotton textile and clothing products are causing a declining market share for domestic cotton producers, depressed prices, and an average annual market revenue loss of over $1,000,000,000; another result is that a market development program voluntarily funded by United States cotton producers actually benefits foreign growers; finally, as imports of textiles and clothing increase, domestic cotton acreage is shifted to produce other agricultural products which are already in oversupply thereby adding to the problems of United States agriculture;

(C) imports of textiles and textile products made of wool have nearly doubled since 1980, creating major disruptions among domestic wool products producers of United States produced raw wool; because import penetration in the domestic wool textile and clothing market is nearly 70 percent, it is critical that action be taken to halt further erosion of the domestic industry's market share;

(D) imports of textiles and textile products made of manmade fiber and competing fibers, other than cotton or wool, have more than doubled since 1980 resulting in substantial reductions in domestic manmade fiber production capacity and job losses;

(E) the textile and clothing trade deficit of the United States exceeded $26,000,000,000 in 1989, an increase of 8 percent over 1988, and accounted for 21 percent of the Nation's overall merchandise trade deficit;

(F) import growth of clothing and clothing fabrics has averaged 10 percent annually since 1973; over the same period, the domestic market for clothing and clothing fabrics has grown only one percent annually; the result is that import penetration in the domestic clothing and clothing fabric market has more than doubled in the last 10 years, reaching a level of 58 percent in 1989;

(G) as a result of this increased penetration and the very limited growth of the domestic market, the United States companies producing textiles and textile products competitive with those imported have been seriously damaged, many of them have been forced out of business, have closed plants or curtailed operations, workers in such companies have lost employment and have been otherwise materially and adversely affected, and serious hardship has been inflicted on hundreds of impacted communities causing a substantial reduction in economic activity and lost revenues to the Federal and local governments;

(H) the factors described above are causing serious damage, or the actual threat thereof, to domestic producers of textiles and textile products; as a result, market disruption exists in the United States requiring new measures;

(I) unless the import growth rate of textiles and textile products is slowed to the long term rate of growth of the United States market, plant closings and job losses will continue to accelerate, leaving the United States with reduced competition benefiting domestic consumers and leaving the Nation in a less competitive international position;

(J) a strong, viable, and efficient domestic textiles and textile products industry is essential in order to avoid impairment of the national security of the United States; and

(K) actions taken by the United States under the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended (commonly referred to as the "Multi Fiber Arrangement" or "MFA") have failed to avoid disruptive effects in the textiles and textile products markets in the United States; and

(2) with respect to nonrubber footwear—

(A) nonrubber footwear imports in 1988 reached a level of 860 million pairs; this volume of imports is 2.25 times that of 1981, the year that import relief for the nonrubber footwear industry terminated, and is 2.1 percent above 1985 levels, the year in which the International Trade Commission issued its third finding that the domestic nonrubber footwear industry has been seriously injured by increased imports;

(B) since 1981, import growth of nonrubber footwear has averaged more than 11 percent per year, gaining market share at the expense of the domestic industry; in 1981, import penetration of the domestic nonrubber footwear market was 51 percent; by 1989, import penetration reached 80 percent;

(C) as a direct result of imports, domestic nonrubber footwear production has declined, reaching 226 million pairs in 1989, a production level matched only during the Great Depression in the 1930's;

(D) domestic nonrubber footwear employment has declined significantly since 1981 and is down 45 percent from 1981 levels and 19.3 percent from 1985 levels; and

(E) domestic nonrubber footwear production facilities are closing at an alarming rate, with over 408 factory closings since 1981, of which 21 closing occurred in 1989 alone.

(b) DETERMINATIONS.—Congress determines that, for the foregoing reasons—

(1) textiles and textile products are being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury

to producers of textiles and textile products in the United States, and

(2) nonrubber footwear is being imported into the United States in such increased quantities and under such conditions as to cause or threaten serious injury to products of nonrubber footwear in the United States, within the meaning of article XIX of the General Agreement on Tariffs and Trade.

SEC. 4. LIMITS ON IMPORTS.

(a) CALENDAR YEAR 1990.—Notwithstanding any other provision of law—

(1) the aggregate quantity of textiles and textile products, from all countries, classified under a category that is entered during calendar year 1990 shall not exceed an amount equal to 101 percent of the aggregate quantity of such products classified under such category, from all countries, that entered during calendar year 1989, and

(2) the aggregate quantity of nonrubber footwear, from all countries, classified under a nonrubber footwear category that is entered during calendar year 1990, and during each calendar year thereafter, shall not exceed an amount equal to—

(A) the aggregate quantity of nonrubber footwear classified under such category, from all countries, that entered during calendar year 1989, and

(B) in the case of high priced nonrubber footwear, notwithstanding subparagraph (A), the aggregate quantity of high priced nonrubber footwear classified under such category, from all countries, that entered during calendar year 1989.

(b) GROWTH ADJUSTMENT.—For calendar years after 1990, the aggregate quantity of textiles and textile products, from all countries, classified under each category that may be entered during each such calendar year shall be increased by an amount equal to one percent of the aggregate quantity that could be entered under such category during the preceding calendar year. If the aggregate quantity that could be entered under a category for a calendar year after 1990 is reduced under section 10(b), then in the first calendar year in which there is no such reduction, this subsection shall be applied as if there had been no reduction under section 10(b) in previous calendar years.

(c) EXCEPTIONS.—

(1) The limitations in this Act on the aggregate quantity of articles of textiles and textile products that may be entered during any calendar year do not apply to articles of that kind that are the product of any insular possession of the United States if the articles are—

(A) exempt from duty under general headnote 3(a)(iv) of the Harmonized Tariff Schedule of the United States; and

(B) manufactured or produced in such possession by individuals who are either—

(i) United States citizens;

(ii) United States nationals; or

(iii) permanent residents of such possession in accordance with its laws.

(2) Notwithstanding any other provision of law, the aggregate quantity of sweaters that are—

(A) made of cotton, wool, or manmade fibers; and

(B) assembled in Guam from otherwise completed knit-to-shape component parts; and that may be entered—

(i) during calendar year 1990, may not exceed 168,162 dozen; and

(ii) during any calendar year after 1990, may not exceed the aggregate quantity that is authorized to be entered under this paragraph during the preceding calendar year, increased by one percent.

(3) The limitations in this Act on the aggregate quantity of textiles and textile products that may be entered during any calendar year do not apply to articles that are the products of Canada or Israel. In the case of Canada, such articles are textiles and textile products produced in Canada in accordance with the rules of origin in the United States-Canada Free-Trade Agreement. In the case of Israel, such articles are textiles produced in Israel and textile products assembled in Israel from fabric or yarn produced in the United States or Israel.

(4) The amount of textiles and textile products classified under each category entered during calendar year 1990, and during each calendar year thereafter, from beneficiary countries under the Caribbean Basin Initiative shall equal the quantity of such products of such countries classified under such category that entered in 1989 and any increases that the President shall negotiate or allocate within the limits of section 4(a)(1).

(d) ENFORCEMENT.—The Secretary of Commerce shall prescribe such regulations as may be necessary or appropriate for the efficient and fair administration of the provisions of this Act, including regulations governing entry, or withdrawal from warehouse, for consumption of the products covered by this Act. Such regulations shall provide for reasonable spacing of imports over the calendar year.

(e) ALLOCATIONS FOR CERTAIN COUNTRIES.—Regulations may be prescribed under subsection (d) only if such regulations ensure that—

(1) an amount of the limitation imposed by this section on the aggregate quantity of textiles and textile products classified under each category entered during calendar year 1991 and during each succeeding calendar year (hereafter in this subsection referred to as the "applicable year") is allocated to such products of each country to which the total quantity of United States agricultural products exported on commercial terms during the calendar year preceding the applicable year exceeds the total quantity of United States agricultural products exported on commercial terms to such country during the calendar year before the calendar year preceding the applicable year; and

(2) the amount of textiles and textile products classified under each category entered during the applicable year that is allocated to each country under paragraph (1) exceeds the quantity of such products of such country classified under such category that entered during the calendar year preceding the applicable year.

SEC. 5. TARIFF COMPENSATION.

(a) COMPENSATION.—

(1) The President may (A) enter into trade agreements with foreign countries or instrumentalities to grant new concessions as compensation, to the extent required under international trade agreements of the United States, for the import limits imposed under section 4 of this Act to maintain the general level of reciprocal and mutually advantageous concessions under such agreements; and (B) proclaim such modification or continuance of any existing duty on textiles and textile products and on nonrubber footwear as the President determines to be required or appropriate to carry out such agreements.

(2) No proclamation shall be made under paragraph (1) decreasing any rate of duty to a rate of duty which is less than 90 percent of the existing rate of duty.

(3) Before entering into any trade agreement under this subsection with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(b) STAGING REQUIREMENTS.—The aggregate reduction in the rate of duty on any article which is in effect on any date pursuant to subsection (a) shall not exceed the aggregate reduction which would have been in effect on such date if a reduction of one-fifth of the total reduction under subsection (a) had taken effect on the effective date of the first reduction proclaimed to carry out such trade agreement, and at one-year intervals after such effective date.

(c) PROHIBITION.—Except as provided in subsection (a) and notwithstanding any other provision of law, the President may not enter into trade negotiations with any foreign country or instrumentality with respect to duties on textiles and textile products and on nonrubber footwear and may not decrease, or propose a decrease, in any such duty by any means, including an implementing bill under section 151 of the Trade Act of 1974 (19 U.S.C. 2191) or a proclamation.

SEC. 6 ANNUAL REPORT.

Not later than March 15, 1991, and March 15 of each calendar year thereafter, the President shall submit to the Congress a report on the administration of this Act during the preceding calendar year. Such report shall include detailed information about the implementation and operation of the limitations established under section 4. All departments and agencies shall cooperate in preparation of this report, as requested by the President.

SEC. 7. REVIEW.

The Secretary of Commerce shall commence, ten years after the date of enactment of this Act, a review of the operation of this Act. The Secretary shall consult representatives of workers and companies in the textiles and textile products and nonrubber footwear industries, the United States Trade Representative, the Secretary of Labor, and other appropriate Government officials. Within 6 months after the commencement of the study, the Secretary shall submit to the Congress the findings of the Secretary.

SEC. 8. AUCTION OF IMPORT LICENSES.

(a) IMPORT LICENSES.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish and implement a pilot program for the issuance and sale to United States companies at public auction of import licenses applicable to categories of textiles and categories of textile products.

(b) IDENTIFICATION OF CATEGORIES SUBJECT TO LICENSES.—The categories of textiles, and the categories of textile products, to which the import licensing program under this section applies shall be selected by the Secretary of the Treasury, in consultation with the Secretary of Commerce. Such selection shall be made so that—

(1) the number of categories of textiles so selected shall, in the aggregate, account for the volume of imports equal to no less than 20 percent of the value of textiles entered; and

(2) the total number of categories of textile products so selected shall, in the aggre-

gate, account for the volume of imports equal to no less than 20 percent of the value of textile products entered.

(c) AUCTIONING OF IMPORT LICENSES.—

(1) Each import license to be issued and sold pursuant to this section shall be sold by the Secretary of the Treasury at a public auction held no earlier than 15 days after the date on which notice of such auction is published in the Federal Register.

(2) By on later than the date that is 60 days after the date of enactment of this Act, the Secretary of the Treasury shall prescribe regulations under which auctions shall be conducted under paragraph (1). Such regulations shall provide for—

(A) the auctioning of quotas, on a historical basis, among retailers, importers, and manufacturers of textiles and apparel;

(B) the transfer of auctioned import licenses among importers; and

(C) a means of ensuring that on person obtains undue market power in the markets of the United States through the use of auctioned import licenses.

(3) The Secretary of the Treasury is authorized to prescribe, on an expedited basis, such regulations supplementing the regulations prescribed under paragraph (2) as are necessary to address factors involved in conducting the sale by auction of import licenses for any article that are unique to such article.

(d) DEPOSIT OF REVENUES.—Any revenues from the sale of import licenses under this section shall be paid into the general fund of the Treasury of the United States.

(e) DURATION.—The import licensing program under this section shall begin on January 1, 1991, and end at the close of December 31, 1991.

(f) REPORT.—Not later than March 31, 1992, the Secretary of the Treasury, in consultation with the Secretary of Commerce, shall report to the Congress on the administration of the import licensing program under this section and the advantages and disadvantages of auctioning import licenses demonstrated by the program.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) The term "textiles and textile products" includes, but is not limited to, all articles covered by a category.

(2) The term "nonrubber footwear" means nonrubber footwear articles classified under items 6401.92.30, 6401.99.80, 6402.11.00, 6402.19.10, 6402.30.30, 6402.91.40, 6402.99.05, 6402.99.10, 6402.99.15, 6404.11.20, 6404.19.15, 6404.19.25, 6404.19.30, 6404.20.20, 6404.20.40, 6403, 6405, 6406.10.05, 6406.10.10, 6406.10.20, and 6406.10.45 of the Harmonized Tariff Schedule of the United States (as in effect on January 1, 1990) and includes, but is not limited to, all articles covered by a footwear category.

(3) The term "category" means each of the following:

(A) each category identified by a three-digit number in the Department of Commerce publication entitled "Correlation: Textile and Apparel Categories with Harmonized Tariff Schedule of the United States", dated 1990, and in any amendments to such publication correcting clerical errors or omissions;

(B) each subdivision of a category described in subparagraph (A) with respect to which the United States has (i) an agreement with any country on the date of enactment of this Act limiting exports of textiles and textile products to the United States that includes a specific limit on such subdivision, or (ii) taken unilateral action to limit products from any country entered under such subdivision;

(C) a category consisting of the manmade fiber products not covered by a category described in subparagraph (A) and classified under chapters 54, 55, and 56 of the Harmonized Tariff Schedule of the United States; and

(D) a category consisting of the products not covered by a category described in subparagraph (A) and classified under items 6215.10.00.408 and 6117.20.00.405 of the Harmonized Tariff Schedule of the United States.

The Secretary of Commerce shall determine, after consultation with the United States Trade Representative and the United States International Trade Commission, whether comparable subdivisions described in subparagraph (B) are consistently defined; if the Secretary determines that such subdivisions are not consistently defined, then the Secretary shall prescribe by regulation an appropriate definition of the category covering such comparable subdivisions.

(4) The term "nonrubber footwear category" means each of the following:

(A) men's leather;
(B) men's vinyl/plastic;
(C) men's other;
(D) women's leather;
(E) women's vinyl/plastic;
(F) women's other;
(G) juvenile leather;
(H) juvenile vinyl/plastic;
(I) juvenile other;
(J) athletic leather;
(K) athletic vinyl/plastic;
(L) leather work footwear;
(M) vinyl/plastic work footwear;
(N) miscellaneous leather footwear;
(O) miscellaneous vinyl/plastic;
(P) miscellaneous other;
(Q) leather slippers;
(R) vinyl/plastic slippers; and
(S) other slippers.

(5) The term "high priced nonrubber footwear" means nonrubber footwear with a customs value of $2.50, or more, per pair.

(6) The term "country" means a foreign country, a foreign territory, an insular possession of the United States, or any other territory, possession, colony, trusteeship, political entity, or foreign trade zone, whether affiliated with the United States or not, that is outside the customs territory of the United States.

(7) The term "duty" includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(8) The term "existing" means the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in the General subcolumn of rate of duty column 1 in chapters 1 through 96 of the Harmonized Tariff Schedule of the United States existing on the day before the date of enactment of this Act.

(9) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall apply to textiles and textile products and nonrubber footwear entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

(b) CALENDAR YEARS 1990 AND 1991.—The Secretary of Commerce shall prescribe by regulation the aggregate quantity, if any, of textiles and textile products and of nonrubber footwear that may be entered under section 4(a) under each category and each nonrubber footwear category during the period beginning on the date of enactment of this Act and ending on December 31, 1990. Notwithstanding subsection (a), to the extent that the aggregate quantity of imports of textiles and textile products or of nonrubber footwear entered under a category or nonrubber footwear category after December 31, 1989, and before the date of enactment of this Act exceeds the quantity permitted entry for such products under such category during calendar year 1990 under section 4(a), then the limit that would otherwise apply under section 4(b), in the case of textiles or textile products, or under section 4(a), in the case of nonrubber footwear, for such category for calendar year 1991 shall be reduced by the amount of such excess quantity. If such excess quantity exceeds the limit that would otherwise apply under section 4(b), or section 4(a), as appropriate, for such category for calendar year 1991, then the limit for such category for calendar years after 1991 shall be reduced until such excess is accounted for.

The PRESIDING OFFICER (Mr. LIEBERMAN). The senior Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today, along with Senator HOLLINGS and other Senators to introduce legislation that will significantly strengthen and promote enforcement of our textile and apparel trade laws and agreements. I am very pleased that this measure, the Textile, Apparel, and Footwear Trade Act of 1990, has already attracted strong bipartisan support. Many of my Senate colleagues have signified their dedication to the continuation of a viable American textile industry and are joining us today as original cosponsors of this important legislation. Identical legislation is also being introduced today in the House.

Mr. President, a viable textile and apparel industry is absolutely essential to the economy and national security of this Nation. While this industry has suffered many hardships and textile imports have increased dramatically, this industry still employs nearly 1.8 million Americans. Currently, one out of every seven people employed in South Carolina works in the textile and related industries.

If the current trend of increased imports continues, the resulting job losses will cause harsh economic problems to the people who depend on the textile and apparel industry for their livelihood. Over 350,000 jobs have been lost in the textile industry during the last 5 years. In South Carolina, since 1979 we have lost 40,000 jobs. Since the record employment level of 2.5 million employees in 1973, this industry has lost 700,000 jobs. According to the U.S. Department of Labor, South Carolina lost 2,600 textile jobs during 1989. This year is starting off with another drop in textile employment. Several companies have already announced that 700 South Carolinians

will soon lose their jobs. This trend cannot be allowed to continue. The decline of this industry will be felt throughout our economy as supporting and related industries also begin to suffer.

Those who lose their jobs will be forced to spend the years of savings they have accumulated, turn to unemployment compensation for subsistence, and search for employment in other industries where they most likely will not have the needed skills. This situation will be specially difficult for older textile workers who are close to retirement age.

In addition to its economic importance, the textile industry is also significant to the defense and national security of our Nation. We cannot allow ourselves to become dependent upon foreign countries for the basic defense requirements of our Armed Forces. While most people think of uniforms and footwear as textile industry products used by the military, many other needed products originate from this industry. Some of the other textile products the military uses are tents, canvas, ammunition powder bags, and parachutes. It does not make good sense to transfer production of these items to foreign countries and then rely on them in times of international crisis to provide us with these essential items.

Mr. President, the growth in textile and apparel imports during the last several years has not come about due to a lack of effort on the part of the domestic industry. In fact, the American textile and apparel industry is one of the most modern and productive in the world.

Management and labor have worked hard to modernize, compete, and survive. Nevertheless, imports have continued to grow. Textile and apparel imports now account for 59 percent of the U.S. market share. In 1989, 12.1 billion square meters of textiles and apparel were imported into the United States. This is a 13-percent increase from 1988 levels. Textile imports accounted for 21 percent of the merchandise trade deficit in 1989 and were valued at $26.5 billion. This is 5½ times the $4.7 billion value of the textile trade deficit in 1980.

The textile industry has continued to suffer from the increased imports because the American industry is not competing with foreign countries on an equal basis. If they did, then the U.S. textile and apparel industry could compete with that of any other nation. However, the domestic textile industry cannot be expected to compete, nor should it have to, with foreign industries that are heavily subsidized by their governments.

Developing countries have provided low interest, subsidized loans for capital formation and expansion within their textile and apparel sectors. Favorable tax treatment, as well as other incentives for exporting textile and apparel products, has been created by foreign countries. They have fostered and protected their own industries and markets through currency manipulation and trade restrictions.

Another factor with which the American companies cannot compete is the relative wage rate. China is reportedly paying very low wages to the textile workers there.

Wage rates in most major textile and apparel exporting countries are still far below the American minimum wage rates.

Furthermore, many foreign textile and apparel businesses operate free of the health and environmental regulations that we believe essential to the protection of our workers and environment. These costs are not incurred by foreign manufacturers.

Mr. President, the legislation we are introducing today is designed to promote orderly growth of world trade in textiles and apparel products. This would be accomplished by establishing import growth rates. Under the provisions of this bill, 1990 textile and apparel imports will be based on 1989 imports. During 1990, imports will be allowed to increase 1 percent over the level imported last year. For subsequent years, textile and apparel imports will be allowed to increase by no more than 1 percent over the preceding year.

In regard to quotas, they are established on each category of textiles and textile products from all sources. Therefore, this legislation does not discriminate against any one country. Establishment of global quotas gives the administration maximum flexibility in implementing the requirements of this legislation.

This bill also includes several other important features. This legislation does not mandate rollbacks and can be implemented without rollbacks of current import levels. The President may grant compensation in the form of reduced tariffs to foreign countries as a result of the import limits. However, the President cannot reduce the tariff rate by more than 10 percent of its current level and any reduction must be staged equally over 5 years.

Additionally, the Secretary of Commerce will be responsible for issuing regulations governing the entry of textile and apparel imports, including regulations requiring reasonable spacing of imports during each year. After 10 years, the Secretary will be required to review the impact of this legislation and report the findings to Congress.

This legislation is also consistent with the General Agreement on Tariffs and Trade article XIX, since it includes a congressional finding of injury to the domestic industry, global quotas and authorization to negotiate compensation.

Mr. President, this bill is the result of a cooperative effort on the part of the textile and apparel industry, Members of Congress, and others concerned about the continuation of a viable domestic textile and apparel industry and shoe industry. I believe the Textile, Apparel, and Footwear Trade Act of 1990 is a sound measure that will ensure strict enforcement of our existing laws and agreements.

It is evident that the textile and apparel import deficit problem will not solve itself. Unless we take prompt action, it is possible that within 10 years we may not have a domestic textile and apparel industry.

I strongly urge my colleagues give this measure their most careful consideration and to join in working toward its swift enactment.

Mr. THURMOND. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I am going to seek the floor in my own right, particularly on a vital piece of legislation like this. Both of the Senators from South Carolina have alluded to a key point: The need to establish a level field for our textile industry. Let me read just an excerpt or so, if I may, I say to the Senator, from the Journal of Commerce. Two stories, Mr. President.

The first is dateline Hong Kong.

The battered textile industry in Taiwan is getting a substantial boost from the government in a bid to recover lost export ground. * * * Labor costs in Taiwan rose 21% in the 12 months between the spring of 1988 and the spring of 1989 to US$3.56 an hour.

South Korea's costs rose 25%, but were still lower at US$2.87. Hong Kong's 11% increase put its average hourly cost at US$2.44. The study shows U.S. industry costs at US$9.71 an hour.

It goes on and on, telling how the Government is propping up the textile industry in Taiwan. So much for Taiwan.

China—and bear in mind they use slave labor in China to manufacture textiles that are coming into this country to compete with our textile mills. Dateline Hong Kong, again, and the headline on this is "China To Boost Funds for Textile Mills."

State-owned textile factories in China will be given top priority for funds and raw materials next year, and are being urged to redouble their export efforts, a government minister said. * * *

Textiles and garments are China's No. 1 foreign exchange earner, accounting for about one-fourth of all exports. The United States is the biggest single customer.

Mr. President, these are just highlights. I am going to ask unanimous consent in a moment that the entirety of both these articles be printed in the RECORD.

It goes on to quote the Chinese Textile Minister:

Ms. Wu promised state companies, which she described as the backbone of the indus-

try, preferential treatment in allocation of quotas, yarns and cloth and capital.

All that Senator HOLLINGS has said, all that Senator THURMOND has said, all that this Senator has said, all that the other 52 cosponsors of this bill have said is, let us have a level playing field for the workers of the United States. I commend the two Senators on the remarks they have made, and I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I say to my colleague that textiles rank second to steel in importance to our national defense. We cannot take the chance of having our textile mills closed. If an emergency or war came, where would we be? We cannot depend on foreign countries to supply these necessary items. We need these industries here at home producing these goods. It is highly important we do that.

It is just not fair. It is not fair to the workers of this country to have foreign governments subsidize their industry to come here and compete, and especially when they pay very low wages, below minimum wages in most cases. So I say this bill is needed. It has been needed for a number of years.

We are just asking the Congress to pass a bill to put us on a level playing field with foreign countries. This bill allows the import markets to grow by 1 percent per year. That is what this bill calls for. What is wrong with that? What is unfair about that? The workers of this country are entitled to a level playing field. They do not have it now. I hope this bill will provide it, and I hope the Congress will pass this legislation.

Mr. HELMS. Mr. President, I ask unanimous consent that the articles from the Journal of Commerce be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Dec. 22, 1989]

TAIWAN TO AID MODERNIZATION OF AILING TEXTILE INDUSTRY

(By P.T. Bangsberg)

HONG KONG.—The battered textile industry in Taiwan is getting a substantial boost from the government in a bid to recover lost export ground.

Taiwan's rag trade is suffering, along with other industries, from high wages and a strong currency. These factors are making products less competitive on world markets.

The government's Industrial Development Bureau intends to allocate NT$2.5 billion (US$100 million) in a five-year project to upgrade design and production technology.

Its hope is to boost exports to US$20 billion a year by the turn of the century, roughly double the current level.

A recent study by New York-based management consultancy Werner International said textile labor costs in Taiwan rose 21% in the 12 months between the spring of 1988 and the spring of 1989 to US$3.56 an hour. South Korea's costs rose 25%, but were still lower at US$2.87. Hong Kong's 11% increase put its average hourly cost at US$2.44. The study shows U.S. industry costs at US$9.71 an hour.

Textiles and garments in Taiwan rank second after electronics as an export-earner, accounting for 17.5% of all overseas sales. The United States is the largest single market.

Officials in Raipei said the money also will be used to improve the local investment climate and to help some 250 firms train about 1,000 employees in the use of new technology for the industry.

Shipments of garments and textiles to the United States and most of Western Europe are constrained by quotas.

Hong Kong and other big textile producers have sought to offset this disadvantage by moving up-market to high value-added products, adopting more automation to cut staff costs and setting up manufacturing offshore.

Taiwan's industry now appears to be adopting a similar strategy. The development agency laid stress on the need to create better-quality and more-fashionable designs and to devote more resources to research and development.

Some Taiwanese textile companies already have moved to Thailand and the Philippines, where costs are considerably lower and quotas more liberal because of these nations' less-developed status.

Others opted for China, a strong competitor, where costs are even lower.

[From the Journal of Commerce, Dec. 22, 1989]

CHINA TO BOOST FUNDS FOR TEXTILE MILLS

HONG KONG.—State-owned textile factories in China will be given top priority for funds and raw materials next year, and are being urged to redouble their export efforts, a government minister said.

Plans also include the export of more than finished garments, knitwear and decorative fabrics, Textile Minister Wu Wenying told an industry meeting this week in Beijing.

Textiles and garments are China's No. 1 foreign exchange earner, accounting for about one-fourth of all exports. The United States is the biggest single customer.

Ms. Wu called on companies to explore new overseas markets as a way to increase exports in the face of quotas in much of the developed world and stiffer competition from other suppliers.

With about 70% of the wool China uses being imported, "Expansion of exports has become urgent to make the industry balance foreign exchange expenditure with income," she said.

The minister also repeated an earlier suggestion that domestic demand won't grow greatly next year over this, meaning that more products will be available for export.

Ms. Wu promised state companies, which she described as the backbone of the industry, preferential treatment in allocation of quotas, yarns and cloth and capital. In return, she called for better quality control.

Imports of all kinds are becoming a headache for China, which faces hefty debt repayments in the next decade. Tighter controls have been put on a number of industrial imports and tariffs raised on others.

Ms. Wu acknowledged that raw materials will remain in short supply.

To overcome this, she urged coastal regions to form cooperative ventures using imported goods to make finished products, rather than exporting raw materials. The latter, of course, is easier and quicker since no processing is involved.

It theoretically also should make quality less of a problem, though Hong Kong buyers have recently complained about the standards of cloth and yarn from Shanghai and other centers.

Mr. SANFORD. Mr. President, as a representative of the more than 350,000 textile and apparel workers in North Carolina, I take great pride in the introduction today of the Textile, Apparel and Footwear Trade Act of 1990. I thank my colleague, Senator HOLLINGS, for his leadership on this issue and pledge to him and the textile and apparel workers in North Carolina that I will do all that I can to see that we finally get enacted a long overdue worldwide quota system for textiles and apparel.

North Carolina is the largest fiber, textile, and apparel State in the country. We are proud of our record, proud of this industry and determined to enact legislation that establishes a fair trade policy for this essential segment of our economy.

A compelling case for a textile bill was made long ago, but the legislation passed by the Congress in 1987 suffered an untimely death at the hands of President Reagan. We were told then that we didn't need a textile bill, that imports were declining, that the administration's policy of negotiated bilateral agreements would solve everything.

Nothing could be further from the truth. Textile and apparel imports last year reached an all time high. The current level of imports of textiles and textile products from all sources, more than 165 countries, reached nearly 12.1 billion square meter equivalents in 1989, an increase of 13 percent over 1988 imports. This level of imports is 3 times the level of imports in 1980. If our current textile policy was truly effective, we would never see that level of import growth in an area in which the demand in this country for textiles and apparel has been growing at only 1 percent per year.

Indeed, it was in 1980, when he was running for President, that Ronald Reagan promised the 2.2 million textile and apparel workers of this country that if elected, he would restrict the amount of growth in textile and apparel imports to the amount of growth in the domestic market for these products. Despite that promise and repeated assurances made since then, textile and apparel imports have soared, while the domestic demand has remained stable at a 1-percent growth level.

Textiles and apparel now account for almost one-quarter of this country's entire trade deficit. Since 1980, imports have virtually doubled their stake in the apparel and apparel fabric market, as they hold over 55 percent

of a market in which they controlled only 28 percent just 8 years ago. We now import $2.3 billion more in textiles and apparel than we export, despite the heroic achievement of American textile makers, now the most efficient in the world. Indeed, rather than sit back and watch this tide of imports from low-wage or managed trade countries wash over them, our textile and apparel industry invested over $19 billion in new capital spending to modernize their plants. Our industry now has the lowest work time per product of any country in the world.

This flood of imports effects much more than just the textile and apparel plants in my State. It effects our entire Nation—from cotton and wool producers to footwear makers; 8 out of every 10 bales of cotton contained in imported textiles and clothing are foreign grown cotton; import penetration in the domestic wool textile and clothing market is nearly 70 percent, to the tremendous detriment of our wool growers. The picture of our footwear industry is even bleaker. Import penetration has risen from 51 percent in 1981 to 80 percent in 1989. As a direct result of these imports, domestic nonrubber footwear production has declined, reaching a level matched only during the Great Depression in the 1930's.

We cannot let this invasion of foreign textiles continue, as this industry is far too vital to the American economy. With 2.2 million workers, the U.S. textile and apparel industry has more employees than our steel and auto industries combined, and serves as America's largest manufacturing employer of women and minorities.

Contrary to what many opponents would say, this legislation does not cut back textile imports, nor does it ignore certain key trading partners. Rather than cut imports, it slows their expansion to 1 percent per year—the historic growth rate of the U.S. market. This is only fair. It gives imports the right to grow only as fast as the domestic market has typically grown—not the right to capture an ever increasing share of our market at the direct expense of the U.S. textile and apparel workers.

Moreover, it recognizes the special trading relationship that we have with Canada, Israel, and the countries of the Caribbean Basin. It exempts Canada and Israel, with whom we have free trade agreements from the bill, and guarantees the CBI countries a minimum of their current 11-percent market share.

The bill also gives our textile and apparel workers the right to a level playing field. Throughout the world, many of the governments of the major textile exporters assist their textile and apparel industries through subsidies and trade policies to protect these industries from imports. Just last year, for example, the Government of Taiwan announced a $100 million 5-year project to upgrade its textile industry. The stated goal of this government subsidy is to increase exports to the United States to $20 billion. The U.S. industry should not be expected to compete with subsidized industries throughout the world. We must enact a new textile policy that gives them a fair opportunity to compete.

We do need a textile bill and we need it now. The Reagan-Bush administration broke its promise to the textile and apparel workers of this country. It is time we kept that promise.

TEXTILE, APPAREL, AND FOOTWEAR ACT OF 1990

Mr. COHEN. Mr. President, I rise today to join in introducing the Textile, Apparel, and Footwear Act of 1990. Its purpose is to protect the U.S. textile and footwear industries from further decimation and job losses caused by unfair foreign competition. The bill seeks to achieve this goal through the imposition of global quotas on textile and footwear imports. As a cochairman of the Senate Footwear Caucus, I am sure that this legislation will provide necessary and important relief for the beleaguered U.S. footwear and textile industries.

The evidence is clear—the U.S. textile and footwear industries are under siege by foreign competitors. Since 1980, the U.S. trade deficit for the textile and apparel industries surged from $4.6 to $26.5 billion—a nearly sixfold increase. Likewise, by 1989, import penetration of the domestic nonrubber footwear market reached an incredible 80 percent. These industries are not suffering because they lack skilled workers, modern technology, or the business savvy to compete internationally. Plants are closing and men and women are losing their jobs because the United States has for too long tolerated textile and footwear imports from countries who do not reciprocate our open market policies or who seek to gain an unfair advantage through excessively low wages.

All things being equal, U.S. companies can compete against any others in the world. But things are not equal. The U.S. footwear and textile industries are at a distinct competitive disadvantage with respect to their foreign competitors. The Pacific Rim countries who dump billions of dollars worth of footwear and textile goods every year into the U.S. market are the very ones who routinely close their doors to U.S. companies hoping to make a sale overseas. I constantly hear horror stories from sophisticated, forward thinking companies who are unable to penetrate foreign markets, not through poor planning or inadequate market research, but as a result of artificial barriers deliberately erected by protective governments. For instance, while the Maine shoe industry was being decimated by cheap imports, a small, innovative manufacturer of slipper socks in Lewiston, ME, was holding a sizeable order from a major Japanese department store. Yet, neither the manufacturer, nor I, nor the Japanese buyer could convince the Japanese Government to grant an import license for the items. Needless to say, it is time for the United States to stand up for its industries and demand a level playing field.

The devastating effects caused by the avalanche of footwear and textile imports have been especially acute in Maine. Since 1980, over 7,000 Maine shoe workers have lost their jobs and over 30 plants have been forced to shut their doors. Likewise, the dramatic increase in textile and apparel imports has caused intolerable market disruption, numerous plant closings, and thousands of job losses since 1980—all this despite significant capital improvements to the plants. Currently, there are about 15,000 Maine people directly employed by the footwear and textile industries whose jobs are in jeopardy if reasonable limits on imports are not imposed.

The domestic textile and footwear industries cannot be blamed for losing market share to foreign competitors which are subsidized by their governments and which pay their workers only a fraction of the prevailing U.S. wages. During my tenure in Congress, I have had innumerable conversations with shoe and textile workers in Maine, and it's clear to me that the only thing that these men and women want is the opportunity to make shoes, sweaters, coats, and blankets free from unfair foreign competition. They ask for nothing more—they deserve nothing less.

The legislation we introduce today is an important step in protecting the U.S. industries from suffering further damage from the onslaught of unfair foreign competition. It is not intended to undermine the spirit of free trade, but to demand the practice or reciprocal trade. The United States must demand that its trade policies be reciprocated by our trading partners. The United States cannot afford to open its doors wide in the name of free trade while our foreign competitors slam the door in our face whenever it suits their economic interests.

Mr. President, we must commit ourselves to the development and implementation of rational controls over our economic borders which will provide our domestic industries a fair opportunity to compete. This legislation is an important step in assuring our textile and footwear industries a brighter future, and I urge my colleagues to join in supporting the measure.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

Mr. WARNER. Mr. President, reserving the right to object, and I certainly will not object, because I will be participating with the floor managers on the Executive Calendar momentarily. I just wonder if the Senator from Alaska will allow this Senator to speak for 10 seconds with respect to the comments made by my distinguished colleagues regarding the textile bill.

Mr. MURKOWSKI. I will be happy to do so.

Mr. WARNER. I myself, with the distinguished Senators, have been working on this legislation for years. I stop and think about how proud Americans wear the label "Made in America." That means the hands of Americans, from the textile mills through the finishing plants, have fabricated these garments. I think that Americans join with us in this effort to preserve this industry, which has been with us since the very first days when the Pilgrims landed in the United States.

I thank the Chair.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, the time for morning business is extended for 5 minutes. The Senator from Alaska is recognized to speak for that period of time.

LITHUANIAN SELF-DETERMINATION

Mr. MURKOWSKI. Mr. President, on March 2 the Senate unanimously agreed to a resolution calling on our President to take all appropriate and feasible steps to support Lithuanian self-determination and also to urge that the Soviet Union refrain from exercising political, economic, and military pressure on Lithuania. We will recall, Mr. President, that that resolution passed 93 to 0.

Mr. President, we stand by the people of Lithuania and their desire for independence. The United States has never recognized the 1940 Soviet annexation of Lithuania.

Last week, I had the opportunity to visit the Soviet Embassy and expressed these sentiments to the Soviet Ambassador. I made clear to him my conviction that the only way the current crisis can be resolved is through peaceful negotiation. Soviet military pressure, such as the seizure of the four young men and others from the military hospitals last Tuesday, serves no constructive purpose in the current atmosphere.

Mr. President, one of our own members, Senator D'AMATO from New York, is leaving this evening to attempt to visit Lithuania. I think it is fair that we recognize the significance of the longstanding U.S. congressional support for Lithuanian self-determination and it is important that Congress be able to observe firsthand the developments that are occurring in Lithuania at this crucial time.

Our diplomats have been expelled; the Polish-Lithuanian border has been closed. As a consequence of efforts made by Senator D'AMATO and his office, invitations were extended by the Government of Lithuania to visit that country. I had the opportunity and pleasure of receiving one of those invitations as well as Senator D'AMATO.

Mr. President, it is interesting to note that on approximately April 2, a written invitation was received by both Senator D'AMATO and myself from the President of Lithuania, President Landsbergis. On April 2, Monday, visas were issued by the Government of Lithuania to Senator D'AMATO and myself. I noted that I had visa No. 4.

The difficulty, Mr. President, is that the Soviets closed the border into Lithuania from Poland early last week and as a consequence my office has been advised by the Soviet Embassy it is very unlikely the Soviets will issue visas to either one of us. I checked as early as 9 this morning with the Soviet Embassy and our calls have not been returned. My personal observation was that it was very unlikely that the visas would be granted.

As a consequence, I have decided not to make the attempt to travel to Lithuania at this time. But I think it is noteworthy that, indeed, Senator D'AMATO will be leaving tonight. He will be met in Warsaw by a representative of the Lithuanian Government. They will drive some 200 miles from Warsaw to the Lithuanian border and an attempt will be made to utilize a Lithuanian visa to enter that country.

Mr. President, one would wonder the merits of the pace at which a resolution of the Lithuanian situation might occur. I participated in a press conference with my colleague, Senator D'AMATO, last week. Senator D'AMATO expressed the best answer to the question, "Why now?" It is simply, "Why not now"—best expressed by Lech Walesa as he reflected his moments of anguish during the time that he provided the leadership to Solidarity in Poland. This was expressed in his speech at a joint meeting of Congress on November 15, where he reflected that 9 years ago in August 1980, there began the emergence of self-determination in Poland. The statement was that the people felt so strongly, they were jumping at the fences, they were tearing down the walls and they were doing it because freedom is a human right. He also expressed that in those days, in the beginning, there were warnings, there were admonitions and even condemnations: What were the Poles up to? Were they mad? Were they jeopardizing world peace and European stability? They ought to stay quiet.

Mr. President, we know the outcome of the Solidarity movement in Poland, and I think that spirit is evidenced by Senator D'AMATO's commitment to proceed. The Soviets may turn back Senator D'AMATO and his colleagues from Lithuania at the border. But his journey reflects the commitment of what our democracy is all about, the reality that we shall not succomb to restrictions at borders when it is the spirit of democracy that inspires what we are doing and when what we are doing is right and what the people of Eastern Europe are striving for. What they are striving for is an open society and the freedoms that we enjoy in the West.

It is my sincere hope that Senator D'AMATO's trip is successful and in the spirit of the resolution passed by the Senate, that his is indeed a worthwhile mission. Senator D'AMATO will carry my personal expression of support to the Lithuanians, and it is my hope that the mission will be fruitful. As soon as the Soviet Union issues me a visa, I intend to accept the invitation of the President of Lithuania to visit that country. We look forward to hearing from our colleagues upon his return.

I thank the Chair. I thank my colleagues for the additional time allowance given to me.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,845th day that Terry Anderson has been held in captivity in Beirut.

UNITED NATIONS CONVENTION ON THE CHILD

Mr. MOYNIHAN. Mr. President, today I join as a cosponsor of Senate Resolution 231 offered by Senator BRADLEY concerning the United Nations Convention on the Rights of the Child. The resolution calls upon the administration to seek the advice and consent of the Senate concerning ratification of the convention. The United States supported this convention at the United Nations, but the administration has not submitted it to the Senate.

The convention addresses a matter of great import. Around the world children are subject to exploitation

and abuse. It is fitting that the United Nations has attempted to establish universal standards prohibiting such abuse. This is an issue on which we should all be able to agree. Indeed. I understand that the convention was adopted unanimously in the General Assembly last November.

Mr. President, I know that the convention covers a broad array of topics. It will require close scrutiny. The rights of children are already addressed by a large number of Federal and State statutes and we must analyze the extent to which they may differ from the provisions of the convention. We must also assure ourselves that the Senate agrees with the full range of protections offered by the convention, for once ratified, the convention will become, under the Constitution, the supreme law of the land. However, this process of evaluation cannot begin until the administration seeks the advice of the Senate.

SENATE CONCURRENT RESOLUTION 106—RELATIVE TO JERUSALEM

Mr. SHELBY. Mr. President, I rise today to express my strong support for Senate Concurrent Resolution 106 which the Senate agreed to by voice vote on March 22. This concurrent resolution expressed the sense of the Congress in acknowledging Jerusalem as the eternal capital of the State of Israel. The measure further stated that the Congress strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic religious group are protected.

The issue of Jerusalem has come to the forefront as the result of remarks concerning Israeli settlements in Jerusalem by President Bush during a recent press conference. It is my understanding that the President has now made it absolutely clear that the administration's longstanding policy on Jerusalem has not been altered.

However, I believe that it was necessary for Congress to reaffirm its view on Jerusalem. We have taken that step through the unanimous adoption of this measure. I only regret that I was not able to add my name as a cosponsor of Senate Concurrent Resolution 106. The quick adoption of this resolution, while serving as a forceful affirmation of Congress' support of Jerusalem as the eternal capital of Israel, did not allow for all Senators who have consistently endorsed this policy to become part of the process.

Mr. President, the importance of the city of Jerusalem to the major religions of the world cannot be overstated. However, it was only through the reunification of Jerusalem in 1967 that the sites sacred to Judaism, Christianity, and Islam have been protected and open to all. Clarification of United States policy on a United Jerusalem, serving as the eternal capital of Israel, was necessary. The Senate took this step through the unanimous adoption of Senate Concurrent Resolution 106.

CLEAN AIR ACT AMENDMENTS OF 1989

Mr. HEFLIN. Mr. President, as we continue the debate on S. 1630, I would like to turn the focus toward rural America. The impact which this legislation may have on farmers and some agribusinesses who rely on the use of certain chemicals and practices is of great concern to me. I am referring mainly to the air toxics and nonattainment provisions in the bill. For example, it is important that EPA concentrate its regulatory efforts on those situations that post a real problem and avoid imposing any unwarranted and costly burdens on our Nation's farmers. EPA should carefully determine whether and to what extent agricultural chemicals are creating a problem and avoid imposing any unnecessary regulations.

I understand that in making regulatory determinations under the new urban and area source provisions of section 112 and the provisions relating to ozone precursors from consumer products, that pesticide applications may come under EPA review and regulation. If or when this occurs, the resulting regulations should take into consideration the benefits of agricultural pesticide applications. And where the law allows the cost of controls to be considered, any loss in benefits associated with restrictions on pesticide use should be considered.

Furthermore, only those pesticide emissions contributing directly and significantly to either the urban ozone or urban air toxics problem should be regulated. Moreover, credit should be given for previous reductions in levels. And since the use of agricultural chemicals is regulated by EPA under the authority of FIFRA the office of pesticide programs should be directly involved In the development by EPA of any regulations of air emissions from the use of agricultural chemicals.

I am especially concerned about the impact of the bill on cottonseed crushing and cotton ginning operations. For example, when EPA begins to develop control technique guidelines pursuant to the PM-10 provision it should take into account the unique difficulties of regulating fugitive emissions from agricultural production practices. It should also identify reasonably available control measures that do not unduly burden agricultural producers and regulate only those agricultural production practices that have a direct impact upon PM-10 emissions in nonattainment areas. Future restrictions must serve long-term goals and be technologically and economically feasible. They should not become obsolete in the short-term. No industry can afford to spend millions of dollars on controls and then be required to replace them again with the latest technology.

Furthermore, though the bill language recognizes the differences between new and existing facilities, when regulations are written they should reflect the differences between types of production processes, technical differences, and the cost of controls. This is essential since facilities, such as cotton gins and cottonseed crushing operations, vary widely among themselves in terms of age and production practices.

It is also important to recognize that assessing risk is an inexact, and changing, science. In today's world, the ability of science to detect potential hazardous chemicals has vastly outstripped its ability to evaluate the risk of these chemicals. We must continue, however, to find the correct balance between risk and regulation. We must combine quantitative risk assessment with other scientific knowledge such as metabolism, and pharmacokinetic behavior of the toxic agent in order to define residual and unreasonable risk. The analysis should include the most appropriate science and risk models and leave the final determination to the scientists who have the background and expertise in that field.

In summary, let us proceed deliberately but cautiously with whatever we do here today so that a reasonable approach is taken. I am not suggesting that we do not regulate agricultural, cottonseed crushing, and ginning operations to the extent that they reasonably need to be regulated. However, it is my hope that we take a realistic and responsible approach to these very complex issues which affect our Nation's farmers, agricultural businesses, and the air we breathe.

DR. CLOTILDE P. GARCIA TO BE AWARDED SPAIN'S QUEEN ISABELLA MEDAL OF MERIT

Mr. BENTSEN. Mr. President, on May 16, 1990, Dr. Clotilde P. Garcia of Corpus Christi, TX, will be awarded Spain's Queen Isabella Medal of Merit. The award will be presented by His Majesty the King Juan Carlos I of Spain at the Texas Gala Historical Reception in her honor. I rise today to congratulate Dr. Garcia, and to add my voice to the list of those celebrating her achievements.

Dr. Garcia has enriched the lives of the people of Nueces County in countless ways. She is a physician and surgeon, and has devoted substantial efforts to helping the poor and disadvantaged. She is an educator, who served as a regent board member of Del Mar College for 21 years, and

founded a program to help in the education of underprivileged children. And Dr. Garcia is a historian, founder of the Spanish American Genealogical Association and rediscoverer of Texas' "Last Frontier Spanish Colonial Genealogy and History."

In 1984, Dr. Garcia's accomplishments were acknowledged when she was named to the first Texas Women's Hall of Fame. I am pleased to see that this great Texan is so obviously worthy of recognition that other nations would honor her, as well. I know my Senate colleagues join me in recognizing her on this special occasion and in sending our regards to her and her many friends who will gather in Corpus Christi for this memorable event.

IN HONOR OF S. DOUGLASS CATER

Mr. WIRTH. Mr. President, Doug Cater recently announced his resignation after 8 years as the distinguished and extremely successful president of Washington College. It has been a labor of love, to prove that a small college of excellence can survive—and he did it. While the citizens of Maryland thank him, so do all of us who believe that one of our country's greatest strengths is our diverse system of higher education.

Defying the odds, Doug Cater has redone this splendid little institution, the 10th oldest college in the country, with a revamped campus, a renewed board of directors, a bank account enriched by $43 million, and most important, a recommitted sense of pride and mission for the importance of education for our Democracy.

Mr. President, following are a few of the tributes written to the service and dedication of Doug and Libby Cater which I ask be printed in the RECORD. I am proud of the job they have done, and proud to call them friends.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Evening Sun]

CATER'S LEGACY

Washington College was completing two proud centuries as a small liberal arts college on Maryland's Eastern Shore when Douglass Cater came there as president in 1982, but the future was not bright. In seven years, $41 million was raised, declining enrollment was reversed and Washington College now has a secure place in the state's pantheon of higher education—thanks largely to Cater's tireless efforts even at a time when he was often beset by health problems.

But in focusing on Cater's service to Washington College we should not forget his even larger role in national education policy, which is substantial and lasting. It was 25 years ago this year that Cater went to the White House as President Lyndon Johnson's education adviser; in that role he shaped and guided major federal involvement in higher education. As one of the chief architects of the National Defense Education Act which extended federal loans and grants to all promising high school graduates, he prepared all colleges—private and public alike—for the coming wave of baby boomers to get a decent education.

That is indeed a remarkable success story, but now small colleges like Washington are confronting a wholly different problem: Having geared up for increased enrollments, having met the baby boom challenge superbly, they confront declining enrollments for most of the decade to come.

Survival of these colleges will depend upon whether we can fashion sound educational policies at all governmental levels and sound administration at the local college level. In a life devoted to education, Douglass Cater showed us that we can do both. This example will stand like a lighthouse in the stormy weather to come for higher education in America.

[From the Washington College Elm]

CATER ESTABLISHED BASIS FOR REALIZING VISIONS

Whether you love him or hate him—and unless you're brain dead, you have a definite opinion about him—there's no denying that Douglass Cater has Done Great Things for Washington College.

What Cater found in 1982 was a small, independent, institution struggling to stay small and independent, lacking in a number of basic elements necessary for survivial. Underenrolled, financially unstable, apparently stagnant, this school had but a leg to stand on.

OK, OK, you say, Cater raised a lot of money for Washington College. Big deal.

It's more than money. It's ideas. By raising the College's profile, finances, enrollment, and credibility, Douglass Cater has returned the ability to imagine great things to the College community; arguably, you and I would never have known nor cared about Washington College if not for the high visibility he brought to this school.

Indeed, Cater has pursued his own visions for Washington College with great passion, and several of his expectations have been realized. He has implemented innovated curricular programs such as the Freshman Common Seminar and the President's Forum, and honors seminar courses. The sophomore writing obligation he instituted has not been an overall success, but now has been revamped into a more workable format. Additionally, faculty salaries have improved, and the College is attracting students of high academic profiles.

Perhaps the most controversial of his visions is the Master Plan, the project he has fought hard to see to its completion. It looks as if it's finally coming together.

The buildings that constitute the Master Plan will certainly stand as a Cater legacy, tangible representations of his accomplishments from 1982-1990.

For years, however, certain members of the College community—be they in the minority or otherwise—have damned the Master Plan, especially since construction began on the Casey Academic Resources Center. No one seems to know exactly what it's for, other than to provide a formal entrance to the College.

Opponents of the Plan say that pretty landscaping and big, impressive buildings have taken precedence over academics.

This may be true. Seniors in the upper academic echelons of their high schools want to come to Washington College; are our academics challenging enough to meet the rising standards of incoming freshmen?

We will soon enter a new era, and it's time to decide where we're headed. A search committee is in the works to attract candidates for president, and that committee will include student representatives, which by no means implies that two students should make such an important decision for the entire student body.

It is every student's obligation to voice his or her notions of who our next president should be: do we need another Douglass Cater or is it time to shift priorities? At any rate, Cater has laid down superb groundwork for realizing whatever visions are in store for Washington College.

[From the Kent Country News]

DOUGLASS CATER AND WASHINGTON COLLEGE

(By H. Hurtt Deringer)

I am become a name,
For always rooming with a hungry heart
Much have I seen and known, cities of man
And manners, climates, councils, governments,
Myself not least, but honored of them all,—
—Ulysses Tennyson.

Seven times a week I walk by the calming influcence of the Hynson-Ringgold House.

Douglass Cater, the man who resides there, is stepping down as the president of Washington College.

Monday marked the beginning of the 1989-90 academic year. It was tinely and with an appropriate touch of drama, that the note came that Douglass Cater would retire at the conclusion of the academic year.

The Caters—Libby and Douglass—bring a unique style to the Hynson-Ringgold House and Washington College. It is an exciting, colorful style sparked by Libby Cater and steered by Douglass Cater—flowered with interesting people and events.

To Washington College, they bring renewed vigor for growth, coupled with the preservation of the idea of a small college.

I presonally am sad to see the end of the Cater era at Washington College. He was a journalist at heart, relished the role of editor and knew the pressure of deadlines. I greatly appreciate his openess and fairness toward me and this newspaper.

Objectively, it was time for him to go. Although a Douglass Cater at 50 percent is the equivalent of many, many men at full throttle—the "bourne of Time and Place" was taking its toll.

Here was a man who at 20 was a member of the OSS in World War II. At 27 he was Washington editor of The Reporter and at 41 special assistant to the President of the United States, Lyndon Baines Johnson.

At 45 he was a visiting scholar at the Brookings Institute and at 47 he was setting up the programs for the Aspen Institute. At 53 he was vice chairman of The Observer, London's oldest weekly newspaper.

On February 21, 1982 he was named the 23rd President of Washington College. His inauguration took place on October 16, 1982.

He leaves with Washington College at an exciting juncture in its long history—an ambitious master plan to enhance the campus and its buildings, to provide more student scholarships and financial aid and to increase faculty salaries.

The ceiling on full-time enrollement, the college says, is just under 850. Let this be true.

This is all-important. Those were not idle words that Felix Morley said to president Daniel Z. Gibson at his inauguration 38 years ago. Douglass Cater chose to repeat them at his inauguration seven years ago:

"It is your amusing opportunity to make a small college great by keeping it small. In doing so you will be swimming upstream. You will have to struggle against the trend of the times. Fortunately, on the Eastern Shore, that is not so difficult . . . Shoremen are conscious that the tide flows in, as well as out. Here, at Washington College, I think that one might work back to the wellsprings of our greatness as a people. Let the big universities train the atomic scientists and develop technicians for the alphabetical agencies. The role of the small college is re-discovery. Its course is upstream—toward the source."

Louis L. Goldstein, chairman of the Visitors and Governors, has announced that David T. McLaughlin, Washington College trustee and former president of Dartmouth College, will chair the search committee. Another excellent choice is that of W. Jackson Stenger, alummus, former trustee and Kent County native, as executive secretary.

The committee will be comprised of administrators, faculty, student leaders and alumni.

It is very important that the committee be aware of the close ties of Washington College with the concerns of the Chestertown and Kent County communities. The concerns of those communities—civically, socially, economically and politically—need to be represented in the search for a new president.

Why? Because more than any other institution in Kent County, Washington College represents a guiding force for the ideals of a civilized society.

The president of Washington College is more than a college president. That individual represents not only a person to look up to, to a person "running a college," but he or she has a greater role.

In flush times and in bad times—that human being represents a wise and sensitive individual also concerned with our democratic ideals and our world.

S. 1630, CLEAN AIR ACT AMENDMENTS OF 1989

Mr. SANFORD. Mr. President, last night was an historic occasion for the U.S. Senate. By a vote of 89 to 11, the Senate passed the first comprehensive revision of the Clean Air Act by this body in 13 years. To say that this has been a long, arduous process would be a great understatement. There has been a tremendous amount of work on this legislation by the Environment Committee, the leadership, and many other Senators. S. 1630 may not be a perfect bill, but it is a very good bill, and I believe the final vote reflects that.

There is no question, Mr. President, that a substantial strengthening and rewriting of the Clean Air Act is long overdue. We have known for many years that the current clean air statute simply was not getting the job done. It is true that we have made some progress since 1970 in cleaning up our air. Lead emissions have been reduced by over 90 percent. Smaller reductions have occurred in emissions of the sulfur and nitrogen oxides that contribute to acid precipitation; the volatile organic compounds that contribute to urban smog; and other pollutants. But we are nowhere near where we ought to be. S. 1630, for the most part, will make sure we get there.

Mr. President, our cities were supposed to be in compliance with health-based standards for pollutants like ozone and carbon monoxide over a decade ago, under the Clean Air Act of 1970. Incredibly, over 100 million Americans, in over 100 metropolitan areas, breathe air that still does not meet those standards. Ozone and carbon monoxide pose unacceptable health risks to our citizens, and we have learned that ozone may be damaging at even lower levels than we originally thought. We have learned as well that ozone is probably causing billions of dollars of damage to crops every year; and that even low levels of ozone can damage forests.

We know that sulfur emissions have resulted in a tremendous deterioration in visibility at our national parks, including the Great Smoky Mountains National Park in my State of North Carolina. These same emissions are contributing to acid rain, which is continuing to cause unacceptable damage to lakes and streams, wildlife, buildings and monuments, and possibly even human health. We have learned that the nitrogen oxide emissions which contribute to acid rain are probably causing unacceptable nutrient loading in our coastal waters as well.

Mr. President, another area which is not adequately covered by current law is the depletion of the stratospheric ozone layer. We are in the process of reducing chlorofluorocarbon emissions by 50 percent, as required under the Montreal protocol. Thanks to a recent scientific studies, we now know only too well that those reductions are not enough. A total phaseout of CFC emissions is needed, together with restrictions on halons, methyl chloroform, carbon tetrachloride, and even the new HCFC's which will replace the old CFC's.

We need a new permitting and enforcement system to ensure that the Clean Air Act works as planned. Such a system is needed both to provide the proper regulatory tools for the EPA, and to provide certainty and a minimum of confusion and paperwork for the businesses that must comply with the act. We also need better monitoring and modelling tools so that we can measure the progress that is being made at any given time.

Finally, Mr. President, we need to recognize that perhaps the greatest failure of all in the current Clean Air Act is its performance with respect to air toxics. This is a matter of critical importance to North Carolina. There are hundreds of toxic air pollutants that are emitted in quantities that pose unacceptable risks to human health. Yet EPA is currently regulating just seven of these pollutants. Our data base on toxic emissions has been poor, but I have seen no evidence that these emissions have decreased to any noticeable extent since the passage of the original Clean Air Act. In fact, these emissions have probably increased in many areas. This is simply inexcusable. There is no other way to put it.

S. 1630 will address these problems. It will ensure a reduction of 10 million tons in the sulfur dioxides that cause acid rain and decrease visibility. It will bring most of our cities in compliance with ozone and carbon monoxide standards within the next 5 to 10 years. It will phase out use of the substances that are causing great damage to the ozone layer. It will cause substantial reductions in emissions from automobiles, and will help reconcile the automobile with the environment and enhance energy security by promoting the use of clean alternative fuels such as ethanol. Last, but certainly not least, the bill will require reductions of 90 percent or more in emissions of 191 toxic air pollutants, with further reductions assured such that no person will be exposed to an unacceptable health risk.

Mr. President, none of these actions should surprise American industry. A strong bill was needed in the early 1980's just as much as it is now. Unfortunately, the occupant of the White House at the time had other ideas. It was even suggested that we ought to weaken, not strengthen, the Clean Air Act. It was suggested that we study problems and then study the studies. Well, Mr. President, there have been a great many studies in the past few years and they have tended to confirm one simple proposition—that our air is nowhere near clean enough. When our cities are blanketed by smog; visibility at the Grand Canyon is so poor that we cannot see across it; toxic air emissions are uncontrolled; and forests are dying, we do not need studies to tell us we have a problem. We can see it with our own eyes.

I do not want to downplay the need for scientific studies as the foundation for sound environmental policy. It is very important to make sure that legislation which must necessarily impose some economic costs will do the job we want done, and will provide benefits with a reasonable relation to costs. So studies that will help structure legislation are one thing. Using studies as an excuse for inaction, when all the world knows action is needed, is quite another.

Many may argue that this bill is too tough; that it imposes excessive costs; or that some scientific detail is needed on some problem before it can be ad-

dressed through legislation. I believe that the bill now before us does a pretty good job of following the present scientific knowledge, and achieving necessary environmental goals at a reasonable cost. For those who argue this bill is too costly, I might point out that many legislative proposals introduced throughout the 1980s were much less stringent than this bill. Had those proposals not been fought to the death by industry and the administration, we might have a less costly proposal enacted into law. Nonetheless, I want to make clear that I think this bill is needed; that the goals it sets are largely appropriate; and that the methods of achieving those goals have generally been crafted in a thoughtful manner so as to minimize unnecessary costs.

Mr. President, this bill is hundreds of pages long. It has hundreds of substantive provisions. Any bill of this complexity, or any bill for that matter, is not going to be perfect. But it has been insistence on perfection, and refusal to accept less than 100 percent of what various parties want, that has killed clean air legislation so many times in the past. Thankfully, to the benefit of both the present and future generations, outstanding leadership from a number of Senators has removed the roadblocks and resulted in a bill that does the job that must be done.

I have heard a lot of criticism of various aspects of this bill. Those criticisms have been about evenly divided between those who think this bill is too weak and those who think it is too strong. That may be a pretty good sign that we have things about right.

Mr. President, for those who believe this bill is somehow too weak, I would simply ask that they look carefully at what the bill will actually do. I have heard it suggested that this bill is somehow weaker than the President's bill. I have even, incredible as it may seem, heard it implied that this bill is unacceptable and is even weaker than current law in some substantive way. Nothing could be further from the truth, and I do not see how anyone who has actually read and studies this bill could suggest otherwise.

Although S. 1630 is considerably stronger than the President's clean air legislation, I want to recognize that the President has clearly done a great deal to break the logjam that prevented passage of legislation earlier. His proposal was certainly a constructive effort and served as a good starting point for this legislation. The President's acid rain proposal was particularly strong, and that should be commended. There were a great many other elements in the President's bill that are reflected in S. 1630. The President's willingness to spend a great deal of time and energy on responsible clean air legislation was a welcome change from the previous administration. While I strongly disagreed with some aspects of the President's clean air legislation, the White House had many good suggestions, and we should acknowledge that.

Nonetheless, it is clear that S. 1630 has improved on the President's bill in many areas. It will require much stronger and more predictable controls on facilities emitting toxic air pollutants. It contains extremely tough provisions designed to protect the ozone layer—an issue not addressed by the President's bill. It will require much tougher tailpipe standards on automobiles; tougher nitrogen oxide controls from powerplants; and faster and greater reductions in emissions of pollutants causing urban smog.

For those who wish to compare S. 1630 with current law, I would suggest that even a cursory review of the bill makes it obvious that the legislation is orders of magnitude stronger than current law. There is simply no comparison.

Under current law, we have virtually unrestricted emissions of air toxics. Under this bill, we will reduce emissions of 191 substances by at least an order of magnitude, and will go even further so as to ensure that no individual is subject to a risk of greater than 1 in 10,000 as a result of toxic emissions. Those risks will be lowered to 1 in 1 million—less than the risk of being struck by lightning—for most facilities on an achievable schedule.

Under current law, we have 101 areas that still fail to meet health-based standards for ozone and carbon monoxide after 20 years of effort, and it is difficult to measure whether we are making progress or not at any given time. Under this bill, a whole host of measures will be required—from inspection and maintenance programs to controls on refueling emissions to reasonably available control technology on all major emission sources—together with monitoring, modeling, and percentage reduction requirements that can tell us if the job is getting done. We have also provided for a range of tough sanctions that EPA can and will use, rather than the current-law all-or-nothing approach which guaranteed that sanctions were unlikely to be imposed.

Under current law, there is no requirement that acid rain be addressed. I think virtually everyone agrees that this bill is very tough on acid rain. Under current law, CFC emissions must be reduced just 50 percent. This bill requires a total phaseout. I could go on and on, Mr. President—the point is that any claims that this is a weak bill simply do not hold water.

There is one area, however, where I did believe the substitute amendment before us needed particular strengthening. That is the provisions designed to reduce automotive emissions. It is true that the substitute will require the nationwide imposition of stringent California standards over the next few years, reducing emissions of various pollutants by 36 to 60 percent. It is also true that the substitute actually strengthened the committee bill in one sense by adding reformulated gasoline and alternative fuel provisions. But I became convinced that we would have to go even further for two reasons: first, to guarantee that our cities would be brought into compliance with air-quality standards as soon as possible; and second, to avoid the imposition of less cost-effective controls on small businesses in order to meet those standards.

For this reason, I am pleased that we were able to adopt the Daschle amendment last week. By requiring more stringent standards for reformulated gasoline, we will improve the quality of our Nation's air, and will do so in a way that will help avoid imposing additional burdens on small business. We will also be promoting energy independence by encouraging the use of clean, domestic fuels such as ethanol and ETBE. Expanded use of ethanol blends, I might add, would be likely to benefit North Carolina farmers as well as North Carolina's environment.

Mr. President, it is with considerable reluctance that I voted against one or two strengthening amendments to this bill as I did for all weakening amendments. I was forced to vote against some amendments that had some merit because I believed, along with many of my colleagues, that these amendments were not only deal breakers but bill killers. If any such amendment was passed, we would have faced considerable delay on the bill and might have jeopardized its passage into law. We worked too long and hard on this very important legislation to take these kind of risks.

The Wirth-Wilson amendment was one vote that was particularly difficult. The Senators from Colorado and California worked very hard for the strongest possible provisions with respect to mobile source emissions. I found many aspects of their amendment very attractive. In fact, even after passage of the Daschle amendment—which was similar to a key component of Wirth-Wilson—I still believe some improvements in this title may be possible.

However, there were other substantive aspects of this very comprehensive amendment that I found troubling. Perhaps more importantly, I became convinced that adoption of the amendment would have had very serious implications for the chances of expeditious action on the bill. In essence, Senators were asked to revisit what was clearly the most controversial section of the bill in terms of goals and

costs, a section that perhaps more than any other was responsible for the protracted negotiations in the first place.

Senators were not being asked to merely go part way back to the stronger and more costly mobile source provisions in the committee bill. In fact, adoption of the Wirth-Wilson amendment would have meant completely throwing out the results of the mobile source negotiations; going back to the more controversial provisions in the committee bill—and going well beyond that by adding extensive new alternative fuels and reformulated gasoline provisions. So, while there were many components of the amendment that had merit, it was clear that its adoption would have engendered extremely strong opposition from both the White House and many of my colleagues. I have great respect for the thoughtful leadership on many environmental issues that the Senator from Colorado and the Senator from California have provided, so it was with some reluctance that I decided I could not support their amendment in the situation we faced.

Mr. President, while we have responsibility to set tough environmental goals and make certain those goals will be met, we also have a responsibility to consider the economic effect of this legislation. I do not want industry to close down, workers to loss their jobs, or jobs to go to other countries. We have fought hard to keep the tough environmental standards in the bill intact. Yet at the same time, I have worked with the managers of this bill to ensure that, having set those tough standards, we provide the most cost effective means possible of achieving them.

One lesson that we have learned from the Clean Air Act of 1970 is that the command and control approach to environmental regulation does not work very well, especially after the easiest emission reduction measures have already been put in place. We can't expect to get results by simply loading businesses and industries with regulation upon regulation, and prescribing increasingly detailed measures to the point where every adjustment of a nut or bolt is explicitly treated in legislation. If we try to tell industries exactly how to get where we want them to go, we are likely to meet far more resistance and impose far more costs than are necessary. This approach leads to unnecessary delay and litigation. It may benefit the lawyers, but it is not the best approach for either the environment or the economy.

It makes much more sense to prescribe exacting performance standards, but allow some discretion as to exactly how those standards will be met. It makes more sense to harness market forces to provide economic incentives and disincentives that encourage environmentally responsible behavior. This approach encourages innovation and technological improvement, and it ultimately encourages expeditious compliance at reasonable cost. Certainly, we need tough enforcement mechanisms and monitoring requirements to make certain that emission reductions occur on schedule, and we cannot allow market forces or flexibility to be used as an excuse to create loopholes. However, when provisions have been crafted that ensure that performance standards must be met by a date certain, it is good common sense to allow businesses to figure out how to reach those standards in a way that minimizes costs.

Mr. President, there are some aspects of this legislation that may still be viewed as command and control. For example, we prescribe in considerable detail measures that ozone nonattainment areas must adopt. However, we have nearly two decades of experience in trying to control ozone and we have a pretty good idea of what works and what does not work. In this case, it would be very difficult to argue that the specific measures we have prescribed are not necessary. In fact, these measures were largely based on the recommendations of the very state and local air quality agencies to whom we are prescribing.

On the other hand, Mr. President, there are a great many provisions in this bill that do attempt to harness market forces to benefit the environment. The allowance system for sulfur oxide emissions is one good example. The credit system for reformulated gasoline is another. In the air toxics title, performance standards will be set based on maximum achievable control technology, but industry will be free to use other options to meet those standards. Offsets may be used in the reduction of volatile organic emissions, and improvements have been made to ensure that the offset provisions will result in more environmental protection than have past attempts to use this tool.

I am particularly pleased, Mr. President, that the Senate adopted my amendment to encourage voluntary reductions of toxic air emissions. This is a good example of the use of incentives to benefit both the environment and the economy. If businesses make substantial emission reductions earlier than they are required to do so by law, they will be rewarded. In this manner, successful innovation will be encouraged; pollution will be reduced more quickly; and compliance costs will be minimized.

Mr. President, I strongly support this clean air bill because it creates tough and necessary environmental standards and generally provides for the attainment of these standards with the least possible economic effect. In this way, S. 1630 was painstakingly balanced to ensure that protection of the environment does not occur in a way that needlessly sacrifices economic growth. This bill will clearly provide benefits that far outweigh its costs, in my view. It is very difficult to place a value on the protection of a forest; on restoring a scenic vista; or even on saving human lives. This bill will save lives, and it will protect and preserve a host of environmental values for future generations. That is simply a matter of good stewardship for the planet we live on.

But even in terms of those benefits that can be valued in dollars and cents, this bill will be worth the costs. By cleaning up urban smog and toxic emissions, we will save Americans billions of dollars in health care costs each year. By reducing regional haze, ozone, and acid rain, we will benefit tourism-based economies; restore valuable recreational opportunities; and eliminate billions of dollars worth of damage to forests, crops, and buildings annually.

Mr. President, this is landmark legislation that will provide benefits for many generations to come. It would be impossible to adequately recognize the monumental labor that has gone into this bill. However, I would particularly like to commend the majority leader, the distinguished Senator from Maine, for his outstanding leadership on this legislation. The Senator from Maine has for many years been second to none in his concern for the environment, and in his demonstrated skill in acting on behalf of the environment.

The distinguished Republican leader, Senator DOLE, has also played a key role in this legislation and offered many constructive suggestions throughout the lengthy process that finally resulted in the passage of this bill. The floor managers, Senators BAUCUS and CHAFEE, did a remarkable job of sheperding this bill through that process. In doing so, the Senator from Montana and the Senator from Rhode Island demonstrated considerable knowledge about a seemingly endless number of highly technical matters in one of the most complex pieces of legislation we are likely to see for some time in this body. They have done outstanding work.

Many other Senators, both on and off the Environment Committee, made important contributions to this legislation. As one who has been particularly interested in the air toxics provisions of this bill, I know that Senators DURENBERGER, LAUTENBERG, and BREAUX devoted countless hours to this legislation. There are doubtless many others who have done likewise. Finally, I would like to commend the Environment Committee staff, who went far beyond the call of duty in

their efforts to develop the best possible clean air legislation.

Mr. President, as Earth Day approaches, we need to instill a new environmental ethic of stewardship and environmental responsibility. I cannot think of a better signal that this body can send to the American people than the strong commitment to environmental protection embodied in this bill. This legislation will provide clean and healthy air to the people of our Nation no matter where they live. We need to pass on to our children an environment that is at least as healthy as the environment we inherited from our parents. S. 1630 represents a giant step toward achieving that goal.

TRIBUTE TO DR. HARRY GUFFEE, WILLIAMSON COUNTY, TN

Mr. SASSER. Mr. President, I rise today to pay tribute to Dr. Harry Guffee, a native of Williamson County, TN.

In honor of the many contributions made by Dr. Guffee to his community and fellow citizens, Williamson County is designating May 5 through May 12, 1990, as Dr. Harry Guffee Week.

The entire week will be filled with tributes to Dr. Guffee, a retired surgeon who has endeared himself to three generations of Williamson Countians with his rugged practicality, Western-style charm, and compassionate bedside manner.

The annual Rotary Rodeo in Franklin, TN, on May 4 and 5, will be dedicated to Dr. Guffee, who is one of the founders of the popular event—billed as the largest outdoor rodeo east of the Mississippi River.

Later that week, on May 10, Williamson Medical Center, another institution Dr. Guffee helped found, will honor the doctor with a banquet attended by his colleagues in medicine and by friends, government officials, and other dignitaries. One of the evening's presentations to Dr. Guffee will be a scrapbook filled with letters from people whose lives he has influenced.

Dr. Guffee, born Feburary 19, 1913, in southern Williamson County, did his premedical and medical studies at Vanderbilt University in Nashville, TN, finishing in 1939. After completing his internship at Nashville's General Hospital in 1941, Dr. Guffee began his private practice in Williamson County. It was interrupted, however, by World War II.

Dr. Guffee was assigned to an Army Special Medical Unit and a blackout express convoy making trips to the front lines in Europe to treat injured and wounded soldiers

He was a prisoner of war, captured at Normany Beach, and was one of only 32 in the 3,500-member 84th Divison to survive the invasion. Later, he was instrumental in setting up hospitals for survivors of German concentration camps, including Dachau.

When he returned home, Dr. Guffee helped establish the Dan German Hospital in Franklin and, in 1959 was one of the charter medical staff members at Williamson County Hospital. He served as chief of staff there from 1962 to 1970.

Dr. Guffee retired from medicine in 1979. In 1985, he was appointed a lifetime honorary staff member of Wiliamson Medical Center, which replaced the old hospital facility.

During his 40 years in medicine, Dr. Guffee delivered 4,342 children, many in backwoods cabins, some in sterile hospital suites. He was never concerned about his patients' ability to pay, and many times rode horseback into the rural areas of the country to make house calls.

Even after he retired, Dr. Guffee kept up with his aging patients. On one of his rounds at a nursing home, a post-retirement patient confessed to never paying for the delivery of her child. "How old is your baby now?" Dr. Guffee asked. "Forty," the woman replied, insisting on paying the $44 debt.

Commenting later on his faith in his patients to pay what they could, Dr. Guffee said: "Country people are special. They'll pay you one way or the other, no matter how long it takes them."

In addition to his extensive medical career, Dr. Guffee is involved in civic affairs. He was the first president of the Franklin Jaycees, is a charter member of the Franklin Rotary Club, and led the effort to establish the annual Rotary Club Rodeo in Franklin.

Dr. Guffee is a former president of the Tennessee Medical Association, and served on the board of trustees at Battle Ground Academy in Franklin, his high school alma mater. He has also served as an elected member of the Franklin Ninth Special School District.

Aside from medicine and civics, Dr. Guffee's interest is in horses and riding. He served as vice president of the National Cutting Horse Association and served longer than anyone on its board of directors. The trophy room in the barn on his College Grove, TN, farm is filled with silver-trimmed prize saddles and ribbons from cutting horse competitions. He has also been a regular competitor in the annual Rotary Club Rodeo.

He is married to the former Dorothy Brade. They have four children: Harry Guffee, Jr.; Johnny Guffee; Dottie Guffee Morton; and Betty Guffee Barringer.

I join Dr. Guffee's countless friends in Williamson County and all across Tennessee in extending my sincere thanks and best wishes to a truly outstanding native son.

FERC REGULATORY INCENTIVES FOR CLEAN COAL TECHNOLOGY

Mr. SANFORD. Mr. President, I am pleased that the Senate last night adopted my amendment to the clean air legislation with respect to clean coal regulatory incentives through the Federal Energy Regulatory Commission. This is a modest amendment designed to address, at least in part, certain concerns that have been raised with regard to provisions in the substitute which would establish a Regulatory Incentive Demonstration Program for certain utilities that install clean coal technologies. These provisions would enable the Federal Energy Regulatory Commission to grant incentive rates of return, favorable amortization periods, and other incentives to a limited number of units who choose to use such eligible technologies.

I wish to make it clear that I support the use of clean coal technologies. We have invested considerable sums in researching and developing new techniques which have the potential to both substantially reduce air emissions and increase generating efficiency, and I hope that such technologies will play an important role in U.S. electric generation in the future. I certainly have no problem with the concept of regulatory incentives for such technologies.

However, some concerns have been raised with respect to the FERC regulatory incentives program established in the substitute amendment. First, it will obviously apply only to that small portion of electric rates which are established by FERC for wholesale power sales—which would include the sale of bulk power to this country's rural electric and municipally owned systems. Rates for other types of sales, which comprise 80 percent of the total sales within the country, are only subject to State utility commission regulation and will not be affected. I would note that the substitute includes language to encourage State commissions to adopt similar incentives. This will of course be a matter for State commissions to decide.

Unfortunately, if a State commission does not provide for regulatory incentives similar to those that FERC will be granting, certain types of utilities may not have access to any CCT regulatory incentives. In addition, rates to retail consumers of rural electric and municipally owned systems who buy power from a unit which has been granted FERC regulatory incentives will be higher than those for the retail customers of the generating utility for electricity generated from the exact same facility. As a result, a rate disparity would occur between these two groups of retail consumers. Co-ops or municipals purchasing power from a utility receiving the FERC regulatory

incentives would thus be placed in a price squeeze situation, where passing through the increased costs of purchased power would put them at a competitive disadvantage; while failure to pass through such costs might not be economically feasible.

Mr. President, my amendment attempts to address these concerns in a modest fashion by requiring FERC, to the extent practicable, to select for regulatory incentives clean coal projects located in States where State commissions have considered the possibilities mentioned above, and have established a level playing field with respect to clean coal regulatory incentives. If a State has addressed the price squeeze problem and has established clean coal incentives of their own, units in that State will be more likely to be selected for FERC regulatory incentives. To the extent that applications for FERC incentives greatly exceed the number of units which FERC is allowed to select, the amendment will ask FERC to select projects in States which have established that level playing field.

The amendment is not intended to in any way limit the effects of the FERC regulatory program which was negotiated as part of the substitute. It is simply intended to take a step toward encouraging a system where both Federal and State regulatory incentives for clean coal are fair to all parties.

Mr. President, I would like to express my appreciation to the distinguished floor managers, Senators BAUCUS and CHAFEE, for their assistance with this matter.

TRIBUTE TO DR. JAMES YEN

Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. James Yen, who passed away in Manhattan on January 17, 1990. The contributions of Dr. Yen to the fight against illiteracy, poverty, and despair in China, the Philippines, and other nations are vast and worthy of our recognition.

Dr. "Jimmy" Yen was born in China on October 16, 1893, and was educated in the traditional aristocratic Chinese fashion. After his graduation from Yale in 1918, Dr. Yen volunteered to assist the Chinese Labor Corps, a group of laborers brought from China to France during the Second World War to perform a variety of tasks for the Allies. While in France, Dr. Yen began to teach the illiterate and homesick Chinese coolies to write and read letters from home. His success with the education of the coolies—and his subsequent invention of a simplified vocabulary of Chinese characters—began a distinguished career that would always be characterized by his efforts to assist others.

At the close of World War II, Dr. Yen, in cooperation with the YMCA of the United States, began to expand his literacy program with innovative yet simple farming techniques in the county of Ding Xian, China. As with all of his projects, Dr. Yen soon experienced considerable success and attempted to apply his method to other regions. He was instrumental in the creation of "barefoot doctors," who were taught simple medical procedures such as the disinfection of wounds to prevent infection. These barefoot doctors would then instruct members of their own and other communities in similar procedures.

Dr. Yen's programs and sojourns throughout China and the Philippines eventually culminated in his founding of IIRR, the International Institute of Rural Reconstruction. Through this organization, Dr. Yen sought to train members of different communities the modern farming methods and other general skills that would improve overall living conditions. As with his other programs, Dr. Yen tried through IIRR to improve standards of living at the grassroots level. His principal aim was to teach the poor to want to help themselves, not to merely educate them.

During the course of his life, Dr. Jimmy Yen was honored with nine honorary degrees, the Order of the Quetzal in Guatemala, and the Order of the Golden Heart in the Philippines. He also received the Ramon Magsaysay Award, which is the Asian equivalent of the Nobel Prize, and the Eisenhower Medallion of People to People International in recognition of his "exceptional contributions to world peace and understanding." Dr. Yen was also honored with a 1987 Presidential End Hunger Awards Lifetime Achievement Citation for "more than 60 years of work toward developing and disseminating a sustained, integrated program to overcome the root causes of hunger and poverty in the Third World."

Today, Dr. Yen's brainchild, the IIRR, serves nearly 40 countries, and his invaluable work is continued through the efforts of affiliated organizations.

Thank you, Mr. President.

METAL CASTING COMPETITIVENESS RESEARCH ACT—H.R. 1243

Mr. SHELBY. Mr. President, I rise today to thank my colleagues for supporting the Metal Casting Competitiveness Research Act. I especially would like to thank my friends Senators HEFLIN, JOHNSTON, FORD, and MCCLURE for their leadership on this proposal. The committee and office staffs of the various Senators' offices should be commended also. This was truly a joint effort that will benefit American industry.

Over the years, due to increased foreign competition, the U.S. foundry industry's competitive edge has been reduced. For example, in 1981 there were 4,400 foundries in the United States employing 400,000 production workers. Today, there are only 3,700 foundries employing 216,000 people. Since 1971, half of the U.S. foundries have closed. The total number of tons of metal casting the United States is producing has declined from 20 million tons in 1966 to 11 million tons today. This situation is due in large measure to our foreign competitors' financial investment in their respective metal casting industry. Consequently, countries like Canada and West Germany have made technological leaps to the economic detriment of the American foundry industry.

However, the United States, through innovative and imaginative measures has continued to excel. The legislation before you creates an environment where American ingenuity can thrive. The pairing of significant interest by the Federal Government with the substantial interests of academia and private enterprise can remove any economic disparities that currently exist.

Importantly, Mr. President, is the willingness of the metal casting industry to take the lead. From the beginning, the industry has been more than willing to meet its financial obligations. In this regard, I believe the industry is unique. It is willing to provide not only significant funds, but also it will provide, among other things, the use of facilities, equipment and engineers.

Through joint Federal, private, and university funded research projects the U.S. foundry industry can regain its leadership position. The encouragement and maintenance of a technically advanced U.S. metal casting industry is essential to the competitiveness of virtually all American industry.

Passage of the Metal Casting Competitiveness Research Act is a further initiative on the part of the U.S. Congress to implement progressive and significant legislation that will strengthen our economic position vis-a-vis our foreign competitors.

Mr. President, I once again thank my colleagues for their assistance in moving this legislation forward.

Mr. JOHNSTON. Mr. President, the Committee on Energy and Natural Resources has enthusiastically and unanimously recommended that the Senate pass the Department of Energy Metal Casting Competitiveness Research Act of 1990. I thank Senator SHELBY for introducing this legislation and Senator HEFLIN's exemplary efforts in guiding the bill through our committee.

While on its face this legislation may appear to deal only with one industry, in fact, it will affect the entire U.S. manufacturing industry. Ninety percent of all manufactured goods use

metal castings. Improvements in the metal casting process improves the quality of the goods and directly lowers the cost of finished goods. Better goods at lower costs make for more competitive products for all American industries.

Improvements in metal casting technology will also reduce our energy consumption. The metal casting industry annually consumes over 250 trillon Btu's of energy each year. At a time when we rely on imports for one-half of our oil, more energy efficient processes are sorely needed.

This legislation will result in improvements to metal casting technology by creating a metal casting competitiveness research program within the Department of Energy. The Secretary of Energy will be required to solicit and select proposals on a competitive basis to conduct metal casting research.

To be selected, each proposal must meet certain requirements. For example, the applicant must already have the research facilities in place to apply. Each proposal must demonstrate industry support, contain a cost sharing commitment, set out a management plan, state the cost of the proposal and state how technology will be transferred to industry.

Testimony before our committee was unanimous in establishing the need for metal casting research, and that it should come through joint Federal and private research efforts. American metal casting industries lack the resources to individually perform the necessary research to remain competitive. Ninety-four percent of American foundries employ less than 250 people. Profits are low because of high capital costs and vigorous competition. In fact, foreign competition has caused half of all U.S. foundries to close.

This country lags significantly behind the research efforts of other countries. Virtually every foreign foundry the American metal casting industry competes with benefits from large, government-sponsored centralized research programs. Numerous examples were given to the committee of foreign competitors having developed technology this country is years away from developing.

The importance of research in metal technology has not gone unnoticed by Congress. The Steel and Aluminum Energy and Technology Competitiveness Act of 1988 was passed to improve the industrial competitiveness and energy efficiency of the American steel, aluminum, and copper industries. While many research benefits have already resulted from this act, little has been done in the area of metal casting research. This legislation expands our research efforts and creates a focused metal casting research and development program within the Department of Energy.

The committee believes that the investment this legislation makes in the metal casting industry will be repaid many times over. Better metal casting technology will reduce energy consumption, lower costs and improve the quality of castings. This specifically makes the American metal casting industry more competitive and, thus, American industry as a whole more competitive.

Mr. HEFLIN. Mr. President, I am delighted that the Senate has passed H.R. 1243, as amended. Although there are a few differences between the House- and Senate-passed versions of this bill, I believe that they can be worked out in very short order so that we can send a compromise to President Bush for his signature.

Mr. President, it is virtually undisputed that foreign competition has hurt the American metal casting industry to the extent that it is no longer competitive in the international marketplace. Certain foreign trade practices, a loss of American technological advantages, a lack of superior and adequate metal casting research and development, a lack of resources to conduct the research needed to acquire a competitive edge internationally, and a lack of an adequate supply of university-trained engineers with degrees in metal casting technology research all have contributed to the demise of the U.S. metal casting industry during the last 20 years.

The U.S. metal casting production has declined from about 20.85 million tons in 1966 to approximately 11.65 million tons today. Also, over the last two decades, tens of thousands of American workers have lost their jobs due to the closing of more than half of U.S. foundries.

Virtually every metal manufactured product imported into or exported from the United States requires castings in its assembly or manufacture. The roughly 3,700 remaining U.S. foundries produce annually approximately 21 billion dollars' worth of products and only employ a paltry 260,000 workers. In my home State of Alabama there are nearly 100 foundries—most of which are small, family owned businesses. They produce over 1 billion dollars' worth of cast products every year, with all casting technologies represented among its foundries. They employ approximately 18,000 workers.

Mr. President, both the House- and Senate-passed versions of H.R. 1243 intend to create a new DOE program designed to establish a few national metal casting research centers or institutes at educational institutions. Their purpose for creation will be to advance metal casting technology and research and transfer the technology to industry. In the process, it is our intent to train students to become engineers in metal casting technology research who will be able to move directly into industry upon graduation.

Mr. President, it is absolutely important that I point out that the funds authorized in this bill will come from reallocation of existing DOE funds. Also, I would also like to note that this legislation does not make any changes in existing law.

Finally, Mr. President, I would like to thank the chairman of the Senate Energy Committee, Senator JOHNSTON, and the ranking minority member, Senator MCCLURE, for the extraordinary personal attention that their staff gave to H.R. 1243, as amended. I would also like to congratulate Senator RICHARD SHELBY and Congressman CLAUDE HARRIS of Alabama for having the foresight to introduce this bill in both Houses of Congress.

ACKNOWLEDGING PRESIDENT GEORGE BUSH'S SPEECH ON AIDS

Mr. HATCH. Mr. President, last Thursday, President Bush delivered one of the most compassionate speeches on AIDS that I have ever heard to the National Leadership Coalition on AIDS. This speech reflects the President's humanitarian response to those with AIDS and their families. Clearly, the President understands the suffering caused by AIDS.

Mr. President, I ask unanimous consent that the text of the President's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

TEST OF REMARKS BY THE PRESIDENT TO THE NATIONAL LEADERSHIP COALITION ON AIDS

I am delighted to be here with you, the leaders who guide American business as it helps those suffering with HIV and AIDS. You make our hearts glad. And you make your country proud.

Other generations have faced life-threatening medical crises, from polio to the plague. This virus is our challenge. Not a challenge we sought. Not a challenge we chose. But today our responsibility is clear: We must meet this challenge. We must beat this virus. For whether talking about a nation or an individual, character is measured not by our tragedies—but by our response to those tragedies.

And for those who are living with HIV and AIDS, our response is clear: They deserve our compassion. They deserve our care. And they deserve more than a chance—they deserve a cure.

America will accept nothing less. We are slashing red tape. Accelerating schedules. Boosting research. And somewhere out there, there's a Nobel prize—and the gratitude of planet Earth—waiting for the man or woman who discovers the answer that's eluded everyone else.

We pray that day will come soon. But until that day—until this virus can be defeated by science—there's a battle to be waged by society.

Because in 1990, the most effective weapon in our arsenal against AIDS is not just medication, but also education.

Our goal is to turn irrational fear into rational acts.

Every American must learn what AIDS is and what AIDS is not. And they must learn now. You in this room already know. The HIV virus is not spread by handshakes or hugs. You can't get it from food or drink, coughing or sneezing, or by sharing bathrooms or towels or conversation.

The transmission of HIV is as simple as it is deadly. In most cases, it's determined not by what you are—but by what you do—and by what you fail to do.

Let me state it clearly: People are placed at risk not by their demographics, but by their deeds—by their behavior.

And so it is our duty to make certain that every American has the essential information needed to prevent the spread of HIV and AIDS. Because while the ignorant may discriminate against AIDS, AIDS won't discriminate among the ignorant.

Like many of you, Barbara and I have had friends who have died of AIDS. Our love for them when they were sick and when they died was just as great and just as intense as for anyone lost to heart disease or cancer or accidents.

Probably everyone here has read the heartbreaking stories about AIDS babies and those infected by transfusions. When our own daughter was dying of leukemia, we asked the doctor the same question every HIV family must ask—why—why this was happening to our beautiful little girl. And the doctor said: "You have to realize that every well person is a miracle. It takes billions of cells to make a well person. And all it takes is one cell to be bad to destroy a whole person."

In this Nation, in this decade, there is only one way to deal with an individual who is sick. With dignity, compassion, care, confidentiality, and without discrimination.

Once disease strikes—we don't blame those who are suffering. We don't spurn the accident victim who didn't wear a seatbelt. We don't reject the cancer patient who didn't quit smoking. We try to love them and care for them and comfort them. We do not fire them, or evict them, or cancel their insurance.

Today I call on the House of Representatives to get on with the job of passing a law—as embodied in the Americans with Disabilities Act—that prohibits discrimination against those with HIV and AIDS. We're in a fight against a disease—not a fight against people. And we won't tolerate discrimination.

The disease is attacking our most precious resource—our people, especially our young. The statistics are numbing. You heard them this morning. But just look at the amazing quilts hanging here today. They prove that no one is a statistic. Every life has its own fabric, its own colors, its own purpose, its own soul. And like the quilts, no two are alike.

When Barbara and I left Washington for Christmas, our last stop was a clinic up at NIH. We were impressed by the determination of the people there—the doctors, nurses, and health care workers—and especially the brave people who are living with HIV. We learned a lot about caring, a lot about family, and a lot about hope. We saw the face of humanity in the face of AIDS.

You, too, are in a powerful, unique position to influence the response to HIV and AIDS. Washing our hands of it won't help solve this problem, but rolling up our sleeves will.

The roster of participants at this Conference is an honor roll. Allstate sponsored a landmark conference on HIV and work. Fortune magazine launched a survey on C.E.O.'s response to HIV. General Motors pledged to conduct an education program. Others are fighting the spread of HIV by fighting to keep schools and workplaces drug-free. This is America responding to a crisis. This is America at its best.

This epidemic is having a major impact on our health care system. The Federal response is unprecedented. In 1982, we knew little about AIDS—and spent only $8 million. But this year I have asked Congress for almost $3.5 billion to battle HIV—money for basic research, for HIV treatment and education, for protecting civil rights.

From Seattle to Boston, from Dallas to Detroit, Federal grants have helped coordinate the efforts of care providers, business and community organizations to set priorities and pool resources to meet the treatment needs of people with AIDS.

We've initiated clinical trials for promising new therapies for HIV, expanded the availability of experimental drugs. Approved three new therapies that for the first time offer help to HIV-infected people before they become sick with AIDS. We've started a toll-free number where HIV patients and doctors can get state-of-the-art information on new treatment; worked with the P.T.A. to distribute hundreds of thousands of copies of the "AIDS Prevention Guide" for use in schools and families nationwide.

And our $10 billion war on drugs is also a war on AIDS. IV drug use now accounts for some of the fastest growing infection rates—afflicting Americans that are often among those least able to get adequate medical help.

America has the most sophisticated health care system in the world, but it is not without its problem. We face many challenges. Our system depends on private insurance and individual payments, as well as government programs. AIDS magnifies the challenges, including the challenge of expanding access, bringing costs under control, and overcoming obstacles to quality care. With these concerns in mind, I asked Dr. Louis Sullivan to lead a cabinet-level review of health care in the 1990's, and businesses like those you represent must play a major role in helping improve our Nation's health care system.

The crisis is not over. We report tens of thousands of new cases every year. And many predict we can expect to continue to do so in this decade, and even into the next century.

And yet, "where there is life there is hope." There are hopeful signs. To begin with, we can be encouraged by the news that current projections of the infection rate will not be as high as we thought just a year ago.

My Administration recently acted to extend AZT coverage to help HIV-infected people not yet sick with AIDS. All 50 states now provide Medicaid coverage for AZT treatments. Thanks to these actions, more and more people will be able to live and work with HIV. Keep them in your workforce—as I know many of you are already doing, as leaders in this effort. They can serve many, many more productive years with no threat to you, your other workers, or your companies. It will reduce costs for everyone. And it's the right thing to do.

The pace of progress is promising. The HIV virus has been identified, isolated, and attacked with experimental treatments in a span of less than 10 years. The normal centuries-long evolution of disease and treatment compressed into a decade.

And this race against time has produced an explosion in knowledge and basic understanding about the nature of disease and immunology. Like the unexpected technological boons from Apollo's race to the moon, some physicians predict the race to cure AIDS may even lead to a cure for cancer.

Dollars spent for AIDS research are dollars spent for the better health of all Americans. AIDS research strikes at the heart of many human health problems from infectious disease to aging and cancer. It includes research on a class of viruses now increasingly believed to be the cause of not only AIDS, but also incurable diseases like muscular dystrophy, multiple sclerosis and at least two forms of leukemia.

We're on a war-time footing at NIH and CDC—the Centers for Disease Control. Tonight, like every night, the lights will burn late in Bethesda and Atlanta, as a group of American pioneers work to solve this problem. If they do—I should say, when they do—it will be one of the greatest things our Nation would do for the world.

We're going to continue to fight like hell. But we're also going to fight for hope. America has a unique capacity for beating the odds—and astounding the world.

During my own childhood, the silent, whispered terror was a mysterious killer called polio. Like HIV, the virus ignored class distinctions and geographic boundaries. Monday would come, and kids who'd been in school on Friday were simply never seen again. Theaters were closed, summer camps, swimming pools.

As with AIDS, there was a lot of ignorance. Thousands of stray cats and dogs put to death. Kids sleeping with camphor inhalers. At least one town was fumigated with D.D.T.

There were terrifying outbreaks in the teens, in the thirties, in the fifties. A cure was so far distant the expert refused to speculate. And then, suddenly, it was over. The dreaded iron lung, unused, cluttering hospital hallways. Children again growing up in a world without fear.

Many comparisons have been made to epidemics past—cholera, small pox, yellow fever—none of them perfect. So let me boil down the lessons of polio to two: There was a lot of ignorance—let's learn from that. And in the darkest of hours—hope came unexpectedly, powerfully and with finality. Let's work hard to see that day come to pass.

Together, we will make a difference, for those with HIV and AIDS—and for all Americans.

THE PRESIDENT'S ADDRESS ON AIDS

Mr. KENNEDY. Mr. President, I am pleased to join with my friend and colleague from Utah [Mr. HATCH] in commending President Bush for his eloquent remarks last week to the National Leadership Coalition on AIDS.

The President spoke about care and compassion for people with HIV disease and reaffirmed the fundamental importance of reaching out to those in need. After citing examples of the broad involvement of persons and organization's throughout the country in battling the epidemic, he said, "This

is America responding to a crisis. This is America at its best."

For those Americans who have been grieving in secret—the President's words have kindled fresh hope. I look forward to working closely with him in the months ahead to make this hope a reality.

FED CHAIRMAN'S TESTIMONY ON CFTC/SEC CONTROVERSY

Mr. DIXON. Mr. President, last Thursday, the Securities Subcommittee held a hearing on issues related to our equities and futures markets. Among the distinguished witnesses at that hearing was the Chairman of the Federal Reserve Board, Alan Greenspan.

Now, Chairman Greenspan's testimony received a lot of press attention. In fact, his recommendation to transfer jurisdiction over stock index futures from the Commodity Futures Trading Commission to the Securities and Exchange Commission was the lead in many stories, even though the recommendation was a very tentative one, even though it was carefully hedged, and even though the Fed Chairman took great pains to point out that the Federal Reserve Board was divided on the issue, and took no official position.

Many of Chairman Greenspan's other comments, although equally or even more important to Congress as it considers what, if anything, to do in the stock market and futures area, did not get as much attention. I do not want to take a lot of my colleagues' time, so I will point to just two significant comments.

First, on the issue of margins and volatility, Chairman Greenspan said:

The Board, as best I can judge, is unanimous on the question that the appropriate margins for stock index futures and for stocks should be prudential only. . . . Had we found such a relationship [between margins and volatility], I suspect we would be arguing that margins should be constructed in a manner which picked up not only prudential requirements but also an element of additional margin which would act to presumably suppress the degree of volatility in the system. All of the analytical tools we have brought to bear have failed to find any such relationship. As a consequence of that, we are unanimous on the issue that prudential margins are the realistically sole purpose of putting margins in place.

The Chairman and the entire Federal Reserve Board of Governors therefore made it absolutely clear that they do not believe that there is a relationship between the margins on stock index futures contracts traded on futures exchanges and volatility in the equities markets.

The Chairman's response to the last question Senator DODD, who chaired the hearing, asked just before the hearing ended, was perhaps even more significant. Senator DODD asked about the consequences of Congress failing to act on legislation to address stock and futures issues, and what dangers we would face if we failed to act. Fed Chairman Greenspan responded that:

On the issue of the change in structure which I would personally recommend, which is not a huge change but I think a desirable one, were that not done, I do not think that we leave the structure in total at risk. I think it will be more difficult to resolve certain issues, but I would scarcely want to argue that action is mandatory because if action fails that the system would be put in jeopardy. I don't believe that.

I think that if there is a major market reaction, it is likely to occur with or without changes that we're talking about and I'm not certain the extent to which the types of changes we're talking about would make all that much substantial difference in how the particular market break worked its way through the system.

I did not read in any account of the hearing that the Chairman of the Board of Governors of the Federal Reserve System had said that any legislation transferring some futures jurisdiction to the Securities and Exchange Commission, or any legislation that changed futures margins, would not make much difference in any future crash, but that, of course, is exactly what he did say.

I think that my colleagues deserve to see all of the Chairman's comments. His testimony was very thoughtful, and he is not either a potential winner or loser in any jurisdictional turf war. I therefore ask unanimous consent to include a copy of the Federal Reserve Board Chairman's testimony at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BY ALAN GREENSPAN

Mr. Chairman, members of the subcommittee, it is a pleasure to appear on this panel this morning to discuss issues involving the regulation of securities markets. While your committee is addressing a broad range of matters in this area, you have asked me to focus on whether the existing split regulation of equities and index futures may have contributed to market volatility, interfered with the process of innovation, or led to enforcement problems. You also have asked for comment on certain proposals for regulatory consolidation. I would like to focus my remarks on three major issues: first, the adequacy of margin requirements on stock index futures as a prudential safeguard and the impact of existing margin-setting procedures and other differences in regulation on market volatility; second, existing impediments to innovation; and third, whether there is a need to modify the existing regulatory system for stocks and stock derivatives. My evaluation will be done against the objective of a regulatory structure that, while limiting risks to the system, results in highly efficient and innovative U.S. financial markets that can compete effectively in the global marketplace.

As I will discuss in more detail, the Board does not believe that the existing division of regulatory authority has increased volatility in the securities markets, nor in this regard is it a threat to the capital formation process. We continue to view the primary purpose of margins to be to protect the clearing organizations, brokers, and other intermediaries from credit losses that could jeopardize contract performance. While we think that federal oversight of margins is appropriate for prudential purposes, there are different views among Board members on whether that authority is best vested in the Commodity Futures Trading Commission (CFTC) or the Securities and Exchange Commission (SEC).

On the broader issue of consolidating jurisdiction for stocks and stock index futures (or all financial futures) in one agency, there are good arguments for and against such a consolidation and, accordingly, differences of views on whether such consolidation would, on balance, be beneficial. We believe some changes to the existing regulatory system are necessary to avoid the prospect that jurisdictional disputes among regulators will impede innovation in our financial markets, but consolidation of jurisdiction is not necessary to achieve this objective.

FEDERAL MARGIN REGULATION

A prominent area of disagreement among those interested in the smooth functioning of our capital markets has been the appropriate level of margins for stock index futures and the need for federal authority over such margins. In part, these disagreements reflect different views as to the purposes of margins and the appropriate objectives of federal margin regulation. Accordingly, at the outset I would like to clarify the position of the Board of Governors on these issues.

We continue to believe that the primary objective of federal margin regulation should be to protect the financial integrity of market participants and thereby ensure contract performance. Margins should be adequate to protect clearing organizations, brokers, and other lenders from credit losses arising from changes in securities prices. As such, they are one important element of a package of prudential safeguards, including capital requirements, liquidity requirements, and operational controls, aimed at limiting the vulnerability of the financial markets to losses or disruptions arising from the failure of one or more key participants. The failure of, or even the loss of public confidence in, a major intermediary in any of the stock, futures, or options markets could immediately place significant strains on other markets, their clearing systems, and on our nation's payment system.

The Board remains skeptical, however, of whether setting margins on stock index futures at levels higher than necessary for prudential purposes will reduce excessive stock price volatility. We, too, are concerned about what seems to be a higher frequency of large price movements in the equity markets, but we are not convinced that such movements can be attributed to the introduction of stock index futures and the opportunities they offer for greater leverage. Although available statistical evidence on the relationship between margins and stock price volatility is mixed, the preponderance of that evidence suggests that neither margins in the cash markets nor in the futures markets have affected volatility in any measurable manner. Moreover, we are concerned that raising maintenance margins on stock index futures to levels well above those necessary for prudential purposes could substantially reduce futures market liquidity or drive business offshore.

Thus, in the Board's view, the critical question is whether margins on stock index futures have been maintained at levels that are adequate for prudential purposes. Although no futures clearing house has ever suffered a loss from a default on a stock index futures contract, certain actions by futures exchanges and their clearing houses in recent years raise questions about the adequacy of futures margins from a public policy perspective. Specifically, we have concerns about the tendency for these organizations to lower margins on stock index futures to such a degree in periods of price stability that they feel compelled to raise them during periods of extraordinary price volatility. While such a practice has heretofore protected the financial interests of the clearing houses and their members, it tends to compound already substantial liquidity pressures on their customers, on lenders to their customers, and on other payment and clearing systems. In the Board's view, somewhat higher margin levels on stock index futures would obviate the need to raise them in a crisis and thereby reduce concerns about the reliability of our market mechanisms, especially clearing and payment systems, in times of adversity.

The Board believes that federal oversight is appropriate to ensure that margins on stocks and stock index futures are established at levels that are adequate under a wide range of market conditions. Futures self-regulatory organizations (SROs) should continue to have primary responsibility for developing and refining margin policies. But the appropriate federal agency should have both the authority to initiate changes in margins on stock index futures and the authority to veto changes proposed by the relevant SRO. That authority should not be limited to emergency authority such as the CFTC currently has over futures margins.

Either the CFTC or the SEC could play this role. The principal argument in favor of assigning oversight responsibility for stock index futures to the CFTC is that it has overall responsibility for prudential supervision of futures exchanges and clearing organizations and futures commission merchants (FCMs). Assignment of oversight responsibility to the CFTC would avoid certain regulatory burdens and potential conflicts that could arise if responsibility for critical aspects of prudential oversight of such entities were divided between the CFTC and SEC.

The principal argument for assigning oversight responsibility for stock index futures margins to the SEC is that it would foster consistency of margins in the stock and stock derivative markets. The Board believes that margins in these markets should be consistent in the sense that they provide comparable protection against adverse price movements. The degree of protection provided by margin requirements depends on the magnitude of potential future price volatility. Although studies of past price movements can shed light on potential movements in the future, the forecasting of future volatility necessarily involves elements of judgment. Because different agencies are likely to come to different judgments, there is a case to be made for having only one regulator with margin authority over all the equity products markets to achieve consistency of margins across these markets.

On balance, the Board does not see a clear basis for choosing between CFTC and SEC oversight of stock index futures margins. The Board feels strongly, however, that authority should not be given to the Federal Reserve because it does not have overall prudential responsibility for any of the futures commission merchants (FCMs), broker/dealers, or clearing organizations that margins are intended to protect. The existing margin authority for stock and stock options assigned to the Board under the Securities Exchange Act of 1934 should be transferred to the SROs and the SEC.

ISSUES OF REGULATORY JURISDICTION

The question of regulatory responsibility for margins is one element of the broader question of regulatory jurisdiction over futures and options markets. In light of the strong linkages among the markets for futures, options, and their underlying instruments, some have argued that the division of oversight responsibilities among agencies may impede the effective regulation and supervision that is essential to ensure sound and efficient financial markets.

One particular concern relates to volatility. It is frequently argued that leveraged trading in stock-index futures and options, encouraged by low margin requirements on derivative products, has led to increased volatility in the prices of the underlying stocks. More generally, it has been suggested that other inconsistencies in market mechanisms involving, for example, circuit breakers and short-selling rules, contribute to market instability. It is feared that increased price volatility, in turn, will reduce the attractiveness of equity markets and could impede the capital formation process. These concerns have prompted calls for one regulator who will take steps to remove inconsistencies that may contribute to sharp price swings.

The Board does not share the view that split regulatory authority over equity instruments has in any meaningful way contributed to volatility. As I noted earlier, we have found no substantial evidence linking margin levels to price volatility in the cash or the index-product markets. Nor have studies revealed a clear understanding of how circuit breakers and other market rules affect price movements in the different markets.

In a more fundamental sense, we believe that it is counterproductive to lay blame on one sector, in this case the market for stock index derivatives, for the increasing occurrence of wide and rapid price swings in equity markets. Rather, the volatility we observe reflects more basic changes in economic and financial processes prompted by technological advances and the increasing concentration of assets in institutional portfolios. The delegation by the public of the management of a large proportion of its assets to professional managers through pension funds and other institutions and the desire of these managers for low-cost methods to manage risk and adjust portfolios has spurred growth in the new instruments; improvements in telecommunications and computer technology mean that information on economic fundamentals will be received and translated by these managers more quickly into market prices. To the extent that price movements reflect these basic forces, efforts to restrain valatility by imposing more restrictions on particular markets or instruments could have unintended effects, resulting in significant costs on the system and a shifting of transactions activity offshore.

A second issue frequently raised in evaluating the adequacy of our current regulatory system concerns product innovation. Many of the new products being developed on futures and options markets are not easy to classify. They have important similarities to, or are otherwise linked to, a variety of existing instruments subject to different regulators; and, as a consequence, various uncertainties and frictions have emerged about the appropriate exchanges that should trade these instruments and the agencies that should provide regulatory oversight. One recent example involves the "index-participation" or IP contracts that were introduced by several of the stock exchanges, approved by the SEC for securities trading and, in essence, disapproved when the courts ruled that IPs were futures products subject to the exclusive jurisdiction of the CFTC and could not be traded off of exchanges regulated by the CFTC.

Under the Commodities Exchange Act (CEA), any commodity contract with an element of futurity cannot be entered into except on a CFTC-regulated exchange. Moreover, this act defines the term "commodity" very broadly to include not only physical commodities, like corn and wheat, but intangible contractual interests, including financial instruments. This restriction, when interpreted broadly, serves to discourage the development of new financial products that might be offered outside of the futures exchanges and tends to stifle the innovation process. In a very general sense, all financial instruments have an element of futurity in them, in that their value depends on future events. We believe the CEA can be modified in ways that preserve the public safeguards that motivated this provision, while preventing conflicts in this area from having to be dealt with by the courts and without impeding the process of innovation in equity and other instruments. Such modifications might include an exemption for transactions subject to other regulatory safeguards, sophisticated trader exemptions, or more stringent fraud liability.

ALTERNATIVE REGULATORY STRUCTURES

As I have noted, a case can be made for having only one federal agency with oversight authority over margins in the equity and equity derivative markets. This case rests not on the issue of volatility but on the fact that setting prudential margins requires judgments concerning potential future price volatility in the linked markets for stocks and derivative products. One regulator would provide a single view of potential future violatility in these markets and thereby foster consistency of margins across the various segments of the equity markets. Others would go further and transfer all regulatory authority over stock index futures and options on such futures to the SEC. This is one of the possibilities recently identified by Treasury Secretary Brady.

This alternative would help achieve consistent prudential regulation across these tightly linked markets for equity instruments. However, such a measure would result in two regulators of futures exchanges and futures clearing houses, and hence would still require a considerable amount of coordination of the part of the SEC and CFTC. One must recognize that stock index futures are but one of many futures contracts offered by these organizations—indeed, only one of many financial futures contracts. Should losses from stock index futures trading—to be subject to SEC regulation under this alternative—jeopardize the financial integrity of clearing organization or futures brokerage firm (FCM), it would threaten contract performance on all of the futures traded by the entity, includ-

ing tangible commodity futures. Similarly, a failure in the commodity futures markets could, because of the effects on the clearing organizaton or brokerage firm, have consequences for the equity markets. In another area, many exchange rules related to trading and clearing cut across a wide range of contracts rather than being specific to stock index contracts, and close coordination between the SEC and CFTC would be important in evaluating such rules.

Thus, the SEC would have an important interest in other aspects of futures market regulation while the CFTC would continue to have a strong interest in the regulation of stock index futures. The logic of transferring stock index futures to the SEC because of their tight linkage to the cash market suggests that futures contracts on other instruments also might be regulated differently. That is, Treasury futures would be regulated by the Treasury and Eurodollar and foreign currency futures by the Federal Reserve. Such a change, however, would increase the regulatory fragmentation in the securities markets and would not appear to be a particularly useful realignment. Consequently, the benefits of transferring regulatory jurisdiction to the SEC for purposes of achieving more consistency of regulation across equity instruments must be balanced against these drawbacks, and there is scope for legitimate differences of view on whether such a measure would be a net improvement.

Secretary Brady also has suggested much more far-reaching measures to deal with the jurisdictional issue—the transferring of all financial products to the SEC or the merging of the two agencies. We would urge caution in considering these alternatives. A full merger of the two agencies would avoid many of the problems just mentioned about overlapping jurisdiction in the regulation of exchanges and clearing houses, and the transfer of all financial instruments to the SEC might be accompained by the separate clearing of all financial futures subject to only one regulator. However, these resolutions would concentrate a great deal of regulatory authority over the financial system in a single agency and this has been a concern of Congress for a long time. In addition to the potential management difficulties of a larger organization, there is the risk that bureaucratic inertia in a larger agency could be an impediment to the process of innovation. We should not lose sight of the fact that under the existing system of split jurisdition over financial instruments, our financial markets have been the most innovative in the world, with many of the new products spurred by the introduction of index futures and other futures.

THE D&H RAILROAD

Mr. SPECTER. Mr. President, I am constrained to speak at this time because there are imminent developments with the D&H Railroad Co., which is nearing the end of a complex bankruptcy proceeding.

Mr. President, very briefly, I will supplement my written statement by saying I am joining as cosponsor on Senate bill 2210, introduced by the distinguished Senator from New York, Senator D'AMATO, which would call for procedures to eventuate in the Interstate Commerce Commission which might compel the granting of certain trackage of Conrail between Harrisburg, PA, and Hagerstown, MD, for use by the D&H Railroad.

This is a complex matter. I enter into it with reluctance because both Conrail and the D&H Railroad are constituent companies. For a Pennsylvania Senator, it is very much like getting involved in a dispute between two of my sons, Shanin and Stephen. The time has come when I think I must take a position because the D&H is facing critical dates on April 6, which is Friday of this week, and April 12. We are going to be in recess, probably, after tomorrow.

Mr. President, I have worked extensively on this matter, as have my colleagues. We had a meeting in Senator D'AMATO's office where we met with the chief officials of Conrail and the Canadian and Pacific Railroad. I made a trip to Taylor, PA, on Monday of this week and talked to the president of D&H Railroad. I talked to the shippers. I talked to the receivers. I talked to the people, the men and women, who will lose their jobs and the considerable number that might or will lose their jobs if the D&H is dismantled. The question pending is whether they will be sold as an entity or whether they will be dismantled. I think it is very important that D&H be sold as an entity.

I have worked extensively with Mr. James Hagen, chief executive officer of Conrail, who has been very cooperative. I talked to him repeatedly. In a conversation last Friday, Mr. Hagen told me that there was a possibility that the Canadian Pacific would make another offer which would be acceptable. I talked to him again on Tuesday, yesterday, to find that that is not likely. It may well be that D&H can be sold as an entity, but perhaps at a lesser price than if they had this special trackage from Conrail. If they can be sold, even if it is at a lesser price without the trackage, then I would think that would be the desirable alternative, rather than to compel Conrail to give up trackage.

But if, in the long run, the Interstate Commerce Commission concludes that is necessary—and that is why I am joining on this legislation, because it is very important that competition be maintained—D&H should be maintained as an ongoing railroad, not only for the employees in Pennsylvania, for the shippers and receivers in Pennsylvania and in the entire Northeastern part of the United States, but in order to maintain active competition, which is why the Delaware & Hudson Railroad was set up, to be a competitor of Conrail.

Mr. President, the promotion of competition and free trade has long been the standard for public policy in the rail industry. The Regional Rail Reorganization Act of 1973 which created the Consolidated Rail Corporation [Conrail] provided that a competitive structure be maintained. It was the concern at that time that competition in the Northeast be preserved. The final system plan of 1976 for the Northeast provided the Delaware & Hudson Railway Co. as Conrail's main competitor. Today, the Delaware & Hudson operates approximately 1,600 miles of track in northern Pennsylvania and upstate New York, and is considered the last major rail competitor for Conrail in the Northeast.

Currently, however, the Delaware & Hudson is in bankruptcy court, awaiting a purchaser that can guarantee the financial viability of the line in the future. It is reported that the groups that have considered purchasing the Delaware & Hudson have concluded that unless additional trackage rights are allotted to the railroad, any future line will suffer a history similar to the Delaware and Hudson. Even after infusions of over $100 million by the State of New York and the Federal Railroad Administration, it is obvious that the D&H route structure, as currently designed is flawed.

The Canadian Pacific Railway has nearly put a deal together that provides for the purchase of the Delaware & Hudson. The deal, however, is contingent upon a corrected route structure for the Delaware & Hudson line. That corrected route structure is subject to Conrail negotiating the provision of certain trackage rights between Harrisburg, PA, and Hagerstown, MD. Negotiations with Conrail have proven to be less than fruitful to date, placing the Congress with the responsibility that it placed upon itself years ago when it saw the need for continued competition in the rail industry.

Shippers in the region are concerned that a lack of competition, or a Conrail monopoly of interstate traffic in the Northeast, will result in an increase in transportation costs for shippers. Also, several shippers in Pennsylvania have indicated that there will be no service for them if the D&H line is not sustained, and that in many cases, they will have to relocate or rely strictly on more expensive modes of transportation. In addition, many shippers in the Philadelphia region have been seeking better rail connections to the north, specifically Canada, and to the south. Under the Canadian Pacific's plan for purchase, these connections will be served. However, as I have already stated, this desired result is contingent upon an agreement with Conrail.

The number of Delaware & Hudson railroad jobs in the region, specifically some 150 D&H employees in the Commonwealth of Pennsylvania, strengthens the call for the continuation of the Delaware & Hudson line. For these reasons, I am cosponsoring the bill introduced by my colleague from

New York, Senator ALFONSE D'AMATO to instruct the Interstate Commerce Commission to provide two competitive freight routes in the Northeast.

It can be argued that Conrail is conducting itself in the best interest of its shareholders. If one considers the history of the railroad industry, the Federal Government through the Federal Railroad Administration and the Interstate Commerce Commission long has been involved. Granted, the Staggers Act and the Conrail Privatization Act significantly limited the Government's extensive involvement, but it was the intent of Congress in the 1970's to preserve competitive rail service in the Northeast. The loss of the Delaware & Hudson Railroad is a loss of the little competition remaining in the Northeast.

Mr. President, without the trackage rights between Harrisburg and Hagerstown, no successor to the Delaware & Hudson can be successful. In response to these concerns, the Governors of Pennsylvania and New York have appealed to Conrail for their assistance. Similarly, on December 21, 1989, I wrote to Conrail's Chairman Jim Hagen urging his consideration of the request of the bankruptcy court's trustee for trackage rights.

A response to my letter dated January 3, 1990, expressed Conrail's reluctance to negotiate the trackage rights without adequate compensation. Thus far, Conrail considers none of the offers made for the trackage adequate compensation. However, trackage rights for this connection are necessary to guarantee competition and free trade.

Again, on February 23, 1990, I wrote to Mr. Hagen urging reconsideration of Conrail's position in this matter. In that letter, I mentioned the long involvement Congress has had with Conrail. I indicated that I had been asked to cosponsor legislation to compel Conrail to allow the D&H successor to have trackage rights to Hagerstown, but I expressed to Mr. Hagen that I thought it was preferable for the parties to work out a solution without congressional intervention. Since that time, I have met with Mr. Hagen and his associates on two occasions to urge a private agreement.

Conrail was created with the infusion of $7 million in Federal subsidies and has been exempted from many Federal regulations in an effort to make it profitable. When Congress passed the Conrail Privatization Act of 1986, it established a private corporation that has succeeded beyond our greatest expectations. Today Conrail boasts a positive cash-flow with little corporate debt. Most recently, I took the lead in the Senate as Congress again moved to protect Conrail from any attempts of a takeover by allowing Conrail to declare dividends and make stock purchases.

Mr. President, I worked very hard to keep Conrail out of the hands of the Norfolk Southern Railroad, because I believe such an acquisition would destroy rail competition in the Eastern United States. Now, I am placed in the anomalous position of supporting legislation to retain competition in the face of Conrail's refusal to grant trackage rights to the D&H and its successor. At this time, however, I feel there is no other alternative. Therefore, I ask unanimous consent that my name be added as a cosponsor of S. 2210.

Now Congress must move, to ensure that healthy competition exists in the Northeast. We should act to ensure the existence of a line that will not need future Federal assistance to guarantee free trade. Therefore, I urge the support of my colleagues for this important legislation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. The Chair recognizes the Senator from North Carolina [Mr. HELMS].

EXTENSION OF MORNING BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that I may be permitted to proceed as in the morning hour for about 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I do not object. I simply ask my friend to extend in his request the time for morning business by 10 minutes. I would like to introduce a bill and it will take about 4 or 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I so modify my request.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. Morning business is extended for 10 minutes.

THE TEXTILE INDUSTRY

Mr. HELMS. Mr. President, during the Christmas holidays of 1988 I had a telephone call from the then President-elect of the United States. He was at that time, of course, the Vice President of the United States. We exchanged pleasantries, and then we proceeded to get down to brass tacks on two or three issues.

I asked him if, as a favor to me, he would meet with two or three Senators, whomever would be in town, and one or two representatives of the textile industry to discuss textile legislation. We set a date, and we met in the Vice President's ceremonial office just across the lobby from this Chamber. We had a delightful conversation, and I was impressed with the President-elect's knowledge of the subject.

We wanted a dialog with President Bush and others in the administration regarding the problems faced by the domestic textile/apparel industry. We since have had numerous meetings and discussions leading up to the negotiations now taking place in the Uruguay round of GATT.

Mr. President, in the past few weeks, I have received notice that Milliken & Co., one of the most advanced textile companies in the world, is closing a plant in Robbins, NC, laying off 235 workers. Milliken & Co. also is eliminating 129 jobs in Spartanburg, SC, all due to the uncontrolled flood of imports. Then there is another plant based in Greensboro, in my State, North Carolina, that will shut down its American spinning plant which is situated in Greenville, SC, and that will eliminate 450 jobs.

The important thing to remember about all of this is that these layoffs do not affect merely the 800 people who lose their jobs. These layoffs affect 800 families.

If colleagues want to raise questions about the issue of so-called free trade, I want them to go with me to North Carolina and explain to these 800 families what "free trade" means.

I have already in a colloquy with Senator THURMOND talked about what our competitors overseas, including Communist China, are doing in the manufacture of textiles which they are shipping into this country in a virtual deluge.

We have worked with the administration time and time again. I have been down to the White House so many times on this question that I am going to have to buy a new set of tires.

So I think we have a pretty good understanding going with the administration. What I want to do is work with the administration, get a bill passed which will help the administration in the Uruguay round. It will demonstrate the feelings of this administration about this very severe problem.

Last night a clean air bill was passed, which is going to add to the difficulties of not only textiles and furniture and other industries but all across the country. Little business and big businesses are going to be burdened with additional problems in terms of competition.

So I say again, what we are talking about is a little understanding for the American workers in textiles. I feel that way about every other industry. I hope we can reach an accommodation with our colleagues, and with the administration, and get this problem solved.

Mr. President, as a result of our meetings with President Bush, John Sununu, and Carla Hills, I believe the administration has developed an enhanced appreciation for the situation that our domestic textile industry faces. That was indicated in February when the administration included in its GATT proposal the framework for a global quota system, which would serve as a transition for the eventual inclusion of textiles under GATT. A global quota system is precisely what the industry has been proposing for years.

Mr. President, I am pleased that our discussions that began last year have convinced the administration of the importance of establishing a global quota system. Nevertheless, we were unable to receive the assurance we needed that this global quota proposal would not be bargained away for other trade concessions. That is why this legislation is necessary. We cannot afford to wait and take a chance that nothing will be done to address the problems facing the domestic industry.

I have supported the administration's attempts to mitigate the effects of textile imports by fighting foreign barriers and encouraging the domestic industry to increase its competitiveness. We must continue in our efforts to keep world markets open. But we have made little progress in that regard, and U.S. antidumping and countervailing duty laws have proven inadequate as a means of offsetting the competitive advantages enjoyed by other countries as a result of government subsidies, export strategies, and import barriers.

The textile/apparel industry has made tremendous steps to increase its productivity. In fact, the productivity for the textile industry has increased at twice the rate of all manufacturing over the last decade. Nevertheless, the evidence is irrefutable: Imports have continued to grow at an alarming rate and capture more of the domestic market.

Mr. President, the Mulitfiber Arrangement [MFA] has not been effective in slowing the growth in imports. For example, under the MFA from 1982 to 1986, U.S. imports accelerated to an average rate of increase of more than 18 percent. During the same period, the rate of import growth into the EEC actually declined, and the growth rate in Japan remained essentially unchanged.

In addition, Mr. President, imports increased significantly from Communist bloc countries. For example, in 1986, the United States imported 383,000 square yard equivalents [SYE] from the Soviet Union and 805,000 SYE from Iran; in 1987, we imported 24,000,000 SYE and 3,015,000 SYE, respectively.

Mr. President, some of my very good friends in the Senate oppose this legislation because they say it is contrary to their philosophy of free trade. That is a term that is thrown around often in Washington. But what does it really mean to the hundreds of thousands of men and women textile workers?

I have a videotape in my office that was made a few years ago by a British journalism team who visited several textile plants in Thailand. It shows young girls working 12 to 15 hours a day, 7 days a week. They do not go to school, and many spend the night on the floor of the textile plant. That is just one example in one country.

In China, the conditions in textile plants are even worse. In fact, there is increasing evidence coming to light of the extent to which China uses forced and convict labor in its textile and other industries.

Almost all other developed countries control textile imports to an extraordinary degree, leaving the U.S. market as the world's dumping ground. These countries often use specific exporting strategies that consist of the use of cartels and government subsidies.

On the contrary, in the United States, our industries face strict wage and hour restrictions, clean water and clean air requirements, complex tax laws, and a host of other Government mandates that add significantly to the cost of production. Last night the Senate passed more Clean Air Act amendments that, when enacted, will force more textile workers out of work and will add even more to the cost of doing business in this country.

Mr. President, more than 10 percent of the entire U.S. manufacturing work force is employed by the textile/apparel manufacturing industry. It is the largest industrial employer of women and nimorities. The industry has led the world in modernization. Yet, we continue to see more and more jobs lost to foreign competition.

The facts are irrefutable that our relatively efficient domestic industry is being displaced by less efficient, government-subsidized foreign firms. We must address this situation based on a realistic assessment of our national interests, not on some vague philosophical debate about free trade versus protectionism.

I thank the Chair. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. Time for morning business is now closed.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Timothy Ryan of Virginia to be Director of the Office of Thrift Supervision.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF THE TREASURY

The assistant legislative clerk read the nomination of Timothy Ryan, of Virginia, to be Director of the Office of Thrift Supervision.

The Senate proceeded to consider the nomination.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Chair.

Mr. President, we are starting discussions this morning on this nomination. There is no time agreement in place. I envision that this debate will last 2 or 3 hours. That is an estimate. It will depend of course on how many Members want to speak on either side of the issue.

So I ask Members as we commence this debate if they have a desire and intention to participate in the debate that they plan to so indicate so we can have some sense as to how long we might go, and we can make sure that we plan in a manner where we can accommodate all speakers who want to be heard today.

The nomination of Timothy Ryan to be Director of the Office of Thrift Supervision poses a very complex question, I think, for the Senate. That is evidenced by the closeness and narrowness of the vote that was cast in the Senate Banking Committee. The nominee was reported out favorably by a vote of 11 to 10, which obviously indicates a sharply divided opinion in the committee.

That sharp difference of opinion really is based on the question of the qualification, the proper qualification, of this candidate for this particular position. As I will enumerate in my opening remarks, the person who takes this particular job gets two other jobs with it. It is a three-in-one job situation, and that is a very important consideration that Senators will want to weigh before they make their judgment on this issue.

I want to give some background as to how this nomination has come before us, because the procedure has been most unusual because of the conditions that are attached to it. It was only about 12 days ago that we knew this nomination was coming to the Senate. The nomination papers arrived on Friday, about 12 days ago, and shortly thereafter, a letter was ad-

dressed to me by Secretary of the Treasury Brady.

I want to read that letter into the RECORD, because it becomes a very important part of the foundation of events that have taken place since that time.

Secretary Brady wrote as follows:

DEAR MR. CHAIRMAN: I am writing to request expedited, favorable consideration of Timothy Ryan, the President's nominee for Director of the Office of Thrift Supervision (OTS).

Our request for expedited action stems from recent court decisions in which injunctions have been entered against OTS based on Constitutional arguments. In order to avoid any delay or uncertainty in forging ahead with the critical work of OTS under the 1989 FIRREA legislation, an OTS Director, nominated by the President and confirmed by the Senate needs to be on the job. This is the fastest and surest way that Congress and the Executive Branch can address the current uncertainty.

I know that working together we can and will address this situation, and I thank you for your cooperation and assistance.

Sincerely,

NICHOLAS F. BRADY.

I think we have had an exceptionally good working relationship with the Treasury Department and administration since the beginning of this Congress and since the time I have assumed the chairmanship of the Senate Banking Committee. Prior to today, we have taken up and confirmed, very rapidly, 29 different nominees sent up by the administration that required handling and confirmation by our committee. In fact, we handled 2 yesterday, so the total is now 31. All of that has been done without a hitch.

So when this request came from the Secretary, we responded immediately, as we properly should have, and I said to the Secretary that we would move with all deliberate speed. We, thereupon, cleared out the committee schedule for the subsequent week, and scheduled Mr. Ryan in for his nomination hearing last Wednesday. Then, after taking up the nomination on Wednesday, again using expedited procedures, per this request from the Secretary, I scheduled a committee markup that involved setting aside the normal rules of procedure so that we could have a vote on the nominee in committee last Friday, which we did. The vote reported him favorably by a margin of 11 to 10. Then, I asked the leadership that, upon the disposition of the clean air legislation which was scheduled through Monday and late into last evening, the immediate next order of business be the matter of the Ryan nomination coming to the Senate floor. This again, was in keeping with the request of the Secretary and my commitment to him that we would move this as rapidly as possible.

When we were first presented with this nomination 12 days ago, this nominee was essentially unknown to most of the members of the committee, not a person with whom we had familiarity. One or two members on the committee had an association stretching back over the years. But for the rest of the committee, this person was unknown to us. We endeavored under these expedited procedures to try to assess this nominee and to understand the qualifications and backgrounds and viewpoints that this particular nominee would have, as quickly as we could, given this request that we move at top speed.

I must say, very frankly, that when the nomination came up, I began with the presumption that this would be a nominee that I would support and would have the committee's support. But as I began to examine the background qualifications, I was really taken aback by the fact that there was no relevant background qualification that one would expect to see for a job of this enormous consequence and magnitude at this time—again, bearing in mind it is really three jobs in one. In fact, in combination, I think it is the single most important job in the country today involving direct supervisory and financial management responsibility.

The absence of professional background and qualification in that area was really quite a surprise. The committee began to take note of that and to try to fathom the meaning and consequence of that. Mr. Ryan then came before the committee. In their opening remarks, members focused on the issue of his basic qualification and training and appropriateness to this assignment. Very considerable reservation was expressed by a number of committee members. We then got into the cross-examination and testimony of the witness in the confirmation hearing. And at that point I must say—and the record is there for all to read; we have included it in the committee report—the nominee just did not demonstrate any clear grasp of the issues involved, a point of view about those issues, or give the sense of knowledge and direction that one would expect for someone qualified and able to assume this job. That was very disquieting and very disturbing—it was to me and to others on the committee. They, I am sure, will state that for themselves later, as they did that day.

We were finding ourselves in an unusual situation regarding an enormously important job and being asked to respond very quickly to a nominee about whom very little was known; and finally, upon examining the qualifications of the nominee, it looked to this Senator, and to a number of others, as if we had a real mismatch. Whatever experience and qualifications he might have, whether in labor law or ERISA background work, there was nothing in his background really suitable and logical to fit the requirements of the job that he was being asked to take on.

In the course of the nomination hearing, a number of questions were asked about that and he, to his credit, was very candid and direct in his responses to us. I acknowledge that; I did then and I do now. He indicated that he had not sought the job, that he was a draftee, and that he, himself, was surprised that he had been asked to take this job, and it happened quite rapidly. I think it all happened within roughly a month's period of time. He had not even imagined that he might be under consideration for a job like this; and then, bang, he found he was, and the next thing is, events were moving very quickly. He was the choice of the administration, and under the expedited circumstances he was finding himself being moved very rapidly through the confirmation process.

In fairness to the Senate, I think we all need to understand, Mr. President, the circumstances that attached to this nomination, because they are unusual by their very nature, they are extraordinary by their nature, and that is why we have had to set the rules aside in a number of cases even to bring the matter to the Senate floor this quickly. But I gave my word to the Secretary of the Treasury that I would do that, and I keep my word.

Let me just talk a little bit about this three-jobs-in-one issue, because it is very important for everyone to understand. Let me start with the principal job that he is being asked to take, and that is the Director of the Office of Thrift Supervision. This is a big, big job, and very difficult in today's circumstances. You will recall that in the savings and loan reform legislation of last year we made many changes. We cracked down very hard on abusive practices in the industry, but we also changed the regulatory structure itself. Prior to that legislation there was a three-person board, the Federal Home Loan Bank Board, which was the agency that oversaw the whole thrift industry and the FSLIC was the insurance arm of that agency. And we consolidated those three people, that board of three persons, into a single person, the Director of the Office of Thrift Supervision.

Instead of having a blend of three professional judgments and three people requiring Senate confirmation that would create a body of knowledge and a body of professional capability there, we consolidated those three positions into one, into a Director of the Office of Thrift Supervision, and that is now the job that we are filling for the first time.

We have not been asked previously in this body under the new arrangements to consider anyone for confirmation to that job. So, it being a

newly reconstituted and greatly enlarged job, that is the task that is before us and that is the job to which Mr. Ryan has been nominated by the administration.

An enormous responsibility now falls on the shoulders of that single individual who has to run that whole show as the executive officer of that agency. That agency now has I believe in excess of 3,000 employees, and they are adding people because they have an enormous task to deal with all of the problems in the savings and loan industry.

The 2,513 savings and loan organizations in the country today, that are not under conservatorship, collectively have assets that total over $1 trillion—that is $1 trillion—and in this town you know we often talk in terms of billions. We do not so often talk in terms of trillions. But in this case this one individual will have direct and unilateral operating authority over an industry with assets totaling $1 trillion; obviously a lot of money and a lot of responsibility in a deeply troubled industry.

In addition to that, the second job that Mr. Ryan or whoever is confirmed would take on is member of the Board of Directors of the Federal Deposit Insurance Corporation. This also is a very major assignment because Federal deposit insurance is the Government's guarantee behind the insured deposits of banks and savings and loans. The Government guarantees are having to be applied against the losses that accumulate in the savings and loan system. They have also had to be applied against losses that are occurring in the commercial banking system. We are hearing about them with greater frequency because of the falling level of asset values, real estate values particularly, foreign loans, other things, that have put real stress on the commercial banking system. So running the FDIC is a very major responsibility.

Fortunately, we have on that FDIC board a person of very substantial long-term financial experience, William Seidman. Let us hope he stays a long time, because he is a heavyweight in terms of the background that he brings to the assignment that he now has, but I do not know that he or others like him are found in numbers or are going to be around forever. That does not diminish in any way the role on the FDIC that Timothy Ryan or any other nominee to be Director of OTS would have to carry and discharge on that board. It is a major assignment, with enormous policy implications for the country. It, by itself, is easily a full-time job, and at the minimum it seems to me you would want someone with top-level financial managerial and policy and practical experience over a period of many years.

Timothy Ryan does not bring those kinds of qualifications.

The Federal Deposit Insurance Corporation today has direct supervisory authority and responsibility for over 13,188 commercial and savings banks with assets out there totaling nearly $3.6 trillion. All of that, by the way, is backed by Federal deposit insurance, which means you and me as American taxpayers, because if the thing goes off the rails and into the ditch we are going to be asked to pick up the tab again, as we have in the savings and loan situation.

So the second of the two jobs carries with it direct responsibility over nearly $3.6 trillion in assets that are supported by Federal Government guarantees and ultimately the American taxpayer.

The third job, if those two were not enough, is to join the Board of Directors of the Resolution Trust Corporation. This is the organization that has been newly established, also in last year's law, to collect the assets from institutions that have gone into default. As those assets accumulate they have to be dealt with, managed, and at some point along the way disposed of to try to recover their value.

At the present time there are assets from 400 different institutions that have come under the reach of what we call the RTC, the Resolution Trust Corporation, and their assets total $171 billion.

That is an awful lot of money. I mean it is more money than can really be comprehended in a meaningful way, although it starts to sound small when you put it beside trillion dollar financial responsibilities.

If you add up these three different major policy and decision roles that this nominee would take on, it is a combined total of about just short of $5 trillion in financial responsibility. It is incredible. We have never had anything like this before because we have a new structure and we have these outstanding problems.

I think I can say accurately on behalf of the members of the Senate Banking Committee that this is an unprecedented situation that we have all had to struggle with this. It has been a very difficult process to try to decide what is an appropriate match of training, experience, and expertise to this enormous set of job responsibilities that we have created.

Someone might say, well, maybe you are trying to give someone too much work. Maybe it should not be that way. Maybe you should not have a situation where if you get the one job you get the other two with it. Maybe that is too much. That may be so, but that is the way the law reads today, so we have to work against that reality.

But it does raise the very profound question of what constitutes sufficient qualification for that package of three jobs, starting with the direct sole responsibility for the Office of Thrift Supervision.

(Mr. SHELBY assumed the chair.)

Mr. RIEGLE. I think by any standard or definition, this is an enormous job and set of responsibilities. You want somebody of towering capacity, somebody of exceptional experience and background. At a minimum, you want somebody who has a well-established reputation as an expert in finance, who has worked on complex financial issues, who understands how financial institutions work, who would have presumably some sense of the regulatory structure and all of the broad policy questions that are going to be presented and have to be dealt with in each of these three settings.

If you were looking for such a person, you would say, it seems to me, as you look across a country of 240 million Americans, let us find an individual of exceptional background and experience. Let us find somebody who is a financial professional, not necessarily out of the savings and loan industry, but maybe out of a major corporation; maybe somebody who has been out in the private sector and in government service before and gone back; maybe somebody who was a corporate treasurer, a corporate comptroller of a major Fortune 500 firm who may have retired recently at 65, who is vital and who is prepared to come in for a year or year and a half or 2 years to give extraordinary service to the country in as demanding a financial job as we have in the country today.

There are any number of places to look for people who are bona fide, top-level financial experts in this country. They are not a handful in number. We have a lot of people in this country with years of experience and decades of ability and accomplishment that are well-known who would not be names that would come as a surprise to people, but would be people who, on their face, were so well prepared and so solid that you would repose your confidence in that person and say "I know that person is up to the level of this extraordinary job."

That has been our concern. And for me, that is the only concern: Does this candidate bring the necessary qualifications, experience, know-how, proven ability on these kinds of issues to be equal to that task in a crisis situation.

That is the nature of the job and its requirements. Now let us look at his qualifications.

He is a younger man. And that is good because he is energetic. In meeting and talking with him, I find him to be a likeable person and a person who is eager to go to work. But in terms of his professional background, this is a person whose background is essentially in labor law, particularly in the

ERISA requirements of the law. He is a member of a law firm, and a significant law firm, but he is not the managing partner of the law firm.

If you start to look for the experience on financial policy issues at a high level or other kinds of experience with major managerial responsibility—experience suggesting that he would be able to step in tomorrow and manage in excess of 3,000 employees in a field quite unfamiliar to him—then by his own acknowledgment in the record in the committee hearings, that is asking too much. It is asking too much of him.

He may be a good soldier in the sense that if he is drafted and pulled in and asked to do this job, he may be willing to say, "I will give it my best shot," but I think our obligation goes beyond that, and, quite frankly, I think the administration has an obligation that goes beyond that to search, and find someone of outstanding background to come forward and take these jobs.

I will say as a compliment to the administration, that we had two nominees yesterday that we conducted hearings on in the Senate Banking Committee to go on the RTC oversight board, two public appointees who I think are people of exceptional qualification. My hat is off to the administration for having identified those two individuals. We are going to vote on those individuals this week. I hope to get them up here on the Senate floor before the week is out and have them confirmed and in their jobs. They measure up, they bring the requisite qualifications. Good people can be found, but it takes a lot of work. You cannot settle for something less than what you need for the task at hand. Unfortunately that is what has happened here.

In the committee report, and I recommend it to my colleagues, we have printed here verbatim Mr. Ryan's background as he has submitted it to us. He has done various things—and you should read through them—and presumably he has done them well. But virtually nothing is there with respect to the top-level financial know-how and experience and high-level managerial capability and practice that we would expect to see for the scale of the task that I have just recently outlined here, which includes the job at OTS and the two related job assignments that go with it.

As it began to dawn on many of us on the committee that we had a nominee that did not appear properly qualified for this job, we then began the questioning of that witness in the committee. And again, my mind was open at that time, because I did not know what my ultimate judgment would be until we got through that hearing and we had a chance to reflect on his performance in that setting.

Nomination hearings are very important hearings. We accord them great importance, and we spent a lot of time at it. I think he will indicate he was treated with great courtesy by me, which is my practice. But at several points, Mr. Ryan himself candidly confessed the legitimacy of the concern that we had over his inexperience with financial institutions. He said, among other things, and I quote him here:

> To be quite frank with the entire panel, I was surprised when I received the call, just as those of you who are on the panel here, you've looked at my background.

He went on to say:

> I think the questions that have been raised by really all the panel members are the same questions I would raise if I was sitting in your seat. Are you qualified? This is a very tough job. Can you do it?

Even members of the committee who ended up voting for his nomination expressed during that hearing their very real concern about his lack of experience in financial services at a high level.

After President Bush introduced FIRREA—and we brought that bill through here with essentially all the major structural provisions intact—he said that we have to assure the taxpayers that they will never again—that was the key phrase, and that is a quote—be called on to bail out the industry.

And Secretary Brady himself echoed that theme in presenting the legislation to the committee on February 22, 1989.

He said the following:

> Never again should a Federal deposit insurance fund that protects depositors become insolvent. Never again should insolvent federally insured depository institutions remain open and operate without sufficient private risk capital. Never again should risky activities permitted by individual States put the Federal deposit insurance fund in jeopardy.

He said:

> Never again should fraud committed against financial institutions or depositors be punished as if it were a victimless white-collar crime.

Finally—and this is the Secretary of the Treasury speaking for the President as we set out to write this legislation last year—he said:

> Never again should the Nation's savings and loan system, which is important to our commitment to available, affordable housing, be put in jeopardy.

He was questioned about that, by me and by others. How important was this industry? Did they want to maintain it? How important was this commitment to housing?

Regarding his ability to articulate positions and policy arguments related to those central goals built into the law at the request of the administration and affirmed by the Congress, when asked specific questions about the key aspects of that legislation, I think at a minimum we ought to expect a knowledgeable response, a focused response, a meaningful response by somebody who is going to take the job.

Let us go down through it, because we asked the questions on those specific points. On the Secretary's comment, "Never again should nine Federal deposit insurance funds that protects depositors become insolvent," we asked: "What are your thoughts on deposit insurance reform? Do you think any is needed?"

Here was his answer:

> I know that the Treasury is right now in the process of collecting comments from various interest groups as to what should happen with the depository insurance system. And, I would await such judgments and review of those documents * * * I have no specific view as to should there be modifications. My only view is that we are looking, ultimately, at taxpayer funds.

Well, I can tell my colleagues this. That is a central issue, not only with respect to the job over at the OTS, but, remember, this person goes on the Federal Deposit Insurance Corporation Board.

The second point was: "Never again should insolvent federally insured depository institutions remain open without sufficient private risk capital." This is a centerpiece of the legislation, relating to one of the worst abuses. We put a stop to those abuses in the law. But when another Senator questioned Mr. Ryan about his views on capital standards, the nominee was unable to state a clear opinion. The question was asked by a Senator in the hearing: "Should there be any weakening of thrift capital standards?" Because a lot of people want to weaken them because they cannot meet the standards that are in the law. They would like the standards taken down and take us back in the direction of the problem we are trying to get out of.

Mr. Ryan said, "I probably do not have a view on that subject right now." Well, capital is right at the heart of the questions of whether or not we are going to solve this problem and solve it properly. To come in and not have some kind of an informed view on this was very disquieting.

My colleagues might say that he had not had long to think about this and he did not even know he was going to be considered, so this came as a great surprise to him. All of that is right. But that is why normally, in a situation like this, we would want somebody with a body of experience and a body of knowledge and a body of background practice, who comes in as a certifiable expert in high-level financial questions and affairs. Because then somebody is in a position to be able to express a professional view and, in fact, to be able to express, one would hope, an independent view.

This job, because its definition in law, requires independent judgment. It means you just cannot pick up the phone, if you have this job, and call somebody else in the Government and say, by the way, I do not know much about this issue, I have never dealt with this issue before, I have not thought much about it, it is now right in front of me for decision and what do you think I ought to do about it?

Well, somebody else somewhere else may have an opinion. But that is not what this job requires. This job requires that this person have an opinion and be in a position to exercise independent judgment. That is why some significant basis of relevant experience, I think, is a minimum standard that has to be in place here.

Another one of the Secretary's points: "Never again should the Nation's savings and loan system, which is important to our commitment to available, affordable housing, be put in jeopardy." This is maybe as key a point as any. The Director of OTS needs to understand where the thrifts fit into the American financial system and have a vision for the future of the thrift industry.

In testifying before the committee, Mr. Ryan repeatedly made it clear that he had no such understanding or vision, and he was asked this question directly. Another Senator said, "Do you think there is a need for a specialized thrift industry to promote housing?" Mr. Ryan said: "I have been asked the question during the past 3 weeks, whether I have a view on should there be a thrift industry. And I do not have a view on that right now." He does not have a view right now as to whether there should even be a thrift industry, quite apart from the fact that that is the centerpiece of the law that the President asked us to pass, articulated as the central reason for the law, and we have written the law toward that goal.

I was taken aback by that answer. So I interjected at that point. It is in the minutes of the hearing. I said, "Wait a minute. Did I hear that right, that you don't have a view as to whether or not there should be a thrift industry?"

And he responded by saying, "I have no view as to whether the thrift industry should move forward or not move forward, Senator."

Well, I like the candor. But that is not sufficient to outweigh the lack of a point of view or the lack of a substantive foundation from which to derive a point of view. This is really not the job for on-the-job training, not when you have $5 trillion at risk; $1 trillion of it under his sole executive responsibility.

Let me give my colleagues another one. The question came up about who should regulate the sale of securities by thrift institutions and whether it should be the SEC or the Office of Thrift Supervision. This is a very important question. He was asked, "You know that some stand-alone thrifts offer their own securities. You are familiar with that? * * * Who, in your opinion, should, if this is a stand-alone thrift—not a holding company, but a stand-alone thrift—who ought to be regulating those securities?"

Mr. Ryan: "I have no view on that right now, Senator. I have not given that any thought. I have not looked at pluses, minuses."

He goes on in that vein. And the same thing with respect to other questions. I could take the rest of the day here going down through these. But listen to this one on independence, which, as I say, the law specifically requires. When we asked him a question about his independence and the responsibility to be an independent regulator, he was asked by one of the Senators, who would he rely on for advice and counsel? And his answers were that he would rely on the Treasury Secretary and on the Deputy Treasury Secretary, who are fine men and certainly places where one might get advice. But in that context, for someone running an independent agency that has been tucked in under the umbrella of the Treasury Department, he needs to assert clearly and strongly his independence from those very individuals.

Not that he does not listen to them, not that they are not colleagues. But if you are starting out without any real background and experience and you are looking for insight and guidance in order to carry out your independent role in that job, that is really not the proper place to look for it. I say that with no disrespect to those men, but, once again, it violates and cuts against the very independence question and issue that is set out by law.

Why is that important? We just had had a veryl distinguished person—I might say to the Senator from Virginia—a fellow named Mr. Kearney, who was serving over at the Resolution Trust Corporation. He came in as the executive officer there with a distinguished background and had all of the prerequisites that we would hope to see, of somebody with years of experience at high level finance and so forth. He got into the job. He was there 2, 3, 4 months—I cannot give the precise amount of time—and he suddenly resigned.

It was a great shock. As we tried to piece together what had happened, it is clear that he resigned because he was not given the independence to do the job. And because he is a professional, he was asked to come in and exercise independent judgment. When he found he was not given that latitude, he could not function properly, and he left. That did not happen 10 years ago or 5 years ago. That just happened.

So when those of us raise this concern about independence, it is not out of thin air. It is because we have seen some instances that put that into serious question. Once again, you come back to the issue of qualification. You have to rely on the nominee. You have to make a judgment about the nominee himself. Is this a person who, by training and experience, is equipped and ready to be able to exercise independent judgment? Not that he might not want to, not that it might not be his desire to, but if he lacks the training and the experience and the qualifications, is he able to, even if he can ward off pressures from any other direction?

I might say, as the Senator from Virginia knows, we have talked about that this very morning. The Senator and I met with the nominee this morning to discuss the issues, and one of the issues we discussed was the independence issue because it is a matter of central importance, not just to this Senator as chairman of the committee, but I think to any Senator who studies this issue.

Some are asserting, "look, you have the court case out there, there is a stay in the court case; the stay in the court comes off on the 11th of this month and we are wedged up against that; we have to put somebody in this job right now. So even if you have reservations about qualifications and even if we could not find somebody out there with towering qualifications, we found this guy, here he is, and we need somebody in the job, so take him right now."

You do not take him for just right now, you take him for 5 years because this is a 5-year term. And you put him in three jobs, not just one. It adds up to $5 trillion worth of responsibility, the single biggest financial job in the country today. We are being asked to hurry somebody into that position who has no serious financial background and training that is relevant to these kinds of responsibilities.

I am mindful of trying to meet the other need, the fact that there is the court problem outstanding, We tried to come up with an answer to that because we want to solve the problem, too. So we have drafted a piece of legislation. It is not very long. It is only a page long, and should this nominee be voted down today, we have a legislative alternative that we can offer, and I assume it will be supported by Members on both sides of the aisle, to provide the President with the legal authority under the Vacancies Act to be able to put in place a temporary director of the Office of Thrift Supervision that will stand constitutional muster and, therefore, solve the issue of there being a person in place who has the

full legal authority to be able to act from the minute that person was so designated by the President.

It would be the President's call as to who he might name under that kind of an arrangement, that clearly is a stopgap. But it solves the problem to give us time, should the nomination be turned down today, to find a qualified nominee to come forward and take on this term over the full 5 years.

So there is a way today and tomorrow to answer that problem of the court issue without accepting this nominee. Frankly, it is a much better answer.

As a matter of fact, this vacancy has been known about for about 4 months. This just did not happen that this job became vacant. It has been vacant for quite some period of time. The administration, I think it is fair to say, had time to go out and search this country. Of course, this administration is in a good position to know a lot of the chief financial people in the country and other people in the country. When you go on a talent hunt of that kind, it is not like looking for a needle in a haystack. There are logical ways in which you proceed in that kind of a talent search.

So there was plenty of time, in my view, for somebody of exceptional qualification to be found, but that did not happen. We are now living with the result of that. And somebody who lacks, in my view, adequate qualfication is now before us and we are being asked to shoehorn this particular nominee into place to solve this other problem, and then let us just hope it all works out.

That is what has brought us here. We have tried in every way I know how to be fair in this process. We moved it faster than it has ever moved before. I think the Senator from Virginia, who strongly supports the nominee will attest to the fact that everything we have been asked to do to expedite this nominee we have done. I know of no time when the process has moved any faster to try to accommodate a request coming from the executive branch. I will do the same thing again because I believe that ought to be our attitude. I want to work with the administration; I want to work with this President. I feel very strongly about it. Everything, we have done since I have taken this chairmanship is a reflection of that and I want to do it on a bipartisan basis. I feel very strongly about that, as well. It is easy to feel, if you are somebody in the course of your time in the Congress, who has served both parties. This is my attitude, and that is how I run the committee, as everybody on the committee knows.

So we have an answer here with respect to an ability to enable the President to fill this position, should this nomination go down today. There is an answer for that and people ought not to be stampeded by that argument because that really is a false argument. There is a way to handle this matter in an orderly fashion that I think is a far superior answer in terms of gearing ourselves for the long pull. After all, that is what we are here to do; and that is, to put people in place who are going to be able to perform up to an exceptional standard when matched against the single biggest financial job in the country today that is out there to be done.

I am going to yield momentarily, if I may, to the Senator from Virginia. I just want to make one other closing comment, and that is this. If the Senate confirms Mr. Ryan today, I am going to work with him. And I have said that. The issue I have raised here is an issue I believe has to be raised with respect to qualification. We have our constitutional duty to advise and consent, and that is what we are carrying out here today. It is proper that we do so. Should it be the judgment of the Senate to confirm this nominee, I intend to work with him.

I must say from our personal conversations, I like the nominee, in terms of personal exchanges that we have had. People who know him and have known him for a period of years, whom I respect greatly, one of whom is seated here, the Senator from Virginia, thinks he is an exceptionally able person, while—my words not his—he may not have the background in this area, there are others around who know him personally who feel he is capable of doing very good work.

In any event, the issue I raise is in no way personal. It is an issue of qualification when matched against the extraordinary nature of the needs attached to these three jobs at this time. I respect the right of every Senator to make their own judgment on this. And that is the great beauty of the Senate, that every Senator has to decide for himself or herself.

One of the most important individual decisions that any of us makes relates to the nominees that come before us for confirmation. They are never easy. When there is a question, you agonize over it because you want to be fair; you want to do the right thing; you want to discharge the obligation of judgment as best you can.

I have attempted to do that, and I think my colleagues on the Banking Committee on both sides of this issue, obviously, are closely divided. When you have a one-vote margin, it shows this thing cuts right through the center of the judgment of the committee in terms of the suitability of this nominee. I ask the Members of the Senate to evaluate the facts that I have and others will put forward in deciding that this was not a nominee that ought to go forward into these positions.

Mr. President, if I may, Senator WARNER and I spoke earlier.

Mr. GARN. Mr. President, if I could, we had originally thought——

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator?

Mr. RIEGLE. Let me yield the floor. I will be prepared to seek the floor again when Senator GARN finishes.

Mr. GARN. Mr. President, originally we discussed Senator WARNER would follow Senator RIEGLE. However, we have gone back to the original order, and I will give my initial comments and then Senator WARNER will follow at a later time.

Mr. President, I rise in support of this nomination. I feel, on the general subject, a great deal of frustration, however, in dealing with the savings and loan crisis because as I read the press reports and comments on the floor, and on the floor of the House, and general discussion around the country, it would seem that some think this is a crisis of the last 2½ years. There seems to be very little understanding of the overall nature of the problem and how long it has been building.

I think most of the experts would agree that it started back in the 1970's, and I am certainly not going to go into detail on that, the interest rate mismatches, the 21-percent prime in the late 1970's and thrifts that had lots of 5-, 6-, 7-, and 8-percent mortgages for 30 years and were paying 17 percent to try to attract deposits. You did not have to be too bright to figure out you cannot do that for very long, borrow money at 17 percent and loan it at 8 or 9 for 30 years and stay in business.

So there are a lot of very difficult choices that were not made over the years. The Senate over and over again has tried to have financial modernization legislation and has passed it overwhelmingly, by as much as 90 something to 2, the Proxmire bill in 1988. Unfortunately, the House of Representatives has never seen fit over nearly two decades now to go along with changes that could have averted this crisis.

There is certainly enough blame to go around, for administrations, for Members of Congress, both the Senate and the House. I think we have focused entirely too much on trying to find blame, scapegoats, rather than addressing the problem. I think it should be evident when we come to the floor with deadlines like we have now that we simply have not done our work for a long, long period of time.

Having said all of that, I compliment the chairman of the Banking Committee for moving expeditiously to this nomination. We have waited, and I have been critical of the administra-

tion myself for not getting a nominee up here sooner.

I recognize the difficulties of finding someone to take a job that has been so maligned and been made so difficult over the last few years. So when you talk to people and ask them to come into this type of a situation that is a crisis and involves billions and billions of dollars of taxpayers' money, it is not easy to find the type of people you want, who are willing to make very large personal and financial sacrifices to take the job.

I can remember several years ago, when John Shad was nominated to be Chairman of the Securities and Exchange Commission. During his hearing, I questioned his judgment when I found out that to avoid any possibility of conflict of interest he had to sell stock that cost him $2 million in capital gains taxes, in order to accept an $80,000-a-year job. That is either incredible dedication or incredible stupidity; I choose to think it was dedication. In any event, that was several years ago, but it does require great sacrifice for people of talent and ability to come and take that job.

That is certainly true in Mr. Ryan's case. He will make an enormous financial sacrifice in his career and practice of law to take this position. I admire his willingness to do it. He was a draftee. He did not seek the position.

But we are finding that we are setting up such standards in this body, totally beyond the issue of this particular OTS job. I am not sure of the quality of people we will be able to attract not only because of the personal and financial sacrifice, the living in the fishbowl, the difficult decisions to be made, but the new ethics climate that we are creating.

I made the comment in the committee that I am not sure we could confirm anybody to positions except Mother Teresa. I thought that was a safe comment. Yet in the press yesterday I read where Senator GARN was wrong because the writer of this article said I should have known that Mr. Keating had given thousands and thousands of dollars to Mother Teresa and her causes and, therefore, she obviously could not be approved for this position because she has ties to Mr. Keating.

So I do not know. Maybe I cannot find anybody in that particular situation, the perfect individual. This is a job that a few years ago simply was not known. People did not know what it was. It certainly was not a highlight. Most of the nominees that came before the Banking Committee in the 15 years I have been in this job, through four Presidents, were usually approved by unanimous consent on this floor with no debate whatsoever, until it became a highlighted position because of all of the details.

So with that background, let me respond to a few of the comments my distinguished friend and chairman from Michigan has made. Again I compliment him on the speed of the hearings and the speed of the markup because of the difficulties of the court-imposed deadlines. The chairman and I have been friends for the last 15 years. We have worked together on this committee. When I was chairman, he was very helpful to me, and we have had a very fine, nonpartisan relationship. I state that because I do not want to be misunderstood when I disagree on the substance of this nomination.

There is absolutely no question whatsoever that the OTS position is an extremely important position, and I do not mean to minimize that. But, on the other hand, I do not think there is any need to exaggerate the scope of the position. Opponents of this nomination in the Democratic views have made the assertion that the Director of the Office of Thrift Supervision position is a $5 trillion job by adding together the aggregate assets of all institutions regulated, insured, or under the control of FDIC, OTC, and RTC. After totaling all of these assets, it is stated, and I quote from the report of the committee, "Never before in our national history has so much power and responsibility been consolidated in the hands of a single financial institution's regulator."

That simply is not true. We had the Federal Home Loan Bank Board that did have a three-member board with a chairman that had responsibility not only for all the regulatory functions of the thrift industry, but in addition all of the regional Federal Home Loan Bank Boards, and the Federal Savings and Loan Insurance Corporation. What did we do in FIRREA? We said we are going to have a single chairman, which is correct. But we are also taking away the oversight responsibilities and management of those 12 regional banks. Furthermore, the largest part of the problem is being taken away; FSLIC is being placed under FDIC. So FDIC's responsibilities grew dramatically. The authority and responsibility of the OTS Director were reduced very dramatically from the previous responsibilities of the Federal Home Loan Bank Board.

And furthermore, they were placed under the Treasury Department, not an independent agency anymore. Furthermore, there are no responsibilities for liquidations or mergers at all.

OTS is now responsible for the regulation of some 2,500 thrifts, but it does not have all of these other responsibilities.

My friend from Michigan referred to the No. 2 and No. 3 jobs, and it is true that the OTS Chairman has two other responsibilities with both the FDIC Board and the RTC Board. But certainly it is not fair to include the liabilities and all of the problems of those two agencies as if somehow this were a single regulator because both of those are five-member boards. It is the same board for both. Mr. Seidman is still Chairman of the FDIC. That is his responsibility. This Chairman of OTS will be one of five on these boards.

So, yes, he has some responsibility there, but, certainly, not the total responsibility of the daily operation of the FDIC or the RTC. I know Bill Seidman well enough to know he is not going to let anybody come in and tell him how to run the FDIC. He has been one who has had courage. He is never unwilling to tell us, as an oversight committee, what he thinks on an issue.

So I just want to put that back into context. This is again a very, very important position. I do not want to minimize that. But to say "never before in our national history has so much power and responsibility been consolidated in the hands of a single financial institution regulator," simply is not true.

The Federal Home Loan Bank Board's responsibilities have been diluted and placed under the Treasury. That is another thing that is interesting, the issue of independence. I seem to remember in my advanced middle age—and my memory is not failing me—this Senator opposed both the administration and the committee, and the House of Representatives on this issue of placing OTS under Treasury. I made the comments over and over again in the committee, in the markup, on the floor, and in the conference that I thought we ought to keep this as an independent agency, the same as the FDIC so that they were not subjected to any possible political interference with this administration or any other.

I was overwhelmingly opposed. I was defeated. Now I hear all of this talk about independence. I wish I had heard that last summer. I wish my amendments had been accepted. I wish OTS were still an independent agency. I wish we had not created such an incredible, crazy-quilt organizational chart of RTC and an oversight board and Treasury. I would much rather be able to call up an OTS Director, or even a three-member board if we wanted to leave it that way, and say, "What are you doing?" without having this maze of organizational charts placed in between us.

So I want to emphasize again the importance of this position, but it is not nearly as important as it has been indicated.

Also the assertion that the OTS Director carries with it the responsibility of nearly $5 trillion in assets—this includes $3.5 trillion held by 13,188 com-

mercial and savings banks—under the regulatory supervision of the FDIC. The fact is that the FDIC is a supervisor of only 8,000 State nonmember banks with less than $1 trillion in assets. The OCC, Office of the Comptroller of the Currency and the Feds supervise and regulate the other banks insured by the FDIC. Certainly the OTS Director has not been placed on any OCC oversight board.

So again we need to keep that in perspective.

Opponents of Mr. Ryan now state the independence of the office is part of the very fabric of the statutory structure. Mr. Ryan is criticized for stating that he would consult with other financial institution regulators as well as Treasury Department officials for counsel and advice.

Again, I ask if independence is so important, why did not my colleagues support my attempt to keep it totally independent last summer? Also interesting, is the criticism of saying he would consult. I would quote where this is established in the law—"there is established the position of the Director of the Office of Thrift Supervision who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury."

I oppose that provision, but nevertheless it is there. So I do not think it is fair to criticize him when he said he will consult with them when the law requires that he be under the general oversight of the Secretary of the Treasury.

FIRREA does limit the ability of the Treasury to intervene in specific cases or from requiring prior approval of congressional testimony. The statute clearly contemplated general oversight of the Secretary of the Treasury. The OTS is far from independent. There are many, many statutory provisions that restrict its independence when it was placed in an executive department.

For example, under the Paperwork Reduction Act, OMB must approve all OTS forms. OMB reviews agency regulations under the Regulatory Flexibility Act.

In any case, Mr. Ryan stated that he would consult with Treasury and other regulatory officials. I do not think that shows a lack of independence. I think maybe it shows some common sense when the law places him in that position. Again, I oppose that part of the law.

I specifically questioned him in the committee on his independence, and I will quote the rest of his statement.

> My intention would be to consult not only with the Treasury but other financial service agencies in the Government, which would include the FDIC and the head of OCC. Once a decision has to be made, and if that decision is mine, I will step up and make that decision. You can count on that. I would pledge that to you.

Mr. President, I appreciate the opportunity to clear up that part and bring it back into balance as far as the responsibilities and the issue of independence. But I rise specifically in support of the nomination of Mr. Ryan to be the Director of the Office of Thrift Supervision. This, as I have stated, is an extremely important position.

The Director of the Office of Thrift Supervision has the responsibility of supervising and regulating all of our savings associations, including both Federal and State-chartered institutions. He is the official who must implement the new prudential standards found in the savings and loan legislation passed last year. This individual must determine which savings associations are to be placed in receivership and closed down, and which are capable of surviving and should be saved.

Further, the Director of the Office of Thrift Supervision is also a member of the five-member FDIC Board and RTC Board. Thus, the OTS Director will also have input—and I stress input—into FDIC and RTC decisions, not control over the total of all those assets.

The President after careful consideration selected Mr. Timothy Ryan as his choice to fill this very important position. The committee did not let the urgency of this nomination interfere with its duty to fully consider the qualifications of the nominee who, only after a full and thorough hearing, the committee recommended that the Senate confirm. In taking the action the committee indicated its belief that Mr. Ryan was qualified for this position.

Through his record of public service, and professional achievement, Mr. Ryan has demonstrated that he has the experience, the managerial enforcement skills, toughness, and leadership qualities necessary for this position.

As the Solicitor of Labor, he was responsible for supervising over 1,100 employees, including 600 attorneys. He directed the legal policies and enforcement activities of this Department. The position of Solicitor gave him considerable experience in administering and enforcing a wide range of complex regulatory statutes having wide impact.

During his tenure in the Labor Department, Mr. Ryan earned the reputation of being a tough enforcer. He was especially successful in rooting out corruption in the pension area. Mr. Ryan's public responsibilities include serving as a member of the Overseas Private Investment Corporation, and on the Council of the Administrative Conference.

In the private sector, Mr. Ryan has achieved significant success and is currently a partner on the executive committee of a distinguished national law firm. His areas of expertise include representation of clients in pension matters, one of the more complex areas of regulation and financial law in our legal system.

His particular experience in finance-related matters includes direct involvement in issues relating to mortgage and other asset-backed securities. His practice also involves issues relating to financial guarantee insurance and its relationship to risk-based capital standards applicable in depository institutions.

During the committee hearing on this nomination, Mr. Ryan provided frank answers to all questions asked of him. The hearing record clearly indicates Mr. Ryan's commitment to carry out the course set by the Congress in the FIRREA legislation.

Mr. Ryan also expressed his conviction that any major policy changes that experience dictates should be made would be brought promptly to the attention of Congress.

Mr. Ryan was absolutely clear about several important points. The position of Director of OTS under his tenure would be totally nonpartisan and apolitical.

While he would consult with the other financial institution regulators and the Treasury Department, he promised to make his decisions independently, even if those decisions are not politically popular. He emphasized his commitment to a strong enforcement effort and the development of an aggressive program to root out fraud and abuse and recover funds from wrongdoers. He pledged to devote his full efforts to implementing and enforcing the FIRREA statute through vigorous supervision and enforcement.

The primary criticism raised of this nomination is that Mr. Ryan does not have a background in the financial services industry and that the Director of the Office of Thrift Supervision must be a "bona fide financial professional." However, the Director of OTS is responsible for the overall administration and policy direction of the agency. Mr. Ryan's primary prior experience demonstrates his administrative ability, as well as his capacity to master complex and technical subjects.

The Director will have the benefit of the financial institution expertise in OTS, the Treasury Department, and other financial regulatory agencies at his disposal. In the position for which he is nominated, the ability to manage and utilize such technical experts is much more important than being a technical expert.

The importance of executive skill, rather than technical expertise, has been recognized time and again by Presidents. For instance, Secretary of State Baker, prior to his appointment, was the Secretary of the Treasury.

Joseph Califano was a partner in a Washington law firm and served in the Department of Defense before being appointed Secretary of Health, Education, and Welfare. Elliot Richardson, a distinguished attorney, was Under Secretary of State prior to being appointed Secretary of HEW. He thereafter served in three other Cabinet positions—Secretary of Defense, Commerce, and Attorney General, as well as being Ambassador to Great Britain—during his Government service.

Thus, not only is it not unprecedented, it is not even unusual for a high-level Government appointee to be from outside of the industry or area which he or she is asked to regulate.

I made the comment in the committee that it was certainly not unusual in the private sector, when some company needed a new CEO, to go outside of their company, outside of their industry, in order to hire somebody who had no particular expertise in an area and, yet, had managerial skills.

I read the Washington Post this morning, and I quote:

Who is better for the top job at the world's largest auto company? A homegrown product like Robert C. Stempel or an outsider who would shake up the status quo and bring in fresh, unconventional ideas?

GM gave its answer to that question yesterday when it named as its next chief executive Stempel, a classic organization man who has spent the last 30 years with the company.

But a number of management experts say that may have been the wrong answer. In making the appointment, they said GM may have given up the chance to throw off its hidebound ways and embrace new managerial leadership.

"I would go so far as to raise the heretical idea that they would benefit from not only going outside the company but the industry," said Donald Hambrick, a business professor at Columbia University who specializes in corporate strategy and executive leadership. "They need exciting, radical new ideas for running that place."

I am not here today telling people whether they should go inside or outside to hire. I am making the point that this is not unusual and that management experts often recommend bringing in somebody from the outside.

If there was ever an industry that needs to be shaken up, I think it is fair to say that it is this one. Somebody needs to go in there with a meat cleaver. I asked questions about that. Would he go in and be willing to make tough decisions, rather than go along with what has been going on for too long, with an agency that for too many years was an advocate and friend of the industry. That is not what regulators are supposed to be.

I am the first one to admit, along with my colleague from Michigan, and it comes from the nominee himself, that he does not have extensive experience within the savings and loan industry. But I have also been on this committee for 15 years, when people, for various positions have been nominated, where the committee, both sides of the aisle, through four Presidents, criticized nominees because of their experience and potential conflicts of interest.

There are lots of qualified people who have experience in the industry, but I suspect my colleagues on both sides of the aisle in that hearing would have been very careful, particularly in the situation with all of the disclosures that have been made about fraud and abuse within the S&L industry. He would have been extensively grilled on potential or perceived conflicts of interest.

I wish it were possible to find somebody with extensive experience within the industry, who also had absolutely no perception of a conflict of interest.

My choice at this point, if I have to choose, is somebody who would be a tough regulator, who has proven experience in managing a large department of attorneys, Solicitor of the Labor Department, and who is recommended by so many distinguished people, as shown by the letters that were placed in the RECORD yesterday, that I would opt for that, and I sincerely believe that he would do a very good job.

Finally, it is vital that the Senate act now. The critical enforcement authority of the OTS is being threatened in the courts. This authority is crucial because it empowers the OTS to place thrifts operating with inadequate capital into conservatorship or receivership in order to prevent continued losses.

While the ruling has been stayed, the stay will expire while we are in recess. We have criticized regulators for inaction because of the mounting costs associated with delay.

The President has served up a nominee; the ball is in our court. The time to act is now, and I recommend to all of my colleagues that they vote to confirm Mr. Ryan. I believe that, on the basis of the record, he would do a good job in this position.

Mr. President, following Mr. Ryan's nomination hearing before the Banking Committee, I submitted for the record several questions. Today I received from Mr. Ryan the answers to these questions. I ask unanimous consent that the questions and answers be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 4, 1990.

LORY BRENEMAN,
Chief Clerk, U.S. Senate, Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR MS. BRENEMAN: Enclosed are my answers to the questions submitted to me by Senator Garn.

Sincerely,

T. TIMOTHY RYAN, Jr.

ANSWERS TO QUESTIONS FROM SENATOR GARN

Q. 1. During the hearing you indicated some concerns relating to the future of the thrift industry "as we know it today." Please elaborate on this comment.

Answer. I believe the job of Office of Thrift Supervision is to enforce the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and ensure the safe and sound operation of the thrift industry. Only the market can determine whether the thrift industry will look the same over time under this new set of rules.

The thrift industry has historically served a fundamental role in providing residential mortgages to consumers. However, because of the huge losses suffered by the industry and the taxpayer, last year's thrift legislation changed the basic rules under which thrifts operate—more capital is required; more restrictions have been imposed on risky thrift investments; thrifts initially must pay higher premiums on deposits than banks must pay; and thrifts must maintain a higher percentage of their assets in mortgage-related investments under the Qualified Thrift Lender Test.

These changes and others were designed to protect against another thrift crisis, and I believe that most of them are absolutely crucial to ensuring safe and sound thrift operations—especially the new capital requirements.

But I believe that no one can predict at this time exactly how the industry will adjust to the new requirements. Obviously, the industry is in a difficult transition period, with intense competition coming from several quarters in the industry's fundamental business of mortgage lending. Will the industry stabilize and prosper with its core business? Will more banks acquire thrifts and will more thrifts seek to convert to banks? Will thrifts need to adjust the way they do business in order to compete?

I believe that we simply cannot know the answers to these questions until we know more about how the market reacts to the new law and whether it will drive new mechanisms to make housing available.

But I do know this: the job of the Office of Thrift Supervision is not to promote the industry or ensure its survival at any cost. FIRREA made this point absolutely clear. At the same time, neither is its mission to put the industry out of business. Instead, as mentioned above, its primary concern is the safety and soundness of the industry.

Q.2. The FIRREA legislation requires OTS to apply stringent capital standards to savings associations. In general, these standards may be no less stringent than the standards applied by the Comptroller to national banks. What is your view with respect to the importance of capital in regulating savings associations? Will you implement the standards found in the FIRREA Act?

Answer. I believe that capital is critically important in regulating savings associations. A large part of the problem that led to the thrift crisis was the fact that thrift owners did not have their own money at risk. This created perverse incentives to engage in extremely risky activities in order to gamble their way back to solvency. If they succeeded, they stayed in business and got rich; if they failed, the deposit insurer and the taxpayer were stuck with the losses.

Raising thrift capital standards to levels no less stringent than national bank capital

standards was probably the most important regulatory reform in FIRREA. Only if thrift owners have their own real capital at risk will they regulate their own behavior to take the prudent risks necessary to be profitable without exposing the deposit insurance fund to excessive losses.

If confirmed, I would of course implement both the letter and the spirit of FIRREA's capital standards. As I indicated at the hearing, these standards appear to be tough, but reasonable and necessary.

Q.3. Presently, securities issued by free standing savings and loans are regulated by the OTS, just as securities issued by banks are regulated by the appropriate Federal banking agency. Some have argued that these securities should instead be regulated by the SEC. In your testimony you stated that you have not yet reached a decision on this issue. What factors will you consider in formulating your position on this question?

Answer. I have not taken a final position on this issue because it is exactly the kind of complex question that requires careful study. As you know, there are substantial differences of opinion on this issue.

The SEC has typically argued that principles of "functional regulation" demand SEC regulation. Bank and thrift regulators have traditionally argued that depository institutions are different from other publicly traded companies because of the publicity-sensitive nature of their business and the level of federal supervision to which they are already subject—in these circumstances, they argue, it only makes sense to have one regulator for all fundamental issues who is completely familiar with the institution's activities.

I am not entirely persuaded by either argument, and if confirmed, I intend to take a careful look at these and other relevant issues in reaching a conclusion.

Q.4. Legislation was recently introduced to prohibit the sale of uninsured securities in the lobby of a bank or thrift. Many in the financial services industry feel that this measure is too broad and may interfere with the ability of financial institutions to engage in commonly accepted transactions, such as the sale of mutual funds in lobby space. They argue that disclosure requirements and other safeguards are more appropriate than an outright ban. Others are concerned about the potential for misleading customers who are likely to mistake these products for insured deposits. During the testimony, you indicated that you had not yet reached a decision on this issue. What factors will you consider in formulating your position on this question?

Answer. I believe that there have been obvious abuses in the sale of financial instruments that resemble insured deposits, which clearly need to be addressed. I understand that different versions of legislation have been introduced in the Senate and the House of Representatives, with the OTS also in the process of issuing regulations.

As I indicated in the hearing, I do not yet have a view on which of the different approaches is the correct one. I generally believe that disclosure is the first option that should be carefully examined in circumstances like these. However, more restrictive measures appear to be necessary where debt securities can be easily confused with insured deposits. But I remain concerned about overly broad measures that might needlessly impede the ability of thrifts to raise much-needed capital. These are the kinds of factors that ought to be weighed in any final determination.

Q.5. During the hearing, an issue arose concerning financial guarantees that are backing bonds issued by local governmental units. Please explain how these guarantees affect capital, and whether or not the position you advocated as an attorney would result in lowering capital standards.

Answer. The position I advocated as an attorney would not have lowered capital standards for thrifts. As I explained at the hearing, we asked for parity of treatment between two kinds of capital instruments with equal degrees of risk. I believe that is the correct public policy result, and I do not think it represents a lowering of thrift capital standards.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I want to thank the managers of this nomination for the courtesy they have extended the Senator from Virginia throughout this process. I shall return to that later in my remarks.

The Senator from Virginia is going to focus on what he believes is the central issue before the U.S. Senate, as it discharges its constitutional responsibility under the advise-and-consent clause. One word, first: Does this man possess "leadership?" That is what we need to day as we move into the eye of the storm surrounding the savings industry, to offer help, guidance, and make the tough decisions and provide leadership. I believe, unequivocally, that he does have that qualification.

But leadership starts at the top, and that is the President of the United States. This morning I conferred with the President's chief of staff. He advised me that the President is solidly behind this nominee, despite concerns—and legitimate concerns by some Senators—as raised in the press and editorials this morning, about whether or not the President and his administration are trying to distance themselves from the S&L situation.

Quite the contrary. The President is there to provide the leadership from the top. He cannot, nor should his principal deputies in the White House or the Secretary of Treasury, try and micromanage the office to which I hope the Senate of the United States will confirm Mr. Ryan. Instead they have carefully selected an individual who, in their judgment, can provide that leadership, which is so essential.

The Secretary of the Treasury—and it is fortunate that that distinguished American was once a Member of this institution, a former U.S. Senator—along with the President, Tim Ryan, if confirmed by the Senate, and Bill Seidman, Chairman of the Federal Deposit Insurance Corporation, will be a strong working team.

When Tim Ryan came to me some weeks ago and said, "JOHN, I have been asked to look at this opportunity, and I seek your advice," I gave him Seidman's name. He knew Seidman slightly, but I said, "Go talk with him right away, and determine whether or not, if the President nominates you and if confirmed by the Senate, you can work together as a team." And he did that.

He also talked with a number of other leaders in the banking industry and the financial community. Some of their comments have come forward voluntarily and, as stated by the distinguished ranking member, are included in material that I and the ranking member have provided each Member of the Senate. I hope that Senators will find the time, if they have not, to look at that collection of very important contributions from the private sector; acknowledged leaders who repose in Tim Ryan the confidence to have the leadership to carry forward with this position.

Tim Ryan also will consult, as Director of OTS, with the housing industry, the industry that is really in partnership with the savings institution.

So I am confident that Tim Ryan will become an integral member of a team, from the top right on down through to the private sector. He will use his ability as a leader to work as the quarterback in this tough situation.

Mr. President, I also express my appreciation to Members of this body. It has not been an easy task for the distinguished chairman or the ranking member or others to face a controversial nomination. I know without exception that each of the Members of this body I approached, and I think I have approached almost every one, has assured me that they will give a fair and objective consideration to this nomination. That is all that can be asked, and that is all that should ever be committed. And that process started, of course, with the chairman, who eventually reached his conclusion along with his colleagues on the committee.

I thank those colleagues, not members of the committee, who at my request took the time to meet with the Secretary of the Treasury, as well as Tim Ryan. Incidentally Tim Ryan is still available this morning and will be throughout this deliberation for any Senator wishing to consult with him.

So I think that the Senate is proceeding fairly and objectively, and I know we will reach an outcome which in my judgment will withstand public scrutiny and prove that this institution can be fair and objective.

Now, Mr. President, Tim Ryan, the man. I have known him and his wife for nearly 14 years. They are a most unusual couple. They are of a generation that came along in some of the most turbulent years in the modern history of this country. Both of them have gone on to accept leadership positions. I emphasize "leadership positions." Tim Ryan has risen through the ranks of his chosen profession, that of law, to where he is now, one of

the most influential partners of a very large international law firm. Those of us who have been in the practice of law know that that is tough competition, not only to become a partner, but then to go on up and become a member of the executive committee of an important law firm.

No one questions his intelligence. No one questions his judgment. Not one single Senator with whom I consulted questions this man's honesty or his personal integrity.

Therefore, I think while experience in certain technical areas in this industry might well be a helpful part of the portfolio an individual could bring to this office, it is not, as we say in the law, the sine qua non; it is but one of a number of factors.

The paramount factor again I say is the leadership and the ability to take charge of several thousand public servants working in the Office of Thrift Supervision; to provide that leadership and work as a member of the team.

Finally, the individual taking on this responsibility has to be an individual of firmness. We use the word "toughness" back in my State. I think any Member of this body putting himself or herself in the position of this nominee and what this nominee, together with his silent partner, the spouse—have endured would agree they are "tough." Together as a team, they have weathered this storm with strength and conviction. They are ready and willing to take on this responsibility, given that opportunity by the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Illinois.

Mr. DIXON. Mr. President, I am sure in the course of the day, many will come here to comment upon the nomination of Mr. Ryan to be Director of the Office of Thrift Supervision. I do not know Mr. Ryan. To my knowledge, I have never met him prior to the time that he appeared before the Banking Committee as the nominee of the President of the United States.

So far as I know, Mr. Ryan is a perfectly decent sort of person. I suspect he would be fully qualified for a variety of different posts available in the Government.

But if my dear friend, the senior Senator from Virginia, will indulge me, I would like to enlarge upon a comment that Senator WARNER made, and I wrote it down so that this could be a direct quote, because my friend from Virginia said something I agree with when he said, "Leadership starts at the top—with the President of the United States."

I agree. We are as one.

Mr. President, when I was a kid in grade school, they taught us about the greatest scandal in the history of the country, Teapot Dome. Why, to this day, I bet every kid knows about Teapot Dome. Teapot Dome, Mr. President. Small potatoes, small potatoes, Mr. President.

Then in my developing political career, I remember running for reelection in 1974 for office of State treasurer in my State, a State that can go either way, and elects Repubicans and Democrats to high public office.

Late in the campaign in 1974, I landed in Freeport, in Stephenson County, IL, to make a speech. The fellow at the airport said, "You are wanted on the telephone by the top man in your office, Mr. Callahan," who I am delighted to tell you, Mr. President, is one of the outstanding men in public service in this country, still my administrative assistant, without peer. I went to the phone. He said, "Guess what President Ford just did?" I said, "What?" He said, "He just pardoned Richard Nixon." I said, "I don't need to go make this speech, this campaign is over. Ain't nobody going to win on the Republican ticket in the country this year."

I was wrong, because my friend, the ranking member, who sits there across the aisle from Senator RIEGLE, did win that year despite Watergate.

Watergate—small potatoes; little bitty small potatoes, Mr. President. But now we are going to talk about an Idaho full of potatoes, an Idaho full of potatoes, because we are going to talk about the scandal in this country that is the biggest scandal in the history of America, a scandal, Mr. President, that will cost the people of America twice what the Marshall plan cost, twice what we spent to rebuild the world. These people in the balcony and on the streets all over America are going to pay for the unfolding scandal, the outrage that is occurring in the financial institutions of America—theft, outright fraud, criminality, the stealing of billions, big yachts, fields full of racehorses, huge diamonds.

For 4 months, we waited for the President of the United States, where leadership starts, to send us a man or a woman, and he finally did. He finally did. He finally did. Someone to address this scandal was brought to us.

Mr. President, do you remember Camelot, when a President said, "Ask not what your country can do for you; ask what you can do for your country?" Do you remember Truman who did not care if he had 25 percent approval, unlike the 75 percent of this President, but did it with guts because the country needed it or the world needed it? Remember Roosevelt? You always knew who ran it then. By God, he killed the pigs, they said. But he took the blame for it.

They send us a man, and the defense of this man—and, Mr. President, you are on that committee, were in the committee—we could not find anybody. My God, we cannot find anybody.

Listen to this. Senators who voted for him, my friends. The Senator from New York State: "I am not suggesting that he is the most capable or has the best record in this area. He does not."

The Senator from South Dakota: "I would prefer someone with more experience."

My friend who survived Watergate, a man of the finest political instincts, highly regarded in his State, a man who knows, a man who was a great chairman of the committee, a man whom I revere, the Senator from the great State of Utah: "I, too, would prefer that he had more experience."

Now, the Senator from Texas, who in his wit and intellectual capacity wrote the Gramm-Rudman-Hollings law that controls all we do in the budget, a man who understands finances, says: "He would not have been my choice."

And my friend, CONNIE MACK—I love that name, CONNIE MACK—CORNELIUS MCGILLICUDDY; it would not have been too good on the ballot. He was smart to shorten it to CONNIE MACK.

Mayor Richard J. Daley once said to Adlai Stevenson when he came to him for advice on running for public office. He said, "Mr. Mayor, what should I do?" He said, "Son, don't change your name."

CONNIE MACK: "You do not have the background or the scope of knowledge, if you will, to try to understand what is in fact taking place in the trenches of those financial institutions in this country."

We labored and we have brought forth a mouse.

Has it come to the point where you have to say something against a man to say that he is not the man for the job? I have nothing against this man. I never met this man. I do not know this man. He passed me in the hall this morning. I apologized. I made a mistake and called him Jim. His name is Tim. I do not know him. But he is not the man for the job.

My Lord, he is going to be approved here, he is going to be confirmed, and my friends say, "We couldn't find anybody."

I remember when I was a kid in the Illinois House, Mr. President, 20 some years old, back in the 1950's. They paid us $3,000 a year. A fellow had a salary increase bill in. A fellow from southern Illinois by the name of Paul Powell from Vienna, got up and made a speech against the bill. He said, "If you raise our pay, they will find competent people for these jobs."

Two hundred forty million people in this country. The President—"Leadership starts at the top with the President of the United States," Senator WARNER said the President could not find someone for the job.

What a problem we've got here.

Now, we have a problem here that there is nothing being done about. The record will show I was not for the final bill we passed. It is not a mea culpa when I say it. But the bill is on the books. We ought to be bringing in this cash to try to benefit the American people and get our shop in order. Are we doing it? No. No. Nope.

Does anyone remember the story I told in our caucus on Tuesday? I want to repeat it here on the floor so the country knows. A fellow called me, a personal friend. He said, "Alan, can you help me?" I said, "If I can, I will." "A friend and I are building a shopping center in Florida," he said. "We borrowed $4.5 million from Central Trust. Central Trust went in the trash can, another one of the companies in trouble. We went out to Connecticut and we got a top guy who knows shopping centers who is worth hundreds of millions of dollars, and he is backing us now. We want to buy back everything out of this situation and get this shopping center, which is 95 percent built, in operation before we all go bankrupt. We cannot get the RTC to do anything for us. We cannot get anything done."

I had another fellow come into my office. I can name these names. They are real cases, just recently. Two fellows came into my office that I know are people with all kinds of financial backgrounds in my State and lots of money and ability to get more. They said, "Will you get ahold of someone for us so we can go try to buy some of these savings and loans? We do not want to steal them. We do not want an inside rate. We do not want any political connection. We just want to be able to bid and try to give money to the RTC to put money in there to help solve our problem in the country and, we hope, in time, we will be honest with you, that we can make a dollar or two." There is nothing the matter with that.

Nothing is happening, Mr. President. Nothing is happening. Months have passed. Nothing is happening. The billions and the billions and the billions mount up. The people in this balcony and on the streets of America are going to pay those billions. The administration does nothing. Leadership starts at the top—with the President of the United States.

I am embarrassed to say I did not vote with him, but remember at the beginning of this whole debate when my friend from Nebraska, one of the bright young people in our party, offered an amendment? Many of us have great hopes for what I consider to be a great future for this young man. The Senator from Nebraska came in here, just barely a new Senator, and offered an amendment to try to get independent thought, independent views into the RTC and other things. I think we defeated his amendment. My memory is we somehow accommodated him later. I am not sure. Anyway, I remember that.

At any rate, what did he say at the time? He said that there is more chance for mischief and monkey business and corruption and thievery and fraud in this Resolution Trust Corporation than anything that ever happened in the Government. And he is right. These people are sitting on a pile that is the biggest pile ever amassed in the history of the world, involving all the institutions out there in trouble. Hundreds of billions of dollars—trillions. My friend said $5 trillion all told in this whole ballgame.

I came over here this morning. Everybody is kind of bored by the proceedings. We are going to vote sometime this afternoon. Everybody over here knows they have the votes. I do not have any quarrel with that. That is my understanding of it. And I understand you win some and you lose some. And I understand the power of the Presidency. The President uses it in these situations effectively, for which I give him credit. He is a man, incidentally, who I personally like very much and whom I support not infrequently in this place.

Nobody is very excited about this. When we were considering him in committee and indicated at his hearing that many would reject his nomination, it was buried on an inside page of the Washington Post. Some papers, I think, did not even bother to put anything in but just a little squib.

I am going to tell my colleagues there was a time in this country, in a crisis like this, if you sent us a person like this without any qualifications, at least in the old days under Democrats, it would have been a headline and the country would have risen up in righteous wrath. But, this is not going to be a big story. This is just a little bitty story.

Mr. President, some day there is a story in here. It is the guy who kept on digging and digging through that pile of manure and they said, "What are you doing?" And he said, "Somewhere in there, there is a pony." Somewhere in there, there is pony; somewhere in this is the most shocking scandal that will ever tear the insides of this country out. There is in this, monstrous possibilities.

My friend—and he is my friend—the chairman of the committee, a good man, did the right thing. It took them 4 months to send it here. It took him a couple of days to give it a hearing, because he knew it was serious business.

I am going to be honest about this matter. It is an internal matter that the President knows about. We thought we had the votes to stop the nomination in committee. We thought we had the votes. It was the judgment of the chairman, in his responsibility as chairman, for which I give him the greatest credit, that we ought to do the responsible thing in that connection.

Once we resolved we would kill the nomination in the committee, he said the right thing to do is let the Secretary of the Treasury know, so he can be prepared for it. Maybe they want to bring down the name. Maybe they want to send us another good name. Several of us called the Secretary of the Treasury. I hope the President, who I recognize in the Chair, takes no offense—he was one who called. I called Nick Brady, who is my friend, for whom I have the warmest personal feelings. At least one other man on my side did. We told him what was happening.

The ranking Member on the other side knows, we shared with him the fact, that we decided to decide this in committee and get rid of it. That is what should have happened, in my view. Frankly, that is what should have happened. Then we would have met the time constraints that come up when we run into April 11. They could have sent us a new man.

Incidentally, I am told the fellow in the job now is pretty decent and we could have gotten this resolved in the right way and gone out into the country and found the appropriate person.

Regretfully, that did not occur. And this man is now going to be confirmed. I feel confident that is the case.

My friend, the chairman of the committee, talked about Daniel Kearney. I do not know if he talked about him by name. He quit as the President of the RTC Oversight Board because he felt there was too much internal meddling in the Board, some of it emanating from Treasury.

The potentiality in this whole thing for terrible consequences, Mr. President, I think is beyond doubt.

In a time when no one in the Congress would deny that the biggest problem in the country, that could develop into a major national scandal of the hugest proportions in the history of this country, is out there festering; at a time when nothing is being done to solve the problem, nothing of any consequence; at a time when the jails ought to be full of the rascals—and none yet, that I know of, are eating their bread and drinking their water—they bring us a man whose most common line at the hearings was, "I have no views on that subject."

Mr. President, this giant of a man has no views on deposit insurance reform, no views on capital standards—we spent a session of the Congress in the most divisive, contentious, mean-spirited argumentative exchanges about capital standards—he does not have a view.

He has no views on how to make sure that the bidding process is fair and not subject to political favoritism.

He has no strategy for how to speed up the resolution process. No views on whether we even ought to have a thrift industry, and no views on whether the savings and loan law we passed last August is a sound approach.

And he will be confirmed. I guess, then, I would only like to conclude by saying this. I am saddened. I am not mad at Mr. Ryan. I love all those who advocate him. But I am saddened that we are finally asked to adopt a standard in the world's greatest deliberative body, the Senate of the United States of America, that you better give the job to somebody because you cannot find anybody to take it.

The lowest possible common denominator in public service now has finally been achieved this day by this vote. I shall be privileged to cast a vote against the nominee and to cry out to America and to say to the President of the United States, where leadership starts: We have to do better than this if this country has a great future.

I call upon my colleagues who may still be undecided to think one more time about whether they want to put their imprimatur by a yes vote on coming, finally, to that modest standard. I will vote no, Mr. President. I yield the floor.

The PRESIDING OFFICER. (Mr. WIRTH). The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that Ruth Amberg be given privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, may I make just one comment? I know exactly how my colleague from Illinois, who is my good friend—and I do not say that because that is what we are supposed to do on the floor. He really is. We have had a good friendship for a long period of time. He made a comment in his remarks about me that I survived Watergate and let it hang at that. I do not want to leave it hang in the RECORD. When Watergate occurred, I was mayor of Salt Lake City. What he meant to say was rather than leave it hanging, I survived the election of 1974.

Mr. DIXON. I do correct the record in that regard.

Mr. GARN. Only two new Republican Senators were elected that year, Senator Paul Laxalt and myself. Although nobody thought anything of it, I did not want my grandchildren to read in the RECORD I survived Watergate.

Mr. DIXON. If my colleague will yield, that is exactly what I meant, and it was meant with the highest personal regard for my colleague. As one of the two, along with the Senator from Connecticut [Mr. DODD] who survived the 1980 Reagan landslide, I have always had the deep sense of affinity toward my friend from Utah, and a great Senator who has left us, the Senator from Nevada, Senator Laxalt, who in their time survived in the election of 1974. The four of us are survivors. It is great to be with him this morning, I say to the Senator, although we still disagree on this issue.

Mr. GARN. I knew my friend meant that, but I did not want to leave it hanging.

Let me make one brief comment. I certainly do not intend to take the time of this body to go back and read from the committee record. I have each of the full quotes that my colleague has stated, and they are accurate quotes of what Mr. Ryan said, but I do believe that are out of context in terms of if people heard his full answer to each of those questions. I will just stipulate that and not go back and read each of those quotes surrounded by the rest of the answers.

I will also certainly say that, quoting me, I did say in the committee, and I said here on the floor today, that I would have preferred somebody with more experience. That is certainly correct. I would, but that ignores the fact—and again I think it takes it out of context—of the ability of someone, who no one has questioned about his ability, his intelligence in his legal practice or the work he did at the Department of Labor.

I think we must emphasize that is the point. Managerial skills, and leadership ability are transferable, as I tried to indicate in other areas. It is not unusual. I have seen nominees come before this committee and many others who have been highly praised when they have had absolutely no experience in a particular area.

That is certainly true of us. We do not face confirmation when we come to the Senate. We face our voters. We go to them and tell them about what we do. It is amazing how many varied backgrounds we have, and yet when we arrive here, we are placed on committees with great responsibility, billions and billions of dollars, and we have no background and expertise in that area at all. Nobody questions that.

I made the comment in the committee that I felt very fortunate that my degree in college was in banking and finance and I was placed on the Banking Committee. I was rather surprised because we make those determinations entirely—entirely—by seniority. I have seen people come here who were farmers and would have loved to have been on the Agriculture Committee, and should be, but they were not placed there because they did not have the expertise, but because of seniority. I have seen ex-military people come and spend years—I remember Barry Goldwater having a lot of experience in military years. I think it took him 12 years of seniority before he could be placed on the Armed Services Committee.

So while the quotas are correct, and I do not dispute them from my friends, I do not think it is fair to indicate this man is not capable or confident. He has performed very well in other areas, and those skills are transferable to a job of this kind.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from Nebraska has been waiting for some time. If he will give me a few minutes, then I will yield the floor.

Mr. KERREY. With pleasure.

Mr. WARNER. Mr. President, I think it is important to address the Senate on the question of qualifications. Several Senators have said, "The man has no serious background in finance." I respectfully dispute those statements.

At this time, I ask unanimous consent that I may print in the RECORD a rather extensive dossier of material consisting of letters from leaders from across America who have had actual hands-on experience with Tim Ryan on matters relating to finance.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MUTUAL OF OMAHA,
Washington, DC, April 2, 1990.

Re T. Timothy Ryan, Esq., Nominee: Director of OTS.

Senator GEORGE J. MITCHELL,
Senator BOB DOLE,
U.S. Senate, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE. As both a close personal friend and business associate of Mr. T. Timothy Ryan, I write on his behalf as nominee for the position of Director of the Office of Thrift Supervision (OTS).

I have known Mr. Ryan for approximately ten years and consider him, without reservation, to be an extremely talented and capable attorney whose legal counsel of our Companies has been consistently of the highest quality. He has exercised excellent judgment on all occasions. I can personally confirm Mr. Ryan's good moral character and can unqualifiedly attest to his strong leadership abilities. I certainly believe that Mr. Ryan's professional knowledge, abilities and atributes qualify him to most capably handle the broad range of complex legal and business issues that the Director of OTS will be required to address.

For the above reasons, I am very comfortable in recommending to you Mr. Ryan as an appropriate candidate for the position of Director of Office of Thrift Supervision.

Sincerely,

WILLIAM W. BAILEY,
Executive Vice President, Mutual of Omaha Companies.

MCLEAN, VA, *April 2, 1990.*

Hon. ROBERT J. DOLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS DOLE AND MITCHELL: We write in support of the confirmation of Timothy Ryan to be Director of the Office of Thrift Supervision.

Tim's lack of experience in the financial services industry is certainly a valid consideration. The question the Senate must face is whether Tim's strength of character and general ability outweigh that lack of experience. As those who have known him well for twenty years, we believe they do. As those who have also been involved in the public policy area for many years, we believe that in this type of crisis the ability to manage with discipline and the ability to generate public confidence are far more important that professional experience. Indeed, it seems that some of the most experienced and best known professionals are responsible for many of the problems of the financial services industry.

Financial services is not some occult science. Frank has been able to learn it after thirty years of little other than government experience. The key ingredient is judgment, a quality that seems to have been lacking in some of the most talented professionals. For all his lack of experience, Tim Ryan has judgment.

Frank would observe that he was criticized for lack of experience during confirmation hearings for, among other positions, Director of OEO, Deputy Secretary of Defense, and Under Secretary of HEW. Yet, he was able to learn his responsibilities quickly as a result of his general background in government. Tim Ryan has such a background.

We have full confidence that the Senate will sort out important considerations from sensationalized minor indiscretions committed years ago, but as those who know him well, we would like to go on record as endorsing Tim's strong moral character. He and his wife, Judy, are devoted family people who adhere to the ethical values we all hold dear. Our faith in Tim is such that for the past ten years, he has been the Executor of our estate, should we both die simultaneously. We have three children.

We have full confidence that the Congress will find Tim Ryan a forthcoming and straightforward partner. He is not a game player. On the contrary, he will give it to you as he sees it. That is a quality I know you are seeking.

Our argument is not based on fairness to an individual. Rather, it is premised on what is best for the country. Certainly, you can find someone with more experience. But you will have to search long and hard for someone with Tim's integrity and total commitment to excellence in government.

His prompt confirmation is the best solution to a critical and time-sensitive problem. We strongly urge it.

Sincerely yours,

FRANK C. CARLUCCI.
MARCIA CARLUCCI.

MAIN STREET,
Washington, DC, April 2, 1990.

Hon. GEORGE MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR GEORGE: I have known Tim Ryan for 15 years, as a fellow official in The American Council of Young Political Leaders and as a personal friend. We differ markedly on politics, obviously. But I can attest categorically to his integrity, character and commitment to public service.

I cannot pretend to know everything the job of Director of the Office of Thrift Supervision requires, but I know that if intelligence and drive are as central to it as they are to most tasks, Tim Ryan is a fine choice.

Sincerely,

HODDING CARTER III.
President.

REED SMITH SHAW & MCCLAY,
Pittsburgh, PA, April 2, 1990.

Senator GEORGE J. MITCHELL,
Russell Senate Office Building, Washington, DC.

Senator ROBERT J. DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATORS MITCHELL and DOLE: As the Managing Partner of Reed Smith Shaw & McClay, I wanted to write you regarding the nomination of our partner, Tim Ryan, for Director of the Office of Thrift Supervision.

Reed Smith has more than 360 lawyers and other professionals practicing in Pittsburgh, Philadelphia, Harrisburg, Washington, D.C. and McLean, Virginia. It is the 30th largest law firm in the United States. Our firm was founded in Pittsburgh in 1877, where it began a tradition of excellence as legal counselors to Andrew Carnegie, Henry Clay Frick and the Mellon Family. We played a significant role in the foundation of the United States Steel Corporation, in the establishment of the National Gallery of Art in Washington, the litigation of the famous 1952 Steel Seizure Case, and the renaissance of Pittsburgh's Golden Triangle, one of the nation's first major redevelopment projects.

In more recent times, Reed Smith was counsel in one of the largest corporate acquisitions in history. We have played a principal role on behalf of the asbestos industry in developing the unprecedented Asbestos Claims Facility. We have taken a leadership position in representing emerging businesses in all their legal needs. Most recently, our firm assisted a major financial institution in developing a state-of-the-art mechanism for disposing of a large portfolio of troubled loans which won praise from Federal regulators.

I mention these examples to you because it is the presence of these traditions and commitment to professional excellence that led Reed Smith in March of 1989 to merge our practice with the practices of Tim Ryan and his other partners at Pierson, Ball & Dowd. Tim Ryan also served as a member of the Executive Committee of Pierson Ball & Dowd during the discussions leading up to this merger so I had many occasions to become acquainted with him. Following the merger, I have learned first hand of Tim's capabilities from his service on the Executive Committee for the entire firm, as well as a member of the Management Group for our attorneys in Washington and McLean, Virginia.

It is not the overuse of well worn phrases to describe Tim Ryan as a man of enormous capabilities, a quick study, candid and forthright in his comments, and committed to high standards of professional excellence. Knowing of the problems which exist in the saving and loan industry today, I have no doubt that an individual with Tim's capabilities and commitment, as well as personal values, is totally suited and qualified for the position for which he has been nominated. I for one, side with those who believe a fresh look, not necessarily encumbered by prior positions and interests is exactly what this situation needs.

I think in his typical open and candid assessment of a situation, Tim has really understated the extent of the experiences that qualify him for this position. Although he may not be as some say, "a banker," you must not overlook his abilities as a lawyer, a leader of a major District of Columbia law firm, and now a member of our firm's Executive Committee, and head of a flourishing employee benefits and legislative practice.

Reed Smith's employee benefit practice focuses on issues that implicate federal, state or local tax law, labor and employment law, fiduciary and trust law, estate planning, corporations, banking, insurance securities regulations and bankruptcy law. We handle every type of employee benefit program from qualified pension and profit-sharing plans (including ESOPs), to welfare plans of all kinds (including those funded through VEBAs), to select group or individual executive compensation arrangements. This includes design, drafting, implementation, funding, amendment, merger or spin-off, and termination. The firm is recognized for our work in the major industrial benefit programs, as well as the employee benefit issues raised by corporate finance, merger, acquisition and shutdown. The merger of our practices in 1989 greatly enhanced our ERISA capability in the fiduciary aspects of employee benefits, including pension trust administration and investment, related activities of a financial services nature, including advice to pension plans, commercial and investment banks, real estate and asset managers on plan asset investments. Tim is a leader in that practice area and an integral part of our national reputation for excellence.

In evaluating Tim's experience, I urge you to look at the broader issues and the depth of the professional and management experience which Tim offers, as well as his pure leadership ability. Speaking on behalf of our entire firm, we strongly urge that his nomination be confirmed.

Very truly yours,

G. DONALD GERLACH.

KLINGENSTEIN, FIELDS & CO., L.P.,
New York, NY, April 2, 1990.

Senator ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing with respect to the nomination of Mr. Timothy Ryan as director of The Office of Thrift Supervision. I have known Mr. Ryan since 1982, when I represented The Federal Court and The Central States (Teamsters) Pension Fund in organizing the return of that Fund to private management.

During the subsequent years, except for the period I served as Under Secretary of the Treasury, I have worked closely with Tim Ryan on various matters concerning The Central States Pension Fund. While that Fund now aggregates some ten billion dollars, and is capably overseen by Morgan Stanley, its history has been complicated and difficult. With a host of earlier legal, financial and conceptual problems, getting The Fund to its present healthy state took enormous effort and skill. Tim Ryan was a key member of the group which accomplished that task.

Since I have been able to observe, and participate in, the process of changing Central States, I can state from first-hand experi-

ence that Tim Ryan contributed leadership, courage and imagination to an effort that involved legalities, political sensitivities and ultimately considerable financial substance. Although he has not been directly involved in banking during his career, his ability to quickly grasp key financial issues and create active solutions was impressive.

From my background knowledge of the thrift problem, and the organizational needs of the Office of Thrift Supervision, I feel Tim Ryan's skills make him an excellent choice for his nominated post. I would recommend him to you most highly.

Sincerely,

GEORGE D. GOULD,
Vice Chairman.

GOLDMAN, SACHS & Co.,
New York, NY, April 2, 1990.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: We understand that at Senate Banking Committee hearings on the nomination of T. Timothy Ryan to head the Office of Thrift Supervision, questions were raised about his experience in the financial services industry. The purpose of this letter is to inform the Senate of the significant experience Mr. Ryan has had working with Goldman Sachs on financial transactions.

For the past five years, Mr. Ryan has counseled Goldman Sachs on a number of complex financial matters involving pension plan investments. These matters have included: Mortgage-backed and other asset-backed securities; Execution of securities transactions; Real estate investments; Health & welfare fund investments; Foreign exchange transactions; and Foreign futures transactions.

In all these matters, Mr. Ryan has demonstrated a keen intellect, a quick mind, an ability to get things done and impeccable integrity.

If we can be of any further assistance, please do not hestitate to call me.

Very truly yours,

ROBERT J. KATZ.

BOOZ, ALLEN & HAMILTON INC.,
New York, NY, April 2, 1990.

Hon. ROBERT DOLE,
Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATORS DOLE AND MITCHELL: For more than 75 years, Booz, Allen & Hamilton has been in the business of advising its clients—major Fortune 500 corporations worldwide—on leadership and strategy. Through our work with Boards of Directors, Boards of Management, CEOs and foreign governments in organizational planning and restructuring, privatization, executive evaluation and strategy development, we've often focused on the issue of how one selects the right leader to effect change and achieve success. It is in this context that I am writing to you about Timothy Ryan, now being considered for the post of director of the Office of Thrift Supervision.

We believe that there are certain key qualities which are required in a senior executive, qualities which transcend specific industry experience and which, frankly, are far more crucial.

Vision and a clearly-defined sense of purpose. An ability to put the management of the organization in proper perspective, to set the strategy and remain focused while making necessary tactical decisions.

Personal strength and conviction. Having the guts to see the process through to completion.

Intelligence, imagination and sound judgment. An ability to grasp issues and the environment in which the organization is operating quickly and effectively, to focus on priorities, seek and accept counsel, frame a balanced course of action.

Tough-minded and action-oriented. An ability to get things in motion, make tough decisions, stay the course, but flexible enough to adjust/adapt to significant changes and new developments.

Self-confidence and commitment to success. The courage to withstand inevitable criticisms and confidence that one knows what needs to be done.

Management skills. The ability to manage an organization and manage a problem through to resolution and effectiveness.

Communications skills and political sensitivity. The ability to represent the organization publicly, to communicate an understanding and create acceptance of its purpose/actions, together with an understanding of political realities and their impact.

Personal integrity. This, it seems to me, needs no further explanation.

I first met Tim Ryan 15 years ago when, as a young attorney, he worked successfully on some extremely complex legal matters for Booz, Allen. His effectiveness in this role resulted in our entrusting him and his firm with some of our most sensitive and difficult issues. Our association has continued over that period and I have watched his career develop and flourish.

I can say without hesitation that he meets these criteria fully and completely, as an attorney, as a manager of sizeable organizations, as a public servant of consummate effectiveness. I endorse his nomination without reservation and with considerable enthusiasm.

On a personal note, I want to echo the comments of Senator Riegle in deploring the exposure of highly confidential information regarding Tim Ryan. When highly-qualified Americans offer themselves for public service they should not be subjected to such counterproductive and inappropriate activity.

R. MICHAEL MCCULLOUGH,
Chairman and CEO.

WASHINGTON, DC,
April 2, 1990.

Hon. GEORGE MITCHELL,
Hon. ROBERT DOLE,
U.S. Capitol, Washington, DC.

DEAR SENATOR MITCHELL AND SENATOR DOLE: I write to you as a member of the Executive Board of the American Association of Young Political Leaders (AAYPL) where I have come to know and work with Mr. Timothy Ryan, candidate for Director of the Office of Thrift Supervision. As former Assistant Secretary of the Democratic National Committee, I was elected to serve on the board in 1986. Prior to that time, I served with Mr. Ryan, then Chairman of the American Council of Young Political Leaders (ACYPL).

During the years of Mr. Ryan's service as ACYPL Chair, and his continued participation after his tenure, I found him to be a leader who displayed fairness in a structure that prides itself on being strictly bipartisan. As an administrator, he regarded organization and professionalism as priority.

I especially appreciated Mr. Ryan's style of management when it came to the inclusion and participation of women within the ACYPL. An example was Mr. Ryan's concern for male/female balance of participants on overseas exchange programs. Mr. Ryan assured organizational leadership that it was in the best interest of both politcal parties that the United States be represented by introducing its up and coming female politicans to democracies throughout the world. Mr. Ryan also resigned his position on the ACYPL Board of Directors in favor of a woman replacement.

Tim and I have had many a conversation and differing opinions on issues of party politics and presidential candidates. I am however, confident of his management credentials and political savvy.

Sincerely,

SANDRA P. PERLMUTTER.

REED SMITH SHAW & MCCLAY,
Washington, DC, April 2, 1990.

Hon. GEORGE J. MITCHELL,
Majority Leader, Senate, Washington, DC.
Hon. ROBERT J. DOLE,
Minority Leader, Senate Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: At the Senate Banking Committee hearings on the nomination of Timothy Ryan to the Director of the Office of Thrift Supervision, some Senators expressed concern about Mr. Ryan's general ability to handle this job, as well as his experience in the financial services area. The purpose of this letter is to briefly respond to those concerns.

I have worked closely with Tim Ryan for the past six years. During that time, we have represented investment banking and real estate firms on difficult investment and real estate transactions involving pension plan assets. Although he has no direct Thrift Industry experience, Tim has considerable financial services experience which well qualify him for this job.

Tim is exactly the type person the country needs to address the Thrift Industry problems. He's honest, direct and not tied to any of the various constituencies interested in the S&L situation. Quite frankly, we are lucky to have a man of his quality willing to consider this job.

If I can be of any further assistance, please do not hesitate to call me.

Very truly yours,

WILLIAM B. SAXBE,
U.S. Senator, Retired.

ENHANCE FINANCIAL SERVICES, INC.,
New York, NY, April 2, 1990.

Senator GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I write to seek your support of Mr. Timothy Ryan who has been nominated to serve as Director of the Office of Thrift Supervision.

I have come to know Tim Ryan quite well through his service as counsel to the Association of Financial Guaranty Insurors ("AFGI"). AFGI is the trade group to which my company, Enhance Reinsurance Company, belongs and which I serve as Vice Chairman.

I read in the press that Tim Ryan's appointment is objected to because he lacks experience in the thrift industry. This may be true, but let me assure you he has a very sophisticated understanding of other complex financial issues which convinces me he has the requisite intelligence and background to serve most successfully as Director of OTS. For example, he has advised AFGI in matters affecting our industry re-

sulting from the implementation of the Basle Agreement on risk-based capital guidelines for depository institutions. I am aware also of his recognized expertise in the area of ERISA law. In my view, anyone who can master these esoteric subjects can meet the challenges the Director of OTS will confront.

Based on my observation and knowledge of Tim Ryan's legal experience and many fine personal qualities, I respectfully urge you to support his pending nomination.

Sincerely,

WALLACE O. SELLERS.

ENHANCE FINANCIAL SERVICES, INC.,
New York, NY, April 2, 1990.

Senator ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I write to seek your support of Mr. Timothy Ryan who has been nominated to serve as Director of the Office of Thrift Supervision.

I have come to know Tim Ryan quite well through his service as counsel to the Association of Financial Guaranty Insurors ("AFGI"). AFGI is the trade group to which my company, Enhance Reinsurance Company, belongs and which I serve as Vice Chairman.

I read in the press that Tim Ryan's appointment is objected to because he lacks experience in the thrift industry. This may be true, but let me assure you he has a very sophisticated understanding of other complex financial issues which convinces me he has the requisite intelligence and background to serve most successfully as Director of OTS. For example, he has advised AFGI in matters affecting our industry resulting from the implementation of the Basle Agreement on risk-based capital guidelines for depository institutions. I am aware also of his recognized expertise in the area of ERISA law. In my view, anyone who can master these esoteric subjects can meet the challenges the Director of OTS will confront.

Based on my observation and knowledge of Tim Ryan's legal experience and many fine personal qualities, I respectfully urge you to support his pending nomination.

Sincerely,

WALLACE O. SELLERS.

HOLLAND & KNIGHT,
Miami, March 20, 1990.

Senator SAM NUNN,
Senate, Washington, DC.

DEAR SENATOR NUNN: As you are probably aware Timothy Ryan has been nominated for appointment as the Director of the Office of Thrift Supervision by the Bush Administration. This appointment is subject to Senate confirmation.

Tim is an old and close friend in whom I have a great deal of trust and confidence. Tim was the Solicitor of Labor who used his considerable legal skills and powers of persuasion to obtain a significant and binding agreement from the Teamsters Central States Pension Fund in response to your Permanent Subcommittee on Investigations hearings. I worked closely with Tim during that difficult time and I admired his intelligence, judgment, integrity, and forcefulness. In my opinion, second to your efforts with PSI, Tim had a significant impact with respect to cleaning up the Central States Pension and Health and Welfare Funds. I have followed Tim's career through the years and I have been impressed with his many accomplishments and with his significant ability and outstanding legal talents.

Obviously, the thrift industry is in a critical period of restructuring and requires an individual with strong leadership and extraordinary judgment and wisdom. Tim clearly possesses these qualities. I feel comfortable in asking you to review Tim's record and to support this nomination based solely on his exceptional qualifications.

I would be pleased to discuss Tim's qualifications with you. I believe Tim will welcome the opportunity to meet with you to discuss your thoughts, concerns and recommendations regarding the thrift industry. I have enclosed his resume for your review. If I can be of further assistance or if you have any questions or comments concerning Tim, please do not hesitate to contact me. I look forward to seeing you soon in Washington.

Sincerely,

MARTY STEINBERG.

BIOGRAPHICAL SKETCH—TIMOTHY RYAN

Timothy Ryan, a resident of McLean, Virginia, is a partner in the Washington, D.C. law firm of Reed Smith Shaw & McClay. Prior to his return to Pierson, Ball & Dowd—which merged with Reed Smith—in May of 1983, Mr. Ryan was Solicitor of Labor, U.S. Department of Labor. He was appointed to that position by President Reagan and on March 12, 1981 his appointment was confirmed by the Senate. During his tenure at DOL, Mr. Ryan directed an intergovernmental Task Force assigned the task of establishing independent control over the largest Taft-Hartley funds in the country, the Teamsters' Central States Pension and Health & Welfare Funds.

Mr. Ryan is a graduate of Villanova University (A.B., 1967) and American University Law School (J.D., 1973). He is married to Judith Rush Ryan and has a daughter, Kathryn (8 years of age) and a son, Michael (5 years of age).

Mr. Ryan started his legal career as an attorney-advisor to Board Member Ralph Kennedy of the National Labor Relations Board. Thereafter, he was associated with the Baltimore, Maryland law firm of Venable, Baetjer & Howard. In 1976 he served as deputy General Counsel of the President Ford Committee, and in 1980 he was legal Counsel for the Reagan/Bush Transition. Mr. Ryan served as Special Counsel to the George Bush for President Committee in 1988. Mr. Ryan has served as a member of the Council of the Administrative Conference of the United States, Council of the Administrative Conference of the United States, the ERISA Advisory Council, the Overseas Private Investment Corporation and the Program for the Advancement of Commercial Technology in India. He was also a former President and Board Member of The American Council of Young Political Leaders.

Mr. Ryan is admitted to practice law before the United States Supreme Court, the District of Columbia Court of Appeals, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia and the Seventh Circuit Court of Appeals. He is a member of the American Bar Association and the Federal Bar Association, as well as the Bar Association of the District of Columbia. Mr. Ryan has been named to Who's Who in America and to Who's Who in American Law and listed in The Best Lawyers in America.

WASHINGTON, DC,
April 2, 1990.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I understand that the full Senate will vote on Tim Ryan's nomination to be the Director of the Office of Thrift Supervision later this week. I have known Tim Ryan for ten years, since we worked together on the Carter-Reagan transition. He handled a number of delicate problems during that sensitive period with a spirit of bi-partisan cooperation and good will.

I know him to be a hard-working, honest, intelligent person, with a strong sense of public service. He will be a strong enforcer and a breath of fresh air in the savings and loan industry. Based on my experience, I predict that he will adopt a pragmatic approach to problem solving; he is definitely not an ideologue.

Given the mess that the so-called experts have made of the savings and loan issue, an enforcement-minded pragmatist is probably a better choice than someone who has spent years in the industry. I hope you will keep these thoughts in mind when you cast your vote on Wednesday.

Sincerely,

W. HARRISON WELLFORD.

Mr. WARNER. Mr. President, if I may take a few minutes to read several of these statements. William Bailey, executive vice president, Mutual of Omaha Co:

He has exercised excellent judgment on all occasions. I certainly believe Mr. Ryan's professional knowledge, abilities, and attributes qualify him to most capably handle the broad range of complex legal and business issues that the director of OTS will be required to address.

Frank Carlucci, former Secretary of Defense, who subsequently has dealt with a number of financial organizations states:

We have full confidence that the Congress will find Tim Ryan a forthcoming and straightforward partner.

Hodding Carter III, president, Main-Street Productions, former Assistant Secretary of State under the Carter administration:

I can attest categorically to his integrity, character, and commitment to public service.

George D. Gould, vice chairman of Klingenstein, Fields & Co., a financial firm:

I can state from firsthand knowledge that Tim Ryan contributed leadership, courage, and imagination to an effort that involved legalities, political sensitivities, and ultimately considerable financial substance.

Robert J. Katz, partner and general counsel, Goldman, Sachs, an internationally known financial firm:

For the past 5 years, Mr. Ryan has counseled Goldman, Sachs on a number of complex financial matters including pension plan investments. These matters have included, one, mortgage-backed and other asset-backed securities; two, execution of securities transactions; three, real estate investments; four, health and welfare fund investments; five, foreign exchange transactions, six, foreign futures transactions. In all of these matters, Mr. Ryan has demon-

strated a keen intellect, a quick mind, an ability to get things done, and impeccable integrity.

I could go on and on, Mr. President. We have a very substantial number of these voluntary contributions coming in from individuals who are actively engaged in financial business matters across America. I thank the Chair.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I rise in opposition to this nomination. I do so for reason that are somewhat different than what I have heard thus far today.

First of all, Mr. President, let me say that I am perhaps too junior to be seasoned enough not to be personally weary of having another situation where I am told that unless I vote immediately and make a decision, unless I do something that I consider, in fact, to be wrong that something terrible is going to happen.

I must vote to raise the debt ceiling, last fall, I am told, by $300 billion. Even though we are telling the American people the deficit is only about $100 billion, I am raising the debt ceiling by $300 billion. And I am told that unless I do, terrible things are going to happen, even though the Secretary of the Treasury is permitted to go out to market with some bonds in order to tide things over, in order to sort of make things work.

I am getting weary of that. Perhaps it is as a consequence of only having been around here a short period of time. Perhaps I will get used to it. Perhaps I will get used to being told I must do something quickly even though I think it is wrong, in order to avoid something terrible happening as a consequence.

Mr. President, I believe the key consideration for us should be that this is our responsibility. This is the responsibility of Congress. If you doubt in fact that that is the case, look at the commentators and what they are saying. The commentators are saying that it is the Congress that has the responsibility to deal with the savings and loan industry. So we should not, it seems to me, simply take quick action on this without regard for the personal consequences to us as representatives.

In addition, Mr. President, I have heard this new job described as one having a considerable amount of responsibility. I have heard it debated perhaps it is not something of great responsibility. But one thing I think is not in dispute is that this is, in fact, the greatest financial scandal in American history. Perhaps it is too large for the American people to understand. Perhaps it is because the deposits are fully insured so there will be no significant loss to depositors themselves. There are all sorts of reasons I have heard offered as to why the people themselves are not outraged. But it seems to me it is fair to say it still is the worst financial scandal in the history of the United States of America.

As to who is responsible for it, that is another question. But I would offer at least the observation that most of the commentators appear to be pointing the finger at Congress and saying it is we who are responsible, it is we who are making these decisions.

At this juncture, I must offer this to my colleagues for their consideration. I think it is appropriate for us, without being personal, without meaning for it to be a personal affront, not to trust the people we hire to do the regulating, particularly when it comes to financial institutions. Whether it is Mr. Ryan, who is obviously a friend of many, or whether it is somebody else who we might know and like, it is incumbent upon us and appropriate for us to have a considerable amount of distrust of the judgments they are making. We ought to pursue, based on that distrust, all lines of questioning to make certain that, in fact, these institutions are being regulated properly.

I believe, in fact, it is healthy for us, when entering into consideration of an individual who is going to be given a considerable amount of responsibility to regulate, to begin by saying that there is distrust. The public's perception, I believe, will require us to do that.

The key consideration for me in this entire matter is the policies that this individual will be carrying out. This is not, in the first instance, for me a mangement job. I do not like to frame this argument as being one of, can Mr. Ryan carry out the management responsiblities? The Office of Thrift Supervision will not have a profit, nor does any other section of Government have a profit.

There is no way, in an objective fashion, to evaluate whether this person or that person is a good manager. The argument, it seems to me, will lead us nowhere. This is not, I would argue as well, principally an enforcement. This is, first and foremost, a policy job. This is a policy job where this individual has been given by the FIRREA legislation a considerable amount of latitude to make real policy judgments about what ought to be done in the regulation of our financial institutions.

I listened to the testimony that he gave, and I read the testimony that has been offered. I see a considerable amount of guessing and doubt about what the policy ought to be, how it is that we ought to regulate, what is the purpose of the OTS, what is the objective of the OTS.

Mr. President, I have far too many people in Nebraska who depend upon savings and loans for house loans and home mortgages, far too many people whose jobs depend upon this industry, far too many healthy institutions whose health is jeopardized by the continued operation of those that are unhealthy, far too many individuals with legislative concerns, it seems to me, about the haste with which decisions are being made at the Office of Thrift Supervision, to entrust in this individual's hands the responsibility for making these policy decisions.

Based upon the information that has been provided me to date, it seems to me there is a considerable amount of doubt as to how this individual will regulate. There is a considerable amount of doubt about what his attitude is going to be toward the savings and loan industry, a considerable amount of doubt about what his decisions will produce.

As a consequence of that, Mr. President, I have reached a decision to vote against. It is offered with respect for the Senator from Virginia, who has a great deal of information that he has presented to me. I have met Mr. Ryan. I have no reason to believe that personalitywise or managementwise he could not do the job. But it is the policy considerations that concern me the most.

Finally, Mr. President, I want to offer an observation. It seems to me—though the Congress is unquestionably the one that is writing the laws and deciding how this whole thing is going to be shaped—that this needs as well to be shared by the Bush administration. I do not believe the President has given this his highest consideration, as I believe it ought to be given, in that there is $200 billion allocated over the next 10 years to take care of this bailout.

In terms of spending, it is President Bush's No. 1 spending priority. In terms of resources allocated, it is his No. 1 spending. In terms of the amount of money we are allocating to this bailout, President Bush deserves to be called the savings and loan President—not the environment President, not the education President, not the child care President, not the clean air President, but the savings and loan President. Two hundred billion dollars over the next 10 years are being allocated to this problem and many positions remain unfilled.

The President tells us now after dutiful consideration he was able to come up with this individual, and I trust that he at least gave it some consideration, but I am not persuaded that he gave it the kind of consideration he should have given it, according to the amount of money that is being allocated for this particular situation.

I ask unanimous consent that two items be printed in the RECORD: One, the memorandum opinion that was issued by Judge Royce Lamberth on March 21, and two, a letter from At-

torney General Dick Thornbourgh to Vice President DAN QUAYLE, President of the U.S. Senate, of March 27 also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia]

(Civil Action No. 90-0482 (RCL))

OLYMPIC FEDERAL SAVINGS AND LOAN ASSOCIATION, PLAINTIFF, *v.* DIRECTOR, OFFICE OF THRIFT SUPERVISION, ET AL., DEFENDANTS

ORDER

For the reasons set forth in the Memorandum Opinion issued this date, it hereby is

Ordered, that plaintiff's motion for a preliminary injunction is granted. Neither the Acting Director of OTS nor any other officer at OTS may appoint a receiver or conservator for Olympic until a new Director is constitutionally appointed. Bond is set at $1,000.

So ordered.

ROYCE C. LAMBERTH,
U.S. District Judge.

Date: March 21, 1990.

MEMORANDUM OPINION

Plaintiff Olympic Federal Savings & Loan Association ("Olympic") filed a motion on March 6, 1990, requesting that the court issue a temporary restraining order ("TRO") and a preliminary injunction ("PI") enjoining the Director of the Office of Thrift Supervision ("OTS") and the Federal Deposit Insurance Corporation ("FDIC") from appointing a conservator or receiver for Olympic. Plaintiff argues the following in support of its motion: first, that both M. Danny Wall, the previous Director of OTS, and Salvatore R. Martoche, the current Acting Director of OTS, were unconstitutionally appointed and therefore have no legal authority to appoint a conservator or receiver; second, that the regulations issued by OTS changing the capital requirements for savings and loans ("S&Ls") were issued in violation of the Administrative Procedure Act's notice and comment requirements and therefore cannot serve as the basis for appointing a conservator or receiver; and third, that the grounds for appointing a conservator or receiver do not exist until the FDIC has reviewed and acted upon Olympic's request for assistance. The court need not address Olympic's second and third arguments at this time because, for the reasons discussed herein, the strong likelihood that Olympic will succeed on the merits of its Appointments Clause challenge alone entitles Olympic to the limited injunction it requests.

I. FACTUAL BACKGROUND

In the late 1970's and early 1980's, the thrift industry was undergoing a crisis of unprecedented magnitude. High interest rates forced most thrifts to pay out more in interest on deposits than they earned on their portfolio of long-term, fixed-rate mortgages. This interest rate spread drove many thrifts into insolvency. Memorandum of Law in Support of Plaintiff's Motion for a Temporary Restraining Order and a Preliminary Injunction (filed Mar. 6, 1990) ("Plaintiff's Initial Memorandum"); see also Defendant FDIC's Memorandum in Opposition to Plaintiff's Motion for a Temporary Restraining Order at 2, 4-5 (filed Mar. 6, 1990) ("FDIC's TRO Opposition").

The thrift industry was regulated at the time by the Federal Home Loan Bank Board ("FHLBB") and its insurance arm, the Federal Savings and Loan Insurance Corporation ("FSLIC"). Faced with a large number of failing thrift institutions, the FSLIC and FHLBB recognized that the FSLIC insurance fund would quickly be exhausted if the government continued to provide financial assistance to all troubled thrifts. Plaintiff's Initial Memorandum at 3; see also FDIC's TRO Opposition at 5. In mid-1981, the FSLIC and FHLBB therefore revised their policies and practices to prevent, or at least forestall, the exhaustion of the FSLIC insurance fund. Plaintiff's Initial Memorandum at 3. They began inducing and arranging supervisory mergers by providing assistance in the form of an intangible asset—"supervisory goodwill"—rather than in the form of cash. Id.

This was accomplished by allowing thrifts to account for mergers using the "purchase method" of accounting. Id. Under this method, the book value of the assets and liabilities of an acquired thrift were adjusted ("market to market") to their fair market value at the time of the acquisition. Id. at 4. The excess in the cost of the acquisition (including any liabilities assumed by the acquirer) over the fair market value of the acquired assets was then separately recorded on the acquiring thrift's books as "goodwill"—an intangible, non-earning asset subject to amortization on a straight-line basis over as many as 40 years. Id. FHLBB's regulations governing the minimum capital requirements for FSLIC-insured thrifts allowed thrifts to include "supervisory goodwill" in capital. Id. at 4-5.

Olympic is the product of a number of mergers consummated betweeen 1982 and 1984. Id. at 7-13. Olympic booked more than $160 million in supervisory goodwill as a result of these mergers. Id. at 13. After the mergers had been completed, Olympic's tangible capital level was a negative $140 million, or negative 25.75 percent of total assets. Id. at 14. Since 1984, Olympic has amortized more than $43 million of its supervisory goodwill. Id.

The thrift industry's problems did not disappear when interest rates began declining in late 1982. Indeed, when President Bush took office in January of 1989 S & L industry remained in a "crisis" situation. President Bush made the S & L crisis a top priority of his new administration. FDIC's TRO Opposition at 5. He submitted to Congress a bill proposing a major restructuring of the way in which the federal government regulates the savings and loan industry. The bill was approved by Congress and on August 9, 1989, President Bush signed the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") into law. Plaintiff's Initial Memorandum at 15.

FIRREA dramatically changed the regulatory regime which oversees the S & L industry. It abolished the FHLBB and FSLIC and established a new agency—OTS—as an office in the Department of the Treasury. Id. at 15; FDIC's TRO Opposition at 6. It divided regulatory and insurance responsibilities between OTS (the regulator) and the Savings Association Insurance Fund ("SAIF") (the insurer). Defendant Director, Office of Thrift Supervision's Memorandum in Opposition to Temporary Restraining Order at 3 (filed Mar. 6, 1990) ("OTS' TRO Opposition"); FDIC's TRO Opposition at 5-6. It removed from OTS certain powers previously exercised by the FHLBB, but placed OTS in the hands of a single Director rather than a three-person board. OTS' TRO Opposition at 4. It vested in the Director responsibility for issuing S & L charters, reviewing proposed changes in control of thrifts, supervising and regulating federally-insured thrifts, and appointing receivers and conservators for ailing thrifts and their officers. Defendant Director's Opposition to Motion for Preliminary Injunction at 4 (filed Mar. 13, 1990) ("OTS' PI Opposition").

FIRREA provides that the Director of OTS shall be appointed by the President, by and with the advice and consent of the Senate, for a term of five years. FIRREA § 301, 103 Stat. 278. FIRREA also provides that vacancies in the office of Director which occur before the expiration of a term shall be filled by the President, by and with the advice and consent of the Senate. Id. However, FIRREA contains a "grandfather" clause pursuant to which the Chairman of the FHLBB on the date of FIRREA's enactment was statutorily appointed OTS' first Director. Id. By operation of this provision, M. Danny Wall became OTS' first Director. Plaintiff's Initial Memorandum at 16.

Under Mr. Wall's leadership, OTS promulgated new capital regulations in accordance with FIRREA's provisions. Id. at 19; FDIC's TRO Opposition at 8-9. The new capital regulations permit thrifts to include "supervisory goodwill" only to meet "risk-based" capital requirements and only in accordance with a phase-out schedule set forth in FIRREA. Plaintiff's Initial Memorandum at 20.

Olympic does not comply with the new capital requirements. Id. at 23. It is currently operating subject to a number of business restrictions imposed by OTS. Id. at 24. Moreover, because Olympic does not meet the new capital requirements, the Director has statutory authority to take over the thrift by appointing a conservator or receiver and, if necessary, to direct that person to liquidate the thrift. Id.

Recognizing the threat to its continued operations and believing that various statutory, constitutional and other grounds existed upon which it could challenge OTS' acts, Olympic filed its complaint in this case on March 1, 1990. Among other things, Olympic alleged that M. Danny Wall, then Director of OTS, had been unconstitutionally appointed. Complaint, at ¶ 61. Contemporaneously with filing its complaint, Olympic advised counsel for defendants that it intended to challenge the constitutionality of Mr. Wall's appointment. Supplemental Memorandum of Law in Support of Plaintiff's Motion for a Preliminary Injunction, at 2 (filed Mar. 9, 1990) ("Plaintiff's Supplemental Memorandum"). On March 5, 1990, Mr. Wall ceased to be Director of OTS and the President appointed Salvatore Martoche Acting Director of OTS pursuant to the Vacancies Act, 5 U.S.C. §§ 3345-49. OTS' TRO Opposition at 9.

On March 6, 1990, after OTS had refused to assure Olympic that it would not appoint a receiver or conservator and had refused to agree to provide Olympic with notice of its intent to appoint a receiver or conservator, Olympic filed its motion for a TRO and for a PI. Plaintiff's Supplemental Memorandum at 2. Defendants argued in opposition that plaintiff's Appointments Clause challenge had been mooted by Mr. Wall's resignation and that, in any event, plaintiff was not entitled to the extraordinary relief it requested. At oral argument on its motion for a TRO, Olympic countered by arguing that Salvatore Martoche's designation as Acting Director under the Vacancies Act was improper, and that therefore Mr. Wall's resig-

nation had not mooted its Appointments Clause claim. After considering the briefs filed on behalf of all parties and hearing oral argument on Olympic's motion, the court granted Olympic's request and enjoined the Acting Director of OTS from appointing a receiver or conservator for Olympic for ten days, unless he first provided the court and plaintiff's attorney with six hours' notice of his intent to appoint a receiver or conservator. On March 13, after further briefing by the parties, the court heard oral argument on Olympic's motion for a preliminary injunction. For the reasons discussed herein, and pursuant to an order issued this date, the court now grants Olympic's motion for a preliminary injuction prohibiting the Acting Director of OTS or any officer at OTS from appointing a receiver or conservator for Olympic until a new Director of OTS has been nominated by the President and confirmed by the Senate.

II. ANALYSIS

A. Ripeness, Standing, and Jurisdiction

Before the court can reach the merits of Olympic's claim, it must decide whether Olympic's claim is ripe, whether Olympic has standing to challenge the appointments of Mr. Wall and Mr. Martoche, and whether FIRREA precludes this court from hearing Olympic's case.

1. Ripeness

Defendant OTS asserts that the acting Director has not made any decision to appoint a receiver or conservator for Olympic. Indeed, according to OTS it is possible that the Director will never decide to appoint a receiver or conservator for Olympic. As a result, OTS contends, Olympic's challenge is premature.[1]

The court can not reasonably conclude that plaintiff's harm is not sufficiently imminent and concrete to make its claim ripe. "[B]oth the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration" show that this case merits immediate review. *Abbott Laboratories* v. *Gardner*, 387 U.S. 136, 149 (1967). On the claim currently before the court, Olympic does not challenge a regulation which may never be applied to it or ask the court to intervene in the Director's substantive decision whether or not to appoint a receiver or conservator for Olympic.[2] Rather, Olympic challenges the Acting Director's constitutional authority to act as Director and asks the court to enjoin him from taking a specific and apparently imminent act. The disagreement over Mr. Martoche's legal status is not "abstract," but focuses on legal issues which are clear and events which have already taken place. Cf. *Abbott Laboratories*, 387 U.S. at 148-49 (Supreme Court found case was ripe for adjudication because it presented a purely legal issue and because no further administrative proceedings were contemplated). In addition, plaintiff would suffer serious hardship if this court refused to hear its claim. OTS has made clear that—absent an injunction—at any moment and with no notice to either plaintiff or to the court it may appoint a receiver or conservator, instruct him or her to take control of Olympic's operations, and perhaps begin liquidating the thrift. Once a receiver or conservator is appointed, this court's power to enjoin the receiver or conservator's actions or to remedy any injury to Olympic would be severely restricted. *See* FIRREA § 301, 103 Stat. 292 (restricting court's authority to enjoin acts of receiver or conservator); *Andrade* v. *Lauer*, 729 F.2d 1475, 1496-97 (D.C. Cir. 1984) (de factor officer doctrine limits court's ability to undo prior acts). In light of these facts, the court concludes that Olympic's claim is ripe for judicial consideration.[3]

2. Standing

Defendant FDIC next argues that Olympic lacks standing for two reasons: first, that Olympic lacks Article III standing because its injury—if one exists—will not be redressed by a decision that OTS' two Directors were unconstitutionally appointed; and second, that Olympic lacks prudential standing because it is not within the zone of interests that Congress intended a private party to assert.

a. Article III standing

In order to establish standing to challenge a particualr act or policy, a litigant must "show that he personally has suffered some actual or threatened injury as a result of the putatively illegal conduct of the defendant,' and that the injury 'fairly can be traced to the challenged action' and 'is likely to be redressed by a favorable decision.'" *Valley Force Christian College* v. *Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 472 (1982) (citations omitted); *Simon* v. *Eastern Kentucky Welfare Rights Org.*; 426 U.S. 26, 38, 41 (1976).

According to the FDIC, Olympic fails to satisfy this test because plaintiff's injury, if any exists, is not likely to be redressed by a favorable decision on its constitutional claim. Defendant FDIC's Memorandum in Opposition to Plaintiff's Motion for a Preliminary Injunction at 3 (filed Mar. 13, 1990) ("FDIC's PI Opposition"). Defendant alleges that plaintiff's ultimate difficulty is its failure to meet legislatively mandated capital standards which must be imposed by whomever is at the head of OTS. Id. Defendant contends that "[p]laintiff's grievance, at bottom, is a fundamental quarrel with Congress' strict mandate of minimum thrift capital," and that "[c]hallenges to the specific officer entrusted to implement that mandate beg the question of the source of plaintiff's ultimate injury—the United States Congress." Id. at 4. The FDIC concludes that because resolution of the Appointment Clause issue will not affect Olympic failure to meet the capital requirements or relieve it from the threat of government intervention, Olympic lacks Article III standing.

Defendant's argument ignores a critical element of plaintiff's claim. In the end, plaintiff clearly hopes to avoid having a conservator or receiver appointed for it. However, this is not all plaintiff seeks. Part of plaintiff's claim is that, under the Constitution and laws of the United States, it is subject to regulation only by individuals with legal authority to act. If this court attempted to appoint a conservator or receiver pursuant to FIRREA, plaintiff clearly could complain that this court has no authority to take such action, for even if grounds for appointment exist, this court simply has no right to exercise the Director's appointment power. This is the essence of plaintiff's constitutional claim: because Mr. Martoche was not properly appointed, he has no more right to exercise the Director's appointment powers than this court does. And this is the injury which a finding for plaintiff on its constitutional claim would redress: the injury which any citizen suffers when its government acts unconstitutionally against it. Even if a receiver or conservator ultimately is appointed, success on plaintiff's constitutional claim would protect its right to demand that those who act against it on behalf of the government do so both lawfully and constitutionally. See *Andrade*, 729 F.2d at 1496 (in many procedural due process cases, graveman of complaint is that government must act in accord with due process principles when it takes action against citizens even if conformance may not change substantive outcome).

The FDIC's argument is flawed for a second reason. According to defendant, it does not really matter who is in the office of Director: Congress has mandated minimum capital requirements, Olympic fails to meet those requirements, and therefore any person acting as Director is equally likely to appoint a conservator or receiver for Olympic. This argument asks the court to assume that both FIRREA's grant of discretion to the Director and the protections conferred by the Constitution are meaningless, for although both affect the process by which the outcome is reached, neither affects the ultimate outcome. The court can not and will not accept this proposition. The court cannot accept it because the court is bound by the Court of Appeals' decision in *Andrade*, 729 F.2d at 1495-96, which explicitly rejects the claim that one cannot maintain an Appointments Clause challenge unless one can show that, had the Constitution's requirements been followed, the outcome would have been different. The court will not accept it because the court absolutely rejects the proposition that the procedural protections conferred by various statutes and by the Constitution are nothing more than hollow gestures at the appearance of democracy. The Appointment Clause subjects the selection process to public scrutiny, thereby affecting who takes office, how they perceive their function, and how they exercise their powers. See *Andrade*, 729 F.2d at 1495 and n. 35 (Appointments Clause gives Congress some control over Executive Branch, within framework of system of checks and balances).

In light of the foregoing, the court concludes that a favorable decision on plaintiff's constitutional question will redress at least one of plaintiff's threatened injuries. The court therefore finds that plaintiff has Article III standing.

b. Prudential standing

Defendant FDIC also claims that this court should refuse to hear plaintiff's case on "prudential standing" grounds because plaintiff has not demonstrated that it is

[1] The court notes that the factual premise for OTS' ripeness argument is seriously undercut by its claim that, "[i]n view of Olympic's precarious financial condition, even a temporary restraint of the Director's authority would pose a grave threat to the public, the federal insurance fund, and the savings and loan industry as a whole." OTS' TRO Opposition, at 41 (emphasis added). If even a temporary restraint poses such a grave threat, presumably there is a strong likelihood that the appointment of a conservator or receiver is imminent.

[2] This fact distinguishes the other cases cited by OTS and make clear that its exhaustion argument, OTS' TRO Opposition, at 11 n. 7, is misplaced.

[3] OTS' argument, though framed in ripeness terms, could also be considered a challenge to Olympic's standing. The same facts which cause this court to believe that adjudication of this lawsuit is not premature cause the court to conclude that Olympic faces a sufficiently direct and imminent threatened harm to have standing. See *Andrade*, 729 F.2d at 1495 (plaintiff has standing if it can assert that it has sustained or is immediately in danger of sustaining a direct injury).

within the zone of interests that Congress intended a private party to assert. FDIC's PI Opposition at 4-8. It states that "Congress could not logically have intended to allow a private party to have standing to assure anything more than that the officer who acts in its regard acts with the independent authority of the Executive Branch and with prior concurrence of the Senate for this position." Id. at 5. The court rejects this claim as well.

The Vacancies Act make clear that Congress is concerned with more than ensuring that only confirmed officers act on behalf of the government. The Vacancies Act allows only confirmed officers to be designated as acting officials; however, it also places strict time limits on the life of a Vacancies Act designation. If the government were correct and the Vacancies Act sought only to assure that acting officers had undergone a confirmation process, presumably Congress would have written a much more generous time limit into the Vacancies Act.

The government also claims that only legislators should be granted standing to challenge unconstitutional appointments. FDIC's PI Opposition at 7. This argument ignores the Constitution's basic purpose. Although the Senate clearly has a strong interest in protecting its role in the confirmation process, the Constitution was not written to protect the interests of the Senate, the Congress, the President, or any other branch or division of government. The Constitution and its system of checks and balances was written to protect the people. The restrictions it placed upon the branches' exercise of power were not designed to ensure the branches' interest in equal power, but to ensure that citizens would not find themselves governed by a single branch which had swept all the government's power into its domain. Thus, entities which will be directly harmed by unconstitutional appointments clearly fall within the zone of interests which the Appointment Clause and the entire system of checks and balances was designed to protect.[4] These entities are routinely permitted to challenge unconstitutional appointments. See *Bowsher* v. *Synar*, 478 U.S. 714, 721 (1986) (Union members who would not receive scheduled increase in benefits have standing to challenge Balanced Budget and Emergency Deficit Control Act of 1985 on ground that it includes unconstitutional appointment provision); *Shoemaker* v. *United States*, 147 U.S. 282 (1893) (affected landowner has standing to challenge appointment of Rock Creek Park commission members); *Andrade*, 729 F.2d at 1494 (employees subject to RIF have standing under both constitutional and prudential standing doctrines to challenge appointment of officials responsible for RIF).

For the foregoing reasons, the court concludes that plaintiff has Article III standing to raise its constitutional challenge and that the court should not refuse to hear plaintiff's claim on prudential grounds.

3. Jurisdiction

Defendants' third challenge is that this court does not have jurisdiction to adjudicate plaintiff's claim or grant plaintiff the relief it requests. According to OTS, FIRREA explicitly prohibits federal district courts from reviewing the Director's decision to appoint a receiver or conservator before the fact and prohibits a district court from enjoining the appointment of a conservator or receiver. OTS' PI Opposition at 3-4; OTS' TRO Opposition at 12-19.

FIRREA provides in pertinent part that:

(E) The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to apoint *ex parte* and without notice of conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

* * * * *

(G) Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the Director, to restrain or affect the exercise of powers or functions of a conservator or receiver.

FIRREA § 301, 103 Stat. 292.

OTS' entire argument on this issue fails to recognize the essence of plaintiff's claim. Olympic does not challenge the grounds upon which the Director will appoint a receiver or conservator; Olympic challenges the Director's constitutional authority to appoint a receiver or conservator.[5] Whether or not the above-quoted passages remove from federal district courts the power to hear pre-appointment challenges on the merits,[6] nothing in these passages limits a district court's power to hear a pre-appointment claim which challenges the Director's constitutional power to appoint a receiver or conservator. As the Court of Appeals for this Circuit has recognized, "Congress has given . . . an awesome amount of control and authority to the [Director]." *Haralson* v. *Federal Home Loan Bank Bd.*, 837 F. 2d 1123, 1127 (D.C. Cir. 1988) (quoting *Biscayne Fed. Sav. & Loan Ass'n* v. *Federal Home Loan Bank Bd.*, 720 F. 2d 1499, 1503 (11th Cir. 1983)). In light of that awesome authority and the irreparable injury Olympic will suffer if it is not allowed to challenge Mr. Martoche's authority until after an appointment is made, see pp. 40-43, infra, it is proper to hear plaintiff's claim at this time. Nothing in FIRREA makes this improper or beyond this court's authority.

Because plaintiff's challenge is ripe, because Olympic has standing to challenge Mr. Martoche's constitutional authority to act as Director of OTS, and because nothing in FIRREA removes this court's general jurisdiction to hear an Appointments Clause challenge, the court may reach the merits of plaintiff's request for preliminary injunctive relief.

B. Plaintiff's Right to Injunctive Relief

In deciding whether to issue a preliminary injunction, a trial court should consider (1) the plaintiff's likelihood of success on the merits, (2) the threat of irreparable injury to the plaintiff in the absence of injunctive relief, (3) the possibility of substantial harm to other interested parties from the injunctive relief, and (4) the public interest. *Foundation on Economic Trends* v. *Heckler*, 756 F. 2d 143, 151 (D.C. Cir. 1985) (citing *WMATC* v. *Holiday Tours*, 559 F. 2d 841, 842-43 (D.C. Cir 1977)); *Virginia Petroleum Jobbers Ass'n* v. *Federal Power Comm'n*, 259 F. 2d 921, 925 (D.C. Cir. 1958).

1. Plaintiff's Likelihood of Success on the Merits.[7]

Plaintiff argues that both the previous OTS Director, M. Danny Wall, and its current Acting Director, Salvatore R. Martoche, were appointed in violation of the Constitution's Appointments Clause. As a result, plaintiff contends that Mr. Martoche may not constitutionally exercise the authority, conferred upon the Director by FIRREA, to appoint a conservator or receiver for it. Defendants respond with four arguments: first, that Mr. Wall's appointment as Director of OTS did not require re-confirmation; second, that Mr. Martoche's designation under the Vacancies Act was proper even if Mr. Wall never constitutionally became OTS' Director; third, that the President had the inherent constitutional authority to designate Mr. Martoche as Acting Director even if he did not have statutory authority to do so; and finally, that Mr. Wall and Mr. Martoche validly delegated their powers to others while acting as de facto officers and that therefore those delegated officials may appoint a receiver or conservator even if Mr. Martoche cannot.

[4] The court need not here decide whether so-called congressional standing, an apparent creature solely of the D.C. Circuit, ever exists.

[5] Although plaintiff's other claims may attack the merits of the Director's decision to appoint, plaintiff's constitutional claim clearly does not. Because the court is relying solely on plaintiff's constitutional claim in granting plaintiff's motion for preliminary injunction, only plaintiff's constitutional claim is relevant in deciding whether FIRREA removed jurisdiction from this court.

[6] Contrary to defendant's assertion, FIRREA does not appear to prohibit pre-appointment review. Subsection G by its terms only prohibits the courts from removing or restraining an appointed conservator; it simply does not speak to pre-appointment actions. Similarly, the legislative history cited by OTS limits only the jurisdiction "to order the removal of a conservator or receiver," OTS' TRO Opposition, at 15, and all of the cases cited by OTS involve post-appointment review. *See, e.g., Yorkridge Calvert Savings and Loan Association* v. *Office of Thrift Supervision*, C.A. No. B-89-3443 (D. Md. 1990) (refusing TRO where receiver had already been appointed); *Haralson* v. *Federal Home Loan Bank Bd.*, 837 F. 2d 1123 (D.C. Cir. 1988) (upholding District Court's refusal of injunction to prevent already appointed conservator from selling plaintiff's assets); *Biscayne Fed. Sav. & Loan Ass'n* v. *Federal Home Loan Bank Bd.*, 720 F. 2d 1499, 1500 (11th Cir. 1983) (reversing District Court's grant of limited injunctive relief against an already appointed receiver), cert. denied, 467 U.S. 1215 (1984).

[7] OTS states that to demonstrate a reasonable likelihood of success on the merits Olympic "must demonstrate that it will probably succeed in proving on the merits that none of the statutory grounds for appointing a conservator or receiver exist." OTS' TRO Opposition, at 21 (emphasis in original). This is incorrect. As to plaintiff's constitutional claim, it must show that Mr. Martoche cannot appoint a receiver or conservator, not that no properly appointed officer could appoint a receiver or conservator. Cf. pp. 11-13, supra.

a. Mr. Wall's appointment

The Appointments Clause of the Constitution provides that:

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments. U.S. Const. art II, § 2, cl. 2. As an officer of the United States, the Director of OTS—like "any [other] appointee exercising significant authority pursuant to the laws of the United States"—must be appointed in the manner prescribed by the Constitution's Appointments Clause, *Buckley* v. *Valeo*, 424 U.S. 1, 126 (1976).[8]

Mr. Wall was appointed as OTS' initial Director by operation of section 301 of FIRREA, which provided that the Chairman of the FHLBB on the date FIRREA became effective would become OTS' initial Director and would serve as Director until his term as chairman of the FHLBB would have expired. FIRREA § 301, 103 Stat. 278. Thus, Mr. Wall clearly was not appointed in the manner specified by the Constitution. The Government contends, however, that Mr. Wall's responsibilities as Director of OTS were essentially indentical to (although more limited than) his responsibilities as Chairman of the FHLBB. The government concludes that therefore Mr. Wall's "appointment" as Director did not require re-nomination and reconfirmation. FDIC's PI Opposition at 29-38 (citing *Shoemaker*, 147 U.S. at 282).

In *Shoemaker*, a landowner challenged the act creating Rock Creek Park in Washington, D.C. The act created a commission to select the land for the park, to arrange to have the land surveyed, to determine the amount of compensation due landowners whose land was taken for the park, and to perform certain other duties. Id. at 284-86. The heirs of one of the persons whose land was to be included in the park sought to prevent the land from being taken by raising a number of challenges to the constitutionality of the act and to the validity of proceedings under the act. Id. at 288. Among other things, they challenged a provision in the act which directed that the Chief of Engineers of the United States Army and the Engineer Commissioner of the District of Columbia would serve as two of the five commission members. Id. at 284, 289, 300-01. They argued that, "while Congress may create an office, it cannot appoint the officer; . . . the officer can only be appointed by the President with the approval of the Senate. . . ." Id. at 300.

The Court rejected this argument, holding that:

As, however, the two persons whose eligibility is questioned were at the time of the passage of the act and of their action under it officers of the United States who had been theretofore appointed by the President and confirmed by the Senate, we do not think that, because additional duties, germane to the offices already held by them, were devolved upon them by the act, it was necessay that they should be again appointed by the President and confirmed by the Senate. It cannot be doubted, and it has frequently been the case, that Congress may increase the power and duties of an existing office without thereby rendering it necessary that the incumbent should be again nominated and appointed.

Id. at 301 (emphasis added).

The *Shoemaker* case is distinguishable from this case in two important respects. First, the provision challenged in Shoemaker added certain duties to two offices; it did not confer additional responsibilities on any particular officer. Had the Chief of Engineers of the United States Army or the Engineer Commissioner of the District of Columbia resigned from office after the commission was established, he would no longer have served on the commission—the new Chief of Engineers or Engineer Commissioner would have taken over those duties. Here, however, Mr. Wall was designated the new Director of OTS. Although the position was given to him by virtue of his prior position, it was given to him.

Another important fact distinguishes this case from *Shoemaker*. In *Shoemaker* and the cases which have relied on its reasoning, see FDIC's PI Opposition at 33-34, the duties of one office were supplemented or were transformed. Service on the Rock Creek Park commission because an additional duty of the Chief of Engineers of the Army; the Secretary of Health, Education and Welfare became the Secretary of Health and Human Services. Here, however, two members of the Federal Home Loan Bank Board were removed by operation of FIRREA, and only the third had his responsibilities transferred to OTS. Had OTS been placed under the supervision of a three-person board, this court believes that the government's argument would be correct and that the three former FHLBB members would not have required re-confirmation. However, when Congress decided that only one of the three FHLBB members would have his responsibilities transferred and, moreover, decided specifically which of the three would become the new Driector, it went beyond simply changing the duties of an office and appointed a person to a new post. This difference makes *Shoemaker* inapposite.

Although the Supreme Court's decision in *Bowsher*, 478 U.S. at 714, is not controlling, its holding supports this limit of *Shoemaker's* holding. In *Bowsher* the Court held that "[a] direct congressional role in the removal of officers charged with the execution of the laws . . . is inconsistent with separation of powers." *Bowsher*, 478 U.S. at 723, 730. Congress clearly may abolish officers, thereby effectively removing the officers who hold those offices. Thus, the situation presented herein does not directly violate *Bowsher's* mandate. However, when it abolished one agency and removed its three officers, yet designated one of the three as the head of the newly-created successor agency, Congress exercised the kind of decisionmaking about who will serve in Executive department posts that the Constitution says it cannot. Indeed, the closer the relationship between the functions of the FHLBB and OTS—and thus the more *Shoemaker* is applicable—the more serious the *Bowsher* problem.[9]

For the foregoing reasons, the court concludes that *Shoemaker* does not apply to the facts of this case. As a result, Mr. Wall required re-nomination and re-confirmation before he could constitutionally take office as OTS' Director. Since he was never renominated or re-confirmed, he never constitutionally took office.

b. Mr. Martoche's appointment

After this lawsuit was filed and the day after Mr. Wall's resignation became effective, the President issued the following order:

In accordance with the provisions of section 3347 of title 5 of the United States Code, and as President of the United States, I hereby authorize and direct Salvatore R. Martoche, an Assistant Secretary of the Treasury (Enforcement), to perform the duties of the Office of Director of the Office of Thrift Supervision for the maximum term permitted by 5 U.S.C. section 3348 or until confirmation and appointment of a Director of the Office of Thrift Supervision, whichever is sooner.

OTS' TRO Opposition, at Exhibit E (order directing Mr. Martoche to perform duties of Director). Mr. Martoche has been serving as Acting Director of OTS since March 5, 1990.

Olympic contends that the President's designation of Mr. Martoche as Acting Director pursuant to 5 U.S.C. § 3347 is improper. According to Olympic, section 3347 does not give the President authority to fill a vacancy caused by the resignation of any person other than a constitutionally appointed officer. Because Mr. Wall was never constitutionally appointed Director of OTS, Olympic concludes that his resignation does not fall within the scope of section 3347. The government responds with two arguments: first, that plaintiff's interpretation of section 3347 is incorrect and that Mr. Martoche's designation under that section was proper; and second, that even if the designation under section 3347 was improper, the designation was a proper exercise of the President's inherent powers.[10]

I. Was Mr. Martoche properly designated under the Vacancies Act?

In the Vacancies Act, Congress delegated to the President limited authority to temporarily fill certain vacancies. The Act, 5 U.S.C. § 3345 et seq., provides in pertinent part:

§ 3346. When an officer of a bureau of an Executive department or military department whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the

[8] The government has never contended that the Director is not an officer subject generally to the Appointments Clause. Given the Director's broad discretion to regulate an entire industry and his freedom from intervention by higher-level Executive department officers, any such argument would clearly be wrong.

[9] It does not matter that FIRREA stated that the Chairman of the FHLBB—not Mr. Wallby name—would become OTS' initial Director. The constitutional problem is presented by the fact that Congress decided who would take over as OTS' Director and, whether it named that person by job title or by function, Congress named that person. Moreover, it does not matter that the President's proposee bill included a provision to make Mr. Wall OTS initial Director. The President and the Congress, whether alone or together, cannot decide to circumvent the Constitution's requirements.

[10] Defendants initially stated that Mr. Martoche's designation was performed solely under the Vacancies Act. See, e.g., OTS' TRO Opposition at 9, 24-25; OTS' PI Opposition at 2-3, 12. Moreover, neither defendant has proffered that the President did in fact intend to exercise his inherent powers when he appointed Mr. Martoche as head of OTS. However, since the defendant agencies have no authority to limit the President's exercise of his constitutional authority, the court will assume that the President intended his words "as President of the United States" to invoke any inherent appointment authority which he has.

duties of the office until a successor is appointed or the absence or sickness stops.

* * * * *

§ 3347. Instead of a detail under section 3345 or 3346 of this time, the President may direct the head of another Executive department or military department or another officer of an Executive department or military department, whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the office until a successor is appointed or the absence or sickness stops. This section does not apply to a vacancy in the office of Attorney General.

Olympic's argument, briefly stated, is as follows: Section 3347 provides an alternative way in which the President may fill vacancies under section 3345 and 3346, but does not itself authorize the President to fill vacancies. Therefore, the President can fill a vacancy under section 3347 only if it is the type of vacancy described in section 3345 or 3346. Section 3345 applies when the head of an Executive agency (other than the General Accounting Office) or military department dies, is sick, or is absent, and thus is inapplicable in this case. Section 3346 applies "[w]hen an officer of a bureau of an Executive department or military department, whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent." Because Mr. Wall never constitutionally became an officer, his resignation does not constitute the resignation of "an officer of a bureau of an Executive department." As a result, neither section 3345 nor section 3346 authorized the President to temporarily fill the office of Director following Mr. Wall's resignation. Since the President lacked statutory authority to appoint Mr. Martoche and since the President did not appoint him in the manner specified by the Appointments Clause, Mr. Martoche's appointment is invalid and—like Mr. Wall before him—Mr. Martoche is without constitutional power to take any action as Director of OTS.

The court, after careful review of the relevant statutes, historical references, and cases, has determined that plaintiff's interpretation is correct. Section 3347 is by its terms available to the President "[i]nstead of a detail under section 3345 or 3346." Section 3346 by its terms gives the President authority to appoint an interim replacement "[w]hen an officer of a bureau of an Executive department . . . dies, resigns, or is sick or absent." Although defendants contend that "officer" as used in section 3346 does not mean "constitutional officer," this court does not agree. 5 U.S.C. § 2104 provides in pertinent part that:

(a) For the purpose of this title, "officer", except as otherwise provided by this section or when specifically modified, means . . . an individual who is—

(1) required by law to be appointed in the civil service by one of the following in an official capacity—

(A) the President;

(B) a court of the United States;

(C) the head of an Executive agency; or

(D) the Secretary of a military department.

Section 3346 does not "otherwise provide" a meaning for the term "officer," and therefore pursuant to section 2104 this court must construe that term to mean "constitutional officer" (i.e., an officer selected by the President with the advice and consent of the Senate or an officer whose appointment was delegated by Congress to the President alone, to the head of a department, or to the Judiciary). See also H.R. Rept. No. 1389, Enactment of Title 5, United States Code, Entitled "Governmental Organization and Employees", 89th Cong., 2d Sess. 67-68 (1966) (in discussing changes made to U.S.C. § 3332, committee stated that "[t]he term 'officer' is coextensive with and substituted for 'Each individual appointed hereafter as a civil officer of the United States by the President, by and with the advice and consent of the Senate, or by the President alone, or by a court of law, or by the head of a department' in view of the definition of 'officer' in section 2104.").

The government argues that section 2104's definition of officer is forward looking. Focusing on the language which defines an officer as an individual "who is . . . required by law to be appointed," the government contends that section 2104 does not require that the resigning officer was appointed, just that he was required to have been appointed. Thus, the government concludes, section 2104 does not require that Mr. Wall's appointment was constitutional, just that he occupied the position of an officer of the United States. This argument not only misreads the plain language of section 2104, it would unacceptably broaden the President's authority under the Vacancies Act. In effect, the government's argument would mean that the President could unconstitutionally "appoint" an "officer," have him resign, and then use the Vacancies Act to fill the post for up to 120 days. The court cannot allow the government to use the fact that the initial Director was unconstitutionally appointed to bootstrap its way into a Vacancies Act designation, for this violates both the terms and the spirit of the Vacancies Act. Instead of accepting the interpretation urged by the government, the court interprets section 2104 as meaning that to become an officer, one must satisfy the basic legal requirement for taking office: i.e., to take office, one is required to be appointed.

In a similar vein, the government argues that whether or not Mr. Wall ever became a de jure officer, he was a de facto officer and thus an "officer" who "resigned." FDIC's PI Opposition at 19-20, 25. The court rejects this argument as well. The de facto officer doctrine works to protect the public interest by validating prior acts of persons performing the duties of an office under color of title. See *Andrade*, 729 F.2d at 1496 and cases cited therein. However, despite its name, it does not transform the non-officer into an officer. Moreover, allowing the President to invoke the Vacancies Act whenever a de facto officer resigns would potentially allow the same kind of bootstrapping discussed above.[11] For these reasons, the court refuses to hold that the de facto officer doctrine transformed Mr. Wall into an officer and made the Vacancies Act available upon his resignation.[12]

The government next argues that even if the term "officer" as used in section 3347 means constitutional officer, the statute should be interpreted as giving the President authority to fill vacancies, however created. The court is not free to do this. The statute clearly states that it applies "[w]hen an officer . . . dies, resigns, or is sick or absent." Although defendants' argument is certainly logical, it is up to Congress—not this court—to decide the conditions under which the President may designate temporary replacements. Had Congress wanted to give the President general power to fill vacancies, it could have done so by wording the statute differently. The strict time limits placed upon life of a Vacancies Act designation clearly threaten that, in some instances, there will be no way under the Vacancies Act to appoint an interim official. However, a court would not be free to ignore these limits in order to avoid finding that an agency had no chief officer. Similarly, this court can not ignore the statute's clear provision detailing when the President may exercise Vacancies Act powers in ordrer to avoid finding that OTS has no Director. Congress has been on notice for more than 100 years that the Vacancies Act has generally been interpreted as giving the President authority to designate officers *only* when the statute's express terms are satisfied. For example, a 1909 Attorney General opinion concluded that the President could *not* make a Vacancies Act appointment where the vacancy was caused by the retirement of a bureau chief. 27 Op. Atty. Gen. 337, 345

[11] As plaintiff points out, a useful analytical device is to strike the unconstitutional provision from FIRREA and then see if the Vacancies Act would be available to the President. It would not: the Vacancies Act by its terms is not available to fill initial vacancies. 5 U.S.C. § 3345 *et seq.; Department of Energy—Appointment of Interim Officers*, 2 Op. O.L.C. 405, 407 (1978); *Matter of Department of Energy—Acting Officials' Status and Authority*, Op. No. B-150136 (May 16, 1978) (unpublished opinion of Comptroller General). The fact that an unconstitutional provision was included in FIRREA, and that Mr. Wall took office pursuant to that provision, should not render the subsequent acts more constitutional than they would have been absent the initial unconstitutional provision.

[12] The government offers two related arguments in its attempt to validate Mr. Martoche's appointment, which warrant only brief treatment. First, the government argues that because Mr. Wall was the de facto Director, the de facto officer doctrine validates his act of resigning and transforms his resignation into the resignation of an officer. The fallacy of the government's claim illustrated by applying it to a different set of facts. Under the government's reasoning, it would appear that one could not challenge any unconstitutional appointment because the officer's act of taking office would validate his status as an officer: by taking office and calling himself an officer, the person would become an officer. This is obviously wrong. The de facto officer doctrine validates acts upon which the public reasonably has relied. It does not change the fundamental nature of the act or transform the actor into something he is not.

Second, the government alleges that plaintiff cannot challenge the de facto acts of Mr. Wall and Mr. Martoche because it has failed to satisfy the two requirements announced in *Andrade*. OTS' TRO Opposition, at 27-29. The court rejects this claim for two reasons. First, Olympic is not asking this court to invalidate any of either Director's past acts, and therefore the de facto officer doctrine does not bar plaintiff's request. Second, plaintiff does meet *Andrade's* two requirements: it brought its lawsuit before the Acting Director appointed a receiver or conservator, and it notified OTS of its constitutional challenge before filing its lawsuit and in time for OTS to voluntarily refrain from acting against plaintiff. *See Andrade*, 729 F.2d at 1499; *see also Andrade* v. *Regnery*, 824 F.2d 1253, 1256 (D.C. Cir. 1987) (filing of underlying lawsuit provides adequate notice of Appointments Clause challenge). The fact that Olympic participated in proceedings before OTS in the fall of 1989 without challenging Mr. Wall's appointment, FDIC's PI Opposition at 23, does not matter; until OTS threatened plaintiff with immediate, irreparable harm, Olympic did not have standing to bring its challenge. (Indeed, defendants' contend that even now Olympic does not have standing. The government's simultaneous assertion that Olympic's challenge is both too early and too late is rejected.)

(1909). The Attorney General observed that "no provision is made in any of [the Vacancies Act] sections for temporarily filling a vacancy caused by the retirement of the chief of a bureau." He concluded that "if the vacancy be caused by the retirement of the incumbent, Congress having made no provision for the temporary discharge of his duties, the Bureau remains without a head until the place is filled [by the President by and with the advice and consent of the Senate]." Id. at 345, 346.[13] But see 19 Op. Atty. Gen. 500 (1890) (Vacancies Act permits temporary appointment to replace retired officer even though its terms technically only reach death, resignation, absence, and sickness). The same year, the Attorney General considered the Vacancies Act's provision allowing the President to designate "any other officer in either department" and concluded that only an officer actually holding an office in a department may be designated under the Act. 28 Op. Atty. Gen. 95, 97 (1909). He stated that "[i]t is not sufficient that [the designated person] has been appointed an officer by the President, by and with the advice and consent of the Senate; he must hold an office in a department which is established by law." Id. Almost twenty years earlier, the Attorney General has considered the provision allowing "the assistant or deputy" of a chief or other officer to act in the chief or officer's stead when they are absent. 19 Op. Atty. Gen. 503, 504 (1890). The Attorney General decided that "expression 'the assistant or deputy of such chief or of such officer,' can only refer to assistants or deputies whose appointment is specifically provided for by statute." Id. at 504. As a result, he concluded that an officer of the Navy, detailed and assigned by the Secretary of the Navy as an assistant to the chief of a bureau, could not act in the chief's place under the Vacancies Act because there was no specific provision for the assignment of assistants to chiefs of bureaus from commissioned officers of the Navy. Id. at 503, 504. More recently, the Comptroller General considered the Vacancies Act and concluded that "by its terms, [the Act] clearly contemplates the vacating of an office by the person occupying the position as a condition precedent for the application of its provisions. Since none of the five offices [at issue] were previously occupied, it would appear that the Vacancies Act would have no application." *Matter of Department of Energy—Acting Officials' Status and Authority*, Op. No. B-150136 (May 16, 1978) (unpublished opinion). Two days later, the Attorney General agreed with this conclusion. *Department of Energy—Appointment of Interim Officers*, 2 Op. O.L.C. 405, 407 (1978) ("[t]he existing procedures provided for in the Vacancies Act . . . were not adapted to initial vacancies in a newly established department"); 411 ("[w]e have read the opinion of the Act Comptroller General dated May 16, 1978. . . . We agree with it to the extent that it concludes that the Vacancies Act is inapplicable to the situation at hand). Moreover, the Attorney General concluded that the Vacancies Act did not permit the President to designate as initial Department of Energy officers ex-officers of DOE's predecessor agency because, when the predecessor agency was abolished, those persons ceased to be officers. Id. at 407. Thus, the Attorney General expressly rejected a broad, ends-oriented reading of section 3347 which would have permitted the President to designate the most qualified persons, who had previously been nominated by the President and confirmed by the Senate for virtually identical positions, as interim DOE officials. Id.

The above opinions are of course not binding precedent. However, they are useful for two purposes. First, these opinions show that the Attorney General and other senior government officials have, for the last 100 years, interpreted the Vacancies Act as giving the President authority to make interim appointments only when the express conditions of the Act are satisfied. As defendants point out, the Attorney General is charged with responsibility for ensuring that only lawfully appointed officials act on behalf of the United States, and consequently his interpretation of law on this subject is entitled to great deference. OTS' PI Opposition at 15 n.9. Second, these opinions show that Congress has been on notice for more than a century that the Vacancies Act is generally strictly and narrowly interpreted. If Congress intended the Act to serve a more general purpose—to allow the President to fill any vacancy, however created—as the government contends, Congress has had ample opportunity to amend the statute to give effect to the intent.

The government argues that FIRREA itself represents Congressional support for a broad interpretation of the Vacancies Act. According to the government, "the obviously disastrous effects [a narrow reading] would have on Congress' legislative efforts to salvage the thrift industry itself suggests the unlikelihood that Congress could have intended plaintiff's interpretation of the Vacancy Act." FDIC's PI Opposition at 9; see also id. at 11. However, the Vacancies Act was enacted long before FIRREA and thus Congress' goals in enacting FIRREA are irrelevant in interpreting the Vacancies Act.

Not only does FIRREA not support the government's broad interpretation of the Vacancies Act, it argues against that interpretation. FIRREA specifically provides that "[a] vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) [appointment by President, by and with advice and consent of the Senate], and the Director appointed to fill such a vacancy shall be appointed only for the remainder of such term." FIRREA § 301, 103 Stat. 278. The court cannot accept the government's claim that this provision "is boilerplate language of the kind that exists in countless statutes" and that it was included "merely to provide a method by which a permanent replacement for the Director may be appointed when the incumbent leaves before the end of his term." FDIC's PI Opposition at 10 n.8 (emphasis in original). If this were true, the portion of the provision requiring Senate confirmation would have no effect: the Vacancies Act allows only for temporary designations, and FIRREA mandates that the Director must be appointed with the advice and consent of the Senate. Thus, even without FIRREA's vacancy provision, permanent replacements would have to be appointed with the advice and consent of the Senate. If the vacancy provisions means only that permanent replacements must be appointed with the Senate's consent, as the government contends, then it means nothing.[14] The court will not interpret the vacancy clause in a way which renders all or a portion of it meaningless. See OTS' PI Opposition at 13 n.7 (both FIRREA and Vacancies Act should be interpreted such that neither is rendered superfluous) (citing *Watt* v. *Alaska*, 451 U.S. 259, 267 (1982)).[15] As a result, the court finds that the vacancy clause is evidence that FIRREA did not envision, and that in enacting FIRREA Congress did not desire a broad, results-oriented interpretation of the Vacancies Act.[16]

For all of the foregoing reasons, the court concludes that the Vacancies Act should be interpreted as authorizing the President to designate an acting officer only when a prior, constitutionally appointed officer dies, resigns, or is sick or absent. As a result, in light of the court's conclusion that Mr. Wall never constitutionally became the Director of OTS, see p. 23, supra, the court

[13] In the case under consideration by the Attorney General, the President retired the officer after concluding that he was no longer fit to perform his duties. The Attorney General distinguished this from the case where an incumbent resigns, finding that the latter "implies the consent of the incumbent to the giving up of the office and does not include the compulsory retirement of an officer by reason of disability to perform the duties of the office." 27 Op. Atty. Gen. at 345. This distinction is at least as fine as the one urged by plaintiff, i.e., that if Mr. Wall was never constitutionally appointed he was not an "officer" under the Vacancy Act.

[14] The other half of the vacancy clause, which provides that a replacement Director shall serve only the remainder of the prior Director's term, would have meaning under the government's interpretation.

[15] The government argues that to apply the FIRREA provision in this circumstance "would suggest that Congress wanted vacancies in the office to continue until confirmation of a successor, even though Congress was so concerned about a temporary period without a Director that it designated the specific person who would be the first Director of OTS, and provided that he would immediately assume the office of Director," The legislative history nowhere states that the Wall provision was included to avoid a temporary initial vacancy. Indeed, various portions imply that this was not the reason FIRREA specified that Wall would be the OTS' first Director. See, e.g., H.R. Rept. 54, part 1, 101st Cong., 1st Sess. 425 (1989) (House Committee on Banking, Finance, and Urban Affairs would have deleted provision making Wall OTS' initial Director due to Wall's failure to effectively execute his responsibilities and to assist Congress in its effort to examine S & L crisis, and would have prohibited any FHLBB member from becoming Director without formal nomination and confirmation); 135 Con. Rec. S4240-47 (debate responding to proposal to remove provision appointing Wall as OTS's initial Director focused exclusively on Wall's qualifications and fairness of "removing" him mid-term, but did not mention need to avoid temporary vacancy). Moreover, FIRREA's history is replete with references that Congress must take a more responsible and active role in overseeing the thrift industry. See, e.g., S. Rep. No. 19, 101st Cong., 1st Sess. 3-5 (1989) (Senate Committee on Banking, Housing, and Urban Affairs discussed prior abuses and stressed need for diligent committee oversight of thrift industry). These statements support the conclusion that Congress was more concerned with temporary losses of its oversight power than with temporary vacancies, and that it included the vacancy clause to ensure that no person would act as Director who had not been subjected to Senate scrutiny.

[16] The court need not conclusively determine exactly what FIRREA's vacancy provision means and whether it preempts the Vacancies Act with respect to the position of Director of OTS. The court has concluded that the Vacancies Act cannot be used to justify Mr. Martoche's appointment, and therefore there is no conflict in this case. The discussion of FIRREA's vacancy clause is intended solely to further illuminate why the court believes that it would be inconsistent with the Vacancies Act and not in furtherance of FIRREA's goals for the court to interpret the Vacancies Act in the manner requested by the government.

finds that Mr. Martoche's appointment was not authorized by the Vacancies Act.

ii. Did the President have inherent authority to appoint Mr. Martoche under the facts present in this case

The FDIC argues that, even if the Vacancies Act did not confer on the President the authority to designate Mr. Martoche, the President has inherent authority to appoint officers and that he properly exercised that authority in this case. FDIC's PI Opposition at 25-29. To accept this argument, the court would need to ignore a prior decision of this Circuit's Court of Appeals as well as the more than 100 years unchallenged use of the Vacancies Act.[17]

In *Williams* v. *Phillips*, 482 F.2d 669, 670 (D.C. Cir. 1973), the Court of Appeals for the District of Columbia Circuit refused to stay the District Court's order enjoining the Acting Director of the Office of Economic Opportunity from taking any further action as Acting Director of OEO pending appeal of that order. The District Court had concluded that "in the absence of . . . legislation vesting a temporary power of appointment in the President, the constitutional process of nomination and confirmation must be followed." *Williams* v. *Phillips*, 360 F. Supp. 1363, 1371 (D.D.C. 1973). The District Court had squarely rejected the argument, now made in this case by the FDIC, that the President has authority to make temporary appointments pursuant to his Article II, § 3 obligation to "take Care that the Laws be faithfully executed." Id. at 1368-69. While the Court of Appeals did not unequivocally affirm the District Court, it did state that the President's inherent power to appoint, if it exists at all, is limited. *Williams*, 482 F.2d at 670-71.

The following circumstances, taken together, cause this court to conclude that the appointment of Mr. Martoche was not a proper exercise of whatever limited power the President may possess. First, the government has not argued that any emergency existed beyond the general emergency which exists whenever a regulatory body charged with important function is left without its primary officer. If this were enough to create an emergency and justify appointments outside the Vacancies Act and the Constitution, the protections afforded by the Act and the Constitution would quickly be lost. Second, if any emergency did exist it was the result not of unforeseen circumstances, but of FIRREA's unconstitutional attempt to appoint Mr. Wall as OTS's initial Director. The Constitution surely is not served if its avoidance creates in the President powers which he otherwise would not have. Third, unlike the situation present in *Williams*, the Vacancies Act does generally apply to vacancies in OTS. Where Congress has delegated to the President limited power to fill the kind of vacancy at issue, and where that power was not sufficient to permit the attempted designation, the Court should not broaden Congress' delegation by invoking an undefined and generally unrecognized Presidential power. For these reasons, the court believes it would be improper under *Williams* to find that the President's designation of Mr. Martoche was a permissible exercise of this inherent authority.

Moreover, if the court were to find that the President had the inherent authority to designate Mr. Martoche Acting Director of OTS, then the Vacancies Act would be an unconstitutional limitation on the President's constitutional powers. See *Williams*, 360 F. Supp. at 1369. The court is not inclined to hold that the Vacancies Act, relied on by all branches of the government for more than 100 years, see Plaintiff's Post-Argument Memorandum in Support of Motion for a Preliminary injunction at 16-19 (filed Mar. 15, 1990) ("Plaintiff's Post-Argument Memorandum"), is and always has been unconstitutional.

For the foregoing reasons, the court finds that if the President has any inherent authority to appoint temporary officers, his authority is limited and the circumstances which would permit its use were not present in this case. The court therefore concludes that Mr. Martoche was not validly appointed.

c. May other OTS officials exercise the director's power to appoint a receiver or conservator pursuant to previous delegations of authority

Defendants finally argue that, even if Mr. Martoche cannot exercise the powers of the Director, both Mr. Wall and Mr. Martoche delegated their authority to other officers within OTS. According to OTS, these delegations are past acts which should be recognized under the de facto officer doctrine and therefore the delegatees can now exercise all the powers of the Director.

Assuming these delegations were otherwise proper, each of the Directors could not delegate more authority than he himself had. In light of the court's conclusion that neither Mr. Wall nor Mr. Martoche were ever constitutionally appointed Director of OTS and therefore never exercised their powers excepts as de factor officers, at most they were able to delegate de factor authority. As a result, none of their subordinates' future acts are protected from judicial scrutiny under the de facto officer doctrine. The fact that the delegations are past acts does not bring the delegatees' future acts within the doctrine's protection. Accordingly, because Mr. Martoche cannot constitutionally appoint a receiver or conservator for Olympic, neither can any of his subordinates.

For the foregoing reasons, the court concludes that Olympic has a strong probability of success on its claim that neither Mr. Wall nor Mr. Martoche were constitutionally appointed Director of OTS and that therefore neither they nor any of their subordinates may constitutionally appoint a receiver or conservator for Olympic.

2. Plaintiff's Irreparable Injury

Despite defendants' arguments, plaintiff will clearly suffer an irreparable injury if its request for injunctive relief is not granted. If a receiver or conservator is appointed, there is a reasonable probability that Olympic will be destroyed or fundamentally altered. See Plaintiff's Post-Argument Memorandum at 25-31.[18] OTS contends that it will get fair market value for any assets sold and that therefore Olympic will not be harmed by liquidation. OTS' PI Opposition at 25-26. However, this agrument ignores two important considerations. First, receiving the fair market value for a business' assets is not necessarily adequate; the destruction of the business is itself an irreparable injury. See e.g., Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 585 (1952) (seizure and government operation of ongoing business were bound to result in damages of such a nature as to be difficult, if not incapable, of measurement); WMATA v. Holiday Tours, 559 F.2d 841, 843 (D.C. Cir. 1977) (destruction of a business is an irreparable injury).[19] Olympic's owners have not chosen to liquidate the thrift, and the government has no right to impose this choice upon it. The fact that Olympic may soon fail even without government intervention does not transform its immediate destruction at OTS' hands into an insignificant intrusion. As the Court of Appeals has made clear, one is injured when the government improperly takes away a right, whether or not the end result is inevitable. See Andrade, 729 F.2d at 1494-96. Second, if OTS agrees not to assert the de facto officer doctrine in a post-appointment challenge, it is highly unlikely that the receiver or conservator could get fair market value for Olympic's assets. Any possibility that this court would order OTS to undo the transactions entered into by the receiver or conservator would increase the level of uncertainty associated with any sale and ensure that any buyer would discount the price he would otherwise pay for Olympic's assets.

If OTS and FDIC will not or can not waive the right to assert the de facto officer doctrine in a post-appointment proceeding, Olympic's injury would be compounded because it would permanently lose its right to challenge Mr. Martoche's authority to act as OTS' Director. If a receiver or conservator is appointed and that appointment is then validated under the de facto officer doctrine, Olympic's constitutional claim would be moot and Olympic would forever be barred from challenging the manner in which the government took away its business. *Andrade*, 729 F.2d at 1497.[20] This additional injury—the permanent loss of the right to challenge the constitutionality of Mr. Martoche's appointment and authority to regulate Olympic—renders FIRREA's judicial review provision inadequate.

3. The Harm to Defendants and to Others

Defendants do not assert that they will be directly harmed should the court issue the injunction requested by plaintiff. Rather, defendants' harm flows solely from their inability to protect the public interest should the Director be enjoined from taking cer-

[17] Olympic argues persuasively that the Constitution itself makes clear that the President does not have any inherent power to appoint officers without the advice and consent of the Senate. Plaintiff's Post-Argument Memorandum in Support of Motion for a Preliminary Injunction at 13-15 (filed Mar. 15, 1990). The court need not decide whether this is true because the circumstances of this case make it clear that, if such power exists at all, it was not available to the President under the facts present herein.

[18] The government argues that a receiver or conservator, if appointed, would not necessarily liquidate Olympic. FDIC's PI Opposition at 46-47. However, in light of OTS' refusal to promise not to liquidate Olympic, this assertion does not render Olympic's injury arguments untenable.

[19] Contrary to the government's argument at the hearing on plaintiff's motion for a PI, the Supreme Court's finding of irreparable injury in Youngstown did not solely depend on the uncertainty that plaintiff would be entitled to recover the value of property taken for a public use. See 343 U.S. at 585.

[20] The court is not convinced that OTS and FDIC can promise not to raise the de facto officer doctrine in subsequent proceedings. The doctrine is designed "to protect the public by ensuring the orderly functioning of the government despite technical defects in title to offices." OTS' TRO Opposition, at 26 (citing State Dental Council and Examining Board v. Pollock, 457 Pa. 264, 318 A.2d 910, 913 (1974)) (emphasis added). If innocent parties enter into transactions with Olympic's conservator or receiver, it might be improper to ignore their plight and attempt to undo what the conservator or receiver had done under color of law.

tain actions. Similarly, the harm to others is solely a harm to the public and, specifically, to the taxpayers. As a result, the portion of the court's analysis focusing on harm to defendants and to others is treated in the next section.

4. The Public Interest

The government claims that Olympic's "precarious financial condition and the risk of enormous loss to the federal insurance fund" make clear that an injunction would not serve the public interest. OTS' Preliminary Injunction Opposition, at 26. They have argued that, should the court issue the injunction requested by plaintiff, the court will subject S & L depositors, the thrift industry, and the nation's entire financial system to extraordinary and unreasonable risks. FDIC's TRO Opposition at 34.

Olympic has not asked this court to issue a sweeping injunction prohibiting the Director from taking any action against any S & L. Rather, it has requested that the court enjoin the Director from appointing a receiver or conservator for Olympic until it decides the merits of this action. The court does not believe that Olympic, if given the relief it requests, poses a serious threat to the public interest and the Savings Association Insurance Fund. Certainly there is some danger associated with allowing any at-risk thrift to continue operating. However, a number of facts minimize the risk presented by Olympic. First, OTS has never alleged that Olympic's officers are engaging or have engaged in any affirmative misconduct. Rather, OTS attributes Olympic's poor operating results to a high level of non-earning assets and nominal interest margins. OTS' TRO Opposition at 7. Second, although Olympic has failed to make its operations profitable, it has managed to remain marginally profitable by engaging in certain nonrecurring actions. OTS' TRO Opposition at 7. Third, Olympic's troubles do not appear to be anything new. Although its performance may be deteriorating, OTS' TRO Opposition at 7, both Olympic and the thrifts it acquired between 1982 and 1984 were in poor financial health at the time of the acquisitions. See OTS' TRO Opposition at 7 (although FHLBB approved the mergers proposed by Olympic, it recognized that Olympic's prospects for a return to viability were tenuous). Fourth, Olympic is currently operating—and notwithstanding the PI will remain operating—subject to a number of restrictions on its business operations. See OTS' TRO Opposition at 39 and Exhibit D. These restrictions, previously imposed by OTS, should help to prevent plaintiff (and consequently the SAIF) from suffering any sudden catastrophic losses. Finally, it appears that OTS itself has decided that Olympic does not pose such a serious, immediate threat that it should be subjected to OTS' full range of supervisory powers. On February 12, 1990, the District of OTS permitted Olympic to make several categories of loans without individual OTS approval, notwithstanding OTS' normal policy of requiring approval of each new loan. OTS' TRO Opposition at 8.[21]

The court stresses that it is neither closing the door on OTS nor making any finding beyond the specific facts of this case. The court's conclusion that Olympic is entitled to the injunctive relief it requests depends not only on the conclusion that plaintiff has shown a strong likelihood of success on the merits and an irreparable injury. The injunction depends, in the end, on as a finding that these factors outweigh the public interest in protecting the Savings Association Insurance Fund against future losses. If conditions at Olympic should change—if, for example, there were a run on the thrift or if OTS discovered that Olympic's managers were looting the thrift's assets—OTS could come to the court, present those facts, and seek to dissolve the preliminary injunction. Contrary to OTS' assertions, OTS' TRO Opposition at 38-39, 42, Olympic has not requested, and this court is not issuing, an order invalidating Mr. Wall and Mr. Martoche's past acts or enjoining OTS from exercising any of its supervisory and regulatory powers other than its power to appoint a receiver or conservator for Olympic until a new Director is properly appointed. Although this may lead to a great deal of litigation and place OTS' operations in some confusion, the clear violation of plaintiff's constitutional rights and the public's interest in protecting the Constitution outweigh these harms to the public interest.

III. CONCLUSION

For all of the foregoing reasons, and pursuant to the order issued this date, Olympic's motion for a preliminary injunction is GRANTED. The government's only specific request for bond was in the amount of Olympic's total deposits—approximately $835 million. OTS' PI Opposition at 26-27. This is clearly excessive. Bond is therefore set at $1,000.

ROYCE C. LAMBERTH,
U.S. District Judge.

Date: March 21, 1990.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, March 27, 1990.

Re Litigation Challenging Appointment of M. Danny Wall, Director, Office of Thrift Supervision.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to notify you that in appealing the grant of a preliminary injunction in *Olympic Federal Savings and Loan Ass'n* v. *Director, Office of Thrift Supervision,* No. 90-5085 & 90-5086 (D.C. Cir.), the Department of Justice has determined not to defend the constitutionality of that portion of section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"), that designated then-Chairman of the Federal Home Loan Bank Board, M. Danny Wall, to be Director of the Office of Thrift Supervision ("OTS"). *See* 103 Stat. at 278.

The *Olympic Federal* case involves a challenge to the enforcement of the capital requirements imposed by FIRREA on savings and loan institutions. In seeking a preliminary injunction against the appointment of a conservator or receiver, plaintiff chiefly contended that the Office of Thrift Supervision could not act against them because Director Wall was appointed without having been nominated to that post by the President and confirmed by the Senate as contemplated by the Appointments Clause. U.S. Const., Art. II, § 2, cl. 2.

Mr. Wall resigned effective March 5, 1990, at which time the President appointed Salvatore R. Martoche to be Acting Director. Nonetheless, on March 21, 1990, the district court issued a preliminary injunction on the ground that neither Mr. Wall nor Mr. Martoche were validly appointed to head the office of OTS Director.

The government is appealing the grant of the preliminary injunction on the grounds that Mr. Martoche was validly appointed. However, we have determined not to argue on appeal that the statutory designation of Mr. Wall as OTS Director conformed with the dictates of the Appointments Clause.

Similar challenges to Mr. Wall's authority to appoint a conservator and to any future actions against the various thrifts have been raised in several other suits in district court.[1] Such actions can only be taken by Mr. Martoche or his successor. Our arguments, therefore, will be similar to those we are raising in the appellate court in *Olympic,* and will not include the broader argument regarding Mr. Wall's appointment as OTS Director.

Sincerely,

DICK THORNBURGH,
Attorney General.

Mr. KERREY. I urge my colleagues to read both documents, particularly those who are prepared to vote for, particularly those who are sensing that maybe we should give this just a bit more time. I offer this as only one example of the kind of confusion that I believe exists and I believe exists as a consequence of the President not giving this domestic priority the kind of attention it deserves.

The administration's lawyers in the Treasury Department drafted the section in the original bill, S. 413, that provided Mr. Danny Wall would be able to continue to serve as the chief regulator of the savings and loan industry without having to come back to the Senate for reconfirmation.

Now the administration's lawyers in the Justice Department in the letter I referenced earlier have informed the President of the U.S. Senate that they will not defend the constitutionality of the section of the bill that gave Mr. Wall his new job.

Technically, the administration has ceded its argument that the holding of a prior case applied to Mr. Wall taking his job at OTS. The Justice Department will only argue that the President had authority to appoint Mr. Salvatore Mortoche as an acting director of OTS, and it seems to me, Mr. President, it is a reasonable question for all Members of Congress to ask that if

[21] The court also notes that, at the hearing on plaintiff's motion for a temporary restraining order, it responded to OTS' ripeness argument by asking whether OTS would agree to provide the plaintiff and the court with six hours' notice before appointing a receiver or conservator. OTS refused, effectively forcing this court to address the merits of plaintiff's claim. Having refused to exercise its discretion and thereby having forced an immediate challenge, OTS is in a weak position when it now asks the court to exercise the court's discretion and ignore plaintiff's clear right to a preliminary injunction.

[1] *See American Heritage Bancorp. et al.* v. *Director, Office of Thrift Supervision, et al.,* C.A. No. 90-0350 (D.D.C., filed February 15, 1990); *Franklin Savings Ass'n* v. *Office of Thrift Supervision,* Civ. No. 90-4054-S (D. Kan.); *Imperial Corp. of Am.* v. *Office of Thrift Supervision,* Civ. No. 90-0369K (BTM) (S.D. Cal.), and one in Oregon. *Ben Franklin Savings & Loan* v. *Office of Thrift Supervision,* C.A. 90-279-FR (D. Or.).

the administration's lawyers are correct, why did they not tell anybody about their concerns about the constitutionality of this section?

The Attorney General of the United States testified before the Senate Banking Committee that when FIRREA was introduced and he did not raise this concern at that time. It seems to me that the administration did not respond in as quickly a fashion as they should have to a legitimate concern raised on behalf of the Olympic Savings by a previous member of the Reagan administration given the responsibility for this precise area of constitutional law.

I have concluded, as I said, that I believe we should not confirm Mr. Ryan in this particular position.

I believe he has been entirely too vague and too uncertain as to what the policy will be under his hand as to the kind of regulation that he will put in place, as to the kind of discretion that he will use, and as to what the outcome of the savings and loan industry will be as a consequence.

But I have also concluded that, if we are to resolve all of the matters that surround the savings and loan problem and the FIRREA legislation, the executive branch is going to have to come forward much more aggressively and with much more interest. The President of the United States himself is going to have to get much more personally involved in this situation. Otherwise I believe it will continue to worsen, the taxpayers will be required to spend even more than they are currently being asked, institutions will be closed too slowly, communities will suffer as a consequence, and in the end you and I will be back and our colleagues will be back revisiting this matter time after time after time.

I yield the floor.

Mr. RIEGLE. Will the Senator yield for a comment before he yields the floor?

Mr. KERREY. Yes.

Mr. RIEGLE. It is an important point he raised and I wanted to draw his attention to an area of the committee report. He has addressed the question of this constitutional court issue that we are wedged against in terms of the presumed urgency of acting now on this nomination.

If the Senator will look on pages 36, 37, and 38 of the committee report, on March 23, we had David Mullins in as a nomineee to go on the Federal Reserve Board. David Mullins is one of the top people over at the Treasury Department and was a principal architect if not the principal architect of the savings and loan package that the Senator referred to that was presented on February 22, 1989 by the administration.

I asked Mr. Mullins about this very question.

I will read part of it. In the cross-examination on the lower part of page 37—"I am raising a different point. I am raising a point with respect to the Director of OTS. And the fact that the recommendation of the administration, as I read this language, makes it very clear that you envision that the sitting chairman of the Federal Home Loan Bank Board would serve to the end of the term." You are not saying that you do not remember that, are you?

"You know, Mr. Chairman, I think that was the proposal."

Then I continued, "So I take that to mean it was my assumption then and it is my assumption now that it was the intention the administration had. Am I correct in that?

"Yes, Mr. Chairman.

"Because that issue"—I continue—"because that issue has come up in terms of where the idea came from, and it came right out of your bill, not out of your proposal."

Mr. Mullins: "Yes, Mr. Chairman. All the leadership of the FDIC and the bank board would have gone past, through the bill in a stated place." All of that leads up to this key point with respect to the legal issue.

I then said, "I take it that question would not have arisen in that drafting group of which you were a part as to whether or not a legal challenge could later be made with respect to the confirmation process. Do you recall it ever coming up?"

Mr. Mullins said very directly: "Well, I think it probably was considered, Mr. Chairman, and looked into, but I thought people did not feel that it was a serious possibility because you took an existing agency, took away some of its subsidiaries and passed it over through the bill and I think it was looked at, the issue was looked at; but I think the conclusion was that we thought we were on solid ground.

"Did it relate also I suppose to the fact that you were bringing that office in under"—then he interrupts, "Treasury Department," and I said "Yes, the Treasury Department." He said, "Yes, Mr. Chairman."

So we do not have to guess about this because we just had a cross-examination on the record, under oath, within a matter of the last 10 days from one of the principal if not the principal architects of the bill. So that is where it all comes from.

Clearly they thought at the time there was a legal foundation. As the Senator says, the later documentation seems to suggest they have backed away from that. But all of that is an important part of the history that now puts us up against that presumed deadline.

I do not think we ought to deal on that basis. That is why we drafted this legislative initiative that, should the nominee go down, will give the President the authority and the power to put in an acting director until such time as another nominee could be found. We think we have a good remedy should it be needed.

Mr. KERREY. If I can respond, I appreciate the Senator providing that additional detail. I will see how this vote is going to break out; it will break out Republican versus Democratic.

The point I am genuinely trying to make is that this is a legislative branch versus executive branch issue. We have responsibilities on the legislative branch. They have responsibilities on the executive branch. We were asked to pass this legislation quickly and I believe did so. The Senator and the ranking member worked very hard, produced almost to the letter the legislature that the President asked for.

It seems to me that the record is clear that they have not responded in kind. There are many positions still left unfilled. The Senator said he hoped the RTC oversight board public members are confirmed, and it has been almost a year now since that legislation was passed.

There was no public representation on that board.

Mr. RIEGLE. The Senator is right on that.

Mr. KERREY. I urged my colleagues in the Senate, both Republicans and Democrats, to consider our legislative responsibilities and asked the question: Is the executive branch living up to their part of the bargain?

I urged my colleagues to read this document, this memorandum of opinion that was issued by Judge Lambert. You will see in this thing not failure on the part of the legislative branch to exert their oversight. The failure on the part of the executive branch is simply one example of the sort of thing that I see throughout all of this. That causes me considerable concern.

As I look at the votes, I guess I would expect this individual to be confirmed. My concern is we are seeing this as a Democratic-Republican fight and not as an instance for us to ask ourselves a question—what is the legislative responsibility of this matter?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Mr. President, I guess you could say, "What a difference a day makes." Yesterday we were all here embracing each other on the great bipartisanship of the clean air legislation. Today we are lining up pretty much along party lines.

But I liked yesterday better when we had a big policy issue. We debated it, we compromised our differences, and in the final analysis 89 to 11 was the vote on the clean air bill.

I do not know what has happened in 24 hours, but it seems the bipartisan-

ship has fallen apart. In fact, if you read the newspapers, it appears that the majority on the committee decided before the hearing to reject the nominee, which may be a first.

Mr. President, we are all familiar with the savings and loan screwup. It is real to everybody here and it is real to everybody in our States. In 1989, the industry had its worst year of losses, totaling $19.12 billion. The thrifts in Kanasas were hard hit, too, losing almost $606 million.

According to the most recent estimates, the RTC, the Resolution Trust Corp., now owns 26,800 homes, 772 office buildings, 158 hotels, 205 resorts, 51 restaurants, 236 industrial facilities, and 43 mines. These numbers are staggering and they are probably even higher. The RTC holds 37 properties in my hometown of Russell, KS, and it is not very big. So I can certainly understand those who say the RTC is fast becoming the Nation's biggest landlord.

So we all have a vested interest in ensuring that we solve the problem and that we solve it quickly.

We should all have a vested interest in seeing to it that we have a new Director of the OTS, and it should be someone with requisite experience and a commitment to taking on this enormously difficult task.

I have said repeatedly during the past several months that the savings and loan disaster probably is going to be an issue in the elections in 1990 and 1992 and beyond, not just for the House and Senate, but probably at the top level itself. And, probably, it deserves to be an issue.

I think the American people have a right to have the issue debated, if we can do it in an objective way. The taxpayers who have to pick up the tab in this country certainly ought to understand where we all are on this issue and what we are doing about it, rather than just criticizing whomever might be in charge. Criticizing is the easiest thing to do.

The chairman of the Banking Committee said that the directorship of the OTS is one of the toughest financial jobs in the country. He said that the job requires someone with considerable financial skills. I could not agree more.

I do not think you have to be a thirft insider, a so-called thrift expert, to take on the job of overseeing the savings and loan industry. Let us face it, it was the insiders, the so-called thrift experts, who got us where we are today, drowning in a cesspool of unbridled greed and fiscal irresponsibility.

It was the experts who told us that there should be no limitations whatsoever on broker deposits. It was the experts who argued that State-chartered thrifts should be permitted to engage in an unlimited array of speculative activities. It was the experts who said there was no constitutional problem if the Director of the Federal Home Loan Bank Board stayed on as Director of the OTS.

It was the experts who gave us the rosy scenario and assured us that the thrift industry in the 1980's was "doing just fine, thank you."

Some of these so-called experts are still in the industry running successful thrifts. Some have left the industry after running their thrifts into the ground. Some of the experts are under indictment or in prison, charged with ripping off their depositors and milking the taxpayers out of billions of hard-earned dollars.

And some of the experts happen to be Members of Congress, who spent all of 1986 studying the President's $15 billion FSLIC recapitalization plan, only then to reject the plan in favor of a watered-down $5 million Band-Aid version. Had we adopted the President's plan in 1986, we might not be in the shape we are today.

It was the same experts in Congress who throughout the eighties rejected bill after bill that would have given the Federal banking and thrift regulators greater enforcement powers; it was the same experts in Congress who yelled a loud "no" at the Bank Board when the Board asked Congress for the authority to limit the type of direct investments that a thrift could legally make.

So much for the experts. I think all of us know expertise is one thing, but common sense and good judgment and being tough-minded are something else. And if we have learned anything, we have learned that expertise and good judgment are not always a package deal.

I did not know Tim Ryan before this nomination. He may not have been my choice. Maybe I would have found somebody else. Maybe there is somebody just waiting to be called. But I understand nobody called in asking for the job.

Maybe there is someone out there who understands everything that we want them to understand, real or imagined, and maybe that person would still be on the stand in a hearing week after week trying to explain all of his or her alleged conflicts of interest. And, yes, there are probably people in this country who are more technically qualified than Jim Ryan to handle the OTS job's enormous responsibilities.

On the other hand, Tim Ryan's record in Government is a pretty good one. It suggest that he is fully capable and fully qualified to be Director of the Office of Thrift Supervision. If you are going to measure somebody, you have to see what they have done, not what they have said or who they have criticized, but what did this man or this women—Democrat, Republican, independent or whatever, in or out of politics—do in the job he or she had?

Well, Jim Ryan had a pretty good record at the National Labor Relations Board and as Solicitor General of the Labor Department, and now as an outstanding member of the bar here in Washington, DC. He is an acknowledged expert in pension matters. He has represented clients on complex financial issues involving banking regulations, on mortgage- and other asset-based securities, and he has demonstrated that he can be effective in managing an organization as complex as the OTS.

Earlier, somebody said that the Directorship of OTS is just a big policy job. There are a lot of people over there, 3,500, and there are a lot of experts and a lot of people with technical qualifications. Do not just take my word for it. The distinguished Senator from Virginia just quoted a number of outstanding businessmen who know Tim Ryan, who know him well, and say without hesitation that he meets the criteria fully and completely. As an attorney and as a manager, he has done things the right way.

So it just seems to me that you can have your experts, and you can have your thrift insiders, but I will put my money on someone who is independent from the S&L industry. I will put my money on someone who is an enforcement-minded lawyer and a tough-minded pragmatist like Tim Ryan.

Let us not forget that Congress has an oversight role to play here. Congress will have the opportunity to review Tim Ryan's job every week. We will have the opportunity to review his performance. If Tim Ryan fails the job test, if he cannot perform, then the President and Congress should ensure that he is removed from the Director's chair and removed without delay. We are not powerless around here.

I am certain that if the Congress in its oversight role finds that someone is not doing his job at the OTS or elsewhere in Government, we can have an impact on what happens to that person. We owe that much to the American people.

During the Banking Committee hearings, my friend and distinguished colleague from Ohio [Mr. METZENBAUM] raised a number of so-called conflict-of-interest allegations. I have had the opportunity to review these allegations, and I must say that they are about as significant as a clipped toenail.

Allegation number one concerns Mr. Ryan's representation of the National Maritime Union. After he completed his tour of duty as Solicitor General of the Labor Department, Mr. Ryan represented the union's executive board in an internal grievance proceeding.

Mr. Ryan was concerned about the appearance of a possible conflict. He himself was concerned about the appearance of a possible conflict. So what did he do? He obtained a written opinion from a senior career ethics officer in the Department of Labor which stated that his conduct was beyond reproach. I repeat, beyond reproach. So much for that allegation.

Allegation number two concerns his role as counsel to former Senator William Saxbe in the Central States Pension Fund reorganization. In this instance, Mr. Ryan obtained a 60-page written opinion from the Covington & Burling law firm, as well as a written district court opinion, all affirming that he did nothing wrong by advising Bill Saxbe and that he acted in accordance with the highest ethical standards.

Mr. President, I ask unanimous consent that both of these opinions be printed in the RECORD immediately following my remarks, along with today's editorial in the Wall Street Journal, which I think deserves reading.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,
Washington, DC, March 27, 1990.

BART A. DZIVI,
Counsel, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. DZIVI: In accordance with your request to Mr. Seth Zinman, our Associate Solicitor responsible for ethics matters, I am enclosing a copy of his memorandum of May 25, 1984 to Ronald J. St. Cyr, an affidavit of T. Timothy Ryan, Jr., a legal memorandum prepared by the firm of Pierson, Ball, and Dowd, and other related materials.

As you will see, the memorandum concluded that there had been no conflict-of-interest with respect to Mr. Ryan's involvement in this internal union election matter, which did not involve contact with the Department of Labor.

I am pleased to be able to provide you and the Committee with a copy of these materials. Our memorandum was prepared to provide legal advice to clients within the Department of Labor and therefore reflects the lawyer-client relationship. For this reason, I request that every effort be made to avoid publication of this memorandum beyond the Committee membership and appropriate Committee staff.

With best regards,
Sincerely,

ROBERT P. DAVIS.

Memorandum for: Donald J. St. Cyr, Deputy Assistant Secretary for Labor Management Relations.
From: Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel.
Subject: Conflict-of-Interest Issue—T. Timothy Ryan, Jr.

You have asked this Office to review documents relating to certain activities of former Solicitor T. Timothy Ryan, Jr. and to provide you with an opinion as to whether or not these documents indicate the existence of a conflict of interest. Mr. Ryan and his law firm are currently engaged in representing the National Maritime Union (NMU) in an internal union election proceeding.

I have examined a legal memorandum of January 16, 1984 by an attorney in the law firm of Pierson, Ball and Dowd and an affidavit of the same date prepared by T. Timothy Ryan, Jr. It appears from the information contained in the documents you sent us that Mr. Ryan's current activities would not constitute a violation of the post-employment conflict-of-interest laws. If Mr. Ryan should in the future engage in representational activities before any court or federal agency concerning matters arising out of the election, conflict-of-interest issues under the statute could arise. The Pierson, Ball and Dowd memorandum discusses the applicability of the D.C. Code of Professional Responsibility. Any such issues would be outside the scope of my memorandum, which will deal exclusively with the applicability of the conflict-of-interest laws.

At the outset, it should be noted that as a former "senior employee," Mr. Ryan is subject to stricter post-employment restrictions than are most former federal employees. For instance, under 18 U.S.C. 207(c), a former senior employee is barred for one year from communicating in any way with his or her former agency to influence it on a matter of pending agency business. In paragraph 11 of Mr. Ryan's affidavit of January 16, 1984, Mr. Ryan states his intention that he "would not represent the NMU before the Department of Labor * * * until one year has elapsed since his departure from government service."

In addition to the one-year cooling-off period applicable to former senior employees, Mr. Ryan's conduct would also be subject to the post-employment restrictions applicable to all other former employees. Under 18 U.S.C. 207(a) he is barred forever from representing anyone else before any court or federal agency regarding a particular matter involving specific parties in which he was personally and substantially involved while serving in the government.

Thus, there are two reasons why the statutory provisions described above do not appear to be applicable. First it does not appear from the documents that Mr. Ryan has engaged in any representational activity with respect to the NMU election before any court or federal agency. Second, it does not appear from the documents that he had any personal and substantial involvement in matters related to the NMU election while he was Solicitor. This is consistent with the recollections of Solicitor Francis X. Lilly (who served as Mr. Ryan's deputy) and of Associate Solicitor John Depenbrock.*

In situations in which there was no personal and substantial involvement in a particular matter, a former employee would still be restricted from engaging in certain representational activities with respect to matters that were pending within his or her official responsibility during the employee's final year in office (18 U.S.C. 207(b)(i)). Like the restriction discussed in the previous paragraph, the "official responsibility" restriction applies to representational activity before the courts or federal agencies, but it lasts for only two years after the employee's responsibility terminates.

As indicated above, it does not appear from the documents that Mr. Ryan has engaged in any representational activity before the courts or federal agencies regarding the NMU election. As noted above, however, there is some indication in paragraph 11 of the affidavit that he may wish to engage in such representational activity on behalf of the NMU before the Department or the courts after the one-year senior employee bar lapses (after April 30, 1984). Such a future activity on his part would not be consistent with the statute if these representational activities occurred in connection with a particular matter which was under his official responsibility as Solicitor.

In paragraph 8 of Mr. Ryan's affidavit, he indicates his belief that the current NMU election matter, with which he is involved, was not pending within his official responsibility while he was Solicitor. This view is also reflected at pages 6, 8, and 9 of the law firm memorandum. However, Mr. Depenbrock recalls that early in 1983, Mr. Ryan was still Solicitor, there were discussions concerning issues involved in the then-upcoming NMU election between his staff and staff from your Office. From information contained in the attached memoranda written by Mr. Klise and Mr. Comer of your staff, dated March 7, and March 8, 1983, respectively; these discussions focused on the validity of the 1983 NMU election in light of an amendment to the NMU Constitution. The amendment dealt with the qualifications needed to run for union office. It would have changed the NMU's former requirement that a candidate have five years of service to a requirement of three years of service within the preceeding six years. The amendment was apparently adopted by the NMU convention, but it had not been ratified. It appears that the NMU had suggested that a ratification referendum be held shortly before the 1983 NMU election.

The issue discussed at that time were under Mr. Ryan's official responsibility, even though there is no indication that he participated personally. It therefore appears that if the NMU election issues discussed in early 1983 were determined to be a part of the same matter as those involved in Mr. Ryan's current NMU activities, the official responsibility restrictions would prevent him from representing the NMU in this matter before the courts or federal agencies for two years following his departure from the government. Despite the absence of formal Departmental proceedings during Mr. Ryan's tenure as Solicitor, the proceedings might well be determined to be the same matter in which Mr. Depenbrock was involved. As I have indicated, in such a case, Mr. Ryan would be barred for 2 years from engaging in representational activities before courts or federal agencies.

Should Mr. Ryan desire in the future to engage in such representational activity with respect to the NMU election within the 2-year period, it would then be necessary to make a determination as to whether the issues pending in Mr. Depenbrock's office constituted a part of the current NMU election matter, or were a different matter.

*A former senior employee is also barred for two years from aiding or assisting someone in representational activity by being personally present before a court or federal agency, with respect to a particular matter in which he or she was personally and substantially involved (18 U.S.C. 207(b)(ii)). The apparent absence of such personal and substantial involvement by Mr. Ryan in the NMU election while he was Solicitor would presumably make this prohibition inapplicable here.

[In the Matter of the Appeal of Richard A. Anson, Robert Conception, Reverend George Albert, Enrique Quintero, Albert Jackson and Kirby Smith McDowell from the Results of the 1983 National Maritime Union Election of Officers]

NATIONAL MARITIME UNION'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO OBJECTION BY COUNSEL FOR ALBERT JACKSON TO PARTICIPATION BY T. TIMOTHY RYAN, JR., IN THIS PROCEEDING

I. INTRODUCTION

By letter dated December 16, 1983 to Ned R. Phillips, counsel for Albert Jackson (Arthur L. Fox, II) responded to a request for answer to interrogatories and raised a number of concerns regarding the instant proceedings. Among Mr. Fox's concerns was his objection to the participation of a number of attorney's including T. Timothy Ryan, Jr., in this proceeding.

Mr. Fox has not formally moved to disqualify Mr. Ryan as attorney for the National Maritime Union of America ("NMU") in this proceeding. Moreover, Mr. Fox's letter is extremely vague as to the nature of the "very serious ethical problems" which, he claims, are raised by Mr. Ryan's participation in this proceeding. The letter cites no legal authorities to support Mr. Fox's conclusion, provided no specific facts upon which he bases his concern, and furnishes no analysis showing why Mr. Ryan should not participate in this proceeding.[1] Despite the apparent carelessness with which Mr. Fox has assembled and levelled these allegations and despite the lack of any factual or legal basis for Mr. Fox's objection to Mr. Ryan's participation, a response to such allegations is warranted to preserve and maintain the integrity of the legal process.

Accordingly, in this memorandum, NMU will review the background of this proceeding, will examine the various constraints on Mr. Ryan's post-governmental employment, and will show why those constraints are inapplicable to the instant proceeding.[2]

II. FACTUAL BACKGROUND

A. Background of this proceeding

This proceeding is conducted in accordance with Article 12, Section 18 of the Constitution of the NMU. It is an internal union appeal before three duly elected Judges of Election and the independent, impartial organization designated by the National Council of the NMU—the Honest Ballot Association. President at the hearing is the Honorable Marvin Schwartz, selected by the Judges of Election and the Honest Ballot Association to conduct the hearing.

Mr. Ryan is a partner in the law firm of Pierson, Ball & Dowd which was retained by the NMU in October of 1983 to counsel and advise the union during this proceeding. In addition, the firm has agreed to represent the NMU formally during the internal union appeal. Should further representation be necessary either administratively before the United States Department of Labor, or in litigation involving the election results, the firm will continue to represent the union. Mr. Ryan's participation in this matter, however, will be in accordance with the controlling authorities governing his post-governmental employment. These authorities are examined in this memorandum and are the basis for the representations made by Mr. Ryan in the attached affidavit which he has prepared and signed.

B. Facts relating to Mr. Ryan's government employment

The facts as they pertain to Mr. Ryan's prior employment in the government and to his current involvement as counsel for the NMU in this proceeding are set forth in detail in Mr. Ryan's attached affidavit. A summary of those facts, however, provides a necessary perspective for review and application of the various restrictions on post-governmental employment.

Mr. Ryan served as Solicitor of the United States Department of Labor from March 12, 1981 until April 30, 1983.[3] Effective May 1, 1983, he became a partner at Pierson, Ball & Dowd, the Washington, D.C. law firm with which Mr. Ryan had been affiliated prior to his governmental service.[4]

At the time Mr. Ryan re-joined Pierson, Ball & Dowd, he and other attorneys at the firm reviewed the various post-governmental employment restrictions on Mr. Ryan. This review was undertaken prior to Mr. Ryan's commencing any work at Pierson, Ball & Dowd.[5] Thus, Mr. Ryan was and is fully aware of the nature of those restrictions.[6]

Specifically, both Mr. Ryan and Pierson, Ball & Dowd conluded, prior to representation of the NMU in this proceeding, that Mr. Ryan was not disqualified from participating in that representation.[7] Although the reasons for this legal conclusion are discussed later in this memorandum,[8] it should be mentioned that this conclusion was based not just on an analysis of the employment restrictions applicable to Mr. Ryan. In addition, Mr. Ryan reviewed pertinent union documents and contacted the Associate Solicitor of Labor (Seth Zinman), who is the alternate Agency Ethics Official, to determine whether the Department of Labor had any objections to Mr. Ryan's representation of the NMU in this proceeding. Mr. Zinman raised no concerns with this representation and, in particular, saw no problems with it in terms of the Ethics in Government Act (18 U.S.C. § 207 *et seq.*).[9]

After Mr. Fox objected to Mr. Ryan's participation, Mr. Ryan again contacted an official of the Department of Labor, Deputy Solicitor Francis X. Lilly, and asked Mr. Lilly to review the Department's files to determine whether Mr. Ryan had had any personal and substantial involvement in this matter while he was Solicitor of Labor. Following his review, Mr. Lilly verbally assured Mr. Ryan that the Department's records did not reflect any personal and substantial involvement in this particular matter by Mr. Ryan while he was Solicitor of Labor.[10]

In sum, the facts demonstrate no basis for Mr. Fox's objection to Mr. Ryan's participation in this proceeding. Mr. Ryan was not involved in this matter while he was Solicitor of Labor, and he had no official responsibility for it during that time. Indeed, the facts show that this particular matter did not even arise while Mr. Ryan was Solicitor of Labor. Equally as important, Department of Labor officials were contacted on this point both before and after Mr. Fox's objection, and they have not expressed any reservations or concerns about Mr. Ryan's representation of the NMU in this proceeding.

LEGAL ARGUMENT

A. The District of Columbia Code of Professional Responsibility does not prohibit Mr. Ryan's participation in this proceeding

Disciplinary Rule ("DR") 9-101(B) of the District of Columbia Code of Professional Responsibility states:

"A lawyer shall not at any time accept private employment in connection with any matter in which he or she participated personally and substantially as a public officer or employee, which includes acting on the merits of a matter in a judicial capacity."

As is evident from the facts and from Mr. Ryan's affidavit, Mr. Ryan did not participate[11] at all—let alone participate "personally and substantially"—in this matter[12] while he was Solicitor of Labor. Indeed, the election campaign from which this matter arose commenced after Mr. Ryan left the position. Thus, this "matter," as it involves the parties and issues posed here, did not even exist while Mr. Ryan was Solicitor of Labor. Accordingly, Mr. Ryan's participation is not barred by the District of Columbia Code of Professional Responsibility.

B. The Ethics in Government Act and regulations do not preclude Mr. Ryan's participating in this proceeding

The Ethics in Government Act (18 C.F.R. § 737.1 et sec.) contain four different types of restrictions on Mr. Ryan's post-government employment. Each of these restrictions is analyzed in the sections which follow.

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[1] The substance of Mr. Fox's objection to Mr. Ryan's participation appears as follows at page 2 and 3 of the December 16, 1983 letter:

"Not only do I object to your [Mr. Phillips'] playing any role in the proceeding, I also object to participation by other attorneys. For example, I understand that Mr. Ryan, the former Solicitor of Labor, is conducting the hearing and I would assume that he will draft a recommended decision for the Judges of Elections. In the first place, Mr. Ryan's involvement in what will likely become a preliminary phase of a Labor Department proceeding raises very serious ethical problems, particularly given the fact he was Solicitor at the time the Labor Department first became actively involved in the NMU election.

"Undoubtedly, it is hoped that despite the NMU's blatent violations of law, Mr. Ryan will nonetheless prepare a written opinion minimizing, if not whitewashing, these violations, and that both the Judges of Election and his former subordinates at the Labor Department will defer to his judgment." (bracketed material added).

[2] This memorandum responds to Mr. Fox's December 16, 1987 letter only insofar as that letter raised objections about Mr. Ryan's participation in this proceeding. The memorandum is not addressed to the variety of other objections posed by Mr. Fox is his letter.

[3] Affidavit of T. Timothy Ryan, Jr. ("Ryan Affidavit") at ¶ 2.

[4] Id. at ¶ 3.

[5] Id. at ¶ 6.

[6] Id. at ¶ 5.

[7] Id. at ¶ 7.

[8] See pp. 7-10, infra. See also Ryan affidavit at ¶ 8.

[9] Ryan Affidavit at ¶ 9.

[10] *Id.* at ¶10. It should be mentioned that Mr. Ryan's contacts with officials of the Department of Labor concerning the applicability of post-governmental employment restrictions are entirely permissible. 18 U.S.C. § 207(i); 5 C.F.R. § 737.11(h).

[11] The definitions section of the District of Columbia Code of Professional Responsibility defines "participate" to include: "any action, directly or indirectly, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise."

[12] "Matter" is defined by the District of Columbia Code of Professional Responsibility to encompass: "any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, investigation, charge, accusation, specific party or parties."

1. Permanent Bar on Certain Appearances

Mr. Ryan is permanently barred from representation of any private parties in any forum of the United States of the District of Columbia with regard to any "particular matter involving a specific party or parties" with which he was personally and substantially involved while Solicitor of Labor. 18 U.S.C. § 207(a); 5 C.F.R. § 737.5. For the same reasons described in conjunction with DR 9-101(B), this provision does not forbid Mr. Ryan's participation in this proceeding. Mr. Ryan was in no way involved in this matter while he was Solicitor of Labor and, moreover, this matter did not even arise until after he had left that position.[13]

2. Two-Year Bar on Certain Appearances

Mr. Ryan is also barred for a period of two years after leaving the Department of Labor from representing any private party in any forum of the United States or the District of Columbia with regard to any "particular matter involving a specific party or parties" where the matter was actually pending under his official responsibility within one year prior to his termination. 18 U.S.C. § 207(b)(3)(i); 5 C.F.R § 737.7.

This prohibition is also inapplicable to Mr. Ryan in the present proceeding because it involves a particular matter which was not under Mr. Ryan's official responsibility while he was Solicitor of Labor. As emphasized before, the particular matter involved here—the dispute arising from actions during the NMU election of officers—did not arise until after Mr. Ryan left that position.

3. Two-Year Bar on Certain Assistance

As a "former senior employee" of the Department of Labor, Mr. Ryan is barred, for a period of two years after his departure, from assisting in the representation of any private party in any particular matter in which he participated personally and substantially while Solicitor of Labor. 18 U.S.C. § 207(b)(3)(ii); 5 C.F.R. § 737.9. Again, this prohibition does not apply to Mr. Ryan's participation in this proceeding. As emphasized previously, Mr. Ryan did not participate in this particular matter while Solicitor of Labor, and it did not even arise until after he had left that position and returned to private practice.

4. One-Year Bar on Contacts

As a "former senior employee" in the Department of Labor, Mr. Ryan is also prohibited for one year after leaving that employment from having any representational contact with the Department of Labor on any particular matter. 18 U.S.C. § 207(c); 5 C.F.R. § 737.11.

This prohibition does not preclude Mr. Ryan's participation of the NMU in this proceeding because representational contact by Mr. Ryan on behalf of the NMU with the Department of Labor is not involved, required, or contemplated in this proceeding.[14] Equally as important, Mr. Ryan has stated, in his affidavit, that, in the event this proceeding is completed and an appeal to the Department of Labor is lodged before the lapse of the one year period, he will not participate in that appeal until the one year period has elapsed.[15]

IV. CONCLUSION

For the reasons expressed above, the objection raised by Mr. Fox regarding Mr. Ryan's representation of the NMU in this proceeding is totally without merit and should be rejected.

Respectfully submitted,

PIERSON, BALL & DOWD,
Attorneys for the NMU.

Dated: January 16, 1984.

AFFIDAVIT OF T. TIMOTHY RYAN, JR.

CITY OF NEW YORK,
State of New York, ss:

T. Timothy Ryan, Jr., being duly sworn, deposes and states:

1. My name is T. Timothy Ryan, Jr., and I am a partner in the law firm of Pierson, Ball & Dowd, Washington, D.C.

2. From March 12, 1981 until April 30, 1983, I served as Solicitor of the United States Department of Labor.

3. I joined Pierson, Ball & Dowd as a partner effective May 1, 1983.

4. Pierson, Ball & Dowd has been retained by the National Maritime Union ("NMU") to represent it during the processing of election challenges lodged by certain recently defeated candidates for union office. Along with various other attorneys at Pierson, Ball & Dowd, I have been assigned the responsibility of representing the NMU during the course of the internal union appeal process.

5. As discussed in more detail in the memorandum accompanying this affidavit, I reviewed and was fully aware of the various restrictions imposed on my post-governmental employment under the Ethics in Government Act (18 U.S.C. 207) and regulations (5 CFR 737.1 et seq.) and the District of Columbia Code of Professional Responsibility (Disciplinary Rule ("DR") 9-101(B)).

6. Along with other attorneys at Pierson, Ball & Dowd, I conducted this review of post-governmental employment restrictions prior to undertaking any work, including work for the NMU, after becoming a partner at Pierson, Ball & Dowd.

7. For the reasons described in greater detail in the accompanying memorandum, both the law firm of Pierson, Ball & Dowd and I concluded, prior to representation of the NMU in this particular matter, that neither the firm nor I was precluded from representation of the NMU in the instant proceeding.

8. The conclusion discussed in paragraph 7 was based on several facts. First, while I was Solicitor of Labor, I did not participate in any way in the particular matter involved in the instant proceeding. 18 U.S.C. 207(a); 5 CFR §§ 737.5 and 737.9; DR9-101(B) of the District of Columbia Code of Professional Responsibility. Indeed, the union election campaign at issue in this proceeding spanned the period May, 1983-September, 1983. As noted in paragraph 2, I left the position of Solicitor of Labor effective April 30, 1983—i.e, before the instant matter or proceeding even arose. Second, for the same reasons just mentioned, the particular matter involved here was not under my official responsibility, and I did not participate in it while I was Solicitor of Labor. 13 U.S.C. 207(b); 5 CFR 737.7. Finally, my representation of the NMU in this proceeding did not and does not involve, require, or contemplate any written or oral communication by me to the Department of Labor, any court or other federal agency, including the District of Columbia, on behalf of the NMU. 18 U.S.C. 207(c); 5 CFR 737.11.

9. Following Pierson, Ball & Dowd's retention by the NMU and a review of pertinent union documents, including recent issues of the internal union newspaper, The Pilot, I contacted Seth Zinman, the Associate Solicitor of Labor for Legislation and Legal Counsel, who is the alternative Agency Ethics Official for the Department of Labor, to ascertain whether the Department of Labor had any objections to, or concerns about, my representation of the NMU in the instant proceeding. He responded that, from what he had been told by me as set forth above in Paragraph 8, he did not see any problems with this representation by me of the NMU as far as the Ethics in Government Act is concerned.

10. Following my receipt of the letter dated December 16, 1983 from Arthur L. Fox, II, Esquire to Ned R. Phillips, Esquire, I contacted Francis X. Lilly, Deputy Solicitor of Labor. I asked Mr. Lilly to review any pertinent files within the Department of Labor for the purpose of determining whether, contrary to my own recollection, I had had any involvement in this particular matter while I was Solicitor of Labor. After his review, Mr. Lilly orally informed me that the records of the Department of Labor did not reveal that I had any personal and substantial participation in this particular matter while I was Solicitor of Labor.

11. It has been and remains both my intention and that of Pierson, Ball & Dowd to ensure compliance in all matters in which I am involved, including this particular matter, with all strictures governing my post-governmental employment. Accordingly, I will not be involved in any phase of this proceeding in which my involvement would constitute a violation of these restrictions, and I have also informed the NMU. For example, if an appeal were taken to the Department of Labor from the instant proceeding within one year of my departure from the Department of Labor, I could not and would not represent the NMU before the Department of Labor in such an appeal until one year has elapsed since my departure from government service.

T. TIMOTHY RYAN, Jr.

DEPARTMENT OF LABOR,
Washington, DC, March 13, 1984.

Memorandum for: Richard G. Hunsucker,
From: Ronald J. St. Cyr,
Subject: Memorandum of March 5, 1984 re N.M.U.

I have reviewed the legal memorandum prepared by the outside law firm and the affidavit attached to your memo of March 5, 1984 and have concluded that the best judge of whether a conflict of interest exists is the Department's Ethics Officer, i.e. The Solicitor. In light of the fact that the Ryan affidavit indicates discussion between him and Frank Lilly, I think it appropriate to have someone else take an initial look at this issue and Frank Lilly did not disagree with that thought.

I am, therefore, referring your subject memorandum along with its attachments and a copy of this memo to Mr. Seth Zinman, the Department's alternate designated Ethics Official, for his opinion.

Thank you for calling this matter to my attention.

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[13] The terms "particular matter involving a specific party or parties" and "participate personally and substantially" are defined in 5 C.F.R. §§ 737.5 (c) and (d), respectively. Those definitions are similar to the definitions, discussed above, which are contained in the District of Columbia Code of Professional Responsibility.

[14] Ryan Affidavit at ¶ 8.

[15] Id. at ¶ 11

DEPARTMENT OF LABOR,
Washington, DC, March 13, 1984.

Memorandum for: Seth Zinman.
From: Ronald J. St. Cyr, Deputy Assistant Secretary for Labor Management Relations.
Subject: Conflict of Interest Issue.

Would you review the attached documents and provide me with your opinion as to whether a conflict of interest exists in this matter.

Thank you in advance for your immediate attention.

MARCH 17, 1983.

To: NMU File.
From: Michael Klise.
Subject: Amended Qualifications for NMU Office.

BEA (W. Comer and M. Klise) met with NMU Counsel Ned Phillips (3/4/83) at his request to discuss an unspecified problem NMU was having with its current election. At the meeting, Phillips outlined the problem as follows:

Prior to the October 1980 convention, Article IX, Section 1 of the NMU Constitution required candidates for national office to have 5 years continuous good standing and 3 years employment over an unspecified period. The 1980 convention approved a resolution amending that provision to require 3 years continuous good standing, and 3 years employment within the past 6 years. New constitutions containing the amended rule were printed and distributed, and the union and apparently most candidates have until recently been proceeding under the assumption that the new rule was valid for the 1983 election. However, it has now been pointed out to Phillips by certain candidates that under Article XXVI, Section 2 of the constitution, amendments pertaining to candidacy qualifications must be ratified by a referendum vote of the membership—something which had not been done in the case of the amendment here. NMU wants to postpone the election, put the amendment to a vote, and then hold the election using the newly adopted 3-year, 3-in-6 qualification. Phillips' main concern is whether LMSA considers the 3-in-6 qualification reasonable, inasmuch as we raised that issue in Item 4 of our 2/7/83 review of the NMU Constitution.

Phillips said that approximately 60 percent of the membership would satisfy the 3-in-6 rule; that only 5 out of about 100 prospective candidates had been disqualified as a result of the new rule, none of whom would have been eligible under the old rule; and that the highest annual turnover rate—about 20 percent—occurs in the lower echelons of shoreside employment. He furnished certain statistics to support the union's position (attached). He also pointed out that the union interprets a year of qualifying seaside employment for candidacy to mean 360 days, including leave; a year for pension credit to mean 280 days; and a year for candidacy in shoreside employment to mean 220 days. Finally, he said that if the referendum passed, the balloting period for the election would be delayed from April-May 1983, as currently scheduled, to May-June 1983; if the referendum failed, new nominations would be required, and an additional 2-month delay would be necessary. The incumbent officers' current 5-year terms expire in late May or early June 1983.

BEA advised Phillips that before the question of the reasonableness of the 3-in-6 requirement can be reached, its applicability to the instant election must be established. Phillips said NMU's position was that if the new rule is not approved in the referendum, the old role would remain in effect. We advised him of the Department's policy that where a candidacy qualification is found invalid, that qualification is waived, and no other qualification may be substituted. We noted that applying the old rule could improperly disqualify candidates who had been relying on the more liberal 3-year good standing requirement, and that applying the new rule retroactively would also create problems if the more restrictive employment requirement disqualified members who would previously have been eligible. Finally, we pointed out that postponing the election would cause the incumbents' terms to exceed the 5-year statutory limit, and that Title IV violations might also arise from the union's practice of computing seaside employment on a 360-day year while using a 220-day year for shoreside jobs.

Phillips indicated that he was aware of the problems, but that he was interested primarily in obtaining the Department's position on the 3-in-6 employment requirement. We advised him that the reasonableness of a requirement depends on the total circumstances surrounding its application, and not merely on an estimate of the percentage of members who would be adversely affected. Phillips wanted a written statement of our opinion on the new rule, and we advised him that if he would consolidate his statistics and incorporate them into a letter to the LMSE Director, we would provide a written reply based on that letter.

Towards the end of the meeting, Phillips briefly commented on some of the items in BEA's reviews of the NMU Constitution and the Honest Ballot Association (HBA) Rules for the NMU Election. In response to his comments, BEA emphasized three points: (1) HBA is an agent of NMU, and NMU, not HBA, is ultimately responsible for insuring compliance with Title IV; (2) in making its 401(c) distributions of campaign literature by means of placing the literature in the recreation room of a ship, NMU risks violating the statute in that the literature might be deep-sixed before it actually reaches the members; and (3) restricting each candidate to a single observer per polling place may deprive him the right to observe the polling activities effectively. A full summary of Phillips' comments on the review lists appears in a separate memorandum.

BEA briefed the Director of the 3, 3-in-6 requirement 3/4/83 and discussed it with him again 3/8/83, focusing on the rule's retroactivity. The decision reached was that the rule's retroactive effect would defeat its validity in the 1983 election pursuant to 29 CFR 452.54. BEA then met SOL (Depenbrock, Boetticher, Garson, and Dubin), who concurred with the LMSE position. Phillips called BEA 3/8/83 shortly after the SOL meeting, and the Department's position was conveyed to him.

MARCH 8, 1983.

To: NMU File.
From: Walter W. Comer.
Subject: NMU 1983 Election.
Ref: 3/7/83 Memo to File.

Comer and Klise conferred with LMSE Director concerning the NMU plan to conduct a referendum to validate the 3-3 & 6 officer candidate qualification and then proceed, on a 11-day delay basis, with the 1983 election of NMU officers.

It was pointed out that the 3-3 & 6 provision was adopted at the NMU Convention in October 1980, and the 1983 election commenced in January 1983. If the provision in question is considered to become effective as of October 1980, which is questionable in light of the fact that it will not be ratified until March of 1983, it would be defective because its application in the 1983 election would be retroactive and therefore in conflict with 452.54 and previous court and administrative election cases. That being the case, a referendum could not possibly cure the defective provision.

Hunsucker agreed and suggested that SOL concurrence should be obained before alerting NMU officials. He immediately arranged for a conference with ASOL Depenbrock. (See 3/9/83 memos to NMU File.)

Immediately following the meeting with SOL and the call from Helene Boetticher, NMU Counsel Ned Phillips called to advise that S-T Candidate Cribbins' qualifications had been reviewed and he was found to be eligible. I then notified Phillips of the results of our discussions with the LMSE Director and SOL. I made it clear that NMU had to make the ultimate decision to continue the referendum and election or reschedule the entire election. Phillips said he preferred cancelling the election in progress, conducting the referendum for prospective application of the 3-3 & 6 provision and rescheduling the entire election, using the 5 & 3 qualification provision now in place. He said he would so advise his clients. He aslo asked for written confirmation of the Director/SOL position in this matter.

I also suggested that, in the referendum, NMU members should be notified as to the factoring criteria that will be used to calculate the 3 years of working at the trade under the 3-3 & 6 rule. Phillips said that would be done.

[In the U.S. District Court for the Northern District of Illinois, Eastern Division]

(Civil Action No. 78 C 342)

RAYMOND J. DONOVAN, SECRETARY OF LABOR, PLAINTIFF, *v.* FRANK FITZSIMMONS, ET AL., DEFENDANTS

ORDER

Application having been made by William B. Saxbe, Independent Special Counsel appointed by the Court pursuant to the Consent Decree of September 22, 1982 (the "Consent Decree") herein, for leave to employ the law firm of Pierson, Ball & Dowd as counsel, it being Mr. Saxbe's intention in connection therewith to affiliate himself with said law firm in an "of counsel" capacity; and

It appearing that T. Timothy Ryan, Jr., one of the partners in the law firm of Pierson, Ball & Dowd, is ethically disqualified under DR 9-101(B) of the District of Columbia Code of Professional Responsibility from participating in the provision of professional advice or assistance as to some matters to Mr. Saxbe in his capacity as Independent Special Counsel by reason of Mr. Ryan's former responsibilities during the period March 12, 1981 through April 30, 1983 as Solicitor of Labor, United States Department of Labor; and

It further appearing that, by reason of the aforementioned disqualification, the arrangements proposed with respect to Mr. Saxbe's employment of Pierson, Ball & Dowd and his affiliation with that firm as "of counsel" will include provisions for screening Mr. Ryan from any participation in matters as to which he is or may be disqualified by reason of his former responsibilities as Solicitor of Labor; and

It further appearing that said proposed arrangements include provision for Mr.

Ryan to furnish professional advice and assistance to Mr. Saxbe with respect to one subject matter as to which he had no significant contact in his capacity as Solicitor of Labor, namely withdrawal liability problems affecting the Teamsters' Central States, Southeast and Southwest Areas Pension Fund; and

It further appearing that said proposed arrangements include procedures by which additional subject matters as to which Mr. Ryan would not be disqualified from providing professional advice and assistance to Mr. Saxbe may be identified; and

Notice and opportunity for comment having been given to the Department of Labor and all parties to this proceeding concerning the said application and the materials submitted in support thereof, to-wit affidavits of Dean Burch and of Mr. Ryan, a supporting memorandum of Covington & Burling, and a proposed form of order; and

The Court having duly considered the application [and comments submitted by parties to this proceeding], Now therefore, it is

1. *Ordered,* That the application of Independent Special Counsel for leave to retain Pierson, Ball & Dowd as attorneys is approved, subject to the arrangements regarding such employment described in the application of Independent Special Counsel and the affidavits of Dean Burch and of T. Timothy Ryan, Jr. attached thereto; and it is

2. *Further ordered,* That the proposed employment of Mr. Ryan to provide advice and assistance to Independent Special Counsel with respect to withdrawal liability problems affecting the Teamsters' Central States, Southeast and Southwest Areas Pension Fund is approved, the Court having specifically concluded that the fact that the position of Independent Special Counsel was created by the Consent Decree does not render every action of the Independent Special Counsel the same "matter" as the Consent Decree inself within the meaning of DR 9-101(B) of the District of Columbia Code of Professional Responsibility; and it is

3. *Further ordered,* That the procedures for identifying additional subject matters as to which Mr. Ryan is not disqualified from providing professional advice and assistance to the Independent Special Counsel, described in paragraph 9 of the affidavit of Mr. Burch, are also approved.

JAMES B. MORAN,
U.S. District Judge.

WILLIAM B. SAXBE,
Columbus, OH, August 1, 1984.

Re application of Independent Special Counsel in *Raymond J. Donovan,* Secretary of Labor, v. *Frank Fitzsimmons, et al.,* Civil Action No. 78 C 342, for Leave to Employ Attorneys and for Other Relief.

Hon. JAMES B. MORAN,
U.S. District Judge, U.S. District Court for the Northern District of Illinois, Eastern Division, Chicago, IL.

DEAR JUDGE MORAN: As I have previously mentioned to you, it is my intention to become affiliated as "of counsel" with the Washington, D.C. law firm of Pierson, Ball, & Dowd, and in addition to enter into arrangements by which that firm will provide me with legal assistance and advice in connection with the discharge of my duties as Independent Special Counsel.

The purpose of this letter is formally to request the Court's approval of the latter arrangements, pursuant to Section V.B. of the Consent Decree of September 22, 1982, which created the position of Independent Special Counsel. I submit herewith, in support of this application, (1) an affidavit of Dean Burch, chairman of the Executive Committee of Pierson, Ball & Dowd; (2) an affidavit of T. Timothy Ryan, Jr., a partner in that law firm; (3) a memorandum of the law firm of Covington & Burling; and (4) a proposed form of order. I have this day caused to be mailed, by first class mail, postage prepaid, to counsel for the Department of Labor and for each of the other parties in *Donovan* v. *Fitzsimmons* copies of this application and of each of the attachments thereto, together with a brief covering memorandum of which a copy is enclosed herewith. I respectfully suggest that the Court not act upon this application until after August 15, 1984, so as to allow the parties to the proceeding to file comments on my application if they wish to do so; and I have specifically called this opportunity for comment to the attention of the parties in my covering memorandum.

The elaborate form of this application reflects the fact that Mr. Ryan was, during the period March 12, 1981 to April 30, 1983, Solicitor of Labor in the United States Department of Labor, and as a result is ethically disqualified under the District of Columbia Code of Professional Responsibility from participating in certain aspects of my work as Independent Special Counsel. By reason of that disqualification, Mr. Ryan must be screened from participating in, and from sharing in fees generated by, such work in order to avoid the imputation of his disqualification to other lawyers in the firm and to me in my capacity as "of counsel" to the firm. The arrangements for which the Court's approval is sought would include such necessary screening of Mr. Ryan.

Those arrangements also contemplate that Mr. Ryan will not be screened from all matters relating to the Independent Special Counsel, but on the contrary will be available to advise and assist me on one category of matters—problems of withdrawal liability affecting the Teamsters' Central States, Southeast and Southwest Areas Pension Fund—and other categories of matters to be established in the future. I request that the Court specifically approve these aspects of the proposed arrangements. Such approval would require that the Court be satisfied that there is no comprehensive ethical bar preventing Mr. Ryan from furnishing any assistance or advice whatever to me in my capacity as Independent Special Counsel. If there were such a comprehensive bar, it would presumably rest on the basis that, because the position of Independent Special Counsel was created by the September 22, 1982, Consent Decree, anything done by Independent Special Counsel is the same "matter" within the meaning of the pertinent ethical provision, DR 9-101(B) of the District of Columbia Code of Professional Responsibility, as that in which Mr. Ryan participated personally and substantially in his former capacity in the negotiation and drafting of the Consent Decree. I submit, however, for reasons explained more fully in the attached memorandum of Covington & Burling (in part IV), and I respectfully request the Court to determine, that not everything that the Independent Special Counsel does is automatically the same "matter" as the Consent Decree.

Assuming that there is no such overriding disqualification of Mr. Ryan, then I believe that he would be disqualified from providing legal advice or assistance to me as Independent Special Counsel (and correspondingly required to be screened from such activities of other lawyers in the firm of Pierson, Ball & Dowd) only if the subject of the advice and assistance were one with which he had contact in his capacity as Solicitor of Labor, either by reason of having personally and substantially participated in the same matter in that capacity, or by reason of his having confidential information relating to the matter arising from that former position. The single subject area in relation to the Central States Pension Fund on which it is contemplated that Mr. Ryan will initially be free to provide me advice and assistance—namely, withdrawal liability—is, as Mr. Ryan's attached affidavit makes clear (in paragraph 7), one as to which he and the Department of Labor are satisfied that he had no prior involvement or confidential information. As Mr. Burch's affidavit further makes clear (in paragraph 9), the procedures applicable for identifying the future subject areas on which he may assist me contemplate a similar determination by Pierson, Ball & Dowd in consultation with the Department of Labor.

I respectfully request that the Court, after consideration of this application and the materials submitted in support hereof, and of comments, if any, that may be filed by August 15, 1984 by the Department of Labor or other parties to the *Donovan* v. *Fitzsimmons* case, enter an order giving its approval to the proposed arrangements in substantially the form of the proposed order attached hereto.

Very truly yours,

WILLIAM B. SAXBE.

FITZSIMMONS SERVICE LIST (78 C 342)

David Feldman, Esquire, Associate Solicitor, Special Litigation Task Force, United States Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Sidney Dickstein, Esquire, Robert J. Higgins, Esquire, Thomas W. Mack, Esquire, Dickstein, Shapiro & Morin, 2101 L Street, N.W., Washington, D.C. 20037

Jack B. Schmetterer, Esquire, Bernard Weisberg, Esquire, Gottlieb & Schwartz, Suite 800, Brunswick Building, 69 W. Washington Street, Chicago, Illinois 60602

Marvin Gittler, Esquire, Joel A. D'Alba, Esquire, Asher, Greenfield, Goodstein, Pavalon & Segall, Ltd., 228 North LaSalle Street, Chicago, Illinois 60601

Edward J. Egan, Esquire, 221 North LaSalle Street, Suite 3800, Chicago, Illinois 60601

Sherman M. Carmell, Esq., Carmell & Charone, Ltd., 39 South LaSalle Street, Suite 1110, Chicago, Illinois 60602

Frederick W. Dennerline, III, Edward J. Fillenwarth, Jr., Fillenwarth & Fillenwarth, Suite E6A, 6919 East 10th St., Indianapolis, Indiana 46219

James P. Hoffa, Esquire, Hoffa, Chodak & Robiner, 8325 E. Jefferson Avenue, Detroit, Michigan 48214

Sorell Logothetis, Esquire, Parks and Logothetis, 111 West First Street, Suite 1100, Dayton, Ohio 45402

James L. Coghlan, Esquire, William J. Nellis, Esquire, Coghlan, Joyce & Nellis, One North LaSalle Street, Suite 4000, Chicago, Illinois 60602

Alan M. Levy, Esquire, Central States, Southeast and Southwest Areas Pension Fund, 8550 W. Bryn Mawr Avenue, Chicago, Illinois 60631

Joseph P. Balistrieri, Esq., 212 West Wisconsin Avenue, Milwaukee, Wisconsin 53203

Wildman, Harold, Allen & Dixon, One IBM Plaza, Suite 3000, Chicago, Illinois 60611

Raymond J. Smith, Esquire, 55 West Monroe Street, Suite 1800, Chicago, Illinois 60604

Bernard S. Goldfarb, Esquire, Goldfarb & Reznick, 1825 Illuminating Building, 55 Public Square, Cleveland, Ohio 44113

Frank M. Covey, Jr., Esq., McDermott, Will & Emery, 111 West Monroe Street, Room 2000, Chicago, Illinois 60603

Samuel Laderman, 845 Leader Building, Cleveland, Ohio 44114

Edward J. Moran, Esquire, Assistant U.S. Attorney, Fifteenth Floor, Chicago, Illinois 60604

Gary L. Griffin, Esquire, Dent, Hampton & McNeela, 209 South LaSalle Street, Suite 1100, Chicago, Illinois 60604

John Tucker, Esquire, Jeffrey Colman, Esquire, Jenner & Block, One IBM Plaza, 44th Floor, Chicago, Illinois 60611

Peter J. Barack, Esquire, 357 East Chicago Avenue, Chicago, Illinois 60611

Roger J. McFadden, Hubachek, Kelly, Rauch & Kirby, Chicago, Illinois 60601

Professor Edward Kitch, University of Virginia, School of Law, Charlottesville, VA 22901

Edward J. Calihan, Jr., Anna R. Lavin, Suite 1112, 53 West Jackson Boulevard, Chicago, Illinois 60604

John R. Climaco, Esquire, Climaco, Seiminatore, Lefkowitz, & Kaplan, 1500 Leader Building, Cleveland, Ohio 44114

Robert J. Walner, Esquire, Sostrin & Walner, Two North La Salle Street, Chicago, Illinois 60602

Lawrence Walner, Esquire, Lawrence Walner & Walner, Ltd., 55 E. Monroe, Suite 7205, Chicago, Illinois 60601

Wilbert F. Crowley, Jr., Elaine E. Bucklo, Esquire, Coin, Crowley, Nord, & Hilliker, 69 West Washington, Street, Suite 2900, Chicago, Illinois 60602

Thomas A. Wadden, Jr., Esquire, 1800 K Street, N.W., Suite 610, Washington, D.C. 20006

Robert H. Cowan, Michael Miller, Gracey, Madden, Cowan & Bird, 500 Court Square Building, 300 James Robertson Parkway, Nashville, Tennessee 37201

Neil K. Quinn, Pretzel & Stouffer, Suite 1700, Two North LaSalle Street, Chicago, Illinois 60602

MEMORANDUM

To: Counsel for all parties in *Donovan v. Fitzsimmons,* Civil Action No. 78 C 342 (N.D. Ill.).

From: William B. Saxbe, Independent Special Counsel,

Date: August 1, 1984.

As the attached materials reflect, I am today applying for the Court's approval of arrangements under which I would become "of counsel" to the Washington, D.C. law firm of Pierson, Ball & Dowd and would seek the advice and assistance of that firm in my capacity as Independent Special Counsel.

In my attached application to the Court, I have suggested that, before the Court acts on my application, the parties in this proceeding should be given until the close of business on Wednesday, August 15, 1984 to file comments, if they so desire, concerning my application.

AFFIDAVIT OF DEAN BURCH

CITY OF WASHINGTON,
District of Columbia, ss:

I, Dean Burch, being duly sworn, depose and say;

1. I am a partner in the law firm of Pierson, Ball & Dowd and Chairman of its Executive Committee. I have been authorized by the members of the firm to submit this statement pursuant to Disciplinary Rule ("DR") 9-102(C) of the District of Columbia Code of Professional Responsibility (the "Code").

2. On May 1, 1983, Mr. T. Timothy Ryan, Jr. joined Pierson, Ball & Dowd as a partner. Mr. Ryan had previously been an associate with Pierson, Ball & Dowd but left the firm in February, 1981 to become Solicitor of Labor, United States Department of Labor.

3. When Mr. Ryan returned to Pierson, Ball & Dowd in May 1983, the firm—as is its standard practice whenever a former government employee becomes affiliated with it—reviewed the prohibitions and strictures placed on Mr. Ryan as a result of his government employment. In particular, we examined the Code and pertinent federal statutes and regulations, 18 U.S.C. § 207 and 5 C.F.R. § 737.1 *et seq.,* and legal authorities relevant thereto. At that time, a memorandum summarizing these restrictions was circulated to all personnel in the firm. In that memorandum and in another memorandum circulated shortly thereafter, all personnel were also apprised of those pending matters in the firm from which Mr. Ryan was and would continue to be screened in order to comply with DR 9-102(B). Finally, in that memorandum, all office personnel were informed of the specific steps being taken to screen Mr. Ryan from particular cases, the requirements of the screening process, and the fact that the list of matter from which Mr. Ryan was screened would be supplemented if circumstances changed (*e.g.,* if the firm were retained to work on a particular matter in which Mr. Ryan was disqualified).

4. Pierson, Ball & Dowd was recently approached by Mr. William B. Saxbe about the possibility of his becoming "of counsel" to the firm and the firm's furnishing assistance to Mr. Saxbe in his role as Independent Special Counsel appointed pursuant to the consent decree dated September 22, 1982 in *Donovan* v. *Fitzsimmons,* Civil Action No. 78 C 342 (N.D. Ill.) (the "Consent Decree"). At that time, the firm conducted another review of the Code and the pertinent federal statutes and regulations. It conducted this review because, while he was Solicitor of Labor, Mr. Ryan personally and substantially participated in that litigation, including negotiation of the Consent Decree.

5. Subsequently, Pierson, Ball & Dowd and Mr. Saxbe decided to retain the services of another law firm, Covington & Burling, to provide assistance and advice concerning the application of the Code and the pertinent federal statutes and regulations in the event Mr. Saxbe became "of counsel" to Pierson, Ball & Dowd and Pierson, Ball & Dowd furnished advice and assistance to him in his role as Independent Special Counsel. Among other things, the firm sought Covington & Burling's advice regarding: (a) the applicable standards for determining whether or not Mr. Ryan was disqualified from particular matters on which Mr. Saxbe in this role as Independent Special Counsel might seek the firm's assistance and advice, (b) the procedure by which these determinations should be made, and (c) the screening procedures to be applied in those matters in which the disqualification of Mr. Ryan called for his screening. The legal analysis provided by Covington & Burling is contained in its memorandum submitted with this affidavit. The partnership of Pierson, Ball & Dowd has authorized me to state that the firm has reviewed and concurs with the analysis in Covington & Burling's memorandum and that the firm will follow the procedures, described in this affidavit, which have been established as a result of that analysis.

6. It is intended that Mr. Saxbe's arrangement with Pierson, Ball & Dowd will be as follows: Mr. Saxbe will become "of counsel" to the firm and will be available to provide advice and assistance on an "as needed" basis to firm clients. As specified in the Consent Decree, Mr. Saxbe will continue to be paid directly by the Central States, Southeast and Southwest Areas Pension Fund (the "Central States Pension Fund") for his services as Independent Special Counsel.

Payments to Mr. Saxbe for his services as Indpependent Special Counsel will be made solely to Mr. Saxbe and will not be shared with Pierson, Ball & Dowd. The firm will, subject to the restrictions and limitations specified in this affidavit and Mr. Ryan's accompanying affidavit, provide such advice and assistance to Mr. Saxbe in his capacity as Independent Special Counsel as he deems necessary. The firm will, subject to a monthly ceiling, reimburse Mr. Saxbe's necessary business expenses, including office space and secretarial and other support and logistical services for Mr. Saxbe in his homes in Mechanicsburg, Ohio and Delray Beach, Florida, as well as in Washington, D.C. In addition, the firm will remunerate Mr. Saxbe on the basis of a formula or amount to be specified in a written agreement between Mr. Saxbe and Pierson, Ball & Dowd, which formula or amount will relate solely to Mr. Saxbe's work for firm clients and to work that he may bring to the firm other than work relating to his position as Independent Special Counsel.

7. Consistent with the firm's own past practices, Pierson, Ball & Dowd and Mr. Saxbe will, prior to Mr. Saxbe's joining the firm as "of counsel" and the firm's undertaking any work for him in his capacity as Independent Special Counsel, take the following steps with respect to all of the particular matters on which the firm will provide assistance and counsel to the Independent Special Counsel;

(a) Each distinct matter or category of matter on which Mr. Saxbe as Independent Special Counsel contemplates seeking the assistance of the firm will be identified and assigned a separate client account number to be used for client billing and file purposes.

(b) As to each of these distinct matters or categories of matters, the firm will utilize the same procedures that it employs in reporting and establishing new client accounts and new accounts for existing clients. These procedures include:

(i) a description of the particular matter for which the firm has been retained; and

(ii) review of the report by specified members of the Executive Committee to assure that the fee arrangement is acceptable and that no conflict of interest exists.

(c) As to each distinct matter or category of matter on which a client account number is established, Mr. Ryan will be screened from that matter or category of matter except for:

(i) work involving matters or issues pertaining to withdrawal liability affecting the Central States Pension Fund (if the Court's approval is obtained pursuant to the application filed by the Independent Special Counsel); and

(ii) assuming, again, Court approval of the application of the Independent Special Counsel, other matters on which, in pursuant to the procedures described in paragraph 9, below, it is subsequently determined that Mr. Ryan is not disqualified from providing advice and assistance to the Independent Special Counsel

(d) The firm will circulate an "All Personnel" memorandum listing the matters and identifying those particular matters from which Mr. Ryan will be screened.

(e) In the memorandum described in subparagraph (d), all personnel will again be apprised of the nature of screening required—namely, that Mr. Ryan will not be given or have access to our records or those of the Independent Special Counsel on those particular matters; that Mr. Ryan will not have—with firm personnel, clients, or any other parties—any discussions on, conversations about, or consultations regarding the firm's or the Independent Special Counsel's work on these particular matters; and that Mr. Ryan will not work on or have any other form of involvement in our work with the Independent Special Counsel on those particular matters.

(f) The client accounts on which Mr. Ryan is screened from our work for the Independent Special Counsel will be administered by, and the firm's work on these matters will—at least initially—be the responsibility of, Mr. John R. Erickson, a partner in the firm.

(g) The firm's file personnel will prominently mark each file in each matter from which Mr. Ryan is screened with a stamp indicating that Mr. Ryan is screened from that particular matter and summarizing the substance of such screening as described in paragraph 7(e), above. Such files will be "color coded" for easy identification and will be separately maintained from other files to which Mr. Ryan may have access.

(h) The screening memoranda described in and issued pursuant to paragraphs 7(a) and (b), above, and required under paragraph 9(c), below, will be permanently and prominently displayed on a bulletin board in the firm's file room.

(i) The Court, the Department of Labor, and all other parties to the proceeding entitled *Donovan* v. *Fitzsimmons*, Civil Action No. 78 C 342 (N.D. Ill.) will be furnished with lists of both the matters from which Mr. Ryan is screened and the matters from which he is not disqualified.

(j) As new matters arise on which the Independent Special Counsel seeks the firm's advice and assistance, the same procedures described in this paragraph will be applied and Mr. Ryan will be screened from those matters unless a determination is made, pursuant to paragraph 9, below, that Mr. Ryan is not disqualified from providing advice and assistance to the Independent Special Counsel.

8. In addition to applying the screening procedures described in paragraph 7 of this affidavit, Pierson, Ball & Dowd will ensure that Mr. Ryan will not share in any fees received with respect to matters as to which Mr. Ryan is screened. Partnership compensation at Pierson, Ball & Dowd is not based upon any mathematical formula or computation premised on numerical shares. Instead, at the end of the partnership year and after financial data for that year are compiled, the firm's Executive Committee devises a schedule representing the proposed share for each partner in the firm's profits. In devising this schedule, which is later submitted to the partnership for approval, the Executive Committee reviews a number of factors, some of them subjective, others objective. These factors include: (1) the number of billable hours compiled by each partner, (2) client generation, supervision, and maintenance, (3) the quality of the work performed by the partner during the fiscal year, (4) work performed on the firm's behalf (e.g., recruitment), and (5) the extent to which the partner supervises the work of other partners and associates. Basically, the Executive Committee seeks to determine each partner's contributions to the firm's profitability and success based on his or her actual performance. To ensure that Mr. Ryan is screened from any share of any fees generated by matters undertaken on behalf of the Independent Special Counsel on which Mr. Ryan is screened, the firm will take the following steps at the end of each fiscal year: (1) establish a ratio representing the overall percentage of profit on all revenues received; (2) apply that ratio to the revenues received on all matters other than those on which Mr. Ryan has been screened; (3) determine the distribution for each partner from the profits on these matters; (4) apply the same profit ratio to the revenues received on all matters from which Mr. Ryan has been screened on the basis of the criteria normally applied as described above; and (5) distribute the profits as to those matters from which Mr. Ryan has been screened to each partner other than Mr. Ryan on the basis of his or her proportionate participation in the firm's profits on matters from which Mr. Ryan was not screened, but with such proportion calculated on the basis of the profits distributed to partners other than Mr. Ryan.

9. Mr. Ryan will, subject to the Court's approval of the application filed by the Independent Special Counsel, furnish the Independent Special Counsel with advice and assistance involving matters or issues pertaining to withdrawal liability affecting the Central States Pension Fund. If the Court approves the Independent Special Counsel's application, Mr. Ryan will also provide advice and assistance to the Independent Special Counsel on those matters on which, after application of the following procedures, it is determined that Mr. Ryan is not disqualified and need not be screened:

(a) As to each matter, the partner in charge of firm ethics, Mr. Joel M. Hamme or his successor, will initially determine after consultation with Mr. Ryan, and the firm will decide, whether Mr. Ryan must be screened under the Code. This decision will be based on two principal inquiries: whether Mr. Ryan participated personally and substantially in the particular matter while he was Solicitor of Labor and, if not, whether he possesses confidential information pertaining to that particular matter as a result of having been Solicitor of Labor. If either of these inquiries is answered in the affirmative, Mr. Ryan will be disqualified and screened from work performed by the firm for the Independent Special Counsel on that particular matter.

(b) As to any matter on which the firm concludes that Mr. Ryan is not disqualified and may provide advice and assistance to the Independent Special Counsel, the firm will—prior to Mr. Ryan's working on that particular matter—notify the Department of Labor and obtain its determination that Mr. Ryan was not involved in the subject area in relation to the matter in question while at the Department of Labor and does not possess confidential information as a result of having worked there.

(c) In the event it is determined that Mr. Ryan must be screened as to any matter, the firm will follow the procedures described in paragraphs 7 and 8 above with respect to that matter.

(d) As stated in paragraph 7(i) above, the Court, the Department of Labor, and all other parties to the proceeding entitled *Donovan* v. *Fitzsimmons*, Civil Action No. 78 C 342 (N.D. Ill.), will be furnished with any supplementary lists of both the matters from which Mr. Ryan is screened and the matters from which he is not disqualified.

10. Upon the basis of its own independent determination as well as the advice of Covington & Burling, Pierson, Ball & Dowd believes that the relationship of Mr. Saxbe with the firm, including his "of counsel" status with the firm and the firm's assistance and counsel to Mr. Saxbe as Independent Special Counsel, fully complies, under the circumstances described above, with the requirements of the Code and the pertinent federal statutes and regulations.

DEAN BURCH.

AFFIDAVIT OF T. TIMOTHY RYAN, JR.

CITY OF WASHINGTON,
District of Columbia, ss:

I, T. Timothy Ryan, Jr., being duly sworn, depose and say:

1. I am a partner in the law firm of Pierson, Ball & Dowd. I have been a partner in the firm since May 1, 1983; from August of 1978 to February of 1981, I was an associate with the firm.

2. I am submitting this affidavit pursuant to Disciplinary Rule ("DR") 9-102(C) of the District of Columbia Code of Professional Responsibility (the "Code") and in contemplation of Mr. William B. Saxbe, Independent Special Counsel appointed pursuant to the consent decree dated September 22, 1982 in the case entitled *Donovan* v. *Fitzsimmons*, Civil Action No. 78 C 342 (N.D. Ill.) (the "Consent Decree"), becoming affiliated with Pierson, Ball & Dowd as "of counsel" and Pierson, Ball & Dowd furnishing advice and assistance to Mr. Saxbe in his role as Independent Special Counsel.

3. From March 12, 1981 to April 30, 1983, I was Solicitor of Labor, United States Department of Labor. In that capacity, I served as chief legal officer of the Department of Labor and was officially responsible for all government litigation under the Employee Retirement Income Security Act ("ERISA"). I also chaired an inter-agency litigation task force aimed at coordinating governmental activities involving the Central States, Southeast and Southwest Areas Pension Fund (the "Central States Pension Fund"). Furthermore, I participated personally and substantially in the negotiation of the Consent Decree referenced in paragraph 2 above.

4. As recited in paragraph 3 of the accompanying affidavit of Mr. Dean Burch, when I returned to Pierson, Ball & Dowd in May 1983, the firm reviewed the restrictions placed on me as a result of my governmental employment, examined hte relevant legal authorities concerning those restrictions, and circulated memoranda to all personnel regarding the matters on which I would be screened and the procedures for screening.

5. As explained in paragraph 4 of Mr. Burch's accompanying affidavit, Pierson, Ball & Dowd has discussed with Mr. Saxbe the possibility of an "of counsel" relationship with him and the firm's furnishing assistance and counsel to Mr. Saxbe in his role as Independent Special Counsel appointed pursuant to the Consent Decree. Because of Mr. Saxbe's status as Independent Special Counsel and because of my personal responsibilities as described in paragraph 3 of this affidavit while I was Solicitor of Labor, the firm conducted another review of the Code and the pertinent federal statutes and regulations.

6. As described in paragraph 5 of Mr. Burch's accompanying affidavit, Pierson, Ball & Dowd and Mr. Saxbe subsequently retained Covington & Burling to provide advice and assistance as to the application of the Code and the relevant federal statutes and regulations in the event Mr. Saxbe became "of counsel" to Pierson, Ball & Dowd and the firm furnished advice and assistance to Mr. Saxbe as Independent Special Counsel. The legal analysis provided by Covington & Burling is contained in its memorandum submitted with this affidavit. As noted in the accompanying affidavit of Mr. Burch, the firm has reviewed and concurs with this analysis, and I will follow the procedures discussed in Mr. Burch's affidavit and established as a result of that analysis.

7. In accordance with paragraphs 7 and 9 of Mr. Burch's accompanying affidavit, I understand that I will be screened from all work performed by Mr. Saxbe as Independent Special Counsel or by the firm for him in his capacity as Independent Special Counsel, with the following two exceptions. (A) If the Court approves the accompanying application of the Independent Special Counsel, I may provide advice and assistance to the Independent Special Counsel on issues pertaining to withdrawal liability affecting the Central States Pension Fund—an area as to which I am confident, and the Department of Labor concurs, that I had no personal and substantial participation or confidential information while I was Solicitor of Labor. It is, accordingly, an area as to which I understand that I would be disqualified only if all work for the Independent Special Counsel were treated as the "same matter" as the Consent Decree for purposes of DR9-101(B). (B) If the Court approves the accompanying application of the Independent Special Counsel, I may also provide advice and assistance to the Independent Special Counsel on additional maters as to which, after application of the procedures described in paragraph 9 of Mr. Burch's accompanying affidavit, it is determined that I am not disqualified and need not be screened. I further understand that, under the Code, the determination of whether or not I am disqualified and must be screened from work performed by the firm for the Independent Special Counsel will be based on two principal inquiries: (1) whether I participated personally and substantially in the particular matter while I was Solicitor of Labor, and (2) whether I possess confidential information pertaining to that particular matter as a result of having been Solicitor of Labor. If either of these inquiries is answered affirmatively, I will be disqualified and screened from work performed by the firm for the Independent Special Counsel on that particular matter.

8. I will adhere to the procedures established with respect to the particular matters from which I will be screened involving the work of the Independent Special Counsel. The screening procedures are described in detail in paragraphs 7 and 8 of the accompanying affidavit of Mr. Burch. Thus, it is my understanding that, with respect to matters from which I am screened, I will not seek or be given access to our records or those of the independent Special Counsel; I will not have—with firm personnel, clients, or any other parties—any discussions on, conversation about, or consultations regarding the firm's or the Independent Special Counsel's work on those particular matters; I will not work on or have any other form of involvement in the firm's work with the Independent Special Counsel on those particular matters; and, finally, I will not share in any fees generated by work on those particular matters from which I am screened.

9. As explained in the accompanying affidavit of Mr. Burch and the accompanying memorandum of Covington & Burling, the procedures explained and statements made here are designed to assure that the contemplated arrangement does not result in any violation of the Code or pertinent federal statutes and regulations.

T. TIMOTHY RYAN, Jr.

COVINGTON & BURLING,
Washington, DC, August 1, 1984.

MEMORANDUM

Proposed Association of William B. Saxbe as Of Counsel to the Firm of Pierson, Ball & Dowd, and Employment of the Firm by Mr. Saxbe in His Capacity as Independent Special Counsel Appointed by the Northern District of Illinios to Assist Its Oversight of the Teamsters' Central States, Southeast and Southwest Areas Pension Fund

INTRODUCTION

Mr. William B. Saxbe is Independent Special Counsel, appointed as such by the United States District Court for the Northern District of Illinois pursuant to a Consent Decree entered in the case of *Donovan* v. *Fitzsimmons*, Civ. Action No. 78 C 342 (N.D. Ill. Sept. 22, 1982) (the "Consent Decree"), whose charge is to assist the Court in its oversight of the Teamsters' Central States, Southeast and Southwest Areas Pension Fund (the "Central States Pension Fund"). Mr. Saxbe proposes to become "of counsel" to the law firm of Pierson, Ball & Dowd, and to retain the firm to provide him professional advice and assistance in his capacity as Independent Special Counsel. It is necessary that the arrangements for association of Mr. Saxbe with Pierson, Ball & Dowd take due account of the fact that one of the members of the firm is T. Timothy Ryan, Jr., who, during the period from March 12, 1981 to April 30, 1983, was Solicitor of Labor in the United States Department of Labor. In that capacity, Mr. Ryan had, *inter alia*, various responsibilities relating to the Central States Pension Fund, including personal and substantial participation in the drafting and negotiation of the Consent Decree that created the position of Independent Special Counsel now held by Mr. Saxbe.

The arrangements by which the proposed assocation of Mr. Saxbe with the firm of Pierson, Ball & Dowd will be governed are described in affidavits of Mr. Dean Burch, chairman of the Executive Committee of Pierson, Ball & Dowd, and of Mr. Ryan, in each case bearing the date July 31, 1984 (the "Burch Affidavit" and the "Ryan Affidavit," respectively), which accompany this memorandum. Salient features of those arrangements are that, with specified exceptions, Mr. Ryan will be screened from participation in, and from sharing in fees generated by, work done by or for Mr. Saxbe as Independent Special Counsel; that, subject to prior Court approval, there will initially be one category of matters as to which Mr. Ryan will not be screened and will be called upon to provide advice and assistance to Mr. Saxbe; and that, again subject to prior Court approval, there will be a procedure for the identification of additional specific categories of matters as to which Mr. Ryan will not be screened but may provide advice and assistance to Mr. Saxbe. Mr. Saxbe will make application to the United States District Court for the Northern District of Illinois for the necessary approval of the arrangements.

We have been asked by Mr. Saxbe and by Pierson, Ball & Dowd for advice as to the applicability to these circumstances of 18 U.S.C § 207 (1982) (sometimes hereinafter the "Act") and the Code of Professional Responsbility (1983) as promulgated by the District of Columbia Court of Appeals (the "Code"). This memorandum summaries the advice we have furnished in response to that request.

We have concluded, as explained in part I (pages 4-9) below, that none of the prohibitions of the Act is applicable to the circumstances here in question, principally because Mr. Ryan's providing assistance to Mr. Saxbe as Independent Special Counsel would not involve his acting on behalf of a person other than "the United States," within the meaning of the Act. We have further concluded, however, as explained in part II (pages 9-17), that Mr. Ryan's assisting the Independent Special Counsel would nonetheless constitute "private employment" within the meaning of DR 9-101(B) of the Code, so as potentially to bring the prohibitions of that and related provisions into play.

We have therefore considered whether Mr. Ryan should be disqualified from participating in every matter in which the Independent Special Counsel is involved, either on the ground of a supposed "appearance of impropriety" under Canon 9 of the Code (part III, pages 17-24), or on the ground that everything the Independent Special Counsel does is the same "matter" as the Consent Decree because that decree created the post of Independent Special Counsel (part IV, pages 25-43); concluding in each instance that there is no such blanket disqualification applicable to Mr. Ryan.

We have further considered (part V, pages 43-50), whether there are any categories of matter as to which Mr. Ryan is not ethically disqualified from providing assistance to the Independent Special Counsel, concluding that there are some such matters, of which the determining characteristics are (1) that Mr. Ryan did not participate personally and substantially in them when he was Solicitor of Labor; and (2) that he does not have any confidential information with respect to them.

Finally, we have evaluated the procedures proposed to be employed from the screening of Mr. Ryan, for notice thereof to appropriate parties, and for identifying matters as to which he need not be screened (part VI, pages 51-58), and have concluded that they satisfactorily meet applicable requirements.

Footnotes at end of article.

I. THE PROHIBITIONS OF 18 U.S.C. § 207 WOULD NOT APPLY TO MR. RYAN'S ASSISTING THE INDEPENDENT SPECIAL COUNSEL, BECAUSE SUCH ASSISTANCE WOULD NOT INVOLVE HIS ACTING ON BEHALF OF A PERSON OTHER THAN THE UNITED STATES WITHIN THE MEANING OF THAT STATUTORY PROVISION

18 U.S.C. § 207 imposes on certain former government officers four post-employment bars: (1) a lifetime bar (imposed by section 207(a)) against a former government officer representing any other person (except the United States) in connection with a particular matter involving a specific party or parties in which he participated personally and substantially while in government; (2) a two-year bar (imposed by Section 207(b)(ii)) against the former officer assisting others, by his presence, in making appearances with respect to matters as to which he is permanently barred; (3) a one-year bar (imposed by Section 207(c)) against representational contact with the officer's former department or agency on any particular matter; and (4) a two-year bar (imposed by Section 207(b)(i)) against representational contacts in particular matters involving a specific party or parties over which the former officer had official responsibility while in government.

Even if the Act were applicable to the arrangements under consideration here, these provisions would have little practical impact on Mr. Ryan, for the lifetime bar of section 207(a) is encompassed in the broader prohibition of DR 9-101(B) of the Code, as is the two-year bar imposed by section 207(b)(2); [1] and the one-year bar of section 207(c) has by now lapsed with respect to Mr. Ryan. Thus the only prohibition that would require separate consideration in the event the Act were applicable would be the two-year bar of section 207(b)(1) against representational contacts regarding matters that were under Mr. Ryan's "official responsibility" while he was Solicitor of Labor, for that two-year period still has nine months to run.

However, it appears quite clear that not even the two-year statutory bar on representational contacts regarding "official responsibility" matters would be applicable to advice or assistance rendered by Mr. Ryan to Mr. Saxbe in his capacity as Independent Special Counsel,[2] for all of the prohibitions of the Act apply only to a former government officer acting on behalf of "any other person (except the United States)," and the regulations promulgated by the Office of Government Ethics define the term "United States" as used in the Act to include "any department, agency, *court*, court martial, or any civil, military or naval commission of the United States, the District of Columbia, *or any officer or employee thereof,*" 5 C.F.R. § 737.3(a)(1) (emphasis added). Thus, none of the prohibitions of the Act apply to a former government officer representing, as a private practitioner, an officer or employee of a federal court on a matter in which he was involved while in government service. We think there can be little doubt that this limitation in the Act's coverage would apply to Mr. Ryan's acting on behalf of Mr. Saxbe.

The position of Independent Special Counsel and the mandate upon the incumbent in that position to oversee the affairs of the Central States Pension Fund were created by Section V of the Consent Decree. According to that part of the Consent Decree, the Independent Special Counsel is appointed by, and reports to, the United States District Court for the Northern District of Illinois. His function, generally stated, is to "further the objectives of this Consent Decree," and more specifically, to "serve the Court by assisting in identifying any problems or issues that may arise in connection with the Pension Fund's peformance of the undertakings in this Consent Decree," giving "special attention . . . to compliance with the fiduciary responsibility provisions in part 4 of title 1 of ERISA and with conditions contained in determination letters issued by the Internal Revenue Service." [3]

Mr. Saxbe has informed us that he considers himself, as Independent Special Counsel, to be an agent of the United States District Court for the Northern District of Illinois, with a relationship to the Court similar to that of a special master or a trustee in bankruptcy. Mr. Saxbe's characterization of his role appears to be well-rounded. To be sure, according to the provisions of Section V of the Consent Decree, the Independent Special Counsel is paid by the Central States Pension Fund, but such payments, being required by court order, do not give the Fund any influence or control over him. That the Independent Special Counsel does not have an attorney-client relationship with the Fund is made clear by the provisions of Section V that, although, the Independent Special Counsel is given visitatorial rights with respect to the Fund, all his records are in turn to be freely accessible to the Department of Labor, and that "[n]o attorney-client or other privilege shall be applicable to any communication between the Independent Special Counsel and the Pension Fund, or its administrators, fiduciaries, officers, trustees, custodians, counsel, agents, employees, advisers, providers of goods or services, consultants, represntatives in any capacity, or persons who serve in any capacity that involves decisionmaking authority or custody or control or the moneys, funds, or assets of the Pension Funds."

The Independent Special Counsel makes his reports to the Court (with copies to the Fund and the Secretary of Labor). His function is "to serve the Court." The Court alone has authority to expand his "powers, duties and responsibilities." In these circumstances, Mr. Saxbe is surely an officer of the Court within the meaning of the pertinent regulation. *See* Letter Opinion of the Office of Government Ethics 82x21 (December 28, 1982) (holding that appointment of a former officer of the Executive branch by a federal district court as a special representative of the court or of the judge in the same matter in which he had participated while in government would not be in violation of the Act because it was covered by the phrase "except the United States").

Thus we conclude that the Act does not in itself have any direct application to the circumstances here under consideration, and the remainder of our analysis will be concerned with the substantive provisions of the Code. It is nonetheless the case that the Act has some pertinence for this discussion, because the regulations and decisions of the Office of Government Ethics under the Act interpret, among other things, the key statutory term "particular matter involving a specific party or parties," and the term "matter," in the Code, is defined to have the same meaning as the corresponding, more elaborate term in the Act. Both the Act and the Code also use the identical phrase "participated personally and substantially." Thus, authoritative interpretations of the statutory terms are illuminating in exegesis of the Code as well, as the D.C. Bar Legal Ethics Committee has held even before the Code was amended to bring it into correspondence with the Act. *See* D.C. Bar Legal Ethics Committee Op. 26 (1977).

II. MR. RYAN'S ASSISTING THE INDEPENDENT SPECIAL COUNSEL WOULD NONETHELESS CONSTITUTE "PRIVATE EMPLOYMENT" WITHIN THE MEANING OF DR 9-101(B), SO AS POTENTIALLY TO BRING THE PROHIBITIONS OF THAT PROVISION INTO PLAY

The principal possible source of disqualification of Mr. Ryan requiring consideration for present purposes is Disciplinary Rule ("DR") 9-101(B) of the Code, which provides that "[a] lawyer shall not at any time accept private employment in connection with any matter in which he or she participated personally and substantially as a public officer or employee. . . ." The term "matter" is defined as: includ[ing] any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties.

Canon 9 (definition b) (1983). Where DR 9-101(B) disqualifies an individual lawyer, DR 9-102(A) imputes that disqualification to partners, associates and "of counsel" colleagues of the lawyer unless screening and notice requirements specified in DR 9-102(B) and (C) are satisfied.

Consideration must also be given to the possible application of Canon 9 itself, which asserts that "A lawyer should avoid even the appearance of professional impropriety" (a matter dealt with in part III, at pages 17-24, below), and to the possible applicability of DR 4-101, imposing on a lawyer the obligation to preserve the confidences and secrets of a client, including a former client (which is discussed in part V.B at pages 45-50 below). The provision of principal interests, however, is DR 9-101(B); and as to that provision, the threshold question is whether Mr. Ryan's providing advice or assistance to the Independent Special Counsel would constitute "private employment" within the meaning of that provision. The point deserves particular attention since, as noted in the preceding part of this memorandum, the statutory analog of the Code provision is not applicable to the circumstances here in question.

The Code does not define the term "private employment," and the term does not appear to have been interpreted by the Legal Ethics Committee of the D.C. Bar or by the District of Columbia Court of Appeals. However, there is significant authority of other courts and ethics committees indicating that Mr. Ryan's employment by Mr. Saxbe would be "private employment" notwithstanding the public nature of Mr. Saxbe's position.

In *General Motors Corp.* v. *City of New York*, 501 F.2d 639 (2d Cir. 1974), the court approved the granting of a motion to disqualify a private practitioner, formerly employed by the federal government in a matter, from subsequently representing the City of New York in the same matter. The court, in an opinion by Chief Judge Irving Kaufman, concluded that the lawyer's retention by the City constituted "private employment" within the meaning of DR 9-101(b) in the ABA's Code of Professional Responsibility, despite the fact that "the keeper of the purse" was a government entity. *Id.* at 650. It was sufficient that the lawyer and his firm had an "opportunity to earn a substantial fee" for his services. *Id.*

Citing *General Motors* a year after it was decided, the ABA's Committee on Ethics and Legal Responsibility stated in its Formal Opinion 342 (1975) that "[a]s used in DR 9-101(B), 'private employment' refers to employment as a private practitioner" as distinguished from "change from one salaried government position to another." *Id.* at 6. The committee's rationale was that: If one underlying consideration is to avoid the situation where government lawyers may be tempted to handle assignments so as to encourage their future employment in regard to those matters, the danger is that a lawyer may attempt to derive undue financial benefit from fees in connection with subsequent employment. *Id.*

A similar view was implicit in *Armstrong* v. *McAlpin*, 461 F. Supp. 622 (S.D.N.Y. 1978), *aff'd*, 625 F.2d 433 (2d Cir. 1980) (en banc), *vacated on other grounds*, 449 U.S. 1106 (1981). In that case, a former SEC attorney was assumed to be disqualified, and was therefore screened, from representation by his law firm of a court-appointed receiver whose mission was to recover the assets of a company that had violated the federal securities laws. The issue in the case was the adequacy of the screening as a means of avoiding imputation of the individual lawyer's disqualification to his firm, and because the disqualification was assumed, the courts did not address the issue of whether it was required. Underlying the assumption that disqualification of the individual lawyer was appropriate, however, there was necessarily the assumption that employment by the court-appointed receiver was "private employment" within the meaning of the Code.[4]

Some support for a contrary conclusion, that Mr. Ryan's employment by Mr. Saxbe would not be "private employment" within the meaning of DR 9-101(B) may be drawn from the Act and, perhaps, the ABA's Model Rules of Professional Conduct.

As discussed in the preceding part of this memorandum, the permanent bar against representational activities raised by 18 U.S.C. Section 207(a), which is the analogue in the Act of DR 9-101(B) in the Code, does not apply when a former government employee represents the "United States" as a private practitioner. Insofar as Section 207(a) of the Act may be persuasive as an analogy in interpreting DR 9-101(B), it tends to indicate that Mr. Ryan's employment by Mr. Saxbe would not be "private employment" within the meaning of the disciplinary rule.[5] Moreover, there is some inherent appeal in the proposition that the Act seems to embrace: if the federal government in any of its branches (including a court) desires the services of a lawyer who once served it in a matter as an employee in the Executive branch, but who now is in private practice and does not desire to resume civil service, the government should not be foreclosed from engaging that lawyer in the same matter.

The Model Rules of Professional Conduct adopted by the American Bar Association in August 1983 could be read to reach the same result as the Act. Rule 1.11 of the Model Rules, which would supplant DR 9-101 and DR 9-102, provides, with an exception, that "a lawyer shall not represent a *private client* in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee" unless the lawyer is screened and notice of the screening is given. ABA Model Rules of Professional Conduct Rule 1.11 (August 1983) (emphasis added). The comment following Rule 1.11 states, in part, "When the client is the agency of one government, that agency should be treated as a private client for purposes of this Rule if the lawyer thereafter represents an agency of *another* government, as when a lawyer represents a city and subsequently is employed by a federal agency." (Emphasis added.) This could reasonably be read as implying that a lawyer's subsequent representation of a different agency or branch of the *same* government does not precipitate the screening and notification requirements of Rule 1.11; and such a reading would have some persuasive weight in interpretation of the corresponding provisions of the Code. That weight would not be substantial, however, for the import of the comment to Rule 1.11 is by no means clear.[6] Moreover the Model Rules have not yet supplanted the Code in the District of Columbia, and they are principally useful as authority as to what the ethical restrictions ought to be, and not necessarily as to what they now are under the Code.[7]

Although there are thus grounds for arguing that employment of Mr. Ryan by Mr. Saxbe should be treated as employment by the United States and not as "private employment" within the meaning of DR 9-101(B), we conclude that the weight of authority is distinctly to the opposite effect. It appears that under DR 9-101(B) the critical test is the nature of the lawyer's present practice situation—*i.e.*, private practitioner compensated by client fees or a law firm salary, as opposed to civil servant compensated by public salary—and not the character of the client, which is the test under the Act and arguably under the Model Rules. If the former test is the applicable one, as we conclude it is, the conclusion is inescapable that Mr. Ryan's employment by Mr. Saxbe would be "private employment," because there is no question that Mr. Ryan is a private practitioner.

III. MR. RYAN SHOULD NOT BE COMPREHENSIVELY DISQUALIFIED FROM PARTICIPATING IN EVERY MATTER IN WHICH THE INDEPENDENT SPECIAL COUNSEL IS INVOLVED ON THE GROUND OF A SUPPOSED "APPEARANCE OF IMPROPRIETY" UNDER CANON 9

The next major issue to be addressed is whether Mr. Ryan should be considered disqualified from participation in every matter involving Mr. Saxbe as Independent Special Counsel, by reason of Canon 9's exhortation that "A Lawyer Should Avoid Even the Appearance of Professional Impropriety." If the answer is affirmative, then there is no need to delve into the more particularized analysis called for by consideration of the individual Disciplinary Rules under Canon 9.[8]

We note preliminarily that as a matter of strict analysis, it can be forcefully argued that the exhortation of Canon 9 regarding avoidance of the appearance of impropriety should not be used alone as a ground for decisions as to disqualification. It appears to us to be a point of fundamental significance that the reference to appearance of impropriety appears in Canon 9 and not in any Disciplinary Rule, for the Code's Preliminary Statement makes clear that the Canons, the Ethical Considerations and the Disciplinary Rules that together comprise the Code are intended to serve different roles, with the Canons stating "axiomatic norms" or "general concepts," the Ethical Considerations being "aspirational in character," and only the Disciplinary Rules being "mandatory in character" and thus offering specific definition as to what is ethically permissible and what is not.[9] See D.C. Bar Legal Ethics Comm. Op. 82 (1979) (a majority of the Ethics Committee is of the view that "conduct which does not violate a Disciplinary Rule cannot properly be characterized as 'unethical' "); Op. 101 (1981) (holding Canon 9 not independently applicable); *but see* Op. 48 (1978) (seemingly indicating a willingness on the Committee's part to hold Canon 9 applicable of its own force to a situation where a private attorney was appointed to the Human Rights Commission and the question posed concerned the extent to which he could continue to handle cases before the Commission).

It must be recognized that "appearance of impropriety" alone has been used as a basis for disqualifying lawyers or firms from participation as counsel in litigation, even where no Disciplinary Rule was found to apply, *e.g.*, *Alpha Inv. Co.* v. *City of Tacoma*, 536 P.2d 674 (Wash. Ct. App. 1975); *General Motors Corp., supra.* However, the trend appears to be away from such holdings. Thus, in *Ah Ju Steel Co.* v. *Armco, Inc.*, 680 F.2d 751, 754 (C.C.P.A. 1982), the court stated:

An appearance of impropriety, such as may arise when a former government attorney who had access to confidential information in a matter appears in connection with that matter in private practice, has also in the past been used as an independent basis for disqualification, quite apart from whether a disciplinary rule has been violated. *General Motors Corp.* v. *City of New York*, 501 F.2d 639, 649, 652 (2d Cir. 1974). As the court below appreciated, however, the trend is now away from disqualification based solely on an appearance of impropriety and towards disqualification only when continued representation will taint the underlying trial especially where, as here, the appearance of impropriety is not very clear.

To similar effect, the Second Circuit has stated since the *General Motors* decision that "the possible 'appearance of impropriety is simply too slender a reed on which to rest a disqualification order . . . particularly . . . where . . . the appearance of impropriety is not very clear'." *Amstrong, supra*, 625 F.2d at 445. We deem it of some significance that the ABA's Model Rules of Professional Conduct have eliminated the term "appearance of impropriety" altogether, in favor of setting forth "more specifically the circumstances in which for public confidence in government necessitates disqualification of a government lawyer." ABA Commission on Evaluation of Professional Standards, Proposed Final Draft, Model Rules of Professional Conduct, Comment on Rule 1.11 at 76-77 (May 30, 1981).

Even if it is not likely that Canon 9 would be invoked as a ground of disqualification, however, it may be useful to view the circumstances here under discussion from the point of view of the "axiomatic norm" stated by Canon 9 simply because by reason of its breadth and inherent subjectivity it would be most likely to be invoked as a ground of public criticism, if there were such criticism, of the arrangements between Mr. Saxbe and Pierson, Ball & Dowd. Turning, then, to such a view, we note that the Legal Ethics Committee of the D.C. Bar has stated in its Opinion 98 (1981) that the test that applies in determining whether there is an "appearance of impropriety" is whether "a reasonably informed member of the bar, or of the public, would view [the employment in question] as improper," bearing in mind that: It may be that *some* element of the bar or the public would view the proposed [employment] as involving an appearance of impropriety; there are those who

perceive appearances of impropriety in almost any professional activity by attorneys. However, an attorney's conduct need not be governed by "standards which can be imputed only to the most cynical members of the public." [Citing *Woods* v. *Covington County Bank*, 537 F.2d 804, 813 (5th Cir. 1976).] (Emphasis in original.)

Chief Judge Irving Kaufman observed in *General Motors Corp., supra*, that "[t]he standard that [Canon 9] sets—*i.e.*, what creates an appearance of evil—is largely a question of current ethical-legal mores." 501 F.2d at 649.

We think that the most useful way to apply an analytical, rather than wholly subjective, approach to Canon 9 is to consider the particular kinds of improprieties that might be thought to be entailed by the arrangements under consideration, and to attempt to assess what a rational and reasonably informed observer would think about the likelihood that one or another of those improprieties was in fact involved. For such an analysis, there is readily at hand authority identifying the substantive evils against which the particular Disciplinary Rules under Canon 9 relating to former government lawyers are intended to guard. The Legal Ethics Committee of the D.C. Bar has identified three purposes of DR 9-101(B): (1) "[T]o prevent the appearance that a lawyer in public employment may have been influenced in his actions as a lawyer by the hope of later personal gain in private employment rather than by the best interests of his public client" (D.C. Bar Legal Ethics Comm. Op. 16 (1976)); (2) "to prevent the appearance that a lawyer may be utilizing for the benefit of a private client confidential information obtained in a prior attorney-client relationship with a public agency having interests in conflict with those of his private client" (*id.*); and (3) to prevent "switching sides" (D.C. Bar Legal Ethics Comm. Op. 98 (1980)).[10]

Applying for foregoing considerations to the circumstances here, we conclude that Mr. Ryan's employment by the Independent Special Counsel—who is the appointee, and agent, of a United States court—should not be reasonably viewed as amounting to a switching of sides from his representation of the United States while Solicitor of Labor. The facts that Mr. Saxbe's becoming of counsel to the firm, and his arrangements for assistance from the firm, will not have been undertaken unless the Court approves them, will underscore the fact that there has been no "treacherous" changing of sides. Nor would such employment of Mr. Ryan reasonably appear to present any likelihood of his using secrets and confidences of the Department of Labor adversely to its interests, because it is unlikely that Mr. Ryan has any confidential information pertinent to such employment, and because the arrangements are such as to provide specific assurance that Mr. Ryan will not be involved in any matter as to which he does possess confidential information.[11]

If the third purpose sought to be served by DR 9-101(B), "prevent[ing] the appearance that a lawyer in public employment may have been influenced in his actions as a lawyer by the hope of later personal gain in private employment rather than by the best interests of his public client," were thought to be offended in this case, it would be by an appearance that Mr. Ryan had created the position of Independent Special Counsel in the Consent Decree with a view to the possibility that he would later profit from it. While it must be acknowledged that the question is necessarily a subjective one, we think that such an appearance does not reasonably arise here. In light of the history of the Central States Pension Fund, the creation of the position of Independent Special Counsel with the breadth of authority that the Consent Decree confers on him clearly served (and continues to serve) the government's, and the public's, interest, and there is no basis for thinking that Mr. Ryan's role in its creation was intended to serve any other, ulterior, purpose; or indeed to think that Mr. Ryan ever considered, in September 1982 when the Consent Decree was entered, that he might be asked in the summer of 1984 to provide professional assistance to the Independent Special Counsel.

Thus, we conclude that the Independent Special Counsel's retention of Mr. Ryan to provide him professional advice and assistance would not in itself present an appearance of impropriety violative of Canon 9.

IV. THE FACT THAT THE POST OF INDEPENDENT SPECIAL COUNSEL WAS CREATED BY THE CONSENT DECREE DOES NOT RENDER EVERY ACTION OF THE INDEPENDENT SPECIAL COUNSEL THE SAME "MATTER" AS THE CONSENT DECREE, SO AS TO REQUIRE THAT MR. RYAN BE DISQUALIFIED FROM PARTICIPATING IN EVERY MATTER IN WHICH THE INDEPENDENT SPECIAL COUNSEL IS INVOLVED

Critical to the application of DR 9-101(B) is the question whether a given "matter" in connection with which a former government lawyer's private employment is contemplated is the same "matter" in which the lawyer participated personally and substantially while in government. Thus, in identifying matters in which Mr. Saxbe is involved as Independent Special Counsel from which Mr. Ryan would be disqualified and must therefore be screened, the fundamental question as to each matter in which Mr. Saxbe is involved will be whether it is the same as any particular matter in which Mr. Ryan participated personally and substantially while Solicitor of Labor.[12]

It will be helpful background for the discussion in both this part of the memorandum and the next to set out the terms of the Consent Decree in some detail, and to consider as well the nature of the Independent Special Counsel's activities; and then to discuss the pertinent authorities with respect to meaning of the key term "matter."

A. The Consent Decree and the Activities of the Independent Special Counsel

Section I of the Consent Decree requires that the fund and all of its "fiduciaries," "trustees," "officers," "agents," and others who assist it "shall operate in full compliance with ERISA" and with any relevant determination letters issued by the Internal Revenue Service.

Section II preserves the preexisting arrangement by providing that a "Named Fiduciary" of the Fund is to have "exclusive responsibility and authority to control and manage all assets" of the Fund, to appoint and replace its investment managers, and to allocate available investment assets among different types of investments and investment managers. This section describes in detail the authority of the Named Fiduciary, its qualifications, and those of the investment managers that it is authorized to appoint. This section also sets out a procedure for terminating the Named Fiduciary.

Subsection II.B.4 of the Consent Decree refers to the Decree's Exhibit, an "Investment Policy Statement" prepared by the Equitable Life Assurance Society of the United States to take effect on June 1, 1981, and, in the words of the Consent Decree, "setting forth the currently short-term and long-term investment objectives and policies of the Pension Fund." We understand that Mr. Ryan did not have any involvement in the preparation of Equitable's Investment Policy Statement, but Subsection II.B.4 of the Consent Decree, in which he did participate personally and substantially, implicitly adopts the Investment Policy Statement by providing that:

> The attached investment policy may only be changed by the named fiduciary, after consultation with the board of trustees of the Pension Fund, and such change shall be reported immediately to the Independent Special Counsel . . . and to the Secretary.

Any such change shall not remain in effect for more than 90 days except with leave of Court for good cause shown. . . .

Section III of the Consent Decree provides procedures for management of assets of the Fund held for benefits and administrative expenses. Section IV provides for the automatic removal of convicted persons from positions related to management of the Fund.

Section V establishes the position of Independent Special Counsel and define his mandate and authority. The Independent Special Counsel has "full authority to examine the future [*i.e.*, from September 22, 1982, forward] activities of the Pension Fund." He has "full access to all documents, books, records, personnel, files, and information of whatever type or description in the possession, custody or control of the Pension Fund." All persons connected with the Fund are required "to cooperate fully with the Independent Special Counsel in the performance of this duties and responsibilities." The Fund's board of trustees and its committees must give him notice and an agenda of all meetings and permit him to attend any of them. He may attend any other meeting involving the Fund's management.

The Independent Special Counsel must permit the Secretary of Labor to examine any documents, notes or records that he prepares or compiles in the exercise of his duties. The Secretary and the Fund receive copies of the reports that the Independent Special Counsel makes to the Court. The powers of the Independent Special Counsel do not supplant the powers or responsibilities of any officer or employee of the United States.

Section VI requires the Fund to cooperate with the Secretary of Labor in the prosecution of that part of *Donovan* v. *Fitzsimmons* not settled by the Consent Decree and in other circumstances when he exercises his enforcement responsibilities under ERISA. Sections VII to IX are housekeeping items providing for notice and entry of judgment and stating that the Court will retain jurisdiction to supervise the Fund's management for at least 10 years, after which the Fund may petition for dissolution of the Consent Decree, and that the decree will be dissolved after 15 years unless the Secretary of Labor shows a need to extend it.

Mr. Saxbe has informed us that, in his view as Independent Special Counsel, the fundamental correctives required to rectify the management of the Central States Pension Fund have been administered and are taking hold; that litigation instituted to punish lawbreakers affiliated with the Fund, to remove them from positions of influence or authority, and to recover the

assets of the Fund squandered or unlawfully used by them is winding down; and that an increasing portion of the time of the Independent Special Counsel will be taken up with issues concerning the prudent business management of the Fund and not related to the sort of improprieties associated with the Fund that gave rise to *Donovan* v. *Fitzsimmons* and the Consent Decree. We have been told that such issues include withdrawal liability problems, potential actuarial problems resulting from a dwindling membership, numerous potential problems raised by uncertainties in the many complicated provisions of ERISA that have not been judicially construed, and problems related to management of litigation arising not from criminal or wrongful behavior but rather from business disputes which naturally arise where such an unusually large agglomeration of capital is involved. The significance of these changes of emphasis in the work of the Independent Special Counsel, for present purposes, is that they represent a turning away from problems, and solutions (such as the Consent Decree) relating to the Central States Pension Fund with which Mr. Ryan was concerned as Solicitor of Labor, and an increasing focus on kinds of matters that the Fund would have to deal with whether or not it was subject to the Consent Decree.

B. Authorities

Turning now to the meaning of the term "matter," as used in DR 9-101(B), we note the following statement by the D.C. Bar's Legal Ethics Committee on the subject of whether a present matter is the same as one in which a former government employee participated personally and substantially:

Determining what is the same matter is, in our view, an essentially factual and pragmatic inquiry. . . . There may be for various technical reasons, all sorts of separate proceedings, civil or criminal, conducted under different docket numbers in the same or different forums, which all arise from a single set of underlying facts, circumstances or transactions. In our view, it is the factual relationship between various proceedings or claims which determine[s] whether they constitute the same matter. . . . [This committee has consistently taken a broad, fact-based approach to defining the term 'matter' in DR 9-101(B)].

D.C. Bar Legal Ethics Comm. Op. 98 (1980). In the opinion from which this statement is taken, the Committee concluded that a lawyer who in the capacity of a government lawyer had represented the defendant in a criminal proceeding would be employed in the same particular matter if he were to represent the same person as plaintiff in a civil action for wrongful conviction in that proceeding.

In another opinion, the Committee said: [T]he very close relationship between basic facts, pertinent principles, and interested parties suggests that we have here the same "matter" within the meaning of DR 9-101(B). The test used for joinder under the Federal Rules of Civil Procedure also offers some guidance and leads to a similar conclusion. Rule 20 permits persons to join together in a single action if they claim a right to relief "in respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences . . . ." Although we do not suggest that the test under DR 9-101(B) is quite this sweepig, that inquiry may help determine when formally separate undertakings or proceedings constitute essentially the same "matter."

D.C. Bar Legal Ethics Comm. Op. 84 (1980). There, the Committee concluded that a lawyer who had participated personally and substantially as a government employee in a proceeding against Company X involving the antitrust laws could not be employed by Company Y to bring a private antitrust action against Company X. The conclusion was easily reached because in the government's proceeding, Company Y had "bec[o]me embroiled . . . as a non-party witness and source of information." *Id.* (footnote omitted).

In determining whether the same particular matter is involved in both a lawyer's private employment and his prior Government employment, the Committee has considered the purposes of DR 9-101(B), as discussed above at pages 21-22: to prevent "switching sides;" to prevent misuse of confidential information; and to discourage government lawyers from handling their public responsibilities in such a way as to encourage their own future employment.

Judicial interpretations of DR 9-101(B) have generally been based on a "same facts" test. For example, in *Committee for Washington's Riverfront Parks* v. *Thompson*, 451 A.2d 1177 (D.C. 1982), the District of Columbia Court of Appeals declined to disqualify an attorney representing a group in submitting a specific design for a development project on the Georgetown waterfront. The attorney had formerly represented the City in participating in the creation by a task force of development plan guidelines for the area. However, the court held that the particular facts involved in the consideration of the specific design were significantly different from those upon which the task force work had been based. *Compare Taxpayers, Homeowners & Tennants Protective Ass'n* v. *Haber*, 634 F.2d 182 (5th Cir. 1981) (former city attorney who had advised city on all aspects of a redevelopment plan could not later represent private clients in challenging transaction that was part of the plan).

In the *General Motors* case, the court held that an action filed in 1972 by the City of New York alleging that General Motors had violated Section 2 of the Sherman Act was the same particular matter as an action brought by the United States in 1956 against GM under Section 2 and settled by Consent Decree in 1965, where "virtually *every* overt act of attempted monopolization alleged in the City's complaint is lifted *in haec verba* from the Justice Department complaint." 501 F.2d at 650 (emphasis in original). The court disqualified from representation of the City in its 1972 action the lawyer who had signed the complaint on behalf of the United States in 1956. *See also, Flushing Savings Bank* v. *Ahearn*, 96 A.D.2d 826, 465 N.Y.S.2d 574 (1983) (former prosecutor who had investigated loan sharking charges concerning mortgage could not represent residents in later foreclosure action involving that mortgage); *Commonwealth of Pennsylvania* v. *Eastern Dawn Mobile Home Park, Inc.*, 405 A.2d 1232 (Pa. 1979) (former prosecutor who investigated and compromised complaints against a mobile home park was disqualified from representing the park in defending against new complaints of a similar nature).

Often, such factual analysis involves a "transactional" approach to the definition of "same particular matter," as in *Flego* v. *Philips, Appel & Walden, Inc.*, 514 F. Supp. 1178 (D.N.J. 1981), where the court held that a former government attorney who had investigated complaints about certain transactions by a broker could represent private clients in a suit against the same broker involving different transactions. Similarly, in *United States* v. *Smith*, 653 F.2d 126 (4th Cir. 1981), the court held that a government prosecutor who had obtained the conviction of an individual several years earlier for a violation of a gambling statute could, as a private practitioner, defend him against charges of later violations of the same statute, but the former prosecutor could not represent the gambler in proceedings to revoke the probation that resulted from his earlier conviction.

In a case not yet definitively disposed of, the District of Columbia Court of Appeals and the D.C. Bar's Legal Ethics Committee have wrestled with the question of the criteria to be applied in determining whether two proceedings are the same "matter" for purposes of DR 9-101(B). *Brown* v. *District of Columbia Board of Zoning Adjustment*, No. 13670 (D.C. Court of Appeals, panel decision, July 15, 1983). The issue there was whether two former attorneys for the District of Columbia (one of them the former Corporation Counsel) should be disqualified from representing a developer in a matter before the Board of Zoning Adjustment where they had participated substantially on behalf of the City on two earlier zoning questions concerning the same piece of property. Although there were some issues in common between the zoning questions as to which the attorneys had represented the City and those on which they sought to represent the developer, there were substantial differences in the particular facts and legal arguments involved. A majority of the court in the panel decision found that both the earlier and the later questions involved the issue of the "rentable space" available in the property, whether "upstairs" in one instance or "downstairs" in the other, and that these issues were the same "matter" within the meaning of DR 9-101(B). Slip op. at 20. The dissenting judge took a narrow view of the term "matter," emphasizing as the central purpose of the same matter requirement the prevention of misuse of confidences. Slip op. at 31-34. The District of Columbia Court of Appeals has agreed to rehear the case en banc, and the D.C. Bar's Legal Ethics Committee has, by direction of the court, submitted a brief as amicus curiae on the issue of what constitutes the same "matter." The Committee's brief proposes that two matters should be considered the "same" if (1) the same parties are involved, (2) the same property is involved, and (3) the two matters involve a "single objective." Brief of Amicus Curiae Committee on Legal Ethics of the District of Columbia Bar, January 30, 1984. As of this writing the case has still not been decided.[13]

Armstrong, supra, requires particularly close consideration. That case concerned a former government lawyer, one Altman, who had participated in an SEC investigation of, and overseen the bringing of an action by the SEC against, "Clovis McAlpin and various other individual and institutional defendants . . . alleg[ing] that McAlpin and the other defendants had looted millions of dollars from . . . the Capital Growth companies." 625 F.2d at 435. That action resulted in an injunction against those companies' violating the securities laws and the appointment of a receiver "to protect the interests of shareholders in the . . . companies." *Id.* The receiver retained Altman's law firm as litigation counsel, to represent him in "[o]ne of [his] principal tasks," litigation "to recover all moneys and property misappropriated by defendants,"

Id., some of whom had fled to Costa Rica. Altman was assumed to be disqualified from any participation in the firm's activities as litigation counsel for the receiver, and so was screened from the representation from the very start.

Armstrong was one of the suits brought by the receiver with Altman's firm as his counsel. The defendants, some of whom had been defendants in the SEC's initial suit, moved to disqualify the law firm on the ground that the screening of Altman did not suffice to avoid imputation of his admitted disqualification to the firm. The District Court held the screening to be effective to avoid imputation of Altman's disqualification. The Second Circuit, in its initial decision by panel, reversed, 606 F.2d 28 (1979). Upon reconsideration en banc, however, the court affirmed the trial court's decision upholding the effectiveness of screening as a means of avoiding imputation of an individual lawyer's disqualification, by reason of former government service, to the lawyer's firm, 625 F.2d 433.

The interest of the *Armstrong* case, for present purposes, lies not in its holding as to the effectiveness of screening,[14] but rather in what it may imply as to the disqualification of the former government lawyer. Unfortunately, the three reported decisions in the matter do not have much to say upon that point. The disqualification of the former government lawyer was not ordered by the court; instead, it had been suggested by the lawyer's new firm, which undertook to screen him from its representation of the receiver. The disqualification had been approved by the SEC even though it saw "no adverse interests between litigation counsel and the Receiver on the one hand, and the SEC on the other, and no appearance of impropriety," 461 F. Supp. at 623, and it was apparently endorsed by the court of appeals, which observed that the former government lawyer "was concededly disqualified from participating in the litigation under Disciplinary Rule 9-101(B) . . ." 625 F.2d at 442. Insofar as the case is instructive, this is so not because of any explicit reasoning in the courts' several decisions but because of the factual circumstances of the case, which were assumed by all concerned to require disqualification of the individual lawyer. We compare those circumstances with those here under consideration at page 40–42 below.

As we have noted (page 9 above), regulations and decisions interpreting the Act have some relevance to interpretation of its analogue under the Code. The regulation implementing the term "particular matter involving a specific party or parties" in the Act—to which the term "matter" in the Code is defined as having identical meaning—provides that:

> The requirement of a 'particular matter involving a specific party' applies both at the time that the Government employee acts in an official capacity and at the time in question after Government service. The same particular matter may continue in another form or in part. In determining whether two particular matters are the same, the agency should consider the extent to which the matters involve the same basic facts, related issues, the same or related parties, time elapsed, the same confidential information, and the continuing existence of an important federal interest.

5 C.F.R. §737.5(c)(4) (1984). An example illustrates the way this rule might be applied:

> *Example 1:* A Government employee was substantially involved in the award of a long-term contract to Z Company for the development of alternative energy sources. Six years after he terminates Government employment, the contract is still in effect, but much of the technology has changed as have many of the personnel. The Government proposes to award a 'follow-on' contract, involving the same objective, after competitive bidding. The employee may represent Q Company in its proposals for the follow-on contract, since Q Company's proposed contract is a different matter from the contract with Z Company. He may also represent Z Company in its efforts to continue as contractor, if the agency determines on the basis of facts referred to above that the new contract is significantly different in its particulars from the old. The former employee should first consult his agency and request a written determination before undertaking any representation in the matter.

Id. The Office of Government Ethics has said that the Act's bar against representation of private interests in the same particular matter in which there was involvement as a government employee "is concerned with . . . switching sides on [a] particular matter or attempting to gain a benefit for a party adverse to the Government." (Letter opinion 80x9, November 24, 1980.)

In the relevant opinions of the Office of which we are aware (and which address, in the main, questions related to government contracts), the Office has applied a fairly restrictive interpretation of the term "particular matter." For example, the Office has concluded that contracts for each of four phases of the comprehensive program to provide a foreign government with 60 military planes and spare parts, ground support equipment and pilot training for those planes were separate particular matter even though the manufacturer of the planes was designated as the sole source of at least one later phase (Letter opinion 80x4, June 13, 1980). In another case, where an agency's contracts for services with a service vendor were renewed each year but with changes in the rates to be paid and benefits to be provided, each year's renewed contract (although apparently with the same vendor) was considered a separate particular matter. (Letter opinion of October 21, 1980).

C. Analysis

With such illumination as is cast by these authorities, we now turn to consideration of whether *any* task undertaken by or for the Independent Special Counsel would be the same particular matter as the Consent Decree (in which Mr. Ryan unquestionably participated), simply because that position was created by the Decree. If so, Mr. Ryan would have to be screened from every activity of Mr. Saxbe as Independent Special Counsel and of Pierson, Ball & Dowd acting on Mr. Saxbe's behalf—the same result as would be reached if it were determined that there was an "appearance of impropriety" under Canon 9, albeit a result reached by a somewhat different approach.[15]

The *Armstrong* case (discussed at pages 12 and 35–37 above) can be viewed as providing support for such a comprehensive disqualification. There, as here, the person for whom the professional employment in question was to be undertaken was in a position created by court decree: in that case the receiver, and in the present instance the Independent Special Counsel. Both positions were created, moreover, in the course of litigation and in the interest of furthering a purpose for purposes of the litigation. And in *Armstrong* the lawyer was deemed disqualified, and screened, for *all* the activities of his firm on behalf of the receiver.

We think, however, that the circumstances of the *Armstrong* case are different from those here under consideration, in important respects. The responsibilities of the court-appointed receiver in *Armstrong*, or at least those of the counsel whose employment was there in issue, involved a single narrow purpose—litigation to recover the assets of the Capitol Growth Companies that had been misappropriated—which was a central aspect of the original action by the SEC, in which the individual lawyer in question had clearly participated personally and substantially. Disqualification there clearly was an all-or-nothing issue; and the result, given the centrality of the matter, had to be disqualification. The Independent Special Counsel, in contrast, is concerned with, and seeks counsel on, an array of issues; and while all of them have some relationship to the Consent Decree inasmuch as the reason for the existence of Independent Special Counsel is to assist in the implementation of the Consent Decree, still only some of his activities are central to the Decree, and others—an increasingly large proportion—are no more than tangential. The essential point in *Armstrong*, in our view, was not the identity of the client—namely, the court-appointed receiver—but rather the nature of the work that was to be done for him.

A helpful perspective from which to view the question whether the Independent Special Counsel's participation in matters that are in themselves different from the Consent Decree constitute the same particular "matter" as the Consent Decree, for purposes of DR 9-101(B)—because he derives his authority to participate in them from the Consent Decree—may be provided by considering what the situation would be if Pierson, Ball & Dowd were asked for advice and assistance by general counsel to the Central States Pension Fund (or if general counsel to the Fund were to become "of counsel" to the firm). The work of general counsel would presumably deal in some respects with the Consent Decree, and clearly as to these there would be a bar to Mr. Ryan's participation, requiring screening of him if the firm itself (and the of counsel lawyer) were not to be disqualified by imputation. On the other hand, insofar as the ongoing work of the Fund's general counsel did not deal with matters in which Mr. Ryan had had personal and substantial participation, there should be no bar merely because he had been involved in litigation in which the Fund was a defendant. We do not think that the fact that it is not general counsel for the Fund but instead the Independent Special Counsel who is here involved, and the fact that the position of the Independent Special Counsel itself was created by the Consent Decree, should change this analysis.

Having thus stated our view, we must also acknowledge that the question is a close one, and one on which there is not, so far as we have been able to discover, any decisional authority on point, or close to it. (As we have pointed out, the case closest factually to the circumstances here presented is *Armstrong*—but we think that case distinguishable, and the point of pertinence here was not discussed in any of the three opinions in that case.) In these circumstances, we deem it to be of considerable moment that this issue be presented to, and satisfactorily resolved by, a suitably authoritative forum before Mr. Ryan undertakes any professional work on behalf of Mr. Saxbe as In-

dependent Special Counsel. The Court that appointed the Independent Special Counsel, and to which he reports, is obviously such a forum.

V. MR. RYAN MAY PERMISSIBLY FURNISH ADVICE AND ASSISTANCE TO THE INDEPENDENT SPECIAL COUNSEL WITH RESPECT TO SPECIFIC MATTERS WITH WHICH HE HAD NO RELEVANT CONTACT AS SOLICITOR OF LABOR

Assuming that our conclusion described in the preceding part of this memorandum—that the mere fact that the Consent Decree created the position of Independent Special Counsel does not make every activity of the Independent Special Counsel the same "matter" as the Consent Decree for purposes of Dr 9-101(B)—is correct, then a more particularized analysis of the activities and concerns of the Independent Special Counsel will be required to differentiate between those that should be treated as requiring Mr. Ryan's disqualification and screening, and those that should not. Such an analysis will not be required as to every category of task that may be undertaken by Pierson, Ball & Dowd on Mr. Saxbe's behalf, after Mr. Saxbe joins the firm as of counsel, since the proposed arrangements for Mr. Saxbe's affiliation with the firm, as reflected in the Burch and Ryan Affidavits, provide that Mr. Ryan will initially be disqualified and screened from all such matters save the single category of withdrawal liability problems affecting the Central States Pension Fund, with that single exception being subject to prior approval by the Court. The proposed arrangements also contemplate, however—again, subject to prior Court approval—the establishment of procedures under which additional categories of tasks may be identified, as to which Mr. Ryan would not be required to be screened.

In this part of the memorandum, we will address the considerations that in our view would justify the initial exception for withdrawal liability problems, and that would have to govern the decision as to whether there were any additonal matters on which Mr. Ryan would not be disqualified. The considerations, in each case, are two: (1) is the matter one in which Mr. Ryan participated personnally and substantially while he was Solicitor of Labor?; and (2) is it a matter as to which Mr. Ryan possesses confidential information arising from his former position?

A. Personal and Substantial Participation

The determination of whether a particular area of activity involves a matter in which Mr. Ryan participated personally and substantially will commence with and largely turn upon the Consent Decree. Thus, any task that requires interpretation of the Consent Decree, or that looks to modification of it, would appear to be the same matter as the Consent Decree for purposes of DR 9-101(B), and so a matter on which Mr. Ryan would be disqualified. In our view, however, the fact that the Central States Pension Fund is required by Section I of the Consent Decree to obey ERISA does not raise an obstacle to Mr. Ryan advising the Independent Special Counsel on application of ERISA to the Fund, since the requirement of the Consent Decree adds nothing to the obligations preexisting under federal law. By the same token, Mr. Ryan's advising Mr. Saxbe with respect to withdrawal liability problems effecting the Central States Pension Fund under ERISA would not involve a subject that is the same "matter" as the Consent Decree.

The particularized analysis must also consider whether a given subject matter involves personal and substantial participation by Mr. Ryan while Solicitor of Labor with respect to something other than the Consent Decree: as would be the case, for example, in the event that it related to other litigation in which Mr. Ryan had participated. If so, then that would be a ground independent of the Consent Decree for disqualifying Mr. Ryan from assisting the Independent Special Counsel. Again, with respect to the particular category of withdrawal liability problems, as to which it is proposed that Mr. Ryan will be able to advise and assist Mr. Saxbe, it is our understanding that both Pierson, Ball & Dowd and the Department of Labor are satisfied that Mr. Ryan was not involved in such questions insofar as they relate to the Central States Pension Fund while he was Solicitor of Labor.

B. Confidential Information

The other question that will require consideration, as to any matter on which it is contemplated that Mr. Ryan might furnish assistance to Mr. Saxbe, is whether Mr. Ryan possesses any confidential information with respect to that matter, arising from his service as Solicitor of Labor. The source of possible disqualification on this ground is DR 4-101 of the Code, relating to client confidences and secrets. This provision reads in pertinent part as follows:

DR 4-101 Preservation of Confidences and Secrets of a Client.

(A) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested to be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(B) Except when permitted under DR 4-101(C), a lawyer shall not knowingly:

(1) Reveal a confidence or secret of his client.

(2) Use a confidence or secret of his client to the disadvantage of the client.

(3) Use a confidence or secret of his client for the advantage of himself or of a third person, unless the client consents after full disclosure.

(C) A lawyer may reveal:

(1) Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.

(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.

If, as to any matter on which Mr. Saxbe may seek his advice or assistance, Mr. Ryan is in possession of confidential information relating to such matter which he received while he was in government and which is still confidential, then absent consent of the Department of Labor to disclosure or use of such confidential information he would be subject to the restrictions imposed by DR 4-101 and subject to possible disqualification on this ground.

In fact, the possibility that Mr. Ryan will possess confidential informaton of the Department of Labor relevant to a matter in which Mr. Saxbe is involved appears to be slight—particularly if it is a matter in which Mr. Ryan did not participate personally and substantially while he was in the Department. We are informed by Mr. Ryan that, with the exception of a single category of information that would have no discernible effect as respects his ethical obligations here under discussion,[16] he is not aware of having any information regarding the Central States Pension Fund, or any proceedings relating thereto, which is confidential. While he was Solicitor of Labor he did possess some confidential information on such subjects, essentially consisting of information as to the government's expectations and intentions with respect to litigation or possible litigation. Any such information, however, now is either no longer confidential in nature, having been communicated to the interested adverse parties; or else moot, because the proceeding to which it related has been terminated or was never commenced.

Nevertheless, the question of possible confidences or secrets must be considered because the possession of such informaton with respect to a former representation may disqualify a lawyer from taking on a new representation to which the information is relevant. Indeed, in cases in which DR 4-101 is the only relevant restriction upon a lawyer's undertaking a subsequent representation, courts, have created a "substantial relationship" test, not expressed in the disciplinary rule itself, that where applicable bars the lawyer's undertaking the subsequent representation upon the basis of a presumption that in the particular circumstances client confidences of secrets are possessed, and a further presumption that they will be misused in a way that DR 4-101 forbids, arising from the relationship between the two representations. The test was explained in *Silver Chrysler Plymouth, Inc.* v. *Chrysler Motor Corp.*, 518 F.2d 751, 754 (2d Cir. 1975).

This Circuit has . . . adhered to the rule enunciated by Judge Weinfeld in *T.C. Theatre Corp.* v. *Warner Bros. Pictures, Inc.*, 113 F. Supp. 265, 268 (S.D.N.Y. 1953), that "where any substantial relationship can be shown between the subject matter of a former representation and that of a subsequent *adverse* representation, the latter will be prohibited." An as to proof, Judge Weinfeld continued: "the former client need show no more than that the matters embraced within the pending suit wherein this former attorney appears on behalf of his *adversary* are substantially related to the matters or cause of action wherein the attorney previously represented him, the former client" (p. 268). This case was the genesis of the now so-called "substantially related" test. (Emphasis added.)

As the underscored language in this passage emphasizes, the "substantial relationship" test applies only in circumstances where there is material adversity of interest between the successive representations.

We do not believe that there is need to give separate consideration to the possible application of the substantial relationship test to Mr. Ryan, as respects his prior services as Solicitor of Labor and his prospective representation of Mr. Saxbe, for two reasons. One is that an element of that test is material adversity of interest; and we think that element would not exist between Mr. Ryan's previous client, the Department of Labor, and his proposed subsequent client, the Independent Special Counsel. The other is that an appropriate identification of the same "matter(s)" in which Mr. Ryan previously participated personally and substantially should serve to prevent Mr. Ryan's participation in any work for the Independent Special Counsel from which he would be disqualified by application of the substantial relationship test.[17]

The procedures to be followed with respect to the affiliation of Mr. Saxbe with

Pierson, Ball & Dowd are such as to provide reasonable assurance that in any instance where even though Mr. Ryan was not personally and substantially involved in a matter he nonetheless possesses confidential information with respect to the matter, that will be treated as a ground for disqualification, whether it is technically such or not, and Mr. Ryan will be screened with respect to such matters. (*See* Burch Affidavit, paragraph 9; Ryan Affidavit, paragraph 7). It seems clear that this procedure should adequately deal with possible concerns under DR 4-101.[18]

VI. THE PROCEDURES PROPOSED TO BE EMPLOYED FOR SCREENING OF MR. RYAN, FOR APPROPRIATE NOTICE THEREOF TO INTERESTED PARTIES, AND FOR IDENTIFYING MATTERS AS TO WHICH HE NEED NOT BE SCREENED, ARE SATISFACTORY

A. Screening and Notice

The Code provides, in DR 9-102(A), that the personal disqualification of a lawyer raised by DR 9-101(B) is imputed to any partner, associate or lawyer with and of counsel relationship to the disqualified lawyer except as provided in DR 9-102(B) and (C). DR 9-102(B) provides that the imputed disqualification "shall not" apply "if the personally disqualified lawyer is screened from any form of participation in the matter or representation as the case may be, and from sharing in any fees resulting therefrom." Thus, DR 9-102(B) appears to raise at least a strong presumption against an argument that no screening procedure, however, carefully constructed and conscientiously observed, can prevent imputation of a former government lawyer's disqualification to all other lawyers in his or her firm.[19] The Code, however, does not prescribe a screening procedure.

Judicially approved standards for screening do exist, however. In the en banc decision of the Second Circuit in *Armstrong* v. *McAlpin, supra,* the court found adequate, at least to avoid tainting ongoing litigation, a screening procedure by which the former government lawyer "is excluded from participation in the action, has no access to relevant files and derives no remuneration from funds obtained by the firm from prosecuting the action. No one at the firm is permitted to discuss the matter in his presence or allow him to view any document related to this litigation, and [he] has not imparted any information concerning Growth Fund to the firm." 625 F.2d 442.

In *Kesselhaut* v. *United States,* 555 F.2d 791, 793. (Ct. Cl. 1977), the following procedure was determined to be adequate:

"[The former government lawyer] is to continue to have no connection with the case, all other attorneys are not to discuss it with him and are to prevent any case documents from reaching him, the files are to be kept in a locked file cabinet, the keys controlled by Messrs. Altman and Krug and issued to other attorneys, clerks and secretaries only on a 'need to know' basis. . . . When screening is used, it must, as here, be specific and inflexible."

The court quoted this standard in *Sierra Vista Hospital, Inc.* v. *United States,* 639 F.2d 749, 753 (Ct. Cl. 1981), applied the standard to the facts before it, and found that the screening procedure employed were adequate.

In *Central Milk Producers Cooperative* v. *Sentry Food Stores, Inc.,* 573 F.2d 988, 991 (8th Cir. 1978), a private antitrust action alleging price-fixing and monopolization of milk that followed a government antitrust action against the same parties, the court, taking account of the facts that opposing counsel had agreed to the screening procedures at issue and that there was no allegation of actual impropriety, approved a screening procedure that "include[s] not allowing [the former government lawyer] to work on any milk-related matter; he may not discuss the cases with anyone employed by [his firm]; he may not answer any inquiries from any litigants in the milk cases; and all documents and correspondence are screened to avoid inadvertent violation of these screening procedures."

Pierson, Ball & Dowd, through the affidavits of Messrs. Burch and Ryan, has represented that it will observe certain procedures in screening Mr. Ryan from participation in all matters involving the work of the Independent Special Counsel, except for specifically identified categories of matters as to which it is affirmatively determined that he is not disqualified. In making this determination, Pierson, Ball & Dowd will consult with the Labor Department in accordance with the procedures set forth in Paragraph 9(b) of the Burch Affidavit.

The procedures that Pierson, Ball & Dowd intends to employ to screen Mr. Ryan from involvement in matters as to which he is disqualified are described in paragraph 7 of the Burch Affidavit. The procedures include provision for the establishment of separate cases files, with the files color coded and stamped with a warning legend and appropriate memoranda to all firm personnel cautioning that Mr. Ryan is to have no access to the files and that there are to be no discussions with him regarding their contents. We consulted with Pierson, Ball & Dowd in their development of these procedures, and we believe that, conscientiously applied, they will satisfy, in the circumstances here presented, the requirement of screening stated in DR 9-102(B).

The procedures intended to ensure that Mr. Ryan will not participate in fees generated by the matters from which he is screened are described in paragraph 8 of the Burch Affidavit. In substance they provide that the firm's profit on work performed for Mr. Saxbe as Independent Special Counsel, insofar as it relates to matters from which Mr. Ryan is screened, will be put in a separate pool from its profits from all other matters, and that Mr. Ryan will share as a partner only in the latter pool, while all other partners will share in both. We note that these procedures may be more restrictive than DR 9-102(B) requires, in preventing Mr. Ryan from sharing at all in the fees generated by work from which he is screened, rather than simply preventing his receiving compensation that is directly related to those fees.[20] In our view, however, the procedure that Pierson, Ball & Dowd proposes to implement is appropriate, and, indeed, is the one that is most likely—no procedure being certain—to remove the possibility of violation of the requirement that Mr. Ryan be screened from participation in the fees.

It is obvious that any screening procedure, however carefully constructed, might be violated by unethical lawyers. To ensure observance of screening procedure, DR 9-102 appears to place primary reliance—properly and, indeed, unavoidably in our view—on the integrity of the lawyer who is screened and his colleagues, both of whom are required by DR 9-102(C) to declare (the colleagues speaking through one representative) that they will honor the procedures. We have every confidence in the integrity and the conscientiousness of Mr. Ryan and of his colleagues at Pierson, Ball & Dowd.

Only brief consideration need be given to the requirements of DR 9-102(C) with respect to notices to the interested government agency and to other parties in pertinent litigation. DR 9-102(C) provides:

When any of counsel lawyer, partner or associate of a lawyer personally disqualified under DR 9-101(B) accepts employment in connection with the matter giving rise to the personal disqualification, or when the fact and subject matter of such employment are otherwise disclosed on the public record, whichever occurs later, the following notifications shall be required: (1) The personally disqualified lawyer shall file with the public department or agency and serve on each other party to any pertinent proceeding a signed document attesting that during the period of his or her disqualification the personally disqualified lawyer will not participate in any manner in the matter or the representation, will not discuss the matter or the representation with any partner, associate, or of counsel lawyer, and will not share in any fees for the matter or the representation. (2) At least one affiliated lawyer shall file with the same department or agency and serve on the same parties a signed document attesting that all affiliated lawyers be screened from participating in or discussing the matter or the representation and describing the procedures being taken to screen the personally disqualified lawyer.

The Burch and Ryan Affidavits contain the substance of the two documents called for by this provision, with the exception that they do not include specific identification of the matters as to which Mr. Ryan is to be screened. These affidavits will have been served upon the Department of Labor and all other parties to *Donovan* v. *Fitzsimmons;* and the lists of matters undertaken by Pierson, Ball & Dowd for Mr. Saxbe as Independent Special Counsel as to which Mr. Ryan is screened, as well as those as to which he is not, when established, will similarly be served upon such parties. Notice will also be given to the same parties when any new matter, of either category, is thereafter identified. (Burch Affidavit, paragraphs 7(i) and 9(d).) We do not doubt that these measures will fully satisfy the requirements of DR 9-102(C).

B. Identification of New Matters

It is also contemplated that, subject to Court approval, a procedure will be established for identifying additional categories of matter on which Mr. Ryan need not be screened but may provide advice and assistance to Mr. Saxbe as Independent Special Counsel. The procedures are as follows. As to each such matter, it will be necessary that a determination be made by the firm, in consultation with the Department of Labor, that the matter is not one as to which Mr. Ryan (a) participated personally and substantially while Solicitor of Labor, or (b) has any confidential information resulting from his former government service. (Burch Affidavit, paragraph 9(b); Ryan Affidavit, paragraph 7.) In the event that it is determined that there is a matter as to which Mr. Ryan need not be screened, then notice will be given of that matter to other parties to *Donovan* v. *Fitzsimmons,* just as such notice will be given with respect to the identification of additional matters as to which Mr. Ryan is screened. (Burch Affidavit, paragraphs 7(i) and 9(d).) We observe that notice to potentially interested parties as to matters with respect to which a former government lawyer is *not* disqualified and screened does not appear to be required by

DR 9-102(C), which explicitly refers only to matters as to which the lawyer is disqualified.[21] Thus, the proposed procedures go beyond what is literally required. We have no doubt that the procedures are satisfactory to meet the requirements of DR 9-102(C).

CONCLUSION

As has been explained, we do not believe that the Act has any application to the proposed affiliation of Mr. Saxbe with Pierson, Ball & Dowd, or to Mr. Ryan's relationship to work performed by Pierson, Ball & Dowd on Mr. Saxbe's behalf; but it is clear that DR 9-101(B) of the Code, and in consequence the related provisions of DR 9-102(A), (B) and (C) do have some application, as may also DR 4-101. The procedures proposed to be employed by Mr. Saxbe, by Pierson, Ball & Dowd, and by Mr. Ryan to deal with these ethical provisions appear to us to be entirely satisfactory.

COVINGTON & BURLING,
By David B. Isbell.

FOOTNOTES

[1] The sweep of the Code is broader than that of the Act in the important sense that, to the extent DR 9-101(B) of the Code applies, it prohibits all forms of "private employment" by a former government employee, whether advisory or representational, while the Act prohibits only representational contacts with agencies or courts of the United States and the District of Columbia. Moreover, when DR 9-101(B) raises a personal bar against private employment by the former government employee, that bar is imputed to his firm pursuant to DR 9-102(A) unless the former government employee is screened from the matter and notice given to the screening, pursuant to DR 9-102(B) and (C). By contrast, there is no imputation of the disqualifications under the Act, and thus no requirement for screening.

[2] We understand that it has been Mr. Ryan's consistent practice to check with the Department of Labor before undertaking any representation with respect to any matter that might have been under his "official responsibility" while he was Solicitor of Labor, and to refrain from representational contacts with respect to such matters until the two-year period of the statutory bar will have run.

[3] "ERISA" is the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.* (1979).

[4] Other judicial decisions not directly relevant to the circumstances under consideration here reflect an expansive treatment of DR 9-101(B)'s term "private employment." For example, in Telos, Inc. V. Hawaiian Telephone Co., 397 F. Supp. 1314, 1317 (D. Hawaii 1975), the court rejected a former government lawyer's suggestion that he could avoid the requirements of DR 9-101(B) and represent a concededly private client by continuing his representation without compensation. The court said that "there are benefits other than fees that may be derived from prosecution or defense of a private action. It is not unknown in the practice of law for an attorney to volunteer his services in a case in order to establish or promote his reputation and exposure as bases for future gain." In Flushing National Bank V. Municipal Assistance Corp., 90 Misc.2d 204, 397 N.Y.S.2d 662, 667-68 (1977), the court followed similar reasoning in holding that a former associate of a private law firm retained by a governmental corporation could not subsequently represent, on a "pro bono" basis, in adverse, concededly private party in the same matter. It is interesting that the court described the lawyer as a "public employee," apparently within the meaning of the term "public employment," in DR 9-101(B), during the time that he was working as a private lawyer for a governmental corporation.

[5] "[T]he personal disqualification of the former government lawyer contained in DR 9-101(B) is essentially the ame disqualification required by the federal conflict of interest statute, 18 U.S.C. § 207(a)." Civiletti, "Disqualifying Former Government Lawyers," 7 *Litigation* 8, 9 (1981). See also D.C. Bar Legal Ethics Comm. Op. 98, n.4: "Section 207(a) does contain provisions similar in effect to DR 9-101(B)." There are, however, authorities that emphasize that the Code should be construed substantially more broadly than the Act. In United States V. Miller, 624 F.2d 1198, 1201 (3rd Cir. 1980), the court said: [18 U.S.C.] § 207 is not a comprehensive code of professional conduct; it is a criminal statute. . . . [N]othing in the statute . . . prevents former employees of the federal government to standards more demanding than the minimal requirements of the criminal law.

Similarly, the Second Circuit has said: [T]he Code of Professional Responsibility is not designed for Holmes' proverbial "bad man" who wants to know just how many corners he may cut, how close to the line he may play, without running into trouble with the law. . . . Rather, it is drawn for the "good man," as a beacon to assist him in navigating an ethical course through the sometimes murky waters of professional conduct.

General Motors Corp., supra, 501 F.2d at 649.

[6] It is quite possible that the quoted passage in the comment was drafted simply to address the *General Motors* case (discussed at page 11 above), and not to express a position one way or the other on the question whether a different agency or branch of the same government in which a lawyer was formerly employed is a "private client" within the meaning of the Rule. Since the comment makes clear that "private client" may mean a governmental agency, moreover, it may be read as supporting the treatment of another agency or branch of the *same* government as a private client.

[7] The Model Rules were drafted with "an overriding concern . . . that every concept be rooted in law. . . . Any yet, [they] . . . are not simply a restatement of the law of professional conduct. [In their drafting, the goal] was to produce standards bottomed on the law as it is but facing the future of a rapidly expanding and changing profession." ABA Commission on Evaluation of Professional Standards, Proposed Final Draft, Model Rules of Professional Conduct, Chairman's Introduction (May 30, 1981).

[8] The result of an affirmative determination as to appearance of impropriety would be the same as that which would follow from a determination that anything that Mr. Saxbe did as Independent Special Counsel was the same "matter" as the Consent Decree (in which Mr. Ryan unquestionably participated personally and substantially) on the grounds that the position of Independent Special Counsel was created by the Consent Decree: this question is dealt with in Part IV, at pages 24-42, below. However, the angles of approach are different: in dealing with the present question, what is required is a largely subjective application of a very general phrase, with little guidance from authority; in dealing with the scope of the term "particular matter," the language requiring interpretation and application is more specific, and there is substantial authority to guide the analysis. Still, the analysis of each question has some relevance to that of the other.

[9] Ethical Consideration 9-3 also uses the phrase "appearance of impropriety," in the following context: "After a lawyer leaves judicial office or other public employment, he should not accept employment in connection with any matter in which he had substantial responsibility prior to his leaving, since to accept employment would give the appearance of impropriety even if none exists." [Footnote omitted.]

[10] In its Opinion 111 (1982), the Committee cited with approval the statement by the ABA Committee on Ethics and Professional Responsibility, in its Formal Opinion 342, p. 3 (1975), of the evils that DR 9-101(B) is intended to prevent: "The policy considerations underlying DR 9-101(B) have been thought to be the following: the treachery of switching sides; the safeguarding of confidential governmental information from future use against the government; the need to discourage government lawyers from handling particular assignments in such a way as to encourage their own future employment in regard to those particular matters after leaving government service; and the professional benefit derived from avoiding the appearance of evil."

[11] This subject is more fully treated in the discussion of the possible application of DR 4-101 in Part V.B of this memorandum, at pages 45-50 below.

[12] For the purpose of this analysis it is of no moment whether Mrs. Saxbe in fact seeks the assistance of Mr. Ryan or any other lawyer at Pierson, Ball & Dowd on any such matter with which he is involved. It is clear that Mr. Saxbe's joining Pierson, Ball & Dowd as of counsel would require the screening of Mr. Ryan even if Mr. Saxbe did not get advice or assistance from Mr. Ryan or any other lawyer in the firm. According to the pertinent part of DR 9-102(A): "If a lawyer is required to decline or to withdraw from employment under DR 9-101(B), on account of personal and substantial participation in a matter . . . no . . . lawyer with an . . . of counsel relationship to that lawyer, may accept or continue such employment except as provided in (B) and (C) below [for screening of the personally disqualified lawyer]."

Thus, Mr. Saxbe would be barred from undertaking certain duties within his mandate as Independent Special Counsel to the extent that those duties involved particular matters involving specific parties in which Mr. Ryan participated personally and substantially so Solicitor of Labor, unless Mr. Ryan were screened from those matters.

[13] In a recent decision not yet reported, Judge Harold Greene of the United States District Court for the District of Columbia looked carefully at DR 9-101(B) as it applied to a lawyer representing a plaintiff airline in an antitrust suit against other airlines. Certain of the defendants sought to disqualify the lawyer on the ground of the lawyer's prior government service in matters relating to airlines in several capacities, in both the United States Department of Justice and the Civil Aeronautics Board. Laker Airways Ltd. v. Pan American World Airways, C.A. No. 83-0416 (D.D.C. June 26, 1984). Issues as to both whether the same "matter" was involved, and if so whether the lawyer participated "personally and substantially" in it were presented. After discussing both the policy purposes underlying DR 9-101(B) and the particular facts of the case before it, and taking a relatively narrow view of the term "matter," the court denied the motion to disqualify.

[14] DR 9-102(B), which is unique to the District of Columbia, prescribes that screening can be effective in such a case. The Disciplinary Rules applicable in *Armstrong* had no corresponding provision.

[15] *See* the discussion of "appearance of impropriety" in Part III at pages 17-24, above.

[16] Mr. Ryan does have certain confidential information relating to tax returns of certain individuals having a relationship to the Central States Pension Fund, which information Mr. Ryan learned in his official capacity for law enforcement purposes as authorized by Section 6103 of the Internal Revenue Code, 26 U.S.C. § 6103 (1982). That provision prohibits (with certain exceptions not here applicable) a recipient of such information, on pain of criminal penalty, from disclosing such information to any other person. Since the statutory prohibition on disclosure of this information is more comprehensive (as well as more severe) than any conceivably applicable ethical one, we do not believe that there could be a presumption that the information would be misused such as is involved in the "substantial relationship" fact discussed at pages 48-49 below, so as to make possession of this information a ground for disqualification.

[17] In the *Brown* case, *supra*, both the majority and the dissent in the Court of Appeals panel, and in addition the D.C. Bar's Legal Ethics Committee in its *amicus curiae* submission, in effect treated the phrase "substantially related," as used in the "substantial relationship" cases applying DR 4-101, as being synonymous with "same matter" for purpose of DR 9-101(B).

[18] It may be noted that the analogue of DR 9-101(B) in the ABA's Model Rules would deal explicitly with certain kinds of confidential information possessed by former government lawyers:

Rule 1.11 Successive Government and Private Employment

(b) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is screened from any participation in the matter and is apportioned no part of the fee therefrom.

(e) As used in this Rule, the term "confidential government information" means information which has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

ABA Model Rules of Professional Conduct (August 1983).

[19] Some courts have taken that position. See Cheng v. GAF Corp., 631 F.2d 1052 (2d. Cir. 1980), *vacated on other grounds*, 450 U.S. 903 (1981) (in which the individual lawyer's disqualification arose from knowledge of the confidences and secrets of the adversary of his new firm's client, not from prior government employment); In re Asbestos Cases, 514 F. Supp. 914 (E.D. Va. 1981), *aff'd without opinion by an equally divided court sub nom.* Greitzer & Locks v. Johns-Manville Corp., 710 F.2d 127 (4th Cir.) (en banc), *cert. denied*, 459 U.S. 1010 (1982) (where a lawyer had participated personally and substantially in the defense of the United States in product liability actions regarding asbestos brought in federal court in Norfolk and in the coordination of all asbestos actions in which the United States was named or became a party, and while those actions were pending, switched sides by joining a six-person law firm that represented plaintiffs in asbestos cases in the Norfolk court and other courts). In neither case was there an applicable provision like DR 9-102(B), specifically contemplating screening as a means of avoiding imputation of an individual lawyer's disqualification.

[20] Rule 1.11(a)(1) and (b) of the ABA Model Rules of Professional Conduct require that the former government lawyer "is apportioned no part of the fee" from matters as to which he or she is disqualified—a requirement that is presumably no different in substance from DR 9-102(B)'s requirement that the lawyer be "screened . . . from sharing in any fees resulting therefrom. The comment to this Model Rule states:

Paragraphs (a)(1) and (b) do not prohibit a lawyer from receiving a salary or partnership share established by prior independent agreement. They prohibit directly relating the attorney's compensation to the fee in the matter in which the lawyer is disqualified.

[21] The notice requirement in the Model Rules' analogue to DR 9-102(C) is narrower than that provision as respects parties to whom notice must be given (being limited to the government agency and not including parties to pertinent litigation), but apparently somewhat broader as to substance. In pertinent part, the provision reads:

Rule 1.11 Successive Government and Private Employment

(a) . . . No lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

ABA Model Rules of Professional Conduct, Rule 1.11(a) (August 1983).

[From the Wall Street Journal]

SENATE S&L COP-OUT?

On Monday, former federal banking official William Isaac called the S&L mess "the largest bailout in the history of the world." Today, the Senate, the World's Greatest Deliberative Body, may well vote the biggest copout since it violated the U.S. Constitution to slam former Senate employee Danny Wall into a top job in the thrift bailout.

A federal judge ruled recently that the Senate's Wall maneuver skipped the Constitution's clearly stated appointments requirement. A nomination hearing for Mr. Wall would have risked airing questions and unflattering publicity about some of the Senators who've been carrying water for Charles Keating, the S&L financier.

The Bush administration has nominated a Washington lawyer named Timothy Ryan to take over the headless octopus called the Office of Thrift Supervision. Last Friday, the Senate Banking Committee cleared Mr. Ryan by an 11 to 10 vote, and his nomination may come before the Senate for a full vote today. Senate Banking Chairman Don Riegle, who was on the losing side of the committee vote, now is attempting to defeat the nomination on the floor. He is arguing that a leaked FBI report about Mr. Ryan's flirtation with drugs 20 years ago isn't an issue. "Competence" has become the Senate Democrat's rallying cry. We think the leaked drug report deserves some further reflection.

Mr. Ryan's voluntary admission to the FBI was leaked to NBC within hours of the Democrats' loss on the committee vote. Senator Riegle quickly put out a pro forma statement about not condoning the leak of raw FBI files, but all Senators will have to evaluate for themselves, etc. etc. Meanwhile, every subsequent story on Mr. Ryan's nomination has had to mention the drug-use incident.

The fact is, win or lose on the Senate vote, the leak means that Timothy Ryan's professional and personal life in Washington forever will have this tin bell dragging behind it. Mr. Ryan agrees to serve his government by taking a truly awful assignment, and in return gets this nightmare. But we're not too surprised that Senator Riegle would yawn at a breach of FBI confidentiality. This is the same Senate that held a linen handkerchief to its nose while raw FBI data engulfed a former colleague, Senator John Tower.

Congress however, does try to defend those who reside within its walls. Recall the tumult over the false leak suggesting that Rep. William Gray's office was involved in a criminal investigation. Under a stern request from Senate Judiciary Chairman Joseph Biden, the Justice Department committed 11 FBI agents who spent a total of 385 days unsuccessfully trying to find the leaker.

How many qualified men or women, in the wake of the Ryan FBI leak, will now consent to subject themselves to this milieu, especially if Mr. Ryan is defeated? We frankly had thought that the appointment of Mr. Ryan, a Beltway insider, was itself a sign that people beyond Washington were refusing offers to serve. It now appears that Congress will let the political dogs loose on anyone beyond its own doors. Again, it was Danny Wall, former Banking Committee Chairman Jake Garn's aide, who slipped through the normal confirmation process.

Senate Majority Leader George Mitchell now talks of "widespread concern" over Mr. Ryan's qualifications. We are beginning to wonder if indeed Congress doesn't have cause to worry about Mr. Ryan's skills. He is a lawyer and his federal expertise is in enforcement. Not being part of the cozy, S&L-Congressional old-boy network, he obviously doesn't have to worry about whom he offends in the thrift business because it isn't likely that he'll ever be looking for a job with them. His most noteworthy asset is his independence.

Anyway, wasn't it the "experts" who got the country into this $200 billion hole? Congress voted the deposit insurance limit up to $100,000, which put it way out of Mom and Pop's league and into the hands of the high flyers. The S&L "experts" then put billions of dollars into doomed and wild projects, and the system is now in the tank.

Maybe somewhere out there in America is the one "expert" who can rescue Washington from its past follies with the thrift system. But he isn't coming to Washington; he has read how the city devours its own and he is fleeing from it.

In the final analysis, the Senate vote on the nomination should be viewed as a vote on the fundamental seriousness of the Senate's commitment to a solution. If, however, the Senate's vote rolls the thrift supervisor's job into limbo, President Bush should consider taking control of the situation by making a recess appointment. Without resolve by some responsible Washington party, the S&L crisis is going to turn into another American quagmire.

(Mr. BRYAN assumed the chair.)

Mr. DOLE. Mr. President, in fact, Tim Ryan should be commended, not condemned, for his work in the Central States matter. He should be commended, not condemned for helping to put a multibillion pension fund back on firm financial footing. And he should be commended for receiving not one, but two, written opinions to establish and clarify the ethical basis for his assistance to former Senator Saxbe.

Finally, allegation No. 3 concerns Mr. Ryan's representation of the National ESOP Association while he was a member of the ESOP subcommittee of the Labor Department's Advisory Council. Mr. Ryan was advised that he could not do both, that he could not represent the ESOP Association and sit on the Advisory Council at the same time.

So what did Tim Ryan do? He did what is right. He did what he ought to do. He takes the ethics advice and promptly resigns from the Advisory Council.

And I might add that the Advisory Council's ESOP subcommittee has never met once, not once. So one has to wonder whether a real conflict of interest ever existed in the first place.

Some say, well, it is no problem if they vote the nominee down. We will get another one. Somebody will walk by. Tourists are around. Maybe we can pick one out. These critics leave the impression that it is easy to reach out, touch someone, and get a nominee. But then you have to have the FBI check and go through all the other checks that take week after week after week. It is not easy for the President to go out and find another nominee.

It is very difficult, as my colleagues know, to get an FBI clearance. It is getting more and more difficult around here to even have an FBI report. Somehow someone will see that the report gets leaked to the media.

It takes awhile for someone who has been nominated to get prepared, physically and emotionally, to run through the congressional gauntlet, particularly when leaks from FBI files seem to be more the rule than the exception.

We cannot sit around and wait for the RTC to speed up the asset disposition process. And notwithstanding the legislation that the distinguished chairman has prepared, we cannot wait for the court of appeals to overturn the Olympic Federal decision, which placed the actions of the current OTS Director in a cloud of legal doubt.

I think that is why it is important we confirm this nomination. It should

not be partisan. It ought to be nonpartisan.

I have a sneaking suspicion that much of this debate is not really about Tim Ryan. It may be an exercise in political self-protection, and it may be about writing the opening chapter in who is really to blame for the savings and loan mess.

Hardly a day goes by when a zinger, a squawk, or some other critical comment is not launched at the FDIC, or the RTC, or the OTS, from the cozy Halls of Congress. This is not surprising. It is very easy to sit back and play bash the regulator. We have all done it. I am guilty myself. It is easy to go after the regulator.

Sometimes we criticize the regulator because we should do it. Do not misunderstand me. Congress is not powerless. And we represent the people who send us here.

I will give you an example. Congress bashed Danny Wall and the Bank Board in 1988 when the Board cut some last minute deals to salvage certain large institutions in the Southwest. And despite all the bad press and all the criticism from Congress, these deals look pretty good in retrospect.

The congressional headhunters were at it again when they criticized the FDIC for taking some responsible risks and adopting the accelerated resolution program and the open thrift assistance program.

Now we have another congressional cluster bomb dropped on the head of the nominee, the OTS nominee, Tim Ryan.

People who have met with Mr. Ryan, I think, have been satisfied. Now I recognize that he did not have the answer to every question the Senator asked and he really did not have that much time to study up on all the answers. But, again, I go back to where I started. If you want some expert, someone who can answer all these questions, someone who will not say "I do not have a view," then I guess you may have a problem with the nominee.

But I think the American people should know that Congress has been part of this S&L problem, too. It would seem to me, if I were on the other side, I would want to confirm Mr. Ryan and, if it did not work, then I would say, "We told you so."

The last time I read, the confirmation process is supposed to occur in the Senate, not in the committee. I heard the distinguished Senator from Illinois [Mr. DIXON] say we should have killed this in the committee. The Constitution does not say that a Senate committee can confirm or reject nominees. That is a practice I hope we do not start. But it has been increasing in the past several years.

I would just say, finally, that not too many Americans are willing to turn their lives inside out, particularly to take on a thankless job like Director of OTC. This man did not ask for the job, but when he was asked by the President to serve, he said, "yes." Is he to be penalized because he said "yes?" He put his professional and personal reputation on the line. It is an immensely difficult task, and I think he deserves to be confirmed.

I would like to make one final point, not about Tim Ryan, but about the process itself. We have all heard about the leak from the FBI files. I think the leak was certainly inappropriate, and probably unethical. I just hope that sooner or later we are going to realize, whether Republicans or Democrats, that a nominee is not a criminal suspect on trial but the considered choice of an elected President.

I note in today's paper that the distinguished Senator from Delaware, Mr. BIDEN, talked to Attorney General Thornburgh concerning leaks surrounding the Bill Gray investigation. I think Attorney General Thornburgh properly responded by saying, "We are going to review the case."

These days, after someone has made an allegation, you can spend the rest of your life trying to put out the fire. Ray Donovan said after acquittal in the trial, after months and months of allegations and attacks by the liberal media, he said, "Where do I go to get my reputation back?"

We owe the nominees, whether Democrats or Republicans, some respect. We should not be using FBI files just as an excuse to smear someone. We are all in public life. We know what it is like when someone starts a story or someone starts a rumor. We are all suspect in the eyes of some.

Mr. President, if we want to succeed, if we want the S&L crisis to be met head on, let us give Tim Ryan a chance. Has he done anything not to deserve a chance? He did not solicit the job. In public service or anything else, when you are asked to do it, you do it, unless there is some compelling overriding reason.

So I want to say, as I close, I congratulate the chairman on the speedy hearings. He did not wait. He did not delay the confirmation.

I hope we reach into our hearts and take a look at this person and understand what he has done. His record has been good.

What he may have done 17 years ago is public, and it ended 17 years ago. If he is to be held up to that standard, then we are going to wipe out a generation of men and women who are about that age, who may have experimented at one time or another with some type of drug. Keep in mind that in an earlier generation, it may have been some other vice. And in a future generation it may be something else.

So I hope there is still time for bipartisanship in the debate that follows. Perhaps we can end up as we did yesterday, together up in the press gallery, Republicans and Democrats. Perhaps we can have Republicans and Democrats saying that we worked together to produce the right result.

Admittedly, clean air legislation is a little different than a nominee, but I still believe the same spirit is here today.

Mr. RIEGLE. Will the Senator yield?

Mr. DOLE. Yes.

Mr. RIEGLE. I listened with great care, and I have great respect for what the Senator says. I have great respect for the minority leader, and I am actually sympathetic to a number of the points he raised here. I want particularly to associate myself with his last remarks just prior to his closing comment here.

I want to join him in the strongest possible way in condemning any release of material in FBI files on anybody at any time. There is no excuse for it. There is no justification for it. I do not think there is any basis on which it can be condoned. I condemn it and I did when I learned about it. I object to it strongly. I think it is improper.

I also feel, as he has expressed, and associate myself with his comments, that this nominee has publicly indicated what the history was in his own case back, I think, as the Senator said, 17 years ago. Every Senator has to make his own judgment. I made mine. I do not think that has any part, speaking for myself, in the consideration of the fitness of this nominee, and particularly so, given the review of his professional and personal life since that time. As a matter of fact, Senator WARNER and I met this morning with the nominee together to discuss that issue and also just the independence issue.

I think Senator WARNER feels as I do, and as the minority leader has just expressed. I think this issue has arisen in this has just expressed. I think this issue has arisen in this context. It might have arisen any other time in any other context. This is as good a time as any to deal with it head on. I think it is very appropriate that these comments be made and that we make a record here that will be in place in terms of other situations that might come down the track.

Mr. DOLE. Mr. President, I thank the distinguished chairman. I need to go to the Judiciary to introduce a nominee at 2:30. I have not collected his FBI files.

But I certainly agree with the Senator from Michigan. I think we all share that view. I hope that this, whatever happens, will not recur. I thank the chairman.

Mr. WARNER. Mr. President, we thank the distinguished Republican

leader for coming forth and speaking in such a courageous manner on behalf of this nominee.

Mr. President, there was a most unusual occurrence this morning. Mr. Ryan was in my office and not more than 30 minutes before the scheduled time in which this debate was to take place, we received a call from the distinguished chairman of the committee, the Senator from Michigan, inviting the two of us to come over. To me, it will be one of those moments I will always remember in my Senate career, because I recognize the two of us had to take different positions today on the floor of the Senate.

But, first, the chairman said to Tim Ryan, If it is the will of the Senate that you take this responsibility in accordance with the request of the President of the United States, then you are going to have my full support and we going to work together as a team to address the many problems, because this industry is important to America and I—the chairman—"working with you, want to help this industry."

We covered the problems of the FBI matter and basically agreed that the consideration of that, although important to the Senate, should be saved for another day.

Second, we covered the question of the use of controlled substances by Mr. Ryan, something that he has fully disclosed in his own statement publicly on March 30 quite apart from the FBI documentation. To clarify one point that was of concern to the chairman and indeed other Members of the Senate, was his reference to possibly using a controlled substance "once, perhaps twice." This occurrence took place on one evening, not sequentially with a separation of time.

Admittedly, he said it was a mistake, a mistake. But he felt it was important to be totally honest. I have the form here, the form requiring the information. The forms now require 20 years of life history as opposed to 5. This candid admission goes to the character of the man, together with his wife, recognizing the importance of the position which he is about to assume, subject to the confirmation of the Senate.

So I thank the chairman for making that meeting possible. And Mr. Ryan likewise thanks him for making that meeting possible.

Mr. RIEGLE. I thank the Senator from Virginia. I think it also should be said, in the spirit of the comments of the minority leader, I think it is very widely shared here that events that may have occurred in someone's life at some distant point, in this case 17 years ago, for which he himself has expressed a regret and wishes were not so—I mean people cannot have the whole rest of their lives carried out under some kind of a shadow or a cloud because of that. I do not know how situations like this are best handled. Under some circumstances, sometimes they just roll into play and you have to deal with it as it is.

But again, I think we ought to look at this candidate based on his qualifications, based on what he brings to the job. As the Senator says, he and I have a disagreement on that, but we do not have a disagreement with respect to these other issues, and it is important that we lay that out.

Mr. WARNER. Mr. President, I thank the chairman again.

As I stated earlier, Mr. Ryan and his wife are part of a generation who are coming forward now to take on positions of major responsibility in Government, in the private sectors, in their communities. It would be a mistake for America to write off those persons—hopefully few in number—who may at one or more times many years ago experimented with controlled substances, but then had the courage and the tenacity to reject them thereafter and subsequently work within their community and to help others not make the same mistake. To me it would be a bad policy to write them off without carefully studying each case. We would indeed discourage qualified individuals from even thinking of stepping forward to accept positions of leadership. The FBI form for potential Presidential nominees is quite intimidating. Here is a man who faced it and faced it honestly. I hope other members of this generation who have capabilities come forward into leadership positions, be it private or public, and show the same measure of courage.

We have to examine each case on its own merits. We cannot condone the use of these substances in any fashion, but should look at each case. And where up front, honestly, a person makes the disclosure and is willing to subject himself and his family to continued scrutiny, public or otherwise, somehow it seems to me that it shows a measure of their courage and ability to take on tough jobs. And that, in many respects, is the case we have at hand.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KOHL] is recognized.

Mr. KOHL. Mr. President, there is something suitably symbolic about the nomination of Tim Ryan to head the Office of Thrift Supervision. It mirrors all the mistakes that created the S&L mess. It is yet another quick fix to a problem that cries out for a long-term solution, and I believe that is wrong, and I therefore cannot support Mr. Ryan's nomination.

Mr. Ryan is by all means a fine, decent human being. When I met with him earlier this week I found him to be sincere, well meaning and intelligent. At the same time, everyone agrees that he has no special expertise or knowledge about the thrift industry.

When I met personally with him I was struck by his inability to formulate any vision of where he wanted the thrift industry to be next year or 5 years from now. This, even though the Director of the Office of Thrift Supervision has the explicit responsibility for guiding Federal policy toward the thrift industry.

So there we have it, Mr. President. A well-meaning person with no evident experience or background or vision to deal with this problem. Is this not, Mr. President, the approach that got us into the S&L trouble to begin with? Like everyone else I condemn the crooks who fraudulently stole money from their depositors but I generally do not find much fault with the S&L industry. They simply went as far as the regulations or lack of regulations allowed them.

Where I do find fault, however, is in the Government that stuck its head into the sand instead of taking the tough measures that were needed. This problem was allowed to fester for years. Strong action taken early could have nipped the entire terrible problem that is now upon us in the bud. But those actions were not taken and every taxpayer in the land will yet pay as much at $4,000 for that mistake.

We have created a financial crisis of unprecedented proportions that has many, many years to go before it is completely resolved. So, onto this stage the administration now sends us Tim Ryan.

Mr. Ryan has at least one thing going for him, he is not associated with any of the mistakes of the past. His lack of experience and expertise does mean that he was not involved in any of the policies which helped produce his problem. But he does not have the background or the experience to suggest or implement any of the ways to get us out of this mess.

I cannot imagine why the administration did not nominate a person with experience and knowledge of the thrift industry. The fact that this was a vacancy to fill did not take them by surprise. They have known about it for several months. They could have done better. They should have done better. I just plain do not believe the suggestion that they could not get a more qualified person to agree to serve.

But the administration did delay, and they did not get a qualified candidate. Now they tell us that we have to vote for Mr. Ryan or the world will end. Well, let me make two points about that.

First, when I discussed this nomination with Secretary Brady I was told we had to confirm Mr. Ryan because of the court cases challenging the le-

gality of the actions of the OTS. There are, however, other ways to fix this problem, as we know. We need not rush to judgment in order to deal with that problem. We need not settle for second best, in order to avoid the worst case.

But, second, keep in mind that we are asking the head of the OTS to review, in the next few weeks, over 1,000 decisions which were made by his or her predecessor. Mr. Ryan, as bright as he is, simply does not have the knowledge or the background or the experience to analyze and make those decisions. If we rush to confirm him now, we will force him to rush to make judgments he simply is not qualified to make.

So it comes down to this. For me, I admire Mr. Ryan but I cannot vote to confirm him. He is simply not qualified to manage an S&L individually, much less to regulate the entire industry. If we reject his nomination we will be saying that we are not going to settle for quick fixes any more. We want the S&L mess addressed, not just managed. Mr. Ryan cannot do that and our country deserves somebody who can.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, much has been said about the nominee, Mr. Tim Ryan. First of all, I would like to advise my colleagues, in case they might have forgotten, I am not a member of the Banking Committee. However, I did spend in my non-Senate life, 25 years in commercial banking, 25 years of competing in a marketplace where S&L's played a very prominent, positive, meaningful role providing low-interest rate long-term mortages for America's hombuyers.

The question we have before us is the qualifications of one Mr. Tim Ryan. This Senator would suggest that, as a lawyer for the last 16 years, a member of a prominent firm, a Solicitor for the Department of Labor, a professor of law at Georgetown University, and in his capacity at the Department of Labor having an oversight of some 600 attorneys, that these indeed are qualifications for this position.

There are those who suggest that, because of his lack of expertise in finance, in the thrift institutions in particular that somehow he is not qualified.

I think it is fair to say as we examine this reality, that the qualifications listed before us will not exempt us from the risk associated with any nominee being appointed for a responsible position, and this, as the Director of the Office of Thrift Supervision, is certainly a responsible position. It is probably the hottest seat in Washington, DC.

I think it can be suggested that as a consequence of lack of experience in the thrift industry, that had we had somebody with exactly those capabilities, there would have been suggestions that somehow he had a conflict of interest because of that intimate knowledge. The question before us is based on the responsible and reasonable qualifications of Tim Ryan. Is he up to the task ahead?

I think it is quite reasonable to assume that he is. Obviously he has the confidence of the Secretary of the Treasury. He has the confidence of our President. And there is a practical aspect of American business that suggests that you hold those at the very top positions responsible for their appointments, and it is of course appropriate that the Senate address these as well. That is what we are doing.

But what I am suggesting to my colleagues is that we are not simply going to take the risk out of the nominee. It is appropriate that we examine his qualifications. This Senator is satisfied that these qualifications are quite reasonable, that the nominee is quite responsible and capable of making the tough decisions that are going to be necessary for the head of the Office of Thrift Supervision.

As we go about selecting a new Director of the OTS, I suppose it is appropriate that we all reflect on the real causes of the thrift crisis. What got us into this hole? I think Pogo may have said: "The enemy is us." That is probably more true than any other evaluation of just how we got into this hole.

I believe there are two main causes of the crisis. One is certain aspects of deregulation. When Congress deregulated the thrift industry, I feel, the writing was on the wall. It did not take a financial genius to see that the thrifts, with the long-term fixed rate mortgage portfolios were destined to fail when they lost control of their short-term cost of funds.

One of the first rules of corporate finance is never borrow short and lend long. The thrifts were totally unprotected from wildly fluctuating interest rates.

Mr. President, I ask unanimous consent to have printed in the RECORD a question and answer from a Time magazine article dated April 9, 1990. It took place in an interview by a Time correspondent, Margaret Carlson, with Mr. Charles Keating.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Q. But with these direct investments you were trying to have it both ways: you stood to make a lot, but if the investment went sour it was the taxpayer who bore the risk.

A. Mortgages are risky too. Let's say you have a billion dollars out in home loans, and the average rate on those home loans is 5%. But then rates go up and you have to pay more to attract deposits. So all of a sudden you're paying out 8%, but you're still catching 5% coming in. That loan's bad right now. You're out of business. There's no way you can ride that out.

Mr. MURKOWSKI. I refer to one specific question to substantiate my contention that indeed deregulation played a major role in the failure of the thrifts.

The question was asked of Mr. Keating: "But with these direct investments, you were trying to have it both ways: You stood to make a lot, but if the investment went sour, it was the taxpayer who bore the risk."

Mr. Keating's reply: "Mortgages are too risky."

I think what he really meant to say was on mortgages, the return is too low.

He goes on to say:

Let us say you have a billion dollars out in home loans and the average rate on those home loans are 5 percent. But then rates go up and you have to pay more to attract deposits. So all of a sudden you're paying out 8 percent, but you're still catching 5 percent coming in. . . .You're out of business. There's no way you can ride that out.

Mr. President, I contend that the deregulation of interest rates created an environment for people like Charles Keating to operate in. They had a fixed-rate mortgage portfolio in those institutions. They generated a rate of return to solicit new deposits and maintain those that they had for going out to other institutions that were paying higher rates. In order to attract and maintain a positive yield on that deposit base, they had to make speculated investments—junk bonds, speculative real estate, and so forth. They had to do that to generate income to pay to attract and maintain deposits because they were paying higher rates.

But they had a fixed-rate, long-term mortgage portfolio that they could not do anything about, and they were competing with commercial banks that had short-term portfolios, short-term bond investments, short-term investments as a whole; that as they matured, they could go out and get higher returns to pay higher rates brought about by deregulation.

I do not know where all the advisers were at the time we looked into the merits of deregulation on the thrifts. But I can tell you, as one who competed in that marketplace, it was common discussion among commercial bankers that the thrifts were going to go through a very difficult period of readjustment in competing in a marketplace that was unregulated, in their ability to continue to maintain their deposit base when rates were off and, among many who were familiar with the difficulties of providing new services, such as checking accounts and other services that the thrifts were al-

lowed to go into after deregulation and the inability to contain the cost of providing those services, that it would be a very difficult time. I do not think anybody dreamed to the extent that we would see the deterioration of the thrift system as a consequence of deregulation.

I bring this out in some detail as one who was involved, again, in a competitive position to simply try and explain to my colleagues perhaps not quite as familiar and a little more inclined to generalize on how such a thing could happen, and perhaps my explanation will be of some help.

The second point I think deserves examination, Mr. President, is the question of regulatory oversight. Were weak regulators a major cause of the crisis? I do not know. Perhaps the regulators chosen were too close to the thrift industry. Maybe they were not tough enough. Clearly, we need regulators who will stand up to industry and political pressures to protect the interest of American traxpayers.

I do not know that regulators have a wide authority. They can issue cease-and-desist orders against boards of directors. The implications of that, as a board of directors, is certainly significant and it has criminal penalties that go with it. So as we reflect on the causes of this crisis in the thrift industry, it is fair to say that the regulatory oversight was clearly lacking and bears a reexamination as we attempt to fix this tremendous drain on the American taxpayer.

Much has been said, again, about the process we are in today. The opposition to the nomination has been mentioned by some of our colleagues across the aisle. The question of partisan politics has been raised from time to time. Perhaps this is an opportunity to take our President to task to some extent. Our President certainly is experiencing unprecedented popularity. I do not know whether Tim Ryan is a pawn in a political game or not. Others have suggested that Mr. Ryan is not one of the boys in the S&L industry. The opposition perhaps wants one of their cronies to continue to play a role in the regulatory process.

I think we all agree the American taxpayer has paid enough for the S&L debacle. I think it is time to bring in outside regulators who have the capability of making decisions and will make some waves. It would be my suggestion that after Mr. Ryan is confirmed that he make his tough decisions up front.

The American public must know the full extent of the S&L bleeding, when it is going to stop, and how much it is going to cost the taxpayers. We are continually exposed to the realization that there are more losses ahead. I believe that Mr. Ryan is up to the task of meeting with other regulators to see how deep the hemorrhage is. I believe he has the experience and capability as a manager to walk into this situation and basically make two policy commitments: One is to support his field regulators in their efforts to enforce existing regulations; and the other is to determine how deep the hemorrhage is, identify it, and say this is the extent that the American taxpayer is going to be subjected to—and no more.

So, Mr. President, I think as we address the nominee before us, we should recognize that this man has gone through a difficult process already. The question of leaks of an FBI report is something that is probably more a reflection and a condemnation of this body, than of Mr. Ryan. It is probably appropriate that each of us reflect on the difficulty of a nominee who is required under oath to tell the truth but is of the assumption that the truth will be kept within the confines of certain restrictions. Unfortunately, that has not been the case in this instance.

I think the nominee, Mr. Tim Ryan, meets reasonable and responsible qualifications. As a consequence, he should be confirmed by this body. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I know there are anxious Senators who desire to speak on both sides, but for the moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, it was 8 months ago today—on August 4, 1989—that I stood on this floor with seven of my colleagues to oppose the final dimensions and outline of the S&L bailout bill. At that time, I told my colleagues that I was profoundly disturbed by the nature of that compromise, and I was personally convinced that it would not minimize the cost to America's taxpayers; it was poorly structured, and would not solve the problem.

Mr. President, I have become even more disturbed as the fiasco has unfolded. The administration's attempt to implement this cleanup has been a complete disaster.

A number of weeks ago, I met with a person who is one of the most knowledgeable individuals in the private sector with respect to what is happening with the S&L bailout. He has had hundreds of employees doing due diligence work on institutions around the country, and he told me:

> Senator, this bailout is going to cost not the $50 billion, not the $100 billion, not the $150 billion that you were told, it is going to cost $300 billion to $500 billion.

As we watch this unfolding disaster, the administration has failed test after test with respect to the implementation of that cleanup legislation. They have not been able to attract and retain experienced, qualified leaders; a top official has resigned, taking his top deputy with him. Other key positions remain unfilled. When Daniel Kearney, the Director of the Resolution Trust Corporation, resigned, he intimated he was unable to work independently.

In January, the President submitted his budget without honestly indicating the amount of working capital necessary for the ongoing cleanup. More importantly, the President failed to indicate how that money would be raised. Top administration officials have differed over the basic policy questions regarding the Government's takeover policy, the sale of seized assets, and the future of the thrift industry. The political questions of how the ongoing cleanup appears seem to be dominating the current discussion.

Finally, Mr. President, the delays in the cleanup are intolerable. It has taken 3½ months to find a replacement for the top job for the cleanup. Now the administration is demanding immediate action on this nominee. Meanwhile, the cost of the cleanup grows and the public is largely in the dark about what is occurring.

Mr. President, we are truly in the midst of an administration leadership vacuum in the cleanup operation.

The stakes are extraordinarily high. In 1989, the thrift industry experienced record losses—$19 billion. In the last quarter of 1989, thrifts were losing $30 million a day. Over the course of this cleanup, the Government will be forced to make policy decisions in which tens of billions of our taxpayers' dollars hang in the balance.

As I indicated earlier, analysts are now predicting that this bailout may cost from $300 to $500 billion. Let us put that in perspective. The price of this bailout is the single biggest nonappropriations expenditure ever considered by Congress. That is what we are facing.

Now the administration comes forward with this nominee. I had no view on this nominee until I reviewed the transcript and began looking at, number one, the qualifications of this individual for this job, and, number two, his specific responses to questions. I am appalled at what I see, absolutely appalled.

Mr. President, this man has virtually no experience in the financial services industry. He is an outstanding lawyer. As far as I know, he is an outstanding person. That is not the question. This man has no direct experience in the financial services industry. And this is the biggest financial services industry job anywhere in America, anywhere in the world.

Secretary Brady suggests that maybe having no experience is good, that this man would be untainted. Goodness me, goodness me. If we were the board of directors of a major financial services company and we were seeking a new chief executive officer, would anyone seriously suggest that we seek out someone who has no experience in the financial services industry? What is going on around this town? What is happening to basic good judgment?

This makes no sense. If there ever was a case of the emperor having no clothes, this is it. The President has sent us a nominee for the most important financial industry job we have ever had in this country, and the man has no experience? I honestly do not know how this can be taken seriously.

I have to wonder, have we taken leave of our senses? We ought to be seeking out the person in this country with the greatest experience in the financial services industry. That is what we ought to be doing. There is no question about it.

(Ms. MIKULSKI assumed the chair.)

Mr. CONRAD. But, the transcripts from Mr. Ryan's confirmation makes clear that the administration did not propose an experienced nominee. When I was reading this transcript, I noticed that this nominee, who again I state clearly is an outstanding lawyer, with a very distinguished career at the Labor Department and his law firm, is plainly unqualified for this important position. Mr. Ryan himself admitted that he was surprised to have gotten the call from the administration. Let me just read from the transcript. He says:

To be quite frank with the entire panel, I was surprised when I received a call.

It seems to me, Madam President, we should be having somebody take over this job—a job that is among the most critical in our Nation's history with respect to the financial services industry—we ought not to be having a man who was surprised when he got the call. We ought to be getting a person whom everyone in this country would recognize immediately as an expert in the financial services industry, and who is without question a person of unparalleled experience and ability.

That is not what we have. Madam President, I went through the record. I went through and looked at the responses to specific questions. I looked at the reaction of Senators, even Senators who voted for this man.

Senator MACK:

What concerns me, frankly, is that under the very difficult circumstances, you do not have the financial, you do not have the background or the scope of knowledge, if you will, to try to understand what is in fact taking place in the trenches of those financial institutions in the country.

Senator SHELBY, who also voted for him:

After looking into your background, some of which I did not have yesterday, and I did have a nice conversation with you, it appears to me that you would certainly be a candidate for Secretary of Labor, or something like that, based on your experience and background.

However, it is very troubling to me that you have hardly any, if not inadequate experience, in dealing with financial institutions.

Madam President, the transcript goes on. The Senators started asking specific questions of this nominee. Senator CRANSTON asks:

What are your thoughts on deposit insurance reform?

The answer:

I have no specific view as to whether there should be modifications.

Senator WIRTH asked him a series of questions. He asked him:

Should there be any weakening of thrift capital standards?

A pretty basic question, a pretty important question, a question we have debated here on the floor. What was the response of the nominee?

I probably do not have a view on that subject right now.

Well, Madam President, I do not know what could be a more basic question than the question of capital standards. We have had to wrestle with that right here on the floor of the Senate repeatedly, and yet this nominee for the top job has no view.

It goes on and on, Madam President. Senator CRANSTON:

Do you think there is a need for a specialized thrift industry to promote housing?

The answer of the nominee:

I do not have a view on that right now.

Then the Chairman interceded and said:

Did I hear that right, that you do not have a view as to whether or not there should be a thrift industry?

The answer of Mr. Ryan:

I have no view as to whether the thrift industry should move forward or not move forward, Senator.

On and on it goes, Madam President. Questions on the most basic issues confronting those who would run the S&L bailout—and an appalling lack of views on the issues by the nominee.

Madam President, that is not good enough. That is not good enough. We have a solemn commitment to the taxpayers of this country to make certain that each and every dollar that goes into the bailout of the S&L industry is wisely spent, is carefully spent, and goes to solving the problem.

Our first responsibility ought to be to put someone in charge who is clearly qualified by experience and background to be number one, to be the person with the day-to-day responsibility of running this cleanup of the S&L mess.

Madam President, Mr. Ryan does not fill that bill. By his own admission, he does not have the experience, he does not have the knowledge of the basic issues, and he ought not to be confirmed.

If politics were taken out of this and the U.S. Senate were asked: Is this the person, the one who ought to have one of the critical jobs to determine the economic future of this country? Would Mr. Ryan be the one who would be advanced? I think not. Clearly, Mr. Ryan would not be in the running.

Madam President, this body ought to act decisively. First of all, we ought to reject this nominee. Then, Madam President, I believe we ought to devote all of our attention to monitoring the ongoing cleanup of the S&L's. I believe we should enpanel a special investigatory body to oversee this entire unfolding fiasco. We ought to put together the best Members of this body, the ones with the greatest expertise on these issues, these financial issues, and we ought to charge them with full-time monitoring of the S&L cleanup.

Obviously, those who have special knowledge, members of the Banking Committee, ought to be involved. But frankly this goes beyond the Banking Committee. This goes to the fundamental soundness of the American economy. We ought to put our best and wisest heads together to have a complete review of where we are and where we are going.

Madam President, there are many other things that are the business of the Senate. We have budget negotiations, farm bill considerations, and we have just finished the clean air bill. I am certain that all of us would like to come to this floor today and be able to put in a statement, and say amen, now we have a good person. Let us go forward; let us back him. And let us hope we get on with the S&L cleanup.

Madam President, in good conscience, in reviewing the record of this man and reviewing the transcript of the hearing, I am compelled by conscience to stand on this floor and oppose this nominee. It is nothing personal; I do not know the man. I never met the man.

Again, he is clearly a fine lawyer, and no doubt an outstanding person. But he is also clearly not qualified for the position to which he has been appointed.

On that basis, Madam President, I will oppose his nomination.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Madam President.

Madam President, I come to the floor this afternoon with no joy. I come as a person from an executive background who had the responsibility of nominating——

Mr. WARNER. Madam President, will the Senator yield? We are not able to hear very well. I am sure the Senator's remarks would be of interest to the Sentate, as well as to many others.

I thank the Senator.

Mr. GRAHAM. Thank you very much, Senator. I hope they will be of interest and illumination.

Madam President, I come to the floor of the Senate today with no joy. As an executive in my previous capacity, I had the responsibility of making several hundred appointments. I have some appreciation of the challenge which any executive has in persuading, recruiting, selecting, and recommending individuals for difficult positions.

I also have had some experience about the responsibility of an executive who then must educate, must give confidence to, and ultimately persuade another branch of government to confirm those executive decisions.

My presumption, Madam Pesident, is the correctness of an executive appointment. I believe that considerable weight should be given to the fact that the President of the United States has placed his personal reputation behind this nominee.

Madam President, I believe that it is fair to say that the position that I have just stated is one which is broadly shared. As witnessed by the activities of the Senate Banking Committee and the full Senate during the last decade, the predecessor of the Office of Thrift Supervision was the Federal Home Loan Bank Board. During the administration of President Reagan, from 1981 through 1988, there were a total of eight individuals who were nominated for positions on the Federal Home Loan Bank Board. One person was nominated and subsequently withdrew. Of those eight individuals who came before the Senate for confirmation, in every instance, from Richard Pratt, on April 8, 1981, through Roger Martin, July 30, 1987, in each instance those Presidential nominees were confirmed. The U.S. Senate has not had a history of antagonism toward the President's selections in sensitive financial regulatory positions.

Second, Madam President, I come to the floor today with no joy because I believe it is so critical that, as we face this issue, we do so as a nation united, we do so with a sense of bipartisanship, we do so with the recognition that there must be a leader, but that that leader deserves the support of a broad base of Americans.

One of my father's favorite political figures, a Senator who represented the State of my father's birth and the State of our chairman, was Senator Arthur Vandenberg. Arthur Vandenberg was Republican leader in the U.S. Senate during the most difficult years of our Nation's history, in the period prior to, during, and after World War II. It was through the cooperation and establishment of a bipartisan environment and context that much of those things which today we are taking such pride in, such as establishing the Marshall plan, establishing the Truman plan, a strong defense against the advance of communism, and it was the ability to create that bipartisan atmosphere with a leader who could then assert a strong national position that has brought us to the happy results that we celebrate in 1990.

Madam President, we need to have that same sense of bipartisanship, of context with a leader, as we face what will be the "World War II of American economic issues." This debacle of the savings and loan industry is an economic crisis, the likes of which our Nation has never seen before, in its severity, in its downward spiral, and in its ripping effect on the confidence of the American people toward their political leadership.

I ask unanimous consent to have printed in the RECORD a column which appeared in the Washington Post Sunday April 1, 1990, by George Will, entitled "Policy by Polls."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 1, 1990]

"POLICY BY POLLS"

(By George F. Will)

Perhaps Rep. Harold Rogers, the Kentucky Republican, was just joking in the robust, exaggerating tradition of America's middle border. Let us assume so, for his sake. Otherwise he becomes one more reason to doubt Republican's seriousness. What he said was:

"Every statesman in the world over the last four decades, from Churchill to Reagan, has attempted—with millions of troops and trillions of dollars—to free up Eastern Europe * * * and to no avail, until the first year of the Baker administration at State."

That scrumptious specimen of the post hoc ergo propter hoc fallacy (the rooster crows and the sun rises, therefore the crowing caused the sunrise) was contained in a Los Angeles Times report on how bullish Washington is about Secretary of State James Baker. The report contained another illuminating passage.

The scene was a breakfast table around which sat Baker and some congressmen, two of whom, both Democrats, asked: If the Cold War is over, why does the budget not reflect that fact, particularly regarding increased aid for the new democracies in Eastern Europe and poor Third World countries?

According to the Times, "Baker's hazel eyes narrowed. His honeyed voice went cold." And his dehoneyed voice said: "You want to go out and argue for higher taxes to pay for foreign aid? Try that argument out in your district, congressman."

Such swaggering "realism" sends shivers of admiration through some Washingtonians. But the important issue is not whether the congressman can afford, politically, to take that position regarding foreign aid, or whether the country can afford, economically, the aid. Rather, the crucial question is whether the country can afford to have a government that thinks so much the way Baker does.

Baker reflects the president, and policy-by-polls reflects thinness of beliefs. So does the hitching of U.S. foreign policy to foreign personalities, as in U.S. dithering about Lithuania, an unseemly policy of solicitousness for Gorbachev, whose survival is the president's only clear foreign-policy aim. More "realism."

Recently Washington went into one of its periodic seizures of loopiness, and this time the great question of the hour concerned the presidential epidermis: who gets under George Bush's skin. No one does, said Himself, through clenched teeth, when asked specifically about Rep. Richard Gephardt (D-Mo.), the House majority leader. But Gephardt clearly did, by saying things like:

"Harry Truman lived by Sam Houston's maxim: 'Do right, risk consequences.' The maxim of the Bush administration seems to be, 'Do polls risk nothing.'" Truman, Gephardt notes, launched Point Four and the Marshall Plan (the seed of containment, which preceded Baker's thrilling dissolution of communism) when a Gallup Poll showed only 14 percent support for foreign aid.

Americans had long deferred purchases of houses, cars, even clothes, and had shed blood on the soil of nations then seeking aid. And Truman was then more unpopular than Nixon was to be during Watergate. But he would not be a president who "thinks he is too big to do the necessary persuading," so he deserved to be reelected, and was.

Today's popularity-hoarding president may yet learn that such political parsimony is false economy. Speaking of which . . .

We are in the midst of (although perhaps not yet even halfway through) the costliest debacle in the history of American governance. The savings-and-loan scandal is another black hole swallowing a share of our children's standard of living. New losses are much larger than even recently predicted. The eventual cost is unknown (estimates range from $300 billion to $500 billion), but three things are known.

We know that in this decade alone the bailout will, as Sen. Lloyd Bentsen (D-Tex.) says, cost more than will be spent on highways or on the war on drugs or on preschool education.

We know that this diversion of capital from more productive uses will, like the Reagan-Bush deliberate deficits, lower the standard of living, economic and cultural, of coming generations.

And we know that one reason so many billions are hemorrhaging away is that the Bush administration is saving a few millions by scrimping on FBI agents and Justice Department investigators and prosecutors.

The S&L crisis is complicated, silent and slow-motion. It is the sort of murky mess about which there is no focused public opin-

ion. So no polls tell the Bush administration to behave properly. So it doesn't.

Mr. GRAHAM. If I can quote a few paragraphs from that column, Mr. Wills states:

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The S&L crisis is complicated, silent and slow-motion. It is the sort of murky mess about which there is no focused public opinion. So no polls tell the Bush administration to behave properly. So it doesn't.

Madam President, my final source of lament is that I recognize that the action which is likely to be taken today will represent a turning point. It is going to be a nominee likely to be confirmed by the narrowest margin. That action is going to indicate that the opportunity to have an Arthur Vandenberg-Harry Truman alliance to solve this problem is going to be much less likely, more difficult. We, therefore, will not have the context of a bipartisan alliance. We will, however, I suggest, have a clear leader, a person who is now assuming responsibility for this crisis and who will be held accountable for its outcome. That leader is the Secretary of the Treasury.

I am going to comment in a few moments but why I think this nomination has been made. What the consequence of this nomination, if it is confirmed, is going to be is that there will be now, without question, a spotlight of attention on one American who is assuming responsibility for this crisis. I wish him well. Our Nation cannot afford for him to do less than well. It is a responsibility he has decided to shoulder, without the benefit of a Vandenberg environment of bipartisanship.

Madam President, the severity of this situation, as Mr. Will has indicated with such eloquence in his comments, is hard to understate. Let me just give a few statistics from the testimony of Chairman Seidman, Chairman of the FDIC, before the Senate Banking Committee on January 31 of this year. He stated that currently there were 333 failed savings and loan institutions, slightly more than 10 percent of those in existence prior to the commencement of this crisis, which represents $136 billion in assets.

Mr. Seidman pointed out that institutions likely to fail were 225 to 295, with $160 to $200 million in assets. There are a number of distressed institutions, according to Mr. Seidman, 295 to 325, seriously undercapitalized, with $185 to $200 billion in assets. Madam President, that gives you some sense of the extent of the challenge of the crisis that lays before us.

In response to this challenge the administration—the President, Secretary Brady—recommended that there be new institutional structures which could respond to this crisis. And the Congress largely accepted those recommendations and last year created a new position, the position that had not existed previously in American financial regulation, the Director of the Office of Thrift Supervision.

The person who holds this position of Director takes on not one but several responsibilities. He will be the top thrift regulatory. He will have the sole responsibility for regulating all savings and loan institutions. Previously that responsibility had been vested in three individuals who serve as the Federal Home Loan Bank Board, now consolidated into a single individual.

The Director will also sit on the Federal Deposit Insurance Corporation, where he will be one of five individuals overseeing the insurance program not only for the savings and loan industry but also for every commercial bank in the United States.

And finally, he will serve as one of the five members of the board of directors of the Resolution Trust Corporation, a corporation which will eventually handle the disposition of hundreds of billions of dollars of properties, whose decisions will probably have more to do with how much your home in Baltimore is worth, how much a particular community will have available for economic growth, than any other group that has ever been constituted in this Nation.

What is the conclusion of this definition of the job of the Director of the Office of Thrift Supervision? The conclusion is we do not have any time for a rookie at this time. There is no time for a learning curve. There will be no spring training for this job. Opening day will be the first day on the job.

Madam President, this nominee, by his own acknowledgment, is not an expert in financial institutions.

I assume that he has positive qualities, qualities claimed by those who know him and by the administration which has nominated him. If so, it is possible that with a 6-month apprenticeship he could learn the job and develop the qualities necessary to be an effective independent regulator.

But due to the enormous pressures which he will find on the first day, within the first hour of assuming this position, there is no time for a 6-month apprenticeship on this job.

It is interesting to contrast how this position is being treated as was another financial crisis. What we would have a few years ago thought was deserving of a major chapter in a book on American economic crisis, which now unfortunately has paled as a result of some subsequent crisis, was the decline of Constitutional Illinois Commercial Bank. We all remember well the trauma that that decline caused among financial institutions and within the general citizenry.

Madam President, when we had the decline, the conservatorship of Continental Illinois, who do you think was put in to operate that institution? Was it determined appropriate to get someone who was without knowledge of financial institutions or financial matters so that they would be pure, not tainted? Was it considered to be appropriate to get someone who maybe brought the enthusiasm of the beginner to this task? Was that who we thought was the appropriate person to respond to that, what by today's standard would be a medium financial crisis?

No, Madam President. The answer was, in fact, not to send a person but rather to send a team of two persons. Who were the two people that were selected as being appropriate to deal with the Continental Illinois crisis? John Swearingen, the chairman of Standard Oil of Indiana, and Bill Ogden, the vice chairman and chief financial officer of Chase Manhattan Bank. Those were the two people who were considered to be necessary and appropriate to deal with a significant crisis, but a crisis which is overwhelmed, which is placed in the shadows by the severity and the complexity of the challenge which the new Director of the Office of Thrift Supervision will accept.

Having said those comments about the nature of the position and the nature of the qualifications of Mr. Ryan, a question which comes to mind is why has the administration done this? Why did they not select a John Swearingen or a Bill Ogden or a person of that background, of that degree of public confidence building to assume this position?

Several answers have been suggested. Some officials within the administration advance the curious viewpoint that it is Mr. Ryan's lack of background in the financial world which is his greatest asset because he would come to the job with a blank slate. Madam President, I say that is like saying that you are about to undergo complex surgery, but the job is so demanding, so complicated, that we want a person who has never operated before.

Madam President, I point out that this nominee was asked in the Banking Committee about his thoughts on the future of the thrift industry. In response, Mr. Ryan said, "I have no view as to whether the thrift industry should move forward or not move forward."

Madam President, we need a person of vision, a person who brings a sense of judgment to this job, a person who can, with the highest level of credibility, rebuild the shattered confidence of the American people. We need someone who can be a navigator, who can recommend course corrections as we attempt to reach our designation of resolution of this serious crisis.

A second rational for this appointment has been that the field of persons available was so shallow, we were so bereft of candidates that we must accept anyone who is willing to be nominated. I reject that out of 240 million Americans that we cannot find an American of patriotism, judgment, background, and commanding presence who would be willing to respond to the call of the President of the United States to assume this responsibility.

Just to mention a few places that you might consider for such a list, all 50 States have a regulatory system for their financial institutions. There are men and women who have served with experience and distinction in positions, none of which are of the scale of this, but who would have basic concepts as to how to respond to this crisis.

Madam President, the individual who is in the job now, a gentleman who I do not know, but who has been highly applauded for his actions under very stressful circumstances, would himself have been a candidate that I suggest would have been enthusiastically approved by the Banking Committee and by the Senate. If it is necessary to select an intelligent generalist, there are intelligent generalists. A man who I did not know prior to his current service, who I came to know and admire, is the current Secretary of the Department of Transportation, Mr. Sam Skinner. Mr. Skinner, is an intelligent generalist. If a person of that obvious competence had been nominated again, he would have been confirmed with enthusiasm.

Therefore, Madam President, I am left with a third answer to the question of why this nominee. And my answer is that I believe that a basic premise of this legislation has been found to be so unacceptable to the administration, so repugnant in terms of its policy implications, that by this nomination a clear signal is being sent that it is being rejected. What is that principle. It is the principle that although the Congress accepted the Secretary of the Treasury and the President's recommendation to place the Office of Thrift Supervision under the Secretary of the Treasury for supervisory purposes, it was the intention of the Congress to maintain the Director of the Office of Thrift Supervision as an independent regulator. The statute that was passed by the Congress last year stated autonomy of the director. The Secretary of the Treasury may not intervene in any matter or proceedng before the Director of the OTS unless otherwise provided by law.

That frankly, Madam President, was not as strong as I would have liked. I agreed with the position taken by the ranking minority and former chairman of the Banking Committee, the Senator from Utah who would have preferred, as I would have preferred, a clearly independent Office of Thrift Supervision, not under the umbrella of the Treasury. Unfortunately, Senator GARN and others, such as myself, who supported that position did not prevail. 0

But the language that did prevail was a clear indication that we felt it was important to maintain an independence of perspective. This is not just a matter of public administration of interest only to those who draw organizational charts, Madam President. The reason it was considered to be critical to maintain some independence is because there has been a history of antagonism between those institutions responsible for housing and the Treasury.

Housing, Madam President, more than any other activity in this country, is sensitive to the cost of money. Therefore, it has been a key function throughout the 50-year history of a strong Federal role in housing to try to keep the cost of housing, and particularly the cost of financing housing, as affordable as possible, so that millions of American families would have access to a home in a decent community. As a result of that, we are the best housed society in the history of the Nation.

Throughout most of that 50-year period, during both Democratic and Republican administration, there has been a tension with the Treasury whose macroeconomic perspectives and responsibilities have frequently run in conflict with the goal of affordable housing. I believe that what we are seeing now is the final triumph of the Treasury over the goal of an affordable home in a quality neighborhood for the families of America.

I asked Mr. Ryan a question during the hearing, Madam President, which I have found in the past to be illuminating. And that is when you get into a tough problem, when you have to seek advice and counsel, who do you talk to? Who do you find to be someone whose judgment in which you are prepared to rest considerable confidence? I asked that question of Mr. Ryan and this was his answer:

> I would say at the top of the list would be Chairman Seidman. * * * I would like to add also, I have been very, very impressed with the willingness of Secretary Brady and the Deputy Secretary, Mr. Robson, to meet with me, to discuss anything I would like to discuss at any time, just as the members of this panel have expressed.

Madam President, it concerns me, when asked who you would go to for counsel and advice, that two of the three people are from the very institution from whom you are supposed to be independent. That sends a clear signal to me that we are about to have a single leader of this enterprise, and that leader is the Secretary of the Treasury. I believe that housing for American families will suffer as a result of that decision.

Madam President, in conclusion, we stand at a critical turning point in the most serious economic crisis in our Nation's history. It is a time in which I think we need a broad avenue of common understanding and bipartisan support. We need placed on that avenue individuals of unimpeachable character, judgment, wisdom, of the ability to rally the American public to accept very difficult decisions, including, as Mr. Will has suggested, a decline for the next generation in our standard of living as we make the difficult diversions of resources to pay for this crisis.

I do not believe that Mr. Ryan meets those standards. He certainly does not meet them on April 4, 1990. Therefore, Madam President, I will vote not to confirm Timothy Ryan as Director of the Office of Thrift Supervision.

Should he be confirmed, I wish him well, and so do all Americans. He will need all of the good wishes, prayers and support that he can achieve. I wish the Secretary of the Treasury well as he accepts the responsibility.

I wish it could have been otherwise. I believe it could have been otherwise. I believe that when, not the current chapter 9 or 10, but the chapter 25 or 30 of this circumstance is written that it would have been a happier chapter had it been otherwise. But should this nomination go forward to confirmation, so be it.

Madam President, I urge all of my colleagues, whatever the result of this, to try to bind ourselves together to see our responsibility as Americans, to see our responsibility to rebuild the confidence of the American people in their political leadership, the essential commitment to what is in their interest and the willingness to make the difficult decisions to move through this crisis, a crisis for which there will be few heroes and many victims.

Should Mr. Ryan be confirmed, I urgently hope that he will be a hero and will not add to the already too long list of victims of this financial disaster.

Mr. WARNER. Will the Senator yield for a question?

Mr. GRAHAM. Yes.

Mr. WARNER. First, I thank the Senator that he hopes he will be a hero, and I presume he would predicate that hope on the man who has a job to do and his qualification to do that job.

My question goes to the following: OTS has the basic responsibilities of setting the standards and enforcing standards. Mr. Ryan, in his various capacities at the Department of Labor, was noted for his ability to enforce the laws of the Department of Labor.

I bring to the Senator's attention page 22 of the report filed by the majority, signed by the Senator, in which the report states, "With respect to his commitment,"—his, being Mr. Ryan—"to pursue the perpetrators of thrift fraud, we do believe Mr. Ryan has demonstrated the comprehension and vision we believe a nominee should have."

So I point out to my good friend, does he concur in that finding in the report?

Mr. GRAHAM. First, as to the premise, Vince Lombardi was an outstanding football coach and demonstrated great ability to rally his players to high levels of success. I do not believe, however, that if Vince Lombardi had been nominated to be Director of the Office of Thrift Supervision that we would have looked at his football record as being conclusive as to his ability to carry out this task. The fact that you have been successful—and I will assume without further analysis the premise of your statement that he was successful in his previous position as lead attorney in the Department of Labor—that fact does not mean that he would now be able to transfer immediately that success to the responsibilities of the Director of the Office of Thrift Supervision.

Second, as to seeking out those who have committed criminal acts that contributed to this, that is a very important function. I am pleased that Mr. Ryan is prepared to give his full support to that. I would point out that that is primarily a responsibility of the Department of Justice, not the Director of the Office of Thrift Supervision.

I hope that one of the first steps that he would take as the Director, after he emerges from this mass of decisions that he is going to have to make the first day on the job, would be to place a call to the Department of Justice and maybe read to them the appropriate sentences from Mr. Will's column in which he stated: "And we know that one reason so many billions are hemorrhaging away is that the Bush administration is saving a few millions by skimping on FBI agents and Justice Department investigators and prosecutors." Mr. Will is right. Mr. Ryan, should he have the opportunity, would do the President and the Nation a good service by pointing that out to the Department of Justice and the President.

Mr. WARNER. Madam President, I thank my distinguished colleague. I had the privilege of knowing Mr. Lombardi. I have spent a great deal of time in this area. I am a fan of the Washington Redskins.

If the Senator wants to put two names together, and it is Vince Lombardi and Timonty Ryan, as George Will described, who some think is the Oracle of Delphi, well and good. I just cite the majority committee report which states, "With respect to his, Timonthy Ryan's, commitment to pursue the perpetrators of thrift fraud, we do believe Mr. Ryan has demonstrated the comprehension and vision we believe a nominee should have."

I thank the Chair and thank the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Madam President, I am here in support of the nomination. I have been listening to the debate on this subject. The debate seems to have cast a good deal more heat than light on the problem that we really confront here today.

I think the problem that we confront is not just the issue of whether this nominee is the best candidate for this job. Certainly, we can disagree on that issue. But, we can agree that America is facing the single largest financial disaster in our Nation's history.

I do not think any Senator with respect to any nominee can be certain that the President's choice is the absolute "best." Best is a subjective word. We can probably each think in our own minds of somebody who might be better. But we can be certain that as this debate rages on, the savings and loan industry is racking up losses at the rate of almost $30 million a day. That is more than $1 million every hour.

We can debate the importance of this nominee's job. But we should be debating, also, how well Congress has done its job. As the cleanup of the thrift industry drags on, I think we should ask ourselves, "Has Congress done everything it can to speed things up? Have we given the Resolution Trust Corporation all the tools it needs?" Have we in Congress taken every step possible to reduce the cost to the taxpayer? Let us debate these questions.

I asked the question, "Have we done all we can to reduce the cost of this crisis?" I am going to give a direct answer, Madam President. The answer is "No." Let me provide just one example.

Last year, during the debate on the savings and loan bill, I sponsored an amendment designed to significantly reduce the cost of this bailout. The amendment put the taxpayers of this country at the head of the line in getting money back from crooked S&L managers and others who stole federally insured deposits. The amendment gave the Resolution Trust Corporation a priority in court when it sued to recover money from those who treated a federally insured thrift like a personal piggy bank. When it came to digging into the pockets of crooked management, my amendment said: Let the taxpayers reach in first.

Madam President, when the Resolution Trust Corporation takes over an insolvent S&L, it will sue to recover the losses from officers, directors, and others. However, today, shareholders and other creditors can race to the courthouse before the Resolution Trust Corporation. They can then get a judgment against these crooks. They can take all the money out of the pockets of these crooks and wring their wallets absolutely dry. When the RTC shows up, all that is left is an empty bag. Even if the race to the courthouse is a tie, shareholders' claims will compete with the Resolution Trust Corporation for the limited amount of money that can be gotten back.

What my taxpayer priority amendment ensured was quite simply that taxpayers always win. They deserve to win. Under this provision, when others race into court, the Resolution Trust Corporation can put these other claims on hold. This would allow the Resolution Trust Corporation to collect on its claims first on behalf of the taxpayer. Once the RTC recovers its losses, others can divide up what is left.

Madam President, this provision, I am pleased to say, was adopted here in the Senate, but it was rejected during the course of our conference with the House of Representatives. It, therefore, has not become law. It ought to be law. I want to take this occasion to put my colleagues on notice that the Senate not only needs to revisit this issue, but we will revisit this issue, and soon.

The Banking Committee is holding a series of oversight hearings on the pace and cost of dealing with the S&L crisis. There are already indications that there are elements of the S&L bill that was passed, not yet a year ago, that may be hampering, not helping, the Resolution Trust Corporation to do its job.

I, for one, am convinced there is certainly more than one change that needs to be made. I intend to pursue any legislative recommendations from the Resolution Trust Corporation which are needed either to help the RTC do their job or to protect the taxpayers.

So, before we spend any more time debating other jobs, it is this Senator's view, Madam President, the Congress should be certain that we have done our job. And, our job is to clean up this mess as quickly and as cheaply as possible.

I hope that the energy that is expended here today on this nomination is just a small fraction of the energy that we will expend in the future, as a Senate, and as a committee, to make sure that the costs of the resolutions that must be done are minimized to the very greatest extent that we human beings here in this legislative body can devise.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, as a number of my colleagues have already commented in the course of the debate, it is given on both sides of the aisle that there really is no more critical issue that faces the country right now in economic terms than the savings and loan crisis.

I have listened carefully to the comments, both within the Banking Committee, as well as on the floor.

I have commented to the very distinguished Senator from Virginia and my good friend that if ever I am in need of an ally, I would certainly want to have him on my side and fighting for me because he does it well and knows how to do it. On this nomination, however, I guess we just agree to disagree.

Last year, the savings and loan industry had, as we know now, as a matter of record, the worst year ever in its history; losses of over $19 billion. That is a loss of nearly $6 billion more than the year before. There were 485 institutions that had losses from operations of $2.6 billion in the last quarter alone. Now we are being told that it may cost an additional $200 billion to close the ailing S&L's and protect depositors. That is just those that we decided to close.

There is, obviously, enormous concern about S&L's that are supposedly healthy. It has been reported that in the fourth quarter alone, 581 institutions that had not been scheduled for Government seizure had a total loss of $1.3 billion. As each day passes, we know that this bailout process is dragging on and it is costing the American taxpayer more and more dollars.

Madam President, we expedited this process last year. We were asked by the President to expedite it and, indeed, the Banking Committee moved as rapidly as possible.

I must say that months have dragged on since then, that positions have not been filled, that we have not even been asked to confirm individuals for the important posts that were created in order to expedite this bailout.

It was my perception and the perception of colleagues at the time—I remember being here at 2 or 3 in the morning last summer when this bill was passed where many of us were looking for a way to vote against it because we thought it was not the kind of structure that in and of itself lent itself to the best form of bailout. And, indeed, as we come here today to debate the extraordinarily important position of the head of the OTS, we find that the RTC itself is woefully underfunded and the entire savings and loan bailout bureaucracy is plagued by a lack of coordination and in-fighting. There are disputes over how to raise the working capital, and these disputes have dragged on for months. There are turf struggles going on and there is significant red tape that has discouraged investors from purchasing S&L's. Perhaps worst of all, a number of positions remain unfilled.

Madam President, it is hard to describe the degree to which some of us feel this particular position is elevated in importance as a consequence of that list that I just enumerated of problems within the bailout process. I do not have to review, obviously, the importance of the OTS chief regarding the commensurate duties as a member of the board of the FDIC, the RTC, and so forth.

It seems to me that if you have a crisis as significant as this one is—this is the largest expenditure by the President of the United States in budget terms. We have not passed a program, with the exception of individual budget sections, if you divide the budget of the United States up so you have the defense budget of some $290 billion, or you have the entire entitlement section of our budget. Those are the only two gross expenditures that even come close to the magnitude of expenditure we are discussing here.

We are not just talking about it in the normal course of business in this country. We are talking about it under extraordinary circumstances where businesses are failing, banks are failing, people's jobs are being lost, and all the time the American taxpayer is being called on to finance the bail out to a tune of billions of dollars more than people ever anticipated.

We are talking about the soundness and safety of our own economy. And have we turned to a Walter Wriston or to a Bill Simon or to countless other extraordinary people in finance and in troubleshooting and in making large institutional decisions? No; we have turned to somebody whose total managerial experience is summed up as the solicitor of the Labor Department, and a member of a committee that manages a large law firm.

I find it absolutely extraordinary, just as a matter of common sense, that that is the best the President of the United States can find to deal with one of the most significant issues this country faces right now. It is not a question of whether or not Mr. Ryan is an honorable fellow or whether or not he is qualified. There are countless positions in Government for which he is qualified, countless positions in Government for which this Senator and many others would readily and quickly vote for him as a matter of confirmation. But how can you take the most significant economic issue that we face and have somebody who is going to come in and begin a $30 million-a-day job training program, the most expensive job training program I think on an individual basis ever created in the history of this country.

I cannot believe they could not find somebody with the experience and skill in finance and other matters that totally avoids any problems of conflict of interest in order to deal with this issue.

If anybody wants to look for the real evidence that lays open the question of whether or not this fellow is prepared for this job, you do not have to look to words of Democrats or Republicans who might oppose him. You can look to his own words, to his own hearing, and to the answers he gave to questions.

I know some of those answers have already been discussed on the floor today, and I am not going to go through every single one of them. But consider one as essential as the one on capital standards. One of the things that we discussed at great length was what the capital standards should be: Weaker, softer, stronger? Do you give these banks more time? Do you not? How much is fair? We decided on tough capital standards, standards that we knew would close certain thrifts in this country.

Mr. Ryan was asked: "Do you think there should be any weakening of the thrift capital standards?" And his answer was:

> I probably do not have a view on that subject right now. My sense is that the system that is set up, although it appears to many to be very tough, appears to be reasonable.

So here is a man who does not have a view as to what capital standards ought to be even though that those standards are integral to the very system he has been nominated to clean up.

On housing and the savings and loan industry, Senator CRANSTON asked him: "Do you think there is a need for a specialized thrift industry to promote housing?" His answer was:

> I believe there will always be a need or someone to offer residential mortgages. I'm sure that service will come from some part of the financial services industry. I've been asked the question during the past 3 weeks whether I have any view, and I do not have a view on that right now.

So he has no view on the subject of housing in the thrift industry. The chairman questioned him further on

that. On oversight of the sale of securities, Senator WIRTH asked him:

You know that some stand-alone thrifts offer their own securities. You are familiar with that. Who, in your opinion, should, if there is a stand-alone thrift—not a holding company but a stand-alone thrift—who ought to be regulating those securities?

Mr. RYAN. I have no view on that right now, Senator. I have not given that any thought. I have not looked at the pluses, the minuses. I have not looked at the issue. So, unfortunately, I just do not have a view on that.

Obviously, no one is going to be able to accuse Mr. Ryan of being too opinionated in coming to this job. The fact is he does not have views on the basic issues that confront this industry. And it is not, Mr. President, just an issue of financial experience. It is not even having the requisite management experience which permits you to approach this in a way that would remedy some of those other obvious gaps in opinion.

I mentioned the two management positions. He is not the managing partner of his law firm. He is on a committee that manages a law firm. As a lawyer who has managed a large law firm; that is, a district attorney's office, I have to tell you I think there are very different management skills necessary in the management of that kind of organization or similar organizations and what you are looking for with respect to this particular financial crisis.

Mr. President, I would like to share a couple of quick other responses, and then I will yield the floor.

Mr. Ryan suggested that over the last few weeks he has spent a lot of time trying to educate himself on this. He was asked by the chairman of the committee, Senator RIEGLE, regarding his experience, and he said, and I quote from page 66 of the committee testimony:

I can tell you that in the last 4 weeks I have spent an enormous amount of time trying to educate myself, and hopefully I will give you a glimpse today I am a quick learner.

Mr. President, this is a crisis involving billions and billions of dollars, and the American people do not deserve someone who is coming to the job with 4 weeks of reading and educating in order to qualify for it.

He was asked by Senator RIEGLE whether he was fully qualified for the job. I am reading partway into his answer. He says:

Absolutely.

But then he says:

I don't think I would say it with the same conviction 3 weeks ago.

So here is a man who could not have said 3 weeks ago that he is prepared to deal with the Nation's number one crisis, but after talking to a few people, he is prepared to come in and deal with it.

I asked him what he would do about the immediate outflow of deposits from the savings industry, which is a major problem, and he said:

Well, my intention during the first week after I am confirmed, should I be confirmed, would be to ask the district directors from around the company—

I believe he means country—

to come in and spend time with me. I would like to review with them.

So we are going to have a process of review while we go through a process of learning. The outflow of deposits should be one of the issues most rapidly addressed by somebody who knew what they were doing.

Finally, Mr. President, as we all know, this is going to be the largest real estate holding and transaction company in the United States—massive of real estate to deal with, massive workouts.

Mr. Ryan was asked about his experience with workouts, and I quote from page 150:

And at least by experience with workouts in troubled real estate, which as I said before is limited, but I've had a glimpse.

So, Mr. President, the question is whether the Senate is prepared to turn over to an individual who has had a glimpse of major responsibility as a member of the board of the RTC and as the thrift supervisor for an industry, the entire life cycle of what today has become a process of troubled real estate workouts.

I really believe, Mr. President, that the President of the United States could have done better. I believe that the Senate has a responsibility to see to it that we do better, and I hope that the Senate will reject this nominee.

I yield the floor.

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND A RECESS OR ADJOURNMENT OF THE SENATE

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate, as in legislative session, proceed to the immediate consideration of House Concurrent Resolution 299, an adjournment resolution now at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 299) providing for adjournment of the House from April 4, 1990, to April 18, 1990, and a recess or adjournment of the Senate from April 5, 1990, or April 6, 1990.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 299) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. I thank the Chair.

Mr. President, I support the nomination of T. Timothy Ryan, Jr., to be Director of the Office of Thrift Supervision.

The situation is at a critical stage, Mr. President, with a decision by the U.S. District Court for the District of Columbia holding unconstitutional the current appointee for the position. I believe it is important for the Senate to act promptly and confirm Mr. Ryan. I believe Mr. Ryan to be qualified to hold this position.

I have followed the events before the Banking Committee. Since I do not serve on that committee, I decided to have a meeting with Mr. Ryan to review his credentials and to talk to him about his own background in the position and how he would handle the position. Based on that meeting, which occurred earlier today, and my discussion with my colleagues who know Mr. Ryan and who serve on the committee, it is my judgment that Mr. Ryan is qualified for the position.

I note that Mr. Ryan has an excellent academic background, a graduate of Villanova University, a graduate of American University Law School, that he has worked in the profession, that he has held positions in very prominent law firms, is now a partner in Reed Smith Shaw and McClay, that he has an outstanding work record as a lawyer, that he served as Solicitor for the U.S. Department of Labor, that he was an adjunct professor at Georgetown University Law School, that he took on key responsibilities in the Bar Association, where he was the vice chairman of the administrative law section, that he has written extensively on legal subjects, and that he served as a member of the Overseas Private Investment Corporation.

To review Mr. Ryan's résumé, for a man of 44 years, it is obvious that he is highly intelligent, that he is a well-qualified professional, and that he is a doer.

When I took a look at some of his activities as they related to the financial and commercial world, I noted that he has 10 years of experience in providing advice to investment management, investment banking, commercial banking, trust departments, and to large pension plans. While I did not discuss with him in detail the specifics of the job for which he is being

considered, it was my judgment that he had the kind of background which gave him sufficient familiarity with these issues that he could pick them up.

As I have stated earlier, I believe it is obvious that Mr. Ryan is a doer. He has done a great deal in his professional life, and I believe he can tackle the issues at hand and do a job.

When I heard some of the questions raised about lack of answers, I do not consider it to be an infirmity at all that a nominee is not in the position to answer a great many policy questions at this time. The question is whether he has the background and capacity to move and to respond to these issues.

Mr. President, I was especially impressed with his legal writings, because, having written some for the legal journals myself, I know that it is time consuming, it is technical, it requires a good bit of work, and it is the sign of somebody who is willing to exert himself or herself. He has written a series of articles, one on conveyancing of urban transportation properties, a second as a coauthor on obligations of government contractors with respect to disabled veterans, a third on hepatitis as an occupational hazard for health care personnel, a fourth on the solicitor's views of the Labor Department on widely divergent subjects, which I think shows the capacity to tackle complex subjects and to do a job.

Mr. President, one of the attributes that I found in Mr. Ryan that I consider expecially important is a commitment to do a job on criminal prosections for those who have committed fraud or otherwise violated criminal laws of the United States. And from all indications, the industry is rampant with such matters.

Mr. Ryan is a litigator. He has been in court a great deal. He already has plans for retaining experienced criminal lawyers to pursue this line. I believe it to be a very, very important line.

It seems to me that criminal prosecutions ought already to have been brought in this field. I asked Mr. Ryan whether any had been, and he said he knew of none, but some were in process. I believe that when you deal with white-collar criminals in savings and loan—that is a field uniquely suited for the occurrence—and when violators are prosecuted, convicted, and imprisoned, it tells other would-be violators that crime does not pay.

I think back to the criminal prosecutions of the antitrust laws many years ago when Judge Gainey, operating out of the U.S. District Court for the Eastern District of Pennsylvania, imposed criminal sentences on the antitrust violators. It has a very profound effect. I believe that tough criminal prosecutions in this line would similarly have a profound effect.

Mr. Ryan committed himself to undertaking that with determination and with gusto. I think that his background as a lawyer, as a litigator, puts him in a very good position to do just that.

It is worth noting that there are some civil remedies that Mr. Ryan would be able to undertake without reference to the Department of Justice, where he could control them, perhaps some civil remedies under RICO, where there could be very a strong litigation showing which might establish the factual basis and a very prompt line for criminal prosecution.

Mr. President, there is one other aspect of the Ryan nomination which I think is worthy of comment. That is the information relating to his having accurately and truthfully answered questions about prior marijuana use and the use of cocaine on one or two prior occasions. I have noted these reports in the media, and I asked Mr. Ryan about them. He responded that the information was called for by the questionnaire, and he answered the questions factually and truthfully, which is important evidence of character. He said, beyond answering the questions in the questionnaire, he then took the matters up with the White House because the whole matter was on a fast track. He wanted to be sure that they knew about it so that, if they had any reluctance in proceeding with the nomination, they could act on it.

Beyond indicators of character, Mr. President, I think that it is important that a focus of attention be made on this, as expected, so that there is a public judgment that occasional marijuana use in the far distant past and a concession of having used cocaine once or twice is not a disqualifier.

I note that the National Institute on Drug Abuse conducted a survey which resulted in an estimate that some 65 million Americans have tried marijuana and 21 million more have used cocaine at least once in their lives.

It would be preferable, Mr. President, in an ideal world that people not use marijuana, which is against the law, people not use cocaine, which is against the law, but it is an unpleasant fact of life that there are millions who have. I do not think it is realistic or fair or just to have an absolute disqualifier from public trust positions because of that.

This matter came into public view in 1987, when Judge Ginsberg, of the Court of Appeals for the District of Columbia, was nominated to the Supreme Court of the United States. There was a question about marijuana use.

Speaking for myself, I was sorry that Judge Ginsberg withdrew from consideration on that. I am not sure how that would have come out. But I think it might well have been that he would not have been disqualified on the basis of that aspect, although it was different with Judge Ginsberg. It was perhaps more frequent. It was at a later stage in his life when he was a professor of law. So it might have been at a different point.

But I think this nomination of Mr. Ryan gives us an opportunity for this public comment, and I compliment the administration and the President for being willing to take on a tough issue like this one and to put the imprimatur of the nominator that this is not a disqualifier. I think that this has very important ramifications for the future.

Mr. President, I have attempted to be brief although I do not know that any other Senators are waiting to speak.

Mr. WIRTH. Mr. President, we are moving in on a vote here, and I guess the vote will end up to be about 60 votes for and 40 votes against. It may be a little closer than that.

You might wonder why is it that many of us opposing the nomination are appearing to stand up and talk about it since it is a foregone conclusion, or appears to be. I think for many of us it is absolutely imperative that we do everything that we can to make sure that the American public understands what is going on here. The American public ought to be watching this, and I think they are.

The American public ought to be aware of what has gone on, as described accurately this afternoon, the most extraordinary financial problem this country ever faced, and the greatest financial scandal we have ever faced, costing $1,000 a person, at least. More than Marshall plan, probably twice the amount of the Marshall plan, for which we get nothing but a lot of reclaimed shopping centers; more than is being spent on highways and infrastructure in the next decade.

This is an enormous problem and the public ought to know as much about it as possible, and they ought to know the disgrace we are about to perpetrate this afternoon on the floor of the Senate. We are being asked to confirm somebody who has no expertise in this most important problem facing the country. Quotes have been made over and over and over again on the remarkably lukewarm reception of Mr. Ryan, who I am sure is a perfectly nice fellow. I shook his hand on the way in the committee room. I have not met him otherwise. But the reaction to him on the committee was about as lukewarm as any response I have seen in 16 years on Capitol Hill.

We have heard today rationales as to why to vote for him; because he is a good lawyer. Well, it is nice to have a good lawyer, but this job is not one

which requires somebody who is a lawyer, whose job it is going to be the administrator of tens of hundreds of billions of dollars of assets and deal with complicated problems concerning financial institutions.

We have been told to vote for him because he is honest. Do people expect we are going to have dishonest candidates brought forward by this administration? Anybody that the administration comes up with would be honest. I am sure they would not make the argument, vote for him because he is dishonest, or do not vote for him because he is honest. Certainly that is not a fundamental argument.

Vote for him because he is not an expert. That was the thrust of about 20 minutes of argument, because look what they brought us. Vote for him because he is not an expert. What are we coming to at a time when this is the single most important issue that we are facing?

The purpose of all of this debate is not to cast blame in this or point fingers. There is plenty of time for that. As Senator GRAHAM of Florida so accurately pointed out we are in chapter 4 or 5 in a 30-chapter book. This will go on for a long period of time, and we are not here today to talk about blame. There is a lot of blame and a lot of rationale for this.

What happened when the price of money was deregulated in the 1970's? Then Garn-St Germain came along in 1982. Regarding interpretations of the legislation, how Garn-St Germain was carried out by the regulators, a point was made at great length and eloquently by Senator GARN. There was a laxity in the mid-to-late eighties. The Reagan administration was scrambling to get out of town in 1988, before the roof fell in. There are going to be all kinds of areas where we can point fingers. That is not the issue here. The issue is not to point fingers.

The issue is to try to resolve this issue and there ought to be a sense of urgency. To stop the hemorrhaging that is going on, we have to have a sense of urgency, and where is it? The S&L legislation was passed rapidly by the U.S. Congress of the request of the administration. It was passed in August 1989. The appointment that we are considering here has been vacant since early December 1989.

I suggest to you that one of the problems that we are seeing here, among many in this appointment, is a very clear lack of urgency and lack of sense of direction by the administration in dealing with this terrible crisis.

For example, this job has been open since Danny Wall told the administration on the first or second of December that he was going to resign. We did not get a nominee or a suggestion of a nominee until 10 days ago, which the chairman of the Banking Committee moved right away. It took 3½ months to send a name up for the most important job in finance institutions in the country.

What are other examples of that lack of urgency? The Federal Housing Finance Board, whose job is twofold: One, to oversee the 12 Federal Home Loan Banks and second, to administer an affordable housing program. The Board was created in the administration's legislation which we passed in August.

That Federal Board has five members, but no member has been appointed. The Board had an Acting Director, and the administration announced that the Acting Director was not going to have the job. What is going on there? Lack of urgency? Absolutely.

Regional advisory committees. Under the legislation, Mr. President, a number of regional advisory committees were required, and how many of those regional advisory committees spots have been filled? I bet we cannot name two, Mr. President. Maybe five, but I would be surprised.

The whole pattern of how the administration is dealing with this issue is one of, I would say delinquency. Certainly, no urgency and no sense of crisis regarding what the American people are going to be paying for this crisis.

The final insult in all of this is that the American people know something is wrong out there. There has been criminal wrongdoing. The American people know that. We all know that.

The question is, how are we going to unearth it, find it and make sure, as Senator DIXON said earlier, that the people who were the perpetrators of this criminal activity are involved with bread and water and not savings and loans. What do we find the administration is doing? I will quote from the American Banker of the 27th of March.

In the stinging indictment of the government's efforts to clean up the savings and loan industry, Representative Doug Barnard of Georgia, criticized the Bush administration's decision to spend only $50 million to investigate the S&L fraud, instead of allocating the $75 million mandated by Congress under the thrift bailout law.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From American Banker, Mar. 27, 1990]

BARNARD BLASTS ANTIFRAUD EFFORT

In a stinging indictment of the government's efforts to clean up the savings and loan industry, Rep. Doug Barnard Jr., D-Ga., criticized the Bush administration's decision to spend only $50 million to investigate S&L fraud, instead of allocating the $75 million mandated by Congress under the thrift-bailout law.

"This question of spending another $25 million must be weighed against the hundreds of billions of dollars that the S&L debacle will cost the taxpayers," Mr. Barnard said at a hearing of the consumer affairs subcommittee of the House Government Operations Committee.

Mr. Barnard said the lack of funding has meant that 1,298 cases involving fraud and embezzlement of amounts exceeding $100,000 are inactive because the Justice Department lacks personnel to carry out the investigations.

Justice Department spokesman Douglas Tillett responded by saying that $50 million was handed over to the department in December, "and since then we've put every nickel into the field." He also said it was "a little naive" for Mr. Barnard to expect a significant number of arrests by March.

Mr. WIRTH. Given that the administration has the resources to go in and investigate this, and in the most insulting way they are coming back and saying, we are not even going to allocate the resources for the FBI investigation of these activities. Again, there is no sense of urgency.

Mr. President, I suggest to you that what is going on here, and what is going on with this particular appointment, is a pattern of what we are seeing too much of in the last year and a half. The administration has a concern not about governing, a concern not about the stuff of Government, a concern not about taking care of their constitutional responsibilities, and getting them fulfilled to meet the needs and fears of the American people, but rather a process of getting reelected. That process of getting reelected is obviously being successful and high in the polls, but it is hard to see any substance involved in that.

Let us contrast this time, which is a time of enormous watershed in our Nation's history, let us contrast it with the previous watershed time. We have just had some remarkable events around the world. The Berlin Wall has fallen. Central and Eastern Europe are moving toward democracy very, very rapidly. There are forces at work in the Soviet Union. It is slowly but surely changing its character and falling apart as an empire, as it was known in the last 45 years. There are extraordinary changes in South Africa and an amazing election in Nicaragua. This is a time of huge watershed in the Nation's history that comes with great opportunities.

When was the last time we had an opportunity like this? The last time was shortly after the Second World War, another major watershed in our Nation's history in which the country faces a whole series of new challenges.

Harry Truman and the people around him faced the new challenges and had a couple of choices. They could have governed by poll. They could have said what we are going to do is take a poll of what the U.S. role around the world is going to be and act on that poll and done a popular thing when this question faced them, what we are going to do in terms of our presence around the world and

then take into consideration the threats from the Soviet Union from 1945 through 1948. For a war weary United States that would have been the easy thing to do. Take a poll: Should we keep a presence around the world or should we bring the troops home? I bet you the overwhelming poll of the American people was bring the troops home. But a policy of containment was forged by Truman, Acheson, and company and it was successful, but it took political courage.

A similar sort of thing happened with the Marshall plan. We could have taken a poll in 1947 that said: Are we going to help rebuild Europe? Are we going to help the vanquished? Are we taking scarce national treasury from a country war weary and invest that back in Europe? If Harry Truman and company took the poll for the express purpose of getting reelected, overwhelmingly that poll would also have said do not make that investment.

We kept the commitment around the world. We made that investment and the return to the American people has been beyond our wildest dreams. Courageous steps were taken doing the right thing in terms of governing and the right thing in terms of meeting our responsibilities.

We are at another watershed today in 1990. The changes that I enumerated earlier are familiar to all of us. You just watch television every night. There is one remarkable happening after another. The opportunities and challenges we now face going into the last decade of the millenium in the opportunities and challenges we now face suggest also are going to demand a kind of courage, a kind of conviction, and a kind of direction, not a kind of poll-taking approach to American Government.

Look at the issues that we face. We are burdened by this extraordinary debt. Are we going to have the courage to belly up to it or are we going to sweep that under the rug and pretend it is not there?

Pretending it is not there, the President told us in his State of the Union Message if we follow the current economic course the deficit would go away in 3 or 4 years. If the deficit goes away in 3 or 4 years, with the current economic policies, ALAN DIXON is going to vote for this nominee.

It simply is not going to happen. We have to focus as has been said by a number of members of the Budget Committee not to read my lips but to admit the fact that we have a $300 billion budget debt and we are going to have to admit that, face it, take the appropriate steps that have to obtain on revenues and entitlement reform. It is not going to be done if we take a poll. There is not a constituency out there for it. It has to be courageous leadership, and the President has to do the right thing and not focus on the reelection process.

A similar phenomena is happening on the environment. The world is changing. National security is now defined in relationship with the environment, not a relationship with the Soviet Union. That is going to demand significant and courageous decisions, not poll taking.

Education investment in the young: The fact is we are going to have to do that or our competitive position around the world is going to continue to erode. That demands investment and tough decisions, not poll taking.

We must move the defense budget. It is now $300 billion a year. The norm since the Second World War had been about $220 to $225 billion a year. That is a cold war norm. We are now at $300 billion, and the cold war is over.

The suggestion to you is we ought to learn a little bit from history and bring the deficit down despite the pressure not to do so.

I am a firm believer that this President has very good instincts, but the agenda is a political one on polls, getting reelected, fiddling while Rome burns, and this is a perfect example of that.

We are about to appoint someone who does not know anything about this, a perfectly affable person, I am sure, a good politician. These are nice things to have, but not someone who is going to have the toughness or exhibited any sign that he knows anything about this industry and the decisions that are going to have to be made.

Earlier this afternoon the minority leader—I was in the chair at the time—said that it had been alleged that the majority on the Banking Committee had decided before the hearing what the decision was going to be on Mr. Ryan. He said that is a first.

That is just an incorrect statement. I can assure you that the members of the Banking Committee, nobody I knew of ever heard of Mr. Ryan. We went in there fully prepared to have a capable candidate come up and answer a variety of questions and move through with the sense of urgency I think that is shared by almost everyone on the Banking Committee. We sat and listened not prejudging the situation.

I will tell you the enthusiasm of members of that committee started high, saying we are going to move, we are going to confirm the administration appointee. The enthusiasm started up high here and you could feel the air go out of the balloon as the hearing went on.

And what did we get? When he was asked, I asked him about capital standards. No single item is more fundamental to the decisions made by the S&L industry. Capital standards mean the people who own and run the S&L have capital of their own at risk. One of the problems that existed before was there were a whole variety of S&L's operating effectively with little or no private capital at risk at all. If people do not have private capital at risk they can use anybody's money and responsible behavior does not follow. Strong capital standards were essential, a fundamental piece of the administration bill, the bill that passed the Congress.

I asked Mr. Ryan what his opinion of the capital standards was. He said, "I have no view at this time." I am surprised at that, in fact because he had been a lawyer for a group that had an interest in the capital standard rules. He obviously knew about capital standards in his activity as a lawyer, but told us he had no view at this time.

I asked him about stock offering by an independent thrift institution, a very important issue. The question is who is going to regulate the sale of stock by those independent institutions. Should it be the office of Comptroller of the Currency, the OTS, or the Securities and Exchange Commission, or who should it be? "I have no view at this time," Mr. Ryan said.

Deposit insurance reform: We now have deposit insurance for $100,000 for everybody who puts deposits in a federally insured institution. Should this be reformed, a lower amount, or should it be limited to one account. There were a whole series of questions about deposit insurance reform going directly to the role of the U.S. Government and financial institutions. "I have no view at this time," Mr. Ryan told us.

Is the S&L legislation sound, the nominee was asked. Is the legislation that was put forward by the administration and passed by the Congress sound? Again, no view.

Senator CRANSTON asked him if there was a special role in the saving and loan industry for housing. Was there a special preference that ought to be given to housing? It is my understanding that one of the central reasons for the whole existence of the S&L industry is housing. Mr. Ryan told us that he did not have any view of this at the time.

The question is what does he have a view of. Certainly not this institution. Certainly not the institutions of the savings and loans.

No qualifications, through, and through. What we are getting is fundamentally a good politician, probably a good lawyer, probably honest, but the question is what should we be getting. That question was asked by some people on the other side. What should we be asking for. It seems to me that we ought to be asking for the most distinguished, hard-nosed, experienced individual in the area of very compli-

cated financial institutions that we can find.

Why is that experience necessary? You are getting into some extraordinary complex and difficult decisions, and you do not put somebody in there for whom the on-the-job training program is going to go into effect the minute he is confirmed.

For example, I do not think any Member of this body would assume that someone just out of law school would be asked to argue the most important case in front of the Supreme Court. You would want someone who had been through a great deal and could read the situation. On a very delicate operation that one might have performed on a member of your family you would not want someone who is doing an internship in medical school. Not a chance. You would look for the best, most experienced surgeon that you could find.

And none of us as politicians, and this institution is filled with very able, very experienced politicians, none of us would ask for someone to come in and try to carry the load of a piece of legislation in here based upon being, say, a high school senior class president.

You would not ask someone with that kind of experience to come here on the floor and deal with some of the very difficult issues and politics that have to be dealt with here. You would look for somebody with experience and judgment. You would want somebody who could read situations rapidly.

All of us have had this experience. You know who comes into the door. You could see which issues are real and are not real and learn and get better as you go along. You learn and get better as you go along as a lawyer or doctor. That ought to be the case here. We ought to be looking for—and certainly they are out there; we know they are out there—somebody of very real experience to whom we can entrust this extraordinarily difficult problem.

The American public, as I started my comments, the American public has a right to expect us to do the very best, has a right to expect us to confirm somebody if they meet the standards required in this legislation. And I think the American public will be measuring us, in part, by the decision that we make here today.

You can see what the conclusion is. I understand where the votes are. But I think this is, at this time in our Nation's history, at this time on this particular problem, somebody like the nominee who has no experience in this area is a convenient individual for the administration to appoint, but certainly not the kind of distinction that is necessary and certainly not operating with the sense of urgency that this problem needs.

I urge my colleagues to view this vote very, very carefully. This is also one that is going to be coming back to all of us. As Senator GRAHAM has said, we are in an early chapter in a long, long book. But it is going to be a very, very important one. A "no" vote on Mr. Ryan gives us the opportunity to put in the middle of this book a man of real distinction and real judgment which is what we ought to have.

I am only sorry we have gotten to this point. I have great respect for the Secretary of the Treasury. The legislation they sent down was right. But this is a very real mistake, and I urge my colleagues to vote no.

I yield the floor.

Mr. ADAMS. Mr. President, I was not going to speak on this matter, but, after listening to some of the comments and having been one of those who started this deregulation fever in Washington, DC, as a Secretary of Transportation, I feel a responsibility to explain my opposition to the nomination of Timothy Ryan to head the Office of Thrift Supervision.

I think, from reading through his materials, that this is a very fine, young man, and I believe I would vote for him for Secretary of Labor. He has had some experience in that area and he has had certainly an opportunity to learn some things in the Overseas Private Investment Corporation.

But last night I was advised, after I had met with the chairman, to read through the materials. So I read through the materials that had been prepared by the committee and by Senator GARN. And I just want to take a minute to discuss them.

After I had read through these, I handed the materials to my wife and I said, "Well, why don't you look at this? I have to go out for a few minutes and I will be back, and tell me what you think." She is a women of very few words. But she handed it back to me as I got back into the office, and she said, "Well, I think he is a fine, young man, and I know that a number of people have called you and a number of your friends have called you, and he has been an associate in a number of law firms. But," she said, "his answers read like the political version of the fifth amendment."

I thought about that, and I thought of the political version of the fifth amendment. So I went back and I read it again. And that is the problem that I have. Responses such as "I have no specific view" and "I probably do not have a view on that subject right now" and "I have no view as to whether the thrift industry should move forward or not move forward" are the warning signals that Mr. Ryan will be in over his head from day one. Mr. President, the taxpayers of this country deserve the very best person the President could find. Sadly, President Bush apparently did not even try. We are left with Mr. Ryan, a man with no discernible qualification for this incredibly sensitive post. I urge my colleagues to vote not to confirm this nominee. It just puts us in a position, Mr. President, that we are being asked to vote on someone with the hope that there may be a backup system for him.

I think the honorable Senator from Virginia is correct when he says that this is a very fine, young man. And if there is enough backup system for him, things may work out for him if he is confirmed. But I just wonder about why, with the availability of people in this city—and I will just mention some who have pulled out some of these financial institutions, like David Maxwell at Fannie Mae. He took over that institution. I have known David a long time. He has an instinct, as was said by Senator WIRTH, for seeing a situation and knowing whether or not there is something wrong. Or Felix Rohatyn, if you want to go to another area.

But one thing that bothers me, Mr. President, about putting in people who lack experience in the regulatory area, is that my experience—and I have had some bitter experiences in the regulation system of this Government—is that people better know what they are doing.

The second kind of golden rule I have always believed in, is that the Government should regulate money. Every other government in the world does. Every time we do not regulate the manner in which money is handled, we get into trouble. In this case, we have gotten into enormously big trouble because we deregulated these savings and loans, and we did not regulate some of their competitors so that they could stay in the business of financing housing for a lot of people who could not otherwise afford it.

These were specialized institutions set up during the Depression to handle housing in this country when commercial banks wanted to do other things. Instead, we moved these people out and let them do other things. We removed their protection as to what they had to pay for money. And now we have a situation where an awful lot of people got into these institutions and got into an awful lot of trouble. Some may have gotten in trouble on the basis of fraud, some incompetence. But we are about to put a very nice, young man—and I, too, agree with Senator WIRTH, I think he will probably be confirmed—into trying to bring us out of a trillion dollar problem.

We need somebody in there who has the abilities to look at a deal and determine whether or not it is a good one. Somebody is going to have to dispose of assets. Somebody is going to have to look at asset formation that has been done. I do not know how

many people I have had call into my office recently who are from various kinds of development groups in this country who really want to know what OTS is going to do. Some of them made offers on some of these properties that are sitting out there. We either could take a terrible loss on these properties or we could come out in not such bad shape.

So I just feel that maybe we need a little more than someone who is very sincere, who has been an associate in three different law firms, who has held some good political positions, and who I think is an honest person, but somebody whose answers rise a little higher than saying, "I don't know" or as I said before, the answers that read like the political version of the fifth amendment.

Mr. President, I am going to oppose Timothy Ryan. If they wanted to send him up here for another position, I certainly would be one that would be willing to listen to his qualifications. As I say, he happens to have great experience either in the Overseas Private Investment Corporation or in the Department of Labor. But to put him in charge of a brandnew organization with incredible exposure I think is something that we in the U.S. Senate should not do. If he is confirmed today, I wish him success. It is our responsibility to give advice and consent, however, and I think we should withhold it in this particular case and have the President send us up another individual.

I thank the chairman for the time, and I yield the floor.

The PRESIDING OFFICER. The chairman of the committee, the Senator from Michigan.

Mr. RIEGLE. I think we are near the end of this debate, and I want to make a few closing observations, if I may.

This has been a very important debate. This will be a debate that will be looked at beyond today, because it will have an enduring importance for several reasons.

I want to touch on two or three points that I think need to be referenced from earlier in the debate, and then I want to try to sum up the reasons why I think this nomination ought not to be confirmed.

Earlier today my good friend and colleague from Utah made an observation in passing. In a sense this is extraneous but it was introduced in the course of the discussion with respect to the decision that was made to select a new CEO at General Motors, a corporation well known to me and headquartered in my State. I think General Motors made an excellent choice, if I may just express a personal judgment, in picking Robert Stempel to take that position.

But my colleague, Senator GARN, quoted a few of the quotes from the news stories today with reference to whether General Motors ought to take somebody from within the company or outside the company and so forth. There were a lot of different views on that. But there was one very important quotation, an observation made about this by an outside party that I thought was particularly significant, and that was by Ross Perot. Ross Perot, as everybody knows, is an entrepreneur of some very considerable accomplishment and color.

His observation, in finding that Bob Stempel had been named CEO of General Motors, was as follows:

"This is too good to be true. This is an all car-maker team. It's a terrific day for General Motors and a terrific day for the country," said Texas billionaire H. Ross Perot, who at one time had an investment in the company and was bought out.

I only say that because it ought to be in the RECORD. It will not be juxtaposed to the earlier comment that was made, but I think that was a very fine choice. It is really separate and apart from whether promotion from within or without is particularly relevant to the case that we have before us here, but I thought it ought to be said.

With respect to another point that was made, about other relevant examples of complicated financial workout situations where huge sums of money were at stake and are at stake where you need the most competent kinds of people with top-level financial experience to deal with them, a reference was made to the collapse of the Continental Illinois Bank.

That is a case that will ring some bells with almost everyone here because it was a major bank that went into great difficulty. They had to send somebody in to fix the problem, to figure it out, and to correct it.

As was said earlier in debate, the decision was made not to just send one person but to send two. Who was sent? The former chairman of the Standard Oil Co. of Indiana, an enormous worldwide company. A person from the top job with the heaviest kind of international and top-level business and financial experience, John Swearingen, was sent in to figure out what to do in the case of a single bank. But they did not just send him. They sent somebody along with him, a fellow named Bill Ogden, who was the vice chairman and the chief financial officer of the Chase Manhattan Bank.

Why was that done that way? Because there was a special problem, very difficult to solve, and the decision was made to take two experts with top-level financial experience and management and savvy and professional standing to go in and to work that problem through. And they did and they were successful.

When they moved on, they were replaced by a fellow named Ted Theobald, who came over, having been the vice president of Citibank, the largest bank in our country.

So that was an example, a problem of almost microscopic size—it was huge, but it was tiny in comparison to the size of the disaster in the savings and loan industry as a whole which is, of course, the job we are talking about now with respect to Mr. Ryan's suitability.

I can see why people of the caliber that I have just cited might have been nominated to come in now to work out the problem of an entire industry, of literally several hundreds, in fact thousands of institutions across the country that now have to be looked after. It is an enormous workout situtation, many orders of magnitude higher than the case of this individual situation, the Continental Illinois.

In the case, people of towering experience and capacity and proven ability were asked to do it, and they did it. In this case we have a person, as the record today lays out from A to Z, with virtually no relevant experience of the kind that is called for by this kind of an industrywide workout situation.

In order to really make the point, I want to give two or three other illustrations. We have in the savings and loan area something called the southwest plan which was an effort to go down and sort out the problems of just a handful of institutions in trouble in a part of the country.

The man who was picked to do that is a fellow named Bill Gibson, who came from the Chase Bank, who had also before that served in Smith Barney in a top-level position. Before that he had been in the First Republic Bank and had also served at the Continental Bank. So here was a person with a very substantial professional track record over a long number of years who was called in because he obviously had the competence.

It was the case of four Texas S&Ls, four of the worst offenders, Vernon, Commodore, United, and San Jacinto. In that case a man named Larry Connell, who had previously served as the chairman of the National Credit Union Administration, and another person of top level experience, proven experience, was called in to manage a tiny slice of this problem.

There are other examples in the private sector. The Mellon National Bank got into trouble. Who did they ask? They asked a man named Hugh McColl, who had been the chairman of the board of the North Carolina National Bank, to come in and unravel that situation.

There was another case with the NCNB Bank in Texas where a fellow named Frank Cahouet, who had previously been CEO of the Crocker National Bank and the chief operating

officer of Fannie Mae, again top-level financial experience, was brought in to work out that situation. And the list goes on.

What we have here is a situation where we do not have just one or two institutions in trouble. We have the whole country's worth of institutions in trouble, and we are going to put one person in charge of all that who does not have an iota of the kind of relevent experience that I have just cited of the experts who were called in to unravel individual problem situations of the kind I have just cited.

Mr. GARN. Will the Senator yield for just one comment on this? Because it is very relevant and I will be very brief.

I do not dispute what the Senator from Michigan is saying. But the law specifically requires that we appoint a head of this. And it is simply not possible to bring in those type of people in an entire workout. These people were paid very high salaries in the private sector and they did not require confirmation.

I do not dispute one word the Senator is saying, but we do not have that leeway. It would not be possible to bring outsiders in when we are required to fill this position because of a court case and constitutional requirement to do so.

Mr. RIEGLE. I thank my colleague for making that point because there is that difference, and I appreciate his conceding my point about the level of expertise required to do these kinds of workout situations. But the point is this: We now have this extraordinary crisis situation that is industrywide and nationwide, and we need someone of towering experience and background and reputation to come in and handle this unique assignment.

And it is very tough. There are a lot of reasons why somebody might look at it and not be much inclined to take it. But that is where leadership comes in. This issue is extremely large and there are many hundreds of billions of dollars at stake of taxpayer money that is going to come right out of the pockets of the people of this country and right out of their futures, money that otherwise could go for college educations or health insurance or housing down payments, to buy a house or any other thing you want to think about.

If this job is not done well, the cost to the taxpayer is going to be higher, and that is why we need the best possible person we can lay our hands on to do this job. When somebody says to me the Secretary of the Treasury, or even the President of the United States, cannot find, identify, and then persuade a person of this kind of exceptional qualification to step forward as a matter of extraordinary national service and to step into a difficult job and do it at the direct request of the top leaders of this Nation, to say that we cannot find anybody with those kinds of superb qualifications who is willing to serve, I just do not think is true. I do not accept that.

It is beyond my experience in the time that I have been in public life, and this is my 24th year in the Congress. I know people have come forward, not just in that time period, but throughout the 200 years of the history of this country. Part of the obligation of leadership is to find and motivate good people to serve. The bigger the problem, then the bigger the person that has to be matched to the job.

So we need top-flight talent in this situation. It is just that simple. We have not been offered that. We have heard a lot of reasons—frankly, a lot of them, I think, are excuses—as to why we have to take somebody who is clearly unqualified for the job. People say we have to take them because: "that is the best we can do"; "We do not have enough time"; "we cannot find anybody"; "the job is too tough"; or "it does not pay enough". I do not buy that.

I do not think the American people are going to buy it because it is their future that is on the line here. The money that may be wasted or squandered by poor decisions and work that is not up to the highest standard because of lack of experience and lack of knowledge and lack of training is going to come right out of their hide.

So I think they have a right to expect something more than that. I think they do expect something more than that. For them to simply say "that is the best we can do," that is just not an adequate answer, and it is not fair. It is not fair to them; it is not fair to the future; it is not fair to the problem. I do not even think it is fair to the nominee.

There is nobody in this country any more surprised than he was when the finger fell on him 3 weeks ago to ask him to come and do this job. He was very frank to acknowledge in the committee his lack of experience in this kind of financial problem solving. It is on the record. He said it. I applaud him for saying it. He was candid in that respect, but that does not fill in the deficiency. That does not make him able to do the job. We need somebody who is very able to do the job.

That is why in these other problems, complex in this same way only much smaller, we went out and found, both in the public sector and the private sector, people who were topnotch talents to come in and do the job. It is the lamest of excuses and arguments to say we really could not find anybody else.

I want to say something about the vote that is upcoming because we have had a good debate. We heard people on both sides of the issue. The administration, to its credit, has mounted a full court press. They worked this issue very hard. I think almost every Senator has been called upon and called by any number of people to try to persuade them to go along with this nomination.

I can tell my colleagues this: If a fraction of the time had been spent finding a fully qualified nominee that has been spent trying to push this nominee through, they would have found one and we would have one, and it would sail on through here in the Arthur Vandenberg spirit that was referenced earlier. I happen to feel strongly about that, because I hold the very seat he held when he was here.

Bipartisanship comes easy to me. I have served on both sides of the aisle, as my colleagues know. That is why of the 31 nominees we have been asked to handle so far in this administration—we confirmed 29 and we have 2 we are going to report out in the next couple of days and we are going to move through here before this week is out—this is the first one where there has been a dissent. This is a dissent on merit. It is a dissent on qualification and on the fact that this is the wrong person for this job, in terms of qualification.

I want to say one other thing to Senators before they vote. I respect profoundly more than I can easily say in words the importance that each Senator attaches to a confirmation vote. These are highly individual decisions. We all look at it in a different way.

I do not think one Senator can really say to another Senator, I hope you will do this or that. I think we can express our view; we can state it. But I think each Senator has to be seen as in a situation where they properly should and will make their own individual judgment on this situation.

That is how I feel, and everybody sees the confirmation process differently. But I want to file this note, and I hope everyone will remember it: I think this nomination really matters, and I think this vote really matters. We have not been asked to confirm anybody before for this job because the job has changed under the law since the last time we would have been asked to confirm anybody. The job has become much bigger, much more complicated.

We used to have a three-person board. Now one person is the Director of the OTS, and we have added two other jobs to it. In combination, as I said before, there is nearly $5 trillion of regulatory oversight involved in these three positions that this nominee will get.

It is an enormously important vote. It is going to be a vote that counts more because we now, I think, see it in the full light of day. This industry is

in crisis. I think in times past, we knew there were problems. I speak broadly now of the country and the Congress, but I am not sure until even the last year that the full scope and magnitude of the crisis has been seen for what it is. We did not have a legislative proposal to deal with it until March of last year asking for $50 billion to deal with it. That is just a small part of what it is going to take to deal with the whole problem over a period of the next 30 years.

So this is a huge task, and this is a big job. Therefore, this vote is a very important one.

I know some Senators have said to me, and I am paraphrasing, but somehave said to me: We agree with a number of the points you have made. We are very concerned about the lack of qualification. This looks like an awfully light candidate, given the scale of the job, but we feel the pressure of the court case and we feel that we have to do something. The administration is putting on the full court press, and we are not sure we want to accept the responsibility of turning somebody down even if it is somebody who does not really look fully up to speed, because here is that court case out there and we will look as if we are not responding adequately.

I understand that pressure. I urge Members not to be persuaded by that kind of pressure. We are selecting somebody for a 5-year term, and if it takes us a little bit longer to find somebody who is fully qualified, that will be the best time we spend. It will be a great favor to the President of the United States, as it will be to the whole country and will reflect, I think, credit on the Senate as a whole.

If we get rushed into accepting a nominee that on his face lacks the basic appropriate qualification for this assignment, we will have made a mistake. Sometimes we do that. Sometimes we get hurried into things. It took the administration a long time to send the nomination up here. They wanted it expedited. We expedited it. They want a decision right now. We are going to give them a decision right now. If this nominee is to go down, I have a piece of legislation right here that we can pass so we are in a position to be able to take and give the President the authority to put somebody in on a temporary basis until they can mount another search and find somebody fully qualified. So we have an answer to that problem.

I hope that Senators will take that extra minute or two of reflection on this, because this vote counts. This is a candidate that is not qualified properly for this position.

It is just that simple. I wish that were not the case, but it is the case and we ought to see it the way it is.

Mr. GARN. Mr. President, I have a long list of points I would normally make in rebuttal because I do disagree with my good friend and chairman. Let me just simply say that I do believe Mr. Ryan is qualified. He will confound many of his critics, and they will come back to eat some of the words they have said today. With that I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CONRAD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. GARN. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I, too, join in stating that the schedule of Senators precludes any further remarks on this nomination. I am privileged to participate in this floor debate on this nomination. I started with the understanding the Senate would be fair and objective, and I conclude with that understanding. I thank the Chair.

Ms. MIKULSKI. Mr. President, I rise to oppose this nominaton.

I do not believe that Mr. Ryan has the qualifications and experience to be the Director of the Office of Thrift Supervision.

This is a job that requires an absolutely top flight appointment, and Mr. Ryan does not meet that appropriately high standard of management expertise.

The Director of this office will manage nearly $5 trillion in assets. The Director will be responsible for a thrift industry that loses almost $30 million a day.

More importantly, Mr. Ryan would be charged with protecting the savings of millions of individual Americans. Many of whom have the bulk of their savings in thrift institutions. We owe these people the very best person we can find.

Yet Mr. Ryan has no experience in the thrift industry. His experience is mostly in labor law both in private practice and the Department of Labor.

We are not talking about a minor or even medium-sized agency with limited jurisdiction or responsibility here. The Office of Thrift Supervision has responsibility for regulating 2,500 savings and loan institutions in this country, of which roughly 700 of these are losing money.

Proper supervision of the Office of Thrift Supervision is critical not only to the budget of the United States, but to lifetime savings and hope of millions and millions of Americans.

We need the very best we can get to run this agency. Mr. Ryan is not that person.

Mr. BRADLEY. Mr. President, today Senators are being asked to give their advice and consent to the nomination of Timothy Ryan to direct the Office of Thrift Supervision.

I did not support the President's plan to bail out the savings and loan industry. I believe when I voted against it and I am more convinced today that the proposal obligates American taxpayers to pay hundreds of billions of hard-earned taxes without the slightest notion of what kind of a banking or financial institution system we wanted to have when we were done. I expressed concern that the $50 billion promised as the cost of a final solution to the S&L problem was merely the first downpayment—without a resolution in sight.

Everything that has happened since then only confirms my apprehension.

Even though I believe the bailout plan—under the best of circumstances—will be very costly with a success unlikely, the only chance it has is if it is led by a tough minded administrator. The director of OTS has to have a clear idea of where he or she wants to lead us. That requires expertise and solid knowledge about how financial institutions function. It requires a vision of how OTS should reshape the savings and loan industry and how S&L's fit in with other financial institutions in the future.

Mr. President, I do not doubt Mr. Ryan's honesty or his character. I also do not believe he is incompetent. But the job of heading the OTS requires much more. Mr. Ryan's experience is limited essentially to being a competent attorney who had a brief stint in the Labor Department. There are many important positions in government that someone who is a competent attorney can handle, but this job requires more. Mr. Ryan seems to have done an acceptable job as counsel to the Labor Department, but that job, unlike the director of OTS did not require great administrative skill. Finally, none of his experience gave him, based on his testimony before the committee, any real knowledge of the thrift and banking industries. In short, the present nominee does not have sufficient background or qualifications for what is one of the most powerful financial positions in government.

I would like to give Mr. Ryan and the President the support they are seeking. But the potential cost is far too high. I cannot sanction such an enormous risk to the taxpayers with someone at the helm who appears not to know where he's going. I cannot give my consent to Timothy Ryan.

Mr. PELL. Mr. President I am voting against confirming the nomination of T. Timothy Ryan, Jr., to be Director of the Office of Thrift Supervision.

It is critically important that this office be filled by a person with a record of extensive experience and strong leadership in the financial world.

The collapse of the saving and loan industry is one of the greatest finan-

cial disasters in the history of the United States. The Office of Thrift Supervision was established by the Congress to halt the avalanche of savings and loan failures that threatened the savings of innocent Americans who deposited their savings in these institutions. The Office of Thrift Supervision was established to protect the taxpayers of the United States who faced the responsibility to paying savings despositors whose money had been guaranteed by the U.S. Government.

The costs to the taxpayers of rescuing the savings invested in the failing savings and loan institutions is now estimated to exceed $200 billion. The institutions now continue to lose an estimated $30 million a day that ultimately will have to be paid by the taxpayers.

It will be the job of the new Director of the Office of Thrift Supervision to rescue the savings of Americans at the least cost to the taxpayers. This will be one of the most demanding and difficult tasks ever undertaken by a Federal Government regulator. Accordingly, the new Director should be one whose qualifications, experience, and abilities are beyond question.

Regrettably, I have concluded that Mr. Ryan does not meet these high standards. In fact, it is conceded by Mr. Ryan and his supporters that he has no extensive experience in finance. His principal experience has been as a labor lawyer. According to press reports, the administration submitted Mr. Ryan's name because it had been unable to find a better qualified candidate willing to accept the appointment. That is just not an acceptable excuse. It is the responsibility of the White House to find a fully qualified person to fill this position and I suggest the administration turn its full abilities and energies to doing just that.

It was this administration that proposed to the Congress the plan to rescue the depositors in the savings and loan institutions. I voted for the administration's proposal to create the Office of Thrift Supervision. I did so at considerable political risk, knowing that in a political campaign there would be those that would accuse me of supporting a bailout of crooked bankers, even though the proposal really is for a rescue of depositors. I was willing to take that risk because I believed and I still believe our Government has a responsibility to savings depositors who trusted the Federal Government's guarantee. Having taken that risk, however, I am not willing to entrust the direction and management of this huge responsibility to an unqualified candidate.

Mr. President, this position is just too important to the taxpayers of the United States to be entrusted to one unfamiliar with the complexities of the financial industry in the United States, and with the history of the savings and loan crisis.

For this reason I shall vote against confirming the nomination. I urge the President to promptly submit a qualified nominee.

Mr. DURENBERGER. Mr. President, today we have a chance to take another important step in the long journey to return the savings and loan industry to solvency. If we reject the nomination of T. Timothy Ryan to be Director of the Office of Thrift Supervision, we effectively shoot the S&L industry's recovery in the foot. Ryan's rejection ensures that the already herculean task before the OTS will grow even more expensive and unmanageable than it is today. If we accept Ryan's nomination, we will hopefully get the S&L recovery back on track. I believe the choice is clear, and urge my colleagues to join me in supporting this nominee.

I don't believe any of us envy the task that awaits Mr. Ryan at the Office of Thrift Supervision. The cost of the S&L bailout is now estimated as high as $2,000 for every American taxpayer, and this figure has been moving higher and higher with each passing quarter. Anyone who takes this position is going to be under intense scrutiny by the press, public, and Congress. We crucially need a competent public servant as the Director of OTS to give that agency guidance and direction in these crucial months of the bailout.

Some of my colleagues claim that Timothy Ryan is not the ideal candidate for this position but, quite frankly, I do not believe there are any ideal candidates that exist for this position. It will be a thankless job that very few public servants would want. In Timothy Ryan we have an enthusiastic professional with a strong record in regulation, administration, management, and law. Timothy Ryan is adaptable, and is untainted in any way by ties to the S&L fiasco. It is clearly an industry that needs fresh faces and new ideas. Timothy Ryan offers both.

The administration searched hard for 3 months to fill this job before nominating Timothy Ryan. I believe this search has been very successful, and known that it is time we start focusing on cleaning up this industry. The most positive step we can take today toward that end, is to approve the nomination of Timothy Ryan.

Mr. BOND. Mr. President, I rise in support of the Ryan nomination. This debate is the sort of exercise in passing the buck that causes Americans to hold Congress in contempt. Congress, which bears much of the responsibility for the creation of the S&L mess in the first place and for the cumbersome and unwieldy structure set up by FIRREA, now has been busily looking for ways to blame the whole problem on the Bush administration.

This morning's Washington Post observed that "The Senate is occupied mainly with blame shifting." It is precisely this blame shifting and grandstanding by Members of Congress that has made it so difficult for the President to recruit someone for this job. Most professionals in the financial services field know that the Director of OTS will be blamed for all of the problems resulting from the enormous task OTS faces in shutting down hundreds of bankrupt S&L's. Why should someone agree to take this thankless task, be vilified by Congress, and then be unable to accept another job in the financial services industry for 2 years after leaving OTS? I don't know where Senators have gotten the idea that candidates are lining up to take this job.

We need to think carefully about what we in Congress are doing with this whole nomination and confirmation process. In our zeal to remedy past abuses, we are driving good people away from Government service. The postemployment restrictions make it very difficult to recruit individuals from within an industry for high office. In addition, executive branch officials have to deal with increasingly rancorous and high-handed second guessing from Congress. I am not questioning Congress' legitimate interest in oversight of executive branch activities but I am concerned about the lack of civility with which differing views are expressed. We need to look carefully at the nomination and confirmation process to make sure that it really works to give us the best people.

The Senate should defer to the President and Secretary Brady's judgment and confirm Tim Ryan. He has experience in government and sound management skills. His lack of experience in the financial services industry may well turn out to be an asset because independent, objective judgment is just what is needed to make the tough decisions on the future of the thrift industry. I encourage my colleagues to vote "yes" on this nomination.

Mr. BYRD. Mr. President, I oppose the nomination of Mr. T. Timothy Ryan for the post of Director of the Office of Thrift Supervision [OTS].

The legislation enacted by the Congress last year to rescue the savings and loan industry established the position of Director of OTS as the most powerful regulator of financial institutions in our country's history. The responsibilities of the OTS Director are awesome, and it is critical that the right person be placed in the job.

The OTS Director will be the chief watchdog of the 2,600 savings and loan institutions in this country—800 of

which I understand are currently losing money, and it will be his job to implement last year's complex and far-reaching bailout bill.

The OTS Director also will serve as a member of the Board of Directors of the Federal Deposit Insurance Corporation [FDIC], which, in addition to being caretaker of the deposit insurance funds of the entire banking industry, also regulates over 7,900 State-chartered commercial banks. Great care and expert leadership on the part of the FDIC must be employed to maintain the integrity of the deposit insurance system and to prevent future failures in our commercial banking system.

Additionally, the OTS Director will be a member of the Board of Directors of the Resolution Trust Corporation [RTC], the agency established by Congress to dispose of the assets of the failed savings and loan institutions. The cost of this crisis continues to mount, at the rate, according to most experts, of $30 million a day, and it is estimated that the eventual price tag for rescuing failed thrifts will be from $300 to $500 billion.

Clearly, the individual charged with the above duties and responsibilities must be a very experienced and qualified financial expert who can step quickly into this complex situation and, without on-the-job training, begin immediately to resolve the dangerous problems he or she will face.

Mr. Ryan's background consists primarily of pension and labor law in the private sector, and a tour of duty as Solicitor of the U.S. Department of Labor from 1981 to 1983. I understand that he has received good marks from those involved with him in these endeavors.

But, Mr. President, in my view, experience in labor and pension law does not, by itself, qualify one to handle the massive technical financial problems which await the new OTS Director. And a short stint as Solicitor at Department of Labor would not of itself provide the kind of management experience needed to take aggressive control of the huge network of people and institutions for which the OTS Director is responsible.

Mr. Ryan, himself, in testimony before the Senate Banking Committee, admitted that he has no background in financial institutions and that he was surprised when he was selected.

Mr. President, in dealing with Presidential nominations during my 32 years in the Senate, and under Presidents of both parties, I have, in most instances, believed that a President has the right to select those who will serve in his administration.

But the nomination which is before us today holds special significance. We are faced with a financial crisis of immense proportions, which will have long lasting effects on our economy. There is simply too much at stake to place anyone other than a thoroughly qualified and experienced person as Director of OTS. The decisions which are made by the new Director, the quality of his management skills, and the scope of his vision as to the future of our Nation's financial institutions will have a profound effect, not only on the final price tag which the American public must pay to resolve the crisis, but also on the eventual integrity of our entire financial system.

Unfortunately, while I am sure that Mr. Ryan has many fine attributes, I do not believe that he possesses the admittedly extraordinary qualifications which are needed. It would be my hope that his nomination will be defeated and that the President will send to the Senate a nominee who can truly help lead the way to renewed health of our financial institutions.

Our Nation can afford no less than the best.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Timothy Ryan, of Virginia, to be Director of the Office of Thrift Supervision? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 56 Ex.]

YEAS—62

Armstrong	Gramm	Moynihan
Baucus	Grassley	Murkowski
Bentsen	Hatch	Nickles
Bond	Hatfield	Nunn
Boren	Heflin	Packwood
Boschwitz	Heinz	Pressler
Breaux	Helms	Reid
Burns	Hollings	Robb
Chafee	Humphrey	Roth
Coats	Inouye	Rudman
Cochran	Jeffords	Sanford
Cohen	Johnston	Shelby
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Symms
Durenberger	Lugar	Thurmond
Ford	Mack	Wallop
Fowler	McCain	Warner
Garn	McClure	Wilson
Gorton	McConnell	

NAYS—37

Adams	Dodd	Metzenbaum
Biden	Exon	Mikulski
Bingaman	Glenn	Mitchell
Bradley	Gore	Pell
Bryan	Graham	Pryor
Bumpers	Harkin	Riegle
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Simon
Daschle	Lautenberg	Wirth
DeConcini	Leahy	
Dixon	Levin	

NOT VOTING—1

Matsunaga

So the nomination was confirmed.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the President be notified of the Senate's decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLEAN AIR ACT

Mr. GORTON. Mr. President, last night this body passed, overwhelmingly, the Clean Air Act Amendments of 1989. This Senator first spoke on S. 1630 on January 30 of this year. The debate in which we have engaged since that date has been extensive, stimulating and at times emotional. Last night I joined with 88 other Senators in supporting the final comprehensive package so diligently composed by the Environment and Public Works Committee, the leadership, and the administration.

I especially commend President Bush. He provided the leadership that sparked this powerful debate. Although the Senate passed S. 1630, we have not yet closed the book. The House continues to mark up its version of the Clean Air Act and then we will conference. I urge the House and administration to work in a timely fashion so that we can have a new Clean Air Act before we adjourn this Congress.

This legislation, Mr. President, requires an across-the-board cut in pollution. It will reduce sulfur dioxide, carbon monoxide, air toxics and others. As a result, we will improve air quality, our vistas and skylines will be more clear, and our national parks will remain panoramic scenes of nature's perfections.

The importance of clean air, of achieving the goals I have listed, led to last night's overwhelming vote to impose new regulations and requirements on polluters. We have delayed 13 years the improvement of clean air regulations addressing health and environmental safety concerns caused by industrial and auto pollution. That is much too long a period.

Like any major legislation, this bill is a web of compromise. As a result of the legislative process, I respect and support the outcome.

I believe, however, that clean air requirements must be balanced with the prospective economic impact that these regulations will have on American businesses. S. 1630 provides stricter pollution controls while permitting American industries time to implement those controls.

During consideration of S. 1630, one of the strongest debates was on an amendment offered by myself and the distinguished Senator from Illinois [Mr. DIXON]. Our amendment addressed the concern expressed by American industry—that the Clean Air Act would have a detrimental economic impact on them, forcing operations out of the United States. Twenty of my colleagues came to the floor during a 4-hour time period to speak on this question. Although my amendment was narrowly tabled, Senator DIXON and I began an important and long-lasting debate. We will revisit this issue.

S. 1630 will have a major economic impact on our industries. My amendment addressed the concern of global pollution and competitiveness. Our industries should not be crippled as a result of American pollution controls. Clean air, however, also should not be sacrificed to protect polluting industries. Instead, we must ensure that our foreign competitors make clean air a priority and implement comparable pollution controls on their industries.

The entire body of the Senate has succeeded, Mr. President, in completing a uniquely crafted piece of legislation. We will not see the health and environmental results of this work for another decade. Until that time, American citizens will be paying for cleaner air, a responsibility I believe they wish to impose on themselves.

I am proud to have played a part in this monumental piece of legislation, and I thank the leadership for bringing the issue before the Senate.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to address the Senate as if in legislative session for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A PERSONAL MESSAGE FROM LITHUANIA

Mr. SIMON. Mr. President, I had a visit this afternoon from Dr. Nijole A. Remeikis, who is on the University of Illinois faculty, who has just returned from Lithuania. She met with President Landsbergis when she was in Lithuania and she conveyed this letter to me which she says is the essence of his views, which he wanted to convey to the Members of the Senate.

Let me just read what she says is the essence of his views:

Contrary to many opinions in the West only a strong stand by western democracies for Lithuania's independence can assist President Gorbachev in dealing with Soviet hard liners, Mr. Gorbachev and even most of those hard liners know very well the importance of western assistance for the reform program. The Lithuanian government is ready to negotiate on virtually all questions except independence itself and recognize Soviet interests. Consequently the Lithuanian government is very anxious to hear from the western democracies their commitment to incidence which was reasserted by a freely elected parliament of Lithuanian. President Landsbergis, therefore, requests all those in position to denounce the use of force, the overt threat of force and to recognize the true will of the Lithuanian people.

I ask unanimous consent, Mr. President, to print her letter to me, the statement that is included here, as well as the statement by the President of Lithuania, in response to the statement of President Gorbachev. It is a letter to President Gorbachev that had the OK of the Parliament of Lithuania. I ask unanimous consent to print both in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A MEMORANDUM OF A PERSONAL MESSAGE OF PRESIDENT VYTAUTAS LANDSBERGIS TO MEMBERS OF U.S. GOVERNMENT

[March 28, 1990 in the Supreme Council of Lithuania]

I have just returned from Lithuania, where I personally met with President Landsbergis. He has requested me to convey his views concerning the negotiations with President Gorbachev for recognition of Lithuania's independence to members of the U.S. Government.

This is the essence of his views:

Contrary to many opinions in the West, only a strong stand by Western democracies for Lithuania's independence can assist President Gorbachev in dealing with Soviet hardliners. Mr. Gorbachev, and even most of those hardliners, know very well the importance of Western assistance for the reform program. The Lithuanian government is ready to negotiate on virtually all questions, except independence itself, and to recognize Soviet interests. Consequently, the Lithuania government is very anxious to hear from the Western democracies their commitment to independence, which was reasserted by a freely elected Parliament of Lithuania. President Landsbergis, therefore, requests all those in position to denounce the use of force, the overt threat of force, and to recognize the true will of the Lithuanian people.

NIJOLE A. REMEIKIS, D.D.S.,
University of Illinois, Chicago.

MIKHAIL GORBACHEV,
President of the USSR, The Kremlin, Moscow.

YOUR EXCELLENCY: The Presidum of the Supreme Council of the Republic of Lithuania has received and considered your communication regarding the current status of Lithuania, and in particular your belief that the re-establishment of Lithuania's de jure independence would have ruinous effects for the people of Lithuania, the Soviet Union, and its policy of perestroika. The leadership of the Supreme Council of the Republic of Lithuania wishes to assure you that Lithuania has absolutely no desire to harm the U.S.S.R. or your policy of perestroika. Indeed, it is due to your strong leadership that the peoples of the U.S.S.R. have begun to enjoy greater freedoms and legal rights. The people of Lithuania have observed with admiration your public commitment to the rule of international law, the United Nations organization, and a common European home. In recent years, the people of Lithuania have witnessed approvingly the U.S.S.R's denunciation of the invasions of Afghanistan in 1979 and Czechoslovakia in 1968, Soviet willingness to withdraw troops from Czechoslovakia and Hungary, and Soviet readiness to accept democratic governments in Poland, East Germany, Czechoslovakia, Romania, Bulgaria and Hungary.

Most significantly, the people of Lithuania have appreciated your courage in denouncing the consequences of Josef Stalin's domestic and foreign policies. It is with this recent historical record in mind, therefore, that the Lithuanian people come to the last major international crime of Stalin—the annexation of the three independent Baltic states recognized by the USSR in 1920. This conclusion was reached openly more than once over the last few years. No attempt was made to hide this fact from the government of the USSR or the various Soviet republics. Indeed, on August 23, 1989, a vast human chain of more than a million people clearly demonstrated the desire of the Baltic people for a restoration of Baltic independence in a peaceful and democratic manner.

Today, with overt Soviet military pressure increasing on Lithuania, and our young men being taken from their homes and Red Cross shelters for conscription into the Soviet army, the people of Lithuanian and their government again request that the government of the USSR agree to talks with Lithuanian representatives on the wide range of issues facing the Soviet and Lithuanian peoples. The Supreme Council of Lithuania has asserted that the basis for re-establishment of Lithuania's independence is the de jure continuity of the Lithuanian state pursuant to international law, and the December declaration by the Second USSR People's Deputies as to the invalidity of the 1939 Molotov-Ribbentrop Pact, condemning the resulting policy of ultimatums and violation of international law. However, the Presidium of the Supreme Council of the Republic of Lithuania's March 21, 1990 telegram to the Supreme Soviet of the USSR also noted the constitutionality of the March 11, 1990 declaration of the re-establishment of Lithuanian independence under the terms of the USSR Constitution.

The government of Lithuania has taken notice of your reference to a willingness by the government of the USSR to enter into discussions regarding the validity of Lithuania's declarations and decisions from a Soviet constitutional perspective. A general discussion of your appeal will begin today, and a respresentative sent by you could also participate, who would be able to present the position of the Soviet government in a more comprehensive manner. Please be assured that Lithuania's representatives are ready to enter into talks and discussions on any level with the USSR government or its representatives at any time to discuss Lithuania's legal status from a Soviet constitutional and international legal perspective. We earnestly hope that the USSR govern-

ment will agree to begin negotiations on the basis of mutual respect and cooperation.

By order of the Presidium of the Supreme Council of the Republic of Lithuania.

VYTAUTAS LANDSBERGIS.

Mr. SIMON. Mr. President, finally, what is needed in that area today is, first, for the Soviet leaders to talk to the leaders of Lithuania. Under the present structure, Lithuania has three Vice Presidents, one of those Vice Presidents has been in Moscow for several days but has been unable to have any kind of serious discussions with anyone in the Soviet Government.

Second, we ought to make very clear to Foreign Minister Shevardnadze and to others that the use of force would cause a serious disruption in relations between the United States and the Soviet Union.

Third, we can say that we will at the earliest appropriate time recognize the Government of Lithuania. We have never recognized the occupation. We have resisted that from day 1 as we should have. There is a reluctance on the part of the President to enter into full diplomatic relations right now but we can come very close to that.

Let me add I think it is important that the President and Congress be in concert on this, though for that to happen, the President has to be firm in his leadership.

Finally, I would hope we would make clear that we feel it is in everyone's best interest for journalists to have access to the country of Lithuania, and that our interests is not simply Lithuania but also Latvia and Estonia.

I know that the feeling on what is happening in Lithuania is not simply the feeling of Lithuanian-Americans. It is a feeling of all Americans, and the President should convey that very, very clearly to the Soviet leadership.

Mr. President, I see my colleague from Missouri is here and my colleague from Delaware is here as well seeking the floor.

I certainly yield to my very senior colleague from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank my colleague from Missouri who is anxious to seek the floor as well. I will be very brief.

EXECUTIVE SESSION

Mr. BIDEN. Mr. President, based on a unanimous-consent agreement yesterday, we agreed that we would spend a total of no more than 20 minutes equally divided on the Sweet nomination. I now ask unanimous consent to proceed to Executive Calendar 681, the nomination of Robert Sweet.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Robert W. Sweet, Jr., of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

The PRESIDING OFFICER. Under the previous order, debate on the nomination is limited to 20 minutes, equally divided and controlled by the Senator from Delaware [Mr. BIDEN] and the Senator from South Carolina [Mr. THURMOND].

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, this is a very important nomination because it is a very important office. Although there will be no request for a rollcall vote that I am aware of, we did vote in the Judiciary Committee on Mr. Sweet. He passed through the Judiciary Committee over my objection, on a 9 to 5 vote. I voted no. The reason I did was not because Mr. Sweet is not a fine individual. He is. But the Office of Juvenile Justice and Delinquency Prevention can and must play a key role in addressing such issues as drug abuse, child abuse, gang violence, and the crisis facing our juvenile justice system itself.

I feel strongly, Mr. President, about this office, because I have personally invested a lot of time and energy in this office since it was created, as an initiative of former Senator Birch Bayh. I believe it has been significantly underutilized during the Reagan years, and I am afraid that this administration's budget requests and attitude toward the office continue to reflect that it is a very low priority. In fact, juvenile justice and the whole question of juvenile deliquency, gang violence, and drug abuse among our young should be the cutting edge of our attack on the drug and crime issue in this country.

I feel so strongly about this issue that for each of the past 10 years I fought the efforts of Presidents Reagan and Bush to abolish or dramatically reduce this office. Every year President Reagan came in and said, "Boom, no office. Get rid of it. Just abolish it completely."

I also feel that next to the drug director's office there is no office that I have frankly invested more energy in attempting to shape.

Perhaps more important, I have proposed in recent months several new programs that would give the office a greater role in fighting drug abuse, gang violence, gang activity, and child abuse among our young.

I proposed an amendment approved by the Senate last year to double the size of this office and to create new programs to combat gang violence, drug abuse, and drug trafficking among juveniles. I have also proposed legislation to expand the offices anti-child abuse programs.

So we are at a time when we need a strong committed leader for the Office of Juvenile Justice and Delinquency Prevention.

Mr. President, I have been very impressed by the endorsements Mr. Sweet has received from many of my colleagues, and I especially am impressed by the strong testimony of Senator HUMPHREY from New Hampshire. In the case of my colleagues, it means a lot when we have people we respect suggesting that a nominee, notwithstanding the lack of obvious experience is warranted the job and will be an effective Administrator.

But after listening to my colleagues pleas as to the abilities of this man, I then listened to Mr. Sweet himself for several hours in the nomination hearing. I found the nominee, as I said, to be an honorable and intelligent man. But, nevertheless, I voted against the nomination because I have serious concerns about his experience in the area of juvenile justice. The Juvenile Justice Act requires that the administrator of this office to be drawn from among those individuals with experience in juvenile justice programs, and I believe Mr. Sweet is demonstrably lacking in that experience.

Second, I am not convinced the nominee is firmly committed to the purposes and mission of this office. I understand the nominee is in a difficult situation and is trying to convince us that he supports this Office. Taking issue with the President on these issues is obviously something not to be done at nominating hearings.

But after listening to his testimony as a whole, I still came away with doubts about his commitment to the office. Mr. President, as a consequence, I, and a number of colleagues, voted against him.

I hope, at a minimum, that the nominating process in the Judiciary Committee has made the nominee painfully aware how important some of us think the office is. I want him to know, since clearly in fact he will be confirmed today, that he will receive strong, strong support from me and my colleagues on the committee and many in the Senate if he is willing to go to bat for that agency. The agency that once was a $72 million Agency has now been cut to $7.5 million to do all the things that we just mentioned. Mr. President, it is not capable of doing its job with that kind of a budget.

Mr. President, I want my colleagues to be aware that this office is going to rise in its significance because of the matters it deals with. I sincerely hope Mr. Sweet is chastened by the knowl-

edge that there are those of us who want very much to see that agency work and function. We are prepared to give him additional help.

Mr. HUMPHREY. Mr. President, I want to focus the Senate on the pending nomination, that of Robert Sweet to be Director of the Office of Juvenile Justice and Juvenile Delinquency Prevention.

I regret that I was not here today to listen to the remarks of the chairman of the Judiciary Committee. I regret it, first, because I wanted to congratulate him for the fairness and the objectivity and the business-like atmosphere in which this nomination was considered by the committee, notwithstanding some fairly incendiary statements made on the part of a few groups who oppose the nomination.

I want also to commend the chairman for his longstanding championing of the programs that fall under this office. At times he and a few of his allies have been lone voices in the wilderness. I hope that day has now passed.

Mr. President, I have known the nominee, Robert Sweet, both on a personal and professional level, for a dozen years or more, and I am personally convinced, as I have expressed to my colleagues, that Bob Sweet is going to do an outstanding job in that office, if confirmed, as he has done an outstanding job elsewhere, and that, as has been in the case in the other offices he filled, he will very soon lay to rest the concerns of most of those who opposed him. I point out that many fine groups supported the nominee, such as the Boys Clubs of America, for example, and I will get to that in due course.

I think it is clear from Bob's résumé, from his life, that he has a very deep and sincere commitment to the youth of our country, their development, their education, and to ensuring that they become productive contributing, responsible citizens.

Every position which Robert Sweet has occupied in the private sector or the public sector has had some bearing on the development of youth.

Upon graduation from college Bob Sweet first taught school. During that period of time, may I point out, after hours, on a volunteer basis, he tutored children with learning disabilities. After that, after the period of time as a teacher, he represented textbook distributors and suppliers of scientific equipment for classrooms.

When his own children were in school, Bob served as the president of the Parent-Teachers Association in a town where he resided, Dublin, NH. He served for 7 years as a member and for the final 2 of those 7 years as the chairman of the school board of a large regional school system. He served for 10 years in New Hampshire on the Governor's Commission on Education.

For 10 years he served as a volunteer in a youth camp which served teenagers from troubled backgrounds.

He began his service in Washington in 1981 when he was appointed special assistant to the Assistant Secretary of Education for Elementary and Secondary Education. In 1982 he was promoted to the position of Deputy Director of the National Institute for Education, the research arm of the Department of Education, which institute at that time had a budget of $53 million and a staff of 250 employees.

After a while the Director of that Institute parted and Bob was named the Acting Director. He expressed an interest in being considered as the permanent Director but the President chose someone else.

After that, when the new Director came in, for reasons I think we can all understand, he decided it was time to move on. But before leaving the Department of Education he was offered a promotion with a pay raise by the Secretary of Education into a position with primarily administrative responsibilities, and being a man who likes policy, again something we can all understand, here he chose not to accept that offer and instead accepted an offer in the White House.

And before I recite that segment of his biography, I want to point out that during his tenure at NIE, in November 1982, Secretary Bell sent a note to Bob Sweet, a handwritten note by the way, so we know it was not boilerplate from some staff person, saying "I just finished reading the 1982 accomplishments of NIE and you should feel quite proud of this, Bob. I was impressed. I appreciate all you do to support our endeavors here in the Department."

Bob moved over to the White House. He first accepted the position in the White House Office of Policy Development. He first served as a senior staff member for education in the Office of Policy Development. His responsibilities there included, among other things, responsibility for policy relating to disability programs.

There were people who criticized his selection for that position, but he disarmed those critics as I believe he will disarm the more reasonable of the critics of his current nomination, and I think that point of view is underscored by the testimony of Robert Muller before the Judiciary Committee.

Mr. Muller is a member of the National Council on Disability and he wrote to the committee saying that "Bob was deeply admired by all Americans with disability and colleagues alike while serving the President."

In 1985, when the White House Domestic Policy Council was created Bob was promoted to Deputy Executive Secretary. There he formulated a role formulating the President's drug policies and also served as chairman of the Working Group on Parental Role in Education, whose report was issued by Secretary Cavazos last year.

He was a member of the White House Working Group on the Family. He worked on the child obscenity amendments which the Congress adopted 2 years ago. And in addition to all of that, he was the Domestic Policy Council's liaison with the Department of Justice.

Finally, Mr. President, I want to note Bob's depth of knowledge and special interest and dedication to the problem of illiteracy among youth. There is a very, very high striking correlation between illiteracy and juvenile delinquency. It is not surprising that some 75 percent of juvenile delinquents are illiterate. Therefore, his interest and expertise in that area I think will serve him well.

Finally, I would comment on the charges some raised that the nominee is not qualified according to the statutory criteria. In fact the criteria are not perfectly clear. But if you want to read them very, very narrowly so as to exclude a candidate, you could exclude just about anybody if you want to read them narrowly enough.

In fact, the chairman, Senator BIDEN, noted that during the hearings by asking the rhetorical question: "Where do we find somebody we could not disqualify on these very grounds?" In fact the responsibilities of the Office of Juvenile Justice and Juvenile Delinquency Prevention are very broad, not just justice but juvenile delinquency prevention, and that is a goal and a quest to which the nominee has devoted his entire life.

I find it hard to give much credibility to those who think or suggest that he is unqualified for the office.

In any event, Mr. President, the nominee was sent to the floor by a vote of 9 to 5 by the Judiciary Committee notwithstanding an effort by certain groups to block the nomination. There is no organized opposition on the floor, no opposition to speak of. I understand the chairman of the committee expressed continued doubt about the qualifications but the nomination was reported 9 to 5 and I know of no intent on the part of any Senator to seek to block the nomination or to defeat the confirmation by the Senate.

I urge the Senate to confirm the nominee. I feel very strongly that he will do an outstanding job and that Senators will be well compensated for their confidence. I thank the Chair.

Mr. THURMOND. Mr. President, I rise today to voice my support for Mr. Robert W. Sweet, Jr., President Bush's nominee, to be the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Mr. Sweet was nominated on October 13, 1989, and a hearing was held on his nomination on March 1, 1990. Following his hearing, the Judiciary Committee voted 9 to 5 to favorably report Mr. Sweet's nomination to the full Senate for confirmation.

Upon reviewing Mr. Sweet's qualifications, I found that his experience will serve him well in the position for which he has been nominated. He began his professional career in Maine as a high school teacher. In 1972, he was appointed to serve on the Governor's Commission on Public Education for the State of New Hampshire. This same year, Mr. Sweet was elected school board representative where he served until 1978.

During 1981 and 1982, Mr. Sweet served as a special assistant at the U.S. Department of Education. From March until June 1982, he served in the position of Deputy Director of the National Institute of Education [NIE], and from June until January 1983, he was the Acting Director for NIE. From January until March 1983, he served as Executive Director of the National Council on Educational Research. In March 1983, he joined the White House where he served until 1985 as a senior staff member in the Office of Policy Development. His service with the White House continued when in December 1985, he was appointed as Deputy Executive Secretary of the Domestic Policy Council.

The Judiciary Committee has thoroughly reviewed his record. During Mr. Sweet's confirmation hearing he responded to numerous questions. His responses demonstrated that he has a true sensitivity and willingness to understand the needs of this Nation's youth. At his hearing, Mr. Robbie Callaway, Director of Government Relations for Boys Clubs of America, testified in support of Mr. Sweet's nomination. Mr. Callaway stated:

I was impressed with Mr. Sweet. The argument over semantics about whether he qualifies as is written in the Juvenile Justice Act is an argument over semantics * * * Bob Sweet meets the qualifications. We find Bob Sweet to be open, accessible, and willing to consider opposing viewpoints, which is what that office needs.

Mr. President, Mr. Sweet has demonstrated that he has the ability and knowledge to serve as Administrator of OJJDP. He possesses the attributes of manager and mediator, along with the ability to exercise the good judgment required to serve in this important position. For these reasons, I support the nomination of Mr. Sweet and urge my colleagues to also support his nomination.

Mr. ARMSTRONG. Mr. President, for the past 7 months Bob Sweet has been on the staff of the Senate Republican Policy Committee. Because of his expertise in education, his interest in the problem of illiteracy and the consequences of illiteracy for the young people of America, we asked Bob to prepare a policy paper titled "Illiteracy: Incurable Disease or Education Malpractice." This paper has now been distributed to well over 10,000 individuals including Governors, State legislators, educators, and interested citizens. The flow of letters and calls back to the committee from teachers, legislators, parents, and others tells me not only that Bob's work is first rate, but that he is in tune with real, not academic, concerns about problems young people face in this country.

Many of our young people are dropping out of school or never learning to read while they are in school, and many of these children end up on the streets of our cities, go on to a life of crime or enter the work force as illiterates, without the educational qualifications to get a decent job.

I know that Bob cares very deeply for the youth of America. And I know he will carry his commitment to eliminate illiteracy to his new responsibilities at the Department of Justice. Although the statistics on juvenile delinquents are incomplete, the evidence to date shows that up to 75 percent are illiterate, and nearly as many are school dropouts.

The Juvenile Justice and Delinquency Prevention Act emphasizes the importance of prevention as a way to reduce juvenile crime. Certainly teaching children to read won't cure the problem of juvenile deliquency totally, but if we can provide the tools of learning to young people who otherwise wouldn't have a chance to succeed, and will likely end up in the adult court system, our efforts will be worth it.

In considering the juvenile justice system, our attention is usually directed to the institutions—courts, judges, probation officers, juvenile homes—through which the law is applied to children charged with unacceptable behavior. But according to the Institute of Judicial Administration and the American Bar Association Juvenile Justice Standards Project, "the school is also an important part of the system of juvenile justice."

Bob has the background as an educator, parent, and for the past 8 years public servant to do an outstanding job as Administrator for the Office of Juvenile Justice and Delinquency Prevention.

While I am sorry to see Bob leave the staff of the Senate Republican Policy Committee, I am delighted he is taking on this new challenge. I know he will bring to the new job the same dedication, talent, and energy he demonstrated in his work with us.

Mr. KERRY. Mr. President, I wish to express my opposition to the nomination of Robert W. Sweet, Jr. as Administrator of the Office of Juvenile Justice and Deliquency Prevention.

The chairman and ranking members of the Judiciary Committee graciously permitted me to participate in the hearings regarding this nomination. As a former prosecutor who received substantial justice assistance funding in the mid-1970's, I know from personal experience how critical this relatively small Federal office can be in helping States respond to the problems posed by juvenile offenders.

At the outset of my participation in the hearings, I stated three areas of concerns about this nomination: Mr. Sweet's lack of background in juvenile justice; his record at the National Institute of Education, where he was fired by his superior, Secretary Terrell Bell; and his substantive views regarding juvenile justice.

Over the course of questions from the chairman of the committee, Senators SIMON, KOHL, GRASSLEY, SPECTER, and me, Mr. Sweet was given numerous opportunities to answer these questions. Based on the record from the hearing, which largely consists of Mr. Sweet's own testimony, I was forced to conclude that Mr. Sweet's testimony raised such serious questions about each of these areas that he should not be confirmed.

I will summarize below what I believe is the case against confirming Mr. Sweet, with references to the page numbers from Mr. Sweet's testimony.

A. SWEET'S LACK OF EXPERIENCE

The Administrator of the OJJDP has the responsibility to develop and implement juvenile deliquency policies and programs consistent with the provisions of its enabling legislation; he coordinates juvenile justice policies and programs among federal agencies; administers formula grants to the states to promote deinstitutionalization and separation of juvenile offenders; and conducts research and demonstration projects including law-related education, restitution, violent juvenile offender programs, and education, prevention and treatment services aimed at combating juvenile gangs.

The Act establishing the Office of Juvenile Justice and Delinquency Prevention requires that the OJJDP be headed by an Administrator who has "experience in juvenile justice programs." Mr. Sweet's resume shows no such experience; his testimony confirms his lack of such experience.

In his opening statement, Mr. Sweet described his background for the position of OJJDP Administrator as being "concerned about young people all my life." (25) In response to a question from Senator Simon about his participation in programs most relevant to the mission of OJJDP, Mr. Sweet recounted his experiences at summer camp programs primarily directed at children who had no contact with the criminal justice system. (28) Mr. Sweet testified that his "background has been in education, has been in reviewing or developing programs to provide kids the opportunity to learn to read." (37) Mr. Sweet said that his further relevant experience amounted to his management of the research agenda of the National Institute of Education during his

tenure there under Secretary Terrell Bell. (29)

Mr. Sweet confirmed that he had never published any articles regarding juvenile justice, never undertaken any research regarding juvenile justice, and never had any direct experience with any program currently administered by OJJDP. (53-54)

Mr. Sweet testified that his participation while at the White House in a working group on "the role of parents in educating their children," of which the then Administrator of OJJDP was a member, constituted this total experience with OJJDP. (54)

At no other point in the record did Mr. Sweet provide information indicating other experience in the area of juvenile justice.

On the basis of this testimony, I conclude that Mr. Sweet does not have the requisite experience to meet the statutory criteria established for the Administrator.

B. SWEET'S REMOVAL BY SECRETARY BELL AT THE NIE

Mr. Sweet's sole previous position at a federal agency, and one analogous to the OJJDP position, was as Deputy and then Acting Director of the National Institute of Education, positions which Mr. Sweet held for about a year before he was fired by President Reagan's Secretary of Education, Terrell Bell. According to a published memoir of Secretary Bell, Sweet had undertaken a series of actions which had throughly disrupted the Department. Press accounts characterized Sweet's actions as an "end-run" around his superiors, which directly resulted in his removal. (51, 96, 97)

During the hearing, I gave Mr. Sweet an opportunity to provide the Committee with an alternative explanation of his removal at NIE.

Mr. Sweet testified that he was removed because of conflicts with a "new director" at NIE, and that his record at NIE was "a good one," and offered no further rebuttal of Bell's account. (98)

The Senate ought not confirm a person as Administrator of OJJDP when the person's sole previous employment by a federal agency was so disruptive that his superiors had to force his removal.

Mr. Sweet's testimony did not rebut the other information on the public record stating that his presence at NIE was disruptive. The Senate should not take the risk that Sweet's NIE experience would be repeated at OJJDP. Accordingly, Mr. Sweet's nomination should not be confirmed on this second ground.

C. MR. SWEET'S SUBSTANTIVE POSITIONS

As defined by the office's enabling legislation, the Juvenile Justice and Delinquency Prevention Act ("the JJDPA"), the OJJDP's goals are:

1. To give a high priority to preventing juvenile delinquency;

2. To divert status offenders from the juvenile justice system into community-based programs;

3. To give greater attention to serious youth crime within the juvenile justice system;

4. To provide community based treatment for youth offenders as an alternative to custodial incarceration; and

5. To improve the quality of treatment of juveniles in the juvenile justice system.

Obviously, the Administrator of the Office of Juvenile Justice and Delinquency Prevention should be a person committed to the goals of that office, as defined by statute.

During his testimony, Mr. Sweet made clear that his own interests focused solely on a narrow area solely relevant to the first of the five goals. He demonstrated little knowledge of the other four areas, and made statements suggesting that he does not recognize or understand fundamental facts regarding juvenile delinquency which would be essential knowledge for an Administrator.

In response to questions by the Chairman, Mr. Sweet said he believed there were two aspects to his job as Administrator:

"One is . . . the necessity of our Nation returning to a strong family unit everywhere. That is, the strength of our Nation is the strength of our families . . . on the other hand, we can support programs that provide services and help to children in need." (42-43)

Mr. Sweet testified that following confirmation, he would undertake a review of all programs currently funded by OJJDP and would be an advocate "for those that are effectively doing the job." He refused to specify which programs currently supported he would eliminate. (72) Later, in response to written questions from me, Mr. Sweet stated that he is "not aware of any specific program funded by OJJDP that should not have received funding [in the past]." (Sweet Responses to Questions, March 7, 1990)

During his testimony, Mr. Sweet did specify his support for a few programs, amounting to a small fraction of OJJDP's mandate: "national juvenile judges," "juvenile corrections personnel training, "law related education," and "Boys Clubs." (73) He testified that as Administrator he would also support "drug education programs" (77) and literacy programs to train teachers to teach juvenile offenders how to read (80). In response to written questions, Mr. Sweet reaffirmed that it would be his intention as Administrator at OJJDP to focus the office on combatting illiteracy. (Sweet Responses to Questions, March 7, 1990)

As William W. Treanor, Director of the American Youth Work Center in Washington noted in his testimony, most of the areas to which Mr. Sweet would direct OJJDP's efforts are already being funded by much larger Agencies, such as the Office of Substance Abuse Prevention and the Family Youth Service Administration. (128)

By contrast, Mr. Sweet's testimony showed little regard for the greater proportion of the programs funded today by OJJDP. Regarding the federal role in providing alternatives to incarceration for juvenile offenders, which today constitutes 70 percent of the funding for the program, Mr. Sweet testified that he believed that this "program had essentially been completed, that States in fact were in compliance in general with that provision, and that [funding for it by the federal government] was no longer necessary." (62-63)

In response to a question from Senator Specter, Mr. Sweet testified that separating juveniles from adult offenders was "accomplished now by State requirement." (87)

In fact, as the Chairman noted, at least 32 states were not in compliance with standards requiring them to provide alternatives to incarceration for juveniles as recently as 1988, according to an OJJDP report. (63)

In response to a question from the Chairman, reiterating a question earlier asked by Senator Specter, "are you committed to fighting for funding to the tune of $72 million," the current level of funding for the OJJDP, Mr. Sweet testified: "No." (108-109)

Mr. Sweet also professed ignorance of important portions of the OJJDP mandate. For example, in response to a question by Senator Specter, Mr. Sweet testified that runaways are "one of the big problems that we face, particularly in cities, and that there are no places for them. I can't say that I have studied it in depth, but it is, again, part of this whole issue that I hope to become more acquainted with." (89)

In short, Mr. Sweet's testimony demonstrated a relative indifference to the programs and policies that are at the heart of juvenile justice and delinquency prevention, including removing juveniles from the adult prison population.

At a time when much of our Nation is at risk from juvenile crime, with violent crime increasing as a result of juvenile involvement in crack cocaine and other narcotics, Mr. Sweet's approach to juvenile justice is naive at best, and in any case, not congruent with the statutory requirements of the position to which he has been nominated.

In summary, the record before the Senate does not justify the confirmation of Mr. Sweet to this position.

The problems of the 700,000 or so juveniles who will be arrested this year, and the nearly 100,000 juveniles who are incarcerated nationally, merit the nomination of an individual who has more to offer them than good intentions, a belief in strengthening the family, and a program to cure illiteracy.

Although I recognize that Mr. Sweet will be confirmed and I am not objecting to a voice vote on the nomination, given the Judiciary Committee's vote on Mr. Sweet, I believe he is not the right person for this job. Accordingly, I have opposed this nomination.

I do wish Mr. Sweet the best in the performance of this job and hope that he will do much to dispell my concerns in his handling of this position following confirmation.

Mr. DOLE. Mr. President, I rise today in support of the President's nomination of Robert Sweet, Jr., to be Administrator of the Justice Department's Office of Juvenile Justice and Delinquency Prevention [OJJDP].

Without a doubt, the OJJDP is one of the most important offices within the Justice Department. As the office chiefly responsible for assisting the States in their efforts to remove juveniles from adult jails, the OJJDP is on the frontlines in our Nation's war against drugs, against child abuse, and against the deep-rooted societal problems that lead to the tragedy of juvenile delinquency.

During the past several months, we have heard a lot about Mr. Sweet's so-called lack of qualifications for the Administrator's job.

Mr. President, this criticism is misplaced, and in fact, it is unfair.

A former high school teacher, a school board member, an educational textbook salesman and consultant, a member of the New Hampshire Governor's Commission on Public Educa-

tion, and a husband and father of five lovely children, I suspect that Mr. Sweet knows something about juveniles. And I suspect that he knows something about what it takes to keep our children out of jail, off the streets, and on the right track to be productive and contributing members of society.

A native of New Hampshire, Mr. Sweet also has some important Washington experience, most notably as a member of the White House Domestic Policy Council and as a senior staff member of the Department of Education's Office of Policy Development. I am certain that this experience will serve Mr. Sweet very well and will enhance his effectiveness in the Administrator's job.

Mr. President, I am proud to support this nomination, and I urge my colleagues to do so as well.

Mr. GRASSLEY. Mr. President, I rise to support the nomination of Robert Sweet, Jr., to be the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Mr. Sweet's nomination hearing before the Senate Judiciary Committee shed some needed light on his qualifications to manage this important office within the Department of Justice.

Mr. Sweet has spent many years being concerned—as both a parent and in his professional life—that young people develop into contributing members of society.

Mr. Sweet has been a teacher; he has volunteered to work with children with disabilities; he has served as president of his local PTA; he has been a member and chairman of his regional school board in New Hampshire; and he has served on the Governor's Commission on Education in New Hampshire.

During his service in Washington, Mr. Sweet has continued his devotion to our Nation's youth by serving in various positions in the Federal Department of Education.

As a member of the President's Domestic Policy Council, Mr. Sweet served as the council's liaison to the Department of Justice.

While a member of the Domestic Policy Council, Mr. Sweet was involved in the formulation of the President's antidrug policies, along with research into the parents' role in educating our youth.

As a member of the White House Working Group on the Family, Mr. Sweet was actively involved in proposing amendments to the original Child Protection and Obscenity Enforcement Act, which was ultimately enacted into law in 1988.

Mr. Sweet is also an author of the study entitled: "Illiteracy: Incurable Disease or Education Malpractice?" This study is timely, considering that some 75 percent of juvenile delinquents are illiterate.

Mr. President, Robert Sweet is not a "member of the club."

As the director of government relations for the Boys' Clubs of America, Robbie Callaway, noted in his testimony before the Judiciary Committee, he does not know Mr. Sweet personally or professionally.

But during a 3-hour session with Mr. Sweet, Mr. Callaway came away "impressed with his, Mr. Sweet's, answers, his attitude, and his general approach to juvenile justice, delinquency prevention, and the American family."

Mr. Callaway also introduced Mr. Sweet to the members and staffs of the Boys' and Girls' Clubs of Philadelphia, and Wilmington, DE.

Mr. Callaway reported to the Judiciary Committee that Mr. Sweet was subjected to intense grilling by "three of the best local program operators, according to Mr. Callaway, in the Nation."

Mr. Callaway informed the members of the committee that Mr. Sweet impressed these folks so much that they volunteered to write strong letters of support for Mr. Sweet.

Mr. President, much has been made of Robert Sweet's alleged lack of specific experience in the area of juvenile justice and delinquency problems.

As Mr. Callaway pointed out to us during his appearance before the committee, the American Bar Association's Juvenile Justice Standards Project discusses juvenile justice in this way:

> Attention is directed more broadly to the conditions and circumstances that will bring about fair and decent treatment of children, including the satisfaction of basic human needs for love, care, food, and shelter.

They continue:

> A just world for children in America's society certainly depends upon the child's family life and his or her life in school. The school is also an important part of the system of juvenile justice.

Those experienced in the ways of inside-the-beltway Washington know that criticism of an executive branch nominee usually means that vested interests may find their position in jeopardy.

As I said during Mr. Sweet's nomination hearing, I believe it is the right of any individual or organization to criticize the given nominee of a given administration.

However, I also believe that it is incumbent upon the Members of the Senate to thoroughly and objectively investigate a given nominee—and not just adopt the position of his or her critics.

I believe that if my colleagues are honest and objective in their assessment of Mr. Sweet's background and experience, they will agree with me and conclude that he is the right person to become the next administrator of the Office of Juvenile Justice and Delinquency Prevention.

I urge my colleagues to support Mr. Sweet's nomination for this position.

Mr. RIEGLE. Am I correct in understanding the Sweet nomination is ready to be acted upon?

The PRESIDING OFFICER. The Senator is correct. That is the pending business.

All time having expired, the question is, Will the Senate advise and consent to the nomination of Robert W. Sweet, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

All those in favor, signify by saying aye; those opposed nay.

So the nomination was confirmed.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the President is notified of the nomination.

Mr. KOHL. Mr. President, today the Senate voted to confirm Mr. Robert Sweet to head the Office of Juvenile Justice and Delinquency Prevention.

This office oversees the major Federal Justice Program serving 700,000 young people a year. It is the best opportunity we have to save some kids from a life of crime and violence. I have therefore considered this nomination very carefully.

I still have concerns about Mr. Sweet's qualifications and background. While he has experience as a teacher, textbook salesman, and White House policy analyst, this may not be the right type of experience for the Director of a program serving high risk young people. And I remain concerned about reports that Mr. Sweet injected politics into the research process during his tenure at the National Institute on Education. Research and demonstration projects are too important to be selected on the basis of ideology.

But I was impressed by Mr. Sweet's sincerity. He displayed an earnest desire to help young people—during his hearing and in his meeting with me. For that, he is to be commended. I am going to be watching carefully to make sure he fulfills his promises.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed as in legislative session morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RULES, SENATE ETHICS, AND THE RYAN NOMINATION

Mr. DANFORTH. Mr. President, I rise to discuss a matter that I would just as soon not discuss. It is one of the hard things that I have had to do

in the time that I have served as U.S. Senator because it raises fundamental questions about Senate rules and Senate ethics. I do not rejoice in doing that at all. I have enjoyed, during my time in the Senate, a very fine relationship with Senators of all political persuasions, and I cherish that relationship very, very much.

But there are circumstances of values and of principals that arise, and when they do, I think that there is a duty to speak and to act.

So I rise to discuss a matter that to me has been extremely serious and extremely troubling. It has to do with what appears to be a leak or leaks from the Senate to the national press of a matter that was in or may have been in the FBI file of the nominee who was just confirmed.

Mr. President, my reconstruction of the facts is as follows: Around 6 p.m. on Friday, March 30, an ABC News White House reporter informed Alixe Glen, of the White House press office, that ABC News had been told by a Senator and two Senate staff aides that Mr. Ryan's FBI report includes information relating to occasional drug use two decades ago. ABC News withheld its report on this information while seeking White House comment.

On that same evening, Friday, March 30, the NBC Evening News included a report by Andrea Mitchell on the Ryan nomination. Near the end of that report, Andrea Mitchell stated:

> In addition to Ryan's lack of experience, Senators told NBC News they are troubled by information in his FBI file—occasional use of cocaine two decades ago.

Around 7:30 or 8 p.m. on Friday, March 30, the ABC News White House reporter once again told Alixe Glen, of the White House press office, that the information on drug use by Mr. Ryan contained in the FBI report was provided to ABC News by a Senator and his two staff aides.

Rule XXIX of the Standing Rules of the Senate applies to executive sessions. Paragraph 3 of rule XXIX states:

> All confidential communications made by the President of the United States to the Senate shall be by the Senators and the officers of the Senate kept secret.

Paragraph 6 of rule XXIX further states:

> Wherever, by the request of the Senate or any committee thereof, any documents or papers shall be communicated to the Senate by the President or the head of any Department relating to any matter pending in the Senate, the proceedings in regard to which are secret or confidential under the rules, said documents and papers shall be considered as confidential, and shall not be disclosed without leave of the Senate.

During the debate on the Tower nomination last year, there was a question about whether information from an FBI report on a nominee was a confidential communication subject to rule XXIX. In response to the parliamentary inquiry by Senator DOLE, The Presiding Officer stated:

> The FBI report is a document that has been given to the Congress in such confidentiality, and the confidentiality must be abided.

The Presiding Officer went on to quote from paragraphs 3 of rule XXIX.

Paragraph 5 of rule XXIX establishes the seriousness of this rule of confidentiality:

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and punishment for contempt.

The conversation between the ABC News reporter and the White House press office, together with the report of NBC News that same evening, constitutes sufficient credible information to suggest that a serious violation of Senate rules has been made by a Member of the Senate and/or Senate staff. Accordingly, I am requesting that the Senate Select Committee on Ethics instigate a preliminary inquiry of this matter.

Mr. President, why is this a serious matter? I think that it is self-evident that it is. It is a serious matter because, if true—and I do not prejudge the truth; there is some hearsay involved in this information—but, if true, this would constitute a direct violation of Senate rules. I think it is particularly important because it causes severe damage to a man, a human being, and to his family.

I spoke yesterday with Mr. Ryan on the telephone, and he said to me, "I have an 8-year-old daughter and I'm concerned about how I deal with this." It damages that individual, and I would ask, to what possible end? For what conceivable purpose? What end could be served by this disclosure to network news?

The President stated several weeks ago, to the best of my recollection, having read the newspaper article, that as far as the administration was concerned prior drug use was not a disqualification, and my guess is that virtually every Member of the Senate, if told that 19 years ago somebody has used drugs, would discount that and would not consider that a cause for disqualification.

It is interesting that during the debate on the floor of the Senate today this issue, at least to my knowledge, was not even raised, which would further confirm in my mind that as far as the confirmability of a nominee is concerned, this is not considered to be an impediment. So why, Mr. President, was it done? Why, if it was done, would somebody try to peddle to the network news information that is contained, or may be contained, in an FBI report?

I think it is serious also because of the effect this has on future nominees and on the search of this administration and future administrations for suitable people to hold confirmable positions.

I guess almost everybody has some dark little secret way back in his or her past. All of us know the great care that the FBI takes in interviewing sometimes dozens of people, even for the most ordinary job, jobs that have nothing to do with national security. Sometimes the FBI interviews two, three, or four dozen people to try to find out all there is about the potential nominee. And they ask all kinds of questions of the candidate.

I believe that if matters are allowed to stand as they are now, the message to people who are interviewed by the FBI is that if you tell the truth, if you are absolutely honest, if you do not commit perjury, if you do not lie, then watch out because the information that you tell about yourself and your background and your family, sometimes sensitive, embarrassing information, can become public. And in this case, Mr. President, became public not in a whisper campaign, not something that was just whispered in some hallway somewhere, but what is disclosed to the FBI can find its way onto network news.

I cannot tell any committee how to do its work, but I think that this matter deserves priority consideration because it does not just reflect on one person or a few staffers. It really reflects on the Senate, and it does real damage to this Government and real damage to this country, and we have to stop it. We cannot stop it if we sweep it under the rug.

So, Mr. President, I can tell you I have not enjoyed this, and I do not enjoy anything that could conceivably be called tattling to the Ethics Committee or to anybody else. But this leak, if it was a leak, is an absolutely awful precedent. I do not think we can ignore it. So I raise the issue for the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I would like to make a few brief remarks concerning not so much the issue that was just raised by my friend and colleague from Missouri, who, of course, speaks in very persuasive and eloquent tones, but I am concerned about the situation that exists where individuals' lives and families are subjected to terrible experiences which, frankly, they neither warrant nor deserve.

May I begin by saying, Mr. President, I do not know Mr. Ryan. I had never met him in my life. I had never

had any contact with him of any kind. The first time I had ever heard Mr. Ryan's name was when I was notified, as was everyone else, that he was the President's nominee for this very difficult and, indeed, challenging, to say the least, position. But by accident, Mr. President, last night I was getting on the subway to come over for a vote, and our colleague from Virginia, Senator WARNER, and an individual got on the subway. He introduced himself to me as Mr. Ryan. I shook hands with him and wished him luck. And as the subway was proceeding, I said to him, "This must be very difficult for your family."

Mr. Ryan responded that his 8-year-old daughter had come home from school that day absolutely devastated by hearing the information which had been circulated in the media, the result of a confidential FBI report that Mr. Ryan had engaged in the use of illegal substances.

Mr. President, I think all of us who are parents grieve for a parent who is faced with that kind of a situation, particularly under the circumstances, as I understand them, that Mr. Ryan provided this information with the assurance that that information would be kept confidential. What an individual chooses to disclose or discuss with his family is certainly a private matter and, who knows, perhaps at some point in time Mr. Ryan would have liked to have discussed the entire issue of drugs and the evils that that terrible scourge inflicts on our society. I do not believe any parent, much less Mr. Ryan, would like to have his daughter receive that kind of information in that fashion.

So my heart goes out to Mr. Ryan, Mr. President, and his family at this very difficult time. But perhaps more importantly, I would ask my colleagues what effect can this have—and I remind my colleagues this is not the first time that FBI information has been leaked to the public and to the media—what effect does this kind of tragic event have on men and women who we might ask to serve in different capacities in the Government of the United States who have to undergo FBI investigations.

Mr. President, does this mean that the individual lies under oath in order to conceal this information from being made public, or does it mean that individual gives this information to the FBI knowing that if his nomination is surrounded by sufficient controversy that information will become public knowledge? If those are the only two choices I think it is going to be extremely difficult if not impossible to obtain the services of high quality men and women in the service of the United States of America.

Mr. President, I think it is one thing to read in the media of some information that has been leaked. We all know that this town to a large degree functions by the business of leaking. But I think the events that we saw take place in the case of Mr. Ryan, are something else. I believe it is up to all of us to try to see that there is never a repetition of this kind of episode not only for the benefit of the individual but for the benefit of the institution, and the benefit of the Government of the United States.

So, Mr. President, I hope that in closing all of us will extend our sympathy to Mr. Ryan and his family, and at the same time resolve that we will never see this kind of incident take place again.

I yield the floor.

Mr. RIEGLE. Mr. President, I want to say a couple of things with respect to this. I heard the comments of the Senator from Missouri and the Senator from Arizona. This matter was discussed in part today on the floor in colloquy between Senator DOLE and Senator WARNER and myself. So with reference to a point earlier that the Senator from Missouri made as to whether or not this issue had arisen on the floor today, in fact it had, and was discussed I think appropriately at that time. I would refer him to that part of the RECORD once the RECORD is printed tomorrow.

With respect to the basic point that has been raised, I very strongly agree with the point that has been made and so stated earlier today and in fact stated 2 or 3 days ago. I condemn and I think every Senator must condemn the release of any confidential information that was contained in an FBI report. That is a fundamental issue, and there is no question about it.

When information came out, and I have no knowledge myself of how that would have occurred, that was my instantaneous reaction, and I made a public statement to that effect at the time. I repeated it today on the floor, and I repeat it again now.

So there should be no question about that. As a matter of fact, when the issue arose in terms of members of the committee on both sides of the aisle having access to the information, that request was made to the White House because of the information that was in the file being of the sort that we know it to have been. The information was made available to the committee members on a confidential basis for their assessment and for their evaluation.

I would not try to characterize any member's reaction to it. I think every member looked at it and drew their own judgments and conclusions with respect to it.

I say that I heard all of the debate today. I did not hear anybody raise that issue as a substantive matter with respect to the suitability of this nominee to otherwise be eligible for this job.

Mr. McCAIN. Will my friend from Michigan yield for a moment?

Mr. RIEGLE. Very briefly.

Mr. McCAIN. I would like to reiterate my statement to my friend from Michigan. I make no allegations, and point no fingers, I grieve for the situation.

Mr. RIEGLE. I understand. I appreciate that point. I think it is a point that needs to be made. I made this point 2 or 3 days ago in a press release immediately after the information was made public because I was very troubled and disturbed about it, and I am now. I think the rules are absolute in that respect.

I will relate my impression of how this matter began to gain the kind of intense curiosity from the press that it did. I have discussed this as well publicly in the debate. I have discussed this with Senator WARNER in meeting with the nominee himself earlier this morning when the three of us met. When we were in the course of the discussion leading up to the vote in the committee 2 days ago on the Ryan nomination, Senator WARNER, who, of course, has been a very strong and persuasive advocate in behalf of Mr. Ryan, asked to come to the committee and actually participate in the debate leading to the vote on the nomination. We accorded him that privilege. It is somewhat unusual to have that happen, but he had earlier appeared during the nomination hearing itself and we try to make that accommodation to any Senator.

I will describe the scene. The committee room was packed. I think there were eight or nine cameras, various television networks and so forth in the back of the room. In the course of Senator WARNER's comments, and I have asked that the transcript if it is printed be brought over so I can refer to it directly. So I want the Senator from Missouri to understand that I am responding here from memory. So I want to see the actual written words on paper. I do not have those in front of me.

But in the course of Senator WARNER's comments in behalf of the nominee he made a reference to the extraordinary courage or forthrightness of the nominee, in effect bringing forward information about his personal history in some manner of words that were chosen would have been difficult for him to do. And I think very clearly to those of us on the committee this was a reference to the material that was in the FBI file. In that setting it was I detected immediately of great interest to the press in the room as to what that referred to because it was obviously a reference if you will to something that would seem to have a materiality to it.

I have said this at other places, and I have said it to Senator WARNER. I do

not say this in a disparaging way but the Senator has raised a very important question and it deserves a very specific, detailed response. So to the extent I can at this point tell the Senator what I know, so as part of this RECORD, it should be so.

In any event, following that comment which you could sort of detect immediate reaction with the very large press, what is that all about, and I think that sort of set the press off to a hunt with what that may have been—some sort of a veiled reference to.

Then following that point as best my memory recalls it, by Senator WARNER, which had in a sense touched on something, Senator GRAHAM from Florida as he I recall asked, inquired, if Members of the Senate as a whole would have access to the same material that members of the committee had access to.

So these things followed one after the other. In my response at that time was I felt that all information that had been made available to the members of the committee should obviously likewise be made available to the Members of the Senate. And that was it. We moved on from that point, and shortly thereafter I think the vote came.

I think it is fair to say that engendered a terrific press curiosity. I remember as I was coming over a press person coming up to me, and my saying, look, you have heard what I have to say, and I was on my way to something else. That was it.

I cannot enlighten the Senator beyond that, although I can give him one other piece of information that may relate to this. I had another Senator say to me, I cannot recall right now who that was, I will try to do that; that, as they were coming into the committee room that day, they overheard members of the staff, staff people, as I understood it, and this is a recollection, something I cannot put names on now. They overheard staff members of the Treasury Department standing in the hallway talking to other members coming into the room about this very issue. That is secondhand, and I cannot, from memory, tell you who it was that would have said that to me. Somebody said that to me. It may or may not be an accurate account. You know as much as I know with respect to this issue.

With regard to the discussion on the floor earlier today, I think it was made very clear that matters contained in FBI files are privileged information, are not to be released, and I made my own comments with respect to my understanding of the events in the past with respect to this nominee and expressed my own view as to why I thought they, speaking as one Senator, ought not be part of the evaluation of the suitability of this candidate.

In any event, that is as much as I can provide in the way of enlightenment on the situation to the Senator.

Mr. DANFORTH. Well, I appreciate the chairman's explanation. It also is a very strong statement about the impropriety of what happened.

I want to, again, quote what Andrea Mitchell said on NBC News last Friday night. She said:

> In addition to Ryan's lack of experience, Senators told NBC News they are troubled by information in this FBI file—occasional use of cocaine two decades ago.

In other words, the statement that Andrea Mitchell made on television was that NBC News was told by Senators, plural, and that they are troubled by information in his FBI file.

Further, the specific comment was made by Andrea Mitchell that what they were troubled by was something very concrete, very specific, "the occasional use of cocaine," a specific kind of drug, at a specific point in time, two decades ago.

Similarly, I spoke with Alixe Glen of the White House today, and her statement is that, a reporter, a White House ABC News reporter, visited her in her office and said that ABC news had been told by a Senator and two Senate staff aides that Mr. Ryan's FBI report includes information relating to occasional drug use.

So, granted, this White House statement, at least coming from me, constitutes hearsay or double hearsay. But the statement is, for whatever its evidentiary value, that the FBI report was leaked by a specific Senator and by two Senate staff aides. In other words, it was not just said as part of the general noise level around the hearing room.

All I know is what I read to the Senate. I do not know anything else. But I do know that these statements are specific statements, not general statements, and that if they are true—and I do not purport to judge the truth of them; that is what committees are for, not me. The last thing I am is some kind of investigator. I do not claim to be that, I do not see myself in that role, and I do not like this. I think that is what committees are for, and I really think that it is important that the facts be ascertained and that appropriate action be taken, whatever the facts are and whatever action is appropriate.

It would appear from the clear reading of the rules that the action is exceptionally dramatic. I am told that the first person ever expelled from the Senate was expelled for a violation of the forerunner of this particular rule.

So I thank the Senator for his explanation. I also thank the Senator for his understanding and for his general comments.

Mr. WARNER. I ask unanimous consent that the Senator from Virginia might proceed for not more than a minute and a half with reference to a unanimous-consent request for purposes of putting something in the RECORD.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I was not present on the floor and just was told excerpts from a colloquy that occurred here earlier with reference to the subject of the FBI report and my name was invoked and the fact that I had the opportunity to speak to the Committee on Banking in the course of its markup session.

Earlier today I was given by committee staff a copy of a transcript which purports to be the transcript of a portion of that meeting wherein I was granted the privilege to address the committee by the distinguished chairman.

Mr. President, I can only say about the FBI report question: I never asked to see the report; I have never seen the report.

I ask unanimous consent that my statement before the Banking Committee—I have no way of authenticating the accuracy of it—it is a transcript—be included in the RECORD right behind the statements by the chairman with reference to the Senator from Virginia.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The CHAIRMAN. Let me just say that normally, at least within my memory on the Committee, when we have gone into a markup situation or we are going to report out a nominee, we normally retain our discussion within the Members of the Committee. We have got an extraordinary situation that Senator Warner, who came and introduced the nominee, who is not a Member of our Committee, has a very strong feeling about it and he has asked if we would allow him to make a brief personal comment on this matter. I am prepared to do that, and I would ask, without objection, that Senator Warner have the opportunity to make a comment.
>
> Is there objection?
>
> [No response.]
>
> The CHAIRMAN. Hearing none. Senator Warner.
>
> Senator WARNER. Thank you, Mr. Chairman. I appreciate the courtesies that you and each Member of this Committee on both sides have extended me in this most unusual hearing.
>
> I would like to summarize very briefly this Senator's view of the process in which we now find ourselves, and how I, were I in your position, would try and resolve this decision.
>
> It seems to me in every human being there are three characteristics that we must look for to take on a heavy responsibility:
>
> One, is he or she intelligent? And there has been no question—I followed this Committee's proceeding carefully—no question about this man's intelligence. He has risen in a profession which is highly competitive to a position of responsibility in a very

large, major international law firm in which he is considered one of the four or five individuals bringing in the greatest amount of business and overseeing the operations of that firm.

Second, is the man honest? And that is so important in today's problems. Gentlemen, there is no question that has been raised about his honesty in this Committee. For others, this Committee possesses information, knowing full well that he had the courage to disclose everything about his life. To me, that puts the imprint of unquestionable honesty on this individual.

The third qualification is: Has the man or the woman got the toughness, the firmness, the judgment to make difficult decisions? I stayed with him last night, consulting with him and with others way into the evening, and quite obviously I had to advise him, as did others, that this was going to be a very close vote this morning; that there would be a thorough discussion, as there has been; and if this Committee were to vote him to the Floor, he could expect a very intense debate on the Floor.

Now he could have, I think with complete dignity, slipped away quietly into the evening and written that three-paragraph letter to the President, to the leadership and the membership of this Committee, and said, obviously he accepts the judgment of many, and that is it. It is a one-day story, and he resumes his life and goes on.

Well, he turned to me and he said: What is your recommendation? You know this institution. Now put yourself in that spot. We all come up here. We take pleasure in it. We sit with our nominees, take our pictures, it makes good reading back home, very often. But then there comes this unsual case when you have got to give that individual your best judgment, recognizing that the President of the United States has made a decision that he wants this individual; that the Secretary of the Treasury—one of our own colleagues, not just another Secretary, but a former United States Senator whose judgment we respected throughout his career here in this institution—I looked him in the eye and I said, "go for it." Because this question is so important that it needs the judgment of the full United States Senate, as provided by the Constitution.

The Constitution does not say "a" committee makes the decision. It says "the Senate." I said that I have been here long enough to know that there are instances where we have partisan differences from time to time, but the complexity of this segment of the financial industry is so intense, so complex, that you would be doing a service to the Nation and to the Senate and to the Presidency to have it fully discussed from the Floor of the United States Senate and to have the minds of all 100 Senators focused on this problem.

He consulted with his wife, and we talked again this morning and it was his unequivocal decision to go for it. I hope that within the judgment of this Committee there are sufficient votes to allow the Senate as a whole to address this nomination in the context of the seriousness of the problem in this segment of our financial community.

Thank you for the courtesy.

The CHAIRMAN. Thank you, Senator Warner.

Senator DODD. Mr. Chairman, I would ask unanimous consent that the statement I have be included in the RECORD.

The CHAIRMAN. Senator Dodd has asked unanimous consent to insert a statement in the RECORD, and we shall do so at this point.

[The prepared statement of Senator DODD follows.]

The CHAIRMAN. Senator Graham.

Senator GRAHAM. Mr. Chairman, I would like to ask a question. If this Committee does send this nominee to the Senate Floor, would all Members of the Senate have access to the same information that Members of this Committee have had access to, information which for some of us have been a factor in our decision?

Mr. RIEGLE. Mr. President, I normally do not object. But I would ask unanimous consent to proceed just briefly to respond to what the Senator said because it is an important record that we are attempting to establish. We have been working on it all day long in one form or another.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. RIEGLE. I think the Senator from Virginia finished. I seek the floor in my own right.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I ask unanimous consent to proceed for 3 minutes with respect to this subject matter just raised by the Senator from Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I shall not object, then I ask for an additional 3 minutes following the comments from the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. We may need more than that. But in any event, let me say that what occasioned this was a statement made earlier by the Senator from Missouri on his concern about information in the FBI file having been made public.

The Senator knows my view on that. I have stated it very forcefully, about the propriety of protecting that information. I made a very strong statement about it.

In any event, in the comment to him, I was going back to the session in our committee where we were approaching the vote and the markup, and I made a reference to a comment that the Senator from Virginia had made. As he recalls, he came in and made a very forceful case in behalf of Mr. Ryan.

And on page 52 of that transcript, I made a general reference because I did not have the material in front of me then and I do now, and I take it the Senator has a copy in his hand as well.

I just read from page 52. The Senator had spoken here first of all about the nominee's intelligence. Then he says:

Second, is the man honest? And that is so important in today's problems. Gentlemen, there is no question that has been raised about his honesty in this Committee. For others, this Committee possesses information, knowing full well that he had the courage to disclose everything about his life. To me, that puts the imprint of unquestionable honesty on this individual.

Now, that is obviously a reference to something, I mean a very——

Mr. WARNER. Mr. President, I will be happy to answer what the reference is to. The Senator may go ahead and finish his statement.

Mr. RIEGLE. In any event, I made the observation earlier—I need to continue on down to finish reciting the Senator's comment. He then went on to say:

> The third qualification is: Has the man or the women got the toughness, the firmness, the judgment to make difficult decisions? I stayed with him last night, consulting with him and with others way into the evening, and quite obviously I had to advise him, as did others, that this was going to be a very close vote this morning; that there would be a thorough discussion, as there has been; and if this Committee were to vote him to the Floor, he could expect a very intense debate on the Floor.
>
> Now he could have, I think with complete dignity, slipped away quietly into the evening and written that three-paragraph letter to the President, to the leadership * * *.

And then I am going to come down here because there is one other line I was looking for here.

Well, it comes on down through the remainder of page 53. We will put all of this in the RECORD so it is there in its full context. It comes down on to page 54 where you conclude or near your conclusion when you say:

> He consulted with his wife, and we talked again this morning and it was his unequivocal decisions to go for it.

I ask unanimous consent to proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. And a like amount of time for the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. In any event, after making that comment, with whatever he may have had in mind with respect to this point about his honesty and presenting information that was in the possession of the committee and the courage to disclose everything, then that was followed by Senator Graham inquiring, immediately following the comments of the Senator from Virginia: "If this committee does send this nominee to the Senate floor, would all Members of the Senate have access to the same information that members of this committee have had access to, information which for some of us has been a factor in our decision?"

And my clear sense at the time was that that remark by Senator GRAHAM following the remarks of the Senator from Virginia, I took to be—just giving the Senator my judgment, having sat there, speaking for myself—I took his comment to be a reference back to

what the Senator from Virginia had previously said.

In any case, I said to Senator DANFORTH earlier on the floor, as I was sitting there chairing that discussion, I sensed and detected a real quick sense of strong interest in what the Senator might be referring to by that whole bank of press people that were across the back of the room.

Mr. WARNER. I was there right there. No one made inquiry.

And I further ask unanimous consent to place in the RECORD a document which I have in mind, namely a very voluminous questionnaire known as Standard Form 86 filled out by the nominee—he said he only had one night in which to do it—and in which there were many, many questions in which he fully disclosed everything about his life.

And when the questionnaire is read in the context of what is said here, I think it is quite clear what this Senator had in mind. And having not seen the FBI report before this statement by the Senator from Virginia, nor have I seen it since, I do not think there is any basis on which to implicate the Senator from Virginia in whatever discussions are taking place about the FBI report.

The PRESIDING OFFICER. The Chair would inform the Senators the time of the Senator from Michigan has expired.

The Senator from Virginia may continue.

Mr. WARNER. Mr. President, I will be happy to yield the balance of my time. I think I should like to put in the RECORD both the transcript of the hearing, in which I was present and made four or five points with the consent of the members of the committee, for which I express my profound appreciation, and I made the statement that he had the courage to disclose everything about his life.

I shall put in, Mr. President, following my statement, or I think I would put it in at the end of the colloquy so as not to break the sequence, the second document which would be an insertion by the Senator from Virginia, a copy of the Standard Form 86 in blank from that is filled out by persons who are being considered for positions of this high importance.

That would give some understanding as to what I was referring to at the time this reference was made.

Mr. RIEGLE. Mr. President, if the Senator would yield.

The PRESIDING OFFICER. The Senator from Virginia has time and may yield to the Senator.

Mr. RIEGLE. Will the Senator yield?

Mr. WARNER. Yes.

Mr. RIEGLE. I wish to add a comment or two here. In terms of my response to Senator DANFORTH, I just again say to the Senator from Virginia—he and I know each other very well—I am not attempting to impute any different meaning to what he would have said that day and what he had in mind with the remarks that he made.

I can tell you this because I was there and I was paying attention when that comment was made——

Mr. WARNER. Which comment?

Mr. RIEGLE. The comment on page 52.

> Gentlemen, there is no question that has been raised about his honesty to this committee. For others, this Committee possesses information, knowing full well that he had the courage to disclose everything about his life.

Mr. WARNER. And that is for other Senators who were not present in the hearing.

Mr. RIEGLE. All I am saying is that when that statement on page 52 was made, it carried an implication. We all remember very well the facts about our own biography. That does not require any special courage or mean that the committee somehow possesses information that maybe others do not possess.

I think, unwittingly as it may have been, that statement on page 52 carried, at least in the impression of this Senator who was there, an intense——

Mr. WARNER. Unwittingly on whose part; "unwittingly" refers to whom?

Mr. RIEGLE. I take no quarrel with what the Senator from Virginia's intention was or to what his reference was. But, I say that, taking what you just said is your intention, I think that that comment, unwittingly by the Senator from Virginia, carried a message or an insinuation to the press that I do not think the Senator intended to in terms of what he is now saying. But, I think it had that effect.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIEGLE. I ask unanimous consent that the completed basic statement received by the committee concerning Mr. Ryan's background be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIEGLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. With respect to this discussion that Senator WARNER and I have had very late in this session, I want to just clarify that there are three items of information that we receive on nominees in the Banking Committee. We get a basic statement that is called Statement for Completion by Presidential Nominees, which is essentially a résumé of Government experience, previous jobs, published writings, et cetera, which we received from Mr. Ryan and which is printed in the committee report. We made this committee report a part of the RECORD in full earlier, so that information is there.

We also receive a second report that is a financial disclosure report which is available to the committee for review, which we do not make a part of the RECORD but assess and draw what conclusions we feel are needed from that.

And then finally, the third item that is available to the committee, on any nominee, is the FBI report which is available to the chairman and the ranking member, and under exceptional circumstances can be made available to all the members of the committee, which in this particular case it was.

We do not receive any other information beyond those items. Senator WARNER and I have been going over some of the other confidential disclosure forms that the White House has respective nominees fill out apparently for internal review within the White House itself prior to the decision to go forward with the nomination. They are in a format I have not seen before. Of course they are not documents that are available to our committee because they are not prepared for our use.

So I hope that provides some measure of clarification to what is or is not available, and what we have had available to us in this particular instance.

Mr. WARNER. Mr. President, when I made reference in the committee hearings to the fact that this individual, as do all individuals applying for this type of job express, as I said here, to me that is the question of courage. I was referring to documents which I have seen on several occasions in connection with my work on the Armed Services Committee and other areas. It is referred to as standard form 86 entitled "Questionnaire for Sensitive Positions." It is accompanied by a document from the Office of the President-elect entitled "Personal Data Statement."

Anyone looking at these will see the magnitude, the depth, and the breadth of the questions asked of individuals. It probes into every facet of their personal life, that of their family and the like. This is what I had in mind when I made reference to the fact of courage, and I felt very honestly it was a measure of courage to put down his complete family history of himself and others.

These two documents are the ones that the Senator from Virginia asks unanimous consent to have printed at the end of this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Mr. RIEGLE. I think this is an important statement because I think what Senator WARNER just referred to, these other documents which I have not seen before, are apparently the internal working documents that the White House has and prepares as they are screening the nominee internally. Of course, that information does not then make its way into the committee.

So again just coming back to my earlier reference to the statement on page 52 of the transcript of the markup, the only information that we had of a biographical sort in the committee was publicly available. That would be this biographical summary sheet printed in the report, and which had earlier been made available to the press and was generally known.

To come back to this question of what piqued the interest of the press, I think the basic submission of the nominee's background information was so innocuous on its face and just a standard resume—the document that I have referred to that we printed in the report and which had been made available to the press—this set of comments on pages 52 to 55 while not intended to do so, I think conveyed a meaning to the press that there was something more here that was out of sight but was significant. The press's question would have been: What information does the committee possess that is not out there?

Why would it have taken any particular courage because, obviously, the standard information in the resume is sort of garden variety information.

So I must say I think this sort of gets to the bottom of what the Senator may have had in mind, but I think it had the effect in that situation of suggesting to that very large press corps that there was something more here they ought to go hunt for.

Mr. WARNER. I cannot account for what may be in people's minds. I have a record here of what this Senator said in the course of the committee markup. I have now put documents in the RECORD which refers to what I had in mind. I only say to my friend from Michigan that I do not know quite how this question about the use of FBI material arose I know Senator NUNN and I are very careful in our committee, the Armed Services Committee about how we handle FBI material. He is chairman, and I as ranking member examine it. If there is occasion we feel that there was instances of factual information which might be of importance to other members in reaching their deliberations, we take it upon ourselves to inform the members. But our committee has guarded the confidentiality of such documents.

I am not a part of this debate on the FBI documents in this case. But what concerns me is Senators may be forced to go to the extremes of just saying we are not going to involve the use of the FBI but we will simply take the list of questions that the FBI propounds, propound them anew for the first time in the course of the hearings, and take these questionnaries which I have now put in the RECORD which elicits every single facet of a person's personal life.

Therefore, a nominee sitting before a congressional committee would expect in the future if we go to that process to be asked the same questions as propounded by others who are involved in the nomination process in the executive branch.

Mr. RIEGLE. Exactly, if the Senator will yield, the witnesses at that point are under oath. They have to take the oath before they begin the questioning period and the nomination hearing. So if an effort were used as the Senator suggested to go right down their confidential information format, I do not propose that we do that because I think that is an unworkable situation.

Mr. WARNER. it certainly poses problems. We have the broader question here, and I think we addressed this today, of a generation of individuals coming forward now reaching that maturity and level of experience where they are taking up major positions of responsibility, both in the private sector and the Government.

I think these questions are important to evaluate individuals, to have these answers, and the private sector likewise is going into a similar set of inquiries. We just do not want to frighten off people who may have made a mistake early on in life and then thereafter feel that they can no longer step forward and offer themselves for public service.

That concerns this Senator. I think each case must be examined. We certainly in no way condone the use of controlled substances which is the issue that prompted this debate. On the other hand, somehow we have to established a policy of how we deal with it when the matter comes before the Senate in connection with its advice-and-consent procedure.

Mr. RIEGLE. If the Senator will yield further, there was another document that we were looking at a minute ago.

Mr. WARNER. That is the document that I sent to the desk.

Mr. RIEGLE. Could I have that for 1 minute? I have not seen that document before.

Mr. WARNER. It is a standard form, I am told.

Mr. RIEGLE. It is used I take it for the internal use of the White House. But, in any event, it answers the question that came up in the debate earlier today on this instance where there was confusion. I think now we have the answer off standard form 86. I gather the Senator asked unanimous consent to make this form a part of the RECORD.

Mr. WARNER. That is correct.

Mr. RIEGLE. On page 7 of this form——

Mr. WARNER. It is document 86.

Mr. RIEGLE. Standard Form 86, "Questionnaire for Sensitive Positions." But with respect to a series of questions here, in this time period, as to how far back these questions go in time, there are a series of issues that relate to whether a person has ever been—these are very serious matters, and they have no relationship to this case. So I just separate it out.

Mr. WARNER. For the record, you are referring to a blank form.

Mr. RIEGLE. I am referring to a blank form. But the form for example proposes a series of standard questions. "Have you ever been arrested, charged or convicted of a felony offense," for example? Then later on down here, 23(d), "Have you ever been arrested, charged or convicted for any offenses related to alcohol or drugs?"

Then it lays this out in terms of the time period. Where did we find that particular phrase? This is under a category where it says "Has any of the following happened to you in the last 15 years?"

So they are asking the nominess as of the date this is filled out to go back and do an assessment of the last 15 years, and in that category fall arrests, charges or convictions to a series of things relating to explosive charges, firearms, criminal offense, alcohol, drugs, what have you.

Then down in the next category, this is a form that we do not see up here. I am seeing it for the first time this evening. It says your involvement with alcohol, dangerous drugs, including marijuana and cocaine.

Then it asks about a series of questions, and it says "Do you now use or within the last 5 years have you used alcoholic beverages, habitually, to excess?" That is one question, "Yes or no."

Then it says "Have you now, do you now use or supply or within the last 5 years have you supplied, used or supplied marijuana, cocaine, narcotics, hallucinogenics or other dangerous illegal drugs?" And then there is a yes or no.

From our earlier colloquy today, it may have been that in filling this form out in haste, the nominee in reading down here, because there is a lot of fine print, would have taken the 15-year reach back requirement up above for that set of questions and would have applied that 15-year period to the second level of questions which in fact go back 5 years.

When we had our colloquy earlier today, we were under the impression that perhaps the requirement on how

far back one goes had been changed. As we read standard form 86—if this is in fact an up-to-date form—that question, with respect to use as apart from conviction, reaches back 5 years and not 15 years. So I think we will take the time to say that, if that is the official policy—and one would assume it is if this questionnaire being used—then our current understanding of how form 86 is being applied, is different than our supposition earlier in the day when we did not have standard form 86 in front of us.

Mr. WARNER. Well, Mr. President, neither of us know precisely whether this version of standard form 86 was used by the nominee. It was provided to the Senator from Virginia as an example of the volume of material that a nominee must provide. So I think we should be very cautious. We do not know whether that is the precise form used by the nominee that was the subject of the Senate consideration today, but it is marked standard form 86: "Questionnaire for Selected Sensitive Positions." It is very detailed and requires a divulgence of a tremendous amount of personal details. That is the type of information to which the Senator from Virginia was referring, which in his judgment required the courage of both the husband and the wife and others to bring forth that information. I wish to clarify that. That is in reference to my statement to the committee.

Mr. President, in no way am I trying to condone what happened in this case. I join the chairman in saying that it is a very serious matter and one that should be the subject of careful consideration by the Senate, because we have to adopt a policy to give, I think, some protection to nominees and those being considered under the advise and consent clause of the Senate. We are dealing with lives, not only of the nominees but, as I said earlier, the silent spouse, be it a man or woman; and the children also are involved so often in these family cases.

It requires great care, and I hope out of this unfortunate episode is derived a policy which clarifies this situation such that it will not happen again, and we can accord the protection that these families deserve.

Mr. RIEGLE. The Senator and I share the same view on that matter.

Mr. WARNER. Mr. President, I ask unanimous consent that a document entitled "Instructions for Completing Standard Form 86, the Questionnaire for Sensitive Positions" be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. WARNER. This document contains the instructions actually followed by Mr. Ryan and clarifies the questions involving the periods of 15 years, 5 years, and since 18 years.

Mr. President, I yield the floor.

EXHIBIT 1

APPENDIX A.—STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Ryan, Jr., Thomas Timothy.

Position to which nominated: Director, Office of Thrift Supervision. Date of nomination: 3/22/90.

Date of birth: 6/13/45. Place of birth: Washington, DC.

Marital status: Married. Full name of spouse: Judith Rush Ryan.

Name and ages of children: Kathryn—8, Michael—5.

Education: Institution, dates attended, degrees received, dates of degrees.

St. Anthony's High School, 1959-1963, diploma, 1963.

Villanova University, 1963-1967, A.B., 1967.

American University Law School, 1970-1973, J.D., 1973.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Urban Mass Transportation Fellowship.

Army Commendation Medal.

Department of Labor—Special Recognition Award.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), dates.

Program for the Advancement of Commercial Technology, Member, 6/87—present.

Georgetown University Law Center, Adjunct Professor, 9/79—9/83.

American Bar Association, Administrative Law Section, Election Law Section, Vice Chairman, 6/80—6/81.

Dean's Advisory Council, American Univ. Law School, Chairman/Member, 1/85—present.

D.C. Bar Association, Member, 8/74—present.

American Council of Young Political Leaders, President/Board Member, 1/81—2/90.

Presidential Transition Found, Federal Bar Association, Secretary; Director, Member, 11/80—present, 8/74—2/90.

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and dates of inclusive employment.

5/83—Present; Partner, Reed Smith Shaw & McClay, including Pierson Ball & Dowd, Washington, DC.

3/81—4/83; Solicitor of Labor, U.S. Department of Labor, Washington, DC.

11/80—3/81; Legal Counsel, 1980 Presidential Transition Office, Washington, DC.

9/78—11/80; Associate, Pierson, Ball & Dowd, Washington, DC.

12/76—9/78; Associate, Loomis, Owen, Fellman & Coleman, Washington, DC.

10/75—12/76; Deputy General Counsel, President Ford Committee, Washington, DC.

11/74—10/75; Associate, Venable, Baetjer & Howard, Baltimore, MD.

8/73—11/74; Attorney-Legal Assistant, National Labor Relations Board, Washington, DC.

9/72—6/73; Fellow, Urban Transportation Institute, Washington, DC.

6/71—6/72; Law Clerk, Department of Transportation, Washington, DC.

3/70—6/71; Law Clerk/Messenger, Hogan & Hartson, Washington, DC.

8/67—3/71; Ammunition Officer, U.S. Army, Ft. Belvoir, VA, and Taegu, Korea.

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

U.S. Army—1967-1970.

Legal Assistant, National Labor Relations Board—1973-74.

Secretary, Board of Visitors, George Mason University—1979-82.

Solicitor of Labor, Department of Labor—1981-83.

Member, Oversees Private Investment Corporation—1981-83.

Member/Counsel, Administrative Conference—1981-85.

Member, ERISA Advisory Council—1985-86.

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

Conveyancing of Urban Transportation Properties, 1973 (NTIS).

Co-Author, "Obligations of Government Contractors with Respect to Disabled Veterans, Veterans of the Vietnam Era and Handicapped Individuals, Equal Employment Practice Guide, FBA, 1978 and 1979.

Co-Authored, "Hepatitis B; An Occupational Hazard For Health Care Personnel, Health Matrix, Vol. II, No. 4, p. 3, 1985.

"The Solicitor's View of the Labor Department," Labor Law Developments 1982, 28th Annual Institute, Southwestern Legal Foundation, Dallas, TX.

Political affiliations and activities: List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Committee to Re-elect the President—Advance Man—1972.

President Ford Committee—Deputy General Counsel—1976.

Warner for Senate Committee—Counsel—1978, 1984, 1990.

Baker for President—Special Counsel—1980.

George Bush for President—Special Counsel—1988.

Political contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify the specific amounts, dates, and names of the recipients.

I don't remember whether they are over $500 or not, but I have contributed to the Republican Party and candidates. Most frequently, the Republican National Committee, the Republican Party of Virginia, and John Warner for Senate. I have also made in kind contributions of time to all political committees for which I have worked over the years.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Question. State fully your qualifications to serve in the position to which you have been named.

Answer. I believe that my experience of almost two decades in managing large organizations and serving clients as a practicing attorney well qualifies me for the position of Director of the Office of Thrift Supervision.

I have been a practicing attorney for nearly seventeen years, with considerable legal experience both in the private and

public sectors. My most recent Federal appointment took place in 1981, when President Reagan, with the advice and consent of the Senate, appointed me to the position of Solicitor of Labor. In that position, which I held until 1983, I was responsible for all the legal activities of the Labor Department, its legislative program, and served as legal advisor to the Secretary of Labor. As Solicitor, I had ultimate responsibility for the management and direction of approximately 600 attorneys in one of the largest Cabinet departments, including broad-scale delegated litigation efforts in Washington and 16 field offices pertaining to the vast array of statutes administered by the Labor Department.

I have also had several appointments to various advisory boards and councils, including my service as President and a Member of the Board of the American Council of Young Political Leaders; Chairman and Member of the American University Law School Dean's Advisory Council; a member of the Oversees Private Investment Corporation; the Program for the Advancement of Commercial Technology in India; and as a member of the Administrative Conference of the United States and its Board of Directors (Council).

In addition, I have had extensive involvement with the transition efforts of several Administrations and election campaigns. In 1976, I served as Deputy General Counsel of the President Ford Committee, and in 1988, I was Special Counsel to the George Bush for President committee. In 1980, I served as Legal Counsel for the Reagan/Bush transition team.

As to my private sector experience, I have been associated as a partner with Reed Smith Shaw & McClay (including Pierson, Ball & Dowd which merged with the firm) since 1983. At present, I am a member of the firm's Executive Committee. The clients of this national law firm include many of the major corporations and financial institutions in America. My activities at the firm have included representation of clients in the ERISA fiduciary and litigation areas as well as general Washington representation for various clients in multiple business sectors.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Upon confirmation, and prior to taking office, I will withdraw from Reed, Smith, Shaw & McClay, the law firm in which I am currently a partner. My withdrawal will be in accordance with the firm's partnership agreement and, other than the continued maintenance of my retirement account as part of the firm's retirement plan and my right to receive an amount equal to the sum of my capital account and my partnership share calculated as of the date of withdrawal. I will completely sever my relationship with the firm. I do, however, intend to remain a limited partner in M&M Partnership, in which, along with approximately 150 members of the firm, I have an interest in an office building in Pittsburgh, PA.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No specific plans.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Pursuant to partnership agreement, I will receive capital account and partnership share calculated on service performed through date of departure from the firm.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

Representation of the Association of Financial Guaranty Insurors on risk-based capital guidelines issued by federal regulators. Accordingly, I will recuse myself from any involvement in any issues involving credit enhancement through the use of insurance.

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

INTELSAT—on general matters affecting international communications.

Contel ASC—on Commercial Space Launch Act.

On labor legislation introduced by the Reagan Administration while I was Solicitor of Labor.

Periodic contact on behalf of the firm client Securities Industry Association on various issues. None recently.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

While I do not believe that any of my financial interests would conflict with my duties, should such a potential conflict arise, I will promptly advise the Department's ethics officials and take whatever action is deemed appropriate.

Civil, criminal and investigatory actions: 1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

None.

EXHIBIT 2

OFFICE OF THE PRESIDENT-ELECT,
Washington, DC.

From: C. Boyden Gray.
Subject: Personal Data Statement.

As part of the clearance procedures for your prospective nomination, please answer all of the following questions (please do not respond "not applicable" or "N/A" if your response is "no" or "none"). For questions 6-11, inclusive, please supply information as it pertains to you, your spouse, and any relatives living in your immediate household. In addition, in responding to the other questions, please supply any information regarding your spouse or relatives that you deem to be relevant. Your responses to this questionnaire, which is not subject to public disclosure, will remain confidential.

Because your nomination cannot be finalized until all necessary reviews have been completed, please supply this information at your earliest convenience.

If you have any questions or need assistance in responding to this questionnaire, please do not hesitate to contact this office. Thank you for your cooperation.

1. Full name.

2. Current position and business address and telephone number.

3. Home address and telephone number.

4. Position for which you are being considered.

5. Name of person to contact (if other than yourself, with regard to clearance matters, and home and office telephone numbers for that position.

6. The names of all corporations, firms, partnerships or other business enterprises, and all nonprofit organizations and other institutions with which you are now, or during the past five years have been, affiliated as an officer, owner, director, trustee, partner, advisor, attorney or consultant. In addition, please provide the names of any other organizations with which you were affiliated prior to the past five years that might present a potential conflict or appearance of conflict of interest with your prospective appointment. (Please note that in the case of an attorney's client listing, it is only necessary to provide the names of major clients.)

Those organizational affiliations that you plan to continue during your Government service should be noted with an asterisk.

7. All your interests in real property, other than a personal residence, setting forth the nature of your interest, the type of property and the address.

8. The names of any debtors, setting forth the amount owed to you and any additional information deemed relevant to explain the transaction. You need not include loans to your spouse, dependents, or siblings for nonbusiness purposes. Please exclude all debts under $5,000.

9. List direct involvement through contracts, provision of consulting services, *etc.*, that you or your current business has with the Federal government. Please specify the agency or agencies involved.

10. Any employee fringe benefits you are now receiving and would desire to retain during your government service.

11. Have you or any firm, company or other entity with which you have been associated ever (1) registered as an agent of a foreign principal; (2) requested and received an exemption from such registration requirements; or (3) acted as an agent of a foreign government? If so, please give full details (*e.g.*, date of registration, request for exemption, or notice provided to the Secretary of State concerning service as an agent of a foreign government; name in which filing was made; name of foreign principal; identity of country involved; and, if applicable, date representation was terminated).

12. Have you ever been publicly identified, in person or by organizational membership,

with a particularly controversial national or local issue? If so, please describe.

13. Please list all published books or articles you have authored, co-authored or edited. If any of these publications are particularly controversial.[1] Please describe.

14. Have you ever submitted oral or written views to any government authority (executive or legislative) or the news media on any particularly controversial [1] issue other than in an official government capacity? If so, please describe.

15. Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for this position?

16. Do you know anyone who might take any steps, overtly or covertly, to attack your appointment? If so, please identify and explain the basis for the potential attack.

EXHIBIT 3

[Standard Form 86, Revised October 1987, U.S. Office of Personnel Management, FPM Chapter 736]

QUESTIONNAIRE FOR SENSITIVE POSITIONS

(Read this information carefully. Follow the instructions fully or we cannot process your form.)

Why do we need the information you will give us and how will we use it?

The U.S. Government has conducted background investigations for over 50 years. It does this to establish that people who want to be employed by the Government are suitable for the job and that they, along with people who will work for the Government under contract, are eligible for any required security clearance. We use the information from this form primarily as the basis for an investigation that will be used to determine your qualifications and suitability for a particular job or eligibility for a clearance.

Asking you for this information is in compliance with the Privacy Act of 1974. The information you give us is for Official Use Only; we will protect it from unauthorized disclosure. We may share some information with Federal and other sources to get additional information about you. We may also give some of the information to Federal, State, and local agencies checking on law violations or for other lawful purposes.

Giving us the information we ask for is voluntary. However, we may not be able to complete your investigation, or complete it in a timely manner, if you don't give us each item of information we request. This may affect your employment or clearance prospects.

What authority do we have to ask you for the information requested on this form?

The U.S. Government is authorized to ask for this information under sections 1303, 1304, and 3301 of title 5 of the U.S. Code; section 2165 of title 42, U.S. Code; Executive Order 10450; and parts 5, 731, 732, and 736 of title 5, Code of Federal Regulations. We ask for your Social Security number to keep our records accurate, because other people may have the same name and birthdate. Executive Order 9397 also asks Federal agencies to use this number to help identify individuals in agency records.

What is the investigative process?

The information you provide on this form is confirmed by investigation. The type of investigation done depends on the level of sensitivity of the position you are seeking or now hold. The information obtained in an investigation comes from records and people. Sensitive positions require an investigation that relies more on an Investigator interviewing people who know you.

Many investigations include an interview with you as a normal part of the investigative process. This Personal Interview is the first step in the investigation, and is conducted under oath or affirmation. It provides you the opportunity to update, clarify, and explain more completely information on your form, which often helps to complete your investigation faster. If your investigation requires a Personal Interview, you will be contacted in advance by telephone or mail to arrange a time and location for the interview. It is important that the interview be conducted as soon as possible after you have been contacted. Postponements will delay the processing of your investigation. Declining an interview may result in your investigation being canceled.

You will be asked to bring identification with your picture on it, such as valid State driver's license, to the Personal Interview. There are other documents you may be asked to bring to verify your identity as well. These include: documentation of any legal name change; Social Security card; and/or birth certificate.

Documents that verify any significant claims or activities may also be requested; for example: alien registration; naturalization certificate; originals or certified copies of college transcripts or degrees; high school diploma; professional license(s) or certificate(s); military discharge certificate(s) (DD Form 214); marriage certificate(s); divorce papers; tax returns; passport; and/or business license(s).

You also may be asked to bring documents that pertain to information provided in your answers to questions on the form or other matters requiring specific attention. These matters include: termination or discharge from employment; delinquent loans or taxes, bankruptcy, judgments, liens, or other financial obligations; agreements involving child custody or support, alimony, or property settlements; and arrests, convictions, probation and/or parole.

Who makes a final determination?

Final determination on your suitability for employment and/or your being granted a clearance is the responsibility of the OPM or the Federal agency that requested your investigation. You may be provided the opportunity to personally explain, refute, or mitigate any information before a final decision to made.

How is this form organized?

This form has two parts. Part 1 asks for background information, including where you have lived, gone to school, and worked. Part 2 asks about your activities and such matters as firings from a job, a police record, and questions about your association with certain organizations. In answering Part 2, you should keep in mind that your answers to any of the questions alone may not disqualify you from a sensitive position.

What are the penalties for inaccurate or false information?

The U.S. Criminal Code provides that knowingly falsifying or concealing a material fact is a felony which may result in fines of up to $10,000, or 5 years imprisonment, or both. In addition, Federal agencies generally fire or disqualify individuals who have materially and deliberately falsified these forms, and this remains a part of our permanent record for future placements. Because the position for which you are being considered is a sensitive one, your trustworthiness is a very important consideration in deciding your suitability or eligibility for security clearance. Your prospects of employment are better if you answer all questions truthfully and completely than if you falsify or omit any of the information. In the course of an interview with a Federal official you will have adequate opportunity to explain any information you give us on the form and make your comments part of the record.

How is this form filled out?

1. Follow the instructions of the person who gave you the form. Find out how many copies of the form you are to turn in. You must sign and date, in ink, the original and each copy you submit.

2. Before you leave the office, look the form over and ask for continuation sheets (SF86A) if you think you'll need them. If you had more than 5 residences or 5 employments/self employments/unemployments in the past 15 years, or you have attended more than 2 schools, you will need a continuation sheet(s). The spaces provided on pages 6 and 9 are to be used to continue your answers to other questions. If additional space is needed, use a blank piece of paper. Each blank piece of paper you use must contain you name and Social Security number at the top of the page.

3. Type or legibly print your answers. We cannot accept your form if it is not legible.

4. You must use the State codes (abbreviations) listed below when you fill out your form.

Alabama	AL
Alaska	AK
Arizona	AZ
Arkansas	AR
California	CA
Colorado	CO
Connecticut	CT
Delaware	DE
Florida	FL
Georgia	GA
Hawaii	HI
Idaho	ID
Illinois	IL
Indiana	IN
Iowa	IA
Kansas	KS
Kentucky	KY
Louisiana	LA
Maine	ME
Maryland	MD
Massachusetts	MA
Michigan	MI
Minnesota	MN
Mississippi	MS
Missouri	MO
Montana	MT
Nebraska	NE
Nevada	NV
New Hampshire	NH
New Jersey	NJ
New Mexico	NM
New York	NY
North Carolina	NC
North Dakota	ND
Ohio	OH
Oklahoma	OK
Oregon	OR
Pennsylvania	PA
Rhode Island	RI
South Carolina	SC
South Dakota	SD
Tennessee	TN
Texas	TX
Utah	UT
Vermont	VT
Virginia	VA
Washington	WA
West Virginia	WV
Wisconsin	WI
Wyoming	WY
District of Columbia	DC
Virgin Islands	VI
Puerto Rico	PR
Guam	GU
Northern Marianas	CM
American Samoa	AS
Trust Territory	TT

[1] Reference to "particularly controversial" is intended to focus on issues that could be used, even unfairly, against you.

5. The 5-digit postal ZIP codes are needed to speed the processing of your investigation. The office that provided you with the form will assist you in completing the ZIP codes.

6. Whenever "City (Country)" is shown in an address block, also provide in that block the name of the country when the address is outside the United States.

7. When providing dates, you may use numbers 1-12 to indicate months if you don't believe you have enough space to write the month; and for the same reason, for year you may show the last two numbers in the year. For example, June 8, 1967, could be shown as 6/8/67, or January 1984 could be shown as 1/84.

If you have any questions, call the office that gave you the form. Be sure to sign and date the certification statement on page 9 and complete the release on page 10. Any forms that are not completed according to these instructions will be returned. This will delay the processing of your case.

[Standard Form 86 not reproducible in the RECORD.]

EXHIBIT 4

[It is imperative that the following instructions be read and followed prior to completion of background forms for your prospective appointment]

INSTRUCTIONS FOR COMPLETING STANDARD FORM 86

"QUESTIONNAIRE FOR SENSITIVE POSITIONS"

As a prospective Presidential appointee, it will be necessary for you to provide additional information to that requested on the Standard Form 86 (SF-86). It is essential that all information be provided in as much detail as requested in order to ensure that the FBI is able to conduct a thorough and complete investigation. Ambiguous and incomplete information will impede the investigation and will cause valuable time to be lost in the appointment process.

GENERAL INSTRUCTIONS

—The form and all attachments must be typed. A continuation sheet is provided on page however, if additional space is needed to continue your answers, you may attack additional sheets of plain bond paper to supplement your answers. Before each answer identify the number of the question.

Do not abbreviate the names of cities. The inclusion of zip codes is particularly helpful.

Be specific; exact and complete dates, names, addresses, and explanation of answers will be helpful for the expeditious handling of the investigation. When you have completed the form, please review it for thoroughness and continuity.

The original SF-86 and three machine copies, all with original signatures, are acceptable as the four copies required for submission.

SPECIFIC INSTRUCTIONS

8. Citizenship: If you or your spouse are naturalized citizens, provide the date, place and U.S. District Court where you or your spouse were naturalized. If naturalized by derivative, provide above-mentioned information concerning parents. If your spouse is not a U.S. citizen or naturalized citizen, please give details as to status as well as date and place of entry.

9. Where You Have Lived: Although the SF-86 asks for your residence for the past 15 years, ensure all residences since your 18th birthday are included.

If a residence is in an apartment complex, include the name of the complex and the specific unit number. If the residence was leased or rented, include the name of the individual in whose name the rental agreement or lease was established. Lastly, include the full name and complete birth dates of all current cohabitants.

11. Your Employment History: Although the SF-86 asks for your employment and military history for the past 15 years, you must list all employment since your 18th birthday.

Provide complete addresses (street/city/state/zip code) for each employment and job description listed. If a government employment or employment by some other large organization is to be listed, indicate the department, bureau, division and section, or specific subdivision.

If you are a member of a military reserve component or National Guard unit, list the organization, its location, the names of your immediate officer and telephone number, if known.

Include all periods of unemployment and self-employment. Provide names, complete addresses and telephone numbers of persons who can verify periods of unemployment or self-employment, to include individuals employed by you, landlords, friends, cohabitants, competitors, or clients.

12. People Who Know You Well: Please provide complete home and business addresses (including name of business), and home and business telephone numbers. Use only individuals currently residing in the continental United States.

17. Your Relatives: Although the SF-86 requests only the country of birth, also provide the city and state or city and country.

If relatives reside overseas, please indicate whether or not they are with the military. Provide their complete address, including city and country. Do not list APO or FPO address.

22. Your Employment Record: If you have ever been denied employment while undergoing or upon completion of a background investigation or polygraph examination, please identify prospective employer and date and reason for voluntary withdrawal from consideration.

24. Your Involvement with Alcohol and Dangerous Drugs: Although the SF-88 requests information within the last 5 years, list use since 18 years of age. If you have ever abused any legal or prescription drug to the point of dependency, also list. In addition, list treatment for drug or alcohol dependency, including such groups as Alcoholics Anonymous (AA).

26. Your Medical Record: Please give details of any psychological/psychiatric treatment, other than marriage counseling.

28/29. Your Financial Record: If a collection procedure has ever been instituted against you by Federal, state of local authorities, please give full details. If you received financial aid during college, state whether or not any such obligations have been satisfied.

If you have any questions, please call Jane Dannenhauer at 202/456-2345 (White House Security Office).

Return the completed forms to: Diana O. Kendrick, Executive Assistant to the Counsel to the President, 2nd Floor/West Wing, The White House, Washington, DC. 20500.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITHUANIA

Mr. GORTON. Mr. President, over the course of the last 50 years, since the dark cloud of Soviet oppression drifted over them, the people of Lithuania have proven that although notions of democracy and individual freedom may be suppressed they can not be eradicated. The people of Lithuania have staked their lives on their quest for liberty and self-determination. The United States has never recognized the legitimacy of the annexation of the Lithuania; we must not waiver in our support for these brave people at this crucial moment.

This is emphatically not an internal matter for the Soviet Union, as its spokesmen assert.

With all Americans I fully support the goal of returning freedom and independence to Lithuania. Last week, this body unanimously passed a resolution in support of self-determination for Lithuania and calling for a halt to the tactics of intimidation being used by the Soviet Union.

So far, this message has fallen on deaf ears. The Soviets continue to wage a war of intimidation; military convoys continue to rumble through Vilnius and planes streak overhead. The border with Poland has been closed, two opposition newspapers have been banned and foreign journalists have been expelled. Already the first drops of blood have been shed as Soviet troops stormed hospitals where Lithuanian deserters from the Soviet Army had taken refuge.

Together with several of my colleagues I sent a letter to President Bush last week urging him to make clear to the Soviets that there will be serious repercussions to United States-Soviet relations if they resort to force. There must be no misunderstanding on the part of the Soviet Union: If it resorts to force to quell the independence movement in Lithuania, it will pay a high price. The reforms that President Gorbachev has instituted and the new political and economic relationships between our two nations that he has so carefully orchestrated over the past several years may well collapse. His image as a great reformer will be cancelled by his repression of freedom loving people seeking only to build upon the foundation of his rhetoric.

Mr. President, this Nation made a serious mistake in trying to placate the repressive Beijing regime. Our efforts have been spectacularly unsuccessful and it would be folly indeed to repeat that error with Moscow on the subject of Lithuania, Estonia, and Latvia.

Stephen Vincent Benét once wrote a short story entitled: "Freedom's a Hard Bought Thing." But the love of freedom, once lit in the mind of a man or woman anywhere, American or East

German, Lithuanian or Chinese, can never be put out. The Soviets may be able to deny the fruits of liberty to the Lithuanian people, but they cannot both crush Lithuania and claim a true reform of their own society with the help and encouragement of the American people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOWARD A PEACEFUL SOLUTION IN LITHUANIA

Mr. PELL. Mr. President, I wish to express my deep concern about the current situation in Lithuania. Ever since that republic declared its wish to be independent on March 11, Soviet officials have continually assured us that force will not be used to resolve the situation there. These assurances have come from every level of the Soviet Government.

Despite these assurances, however, the Soviet government has escalated its efforts to pressure the Lithuanians to rescind their declaration. The press carries daily stories of parades of armored vehicles through Vilnius, of Lithuanian draft resisters being seized by force, of Lithuanian government buildings and newspaper printing facilities being taken over by the armed troops and of similar threatening actions by Soviet authorities. Moreover, the Soviet Government has expelled foreign diplomats and journalists from Lithuania, and has intermittently closed telephone and telex communication with Lithuania.

In sum, the Soviet Union has attempted to isolate and intimidate Lithuania, and has instituted measures there that very much resemble martial law. This pattern of coercion has characterized Soviet relations with the Baltic States since their forced incorporation into the Soviet Union 50 years ago. Speaking from my experience as the Baltic desk officer in the State Department many years ago, this pattern of coercion is a strong reason for Lithuania's discontent with its status as a Soviet republic. And it is partly for this reason that they are determined to regain the independence that they lost 50 years ago.

If President Gorbachev is genuinely committed to a peaceful negotiated resolution of this problem, as I believe he is and or he has indicated, I commend to him the auspices of the International Court of Justice, as suggested by my distinguished colleague from New York [Mr. MOYNIHAN]. Any further use of force in Lithuania can only exacerbate tensions there. It would also call into question Mr. Gorbachev's commitment to peaceful change and could reverse the progress that has been made in improving East-West relations during the past few years.

The people of Lithuania are bravely resisting intense pressure from Moscow, and they deserve the support of all Americans. The Lithuanian Government has offered to negotiate the terms of its independence, but so far Moscow has turned a deaf ear to the Lithuanians. Lithuanian independence poses no threat to the Soviet Union. In fact, Lithuanian independence presents an opportunity for the Soviet leadership to remove a particularly noxious legacy of its Stalinist past—the purchase of Lithuania from Hitler and the forcible incorporation of this proud nation into the Soviet Union. I urge Mr. Gorbachev to seize the opportunity to free Lithuania.

I ask unanimous consent that a recent article from The Providence Journal regarding the Lithuanian community in Rhode Island be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal-Bulletin, Mar. 30, 1990]

LITHUANIA'S DEFIANCE SPARKS HOPE AMONG R.I. COMMUNITY

(By Lee Dykas)

PROVIDENCE.— Lithuania's move toward independence from the Soviet Union has excited hope among the Lithuanian-Americans in Rhode Island, and to Father Al Klimanskis, pastor of St. Casimir's Lithuanian Roman Catholic Church on Smith Hill, "it's simply a miracle of Providence."

He said the Lithuanians "are a stubborn people, proud of our heritage. Throughout our whole history, we have had much adversity to overcome. The Russian regime of the last 50 years has not been different. But as in the past, Lithuanians have preserved their language and their religion."

The drive for independence is "an answer to millions of prayers. It's unbelievable, the popping out of freedom everywhere," he said after the 6 o'clock Mass last night.

The parish has a number of Lithuanian members, and the priest who celebrated last night's Mass, Father Richard Repsys, grew up there.

"We believe the world will understand the Lithuanians, and we believe that all this (resolution of the confrontation with the Soviets) will not take too long," said Father Repsys, a Marian priest who has been living in Chicago for the last year.

Lithuania, a nation of less than 4 million people, will not be intimidated, he said. "Lithuanians are not afraid of tanks. We have lived with them for more than 50 years."

Tension between the Soviet Union and the Republic of Lithuania, which recently sought to declare its independence, intensified during the last week as Soviet tanks rolled through Vilnius, the capital, on what were called schedule maneuvers.

Anne Johnson of Providence, who has visited Lithuania twice, the last time 10 years ago, and who hopes to visit again, said, "Freedom is popping out like popcorn throughout Eastern Europe.

"The United States has always recognized Lithuania as a free and independent nation, but I'm disappointed that President Bush hasn't made a strong statement of support, and I hope he comes around soon," said Matthew Kairys of North Providence.

His wife, Aklona, said Lithuanians "need the moral support of the world."

Mary Willis of North Providence has been circulating a toll-free telephone number among Lithuanians, asking them to call and add their names to a telegram asking Mr. Bush to extend formal recognition of Lithuania.

"I'm happy the Lithuanians have started this ruckus," and people who want to help should call 1-800-257-4900, then ask for Hotline 9654, to add their names to the telegram."

Connie Valiuskis of Barrington, a native of Lithuania, said, "The Russians should realize that it's to their advantage to let Lithuania go. The Lithuanian people are very sympathetic to the Russian people and to (President Mikhail) Gorbachev; and if the Lithuanians are free, it will benefit the Russians. The Lithuanians are very productive; they could, as they have in the past, help the Russians to get on their feet."

She visited the Soviet Union and Lithuania two years ago, she said, and found that everyone, even the Russians, call Lithuania and Estonia and Latvia the " 'little America' of the Soviet Union because of the attitude the people have toward freedom."

SOUTH DAKOTA COMMUNITY FIGHTS DRUG AND ALCOHOL ABUSE

Mr. PRESSLER. Mr. President, my home State of South Dakota currently is involved in a community project that is a good example of how rural communities are addressing the drug and alcohol abuse problem. The community's cooperation in this endeavor has been truly remarkable.

The need for better substance abuse programs is undisputed. According to a 1985 South Dakota High School senior survey, over 57.1 percent of South Dakota teenagers were classified as heavy drinkers (drink five or more alcoholic drinks at a time). The national average is only 37.0 percent.

An Adolescent Substance Abuse Prevention [ASAP] program was created 4 years ago by Pam Teaney-Thomas in Rapid City, SD. This nonprofit organization was founded on the idea that the community needed better coordination of adolescent drug and alcohol prevention services.

Members of ASAP became aware that the Pennington County, SD, Ju-

venile Detention Center [JDC] had become overcrowded to the point that its occupants were sleeping on mattresses on the floor. Many of these adolescents were waiting for the opportunity to enroll in a drug or alcohol treatment program. Responding to the concerns of the Juvenile Detention Center, the Pennington County Commission appointed a Juvenile Detention Center Advisory Board. The members of that board include business people, law enforcement personnel, service providers, and educators. It was apparent to everyone involved that ASAP and the Juvenile Detention Center had many inssues in common.

The County owned a building that had been used to house work release prisoners but no longer was needed for that purpose. It was surplus county property that could be made available to ASAP. The city of Rapid City determined that it owned surplus land on which this building, the county's building, could be located. The ASAP and JDC then began contacting other agencies in the State that might be interested in developing chemical dependency rehabilitation programs. A number of local architects volunteered their time. Engineering firms did soil samples. Local businesses spontaneously donated money. And, the Pennington County commissioners agreed to lease the building. Before long, the Transitional Care Facility for Children was established.

Since the establishment of this facility, the generosity of South Dakotans has continued. The Nemo Job Corps agreed to do the internal remodeling and lay the block foundation. Local merchants have agreed to furnish windows, doors, foundation materials, plumbing, electrical and other supplies.

KKLS/KKLM agreed to a stint in which its announcer, Steve Burger, was placed in a coffin, from which he would broadcast 48 straight hours to raise additional funds for the ASAP project. I was honored to participate in that broadcast, commending the community of Rapid City for its efforts and pledging my personal contribution. I strongly believe in this project.

The grand opening of the facility is scheduled for this summer. Barbara Bush has been invited to join in the community's celebration, and I also encourage our colleagues to attend this grand opening.

Widespread community involvement and cooperation at the grassroots level is the first, and biggest, step toward becoming a drug-free Nation. The work of ASAP in establishing the Transitional Care Facility in Rapid City will be accomplished without any tax dollars. I am proud to say that community involvement and fellowship is alive and well in South Dakota. We can win the war on drugs with the kind of spirit and determination displayed by my fellow South Dakotans.

I ask unanimous consent that an article from the Rapid City Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JAIL ANNEX SOON MAY PROVIDE SHELTER FOR KIDS FIGHTING DRUGS

(By Debra Holland)

An old county jail annex soon will provide shelter to Rapid City youths entering or leaving drug treatment.

Supporters say the community funded project will help adolescents ages 12 to 18 avoid returning to lifestyle of drugs and alcohol.

The Rapid City Adolescent Transitional Care Home may open this summer if supporters can raise upwards of $100,000 in cash and materials needed to finish the project.

The home located at the southeast corner of Cherry Avenue and St. James Street, is the brainchild of Adolescent Substance Abuse Prevention, Inc. (ASAP) and the Pennington County Juvenile Detention Center Advisory Board.

Black Hills Special Services Cooperative which has run special school and residential programs for youths in the northern Black Hills for 10 years, will oversee programs at the home.

The center will have a capacity of 18 beds. Five beds will be reserved for emergency care of for those youth who, through no fault of their own, have no other place to stay. The remainder will be for those entering or leaving inpatient drug treatment.

The group home will take some of the pressure off the Pennington County Juvenile Detention Center, said its director, Barb Van Eckeren.

Currently the JDC is a catchall for juveniles who either have committed a crime or have no other place to go. Van Eckeren said that recently a 15-year-old girl was brought to the JDC because her mother had kicked her out of the house. She had not committed a crime, yet she had no relatives in the community and no place to go.

"JDC is not appropriate for some of these youth," said Pennington County Sheriff Don Holloway. "JDC was set up and designed as a hard lockup. With this new facility, we will have a place to take them without locking them up."

But locking up youths who have committed no crime can be devastating said 7th Circuit Judge Merton Tice, an advocate for the transitional home.

"There are times when police have literally driven kids around for hours because there was no place for them to go," he said. "These runaways or castouts are not criminals, but we do not have resources to place them. This (the youth care home) gives us space and time to find appropriate resources for the kids."

Foster homes had been an alternative for youths who had no place to go, but Tice said the State Department of Social Services foster homes in the Black Hills often were filled.

Most teens who are ordered to treatment for alcohol or drug abuse must now go to the Human Services Center in Yankton for that treatment. Once they return to their home in the Black Hills they tend to return to the same group or habits that got them in trouble in the first place, said Pam Teaney-Thomas, ASAP president and drug abuse prevention coordinator for Rapid City Area Schools.

"As classroom teacher 10 years ago I realized the frustration and anger I felt when a child goes through treatment and is put right back in the environment which caused the problem," she said. "The relapse rate is incredible." Without the transitional care home, Rapid City does not have the resources to decompress youths back into the community, Tice said. "We must work with the family when the child is returned," he said.

"Working with the family strengthens their understanding of the nature and dynamics of abuse and how they can be a resource toward their recovery. Oftentimes they expect the child to come back cured. No one is cured. There is a lot of work that has to be done, and the family is the most important unit."

It also is important to help youths find new friends upon their return, Tice said.

"The chemically dependent child has developed in a group of those who have been using," he said. "It is important to develop a new circle of friends of those who are no longer using."

Tice commended the community for pulling together to meet the needs of its youth.

"It's exciting to see Rapid City getting together to provide this desperately needed service for kids," he said.

CLEAN AIR ACT AMENDMENTS OF 1989

Mr. BENTSEN. Mr. President, the Senate took a bold leap forward in cleaning up the environment yesterday. This legislation, the first of its kind in 13 years, marks a significant departure from the "do-nothingism" mentality on the environment. It is a good, tough, sensible bill. I am pleased to support it.

The public debate on clean air has been conspicuous in its absence of partisan demagoguery. No Senator has accused another of being in favor of "dirty air." Because no one is. We all have a stake in clean air, for the sake of our children and grandchildren, and for our own sakes.

There has been some criticism that this bill is not as tough as it could be, and there are still others who say that the bill is to tough on industry and business. These are extremes. The rhetoric they espouse is not helpful to us, except perhaps it tells us that maybe the Senate has been wise. We have certainly tried.

There are many of us who have tried to keep the bill alive by supporting the agreement. We have had to cast some votes we might not have cast if circumstances were different. That is the price of leadership and responsibility. I say to those who criticize this bill that they are free to do so, but the criticism is misplaced. Yes, the bill is a compromise. All legislation embodies compromise. That is the essence of public service in a democracy. That's why we are now on the verge of passing the first clean air bill from the Senate in 13 years. Had we assumed a

posture of "no bill unless it is a perfect bill" we would still be at square one. When it comes to legislating, perfect is the enemy of the good, and I am no enemy to what is good for this country, for the environment, and for Texas.

In that regard, this bill is good for Texas. Modifications to the nonattainment and air toxics sections of this bill will serve to reduce the economic impact on industry and small business in my state. Some of these changes were essential. The alternative fuels section of the bill will open new markets for Texas natural gas. The bill establishes a National Air Toxics Research Center to be based in Houston with research to be conducted there by Texas medical Center professionals. Special attention is devoted to the unique circumstances facing the city of El Paso. It is an international city, bordering an area in Mexico with substantial pollution problems. The bill provides an opportunity for El Paso to demonstrate compliance with air quality standards and seeks to go to the source of the problem and authorize the EPA to work with Mexico to get control of its air pollution problem.

For all of the good this bill contains for Texas, we still have some tough and painful medicine to take.

Texas is a large state with a substantial industrial base. It has petrochemical plants, an assortment of manufacturing facilities, utilities, petroleum refineries, oil and gas operations, and thousands of smaller businesses which will be impacted by this bill. With that enviable industrial base comes its problems, especially environmental problems. Texas leads the nation in the level of emissions for hazardous air pollutants. That is not a distinction we are proud of, but it is one we don't have to maintain. Likewise, Texas has more ozone nonattainment areas than any other State: Houston, Dallas, Beaumont-Port Arthur, and El Paso. They will have to strengthen programs to reduce pollution under this bill. Mobile source emissions, in Texas exceed stationary source emissions in some areas.

These are problems that can't be swept under the rug. They can't be ignored by changing the subject to job loss and economic impact on industry. While these are very weighty considerations and I listen to them, they are not the only ones we should factor into the equation. Now, there has been a lot of talk about the impact of this legislation on jobs, and that if this bill passes thousands of jobs will be lost. I have heard these predictions before. They are mainly leveled by those who have to pick up part of the cost of environmental or social legislation. What a bill will cost and who will pay for it are legitimate questions to ask. So is this one: if we fail to address our clean air problems who will pay the health costs of inaction?

In that regard, over 120 million American citizens live in communities that do not meet current air quality standards. The American Lung Association reports that this situation carries a health price tag in excess of $100 billion annually. Even if health costs are just half that figure or even one third of $100 billion, that price tag still exceeds the Administration's price tag of the bill. The American Lung Association reports further that the annual health costs of motor vehicle pollution in Texas alone totals at least $271 million. It is higher in some other states; lower in others. These costs are mind-numbing. So when we discuss the costs of this legislation, all costs should enter the equation.

Similarly, the job creation potential of this legislation is underestimated. Environmental legislation drives improved pollution control technology. New markets for this technology will be developed because of it. We can't overlook that fact.

I'd like to speak to one last issue, Mr. President. Some of my colleagues from the Midwest have suggested that they can't support this bill because of the unfairness of the acid rain title. Tax incentives have been sought. Special treatment is expected. In support of this position, they have cited Texas as the No. 1 State for sulphur dioxide emissions. Facts are facts. That's true. What my midwestern colleagues fail to mention is that the acid rain title is aimed principally at trying to reduce sulphur dioxide emissions from utility plants. Other sections of the bill—nonattainment, air toxics, mobile sources—will help to reduce industrial emissions overall.

Compliance fuel and scrubber technology will reduce sulphur dioxide pollution from utility plants that cause acid rain. Here, Texas has a record that they envy.

Texas is a clean State. It consumes over 11 percent of the Nation's coal, but has only 3 percent of the emissions. Of the 33 units in operation in Texas, over 13 of them have scrubber systems installed and 16 of them use compliance fuel. By any yardstick, that's good record, and it's getting better.

Despite this record, Texas will be penalized under the allowance system more than it should be. We have been able to correct the allowance formula from what it was originally, but it does not give Texas its due based on its record as a clean State. I doubt Ohio, Pennsylvania, and Illinois can make the claim about their utility plants. So when my colleagues from Midwestern States, some of which have not taken the steps to install scrubber technology in its plants, speak of fairness, they should consider responsibility as well. The "polluter pays" principle is one that makes sense.

Mr. President, we have a ways to go before this bill is enacted into law. The House of Representatives has yet to report a bill out of committee. I believe the House will act and we will go to conference on a clean air bill. It will take time and compromise. I am hopeful that the President will sign a clean air bill before Congress adjourns. That will be a great victory for us, for Texas, and for millions of Americans.

I am pleased to have voted for this bill.

ANNIVERSARY OF THE FOUNDING OF JOINT CENTER FOR POLITICAL STUDIES

Mr. MOYNIHAN. Mr. President, today we mark the 20th anniversary of the founding of one of our finest policy research institutions, the Joint Center for Political Studies. The Joint Center's excellence is not in small measure the leadership of its President for 18 years, Mr. Eddie N. Williams.

After a distinguished career in public service: First, as a Staff Assistant for the U.S. Senate Committee on Foreign Relations and later, in various posts as a Foreign Service reserve officer at the Department of State, Mr. Williams took over the presidency of the Joint Center for Political Studies in 1972. Under his leadership, the Joint Center has contributed much to our collective understanding of the effects of our policy decisions on poor families. I remember with particular gratitude Mr. Williams' contributions to the debate on the Family Support Act. His insights were invaluable.

I congratulate Mr. Williams and the Joint Center on this milestone. This is an occasion to celebrate an extraordinary institution and a not less exemplary President. I ask unanimous consent that an article written by David Broder for the Washington Post commemorating the anniversary of the founding of the Joint Center be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 4, 1990]

PRESIDENTS, RACE AND POLITICS

(By David S. Broder)

By his presence, a president of the United States testifies to the importance of any occasion. So it is tonight when President Bush attends a dinner that marks the 20th anniversary of one of the nation's most useful, if unheralded, institutions: the Joint Center for Political Studies.

It was created, at the urging of black intellectuals and activists, to serve as a research and training center for those who were leading the transition from the civil rights struggle to political power. When it started, there were about 1,200 black elected officials in the country. Today there are six

times as many including the man who is tonight's honoree, Virginia Gov. L. Douglas Wilder Jr. (D).

Many have contributed to the success of the JCPS. Social psychologist Kenneth B. Clark and Chicago publisher-politician Louis Martin saw the need for a think tank oriented to issues in the black community and to the black men and women who were moving into positions of local elected leadership, many without any real experience or training for their tasks. The Ford Foundation provided the initial financing, and now businessmen such as Xerox's David Kearns, chairman of this year's dinner, play a vital role.

But JCPS is, to a remarkable degree, a reflection of the man who has headed it for the last 18 years, Eddie N. Williams, whose unique qualities were recognized two years ago by a MacArthur Foundation Fellowship.

Williams probably has taught me as much about politics as anyone I've ever known. When I went to see him a few days before the dinner, I did not come away empty-handed.

First off, he said, JCPS is changing its name to become the Joint Center for Political and Economic Studies. It reflects the reality of its scholarly agenda—and an important shift in American society.

"There's more to be done in the political-governmental world, of course, Williams said, "but the rights of minorities have been established, and I see no turning back. And blacks are involved in a strategic way in our politics—both as voters and officeholders.

"But as the nation itself becomes more focused on the economic challenge at home and abroad, blacks must become increasingly knowledgeable and sophisticated about economic issues. More and more, black goals will have to be achieved by strategies aimed at others as well. We have always focused on building coalitions across racial lines, but now that involves not just mobilizing public opinion and political action, but mastering economic data. We need to understand, for example, how education and training programs affect the labor market, because the quality and availability of labor are vital to involving corporate America in the effort."

Economics also holds the key, Williams said, to the future of the increasingly divergent sectors of black America—the growing middle class and the tragically persistent underclass. More than others, blacks' situation depends on government policy. The impending shrinkage of the armed services will narrow a path to economic security for many minorities. The expension of Head Start can be a liberating force for many from stunted family backgrounds.

Williams is not ignoring the racism that persists in American society. He speaks of it with barely suppressed anger. Looking at the upsurge of racial incidents on campuses and in cities, Williams said, "I have to wonder if the whole period of the Reagan administration did not allow the genie of racism to escape the bottle."

But Bush—who as vice president accompanied his wife to a previous JCPS anniversary banquet, where Barbara Bush was being honored for her work on illiteracy—has changed the atmosphere, Williams said, "His persona is different, and he has shown a readiness Reagan never did to use the White House to speak out against racism and for fairness in American society."

"For years I've said that although partisanship is an intensely personal decision, it is increasingly clear that black political influence would be substantially enhanced if black voters would achieve a more balanced partisan alignment. But for years, the Republicans did not offer a very hospitable environment."

Bush has what Williams called "an enormous oppurtunity to change that," eepecially with the post-civil rights generation of younger blacks persistently showing less attachment to the Democratic Party.

But the visible success blacks are achieving as Democrats—with Wilder as the first elected governor, mayors in predominantly white cities from New York to Seattle and Ron Brown in the chairmanship of the national Democratic Party—tends to solidify blacks' allegiance to the Democrats. Williams argues that a breakthrough for Republicans will come only "when they permit not just the safe and comfortable blacks to take part in their deliberations, but those who will put the same kind of demands on their coalition that black activists put on the Democratic Party."

"It would be better for both parties, and for America," Williams said, "if those strains were more equally shared." Given all that has happened in the 20 years that tonight's dinner celebrates, it's not impossible that Williams' wish may also come true.

UNITED STATES IGNORES CHANGES AT UNESCO

Mr. MOYNIHAN. Mr. President, I have just confirmed with the State Department that the United States has decided not to rejoin Unesco at this time. While I understand some of the concerns that might have led to this decision, I am disturbed by the tone of the announcement, in which the State Department claims that "very little has changed [at Unesco] since the United States withdrew at the end of 1984." Mr. President, there may be some legitimate question as to whether Unesco has changed enough but it is inaccurate, unwise and counterproductive to suggest that "very little has changed" within that institution.

The new Director-General, Frederico Mayor, a respected biochemist from Spain, has labored mightly and with great success to expunge from Unesco the inappropriate anti-Western rhetoric which had come to denigrate the very freedoms which Unesco was created to protect. Expert analysis of the recent General Conference has identified dramatic changes in Unesco's program since the days of Director-General M'Bow. Our Former colleague, the esteemed Robert Stafford, chaired a panel on Unesco for the United Nations Association of the U.S.A. and concluded that Unesco has made "remarkable progress in recent years." Leonard Sussman of Freedom House, a man with great experience in Unesco matters, has called the communications plan adopted at the recent General Conference "the best 6-year plan supporting the free-flow-of-information ever produced by Unesco.

It is especially disturbing to read that the State Department believes that this is not even the right time to "reopen the question" of U.S. membership in Unesco. Senator Stafford's panel called this a "crucial moment for the director of the organization". Six years have elapsed since the United States withdrew from Unesco. When the State Department issues its formal April 17 report on Unesco I will be very interested to see what facts are marshalled to support the argument that the United States can do more to improve Unesco by staying out of the organization than it could do by rejoining and helping our allies continue the progress which has already been made.

Mr. President, I ask that an article from today's Washington Post concerning the State Department's decision be printed in the RECORD.

The article follows:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 4, 1990]

U.S. DECIDES TO REMAIN OUT OF UNESCO

The United States has decided not to rejoin UNESCO because of a continuing dispute over its management and what the Bush administration considers its political bias, U.S. officials said yesterday.

The United States withdrew from the U.N. Educational, Scientific and Cultural Organization in 1984, accusing the Paris-based agency of politicization and anti-Western bias.

"The time is not right for the United States to reopen the question of renewing its membership in UNESCO," said State Department spokesman Margaret Tutwiler.

The department will submit a full report to Congress April 17 explaining its reasons, she said.

After reviewing UNESCO's actions at its recent general conference and analyzing the restructuring proposals raised there, the United States concluded that "very little has changed since the United States withdrew at the end of 1984," Tutwiler said.

The United States and Britain, which also withdrew from UNESCO, accounted for some 30 percent of the organization's budget. Britain too reportedly has decided to stay out of UNESCO.

There had been some speculation the United States would resume its membership after UNESCO got a new director general, Federico Mayor of Spain. Mayor visited Washington several months ago to lobby for the United States' return, meeting with administration officials and members of Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations

which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 299. Concurrent resolution providing for an adjournment of the House from April 4, 1990 to April 18, 1990, and a recess or adjournment of the Senate from April 5 or April 6, 1990.

At 3:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the House:

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations; and

H.R. 4009. An act to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 275. Concurrent resolution providing for preparation of a volume entitled "Columbus in the Capital", and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4009. An act to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Charles J. Chamberlain, of Illinois, to be a Member of the Railroad Retirement Board for the term of five years from August 29, 1989;

Glen J. Bower, of Illinois, to be a Member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1992; and

Lynne Vincent Cheney, of Wyoming, to be Chairperson of the National Endowment for the Humanities for a term of four years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. MITCHELL, Mr. DOLE, Mr. SANFORD, Mr. HELMS, Mr. FORD, Mr. LOTT, Ms. MIKULSKI, Mr. HEINZ, Mr. HEFLIN, Mr. BREAUX, Mr. COCHRAN, Mr. BUMPERS, Mr. COHEN, Mr. BYRD, Mr. D'AMATO, Mr. DECONCINI, Mr. HATCH, Mr. DIXON, Mr. KASTEN, Mr. DODD, Mr. BURNS, Mr. FOWLER, Mr. ROTH, Mr. GORE, Mr. INOUYE, Mr. RUDMAN, Mr. JOHNSTON, Mr. SPECTER, Mr. LEAHY, Mr. WARNER, Mr. METZENBAUM, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. NUNN, Mr. MCCONNELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. MOYNIHAN, Mr. SARBANES, Mr. PELL, Mr. BURDICK, Mr. KENNEDY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BRYAN, Mr. DASCHLE, Mr. KERRY, and Mr. LIEBERMAN):

S. 2411. A bill to provide for orderly imports of textiles, apparel, and footwear; to the Committee on Finance.

By Mr. PACKWOOD:

S. 2412. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini; to the Committee on the Judiciary.

By Mr. KERRY:

S. 2413. A bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes; to the Committee on Armed Services.

By Mr. WILSON (for himself, Mr. DOMENICI, and Mr. GRAHAM):

S. 2414. A bill to amend the Public Health Service Act to establish a program of formula grants for compensating certain trauma care centers for unreimbursed costs incurred with respect to undocumented aliens; to the Committee on Labor and Human Resources.

By Mr. DOMENICI (for himself, Mr. MCCLURE, Mr. WIRTH, Mr. REID, Mr. MCCAIN, and Mr. BRYAN):

S. 2415. A bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER:

S. 2416. A bill to include photoreceptors and assemblies containing photoreceptors within the temporary suspension of duty on parts of certain electrostatic copying machines, and to extend the suspension until January 1, 1993; to the Committee on Finance.

S. 2417. A bill to extend until January 1, 1993, the existing temporary suspension of duty on cyclosporine; to the Committee on Finance.

S. 2418. A bill to correct the tariff treatment of certain articles covered by the Nairobi protocol; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. LUGAR, Mr. PRYOR, and Mr. FOWLER):

S. 2419. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSTON (by request):

S. 2420. A bill to withdraw certain lands in Eddy County, NM, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S.J. Res. 285. Joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RIEGLE (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Con. Res. 117. Concurrent resolution expressing the appreciation of Congress for the contributions of the Friends of the National Arboretum in providing for the preservation and public display of 22 of the original columns of the east front portico of the U.S. Capitol Building; considered and agreed to.

S. Con. Res. 118. Concurrent resolution to authorize the printing of a brochure describing the history, design, and functions of the U.S. Capitol as the seat of the legislative branch of the Government; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. MITCHELL, Mr. DOLE, Mr. SANFORD, Mr. HELMS, Mr. FORD, Mr. LOTT, Ms. MIKULSKI, Mr. HEINZ, Mr. HEFLIN, Mr. BREAUX, Mr. COCHRAN, Mr. BUMPERS, Mr. COHEN, Mr. BYRD, Mr. D'AMATO, Mr. DECONCINI, Mr. HATCH, Mr. DIXON, Mr. KASTEN, Mr. DODD, Mr. BURNS, Mr. FOWLER, Mr. ROTH, Mr. GORE, Mr. INOUYE, Mr. RUDMAN, Mr. JOHNSTON, Mr. SPECTER, Mr. LEAHY, Mr. WARNER, Mr. METZENBAUM, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. NUNN, Mr. MCCONNELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. MOYNIHAN, Mr. SARBANES, Mr. PELL, Mr. BURDICK, Mr. KENNEDY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BRYAN, Mr. DASCHLE, Mr. KERRY, and Mr. LIEBERMAN):

S. 2411. A bill to provide for orderly imports of textiles, apparel, and footwear; to the Committee on Finance.

(The remarks of Mr. HOLLINGS, Mr. THURMOND, Mr. HELMS, and Mr. WARNER and the text of the bill are printed earlier in today's RECORD.)

By Mr. PACKWOOD:

S. 2412. A bill for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergio Manuel Parini; to the Committee on the Judiciary.

RELIEF OF PARINI FAMILY

● Mr. PACKWOOD. Mr. President, today I am introducing legislation which would allow three of my constituents to become U.S. citizens. Felix Juan Parini, Sergio Manuel Parini, and Carmen Victoria Parini all believed they were U.S. citizens by virtue of their father's citizenship. However, in 1987, when Felix Juan Parini applied for a passport renewal, it was discovered that his father had not met the residency requirements to pass citizenship on to Felix, Sergio, or Carmen. Before this time, all three had believed in good faith that they were U.S. citizens. The misunderstanding was due not to any fault on the part of the Parini's, but to apparent agency errors. Both the State Department and the Immigration and Naturalization Service have concluded that private legislation is the only way to remedy this unfortunate situation. I am pleased to introduce legislation today that will allow Felix, Sergio, and Carmen Parini to become U.S. citizens.●

By Mr. KERRY:

S. 2413. A bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes; to the Committee on Armed Services.

ELIGIBILITY FOR AWARD OF PURPLE HEART

Mr. KERRY. Mr. President, today I am proud to introduce legislation to extend eligibility for the award of the Purple Heart to U.S. service personnel captured and held as prisoner-of-war during World Wars I and II and the Korean conflict.

U.S. prisoners-of-war have suffered greatly as a result of their dedication and service to our Nation. While in captivity, they were often times subjected to treatment at the hands of the enemy that was nothing short of inhumane. Cases of brutality beyond description including physical and psychological torture, starvation, and execution have all been documented. Although they endured this suffering in defense of the United States, the sacrifices made by many prisoners-of-war held during World Wars I and II and the Korean conflict have gone unrewarded. Their numbers are not insignificant. There were 4,120 U.S. prisoners-of-war in World War I, 130,201 in World War II, and 7,140 in the Korean conflict.

On April 25, 1962, by signing Executive Order 11016, President John F. Kennedy ensured the right of future U.S. prisoners-of-war to be eligible to receive the Purple Heart as a result of injuries received while in captivity, or if the horrors of their ill-treatment culminated in death. Prior to this, our prisoners-of-war were eligible for the medal if they had been injured in action before or during capture, or in an attempted escape.

This change in policy only applied to prisoners-of-war captured after the date of signing. The Purple Heart was not awarded retroactively to former prisoners-of-war captured during World Wars I and II and the Korean conflict because, among other reasons, it was felt this action would contradict the decisions made by past military leaders who thought that injuries incurred while a prisoners-of-war were the result of war crimes, not the result of a legal act of war.

Although I respect this judgment, I feel that bestowing the much deserved recognition to those individuals who have suffered in so many ways as a result of their willingness to work in defense of all we hold sacred, must take precedence.

There can be no question that the experience of prisoners-of-war injured or killed during captivity prior to April 25, 1962, is easily recognizable as deserving of the honor of the Purple Heart. The sacrifices they made in service to our country are no less valuable than those of the brave individuals serving our interests after that date. I strongly urge my colleagues to join me in affirming that this noble distinction should belong to all prisoners-of-war, regardless of their date of capture.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2413

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR AWARD OF THE PURPLE HEART

(a) REQUIREMENT TO MAKE AWARD.—(1) Subject to paragraph (2), the President may award the Purple Heart to a person described in subsection (b) who was taken prisoner and held captive before April 25, 1962.

(2) An award of the Purple Heart under paragraph (1) may be made only in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to a person described in subsection (b) who has been taken prisoner and held captive on or after April 25, 1962.

(b) ELIGIBLE PERSON.—A person referred to in subsection (a) is an individual who, while a member of the Armed Forces of the United States or a civilian national of the United States serving in any capacity with the Armed Forces of the United States, is taken prisoner and held captive—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(c) RELATIONSHIP TO OTHER AUTHORITY TO AWARD THE PURPLE HEART.—The authority under this section is in addition to any other authority of the President to award the Purple Heart.

By Mr. WILSON (for himself, Mr. DOMENICI, and Mr. GRAHAM):

S. 2414. A bill to amend the Public Health Service Act to establish a program of formula grants for compensating certain trauma care centers for unreimbursed costs incurred with respect to undocumented aliens; to the Committee on Labor and Human Resources.

TRAUMA CARE CENTER ALIEN COMPENSATION ACT

Mr. WILSON. Mr. President, I am pleased to announce today the introduction of legislation to help prevent further closings of trauma care centers, those centers that provide emergency care for trauma victims along the Nation's southern border.

Mr. President, for very little money this proposal will help save certain trauma care centers from certain closure without this needed Federal assistance.

This legislation addresses the real live crisis that now faces trauma care centers along the United States-Mexican border. These facilities—already struggling with a burden of uncompensated losses resulting from increasing numbers of uninsured patients, inadequate reimbursement numbers, and tremendously increased drug and crime related injuries—now face the additional financial challenge of caring for undocumented trauma victims; that is to say, undocumented, not U.S. citizens but people who are in dire need of emergency assistance having suffered trauma.

Despite our best efforts under the Immigration Reform and Control Act of 1986 the flow of undocumented aliens continues into the United States virtually unchecked. One of the costly implications of our failed immigration policy is the financially strained trauma centers along the United States-Mexican border. These centers care for thousands of undocumented patients each year.

Many trauma centers in the border counties of Texas, Arizona, New Mexico, and in Florida as well as in

California are at the financial breaking point.

In Los Angeles County 10 of what were the original trauma centers in a network established in 1983 have shut their doors. Of course, as each one closes the burden resulting upon the remaining centers is increased proportionately. An 11th trauma facility is due to close in Los Angeles County on May 1 of this year. In San Diego County, the six county trauma centers are threatened by losses of $9 million a year.

Mr. President, similar situations exist in Texas, in Arizona, New Mexico, and in Florida. In Florida, for example, 10 of these centers have closed since 1985. It may well be that any State which has trauma centers serving a significant number of undocumented persons has or shortly will have the identical problem.

These trauma centers are struggling, and some have succumbed to the struggle and closed through no fault of their own but rather they are simply the victims of the Federal Government's inability to control the Nation's border.

Mr. President, without financial relief these trauma centers along the border will not survive. The deterioration of the trauma care network creates problems for the needed trauma care for all individuals, the U.S. residents in the area of the border as well as undocumented aliens. It makes no difference whether we are talking about people who are insured or uninsured, rich or poor, U.S. citizens or not.

This legislation entitled "The Trauma Care Alien Compensation Act of 1990" has been introduced as well on the House side by my colleague, Congressman LOWERY, and is designed to provide the financial relief to trauma care facilities which are treating a disproportionate number of undocumented aliens. The bill provides $20 million to qualified trauma centers that demonstrate that at least 15 percent of their unreimbursed trauma care costs arise from the treatment of undocumented patients.

Clearly $20 million will not provide full reimbursement to all the trauma centers in all the States that require assistance. Further, my legislation does not solve the full range of trauma care centers uncompensated care problems. But the Trauma Care Alien Compensation Act can help keep open the doors of some of the trauma centers hardest hit by this continuing flow of undocumented aliens into the country until such time as Congress, the Federal Government, can come up with an approach that is effective in stopping that flow.

Trauma care centers take their responsibility to save lives and to provide the best care possible to their patients, legal and illegal, very seriously. By supporting this proposal Congress can show those hospitals that we take them and the critical life and death care that they provide just as seriously.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trauma Care Center Alien Compensation Act of 1990".

SEC. 2. FORMULA GRANTS FOR COMPENSATING CERTAIN TRAUMA CARE CENTERS FOR UNREIMBURSED COSTS WITH RESPECT TO UNDOCUMENTED ALIENS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

"SEC. 330A. GRANTS TO COMPENSATE TRAUMA CARE CENTERS FOR UNREIMBURSED COSTS ASSOCIATED WITH UNDOCUMENTED ALIENS.

"(a) REQUIREMENT OF ALLOTMENTS.—For the purpose described in subsection (b)(1), the Secretary shall make an allotment each fiscal year for each trauma care center described in subsection (c)(1). The allotment shall be made in an amount determined in accordance with subsection (d). The Secretary shall make payments to each such trauma care center from the allotment for the center if the Secretary approves an application submitted by the center pursuant to subsection (f).

"(b) PURPOSE OF ALLOTMENTS.—

"(1) IN GENERAL.—The purpose referred to in subsection (a) is compensating, partially or fully, each trauma care center described in subsection (c)(1) for the portion of its unreimbursed costs described in paragraph (2) that are attributable to the provision of trauma care to undocumented aliens.

"(2) UNREIMBURSED TRAUMA CARE.—The unreimbursed costs referred to in paragraph (1) are costs—

"(A) that are incurred by a trauma care center in providing trauma care; and

"(B) for which the center, after reasonable effort, is unable to obtain reimbursement—

"(i) from the patient involved, from any guardian of the patient, or from any individual liable for the debts of the patient;

"(ii) from any State compensation program, from any insurance policy, or from any Federal, State, or local health benefits program; or

"(iii) from an entity that provides health services on a prepaid basis.

"(c) ELIGIBLE TRAUMA CARE CENTERS.—

"(1) MINIMUM PERCENTAGE WITH RESPECT TO UNDOCUMENTED ALIENS.—The trauma care center described in this subsection is any trauma care center that, of its total unreimbursed costs as described in subsection (b)(2) that were incurred for the fiscal year described in paragraph (2), incurred such costs with respect to undocumented aliens in an amount constituting not less than 15 percent.

"(2) RELEVANT FISCAL YEAR.—The fiscal year referred to in paragraph (1) is the fiscal year immediately preceding the fiscal year for which the trauma care center involved is applying to receive payments under subsection (a).

"(3) REGULATIONS.—To be eligible to receive assistance under this section, a trauma care center shall be considered as a trauma care center under regulations promulgated by the Secretary under this section.

"(d) DETERMINATION OF AMOUNT OF ALLOTMENT.—

"(1) FORMULA.—Subject to the extent of amounts made available in appropriations Acts, and subject to paragraph (2), the allotment under subsection (a) for a trauma care center for a fiscal year shall be the product of—

"(A) the amount appropriated under subsection (h) for the fiscal year; and

"(B) a pecentage equal to the quotient of—

"(i) the unreimbursed costs described in subsection (b)(2) that were incurred with respect to undocumented aliens by the trauma care center for the immediately preceding fiscal year; divided by

"(ii) the total such costs that were incurred with respect to undocumented aliens by trauma care centers in the United States for such fiscal year.

"(2) LIMITATION.—An allotment for a trauma care center under subsection (a) for a fiscal year may not exceed the amount of its unreimbursed costs described in paragraph (1)(B)(i).

"(e) DETERMINATION OF COSTS OF TRAUMA CARE.—

"(1) IN GENERAL.—For purposes of this section, the costs incurred by a trauma care center for the provision of trauma care shall be determined by the Secretary, acting through the Administrator of the Health Care Financing Administration. Such costs shall be determined on the basis of charges levied by the trauma care center for the provision of such care, as adjusted to cost through the most recent applicable cost-to-charge ratio computed in accordance with regulations issued under title XVIII of the Social Security Act.

"(2) SUBMISSION OF CHARGE DATA TO SECRETARY.—The Secretary shall not make payments under subsection (a) unless the trauma care center involved submits to the Secretary such data relating to charges levied by the center as the Secretary determines to be necessary to carry out this section.

"(f) REQUIREMENT OF APPLICATION.—The Secretary shall not make payments under subsection (a) unless an application for such payment is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) DEFINITION.—For purposes of this section, the term 'undocumented alien' means—

"(I) any low-income individual who is not a citizen or national of the United States and who is in the United States in violation of the Immigration and Nationality Act; and

"(2) any individual whom the trauma care center involved reasonably believes to be an individual described in paragraph (1).

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1991 through 1994.".

SEC. 3. STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to—

(1) determine the total amount of uncompensated health care provided by border area trauma centers and the percentage of uncompensated care associated with trauma services provided to undocumented aliens;

(2) evaluate the effect of the Federal assistance provided under the amendment made by section 2 to eligible trauma care centers on the provision of uncompensated care provided by such centers;

(3) develop recommendations for improving the effectiveness of the grants program established under the amendment made by section 2; and

(4) develop recommendations for methodology to accurately identify undocumented aliens served by trauma centers and to estimate the associated costs.

(b) COORDINATION.—In conducting the study under subsection (a), the Secretary of Health and Human Services shall coordinate with the Southwest Border Rural Health Research Center. The department of health (or the designee of such department) of each State that is affected by the study conducted under subsection (a) shall serve as the liaison to assist the Center in conducting research in such State.

(c) REPORT.—

(1) INTERIM REPORT.—Not later than September 31, 1992, the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, an interim report concerning the study conducted under this section.

(2) FINAL REPORT.—Not later than September 31, 1994, the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a final report concerning the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1991 through 1992, $500,000 to carry out this section.

By Mr. DOMENICI (for himself, Mr. MCCLURE, Mr. WIRTH, Mr. REID, Mr. MCCAIN, and Mr. BRYAN):

S. 2415. A bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978; to the Committee on Energy and Natural Resources.

SOLAR AND GEOTHERMAL POWER PRODUCTION INCENTIVES ACT

● Mr. DOMENICI. Mr. President, along with Senators MCCLURE, WIRTH, REID, MCCAIN, and BRYAN, I am introducing legislation to remove the size restrictions contained in the Public Utility Regulatory Policies Act of 1978 [PURPA] for solar and geothermal powerplants. Under PURPA, a new solar facility larger than 30 megawatts, or a new geothermal facility larger than 80 megawatts, cannot be built without losing its PURPA regulatory benefits; and, for all practical purposes, without those benefits solar and geothermal powerplants cannot be built.

PURPA's size limitations of solar and geothermal powerplants are no longer necessary or appropriate, and they unduly limit the development of these facilities. It is time they be removed, which is what this legislation proposes to do.

It had originally been my intention to offer this legislation as an amendment to the Clean Air Act amendments, but at the request of the chairman of the Committee on Energy and Natural Resources, I am instead introducing this as a freestanding bill. Senator JOHNSTON has assured me that this legislation will be brought before the committee in a timely manner, and that hearings and committee action can be expected.

Mr. President, this is not the first time the Congress has addressed this issue. Since its enactment in 1978, on several occassions it has been necessary to relax PURPA's size restrictions to reflect the increased capabilities of maturing technologies. PURPA was amended in 1980 to increase from 30 to 80 megawatts the size limitation for geothermal facilities, and 2½ years ago there was temporary legislation enacted to allow QF solar facilites to increase in size from 30 to 80 megawatts without losing their PURPA benefits. Without those changes, economies of scale would not have been available for solar and geothermal projects and the power would have been unnecessarily expensive, or projects might not have been economically feasible. Obviously, neither of those results would have been in the public interest.

For solar energy projects it is particularly necessary to revisit the size limitation. Legislation enacted in 1987 increased the size limitation to 80 megawatts for QF solar facilities, but that was limited to facilities which made certain filings to the Federal Energy Regulatory Commission within 2 years of enactment. With the passage of time, the window of opportunity created by that legislation is now closed, and it is, therefore, again necessary for us to take action if cost-effective solar projects are to be built.

Solar and geothermal electric generating facilities offer clear and dramatic air quality benefits and therefore should be encouraged. Geothermal facilities have no combustion related emissions, and even with the use of a limited amount of natural gas as a back-up source of energy, solar facilities offer very signficant emission reductions even when compared to the cleanest conventional alternative, that of natural gas. Carbon dioxide emissions are 0.27 pound per kilowatt hour for a solar facility, as compared to 1.1 pounds for a natural gas fired powerplant; and NO_x emissions are 0.07 pound per megawatt hour for a solar facility, as compared to 1.4 pounds at a gas fired powerplant.

Solar technology has evolved rapidly since the first utility-scale electric generating facility was placed in service in 1984. Nearly 300 megawatts of solar electric capacity have since been placed in service, and these plants have won high praise from the utility which purchases power from them; praise for both the design and the reliability of solar powerplants.

Similarly, geothermal technology has demonstrated both cost effectiveness and reliability. Over 2,000 megawatts of goethermal generating capacity are currently in service in the United States, and more can be put on line if we adopt the legislation I am introducing today.

At this point in time, PURPA size limitations are the principal barriers limiting solar and geothermal technology. Solar powerplant must gain economies of scale associated with larger facilities in order to compete with fossil fuel alternatives. For geothermal powerplants to fully utilize geothermal reservoirs, it is necessary for facilities in excess of 80 megawatts to be located in close proximity. But in a recent order, the Federal Energy Regulatory Commission indicated the need for congressional action if such colocation were to be allowed.

In contrast, fossil fuel-fired cogenerators are today eligible for qualifying status under PURPA with no size limit. In addition, conventional gas plants are increasingly entering the power supply market as independent power producers, also with no size limit.

Competition in the power supply market is intense and growing. Today, power purchase contract rates are determined either through formal bidding or highly competitive negotiations, and PURPA QF facilities now have little, if any, advantage in competition with other power producers. In short, the power sold under future contracts will be at truly competitive rates without subsidy.

In order for renewable facilities to remain competitive at a time of low fossil fuel prices and persistent high interest rates, it has been essential to drastically improve the cost and performance of these technologies over a very short period of time. For example, solar facilities built in 1984 generate electricity at a lifecycle cost of 24 cents per kilowatt hour. In contrast, the most recent solar powerplant, an 80 megawatt facility placed in service at the end of 1989, has a lifecycle cost of only 8 cents per kilowatt hour; and if this legislation is signed into law, even lower costs of generation can be expected.

To participate in today's highly competitive electric power generation market, it is essential that the cost of solar power production drop even further, to roughly 6 cents per kilowatt hour. By removing the size limit applicable to solar facilities, this amendment will permit solar powerplants to

take advantage of the best opportunity to achieve these additional savings, and at 6 cents, solar energy will be fully competitive with conventional powerplants.

It only takes a moment to describe the legislation: it removes the statutory size limitations applicable to solar and geothermal facilities under PURPA. In all other regards, a qualifying solar or geothermal facility will be treated the same under PURPA and other applicable law.

Although this legislation would take effect immediately upon enactment, in order to insure that there will be no disruption while new regulations are issued, the bill would expand the scope of existing FERC regulations to encompass larger solar and geothermal facilities—except that limitations contained in existing regulations related to size will not apply. In particular, 18 CFR 292.204(a), which addresses size limitations for qualifying status, and 18 CFR 292.601(b), which addresses size limitations for the purpose of exemption from utility-type regulation, will not apply. And in order to give the solar and geothermal industries and potential project investors clear and consistent guidance and regulatory certainty, the bill also calls for an expedited rulemaking by FERC to make such modifications to its regulations as may be needed.

In terms of our national energy policy, it is important that we take reasonable steps to encourage a wide variety of options to help meet this Nation's energy needs in the future. We will never find a single or simple answer to our dependency on imported oil, but incremental steps to promote domestic energy production are very important. This legislation will make several such steps possible. For example, over 30 years, each 80 megawatts of solar generating capacity backs out the equivalent of 13.9 million barrels of foreign oil, and geothermal facilities will contribute likewise to reducing our foreign oil dependency.

This legislation will allow market and technological forces, rather than government regulations, to determine the economically optimal size for renewable energy facilities, thereby enabling these technologies to realize significant additional cost reductions. Improved economic performance will increase our utilization of renewable resources, benefit our air quality and enhance our energy security.

As a Senator from sunny New Mexico, I look forward to the day when my State will more fully utilize its abundant solar resources to generate electricity. This proposal has broad support on both sides of the aisle and I am confident that committee and Senate action will be favorable.

Mr. President, it is for these reasons I am today introducing this legislation and I urge my colleagues to cosponsor it. I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2415

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as "The Solar and Geothermal Power Production Incentives Act of 1990".

SEC. 2. Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended as follows:

(a) In subsection (a), by striking out ", and to encourage geothermal small power production facilities of not more than 80 megwatts capacity,".

(b) In subsection (e)(2), by inserting "(other than a qualifying small power production facility which is a solar or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears, and by striking out ", or 80 megawatts for a qualifying small power production facility using geothermal energy as its primary energy source,".

SEC. 3. (a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is a solar or geothermal facility, or" after " 'small power production facility' means".

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'solar or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy or geothermal resources;".

SEC. 4. (a) Within 30 days of the date of enactment of this Act, the Federal Energy Regulatory Commission shall issue such proposed modifications to its regulations as may be necessary to implement the amendments made by this section, and within 90 days of such date, the Commission shall issue final regulations.

(b) Until regulations described in subsection (a) are final and effective, any solar or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act), which is a qualifying small power production facility as defined in subparagraph (C) of section 3(17) of the Federal Power Act (as such section 3(17) is amended by this Act), (A) shall be considered a qualifying small power production facility under part 292 of title 18 of the Code of Federal Regulations, notwithstanding any size limitations contained in such part, and (B) shall not be subject to the size limitation contained in section 292.601(b) of such part.●

By Mr. DURENBERGER:

S. 2417. A bill to extend until January 1, 1993, the existing temporary suspension of duty on cyclosporine; to the Committee on Finance.

EXTENSION OF DUTY SUSPENSION

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would extend until January 1, 1993, the current duty suspension on the drug cyclosporine that is due to expire at the end of this year.

Cyclosporine is an immunosuppressant drug that has proven to be very important in helping patients survive an organ transplant operation. Cyclosporine appears to suppress the bodies' natural immune system, and in so doing, helps the patient fight organ rejection. The drug is manufactured by a company in Switzerland and is not manufactured in the United States. Two years ago, I introduced legislation that suspended the duty on this drug until the end of this year. The legislation I am introducing today merely extends that duty suspension another 2 years.●

By Mr. DURENBERGER:

S. 2418. A bill to correct the tariff treatment of certain articles covered by the Nairobi protocol; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN ARTICLES UNDER THE NAIROBI PROTOCOL

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would clarify that parts used in the manufacture of hearing aids qualify under the Nairobi protocol for duty free entry into the United States.

In August 1985, the Nairobi protocol expired and was not extended until Congress adopted the Omnibus Trade Act. Between the time the protocol expired and implementation of the Trade Act, the Customs Service charged duty on all imports of hearing aids and hearing aid parts. Importers of hearing aids and parts were under the impression that duties paid would be refunded when the protocol was extended. However, the importers have now learned that the Customs Service has reinterpreted the Nairobi protocol and concluded that hearing aid parts are no longer eligible for duty free treatment.

Mr. President, I believe it is inappropriate to impose duties on hearing aid parts. The Nairobi protocol covers articles "specifically designed or adopted for the use or benefit * * * of physically * * * handicapped persons." I think there should be no question but that hearings aids, and the parts that are necessary for their manufacture, fall into the category of products that should be eligible under the protocol. The legislation I am introducing today makes certain that these parts are so treated, and allows for a refund of the duties that have been paid since the Customs Service's erroneous misinterpretation of the protocol.●

By Mr. McCONNELL (for himself, Mr. LUGAR, Mr. PRYOR, and Mr. FOWLER):

S. 2419. A bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL PRODUCTS DEVELOPMENT ACT

● Mr. McCONNELL. Mr. President, today I introduce legislation to expand

programs to enhance development of new uses for existing commodities, new crops, and enchancement of industrial uses of our renewable resources. The Agricultural Products Development Act of 1990 is designed to bridge the gap between public research and private sector development to commercial production.

Diversification into new and varied agricultural products will provide tremendous benefits to both farmers and consumers. A U.S. Department of Agriculture report in 1987 estimated that $30 billion could be added to farm income and $100 billion to national economic activity annually through the development and commercialization of new farm and forest products.

This legislation would offer more options at planting time. Some of these crops may be adaptable to following a rotation that could give producers two or three crops from the same field in 1 year. Different uses of traditional crops could increase demand for those crops thus bolstering market prices and farm income. Rural communities would not only benefit from additional farm income, but also from expanded economic development associated with new industry. The USDA report projected the creation of 750,000 new jobs because of agricultural product development.

Aside from these economic rewards, society in general would benefit from a greater variety of products. More importantly, our country's dependence on foreign sources of strategic materials would be reduced. The Native Latex Commercialization and Economic Development Act of 1978 provided the example for some of the earliest new crop research. The act was aimed at reducing the Nation's dependence on foreign sources of rubber for defense purposes.

In 1984, Congress broadened its language to include the development of raw materials from existing new and existing crops. And from new crops and now is the time to concentrate our efforts on further development. For more than 50 years, publicly funded agricultural research has discovered and patented hundreds of new products or processes in this area and there are thousands more yet to be discovered. This legislation is designed to facilitate that process of discovery, development and eventually application.

Agricultural production capacity in the United States is vastly underutilized. Facilitating the process will allow better utilization and stewardship of resources. With this bill we need to establish a new national priority in agricultural diversification with new crops and new uses of existing crops. We should not limit ourselves only to the progress we have made in the past. Instead, we must seize the opportunity to provide insight for the future.

Congress must provide sustained, long-term financial commitment among public and private agencies and the agricultural community. We must increase support for State and Federal research programs including a more efficient flow of information. A national institute must be established to implement and carry out a program for applied research and development. With these goals in mind we must formulate a plan to reach these goals. I believe this legislation along with the commitment of the Secretary of Agriculture will set a strategy for better utilization of both research and resources.●

By Mr. JOHNSTON (by request):

S. 2420. A bill to withdraw certain public lands in Eddy County, NM, and for other purposes; to the Committee on Energy and Natural Resources.

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT

● Mr. JOHNSTON. Mr. President, today I am introducing legislation at the request of the Department of Energy to withdraw the public land surrounding the Waste Isolation Pilot Plant in Carlsbad, NM. This land withdrawal is necessary to allow opening of the WIPP facility to demonstrate the storage and eventual disposal of transuranic waste from our Nation's nuclear weapons production. The opening of the WIPP facility is a very important part of the weapons production cycle because it will demonstrate that we have the technology necessary to store and dispose the byproducts of these weapons safely.

The Waste Isolation Pilot Plant is a research and development facility of the Department of Energy that was authorized by Public Law 96-164 for the purpose of demonstrating the safe disposal of radioactive waste generated by the Department of Energy's nuclear weapons production activities. The WIPP facility, built 2,000 feet below the surface in the Delaware salt basin in New Mexico, has been under construction since 1981. Construction of the facility is now completed, and the facility will soon be ready to begin the demonstration phase. During that phase, the Department of Energy will conduct a series of experiments to evaluate the facility's ability to comply with environmental laws governing the safe storage and disposal of nuclear waste.

The WIPP site consists of 10,240 acres in Eddy County, NM, all of which is public land administered by the Bureau of Land Management. Currently, the land is utilized under an administrative land withdrawal issued by the the Department of Interior in June 1983. This administrative withdrawal is for a period of 8 years; however, it does not authorize use of the land for transportation, storage, or burial of any radioactive waste at the site.

The legislation I am introducing today would permanently withdraw this land from the public domain and transfer it to control by the Department of Energy. It would be possible to continue use of the land under another administrative land withdrawal—at least for the demonstration phase. However, both the Department of Energy and the State of New Mexico have indicated a preference to withdraw the land permanently through legislation. The Department of Energy is seeking a permanent land withdrawal for several reasons. The environmental standards of the Environmental Protection Agency [EPA] for disposal of radioactive waste require that the Department of Energy exercise active institutional control over the disposal site for up to 100 years and passive control thereafter. Since the Department of Energy has statutory responsibility for managing radioactive waste, the Agency should have permanent jurisdiction and control over the site. In addition, because the period of active use and institutional controls will exceed the maximum 20-year period for administrative land withdrawals, a statutory, permanent land withdrawal is desirable.

The target date for the opening of WIPP is October 1990. The Department has prepared a draft decision plan on WIPP, identifying the activities that need to be completed prior to its opening. I am encouraged that we seem to be moving quickly toward completion of many of these activities. Earlier this week, for example, the Environmental Protection Agency issued its draft ruling on the Department's petition for a no migration variance under the Resource Conservation and Recovery Act. There are still a number of items to be resolved, but I am optimistic that they can be completed in a reasonable timeframe.

The WIPP decision plan envisions a decision on operational readiness of the facility in June 1990. If all items are completed on schedule, WIPP would be ready to begin the demonstration phase by this fall. Earlier this week, Energy Secretary James Watkins testified before the Committee on Energy and Natural Resources on the status of these activities. Admiral Watkins told the committee that all prerequisites for emplacement of waste in WIPP could be met as early as October 1, 1990.

I am pleased that the Department of Energy has now forwarded to the Congress draft land withdrawal legislation. It is important that we get started working on this legislation now so that the opening of this facility will not be delayed by the failure of the Congress to enact legislation.

Transuranic waste from our Nation's defense production activities is generated and stored at 10 Department of Energy sites around the country. At some of these sites, we are running out of the limited temporary storage space. Therefore, opening of this facility will be an extremely important step in demonstrating that the defense waste cleanup is underway at Department of Energy sites around the country.

Time ran out in the 100th Congress before we were able to complete action on land withdrawal legislation for WIPP. The Committee on Energy and Natural Resources reported legislation in the last Congress, and we worked hard with our colleagues from New Mexico, Senators BINGAMAN and DOMENICI, to complete this action in 1988. But time ran out, and unfortunately we must start all over again.

Mr. President, I ask unanimous consent that the transmittal letter from the Department of Energy, a section-by-section analysis, and the text of the bill be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Act."

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Agreement" or "Agreement for Consultation and Cooperation" means the July 1, 1981, Agreement for Consultation and Cooperation, as amended by the November 30, 1984 "First Modification" and the August 4, 1987 "Second Modification," or as it is amended after the date of enactment of this Act, between the State of New Mexico and the United States Department of Energy as authorized by section 213(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164).

(3) "EEG" means the Environment Evaluation Group for the Waste Isolation Pilot Plant referred to in section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456).

(4) "Secretary" means the Secretary of Energy.

(5) "WIPP" means the Waste Isolation Pilot Plant project authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Public Law 96-164).

SEC. 3. LAND WITHDRAWAL AND RESERVATION FOR THE WIPP.

(a) WITHDRAWAL, JURISDICTION, AND RESERVATION.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in subsection (c) are withdrawn from all forms of entry, appropriation, and disposal under the public land laws (including the mineral leasing laws, the geothermal leasing laws, and the material sale laws, except as provided in section 4(b)(2)(D) of this Act), and from location, entry, and patent under the mining laws. These lands shall be known as the "Waste Isolation Pilot Plant Withdrawal" (referred to in this Act as the "Withdrawal").

(2) Jurisdiction over the Withdrawal is transferred permanently from the Secretary of the Interior to the Secretary of Energy. The Withdrawal is permanently reserved for the use of the Secretary of Energy for the construction, operation, repair and maintenance, shutdown, monitoring, decommissioning, post-decommissioning control, and other authorized activities associated with, and limited by, the mission of the WIPP.

(3) The Withdrawal provided in this section takes effect on the date that the Secretary of Energy notifies the Congress of the Secretary's determination that the following activities have been completed:

(A) a Final Safety Analysis Report for the WIPP that addresses performance assessment test phase activities and that is—

(i) prepared by the Department of Energy under its safety analysis procedures and reviewed by the Department of Energy's Advisory Committee on Nuclear Facility Safety;

(ii) submitted to the State of New Mexico and the EEG; and,

(iii) approved by the Secretary.

(B) a Record of Decision on the Supplemental Environmental Impact Statement that applies to test-phase activities; and

(C) a No-Migration Variance that, at a minimum, applies to test-phase activities and has been granted by the Environmental Protection Agency under section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6924).

The Secretary shall arrange for the notification to be published in the Federal Register.

(b) REVOCATION OF PUBLIC LAND ORDERS.—Public Land Order 6403, of June 29, 1983, and the memorandum of understanding accompanying that order, are revoked on the effective date of the Withdrawal under section 3(a)(3) of this Act.

(c) LAND DESCRIPTION.—

(1) The boundaries depicted on the map issued by the Bureau of Land Management of the Department of the Interior, entitled "Current Boundaries of the Waste Isolation Pilot Plant Site," dated March 1990 and on file in the State of New Mexico Office of the Bureau of Land Management, are established as the boundaries of the Withdrawal.

(2) Within 30 days after the withdrawal takes effect under the terms of this Act, the Secretary of the Interior shall:

(A) publish in the Federal Register a notice containing a legal description of the lands withdrawn and reserved by this Act; and

(B) file copies of the map and the legal description of the lands with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, the Secretary of Energy, and Governor of the State of New Mexico.

(d) TECHNICAL CORRECTIONS.—The map and legal description referred to in subsection (c) have the same force and effect as if they were included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) WATER RIGHTS.—This Act does not establish a reservation to the United States with respect to any water or water rights on the Withdrawal. This Act does not authorize the appropriation of water on the Withdrawal by the United States after the date of enactment of this Act, except in accordance with the laws of the State of New Mexico. This Act does not affect water rights acquired by the United States before the date of enactment of this Act.

SEC. 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES.

(a) GENERAL AUTHORITY.—The Secretary shall be responsible for the management of the Withdrawal and the WIPP and shall consult with the State of New Mexico in discharging those responsibilities as well as any other responsibility required by this Act.

(b) MANAGEMENT PLAN.—

(1)(A) Within one year after the date of enactment of this Act, the Secretary, in consultation with the State of New Mexico, shall develop a management plan for the use of the Withdrawal.

(B) Any use of the Withdrawal for activities not associated with the WIPP shall be subject to conditions and restrictions that may be necessary to permit the conduct of WIPP activities.

(2) The management plan shall address other uses of the Withdrawal, including, but not limited to, domestic livestock grazing, hunting and trapping, maintenance of wildlife habitat, the disposal of salt tailings remaining on the surface, and mining, in accordance with the following—

(A) GRAZING.—The Secretary shall permit grazing to continue where established before the date of enactment of this Act subject to regulations, policies, and practices that the Secretary determines necessary or appropriate. The management of grazing shall be conducted in accord with—

(i) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.);

(ii) the Act entitled "An Act to stop injury to public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934 (43 U.S.C. 315 et seq., commonly referred to as the "Taylor Grazing Act"); and

(iii) Executive Order 12548 (51 Fed. Reg. 5985).

(B) HUNTING AND TRAPPING.—The Secretary shall permit hunting and trapping within the Withdrawal in accordance with applicable laws and regulations of the United States and the State of New Mexico, except that the Secretary of Energy, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where, and establishing periods when, no hunting or trapping is permitted for reasons of public safety, administration, or public use and enjoyment.

(C) WILDLIFE HABITAT.—In order to preserve the wildlife of the Withdrawal, the Secretary shall manage the Withdrawal so as to maintain the wildlife habitat.

(D) SALT TAILINGS.—Notwithstanding any other law, the Secretary shall dispose of salt tailings that are extracted from the Withdrawal and that are not needed for backfill at the WIPP. Disposition shall be made under sections two and three of the Act of July 31, 1947, as amended (30 U.S.C. 602, 603; commonly referred to as the "Materials Act of 1947").

(E) MINING.—Surface or subsurface mining unrelated to the mission of the WIPP, including slant drilling under the Withdrawal from within or without the Withdrawal, shall not be permitted on or under the Withdrawal, before or after decommissioning.

(c) CLOSURE TO THE PUBLIC.—If the Secretary determines that the health and safety of the public or the common defense and security require the closure to public use of any road, trail, or other portion of the Withdrawal, the Secretary may take whatever action the Secretary determines to be necessary or desirable to effect and maintain closure.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements—

(1) with the Secretary of the Interior and the State of New Mexico for the administration of grazing within the Withdrawal; and

(2) with the State of New Mexico for the maintenance of the wildlife habitat of the Withdrawal.

(e) SUBMISSION OF PLAN.—Within one year after the date of enactment of this Act, the Secretary shall submit the management plan developed under subsection (b) to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, and the State of New Mexico. Any amendments to the plan shall be submitted promptly to those Committees and the State of New Mexico.

SEC. 5. PERFORMANCE ASSESSMENT TEST PLAN.

The Secretary shall develop a WIPP performance assessment test plan in consultation with the National Academy of Sciences, the Administrator, the Governor of the State of New Mexico, and the EEG, that addresses experiments to demonstrate compliance with applicable Environmental Protection Agency standards for disposal of transuranic waste, other experiments that the Secretary considers to be necessary to assure the protection of the health and safety of the public, the timing of experiments, an estimate of the quantities and types of waste required for any of these experiments, and the data required to make a performance assessment.

SEC. 6. OPERATIONS PERFORMANCE DEMONSTRATION.

Prior to the time the Secretary submits a statement to the Congress and the Environmental Protection Agency that the Secretary has complied with Environmental Protection Agency standards for the disposal of transuranic wastes pursuant to section 7(a)(2), if the Secretary determines that an operations performance demonstration is needed to support the demonstration and evaluation of the WIPP, the Secretary shall develop an operations performance plan in consultation with the Governor of the State of New Mexico, and the EEG. The operations performance plan shall specify the amount of waste needed to perform the operations demonstration and shall include procedures for the review of equipment and personnel performance, waste receipt and handling, and the application of quality assurance and quality control requirements.

SEC. 7. COMPLIANCE WITH EPA STANDARDS.

(a) COMPLIANCE WITH EPA STANDARDS.—(1) From the date of enactment of this Act, the Secretary, with respect to the WIPP, shall be subject to Environmental Protection Agency management and storage standards that apply to transuranic waste, as those standards are in effect on the date of the enactment of this Act, or as amended after that date.

(2)(A) Prior to the permanent disposal of transuranic waste at the WIPP—

(1) the Secretary, with respect to the WIPP, shall comply with the Environmental Protection Agency standards for disposal of transuranic wastes established pursuant to section eight; and

(2) the Secretary shall submit a statement of compliance with Environmental Protection Agency standards for disposal of transuranic wastes and necessary supporting documents to the Congress and the Environmental Protection Agency.

(b) LIMITATION ON TRANSURANIC WASTE.—Until the Secretary submits a statement to the Congress and the Environmental Protection Agency that the Secretary has complied with Environmental Protection Agency standards for disposal of transuranic wastes, the Secretary is limited in the amount of transuranic waste that can be emplaced in the WIPP facility to no more than that amount specified in the plans prepared under sections five and six.

(c) ENGINEERED BARRIERS REQUIRED.—The WIPP shall use both engineered and natural barriers to isolate transuranic waste after disposal to the extent necessary to comply with Environmental Protection Agency standards for the disposal of the waste.

SEC. 8. ESTABLISHMENT OF EPA STANDARDS.

(a) PROMULGATION AND ISSUANCE OF EPA STANDARDS.—The Administrator, pursuant to authority under other provisions of law, shall—

(1) issue revised proposed environmental standards for disposal of transuranic wastes no later than 12 months after the date of enactment of this Act; and

(2) issue final environmental standards for disposal of transuranic wastes not later than two years after the date of enactment of this Act.

(b) COMPLIANCE WITH FUTURE STANDARDS.—If the Administrator is ordered by a court of law to repromulgate or reissue the standards required under subsection (a) or is enjoined from implementing the standards or is otherwise prevented from giving the standards full force and effect by a court of law, the Secretary shall demonstrate compliance with the standards required under subsection (a) notwithstanding any court order to the contrary, unless the court order expressly finds and orders that its injunction relates to substantive health and safety aspects of the standards directly applicable to the WIPP.

(c) FAILURE TO PROMULGATE OR ISSUE.—If the Administrator fails to issue environmental standards for disposal of transuranic wastes pursuant to subsection (a), the Secretary shall demonstrate compliance with the environmental standards for the disposal of transuranic wastes as these regulations were in effect on November 18, 1985.

(d) COMPLIANCE WITH RCRA.—The Administrator, with respect to the WIPP, shall regulate as hazardous waste under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) (commonly referred to as the Resource Conservation and Recovery Act) the hazardous component of all waste that is both hazardous and transuranic until the Administrator approves amendments to the State of New Mexico's hazardous waste program that authorize the State to regulate the hazardous component of waste that is both hazardous and transuranic.

SEC. 9. ECONOMIC ASSISTANCE.

(a) WIPP-RELATED BUSINESS AND EMPLOYMENT OPPORTUNITIES.—To the maximum extent practicable, the Secretary shall continue to encourage business and employment opportunities related to the WIPP that may be conducive to the economy of the State of New Mexico, especially Lea and Eddy Counties, and report annually to the State of New Mexico on these activities.

(b) PAYMENTS EQUIVALENT TO TAXES.—There is authorized to be appropriated to the Secretary of Energy such sums as are necessary to provide a payment each fiscal year to the State of New Mexico and each unit of local government in which the Withdrawal is located. The payments shall be equal to the amount the State of New Mexico and the unit of local government would receive were they authorized to tax the development and operation of the WIPP, as the State of New Mexico and unit of local government tax the other real property and industrial activities occurring within the State of New Mexico and the unit of local government. The payments shall continue until all activities related to the development and operation of the WIPP are terminated at the WIPP site.

(c) POTASH LEASE.—The Secretary shall enter into negotiations relating to the mineral tract particularly described as Federal Potash Lease No. NM0384584, 1,600 acres of which lie within the Withdrawal, to arrive at a just compensation for the holder of the lease of that tract. There is authorized to be appropriated to the Secretary such sums as are necessry to acquire these interests. Nothing in this section shall be construed to be a waiver of any judicial remedies available to the owners of these interests or to the Secretary if an agreement cannot be reached on just compensation.

SEC. 10. DECOMMISSIONING OF THE WIPP.

(a) PLAN FOR WIPP DECOMMISSIONING.—Within five years after the date of enactment of this Act, the Secretary shall submit to the Committees on Armed Services and Energy and Natural Resources of the United States Senate, the Committees on Armed Services, Energy and Commerce, and Interior and Insular Affairs of the United States House of Representatives, the State of New Mexico, the EEG, and the Administrator a plan for managing the WIPP after decommissioning. In addition to activities required under the Agreement for Consultation and Cooperation between the Department of Energy and the State of New Mexico, the plan shall be consistent with the standards for disposal of radioactive waste established by the Administrator that apply to the WIPP at the time the plan is prepared. The Secretary shall consult with the State of New Mexico and the EEG in the preparation of this plan.

(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within five years after the date of enactment of this Act, the Secretary shall publish in the Federal Register a plan for the management and use of the Withdrawal following the decommissioning of the WIPP. The Secretary shall consult with the State of New Mexico and the EEG in the preparation of this plan.

WASTE ISOLATION PILOT PLANT LAND WITHDRAWAL ACT SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

Provides that the Act may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Act."

SEC. 2—DEFINITIONS

Provides definitions relevant to the Act.

SEC. 3—LAND WITHDRAWAL AND RESERVATION FOR THE WIPP

This section authorizes the withdrawal of the land within the current boundaries of the WIPP site (the "Withdrawal") from all forms of entry, appropriation and disposal under the public land laws and the permanent transfer of jurisdiction over the Withdrawal to the Secretary of Energy. The Withdrawal is to take effect upon the date that the Secretary notifies Congress of the completion of a Final Safety Analysis Report, the completion of a Record of Decision on the Supplemental Environmental Impact Statement that applies to test-phase activities, and the granting of a No-Migration Variance by EPA.

SEC. 4—ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES

The Secretary must manage the WIPP and develop a management plan, in consultation with the State of New Mexico, within one year of the enactment of the Act. The Secretary must permit grazing, hunting and trapping within the Withdrawal subject to necessary or appropriate regulation. Surface or subsurface mining is prohibited. The Secretary may close any or all of the Withdrawal to the public.

SEC. 5—PERFORMANCE ASSESSMENT TEST PLAN

This section requires the Secretary, in consultation with the National Academy of Sciences, EPA, the State of New Mexico, and the EEG, to develop a WIPP performance assessment test plan that describes experiments demonstrating compliance with EPA standards for disposal of transuranic waste and any other experiments that the Secretary deems necessary.

SEC. 6—OPERATIONS PERFORMANCE DEMONSTRATION

Before the Secretary's submittal of a statement of compliance with EPA standards for the disposal of transuranic waste, the Secretary must develop an operations performance demonstration if he determines that one is needed to evaluate the WIPP.

SEC. 7—COMPLIANCE WITH EPA STANDARDS

The WIPP will be subject to EPA management and storage standards applicable to transuranic waste. Before disposal of transuranic wastes at WIPP, the Secretary must comply with EPA standards for disposal, and submit a statement of compliance to the Congress and EPA. Until the statement of compliance has been submitted, the Secretary may only place the amount of waste specified in the Performance Assessment Test Plan and the Operations Performance Demonstration Plan in the WIPP facility. This section further provides that the WIPP shall use both engineered and natural barriers to isolate the transuranic waste to the extent necessary to comply with EPA disposal standards.

SEC. 8—ESTABLISHMENT OF EPA STANDARDS

EPA is required to issue proposed and final standards for disposal of transuranic waters within two years after the date of enactment. The Secretary must demonstrate compliance with the standards notwithstanding any court order requiring the repromulgation or reissuance of the standards or any injunction preventing their enforcement, unless the court finds that its injunction relates to health and safety aspects of the standards applicable to the WIPP. If EPA fails to issue the above standards for waste disposal, the Secretary must demonstrate compliance with the environmental standards for transuranic waste disposal in effect on November 18, 1985.

SEC. 9—ECONOMIC ASSISTANCE

The Secretary must continue to encourage business and employment opportunities related to the WIPP that will be conducive to the economy of the State of New Mexico, to the extent feasible. This section authorizes to be appropriated to the Secretary such sums as are necessary to provide to the State of New Mexico, and each unit of local government in which the WIPP is located, payments equal to the amount those governments would have received were they authorized to tax the WIPP. These payments are to continue until all development and operational activities are terminated at the WIPP site. This section also authorizes to be appropriated such sums as are necessary to compensate the holder of a Federal Potash Lease within the Withdrawal.

SEC. 10—DECOMMISSIONING OF THE WIPP

Within five years of enactment, the Secretary must submit to designated Senate and House committees, the State of New Mexico, the EEG, and the EPA a plan for managing the WIPP after decommissioning. The plan must be consistent with EPA standards for disposal of radioactive waste that apply to the WIPP at the time the plan is prepared. Within five years of enactment, the Secretary is required to publish a plan in the Federal Register for the management and use of the Withdrawal following the decommissioning of the WIPP. The Secretary must consult with the State of New Mexico and the EEG in the preparation of the plans.

THE SECRETARY OF ENERGY,
Washington, DC.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the "Waste Isolation Pilot Plant Land Withdrawal Act." I strongly urge the Congress to enact this legislation as quickly as possible. Its enactment would preclude the need for extension and modification of the current administrative land withdrawal covering this project and allow important test programs to be conducted at the Waste Isolation Pilot Plant (WIPP).

The Congress authorized the WIPP project in 1980 to demonstrate the safe disposal of radioactive waste generated by the Department's defense activities. The WIPP's development has proceeded in a phased manner, from site characterization and validation through facility construction. The disposal facility is located deep underground in thick salt formations on public lands near Carlsbad, New Mexico.

The next step—a vital one—is the test phase during which experiments must be conducted on site to allow an assessment of the facility's safe performance and to obtain operational experience. Upon completion of the test phase, a determination will be made as to whether to store wastes at the site permanently.

To promote safe operations at the facility and to ensure the protection of public health and safety, it is necessary to withdraw the lands around the WIPP site from public use. The current administrative land withdrawal for the WIPP expires in 1991 and does not authorize the transportation, storage, and burial of radioactive materials at the site. Although the Department is seeking to modify and extend the administrative land withdrawal, permanent land withdrawal through legislative means is the option preferred by the Department to allow the test phase to move forward expeditiously.

In my testimony before the Congress and in numerous public statements, I have said that I will not permit the WIPP to open for testing until I am certain that it is safe and has met all prerequisites specified in the Department's "WIPP Decision Plan;" the plan is regularly updated and released for public review and comment. To further emphasize this point, I have included in this legislative proposal specific conditions that the Department must meet before the land withdrawal could take effect. These conditions are completion of a final safety analysis report; completion of a record of decision on a supplemental environmental impact statement that applies to test phase activities; and the issuance of a "No-Migration Variance" by the Environmental Protection Agency (EPA) under the Resource Conservation and Recovery Act. The legislative proposal also requires compliance with EPA standards for the management, storage, and disposal of transuranic waste.

In addition, the proposal includes economic assistance provisions. Under those provisions, the Department would continue to encourage business and employment activities in the State of New Mexico. The Department also would provide payments to the State and units of local government in which the land withdrawal is located. Those payments would be equal to taxes that these jurisdictions would receive were they authorized to tax the WIPP as an industrial facility. (The amount of those payments has not yet been determined.) Finally, the Department would be required to enter into negotiations related to a potash lease in the vicinity of the WIPP.

It should be noted that when the land withdrawal takes effect, the Department will be in a position to provide to the State of New Mexico additional funds in the amount of $42,451,750.00. The funds are being held by the Department in a special reserve account.

We must demonstrate in this country the ability to manage and dispose of nuclear waste safely. I consider the WIPP test phase to be a vital step in that process. The enactment of land withdrawal legislation, with its conditions, would allow WIPP test programs to be conducted in a timely manner and assure the protection of public health and safety.

The Office of Management and Budget advises that there is no objection to presentation of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).●

By Mr. THURMOND:

S.J. Res. 285. Joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND. Mr. President, I rise today to introduce a joint resolution which authorizes and requests the President to designate the week of

September 9, 1990, through September 15, 1990, as "National Historically Black Colleges Week."

This is the 8th consecutive year that I have authorized this legislation.

Six of the 107 historically black colleges, namely Allen University, Benedict College, Claflin College, South Carolina State College, Morris College, and Vorhees College, are located in my home State. These colleges are vital to the higher education system of South Carolina. They have provided thousands of economically disadvantaged young people with opportunity to obtain a college education.

Mr. President, hundreds of thousands of young Americans have received quality educations at these 17 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. Historically black colleges offer to our citizens a variety of curriculums and programs through which young people develop skills and talents, thereby expanding opportunities for continued social progress.

Recent statistics show that historically black colleges and universities have graduated 60 percent of the black pharmacists in the Nation, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers, and 80 percent of the black members of the judiciary.

Mr. President, through passage of this joint resolution, Congress can reaffirm its support for historically black colleges, and appropriately recognize their important contributions to our Nation. I look forward to the speedy passage of this joint resolution, and I ask unanimous consent that a copy of the joint resolution appear in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 285

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 9, 1990, and ending on September 15, 1990, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

ADDITIONAL COSPONSORS

S. 176

At the request of Mr. HEINZ, the names of the Senator from Mississippi [Mr. LOTT], the Senator from New York [Mr. D'AMATO], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act.

S. 185

At the request of Mr. DIXON, the name of the Senator from Massachusetts [Mr. KERRY] was added as cosponsor of S. 185, a bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction.

S. 216

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 216, a bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act and the Supplemental Security Income Program under title XVI of such act.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 513

At the request of Mrs. MIKULSKI, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Nebraska [Mr. EXON], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 563

At the request of Mr. MATSUNAGA, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 563, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive retired pay concurrently with disability compensation after a reduction in the amount of retired pay.

S. 1673

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to provide for substance abuse treatment services on request for individuals desiring to rid themselves of substance abuse problems, and for other purposes.

S. 1766

At the request of Mr. DANFORTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2048

At the request of Mr. SARBANES, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2051

At the request of Mr. HEFLIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2051, a bill to amend the Social Security Act to provide for more flexible billing arrangements in situations where physicians in the solo practice of medicine or in another group practice have arrangements with colleagues to "cover" their practice on an occasional basis.

S. 2054

At the request of Mr. DODD, the names of the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. COATS], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2054, a bill to amend the Public Health Service Act to authorize grants and con-

tracts for projects providing primary pediatric care to disadvantaged children, and for other purposes.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement State health objectives plans, and for other purposes.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2214

At the request of Mr. PACKWOOD, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 2214, a bill to provide incentives to health care providers serving rural areas, to eliminate the Medicare reimbursement differential between hospitals located in rural and urban areas, and for other purposes.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2229

At the request of Mr. DODD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2252

At the request of Mr. SIMON, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2252, a bill to encourage and facilitate entry into the teaching profession, and for other purposes.

S. 2304

At the request of Mr. RIEGLE, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2304, a bill to amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes.

S. 2337

At the request of Mr. LEVIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2337, a bill to amend the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2369, a bill to initiate actions under section 310 of the Trade Act of 1974 with respect to the trade barriers of Japan that are the subject of the structural impediments initiative.

SENATE JOINT RESOLUTION 230

At the request of Mr. DECONCINI, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution to designate the period commencing on May 6, 1990, and ending on May 12, 1990, as "National Drinking Water Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON], the Senator from North Carolina [Mr. HELMS], the Senator from Wyoming [Mr. Simpson], the Senator from Illinois [Mr. SIMON], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Colorado [Mr. WIRTH], the Senator from Washington [Mr. ADAMS], the Senator from New York [Mr. D'AMATO], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. BOSCHWITZ, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of the Senate Joint Resolution 246, a joint resolution calling upon the United Nations to repeal General Assembly Resolution 3379.

SENATE JOINT RESOLUTION 265

At the request of Mr. DODD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 265, a joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

SENATE JOINT RESOLUTION 275

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 275, a joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], the Senator from Kansas [Mr. DOLE], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 281

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 281, a joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 97

At the request of Mr. GORE, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of Senate Joint Resolution 97, a concurrent resolution expressing the sense of the Congress with respect to popular anti-Semitism in the Soviet Union.

At the request of Mr. PRESSLER, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 97, supra.

SENATE JOINT RESOLUTION 102

At the request of Mr. DIXON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 102, a concurrent resolution expressing the sense of the Congress regarding the existing borders between Germany and Poland.

SENATE CONCURRENT RESOLUTION 112

At the request of Mr. MOYNIHAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 112, a concurrent resolution expressing the sense of the Congress that the United States should seek to obtain an Advisory Opinion for the International Court of Justice concerning the right of self-determination of the people of Lithuania.

SENATE CONCURRENT RESOLUTION 115

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. BURDICK], the Senator from Maryland [Mr. SARBANES], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Concurrent Resolution 115, a concurrent resolution to express the sense of the Congress regarding future funding of Amtrak.

SENATE CONCURRENT RESOLUTION 116

At the request of Mr. D'AMATO, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Concurrent Resolution 116, a concurrent resolution commend-

ing Poland and Prime Minister Mazowiecki for their courageous and resolute stand in permitting charter flights to carry Soviet Jews to Israel.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 263

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Resolution 263, a resolution to express the sense of the Senate regarding the need to establish a sound national transportation policy integrating all modes of transportation and maintaining a significant Federal role.

SENATE CONCURRENT RESOLUTION 117—RELATIVE TO CONTRIBUTIONS OF THE FRIENDS OF THE NATIONAL ARBORETUM

Mr. RIEGLE (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 117

Whereas the Capitol Building of the United States symbolizes the enduring success of the American system of representative democracy;

Whereas on-going construction of this magnificent building, which began nearly two centuries ago and continued until recently, has mirrored the geographic expansion of the United States;

Whereas the original Corinthian sandstone columns that stood for more than 130 years on the East Front Portico of the Capitol Building were replaced during the extension of the East Front of the Capitol Building in the late 1950's;

Whereas 22 of those columns have been preserved and made available for public display at the National Arboretum in the Nation's Capital through the initiative and determined efforts of the Friends of the National Arboretum, a non-profit, volunteer organization that supports the efforts of the National Arboretum; and

Whereas these historically significant columns will be dedicated at the National Arboretum on Flag Day, June 14, 1990: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress extends its deep appreciation to the Friends of the National Arboretum and those individuals whose financial contributions have helped ensure that 22 of the original sandstone Corinthian columns which were removed from the East Front Portico of the Capitol Building during the extension of the East Front of the Capitol Building in the late 1950's will be permanently preserved and publicly displayed at the National Arboretum.

SENATE CONCURRENT RESOLUTION 118—AUTHORIZING THE PRINTING OF A BROCHURE

Mr. RIEGLE (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 118

Resolved by the Senate (the House of Representatives concurring), That a brochure describing the history, design, and functions of the United States Capitol as the seat of the legislative branch of the Government shall be printed as a Senate document, with appropriate illustrations and diagrams. In addition to the usual number, 250,000 copies of the brochure shall be printed for the use of the Senate and the House of Representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives.

AMENDMENTS SUBMITTED

TRADE AND COMPETITIVENESS ACT

ROTH AMENDMENT NO. 1463

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 3 years, as follows:

On page 271, after line 12, insert the following new section:

SEC. . AGGLOMERATE MARBLE FLOOR TILES.

(a) RECLASSIFICATION.—Chapter 68 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking out subheading 6810.19.10 and inserting the following new subheadings with the article descriptions for such subheadings having the same degree of indentation as the article description for subheading 6804.22.60:

"	Floor and wall tiles:				
6810.19.12	Agglomerate marble tiles	4.9%	Free (A, E, IL) 4.7% (CA).	40%	
6810.19.14	Other	21%	Free (A, E, IL) 16.8% (CA).	55%".	

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law to the contrary, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by this section applies and that was made—

(A) after December 31, 1988; and

(B) before October 1, 1990;

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

ROTH (AND OTHERS) AMENDMENT NO. 1464

(Ordered to lie on the table.)

Mr. ROTH (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill H.R. 1594, supra, as follows:

At the end of the bill, insert the following new title:

TITLE V—ADMINISTRATIVE PROCEDURES FOR NONCONTROVERSIAL TARIFF SUSPENSIONS

SEC. 5001. INITIATION OF INVESTIGATIONS.

(a) PETITIONS.—

(1) any person who—

(A) uses an article in the production of a product in the United States,

(B) imports an article into the United States, or

(C) distributes an article in the United States,

may file with the United States International Trade Commission (hereafter referred to in this Act as the "Commission") a petition requesting the President to issue a proclamation under section 5003(a) that suspends the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99, if the rate of duty applicable to such article is provided in rate of duty column 1.

(2) Any person who—

(A) produces in the United States—

(i) any article for which a duty is suspended by reason of a proclamation issued under section 5003(a),

(ii) any other article like, or directly competitive with, such article, or

(iii) any other article which is like, or directly competitive with, a product that is produced in the United States by means of a process which uses such article as a significant raw material or component,

(B) has—

(i) the capacity, and

(ii) the bona fide intent,

to produce such article, or any other article like, or directly competitive with, such article in the United States in significant quantities,

may file with the Commission a petition requesting the President to issue a proclamation under section 5003(b) that reinstates such duty.

(3) The Commission shall not accept a petition under paragraph (1) or (2) for the suspension or reinstatement of a duty on an article before the date that is 1 year after the date on which a bill is introduced in the House of Representatives or the Senate that would, if enacted, effect such suspension or reinstatement.

(4) Each petition filed under paragraph (1) or (2) shall contain—

(A) sufficient information (including a precisely defined article description) to enable the Commission to determine whether an investigation into the suspension or reinstatement of the duty is justified;

(B) sufficient information for the Commission to make a determination under section 5002(a); and

(C) such other information as the Commission may require.

(5)(A) Not later than the date that is 15 days after the date on which a petition is

filed with the Commission under paragraph (1) or (2), the Commission shall determine whether the information provided in the petition is sufficient to justify an investigation under section 5002.

(B) If the determination made under subparagraph (A) is affirmative, the Commission shall—

(i) transmit a copy of the petition to the United States Trade Representative,

(ii) initiate an investigation under section 5002 of the suspension or reinstatement of the duty requested in the petition, and

(iii) publish in the Federal Register notice of—

(I) the initiation of such investigation, and

(II) the opportunity for public comment on such suspension or reinstatement of the duty.

(C) If the determination made under subparagraph (A) is negative, the Commission shall dismiss the petition and notify the petitioner of the basis on which such negative determination was made.

(b) PRESIDENTIAL REQUEST OR SELF-INITIATION.—

(1) Upon request of the President, or upon the initiative of the Commission, the Commission shall initiate an investigation under section 5002 of the reinstatement of any duty that has been suspended by any previous proclamation issued under section 5003(a).

(2) Upon initiating an investigation under section 5002 by the authority of paragraph (1), the Commission shall—

(A) transmit to the the United States Trade Representative a written statement describing the article and duty that are the subject of such investigation and all information available to the Commission regarding justification of the reinstatement of such duty on such article, and

(B) publish in the Federal Register notice of—

(i) such investigation, and

(ii) the opportunity for public comment on such suspension or reinstatement of the duty.

SEC. 5002. INVESTIGATIONS BY THE COMMISSION.

(a) IN GENERAL.—If the determination made under section 5001(a)(5)(A) is affirmative or section 5001(b)(1) applies, the Commission shall conduct an investigation to determine—

(1) whether the article that is the subject of the petition filed under section 5001(a), or of the notice published under section 5001(b)(2)(B), is produced in the United States,

(2) whether any other article which is like, or directly competitive with, such article is produced in the United States,

(3) whether any other article is produced in the United States which is like, or directly competitive with, a product that is produced in the United States by means of a process which uses (or could use) such article as a significant raw material or component,

(4) whether any person has—

(A) the capacity, and

(B) the bona fide intent,

to produce such article, or any other article like, or directly competitive with, such article in the United States in significant quantities,

(5) whether any person who—

(A) produces in the United States—

(i) such article,

(ii) any other article like, or directly competitive with, such article, or

(iii) any other article described in paragraph (3), or

(B) is described in paragraph (4),

objects to a suspension of the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99,

(6) whether any person not described in paragraph (4) or (5)(A) objects to that suspension of duty on such article,

(7) whether any quotas or other import restrictions are imposed by Federal law on such article,

(8) whether any international agreements to which the United States is party affect trade in such article or in any other article like, or directly competitive with, such article,

(9) whether such article, or any article like, or directly competitive with, such article, is, or has been, the subject of any investigation during the precedings 5 years under—

(A) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) or section 303 of the Tariff Act of 1930 (19 U.S.C. 1303),

(B) section 337 of the Tariff Act of 1930 (19 U.S.C. 1303),

(C) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.),

(D) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), or

(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862),

(10) the aggregate value of such articles imported into the United States during the calendar year preceding the calendar year in which such determination is made,

(11) the aggregate value of such articles consumed in the United States during the calendar year preceding the calendar year in which such determination is made,

(12) the principal uses of such article in the United States,

(13) the duties that are imposed by Federal law on such article and the rates of such duties, and

(14) the aggregate amount of Federal revenue derived from the duties imposed by Federal law on such article during the fiscal year preceding the fiscal year in which such determination is made.

(b) PUBLIC COMMENTS.—During the course of any investigation conducted under this section, the Commission shall provide an opportunity for any person to submit written statements regarding the subject of the investigation and, upon request and after reasonable public notice, shall hold a hearing for the oral presentation of views on the subject of the investigation.

(c) REPORTS.—

(1) Not later than the date that is 75 days after the date on which an investigation under this section is initiated, the Commission shall—

(A) complete a preliminary report on the investigation conducted under subsection (a),

(B) publish a summary of the preliminary report in the Federal Register,

(C) provide a copy of the preliminary report to the petitioner, and

(D) make the preliminary report available for public inspection.

(2) On the date that is 30 days after the date on which a summary of the preliminary report on the investigation conducted under this section is published in the Federal Register, the Commission shall submit to the President a final report on the investigation. Such report shall include—

(A) the determinations made under subsection (a),

(B) a summary of comments received by the Commission regarding such investigation, including comments on the preliminary report completed under paragraph (1), and

(C) a copy of the transcript of any hearings held in the course of such investigation.

(d) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—The determinations made by the Commission under subsection (a) shall not be reviewable in any court.

SEC. 5003. ACTION BY THE PRESIDENT.

(a) SUSPENSION OF DUTIES.—

(1) During the 30-day period beginning on the date on which the Commission submits to the President under section 5002(c)(2) a final report on an investigation concerning the suspension of duties on an article, the President may issue a proclamation that suspends the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99 if the President determines that—

(A) no person has a valid objection to such a suspension, and

(B) the sum of—

(i) the aggregate amount of Federal revenue derived from the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99 during the fiscal year preceding the fiscal year in which such determination is made, and

(ii) the aggregate amount of Federal revenue derived during such preceding fiscal year from all the duties imposed on all articles that are the subject of a previous proclamation issued under this paragraph during the calendar year in which such determination is made,

does not exceed $100,000,000.

(2) The President may not issue a proclamation under paragraph (1) that suspends the duty imposed by the Harmonized Tariff Schedule of the United States on any article to which the rate of duty provided in rate of duty column 2 applies.

(3) In determining whether to issue a proclamation under paragraph (1), the President may take into account—

(A) the effect such a proclamation would have on the bargaining position of the United States in any continuing, planned, or prospective negotiations with any foreign country,

(B) the effect such a proclamation would have on the revenue of the United States,

(C) foreign policy considerations, and

(D) any other factors the President considers appropriate.

(4) If the President does not issue a proclamation under paragraph (1) with respect to any article that is the subject of a report submitted under section 5002(c)(2) during the 30-day period described in paragraph (1), the President shall publish in the Federal Register the reasons why the President is unable, or has declined, to issue such a proclamation.

(5) The duration of the suspension of duties provided in a proclamation issued under paragraph (1) shall not exceed 3 years. Such suspension may be extended by a proclamation issued under paragraph (1) with respect to subsequent investigations conducted under section 5002 for a period not to exceed 3 years for each such proclamation.

(b) REINSTATEMENT OF DUTIES.—

(1) During the 30-day period beginning on the date on which the Commission submits to the President under section 5002(c)(2) a final report on an investigation concerning the reinstatement of duty on an article that

has been suspended by a proclamation issued under subsection (a), the President shall—

(A) determine whether any person has a valid objection to such suspension, and

(B) if the determination made under subparagraph (A) is affirmative, issue a proclamation that reinstates the duty which would be in effect if such suspension had not been made.

(2) The President shall publish in the Federal Register any negative determination made under paragraph (1)(A).

(c) DETERMINATIONS NOT SUBJECT TO REVIEW.—Any determination made by the President under this section shall be final and shall not be reviewable in any court.

SEC. 5004. ALTERNATIVE SCHEDULES.

The President may, by proclamation, establish—

(1) an annual deadline for the filing of petitions under section 5001(a) with respect to which—

(A) the Commission will be required to make determinations under sections 5001(a)(5) and 5002 during the calendar year, and

(B) the President will be required to make determinations under section 5003 during the calendar year, and

(2) a schedule for taking other actions under sections 5001, 5002, and 5003 that may differ from any time requirements set forth in such sections.

SEC. 5005. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1991.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, April 4, 1990, at 8:30 a.m. to hold a hearing business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, April 4, 1990, at 10 a.m. to hold hearings on modernizing the financial services industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 4, 1990, at 9 a.m. to hold a hearing on S. 1880, the Cable Television Consumer Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Armed Services Committee be authorized to meet in open session on Wednesday, April 4, 1990, at 9:30 a.m. to receive testimony on the Department of Defense environmental programs in review of S. 2171, the Department of Defense Authorization Act for Fiscal Year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 4, at 10 a.m. to hold a nominations hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Armed Services Committee be authorized to meet in open session on Wednesday, April 4, 1990, at 9:30 a.m. to review the officer procurement programs of the military services, and the management and operation of the military service academies in review of S. 2171, the Department of Defense Authorization Act for Fiscal Year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 4, at 1:30 p.m. to hold a hearing to review the July 1989 summit declaration on the global environment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, April 4, 1990, at 2 p.m., on S. 626, a bill to amend the Lanham Trademark Act regarding gray market goods.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. RIEGLE. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on S. 1398, the administration-proposed Department of Veterans Affairs Health Care Quality Assistance and Cost Effectiveness Act of 1989, S. 1332 by Senator MURKOWSKI, and the Secretary's plan to establish administratively the Commission on the Future Structure of Veterans Health Care on Wednesday, April 4, 1990, at 9:15 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, April 4, 1990, at 2 p.m. The committee will hold a hearing on the President's proposed budget proposal for the Small Business Administration and on the reauthorization of the Agency's programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, April 4, 1990, at 2:30 p.m. on the nomination of Lawrence M. McKenna to be U.S. district judge for the Southern District of New York; James F. McClure, Jr., to be U.S. district judge for the Middle District of Pennsylvania; David H. Souter, to be U.S. circuit judge for the First Circuit; and Samuel A. Alito, Jr., to the U.S. circuit judge for the Third Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CLEAN AIR BILL

● Mr. SIMON. Mr. President, there are many parts of this bill that I support, and I am proud to have been either a sponsor or cosponsor of amendments that make it a better bill.

Some of the amendments that I either sponsored or cosponsored will mean cleaner air for this country because they call for more use of ethanol, a clean-burning fuel. This bill has the most significant boost for ethanol in its history and will mean a great deal for farmers and for the corn industry, calling for about 1 billion bushels of corn for ethanol production by the end of the decade. That 1 billion bushels does not include the study that an amendment I offered calls for, that could result in a substantial increase above that figure. The amendment I offered requires the EPA to make a study of whether or not we should require the 3.1-oxygen level on fuels in communities of 100,000 or more, just as we are requiring them in

large metropolitan areas where there is a severe problem

I will work to make sure these provisions are in the final bill that is sent to the President for signing. I am confident they will be in the final bill.

I will also do everything I can to encourage my House colleagues to see that the burden that now falls on the Midwest unfairly is shifted in the bill that passes the House, and then I hope we can work in conference between the two Houses to make a fair bill on that score.

There were also amendments several of my colleagues and I brought before the Senate which I felt were necessary in order to provide some economic fairness for Illinois and other Midwestern States. They were opposed by President Bush and a bipartisan coalition, and they failed.

In fairness to those who support this legislation, it does call for cleaner air, and that is one of the positives about this legislation. And, as one who has fought for cleaner air, both in my years in the Illinois Legislature and my years in Congress, I regret to find myself in this very difficult situation. When I was in the State legislature, I was the chief sponsor of the legislation that put the teeth in the Illinois Air Pollution Control Act.

However, I oppose this bill in its present form.

Because I am so strongly for clean air, and because this bill does help Illinois farmers, I was weighing this measure carefully; frankly, leaning toward voting for it, despite the negatives that it also has for Illinois.

But the crowning blow came with the defeat of the amendment sponsored by my colleagues from Idaho, Senator MCCLURE, which would have banned the import of electricity from Canada after January 1, 1994, unless they also established clean air requirements similar to our own. Without such an amendment, Canadian coal miners have a tremendous edge over United States coal miners, and the Canadian utilities have a tremendous edge over United States utilities. I want competitive fairness. When that amendment was defeated, it tipped the scales against the bill for me.

Further, the failure to pass that amendment was a signal to encourage air pollution in Canada when we ought to be encouraging clean air initiatives in our neighboring country. One of the things that we have learned is that air pollution does not know the restrictions of national boundaries.

This measure, as now structured, will have a devastating effect on Illinois coal miners and the communities in which they live.

And, it could raise the rates of Illinois utility rate payers by as much as 25 percent.

If, in order to attain clean air, Illinois, along with every State, was being asked to shoulder this kind of a burden, I would support the act. But that is not the case. Illinois and the Midwest States are being asked to shoulder an unfair share of the burden.

I must also address the section of this bill that deals with the problem of acid rain. Essentially, it is President Bush's proposal on acid rain.

Long before President Bush announced he would be the environmental President, I was supporting legislation that would stop acid rain. When I served in the House from a district that produced more coal than any other district in Illinois, I supported acid rain legislation that would have resulted in cost-sharing throughout the Nation, since the whole Nation benefits from the legislation. I did that when, at that point, it was not popular with the United Mine Workers, and the coal industry. I'm pleased to say that in recent years, the United Mine Workers have taken a much more enlightened attitude on this whole problem. So, this is not a new subject for me, and I was glad to hear President Bush acknowledge that acid rain was a problem that had to be dealt with.

What I was not prepared for, and what the people of Illinois were not prepared for, was a proposal from the administration which could lead to the loss of 18,000 jobs in Illinois that are coal-related. What we were also not prepared for was a proposal from President Bush which could lead to utility rates in Illinois increasing by as much as 25 percent.

But the truth about President Bush's proposal on acid rain is that it will lead to economic devastation in some parts of Illinois, and it will increase utility rates, as well. When utility rates in Illinois go up, that means it is even more difficult for our State to attract and keep industry. We are already a State that has been devastated by industrial losses.

I am not against a clean air bill. I want a strong bill. My votes on strengthening amendments show that. I support the environmental goals of President Bush's proposal on acid rain. But I cannot support the economic sledgehammer the administration's acid rain proposal will bring down on the people of Illinois.

The people of Illinois are for a clean air bill. They want a strong bill. All we ask is fairness.

It is clear that the administration does not provide Illinois or the Midwest fairness in this case.

The proposal calls for electric utility power plants in Illinois and other Midwestern States to reduce sulfur dioxide emissions more than other regions of the country.

The Midwest generates roughly 51 percent of the sulfur dioxide in this country. The President's proposal, however, calls for the Midwest to account for 90 percent of this country's sulfur dioxide emissions reductions in the first phase of the bill.

I supported amendments that said, "Mr. President, the Midwest will reduce 90 percent of this country's sulfur dioxide emissions, even through other States will be allowed to increase their sulfur dioxide emissions, but those other States should help us pay for it."

The amendments that I cosponsored were opposed by the President and a bipartisan coalition. Those amendments failed, and the people in the Midwest lost.

I fought for a fair bill that would lessen the impact of job losses in the coal mining communities of Illinois—areas that have already suffered greatly. The administration opposed this effort. The administration won, but the people of Illinois lost.

I fought for a fair bill that would lessen increases in Illinois utility rates—because they are already some of the highest in the country. The administration opposed this effort. The administration won, but the people of Illinois lost.

One of the great injustices is that the number one sulfur dioxide polluter in the Nation today is Texas. You would assume, perhaps, that because Texas is the number one polluter, it would be required to reduce that pollution emission. Yet its utilities will be permitted to add 333,000 more tons of sulfur dioxide into the air than they did in 1980. The increased emissions in Texas account for almost half of the cutback that the State of Illinois has to make. And because of wind patterns, a great deal of the Texas pollution will hit the State of Illinois.

I recognize that the administration has strong roots in Texas, but to permit this kind of an increase in pollution from Texas while cutting back in the Midwest States is grossly unfair.

It does not have to be this way. The administration can win on clean air without being unfair. The people of Illinois do not have to be on the losing end. There are examples of the President's willingness to be fair.

When a hurricane recently devastated part of South Carolina, President Bush sought help for the people of that State. When an earthquake recently hit California, President Bush sought help for the people of that State.

But in this case, not only is President Bush denying fairness for Illinois and the Midwest, his proposal will be the direct cause of the economic earthquake that will hit Illinois and the Midwest.

Even though I am voting against this Senate bill, I will continue to take my battle for fairness to other fronts. I will work with my colleagues in the

House of Representatives while they shape their clean air bill. And I will also work with my colleagues when the House and Senate meet at conference in order to shape the final bill that will be presented to President Bush.

President Bush said he would veto any clean air bill, if it had the amendments I supported, which would assure the coal mining communities of Illinois would not be devastated, and Illinois utility ratepayers would not have to pay more than their fair share to clean up this country's air.

The President got his wish with the Senate bill. He won this battle, but because it is clear the people of Illinois lose economically, I cannot vote for this bill.

I am hopeful that the final bill we vote on, after conference between the House and Senate, will be a better environmental bill for the people of Illinois and this country, and a fairer bill for the people of Illinois and the Midwest.●

SUMMARY OF SENATE CONCURRENT RESOLUTION 110, CONGRESSIONAL BUDGET FOR 1991

● Mr. DOMENICI. Mr. President, last Thursday, March 29, the distinguished chairman of the Senate Budget Committee introduced a budget resolution in the Senate. That resolution (S. Con. Res. 110) was referred to the Budget Committee.

When the Budget Committee failed to report its own budget resolution on April 1, as required by the Congressional Budget and Impoundment Control Act, Senate Concurrent Resolution 110 was automatically discharged from the committee. It is now on the Senate calendar and since it is a privileged matter we could proceed to it immediately.

I do not believe that is likely. I understand that the chairman wants to have the committee work its will.

But I also understand why the chairman may have introduced Senate Concurrent Resolution 110. Both in 1983 and 1984 when I was chairman of the committee, I similarly introduced "place holder" resolutions. In both years the committee followed with reported resolutions effectively mooting the place holder.

But since Senate Concurrent Resolution 110 is a real budget resolution, I think it deserves a little analysis. I asked the Republican staff of the Budget Committee to briefly review the resolution, and I ask that the analysis appear in the RECORD at this point.

The summary follows:

SUMMARY OF SENATE CONCURRENT RESOLUTION 110, CONGRESSIONAL BUDGET FOR 1991

BACKGROUND

On March 29, Chairman Sasser introduced a Senate Concurrent Resolution setting forth a possible budget blueprint for fiscal years 1991, 1992, and 1993. Following the procedures of the Budget Act, the resolution (S. Con. Res. 110) was referred to the Senate Budget Committee. The Senate Budget Committee failed to report a budget resolution for the forthcoming fiscal year by the statutory deadline of April 1. The Committee was, therefore, discharged of S. Con. Res. 110 on April 2 and it was placed on the Senate Calendar (Order No. 499).

S. Con. Res. 110 is available for immediate consideration by the full Senate. The resolution is privileged and the Senate may move to consideration at any time. The resolution may be called up in one of two ways: by unanimous consent or by a nondebateable motion to proceed.

The Senate Budget Committee has twice in the past been discharged of budget resolutions, in 1983 and 1984. In both cases, the Committee later reported a budget in making the discharged resolutions effectively moot. A similar situation could occur this year.

SUMMARY OF RESOLUTION

S. Con. Res. 110 is a three-year budget resolution, including reconciliation instructions to 11 Committees of the Senate. The resolution meets the Gramm-Rudman deficit targets by assuming the Administration's January 1990 economic and technical assumptions.

As is the case with budget resolutions in general, assumptions underlying the resolution are not usually available. This is particularly important as it relates to funding assumptions for discretionary programs. Nonetheless, based on the specific numbers included in S. Con. Res. 110 when compared to the Administration's request, analysts can determine the programmatic assumptions that probably underlie the resolution.

The following table summarizes the major components of S. Con. Res. 110. The resolution reduces the 1991 deficit by $37.2 billion, $367.8 billion over the next five years. Nearly two-thirds of the five-year deficit reduction ($232.4 billion) is achieved through constraints in the defense budget. Twenty percent of the deficit reduction ($73 billion) is achieved from increased revenues.

The resolution, if fully implemented, could:

Reduce defense budget authority $35 billion in 1991, $26 billion more than the President's request.

Bring down defense spending to 3.7 percent of GNP in 1995, the lowest level since 1948.

Cut military personnel 30 percent.

Freeze international affairs programs at their 1990 appropriated levels, possibly precluding initiatives to assist developing democracies.

Reduce the President's science and space initiatives.

Reduce the President's requested increase for law enforcement, litigative, judicial, and correctional activities, which would hamper drug interdiction efforts.

Significantly expand the President's request for education, housing, and income security programs.

Reject the President's proposals to reduce or eliminate programs such as AMTRAK, mass transit, and low-income home energy assistance.

Maintain all other domestic programs at current levels adjusted for inflation.

Reject the President's proposals to freeze civil service and military retirement COLAs and reduce non-needy child nutrition subsidies.

Reduce entitlement programs by $7.8 billion in 1991 but significantly less than that proposed by the President. Agriculture, medicare, federal employees health benefits and lump-sum retirement payments would be modified along with veterans compensation benefits.

Generally assume that the President's requested level of revenues ($14.5 billion in 1991) is achieved, though not necessarily in the specifics. Over the next five years the resolution proposes $31.3 billion more in revenues than the President. Since the CBO estimate of the President's revenues falls short of his request by $4.5 billion in 1991, calls for the President to submit additional proposals to Congress.

SUMMARY OF SENATE CONCURRENT RESOLUTION 110

[In billions of dollars]

	1991	1992	1993	1994	1995	Total 1991–5
CBO alternative baseline deficit	160.1	123.0	131.0	120.9	110.3	
Deficit reduction:						
Defense	−15.2	−31.0	−47.2	−62.1	−76.9	−232.4
International	−.3	−.8	−1.4	−2.0	−2.6	−7.1
Domestic discretionary	+.4	+4.2	+5.6	+7.3	+9.3	+26.8
Entitlement and mandatory	−7.8	−10.2	−11.2	−13.0	−16.6	−58.8
Offsets	+1.5	+3.1	+4.6	+4.7	+5.9	+19.8
Revenues	−14.5	−14.6	−14.7	−14.6	−14.6	−73.0
Net interest	−1.3	−4.1	−7.9	−12.3	−17.5	−43.1
Total deficit reduction	−37.2	−53.4	−72.2	−92.0	−113.0	−367.8
Plan deficit (CBO estimate)	122.9	69.6	58.8	28.9	[1] −2.7	
Adjustment for OMB economics and technicals	−58.9	−47.4	−88.0	NA	NA	
S. Con. Res. 110 deficit	64.0	22.2	[1] −29.2	NA	NA	

[1] Surplus.

SENATE CONCURRENT RESOLUTION 110 BUDGET PLAN

[In billions of dollars]

Function	Budget authority	1991 outlays	Budget authority	1992 outlays	Budget authority	1993 outlays
050 Defense	281.0	291.7	280.9	286.6	280.9	281.1
150 International	18.4	16.6	18.4	17.2	18.5	17.0
250 Science/Space	16.6	16.0	17.3	17.0	18.0	17.6
270 Energy	5.9	4.1	5.3	3.9	6.0	4.7
300 Natural resources	17.7	18.4	18.8	18.9	19.4	19.4
350 Agriculture	18.9	15.1	21.5	16.1	18.9	14.7
370 Commerce	45.0	44.9	14.9	4.5	26.9	14.7
400 Transportation	31.9	30.7	33.6	32.3	35.0	33.8
450 Comm. and Regional	7.7	7.8	7.4	7.1	7.5	7.0
500 Education	46.7	42.3	47.6	46.7	48.7	48.1
550 Health	65.3	64.4	72.8	72.2	80.2	79.8
570 Medicare	123.4	102.1	134.2	115.3	147.0	128.6
600 Income security	202.4	156.0	210.6	164.9	218.3	175.9
650 Social security	340.3	266.0	368.2	283.0	398.7	300.9
700 Veterans	31.9	31.3	32.7	32.3	33.6	33.4
750 Justice	13.1	13.0	13.8	14.1	14.4	14.3
800 General goverment	12.2	10.8	13.0	11.7	13.5	12.3
900 Net interest	182.7	182.7	185.9	185.9	190.1	190.1
920 Allowances	−3.4	−2.1	−3.6	−3.3	−3.8	−3.9
950 Offsetting RCTS	−37.4	−37.4	−38.8	−38.8	−39.6	−39.6
Spending	1,420.3	1,274.4	1,454.5	1,287.6	1,532.2	1,349.9
Percent of GNP		22.0		20.8		20.5
Revenues		1,151.5		1,218.4		1,291.3
Percent of GNP		19.9		19.7		19.6
Deficit		−122.9		−69.2		−58.6
Percent of GNP		−2.1		−1.1		−0.9

Note: Excludes adjustment for OMB economics and technicals.

SBC MINORITY STAFF ANALYSIS OF SENATE CONCURRENT RESOLUTION 110

Function 050—National Defense

Relative to the CBO baseline, S. Con. Res. 110, would reduce defense BA by $35 billion and outlays by $15 billion in 1991. This would cut defense by $26 billion in BA and $12 billion in outlays more than the President's request. In the outyears, defense BA would be frozen at the 1991 level of $281 billion. Over the 1991-93 period, this freeze would reduce BA by $143 billion and outlays by $93 billion. This represents a cut of $94 billion in BA and $66 billion in outlays from the President's request. S. Con. Res. 110 would reduce defense spending from its current 5.2 percent of GNP to 3.7 percent by 1995, the lowest since 1948. The President, on the other hand, would reduce defense spending to 4.2 percent of GNP by 1995.

Under S. Con. Res. 110, military personnel reductions in 1991 would total 140,000—100,000 more than the President's request. Force structure reductions would include 3 active divisions (one more than the President), 2 tactical fighter wings, and 22 ships—including one carrier battle group (17 ships and one carrier battle group more than the President). This level could eventually result in a 1995 force structure of 1.5 million, a 30 percent reduction from current levels. Such a force structure would mean the elimination of 8 active and 3 reserve divisions, 10 active and 5 reserve fighter wings, and 100 ships, including 4 carrier battle groups.

DISTRIBUTION OF 1991 DEFENSE REDUCTIONS IN SENATE CONCURRENT RESOLUTION 110

[CBO estimates, in billions of dollars]

	SCR 110		SCR 110 compared to—			
			CBO		President	
	BA	OT	BA	OT	BA	OT
Department of Defense:						
Military personnel	77.4	77.3	−4.2	−4.0	−1.6	−1.5
Operations and maintenance	83.6	83.6	−7.4	−5.7	−6.5	−4.7
Procurement	68.4	78.0	−17.5	−2.7	−9.5	−1.8
RDT&E	33.1	34.6	−5.2	−2.7	−4.8	−2.4
Military construction	4.1	5.1	−1.4	−.3	−1.5	−.4
Family housing	3.2	3.3	−.2	−.1	−.3	−.2

DISTRIBUTION OF 1991 DEFENSE REDUCTIONS IN SENATE CONCURRENT RESOLUTION 110—Continued

[CBO estimates, in billions of dollars]

	SCR 110		SCR 110 compared to—			
			CBO		President	
	BA	OT	BA	OT	BA	OT
Revolving funds, allowances and trust funds	.9	−.3	1.5	.6	−.2	0
Atomic energy defense activities	9.6	9.5	−.4	−.3	−1.3	−.9
Defense-related activities	.6	.6	0	0	−.1	−.1
Function 050 total	281.0	291.7	−34.8	−15.2	−25.9	−12.0

Function 150—International Affairs

S. Con. Res. 110 would freeze discretionary programs at 1990 appropriation levels. Among the Administration initiatives that could be precluded under a freeze would be construction of a new embassy chancery in Moscow, and payment of more than $0.4 billion in United Nations arrears. If the pending supplemental for Panama and Nicaragua is enacted, $0.1 billion in associated outlays would occur in 1991, displacing an equal amount of outlays from existing programs.

Function 250—General Science, Space and Technology

Science and space programs would be cut $1.3 billion in BA and $0.7 billion in outlays from the President's budget in 1991. Funding would still increase over the CBO baseline of $1.4 billion in BA (9 percent) and $0.8 billion in outlays.

To reach the resolution totals, there would likely be cuts across the board on Function 250 programs. Real growth in the National Science Foundation budget would be limited to about 5 percent—a $100 million cut from the 10 percent real growth in the President's budget. The Superconducting Super Collider (SSC) would either be cancelled (saving $0.2 billion in BA) or frozen to allow further R&D.

For NASA programs, this budget would require a sharp cutback in the $0.7 billion increase earmarked for the space station. The budget would also likely force the cancellation of the moon/Mars human exploration initiative (saving $0.2 billion in BA) and a space science start (saving from $0.2 billion in BA).

Function 270—Energy

S. Con. Res. 110 assumes energy programs would be cut by $400 million in BA and outlays in 1991. This represents a 6.3 percent cut in BA and an 8.9 percent cut in outlays from the CBO baseline. While specifics are unavailable, Chairman Sasser has proposed to reduce funding for the clean coal program, the strategic petroleum reserve, and to increase Nuclear Regulatory Commission (NRC) fees in the past. His previous budgets have also included increases for renewable energy research and development.

Function 300—Natural Resources and Environment

S. Con. Res. 110 would reduce BA by $0.6 billion and outlays by $0.4 billion in 1991 compared to the CBO alternative baseline.

Based on past Democratic budget plans, it is expected that this would include a freeze on discretionary spending, reductions in certain western agency programs, and increases in certain fees. In addition, this plan probably includes increases for the Environmental Protection Agency's budget, particularly for the cleanup of abandoned hazardous waste sites and the implementation of the clean air act.

Function 350—Agriculture

S. Con. Res. 110 rejects the President's proposals for agriculture and related programs. Agriculture outlays under the resolution would be $800 million greater than that proposed by the President for 1991, while the plan provides for $8.5 billion in outlays above the President's request for the years 1991 through 1993.

Relative to the CBO baseline, the resolution would reduce agriculture BA and outlays in the next three fiscal years by $1.2 billion, $1.3 billion, and $1.3 billion, respectively. Savings in 1991 under this plan are virtually identical to the savings which would be achieved by a 13.1 percent sequester.

Proposed conciliation savings under S. Con. Res. 110 for both BA and outlays would be $1.2 billion in 1991, and $1.3 billion and $1.3 billion in each of the next two years. Because there is very little variation in the proposed annual reconciliation sav-

ings, one could assume that no fundamental changes to agriculture programs are proposed.

Function 370—Commerce and Housing Credit

For function 370, S. Con. Res. 110 assumes decreases in outlays of $600 million below the CBO alternative baseline for 1991, while it assumes a $100 million increase in BA. This plan assumes increases above the President's budget of $1.4 billion in BA and $700 million in outlays for 1991.

The reduction in outlays may partially be explained by: $112 million cut in the Postal Service's revenue forgone appropriation, $310 million in FHA reforms, $50 million in SBA fee increases, $75 million cut in SBA direct loan programs, and $50 million in Commerce Department fees.

These specific Presidential proposals total $597 million in 1991 which can explain the $600 million in outlay savings assumed in S. Con. Res. 110. This assumes that the budget resolution does not adopt any of the President's budget proposals for rural housing and housing for the elderly and handicapped.

S. Con. Res. 110 assumes the Banking Committee will achieve $554 million in outlay savings and $90 million in revenue through unspecified reconciliation instructions. Savings may be partially explained by $200 million in premium income from increasing the Federal Housing Administration (FHA) mortgage ceiling from $101,000 to $125,000. Another $110 million would be achieved by allowing FHA to offer incentive packages to lenders and prohibit HUD from assuming multi-family mortgages.

S. Con. Res. 110 assumes the Small Business Committee can achieve $50 million in outlay savings from unspecified reconciliation instructions. The President's budget proposes to increase SBA's loan guarantee program fee from 2 to 5 percent to generate $100 million in outlay savings in 1991. One option to explain the $50 million is to increase the same fee to 3 or 4 percent, not 5 percent as proposed in the President's budget.

The $90 million in revenue reconciled to the Banking Committee could be achieved by adopting the President's budget proposal to increase the Securities and Exchange Commissions stock transaction fees.

Function 400—Transportation

For transportation programs, the resolution would add to the President's budget $1.6 billion in BA and $1.2 billion in outlays. This represents an increase above the baseline of $0.6 billion in BA and $0.1 billion in outlays.

Most of the $1.6 billion BA increase is due to the restoration of two programs terminated in the President's budget: $0.6 billion for AMTRAK and $0.5 billion for transit operating assistance to large cities. This resolution could also provide some additional highway and transit capital funds which were assumed to be reduced in the President's budget. Both this resolution and the President's budget provide increases above the baseline for aviation and Coast Guard programs. Commerce-Science-Transportation Committee reconciliation probably assumes $100 million in Coast Guard user fees.

Function 450—Community and Regional Development

For function 450, S. Con. Res. 110 assumes decreases compared to the CBO alternative baseline of $200 million in BA and outlays for 1991. This plan assumes increases above the President's budget of $800 million in BA and $100 in outlays for 1991.

The reduction in outlays may partially be explained by: $43 million increase in premium income from National Flood Insurance; and $115 million in BA and $5 million in outlays savings from freezing Community Development Block Grants at their 1990 level.

Function 500—Education, Training, Employment and Social Services

S. Con. Res. 110 calls for $46.7 billion in BA and $42.3 billion in outlays for 1991 for this function. This is above the CBO baseline by $3.9 billion in BA and $1.1 billion in outlays. It is also above the President's request by $3.8 billion in BA and $1.4 billion in outlays.

This plan would accommodate a majority of the increases recommended by the Majority Members of the Committee on Labor and Human Resources in their 1991 "views and estimates" report submitted to the Senate Budget Committee. The Labor Committee recommends increases of $4.9 billion in BA above the baseline for Function 500 programs within their jurisdiction. For currently authorized programs, the Committee recommends increases of $1.0 billion for Head Start, $500 million for Chapter 1 (Compensatory Education for the Disadvantaged), $200 million for Vocational Education, $500 million for Pell Grants, $118 million for worker readjustment activities, and $100 million for Math-Science Grants. For new initiatives, the Committee recommends increases of $50 million for Youth Opportunities Unlimited, $125 million for national community service, $1.2 billion for Child Care, and $100 million for a teacher initiative.

This plan reconciles the Committee on Labor and Human Resources for $65 million in 1991 outlays and $108 million in revenues. It is assumed that these savings could be achieved by implementing penalties for OSHA, MSHA, ERISA and pension protection reform.

Function 550—Health

Savings from baseline ($0.4 billion in BA and $0.6 billion in outlays) appear to result primarily from increased contributions from the Postal Service and the District of Columbia to Federal Employees Health Benefits. The President proposed $730 million (BA and outlays) in such savings, but lesser amounts are also possible. Some modest savings may also be assumed for FDA user fees. S. Con. Res. 110 includes reserve language for Medicaid (similar to that of previous years) which would allow a change to the finance Committee 302(a) allocation provided the Finance Committee reports Medicaid changes in a budget neutral fashion.

Under the above assumptions, discretionary spending is funded at just about baseline, which would require trimming back on some of the President's initiatives in minority health, AIDS research and education, FDA funding, and/or drug abuse treatment funds, or accepting some of the President's proposed reductions (e.g., nearly eliminating health professions subsidies).

Function 570—Medicare

S. Con. Res. 110 reduces spending growth in Medicare by $2.8 billion in 1991. Estimated savings from a sequester would be $2.0 billion in 1991. S. Con. Res. 110 savings in 1992 and 1993 are $4.7 and $6.4 billion, respectively. This would represent about 55 percent of the President's proposed savings in 1991, and 70 percent of the President's proposed savings by 1993.

About $1 billion in Medicare savings may be achieved by extending current law provisions that expire at the end of 1990. Added savings could be achieved by reducing inflation updates to providers, or otherwise reducing payments to providers.

Function 600—Income Security

S. Con. Res. 110 reduces 1991 outlays an estimated $0.9 billion below the CBO baseline, while it increases 1991 BA an estimated $3.5 billion. Overall, this resolution proposes changes totaling $2.9 billion in outlays and $4.3 billion in BA and $2.9 billion in outlays. It appears to reject the Administration's COLA freeze, child nutrition savings, and LIHEAP reduction. The following would be consistent with this plan: (1) The lump-sum provision is extended producing the bulk of 1991 reduction, (2) additional funding is provided for low-income housing assistance, producing a large increase in BA in 1991 and significant outlay increases in the outyears.

Among the options that could explain the assumed outlay savings is a continuation of the current lump-sum schedule (50/50). Preliminary CBO estimates indicate that this provision would save $0.7 billion in 1991 outlays. Other lump-sum options would produce savings ranging from $580 to $960 million in 1991. Changes in low-income housing assistance is the most likely explanation for the higher BA in 1991 and the higher outlays in the outyears (due to the need for an increase in BA for expiring subsidized housing contracts and the Administration's HOPE legislation).

Function 650—Social Security

S. Con. Res. 110 increases Social Security spending modestly ($0.2 billion above baseline) in 1991. The proposed increase may reflect increased administrative funding and/or modest benefit expansions.

Function 700—Veterans Benefits and Services

S. Con. Res. 110 provides $31.9 billion in BA and $31.3 billion in outlays for 1991 for this function. This is the same as the CBO baseline in BA but below the baseline by $0.2 billion in outlays. This is also above the President's request by $0.1 billion in BA for 1991; there is no difference in outlays. While most discretionary programs within this function would be frozen at the 1990 levels, this plan maintains VA medical care and construction activities at the 1991 baseline levels and increases them by the amounts recommended in the President's budget.

This plan assumes reconciled savings of $0.4 billion in both BA and outlays for the Committee on Veterans' Affairs. These savings could be achieved by limiting compensation payments made to veterans with no dependents (savings of $150 million in BA and $138 million in outlays), allowing the Department of Veterans' Affairs (DVA) to verify income for the purpose of pension benefits (savings of $46 million in BA and $37 million in outlays), authorizing the recovery of cost of medical care from third party insurers for the treatment of nonservice-connected disabilities of insured service-connected-disabled veterans (savings of $88 million in both BA and outlays), and revisions to the current DVA housing "no-bid" formula used to calculate the cost of acquiring foreclosed properties (savings of $111 million in both BA and outlays). All of these proposals were assumed in the President's budget.

Function 750—Administration of Justice

Compared to the President's budget, administration of justice programs would increase by $0.5 billion in both BA and outlays. Compared to the baseline, the resolution would reduce this function by $0.5 billion in BA but increase outlays by $0.4 billion. The $0.5 billion BA reduction is due to an over $1.0 billion reduction in prison construction, reflecting the one-time nature of the 1990 funding level of $1.4 billion.

When the resolution is adjusted to reflect a change from the President's budget in a mandatory customs user fee account, the resolution is below ($0.1 to $0.2 billion) the President's budget in both BA and outlays. These small reductions would likely be spread among law enforcement, litigative, judicial, and correctional activities. Compared to the baseline, these activities would still generally receive increases over baseline levels.

Function 800—General Government

The resolution appears to be based on three assumptions in this function: (1) freeze on all discretionary programs; (2) inclusion of President's GSA budget amendment $1.4 billion in BA and less than $50 million in outlays), which would fund construction of 22 Federal buildings; and (3) a proposal to change the revenue-sharing formula from gross to net receipt basis. The outyear numbers are simply inflated from the 1991 base. Implicit in the resolution is the expectation that approximately 25 new Federal buildings would be constructed every year for the next five years. This proposal rejects the President's IRS initiative, the Legislative Branch increase, and GSE user fees.

Revenues

S. Con. Res. 110 recommends a revenue increase of $14.5 billion in 1991, $14.6 billion in 1992, and $14.7 billion in 1993. Of this amount, the Finance Committee in the Senate and the Ways and Means Committee in the House are instructed to increase revenues by $14.3 billion in 1991, $14.3 billion in 1992, and $14.3 billion in 1993. Small amounts of revenue increases are also reconciled to the Education and Labor and Banking Committees in both the Senate and the House.

In his statement, Senator Sasser justifies the level of revenue increase by saying that it exactly matches the level recommended in the President's budget. In fact, S. Con. Res. 110 recommends $600 million more revenues in 1991, $3.2 billion more revenues in 1992, and $10.6 billion more revenues in 1993.

Senator Sasser recommends raising income taxes to meet some of the revenue goal. He suggests eliminating the "bubble;" that is, creating an explicit 33 percent marginal tax bracket that would apply to all taxable income in and above the current 28 percent marginal tax bracket. This option would increase revenues by $3.8 billion in 1991, $7.6 billion in 1992 and $8.7 billion in 1993.

There is language in the resolution which recognizes the difference between the Administration's and CBO's estimate of the President's recommended revenue increases. CBO's reestimate of the President's revenue options show a net increase of $9.4 billion in 1991, $4.5 billion less than the President estimated. The language expresses that it is the sense of the Congress that the President should propose revenue sources which result in the amount of revenue increases proposed in his budget. If agreed to, this language would suggest that the Congress gives the President a revenue number, then the President fills in the policy options to reach that target, subject to the approval of the Congress. The language further states that once the President does this, the reconciled level of revenues rises proportionately.

SENATE CONCURRENT RESOLUTION 110 COMPARED TO CBO ALTERNATIVE BASELINE

[In billions of dollars]

	Function	Budget authority	1991 outlays	Budget authority	1992 outlays	Budget authority	1993 outlays	Budget authority	1991–93 outlays
050	Defense	−34.8	−15.2	−47.5	−31.0	−60.6	−47.2	−142.9	−93.4
150	International	−.7	−.3	−1.4	−.8	−2.1	−1.4	−4.2	−2.5
250	Science/Space	1.4	.8	1.4	1.3	1.5	1.5	4.3	3.6
270	Energy	−.4	−.4	−.3	−.5	−.4	−.5	−1.1	−1.4
300	Natural Resources	−.6	−.4	−.6	−.5	−.6	−.6	−1.8	−1.5
350	Agriculture	−1.2	−1.2	−1.3	−1.3	−1.3	−1.3	−3.8	−3.8
370	Commerce	.1	−.6	0	−.5	−.1	−.5	0	−1.6
400	Transportation	.6	.1	1.2	.6	1.4	1.1	3.2	1.8
450	Comm and development	−.2	−.2	−.3	−.5	−.3	−.4	−.8	−1.1
500	Education	3.9	1.1	4.0	3.8	4.3	4.1	12.2	9.0
550	Health	−.4	−.6	−.4	−.5	−.4	−.4	−1.2	−1.5
570	Medicare	−1.3	−2.8	−2.6	−4.7	−4.0	−6.4	−7.9	−13.9
600	Income security	3.5	−.9	4.2	.3	4.4	2.3	12.1	1.7
650	Social security	.1	.2	.2	.3	.4	.5	.7	1.0
700	Veterans	0	−.2	−.2	−.1	−.3	−.2	−.5	−.5
750	Justice	−.5	.4	−.4	2.	−.4	−.3	−1.3	.3
800	General government	1.0	−.4	1.3	.1	1.4	.7	3.7	.4
900	Net interest	−1.3	−1.3	−4.1	−4.1	−7.9	−7.9	−13.3	−13.3
920	Allowances	−3.4	−2.1	−3.6	−3.3	−3.8	−3.9	−10.8	−9.3
950	Offsetting acts	1.4	1.4	2.1	2.1	3.1	3.1	6.6	6.6
	Spending	−33.0	−22.8	−48.3	−39.1	−65.6	−57.7	−146.9	−119.6
	Revenues		14.5		14.6		14.7		43.8
	Deficit		37.2		53.8		72.3		163.3

SENATE CONCURRENT RESOLUTION 110 COMPARED TO PRESIDENT (AS REESTIMATED BY CBO)

[In billions of dollars]

	Function	Budget authority	1991 outlays	Budget authority	1992 outlays	Budget authority	1993 outlays	Budget authority	1991–93 outlays
050	Defense	−25.9	−12.0	−31.6	−22.6	−36.6	−31.2	−94.1	−65.8
150	International	−1.9	−1.2	−1.3	−1.0	−1.7	−1.4	−4.9	−3.6
250	Science/Space	−1.3	−.7	−3.5	−2.3	−4.7	−3.8	−9.5	−6.8
270	Energy	1.9	.2	1.0	.8	1.1	1.1	4.0	2.1
300	Natural resources	−.2	−.4	−.5	−.2	1.4	.4	1.7	−.2
350	Agriculture	1.0	.8	3.1	3.1	4.0	4.6	8.1	8.5
370	Commerce	1.4	.7	1.4	1.2	1.5	1.6	4.3	3.5
400	Transportation	1.6	1.2	2.3	2.3	3.3	3.1	7.2	6.6
450	Comm and development	.8	.1	1.1	.5	1.4	1.0	3.3	1.6
500	Education	3.8	1.4	3.6	2.6	4.3	3.0	11.7	7.9
550	Health	.4	.2	.9	.5	1.3	1.1	2.6	1.8
570	Medicare	−1.2	2.3	−1.3	2.7	−.9	3.0	−3.4	8.0
600	Income security	4.3	2.9	8.1	6.0	7.9	8.9	20.3	17.8
650	Social Security	−2.6	.2	−3.4	.4	−1.4	.6	−7.4	1.2
700	Veterans	.1	0	−.2	.1	−.1	.1	−.2	.2
750	Justice	.5	.5	.5	.4	.1	0	1.1	.9
800	General Government	.8	−.7	1.4	−.4	1.9	.5	4.1	−.6
900	Net interest	−.2	−.2	−.6	−.6	−1.2	−1.2	−2.0	−2.0
920	Allowances	−2.3	−1.0	−2.5	−2.2	−2.6	−2.7	−7.4	−5.9
950	Offsetting rts	3.0	3.0	4.4	4.4	5.5	5.5	12.9	12.9
	Spending	−15.9	−2.8	−16.0	−4.0	−15.5	−5.0	−47.4	−11.8
	Revenues		5.1		10.6		15.0		30.7
	Deficit		37.2		53.8		72.3		163.3

SENATE CONCURRENT RESOLUTION 110 RECONCILIATION INSTRUCTIONS

[In billions of dollars]

Senate Committee	Budget authority	1991 outlays	Budget authority	1992 outlays	Budget authority	1993 outlays	Budget authority	1991–93 outlays
Spending:								
Agriculture	−1.2−	−1.2	−1.3	−1.3	−1.3	−1.3	−3.7	−3.7
Armed Services		−.2		−.3		−.3		−.8
Banking	−.1	−.6	−.1	−.9	−.2	−.8	−.4	−2.2
Commerce	−.3	−.3	−.3	−.3	−.3	−.3	−.9	−.9
Energy	−.2	−.2	−.2	−.2	−.2	−.2	−.6	−.6
Environment	−.2	−.2	−.2	−.2	−.2	−.2	−.7	−.7
Finance		−3.0		−4.9		−6.6		−14.5
Governmental Affairs		−1.7		−1.5		−.8		−4.0
Labor		−.1		−.1		−.1		−.2
Small Business	−.1	−.1	−.1	−.1	−.1	−.1	−.2	−.2
Veterans Affairs	−.4	−.4	−.4	−.4	−.5	−.5	−1.3	−1.3
Total spending	−2.4	−7.8	−2.6	−10.2	−2.8	−11.2	−7.8	−29.1
Revenues:								
Banking		−.1		−.1		−.1		−.3
Finance		−14.3		−14.3		−14.4		−43.0
Labor		−.1		−.2		−.3		−.6
Total revenues		−14.5		−14.6		−14.8		−43.9
Total reconciliation		−22.3		−24.8		−25.9		73.0 ●

CUT THE SOCIAL SECURITY PAYROLL TAX

● Mr. KASTEN. Mr. President, in 1988, then-Representative Jack Kemp and I introduced legislation to repeal the 1990 increase in the Social Security payroll tax. I am pleased that Senator PAT MOYNIHAN has now joined us in recognizing that the payroll tax is an excessive burden on American families—and an impediment to economic growth and job creation.

I have introduced a new proposal S. 2052—the Social Security Integrity and Tax Reduction Act of 1990—which unlike Senator MOYNIHAN's proposal, would phase-in the tax reduction, maintain a healthy cushion in the Social Security reserve, and mitigate the budget impact of this change by altering the Gramm-Rudman deficit targets to ensure against tax increases elsewhere.

Members from both sides of the aisle including Democrats like Senator JIM SASSER, Senator ERNEST HOLLINGS, Representative TIM PENNY, Representative PAT WILLIAMS—and Republicans like Representative HANK BROWN, Representative JOHN PORTER, Senator STEVE SYMMS have introduced separate plans that would provide payroll tax relief for American workers and businesses.

While we may have different approaches, the end result of any payroll tax relief will be the same: More economic growth and more job opportunities. I call to the attention of my colleagues to a recent economic study by Daniel J. Mitchell which examines the many positive economic benefits of reducing the payroll tax.

I ask that Mr. Mitchell's study be printed in the RECORD at this point.

The study follows:

CUT THE SOCIAL SECURITY PAYROLL TAX

(By Daniel J. Mitchell)

Sen. Daniel Patrick Moynihan (D-N.Y.) has dropped a bomb into the fiscal debate with his recent proposal to reduce Social Security payroll taxes. The immediate support he has received from individuals and groups representing all shades of the political spectrum is well deserved testimony to the merit of his idea. Social Security taxes have skyrocketed in recent years. Tax increases signed into law by former presidents Jimmy Carter and Ronald Reagan raised the total combined employee/employer payroll tax rate by more than 30 percent, from 11.70 percent in 1977 to 15.30 percent today. Moynihan's legislation would immediately repeal the 0.28 percent tax rate increase that went into effect January 1, 1990, and reduce it further, to 13.10 percent, on January 1, 1991.

Senators Robert W. Kasten, Jr. (R-Wis.) and Steven D. Symms (R-Idaho) have also introduced separate pieces of legislation that would provide payroll tax relief to working Americans. While the publicity is new, cutting payroll taxes is an idea that has been discussed for several years. Peter Ferrara, one of the Nation's foremost experts on Social Security, urged a payroll tax reduction in "An American Vision", published in January 1989. The Heritage Foundation has also been in favor of lowering the payroll tax for quite some time.

Opponents of lower payroll taxes have branded the idea as irresponsible. They assert that discussing tax cuts while the Government is still running yearly deficits is wrong. Furthermore, they argue that a large tax cut would wreak havoc with the Balanced Budget and Emergency Deficit Reduction Act of 1985 (commonly known as Gramm-Rudman) and undermine the only legislation that has had a positive impact on controlling Federal spending. Critics also attack the idea of returning to a "pay-as-you-go" basis for Social Security. To them, the main reason for the large tax increases contained in the 1983 Social Security Reform Amendments was to build a reserve in the Social Security Trust Fund that could be used to pay benefits when the baby-boom generation retires early next century. They may agree that high payroll taxes are a burden on the economy, but they believe a payroll tax cut would inevitably result in a reduction in Social Security benefits. Others worry that cutting Social Security taxes this year would simply set the stage for economically destructive tax increases next year.

Although some of those concerns are legitimate, the tangible benefits of lower payroll taxes strongly outweigh the potential drawbacks of the proposal.

THE SOCIAL SECURITY TAX BURDEN

Rapidly rising payroll taxes are a burden on the productive sector of our economy. Even more so than the income tax, the payroll tax is a direct tax on jobs. At current levels, the payroll tax drives a 15.30 percent wedge between the cost of an additional worker to a business and the take-home pay the worker receives. For some workers, that means less income to spend on housing, clothing, education, food, and other consumer goods. For others, however, especially those with few skills and limited job experience, it means unemployment. The 15.30 percent wedge may be enough to price them out of the job market.

Unlike income taxes, payroll taxes are levied on the first dollar of income. The government extracts 15.30 percent of every dollar of income up to $51,300. (Since there is a relationship, however loose, between taxes paid and benefits received, there is a cap on both the amount of taxes one must pay and the retirement benefits one can receive.) For a worker making $51,300 or more, the total payroll tax this year will be more than $7,800, theoretically split between employer and employee. Total payroll taxes now exceed income taxes for nearly three-quarters of the workforce.

The division of payroll taxes between the employer and the worker is essentially an accounting gimmick designed to hide the true burden of payroll taxes from the individual taxpayer. The average employee is usually unaware that his employer is paying additional payroll taxes above and beyond the amount he sees deducted from his paycheck. Since the direct cost of an employee to a business includes wages, fringe benefits, and total taxes, a worker will not be hired unless the firm expects that his output will be at least equal to his direct cost. As a result, although half of the payroll tax is directly paid by the business, the full 15.30 percent is a tax on the employee's income (as Congress unofficially acknowledged when legislators raised payroll taxes for self-employed individuals to equal the combined employee/employer total of 15.30 percent).

Social Security Taxes Are Too High

The increasing burden of Social Security taxes is dramatically illustrated by the growth in Social Security tax receipts. As

recently as 1977, total payroll tax receipts for Old-Age, Survivors, Disability, and Hospital Insurance amounted to $106.5 billion. This year payroll tax collections are projected to total $385.4 billion, nearly four times the level of just 13 years ago. Some growth in payroll tax revenue was the natural result of a growing economy; the 20 million new jobs generated by the current economic expansion have swelled the government's coffers.

Much of the increase in payroll tax revenues, however, is the result of deliberate tax increases by the federal government. There are three major ways the government can increase payroll receipts, and all three have been used since the Social Security system was created. The most obvious way to increase revenue is to increase the tax rate. Figure 1 illustrates the dramatic climb in the payroll tax rate since the Social Security system was created in the 1930s.

As Figure 1 indicates, payroll tax rates have increased approximately every other year since 1966, including seven times in the "tax-cutting" 1980s. The current level of 15.30 percent is more than double the level that was in effect less than 25 years ago.

[Figure 1 not reproducible in the RECORD.]

The government increases payroll tax revenue in other ways as well. Increasing the cap on income subject to the tax can raise significant amounts of money. As recently as 1977, payroll taxes were assessed against only the first $16,500 of income. Just 13 years later, however, payroll taxes are levied on the first $51,300 of income, more than three times the 1977 level.

The final method the government uses to increase payroll tax revenue is to tax previously exempt forms of income. A recent increase of that type occurred when the law was changed to make the income of federal judges subject to the payroll tax. The amount of money that can be generated from that type of change in the future is quite limited compared with the amounts that can be raised by increasing tax rates or the maximum level of taxable income. The inclusion of employees of state and local governments as well as employees of nonprofit organizations in the 1980s brought the last significant sources of tax revenue into the government's social insurance net.

Payroll Taxes Have Become a Prominent Source of Tax Revenue

Another way of demonstrating the dramatic rise in payroll taxes is to examine how payroll taxes have increased as a percentage of total government tax receipts. For much of America's history, the bulk of government revenues came from excise taxes and customs duties, mostly because income taxes were not a permanent part of the tax structure until the Sixteenth Amendment was ratified in 1913. Payroll taxes, of course, were trivial or nonexistent until the Social Security system was created in the 1930s.

In the 10-year period between 1945 and 1955, social insurance taxes (primarily Social Security but also other items, the largest of which was unemployment insurance taxes) averaged 9.48 percent of total government receipts. Between 1955 and 1965, that figure rose to 15.44 percent, and between 1965 and 1975, it climbed further to 23.3 percent. Between 1975 and 1985, social insurance taxes climbed to 31.48 percent of tax revenue, and in the last five years, social insurance taxes have risen to an all-time high of 36.53 percent of total tax revenue (see Figure 2).

[Figure 2 not reproducible in the RECORD.]

Recognizing that social insurance taxes have climbed as a percentage of total tax revenue, of course, says little about the solution, if any, to that shift. Some would suggest that payroll taxes are not a significant issue and that the real problem is that corporate and personal income taxes have been allowed to decline as a percentage of total revenue, primarily because of the 1981 Economic Recovery Tax Act. The latter assertion is factually and analytically wrong. Personal income tax collections have stayed fairly constant, while corporate income tax collections have fallen as a percentage of total tax collections, as have excise taxes. That does not suggest, however, that the answer is higher excise and corporate taxes. The real problem is the rise in the overall tax burden, as measured by both actual tax collections and tax collections as a percentage of gross national product.

Total Taxation at Record High

Notwithstanding a public perception that President Reagan cut taxes, total federal tax collections as a percentage of GNP during the 1980s were the highest in U.S. history, averaging 19 percent of GNP. Much of that increase was due to greater payroll taxes, which, as is shown in Figure 3, have climbed steadily since World War II.

[Figure 3 not reproducible in the RECORD.]

Some would argue that the increase in payroll taxes was necessary to fund the rising level of benefits and that any talk of cutting the payroll tax is irresponsible. Although payroll tax revenues are used to fund Social Security and Medicare spending, and Social Security and Medicare spending have been two of the fastest growing parts of the budget, revenues from payroll taxes have grown even faster, which raises the issue of how to dispose of the "surplus." If the revenues flowing into the system were less than, equal to, or only slightly greater than the outlays, there would be an argument against reducing payroll taxes without a commensurate reduction in annual benefit increases.

That is not a relevant issue, however. Annual Social Security tax collections (OASDI) are considerably higher than needed to fund annual outlays. This year alone, the trust fund into which OASDI tax moneys flow will amass about $65 billion more in revenues than will be expended. That $65 billion "surplus" will rise to approximately $100 billion in 1993 and to more than $100 billion for several years thereafter.

LOWER PAYROLL TAXES WOULD SPUR ECONOMIC GROWTH

The Social Security surplus, as it is popularly known, offers a unique opportunity to lower the burden of payroll taxes. A reduction in payroll taxes would inevitably result in a stronger economy and creation of more jobs. Those are the major benefits of the Moynihan proposal or any other legislation to reduce Social Security taxes.

Predicting the exact magnitude of the economic growth associated with lower payroll taxes is difficult since there are many other factors—interest rates, other taxes, the level of regulation, and trade policy, to name but a few—that also affect economic growth. Scholarly studies differ on the burden payroll taxes impose upon the economy, but it is clear that higher taxes, all other things being equal, mean a weaker economy.

According to Aldona and Gary Robbins, both of whom served in the Treasury Department and are among the nations' leading experts on the economic effects of payroll taxes, the combined 1.0 percent increase in the payroll tax rate in 1988 and 1990 will cost workers one-half million jobs, reduce GNP by $320 billion by the year 2000, and reduce the nation's capital stock by $100 billion over the same period.[11]

If a 1.0 percent increase in the payroll tax rate can be expected to cost 500,000 jobs, what would be the economic impact of a payroll tax reduction of the magnitude Moynihan proposes? According to the model developed by the Robbinses, a 2.2 percent reduction in the payroll tax rate would lead to the creation of more than 1 million additional jobs. As employers hired additional workers and expanded their output of goods and services proportionately, the nation's GNP would grow by about $35 billion more than it would otherwise, adding more than one-half of 1 percent of the economy's growth next year.

THE SOCIAL SECURITY SURPLUS DOES NOT MASK THE TRUE SIZE OF THE DEFICIT

The current debate over reducing payroll taxes has its origins in the growing perception that the Social Security surplus is being used to mask the true size of the deficit. Indeed, Senator Moynihan was just one of several senators who introduced legislation in the first session of the 101st Congress to remove Social Security from the budget calculations. Supporters of taking Social Security off-budget argue that the system's annual surpluses are being used to fund spending in what is called the "operating budget." The reason surplus Social Security revenues should not be included in the operating budget, according to proponents of the proposed legislation, is that those revenues are supposed to be saved to pay benefits to future retirees.

Unified Budget Is Proper Way to Measure Deficit

Economists and budget experts generally agree that Social Security revenues and outlays should be included when calculating the budget deficit. In other words, the fact that Social Security revenues exceed Social Security outlays really does mean that the deficit is smaller. The "surplus" is not masking the true size of the deficit. The deficit is the amount of money the government borrows from private credit markets in a given year, period. If the deficit is to be measured accurately, total federal government spending, including Social Security outlays, should be subtracted from total federal government revenue, including Social Security revenues. Table 1 shows major sources of revenue and major spending categories for the current fiscal year.

That approach, traditionally known as the unified budget approach, presents the most accurate picture of the economic impact of the government's fiscal policy. Taking part of the government off-budget, whether it be the savings-and-loan bailout or the Social Security system, simply hides the truth from the American people and creates uncertainty in financial markets.

TABLE 1.—*Estimated 1990 spending and revenue by major category*

[In billions of dollars]

Category	*Amount*
Major revenue sources:	
Individual income tax	491

[11] Aldona Robbins and Gary Robbins, "Effects of the 1988 and 1990 Social Security Tax Increases," Economic Report No. 39, Institute for Research on the Economics of Taxation, February 3, 1988.

Category	Amount
Corporate income tax	107
Social insurance	389
Other (excise, inheritance, etc.)	85
Total revenues	1,071
Major outlay categories:	
National defense	301
Domestic discretionary	204
Entitlements	587
Net interest	180
Offsetting receipts	−60
Total outlays	1,212
Total deficit	141

Source: Congressional Budget Office, "The Economic and Budget Outlook: An Update," August 1989.

Social Security Trust Fund Is Not a Cash Reserve

A large number of people believe that taking Social Security off-budget would prevent politicians from spending the surplus on other government programs. Presumably, the money would be saved in the trust fund and be used to pay future retirement benefits. Taking the Social Security system off-budget, however, would not accomplish those goals. Since the Social Security system is required to purchase U.S. government debt from the Treasury if there is an annual surplus, the system does not build up a cash reserve. The trust fund reserve is effectively nothing more than a collection of IOUs.

The large and growing balance in the Social Security Trust Fund has been the source of considerable confusion. Reports that the trust fund will have a maximum balance of $12 trillion in 40 years have led some to believe the fund is a pot of money that can be spent. First of all, that $12 trillion is not "current" dollars. Adjusted for projections of future inflation, the maximum value of the trust fund will be $2.8 trillion in today's dollars, not the $12 trillion commonly cited. Table 2 compares the trust fund's year-end assets in current and constant (inflation-adjusted) dollars under the most commonly used set of economic assumptions.

TABLE 2.—CURRENT AND CONSTANT TRUST FUND ASSETS

[In billions of dollars]

Year	Current dollars	Constant dollars
1989	168.3	168.8
1990	237.3	227.2
1991	314.2	287.9
1992	400.7	351.8
1993	498.4	420.0
1994	609.4	493.5
1995	733.6	571.5
1996	872.3	653.4
1997	1,025.4	738.6
1998	1,194.3	827.1
2000	1,581.8	1,012.9
2005	2,892.5	1,522.3
2010	4,815.6	2,083.1
2015	7,196.1	2,558.5
2020	9,575.6	2,798.3
2025	11,355.6	2,727.5
2030	11,929.8	2,355.2
2035	10,832.4	1,757.7
2040	7,641.8	1,019.2
2045	1,446.1	158.5
2046	(1)	(1)

[1] The trust fund will be exhausted in 2046.

Source: Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, "Annual Report," 1989.

The fact that $12 trillion shrinks to $2.8 trillion in constant dollars is not the biggest reason for concern. Even more important, the $2.8 trillion is not money in the bank. The trust fund's assets will be U.S. government bonds, or debt, issued by the Treasury Department. In order to spend any of that money, the trust fund will have to cash the bonds. The relevant question, of course, is where will the Treasury get the money to redeem the bonds? The money will have to come from either that year's tax revenue or additional government borrowing.

Legislators could also reduce the amount of bonds the trust fund needs to cash in future years by reducing retirement benefits. Regardless of which option future policymakers choose, future years' benefits will be paid for by revenues raised in future years. The Social Security taxes paid today will not prevent that from happening. The Social Security Trust Funds are nothing more than a statement of the legal authority Social Security has to draw funds from general revenues.

Allowing the Trust Funds to Invest in the Private Sector Is Not the Answer

Since requiring that the trust fund invest in government bonds does not provide real savings for the baby boom's retirement, some have proposed that the answer is to allow the trust fund to invest in the productive sector of the economy. They are partially right. If some, or all, of the money that is currently going into the Social Security system were instead invested privately, the increase in the nation's capital stock would create additional wealth and generate a flow of income that could provide for the retirement needs of the population. This is the principle by which people are able to invest for their own retirement, a by-product of which would be future economic growth.

It is highly unlikely, however, that the present trust fund could achieve that goal. To secure an adequate rate of return, the trust fund would need the freedom to make investments on the basis of expected profit. A system under the control of politicians, such as the Social Security Trust Fund, is unlikely to have that freedom. Proposals have already surfaced that would require the trust fund to invest in roads, education, infrastructure, environmental cleanup, bank bailouts, and other politically favored undertakings.

Those causes may or may not require additional financial resources. Whatever their merit, however, they are not investments that would yield a profitable rate of return to the trust fund. There would also be a danger that politicians would force the trust fund to invest in certain politically favored industries, creating a back door industrial policy under which political power, rather than market forces, determined what investments were made. Because of the sheer magnitude of the Social Security surpluses, the trust fund would eventually wind up owning a large portion of the private sector.

Proposals that would solve the problem of political control over private investment by giving individuals varying degrees of control over their retirement funds have also been made. Those proposals will be addressed later.

Proper Measures of Social Security and the Budget Deficit

Not everyone has greeted Senator Moynihan's tax cut proposal with enthusiasm. An important concern in the minds of many is the legislation's effect on the deficit. Although the bill would save taxpayers $7 billion this calendar year and an additional $55 billion next year, in the absence of other changes, the savings to taxpayers would be matched by higher deficits.[2]

Moynihan's legislation does not address the deficit issue. Since it is not expected that a payroll tax cut would be matched by increases in other taxes (though that may be what the senator has in mind), reducing payroll taxes would mean higher deficits in the short run. That has led some budget analysts to oppose lower payroll taxes. They argue that progress has been made on the deficit and that we should concentrate on balancing the budget before considering new tax cuts. A tax cut, they believe, would send the wrong signal to financial markets and result in higher interest rates.

Although a temporarily higher deficit would almost certainly put some upward pressure on interest rates, that increase is not likely to be significant. Economic theory supports the assertion that a higher deficit will cause interest rates to be higher than they would otherwise be, but scholarly studies have not found any evidence of a significant correlation between lower deficits and lower interest rates. A comparison of interest rates and the deficit in the 1980s (Table 3) indicates that there is not a strong relationship between interest rates and the deficit.

TABLE 3.—INTEREST RATES AND THE DEFICIT

Year	Prime rate	Change	Deficit as percent of GNP	Change
1981	18.87		2.6	
1982	14.86	Down	4.1	Up.
1983	10.79	Down	6.3	Up.
1984	12.04	Up	5.0	Down.
1985	9.93	Down	5.4	Up.
1986	8.33	Down	5.3	Down.
1987	8.22	Down	3.4	Down.
1988	9.32	Up	3.2	Down.
1989	10.50	Up	2.9	Down.

Source: "Budget of the United States, FY 1991," historical tables; Joint Economic Committee, "Economic Indicators," January 1990.

As the numbers clearly indicate, interest rates and the deficit do not always move in the same direction. Indeed, they moved in opposite directions in six of the past eight years. That trend is mainly due to the fact that interest rates are primarily influenced by short-run monetary policy. Increasing deficits probably resulted in interest rates being higher than they otherwise would have been, but the effect of the deficit is overwhelmed by other factors.

A $55 Billion Tax Cut Would Not Necessarily Undermine Deficit Reduction

Even if they agree that interest rates are influenced by other economic variables in addition to the deficit, critics of Senator Moynihan's legislation contend that the loss of $55 billion of revenue in 1991 would be enough to force interest rates higher. They are probably right. The question is whether the economic benefits of lower taxes would be sufficient to more than balance the economic costs of temporarily higher interest rates.

[2] The commonly cited savings to taxpayers of $7 billion for 1990 and $55 billion for 1991 refer to calendar year savings. Since fiscal years begin on October 1 of the previous calendar year and end September 30, the taxpayer savings will be different. Translated into fiscal years, the government would collect about $5 billion less revenue in 1990 and $42 billion less revenue in 1991 under the Moynihan proposal.

One way of estimating the impact of a $55 billion tax cut on interest rates is to assess what a tax cut of that size would do to the deficit. That assessment, however, requires that the calendar year revenue loss estimates ($7 billion and $55 billion for 1990 and 1991, respectively) be replaced with fiscal year estimates. As noted earlier, the fiscal year revenue loss from Senator Moynihan's legislation would be $5 billion in 1990 and $42 billion in 1991, according to the Congressional Budget Office. Assuming that the revenue projections are accurate, a $42 billion tax cut would mean that the deficit would be that much higher than it would have otherwise been, assuming no dynamic effects.

The Gramm-Rudman target for 1991 is $64 billion. Since the conventional wisdom suggests that Congress will not be able to produce a budget that meets that target (unless the President permits sequestration, Gramm-Rudman's automatic budget control mechanism), it may not be realistic to simply add $42 billion and $64 billion to arrive at an estimate for the 1991 budget if Moynihan's rate reduction passes. Under a more pessimistic scenario, assume that the actual deficit will be over $100 billion and that a payroll tax cut would raise the deficit to approximately $150 billion. What would that mean for interest rates?

Because GNP in 1991 is expected to be about $6 trillion, interest rates will probably not be greatly affected. A $150 billion deficit will only be about 2.5 percent of GNP that year, which will probably mean a slight increase compared with the deficit as a percentage of GNP in 1990, which is estimated at 2.3 percent. However, the deficit will be smaller, relative to the economy's size, than it was every year during the 1980s (Table 3).

Dynamic Effects of Tax Cut Would Generate Some Offsetting Revenues

Finally, the economic models used to estimate revenue gains and losses from changes in the tax code are unable to capture dynamic changes. Thus, while Senator Moynihan's legislation would "lose" $42 billion under a static model that does not incorporate changes in incentives, the actual revenue loss is likely to be considerably less because of the supply-side effect.

As discussed above, reputable estimates indicate that a 2.2 percent reduction in the payroll tax rate would result in an additional 1 million jobs and a six-tenths of 1 percent increase in GNP. Since federal tax revenues are projected to total 19.5 percent of GNP in 1991, a significant increase in total GNP (representing an additional $35 billion of output) would result in about $7 billion of additional tax revenue. As a result, the total revenue loss to the government would probably be closer to $35 billion than $42 billion.

GRAMM-RUDMAN SHOULD BE PRESERVED

Though the law has its critics, the Gramm-Rudman Deficit Reduction Act has been a success. The deficit was $230 billion when Gramm-Rudman was enacted in 1985; just five years later it is only about half that level. In the five years before passage of the law, federal spending was increasing by an average of 9.9 percent annually. In the five years since Gramm-Rudman was enacted, annual spending growth has fallen to an average of about 4.5 percent. Government spending as a percentage of GNP, which rose in four of the five years before passage of the Gramm-Rudman Act, has fallen every year since its passage.

Some would argue that government spending slowed down for reasons other than Gramm-Rudman. Others believe Gramm-Rudman is responsible for the slowdown in federal spending growth and oppose the law because they favor more government. Even the law's most ardent supporters admit Gramm-Rudman is imperfect, but until something better comes along, it should remain part of the budget process.

A significant tax cut would almost certainly necessitate some alteration of the law's deficit targets. Fortunately, that should not be a difficult exercise. Simply stated, federal revenues are now increasing by more than $80 billion annually. Gramm-Rudman requires that about half of that revenue be applied to deficit reduction with the rest going to increased spending, primarily for entitlements. Even after a significant tax cut, the basic structure of Gramm-Rudman can be preserved by modifying and extending the deficit targets.

That approach is unlikely to satisfy those who believe in eliminating the deficit as quickly as possible regardless of the alternatives. Many supporters of a payroll tax cut, however, believe that it would be acceptable if the new deficit targets required a balanced budget sometime between 1995 and 2000, depending on how much deficit reduction was required each year. Indeed, many in Congress have proposed moving Social Security off-budget, which would increase the reported deficit even more than the Moynihan payroll tax cut. They would then extend the Gramm-Rudman targets, requiring a balanced budget in the late 1990s. Congress could just as easily adopt the payroll tax cut and adjust the targets in a similar fashion.

The important goal is the preservation of Gramm-Rudman. Many of the economic benefits associated with lower payroll taxes will not be realized if politicians are permitted to simply substitute deficit spending for spending that has been financed by taxes. To maximize the economy's long-term performance, policymakers need to minimize the amount of resources the government extracts from the productive sector of the economy, whether through taxes or borrowing.

COMPARING ECONOMIC BENEFITS OF UNIFIED BUDGET SURPLUS AND TAX CUTS IS NOT REALISTIC

Many opponents of lower payroll taxes not only wish to preserve the current target of balancing the budget in 1993, they would also like to mandate budget surplus targets beginning in 1994. The most commonly cited method for accomplishing that goal is to take Social Security off-budget and require that the deficit in the remaining portion of the budget be eliminated. The actual effect of such legislation would be a growing unified budget surplus.

Supporters of that approach argue that a unified budget surplus would increase the amount of savings available for private-sector investment, which would lead to an increase in future economic growth. The additional wealth and income that would result from more investment in the productive sector of the economy would then make it possible to meet the retirement needs of future generations without having to resort to excessive levels of taxation. That approach, they argue, not payroll tax cuts, is the key to a stronger economy.

How a budget surplus is to be achieved is an important but unanswered question. If it is accomplished by restraining the growth of federal spending, the economy will be in stronger shape than it is today. On the other hand, if a surplus is achieved by increasing the tax burden, there is little chance that the economy will benefit. Regardless of how a surplus is achieved, however, the question remains whether it would be better to reduce taxes and run a balanced budget. If there were some way to guarantee that Congress would enact budgets with real surpluses (and without higher taxes), an approach presently favored by the Bush administration, the economic benefits would be significant. Whether or not the benefits of a budget surplus are greater or less than the benefits that would follow a tax cut is a matter over which reasonable people can disagree. In both cases, as long as the president maintains his no-tax-increase pledge and Gramm-Rudman continues to exist, government spending as a percentage of GNP should decline.

Comparing the economic benefits of tax cuts and budget surpluses, however, is a theoretical exercise with little practical value. Simply stated, given the various demands of special interest groups, Congress is unlikely to have the fiscal discipline needed to maintain continuous and growing budget surpluses. Even today, years before a budget surplus might exist, politicians regularly call for additional spending on programs they believe were "neglected" during the 1980s. Those incentives are unlikely to change in the near future. At no time in the last 60 years has Congress demonstrated a consistent capacity to use tax revenue to reduce the national debt.

As a result, it seems more prudent for Congress to enact a tax cut, balance the budget as required by the newly modified Gramm-Rudman deficit targets, and then examine how realistic it would be to run budget surpluses. If Congress is genuinely willing to exercise the restraint needed to achieve a surplus, a delay of a few years will not matter. However, if it turns out that Congress is not capable of running a budget surplus, taking the tax cut first will preclude politicians from spending the money.

WOULD PAYROLL TAX RELIEF UNDERMINE THE SOCIAL SECURITY SYSTEM?

Some representatives of the Bush administration have charged that a reduction in payroll taxes would threaten future retirement benefits. The basis for that claim is that a payroll tax cut would limit the build-up of reserves in the trust fund. Since those reserves will theoretically be the source of revenue from which future retirement benefits are paid, any reduction in the trust fund could mean the Social Security system will run out of money.

As explained previously, however, the so-called trust fund is not a cash reserve. The assets in the fund are gfveiedent boeds. The only way those bonds can be used tf y benefits is by cashing them at the Treasury Department. Since the Treasury can only redeem the bonds by raising cash from some other source, the money to pay for future years' retirement benefits will have to come from taxpayers in those years. That is true regardless of the balance in the trust fund. The payroll tax cut in no way diminishes the government's ability to pay retirement benefits.

Indeed, a strong case can be made that the payroll tax cut might actually make it easier to pay future retirement benefits. We know that future benefit payments will be borne by future taxpayers. If the economy is strong, funding retirement benefits will not be as heavy a burden for future taxpayers as it will be if the economy is sluggish. Therefore, it is increasingly important that

legislators adopt policies that will enhance and maximize long-term economic growth in order to strengthen the Social Security system.

PAYROLL TAX REDUCTION: OPPORTUNITY FOR REFORM?

The evidence strongly supports a reduction in the payroll tax. Several Social Security experts, however, have raised the question of whether it would be best to combine a cut in the payroll tax rate with Social Security reform proposals that would increase the retirement security of America's workers. Those proposals, such as the one by Rep. John Porter (R-Ill.), generally would institute some form of alternative private savings plan whereby each individual taxpayer would be able to put his portion of the Social Security surplus into a nongovernmental retirement account. Individuals who chose that option would forgo a portion of future Social Security retirement benefits, but the interest income they would earn from their private savings accounts would more than offset the loss.

The advantage of such an approach is that individuals would be able to develop alternative sources of retirement income. The burden on taxpayers in general would be lowered, especially after the baby boom retired. Moreover, compared with the results of the present formula for determining how much is received in Social Security retirement benefits, money put into private retirement accounts would earn a much higher rate of return for today's young workers. Not only would individuals be better off with the private retirement account option, the economy as a whole would benefit. Although some people assert that Social Security is a retirement savings plan, money paid into Social Security is not saved. It is instead spent on other government programs. Private retirement accounts, however, would unambiguously increase the pool of private savings in the economy.

Given the political volatility of the Social Security issue, policymakers will undoubtedly wish to examine their options carefully before proceeding. To the extent that their decisions are based on what is best for the economy and the retirement security of America's workers, legislators should consider some of the carefully researched alternative private savings proposals that have been developed. However, payroll taxes could be cut now and a private alternative to part of Social Security could be phased in at some point in the future.[3] That would probably be the most attractive option politically.

CONCLUSION

Senator Moynihan has performed a valuable service by focusing attention on the excessively high level of Social Security payroll taxes. Reducing the payroll tax burden would provide the economy a shot in the arm, and if combined with an adjustment of the Gramm-Rudman deficit targets, could be done without sacrificing long-term deficit reduction.

Despite the scare tactics that have been employed in opposition to Senator Moynihan's legislation, a Social Security tax cut would threaten future retirement benefits. Returning to an explicit pay-as-you-go system (as opposed to the pay-as-you-go system we have now) would prevent the government from taxing the economy twice to pay for future benefits.

Finally, a payroll tax reduction gives policymakers a rare opportunity to explore the possibilities for reforming the Social Security system and creating alternative and more financially secure sources of retirement income for workers.●

[3] See Peter Ferrara, "Social Security: A New Compact Between the Generations," "An American Vision: Policies for the '90's" ed. Edward H. Crane and David Boaz (Washington: Cato Institute, 1989).

UNITED STATES SHOULD NOT SUBSIDIZE MR. GORBACHEV

● Mr. KASTEN. Mr. President, an excellent article by George Melloan in today's Wall Street Journal entitled "Who Will Pay the Bill for Russia's Decline?" puts into perspective the debate over whether or not the West should provide loans and credits to the Soviet Union at this time.

Our Western European Allies have called for the creation of a new multilateral development bank for the emerging democracies of Eastern Europe which would also provide loans to the Soviets.

At a time when the Soviets can come up with plenty of money to finance the intimidation of Lithuania, it is simply unconscionable that Western credits should be shoring up the Soviet economy. If economic reconstruction is that important to Mr. Gorbachev, he can pay for it by reducing the 15 to 20 percent of Soviet GNP that still goes to his military.

Mr. President, America should support moves toward democracy and capitalism all over the world—even in the Soviet Union. But I think most Americans would agree that the Soviets must put an end to their destabilizing activities at home and abroad before we send them any taxpayer dollars.

And even then, I think we ought to make sure that it is money well spent on efforts that promote the private sector and free markets in the Soviet Union.

I ask that Mr. Melloan's article be printed in the RECORD at this point.

The article follows:

[From the Wall Street Journal, Apr. 2, 1990]

WHO WILL PAY THE BILL FOR RUSSIA'S DECLINE?

(By George Melloan)

Russia's money needs are becoming more desperate, and therein lies a tricky problem for the West. So long as the Soviets need—and are able to get—Western financing, they are more apt to show forbearance in dealing with sensitive political problems, such as Lithuanian secession. They will be reluctant to endanger their ties with the West. But if their Western financing dries up, their behavior becomes more problematic.

On the other hand, if the West continues to finance the Soviet economy, its needs could become a serious drain on world capital markets. Pouring money into non-productive enterprises is bad banking, and the Soviet command economy is sinking ever lower from an already low level of production.

If the Soviets are unable to pay their debts to Western banks they will add to an already sizable pile of troubled debt—that run up by less developed countries and the U.S. savings and loan industry, for example. Bad debt is economic waste, and thus a drag on the world economy. Such waste feeds inflation and inhibits economic growth. Use of tax money by Western governments to finance the Soviets also makes little sense. By raising tax burdens, that too would slow productive growth.

In short, the Soviets, always a military threat, now are becoming an economic threat as well. A nation stretching around nearly half of the northern part of the globe is sinking into an economic abyss. Its 280 million people are not producing enough to provide themselves with adequate necessities, let alone contribute anything to the world's supply of capital and wealth. Rising discontent further diminishes productivity.

Soviet Deputy Prime Minister Leonid Albalkin said last week that there is no sign of an easing of the decline in energy and industrial output caused by strikes and political turmoil. In the first two months of this year, oil production was off 4% from a year earlier and coal production off 6%. Earlier it had been reported that man-days lost to strikes and conflicts rose to 9.1 in the first two months from 7.3 a year before. It is not entirely clear what that statistic means but it seems to indicate that the U.S.S.R. lost some 20% to 25% of its labor capacity, obviously a serious matter.

The Soviets have had a continuing debate over whether they should borrow more in the West to finance purchases of consumer goods. As Keith Bush of Radio Liberty wrote on these pages recently, Prime Minister Nikolai Ryzhkov last year appeared to exaggerate the size of the Soviet external debt, perhaps to discourage further borrowing to fill store shelves. But he now appears to have lost the debate.

Nikolai Petrakov, Mikhail Gorbachev's chief economic advisor and the lead designer of yet another planned economic reform, dropped a hint about foreign borrowing in a recent interview with Interfax, a semi-official Soviet news agency. He stressed how important it will be for President Gorbachev and his new cabinet to "retain the confidence of the population" as the new reform inflicts economic pain. He was presumably referring to layoffs and maybe higher prices.

"It would be good, of course, if to achieve this we could make use of foreign credits offered to us on easy terms," said Mr. Petrakov, adding that the Soviet Union "ought to enter all the international economic organizations." In other words, the Soviets would like to get into any organization that has money to lend.

That hint is being confirmed by other reliable sources in Western Europe. They say the Soviets are gearing up for a borrowing offensive. The question will be whether to finance or not finance their consumption needs.

At least one Westerner of some note may already have made up his mind on that question. U.S. Treasury Under Secretary David Mulford told a Senate hearing a few days ago that the U.S. would not join the proposed European Bank for Reconstruction and Development (EBRD) if the Soviets are given full borrowing access. Western private banks also are taking a more jaundiced view of Soviet credits, mainly because of mounting Soviet debt payment arrears,

which are said to be approaching $1 billion. A 500 Deutsche mark ($300 million) Soviet bond issue met with a cool reception on the London market in January. Keith Bush quoted a West German banker as saying that the Soviet credit rating had deteriorated more in a few weeks than it had in the previous 20 years.

The Soviets insist that their credit problem is simply caused by too many Soviet enterprises and banks having been turned loose to borrow in the West. Many did so without adequate means to service their debts. The cure, according to this argument, is a recentralization of Soviet borrowing. But that doesn't sound much like economic reform. Central management is the primary source of Soviet problems.

Mr. Mulford obviously has a good point. If the EBRD is to be set up primarily to finance redevelopment of the newly liberated countries of Eastern Europe, why on earth should it finance Soviet consumption? Development financing presumes that there will be a return on the investment. But the connection between putting goods on Soviet shelves and achieving economic reform in that country is a tenuous one at best.

Some use humanitarian arguments for feeding the Soviets. Undernourishment clearly has become serious at the lowest income levels of Soviet society. It worsens as shortages and inflation grow. At the first meeting of his new cabinet, President Gorbachev stressed that the food situation was the biggest problem facing his government.

But why should the West shed tears for a regime that still is spending huge amounts of money to build weapons and to run a world-wide empire? Merely cutting off Fidel Castro from the Soviet dole or closing down the huge Soviet base at Cam Ranh Bay, Vietnam, or scrapping one of the aircraft carriers under construction, could feed a lot of Russians.

Soviet militarism is part of the equation. If the Soviets no longer have anything to lose in the way of Western financing, will they become more aggressive toward the West? That argument suggests, however, that the West should simply bribe the Soviets to become good guys, a doubtful enterprise even if it had a chance of succeeding. What in fact will probably happen is that markets will make the decision. As the Soviets begin to look more like bad risks, they will get less financing. From that, maybe their badly underdeveloped knowledge of how markets work will be improved.●

OLDER AMERICANS' FREEDOM TO WORK ACT

● Mr. D'AMATO. Mr. President, I rise today to lend my full support to S. 2159, the Older Americans' Freedom to Work Act. This bill will repeal once and for all the Social Security retirement earnings limit that so unfairly penalizes working Americans between the ages of 65 and 70.

Effective January 1, 1990, the earnings limit denies our older workers $1 in Social Security benefits for every $3 they earn over $9,360 per year. This benefit reduction is a 33-percent effective tax, plain and simple, that when combined with Federal, State, and Social Security taxes, makes senior citizens the most heavily taxed group in our population.

Not only is this blatantly discriminatory against senior citizens; it also threatens our economy by discouraging vast numbers of senior citizens from remaining in the work force. At a time when our Nation faces a growing labor shortage, we cannot afford to let such an enormous pool of experienced and productive citizens simply fall by the wayside. We should be encouraging our seniors, not penalizing them.

This body has already taken some tentative first steps toward the elimination of the earnings limit. Just last year, by a vote of 86 to 11, we agreed to an amendment to the minimum wage bill that would have begun to phase out the limit. Unfortunately, this provision was dropped from the final version of the minimum wage bill.

I think our Nation's senior citizens have waited more than long enough for Congress to address the unfairness inherent in the earnings limit. Seniors expect, and deserve, more from Congress than just a tentative commitment to gradually phase out the limit. The time has come for us to do away with the earnings limit completely.

This bill would do just that. Under S. 2159, the earnings limit would be eliminated altogether for seniors aged 65 and older effective January 1, 1991. I commend my colleague from Minnesota for his leadership in introducing this important legislation, and I urge my colleagues to join me in working to ensure its prompt passage.●

WE CAN'T AFFORD NOT TO HELP EAST EUROPE

● Mr. SIMON. Mr. President, our colleague, Senator BILL BRADLEY, who is one of the more thoughtful members of this body, recently had an op-ed piece in the Washington Post title "We Can't Afford Not To Help East Europe."

Sometimes we get things out of perspective, and Senator BRADLEY's article puts them in perspective and does it in a very practical way.

It is sound advice, at a time when we have an opportunity to really make gains for the cause of democracy and freedom.

I urge my colleagues and staff members who have not seen the original article to read it.

I ask to insert it in the RECORD at this point.

The article follows:

[From the Washington Post, Mar. 28, 1990]

WE CAN'T AFFORD NOT TO HELP EAST EUROPE

(By Bill Bradley)

The Bush administration's unfair attack on House Majority Leader Dick Gephardt's speech at the Center for National Policy was a blatant attempt to cover up a major inadequacy of the president's policy toward Eastern Europe. The $380 million the president proposed to bolster economic growth and democracy in the region is barely enough to bail out a single major failed S&L, much less jumpstart national economies that have been dead for decades. Congress should seize the initiative and set aside an amount of up to one percent of the defense budget as a catalyst for East European reconstruction.

For almost half a century, the Soviet threat rested on troops stationed in the client regimes Stalin set up in Central Europe. Our security efforts focused on deterring Soviet assaults on Western Europe. Last year that defense cost about $125 billion.

Now new democratic governments have begun to insist that Soviet forces go home. The political and economic success of these East European democracies would significantly enhance our own security. Instead of a band of hostile armies, we could face a line of healthy, prosperous economic anchored in the West.

Although Eastern Europe's movement toward reform seems irreversible, success is unfortunately far from guaranteed. Even those countries, that have made the most progress—Poland, Hungary, Czechoslovakia—face enormous problems because of the legacy of Stalinist controls imposed on them by the Soviet Union. Yet each has already faced to the fact that success means submitting to the rigors of international competition and shedding rigid price controls. This is a revoluntionary change.

The potential investment needs of Eastern Europe are enormous. According to a leading Western bank, Eastern Germany could absorb $500 billion in the next 10 years, and Poland's needs are even greater. With such massive needs, the question is how best to get momentum quickly into the process of development.

After World War II, the genius of the Marshall Plan lay in its premises: self-help, free trade and European economic integration. The United States provided some material resources and an open market, while Europe provided domestic political leadership and private initiative. For the most part, the salvation of Eastern Europe likewise has to come from within. The member states understand that, which is why they have already embarked on radical economic and political reform. But they need our help to sustain their revolution.

This doesn't only mean more money. Training and know-how are also important. There's an enormous requirement for private sector initiatives in filling in these gaps, and efforts are already under way, especially by West Europeans. But the U.S. government can also make a major contribution, as Sen. Joe Biden's effort in the Foreign Relations Committee recognizes.

Aside from supporting East European economic stabilization programs, our government should provide firm assurances that our markets will be open to the goods and services these countries produce. Unless people believe this, they simply won't invest anywhere near the sums required for real prosperity. This means granting Most Favored Nation status and extending membership in international economic and financial institutions as soon as these countries are ready.

We must also facilitate access to up-to-date technology and equipment. The U.S. government should take the lead in revamping strategic-trade controls so that East European nations can buy the robots, computers and other items they will need in a modern economy. This can be done without touching sensitive military issues.

In addition, the U.S. government should provide technical assistance to build the institutions critical to the pluralistic market-based economies: tax, banking and accounting systems, a judicial system to enforce contracts and protect private property, an educational system to instill new attitudes and skills that are indispensable in a democratic entrepreneurial society, viable political parties and an independent press. The U.S. government can mobilize Americans—especially those with East European roots and language skills—to help.

Our government can advise on converting military resources to meet pressing needs such as roads, telecommunications and pollution controls. We should also cooperate with Western Europe and Japan in providing seed capital to modernize production systems and promote competitive small businesses.

In Poland, we must take the lead in marshaling support for the new government's urgent request for a comprehensive reduction of its huge foreign debt and debt service. This debt—some $40 billion, mostly owed to West Germany—is one of the world's highest and least payable debt burdens. It clouds prospects for desperately needed investment by Poles and foreigners alike. Without a solution, Poland has little choice but to abandon hope of achieving the prosperity its people's sacrifice and courage have surely earned.

Ironically, Germany is the example of why debt relief is a strategic opportunity. At the end of World War I, the victors turned their backs on the need to lower the burden of Germany's debt and reparations—with disastrous results. After World War II, the allied powers avoided a repeat of their earlier mistake and granted Germany deep debt relief in the 1953 London Agreement on German Debt. Such enlightened self-interest should guide us in dealing with Poland in the 1990s.

These initiatives are not costly. We could do them all for less than one percent of the defense budget. But unless we contribute these resources, we will be missing the opportunity to collect a security dividend—both military and economic—of our own.

At the same time, we should recognize that the Soviet Union is in a different circumstance. We should stand ready to respond forthrightly to the transition from a centrally planned to a market-based economy. But as leading Soviet reformers themselves recognize, reconstruction aid and guaranteed investment would be a mistake, at least for now. Mikhail Gorbachev's impressive strides in liberalizing Soviet society have yet to extend to the economic front. A nation that has an economy larger than Japan's, that is burdened with a 60-year history of collectivism, that unlike Eastern Europe has yet to bite the bullet of price decontrol and other crucial reforms, that still spends huge sums on military forces it does not need and cannot get food from field to shelf without much of it rotting: such a country simply cannot use foreign aid efficiently enough now to justify asking American taxpayers to foot the bill for it. I'd rather spend that money at home.

Finally, we should remember that if Eastern Europe succeeds, the patterns of economic and political relations and the perceptions of mutual interest that evolve during the transition will endure long into the future. That's the lesson of the Marshall Plan. If we give help, we can forge lasting bonds based on common democratic values, cultural ties and economic interests. If we fail to provide sufficient support, we cannot realistically expect that Western Europe, Japan and the other nations we leave to pay the costs will look after our interests.

Nor should we be surprised if the future of Eastern Europe has a major impact on Western Europe's economic evolution. Americans are unlikely to be pleased with the outcome unless our contribution is commensurate with our interests. And our contribution will not be big enough unless our ambition for our values is bold enough. This is the time to seize the initiative for democracy. If President Bush fails to do so, Democrats in the Congress have an obligation to try, now.●

THE VIRGINIA AGRIBUSINESS COUNCIL BREAKFAST

● Mr. WARNER. Mr. President, I rise today to recognize the members of the Virginia congressional delegation and of the Virginia Agribusiness Council who participated in this morning's congressional breakfast sponsored by the council.

The Virginia Agribusiness Council, like so many valuable and respected agricultural organizations in the Commonwealth, hold an annual breakfast here in the Nation's Capital for members of the Virginia congressional delegation. I make a point of being there each year. It is at events such as this one that Members of Congress have an opportunity to sit down with their constituents and hear directly from them.

This morning Senator ROBB and I, together with Representatives BATEMAN, OLIN, PAYNE, PICKETT, SISISKY, and SLAUGHTER met with council members to discuss several issues that will likely be addressed in the current session of Congress, particularly during consideration of the 1990 farm bill.

The Virginia Agribusiness Council represents the interests of most sectors of Virginia's diverse agricultural industry including over 90,000 farmers, foresters, suppliers, processors, and marketers. They take great pride in their ability to develop a consensus among their diverse membership for a reasonable, pragmatic approach to the problems and opportunities that face the Commonwealth's largest industry: agriculture.

This reasonable and pragmatic approach was aptly demonstrated in the remarks made this morning by Mr. Frank H. Johns, Jr., before the council and the Virginia delegation. Mr. President, I now ask unanimous consent that the keynote speech delivered by Mr. Johns be included in the RECORD in its entirety at the conclusion of my remarks.

Mr. President, I will conclude my remarks by stating that I hope as Congress continues with its work on the 1990 farm bill that the views expressed by the Virginia Agribusiness Council be given full consideration and hopefully be reflected in the bill's final passage.

SPEECH BEFORE THE VIRGINIA AGRIBUSINESS COUNCIL

(By Frank H. Johns, Jr.)

Good morning ladies and gentlemen. We are again pleased to have the opportunity to visit with you, the fine Congressional Delegation from the fine Commonwealth of Virginia. We come to share with you today the views of the Virginia Agribusiness Council on several issues that may be addressed in the current session of Congress.

The Virginia Agribusiness Council encompasses all sectors of Virginia's diverse agricultural industry, representing over 90,000 farmers, foresters, suppliers, processors, and marketers. The Council takes a great deal of pride in the ability to develop a consensus among our membership for a reasonable, pragmatic approach to the problems and opportunities that face the Commonwealth's largest industry: agriculture.

As has been the case for the past several years, our major concern is the budget crisis. Deficit spending and its effects on interest rates, inflation, and the value of the dollar has had tremendous impact on agriculture in the last decade. Please, let's enter the decade of the nineties with the resolve to truly address this problem with a real dollar and cents approach—not just "smoke and mirrors." We encourage you to approach this problem by reducing Federal spending and not increasing or introducing new taxes.

We in agriculture feel we have shown the way to the solution of the budget deficit problem. Federal expenditures on farm programs have been reduced almost 50 percent in 3 years. We are extremely proud of our contributions. While we realize it would be difficult or impossible to reduce all Federal spending by this huge amount, we feel that all of the budget must be carefully scrutinized for possible cuts. No respect to Federal spending should be exempt from reductions. The total solution must include all segments of the economy.

As you know, several pieces of legislation have been introduced that may become a part of the "1990 farm bill." The Virginia Agribusiness Council generally supports the philosophy and direction of the 1985 farm bill, and urges that those principals be continued in the new legislation.

There are a few farm bill issues we would like to address more specifically.

We favor the peanut program as we now know it and ask you to support legislation proposed by Congressman ROSE on the issue.

We ask you to support Senator LEAHY's legislation to expand the lending authority of the Farm Credit System in the area of rural development. This change would allow Farm Credit to use its resources in a more realistic fashion to address the credit needs of agriculture producers and rural areas.

We request that you support amendments to the "Proprietary Seed Act" to prevent bootlegging of second generation seed on protected varieties.

Efforts to have a positive impact on the environment are also a part of this session's farm legislation. To that end we urge you to support the "America the Beautiful" tree planting initiative proposed by the administration.

In the world trade arena, the Council recognizes the critical importance of exports to American agriculture. In Virginia, two out of every five acres of the Commonwealth's

major crops go to exports. Exports of value-added agricultural and forestry products is also of critical importance to Virginia. As GATT negotiations continue, it becomes clear that programs such as the Export Enhancement Program [EEP] and the Targeted Export Assistance Program [TEA] are crucial to our efforts in the Commonwealth. We hope you will see fit to support increased emphasis on programs of this nature.

Restoration of a lower tax rate on capitol gains is an important issue to the members of the Virginia Agribusiness Council. This restoration would provide the needed incentive for the everyday small businessman—such as the foresters, farmers and agribusiness men and women in this room—to provide risk capital—risk capital that is needed to insure the steady flow of goods and services that is so vital to our U.S. economy. This effects all Americans. Eight percent of American families will utilize capital gains treatment at some point in their life. We strongly agree with the prediction that a restoration of a lower capital gains tax rate would generate sufficient economic activity to be at least revenue neutral and very likely revenue positive.

Rural electric distribution systems have been extremely important of Virtinia's agricultural economy. Now these user-owned systems are showing great leadership in the area of generation. Old Dominion Electric Cooperative, which supplies power to ten Virginia cooperatives has applied for an REA guaranteed loan to build a generation facility in Clover, Virginia. The cost savings to consumers will be approximately $260 million over the life of the loan. In addition to these savings this plant will utilize clean technology and allow closing of older, less environmentally friendly projects. We request that you support this REA lending at levels sufficient to meet the needs of Virginia's electric cooperative consumers.

As we deliberated yesterday, it became very clear that this is a very frustrated group of business men and women—frustrated at the unreasonable, uneconomical, and unnecessary approach that is being taken by regulators to the production and consumption of agricultural and forestry products. Something must be done to add some sensibility to regulations or we will put American Agriculture, as we know it, out of business. American consumers now spend less than 12 percent of their disposable income on food. This low-cost food supply will be seriously jeoparidized if this overzealous approach to regulation and legislation continues. We will spend the remainder of our time today discussing just a few of these issues.

There is increasing public perception that the American food supply is unsafe or that certain production techniques are automatically better just because they carry the organic or natural label. The fact is the American food supply is the safest in the world and is becoming constantly safer as new production and processing technology is rapidly adopted by the industry. We urge you to take a reasonable cost-effective approach to legislating and guiding the regulators on food safety issues.

There are at least three Federal agencies clamoring to be the leader in the food and nutrition labeling arena. There are many conflicting regulations coming out of these agencies. If nutrition labeling is something that must be mandated by the Federal Government—at least let's have a coordinated nonconflicting regulatory program.

We in production agriculture have always felt that we have had animal welfare at heart—because well cared for animals are more productive—therefore more profitable.

The current animal welfare/animal rights movement is quickly moving toward a "no use of animals for food" movement. Please be aware of his hidden agenda.

We also have great concern regarding the interpretaton of Federal agencies of efforts to protect so-called nontidal wetlands. We are not opposed to efforts to protect true wetlands, but we have a serious problem with the broad interpretation now being applied. The zeal in which Federal agencies have interpreted nontidal wetlands regulation has resulted in de facto condemnation of vast holdings of private lands by the Federal Government. Here again we have conflicts among agencies. We had one case in Virginia in which a ditching plan was approved by the Soil Conservation Service only to have the Army Corps of Engineers insist the land be returned to its natural state. We must have relief in this area. We respectfully request you support efforts now going on to bring forth a more reasonable approach to nontidal wetlands preservation. We thank Congressman Pickett for his cosponsorship of H.R. 4133 and urge each of you to support this legislation.

There is another effort to eliminate timber sales from our national forest based on a so-called below cost timber sale restriction. When the extraordinary expense of complying with excessive restrictions, presale studies and roads built to outrageous standards are counted as cost of sale, these may appear as below cost sales when that is simply not the case. Please oppose the Office of Management and Budget's initiative to restrict these sales.

Labor availability and regulation are also forefront in our minds. Please support efforts to exempt temporary farm labor from the Federal tax withholding requirements. We also see a critical labor shortage on the horizon, due in large measure to burdensome Federal labor regulations.

Senator Kennedy's Senate Bill 1883 appears on the surface to be very innocent—but is in reality a serious attack on one of Virginia's most important agricultural crops—tobacco. Please oppose this poorly conceived legislation.

Finally, solid waste disposal is a real concern in all rural areas. The EPA regulations on the handling of solid waste has the potential to create a severe financial strain on rural localities. Please be aware of this important emerging issue.

We could talk forever on the issues that are important to Virginia agriculture and forestry. We spent quite a bit of time yesterday condensing our thoughts into this brief abridged statement. We urge you to review the complete list of Virginia Agribusiness Council policies on national issues.

Thank you for your strong support of the industries of agriculture and forestry and a special thank you for joining us this morning to discuss these issues.●

LEGALIZING DRUGS

● Mr. SIMON. Mr. President, one of the people who has contributed to this Nation in a variety of ways is Eleanor Holmes Norton, now a professor of law at Georgetown University Law Center.

Recently, she wrote a brief statement in response to the suggestion that drugs be legalized.

It is an absolutely sound analysis.

The one point she does not make in her statement, and the analogy to alcohol is always being made, is that alcohol consumption increased tremendously following the repeal of prohibition.

I do not suggest that we go back to prohibition, but I do suggest that anyone who wants to legalize drugs in this country should accept a substantial increase in their consumption and all the problems that go with it.

Mr. President, I ask to insert the Eleanor Holmes Norton statement in the RECORD at this point.

The statement follows:

SAY NO TO DRUGS LEGISLATION

(By Eleanor Holmes Norton)

What a fitting finale to the 1980's. Now that everything else has been deregulated, why not drugs? Exhausted intellectually, a tiny but vocal assortment of proponents of legalization has hoisted white flags and declared that the enemy is not substance abuse but faulty strategy. Just when drug use among all groups, including black students, is diminishing, reverse the signals and legalize the stuff.

The arguments shimmer with overpromise. Legalize drugs and release countless dollars for every unsatisfied domestic need. Treat addition as a medical problem as if that required legalizing the drug trade. And, of course, the facile analogy to alcohol is offered up.

But except for age restrictions, we totally deregulated alcohol. No one suggests the same for crack, PCP, or even heroin. Press proponents and the exceptions swallow the rule. The tight regulation that would be required would leave almost everyone on drugs today to the illicit drug market. Drug dispensing clinics or tightly controlled prescriptions would eliminate everyone except long-term, hopeless addicts. Otherwise, the program would be consumed with criticism for sustaining addiction in people who, with help, might defeat the habit. Thus legalization would leave us with the worst of both worlds—the illegal drug trade and a new sanctioned drug ethos.

Are we prepared for the changes such an ethos could bring? In a society where work is now prized, unproductivity would gain a foothold and purpose. In a country still trying to erase the visible effects of bigotry, people of color would be those most likely abandoned to addiction. Even during this decade the inner cities have been maimed by the simultaneous escalation in drug sales and the deliberate collapse of social programs.

No—this is no time to give in to the drug culture. Drugs have only just become a major national and citizen priority. Mass drug prevention education is in its infancy. The medical establishment and the National Institutes of Health have yet to mount a major effort in search of preventatives and cures for addiction comparable to efforts like those against cancer and AIDS. When all of this and more remains to be done, now is the time to fight, not surrender to drugs.●

HONORING THE 1990 STATE "A" BASKETBALL CHAMPIONS, THE CUSTER WILDCATS OF CUSTER, SD

● Mr. DASCHLE. Mr. President, I rise to pay tribute to South Dakota's new State "A" boys basketball champions, the Custer Wildcats of Custer, SD.

The Custer Wildcats recently finished a perfect season with a record of 25–0 on their way to their first State championship. The road to any State championship is a formidable undertaking, and the Wildcats' success is an accomplishment in which the entire school and community of Custer can take great pride.

Many elements go into winning a championship, including personal sacrifice, dedication and teamwork. The 1989–90 Custer Wildcats exemplify these qualities, and their hard work and ability has been rewarded with victory.

Mr. President, I salute the Custer High School basketball team and coaching staff. They serve as an example and inspiration to us all.●

THE DREAM IS ALIVE

● Mr. ROBB. Mr. President, all of us in this body receive a great many letters each day on a variety of issues, and the clean air bill, which we have just passed, is no exception.

But I would like to submit for the RECORD a special letter sent by a constituent of mine, Gregory Carmichael, a 14-year-old student at Walt Whitman Intermediate School in Alexandria, VA.

Greg, who has cystic fibrosis, sent a letter to our distringuished majority leader and included a speech he wrote on clean air, entitled "The Dream Is Alive." I ask that a copy of the letter and speech be printed in the RECORD.

The material follows:

Alexandria, VA, March 5, 1990.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington DC.

DEAR SENATOR MITCHELL: My name is Gregory Carmichael, and I am a 14-year-old student at Walt Whitman Intermediate School in Alexandria.

Many of us at my school have become concerned about present day enviromental issues and how they will be affecting our future and the future of our children. We recognize this is a worldwide problem and not just a local one.

I was recently involved in developing a speech on this very subject for a class assignment, following the theme, "The Dream Is Alive." It was received well enough for me to get inivited to present it before the Optimist Club later this month.

Because of this, I have taken the liberty of sending you a copy of my speech to add to the material in support of the on-going discussions on clean air issues. The students at my school and I want to keep our dream of clean air very much alive.

Sincerely,

GREGORY CARMICHAEL.

THE DREAM IS ALIVE

"The dream is alive!" This is a dream we've all shared. It's one we've all experienced—sometime—somewhere—I'm talking about clean air—our atmosphere—the air we breathe!

We were all cursed from the very first day Prometheus stole fire from the gods. You see, fire was probably the original pollutant of our atmosphere.

Of course, the occasional fire of scattered tribes of early man were not concentrated enough to be a concern—even to serious environmentalists. But as populations increased so did the corresponding use of fire in its many forms . . . and the polluting of our atmosphere began to get serious.

From burning wood for heating and cooking to the discovery of fossil fuels for industrial use and, subsequently, the automobile, fire has played a larger and larger role in our lives. Yes, every automobile engine runs by the use of fire: internal combustion . . . but fire, all the same.

For a while, there seemed to be competition between sources of atmospheric pollutants. Were the gases spewed forth from the stacks of manufacturing plants worse than the gases from automobile exhaust pipes? We're a little smarter now. We realize all these sources are culprits in slowing down our dream for clean air.

Now, the scientific community is in mutual agreement with the consequences of burning fossil fuels. Every day, our atmosphere is receiving increased amounts of carbon dioxide from fuels burnt on earth. It doesn't matter whether the sources are industrial chimneys or automobile exhausts, the release of carbon dioxide into the atmosphere has grown exponentially since World War II. It is now estimated our use of fossil fuels releases 5 billion tons of carbon dioxide into the atmosphere annually. About half of this remains airborne. This is the amount that is measured—and what has been found to be increasing.

This buildup of CO_2 is a reality. It has been monitored with increasing precision since 1957—that's over 30 years—and the buildup continues.

Furthermore, carbon dioxide is not our only culprit. Trace gases have been building up in the atmosphere at a geometric rate as well. That reminds me of a cartoon the Tribune Syndicate ran not long ago: A couple of tourists had stopped at a scenic overlook to watch the sunset. There was a sign describing the sunset: "Ingredients," it stated, "carbon dioxide, sulfuric acid, nitric acid, nitrogen oxides, fluorocarbons, sulfur dioxide, soot." CO_2 and trace gases.

You're right. Pollutants from fire—CO_2—are not the only ones contaminating our atmosphere—slowing down our dream. As our methods of measurement improved, it was found that chlorofluorocarbon—CFC—gases also play a role.

What has been happening in the heavens is often referred to as the "greenhouse" effect. That is: What should be a happy balance of water vapor and carbon dioxide, allowing just the right amount of sunlight coming through to warm us and the right amount of infrared—heat—radiation returning to space, is slowly becoming imbalanced. The increase in CO_2 (carbon dioxide) and CFC's (chlorofluorocarbons) are creating a "blanket" around our planet that is trapping the radiation and slowly building up the temperature in our atmosphere—hence, the "greenhouse" effect.

Perhaps nothing illustrates our polluted atmosphere better than the observation made by Paul Weitz, commander of the first flight of the Challenger. He described a heavy pall of pollution, resembling the blue smoke of burning wood, seemed to hang over all the world's land masses, even undeveloped countries. He said, "It was appalling to me to see how dirty our atmosphere is getting."

And that was 1983!

But the dream is still alive!

It's alive, because just as we have improved our methodology for measuring pollutants in the atmosphere, we have discovered ways to reduce or prevent them in the first place.

It's a huge undertaking!

But one well worth taking.

The results are so critical to life as we know it.

An old Indian chief named Seattle, speaking on pollution 140 years ago, said "man did not weave the web of life; he is merely a strand in it. Whatever he does to the web, he does to himself."

The Department of Energy was more stark in a recent statement, saying: "Human effects on atmosphere composition . . . may yet overwhelm the life support systems crafted in nature over billions of years" . . . unless we act.—GREG CARMICHAEL.●

WORD EXPLOSION

● Mr. SIMON. Mr. President, someone gave me a book titled, "Word Explosion," and the subtitle is "Treasures in Poetry & Verse" written by the mentally ill and their family, friends, and professionals.

It is a remarkable small book. It can be purchased through the Alliance for the Mentally Ill, P.O. Box 863, Glenview, IL 60025.

I ask to have printed in the RECORD two of the poems. One is titled, "Peace of Mind," written by Christine Diensberg and the other is, "Autobiography," written by Michele Vickers.

I believe my colleagues should read them to appreciate the tone of the entire volume.

I am grateful to all who played a role in drafting this small volume.

The poems follows:

PEACE OF MIND

They don't seem to mind that my peace of mind
Lies shattered in pieces.
I'd like to give them a piece of my mind,
Disturb their peace of mind.
Which piece?
The one that feared it had frayed beyond repair
Thanks to their "care"?
Or the one that dreamed and danced in the sun,
Death-darkened into ugly oblivion?
The one that believed that to pray and to play
Made this heaven on earth?
Which piece?
From all these pieces,
Let me find one—peace.

—Christine Diensberg.

AUTOBIOGRAPHY

I walk by the ocean on the beach of life
Footprints revealing my path

With the gentle irregularity of a child's unsteady steps.
The tide grows stronger and
The wind begins to howl,
As if it were angry at some unseen being—
Lurking in the darkness of the final sane moments
Before the storm begins.
The confusion has begun.
Then the crack of lightning
And the roar of thunder.
The cry of a helpless child
Lost in the raging fury of the storm.
Confusion takes over
And gentleness is all but forgotten.

—*Michele Vickers.*●

ARIZONA DAILY NEWS-SUN ENDORSES TERM LIMITATION

● Mr. HUMPHREY. Mr. President, I would like to share with my colleagues an editorial supporting congressional term limitation, from the Daily News-Sun of Sun City, AZ. The editorial mentions support for Members of Congress by various special interest groups. So-called campaign finance reform is likely to be the subject of considerable debate in the Senate during the course of the year.

Some would argue that the solution is simple: limit contributions. Mr. President, a significantly greater, farther reaching, fundamental reform is to limit the tenure of office. Then, special interests and members would know from the moment they were sworn in that no matter how much money they gave and received, the scope of influence and the length of tenure would be unavoidably limited. In that way, we would begin to restore Congress to what the Founding Fathers envisioned: a representative body of citizen legislators.

I ask that the editorial from the Arizona Daily News-Sun be inserted in the RECORD immediately following my remarks, and I again urge my colleagues to cosponsor Senate Joint Resolution 235, a proposed constitutional amendment to limit congressional terms.

The editorial follows:

[From the Sun City (AZ) Daily News-Sun, Jan. 26, 1990]

LIMITING THE POWER

Six is the magic number in a new equation proposed by Sen. Gordon Humphrey of New Hampshire for congressional terms in office.

Humphrey, who will not run for a third term, seeks a constitutional amendment that would limit senators to two six-year terms and representatives to six two-year terms. Sen. Dennis DeConcini, D-Ariz., is cosponsor.

The U.S. Constitution mandates six-year-terms for senators, a third to be elected every two years, and two years for representatives, with election of the entire House every two years.

Complaints that long tenures have corrupted the system and built seniority and power for those who are consistently reelected are widespread. Americans perceive that the most powerful chairmanships go to long-time incumbents, who then are the likely recipients of the most support from special interest groups for their reelection. And, although congressmen deny it, Americans believe they may be influenced by those contributions.

Bills to limit or change congressional terms have had no success in Congress, naturally, because too many lawmakers are quite comfortable with the present system. But the Humphrey-DeConcini proposal may do better. Public dissatisfaction with long-term tenure and the demand for ethical reform in government is strong. And an amendment to the Constitution depends on acceptance by the people through their legislatures. If three-fourths of the state legislatures ratify the amendment within seven years after its introduction, it passes; if not, it is dropped.

This proposal should not be dropped. It won't be if enough people write to the Senate (Washington, D.C. 20510) in support of this reform.●

PASSAGE OF THE CLEAN AIR ACT

● Mr. ADAMS. Mr. President, I am pleased to join my colleagues in supporting the passage of a Senate clean air bill. I was a Member of the House of Representatives when the original Clean Air Act was adopted. That act gave us great hope. Unfortunately, it did not live up to our expectations. After many years we have now returned to this issue with revisions to strengthen the act. It has taken us a lot of hard work and many late nights to reach this point. Although the resulting document is a compromise, I believe that it was worth the effort.

The United States has a large number of competing interests to address on the clean air issue. None of these groups or persons was completely satisfied by the clean air bill in its final version. I am one of those people. I wanted a stronger bill and voted for every amendment which would have added to the compromise package. However, in passing this clean air bill I believe that the Senate has taken a giant step toward confronting and solving the problems with manmade air pollution. I recognize that the solutions we require in this legislation involve large economic costs. No doubt, a price must be paid for environmental protection but there are more important questions for us to consider: What are the costs of not cleaning up the environment? How much more will we pay in health care costs, lost productivity, and quality of life degradation without a strong Clean Air Act? My conclusion is that no price is too high to pay in achieving these goals.

In my own State of Washington we are struggling with very difficult pollution problems resulting primarily from auto emissions. The population around the city of Seattle has grown by more than 20 percent over the past decade. And it is expected to continue to grow at an accelerated pace. Many of these new residents have moved to the suburbs and commute long distances. This boom in population has caused a 73-percent increase in vehicle miles traveled in the State. The city of Spokane, in eastern Washington, also suffers from terrible pollution problems caused by automobiles. The pollution in this beautiful part of the State is compounded by temperature inversions. As a result, today we are experiencing smog incidents greater than those ever anticipated. It is my hope that the clean air legislation we have just passed will begin to address some of these pressing problems.

One area in which I have had a personal interest is the air quality in our parks and wilderness areas. I am pleased that the Senate shared my dedication to preserving these areas by approving my clean air in the parks amendment. It was one of the few strengthening amendments to survive the clean air negotiating process and pass on the floor of the Senate.

Maintaining clean air in our parks and wilderness is a very important issue to my State as well as the rest of the United States. In 1977, Congress enacted clean air legislation that directed the Environmental Protection Agency to preserve, protect, and enhance the air quality in our national parks and wilderness areas. Today, 13 years later, the promise of that legislation has yet to be fulfilled. In fact, the air in our parks is far worse then we ever imagined back in 1977.

In my own State, Mount Rainier is suffering from haze problems. There are days when you cannot see the mountain because of the pollution. Another extraordinarily beautiful park in my State, the Olympic National Park, is currently listed as one of the four places in the world with the purest air. Yet even this pristine area has reported plant damage resulting from air pollution.

Mr. President, Congress specifically protected these important areas, their scenery and natural systems from human destruction by drawing boundaries on a map—by designating these areas as parks or wilderness. Unfortunately, Mr. President, dirty air does not respect park boundaries.

My amendment directed the EPA to focus its attention on this problem and provided $8 million a year to the agencies for study purpose. The legislation authorized the EPA to set up regional commissions to assess problems in specific parks and wilderness areas. EPA is required to make regulations based upon the commissions' conclusions. In addition, the amendment specifically sets up a commission for the Grand Canyon, where the air pollution problem is at its worst.

My goal with this amendment, Mr. President, was a simple one, yet of vital importance: to ensure that our national parks and wilderness areas have clean air. We owe future genera-

tions nothing less. I appreciate my colleagues support of that goal.

Mr. President, I would like to conclude by thanking all the Members who worked so hard on developing the clean air package. It was a very long, difficult, and complex process. I am proud to be associated with this bill and trust that we have given our best effort to fulfill the trust of the American people.●

THE JOURNAL

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Journal of proceedings be deemed approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 683, Jo Anne B. Barnhart, to be Assistant Secretary for Family Support, Department of Health and Human Services;

Calendar 684, James B. Edwards, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1990;

Calendar 685, James B. Edwards, to be member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1993;

Calendar 686, William D. Phillips, to be an Associate Director of the Office of Science and Technology Policy;

Calendar 687, Eugene Wong, to be an Associate Director of the Office of Science and Technology Policy;

Calendar 688, Donald R. Quartel, Jr., to be a Federal Maritime Commissioner;

Calendar 689, Henry J. Cauthen, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

Calendar 690, Lloyd Kaiser, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

Calendar 691, Robert M. White, to be Under Secretary of Commerce for Technology;

Calendar 692, promotions in the Coast Guard;

Calendar 693, Edward W. Kelley, Jr., to be a member of the Board of Governors of the Federal Reserve System;

Calendar 694, Robert H. Swan, to be a member of the National Credit Union Administration Board; and

Nominations placed on the Secretary's desk in the Coast Guard, National Oceanic and Atmospheric Administration.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Jo Anne B. Barnhart, of Delaware, to be Assistant Secretary for Family Support, Department of Health and Human Services.

COMMUNICATIONS SATELLITE CORPORATION

James B. Edwards, of South Carolina, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1990.

James B. Edwards, of South Carolina, to be a member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

The following-named person to be an Associate Director of the Office of Science and Technology Policy: William D. Phillips, of Missouri.

The following-named person to be an Associate Director of the Office of Science and Technology Policy: Eugene Wong, of California.

FEDERAL MARITIME COMMISSION

Donald Robert Quartel, Jr., of Florida, to be a Federal Maritime Commissioner for the term expiring June 30, 1994.

CORPORATION FOR PUBLIC BROADCASTING

Henry J. Cauthen, of South Carolina, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1994.

Lloyd Kaiser, of Pennsylvania, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 1, 1994.

DEPARTMENT OF COMMERCE

Robert Marshall White, of Minnesota, to be Under Secretary of Commerce for Technology.

COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Robert E. Kramek.
Ronald M. Polant.
William P. Leahy, Jr.
Joel D. Sipes.
Richard D. Appelbaum.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

Gregory A. Penington.
Paul E. Versaw.
William C. Donnell.
Kent H. Williams.
James M. Loy.

FEDERAL RESERVE SYSTEM

Edward W. Kelley, Jr., of Texas, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1990.

NATIONAL CREDIT UNION ADMINISTRATION

Robert H. Swan, of Utah, to be a member of the National Credit Union Administration Board for the term of 6 years expiring August 2, 1995.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coast Guard nominations beginning Aubrey W. Bogle, and ending David P. D'angelo, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 5, 1990.

National Oceanic and Atmospheric Administration nominations beginning James A. Yeager, and ending James L. Yeatts, Jr. which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1990.

NOMINATION OF JO ANNE BARNHART FOR ASSISTANT SECRETARY FOR FAMILY SUPPORT

Mr. ROTH. Mr. President, there is a rare breed of person who exudes confidence, intelligence, savvy, compassion, and warmth. I was lucky enough to have such a person serve on my staff not once, but twice—Jo Anne Barnhart. Now, Jo Anne has been nominated for the position of Assistant Secretary for Family Support. It is with both pride and pleasure that I can say without hesitation that Jo Anne is an excellent choice for this new position at HHS. Her long list of accomplishments is a clear indication that she has the skill, the drive, and the administrative experience to oversee our Nation's largest welfare and family support programs.

Having known Jo Anne for many years and enjoyed the benefit of her knowledge and insight as a staff person, I believe I am in an excellent position to strongly recommend her nomination.

Most recently Jo Anne has served as staff director of the Governmental Affairs Committee, first as majority staff director, more recently as minority. During her 4-year tenure as staff director, Jo Anne has done an outstanding job of overseeing committee hearings, legislative activities, and general operation, dealing with such issues as IGS' offices, Government organization, and the budget process. Jo Anne also served on my staff from 1977 to 1981 as a legislative assistant handling health, welfare, Social Security, and labor issues.

Jo Anne also has a great deal of experience and expertise pertinent to the specific responsibilites she would assume at HHS. Prior to joining my staff, Jo Anne worked for the Reagan administration on a study of the welfare system. In addition, Jo Anne served as Associate Commissioner and Deputy Associate Commissioner for Family Assistance at HHS from 1981 to 1986. In this capacity, she ran the Nation's welfare program, AFDC, and low-income energy assistance. Her strong accomplishments at HHS did not go unrecognized—she was honored

with the Secretary's Distinguished Service Award in 1985 and the Commissioner's Citation in 1984.

On a more personal note, through my years of professional experience with Jo Anne, I have come to respect her as a woman of strong character and great ability. And, I have come to value her as a friend.

In my opinion, the President has made an excellent choice in nominating Jo Anne for this new position which was created under the welfare reform bill. While I wholeheartedly support her nomination, I will certainly miss her significant and valued contribution to my staff. I am, however, proud to see her advance to this position and confident that she will serve with distinction.

I strongly urge my colleagues to approve her nomination.

NOMINATION OF DR. JAMES B. EDWARDS TO THE COMSAT BOARD OF DIRECTORS

Mr. THURMOND. Mr. President, today, I rise in strong support of the confirmation of former South Carolina Governor and U.S. Secretary of Energy, Dr. James B. Edwards to the Comsat Board of Directors. Dr. Edwards was unanimously approved by the Commerce, Science, and Transportation Committee for this appointment on April 3, 1990.

Dr. Edwards has extensive and wide-ranging experience in government and medicine. He was a Senator in the South Carolina Senate from 1973 until his election to the governorship in 1975. He was the first Republican Governor to be elected in South Carolina in 100 years. In 1978, he chaired the Southern Governor's Conference. He was named U.S. Secretary of Energy by President Reagan in 1981.

Dr. Edwards, in addition to serving his State as a highly regarded legislator, is the president of the Medical University of South Carolina. He has served in this post since 1982, when he left the Department of Energy. He is a dentist, having received his professional training at the University of Louisville and the University of Pennsylvania. He has practiced oral and maxillofacial surgery in South Carolina for 17 years.

Dr. Edwards is the recipient of numerous awards, including 10 honorary degrees from institutions of higher learning. In 1989, he published an article entitled "No Tritium: How the U.S. Could Lose Its Nuclear Deterrent." It was published in 12 newspapers, including the Atlanta Constitution, the Chicago Tribune, and the Columbia, (SC) State.

In closing, Dr. Edwards' legislative experience on both the State and national levels, along with his administrative talents as the president of a medical school and his professional acumen as a practicing dentist, combine to give us a man well-suited to meet the challenges of participation on the Comsat Board of Directors. He is a man of great ability, proven dedication and unquestioned integrity. I urge the Senate to speedily confirm his nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

HOUSE CONCURRENT RESOLUTION 275—PROVIDING FOR PREPARATION OF A VOLUME ENTITLED "COLUMBUS IN THE CAPITOL"

Mr. RIEGLE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Concurrent Resolution 275, providing for the preparation of a volume on "Columbus in the Capitol" just received from House of Representatives.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 275) providing for preparation of a volume entitled "Columbus in the Capitol" and for other purposes.

The concurrent resolution (H. Con. Res. 275) was considered and agreed to.

The preamble was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 242 designating "National Crime Victims' Rights Week," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 242) designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. THURMOND. Mr. President, I am pleased the Senate is acting today on my joint resolution, Senate Joint Resolution 242, which designates the week of April 22-28, 1990, as "National Crime Victims' Rights Week."

It is a sad legacy that over the past few years, nearly 35 million Americans were victimized annually by criminal acts; 6 million individuals per year are raped, robbed, beaten, or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injuries and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings. It is disturbing that the likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident.

Further compounding the pain and anguish victims must endure has been an historical insensitivity to their plight. The criminal justice system has often times ignored the rights of victims before making crucial decisions regarding their cases or failed to notify them that a defendant had been released on bail. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

Seven years ago, the President's Task Force on Victims of Crime presented an agenda to correct these injustices and restore balance to the criminal justice system. At the Department of Justice, an Office for Victims of Crime was established within the Office of Justice Programs for the purpose of helping States implement the task force's recommendations. The Federal Government began awarding fines collected from convicted Federal offenders to the States to aid victims of crime. In addition, the National Victims Resource Center within the Office for Victims of Crime was established to provide information on victim assistance programs and laws. Largely as a result of these efforts, community programs for victims have grown in number and now every State has a designated agency responsible for victim services.

Much progress is being made to help the victims adjust, but much more needs to be done. Through the continued efforts of State and local governments and private organizations and concerned citizens, the trauma suffered by the innocent victims of crime will be eased.

Mr. President, I urge my colleagues to join with me and support passage of this joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 242

Whereas thirty-five million individuals in the United States are victimized by crime each year, with six million falling prey to violence;

Whereas the Department of Justice estimates that five out of six individuals will be the victim or intended victim of crime during their lifetimes;

Whereas many victims suffer severe psychological, physical, and emotional hardships as a result of victimizations;

Whereas the Nation must commit its collective energies to improving the criminal justice and social services response to victims;

Whereas injustice to crime victims must be redressed by implementing the recommendations proposed by the President's Task Force on Victims of Crime; and

Whereas as a Nation committed to justice and liberty for all, efforts must be continued to remove the inequities victims face and to protect and restore individual rights: Now, therefore, be it

Resolved, That April 22 through April 28, 1990, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING THE APPRECIATION OF CONGRESS FOR THE CONTRIBUTIONS OF THE FRIENDS OF THE NATIONAL ARBORETUM

Mr. RIEGLE. Mr. President, on behalf of Senator MITCHELL and Senator DOLE, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 117) expressing the appreciation of Congress for the contributions of the Friends of the National Arboretum in providing for the preservation and public display of 22 of the original columns of the United States Capitol Building.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 117) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 117

Whereas the Captiol Building of the United States symbolizes the enduring success of the American system of representative democracy;

Whereas on-going construction of this magnificent building, which began nearly two centuries ago and continued until recently, has mirrored the geographic expansion of the United States;

Whereas the original Corinthian sandstone columns that stood for more than 130 years on the East Front Portico of the Capitol Building were replaced during the extension of the East Front of the Capitol Building in the late 1950's;

Whereas 22 of those columns have been preserved and made available for public display at the National Arboretum in the Nation's Capital through the initiative and determined efforts of the Friends of the National Arboretum, a nonprofit, volunteer organization that supports the efforts of the National Aboretum; and

Whereas these historically significant columns will be dedicated at the National Arboretum on Flag Day, June 14, 1990: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress extends its deep appreciation to the Friends of the National Arboretum and those individuals whose financial contributions have helped ensure that 22 of the original sandstone Corinthian columns which were removed from the East Front Portico of the Capitol Building during the extension of the East Front of the Capitol Building in the late 1950's will be permanently preserved and publicly displayed at the National Arboretum.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE PRINTING OF A BROCHURE DESCRIBING THE HISTORY, DESIGN, AND FUNCTIONS OF THE U.S. CAPITOL AS THE SEAT OF THE LEGISLATIVE BRANCH OF GOVERNMENT

Mr. RIEGLE. Mr. President, on behalf of Senators MITCHELL and DOLE, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 118) to authorize the printing of a brochure describing the history, design, and functions of the United States Capitol as the seat of the legislative branch of the Government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 118) was agreed to, as follows:

S. CON. RES. 118

Resolved by the Senate (the House of Representatives concurring), That a brochure describing the history, design, and functions of the United States Capitol as the seat of the legislative branch of the Government shall be printed as a Senate document, with appropriate illustrations and diagrams. In addition to the usual number, 250,000 copies of the brochure shall be printed for the use of the Senate and the House of Representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. HUMPHREY. I move to lay that motin on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2235

Mr. HUMPHREY. Mr. President, on behalf of Senator BURNS, I ask unanimous consent that S. 2235 be star printed to reflect the following changes, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER DELAYING THE APPLICABILITY OF CERTAIN AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3968, the organ transplant amendments, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3968) to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question in on the third reading and passage of the bill.

The bill (H.R. 3968) was ordered to a third reading, was read the third time, and passed.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLEAN AIR ACT AMENDMENTS

Mr. RIEGLE. Mr. President, I ask unanimous consent amendment No. 1459 be modfied to reflect the change I now send to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 227, line 2, strike out "or" and insert after "(k)": ", or (l) of this section or under paragraph (a)(5), (a)(9), or (a)(11) or subsection (e) of section 212".

SCHEDULE

Mr. MITCHELL. As in legislative session, Mr. President, I note the presence of the distinguished Republican leader on the Senate floor and would like now to discuss with him for the benefit of Senators the schedule for the remainder of today and the remainder of the week.

First let me say for the information of Senators, there will be no further rollcall votes today.

Mr. President, it is my hope that on tomorrow the Senate can take up as many of the three pending matters which the distinguished Republican leader and I have previously discussed and which I have previously announced publicly. The first is the authorization bill on the President's request for aid to Panama and Nicaragua. That is, of course, an essential first step toward providing that aid.

We have been seeking approval of an agreement under which that authorization bill, reported out by the Foreign Relations Committee last week, could be taken up in a short time limit without amendments. We have been able to clear that on the Democratic side. I understand that the distinguished Republican leader is working to get that cleared on the Republican side and has not been able to do so finally yet. It is my hope that we will be able to do that tomorrow early if he is able to gain the appropriate clearance from his colleagues.

I would yield to the distinguished Republican leader. Perhaps he might comment on that.

Mr. DOLE. Just on the authorization?

Mr. MITCHELL. Yes, on the authorization.

Mr. DOLE. I believe we are making progress. I know we are making progress on the authorization for Panama and Nicaragua and other items. It is our hope that we can have an agreement to provide for no amendments. Perhaps, if that were the case, there probably would not be a great deal of debate and that could be disposed of rather quickly. I think it is down to one problem right now and we are working on that.

Mr. MITCHELL. I thank the distinguished Republican leader for his usual cooperation and courtesy.

I hope, Mr. President, to enable us to begin the process of moving forward on the President's request in this area, that we will be able to act on the authorization bill tomorrow.

In addition, as both the distinguished Republican leader and I previously discussed, it is our hope to proceed to and complete action on the vocational education bill tomorrow. I understand from staff on both sides that good progress is being made there and that there is now some hope that we can take it up and perhaps dispose of it in a relatively short period of time tomorrow. Even if we do not reach agreement, my hope is that we could take it up and simply proceed until such time as we complete action on it.

Mr. DOLE. On that particular matter, it is my understanding from talking to staff on our side that it is about to be or could become an unanimous-consent agreement. So they have made a lot of progress. Apparently they have agreed to take and modify some of the proposed amendments. In checking wtih everyone on our side who has an interest, I think they have all, in effect, signed off, so that could be disposed of rather quickly.

Mr. CHAFEE. Mr. President, I wonder if I might ask the distinguished leaders a question, and I see the distinguished chairman of the Foreign Relations Committee here. On the legislation dealing with the authorization for Panama and Nicaragua, which I believe is $500 million for Panama and $300 million for Nicaragua, is there also an authorization in there for Israel and a guarantee for construction of housing?

Mr. PELL. My recollection is that there is $400 million for a housing guarantee program.

Mr. CHAFEE. The only reason I am asking these questions, I heard the suggestion being made that nothing would be subject to amendment. My question is: Am I correct that AID policies would ensure that the housing guarantee money spent on the West Bank?

Mr. PELL. Yes. That is correct.

Mr. DOLE. If the Senator would yield on that point, I discussed this yesterday with Secretary Baker, and I think he would prefer not to have any assurances written into the legislation. They would prefer to have flexibility. Because if we write in some assurance on this, it tends to limit their options. I think that may be the reason there are no written restrictions or assurances in the legislation.

Mr. MITCHELL. May I add an additional point so that the Senator from Rhode Island could understand the nature of the request. It is twofold. First, the President is anxious that we move forward on his Panama-Nicaragua aid request. As recently as this afternoon, he invited Senator DOLE and I and others to meet with him on that subject and repeated his interest in prompt action.

The first step in that process is, of course, the authorization bill. It is my expectation that in the near future we will be taking up the appropriations bill that would provide appropriations for some of the measures authorized in this bill. Everyone anticipates that there are a significant number of amendments that Senators intend to offer on the various subjects contained in those bills and, as we all know from experience here, perhaps many others unrelated to the substance of the measure.

So as not to require the Senate to do the same thing twice in such a short period of time and and so as to accommodate the President to get this process moving, the distinguished Republican leader and I have agreed to and are trying to get an agreement that would enable us to do the authorization bill in a short period of time without amendment so that when the appropriations bill comes up, which everyone expects to be in the near future, there will be opportunity for people to offer such amendments as they want.

It is bad enough that we do things in a repetitious manner, but ordinarily we do not do them in a repetitious manner so close together. So it is not an effort to prevent anyone from offering amendments—that is obviously going to occur—but merely to minimize the time spent on the subject when we are doing the authorization and appropriations bills so close together.

Mr. CHAFEE. I do not want to delay this, but I am not quite clear of the schedule. We will do the authorization tomorrow, presumably, and let us say that would pass. Then when would the appropriation come? We are going off for recess for 8 or 10 days. Then we come back. Then would it be the distinguished majority leader's view that probably the appropriation would come relatively soon after that?

Mr. MITCHELL. That decision will be made by the Appropriations Committee, of course, as to when they act. When they do act, then we would be prepared to proceed.

Mr. CHAFEE. Mr. President, I know that it is the policy of the United States, as I understand it, to discourage settlements in the West Bank. It would seem very hard for us to be, in effect, subsidizing housing. I guess it is a guarantee, but knowing the way life

is, I would not be surprised if we do not end up paying the money, that we will be constructing that very housing in the area where we say housing should not be built, a settlement should not occur.

But the distinguished Republican leader has indicated that the Secretary of State, who certainly is going forward with our policy, indicates he does not want restrictive language in there, at least in the authorization.

Mr. MITCHELL. I believe there will be ample opportunity for the distinguished Senator from Rhode Island and others to consult with the Secretary of State and the President on their wishes with regard to this, long prior to the time we deal with the appropriation.

Mr. CHAFEE. Could I ask another question? The reason I am asking these questions is I understand once we get rolling tomorrow, as I just was hearing the discussion while watching the TV on this, that the leader is asking a unanimous consent there be no amendments.

Mr. MITCHELL. That is correct.

Mr. CHAFEE. This $400 million, is that a rolling guarantee that goes on? How does this work?

Mr. MITCHELL. I have to leave for just a moment. Why do I not permit the Senator from Rhode Island to engage in this colloquy with the chairman of the committee, because I think he is the proper person to discuss the substance of the authorization.

Mr. CHAFEE. But meanwhile, the Senator is seeking this unanimous consent.

Mr. MITCHELL. Not at this time. We are trying to get it for tomorrow.

Mr. DOLE. If the majority leader will yield, on the JPTA bill, we have just checked on our side, we do not think it will be possible to take that up before the recess. There are negotiations going on with Senator SIMON, Senator HATCH, and Senator KENNEDY, and we are advised by Senator HATCH's office they do not think they are going to be able to complete it by Thursday.

Mr. MITCHELL. I appreciate that. It had been my hope we could take it up. As I indicated to those interested in that legislation, if we do not take it up tomorrow, I do not know when we are going to get to it because we have a very crowded schedule when we return after Easter.

I thank my colleague, and I now leave the Senator to any discussion on the substance.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Rhode Island.

Mr. PELL. In answer to the question of my colleague, my understanding that the $400 million is an allowed rolling total and is not tied to any particular fiscal year.

Mr. CHAFEE. I appreciate the Senator's clarification. I have one further question. We have had a lot of experience with guarantees in this country and they frequently do fail, and the Federal Government ends up picking up the tab. I'm not saying this would happen in this case, but I wonder whether it could.

Mr. PELL. The Senator raises a valid point. I am sure neither of us would expect a default and trust that the investment is safe. However, the United States would be providing that guarantee. That is the basic point.

Mr. CHAFEE. I thank the Senator.

ORDERS FOR TOMORROW

RECESS UNTIL 10:30 A.M.; MORNING BUSINESS AND CONSIDERATION OF S. 1109

Mr. RIEGLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Thursday April 5; that following the time for the two leaders, there be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that at 12 noon, the Senate begin consideration of Calendar No. 414, S. 1109 the Vocational Education Act reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. RIEGLE. If the distinguished acting Republican leader has no further business, and I am told he does not, and if no Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 10:30 a.m., Thursday, April 5.

There being no objection, the Senate, at 7:44 p.m., recessed until Thursday, April 5, 1990, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 4, 1990:

COMMODITY FUTURES TRADING COMMISSION

WENDY LEE GRAMM, OF TEXAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1995 (REAPPOINTMENT).

WENDY LEE GRAMM, OF TEXAS, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION (REAPPOINTMENT).

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS AND APPOINTMENT TO THE GRADE OF ADMIRAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035:

To be vice chief of naval operations

VICE ADM. JEROME L. JOHNSON, U.S. NAVY, 435-44-5217.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. MICHEAL P. KALLERES, U.S. NAVY, 315-40-8627.

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

STEPHEN ALBERT BAEZ
ROBERT R. BEAN
HARRY JAMES BEECHAM, II
CHARLES LE BLANKENSHIP
HAROLD R. BOHMAN
DOUGLAS M. BOND
ROBERT L. BRAWLEY
CURTIS R. BRYAN
ARTIS R. CROSLIN
JOHN ROBERT CUSACK
FREDRIC DICKEY DANIELL
CAROL COMPTON DELINE
GUIDO ROBERT GHISELLI
KEITH W. HADEN
RICHARD BENFIELD HALL
STEVEN EDWARD HART
THOMAS ARTHUR HAWLEY
THOMAS W. JAMIESON
ILDY MARGARET KATONA
LONNIE T. KING
MICHAEL K. KLEIN
CARL ERV KLINGELBERGER
RIO RITA MASTRIL MAANO
MICHAEL D. MAHONEY
MONTE TIM MELLON
KATHLEEN ANNE OFARRELL
TERENCE CHARLES OGRADY
GREGG S. PARKER
FRANCIS C. RASH
GARY GLENN REAMS
ADAM M. ROBINSON, JR
WILLIAM SCOTT, JR
EUGENE DAVID SILVERMAN
MICHAEL JOSEPH SISE
GARY WAYNE SMITH
JOHN R. SWEENEY
JOEL E. TOBIASON
DENNIS ALAN VIDMAR
MICHAEL PAUL VINCENT
GEORGE BRINE I. WHITTEN
HUGH DIXON WOLCOTT

SUPPLY CORPS OFFICERS

To be captain

RICHARD NMN ANASTASI
RAYMOND AUBREY ARCHER, III
RICHARD MOORE BEATY
ROGER JOHN BLOOD
ROY H. BURGESS
DAVID G. CARNEY
MICHAEL WAYNE CASEY
DAVID MICHAEL COOK
EDWARD NORRIS CORMIER, JR
STEVEN JOSEPH DIFRANCO
FREDERICK BIGELOW EASTON
WARD KEITH FANTROY
DALE JOSEPH FELTES
WILLIAM LOUIS GIANFAGNA
LAWRENCE BRADY GIBBONS
DAVID MICHAEL GIBBS
DANIEL DOHERTY GILLESPIE
LARRY D. HARDER
WILLIAM BLAIR HASKETT, III
JACK MICHAEL HAWXHURST
DONALD A. HEMPSON, JR
KENNETH EARL HINSON
ROBERT J. HOWDYSHELL
JAY CARTER JOHNSON
DAVID PAUL KELLER
HARVEY LEE KENNEDY
DALE ROBERT LENGKEEK
COLONUS MITCHELL, JR
DANIEL PENDARVIS, III
ALAN JOHN PETTERSEN
BILLY RAY POINTER
RONALD PASSMORE REED
BRUCE BAILEY RICH
ROBERT WILLIAM ROGERS
EMMETT WILSON SMITH
JAMES EDWARD TARVER
JAMES ALASTAIR G. TURPIE
JOHN DEMETRIUS VELLIS, II
LYLE PATRICK WATKINSON
WILLIAM ARTHUR WENSLAFF
RICHARD STUART WHITE

CHAPLAIN CORPS OFFICERS

To be captain

JAMES LEWIS APPLE
THOMAS J. BENEDUM
CHARLES EDWARD BOURKE, JR
JOHN DAVID CRAYCRAFT
DONALD EDWARD DENDULK
FLOYD C. ELLISON
EDWARD ERNEST ERPELDING
JOHN LOUIS FITZGERALD
RICHARD HARRY FLICK
JOHN FRANCIS FRIEL
MICHAEL FRANCIS GALLAGHER
LEROY GILBERT
ERVIN LEONARD GOSS, JR
JOHN F. GUNDLACH, III
BENNY JACKSON HORNSBY
CARROLL ANDRE IZAC
JOHN EDMOND KEMPER
ALLAN ROBERT LATTY
CHARLES WELLINGTON MARVIN
JAMES FINBAR MENNIS
JAY DEAN PETERSON
ROBERT PAUL REIDY
JACK LARRY SHARPE
VICTOR HUNT SMITH
FRANKLIN R. TAYLOR
NORMAN O. WILLIAMS

CIVIL ENGINEER CORPS OFFICERS

To be captain

STEVEN RICHARD BEATTIE
FREDERICK ROGER CLEMENTS

JAMES EDWARD EALY, SR
MICHAEL RAY JOHNSON
ALAN WILLIAM KATZ
DAVID BRUCE SHEPARD
JAMES SUTHERLAND SPORE, III
HAROLD BRUCE STPETER
JOSEPH BROWN VENABLE
DAVID FRANK WALSH
JAMES RANDOLPH WILLIAMS

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

GUY ROBERT ABBATE, JR
DONALD J. GUTER
ALBERT ALLE J. REYNOLDS
STEPHEN ANTHONY ROSE
RICHARD GANT J. STEWART
JEFFRY ALAN WILLIAMS

DENTAL CORPS OFFICERS

To be captain

JOHN A. BERUDE
WINTHROP B. CARTER
RONALD D. ELVERS
JAMES D. JOHNSON
BRADFORD L. KEENEY
RAYMOND F. KUHEL, JR
PETER M. LATHAM
CHARLES F. MASSLER, JR
RICHARD CHARLES MILLER
WALTER M. MILNICHUK
EUGENE R. PANKEY
GEORGE QUINTERO
WALTON ANDREW RATHBUN
JOHNNY B. SANDIFER
JAMES WILLIAM SIMPSON
THOMAS F. STARCK
WILLIAM ANDERSO WALKER

MEDICAL SERVICE CORPS OFFICERS

To be captain

ROBERT WALLACE ADAMS
RICHARD LELAN ANDERSON
GERALD CLAYTON BAKER
MICHAEL ALBERT BLOME
GEORGE RUSSELL BROWN
JOHN JAY BRUNZA
WALLACE MARTI CLARKSON
LARRY MARCELLIS DEAN
DOUGLAS STANLEY DELONG
JOEL ESCAMILLA
FREDERIC DOUG GLOGOWER
JANET LORELEI HIGGINS
JOHN FELIX JEMIONEK
DAVID ALLEN MACYS
KENNETH ANTHONY MAKRIS
JAMES WALTER MALINOSKI
MICHAEL JOHN ROMAN
TOMMY LEE RUFFIN
LAWRENCE GEORGE SEIBLE
STEVEN LINCK SMITH
HERBERT ALLISON SPEIR
REGIS HARRY TUROCY
BILLY GENE UPTON
RONNIE EDWARD WHITEN

NURSE CORPS OFFICERS

To be captain

ALICIA GAIL DEPRIMA
WANDA DOYLE
MARILYN ANNE EDGAR
CAROL SUSAN HYATT
CARSON VERNE LABELLE
JANET MARIE MILLER
SUZANNE MARIE NO MOSER
TERI BENSON OLSON
CAREN JOELL PRATHER
PATRICIA TRUMP RIORDAN
MARGARET ELINOR ROWELL
LAWRENCE GALE SCHEVE

CONFIRMATIONS

Executive nominations confirmed by the Senate April 4, 1990:

DEPARTMENT OF THE TREASURY

TIMOTHY RYAN, OF VIRIGINA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF 5 YEARS.

DEPARTMENT OF JUSTICE

ROBERT W. SWEET, JR., OF VIRGINIA, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JO ANNE B. BARNHART, OF DELAWARE, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

COMMUNICATIONS SATELLITE CORPORATION

JAMES B. EDWARDS, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1990.

JAMES B. EDWARDS, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

THE FOLLOWING-NAMED PERSON TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY: WILLIAM D. PHILLIPS, OF MISSOURI.

THE FOLLOWING-NAMED PERSON TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY:

EUGENE WONG, OF CALIFORNIA.

FEDERAL MARITIME COMMISSION

DONALD ROBERT QUARTEL, JR., OF FLORIDA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 1994.

CORPORATION FOR PUBLIC BROADCASTING

HENRY J. CAUTHEN, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 1, 1994.

LLOYD KAISER, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 1, 1994.

DEPARTMENT OF COMMERCE

ROBERT MARSHALL WHITE, OF MINNESOTA, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY.

FEDERAL RESERVE SYSTEM

EDWARD W. KELLEY, JR., OF TEXAS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1990.

NATIONAL CREDIT UNION ADMINISTRATION

ROBERT H. SWAN, OF UTAH, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 1995.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ROBERT E. KRAMEK
RONALD M. POLANT
WILLIAM P. LEAHY, JR.
JOEL D. SIPES
RICHARD D. APPELBAUM

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

GREGORY A. PENINGTON
PAUL E. VERSAW
WILLIAM C. DONNELL
KENT H. WILLIAMS
JAMES M. LOY

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING JAMES A. YEAGER, AND ENDING JAMES L. YEATTS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 23, 1990.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING AUBREY W. BOGLE, AND ENDING DAVID P. DANGELO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1990.

EXTENSIONS OF REMARKS

BREAKING DOWN THE JAPANESE TRADE BARRIERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DINGELL. Mr. Speaker, I am taking this opportunity to call the attention of my colleagues to a recent editorial by Eliot Janeway entitled, "Chipping Away At Trade Barriers: U.S. and Japan Can Avoid a Trade War," which appeared in the January 26 edition of the Detroit Free Press. In the column, Mr. Janeway discusses the current state of our country's economic relationship with Japan, and addresses alternatives to confront the United States trade debt.

In light of the ongoing trade negotiations between the United States and Japan, Mr. Janeway's comments are insightful and extremely noteworthy. Mr. Janeway points out the urgent need for breaking down the trade barriers between the United States and Japan. He calls on the administration to negotiate from a position of strength, rather than one of weakness. I share Mr. Janeway's views. In order for the United States to come out a winner in negotiations, Washington must confront Tokyo with a comprehensive trade package that will provide the strength of improving our position in the international marketplace with the wisdom of reducing the trade tensions between our two great nations.

I also submit for the RECORD another editorial entitled, "Washington Sleeps While Japan Demonstrates that It Controls the U.S. Treasury, Economy," in which Mr. Janeway addresses Japan's hold on the United States market. Given the importance of this matter, I strongly urge that all Members of Congress take the time to review these columns.

The articles follow:

CHIPPING AWAY AT TRADE BARRIERS: UNITED STATES AND JAPAN CAN AVOID A TRADE WAR

"The Japan That Can Say No" is the title of a best-seller recently published in Tokyo. The brass-knuckled founding father and chairman of Sony Corp., the giant electronics manufacturer, teamed up with a chauvinistic member of the Diet, Japan's parliament, to coauthor it; Akio Morita, a geriatric (92-year-old) Japanese version of Donald Trump, and Shintaro Ishihara lead the chorus attracting audiences to its renditions of "Remember Pearl Harbor."

Suspicions that Japan may be riding for a fall have been kindled by the strategy behind "The Japan That Can Say No." It bars U.S publishers from bidding for American rights to the book. Its coauthors want American opinion demoralized by a second Pearl Harbor that would paralyze the U.S. economy. Their goal is to press the Japanese government to declare the economic war their book outlines against the United States.

Japan's destruction of the U.S. computer chip industry, vital to all industrial operations today, has armed the Japanese with their bombshell: the exploitation of a future Soviet-U.S. military confrontation by withholding chips from the United States and providing them to the Red Army. No one in Washington has yet asked Morita how many Sonys he sells for ready cash in the Soviet Union.

To the echo of this bellicose bluster from Tokyo came a terse announcement, unadorned by any fringe opinionating, that Japan is now producing automobiles at the rate of 8 million a year. Meanwhile, U.S. car sales slumped last year. If fourth-quarter 1989 sales figures are annualized, domestic manufacturers can expect to sell only 5.3 million cars this year.

The Japanese auto manufacturers' entry into the luxury brackets of the U.S. market reveals their new dependence on U.S. affluence. This pitch to freewheeling U.S. spenders may prove as badly timed as the bet that the American auto industry made on the small car after the price of oil came down after the OPEC oil embargo ended and U.S. car buyers raised their sights on their model preferences U.S. consumers seem to be more austerity minded today, and a large Japanese car will not fit into their budgets.

The world's other markets combined cannot begin to absorb this much Japanese capacity, nor can Japan's domestic market—certainly not for big cars. Japanese auto manufacturers have been right in advertising exports as the basis of their extraordinary expansion. Europe is the alternative continental market, but Europe's auto plants are over capacity, and more mergers are in the air. While the advent of the European Common Market in 1992 will mandate free trade among EEC countries, it will present a more protectionist front to the outside world than Japan currently does, and Japan already has learned this lesson the hard way. Tokyo has been pressing to expand trade within Europe to no avail.

Japan's need to sell cars—especially bigger cars—to the United States puts one cold-turkey proposition to Tokyo and a related one to Washington: Enjoy a boom with Japan or say no to Japan. The United States would be better off doing the latter, and really well off doing the former.

The troubled verdict of the New York and Tokyo markets shows that that alternative is easier said than done. The market malaise in both centers suggests that a head-to-head confrontation is more likely; sooner rather than later.

Plain talk to avoid complicated tangles is overdue. It's time to talk about fundamentals.

Japan's big shots have not bothered to grasp the workings of the American scheme of things. Admittedly, the American system is not only complicated but elusive. But as all Americans are brought up to know, this quirk reflects the strength of the system. It was designed and remains committed to dividing centers of power, not to concentrating them. To mentalities disciplined by the authoritarian Japanese system, the American substitute for an efficient chain of command is irresponsible and inexcusable. Yet it works.

Meanwhile, the relatively trivial issue of fees paid to U.S. political operatives is a misunderstanding that is festering into a grievance. The Japanese labor under the quaint misimpression that the Washington counterparts of Tokyo's power centers make the decisions in this country—and make them stick. They also expect their money's worth. In Washington, they have hired every eligible fee receiver (or available spouse).

Japanese management also labors under the impression that Reagan administration has been will operate like born-again live wires to influence the Bush administration and especially Congress! Their frustrations with Washington invite their conclusion that paying off a lobbyist to be Mr. Nice Guy doesn't pay in the U.S. capital as it does elsewhere, and that the time has come to teach U.S. officialdom a lesson. The Japanese believe that they have not only won a mandate but ensured it with their hirings of lobbyists to write their own trade tickets without submitting to negotiations over quotas.

This bad blood means not that civic virtue reigns in Washington, only that the Japanese have not figured out how the system works.

A more complacent form of Japanese logic may prove more provocative than rhetoric recalling Pearl Harbor. Japanese thinking assumes that American business and labor have accepted a challenge to fair competition on a level playing field, and have lost. Therefore, it concludes, the United States is obligated to concede defeat with good grace, and to adjust to a subordinate role.

America's answers can be terse and tough: The fight was fixed; the Japanese government did the dirty work for Japanese business; the American government provided the cover-up. Talk about Pearl Harbor can boomerang. Pearl Harbor angered the United States into fighting back, but the first U.S. counterattack was not to mobilize troops to shoot weapons. It activated plants to produce them. Auto plants in Detroit led the charge. A free union the (UAW) inspired the strategy, not by singing company songs in plant yards before dawn, but by persuading President Franklin D. Roosevelt to convert the auto plants to war production. The United States won the war of production before it started to fight a war for victory.

The U.S. victory devastated Japan. Nevertheless, the United States made an extra effort to understand Japan's special institutions and defer to them. Hence the unpopular decision to permit Japan to console itself in defeat by keeping the emperor.

On a fair playing field, with each government backing up its own economy, the broad terms of a cease-fire come into focus. The U.S. auto industry is a bedrock American institution, and the country will not permit any occupant of the Oval Office to preside over its liquidation in the wake of so many American industries that have either become extinct or branches of foreign groups. The simple device of limiting car imports in general—and Japanese car imports

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in particular—to a marginal percentage of total U.S. car sales will give the Japanese establishment an incentive to maximize its economic activity on which U.S. auto sales swing. U.S. car sales can suffer when the economy holds. But if the economy rises, U.S. car sales will follow.

The United States needs to rebuild its computer chip industry. In return for granting Japanese chips a negotiated quota in the U.S. chip market, Washington should hold out for a capital contribution to an effort to revive the U.S. chip industry. Such an investment would reassure corporate America that the United States is finally beginning to compete for its own market, and help corporate investors overcome their failure of nerve that led them to veto a purely American effort just attempted by a California consortium.

The United States can afford to respect Japan's right to remain protectionist, provided Japan pays cash for the privilege. Why not invite Japan to help finance the U.S. deficit Japan also could pick up part of the $500-billion tab for the S&L debacle. True, Japanese money is already the biggest market buyer of U.S. Treasury paper, but the trick is to avoid a conventional loan-for-interest deal.

Instead Washington should invite Tokyo to buy zero-coupon bonds (jumbo savings bonds, tailor-made for big shots), familiar to Japanese investors. In the 1960s, Japan bought unmarketable U.S. Treasuries and will do so again if it buys continued access to U.S. markets. Japanese ownership of Treasury "non-marketables" would free the government, markets and the economy from the nightmare that a Japanese decision to dump Treasuries might break the bond market and drive U.S. interest rates sky-high during a business downturn.

Eliminating interest payments now bleeding the Treasury would have the same effect as balancing the budget. The lift to the U.S. economy, beginning with a drop in U.S. interest rates, would leave room for good neighbors to live happily and breathe freely again, no longer troubled by ghosts of Pearl Harbor.

WASHINGTON SLEEPS WHILE JAPAN DEMONSTRATES THAT IT CONTROLS THE U.S. TREASURY, ECONOMY

Japan has mounted a shrewd and tough counterattack against the Bush administration's drive to open the Japanese market to U.S. products. Tokyo's playmakers are putting a pincer play on this country's Achilles' heel: its debt.

U.S. debt—by no means only governmental—has reflected the growth of America's market-place vulnerability, and therefore, of her susceptibility to political pressure from creditors. U.S. debt inflation also has facilitated the consolidation of Japanese financial power. Japan has emerged as the United States' lead banker.

But congratulations to Japanese manufacturers on their U.S. marketing success with autos, TV sets and the rest are misconceived. Japan's trade surplus with the U.S. corresponds roughly with borrowing by our banks from Japanese banks. Japan has bought its ability to sell here through its own power to lend.

Japan's counterattack is thus an exercise in jujitsu—and public relations. It's warning from our No. 1 banker to stop pressing for a better balance in trade if the U.S. government wants to continue borrowing to cover our deficit.

Washington trusts free markets as firmly and naively as it does free trade, and Tokyo has nurtured this illusion. Result: Market forces politically orchestrated in Tokyo are squeezing the U.S. Treasury in New York.

Long-term money (10-year bonds) had for years gone begging in Japan at 2½ percent, while America's need to borrow produced rates of 8½ percent and higher. The Japanese financial institutions cashed in on the rich spread, borrowing cheap money in their home market in order to relend it back to the U.S. Treasury at better than a 300 percent mark-up.

The game was good so long as the price was right, but suddenly the Tokyo rate for long-term money has jumped to 7 percent. No market forces could naturally engineer such a breath-taking switch. Only a central command could have made and transmitted this decision. Only a disciplined corps of market operatives could execute it in unison.

Because of the hike in Tokyo's interest rate, the U.S. Treasury can no longer count on the Japanese to finance the U.S. deficit as a matter of good business; and more ominous still, the United States is now on notice from the market that its treasury is in pawn to Tokyo's decision makers.

The decision to triple rates runs counter to the prevailing forces at work in Japanese credit markets. For months, Japan's export-dependent economy has recorded a downtrend, measured by its trade surplus which swings on its surplus with the United States. Normal credit policy, therefore, called for official encouragement to lower interest rates—especially in transactions that affect Japan's ability to continue lending to the United States.

The timing of the Tokyo pincer-play also was revealing. It coincided with uncertainty over the outcome of the large U.S. Treasury refunding operation, where bondholders are asked to re-subscribe, scheduled for early February. That prompted paranoid U.S. market speculation over whether Tokyo's calculated jump in long-term rates was a prelude to Japanese rejection of the Treasury offer to re-subscribe.

The New York market got the message, as interest rates went up and the bond market fell, although Washington policymakers do not seem to have focused on it, yet. The movers and shakers in West Germany are distracted by pressures closer to home, but they got the message, too. It came just when fears of inflation, kindled by immigration from East Germany pushed their long-term rates up. Consequently they moved to the sidelines, waiting to see how fast and how high U.S. long-term interest rates would be notched up.

But Japanese participants in the Treasury auction did not follow up on the threat that they might not purchase bonds. Instead, they dramatized it by cutting their bids from the customary 30 percent of the total to 20 percent—a slice of one-third. Hence the unsettling, unfamiliar spectacle of long-term interest rates hardening while the U.S. economy softens. The parallel with slow water torture is unmistakable.

Tokyo's governmental directive to Japanese financial institutions is similar, as it calls for continuing to subscribe to U.S. Treasury bonds, but at a reduced pace. Although the narrowed spread between paying the 7 percent in Tokyo and collecting 8½ percent in New York hardly pays, it certainly isn't worth taking when weighed against the danger that the weakened U.S. economy might drag the dollar down with it. A double-digit drop in the dollar would more than wipe out this meager interest rate spread.

In a Jan. 28 column in the Free Press, I advocated a new Washington approach to Tokyo, one that would assure Japanese manufacturers of continued access to the U.S. marketplace, but would require Japanese financial institutions to invest on a reciprocal basis. I suggested offering them fair market consideration in the form of zero-coupon (jumbo savings) bonds (which Japanese investors own in abundance) for waiving U.S. interest payments. The thrust of my suggestion called for the United States to offer Japan a balance of payments formula for a balance of trade deal.

In the meantime, while Washington slept, Tokyo has stolen yet another march, imposing a payments ultimatum on the United States as Japan's condition for avoiding comprehensive trade negotiations.

IN MEMORY OF JOE SEWELL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. HARRIS. Mr. Speaker, on March 6, baseball lost a legend; my alma mater, the University of Alabama, lost a great alumnus; and I lost a personal friend, Mr. Joe Sewell.

Those who follow baseball know that he was a member of the Hall of Fame. They know that in his 14 years with the major leagues he set records which still stand: Fewest strikeouts in a season, three—twice; most consecutive games without a strikeout, 115; most consecutive at bats without a strikeout, 437. They know he played on two world championship teams, the 1920 Cleveland Indians and the 1932 New York Yankees. A friend of Lou Gehrig and Babe Ruth, he became a manager and scout for the Cleveland organization for many years following his retirement as a player.

At the University of Alabama, Joe Sewell was, at the time of his death, the oldest letterman, for football though, rather than baseball. Baseball was always his first love and at the university he was the star of teams which won four straight Southern Intercollegiate Athletic Association championships. Of football he said, "My last day of football was the best day of my life."

Joe Sewell later coached Alabama's collegiate baseball teams, and at age 70 he led Alabama to the 1968 Southeastern Conference Championship. His influence on young athletes will continue for years as they draw upon lessons he instilled and the inspiration which he passed along as he recounted his association with baseball's other legends.

Mr. Speaker, Joe Sewell was a modest man, despite his many outstanding accomplishments. In both those accomplishments and in his modesty he set an example which all of us would do well to follow. Speaking for myself, my alma mater, and, I am sure, speaking for all who love baseball, we are grateful to have known Joe Sewell, and mourn his passing.

HONORING JEFFREY WALDHOFF

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BRUCE. Mr. Speaker, I rise today to honor Mr. Jeffrey Waldhoff, a high school student from Shumway, IL, who recently won the National Good Citizen Award from the Daughters of the American Revolution. For a 17-year-old student at Beecher City High School, national recognition is truly exceptional and I am delighted to commend his distinguished achievement.

The contest included students from 9,124 high schools from across the country who were nominated according to scholastic honors, leadership, citizenship, community service, and patriotism. The nominees competed by composing an essay on the topic, "Our American Heritage and My Responsibility To Preserve It," within 2 hours.

Jeff took the opportunity to describe several national treasures, such as the freedoms of expression and thought, scientific and technological innovations, and our democratic form of government and Bill of Rights, which distinguish the United States from other countries. In his essay, Jeff discussed the importance of these national characteristics and the danger of losing them.

I am proud to see that Jeff's many accomplishments have been recognized. Not only is he valedictorian of his class and the winner of a total of six varsity letters in baseball and basketball, but his long list of extracurricular activities reflects his varied interests and contributions to his community.

As a member of the Scholastic Bowl team, Jeff has won first place on the all-conference honor team for the past 3 years. He also demonstrates civic responsibility by serving as senior class student council representative and council president.

Additionally, he currently presides as president of the National Honor Society chapter, Vice President of Effingham County Snowball chapter and treasurer of the Math and Science Club. His club memberships include the Spanish Club, the Drama Club, the Varsity Club, and a teenage drug and alcohol abuse prevention group.

On April 18, 1990, Jeffrey Waldhoff will receive the national award at the Daughters of the American Revolution's national convention here in Washington, DC. I look forward to seeing him then and personally congratulating him upon his outstanding achievement.

Today, I would like to thank him for his valuable contributions to the 19th Congressional District of Illinois. I am certain that this award is an indicator of many future accomplishments as he continues his education on a 4-year tuition scholarship at Eastern Illinois University in Charleston, IL.

INTRODUCTION OF A BILL COMMISSIONING A SET OF ENGRAVINGS IN CELEBRATION OF THE 500TH ANNIVERSARY OF THE DISCOVERY OF AMERICA BY CHRISTOPHER COLUMBUS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mrs. ROUKEMA. Mr. Speaker, it gives me great pleasure to introduce this bill today which authorizes the preparation of a series of engravings to commemorate the 500th anniversary of the discovery of America by Christopher Columbus.

This legislation, however, is much more than a commemorative. The series of engravings which will be created according to this bill will be based on a series of engravings commissioned by Congress for the 400th anniversary of America. As part of the festivities surrounding that event, Congress in 1892 commissioned the artist M.S. Tobin to create a series of engravings from which prints were made and displayed during the Columbian exposition of that same year. This legislation, then, has a great deal of historic significance and will serve as a link to the celebrations which took place 100 years ago.

I wish to thank my colleague, the distinguished gentleman from Illinois [Mr. ANNUNZIO] for his support and assistance in introducing this bill and all the members of the Italian-American Foundation who joined me as original cosponsors and for their work in organizing and promoting the festivities for the National Christopher Columbus 1992 Celebration. This celebration will not only commemorate the achievements of Christopher Columbus, but will celebrate the many contributions that Italian-Americans have made to our culture over the centuries since Columbus discovered America.

I also want to thank Mr. Sebastian Gaetta, a constituent of mine from Wyckoff, NJ, for bringing to my attention the works of M.S. Tobin and others that were commissioned by Congress as a part of the Columbian Exposition of 1892.

This bill to create a series of engravings depicting the discovery of America, along with several other pieces of legislation pertaining to the 500th anniversary of the discovery of America by Christopher Columbus, will surely make for a richer and more rewarding celebration in 1992.

Because of the historic and artistic significance of the works commissioned by Congress 100 years ago, I urge my colleagues to support this legislation to create a new set of engravings building upon those works as a fitting way to celebrate the discovery of America 500 years ago.

TRIBUTE TO JUNE BINGHAM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WEISS. Mr. Speaker, I would like to share with my colleagues the following article from the New York Times describing the Trained Liaison Comforter Program at the Columbia-Presbyterian Medical Center. June Bingham, the wife of our late colleague, Representative Jonathan Bingham, recently created the T.L.C. program there to aid and comfort the friends and family of critically ill patients.

Inspired by her experience during the death of her husband in the intensive care unit in 1986, June Bingham established a corps of volunteers known as T.L.C's to make potentially frightening and confusing visits to the hospital much less traumatic. T.L.C. volunteers explain medical procedures, run errands, and generally provide greatly needed emotional support—tender loving care—to patients' loved ones during difficult times.

June is now married to Robert Birge, who was a classmate of Jack Bingham at Yale. Mr. Birge was also the first T.L.C. volunteer to report for duty.

I strongly recommend to my colleagues the following article on the T.L.C. program, which serves as a fitting living memorial to our dear friend Jack Bingham.

[From the New York Times, Feb. 5, 1990]

FOR FAMILIES OF THE CRITICALLY ILL, A DOSE OF T.L.C.

(By Kathleen Teltsch)

When her husband, former Representative Jonathan Bingham, lay dying in an intensive care unit at the Columbia-Presbyterian Medical Center nearly four years ago, June Bingham, was at his bedside every day and observed that many other gravely ill patients were all alone—forsaken by loved ones who found the visits frightening and confusing.

Acting on her concern, Mrs. Bingham has established a corps of volunteers at the medical center to explain medical procedures, run errands, provide a sympathetic ear and otherwise comfort the families and friends of the critically ill. Their mission, she said, "is to diffuse the anxiety."

The volunteers, known as the Trained Liaison Comforters or T.L.C's, will begin operating at the medical center today, providing what most people think of when they hear the group's initials, tender loving care. "Hand-holding has a noble tradition in medicine," said Dr. Philip B. Muskin, a psychiatrist who is co-director of the program.

"Volunteers can do such seemingly small but highly meaningful things as handing a family visitor a cup of coffee or reminding them to eat," Dr. Muskin said. "For families, for example facing the death of a parent, there has to be someone who will say to the couple already experiencing grief: 'It's all right for you to leave and to take some time together and not feel guilty. We will call you.' "

INFORMATION AND SUPPORT

While many hospitals offer services for patients' families, the T.L.C. project has brought together a social worker, an educa-

tional program and trained volunteers to provide information and emotional support.

"I don't know of any similar program that provides this kind of service," said Susan Watson, the executive director of the Foundation for Critical Care, an organization based in Washington that promotes quality health care.

The volunteers, who will be on duty in four-hour shifts during daily visiting hours, are not intended as substitutes for physicians, nurses, psychiatrists or social workers. But while the professional staff focuses on the patients' needs, the volunteers will concentrate on helping the patients' family members and friends.

A trained counselor will be available to help family members deal with financial hardship and other problems that can arise when the patient is the family's primary breadwinner.

To ease the shock of seeing patients tethered by tubes to monitoring devices and life-support equipment, the volunteers will offer a videotaped educational program that was produced with financing from the United Hospital Fund, a philanthropic organization that supports health-care institutions in New York City.

Mrs. Bingham is a medical writer, playwright and the author of a biography of U Thant, the former Secretary General of the United Nations. In developing the T.L.C. concept, she has drawn upon her own experiences in intensive care units as a patient and in caring for her husband, Congressman Bingham, who was also a former United States Ambassador to the United Nations. He died of pulmonary complications in July 1986.

"Visitors come into the intensive care unit and it is a rude shock when, instead of the patient's face, they see only blue tubes or they hear the rasping sound of a respirator," she said.

Mrs. Bingham has written a brochure that will be given to visitors to the intensive care unit. Called "You and the I.C.U.," it offers insights and advice like: "The hardest thing is the emotional roller coaster, with one day full of hope and the next, despair. It's important to share your feelings with family or friends—or with the T.L.C. volunteers who have been trained to be there for you."

The project will begin with eight volunteers, but the hospital hopes to recruit more—especially those who speak Spanish. Forty percent of the medical center's patients come from the largely Hispanic neighborhoods of upper Manhattan.

"If it flies—and I'm sure it will—we will try to see it adopted by hospitals around the country," Ms. Watson of the Foundation for Critical Care said.

ST. RITA'S CHURCH OF ALEXANDRIA, VA, CELEBRATES 75TH ANNIVERSARY

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. PARRIS. Mr. Speaker, it is with great pleasure that I insert in the RECORD today a letter from Joseph E. O'Leary celebrating the 75th anniversary of St. Rita's church located at 3815 Russell Road in Alexandria, VA.

This church has been known perhaps for its architectural beauty, but it is better known for its close knit family of parishioners and the generous contributions it has made to the Alexandria community.

Seventy-five years ago, St. Rita's held its first mass in a cobblers shop. On April 29, at 4 p.m., after years of service and witness to others, St. Rita's is celebrating its anniversary by dedicating the Diamond Jubilee Memorial Pipe Organ. This magnificent instrument was acquired through the dedicated efforts of The Diamond Jubilee Committee of St. Rita's Parish. The dedication service is open to all.

Mr. Speaker, I ask that the letter from Colonel O'Leary, which describes the efforts of St. Rita's be included at this point in the RECORD.

ST. RITA'S CHURCH,
Alexandria, VA, April 3, 1990.

Hon. STAN PARRIS,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN PARRIS: St. Rita's Catholic Church of Alexandria, Virginia, has just celebrated the 75th anniversary of the laying of the cornerstone for its original building and to recognize this milestone, will dedicate the Diamond Jubilee memorial Pipe Organ on Sunday April 29, 1990 at 4:00 PM.

Since the first mass was celebrated in a cobblers shop in Alexandria so long ago, much has been accomplished. Memories have been made. Our children have been baptized here, attended school here, married here, moved away and even returned. In the spirit of the Risen Lord, along with traditional values we have always known, we are today, witnessing a renaissance of inspiration and even more meaningful liturgies.

The parishioners reflected on the sacrifices made by those who made possible the magnificent Gothic designed building which we all enjoy. We felt privileged to enjoy the fruits of their effort and we accepted the responsibility to those who had advanced this effort to see that it was completed as planned. This challenge manifested itself in the installation of a pipe organ and the establishment of a maintenance fund to ensure that this monument will endure.

To accomplish these tasks a Diamond Jubilee Committee was formed. We established a goal and defined specific tasks. Included was a program for Individual and Corporate Solicitation; an Arts and Antique Auction; a fun filled Fiesta; an Automobile raffle; a grant search; and a select group to meet and visit pipe organ manufacturers throughout the land to insure we were getting the right instrument at the best price. There was something for everyone to do and with everyone's help the goal has been reached.

So now its done. To that we say Amen. Many people worked very hard and gave generously of their time and treasure. They all deserve our thanks. God knows of their efforts to enhance his house and each in a special way will be rewarded. We all take great comfort in this knowledge because that's really what its all about.

Everyone is invited to celebrate with us, and we hope that you can attend.

Sincerely,

JOSEPH E. O'LEARY,
Chairman, Diamond Jubilee Committee.

THE POLITICS OF THE PEACE DIVIDEND

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DORNAN of California. Mr. Speaker, the Congress continues to discuss the tremendous changes that are taking place in the Soviet Union and Eastern Europe and speculates on their implications for the shape of U.S. national security programs. One implication of the reform movement in the Soviet Union is the effect glasnost is having on the defense debate in the United States.

Many Members of Congress, supported by the dominant media culture, have declared a peace dividend. This peace dividend is the result of the proposed major cuts in the U.S. defense budget. Many of these cuts are directly related solely to Soviet pronouncements of its intent to scale down its conventional forces. Indeed, while many of Gorbachev's declaratory policies are quite promising and have led to significant cutbacks in some areas of conventional weapons and manpower, the United States has seen little or no slowing in Soviet strategic programs.

Further, the movement toward democratic freedom in the Soviet Union and several of its constituencies is not necessarily irreversible. Rather than declare the cold war over and rush to spend a questionable peace dividend, the United States should maintain its strong national security posture and wait to see how the current Soviet domestic crisis and related independent movements in the Baltic and Eastern Europe are resolved.

In any case, Mr. Speaker, the Congress should not strip our defense budget to fund a welfare program for the Soviet Union as some Members have suggested. If, after the political situation on the Euro-Asian landmass stabilizes somewhat, and the President determines that we can responsibly make deep reductions in our military strength, the so-called peace dividend would be best spent on reducing the deficit—not increasing our foreign aid. In the meantime, the prudent course to follow would be not to strip our defenses, but to defend the American people more effectively. And, the most effective way is investment in strategic defense.

Mr. Speaker, I would like to share with you a column written by my good friend, Pat Buchanan in which he further elaborates on the folly of a peace dividend for the Soviets.

GEPHARDT'S FOLLY: PAY GORBACHEV THE PEACE DIVIDEND

(By Patrick J. Buchanan)

House Majority Leader Dick Gephardt has come up with the most novel idea yet of what Americans should do with any peace dividend from the Cold War. Give it to the Bolsheviks, says he.

"Rather than pour more and more money into weapons systems, we should be investing in our own self-interest," says Gephardt. His idea of US "self-interest"? Start transferring US high-tech to Moscow, use tax dollars to back corporate investments in the Soviet Union, start shipping our Russian friends free grain.

"How can the Soviets pull Red Army troops out of Eastern Europe," asks Gephardt, "if they have no jobs and no homes . . . to return to in Russia?" What, exactly, does that mean? Is HUD now going to build low-cost housing for the Red Army?

Do these congressmen think the wealth of this country is inexhaustible? Some $300 billion in bank loans to Brazil, Argentina and Mexico failed to generate sustained growth. How much would it cost to get the huge and moribund Soviet economy up and running? Even Democrat Sen. Bill Bradley warns Gephardt he may have stumbled into a world-class foreign-aid rathole.

But Gephardt is not alone. Zbigniew Brzezinski, Jimmy Carter's national security adviser, wants the United States to put together a new $25 billion aid package for Central Europe; and the World Bank's Barber Conable, after turning on the foreign aid spigot again for China's Deng Xiaoping is already pushing $5 billion into Eastern Europe.

Too many politicians and journalists seem to think this is 1950 all over again, when we commanded 50 percent of global GNP. But, today, we have powerful challengers for economic primacy; and we cannot afford the kind of nonsense we are hearing on Capitol Hill.

If Gorbachev needs investment capital, he has two fat pots of money to draw on. One is the $5 billion annual subsidy he sends Fidel Castro for use of Cuba as a strategic base camp; the other is the Soviet war machine, which consumes perhaps 20 percent of Soviet GNP.

Instead of telling President Bush to stop "pouring money into weapons systems," Gephardt ought to take a trip to Moscow and tell Gorbachev to use his imagination, and stop pouring his money into weapons systems. After all, the US defense budget, not the Soviet, has fallen every one of the last five years.

There is a lot of ruin in an empire, someone once wrote. While the immense Soviet empire is distintegrating, it is by no means dead.

The Red Army remains intact: the KGB and its East European auxiliaries are all functioning: modernization of the Soviet rocket forces proceeds. Since Moscow's withdrawal, record quantities of Russian arms have poured back into Afghanistan Soviet officers led the attack on Jonas Savimbis UNITA forces in Angola; and Moscow's defense minister sent the MIG-29s to Cuba. If Gorbachev has cash on hand for these investments, let him finance perestroika himself.

From Sweden to Tanzania, From Brazil to Poland, the truth lies before us: Whether Marxist or democratic socialism does not work; no amount of aid can make it work. The vast infusions of Western capital into the communist and Third Worlds—perhaps $2 trillion in 40 years—has but delayed the day of reckoning, deepened the inevitable collapse.

America can't save socialism; and we ought not to try. As with alcoholism there are only two cures, death or cold turkey. In our own national interest, in the interest of mankind, we should let socialism die a natural death, before the new century begins.

As for the Soviet Union, America's first purpose, Gephardt's hopes notwithstanding, is not to see perestroika succeed, it is to see communism fail, and fail utterly; to see that revolting and repressive system overthrown, the KGB abolished, the Red Army dissolved, the missiles scrapped, the Church restored, the people freed.

In World War II, the American Army could have liberated Prague, Vienna, and Berlin. We stopped short. Let's not stop short of victory in the Cold War; and let's not settle for anything less.

A TRIBUTE TO DR. EMORY ROSWELL OWENS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LAUGHLIN. Mr. Speaker, I rise today to pay tribute to Dr. Emory Roswell Owens. Dr. Owens retired in 1989, after 50 years in the medical profession serving the people of Waller County, Prairie View A&M University, and the people of the Prairie View community. Dr. Owens has shown his dedication to the people of the Prairie View community by being a selfless servant to the people of this area. To the people of the Waller County area Dr. Owens is a much esteemed community leader. To myself and others he is an example of an individual who has risen from a humble background and has made tremendous strides and accomplishments for his community.

Mr. Speaker, I want to share with you some of the accomplishments of Dr. Owens. He was born and raised in Smithville, TX, and after graduating from Fisk University he enrolled in the physician and surgeon college in Boston, MA, from which he received his medical degree. He came to Prairie View in 1941, and has been practicing there ever since. During this time he was instrumental in establishing excellent student health services for the students of Prairie View A&M University, in addition to contributing greatly to the university.

He also accomplished a number of firsts in his career. Among these are his being appointed health officer for Waller County and becoming the first black named president of the Tri-County Medical Society, another interracial miracle for the period in the sixties. In addition he was appointed by Texas Governor Dolph Brisco to the hospital licensing advisory council in the Texas Navy. In 1988 he was inducted into the Prairie View A&M University sports hall of fame. He is a member of the African Methodist Church and the Alpha Phi Alpha Fraternity in addition to other numerous civic and fraternal organizations. Dr. Owens and his wife Julia are the proud parents of two lovely daughters, Carolyn Marie Westbrook and Rosalyn Eugena Mason. Clearly, Dr. Owens is an example of excellence in his community, and a model for future doctors. He has always exercised the necessary patience, exactness, understanding, and patient surveillance as a dedicated physician. I am proud to bring Dr. Owens' accomplishments to the attention of my colleagues today.

SAFETY BELTS CAN SAVE LIVES AND MONEY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DINGELL. Mr. Speaker, I rise today to make my colleagues aware of a recent announcement by the American Coalition for Traffic Safety [ACTS] that reports on an important development on our Nation's highway system: The last half of the 1980's was the safest period on America's roads since the early 1960's. Further—and perhaps more important—the mileage death rate, the key barometer of safety progress, reached an all-time low of 2.2 fatalities per 100 million miles of vehicle travel in 1989, according to the National Highway Traffic Safety Administration [NHTSA].

There are many reasons for this progress, but an important factor has to be the dramatic increase in safety belt use which was achieved in the mid to late 1980's through the enactment of State safety belt use laws and other activities to promote safety belt use.

In fact, NHTSA reports that from 1983 to 1988, an estimated 15,500 lives were saved by safety belts, with 10,500 of these due to belt use laws.

This is true progress, but more can and must be done to bring about greater use of safety belts so that highway fatalities can continue to be controlled. In this regard, I am pleased to see that a major campaign has been announced in my State of Michigan to encourage the business community to implement safety belt use programs for employees.

The business community has an important but sometimes unrecognized vested interest in increasing safety belt use. The Michigan Coalition for Safety Belt Use points out that automobile crashes are the leading cause of worker absenteeism and the No. 1 cause of on-the-job fatalities, and they also cost employers nationwide $1.9 billion per year.

To generate more support for belt use promotion in the business community in Michigan, the coalition is sponsoring workshops throughout the State in May and June. Gov. James Blanchard is the honorary chairman of this project. Secretary of State Richard Austin, a long-time safety belt use advocate, is the chairman. Keynote speakers at the workshops include labor and business leaders.

Mr. Speaker, I am most hopeful that this Michigan project will produce results in terms of increasing safety belt use and reducing traffic fatalities and injuries. The ACTS announcement shows the gains that have been made, but we need to do more, and the Michigan project is an example of the kind of work that can be done. I attach the following statistics for the benefit of my colleagues:

[Compiled by the Michigan Coalition for Safety Belt Use]

1. Traffic crashes rank as the number one killer of Americans ages 1-44.

2. The probability of being involved in a motor vehicle injury crash during a 75-year lifetime is higher than 86 percent.

3. For every dollar invested to encourage people to buckle up, there is a projected

return of $105.07 in economic savings. This return is more than can be gained by any other health-risk-factor intervention, such as encouraging people not to smoke.

4. Currently, 45.6 percent of front seat occupants in Michigan use their safety belts.

5. In Michigan, more than $750 million is spent each year on medical costs due to the nonuse of safety belts.

6. An average of four people die on Michigan roadways each day due to auto crashes, while over 400 more are injured.

7.Nonuse of safety belts resulted in 546 premature deaths and the loss of 17,736 years of productive working life in Michigan during 1983.

8. In 1988, Michigan averaged 1,123 traffic crashes each day. More than 155,000 persons were injured, crippled, or maimed; and 1,704 people were killed in 1,522 fatal crashes.

9. Auto crashes are the leading cause of worker absenteeism.

10. Auto crashes cost the average employer nearly $120,000 per employee death.

11. Serious injuries caused by auto crashes result in average medical payments of $208,400.

12. More employees are injured or killed on the road than in the plant.

IN MEMORY OF ROY O'NEAL COLEMAN

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. HARRIS. Mr. Speaker, I come before this body today to commemorate the memory of a very fine gentleman from the Seventh District of Alabama.

Mr. Roy O'Neal Coleman, a native of Choctaw County, AL, was a resident of the Little Walker community. He served with the Butler Police Department for 17 years. His knowledge of the law, his kindness and sense of fair play to all persons exemplified the kind of man he was during his brief life on this Earth.

Roy had the respect of his fellow police officers, and was president of the local Fraternal Order of Police at the time of his death in February of this year. He not only served his community with honor as a member of law enforcement, but he was concerned about the youth in the area. He was a Boy Scout leader and coach of a girl's softball team

Officer Coleman served the Little Walker CME Church on the steward board, board of trustees, and as a Sunday School teacher. He was a member of the Masonic Lodge, acting in the capacity of Sirprince.

We are indebted to men like Roy Coleman and the sacrifices they and their families have made in order for them to devote themselves to the many towns and communities of this great Nation.

Mr. Coleman will long be remembered for his selfless devotion, not only to his wife, Mary Alice, and daughters Whitney and Tiffany, but to his job, community, and truly, his country. He will be missed.

INTRODUCTION OF A HOUSE JOINT RESOLUTION DESIGNATING THE MOZART BICENTENNIAL AT THE LINCOLN CENTER IN NEW YORK CITY, NY, AS THE NATIONAL OBSERVANCE OF THE 200TH ANNIVERSARY OF WOLFGANG AMADEUS MOZART'S DEATH

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WEISS. Mr. Speaker, I am introducing a bill today that designates the Mozart Bicentennial at the Lincoln Center in New York City, NY, as the national observance of the 200th anniversary of Wolfgang Amadeus Mozart's death. I invite my colleagues to join as cosponsors.

Wolfgang Amadeus Mozart (1756–91) stands as one of the greatest musical geniuses in the history of humankind. He began composing at the astonishing age of 5 and composed over 800 works in his tragically short and arduous lifetime. His masterpieces continue to inspire and delight listeners throughout the world.

Mozart's musical legacy will be celebrated in a bicentennial tribute at the Lincoln Center in New York City, NY, from January 1991 through August 1992. This bicentennial celebration will be the first occasion that the composer's complete works have been presented under one auspice. It will encompass over 500 events including concerts, recitals, operas, films, ballets, lectures, scholarly symposia, and educational programs.

The Mozart Bicentennial will serve a broad range of audiences, with activities ranging from free outdoor concerts of Mozart's chamber music; to jazz reinterpretations; to a free exhibition entitled, "Mozart and His Times;" to a Salzburg puppet troupe performing Mozart's operas; to performances by internationally renowned artists, chamber musicians, and orchestras; to films about Mozart; to Mozart programs in schools throughout the region. The celebration will reach a national and international audience through live television and radio broadcasts.

I hope my colleagues will join me and New York's Lincoln Center in commemorating the death of this brilliant and prolific composer by cosponsoring this legislation. Mozart's legacy deserves to be recognized and cherished; the Lincoln Center's bicentennial celebration will do so in a glorious manner.

The resolution is printed below.

H.J. Res. —

Whereas Wolfgang Amadeus Mozart (1756–1791) stands as one of the greatest musical geniuses in the history of humankind;

Whereas Mozart began composing at the astonishing age of five and composed over 800 works in his tragically short and arduous lifetime;

Whereas Mozart's masterpieces continue to inspire and delight listeners throughout the world;

Whereas Mozart's musical legacy will be celebrated in a bicentennial tribute at the Lincoln Center in New York City, New York, from January 1991 through August 1992;

Whereas this Mozart Bicentennial will be the first occasion the composer's complete works have been presented under one auspice;

Whereas the Mozart Bicentennial will encompass over 500 events including concerts, recitals, operas, films, ballets, lectures, scholarly symposia, and educational programs;

Whereas the Mozart Bicentennial will serve a broad range of audiences, with activities ranging from free outdoor concerts of Mozart's chamber music; to jazz reinterpretations; to a free exhibition entitled, "Mozart and His Times;" to a Salzburg puppet troupe performing Mozart's operas; to performances by internationally renowned artists, chamber musicians, and orchestras; to films about Mozart; to Mozart programs in schools throughout the region;

Whereas the Mozart Bicentennial will reach a national and international audience through live television and radio broadcasts; and

Whereas the tribute will be presented by all 11 of the Lincoln Center's resident companies: the Metropolitan Opera, the New York Philharmonic, the New York City Ballet, the New York City Opera, the Chamber Music Society of Lincoln Center, the Juilliard School, the Film Society of Lincoln Center, the Lincoln Center Theater, the School of American Ballet, the New York Public Library at Lincoln Center, and the Lincoln Center for the Performing Arts, Incorporated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mozart Bicentennial at the Lincoln Center in New York City, New York, taking place from January 1991 through August 1992, is designated as the National Observance of the 200th anniversary of Wolfgang Amadeus Mozart's death.

INSIGHT INTO OLIVER STONE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DORNAN of California. Mr. Speaker, last week the prestigious Academy of Motion Picture Arts and Sciences awarded Oliver Stone an Oscar for his direction of "Born on the Fourth of July." The movie follows a tormented, twisted, and fictionalized tale that loosely approximates Ron Kovic's life. Kovic's story, as directed by his cowriter Stone, is a sad and bitter chronicle of a once very, very dedicated young marine. It is unfortunate that Kovic was paralyzed in an action to save the life of a fellow marine, which is not in the film, but it is more unfortunate that he let himself be used for 18 years by those who continue to destroy the moral fiber of this great Nation.

Mr. Speaker, I would like to share with you two articles in stark contrast to "Born on the Fourth of July." The first is an article published in Human Events which outlines Oliver Stone's fascination with the late Jim Morrison, the tortured lead singer of the sixties rock group, The Doors. The second article, published in the Orange County Register, is the story of Major Blake Morrison, another para-

lyzed vet who took exception to Ron Kovic's tale of woe and self-pity. This former fighter pilot gives us a different view of dealing with personal tragedy; and he hints at God's unique plan for each of us.

WHY DOES OLIVER STONE IDOLIZE JIM MORRISON?

(By John Lofton)

It is important to know who our opinion molders worship. Because, as the Proverbs (23:7) tell us: As a man "thinketh in his heart, so is he." Thus, it is instructive to learn that the movie director who won an Oscar for *Platoon*, Oliver Stone, has told the New York *Times* that he's going to do a film about the late rock star, Jim Morrison, lead singer of the "The Doors."

Stone says: "There's a lot of the bad boy in me . . . I identify with Morrison. He was a shaman. He was a god for me, a Dionysian figure, a poet, a philosopher. I'd like to bring his life out into the light."

Okay. So who, exactly, was Jim Morrison? Well, he was not, to put it mildly, the kind of guy most Americans would probably pick, first, as a "god." Here's what Jerry Hopkins and Daniel Sugerman told us about Morrison in their admiring 1980 biography of him bearing the prophetic title *No One Here Gets Out Alive* (Warner Books):

Morrison was a "revolutionary figure" who told close friends he believed records could serve the same purpose that books and printed manifestos had in earlier revolutions. He devoured the works of the God-hating philosopher Friedrich Nietzsche. And Norman O. Brown's Freudian interpretation that mankind is unconsciously bent on self-destruction is said to have "greatly appealed to him." These authors say of Brown that "images of magic and violence and sex and death ran through his notebooks like a dark river."

Morrison was a drug addict who "gobbled acid tabs like beer nuts, or aspirins." He reportedly said that he took acid 250 times. One woman swears she saw him smoke six ounces of marijuana in one day, "which he managed to do by staying up half the night and chain-smoking bombers as thick as his index finger." On one occasion he said: "If I had a mountain of coke in my backyard, I'd do it—because it was there."

Morrison was a drunk. One classmate of his says: "It was as if he drank only to get drunk." Once, while drunk during a Long Island show, he startled other members of "The Doors" by attempting to take off his clothes on stage. He said of his drinking—which these authors say was his "panacea, the magic potion that answered his needs"—that "it's like . . . I guess it's the difference between suicide and slow capitulation."

Morrison was involved in the occult. A reader of English books on 16th and 17th Century demonology, he wrote about Hieronymous Bosch, the Dutch painter who saw the world as a hell in which we pass through the Devil's digestive system. And, we are told, Morrison's theory was that the artist was "a member of the Adamite sect, a group of medieval heretics."

In addition, he married Patricia Kennely, "an initiated, practicing witch, high priestess of a coven." At their wedding ceremony, the two made small cuts on their wrists and forearms, mixed a few drops of blood into a cup of wine and drank it.

On another occasion, to another woman who it is said "sometimes drank blood," Morrison said, smiling: "Okay, let's you and me drink some right now." As authors Hopkins and Sugerman describe it, here's what happened next:

"She went into the bathroom to search. Moments later she held a blade with one corner barely touching the fleshy pad of her skin where her thumb joined her left hand. She nervously stuck herself, eyes closed. Where she opened her eyes, there was no blood. She closed them and jabbed again. On the fifth stab, blood spurted everywhere and Jim whooped, grabbing a champagne glass to catch it.

"They made love and danced some more, smearing their bodies red. The next morning when he awoke on blood-caked sheets, with dry brown streaks from Ingrid's blood over much of his body, Jim was scared. The paranoia increased."

Morrison was a sex pervert and a pornographer. When, during one concert, he sang a song screaming his desire to have sexual intercourse with his mother, and to kill his father, the owner of the club where they were playing said "The Doors" would never play there again even if they paid to get in.

And when he and a friend made a movie while taking a film course, the authors say it is no surprise that the film featured sexual references, "often ranging over a wide assortment of neuroses, fetishes and abnormalities—from hermaphroditism and necrophilia to masochism, sadism and homosexuality."

At one time, Morrison had 20 paternity suits pending against him. And when his witch wife Patricia aborted their child, which was in its 20th week of growth in the womb, "Jim was not present and did not call."

Had enough? Get the picture?

Now, all we need to know is why Oliver Stone says Jim Morrison was "a god" for him.

Mr. Stone?

PILOT'S STORY: KOVIC AND I TOOK DIFFERENT PATHS

(By Blake Morrison)

I wasn't there in the Nam. Ron Kovic was, but I wasn't. I should have been there, but I couldn't be. Whether I was there is immaterial, really. I speak for my point of view and I do not attempt to speak for anyone else.

Ron Kovic is a brave man and a hero. The film of his story, "Born on the Fourth of July," is well presented although biased. I was struck by how our lives—his and mine—paralleled and how they diverged.

He was paralyzed in combat in Vietnam. I was paralyzed after bailing out of a combat fighter—an F-105 in late 1962 in Germany. Kovic's spine was shattered by a VC bullet; mine, when I crashed through the trees and slammed into the ground. Our losses were similar. We are both permanently confined to a wheelchair. We both received treatment at VA hospitals, his in the Bronx, mine at Long Beach. We are both compensated for our injuries by our government.

Some of the scenes shown in the VA hospital in "Born" brought back memories of my own experiences. Although our injuries happened a few years apart, the treatments had some similarities. I vividly remember the day I was lying flat on my back with a "monkey bar" hanging over my head, and the doctors quietly but firmly and matter-of-factly told me I would never walk again. I remember how I, too, refused to believe it was happening to me. I know what it's like to have to adjust to your worst nightmare. I recall the pain and frustration I had in learning to cope with transferring from the wheelchair to a bed or commode and then trying to get back into the chair. I know the hurt and exhaustion of trying to walk in braces while being supported by parallel bars.

Kovic and I share these memories. We shared bitterness, anger, and frustration at our injuries. We both struck out against God, blaming him.

But what we did not share—and what was particularly repugnant to me—were the ward scenes shown in Oliver Stone's movie. I was in four VA hospitals from 1963 to 1974—during the time Kovic was interned. Although the hospitals were old and the equipment available not the most modern, it worked well. The conditions I observed were nothing like those shown in the film. I never saw giant rats or a rampant cockroach problem. I never saw the filth that prevailed in the film. I never saw spinalcord injured patients allowed to lie in their own urine or feces while an indifferent nursing and hospital staff left them unattended. If those conditions had been allowed to exist in a hospital, virtually all of the patients would have died of staph infections. It is my impression that the truth was stretched beyond credibility by the writers, that situations were grossly embellished for dramatic effect. I don't believe that conditions worse than those that existed in Civil War field hospitals were allowed to exist in a VA hospital.

Anger, frustration, and bitterness are common feelings of all who suffer spinalcord injuries. This happens when reality sets in. It's overwhelming at first to know that you'll never be normal again, that one life is over and another—a different and limited life—lies ahead. Ron Kovic was justifiably bitter about his fate. So was I—up to a point.

Kovic's confrontation with reality during his stay at the VA hospital ignited his anger and started his metamorphosis. He held on to his bitterness, and like a cancer, it fed on his soul and poisoned his perspective. In frustration, he abused his mother. In anger, he turned against his government. The anger turned to hate. He traveled to Mexico to wallow in booze and self-pity. He turned himself on with drugs. He condemned his fellow veterans as "baby killers." He joined the anti-war counterculture and tried, along with the well-heeled, privileged radicals, draft-dodgers, deserters, and anarchists, to bring down his country.

Ron Kovic saw the patriotic parades of his youth and they inspired him to join the Marine Corps. I too got fired up watching these parades when I was young, or seeing a military convoy roll by. But I was also old enough to remember Pearl Harbor, Coventry, Bataan, Auschwitz, and Buchenwald. I joined the Air Force to fly fighters, but also to do what I could to prevent such horrors from occurring again. I still believe in patriotism.

The VA staff helped me come to terms with reality—my permanent confinement to a wheelchair. There was only so much they could do, medically and psychologically. The rest was up to me. I left the Long Beach VA after five months. I was on my own. Maybe it was because of my responsibility to my wife and children; maybe it was a stubborn desire to go on and try; maybe it was the strong beliefs my parents instilled in me as a child—probably it was all these and more that carried me on, but I sure as hell didn't follow Kovic's route. Don't think that there were not and still are not times when the anger and frustration well up inside and I wallow in self-pity. I did and I

do. But these periods are brief and for the most part private.

Kovic denounced his goverment, yet he, as do I, receive benefits and some hefty priviliges from that government. We have available a substantial grant for construction of a specially-equipped home. We receive each month a sizable compensation check, tax free, for life. We have a grant for specially-equipped vehicles. He pays virtually no property taxes on his home in California. We enjoy lifetime medical services. All this is provided by a government that Kovic has reviled (the malodorous Oliver Stone will never portray any of these benefits in any of the nihilistic bile he produces).

Kovic's and Stone's message in "Born on the Fourth of July" is this: Nothing is worth risking your life and body for. The message is false. Ask some of the Vietnamese boat people now living in Orange County. Consider the collapse of the communist monolith, and what has just happened in Nicaragua. My having been a member of a strong military deterrent was a role I'm proud I could play to help bring about all these changes. There is a chance that freedom and democracy can work worldwide.

If I could go back and do it all again, I would, even if I were to end up in this chair again. Yes, even the right of Kovic and Stone to display their convoluted left-wing views is worth living and fighting and sometimes even dying for.

Their movie will probably walk away with many Oscars in a few weeks. Members of the Academy dote on antiwar and especially anti-Vietnam films. You'll never see a film receive an award that depicts veterans as most of them were and are—soldiers who didn't kill babies, didn't come back mentally screwed up or terminally embittered, but who did their job within the rules of war and then got on with their lives. You won't see a movie about those disabled veterans who didn't turn to drugs and booze, who didn't become whining, vindictive wimps—those who were angry and hurt, yes, but took it from there with what they had left and made it work. Those veterans are too dull and uninteresting, I suppose, to be depicted according to the rules of Kovic and Stone.

Please, those of you who see this film, remember that it is the product of two men who see the Vietnam experience from their own radical left perspective, just as this article is written from my perspective. Their view is not necessarily the way it was in Vietnam.

RECOGNIZING JAMES MADISON HIGH SCHOOL CONCERT BAND

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. PARRIS. Mr. Speaker, I rise today to call to the attention of my colleagues in the House of Representatives the James Madison High School Concert Band from Vienna, VA, who on April 19, during a gala concert, will receive the Sudler Flag of Honor Award for 1990 by the John Philip Sousa Foundation.

The James Madison High School Concert Band, conducted by Mr. Carl Bianchi, is one of only three high school bands selected this year from the entire United States to receive this honor. The Sudler Flag of Honor is the highest recognition of excellence that can be awarded to a high school band program. Since the award's 8-year existence only 27 high school bands from the United States have received this honor. The award is sponsored by the John Philip Sousa Foundation to identify, recognize, and honor those high school concert band programs throughout the United States that have demonstrated high standards of excellence in concert activities during a period of at least 7 years.

The winning band is evaluated for its concert activities as well as participation in solo and ensemble performances by its individual members. The evaluation of the nominations, and the selection of the recipients, is made by a committee of nationally known band conductors—all of whom have themselves conducted outstanding high school concert band programs.

The Sudler Flag program is funded by an endowment by Louis and Virginia Sudler. Mr. Sudler, chairman emeritus of the Chicago Symphony Orchestral Association and executive chairman emeritus of the Sousa Foundation has long been interested in recognizing the accomplishments and nurturing the gift of our musically talented youth.

Mr. Speaker, I extend my warmest congratulations to the James Madison High School Concert Band on receiving the Sudler Flag of Honor and wish them the best of luck in all of their future endeavors.

TRIBUTE TO MR. ART McCORMICK

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BRUCE. Mr. Speaker, I rise today to pay tribute to an exceptional educational leader from the 19th Congressional District of Illinois. At a time when the Nation's schools face mounting financial and social difficulties, the Oblong School District has been privileged to be directed by Mr. Art McCormick.

Since 1983, Mr. McCormick has served as superintendent of the Oblong School District, and I would like to thank him for his valuable contributions as he accepts the challenge of a new position this summer.

During Mr. McCormick's tenure as superintendent, Oblong schools achieved remarkable academic success. Through the Scholastic Bowl Program, Oblong's students competed with the area's best academic teams to win numerous conference championships and tournaments hosted by several colleges in the region. These successes led to Oblong schools' esteemed participation each year from 1987 to the present in the Texaco Star National Scholastic Bowl Tournament.

In addition, the Oblong Scholastic Bowl Program was recognized throughout the United States as an exemplary program of 1990 by the National Rural and Small Schools Consortium, Bellingham, WA.

The accomplishments of the Oblong School District's Mathematics Program were particularly impressive under the direction of Mr. McCormick. Entering the Illinois Council of Teachers of Mathematics Competition during the 1983-84 school year, the Oblong Math Program has repeatedly finished among the State's best small schools. The math team has won seven regional championships and earned the following places in the State competition: 1984—sixth in the State; 1985—second in the State; 1986—first in the State; 1987—second in the State; 1988—third in the State; 1989—first in the State; 1991—Oblong considered to be among the top four in April 28's tournament.

The Oblong Schools' Future Homemakers of America Program also gained from Mr. McCormick's leadership as indicated by its numerous awards including the election of several national FHA officers.

The Oblong School District's students, faculty and community are grateful to Mr. Art McCormick for all of his efforts to help the school district reach its academic potential. While his contributions will continue to influence the accomplishments of the Oblong School District, I am certain that the Petersburg schools will also benefit greatly from his talents.

THE INTRODUCTION OF THE MARKETS AND TRADING REORGANIZATION AND REFORM ACT

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GLICKMAN. Mr. Speaker, we are sitting on a ticking financial time bomb. The United States has 21st century financial markets regulated by a regulatory structure designed in the 19th century. As U.S. investors and investors from around the world continue to push the edge of financial innovation and sophistication further, the gaps and weaknesses in the regulatory safety net grow wider and wider. Instead of providing assurances to investors and protecting our markets, the bifurcation in regulation lays underneath the markets like a San Andreas fault waiting to give way at the next big tremor.

Now is the time to put an end to this arbitrary and outdated system. The bill we are introducing today will do that. In creating one, unified regulator of the securities and futures markets, governmental policy will, finally recognize what the markets have known for years. The markets and investors in those markets are inextricably linked—you simply cannot tear them apart, and should not.

Indeed, if we were starting from scratch, I doubt few if any would advocate setting up two separate regulatory agencies as we have today. We would do what other countries have done: We would establish one unit to oversee these markets to provide the linkages in regulation which already exist in the markets. We need to do so to protect our markets and our investors and to ensure that the United States stays at the forefront of world financial innovation, and that investors, exchanges, and regulators do not continue to spin their wheels fighting over turf but put that energy to use in

being creative and imaginative. It is time to put sound policy before politics.

This bill will create one new regulatory agency, the Markets and Trading Commission, which will have jurisdiction over all the functions, laws, and markets which are now divided up between the Commodity Futures Trading Commission and the Securities and Exchange Commission. It is not a piecemeal approach as some have advocated—it is a wholesale reorganization of how the Government oversees these markets and one which needs to be accomplished.

The bill also creates another new body, analagous to the existing Presidential Working Group begun after the market crash of 1987. The new entity, the Federal Financial Market Coordinating Council, will be composed of the Federal regulators responsible for all segments of the financial markets. It will be charged with coordinating all Federal financial regulatory activities and make recommedations to Congress for changes which need to be considered in further recognition of the linkages between these markets.

In summarizing the bill, let me highlight five things the bill does:

First. It creates one new Federal regulatory body the Markets and Trading Commission to regulate the securities and futures markets.

Second. It creates the Federal Financial Markets Coordinating Council composed of representatives of Federal financial markets regulators, to coordinate regulatory activities with respect to these markets and recommend further changes.

Third. It gives the new Commission authority to set margins on stocks and issue orders to establish or change margin requirements on futures when needed to ensure the financial intergrity of those markets.

Fourth. It preserves within the new regulator one division exclusively responsible for the regulation of futures on physical commodities, such as agricultural commodities, metals, and oil.

Fifth. It provides for a 2-year transition period to establish the new agency.

Now, let me highlight five things this bill does not do:

First. It does not change existing congressional jurisdiction. Existing jurisdictional responsibilities in the House and the Senate will be preserved.

Second. It does not take away from futures exchanges the abilities and responsibility for setting day to day margin levels.

Third. It does not solve all the regulatory complexities of today's financial markets. The Federal Financial Markets Coordinating Council is the first step into examining issues concerning the regulation of the new sophisticated, hybrid financial products now trading in the markets to determine how they should be logically incorporated into this regulatory structure.

Fourth. This is not a panacea for volatility and fluctuations in the markets, However, by unifying regulation, the same regulators will be able to see across markets and assess potential problems earlier and more accurately and take appropriate steps as needed.

Fifth. Most importantly, this is not a stalking horse to create a super SEC or a super CFTC. It is not a takeover of one agency by the other. It is neutral. This legislation simply recognizes the way markets are and rationalizes the regulatory structure around it.

In closing, let me make one final observation. Of all the important reforms and legislation passed during the New Deal, perhaps the most significant were those which restored confidence in our Nation's financial system—the banking system and the securities markets. It was this body of law which restored confidence in the markets and our financial way of life and which provided the foundation for the recovery from the Depression. This new legislation is designed to do the same thing in laying a new foundation of investor confidence in our financial markets as we move into the 21st century.

I am pleased to have had the close collaboration of my good friend, Mr. ECKART, in developing this legislation. I have had extensive conversations with representatives of the industries and the administration in this development and am pleased that in concept, I have had very positive reactions. It is my hope that not only will our colleagues here in the House join Mr. ECKART and myself in support of this legislation, but that the administration too will lend its support so we can get this legislation into place before another market disaster and calls for hasty, perhaps imprudent legislation are raised.

MARKETS AND TRADING REORGANIZATION AND REFORM ACT OF 1990

SECTION-BY-SECTION DESCRIPTION

Section 1—Short Title; Table of Contents

Section 1 provides that the Act may be cited as the "Markets and Trading Reorganization and Reform Act of 1990" and includes a table of contents listing the sections of the bill.

Section 2—Purposes

Section 2 states that the purposes of the bill are—

(1) to establish a single Federal regulatory body with jurisdiction over securities, options, futures, and related markets and instruments;

(2) to consolidate and revise the authority for setting margin requirements on all such instruments;

(3) to coordinate the regulation of all financial markets;

(4) to strengthen investor confidence in United States financial markets; and

(5) to ensure the competitiveness of those markets.

Section 3—Definitions

Section 3 defines terms used in the bill as follows:

(1) the term "Commission" means the Markets and Trading Commission established by Section 101 and

(2) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

Section 4—Effect on Congressional Jurisdiction

Section 4 states that it is the sense of the Congress that nothing in the bill shall be construed to affect the jurisdiction, established under House and Senate rules respectively, of any committee or subcommittee of the Congress with respect to any function transferred to the Commission by the Act.

TITLE I—ESTABLISHMENT OF COMMISSION

Section 101—Establishment

Section 101 establishes an independent regulatory commission to be known as the Markets and Trading Commission.

Section 102—Members, Appointment; Terms

Section 102(a) provides that the Commission shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate. One of the commissioners shall be designated by the President as chairman. Not more than three members of the Commission shall be of the same political party. Each commissioner shall be selected solely on the basis of integrity and demonstrated knowledge of the operations of the markets subject to the jurisdiction of the Commission.

Section 102(b) provides that each commissioner shall be appointed to a term of five years except that—

(1) a commissioner may continue to serve beyond the expiration of a term until a successor is appointed and has qualified, but may not continue to serve after the expiration of the next session of Congress;

(2) the terms of office of the commissioners first taking office after enactment of the Act shall expire, as designated by the President at the time of their appointment, as follows—

(A) one at the end of one year;

(B) two at the end of three years; and

(C) two at the end of five years and

(3) any commissioner filling a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

Section 102(c) provides that no commissioner shall engage in any other business or employment other than serving as commissioner and that no commissioner shall participate, directly or indirectly, in any market operation or transactions subject to regulation by the Commission.

Section 102(c) provides that the Commission may accept, according to regulations prescribed by the Commission, payment and reimbursement from non-Federal sources for travel and related expenses incurred by Commission members and employees in attending meetings and conferences concerning functions or activities of the Commission.

Section 102(c) further provides that former employees of participants in the Commission's professional fellows program may pay such participants their expenses for relocation to Washington, D.C.

Section 102(d) provides that whenever a fee is required to be paid to the Commission, the Commission may provide that such fee shall be paid in a manner other than in cash.

Section 103—Organization of Commission

Section 103 provides that the Commission shall establish divisions and subdivisions except that one such division shall be responsible for functions relating to markets in physical commodities.

Section 104—General Counsel

Section 104 provides that the Commission have an Office of General Counsel, headed by a General Counsel appointed by the President, by and with the advice and consent of the Senate.

TITLE II—TRANSFERS OF FUNCTIONS

Section 201—Commodity Futures Trading Commission

Section 201 provides that all functions of the Commodity Futures Trading Commission are transferred to the Commission.

Section 202—Securities and Exchange Commission

Section 202 provides that all functions of the Securities and Exchange Commission are transferred to the Commission.

Section 203—Jurisdiction of Margin Authority

Section 203(a) provides that the functions of the Board of Governors of the Federal Reserve System with respect to the setting of margins on securities are transferred to the Commission.

Section 203(b) provides that, notwithstanding the provisions of Section 5a(12) of the Commodity Exchange Act (which prohibits the Commodity Futures Trading Commission, in designating a contract market, from reviewing any rule or regulation of such contract market with respect to margin) the Commission, as necessary to ensure the financial integrity of such market, may—

(1) by order direct contract markets to adjust the level of margin required in any contract or

(2) by regulation prescribe limits on the level of margin required on any class or category of contract.

TITLE III—FEDERAL FINANCIAL MARKETS COORDINATING COUNCIL

Section 301—Establishment; Membership

Section 301(a) establishes a council to be known as the Federal Financial Markets Coordinating Council.

Section 301(b) provides that the Council's membership shall include the heads of the following agencies or their designees—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Department of the Treasury;

(4) the Markets and Trading Commission;

(5) the National Credit Union Administration;

(6) the Office of Thrift Supervision; and

(7) the Federal Deposit Insurance Corporation.

Section 301(c) provides for the election of one member of the Council to serve as chairman.

Section 302—Functions of the Council

Section 302 provides for the following functions of the Council—

(1) serve as a facility to coordinate the regulatory operations of each agency represented on the Council;

(2) meet bimonthly and at the call of the chair to discuss issues relating to the safety and effectiveness of the financial services industry and related issues;

(3) establish an advisory committee of five representatives of the futures, commodities, options, and securities exchanges and banking industry to meet no less than four times annually; and

(4) report biennially to Congress on its functions and activities and, in its first such report, to include recommendations for legislative action as it considers appropriate.

Section 303—Staff; Administrative Support, Expenses

Section 303(a) provides that each agency represented on the Council shall provide to the Council such personnel and administrative support as the Council may require to carry out its functions.

Section 303(b) authorizes to be appropriated to the Commission such sums as may be necessary for the expenses of the Council to be reimbursed to agencies for personnel detailed to the Council and for administrative support as provided for in Section 303(a).

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

Section 401—Officers and Employees

Section 401(a) provides that the Commission may appoint and fix the compensation of its officers and employees in accordance with the civil service laws.

Section 401(b) provides that—

(1) at the request of the Commission, the Director of the Office of Personnel Management shall provide for the establishment of the same number of supergrade positions (grade levels GS-16, GS-17, and GS-18) in the Commission as existed on the day prior to the effective date of the Act for the performance of the functions and offices transferred to the Commission from the Commodity Futures Trading Commission and the Securities and Exchange Commission;

(2) at the request of the Commission, the Director of the Office of Personnel Management shall provide for the same number of professional and technical positions as were in effect on the day prior to the effective date of the Act outside the General Schedule as were used for the performance of functions and offices transferred under the Act;

(3) the Commission may make appointments to special positions provided for under the subsection without regard to the provision of the civil service laws if the person appointed to such position is an individual who is tranferred in connection with the transfer of function provided for in the Act;

(4) the authority to make special appointments under the subsection expires with respect to the first person first appointed to fill such position; and

(5) makes certain technical and conforming amendments to the Civil Service Reform Act of 1978.

Section 401(c) permits the Commission to make up to 100 special appointments of technical or professional employees and fix their compensation at a level not equal to or more than the minimum rate of pay currently paid for GS-16 of the General Schedule.

Section 401 (d) requires the Director of the Office of Personnel Management to establish within the Commission ten limited service positions within the Senior Executive Service to be effective not longer than three years following the effective date of the Act for the purposes of assisting with the establishment of the Commission.

Section 402—Experts and Consultants

Section 402 permits the Commission to obtain the services of experts and consultants and compensate them at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule.

Part B—General Administrative Provisions

Section 411—General Authority

Section 411 provides the Commission may exercise any authority available by law that is transferred by the Act and that the exercise of that authority shall have the same force and effect as when exercised by the official or agency from which the authority is transferred.

Section 412—Delegation

Section 412 permits the Commission to delegate any function to such officers and employees as the Commission may designate.

Section 413—Reorganization

Section 413 authorizes the Commission to allocate or reallocate functions amounts its officers and to establish, consolidate, alter, or discontinue such organizational entities.

Section 414—Rules

Section 414 authorizes the Commission to prescribe such rules and regulations as the Commission determines necessary or appropriate to administer and manage the functions of the Commission.

Section 415—Contracts

Section 415 authorizes the Commission, pursuant to the provisions of the Federal Property and Administrative Services Act, to enter in contracts, grants, leases, and agreements with Federal, other public agencies, including State and local governments, and private organizations and persons to the extent such funds are provided in advance under appropriation Acts.

Section 416—Regional and Field Offices

Section 416 authorizes the Commission to establish regional and field offices.

Section 417—Use of Facilties

Section 417 permits the Commission to use the facilities and services of other agencies of the Federal government and of State and local governments; permits the facilities of the Commission to be used by public and private entities under such terms and conditions as the Commission may prescribe; provides that proceeds from such use of facilities be credited to appropriations for the cost of equipment or facilities so used; and provides that any interest in real property acquired by the Commission shall be acquired in the name of the United States Government.

Section 418—Working Capital Fund

Section 418 provides for the establishment of a working capital fund for common administrative and maintenance services such as stationery, supplies, equipment, mail, telephone, other communications services, office space, document reproduction, and central library.

Section 419—Funds Transfer

Section 419 provides that the Commission may transfer up to five percent of one appropriation to another within the Commission.

Section 420—Seal of Commission

Section 420 requires the Commission to establish an official seal.

Section 421—Annual Report

Section 421 requires the Commission to publish an annual report, for the President for transmission to the Congress, as soon as practicable after the close of each fiscal year and include in the report a statement of goals, priorities, and plans of the Commission and assessment of the Commission in meeting such objectives. Section 412 further requires that the annual report include an estimate of the extent to which non-Federal personnel employed by the Commission under contract.

Section 422—Authorization of Appropriations

Section 422 authorizes to be appropriated to the Commodity Futures Trading Commission and the Securities and Exchange

Commission $10 million for the establishment of the Commission and authorizes to be appropriated for the two fiscal years following the effective date of the Commission (Ooctber 1, 1992) such sums as may be necessary to carry out the Act.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING AMENDMENTS

Section 501—Transfer and Allocation of Appropriations and Personnel

Section 501 transfers to the Commission all personnel, assets, liabilities, contracts, property, records, appropriations, authorizations, and other funds made available with respect to functions transferred to the Commission by the Act.

Section 502—Effect on Personnel

Section 502 provides that any transfer of personnel made pursuant to this Act shall not cause any such personnel to be separate or reduced in grade for compensation for one year after the date of transfer to the Commission.

Section 503—Agency Terminations

Section 503 provides that on the effective date of the Act, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall terminate.

Section 504—Incidental Transfers

Section 504 authorizes the Director of the Office of Management and Budget to make such additional incidental transfers and terminations of personnel, equipment, and funds as necessary with the establishment of the Commission.

Section 505—Savings Provisions

Section 505(a) provides that all order, determinations, rules, regulations, permits, contracts, certificates, grants, licenses, and privileges affected by the transfer of functions under the Act and in effect at the time of the effective date of the Act shall continue in effect until modified, terminated, superseded, or set aside in accordance with law by the President, the Commission, or court.

Section 505(b) provides for the continuation of any proceeding, rulemaking, application for license or permit, or related matter in progress at the time of the effective date of the Act and permits the Commission to promulgate regulations for the orderly transfer of such proceedings.

Section 505(c) provides that nothing in the Act shall affect suits commenced prior to the effective date of the Act.

Section 505(d) provides that no suit pending prior to the effective date against any agency affected by the Act shall be dismissed by the enactment of the Act.

Section 505(e) provides that with respect to any suit or proceeding commenced with respect to any function transferred by the Act, the suit shall be continued with the Commission substituted or added as the appropriate party.

Section 505(f) provides that orders and actions of the Commission transferred by the Act shall be subject to judicial review to the same extent and in the same manner as if such transfer had not been executed.

Section 506—Separability

Section 506 provides that if any provision of the Act is held invalid the remainder of the Act shall not be affected.

Section 507—Reference

Section 507 provides that with respect to any function transferred by the Act, any reference in any other Federal law to any other department, commission, or agency from which such functions are transferred shall be deemed to refer to the Commission.

Section 508—Amendments

Section 508 makes conforming and technical amendments in the schedule of Federal executive salaries and deletes provisions of the Securities and Exchange Acts and Commodity Exchange Acts made obsolete by the Act.

Section 509—Transition

Section 509 authorizes the Commission to use the services, personnel, and officers of agencies affected by the transfer of functions made pursuant to the Act to facilitate the transfers needed for the implementation of the Act.

TITLE VI—EFFECTIVE DATE

Section 601—Effective Date

Section 601 provides that the Act becomes effective no sooner than October 1, 1992.

THE INTRODUCTION OF THE PENNY STOCK REFORM ACT OF 1990

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DINGELL. Mr. Speaker, I am pleased to join my colleagues on the Energy and Commerce Committee in introducing legislation to crack down on penny stock fraud. The gentleman from Massachusetts [Mr. MARKEY] is to be commended, along with the gentleman from New Jersey [Mr. RINALDO] and the gentleman from Oregon [Mr. WYDEN] for their strong leadership in producing this bill.

Penny stock fraud has become a national embarrassment. During the 1980's while Federal prosecutors and the SEC directed their resources at high-profile, insider trading cases, crooks, who ought to be buried under the jail, overran the market for low-priced, over-the-counter securities. When regulators closed down one operation, the perpetrators would merely open up new operations cross-town or cross-border. What we clearly need here is the legislative equivalent of RAID.

The North American Securities Administrators Association Report on Fraud and Abuse in the Penny Stock Industry—September 1989—estimated that investors are losing $2 billion a year from penny stock fraud. In chilling testimony on September 7, 1989, before our Subcommittee on Telecommunications and Finance, Lorenzo Formato, a veteran penny stock broker and promoter—and convicted felon with admitted ties to the mob—insisted that organized crime had infested the entire OTC market. Even if Formato was exaggerating, we cannot afford to ignore this warning.

The SEC is to be commended for recent actions in this area. In November 1988, David Ruder, then SEC Chairman, established within the Commission a Market Manipulation Task Force to address the problem of penny stock fraud. Other law enforcement agencies and State securities regulators have been working with the SEC in coordinating examinations, investigations, and enforcement activities involving penny stock firms.

In August 1989, the SEC adopted rule 15c2-6 which imposes sales practice requirements on broker-dealers who recommend purchases of penny stocks to persons who are not established customers. The rule became effective on January 1, 1990. But more is clearly needed.

Accordingly, this legislation would give the Commission the authority to bar crooked penny stock promoters and consultants. Penny stocks would have to be traded through a system which provided firm automated price quotations, thereby improving surveillance and providing a greater flow of information to investors. The bill would substantially increase risk disclosure and other disclosures given to investors. The bill would prohibit excessive spreads in penny stocks, require greater substantive review of penny stock offerings, and require the NASD to establish a toll-free number to receive and respond to inquiries from customers regarding broker disciplinary actions. Finally, the bill would place restrictions on blank check and blind pool penny stock offerings.

I urge the subcommittee to hold prompt and careful hearings on this bill. Particular focus should be directed at the restrictions on blank check and blind pool offerings to make sure that we are not unduly harming legitimate capital raising efforts by small businesses and startup ventures. Well before the fall of Drexel Burnham Lambert Group Inc., the junk bond market had tiered and suffered a liquidity crisis. Last month, press reports, for example, "Credit Crunch: As Banks Get Tough With Borrowers, Fears of a Recession Rise," Wall Street Journal, Thursday, March 22, 1990, warned that Federal regulations were becoming far more aggressive in their demands upon banks to disclose problem loans, build reserves, and add to equity capital. In response to that regulatory pressure and to a slow economy, we are advised that banks all over the country are asking businesses for more collateral, turning down loans, and scrutinizing even long-term customers more closely. We need to take account of these matters in crafting the legislation that we ultimately bring to the floor of the House.

At the same time, and as a complement to the excellent penny stock legislation, I would urge action on H.R. 975, the Securities Law Enforcement Remedies Act, which I introduced at the request of the SEC on February 9, 1989. On July 14, 1989, the subcommittee held a hearing on H.R. 975, and on February 9, 1990, the SEC submitted proposed revisions to the bill. This revision would amend the Federal securities laws to:

Authorize the Federal courts to order the payment of civil money penalties, in addition to disgorgement, for violations of the Federal securities laws;

Authorize the Commission to order disgorgement and impose civil penalties in certain administrative proceedings under the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940;

Authorize the Commission to issue cease-and-desist orders for violations of the securities laws; and

Expressly affirm the inherent authority of the Federal district courts, in connection with injunctive actions brought by the Commission, to issue orders that prohibit individuals who

have committed egregious violations of section 17(a)(1) of the Securities Act of 1933 or section 10(b) of the Exchange Act from serving as officers or directors of any reporting company.

A February 21, 1990, Journal of Commerce editorial encaptioned "SEC's Modest Request" had this to say about H.R. 975:

A handful of insider traders has gone to jail, but run-of-the-mill violators of the securities laws have little to fear from the long arm of the law. The investor who is slow to disclose a large stock purchase, the brokerage firm that fails to segregate customers' funds and the publicly held company that juggles the books face little risk if they are caught. Their most likely punishment is a toothless cease-and-desist order in which, without admitting any violation of the law, they promise never to violate it in the future.

But the SEC's new chairman, Richard Breeden, has signaled that they days of laissez-faire are over on Wall Street. Mr. Breeden wants Congress to give his agency the authority to levy civil penalties of up to $500,000 for each violation for a wide range of securities law infractions. That would give the SEC the ability to impose real punishment on securities law violators without issuing worthless cease-and-desist orders or taking the Draconian step of shutting them down.

Public confidence in government oversight is essential if the stock market is to survive as a means for raising capital. That confidence will be impossible to maintain unless the SEC is able to levy tougher financial penalties against those who flout securities laws. Mr. Breeden's modest request should be granted speedily.

I urge my colleagues to join us in these efforts and I commend Messrs. MARKEY, RINALDO, and WYDEN for the bipartisan legislation which we are introducing today.

U.S. VIRGIN ISLANDS HONORS ST. THOMAS ARTIST IRA SMITH

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DE LUGO. Mr. Speaker, the U.S. Virgin Islands is honoring one of its finest artists, Ira Harrington Smith, whose exquisite watercolors, acrylics, and other creative works enhance the beauty of our tropical islands, which he has loved so much in his 43 years as an active and appreciated member of our community.

It is an honor to speak to the U.S. Congress on behalf of Ira, whose artistic creations and service to our community have endeared him to many in the Virgin Islands and have earned him the respect and praise of art lovers everywhere.

Ira has just been honored with a resolution and plaque prepared by the 18th Legislature of the Virgin Islands, and he has been selected for the 1990 Cultural Achievement Award by the St. Thomas Arts Council. These honors are most fitting and well deserved for a lifetime of achievements, beginning in New York as a teenager and including study abroad.

Ira's works have been chosen for presentation to former President Lyndon Baines Johnson and display at the 1964 World's Fair in New York. The government of the Virgin Islands has commissioned his paintings for presentation to such dignitaries as the King of Denmark and President of the Republic of Niger.

For more than 40 years now, Ira has shared his artistic talents with the Virgin Islands. When he and his late wife, Doris "Stevie" Stevenson, opened their popular guest house, Smith's Fancy, they established one of the first local art and craft galleries on St. Thomas. Their gallery became a focal point for art lovers and Ira was a source of encouragement for many young artistic Virgin Islanders who went on to success.

As a founding member of the St. Thomas Historical Trust and active member of the St. Thomas Orchid Society, Ira has greatly contributed to efforts to preserve and enhance our rich heritage of graceful architecture and natural beauty. He has always sought to reach out with his artistic vision with the entire community, and has shared his work with the Virgin Islands Departments of Commerce, Agriculture, and Conservation and Cultural Affairs, as well as the Virgin Islands Port Authority and Virgin Islands Telephone Co.

I am proud to contribute to this tribute to Ira Smith by sharing my personal regard for Ira's artistic abilities and community spirit, and drawing national attention to his achievements by making this statement to the U.S. Congress.

The resolution by the Virgin Islands Legislature follows:

RESOLUTION No. 1419

(To honor and commend Ira Harrington Smith for his contributions to the Arts and the people of the United States Virgin Islands)

Whereas Ira Harrington Smith was born on November 8, 1915, in Maplewood, New Jersey, to Philip Smith and Vera Leonard Smith; and

Whereas Mr. Smith has painted since the age of fourteen, exhibiting with the New York Water Color Society and the American Water Color Society; and

Whereas having completed his public school education in New Jersey, Mr. Smith graduated from the prestigious Pratt Institute in Brooklyn, New York; and

Whereas he studied further with Van Deering Perrine, N.A., and at the Instituto Allende in San Miguel de Allende, Republic of Mexico; and

Whereas the artist began his professional career designing and executing displays for various national retailers, including Lord and Taylor, B. Altman, Marshal Field and Neiman Marcus; and

Whereas in 1947, he married Doris Stevenson, affectionately known to many as "Stevie"; and

Whereas that same year they moved to the island of St. Thomas and established "Smiths' Fancy", a guest house with one of the first local art and craft galleries in the United States Virgin Island where he employed local Virgin Islanders and encouraged many young people to pursue a career in the arts; and

Whereas in 1950, Look Magazine featured the Smiths in an article, " The Virgin Islands: A frontier in the Sun", as representative of the many expatriate families that had moved to the Territory of the Virgin Island; and

Whereas J. Antonio Jarvis, in reviewing a 1952 exhibit of Mr. Smith's water colors remarked that, "One of the satisfactions of having the Ira Smiths and people with equally decent regard for the fine old architecture, quaint lanes, splendid palms and the riot of local colors is that the Virgin Islands become better known and loved through their efforts. Another gain is the inspiration their work gives to the young people of the community"; and

Whereas several of Mr. Smith's paintings are owned by the Government of the Virgin Islands are in the permanent collection at Government House of St. Thomas; and

Whereas Mr. Smith has contributed his artistic talents to the Virgin Islands Departments of Agriculture; Commerce (now Department of Economic Development and Agriculture); Conservatoin and Cultural Affairs (now Planning and Natural Resources); and Health, as well as the Virgin Islands Fort Authority; and

Whereas Ira Harrington Smith has distinguished himself as a Caribbean artist and has captured the charm, flavor and true spirit of our island community and the people of the Virgin Islands; his work was chosen for display at the 1964 World's Fair in New York City, and for presentation to the Honorable Lyndon Baines Johnson upon his unauguration as President of the United States; and

Whereas the Government of the Virgin Islands has commissioned his paintings for presentation to various world dignitaries; including the King of Denmark and the President of the Republic of Niger; and

Whereas in 1976, the Virgin Island Telephone Company selected his work, "Look Back and Be Proud . . . Look Ahead and Achieve", among mamy other artists' as the cover of the Biscentennial Telephone Director; and

Whereas due to his appreciation of the Virgin Islands' vernacular architecture, Ira Smith became a founder of the St. Thomas Historical Trust; and

Whereas as an avid orchid grower and member of the St. Thomas Orchid Society, he has sought to preserve and promote many Virgin Islands species through a series of botanical acrylic paintings and has won many awards of merit from the American Orchid Society; and

Whereas the St. Thomas Arts Council selected Ira Harrington Smith as the recipient of its 1990 Cultural Achievement Award for his many contributions to the arts and the preservation of the cultural heritage of the United States Virgin Islands; and

Whereas it is the sense of the Legislature that Ira Harrington Smith has earned the respect and admiration of the people of the Unites States Virgin Islands for his work as an artist and should be honored for his years of devoted service, numerous accomplishments and contributions to the people of the United States Virgin Islands: Now, therefore, be it

Resolved by the Legislature of the Virgin Islands:

SECTION. 1. The Legislature, on behalf of the people of the United States Virgin Islands, hereby honors and commends Ira Harrington Smith for his dedication to the arts and the preservation of the culture of these islands.

SECTION 2. A perma plaque copy of this Resolution shall be prepared and presented to Ira Harrington Smith by the President of the Legislature, or his designee, at an appropriate ceremony held for that purpose.

BUSH VERSUS ISRAEL

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LEVINE of California. Mr. Speaker, recent actions and statements by the Bush administration raise significant questions about its ultimate direction in the Middle East. In particular, these incidents—on the peace process, on Jerusalem, on housing guarantees for Soviet Jews, and on foreign aid—have helped reawaken deep Israeli fears with regard to American policy in the region.

William Safire of the New York Times recently wrote a column which explored this issue. Entitled "Bush Versus Israel," the piece paints a troubling picture of this administration's attitude toward Israel and the United States-Israel relationship. Indeed, it begins by saying, "Arabs and Jews who agree on little else can agree on this: George Bush is less sympathetic to Israel's concerns than any United States President in the four decades since that nation's birth."

Mr. Speaker, I ask unanimous consent to place this article in the RECORD and urge my colleagues to review it:

BUSH VERSUS ISRAEL

WASHINGTON.—Arabs and Jews who agree on little else can agree on this: George Bush is less sympathetic to Israel's concerns than any U.S. President in the four decades since that nation's birth.

President Carter harbored grudges at stiff-necked Israelis, but was constrained by the unity of our ally under Menachem Begin, the strong ties to the Democratic Party of most Jewish voters, and the reputation of Israel as a valiant ally under siege.

Those protections have been stripped away. Mr. Bush is dealing with an Israel paralyzed by parliamentarianism, with a voting group here that goes mainly against Republicans anyway, and with commentators holding Israel to wartime rules never applied to its neighbors.

Mr. Bush has long resisted America's special relationship with Israel. His Secretary of State, James Baker, delights in sticking it to the Israeli right. His national security adviser, Brent Scowcroft, and chief of staff, John Sununu, abet that mind-set.

The basic U.S. policy shift was noted last week by no less an authority than Yasir Arafat. "This Administration is the first American Administration that speaks of the end of the Israeli occupation," he said, hailing James Baker for telling Israelis "to forget the dream of a Greater Israel."

Mr. Arafat knows who his friends are; he accurately senses a historic change in White House support of Israel's right to decide its future.

This is the first Administration to openly threaten to cut aid to Israel; Secretary Baker enlisted Bob Dole in a scheme to drive a rift in American ethnic groups by shifting aid from Israel to Poland.

This is also the first Administration to tie aid directly to Israel's willingness to conform to U.S. policy demands: unless the West Bank is barred to Jews who want to move there, no loans will be guaranteed to help Soviet Jews start new lives.

Mr. Bush, by extending his anathema on "settlements" to a portion of Israel's capital, is the first to raise the prospect of a divided Jerusalem. Mr. Bush pretends that his bombshell, which brought down the Likud Government, is no change in U.S. policy; that legalistic half-truth fools nobody.

No previous Administration shut its eyes to clear evidence of terrorism: despite a rise in attacks on Israelis by Palestinian Arabs, and hundreds of assassinations of intifada Arabs by P.L.O. hit men, Mr. Bush holds that if no proof can be produced to show Mr. Arafat personally ordered the terror, the P.L.O. is innocent.

With such diplomatic strengthening, the P.L.O. was able to prevail on Mikhail Gorbachev to renege on an agreement with Israel's airline to transport Soviet Jews directly to safety. Another terrorist group was able to bring the Hungarian Government to its knees, at least temporarily canceling an escape route.

That's why Mr. Arafat is so high on the Bush Administration. That's why Iraq's Saddam Hussein, recipient of a fresh $500 million in U.S. loan guarantees, feels no restraint in building poison-gas plants and missiles, hanging anybody who dares to inquire.

No wonder that mainstream Jewish groups in America have belatedly come to the conclusion that Israel's friends are in the Congress, not the White House. And no wonder that Israeli diplomats are straining to build new ties in Central Europe, against the day Mr. Bush decides that Israel has lost strategic significance.

This Administration's policy, grimly fixed on imposing a P.L.O. state in the disputed territories and the Old City of Jerusalem, comes at the worst moment for millions of Jews in the Soviet Union.

Great political-cultural pressures are building in Russia. Forgive me for sounding alarmist, but if resurgent Russian nationalism turns anti-Semitic, as it so often has, no one can say how many scapegoats will be slaughtered.

Mr. Gorbachev, to gain American trade, opened the gates to let Jews out; Mr. Bush closed American gates, directing the refugees to Israel, which exists to receive them; but Arab leaders, emboldened by the Bush-Baker mind-set, have used terrorism and diplomacy to close off the escape route to Israel.

Come the first pogrom, which God forbid, who in the Bush White House will accept responsibility for failing to facilitate the new exodus while there was still time?

Who among supporters of Israel will step forward on some future Passover and admit they were so caught up with the "peace process" that they refused to confront the real possibility of a death process?

GINGRICH: NO MORE MR. NICE GUY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. JACOBS. Mr. Speaker, according to the Washington Post, one of our colleagues has recently charged that "because of leftists' opposition to legislation, we can't trace AIDS because it would infringe on personal lifestyles."

It is amazing how much you can learn from colleagues' speeches. I could have sworn that I, your humble Democratic peer, authored section 8008 of Public Law 100-647 which requires Social Security to help blood banks trace citizens believed to have donated AIDS tainted blood.

GINGRICH: NO MORE MR. NICE GUY

After he was elected House minority whip a year ago, Rep. Newt Gingrich (R-Ga.) toned down some of his strident partisan rhetoric. Last Saturday, however, Gingrich reverted to form as he called Democrats "cultural masochists" who relish bad news and fund a "bureaucratic welfare state" that "cripples children."

Gingrich, the keynote speaker at a GOP fund-raiser in Colorado, also attacked Democrats in general and House Armed Services Committee Chairman Les Aspin (D-Wis.) in particular for slashing the defense budget. Aspin, Gingrich said, acted in "a petty and destructive manner" to push for massive and irresponsible cuts.

Gingrich criticized the legislative agenda of Colorado Democratic lawmakers Sen. Timothy E. Wirth and Rep. Pat Schroeder. "The tradegy of [their] values is that it's the poor people who will suffer the most," Gingrich said.

Democrats also did not escape blame for the AIDS crisis, which Gingrich said is partly a result of "liberals who advocated free sex." He added that "because of lefists' opposition to legislation, we can't trace AIDS because it would infringe on personal lifestyles."

Gingrich then seized on the example of Ohio Gov. Richard F. Celeste (D) to underscore his assertion that "the vast majority of Americans don't believe the left makes any sense." Gingrich said that "Celeste, in a fit of lunacy, decided his state would participate in a National Condom Week."—Maralee Schwartz and David Maraniss.

A TRIBUTE TO THE MONROE COUNTY CHAPTER OF THE AMERICAN RED CROSS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DINGELL. Mr. Speaker, I rise today to honor an organization in my district that exemplifies the meaning of community service.

The Monroe County chapter of the American Red Cross is celebrating 75 years of dedicated service to its community, helping area residents in both the prevention of and relief from disasters and accidents. In times of peace, war, and disaster, the volunteers, members, donors, and staff have provided relief and care to people in need.

In 1915, when several prominent community members met to organize a Red Cross chapter in Monroe County, the main activities were a membership drive, a Christmas stamp campaign, and fundraising to aid the starving in Mexico. Seventy-five years later this chapter has substantially broadened its services, not the least of which is generating over 5,000 units of blood annually to transfer the gift of life at crucial times to countless recipients.

The chapter also offers safety classes in cardiopulmonary resuscitation, first aid, swimming, and boating. Emergency messages are delivered, family counseling is provided, and financial assistance is offered to people in

need of a helping hand. Nearly 100 persons in Monroe County receive disaster relief annually, and the chapter stands constantly ready to serve thousands more in the event of an emergency.

In my 35 years of service to the residents of southeastern Michigan I have often been comforted by the thought that I work in communities where people help each other, where when tragedy strikes and people are in need, I can witness the results of Americans pulling together and lending a helping hand to a neighbor. On behalf of all the citizens of Monroe County, I wish to thank the Monroe chapter for all it has given our community.

Mr. Speaker, I ask the House of Representatives to join me today in honoring the Monroe County chapter of the American Red Cross on the occasion of its 75th anniversary. Over this century the efforts of the chapter's thousands of volunteers deserve high praise as an example of giving and caring community service. May the next 75 years be just as successful.

RECOGNIZING THE CONTRIBUTIONS OF WOMEN TO AMERICA'S HISTORY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, women have generously contributed to the character of our Nation from the taming of the Western frontier to the frontiers of space. As National Woman's History Month comes to a close, it is important to remember the legacy of the heroines of the women's suffrage movement throughout the years. By securing the right to vote for women, the suffragettes set in motion the cause of universal suffrage.

In all the varied pursuits of life, women have made a special contribution, sometimes against the odds. Elizabeth Blackwell broke into the previously exclusive vocation of physician in 1849, penning her experiences in "Pioneer Work in Opening the Medical Professional to Women." In 1916, Jeannette Rankin, a Republican of Montana, became the first woman to be elected to the House of Representatives. In 1958, Mary Roebling of the Trenton Trust Co., became stock exchange director and one of the 32 governors of the American Stock Exchange. And today, Wilma Mankiller is the Cherokee Nation's woman principal chief.

In addition to these spectacular entries to America's history books, women have contributed to the moral strength of our Nation, as our mothers and sisters. Mr. Speaker, let us all take note of the significant role women have played in America as they help guide our Nation into the future.

IN TRIBUTE TO FAIRMOUNT MANOR OFFICERS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the recently elected officers of the Fairmount Manor in Woonsocket, RI.

The president of the Fairmount Manor will be Fleur Nunes, while the seat of vice president will be filled by Richard Plath. Hortense Laflamme will serve as the new secretary while Paul Houle will be the treasurer. Bernadette Rioux will serve as the activity chairperson.

I would like to wish my best to the new officers of the Fairmount Manor and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion to their fellow tenants.

MR. LEWIS E. DRISKELL, C.S. MOTT CITIZEN OF THE YEAR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. KILDEE. Mr. Speaker, I commend to my colleagues' attention the attached article from the Flint Journal about a truly remarkable human being from my hometown of Flint, MI. Mr. Lewis E. Driskell has made many trememdous contributions to the quality of life of so many of us in Flint and I feel strongly about the need to bring the attached story to the attention of the Congress and the Nation:

PRINTER NAMED CITIZEN OF YEAR: OWNER OF FLINT FIRM SELECTED BY C. OF C.

Lewis E. Driskell Sr., president and chief executive officer of Union Printing Co. Inc., was named the 1990 C.S. Mott Citizen of the Year by the Flint Area Chamber of Commerce.

Driskell, 59, will receive his award during the chamber's annual dinner meeting May 17 at the Hyatt Regency Hotel.

He is the 18th recipient since the award was first presented to George Whyel in 1973.

Driskell deserves the award because of "his willingness to immerse himself in all facets of the community," said chamber President Lawrence P. Ford.

Driskell was recognized last year as "Minority Entrepreneur of the Year" by Gov. James J. Blanchard.

Driskell, one of the cofounders of the Flint-based Metropolitan Chamber of Commerce, was born in Forsyth, Ga., and moved to Flint in 1960. He opened his business in 1974.

He is president of the Private Industry Council and the Central City Investment Club.

Driskell is a member of the state's Human Investment Council for Job Training and the Employability Skill Task Force. He was appointed by Blanchard to the Michigan Job Training Coordinating Council. He also was appointed by the state Board of Education to the Michigan Council on Vocational Education and served as chairman for two years.

Driskell served for 12 years as president of Local 282, Graphics and Communication Union.

He was a member of the board of directors for the Flint Urban League and the Flint Branch of the NAACP.

He served on the allocation board of the United Way of Genesee and Lapeer Counties.

He also is past president for the Alpha Phi Alpha fraternity.

THE MARKETS AND TRADING REORGANIZATION AND REFORM ACT

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ECKART. Mr. Speaker, today, Mr. GLICKMAN and I are introducing legislation to radically change the current structure of our financial market regulators by merging the Securities and Exchange Commission [SEC] and the Commodity Futures Trading Commission [CFTC] into a single regulatory entity. The Markets and Trading Reorganization and Reform Act [MTRRA] would alleviate much of the regulatory tensions that exist between the SEC and the CFTC and focus needed energies upon effective regulation rather upon jurisdictional battles. It is our belief that this regulatory restructuring will reestablish stability in the marketplace and restore investor confidence.

In this time of sophisticated trading strategies and continued introduction of new hybrid trading instruments, we need to ensure an effective regulatory environment. Historically, the United States has been in the forefront of market innovations, and we must maintain that competitive edge. By struggling with regulatory differences, we spend more time in the courts determining which regulatory agency should regulate which product rather than capitalizing on the ingenuity and potential of new trading instruments. A case in point is the recent Seventh Circuit Court of Appeals decision over the regulation of index participations [IP's]. While extensive litigation dragged on, the United States lost the market for IPs to Great Britain.

Our bill would establish the Markets and Trading Commission [MTC] which would encompass components from both the SEC and CFTC. The MTC, drawing from current SEC and CFTC personnel, will have expertise in all markets, from the physical commodities to stock index futures and equities. We are not creating a "super SEC" which gives preferential treatment to New York at the expense of Chicago. We are establishing a "super regulatory agency" to restore stability and vitality to our marketplaces. This unified regulator, which exists in most other industrialized countries, will foster an efficient marketplace and preserve our worldwide competitiveness.

MTRRA also addresses the issue of margin-setting authority. This bill would transfer margin-setting authority over equities from the Federal Reserve to the MTC and grant the MTC oversight responsibilities over margins in the futures markets. While the MTC would set

a floor for margins in the futures markets, the exchanges would retain their authority to set margin levels on a day-to-day basis.

It is time to put pettiness and turf battles behind us and concentrate on creating good policy. I look forward to working with Members of Congress, the SEC, the CFTC, Treasury, industry and the exchanges as we work to reach a consensus on the best way to organize and structure this new Commission.

SUMMARY OF THE MARKETS AND TRADING REORGANIZATION AND REFORM ACT

I.—Merges the Securities and Exchange Commission and the Commodity Futures Trading Commission into one entity, the Markets and Trading Commission.

II.—Eliminates both the SEC and CFTC.

III.—Commission shall have five commissioners appointed by the President and approved by the Senate.

IV.—The Commission shall establish the principal divisions and subdivisions within the Commission, except that it shall establish one division solely devoted to the physical commodities like soybeans, porkbellies and metals.

V.—The Commission shall have jurisdiction over margin-setting levels.

A. Current margin-setting authority over equities which resides now with the Federal Reserve shall be transferred to the Commission.

B. The Commission shall also prescribe limits on the level of margin for future contracts (set a floor), but the exchanges will continue to set day to day margin levels, provided that they are above the floor level set by the Commission.

VI.—The bill shall establish a Federal Financial Markets Coordinating Council composed of the Federal Reserve, the Treasury, the Comptroller of the Currency, the Markets and Trading Commission, the National Credit Union Administration, the Office of Thrift Supervision and the Federal Deposit Insurance Corporation.

This Council will meet bimonthly and at the call of the Chair to discuss issues relating to the safety and effectiveness of the financial services industry and other issues relating to those regulatory operations.

Establish an advisory committee of representatives from the futures, commodities, options, and securities exchanges and the banking industry to meet no less than 4 times annually.

The Council shall report to Congress biennially on its functions. The first report shall contain recommendations for legislative action it considers appropriate.

VII.—The Commission shall be effective by October 1, 1992. During the interim two years, it shall go through a transitional period. $10 million is authorized over the next two years to carry out this transition.

DISABLED WORK INCENTIVES EQUITY ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WYDEN. Mr. Speaker, today I am introducing legislation to alleviate the current disparity in work incentives provided to the blind and the nonblind. This legislation, the Disabled Work Incentives Equity Act of 1990, will give nonblind disabled supplemental security income [SSI] recipients the same kinds of incentives to work as are presently afforded to blind SSI recipients.

Presently, blind disabled individuals are allowed to exempt more expenses from their earnings than nonblind individuals before their income level is tested for SSI eligibility. In addition, blind individuals have their eligibility based on net income, while nonblind workers' eligibility is based on gross income.

These disparities in work incentives between the blind and the nonblind are unwarranted. Why should a blind individual receive greater incentives to work than a nonblind individual?

Both blind and nonblind individuals should be provided with the proper incentives to work and become independent. Neither group should have to risk losing needed medical and cash assistance because they choose to get a job and be productive.

My bill does not condemn the current incentives provided to the blind. Quite the contrary. My bill simply says that a nonblind SSI recipient should be given the same incentives to work as are currently provided to blind SSI recipients.

The cost of providing this major improvement to the nonblind disabled is minimal. Preliminary Congressional Budget Office [CBO] estimates put the cost of my legislation at $26 million per year in fiscal year 1991, leveling off at $20 million per year by 1993.

The modest cost of this bill should come as no surprise. After all, if nonblind individuals are given greater incentives to work, it is only logical that they will be paying the Government back through increased payroll taxes and, in some instances, independence from Government assistance.

Granting equal and proper incentives to all of our disabled citizens to become independent is simply the right thing to do. I urge my colleagues to cosponsor this important initiative.

ASSURING PHYSICIAN QUALIFICATIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. STARK. Mr. Speaker, I rise to introduce H.R. 4464, the Medicare Physician Qualification Act of 1990.

The Medicare Physician Qualification Act of 1990 would improve the quality of care provided to Medicare beneficiaries by requiring that physicians treating Medicare patients pass a periodic examination of their competence as a condition of payment.

States have the authority and responsibility to assure physicians' competence through their licensing activities. However, in practice, physicians are first licensed shortly after graduating from medical school. At no time after receiving his or her initial license is a physician required to demonstrate that he or she has maintained the basic skills required for the practice of medicine.

While States can remove or suspend a physician's license, it is done only rarely. In 1987, there were 913 instances when a physician's license was revoked or suspended. This is an improvement over the 492 cases in 1984, but it still means that less than 0.2 percent of 540,000 practicing physicians were sanctioned.

Most physicians are competent. However, anecdotal evidence suggests that too many are not, and too many of the incompetent ones find ways to retain their licenses. In California, Dr. Milos Klvana was convicted of murdering nine babies through incompetence but retained his license while awaiting criminal trial. In another case, U.S. district court Judge Marvin Aspin had to order a special panel of physicians to investigate whether a physician convicted of Medicare fraud was competent to continue to practice.

Until recently, a physician sanctioned in one State could simply set up practice in another.

Clearly, our systems of medical licensure and discipline are not doing an adequate job of assuring the public that licensed physicians are competent to practice medicine.

For patients, lifelong licenses offer little assurance of competence. Just because a physician was judged minimally competent 10 or 20 years ago has little bearing on whether he or she has maintained his or her competence.

One approach for assuring that physicians are currently qualified is to require relicensure or recertification. After all, it is easier to deny an incompetent physician a new license than it is to remove one.

Recertification policies have been adopted by 17 of the 23 member boards of the American Board of Medical Specialties. This involves periodic reassessments of the qualifications of physicians who wish to be a board certified specialist. While board certification is voluntary and doesn't effect a physician's license to practice, it suggests a model that could be used to assure the qualifications of all physicians.

The Medicare Physician Qualification Act of 1990 would require that all physicians treating Medicare patients pass an examination of their competence at least every 7 years as a condition of receiving payment.

The Secretary of Health and Human Services would establish standards for evaluations of physicians' qualifications that may include written and other types of evaluations. A general exam would be developed that could be taken by all physicians. In addition, exams could include evaluations of physicians within a particular specialty of medicine.

Qualifying organizations, generally organizations already evaluating physician qualifications for licensure and certification, could apply to have their examinations certified as meeting the Secretary's standards.

Taking incompetent physicians out of practice is an important step in assuring Medicare beneficiaries that they are receiving quality medical care. The need for this action is demonstrated by high rates of medical injuries and the burden that malpractice places on the health care system.

I hope my colleagues will join in this effort.

INTRODUCTION OF ANTARCTICA BILL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. VENTO. Mr. Speaker, the future of Antarctica is an issue that rightly attracts increasing public interest and concern. Today I am introducing legislation intended to provide the basis for the protection of its threatened environment and priceless living and nonliving resources and values.

Antarctica is a unique and very special region of the Earth. With 90 percent of the Earth's ice and 70 percent of its fresh water, Antarctica is both a fragile ecosystem that supports many forms of life, and an indispensable part of the atmospheric and oceanographic systems that moderate the world's weather and maintain the habitability and productivity of our planet.

Since 1961, the Antarctic Treaty has provided a framework for peaceful and cooperative international activities in Antarctica. America can be proud of its leadership role in the development and implementation of the treaty, as well as in the carrying out of scientific research and other activities that have taken place in Antarctica since its ratification.

Now, however, Mr. Speaker, there is growing concern about the need for new steps to assure that Antarctica will remain unspoiled and dedicated to peaceful research. This is a subject that has been of special importance to me for some time, especially since the 1988 signing of a Convention on the Regulation of Antarctic Mineral Resource Activities—or "CRAMRA"—that would for the first time constitute a framework for possible prospecting and other mineral exploration and development activities in Antarctica.

Anticipating that the 101st Congress might be called upon to consider approval of CRAMRA and implementing legislation for that convention, in 1988 I asked the Congressional Research Service to examine the issues related to protection of the Antarctic environment. In response, the Congressional Research Service convened a workshop of experts on Antarctica and produced a valuable report on environmental protection issues, and I have drawn upon that report in shaping the legislation I am introducing today.

Mr. Speaker, many of us followed with attention and enthusiasm the heroism of an international team, led by Minnesota's Will Steger, on the recently completed trans-Antarctic expedition—a record-setting dogsled crossing of Antarctica. In a moving Christmas message, taped while crossing the Antarctic plateau with the expedition, Mr. Steger urged the United States to take a leadership role in promoting international cooperation for the preservation of Antarctica. That is exactly the point and purpose of the bill being introduced today.

Leadership from the United States is essential, Mr. Speaker, because as CRS noted in its 1988 report mentioned earlier, as human activity in Antarctica has increased over the past several years, concerns over environmental impacts have also grown. The number of research personnel stationed in Antarctica has grown dramatically over the past decade: From 544 in 1979–80 to over 2,000 every year since 1982–83. Waste disposal and wildlife disruption associated with these increases have caused concern and criticism of the U.S. program and those of other nations by the environmental community. Tourism activities have grown, with very large increases projected: From 6 visits by 692 tourists in 1981 to 13 visits with 1,295 tourists in 1986–87, and some 2,800 people in 1988. I understand that the Antarctic tour season, which averaged 55 days a decade ago, in recent years has been for 95 days.

Accommodating and supervising these increasing numbers of tourists has been a growing problem, especially with regard to assuring protection of the environment, research operations, and wildlife. While most tourists are seriously concerned about protecting Antarctica, their visits are often localized, repetitive, and can frequently occur at breeding grounds for seals, penguins, and other seabirds. Such visits place additional stress on these species, and could cause animals to abandon their breeding sites or increase the vulnerability of their eggs and young to predation. Indeed, frequent helicopter visits by the first tourists to Antarctica—diplomats and dignitaries visiting McMurdo Station—quickly resulted in a 50-percent reduction in the southernmost adelie penguin rookery at Cape Royds. More recently, the release of at least 180,000 gallons of diesel fuel and other petroleum products from an Argentine tour/supply ship seriously jeopardized wildlife breeding colonies near Palmer Station on the Antarctic peninsula.

And these environmental problems from tourism could seem insignificant by comparison should Antarctica be opened to widespread mineral development. The Bush administration maintains that the CRAMRA agreement would establish a framework for regulating and controlling mineral activities, so as to reduce environmental problems. But I believe that we can do better. I believe that we can take the lead in seeking and obtaining international agreement that Antarctica should be forever off-limits to mineral activities and continue to be dedicated to peaceful and cooperative uses that advance our understanding of the world and universe and that will leave this part of the globe unimpaired for all generations to come.

Toward this end, Mr. Speaker, in November of last year I joined Chairman UDALL and the other chairmen of subcommittees of the Interior Committee—Representatives MILLER of California, RAHALL, DE LUGO, and KOSTMAYER—in writing the President to urge that alternatives to CRAMRA be explored. So far, however, the administration has demonstrated an unwillingness to seriously consider such alternatives. Therefore, I have attempted to shape a legislative alternative that I believe more fully responds to the importance of the Antarctica resource and the proper leadership role of our Nation. That alternative is embodied in the bill being introduced today.

The bill would be known as the Antarctica World Park and Protection Act of 1990. Its central purpose is to establish that the policy of our Nation is to act to protect Antarctica's lands, waters, resources, and values, so as to preserve them for the benefit of present and future generations of the world's people.

Toward that end, it would direct the Secretary of the Interior, through the National Park Service, to prepare an inventory of Antarctica's wilderness, cultural, scenic, wildlife, marine, historic, environmental, ecological, scientific, and other resources and values. This would be done so as to identify areas that should be managed to preserve unique natural ecological systems, areas of exceptional scientific interest, and other areas possessing special resources and values that must be properly managed. The inventory would be prepared in cooperation with other agencies of our Government, members of the worldwide scientific community, and with cooperating foreign nations.

Building on the inventory, the Secretary of the Interior, through the National Park Service, would prepare a management plan that would be appropriate for management of Antarctica as a world park. This plan would identify areas appropriate for public education and interpretation, for tourism, and for scientific research. It would also identify areas in Antarctica needing restoration or mitigation because of past damage, from oil spills, waste dumps, or other causes.

Once the plan was developed—a process that would involve public participation—its provisions would become binding on our Government and citizens, but even before that the Secretary of State would be required to begin negotiations with other nations to seek to have them join in agreements to protect Antarctica by prohibiting mining and in other ways, and to facilitate world park status for Antarctica. These talks should start this year, when parties to the Antarctica Treaty hold a meeting in Chile to discuss environmental issues.

In the interim, the bill would prohibit activities by the United States related to Antarctica that were not consistent with the purpose of the bill—protection of Antarctica—and the policy of preserving its resources, values, and environment for present and future generations.

Toward that end, the bill would immediately prohibit any prospecting or mining in Antartica by United States entities, and would extend to Antarctica the environmental and historic preservation laws that govern actions of Government and other entities in the United States.

Further, the bill would establish the Department of the Interior as a central clearinghouse for information about activities or proposals of other nations in Antarctica, so that this information can be available for public review and comment. It would require the Secretary of the Interior to prepare an analysis and comments regarding such matters, to establish a basis for our Nation's policy and reactions to them.

The bill would also bolster the existing mechanisms established under the Antarctic Treaty, for protecting the Antarctic environment. This would be done by making it more difficult for actions by our Government or U.S. citizens to be exempted from environmental restrictions established under the treaty mechanisms, and by requiring public and congres-

sional involvement in any proposal for such exemptions. In the same line, the bill would require consideration of sanctions against other nations not abiding by environmental protection measures recommended through the treaty mechanisms, and would condition U.S. agreement to extend voting rights under the Antarctic Treaty to additional nations on the willingness of those nations to abide by such recommendations and to be guided by and act in accordance with the plan for managing Antarctica as a world park.

Finally, Mr. Speaker, the bill would authorize appropriate citizen lawsuits to ensure that it is abided by and enforced.

Mr. Speaker, this is not time for half-measures if America is to be the world's leader in protecting Antarctica. Other nations, including those that have indicated their dissatisfaction with the prospect of mineral development in Antarctica, are waiting for a strong signal from the United States. Now, in the year when we will mark the 20th anniversary of Earth Day, is the time for us to send that signal and for us to take the lead in preserving the last continental region that is still essentially natural.

Mr. Speaker, I urge all our colleagues to join us in support of this measure.

CABLE IN THE CLASSROOM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. McEWEN. Mr. Speaker, schools in 500 communities in Ohio now have access to an exciting educational tool, Cable in the Classroom because of the commitment of Continental Cablevision in Centerville, OH. Today I want to recognize Continental Cablevision and share its success with my colleagues.

Cable in the Classroom was made available through the efforts of Ronald J. Testa, Jr., Continental Cablevision's district public and government relations manager. Mr. Testa made a commitment to provide Cable in the Classroom free of charge to all of the junior high and high schools in the 500 communities served by Continental Cablevision. His work made it a reality.

Cable in the Classroom is more than just TV. For students and teachers who equate television with couch potatoes, Cable in the Classroom is a real surprise. It harnesses the power of the television and provides an educational tool for teachers that truly excites students. Cable in the Classroom provides a continuous source of quality programs that engage and challenge students and teachers alike. Every program demands student involvement—from observing Congress and calling Members via C–SPAN, reporting like a journalist on CNN or writing about the excitement of space exploration and more. The program also provides study guides and support materials that help both students and teachers.

Cable in the Classroom is also flexible. Materials can be shown live, taped for later use, or edited to fit teachers' lesson plans. All of this programming is provided free—free of charge and free of commercials.

The programs available apply to every subject matter—English, math, science, and social studies. It could be a ballet from the Arts & Entertainment Cable Network. It could be an exploration of the phenomenon of tornadoes coupled with valuable safety tips from the Weather Channel. It could be a program on drugs distributed on Continental Cablevision's educational and public access channels. It could be a program on the Discovery Channel integrating match and science in a space shuttle mission. The variety is almost endless and teachers have the freedom to pick and choose only those programs which would benefit their students.

Continental Cablevision performs an invaluable service by providing Cable in the Classroom free of charge to schools. Cable in the Classroom broadens the definition of learning for students. From inside their classrooms, it can take them around the world, to outerspace and back. As parents, we are grateful that an exciting learning tool such as Cable in the Classroom is available to our children in school to enrich their education. We owe our thanks to Ron Testa and Continental Cablevision for bringing it to them.

TIRE RECYCLING NEEDS CONSIDERATION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BROOMFIELD. Mr. Speaker, recently, John King, a retired businessman and newspaper columnist from my district sent me two editorials he had written on tire recycling. The articles appeared in several local newspapers, and indicate a growing awareness of this problem.

Representative TORRES of California has introduced comprehensive legislation, H.R. 4147, the Tire Recycling Incentives Act, which will require tire companies to purchase recycling credits proportional to their tire production. Every recycled tire will be worth one credit issued to any firm which can satisfactorily reprocess tires. H.R. 4147 approaches an environmental problem through incentives for small business and entrepreneurs. I have just signed on as a cosponsor and urge my colleagues to give the Tire Recycling Incentives Act serious consideration.

I am including Mr. King's articles which help illustrate this problem:

THE CALAMITY OF A RAGING USED TIRE FIRE

As I write this column the world's largest used tire fire is burning virtually uncontrolled and may well be burning for the next year.

The location is not so far from here in neighboring Ontario near a small town called Hagersville, which is just southwest of Hamilton.

By reading local and national newspapers and watching American television, one would be totally unaware that such an environmental tragedy has hit this part of North America.

Such is the parochial attitude that the American media exhibits toward our neighbor to the north.

I dare say that if such a calamity hit the United States, the news treatment would be quite different. The only reason I am so knowledgable about this incident lies in the excellent coverage that it has had from the Canadian Broadcasting Company and its station in Windsor.

The fire is consuming some 14 million tires, which makes it the largest used tire fire in history to date.

But there will be others and larger ones, because the problem of used tires is one that the western world has not solved, and it does not look like it will be solved in the near future.

It is estimated that we throw away annually one tire casing for every person in the country, and almost nothing is being done to recycle them.

Landfills will not take them because they take forever to disintegrate and take up far too much space. So what do we do?

We pile them up in huge mounds and sooner or later someone sets them afire. It is almost impossible to put them out once the fire has started.

Huge amounts of chemicals are going into the air and running into the ground to contaminate the ground water supply in a very nice farming area. What a pity!

Could such a calamity happen here?

Yes, it could and has happened recently on a much smaller scale.

The current rewrite of the country's solid waste program is completely inadequate in the way it treats this subject. I quote:

"Tires must be handled appropriately to avoid environmental problems. The county will cooperate with the state to develop a separate program to dispose of used tires, such as a drop off collection site".

This language will not do the trick, and environmentalists had better be out in force at the March 1 hearing on the plan at the county courthouse.

LAISSEZ-FAIRE ATTITUDE GROWING TIRESOME

Last week I discussed the problem of waste tires and the world's largest tire fire which was then under way in Haleyville, Ontario, and which, according to the latest reports, has been extinguished.

This week we are going to point out the real culprits responsible for the huge accumulation of used automotive tires and the blatant fact that neither the tire manufacturers, the makers of automobiles and trucks nor any branch of private industry or the government at any level in this country and Canada are really trying to do anything constructive about this problem which is probably the most important in the Western world.

It is my position that one of the major faults of the so-called private enterprise system lies in the fact that both the automobile industry, which sells the completed vehicle, and the rubber companies, which make and market the tires, have for more than half a century done nothing about finding a way to get rid of tires.

They simply produce and sell the product and then wash their hands of the problem and wish that it would go away. The same can be said for old vehicles, although in the latter case some recycling has been done.

Private corporations have got to rethink their place in society and their responsibilities for getting rid of the products that they manufacture. This will undoubtedly mean higher costs for cars and tires, but we cannot go along much longer disregarding the problem as we are now doing.

Wake up tire and vehicle companies and accept the responsibility for those cast-off products that are rightfully yours. If you do not do it voluntarily, then we are going to have to force you to by legislation. Storing tires in huge dumps and allowing them to catch on fire is just not good enough.

I have found out that the four used tires that I gave to Sears a month ago are being recycled and retreaded in a plant in the Chicago area, but this procedure is just a drop in the bucket.

In addition to greatly accelerated rates of research on the part of private industry, government at all levels—including Oakland County—have got to make this problem a number one priority. There is a little recycling going on such as a company in Santa Rosa, Calif., which is collecting tires from all over the country and burning them to make electricity.

Unfortunately, the environmental groups in that part of the country are complaining about the gases that go up in the smokestack. Such are the foibles of people.

U.S. COURT OF APPEALS DECISION ON TELECOMMUNICATIONS INDUSTRY RESTRICTIONS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MARKEY. Mr. Speaker, I call to the attention of my colleagues, yesterday's decision by the U.S. court of appeals on the AT&T divestiture case, which in part reversed and remanded the lower court's ruling maintaining the restrictions on the provision of information services by the regional Bell operating companies.

Yesterday's ruling reaffirms the need for Congress to make telecommunications policy for the Nation rather than leaving our national policymaking decisions to the courts. Almost 3 years after the U.S. district court's original ruling, the appeals court reversed and remanded that decision, returning the vital public policy issues regarding information services back to square one. The United States cannot afford to have the Nation's telecommunications future volleyed back and forth among the courts while our industries remain crippled by uncertainty, unable to make the strategic plans and investments that will bring the next generation of communications technologies to the American public.

While the court is the appropriate body to interpret antitrust law, it is not the appropriate body to make policy decisions affecting American consumers. The court itself realizes, and I quote, " * * * we see no clear evidence that ratepayer protection was part of the contemporaneous understandings of—the decree's—purposes * * * and in any event, we—the Court—believe the text of the decree generally forecloses the goal of ratepayer protection * * * ".

Clearly, yesterday's ruling demonstrates to all segments of the industry and American consumers that Congress must set a consistent, timely, and comprehensive national telecommunications policy; a policy that ensures the principles of universal service, diversity, and localism—the cornerstones of the Communications Act and the foundation on which the world's greatest telecommunications network was built.

To this end, the Subcommittee on Telecommunications and Finance is continuing to hold a series of hearings on the staff draft of the "Telecommunications Policy Act of 1990." This act would provide the appropriate vehicle to balance a gradual expansion of Bell Co. business opportunities with extensive safeguards designed to protect consumers and workers as well as promote fair and vigorous competition within the industry.

The availability of these new electronic services would not only stimulate our economy, but help the United States regain the leading edge in telecommunications technology. I urge my colleagues to join in my effort to establish a national telecommunications policy which will lead the United States into the 21st century.

THE FAIRDALE BULLDOGS: KENTUCKY STATE BOYS' HIGH SCHOOL BASKETBALL CHAMPIONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MAZZOLI. Mr. Speaker, today I rise to celebrate and congratulate the Fairdale High School Bulldogs who, in Louisville's Freedom Hall, won the 1990 Kentucky State boys' high school basketball championship.

This tournament is what we in Kentucky, Mr. Speaker, call the sweet 16 and how sweet it was for Fairdale High School, and the Fairdale community.

For those of us who live in Jefferson County and are natives of that area, we know how important to the Fairdale community the high school is. Every resident of Fairdale was in ecstasy as the final seconds ticked off the game clock.

So after several years of being in the sweet 16 but without being able to bring home the championship cup, the Fairdale Bulldogs won it all. They won convincingly, and they won with class.

I would like to take this opportunity again, Mr. Speaker, to celebrate Fairdale's victory, and to salute the players: Jermaine Brown, Tyrran Scroggins, Terry Jenkins, Chris Kelso, Sean Bishop, James Gardner, Maurice Morris, Tony Wheat, Carlos Turner, David Hicks, Tim Comstock, and Jeff Thompson; the head coach, Stan Hardin; the assistant coaches: Lloyd Gardner, Andrew Bailey, Larry Hall, and Ken Able; the athletic directors; George "Butch" Greschel and Donna Miller; the cheerleaders: Jennifer Johnstone, Brenda Sondergeld, Michelle Cox, Tracy Scroggy, Carla Atwell, Wanda Eaves, Stephanie Lyons, Dana Edwards, Jennifer Whitley, Karen Clark, Leslie Moore, Penny Lanham, Amanda Weston, Rhonda Marr, and Julie Hale; the cheerleader sponsors: Beckie Hardin and Judy Barnes; the managers: German Vasquez, Sean Hood and Gary Compton; and the principal, Marilyn Hohmann, and the faculty and staff and everybody who was involved with the great victory. It brings pride to those of us who are residents of Jefferson County.

HONORING MICHAEL L. MAZZUCCA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GILMAN. Mr. Speaker, today I would like to call the attention of our colleagues to the heroic actions of one of my constituents, Michael L. Mazzucca, a resident of New York City, NY, who is a shining example of the humanitarian instincts of an American citizen.

On May 1, 1985, a tragic accident occurred. Mr. Carrol Barton was traveling on his bicycle in New York City when he was struck by an automobile, Pinning him against a bus. Michael Mazzucca, upon witnessing the accident, acted immediately and effectively. He moved the car, and administered the emergency first aid to the victim's severed leg which saved Mr. Barton's life.

These actions come as no surprise to those who know Mike. Due to the fact that, throughout his life, Mike endeavored to better the lives of those around him. He has been an active leader in the Boy Scouts for over 19 years, as Scoutmaster for Troop 128 and as vice chairman of the Rockland County Boy Scout Council.

Since its inception, the Boy Scouts of America have promoted such lofty values as good citizenship, honor, courage, loyalty, assistance to others, and determination. Beyond that, the Boy Scouts provide extensive training in various skills that benefit all the members of our society. Carrol Barton can attest to the value of the first aid training the Boy Scouts provide. Fortunately, because of men like Michael Mazzucca, the young people in our society continue to receive this training.

Mike's contributions to our communities, and our society as a whole, are not limited to the Boy Scouts, important as they are. In addition, Mike has served on our 22d Congressional District's Drug Advisory Committee since 1985, assisting me in my efforts to address the critical problem of drugs in our society.

I could go on about Mike's extensive service to his community and our Nation, but knowing Mike's modesty, I will desist. Indeed, the reason that we are honoring him so long after his action is due to that modesty, which precluded him from alerting people to this heroic act. Fortunately, on March 30, 1990, the Boy Scouts honored him at their annual dinner, paying homage to a man who justly deserves it.

Mr. Speaker, I invite our colleagues to join in saluting Michael Mazzucca for his heroic action which saved a life, for his civil-minded devotion to the people of our society, and for his single minded devotion to the ideals of the Boy Scouts of America.

BILL NAVE, MISSES NATIONAL TEACHER OF THE YEAR, BUT MAKES THE MARK

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BRENNAN. Mr. Speaker, the National Teacher of the Year, Janice Gabay, was honored today at the White House, however, I think it's important to acknowledge the four finalists, in particular, Maine's 1990 Teacher of the Year, the national finalist, Bill Nave.

Bill is a teacher at the Alternative School in Turner, ME, and he was the only finalist selected who works with at risk youth and high school dropouts. I believe Bill's efforts are exceptional in building the aspirations of kids and in working with people who are frequently skipped over, or fall through the cracks in our education system.

On Wednesday, I met with Bill and a group of his students on the steps of our Nation's Capitol. These kids were exhilirating, they were excited to be in Washington and they asked insightful and thoughtful questions.

I think the fact that Bill Nave takes at risk youth and helps them to build dreams and to set reasonable goals is worth recognition and in my book, I congratulate him on being a national finalist, and Maine's 1990 Teacher of the Year.

THE REAUTHORIZATION OF THE NATIONAL ENDOWMENT FOR THE ARTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WEISS. Mr. Speaker, I would like to share with my colleagues Garrision Keillor's article entitled "Thanks for Attacking the NEA." It appeared in the New York Times today, April 4, 1990. I believe that "Thanks for Attacking the NEA." poignantly and elegantly conveys an important perspective on the significance of the National Endowment for the Arts—the perspective of an artist.

As Congress considers legislation to reauthorize the Endowment, and the possibility of restricting the agency's ability to function as it was intended to, we must keep this agency's manifold and consequential contributions in mind. If Congress subjects the NEA to content restrictions based on political, rather than peer review judgment, we will be faced ultimately with the question of whether it is worth funding the agency at all. What price in freedom of expression and creativity will we be willing to pay to have the Government continue to fund the arts?

I urge my colleagues to look closely at Garrison Keillor's argument in support of a National Endowment for the Arts unrestricted by statutory content provisions.

The article follows:

THANKS FOR ATTACKING THE NEA

(By Garrison Keillor)

WASHINGTON.—It's a pleasure to come down to Washington and speak in support of the National Endowment for the Arts, one of the wisest and happiest pieces of legislation ever to come through Congress. I'm grateful to those who have so ably attacked the Endowment over the past year or so for making it necessary to defend it. I enjoy controversy and I recognize the adversary: they are us.

My ancestors were Puritans from England. They arrived here in 1648 in the hope of finding greater restrictions than were permissible under English law at that time. But over the years, we Puritans have learned something about repression, and it's as true today as when my people arrived: man's interest in the forbidden is sharp and constant.

If Congress doesn't do something about obscene art, we'll have to build galleries twice as big to hold the people who want to see it. And if Congress does do something about obscene art, the galleries will need to be even bigger than that. We've heard three or four times this morning that, of 85,000 works funded by the N.E.A., only 20 were controversial. I don't know why anyone would cite that as something to be proud of.

All governments have given medals to artists when they are old and saintly and successful and almost dead. But 25 years ago, Congress decided to boldly support the creators of art—support the act of creation itself—to encourage artists who are young and vital and unknown, very much alive and therefore dangerous. This courageous legislation has changed American life.

Today, in every city and state, when Americans talk up their home town invariably they mention the arts—a local orchestra or theater or museum or all three. It didn't use to be this way. Forty years ago, if an American meant to have an artistic career, you got on the train to New York. Today, you can be a violinist in North Carolina, a writer in Iowa, a painter in Kansas.

This is a revolution—small and lovely—that the Endowment has helped to bring about. The Endowment has fostered thousands of art works—many of which will outlive you and me—but even more important, the Endowment has changed the way we think about the arts. Today, no American family can be secure against the danger that one of its children may decide to become an artist.

Twice in my life, at crucial times, grants from the Endowment made it possible for me to be a writer. The first, in 1969, arrived when I was young, broke, married with a baby, living on very little cash and a big vegetable garden. I was writing for the New Yorker at the time but they weren't aware of it.

I wrote every morning and every night. I often had fantasies of finding a patron. A beggar would appear at my door one day; I'd give him an egg salad sandwich, and suddenly he'd turn into a man in a pinstripe suit, Prince Bob from the Guggenheim Foundation. But instead of him, I got a letter offering me a job for one month in the Poets in the Schools program in Minneapolis, funded by the N.E.A., directed by Molly LaBerge, which sent young writers into the schools to read and teach. In 1969, there were three such programs: in New York, California and Minnesota. Today, there's at least one in every state.

It was the first time anybody paid me to be a writer. It was the sort of experience a person looks back at and wonders what would have happened if it hadn't.

In 1974, a grant from the N.E.A. enabled me and my colleagues at Minnesota Public Radio to start "A Prairie Home Companion." The help of the Endowment was crucial because the show wasn't that great to begin with.

For our first broadcast, we had a crowd of 12 persons, and then we make the mistake of having an intermission and we lost half of them. The show wasn't obscene, just slow. It took us a few years to figure out how to do a live radio show with folk music and comedy, and stories about my home town of Lake Wobegon.

By the time the show became popular and Lake Wobegon became so well-known that people thought it was real, the Endowment had vanished from the credits, its job done.

When you're starting out—I think it is true in the arts as in politics—it seems like nobody wants to give you a dime. When you have a big success and everything you could ever want, people can't do enough for you. The Endowment is there at the beginning, and that's the beauty of it. Now my desk is filled with offers to speak, to write, to endorse, which I've thoroughly enjoyed, but I remember very well when nobody else but my mother and the Endowment was interested. I'm grateful for this chance to express my thanks.

When I graduated from college, the degrees were given out in reverse order of merit, so I got mine early and had a chance to watch the others. I remember the last graduate, the summest cum laude, a tall shy boy who walked up the stairs to the platform and en route stepped on the hem of his own gown and walked right up the inside of it.

Like him, the Endowment has succeeded in embarrassing itself from time to time, to the considerable entertainment of us all, and like him the Endowment keeps on going. It has contributed mightily to the creative genius of America: to art, music, literature, theater and dance, which to my wife and other foreigners is the most gorgeous aspect of this country. Long may it wave. I hope it lives another 25 years; I hope we will continue to argue about it.

WESTOVER AIR FORCE BASE: 50 YEARS OF SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, for many years Westover Air Force Base in Chicopee, MA, has been an important national asset and a highly visible public reminder of the challenges facing the United States of America. On the occasion of its 50th anniversary, I ask my colleagues to join me in congratulating the men and women who have served with distinction at Westover in the past, and to wish the existing personnel all the best in the future.

Just days after the German invasion of Poland sparked World War II, the massive Northeast airbase authorized by Congress in 1939 was officially sited between Chicopee and Ludlow, MA. On April 6, 1940, the airbase was dedicated as Westover Field to honor

Maj. Gen. Oscar Westover, the former Army Air Corps Chief who advocated strategic airpower.

Mr. Speaker, Westover Field was designated as an attack base because the War Department feared the loss of Great Britain and a possible German invasion of Greenland and Canada. Westover's neighbors endured blackout conditions and were trained as aircraft spotters. After the Battle of Britain, the Westover mission was changed to training. From bases around the Nation, pilots, bombardiers, navigators, and aerial gunners came to Westover to be molded into aircrews for the Eighth Air Force operating out of England.

At the dawn of East-West confrontations, Westover became the headquarters of the Eastern Division of the Military Air Transport Service. The base reflected America's concern and became the U.S. hub for the Berlin airlift. As relief supplies were loaded aboard MATS airlifters, local citizens assembled handkerchief parachutes to deliver candy to children in the Allied sector of Berlin. Thus the "Little Vittles" nickname was born.

As the cold war intensified in the mid-1950's, Westover Air Force Base became the new home to the Eighth Air Force, and the main runway was widened and lengthened to accommodate Strategic Air Command B-52's and KC-135's. Local residents became accustomed to the constant roar of SAC bombers and tankers as the Nation faced a series of crises in Berlin, Cuba, and around the globe. But even as Westover crews were assigned to bombing missions in Southeast Asia and protesters picketed Westover's gates, neighbors of the base treated military personnel with kindness and respect.

When conscription ended and the total-force concept was initiated, Westover again reflected the needs of the Nation and, consequently, the Air Force Reserve took control of the base. Like the Massachusetts militia of the mid-1600's, reservists of the 439th Military Airlift Wing continue to serve at Westover today to fly international missions in support of U.S. foreign policy.

Mr. Speaker, I ask my colleagues to join with me in paying tribute to this historic military installation, and to the men and women who have served there honorably over the years. I am proud to have Westover in my district, and it is with great satisfaction that I offer my congratulations on the base's 50th anniversary.

TREE OF LIFE AWARD

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ENGEL. Mr. Speaker, my parents are constituents of Congressman HARRY JOHNSTON and listened to him recently when he spoke to the B'nai B'rith. I am today submitting for the CONGRESSIONAL RECORD, the comments that Congressman JOHNSTON offered when he received the Tree of Life Award from the Jewish National Fund:

TREE OF LIFE AWARD

I received a letter recently from an 11-year-old Coral Springs girl who seemed very much in tune with the goals of the Jewish National Fund, so I would like to take a moment to share part of her letter. She wrote of a story she learned in Hebrew school. A story about an old man who was planting a tree when the King walked by. The King asked the old man how long it would take until the tree would bear apples. The old man said about 70 years. "How old are you?," asked the King. The old man replied, "a little over 70 years old." The King was surprised, and asked the old man why he was taking the time to plant the tree if he wouldn't be alive to eat it's fruit. The old man looked up and said, "I am planting it for future generations. When I came to be, there were already trees planted by other people, and so may it be, that I will plant trees for future people."

The story is a simple one, but it communicates a basic wisdom which so many of our generation have somehow lost. It is the wisdom to live our lives with an eye toward future generations, so that their lives might be enhanced.

The Jewish National Fund has not lost sight of that wisdom, and, for that, we can all be grateful.

The story of Israel has, for generations, been the story of ceaseless struggle, buoyed by an insurmountable hope for the future. In these times of dramatic change, events in Eastern Europe and the Soviet Union coupled with political turmoil within Israel have conspired to confuse that struggle. The administration's recent comments regarding Jerusalem have not helped.

Tom Dine, the executive director of AIPAC, wrote in the New York Times last week that several administration actions have caused alarm to Jews and friends of Israel. Dine cited the President's opposition to settlements in East Jerusalem; the apparent softening of U.S. policy toward the P.L.O., coupled with increased public criticism of Israel; and the unnecessary linking of the housing of Soviet Jews with the issue of settlements in the territories.

Of all these affronts to the sentiments of Israel's supporters, the one that has caught fire and truly mobilized American Jewish sentiment is the issue of Jerusalem.

The complex political and emotional situation in the Middle East lends itself to may interpretations. And it is not uncommon or inappropriate for Israelis, Americans, and friends of Israel throughout the world to express differing opinions on the proper course for peace negotiations and strategic planning for Israel's future.

But there is one thing upon which virtually all Israelis and their allies agree: Jerusalem is the soul of Israel. Jerusalem is a symbol for Jews throughout the world, and a spiritual center for people of many faiths. As the celebration of passover approaches, Jews throughout the world will reaffirm the importance of this holy city by proclaiming "next year in Jerusalem."

That is why President Bush miscalculated so drastically when he equated East Jerusalem with the West Bank and said that there should be no new settlements of Jews in either area. In my opinion, that is why the Government of Israel is racked with dissension. That is why Americans who support Israel are in a state of shock.

We are all united in our desire to see a lasting peace achieved in this vital portion of the world. And we are disheartened that the administration's words over the last few days may have dealt a severe blow to the painstaking efforts toward peace in the Middle East. I hope our country's actions over the next crucial weeks belie the administration's harmful words, and instead, contribute to healing Israel and her people.

Mary and I, and Eleanor and Sandy Weinstock, were in Israel at the time of the Intifada. I did not know much about the Jewish National Fund until that visit. But I learned a great deal about the role the JNF was playing in Israel, and in the field of world ecology. The work you do is vital to ensuring a sound and secure future for our children and our children's children.

Earlier this week, Esther Krutick related to me her experience working for the Jewish National Fund in the early twenties. Esther said she left Hebrew each day, and walked up and down the trolley line in Worcester, Massachusetts with her blue can, collecting coins to plant trees in Palestine.

Another friend mentioned, after receiving his invitation for this evening, that one of his earliest memories was of the blue can sitting on the counter next to the cash register in his father's grocery store in Brooklyn, New York.

I am proud to be associated with an organization that has been such a vital part of American Jewry for the past 89 years. Thank you for having me here this evening, and thank you for honoring me with the Tree of Life Award.

TRIBUTE TO NEW OFFICERS OF ST. JOSEPH'S SENIOR CITIZEN'S CLUB

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the new officers of the St. Joseph's Senior Citizen's Club in Woonsocket, RI.

The president of St. Joseph's Senior Citizen's Club is Rita Rousseau and her first vice president will be Jean-Paul Dumais. The second vice president is Arthur Henault. Cecile Dubeau will be the secretary and Rita Dumais will act as treasurer.

The St. Joseph's Senior Citizen's Club first opened in 1975. Since then, the club has been a meeting place for the elderly and handicapped in Woonsocket. Monthly parties are sponsored by the club as well as a Christmas banquet which is very popular with the members. This year, the club is celebrating the 50th anniversary of the club's founding in May. At the present time, St. Agatha's has 780 members.

I would like to wish my best to the new officers of the St. Joseph's Senior Citizen's Club and hope that they continue to create a spirit of love among their fellow members. Their dedication to the club is a testament to their unselfish devotion to their fellow members.

CUBAN EDUCATOR DAY IN EXILE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to remember "Cuban Educator Day in Exile" which was celebrated on April 1. A beautiful remembrance ceremony was held in Miami in memory of Dr. Humberto Pinera, a distinguished Cuban educator and philosopher who passed away while in exile, unable to see his homeland again.

A wonderful opening address was given by an extraordinary member of the Cuban community, Dr. Rolando Espinosa. Dr. Espinosa, president of Cuban Doctors in Education Association in Exile, who has repeatedly contributed his talent and time to the education cause.

After the invocation by Rev. Martin Anorga of the First Hispanic Presbyterian Church of Miami, several distinguished guests were honored at the ceremony including Mr. Paul Bell, the new superintendent of the Dade County School System, who was presented as a "Member of Honor." Also recognized at the ceremony were Dade County School Board Members Rosa Castro Feinberg, Mr. G. Holmes Braddock, Ms. Betsy Kaplan, Mr. Robert Renick, and Mr. William H. Turner. Mr. Murray Sisselman, president of United Teachers of Dade and Mrs. Maria V. Zeien, Dade County "Teacher of the Year" were also given distinctive acknowledgment.

In addition, awards of recognition were presented to Dr. Joseph A. Iannone, chairman of humanities department at St. Thomas University; Mr. Demetrio Perez, Jr., president of Bilingual Private School Association; Mr. Les Todd, principal of South Dade Skill Center; Mrs. Norma L. Delgado, assistant principal of the Miami Springs Adult and Community School; Mr. Alberto Mesa, secretary of Miami Senior High Adult and Community School; Dr. Gloria Aguila Fisher, principal of Seminole Elementary School; Mr. Thomas R. Newcomm, assistant principal of Seminole Elementary School; and Mr. Pedro Capote, a Spanish teacher at Seminole Elementary School.

Also recognized at the ceremony were Mrs. America Bermudez, principal of Kensington Park Elementary School; Mrs. Marta Cil, supervisor of the Bureau of School Operations; Dr. Emelina Espinet Borges, a teacher at Royal Park Palm Elementary School; Dr. Lemmie Deliford, principal of West Homestead Elementary School; Mrs. Elouise Slater, assistant principal of West Homestead Elementary School; and Mr. Terence N. Armbruster, assistant principal of West Homestead Elementary School.

Awards of recognition were also presented to Mr. Maria del Carmen S. Gonzalez, principal of South Miami Heights Elementary; Mrs. Claudia Hesing, assistant principal of Ben Sheppard Elementary School; and Mrs. Eloisa Menes, assistant principal of Amelia Earhart Elementary School.

Recognized with the special "Elsa Glazer" Awards were Mrs. Dorothy Bendroso Mindingall, principal of Lillie C. Evans Elementary School; Dr. Julio Carreras, principal of Charles Hadley Elementary School; Dr. Armando Piedra, counselor at Miami Senior High Adult Education Center; Dra. Gladys Pico, "Teacher of the Year" at Amelia Earhart Elementary School; and Mrs. Yamila Carballo, "Beginning Teacher of the Year" at Miami Spring Middle School.

Also recognized with the "Elsa Glazer" Award were Mrs. Beatriz Cruz, "Beginning Teacher of the Year" at Stirrup B.W.F. Elementary School; Mrs. Clara Marta Cruz, "Beginning Teacher of the Year"; Dra. Olga Lorenzo, teacher in Special Assignment-Region III; Dra. Gertrudis de la Rionda, Spanish teacher at Miami Springs Middle School; Dra. Mary Ann Polo, elementary teacher at Poinciana Park Elementary School; Mr. Gerardo Zamora, elementary teacher at Biscayne Elementary School; and Dra. Isabel Socarras, social studies teacher at Miami Springs Middle School.

Additionally, Mrs. Mercedes Capote, retired teacher; Benita Santiago, registered nurse and school volunteer; Dr. Leonardo Fernandez Marcane, professor at Florida International University; Antonio Saud, M.D., administrator for the Program for Professionals DCPS; Fernando Egea, M.D. director of the Program for Professionals; Jose Luis Corominas, M.D., professor of Medical Education; Mrs. Onelia Fajardo, Medical Education; and Mrs. Claire Frances Whitehurst, teacher at Miami Senior Adult Education Center were also recognized with the special award. On an exceptional note, Mrs. Caridad Capote was honored for 50 years of service to the teaching profession.

I commend the above mentioned people for their dedication to the teaching profession while recognizing the need to remember "Cuban Educator Day." Education is vital in today's society and it is important that we strive to continue educating ourselves.

MS. OLIVE R. BEASLEY, QUIET CRUSADER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. KILDEE. Mr. Speaker, I commend to my colleagues' attention the attached article from the Flint Journal about a truly remarkable human being from my hometown of Flint, MI. Ms. Olive Beasley has made tremendous contributions to the quality of life of so many of us in Flint and I feel strongly about the need to bring her story to the attention of the Congress and the Nation.

OLIVE BEASLEY CONTINUES HER LONG MARCH FOR CIVIL RIGHTS

(By Andrew Heller)

A glance at the headlines is all it takes for Olive Beasley to remember why she's here.

Apartheid's end may be coming in South Africa, and she is overjoyed by this, but closer to home, in her own back yard, the stories never seem to end about her people's struggles: drugs, crime, poverty, education, housing, racism.

Clearly, there is still much to be done. The old lioness cannot rest.

"Are you kidding?" she says, almost incredulous. "We've got a long way to go."

And so Olive Beasley—who for 16 years headed the Flint office of the Michigan Civil Rights Commission and who, since her retirement in 1980, continues to be widely regarded as a top expert on civil and human rights—continues her work.

There are her meetings, of course. She's still an active board member of the Urban League, the Urban Coalition of Greater Flint, the Legal Aid Society, the Channel 28 (University of Michigan-Flint TV) advisory board and others.

She still maintains a downtown office, where papers, speeches and clippings detailing years of struggle for fair housing practices, equal employment opportunities and the like are stored. (She's donated some of her papers to the Walter Reuther Archives at Wayne State University. UM-Flint may also start a collection of Beasley papers.)

And she's noodling with the idea of writing a book about the history of African Americans in Genesee County.

But much of Beasley's most important work is reportedly behind-the-scenes, pricking the consciences of people in positions of influence with a phone call or letter.

Do they listen?

"People listen to her, especially when it comes to race relations," says Ernelle Taylor, the Urban League's vice president for volunteers and special events. "She's one of those people who keeps us on our toes."

"She's a . . . conscience. She's very well-respected. She knows so many people," says Benjamin Davis III, president of the Urban Coalition. "She's probably forgotten more about . . . human rights than most of us will ever know."

"All I know," says Inez M. Brown, senior policy adviser to U.S. Sen. Donald W. Riegle Jr. "is that no matter how busy the senator is, if he gets an Olive Beasley letter, he's going to find time to read it."

They listen. And how.

But don't tell Beasley that. She prefers the comfort of modesty. She dislikes fanfare or fuss. It is her way.

"I still don't understand why you would want to write about me?" Beasley says, shifting in her chair and lighting a Virginia Slims.

She is at the dining room table of the upper-story flat she rents in Flint's College and Cultural area. The place is cluttered with books, magazines and newspapers. They line the tables and floors and shelves. They are both fuel and hobby. She just finished Paula Giddings' "When and Where I Enter," a lengthy tome on the impact of black women on race and sex in America.

"It was wonderful," she says, touching the cover adoringly.

She is dressed in a simple cotton dress. Nothing fancy. Her hair is mostly grey now. Her age? None of your business, she says, yet it's clear she is aging gracefully. There is an air of elegance and dignity about her slight, slow movements. Her words retain their renowned edge; her memory retains its sharpness.

She was born, she says, in Chicago many years ago. Her father was a farmer, her mother a housewife. Both died before she was old enough for kindergarten.

As was the custom among black families at the time, Elizabeth White, a family friend in the city, took her in. The woman was a widowed dressmaker whose mother had been a slave in South Carolina.

"Knowing the story of that grandmother being born in slavery and being a young

housewife in South Carolina, seeing the Ku Klux Klan riding around her house, or seeing her husband's horse come home alone and not knowing if her husband was dead or alive—you can't have that kind of background and not want to try to make this a better world," Beasley once said.

The neighborhood she grew up in was "a little United Nations. Italian. English. Jewish. Polish. Blacks. You grew up thinking of people just as people."

The family was "very much into politics," so Beasley was accustomed to being around some of the brightest lights in Chicago's black population, including Oscar De Priest, the first black congressman elected after the Reconstruction era, and A. Philip Randolph, a civil rights and labor leader.

It was Randolph, Beasley has said, who showed her how "to win dignity and decent wages for people at a time when someone did not take on large established companies and win."

Beasley studied marketing and labor relations at the YMCA College in Chicago and worked throughout World War II with the Illinois Employment Service in Moline. Someone later told her she was the first black to hold a white collar job in that town.

In 1947, she moved to Detroit, where the head of the NAACP asked if she would take a temporary job working to establish a Fair Employment Practices law in Michigan.

The three-month job turned into 10 years, but ultimately the law was passed, and Beasley moved onto organizing discussion groups for the National League of Women Voters to "get some of the hysteria out of" the McCarthy era.

Finally, in 1964, Beasley was named district executive of the Flint branch of the Michigan Civil Rights Commission.

At first, Beasley found Flint "an ugly factory town," but she liked her job and she liked the people, and she's stayed ever since.

Her most vivid memory of the 1960s civil rights movement in Flint centers around former mayor Floyd McCree's effort to enact a fair housing ordinance to end housing discrimination in the city.

Upset with the reluctance of the city council to do so, McCree threatened to resign his post, a threat that Beasley says "brought the whole town to its feet."

Beasley helped organize rallies and a sleep-in on the City Hall lawn, which attracted national media attention.

The council bowed to the pressure and passed the ordinance only to have a citizens group bring the question to a public vote.

Again, Beasley was involved in efforts to see that Flint became the first city in the United States to successfully defeat a referendum to rescind a fair housing law.

It frustrates her, then that, in her opinion, the ordinance has never been enforced.

"There's never been a case processed under it. They (the city attorney's office) never developed rules for receiving and processing cases."

In a paper she wrote for World of Difference, an anti-prejudice community program, Beasley wrote:

"Reaators, black or white, still tend to steer buyers to renters to neighborhoods where one or the other race is concentrated or to already racially mixed areas."

Still, in many other ways, blacks have progressed in Flint, she says.

"There are more blacks in key positions than at any time in the past. There are four blacks on the city council. There is a black chancellor at UM-Flint. The public library director is black. There are many blacks in managerial positions."

In that way, the civil rights struggle these days is different. In years past, it's always been for the right to vote, the need to end segregation, the right to equal job opportunities and the like.

"Today, the thrust is for political and economic parity and participation," she says, the lack of which contributes to homelessness, blight, poverty and crime.

The solution?

"Hard struggle," she says.

Which is right up her alley.

PHYSICIAN ASSISTANT SERVICES NEEDED

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WYDEN. Mr. Speaker, today I am introducing, with the support of over 45 of my colleagues, legislation to provide for Medicare part B coverage of physician assistant [PA] services. This bill is being introduced as part of the House Rural Health Care Coalition legislative package for 1990.

Under current law, Medicare covers PA services provided in hospitals, nursing homes, rural health manpower shortage areas, health maintenance organizations, competitive medical plans, rural health clinics, and for assisting at surgery, However, PA services provided in a physician's office located in rural areas not officially designated as health manpower shortage areas are not reimburseable.

PA's are particularly important to rural areas which lack an adequate number of physicians because they supplement the services provided by a physician, freeing the physician to care for more people. Not only do PA's increase access to care, but they also save Medicare money by allowing for lower cost reimbursement which would have otherwise been billed and reimbursed at physician reimbursement levels.

My legislaiton would authorize Medicare to cover PA services in all remaining practice settings. The PA would still be required to practice under the supervision of a physician, payment would still go directly to the employer of the PA—not the PA—and reimbursement would still be discounted to 85 percent of the physician's prevailing charge.

At this point, it makes little sense to have different policies for physician assistants depending upon the area of the country or type of practice setting. Urban medically underserved areas are just as much in need of PA services as their rural counterparts.

I urge my colleagues to join me in cosponsoring this important legislation.

WHAT IS A BILLION?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BROOMFIELD. Mr. Speaker, whether we are speaking of budgets or deficits, Congress deals in terms of billions every day. Unfortunately, we in Congress become too familiar with billion-dollar pricetags and billion-dollar accounts. Here is an essay written by one of my constituents, Mr. Joseph H. Ajlouny which puts this awesome figure in perspective.

The essay follows:

BILLION IS NOT A WORD

(By Joseph S. Ajlouny)

Something extraordinary happened to me this week: I turned one billion seconds old.

I report this fact not because I feel any differently—though it's a milestone, to be sure—but because it reduces the number "one billion" from an abstraction to a comprehensible measure. In so doing a valuable lesson is bourne.

Actually, to feeble beings like ourselves a billion isn't a number at all, it's a concept or a notion. We cannot visualize a billion, for example, like we can visualize a basket of one hundred apples. One person might say a billion apples would fit into a jumbo jet. A second might say they would fill up Cobo Arena. Still another might suggest that they could fit into the Silverdome. The point is, we really have no idea whatsoever. That should give us great cause for concern.

It used to be that "billion" was only helpful in describing the age of the world or the size of the universe in light years. We didn't know exactly how old or how far we were talking about, but we knew we were talking about a ton. Today we read it and hear it but rarely see it written out with all ten digits standing at attention. Billion has become more word than number. Yet we cannot afford to become desensitized to the enormity of a billion of anything. That would be a dangerous mistake in this time of hundred billion dollar budgets and budget deficits.

I know it's impossible, but let's ponder the following facts:

General Motors' and Fords' combined 1989 earnings were eight billion ($8,000,000,000) dollars;

Americans use sixteen billion (16,000,000,000) disposable diapers and two billion (2,000,000,000) disposable razors per year;

In 1988 U.S. airlines gave away seventy-seven billion (77,000,000,000) frequent flyer points.

Last year people all over the world smoked an estimated ninety billion (90,000,000,000) cigarettes and drank thirty-five billion (35,000,000,000) gallons of cola. Incidentally, the world's population is about five billion, (5,000,000,000).

Japan's automotive and electronics manufacturers reported total 1989 sales of five hundred and seventy billion ($570,000,000,000) dollars. At about 150 to the dollar, care to figure out how many yen that is?

To keep these amounts in persepective, consider that all of the salaries of all of the professional baseball, basketball, football and hockey players, including all bonuses and playoff earnings for 1989 totaled a lousy two hundred and ten million ($210,000,000) dollars. Now we're beginning to get the picture.

Now we can understand how between them, Coca Cola, Pepsico, Phillip Morris and R.J. Reynolds could afford to acquire the following "assets"; Columbia Pictures, Nabisco, Miller Brewing, Bacardi liquors, Kraft Foods, Minute Maid, Hi-C, Frito Lay, Kentucky Fried Chicken, Pizza Hut and Taco Bell. We can also understand how

Sony bought Paramount Studios and how Mitsubushi was able to pay cash for Rockefeller Center.

I'll bet, however, that if you ask the chairmen of the boards of all those companies combined not one would come close to telling you how long it would take to spend a billion dollars at the rate of a dollar a day. ANSWER: 2,739,726 years!

Yes, one billion days takes two million, seven hundred and thirty-nine thousand, seven hundred and twenty-six years to pass. Astounding, isn't it? Looking at it another way, Moses parted the Red Sea just last week; "Romeo and Juliet" was performed for the first time this morning.

There's no question about it. A billion considered in any fashion cannot be accurately imagined. It's a greater quantity than the human mind can comprehend. Though we don't get the number, we better get the message: we're talking tons and tons and tons of tons of tons of tons. Was it a former Speaker of the House McCormick who uttered the memorable line, "A billion here, a billion there, pretty soon you're talking real money."?

Many would have us believe that in this age of trillion dollar GNP's and multi-hundred billion dollar defense budgets, a single billion is international chump change. Don't believe 'em. A "measely" billion dollars could build a beautiful rail and subway system for the entire city of Detroit. Half that amount would feed all the starving children of Ethiopa and Sudan for a whole year.

Oh yeah, not to end on a sour note: in case you wanted to offer me One Billion Second birthday greetings, I'm 31 years, eight months and give or take a few days old.

INTRODUCTION OF THE MEDICAID HOME RESPIRATORY CARE ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WYDEN. Mr. Speaker, today I am introducing, with the support of over 15 of my colleagues, legislation to allow Medicaid beneficiaries who are dependent on a ventilator to receive care at home. This bill, the Medicaid Home Respiratory Care Act of 1990, will allow low-income ventilator-dependent individuals to be able to leave the hospital setting and return home.

Right now, Medicaid coverage for home ventilator coverage is optional. But only eight States—Arizona, Arkansas, California, Maine, Michigan, Texas, Washington, and Wisconsin—have exercised this option since its implementation in 1986.

I believe that home ventilator coverage should be available to all Medicaid beneficiaries, regardless of which State they live in. My bill will bring the outmoded, institutionally biased Medicaid reimbursement system into the 1990's and free many patients from the confines of a hospital.

Today, there are Medicaid patients who, while dependent on a ventilator, are medically stable and want to go home. But if a ventilator-dependent person happens to live in a State which has not exercised the home health option, that person is forced to remain in the hospital.

My bill is not for all ventilator patients. There will always be patients who are too medically fragile to leave the hospital. But there are many, especially ventilator-dependent children, who have a supportive home environment and would be happier receiving care at home.

I urge my colleagues to support the provision of much-needed home ventilator care to Medicaid beneficiaries by cosponsoring this important legislation.

NASA'S SPACE LEMON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. STARK. Mr. Speaker, I bring this article, "NASA's Space Lemon," which appeared in the Oakland Tribune on March 22, 1990, to the attention of my colleagues. The time has come for Congress to ask harder questions about spending more money on manned space stations.

NASA's Space Lemon

For Sale.—Plans for an experimental vehicle, uses yet to be determined. Final shape not yet decided. Finished product will end up in the shop much of the time. Price: If you have to ask, you can't afford it.

Who would be dumb enough to buy, you ask? The U.S. government. By the end of this fiscal year, taxpayers will have spent nearly $4 billion for preliminary work on NASA's manned space station, without much more to go on that this ad.

NASA originally slated the orbiting facility to cost $8 billion, no small chunk of change. Subsequent estimates have driven up the price tag to a staggering $30 billion. And that's only for starters.

An internal NASA study, leaked to The New York Times, estimates that 2,200 hours of astronaut space walks will be required each year just to keep the apparatus in repair. That's more than five times the duration of all space walks to date and more than 10 times as much as NASA once thought practical.

It also represents an enormous operational expense. NASA says such maintenance is "a normal part of doing business" and won't jeopardize station construction. True enough. But Congress may just decide that doing business this way isn't worth the trouble.

There's no easy way around this problem. "You can make things more robust," said Charles Price, an engineer at Johnston Space Center and expert on space station maintenance, "but you'll spend more money." You'll also increase the station's weight and power draw—increasing launch costs and cutting capabilities.

The problems could still prove a blessing if they spur Congress to review the program's very premises before more good money gets thrown after bad.

The space station's two primary missions seem suspect at best. One is to serve as a platform for low-gravity commercial research in materials science and biology. No one, however, plausibly maintains that the payoff from these endeavors is worth a $30 billion investment. The same money plowed into semiconductors, fiber optics, carbon fibers and pharmaceutical research on Earth would go a lot farther—because the experiments themselves wouldn't have to go as far.

The other mission is loftier but less concrete: to serve as a way-station for a permanently manned based on the Moon or Mars.

Reasonable people may differ over how vital it is to explore and settle these new frontiers. But no one can deny the staggering cost of the venture. The $30 billion invested in the space station will be largely wasted unless this nation, perhaps in partnership with others, commits to the infinitely more ambitious goal of landing on Mars.

"The cost of a moon-Mars mission will dwarf that of a station," says John Pike, a Washington-based space expert with the Federation of American Scientists. "Until you can tell me what your timetable is for Mars and where you're going to get the money, you've got the cart before the horse." NASA has yet to do either.

The station seems to have one ultimate mission: keeping NASA in the manned spaceflight business, traditionally the source of most of its funding and prestige. As Pike observes bluntly, "the next time a shuttle blows up, if you don't have a space station, NASA will be out of business."

That's a good reason for NASA to ask for the money, not for Congress to grant it. Between planetary probes, space telescopes and Earth-observing satellites, the United States has plenty it can accomplish in space without tossing billions more dollars down the space station's drains.

RURAL HOSPITAL PAYMENT EQUITY ACT OF 1990

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, last year the Congress passed legislation containing a rural health care package that will provide significant relief to rural hospitals throughout the country. This package provided a badly needed special update in the payment rate to rural hospitals as well as established several policy changes to existing programs. The package also included a novel program, the Essential Access Community Hospital [EACH] Demonstration Program, designed to assist rural communities and States adapt to the changing rural health care environment.

Challenges still remain, however, to ensure that Medicare beneficiaries in rural areas have access to quality health care. The Congress must continue to recognize the unique nature of rural health care delivery. Today, along with 26 of my colleagues on the House rural health care coalition, I am introducing legislation to equalize the urban and rural standardized rates in Medicare reimbursement. This legislation addresses the issue of payment equity that rural advocates, here on Capitol Hill and around the country, have been clamoring for since the enactment of the prospective payment system.

The bill we are introducing today proposes that the rural standardized rate for Medicare reimbursement be raised to the same level as the urban rate in fiscal year 1991. As a result of the higher rural update enacted in the Om-

nibus Budget Reconciliation Act of 1989, the differential in the standardized rate stands at about a 7-percent shortfall for rural hospitals as compared to urban hospitals. I realize that eliminating the 7-percent differential would mean providing rural hospitals with a substantially higher update for next year. Nevertheless, the equalization of the standardized rates will finally bring fairness to rural hospitals in the Medicare Program.

The Congress must also look at other aspects of the overall urban/rural differential. The differential in the standardized rate is only portion of a larger differential, which can exceed 30-percent lower payments to rural hospitals than urban hospitals. A major portion of the overall differential is in the wage index adjustment. One of the problems with the current wage index calculations is that it assumes that all rural counties within a particular State compose a single labor market. The fact is, there is often a great deal of variance between rural areas within each State and there are many instances where rural hospitals are competing with nearby urban hospitals for the same staff. It seems to me that we should make some adjustments to the wage index that would recognize and correct some of these problems.

That is why we are proposing that we begin examining ways to redefine the area wage index for rural hospitals that will more accurately reflect the labor markets of rural hospitals, especially as it relates to competition with urban hospitals for professional staff. This legislation will also call for the Secretary of Health and Human Services to begin collecting data on employee compensation for each occupational category. This is what the Prospective Payment Assessment Commission [ProPAC] has recommended. However, this legislation goes a step further and calls for an evaluation on redefining the wage index for rural hospitals in such a way that establishes a separate professional wage index for each rural hospital that is tied into the nearest Metropolitan Statistical Area [MSA]. This redefinition would recognize that many rural hospitals are competing with neighboring urban hospitals for professional staff and reflect this in the wage index adjustment for Medicare reimbursements.

I understand that this year the wage index will be updated and this should positively impact many rural and urban hospitals. Nevertheless, the Congress can begin laying some ground work on addressing some of the problems in the way labor costs for hospital payment are calculated. This legislation proposes an option that could address some of the problems that rural hospitals are confronted with under the current system.

In conclusion, I wish to reiterate that the Congress should continue to work to change the inequitable basis of payments to rural hospitals. The Congress has recognized the pressing needs of rural hospitals and has made significant headway in trying to provide solutions to the problems facing rural health care delivery. But inequities still exist and the Congress must continue to address these problems. I urge my colleagues to support this legislation.

STUDENTS RISE TO DEFICIT CHALLENGE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, for the past several weeks, my first priority has been an effort to do something serious about our budget deficit. In my speeches and conversations, I've become increasingly convinced that the public is ready for strong action.

I often remark that the children of today will end up paying our deficit bills tomorrow if we don't act soon. That message has struck a strong chord with some patriotic high school students who believe the time has come to face the music.

These students have organized themselves into a group called Students for Deficit Reduction and are attempting a national lobbying effort to press for action. I know these kids and am impressed by their skills and their seriousness.

They plan a series of activities emphasizing deficit reduction during the week of May 14, culminating with a series of events on May 18 to focus national attention on this problem. I wish them well because if they prevail all Americans will win.

I would like to share the arguments that they have been making. I wish this group well and hope my colleagues find their arguments as compelling as I do.

STUDENTS FOR DEFICIT REDUCTION

Students for Deficit Reduction (SDR) is trying to make a difference in the futures of all generations. SDR's purpose is to educate people about the deficit crisis and to enlist students in encouraging our leaders to make needed changes.

TALKING POINTS

We are concerned about ongoing budget deficits because they continue to increase our national debt, a debt we are about to inherit. The burden of this debt will mean a declining standard of living not only for our generation, but for all generations.

The interest on the present debt (even if the government doesn't borrow another nickel) is $150 billion a year. That's the third largest expense in the federal budget. It means that taxpayers must pay nearly $5000/second—or $300,000/minute—or $1,800,000/hour—that's over $400,000,000/day—every day. In fact, in the time it has taken me to tell you this, the U.S. government has spent enough on interest to have sent two of us through four years of college, or to have hired two teachers for a year, or to have housed ten families for a year.

Every time the government borrows another $150 billion—which it has done in each of the last ten years—our lifetime tax bill goes up by about $7,500. In other words, during the last ten years, our lifetime tax bill has risen by about $75,000.

What happens in a time of crisis? What happens, for example, if our economy goes into a recession and the government must borrow money? We already have a hint at the answers:

After the earthquake in San Fransisco, people asked the government for some money from the Highway Trust Fund (money that had been collected over the years from the federal gas tax and held in trust by the government) to help rebuild their roads. But there was no money—only IOU's. To get any money, taxes would have to be raised. So now the citizens of California are raising taxes to pay for the rebuilding.

The same is true for air travel. The government needs about $7.5 billion to improve airports and the air traffic control system. There's supposed to be about $7 billion in a Trust Fund to do this work. But there's nothing there except IOU's. So now we must raise taxes on airport users to pay for the things that the Trust Fund was supposed to pay for.

There is also the Social Security Trust Fund—money the government is holding in trust for our parent's retirement years—money that is being held to reduce our future tax burden. Nothing is there but IOU's either!

And none of these Trust Fund IOU's counts in the national debt! They're hidden—for now.

We can even see the problem now as our government must stand by and watch as democracy triumphs in Eastern Europe. We simply don't have enough money to help much.

Our grandparents and parents faced down a "red menace," created by the governments of Russia and China—Communism—and won!

Our generation—and our children's—will face a second "red menace," this one created by our own government—a sea of red ink.

Our parents inherited clay from their parents—their future was theirs to shape and mold. Are we to inherit stone?

The government deficits are taking money away from investment in the future. Unless we do a better job at improving our nation's productivity, our standard of living will decline even further.

We can already see this, too. Our grandparents had to give up the opportunity to own a new, stripped-down Ford to put our parents through college. Our parents have to give up the opportunity to own a new, fully-loaded Cadillac to put us through college! What will we have to give up to put our kids through college?

Even before that—how will we be able to afford housing? Do we expect to live with our parents? At least our kids will get to know their grandparents! And what will happen to our parent's Social Security as our income declines?

Maybe worst of all the debt we are piling up with foreigners. We owed almost nothing to foreigners ten years ago—now we owe about $800 billion! That's $60 billion/year in interest alone! We can already see the result—we had to sell Rockefeller Center—and some Colleges—and 7/11. What next? We can't blame foreigners for cashing in on the money we borrow from them. If we lose control of our future—we will have only ourselves to blame!

HMONG VETERANS' NATURALIZATION ACT OF 1990

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. VENTO. Mr. Speaker, today I am introducing legislation which would relax certain naturalization requirements for Hmong veter-

ans who served alongside United States forces in the Vietnam war.

The Hmong Veterans' Naturalization Act of 1990 recognizes the significant sacrifice made by thousands of Hmong and other Laotian highland groups who served in special guerrilla units in the Vietnam war from 1960 to 1975. These forces were recruited and trained by the Central Intelligence Agency and bore the brunt of fighting against the North Vietnamese and Pathet Lao forces. Although they were never inducted into the U.S. Army, these units were created, controlled, and funded by the Defense Department through the CIA.

The consequences of Hmong's service in the Vietnam war was utterly devastating. The most conservative reports list 18,000 to 20,000 killed in combat between 1963 and 1971 with tens of thousands injured. In addition to the loss of life, the war also resulted in the loss of homeland for the Hmong. When the Communists took power after the war, the Hmong were targets for persecution and over 100,000 fled to refugee camps to save their lives.

The Hmong were known as fierce fighters who made great sacrifices in the line of battle. Experts estimate that up to 40,000 served in the special guerrilla units in the peak years. These forces included men, women, and children, some as young as 10 years old. The prewar Hmong population was estimated to be between 150,000 to 300,000. Using conservative estimates, some 18,000 Hmong were either killed or had to flee their homelands after the loss of the war. Thus the participation of the Hmong in United States operations in Southeast Asia, actively pursued and paid for by our Government, resulted in a loss of approximately half of the Hmong population.

While it is obvious the Hmong served bravely and sacrificed dearly in the Vietnam war, many of those who did survive and make it to the United States are having a difficult time adjusting to life here. Many of the 100,000 Hmong refugees living in the United States are separated from their family members. Considering the importance of family to the Hmong, it is a great hardship for the Hmong to have family members scattered throughout the world with little chance for reunification. Fortunately there is something we can do to speed up the process of family reunification and ease the adjustment of Hmong into U.S. society, at no cost to the Federal Government.

Once refugees are resettled outside the United States they can only immigrate to the United States as immediate relatives of U.S. citizens or pursuant the preference system. Permanent residents can sponsor spouses and unmarried sons and daughters. Other relatives including children, parents, married sons and daughters and siblings must be sponsored by citizens. Thus the key to family reunification is the attainment of citizenship.

My bill would make the attainment of citizenship easier for those who served in the special guerrilla units by waiving certain naturalization requirements which are particularly difficult for Hmong people to meet. The greatest obstacle in becoming a citizen for the Hmong is passing the English test. This is due to the unique historical and linguistic circumstances of the Hmong people. The Hmong came from the highlands of Laos where there were few opportunities for formal education. More importantly, their language was an oral one. Written characters for the Hmong language have only been introduced recently, and whatever chances most Hmong may have had for learning the written language were disrupted by the war.

As a result of this history, most Hmong came to the United States without the ability to read or write in their own language and with little or no formal education. The acquisition of English presumes prior experience with formal education and literacy skills. The Hmong have neither, and learning English is therefore extremely difficult for most Hmong, especially the middle aged and elderly Hmong. Several studies have reported on the difficulty of English acquisition for the Hmong. I'm sure other Members of Congress who represent districts with large Hmong populations have anecdotal evidence of this phenomenon as well. Since the English test is an insurmountable obstacle to the spouses and widows of Hmong veterans, and considering the great hardship they have endured as a result of their spouses' service, the legislation waives the English requirement for these Hmong as well.

My bill would also waive the residency and presence requirements for those who served in the special guerrilla units to speed up the process of family reunification. Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence or physical presence in the United States. The well-established precedent of relaxing naturalization requirements based upon service is behind the Filipino Scouts legislation passed by the House last year and currently pending before the Senate.

I would like to thank my colleague GERRY SIKORSKI who is joining me today in the introduction of this legislation today which recognizes the brave service of the Hmong people and the extreme difficulty of acquiring the English language for the Hmong people. The legislation was developed by leaders of the Hmong community in Minnesota and has been endorsed by the Lao Family Community of Minnesota and the Hmong and American Veterans Alliance, a national organization made up of soldiers from both of these groups who served together in Southeast Asia.

In addition to helping reunite families separated by the passage of years and the distance of miles, the enactment of this bill would be an important component to the full integration of the Hmong into American society. Voting and other citizenship benefits would help the Hmong adjust to the radically different society they have moved to. Our refugee resettlement efforts, which I believe have had a mixed record of success, would also be helped by the passage of this legislation.

Mr. Speaker, the Hmong served the United States for 16 years. They suffered a tremendous loss of life and homeland. I urge my colleagues support this important legislation which gives rightful recognition to a group too often forgotten in our society who served our interests when we asked them.

JIM BRADY: ON THE BRADY BILL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following op-ed piece written by President Reagan's first Press Secretary, Jim Brady, from the Tuesday, April 3 New York Times.

Jim recently appeared before the House Subcommittee on Crime, on which I serve, to express his support for sensible firearms legislation. He delivered a gripping, riveting statement in behalf of both assault weapons legislation and the waiting period bill which bears his name.

I urge my colleagues to support us in our efforts to enact this much-needed legislation.

[From the New York Times, Apr. 3, 1990]

CONGRESS DIDN'T WANT TO SEE . . .

(By James S. Brady)

WASHINGTON.—I wheeled my way up to both houses of Congress in recent months to testify in support of legislation bearing my name: the Brady bill. It would require a national seven-day waiting period for handgun sales from gun dealers. The bill is intended to give police departments time to run a background check on the purchaser, to deny instant access of a concealable weapon to a known felon or to another John W. Hinckley Jr.

I believe that if the bill had been law in March 1981, Mr. Hinckley would not have been able to purchase the handgun he used against President Ronald Reagan, and I would not have been wounded and disabled.

It was surprising that Representatives who made a point of voting against the bill last time were conspicuously absent when I put in my two cents at the hearing. Perhaps they didn't want to see what a handgun wound can do to a human being. I'm sure it's easier to deal with the gun issue when you're talking about abstract statistics or contributions from political-action committees.

The Brady bill, still pending in both houses, is a political winner. Few pieces of legislation are endorsed by every major law enforcement group in America and backed by the overwhelming majority of voters. The point left unsaid was that voting against the bill could make the legislator a loser in November.

One thing I've learned on the campaign trail is the need to cloak political candidates in law and order positions. The average voter has a high regard for police officers, knowing they not only work for the public safety but put their lives on the line daily.

In recent political campaigns, from Presidential campaigns on down, there has been a heavy emphasis on law and order themes. Come this fall, with the growing drug-related violence in America, we'll see even more TV spots focusing on this subject.

That's why all politicians should reassess their position on guns. Concealable handguns, especially assault pistols like the Tec-9's, Mac-10's and Uzi's, are increasingly the weapon of choice of crack peddlers and drug addicts.

Law enforcement officials—police chiefs, sheriffs and the rank and file—are united in

their call for tough curbs on access to these weapons.

Just recently in Broward County, Florida, the police responded to a robbery in progress at a fast-food restaurant. They confronted two criminals armed with an assault pistol. One deputy sheriff was killed and another seriously wounded. The alleged killer—wanted in Massachusetts on three separate criminal charges—was arrested. In his wallet was a receipt for the assault pistol, which he had easily purchased from a Florida gun dealer.

There was the expected rush of politicians to the bedside of the wounded sheriff. But there was a notable lack of action in the state capitol to prevent another such tragedy from occurring. Too many legislators seem to fear lobbyists of the National Rifle Association more than they do armed drug dealers.

But if I have anything to do with it, that's going to change. I'm a Southern Illinois boy who grew up hunting and at home with guns. Assault pistols aren't used for hunting; they're only used to stalk human prey.

Responsible gun owners don't object to a handgun-waiting period and background check. The only inconvenience is for the gun dealer who can't pocket the money right away. Is this what N.R.A. lobbyists really care about?

Get ready for the next round of pious speeches from politicians on law and order issues. But you'll hear more from those in the police community asking, "How can our politicans win the drug war when they're arming the enemy?"

A CONGRESSIONAL SALUTE TO JACQUELINE RYNERSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding public servant and civil leader, Councilwoman Jacqueline Rynerson of the city of Lakewood. "Jackie," as she is known to her professional colleagues and friends alike, will be appropriately honored at a reception in her honor on Tuesday, April 17, 1990, which will also mark the occasion of her last city council meeting.

Jackie Rynerson has had a long and distinguished career in public service and community activities. In the 1950's she served in several key capacities. As secretary to the Lakewood Civic Council, she fought the annexation of Lakewood and aided in the incorporation of the city. She also served as a member of the Citizens Advisory Committee and the Lakewood Park, Recreation and Parkway District Board. She later served as chairwoman of the Lakewood Planning Environment Commission and Lakewood Recreation and Community Services Commission. She has also been a member of the Board of Directors for the Greater Long Beach Girl Scout Council and as a League of California Cities representatives to the National League of Cities Economic and Community Development Committee. Jackie Rynerson's leadership and dedication to the community and city of Lakewood has always been recognized by her peers. She was elected chairman of the Southern California Association of Governments Overall Work Program Committee and was the chairman and founder of the Lakewood Beautiful Advisory Council.

In 1978, Jackie was elected to the Lakewood City Council. Her responsiveness to her district and her complete understanding of the local issues won her the immediate respect of her fellow council members. This mutual respect eventually led to her election as mayor of Lakewood on three separate occasions since 1980.

In recognition of her many years of service, Jackie Rynerson has received numerous awards for her service. She was named "1986 Woman of the Year" by Cerritos College. She received the "Citation of Merit" for her work with the National Recreation and Park Association for lifetime service for improving community recreation opportunities. Jackie was also named the 1987 "Woman of Distinction" and the "Woman of the Year" by the Lakewood/Long Beach Soroptimist and the California State Legislature respectively. In 1988, Jackie received the "President's Award" for her work for and with the Senior Care Action Network.

Some of Jackie's more involved community activities include the Long Beach Area League of Women Voters, the Friends of the Lakewood Library, the Lakewood High School PTA, and the Long Beach Area Advisory Council of the Southbay-Harbor Volunteer Center.

Mr. Speaker, without a doubt Jackie Rynerson has been and will continue to be a beloved member of our community and a respected civic leader. My wife Lee and I, take extreme pleasure in recognizing her for her service and we wish her and her family all the best in the years to come.

AN UNFORTUNATE DILEMMA ON CHILD CARE

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SWIFT. Mr. Speaker, last Thursday, I cast one of the most difficult votes of my 12 years in this body. Two major educational goals I greatly value were thrown into conflict and I had to choose between them.

Last Thursday, the House passed comprehensive legislation, H.R. 3, to address the serious need for childcare assistance for our country's single-parent families, the low-income families where both parents must work, and families that live on one income to care for their children at home. The child care package offered on the floor of the House represented the culmination of at least 3 years of hard work by many Members of this body, as well as many groups and individuals who are seriously concerned about our Nation's most precious resource, our children.

H.R. 3 contained a number of very important provisions—the expansion of the Head Start Program, before and after school care, and basic quality assurances to name a few.

This is a concept I strongly support. Yet, I had to vote against the bill. I want to tell you why.

There is one portion of the bill which disturbs me a very great deal. That provision is the delivery system for providing childcare assistance. The bill calls for each State to establish a voucher system whereby parents use the vouchers to pay for child care. I have real concerns about the long-term implications of such a voucher program.

I believe that the establishment of this type of voucher program for child care will set a major precedent that will be to the enormous detriment of our Nation's public school system. In short, if we establish a voucher system as a key mechanism for child care and early childchood education, the next logical and probable step will be to extend the voucher program to K through 12. This has already been seriously proposed on numerous occasions and continues to be a primary goal of many interest groups.

What is so wrong with that? The proponents of vouchers for education argue that it would give parents the freedom to send their children to any school, public or private, and better tailor their children's education to the type and style of education the parents prefer. To me, giving parents that kind of option is not the problem. The problem is a side effect of such an approach that is called, in utility parlance, "bypass."

Here is what bypass is. Take your telephone service: It costs so much to keep that basic system operating. Those basic costs do not go down very much when fewer people use the system. The wire, the poles, the switches, et cetera still have to be there, still have to work, and still cost money whether a lot of people use them or fewer people use them. Of course, there are costs that grow and diminish with amount of customers, but these very basic costs tend to remain static, even in the face of reduced usage.

Now, what happens if some of the largest users of telephone service take most of their business away from the phone company? A large company might install its own microwave, for example, and handle communications between its own plants, or even between it and major customers by itself. All of that usage used to be on the telephone company's system—and paid to the phone company. When that customer leaves, it takes those payments away too, and the cost of that basic system must be spread over fewer customers. The result is that prices go up or service quality goes down or both. All because customers have bypassed the basic system.

Now, let me apply that analogy to our schools.

I believe that the public schools are the very foundation of the entire educational system in this country. On them rests higher education, vocational education, and even the private school system in this Nation. Weaken the public schools and the entire system is weakened.

A voucher system for K through 12 would simply establish a mechanism for a bypass of the public school system. Today parents can send their children to private schools if they wish. They should have that right. But they still contribute—as do people with no children—to the public schools and therefore they do not bypass it.

But with vouchers, that in this case would be paid for by school taxes, parents could spend that money at public schools or private schools. The result will be that more families will bypass the public school system. And that means the basic costs for running a public school system will be covered by fewer people with the additional result of higher costs or lower quality.

Perhaps that would make no difference if the public school system were not the foundation of our entire educational system. But it is and, in my judgment, bypass would devastate it. The voucher mechanism contained in the child care bill starts us on the path toward that eventuality.

It is for that reason and that reason alone I voted against the child care bill. I continue to believe that the Federal Government should provide assistance to families for child care—through grants to States and perhaps other means. There is monumental need. But to meet that need in a way that will compromise the integrity of the public schools is not a trade we should have made.

The bill passed. After conference I am sure the bill will go to the President. He has some problems with it—very different from mine—and might veto it. If not, it will become law. In that case, I sincerely hope that my reservations about it will prove wrong, that the vouchers will work for child care and not become a model for K through 12 with resulting harm to our school system.

But I think I am not wrong and I reluctantly and with great sadness voted against the child care bill.

TRIBUTE TO THE ST. LOUIS SENIOR CITIZENS CLUB

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the recently elected officers of the St. Louis Senior Citizens Club in Woonsocket, RI.

The president of the St. Louis Senior Citizens Club will be Constance Piotrowski, while the seat of vice president will be filled by Rose Gauthier. Georgette Guernon will fill the role of secretary and the treasurer will be Bernadette Rioux.

Throughout the year, the 300 members of the St. Louis Senior Citizens Club partake in many social events. Most notable are their Mothers' and Fathers' Day and Christmas parties.

I would like to wish my best to the new officers of the St. Louis Senior Citizens Club and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion to create for their fellow members.

KILDEE HONORS DR. RICHARD W. WILSON FOR OUTSTANDING SERVICE TO THE BRANDON SCHOOL DISTRICT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in honoring an outstanding public servant, Dr. Richard W. Wilson, who is retiring as superintendent of the Brandon School District in May.

Dr. Wilson is retiring after serving the Brandon School District in Oakland County for the past 12 years. He majored in social studies and education and received a bachelor of science education and a master of arts at the University of Detroit. Dr. Wilson went on to study at the University of Michigan and received his doctorate degree in education curriculum development and administration from Wayne State University in 1966.

Dr. Wilson began his career in education in 1956 as a teacher in Livonia, MI. While at the Livonia schools he was a department chairman and later became an assistant principal of Bentley High School. Dr. Wilson left the Livonia schools in 1967, but his dedication to serving public learning institutions did not leave with him. He was principal of Adrian Senior High School and later assistant superintendent for personnel and labor relations of Adrian Public Schools before he came to his present position.

As the superintendent for the Brandon School District, Dr. Wilson's influence and leadership in advancing the educational structure of the school district will be seen for years to come. Some of his accomplishments while there include a total curriculum reorganization, a complete revision of the district's business operations, a major building program, and a comprehensive revision of the district's policies and procedures. There is no doubt that he has left his imprint on the Brandon School District.

Another indication of Dr. Wilson's involvement and concern for the future of education comes from both his professional and personal recognitions. He has consistently been elected and reelected to various county and State superintendent organizations, often serving as president. He has served as president of the Oakland County Superintendents Association, the State Council of the Michigan Association of School Superintendents to represent Wayne, Oakland, and Macomb Counties, and was appointed to the National Committee of School Superintendents of Larger Secondary Schools. In addition, Dr. Wilson has had several professional writings, such as "Merit Pay Can Work" and "Who Speaks for the Kids?" published in national education journals.

Mr. Speaker, it is indeed an honor and a pleasure for me to recognize Dr. Richard Wilson for his efforts on behalf on the citizens in the Brandon School District. I know he is now entering a new phase of his life, with new horizons and a new set of challenges. I have no doubt that Dr. Wilson will meet those challenges and will excel in whatever he pursues. His dedication to enhancing the public school system will be a lasting legacy in his honor. I know the entire U.S. House of Representatives joins me in paying tribute to this dedicated public servant and wishing him continued success in his retirement.

IRAQI THREATENS ISRAEL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, President Saddam Hussein's recent string of events reminds us of the dangers that loom in the Middle East. Just recently, Hussein reacted sharply to United States criticism of the execution last month of a British-based Iranian reporter. The hanging of the reporter, who was accused of espionage, uncovered the Iraqi plot last week to smuggle nuclear detonators from the United States to Iraq. But this repercussion was just the beginning of Hussein's uncalled for statements.

According to the April 3, 1990, edition of the Washington Post, President Hussein accused the United States, Britain, and Israel of plotting against his country. The main intent of his speech, which honored his Armed Forces, was that Iraq would use its chemical weapons against any aggressor, especially Israel.

Posing a threat to Israel's sovereignty is absurd. At a time when peace in the Middle East is a top priority, it is a disgrace that Israel must be subjected to this. Israel has stated that they have no aggressive intention against Iraq.

I commend the State Department in criticizing the Iraqi's remarks. Margaret D. Tutwiler, the State Department spokeswoman said that the remarks were, "inflammatory, irresponsible, and outrageous."

OHIO ASSOCIATION OF BROADCASTERS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 3, 1990

Mr. McEWEN. Mr. Speaker, when President Bush outlined the administration's war on drugs, he correctly exhorted all of us in every sector of society to help in this effort. He did this because drug use is ripping apart the fabric of our society. Substance abuse endangers all of us. No one is immune. Substance abuse crosses racial, social, ethnic, and economic lines. Today I want to recognize the efforts of the Ohio Association of Broadcasters in this fight.

It started with a simple idea: Many voices, one message. Last summer, Dale Bring, executive vice president of the Ohio Association of Broadcasters and his assistant Judy Masters thought about the power of the broadcast media and the danger of drugs. What, if they thought, all of the broadcast stations in Ohio were to broadcast a united message about

the dangers of substance abuse at the same time?

It was a great idea, but only the start of a massive undertaking. The wonder is Dale and Judy pulled it off. First they convinced the board of directors that it was a viable idea. Without the board's support the idea would have died, but it did not. The board of directors set aside individual parochial and business considerations and embraced the project. The board then worked to get the support of individual broadcasters across the State.

I want to recognize the members of the board of the Ohio Assocation of Broadcasters who worked so hard to make this project a reality. First the OAB Officer:

President, Gary Petricola; vice president, Gary Robinson; corporate secretary, Fred Anthony; past president, Thomas S. Stewart; OAB general counsels, William Kloss and James Gross; and, of course, executive vice president, Dale V. Bring, and assistant, Judy Masters. Dale and Judy coordinated the entire effort with able assistance from the other members of the board: Tony Kiernan, John Llewellyn, Dave Miller, Xen Zapis, Gary Kneisley, Richard Elliott, Richard McBroom, and last but not least Roger Hinerman of WLGN, Logan in my own Sixth District.

No other event or issue in memory has ever prompted this level of cooperation and teamwork among the local media. Breaking down barriers of competitiveness, television stations joined together as markets to produce unique local programs in Dayton, Columbus, Cleveland, and Toledo. Television and radio stations donated their employees' staff time and the advertising revenue from the 2 hours of primetime broadcasts. Cincinnati radio and television stations and Youngstown television stations committed $2 million for antisubstance abuse public service announcements. Many newspapers across the State contributed their own special coverge.

All of the effort came together on March 7, 1990 as 22 television stations and 126 radio stations across the State of Ohio delivered antisubstance commercial-free programming from 8 to 10 p.m. to an estimated 7 million people. Almost every radio and television station in the State participated. Dale and Judy's idea of last summer had become reality.

The television and radio stations of Ohio which performed this great service form a special honor roll and I want to recognize them all. Led by the Ohio Association of Broadcaster's board of directors, all of these stations set aside commercial interests and harnessed their combined power as mass media to deliver a message of unquestioned importance to our society. The March 7, 1990 broadcasts were a stupendous achievement on their own. I also commend them to you, my colleagues, as a model for broadcasters across America.

The honor roll of Ohio broadcasters who devoted 2 hours of primetime programming on March 7, 1990 to send a united message about the dangers of substance abuse are as follows:

TELEVISIONS

WKYC-TV—John Llewellyn, 1403 E. Sixth, Cleveland 44114.

WOIO-TV—Dennis Thatcher, 2720 Van Aken, Cleveland 44120.

WBNS-TV—Gene D'Angelo, 770 Twin Rivers, Columbus 43215.

WCMH-TV—Gary Robinson, 3165 Olentangy River Road, Columbus 43202.

WIVB-TV—Bob Lyons, 1201 Olentangy River Road, Columbus 43212.

WOSU-TV—Dale Ouzts, 2400 Olentangy River Road, Columbus 43210.

WTTE-TV—John Quigley, Box 280, Columbus 43216.

WSYX-TV—Anthony Twiebell, 1261 Dublin Road, Columbus 43216.

WWAT-TV—Wendell Triplett, 2698 Sawbury, Worthington 43085.

WDTN-TV—Philip Stolz, 4595 S. Dixie Avenue, Dayton 45401.

WHIO-TV—Neil Pugh, 1414 Wilmington, Dayton 45401.

WKEF-TV—Jim Graham, 1731 Soldiers Home Road, Dayton 45418.

WPTD-TV—Jerry Wareham, 110 S. Jefferson, Dayton 45402.

WRGT-TV—Dave Miller, 45 Broadcast Plaza, Dayton 45408.

WLIO-TV—Jim Dages, 1424 Rice Avenue, Lima 45802.

WUAB-TV—Bill Scaffide, 8443 Day Drive, Parma 44129.

WGTE-TV—Thomas Paine, Box 30, Toledo 43692.

WNWO-TV—Brett Cornwell, 300 S. Byrne, Toledo 43615.

WTOL-TV—Wheeler Rudd, Box 715, Toledo 43615.

WTVG-TV—Andy Lee, 4247 Dorr, Toledo 43607.

WUPW-TV—Larry Blum, 4 Seagate, Toledo 43604.

WHIZ-TV—Allan Land, 629 Downard, Zanesville 43701.

RADIOS

WAKR-WONE—Fred Anthony, 1735 S. Hawkins, Akron 44320.

WAPS-FM—James Mathias, 65 Steiner Ave., Akron 44301.

WAUP-FM—Thomas Beck, 302 E. Buchtel, Akron 44325.

WHLO—Gary Meeks, 3535 S. Smith, Akron 44313.

WSLR-WKDD—Richard Lumenello, 1867 W. Market, Akron 44313.

WFAH-WDJQ—Dick Elliott, Box 2356, Alliance 44601.

WRMU-FM—Charles Morford—1972 Clark Ave., Alliance 44601.

WNCO-AM & FM—Walt Stampfli, Box 311, Ashland 44805.

WRDL-FM—Jay Pappas, Ashland College, Ashland 44805.

WBCO-WEQL—Tom Moore, Box 789, Bucyrus 44820.

WFOB-WBVI—Greg Peiffer, Box 1818, Findlay 45839.

WGLX-WQXK—Ray Malone, Box 608, Galion 4483.

WKTN-FM—Keith Gensheimer, 112 N. Detroit, Kenton 43326.

WMRN-AM—Diane Meadows, Box 518, Marion 43302.

WDIF-FM—George Scantland, Box 10,000, Marion 43302.

WTTF-AM & FM—Richard Wright, Box 338, Tiffin 44883.

WYNT-FM—Forrest Whithead, 8099 State Route 30, Upper Sandusky 43351.

WHBC-AM & FM—Bill Chambers, Box 9917, Canton 44711.

WRQK-WINW—Jim Embrescia, 411 Martindale NE, Canton 44705.

WTOF-AM & FM—Tom Bishop, Ameritrust Bldg, Canton 44702.

WSOM-WQXK—Mike Mahone, Box 530, Salem 44460.

WFCB-FM—Dave Smith, 45 W. Main, Chillicothe 45601.

WATH-WXTQ—Bob Lambert, Box C, Athens 45701.

WBEX-WKKJ—Dan Latham, Box 244, Chillicothe 45601.

WNRE-WLRO—Nelson Embrey, Box 676, Circleville 433113.

WSRW-AM & FM—Tom Archibald, Box 9, Hillsboro 45133.

WLMJ-WCJO—Lloyd White, Box 72, Jackson 45640.

WLOH-WHOK—Stan Robinson, 1660 Columbus-Lancaster, Lancaster 43130.

WSWZ-FM—John Garber, 115 W. Wheeling St., Lancaster 43130.

WKFI-WSWO—Rick Johnston, Box 1, Wilmington 45177.

WBNS-AM&FM—Tom Stewart, 175 S. Third, Columbus 43215.

WCOL-WXGT—Mark Hanson, 195 E. Broad, Columbus 43215.

WMNI-WMGG—Mark Jividen, 1458 Dublin Road, Columbus 43215.

WNCI-FM—Dan Morris, One Nationwide Plaza, Columbus 43215.

WRFD-AM—Bill Caridas, Box 802, Columbus 43085.

WTVN-AM—Perry Frey, 42 E. Gay, Columbus 43215.

WLVQ-FM—Tom Thon, 42 E. Gay, Columbus 43215.

WVKO-WWSN—Al Fetch, 4401 Carriage Hill Lane, Columbus 43220.

WXLE-FM—Chris Graves, 1150 Morse Road, Columbus 43229.

WBBY-FM—James Pidcock, Box 14, Westerville 43081.

WONE-WTUE—Don Schwartz, 11 S. Wilkinson, Dayton 45402.

WWSN-FM—Bruce Dodge, 101 Pine, Dayton 45402.

WHIO-WHKO—Sam Yacovazzi, 1414 Wilmington, Dayton 45401.

WING-WGTZ—David Leonard, 717 E. David, Dayton 45429.

WDAO-AM—Jim Johnson, 4309 W. Third, Dayton 45417.

WBZI-WDJK—David Richley, Box 99, Xenia 45385.

WYMJ-FM—Alan Gray, Box 765, Beavercreek 45385.

WPTW-WCLR—Joanna Hill, 1625 Covington, Piqua.

WVUD-FM—Mike McGeough, 300 College, Kettering 45469.

WFCJ-FM—Clair Miller, Box 927, Miamisburg 45449.

WNDH-WONW—Dick McBroom, 709 N. Perry, Napoleon 43545.

WMTR-FM—Max Smith, 303½ N. Defiance, Archbold 43502.

WJYM-AM—Todd Hostetler, 8761 Fremont Pike, Perrysburg 43551.

WRQN-FM—Dan Dudley, 136 W. South Boundry, Perrysburg 43551.

WBGU—Bob Clark, Bowling Green State University, Bowling Green 43551.

WQCT-WBNO—Luke Thaman, Box 603, Bryan 43506.

WDFM-FM—Bob Wolfe, 118 Clinton, Defiance 43512.

WOSE-FM—Jim Lorenzen, Box 2358, Sandusky 44870.

WQTL-FM—Gary Rivers, 148 Court, Ottawa 45875.

WZOM-FM—Jim Phillips, 414 Washington, Defiance 43512.

WJER-AM & FM—Gary Petricola, 646 Boulevard, Dover 44622

WTNS-AM & FM—Bruce Wallace, 114 N. Sixth, Coshocton 43812

WCIT-WLSR—Martin Gould, Drawer W, Lima 45802
WIMA-WIMT—Les Rau, 667 W. Market, Lima 45801
WTGN-FM—Scott Young, 1600 Elida, Lima 45805
WNRR-FM—Robert Ladd, 108½ E. Main, Bellevue 44811
WBLL-WPKO—Lou Vito, 1501 Road 235, Bellenfontaine 43311
WCSM-AM & FM—John Coe, Box 492, Celina 45822
WKKI-FM—Jim Lawson, 126 W. Fayette, Celina 45822
WDOH-FM—David Roach, Box 100, Delphos 45833
WMVR-AM & FM—Dave Ross, Box 608, Sidney 45365
WERT-WKSD—Penny Sutton, Box 487, Van Wert 45891
WZOQ-FM—Debbie Phillips, Box 1487, Lima 45802
WLGN-AM & FM—Roger Hinerman, Box 429, Logan 43138
WJEH-WYPC—Lynn Smith, Box 448, Gallipolis 45631
WMPO-AM & FM—Lenny Eliason, Box 71, Middleport 45760
WMAN-WYHT—George Joachim, 1400 Radio Lane, Box 8, Mansfield 44901
WRGM-WVNO—Gunther Meiss, 2900 Park Avenue, W., Mansfield 44906
WUCO-AM—Ron Barlow, 709 E. Fifth, Marysville 43040
WSWR-FM—Tim Moore, 47 E. Main, Shelby 44875
WCLT-AM & FM—Bob Pricer, Box 880, Newark 43055
WHTH-WNKO—Tom Swank, 1000 N. 40th, Newark 43055
WDUB-FM—Dan McClory, Denison University, Granville 43023.
WLKR-AM & FM—Jim Westerhold, Box 547, Norwalk 44857.
WGGN-FM—Dan Beeman, Box 2397, Castalia 44870.
WLCO-FM—Eddie Cruz, 1859 McPherson, Clyde, 43410.
WLEC-WCPZ—Bill Campbell, 1640 Cleveland Road, Sandusky 44870.
WKVX-WQKT—Ken Nemeth, 186 S. Hillcrest, Wooster 44691.
WNXT-AM & FM—Jan Morton, Box 1228, Portsmouth 45662.
WPAY-AM & FM—Zeke Mullins, 1009 Gallia Street, Portsmouth 45662.
WIOI-AM—Ted Gilbert, Box 909, Portsmouth 45662.
WRAC-FM—Virginia Purdy, 106 S. West, Box 103, West Union 45693.
WIRO-WMLV—Mike Martin, Box 292, Ironton 45638.
WIZE-FM—Jerry Staggs, Box 1104, Springfield 45501.
WAZU-FM—Pat Rosiello, 111 E. 4th, Dayton 45402.
WCWT-FM—Ken Carper, Centerville HS, Centerville 45459.
WCTM-AM—Stan Coning, 320 Woodside Dr., West Alexandria 45381.
WSTV-WRKY—Bill Chesson, 320 Market, Steubenville 43952.
WDIG-AM—John Holley, Box 970, Steubenville 43952.
WOHI-WELA—Ron Aughlinbaugh, Box 90, East Liverpool 43920.
WOHO-WWWN—Pat Dickey, 2965 Pickle, Toledo 43616.
WSPD-WLQR—Terrell Metheny, 125 S. Superior, Toledo 43602.
WVOI—Floyd Anderson, 6695 Jackman Road, Temperance, MI 48182.
WKBN-AM & FM—Bill Kelly, 3930 Sunset Blvd., Youngstown 44501.
WBBW-WOOD—Larry Weiss, 418 Knox, Youngstown 44502.
WFMJ-AM—John Grdic, 101 W. Boardman, Youngstown 44503.
WHOT-AM & FM—Bill Glover, 4040 Simon Road, Youngstown 44512.
WRRO-AM—Joanne Brown, Box 1440, Warren 44482.
WOKG-AM—Gerri Taczak, 1295 Lane West Road, SW, Warren 44481.
WFUN-AM—Tiny Mengine, Box 738, Ashtabula 44004.
WZOO-FM—John Bulmer, Box 102, Ashtabula 44004.
WWOW-WFIZ—Sally Terry, 239 Broad, Conneaut 44030.
WHIZ-AM & FM—Allan Land, 629 Downard Road, Zanesville 43701.
WILE-WCMJ—Grant Hafley, Box 338, Cambridge 43725.
WWJM-FM—Chuck Edwards, 210 S. Jackson, New Lexington 43764.
WNCO-FM—Jeff Harmon, Stormont St, New Concord 43764.
WQAL-FM—Mark Biviano, 1621 Euclid, Cleveland 44115.
WCLV-FM—C. K. Patrick, 26501 Emery Industrial Parkway, Cleveland 44128.
WERE-WNCX—Kim Colebrook, 1500 Chester Avenue, Cleveland 44114.
WGBAR-FM—John Blassingame, 9446 Broadview Road, Cleveland 44147.
WJMO-WRQC—Curtis Shaw, 2156 Lee, Cleveland 44118.
WZAK-FM—Xen Zapis, 1729 Superior, Suite 401, Cleveland 44114.
WBWC-AM—Kurt Ward, 120 E. Grand, Berea 44017.
WCDN-AM—Warren Jones, Box 231, Chardon 44024.
WDON-FM—Don Martin, Box 406, Mentor 44041.
WBKC-AM—Clarence Bucaro, 1 Radio Place, Painesville 44077.
WELW-AM—Bob Meyer, 36913 Stevens Blvd, Willoughby 44094.
WEOL-AM—Gary Kneisley, Box 4006, Elyria 44036.
WRKG-AM—Jean Plezia, 300 Washington Ave., Lorain 44052.
WZLE-FM—Len Houser, 42851 N. Ridge Road, Elyria 44035.
WCCD-AM—Candy Herman, 12721 Abbey Road, North Royalton 44133.
WJTB-AM—Jim Taylor, 35590 Center Ridge, North Ridgeville 44039.
WOBL-AM—Harry Wilber, Box 277, Oberlin 44074.
WMOA-AM—John Wharff, Box 708, Marietta 45750.
WCMO-FM—Bernard Russell, Marietta College, Marietta 45750.
WMVO-WQIO—Steve Zelkowitz, Box 348, Mt. Vernon 43050.

PRESIDENT BUSH'S PASSOVER MESSAGE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GILMAN. Mr. Speaker, earlier today I was pleased and proud to attend the Passover message ceremony at the White House. Today's event recognized the many changes that have occurred in the past year, including the participation at this ceremony of Vladimir "Zev" and Carmella Raiz, now of Jerusalem, Israel, but formerly of Vilnius, Lithuania.

In his remarks, President Bush referred to Passover as the Festival of Freedom. Indeed, Mr. and Mrs. Raiz were Soviet Jewish refuseniks for 18 long years. Just a few weeks ago, on March 6, 1990, I was able to call Carmella into my office and inform her that permission had been granted by the personal decree of Soviet President Mikhail Gorbachev.

Carmella and Zev will now be able to celebrate their first Festival of Freedom, Passover, in real freedom, in Israel. The age-old refrain of the Passover seder, "Next year in Jerusalem," has become for them, a reality. They and so many other thousands of Soviet Jews now en route to Israel, will share in this unique taste of freedom by commemorating a holiday that marks the passage of the people of Israel from slavery in Egypt to freedom in the promised land.

Mr. Speaker, freedom for Soviet Jewry is a matter that has for many years been a cause celebre for me personally. Each time I learn of a refusenik family who has appealed for help, my heart goes out to their simple desire for religious and cultural freedom. Natasha Stonov, also in attendance today, remains refused. Her husband, Leonid, was forced to remain behind in Moscow when she was granted a visitor's visa for the United States. I know that President Bush will do everything he can do to obtain that freedom for the Stonov's at the earliest possible opportunity, and that many of us in Congress will do our level best as well.

I would, therefore, like to take this opportunity to insert the President's remarks into the CONGRESSIONAL RECORD. I know that my colleague's will find his message to be of great interest.

Mr. Speaker, Passover is the Jewish holiday of redemption. The White House ceremony today was a poignant reminder that religious freedom cannot be taken for granted. Our ad hoc task force on Soviet refugees, on which I serve as chairman, has been closely monitoring all aspects of the problems facing Soviet Jews. We will continue to press for free and open emigration, compliance with the Helsinki Final Act and Jackson-Vanik amendment, as well as for both direct commercial and indirect charter flights to Israel. It is only with these components that Soviet Jews can exercise their birthright of "Next year in Jerusalem" as a tangible reality.

It is therefore with great pleasure that I commend President Bush's remarks today for the edification of my colleagues.

REMARKS BY THE PRESIDENT AT CEREMONY FOR SIGNING OF PASSOVER MESSAGE

Mr. Vice President, Mr. Secretary and distinguished guests. Welcome to the White House. Today, we are marking Passover, known as the "Festival of Freedom," a poignant occasion in the year that has seen freedom's lights begin to glow all over the world—in Eastern Europe, in Central and South America, in Africa, and even in the Soviet Union.

"Let my people go." Those were the words of Moses nearly 4,000 years ago, when the Israelites took the first step on the march from captivity to freedom. All Americans share in the solemn pride of millions of Jewish men, women and children everywhere as they commemorate the Exodus. It

was a journey of courage and strength, toward the dream of a better tomorrow.

And today, as well, people all throughout the world have continued that epic journey, a quest, for a new life of liberty and peace. We support them in their struggle for democracy. We admire them for the strength of conviction. And we pray for their success.

This is a special time of rejoicing for the more than 15,000 Soviet Jews who have made their way to Israel this year. We are proud to have lent a helping hand, over the years, to make possible the historic emigration, from the Soviet Union, of those who have long sought to leave. The modern exodus is a great event for all those who delight in human freedom. The United States has worked hard to open up this lifeline. And we will continue to do everything necessary to make it possible for Soviet Jews to get to Israel, including continuing to press for direct and indirect flights. We are glad that so many will celebrate the seder in Israel, and we're going to keep working so that many more can join them.

As we remember the Exodus, it is my deep honor to welcome Zev Raiz to the United States, after 18 years of waiting. Zev—(Applause.) Zev and Karmella, may you and your children enjoy many years of happiness together in your new home in Israel. For nearly two decades of darkness, you've been a brave symbol for all refuseniks. And we acknowledge and then applaud the dramatic changes that have taken place in the Soviet Union, making possible the emigration of many who have long sought to leave. But we must not—and I can assure you, we will not forget those who are left behind.

And I'd also like to welcome Natasha Stonov to the White House. I admire the courage and determination that you and Leonid, your husband, have shown through 11 long years of waiting. You have become the voice of the refusenik community, and your steadfast efforts have been invaluable to us as we strive to convince the Soviet leadership to act on its promises.

I regret that another Passover is here with Leonid still in the Soviet Union. I wish that he were here with you in America, so that he, too, could experience the freedoms we enjoy. And we ask that you convey a message to Leonid and all others who still await freedom: They are not forgotten.

The Nobel Laureate—a friend to so many in this room—Elie Wiesel said, "Just as despair can come to one only from other human beings, hope, too, can be given to one only by other human beings." Zev, you have given us hope. For that, we admire you. And together, we look forward to the day when no nation interferes with the faith of any of its people.

So thank you all for being here with us on this very solemn and special occasion. And, once again, I rejoice in your happiness, and we're so pleased you're here. And now I will sign this. (Applause.)

THE 30TH ANNIVERSARY OF THE RIVERDALE MENTAL HEALTH ASSOCIATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WEISS. Mr. Speaker, I rise today in recognition of the Riverdale Mental Health Association's 30th anniversary on April 28. I wish to commend the association for its excellent record of service to the residents of the northwest Bronx.

During the past 30 years, the Riverdale Mental Health Association has helped thousands of area residents through its outstanding program of mental health services. The association's programs are licensed by the New York State Office of Mental Health and the New York State Division of Substance Abuse Services. Their comprehensive services cater to the special needs of children with learning disabilities, adults discharged from psychiatric hospitals, substance abusers, at-risk children, the elderly, families in crisis, and other groups. In the last several years, the association initiated a resale shop which provides prevocational training for chronic patients and a 15-bed supervised community residence.

The Riverdale Mental Health Association fully deserves its longstanding, excellent reputation for the quality of its work and its contribution to the stability and vitality of the northwest Bronx community. I congratulate the association on its upcoming 30th anniversary and wish it many more years of continued success and service. Its performance is one of the many reasons which makes me proud to represent the people of the 17th Congressional District of New York.

THE VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM TENNESSEE WINNER

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mrs. LLOYD. Mr. Speaker, I am pleased to commend Alice Tym, a young woman from Tennessee's Third Congressional District, and the State's winner of the VFW Voice of Democracy scriptwriting contest.

Alice was asked to write an essay on "Why I Am Proud of America?" Her entry, which focused on a recent trip to China, proved to be the best in Tennessee. Alice is a sophomore at Ooltewah High School, in Hamilton County. She, her high school, and Hamilton County have reason to be proud.

I respectfully request that her essay be included in the RECORD.

WHY I AM PROUD OF AMERICA

Why I am proud of America. This August, I stood on Tianamen Square in Beijing, China. The blood had been washed away from the patterned pavement, but the trends from the tank tracks were still visible. Soldiers with machine guns surrounded the monuments and only seventeen people with proper passes and identification were allowed on this ninety-eight acre square. Tianamen Square is supposed to celebrate heavenly peace and the founding of the Peoples' Republic of China. Why am I proud to be an American? I saw firsthand what democracy really means. The United States is the symbol of freedom to the whole world. In China, students were shot for erecting a symbolic state of liberty. Our Statue of Liberty is a national symbol respected by leaders and common citizens alike. Our Statue of Liberty represents hope to the world and its meaning has remained unchanged since it was first erected on October 28, 1986. People still dream of coming to America. My birthright is only a prayer for millions of people all over the world.

I confess to taking that birthright for granted until I visited China. Whenever my family wants to go on vacation we just go. In China, a person has to receive permission from his cadre or leader of the unit where he works. Then he has to carry personal documents like a passport and produce them on the train or at the airport. A ticket just simply isn't enough! Every move he makes is closely controlled by a Communist Official. We can travel anywhere in the United States at will. And, our states are united. In China, some regions are more important than others and receive better funding for schools, roads, and industries. Even though China is larger than the United States it has only one time zone . . . Beijing time . . . and everyone must live by Beijing time. Our capital is important, but it does not dictate the manner of living in the rest of the United States because we have representation of all of the people. Our federal government is strong, but so are the governments of our states. I am proud to be an American, but I am also proud of my state and its role in American history.

As our land is united so are its people. My country makes me proud because it has maintained an identity of its own and still allowed its people to maintain their individual rights and freedoms. Hispanics, the Irish, the Jews, the Afro-American . . . all have woven the colorful American tapestry. In China, ever since Mao ZeDong came to power October 1, 1949, there has been a strong effort made to wipe out minorities, destroy traditional religions, and even break up families. My guide in Guangzhou has a wife and a six year old daughter in Shanghai, a thousand miles away, and only gets to see them two weeks out of the entire year during his vacation. I'm proud that my country considers all races and religions equal and of value. That means my country needs me. It needs all of us. We are the people who represent freedom to the world and we have a responsibility to America and to the world to maintain our democracy. I want the United States to be as proud of me as I am of the United States.

A GREAT FLORIDIAN, A GREAT AMERICAN

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. IRELAND. Mr. Speaker, Florida has lost a favorite son, and I have lost a dear friend. I am speaking of William Mercer Hollis who passed away recently in Lakeland, FL.

Bill Hollis moved to Florida with his parents, and began his career in food service in 1928. At the end of World War II, Bill Hollis joined George Jenkins in what is today one of Florida's finest business enterprises—Publix Supermarkets.

Publix has grown beyond even their early dreams because of the values instilled in the company by these men and the leadership they offered. Today, there are few in Florida who have not shopped in a Publix store and

been treated to good service, quality products, and a fair price.

Bill Hollis was a man of great integrity, of keen intelligence, and genuine compassion toward his fellow man. He was a wonderful story teller, often weaving life lessons into grand tales and anecdotes. He was a tireless leader in his community, putting his personal efforts into many civic and charitable causes through the years. He served as the mayor of Lakeland, as a deacon in his Southside Baptist Church, and on the Governor's State educational panel.

He was also a Mason of the highest order. During his affiliation with the Masons, Bill served as the Master of the local Masonic Lodge, Sovereign Grand Inspector General for the State of Florida and Grand Master of the State. His membership in this group was a source of great pleasure and pride.

There are few who have made such a mark and left such a legacy as Bill Hollis. His son, Mark, has said that his father asked, "If you ever think of me, think of me kindly as having loved my fellow man." Those of us who had the privilege of knowing Bill Hollis will always think of him kindly and with great respect and we will miss him.

INTRODUCTION OF THE SUSTAINABLE AGRICULTURE AND CLEAN WATER ACT OF 1990

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. STANGELAND. Mr. Speaker, today I am introducing legislation to promote sustainable agriculture—including best management, integrated crop management, and integrated pest management practices—so we can increase farm profitability while improving surface and ground water protection efforts. The sustainable agriculture and Clean Water Act of 1990 is a nonregulatory, fiscally responsible approach to integrating the two goals of profitable agricultural production and environmental protection.

My bill will increase USDA's and EPA's efforts to provide information and technical assistance to farmers, State and local officials, manufacturers and dealers of fertilizers and agricultural chemicals, and the general public.

It will help to make key terms such as "sustainable agriculture," "integrated crop management," "integrated pest management," and "best management practices" part of USDA's, EPA's, and the agricultural community's working vocabulary.

Title I relates to USDA programs and activities within the jurisdiction of the Agriculture Committee. Sections 101 and 102 provide important policies and definitions. Section 103 establishes a sustainable agriculture policy and integrated crop management program within USDA. Together with the definitions in section 102, section 103 may well form the heart of the bill. It should lead to significant water quality benefits as well as site-specific integrated crop management programs.

Section 104 goes well beyond definitions and technical assistance. It makes important substantive changes to the Conservation Reserve Program. In keeping with some of the recommendations of the administration, environmental groups and countless other organizations, my bill makes the CRP more environmentally responsive by allowing for the enrollment of wetlands, filter strips, and other critical areas to increase water quality and protect wildlife habitat and other resources. It incorporates all of H.R. 4353, the Wetlands Conservation Reserve Program Act of 1990, which I introduced on March 21.

Section 105 establishes a soil testing program within USDA to help individual farmers, USDA, and policymakers at all levels get a better understanding of the potential for ground water problems and the fate and transport of agricultural pollutants.

Section 106 establishes a nutrient management education program within USDA. This will help provide more information to farmers, dealers, and others so we can use and dispose of nutrients in a more cost-effective and environmentally sound manner.

Section 107 expands upon the ongoing research initiatives within USDA to improve our data base on the link between agriculture and water quality.

Title II relates to Clean Water Act programs, all of which are within the jurisdiction of the Public Works and Transportation Committee. The bill reauthorizes and strengthens key provisions dealing with agriculture and water quality issues set to expire this fiscal year or next. Section 201 establishes in the Clean Water Act a ground water protection goal, thus recognizing the importance of our underground water resources and the close relationship between surface and ground water—two inextricably linked components of the hydrologic cycle.

Besides having a strong emphasis on ground water, title II contains important reauthorizations and refinements to the section 319 Nonpoint Source Management Program, the section 208(J) Rural Clean Water Program, and the section 314 Clean Lakes Program. The bill authorizes such sums as may be necessary for each of these important programs through fiscal year 1995.

Title II also addresses interagency coordination, provides clearer cross references between section 208(J) and section 319, improves efforts to monitor water quality progress, and encourages watershed pollution prevention activities.

Mr. Speaker, I am hopeful the Agriculture Committee can include title I or at least some of its key components in the 1990 farm bill. I would also hope to see the thrust of title II's provisions become part of the Clean Water Act reauthorization debate in the Public Works and Transportation Committee. I look forward to working with my colleagues both on and off the committees in an effort to promote sustainable agriculture and clean water.

CIVILIAN CONSERVATION CORPS CELEBRATES ITS 57TH ANNIVERSARY

HON. ARTHUR RAVENEL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. RAVENEL. Mr. Speaker, I was informed by one of my good friends, Durward Stinson of Charleston who is a past southeast director of the National Civilian Conservation Corps [CCC], that this Saturday, April 7, the CCC will proudly celebrate its 57th birthday. I would like my colleagues in the House to join me in recognizing the outstanding accomplishments of this fine group.

The first CCC camp was established under President Franklin Delano Roosevelt in George Washington National Forest, Skyline Drive, Edinburg, VA. Between 1933 and 1942, nearly 1 million men and women from all branches of the services were associated with the CCC operation. Enrollees ranged from under 18 to veterans of World War I, and camps were in every State plus Puerto Rico and the Virgin Islands. The CCC became the greatest challenge in human relations in the history of our country.

The CCC's accomplishments of building, rebuilding, planting, preserving, protecting and restoring our natural and national resources from 1933 to 1942 are not recorded in our libraries or history books, nor are their contributions to World War II from 1942 to 1945. This is the largest group of forgotten men and women in the United States. Over 4 million CCC people have never been recognized or given credit for what they have done and are still doing for our country.

There is no better time than this Saturday, when CCC observes its 57th anniversary, to give this fine group of men and women their deserved recognition.

WHY I AM PROUD OF AMERICA

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GEPHARDT. Mr. Speaker, I would like to bring to my colleagues' attention an award-winning essay written by one of my constituents, Heather Michelle Beach. Ms. Beach, a high school senior in St. Louis, was the Missouri State winner of the annual Voice of Democracy broadcast scriptwriting contest, sponsored by the Veterans of Foreign Wars and its ladies auxiliary.

The theme of this year's competition was "Why I am Proud of America." Heather Beach's essay demonstrates both excellent writing skills and an admirable appreciation of our country and its democratic values. I congratulate her on her achievement.

I also salute the Veterans of Foreign Wars and its ladies auxiliary for their 43-year commitment to fostering scholarship and patriotism in our young people through their excellent Voice of Democracy program.

WHY I AM PROUD OF AMERICA
(By Heather Michelle Beach)

In between hungrily nibbling on my pencil eraser and glancing furtively at the blank face of the classroom clock, I wondered how it happened. The writers of history text books had, it seemed, formed a conspiracy. They must have met one sour, Sunday afternoon and mutually agreed to make all text books so boring that students hopelessly wished details of the past to stay there. The question is . . . why? An American history book should teem with adventure stories of brave pioneers, action-packed articles of wartime crises, and heart-warming tales of true loves tragically separated for the sake of Democracy only to be reunited in times of peace.

Was it not for the saving grace of audio-visual aids and a dynamic teacher, I might not survive American history. My teacher glories in springing deep, thought provoking questions on unsuspecting, and usually inattentative pupils. Alas! Today she chose me. "Why are YOU proud of America?"

Talk about a million dollar question! How does she expect me to answer this? It's too general! What makes me proud of America? An endless list of reasons scrolling towards Eternity instantly pops to mind. A list so long in fact, that I promptly forget every answer. Such a simple question, why should the answer be to promptly forget every answer. Such a simple question, why should the answer be so tough? Why am I proud of America? What exactly is she looking for?

"I am proud of an America that balances trade deficits and limits monopolizing foreign competition". That's much too technical. How about: "I am proud of the industries America has initiated and the convenient method of displaying merchandise in ultra shopping malls"! That's a bit too insouciant. She'll want a more moderate answer.

"I am proud of an America that allows the freedom of choice". Can I expound on that? Let's see . . . "In America, I can choose to excel, or choose to vegetate. I have the right to believe as I wish and express those ideas to my fellow countrymen. I may choose where or whether to worship when I please. Who I will go out with, where we will go, when we will leave, and what time we will return . . . all of this is up to me.

"My America says, 'Be all that you can be. You may do anything . . . just do it to the best of your ability.' If you will do nothing with your life, at least it is your choice to do nothing".

Later that night I pondered my answer. The freedom to choose . . . why are we so serendipitous while some of our sisters and brothers do not have the right to life's basic amenities? When were we bestowed with the gift of freedom?

Long ago, early Americans had a dream. They envisioned a young nation that could endure and triumph, and more importantly, they lived for that dream. My ancestors struggled through wars and depression, famines and natural disasters. My grandfather put his nineteen-year-old aspirations on hold while he went to India to fly combat planes in World War II. My grandmother worked for the USO while she prayed for his safety and hoped for a promising future upon his return.

Even today, men and women dedicated to the spirit of freedom risk their jobs, welfare, and even their lives to keep the dream alive. Though their contributions may seem less dramatic, today people I love work for democracy and the land they love. My father counsels veterans. My mother sends medical supplies to Third World countries. Why do they work so hard to keep the dream alive? The answer is simple: to ensure the freedoms fortified by the stability of a "more perfect union" for themselves and their offspring.

As a child of so many great Americans, I extend my gratitude. I am proud to be an American. I am proud of my country because my country is proud of me.

A CONGRESSIONAL SALUTE TO BILL DEMERS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to W.C. Demers on his retirement as special assistant for the Communications Workers of America [CWA] District 9. W.C., or Bill to his friends, leaves his latest office after 45 years of selfless service to the southern California labor movement.

He built a career on helping others to make life better for themselves and their children. Bill held the post of vice president of CWA-9 himself before assuming his current advisory role. Previous to that he was vice president of the Los Angeles County Federation of Labor, AFL-CIO, and a member of the executive board of the Federation's COPE board. He is vice chair and a founding member of the Los Angeles Business Labor Council. His distinguished career also includes previous assignments as planning commissioner, president of the State CIO Council, and vice president of the State AFL-CIO.

Not only is Bill a true leader, he is a teacher and visionary as well. A man ahead of his time, Bill sought business-labor partnerships to better prepare American industry for a more competitive future as a founding member of the Los Angeles Business Labor Council and as a member of the California Commission on Industrial Innovation. As a founding member of the Labor Center Advisory Committee, Bill serves today on the labor advisory committees of Cal State Dominguez Hills and UCLA, developing labor studies educational programs and helping to prepare the future workers of America for tomorrow's challenges.

For all that Bill has done in the past and will continue to do in the future, I would just like to say thanks. My wife, Lee, joins me in honoring him for his lifelong record of achievement, dedication, and service. He is an example for us all.

THE CHIEF GALL INN

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the site selected by the tribes and the Indian Health Service for the regional drug and alcoholism treatment center in the Aberdeen area is the Chief Gall Inn, near Wakpala, SD. While the project is desperately needed, the Federal agencies involved have continued to delay the project. Among other things, the Indian Health Service [IHS] more than a year after agreeing to the site has now called for yet another feasibility study before moving ahead with the project.

This will involve several more months of delay. IHS' current schedule calls for construction—which is actually renovation of existing structures—to be completed no sooner than March 1992. There is no reason this project should take 2 more years to become operational. IHS must streamline its process and complete the Chief Gall Inn treatment center project promptly, to provide treatment for Indian youth who are not now being properly served.

I bring this to the attention of my colleagues in connection with the consideration of S. 1813, which modifies the Indian Alcohol and Substance Abuse Prevention and Treatment Act. That law provides the authority for the Chief Gall project. I urge my colleagues to support aggressive implementation of this law.

TRIBUTE TO NEW OFFICERS OF WATERVIEW APARTMENTS

HON. RONALD K. MACHTLEY

RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the members of the board of the Waterview Apartments in Woonsocket, RI.

The chairman of the board will be Nelson Coderre. The other board members will remain William Piette, Helen Ducharme, Pearl Peloquin, and Camille Coupain.

I would like to wish my best to the new officers of the Waterview Apartments as they continue to create a spirit of love and hope within their home. Their dedication is a testament to their unselfish devotion to their fellow tenants.

KILDEE HONORS DR. MAX E. DODDS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to a man who has served as an outstanding leader in the medical profession and in my hometown of Flint, MI, for more than 47 years, Dr. Max E. Dodds.

Born in Silverwood, MI, Dr. Dodds received a bachelor of arts degree and his M.D. degree from Wayne State University. He served his internship at the Woman's Hospital of Detroit, followed by 2 years in the U.S. Navy. After serving in the Navy, Dr. Dodds had his residency in surgery at the Hurley Medical Center, followed by a 3-year residency at the Memorial Cancer Center in New York City. In 1953, Dr. Dodds returned to Flint where he established his practice in surgery and became a highly respected surgeon, teacher, and citizen.

Dr. Dodds distinguished himself in innumerable ways, giving of himself generously so that those around him would benefit. He was a member of countless organizations, including many professional, public service, and educational groups that serve not only the Flint area but the entire Nation as well. On the national level, Dr. Dodds was an active member of the American Medical Association, the American Society of Clinical Oncology, and the American College of Surgeons.

While he held his participation in these and other national organizations dear, it was on the State and local level that Dr. Dodds proved himself to be most active. Dr. Dodds served as a committee member and as a chairman of several committees for the Michigan State Medical Society, and he also was actively involved in leadership roles with the Genesee County Medical Society. Besides serving on several committees, Dr. Dodds also served as president of the Flint Academy of Surgery. Dr. Dodds has also dedicated countless hours to the American Cancer Society at the county and State level. He has served on the board of directors, on committees, as president, and as committee chairman. Until 1985, he served on the National Board of Directors of the American Cancer Society. He has also served such education-oriented organizations as the University Affiliated Hospitals of Flint.

Besides being a member of these many organizations, Dr. Dodds has also shown himself to be one of our Nation's most skilled surgeons. At St. Joseph Hospital in Flint, he served as the chief of surgery for 5 years. He almost single-handedly ran the Hurley Medical Center, where he was chairman of the department of surgery, the director of surgery, a member of the graduate education committee, director of surgical education, chairman of the cancer committee, chairman of the critical care committee, and chairman of other committees of monumental importance to the medical center. Through his hard and efficient work, Dr. Dodds has eased the pain and suffering of countless people. He has served as a beacon which all of his fellow surgeons and health care colleagues have striven to emulate. Through his relentless, often thankless persistance in providing quality health care to all who require it, Dr. Dodds has proven to all who know him what can be achieved through hard work and staunch dedication.

Dr. Dodds has also distinguished himself in many community-based activities. He served as president of the Musical Performing Association, as well as being an active member of the board of directors of the Flint Institute of Music. He is also a member of the board for the Community Council, a board member at Greenville College, and a dedicated member of St. Paul's Episcopal Church.

Dr. Dodds has received many honors and awards spanning his many years of service. Dr. Dodds has 14 peer reviewed publications, was awarded the Squibb Senior Fellowship at Sloan Kettering Institute, and has received the American Cancer Society Annual National Division Award in 1985. He has been awarded the Michigan State Medical Society Flag Award, as well as the American Cancer Society Certificate of Merit. Michigan State University has appointed Dr. Dodds clinical professor of surgery in their College of Human Medicine in recognition of his great professional skill and his great knowledge in the field of surgery. Perhaps the most fitting of the awards received by Dr. Dodds was the Genesee Medical Society Presidential Citation for Lifetime Community Service. Dr. Dodds was the first person ever awarded this extremely honorable citation, as never before did anyone do so much for so many people in so many ways.

Mr. Speaker, it is with great honor and pride that I herald the achievements and contributions made by Dr. Dodds to his community. My district has been extremely fortunate to have received the services of Dr. Dodds for so long, and I urge my colleagues to join me in paying tribute to this great man. It is not often that we come across a man such as Dr. Dodds who has served his fellow citizens in so many ways; first in the Navy, then through active participation in community events, and finally through his skilled services as a surgeon. In my many years of public service, I have seen many people doing positive things for those around them. Few people, if any, have surpassed the achievements of Dr. Dodds. I would like to thank Dr. Dodds for his many years of selfless service to his fellow citizens, and I urge everyone to join with me in honoring this great man.

ELENA BONNER CALLS FOR RECOGNITION OF LITHUANIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GILMAN. Mr. Speaker, an open letter was recently sent by Elena Bonner, the widow of Andrei Sakharov, to President Bush regarding our Government's position on Lithuania. She informs the President that her husband would have called upon him to act and so she calls upon him to recognize the Republic of Lithuania. I urge my colleagues to read her letter, which follows, and I request the full text be printed at this point in the RECORD:

MARCH 26, 1990.

The lawful Lithuanian government, acting on the will of the great majority of its population, has proclaimed the independence of the Lithuania.

The statements by your government express hopes for the peaceful resolution of the situation. But in Lithuania the tension is growing, fed by the increasing Soviet military presence. The psychological atmosphere is such that at any moment the incidents of violence can be provoked. That can endanger President Gorbachev's position and drastically slow down or completely stop the process of democratization in the Soviet Union.

For half a century the government of your country considered unlawful and refused to recognize the incorporation of the Baltic states into the Soviet Union. That was in line with the U.S. democratic traditions. It was a moral statement on the Molotov-Ribbentrop pact, or, to be exact, on the bargain struck between Stalin and Hitler. Was such a position just empty words, that deceived American people and the whole world? Only actions can answer this question—by immediate recognition of the Republic of Lithuania and the establishment of the diplomatic ties with it. The U.S., because of its unique role in the world, and you, Mr. President, have a grave historic responsibility.

I am addressing you because I know that Andrei Sakharov would have done it. Back in 1988 he wrote that one should not fight the separatist tendencies but try to treat the problems that are causing them. The government of the USSR had failed to act timely. But it's mistakes must not be paid for with the blood of the Lithuanian people, who, at the hands of Stalin, have lost almost a third of the concentration camps and in the Siberian deportation.

I call on you to immediately recognize the Republic of Lithuania.

Sincerely,

ELENA BONNER.

MAKING EARTHQUAKE INSURANCE AFFORDABLE AND AVAILABLE

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SWIFT. Mr. Speaker, today eight of my colleagues and I have introduced comprehensive legislation to make earthquake insurance more affordable and available.

The Federal Earthquake Insurance and Reinsurance Act, is a proactive approach aimed at protecting homeowners and our national economy from the catastrophic consequences of major earthquakes.

Let's review some basic facts. First, a catastrophic earthquake is inevitable. Most seismologists agree that there is a virtual certainty that a monster quake at least 30 times more powerful than last year's San Francisco earthquake will strike somewhere in the United States within the next 40 years.

Second, major earthquakes can happen almost anywhere in our country. While we often think of California for quakes, the fact is that 39 States are vulnerable to major or moderate earthquakes. The Puget Sound region of my State is especially susceptible to a major quake, having already withstood damaging jolts in 1949 and 1965. Even earlier this week, a tremor measuring 4.4 on the Richter scale shook parts of eastern Whatcom County in my district.

Earthquakes are also not solely a west coast problem. Studies by the U.S. Geological Survey confirm that the big one could as easily occur east of the Rocky Mountains as in the Western States. The largest earthquake in recorded American history occurred along the New Madrid fault in the Central United States. Another New Madrid quake would cause severe damages in several Central States, including Tennessee, Missouri, Arkansas, Mississippi, Kentucky, Illinois, and Indiana. As a testament to the national dimension of this problem, the original cosponsors for this bill represent seven diverse States: Massachusetts, Tennessee, Indiana, Illinois, Nevada, Washington, and California.

Third, a catastrophic earthquake occurring anwhere in the country would have lasting impacts for the entire Nation. Destroyed lifelines

such as highways, bridges, gas pipelines, and transmission lines would affect regions thousands of miles from the epicenter. Insured losses could easily exceed $50 billion. This magnitude of loss would ripple through the national economy impacting the stock and municipal bond markets, affecting every American. Some consumers following a massive quake might not be able to purchase insurance for ordinary perils such as auto and general liability, as many insurance companies would not have any funds available to write new policies.

Individual homeowners could suffer the most. Fewer than 5 percent of the homeowners in Washington State and most of the country have earthquake insurance. Only about 25 percent even have earthquake insurance in the highest earthquake awareness regions around the bay area in California. Earthquake insurance is generally not purchased because the premiums and deductibles are simple too high. A major quake would be particularly catastrophic for those uninsured homeowners who could lose a lifetime's worth of equity in a few seconds of shaking.

The bill I have introduced today will help remedy many of these problems. This legislation creates two separate but parallel insurance programs: First, a primary earthquake insurance program which covers shake damage and applies to all residential property secured by federally backed mortgages; and second, an excess reinsurance program which covers all related earthquake damages and is only triggered if the quake exceeds about $10 billion in insured losses. Both programs would accumulate premiums in tax-free, off-budget reserve accounts that would be used to pay earthquake claims.

This bill would make available, to nearly all homeowners, insurance protection against losses resulting from direct shake damages for all earthquakes. With such a universal program that spreads the risk nationwide, premiums would drop dramatically. Most of the country would see at least a 60-percent reduction in earthquake premiums. Under the proposal, high risk areas might pay as much as $50 per year for an average house while low risk areas might pay premiums as low as $2.

This legislation also protects the national economy. The reserve funds will help cushion the economic blow of a truly catastrophic earthquake. In a sense, this approach partially prefunds disaster relief assistance. The proposal relies on premiums collected from homeowners and the insurance industry to fund the program, not the taxpayers. Federal moneys could be borrowed in the interim only if a serious quake strikes before the fund has built up to sufficient amounts to cover the loss, but must be paid back with future premiums with interest.

Finally, this legislation contains an earthquake loss mitigation provision. The bill requires the development of a mitigation plan of building codes, seismic standards, and earthquake strengthening measures. The mitigation plan will be submitted to the Congress and State and local governments for approval. In addition, reward-based insurance incentives—such as lower deductibles and premiums—would be available for those homeowners who take steps to reduce the loss from earthquakes.

This is one of what I hope will be several bills addressing earthquake insurance and preparedness. We do not have all the answers in this bill, but the problem is a compelling one and we need to start the search for solutions. We hope this bill and others will start the congressional dialog on this important and timely issue.

THE NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. COOPER. Mr. Speaker, in the last two decades, thousands of poor communities got doctors they would not otherwise have had because of a vital Government program—the National Health Service Corps. However, drastic budget cuts have brought the corps to the brink of disappearance.

Today, 34 million people in close to 2,000 communities face chronic shortages of doctors and other health professionals. A third have no doctors at all in their communities, even though most of them have health insurance. They need an estimated 4,000 health professionals to provide their residents with just minimal medical service.

For many years, the National Health Service Corps helped meet these needs. Beginning in 1972, the corps offered scholarships to medical students in exchange for service in underserved areas. At one time, 3,000 corps doctors were serving 5 million patients per year. Now communities served by the corps are losing 600 practitioners a year with no replacements.

That is because the Reagan administration slashed the corps' budget, asking in 1986, 1987, and 1988 to zero out funding for scholarships. They argued that the free market would distribute surplus physicians to these needy communities. Not surprisingly, however, it has turned out that these surplus physicians never went to the poor rural towns and inner cities, choosing instead to practice in the more lucrative suburban and urban areas. But underserved communities are losing their corps doctors just the same.

Congress saved the corps from extinction, but the number of scholarships were still cut from more than 6,400 in 1980 to less than 50 in 1988. Despite volunteer recruitment and a new program that pays off educational loans for those who agree to practice in underserved communities, the corps will send out less than 250 practitioners next year.

Let me tell you what this has meant for one of the counties in my district. For years, the residents of Morgan County, TN, had no doctor to take care of even their basic medical needs. They were lucky if they got a doctor from outside the county to visit half a day a week. Most folks had to drive to Oak Ridge, an hour or more away, in order to see a doctor.

In 1974, their salvation came. Two doctors arrived through the National Health Service Corps. In the 16 years since then, corps doctors have insured that Morgan County got at least basic medical care.

The budget cuts mean, however, that there will be no replacement when their one corps doctor leaves in June. The county's other doctor agreed to stay for good, but it is simply not possible for him to take care of all of Morgan County's 16,700 residents.

Morgan County is a poor county, but they are so desperate they have offered $80,000 a year for a family physician to come. They have not even had inquiries.

"The National Health Service Corps Revitalization Amendments of 1990," introduced today by Mr. RICHARDSON, myself, Mr. SLATTERY, Mr. WAXMAN, and 23 other sponsors, is needed to put the corps back on its feet so that Morgan County and other communities like it will not go without basic medical services again. This bill allows Congress to increase the number of corps doctors in future years.

The bill authorizes the corps to spend whatever sums are necessary to meet these chronic shortages of medical personnel. I am pleased that President Bush has recognized the importance of this program, and has requested a $56 million increase over last year's appropriation of just $8.9 million. But if we are serious about meeting these basic needs, we must appropriate that much and more this year and in coming years.

Second, in order to receive the scholarship program, the bill reserves a substantial percentage of the corps' recruitment funding for new scholarships, including scholarships to nurse practitioners and midwives and physicians assistants.

Third, we strengthen the loan repayment program, the program that pays off educational loans if you agree to practice in underserved areas. This program has not brought health professionals to the neediest areas because it offers at most $20,000 in payments per year which is itself taxed. We increase this maximum to $35,000 and require reimbursement for the Federal taxes on it.

We also recognize that the corps has had many problems with its operations which have damaged its effectiveness and credibility. Our bill refocuses the corps on its basic mission of getting practitioners to the areas with the direst need and doing everything it can to make it likely that its members would stay in such areas after their obligation ends.

Many corps members have complained that the corps was rigid and impersonal, caring nothing for their needs and abilities. These people end up wanting nothing more but to finish their obligation and get out of town, and that should never be the case. So our bill requires the corps to provide members with counseling and assistance, especially in setting up practice and in finding temporary replacement so they can take vacation time. I believe this kind of help will encourage many corps health professionals to settle permanent in these areas.

We also clarify the priorities for the corps: namely, to retain good doctors and recruit new ones for the very neediest areas, rather

than for particular population groups or diseases. In particular, the bill encourages health professionals to make their careers in these areas by requiring the corps to offer a choice of assignments in needy areas, and to consider factors—such as family situations—which affect an individual's willingness to remain in the area.

Currently, a portion of the corps' funding is spent on matching grants for seven States with their own loan repayment programs. However, these grants do not necessarily go to the neediest States and the programs have not always been as effective as the Federal program. For these reasons, the bill replaces the State Loan Repayment Program with grants to State rural health offices to improve rural health care, including through loan repayment or other incentives for practitioners. The 3-year authorization level for this provision is $10 million.

Mr. Speaker, we are facing unprecedented health care programs due to skyrocketing costs and a huge uninsured population. Yet, for millions of Americans, these are not even their worst health care troubles. Rural towns and inner cities across the country continue to face chronic shortages of basic medical services.

The National Health Service Corps is the best program we have to address this situation, but we have let it get cut, when it should have been expanded. The legislation introduced today is needed to rebuild a much diminished corps and ensure that it is on the best footing it can be to carry out its mission.

THE HIGH-SPEED RAIL TRANSPORTATION POLICY AND DEVELOPMENT ACT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WALGREN. Mr. Speaker, today I am introducing a bill to reestablish the U.S. leadership in the development and commercialization of tomorrow's transportation systems—MAGLEV and high-speed rail.

Each of us knows the hardships caused by our congested highway and air traffic systems. Many of our districts have also been hurt by the United States' decreasing ability to compete in the world market for advanced technologies. Despite these realities, the Federal Government has plodded along for 15 years with no national policy for or commitment to the introduction of advanced high-speed ground transportation systems. My bill would remedy this situation by establishing a national high-speed rail transportation policy, providing for the study of high-speed rail's commercial feasibility, and authorizing Federal guarantees of loans to high-speed rail projects.

As we enter the 1990's, the United States finds itself faced with a decaying transportation infrastructure, a threatened environment, a dependence on foreign energy supplies, and an increasingly competitive global economy. Restoring the U.S. leadership in the development and commercialization of high-speed rail and magnetically-levitated [MAGLEV] trains will help us to clear many of these obstacles as we enter the 21st century.

This country's transportation policy is currently at an important crossroads. Next year, the authorization for the Interstate Highway Act, the largest public works project in history, will expire. Even as this system is being completed, however, we find it over capacity. Today, more than 65 percent of peak hour travel on urban interstates experiences congestion. The Federal Highway Administration projects that by the year 2005, highway congestion will result in up to $46.5 billion annually in lost time and fuel costs.

Our air traffic system is hardly better. Twenty-one primary airports now experience over 20,000 hours of flight delays each year. Delays in the air traffic system are expected to result in more than $13 billion in losses annually by the year 2005.

Clearly, the congestion and delays caused by an inadequate transportation system have detrimental effects on the environment, our ability to conserve energy, and the productivity of our industries. In the recently released national transportation policy, President Bush acknowledges the dangers of this overburdened transportation network and declares that "innovation and technological advances within the transportation field will be vital to ensure that the system can meet the Nation's transportation requirements for the 21st century." To facilitate these advances, the policy defines a role for the Federal Government in promoting the development of high-speed rail and MAGLEV trains. The President's policy calls for Federal support of research and the injection of project seed money to spur high-speed rail commercialization.

High-speed rail offers several advantages. MAGLEV and advanced wheel-on-rail systems are quick, efficient, and environmentally sound. By promoting high-speed rail, we can improve the productivity of existing American businesses while introducing an entirely new domestic manufacturing base. Because they run on electricity, high-speed rail systems will once again enable us to use domestic coal and hydropower as a transportation fuel. High-speed rail trains have none of the harmful emissions of petroleum-fueled vehicles, and, in the case of MAGLEV, are practically silent.

HISTORY

There was a time when Americans pioneered the development of advanced high-speed ground transportation. Between 1965 and 1975, the High-Speed Ground Transportation Act provided for millions of dollars of research into experimental air cushion, monorail, and wheel-on-rail ground transportation systems. In 1968, two MIT professors patented the first design employing magnets to suspend and propel vehicles along a fixed guideway. Gradually, U.S. research efforts shifted toward this new and promising MAGLEV concept. By the mid-1970's, U.S. scientists has solved many of MAGLEV's most difficult engineering problems, and the technology was nearing the application stage.

Then, in 1975, the Government abruptly terminated all Federal funding for research under the High-Speed Ground Transportation Act, and efforts to develop MAGLEV and other promising technologies shifted overseas.

Today, nearly 15 years after the United States ended its research effort, high-speed rail transportation is finally a reality. In Europe and Japan, advanced wheel-on-rail system such as the Bullet Train and the TGV provide efficient intercity service at more than 150 miles per hour. Meanwhile companies in Germany and Japan have developed functional MAGLEV systems which are capable of operating at close to 300 miles per hour.

Time is ripe for the final development and commercialization of high-speed rail in this country. In Orlando, planners hope to open the first leg of an elevated MAGLEV system by October 1994. This MAGLEV system would offer connections to a high-speed wheel-on-rail passenger train slated to run between Orlando and Miami. Similar projects are being planned for routes as diverse as Los Angeles-Las Vegas, Houston-Dallas and Pittsburgh-Cleveland. The Federal Government must play a role in promoting the development, construction, and commercialization of these and other systems by conducting economic and technological research, establishing comprehensive high-speed rail policy, and minimizing the long-term risks of investors. The legislation I am introducing today would accomplish each of these goals.

THE BILL

My bill would first authorize $10 million for the Federal Railroad Administration [FRA] to complete a commercialization study assessing the economic and technical feasibility of constructing high-speed rail system in the United States. The FRA would also be required to develop model legislation for State and local governments to use to facilitate high-speed rail construction. In his 1991 budget proposal, President Bush has requested $10 million to fund a similar program.

My legislation would also require the FRA Administrator to issue a national high-speed rail transportation policy. This policy would establish Federal priorities and provide for the promotion of American competitiveness in this field.

Finally, my bill would establish a Federal loan guarantee program similar to the program in legislation recently introduced by Senators REID and MOYNIHAN. My legislation would authorize the FRA to guarantee loans made to high-speed rail construction and demonstration projects by State and local governments—including government employee pension plan funds. Guarantees would be limited to $2 billion in new obligations per year, and no more than $10 billion in loans could be guaranteed at any one time.

State and local government employee pension funds currently contain more than $700 billion. By issuing loan guarantees to ensure these pension funds a safe and competitive rate of return, the Federal Government would grant high-speed rail projects access to billions of dollars in investment capital with little or no Federal expenditure. The concept of Federal guarantees to protect State and local pension investments in infrastructure projects has been endorsed by numerous State treasurers and leading economists alike.

In the wake of the collapse of the FSLIC and the problems with FHA and guaranteed student loans, some of my colleagues may

question a proposal to establish yet another Federal guarantee program. However, the program I am proposing today would include a variety of safeguards designed to minimize risk to the Federal Government. The structure of the program would be very similar to that of the loan guarantee program established by section 511 of the Railroad Revitalization Act, a successful and long-running guarantee program which has never required a Federal outlay to cover a defaulted loan.

In the coming 20 years, MAGLEV and high-speed rail will become an important part of our transportation equation. We invented MAGLEV, and we need it to solve our transportation, environmental, and energy dependence problems. The only question is whether we will work to build a healthy high-speed rail industry here at home, or whether we are going to import the technologies developed and manufactured by others. I encourage my colleagues to answer this question by joining me in support of this important measure.

INTRODUCTION OF THE UNDERWATER PIPELINE LEAK PREVENTION ACT OF 1990

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GUARINI. Mr. Speaker, in the wake of a seemingly incredible string of oilspills in the Arthur Kill and Kill Van Kull waterways in New Jersey, I feel there is a real need to minimize the risk of accidents involving underwater pipelines. For this reason, I am introducing, along with the entire New Jersey delegation, the Underwater Pipeline Leak Prevention Act of 1990.

Currently, there are many miles of pipelines across our Nation which are not regulated. These pipelines must be inspected and monitored so that we can prevent future damage to our natural resources. This is not to say that the transport of oil through pipelines is dangerous. On the contrary, it is one of the safest ways to transport oil. However, we need to know where these underwater pipelines are and that they are safe.

This legislation will substantially reduce the risk of accidents which involve underwater pipelines carrying hazardous liquid. It amends the Hazardous Liquid Pipeline Safety Act to provide for special mapping, inspection, and safety regulations for underwater pipelines, and for other pipelines that, in the case of an accident, are likely to damage our aquatic environments. Currently, pipelines which operate at a low pressure are exempt from DOT testing requirements.

Speciifically, my bill requires that all underwater pipelines be inspected annually with internal inspection devices. Those pipelines that cannot be inspected must be upgraded in order to be compatible with the proper inspection devices. Each pipeline in less than 50 feet of water must be checked annually to ensure that the pipeline has not become a hazard to navigation. Furthermore, adequate navigation market for the pipelines must be put in place.

This legislation also requires pipeline operators to report to the Department of Transportation on the location and status of these underwater pipelines. The DOT must summarize the information and submit a report to Congress. In addition, States will be required to implement the underwater pipeline regulations or risk losing Federal pipeline safety grants.

Mr. Speaker, on January 1 of this year, an Exxon pipeline in the Arthur Kill waterway in Bayonne, NJ, spilled over half a million gallons of oil into the water. This spill symbolizes what could be just one of thousands of environmental accidents waiting to happen. We need to make sure spills like the Bayonne spill are prevented in the future. This bill is one step toward achieving that goal. I urge my colleagues to join me in this endeavor.

TRIBUTE TO NEW OFFICERS OF THE MOUNT VERNON APARTMENTS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor the recently elected officers of the Mount Vernon Apartments in Woonsocket, RI.

The president of the Mount Vernon Apartments will remain Roger Levesque. The newly elected Florence Beauregard will serve as secretary while Marie Travis will continue her role as treasurer.

Throughout the year Mount Vernon Apartment residents take part in many social events. Most notable are their St. Patrick's Day, Halloween, and Christmas parties and their awards night when they honor their choice of most outstanding man and woman of the year.

I would like to wish my best to the new officers of the Mount Vernon Apartments and hope that they continue to create a spirit of love within their home. Their dedication is a testament to their unselfish devotion and desire to create a home for their fellow tenants.

COMMEMORATING THE 50TH ANNIVERSARY OF THE NAZI INVASION OF NORWAY AND THE FIRST UNITED STATES CASUALTY OF WORLD WAR II

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SABO. Mr. Speaker, today I rise to bring to the attention of the American people and my colleagues here in Congress two important and noteworthy dates. They are both very significant to our fellow citizens and to our dear friends, the people of Norway.

Next week—April 9, 1990—is the 50th anniversary of the Nazi invasion of Norway. April 21, 1990 is the 50th anniversary of the death of the first American serviceman in uniform in World War II.

The Norwegian people will be commemorating their resistance to the April 9 invasion in solemn ceremonies throughout the country. It is appropriate that we too honor the Norwegian people's heroic resistance to totalitarian aggression. The steadfast leadership and refusal to bend under pressure of King Haakon VII were—and remain today—examples to the world of personal and national moral courage.

The contributions of the Norwegian Merchant Marine during the war also deserve special mention. And the heroism and persistence of the men and women of the Norwegian resistance forces must never be forgotten. They remain bright shining testimony of the bravery of these freedom-loving people.

On April 21, 1940—nearly 18 months before the United States entered World War II—the first American serviceman was killed. Capt. Robert Moffat Losey, a military attache assigned to the American Embassy in Oslo, was killed in a Nazi bombing raid on the town of Dombås in the county of Dovre in Norway.

On the 50th anniversary of that date, Norwegian officials from Oslo, Dombås, and Dovre, representatives from the American Embassy, military officers from the armed services of both the United States and Norway, and representatives of the Sons of Norway will participate in ceremonies at the Memorial Park in Dombås. They will honor the memory of Captain Losey and the many Norwegians who died or suffered as a result of the invasion and subsequent occupation.

Mr. Speaker, as the son of Norwegian immigrants, I am very proud of the nation of my ancestors. It remains the home of many of my relatives today.

Norwegian immigrants to the United States have enriched our land far beyond our ability to repay. The contributions they have made are especially important and evident in the State I have the privilege of representing, Minnesota, and the State of my birth, North Dakota.

While my pride and warmth for Norway is personal in many ways, I encourage all Americans to join me in expressing our respect, admiration, and appreciation for the Norwegian people. Norway was a brave and true ally during World War II. The Norwegian people suffered and fought valiantly in that great struggle against tyranny.

Today Norway remains a staunch NATO Ally and a firm supporter of Western democratic ideals. Let us join together with our great Norwegian friends and remember with the utmost respect the sacrifices and hardships that began on April 9, 1940, and the noble American life that ended on April 21, 1940.

THE 1990 TEXTILE AND APPAREL TRADE ACT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BALLENGER. Mr. Speaker, I strongly support the 1990 Textile and Apparel Trade Act and am proud to be an original cosponsor of this important piece of legislation.

The goal of this bill is to put foreign textile and apparel imports on par with the current growth rate of the U.S. domestic textile industry. As we all know, textile and apparel imports coming into the United States increased by more than 13 percent over last year. And if we don't pass this legislation the news will be equally bad this time next year.

We know that Japan, Taiwan, and many of our other trading partners have taken over our domestic market in recent years through their skillful use of unfair trade practices. These so-called trading partners subsidize their products and then dump them into our markets. The question is how much longer are we going to stand idly by as we continue to lose more and more American jobs everyday.

It is simply unrealistic to expect our American companies to be able to compete under these circumstances. The textile legislation I support will correct the inequities in the system and give our American workers the fighting chance they deserve. The textile bill would use 1989 imports as a starting level and allow a 1-percent increase in foreign imports per year. This 1-percent import increase would equal the current annual growth rate of the U.S. domestic textile industry.

Employment in the U.S. textile industry is down from more than 2.5 million workers in 1973, to less than 1.8 million today. This represents a loss of 700,000 jobs in the industry that is recognized as second only to the U.S. steel industry in terms of our national security. In my district there are over 40,000 people employed in the textile industry.

As someone recently remarked, if we ever have to go to war again our servicemen and women may be wearing foreign made uniforms and Gucci shoes. Let's pass this legislation while we still have textile and apparel jobs in our country to protect. Along with over 175 other Members of the House who support this vital legislation, I say enough is enough. Let's move forward with the 1990 Textile and Apparel Trade Act and send a strong message to the administration as well as our trading partners.

EUROPE 1992 PLAN

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GEJDENSON. Mr. Speaker, the European Community's plan to integrate the 12 economies of Europe by 1992 has attracted significant attention in the United States. Congress, the administration, and the American business community have attempted to discover whether Europe 1992 will be a net gain, or a net loss, for United States trade interests.

I believe that one key element of the Europe 1992 plan—the EC's process to set product standards and to test compliance with those standards—has the potential to make Europe 1992 a net loss to certain American industries. For that reason, I am today introducing five companion bills, along with Representative JOHN MILLER, to use American leverage in the product standards arena to ensure that American exporters face equitable European product standards and reasonable ways to show they comply with those standards.

In short, my legislation would prohibit EC firms from certifying in their own factories or in European laboratories that they comply with U.S. Government standards.

The House Foreign Affairs Subcommittee on International Economic Policy and Trade, which I chair, held six hearings on Europe 1992, and issued a report making recommendations to the administration on how to improve the U.S. response to the European economic challenge.

While the subcommittee's investigation focused on several potential troublespots for U.S. business in the Europe 1992 plan, it became clear that the European Community's standards-setting and testing process posed a clear threat to American exporters.

On the face of it, the EC's plan to harmonize all European product standards, and the procedures to test compliance with those standards, would seem to benefit American business. After 1992, a product which can be sold under the common EC standard and the standard of one EC nation will be marketable throughout the European Community. U.S. exporters which previously had to jump over 12 different product standard hurdles to sell in Europe will have to jump over far fewer hurdles after 1992.

In reality, the standards set by the European Community may make it far more difficult for some businesses to be competitive in the EC market. By setting key product standards without the opportunity for international scrutiny, and by not guaranteeing that American companies can easily show their compliance with EC standards, Europe 1992 may actually erect more hurdles, not less, for some exporters.

To understand why the Europe 1992 plan for product standards poses a serious threat to U.S. business, one must first examine the EC's complex standards-setting process. The European Community establishes a broad outline for a product standard in a Europe 1992 directive. The European standards organization CEN/CENELEC uses that directive to write a product standard which is then implemented by all EC countries.

The meetings of CEN/CENELEC, however, are totally closed to most non-European observers, including representatives of United States businesses without factories in Europe, experts from American trade associations, and United States Government officials. Product standards which establish the minimum health and safety standards for thousands of American products, ranging from paper products to toys, are being set behind closed doors. Consequently, the EC representatives to CEN/CENELEC who are usually from the industry itself, have already written standards which benefit European producers of anesthesiology equipment, toys, and forklifts over American producers.

In contrast, the United States relies upon private sector organizations to set product standards, many of which are voluntary. The meetings of the vast majority of American standards-setting organizations, including Underwriters Laboratory [UL], are open to all American and foreign companies. Many EC companies not only observe American standards meetings, they actually vote on American standards.

The nontransparency of CEN/CENELEC is not the only reason that the Europe 1992 plan for product standards poses a threat to American exporters. The European Community is currently establishing the rules for companies to test and certify their compliance with product standards on a European-wide basis. While harmonization of European testing and certification procedures could be a welcome development for American exporters, trouble may very well be on the horizon.

The European Community's draft policy on testing and certification fails to unequivocally guarantee that the current bilateral testing and certification system, which is open and fair, will be continued. Under this system, American companies can test their compliance with European standards in American laboratories, and European companies can test their compliance with American standards in European laboratories. The Europe 1992 plan may nullify the existing agreements which govern this mutual recognition process, and may require American companies to have their products tested in the European Community before they can be marketed.

The administration has protested the Europe 1992 plan for product standards, but these protests have only resulted in minor gains. Congress must legislate where protests to the EC have failed.

The legislation I am introducing today would make it far more difficult for EC companies to do business in the United States in response to the EC's restrictive policies. Unless American firms are treated in the European Community just as EC firms, we in the United States should not accord equal treatment to EC firms.

While most American product standards are private, voluntary standards, several U.S. Government agencies—the Environmental Protection Agency, the Federal Communications Commission, the Food and Drug Administration, the Department of Energy, and the Department of Labor—set health and safety standards to protect the American public.

American and foreign companies alike are allowed to self-certify their compliance with many of the standards set by these agencies. For other standards, American and foreign companies must bring their products to independent laboratories in the United States or abroad for testing and certification.

Under my legislation, firms based in the EC would not be allowed to self-certify their compliance with the product standards set by these five United States Government agencies until the European Community cleans up its act on product standards. Furthermore, EC firms could not use European laboratories to test and certify their products. Companies based in the EC would be required to send their products to American laboratories prior to marketing.

These restrictions upon EC firms would only be lifted when the U.S. Secretary of Commerce certifies that the European Community is setting product standards in an open and fair manner and has established equitabie rules for testing and certifying compliance with European standards.

The goal of this legislation is not to force the European Community to totally restructure its system to establish and test compliance with product standards. The EC has a right to its system, and we have a right to ours. Rather, these bills are simply designed to open the doors at CEN/CENELEC and guarantee equitable rules for American companies to show that they comply with European Community standards.

The cost of American inaction on product standards may be high. For every $1 billion in lost exports, 25,000 American lose their jobs. While it is important that we maintain a good working relationship with our European trading partners, it is equally as important that we use American leverage on product standards to protect the jobs of American workers who are deperident upon an open European Community market.

I urge my colleagues to cosponsor these five pieces of legislation.

CELEBRATING EARTH DAY

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Ms. SCHNEIDER. Mr. Speaker, the celebration of Earth Day's 20-year birthday offers us a golden opportunity to reflect what has occurred and what lies ahead. I would like to share with my colleagues what is finally being recognized as the most powerful tool we can use to celebrate Earth Day everyday: prevention.

When my Rhode Island constituents elected me to Congress 10 years ago, I was appalled to find crisis management to be the business-as-usual practice in Washington. Environmental problems, in particular, tend to be routinely ignored until they become excessively costly to solve. To practice reactive crisis control is to wait until the ship hits the sand. The examples are legion:

Failing to control toxic chemicals which threaten more than one-third of the Nation's groundwater, cost the country more than $40 billion per year in health damage and environmental costs, and require over $300 billion to clean up leaking dumps and contaminated weapons facilities;

Acid rain pollutants that are destroying our lakes, fisheries, forests, and historic buildings, destroying over $12 billion a year in economic value;

Rising foreign oil imports, which worsen the trade deficit by $40 billion per year, incur an additional $40 billion of military expenditures to defend foreign oil supplies, and lead to routine tanker spills that despoil our fragile coastal waters;

Providing $30 billion per year to subsidize fossil fuels, despite studies showing these dirty fuels result in more than $100 billion in economic losses.

However, the philosophy I have promoted is a preventive one—it echoes Benjamin Franklin's timeless adage, an ounce of prevention is worth a pound of cure. This is becoming absolutely essential given the number of energy and environmental problems we face. Business-as-usual in the 1990's guarantees disasters for both the economy and the environment.

Not surprisingly, there are an enormous number of win-win preventive opportunities available for not only averting ecological disasters, but actually spurring economic prosperity while enhancing environmental quality and public health. Let me highlight several key ones of notable value to my Rhode Island constituents, as well as citizens across the country and around the world.

NARRAGANSETT BAY PROTECTION

Making sure we don't foul our nests is a longstanding environmental maxim, and in my case this has meant seeking protection over the past several years for Narragansett Bay—which is literally the crown jewel of Rhode Island. Through the House Merchant Marine and Fisheries Committee, I have been able to develop a comprehensive approach to reducing and preventing coastal pollution, cleaning up aleady polluted waters, and protecting and restoring depleted fishery resources.

This month my Merchant Marine and Fisheries Committee will be acting on several bills and amendments which I have introduced. This legislative package will enclude my National Oceans Policy Resolution which will help to establish a comprehensive and coordinated policy for protecting our coastal water. Some of the provisions in this legislation include: making polluters pay for new sewage treatment plant construction; easing the way for restricting or prohibiting oil drilling on the Georges Bank; increasing fines for ocean dumping of sewage sludge and medical waste, as well as providing $10,000 bounties to anyone providing information which leads to such a conviction; and providing additional moneys for fisheries, marine mammal, and coastal pollution research facilities working in Narragansett Bay.

OCEAN DUMPING BAN

The horror of used hypodermic needles and other medical wastes washing up on our beaches, as well as the offshore dumping of millions of gallons of sewage sludge from New York City that is destroying our offshore environment and exacting a toll on the Rhode Island fishing industry, are preventable problems. Ocean dumping of sewage sludge and industrial waste should be banned, and my legislation to do so was signed into law in 1988. Again, this success was due in large part to documenting cost-effective waste prevention, recycling, and alternative disposal methods.

OILSPILL PREVENTION

The *World Prodigy* oilspill in Narragansett Bay, and the several thousands of other oilspills documented since the *Exxon Valdez* disaster in Alaska, point to two key needs. First, we must increase our reliance on energy efficiency and solar resources and decrease our dependency on oil, and second, we need strong laws and guidelines to prevent oil tanker spills until that transition fully occurs.

I was proud to be part of this year's landmark oilspill prevention legislation. This bill will take a number of significant steps, including: allowing States to retain stricter environmental and liability standards against oil and shippng companies; increasing penalties for violating Federal pilotage laws; initiating the effort to designate Block Island/Montauk Point Channel as a tanker free zone; and using satellite technology for tracking vessels in coastal waters.

BIG RIVER PRESERVATION

As with our current energy practices, we needlessly squander precious water resources. To prevent the destruction of an irreplaceable Rhode Island natural asset filled with a rich diversity of plant and animal species—8,300 acres of open space, including over 2,000 acres of valuable wetlands—I have worked to promote water efficiency improvements as a lower cost option than the proposed Big River Reservoir. I am pleased to report that through the combined efforts of my office and several dozen Rhode Island citizen associations, we have prevailed upon the EPA to deny a permit for the Army Corps of Engineers to dam this exquisite wildlife habitat.

The availability of water-conserving technologies made a compelling case for preserving the environment. Using more efficient faucets, showerheads, toilets and other devices could save consumers billions of dollars nationwide, while preserving scenic rivers and wetlands. To further this win-win economic/environmental goal I have consistently pushed for national water efficiency standards, a removal of Federal water subsidies, and the establishment of a clearinghouse on water efficiency to help State and local governments pursue this least-cost option.

POLLUTION PREVENTION

Despite a multihundred-billion-dollar cleanup bill for improperly disposed hazardous wastes, the United States continues to generate an additional 500 million to 1 billion tons per year of hazardous wastes. Moreover, several billion pounds of toxic air pollutants remain unregulated, and several billion tons of virgin resources must then be mined to replace these waste products.

Rhode Island is confronted with nine major Superfund sites that require expensive cleanup. Disposing of hazardous wastes is the third largest expenditure for Rhode Island governments, behind education and roads. The yearly bill exceeds $80 billion nationwide. Fortunately, as I mentioned before, prevention pays. Indeed, detailed studies show that half our current wastes could be reduced at the source, and half the remaining amount can be reused or recycled. This would save Americans billions of dollars per year, while reducing health risks, and eliminate the need for billions of tons of raw materials.

I am pleased to announce that legislation I have coauthored for several years, the Hazardous Waste Reduction Act, is being adopted by the EPA. This would make waste reduction and pollution prevention the Nation's top priority—instead of disposal and incineration. When EPA becomes a Cabinet agency, it will officially establish an Office of Pollution Prevention that will help States and businesses capture these available savings.

LOWER COST ENERGY OPTIONS

One of Rhode Island's highest priorities in the two decades since the original Earth Day has been to reduce our dependency on foreign oil imports. The oil price shocks of the 1970's destroyed many cash-strapped busi-

nesses, throwing many people out of jobs, and made life miserable for the poor and elderly on fixed incomes. It is no surprise, then, that by a 4-to-1 margin the polls show voters want fossil fuels replaced with renewable resources. By a similar margin, the public wants energy efficiency promoted instead of constructing more powerplants.

Federal energy policies are doing just the opposite, and, as a result, nearly half of all our oil continues to be imported, and the bulk of tax dollars continue to subsidize powerplant construction. As a result, Americans pay an estimated $200 billion per year more than necessary for energy services. Energy efficiency improvements to buildings, vehicles, appliances, lights, motors an factory and office equipment would not only capture these savings, but prevent a further estimated $100 to $200 billion in damages caused by the waste pollutants released from these resources.

For the past decade I have challenged this costly and risky policy, and in its place I have championed State, national and global energy policies based on least-cost and low-risk planning principles. Beginning in 1986, I was pleased to see Congress pass my initiative to set up a least-cost utility planning program. This information and technology transfer program helps States and utilities identify energy efficiency investments that are less expensive than powerplants. Full implementation of currently available options promise to save several hundred dollars per person per year, or $85 billion yearly nationwide. Finally, given Congress' current debate over the Clean Air Act, it is noteworthy that these improvements would lead to an impressive 50 percent reduction in acid rain pollutants at no cost to ratepayers or taxpayers.

The least-cost energy strategy is especially valuable for resolving the unprecedented peril of global greenhouse warming. I am spearheading the major comprehensive legislation on this problem, the Global Warming Prevention Act (H.R. 1078), designed to cut energy costs and greenhouse gases at the same time. It gives top priority to energy efficiency, including such incentives as $2,000 tax rebates for consumers to purchase highly efficient vehicles. Detailed studies show that the least-cost approach applied worldwide could simultaneously prevent a tripling of global carbon-dioxide emissions and eventually cut energy bills by more than $500 billion per year.

Mr. Speaker, as Earth Day approaches these are just a few ways we should be thinking about to lighten people's impact on the earth and save us money at the same time. Clearly there are many, many more opportunities available to individuals, companies, and communities to undertake on a daily basis. It is incumbent upon each of us to use our purchasing power, voting rights, and investment options to further the goals of Earth Day everyday.

BIPARTISAN FOREIGN INVESTMENT LEGISLATION TO BE INTRODUCED AFTER THE EASTER/PASSOVER RECESS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LENT. Mr. Speaker, Congressman TAUZIN, Congressman BROOMFIELD, and I planned to introduce foreign investment legislation tomorrow. However, since the House will not be in session tomorrow, we have decided to wait until after the Easter/Passover recess to introduce our bill.

We urge our colleagues to cosponsor this bipartisan legislation on foreign investment. The data our Government currently collects is too imprecise to allow us to understand the extent of foreign investment in certain sectors of the economy and regions of the United States.

Our bill would improve the data currently collected by:

First, giving the Bureau of Economic Analysis [BEA], which has primary responsibility for collecting data on foreign direct investment, access to the Census Bureau's data on foreign direct investment; and

Second, requiring the Secretary of Commerce to report to Congress on the progress of the data exchange.

Our bill represents a bipartisan approach to a controversial issue. The bill improves the data we collect without threatening to restrict foreign investment. It meets the public interest of improved data but protects American jobs.

We urge our colleagues to become original cosponsors to our foreign investment bill. We will be introducing it on April 18 after the Easter/Passover recess. If you have any questions or would like to cosponsor our bill, contact me or have your staff call Justin Lilley of the Energy and Commerce Committee at 5-3641.

LEGISLATION TO AMEND THE BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. JONES of North Carolina. Mr. Speaker, I rise to introduce legislation to amend the Bridge-to-Bridge Radiotelephone Act.

Currently, the inland navigational rules provide that vessels of less than 20 meters may not obstruct the passage of larger vessels and that vessels of 20 meters or more may share the channel with similar size vessels.

To maintain order it is essential that these large vessels, maneuvering in a narrow channel, be able to communicate. Thus, current law requires vessels of 300 gross tons or more to carry bridge-to-bridge radiotelephones. While most vessels of 20 meters or more exceed 300 gross tons and thus are required to carry bridge-to-bridge radiotelephones, there are exceptions. The amendment I propose would eliminate these unjustified exceptions by requiring radiotelephones on all vessels that are 20 meters or greater. In effect, this bill would merely extend the current requirement to reach those few vessels that are over 20 meters and less than 300 gross tons.

This is an important safety measure that would ensure that large vessels passing in a narrow channel are able to effectively communicate. During the period 1981–88, the failure to use radiotelephones was involved in 25 maritime accidents. This legislation, though it will make only a minor change in current law, would improve safety on our Nation's waterways and reduce the chance of spills of oil and other hazardous materials.

This proposal is strongly supported by the administration and I am aware of no industry opposition.

A TRIBUTE TO HOWARD W. TIEDT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. FAWELL. Mr. Speaker, I rise today to honor an outstanding individual from my district who passed away on March 7. Mr. Howard W. Tiedt, president of Santa Fe Speedway, devoted nearly all his life to providing recreation and the opportunity for Chicago residents to experience the excitement of auto racing. This occasion allows me to express my sincere appreciation to a man whose many years of dedication made south suburban Chicago a better place to live.

Mr. Tiedt was a lifelong resident of Hinsdale, IL, and its immediate surrounding areas. After his father's death in 1946, he inherited the racetrack which had been featuring horse and cyclist races. Mr. Tiedt relied on his experience and his degree in accounting from the University of Illinois, to enlarge the track and grandstand in order to accommodate large races and more spectators. Since 1953, the Santa Fe Speedway has been home to both stock car and midget auto races. I am proud to say that it is also one of the most respected and desirable short-track courses in the country, according to champion NASCAR drivers.

Mr. Tiedt's daughter, Mary Louise, will succeed him as president of Santa Fe Speedway. I wish her the best in her new position. I am sure Santa Fe Speedway will continue to provide popular entertainment to the citizens of my suburban Chicago district.

Once again, my deep condolences go out to the family of a great man who will be sorely missed by his community. We will be lessened by his departure.

PENNY STOCK REFORM ACT OF 1990

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MARKEY. Mr. Speaker, I am introducing today the Penny Stock Reform Act of 1990, a comprehensive effort to clean up the rampant fraud now pervading the penny stock market. I am extremely pleased to be joined in this effort by Mr. RINALDO, the ranking minority member of the Subcommittee on Telecommunications and Finance, Mr. WYDEN, Chairman DINGELL of the Energy and Commerce Committee, as well as Mr. RICHARDSON, Mr. MOORHEAD, and Mr. MCMILLEN of Maryland. In particular, I want to note the extraordinary contributions of Mr. RINALDO and Mr. WYDEN and their staffs, who have been so dedicated to developing legislation in this area.

Mr. Speaker, the problems in the penny stock market are a subset of the larger dilemmas facing the investing public and our economy. In the aftermath of the crash of October 1987, and the minicrash of October 1989, investors are reeling from losses in the legitimate stock market. The horror stories from the penny stock market are fueling that lack of confidence to an even greater degree. Furthermore, small legitimate firms are unable to raise capital in this market, finding it difficult to pry investors hands free from money in bank accounts or perhaps wrongly invested in fraudulent penny stocks. Therefore, we must work aggressively to create the regulatory structure necessary to rebuild investor confidence and oil the machinery of the capital formation process upon which our future economic growth hinges so greatly.

Mr. Speaker, last fall the Subcommittee on Telecommunications and Finance held two hearings to examine the problem of fraud in the penny stock market. The first was a field hearing in Portland, OR, chaired by Mr. WYDEN, and the second was here in Washington. The facts gleaned from those hearings are stunning and represent a travesty for the small investor. According to the findings of the North American Securities Administrators Association's [NASAA] 50-State survey, investors lose $2 billion or more each year due to fraud and abuse in the penny stock market, over one-fifth of the entire total of primary and secondary market activity in penny stocks. Incredibly enough, these losses linked to fraud come in addition to an estimated 70-percent probability that an investor in an unmanipulated penny stock will lose some or all of his or her investment. In all, the likelihood of losing money in penny stocks runs at 90 percent. Comparing this market to a night at the casino seems an unfair slap at casino operators.

Penny stock fraud's harm to the capital formation process poses an even more sweeping economic threat to the Nation. According to the NASAA report, the $2 billion in investor losses equals two-thirds of the total of $3 billion raised by the U.S. venture capital industry in 1988. Given that $25,000 is the average outside financing needed to start a new company, these ripoffs represent a loss of 80,000 potential new firms, employing well over 150,000 workers. These con artist schemes drive a stake right through the heart of our Nation's history of entrepreneurship and our future efforts to rebuild America's competitive edge in the world marketplace.

The legislation we are introducing today strikes directly at the most egregious problems in the penny stock market. The bill focuses a laser beam on the stocks trading at the lowest end of the scale, on the pink sheets or beyond, which are the most recognized area for fraudulent activity. The bill proposes several key tools for attacking this problem.

First, the legislation would expand the Securities and Exchange Commission's authority to bar crooked promoters and consultants from the securities business. As we learned in last fall's hearings, even the most recidivist criminals imaginable, having been barred from acting as brokers or dealers, wind up as manipulative promoters in the penny stock business.

The bill would also mandate that all penny stocks be traded though an automated quotation system which provides firm automated quotes of stock prices. This would greatly improve surveillance and information flow about this market and prevent these stocks from hiding in the netherworld of the pink sheets and beyond.

Another key feature of this bill would greatly expand disclosure to investors in penny stocks. This would include information about the price of stocks, actual value on a month-to-month basis, and a risk disclosure document containing information regarding the nature of the risk in the penny stock market.

The legislation would mandate expanded self-regulatory organization responsibility for overseeing the penny stock market. The expanded powers would include prohibiting customer ripoffs though excessive spreads; initiating a review of penny stocks to guarantee the adherence to standards of just and equitable principles of trade; and establishing and maintaining a new means for investors to receive information regarding broker disciplinary actions. If we are to have a system of securities laws which relies on self-regulation, then we must assure that that regulation is vigilant and aggressive in the pursuit of fraudulent activity.

Finally, the bill would ban outright the registration under the Federal securities laws of blank check offerings and penny stock blind pool offerings. These are common vehicles for fraud and manipulation in the penny stock market.

In summary, Mr. Speaker, this bipartisan legislation is a potent weapon in the battle to make our securities markets safe for all investors and to restore greater integrity to the capital formation process. The bill has been endorsed by the North American Securities Administration and the Consumer Federation of America, and letters from those groups will be inserted in the RECORD following my remarks.

In the weeks to come, as we move toward legislative hearings and markup of this legislation, I look forward to working with the SEC, the States, and others in the adoption of effective, comprehensive penny stock legislation.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, April 4, 1990.

Hon. EDWARD J. MARKEY,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MARKEY: On behalf of the Consumer Federation of America (CFA), I would like to thank you for introducing legislation to protect consumers from fraud and abuse in the penny stock industry.

As you know, a September 1989 study by the North American Securities Administrators Association estimates that Americans lose at least $2 billion each year as a result of schemes involving penny stocks. Further, the study points out, "The penny stock industry increasingly is dominated by utterly worthless or highly dubious securities offerings that are systematically manipulated by repeat offenders of state and federal securities laws and other felons, some of whom have been identified as having ties to organized crime."

The con artists who use lies and deception to sell penny stocks and who manipulate prices are robbing investors, many of whom are unsophisticated first-time participants in the financial markets, of their life savings, retirement funds, and money to fund their children's education. This alone would justify legislative action. But the problem goes deeper. All of us pay a price when Americans lose confidence in the financial markets and when money that could have gone to support honest businesses that create jobs is lost to penny stock fraud.

Recognizing that the problem has become a national one, the Securities and Exchange Commission and states have beefed up regulation in this area, and they are to be applauded for their efforts. But more needs to be done.

By expanding the authority of the SEC to police this industry, by making it easier to keep fraudulent "promoters" and "consultants" out, by mandating additional up-front disclosure to investors, and by prohibiting the registration of "blank check" offerings and restricting "blind pool" offerings, the "Penny Stock Reform Act of 1990" provides vital additional investor protection.

CFA congratulates you for your leadership on this issue and looks forward to working with you for passage of this vital legislation.

Sincerely,

BARBARA ROPER,
Financial Planning Specialist.

SECTION-BY-SECTION ANALYSIS "PENNY STOCK REFORM ACT OF 1990"

Section 1. Short Title.

This Act is formally titled the "Penny Stock Reform Act of 1990."

Section 2. Findings.

The findings lay out the rationale underlying this legislation. They include the need to establish and maintain an honest and healthy secondary market for securities offerings; to provide investors with better information concerning low-priced penny stocks; to broaden Securities and Exchange Commission authority to regulate and redress wrongdoing in the penny stock market; to enhance SEC authority to sanction "promoters" and "consultants," among others, who operate at the fringes of the penny stock market; and to prohibit the use of certain practices, such as the issuance of blank check offerings, whose inherent characteristics promote fraud.

Section 3. Definition of Penny Stock.

This section adds a new paragraph 51 to Section 3(a) of the Securities Exchange Act of 1934 ("the '34 Act") by defining the term "penny stock" and thus setting the scope of securities covered under this Act. The definition focuses largely upon the non-exchange-listed and non-NASDAQ-quoted market, also known as the "pink sheet" market. This is the area of the securities markets furthest outside the scope of adquate regulation and surveillance.

The definition of penny stock largely follows the Commission's definition of "designated security" contained in its penny stock rule adopted last fall (SEC Rule 15c2-6). It would exempt from the definition of penny stock any security which is registered or approved for registration on a national securities exchange, such as the New York or American, among others, which meet operating criteria established by the Commission. The rule would also exempt securities traded on the National Association of Securities Dealers NASDAQ/NMS and NASDAQ system; investment company securities; and other securities the Commission may exclude based on other relevant criteria, such as high trading price or low trading volume.

Section 4. Authority of Commission to Police Disqualified "Promoters" and "Consultants".

The hearings in the Subcommittee on Telecommunications and Finance last fall indicated that there currently exists a substantial problem in the large numbers of individuals who are barred from working as brokers, dealers or exchange or NASD members, but who emerge nonetheless as promoters or consultants operating illegally in the penny stock market. This section amends Sections 3(a)(18) and 3(a)(21) of the '34 Act. It expands the current law definition of persons "associated" with brokers, dealers and members of securities exchanges or the NASD to include "promoters," "consultants" and others who work in the penny stock market yet may evade SEC sanction by avoiding formal registration as brokers and dealers. The section also includes within the definition of a broker those individuals associated with issuers, even if no formal association with a broker could be established.

Section 5. Requirements for Brokers and Dealers of Penny Stocks: Automated Quotations, Enhanced Disclosure.

Subsection (a) of Section 5 adds a new paragraph (g) to Section 15 of the '34 Act and thus establishes a system for more comprehensive disclosure and regulatory oversight for the operation of the penny stock market, from the initiation of broker-customer contact through the trading of these stocks and the maintenance of customer accounts in such stocks.

The section adds new requirements for the method of effecting transactions, and for additional disclosure obligations prior to transactions, at the time of confirmation, and through monthly account statements. First, all transactions in penny stocks must be effected through an automated quotation system operated by a national securities association such as the NASD. Second, prior to effecting any penny stock transactions, a broker or dealer must provide customers with a specific "risk disclosure" document, and must disclose the bid and ask prices at the time of the transaction, the number of shares to which such prices apply, the amount of commissions or other compensation the broker or dealer is receiving with regard to purchases or sales of that penny stock, and any additional information the SEC may deem necessary.

The "risk disclosure" document mandated under this section must contain a description of the nature of risk involved in the penny stock market, the method of pricing markups in that market, identification of means to receive information on broker-dealer disciplinary histories, and a description of other significant terms used which would assist customers in their understanding of the penny stock market.

At the time of confirmation, the section requires brokers and dealers to provide in writing similar price and volume information as that mandated prior to the purchase of sale of any penny stock. In addition, the monthly account statement required under this section must contain all trading information for the previous month and the present market value of a customer's holdings in penny stocks.

Subsection (b) of Section 5 imposes new requirements for self-regulatory organizations (the NASD) to establish and oversee a fair penny stock market. Under the general requirements of Section 15A(b)(11) of the '34 Act, that a "registered securities association" promulgate rules designed to produce "fair and informative" quotations, this subsection requires the NASD or other such SROs to enact rules that prohibit excessive spreads and require firm bid and ask prices reasonably related to the most recent quoted prices.

This section makes the effective date of these new requirements for brokers and dealers and SROs 90 days from the date of enactment of this Act.

Section 6. Voidability of Contracts In Violation of Section 15(c)(2) of the '34 Act.

Section 6 effectively would void securities contracts made in violation of the Commission's penny stock rule and all other rules adopted pursuant to Section 15(c)(2) of the '34 Act. This section would amend Section 29(b) of the '34 Act to specify that any contract in violation of rules adopted under Section 15(c)(2) of the '34 Act, which includes prohibition of fraudulent, deceptive or manipulative practices, would be deemed automatically void. The Commission would have the authority to exempt certain rules from this mandate.

Section 7. Restrictions of Blank Check Offerings.

Subsection (a) of Section 7 amends Section 7 of the Securities Act of 1933 ("the '33 Act") to prohibit the registration of all "blank check" stock offerings and all penny stock "blind pool" offerings, types of stock issues frequently involved in fraudulent or manipulative schemes. Blank checks are securities offerings in which the issuer discloses no specific business plan or purpose, or merely identifies an intent to engage in mergers and acquisitions, but no identity of business lines for the anticipated mergers or the management which will be responsible for operating the merged entity. Blind pools do identify a general business, product or service line for intended mergers, but not a particular property or business.

Subsection (b) contains an amendment to Section 15 of the '34 Act which would affect the trading of blank checks and penny stock blind pools. First, by adding a new Subsection (h), it would prohibit the trading of any blank checks or penny stock blind pools. Second, by amending Subsection 12(b), it would enhance the enforcement of the trading ban by mandating that all penny stocks registering under the '34 Act provide specific information regarding their lines of business. This information will help the Commission identify potentially illegal blank checks and blind pools.

Subsection (c) amends Section 15A(b) of the '34 Act by mandating that the NASD or other SROs overseeing the penny stock market promulgate rules to prohibit the evasion of blank check and blind pool restrictions, to require greater review of penny stock registration statements in pursuit of this goal, and to establish means for improving dissemination of information concerning "reverse mergers" of private companies with public shell corporations.

The effective date for this section is 90 days from the date of enactment of the legislation.

Section 8. Expanded SRO Review of Penny Stocks.

This section requires a new review of penny stock offerings to assure that they are not used for "fraudulent and manipulative acts and practices" and are consistent with "just and equitable principles of trade." These standards are drawn directly from Section 15A of the '34 Act, which governs the operation of self-regulatory organizations. Section 8 specifically amends Section 15A(b) of the '34 Act to mandate that the NASD or other penny stock SROs prohibit participation of any of its members in the offering of any penny stock which has not been renewed favorably under this standard.

Section 9. Broker/Dealer Disciplinary History.

This section mandates that the NASD or other registered securities association establish a toll-free telephone listing to respond to customer inquiries concerning the disciplinary history of association members.

NEW MEDICAL FACILITY: SISKIN HOSPITAL OPENS IN CHATTANOOGA, TN

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mrs. LLOYD. Mr. Speaker, recently I had the great privilege of attending the ceremony opening a remarkable new medical facility in my congressional district, Siskin Hospital in Chattanooga, TN, this hospital represents the culmination of a dream of Mose and Garrison Siskin and I'm sure it will stand as a monument to their families' collective commitment to dedication and service to our community. Rabbi Richard Sherwin, of B'nai Zion synagogue, a man of great distinction and honor, gave a thoughtful and eloquent invocation which I would like to share with my colleagues in the house. His remarks are as follows:

SISKIN HOSPITAL DEDICATION: INVOCATION

All too often, the religious person is wrongly portrayed as one who accepts life as it is—for better or worse—claiming that it has been ordained by God. It is a view of religion that was rejected by Garrison and Mose Siskin, one that is rejected by the Binder, Levine, Pregulman and Siskin families today, one that will be rejected by all whose lives will be graced by hope as they enter the doors of this magnificent hospital. The healthy view of religion is not that God deals us the cards, but that God helps us with the cards that life has dealt. This hospital is itself a religious statement that dignity belongs to every human-being, and that even a broken life can be filled with hope.

The charge of religion is to use our God-given intelligence, our God-given talents, and our God-given creativity to find ways to transform the world from the way it is to the way it might be. We are charged to dream of what might be, then to go out and to fulfill our dreams.

It was Theodor Herzl who said: If you really want something, it need not remain a dream.

The Siskin brothers dreamed to restoring hope to those who have good reason to lose it. They worked hard to make their dream become reality, and the community worked with them and made the Siskin dream their own. Today, less than two years after the groundbreaking, a new stage of the dream come true has, indeed, become reality.

The charge of religion today is to savor this moment, then to find new and better ways to fulfill the dream of Mose and Garrison Siskin. With this facility, many will be given the chance to make their own dreams come true, and—with God's help—we will find new ways to enhance the Siskin dream.

Almighty God, Source of all creativity and moral energy,

You inspire dreams within us, then you grant us the strength to fulfill them. Help us to see that each dream is only part of an ever-expanding dream.

We thank You for enabling us to reach this day. We see it not as the end of the Siskin dream, but as a significant phase that will create many new beginnings. Grant the gift of vision to those entrusted with the operation of this hospital and the care of its patients. Help them to see the worthwhileness of life, and to convey that sense of meaning to those who enter these doors so that they may mend or alter their shattered dreams. Enhance the lives of those who benefit from the warmth and caring that this hospital will provide.

Let this hospital stand as testimony to the faith of the extended Siskin family that we can work hand-in-hand with God in transforming the world as it is into the world it has the potential to be.

We praise You, Lord our God, Sovereign of the Universe, for granting us the gift of life, for sustaining our strength, for enabling us to endure as we pursued the Siskin dream, and for being with us as we celebrate this day together. Amen.

DEMOCRACY RESTORED IN PANAMA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MURTHA. Mr. Speaker, the year of 1989 will go down in history as the year of the decline of dictatorships. In addition to the dramatic events in Eastern Europe, we all welcome the demise of the brutal dictatorship of Manuel Antonio Noriega.

In May 1989, President Bush tasked me to be chairman of the U.S. Presidential Observation Delegation to the Panamanian National Election. I had served on many similar delegations in the past and our mission was straightforward—observe events as completely and accurately as possible and report back to the President and the congressional leadership. The delegation's effort was coordinated with the international delegation headed by former President Jimmy Carter.

It was quite clear to our delegation that Noriega lost the election. In fact, it appears that he was defeated overwhelmingly in the polls by a ratio of 75 to 25. Despite the overwhelming rejection by his own people, he remained in power and the brutality, money laundering, drug transhipments, and accumulation of massive arms caches continued.

The Panamanian people expressed their strong desire for democracy in that May election, but because of the oppressiveness and brutality of the Noriega regime, the deployment of United States troops was necessary to allow the installation of a democratic government.

COMPLEX MILITARY OPERATION

As chairman of the House Defense Appropriations Subcommittee, I am vitally interested in all aspects of the successful military effort to restore democracy in Panama. I believe that Operation Just Cause was one of the most complicated military operations that the Defense Department has performed since the Korean war.

Operation Just Cause involved the simultaneous nighttime attack on numerous installations in concert with the securing of a number of facilities. A wide variety of missions had to be undertaken—commando units liberated American prisoners and Panamanian political prisoners, Navy SEAL teams attacked and secured a small airport that Noriega might have used to escape, Rangers attacked and secured the large commercial airport and the Rio Hato barracks where Noriega loyalists were stationed, an advanced weapon system was used to carry out a precision bombing to assist in the Rio Hato operation, and artillery, tanks, and AC–130 gunships attacked the P.D.F. Headquarters.

Moreover, the majority of the troops involved in the operation had to be airlifted to Panama. Many of the troops and much of the equipment had to be air dropped. A total of 428 airlift missions utilizing C–5, C–141, and C–130-type aircraft carrying 14,000 troops and 12,500 tons of cargo were completed. A total of 172 tanker missions utilizing KC–10 and KC–135-type aircraft offloaded 12 million pounds of fuel to 274 aircraft.

An important aspect of Operation Just Cause was the effort to minimize casualties since our differences were with Noriega and not the Panamanian people or even with most of the P.D.F. Thus various aspects of the operation involved the use of the element of surprise, weapons to scare and disorient opponents, and the use of psychological warfare techniques. In various instances our troops used bullhorns to inform the P.D.F. that if they surrendered no shots would be fired.

I went on an inspection trip to Panama and visited many of the combat sites so I could meet with the troops and make an onsite assessment of the situation. I was tremendously impressed with the morale and commitment of all of our troops. I cannot say enough about the quality of the U.S. Armed Forces in Operation Just Cause. They were well trained, well disciplined, and performed their assigned operations with professionalism and pride. They are a credit to the United States.

Many factors contributed to the great success of Operation Just Cause. I think much of the success can be attributed to the high level of training and improved readiness that our troops have undergone during the past decade. While training is not a glamorous issue, to me it is the essence of maintaining a first-rate military capability. Also, the fine performance of the equipment was gratifying.

I recognize that because of budgetary realities and the changing international scene, there will be declines in the overall spending for defense for the next few years. However, it must be recognized that the current defense budget represents a smaller percentage of the gross national product than has been the case in all but 7 of the past 49 years and any reductions that are made from that level must be done prudently and carefully. I think an important lesson to be learned from Operation Just Cause is that as the defense budget undergoes reductions in the next few years, we must make certain that we do not return to the hollow Armed Forces of the seventies.

TRADING WITH THE EUROPEAN COMMUNITY

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MILLER of Washington. Mr. Speaker, the European Community is one of my State's best trading partners. In 1988 alone, Washington State businesses exported nearly $3.5 billion in electronics, medical equipment, aircraft, seafood, and other products to Western Europe. My State has a $2.5 billion trade surplus with the European Community. Trade with the European Community is important to me and it is important to Washington State and it is important to the United States.

Today, the European Community is putting into place a new unified market initiative commonly referred to as EC–92. The elimination of internal trade barriers will make Europe one unified market from Italy to England and from Portugal to West Germany. The elimination of redundant tariff and customs zones is a great step forward. A step which should make it easier for our exporters to compete in this new European market.

But, I am concerned with one element of the EC–92 equation—how to set and how to test product standards. Because of that, I am cosponsoring five pieces of legislation that would equalize product testing standards on both sides of the Atlantic.

As a member of the House Foreign Affairs Subcommittee on International Economic Policy and Trade, I attended six hearings on the 1992 Common Market. I also convened a conference, "Europe 1992: A Strategy for Our Region" in Seattle last May. That conference brought together 300 business and community leaders. At our hearings and at my conference, it became apparent that the European Community's stand on product testing clearly threatens American exporters.

At first glance, the European Community's concept of unifying product standards seems like a good idea. After 1992, if a product meets the standards in one European Community country, it can be marketed in all European Community countries. American export-

ers would only have to jump through 1 hoop instead of 12 different hoops with their products.

Yet the threat comes from how the Europeans plan to set their standards. After 1992, the European Community would first develop a general outline on product standards. The European standards organization, CEN/CENELEC, would then use that outline to establish product regulations for all European Community members. The problem is that the CEN/CENELEC meetings would be closed to most non-Europeans, including American Government officials and American businesses.

The minimum standards for thousands of products that flow out of the United States would be set behind closed doors. The health and safety regulations for everything from camera film to cars would be established without the participation of American businesses. And, I am afraid these standards could unfairly benefit European products over our American goods.

Back on our side of the Atlantic, Americans have relied on the private sector to set the standards. And, most of the organizations that set these policies are open to both American and foreign input. In fact many European Community companies help develop American standards.

The closed-door tactic of CEN/CENELEC is not the only problem. With product standardization comes product testing. Right now, American exporters can test their goods at home, so they can comply with European regulations. But, the European Community will not guarantee the system after 1992. This means Americans may be forced to test their export products over in Europe.

It just does not make good sense to make something, and then ship it to Europe just so they can say it's OK to sell. Imagine Boeing having to send their 747's to Belgium for noise testing. Imagine a small technology-based exporter learning that their trade association and their Government cannot participate in CEN/CENELEC. All we want is fair treatment.

The administration has objected to the European Community plans, but with little success. Now, it is time for Congress to use our resources to help the administration and American businesses.

This legislation would reciprocate the European Community in product testing and standardization using five government agencies—the Environmental Protection Agency, the Federal Communications Commission, the Food and Drug Administration, the Department of Labor, and the Department of Energy. If the European Community keeps CEN/CENELEC meeting closed, or if they do not accept product testing conducted in U.S. laboratories, any imported European Community product regulated by these five agencies would have to be tested and certified in American laboratories. CEN/CENELEC meetings should be open to U.S. businesses and Government representatives. CEN/CENELEC should accept product testing conducted in American laboratories.

I do not want our European neighbors to change their entire trade system. I just want the European Community to have fair and open discussions with our Government and our exporters. These bills will put American exporters and European exporters on equal terms. Furthermore, the restrictions would be lifted once the European Community resolves this inequity.

I appreciate the opportunity to work with Chairman GEDJENSON in developing these bills. He deserves much credit for focusing the attention of the House of Representatives on the opportunities presented by EC–92.

These bills are important to Washington, Connecticut, and the rest of our country. Obviously, we all want a good working relationship with the European Community. But, before the final chapter of EC–92 is written, it is time to use tangible leverage with our product standards to prevent the European Community from closing some of its markets to our exporters.

I urge my colleagues to join Chairman GEDJENSON and me in supporting these bills.

A TRIBUTE TO PERCY E. SUTTON: "THE CHAIRMAN'S LASTING LEGACY"

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MFUME. Mr. Speaker, today I rise in recognition of a distinguished African-American entrepreneur who for more than 20 years, has established himself as a foremost pioneer for minorities in the mass media industry. The man I am referring to is none other than Percy E. Sutton, chairman of New York City's Inner City Broadcasting Corp.

Percy Sutton is a man whose vision I came to admire many years ago while I was the program director of a small alternative radio station in Baltimore, MD. To those in the industry, Percy Sutton—also known as the "Chairman"—is regarded as a tough, innovative businessman with a shrewd penchant for detail.

Percy's courage and tenacity to compete and win within the tumultuous telecommunications industry, attests to his forward looking style and understanding of what large segments of American radio lovers expect from the industry.

It took Percy Sutton less than two decades to build an empire that orchestrated the rebirth of the world renowned Apollo theatre and transformed New York City's WBLS radio station into one of the hottest and popular FM stations in the country. Looking beyond the 1990's, I believe that America will witness the successful transformation of Inner City Broadcasting from a radio broadcast firm to a multimedia news information, entertainment and broadcasting conglomerate.

Mr. Speaker, early last year Percy Sutton indicated that he plans to step down as chairman of Inner City at the end of this year. However, those of us who usually worry about the concomitant change brought about by the natural order of things need not worry about this decision. For Percy Sutton's remarkable career has been characterized by his ability to influence various projects through his everyday caring and concern for the community.

What makes Percy Sutton's story even more astounding is that he seemingly never intended to enter the mass media industry. Percy Sutton began as a successful New York lawyer and practiced with his brother before the latter Sutton became a judge. Percy Sutton was noted for taking very difficult high profile cases, including the defense of the Black Panthers. During the early 1970's Percy Sutton was elected and served as Manhattan Borough president and made an unsuccessful bid to be Mayor of New York City.

Although he is no longer in politics, this does not mean that politics are not in Percy. Percy Sutton has been very successful in developing an African-American power base, particularly in the Harlem community. His latest winning association saw New York City elect its first mayor of African descent ever. Profoundly, while Percy Sutton is no longer in the governing spotlight, he has managed to preserve his power base and maintain his position as a major power broker in New York City politics.

It would be a serious travesty for me to limit Percy Sutton to strictly business and politics. Percy Sutton is a devoted family man. The managerial and organizational base of Inner City is founded upon his immediate family. Back in the mid-1970's, it was Pierre Sutton—Percy's son and heir apparent to chair Inner City—who convinced the then former borough president to join the fledging broadcasting company. From that day on, Percy, Pierre, and the Sutton-controlled family business has been on the fast track toward success.

Mr. Speaker, the reason that I decided to pay this special tribute to the chairman, is because of his special stature within the African-American community. Percy Sutton has worn many hats during his illustrious career. Manhattan Borough president, prominent defense attorney, political fundraiser, organizer, and most importantly, philanthropist. Americans of African descent in and out of the mass media industry owe a tremendous debt to Percy Sutton. Percy's willingness to reach back and pull others up along the way is something that I have specifically admired and emulated.

Within every movement and organization there are movers and shakers who don't always appear to have the power and wherewithal to move mountains and shake foundations. These persons spend much of their time laboring unselfishly behind the scenes to ensure that the engine parts are well heeled and oiled. Percy Sutton is such a man.

Percy Sutton is talented enough to have undertaken many career paths and worked for personal wealth and aggrandizement. Instead, Percy Sutton chose to stay within his community and deal directly with the tough issues of empowerment, inclusion and good government. To conclude, while Inner City may miss the chairman, those of us who know and love him know full well that Percy Sutton will continue to labor at the projects and issues that have kept him on top for so many years.

ISHAF FORMS TO COMBAT PROTECTIONIST WILDLIFE COMMUNITY AND ANTIGUN PROPONENTS

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. THOMAS of Georgia. Mr. Speaker, in the recent past, this Nation has witnessed an intense and sometimes violently destructive campaign by a well-financed minority to stop all hunting, fishing, and trapping. In addition, many factions of the antigun lobby would infringe further upon the rights of shooters and hunters to pursue legitimate recreational activities.

It is certainly ironic that all of the private organizations of the sportsmen's groups that the antis seek to eliminate have contributed unselfishly of their time and money to promote laws and regulations for the professional management of our renewable resources as well as educational programs for hunter and shooter safety. The antis, on the other hand, seem to be just that, opposed to everything and unable to contribute anything.

It is imperative that the general public understand the conservation role of the sportsmen in this Nation and the world. The concept that the hunter, the fisherman, and the trapper are those persons who exploit wildlife, injure the environment, and cause irreversible damage to the environment must be challenged with the truth.

I would commend to my colleagues a fairly new organization that seeks to unite sportsmen in a positive and aggressive manner in promoting legislative and regulatory protection of the sportsmen's heritage. The International Shooting & Hunting Alliance [ISHA], and its Foundation [ISHAF], working with the many excellent sportsmen's groups, believes the time has come to initiate a positive agenda, to not only combat the misinformation generated by the protectionist wildlife community and antigun proponents, but to go on the offensive in the regulatory, judicial, and legislative arenas.

I have worked with and know the officers, staff, and many of the board of directors of ISHA. They bring to the table a wealth of experience that will be invaluable in developing programs and policies of material benefit to the sporting community.

Robert E. Petersen is chairman of ISHA, and chairman of the board of Petersen Publishing Co. that, among other publications, publishes Petersen's Hunting and Guns & Ammo magazines. Mr. Petersen, a lifelong sportsman, was commissioner for shooting sports for the 1984 Los Angeles Olympics. The vice chairman of ISHA is Arlen Chaney, president of the Outdoor Division of Blount Industries, and chairman of the National Shooting Sports Foundation. G. Ray Arnett, former director of the California Fish and Game Department, and Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior, is the president and chief executive officer.

Other members of the board include Lorne Yeo, assistant managing editor of the Guardian and the Evening Post in Charlottetown, PE, Canada, and president, Canadian Wildlife Federation; J.C.D. Bailey, president, Bailey Financial Group in Rocky Mount, NC, a director of Quail Unlimited, a former commissioner of the North Carolina Wildlife Resources, and a former senior vice president of Ducks Unlimited; Frank G. Harris III, partner in CHAI Exploration in Shreveport, LA, is a life sponsor of Ducks Unlimited, and a national board member of the Waterfowl Habitat Owners Alliance; Dr. Donald T. Lewis, M.D., of Easton, MD, past president of American Wildlife Heritage and the Easton Waterfowl Festival; Clare Conely, editor-in-chief, Outdoor Life magazine of the Times-Mirror Corp. of New York City; Gen. William C. Westmoreland, U.S. Army, retired of Charleston, SC; Dr. Graham F.T. Child, former director, Department of Parks and Wildlife Management, Zimbabwe, Africa, and an IUCN senior consultant; and Richard Garstang, former interpretive officer, Kruger National Park, Republic of South Africa, and international vice president of the Safari Club International. David M. Powers of Rocky Mount, NC, serves as executive vice president, and Stephen S. Boynton, an experienced wildlife attorney in Washington, DC, serves as general counsel.

ISHA, working with the newly formed congressional sportsmen's caucus, has been extremely helpful by contributing their time to assist in developing a meaningful agenda for the caucus and the recently incorporated Congressional Sportsmen's Caucus Foundation. As vice chairman of the caucus, I sincerely thank them for their contributions.

ISHA expresses justified concern that far too often the antihunting and antishooting groups have reached into the Halls of Congress and State legislatures in support of their activities. Their philosophy has, unfortunately, been represented in fish and game departments resulting in inappropriate laws and regulations that are clearly not in the best interest of sound conservation policies or reasoned regulations on firearms ownership and use. Sportsmen must share this concern, and support efforts to combat and reverse this trend. The national attention is focused and it is time to act.

Sportsmen have, and will continue to, finance the conservation programs of this Nation. Since the beginning of this century, sportsmen have spent over $15 billion to finance wildlife management programs and conservation efforts, research, habitat acquisition and maintenance, gun safety, and hunter education. Such funds have been derived from hunting, fishing, and trapping licenses and permits, excise taxes on hunting and fishing equipment, State and Federal conservation stamps, and other direct costs to the sportsmen. In addition, millions of dollars have been raised privately and thousands of hours donated to improve and support conservation and shooting sports. Sadly, this tale is not told often enough nor is it fully understood. Clearly, because of the sportsmen's role in conservation, this Nation can be proud of its healthy and stable wildlife populations.

I commend the International Shooting and Hunting Alliance for its efforts to insure the sportsmen a continued heritage for tomorrow. I share the belief with ISHA that much can, and must, be done to insure that reasoned wildlife management and law enforcement prevail, and that constitutional safeguards for gun ownership are maintained. Reasoned policies must not be replaced by political considerations. As sportsmen, we must support that goal.

COLORADO SPRINGS OUTSTANDING DETECTIVE RETIRES

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. HEFLEY. Mr. Speaker, I rise today to pay tribute to Detective Lou Smit who retired from active service in Colorado Springs on April 2, 1990. Detective Smit has been recognized and admired by his colleagues for outstanding performance in his 24-year career with the Colorado Springs Police Department.

Detective Smit, who spent 18 years as a homicide investigator, participated in 250 investigations and had a solution rate of 87 percent. Not only did he go beyond the call of duty to console friends and family in cases of death, he had a unique ability to communicate with perpetrators of violent crimes, resulting in numerous confessions.

Detective Smit's tremendous dedication to the police service, his unique blend of skill, experience, and respect for the defense bar, prosecutors, and the judiciary, will be truly missed. Residents of Colorado Springs were fortunate to have such an outstanding public servant and skilled individual serve their community.

As a Member of Congress representing Colorado Springs, I would like to ask my colleagues to join me in congratulating Detective Smit and thanking him for 24 years of dedicated service to the city of Colorado Springs above and beyond the call of duty.

A TRIBUTE TO RABBI HAROLD SCHULWEIS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly outstanding community leader—Rabbi Harold Schulweis. He is one of our country's leading Judaic scholars, a prolific and acclaimed author, and for the last 20 years, rabbi of Temple Valley Beth Shalom in Encino. For his devotion, dedication, leadership, and vision he is being honored by Temple Valley Beth Shalom as their 1990 "Man of the Year."

Rabbi Schulweis' career and education reflect the evolution and expansion of the American Jewish community as a whole. He began his studies at Yeshiva College, continuing at New York University, was ordained at the Jewish Theological Seminary, and pursued graduate studies at Columbia University, the University of California, and the Pacific School of Religion at Berkeley. He studied under Rabbi Mordecai Kaplan, founder of Recon-

structionism, and for 50 years Rabbi Schulweis has played a central role in the development and growth of Judaism in America. He was also one of the first to recognize the role of non-Jews who risked their lives to save Jews during World War II and founded the Institute for Righteous Acts in 1962 to ensure these heroes received their due.

As the spiritual leader of Valley Beth Shalom, Rabbi Schulweis has been at the forefront of innovation. He set up the synagogue's counseling center and the Para Robbinie Program. He initiated the Havurah group concept which has become one of the most emulated and important forums of Jewish worship and discussion. In addition he was a founder of Mazon—the Jewish response to hunger—and has set up outreach programs aimed at the disabled.

Rabbi Schulweis is the recipient of numerous awards and honors. He is a holder of the prestigious Israel Prime Minister's Medal and has been awarded the United Synagogue's Social Actions Award and the Akiba Award of the American Jewish Committee.

Rabbi Harold Schulweis and his wife, Malkah, are proud parents to Seth, Ethan, and Alisa.

Mr. Speaker, it is a high honor and privilege to ask my colleagues to join me in acclaiming Rabbi Harold Schulweis—a world-renowned leader, scholar, and an exemplary teacher and role model for all.

EXCELLENT WORK OF CORRIGAN MENTAL HEALTH CENTER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. FRANK. Mr. Speaker, too little is heard these days about the excellent work that is done by so many public agencies, particularly in the field of human services. One of those agencies which does a superb job of providing necessary services to our fellow and sister citizens in need is the Corrigan Mental Health Center in Fall River, MA. Last week, I had the opportunity to meet with people at the Corrigan Center and hear from them about their work and in particular about the importance of a new drug which they have found very useful in combating some of the effects of mental illness. One of the things they shared with us at the time was an article about the Corrigan Mental Health Center from "innovations," a new publication of the National Alliance for the Mentally Ill and the Public Citizen Health Research Group.

In this first issue of this publication, there is a well deserved short article praising the excellent work that is done by the Corrigan Mental Health Center. I congratulate area director Daniel Amigone and all of those who work with him at the center. I wish we in the public sector did a better job of providing the resources they need, and I want to pay particular tribute to those employees of the center who work for inadequate wages and in less than ideal conditions to provide these necessary services.

Mr. Speaker, because it is important for the public at large to understand what vital services institutions such as the Corrigan Mental Health Center provide, I ask that the article from "innovations" be printed here.

IN BRIEF: CORRIGAN MENTAL HEALTH CENTER

(By E. Fuller Torrey)

Here is a community mental health center that is functioning as CMHCs were originally envisioned when they were sold to Congress in 1963. With a catchment area of 150,000 and a 38-bed inpatient unit that is JCAHO-accredited and HCFA-certified, Corrigan has sent only three patients to state hospitals (including the forensic unit) in the past 10 years, and these hospitalizations were for medical, not psychiatric, reasons.

The resources of the Center are strongly oriented toward people with serious mental illnesses. The professional staff has been stable, has a very clear sense of mission, and takes pride in being able to maintain even the most seriously ill clients in community settings. Corrigan's director, Daniel K. Amigone, personally takes clients with schizophrenia to lunch when they have made progress. Pressure from the Alliance for the Mentally Ill of Greater Fall River, led by former Massachusetts AMI president Anita Pyatt, has been an essential ingredient in Corrigan's improvement in recent years.

Programs include a six-bed crisis home across the street from the Center, a hospital diversion program for children, a clubhouse (Towne House), a day program (Polaris House) that operates 364 days a year, an impressive vocational program that includes a restaurant (Gerry's Hot Dogs), and a network of residences and apartments that are notable for being homelike and not in the worst neighborhoods.

When the Center found it difficult to find housing for older mentally ill adults, it opened up its own 10-bed residence, Harbor Hill. When the Center found it was getting too many admissions from the local single-room occupancy (SRO) residence, it assigned a staff person to the SRO. Corrigan staff members do outreach to the local police and appear to have developed excellent relations with the community. And it does all this on a budget that is below average for CMHCs in Massachusetts. Overall, this is an excellent CMHC and a program of which Massachusetts can be proud.

BORDER PATROL PERSONNEL SHOULD BE INCREASED

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MOORHEAD. Mr. Speaker, today, I am introducing legislation to authorize additional appropriations to increase Border Patrol personnel to 6,600 by the end of fiscal year 1992. Joining me as a cosponsor is my colleague and fellow Californian, BILL LOWERY of California's 41st District. At a time of record drug seizures and unrest and upheaval in Central America, increasing the strength of the patrol to this level is eminently sensible. At the end of 1989, 88 percent of the total increase authorized by my amendment to the Immigration Reform and Control Act of 1986 [IRCA] was in effect. The lack of appropriations, a budget freeze, reprogramming, inflation, and other uncontrollable factors have all been roadblocks to achieving full funding under my amendment. Current budget proposals do not reflect a significant increase in Border Patrol agents.

Over the last 10 months apprehension of illegal aliens has been up by 29.9 percent, and, despite an increase in appropriations to expand Border Patrol personnel by 50 percent over 1986 levels, much of the expenditure has yet to be directed to an increase in enforcement activities focusing on illegal immigration. Of the $9 million earmarked for 200 additional Border Patrol positions in the fiscal year 1990 Commerce-Justice-State appropriations bill, most of the funding has been used to finance pay increases and moving expenses for personnel already on board. My bill would authorize additional appropriations to increase Border Patrol personnel to 6,600 by the end of fiscal year 1992. Should it become necessary, the bill makes available amounts in the Justice Department forfeiture fund for the additional positions.

I am disturbed by the fact that since the INS hiring freeze went into effect and particularly in the past few months, the number of apprehensions has increased, showing an upward trend and leading us to believe that the number of illegals crossing the border is once again on the rise. Public perception is important on both sides of the border, and the awareness aroused by reports that Border Patrol strength is currently declining along with current attempts by Congress to grant additional amnesty requests is sending the wrong message to foreigners wishing to enter our country illegally.

A March 29, 1990, GAO report alleging discriminatory practices in employer sanctions could result in Congress repealing these IRCA provisions within 30 days. With that possibility, it is wise and prudent to increase the strength of our Border Patrol.

The Southwest border has been designated as one of the areas to receive special attention from the President's national drug control strategy. This makes additional funding even more necessary. As part of our drug control strategy, the President has made it clear that funding is to be provided for an increase in resources to our Southwest border.

In a recent opinion poll sent to every household in my district, one of the questions asked was "Do you think the southern border of the United States is secure?" Nearly 80 percent of those responding answered "no." I believe that similar results would be found in other border States where people are clearly aware of the existing problems. For all these reasons, Mr. Speaker, I hope my colleagues will join me in this effort to make funds available to increase our Border Patrol to the numbers necessary for the enforcement of our immigration laws and the protection of our citizens.

LONG LIVE LITHUANIA

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SANGMEISTER. Mr. Speaker, I want to applaud the House for passing this afternoon, by an overwhelming vote of 416 to 3, House

Continuing Resolution 289 which expresses congressional support for the Lithuanian people in their efforts to reclaim their independence. I would like to thank my colleague, Mr. DURBIN, for his continual commitment for freedom by offering this resolution. I believe the House has sent a clear message to President Bush that he must stand firm with President Mikhail Gorbachev and persuade the Soviets to live up to international law. How much longer must the Lithuanian people be subjected to Russian tyranny? They have lived under the horrors of Nazi Germany and for the last 50 years, Soviet hegemony. This is a great opportunity for Mr. Gorbachev to follow through with his reforms as he has with Eastern Europe, by granting the Lithuanian Government their rightful independence. Mr. Speaker, the Lithuanian people have suffered and sacrificed much for freedom. With this in mind, can the United States stand idly by and do nothing? Of course not. We have a moral responsibility to support the movement of freedom. Surely, Lithuania is as clear a case as any. In the end, lasting peace and security within the United States will largely be determined by the level of freedom from outside her borders. Long live Lithuania!

HOUSE CONCURRENT RESOLUTION 289

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SARPALIUS. Mr. Speaker, with the overwhelming passage today of House Concurrent Resolution 289, we in this House have sent a strong message to the people of Lithuania. We have told them that we stand firmly behind them as they struggle to regain the independence stolen from them 50 years ago.

Some would wonder whether one congressional resolution can make a difference in a struggle between a small nation trying to find its way in the world and a nation as powerful as the Soviet Union. Well, let me tell you members, it can make a big difference.

Last February, Congressmen DURBIN, MILLER, and COX and I traveled to Lithuania to observe the first free elections there since the Soviet takeover in 1940. We were just four Congressmen. We could not guarantee the Lithuanians anything but our personal support for their efforts. Yet to them, our mere presence meant so much.

I think we sometimes are too complacent about the freedoms we enjoy, and I don't think we fully appreciate what those freedoms represent to the oppressed peoples of the world. When I went to Lithuania I saw people who have been without freedom for half a century. They have suffered under the oppression first of Stalin, then, briefly, of Hitler, Stalin again and Brezhnev. They have seen some of their finest minds rounded up and moved out of Lithuania, never to be seen again. Now, finally, they have a realistic chance to break the chains that have shackled them for 50 years, so they naturally look to the United States as an example of everything democracy should be.

Any moral support, any small gesture from those of us in the U.S. Government is appreciated there. Just as our trip in February was a morale booster, so will be this resolution. It will tell them that the legislative branch of our Government is firmly in their corner.

It also will send an important message to the Soviet Union, a message just as strong as the administration's admonition against using force. They have to know that the United States, as the world's leading democracy, can and must offer its full moral support to other peoples' efforts to attain democracy.

Now, we are realists. We know true Lithuanian independence will not be achieved overnight. We understand this is a complicated issue, and that it is one that can be resolved only through lengthy negotiations between the Republic of Lithuania and the U.S.S.R. We also recognize and understand the internal political problems Mr. Gorbachev must deal with during this process. We are willing to show a degree of patience in this process, and I think House Concurrent Resolution 289 reflects that willingness.

What we cannot tolerate—ever—is the type of tactics we have seen from the Soviet Union during the last weeks. There was no need, no reasonable cause, for the Soviet Army to occupy public buildings in Vilnius. Similarly, there was no reason for the Soviet Army to storm a Vilnius hospital to round up Lithuanian nationals who had left the Soviet Army to return to their homeland. And, I think House Concurrent Resolution 289 accurately reflects our indignation at these actions.

So, Mr. Speaker, I think this House today has honorably discharged its duty as a body of representatives of the freest people in the world. We have reaffirmed the values upon which we founded this Nation, and we have made it clear to the people of Lithuania and the leaders of the Soviet Union that we will be unswerving in our support of Lithuanian independence.

It is my hope and prayer that the next time we meet to discuss Lithuania, it is to congratulate the people of the republic on the realization of their dream of independence.

INTRODUCTION OF "COMPOSTING RESEARCH ACT OF 1990"

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, today I am introducing the Composting Research Act of 1990. This legislation is designed to help alleviate our Nation's waste disposal burdens.

The United States faces a looming garbage crisis which the Congress cannot ignore. Americans generate 160 million tons of trash each year. Only about 11 percent of this garbage is being recycled, while 75 percent is entombed in landfills and 13 percent is incinerated. Since 1978, 70 percent of all U.S. landfills—14,000 facilities—have been closed. In my own district, all landfills must close permanently this December under New York State law.

Local officials across the country are instituting a variety of programs intended to reduce the amount of trash generated and increase the proportion of the waste stream routinely separated for recycling. Nonetheless, they face the instability of markets for recyclable materials. More and more jurisdictions in this Nation are running out of places to hide their waste, and they have seen no leadership from Washington in addressing the problem.

One important strategy in addressing the waste disposal crisis is composting, which reduces waste to a mulch-type material through natural decomposition. Composting is an ancient technology that holds great promise for modern society. Over one-third of the Nation's municipal solid waste could be diverted from the waste stream and composted rather than landfilled or incinerated. Materials suitable for composting include fallen leaves, branches, tree stumps, grass clippings, and post-consumer wastes composed of organic materials. Composting could be an important element in a comprehensive waste management strategy, but its success is dependent upon the creation of markets for the finished compost material.

Composting of agricultural wastes can help prevent contamination of water supplies and lessen waste removal burdens on farmers. Following recovery and reuse of valuable elements such as starches, fats, and oils, composting can transform crop and livestock wastes into a useful soil additive. Application of finished compost can help to stabilize and enrich soil and reduce the use of chemical fertilizers.

As we consider a comprehensive reauthorization of the nation's farm programs, the Congress may wish to explore the potential benefits of expanding composting in the farm sector. Runoff of manure and other agricultural wastes into groundwater, rivers, lakes and estuaries has been of major concern to the environmental community. Perhaps there is a larger role for composting to play in transforming potentially hazardous farm wastes into harmless mulch. The Department of Agriculture USDA could be directed to analyze the suitability of compost as a soil conditioner and stabilizer in association with food and nonfood crops. Members of the horticulture industry are interested in utilizing compost derived from solid waste, but growers need to have assurance that such compost does not contain hazardous substances.

On November 16, 1989, a hearing on composting held in the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture revealed consideable support for legislation in this area. That hearing focused on a measure I introduced in January 1989 entitled the Recyclable Materials Science and Technology Development Act (H.R. 500). The proposal I am introducing today incorporates recommendations made by USDA and the Environmental Protection Agency at that hearing.

I believe that the USDA is uniquely qualified to evaluate agricultural composting methods

and uses for compost. The agency studied composting during the 1970's, but its research was discontinued under the Reagan administration. My bill would have USDA revisit this subject and initiate extension efforts to help identify markets for compost and facilitate on-farm composting.

The Composting Research Act of 1990 recognizes that compost can be a safe and useful soil additive which can help to stabilize and enrich soil. It states that the use of compost as a substitute for other soil additives can help avoid the depletion of raw materials and protect the environment. The bill directs the Federal Government, through the USDA, to help facilitate the use of compost.

This bill establishes a Compost Task Force, whose 15 members shall be selected from the following groups: officials from States with laws on composting; representatives of livestock, forestry, fishing, nursery, horticulture, vineyard, and orchard interests; landscapers and builders; the composting industry; microbiological scientists; food and fiber processors; food service industries; public interest groups; and manufacturers of consumer product packaging.

The bill directs the USDA, in consultation with the Compost Task Force, to research potential uses for compost and identify domestic and international markets. The agency's research must include evaluation of the application of compost derived from various wastes on soil, plants, and food and fiber crops.

The USDA is also directed by the legislation to assemble a catalogue of laws, regulations, and programs adopted by State and local governments, and by foreign countries, that establish standards for compost quality, set definitions for processing, handling, or using compost, or otherwise affect the production or use of compost. This catalogue will be of use to the Congress in evaluating the need for further legislation at the Federal level.

The Composting Research Act also directs the USDA to initiate extension efforts including seminars, demonstration projects, and dissemination of materials, to inform the agricultural community about the desirability and safety of compost derived from solid waste, about on-farm composting techniques, and about procedures for apply finished compost. It also requires USDA to consider designating composting as a farm conservation practice eligible for cost-sharing.

Finally, the Department is directed to initiate interagency agreements to identify opportunities for applying compost on Federal lands.

Mr. Speaker, I believe that composting could prove to be the "sleeping giant" of waste management. If compost operations can be designed to be cost-effective, convenient to the generators of compostable wastes, and non-offensive to nearby communities, then the technolgoy should prove to be a highly attractive alternative to landfilling and incineration. Furthemore, if finished compost can be demonstrated to have value as a soil additive, then we will be advancing a truly natural system of recyling.

IN MEMORY OF RICHARD WALLACE GEARY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BILBRAY. Mr. Speaker, it is with great sorrow that I rise today to pay tribute to an outstanding Las Vegan, Richard Geary, who died Tuesday, March 13, 1990, after fighting a long and valiant battle with cancer.

Born September 12, 1934, to Thomas and Opal Geary in Palo Alto, CA, Richard grew up in the San Francisco area. Richard's interest in advertising was sparked in 1952 when he worked as an assistant to a San Francisco advertising agency. Realizing this was to be his life's calling, and eager to work in advertising, he landed his first real job in the mail room of an outdoor advertising company in Los Angeles.

In 1964, Richard moved to Las Vegas and by 1969 he had founded the award-winning Geary Co./Advertising Agency. Throughout the seventies, the company worked almost exclusively with artists—for entertainers such as Elvis Presley, Wayne Newton, Dolly Parton, Joan Rivers, and Steve Martin, advertising and promoting their engagements in Las Vegas and on tour. By 1975 Richard had successfully established himself and his advertising agency in the hotel/resort industry. During the last dacade the Geary Co. has won three Addy Awards and six Certificate of Merit Awards.

Richard's success professionally was not to be outshined by his personal generosity to numerous civic activities. For many years he donated all advertising/artwork for fundraising efforts for the St. Jude's "Nite of Stars." He contributed regularly to the Las Vegas Ballet, UNLV Women's Basketball Team, channel 10, Sigma Chi, Farm Aid, National Kidney Foundation, American Cancer Society of Nevada, and American Lung Association of Nevada.

I extend my sympathies and those of my wife and daughters to Richard's wife Mary, his son Dan, and his entire family.

Mr. Speaker, the passing of Richard Geary is a great loss to all Las Vegans and Nevadans. I thank my colleagues for this opportunity to a tribute to this admirable man in the permanent history of this body. It is a great privilege.

TRIBUTE TO JACQUELINE CHARLENE HO

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SAWYER. Mr. Speaker, I rise today to pay tribute to a patriotic and talented young woman of my district, Miss Jacqueline Charlene Ho of Silver Lake, OH. Jacqueline is a 17-year-old senior at Cuyahoga Falls High School, and I am proud to say that she is this year's Ohio winner of the Veterans for Foreign Wars of the United States and its Ladies Auxiliary's Voice of Democracy scriptwriting contest. This year more than 137,000 secondary school students participated nationally on the theme of, "Why I Am Proud of America." Jacqueline was aided with her composition by her teacher, Mrs. Joan Benfield.

As for Jacqueline's future, she plans to study at Yale University. Mr. Speaker, I am pleased to submit the full text of Jacqueline Ho's award winning speech.

WHY I AM PROUD OF AMERICA

(By Jacqueline Charlene Ho, Ohio Winner of the 1989/90 VFW Voice of Democracy Scholarship Program)

Independence Hall, a place were many great voices of America have been heard. I visited that glorious symbol of our freedom this summer, and I was over-whelmed to think that such figures as John Adams and Thomas Jefferson had walked on the same ground I was walking on. In the room where delegates had met for the Second Continental Congress, I could almost see Richard Henry Lee announcing that the colonies "are . . . and ought to be, free and independent states". I could picture Benjamin Franklin when he sat in that same room as the Constitutional Convention. After the Constitution was signed, he pointed to a chair decorated with a carefully carved half-sun. He remarked, "I have often looked at that . . . without being able to tell whether it was rising or setting. But now I have the happiness to know that it is a rising and not a setting sun". Franklin was right. America is a rising sun. We have always striven to uphold the standards of liberty and equality our forefathers envisioned, and our light of liberty shines all over the world. I am proud of America for its freedom. And I am proud that we had leaders with vision who could build this great nation.

America has been blessed. Our forefathers protected our rights in the Constitution. If they had not made sure that those rights, and liberty, and equality were principles ingrained in our government, we may never have had the freedom we enjoy today. Some dream all of their lives to have freedom. They dream of coming to America. Some reach their dreams. I knew of one such person.

Twenty years ago a young girl fresh from college came to America. She carried two suitcases of dreams, dreams of the freedom and equality America stood for. Dreams she thought unreachable. As a child, she had seen the tragedy of her neighbor. He had kept a book that criticized the government. The government discovered it and jailed him for twenty-five years. He was never to see this children grow up. The government had robbed him of some of the best years of his life.

So all this girl knew was that the government was king and the citizens were its helpless subjects. They heard what the government wanted them to hear; they had to believe whatever was told them; they could speak only of the so-called "good" of the government; and above all else, they had to obey.

When this young lady arrived in America, she found a new land, a land of freedom. She was amazed at the openness she found. Newspapers critized the government; political cartoons were absolutely shocking; and protesters dared to rally for their causes. Freedom of speech felt wonderful, and so did other freedoms like the right to vote. It was an especially moving moment for her when she cast her first ballot. That young lady was my mother. She has always taught

me how important freedom is and how proud we should be to live in America.

So when I went to Independence Hall, I realized the great importance of its history. During that vivid moment when I touched the Liberty Bell, history struck me. The Bell had rung proudly after we had declared independence. As I ran my hand down its worn, bronze surface, I felt the roughness of the crack on its side; and to me, that crack symbolized all the people who dies for liberty. Today the Bell rings for everyone. It rings the message of freedom it tolled for on the momentous day in 1776. And now its message is being heard in other countries. From Solidarity in Poland to the students in China, freedom is taking root. And even the Berlin Wall has crumbled.

I am proud that for 200 years America has kept freedom alive. I am proud that my mother had the courage to find her dreams in America. I am proud that I am an American. And I am proud that I can still feel the Liberty Bell ringing today.

WE ALL "KNEW" TED WOLF

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MILLER of Ohio. Mr. Speaker, a Maryland State Police officer was gunned down alongside I-95 last week near Baltimore, killed in the line of duty, doing his job, just as he had done exceptionally well for 16 years.

I never met Cpl. Ted Wolf. In fact, I would never even heard of him prior to this tragedy. Yet, somehow, I knew this man, and because he was an honorable public servant, we will miss him as though he were family.

His job was risky. He enforced the law, some of which were passed in this Chamber and given to Trooper Ted Wolf to enforce for the public's good and our highway safety.

He leaves a wife and three children, as well as a distinct impression that will last a long time: a good man, a professional. We all know someone just like him.

I put two things into the mail today: A check to the Ted Wolf Memorial Fund and a letter to my House colleagues urging them to do the same.

Send a check, sign your name. Say the contribution comes from someone who knew Ted Wolf.

LEGISLATION TO RESTORE SMALL BUSINESS FINANCING IN AREAS OF POSSIBLE HAZARDOUS WASTE CONTAMINATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LaFALCE. Mr. Speaker, today I am introducing legislation that would halt a disturbing trend in hazardous waste liability law which is threatening the ability of thousands of small businesses to obtain the financing they need to survive. The problem is that several recent Federal court decisions have interpreted the Comprehensive Environmental Response Compensation and Liability Act [CERCLA], better known as the Superfund statute, so that a secured lender which forecloses on a facility that is contaminated with hazardous waste may be liable for the cost of cleaning up the hazardous waste, even if the lender in no way caused or contributed to the contamination. The cost of such a cleanup can be several million dollars. As a result, lenders are often unwilling to make loans in areas of possible hazardous waste contamination, and small businesses in these areas cannot obtain financing. For areas of the country which have hazardous waste problems, the economic repercussions can be devastating.

The most notable Federal court case imposing liability on a lender which foreclosed on a contaminated property is U.S. versus Maryland Bank & Trust, a 1986 Federal case in Maryland. Maryland Bank and Trust Co. foreclosed on a farm in 1982, which, the Environmental Protection Agency discovered a short time later, was contaminated with hazardous waste. EPA then cleaned up the site at a cost of half a million dollars and sued Maryland Bank and Trust for reimbursement. Even though the bank had no idea at the time it foreclosed that the property was contaminated and did nothing to create the problem, the Federal district court of Maryland found that the bank was an owner within the meaning of CERCLA and therefore was subject to Superfund's strict liability standard. EPA settled with Maryland Bank and Trust for more than $500,000.

Although U.S. versus Maryland Bank & Trust is the most notable case of its kind, there have been others like it. In Guidice versus BFG Electroplating, a 1989 Federal case in Pennsylvania, a bank foreclosed on its mortgage on the premises of a defunct electroplating plant and held title for just 8 months before reselling. The bank in no way contributed to the hazardous waste contamination and was merely acting to protect its security interest. Nevertheless, in September 1989 the U.S. District Court for the Western District of Pennsylvania held that the bank was an owner within the meaning of the Superfund statute, and thus was subject to CERCLA liability. In an ongoing action, a small bank in the Western United States faces possible bankruptcy because, as a foreclosing lender, it has been named as a potentially responsible party liable for cleanup costs at one of the worst Superfund sites in the country. Cleanup costs are estimated at $7 to 10 million.

Cases like these are sending shock waves through the financial community. Suddenly lenders foreclosing on their secured property are faced with the threat of potentially limitless liability. Toxic waste cleanups often cost millions of dollars, which may be many times more than the value of the property itself, and CERCLA contains no limit on the amount of liability. And so in many cases lenders, faced with this dilemma, have stopped making loans to businesses in areas where there is even the smallest suspicion of hazardous waste contamination.

The result for the small business trying to obtain financing has been devastating. An independent petroleum marketer testified at an August 3, 1989, hearing before the Small Business Committee that many petroleum marketers needed financing to repair and replace their underground petroleum storage tanks in order to comply with Environmental Protection Agency regulations. But they could not get that financing because lenders were afraid of Superfund-type liability under an analogous section of another environmental statute. In other words, these petroleum marketers could not even get the financing they needed to clean up their facilities. And so these independent petroleum marketers, most of which are small businesses, were faced with the imminent closure of over 25,000 service stations. EPA later agreed to postpone implementation of the regulations.

I have heard similar stories from companies in other industries and geographical areas. Drycleaners, transshippers, electric platers, wood product manufacturers, metal finishers, and other businesses that use hazardous materials either in their processes or as a part of the product often have difficulty obtaining a loan secured by their facilities. In western New York, where I come from, small businesses located in areas of possible contamination frequently cannot obtain financing from any lender, up to and including the State of New York, because the lenders fear Superfund liability.

In 1986, Congress amended CERCLA to insulate a secured lender from liability if the lender can show that before it acquired a facility, it made appropriate inquiries—such as an environmental assessment—to determine whether the facility might be contaminated. This is the so-called innocent landowner defense. The trouble with the innocent landowner defense is that in many cases it exacerbates the problem for small businesses trying to obtain financing in areas of possible hazardous waste contamination. Suppose, for example, that a lender is considering making a secured loan to a small business, and, in order to protect itself through the innocent landowner defense, conducts an environmental assessment of the property on which the business is located. If that environmental assessment indicates even the slightest possibility of contamination, or if it indicates contamination of a minor nature, the lender is not likely to make that loan, because doing so would subject the lender to possible liability running into the millions of dollars. On a loan of only a few thousand dollars, it is just not worth it for the lender to take that risk. And so, as the American Bankers Association mentioned in their testimony before my committee, the result is a squeeze on credit. Once again it is the small business in need of financing that is hurt.

In addition, the innocent landowner defense raises the cost of borrowing to the point where many small businesses can no longer afford to borrow. An initial environmental assessment usually costs about $1,500 to $2,000. If that assessment indicates possible contamination, a more thorough property check can run from $3,000 to $150,000 per site. If lenders conduct such assessments before making secured loans, in order to meet the conditions of the innocent landowner defense, they will pass along the cost of the as-

sessment to the borrower. For a small business seeking a loan of $25,000, that increased cost may well be prohibitive. As Sally Narey, General Counsel to the Small Business Administration, testified before my committee:

Because of this potential liability, a prudent lender will often request an environmental audit of the potential borrower's property upon submission of a loan application. This can cost several thousand dollars. Small Businesses . . . generally do not have sufficient funds to incur the costs of such audits and may be deprived of the opportunity for financing.

CERCLA may also pose problems for a fiduciary which holds title to or controls a contaminated property as part of a trust or estate. It is possible that courts will interpret CERCLA so that such a fiduciary will be liable for the cost of cleaning up the contaminated property and for damages. That is, even if the fiduciary had no knowledge of contamination at the time it agreed to administer the trust or estate, it may still be considered an owner or operator under Superfund and therefore subject to liability. Liability in a case like this could exceed the value of the entire trust or estate, in which case the fiduciary may be held personally liable.

Last year, I introduced legislation to deal with the twin problems of lender and fiduciary liability. The bill was designed to insulate corporate lending institutions from inappropriate Superfund liability when they foreclose on property that turns out to be contaminated. The bill would thus allow them to lend to businesses in areas of possible hazardous waste contamination without taking on potential Superfund liability. In addition, the bill was designed to extend Superfund's liability exemption to innocent corporate fiduciaries which hold title to a contaminated property for the purpose of administering a trust or estate.

Since I introduced that bill last year, a number of organizations have raised legitimate concerns that the bill did not go far enough in insulating innocent lenders and fiduciaries from inappropriate liability. It was pointed out, for example, that although the bill extended Superfund's liability exemption to commercial lending institutions when they foreclose on contaminated property, it did not protect other types of lenders which face the identical problem, including public lenders—such as the Small Business Administration—mortgage lenders, and charitable institutions, among others. Just like corporate lending institutions, these lenders are innocent parties which are deterred by the threat of CERCLA liability from lending to small businesses and other customers. Thus, they warrant the same treatment.

Likewise, it was pointed out that although the bill extended Superfund's liability exemption to corporate fiduciaries which hold legal title to property for purposes of administering an estate or trust, it did not extend the exemption to other types of fiduciaries which face the identical problem, such as individual fiduciaries and corporate fiduciaries which do not actually hold title to property which is part of an estate they manage.

After carefully considering these concerns, I decided to revise my original bill in order to extend Superfund's liability exemption to other categories of lenders and fiduciaries. Today I am introducing the revised legislation, the text of which follows. In addition, I would like to insert in the RECORD an excellent Forbes magazine article describing the lender liability problem.

H.R. 4494

Be it enacted by the Sente and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980.

(a) AMENDMENT TO DEFINITION OF OWNER OR OPERATOR.—

(1) EXCLUSION.—Subparagraph (D) of section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)(D)) is amended—

(A) by inserting after the first sentence the following new sentence: "Such term also does not include any of the following:

"(i) Any designated lending institution which acquires ownership or control of the facility pursuant to the terms of a security interest held by the person in that facility.

"(ii) Any corporate fiduciary which—

"(I) has legal title to any facility for purposes of administering an estate or trust of which such facility is a part; or

"(II) does not have legal title to the facility but operates or manages the facility pursuant to the terms of any estate or trust of which such facility is a part.

"(iii) Any individual or institution or successor thereto that serves as an indenture trustee for outstanding debt securities or any certificates of interest or participation in any such debt securities and acquires ownership or control of a facility as a result of an event of default pursuant to the terms of an indenture agreement or similar financing document between such trustee and the issuing entity."

"(iv) Any individual fiduciary who has legal title to any facility for purposes of administering an estate or trust of which such facility is a part.

"(v) Any designated lending institution which acquires ownership of any facility in connection with a lease subject to regulation by applicable federal or state banking authorities."; and

(B) in the second sentence (as determined before the amendment made by subparagraph (A) of this paragraph)—

(i) by striking "State or local government" each place such term appears and inserting "State or local government or person referred to in the preceding sentence"; and

(ii) by striking "nongovernmental entity" and inserting "any person (other than any person referred to in the preceding sentence)".

(2) CONFORMING AMENDMENT.—Clause (iii) of section 101(20)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)(A)) is amended by inserting after "to a unit of State or local government" the following: "or to any other person covered by subparagraph (D)".

"(3) DEFINITION OF DESIGNATED LENDING INSTITUTION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following new paragraph:

"(39) DESIGNATED LENDING INSTITUTION.—The term 'designated lending institution' means—

"(A) any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any leasing company which is an affiliate thereof, any institution of the Farm Credit System, and any trust company; and

"(B) any other person which is a bona fide lending institution and during the 1-year period beginning 6 months before and ending 6 months after the date on which the security interest in the facility referred to in paragraph (20) was perfected, made real estate loans the aggregate amount of which exceeded $1,000,000 to 25 or more borrowers; for the purposes of this subparagraph a bona fide lending institution shall include—

"(i) any mortgage lender (including any lender whose loan with respect to any facility is secured by a deed of trust);

"(ii) any agency, department, or other unit of the United States Government or of any State or local government not otherwise described in paragraph (20) which makes loans on the security of any facility, including economic and industrial development agencies; and

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

[From the Forbes magazine, Feb. 19, 1990]

WHOSE MESS IS THIS?

(By Thomas Jaffe)

A customer of Maryland Bank & Trust Co. defaulted on a $335,000 loan, and the bank foreclosed on a 117-acre tract of land. After the foreclosure, the Environmental Protection Agency found drums of chemicals and contaminated soil on the site. The EPA then cleaned up the mess.

To whom did the agency send the cleanup bill? To the bank, from which the EPA won a settlement of over $500,000, despite the fact that the bank had nothing to do with creating the mess.

To junk bonds, bad real estate loans and Third World debt, add to the banks' and thrifts' woes the specter of environmentalists going after banks for tens of billions of dollars to clean up foreclosed real estate that may be loaded with hazardous waste. According to Craig Gass, a New York-based senior manager for KPMG Peat Marwick who specializes in environmental financial management, the potential cost of cleaning up hazardous waste in the U.S. could run up to $500 billion over the next 50 years. Gass guesstimates that, based on what's already known, banks could be on the hook for at least 20% of that amount. Even discounted to its present value, that is a huge potential liability.

Buck Jones, a partner in charge of banking with Nashville's J.C. Bradford & Co., agrees. He warns that for lenders of any size, a foreclosed site can easily turn out to be "an environmental time bomb."

Just such a bomb recently fell into the lap of $225 million (assets) Workmen's Bancorp, the holding company for Workmen's Federal Savings Bank of Mount Airy, N.C.

Workmen's recently disclosed that during the Sept. 30, 1989 quarter Camel City Laundry Co. of nearby Winston-Salem had filed for bankruptcy still owing Workmen's some $558,000 on a loan. Because of environmental concerns, explained Workmen's, the value of the real estate securing the Camel City loan was questionable. As a result, the bank charged off the full $558,000 plus accrued interest.

Had Workmen's failed to do its homework on the loan? Hardly. Before making the loan, it had run a routine check to see if the

laundry site was contaminated. The site received a clean bill of health.

Shortly after the loan was funded, however, the bank discovered that the property adjacent to the laundry had a hazardous waste problem. Worse, the laundry site itself might be to blame. Years ago, it seems, a coal gasification plant had been situated there.

The lawyers are having a field day. The bankrupt debtor has filed a motion in bankruptcy court asking that the bank's lien on the property be declared worthless. Workmen's is fighting this. Why? It doesn't want to foreclose, repossess title to the property and be stuck with an enormous cleanup bill. Workmen's prefers to wait until someone else picks up the tab; then it would consider foreclosing. "We want to know that afterwards we will still be the owner of what may be a salable piece of property," says Thomas (Buck) Faw, president of Workmen's.

Faw adds: "It's an extremely dangerous position for a bank to be in. You want to be as sure as you can be that property is free of any contamination that might render it suspect as security for a loan. I don't know what a bankruptcy court will do in a situation like ours, where the debtor can't afford to pay for the cleanup. But it makes you very uncomfortable, to say the least." As if the lenders didn't already have enough to make them feel uncomfortable.

HERB DOGGETTE: SOCIAL SECURITY ADMINISTRATION'S SUPERSTAR

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ARCHER. Mr. Speaker, it takes millions of dedicated men and women to run this massive conglomerate we call the Government of the United States. Within this enormous work force there are many excellent, conscientious, devoted public servants. Within that large circle of excellence, there is a smaller number that could honestly be termed heroes, those who consistently go beyond the call.

And, there is an even more select group, a minute handful of those unsung heroes who are nothing less than legends in their field. One of those legends has just retired from Government service and it is only just that we pay tribute to him and his unparalleled record of service to the American public.

Herbert R. Doggette, Jr., just retired as the Social Security Administration's Deputy Commissioner for Operations. In that role, he has managerial and supervisory responsibilities that exceed those of any chief executive officer of any Fortune 500 corporation.

He supervised 60,000 employees in over 1,300 Social Security field offices throughout the country, over 80 percent of the Agency's work force. He was the overseer of SSA's immense data processing network, including the National Computer Center. He was responsible for an operation which generates the payment of more than $225 billion in benefits each year.

Herb Doggette was the driving force behind a computer modernization program at the Social Security Administration that has reduced processing times for benefit claims, wage posting, cost-of-living increases, address changes, and other actions from days and weeks to mere hours. He made the Social Security Administration a faster, most efficient public service instrument.

Mr. Doggette's career is the stuff of which legends are made. He didn't begin at the executive level. Just the opposite, he started 31 years ago as an entry-level mailroom supply clerk. He didn't stay there long, however. In just 6 years, he opened and managed a Social Security district office in the Watts area of Los Angeles, the first Federal office to be located in that community.

His talents and skills led to further promotions, culminating in appointments, twice, as Acting Commissioner, and to the position from which he has just retired. He has twice received the Presidential Distinguished Rank Award, the pinnacle honor for Federal public servants.

Mr. Doggette is not a stranger to this body. He has frequently represented his agency in committee hearings, and I can personally attest that he has represented it well. When Mr. Doggette's name appeared on the witness list, I knew that I would hear a well-reasoned analysis of Social Security programs and policies. But, more importantly, I knew I would hear the voice of honesty and integrity.

Now, however, Herb Doggette has chosen to shift his considerable talents and abilities from the world of government to the world of academia. He will teach management, and I can't envision a better qualified instructor.

It's a regrettable fact of life that our outstanding Government executives, even the most stellar among them like Herb Doggette, toil in anonymity. The American people, by and large, do not know they have lost the services of this remarkable man. However, each time they receive a Social Security check, or receive courteous service from 1 of those 1,300 field offices, or remark at how quickly SSA processes a change in their records, they will be reaping the fruits of Herbert R. Doggette, Jr.'s 31 years of service, a truly outstanding career.

WHAT ABOUT CHILE?

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. KOSTMAYER. Mr. Speaker, in a recent op ed in the Times of the Americas, our former colleague and chairman of the Subcommittee on Western Hemisphere Affairs, Michael D. Barnes, asks "What About Chile?" The article, coauthored by Arnold H. Weiss, former general counsel of the Inter-American Development Bank, makes the point that in these days of dramatic events in Eastern Europe and in Central America, Chile's historic—but quite—transition to democracy has been virtually overlooked.

"The election and inauguration of President Patricio Aylwin, a centrist Christian Democrat, to replace the 16-year military rule of Gen. Augusto Pinochet, is one of the most promising developments in Latin America in recent years," write Barnes and Weiss. But that trend will not remain positive without support from the international community to meet Chile's two main challenges: a restructuring of the outstanding foreign debt and meeting the pressing social demands of those left out of the economic miracle of the 1980's. They correctly point out that "these challenges are made more difficult by the outrageous efforts of Pinochet to tie the hands of his successor by eleventh hour initiatives that have received virtually no attention outside Chile."

During his tenure as chairman of the Subcommittee, on which I have the honor to serve, Mike Barnes was a champion for human rights and a return to democracy in Chile, I urge my colleagues to read the entire article, and to heed its conclusion that President Aylwin will need the support of the international community if he is to fulfill the hopes of this people.

The text of the article follows:

[From Times of the Americas, Mar. 21, 1990]

WHAT ABOUT CHILE?

(By Michael D. Barnes and Arnold H. Weiss)

With the exciting events taking place in Eastern Europe and Nicaragua these past few weeks, it has been easy for many in the United States to overlook the dramatic transition to democracy in Chile. The election and inauguration of President Patricio Aylwin, a centrist Christian Democrat, to replace the 16-year military rule of General Augusto Pinochet is one of the most promising developments in Latin America in recent years.

Nonetheless, the new government in Chile will require understanding and support in the international community to overcome both the inherent economic problems Chile faces and the last-minute Pinochet maneuvers that threaten to weaken Aylwin's ability to govern effectively.

Chile will need to move quickly on two fronts. Chile must restructure some of the country's outstanding debt to international financial institutions and private banks. At the same time, the government must address pressing social demands at home that have been left out of the "economic miracle" of the 1980s.

These challenges are made more difficult by the outrageous efforts of Pinochet to tie the hands of his successor by eleventh-hour initiatives that have received virtually no attention outside of Chile. Pinochet's actions include everything from selling off government-owned enterprise at bargain prices, to restrictive new personnel laws that will make it virtually impossible for new officials to appoint even their own secretaries and close assistants.

Pinochet has sold an air force base, popular radio stations, a hydroelectric plant, mining rights, and other valuable assets to close associates and supporters. All of the concessions took place without normal public bids in a process that assured only Pinochet cronies would be purchasers.

The army also strengthened its position against the new civilian government during the last days of Pinochet. Laws were enacted to protect the military from effective civilian supervision and to increase the army's share of receipts from revenues of Chile's copper exports.

These and other last-minute scandals put President Aylwin under inceased pressure as he seek a smooth return to Chile's tradition

of successful democracy. He will need some patience of the part of Chileans and assistance from the international community if he is to fulfill the hope of his people for better times.

Mr. Barnes is a former chairman of the Subcommittee on Western Hemisphere Affairs in the U.S. House of Representatives. Mr. Weiss is a former general counsel of the Inter-American Development Bank. Both now practice law in Washington.

DO WE SAVE THE GRAND CANYON, OR DO WE CONTINUE TO DESTROY IT?

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MILLER of California. Mr. Speaker, I am today introducing legislation to protect the resources of the Grand Canyon from further damage caused by the operation of Glen Canyon Dam.

Glen Canyon Dam impounds billions of gallons of Colorado River water, storing it for daily hydroelectric power generation and for use by farmers and cities in the desert Southwest.

Park Service employees and Colorado River rafting guides have known for years that the daily operation of the dam was wreaking havoc on the beaches and wildlife habitat at the bottom of the Grand Canyon. Now the word is starting to get out—we have a problem of crisis proportions at Glen Canyon Dam, and emergency action ineeded before it is too late for the Grand Canyon.

The problems at Grand Canyon are the direct result of the way the Secretary of the Interior operates Glen Canyon Dam. By dumping almost unimaginable volumes of water through the dam's turbines every day to generate peaking hydroelectric power, the operators of the dam are unnecessarily risking the resources of Grand Canyon National Park.

The widely fluctuating water releases are washing away the once pristine beaches along the canyon floor and causing other problems for endangered species and recreational users in Grand Canyon National Park.

The Department of the Interior has a dual and somewhat conflicting role. It is responsible for the operation of Glen Canyon Dam and the protection and management of Grand Canyon National Park. The Department's response to the damages in the Grand Canyon has been to order study after study, nearly 8 years worth.

To his credit, the Interior Secretary Lujan recognized that a series of never-ending studies was not going to solve the problems caused by power operations at the dam. Lujan's instincts were right—he ordered the preparation of an environmental impact statement [EIS] on the dam's operations. We can hope that a sensible long-term solution will result from that study.

But while that EIS drags on for at least the next 2 years, the damage to the Grand Canyon will continue. Already, we have racked up 8 months of unnecessary damages since Secretary Lujan first announced this plan to do an EIS. It is painfully clear that the Department lacks the courage to stop the damage while it agonizes over a complicated EIS process.

My legislation will correct this intolerable situation. My bill will direct the Secretary to operate the dam in a way that will stop the destruction of the Grand Canyon while the EIS is prepared.

Mr. Speaker, this bill presents the Congress with a very clear choice: Do we save the Grand Canyon, or do we continue to destroy it? I think the answer is very simple. We must take every action to protect this priceless resource. I hope my colleagues will agree.

IN HONOR OF JONES METROPOLITAN HIGH SCHOOL OF BUSINESS AND COMMERCE

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mrs. COLLINS. Mr. Speaker, in June 1940, a unique high school was established to provide Chicago students with an alternative high school education, one that prepared them to enter the workforce. That school was Jones Metropolitan High School of Business and Commerce. The basic framework for such a school was in place at Jones, but it was not until Clarence B. Carey took over as director in 1940, that the innovative course of study was initiated and emphasis was put on on-the-job education.

Jones provides classes in the regular high school curriculum, but goes beyond that to stress the fundamentals of business, including professionalism and responsibility. Students receive instruction in appropriate attire for work, business decorum, and respect for the workplace.

Jones graduates have gone on to fill jobs in every avenue of business in Chicago: They are owners of both small and large companies and work in every facet of corporate endeavor. Many credit the training they got at Jones for their career success.

Many Jones graduates go on to 2- or 4-year colleges, but frequently in a different pattern than do students from more traditional high schools. Some Jones graduates delay going to college in order to amass the resources necessary to cover college expenses; others attend college with the financial assistance of their employer. Still others opt to remain in the workforce and progress upward through experience and on-the-job training.

At a time when the national unemployment rate among teenagers is 14.5 percent and 20.5 percent in Chicago, and the national unemployment rate for black youth is 26.7 percent and 43.3 percent in Chicago, there is certainly a need for the type of practical preparation offered at Jones. Quite often the door to employment is closed to youth because they have no experience nor marketable skills. Not so with Jones students. While they are taught the fundamentals of business in the classroom, the educational experience is enhanced by on-the-job learning: At Jones, all seniors are required to spend half of each day at work.

Finally, I would like to highlight another important difference of the Jones experience: civic awareness. At Jones, learning about our Government is not just taught, but a sense of civic duty is enforced. Each graduate leaves with a diploma and a voter registration card and is encouraged to be a responsible citizen.

For all Jones has meant to the city of Chicago and the thousands of students who have passed through its doors in the past 50 years, I salute the directors, principals, faculty, and staff for a job very well done. To Jones' graduates and current students, I wish you all continued and future success in the business world.

PROTECT SOCIAL SECURITY; FOSTER HONEST BUDGETING

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. PEASE. Mr. Speaker, late last year, a colleague in the other body offered a modest proposal to roll back the most recent Social Security tax increase. This simple idea has trained a powerful spotlight on Social Security's impact on both the budget deficit and the national economy as a whole. The result has been that people today understand in a way that they never have before how the Social Security Program is financed and how that financing mechanism affects the Government's operating deficit.

The fact is that Social Security payroll tax receipts are being used to mask the size of the overall Federal budget deficit. The emergency repair work we undertook on the Social Security Program in 1983 has had an unintended by-product in the past few years. The surpluses in the Social Security trust funds—which were intended to help pre-fund Social Security's obligations to the baby boom generation—have provided cover for the failure by Congress and two administrations to make real progress toward deficit reduction. For example, the budget deficit for fiscal year 1990 is required by the Gramm-Rudman-Hollings deficit reduction law not to exceed $100 billion. However, if the Social Security surplus could not be counted toward that goal, the fiscal year 1990 budget deficit would exceed $160 billion.

Today I am introducing a bill which is intended to remedy this situation by making our budget presentation more honest. The approach is very simple. First, I propose that the Social Security trust funds be removed from the Gramm-Rudman-Hollings deficit calculation. Second, I propose making the Gramm-Rudman-Hollings deficit reduction law permanent. Finally, I propose a 2-year stretchout of the deficit reduction targets.

Under my bill, the target for fiscal year 1991 would be $141 billion, representing the current law's target of $64 billion plus CBO's estimate of the OASDI trust funds' surplus of $76 billion. For fiscal year 1992, the target would be $114 billion—the current law target of $28 billion plus CBO's projection of that year's OASDI surplus. The fiscal year 1993 target would be $65 billion, representing two-thirds

of the year's OASDI surplus. In fiscal year 1994, the deficit could not exceed one-third of the projected OASDI surplus, or $36 billion. By 1995, then, we would have a deficit of zero without taking Social Security into account.

These steps are long overdue. For the sake of the integrity of both the Social Security system and the budget process, I urge their approval.

OFFERING CONGRESSIONAL BLACK CAUCUS HOUSE CONCURRENT RESOLUTION FOR THE FISCAL YEAR 1991 QUALITY OF LIFE BUDGET

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. DELLUMS. Mr. Speaker, it is with a deep sense of pride and respect for history that the Congressional Black Caucus today presents to this Congress and the Nation, a sweeping new vision of America's responsibility to her citizens and the world. It is particularly fitting that we introduce this legislation on the 22d anniversary of the assassination of Dr. Martin Luther King, Jr., because he died in an effort to create a new reality for our country and its commitment to the precepts upon which it was founded.

This year the Congressional Black Caucus has crafted a budget proposal that meets the moral test of leadership. Impacted are those most in need of help—the poor, the elderly, the young, the physically disadvantaged, and the jobless. The proponents of this budget believe that the ravages of the arms race and fiscal irresponsibility are not legacies of a great and just nation. The Congressional Black Caucus has shown that we can provide for our national security, increase spending for crucial social programs, reduce deficit levels, and generate requisite revenues without increasing taxes for the vast majority of our citizenry. Together with our colleagues, we have sought to capitalize on the dramatic changes occurring in our world. Changes in southern Africa, Central America, Eastern Europe, and around the globe represent a dramatic opportunity to reprogram dollars that would be spent on armaments, and to reinvest them in the human and physical resources of our Nation. The centerpiece of this budget is therefore an unyielding commitment of our most precious national asset—our children. It emphasizes that commitment through increased funding for health care, especially prenatal and pediatric; quality teaching and student assistance, from preschool through professional school; better housing and job training programs; and an unequivocal determination to end the terror of the drug epidemic that is killing and maiming our youth. A nation that condemns its children to hopelessness, is a nation that cannot begin to remain economically competitive or morally strong. This is the year to take decisive action in rejecting the casual rhetoric of cold war combatants and proceed to redefine the future of America. Toward this end we introduce the Congressional Black Caucus fiscal year 1991 budget.

NATIONAL HEALTH SERVICE CORPS REVITALIZATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WAXMAN. Mr. Speaker, there are about 12.5 million Americans living in areas without primary health care. The problem is not that these Americans are uninsured; many of them have public or private coverage. The problem is that there are simply no primary care doctors or other health professionals serving the communities in which they live. At the same time that over 1,900 rural and urban areas are underserved, there are many communities with a surplus of physicians. This is indefensible.

We have a program to address this problem: The National Health Service Corps. Established in 1970, the corps places physicians and other health professionals in health manpower shortage areas [HMSA's]. These practitioners may be volunteers, but for the most part they have an obligation to the corps as the result of receiving scholarship assistance, or as the result of receivng assistance in repaying loans they took out to finance their professional education.

Unfortunately, due to a bad decision we made in the early 1980's to phase out the scholarship program, the corps is no longer able to meet the needs of most underserved communities. To eliminate the shortages in all 1,935 HMSA's would require 4,147 primary care physicians. This year, the corps expects to place 1,751 physicians and other health professionals in HMSA's. That is down from 1,950 placements in 1989. There are currently 123 scholarship recipients available for placement. By 1993, this number will decline to 18.

The logic of these numbers is obvious. Unless we change course, we are never going to meet the need of underserved areas for 4,147 primary care physicians. Unless we change course, 12.5 million Americans in rural and urban underserved areas will never have access to primary health care. To change course, I am joining today with Mr. RICHARDSON, Mr. COOPER, Mr. SLATTERY, Mr. TAUKE, and 23 additional colleagues in introducing the National Health Service Corps Revitalization Act.

This bill would make several important changes. First, it would clarify that the mission of the corps is to make primary health services available to residents of underserved rural and urban areas. Second, it would revise and extend the authorization for the corps field program, providing such sums as necessary to eliminate health manpower shortages. Third, it would clarify the criteria and procedures which the Department of Health and Human Services [HHS] must use in designating the underserved areas with the highest priority for placement of corps physicians. Fourth, it would start up the scholarship program again, by requiring that at least 10 percent of the amounts appropriated each year for scholarships or loan repayments be applied to scholarships, and that at least an additional 5 percent of the total amounts appropriated each year be used to fund scholarships for certified nurse midwives, certified nurse practitioners, and physician assistants. Finally, the bill would authorize the Secretary of HSS to make grants to States to establish and operate offices of rural health.

How did we get ourselves into a situation where 12.5 million Americans are without primary care and the only program we have to respond is phasing down? The Congress got some bad policy advice from the Reagan administration, and, in a misguided quest for short-term budget savings, made the mistake of following that advice. In 1982, the administration asked that Congress discontinue funding for all new NHSC scholarships. Their rationale: "[t]here is evidence that physicians are locating in greater numbers in previously medically underserved areas, thus lessening the need for the NHSC in the outyears."

Well, here we are in the outyears, and it turns out that the need for the NHSC has increased. Physicians have not flocked to establish primary care practices in isolated, poor, rural areas, or in low-income inner-city neighborhoods. There can no longer be any doubt that market forces alone will not improve the distribution of primary care physicians. To meet the primary care needs of underserved communities in the 1990's, we will have to use the corps. In the short run, we will have to rely on the loan repayment program. However, we also need to start funding new scholarships, so that by the mid-1990's we will again have an adequate supply of primary care physicians and midlevel personnel coming out of the pipeline, available for placement.

To his credit, Secretary Sullivan has proposed, as part of his minority health initiative, to raise funding for the NHSC scholarship and loan repayment programs to $63.9 million in fiscal year 1991, up from $8.9 million this fiscal year. In order to attact minority and disadvantaged students in the health professions to the corps, the Secretary has proposed to vary the length of time that an individual, in exchange for a scholarship or loan repayment, is obligated to serve, so that individuals electing to serve in HMSA's that are easier to staff would serve longer than those placed in the hardest-to-fill HMSA's.

The corps is very important to minority and disadvantaged populations. It makes many physicians and other health professionals available to minority and disadvantaged communities. And, through its scholarship program, it makes educational opportunities available to minority and disadvantaged students. But the mission of the corps is not the training or recruitment of minority or disadvantaged health professionals. Its mission is to meet the primary health care needs of underserved rural and urban areas. We need to improve the unacceptably low health status of minorities in this country, and the corps can help. But the corps is not a minority health program.

I am now working with other members to develop a minority health initiative. It is my intention to secure enactment of both the NHSC revitalization amendments and minority health legislation this year.

A budget estimate has been requested from the Congressional Budget Office.

SUMMARY OF MAJOR PROVISIONS OF NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

TITLE I. REVISIONS IN GENERAL PROGRAM FOR NATIONAL HEALTH SERVICES CORPS

Section 101. National Health Service Corps.—Clarifies that the purpose of the Corps is to provide primary health services in health manpower shortage areas. Primary health services is defined as services regarding general medicine, family medicine, internal medicine, pediatrics, obstetrics, gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

Section 102. Designation of Health Manpower Shortage Areas.—Requires the Secretary of HHS to publish in the Federal Register, within 60 days of enactment, a list of HMSAs. Any revisions to this list would have to be published within 30 days. The current criteria for the designation of HMSAs would remain unchanged.

Section 103. Assignment of Corps Personnel.—Deletes certain current law priorities for assignment of Corps members in medically underserved areas, and for assignment of physicians specializing in family medicine.

Section 104. Priorities in Assignment of Corps Personnel.—Clarifies and consolidates current law priorities regarding assignment of Corps personnel to HMSAs. Directs the Secretary to give priority to HMSAs with the greatest health manpower shortages. Requires the Secretary to publish in the Federal Register, within one year after enactment, criteria for determining HMSAs with the greatest health manpower shortages. Requires that the Secretary publish, no later than July 1 of each fiscal year, the list of HMSAs with the greatest manpower shortages and the sites in those HMSAs that the Secretary has designated for placement of Corps personnel for the following fiscal year.

Section 105. Effective Provision of Services.—Directs the Secretary to try to match Corps members to sites based on the characteristics of the individual (and spouse, if any), so as to increase the probability that the individual will remain in the HMSA to which he or she is assigned after completion of his service obligation. Requires the Secretary to offer each Corps member a choice of at least 3 HMSAs, subject to the requirement that the HMSAs with the greatest manpower shortages receive highest priority in the assignment of Corps personnel. Directs the Secretary to offer counseling on services in the Corps to individuals during their education and once they have begun providing services as Corps members. Directs the Secretary to provide assistance to Corps members in establishing arrangements through which they get temporary relief from their daily service obligations for continuing education or vacations.

Section 106. Authorization of Appropriations.—The NHSC field program is currently authorized at $65 million in FY 1990. Appropriations for FY 1990 are $41.8 million. The bill would authorize such sums as necessary for FY 1991 and subsequent fiscal years for the purpose of eliminating health manpower shortage areas.

TITLE II. SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS

Section 201. Scholarship Program.—Clarifies that the purpose of the NHSC scholarship program is to assure an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physicians assistants and, if needed by the Corps, an adequate supply of other health professionals.

Section 202. Loan Repayment Program.—Clarifies that the purpose of the NHSC loan repayment program is to assure an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physicians assistants and, if needed by the Corps, an adequate supply of other health professionals. Directs the Secretary to give priority in making loan repayments to those individuals who have (and whose spouse, if any, have) characteristics that increase the probability that the individual will continue to serve in a HMSA after the completion of his or her service obligation. Allows the Secretary to pay up to $35,000 on behalf of an individual for loans for each year of obligated service (the current law ceiling is $25,000 for Indian Health Service sites, $20,000 for all other HMSA sites). Requires the Secretary to make payments to loan repayment recipients to offset any increased Federal tax liability resulting from the loan repayment.

Section 203. Report and Authorization of Appropriations.—Clarifies that the current law authorization of such sums as necessary for each fiscal year is intended to authorization the amounts necessary to fund enough scholarships and loan repayments to eliminate all health manpower shortage areas. Requires the Secretary to obligate, of the amounts appropriated for both scholarships and loan repayments, at least 20 percent in FY 1991, 15 percent in FY 1992, and 10 percent in FY 1993 and subsequent fiscal years exclusively for new scholarships. Further requires the Secretary to obligate an additional 5 percent of the total amounts appropriated for both scholarships and loan repayments (over and above the 20 or 15 or 10 percent set-aside) for new scholarships to nurse practitioners, nurse midwives, or physician assistants.

TITLE III. STATE OFFICES OF RURAL HEALTH

Section 301. Establishment of Program of Grants to States.—Authorizes the Secretary, acting through the Office of Rural Health Policy, to make grants to States for the operation of existing State offices of rural health or the establishment of new offices. The grants could equal up to 75 percent of the costs of the offices in the first year, 50 percent in the second year, and 25 percent in the third year; States would have to match these expenditures with non-Federal funds. Appropriations would be authorized at $3 million in FY 1991, $4 million in FY 1992, and $3 million in FY 1993. The program would sunset after appropriations totalled $10 million.

State offices receiving funds under this authority would be required to carry out certain activities: (1) operating a clearinghouse for information on rural health, (2) coordinating activities in the State relating to rural health care, and (3) providing technical assistance to public and private nonprofit entities regarding participation in Federal and State programs regarding rural health. Grant funds could also be used to pay the costs of any activity relating to recruitment and retention of health professionals in rural areas.

The current authority for State loan repayment programs, which expires in FY 1990, would be discontinued.

TITLE IV. GENERAL PROVISIONS

Section 401. Effective Dates.—The amendments would take effect on the later of October 1, 1990, or the date of enactment.

REOPENING THE OHMSETT

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. COURTER. Mr. Speaker, recent oilspill disasters throughout the United States underscore the pressing need to undertake a concerted effort to avoid future environmental tragedies by improving oilspill response technology. I commend the Committee on Science, Space, and Technology for its efforts to effectively address this concern in title VII of the landmark Oil Pollution Act of 1989.

However, I would like to discuss today an unfortunate situation regarding the future of oilspill technology which we have an opportunity and an obligation to reverse.

The Oil and Hazardous Materials Simulated Environmental Test Tank [OHMSETT] Research Center, located at Earle Naval Weapons Station in New Jersey, is a 2.5 million gallon state-of-the-art wave tank designed to research and improve oilspill containment and cleanup strategies. The only tank of its size, OHMSETT simulates open water conditions for oilspill research and has been used to test prototypes of booms, small skimmers, and other oil containment and cleanup equipment. Built in the early 1970's, OHMSETT was operated by the Environmental Protection Agency until a lack of financial resources forced the test tank to be formally ceded to the Navy last March.

OHMSETT's importance has been recognized by the Committee on Science, Space, and Technology in its report accompanying H.R. 1465. According to the report:

Federal oilspill research peaked in the late 1970's and declined significantly thereafter, with almost no spending in the last several years. Most of the technology presently used was developed in the 1970's. Indeed, the only interagency research program, which used EPA's OHMSETT, ended in the mid-1980's and the facility closed last year.

The committee report also noted that:

A number of witnesses indicated the utility of controlled field-testing of cleanup technologies to verify the performance of the technologies in real-world conditions, but the use of controlled spills in the U.S. for research purposes has virtually stopped since the shutdown of the EPA OHMSETT tank testing facility last year.

The need to advance our response capability technology was further documented in a recently released General Accounting Office report. The report found that responses to the *Presidente Rivera* and *Exxon Valdez* spills indicated a need to improve equipment capabilities for containing oil and removing it from the water. According to the report, oil was initially recovered by physically picking up the clumps, either by hand or by fishing net, and placing them in containers. Later, according to Coast Guard officials, clamshell dredges were more effective in picking up the oil. Resorting and relying upon this kind of technology is both tragic and irresponsible.

Fortunately, the Department of the Interior has recognized the inadequacy of our technology. Acknowledging the valuable contribution

to be made by the unique OHMSETT facility, the Department of the Interior has reprogrammed funds from its budget to refurbish the test tank, and is presently working with the Department of Defense to gain access to the facility. In fact, testimony given before a Senate subcommittee by a Department of Interior representative indicated that "probably 95 percent of the performance data we have for all offshore and in-shore—and probably 100 percent for the near-shore equipment—have come from tests at the OHMSETT facility."

In a letter to Defense Secretary Cheney, Interior Secretary Lujan explained that the Minerals Management Service [MMS] greatly expanded its oilspill response research to attain significant technological goals within a 3-year period. In his letter, Secretary Lujan stated:

The attainment of several of these goals is dependent upon testing at OHMSETT. The MMS, together with the Department of the Environment, Canada, has reviewed all other test facilities on the North American continent where this research could be conducted. There is no comparable facility in North America, nor are the time and funds available to convert another facility.

My efforts over the past several months to reopen the mothballed OHMSETT recently culminated in correspondence from Secretary Cheney describing an agreement reached between MMS and the Navy to draft a memorandum of agreement allowing MMS to operate the OHMSETT facility for a 5-year period. However, while there is widespread support for reactivating the OHMSETT, and the commitment made by the Departments of Defense and Interior to advance our cleanup technology is both commendable and encouraging, it is important to recognize that reactivating the OHMSETT is irrelevant if we fail to provide for its continued long-term operation.

I would like to encourage the administration to continue to support the reopening of the OHMSETT. In addition, we in Congress must work to ensure its future operation and prevent such a valuable research facility from being shut down at a time when its contribution to protecting our fragile coastlines from oilspill disasters is so essential. Therefore, I would like to suggest to the conferees to H.R. 1465 that language be included to provide for the institutionalization of the OHMSETT so that we can more effectively respond to oilspill emergencies.

Mr. Speaker, I would like to submit for the RECORD copies of correspondence from the Departments of Interior and Defense, the Coast Guard, and the Environmental Protection Agency expressing their support for the reopening of the OHMSETT.

THE SECRETARY OF DEFENSE,
Washington, DC, March 2, 1990.

Hon. JAMES A. COURTER,
House of Representatives, Washington, DC.

DEAR JIM: Thank you for your recent inquiry concerning the Navy's negotiations with the Department of the Interior over use of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) at Naval Weapons Station (NWS) Earle. I appreciate the opportunity to update you on the Navy's progress in this important matter.

As you may know, Navy representatives met with negotiators from the Department of the Interior's Minerals Management Service (MMS) on 1 February to discuss the future of the OHMSETT facility. Both parties agreed that the unique environmental protection research available only at OHMSETT should continue.

At the meeting, the Navy agreed to draft a Memorandum of Agreement (MOA) allowing MMS to operate the OHMSETT facility for a five year period. The Navy and MMS are reviewing the MOA now, and they hope to finalize the agreement in early March. The MMS is also researching the requirements of the National Environmental Policy Act of 1969 and applicable sections of the United States Code. They will obtain all required permits and will insure compliance with the National Environmental Policy Act before the facility resumes operations.

In closing, let me assure you that the Navy is committed to supporting the Department of the Interior's critical oil spill research at OHMSETT, and they stand ready to assist in any way they can. If I can be of further help, please do not hesitate to contact me.

Sincerely,

DICK CHENEY.

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 19, 1989.

Hon. RICHARD CHENEY,
Secretary of Defense, Washington, DC.

DEAR MR. SECRETARY: I am writing on a matter of urgency to this Department regarding a critical need for continued use of the test facility known as the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) located on the Naval Weapons Station Earle, Leonardo, New Jersey. Our interest in the facility pertains to the responsibilities of the Minerals Management Service (MMS) of the Department of the Interior for ensuring safe, pollution-free oil and gas operations on offshore Federal submerged lands.

Subsequent to the recent tanker accident off Valdez, Alaska, MMS greatly expanded its oil spill response research to attain significant technological goals within a 3-year period. The attainment of several of these goals is dependent upon testing at OHMSETT. The MMS, together with the Department of the Environment, Canada, has reviewed all other test facilities on the North American continent where this research could be conducted. There is no comparable facility in North America, nor are the time and funds available to convert another facility. The loss of the facility would require the MMS to abandon its nearly completed efforts to develop standard test procedures for offshore oil spill containment booms and skimmers. This project is a precursor to the development of equipment performance standards. The loss of the facility will require development of new procedures which will require millions of dollars and several years. However, we are prepared to reactivate OHMSETT and to conduct continuing testing.

The OHMSETT facility is unique, and I consider it essential for implementing the Administration's initiative of increased environmental protection.

We have entered into discussion with the Director of Installations and Facilities of the Office of the Secretary of the Navy but have not been able to resolve the matter. I am therefore requesting your intercession so that we may proceed without further delay in our pursuit of improved technologies for responding to offshore oil spills. I would be most pleased to have your response at your earliest convenience.

Sincerely,

MANUEL LUJAN, Jr.

U.S. DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, DC, July 21, 1989.

Hon. JIM COURTER,
House of Representatives, Washington, DC.

DEAR MR. COURTER: Thank you for your letter of June 30, 1989, co-signed by Congresswoman Roukema, concerning the reactivation of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) at Leonardo, New Jersey.

The Coast Guard agrees that the OHMSETT would be a valuable addition to the research and development of oil spill prevention programs, as well as aiding in the formation of cleanup contingency plans in the case of environmental disasters.

We support the reactivation of the OHMSETT program, although funding from the Coast Guard is currently not available. We would like to assure you that the development and exploration of new technologies in disaster reaction and prevention plans is a high priority of the Coast Guard.

An identical letter has been sent to Congresswoman Roukema. Your time and attention to this matter is appreciated.

Sincerely,

CLYDE T. LUSK, Jr.,
VICE ADMIRAL, U.S. COAST GUARD,
Acting Commandant.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 5, 1990.

Hon. JIM COURTER,
U.S. House of Representatives, Washington, DC.

DEAR MR. COURTER: Thank you for your letter of February 21, 1990, concerning the reactivation of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) which is located on U.S. Navy property at the Naval Weapons Station Earle in Leonardo, New Jersey.

Beginning in the early 1970s, EPA conducted an active oil spill research program that included testing oil spill response technology at OHMSETT. During the 1980s, competing priorities from other hazardous waste and underground storage tank programs resulted in a decline in the oil spill research program. The program was ended in 1987 and EPA returned the OHMSETT facility to the U.S. Navy in fiscal year 1989.

The Exxon Valdez oil spill has focused attention on the need to improve oil spill response technology and I believe that the public and private sectors must now jointly reevaluate research priorities. In January of this year, the Minerals Management Service (MMS) of the Department of Interior and EPA met with the Navy to begin negotiations to reactivate OHMSETT. The MMS plans to enter into an Interagency Agreement with the Navy to operate the facility to conduct tests of oil spill response technologies similar to former EPA activities at the facility. The MMS plans to refurbish the facility this fiscal year and to begin full reactivation next year. The facility will be operated on the MMS oil spill research and development budget with additional support from the American Petroleum Institute, the U.S. Coast Guard, and Environment Canada. EPA will, of course, keep abreast of the activities and projects at the facility,

but does not intend to play a significant role in its funding for reactivation.

If you have additional questions regarding OHMSETT activities, you may wish to contact Mr. Edward Tennyson, the Program Manager for Oil Spill Research at: Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070 (703) 787-1559. Thank you for your interest in this matter. I hope you find this information useful.

Sincerely yours,

ERICH W. BRETTHAUER,
Assistant Administrator for Research and Development.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 15, 1990.

Hon. JIM COURTER,
U.S. House of Representatives, Washington, DC.

DEAR MR. COURTER: I am writing in response to your recent inquiry regarding the Oil and Hazardous Materials Simulations and Evaluation Test Tank (OHMSETT) Research Center at Leonardo, New Jersey.

To clarify and reiterate my recent correspondence to you on this issue, the Environmental Protection Agency strongly supports reopening the facility provided that the agency is not required to fund restoration and maintenance costs.

Sincerely yours,

ERICH W. BRETTHAUER,
Assistant Administrator for Research and Development.

PIRO IMPLEMENTATION, INC.
Washington, DC, October 20, 1989.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: Your letter of October 17, 1989 asked my views on the value of reactivating the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) for oil spill research. In my opinion OHMSETT is extremely valuable national resource. If dismantled it would represent a substantial impediment to effective oil spill research, development, test and evaluation.

OHMSETT is unique. I know of no other research facility in our nation which approaches its capabilities. It has been used for a wide range of hardware tests, systems analyses, combustion studies, etc. At a time when industry and federal agencies are making substantial new commitments to oil spill R & D it would seem inappropriate to impede these efforts by having a singular research tool eliminated.

Sincerely,

JOHN COSTELLO,
President.

THE REAGAN OF THE CARRIBEAN

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. WHITTAKER. Mr. Speaker, the Dominican Republic has had—like many Latin American countries—a history of military-led governments as well as popularly elected governments. What is so ironic, indeed incredible, about the current Dominican Presidential election campaign is the self-proclaimed Marxist candidate claims to have United States support. Candidate Juan Bosch, who was overthrown by a civic military movement 7 months after reaching power in 1963, is again aiming for the Dominican Presidency. The irony? Bosch claims to be an avowed Marxist. He even said so on national television last fall.

The September 5, 1989, edition of the Dominican newspaper ULtima Hora contained a summary of Bosch's television appearance the day before. Declaring that "I am a Marxist, but not a Leninist," Bosch launched into a diatribe against the United States and blamed it for the strength and influence of narcotraffic in the Dominican Republic. He also stated that he looked at everything in the world through a Marxist glass: "I was and am a Marxist in everything that refers to the study of society. The person who does not study society from the point of view of Karl Marx can not understand society." Strong words indeed. But strange in a world that has proven the folly of Marxism.

But last October, Bosch and members of his Dominican Liberation Party [PLD] met with U.S. Ambassador Paul Taylor and two members of the State Department, one of whom was Joseph Becelia, Under Secretary of State for Interamerican Affairs. Unfortunately, these kinds of meetings and others, as well as PLD rhetoric, lend credibility and substance to Bosch's campaign. Tacit support of Bosch also hinders the Presidential campaign of another pro-U.S. candidate, Jacobo Majluta, a Vice President and former President of the republic.

If there is a Presidential candidate like Ronald Reagan anywhere in the world, it would be Majluta. Mirroring Reagan's 1981 economic policy reforms in many ways, Majluta's campaign strategy calls for an across-the-board tax cut, a larger free market and reduced bureaucratic interference. Majluta also supports increased United States capital investments, monetary reform, and closer United States/Dominican relations.

After Bosch met with the United States ambassador to the Dominican Republic and members of the visiting State Department delegation in October, the PLD press secretary, Dr. Leonel Fernandez, said both sides discussed the "need to strengthen ties between the United States and the Dominican Republic." Some question whether or not Bosch would ever want to increase ties to the United States.

In a recent Gallup Poll, Bosch led with 34 percent. Already, it seems, even indirect support of Bosch by the United States could cause voters to support his campaign.

On one hand you have Majluta, a politican who shares much of the policies of the Reagan-Bush administrations, and on the other you have Bosch, a self-proclaimed Marxist. There is an important choice here. After all, the Dominican Republic is a key United States ally in the Caribbean Basin. It is strategically located between Communist Cuba and Puerto Rico, and it shares the Island of Hispaniola with Haiti. The Dominican Republic lies adjacent to critical shipping lanes and air routes.

It is for this very reason that Fidel Castro—always looking for more Caribbean nations to undermine—is anxiously awaiting for a fellow Marxist to gain power. With the downfall of Ortega and the ouster of General Noriega, Castro is becoming increasingly isolated, both economically and politically. He is therefore understandably interested in Bosch. And Bosch, it seems, is also interested in going outside of the Dominican Republic for support. Indeed, it was recently announced in Dominican newspapers that Bosch had established contacts in Panama and Venezuela. His party sent representatives to Panama to pick up 52 trucks and vans for his campaign drive. It appears even former Panamanian strongman General Noriega was a big supporter of Bosch, and there were allegedly contacts with Castro and Ortega. Even if there were not, it is logical that Castro would welcome another Marxist in the Caribbean.

For now, however, it appears the geopolitical interests of the United States could be lost if we continue to act as if Bosch has our support. The United States and the State Department should be more encouraging of Jacabo Majluta, a man who shares our principles for a vibrant democracy, a strong economy, a stable military, and good government.

100TH ANNIVERSARY OF MILLARD E. TYDINGS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to recognize the 100th anniversary of Millard E. Tydings birth, April 6, 1990. Millard Tydings served Maryland and America with great honor and distinction for the past 100 years.

In 1916, Millard Tydings was elected to the Maryland House of Delegates. However, when the United States entered World War I, he joined the Army as an officer in the American Expedition Force where he saw action in the Haute Alsace and the Meuse-Argonne offensive. He was promoted to the rank of lieutenant colonel in the 29th Division, Machine Gun Units and was awarded the Distinguished Service Medal, the Distinguished Service Cross, and three citations.

Upon his return to the United States, he devoted himself to serving the public for the next 30 years. From 1920 to 1922, he served as Speaker of the Maryland House of Delegates and was later elected to the Maryland Senate. In 1923, he was elected to the U.S. House of Representatives and in 1927 he was sent to the U.S. Senate. During his four terms in the Senate, Millard Tydings distinguished himself as a leader of a coalition of Southern Democrats.

He championed a wide range of causes from Phillipine independence to limiting government deficits. However, perhaps, the bravest moment of his career came when he was chairman of the Special Senate Foreign Relations Committee, where he was called upon to examine Senator McCarthy's accusations of Communist infiltration of the State and Defense Departments. In a scathing denunciation, he rejected McCarthy's charges as "complete hogwash." For his courageous stand, Millard Tydings paid the ultimate political price, losing his fifth election in the wave

of anti-Communist hysteria that was sweeping the Nation.

Mr. Speaker and fellow colleagues, let us rise and recognize Millard Tydings' dedication to public service and justice on the 100th anniversary of his birth.

TRUTH IN REPORTS FROM GOVERNMENT AGENCIES

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. HALL of Ohio. Mr. Speaker, today I am introducing the Food Program Evaluation Integrity Protection Act of 1990. This legislation will assure accuracy in the reporting of food program studies and evaluations conducted by the Department of Agriculture under mandate by the U.S. Congress.

I regret the need for this legislation. Our relationship with Federal departments and agencies should be founded on trust and cooperation. We in Congress should be able to unequivocally rely on the accuracy of research conducted by these entities. However, it has come to my attention, as chairman of the House Select Committee on Hunger, this is not the case. I have learned that ethics in the Department of Agriculture's handling of various food assistance program evaluations has taken a back seat to the Department's goal of assuring that this research reflect what the Department wants reported rather than what the data actually reveals.

I would like to share with my colleagues the series of events that prompts this assertion on my part. In 1978, Congress directed the Department of Agriculture to conduct an evaluation of the WIC Program. Prior to releasing the final report to Congress in 1986, the Department deleted the executive and chapter summaries submitted by the principal investigator and substituted its own compendium of results. The Select Committee on Hunger was informed by the principal investigator that the Department's compendium severely understated the positive impact of participation in WIC. In 1987, Representatives Mickey Leland, the late chairman of the Hunger Committee; GUS HAWKINS, chairman of the Education and Labor Committee; JIM JEFFORDS, then ranking minority member of the Education and Labor Committee; and Senator TOM HARKIN commissioned a General Accounting Office [GAO] investigation of possible improprieties in the handling of this document.

In December 1989, we received a final report from GAO and in January of this year, the Select Committee on Hunger conducted a hearing to bring to light, once and for all, the real findings of the Department of Agriculture's national WIC evaluation. GAO's investigation found that the Department's compendium of results bore little resemblance to the executive and chapter summaries prepared by the researchers; contained questionable data; and, in certain instances, flatly contradicted the researchers' findings.

Consequently, for almost 4 years we were misled into believing that this comprehensive federally-mandated study had concluded that the positive impact of WIC participation was questionable at best. During this time, the Congress was forced to determine policy and funding levels governing the operation of the WIC Program on information that was grossly inaccurate.

Since the committee's hearing in January, we have learned from other USDA contractors that the Department's questionable handling of the national WIC evaluation was not an isolated incident. In fact, research teams for other studies of food programs that affect low-income children and families have fallen victim to the Department's manipulations in the release of final report documents.

We cannot allow this type of abuse to continue. We, as policymakers, are heavily reliant upon this research to develop and implement national policy. We must have assurances that information transmitted by the Department of Agriculture is factual and accurate.

My bill would require that the Secretary of Agriculture notify contracting researchers of all changes made by the Department in the studies and evaluations the contractors have submitted. The researchers would then be permitted to comment on the Department's revisions. These comments would subsequently be incorporated in the final reports submitted to Congress. Finally, my bill would protect the researchers and their opportunities for future contract awards by preventing the Department from discriminating against them for offering such comments.

I am confident that the Food Program Evaluation Integrity Protection Act of 1990 will aid in restoring faith and credibility in the Department of Agriculture's evaluations and reporting procedures.

TRIBUTE TO MARTIN WEISS AND LORI PATENT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. YATRON. Mr. Speaker, today I rise to congratulate two young people from the State of Pennsylvania. On March 30, 1990, Martin S. Weiss, of Reading, PA, and Lori J. Patent, of Philadelphia, PA, were engaged to be married. The couple's engagement party was held at Nick's Chat-A-While Inn in Reading.

Mr. Speaker, I am sure that my colleagues in the House of Representatives join me in wishing Martin and Lori all the best for their future years. I hope that their engagement is the beginning of a rich and happy life together.

TRIBUTE TO GARDNER NEWMAN

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. RAY. Mr. Speaker, I rise today to pay special tribute to Mayor Gardner Newman of La Grange, GA. Gardner Newman retired from the position of La Grange's mayor on the first of this year. He had served 26 years in this post.

Mayor Newman, the oldest son of James and Flossie Newman, was born in 1920 in La Grange. He graduated from La Grange High School and went to Georgia Tech where he received 3 years of engineering education. Mayor Newman married the former Frankie Fling whom he had dated since they were 14 years old. Mayor Newman spent World War II in the Navy.

After the war, Mayor Newman returned to the family business, the Newman Construction Co. He became president of the company upon his father's death in 1968. He later became chairman of the board and turned the presidency over to his younger brother John.

Mayor Newman served on the La Grange City Council for 12 years, from 1951 to 1963. He then served 26 years as mayor from 1963 to this year. For the past 38 years, Gardner Newman has been an extremely active and vital part of La Grange city government.

Since Gardner Newman's inauguration onto the city council, La Grange has steadily risen in size and stature. It is currently a vibrant municipality that is luring new residents and businesses from across the Nation. Mayor Newman has run the town with fiscal responsibility and has maintained a balanced budget, while offering a wide range of community services. It is practices such as these that help to make a great city and a great community.

Mayor Newman has applied these same principles in becoming a very successful businessman. The Newman Construction Co., has built buildings in the La Grange area and at Callaway Gardens that are excellent representations of American hard work and construction.

Last, Mayor Newman is appreciated as a fine family man, having helped to raise 6 charming children and 14 beautiful grandchildren. Additionally, I am sure that Mayor Newman will admit that much of the credit for his success goes to his lovely wife "Frankie."

I would like to thank Mayor Newman for his hard work in making La Grange a great place to live. While the city will miss his leadership, I am sure that all of its citizens join me in wishing him a rewarding and well-deserved retirement from community service.

THE 25TH ANNIVERSARY OF THE HEAD START PROGRAM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BROWN of California. Mr. Speaker, tomorrow, April 5, 1990, Head Start in San Bernardino County will join the rest of the Nation in celebrating the 25th anniversary of Head Start Programs. In my congressional district, the Preschool Services Department of San Bernardino County serves the communities of Ontario, Fontana, Bloomington, Colton, San Bernardino, and Rialto. The national Head Start Program was officially launched by President Lyndon B. Johnson on May 18, 1965, to provide preschool training to prepare young-

sters to enter first grade in the fall. I have always been a strong supporter of Head Start, and I was pleased to vote in favor of creating the program when it was debated on the House floor in July 1965.

The most innovative feature of the Head Start Program is that instead of recruiting those children from poverty who were the most likely to succeed, Head Start reached out to the 55 poorest counties in the Nation, to children who would usually be least likely to be recruited. There was a recognition that disadvantaged children needed stimulation and support in educational, social, and intellectual areas. Also of importance was health care and the program's emphasis on the involvement of parents with the child in local programs.

The overall goal of the Head Start Program, nationally and in San Bernardino County, is to bring about a degree of social competence in children of low-income families; that is, to increase the child's everyday effectiveness in dealing with both present environment and later responsibilities in school and life. Social competence takes into account the interrelatedness of cognitive and intellectual development, physical and mental health, nutritional needs, and other factors that enable a developmental approach to helping children achieve social competence.

Since its inception in 1965, Head Start has provided educational, social, medical, dental, nutritional, and mental health services to more than 11 million children and their families across the Nation. Since 1965, Head Start has become a full-year program servicing more than 450,970 children each year in urban and rural areas of all 50 States, the District of Columbia, and the U.S. Territories, including many Indian and migrant children. In San Bernardino County alone, 45,000 children and their families have been served in the past 25 years.

Since 1965, in San Bernardino County, the Preschool Services Department has served children and families in the county, receiving funds from the Federal Government and the State Department of Education. The program delivers child development services in five areas: education, parent involvement, social services, handicapped, and health. In San Bernardino County, Head Start currently serves approximately 1 out of 5 of the eligible low-income preschool children. At least 98 percent of the children in Head Start are from families who have incomes at or below the poverty level or who are receiving AFDC payments. Approximately 2,100 children are served each year; 10 percent of Head Start enrollment consists of handicapped children. Head Start Programs also use the USDA Child Care Food Program, which reimburses Head Start for its costs in providing food and food services. All Head Start Programs in San Bernardino County participate in this program.

In its 25 years, Head Start has become an important landmark in the social, educational, and health policy areas. Head Start is part of the social fabric of our country, and the program is still growing, still producing Head Start success stories. I ask my colleagues to join me in saluting the 25 years of accomplishments of Head Start Programs in San Bernardino County and nationwide.

THE NATIONAL HEALTH SERVICE CORPS REVITALIZATION ACT OF 1990

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. RICHARDSON. Mr. Speaker, I am pleased to introduce the National Health Service Corps Revitalization Act of 1990 reauthorizing the National Health Service Corps with my colleagues, Representatives JIM COOPER, JIM SLATTERY, HENRY WAXMAN, TOM TAUKE, and 23 others.

The National Health Service Corps [NHSC] is the Federal Government's primary means of recruiting physician's to rural and inner-city health areas. These areas have historically suffered from health manpower shortages. The corps was first established in 1970 with a mandate to improve and maintain the health status of medically underserved populations * * * by addressing the geographical maldistribution of health manpower resources.

Unfortunately, while the number of medically underserved areas has increased from 1,432 to 1,955 since 1981, the number of physicians in the corps has declined by 14 percent. More critically, we find that rural areas like my own State of New Mexico, are suffering disproportionately from the physician shortages. Over 1,300 rural areas are designated shortage areas. To meet the demand for physicians just in designated shortage areas, we would need 4,224 physicians.

The NHSC has been a successful and model program for recruiting physician's and other health care personnel into rural and inner-city medically underserved areas. Needless to say, the corps was more successful in the past than it is now in meeting these needs. This is due in part to a phase-out of the scholarship program requested by the Reagan administration.

As a result, the corps has declined from a peak field strength of 3,127 NHSC providers in 1986, to the 123 scholarship recipients available for placement this year. If the program continues without change, only 18 scholarships will be meted out in 1993. It has been estimated that communities served by the corps are losing 600 providers a year with no replacements.

Sadly, the corps is no longer even minimally meeting its mandate to improve and maintain the health status of medically underserved populations. Given the crisis in rural health care, this cannot and will not continue.

Today, people living in rural areas continue to be in poorer health—12 percent versus 9.4 percent, travel farther for health care, report chronic or serious illness more frequently—1.78 chronic conditions per person per year versus 1.55—are more likely to die from injury, and are older than their urban counterparts. Moreover, rural residents are more than twice as likely as the Nation as a whole to face shortages of primary care physicians.

For these and other reasons, I am pleased to be introducing legislation which renews the National Health Service Corps' commitment to providing primary health care to medically underserved areas. The legislation follows up on the recommendations contained in the Office of Rural Health Policy White Paper, as well as the advice and recommendations of the many organizations comprising the National Health Service Corps Coalition.

Specifically, our legislation continues the current loan repayment program and rejuvenates the scholarship program by insuring that a minimum of 10 percent of appropriated funds are used for scholarships. In this way, we intend to meet both short-term needs—the loan repayment program targets students in their third year of medical school and long-term needs by replenishing the pipeline of providers.

The legislation also requires that a minimum of 5 percent of appropriated funds be used for scholarships for midlevel practitioners such as nurse practitioners, nurse midwives, and physician assistants. Better utilization of midlevel practitioners can increase the productivity of primary care physicians and save money in the long run. One study found that nurse practitioners serving in outpatient medical clinics can reduce hospital stays for their patients by up to 50 percent.

In an effort to retain NHSC providers and help get them into the neediest areas, among other things, the legislation increases the maximum loan payment from $20,000 to $35,000 per year, and directs the corps to give priority to those individuals with characteristics that increase the probability that they will remain in the underserved area when their obligation is completed. To this end, the legislation also requires the corps to provide each NHSC provider with a choice of a least three health manpower shortage areas [HMSA's] subject to a requirement that the most underserved areas receive the highest priority. The corps would also be required to provide counseling after placement, and help corps member's establish professional affiliations with universities and health education centers.

Finally, the legislation provides $10 million for a new grant program to help States operate new and existing State offices of rural health. Under the legislation State offices of rural health would be required to serve as clearinghouses on rural health information, and provide technical assistance. States could also use these funds to recruit and retain health care professionals in rural areas.

SALUTE TO ARTHUR J. REMILLARD, JR. AND COMMERCE INSURANCE CO.

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. NEAL of Massachusetts. Mr. Speaker, it is my honor to pay tribute today to Arthur J. Remillard, Jr., and the Commerce Insurance Co. of Webster, MA. This man and this company have contributed substantially to Webster, to the surrounding area, and to Massachusetts. His community spirit has been recognized in Webster, and Arthur J. Remillard, Jr. Way will now be a named street in the town.

From modest beginnings, Mr. Remillard has demonstrated an unparalleled determination and drive in making Commerce Insurance Co. one of the leading insurance agencies in Massachusetts. In May 1972, approval of operating authority was granted to Commerce Insurance. At that time, the total operating staff was six employees. Headquarters was a back office in a conference room of the Clark-Prout Insurance Agency. In 1973 the company's net written premiums were less than $1 million. In just 10 short years, the company could boast a figure of $37 million in net written premiums and a staff size of over 100. This growth forced a move to a bigger location, so the company moved to its present location on Main Street in Webster. Currently, the company employs over 950 people, serves over 400,000 policyholders, and is the second largest auto insurer in the State. All this from a start with six people in a conference room in 1972.

Mr. Speaker, I salute Mr. Remillard and commend him for his dedication to Commerce Insurance Co., and to those who contribute to Commerce Insurance Agency; the stockholders, the directors, the employees, and the associated agencies. I am confident that Arthur J. Remillard, Jr. and Commerce Insurance Co. will enjoy continued success as it enters a third decade of service.

TYLER ELEMENTARY SCHOOL'S 30TH ANNIVERSARY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. PURSELL. Mr. Speaker, it is with pride that I bring to your attention today the 30th anniversary of Tyler Elementary School in Livonia, MI.

Tyler Elementary School—where good things are happening—opened its doors in 1959 for 288 students and 13 staff members. With a growing student population of nearly 600, a new wing was added to the school in 1961. Just 3 years later, as the community's growth and prosperity continued, a second addition provided 8 new classrooms and a multipurpose room—accommodating 702 students and 30 staff members.

Population shifts which brought a high enrollment of 1,000 students in 1965, dwindled that enrollment to 282 in 1980. Strong community support discouraged the board of education from closing the school for economic reasons, and it soon housed the school district's special education programs. During the mid-1980's, demographics of the attendance area again began to change, and in 1988 the special education programs were moved to create more room for the growing population.

On the 30th anniversary of this elementary school it hosts 485 students and a staff of 34. By 1995, Tyler School is expected to be the largest elementary school in the Livonia Public Schools—for a second time.

Tyler Elementary School is proud of its outstanding service to the community and students, providing a wide range of social and educational activities, and I commend them and send best wishes for this memorable occasion.

WELCOMING FREE ENTERPRISE WINNERS TO WASHINGTON

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to welcome two Free Enterprise Contest winners, Brandy Hayden and Jennifer Plauche', to Washington, DC. Brandy and Jennifer are high school students from Hammond, LA, and they are interning in my office during the week of April 8 to 13.

The Free Enterprise Observance Committee involves students and teachers in activities designed to stimulate economic enthusiasm. Brandy and Jennifer won a district wide contest last year in which the students researched and learned about business opportunities. During their visit, the winners will see the magnificent sites in Washington including the White House, Washington, Lincoln, and Jefferson Monuments. Also the young ladies will assist my staff in day to day office duties and legislative issues.

I am proud of these students who have the foresight to realize that thinking about today in tomorrow's terms is a necessity. In order to keep up with our ever-changing national and international markets, it is imperative for the youth of our country to stay abreast and challenge the concepts that drive business.

I congratulate both of you, and I hope your stay is memorable.

ACE CELEBRATES 40 YEARS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. BEILENSON. Mr. Speaker, the American Cinema Editors, an honorary society of motion picture editors, celebrated its 40th anniversary on March 24, 1990. That day was proclaimed ACE 40th Anniversary Day by Los Angeles Mayor Tom Bradley.

ACE was the original idea of two Paramount Studio film editors, Warren Low and Jack Ogilvie. A charter membership meeting, held on November 28, 1950, was attended by 108 of the industry's top film editors. On January 9, 1951, the first membership meeting followed, at which time the society adopted American Cinema Editors as its name; members are identified on screen credits with "ACE" following their names.

From its inception ACE members were committed to encouraging the art and craft of editing by fostering an ongoing relationship with cinema schools throughout the country. The society, through its Visiting Editor Program, fills requests from cinema schools for lecturers, and it jointly sponsors seminars and an internship program with the American Film Institute. In 1957, ACE produced two films which are available to educational institutions, "Basic Principles of Film Editing" and "Interpretations and Values of Film Editing"

On March 14, 1951, the first annual ACE Awards dinner was held to honor the nominees for the Film Editing Award by the Academy of Motion Picture Arts and Sciences. In 1962, society editors became judges of their peers' efforts, resulting in the annual ACE Eddie Awards. The ACE Student Editing Awards were added in 1973.

The American Cinema Editors made its initial appearance in May 1951, as the official magazine of the society. It is circulated in the United States and in many foreign countries, and is a respected forum for postproduction expression.

The 40th anniversary was celebrated on March 24 at the annual ACE Eddie Awards dinner. At the event, held in the Beverly Hilton Hotel, Director Steven Spielberg was presented with the ACE Film Maker of the Decade Award. This special award, granted for the first time, was given to him in recognition of his having produced/directed the six most successful films during the 1980's. Mr. Spielberg delivered the keynote address and was inducted as an honorary member of ACE.

Career Achievement Awards were presented by George Grenville, president of ACE, to Margaret Booth and Elmo Williams for their outstanding achievements during lifetime careers in editing.

The American Cinema Editors look forward to the beginning of the next decade and the next century with anticipation as the motion picture and televisions industries undergo creative and technological innovations.

PHYSICIAN REGULATORY RELIEF AND IMPROVEMENT BILL

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. ROWLAND of Georgia. Mr. Speaker, physicians and patients throughout the country are demoralized over the increasing amount of Government redtape which burdens America's health care system and threatens to undermine the quality of care.

More redtape—much of it unnecessary and sometimes even harmful—is the end result of a budget-driven system which substitutes short-term economic paper gains for long-term sensible health policymaking.

Redtape is destroying the close personal relationship doctors have traditionally had with their patients. It's interfering with good medicine by denying procedures to patients which physicians feel they may need. It's inundating doctors with paperwork and driving an increasing number out of active practice. It's causing many others to withdraw from Medicare participation, making health care less accessible to many people. Even many prospective doctors are deterred by redtape, which is cited as a major factor in a 25-percent decrease in medical school applications over the past 5 years.

The New York Times stated in one of a series of articles on medical payment and practice changes in the 1980's:

• • • The feeling of being shackled by rules and overseers is nearly universal among doctors today, experts inside and outside the profession say. Doctors say they are overwhelmed by paperwork, prohibited by insurance companies from doing procedures and subjected to scrutiny by group employers like health maintenance organizations that can even include scheduling of restroom breaks.

Mr. Speaker, today I am introducing legislation entitled the "Physician Regulatory Relief and Improvement Act" to reduce the regulatory burden on Medicare. The changes I am proposing are few, but together they can help restore an environment of faith and confidence that in the past has always characterized the country's health care system.

The legislation proposes the following changes:

To require the mandatory release of medical parameters and screens that are used to determine which Medicare claims might need individual review.

To allow attenting physicians to bill Medicare for services provided to a patient by a professional colleague who is covering temporarily for the absent attending physician.

To prohibit Medicare carriers from charging physicians for information or documents that are reasonably needed to comply with Medicare statutory and regulatory requirements.

To amend Medicare reconsideration and appeal requirements to allow State medical societies or other professional organizations to file actions on behalf of the entire class of aggrieved physicians.

To establish a physicians advisory group to review Medicare administrative requirements and their implementation prior to initiation of new policies.

TRIBUTE TO ANTHONY M. TARABOCCHIA

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Mr. Anthony M. Tarabocchia. The Hackensack chapter of UNICO will be honoring Mr. Tarabocchia as its Man of the Year.

Tony was born on the island of Sansego, Yugoslavia, and came to the United States in 1955, at the age of 7. After completing his education, Tony worked as a traffic manager until 1972, when his life was completely changed. It was during this period that Tony entered the restaurant business and married Michelle Vecchiarello. Tony and Michelle have two lovely children, Christina and Anthony, Jr.

In 1981, Tony purchased the Cottage Inn in Lodi, NJ, and renamed the restaurant the Princess. With Tony's experience and knowledge of the restaurant business, the Princess has become a huge success.

Tony is an active and involved member of the community of Lodi. He encourages the youth in Lodi to participate in the numerous athletic programs they have available to them. He has been honored by many organizations in Lodi including the Italian-American Forum of Lodi and the city of Lodi itself. Tony often donates the use of the Princess to help raise money for worthy causes.

Tony is involved in organizations such as the Italian-American Forum of Lodi, many chapters of UNICO, and the Italian-American Soccer League of New Jersey. He has received many awards in recognition of his community service work including honors by the Hackensack chapter of UNICO in 1982, and being named the "Man of the Year" in 1983, by the Italian-American Forum of Lodi for his fundraising efforts to benefit Columbus Park in Lodi. In 1984, Tony received an award from Intersport Promotions, Inc., for promoting the Italian-American Soccer League of New Jersey. Tony was knighted a Cavaliere in the prestigious international organization Reale Ordine Di Cipro in 1985, and received the UNICO National Antonio R. Rizzuto Award the same year.

Clearly, this is a man who is one of the few individuals who really make a difference in our society. He is a man of the highest integrity and his energy and enthusiasm are apparent to all who come in contact with him.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man and extend my appreciation on behalf of his efforts and offer my best wishes to him on this special occasion.

A TRIBUTE TO EMMA C. CHAPPELL

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. GEKAS. Mr. Speaker, I rise to ask my colleagues to join me in recognizing a Pennsylvanian whose accomplishments should serve as an inspiration to all minorities.

Emma C. Chappell is visiting Harrisburg, PA, in my congressional district to address participants in a business conference. Her message, highlighted by her experience, is a can-do one. It is a message of optimism, energy, tenacity, and hard work.

Ms. Chappell is vice president and director of the Urban Development Services Department of the Continental Bank. With more than 30 years of experience in the banking industry, she is also chairman-designate of United Bank, a Philadelphia-based, minority-controlled commercial bank that is scheduled to open in the fall of 1990.

In many respects, Ms. Chappell has played a pioneering role for African-Americans and for women in the banking industry. In 1977, she earned the distinction of being elected the first female vice president in the history of Continental Bank.

In 1988, Ms. Chappell was appointed to the Pennsylvania Economic Development Partnership Board and to three board committees—the International Development Advisory Committee, the Committee on Housing, and the Statewide Advisory Committee on Minority Economic Development. She is also a member of the board of the Philadelphia Industrial Development Corp., and serves as co-chair of the Advisory Committee on Economic Development for Philadelphia.

Emma Chappell is a role model for women and for minorities. I congratulate her on her achievements.

A TRIBUTE TO THE NATIONAL ORANGE SHOW'S DIAMOND JUBILEE CELEBRATION

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a wonderful anniversary celebration of the National Orange Show, taking place in San Bernardino, CA, on April 18, 1990. This year the National Orange Show is marking its diamond jubilee celebration with a Bob Hope salute to Norton Air Force Base and the Military Air Command.

The National Orange Show and our local community is proud and honored to welcome Bob Hope again this year. It is most fitting that he is joining us for the 14th time in the last 48 years to commemorate Norton Air Force Base and the Military Air Command on the 75th anniversary of the National Orange Show. Over the years, Bob Hope has traditionally appeared at the National Orange Show for Military Appreciation Day.

The National Orange Show began in 1911 as a citrus fruit fair to promote California's citrus fruit industry. Each year, with the exception of the war years, this local tradition has grown and has become an active participant in providing for the present and future needs of our local community.

In 1987, the National Orange Show Foundation was created under the guidance and leadership of Martin Matich and W.E. Leonard as a charitable arm of the National Orange Show. The foundation's purpose is to function as a direct benefit to the community through active participation in community affairs. The foundation intends to promote scholarships for nursing and, in the future, will promote the arts through providing grants, art shows, and exhibits as well as musical concerts for the benefit of the community.

In addition, there have been preliminary discussions within the foundation relating to future work providing food and shelter for the homeless as well as services for the aged. Presently, the National Orange Show is a nationally certified American Red Cross disaster center and provides food and shelter to those in need in times of crises.

Mr. Speaker, I ask that you join me and our colleagues today in congratulating the organizers and participants of this year's diamond jubilee celebration and recognizing this year's National Orange Show Foundation's Bob Hope Salute to Norton Air Force Base and the Military Air Command.

STATEMENT ON CHINA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. SOLOMON. Mr. Speaker, the bad news from China just keeps on coming. Compelling evidence has surfaced during the past week which indicates China has resumed selling missiles to the Middle East. Whether these missiles are bound for Iran, Iraq, or some other gangster state is not precisely clear, but we'll know soon. What is clear beyond any doubt, however, is that the Chinese assurances to General Scowcroft last year are proving to be just as hollow as the administration's own policies toward China.

The United States-China dialog has become the political equivalent of a hot air balloon. But that's of no concern to the Chinese dictatorship. As the first anniversary of the Tiananmen Square demonstrations draws closer, the comrades in the so-called Great Hall of the People are too busy beefing up security and putting on shows of force in Beijing to worry about bleatings from Washington. They're too busy protecting themselves from the Chinese people.

Mr. Speaker, following the upcoming district work period, I will be returning to this well to discuss in depth all of the steps China has taken since the prodemocracy demonstrators were massacred last spring. I can tell you right now that this is a pathetic record. Empty promises. Self-defeating policy reversals. Cynical betrayals of the Chinese people. It's all there. The only question is when the White House will stop offering reassuring pats on the shoulder and start dealing with the Government of China the same way we should with any other ruthless dictatorship.

IRAQ: OUTLAW STATE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. LEVINE of California. Mr. Speaker, 2 weeks ago, the Iraqi regime of Saddam Hussein demonstrated the standards of decency to which it holds itself by hanging the English journalist, Farzad Bazoft, despite the protests of Britain and many others. In the last several days, Iraq has been caught with its hand in the nuclear cookie jar, and Hussein himself has unequivocally stated that Israel will be "annihilated" should it attempt any military strike against Iraqi targets.

These actions should underscore that Iraq, which supposedly had been sobered by its war with Iran and therefore had adopted a new aura of moderation, in fact continues its radical and repressive behavior. Yet, according to the Arab League, it is not Iraq that deserves condemnation, but all those Western governments who "meddle in Iraqi affairs."

And the Arab League chose solidarity over decency in supporting the murder of this innocent journalist.

Jim Hoagland recently wrote an excellent op ed in the Washington Post which deals with this issue. Entitled "Iraq: Outlaw State," it scores both Iraq's and the Arab League's behavior. Indeed, Mr. Hoagland writes, "The Arab League reaches a new stomach-turning low in meekly endorsing Iraq's judicially sanctioned murder [of Mr. BAZOFT]."

Mr. Speaker, I ask unanimous consent to place the article in the RECORD, and urge that my colleagues take a few moments to review it.

[From the Washington Post, Mar. 29, 1990]

IRAQ: OUTLAW STATE

(By Jim Hoagland)

PARIS.—The Arab League is outraged. With characteristic courage and vision, the organization that represents 21 Arab governments and the PLO has taken up the execution by Iraq of London-based journalist Farzad Bazoft. Pulling no punches, the Arab League has blasted Prime Minister Margaret Thatcher for asking Iraq not to carry out the execution.

It came as no surprise that the appeal was rejected by Iraq's rulers, who head not a government but a criminal enterprise that has taken control of a country. But the Arab League reaches a new stomach-turning low in meekly endorsing Iraq's judicially sanctioned murder of the Iranian-born freelance journalist, who was traveling on British documents when he was arrested and accused of espionage.

How dare she? the league huffed of Thatcher's appeal for clemency. Meddling in Iraqi affairs! the league puffed, much as it did 18 months ago when outsiders briefly criticized Iraq for using poison gas against its Kurdish citizens.

The truth is that Western nations, including Britain and the United States, have responded too mildly to this latest example of Iraq's disregard of international norms. The weakness of Western response to Iraq's cynical execution of Bazoft encouraged the Arab League to spit in Thatcher's eye. The league knew it would not suffer from doing so.

Arab governments have again shown a collective willingness not just to endure evil within their community, but to endorse it. Claiming to speak on behalf of the world's 200 million Arabs, the Arab League reflexively defends murder in its midst in the name of Arab solidarity.

This is not solidarity. This is craven and

Moreover, the Arab leaders undermine their own legitimacy with their policy of silence and acquiescence. Their disgusted citizens see this not as solidarity, but as weakness and lack of courage. Given a choice between decency and Iraq, Arab leaders make the wrong choice time after time.

That is not the worse part of it. The worst part is that they are aided and abetted in this by Western democracies and Japan, which do not even have the phony excuse of solidarity to explain their inaction. They placate Iraq because they smell money—or rather, they smell oil. They fail to see that the promise of lucrative contracts from the debt-ridden regime in Baghdad is a mirage.

I exaggerate? Consider the dispatch from Tokyo this week: Japan's Foreign Ministry has asked the Foreign Correspondents Club of Japan to explain why it had revoked the honorary membership of the Iraqi ambassador to protest the Bazoft execution. The Foreign Ministry should be joining the correspondents in ostracizing Iraq, not exerting the subtle pressure of an official demand mindless surrender to the worst elements within the ranks of Arab leadership, who insist that their fellow rulers sink to their own beastly level. By failing to take a moral stand on the excesses of brutality committed by the butchers of Baghdad, by Gadhafi and others, Arab leaders undermine their criticisms of human-rights abuses committed elsewhere, specifically in Israel. for an explanation.

Or think back to the debate in Congress about imposing economic sanctions of Iraq for using poison gas on its own citizens in 1988: Senate Foreign Relations Committee Chairman Claiborne Pell (D-RI) was unable to get House members to share his outrage and pass a bill imposing limited sanctions against Iraq. Heavy pressure from firms doing business or wanting to do business in Iraq helped block passage. During the debate, I found out later, a major U.S. chemical company called one congressional office to ask for a briefing on the effect the sanctions might have on its business in Iraq.

Sanctions are generally an ineffective, unwieldy policy tool. But because Iraq's $70 billion to $100 billion in war debts (making Iraq an unlikely source of future profits for American companies), sanctions would bite and force change in this case.

But there is an even more important point to be made with sanctions, Iraq is one of a handful of governments that openly engages in criminal conduct as a matter of routine. This is government by Murder Inc. As were the educated classes of Cambodia during the time of Pol Pot or Jews in Hitler's Germany, Iraqi Kurds are killed or dispossessed of their belongings because of who they are, not what they have done. There must be a way to cast such countries beyond the pale of the international community. Sanctions here would be a beginning.

But the House did not have the courage to do that in 1988. Nor did the British, the French or others take meaningful actin. Iraqi President Saddam Hussein must have taken the measure then of his fellow Arab leaders and his outside critics and concluded that he could continue to act in the bloodsoaked style to which he has become accustomed.

If poor Farzad Bazoft counted on international pressure to save him, he misunderstood both Saddam Hussein and the international community.

A TRIBUTE TO THE HOLLAND CHORALE AND CALVIN LANGEJANS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. VANDER JAGT. Mr. Speaker, this year marks the 30th anniversary of the Holland Chorale, a group of approximately 70 singers from Holland, MI. Since its beginning the Chorale has been under the outstanding direction of Calvin P. Langejans. I appreciate this opportunity to bring some of the accomplishments and contributions of this very special singing group to the attention of my colleagues in the Congress. I know you will join me in saluting the members of the Holland Chorale.

A celebration is planned for May of this year to commemorate the Chorale's anniversary and to honor their director, Calvin P. Lange-

jans. Cal Langejans is greatly revered by the members of the Chorale. In learning of his inspiration and importance to the group from those who work closely with him, it was lovingly imparted to me that he brings to his direction a great deal of creative energy, enthusiasm, and expertise. He is a man with the ability not only to shape new ideas, but a leader who is able to make those ideas a reality. In addition to directing the many concerts presented by the Chorale each year, Cal also founded the March Festival of Arts. This celebration of the arts involves music, visual arts, drama, photography, dance, an art exhibit, and creative writing contest. It allows for the interaction between established artists and students in the Holland community.

Mr. Speaker, in a time when there is a great need for community spirit, a need for people united together to work for a common goal, a need for people who can go that extra mile to make life richer and fuller for those around them, it gives me great pleasure to pay tribute to a group of people who have fulfilled these needs—the Holland Chorale. I ask my colleagues to join me in honoring the Chorale and its director, Calvin P. Langejans, for their many contributions to their community and in wishing them many more years of success.

STATE INCOME TAX ALLOCATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1990

Mr. THOMAS of California. Mr. Speaker, all of us are concerned that American business be able to compete with their foreign counterparts. In fact, we have had hearings in several committees to look at new programs to help U.S. corporations compete abroad. But there are rules and regulations being promulgated under existing laws that impose additional costs on U.S. businesses competing in the world marketplace. It seems to me that we should begin to address international competitiveness for U.S. companies by making sure that our current laws and regulations do not hamper our ability to compete.

I am introducing legislation today which would provide that all State income taxes, including those imposed under unitary apportionment formulas, be allocated to U.S. source income. For some time, the Internal Revenue Service has been unclear in its own mind on how to allocate State income taxes. At one point, all, or most, State income taxes could be allocated to U.S. source income. At other times, large portions could not. During these times of indecision, however, foreign corporations competing in the United States were always given full use of their State taxes. The failure of the IRS to allow full allocation of State income taxes to U.S. source income has increased taxation of U.S. companies causing a competitive disadvantage as compared to foreign corporations.

Moreover, the IRS position on the allocation of State income taxes is inconsistent with Supreme Court rulings that State income taxes can only be imposed on income that is connected to activities in that State. It seems to me that if a taxpayer pays taxes to any State, then the taxpayer should be able to deduct that tax against his U.S. income.

The legislation that I am introducing today will eliminate this disadvantage and resolve a longstanding problem on the lack of consistency between State and Federal taxing systems. Unfortunately, the taxpayer has been caught in the middle of this inconsistency, and it's time that the issue was properly resolved so that U.S. corporations can get on with competing around the world.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 5, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 6

9:00 a.m.
Labor and Human Resources
To resume hearings to review the Bipartisan Commission Comprehensive Health Care (Pepper Commission) recommendations on universal health care issues.
SD-430

9:30 a.m.
Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the implementation of the Omnibus Taxpayer Bill of Rights (P.L. 100-647).
SD-215

Governmental Affairs
Government Information and Regulation Subcommittee
To resume hearings on the quality of U.S. health promotion statistics.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the General Accounting Office's final audit of the Federal Savings and Loan Insurance Corporation (FSLIC).
SD-538

11:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Government Printing Office and the General Accounting Office.
SD-116

APRIL 18

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the Vietnam Veterans of America, the Veterans of World War I, and the Non-Commissioned Officers Association.
SH-216

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Housing and Urban Development.
SD-138

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Park Service, Department of the Interior, and the National Gallery of Art.
S-128, Capitol

APRIL 19

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Small Business Administration, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak).
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

Finance
To hold hearings on the changing trade relations between the United States and the Soviet Union.
SD-215

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on deficiency payment problems associated with barley.
SR-332

Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee
To hold hearings on S. 2205, to designate certain lands in the White Mountain National Forest, Maine as the Caribou-Speckled Mountain Wilderness, and as components of the National Wilderness Preservation System.
SR-485

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Eastern Europe.
SD-138

Commerce, Science, and Transportation
To hold hearings on the nomination of John K. Lauber, of Maryland, to be a Member of the National Transportation Safety Board.
SR-253

2:15 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Energy, focusing on atomic energy defense programs.
SD-116

APRIL 20

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Thomas L. Sansonetti, of Wyoming, to be Solicitor, Department of the Interior.
SD-366

APRIL 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agricultural programs, focusing on the cost of production.
SH-216

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192

Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgement process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

9:00 a.m.
Labor and Human Resources
Business meeting, to consider S. 722, Food Safety Amendments, S. 1425, Nutrition Labeling and Education Act, S. 436, Employee Health and Safety Whistleblower Protection Act, and other pending calendar business.
SD-430

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the National Science Foundation and the upcoming scientific manpower crisis.
SR-253

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

2:00 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the jurisdiction between the Commodity Futures Trading Commission and the Securities Exchange Commission.
SR-332

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 370, to establish the American Heritage Trust to provide funding for the preservation of America's natural, historical, cultural, and outdoor recreational heritage.
SD-366

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

2:00 p.m.
Energy and Natural Resources
To resume oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

APRIL 27

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Foundation on the Arts and Humanities.
SD-430

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol

Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible em-

ployers on Indian reservations; to be followed by a business meeting to mark up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

MAY 7

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:15 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1848, to implement and provide financial assistance for a research and demonstration program for natural gas and coal cofiring technologies.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 9

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

MAY 10

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253

Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans' Administration.
S-126, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony.
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on semi-conductors and the future of the U.S. electronics industry.
SR-253

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.
SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

SENATE—*Thursday, April 5, 1990*

(Legislative day of Tuesday, January 23, 1990)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable TOM HARKIN, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And it shall be, if thou do at all forget the Lord thy God, and walk after other gods, and serve them, and worship them, I testify against you this day that ye shall surely perish. As the nations which the Lord destroyeth before your face, so shall ye perish; because ye would not be obedient unto the voice of the Lord your God.—Deuteronomy 8:19, 20.

Almighty God, this warning from Moses, preparing Israel for nationhood, is reflected in the proclamation of President Lincoln calling the Nation to a day for "national humiliation, fasting, and prayer":

"We have grown in numbers, wealth, and power as no other nation has grown—but we have forgotten God.

"We have forgotten the gracious hand that preserved us in peace, and multiplied and enriched and strengthened us. * * *

"We have vainly imagined that all these blessings were produced by some superior virtue and wisdom of our own. It behooves us, then, to humble ourselves, to confess our national sins, and to pray for clemency and forgiveness."

Help us to realize that to profess faith in God and live as though He were nonexistent is worse, if anything, than belief in no god. Forgive us, Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 4, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Tom Harkin, a Senator from the State of Iowa, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. HARKIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business until 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

At noon, we will proceed to consideration of S. 1109, the vocational education authorization bill.

I am advised that staff have been working diligently to iron out remaining problems with respect to this bill and that between now and noon we will learn the results of these negotiations.

I hope that we will be able to enter into a time agreement regarding the bill, but if we are not we will proceed to it, or at least attempt to proceed to it at noon, and I intend to continue on the bill until we complete it prior to recess.

In addition, Mr. President, it is my hope that we can proceed today to the Panama/Nicaragua assistance authorization bill under an agreement that provides for no amendments and under a limited time.

The President has been anxious for us to act on this matter. He has spoken to me as recently as yesterday urging such action. We would like to accommodate the President and proceed in this regard and will do so if we can get such an agreement which I hope will be forthcoming very shortly.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. The time of the leaders is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business, not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

THE 1990 APRIL QUARTERLY REPORTS

The mailing and filing date of the April Quarterly Report required by the Federal Election Campaign Act, as amended, is Sunday, April 15, 1990. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records Office will be open from 12 noon until 4 p.m. on Saturday, April 14, and from 12 noon until 3 p.m. on Sunday April 15, Easter Sunday, to receive filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

The Senator from Maine.

REORIENTING DEFENSE IN THE 1990'S

Mr. COHEN. Mr. President, it is clear that we are witnessing vast changes on a global level. We are witnessing a reduced threat to our European allies and, indeed, to the United States. We are also seeing a change in the domestic environment, one that will no longer support large increases in military budgets and, indeed, will demand reductions in our military spending.

The question is, How are we going to respond? Are we going to simply repeat old antagonisms? Are we going to redouble the volume on our rhetoric? Are we going to stretch our existing programs making them thinner and more expensive? Or are we going to cut programs by an equal percentage, a sort of Gramm-Rudman-Hollings approach cutting across the board? My response is none of the above.

I think we have to, No. 1, recognize emerging realities both on a military and political level. Second, we have to reshape our defense structure in a way that will serve our three basic goals that we have maintained certainly since the end of World War II, and that is to deter a nuclear attack by the Soviet Union or anyone else upon the United States, to prevent the Soviet domination of the Eurasian land mass, and to maintain access to the open seas and to project power where we have to.

We are going to have to maintain these three basic goals, and we can do so in a way that reflects the reduction in our commitment to defense spending. It is not to simply pick out of the air a number and say let us pick this number for defense spending and then cut and shape our defense budget to match the number. Rather, we first have to develop a strategy and then make reductions to conform to that particular strategy.

Senator JOHN MCCAIN of Arizona and I have been working for a number of weeks now trying to develop a set of guidelines that hopefully will serve to reorient our defense in the 1990's. I basically outline these goals.

First, maintain nuclear deterrence with forces lower in level, and more stable in structure, than those currently proposed in START.

Second, European defense arrangements in which Europeans assume greater responsibility and U.S. contributions are reduced and rendered more compatible with U.S. global responsibilities.

Third, regional security that stresses the political influence of U.S. military power and partnership with friends and allies, including enhanced burdensharing and security and economic assistance.

These are the three principal goals around which we would shape our defense structure in Europe in the future.

Mr. President, I ask unanimous consent that the full statement prepared by Senator MCCAIN and myself be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REORIENTING DEFENSE IN THE 1990's

(By Senator John McCain and Senator William S. Cohen)

During the next five years, we must make the most unprecedented changes in our strategy and force structure since the end of World War II. We must adjust our overall defense efforts to sharply reduce the present burden on our economy and the federal budget. At the same time, we must set new priorities that reflect the major changes that are taking place in the threats to our national security.

We cannot make these changes simply by cutting each service by roughly the same percentage and by failing to change the roles and missions of our forces. We cannot continue looking at the problems we face one year at a time and letting our military thinking lag behind changing political and economic realities.

Disciplined caution in altering our defense posture is certainly warranted. The specter of the Cold War's possible return, however, cannot be used to defer a reconsideration of defense policy that was warranted even before the events of the last six months. If we do not reorient our defense planning to the genuine needs of the future, we will squander a unique opportunity and waste declining defense resources. We will also surrender leadership to those focused on cutting defense for cutting's sake and those who would substitute parochial interests for strategy.

There is, at present, a notable lack of the kind of framework that can shape the debate and discussion in the way that is needed to look beyond the narrow issues in the FY-1991 budget. We believe the U.S. must act now to reorient our defense planning and force structure in the three principal mission areas:

Nuclear deterrence with forces lower in level, and more stable in structure, than those currently proposed in START.

European defense arrangements in which Europeans assume greater responsibility and U.S. contributions are reduced and rendered more compatible with U.S. global responsibilities.

Regional security that stresses the political influence of U.S. military power and partnership with friends and allies, including enhanced burdensharing and security and economic assistance.

Our recommendations are meant as a guideline for reorienting U.S. defense policies, not a detailed blueprint for budgetary cuts. While we identify some program reductions and terminations, we do not attempt to cite every cutback we believe warranted nor to quantify all of those we do cite. Details are important. But until a consensus emerges on the conceptual framework for our defense policy, details distract from more urgent issues.

Overall, we believe that the U.S. can meet its defense requirements with budget levels lower than those proposed by the Administration. Moreover, we believe the American people will support the budget levels that are needed only if they believe our defense policies correspond to the changing world scene.

The Administration has proposed real defense reductions of about 2 percent in each of the next five years. We believe that with proper planning, real reductions about twice this level are realistic. This would cut the real defense budget in FY-1995 by about $50 billion below the current level, while leaving the nominal defense budget at about current levels. Since sensible defense planning requires that budget authority be cut more quickly than outlays, however, even cuts of this magnitude will produce a significant "peace dividend" only in the outyears.

STRATEGIC FORCES AND NUCLEAR DETERRENCE

Current plans call for the U.S. to spend far more to modernize and maintain its strategic nuclear forces than is necessary or can be sustained in light of declining defense resources. These modernization efforts are largely driven by employment plans for strategic forces that emphasize maximum coverage of extensive target lists. This approach results from institutional arrangements that excessively concentrate in a single locus decisionmaking regarding deterrence requirements, targeting objectives and operational needs. It produces unrealistically high weapon "requirements," distorts procurement decisions and essentially forecloses post-START arms reduction.

The U.S. should more clearly enunciate a deterrence strategy focused on reducing incentives for a first-strike and escalation by both sides. U.S.-Soviet relations have evolved sufficiently to negotiate agreements aimed at such far-sighted objectives. But even absent modifications to the current START draft treaty, we should act now to adjust strategic force modernization plans.

We should proceed with the Advanced Cruise Missile for carriage on B-52s and B-1Bs and, as Soviet defenses improve, transition the B-1B into primarily a cruise-missile carrier role. The B-2 Stealth bomber program should be curtailed.

We are unlikely to find the political support or funding for two new ICBM systems. While rail-basing for the MX is less expensive and probably can be deployed sooner than the Small ICBM, we should actively pursue reciprocal restrictions with the Soviet Union to cut back MIRVed ICBMs—including the rail-based MX—in favor of single-warhead missiles such as the Small ICBM.

We should continue to modernize the SSBN and SLBM force, which constitute the bedrock of our deterrence posture. However, since the exact number of Trident SSBNs to be procured is linked to unresolved issues in START, we should consider the schedule for procuring additional SSBNs an open question. We should consider retaining the C-4 SLBMs deployed on the first eight Trident SSBNs and not backfit them with D-5 SLBMs as planned.

Given the increasing proliferation of ballistic missile technology, the SDI program should be reoriented to place more emphasis on defending against potential threats from countries other than the Soviet Union. SDI activities should continue to abide with the traditional interpretation of the ABM Treaty, and FY-1990 funding should be considered an upper limit to future funding levels.

NATO AND THE DEFENSE OF EUROPE

The U.S. should continue to remain involved in Europe to help ensure freedom, peace and stability. The U.S., however, cannot hold primary responsibility for maintaining European security or managing the significant changes that are under way in Europe. The U.S. should significantly reduce its military forces in Europe, while maintaining the capability to reintroduce large numbers of forces if the need should arise. Given the increases foreseen in strategic warning of hostile Soviet actions, such reinforcements could rely primarily on fast sealift.

The CFE treaty under negotiation would entail major reductions in U.S. forces in Europe, including cuts in personnel down to 195,000 in the Central Region and 225,000 in the whole of Europe. Secretary Cheney has stated that CFE implementation would allow elimination of 3 active divisions and 2 reserve divisions and 5 tactical air wings, although he has not stated how many would come from forces deployed or intended for use in Europe and whether the air wings would come from active or reserve forces. We believe that all of these cuts should come from forces intended for use in Europe, with most if not all of the 3 active divisions and most of the 5 air wings coming from forces now in place in Europe. Additional reductions of active divisions de-

ployed in the U.S. should be considered within a sound Total Force concept.

The restructuring of forces in Europe should involve not only a reduction in force levels but a realignment of missions and responsibilities among the NATO partners as well. U.S. forces should emphasize providing the logistical base and prepositioned equipment for any required reintroduction of U.S. forces and allied forces should assume principal responsibility for heavy ground forces and air defense.

A serious re-evaluation is required of the Alliance's theater nuclear posture and its objectives for negotiations on short-range nuclear forces (SNF). U.S. strategic nuclear forces will remain the ultimate deterrent, but theater weapons will continue to play a critical role and one to which major contributions could be made by the British and French nuclear forces, which are being modernized. In consultation with our allies, the U.S. should move aggressively forward with negotiations on SNF in Europe aimed at eliminating the Soviet Union's significant advantages, particularly in ground-based missiles.

Besides the reductions in divisions and air wings, other force adjustments would include: termination of the Follow-On-to-Lance and the M1 tank, as planned; deferring production after completion of R&D on the Advanced Tactical Fighter (ATF) and Follow-on-Forces-Attack (FOFA) related sensor systems; larger procurement of fast sealift adaptable to both reinforcement of Europe and regional power projection; and continued reliance on and upgrading of current weapon systems such as the F-16 and F-15. The C-17 and Advanced Tactical Aircraft will remain necessary, but adjustments in schedule and total buys should not be ruled out.

REGIONAL STABILITY

The global economy is interwoven to an unprecedented extent and is vulnerable to disruptions from regional conflicts. The U.S. is increasingly dependent on the continued flow of goods and raw materials, particularly imported energy, to sustain our economy. While we should not aspire to the role of global policeman nor seek to intervene in every regional hot spot, our vital interests compel us to continue our leadership role in the community of nations, including the prudent exercise of military power.

The one enduring fact of geography is that we are an island nation. Vital markets and resources are located across vast oceans, and sea lines of communication are the main arteries through which our growing volume of trade flows. At the same time, our ability to station forces on foreign soil is increasingly hampered. Thus, the relative importance of naval, marine and other force projection assets, the forces most often employed in the past, will grow significantly. At the same time, the absolute level of force projection capabilities will decline.

With regard to our naval forces, vestiges of plans to attack the Soviet fleet in its bastions should be de-emphasized in favor of regional missions; the overall number of ships should decline, including the carrier fleet which could decline by one or possibly two decks if current trends continue; and modernization plans should be scrubbed, with some programs, such as the Navy ATF, deferred. But reduced force structure, the spread of sophisticated weaponry to Third World countries, and the high probability that our naval forces will periodically see action in hostile situations dictate that the naval forces that remain must be modernized. The ATA and surface vessel modernization should proceed, since there are no adequate alternatives for the Navy air attack role and the destroyer fleet faces block obsolescence. The Marine Corps, with its ability to preposition and sustain its forces by sea, and the likelihood of its use, should remain roughly its present size.

The Air Force provides ground attack and air defense capability that can rapidly be forward deployed, strategic and theater airlift capability, and airborne surveillance and reconnaissance. However, many of the Air Force's modernization programs, such as the ATF and FOFA-related sensor systems, are inappropriate or exceed the requirements for regional contingencies, which can be met with currently deployed systems with upgrades as necessary. The C-17 should proceed as noted above.

The Army should reduce emphasis on heavy units designed for a European conflict and focus more on lighter forces, based in the U.S., that can be rapidly deployed for sustained combat power. These forces should be designed for use in regional contingencies, while retaining the capability to reinforce NATO. We will need fewer active divisions than now envisioned by DOD, but a portion of the active force should be maintained in high readiness, including airborne and special operations forces. Special operation forces are among those most likely to be used and their military and political value far outweighs their cost; we should continue to emphasize their modernization, training, and plans for their use.

FORWARD DEPLOYMENT AND BURDEN SHARING

Wealthy allies, such as Japan and South Korea, need to pay more of the costs of locally deployed U.S. forces that provide stability in their regions. They also need to provide more economic assistance to strategically important nations in which we share interests. In some cases, retaining forward deployed forces where they are welcome will make sense both militarily and economically, since it would be more expensive to relocate forces to the U.S. and buy the increased lift to return them in contingencies. In other cases, forward deployed forces may no longer be welcome or may entail problems that exceed the benefits. The Philippines may well fall into this latter category, and we should prepare to reduce our forces stationed there.

However, we must recognize, as the local players certainly do, that U.S. forces fill a political as well as a military role and that their withdrawal creates a vacuum that will be filled by other powers, potentially to the disadvantage of regional stability and our own interests. As we alter the structure and levels of our forward deployed forces, we should work with the local players to minimize potential adverse effects on stability and U.S. interests.

Mr. COHEN. In addition, I should indicate I had the privilege of working with the Foreign Policy Institute at Johns Hopkins University and this study group, which is comprised of a number of experts in the field of defense and foreign policy, has recently published a report which is entitled "Changing Roles and Shifting Burdens in the Atlantic Alliance." I commend this to my colleagues, and I ask unanimous consent that this be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[FPI Policy Study Groups, April 1990]

CHANGING ROLES AND SHIFTING BURDENS IN THE ATLANTIC ALLIANCE*

(Foreign Policy Institute, the Paul Nitze School of Advanced International Studies, the Johns Hopkins University, Washington, DC)

EXECUTIVE SUMMARY

The revolutionary changes sweeping Eastern Europe and the Soviet Union bring the most fundamental goals of the North Atlantic Treaty Organization within reach. The transition to a more peaceful, democratic, and secure Europe also entails risks, however, which mandate a comprehensive and patient Western response that focuses on the achievement of long-term objectives, while hedging against short-term risks.

The rapid pace of change requires that existing institutions be adapted to new realities. For the West, while the European Community can serve vital economic and political needs, the task of managing the transformation of the security system must fall primarily to the only organization with the requisite knowledge and experience, the Atlantic Alliance. Regardless of the fate of the Warsaw Pact, the Alliance can continue to serve American interests both by helping to ensure the security of Western Europe, and by reassuring nations in both Western and Eastern Europe that German unification is taking place within a coherent security framework.

As part of the process of East-West political reconciliation and the creation of a new security framework encompassing a reunited Germany, the Atlantic Alliance should seek formal, verifiable agreements enforcing the gradual, but far-reaching reduction of conventional and nuclear forces in Europe. Tight constraints on the readiness and posture of the forces that remain can also help to build the confidence of all nations in the new security framework.

As a first step, the Alliance should seek the rapid conclusion of the CFE agreement now on the table in Vienna, and initiate negotiations on short-range nuclear forces shortly thereafter. The Alliance must also begin immediately to address the question of the minimum level of forces necessary to preserve peace and security in Europe over the long term, in order to prepare the way for future reductions. Any such analysis, moreover, must recognize the unique role of nuclear weapons.

Eventually, a single organization encompassing all the nations of Europe and North America might be established to monitor the new security regime and to work out its political aspects, including those associated with the unification of Germany. The Conference on Security and Cooperation in Europe, if developed further institutionally, is a logical candidate for this role. Even with the establishment of such a comprehensive

*The general thrust (though not necessarily every word) of this Interim Report on Changing Roles and Shifting Burdens in the Atlantic Alliance was endorsed by David Abshire, Barry Blechman, Bill Bradley, Harold Brown, Zbigniew Brzezinski, David Calleo, William Cohen, Russell Dougherty, Joseph Fromm, Andrew Goodpastor, Benjamin Gilman, Lee Hamilton, Arthur Hartman, Dave McCurdy, Edward Meyer, Paul H. Nitze, Sam Nunn, Rudolph Penner, Rozanne Ridgway, Alice Rivlin, Simon Serfaty, William Simon, William Y. Smith, and Helmut Sonnefeldt.

security institution, however, the Western nations should maintain a distinct organizational structure to coordinate their policies.

For its part, the United States should undertake urgently a reexamination of its commitments and policies in the new international context to determine the forces necessary to undergrid the peace and security of Europe over the long term. We believe that the maintenance of both U.S. nuclear guarantees and substantial numbers of U.S. troops in Europe will serve vital American security interests for years to come.

Sizable reductions in the U.S. military presence in Europe are possible, however. President Bush's proposal to reduce U.S. and Soviet forces in Central Europe to 195,000 each, with the U.S. retaining the right to station 225,000 troops throughout Europe, should serve as the immediate goal of U.S. policy. Such a treaty should be signed during 1990 and implemented by the end of 1992. In the meantime, the United States should refrain from unilateral reductions.

The United States can look forward to additional reductions in its forces in Europe beyond those mandated in the CFE Treaty. These additional reductions might be taken as a result of additional treaties, or be made unilaterally and subsequently ratified in agreements. Such additional reductions might lead to greater specialization within NATO, with the U.S. concentrating on the nuclear, tactical air, and reinforcement missions, and other NATO countries assuming the burden of providing whatever active armored forces were required on the continent. Consideration of NATO's future military posture must pay special attention to nuclear forces, moreover, and particularly, in light of developments in Central and Eastern Europe, to short-range nuclear weapons. In view of West Germany's clear opposition to the proposed follow-on Lance missile, the funds requested for this program in the fiscal 1991 budget could be used more advantageously for other purposes.

While the scope and form of American military commitments in Europe are likely to change substantially in the years ahead, the American interest in a democratic, free, and peaceful Europe will remain fundamental. In the long run, the creation of a secure and undivided Europe represents the greatest peace dividend.

INTERIM REPORT

The North Atlantic Treaty Organization enters its fifth decade poised on the threshold of momentous accomplishments. The political environment in which it was created and nurtured is being transformed beyond recognition, making possible the creation of a more peaceful and stable security regime in Europe. Essential to these objectives is a process of negotiation that places tight controls on the size and activities of the armed forces of all nations in Europe, that brings about closer economic cooperation on the continent, and that transforms political relationships among all nations from confrontation to cooperation.

There are dangers during this transitional period, however, dangers that could be magnified by uncoordinated, unilateral national actions. The United States has sustained a very successful security policy toward Europe for more than four decades. Staying the course for a few more years will be difficult politically, but well worthwhile in terms of this nation's own security and political objectives.

BACKGROUND

The Soviet Union is undergoing revolutionary change, seeking to revive a failing economy while feeling its way toward a modified political system that can accommodate burgeoning national and political aspirations within the USSR. In Eastern Europe, the USSR's allies are departing even more rapidly, if unevenly, from previous models of economic and political organization, installing more democratic political systems while striving for economic rejuvenation through association with the West. The futures of both the Soviet Union's economic grouping, COMECON, as well as its security organization, the Warsaw Pact, are difficult to assess, but are unlikely to be bright.

These developments put within reach achievement of the Atlantic Alliance's most fundamental goals:

(i) removal of the military threat once posed to its members by the Warsaw Pact;

(ii) establishment of lasting processes leading to freedom, democracy, and national self-determination in Eastern Europe, including the USSR itself;

(iii) peaceful resolution of the issues remaining from the Second World War, most notably, the division of Germany; and

(iv) establishment of a security regime in Europe that supports peaceful change and security at greatly reduced levels of military expenditure.

Full achievement of these goals poses new challenges for the United States and its European allies, however. Europe has cast loose from the familiar moorings of the bipolar system that maintained an uneasy peace over the past forty years, but its ability to navigate through the uncharted waters which lie ahead cannot be taken for granted. The transformation of Eastern Europe has unleashed powerful forces of national identity and national pride throughout the region, reopening historic conflicts that eventually might threaten the integrity of several nations. The economic situation in most East European nations is so difficult as to reinforce national unrest, with little hope of more than slow and limited improvement in the near-term, even with substantial aid from the West. With only limited experience with democratic practices, the creation of resilient political institutions will be difficult and uncertain. And past abuses of fundamental human rights by governments, security organizations, and Communist parties in Eastern Europe have created hatreds and bitterness that may yet generate violent reprisal, feeding civil strife and risking anarchy in several nations.

In the meantime, the political future of the one man whose bold policies made possible the historic changes now taking place in Eastern Europe and the USSR, Mikhail Gorbachev, can not be taken as assured, nor can the policies of his possible successors be foreseen. The turmoil that conceivably could be set loose by Gorbachev's overthrow, or which could almost as easily erupt in his presence, could negate in some measure the gains that have already been made, though a return to Brezhnevism, let alone Stalinism, seems highly unlikely. There would be some chance, no doubt, of a move back in the direction of old regimes and old policies, recreating, in lesser degree perhaps, the division of Europe and the military contingencies which until recently posed risks to NATO. A more likely danger, though, is that the eruption of widespread violence and political chaos could result in new alignments and different contingencies, such that Western security would be threatened in ways unknown.

The problems posed to the United States, Canada, and the nations of Western Europe by the uncertainties in the East are compounded by emerging political forces among the Western nations themselves. In West Germany, unhappiness with that nation's status within the Alliance has been manifested most clearly in Bonn's increasing assertiveness on questions of nuclear weapons and peacetime military operations. Within the past year, however, German assertiveness has expressed itself more directly in the form of open support for reunification. No longer a distant dream, resolving the questions posed by Germany's current anomalous condition as two states in one nation is among the highest priorities on the international agenda. None of us could help be moved by the outpouring of emotion which greeted the events in Berlin last November. But the question of German unification retains the potential to fracture the complex pattern of relations between Germany and the rest of Europe so carefully developed over the past forty years, and must be resolved in a way that satisfies the concerns of Germany's neighbors.

Other political trends also can hamper the West's ability to deal effectively with revolutionary change in Eastern Europe. Popular interest in, and support for, the efforts necessary to maintain NATO's military capabilities and political cohesion are weakening in many of the member states of the Alliance. Western governments have so far been able to maintain a considerable degree of cooperation, in most instances, but find it increasingly difficult to sustain the policies that they know are the most prudent.

This tendency is apparent with respect to military spending. Even before the upheavals in Eastern Europe, many governments in Western Europe and North America were reponding to popular pressures for lower defense burdens by cutting back on previous plans for modernizing and expanding forces. As the policies of Mikhail Gorbachev have taken hold, domestic needs—both public and private—have gained greater priority in allocations of national resources throughout the Alliance. With last year's dramatic events, pressures for greater cut-backs are building further, outrunning the pace of arms negotiations. Thus, to cite one example, the FRG has announced a 20 percent reduction in the size of the Bundeswehr, tied allegedly to successful conclusion of the first phase of the talks on conventional forces in Europe (CFE). The U.S. defense budget is similarly under pressure, with the administration's proposed real reduction of two percent per year certain to be deepened in coming months.

Apart from pressures against military spending, the growing unreality in the minds of most people of the contingencies contained in European military plans (which are still based on the situation that previously existed) manifests itself differently in the various NATO countries. In West Germany and other countries in northern Europe, the apparent demise of the Warsaw Pact as a coherent military threat has added to longstanding challenges concerning nuclear weapons, crystallizing powerful political forces opposing steps to improve nuclear capabilities and favoring major reductions in those weapons' roles and numbers. The willingness last Spring of even a conservative Bonn regime to break publicly with Washington over nuclear issues—even before the recent drastic

changes in the non-Soviet Warsaw Pact countries—was a telling sign of the strength of anti-nuclear feelings in the Federal Republic in virtually all political sectors.

In the United States, previously accepted military planning scenarios are now perceived to be out of date. The cutbacks in U.S. force levels and closings of military facilities in this country made necessary by current budgetary decisions, coming against a background of revolutionary change in Eastern Europe, is giving new life to calls to bring home many of the U.S. forces now stationed in Europe and other parts of the globe, despite the fact that the return of armed forces without their demobilization actually increases costs, rather than saving money.

Each of these individual national pressures should be manageable in a cooperative international atmosphere, but only if key Western governments remain united in developing a common understanding of the preferred course of action. The level of cooperation which has marked intra-alliance discussions of security issues in recent years, with the exception of the few months prior to last May's summit, is far from certain, however. The question of German reunification, especially, if not handled properly, could disrupt ties among the European allies. Economic issues, moreover, have the potential to divide the Alliance across the Atlantic, especially if economic growth falters in the United States.

The movement toward economic and political integration of the European Community has specific potential for causing stresses among the NATO partners if insufficient consideration is given to the interests of non-Community members. Some in the United States are already concerned that West European economic and political integration can come only at the expense of American interests. The Japanese have similar fears. Managed correctly, European economic integration can be a powerful force for peace, ensuring the maintenance of highly positive relations between Germany and its allies, and working to encourage the recovery of Eastern economies. Indeed, along with the East-West security dialogue addressed below, European economic integration is probably a co-requisite for successful resolution of the German issue.

The countries of the Atlantic Alliance thus face a dilemma. On the one hand, they should act decisively, and with a reasonable degree of coordination, to take advantage of the opportunities presented by the developments in Eastern Europe. Constructive NATO policies and clear actions are essential to support the new-found independence of the nations in Eastern Europe, their economic viability, and their democratic character. Too limited a response could lose this sudden chance to resolve many of the conflicts that have divided Europe for so many decades and to establish a more stable and peaceful security regime on the continent.

Should this opportunity to bring peace to Europe be missed, the cost would be felt not only by the people of Eastern Europe, but in the West itself. A failure in Eastern Europe would have severe implications for the cohesion of the Alliance. Neither Americans nor West Europeans would lightly face the prospect of renewed military risks in Europe. We have come too far already to return to the old situation.

On the other hand, NATO cannot act as if the future is assured. The Alliance cannot simply assume that all military risks have disappeared for good, and unilaterally dismantle its military capabilities, as attractive and popular as such a move might seem. Such actions could only encourage precisely the contingencies we most fervently wish to avoid—either a return to military confrontation in Europe, which could only follow a period of extremely uncertain, and thus dangerous, relations between East and West, or the emergence of an even more threatening situation of widespread violence and political chaos.

Individually, and collectively, the members of the Alliance must develop a conception of how they would like to see the situation in Europe evolve. Such an idealistic "vision" of European politics and economics can serve as both a long-term goal and a guide to near-term actions. In addition, though, they must define a realistic set of policies to navigate through the present. Such policies must not only aim to build a future security regime in Europe, but must hedge adequately against the emergence of untoward events in the current transitional situation. It would be tragic if, in their haste to achieve an ideal, the members of NATO prematurely undermined the structures and policies that have defended their interests for so long, and so well.

What is needed, in short, is a prudent and comprehensive plan encompassing the diplomatic arrangements, economic policies, military strategies, force postures, and approaches to arms control negotiations that would best facilitate the achievement of the Alliance's long-term goals. The plan must spell out the steps of a continual, and decisive, progression over time toward political reconciliation, economic renewal, and measures of military disarmament and stabilization. Simultaneously, however, it must incorporate practical measures to protect against the risks that threaten the currently favorable trend of events.

We are a group of American legislators, retired diplomats, military officers, and civilian defense officials, and private citizens, most of whom have had considerable experience in government and, specifically, in European affairs. We believe that the current situation requires all Americans to think deeply and carefully about the future of Europe. U.S. involvement in European political, economic, and military affairs is not a favor granted by the United States to the Europeans; history has taught that a considerable degree of American participation is essential to our own vital interests.

In particular, it is timely to consider how the U.S. government, together with its allies, can act to ensure favorable long-term results of the current process of change. Of key importance among such actions will be modifications of the roles and missions played by different states within the Alliance. Just as NATO's outwardly directed policies must adapt to the new political-military-economic realities, the current situation provides a welcome opportunity and a clear necessity to adapt the Alliance's internal organization, responsibilities, and weight in decisionmaking to the anticipated strengths and needs of the member-states.

In the remainder of this report, we sketch the key elements of a comprehensive approach to European security—an approach that can both achieve long-term ideals and avoid near-term dangers. We offer these proposals as the basis for discussion and debate within the United States, in the hope of contributing to the formation of a national consensus that can sustain an enlightened policy for as long as necessary.

ENSURING A SUCCESSFUL TRANSITION TO A NEW SECURITY REGIME IN EUROPE

Despite the dramatic changes of the past six months, much remains to be accomplished before peace and reconciliation can be guaranteed in Europe. The obstacles are many and powerful—obstacles rooted in the hatreds and violence of the past, in the honest clash of opposing interests in the present, and in the unknown problems that may emerge in the future. We believe that the United States, together with its NATO allies, should work diligently to transform the security regime in Europe, but we believe strongly that they must do so within a framework in which the West's security would be protected should any contingency divert the current trend of events.

Obstacles to the establishment of a new security regime include not only the risks and hazards previously outlined, but also the sheer magnitude of the task. Designing, negotiating, and implementing a new system for guaranteeing the peace and stability of Europe and North America will require an extensive collaboration on the part of all the countries concerned. Establishment of a new security order alone, moreover, will prove insufficient for securing long-term stability. Just as important, if not more so, will be coordinated actions to promote economic integration and long-term political cooperation.

The rapid pace of change will not allow for the construction of new institutions custom-tailored to the new realities. Instead, existing institutions must be given new responsibilities and be adapted to the evolving situation, a conclusion shared by Secretary of State James Baker. His call in late 1989 for a "a new architecture for a new era" constitutes a valuable starting point for confronting the challenges ahead. Among other things, such an architecture must encompass revised roles and missions for NATO, the European Community (EC), and the Conference on Security and Cooperation in Europe (CSCE).

Among the Western Allies, the task of managing the transition to a new security system must fall to NATO. The Alliance has the established procedures, the experienced bureaucracy, and the knowledge of past patterns of successful multinational actions, to make possible a smooth transition. Even as the continuing erosion of the Soviet Union's military power reduces the role of Western military power, NATO's effectiveness as a political organization to coordinate Western security policies can and should be enhanced.

NATO can serve in this role, moreover, regardless of the fate of the Warsaw Pact. A voluntary association of democratic nations, NATO was formed well before the Soviet Union formalized its control of the armed forces of Eastern Europe through the Warsaw Pact. It could usefully survive well past the point when the reassertion of democracy and national independence in Eastern Europe leads to the Pact's demise. The two organizations should not be linked.

The fundamental changes underway in Eastern Europe and the Soviet Union mean that NATO's continued relevance can no longer be taken for granted, however. As we have illustrated, member nations are already tempted to act unilaterally, or to shift their attention to other multinational organizations. NATO's relevance can be maintained only so long as its members recognize a common interest in acting in concert to ensure a successful transition, by guiding,

rather than responding, to events. If the process is implemented properly, NATO's role would be to help sustain a security environment in which the aspirations of the peoples of all nations for freedom, peace, and economic progress can be fulfilled.

So long as political and economic changes continue in favorable directions, NATO's efforts should be concentrated on the achievement of gradual, but far-reaching reductions in both conventional and nuclear forces in Europe. While some reductions might initially be taken unilaterally, they eventually should be codified in, and verified through, the provisions of negotiated agreements. While no verification scheme can be fool-proof, the establishment of procedures for effective monitoring of the size, structure, and equipment of military forces that remain in Europe, as well as constraints on their readiness and posture, can help to build the confidence of all states that new military threats are not emerging.

As is now its stated goal, the Alliance should seek to conclude the first CFE agreement by the end of 1990, with the limits specified by the Treaty to be achieved within two years. Talks on short-range nuclear forces should begin shortly thereafter, with the goal of achieving reductions to equal low ceilings within a year or two.

So as to establish guidelines for both negotiated and unilateral reductions, thus facilitating rapid progress after the first CFE agreement, the members of the Alliance should immediately take up the questions of the minimal forces desired to be retained at the end of the arms control process, as it can now be foreseen, and of the rough stages necessary to reach those lower levels. Many questions will have to be answered: How should cuts in forces be apportioned among the members? What military strategy might be effective should conflict erupt as forces decline in size? What changes in the force structures of the key members would best support such a military strategy? Should there be a continuing role for U.S. and Soviet forces in Central Europe? How can viable defense industries and research organizations be retained at substantially lower levels of defense spending? These and many other questions will have to be studied and consensus reached among NATO members.

Special problems are attached to nuclear forces, where the beliefs and interests of the nuclear powers sometimes run counter to those of their allies. While very substantial reductions in nuclear forces are no doubt feasible in the new political climate, and especially as conventional force levels decline, enthusiasm for the abolition of nuclear forces must be tempered by recognition that conventional parity alone cannot guarantee security, as we evidenced numerous times in Europe before 1939. Some level of theater nuclear forces must be maintained, at least through the transitional period. At the same time, the nuclear powers must take account of the changed political situation in any decisions on the required capabilities and deployments of nuclear forces.

The European Community also could play important roles during the transition to a new security regime in Europe, depending upon the desires of its member states. In the future, as it develops politically, the EC might also play a security role, but in the meantime it could prove invaluable for coordinating Western public and private economic aid and investment for Eastern Europe, as well as for promoting the process of economic integration. Moreover, as part of the redistribution of roles, authority, responsibility, and burdens within the Atlantic Alliance that might be considered in the new circumstances, there is a need for closer policy coordination among groupings of European nations that do not include the United States. If its members so choose, the European Community could play a greater part in bringing about such intra-European policy coordination on security questions.

If currently favorable political trends continue, a promising possibility is that, over the long run, a single organization encompassing all the nations of Europe and North America might be established to oversee the new security regime. Its primary purpose would be to establish a broad political process whereby the divisions of Europe could be healed and the new security regime sustained. Among other things, the new organization should have the functions of continuously verifying strict compliance with all arms control and political agreements among the members, of resolving any disputes that arise among its members with respect to these agreements, and of monitoring the international situation to identify threats to the peace before they get out of hand.

The establishment of such a comprehensive security organization for Europe and North America would not necessarily imply the disestablishment of NATO. Whether or not NATO itself exists indefinitely, moreover, the Western nations almost certainly will want to maintain an organizational structure through which they can coordinate policies in the new comprehensive security organization.

It would be logical for the Conference on Security and Cooperation in Europe to become the new comprehensive organization. The CSCE already includes all relevant states, and its mandate already incorporates the economic and human rights considerations so vital to ensuring a successful transition to a new security regime. The CSCE would have to be developed considerably to play this new role, however, as it now has no permanent structure, no headquarters, and no secretariat. The meeting of the CSCE in the Fall, now planned to follow completion of the Phase One CFE Treaty, would be a logical time to begin discussing how to modify the organization so that it could serve these broader functions.

It would be left to the new organization, whether an outgrowth of the CSCE or not, to build further on the political aspects of the new security regime in Europe and North America. A rigid time table should not be established for such a transition, but a plan of action should be set in motion, with milestones to mark progress, keyed to the favorable evolution of economic and political relationships, and the achievement of democracy and respect for human rights in all nations. The organization and distribution of roles, responsibilities, authority and burdens in the new organization would have to be developed as it took on these expanded functions.

As part of this broader process, the new organization could also facilitate formal international acceptance of the unification of Germany within the boundaries established following the Second World War. Unification is now being carried out on a de facto basis, as a rapid process involving primarily the two German states, in which common political, economic, and social institutions are being built from the ground up. This process may be completed, more or less, within the next year or two.

In the end, though, German unification must be recognized formally by the nations of Europe and North America, and particularly by the Four Powers, in order for the postwar arrangements to be transformed appropriately, for decisions to be made about the troops now stationed in East and West Germany, and for a new security regime to be put in place. Affirmation of the permanence of the postwar boundaries, by all German political leaders, would greatly facilitate this process. The existence of a comprehensive organization charged with monitoring the arms control agreements placing tight constraints on the size and activities of the military forces of all nations, and of resolving disputes about their implementation, could further help to reassure all of Germany's neighbors that the new security regime would not suddenly be overthrown.

IMPLICATIONS FOR NEAR-TERM U.S. DECISIONS ON TROOPS IN EUROPE

The debate on U.S. policy toward Europe, in particular on the desirable size and composition of American forces on the continent, is becoming more intense. The debate has been, and no doubt will continue to be, driven as much by budgetary pressures at home, as by changes in the Warsaw Pact. As Eastern Europe grows more independent, Warsaw Pact forces grow smaller, and the prospect of Soviet-sponsored invasion of Western Europe grows ever more remote, the fiscal benefits of unshouldering the burdens of the Cold War will tempt more Americans.

Surely, a reexamination of U.S. policy and military commitments is in order. The reexamination should use as its criterion, not the Cold War standard of the forces necessary to contain the Soviet threat as then evisaged, but a new measure of the level of forces required to undergird the peace and stability of Europe during a potentially protracted period of transition. This is the fundamental U.S. interest. A continued American military presence not only can help to make possible continued progress toward democracy and reduced armaments in the East, but can simultaneously help to ensure that neither the Soviet Union nor Germany begin to perceive the other as a threat, and thus to increase its own armaments.

An understanding that Europe's freedom, national integrity, and peace were essential to America's security served as the basis for American involvement in this century's two world wars, as well as for the deployment of U.S. troops in Europe for the past four decades. This understanding is no less valid now than before the 1989 revolutions in Eastern Europe, notwithstanding the greater difficulty of maintaining a national consensus behind it.

None of this is to say, however, that reductions in American forces in Europe cannot, or should not, be made. The issues pertain to the context and extent of withdrawals; that there will be withdrawals is already beyond discussion.

As an initial step, it is highly desirable to complete the negotiations underway in Vienna for a first-phase agreement on conventional armed forces, including an explicit limit on U.S. and Soviet troops stationed in Europe. President George Bush's proposal of a 195,000-person ceiling on each of the great powers' forces in the central region strikes us as a reasonable immediate objective of U.S. policy. If the CFE phase-one agreement could be concluded before the end of the year, which seems achievable, it could be implemented by the end of 1992.

This would mean a reduction and demobilization within the next 33 months of roughly 80,000 troops; the equivalent, perhaps, of 1⅔ divisions and 4 air wings. Annual savings could reach $10 billion once the cuts were fully implemented.

Withdrawing U.S. forces in the context of a negotiated agreement has a number of advantages. It makes clear, for example, that the American cut-back is a response to reductions in the threat posed to the United States and its allies in Europe, not a capricious action motivated by budgetary considerations. As the agreement specifies bloc-wide ceilings on various types of equipment, as well as on U.S. and Soviet troop levels, it requires the allies to consult on the apportionment of the reductions made possible by the treaty, and to coordinate their respective national actions so as to maintain a coherent military posture. Unilateral decisions determined in the absence of such consultations would have the potential of both crippling the alliance's overall military capabilities and of introducing new sources of political conflict among the allies.

Completion of the Phase One CFE Treaty also will lock in the Soviet Union's commitments to reduce its armed forces. While there can be no guarantee that a future Soviet regime might not throw out the agreement and rebuild its armed forces, the fact of the agreement provides some greater protection than do unilateral commitments. The direct violation or sudden abrogation of a ratified international treaty can result in serious international political costs, which even conservative Soviet regimes have been reluctant to incur; unilateral declarations of intent can be changed virtually without cost.

Moreover, completion of the Phase One CFE agreement will make perfectly clear the extent and composition of Soviet force reduction commitments. As was demonstrated with respect to President Gorbachev's December 1988 announcement of unilateral force reductions, such statements leave much to the imagination. Completion of the Phase One CFE Treaty would establish an extensive verification system to monitor changes in conventional forces on the two sides. This will make it possible to verify not only implementation of the CFE Treaty itself, but also to determine if any future changes in the USSR's force posture in Europe, whether announced unilaterally or resulting from a second-phase CFE agreement, were being implemented faithfully.

For all these reasons, we strongly urge the administration to show the flexibility necessary to complete the Phase One CFE agreement before the end of 1990 and to implement it by the end of 1992. We urge the Congess, at the same time, to eschew demands for unilateral reductions in U.S. forces in Europe prior to completion of the CFE accord, to move rapidly in considering ratification of the Treaty, and to refrain from mandating additional reductions in U.S. forces in Europe during the period in which the Treaty is being implemented.

IMPLICATIONS FOR THE U.S. MILITARY POSTURE IN EUROPE OVER THE LONGER TERM

We believe that the United States can look forward to the possibility of further force reductions beyond those mandated by the Phase One CFE Treaty. These additional reductions could result from the negotiation of new phases of the CFE Treaty, or they could result from unilateral actions, assuming the continued existence of the verification regime established by the Phase One agreement. In the case of the latter, any proposed unilateral cuts should be discussed with the NATO allies well before firm decisions have been reached. All of the allies should coordinate any unilateral force reductions so as to maintain a coherent and effective alliance-wide military posture, even as overall capabilities are reduced.

Decisions regarding additional withdrawals of U.S. forces should be made with careful attention to the impact of such actions on the prospects for a more stable European order. We believe that in consideration of fundamental American security interests, the United States should continue to play a security role in Europe for the indefinite future. We believe that this security role, moreover, should include continuation of the United States' nuclear guarantee, as well as the maintenance of a substantial number of U.S. troops on the continent, as long as events in the USSR remain unsettled or potentially threatening. Both the size and composition of U.S. troops that should remain in Europe, however, and the weapon systems required in the theater to implement the nuclear guarantee, are questions requiring additional study.

Continued American participation in European security affairs would have a stabilizing influence on any transition to a new security order, and could do much to relieve anxieties about possible risks in the new situation. In contrast, precipitous unilateral withdrawals of large number of troops could endanger European stability while greatly reducing American influence. In the long run, the creation of a stable, secure, and undivided Europe will represent the greatest dividend of peace. Deeper reductions in U.S. defense spending can follow, both in the course of such a process, and as a natural result of such an outcome, but the two processes must be coordinated closely.

Any residual American force left on the continent would have the important political function of representing the continued American interest and security guarantees, as well as the key military function of hedging against contingencies. Given the dramatic changes taking place in Warsaw Pact armed forces, however, the United States may wish to seek greater specialization in the military roles played by NATO members. U.S. military commitments should probably concentrate on nuclear and tactical air missions, and on the maintenance of high quality reserve ground and air forces. It may not be necessary for the United States to deploy active armored forces in Europe to fulfill its specialized functions. If sufficient mobilization capabilities were retained in the United States, perhaps with some equipment stockpiled in Europe, and an expandable basing infrastructure retained on the continent, emphasis in selecting the units to remain in Europe could be placed on intelligence, command and control, administration, planning, and logistical functions. The point would be to retain a capability to closely monitor the political and military situation, and to respond quickly if the situation began to change in ways which suggested the desirability of re-introducing larger numbers of American ground forces.

With respect to the nuclear guarantee, the ultimate enabling weapons will remain those systems that are part of the U.S. nuclear deterrent—land-based ICBMs, submarine-launched ballistic missiles, cruise missiles, and long-range bombers. Given the evolving political situation, however, attention has to be paid to the missions, number, and structure of theater nuclear forces and, particularly, to the roles of shortrange systems—including nuclear-capable artillery, air-delivered ordnance, and short-range missiles. These issues will have to be taken up soon, moreover, as pressures to began negotiations on short-range nuclear forces shortly after conclusion of the Phase One CFE agreement are likely to prove irresistible. Given this situation, and the firm opposition of West Germany to deploying new short-range missiles, it strikes us that the funds requested in the fiscal year 1991 budget proposal for the Lance missile modernization program would be better spent elsewhere.

If Soviet military power continues to decline and democracy continues to take hold in Eastern Europe and within the Soviet Union itself, it will become increasingly difficult for the administration and congressional leaders to sustain the political support necessary to carry out the types of policies, envisioning gradual, and largely negotiated, withdrawals of U.S. forces from Europe, advocated in this report. But despite the likelihood of problems, the game is worth the candle. With clear time-phased goals as to where the process should take us, and with sufficient attention on the part of the highest political authorities to ensure both that momentum is maintained and that the process is conducted in an orderly and responsible way, it is more likely that the necessary political support will be forthcoming.

Program Note: The Johns Hopkins Foreign Policy Institute with the support of the Carnegie Corporation of New York and the John M. Olin Foundation has assembled a group of distinguished American legislators, retired diplomats, military officers, and civilian defense officials, and private citizens to study the future of the Atlantic Alliance in light of the revolutionary changes now sweeping Eastern Europe and the Soviet Union. This interim report reflects the view of the group that the pace of change currently taking place requires all Americans to think now about the future of Europe and the role of the United States in preserving its peace and stability.

Mr. COHEN. Mr. President, I thank the President, and I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The majority leader.

TIME LIMITATION AGREEMENT—S. 1109

Mr. MITCHELL. Mr. President, I am advised that the time agreement has now been worked out with respect to the vocational education authorization bill and accordingly I will now propound a unanimous-consent agreement that I am advised has been cleared on both sides.

Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar item No. 414, S. 1109, the vocational education authorization bill, that the bill be considered under the following time limitations:

Two hours on the bill, the committee substitute and a committee amendment, to be equally divided and controlled between Senators PELL and KASSEBAUM, or their designees; 1 hour

on a Lautenberg community employment projects amendment.

I ask unanimous consent further that no other amendments or motions to recommit be in order, that the agreement be in the usual form; that when all time is used or yielded back, the Senate then proceed to third reading of S. 1109, as amended, after which the Senate proceed to the immediate consideration of Calendar item No. 502, H.R. 7, the House companion; that all after the enacting clause be stricken; that the text of S. 1109, as amended, be inserted in lieu thereof; that the bill be read for the third time; and that the Senate, without any intervening action or debate, then proceed to final passage of H.R. 7, as amended.

Mr. COHEN. Mr. President, this has been cleared with the Republican leadership, and there is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Accordingly, Senators should now be aware that the vocational education bill will be considered by the Senate between noon and 3 p.m. Two votes are possible, one possibly on the Lautenberg amendment and one on final passage sometime between the hours of noon and 3 p.m. So Senators should be aware that votes will occur during that period of time. When we complete action on that, I hope to be in position then to announce to Senators the further measures to be considered today and prior to the recess.

Mr. President, I thank my colleague.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTERSTITIAL CYSTITIS

Mr. REID. Mr. President, I rise today to bring attention to a mysterious disease, frustrating and painful to those who suffer from it, and baffling to those involved in treating it. It is estimated that nearly 500,000 Americans, mostly women, suffer from this disease, which is described by some patients as feeling as though there were pieces of glass in their bladders. This disease is known as painful bladder syndrome, or interstitial cystitis. There is no known cause or cure for this disease which is marked by scarring and stiffening of the bladder wall, ulcers or cracks in the lining of the bladder, decreased bladder capacity, a frequent urge to urinate, and pelvic pain. Interstitial cystitis is a difficult disorder to diagnose, treat, and even study, because not all people diagnosed with it experience all of the noted symptoms. The agony experienced, those who suffer from this disease are told, is caused by thousands of pinpoint hemorrhages between tissue layers within the bladder which have begun to scar.

Doctors suspect that interstitial cystitis, or IC, may be an autoimmune disease, an allergic reaction, a scar tissue disease, or perhaps even an infection. A new theory even holds that it is caused by a bladder lining defect.

IC patients' lives are limited because of their debilitating pain. We all sympathize with their feelings of hopelessness, knowing that there is no cure as yet. Until recently it was believed this disease was psychological because there was no physical explanation. A German psychiatric text, of only a few decades ago, reads like this:

> Urgent bladder symptoms without any established organic cause would appear to be a psychosomatic illness usually affecting married women in midlife. The majority of patients manifest serious neurotic disorders such as anxiety neuroses, hysteria, phobia, and depression. Patients have sexual disorders, hysterical personality structure, dominated by Oedipus or phallic problems * * *.

Such medical literature was, in effect, telling ICC patients that there was really nothing wrong with them—that they were really just crazy.

The credit for raising public awareness of IC goes to Dr. Vicki Ratner, the founder of the Interstitial Cystitis Association. Dr. Ratner is an orthopedic surgeon. She also suffers from IC. Dr. Ratner likens a day at work to trying to operate on someone when you've got an abcessed tooth. Before the founding of this association 5 years ago, the scientific and clinical community were largely unaware of the magnitude of this disease, both in terms of the numbers of people suffering from it, and the incredible pain caused by it.

I am pleased to report that the National Institutes of Health is working closely with the Interstitial Cystitis Association to stimulate increased research interest in IC and to gain a better understanding of what patients with this disorder are forced to live with. NIH has established a plan for a research approach to the causes, diagnosis, and treatment of the disease. Now money is needed to develop this research.

IC not only afflicts large numbers of people in the United States, but also has adverse effects on our economy. Studies have shown that the economic impact of this disease is $1.7 billion each year in lost productivity, wages, and medical costs.

Mr. President, I am confident that with adequate funding for interstitial cystitis research, results will be no less than miraculous. For those who suffer chronic, enduring pain, their relief will be no less than miraculous. So let us work to make this miracle a reality.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

VLADIMIR RAIZ

Mr. BOND. Mr. President, yesterday I had the opportunity to shake hands with a man whom I have been waiting years to meet. Frankly, I did not expect to get that opportunity as soon as I did, a fact which made it all the more gratifying. That man was Vladimir Raiz, who until last month had the dubious distinction of being the Soviet Jew longest denied permission to emigrate from the Soviet Union.

Since I first came here in 1987, I have been working on Mr. Raiz' behalf. I have written letters to President Gorbachev and other Soviet officials urging that Mr. Raiz be allowed to leave. I have written Presidents Reagan and Bush urging them to raise Mr. Raiz' case in talks with the Soviets. And I have made many statements on this floor about the plight of Mr. Raiz and his family. Many of my colleagues have taken similar action on behalf of Mr. Raiz and others in his situation. These are important efforts and it is critical that we continue them until every refusenik in the Soviet Union has not only been given permission to leave, but also has been given the opportunity to leave.

The case of Vladimir Raiz illustrates the ridiculous lengths to which the Soviets have gone to prevent Jews from leaving the Soviet Union. Mr. Raiz, a molecular biologist, worked in a government laboratory in the 1960's. He never held a security clearance and he never worked on classified projects. Yet in 1973, when he first applied for permission to emigrate—years after his work for the government had come to an end—his application was denied on the grounds that he possessed state secrets. Despite the fact that that charge was ludicrous on its face, the Soviet Government maintained that position for 17 years—granting Mr. Raiz permission to emigrate just 2 weeks ago.

I like to think I played some role in gaining Mr. Raiz' release. Just a month before he was allowed to leave, I met with Soviet Ambassador Dubinin who spoke to me of the urgent need for the Senate to vote to repeal the Jackson-Vanik amendment.

I told the Ambassador that although I understood his concern, I could not vote for repeal or waiver until all Soviet Jews who wish to leave are given permission to leave. When he answered that all who want to leave now can, I raised the case of Vladimir Raiz. Ambassador Dubinin said he would look into the case; and a few weeks later Mr. Raiz was given permission to leave.

As we celebrate the fact that Vladimir Raiz and his wife Karmella will this year celebrate Passover in freedom in Israel, we must not forget the many other refuseniks who remain in the Soviet Union—denied permission to leave year after year, and now forced to live with the very real fear of rising anti-Semitism and increasing threats of violence. We also must not forget the hundreds of thousands of Soviet Jews who have been granted permission to leave but who cannot do so because the Soviets, bowing to Arab pressure, continue to refuse to allow direct flights between Moscow and Tel Aviv.

These are grave issues—issues that we must not overlook in our rush to support Gorbachev's moves toward openness and restructuring. I have raised this concern with the administration and I intend to continue to pursue it.

Yesterday, Vladimir Raiz told those of us who joined him at the White House that the Jewish people give thanks for their release from bondage 3,000 years ago. As the holiday of Passover begins, I believe that all of us—Jews and non-Jews alike—should reflect upon the situation that now exists in the Soviet Union, the need to ensure that this group of Jews—like their forefathers in ancient times—must be allowed to leave and to live in freedom.

ALAN WOODS

Mr. BOND. Mr. President, I have come to the floor several times in the past year to talk about Alan Woods. Not only because he was my friend and his death from cancer last June was a loss to me and all who knew him, but also because he left unfinished the critically important work he had begun as Administrator of the Agency for International Development to reform our foreign assistance policies, and I want to make sure that we follow up on his efforts. That we make sure his work was not in vain.

It was Alan's belief that our international assistance policies can and should work to bring to developing countries the benefits that we in the United States enjoy. He believed that the way to do this was by promoting economic development and private enterprise in these countries.

In his too short tenure at AID, Alan did much to increase AID programs aimed at promoting sound economic development. He also worked to bring common sense to our foreign assistance policies. His report, "Development and the National Interest," highlighted many of the problems which exist in our aid laws and make positive suggestions for improvement. A recent article by Morton Kondracke in the New Republic discusses Alan's work, and I ask unanimous consent that it be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

This week in the Agriculture Committee, we began mark up on a bill which is the first comprehensive revision of our food aid laws in 25 years. The bill introduces common sense back into the process by reducing bureaucracy, eliminating redundancy and reorienting the system back toward its basic goals of feeding the hungry and helping people to improve their economic situation.

It is the kind of bill which Alan would have supported. I hope my colleagues will support it when it comes to the floor and I hope my friends in the House will see fit to approve it as well.

But we must remember it is only a first step. We must make all our foreign assistance programs work in all ways that will allow recipient countries to build their economies, create jobs and improve quality of life for all citizens.

EXHIBIT 1

[From the New Republic, Feb. 26, 1990]

HOW TO AID AID.—THE ANSWER: REAL CAPITALISM

(By Morton Kondracke)

The Senate Republican leader dropped a bomb on the foreign aid status quo in January by suggesting a five percent cut in funds for Israel, Egypt, Turkey, Pakistan, and the Philippines in order to provide $330 million more in aid for Eastern Europe and Panama. But the bomb did not explode, nor is it likely to. Foreign aid needs drastic reform in order to stimulate economic growth in the Third World and truly benefit poor people. Bob Dole's approach—cutting Israel to help Hungary—had little to do with systemic reform. It did do this much, however: even though foreign aid is perennially unpopular in Congress, it stimulated Democratic leaders to declare almost in unison that the aid "pie" should be expanded, with new money coming from the defense budget, especially from funds now allocated to defend Western Europe.

Dole was trying to take a small step toward another, worthier goal that the Bush Administration also has been pushing: getting Congress to stop earmarking funds for a few favored countries, thereby forcing other needy nations to make do with little aid, or none at all. In this too he has almost certainly failed. A top official of the Agency for International Development (AID) said he was told by a Senator, "There are only two reasons to be on the Senate Foreign Relations Committee. One is to get on television when there's a foreign crisis. The other is to provide goodies for your friends in the Third World."

Congress specifically directs where 92 percent of all U.S. military aid is to go, 98 percent of all Economic Support Funds (free grants for budget support), and 50 percent of all development funds. As a result, countries without lobbies or influential legislators to protect them are left with far less money than they need and deserve, often close to nothing. Examples this year include Jamaica, Honduras, Senegal, the Sudan, Chad, and Ecuador. The Administration thought about invoking special Presidential authority to shift funds in the interests of national security but feared Congress might take the authority away. So the fiscal 1991 budget shows no signs of changing the status quo.

Whatever good Dole intended to do was undermined by the perception that his ulterior motive was to target Israel, the biggest benefactor of U.S. aid. Israel gets $3 billion per year out of the $15 billion aid total (followed by Egypt, with $2.1 billion). The fact that the Administration generally supported Dole's idea led to suspicions (also stoutly denied) that Secretary of State James Baker was sending a message to Israel to be more forthcoming on the Mideast peace process. The Israel lobby is aroused and has the added force of a meritorious case: Israel needs money to absorb tens of thousands of Jewish émigrés from the Soviet Union that the United States no longer will take in. Meanwhile the Arab threat to its security has not been affected by the events in the East bloc, since Syria was substantially resupplied before the great change.

Pro-Israel lobbyists surely will help win extra money for Eastern Europe and Panama, but money alone will not solve the basic problems of American foreign aid. As recommended by one Administration and one Congressional task force last year, there needs to be a refocusing of the program toward a few specific goals, clarity at AID about accomplishing those goals, and less micro-management by Congress.

Making American aid more efficient actually would be the best way out of the money trap, better than robbing some countries to help others or simply increasing the aid budget, which hasn't enough popular or Congressional support to be a long-term option anyway. Unfortunately, the reform cause lost its most vigorous advocate last June when AID Director Alan Woods died of cancer at age 43. His post is only just being filled on a permanent basis with the nomination of Ronald Roskens, former president of the University of Nebraska, whose basic views on aid are still not clear.

Woods left behind a comprehensive report detailing AID's failings, including the fact that not a single country eligible for U.S. aid has graduated into self-sufficiency in nearly 20 years and many have become poorer. In part, Woods said, Congress has mandated too many purposes for the agency. To name a few, it's legally required to advance America's strategic interests, win friends for the United States in the developing world, build democratic institutions, feed the hungry, counter initiatives of the Soviet Union, dispose of U.S. agricultural surpluses, promote private-sector growth in the Third World, improve education, achieve health for all by the year 2000, and strengthen both the American land grant college system and the historically black colleges and universities.

In their similar report last year, Representative Lee Hamilton and Benjamin

Gilman said that AID had been given 33 separate objectives and 75 "priorities" by Congress, which also has imposed 288 individual reporting requirements—second only to the number levied on the Defense Department, which has a budget of $300 billion compared with AID's development budget of $5 billion. Out in the developing world, AID field workers complain that they spend so much time filling out reports for Congress and Washington headquarters that they have only an afternoon a week to help the poor. The first priority of AID bureaucrats everywhere is always to spend this year's money so that next year's budget doesn't get cut.

Woods had a vision: to convert AID from a welfare agency easing the woes of the poor—"baby washing," some of his allies call it—to a promoter of economic growth. Woods was deeply influenced by the work of Hernando De Soto, a former Peruvian banker who advocates a combination of political democracy and economic empowerment of the so-called "informal sector" in Third World countries. He means the hard-working peddlers, tradesmen, and other small-scale, just-get-by private "businessmen" who often account for 60 percent to 70 percent of a country's real GNP but are not legally recognized by the government, have no access to credit or insurance, and are unable to incorporate and share the risk of doing business.

Many Americans think the economies of Latin America are "capitalist." De Soto says they are really "mercantilist." He said recently on the PBS show I moderate, "American Interests," that "what we've traditionally had in Latin America is the possibility of doing business for only a few. . . . It's crony capitalism that involves, on the part of the businessman, a lot of politicking, getting through heavy regulation, often bribes." According to De Soto, "Of 175 countries in the world, there are only 21 market economies and open democracies. What we've discovered is that in most of Latin America most people work outside the law. They are doing the same things we're doing, but on a smaller scale, inefficiently, with low productivity—selling, buying, producing, manufacturing, doing agriculture, building furniture, weaving carpets, making eyeglasses. They don't have the advantage of economies of scale, they do it with very little credit, or loan-shark credit."

De Soto's book, "The Other Path," about Peru, is a hot seller among developmentalists all over the world. He's working on a sequel dealing with Eastern Europe and other underdeveloped countries, but his agenda is clear: the best way to fight poverty is to give peasants, squatters, and "informal" workers legal title to their land, which will give them collateral and the chance to expand. A concomitant, he says, is that "democracy" means not just having elections, but giving citizens and the legislative branch the opportunity to affect what the elected executive is doing and to deregulate the economy for entrepreneurship large and small.

Woods saw to it that De Soto's Institute for Liberty and Democracy got $2 million a year to do research and spread the word. He also managed to redirect AID priorities so that programs stimulating private-sector development doubled as a portion of AID's development budget, from ten percent to 22 percent of the total. Woods was convinced that more countries needed to follow the models of Taiwan, South Korea, and other East Asian nations where per capita income has soared because of private enterprise development.

Woods died, though, before he could convert the AID bureaucracy to the idea of making growth its top condition aid to Third World countries on their willingness to adopt pro-growth economic policies. Despite directives from on high, AID directors for African countries spend much of two annual conferences debating the morality of private enterprise. And cold war thinking has sometimes prevented the Administration from telling a strategic ally—say, Zaire—to cut corruption and excessive government regulation or do without U.S. assistance.

Hamilton and Gilman too recommended that economic growth promotion become one of AID's top priorities, along with just three others: environmental protection, poverty pluralism. Hamilton called for a reduction of earmarking and of onerous reporting requirements to Congress.

Unfortunately, the Woods and Hamilton-Gilman reform ideas are almost as dead as Dole's suggestions. The Senate has not even considered reform. Meanwhile, a vigorous, well-meaning citizens' lobby, RESULTS International, flooded Congress with mail and editorials last year and got the House to pass the Global Poverty Reduction Act, which adds legal requirements for AID to reduce infant mortality, female illiteracy, and the general poverty level of Third World countries by 50 percent during the 1990s. Woods' allies at AID say poverty reduction deserves to be a main goal, but that to divert resources specifically to infant health and female literacy is to treat symptoms of povertly, not causes.

There ought to be a way for RESULTS and AID to cooperate and not to fight, RESULTS has what AID does not—a grassroots following for foreign aid, including 100 chapters in the United States that hold three meetings a month, one by national telphone hookup. But the director of RESULTS, anti-hunger activist Sam Harris, aged 43, doesn't trust a Republican Administration or AID bureaucrats to truly serve the poor. AID reformers don't trust the bureaucracy either, contending it has a vested interest in the welfare model for foreign aid, not the economic growth idea. And Congress obviously doesn't trust the Administration and persists in micromandating what AID should do.

There is some hope. RESULTS and AID now are fighting over—but may come to terms on—a De Sotoesque idea: providing credit opportunities for tiny enterprises around the world, on the model of the Grameen Bank in Bangladesh, which makes loans of as little as $50 to micro-entrepreneurs and regularly gets paid back. The Administration and Congress so far seem agreed on trying the Woods approach at so far seem agreed on trying the Woods approach at least to Eastern Europe and the Soviet Union.

No one suggests appropriating money for "foreign aid" or "bailouts" for the Soviet Union. What's been offered so far is technical assistance in 12-areas to teach the Soviets how to dismantle state monopolies, set up a budget and taxing system, form private agricultural cooperatives, train bankers, and start up small private businesses. The Administration's new budget calls for $300 million in new funds for Eastern Europe, with the main emphasis on institutional measures to expand private enterprise and trade.

If Congress and the Administration can agree that a shift from state socialism to free enterprise is the only way to prosperity for Eastern Europe, and they have the examples of Taiwan. Hong Kong, and South Korea to show that a shift from mercantilism to real capitalism will produce prosperity, why can't they apply these principles to the rest of the developing world and make them the basis for a reformed foreign aid program? They can, but so far they won't.

Mr. BOND. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2394—FARM INCOME AND FLEXIBILITY ACT OF 1990

Mr. CONRAD. Mr. President, I am pleased to rise today to join my colleagues, Senator BOB KERREY of Nebraska, Senator TOM DASCHLE of South Dakota, Senator TOM HARKIN of Iowa, and Senator JAMES EXON of Nebraska, in introducing S. 2394, the Farm Income and Flexibility Act of 1990.

We have worked many hours to craft a farm bill which will be good for farmers, good for consumers, and good for taxpayers.

We had four primary goals in developing this legislation: First, restore farm income; second, provide farmers the tools to farm in a more environmentally sound manner; third, provide farmers the flexibility to respond to changing market conditions; and four, to increase our ability to compete in foreign trade.

Of these four goals, farm income is the key. Without a stable, reasonable level of farm income, gains on environmental issues are not possible, flexibility is meaningless, and trade competitiveness is lost.

Mr. President, when I go home to my State of North Dakota, and ask an audience of young people how many would like to continue in farming, the hands go up. Then I ask, "How many of you think you will actually continue in farming?" Virtually no hands go up.

I asked those young people. "Why is it if you love farming, if you love the rural way of life, why are you telling me almost none of you intend to farm?" The answer is consistent, Mr. President. "There is no money in it. We have seen our parents suffer, and we do not want to suffer that way ourselves."

We have been told repeatedly by the Department of Agriculture that we have had record farm income. In the last 2 years I remember clearly hearing the Secretary of Agriculture tell

the American people that we have had record farm income, everything is fine.

Everything is not fine. The record farm income of which they speak forgets about inflation.

Mr. President, when you adjust for inflation the picture is quite different. The chart that I have prepared shows net farm income by decade beginning in 1910 when they first started keeping records. What this chart shows is quite a different picture than what we have been told by official Washington. In fact, this table shows that the decade of the 1980's had the lowest farm income of any 10-year period since they started keeping records in 1910.

Mr. President, I ask unanimous consent that the above-mentioned table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. Net Farm Income by Decade 1910–89

[Average per year in constant 1982 dollars]

Decade:	*Billions* [1]
1910's	$51.2
1920's	36.8
1930's	31.1
1940's	65.8
1950's	47.6
1960's	36.2
1970's	41.3
1980's	28.8

[1] Average net farm income.

Source: USDA. Adjusted for inflation by the implicit GNP deflator.

Mr. CONRAD. Mr. President, that is the reality that our farmers face out across the great heartland of America. That is why people are leaving in droves to find income to support their families. That is why for 5 straight years my State has led the Nation in outmigration.

America has to make a decision. Are we going to have a rural part of this country with people in it, or are we going to have the rural part of this country completely denuded of its population and left open for the buffalo? There have been some that suggest a buffalo commons, that we make a big buffalo pasture out of the heartland of America. Does anyone seriously think that is a policy that makes any sense?

The rural communities of this country cannot take much more. Let me give you some examples of how difficult the 1980's have been.

Many of my colleagues have heard me talk about the continuing hard times in North Dakota as a result of 2 years of very deep drought that have replaced the bottom of the barrel farm prices to keep my State in an economic slowdown. The deep economic trouble of my State is due to a sharp drop in average net farm income from the 1970's to the 1980's, a drop from an average of 34,000 a year in 1989 dollars in the 1970's to less than half of that in the 1980's.

It is not just my State that is suffering. It is not just my State that has experienced dramatic declines in real net farm income. Farmers in Illinois lost 53 percent; Indiana's farmers, 65 percent; Iowa's, 51 percent. On and on it goes throughout the rural States. In each of these States average net farm income per farm has dropped to 60 percent or less of median family income in this Nation. We are on the verge of two America's; one urban, one rural; one moving forward, one in reverse. The rural parts of this country are in deep trouble. Rural areas cannot have 10 years of sustained low-farm income without beginning a process of erosion and decline.

Mr. President, I ask unanimous consent that two tables, one showing average net farm income per year over the last three decades, and one showing the net farm income as percent of median family income, be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

AVERAGE NET FARM INCOME PER YEAR IN THE 1960's, 1970's, AND 1980's

States	1960's	1970's	[1] 1980's	Percent decline from—	
				1960's	1970's
Illinois	$2.04	$2.51	$1.19	−42	−53
Indiana	1.22	1.39	.48	−61	−65
Iowa	2.56	2.71	1.32	−48	−51
Minnesota	1.55	2.16	1.17	−25	−46
Mississippi	.87	.80	.40	−54	−50
Missouri	1.17	1.27	.56	−52	−66
North Carolina	1.49	1.50	1.03	−31	−31
North Dakota	.73	1.17	.44	−40	−62
South Carolina	.44	.36	.16	−64	−56
South Dakota	.82	.99	.53	−35	+46

[1] Data for 1989 was not available. Average income for 1980's includes only 1980 through 1988 (9 years).

Sources: "State Financial Summary, 1988, Economic Indicators of the Farm Sector," Economic Research Service, USDA (ECIFS 8–2); "Farm Income Data: A Historical Perspective," Statistical Bulletin No. 740, Economic Research Service, USDA; and "Statistical Abstract of the United States, 1989," 109th Edition, Bureau of the Census, U.S. Department of Commerce.

NET FARM INCOME AS PERCENT OF MEDIAN FAMILY INCOME—1980's

States	Average net farm income per farm (1982) [1]	Percent median family income ($24,736) [2]
Illinois	$12,796	52
Indiana	5,926	24
Iowa	11.892	48
Minnesota	12,188	49
Mississippi	8,333	34
Missouri	4,912	20
North Carolina	13,553	55
North Dakota	12,941	52
South Carolina	5,818	24
South Dakota	14,521	59

[1] Based on number of farms in 1985 according to USDA.

[2] Average median family income for the 1980s is in constant 1982$ and is averaged over the years 1980 to 1987.

Sources: "State Financial Summary, 1988, Economic Indicators of the Farm, Sector," Economic Research Service, USDA (ECIFS 8–2); "Farm Income Data: A Historical Persepective," Statistical Bulletin No. 740, Economic Research Service, USDA; and "Statistical Abstract of the United States" 1989, 109th edition, Bureau of the Census, U.S. Department of Commerce.

Mr. CONRAD. Mr. President, beginning that process is precisely what has happened. And Why? It is happening because of high, real interest rates an overvalued dollar that pushes commodity prices down, and a farm bill which moved in conjunction with the increasing value of the dollar to push farm prices to the lowest levels in real dollars in a half century.

Low-farm income affects all of America, not just the rural areas, because the food industry in this country employs 20 percent of all Americans. When the primary producers are in trouble the rest of the country is also affected.

For example, during the 1970's, gross investment in agriculture averaged over $20 billion a year in constant 1982 dollars. In the 1980's, gross investment dropped to an average of $12 billion. The loss of $8 billion of investment per year resulted in the loss of a quarter of a million off-farm jobs in manufacturing and construction per year.

Let me repeat that. This decline in farm income and farm investment resulted in a loss of a quarter of a million jobs per year in the nonfarm sector; manufacturing, and construction. Those were good paying jobs.

Many farmers survived this period of reduced income by delaying the replacement of used machinery. Because of this, net investment in agriculture has been a negative $4.5 billion per year in the eighties.

Mr. President, I direct your attention to this table. It shows average net farm capital investment per year expressed in 1982 dollars. In the period 1970 to 1974, there was a positive $3 billion; in the period 1975 to 1979, almost $4 billion of net investment in agriculture; the period of 1980 to 1984, a negative investment of $4.6 billion. That was followed by another 5 years of negative capital investment in agriculture of about $4.5 billion per year.

Mr. President, I ask unanimous consent that this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. Net farm investment in depreciable assets

[Average per year, constant 1982 dollars]

	Billions
1970–74	$3.0
1975–79	3.8
1980–84	−4.6
1985–89	[1] −4.5

[1] Values exclude operator dwellings, 1989 value estimated.

Source: USDA, Economic Research Service.

Mr. CONRAD. Mr. President, agriculture is living off the balance sheet. It has been doing so for the last decade, and unless the trend in farm income is reversed, American agriculture will continue its serious decline.

This Nation's policies in the 1980's harmed the American farmer and harmed the millions of U.S. workers who depend on an economically healthy farm sector for their jobs. We can do better in the 1990's. We can improve farm income; we can reduce the

harmful environmental impact of agriculture, and prevent farm budget costs from ballooning out of control.

The legislation we are introducing today will raise farm income by indexing support levels to the cost of production. What does that mean? That means very simply, the price that farmers receive will be increased by the increase in the cost of production that they are experiencing.

Why do that? Because very simply, for the last 2 years, the support farmers have received for their commodities has been below the cost of producing those commodities. No industry, Mr. President, can long survive when it costs more to produce its product than they receive for that product.

Second, this legislation will equalize support for major and important crops, the oats and barley crops.

Third, this bill will implement a program for oilseeds, the fastest growing food market in the world.

Fourth, it will provide farmers the flexibility to reduce costs through environmentally sound crop rotations.

In order to conserve our soil and water, Mr. President, farmers must, first, have an opportunity to earn a decent income and, second, have a variety of profitable crops. This legislation will provide the income and flexibility to allow farmers to be better stewards of the land. Equitable support levels for oats, barley, and oilseeds allows farmers to engage in environmentally sound rotations. That is in the interest of all Americans. The land and water in this country are a precious heritage. It is a heritage that we must preserve and conserve.

Mr. President, for a moment, let me be parochial and refer to the Great Plains. It is extremely important in our part of the country that oilseeds like sunflowers, canola, rape seed, safflowers, and flax be included, as well as soybeans, in the oilseeds program. These oilseeds are not only in growing demand, but provide wheat farmers profitable alternative crops in order to better preserve the environment and reduce input costs.

Finally, let me spend a few moments on the budget issue. The 1985 Food Security Act allowed prices to fall to historically low levels. The effect was not only to harm farmers and those whose incomes depend on agriculture, but to raid the Federal Treasury. Only the droughts of 1988 and 1989, which reduced stocks dramatically and increased prices, saved the Treasury from spending even more.

Price support for agriculture has been cut by 25 percent since 1985 in real dollars. The President proposes to cut support for fiscal 1991 by 20 percent in 1 year. That is simply not fair. He proposes to cut Farm Program spending to less than eight-tenths of 1 percent of the budget, down from our 30-year historical level of 1.4 percent.

Let me repeat that, Mr. President. I said earlier that the farm income of the decade of the 1980's was the lowest of any decade since they started keeping records in 1910.

What is the President's response in the face of those facts? The President's response is to say, we ought to devote eight-tenths of 1 percent of the Federal budget to agriculture when the historical share is 1.4 percent.

Make no mistake, no one is more interested or more committed to deficit reduction than myself. The occupant of the Chair, Senator KOHL of Wisconsin, has devoted himself to deficit reduction in his time in this Senate. We are not asking for our historical share of the Federal budget, 1.4 percent, because we recognize the budget problems of this country. We recognize the crisis, and we are ready to contribute our fair share.

Mr. President, the number that we are offering with respect to this farm bill would be about 1 percent—in fact, less than 1 percent of the Federal budget, again a sharp reduction from our traditional share, but more than the President has put on the plate. Because very frankly, what the President of the United States has offered is inadequate to meet the challenge. Half of the farmers of this country are within 10 years of retirement. Who is going to go replace them? The young people in my State are sending a very clear signal to this Senator: It will not be them. It will not be the young people of the farm families who are out there now, because they cannot earn a decent living. They have seen what has happened to their parents; they are not going to let it happen to them.

Mr. President, we have to make some very basic decisions as a society. What kind of America is it that we want? Do we want an America in which all of the people are in large urban areas? Is that what we want? Or do we as a society want America with diversity and choice? Do we want an America in which there are urban centers that are the centers of commerce and banking? And do we want an opportunity for people to be out in the rural areas of America, providing a diversity of good foods for a hungry world? Those are the kinds of choices we will make when we write the farm bill in 1990.

We will have a chance to decide whether we condemn a generation of people on the land to a future with no prosperity. That is a choice we will have a chance to make. We have worked very hard to construct a farm bill that will provide an opportunity within a reasonable budget, one that makes sense in keeping America a strong competitor in the world.

Mr. President, some may be unaware of this, but we are engaged in a trade war in agriculture in the world economy. I submit to my colleagues, if in the middle of World War II the President of the United States had submitted a budget that cut military spending 20 percent, people would have wondered what could he possibly be thinking. But that is what this President has done with respect to an agricultural trade war.

In the midst of the GATT negotiations which could determine the structure of agriculture for decades to come, in the midst of those tough negotiations, at the very time that our European competitors are subsidizing crops at triple world market prices, three times world market prices for soybeans, three times world market prices for sunflowers, two times world market prices for wheat; this administration signals retreat.

This administration says we will not be part of the battle; we will not be sending a tough message in the middle of these negotiations.

Mr. President, that is a mistake. We can cut our Farm Program to the bare bones as has been proposed by this administration, but that will only reward the European Community for their aggressive, subsidized Export Program.

If we allow that to happen, we will rue the day when America, which has led the world in agricultural production, failed to take up the challenge and allowed our competitors to steal those world markets.

We cannot afford to send that message to our trade adversaries at this critical juncture in the GATT negotiations. We cannot afford to force our farmers to live off past investments until some unknown future date when another GATT round may be successful in reducing EC subsidies. This legislation responds to the challenge from the European Community and others by allowing our farmers to compete.

We have many difficult decisions to make this year concerning the budget, farm programs, education, drugs, homelessness, and many other issues. One choice we must make is to keep our agricultural industry strong.

Mr. President, let me just conclude by repeating that the people in the agricultural heartland of America are hurting. They are hurting because they do not have sufficient income to continue. That is the hard reality.

In my State, 40 percent of agricultural producers are at risk of failure; 40 percent, Mr. President. If we as a society allow the heartland of America to decline, we will someday be on the floor of this Senate proposing a massive, ambitious rural redevelopment program at a cost of tens of billions of dollars, make no mistake about it, because we cannot be a nation that has its population located on the east coast and the west coast with the heartland bare. That makes no sense.

Mr. President, we are going to make the most profound decisions about the future of America when we write the 1990 farm bill. I hope that our colleagues pay close attention. It is not like it was in 1986, when the Federal program spending was at $26 billion, and we were at a historical high. Those days are gone.

We are now talking about expenditure levels of less than half of that, and we are coming off a decade of the lowest farm income since recordkeeping began in 1910. We have to choose.

Are we going to make sure there is a rural way of life in the future of America? Are we going to turn our back on a part of the country and a way of life that has been central to the strength of this democracy?

I ask unanimous consent to include four tables illustrating the agricultural situation in the proper places in this statement.

Thank you, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. GRAHAM. Mr. President, I ask unanimous consent that the time for morning business be extended until the completion of my remarks and the introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2435 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

LATIN AMERICA

Mr. GRAHAM. Mr. President, there has been considerable concern recently that the exciting events in the Soviet Union and central Europe will divert United States' attention for the challenges that exist within this hemisphere. As an anecdote to that concern, I would like to have printed in the RECORD a very perceptive article which appeared in the Wall Street Journal of March 20 of this year by Mr. Peter F. Drucker on the subject of helping Latin America and helping ourselves.

I ask unanimous consent to have printed in the RECORD, Mr. Drucker's article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HELP LATIN AMERICA AND HELP OURSELVES

(By Peter F. Drucker.)

Who needs Latin America? "We don't," most American businessmen would say. But it is the wrong answer, Latin America, rather than Japan, holds the key to the U.S. trade deficit.

Whatever may be wrong with American industry—and many things are surely wrong—it is not "lack of international competitiveness." Since the overvaluation of the dollar was corrected nearly five years ago, U.S. industry has turned in a stellar performance, especially in exporting to Western Europe and Japan. A host of industrial exporters—South Korea, Brazil, Taiwan, Singapore—became bigger players in world trade. Yet the U.S. has regained the share of the world's manufactured goods exports it held before the overvaluation—as large a share as the U.S. ever held except in the immediate post-World War II period.

Nor can the U.S. trade deficit be blamed on "excessive imports." Manufactured-goods imports account for a smaller share of America's GNP—9%—than they do in any other developed country except Japan. And the Japanese are now "outsourcing" at such a furious rate that the import share of manufactured goods in Japan's GNP is likely to match the U.S. figure within four or five years.

What then explains the massive American trade deficit? Its main cause is the collapse of the world's food and raw materials economy in the past decade.

WORLD'S LARGEST PRODUCER

The U.S. is the world's largest producer and exporter of agricultural and forest products, and about one-third of the trade deficit is directly traceable to this collapse in prices and demand. Another third or so is owing to the impact of the raw-materials depression on what traditionally was one of U.S. manufacturers' best foreign customers—Latin America. Indeed in most Latin American countries U.S. imports traditionally accounted for half or more of all manufactured-goods imports. (By the way, most of Japan's export surplus is far less a result of industrial prowess than of the raw-materials depression; Japan—the world's largest raw-materials importer—is the main beneficiary—

The trade deficit will not be eliminated by increasing exports of manufactured goods to Western Europe and Japan. Indeed if Japan removed *all* restrictions to U.S. imports. U.S. exports would at most grow by $5 billion—as against a trade deficit with Japan of $50 billion. And the U.S. will be hard pressed to maintain current export volume with the developed world in the years ahead, when world manufacturing competition is bound to intensity.

We also cannot realistically expect food exports to bounce back. For a few short years ahead there may be sharply increased demand to assuage almost certain famine in the Soviet Bloc, but food relief on a massive scale can be maintained only for a few short years. Yet the U.S. trade deficit cannot continue indefinitely, and perhaps not even for many more years.

The interest payments on the debt due our suppliers already greatly exceed our capacity to earn foreign exchange to service them. While the foreign creditors can convert their dollar claims into U.S. assets—that is, buy American businesses and real estate—and most economists consider this to be harmless and perhaps beneficial, "buying America" clearly will not be tolerated long politically.

There are, in effect, only two ways to cut the trade deficit. In the wrong but traditional way, a very sharp recession cuts domestic consumption by 10% or so. The alternative: a revival of Latin America as a customer for U.S. manufactured goods.

It would be a great deal easier to turn around Latin America than to turn around Eastern Europe, the region on which most attention is focused now. Latin America is home to 300 million people—almost as many as in the Soviet Bloc. In sharp contrast to the Soviet Bloc, Latin America comfortably feeds itself and has a substantial surplus of both food and industrial raw materials. In the larger countries there is an excellent supply of well-trained engineers, entrepreneurs, accountants, economists and lawyers. And they did not have to become moral eunuchs to get an education or to get and hold a decent job.

Nor do the educated people of Latin America have to be "re-educated" to function in a free economy. Until the raw materials depression hit, Latin Americans worked effectively in a market economy and participated in rapid economic growth. And there is enormous pent-up demand for goods of all kinds.

Finally, Latin America, unlike the Soviet Bloc, has an adequate supply of capital. Indeed, Latin America probably has three times as much capital—or more—than it has foreign debt. There is only one thing wrong with it: It is not in Latin America. It has been driven out systematically—and often purposefully—by government policy.

But if the money that is now in Miami and New York, Zurich and Geneva—but also in the mattresses of virtually all but the poorest families in Latin America—could be enticed into productive investment at home, every Latin American nation, save perhaps the smallest and poorest, would have all the capital it needed for rapid economic growth. And the holders of Latin America's capital are willing, and indeed eager, to invest their money at home if only their governments were to stop expropriating savings and investment through inflation and punitive taxation, and were to stop discouraging productive investment through the granting of monopolies to military and governmental enterprises. As a result of these policies, even the shoeshine boys in Buenos Aires and Sao Paulo demand to be paid in dollars.

What needs to be done is clear enough: Stop inflation by turning off the spigot of government spending; dismantle the grossly overstaffed and unproductive monopolies owned by the government or the military (especially in Brazil and Argentina) or by the government's political cronies and the ministers' relatives (especially in Mexico); cut excessive nominal tax rates that discourage honest enterprise, but increase actual tax collection.

That these things can be done, and without political catastrophe, has been shown by two of the smaller countries: Chile under Augusto Pinochet's dictatorship, and (reasonably) democratic Bolivia. And there is now widespread demand throughout the region for a return to sanity.

Mexico has taken some fairly big steps in the right direction, especially in dismantling protection for governmental monopoly industries; the immediate results have been most impressive (including a more than twofold increase in Mexico's purchases from

the U.S.). The first priority of the new government inaugurated in Brazil last week is to sell more than a hundred unproductive, overstaffed and loss-making government enterprises. And the albatross of the foreign debt that the Latin American countries incurred when the raw-materials economy collapsed has largely been removed—it has been written down in all but legal fiction.

Latin America's turnaround is, in other words, no longer a matter of economics, but largely of the political will. It requires, above all, the backbone not to cave in—as did the governments of both Argentina and Brazil in both 1988 and 1989—at the first protest by a powerful group such as the labor unions or the army. The things that need to be done will at first be painful and unpopular. But within a year they will begin to produce results and to enjoy wide popular support.

But the U.S. too, has a crucial role to play: to stop the well-meaning but destructive policies it has pursued for almost 40 years. Maybe Latin America needs fairly small short-term loans to help assuage the pains of the transition. But the favorite "aid" policies of the past four decades—government-to-government aid; military aid; World Bank loans—must not be continued. They are largely to blame for the current crisis of the continent.

ANTI-ENTERPRENEUR BIAS

These policies encouraged government spending. They paid for bloated government bureaucracies and for military establishments that are, in many countries, four or five times as large proportionately as that of the U.S.—and without any foreign threat. They diverted capital from productive investment into "prestige project" steel mill, for instance—without domestic markets that, in their own way, were not too different from the monstrosities of Stalinist planning. Above all, these policies all had a strong anti-business and anti-entrepreneur bias. To continue them would be like pushing drink on an alcoholic.

What Latin America needs from the U.S. is trade, not aid. It needs political support for policies that reward enterprise and discourage monopolies and protectionism, policies that stress savings rather than spending, and economic growth rather than growth of the bureaucracy.

And these policies also are needed precisely because the U.S. needs Latin America.

SAFETY BELTS ARE A HEALTHY CHOICE

Mr. CHAFEE. Mr. President, recently the Providence Journal printed an article by Dr. H. Denman Scott, who is director of the Rhode Island Department of Health.

In his article "Why Won't Rhode Islanders Buckle Up?" Dr. Scott cites convincing evidence from a variety of sources on the effectiveness of safety belts. As a doctor he also has had numerous personal experiences with accident victims that have convinced him of the benefits of safety belts, and the high cost to individuals and society when safety belts are not used.

Buckling up can make the difference between a serious injury or a minor injury, and too often between life and death. Yet, human nature being what it is, we don't always do what we know is best for ourselves.

Dr. Scott quotes the National Highway Safety Administration 19 cities survey in 1989 that shows that Providence is at the bottom of the list for safety belt use and Dallas has the highest rate of use. I believe this makes a strong argument for safety belt laws. A critical difference between Providence and Dallas is that the State of Texas has sent a message to its citizens about the importance of using safety belts by passing a safety belt law and enforcing it. Rhode Island has not passed a safety belt law. I am convinced that safety belt laws are very effective in persuading people to wear their safety belts. That is why I have introduced legislation, S. 1007, which requires States to pass safety belt laws or forgo a small amount of their Federal-aid highway funds.

Finally, Mr. President, as we enter another budget cycle where we will have to make difficult decisions on how to spend limited Federal resources, Dr. Scott makes a very important point concerning the skyrocketing medical costs that are being shared among all taxpayers and insurance holders for the treatment of trauma victims who were not wearing safety belts. Dr. Scott concludes by saying:

One of the most important things we can do to improve the health of Rhode Islanders and to moderate health-care costs in the decade ahead is to increase the number of us wearing seat belts. Medical evidence shows clearly that buckling up every time you get in the car is a healthy choice to make.

I could not agree more.

Mr. President, I ask unanimous consent that the article by Dr. Scott be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY WON'T RHODE ISLANDERS BUCKLE UP?

(By H. Denman Scott)

I know of no better way to prevent death and serious injury than to have all drivers and passengers use seat belts every time they get into a motor vehicle. But unhappily, many people, particularly Rhode Islanders, don't see the importance of this precaution.

The evidence that seat belts reduce injuries and save lives, as presented in medical journals and other scientific publications, continues to mount. Recent studies have caught the attention of much of the medical community, and I would like to share with you some of these findings.

According to the National Highway Traffic Safety Administration (NHTSA), in the event of a motor vehicle crash, seat belt use reduces the risk of death by 40 to 50 percent and the risk of moderate to serious injury by 45 to 55 percent. In 1985, 90 percent of the people killed in motor vehicle crashes were not wearing seat belts. Since there is an 86 percent likelihood of being involved in a crash in which someone is injured at least once during a 75-year life span, the heatlh reasons for everyone to buckle up are quite clear.

About a year ago, the prestigious Journal of the American Medical Association printed an editorial entitled "The case for safety seat-belt use." It was part of an issue containing several reports of research about the efficacy of seat belt use. That editorial, by Dianne Steed, head of NHTSA, pointed out that from 1983 to 1987, increased seat-belt use saved an estimated 11,000 lives and many more serious injuries in the United States. She urged physicians, as part of their daily routine, to advise patients of the importance of seat belts and child-safety seats as ways to prevent motor vehicle injuries. This commentary is my response to that plea.

One of the studies published in that issue of JAMA reported that the percentages of front-seat occupants who had severe or fatal injuries in crashes in North Carolina decreased as seat-belt use increased after the passage of a mandatory seat-belt law in that state. The authors estimated that about 1,100 severe or fatal injuries are prevented each year because of the increased use of seat belts in North Carolina.

A second JAMA article described a Chicago hospital study that compared motor vehicle crash victims who wore their seat belts with those who did not. The seat belt users were less severely injured and, as a result, had lower hospital admission rates than those who did not wear belts. Fewer than seven percent of seat-belt wearers were admitted to the hospital after having been taken to the emergency department, compared to almost 20 percent of those who were unbelted. Consequently, the medical costs of seat-belt wearers were 66 percent lower than for those not wearing belts.

This November, another prominent medical publication, the Mortality and Morbidity Weekly Report, published by the Centers for Disease Control, reported on another study validating seat-belt use. That study gathered data on persons injured in motor vehicle crashes and receiving emergency medical care at any of 16 rural and urban Iowa hospitals. Injuries were less severe and the costs less for those patients who had used seat belts. Unbelted persons were three times more likely to be hospitalized, more than eight times more likely to have head injuries accompanied by loss of consciousness, and almost three times more likely to sustain fractures and lacerations.

However, as a group, Rhode Islanders are not responding to that evidence yet. Another epidemiologic study on seat-belt use was based in part on research done in Providence at the Department of Health and published in the Bulletin of the New York Academy of Medicine in the fall of 1988; It had been shown that between 1984 and 1985, injuries and deaths in New York state were reduced because of the passage of a mandatory seat-belt law. However, during the same period, serious injuries and deaths from motor vehicle trauma in Rhode Island increased, corresponding to a lower rate of seat-belt use here.

A National Highway Safety Administration survey of 19 cities, released in 1989, placed Providence at the bottom of the list for seat-belt use. Less than one in five drivers in our capital city buckles up, compared to two out of three drivers in Dallas, the survey city with the highest rate of use.

People who do not buckle up risk personal safety. In addition, as medical costs skyrocket and are shared among all taxpayers and insurance holders, the cost of treatment for trauma victims who were not wearing seat belts becomes a particularly unnecessary

and wasteful expense for the public as a whole. The Highway Users Federation estimated that if all occupants of motor vehicles in Rhode Island had worn seat belts in 1983, the cost savings of preventable deaths and injuries for that year would have been $15 million.

In summary, one of the most important things we can do to improve the health of Rhode Islanders and to moderate healthcare costs in the decade ahead is to increase the number of us wearing seat belts. Medical evidence shows clearly that buckling up every time you get in the car is a healthy choice to make.

RESEARCH AND TECHNOLOGY EFFORTS ON THE ISLAND OF MAUI, STATE OF HAWAII

Mr. INOUYE. Mr. President, I wish to bring to the attention of my colleagues the outstanding progress in scientific research and technology that has been occurring on the Island of Maui, in the State of Hawaii. Maui is usually known as a tropical vacation spot, and thus, very few people associate Maui with science, research, and technology activities. However, research in the areas of energy, agriculture, and surveillance, among others, has been conducted for years. The Maui research projects also provide job and educational opportunities by attracting interest from numerous companies and through creative arrangements with institutions of higher education. Mr. President, I wish to ask unanimous consent that the attached article be printed in the RECORD, as it elaborates on the progress of research and development capability that is taking place on Maui.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAUI RESEARCH AND TECHNOLOGY ACTIVITIES

Maui has conducted agricultural and surveillance research for a number of years in comparative quiet with little public knowledge. In 1983, the public and private sectors of Maui began a program to bring high-tech business to Maui to help create new and alternative job opportunities for its youth.

The Maui Research & Technology Park was created in the Kihei area. Situated above the Silversword Golf Course 330 acres have been zoned for R&T uses in two-plus acre parcels operating under a fast track building permit process and protected by an environmentally sensitive ordinance.

The state of Hawaii is the recipient of five acres of land in a prominent location in the park and is in the process of constructing a Research & Technology Center (R&T Center) which will house University of Hawaii research activities and also contain provisions for new business start-ups (incubators) and for phasing in new ventures.

The Maui R&T Center Park is attracting interest from several companies interested in developing research activities closer to Asian markets and in providing a "halfway house" for conducting business and research on a joint-venture basis. The R&T Center will also contain a modern telecommunication capability and will have facilities for teleconferences and educational programs in connection with the Maui Community College (MCC). MCC is a creative organization which has conducted two-way audio/video courses between the islands of Molokai and Lanai—a facility I have been privileged to use a number of times. This is a must in island communities where the distances over water preclude easy motoring to educational facilities and thus become a real deterrent to the higher education of its citizens.

In a very real sense, Maui is a bellwether for island communities in the Pacific as well as for some of the coastal regions in the U.S. in pioneering the use of modern telecommunications in the classroom.

The R&T Park also has an "antenna farm" adjacent to the park which contains telecommunication antennas to serve the park without having antennas bristling atop each building in the park. This is also the site where advanced surveillance technology development is under way. Currently the Air Force is conducting a Relay Mirror Experiment as part of the nation's program to enhance surveillance capability through development of lasar-based techniques. This work is being done in connection with the tracking facility atop Mount Haleakala—a facility of increasing importance as our nation's defense efforts move in the new directions being chartered by the President and Congress.

SOLAR ENERGY RESEARCH

Maui is blessed with copious sunshine. The Kihei coastline in particular has some of the highest insolation ratings in the islands. Recently, Maui has become a participant in the national PVUSA program and has installed one of the photovoltaic technologies in that program in the antenna farm. This past fall a twenty-kilowatt test installation of the amorphous technology became successfully operational and is now connected to the Maui Electric Company grid.

Another energy project in the planning stage involves Maui Electric Company serving as a model utility in a joint federal program more formally entitled Integrated Electric Utility Program (IEUP). Quoting from its draft implementation plan published in September 1989.

"The IEUP implementation strategy will be to establish and foster partnerships between developing country utilities and private sector, U.S. renewable energy industry, U.S. utilities, and the financial community to encourage the use of appropriate renewable energy systems within an integrated electric utility framework. These partnerships will be developed through information and technology transferred, by providing convincing evidence to users that the technology works in commercial settings, ensuring that the technologies are appropriately deployed, identifying and implementing projects, helping make the institutional and infrastructural changes needed to expand the sustainable use of these technologies, and thereby gaining the confidence of private and public investors in these technologies."

Maui Electric Company has been selected to be the model utility and several agencies here in Hawaii are participating in the program: PICHTR headed by Admiral Ronald Hays is the prime contractor; and the Hawaii Natural Energy Institute (HNEI); Department of Business and Economic Development, and Maui Development Board are serving as subcontractors on the project. As planned and in process of implementation, the IEUP will bring representatives of many Pacific Basin and Pacific Rim nations to Maui to see alternate energy electric power generation programs in operation as part of a commercial electric company.

Stimulated by the process which led to the PVUSA installation and the IEUP, the state of Hawaii is adding emphasis to solar energy on Maui. Several related matters are before the state legislature now. Taken together, these all serve to initiate Maui's program to emphasize R&D in solar renewable energy technology and support the notion of a Pacific Solar Center as a focus for such work. That visible commitment to solar energy development responds both to the need in Hawaii for alternatives to fossil fuel and to the public's increasing sentiment in favor of environmentally sound energy generation technologies. Alternative energy is already well supported in Hawaii, but to date solar energy as such has not been adequately developed.

The intent on Maui is to provide the basis for full economic exploitation of solar energy and to create a Pacific Solar Center as part of the project we are characterizing as "Maui Captures the Sun." That mythical story of the god Maui symbolizes the very process we are engaged in, using our abilities to induce the sun to serve our needs.

AGRICULTURAL BIOTECH WORK

A third area of advanced work in Maui lies in the NifTAL program which the University of Hawaii is conducting for the Agency for International Development (AID).

The NifTAL program, which stands for Nitrogen Fixation by Tropical Agriculture Legumes, has developed significant products from its R&D efforts which have been used in some fifty countries. This project has developed the technology to treat legume seeds to improve their natural ability to fix nitrogen in the soil. This highly successful program is typical of the collegial approach to technology transfer employed by AID. The approach involves training individuals from the countries and supplying technical assistance in producing and utilizing the technology. We are very proud of the contributions this project is making to enhancing the world's food supply.

KAPALUA PACIFIC CENTER

The Kapalua Pacific Center is located in West Maui and is dedicated to holding conferences and workshops leading to improved East-West dialogue in issues affecting the economic, political, and social/cultural dimensions of our growing relationship. Programs such as the following have been held:

International Productivity Conference;

Partners in Planning symposium/workshop;

The Influence of the U.S. on Pacific Island Nations—an international conference;

The State of the Pacific Basin—an international conference cosponsored with the University of Hawaii.

These symposiums serve to better define and understand mutual opportunities and concerns the U.S. shares with Pacific nations as we move into the 1990s.

In conclusion, Maui is on the way to being a vibrant part of the American technology capability and is placed in a convenient half-way location to our Pacific neighbors. Maui is contributing to building a better Asia/America bridge.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the Centers for Disease

Control, as of February 28, 1990, 124,984 Americans have been diagnosed with AIDS; 76,030 Americans have died from AIDS; and 48,954 Americans are currently living with AIDS.

Mr. President, 7,213 Americans have developed AIDS and 5,717 Americans have died from this horrible disease since I last noted these statistics 2 months ago.

Mr. President, in just 2½ months, San Francisco will be hosting the Sixth International Conference on AIDS—one of the most important events each year in which scientists and public health experts from around the world convene to exchange information about the latest discoveries about AIDS.

Unfortunately, some experts may not come this year. Current immigration policy requires foreign visitors infected with the human immunodeficiency virus [HIV] to obtain a special entry permit. Because there is no public health justification for such a policy and because it may lead to discrimination in individuals' home countries, many international organizations and individuals have indicated that they are going to boycott the meeting.

According to a March 23 Los Angeles Times article, health ministries in France, Switzerland, and the African nation of Cape Verde have already decided not to send official delegations to the conference, and the International League of Red Cross and Red Crescent societies have announced that they will not participate. A resolution of the European Parliament is urging all European scientists to stay home, and top researchers are seriously considering such action.

Mr. President, current policy is discriminatory and counterproductive. All leading public health authorities, including the National Commission on AIDS and the World Health Organization believe it is unnecessary and oppose it.

The United States, as the leader in research on AIDS, has an obligation to share information with representatives of other countries, and the annual international conferences have enabled scientists to exchange state-of-the-art knowledge about the disease. Yet, if attendance of the the international conference is impeded because of the current policy, the United States would be effectively blocking the free flow of communication.

Mr. President, it is ironic that the United States, which has more individuals infected with the HIV than any other country, would institute such a policy. Allowing individuals who are infected with the virus into the United States for short visits would not contribute to or worsen the epidemic in any significant way. However, other countries, fearful that Americans may be carrying the disease, may institute similar policies prohibiting our citizens from traveling abroad.

Mr. President, time is short. The United States must demonstrate leadership for the rest of the world—not succumb to fear and prejudice. I ask all my colleagues to join with me in urging the administration to allow foreign visitors to attend the conference unimpeded.

I ask unanimous consent that a copy of a resolution passed by the city and county of San Francisco urging that the travel restrictions be lifted be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

[Travel Restrictions—Dangerous Contagious Diseases]

Urging Congress and the Bush administration to review and revise the list of dangerous contagious diseases used to restrict entry into the United States; urging that swift action be taken to lift the travel restrictions prior to the Sixth International AIDS Conference in June of 1990.

Whereas the United States government currently medically excludes people with certain diseases including HIV from travel in the United States; and,

Whereas travel restrictions on people with HIV could hamper research and the global fight against the HIV epidemic; and,

Whereas the Sixth International Conference on AIDS is planned to begin in San Francisco on June 20, 1990; and,

Whereas travel restrictions will prohibit many people from attending the conference; and,

Whereas there is a growing boycott of the conference by International AIDS organizations as well as local AIDS organizations because of the travel restrictions; and,

Whereas the Centers For Disease Control (CDC) has recommended that all diseases except active tuberculosis be removed from the list of "dangerous contagious diseases"; and,

Whereas the opinions of public health experts should be seriously considered in making public health policy decisions; now, therefore, be it,

Resolved, That the Board of Supervisors urges Congress and the Bush administration to direct the CDC to review and revise the entire list of contagious diseases used to restrict entry into the United States; and, be it,

Further resolved, That swift action should be taken to lift the travel restrictions on people with HIV in time for the Sixth International AIDS conference in June 1990; and, be it,

Further resolved, That a copy of this resolution be transmitted to his honor the Mayor with a request that he transmit copies to the San Francisco members of the House of Representatives, the United States Senators from the State of California, and the San Francisco Legislative Representative in Washington, D.C., with a request that they take all action necessary to achieve the objectives of this resolution, and that an additional copy of this resolution be sent to the President of the United States.

QADHAFI CALLS FOR RELEASE OF HOSTAGES

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,846th day that Terry Anderson has been held in captivity in Beirut.

I would also like to remark that according to the official Libyan news agency JANA, Mu'ammar Qadhafi yesterday suggested that "liberation movements in the Middle East" celebrate the Muslim holy month of Ramadan by freeing all foreign hostages and prisoners of conscience. Such an unusual gesture of conciliation from one of the West's most vehement critics certainly contributes to the air of optimism presently surrounding the hostage situation.

I ask unanimous consent that an article from today's Washington Post as well as a story from yesterday's Associated Press newswire concerning Qadhafi's comments be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1990]

QADHAFI URGES HOSTAGES' RELEASE

ROME.—Libyan leader Mu'ammar Qadhafi said foreign "hostages and prisoners of conscience" should be freed to mark the current holy Moslem month of Ramadan, the official Libyan news agency JANA said yesterday.

JANA, monitored in Rome, said the Libyan leader stressed Islamic humanitarian values and called on Moslems to refrain from detaining innocent people. The agency said he singled out French hostage Jacqueline Valente, who was captured on a yacht off Cyprus in 1987 by Abu Nidal's Libyan-backed Fatah-Revolutionary Council.

In Washington, White House press secretary Marlin Fitzwater welcomed Qadhafi's appeal. "Sometimes you get support from strange quarters," he said.

LIBYAN LEADER URGES MOSLEMS TO RELEASE HOSTAGES

ROME.—Libyan leader Mu'ammar Qadhafi urged Moslems to celebrate their holy month of Ramadan by releasing foreign hostages held in the Middle East, Libya's official news agency said today.

Col. Qadhafi specifically mentioned Jacqueline Valente, a Frenchwoman captured on a yacht off Cyprus in 1987 by Abu Nidal's Libyan-backed Fatah-Revolutionary Council, the JANA news agency report said.

Qadhafi appealed to "Moslems the world over in his capacity as the leader of the international Islamic People's Command calling for releasing the hostages and prisoners of conscience on the advent of the blessed month of Ramadan the month of love and tolerance," said JANA, monitored in Rome.

Ramadan began in late March.

The JANA dispatch said Qadhafi stressed Islamic humanitarian values and called for refraining from detaining innocent people.

"He has called to mind the hostages in the Middle East of various nationalities and religions, in particular the French hostage," Jacqueline Valente. She was captured along

with her two daughters and five Belgians. The Abul Nidal group claimed they were Israeli spies. Her whereabouts are unknown.

The children, then aged 7 and 6, were freed in December reportedly after Qadhafi intervened.

After their release, Qadhafi urged "liberation movements in the Middle East" to free the rest of the hostages. The group has not been included on the list of Western hostages held in Lebanon. Eighteen Westerners, including eight Americans, are missing and presumed held captive. The longest held is Terry Anderson, chief Middle East correspondent of The Associated Press. He was kidnapped in Beirut on March 16, 1985.

The hostages also include Dr. Thomas Sutherland, of Colorado State University at Fort Collins.

TRIBUTE TO WILLIAM BECK, SR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to William M. Beck, Sr. His death has taken from Alabama one of its foremost attorneys and statesmen.

As is the case with so many great men, William Beck rose from humble beginnings. William was one of 15 children in a farming family. He spent his youth working on the family farm in Calhoun County in Alabama.

He was a good student and a determined young man; he realized early that an advanced education was essential in order to fulfill his aspirations. He attended Newberry College, Jacksonville State University, and Birmingham Southern College. He put his education to work by teaching high school in Oxford, AL, for 6 years. A superb athlete, William also played part time professional baseball in the Georgia and Alabama leagues.

It was in this period that he met and married Miss Vera Isbell. It was said at William's funeral:

When Mr. Beck married Miss Isbell, he was a Methodist and a Democrat and she was a Baptist and a Republican. After the marriage, he was a Baptist and a Democrat and she was a Baptist and a Democrat. Theirs' was a successful mixed marriage.

William studied law alone in the evenings. In 1932, he passed the Bar without the benefit of law school and started a practice in Oxford. His renown in legal and legislative affairs led to his election to the Alabama Legislature in 1939 and selection as a judge in De Kalb County. However, World War II was raging; ever a man to selflessly serve for the greater good, he resigned his positions in the Government and entered the Marine Corps as a buck private. He had advanced to master sergeant by the end of the war.

At this point in his life, the honors began to come thick and fast for William. After the war, he returned to the legislature. He was elected Speaker of the House in 1947. He was appointed chairman of the board of Judson College in 1951, and was later elected president of Judson. Gov. George Wallace named him to the State board of education, where he served for 12 years.

William was elected president of the De Kalb County Bar Association, elected Bar Commissioner from the Ninth Judicial Circuit for three terms, and was vice president of the Alabama Bar. He was named Outstanding Attorney on behalf of the Alabama League of Municipalities in 1974, and was an Alabama Special Assistant Attorney General for 10 years.

William received an honorary doctor of law degree from Judson College and received the Algenon Sydney Sullivan Award from Judson for outstanding public service. The Boy Scouts presented him with the Silver Beaver Award, the highest award the Boy Scouts grant. The Woodmen of the World elected him State president. He also was a 32d-degree Mason and active in the Oddfellows, participating in both organizations for more than 50 years.

He has three children and seven grandchildren. His two sons are lawyers, and one grandson is in law school. I am pleased that Alabama will continue to be blessed with Beck legal acumen for generations to come.

William Beck's life was extraordinarily well lived; I daresay few others will accomplish so much with the time granted them by God. However, that does nothing to mitigate my feeling of loss at his death. I can only hope his example will inspire others.

BETTS LEGISLATION

Mr. HEINZ. Mr. President, I rise today to express my deep concern about an issue of great importance to me—protecting the rights of older workers from employment discrimination. In July 1989, in response to the U.S. Supreme Court decision in Public Employees Retirement System of Ohio versus Betts, I introduced legislation to overturn the Court's decision and to make clear congressional intent on protecting the rights of older workers. Shortly thereafter, my colleagues from Ohio and Arkansas, Senators METZENBAUM and PRYOR, introduced legislation similar to mine.

After months of negotiations between my staff and that of Senators PRYOR, METZENBAUM, JEFFORDS, and other congressional staff, as well as the administration's representative, the Equal Employment Opportunity Commission [EEOC], we thought a compromise was hammered out. While I do not agree with all of the provisions of the compromise, I nevertheless recognize the importance of moving forward. Unfortunately, the EEOC which had been representing the administration, has had their legs cut out from underneath them—apparently someone in the administration finally decided that the EEOC, which was bargaining in good faith, had gone too far.

This resulted in a letter from the White House to a Member of Congress stating that the administration has very serious concerns with certain aspects of the bipartisan compromise. The letter is extremely troubling to this Senator, since it demonstrates that while the Federal Government led us to believe it was an active partner in the development of Betts legislation, it actually failed to participate. Even the EEOC, the agency of the administration who had responsibility for negotiating a compromise, is now keeping its distance from this issue.

We cannot afford to let the administration's letter delay the Senate's consideration of Betts legislation. As each day passes, more and more older workers find themselves in jeopardy of employment discrimination—receiving less benefits than someone who is substantially younger, because the Supreme Court decision says that it is lawful to use age and pension eligibility as a basis for denying older workers benefits they have earned.

I want to praise Senator METZENBAUM and Senator JEFFORDS, the chair and ranking member of the Labor Subcommittee, and Senator PRYOR, the chair of the Aging Committee and the bill's primary sponsor, for their dedication to developing a bipartisan compromise on the most important age discrimination legislation in several years. I know that my colleagues share the concern that the Betts decision will unravel the cloak of protections for older workers that Congress has spent the last two decades weaving.

We took the first stitch in 1967, when the Age Discrimination in Employment Act [ADEA] established that age discrimination, like discrimination based upon race, religion, or sex, is inherently contrary to the principle of individual merit. In 1978, we extended the age for protection from 65 to 70. Finally, in 1985, I introduced legislation to eliminate mandatory retirement for all ages. In passing this legislation, Congress reinforced the rights of all senior citizens to remain active contributors in the American economy.

Despite Congress' efforts to ensure that older workers are treated equitably in the workplace, these rights were threatened by the Betts decision, which ruled that employee benefit plans were no longer protected under the Age Discrimination in Employment Act [ADEA]. The 7-to-2 decision, coming in the case of a challenge to Ohio's retirement plan for public employees, makes it much more difficult for employees to challenge benefit plans that they believe discriminate against older workers. In the past, the Equal Employment Opportunity Com-

mission [EEOC] and the Department of Labor have interpreted the ADEA to mean that employers discriminating on the basis of age must justify their plan on a cost basis. Undermining more than 20 years of protection under the ADEA, the Supreme Court's ruling could result in discrimination in older worker's health, disability, life insurance, and severance benefits.

In the past several months, Members of Congress have received numerous mailings from organizations arguing that the Betts legislation would wreak havoc with existing employee benefits plans. We have heard much from business organizations about their desire to integrate pensions with other types of benefits, such as severance pay. Many employers argue that because both pensions and severance replace lost wages, that they should be considered equally in mass layoffs or plant closings. The practical effect of this rationale is that older workers across the country have been denied severance play in mass layoffs and plant closings.

If we get beyond all the hysteria that has descended upon Congress, it is evident that what we are facing here is an issue of basic fairness. Integration of benefits allows older workers to be treated differently than younger workers, simply because of their age and pension-eligibility. Pensions are a vested right, and in most cases represent deferred compensation. Pensions are earned and severance pay is not. I believe that older workers are entitled to receive their pensions and full severance pay in the case of involuntary terminations.

Let me for a few moments give you the story of a worker in my home State of Pennsylvania, who was targeted for layoff and then denied severance benefits, solely because of his age. Donald C. was employed at the same company for 36 years, when at age 58, he received a letter that because of lack of work, he had been selected for layoff. The company gave Mr. C the choice of receiving reduced pension benefits immediately or severance pay and full pension benefits at age 65. Since he wanted the security of a monthly pension benefit, and did not want to wait several years to start receiving benefits, he chose his pension. Under the provisions of the current Betts legislation, Mr. C. would not have been forced to make such an unfair decision, and would have received both his pension and severance pay.

Although older workers forfeited severance pay if they chose to receive their pension, younger workers were still entitled to receive severance pay. In fact, younger workers will still receive their full pension benefits when they reach retirement age. I understand that some try to justify this inequitable treatment by using the argument that younger workers need severance pay more than older workers. They argue that the purpose of severance pay is to replace lost income until the worker can find other employment, and since older workers have reached retirement age, it is the younger worker who deserves severance pay.

While I agree that younger workers need severance pay, I wholeheartedly disagree with the premise that older workers do not need severance pay. In Mr. C's case, he was forced to leave his job several years before he planned to retire. He had recently received a company award for excellence, and was looking forward to remaining an active contributor to the company. His reduced pension benefit represented a significant drop in income, which he had not accounted for in his financial planning for retirement. He tried earnestly to find other employment, but says he encountered resistance by companies to hire someone his age who had worked for 36 years in a specific, technical trade.

Clearly, severance pay would have helped Mr. C. through a difficult period when he was actively seeking employment. Mr. C. is not alone in his desire to remain an active member of the work force. A recent study by the Commonwealth Fund, found that 1.1 million Americans over age 50 who are not currently employed are willing and able to work. Nearly 50 percent stated that money for essentials or medical expenses was their most important reason for wanting to work. Eighty percent of the sample did not want to leave the work force; the most common reason they stopped working was involuntary loss of their jobs.

Many older workers who have been involuntarily terminated and denied severance pay have filed discrimination cases under the ADEA, and have been waiting as long as 7 years for their cases to be decided. The longer we wait to discuss this legislation in the Senate, the greater the chance that cases currently pending will be dismissed. This would mean that thousands of workers who deserve benefits would not receive them. S. 1511 affects thousands of our constituents who have been treated unfairly because of policies that use age and pension eligibility as a basis for different treatment of older workers. We in the Senate have an obligation to promptly consider this legislation.

Although I will agree to cosponsor S. 1511 as amended, I do have some reservations, which need to be fully debated on the Senate floor. My own bill, S. 1293, does not include a retroactivity provision. S. 1511, would apply retroactively to cases pending as of the date of the Supreme Court decision, including reopening cases dismissed after the decision. While I agree that the legislation should apply to cases that are still pending at the date of the bill's enactment, I do not support the provisions that would reopen dismissed cases. In my opinion, it is bad policy to reopen litigation in this manner. This is one of the reasons that I am urging that we quickly bring this legislation to full debate in the Senate; we must act before more cases are dismissed.

S. 1511 makes reforms that are desperately needed to ensure that implementation of the ADEA is true to the intent of the act. Congress must send a clear message that it will reject all barriers to older workers' full and equitable participation in the work force. As the biological clock advances on this Nation's work force, the pool of younger workers will shrink. We must take steps now to eliminate policies which discriminate against older workers, and develop strategies which will assist businesses to encourage more workers to remain productive. I sincerely hope that we can quickly move forward with a bill that most Members of the Congress and the administration can support.

I see that the distinguished Senator from Ohio [Mr. METZENBAUM] is on the floor. I would like to ask the Senator whether he would be willing to work with me and other Members to see if an agreement can be reached with the administration on the Betts legislation.

Mr. METZENBAUM. As my friend from Pennsylvania knows, I consider the Betts legislation extremely important and something that must be completed soon. As the Senator from Pennsylvania just stated, with every day that passes, more and more litigation is being dismissed that adversely impacts older workers and allows discrimination against older workers to continue.

As the Senator knows, as our staffs worked together on developing a bipartisan compromise, they repeatedly asked the administration for comment and involvement. The EEOC told us that they represented the administration—today that is no longer true.

But I can assure my friend from Pennsylvania that I will have my staff work with his staff in an attempt to reach a compromise with the administration. I hope that this can be achieved.

Mr. HEINZ. I want say to my friend from Ohio, that I too hope that we can reach an agreement with the administration. The work on this issue has been conducted on a bipartisan basis from the beginning. While we may disagree on the retroactivity provision in the compromise as it is currently drafted, the bottom line is this—we are all committed to protecting the rights of older workers against employment discrimination. The Betts case pushed employment discrimina-

tion case law a giant step backward. It is incumbent upon Congress to move expeditiously to resolve this dilemma, and to demonstrate to all workers that employment discrimination will not be tolerated—now or ever.

While I hope that we can achieve a bipartisan compromise with the administration, I want to make one point very, very clear. From this Senator's perspective the issue of integration of severance benefits and pension benefits is a nonstarter.

I look forward to working with the Senator from Ohio on developing a compromise that the administration may be able to support.

THE HUBBLE SPACE TELESCOPE

Mr. HEFLIN. Mr. President, the story is told that, when Galileo pointed the first crude telescope to the heavens, those around him asked: "What do you expect to see?"

His reply was simple: "Wondrous things!"

The launch of NASA's Hubble space telescope this month will open a revolutionary new chapter in the history of astronomy. Not since Galileo's telescope almost 400 years ago, has one astronomical device possessed so much potential for uncovering new knowledge about our universe and the laws that govern it.

What do today's astronomers expect to see with the Hubble space telescope? The answer is simple: "Wondrous things!"

The Hubble space telescope will search out the size and origin of the universe and may even glimpse hints of its ultimate fate. It will help determine how stars and galaxies are formed, and it could provide clues to the existence of planets that orbit other stars the same way the Earth revolves around the Sun. It will zoom in on details of planets in our own solar system, and it will peer back to the early stages of the universe more than 15 billion years in the past. It will answer questions about mysterious objects like quasars and black holes, and it will raise a myraid of questions we have not yet thought to ask.

The most exciting thing about the Hubble space telescope is that we really do not know what it will discover. Just as Galileo was surprised to find moons orbiting Jupiter and what proved to be rings around Saturn, there are doubtless many unexpected wonders that still lie beyond our view. The Hubble space telescope will allow astronomers to see stars and galaxies that are 25 times fainter than those which can now be seen with the best ground-based observatories. We will be able to explore celestial objects in 10 times finer detail than ever before. There is no way to anticipate fully what this discovery machine will reveal.

The Hubble space telescope holds such potential for wonderous discoveries for two reasons.

First, it is a space telescope. Hubble will operate above the Earth's atmosphere, which distorts visible light and absorbs most other forms of radiation. In addition to producing crystal-clear images of celestial bodies in visible light, the space telescope can support scientific instruments that will study them in the ultraviolet and infrared wavelengths as well. From each form of radiation, we can uncover different pieces to the puzzle of the universe.

Second, the Hubble space telescope is, quite simply, the best optical telescope ever made. Its 8-foot primary mirror is so finely polished that if the surface of the Earth were as smooth, its tallest peak would be no more than five inches high. Its detectors are so sensitive that they could record the light from a flashlight a quarter of a million miles away. And its pointing is so accurate that it could line up a golf putt with precision on a 1,500-mile green stretching from Washington, DC, to Dallas, TX.

It took the combined efforts of hundreds of scientists, engineers, and other professionals from various NASA centers, private companies, universities, and the international scientific community to produce this engineering marvel. Leading the way over almost two decades of definition, design, and development has been NASA's Marshall Space Flight Center in Huntsville, AL. The NASA Center, which gave America the thrust to reach the moon with its powerful Saturn V rockets and that furnishes the propulsion system which boosts our space shuttles into orbit, is also providing the means to reach the very edges of the observable universe with this unique discovery machine.

The idea of a telescope in space was first proposed in the 1920's by German scientist Hermann Oberth. One of his most ardent pupils, rocket pioneer Dr. Wernher von Braun, became the Marshall Center's first director. In 1962, just 4 years after NASA was established, development of a large space telescope was officially suggested as a long-range goal of the fledgling space agency. And in 1972, NASA selected Alabama's Marshall Space Flight Center as the lead management center for the space telescope project.

Marshall engineers and their contractors went to work on the initial definition phase of the project, thinking through all the elements required to create this revolutionary window to the heavens. In the meantime, NASA's Goddard Space Flight Center in Greenbelt, MD, concentrated on definition of the telescope's scientific instruments. The European Space Agency made the space telescope program international by joining in the effort in 1975.

After Congress gave the final goahead for the project in 1977, Marshall awarded two major contracts for the construction of the space telescope.

The Perkin-Elmer Corp. of Danbury, CT—now Hughes Danbury Optical Systems—was selected to provide the optical telescope assembly—the two mirrors, the structure which holds them in precise alignment to one another, and their support systems. Marshall managers set tough standards for the perfection of the mirrors, but the contractor met or exceeded them all. The result of their painstaking effort was the smoothest large mirror ever made—less than a millionth of an inch from perfection.

The contract for the support systems module systems engineering and integration went to Lockheed Missiles and Space Co. in Sunnyvale, CA. They furnished the exterior structure of the Hubble space telescope and the various systems that make it possible for the optical telescope assembly and the scientific instruments to do their jobs. And there were a myriad of systems to provide: pointing control to lock onto celestial bodies being studied, thermal protection from the temperature extremes of space, antennas and computers for communications between the ground and the spacecraft, and electrical power to bring the space telescope to life.

Lockheed's design job was particularly demanding because this is to be a permanent space telescope, operating continuously for 15 years or more. Bringing it back to Earth every time a part needs to be replaced or a new instrument installed would be prohibitive, both in terms of expense and observing time. Therefore, the Hubble space telescope became NASA's first spacecraft specifically designed for servicing in orbit. Astronauts and technicians spent many hours in Marshall's neutral buoyancy simulator trying out designs for modular replacement units that could be readily manipulated in orbit. The simulator, a four-story-high tank filled with over a million gallons of water, is used to reproduce the weightless environment of space. There, astronauts practice space maneuvers wearing suits that are counterbalanced so they neither sink or float. Hubble simulations in the tank continued throughout the 1980's.

Careful documentation guarantees that Hubble space telescope design, construction, and component inventory records will be available to support telescope activities during its 15-year lifetime. This information is stored in the Marshall Center's technical management information system. When the time comes for servicing missions, the necessary background data will be

easily accessible through this computerized library.

Lockheed was also assigned the task of assembling and testing the finished product. The scientific instruments developed under the direction of the Goddard Space Flight Center, the solar arrays provided by the European Space Agency, and the optical telescope assembly were sent to Lockheed's California facility, where the precision parts were assembled into the largest astronomical observatory ever constructed for orbit. Extensive ground tests satisfied Marshall's project management team that the Hubble space telescope is indeed the astronomical jewel it was designed to be—one that will keep the United States in the forefront of world astronomy well into the next century.

Now, after years of design, construction, assembly, and testing, the big day is almost here. This very month, the Space Shuttle *Discovery* will roar into space. And in its cargo bay will rest our Hubble space telescope, ready to make this new decade the premier decade of astronomical discovery.

However, we will have to wait a few more months before the pictures of wonders start rolling in. Even amateur astronomers do not take their telescopes into a field and just begin observations without preparation. First, they set up their tripods, making sure the legs are level and the footing is steady. Next they aim their telescopes to the area of the sky they want to study and begin carefully adjusting the focus. Only then do they start viewing their targets.

Because the Hubble space telescope is an extremely complex, precise, and sensitive instrument, it will require an extensive period of activation, adjustment, and checkout before it is turned over to the scientific community for their observations. This period, referred to by NASA as orbital verification, will be under the direction of a team from Marshall's Hubble space telescope project office. The oribital verification management team will travel to Goddard Space Flight Center, where the space telescope operations control center is located, to direct the step-by-step process of deployment, activation, focusing, and evaluation. A second Marshall team will be gathered in the Huntsville operations support center in Alabama. This team is made up of engineers from Marshall, Lockheed, Hughes Danbury, and the European Space Agency—the people who designed and built the Hubble space telescope. They will monitor thousands of points of data on the spacecraft's status to make sure it is working just as they designed it to work.

After the Marshall Space Flight Center management team is satisfied that the engineering portion of the Hubble space telescope is operating smoothly, they will turn over control to Goddard, the NASA Center which will operate the telescope during its years of service.

Marshall will support orbital and science verification for as long as 2 years if necessary, but their involvement in the Hubble space telescope project will be gradually phased out. The Marshall Center's creativity will be focused on new challenges: building the modules for Space Station Freedom; developing a new astronomical telescope, the Advanced X-ray Astrophysics Facility, which will view the universe in yet another wavelength; and designing the vehicles which will take us back to the Moon and on to Mars.

But the dividends on the tremendous investment of time, effort, imagination, and dollars in the Hubble space telescope will continue to compound. It is new knowledge that fuels the future, that raises our vision, and broadens our horizons. And with the Hubble space telescope, wondrous discoveries will be, not the exception, but the rule.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CARL D. PERKINS VOCATIONAL EDUCATION ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of S. 1109, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1109) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carl D. Perkins Vocational Education Act Amendments of 1989".

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

SEC. 101. ALLOTMENT.

(a) IN GENERAL.—Section 101(a)(1) of the Carl D. Perkins Vocational Education Act (hereinafter referred to as the "Act") is amended—

(1) in subparagraph (A) by—

(A) striking "2" and inserting "2.75"; and

(B) striking "part E" and inserting "part D"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) 2 percent for the purpose of carrying out section 103; and

"(C) .25 percent for the purpose of carrying out section 104.".

(b) TECHNICAL AMENDMENT.—(1) Section 101(a)(3)(C) of the Act is amended by striking ", Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands,".

(2) Section 101(c)(1)(B) of the Act is amended by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "and the Virgin Islands".

SEC. 102. WITHIN STATE RESERVATION.

Section 102 of the Act is amended to read as follows:

"SEC. 102. (a) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed—

"(1) 20 percent for State programs and State administration of which—

"(A) 75 percent of such 20 percent shall be available for State programs and State leadership; and

"(B) 25 percent of such 20 percent shall be available for State administration;

"(2) 5 percent for technical preparation education under part B of title II; and

"(3) 75 percent for basic programs under part C of title II of which—

"(A) 65 to 75 percent of such 75 percent shall be available for subpart 1 of part C of title II; and

"(B) 25 to 35 percent of such 75 percent shall be available for subpart 2 of part C of title II.

"(b) SPECIAL RULES.—(1) From the amount reserved pursuant to subsections (a)(1)(A) and (a)(1)(B) each State shall reserve 20 percent for sex equity programs in accordance with section 202.

"(2) From the amount reserved pursuant to subsection (a)(3)(B) each State shall reserve for single parents, homemakers, and single women programs in accordance with section 242 an amount which equals or exceeds 9 percent of the total amount reserved pursuant to subsection (a)(3) for subparts 1 and 2 part C of title II.".

(c) MATCHING REQUIREMENT.—Each State receiving financial assistance under this Act shall match, on a dollar-for-dollar basis, the funds received pursuant to subsection (a)(1)(B) from non-Federal sources.

(d) HOLD HARMLESS PROVISION.—The requirements of subparagraphs (A) and (B) of subsection (a)(3) shall only apply to—

(1) 20 percent for fiscal year 1991,

(2) 36 percent for fiscal year 1992, and

(3) 51 percent for fiscal year 1993,

of the funds available under subsection (a)(3) to each State for basic programs under part C of title II.

SEC. 103. INDIAN AND HAWAIIAN PROGRAMS

Section 103 of the Act is amended to read as follows:

"INDIAN AND NATIVE HAWAIIAN PROGRAMS

"SEC. 103. (a)(1)(A) From 7/12 of the amount of funds reserved under section 101(a)(1)(B), the Secretary shall award grants to, or enter into contract with—

"(i) Indian tribes that are eligible to receive a grant from, or to enter into a contract with, the Secretary of the Interior under—

"(I) the Indian Self-Determination and Education Assistance Act, or

"(II) the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 452, et seq.), and

"(ii) tribal organizations of such Indian tribes,

to plan, conduct, and administer programs, or portions of programs, that provide voca-

tional-technical training and related activities.

"(B) Grants awarded, and contracts entered into, under subparagraph (A) shall—

"(i) be subject to the terms and conditions of section 102 of the Indian Self-Determination and Education Assistance Act, and

"(ii) be conducted in accordance with those provisions of sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 455, 456, 457) that are relevant to the programs for which the grant or contract is provided.

"(2)(A) From 1/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall award grants to schools funded by the Bureau of Indian Affairs of the Department of the Interior for the purpose of providing vocational education programs for secondary students attending those schools.

"(B) Each grant awarded under subparagraph (A) shall equal or exceed $50,000.

"(C) The Secretary of the Interior is authorized to accept and use any grant awarded under subparagraph (A) for the purposes for which the grant is awarded.

"(D) The Secretary is authorized to enter into an agreement with the Secretary of the Interior for the operation of vocational education programs authorized by this Act in institutions serving Indians who are eligible to receive educational benefits as Indians from the Bureau of Indian Affairs because of their status as Indians.

"(3)(A) From 3/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall award grants for vocational-technical training, and related activities, to two or more schools of vocational-technical education, each of which—

"(i) is governed by a board of directors or trustees, a majority of whom are Indians,

"(ii) has been in operation for 5 or more years,

"(iii) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians, and

"(iv) is accredited, or a candidate for accreditation, by a nationally recognized accrediting agency for postsecondary vocational education institutions.

"(B) If any portion of the funds that are authorized to be used to provide grants under subparagraph (A) for any fiscal year remains after all schools eligible for the grant that submitted acceptable applications for the grant have been awarded a grant under subparagraph (A) for the fiscal year, the Secretary may use the remaining funds—

"(i) to award grants under subparagraph (A) to institutions of higher education that are eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978, and

"(ii) if funds remain after all grants authorized under clause (i) have been awarded to eligible institutions that submitted acceptable applications for the grant, to fund grants and contracts provided under paragraph (1).

"(C) Each grant awarded under subparagraph (B)(i) shall equal or exceed $50,000.

"(D) The Secretary shall, subject to the availability of appropriations, provide for each program year to each school of vocational-technical education having an application approved by the Secretary under subparagraph (A), an amount necessary to pay expenses associated with—

"(i) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contribution to the costs of education for dependents);

"(ii) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(iii) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(4) For purposes of this Act, the Bureau of Indian Affairs of the Department of the Interior shall be considered to be a State board.

"(5) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

"(b)(1) From 3/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions of programs, that provide vocational-technical training, and related activities, for the benefit of Native Hawaiians.

"(2) For purposes of this section, the term 'Native Hawaiian' means any individual who has any ancestors that were natives, prior to 1778, of the area which now constitutes the State of Hawaii.

"(c) Grants awarded, and contracts entered into, under this section shall be subject to such terms and conditions as the Secretary may prescribe relating to satisfactory performance of the grant or contract.

"(d) Nothing in this section shall be interpreted as affecting or limiting the ability, or eligibility, of any person or agency to which this section applies to apply for, or receive assistance from, any other source, including assistance provided by the Federal government under any provision of law other than this title.".

SEC. 104. THE TERRITORIES.

Part B of title I of the Act is amended by inserting at the end thereof the following new section:

"THE TERRITORIES

"SEC. 104. (a) IN GENERAL.—From funds reserved pursuant to section 101(a)(2)(C), the Secretary shall make a grant to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity or entities to make vocational education and training grants in Guam, American Samoa, Palau, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of the Marshall Islands, or cooperative efforts involving two or more of these entities for the purpose of—

"(1) teacher training and retraining;

"(2) curriculum development;

"(3) improving vocational education and training programs in secondary schools, institutions of higher education, or cooperative programs involving both secondary schools and institutions of higher education.

"(b) LIMITATION.—The Center for the Advancement of Pacific Education may use no more than 5 percent of the funds received pursuant to subsection (a) for administrative costs.".

SEC. 105. STATE ADMINISTRATION.

Section 111 of the Act is amended—

(1) in subsection (a)(1)(A) by striking "113(b)(9)" and inserting "113(b)(14))";

(2) in subsection (a)(1)(C) by inserting ", including business and industry" before "involved";

(3) in subsection (b)(1) by—

(A) redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively, and

(B) inserting the following new subparagraph (C) after subparagraph (B):

"(C) reviewing and commenting upon the plans of local educational agencies to ensure that the needs of women and men for training in nontraditional jobs are met;";

(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(1)(B)" before "expend";

(5) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively; and

(6) inserting the following new subsections after subsection (b):

"(c)(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to—

"(A) review all plans of local eligible recipients to ensure that students with disabilities are receiving vocational educational services required by their individual educational program pursuant to Public Law 94-142;

"(B) ensure that the plans of the local educational agency, area vocational school, or intermediate educational agency provide assurances of compliance with the provisions of section 504 of the Vocational Rehabilitation Act and the Education of Handicapped Act regarding equal access to programs;

"(C) review all plans of local eligible recipients to ensure that local educational agencies, area vocational schools or intermediate educational units have—

"(i) identified the number of students with disabilities enrolled in vocational programs operated by the local recipient,

"(ii) assessed the vocational needs of the students identified pursuant to clause (i), and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students; and

"(D) evaluate the plans of all local eligible recipients with respect to the appropriateness of the program and the quality of the program.

"(2) For purposes of this subsection, the term 'State' means any one of the 50 States and the District of Columbia.

"(d) Any State desiring to participate in the programs authorized by this Act shall assign the chapter 1 coordinator to review the plans of the local recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State agency responsible for administering programs for students with limited English proficiency to review the plans of the local educational agency, area vocational schools, or intermediate educational agencies to ensure that the number of students with limited English proficiency have been identified and that the needs of such students are being met as outlined by such plans.".

SEC. 106. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act is amended—

(1) in subsection (a)(1)(A) by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2) by inserting at the end thereof the following new sentence: "In addition, the State Council may include members of vocational student organizations and school board members.";

(3) in subsection (a) by inserting the following new paragraph after the matter following paragraph (2):

"(3) SPECIAL RULE.—No member of the State board shall serve on State Council.";

(4) in subsection (d)(2) by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) immediately preceding subparagraph (B) (as redesignated in subparagraph (B)):

"(A) the State plan;";

(6) in subsection (d)(8) by striking "201(b)" and inserting "223";

(7) by amending subsection (d)(9) to read as follows:

"(9)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment and training represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State,

"(ii) the vocational educational program delivery system assisted under this Act, and under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the two Acts, and

"(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action as put into practice;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.".

(8) in subsection (e) by inserting the following new sentences at the end thereof: "Each State Council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State Plan."; and

(9) in subsection (f)(1)(A) by—

(A) striking "120,000" and inserting "150,000"; and

(B) striking "225,000" and inserting "250,000"; and

(10) in subsection (f)(1)(B) by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and Palau".

SEC. 107. STATE PLANS.

Section 113 of the Act is amended to read as follows:

"SEC. 113. (a)(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a 3-year period in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto) the State board shall meet with and utilize, before the development of such plan, the State Council, established pursuant to section 112 of this Act.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct a State assessment according to section 115.

"(b) Each State plan shall—

"(1) address the needs indicated by the State assessment conducted pursuant to section 115; and

"(2) provide assurances that, and where necessary a description of the manner in which, the local educational agencies, area vocational schools or intermediate educational agencies will comply with the requirements of titles I, II, and III of this Act including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for the special populations prescribed by section 223;

"(B) assurances that the State will develop measurable goals and accountability measures for meeting the needs of special populations;

"(C) adequate monitoring of programs in local educational agencies, area vocational schools or intermediate educational agencies to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals described in section 223, who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under subpart 1 of part C of title II;

"(3) set forth the planned distribution to local educational agencies, area vocational schools or intermediate educational agencies as prescribed by section 221;

"(4) provide assurances that the State will comply with the provisions of section 102;

"(5) set forth the criteria the State board will use—

"(A) in approving applications of eligible recipients, and

"(B) for allocating the 20 percent reserve for the State as authorized under section 102(a)(1);

"(6) provide assurances that if the State exercises the option to redistribute the 20 percent reserve, the State will match the reserve as prescribed under section 101(c);

"(7) describe how funds expended for occupationally specific training will be used only for occupations in which job openings are projected or available;

"(8) provide assurances that the goal of each program shall be to give a student experience in, and understanding of, all aspects of the industry in which the student is preparing to enter;

"(9) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(10) provide such methods of administration as are necessary for the proper and efficient administration of the Act;

"(11) provide assurances that, in the use of funds available for single parents and displaced homemakers, and single pregnant women under section 242, the State will emphasize assisting individuals with the greatest financial need, and that in serving homemakers the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(12) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(13) describe how the State is implementing performance evaluations as prescribed by section 231;

"(14) provide assurances that the State will—

"(A) develop measures for the effectiveness of programs assisted under this Act in meeting the needs identified in the State plan, including evaluative measurements such as—

"(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

"(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

"(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers;

"(B) as a component of the measures under subparagraph (A) of this paragraph, establish appropriate measures for evaluating the effectiveness of programs for the special populations described in section 223 assisted under this Act; and

"(C) evaluate the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year;

"(15) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship training programs;

"(16) provide assurances that programs of personnel development, and curriculum development shall be funded to further the goals identified in the State plan;

"(17) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(18) provide assurances that the State board will cooperate with the State council on vocational education in carrying out its duties under this part;

"(19) provide assurance that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such ac-

quisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(20) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds; and

"(21) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act).".

(c)(1) When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council, and the State council.

(2) Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing performance evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.

SEC. 108. APPROVAL.

Section 114(a)(1) of the Act is amended by—

(1) inserting ", the chief executive officer of the State" after "legislature" each place such term appears; and

(2) redesignating subsection (c) as subsection (d); and

(3) inserting the following new subsection after subsection (b):

"(c) The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, technical preparation education and for secondary education after consultation with the State agency responsible for supervision of community colleges and the State agency responsible for secondary education, respectively. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult and postsecondary students. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.".

SEC. 109. STATE ASSESSMENT.

Section 115 of the Act is amended to read as follows:

"STATE ASSESSMENT

"SEC. 115. (a)(1) Each State board receiving assistance under this Act shall develop measurable objective criteria by which to assess the quality of, and standards for, State and local programs. Such criteria shall be developed in consultation with local educational agencies, area vocational schools, intermediate educational agencies, business and industry, union and trade representatives, vocational educators, superintendents, community-based organizations, parents, representatives of special populations described in section 223, guidance counselors and the State council. Each State board shall widely disseminate such criteria. State boards shall develop criteria by the beginning of school year 1993, and shall use criteria to assess program quality. Assessment criteria shall include—

"(A) student improvement in basic skills;

"(B) positive learning and educational outcomes;

"(C) acquisition of all aspects of occupational competencies;

"(D) student improvement in life skills, problem solving skills and career decision making;

"(E) the ability of local educational agencies, area vocational schools and intermediate educational agencies to meet the needs of special populations such as the economically disadvantaged, students with disabilities, students with limited English proficiency, and women and men in programs for training in nontraditional occupations, and criminal offenders in correctional institutions, for access to vocational education and vocational services in terms of labor market needs;

"(F) assessing the quality of vocational education in terms of—

"(i) the pertinence of programs to the workplace and to new and emerging technologies;

"(ii) the technological and educational quality of vocational curricula, equipment, and instructional materials to enable vocational students and instructors to meet the challenges of increased technological demands of the workplace;

"(iii) the capability of vocational education programs to meet the needs for general occupational skills and improvement of basic academic skills in order to address the changing content of jobs;

"(iv) the capability of vocational education programs to—

"(I) give students experience in, and understanding of, all aspects of the industry in which the student is preparing to enter; and

"(II) provide job placements; and

"(v) measuring the state-of-the-art quality of the vocational education provided; and

"(G) setting measurable goals to meet the needs of special populations.

"(2) In developing assessment criteria pursuant to the provisions of paragraph (1)(E), the head of the special education unit, the sex equity coordinator and the individual designated under section 111(d) to monitor programs for students with limited English proficiency shall each develop data collection procedures appropriate to the special populations being served. Data collected should include information about program services and outcomes, as well as which individuals are being served.

"(b) Each State board receiving assistance under this Act shall assess improvements needed in vocational education programs through the use of Federal funds provided under this Act and State and local vocational education funds. Such assessment shall utilize the following 6 factors:

"(1) integration of academic and vocational education;

"(2) sequential course of study;

"(3) increased student job placement;

"(4) increase linkages between secondary and postsecondary;

"(5) ensuring that at-risk populations obtain assistance necessary to enroll and succeed in upgraded programs; and

"(6) raising the quality of vocational programs in schools with high concentrations of poor and low-achieving students.".

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"STATE PROGRAMS AND STATE LEADERSHIP

"SEC. 201. (a) From amounts reserved under section 102(a)(1)(A) each State shall conduct State programs and State leadership activities.

"(b)(1) State programs conducted pursuant to subsection (a) shall include—

"(A) training and retraining programs for teachers, administrators and counselors, including corrections educators and counselors, and educators and counselors in community-based organizations, which may include—

"(i) training in the integration of academic and vocational studies and programs that give students experience in, and understanding of, all aspects of the industry the student is preparing to enter; and

"(ii) retraining of vocational teachers in modern instructional techniques and new technologies;

"(B) curriculum development, curriculum dissemination and field-testing of curriculum; and

"(C) supporting vocational student organizations, with every effort being made to increase minority participation in such clubs.

"(2) Training and retraining programs conducted pursuant to paragraph (1)(A) shall give particular emphasis to recruiting and training minority teachers and shall encourage programs that utilize business and industry equipment and personnel.

"(3) In carrying out the provisions of paragraph (1)(B) the State—

"(A) shall give priority to curriculum which integrates academic and vocational studies;

"(B) shall provide special emphasis on curriculum which incorporates the needs of business and industry in high skilled occupations;

"(C) may award contracts to the Corporation for Public Broadcasting; and

"(D) may provide grants for technical preparation programs as described in part B of this title.

"(c)(1) Leadership activities conducted pursuant to subsection (a) shall include—

"(A) monitoring and evaluation, including technical assistance to local recipients;

"(B) development and implementation of performance evaluations and improvement required under section 250, including technical assistance;

"(C) development and implementation of the State assessment required under section 109;

"(D) promoting business, industry, and interagency linkages and linkages with community-based organizations;

"(E) establishing guidelines for the development of local plans;

"(F) the creation and maintenance of a public awareness program;

"(G) developing linkages with community-based organizations; and

"(H) building collaboration and joint efforts among education, labor, job training, public assistance, and other State agencies to improve vocational education services to traditionally underserved populations.

"(2) Each State receiving financial assistance under this Act shall match, on a dollar for dollar basis and from non-Federal sources, the funds received pursuant to section 102(a)(1)(A) for leadership activities.

"SEX EQUITY PROGRAMS

"SEC. 202. From amounts reserved under section 102(b)(1) the State shall, under the administration of the sex-equity coordinator described in section 111(b)(1)—

"(1) support programs, services, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) support vocational and prevocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) provide support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2) including dependent-care services and transportation.

"PART B—TECHNOLOGY PREPARATION

"PROGRAM AUTHORIZED

"SEC. 211. From amounts reserved under section 102(a)(2) the State agency shall make competitive grants for activities carried out under this part to consortia of—

"(1) local educational agencies, intermediate educational agencies serving secondary school students or area vocational schools serving secondary school students; and

"(2) community colleges (including post-secondary vocational technical schools), apprenticeship programs, or institutions of higher education offering—

"(A) a two-year degree,

"(B) an associate's degree, or

"(C) a two-year post-secondary certificate.

"TECHNICAL PREPARATION EDUCATION PROGRAMS

"SEC. 212. (a) GENERAL AUTHORITY.—Each recipient of a grant under this part shall use amounts paid under this part to develop and operate a 4-year technical preparation education program.

"(b) CONTENTS OF PROGRAM.—Each such program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, or a 2-year apprenticeship program, with a common core of required proficiency in mathematics, science, communications and technologies designed to lead to an associate degree in a specific career field;

"(3) include the development of technical preparation education program curriculum appropriate to the needs of the consortium participants; and

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to implement effectively technical preparation education curriculum;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in weekend, evening and summer sessions, institutes or workshops.

"(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such program may—

"(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for technical preparation education programs, and ensure their successful completion of such programs and their placement in appropriate employment;

"(2) provide for the acquisition of technical preparation education program equipment; and

"(3) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs.

"APPLICATIONS

"SEC. 213. (a) IN GENERAL.—Each consortium that desires to receive a grant under this part shall submit an application to the State board at such time and in such manner as the State board shall prescribe.

"(b) FIVE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this Act.

"(c) APPROVAL.—The State board shall approve applications based on their potential to create an effective technical preparation education program as described in section 212.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applicants whose applications—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs; and

"(2) are developed in consultation with business, industry, and labor unions.

"DEFINITIONS

"SEC. 214. For purposes of this part—

"(1) the term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a technical preparation education program.

"(2) the term 'community college' has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree.

"(3) the term 'technical preparation education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, mechanical, industrial, or practical art or trade;

"(C) provides technical preparation in agriculture, health, or business;

"(D) provides competence in mathematics, science, and communications (including through applied academics); and

"(E) leads to placement in employment.

"PART C—SECONDARY, POSTSECONDARY AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"WITHIN STATE ALLOCATION

"SEC. 221. (a) From amounts reserved under section 102(a)(3)(A), the State board shall allocate to each local educational agency an amount that bears the same relationship to such funds as the amount such local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year as modified by State board pursuant to subsection (b).

"(b)(1)(A) In the case of criminal offenders who are in State correctional institutions the State board shall ratably reduce the percentages obtained under subsection (a) in order to make available to the State correctional program under section 228 an amount which is substantially equivalent to the amount which such program would have been eligible to receive under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for that fiscal year if the State correctional program were a local educational agency.

"(B) For the purpose of subparagraph (A) the age of children in correctional institutions to be counted shall be ages 9 through 35.

"(C) The amount determined pursuant to subparagraphs (A) and (B) shall not exceed 5 percent of the amount reserved under section 102(a)(3)(A).

"(2) In the case of an area vocational school the amounts calculated under subsection (a) that are available to local educational agencies served by that area vocational school shall be made available to that area vocational school.

"(3) In the case of an intermediate educational agency the amounts calculated under subsection (a) that are available to local educational agencies served by that intermediate educational agency shall be made available to that intermediate educational agency.

"(c)(1) No local educational agency, area vocational school or intermediate educational agency, shall be eligible for an allocation unless the amount calculated under subsection (a) equals or exceeds $25,000.

"(2) Local educational agencies, area vocational schools or intermediate educational agencies may form consortia and aggregate the amounts such agencies or schools would be eligible to receive under subsection (a) in order to comply with the provisions of paragraph (1).

"(3) The provisions of paragraph (1) shall not apply to State correctional agencies.

"(d) In the case that an area vocational school and a local educational agency served by such area vocational school offer comparable vocational education programs, the State agency may distribute funds to both an area vocational school and a local educational agency served by such area vocational school on the basis of the enrollment of students in vocational educational programs, provided the provisions of subsection (c)(1) are met for each area vocational school and the local educational agency.

"(e) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educational agency which only serves elementary schools.

"STATE RESERVE FOR AREAS WITH SEVERE PROBLEMS

"SEC. 222. (a) Each State receiving financial assistance under this part may reserve not to exceed 10 percent of such amount for distribution to local educational agencies, area vocational schools, or intermediate educational agencies experiencing particularly severe hardships such as severe unemployment, a severe poverty concentration, a high dropout problem, a high crime rate, a high incidence of drug abuse or a high con-

centration of limited English proficient students, all of which are above the statewide average.

"(b)(1) If a State elects to reserve funds pursuant to subsection (a) the State shall match such funds, on a dollar-for-dollar basis to each local recipient, from State sources or from private sources.

"(2) In no event shall a State reserving funds pursuant to subsection (a) use funds from local educational agencies, area vocational schools, or intermediate educational agencies to meet the requirements of paragraph (1).

"POPULATIONS TO BE SERVED

"SEC. 223. (a) Each local educational agency, area vocational school, intermediate educational agency, or State agency responsible for carrying out correctional educational programs receiving funds under this subpart shall use such funds to provide vocational education services and activities designed to meet the special needs of, and to enhance the participation of—

"(1) the economically disadvantaged;

"(2) individuals with disabilities;

"(3) individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education;

"(4) students with limited English proficiency; and

"(5) criminal offenders, both juvenile and adults, who are serving in a correctional institution.

"PROGRAMS FOR ECONOMICALLY DISADVANTAGED STUDENTS

"SEC. 224. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to disadvantaged individuals—

"(1) equal access in recruitment, enrollment, and placement activities; and

"(2) equal access to the full range of vocational programs available to nondisadvantaged individuals, including occupationally specific courses of study, cooperative education programs and apprenticeship programs.

"(b) For the purpose of this section the term 'disadvantaged student' means a student who is economically or educationally disadvantaged.

"PROGRAMS FOR STUDENTS WITH DISABILITIES

"SEC. 225. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to all individuals with disabilities within the jurisdiction of the recipient an equal opportunity for an appropriate vocational education. Such recipients shall use such funds, in combination with State and local funds, to provide to individuals with disabilities—

"(1) equal access to recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs available to nonhandicapped individuals, including occupationally specific courses of study, cooperative education programs and apprenticeship programs;

"(3) vocational education programs and activities in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act;

"(4) the vocational education component of the individualized education plan required under sections 612(4) and 614(a)(5) of the Education of the Handicapped Act;

"(5) supplementary services including curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices; and

"(6) vocational education planning for individuals with disabilities which shall be—

"(A) coordinated with appropriate representatives of vocational education and special education, and

"(B) reviewed by the head of the State office responsible for administering part B of the Education of the Handicapped Act.

"(b) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall comply with the provisions of section 504 of the Vocational Rehabilitation Act and the Education of the Handicapped Act regarding equal access to programs.

"PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH PROFICIENCY

"SEC. 226. Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to students with limited English proficiency—

"(1) equal access in recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs and apprenticeship programs;

"(3) supplementary services to ensure full and equitable participation in programs, such as—

"(A) providing adapted vocational instruction simultaneously with English language instruction;

"(B) utilizing appropriate agencies and community-based organizations to communicate in, and to provide counseling in, the students' language; and

"(C) bilingual and cultural counseling; and

"(4) vocational education planning which shall be reviewed by the head of the State administrative office responsible for the education of students with limited English proficiency.

"PROGRAMS TO ELIMINATE SEX BIAS

"SEC. 227. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to women and men—

"(1) equal access in recruitment, enrollment, and placement activities in education and training programs in nontraditional occupations;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs and apprenticeship programs;

"(3) programs to overcome sex bias, stereotyping and other barriers which inhibit the participation of women and men;

"(4) programs to expand outreach and orientation to nontraditional occupations for women and men;

"(5) supplementary services including, but not limited to, curriculum modification, equipment modification, classroom modification, supportive personnel, instructional aids and devices, and subsidized employment opportunities; and

"(6) programs to increase and provide support services.

"(b) Programs and services provided pursuant to subsection (a) shall be reviewed by the sex-equity coordinator consistent with the provisions of section 111(b)(1)(A).

"PROGRAMS FOR CRIMINAL OFFENDERS

"SEC. 228. Each State agency responsible for carrying out correctional education programs receiving financial assistance under this Act shall—

"(1) administer programs for criminal offenders, both juvenile and adults, in correctional institutions; and

"(2) provide vocational education programs for women who are incarcerated;

"(3) use funds provided pursuant to the provisions of section 221(b)(1)(A) to update equipment; and

"(4) distribute funds of services to correctional institutions in proportion to the number of individuals served by each facility, giving special emphasis to ensure services for women who are incarcerated.

"USE OF FUNDS

"SEC. 229. (a)(1) Each local educational agency, area vocational school, intermediate educational agency, and State agency responsible for corrections education receiving financial assistance under this subpart shall use such funds to—

"(A) provide to individuals described in section 223 the supplementary services necessary to ensure full and equitable participation in vocational education programs;

"(B) ensure that programs for the individuals described in section 223 are of the highest quality and are state-of-the-art; and

"(C) support supplemental or additional staff, equipment, materials, and services for the individuals described in section 223.

"(2) Each local educational agency, area vocational school, intermediate educational agency, or State agency responsible for correctional education receiving funds under this section shall use no more than 5 percent of such funds for administrative costs.

"(3) Local recipients receiving funds under this section may use such funds to develop programs in consortia or in cooperation with community-based organizations.

"(b)(1) Each local educational agency, area vocational school, intermediate educational agency, and State agency responsible for corrections education receiving financial assistance under this subpart shall, to the extent practicable, use such funds for individuals described in section 223 to—

"(A) integrate academic and vocational training which—

"(i) provides a sequential course of study that uses an applied context based on broad and specific job training and which reinforces and enhances academic skills and motivates students to excel in both academic and vocational courses; and

"(ii) encourages utilization of a business-industry model of applied learning techniques;

"(B) provide program improvement, including instructional services, curriculum and materials development and state-of-the-art equipment designed specifically to upgrade instruction;

"(C) designate a special populations coordinator who shall be a qualified counselor or teacher to ensure that special populations are receiving adequate services and job skill training; and

"(D) provide comprehensive guidance and counseling to the individuals described in section 263 who have not entered grade 9 and to the parents of such individuals concerning—

"(i) the course of study in each vocational program offered;

"(ii) the occupational opportunities for employment after graduation, as well as summer and part-time employment during the school year;

"(iii) information about postsecondary opportunities;

"(iv) information about apprenticeship opportunities; and

"(v) guidance and counseling at the prevocational level and during the vocational program.

"(2) Each local recipient receiving assistance under this subpart may use such funds for technical preparation education programs described in part B of this title for special populations described under section 223.

"(3) The individual described in paragraph (1)(C) shall be compensated in whole or in part through funds reserved pursuant to subsection (b)(2) for administrative costs.

"(4) Funds used to carry out the provisions of paragraphs (1)(A) and (1)(B) may be used to benefit other populations providing the needs of the individuals described in section 223 are being met.

"LOCAL APPLICATION

"SEC. 230. (a) Any local educational agency, area vocational school, intermediate educational agency, and State agency responsible for corrections education desiring financial assistance under this subpart shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded;

"(2) contain a report on the number of individuals in each of the special populations categories contained in section 223;

"(3) assess the needs of the special populations and planned use of funds to meet such needs;

"(4) identify the planned use of resources allocated to meet such needs;

"(5) ensure full and equitable participation in a vocational educational program of quality;

"(6) provide assurances that the programs funded under this subpart shall be carried out according to the criteria for programs for each special population described in section 223;

"(7) describe the performance evaluation standards the applicant will use to measure its progress;

"(8) demonstrate that in using funds in accordance with the provisions of sections 229 (b)(1)(A) and (b)(1)(B) the local recipient has first met the needs of the individuals described in section 223 as required by section 229 (b)(3);

"(9) describe methods to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under the Job Training Partnership Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(10) describe methods to be used to develop vocational educational programs in consultation with parents and students of special populations described in section 223; and

"(11) provide a description of coordination with community-based organizations.

"(b) The individual described in section 229(a)(1)(C) shall review and comment on the application submitted pursuant to subsection (a) regarding the assurances contained in such application and the services to be provided to the special populations described in section 223.

"PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 231. (a) Each local educational agency, area vocational school, intermediate educational agency, and State agency responsible for corrections education receiving financial assistance under this subpart shall develop goals for, and evaluate the effectiveness of, the program conducted pursuant to this subpart with respect to—

"(1) progress in the achievement of basic skills;

"(2) progress in achieving occupational skills necessary to obtain employment;

"(3) the ability to meet the needs of the special populations described in section 223; and

"(4) any other measures the recipient includes to reflect accurately the success of the program.

"(b) Each entity described in subsection (a) shall consult with the State board in determining measurement indicators pursuant to the criteria set forth in subsection (a).

"(c) Each entity described in subsection (a) shall annually evaluate such entity's ability to meet the criteria developed under subsection (a). If any entity described in subsection (a) determines that such entity is not making substantial progress in meeting the criteria set forth in subsection (a), such entity shall develop a plan for program improvement.

"(d) Each entity described in subsection (a) shall regularly review programs, with the full and informed participation of representatives of the special populations described in section 223, to identify and to adopt measures to overcome any barriers which are resulting in lower rates of access or success for special populations.

"PROGRAM IMPROVEMENT PLAN

"SEC. 232. (a) The plan developed pursuant to section 231(c) shall describe how the local educational agency, area vocational school, intermediate educational agency, or State agency responsible for corrections education will identify and modify programs funded under this subpart including—

"(1) a description of vocational education strategies designed to achieve the criteria set forth in section 231(a); and

"(2) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"(b) If after one year of implementation of the plan described in subsection (a), sufficient progress in meeting the criteria described in section 231 has not been made, the State shall work jointly with the local educational agency, area vocational school, intermediate educational agency, or State agency responsible for corrections education to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the recipient;

"(2) set forth a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"Subpart 2—Postsecondary and Adult Programs

"POSTSECONDARY AND ADULT PROGRAMS

"SEC. 240. (a) From amounts reserved under section 102(a)(3)(B) the State board shall make grants, on a competitive basis, or on the basis of a formula as determined by the State board, to—

"(1) postsecondary educational institutions;

"(2) programs for adults in secondary schools;

"(3) area vocational schools serving postsecondary students or adults;

"(4) community-based organizations providing vocational education to adults;

"(5) any of the entities set forth in paragraphs (1) through (3) in partnership with business and industry; and

"(6) consortia of the entities described in paragraphs (1) through (5);

to improve vocational education programs for postsecondary students, adults, and single parents, homemakers, and single pregnant women.

"(b) In awarding grants under this section the State agency shall give priority to—

"(1) programs serving economically disadvantaged individuals, individuals with disabilities, individuals with limited English proficiency and traditionally underserved populations;

"(2) apprenticeship programs, especially programs that serve the individuals described in paragraph (1);

"(3) programs that are strongly tied to economic development efforts within the State;

"(4) programs which—

"(A) train adults and students for all aspects of the occupations in which job openings are projected or currently available;

"(B) are developed in conjunction with business and industry, the community, the State board, and local eligible recipients; and

"(C) focus on the most salable, highest placement aspects of the industry; and

"(5) partnerships described in subsection (a)(5).

"(c) Grants awarded under this section shall coordinate programs and services provided under this Act with programs and services provided pursuant to—

"(1) the Job Training Partnership Act,

"(2) the Adult Education Act, and

"(3) the Welfare Reform Act,

to avoid duplication of effort and to ensure maximum effective utilization of funds under this subpart.

"POSTSECONDARY AND ADULT USE OF FUNDS

"SEC. 241. (a) Grants awarded under this subpart may be used for—

"(1) vocational programs for training or retraining adults, including programs for older individuals;

"(2) the costs of serving adults in other vocational education programs, including paying the costs of instruction or the costs of keeping school facilities open longer;

"(3) education and training programs designed cooperatively with employers, such as institutional programs, workplace literacy programs, worksite programs, including apprenticeship training programs (or combinations of such programs);

"(4) industry-education partnership training programs in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes; and

"(5) technical preparation education programs described in part B of title II.

"(b) The State shall use funds provided pursuant to this subpart for apprenticeship training programs especially tailored to—

"(1) the needs of an industry or groups of industries for skilled workers, technicians, or managers, or

"(2) enable the existing work force to adjust to changes in technology or work requirements.

"(c) Grants awarded under this subpart may be used to provide educational training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers whenever such institutions or employers can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(d)(1) From funds available under this section, the State board may establish and support, through grants to institutions of higher education offering comprehensive programs in teacher preparation, statewide mentoring programs to—

"(A) fully use the skills and work experience of individuals employed or formerly employed in business and industry who are interested in becoming classroom instructors; and

"(B) meet the needs of vocational educators who wish to upgrade their teaching competencies.

"(2) Any mentoring program established under this program shall—

"(A) establish partnerships among State certification agencies, institutions of higher education offering comprehensive vocational education programs, and local educational agencies to deliver a professional development program aimed at preparing and supporting vocational educators;

"(B) provide competency-based vocational teacher education programs; and

"(C) provide assessment of professional education skills and develop a plan leading to probationary certification within 3 years;

"(D) employ as mentors highly qualified classroom educators who shall be selected by a process collaboratively developed by the institution of higher education and local educational agencies within the State, and the State board, who shall assist in—

"(i) developing and demonstrating competence in planning, teaching, evaluating, and managing classrooms;

"(ii) supervising vocational students' organizations;

"(iii) working with advisory committees;

"(iv) understanding cooperative vocational education programs;

"(v) understanding the foundations of vocational education; and

"(vi) identifying other sources of educational support and information to assist the new vocational educators in becoming effective teachers.

"PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN

"SEC. 242. (a) From amounts reserved under section 102(b)(2) each State board shall provide vocational and prevocational educational programs and services for single parents, displaced homemakers, and single pregnant women.

"(b)(1) From amounts reserved under section 102(b)(2) each State board may provide vocational and prevocational education programs and services in postsecondary or secondary school settings, including area vocational schools serving single parents, displaced homemakers and single pregnant women.

"(2) Programs and services provided pursuant to this subpart shall be administered by the sex equity coordinator as described in section 111(b)(1)(A).

"(c) From amounts reserved under section 102(b)(2) each State may—

"(1) provide, subsidize, reimburse or pay for vocational and prevocational education and training activities, including basic literacy instruction and necessary educational materials, that will furnish single parents, homemakers, and single pregnant women with marketable skills;

"(2) make grants to single parents, displaced homemakers, and single pregnant women for expanding vocational and prevocational education services when such expansion directly increases the capacity of eligible recipients for providing single parents, homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of vocational and prevocational education services to single parents, homemakers, and single pregnant women, if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training and the characteristics of the participants;

"(4) make vocational and prevocational education and training more accessible to single parents, homemakers, and single pregnant women by assisting such individuals with child care or transportation services, or adult dependent care by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, homemakers, and single pregnant women to inform them of vocational education programs and related support services.

"Subpart 3—General Provisions

"STATE PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 250. (a) Each State desiring financial assistance under this part shall develop criteria for, and evaluate the effectiveness of, programs under this part with respect to—

"(1) progress in the achievement of basic skills;

"(2) progress in achieving occupational skills necessary to obtain employment;

"(3) the program's ability to meet the needs of special populations; and

"(4) any other measures the State shall deem necessary.

"(b) In developing the criteria required in subsection (a), the State board shall make every effort to develop criteria consistent with the standards and evaluations developed pursuant to section 231 by recipients of financial assistance under subpart 1. If after 2 years the State board determines that the local recipient of financial assistance under subpart 1 is not making progress in meeting the goals set forth by such recipient, the State shall work in conjunction with such recipient as prescribed in section 231 by providing program and technical assistance from funds provided under part A of title II.

"ADMINISTRATIVE PROVISIONS

"SEC. 251. (a)(1)(A) Funds made available under this part shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under this part may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(3) The Secretary may waive, for each of the fiscal years 1991, 1992, and 1993 on an annual basis, the requirements of paragraphs (1) and (2) with respect to any State that expended for postsecondary education programs more than 75 percent of the funds available under this title in fiscal year 1989.

"(b) Any project assisted with funds made available under this part shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c)(1) Vocational education services and activities described in this part may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in this part may include placement services for students who have successfully completed vocational education programs.

"(d) Each State board receiving financial assistance under this part may consider granting academic credit for vocational education courses which integrate core academic competencies.".

TITLE III—SPECIAL PROGRAMS

SEC. 301. SPECIAL PROGRAMS AMENDMENTS.

Title III of the Act is amended—

(1) in section 302(b) by—

(A) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;";

(2) in section 311 by inserting "individual and family health," after "nutrition,";

(3) in section 312—

(A) in subsection (b)(1) by—

(i) striking "managing home and work responsibilities" and inserting "balancing work and family";

(ii) inserting "(including family violence and child abuse)" after "family crisis";

(iii) inserting "(especially among teenage parents), preventing teen pregnancy," after "parenting skills";

(iv) inserting "assisting at-risk population (including the homeless)," after "handicapped individuals,"; and

(v) striking "improving nutrition" and inserting "improving individual child and family nutrition and wellness";

(4) in section 313 by—

(A) in subsection (a) by inserting "educational" after "experience and";

(B) redesignating subsection (b) as subsection (c); and

(C) inserting the following new subsection (b) after subsection (a):

"(b) Funds available under this part may be used to provide full-time State leadership

and administrators with educational preparation in home economic education."; and

(5) by striking parts C, D, and E.

SEC. 302. SUPPLEMENTARY GRANTS.

Title III of the Act is amended by inserting at the end thereof the following new part F:

"PART F—SUPPLEMENTARY GRANTS

"SUPPLEMENTARY GRANTS

"SEC. 351. (a) The Secretary of Education shall allocate funds available under this section among the States according to each State's share of allocations under section 1006 of the Elementary and Secondary Education Act of 1965 to make supplementary grants to needy areas.

"(b) There are authorized to be appropriated $100,000,000 in fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994 and 1995 to carry out the provisions of this section.".

TITLE IV—NATIONAL PROGRAMS

SEC. 401. NATIONAL ASSESSMENT.

Section 403 of the Act is amended to read as follows:

"NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION

"SEC. 403. (a)(1) The Secretary shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, representatives of business and industry, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The application of the Federal Advisory Committee Act is waived for the provisions of this paragraph.

"(b) The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State administration of vocational education programs and on local vocational education practices, including the capacity of State and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of these teachers;

"(4) participation in vocational education programs, including, in particular, access of special populations identified in this Act to high-quality vocational education programs and the impact, on the delivery of services to these populations, of Federal legislation giving States flexibility in allocating funds to serve these populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the impact of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the impact of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the impact of Federal requirements regarding criteria for services to special populations identified in this Act, participatory planning in the States, and articulation between secondary and postsecondary programs; and

"(9) coordination of services under this Act, the Adult Education Act, the Family Support Act of 1988, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act.

"(c) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a). The Secretary shall submit an interim report no later than January 1, 1994, to the Congress. The Secretary shall submit a final report, summarizing all studies and analyses completed after the assessment, to the Congress not later than July 1, 1994. Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the National Institute of Education before their transmittal to the Congress, but the President and the Secretary may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

"(d) There is authorized to be appropriated $3,000,000 for each of fiscal years 1991 and 1992 to carry out the provisions of this section. Such funds shall remain available until expended.".

SEC. 402. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) Section 404 of the Act is amended to read as follows:

"SEC. 404. (a) The Office of Educational Research and Improvement shall contract for the establishment and operation of 3 or more vocational education research centers, of which 1 shall be a research center on Native Americans.

"(b) The Secretary shall continue to honor the provisions of the grant award to the National Center for Research in Vocational Education located in Berkeley, California, through December 31, 1992.

"(c) The Secretary shall establish an educational research center to conduct research on the educational participation, needs and performance of Native Americans. The Center shall consider teaching and learning for Native American students from childhood through adulthood. Specific priorities shall include, not be limited to—

"(1) early childhood education;

"(2) home, family, and cultural influences on education;

"(3) vocational education and training; and

"(4) participation in postsecondary education, especially the factors that limit participation of Native Americans.".

(b) The amendment made by subsection (a) shall not affect contracts made by the National Center for Research in Vocational Education prior to the date of enactment of this Act.

SEC. 403. FORMULA STUDY.

Part A of title IV of the Act is amended by inserting at the end thereof the following new section:

"STUDY OF CARL D. PERKINS VOCATIONAL EDUCATION ACT FORMULA

"SEC. 405. (a) The Secretary shall, through grant or contract conduct a study of the distribution of Federal vocational education funds to the States. The study shall consider the distributional effects of the within State allocation formula set forth in section 102 including the age cohorts and the per capita income allotment ratios and shall also examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act. The study shall specifically address the appropriate distribution mechanism to serve the target populations of the Act.

"(b) The study shall explore the use of other possible methods of targeting funds to special populations of the Act, particularly the economically disadvantaged, including but not limited to the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(c) The findings of the study shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(d) The study required under subsection (a) shall be completed by January 1, 1994.".

SEC. 404. DEMONSTRATION PROGRAMS.

Part B of title IV of the Act is amended to read as follows:

"PART B—DEMONSTRATION PROGRAMS

"PROGRAMS AUTHORIZED

"SEC. 411. (a) From amounts available pursuant to section 101(a)(1)(A) in each fiscal year the Secretary shall reserve—

"(1) 10 percent for demonstration programs in accordance with the provisions of section 416; and

"(2) 25 percent for demonstration programs in accordance with the provisions of section 419.

"(b) From the remainder of funds available under section 101(a)(1)(A), the Secretary shall make demonstration grants in accordance with the provisions of this part.

"DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING

"SEC. 412. (a) The Secretary is authorized to make grants to institutions of higher education, area vocational schools, local educational agencies, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network;

"(b) In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve special populations;

"(4) that programs supported under this section serve vocational students in secondary schools, at postsecondary institutions, individuals enrolled in adult programs, and programs for single parents, homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.

"BUSINESS AND INDUSTRY PARTNERSHIPS

"SEC. 413. (a) The Secretary is authorized to make grants to partnerships among—

"(1) an area vocational school, a State agency, a local educational agency, an institution of higher education, or an adult learning center; and

"(2) business and industry, or apprenticeship programs.

"(b) Grants awarded under this section may be used to—

"(1) increase the access to, and quality of, programs for special populations described in section 223;

"(2) strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(3) address the economic development needs of the area served by the partnership;

"(4) provide training that will enable workers to retain their jobs;

"(5) provide training that will enable workers to upgrade their jobs; and

"(6) address the needs of new and emerging industries, particularly those in high-technology fields.

"(c)(1) In awarding grants under this section, the Secretary shall give priority to partnerships whose programs provide job training in areas or skills where there are significant labor shortages.

"(2) In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution of funds awarded pursuant to this section.

"MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES

"SEC. 414. (a) The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States, and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) The regional model centers established pursuant to subsection (a) shall—

"(1) provide training for skilled tradesmen in areas of skill shortages or projected skilled shortages;

"(2) provide pre-job and apprenticeship training in skilled trades;

"(3) upgrade specialized craft training; and

"(4) improve the access of women, minorities, the economically disadvantaged, and individuals with disabilities to trade occupations and training.

"(c) In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

"BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS

"SEC. 415. (a) The Secretary shall disseminate information and exemplary materials regarding effective vocational education.

"(b) The Secretary shall, in consultation with the National Centers for Research in Vocational Education (hereafter in this section referred to as the 'National Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality, to be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools operated for Indian children by the Department of the Interior.

"(c)(1) The Secretary, in consultation with the National Centers for Research and the National Occupational Information Coordinating Committee (hereafter in this section referred to as the 'Committee'), shall designate each fiscal year several categories of vocational education, including technology preparation education, in which Blue Ribbon Applied Technology Education Program will be named. Such categories shall include participation of special populations and may include any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(d)(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational school, intermediate educational agency, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

"MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS

"SEC. 416. (a) From amounts reserved under section 411(a)(1) the Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b)(1) The Federal share shall be 50 percent.

"(2) The non-Federal share of the costs of programs assisted under this part shall be provided from non-Federal sources.

"(c) Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators.

"(d) In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) out of school adults in need of basic skills improvement or a high school equivalency diploma to improve such individual's employability;

"(2) college students, particularly those working toward a 2-year associate degree from a technical or community college;

"(3) workers in need of basic skills or vocational instruction to retain employment;

"(4) workers who need to upgrade their skills to obtain jobs in high growth industries.

"PROFESSIONAL DEVELOPMENT

"SEC. 417. (a) From sums available for this title, the Secretary shall provide, through grants to institutions of higher education or State educational agencies, opportunities for teacher education and professional development.

"(b) Grants awarded pursuant to this section shall be used for—

"(1) leadership development stipends for experienced vocational educators to participate in advanced study of vocational education;

"(2) teacher education fellowships for individuals who are—

"(A) currently employed in vocational education who need to update or maintain currency in their technological skills;

"(B) employed in agriculture, business, or industry who have skills and experiences in vocational fields for which there is a need for vocational educators; or

"(C) certified teachers with skills related to vocational fields who can be trained as vocational educators, especially minority instructors and those with experience in teaching the economically disadvantaged, individuals with disabilities, students with limited English proficiency, and criminal and juvenile offenders; and

"(3) internships for gifted and talented vocational education students to intern in related Federal and State agencies, vocational education research centers, or recognized vocational education associations.

"(c) In carrying out this section, the Secretary shall, based on information from the National Occupation Information Coordinating Committee and other appropriate sources, publish a listing of—

"(1) the areas of vocational education which are in need of additional personnel; and

"(2) the areas of teaching in which technological upgrading may be especially critical.

"EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS

"SEC. 418. (a) The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or the private sector, to provide education and training for criminal offenders in such institutions.

"(b) Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders release.

"VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"SEC. 419. (a) From amounts reserved under section 411(a)(2) the Secretary shall make grants to local schools to establish and

operate vocational education lighthouse schools.

"(b) Grants awarded under this subsection shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with the knowledge and experience in all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop problem solving abilities in the vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employees and local community; and

"(F) which offers a full range of programs for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training and assistance, through off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) other technical assistance and staff development as appropriate.

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education and training needs of minority, disadvantaged, disabled, and limited English-proficient students, and

"(B) to reduce and eliminate sex bias and stereotyping.

"CAREER AND GUIDANCE COUNSELING PROGRAMS

"SEC. 420. (a) The Secretary is authorized to make grants to any State board for programs (organized and administered by certified counselors) designed to improve, expand, and extend career guidance and counseling programs, to meet the career development, vocational education, and employment needs of vocational education students and potential vocational education students. Such program shall be designed to assist individuals to—

"(1) acquire self-assessment, career planning, career decisionmaking, and employability skills;

"(2) make the transition from education and training to work;

"(3) maintain marketability of current job skills in established occupations;

"(4) develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

"(5) develop midcareer job search skills and to clarify career goals; and

"(6) obtain and use information on financial assistance for postsecondary and vocational education and job training.

"(b) The programs authorized by this section shall include services and activities to ensure the quality and effectiveness of career guidance and counseling, including, but not limited to, career information delivery system development and implementation, and the establishment of student/client outcome standards against which the effectiveness of future career guidance and counseling programs can be measured.".

SEC. 405. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act is amended to read as follows:

"DATA SYSTEMS AUTHORIZED

"SEC. 421. (a)(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, implement and develop a vocational educational data system (hereafter in this section referred to as the 'system') using comparative information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than 6 months after the enactment of this Act.

"(3) The National Center for Education Statistics (hereafter in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) Through the system, the Secretary shall collect and analyze data in order to provide—

"(1) the Congress with information relevant to policy making, and

"(2) Federal, State and local agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c)(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, programs, and to the extent practicable, facilities and equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force, the National Center, and the Office of Adult and Vocational Education (hereafter in this section referred to as the "Office"), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in their design, implementation and reporting in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) economically disadvantaged students (including information on students in rural and urban areas);

"(B) individuals with disabilities;

"(C) individuals of limited English proficiency;

"(D) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(E) adults who are in need of training and retraining;

"(F) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(G) single parents and displaced homemakers; and

"(H) minorities.

"(3) The Secretary, through the National Center and the Office, shall maintain and update the system at least every 3 years and ensure that the system provides the highest quality statistics and is adequate to meet the vocational education information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

"(d) The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations that are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

"(e)(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 of this Act with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that, to the extent feasible, the system allows international comparisons.

"(3) The Secretary shall ensure that the system, to the extent practicable, uses data definitions common to State plans, performance evaluations, and other evaluations required by this Act. The data in the system shall be available for use in preparing such

plans, standards, applications, and evaluations.

"(f) The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g)(1) The Secretary, in consultation with the National Center and the Office, shall convene a vocational education data task force (hereafter in this section referred to as the 'Task Force').

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of this Act, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies affected by technological information, representatives of secondary and postsecondary vocational institutions, representatives of vocational education student organizations, representatives of special populations, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

"(h) As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally scientific subsample of applied technology education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of applied technology students and other students in the areas assessed. Such assessment may include international comparisons.

"(i) Of the amounts available pursuant to section 3(e) for any fiscal year for this part, there shall be available not less than $1,000,000 to carry out the purposes of this section.".

SEC. 406. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO SECTION HEADING.—The heading for section 422 of the Act is amended to read as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act (20 U.S.C. 2422) is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(hereafter in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Post Secondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: "including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and applied technology counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies with respect to such programs; and ";

(2) by adding at the end thereof the following new subsections:

"(c) LONGITUDINAL OCCUPATIONAL INFORMATION DEMONSTRATION PROGRAM.—

"(1) The Committee, in consultation with the National Center for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for applied technology education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of applied technology education students and nonapplied technology education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technological Assessment to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) AVAILABILITY OF AMOUNTS.—Of the amounts available pursuant to section 3(e) for each fiscal year for this part, there shall be available in each fiscal year not less than $6,000,000 to carry out the provisions of this section. Of such amounts, the Committee shall use—

"(1) to support State occupational information coordinating committees for purposes of operating State occupational information systems and career information delivery systems, the greater of—

"(A) amounts appropriated or otherwise made available for that purpose for the fiscal year 1989; and

"(B) an amount equal to not less than 75 percent of the amounts available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.".

SEC. 407. NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION.

Part C of title IV of the Act (20 U.S.C. 2421 et seq.) is amended by adding at the end the following new section:

"NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION

"SEC. 424. (a) From the sums allocated to carry out this section, the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education consisting of six regional curriculum coordination centers. The Network shall encourage the designation of a State liaison representative in each of the States. It shall be the purpose of the Network to—

"(1) provide leadership and technical assistance in vocational and technical education curriculum design, development, and dissemination;

"(2) coordinate vocational and technical education curriculum information sharing among all the States and territories;

"(3) reduce duplication of effort in vocational and technical education curriculum development activities among the States and territories; and

"(4) promote the use of vocational and technical education curriculum research findings.".

SEC. 408. REPEAL.

Part D of title IV of the Act is repealed.

SEC. 409. GENERAL PROVISIONS.

Section 451 of the Act is amended—

(1) in subsection (a)(1)—

(A) by striking "35 percent" and inserting "at least $10,000,000"; and

(B) by striking the comma at the end thereof and inserting a semicolon;

(2) in subsection (a)(2), by striking "35 percent" and inserting "at least $16,000,000";

(3) in subsection (a)(3), by striking "30 percent" and inserting "at least $1,000,000";

(4) in subsection (b) by striking paragraph (1) and inserting the following new paragraph (1):

"(1) there shall be available in fiscal year 1991 not more than $500,000 to carry out the provisions of section 405, relating to the study of the within State allocation formula set forth in section 102;";

(5) in subsection (b)(2), by striking "$3,500,000" and inserting "$6,000,000"; and

(6) by amending subsection (b)(3) to read as follows:

"(3) no less than $950,000 shall be reserved for section 424.".

TITLE V—GENERAL PROVISIONS

SEC. 501. CERTIFICATION REQUIREMENTS.

Section 502 of the Act is amended to read as follows:

"CERTIFICATION REQUIREMENTS

"SEC. 502. (a) As part of the State application required by section 113, each State board desiring to receive assistance under this Act shall certify that the State board agrees—

"(1) to provide assurances that the State board, or local educational agencies within the State, will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agencies or other personnel for whom the agencies have any administrative responsibility;

"(2) to provide assurances that the State board or the local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the enrollment of students in schools or in courses of instruction within schools of such agencies except to carry out the approved plan; and

"(3) to provide assurances that the State agency or local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students.

"(b) No application may be approved under section 113 unless the Secretary, through the Assistant Secretary of Education for Civil Rights, determines that the assurances described in paragraphs (1), (2), and (3) of subsection (a) will be met.".

SEC. 502. REGIONAL MEETINGS ON REGULATIONS.

Part A of title V of the Act is amended by inserting at the end thereof the following new section:

"REGIONAL MEETINGS ON REGULATIONS

"SEC. 507. (a) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education programs under this Act, such as Federal, State, and local administrators, parents, teachers, and members of local boards of education.

"(b) During each such meeting, the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational Education Act Amendments of 1989. The Secretary shall take into account information received at these meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(c) Once such regulations have been finalized, the Secretary shall convene regional meetings to share information regarding implementation of the final regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education under this Act, such as Federal, State, and local administrators, parents, teachers, and members of local boards of education.".

SEC. 503. DEFINITIONS.

Section 521 of the Act is amended—

(1) in paragraph (2), by striking "training program";

(2) by amending paragraph (3) to read as follows:

"(3) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a school that offers both secondary and postsecondary instruction, but where secondary instruction is provided in no less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market.";

(3) by striking paragraph (10) and redesignating paragraph (11) as paragraph (10);

(4) by striking paragraphs (12) and (13) and redesignating paragraphs (14), (15), (16), and (17) as paragraphs (11), (12), (13), and (14), respectively;

(5) in paragraph (12) (as redesignated in paragraph (5)) by striking the "term 'handicapped', when applied to individuals, means" and inserting "terms 'individual with a disability or individuals with disabilities' mean";

(6) by inserting the following new paragraph (15) after paragraph (14) (as redesignated in paragraph (5)):

"(15) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.";

(7) by redesignating paragraphs (18) through (32) as paragraphs (16) through (30), respectively; and

(8) by inserting the following new paragraphs at the end thereof:

"(31) the term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, and health and safety;

"(32) the term 'local eligible recipient' means a local educational agency, an area vocational school, and intermediate educational agency, or the State agency responsible for the administration of corrections education;

"(33) the term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(34) the term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by that income;

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act Aid to Families With Dependent Children within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate.

"(35) the term 'prevocation services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities.".

TITLE VI—CORRECTIONAL EDUCATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1989".

SEC. 602. CORRECTIONAL EDUCATION.

Title II of the Department of Education Organization Act is amended by—

(1) redesignating sections 213 and 214 as sections 214 and 215, respectively; and

(2) inserting the following new section 213 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 213. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the adjustment of individuals in society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies on correctional education programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs; and

"(5) advise the Secretary on correctional education policy.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders;

"(3) the term 'Secretary' means the Secretary of Education;

"(4) the term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(5) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATION.

Section 3 of the Act is amended to read as follows:

"SEC. 3. (a) There are authorized to be appropriated $1,500,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III and IV of this Act.

"(b)(1) There are authorized to be appropriated $14,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part A of title III, relating to State assistance for vocational education support programs by community-based organizations.

"(2) There are authorized to be appropriated $37,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part B of title III, relating to consumer and homemaking education.

"(c) There are authorized to be appropriated $10,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 for section 112 of title I, relating to State councils on vocational education.

"(d) There are authorized to be appropriated $4,000,000 for the fiscal year 1991 and such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995 to carry out part E of title IV, relating to bilingual vocational training programs.

"(e) From the funds appropriated pursuant to subsection (a) for each fiscal year, 2.75 percent shall be available to carry out the provisions of title IV (other than part D), relating to national programs.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Act is amended by—

(1) striking the item relating to section 115 and inserting "State Assessment";

(2) striking out the items relating to title II and inserting the following:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"Sec. 201. State programs and State leadership.
"Sec. 202. Sex equity programs.

"PART B—TECHNOLOGY PREPARATION

"Sec. 211. Program authorized.
"Sec. 212. Technical preparation education programs.
"Sec. 213. Applications.
"Sec. 214. Definitions.

"PART C—SECONDARY, POST-SECONDARY, AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"Sec. 221. Within State allocation.
"Sec. 222. State reserve for areas with severe problems.
"Sec. 223. Populations to be served.
"Sec. 224. Programs for economically disadvantaged students.
"Sec. 225. Programs for students with disabilities.
"Sec. 226. Programs for students with limited English proficiency.
"Sec. 227. Programs to eliminate sex bias.
"Sec. 228. Programs for criminal offenders.
"Sec. 229. Use of funds.
"Sec. 230. Local applications.
"Sec. 231. Performance evaluation and improvement.
"Sec. 232. Program improvement plan.

"Subpart 2—Postsecondary and Adult Programs

"Sec. 240. Postsecondary and adult programs.
"Sec. 241. Postsecondary and adult use of funds.
"Sec. 242. Programs for single parents, displaced homemakers and single pregnant women.

"Subpart 3—General Provisions

"Sec. 250. State performance evaluation and improvement.
"Sec. 251. Administrative provisions.";

(3) inserting the following at the end of title III:

"PART F—SUPPLEMENTARY GRANTS

"Sec. 351. Supplementary grants.";

(4) striking the item relating to section 404 and inserting "Office of Educational Research and Improvement";

(5) inserting the following at the end of part A of title IV:

"Sec. 405. Study of Carl D. Perkins Vocational Education Act Formula.";

(6) striking the items relating to part B of title IV and inserting the following:

"PART B—DEMONSTRATION PROGRAMS

"Sec. 411. Programs authorized.
"Sec. 412. Demonstration projects for the integration of vocational and academic learning.
"Sec. 413. Business and industry partnerships.
"Sec. 414. Model programs of regional training for skilled trades.
"Sec. 415. Blue ribbon vocational education programs.
"Sec. 416. Materials development in telecommunications.
"Sec. 417. Professional development.
"Sec. 418. Educational programs for Federal correctional institutions.
"Sec. 419. Vocational education lighthouse schools.
"Sec. 420. Career and guidance counseling programs.";

(7) striking the item relating to section 421 and inserting "Data Systems Authorized";

(8) striking the item relating to section 422 and inserting "National Occupational Information Coordinating Committee";

(9) striking the heading and section relating to part D of title IV;

(10) striking the item relating to section 502 and inserting "certification requirements"; and

(11) inserting at the end of title V the following:

"Sec. 507. Regional meetings on regulations.".

SEC. 802. THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) TABLE OF CONTENTS.—Section 1 of the Department of Education Organization Act is amended by striking the items relating to section 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.
"Sec. 215. Federal Interagency Committee on Education.".

(b) REPEALER.—Section 213 of the Department of Education Organization Act is repealed.

SEC. 803. HIGHER EDUCATION ACT.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall take effect on July 1, 1991.

The PRESIDING OFFICER. Under the previous order, the bill will be considered under a 2-hour time limit with 1 hour under the control of the Senator from Rhode Island [Mr. PELL]; 1 hour under the control of the Senator from Kansas [Mrs. KASSEBAUM] or their designees.

The Chair recognizes Senator PELL.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I want at the outset to express my gratitude for the strong bipartisan subcommittee and committee consensus on this very important reauthorization. I know that has involved many hours of hard work at the staff level. That applies to every member of the committee regardless of party.

I know also that this accomplishment would not have been possible had it not been for the leadership provided by Senator KASSEBAUM, our subcommittee's ranking Republican. I am indebted to her and her staff for the close, cooperative relationship that has been forged at both the Member and the staff level. The results before us are due in no small measure to her commitment to quality legislation in vocational education.

Also, I would be remiss if I did not acknowledge the important contributions that many of our colleagues have made to this reauthorization bill. That is particularly true of the work of Senators INOUYE, DOMENICI, BURDICK, CONRAD, BINGAMAN, and DASCHLE with respect to programs for Indians and native Hawaiians.

Further, I cannot proceed without acknowledging the important part the

Bush administration, Secretary Cavazos, and the U.S. Department of Education have played in this area. The administration's proposals were on the table early and in detail and we have given them careful consideration. Officials from the Department have met on several occasions at the staff level, and those sessions, as I understand it, have been positive and productive. This is a change, indeed, from some of the experiences we have had in recent years, and it is a change we find refreshing and that we welcome in the spirit of partnership.

The legislation before us is the product of seven reauthorization hearings and months of conferences and meetings with interested parties. One theme has been dominant throughout this period, and that has been the overwhelming need to make sure that vocational education and training in America is of the highest quality possible. To do anything less with the Federal dollar is not only to cheat the people who seek and need these services but also to cheat our Nation and its ability to compete on an equal footing in the international marketplace.

At the beginning of this process, I stressed five goals that I thought must be addressed. They were targeting the money to those who need Federal help the most, stressing a linkage between secondary and postsecondary education, integrating academic and vocational education, making sure that our programs are state of the art, and adherence to the principle that what we do is not just job training, but vocational education and training. We do not simply prepare a person for a job; we prepare them for a lifetime.

With those goals in mind, I want to review briefly some of what I consider to be the most important provisions of the bill we today bring to the floor. First, for the first time in Federal vocational education history, we would send money directly to local education agencies or area vocational schools serving those agencies. We would do so on the basis of the chapter 1 formula in the Elementary and Secondary Education Act. Further, we would stipulate a minimum grant of sufficient size to produce change, and to avoid a frittering away of the Federal dollar.

Second, we would require that the money flowing to these areas would serve four important populations: the economically disadvantaged, the disabled, the limited English proficient, and the equity needs and concerns of training women and men in nontraditional occupations.

Third, of particular interest to me, we would count and consider the incarcerated as a local education agency to receive funds under this act. This, we hope, will result in an increased flow of funds to provide education and training to end the horror of the revolving door from prison to society and back to prison.

Fourth, we would emphasize that funds at the local level would be spent on supplementary services for the targeted populations, and in two very important areas: the integration of academic and vocational training and program improvement, as an ongoing effort to deliver state-of-the-art vocational education and training to all students.

Fifth, we would provide a strengthened emphasis on the importance of guidance and counseling. This means both prevocational counseling and comprehensive guidance and counseling when the student is pursuing a course of study in vocational education. It means not only counseling for jobs or postsecondary education after graduation from secondary school but also part time and summer job counseling and assistance while the student is in secondary school.

Sixth, we stress the importance of the Federal dollar in terms of upgrading vocational education at the secondary level. That is where the majority of our students are, and that should be the primary thrust of the Federal dollar. It is also the area where quality vocational education programs are most necessary in terms of combating the dropout rate, overcoming the wrenching effect poverty can have on the pursuit of an education, and preparing young people either for the workplace or for additional education.

At the same time, however, we cannot neglect the important part the Federal program plays in both the adult and the postsecondary areas. We cannot pursue one course without recognizing and coming to grips with the other. Our legislation, therefore, breaks new ground in specifying a range of spending for secondary education on the one hand and another range for adult and postsecondary education. We also stress in the adult and postsecondary programs the need to serve the same traditionally underserved populations we target at the secondary level, as well as to provide programs tied to areas where employment opportunities exist and to the State economic development plans.

Seventh, we retain and protect the sex equity programs and the programs for single parents, displaced homemakers and single pregnant women. These programs have produced remarkable results, and we must insure that they continue to do so in the future.

Eighth, we provide a new, expanded and strengthened role for the State in vocational education. The dramatic change in sending money directly to local areas requires, we believe, guarantees from those areas that they will provide the programs we believe important and deliver the services to the targeted populations. Similarly, it requires that we give the State a new role and new powers in monitoring and evaluating what goes on at the local level. It requires also that we give the Secretary of Education more authority in the approval or rejection of State plans.

Ninth, we acknowledge that the State plays a critical role in curriculum development, in teacher and administrator training and retraining, and in the support of student vocational clubs. We continue Federal support for those important efforts.

Tenth, we provide new support for the tech-prep concept linking secondary and postsecondary education, but we go beyond that as well. We would include not only postsecondary education in the linkage but also apprenticeship training. In fact, our amendment pays special attention to support for apprenticeship training not only in the tech-prep provisions but also in local programs, adult and postsecondary programs, and national demonstration projects.

Mr. President, this is a highlight of the major changes we seek to make in vocational education. Our legislation makes significant changes in other areas as well, such as the collection of data on vocational education, vocational education research, and strengthening the relationship between vocational education and private industry and business.

Make no mistake about the importance of the work we do in this area. The Federal vocational education dollar accounts for only about 10 percent of all vocational education spending. But it is without question the engine that pulls the train. The Federal Government has been involved in this area since 1917 and the passage of the Smith-Hughes Act. We are no strangers to the field and to just how critical a role we play. It is within that framework that we have gone about our work in reauthorization, for it is truly as Georgia Congressman Dudley Hughes said when the original Smith-Hughes Act was passed:

> The greatest resource of any nation is the undeveloped skill and vocational education possibilities of its population. We must work this as industriously as we have worked our water power, our mines, our fields. Vocational training is especially needed to prevent waste of human labor, which is the most destructive form of extravagance of which a nation can be guilty.

Mr. President, this message is timeless, and its meaning is extremely poignant today. As we begin this last decade of the 20th century, we can see clearly that economic leadership in the world will be a contest among three areas: Japan and Asia; Europe, and the United States. Where we eventually stand in that competition will depend directly upon the quality of the education and training provided our citizens. If we are to have a world-

class work force, we must have a world-class education. It is to the realization of that goal that this legislation is devoted, and it is in that spirit that it has been written.

The PRESIDING OFFICER. The Chair recognizes Senator KASSEBAUM from Kansas.

Mrs. KASSEBAUM. Mr. President, it has been a great pleasure to work with my colleague from Rhode Island [Mr. PELL], who is chairman of the Education Subcommittee, in shaping what I think is a very strong bill reauthorizing the Carl D. Perkins Vocational Education Act. It is legislation that I care a great deal about. I think we all do.

We have come to recognize the importance of vocational education not only because it is important to us in maintaining competitiveness in international markets and in maintaining our standard of living, but it also has, I think, increased our awareness of the importance of training skilled workers.

It is unfortunate, Mr. President, that vocational education is too often regarded as a stepchild of our overall education system. In fact, we should be taking quite the opposite view. Strong vocational programs are a critical component of the economic machinery which will assure our continued world leadership and prosperity.

Federal support plays a small, but critical, role in vocational education. It enhances substantial State and local efforts in this area by encouraging broad program improvement activities and targeting aid toward populations which might otherwise be neglected.

This legislation that we are putting forward today for a vote attempts to meld the traditional purposes of Federal education assistance by emphasizing program improvement for special populations. It recognizes that expanding the access of disadvantaged populations is meaningless unless that access is provided to high quality programs.

The chairman of the subcommittee has really laid out many of the details, but I would like to reiterate a few, Mr. President.

Overall, the bill strikes a good balance among often competing concerns. It preserves a strong State leadership role in areas such as teacher training and curriculum development, which are most effectively conducted on a statewide basis. At the same time, it strengthens local efforts by directing assistance to local school districts based on a formula which focuses on those in greatest need of Federal support.

It increases flexibility through the elimination of most set-asides while maintaining accountability for assuring that special needs are met. Although I would have preferred eliminating all set-asides, I acknowledge the strong feelings expressed both by my colleagues and by many of our hearing witnesses that there is not yet sufficient sensitivity to the needs of single parents, displaced homemakers, and those seeking nontraditional training to assure these individuals will be fully included in the system. I do believe that a great deal of progress has been made, and I hope to see the day when these interests are so fully incorporated into our thinking that special treatment will no longer be necessary and required in legislation.

The legislation emphasizes the need for better coordination of vocational education programs through the establishment of so-called 2-plus-2 programs, which link the last 2 years of high school with 2 years of postsecondary training. It also recognizes the important role which apprenticeship programs and area vocational schools play in the delivery of vocational education.

It also stresses the importance of the linkage between academic and vocational training, attempting to dispel the notion that the two are somehow at odds with one another. They are, indeed not.

At a time when the computer is a main tool for all of us—some have become greater experts than others—we recognize technical competence demands a strong command of academic subjects.

The measure underscores the need for strong counseling programs and the need to more effectively tie occupational training to real opportunities in the workplace. Stronger emphasis is placed on accountability for results. In addition, separate vocational education councils are maintained in order to assure the continued input of the business community which is paramount.

The legislation attempts to assure that Federal assistance is provided in grants of sufficient size to make an identifiable impact. Concentrating assistance is essential to our efforts to evaluate the impact of Federal support and to promote more generous levels of that support. I believe that the $25,000 maximum grant included in this measure will serve this purpose.

Finally, the bill emphasizes the importance of reaching high school students, many of whom will not go on for further education, by assuring that 65 percent to 75 percent of the funds available to schools are sent to the secondary level.

I think it is important that we send a strong signal regarding the need to have quality vocational programs available to students in their high school years. In response to concerns about the need for State flexibility in this area, the bill provides that States would have an opportunity to request a waiver of these provisons.

All in all, Mr. President, I believe this is a strong piece of legislation. Our sights are on a new century in which both technological and demographic changes will profoundly alter the world in which we live. I hope this measure will enhance our capability to address these challenges.

Mr. DURENBERGER. Mr. President, I compliment the distinguished chairman of the subcommittee, the manager and author of this bill, and the distinguished ranking member of the Subcommittee on Education for the time and effort they have put into this bill. Vocational education is the keystone for providing the job-related training and education that is so critically important if we are to maintain and improve our economic competitiveness around the world.

I congratulate both of them on the initiative as well as the hard work that went into the bill that is before us today.

The bill makes some very significant changes in the Carl D. Perkins Act by channeling money to the local level, establishing a new Tech-Prep Program and eliminating a complicated set of setasides that were created in the 1984 authorization. These changes are long overdue and much needed, and they are essential if we are to improve technical education in the United States.

I am pleased also that the committee has agreed to accept several of my amendments, and particularly the amendment to change the one area in the bill that would cause me the gravest concern. Current law gives the States, all 50 of them, complete discretion over how to distribute funds between postsecondary and secondary programs.

The bill, as reported out of committee, would have required the States to spend between 65 and 75 percent of their Federal program money on secondary vocational education programs.

The Durenberger amendment would allow States to apply for a waiver to increase postsecondary funding to 50 percent to serve economically disadvantaged individuals, minorities, persons with disabilities, and persons who are limited English proficient.

In addition, my amendment allows for a demonstration waiver program for up to five States to increase postsecondary funding to 65 percent based on damand within a State for postsecondary programs.

I am also pleased that the committee accepted an earlier amendment of mine that would allow States putting greater than 75 percent of their current funding into postsecondary programs to waive the supplement, not supplant language. This will help ease the transition period for States with the highest proportion of funds going into postsecondary programs.

Mr. President, I am pleased with the progress we have made in changing at least some of the provisions of the

committee's bill and the impact that those provisions, in my opinion, would have had on postsecondary vocational education in my State of Minnesota and in many other States. Without my amendment, Minnesota's technical colleges could lose as much as $8 million in very necessary Federal funding.

I appreciate very much the cooperation the chairman has given me in my efforts to make sure that that tragic loss of funding will not take place in my State of Minnesota, but I must say, Mr. President, that I continue to be alarmed with what I perceive to be serious contradictions this bill represents with a very wise—and very broad-based—education reform movement that is now going on in the United Staes.

It is time, Mr. President—we have all heard this before from others—for a new national commitment to education, but it is also time that the Congress link arms with the President and with the Governors and with the legislatures in designing and carrying out that new national commitment.

This legislation is an opportunity to begin that process in affirming the national Government's commitment to vocational education.

While the legislation takes a number of steps in that direction, I think it also misses some very important opportunities and, in some cases, heads us backward. There are several reasons this is the case.

First, and most important, if we are to improve education in this country, we need State flexibility. At the recent Governor's Conference on Education, the overriding theme was that States need greater flexibility at the State level and at the local level if they are to improve the quality of education.

I will read you just a few excerpts from the National Education Goals as established in collaboration between all 50 of our States' Governors and the President. I quote:

> Educators must be given greater flexibility to devise challenging and inspiring strategies to serve the needs of a diverse body of students.
>
> Governors will work within their own States to develop strategies for restructuring their education systems to achieve those goals. Because States differ from one another, each State will approach this in a different manner.
>
> It is only by maintaining this balance of flexibility and accountability that we can truly improve our schools.

But before the dust had even cleared, we were once again putting new restrictions on the States. I will use Minnesota as an example. I would like to show you the problems that result due to this funding split.

Back in the 1970's, Minnesota made a conscious decision through the Minnesota Legislature as part of its overall efforts to improve education to channel most of its Federal money into its postsecondary program and then the State supplemented its secondary program through the use of State funds.

The State itself raised at least as much, if not more, money for its secondary vocational programs as were coming from the Federal level.

This bill would reverse that decision and it would shift over $8 million of the current $13 million Minnesota receives from this act. My amendment would allow Minnesota to restore part of that loss, I think probably half. But, in effect, the bill itself is saying that Minnesota's system of education and training is wrong, that it does not meet our Federal goals, when in fact, Mr. President, the State of Minnesota is an acknowledged national leader in education reform. It has one of the best educational systems in the country, as evidenced by a 3.2-percent dropout rate, the lowest in the country, its third-place ranking in ACT scores, and its second-place ranking of the number of students going on to postsecondary institutions.

Minnesota has made a significant commitment to improving education, and it has experimented with a variety of innovative programs aimed at raising the educational achievements of all Minnesotans, the difficult to educate, which this program is aimed at, and the less difficult.

This includes its enactment of the first statewide open enrollment program which allows students to move freely between districts searching for the best education.

It also includes Minnesota's Postsecondary Options Program that allows 11th- and 12th-grade students to begin taking higher education credits during high school. It was also a decision by the State legislature way back in the seventies to transfer its Federal vocational money into its technical college system and to supplement secondary vocational education through State funds.

The point, Mr. President, is simple. The people of Minnesota have a clear, long-term education plan that encompasses all areas of education. Their plan best represents the needs of the people of Minnesota in the area of education, and we at the Federal level should not be telling a State like Minnesota that their plan is wrong, especially when that State is already leading the Nation in the goals this bill is trying to accomplish.

So, Mr. President, I would argue, too, that Minnesota is not an exception. There are many States out there in a similar situation as Minnesota, each with a differing need that we cannot begin to define in one national goal.

The second point, Mr. President, about this split is that it does not account for the changing economic and demographic trends of the work force for the year 1990 and beyond. Along with the distinguished chairman of the Labor and Human Resources Committee, the distinguished Senator from Maryland and I and others have spent the last year looking at what we as a Nation need to do to prepare ourselves for the challenges of the workplace of the future.

What we have learned so far is that to be competitive in that future, we need to have in place a strong infrastructure to train and to educate all of our potential workers. Demographics tell us that 85 percent of the work force at the turn of the century are already in the work force to date.

We also know that the skills of a large number of these workers are becoming obsolete or soon will be made obsolete by changes in technology. Workers, threatened by dislocation due to plant closures, industrial relocation, and increasing technology will become more dependent on vocational education and the community college system for the training and retraining they need to keep their skills in line with changing technology.

We have just spent the last several years trying to improve the training and retraining efforts of poorest citizens through the Family Support Act and the JTPA Program. These programs rely heavily on the infrastructure provided in the vocational education system. Eliminating or reducing funding to postsecondary vocational education programs seriously undermines the the success of these other Federal programs.

The Durenberger amendment establishes a strong link and facilitates coordination in serving individuals under these other Federal programs by allowing States to use the additional 15 percent received under the waiver to serve this population in postsecondary vocational programs.

Finally, the funding split is bad policy because if solves a very real problem with only a segment of the solution. I do not think any of us here would disagree with the goals my distinguished colleague from Rhode Island is trying to accomplish. I agree 100 percent with his goal—to increase funding for secondary schools and to reduce the dropout rate in this country. We must agree on that. They are very laudable goals. In fact, lowering the dropout rate is a national goal which was also established by the Governors and the President.

Where I think we would disagree is how that goal should be achieved. The solution of my colleague from Rhode Island is to put additional money into vocational education at the secondary level from the Federal program. I would say that that is only part of the problem and that if we are going to fix the problem of secondary schools, let us do it right. Let us give the money to States in a flexible manner that allows them to feed into a number of proven

existing programs and to try new innovative means of reform.

In trying to accomplish this goal of lower dropout rates, we should not punish those States who have attained a high graduation rate. States with a high graduation rate also have a high demand for postsecondary education. In fact, 9 of the 10 States with the highest graduation rate put 35 percent or more of their funds toward their postsecondary programs. It is true that Minnesota puts more of its Federal Perkins money into postsecondary programs than all but one other State. But I would contend that it is simply a matter of Minnesota doing a commendable job of matching the demand in the State with supply based on its low dropout rate and its high demand for postsecondary programs.

Mr. President, the bill before us makes many positive changes that will help improve vocational education in this country and I am going to vote for it here today. It makes one change, however, that I believe is simply bad policy. The inclusion of my amendment that will allow States to apply for a waiver and restore some of a State's ability to control the allocation of funding and secondary programs is a necessary step to correct that policy. I hope, however, that we will look closely at the House-passed legislation that retains current law and gives States the flexibility to meet individual State needs.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Mississippi.

Mrs. KASSEBAUM. I yield whatever time the Senator from Mississippi would like to take.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Kansas for yielding me time.

Mr. President, I am very pleased to be a member of the Subcommittee on Education and to have worked with Chairman PELL, Senator KASSEBAUM, and the other members of the committee in developing this legislation.

I feel this may be the most important education bill to be considered by the 101st Congress. There are others that are very important, but I do not know of any bill that better channels and targets the available resources to equip our Nation with a talented and well qualified work force to make us competitive in the global environment developing around the world.

I do not know of a more important way to marshal our resources and our program efforts to do something really worthwhile in terms of the long-range competitiveness of the United States.

President Bush has said:

Education can be our most powerful economic program, our most important trade program, our most effective urban program, our best program for producing jobs and bringing people out of poverty.

I believe this. Education holds the key to the future of our country. If we fail to provide quality education programs, we risk not only the lives of our children but also our Nation's place in an increasingly competitive world.

If I could sum up this bill into a single message it would be, "our children deserve an opportunity to make the most of their lives—and through these opportunities to become partners in a world class work force, serving to preserve and strengthen the Nation's well being."

We did not take a timid approach in this bill. We faced the reality that:

In terms of global economic competitiveness, we are not on top;

Twenty-five percent of U.S. students do not graduate from high school, meaning that 600,000 students are dropping out of school each year;

There are not enough skilled entry-level workers to meet the needs of business and industry, and the problem is getting worse;

Eighty percent of the new jobs in the year 2000 will be in service areas, such as professional services, and information specialties; and

Twenty-seven million adults are functional illiterates who are unemployed or on welfare; if they do get employment, they are often locked into jobs that require only minimal skills and pay low wages.

The bill before us represents an earnest effort to confront these problems and to fulfill our obligation to the American people to use Federal dollars to strengthen the educational system, provide our students with opportunities to become productive citizens, and to prepare a work force capable of meeting the needs of the next century.

Traditional occupationally oriented programs are given a new emphasis to provide state-of-the-art marketable skills with a strong basic skills foundation.

I am pleased to have worked with the chairman and ranking Republican member, Senators PELL and KASSEBAUM and the other members of the Education Subcommittee in developing this legislation. It includes a bill that Senator PELL and I introduced a year ago, the Tech-Prep Education Act, designed to provide Federal assistance to local educational agencies and postsecondary institutions to foster the development of 4-year technical-education preparation programs linking the last 2 years of high school with the first 2 years of postsecondary education. States are encouraged to develop a coordinated curriculum of mathematics, science, and technology courses to meet local and regional occupation needs, training students to do the jobs that exist in their areas of the country.

Tech-Prep model programs have been developed in Mississippi and other States. They are important links to career opportunities for young people who are at risk of dropping out of school or might otherwise not go to college. Sometimes referred to as "2-plus-2," so well described by Senator KASSEBAUM earlier today, Tech-Prep has become the cornerstone of S. 1109, which requires States to reserve a minimum of 5 percent of their Federal allocation for Tech-Prep programs.

Another important component of S. 1109 is a provision authorizing grants to States to be used to improve and expand vocational programs in areas with high concentrations of disadvantaged students.

States experiencing high incidence of student dropouts, teen pregnancies, unemployment, or poverty generally do not have resources adequate to serve the disadvantaged student population.

Since vocational education programs offer the potential for employment and self reliance, I believe it appropriate to target additional Federal funds to these States to help break the cycle of low job potential or welfare dependency.

S. 1109, the bill before the Senate, strengthens the role of the State Councils on Vocational Education. They serve as very important links with the private sector. In Mississippi, for example, the State council has worked with State government to improve the quality of vocational education. Valuable contributions of the Mississippi Council include recommendations to the State board to improve its system of evaluation in order to improve consistency and effectiveness; assistance in developing better coordination between the Job Training Partnership Act and the vocational program; and cooperation with the State Vocational Rehabilitation Office to establish a vocational program for hearing-impaired students through the community college system.

The National Association of State Councils of Vocational Education has compiled a booklet entitled "Private Sector Successes in Improving and Modernizing Vocational Technical Education."

This booklet describes the significant contributions State councils make in every State. It indicates that over one-third of the State councils are involved in activities in four key areas: accessibility for targeted populations, finance, strategic and visionary planning, and private sector participation.

The bill before the Senate encourages greater involvement by the private sector, trade organizations, student clubs, and school board members. In addition, State boards are required to consult with the State council in developing the State's vocational educa-

tion plan. State councils are given authority to review State plans and to register formal objections, if they disagree with those plans.

Mr. President, let me also note that the Department of Education has worked closely with our subcommittee in developing this legislation. Several themes advanced by the administration are included in the bill, such as accountability for program quality, student achievement, and program improvement.

I want to thank especially Chairman PELL and his staff for working with me to develop some language that would improve the involvement of business and industry representatives in the vocational program. They offer vitally important perspectives, in my opinion, and should be partners in decisions affecting our future work force.

The committee also included, at my request, a study of the vocational education funding formula which has not been reviewed since 1963, when the formula was first enacted. The study to be submitted to Congress will tell us whether the current mechanism sufficiently targets funds to States having the greatest need for Federal assistance under this act. It will examine alternative methods for directing Federal funds to States to meet the objectives of the bill.

The committee also adopted language to make it clear that there will be more flexibility for local administrators to decide how equipment purchased with Federal funds may be used. For example, some community college administrators in my State were not permitted to use equipment purchased by Federal funds under the vocational education program for additional purposes. These might include night classes for adult literacy programs in which that equipment could serve a very useful purpose to enhance the teaching of skills of those not directly involved in the vocational eduation program.

Under this legislation, there will be more flexibility for administrative decisions of that kind. I appreciate very much the committee listening to the suggestions passed on to me by an administrator from my State on that point.

Mr. President, Abraham Lincoln once summed up the importance of education when he said:

> A child is a person who is going to carry on what you have started. * * * He will assume control of your cities, States, and nations. He is going to move in and take over your churches, schools, universities, and corporations. * * * The fate of humanity is in his hands.

I think with the passage of this bill we are going to have a better equipped, better educated, more talented group of young people who will be ready to take over and run this country to ensure our competitiveness in the years ahead and to help us regain areas of lost advantage in our businesses and in our industries.

Mr. President, I commend this committee for the hard work it has done, especially the two leaders, Chairman PELL and Senator KASSEBAUM. I hope the Senate will pass this legislation unanimously.

Mr. PELL. Mr. President, I thank the Senator from Mississippi for his kind words. I yield such time as the Senator from Illinois desires to use.

Mr. SIMON. I thank my colleague, Mr. President.

My colleagues, I am pleased to rise in support of this legislation. It is part of an overall effort that we have to make to put a greater emphasis on education.

We read figures almost daily about the huge trade deficit we have. We have to compensate for that trade deficit in some way, and there are only two ways to compensate for it. Either we eventually reduce our standard of living and our quality of life, or we increase our productivity. Those are the only two options.

Clearly, the better option is to increase our productivity. I commend the chairman of the subcommittee, Senator PELL, as well as the ranking member, Senator KASSEBAUM, for their work in this area.

I have to tell you, in connection with Senator KASSEBAUM, I was concerned when our former colleague, Senator Stafford of Vermont, left and I wondered who can possibly take his place, because he made much a great contribution. But the Senator from Kansas has moved in and is doing very, very well. She has been an asset to the Senate for some time, but she has moved into this area that is somewhat new to her and has done a superb job. We are very grateful for that.

There is no question that we have to do better in this area. While the formula that is involved does not please everyone, you can never get formulas that please everyone. I think it is practical; I think it is a reasonable, commonsense compromise.

One other point that I make, Mr. President, that I think is important is I am a little concerned by the image some people have out there of those who participate in vocational education. I think there is a little putting down of people who participate in vocational education that should not be there.

Michelangelo, my guess is, would have been a great student of vocational education. He had a great gift with his hands and still became a great artist. This is very interesting to me. In southern Illinois we have an auto parts plant, in Nashville, IL. The person who runs it went to school in Germany and was a vocational education student. He now is in charge of a major factory in our country.

Those who go into vocational education should not consider that their horizons are limited, that we have gifts with our hands, and to combine those gifts with the gift of our minds is a natural thing. We ought to be proud of those who participate in this process.

In general, Mr. President, I think this is one small step in a direction that we have to take as a nation.

Excluding the School Lunch Program, we spend less than 2 percent of our Federal budget on education. I do not know of another Nation, rich or poor, that spends that little on education.

I heard the chairman, our colleague, Senator BOREN of Oklahoma, of the Senate Intelligence Committee, say a few weeks ago the greatest security threat to this Nation is our failure to develop the human resource that we have. I think he is correct. This bill is an attempt to help develop those human resources, to continue a program that is good and to encourage its growth.

Again I commend Senator PELL and Senator KASSEBAUM for their leadership in this. I have been pleased to play a small part in this whole process.

Mr. President, I am very pleased to support S. 1109, the Carl D. Perkins Vocational Education Act Amendments of 1989. I want to thank Senator PELL, Senator KASSEBAUM, and Senator KENNEDY for their leadership in this area, and for their work in putting together a bill to help address the vocational education and job training needs of our Nation.

As we enter the 1990's, the United States finds itself faced with fierce worldwide economic competition, the likes of which we have never seen before. In the last decade we have gone from being the nation with the highest net trade surplus, to the nation with the highest net trade debt. We cannot let this trend continue: We must do better. In order to be competitive in a global economy we must commit ourselves to training our workers. We must make job training and education a national priority—it is time to reinvest in America. I am strongly committed to this issue and I have made it a personal priority.

In February, the Senate passed S. 1310, the National Literacy Act of 1989, a bill I authorized to focus attention on the problem of illiteracy in this country. There are over 23 million functionally illiterate adults in this Nation. This population is ill-prepared to enter a job force that continues to demand higher and higher skills. Our workers must at least have access to basic skills education, and literacy is one of the most basic skills of all.

In addition, the Senate will soon consider, S. 543, the Job Training and Basic Skills Act of 1989. I sponsored

this legislation to amend the Job Training Partnership Act [JTPA] to help redirect our job training resources. The JTPA amendments will ensure that the individuals served under the program will not simply be placed in a job, but instead will be provided the training and basic skills necessary for a lifetime of productive work. The JTPA amendments direct our limited funds to those most in need—the populations who face the most barriers in employment. Indeed 80 percent of the Nation's work force growth in this decade will be a result of increases in the numbers of women minorities and immigrants entering the work force. These groups have historically been disadvantaged in education and in the workplace, and typically face more barriers to employment. I sincerely hope that S. 543 will come before the full Senate in the near future.

The bill before us today is another step in the right direction. The focus of S. 1109, the Carl D. Perkins Vocational Educational Act of 1989, is on basic skills training, and on targeting needy populations. The bill also emphasizes the need to provide advanced technical training. S. 1109 will help train students to become valuable members of our evolving work force, and help our Nation become more competitive in the global economy.

In addition, I would like to thank the prinicipal sponsors for addressing some specific concerns I had regarding flexibility in the secondary-postsecondary split, the need to encourage apprenticeships and other marketable skills, the importance of funding the National Network for Curriculum Coordination Centers—a valuable resource to all vocational and technical education programs, and for the extra protections added for students with disabilities and other special populations. Students with disabilities, in particular, must be guaranteed access to these important programs and the supplementary services necessary for successful participation. Frankly, I have some concern that the removal of a set-aside for this population could have a detrimental effect on services. I have worked closely with the principal sponsors to prevent such an occurrence. I am pleased that the bill targets the basic grant money solely to special populations. The targeting should ensure services to students with disabilities and other special populations. I am also pleased that the sponsors included clarifying and technical amendments I suggested to help protect service to special populations.

I strongly support this legislation, and I am proud to be a cosponsor. Once again, I would like to thank Senators PELL, KASSEBAUM, and KENNEDY for their tireless work on this bill. I would also like to extend my gratitude to David Evans, and Ann Young of Senator PELL's staff, Susan Hattan and Becky Rogers Voslow of Senator KASSEBAUM's staff, and Terry Hartle of Senator KENNEDY's staff. They have all contributed a great deal of time and effort to this legislation, and they have performed admirably.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Illinois. He has been a very valuable member of the Labor Committee as we shaped this legislation.

Mr. COATS. Mr. President, I am pleased to support the Carl D. Perkins Act of 1989. I think this vocational education reauthorization bill reflects the effort by both parties to overcome differences and work together to support vocational education. This issue is vitally important to our Nation's future. The students that we help today will contribute their training, talent, and energy to our country's future. This is a good investment and I am pleased to offer my support.

I spoke with students last month who attend a technical college in Gary IN [Ivy Tech]. These students expressed to me the opportunities that were made available to them through vocational education funds from Washington. These students are obtaining degrees that will enable them to compete in the job market and provide a better future for their families. The option of a 2-year trade school was attractive to these students because they could not afford to be away from a job or children as long as a four-year college would require.

I have also spoken with secondary providers of vocational education and I am encouraged by their tenacity to educate these young people with skills that allow them to participate immediately and effectively in the work world after high school.

I am convinced that the job market will continue to demand a more technological work force and that our Nation must support vocational education as a means to meet these demands.

I am pleased to support the reauthorization of the Carl Perkins Act and look forward to the fruits that it will bring in the form of a prepared work force for our future.

Mr. SYMMS. Mr. President, the true purpose of Federal assistance in vocational education is that of providing quality programs to those with the greatest need.

Currently, the Carl D. Perkins Vocational Education Act appropriates vocational education funds within each State into two parts: funds for special populations and funds for program improvement. Unfortunately, this division of funds has not always led to the implementation of quality programs for the disadvantaged, but rather it has created an artificial distinction between quality and access. Perkins funds for the handicapped and the disadvantaged have often been used to provide special populations with programs that met the State requirements, but did not provide quality vocational education.

On the other hand, funds for program improvement have gone toward purchasing state-of-the-art equipment for schools in wealthy areas with existing vocational education programs. Our present system does not target our Federal resources toward those disadvantaged individuals with the greatest need for vocational education.

I support S. 1109 because it requires that 100 percent of Perkins funds be spent on program improvement efforts for traditionally underserved populations. Furthermore, S. 1109 targets the money to those who need Federal help the most. The legislation seeks to integrate academic and vocational education, stressing that vocational education is not simply job training, but vocational education training.

The House version, H.R. 7, aims at targeting vocational education funds toward the schools with the most poor and handicapped students. The legislation looks fairly good in theory, however, the new formula that H.R. 7 uses to appropriate funds to those with the greatest need for vocational education, removes funding from many important areas.

The legislation removes funding from the current seven set-asides for special populations in the Carl D. Perkins Vocational Education Act. It proposes a new formula which would distribute 70 percent of the funds to the economically disadvantaged, 20 percent to those with handicapped conditions, and 10 percent to those schools with the most vocational education students. This formula is driven by the number of the students in the school, and not by the number of programs that the school provides for the students.

Under H.R. 7, smaller school districts will receive fewer funds to improve vocational education programs, such as the rural areas.

Finally, by eliminating the State council on vocational education, H.R. 7 will remove the State-administered focus on vocational education. The State council will be replaced by a human resources council with broader responsibility, but less specialization.

Clearly, the House version of the Carl Perkins reauthorization will not address our needs, but only exaggerate the problem. The Education Subcommittee labored hard over this issue to come up with a solution which will benefit the most individuals and I am happy to lend my support.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that Senator

SPECTER be added as a cosponsor to the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I wish to endorse the words of the Senator from Illinois [Mr. SIMON] and say how glad I am that the Senator from Kansas is the ranking minority member. As to those with whom we have worked on this subcommittee, Senators Dominick, Javits, Stafford, and now KASSEBAUM, I think all this period of time when it reversed back and forth who was ranking member, who was chairman, there has been virtually no partisanship. I look forward to the continuation of what has become a tradition.

Ms. MIKULSKI. I rise in support of S. 1109, the Carl Perkins Vocational Education Act amendments because it is an excellent bill that revises and rejuvenates a needed education function, also, it is one of the best opportunities we have to focus our education resources on America's needs for the future.

I am an original cosponsor of the vocational education amendments. This bill sets a Federal priority on vocational programs that provide the technologically up-to-date, high demand, job skills that this country needs for our industries and what kids need for an employable future.

Under this bill the school system will be evaluated on how well reading and writing skills are taught along with the nuts and bolts of business skills. More than ever, students will be provided with basic skills that can be adapted to changing job market and industry demands.

S. 1109 places a strong emphasis on improving vocational education where there is the greatest need, at the high school level. However, this bill will also require school districts to combine vocational and academic skills to encourage students to go on to continue their education at a community college, or at a 4-year academic institution. This will help a lot of kids who can't afford to go on to college immediately after high school or can't go full time.

The kid that majors in auto mechanics in a comprehensive program may be motivated to go on to college to become an engineer. Especially if they can get credit in college for their high school work.

I especially commend the Senate Labor and Human Resources Committee for targeting Federal funds to school districts with high numbers of the disadvantaged.

This bill will help the kids that need it most, the kids in the inner city that need extra skills to get out and get a job or go on to college. But the Federal assistance is not limited to just the urban areas. It will also help the kids in small school districts and rural areas where the school resources are scarce, or the job opportunities are limited due to economic decline.

I especially commend my colleagues on the Senate Labor and Human Resources Committee and the committee staff, for their hard work and diligence which has resulted in this reauthorization bill. The vocational education amendments will help our youth prepare themselves for the future, and help schools adapt to new education demands.

Mr. MATSUNAGA. Mr. President, I am in strong support of S. 1109, the Vocational Education Act Amendments of 1989, and urge its passage by the Senate.

Aid for vocational education has been provided by the Federal Government since 1917 and played a major role in the U.S. transition from an agrarian to an industrial economy early in this century. Today, we are challenged in a similar manner to meet the needs of a changing workforce, an economy based on high technology and service-oriented businesses, and greatly increased global competition.

Since its inception, vocational education has been a people-oriented program. As Georgia Congressman Dudley Hughes, one of the sponsors of the original act said in 1917:

> The greatest resource of any nation is the undeveloped skill and vocational education possibilities of its population. We must work at this as industriously as we have worked (at) our water power, our mines, our fields. Vocational training is especially needed to prevent waste of human labor, which is the most destructive form of extravagance of which a nation can be guilty.

Congressman Hughes' statement is as true today as it was in 1917. By the end of the 20th century it is estimated that 85 percent of the new entrants into the work force will be women and minority group members, and others in special need of education and training. Vocational education will again play a critial role in expanding productivity and in insuring the full utilization of our precious human resources.

S. 1109 seeks to meet the needs of the future by directing Federal vocational education resources—which constitute only 10 percent of all vocational education funding—to local school districts or area vocational schools serving such districts. It would directly link vocational training with existing Federal education programs such as the chapter I program for disadvantaged children, thus assuring that funds are targeted to those most in need, and that they are distributed in sufficient amounts to provide programs that are of adequate size, sbope and quality. This new method of delivery also would emphasize the integration of academic and vocational education.

As a cosponsor of S. 1109, I am particularly pleased that the special needs of American Indians and Native Hawaiians have again been recognized. The bill retains an existing requirement that a portion of State program funds be allocated to Indians and Native Hawaiian. The set aside also was retained in the House-passed version of this measure, but S. 1109 would increase the allocation to 2.25 percent of State program moneys.

Native Americans are not only one of the poorest segments of the U.S. population. Studies show that because of their unique culture, they frequently fail to benefit from programs designed to meet the needs of other economically disadvantaged Americans. In Hawaii, for example, we are just beginning to develop new and innovative methods to motivate Native Hawaiian students in our public schools and to encourage them to seek vocational training or higher education.

Fully 20 percent of Hawaii's population—about 208,000 people—is of Native Hawaiian ancestry and potentially eligible for assistance under this program. The designated recipient of funds, a private, nonprofit corporation called Alu Like, has targeted the modest funding received under the Carl Perkins Vocational Education Act to meet the needs of the most disadvantaged Native Hawaiians, and those who are single parents, unemployed, or underemployed. Alu Like has been very successful in placing program participants in jobs, and, since 1984, has won very broad acceptance in the business community in Hawaii. By extending the American Indian/Native Hawaiian set aside for another 5 years, Congress will enable this important work to continue.

Mr. President, our young people need the changes mandated by S. 1109. I hope that favorable action will be taken on the bill by the Senate and the administration.

Mr. HARKIN. Mr. President, I support S. 1109, the Carl Perkins Vocational Education Act Amendments of 1989.

Today America is at a crossroads in the world economy: We can continue down the path toward losing our competitive edge, or we can redouble our efforts and be on the cutting edge. The bill before us today, I believe, will help us maintain our eminent place in the world economy.

I have just read with dismay a report issued by the President last month called "National Security of the United States." Looking through the table of contents, I saw a chapter entitled "Relating Means to Ends: Our Economic Agenda." Reading through that chapter, I expected to find some discussion of the importance of a skilled, educated work force if we are to meet the increasing challenges of a technological age, and remain competitive in the world economy. Yet no-

where in that chapter, nor elsewhere in that report could I find any reference to the relationship between national security and a highly skilled, educated populace.

I have to say, I find that astounding. Certainly, the national security of the United States is a matter of crucial importance, and many endeavors are undertaken in this country in the name of national security. Yet it is not just a matter of maintaining a strong defense, or of preventing the export of militarily sensitive technology abroad.

The fact is, national security is also a matter of preparing our students and our displaced workers for the jobs of tomorrow. I believe it does this Nation little good to have secure borders and peace abroad, if our human resources are deteriorating from within. We simply cannot afford, in humane or economic terms, to allow this country to stagnate in terms of economic productivity. We must continue to move forward or we will lose our place as a world power. And that takes education, job training and retraining, in addition to military strength.

That is why I believe this bill is so important. For example, we know that by the year 2000, 85 percent of the entrants into the work force will be minorities, women, and others who are currently underserved by existing vocational education—particularly individuals with disabilities. Clearly, we need to do more than we have in ensuring that these populations possess the basic skills necessary to enter the work force, and once they have done so, that they are not consigned to the lowest rung of the economic ladder. So, I am particularly pleased that the purpose of S. 1109 is to emphasize the need to serve those who are disadvantaged, those of limited English proficiency, individuals who have disabilities, those who are in correctional facilities, and to ensure that occupational sex stereotyping has no place in an equal opportunity society.

It is also not enough to prepare students for particular occupations. Students must obtain the basic academic skills and be able to place new information in a conceptual framework that will enable them to adapt successfully to work environments that will change dramatically in their lifetimes. I believe the emphasis in the bill on integration of academic skills into vocational education programs is clearly a positive step toward ensuring work preparedness.

I am also particularly pleased with the inclusion in the bill of the tech-prep, or "2-plus-2" provisions. These provisions will allow States to create linkages between secondary and postsecondary vocational instruction, with 2 years of high school training, plus 2 years of postsecondary training. The strengthened coordination that will result from these linkages is consistent with recently passed Iowa State legislation which requires that secondary vocational education curriculum be articulated with postsecondary programs, and Iowa will be ready and able to put these new funds to good use.

I would also like to express my appreciation to Senators PELL and DURENBERGER for their diligent efforts to address the issue of the split between secondary and postsecondary programs contained in S. 1109 as reported by the Labor and Human Resources Committee. In Iowa, Perkins Act funding currently is spent largely at the postsecondary level, with about 74 percent of the funds the State receives under the basic State grant being spent on postsecondary programs. As a result of intensive discussions, that provision has been modified to permit greater State flexibility in determining how to allocate funds between secondary and postsecondary programs, while maintaining the focus of the act on targeting services to individuals with limited English proficiency, individuals with disabilities, minorities, and disadvantaged students. Under the modification included in the committee amendments, States may submit a request for a waiver, along with their State plan, to allow it to spend up to 50 percent of its Perkins funds on postsecondary programs. In the case of Iowa, that would allow the State, if it so desires, to use up to an additional 15 percent of its basic grant for postsecondary programs. Those funds would have to be used to more effectively serve the populations identified above.

I realize that, as with most compromises, there will be some dissatisfaction on the part of those who both supported the split as it was agreed to by the Labor and Human Resources Committee, and those who would have preferred maintaining the total flexibility permitted under current law. However, these modifications will maintain the focus of the legislation in ensuring the availability of increased funding for secondary school programs, while reducing the potential for disruption in postsecondary program funding. It will allow Iowa to determine for itself how much of its Perkins Act funds it would like to devote to postsecondary programs, within the parameters of 25 and 50 percent of the total available funds, consistent with the goal of better serving the special populations.

In sum, I am pleased to support S. 1109, and again want to thank my colleagues on the Labor Committee, including the subcommittee and full committee chairmen, Senators PELL and KENNEDY, and the ranking members of the subcommittee and full committee, Senators KASSEBAUM and HATCH, for their excellent work on this legislation.

Mr. METZENBAUM. Mr. President, I am proud to be an original cosponsor of S. 1109, legislation to reauthorize the Carl D. Perkins Vocational Educational Act through fiscal year 1995.

This is crucial legislation. The need for accessible, high-quality, state-of-the-art vocational education programs is more critical than ever before at this time of increasing concern about American productivity, international competition, and the need to educate and train workers to meet the changing nature of the American workplace.

Vocational education can be one key to keeping pace in our global economy and retaining and building our competitive edge. It can also open doors for participants, providing opportunities for students who are economically disadvantaged or disabled, and a chance for girls and women to be trained in a nontraditional field. Our economy depends on these young people, and this legislation will help to ensure their access to quality vocational education.

Vocational education can also provide a special opportunity to address the alarming dropout problem, and I am pleased that the legislation we are considering today includes my proposal to create dropout prevention demonstration programs, utilizing vocational education strategies.

As we are all aware, the dropout situation is critical. Natiowide, the annual dropout rate averages 25 percent, and in some urban districts it is a shocking 50 percent or more. Quality vocational programs can offer a unique means of reaching these students and keeping them in school. A well-designed vocational program can often capture the interest of a student otherwise turned off by school, and make academic instruction more appealing while providing training in an employable skill. In addition to integrating academic and vocational skills, quality vocational programs are also ideally suited to provide the individual attention, mentoring, and special support services which can be so important in encouraging at risk students to remain—and succeed—in school, or perhaps decide to pursue postsecondary education. My amendment will allow funding for model programs which utilize these unique characteristics of vocational education to prevent dropouts.

S. 1109 makes a number of significant changes in our Federal vocational education efforts. It will send the majority of funds directly to local school districts and area vocational schools, and will target Federal resources on areas of greatest need. Funds will be used to ensure that needed services are provided to traditionally underserved populations: The economically disadvantaged, the disabled, those with limited English proficiency, and

women and men training for work in nontraditional fields. The bill also provides support for statewide leadership activities, such as teacher training, curriculum development, and program improvement and evaluation.

A major emphasis is placed on the integration of academic and vocational skills to ensure that students have the strong foundation in academic skills which will be needed to meet the changing nature of the workplace of the future. The important set-asides for sex equity and displaced homemakers and single parents are retained, to ensure services for these groups. The bill also places increased emphasis on the importance of guidance and counseling, the integration of secondary and postsecondary education, and apprenticeship programs.

In addition, S. 1109 will help to enhance the research and development efforts so essential to improving vocational education through the establishment of three or more national vocational education research centers. Of these, one will be a research center focusing on native American education, and one will conduct applied research and provide technical assistance for vocational education and training programs. A third center will be established to provide comprehensive direct technical assistance and outreach activities to enhance the ability of personnel in the fields of vocational education and training. These efforts will help to provide vocational education teachers and administrators with the information and technical support that will assist them in providing quality vocational programs that meet the needs of students and the workplace.

Mr. President, I believe this excellent legislation will be of critical importance in assisting our Nation's young people and adults acquire the skills they will need to meet the challenges of the workplace as we move toward the 21st century. I commend the distinguished chairman of the Education Subcommittee and the distinguished ranking member for their leadership and cooperation in developing this measure, and I urge my colleagues to support the bill.

Mr. PELL. Mr. President, our committee amendment makes a series of changes to S. 1109 that strengthen our reauthorization bill. Among these changes, we have enhanced the provisions for displaced homemakers and single parents. We have provided protection for current allocations to the territories, and have directed that additional amounts reserved for the territories be distributed in the form of discretionary grants. We have strengthened the language for guidance and counseling and made specific provision for technology education. We have added language to ensure that labor is represented in the planning, development, and assessment of vocational education programs in each State, just as business and industry are represented. We have inserted language to clarify distribution of funds for corrections education, and language that would permit local educational agencies and area school to serve adults. We have also increased the authorization for the Bilingual Training Program. Further, we have accepted a series of technical amendments proposed by the Department of Education, and have addressed concerns expressed by the Department of Labor regarding the sharing of wage and earnings information.

Finally, we have made several additions to accommodate the interests expressed by other Members of the Senate. We have incorporated technical amendments suggested by Senators INOUYE, DOMENICI, and BURDICK with respect to the provisions for Indians and native Americans. We have added language on behalf of Senator KOHL that would permit the States to use their Perkins dollars to serve secondary school students in community college programs. We have accommodated the interests of Senator HARKIN with respect to the formula for the State councils on vocational education. On behalf of Senators DASCHLE and PRESSLER, we have specified that program improvement can include construction. We have addressed Senator DODD's concern that intermediate educational agencies be eligible to receive payments in accordance with the eligibility provided for area vocational schools.

I am also very pleased we were able to address concerns expressed by Senator CRANSTON with respect to school districts in California which contain only secondary schools. We have added language on behalf of Senator COCHRAN with respect to the use of equipment. We have agreed to language proposed by Senator METZENBAUM to create a new demonstration program using vocational education programs to prevent school dropouts. Finally, we have added a series of amendments on behalf of Senators SIMON, HARKIN, and METZENBAUM augmenting the language on parental involvement, supplementary services and equal access.

Mr. President, this committee amendment most certainly enhances the important work we have accomplished in S. 1109. I am pleased that we have been able to develop this modification in the spirit of bipartisan cooperation which is the hallmark of our committee work, and I am grateful to the members of our committee and their staff for their efforts.

LOCAL USES OF FUNDS

Mr. SIMON. I would like to establish further clarification concerning the uses of funds at the local level and the targeting of such funds to special populations. How are the basic grant funds to be used?

Mr. PELL. The basic grant funds under subpart 1 of part C of title II are to be used for special populations.

Mr. SIMON. This means that the funds are to be used solely for the benefit of individuals described in section 223 and 224 of the act, including providing them with the supplementary services necessary for successful participation and for ensuring that the programs they receive are of the highest quality, including integration of academic and vocational training under the terms of section 229(b)(1)?

Mr. PELL. That is correct.

Mr. SIMON. Is it also correct that, while other students may derive some benefit from the funds expended for this purpose, that exception is very limited? For example, where equipment is bought specifically to meet the needs of special populations, it may be used for other students when not in use for the special populations. Is this a proper interpretation of the extent to which the funds may benefit other students?

Mr. PELL. Yes.

Mr. SIMON. The same is true, then, with the provisions in section 229(b)(1)(A) and (B), concerning the use of funds for special populations to integrate vocational and academic training and carry out program improvement activities. Under section 230(a)(8), the State may allow use of funds for these purposes only after the the needs of these populations have first been met. The bill thus demonstrates concern for the quality of the programs serving these students, and ensures that the Federal funds are first concentrated on meeting special needs.

Mr. PELL. That is correct.

Mr. SIMON. In light of the recognition that special populations have a need for high quality programs as well as access and and supplementary services, am I correct in understanding that the requirement in section 230(a)(3) for assessing the needs of the special populations and the planned use of funds to meet such needs includes assessment of the needs set forth in section 229(b)(1)(A) and (B) relating to integration of academic and vocational training and program improvement?

Mr. PELL. Yes, the assessment includes an assessment of the special populations needs under section 229(b)(1)(A) and (B) as well as their needs under section 229(a)(1) concerning supplemental services.

Mr. SIMON. I thank the Senator for clarifying these issues. I look forward to working together to oversee the implementation of this legislation, and monitor its effect on the delivery of quality vocational education services.

PROGRAMS TO ASSIST DISABLED STUDENTS

Mr. CRANSTON. Mr. President, I would first like to thank the chairman of the Education Subcommittee, Mr. PELL, for the outstanding work he and his staff have done in bringing this legislation to the floor. Vocational education has proven to be extremely successful in preparing students for a lifetime of work and future education, and the Carl Perkins Act funds have made an invaluable contribution toward making such programs available to young and adult Americans.

Mr. President, in recent months I have been contacted by a number of individuals from my home State of California who have expressed concerns about certain provisions of S. 1109 regarding vocational educational needs of disabled students. I would like to clarify with the distinguished chairman that support for vocational education programs that serve disabled students would not be diminished under this legislation.

I understand that during review of this act the committee found that the vocational education needs of special populations, including disabled individuals, were not being adequately met. A major study conducted by the National Institute of Education on vocational education indicated that, among other things, setasides in the current program contributed to the fragmentation of resources and were being viewed as the maximum rather than the minimum amount of funding for targeting various populations. As a result, fewer individuals were being well-served under this program than intended.

This is my understanding that, in order to address some of the identified shortcomings, the committee sought to create a more effective method for targeting the money directly to students most in need. Mr. Chairman, am I correct in my understanding that the committee bill would remove the setasides and provide that funds under the Perkins Act are distributed to the local level for secondary school vocational rehabilitation services in order to ensure that these funds are better used to serve special populations—such as people with disabilities—and that these changes are in no way intended to provide a means by which States might escape their responsibilities in addressing the needs of these special populations?

Mr. PELL. Mr. President, the Senator from California [Mr. CRANSTON] is correct. The committee believes that the provisions in S. 1109 regarding the responsibilities of the State would strengthen and expand services for disadvantaged populations. The committee further believes that directing money to local providers would help ensure that local areas provide essential services to the targeted populations. In addition, S. 1109 contains safeguards requiring each recipient of dollars to provide the supplementary services necessary to ensure that the needs of special populations are being served. For example, with respect to students with disabilities, this bill requires that the head of each State special education department review the individual education plans of all students with disabilities, as well as the local education agency's plan for serving the special needs of this group, before the agency's proposal can be approved and funding granted. With respect to allocation of postsecondary and adult funding, the committee has included language in S. 1109 directing States to give priority to programs which serve special populations, including persons with disabilities, in awarding funds.

Mr. CRANSTON. I thank my distinguished colleague for that clarification and would like to follow up with one more question about the State matching requirements of the bill. I understand that a previous provision requiring a match at the local level has been removed. Am I correct in my understanding that the decision to remove this provision was made based on findings that many of the poorest school districts, unable to come up with sufficient matching funds, were forced as a result to forgo assistance altogether, thereby further penalizing already disadvantaged students in those areas?

Mr. PELL. The Senator is correct on that point? I want to emphasize that the Federal funds appropriated for vocational education programs under this act are intended to be used to supplement, and not to supplant crucial State funds for these important programs. It should be made very clear that securing sufficient funding for vocational education programs is a critical responsibility of States and that the Federal dollars authorized under the Carl Perkins Act are intended to boost, not replace, States' efforts in that regard.

Mr. CRANSTON. I thank the chairman for his time and again want to congratulate him on the outstanding job he has done in fine tuning this important legislation.

Mr. PELL. I thank my colleague for his interest in this matter and for his kind remarks.

Mr. KOHL. Mr. President, I want to commend my distinguished colleague and friend from Rhode Island, Mr. PELL, for his leadership in bringing before the Senate the Carl D. Perkins Vocational Educational Reauthorization Act.

Our Nation is faced with the challenge of ensuring that we will continue to have a work force with the education and training necessary as we move into a technologically demanding society. Enhanced academic skills are needed. The great majority of workers must be able to read, write, and perform basic mathematical operations, as well as have problem-solving skills. In addition, advanced skills and occupational training are essential. Vocational education is a vital component in meeting the requirements necessary for developing a skilled and competitive work force.

In looking at the language in S. 1109, I have a few questions for my colleague concerning the language in title II, and would appreciate it if my friend from Rhode Island would comment upon the kinds of programs included under two sections of the bill. The first, in section 222, concerns the State reserve for areas with severe problems, and says that "a State may distribute funds under this section for high school programs in community colleges for 16-18 years olds and which provide high school diplomas." The second, in section 241, concerns grants awarded for postsecondary and adult programs which may be used for programs at postsecondary institutions serving high school students age 16-18 and providing a high school diploma.

Mr. PELL. I will be happy to help my colleague from Wisconsin [Mr. KOHL] in clarifying the committee's intent in adding this language.

Mr. KOHL. I thank the Senator. In Wisconsin, we have a program which was created to stem the increasing numbers of students dropping out of high school. The program is coordinated by a postsecondary institution, MATC [the Milwaukee Area Technical College], but works solely with high school dropouts, ages 16, 17, and 18. The program is called Second Chance. In the past, Project Second Chance, coordinated by the Milwaukee Area Technical College, has qualified for Federal funding under the Perkins Vocational Education Program. I want to be certain that Project Second Chance will remain eligible for funds under this bill.

In this program, outreach specialists work cooperatively with about 60 high schools in the Milwaukee area, including public and private community-based organizations in order to identify dropouts. A key to the success of the program has been the role of a counselor, who works together with program participants to design an individualized educational and training plan for each student and then follows each student's progress as they work through the program. In addition, each student is provided with a support system, which may include his or her family members, peers, educators, and counselors, as they progress through the program. As a result of this attention, and as a result of the fact that grading is done every 4 weeks, rather than once a semester, academic difficulties are identified early on. Counselors quickly become aware of problems: If a student starts

to miss class or if his or her grades begin to fall, the counselor knows about it and is ready to ask "Why?"

Mr. PELL. I understand that the program brings together the resources of a college, high schools, community-based organizations, and local businesses.

Mr. KOHL. That is right. The program has been quite successful. It has received national recognition, and has been cited as an exemplary program. It is a program which would be useful for other communities seeking ways of reaching those who have dropped out of high school. In the last 4 years, Project Second Chance had identified and contracted over 3,000 students, encouraging them to return to school; 669 have reenrolled in MATC's high school or in community-based organizations. Over 970 have reenrolled in the Milwaukee public schools. Over 300 have received job training and/or job placement; 38 students have received their GED and 82 have received high school diplomas. Of those receiving a high school diploma, over 50 percent have gone on to a postsecondary education program.

Mr. PELL. This is exactly the type of program the committee had in mind when drafting this language. I would hope that with the language we have added, which discusses the use of funds for postsecondary institutions having programs for secondary students, a program such as Second Chance will be able to continue to receive Perkins funding.

Mr. KOHL. I appreciate the assistance of my colleague in helping the people of Wisconsin understand the intent of the Senate in adding this language.

TECH-PREP PROGRAMS

Mr. SIMON. Mr. President, I would again like to compliment the distinguished chairman of the subcommittee for his leadership in crafting this thoughtful and farsighted measure. Among the many laudable aspects of the bill is its encouragement of tech-prep programs. These so-called 2-plus-2 programs combine 2 years of secondary with 2 years of postsecondary education, thus serving as an added incentive for students to continue their education beyond secondary school, while also providing the students with valuable and marketable job skills. I would be grateful if the chairman would help me clarify the intent of one provision in the technical preparation section of the bill.

Mr. PELL. I would be pleased to help my good friend the Senator from Illinois.

Mr. SIMON. I thank the chairman of the subcommittee. Some concern has been raised that the term "business" as used in section 214(3)(C) may be interpreted to mean only programs in a school's business department. Is it true that, for example, programs in food service, fashion merchandising and design, child care, and interior design could qualify as a business program under this section, even if the programs were under the school's home economics department?

Mr. PELL. The Senator is correct. Such programs could qualify as business programs. Of course, however, the program would have to qualify under the other provisions of the bill as well.

Mr. SIMON. I thank the Senator.

CAREER COUNSELING AND JOB PLACEMENT

Mr. LEVIN. Mr. President I commend my colleague Senator PELL for the fine work he has done on this bill. The overall provisions of the proposed legislation are good for students. However, only through combining job placement with comprehensive career guidance and counseling can Congress be sure that the educational program of a given student has been planned in relation to the career opportunities.

Mr. President I had hoped that this issue would have been addressed more fully in the substitute proposal currently before us. However, I am pleased that Senator PELL will attempt to raise the issue further in the conference.

Mr. PELL. Mr. President I understand that my colleague from Michigan [Mr. LEVIN], has some concerns regarding the ability of students to obtain jobs after their vocational training. He has informed the committee that he would like to see greater emphasis in S. 1109 upon career counseling and job placement for each student.

Senator LEVIN's interests are very much in keeping with the important goals we set out to achieve in reauthorization. We have worked to put strong language in our reauthorization bill that would coordinate vocational education programs with the needs of the workplace, so that upon graduation, students would be prepared for jobs that are available.

In addition, we have added language in the guidance and counseling section that would require career counseling for each student with respect to jobs upon graduation, as well as summer and part-time employment while still enrolled in school

I greatly appreciate Senator LEVIN's interest in this area. We will continue to work on his concerns as we undertake our work in conference. Senator LEVIN has identified one of the most central missions of vocational education, that of providing training and education for good jobs that are in the mainstream of economic growth and productivity. I know that this is critical to the economy of Michigan as it is to my own State of Rhode Island, and to the rest of the Nation.

AMENDMENT NO. 1465

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH, proposes an amendment numbered 1465.

Mr. PELL. Mr. President, Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 1465) is printed in today's RECORD under "Amendments Submitted.")

Mr. PELL. Mr. President, my understanding is that we are now considering the committee amendment; is that correct?

The PRESIDING OFFICER. We are considering the substitute to the committee substitute.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time to the Senator?

Mr. THURMOND. Mr. President, I ask the manager of the bill if he will yield me just about 3 minutes.

Mr. PELL. I yield as much time as he may desire to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of S. 1109 the Carl D. Perkins Vocational Education Reauthorization Act of 1989. Since its enactment into law in 1984, when it replaced the Vocational Education Act of 1963, the Perkins Act has proven to be an important vehicle for Federal involvement in the area of vocational education in our country.

I am a strong supporter of vocational education. I found great fulfillment in teaching vocational education for 6 years. As the Governor of South Carolina, I worked to establish the area trade school system, which was the forerunner of the comprehensive vocational and tec(nical education network that is doing such fine work in my State today.

Mr. President, education is the key to our future as a nation. Vocational education has a vital role to play in preparing our citizens for the emerging technologies of the 21st century. S.

1109, alters current law to provide for the delivery of education and training programs that are designed to ensure that Americans possess the skills that are necessary to meet the challenges presented by an increasingly competitive marketplace.

As a member of the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, I have had the opportunity to work with my colleagues to improve and strengthen this legislation, so that the Perkins Act will be even more effective. Much negotiation and compromise has taken place since this bill was introduced last June. I am especially pleased that, through this process, a strong State role has been maintained and State flexibility has been expanded.

Mr. President, I extend my appreciation to Senator PELL, the chairman, and Senator KASSEBAUM, the ranking member, of the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources, for the cooperation and dedication that they, and the subcommittee staff, have demonstrated during the consideration of this legislation. I am confident that this reauthorization of the Perkins Act will serve to enhance the effectiveness of programs that have the very important mission of training a sizeable segment of our population to be productive citizens.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSTRUCTION PROVISION

Mr. PRESSLER. Mr. President, I rise to commend the managers of the bill for their outstanding work and leadership on this legislation and to thank them for incorporating one of my proposals into the bill.

In South Dakota, we have a strong vocational education program, with four regional postsecondary vocational technical institutes serving some 7,600 students. At the secondary level, more than 15,000 students are served. Participation in these programs in South Dakota is increasing. Therefore this reauthorization is particularly important to our State.

After consulting with vocational education leaders in my State, it came to my attention that there was no language in S. 1109 which would allow Perkins funds to be used for any construction or renovations of vocational education facilities. Under current law this is allowed.

I contacted the Senator from Kansas regarding this problem, and it is my understanding that the managers of the bill now have incorporated the appropriate language in the committee modification to allow the continued use of these funds for construction purposes. Is this correct?

Mrs. KASSEBAUM. Yes, it is my understanding that construction is one of the allowable activities under use of funds.

Mr. PRESSLER. I thank the Senator for her assistance and for her leadership in this regard. This is a very important provision to those in South Dakota who have launched certain projects with the understanding these funds would be available. I greatly appreciate the attention of the managers to my request.

Mr. President, I ask unanimous consent that letters from Dr. Ken Gifford and Ron Rosenboom from Western Dakota Vocational-Technical Institute regarding this legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WESTERN DAKOTA VOTECH INSTITUTE,
Rapid City, SD, February 23, 1990.

Hon. LARRY PRESSLER,
U.S. Senate, Hart Senate Office, Washington, DC.

DEAR SENATOR PRESSLER: It is our understanding that the Senate may be voting on S. 1109 today or sometime next week. We do support this version of vocational education reauthorization as it came out of committee, but we have one concern. We do not find wording in S. 1109 which would allow for the funding of vocational educational facilities.

South Dakota currently uses and needs to be able to continue to use Carl D. Perkins funds to help fund construction or remodeling of vocational facilities in our state. If there is no allowance for this type of funding in S. 1109, we request that specific workding be included in the Bill so states may continue to fund facility construction or remodeling through the Perkins Act.

Thank you for your support in this matter and if you have any questions, please feel free to contact Larry P. Zikmund, State Director, Office of Adult, Vocational and Technical Education (605) 773-5090.

Sincerely,

RON ROSENBOOM,
President Elect, South Dakota Vocational Association.

WESTERN DAKOTA VOTECH INSTITUTE,
Rapid City, SD, February 23, 1990.

Hon. LARRY PRESSLER,
U.S. Senate, Hart Senate Office, Washington, DC.

DEAR SENATOR PRESSLER: I have been informed that the wording in S. 1109 and H.R. 7 does not include any provision for the construction of vocational education facilities. It is very important that specific wording be included in the Bill which would allow states to fund construction and remodeling of our facilities.

South Dakota is currently using part of the Carl D. Perkins Federal funds as a part of the funding for facility construction and/or remodeling. Without these funds, we would not be able to expand the technical training for our state's citizens. Our funding does not rely on local tax dollars so it becomes very difficult to budget facility expansions.

Vocational Education in South Dakota is growing. We are working hard to provide the people of South Dakota with the highest quality of technical training possible. I therefore urge you to support the reauthorization version of the Carl D. Perkins Vocational Education Act as it came out of committee.

If you have questions or desire further clarification on the status of vocational education in South Dakota, please contact Mr. Larry Zikmund, State Director of Vocational Education at 605-773-5090.

Thank you for your continued support.

Sincerely,

DR. KEN GIFFORD,
Director, Western Dakota Vo-Tech.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

AMENDMENT NO. 1466 TO AMENDMENT NO. 1465

(Purpose: To provide for establishment of community education employment centers)

Mr. LAUTENBERG. Mr. President, I call up an amendment that is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. BRADLEY, Mr. HEFLIN, Mr. MOYNIHAN, and Mr. KOHL, proposes an amendment numbered 1466 to amendment No. 1465.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment at the end of title III:

On page 87, between lines 3 and 4, insert the following:

SEC. 303. COMMUNITY EDUCATION EMPLOYMENT CENTERS.

Title III of the Act (as amended by section 302) is further amended by inserting at the end thereof the following new part:

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1989'.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to establish community education

employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions: and

"(3) employment, including military service.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients having applications approved pursuant to section 10 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extend possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into one or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels, with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities; and

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not reduce academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (hereinafter referred to as the 'Council') consisting of one individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State Council on vocational education; and for the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations; and

"(G) parents.

"(b) FUNCTIONS OF THE COUNCIL.—(1) Council shall provide recommendations to, and work with, eligible recipients to—

"(A) establish annual community education employment center priorities, programs, and procedures;

"(B) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

"(C) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(D) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(E) assist in the selection and application of assessment tools for continuous evaluation of student learning progress; and

"(F) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment.

"SEC. 367. PROFESSIONAL STAFF.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY AND APPLICATIONS.

"(a) ELIGIBILITY.—An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves one or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965:

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part, shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole:

"(2) describe the activities and services for which assistance is sought:

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368:

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary school in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 370. EVALUATION AND REPORT.

"(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student and community participation in the activities of the community employment education center.

(b) REPORT.—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) by October 1, 1995.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

"SEC. 372. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $16,000,000 for fiscal year 1991 and each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of this part.".

The PRESIDING OFFICER. If the Senator will withhold.

Under the previous order, the amendment will be considered now under a 1-hour time limit with the time controlled equally by Senator LAUTENBERG and Senator PELL.

Mr. LAUTENBERG. Mr. President, this amendment would create a demonstration program to establish and evaluate model high school programs called community education employment centers. It is designed to help to address the significant barriers to education that confront so many of our Nation's low-income youth. I am pleased that Senators BRADLEY, HEFLIN, MOYNIHAN, and KOHL have joined as original cosponsors of this amendment.

The amendment would authorize funds to establish no more than 10 model centers throughout the Nation. The centers would be established in areas with especially high concentrations of children from low-income families. Operated by the local school district or area vocational school district in which they are located, the schools would provide expanded services for these children in great need. While originally designed to address the needs of city youth, rural areas would also be eligible for funding.

The amendment is based on a bill I introduced along with Senators BRADLEY, MOYNIHAN, and SPECTER in August, S. 1477, the Community Education Employment Center Act of 1989.

I testified before the Education Subcommittee in the Labor and Human Resources Committee on that bill. And I appreciate very much the input and the cooperation of Senators PELL and KENNEDY and the Labor and Human Resources Committee and staff in crafting this amendment.

I understand that they both intended to support the amendment.

This legislation has the support of vocational educators: The American Vocational Association and the National Association of State Directors of Vocational Education. It has the support of professional educators: The American Federation of Teachers. It has the support of people in the counseling profession, people who realize that we need to give these disadvantaged kids confidence and direction if they are going to make the most of their education.

Kids like those who benefit from the national "I Have a Dream" Program. Through this program in my old hometown of Paterson, NJ, my former business colleagues and I made a commitment to a class of disadvantaged students. If they stay in and do well in school, apply and get accepted to colleges, their tuition will be fully paid by a fund that I and my former business associate provided.

And we found out something very, very interesting. Even though the funds were made available, these kids still need counseling. They need advice. They need role models. They need guidance to better understand the opportunities that this legislation would provide these things.

This program has been very successful in New Jersey and elsewhere. We are very hopeful that the dropout rate, which seems to have been stemmed or lowered considerably, will continue to improve.

The American Association for Counseling and Development supports this legislation that we are proposing. It has the support of those who are on the front lines of urban poverty, trying to cope. It has the support of the National Urban League and the U.S. Conference of Mayors. It is supported by business.

In my State, business are facing labor shortages, and while they have jobs that go begging for workers, there are workers begging for jobs. But they can't get jobs if they do not have the education, if they do not have the skills. And that is why the Business and Industry Association supports the legislation.

This legislation had the support of the New Jersey Department of Education under New Jersey's former Governor, Thomas Kean, who has a national reputation for his commitment to educating low-income youth.

Mr. President, the centers that would be created by this amendment are specifically designed to address the barriers to education for all of our Nation's poor children. The concept for the centers was developed after extensive consultation with numerous individuals who have been actively involved with education and education policy for many year. It responds to their specific concerns and recommendations.

The need to establish and test these model schools could not be greater. Although the Nation as a whole has enjoyed economic growth, not everyone has shared in this prosperity. Minority and minority youth unemployment is topping 30 percent, and while many suburban areas are booming, many once great cities are overwhelmed by unrelenting poverty, homelessness, and joblessness.

If young people from poor families are to be integrated into America's main stream, they have to meet the education and skills requirements for tomorrow's jobs. But they cannot do that if they drop out of school. And they cannot do that if they cannot read or write.

Students in schools in poverty-stricken areas are confronted with considerable barriers to graduation. Too many lack good role models. Too many have parents on welfare, struggling to make ends meet. Too many do not have the encouragement and support that they need to have to get through school.

America's poor teens are more than three times as likely to drop out of school to help support themselves and their families. Dropout rates in many urban schools are 50 percent and more. Dropout rates in many rural schools average almost 16 percent, which greatly exceeds the average for suburban schools. Employment prospects for these kids are dismal at best. Too many lack basic skills necessary to find jobs.

Traditional inner-city schools have been unable to surmount the formidable barriers to urban education. Urban school expenditures fall far below national averages. While our inner cities pay a higher than average proportion of their income to support schools, a shrinking tax base and poverty deny them the resources needed to launch the kind of effort required.

Rural schools in poor areas suffer as well. Those students who do graduate from many rural schools in poor areas are less prepared to deal with the demands of working life than many from the more affluent areas. Many rural students from poor areas consistently

perform more poorly in reading and writing.

We cannot let them become a permanent urban and rural underclass. We must assume a greater responsibility for the education of low-income youth.

Mr. President, the centers authorized in this bill would have the resources to address and help combat these problems. They would test a comprehensive program that gives disadvantaged students not just what they need in the classroom, but also the services and support they need to make the most of what they learn in the classroom. It would pull together a variety of educational programs and social service programs. It would try to link these youngesters up with jobs.

To do all this, the centers would operate on an extended year and an extended day basis. They could operate from 7 in the morning until 7 in the evening. That would help keep young people off the streets and provide them with maximum opportunities to learn and become productive members of society.

These centers would maintain small class sizes. Too many young people in our inner-city schools are expected to learn in classes with 30 and 40 other kids, and we know that that is not possible. Research shows that class sizes of 15 students can make an important difference in student learning. Centers would have small classes, ideally on an average of 15.

Students in these centers would be offered both academic and vocational education training, regardless of their career objectives. A strong emphasis on guidance and counseling services, which I noted before, is a key component of the model program.

The centers would establish comprehensive guidance counseling services for students and for their parents. These kids frequently lack role models. In many cases, both parents have been unemployed, have been on welfare. They need guidance and they need motivation to break out of the kind of life their parents have led.

Center students would be referred to appropriate social services. And young mothers would have access to day care services for their children. How can a teenage mother learn, get the skills to make a decent life for herself, without care for her child?

The centers would also operate a job service office to offer students career guidance, development, and employment opportunities, and information about a broad range of occupations and career paths.

The job service office would provide labor market information, job development, and career testing. This office would assist students in arranging part-time employment, summer employment, and employment upon graduation.

The centers would encourage community involvement. They would have a parent-community coordinator to keep parents involved in the activities of these centers. A council of advisers would be created to seek active participation and input from local teacher organizations, guidance counselors, the students themselves, parents and community-based organizations, business, and labor representatives.

If the community takes an interest in the students, the chances are greater that the students will take more of an interest in learning and become productive members of society. If the community takes an interest, the chances are better that these kids will find jobs because the community will have a stake in their success and they will be willing to give these young people a chance.

Mr. President, the money we spend on CEEC's is a wise investment that could lead to savings down the road.

Each year in our country, 1 million kids drop out of school. America's dropouts cost $240 billion in earnings and foregone taxes over their lifetimes. Lost productivity and the remedial programs cost business $25 billion a year.

Our economy needs these kids trained. It needs them educated. Business leaders are concerned because they cannot find skilled, educated workers. And everyone knows that the competitiveness of our industry depends on our ability to maintain a skilled work force. By the year 2005, most 18- to 24-year-old entry level workers will come from the public schools of distressed urban districts. When it comes to educating the disadvantaged in our society, we are not just talking about a social obligation, we are talking about an economic imperative. If we make bold investments in the education of young people in low-income areas, they will pay us back many times with increased productivity and employment, and reduced need for safety net and law enforcement expenditures.

Mr. President, we can begin to make that investment in our future, in the development of our young people who are now left out by adopting this amendment.

I would like to say in closing how much I appreciate the consideration of the managers of this bill. We had some considerable discussion about it. We discussed the question of resources, and I know that it is not an easy mission. All of us involved with budgeting and the allocation of resources recognize how tough it is to find resources to invest in the future. It is so much easier to deal with the current problems. I can say that when I talked to my colleagues, the distinguished Senator from Rhode Island as well a the distinguished Senator from Kansas, that they understand that we have to invest in the future of our society by making those decisions today.

I am hopeful that this experiment, this example, this model, in the amendment I am proposing will enable us to find out whether or not we have been doing things correctly or if there is just another avenue to approach with education. I hope, by providing this opportunity for quiet study, by providing an avenue to get away from distressed homes, from unstable environments, maybe—just maybe—we can pull more groups of students, more youngsters into the mainstream of society.

Everyone here knows how important it is. We have too many young people dropping out, contributing to lawlessness, committing crimes, creating enormous expense for us wherever we look. If this model of ours shows any way at all to reduce those problems, keep kids in school and help them make a transition to college or the working world, it will be a worthwhile expenditure.

Mr. President, we are talking about a significant sum of money. It is $16 million. That is not insignificant. But compared to the problem, compared to the investments we make in other programs, I frankly think it is an experiment certainly worth taking. Once again, I thank my colleagues for their consideration and their support.

The PRESIDING OFFICER. Who yield time?

Mr. KENNEDY. Will the Senator from Rhode Island yield me 7 or 8 minutes?

Mr. LAUTENBERG. I will be happy to yield to the distinguished Senator from Massachusetts, assuming we have that much time.

The PRESIDING OFFICER. The Senator from New Jersey has 14 minutes, 22 seconds.

Mr. LAUTENBERG. I will be happy to yield 7 or 8 minutes, as needed.

Mr. KENNEDY. Mr. President, first of all, I want to congratulate my friend and colleague, Senator PELL, from Rhode Island, and Senator KASSEBAUM, from Kansas, for bringing this matter to the attention of the Senate today. This legislation reaches back into the early part of the 1960's, and each and every time that we have had a reauthorization of the program, I think it has been strengthened and perfected. Mostly we have made small, measured alterations and changes, not to disrupt the program. But I think the targeting that has been achieved and worked out through this new legislation is excellent and that we have continued to make progress.

So, I rise particularly to congratulate both of my colleagues and to indicate, as the chairman of the Labor and Human Resources Committee, how proud we are of the combined effort of both those Senators and all members

of our committee in brining this legislation to the floor. I also want to commend the Senator from New Jersey for his comprehensive approach in trying to provide a range of different social services, to students enrolled in vocational education.

We tried to utilize the concept of comprehensive social services with the comprehensive child development programs. This small program gets roughly $25 million as a pilot program. It provides services to children from prenatal care through 5 years of age. What we have seen in the past, in the various studies that have been made and the various other pilot programs that have been done is that it has had a dramatic impact, as the Senator from New Jersey has pointed out and others have pointed out. That effort, which is now still in its formative stage will have an important impact and I believe the proposal of the Senator from New Jersey will also have a beneficial impact.

So I welcome the chance to add a word in favor of his particular amendment. I am delighted that it will be a part of this legislation and that he was willing to make some adjustment in those total amounts of resources, given the scarce resources that we do have available.

Vocational education is a central part of Federal aid to education. President Kennedy encouraged the enactment of a Federal initiative in this area and the Vocational Educational Education Act of 1963 was the result. In the years since, the vocational education program has been revised and extended on several occasions.

A central thrust of the changes over the last 27 years has been to target Federal assistance on special populations: the disadvantaged, handicapped, and those with limited English proficiency.

In addition, the Congress has increasingly sought to ensure that men and women will have access to high-quality training in fields in which they have historically been underrepresented.

This bill continues that tradition. Our bill will distribute vocational education funds by the chapter 1 formula—this will target Federal funds on the neediest students.

In addition, the bill greatly strengthens provisions to ensure that the handicapped, disadvantaged, and those with limited English proficiency are adequately served. Federal funds must be used to provide supplementary services to at-risk students. Federal funds must also be used to encourage an integration of academic and vocational training, to improve the quality of existing programs, and to provide comprehensive guidance and counseling to students.

At the same time that we have increased the focus on these special populations, we have taken steps to increase the flexibility that States and local schools will have in spending Federal resources. I believe that this bill draws an excellent balance between the Federal Government's need to ensure that services are provided to special populations and State and local needs for flexibility and autonomy to best serve the students.

I am especially pleased with the two new parts of this bill. First, I am glad that we have taken steps to ensure that more efforts are made to establish tech-prep programs. These programs combine the last 2 years of post-secondary education. We are all aware of the need to integrate high quality education and training programs and these programs are an excellent way to accomplish this.

In addition, this bill authorizes a program of vocational education lighthouse schools. Federal matching grants to excellent vocational education schools will do two things.

First, they will let the schools act as laboratory schools and encourage them to experiment with new programs, curricula, and instructional programs. Second, the schools will become a focal point for technical assistance and teacher training within the State. In this fashion, successful practices developed at the lighthouse school will be replicated in other schools.

I believe that this bill is an excellent piece of educational policy. I commend Senators PELL and KASSEBAUM and their staffs—David Evans and Ann Young for Senator PELL and Susan Hatton and Becky Rogers for Senator KASSEBAUM—for all they have done on this bill. I urge my Senate colleagues to join me in voting to pass this extremely important education initiative.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. PELL. I thank the Senator from Massachusetts for his generous words. As chairman of the full committee, he has given us the privilege of managing this bill.

In connection with the amendment of the Senator from New Jersey, which is before us at this time, I am glad to say that the ranking member and I have discussed it within our subcommittee and on the floor, and, I for one, am prepared to accept the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I very much appreciate the efforts of the Senator from New Jersey [Mr. LAUTENBERG] to try to meet some of the concerns of the committee. He started out with a request for an authorization of $40 million annually over 5 years. He then agreed in his presentation to the committee to ask $25 million, and he now is putting forward the amendment with a $16-million authorization.

I realize this is a significant compromise. I am very appreciative, because I had some grave concerns about the amendment. I pointed these concerns out to him and would just like to mention some of them now. First, the total of all demonstration programs now in this bill is only $16 million.

While I doubt that anyone would quarrel with the focus of the amendment of Senator LAUTENBERG and his goals for education, I feel it is very important to point out that we are already addressing many of these needs and goals. For example, we have provided authority in the demonstration project portion of S. 1109 for the establishment of "lighthouse schools"—which deal specifically with model vocational education programs. In addition, we have, of course, the JTPA, the JOBS program, as well as dropout prevention demonstrations, and so forth.

I think all of us want to give focus to those things that we believe are important to education. Yet, with limited resources, we should not be duplicative. That is why I very much appreciate the willingness of the Senator from New Jersey to further refine and refocus his proposal.

I would suggest, Mr. President, the whole thrust of the vocational education program we are supporting is to devise quality programs with strong guidance and counseling and with ties to the real needs of the workplace. These are our efforts for all schools receiving vocational education funds. We must not forget that this indeed, is the thrust of this legislation.

With the demonstration projects we are supporting, I think we will be better able to assess what the needs might be when we look to future reauthorization of vocational education programs. I am prepared to accept the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator from Kansas for her support, essentially, of this amendment. Even though I think it is apparent that her concerns are registered in terms of resources, I did not hear any argument against trying this approach to the program. I would also have to admit that though the Senator from Kansas talks with a soft voice, she does, indeed, carry a big stick. I do not want to suggest that I volunteered the reduction in the size of the program but was persuaded by the might of her words that it might be a fruitless

effort. So we arrived at a compromise, Mr. President.

I close by thanking the Senator from Kansas and the Senator from Rhode Island, both of whom have long, distinguished records on behalf of education in our country. The fact is that we have this, let me call it, minor difference, because we are so constrained by resources. We just do not make the investment in the future as generously as we have at times for other needs, particularly military needs, or other programs with which I might have some disagreement.

But one thing is certain, on which all of us will agree, that whatever we have done to this date has been at best a Band-aid approach. We have not yet solved the problem. No matter how much money we have spent, we have established one thing: We have not yet figured out a way to come to the kind of conclusion we want, and that is to get everybody into the mainstream, to get qualified workers, to provide the leaders for tomorrow.

So I once again defend, if I must, the fact we are going ahead with this program to enhance the possibility that we will be more successful in the future with our investments in education.

I do thank the managers of the bill and my distinguished colleague from Massachusetts, whose unflagging efforts on behalf of the education of our society are virtually unmatched. He and his family have spoken on behalf of better education for our citizens. So, Mr. President, I conclude by asking that the amendment be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. Mr. President, I rise to speak in favor of the vocational education programs authorization.

I am delighted that this legislation provides for distribution of funds to States and requires officials of the U.S. Department of Education to study the distribution aspects of the State allocation formula and to report to Congress whether funds are targeted adequately to the more needy educational systems.

I am particularly supportive of the amendment authored by Senator LAUTENBERG to establish 15 model community education employment centers across the country which are targeted at urban and rural areas with an especially high concentration of children from low-income families.

There is a great need to establish one of these models in the State of Alabama. Many students from areas of great poverty confront barriers to graduation. The dropout rate is inacceptable.

I wholeheartedly support the inclusion of rural high schools in this legislation which will have a tremendous impact on my State and indeed, the Nation. Many of our rural high schools in Alabama do not have any of the facilities that are available to students in urban areas such as museums, theaters, city parks, and other such facilities which may broaden the mental horizons of our students.

The bill we are considering today reauthorizes the Carl D. Perkins Vocational Act programs through fiscal year 1995. This legislation modifies the vocational education funding allocations and targets the funds toward the traditionally underserved populations. It emphasizes coordination of academic and vocational education training to include technical preparation programs.

The legislation requires that funds for secondary school programs must be distributed within the State based on the chapter 1 formula to local education agencies, area vocational schools, and intermediate educational agencies providing vocational education.

Clearly, the vocational education programs authorization ushers in new opportunities for local providers to serve economically disadvantaged students, individuals with disabilities, those with limited English proficiency, juvenile and adult prisoners. Above all the legislation provides for program improvement in instructional services, curriculum and materials development, and equipment.

Mr. President, vocational education plays an integral role in ensuring the availability of a skilled work force. It is my dream that this legislation will allow us to emphasize the need for renewed Federal support for vocational education programs and their importance to economic development of our Nation.

Mr. President, vocational education is occupational education, which prepares young people, as well as adults, for the world of work. We have an opportunity here to continue the Federal investment in vocational education to ensure our young people the opportunity to succeed as qualified wage earners and tax paying citizens.

I wholeheartedly endorse this vocational education bill.

Thank you, Mr. President.

Mr. BRADLEY. Mr. President, I am pleased to join Senator LAUTENBERG in offering this amendment to the Perkins Act Reauthorization for Vocational Education.

Mr. President, the community education employment centers established by this amendment will serve as models for urban and poor rural high school programs. The centers, to be open on an extended day and extended year basis, will offer small class sizes and extensive educational coursework including english, mathmatics, history, geography, biology, chemistry, physics, and computer science. The centers would also have the option of specializing in different areas of study of particular interest and employment opportunities for the student population.

We are all aware of the limitations that inner cities and low-income rural areas have to offer our kids in the way of opportunity. Our young minds need care and nurturing, support and counselling, and a chance to be educated and trained to be the best they can be. The legislation will demonstrate—that with all the right tools, and the support of the community, employers, parents, and counsellors—our disadvantaged youth can become a valuable, productive force in our society.

Mr. President, I commend Senator LAUTENBERG for his leadership on this amendment. I urge my fellow colleagues to join me in supporting this amendment and in expanding opportunity to our youth who are most in need.

Mr. PELL. I urge adoption of the amendment.

The PRESIDING OFFICER. If all time is yielded back, then the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 1466) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time. The Senator from Rhode Island.

Mr. PELL. Mr. President, I urge that we adopt the committee substitute, as amended by the Lautenberg amendment.

The PRESIDING OFFICER. The Chair would advise the Senator that all time—and there is considerable time remaining—must be yielded back before the question can be put to the Senate.

Mr. PELL. Mr. President, I yield 6 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The chair recognizes the Senator from Alabama for 6 minutes.

Mr. SHELBY. Mr. President, I appreciate the Senator from Rhode Island yielding.

Mr. President, I, too, rise in support of this bill, the vocational education bill. This Nation, and my State of Alabama is part of it, needs this bill.

Mr. President, if enacted—and I am sure it will be—this bill gives the States needed flexibility and funding to improve vocational education. This bill shifts more emphasis to the secondary level. This bill improves the integration between academic, vocational, and tech-prep programs and it prepares our disadvantaged students and high school dropouts to become contributing members to society.

Mr. President, we need this bill. Half of America's students do not go on to college. One quarter of our youth never finish high school. Today, almost 20 million students are enrolled in vocational education programs in the United States. Many of these students dropped out of traditional academic programs. These students have been attracted to the special curriculum of vocational education and are now staying in school.

Vocational education, Mr. President, is no longer just home economics and shop. Let me name just a few of the numerous courses now available for the vocational education program, courses such as agribusiness, child care, computer technology, electronics, masonry, photo offset printing, commercial foods, business education, and auto mechanics.

Vocational educators think at least half of all workers rely on the training they receive in vocational classes I just listed. Also numerous studies indicate there is a shortage of skilled workers who can be trained and retrained on the job. Vocational and technical subjects are keeping many of our children in school while simultaneously preparing them for the workplace.

Mr. President, the education subcommittee focused much of its attention on the dropout problem when considering this legislation before the Senate. In fact, the decision to allocate most of the vocational education funds to secondary schools was an effort by the subcommittee to prevent dropouts.

Mr. President, the national dropout rate is over 25 percent and with well over 50 percent in our country's largest urban areas.

Twenty-five percent of high school seniors drop out in this country. Fifty percent of teenaged girls drop out due to pregnancy, and they never return to school.

Mr. President, the number of students dropping out of Alabama schools in my State during the 1988–89 school year was 10,887, That is roughly about 17 percent below the national average. But bad.

When a student drops out of school we all pay a price. The dropout is virtually giving up all hope of realizing the American dream. Dropouts cost the American taxpayer a lot of money. For example: Dropouts cost the Nation $77 billion annually, $71 billion in lost taxes and revenue, $3 billion in expenditures, and $3 billion in crime-related costs.

Mr. President, almost 50 percent of all families receiving public assistance in this country are headed by high school dropouts.

Dropouts are 2½ times more likely than high school graduates to be unemployed.

Up to 80 percent of some prison populations are high school dropouts, and 85 percent of juveniles in the court systems are dropouts.

Though there is no easy answer to the dropout problem, vocational education seems to be one workable solution.

In another area, adult education programs can improve the lives of individuals and at the same time contribute to strengthening our Nation's economy.

For example, last year in my State of Alabama: 37,000 adults enrolled in the adult basic education program.

Nine thousand adults received the GED certificate.

More than 3,000 adults entered another education training program after completing the GED test.

Over 5,000 adults learned to read. And almost 2,000 adults learned to write.

More than 2,000 adults obtained jobs as a result of the adult basic education experience.

I believe there is a consensus among my colleagues that a bill like this that helps to improve the Nation's economy is a good bill. We are also improving people's lives.

I yield the remainder of my time.

Several Senators addressed the Chair.

Mr. NUNN. Mr. President, will the Senator from Rhode Island yield me 5 minutes?

Mr. PELL. I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair.

Mr. President, I want to thank and commend Senator PELL and Senator KASSEBAUM for their efforts to expand and improve vocational education and training offered in the United States. The Carl D. Perkins Vocational Education Act amendments are fashioned to help ensure that our work force will meet our future economic needs. In today's highly competitive global economy we must place our limited resources where we will get the greatest benefit. In my opinion, today that area is human capital. If we do not prepare our future work force to operate in the technical workplace of today and tomorrow, we will jeopardize our ability to compete internationally.

A study which I have requested—I am particularly thankful to the committee for building this into their committee amendment, which I understand has been accepted by the Senate, and I think it is a very important study. I am not sure what the outcome will be. But this provision that is now part of the committee amendment that has been accepted would require the General Accounting Office to conduct a thorough evaluation of the dual system of vocational education in the Federal Republic of Germany, and to determine whether this system or a version of this system, could be replicated in the United States.

Germany has long used—this has gone on for many years as part of their culture—school-based apprenticeship systems to help their noncollege bound youth get the skills they need for rewarding jobs and careers. While U.S. high schools typically have close connections to colleges, they usually have very weak links to the business world and to employers. A wide gap exists between the world of knowledge and learning and the world of skilled and rewarding work.

In assessing the German system and the ability to establish a similar program in the United States, this amendment would require the General Accounting Office to evaluate: existing job apprenticeship programs and their ability to prepare workers for the technical workplace; the future need for skilled workers and the extent to which job apprenticeship programs could meet these future work force needs; the appropriate age or grade level for students to enter job apprenticeship programs; the potential for such programs to reduce the dropout rate, to place more qualified workers in the workplace, and to increase the lifetime earnings of those who participate in such apprenticeship programs; the training wage appropriate for an apprentice; the estimated value and productivity of apprentices to business; the Federal and State role in regulating and funding such programs; and the direct and indirect costs/benefits of such programs to the Federal and State government to the business world, and to the company, as well as the individual.

To improve job prospects and productivity of what some have called the "forgotten half" of American young people, that is those who do not attend to college, I believe we need to create a national skill-building partnership between America's public schools and America's businesses.

Mr. President, I would like to insert in the CONGRESSIONAL RECORD a recent report issued by the Progressive Policy Institute. This report by Robert I. Lerman and Hillard Pouncy urges the creation of a 3-year apprenticeship program which would combine classroom education and on-the-job training.

I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Progressive Policy Institute, Policy Report, March 1990]

WHY AMERICA SHOULD DEVELOP A YOUTH APPRENTICESHIP SYSTEM

(By Robert I. Lerman, the American University, and Hillard Pouncy, Swarthmore College and Brandeis University)

EXECUTIVE SUMMARY

America faces a fundamental domestic challenge in the 1990s: reversing the stark and growing disparity between the fates of college-bound and non-college youths in our society.

In recent years, the latter have suffered a dramatic decline in real wages and income. Further limiting their economic prospects are the disappearance of high-skill jobs in traditional industries, and the failure of our nation's education system to impart even basic skills and competencies to many. If we permit these trends to continue, the promise of upward mobility will ring hollow for the "forgotten half" of young Americans who do not finish or go beyond high school.

The United States needs to give urgent priority to expanding the career options of non-college youth. Already, the country is losing a tragically large number of young black men to crime and drugs. The drop in real wages of young high school graduates of all races is weakening the commitment of young men to the economic mainstream and to family life. And the lack of job-ready skills, together with the declining number of young workers, is limiting the nation's productive growth and thus its ability to raise living standards.

The root of the problem is that the capabilities of the work force, especially non-college workers, are not keeping up with the rising demand for skilled labor. As a result, U.S. productivity and wage growth remain low, while the gap widens between the earnings of college and noncollege workers.

Between 1973 and 1987, the ratio of wages for college graduates to wages for high school graduates rose from 1.49 to 1.81, for young men with 5-9 years of work experience. In fact, in terms of purchasing power, the earnings of high school graduates actually declined over the last 15 years.

Defining the problem in this way inevitably calls attention to the American school system and its poorly designed system for integrating non-college youth into meaningful careers. Typically, high schools have close connections with colleges but weak links with employers. After leaving high school, non-college workers usually rely on informal contracts to obtain a full-time position. Many test the labor market by moving from one employer to another before settling into a long-term job.

High school students who are not going to college see little if any relationship between what they learn in school and their future careers. Nearly 60 percent of vocational students end up in jobs that have nothing to do with the training they receive in high schools. For America's non-college youth, a large and widening gulf separates the world of school and le rning from the world of skilled and rewarding work.

This reality poses particularly serious problems for disadvantaged youth. While most non-college youth see little gain from performing well in high school, they tend to stay in school anyway, if only because of social and family constraints. Disadvantaged youth, however, are more likely to fall prey to pressures from the street, including peers encouraging them to leave school altogether. And the absence of formal connections between employer and schools imposes special hardships on inner-city black youth, because they have few informal links to jobs.

In many ways, public policies have reinforced the growing tendency for academic skills to determine career success. Governments spend enormous amounts on grants and loans for low-income students to attend college. These help the most academically capable, but do nothing for the vast majority of low-income youth. Far less is spent on vocational education, which, in any event, is often divorced from labor market realities.

The natural impulse of policy makers is to develop highly targeted programs for the poor and for minority youth. Yet such a strategy can easily backfire. When programs deal only with the most disadvantaged and least educated, the participants easily become stigmatized. Many employers are unwilling to take a chance on the graduates and the youth themselves see such training programs as a weak substitute for existing jobs in the regular or underground economy. Funding is often unstable and difficult to sustain; at best, the programs provide only a marginal addition to the existing systems of education, training and career placement.

This paper makes the case for an alternative strategy—a job apprenticeship system for non-college youth beginning in the late high school years. Such a system would embed the job market difficulties of minority youth within the broader problems faced by non-college youth.

The apprenticeship system is elaborate and widely used throughout Germany, Switzerland, and Austria. But U.S. policy makers are only now beginning to take a serious interest in this method of integrating young people into jobs and careers. Our proposal would adapt the German model to American conditions, making due allowance for differences in culture and in the kinds of social problems our society faces.

We call for a national skill-building partnership between public schools and business. It would focus on four primary goals:

Expanding the nation's supply of skilled workers;

Narrowing the earnings gap between college and non-college youth;

Creating a powerful new incentive for youths to do well and stay in high school; and,

Offering disadvantaged youths a realistic alternative to early parenthood, crime and drugs.

How would a U.S. youth apprenticeship system work? Our approach envisions a five-step process:

1. change school curricula to expose students in the 8th through 10th grades to information about various occupations, including visits to businesses.

2. offer 10th grade students a choice between pursuing a job apprenticeship or remaining on a purely academic track. Those choosing the former option would sign formal contracts with specific employers.

3. create a three-year apprenticeship, starting in the 11th grade, during which students could earn skill certifications as they combine on the job training with school courses.

4. give apprentices a comprehensive test at the end of the 12th grade to ensure both job and educational proficiency.

5. spend at least 75 percent of the third year of apprenticeship on the job, and the remainder either in high school or community college to supplement technical training.

We propose a national Youth Apprenticeship Institute through which representatives of schools, businesses, governments and labor organizations can work together to specify the necessary skills required to enter and succeed in an occupation, to develop a system for certifying trainers as well as apprentices, and to monitor the quality of work site training. Washington's role is chiefly to act as a catalyst for efforts by local school systems and business to harmonize their curricula, job training and hiring practices. We further recommend $500 million in federal matching grants to fund apprenticeship demonstration projects in 10 cities.

Ultimately, the purpose of these efforts is to gain national credibility for apprentices as highly trained workers whose skills are occupationally specific, portable enough to be valuable for a variety of employers, and critical for taking effective advantage of additional training. It is also possible that apprenticeship will inspire youths who otherwise might not have finished high school to go on to college, in order to enlarge their prospects.

Youth apprenticeship is a progressive strategy for stimulating growth with equity—for boosting our nation's productivity while equalizing opportunities for young Americans. It can radically improve the preparation of youths for the skill demands of a global economy. At the same time, it offers minority youth an avenue into the economic mainstream. Youth apprenticeship answers the need for broad-based programs that reach the disadvantaged but avoid the stigma associated with welfare-type programs.

AMERICA'S SKILLS GAP

There is nearly unanimous agreement that America's high schools are doing a poor job of preparing many young people for work. There is less agreement over solutions. To some, better schools mean parental choice; to others, it may be merit pay for teachers, school-based management, more effective racial integration, or simply large increases in the budget to raise teacher salaries, reduce class size, and improve facilities. While these and other school-based reforms have merit, they overlook the central resource in the school system: student time.

The time and intensity of effort put in by students has an enormous impact on their performance. Unfortunately, today's students spend far too little time on school work. Only about half the time at school is devoted to active involvement in a learning activity. High school students in 1980 spent an average of 3.5 hours per week on homework, far less than the 10 hours per work devoted to a part-time job and the 25 hours per week watching television.

Low motivation is most acute among non-college students, who see little immediate gain from working hard in high school. They realize that earning a high school degree will affect their access to jobs, but they see little connection betwen their specific performance at school and their chances for good jobs or careers. High schools typically do not have elaborate job placement services; employers rarely rely on the recommendations of high school teachers; and those hiring new students generally do not request academic transcripts.

The connection between high school achievement and subsequent success is much closer in other countries, including Germany and Japan. Companies in these countries base their hiring and acceptance

of apprentices on grades and other indicators of school performance. Firms recognize that their substantial investments in training will only pay off if employees have the ability to learn. Conversely, the ability of firms to screen effectively for capable workers gives them the confidence they need to spend significant sums on training.

American managers increasingly recognize the importance of improving incentives for young students to learn while in high school. Employers have become so concerned about screening unqualified high school graduates that the American Business Conference and the National Alliance of Business recently decided to develop a standardized skills test for high school graduates. Roger Johnson, chief executive of Western Digital Corporation, sees the test as ". . . a great opportunity to make a direct impact and to signal to young people that there are benefits to doing well and penalites for not doing well in school."

While desirable, a national test may not be enough to motivate students and assure that they learn enough to become effective, productive workers. Many high school students are school-weary by the time they reach 11th or 12th grade. Over 70 percent of today's droputs leave high school because they do not like, or feel that do poorly with, an academic approach to learning.

Another barrier to good school performance is peer pressure against academic achievement. The problem is especially severe in many inner-city black communities. A study conducted in Washington, D.C. found that students who work hard and get good grades are often derided by peers for "acting white." The pressure to conform forces good students to disguise their efforts to achieve academic success. Even in high schools outside minority inner-city areas, the limited rewards for academic performance (especially for non-college youth) are rarely enough for many students to withstand mocking by their peers.

Student alienation from academic modes of learning is another barrier that limits educational achievement. Lauren Resnick, a past President of the American Educational Research Association, has observed that schools use learning methods that differ enormously from the way people learn at work and in other life contexts. For example, schools stress individual rather than team approaches; schools manipulate symbols and abstract thoughts while outside of school people use tools and deal with specific situations. Not surprisingly, many students do better when learning in a contextual environment.

The experience of the armed forces offers solid evidence that some students, particularly recruits with limited abilities, succeed better in courses taught under the "functional context" approach than through standard methods. For example, many students learn electronics most effectively in the context of how equipment functions and how it is maintained.

Differences in learning styles lead many students to choose vocational programs over academic ones. This option prevents some students from dropping out of high school. Moreover, non-college students can improve their academic skills by taking vocational education courses that stress learning through applications.

Unfortunately, however, the current vocational education system in U.S. high schools has some serious weaknesses. The most important is the mismatch between the students' course of study and their subsequent jobs. Less than three of 10 vocational education students work on jobs using the skills from their school programs.

The postsecondary vocational education system is also beset with problems. Although many of these vocational schools train students effectively and place them with employers, the training is largely school-based and often responds more to the number of school slots than to the number of jobs. This leads to frequent mismatches between the training and the jobs in which students are placed.

The postsecondary vocational system has also been marred by widespread abuses. Some for-profit "proprietary" vocational schools aggressively seek low-income students who qualify for federal student loans. A recent Congressional hearing focused on the case of a Florida correspondence school that employed nearly three times as many loan processors as instructors. Not surprisingly, the value of the training such schools provide is frequently dubious. Often, students default on the loans they were encouraged to take out—in 1986, the default rate for these loans was 40 percent.

The basic flaw in the existing vocational education system is its tenuous connection to the labor market. The people who operate vocational schools have few incentives to ensure that their training is relevant to specific employers' needs. While a reputation for high quality can obviously be valuable, potential customers often lack accurate information about the school's record. The situation is far different when employers spend their own money on workers who they expect to remain with the firm for many years. For them, the incentive to perform well is directly related to the employer's long-term success.

THE GERMAN MODEL

Germany's "dual system" of youth apprenticeship is built upon formal and intimate ties between schools and businesses. German employers believe their training system provides a major competitive advantage over firms in other countries. An employer who sponsors youth apprentices has a chance to observe potential workers during try-out periods, and sees a return on his training investment in terms of the worker's long-term productivity.

The investments and expected returns vary, especially with firm size and industry. Large employers, especially in the manufacturing fields, spend more on training than most small firms, but expect a high return because 80–90 percent of apprentices remain with the firm and often stay for many years. Small firms generally invest less and expect lower returns since they employ only about half of the apprentices and retain them for fewer years.

German students learn in detail about occupations from seventh through ninth grade. School tracking begins around the seventh grade, with students going into a unviersity-bound, an academic-technical, or a vocational program aimed at semi-skilled occupations. By ages 16–18, over half sign contracts with employers that specify the details of the training and compensation. Students receive on-the-job training and stipends from employers but must attend school part-time. Apprentices must take interim and final examinations to demonstrate their competencies. Boards of examiners made up of employer and worker organizations hold the examinations. After receiving their certification, over half of apprentices remain with the firm that provided the training and a large share of the others stay in the same occupation.

Overseeing the system is the Federal Institute for Vocational Training (Bundesinstitut fur Berufsbildung), which is not a government agency, but rather an entity governed by a board drawn from employers, unions, and the government. Through the Institute, competency standards are developed for nearly 400 occupational areas, a processs that often takes years of research and negotiation among the parties. The standards specify the minimum competencies for an occupation as well as a training plan that guides the timing, sequencing, and organization of the training. Regional chambers, made up of business and union representatives, govern the program at the local level. They check the suitability of firm training, organize exams, deal with complaints, provide technical assistance, and help match trainees with training firms.

Decisions by individual companies determine the supply of apprenticeship positions, without any national or regional plan. This insures a responsiveness to the needs of employers. In practice, the system has also proved capable of dealing with large increases in students wanting positions. Between the mid-1970s and early 1980s, the demand for apprenticeships jumped by 50 percent, largely because of a demographic bulge of youth. German employers were able to meet most of this unusually large increase in demand. New apprenticeship contracts rose by over 50 percent at a time when total employment fell by 6 percent.

A COMPETITIVE EDGE

The German experience offers the most striking demonstration of the success of the apprenticeship model. In Germany's modern, dynamic and high-growth economy, about 70 percent of young people enter the job market through the apprenticeship system. Only six months after passing the German apprenticeship examination, the majority (over 68 percent) of graduates were working in occupations for which they were trained. German executives attribute much of their business success to their sophisticated work force, trained largely under the apprenticeship program.

Studies confirm their convictions. French sociologists compared the performance of selected French and German firms in the same industries with similar physical plants and equipment. They found that higher productivity in the German firms stems largely from the German system of training and certifying workers. German factory workers not only attained higher skills, but also developed closer working relationship with other workers, including supervisors. Many managers and supervisors were formerly apprentices and thus know from experience what takes place in entry and middle level jobs.

A productivity advantage for German firms also shows up clearly in comparisons with similar British firms. The primary reason is the higher vocational qualifications of the German work force. In five major skill occupations, including electrician, construction and office workers, Germany trained about four times as many workers as Britain and without any sacrifice in quality. Overall, about 60 percent of the German work force obtains an intermediate level skill, or twice the rate in Britain. The high skill levels improve production and quality in many ways, including the implementation of new technology and the ability

of employees to organize production and undertake complex and varied tasks.

Workers in the lower half of the distribution of academic abilities gain most from the German approach to education and skill acquisition. Only 10 percent of German students leave school without a certificate of competency in a variety of basic subjects. One reason for this success in the educational realm is that students are aware of the large array of occupational outlets available to them through the apprenticeship system.

In "Schoolworks," a study of European education and job training programs issued by the German Marshall Fund, author William E. Nothdurft notes:

". . . the formalized credential-building that lies at the core of the dual system is the source of Germany's low youth unemployment levels and stands in stark contrast to America's 'Forgotten Half' problem—the low incomes and limited economic prospects of those who do not attend college.

"Today, persuading American employers to hire disadvantaged individuals who have completed any of the hundreds of training courses in the haphazard system of government-assisted job training currently in place is an uphill battle. Not surprisingly, they avoid what they perceive to be 'damaged goods' and seek known commodities.

"As a consequence, college degrees have become requirements for thousands of jobs that, in fact, require far less formal education. A universally recognized, noncollege credential-building system would provide the kind of assurance employers seek and customers demand."

LINKING SCHOOL TO WORK

How can an American youth apprenticeship system overcome problems that limit the productive capabilities of today's youth? To work effectively, the system must offer opportunities for rewarding careers. The initial training, say in a service station, bank, or factory, must be serious and yield certifiable skills; the apprentice must realize that the program's training can ultimately help him or her reach such high level occupations as mechanical specialist, service station owner, financial service representative, or bank manager.

Once operational, their new system would give non-college bound students greater incentive to perform well in high school. Those with solid achievement by their sophomore year would have the widest pick of apprenticeship opportunities. Proper guidance or even street knowledge about placements would alert students by the seventh or eighth grade about the potential rewards from learning key academic skills.

After learning about occupations, students would enter apprenticeships in the 11th grade. For example, bank trainees would learn the significance of responsibility; of mathematics in the calculation of interest rates and financial returns; of reading comprehension in understanding contracts; and of laws that banks must follow. Landscape apprentices would have to become competent in tasks as varied as the basis of fertilizers, how to budget, and how to present proposals. In these and other cases, apprentices will quickly recognize the relevance of their school work to the successful completion of their apprenticeship and securing a good job and carrer.

For students, the incentives to do well are the potential gains from entry into a successful career and the potential costs from spending three years with an employer without learning the competencies required in the occupation. Poor performance in the apprenticeship would mean forfeiting time and energy, giving up a potentially rewarding career, and having to start their job search all over again.

The effects of apprenticeships on peer relationships could prove as important as the direct rewards from an attractive career. By drawing juniors and seniors into an adult work environment, apprenticeships would expose participants to a new peer group and to expert workers who could serve as mentors. While most students already work part-time, their jobs are usually in low skill positions, often at fast food restaurants or retail stores, that have little to do with long-term career success and provide minimal skills training. In fact, the spending money earned often reinforces a youth culture in which education is a low priority.

There is growing recognition of the need for adult mentors, especially for the large number of adolescents who lack ties with their fathers and other adults in mainstream occupations. Some managers and professionals volunteer to help adolescents finish school, identify career goals, and avoid trouble with crime, drugs, or unwanted parenting. Although these mentoring programs can be constructive, the links they create are somewhat artificial, developed chiefly out of concern for the failure of the young person.

In contrast, the mentoring that accompanies apprenticeships would be routinely available through a school-employer system. Moreover, it would reflect the mutual interest of the trainer and the student in teaching and learning concrete tasks. After all, the apprentice aspires to enter the same occupation (and often the same company) as the trainers and other workers.

Another advantage of youth apprenticeship is that its teaching methods are more effective for many young people than are traditional school-based methods. When training takes place at work, the learning occurs in a functional context, the theoretical material has immediate practical application, and students can generally use all available tools to achieve the relevant tasks. Completing the tasks successfully requires more emphasis on cooperation among workers than takes place among students in school settings.

Youth apprenticeship programs have surface similarities to existing vocational education programs, but the differences are so significant that the two approaches can yield widely divergent outcomes. Vocational education takes place within schools, with little or no specialization, and without a serious certification procedure developed with and agreed to by employers and worker representatives. Another major difference is the way that training options arise under the two systems. The quality and quantity of vocational school courses are driven mostly by school budgets and by the interests of teachers, not primarily by the needs of employers.

In practice, this approach has left nearly 60 percent of vocational education students receiving training in fields unrelated to their future careers. In contrast, the apprenticeship system relies on the availability of specific jobs. Few employers will sponsor apprenticeships if they do not expect any long-term need for the workers in fields for which training is provided.

THE U.S. EXPERIENCE

Although the overall impact of vocational education in the United States is limited, some students who do find jobs in fields related to their studies achieve significant gains, through reduced unemployment as well as increases in hourly wages.

Increases are particularly large for black youth. In fact, black workers earn as much as whites, when studies control for vocational concentration, the training-related nature of the jobs, and personal characteristics.

Vocational education courses have also helped non-college students learn basic skills, such as math. Some high schools are developing programs of applied learning, which integrate academic with vocational subjects and thus assist students to learn in context and through hands-on techniques.

Formal apprenticeship programs within the U.S. have operated for many years but have trained only a small share of the labor force. The typical U.S. program differs substantially from the youth apprenticeship approach we propose. Under existing programs, unions restrict the number of apprenticeships and limit the available positons to experienced workers in their mid- to late-20s.

Economists have criticized union rules on grounds that they lower the number of future skilled workers. Critics also say that such restrictions have been used to benefit relatives and friends, and exclude others, including minorities.

Nonetheless, existing apprenticeship programs have demonstrated their effectiveness in training productive workers. A study of the construction industry (where current apprenticeship programs are especially widespread) found that union firms had higher productivity than non-union firms, partly because of the higher quality training delivered through union apprenticeship programs.

The U.S. experience with apprenticeship programs in the high school years, such as those operating in Austria, Germany, and Switzerland, is extremely limited. A demonstration project sponsored by the U.S. Labor Department in the late 1970s encouraged local school districts, state education agencies, community colleges and nonprofit corporations to operate in-school apprenticeship projects at eight sites. In general, the projects were highly successful. The sites trained over 3,000 youths and nearly all (95 percent) expressed satisfaction with the project. Although the working collaborations between schools, apprenticeship agencies and employers took a few years to develop, most employers approved of the program and 63 percent had already recommended that other employers join. The added government costs were extremely low, averaging only $1,384 per apprentice.

AN AMERICAN YOUTH APPRENTICESHIP SYSTEM

Can it work outside Europe? Can the U.S. build a comprehensive and successful apprenticeship system without a long historical and cultural tradition linking the state, education and work, such as exists in Austria, Switzerland, and Germany? Will U.S. firms participate in their own interest? Can employer associations, together with schools and other state agencies, achieve adequate cooperation and staying power to develop a major youth apprenticeship system?

Considering the alternative, which is to permit the less educated half of our youth population to fall farther behind, in effect dividing our society into two educational classes, the answer to these questions must be "yes."

Of course, a comprehensive system will require sustained, long-term effort. Employers must treat apprenticeship as a critical ele-

ment of their business and competitive strategy, not merely as an altruistic gesture. Judging by the German experience, U.S. firms will come to understand that they benefit from assuring quality preparation for their workers and a system of try-out employment. The investment patterns may vary, with large firms investing and recouping more value from the training and small firms drawing more from the work effort of trainees. But, it will be employers themselves that finance the stipends and training.

Establishing an effective program in the U.S. will mean major changes in the school system as well as the job market. Schools need to include vocational preparation in their curriculum, create complementary education programs for apprentices, and help in job placement.

Students would encounter the new vocational education track in the following sequence:

7th–9th Grade. Learning about various occupations through course modules, site visits, job sampling, and visits by employers to schools;

10th Grade. Application and interviews for apprenticeships; choices include a wide variety of occupations or staying in a purely academic tract; apprentices would sign agreements with employers at the end of the academic year;

11th and 12th Grade. Apprentices mix training at work sites with courses at high schools; the time spent at work sites will typically increase from 30 percent to 75 percent depending on the occupation; late in 12th Grade, apprentices take interim examination. High schools continue to design their general courses.

Post High School. Students spend 75–80 percent of their time at work sites but draw on community colleges for some supplementary theory and skills courses. Many students in technical fields take enough courses to obtain an associate degree.

Link to College Education. Some students, especially in technical fields, choose to go beyond apprenticeship education and attend college.

Perhaps the most difficult and extensive preparatory work will be to define the occupational areas and to specify the skill competencies and training standards. Employers, employer associations, and labor representatives will have to work with government education and labor agencies to achieve solid programs in each career field. Employers should provide the trainers, who themselves would have to undergo training and demonstrate their capacities. It will take time, perhaps two to three years, to build each occupational program. Certifications will have to be convincing to potential employers and have portability so that young workers are not tied to a single firm.

Employers would provide, and bear the direct costs of, occupational training. Governments would pay for technical assistance in the development and operation of programs, for monitoring the trainees' performance, and for testing the competencies of graduates. Savings from existing vocational education programs could fund these public functions as well as the school's new responsibilities for counseling and staging visits to work sites.

Government and labor representatives might have to agree to accept a training wage that is below the market wage and may sometimes fall below the minimum wage. Alternatively, apprentices might receive a training allowance in lieu of a wage for at least part of the student's time at the work site.

Although few training schemes of intensity and depth are currently available to high school students, a number of schools are beginning to experiment with such programs. Theme schools have been organized around occupational fields in the health professions, the travel industry, and the entertainment industry. In addition, the Pittsburgh school system is forging closer links with employers who can offer apprenticeships for students specializing in a vocational field. While promising, these initiatives must expand to cover a wide range of occupations and training programs designed to teach and test the key competencies in each career field.

A PLAN OF ACTION

Developing a new structure will require bold leadership within the public and private sectors. The federal government can act as a catalyst by launching a major youth apprenticeship demonstration project. It should consist of several steps:

1. Presenting the Vision. The President, Governors, and key Congressional leaders should announce their intention to join in a national skill-building partnership.

2. The Institute for Youth Apprenticeship. To promote apprenticeship, the federal government should create a public-private institute with representatives from business, labor, education and state governments. It would oversee the development of competency standards for apprenticeships and trainers in specific occupational fields, monitor training, provide technical assistance, and collect data on and engage in strategic planning for the system.

3. Demonstration Projects. Washington should allocate $500 million and require state matching grants totaling $250 million to undertake apprenticeships demonstration projects in 10 U.S. cities. Qualifying for funding would depend on the ability of states and cities to draw on local business, labor and school officials in working closely with the Institute. Their joint efforts would focus on developing competencies that have credibility with employers, training rules, model contracts, and monitoring and certification systems for a variety of job paths. A second goal of the demonstration projects would be to test the effect of the program on young workers, on student academic performance, and on the structure of jobs and career ladders.

4. Technical Assistance. The Institute should work in concert with national business and trade associations to develop procedures certifying that apprentices have achieved competency in their occupational area.

5. Removing Obstacles. Congress and state legislatures should grant waiver authority to ensure that existing government regulations and laws do not stand in the way of a fair test of the apprenticeship idea. For example, funding formulas linked to school attendance should instead be based on performance in imparting marketable skills. Current rules on liability, child labor, and minimum wages must also be adapted to permit apprenticeships.

6. Research and Evaluation. The Institute should gauge the effects of apprenticeship on a) students' career options and expected earnings; b) the academic performance of pre-apprentice and apprentice students; c) job ladders and productivity; and, d) the number of work-based training and career positions available to non-college youth. It should also study the processes for creating competencies, for monitoring training, and certifying skills.

CONCLUSION

Does the promise of youth apprenticeship warrant such a dramatic restructuring of our school and job training systems? How can combining job-based education with other school reforms affect the nation's domestic problems?

We believe youth apprenticeship can help us fulfill four urgent national goals:

First, offering serious training and entry-level jobs to large numbers of non-college youth will increase the supply of skilled workers. The opportunity to acquire marketable skills will be particularly important to minorities and women, who will make up a disproportionately large part of new entrants to the workforce.

Since employers will be providing and paying for most of the training, the skills will be in fields they expect to need. The increase in relevant skills will raise productivity as well as improve efficiency in the implementation of new technologies. In fact, quality and relevant training will do more to raise productivity than increased physical capital. However, it will take time before the cohorts trained through the new system make up a large share of the nation's labor force.

Second, as the productivity of non-college youth increases, a rise in their wages will follow. Their increased earning power will reduce the income gap between them and the college-educated workers. We can expect employers to build on the capacities of apprentices by developing new job ladders and providing additional career training. These steps will, in turn, create more professionalized careers for non-college workers and thus raise their social status.

Third, word of promising new career options and the chance to begin job training by 11th grade will filter down to high school and junior high school students. This could well achieve more improvement in academic skills than most school reforms currently under discussion, because of the new incentives to learn, especially among those students not planning to attend college. Raising the proportion of non-college youth who take their studies and mainstream career options seriously could change the school atmosphere so that student peers no longer discourage good students from succeeding academically.

Fourth, the enhanced education, training, and careers of non-college youth will revive hope among youth who today are harming themselves through drugs and early parenthood. Over the last century, sexual activity has been occurring at younger ages while entry into responsible jobs has been taking place at older ages. These changes have no doubt contributed to the decline in marriage rates and to the tragic rise in one-parent families. Within the black community, the situation is so serious that the absence of fathers has become the primary cause of child poverty.

If apprenticeships draw large numbers of young people, especially disadvantaged minority youth, into serious training as early as 11th grade, early parenting will become less attractive and marriage more attractive. Making appealing careers a realistic option will be one factor, but perhaps as important will be the mentoring and acculturation that takes place in an adult work environment.

Ultimately, these effects will cumulate and penetrate the urban underclass. It is

conceivable that a large, effective youth apprenticeship program will help bring today's urban underclass into the mainstream of economic and social life. Large impacts could take place quickly, since the program will primarily benefit noncollege youth, the group that accounts for most neighborhood crimes and a large part of the drug problem. However, only a strategy aimed at a broad spectrum of young people can make a significant difference. Both young people and potential employers will view programs geared toward the poor as providing second-rate jobs and inferior workers.

This brings us to a final and crucial advantage of the youth apprenticeship strategy—its natural appeal to a broad public. Unlike other initiatives, this job-based education strategy is inclusive, not exclusive; it is productivity-enhancing, not simply redistributive; and it promotes the incentives to learn and earn instead of discouraging work. The program can perhaps do the most for young minority workers, yet in a way that neither stigmatizes them nor gives them advantages over white workers.

Now is the time to bring the apprenticeship idea to center stage for the public, business and labor leaders, and government policy makers. Once people understand the program and its potential future benefit, large scale implementation can proceed. It might take years before youth apprenticeships are sufficiently widespread to begin to generate major effects. But we believe the public will support the program and, most importantly, will recognize that long-term problems require long-term solutions.

REFERENCES

Allen, Steven, "Unionized Construction Workers Are More Productive," *Quarterly Journal of Economics,* May 1984, pp. 251-274.

Bishop, John, "Occupational Training in High School: When Does It Pay Off?", Working Paper #88-09, New York State School of Industrial and Labor Relations, Cornell University, 1988.

Bishop, John, "The Motivation Problem in American High Schools," presented at Tenth Annual Research Conference of the Association for Public Policy Analysis and Management, October 28, 1988, Seattle, Washington.

Campbell, Paul, Karen Basinger, Mary Beth Dauners, and Marie Parks, Outcomes of Vocational Education for Women, Minorities, the Handicapped, and the Poor, Technical Report, The National Center for Research on Vocational Education, Columbus, Ohio, 1986.

Fordham, Signithia and John Ogbu, "Black Students' School Success: Coping with the Burden of 'Acting White'," The Urban Review, Volume 18, No. 3, pp. 176-206.

Glover, Robert, "Collaboration in Apprenticeship Programs: Experience with In-School Apprenticeship," in *Collaboration: Vocational Education and the Private Sector, 1984 Yearbook of the American Vocational Association,* American Vocational Asociation, Arlington, Virginia, 1985.

Hamilton, Stephen, "Apprenticeship as a Transition to Adulthood in West Germany," American Journal of Education, February 1987, pp. 314-345.

Hamilton, Stephen, "Work and Maturity: Occupational Socialization of Non-College Youth in the United States and Germany," Research in the Sociology of Education and Socialization, JAI Press, 1987.

Maurice, Marc, Francois Sellier, and Jean-Jacques Silvestre, The Social Foundations of Industrial Power: A Comparison of France and Germany, The MIT Press, Cambridge, Massachusetts, 1986.

Mincer, Jacob, "Job Training: Costs, Returns, and Wage Profiles," Working Paper No. 3208, National Bureau of Economic Research, Cambridge, Massachusetts, 1989.

Organization for Economic Cooperation and Development, "Education and Training After Basic Education," Directorate for Social Affairs, Manpower and Education, unpublished memorandum, Paris, November 1987.

Prais, S.J. and Karin Wagner, "Schooling Standards in England and Germany: Some Summary Comparisons Bearing on Economic Performance," *National Institute Economic Review,* May 1985, pp. 53-75.

Prais, S.J. and Karin Wagner, "Some Practical Aspects of Human Capital Investment: Training Standards in Five Occupations in Britain and Germany", *National Institute Economic Review,* August 1983, pp. 46-65.

Ravitch, Diane, *The Schools We Deserve,* Basic Books, New York, 1985.

Resnick, Lauren B., "Learning In School and Out," *Educational Researcher,* December 1987.

Steedman, Hilary and Karin Wagner, "A Second Look at Productivity, Machinery, and Skills in Britain and Germany," *National Institute Economic Review,* November 1987, pp. 84-95.

Wirth, John, Lana Muraskin, David Goodwin, and Robert Meyer, *Summary of Findings and Recommendations,* National Assessment of Vocational Education, U.S. Department of Education. 1989.

Mr. NUNN. Mr. President, under such an approach high school juniors and seniors would divide their time between the classroom and work at local businesses. The curriculum would emphasize theory and technical knowledge to complement on-the-job training at local businesses. Students would actually sign contracts with the employers who would bear the direct costs of job training.

Finally, apprentices would have to pass competency tests in order to become certified in an occupational field. In Germany they have considerably more pride in these occupational fields than we have been able to instill in America. I think that is a very, very important part of this productivity as a nation.

In addition, similar apprenticeship programs could be developed between technical institutes and industry.

Agreements reached between these two parties would allow current workers to further develop their academic skills in the classroom and would provide on-the-job training on modern machinery for those already enrolled in our technical institutes. Through this effort, our technical institutes would graduate students better prepared to meet the real needs of the business community.

I believe this idea holds special promise for minority and immigrant youth who will be entering the work force in disproportionately high numbers in the 1990's. By connecting success in the classroom with the chance to acquire marketable skills, young people would really have a chance to develop a powerful new incentive to stay in school and to do well.

Mr. President, the Senate passed the Community and National Service Act on March 1, 1990. Senator PELL was a joint sponsor of that act. This is a demonstration program that would offer young people who are willing to serve their country the opportunity to earn education and skilled training benefits. I hope the House will act on that legislation this year.

Taken together, youth apprenticeship and voluntary national service I believe can create an upward mobility track for all young Americans, a way for every young person willing to put out the effort to earn job skills or a chance for a college education.

I believe this strategy for youth education and skilled training should be the centerpiece of efforts to expand on opportunities for our citizens, and to restore America's economic power in the world economy.

We all agree that increasing the brainpower and skills of our Nation's young people and our work force is an essential goal. We must explore innovative new ways to close the growing skills and earnings gap between college-bound and noncollege youth in our society.

I hope the GAO study required by this bill will help us to determine if this German dual system of vocational training may be effectively implemented to the benefit of our Nation, our businesses, and particularly our young people.

I thank the Senator from Rhode Island, and the Senator from Kansas for their leadership in this overall area, which I think is splendid. I particularly am grateful to them for accepting this study amendment which I believe will give us an awful lot of information that can help us in the future to make these decisions. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I would be happy to yield whatever time the Senator from Utah would request.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Thank you, Mr. President.

I, too, want to stand on my feet and give appreciation to the distinguished Senator from Rhode Island and to the distinguished Senator from Kansas for their work in the whole education area, especially and specifically with this particular bill.

Mr. President, I appreciate the opportunity to speak about this bill, of which I am a cosponsor.

I want to complement not only the two Senators that have been leading

on this bill but the staffs of all of the members of the Labor and Resources Committee, particularly, though, the staffs of Senator PELL and Senator KASSEBAUM and, of course, my own staff, Laurie Chivers, who worked long and hard on this particular bill.

This bill is the result of a lot of hard work and compromise on both sides of the aisle. This reauthorization takes into account many of the changes which have been proposed as a result of the hearings held throughout the United States, and the studies conducted by the National Assessment of Vocational Education.

I have received letters from many national groups such as the National Association of State Directors of Vocational Technical Education, the National School Boards Association, the National Conference of State Legislators, the National Governors' Association, and the Council of Chief State School Officers, all praising this legislation. I commend Senators PELL and KASSEBAUM for the time they and their staffs have spent studying this testimony and making sure that this legislation is representative of the concerns of these diverse groups.

I would like to comment on one concern that I have about this bill. It involves the funding split between secondary and postsecondary funds. I would have preferred the original amendment proposed by Senator DURENBERGER as I think that the Federal Government should provide States with maximum flexibility. However, I will support the compromise amendment which has been worked out by Senator DURENBERGER and Senator PELL, so that we can proceed expeditiously with this legislation.

The Carl Perkins legislation is some of the best education legislation that this body has produced. In the last few years the national understanding of the value and significance of vocational education has grown tremendously. No longer is there a stigma attached to the idea of vocational education. People who are trained in fields typically referred to as vocational are accorded the respect and admiration which is appropriate for individuals with such technical and complex skills. Our increasingly technical society recognizes individuals trained with these skills by providing them with the high salary levels which unfortunately are still the measurement we use to determine how valuable one's skills are in our society.

The impact of this legislation on increasing opportunities for women in the job market has been very significant. Many displaced homemakers who have suddenly had to be the primary source of support for their families have been trained as a result of the funds available through this act. These women can then provide their children with a higher standard of living and more opportunities through the increased self-esteem they are able to build in themselves and their children, and through the increased salary which they are able to command because of their new job skills. The growing number of single-family homes mandate that we make this training available if we are to protect the future of our country, and the increasing number of children who live in one-parent families.

Utah data shows that of the clients participating in the Single Parents and Homemakers Program, 68 percent had no postsecondary training, most had two children although 34 percent had three or more children, and the annual income of 82 percent of the participants was less than $10,000 prior to their participation in the program. The number of participants in the program the second year was nearly twice the number participating the first year.

Let me read you a letter I received from a woman in Kanab, UT. She was involved in a Utah program called Turning Point which is funded through Carl Perkins. She says:

In April of 1987, I was contacted by Sue Rasmussen, the local director of Turning Point.

At that time, I had just filed for a divorce after 32 years of married life and raising ten children. * * * I was 75 pounds over my desired weight and felt that life had failed me and that I had failed life completely. I had no idea of what to do next. I was on state welfare and terribly frightened.

My exposure to the "Turning Point" program * * * was indeed the turning point in my life. The positive atmosphere, the valuable material presented in such a caring way, all lent itself to my need for a new beginning. It gave me hope! The real change however, came as a result of a confident, courteous, yet warm woman, looking at me, one on one, and telling me that I could become anything that I wanted to be, that I could accomplish anything with the proper attitude and preparation. That gave me faith in myself to go along with my new found hope.

Today I am manager of a furniture store. I believe now, that I am of worth in today's society. In short, I have found "me." Programs for women today can and will change the future for our daughters. This I believe.

Sincerely,

EVAUNE G. WINSOR.

Letters like this one are an inspiration to me and encourage me to fight for effective programs which help citizens of this country attain new skills and go from the ranks of welfare recipients to confident and competent workers. They also make me aware of the thousands of people at the local level who are the backbone of successful Federal programs.

This legislation which is before us today will ensure that outstanding programs like the Turning Point Program in Utah will continue. This bill maintains the strong State role that is vital to the success of any good program. The State councils are maintained as a major source of input for vocational education in the States. I know that in Utah our State council for vocational education is a very visible force in the education circles. Anytime that vocational education looks like it may be shortchanged, the members of the council point out the problems and get the needed results to keep vocational education a strong member of the educational structure.

I realize that there are some concerns about whether the needs of special populations will be met as a result of changes which have been made in this legislation. This legislation has been amended to increase the mainstreaming of these people into regular courses without jeopardizing their access to services. This will result in better training programs and increased employability for these people who are in the best position to upgrade their skills.

The bill also requires the State to make assurances in the State plan that the needs of special populations such as individuals with disabilities, the economically disadvantaged, and students with limited English proficiency, are met in the regular course offerings provided by the local districts and institutions participating in Carl Perkins funding. The State and local providers must also build in assessment criteria to measure the effectiveness of programs offered in terms of their ability to meet the needs of the special populations and their ability to provide a quality program to all students. State sanctions must be available in case local providers do not provide the needed quality and access.

A new program which is provided for in this bill is the tech-prep or 2-plus-2 program. This program provides funds to States to set up 4-year technical preparation programs which consist of 2 years of training in secondary school and 2 years of training in postsecondary institutions. This legislation requires that a minimum of 5 percent of the funds be used for this purpose. Programs of this nature help to meet the needs of our increasingly complex technological society. Students graduating from these programs enter the work force better prepared and at a lower cost to themselves and to the taxpayers. This is increasingly important in a time of high education costs in our society.

I urge my colleagues to support this bill. Vocational education will be enhanced as a result of the passage of this legislation. Students trained under the programs outlined will benefit from the new assessment criteria and new program requirements which are an integral part of the proposal outlined in this legislation. I am proud to once more have my name as a cosponsor of this far-reaching legislation, and look forward to hearing from my constituents about the many suc-

cesses of this new and better legislation.

Again, I think that this bill is a compliment to that person for whom it is named, Carl Perkins. I want to pay tribute to him, although he has passed on. I remember working with him when I was chairman of this committee. Working with him was a real pleasure. I think this bill is very appropriately named, and I want to pay tribute to him at this time, as well as to my dear colleagues and friends, Senator PELL and Senator KASSEBAUM, who have done such a good job on this bill.

Again, one more compliment to the staffs who do such wonderful work on the Labor and Resources Committee. I think we have the best staffs of anybody. I want to personally praise them. This is a difficult area to work in, and it is difficult to accomplish the things that need to be accomplished, but I think the Education Subcommittee does as good a job as any subcommittee in Congress. I compliment my colleagues and their staffs for it.

Mrs. KASSEBAUM. Mr. President, I second the comment made about the staff by the ranking member of the Labor Committee. We all have, I know, very much appreciated his support in our efforts to move this legislation through the committee.

I know that Senator WILSON wants to speak. We were waiting for someone else. If he is ready, he may proceed.

I am happy to yield to the Senator from California any time he may wish.

The PRESIDING OFFICER. The Senator from California [Mr. WILSON].

Mr. WILSON. Thank you very much, Mr. President.

I thank my dear friend, the Senator from Kansas, and join in the congratulations that have been extended to her and the Senator from Rhode Island for their very distinguished work in managing this important legislation.

Mr. President, I rise in support of the Carl D. Perkins Act reauthorization legislation. It builds upon our successes and reaffirms our Nation's commitment to helping those who most need it to become productive members of the work force.

I am particularly proud of provisions within the legislation based upon a concept developed nearly a decade ago by the chancellor's office of the California community colleges and the California Department of Education. It is popularly known as the "2+2 tech-prep" programs; "2+2" programs not only encourage our youth to stay in school, but also to continue their education at the postsecondary level.

In California, we have taken the tech-prep program a step further, and I am happy to report that several community colleges have developed what they now term the "2+2+2" program to link students to the California State university system.

I am also pleased that the committee bill includes provisions to ensure that the fine research work being performed by the National Center for Research in Vocational Education, located at the University of California, Berkeley, will continue.

But for all the long hours and well-intentioned efforts spent on the legislative package before us today, I believe our work remains unfinished on one specific issue and that is, what level of flexibility should we allow the States in determining support for secondary and postsecondary vocational education programs?

While the legislation does contain a carefully crafted waiver provision to provide greater flexibility to the States, I believe present law is preferable.

Currently, there are 32 States which now allocate more of their Perkins Act funds to postsecondary institutions than the committee funding threshhold would allow. In California, for example, there has been a longstanding 47-53 funding split between the California community colleges and the K through 12 education.

I urge my colleagues on the House-Senate Perkins Conference Committee to maintain current State funding flexibility.

Finally, Mr. President, I am pleased that I was able to reach agreement on an amendment I had intended to offer to provide for greater coordination of children's services at our Nation's schools.

As the colloquy which will follow indicates, the chairman of the Senate Committee on Labor and Human Resources, Senator KENNEDY, has pledged his support in joining me in developing a proposal to help our children and youth get a healthy start in life.

Mr. President, I see the committee chairman, Senator KENNEDY, on the floor and wonder if I might clarify several matters regarding a Healthy Start amendment I had intended to offer to the vocational education legislation before us.

Specifically, am I correct in understanding that the committee chairman is prepared to give me a commitment to work together in drafting legislation which incorporates provisions of both S. 2095, the Healthy Start Demonstration Grant Program, and S. 2363, the Head Start Transition Project Act of 1990?

Mr. KENNEDY. The Senator from California is correct. I have consulted the chairman of the Senate Subcommittee on Children, Family, Drugs, and Alcoholism, Senator DODD, who has been a strong advocate for the coordination of children's services, and I believe we can reach consensus on a legislative package which combines both proposals.

Mr. WILSON. I thank the Chairman.

Am I also correct in understanding that the committee chairman and I will cosponsor the new legislative proposal during floor consideration of the Head Start reauthorization?

Mr. KENNEDY. The Senator is correct.

Mr. WILSON. I thank the Senator for his comments. With the assurances I have received from Senator KENNEDY, I see no reason to offer my Healthy Start amendment at this time. I am pleased that we were able to work out this agreement. In the end, I think we will have taken an important step toward getting America's children the support and assistance they need to become confident, caring adults.

Mr. PELL. If the Senator would yield, I would just add that I am glad we were able to reach a consensus on this matter. I wish to thank the committee chairman for his efforts.

Mr. WILSON. Mr. President, before I close, I again thank the distinguished manager for the majority, Senator PELL, and my very good friend, the ranking member of the Senate Subcommittee on Education, Senator KASSEBAUM, for their extraordinary assistance on this matter.

I look forward to final passage of the Carl D. Perkins Act reauthorization legislation.

I think those who have been so hardworking in their resolve to see that it is brought to passage can justifiably take great pride and enjoy the satisfaction they are going to make as a result for a great difference in the lives of a number of young Americans.

Mr. President, I thank the Chair and relinquish the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, some concerns have been raised that S. 1109 would have unintentional ramifications in the area of abortion. Specifically, these fears revolve around the following questions:

First, that the prohibition on sex bias in support services contained in inserted section 227 might be used to require abortions, abortion counseling, and abortion referral.

Second, that the mandated provision of services to single pregnant women under inserted section 242 might be used to provide abortions, abortion counseling, and abortion referral.

Third, that the prohibitions on sex discrimination contained in section 501 might be used to require abortions, abortion counseling, and abortion referral, on the basis of the fact that only women can have abortions.

Fourth, that any other program funded by S. 1109 could be used to pro-

vide abortions, abortion counseling, and abortion referral.

If funds under this bill were intended to facilitate abortion in any way—from counseling abortion to funding it—it would be opposed by the House and surely by the President. For that reason, I asked that the managers of the bill to assure the Senate this is not the intent of the legislation.

In response to this request, the managers—the Senator from Rhode Island [Mr. PELL] and the Senator from Kansas [Mrs. KASSEBAUM]—have provided me with a letter clarifying the legislative intent. Without that clarification, as a well-known opponent of abortion, I could not have agreed to the unanimous-consent request under which the bill is being considered.

I thank the managers for this statement, and I ask unanimous consent that the letter from the Senator from Rhode Island and the Senator from Kansas be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, DC, April 4, 1990.

Hon. GORDON HUMPHREY,
U.S. Senate, Washington, DC.

DEAR GORDON: We appreciate your calling to our attention your concerns about S. 1109, legislation reauthorizing the Carl D. Perkins Vocational Education Act.

We want to assure you that there is no intent to use any of the funds authorized by this bill to counsel for or facilities abortion.

Sincerely,

CLAIBORNE PELL,
Chairman,
NANCY LANDON KASSEBAUM,
Ranking Minority Member,
Subcommittee on Education,
Arts and Humanities.

Mr. DOMENICI. Mr. President, I am pleased to rise today in support of S. 1109, the Carl D. Perkins Vocational Educational Reauthorization Act. The Federal commitment we have made over the years supporting vocational education has had a tremendous positive impact.

Through the Carl Perkins Act, the Federal Government has made critical contributions to the network of State and local vocational education programs by helping improve the quality of programs, and by improving the access to vocational education by special needs students.

The reauthorization bill we have before us today makes important improvements to the Carl Perkins program that will enable it to better meet the vocational education needs of today's students. The economy of the future will require an even more highly trained work force than it does now, and workers need to be able to adjust rapidly to new technologies and changing economic demands.

This reauthorization bill moves to improve the integration of vocational education with academic education, and thereby improve the basic skills of vocational education students. In addition, much attention is given in this bill to assuring that the program serves the needs of the most disadvantaged, helping vocational education address the alarming high number of youth and young adults who are at risk of failing in education and in work.

The heart of this legislation is a basic Federal grant for State and local programs, on which 95 percent of the bill's $1.5 billion authorization would be spent. Under this grant funding would be targeted to disadvantaged students through a new formula that would track the need-based chapter 1 education program. Part of the funds would be used for statewide programs, while most would go directly to assist local programs. Another, special, part of the basic State grant is set aside for what is called tech-prep programs that link the final years of high school with postsecondary or apprenticeship training.

In addition, efforts are made in this bill to target funds to serve four groups: the economically disadvantaged, the disabled, those with limited English proficiency, and men and women in nontraditional occupations.

The final 5 percent of funding is set aside for national programs, and programs to serve native Americans and Native Hawaiians.

In both 1984 and 1989 I introduced legislation reauthorizing the Carl Perkins Act because I felt strongly that our country needs a quality system of vocational education. I coauthored the 1984 bill with Senator CHILES and S. 799, which I introduced last year, was very similar to the 1984 bill. Those bills proposed making the basic vocational eduction grant to States as flexible as possible—providing States with the ability to craft programs recognizing the particular needs of their States. Those bills also attempted to assure that Carl Perkins helped students meet the high-technology needs of our evolving economy.

I am pleased to see in this reauthorization bill that both of these important goals are being addressed. Much attention has been given to assuring students have access to training with state-of-the-art technologies. In addition, a good effort was made to remove spending restrictions in the program that have inhibited the effectiveness of those implementing vocational education programs in my State from meeting the needs of New Mexicans.

There is, however, a part of this bill about which I am still very concerned. This bill imposes on States a new requirement that at least 65 percent of a State's basic grant be spent at the secondary school level, and 35 percent be spent at the postsecondary level. This is a new requirement intended to assure services are made available to at-risk high school students.

Unfortunately, the requirement would override efforts made by individual States to meet the special needs of students in their States. This requirement will create a particular problem in my State of New Mexico which is the only State to spend 100 percent of its Carl Perkins funds at the postsecondary level. In New Mexico secondary education funds are equalized across the State, and vocational programs are considered as part of the allocation made by the State to secondary schools.

Those very helpful, Federal Carl Perkins funds represent only a small amount of funding spent on vocational education—about $6 million in New Mexico. Since the New Mexico allotment is so small, the State believes Carl Perkins funds are used for more effectively by focusing on helping postsecondary programs, rather than spreading funds around to the point where individual programs are helped only slightly. These funds support a network of 17 public postsecondary programs across New Mexico, enabling 95 percent of New Mexicans to be within 25 miles of such an institution.

I strongly support effective vocational education at the secondary level, but I believe States like New Mexico ought to be given the ability to use Carl Perkins funds in ways that are most effective for New Mexico.

I understand the managers of the bill are including today a modification to this provision that will allow States to apply for waivers enabling them to spend up to 50 percent, and in some cases up to 65 percent, of Carl Perkins funds at the postsecondary level. The chairman of the Education Subcommittee Mr. PELL, has been very gracious in trying to accommodate concerns I and others have on this issue, and I thank him and Senator DURENBERGER for working out this new provision. However, I still believe we should give States complete flexibility on this point.

Finally, Mr. President, I commend Senators PELL and KASSEBAUM for their hard work on this bill, and the attention they and their staffs have given to my concerns about vocational education. In whole, this bill makes substantial improvements to a highly important program.

INDIAN PROGRAMS IN S. 1109

Mr. President, I am most grateful for the very cooperative and supportive attitudes of Senators PELL and KASSEBAUM in accepting several much needed improvements in vocational education for Indian and Native Hawaiian programs.

As many of my colleagues are aware, I have sponsored two Indian economic summits—one for the largest Indian tribe in America, the Navajo Nation

and 1 for the 19 Pueblos and 2 Apache tribes of New Mexico. In both economic summits we concluded that vocational education opportunities are a vital key to employment for many talented Indian students.

S. 1109 increases the current allocation for Indian and Native Hawaiian programs from 1.5 to 2 percent. It will be primarily used to fund programs in Indian-controlled postsecondary vocational education institutions such as Crownpoint Institute of Technology in Crownpoint, NM.

In dollar terms, there will be an increase of at least $6 million and at most $18 million, depending on appropriations. Indians currently receive about $12 million from the Carl Perkins Act. With these changes, they will be receiving between $18 million and $30 million.

Of the 2-percent set-aside, seven-twelfths will be used to fund programs administered by Indian tribes. One-twelfth will be used for the first time to provide grants to 52 secondary schools funded by the Bureau of Indian Affairs of the U.S. Department of the Interior.

Two-twelfths of the set-aside will go to Indian postsecondary schools with at least 100 students, and the final two-twelfths is for Native Hawaiian vocational education.

This distribution of the 2-percent set-aside is excellent for Indian and Native Hawaiian vocation education, and I fully support the manner in which S. 496, the Bingaman-Domenici bill for expanding and improving Indian vocational education, has been incorporated into S. 1109.

I am very pleased to report that my amendment to move the effective date for Indian progarms up to October 1, 1990, from July 1, 1991, has been accepted by the floor managers of the bill.

I again thank Senators PELL, INOUYE, KASSEBAUM, BINGAMAN, and MCCAIN for their excellent work to improve the conditions and potential for Indian and Native Hawaiian vocational education.

Mrs. KASSEBAUM. Mr. President, I am happy to yield such time as the Senator from Vermont may desire.

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. President, I appreciate the Senator yielding. I am certainly here in support of the act. There are serious problems in the area of vocational education.

Mr. President, I support S. 1109, a bill to amend the Carl D. Perkins Vocational Education Act. I commend my colleagues Senators PELL and KASSEBAUM of their success in crafting a bipartisan bill.

Vocational education has been referred to as the "latchkey kid" of the educational system. Often neglected in budget packages and left behind by the back-to-basics reform movement of the past decade, this program has received little attention.

Such treatment is both unjustified and outdated. Unjustified because the programs offered to students by vocational education programs are not a second choice to traditional 4-year programs. Outdated because our world has changed and with it the demands on our future work force.

Vocational education has not recieved the recognition it deserves. Too many still hold the notion that vocational education is hobby education—learning a hobby such as wood working or sewing. Nothing could be further from the truth.

In my own State of Vermont there are 16 area vocational centers. These centers offer programs ranging from aviation mechanics to the performing arts. Vocational education is far from what it used to be and the programs in Vermont demonstrate how drastically these programs have changed over the years.

For example, the aviation mechanics class in the Burlington Area Vocation School—one of the few in the country—has rebuilt a severely damaged helicopter salvaged from the Korean war. The school has another program which combines both education and community service. In a creative effort to confront the rising costs of housing in the area, vocational students work cooperatively to build low-income housing projects. This effort not only gives students a hands-on work experience, it also provides a very needed service to our community.

In both of these classes and all the others—from stone cutting to auto mechanics to culinary classes—students are working with the real thing. Real cars are fixed, real helicopters are rebuilt, real food is prepared and served to real customers, and real granite is used to cut real headstones and monuments.

Clearly, vocational education has changed. It is preparing students—not for hobbies—but for real work experience.

But the classes for students are not the only changes which are occuring. In an effort to bring qualified individuals from business and relevant fields into vocational classrooms, Vermont has embarked upon an alternative teacher training program.

The Vermont Mentor Program encourages highly qualified teachers to serve as mentors to less experienced teachers. This program has been successful in helping instructors upgrade their teaching competencies via the mentor teacher as well as attract individuals who were formerly employed or are currently employed in business to become vocational education teachers.

Essentially, this program provides teacher training in the classroom. Mentor teachers not only serve as advisers to less experienced teachers they also provide classes for skills upgrading and alternative methods of certification. Individuals working in relevant businesses who wish to become teachers but cannot afford the time to return to university classes can begin their certification process through the Mentor Program.

The subcommittee adopted my amendment to the Perkins Act to encourage mentor programs. Grants will be made on a competitive basis to institutions of higher education which offer comprehensive programs in teacher preparation. Finding and retaining qualified teachers is a problem nationwide—this program offers a means of upgrading, recruiting and retaining teachers for vocational study.

States across the country are embarking on similar programs. Such dedication and innovation has kept vocational education successful in keeping at risk students in school. Vocational education has encouraged and targeted the disadvantaged and those with disabilities. It has encouraged sex equity and nontraditional employment opportunities for women as well as training for dislocated homemakers and other adult populations.

Yet, even with such reform, recent reports allege that the U.S. education system unfairly favors its college-bound students over those unlikely to attend a traditional college. Some reports conclude that Federal, State, and local governments, and private entities spend $45 billion a year subsidizing college students, but no more than $7 billion annually on postsecondary training of those who don't go to traditional colleges.

S. 1109 puts the Federal Government firmly on the record in favor of improving our vocational education system. It dramatically changes the current Perkins Vocational Education Act in a number of important respects.

First, it adapts old-line vocational programs to meet the needs of our future work force. It places a strong emphasis on the integration of academic and vocational curricula which is essential not only to reduce the stereotype of vocational education as a nonacademic track but also to ensure that our work force is adequately prepared for the challenges of the future.

The bill also takes a dramatic departure from past bills by eliminating the set-asides for special populations. While the specific monetary set-asides have been abolished the commitment to these populations are not. Perkins funds serve four important populations: economically disadvantaged, disabled, limited-English proficient, and men and women with interests in nontraditional jobs. S. 1109 allows for flexibility of funding while providing for the necessary accountability meas-

ures to ensure that the populations are served.

The bill acknowledges that Federal funds must continue to be targeted to the disadvantaged. Federal funds make up only 10 percent of total vocational education funding; the money available must therefore reach those most at need. S. 1109 achieves that mandate by directing money according to our chapter 1 count which serves the economically disadvantaged.

The formula in S. 1109 has been created in order to safeguard the directing of funds to area vocational centers. While both the House and Senate versions of reauthorization provide that funds be directed to the local level, S. 1109 ensures that funds may go either to area vocational centers or local education agencies. This provision has allowed Vermont, which has adopted a system of area vocational centers because of its rural nature, to better use funds and serve its population.

The bill establishes a tech-prep program to develop consortia linking local education agencies or area vocational centers with community colleges or postsecondary vocational technical schools to offer a 2-year degree or apprenticeship program. These partnerships offer a degree or certificate program in a condensed timeframe to encourage students to remain in school and force institutions to work together to reduce duplication of classwork.

Our world is rapidly changing and the future needs of our work force will be great. Greater skills will be required to remain competitive and vocational education is geared to handle such training. S. 1109 further encourages this goal.

What remains to be done is to educate our society that vocational education is not for those unwilling or unable to go on to a traditional 4-year institution of higher education—is a viable and worthy choice and essential to maintaining America's competitive edge in the future.

Mr. President, I am strongly in favor of this bill. I yield the floor.

Mrs. KASSEBAUM. Mr. President, I commend the Senator from Vermont for his work in education on the Labor Committee. It has been very valuable to us in shaping the legislation, and I appreciate it.

Mr. JEFFORDS. I appreciate the grand words. The Senator has done an outstanding job, along with the chairman of the subcommittee, and I deeply appreciate the cooperation and efforts they have given us.

Mrs. KASSEBAUM. Mr. President, I am happy to yield the Senator from Minnesota however much time he may wish.

Mr. BOSCHWITZ. Mr. President, I rise today to speak on the Carl D. Perkins Vocational Education Act Amendments of 1989, S. 1109.

I believe that this act on balance improves the vocational education program. It better coordinates high school vocational programs with postsecondary institutions, increases research on vocational education and fosters local control.

However, Mr. President, the bill, in my opinion, has two serious shortcomings. First, it states that no grant under the allocation formula shall be less than $25,000. While I know that the bill allows local school districts to form consortia in order to meet the minimum grant threshold, in doing so it will undoubtedly force several small school districts to combine programs to receive these funds. For this reason, I hope that the House figure of $5,000 will prevail in conference.

My State of Minnesota has numerous school districts that will have to combine programs. I believe that this provision does not take into account the fact that many small schools have excellent vocational education programs. It also overlooks the fact that large rural States like Minnesota may have to transport students over long distances to the next school. I do not believe that riding on a schoolbus is a good way to use the academic day.

Minnesota does an excellent job of educating its youth. We have the highest graduation rate in the Nation, over 90 percent, and ranks third in the American College Testing [ACT] Program. In fact, Mr. President, 66.5 percent of Minnesota's 1988 graduates enrolled in a postsecondary education program. That's higher than the high school graduation rate in several States.

I do not believe we should enact legislation that will hamper schools operating successful programs. I have always supported local control and believe that a one-size-fits-all program from Washington is a poor way to draft legislation.

The second flaw in this bill is the mandate that States must spend at least 65 percent of their Federal vocational education moneys on secondary programs. I recognize that the intent of the legislation is to reduce the dropout rate and to ensure that more students receive better vocational training in high school, but it takes away the flexibility of a State to use its funds in a way that best serves its students.

Minnesota spends 91 percent of its vocational education funds on its postsecondary program. This bill will almost completely reverse the funding of our vocational program. My distinguished colleague from Minnesota [Mr. DURENBERGER] serves on the Labor and Human Resources Committee, and has worked long and hard to eliminate this funding mandate. While he has convinced the committee to modify the funding formula, he has not been able to convince them to follow current law, which gives the State full discretion.

Senator DURENBERGER and I have been working together to amend the bill so States that meet certain requirements will have discretion over 50 percent of their funds. The amendment further allows the Secretary of Education to establish a demonstration project for five States that have successful secondary and postsecondary vocational education programs, and would be adversely effected by the bill's funding formula. These five States would have discretionary control over 65 percent of their vocational education funds. I am happy that the committee has adopted this proposal.

But Mr. President, this bill's funding formula is still a step back for my State. In fact, at least 12 other States would also have to alter their funding allocations in some way. The House has passed its vocational education bill which maintains the current State discretion.

I am going to vote for the reauthorization of the Carl D. Perkins Vocational Education Act amendments of 1989. The committee has accepted language which improves the bill, but I would urge my Senate colleagues who participate in the conference to recede to the House on two issues; the minimum grant level of $5,000 and State discretion on the distribution of vocational education funds.

I thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER (Mr. GORE). Who yields time?

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that a statement by Senator GRASSLEY be printed in the RECORD. Unfortunately, he is absent today due to a death in his family.

● Mr. GRASSLEY. Mr. President, there is an old Malay proverb that says "Clapping only with the right hand will not produce a noise."

In much the same way that you must have two hands to generate applause, high schools and community colleges need to cooperate and work together to prepare our young people for the vast technological challenges which lie ahead in employment opportunities.

The need for bridging the gap is clear for several reasons.

The Department of Labor estimated that the fastest growing jobs in this

country require some technical literacy.

While most of us support such technological advances, if current trends continue, we may find ourselves without an educated, experienced labor force to assume the positions.

Meanwhile, each year 1 million of our high school students drop out of school and subsequently many end up dependent on public assistance.

Clearly, there must be a solution which would address both concerns: Joblessness and the prospective lack of trained professionals in technological fields.

This gap has been getting much attention recently, and today there is an answer—and a good answer—within this bill.

It has been dubbed the Tech-Prep Education Act, and I was pleased to have been the first cosponsor to sign on after its introduction by my colleagues, Senator PELL and Senator COCHRAN.

It establishes a program of grants to local school districts and community, colleges for cooperative and shared programs in technical education.

The grants would fund programs and projects that establish joint education and job preparation ventures.

Tech-prep will foster cooperation between secondary, community and technical schools in order to increase the number of technically trained workers and, in turn, spark a new interest among young people in education and thus reduce the dropout rate.

In short, tech-prep is a fresh and exciting approach to keeping the kids in school who otherwise might walk out the door without sufficient training to support their livelihood.

With this legislation, we also have a wonderful opportunity to reach out to many who might never be inspired to study past high school.

Tech-prep focuses on this specific group of students who perhaps do not have a real understanding of their future—young people who need a little extra direction and encouragement.

This program will make it possible for high schools and community colleges to join hands, creating a different kind of future for our young people and for their society.

Before yielding the floor, I would also like to express my appreciation to my colleagues—Senator DURENBERGER and Senator PELL—for working out an agreement on the funding allocation between secondary and postsecondary programs.

The waiver system would give States, like Iowa, with a low high school dropout rate, the option of applying more funds to the postsecondary level of education, if the State qualifies for waivers authorized in the amendment.

I applaud the compromise and the work of my colleagues.

I am happy that we will be able to retain some of the current flexibility which enables States to address the needs and conditions which are unique.●

Mr. FOWLER. Mr. President, I rise in support of the reauthorization of vocational education. For over 70 years, vocational education has been an essential part of our educational system. This kind of education is more important today then ever before.

For many young people, a traditional college education does not fit their needs or desires. Over 60 percent of our young people will never attend college, and a higher percentage will never complete college. Vocational education gives these young people an opportunity to be trained and prepared for productive and fulfilling careers in the work force.

Vocational education is extremely important to our economy. As our society continues to become more technologically advanced, it is essential that our educational programs effectively prepare future workers in this new technology. Vocational education allows students to enter the work force already knowledgeable in the skills needed for these technical jobs.

Vocational education is also important in retraining individuals who are already in the work force. It is estimated that the average worker will change jobs at least five times during his working career, and each new job will involve the learning of new skills. Keeping our work force updated on the skills required for the latest in changing technology is absolutely essential if we are to effectively compete in the international marketplace in the 21st century.

Vocational education can also play a role in rural economic development. We have all spoken many times about the economic development needs of our rural areas. If the rural areas in Georgia and throughout the Nation are to lure more business and industry to their communities, they must have trained workers ready to be employed. Vocational education is essential in reaching this goal.

This reauthorization makes necessary changes in vocational education programs. Studies over the last several years have shown that currently Federal vocational education dollars are not being efficiently spent. This legislation does a good job in ensuring that we get the most from our Federal resources in this area.

The bill targets the people who can benefit from vocational education the most—low-income and disabled individuals, single parents, and displaced homemakers. The bill authorizes effective new programs, such as tech-prep. Finally, the bill for the first time would send vocational secondary education funds directly to local school districts, where the educators know best how to use the funds to meet the needs of their local areas.

I am very pleased that this legislation has reached the floor, and I am confident that our vocational education programs will build on their strong tradition and effectively train the working men and women of this country for productive careers in our rapidly changing economy.

Mr. CONRAD. Mr. President, I rise to support the Carl D. Perkins Vocational Education Act Amendments of 1989. Vocational education is one of the best examples of education programs that make a profound difference in students' lives. Increasing America's productivity and competitiveness should be our top domestic priority. With today's shift to a high technology and service-oriented economy, new challenges are clearly ahead for vocational education. This reauthorization meets those challenges by increasing the emphasis on the integration of academic and occupational skills.

With an enrollment of nearly 70,000 in North Dakota, vocational education programs reach 19 million students nationwide. Vocational education is a very dynamic force in my State. Programs address the rural nature of the State by offering cooperative arrangements between school districts. The multidistrict centers in North Dakota—located in Jamestown, Valley City, Oakes, Wahpeton, Grafton, and Devils Lake—provide high quality services to small school districts. I had the privilege of visiting the Lake Area Vocational Center in Devils Lake, ND on March 13. I was very impressed by the facility and the array of programs offered to students. This would not be possible without the Perkins Act.

Federal funding provides only 13 percent of the cost of vocational education in North Dakota, but it is a very crucial 13 percent. Federal funds spell the difference between providing the basics and the ability to be innovative and meet emerging demands. As the economy of North Dakota has declined, vocational education programs have been able to fill in some of the gaps, easing the transitions to new jobs for those who must change careers.

Vocational education programs in my State strive to adapt to changes in employment opportunities providing excellent training for emerging occupations. In addition, the program provides quality retraining programs with special emphasis on adults at risk who have been displaced due to the recent sluggishness in the North Dakota economy.

The bill makes essential resources available to Indian vocational education programs by increasing the Indian set-aside from 1.5 to 2 percent. These funds will support programs in-

stituted by tribes, secondary schools operated by the Bureau of Indian Affairs, and native Hawaiians. In addition, language has been incorporated into the bill which prioritizes grants for vocational education programs offered by these important institutions.

One such institution, United Tribes Technical College, is located in Bismarck. United Tribes, which was founded in 1969, has a 10-year average placement rate of 80 percent. An average of 275 adult students and 180 children from as many as 39 reservations pass through its doors from August to May of each year.

The bill will also assure that tribally controlled community colleges will receive assistance under the act. The impact of tribal community colleges on reservation life was recently documented by the Carnegie Foundation for the Advancement of Teaching. Carnegie also highlighted the fact that these institutions have made a difference in the face of harsh conditions. They are forced to survive with less than half the per-pupil funding of small State institutions, and with less than one-sixth of the funding per student provided, for example, to Howard University.

I have seldom seen institutions make such an impact despite such limited resources. However, the ability of these institutions to carry out their mission has been hampered by inadequate funding and unnecessary Federal restrictions. This bill will help ensure that these institutions can continue to fill a most vital educational need.

I wish to acknowledge the invaluable work of Senators BURDICK, BINGAMAN, DOMENICI, DASCHLE, and INOUYE on this portion of the bill. I also wish to thank Senator PELL and his staff for their willingness to accommodate my concerns regarding the ability of tribal community colleges to take advantage of the act.

The State leadership provision in the bill is also essential for North Dakota. Statewide planning and projects are crucial in a small State. The flow of funds to local teachers for curriculum development is necessary to avoid duplication and assure that teachers throughout North Dakota are able to take advantage of information and projects. I endorse that provision in the bill.

The tech-prep provision of the bill provides the necessary emphasis on these 2-plus-2 models. The great need for more highly qualified craftspeople makes this component indispensable. The partnerships between secondary and postsecondary schools allow a cohesive program for those who want it. Clearly this provision will be of great assistance to North Dakota schools which have such programs.

I am pleased to support this bill and look forward to its speedy enactment.

Mr. MACK. Mr. President, I would like to state for the record that I support the final passage of the Carl D. Perkins Education Act, S. 1109, even though I was unable to be present for the vote.

Vocational education is an important element of our Nation's educational system. A well-educated work force is essential to maintaining America's economic vitality and competitiveness in the world market. I am proud to represent a State which has an 84-percent statewide average job placement rate from vocational education schools.

Mr. ADAMS. Mr. President, I want to express my support for this bill and my thanks to Senators KENNEDY and PELL for their leadership in this very important area of vocational education.

Vocational education is a critical component of a national strategy to prepare people for the jobs of the future. It must become an integral part of the effort to revitalize our educational system. It is central to an effort to reach out to the at-risk population in our secondary schools and keep them from dropping out.

The bill before us contains many worthwhile reforms. While the Federal vocational dollar constitutes only 10 percent of overall national vocational education spending, it is often critically important to innovation and to positive change in vocational education efforts around the Nation.

Changes included in this bill are generally strongly supported by the Washington State Council on Vocational Education. This council includes representatives from our Office of the Superintendent of Public Instruction, the State Board for Community College Education, the State Board for Vocational Education, the State Council on Vocational Education, and the Washington Vocational Association.

The issue which has caused some difficulty in our State has been the mandate included in the committee bill to allocate funds between secondary and postsecondary institutions. Under the committee-approved bill, States are required to allocate between 65 and 75 percent of their Federal vocational education dollars to secondary schools and between 25 and 35 percent to postsecondary institutions. In Washington State we currently allocate 68 percent of our Carl Perkins money to postsecondary institutions and 32 percent to secondary institutions. Thus, adoption of the committee position on this issue would require extensive changes in the use of Federal vocational education dollars in Washington State.

Since committee action on this bill, I have talked in great detail with individuals from both the secondary and postsecondary institutions in my State. What I have learned is that both would welcome some additional flexibility at the State level in determining the allocation of these resources between secondary and postsecondary vocational education efforts. As a result, I want to express my support for the compromise which is being put forth during floor debate on this issue. I know hard work went into the development of this compromise. I want to especially thank Senators KENNEDY and PELL for working with me to fashion a compromise which takes all interests in account.

The compromise achieves the goal of added flexibility for the States. Under this provision, a State can seek a waiver from the Secretary of Education on the 65-35 mandated split in the committee bill to go to as much as a 50-50 split between secondary and postsecondary institutions. In addition to this, five States can seek to conduct demonstration projects in their States wherein they would be permitted to allocate as much as 65 percent to postsecondary spending.

Throughout debate on this bill, I have been concerned that the changes we make are sensible for all States. This added flexibility included in this compromise should help us achieve that goal.

This is an important bill. I hope that we will pass it quickly and move into conference with the House without delay. If we are to be in the best position to begin to implement the reforms in this bill in the next fiscal year, we should have a bill to the President for his signature prior to action by the Appropriations Committees this year.

Mr. BINGAMAN. Mr. President, I rise today in support of S. 1109, legislation to reauthorize the Carl Perkins Vocational Education Act. I also want to commend Senator PELL, the chairman of the Senate Subcommittee on Education, Arts, and Humanities, and Senator KASSEBAUM, the subcommittee's ranking minority member, for their excellent leadership today. They are the skilled, dedicated architects of our united effort to ensure that vocational education and training in the United States is of the highest quality possible.

I. INTRODUCTION

This bill will lead to dramatic and important changes in the delivery of Federal vocational education assistance. And in so doing, it will help ensure that our Nation's work force has access to the education and skills needed to be successful in the competitive world of the 21st century.

In that world, the key to success will be education, so I am pleased that this legislation embodies the idea that vocational education is not simply job training. It is education and training.

Without a good, solid education, the youth of today will be unable to compete for the jobs of the 21st century.

And without maximum participation in the work force by all our citizens, our Nation's social and economic structure will suffer untold damage.

Indeed, by the end of this decade, estimates are that 85 percent of new entrants into the work force will be women and minorities—a report of the Hudson Institute, entitled "Work Force 2000." And in my home State of New Mexico, that statistic is easy to believe. According to 1980 census data, nearly 37 percent of our population was Hispanic 10 years ago and nearly 10 percent was native American. In our public schools today, well more than half—about 57 percent—of the students in grades K-12 are minorities—National Center for Education Statistics.

Clearly, their success will be the strength of our future economic competitiveness. But in our efforts to ensure their success, we must be ever cognizant of their unique needs, both individually and culturally.

The two-part vocational education strategy contained in S. 1109 conveys this sensitivity, and thus provides the opportunity—at this critical time in our Nation's history—to expand U.S. productivity and ingenuity. Importantly, the strategy focuses on promoting state-of-the-art programs and ensuring that needy populations have access to them.

II. INDIAN VOC-ED PROVISIONS

Mr. President, I would like to speak for a moment about some specific provisions of the bill—provisions dealing with native American vocational education, which exemplify both these strategies.

I must begin by extending my deep gratitude to Senator PELL and his staff for their enthusiastic willingness to include these provisions in this landmark bill. I and the native Americans in New Mexico and throughout the country are indebted to the Senator from Rhode Island for his efforts on our behalf.

The provisions I am speaking of originally were introduced by me and several of my distinguished colleagues as S. 496, the Indian Vocational Education Act.

I introduced this legislation in both the 100th and 101st Congresses with my distinguished colleagues, Senator INOUYE, chairman of the Select Committee on Indian Affairs, and Senators DOMENICI, CONRAD, and BURDICK.

The Select Committee on Indian Affairs, with Senator CONRAD chairing, held a hearing on S. 496 and native American vocational education last fall, at which I had the honor of testifying. The commitment demonstrated by Senator CONRAD, Senator INOUYE, Senator BURDICK, and all the members of the Select Committee to improving education opportunities for native Americans is truly admirable, and I commend each one of them and their fine staffs.

By including S. 496 in this reauthorization bill and making the native American provisions effective as of October 1, 1990, we are ensuring more native Americans of their right to a quality vocational education. And as I stated earlier, this is a vitally important goal for Indian people and for our entire Nation as we prepare for the internationally competitive economy of the 21st century.

Native American people, like all minority groups, are growing in number. Yet tragically, some of the highest unemployment rates in the Nation are recorded on their lands, and some of the highest high school dropout rates are found among their youths.

Unfortunately, the Indian tribes of New Mexico know the personal pain of these statistics too well.

The Navajo Nation, the largest Indian tribe in the United States suffers an unemployment rate of more than 40 percent.

According to the New Mexico Department of Education, more than 13 percent of our native American students dropped out of high school during the 1988-89 school year. As it has been for several years, this the highest percentage of any group. At the same time, the native American college-entrance rate remains woefully low.

These grim statistics must be turned around. Each Indian youth, no less than any other young person in this country, deserves the opportunity to achieve as much as he or she is able.

That is why the native American provisions of this legislation are so important. One component of the bill will authorize the establishment of a national American Indian center for research in vocational-technical training to help tribes and tribal institutions formulate important economic development policies and strategies and develop critical education and training programs.

Importantly, other provisions will provide a stable, basic funding source during the upcoming fiscal year and beyond for the two institutions nationwide that are committed solely to providing quality vocational educational opportunities for Indian students—the Crownpoint Institute of Technology in New Mexico, and the United Tribes Technical College in Bismarck, ND.

A. CROWNPOINT INSTITUTE—ADVERSITIES

These are good schools, with important training opportunities in high-demand fields such as accounting, computer technology, health care, masonry, carpentry, and mechanics.

They also are schools operating on meager budgets, built largely by the Federal Government, but without Federal authorizing statutes to provide stable funding sources.

The problems they must grapple with are many. Without dependable funding from Federal, State, or tribal governments, the schools exist year by year. Long range planning is difficult, because their administrators often do not know whether they will be able to operate into the future. Critical structural repairs remain undone and course curriculum sometimes suffers. Yet despite these adversities, these two schools are successes.

B. CROWNPOINT INSTITUTE—SUCCESSES

Since first opening its doors in 1979, Crownpoint Institute of Technology has graduated more than 1,200 skilled workers into the Nation's work force. Nearly all of these graduates were unemployed and without job skills when they enrolled into Crownpoint.

Now, they have the education and training needed to leave the welfare rolls forever and assume active roles in their tribe's labor force and in our Nation's future.

III. CONCLUSION

Mr. President, the native American provisions are not the only examples in the bill of the Senate's sensitivity to the variety of needs unique to different States and groups.

I am pleased that Senator PELL and his staff were willing to work with Senator DURENBERGER, myself, and other interested Senators to ensure optimum flexibility in distributing vocational education funding among secondary and postsecondary institutions.

I believe the balance struck—which would allow all States to apply with the Department of Education for a waiver to bring postsecondary funding up to 50 percent and, in some cases, up to 65 percent—is important and justifiable.

It is important to ensure maximum State flexibility because of the diversity of the citizenry of our States. New Mexico's multicultural population is unique in many ways and our education system reflects—and preserves—our diversity. Our vocational education programs extend throughout our 88 public school districts and into 17 public postsecondary institutions. The bulk of Federal vocational education assistance currently is distributed among these 17 2-year schools.

With the help of the Federal Government, our State has developed an outstanding postsecondary vocational education network, and our State's economy is dependent on the educational opportunities the network provides. It is important to note that 95 percent of our population lives within 25 miles of a postsecondary school.

Without question, accessible, affordable vocational education is critical to our State's and our Nation's future work force. All our people deserve equal access to the same basic education opportunities. This legislation goes a long way toward ensuring that

access, and once again, I commend Senator PELL and Senator KASSEBAUM for their leadership in this important reauthorization.

Mr. KERRY. Mr. President, I rise in support of S. 1109, the Carl Perkins Vocational Education Act. By ensuring adequate funding for important Perkins programs through 1995, this legislation will go a long way in providing the kind of vocational training and education which has become increasingly necessary in today's work force.

A disturbing paradox has existed in the United States in recent years. The increasing diversification of the American economy and the increasing emphasis of technology oriented jobs has created a swelling demand for professionally trained workers. Yet, as it is widely known and lamented, our efforts at educational system is failing to keep pace and is becoming increasingly inadequate. Thus, as the demand for trained workers increases, the supply is dwindling.

S. 1109 seeks to reverse this damaging trend. By reauthorizing the Carl Perkins Vocational Education Act, and increasing the availability of Perkins programs, this legislation will greatly increase the opportunity available to those who seek training.

S. 1109 authorizes $1.5 billion in fiscal year 1991 and such funds as necessary for fiscal years 1992 through 1995 for vocational education programs. In addition, it increases the scope and effectiveness of these programs by directing secondary school vocational education funds directly to local educational providers.

In enabling States to improve the quality of numerous vocational education programs, S. 1109 seeks to stem the dropout crisis at the secondary level and enable schools to graduate an increasing number of students with marketable skills.

Mr. President, at a time when work force quality is of major concern to every American, we simply must do a better job of training our workers if we are going to compete in the global marketplace. Failure to meet this challenge would result in a decline in our standard of living that we cannot tolerate. I see vocational education as having a central role in meeting our work force preparation needs and securing our economic position in the world for decades to come.

I urge my colleagues to support the passage of the Carl Perkins Vocational Education Act.

Mr. DODD. Mr. President, I rise in strong support of S. 1109, the Carl D. Perkins Vocational Education Act Amendments of 1990. My colleague from Rhode Island, Senator PELL, deserves the utmost praise for his leadership on this important legislative initiative. When the United States can least afford to lose its competitive edge, when the United States can least afford an unskilled work force, I have joined members of the Labor and Human Resources Committee in supporting efforts to dramatically alter the Federal role in vocational and technical education.

The changes outlined in S. 1109 are the results of months of research, hearings, and deliberations. Throughout the process there has been a strong bipartisan effort to redefine the Federal role in vocational education. Senators KASSEBAUM and PELL have worked hand-in-hand to craft the reauthorization package to best meet the needs of students, the work force, and communities. Federal support for vocational education has been given a facelift—one endorsed by extensive research findings and testimony.

As the Federal contribution to vocational education programs has declined in reltionship to overall funding for vocational education, it has become more necessary for Federal moneys to be better directed to those who need the Federal dollars the most. S. 1109 would direct Federal funds for secondary programs directly to the local education agencies [LEA's]. At least 65 percent of Federal dollars targeted for program costs must be used for secondary school programs—except when a State qualifies for a special waiver.

How did we determine that secondary students are in greatest need? The high dropout rates, the drug and alcohol abuse, and high unemployment rates among teenagers are three reasons why secondary students are in greatest need of Federal support. If we lose a student to the streets, drugs, teen pregnancy, and unemployment before they graduate from high school, we are jeopardizing both their futures and the future of American business and competitiveness. In the next decade, 85 percent of new workers will be minorities and women. Traditionally, the dropout rates for these groups have been higher than the national average. We need to keep these youth in the education pipeline.

Foresight is of the utmost importance at this juncture. We need to be prepared now to educate future workers. We cannot waste the human resources our Nation is so dependent on for its economic strength. As the median age of Americans climbs, each new entrant into the work force becomes more vital to the economic competitiveness and stability of our Nation.

The demand for workers will continue to increase well into the next century. Sections of our country are already experiencing shortages of qualified workers. In Connecticut, businesses have great difficulty filling jobs requiring some technical knowledge.

These are all good reasons why the Federal Government needs to make our vocational education programs the best they can be. To accomplish this goal, S. 1109 eliminates many of the set-asides currently in law. Every Federal dollar must be used to serve those in greatest need. Every Federal dollar must be used for program improvement. To guarantee that the Federal dollars have the greatest impact, a minimum grant amount is set at $25,000. If an individual school does not qualify under the formula for the minimum grant amount, schools are encouraged to coordinate programs that would serve students from more than one school or city. Many States already have area vocational schools or intermediate education agencies that will receive Federal vocational education dollars if they meet the minimum grant requirements. The key is to optimize the utility of each Federal dollar.

While the majority of Federal dollars will go to secondary schools, S. 1109 stipulates that at least 25 percent of the Federal dollars go to postsecondary and adult vocational education programs. To expose secondary students to the benefits of higher education and to facilitate the transition to postsecondary programs, S. 1109 provides for a tech-prep program. Students at the secondary level will be able to participate in programs that coordinate the curricula of the last 2 years of high school with a 2-year postsecondary program. This cooperation between the secondary and postsecondary systems creates a bridge for students not traditionally attracted to the benefits of higher education.

An investment in improved vocational education programs is prudent. The demands of the workplace are changing. Today, many more jobs require workers to be computer and technologically literate. With technology changing so rapidly, equipment and techniques become obsolete in a matter of years. More than ever before, workers must be prepared to adapt and be retrained. More than ever before, a vocational education program must include the basics to prepare students for the workplace.

With a solid foundation in the basics of education, a student can learn almost anything. A vocational or technical education must be built on a foundation, to provide students with an education for a lifetime, not just a skill that may become obsolete. We are failing the students if we cannot give them the skills to be employable the day they graduate and 40 years later.

S. 1109 is an example of how serious the Congress is about improving the Federal role in education. I applaud the changes being made to current law. This measure is one of many proactive steps we must take to prepare the next generation for the challenges of the 21st century. We can no

longer afford to let the talent of young Americans slip through the cracks of our society. A great deal of human talent and potential has not yet been tapped in our Nation. State-of-the-art vocational programs will not only provide for the education and training of students, they may serve to keep the traditional dropouts in school.

For these reasons, I urge my colleages to endorse our efforts and show their support for the measure by unanimously voting to adopt S. 1109.

Mr. SPECTER. Mr. President, I am pleased to support the passage of S. 1109, the Carl D. Perkins Vocational Education Act Amendments, which I have cosponsored. This legislation authorizes more than $1.6 billion in fiscal year 1991 to provide vocational education and training to traditionally underserved populations.

As we seek to restructure and reauthorize the Perkins Vocational Education Act, we do so recognizing that at present our education system is not preparing many of our young people to meet the current or future challenges of the work force. Twenty-five percent of our students, perhaps as many as 1 million young people each year, drop out of school. Seventy percent of all high school seniors cannot write a basic letter seeking employment. Sixty percent of these same students cannot correctly add up their own lunch bills.

Even areas which have long been noted as labor surplus regions are discovering that the pool of qualified workers is drying up. For example, Pittsburgh, PA, has perhaps since the end of the 19th century, been a city with a surplus of able workers. Pittsburgh is now moving into a labor shortage—a mismatch between job skill requirements and the available, qualified pool of workers.

In Philadelphia and surrounding counties, a similar situation exists. Employers are now faced with the problems of helping individuals become employable who read and compute below the eighth grade level. As available jobs require more reading, writing, computation, and flexibility of skills, those individuals with poor academic preparation will find themselves locked out of the mainstream of long-term employment opportunities. The bill before us today seeks to address this critical issue.

S. 1109 accomplishes five important goals: targeting Federal aid to populations most in need of assistance; stressing the linkage between secondary and postsecondary education; integrating academic and vocational education; ensuring that vocational education programs are state-of-the-art; and the recognition that vocational education is not just job training, but vocational education and training.

To ensure that Federal assistance reaches secondary level students most in need, funds are allocated in accordance with the chapter I formula in the Elementary and Secondary Education Act, which is based on poverty. Under the provisions of S. 1109, funds provided are targeted to four populations: the economically disadvantaged; the disabled; the limited-English proficient; and women and men being trained in nontraditional occupations.

For the first time, a split in Federal spending between secondary education and adult and postsecondary education is specified. States can apportion a range of 65–75 percent of funds for secondary school programs and between 25–35 percent for postsecondary and adult programs. By designating most of the Federal resources to secondary school programs, it is anticipated that a greater impact can be made on the dropout problem, and the adverse effects of poverty, drugs, and crime upon the educational achievement of young people.

An important new initiative authorized in this bill is the tech-prep or 2-plus-2 concept which links 2 years of secondary education with 2 years of postsecondary education. The tech-prep provision allows States to make grants to consortia linking local educational agencies, area vocational schools, or intermediate educational agencies with community colleges, postsecondary vocational technical schools offering a 2-year degree, an apprenticeship program, or an institution of higher education offering a 2-year degree, an associate degree or a 2-year postsecondary certificate. Apprenticeship programs are included as part of the 2-plus-2 model because of the Nation's increasing need for more highly skilled craftsmen. As defined in the legislation, the tech-prep model includes training in engineering technology, applied science, mechanical, industrial or practical arts or trades, and agriculture, health, communications, and business.

Under the postsecondary and adult education provisions, funds may be allocated to postsecondary institutions, to programs for adults in secondary schools or area vocational schools serving postsecondary students or adults, community-based organizations, or consortia of these eligible recipients.

Priority for funding is placed on apprenticeship programs, programs closely tied to economic development efforts, including initiatives developed with business and industry, and upon programs training students for all aspects of the occupations in which job openings are projected or currently available.

Given my longstanding interest in ensuring that incarcerated individuals receive education and training, I am pleased to note that within the secondary school programs provision, States are required to factor in the State correctional education agency as though it were a local educational agency. Thus, States can apportion up to 5 percent of its secondary school programs for corrections education targeted to persons from 9 to 25 years of age.

In addition, acknowledging the serious need for increased vocational education and training programs in Federal correctional facilities, S. 1109 authorizes the Secretary of Education to make grants to such institutions for basic education, literacy programs, vocational training, guidance and counseling, and support services for inmates.

Investing in enabling incarcerated persons to have productive long-term employment opportunities can be a major weapon in breaking the high rate of recidivism in our penal institutions. This is an issue which I discussed with Secretary Cavazos during the February 21, 1990, hearing on the fiscal year 1991 budget for the Department of Education. I believe this increased emphasis on preparing incarcerated individuals to meet the challenges of the work force can be an important aspect of our war against crime.

I am particularly pleased that S. 1109 retains title III A, the community-based organizations provision. This initiative, based on S. 2289, the Vocational Education and Community-Based Organizations Act of 1984, which I introduced in the 98th Congress, was included in the manager's amendments package on August 8, 1984, when the Carl D. Perkins Vocational Education Act was approved by the Senate. The community-based organizations title sought to include community-based organizations like Opportunities Industrialization Centers of America Inc. [OIC], the National Urban League, the National Council of LaRaza, the National Puerto Rican Forum, and 70,001 in the mainstream of vocational education in this country.

This initiative, which was introduced at the request of Rev. Leon H. Sullivan, and included in the 1984 legislation with the support of the American Vocational Association, authorized joint initiatives between local school districts and community-based organizations. This collaboration has led to greater inclusion of disadvantaged youth in many vocational education programs and to partnerships between the vocational education leadership and community-based organizations.

As a result of greater collaboration between community-based organizations and the vocational education establishment, the National Association of State Directors of Vocational Technical Education Consortium [NASDVTEC] is forming a consortium of State

vocational technical education agencies to develop model partnerships between community-based organizations [CBO's], business organizations, and local education agencies to better meet the needs of hard to serve and/or at-risk students. Through demonstration projects in consortium member States, at-risk students will receive vocational education and training which will enable them to emerge from the education system as qualified, employable individuals. These demonstration projects are expected to last from 3 to 5 years.

I commend the National Association of State Directors of Vocational Technical Education for developing this collaborative initiative with community-based organizations which seeks to ensure that populations most in need of vocational education and training are targeted for those services.

I would also like to commend the American Vocational Association for its continued support of maintaining and expanding the role of community-based organizations in the vocational education system. Many of these community-based organizations—OIC, the National Urban League, 70,001, the National Council of La Raza, and the National Puerto Rican Forum—have a long history of serving disadvantaged populations, and have been strong advocates of targeting Federal assistance to those most in need.

Mr. President, the shift from an industrial to a high technology and service-oriented economy demands improvements in the quality and structure of our vocational education system. The new challenge for vocational education is to ensure that the 61 percent of students who do not go to college are prepared not only for a job, but for a lifetime of work. Students must graduate with the vocational and academic skills which will enable them to learn new skills, new trades, or wholly different vocations, so that they can maintain employment in an increasingly competitive work force.

This is the thrust of S. 1109, the Carl D. Perkins Vocational Education Act amendments, and I strongly support this effort.

I urge my colleagues to give this measure their full support.

Mr. GORTON, Mr. President, vocational education provides a vital choice for our youth. Numerous education leaders from my home State have shared success stories of students educated in vocational programs. I am happy to hear of these successes, and I strongly support the reauthorization of the Carl D. Perkins Vocational Education Act.

People succeed in life by acquiring the knowledge and basic skills needed to enter and succeed within a changing work force through vocational education. For the United States to remain competitive with other industrialized countries we must continue to educate and train our youth in specific areas of expertise. Aiding in this task are our vocational education programs across the country. Occupational training is a critical ingredient for success—an additive that would benefit all of our young people.

S. 1109, the vocational education reauthorization bill should be supported by my colleagues. It enhances the effectiveness of programs by providing strong State flexibility and reaching out to the local school districts and communities. It would also link vocational education and the State's labor market needs. Access of high-quality programs for our country's disadvantaged will be expanded by the passage of the Vocational Education Reauthorization Act.

We must provide options to young people who chose specific occupational training. As global competition increases, we must ensure that all Americans are brought upward—we cannot afford to close doors of any of our youth. The Vocational Reauthorization Act furnishes grants for special programs including technical preparation, single parents, homemakers, native Americans, and sex equity. These programs are vitally important in our continued efforts to maintain our national independence.

I appreciate the work of Senator KASSEBAUM and Senator PELL on this issue and urge its immediate passage.

Mr. BURNS. Mr. President, I want to thank the managers of this bill, Senators KASSEBAUM and PELL, for their outstanding leadership in resolving this important legislation.

I applaud the language that was adopted in committee that allows States to apply for a waiver in order to distribute the basic State grant funds as they see fit between secondary and postsecondary education programs.

In my home State of Montana, the act has helped the ones that need it the most. It helps people who don't want to go on to college but want to better themselves, their lives, and their families.

I would like to illustrate my point by using two important programs in Montana that teach subjects that are very near and dear to my heart. The May schools for broadcasting and business in Billings, MT, is a school that has received grant money from the act. The May schools and those similar institutions show a higher rate of educating high-risk students than the traditional 4-year institutions.

The second example is the Fromberg Public School in Fromberg, MT, that offers classes in vocational agriculture. Being a former agriculture broadcaster, I find the work done by these two schools, as well as the rest of the schools in Montana, are essential to offering an alternative way to receive an education. This act helps bridge the education gap in America and allows the Nation to be more competitive in a global market.

Again, Mr. President, I thank the managers of the bill and I yield back the balance of my time.

Mr. DASCHLE. Mr. President, vocational education remains an integral part of the educational system in South Dakota's high schools and postsecondary schools, and I am pleased today to rise in support of S. 1109, the Carl Perkins Vocational Education Authorization Act. This important piece of legislation has received the endorsement of the South Dakota Department of Education and Cultural Affairs, the South Dakota Board of Education, the Office of Adult, Vocational and Technical Education, the South Dakota Council on Vocational Education, and the South Dakota Vocational Association, and I am hopeful that it will be enacted into law as expeditiously as possible.

South Dakotans have long recognized the importance of vocational education. They are extremely proud of their fine vocational and technical schools located in Watertown, Sioux Falls, Rapid City, and Mitchell, and the contributions of those institutions' graduates to our State's economic efforts in communities throughout the State are well recognized. The fact that many of our vocational and technical schools have expanded their facilities and programs, during the past 2 years in response to increasing demand for vocational education in our State is testament to the important role vocational education plays in South Dakota.

South Dakota's vocational and technical schools have relied heavily in the past on Carl Perkins Vocational Education funds not only to construct long-overdue facilities, but also to purchase classroom equipment. Thus, I was disappointed to learn that the bill reported by the Labor and Human Resource Committee did not initially allow vocational and technical schools to use Carl Perkins funds to help finance equipment acquisition and construction or remodeling projects for their facilities. Unless States are allowed to continue using Carl Perkins funds for both equipment acquisition and remodeling, and construction projects where there is a demonstrated need, and student access to quality vocational education programs and facilities in South Dakota could be seriously undermined.

I am pleased that Senator PELL, the distinguished chairman of the Subcommittee on Education, Arts and Humanities, shares my assessment of the importance of Carl Perkins funds for vocational and technical schools throughout the country and has agreed to my request to amend the bill

language to allow vocational educational facilities to use Carl Perkins funds to help finance equipment acquisition and construction or remodeling projects. Continued use of Carl Perkins funds for these purposes will ensure that South Dakota's students remain on the cutting edge of the latest technological developments.

The benefits of single parent/homemaker programs funded by the Carl Perkins Vocational Education Act have been articulately described by many South Dakotans who have expressed to me their support of these important programs. Hundreds of South Dakotans have successfully obtained meaningful employment as a result of their participation in the single parent/homemaker programs offered by our vocational and technical schools. I hope this program will be fully funded to ensure the access to all eligible citizens interested in furthering their education.

With an increasing number of adults returning to school to enhance their vocational and technical skills, I am pleased that S. 1109 supports the delivery of adult vocational education by both secondary and postsecondary agencies. Vocational and technical school's adult education programs remain an important part of my State's economic development efforts. Many businesses have located in our State largely because of the availability of exemplary vocational education programs that serve to train and retrain workers.

Adult education programs are also extremely important for the farmers in my State enrolled in adult education programs, like the Winner Farm Ranch Business Management Program. These programs allow farmers to diversify and enhance their business skills to successfully compete in today's competitive agricultural environment.

Finally, I want to thank Chairman PELL for recognizing the need to allocate funds for Indian and Native Hawaiian programs. S. 1109 provides a minimum grant of $50,000 for vocational education programs at Bureau of Indian Affairs secondary schools and institutions of higher education eligible for assistance under the Tribally Controlled Community College Assistance Act. This bill will help stem the tide of rampant unemployment that exists on Indian reservations throughout our country.

Mr. RIEGLE. Mr. President, I would like to express my strong support for the reauthorization of the Carl Perkins Vocational Education Program. Vocational education is very important to many, many students in Michigan and I am pleased that we are moving ahead to strengthen and extend this program.

In building a strong educational system, we must recognize that students have a wide variety of talents, interests, and educational needs. There are many ways a student can gain the skills and knowledge they will need to participate fully in the modern world. Vocational education programs teach not only important trade and job skills at the high school level, but can also help students gain better understanding of basic math and science, for example, through vocational applications. Many academically successful students take vocational classes. In Michigan, about 48 percent of high school vocational-technical education students choose to continue their education.

Vocational education serves not only high school aged students, but is also important for many who go on to postsecondary schools or return to school to gain skills, including homemakers and senior citizens. The program serves more than 162,000 community college students in Michigan.

I am particularly pleased that this bill contains a new tech-prep initiative to encourage the formation of consortia among high school vocational education programs and postsecondary institutions to strengthen technical training. These kinds of programs are urgently needed to help prepare skilled workers for our increasingly technically oriented workplace.

Michigan has many strong vocational education programs across the State in 56 area vocational centers, 401 high schools and middle schools, and in 29 community colleges. I have heard many success stories about Michigan students who have gained the skills they needed through vocational education to get good jobs. Statewide surveys have shown that many employers prefer to hire vocational-technical education graduates.

For all of these reasons, I strongly support the legislation we are considering today, and I encourage my colleagues to join me in voting for its passage.

Mr. PELL. Mr. President, I am prepared to yield back the remainder of my time.

Mrs. KASSEBAUM. I am prepared to yield back any time I may have remaining.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 1465), as amended, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to H.R. 7.

All after the enacting clause is stricken and the text of S. 1109, as amended, is deemed read a third time.

Mr. PELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill, having been deemed read a third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessary absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Florida [Mr. MACK] are necessary absent.

I also announce that the Senator from Iowa [Mr. GRASSLEY] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Florida [Mr. MACK] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—96

Adams	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	McCain	Wilson
Ford	McClure	Wirth

NAY—0

NOT VOTING—4

D'Amato Mack
Grassley Matsunaga

So the bill (H.R. 7), as amended, was passed.

Resolved, That the bill from the House of Representatives (H.R. 7) entitled "An act to amend the Carl D. Perkins Vocational Education Act to improve the provision of services under such Act and to extend the authorities contained in such Act through the fiscal year 1995, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carl D. Perkins Vocational Education Act Amendments of 1989".

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

SEC. 101. ALLOTMENT.

(a) IN GENERAL.—Section 101(a)(1) of the Carl D. Perkins Vocational Education Act (hereinafter referred to as the "Act") is amended—

(1) in subparagraph (A) by—

(A) striking "2" and inserting "2.75"; and

(B) striking "part E" and inserting "part D"; and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) 2 percent for the purpose of carrying out section 103; and

"(C) .25 percent for the purpose of carrying out section 104.".

(b) TERRITORIES.—Section 101 of the Act is amended by inserting at the end thereof the following new subsection (d):

"(d) For the purpose of this section, the term 'State' means any one of the fifty States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.".

(c) TECHNICAL AMENDMENT.—(1) Section 101(a)(3)(C) of the Act is amended by striking ", Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands,".

(2) Section 101(c)(1)(B) of the Act is amended by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "and the Virgin Islands".

SEC. 102. WITHIN STATE RESERVATION.

Section 102 of the Act is amended to read as follows:

"SEC. 102. (a) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed—

"(1) 20 percent for State programs and State administration of which—

"(A) 75 percent of such 20 percent shall be available for State programs and State leadership; and

"(B) the remainder of such 20 percent shall be available for State administration;

"(2) 5 percent for technical preparation education under part B of title II; and

"(3) 75 percent for basic programs under part C of title II of which—

"(A) 65 to 75 percent of such 75 percent shall be available for subpart 1 of part C of title II; and

"(B) the remainder of such 75 percent shall be available for subpart 2 of part C of title II.

"(b) SPECIAL RULES.—(1) From the amount reserved pursuant to subsections (a)(1)(A) and (a)(1)(B) each State shall reserve 20 percent for sex equity programs carried out in accordance with section 202.

"(2) From the amount reserved pursuant to subsection (a)(3)(B) each State shall reserve for single parents, displaced homemakers, and single pregnant women programs carried out in accordance with section 242 an amount which equals or exceeds 10.5 percent of the total amount reserved pursuant to subsection (a)(3) for subparts 1 and 2 of part C of title II.

"(c) MATCHING REQUIREMENT.—Each State receiving financial assistance under this Act shall match, on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(1)(B) from non-Federal sources.

"(d) HOLD HARMLESS PROVISION.—The requirements of subparagraphs (A) and (B) of subsection (a)(3) shall only apply to—

"(1) 20 percent for fiscal year 1991,

"(2) 36 percent for fiscal year 1992, and

"(3) 51 percent for fiscal year 1993,

of the funds available under subsection (a)(3) to each State for basic programs under part C of title II.".

SEC. 103. INDIAN AND HAWAIIAN PROGRAMS.

Section 103 of the Act is amended to read as follows:

"INDIAN AND NATIVE HAWAIIAN PROGRAMS

"SEC. 103. (a)(1)(A) From 1/12 of the amount of funds reserved under section 101(a)(1)(B), the Secretary shall award grants to, or enter into contract with—

"(i) Indian tribes that are eligible to receive a grant from, or to enter into a contract with, the Secretary of the Interior under—

"(I) the Indian Self-Determination and Education Assistance Act, or

"(II) the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 452, et seq.), and

"(ii) tribal organizations of such Indian tribes,

to plan, conduct, and administer programs, or portions of programs, that provide vocational-technical training and related activities.

"(B) Grants awarded, and contracts entered into, under subparagraph (A) shall—

"(i) be subject to the terms and conditions of section 102 of the Indian Self-Determination and Education Assistance Act, and

"(ii) be conducted in accordance with those provisions of sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 455, 456, 457) that are relevant to the programs for which the grant or contract is provided.

"(C) In awarding grants and entering into contracts under this section, the Secretary shall give special consideration to applications from tribally controlled community colleges which—

"(i) are accredited or candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

"(ii) operate vocational education programs that are accredited or candidates for accreditation by a nationally recognized accreditation organization; and

"(iii) issue certificates for completion of vocational education courses.

"(2)(A) From 1/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall provide a grant to each Bureau funded school that is a secondary school for the purpose of providing vocational education programs for secondary students attending the school.

"(B)(i) The amount of each grant provided under subparagraph (A) shall equal or exceed $35,000.

"(ii) If the amount of funds available for any fiscal year for grants under subparagraph (A) exceeds the amount necessary to provide each Bureau funded school a grant of $35,000 for the fiscal year, the excess shall be used to increase the amount of the grants as follows:

"(I) 80 percent of such excess funds shall be allocated among Bureau funded schools in accordance with the formula used to distribute funds under section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008), and

"(II) 20 percent of such excess funds shall be allocated among Bureau funded schools in accordance with the formula used in allocating funds under section 611 of the Education of the Handicapped Act (20 U.S.C. 1411).

"(C) Where a grant provided under subparagraph (A) is awarded on behalf of a school operated directly by the Bureau of Indian Affairs, the Secretary of the Interior is authorized and directed to accept and use such grant for the purposes for which the grant is awarded.

"(D) For purposes of this paragraph, the term 'Bureau funded school' has the meaning given to such term under section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)).

"(3)(A) From 3/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall award grants for vocational-technical training, and related activities, to two or more schools of vocational-technical education, each of which—

"(i) is governed by a board of directors or trustees, a majority of whom are Indians,

"(ii) has been in operation for 5 or more years,

"(iii) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians, and

"(iv) is accredited, or a candidate for accreditation for not less than five years, as a postsecondary vocational education institution by a nationally recognized accrediting agency for postsecondary vocational education institutions.

"(B) If any portion of the funds that are authorized to be used to provide grants under subparagraph (A) for any fiscal year remains after all schools eligible for the grant that submitted acceptable applications for the grant have been awarded a grant under subparagraph (A) for the fiscal year, the Secretary may use the remaining funds—

"(i) to award grants under subparagraph (A) to institutions of higher education that are eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978, and

"(ii) if funds remain after all grants authorized under clause (i) have been awarded to eligible institutions that submitted acceptable applications for the grant, to fund grants and contracts provided under paragraph (1).

"(C) Each grant awarded under subparagraph (B)(i) shall equal or exceed $50,000.

"(D) The Secretary shall, subject to the availability of appropriations, provide for each program year to each school of vocational-technical education having an application approved by the Secretary under subparagraph (A), an amount necessary to pay expenses associated with—

"(i) the maintenance and operation of the program, including development costs, costs

of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contribution to the costs of education for dependents);

"(ii) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(iii) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(4) For purposes of this Act, the Bureau of Indian Affairs of the Department of the Interior shall be considered to be a State board.

"(5) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

"(b)(1) From 7/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions of programs, that provide vocational-technical training, and related activities, for the benefit of Native Hawaiians.

"(2) For purposes of this section, the term 'Native Hawaiian' means any individual who has any ancestors that were natives, prior to 1778, of the area which now constitutes the State of Hawaii.

"(c) Grants awarded, and contracts entered into, under this section shall be subject to such terms and conditions as the Secretary may prescribe relating to satisfactory performance of the grant or contract.

"(d) Nothing in this section shall be interpreted as affecting or limiting the ability, or eligibility, of any person or agency to which this section applies to apply for, or receive assistance from, any other source, including assistance provided by the Federal Government under any provision of law other than this title.".

SEC. 104. THE TERRITORIES.

Part B of title I of the Act is amended by inserting at the end thereof the following new section:

"THE TERRITORIES

"SEC. 104. (a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall make grants to—

"(1) both Guam and the Federated States of Micronesia in an amount which is the same as the amount provided to Guam in fiscal year 1990 for vocational education programs under this Act; and

"(2) each of American Samoa, Palau, the Marshall Islands and the Commonwealth of the Northern Mariana Islands in an amount which is the same as the amount provided to American Samoa in 1990 for vocational education programs under this Act.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity or entities to make vocational education and training grants in Guam, American Samoa, Palau, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of the Marshall Islands, or cooperative efforts involving two or more of these entities for the purpose of—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Center for the Advancement of Pacific Education may use no more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 105. STATE ADMINISTRATION.

Section 111 of the Act is amended—

(1) in subsection (a)(1)(A) by striking "113(b)(9)" and inserting "113(b)(14), section 115 and section 232(b))";

(2) in subsection (a)(1)(C) by inserting ", including business and industry" before "involved";

(3) in subsection (b)(1) by—

(A) redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively, and

(B) inserting the following new subparagraph (C) after subparagraph (B):

"(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies to ensure that the needs of women and men for training in nontraditional jobs are met and recommending programs concerning equity, single parents, and displaced homemakers, for funding by the State board;";

(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(1)(B)" before "expend";

(5) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively; and

(6) by inserting the following new subsections after subsection (b):

"(c)(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to—

"(A) review all plans of local eligible recipients to ensure that students with disabilities are receiving vocational educational services required by their individual educational program pursuant to Public Law 94-142;

"(B) ensure that the plans of the local educational agency, area vocational school, or intermediate educational agency provide assurances of compliance with the provisions of section 504 of the Vocational Rehabilitation Act of 1973 and the Education of Handicapped Act regarding equal access to programs;

"(C) review all plans of local eligible recipients to ensure that local educational agencies, area vocational schools or intermediate educational agencies have—

"(i) identified the number of students with disabilities enrolled in vocational programs operated by the local eligible recipient,

"(ii) assessed the vocational needs of the students identified pursuant to clause (i), and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students; and

"(D) evaluate the plans of all local eligible recipients with respect to the appropriateness of the program and the quality of the program.

"(2) For purposes of this subsection and subsections (d) and (e), the term 'State' means any one of the 50 States and the District of Columbia.

"(d) Any State desiring to participate in the programs authorized by this Act shall assign the individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to review the plans of the local eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering programs for students with limited English proficiency to review the plans of the local educational agencies, area vocational schools, or intermediate educational agencies to ensure that the number of students with limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans.

"(f) The State board shall consult with parents, students, and teachers in the planning of programs funded under this Act.".

SEC. 106. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act is amended—

(1) in subsection (a)(1)(A) by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2) by striking the period at the end thereof and inserting in lieu thereof "and may include members of vocational student organizations and school board members.";

(3) in subsection (a) by inserting the following new sentence after the matter following paragraph (2): "No employee of the State board shall serve on the State council.";

(4) in subsection (d)(2) by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) immediately preceding subparagraph (B) (as redesignated in subparagraph (B)):

"(A) the State plan;";

(6) in subsection (d)(8) by—

(A) striking "201(b)" and inserting "223"; and

(B) striking "and" at the end thereof;

(7) by striking subsection (d)(9) and inserting in lieu thereof the following new paragraph:

"(9) analyze and review corrections education programs; and

"(10)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State,

"(ii) the vocational educational program delivery system assisted under this Act, and under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the two Acts, and

"(iii) make recommendations to the State board on the adequacy and effectiveness of

the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action as put into practice;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.";

(8) in subsection (e) by inserting the following new sentences at the end thereof: "Each State Council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State Plan.";

(9) by amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 3(c) the Secretary shall first make grants of $150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth section 101(a)(2) of this Act, provided that—

"(i) no State council shall receive more than $250,000 for each fiscal year; and

"(ii) no State council shall receive less than $150,000 for each fiscal year; and

"(iii) no State council shall receive less than such State council was allotted in fiscal year 1990;"; and

(10) in subsection (f) by amending paragraph (1)(B) to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of—

"(i) $60,000 to each of the State councils of the Virgin Islands, Guam, and the Federated States of Micronesia; and

"(ii) $25,000 to each of the State councils of American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 107. STATE PLANS.

Section 113 of the Act is amended to read as follows:

"SEC. 113. (a)(1)(A) Any State desiring to receive funds from its allotment under this Act for any fiscal year shall submit to the Secretary a State plan for a 3-year period in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto) the State board shall meet with and utilize, before the development of such plan, the State Council, established pursuant to section 112 of this Act.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct a State assessment according to section 115.

"(b) Each State plan shall—

"(1) describe the procedures and the results of each of the assessments required by paragraphs (A) through (F) of section 115(a)(1), including the needs identified by such assessments; and

"(2) describe how uses of funds reflect the needs described in paragraph (1);

"(3) provide assurances that, and where necessary a description of the manner in which eligible recipients will comply with the requirements of titles I, II, and III of this Act including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for the special populations described in section 223;

"(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of special populations;

"(C) an assurance that the State board will conduct adequate monitoring of programs in local educational agencies, area vocational schools, intermediate educational agencies, and other eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals described in section 223, who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under subpart 1 of part C of title II;

"(4) set forth the planned distribution to local educational agencies, area vocational schools, correctional institutions, or intermediate educational agencies as prescribed by section 221;

"(5) provide assurances that the State will comply with the provisions of section 102;

"(6) set forth the criteria the State board will use—

"(A) in approving applications of eligible recipients, and

"(B) for spending the 20 percent reserve for the State as authorized under section 102(a)(1);

"(7) provide assurances that if the State exercises the option to redistribute the 10 percent reserve described in section 222, the State will match the reserve as prescribed under section 101(c);

"(8) describe how funds expended for occupationally specific training will be used only for occupations in which job openings are projected or available;

"(9) provide assurances that the goal of each program shall be to give a student experience in, and understanding of, all aspects of the industry in which the student is preparing to enter;

"(10) describe in each State plan submitted after fiscal year 1991, the progress the State has made in achieving the goals set forth in previous State plans;

"(11) provide such methods of administration as are necessary for the proper and efficient administration of the Act;

"(12) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 242, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(13) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(14) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 231;

"(15) provide a description of how the State will—

"(A) develop measures of the effectiveness of programs assisted under this Act in meeting the needs described in paragraph (1), including evaluative measurements of factors such as—

"(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

"(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

"(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers;

"(B) as a component of the measures under subparagraph (A) of this paragraph, establish appropriate measures for evaluating the effectiveness of programs for the special populations described in section 223 assisted under this Act; and

"(C) evaluate the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year;

"(16) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship programs;

"(17) provide assurances that programs of personnel development, and curriculum development shall be funded to further the goals identified in the State plan;

"(18) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(19) provide assurances that the State board will cooperate with the State council in carrying out its duties under this part;

"(20) provide assurance that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(21) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds;

"(22)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

"(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career

guidance and vocational counseling from allotments under title II are not less than such expenditures for such guidance and counseling within the State in the fiscal year 1988;

"(23) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act); and

"(24) specify for each of the programs assisted under subpart 2 of title II—

"(A) the methods by which the special needs of the individuals described in section 223 shall be assessed and met; and

"(B) the number of individuals in each of the categories set forth in section 223 for each occupationally specific program.

"(c) When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council, and the State council.".

SEC. 108. APPROVAL.

Section 114 of the Act is amended—

(1) in subsection (a)(1) by inserting ", the chief executive officer of the State" after "legislature" each place such term appears; and

(2) redesignating subsection (c) as subsection (d); and

(3) inserting the following new subsection after subsection (b):

"(c)(1) The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, technical preparation education and for secondary education after consultation with the State agency responsible for supervision of community colleges and the State agency responsible for secondary education, respectively. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult and postsecondary students. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(2) Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing performance evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.".

SEC. 109. STATE ASSESSMENT.

Section 115 of the Act is amended to read as follows:

"STATE ASSESSMENT

"SEC. 115. (a)(1) Each State board receiving assistance under this Act shall develop measurable objective criteria by which to assess the quality of, and standards for, State and local programs. Such criteria shall be developed in consultation with local educational agencies, area vocational schools, intermediate educational agencies, correctional institutions, postsecondary institutions, business and industry, union and trade representatives, vocational educators, counselors, superintendents, community-based organizations, parents, representatives of special populations described in sections 223 and 242, the sex equity administrator, the head of the State correctional education agency, the head of the State office responsible for administering part B of the Education of the Handicapped Act, the individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and the head of the State agency responsible for administering programs for students with limited English proficiency, guidance counselors and the State council. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later than the beginning of school year 1993, and shall use criteria to assess program quality. Assessment criteria shall include—

"(A) student improvement in basic skills;

"(B) gains in learning and educational outcomes;

"(C) competence in all aspects of the industry the students are preparing to enter;

"(D) student improvement in life skills, problem solving skills and career decision making;

"(E) the ability of local educational agencies, area vocational schools and intermediate educational agencies, postsecondary institutions and other local recipients under subpart 2 of part C of title II to meet the needs of special populations such as the economically disadvantaged, students with disabilities, students with limited English proficiency, and women and men in programs for training in nontraditional occupations, and criminal offenders in correctional institutions, for access to vocational education and vocational services in terms of labor market needs;

"(F) the quality of vocational education in terms of—

"(i) the pertinence of programs to the workplace and to new and emerging technologies;

"(ii) the technological and educational capacity of vocational curricula, equipment, and instructional materials to enable vocational students and instructors to meet the challenges of increased technological demands of the workplace;

"(iii) the capability of vocational education programs to meet the needs for general occupational skills and improvement of basic academic skills in order to address the changing content of jobs;

"(iv) the capability of vocational education programs to—

"(I) give students experience in, and understanding of, all aspects of the industry in which the student is preparing to enter; and

"(II) provide job placements; and

"(v) measuring the state-of-the-art quality of the vocational education provided; and

"(G) setting measurable goals to meet the needs of special populations.

"(2) In developing assessment criteria pursuant to the provisions of paragraph (1)(E), the head of the special education office, the sex equity administrator, the individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and the individual designated under section 111(e) to monitor programs for students with limited English proficiency shall each develop data collection procedures appropriate to the special populations being served. Data collected should include information about program services and outcomes, as well as which individuals are being served.

"(b) Each State board receiving assistance under this Act shall assess improvements needed in vocational education programs and may conduct such assessment through the use of Federal funds provided under this Act and State and local vocational education funds. Such assessment shall utilize the following factors:

"(1) integration of academic and vocational education;

"(2) instruction and experience in all aspects of the industry the students are preparing to enter;

"(3) sequential course of study;

"(4) increased student job placement;

"(5) increased linkages between secondary and postsecondary educational institutions;

"(6) ensuring that special populations obtain assistance necessary to enroll and succeed in upgraded programs; and

"(7) raising the quality of vocational education programs in schools with high concentrations of poor and low achieving students.

"(c) Each State board shall complete the assessment under this section pursuant to a timetable consistent with the State plan.".

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"STATE PROGRAMS AND STATE LEADERSHIP

"SEC. 201. (a) From amounts reserved under section 102(a)(1)(A) each State shall conduct State programs and State leadership activities.

"(b)(1) State programs conducted pursuant to subsection (a) may include—

"(A) training and retraining programs for teachers, administrators and counselors, including corrections educators and counselors, and educators and counselors in community-based organizations, which may include—

"(i) training in the integration of academic and vocational studies and programs that give students experience in, and understanding of, all aspects of the industry the student is preparing to enter; and

"(ii) retraining of vocational teachers in modern instructional techniques and new technologies;

"(B) curriculum development, curriculum dissemination and field-testing of curriculum;

"(C) instructional programs in technology education, including curriculum development and teacher training; and

"(D) supporting vocational student organizations, with every effort made to increase minority participation in such clubs.

"(2) Training and retraining programs conducted pursuant to paragraph (1)(A) shall give particular emphasis to recruiting and training minority teachers and counselors and shall encourage the utilization of

business and industry equipment and personnel.

"(3) In carrying out the provisions of paragraph (1)(B) the State—

"(A) shall give priority to curriculum which integrates academic and vocational studies;

"(B) shall provide special emphasis on curriculum which incorporates the needs of business, industry and labor in high skilled occupations;

"(C) may award contracts to the Corporation for Public Broadcasting; and

"(D) may provide grants for technical preparation education programs as described in part B of this title.

"(c)(1) Leadership activities conducted pursuant to subsection (a) may include—

"(A) monitoring and evaluation, including technical assistance to local recipients;

"(B) development and implementation of performance evaluations and improvement plans required under section 250, including technical assistance;

"(C) development and implementation of the State assessment required under section 115;

"(D) promoting business, industry, labor and interagency linkages;

"(E) promoting technology education courses and instruction particularly courses and instruction which integrate mathematics, science, and technology studies;

"(F) establishing guidelines for the development of local plans;

"(G) the creation and maintenance of a public awareness program;

"(H) developing linkages with community-based organizations; and

"(I) building collaboration and joint efforts among education, labor, job training, public assistance, and other State agencies to improve vocational education services to traditionally underserved populations.

"(2) Each State receiving financial assistance under this Act shall match, on a dollar for dollar basis and from non-Federal sources, the funds received pursuant to section 102(a)(1)(A) for leadership activities.

"SEX EQUITY PROGRAMS

"SEC. 202. (a) From amounts reserved under section 102(b)(1) the State shall, under the administration of the sex-equity administrator described in section 111(b)(1)—

"(1) support programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) support vocational and prevocational education programs, services, comprehensive career guidance counseling, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) provide support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2) including dependent-care services and transportation.

"(b) The requirement with respect to age limitations contained in subsection (a)(2) may be waived whenever the sex equity administrator determines that the waiver is essential to meet the objectives of this section.

"PART B—TECHNOLOGY PREPARATION

"PROGRAM AUTHORIZED

"SEC. 211. From amounts reserved under section 102(a)(2) the State board shall award competitive grants, or grants on the basis of a formula as determined by the State board, for activities carried out under this part to consortia of—

"(1) local educational agencies, intermediate educational agencies serving secondary school students, area vocational schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs; and

"(2) community colleges (including post-secondary vocational technical schools), apprenticeship programs, or institutions of higher education offering—

"(A) a two-year degree,

"(B) an associate's degree, or

"(C) a two-year post-secondary certificate.

"TECHNICAL PREPARATION EDUCATION PROGRAMS

"SEC. 212. (a) Each consortium receiving a grant under this part shall use amounts paid under this part to develop and operate a 4-year technical preparation education program.

"(b) Each such program shall—

"(1) be carried out under an articulation agreement among the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation followed by 2 years of higher education, or a 2-year apprenticeship program, with a curriculum based on a common core of material intended to develop a student's proficiency in mathematics, science, communications and technologies designed to lead to an associate degree in a specific career field;

"(3) include the development of a technical preparation education program curriculum appropriate to the needs of the student's participating in the consortium; and

"(4) include in-service training for teachers and counselors that—

"(A) is designed to train teachers and counselors to implement effectively technical preparation education curriculum;

"(B) provides for joint training for teachers and counselors from all participants in the consortium; and

"(C) may provide such training in weekend, evening and summer sessions, institutes or workshops;

"(5) provide equal access to the full range of technical preparation programs to the individuals described in sections 223 and 242, including the development of technical preparation education program services appropriate to the need of participants described in sections 223 and 242; and

"(6) provide for prevocational programs which assist the participants described in sections 223 and 242.

"(c) Each such program may—

"(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for technical preparation education programs, and ensure their successful completion of such programs and their placement in appropriate employment;

"(2) provide for the acquisition of technical preparation education program equipment; and

"(3) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated technical preparation education programs.

"APPLICATIONS

"SEC. 213. (a) Each consortium that desires to receive a grant under this part shall submit an application to the State board at such time and in such manner as the State board shall prescribe.

"(b) Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this Act.

"(c) The State board shall approve applications based on their potential to create an effective technical preparation education program as described in section 212.

"(d) The State board shall give special consideration to applicants whose applications—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs; and

"(2) are developed in consultation with business, industry, and labor unions.

"DEFINITIONS

"SEC. 214. For purposes of this part—

"(1) the term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a technical preparation education program;

"(2) the term 'community college'—

"(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1976 (25 U.S.C. 1801(4))); and

"(3) the term 'technical preparation education program' means a combined secondary and postsecondary education program which—

"(A) leads to an associate degree;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, or mechanical, industrial, or practical art or trade;

"(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

"(D) leads to placement in employment.

"PART C—SECONDARY, POSTSECONDARY AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"WITHIN STATE ALLOCATION

"SEC. 221. (a) From amounts reserved under section 102(a)(3)(A), the State board shall, subject to subsection (b), allocate to each local educational agency an amount that bears the same relationship to such funds as the amount such local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

"(b)(1)(A) In the case of criminal offenders who are in State correctional institutions the State board shall ratably reduce the percentages obtained under subsection (a) in order to make available to the State correctional education agency an amount which is substantially equivalent to the amount which such agency would have been eligible to receive under section 1005 of the Elementary and Secondary Education Act of 1965 for the previous fiscal year if the State correctional education agency were a local educational agency.

"(B) For the purpose of subparagraph (A) the age of individuals in correctional institutions to be counted shall be ages 9 through 35.

"(C) The amount determined pursuant to subparagraphs (A) and (B) shall not exceed 5 percent of the amount reserved under section 102(a)(3)(A), or shall not exceed the amount allocated for corrections education pursuant to this Act in the fiscal year 1990, whichever is greater.

"(2) In the case of an area vocational school the amounts calculated under subsection (a) that are available to local educational agencies served by that area vocational school shall be made available to that area vocational school.

"(3) In the case of an intermediate educational agency the amounts calculated under subsection (a) that are available to local educational agencies served by that intermediate educational agency shall be made available to that intermediate educational agency.

"(c)(1) No local educational agency, area vocational school or intermediate educational agency, shall be eligible for an allocation unless the amount calculated under subsection (a) equals or exceeds $25,000.

"(2) Local educational agencies, area vocational schools or intermediate educational agencies may form consortia and aggregate the amounts such agencies or schools would be eligible to receive under subsection (a) in order to comply with the provisions of paragraph (1).

"(3) The provisions of paragraph (1) shall not apply to State correctional agencies.

"(4) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to local educational agencies in accordance with the provisions of this section.

"(d) In the case that an area vocational school and a local educational agency served by such area vocational school offer comparable vocational education programs, the State agency may distribute funds to both an area vocational school and a local educational agency served by such area vocational school, provided the provisions of subsection (c)(1) are met for each area vocational school and the local educational agency.

"(e) In the case that an intermediate educational agency and a local educational agency served by such an intermediate educational agency offer comparable vocational education programs, the State agency may distribute funds to both an intermediate educational agency and a local educational agency served by such intermediate educational agency provided the provisions of subsection (c)(1) are met for both the intermediate educational agency and the local educational agency.

"(f) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

"STATE RESERVE FOR AREAS WITH SEVERE PROBLEMS

"SEC. 222. (a)(1) Each State receiving financial assistance under this subpart may reserve not to exceed 10 percent of such amount for distribution to local educational agencies, area vocational schools, or intermediate educational agencies in areas experiencing particularly severe hardships such as severe unemployment, a severe poverty concentration, a high dropout rate, a high crime rate, a high incidence of drug abuse or a high concentration of limited English proficient students, all of which percentages or concentrations of which are above the statewide average.

"(2)(A) In addition to the distributions described in paragraph (1), a State may distribute funds reserved pursuant to paragraph (1) to community colleges to enable such community colleges to conduct programs which provide high school diplomas to individuals aged 16 through 18.

"(B) In the event a State distributes funds pursuant to the provisions of paragraph (1) to a community college pursuant to the provisions of subparagraph (A), such community college shall match such funds on a dollar for dollar basis.

"(b)(1) If a State elects to reserve funds pursuant to subsection (a) the State shall match, on a dollar-for-dollar basis, such funds provided to each local educational agency, area vocational school or intermediate educational agency from State sources or from private sources.

"(2) In no event shall a State reserving funds pursuant to subsection (a) use funds from local educational agencies, area vocational schools, or intermediate educational agencies to meet the requirements of paragraph (1).

"POPULATIONS TO BE SERVED

"SEC. 223. (a) Each local eligible recipient receiving funds under this subpart shall use such funds to provide vocational education services and activities, including comprehensive career guidance and counseling, designed to meet the special needs of, and to enhance the participation of—

"(1) the economically disadvantaged;

"(2) individuals with disabilities;

"(3) individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education;

"(4) students with limited English proficiency;

"(5) economically disadvantaged adults; and

"(6) criminal offenders, both juvenile and adults, who are serving in a correctional institution.

"(b) Notwithstanding any other provision of this section, each local educational agency with a student enrollment exceeding 100,000 which served economically and educationally disadvantaged adults in fiscal year 1990 pursuant to the provisions of this section may continue to serve such adults in each fiscal year with funds available under this section in an amount which bears the same relationship to the total amount of funds available under this section in each fiscal year as the amount available to carry out such programs for such adults in fiscal year 1990 bears to the total amount available under this section in fiscal year 1990.

"PROGRAMS FOR ECONOMICALLY DISADVANTAGED STUDENTS

"SEC. 224. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to disadvantaged students—

"(1) equal access in recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs available to nondisadvantaged individuals, including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services; and

"(3) the supplementary services necessary to ensure full and equitable participation in vocational education programs.

"(b) For the purpose of this section the term 'disadvantaged student' means a student who is economically or educationally disadvantaged.

"PROGRAMS FOR STUDENTS WITH DISABILITIES

"SEC. 225. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to all students with disabilities within the jurisdiction of the recipient an equal opportunity for an appropriate vocational education. Such recipients shall provide to students with disabilities—

"(1) equal access to recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs available to nondisabled individuals, including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) vocational education programs and activities in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act;

"(4) the vocational education component of the individualized education plan required under sections 612(4) and 614(a)(5) of the Education of the Handicapped Act;

"(5) supplementary services including curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices; and

"(6) vocational education planning for individuals with disabilities which shall be—

"(A) coordinated with appropriate representatives of vocational education and special education, and

"(B) reviewed by the head of the State office responsible for administering part B of the Education of the Handicapped Act.

"(b) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall comply with the provisions of section 504 of the Rehabilitation Act of 1973 and the Education of the Handicapped Act regarding equal access to programs.

"PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH PROFICIENCY

"SEC. 226. Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to students with limited English proficiency—

"(1) equal access in recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) supplementary services to ensure full and equitable participation in programs, such as—

"(A) providing adapted vocational instruction simultaneously with English language instruction;

"(B) utilizing appropriate agencies and community-based organizations to communicate in, and to provide counseling in, the students' language; and

"(C) bilingual and cultural counseling; and

"(4) vocational education planning which shall be reviewed by the head of the State administrative office responsible for the education of students with limited English proficiency.

"PROGRAMS TO ELIMINATE SEX BIAS

"SEC. 227. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to women and men—

"(1) equal access in recruitment, enrollment, and placement activities in education and training programs in nontraditional occupations;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) programs to overcome sex bias, stereotyping and other barriers which inhibit the participation of women and men;

"(4) programs to expand outreach and orientation to nontraditional occupations for women and men;

"(5) supplementary services including, but not limited to, curriculum modification, equipment modification, classroom modification, supportive personnel, instructional aids and devices, and subsidized employment opportunities; and

"(6) programs to increase and provide support services.

"(b) Programs and services provided pursuant to subsection (a) shall be reviewed by the sex-equity administrator consistent with the provisions of section 111(b)(1)(A).

"PROGRAMS FOR CRIMINAL OFFENDERS

"SEC. 228. Each State correctional education agency receiving financial assistance under this Act shall—

"(1) administer vocational education programs for criminal offenders, both juveniles and adults, in correctional institutions;

"(2) provide vocational education programs for women who are incarcerated;

"(3) use funds provided pursuant to the provisions of section 221(b)(1)(A) to update equipment; and

"(4) distribute funds for services to correctional institutions in proportion to the number of individuals served by each facility, giving special emphasis to ensure services for women who are incarcerated.

"USE OF FUNDS

"SEC. 229. (a)(1) Each local eligible recipient receiving financial assistance under this subpart shall use such funds to—

"(A) provide to the individuals described in sections 223 and 224 the supplementary services and prevocational programs necessary to ensure full and equitable participation in vocational education programs;

"(B) ensure that programs for the individuals described in section 223 are of the highest quality and are state-of-the-art; and

"(C) support supplemental or additional staff, equipment, materials, and services for the individuals described in section 223.

"(2) The necessary services described in paragraph (1)(A) shall be identified and designed through an assessment of the interests, abilities and needs of the students, and shall reflect the participation of the student and parent, and the guidance and counseling activities carried out under subsection (b)(1)(D).

"(3) Each local eligible recipient receiving funds under this section shall use no more than 5 percent of such funds for administrative costs.

"(4) Each local eligible recipient receiving funds under this section may use such funds to develop programs in consortia or in cooperation with community-based organizations.

"(b)(1) Each local eligible recipient receiving financial assistance under this subpart shall, to the extent practicable, use such funds for individuals described in section 223 to—

"(A) integrate academic and vocational training in a manner which—

"(i) provides a sequential course of study that—

"(I) uses an applied context based on both broad and specific job training;

"(II) reinforces and enhances academic skills;

"(III) motivates students to excel in both academic and vocational courses; and

"(IV) provides students with experience in, and understanding of, all aspects of the industry such students are preparing to enter; and

"(ii) encourages utilization of a business-industry model of applied learning techniques;

"(B) carry out program improvement activities, including instructional services, curriculum and materials development and state-of-the-art equipment and construction to upgrade instruction;

"(C) designate a special populations coordinator who shall be a qualified counselor or teacher to ensure that special populations described in section 223 are receiving adequate services and job skill training; and

"(D) provide comprehensive guidance and counseling to the individuals described in section 223 who are participating in correctional education programs and who have not entered grade 9, and to the parents of such individuals, concerning—

"(i) the course of study in each vocational program offered;

"(ii) the occupational opportunities for employment after graduation, as well as summer and part-time employment during the school year;

"(iii) information about postsecondary education opportunities;

"(iv) information about apprenticeship program opportunities;

"(v) guidance and counseling at the prevocational level and during the vocational program;

"(vi) career guidance and counseling;

"(vii) assessment of interest, abilities, and special needs with respect to successful completion of the vocational education program;

"(viii) guidance, counseling, and career development activities conducted by professionally trained counselors who are associated with the provision of such services;

"(ix) counseling services designed to facilitate the transition from school to post-school employment and career opportunities; and

"(x) a career plan or career assessment for the student.

"(2) Each local eligible recipient receiving assistance under this subpart may use such funds for technical preparation education programs described in part B of this title for special populations described under section 223.

"(3) The individual described in paragraph (1)(C) shall be compensated in whole or in part through funds reserved pursuant to subsection (a)(2) for administrative costs.

"(4) Funds used to carry out the provisions of paragraphs (1)(A) and (1)(B) may be used to benefit other populations providing the needs of the individuals described in section 223 are being met.

"(5) Equipment purchases pursuant to paragraphs (1)(A) and (1)(B), when not being used to carry out the provisions of this Act, may be used for other instruction purposes if—

"(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this title;

"(B) is used after regular school hours or on weekends; and

"(C) such other use is—

"(i) incidental to the use of that equipment under this title;

"(ii) does not interfere with the use of that equipment under this title; and

"(iii) does not add to the cost of using that equipment under this title.

"(6) Each local eligible recipient receiving funds under this subpart may only use such funds if such agency or school has provided for consultation with members of special populations, students, parents, teachers, workers and members of community-based organizations in the planning of the programs provided pursuant to this subpart, particularly with respect to the quality of the programs and supplementary services provided.

"LOCAL APPLICATION

"SEC. 230. (a) Any local eligible recipient desiring financial assistance under this subpart shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded;

"(2) contain a report on the number of individuals in each of the special populations categories contained in section 223;

"(3) contain a description of how the needs of the special populations will be assessed and a description of the planned use of funds to meet such needs;

"(4) identify the planned use of resources allocated to meet such needs;

"(5) ensure full and equitable participation in a vocational educational program of quality;

"(6) provide assurances that the programs funded under this subpart shall be carried out according to the criteria for programs for each special population described in section 223;

"(7) describe the performance evaluation standards the applicant will use to measure its progress;

"(8) demonstrate that in using funds in accordance with the provisions of sections 229 (b)(1)(A) and (b)(1)(B) the local eligible recipient has first met the needs of the individuals described in section 223 as required by section 229(b)(4);

"(9) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under the Job Training Partnership Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(10) describe methods used to develop vocational educational programs in consultation with parents and students of special populations described in section 223; and

"(11) provide a description of coordination with community-based organizations.

"(b) The individual described in section 229(b)(1)(C) shall review and comment on the application submitted pursuant to sub-

section (a) regarding the assurances contained in such application and the services to be provided to the special populations described in section 223.

"PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 231. (a) Each local eligible recipient receiving financial assistance under this subpart shall develop goals for, and evaluate the effectiveness of, the program conducted pursuant to this subpart with respect to—

"(1) the progress of students in the achievement of basic academic skills;

"(2) the progress of students in achieving occupational skills necessary to obtain employment in the field for which the students have been prepared, including occupational skills in all aspects of the industry the students are preparing to enter;

"(3) the ability of the local eligible recipient to meet the needs of the special populations described in section 223; and

"(4) any other measures the local eligible recipient includes to reflect accurately the success of the program.

"(b) Each entity described in subsection (a) shall consult with the State board in determining measurement indicators pursuant to the criteria set forth in subsection (a).

"(c) Each local eligible recipient shall annually evaluate whether such entity is meeting the criteria developed under subsection (a). If any entity described in subsection (a) determines that such entity is not making substantial progress in meeting the criteria set forth in subsection (a), such entity shall develop a plan, in consultation with teachers, parents and students, for program improvement for the subsequent school year.

"(d) Each local eligible recipient shall regularly review programs, with the full and informed participation of representatives of the special populations described in section 223, to identify and to adopt measures to overcome any barriers which are resulting in lower rates of access or success for special populations.

"PROGRAM IMPROVEMENT PLAN

"SEC. 232. (a) The plan developed pursuant to section 231(c) shall describe how the local eligible recipient will identify and modify programs funded under this subpart including—

"(1) a description of vocational education and career development strategies designed to achieve the goals set forth in section 231(a); and

"(2) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"(b) If after one year of implementation of the plan described in subsection (a), sufficient progress in meeting the criteria described in section 231 has not been made, the State shall work jointly with the local eligible recipient and teachers, parents and students to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the local eligible recipient;

"(2) a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"Subpart 2—Postsecondary and Adult Programs

"POSTSECONDARY AND ADULT PROGRAMS

"SEC. 240. (a) From amounts reserved under section 102(a)(3)(B) the State board shall make grants, on a competitive basis, or on the basis of a formula as determined by the State board, to—

"(1) postsecondary educational institutions;

"(2) local educational agencies for programs for adults in secondary schools;

"(3) area vocational schools serving postsecondary students or adults;

"(4) community-based organizations providing vocational education to adults;

"(5) any of the entities set forth in paragraphs (1) through (3) in partnership with business, industry and labor; and

"(6) consortia of the entities described in paragraphs (1) through (5);

to improve vocational education programs, including comprehensive career guidance and counseling, for postsecondary students, adults, and single parents, displaced homemakers, and single pregnant women.

"(b) In awarding grants under this section the State board shall give priority to—

"(1) programs serving economically disadvantaged individuals, individuals with disabilities, individuals with limited English proficiency and traditionally underserved populations, including women and men in non-traditional programs;

"(2) apprenticeship programs, especially programs that serve the individuals described in paragraph (1);

"(3) programs that are strongly tied to economic development efforts within the State;

"(4) programs which—

"(A) train adults and students for all aspects of the occupations in which job openings are projected or currently available;

"(B) provide comprehensive career guidance and counseling for adults and students;

"(C) are developed in conjunction with business, industry, labor, the community, the State board, and other local eligible recipients; and

"(D) focus on the most salable, highest placement aspects of the industry; and

"(5) partnerships described in subsection (a)(5).

"(c) Grants awarded under this section shall be coordinated with programs and services provided through—

"(1) the Job Training Partnership Act,

"(2) the Adult Education Act, and

"(3) the Family Support Act of 1988,

to avoid duplication of effort and to ensure maximum effective utilization of funds under this subpart.

"POSTSECONDARY AND ADULT USE OF FUNDS

"SEC. 241. (a) Grants awarded under this subpart may be used for—

"(1) vocational programs for training or retraining adults or career counseling, including programs for older individuals;

"(2) the costs of serving adults in other vocational education programs, and paying the costs of instruction or the costs of keeping school facilities open longer;

"(3) education and training programs designed cooperatively with employers or labor, such as workplace literacy programs, worksite programs, and apprenticeship training programs (or combinations of such programs);

"(4) ndustry-education-labor partnership training programs in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes;

"(5) programs at postsecondary institutions to which provide high school diplomas to individuals aged 16 through 18; and

"(6) technical preparation education programs described in part B of title II.

"(b) The State shall use funds provided pursuant to this subpart for apprenticeship training programs especially tailored to—

"(1) the needs of an industry or groups of industries for skilled workers, technicians, or managers, or

"(2) enable the existing work force to adjust to changes in technology or work requirements.

"(c) Grants awarded under this subpart may be used to provide education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers whenever such institutions, employers or labor organizations can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(d)(1) From funds available under this section, the State board may establish and support, through grants to institutions of higher education offering comprehensive programs in teacher or counselor preparation, statewide mentoring programs to—

"(A) fully use the skills and work experience of individuals employed or formerly employed in business and industry who become classroom instructors;

"(B) meet the needs of vocational educators who wish to upgrade their teaching competencies; and

"(C) meet the needs of counselors who wish to upgrade their counseling competencies.

"(2) Any mentoring program established under this program shall—

"(A) establish partnerships among State certification agencies, institutions of higher education offering comprehensive vocational education programs, and local educational agencies to deliver a professional development program aimed at preparing and meeting the continuing training needs of vocational educators and counselors;

"(B) provide competency-based vocational teacher education programs; and

"(C) provide assessment of professional education skills and develop a plan leading to probationary certification within 3 years;

"(D) employ as mentors highly qualified classroom educators who shall be selected by a process collaboratively developed by the institutions of higher education and local educational agencies within the State, and the State board, who shall assist in—

"(i) developing and demonstrating mentor competence in planning, teaching, evaluating, and managing classrooms, particularly for the special populations described in section 223;

"(ii) supervising vocational students' organizations;

"(iii) working with advisory committees;

"(iv) understanding cooperative vocational education programs;

"(v) understanding the foundations of vocational education; and

"(vi) identifying other sources of educational support and information to assist new vocational educators in becoming effective teachers.

"PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN

"SEC. 242. (a) From amounts reserved under section 102(b)(2) each State board shall provide vocational and prevocational educational programs, including comprehensive career guidance and counseling, and services for single parents, displaced homemakers, and single pregnant women.

"(b)(1) From amounts reserved under section 102(b)(2) each State board shall provide vocational and prevocational education programs and services in postsecondary or secondary school settings, including area vocational schools serving single parents, displaced homemakers and single pregnant women.

"(2) Programs and services provided pursuant to this subpart shall be administered by the sex equity administrator as described in section 111(b)(1)(A).

"(c) From amounts reserved under section 102(b)(2) each State may—

"(1) provide, subsidize, reimburse or pay for vocational and prevocational education and training activities, including basic academic skills, necessary educational materials, and career guidance and counselings that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

"(2) make grants to local recipients for expanding vocational and prevocational education services when such expansion directly increases the capacity of local recipients for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of vocational and prevocational education services and career counseling to single parents, displaced homemakers, and single pregnant women, if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training and the characteristics of the participants;

"(4) make vocational and prevocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by providing support services including dependent care, transportation services, special services and supplies, books and materials, and by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs and related support services and career counseling.

"SERVICES FOR MEMBERS OF SPECIAL POPULATIONS

"SEC. 243. Each recipient of a grant under this subpart shall—

"(1) provide to individuals who are members of the populations described in section 223—

"(A) equal access in recruitment, enrollment, and placement activities, and to vocational programs available to other individuals, including occupationally specific courses of study, cooperative education programs, and apprenticeship programs;

"(B) the supplementary services needed by such students to successfully complete and master all aspects of the program in the most integrated setting possible; and

"(2) regularly review the programs assisted under this subpart, in consultation with members of the populations described in section 223, to identify any barriers which are resulting in lower rates of access or success for special populations and to adopt measures to overcome such barriers.

"Subpart 3—General Provisions

"STATE PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 250. (a) Each State desiring financial assistance under this part shall develop criteria for, and evaluate the effectiveness of, programs under this part with respect to—

"(1) student progress in the achievement of basic academic skills;

"(2) student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in all aspects of the industry the student is preparing to enter;

"(3) the program's ability to meet the needs of special populations; and

"(4) any other measures the State shall deem necessary.

"(b) In developing the criteria required in subsection (a), the State board shall make every effort to develop criteria consistent with the standards and evaluations developed pursuant to section 231 by local eligible recipients of financial assistance under subpart 1. If after 2 years the State board determines that the local eligible recipient of financial assistance under subpart 1 is not making progress in meeting the goals set forth by such local eligible recipient, the State shall work in conjunction with such local eligible recipient as prescribed in section 231 by providing program and technical assistance from funds provided under section 102.

"ADMINISTRATIVE PROVISIONS

"SEC. 251. (a)(1)(A) Funds made available under this part shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under this part may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(3) The Secretary may waive, as necessary, for each of the fiscal years 1991, 1992, and 1993 on an annual basis, the requirements of paragraphs (1) and (2) with respect to any State that expended for postsecondary education programs more than 70 percent of the funds available under this title in fiscal year 1989.

"(b) Any project assisted with funds made available under this part shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c)(1) Vocational education services and activities authorized in this part may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in this part may include placement services for students who have successfully completed vocational education programs.

"(3) Vocational education services and activities described in this part may include programs which involve students in addressing the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

"(d) Each State board receiving financial assistance under this part may consider granting academic credit for vocational education courses which integrate core academic competencies.

"(e)(1) In addition to the State plan, the State may submit a petition to waive the percentage requirements of section 102(a)(3). Such petition for a waiver shall be filed together with the State plan. The Secretary may approve the petition for a waiver only if the State adequately demonstrates that—

"(A) the waiver is necessary to serve more effectively the vocational education needs of economically disadvantaged families or individuals, minorities, individuals with limited English proficiency, or individuals with disabilities, if such individuals are—

"(i) students enrolled in secondary schools or area vocational schools;

"(ii) students who have dropped out of high school;

"(iii) adult individuals who have not earned high school diplomas; or

"(iv) adult individuals who are participating in programs assisted under the Job Training Partnership Act, the JOBS program under title II of the Family Support Act of 1988, the Adult Education Act, or adult literacy programs;

"(B) funds made available pursuant to a waiver under paragraph (1) shall be used—

"(i) to encourage and assist the individuals described in subparagraph (A) to prepare more effectively to enter or reenter the job market and compete for jobs in an increasingly technological workplace;

"(ii) to assist in the coordination of postsecondary vocational programs and secondary vocational programs serving the individuals described in subparagraph (A);

"(iii) to serve the individuals described in subparagraph (A) who seek to improve their employability through retraining programs which upgrade or update skills in accordance with changed work requirements, or through training for high-skilled occupations;

"(iv) to the extent practicable, by postsecondary schools and colleges to enable the students of such schools and colleges to earn high school diplomas or certificates of General Education Development; and

"(v) by postsecondary schools and colleges to serve the students of such schools and colleges through strengthened coordination among programs supported under this subsection and programs assisted under the Job Training Partnership Act, the JOBS program under title II of the Family Support Act of 1988, the Adult Education Act, or adult literacy programs.

"(2) Funds made available pursuant to a waiver under paragraph (1) shall only be used in postsecondary schools and colleges of the State serving high concentrations of economically disadvantaged families or individuals, minorities, individuals with limited English proficiency, or individuals with disabilities, if—

"(A) at least 30 percent of the population of the postsecondary school or college are economically disadvantaged individuals, minorities, individuals with limited English proficiency, or individuals with disabilities; or

"(B) the State provides assurances that it will rank-order postsecondary schools and colleges on the basis of need as determined by the number of Pell Grant recipients attending such schools and colleges, and shall limit assistance under this subsection to schools in the top 25 percent of such ranking.

"(3) In the case of a disagreement concerning an application for a waiver under this subsection pursuant to paragraph (4) between the State agency or department responsible for vocational education at the postsecondary level and the State agency designated as the sole State agency responsible for the administration or supervision of the State vocational education program under section 111 of this Act, the State agency or department responsible for vocational education at the secondary level shall file such objections with the State Board. The State Board shall respond to any objections of the such agency in submitting its State plan to the Secretary. The Secretary shall consider such comments in reviewing and approving the State plan and the provision for a waiver under this subparagraph.

"(4) Each State desiring a waiver under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(f) Notwithstanding the provisions of section 102(a)(3), not more than 50 percent of funds available under such section shall be available to carry out the provisions of subpart 2 of part C of title II.

"(g)(1) The Secretary may waive the provisions of subsection (f) on a demonstration basis for not more than 5 States and make available not more than 65 percent of the funds available under section 102(a)(3), if the State demonstrates that the requirements of subsection (f) would adversely effect the vocational educational programs in the State based on the demand for postsecondary programs within the State as demonstrated by—

"(A) the State's average dropout rate, as reported by the State in accordance with the definition of a school dropout developed pursuant to section 6201(a) of the Elementary and Secondary Education Act of 1965;

"(B) the number of local educational agencies in the State which have dropout rates in excess of 10 percent;

"(C) the number of applications in the State for postsecondary vocational and technical programs as compared with the number of applications for vocational education programs in secondary schools or area vocational schools;

"(D) the unemployment rate of the State as compared with the average unemployment rate of all the States;

"(E) the demand for participation in the JOBS program under title II of the Family Support Act of 1988 or programs assisted under the Job Training Partnership Act; and

"(F) any other information the Secretary determines necessary for awarding such waiver.

"(2) Each State desiring a waiver under this subsection shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) include a description of the dropout rates in all local educational agencies in the State; and

"(B) contain such other information and assurances as the Secretary may reasonably require to ensure compliance with the provisions of this subsection.".

TITLE III—SPECIAL PROGRAMS

SEC. 301. SPECIAL PROGRAMS AMENDMENTS.

Title III of the Act is amended—

(1) in section 302(b) by—

(A) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;";

(2) in section 311 by inserting "individual and family health," after "nutrition,";

(3) in section 312—

(A) in subsection (b)(1) by—

(i) striking "managing home and work responsibilities" and inserting "balancing work and family";

(ii) inserting "(including family violence and child abuse)" after "family crisis";

(iii) inserting "(especially among teenage parents), preventing teen pregnancy," after "parenting skills";

(iv) inserting "assisting at-risk populations (including the homeless)," after "handicapped individuals,"; and

(v) striking "improving nutrition" and inserting "improving individual child and family nutrition and wellness";

(4) in section 313 by—

(A) in subsection (a) by inserting "educational" after "experience and";

(B) redesignating subsection (b) as subsection (c); and

(C) inserting the following new subsection (b) after subsection (a):

"(b) Funds available under this part may be used to provide full-time State leadership and administrators with educational preparation in home economics education."; and

(5) by repealing parts C, D, and E.

SEC. 302. SUPPLEMENTARY GRANTS.

Title III of the Act is amended by inserting at the end thereof the following new part F:

"PART F—SUPPLEMENTARY GRANTS

"STATEMENT OF PURPOSE

"SEC. 351. It is the purpose of this part to provide additional resources to local educational agencies, area vocational schools, and intermediate educational agencies in economically depressed areas to improve the quality of their vocational education programs.

"ALLOTMENT TO STATES

"SEC. 352. (a) Except as provided in subsection (b), from amounts appropriated to carry out the provisions of this part, the Secretary shall allot to each State an amount which bears the same ratio to such amounts as the amount the State received in the previous fiscal year under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the total amount received by all States under such section in such year.

"(b)(1) In any fiscal year in which the amount appropriated to carry out the provisions of this part does not equal or exceed $50,000,000, the Secretary shall, in accordance with the provisions of this part, make grants to States.

"(2) In awarding grants pursuant to this subsection the Secretary shall—

"(A) give priority to States which have—

"(1) high percentages of children eligible to be counted under section 1006 of the Elementary and Secondary Education Act of 1965,

"(2) high percentages of individuals living below the poverty level, and

"(3) high percentages of school dropouts;

"(B) take into consideration the State's commitment to education as demonstrated by the total elementary and secondary educational expenditures of the State divided by the total personal income of the State; and

"(C) ensure an equitable distribution of assistance among geographic regions of the country.

"ALLOCATION OF FUNDS TO ELIGIBLE RECIPIENTS

"SEC. 353. Each State receiving funds under this part shall use not less than 95 percent of such funds to award grants, on a competitive basis, to eligible recipients within the State to improve vocational education programs in the areas served by the eligible recipient.

"STATE APPLICATIONS

"SEC. 354. (a) Each State that desires to receive an allotment or a grant under this part shall submit an application to the Secretary at such time, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) designate the sole State agency described in section 111(a)(1) as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) provide for a process of consultation with the State Council on Vocational Education established under section 112;

"(3) describe how funds will be allocated in a manner consistent with section 323 that will serve eligible local educational agencies with the greatest need, especially—

"(A) eligible recipients in areas with the highest percentages of children eligible to be counted under section 1006 of the Elementary and Secondary Education Act of 1965; or

"(B) eligible recipients that have—

"(i) high percentages of individuals living below the poverty level,

"(ii) high percentages of school dropouts,

"(iii) high unemployment rates,

"(iv) high percentages of limited English speaking individuals,

"(v) a need to address community economic or employment issues; or

"(vi) a combination of conditions described in subparagraphs (A) through (E);

"(4) provide for an annual report of data concerning the use of funds and students served with assistance under this part;

"(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and

"(6) contain assurances that the State comply with the requirements of this part.

"(b) An application submitted by the State under subsection (a) shall be for a period of not more than 3 years.

"LOCAL APPLICATIONS AND LOCAL USE OF FUNDS.

"SEC. 355. (a) Each eligible recipient that desires to receive a grant under this part shall submit an application to the State at such time, and containing or accompanied by such information, as the State may reasonably require.

"(b) Each eligible recipient receiving funds under this part shall use such funds to meet the vocational education needs of economically disadvantaged students in a manner consistent with the goals and objectives of this Act.

"(c) Each eligible recipient receiving funds under this part shall use such funds to supplement and not supplant vocational education resources available in the area served by the eligible recipient.

"DEFINITIONS

"SEC. 356. For the purpose of this part—

"(1) the term 'eligible recipient' means a local educational agency, area vocational school or intermediate educational agency in an economically depressed area that is eligible to receive funds under section 221; and

"(2) the term 'State' includes each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.".

SEC. 303. COMMUNITY EDUCATION EMPLOYMENT CENTERS.

Title III of the Act (as amended by section 302) is further amended by inserting at the end thereof the following new part:

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1989'.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions; and

"(3) employment, including military service.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients having applications approved pursuant to section 10 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extent possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into one or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels, with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities; and

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not reduce academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (hereinafter referred to as the 'Council') consisting of one individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State Council on vocational education, and for the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations; and

"(G) parents.

"(b) FUNCTIONS OF THE COUNCIL.—(1) The Council shall provide recommendations to, and work with, eligible recipients to—

"(A) establish annual community education employment center priorities, programs, and procedures;

"(B) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

"(C) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(D) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(E) assist in the selection and application of assessment tools for continuous evaluation of student learning progress; and

"(F) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment.

"SEC. 367. PROFESSIONAL STAFF.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or li-

censed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY AND APPLICATIONS.

"(a) ELIGIBILITY.—An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves one or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965;

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part, shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

"(2) describe the activities and services for which assistance is sought;

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368;

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary school in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 370. EVALUATION AND REPORT.

"(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student and community participation in the activities of the community employment education center.

(b) REPORT.—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) by October 1, 1995.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

"SEC. 372. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $16,000,000 for fiscal year 1991 and each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of this part.".

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH ACTIVITIES.

Section 402 of the Act is amended—

(1) in subsection (a) by striking "National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate" and inserting "Office of Educational Research and Improvement";

(2) in subsection (a)(1) by striking "individuals who are single parents or homemakers" and inserting "single parents, displaced homemakers, single pregnant women";

(3) by amending subsection (b) to read as follows:

"(b) In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this Act.";

(4) in paragraph (1) of subsection (d) by striking "(1)"; and

(5) by striking paragraph (2) of subsection (d).

SEC. 402. NATIONAL ASSESSMENT.

(a) AMENDMENT TO TITLE.—The heading to section 403 of the Act is amended by striking "PROGRAMS ASSISTED UNDER THIS ACT".

(b) AMENDMENT TO TEXT.—Section 403 of the Act is amended to read as follows:

"SEC. 403. (a)(1) The Secretary shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, representatives of business, industry, labor, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The application of the Federal Advisory Committee Act is waived for the provisions of this paragraph.

"(b) The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State and Tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, Tribal, and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, Tribal, and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of these teachers;

"(4) participation in vocational education programs, including, in particular, access of special populations identified in this Act to high-quality vocational education programs and the impact, on the delivery of services to these populations, of Federal legislation giving States flexibility in allocating funds to serve these populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the impact of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the impact of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the impact of Federal requirements regarding criteria for services to special populations identified in this Act, participatory planning in the States, and articulation between secondary and postsecondary programs; and

"(9) coordination of services under this Act, the Adult Education Act, the Family Support Act of 1988, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act.

"(c) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a). The Secretary shall submit an interim report no later than January 1, 1994, to the Congress. The Secretary shall submit a final report, summarizing all studies and analyses completed after the assessment, to the Congress not later than July 1, 1994. Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.".

SEC. 403. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) AMENDMENT TO TITLE.—The heading to section 404 of the Act is amended by striking "CENTER" and inserting "CENTERS".

(b) AMENDMENT TO TEXT.—Section 404 of the Act is amended to read as follows:

"SEC. 404. (a)(1) The Office of Educational Research and Improvement shall conduct a competition for the establishment and operation of 3 or more vocational education research centers (hereinafter referred to as the 'National Centers') of which—

"(A) one National Center shall be a research center on Native American education;

"(B) one National Center shall be a research center which conducts applied research and provides technical assistance for vocational education and training programs serving youths and adults; and

"(C) one National Center shall have as its primary purpose conducting applied research and providing comprehensive direct technical assistance and outreach activities

to enhance the ability of personnel in the fields of vocational education and training to deliver programs that meet the needs of learners and the workplace.

"(2) Each entity selected to establish and operate a National Center pursuant to paragraph (1) shall operate such National Center for a period of 5 years.

"(3) Beginning after December 31, 1992, the Office of Educational Research shall award an annual grant to each National Center selected pursuant to paragraph (1) for each of the five years such National Center is operated. After the third year in which a National Center receives a grant under this section the Secretary shall review the research priorities of such National Center.

"(4) Each National Center may reserve not more than 10 percent of the grant awarded in each fiscal year for the purposes of addressing field-initiated projects which had not been foreseen in submitting the annual budget described in subsection (c).

"(5) Each National Center shall appoint a Director for such National Center.

"(b) The Secretary shall continue to honor the provisions of the grant awarded to the National Center for Research in Vocational Education located in Berkeley, California, through December 31, 1992.

"(c) Each entity desiring to establish and operate a National Center shall submit an application for each fiscal year to the Office of Educational Research and Improvement at such time, in such manner, and accompanied by such information as the Office of Educational Research and Improvement may require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) contain an annual budget; and

"(3) contain such additional assurances as are necessary to ensure compliance with the provisions of this section.

"(d) The National Centers shall, directly or through contracts, conduct research and development projects and programs with other public agencies and public or private institutions of higher education. The National Centers shall disseminate information on the results of the research and development activities funded by the National Center as well as other available research. The National Centers shall conduct applied research and development on—

"(1) economic changes that affect the skills which employers seek and entrepreneurs need;

"(2) integration of academic and vocational education;

"(3) efficient and effective practices for addressing the needs of special populations described in section 223;

"(4) efficient and effective methods for delivering vocational education;

"(5) articulation of school and college instruction with high quality work experience;

"(6) recruitment, education, and enhancement of vocational teachers and other professionals in the field; and

"(7) such other topics as the Secretary may designate.

"(e) The National Center described in subsection (a)(1)(C) shall give priority to projects, programs, and activities which include—

"(1) teacher and administrator training and leadership development;

"(2) technical assistance to programs serving special populations described in section 223;

"(3) needs assessment, design, and implementation of new and revised programs, with related curriculum materials; and

"(4) evaluation and follow-through to maintain and extend quality programs.

"(f) The National Center described in subsection (a)(1)(A) shall conduct research on the educational participation, needs and performance of Native Americans. The Center shall consider teaching and learning for Native American students from childhood through adulthood. Specific priorities shall include, but not be limited to—

"(1) early childhood education;

"(2) home, family, and cultural influences on education;

"(3) vocational education and training, particularly services for special populations described in section 223; and

"(4) participation in postsecondary education, especially the factors that limit participation of Native Americans.

"(g) For the purposes of this section, the term 'Native American' includes American Indians, Native Alaskans, Native Hawaiians, and indigenous people of the Pacific Basin including American Samoans.".

(c) The amendment made by subsection (b) shall not affect contracts made by the National Center for Research in Vocational Education prior to the date of enactment of this Act.

SEC. 404. FORMULA STUDY.

Part A of title IV of the Act is amended by inserting at the end thereof the following new section:

"STUDY OF CARL D. PERKINS VOCATIONAL EDUCATION ACT FORMULA

"SEC. 405. (a) The Secretary shall, through grant or contract conduct a study of the distribution of Federal vocational education funds to the States. The study shall consider the distributional effects of the within State allocation formula set forth in section 102 including the age cohorts and the per capita income allotment ratios and shall also examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act. The study shall specifically address the appropriate distribution mechanism to serve the target populations of the Act.

"(b) The study shall explore the use of other possible methods of targeting funds to special populations of the Act, particularly the economically disadvantaged, including but not limited to the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(c) The findings of the study shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(d) The study required under subsection (a) shall be completed by January 1, 1994.".

SEC. 405. DEMONSTRATION PROGRAMS.

Part B of title IV of the Act is amended to read as follows:

"PART B—DEMONSTRATION PROGRAMS

"PROGRAMS AUTHORIZED

"SEC. 411. (a) From amounts available for this part pursuant to section 101(a)(1)(A) in each fiscal year the Secretary shall reserve—

"(1) 5 percent for demonstration programs in accordance with the provisions of section 416; and

"(2) 20 percent for demonstration programs in accordance with the provisions of section 419.

"(b) From the remainder of funds available under section 101(a)(1)(A) for this part, the Secretary shall make demonstration grants in accordance with the provisions of this part.

"DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING

"SEC. 412. (a) The Secretary is authorized to make grants to institutions of higher education, area vocational schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network;

"(b) In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve special populations;

"(4) that programs supported under this section serve—

"(A) vocational students in secondary schools and at postsecondary institutions;

"(B) individuals enrolled in adult programs; and

"(C) single parents, displaced homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.

"BUSINESS, INDUSTRY AND LABOR PARTNERSHIPS

"SEC. 413. (a) The Secretary is authorized to make grants to partnerships among—

"(1) an area vocational school, a State agency, a local educational agency, a secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State correctional education agency or an adult learning center; and

"(2) business, industry, labor, or apprenticeship programs.

"(b) Grants awarded under this section may be used to—

"(1) increase the access to, and quality of, programs for the special populations who are described in section 223;

"(2) strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(3) address the economic development needs of the area served by the partnership;

"(4) provide training and career counseling that will enable workers to retain their jobs;

"(5) provide training and career counseling that will enable workers to upgrade their jobs; and

"(6) address the needs of new and emerging industries, particularly those in high-technology fields.

"(c)(1) In awarding grants under this section, the Secretary shall give priority to

partnerships whose programs provide job training in areas or skills where there are significant labor shortages.

"(2) In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution of funds awarded pursuant to this section.

"MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES

"SEC. 414. (a) The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States, and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) The regional model centers described in subsection (a) shall—

"(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skilled shortages;

"(2) provide prejob and apprenticeship training and career counseling in skilled trades;

"(3) upgrade specialized craft training; and

"(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with disabilities and ex-criminal offenders to trade occupations and training.

"(c) In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

"BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS

"SEC. 415. (a) The Secretary shall disseminate information and exemplary materials regarding effective vocational education.

"(b) The Secretary shall, in consultation with the National Centers for Research in Vocational Education (hereafter in this section referred to as the 'National Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality, to be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

"(c)(1) The Secretary, in consultation with the National Centers for Research and the National Occupational Information Coordinating Committee (hereafter in this section referred to as the 'Committee'), shall designate each fiscal year a category or several categories of vocational education, which may include technology preparation education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of special populations and may give special consideration to any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(d)(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational school, intermediate educational agency, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

"MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS

"SEC. 416. (a) From amounts reserved under section 411(a)(1) the Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b)(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

"(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

"(c) Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators and correctional educators.

"(d) In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) students in area vocational and technical schools;

"(2) teachers, administrators, and counselors in need of training or retraining;

"(3) out of school adults in need of basic skills improvement or a high school equivalency diploma to improve such individual's employability;

"(4) college students, particularly those working toward a 2-year associate degree from a technical or community college;

"(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

"(6) workers who need to upgrade their skills to obtain jobs in high growth industries.

"PROFESSIONAL DEVELOPMENT

"SEC. 417. (a) The Secretary shall make grants to institutions of higher education, State educational agencies or State correctional education agency for teacher education, career counselor education, and professional development.

"(b) Grants awarded pursuant to this section shall be used for—

"(1) leadership development stipends for experienced vocational educators to participate in advanced study of vocational education;

"(2) teacher education fellowships for individuals who are—

"(A) currently employed in vocational education who need to update or maintain currency in their technological skills;

"(B) employed in agriculture, business, or industry who have skills and experiences in vocational fields for which there is a need for vocational educators; or

"(C) certified teachers with skills related to vocational fields who can be trained as vocational educators, especially minority instructors and those with experience in teaching the economically disadvantaged, individuals with disabilities, students with limited English proficiency, and criminal and juvenile offenders; and

"(3) internships for gifted and talented vocational education students to intern in Federal and State agencies, vocational education research centers, or recognized vocational education associations.

"(c) In carrying out this section, the Secretary shall, based on information from the National Occupation Information Coordinating Committee and other appropriate sources, publish a listing of—

"(1) the areas of vocational education which are in need of additional personnel; and

"(2) the areas of teaching in which technological upgrading may be especially critical.

"EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS

"SEC. 418. (a) The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or the private sector, to provide education and training for criminal offenders in such institutions.

"(b) Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from incarceration.

"VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"SEC. 419. (a) From amounts reserved under section 411(a)(2) the Secretary shall make grants to local schools to establish and operate vocational education lighthouse schools.

"(b) Grants awarded under this subsection shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

"(F) which offers a full range of programs, including comprehensive career guidance and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training and assistance, through off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) technical assistance and staff development as appropriate.

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education training needs and career counseling needs of minority, disadvantaged, disabled, and limited English-proficient students, and

"(B) to reduce and eliminate sex bias and stereotyping.

"CAREER AND GUIDANCE COUNSELING PROGRAMS

"SEC. 420. (a)(1) The Secretary is authorized to make grants to State boards for programs designed to improve, expand, and extend career guidance and counseling programs, to meet the career development, vocational education, and employment needs of vocational education students and potential vocational education students. Such program shall be designed to assist individuals to—

"(A) acquire self-assessment, career planning, career decisionmaking, and employability skills;

"(B) make the transition from education and training to work;

"(C) maintain marketability of current job skills in established occupations;

"(D) develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

"(E) develop midcareer job search skills and to clarify career goals; and

"(F) obtain and use information on financial assistance for postsecondary and vocational education and job training.

"(2) Programs assisted under paragraph (1) shall be organized and administered by certified counselors.

"(b) The programs authorized by this section shall include services and activities to ensure the quality and effectiveness of career guidance and counseling, including, but not limited to, career information delivery system development and implementation, and the establishment of student/client outcome standards against which the effectiveness of future career guidance and counseling programs can be measured.

"DROPOUT PREVENTION

"SEC. 420A. (a) The Secretary is authorized to make grants to partnerships between—

"(1) local educational agencies or area vocational schools; and

"(2) institutions of higher education and/or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

"(b) Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

"(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

"(2) provide inservice training for teachers and administrators in dropout prevention; and

"(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the ERIC Center on Adult, Career and Vocational Education.

"(c) In awarding grants under this section, the Secretary shall give priority to partnerships which—

"(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

"(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.".

SEC. 407. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act is amended to read as follows:

"SEC. 421. (a)(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, implement and develop a vocational educational data system (hereafter in this section referred to as the 'system') using comparable information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than 6 months after the enactment of this Act.

"(3) The National Center for Education Statistics (hereafter in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) Through the system, the Secretary shall collect and analyze data in order to provide—

"(1) the Congress with information relevant to policy making, and

"(2) Federal, State and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c)(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, programs, and to the extent practicable, facilities and equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force described in subsection (g), the National Center, and the Office of Adult and Vocational Education (hereafter in this section referred to as the "Office"), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in their design, implementation and reporting in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) economically disadvantaged students (including information on students in rural and urban areas);

"(B) individuals with disabilities;

"(C) individuals of limited English proficiency;

"(D) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(E) adults who are in need of training and retraining;

"(F) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(G) single parents and displaced homemakers; and

"(H) minorities.

"(3) The Secretary, through the National Center and the Office, shall maintain and update the system at least every 3 years and ensure that the system provides the highest quality statistics and is adequate to meet the vocational education information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

"(d) The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations that are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

"(e)(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 of this Act with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that, to the extent feasible, the system allows international comparisons.

"(3) The Secretary shall ensure that the system, to the extent practicable, uses data definitions common to State plans, performance evaluations, and other evaluations required by this Act. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations.

"(f) The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g)(1) The Secretary, in consultation with the National Center and the Office, shall convene a vocational education data task force (hereafter in this section referred to as the 'Task Force').

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of this Act, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and postsecondary vocational institutions, representatives of vocational education student organizations, representatives of special populations described in section 223, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

"(h) As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and other students in the areas assessed. Such assessment may include international comparisons.".

SEC. 408. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO TITLE.—The heading for section 422 of the Act is amended to read as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(hereafter in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Post Secondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: "including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and";

(2) by adding at the end thereof the following new subsections:

"(c)(1) The Committee, in consultation with the National Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

"(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

"(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to insure that the information disclosed to the Committee is used only for the purposes of this subsection.

"(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) Of the amounts available pursuant to section 3(e) for each fiscal year for this part, 22 percent shall be reserved to carry out the provisions of this section. Of such amounts, the Committee shall use—

"(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

"(A) amounts appropriated or otherwise made available for that purpose for the fiscal year 1989; and

"(B) an amount equal to not less than 75 percent of the amounts available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.".

SEC. 409. NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION.

Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION

"SEC. 424. (a) From the sums allocated to carry out this section, the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education consisting of six regional curriculum coordination centers. The Network shall encourage the designation of a State liaison representative in each of the States, and where appropriate, a Tribal liaison. It shall be the purpose of the Network to—

"(1) provide leadership and technical assistance in vocational and technical education curriculum design, development, and dissemination;

"(2) coordinate vocational and technical education curriculum information sharing among all the States, tribes, and the territories;

"(3) reduce duplication of effort in vocational and technical education curriculum development activities among the States, Tribes, and territories; and

"(4) promote the use of vocational and technical education curriculum research findings.".

SEC. 410. NATIONAL COUNCIL.

(a) APPOINTMENTS AND VACANCIES.—The first sentence of section 431(a)(2) of the Act is amended to read as follows: "The members of the Council shall be appointed and serve for such terms as the Council shall prescribe. A vacancy in the Council shall be filled in such manner as the Council shall prescribe".

(b) REPEAL.—Part D of title IV of the Act is repealed.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on September 30, 1991.

(2) The amendment made by subsection (b) shall take effect on October 1, 1992.

SEC. 411. GENERAL PROVISIONS.

Section 451 of the Act is amended to read as follows:

"SEC. 451. (a) Subject to the provisions of subsection (b), of the amounts available pursuant to section 3(e) for any fiscal year for this title—

"(1) 35 percent shall be available for part A, relating to research;

"(2) 33.5 percent shall be available for part B, relating to demonstration projects; and

"(3) 31.5 percent shall be available for part C, relating to vocational education in occupational information data systems.

"(b) From amounts available pursuant to subsection (a)(3)—

"(1) at least 3.5 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in each fiscal year to carry out section 421; and

"(2) at least 1.75 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in fiscal year 1991 to carry out the provisions of section 405, relating to the study of the within State allocation formula set forth in section 102;

"(3) at least 3.5 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in each fiscal year to carry out the provisions of section 424.".

TITLE V—GENERAL PROVISIONS

SEC. 501. CERTIFICATION REQUIREMENTS.

(a) AMENDMENT TO TITLE.—The heading to section 502 of the Act is amended to read as follows:

"CERTIFICATION REQUIREMENTS".

(b) AMENDMENT TO TEXT.—Section 502 of the Act is amended to read as follows:

"SEC. 502. (a) As part of the State plan required by section 113, each State board desiring to receive assistance under this Act shall—

"(1) provide assurances that the State board, or local educational agencies within the State, will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of such State board, such local educational agencies or other personnel for whom such State board or such local educational agencies have any administrative responsibility;

"(2) provide assurances that the State board or the local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the enrollment of students in schools or in courses of instruction within schools of such State board or such local educational agencies except to carry out the approved plan; and

"(3) to provide assurances that the State board or local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students.

"(b) No plan may be approved under section 113 unless the Secretary, through the Assistant Secretary of Education for Civil Rights, determines that the assurances described in paragraphs (1), (2), and (3) of subsection (a) will be met.".

SEC. 502. REGIONAL MEETINGS ON REGULATIONS.

Part A of title V of the Act is amended by inserting at the end thereof the following new sections:

"REGIONAL MEETINGS ON REGULATIONS

"SEC. 507. (a) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education programs under this Act, such as Federal, State, Tribal and local administrators, parents, teachers, members of local boards of education and special populations described in section 223.

"(b) During each such meeting, the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational Education Act Amendments of 1989. The Secretary shall take into account information received at these meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(c) Once such regulations have been promulgated as final, the Secretary shall convene regional meetings to share information regarding implementation of the final regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education under this Act, such as Federal, State, Tribal, and local administrators, parents, teachers, and members of local boards of education.

"FEDERAL MONITORING

"SEC. 508. The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this Act with the provisions of this Act. Such monitoring activities shall be developed by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

"(1) consider items such as whether the provisions of the State plan are being fully implemented;

"(2) consider items such as whether the State board's monitoring of local recipients of assistance under this Act is adequate to assure full compliance with the provisions of this Act by such recipients;

"(3) consider items such as whether the State-level coordinators for each of the special populations described in section 223 are able to review the local plans for serving such special populations;

"(4) consider items such as whether the other State responsibilities under this Act are being implemented; and

"(5) provide for input from students, parents, teachers, and special populations in the States".

SEC. 503. DEFINITIONS.

Section 521 of the Act is amended—

(1) in paragraph (2), by striking "program";

(2) by amending paragraph (3) to read as follows:

"(3) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market; or

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market; or

"(C) a school that offers both secondary and postsecondary instruction, but where secondary instruction is provided in no less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market.";

(3) by striking paragraph (10) and redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(4) by inserting the following new paragraph (8) after paragraph (7);

"(8) the term 'State correctional education agency' means the State agency or agencies responsible for carrying out correctional education programs in the State;

(5) by striking paragraphs (12), (13), and (14) and redesignating paragraphs (15), (16), and (17) as paragraphs (11), (12), and (13), respectively;

(6) in paragraph (12) (as redesignated in paragraph (4)) by striking the "term 'handicapped', when applied to individuals, means" and inserting "terms 'individual with a disability or individuals with disabilities' means";

(7) by inserting the following new paragraph (14) after paragraph (13) (as redesignated in paragraph (4)):

"(14) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.";

(8) by redesignating paragraphs (18) through (32) as paragraphs (15) through (29), respectively; and

(9) by inserting the following new paragraphs at the end thereof:

"(30) the term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety;

"(31) the term 'local eligible recipient' means a local educational agency, an area vocational school, and intermediate educational agency, or the State correctional education;

"(32) the term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(33) the term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home

and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act Aid to Families With Dependent Children within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate.

"(C) is described in subparagraph (A) or (B) and is a criminal offender;

"(34) the term 'prevocation services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities;

"(35) the term 'sequential course of study' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education;

"(36) the term 'technology education' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy; and

"(37) the term 'specific job training' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.".

TITLE VI—CORRECTIONAL EDUCATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1989".

SEC. 602. CORRECTIONAL EDUCATION.

Title II of the Department of Education Organization Act is amended by—

(1) redesignating section 214 as section 215; and

(2) inserting the following new section 214 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 214. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs; and

"(5) consult with, and provide outreach to, State directors of correctional education and correctional educators.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

"(3) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATION.

Section 3 of the Act is amended to read as follows:

"SEC. 3. (a) There are authorized to be appropriated $1,500,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III and IV of this Act.

"(b) There are authorized to be appropriated $10,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 for section 112 of title I, relating to State councils on vocational education.

"(c)(1) There are authorized to be appropriated $14,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part A of title III, relating to State assistance for vocational education support programs by community-based organizations.

"(2) There are authorized to be appropriated $37,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part B of title III, relating to consumer and homemaking education.

"(d) There are authorized to be appropriated $100,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of this part F of title III.

"(e) There are authorized to be appropriated $3,000,000 for each of fiscal years 1991 and 1992 to carry out the provisions of section 403. Such funds shall remain available until expended.

"(f)(1) There are authorized to be appropriated $350,000 for fiscal year 1991 to carry out part D of title IV relating to the National Council on Vocational Education.

"(2)(A) There are authorized to be appropriated $200,000 for fiscal year 1992 to carry out part D of title IV relating to the National Council on Vocational Education.

"(B) Amounts available from any amount appropriated pursuant to the authority of subparagraph (A) shall be limited to an amount equal to 200 percent of the services and funds received pursuant to section 431(c)(4) and 431(c)(5) during such fiscal year.

"(g) There are authorized to be appropriated $7,000,000 for the fiscal year 1991 and such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995 to carry out part E of title IV, relating to bilingual vocational training programs.

"(h) From the funds appropriated pursuant to subsection (a) for each fiscal year, 2.75 percent shall be available to carry out the provisions of title IV (other than part E), relating to national programs.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Act is amended by—

(1) striking the item relating to section 115 and inserting "State Assessment";

(2) striking out the items relating to title II and inserting the following:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"Sec. 201. State programs and State leadership.

"Sec. 202. Sex equity programs.

"PART B—TECHNOLOGY PREPARATION

"Sec. 211. Program authorized.

"Sec. 212. Technical preparation education programs.

"Sec. 213. Applications.

"Sec. 214. Definitions.

"PART C—SECONDARY, POST-SECONDARY, AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"Sec. 221. Within State allocation.

"Sec. 222. State reserve for areas with severe problems.

"Sec. 223. Populations to be served.

"Sec. 224. Programs for economically disadvantaged students.

"Sec. 225. Programs for students with disabilities.

"Sec. 226. Programs for students with limited English proficiency.

"Sec. 227. Programs to eliminate sex bias.

"Sec. 228. Programs for criminal offenders.

"Sec. 229. Use of funds.

"Sec. 230. Local applications.

"Sec. 231. Performance evaluation and improvement.

"Sec. 232. Program improvement plan.

"Subpart 2—Postsecondary and Adult Programs

"Sec. 240. Postsecondary and adult programs.
"Sec. 241. Postsecondary and adult use of funds.
"Sec. 242. Programs for single parents, displaced homemakers and single pregnant women.

"Subpart 3—General Provisions

"Sec. 250. State performance evaluation and improvement.
"Sec. 251. Administrative provisions.";

(3) inserting the following at the end of title III:

"PART F—SUPPLEMENTARY GRANTS

"Sec. 351. Supplementary grants.
"Sec. 352. Allotment to States.
"Sec. 353. Allocation of funds to eligible recipients.
"Sec. 354. State applications.
"Sec. 355. Local applications and local use of funds.
"Sec. 356. Definitions.";

(4) in the item relating to section 403 by striking "programs assisted under this Act";

(5) in the item relating to section 404 by striking "Center" and inserting "Centers";

(6) inserting the following at the end of part A of title IV:

"Sec. 405. Study of Carl D. Perkins Vocational Education Act Formula.";

(7) striking the items relating to part B of title IV and inserting the following:

"PART B—DEMONSTRATION PROGRAMS

"Sec. 411. Programs authorized.
"Sec. 412. Demonstration projects for the integration of vocational and academic learning.
"Sec. 413. Business and industry partnerships.
"Sec. 414. Model programs of regional training for skilled trades.
"Sec. 415. Blue ribbon vocational education programs.
"Sec. 416. Materials development in telecommunications.
"Sec. 417. Professional development.
"Sec. 418. Educational programs for Federal correctional institutions.
"Sec. 419. Vocational education lighthouse schools.
"Sec. 420. Career and guidance counseling programs.
"Sec. 420A. Dropout prevention.";

(8) striking the item relating to section 422 and inserting "National Occupational Information Coordinating Committee";

(9) inserting the following new item after the item relating to section 423:

"Sec. 424. National network for curriculum coordination in vocational and technical education.";

(10) striking the item relating to section 502 and inserting "Certification requirements"; and

(11) inserting after the item relating to section 506 the following:

"Sec. 507. Regional meetings on regulations.".

SEC. 802. THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) TABLE OF CONTENTS.—Section 1 of the Department of Education Organization Act is amended by striking the items relating to section 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.
"Sec. 215. Federal Interagency Committee on Education.".

(b) REPEALER.—Section 213 of the Department of Education Organization Act is repealed.

SEC. 803. HIGHER EDUCATION ACT.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this Act shall take effect on July 1, 1991.

(b) INDIAN PROGRAMS.—(1) Except as provided in paragraph (2), the amendments made by sections 101(a)(2) and 103 of this Act shall take effect on October 1, 1990.

(2) The provisions of section 101(a)(1)(C) of the Carl D. Perkins Vocational Education Act, as added by this Act, shall not apply before July 1, 1991.

TITLE X

SEC. 1001. (a) The General Accounting Office (GAO) shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany.

(b) Furthermore, the GAO shall conduct a thorough study of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

(c) In studying the West German Dual System of Vocational Education, the GAO shall assess:

(1) the ability of such a system to prepare workers for the technical workplace;

(2) the level of academic skills an apprentice in the Dual System acquires;

(3) the effectiveness of combining on-the-job training with classroom instruction;

(4) the dropout rate of West German students;

(5) the construction and oversight of skill certification tests;

(6) the labor mobility of apprentices;

(7) if such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;

(8) the value and productivity of apprentices to business;

(9) the direct and indirect costs/benefits to the country, industry, company and individual that result from the Dual System of Vocational Education.

(d) In assessing the ability of a similar program to be replicated in the United States, the GAO shall evaluate such factors as:

(1) existing job apprenticeship programs and their ability to prepare workers for the technical work place;

(2) the future need for skilled workers and the extent to which job apprenticeship programs could meet these future workforce needs;

(3) the appropriate age or grade level for students to enter job apprenticeship programs (i.e., secondary v. postsecondary students or both);

(4) the potential for such programs to reduce the dropout rate, place more qualified workers in the work place, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

(5) the training wage appropriate for an apprentice;

(6) the estimated value and productivity of apprentices to business;

(7) the federal and state role in regulating and funding such programs;

(8) the direct and indirect costs/benefits of such a program to the federal and state governments, industry, the company and the individual.

(e) The study, together with comments and recommendations, shall be completed and presented to Congress no later than one year from the date of enactment of this Act.

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mrs. KASSEBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GORE) appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. HATCH, Mrs. KASSEBAUM, Mr. COCHRAN, Mr. JEFFORDS, and Mr. THURMOND conferees on the part of the Senate.

Mr. PELL. Mr. President, I would like to thank Senator KASSEBAUM for her excellent work on S. 1109. We have framed this bill under the spirit of cooperation and consensus, and that is due in large part to her leadership. In addition, I would like to commend the chairman of our full committee, my colleague from Massachusetts, for his able assistance in moving this landmark legislation. Special thanks are also due to Senator HATCH for his fine work. Our solid bipartisan work on this legislation is indication of the commitment of this Congress to advancing the quality of education throughout the Nation.

In addition, I thank the staff of each of the members of our committees. They have spent many hours in working together on this package. I know I speak for all my colleagues when I extend our sincere appreciation for their efforts.

In that regard, I am most appreciative of the work of my own staff, including: David Evans, Ann Young, Marisa Quinn, Merry Richter, Mike Epstein, Charlie Bouthot, Craig Cerrito, and Tony Lisa. In addition, I thank Susan Hattan, Becky Rogers, and Lydia Spencer of Senator KASSEBAUM's staff, Terry Hartle of Seantor KENNEDY's staff, and Laurie Chivers of Senator HATCH's staff.

There are many others who have contributed to this legislation, and though I shall not read their names at this point, I would ask that they be inserted in the RECORD as if read.

We are most appreciative of the work of committee staff including: Cheryl Birdsall, Irvin Queja, Joan Gillman, Cheryl Smith, Pat Fahy, Brian Kennedy, Terry Muilenberg, Maryanne Richardson, Karen Calmeise, Pam Kurse, Judith Nolan, Craig Metz, Carolyn Boos, and Doris

Dixon. Paul Irwin, Richard Appling, and Wayne Riddle from the Congressional Research Service have been of their usual invaluable assistance to our work, and we are most appreciative of the efforts of Mark Sigurski in legislative counsel.

Mrs. KASSEBAUM. Mr. President, I just want to say how pleased I am that the Senate has approved this legislation. The changes we are seeking in Federal assistance to vocational education programs will, I believe, inspire reforms which are needed to assure a skilled and adept work force.

We have placed emphasis on the integration of academic and technical training, encouraged a logical progression from high school to postsecondary training, and targeted resources on individuals who might not otherwise receive the quality programs they need to become productive workers.

Quality vocational training programs are truly key to the future we hope to build for ourselves and our children. It has been a pleasure to work with Chairman PELL and other members of the committee in developing this legislation, and I look forward to working with the House in shaping a final bill which will meet the challenges before us.

I also commend and recognize the hard work done by members of my staff and other staff of the subcommittee on this bill. They have all put in very long hours, and I appreciate all that they have done.

Many thanks to Susan Hattan, Becky Rogers Voslow, and Lydia Spencer of my sfaff; David Evans, Ann Young, and Merry Richter of Senator PELL's staff; Laurie Chivers with Senator HATCH; Terry Hartle and Rusty Barbour with Senator KENNEDY; Pam Kruse with Senator JEFFORDS; Cheryl Birdsall and Meg Thale with Senator METZENBAUM; Judith Nolan with Senator COATS; Irvin Queja with Senator MATSUNAGA; Craig Metz and Deanne Folse of Senator THURMOND's staff; Joan Hogan Gilman with Senator DODD; Carolyn Boos with Senator DURENBERGER; Cheryl Smith, Judy Wagner, and Brian Kennedy with Senator SIMON; Karen Calmeise with Senator MIKULSKI; Doris Dixon and Lee Sanders with Senator COCHRAN; and Terry Muilenberg with Senator HARKIN's staff.

I would just like to add the Senate has spoken with a unified voice and a unanimous voice on behalf of vocational education.

That is a strange signal to send and I think it will inspire reforms throughout the educational system that will help us continue to assure that there will be a skilled and adept work force.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I notice the majority leader is seeking recognition. I, of course, yield.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if I might have the attention of Members of the Senate, I have discussed with the distinguished Republican leader our continuing effort to clear for approval by the Senate the Panama-Nicaragua assistance authorization bill, reported by the Foreign Relations Committee and with respect to which the President has made repeated requests for prompt action.

We had cleared that matter on this side of the aisle, Democratic Senators, earlier this week, to proceed without amendment and subject to a brief time limit. So far, we have been unable to gain clearance on the Republican side, but I understand that the distinguished Republican leader is continuing to work on that and that we may be able to get that clearance sometime later today. I would like to ask him to comment on that.

Mr. DOLE. Mr. President, if the Senator will yield, it is my understanding we are very close to an agreement on this side. If we can achieve that—I think we could dispose of it very quickly—it would be my hope that we would do that before we adjourn for the day. I will get back to the majority leader as quickly as I can. I know staff is working right now with Senator HELMS.

Mr. MITCHELL. Then, Mr. President, for the information of Senators, we hope shortly to be in a position to make an announcement with respect to the schedule for the remainder of the day. If we can complete action on that matter, then it is my intention that the Senate not be in session tomorrow.

Mr. President, the Senator from Vermont had previously gained recognition and I thank him very much for yielding to me to permit me to make this announcement.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—S. 1109

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1109 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2426 and S. 2427 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. I thank the Chair.

(The remarks of Mr. LUGAR pertaining to the introduction of S. 2426 and S. 2427 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. I thank the Chair.

(The remarks of Mr. GRAMM pertaining to the introduction of S. 2428 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2428 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGING NATIONAL SECURITY THREAT

Mr. DIXON. Mr. President, I congratulate the distinguished chairman of the Senate Armed Services Committee on his important efforts over the past couple of weeks to stimulate, and continue focusing, debate on our Nation's defense policy.

I entirely agree with the chairman that the world is changing dramatically. It is clear to me that the Warsaw Pact threat to NATO security has been drastically reduced. I am especially persuaded by the comments of my old law school friend—CIA Director Bill Webster—on the degree and significance of the startling, yet welcome, events in the Soviet Union and Eastern Europe. As I have said before, these events require Congress, in conjunction with the President and his adminstration, to look hard at fundamental U.S. defense strategy.

Unfortunately, the Department of Defense has not yet taken this hard look. I agree with the chairman that the Bush administration's fiscal year 1991 defense budget request now before Congress simply does not re-

flect a world in transition. I know that we all are uncertain about the future of U.S. national security interests. Yet, I am convinced that we can at this time seriously reconsider our current approach to defense policy in budget areas directly and obviously related to the changing situation in the Soviet Union and Eastern Europe.

Mr. President, my good friend, the distinguished chairman of the Armed Services Committee, did an outstanding job this past Thursday outlining the nature of the changing national security threat in the 1990's.

We are in basic agreement that the threat of a Warsaw Pact conventional invasion in Europe has all but disappered, while at the same time potential conventional or unconventional threats remain outside the United States-Soviet context and outside Europe.

I am also pleased that the chairman addressed the favorable linkage between the reduced conventional threat in Europe and the risk of strategic nuclear war. As he pointed out, many imagined scenarios for a nuclear war begin with the escalation of a conventional war. For this reason, the threat of nuclear war decreases as the threat of a conventional war in Europe fades. Although I agree with this agrument, I would go one step further. I believe that it is the perceived likelihood of a specific type of nuclear war that is most directly reduced by the changes we are witnessing.

Throughout the 1980's, one fundamental underpinning of United States strategic nuclear policy has been the assumption that in order to extend credibly our nuclear umbrella over Europe, we must be able to target Soviet missile silos and other military assets. According to the 1983 Scowcroft Commission report, which provided the departure point for much of today's strategic modernization efforts:

> The Soviets must continue to believe what has been NATO's doctrine for three decades: that if we or our allies should be attacked—by massive conventional means or otherwise—the United States has the will and the means to defend with the full range of American power. * * *. Our strategic forces must be modernized, as necessary, to enhance to an adequate degree their overall survivability and to enable them to engage effectively the targets that Soviet leaders most value.

Importantly, the accurate weapons supposedly required for this task are primarily land based. Thus, the Republican administrations of the 1980's have believed it particularly imperative to protect the land-based leg through modernization.

Though I am not sure that I ever accepted any of this reasoning, my question now is: If Europe no longer has the same need for our nuclear guarantee of its security, or in other words if extended deterrence is no longer as critical a requirement, must we continue to place the same urgent emphasis on modernizing all of our strategic nuclear forces—especially land-based forces?

Mr. President, I would like to point out that I am not alone in making this type of argument. For example, former Chairman of the Joint Chiefs of Staff, Gen. David C. Jones, mentioned in his testimony before the Armed Services Committee earlier this year that:

> As the conventional threat reduces in Europe, extended deterrence critically comes down somewhat. I am not suggesting that we are at that point now, but what I am suggesting is, there is some sort of linkage between what happens in the conventional area and in the strategic area. In the debate on resources, the strategic forces should not be inviolate in the competition for defense resources.

Later, he said that "behind all of my thinking is less concern on the so-called vulnerability of our land-based forces."

General Jones makes a good argument. Also, let us not forget that at this same hearing he went on to suggest that the United States should place far less emphasis on the Midgetman and MX rail garrison programs, and was joined to some degree in this recommendation by the two most recent former JCS Chairmen—General Vessey and Admiral Crowe. Needless to say, these men are not to be taken lightly in their viewpoints on military matters.

Mr. President, we all agree that the world is changing. I believe that this change significantly affects the threat at the strategic nuclear level, not just the threat of a conventional war in Europe. I have argued before, I am arguing now, and I will argue throughout this budget process, that strategic nuclear modernization programs must—I repeat must—be on the table as we reformulate our Nation's defense policy. If we take all of our reductions from the conventional side, we are, I believe, jeopardizing the conventional strength that will be critical to meeting our future national security needs.

Having said this, I am encouraged by the recent report in the Washington Post that the Pentagon is planning future cuts in funding for strategic nuclear weapons programs. If true, this is undoubtedly a positive development, so long as it is focused on the strategic modernization programs most directly related to the change in threat. However, according to this report, the new planning only relates to the 5-year period beginning in 1992. In contrast, the President's defense budget request for fiscal year 1991 now before Congress continues to seek significant funding increases for all the major strategic programs.

Mr. President, the administration's insistence on holding all strategic programs sacrosanct in the fiscal year 1991 budget is simply not acceptable. I hope the Pentagon is listening because this Senator, for one, is not going to support a fiscal year 1991 defense budget that refuses to recognizes a changing world.

There is a time to sow and a time to reap, but the adage also implicitly recognizes that there is no need to sow a lot of dollars for a crop that will be of no use to us in a far different world than the one we knew a few short months ago. Any good Illinois farmer can tell us that the kind of crop we can expect in the fall is based on the best estimate of conditions and expectations in the spring. There is no need to waste seed, resources, or equipment to get a decent crop. The same principles applies to defense. When the climate is right, let us use good common sense and fiscal restraint to guide us. Let us start with the fiscal year 1991 budget, where we will be able to see immediate results from the crop we sow.

PROTECTION OF THE CHINESE STUDENTS

Mr. DIXON. Mr. President, let me say that the White House has now acknowledged that President Bush never issued a promised Executive order to protect the Chinese students. Sadly, this failure to act has caused great concern in the Chinese student community in the United States.

When the administration vigorously urged this body not to override the President's veto of H.R. 2712, the Chinese student protection bill, we were told the President would take care of the situation through an Executive order. I am most confident, because I was a leader in that struggle, that if the President had not provided such assurance, this body would have overridden the President's veto of H.R. 2712 by a substantial majority. But it did not happen that way, because the President made a promise.

No one, to my recollection, ever told anybody here that a directive by the Attorney General would suffice. Had Congress thought the Attorney General could do the job, we could have passed a resolution asking him to do so, or we could have passed a bill compelling him to do so. That is not what we wanted or needed. Our goal was to protect the Chinese students in the United States who risk their lives if they are forced to return to China so long as the Chinese regime remains in its present repressive state of mind.

We passed the legislation protecting the students who fear for their lives if we force them to go back to China. The President prevailed in his veto, and you will remember the House had overridden him. He narrowly prevailed here when we were promised that he

could accomplish the same results we wanted to achieve by issuing an Executive order.

There is nothing more permanent in policy matters, as the President knows, than a law. But the administration prevailed back in January of this year, when we in Congress were trying to make a law by saying the President would give the Chinese students all the protection we had included in the legislation, and more. Now we know that more is less, Mr. President. A promise of an Executive order suddenly translates into a directive by the Attorney General.

What the administration has not done in this situation is far more serious than what it has done; more serious because we in Congress and the Chinese students in the United States thought we had a solemn pact with the President when he made a commitment to issue an Executive order assuring Chinese students that their continued stay in this country would not be endangered by our immigration laws and rules.

The Chinese students, the Congress, and the American people were promised one thing by the administration, but the administration, Mr. President, has not delivered.

It is now April 5. It is a long time since January. But, Mr. President, it is never too late to issue that Executive order. I choose to believe that the White House spokesman misspoke for the President when he said the President really intended to protect the Chinese students through a directive from the Attorney General rather than through an Executive order.

I would like to believe the President still intends to offer the Executive order promised the Chinese students in this country. I heard the President say he would offer the Executive order he promised. There is no one in the Nation's Capital who would say they heard anything different from the President back in January. Senators on the other side, including my friend from New York State, came in here and said, "We were prepared to vote to override, but we believe the President, and because of the Executive order, we are not going to vote to override." The only person who may have heard differently, as I see it now, is the White House spokesman himself.

Mr. President, the escape from China in recent days of Chai Lin, one of the top leaders in the student uprising in China, urgently underscores the importance of protecting the Chinese students from reprisals and from oppression by their leaders. She is now in France. Let us hope the French do a better job of protecting her and her colleagues than we appear to be doing here in the United States.

Freedom of person and freedom of expression are what this dilemma boils down to. If the administration cannot assure the safety of the Chinese students in our midst, then it is time, once again, I think, that the Congress look at the matter. I do not perceive that the concern of Congress is any less forceful now in April than it was in January. There has been no thaw in the repressive actions in China. There can be no thaw in our resolve to protect and nurture the Chinese students who have sought haven in the United States.

I look forward to a further clarification from the White House as to its intention to issue the Executive order. It is still needed. If the administration indicates it has no plans to issue the Executive order, then I will reintroduce the legislation I previously introduced that provided the Chinese students with protection under the laws of this country. This bill passed the Congress; it was vetoed by the President and overridden in the Houes, but sustained in the Senate by the closest of margins.

If it is necessary to reintroduce this bill, assurances from the White House will have to be backed up immediately with actions, if the White House does not wish to engage in this debate once again.

Mr. President, I ask unanimous consent to print in the RECORD the article from Today's Washington Post entitled "Bush Never Issued Executive Order Protecting Chinese Students in United States"

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 5, 1990]

BUSH NEVER ISSUED EXECUTIVE ORDER PROTECTING CHINESE STUDENTS IN UNITED STATES

(By David Hoffman)

President Bush promised in January to issue an executive order protecting Chinese students in the United States but never did so, relying instead on a directive by the attorney general that some students say has led to confusion and uncertainty about their status.

Bush vowed earlier this year that "no Chinese student will be returned to China against his or her own will." He made the promise as part of a successful effort to defeat congressional legislation protecting the students.

In a handwritten note Jan. 24 to Sen. Connie Mack (R-Fla.), the president said he would issue an "executive order" that "does better by the students" than the proposed congressional legislation. Bush later reiterated several times that he had issued such an order to protect the students.

Yesterday, White House press secretary Marlin Fitzwater said that, although Bush "used that term," referring to the executive order, "in fact what he meant was the instructions to the Justice Department."

Fitzwater, questioned about a report in the New York Times that Bush had never issued the order, said "the executive order is not the right tool" and "what he did do was order the attorney general to take the legal steps necessary to assure that that was the case. . . ."

Attorney General Dick Thornburgh wrote a letter to Gene McNary, director of the Immigration and Naturalization Service, Dec. 1 directing him to protect the students.

Rep. Nancy Pelosi (D-Calif.), a sponsor of the Chinese students legislation, said the administration had not fulfilled its promise.

"It's typical of a syndrome in this administration of 'let's not do anything about it and say we did. . . . Let's say my executive order will protect the Chinese students but not do one,' " she said.

"He was talking about an executive order," Pelosi added. "He didn't say a letter I wrote to the attorney general."

Pelosi said that, as a result, nothing has been published in the Federal Register that would provide firm procedures for the INS to follow with regard to the students, many of whom did not want to return to China after the Tiananmen Square massacre last June. In dealing with the students, she said, this has led to confusion and uneven practices. Some students, an aide said, have been asked to fill out lengthy waiver forms that include categories in which many would not qualify under normal circumstances, while others had been told no waiver application is necessary.

Haiching Zhao, chairman of the National Committee on Chinese Student Affairs, said some Chinese students have traveled outside the United States and had difficulty returning. In addition, he said, some students who apply for a change of status are being rejected on grounds that they cannot prove that they do not intend to remain indefinitely. Also, he said, the Chinese government is resisting passport renewal for some students.

"Right now, there is no written executive order, and people don't know what to do," he said. "There are always tricky questions and problems, and people don't know what to follow." Zhao said "we appreciate the public announcement that nobody will be sent back against his or her will. We trust that." But, he said, it has been suggested to the students that they not travel outside the United States.

"They are concerned," he said, "Many people are postponing their own research plans or whatever. I don't know how many cases, but there is a general tendency that people are having a hard time coming into the United States.

Mr. DIXON. I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Colorado.

THE DEFICIT AND DEFENSE

Mr. WIRTH. Mr. President, over the last few days, Senator NUNN and other members of the Senate Armed Services Committee have delivered very welcomed speeches on our overall defense strategy and the direction which we should be in, given the rapidly changing world. These speeches are, I hope, not going unnoticed in the Pentagon.

I am proud to be a member of the Committee on Armed Services and to be able to support the effort being made by my colleagues. Today, I would like to add a little bit on the subject of the defense budget and the Federal deficit.

In March I entered the testimony of the Comptroller General of the United States, Mr. Charles A. Bowsher, into the RECORD. In that testimony Comptroller General Bowsher assessed the true Federal deficit for fiscal year 1991 as $270 billion, rather than the $64 billion that the Bush budget would lead us to believe.

I know that it is unusual for us in the Government to be honest about the budget, and I would just commend to my colleagues that quite remarkable statement by the Comptroller General about what the deficit really amounts to. It is $270 billion, Mr. President, not $65 billion that is advertised by the phony bookkeeping in the White House.

In his testimony Mr. Bowsher went on to speculate that by 1995, unless we make some fundamental changes, interest on the national debt will constitute the single largest element of the Federal budget at $335 billion.

That means, Mr. President, if we continue the current pattern; unless we make some fundamental changes, interest on the debt will be greater than Social Security payments. It already is greater than defense spending. And what do we get for all this money, Mr. President? You know we get nothing. We do not get any schools, hospitals, or housing. Nothing.

Mr. Bowsher's testimony also addressed the challenges that we face in reducing defense spending in the years ahead. I direct my colleagues' attention to his message as it relates to the defense budget.

To conform to President Bush's defense budget, the Comptroller General estimates that the Pentagon must identify $138 billion in additional budget authority reductions in the next 3 years—roughly $45 billion each year for fiscal years 1992, 1993, and 1994. That corresponds to approximately $25 billion in outlay cuts in each of the next 3 years, just to match the Bush administration's defense budget topline.

To reverse the disasterous deficit scenario painted by Mr. Bowsher, we will have to cut defense outlays even further than envisioned by the Bush budget. Given that many Americans believe we can and should make even deeper cuts in defense spending than those proposed by the President, we must pursue a course that recommends a much more realistic assessment of defense funding than the administration's fiscal year 1991 proposal for defense.

Mr. President, we have two related tasks in managing the defense build-down of the 1990's. The first is the short-term requirement under Gramm-Rudman-Hollings to reduce the Federal deficit. This drives us to find outlay savings in the coming fiscal year. The second task is going to be even more difficult: to develop a long-term set of goals which match budget and strategy through the mid-1990's. This requires us to get the budget authority acquisition "bow wave" under control. It is this "bow wave" that the Comptroller General estimated would have to be cut by nearly $140 billion just to get down to the current baseline.

In addition to the "bow wave" we also ought to be thinking about the sequester strategy that has been much discussed.

If a sequester were applied to the fiscal year 1991 budget to reach the Gramm-Rudman-Hollings target, defense outlays would be cut to $288 billion—roughly $18 billion below the CBO baseline and $15 billion below the Cheney request of $303 billion, a 5-percent cut. As the administration appears ready to accept another sequester in fiscal year 1991, a sequester of this magnitude represents the baseline from which to weigh decisions on where and how much to cut.

Mr. President, we also need a road map to help guide us in building down the defense budget over the next 5 years. Unfortunately, the Department of Defense has not yet submitted its 5-year plan to the Congress. The Pentagon claims that they cannot provide the 5-year plan because of the rapid changes in the world. That is fine, but what the Pentagon is not saying is that the mismatch between weapons and wallet in the Department of Defense has been well understood for the last 4 years. The procurement "bow wave" problem continues to choke the Pentgon, and the problem will only become worse unless we act this year.

Prior to the Reagan defense buildup, the U.S. post-WW II peacetime defense budgets averaged $230 billion in constant 1991 dollars—an average which was in fact attained in the fiscal year 1980 defense budget. The Bush administration budget request for fiscal year 1991 would provide $70 billion more for defense in real terms than the postwar peacetime average—$70 billion more in real terms than we were spending in 1980. In 1995 we will be spending nearly $40 billion more in constant dollars under the administration's plan than we were in 1980 and $40 billion more than the peacetime norm.

The threat facing America today is certainly no greater than at the height of the cold war—in fact it is substantially diminished and, according to CIA Director Webster's recent testimony to the House Armed Services Committee, is not likely to be reconstituted. At a minimum, we should seek to manage a defense build-down to the postwar peacetime average of $235 billion—1991 dollars—by 1995. That will require deeper cuts than the Pentagon has proposed and will force us to make hard choices this year about where to make those cuts.

In the absence of a 5-year defense plan, and with the understanding that an additional $138 billion will have to be trimmed from the fiscal year 1992-94 budget just to reach the Bush targets, we will have to make decisions based on less-than-perfect information. With the help of the defense budget project, I have assembled several tables outlining a range of options for cutting defense costs, from terminating new programs to cutting force structure. The CBO testimony to the Budget Committee yesterday also contained valuable data on major R&D and procurement programs. I ask unanimous consent that these tables be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH Mr. President, throughout the cold war, we have defined our military budgets, strategy, and force structure by reference to the Soviet nuclear threat and the conventional threat posed by the Warsaw Pact. Our challenge in the 1990's will be to reconfigure our forces, budgets, and strategies to deal with a different set of military challenges emanating from a more multipolar world. This will require greater attention to light and mobile forces, and less emphasis on the forces we have designed to deal with a central European conflict. This strategy was very well laid out by Senator NUNN earlier this week and last week.

As the military threat declines, America faces profound and growing challenges to national economic security in the 1990's. If we hope to remain a superpower in a period when that status will be defined more by economic strength than military might, we must take steps today to put our fiscal and commercial house in order. That will require real deficit reduction and meaningful investments in America's future—in education, infrastructure, savings, research, and development. The collapse of the Warsaw Pact and continuing changes in the Soviet Union provide an opportunity to meet these demands by redirecting resources away from military spending and toward pressing national priorities. We must capture the peace dividend and reinvest it in America's future.

Finally, Mr. President, as we approach Earth Day, the 22d of April, we must also remember that our global security is now defined more by our relationship with the environment than it is by our relationship with the Soviet Union. And the faster we come to redesign our institutions of government, to redesign our energy policy, to redesign our tax programs, and to re-

design our environmental programs, the faster we will come to grips with that real national security threat.

EXHIBIT 1

FIG. 1.—ILLUSTRATION OF DEFENSE BUDGET AUTHORITY REDUCTIONS THAT SAVE $15 BILLION IN OUTLAYS IN 1991 RELATIVE TO THE CBO BASELINE

[In billions of dollars]

	Budget authority		
	CBO baseline	Illustrative reductions	Administration reductions
Military personnel	81.6	−4.2	−2.6
O&M	91.0	−7.4	−.9
Procurement	85.9	−17.5	−8.0
RDT&E	38.3	−5.2	−.4
Military construction	5.5	−1.4	+.1
Family housing	3.4	−.2	+.1
Other DOD	−.6	+1.5	+1.7
Subtotal DOD	305.1	−34.4	−10.0
DOE	10.0	−.4	+.9
Other defense	.6	0	+.1
Total Defense	315.8	−34.8	−8.9

Source: Congressional Budget Office based upon the request of the chairman of the Senate Budget Committee. CBO testimony to the Senate Budget Committee, March 8, 1990.

FIG. 2.—POTENTIAL SAVINGS FROM CUTTING MODERNIZATION, FISCAL YEARS 1991–95

[In 6-billions of current dollars]

	1991	1992	1993	1994	1995	91–95	Total program cost
AMRAAM missile	1.3	1.2	1.0	1.1	1.1	6.0	12.0
Outlays	.3	.6	1.0	1.0	1.1	4	
Anti-satellite weapon	.3	.3	.4	.6	.7	2	(?)
Outlays	.1	.2	.3	.5	.6	2	
ATACMS missile	.2	.2	.2	.2	.2	1	2.0
Outlays	0	.1	.2	.2	.2	1	
ATF (YF–22/23A) fighter	1.0	1.8	2.5	2.0	2.0	9	65.0
Outlays	.5	1.3	2.0	2.1	2.0	8	
B–2 bomber	5.5	7.8	8.4	7.7	7.5	37	70.0
Outlays	1.1	3.0	5.1	6.3	7.0	23	
C–17 airlift aircraft	2.7	4.8	4.7	3.9	3.9	20	37.0
Outlays	.4	1.5	2.8	3.6	3.7	12	
LHX helicopter	.5	.5	.5	.4	.5	2	42.0
Outlays	.2	.4	.5	.4	.4	2	
Milstar satellite	.8	1.0	1.0	1.0	1.0	5	10.0
Outlays	.4	.8	.9	1.0	1.0	4	
MX missile—rail-garrison	2.2	1.4	.9	.1	0	5	7.0
Outlays	.7	1.2	1.1	.8	.5	4	
MX missiles	.7	.7	.7	.6	.6	3	24.0
Outlays	.2	.4	.6	.6	.6	2	
SSN–21 submarine	3.7	3.5	4.1	4.3	4.3	20	35.0
Outlays	.3	1.0	1.7	2.5	3.1	9	
Trident submarine	1.5	1.4	1.4	1.3	1.3	7	18.0
Outlays	.1	.3	.6	.9	1.1	3	
D–5 missile	1.7	1.6	1.5	1.8	1.8	9	36.0
Outlays	.2	.7	1.3	1.4	1.6	5.0	
Subtotal:							
Budget authority	22.1	26.3	27.3	25.0	24.9	125.6	356.7
Outlays	4.5	11.7	18.1	21.4	22.7	78.3	
Fund SDI at $2.5 billion	2.2	(?)	(?)	(?)	(?)	(?)	(?)
Outlays	1.1						
FOTL/SRAM–T missiles	.2	(?)	(?)	(?)	(?)	1.0	2.0
Outlays	.1						
Total:							
Budget authority	24.5						
Outlays	5.7						

Source: Defense budget project, based on Department of Defense Budget for fiscal year 1991: program acquisition cost by weapon system, and research programs (R–1), and CBO, selected weapons costs from the President's 1990–91 program (April 1989). Outlays were calculated using DOD outlay rates.

FIG. 3.—*The administration's 1991 major procurement programs and other procurement funding*

[In billions of dollars of budget authority]

Program	*Budget request*
Aircraft:	
B–2 bomber	3.8
F–16 fighter	2.9
F/A–18	2.1
C–17 transport	2.1
F–15E fighter	1.8
F–14 fighter	1.0
Ships: [1]	
DDG–51 destroyer	3.6
SSN–21 submarine	3.5
Trident submarine	1.4
LHD–1 landing craft	1.0
Missiles:	
MX [2]	2.0
Trident	1.5
AMRAAM	1.3
Patriot	0.9
Tomahawk	0.8
Subtotal	29.8
Other major procurement	29.2
Other procurement	20.0
Total	79.0

[1] Includes outfitting and post delivery costs for ships.

[2] Includes costs for rail garrison basing.

NOTES.—Costs include initial spares and financing adjustments for advance procurement. Numbers may not add because of rounding.

Source: Congressional Budget Office based upon Department of Defense budget documents for 1991. CBO testimony to the Senate Budget Committee, March 8, 1990.

In all cases, budget authority calculations assume that reductions are phased in gradually during FY 1991. As a result, FY 1991 savings would be only 50 percent of the amount that would eventually be saved annually through these cuts. FY 1992 savings would be 90 percent of eventual annual savings, due to a lag in achieving some indirect savings.

Savings for Army divisions and Air Force wings include troops assigned to units and their support personnel.

FIG. 4.—ESTIMATES OF SAVINGS FROM FORCE STRUCTURE REDUCTIONS

[Billions of current dollars per wing, division, or carrier group]

	1991	1992	1993	1994	1995	1991–95
Army divisions:						
In Europe	2.1	4.0	4.6	4.7	4.9	20.3
Outlays	1.6	3.6	4.6	4.7	4.9	19.4
In Conus	1.0	2.0	2.3	2.4	2.5	10.2
Outlays	.8	1.8	2.3	2.4	2.5	9.8
Air Force wings:						
In Europe	.4	.7	.8	.8	.8	3.5
Outlays	.3	.6	.8	.8	.8	3.3
In Conus	.3	.5	.7	.7	.7	2.9
Outlays	.2	.5	.7	.7	.7	2.8
Navy carrier battle groups						
O&S cost [1]	.4	.7	.8	.9	.9	3.7
Outlays	.3	.6	.8	.9	.9	3.5

FIG. 4.—ESTIMATES OF SAVINGS FROM FORCE STRUCTURE REDUCTIONS—Continued

[Billions of current dollars per wing, division, or carrier group]

	1991	1992	1993	1994	1995	1991–95
Total:						
Cost [1]	.8	1.4	1.6	1.7	1.8	7.3
Outlays	.4	.8	1.2	1.5	1.7	5.6

[1] These estimates do not include indirect O&S costs such as the costs of base-support personnel, other base operating costs, and basic training and health care for personnel on the battle group. Total cost estimate is calculated based on an average of the 30 life cycle cost of a battle group, not on the administration's actual request.

Source: Defense budget project, based on CBO, Budgetary and Military Effects of a Treaty Limiting Conventional Forces in Europe, January 1990, and Ronald O'Rourke, "The Cost of a U.S. Navy Aircraft Carrier Battlegroup," CRS, 1987.

FIGURE 5.—SAVINGS FROM POTENTIAL FORCE CUTS—BEYOND THE 38,000 CUT REQUESTED FOR FISCAL YEAR 1991

[Cuts in active duty military end strength, billions of current dollars]

	1991	1992	1993	1994	1995	1991–95
Cut 20, below request in fiscal year 91:						
Military personnel						
Savings only	0.3	0.7	0.7	0.8	0.8	3.3
Outlays	.3	.7	.7	.8	.8	3.3
Milpers plus O&M, proc.,						
civpers	.8	1.7	1.7	1.8	1.9	7.9
Outlays	.6	1.3	1.7	1.8	1.9	7.2
Cut active duty personnel 250,000 below admin request by 1995.[1]						
Military personnel						
savings only	0.7	2.1	3.8	5.9	8.3	20.8
Outlays	.6	2.0	3.7	5.8	8.2	20.4
Milpers plus O&M, proc.,						
civpers	1.6	5.2	9.5	14.5	20.5	51.3
Outlays	1.1	3.6	6.9	11.0	15.9	38.4
Cut active duty personnel 500,000 below admin request by 1995.[2]						
Military personnel						
saving only	1.1	3.5	6.9	11.0	16.4	38.9
Outlays	1.0	3.4	6.7	10.8	16.1	38.1
Milpers plus O&M, proc.,						
civpers	2.5	8.4	16.5	27.0	40.2	94.7
Outlays	1.6	5.8	12.0	20.3	30.9	70.5

[1] 40,000 below Administration request for fiscal year 1991, another 45,000 in fiscal year 1992, 50,000 in fiscal year 1993, 55,000 in fiscal year 1994. Reductions not completed until the end of fiscal year 1995.

[2] 60,000 below Administration request for fiscal year 1991, another 80,000 in fiscal year 1992, 100,000 in fiscal year 1993, 120,000 in fiscal year 1994. Reductions not completed until the end of fiscal year 1995.

Source: Defense budget project, based on CBO, Reducing the Deficit: Spending and Revenue Options, February 1990.

FIGURE 6.—*The administration's 1991 major research programs and other research and development funds*

[In billions of dollars of budget authority]

Research programs	*Budget request*
Strategic defense initiative	4.5
B–2 bomber	1.6
Advanced tactical fighter	1.0
Milstar satellite communication system	.8
ICBM modernization	.8
C–17 transport	.5
Light armed scout helicopter	.5
Submarine combat system	.3
P–3 antisubmarine aircraft modernization	.3
Joint surveillance aircraft modernization	.3
Air defense initiative	.2
Fixed distribution system	.2
Balanced technology initiative	.2
Space technology	.2
Antisatellite weapon	.2
Subtotal	11.6
Other research and development	26.5
Total	38.1

NOTE.—Numbers may not add because of rounding.

Source: RDT&E Programs (R–1), Department of Defense budget for fiscal year 1991. CBO testimony to Senate Budget Committee, March 8, 1990.

Mr. MOYNIHAN. Mr. President, if the able and learned Senator from Colorado would stay on the floor just another moment, I would like to thank him for his remarks, for the clarity and moderation and at the same time the sense of urgency which he brings to this issue. I believe it was Albert Einstein who, after the first explosion of a nuclear weapon, said everything has changed but our way of thinking.

As we encounter the end of the age of totalitarian conflict, as we deal with the threats to world peace that arise from the fragmentation of the Soviet Empire rather than its aggression, we are going to have to change our way of thinking. And it can be done as a collective effort. It need not be something that only a very limited number of people agree to as has been the characteristics of a national security state.

We are continually asked to do things on the basis of information which is withheld. Opening this up, thinking about it the way the Senator from Colorado has done, bringing in the counsel of persons like the Comptroller General, who he cited, and our very distinguished chairman of the Armed Services Committee and his own expertise in this matter is refreshing. It is important. And the fact that it comes at the end of the day only means it is a good thing to start with the first morning we reconvene.

I congratulate him and say I learned from what he had to say and I hope he will keep saying it.

Mr. WIRTH. Mr. President, I greatly appreciate those remarks, especially given that they come from somebody with the background of the distinguished Senator from New York. I feel we have this enormous disconnect. On the one hand, we are being asked to commit 50 percent more money to defense than we did at the height of the cold war and at a time when the cold war is over. We are being asked to do that, and yet we are starving the institutions that are necessary for our survival in a new globe, which are environmental, income security, which the Senator has been so involved with, and education.

We are being asked to spend $300 billion, almost 50 percent more than the cold war average, but we are not spending any money on education or the environment or housing. It just does not fit together. It is our job as members of the loyal opposition, it seems to me, to point out these difficulties and to try to do it as dispassionately and carefully as we can.

Mr. MOYNIHAN. Of the $70 billion the Senator from Colorado refers to, more than at the height of the cold war, every penny of that could be ascribed to the raiding and the looting of the Social Security trust fund. The surplus this year will be $70 billion. We are using pension money to buy B–bombers at a billion dollars a copy that we do not need.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 2433 legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RELATIVE TO VACANCIES ON THE SOCIAL SECURITY BOARD OF TRUSTEES

Mr. MOYNIHAN. Mr. President, I rise once again to submit a resolution to express the sense of the Senate that the President ought promptly to send to us nominations for the vacancies on the Social Security Board of Trustees. These are the public members as the statute provides.

I do so, Mr. President, in the company of the distinguished chairman of the Committee on Finance, Senator BENTSEN; Senator BRADLEY, and Senator HEINZ, also distinguished members of our committee.

As the Chair knows, in the Social Security amendments of 1983, Congress made provision for two members of the public, one a Democrat and one a Republican, to serve on the Board of Trustees of the Federal old-age and survivors insurance and disability insurance trust funds. The public trustees are nominated by the President and confirmed by the Senate for 4-year terms. The other trustees are the Secretaries of the Treasury, Labor, and Health and Human Services who serve ex officio.

In accordance with this arrangement, in September 1984, President Reagan nominated the first public trustees and these nominees were duly and promptly confirmed by the Senate. We had begun what seemed to us a useful innovation in the protection and the oversight and holding in trust of these trust funds.

The terms of the original members, their statutory terms, expired September 28, 1988. But subsequent recess appointments of the same individuals expired at the end of the last session of Congress, as provided in the Constitution, with the consequence that the posts of public trustees to the Social Security trust funds have been vacant ever since.

On June 13, 1989, after almost half a year had passed in this situation, Senator BENTSEN, our chairman, and I, as chairman of the Subcommittee on

Social Security, wrote to the President, President Bush, and recommended that Dr. Alicia Munnell, who is senior vice president and director of research of the Federal Reserve Bank of Boston, be nominated as the Democratic public trustee.

I state with more than the usual senatorial confidence that we sometimes invoke hereabouts, that we would not find in the country a better qualified person. Dr. Munnell is an economist, a banker—central banker—but also a person who, in her scholarly work, has paid special attention to the Social Security System and to the Social Security trust funds, and would be just the ideal public representative. She is the kind of person we had in mind when we created the post.

The statutory duty of the board of trustees is to hold the trust funds, and their most public act each year is to submit to Congress an annual report on the status of the funds, not just the funds but the system itself.

We seek to keep the trust funds in close actuarial balance for a 75-year period, three-quarters of a century into the future. There is no other such exercise made in American government. It is not an affair of amateurs. Maintaining this system is a task that I think it could be said when we first undertook to do it, we were not really that sure how it ought to be done. But over 25 years we have learned a great deal.

Eminent public men such as Robert J. Myers have served as chief actuary. The chief actuaries of the system have been persons of great eminence, and that distinction, if I may say, continues to this day.

Under the Social Security Act, the annual report of the trustees is to be submitted no later than April 1. I regret to say that it is now April 5. We have no report. The trustees have not reported. In a private trust fund this would at every minimum raise eyebrows, if not alarms.

I grant, Mr. President, that the date has slipped before. But the fact is the law says April 1, and for a report on a very large amount of money. A quarter of a trillion dollars, and we have no report.

One of the reasons I dare to think that the report is late is that there are no public trustees to attest to it. This is clearly the case. Whether it is the reason that we have a delayed report, I do not know. But it is inexplicable to this Senator that public trustees have not been nominated.

I do not wish to raise any partisan concerns here. This is a bipartisan concern in this body. The sense-of-the-Senate resolution I shall shortly send to the desk is a bipartisan resolution in the sense that Members from both sides of the aisle have supported it.

But at a time when the very gravest questions have arisen about the ongoing use of these funds as if they were general revenue, it seems to me singularly inappropriate that the trustees have not sent forward their report.

I have to assume that a majority of the trustees are sufficient for transmitting a report to the Congress with simply the positions of public trustees vacant. But I would like to suggest, Mr. President, that the Treasury Department does not seem to comprehend the alarm that is spreading in the country about this issue.

It would be some 8 weeks since the occasion when the distinguished Senator from Pennsylvania [Mr. HEINZ] and I appeared on the "Today Show," NBC television, and the moderator of that morning television show observed that I had referred to an editorial in the Rochester Democrat and Chronicle, which said what is taking place with the trust funds is thievery: "There is a word for this, thievery."

The moderator said to Senator HEINZ, would you agree with that characterization? And with the sort of bluntness—clarifying bluntness, if I can put it that way—that he often brings to debate on this floor, he said, "Certainly not. What is going on with the trust funds is not thievery. It is embezzlement."

Mr. President, we do not often hear the word embezzlement used on this floor with respect to the internal workings of the Federal Government. But, indeed, on five occasions in the 1980's, trust fund bonds were cashed in by the Secretary of the Treasury to obtain money to spend for non-Social Security purposes. They spent it to pay bills, pass out appropriations. They cashed in these trust funds. And, the Congress was not notified. In 1985, a total of $28 billion. And the public trustees then in office were not notified, as best we can tell.

We had to legislate to restore the funds lost during the period this "disinvestment"—a characteristicly disingenuous term—took place. What is disinvestment? They were cashed and the money was used for something other than benefits. That money is only to be used for benefits. Or let me say should only be so used. It is a technical fact the Treasury can use them for other purposes and does now. And it ought not. At least in the judgment of this Senator, it ought not. At the very minimum we have the right to hear the views of two public trustees whose position is established by law but which position is vacant.

The Treasury must know it is trifling with the confidence of the American public. If it cannot read the editorials, it can surely look at the cartoons, which are often more illuminating, in any event. This very morning, Her Block, the incomparable Herb Block has yet another cartoon in which he depicts three trust funds: The highway trust fund, the aviation trust fund, and the Social Security trust fund, the largest of all, broken into by his incomparable bank robbers with black eyeshades and sacks over their shoulders with the loot.

As I recall the caption, it was one of the robbers, the administration, saying to a bystander, "Don't be irresponsible—if you want us to stop robbing banks, tell us where else we can get this kind of money." There is a certain and particular quality to Herb Block's humor, but an underlying truth, invariably an underlying truth.

We will shortly be asking are there no public trustees, for fear that the trustees might go public, might object to the use of trust funds as if they were general revenues. They are not.

Mr. President, these are not general revenues. If you look at your paycheck, as Americans will do, the deduction for Social Security—disability insurance, survivors insurance, and retirement benefits—is next to a designating FICA, which stands for Federal Insurance Contributions Act, set there in 1935 by the Congress, and at the very specific insistence of President Roosevelt that these be separate funds, put into a special bond. It is a Treasury bond, and is never redeemed below par.

But be that as it may, Mr. President, the law provides for public trustees. It says that the President ought to nominate such trustee and allow us to consider their confirmation. We can assure, I can speak on behalf of the Finance Committee, we will hear these appointments immediately and promptly report to the full Senate the judgment of the committee and get this job done.

If ever there was a public trust, it is the Social Security trust funds. Public trustees are provided for by law. It verges on something less than seeing that the laws are being carefully executed. But those persons' nominations have not been received for these positions.

Accordingly, Mr. President, I send to the desk for myself, Mr. BENTSEN, Mr. BRADLEY, and Mr. HEINZ a sense-of-the-Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution for the information of the Senate.

The legislative clerk read as follows:

A resolution (S. Res. 269), to express the sense of the Senate that the President ought promptly send to the Senate nominations for the vacancies on the Social Security Board of Trustees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution? The Senator from North Carolina.

Mr. HELMS. Reserving the right to object.

Mr. MOYNIHAN. And I do hope my friend will say that he will not object.

Mr. HELMS. I cannot say that, because Senators on this side have asked me to interpose an objection and express for them, to the Senator from New York the hope that as soon as we get back, language agreeable to them and to the Senator can be agreed to.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HELMS. Certainly. I was going to yield the floor in just a minute, after I object.

Let me say to the Senator from New York, Mr. President, that he has served this Nation well by raising this general question.

For many, many years, predating my coming to the Senate 17 years, 3 months, and 2 days ago, I was frequently condemned for having pointed out on our television and radio stations that there was no money in the Social Security trust fund, just a bunch of IOU's. People did not seem to understand that then. They could not believe it, just as I am sure the Senator has experienced himself. He has found people in total disbelief that the money is not there.

So I want the Senator to know that on the general proposition of 'fessing up about this charade about a trust fund, that he has served the public well, and I commend him for it.

Mr. President, I am constrained to object.

The PRESIDING OFFICER. Objection is heard. The resolution is placed on the calendar under the headline of Resolutions and Motions Over, Under the Rule.

Mr. MOYNIHAN. Mr. President, I would like to thank the Senator from North Carolina for his generous remarks, characteristic-generous remarks. May I ask him, do I understand him to have said that there are Members on the Republican side who would like to propose changes in the language of our resolution?

Mr. HELMS. That is my understanding. The Senator has served in an acting leadership role many times, just as I am, and I am told that Senators on this side wish to discuss the language of the resolution with the Senator from New York and hope that some compromise can be achieved.

Mr. MOYNIHAN. Mr. President, I am heartened by that information, and I am, of course, available for any consultations. The day is not done, and I am sure before it is over we will agree to some happy conclusion.

I yield the floor.

Mr. HELMS. Mr. President, I thank the Senator. Again, I commend him for the effect he has had on the consciousness of the people of this country. I think he has gotten the attention of a lot of people who were not even aware of what was going on. This has been going on on a bipartisan basis, administration after administration afer administration.

CHINA'S BOUQUET OF BARBED WIRE

Mr. HELMS. Mr. President, yesterday's Financial Times of London reported that a French company, Remy-Martin, is using Chinese slave laborers to produce the grapes that go into its wine produced at a plant near Beijing, and that this wine is being sold in the United States and in Europe under the "Dynasty" brand name.

Ms. Colina MacDougall, the Financial Times' China specialist, suggested that her readers "spare a thought for the people who have grown the grapes" the next time they go into a Chinese restaurant.

The Presiding Officer and other Senators, those who may be watching television in their offices, may be interested in examining an enlargement of the design of the label for this Dynasty brand white table wine as sold in the United States. I have had it enlarged so that it can be seen by the Chair and also by those watching the television.

This is a white table wine as sold in the United States. I am informed that this same Chinese wine may also be sold in the United States under the label using the Chinese word for Dynasty, which is "Wangsau." That is spelled W-a-n-g-s-a-u.

You can easily see, Mr. President, with this lively scene portrayed on the label, the green mountains and the neatly kept fields, what impression that makes. It says, "A medium dry wine which derives its refreshing flavour from Muscat grapes grown in the Tianjin region of China," and it says in smaller letters, "Product of China," and in even smaller letters, "Produced and Bottled by the Sino-French Joint Venture Winery, Ltd.," and so forth and so on.

Now, then, this wine and this label need to be examined because, if you look at that beautiful label and the rolling hills and the neatly kept fields, you have no hint of the cruel conditions which the slave laborers must endure in order to produce the wine.

Remy's Hong Kong manager calls the prison camp well-disciplined, and no doubt it is because the Communists and their camp followers in the Western business community prefer order and discipline because to them freedom and democracy are kind of missing. They do not want to interfere with making that money off of slave labor.

Now, like all other slave labor camps in the Communist Chinese gulag, the Tuanhe camp is in fact a death camp. As long ago as 1971, the Senate Judiciary Committee estimated that 25 million people had gone to their deaths in camps just like this one, death by exhaustion and inhumane living conditions.

The practice did not end in 1971. If anything, it has gotten worse. Ms. MacDougall, of the Financial Times of London—and she is regarded as a respected specialist on China—Ms. MacDougall quotes a human rights worker as saying to her, "Labor reform camps around Peking are absolutely stuffed with people since the Tiananmen crackdown last year." That provides an answer to the question of what became of all those students and teachers and workers and ordinary Chinese people who have absolutely disappeared without a trace during the past 10 months.

Consider this, Mr. President. The Chinese Communists, just like every other Communist regime in history, are desperate for money, hard cash. That is what brought Gorbachev and the Soviet Union to its knees. It was not a failure of anything except their economy. If their economy had blossomed, then there would be no reform anywhere in Europe, I can guarantee you that.

But the Chinese Communists, by using slave labor at no cost, obviously can undercut prices of products on the international market produced by free workers. For their Communist masters, these slaves also produce textiles which are coming into this country. We addressed this question on this floor yesterday. These slaves also produce steel and coal and electronics and industrial chemicals and machinery and other agriculture products, all for export.

Ms. MacDougall, of the Financial Times of London, reports that grape workers in China receive $10 per year—I repeat, $10 per year—for their work in producing the grapes of this wine. Slave laborers working in other sectors are no doubt paid at approximately the same rate, and that is the only way Communist China can be competitive, by using slave labor.

There are laws in the United States and in Britain and in Canada and perhaps even in France—I am not sure about France—against importing slave labor produce imported from countries like China, but these laws are by no means being enforced. These laws are filled with loopholes.

Mr. President, I am at this moment in the process of drafting a new bill to close the loopholes, so far as the United States is concerned, and increased enforcement of the law. Surely we, as a free nation, are not going to be party to the misery of the slaves in Communist China or anywhere else. Senators will be invited to cosponsor this legislation when I have completed it.

As a practical matter, I recognize that there may be very little we can do to close those slave labor camps in Communist China, but this much we must bear in mind. We are not and never should be obliged to provide a market for the products of these

camps and thereby make them all the more profitable.

Mr. President, I ask unanimous consent that the front page article from the April 4, Financial Times of London be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHINA'S BOUQUET OF BARBED WIRE

(By Colina MacDougall)

Next time you go to your local Chinese eatery and order Dynasty wine, spare a thought for the people who have grown the grapes. They may be inmates of one of China's forced labour camps.

Vineyards at the Tuanhe "labour re-education camp" south of Peking supply fruit to the Sino-French wine-making venture at Tianjin, which exports about 400,000 bottles to the US, UK and around the world. A bottle of Dynasty costs about £4.20 in London's Chinatown.

Imports produced by forced labour are forbidden by both US and UK law if they compete with items made domestically. This legislation as it affects China has been pretty much ignored in both countries. "This has never crossed our desks at all," said officials at the Foreign Office and Department of Trade and Industry.

"I wouldn't stop drinking it just because the grapes were grown by prisoners," said one London restaurateur whose fashionable restaurants in Chelsea stock it. "I'd rather they were growing grapes than in the salt mines."

But in the US, Jesse Helms, Republican senator for North Carolina, is drafting an act which will cover products made in circumstances which infringe human rights. If the draft becomes law—and debate on the issue is expected in May—many US imports and US joint ventures with China could come under scrutiny.

The venture, set up by Remy Associates (whose European company Remy Martin makes the cognac) and the Tianjin wine-makers co-operative, last year produced 1m bottles of Dynasty.

It is to be sold under a Chinese name in the US, according to Remy executives, to give it more appeal in Chinese restaurants. Of the 60 per cent sold in China, most goes to hotels.

The operation has grown steadily since its beginning in 1980 and the partners plan to renew their agreement for another 10 years. The venture also produces a Chinese style medicinal beverage, Dragon and Phoenix Three Wine, exported to Hong Kong.

"Yes, we get grapes from the Tuanhe prison farm," said Mr. John Wong, zone manager for north-east Asia for Remy and Associates, the Hong Kong company. "I went there a few years ago. It's a well-disciplined place, though I didn't see much—mostly just the reception room."

Harry Wu, now in California, spent 1962-1968 there, out of a total of 19 years in labour camps. His crime, he says, was to criticize Sino-Soviet relations when he was a student during the Hundred Flowers free-speech movement in 1957. In his time, Tuanhe exported 8m lb of grapes to Hong Kong and Japan.

The grapes come from 3,000 hectares of vineyards, cereals and other fruit cultivated by about 2,000 prisoners. Liu Shili, the camp commandant, said in 1986 that the prison made a net profit of $326,000, of which 60 per cent went to the state, 80 per cent of the rest to the staff and the final 20 per cent to the prisoners—about $10 each.

Dynasty is only one of thousands of exports made or partly made in China's prisons. Tuanhe also resported selling lamp wicks to Australia last year. Prison-produced textiles, machinery, pigs, meat, rice, steel products, tea—all appear to be exported.

Many small items are repackaged in Hong Kong. Mr. Wu recalled mining coal at a camp in Shanxi province which he says was sold to the UK. The Yingde black tea he can buy in California comes from a labour camp in Guangdong province.

"Labour reform camps around Peking are absolutely stuffed with people since the Tiananmen crackdown last year," said a human rights worker. "What makes the use of labour from Tuanhe particularly depressing is that most prisoners are there on 'labour re-education' " (to which people can be sentenced without trial).

Mr. Wu estimates that there may be up to 20m prisoners in Chinese labour camps. Human rights organizations say many slave in very harsh conditions.

Shandong province recorded that in 1957-87 prison-made exports went to 81 countries. Anhui claimed in 1989 to have earned $3.7m by prison exports, while Hubei sold prison-made silk, cotton, plate glass and machine tools to Europe and the US.

Mr. HELMS. Mr. President, I thank the Chair very much. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

CAMBODIA

Mr. KERREY. Mr. President, in a few days I will be leaving for a week-long trip to Southeast Asia. Most of my time on this trip will be spent in the nation of Cambodia.

I believe it is terribly important for our Nation's strategic health and our moral well-being that we take a long and hard look at our policies in Indochina and that our policymakers find out for themselves what the people of Cambodia want and need so that they can live in peace and with dignity.

Most of us have only a hazy image of who the Cambodian people are. If we think of them at all, we imagine a nation of victims, of nameless peasants. In fact, the Cambodian people possess a rich cultural heritage that celebrates and nurtures the family, community, and the spiritual life. Their tradition teaches them to revere the memory of their ancestors and to hallow the places in which they lived. We in our technological and fast-paced society could learn a great deal from the rootedness and continuity celebrated by the Cambodian people. Today their lives and culture are wracked by war and violence. And our current policies, Mr. President, are not helping them.

Ever since it gained its independence from France in 1953, Cambodia has played the unlucky role of political football in the deadly game of East Asian politics. Our ill-advised invasion of 1970 was part of a long history of interventions by foreign powers, as was the Soviet-backed Christmas invasion by Vietnam in 1978. Aggressive and expansionist though that action was, it brought some measure of deliverance to the people of Cambodia from the genocidal horrors that were inflicted on them by the xenophobic Khmer Rouge since 1975.

Following the invasion, the Khmer Rouge took to the hills on Cambodia's border with Thailand, where, with the help of Chinese arms and money, they have been waging guerrilla war ever since on the Vietnamese-backed government of Hun Sen, himself a former Khmer Rouge commander. They have been joined by two other resistance groups who, unlike the Khmer Rouge, are not Communists and to whom our Government has been sending covert aid: The followers of the elusive Prince Norodom Sihanouk and the Khmer People's National Liberation Front led by former Prime Minister of Cambodia Son Sann.

Mr. President, our Cambodia policy is a textbook example of cold war diplomacy. Trying to play the Chinese off against the Russians, we send covert aid to the Chinese client busy shooting at the Soviet client, on the theory that thugs they may be, but at least they are our thugs. The problem with that way of thinking, Mr. President, is that the cold war is over.

The problem with that way of thinking is that the cold war is over. I know that this particular area and this particular policy causes many Americans some confusion, and there is a great emotional barrier that separates many of us from even looking into China in 1990.

Mr. President, there is an excellent article written by Mr. Peter Grier, who is the State Department and Pentagon correspondent for the Christian Science Monitor, that appeared in the April 1990 edition of the Washington Monthly, that is entitled "Dealing With the Devil." It is an excellent article. It seems to me that it lays out with good detail some of the history, and I think sorts out in rather clear fashion the details of our own policy there, and how we have managed to arrive where we are in 1990. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

[From the Washington Monthly, April 1990]

DEALING WITH THE DEVIL

(By Peter Grier)

On April 11, 1975, the chief of the United States mission in Beijing, George Bush, asked a storied prince to return to his homeland.

The exile was Prince Norodom Sihanouk of Cambodia, a small man given to nervous giggles and strangely effective political theatrics. Placed in power by the French in 1941, Sihanouk ruled Cambodia with vigor and inconsistency before being ousted by right-wing legislators in 1970.

Now he was living in a Beijing mansion and filling his time with cooking experiments. In Cambodia, the government of his replacement, General Lon Nol, was tottering as the fighters of the leftist Khmer Rouge battered their way toward Phnom Penh. Bush, through a French diplomat, offered to fly Sihanouk back to his capital if he would agree to once again become head of state. The United States felt that Sihanouk, a nationalist figure still beloved by peasants, was the only one who could head off a Khmer Rouge victory.

For Sihanouk it must have been a moment of supreme irony. His relations with the U.S. had often been poor, and U.S. officials had given tacit support to the rebels who had toppled him. Furthermore, he was in China as the nominal representative of the Khmer Rouge guerrillas, though in fact he detested and feared them and was as much prisoner as emissary.

But the American change of heart had been too long delayed. By the morning of April 12, the Khmer Rouge were in the Phnom Penh suburbs, and no one could guarantee Sihanouk's safety if he returned. He turned down the U.S. offer. "It was just too late," Sihanouk later told an interviewer.

ZEALPOLITIK

Today the former U.S. chief of mission is president. Sihanouk is still in exile. The murderous Khmer Rouge, having triumphed and fallen, are once again fighting their way toward Phnom Penh. And once again the United States may act too late to stop them.

The Cambodian killing fields, the emptying of the cities, the mindless xenophobia—all that may yet return. If it does, the United States will bear heavy responsibility for the tragedy. State Department officials say they don't want the Khmer Rouge back in power. But in one of those strange twists that gives geopolitics a bad name, the United States is for all practical purposes a Khmer Rouge ally.

Why a nice country like America got on the same side of the table with the worst killers since the Nazis is a complicated story. But the fundamental reason is that America's long-standing fascination with China was transformed by Henry Kissinger's realpolitik into a religion, one which leads its many zealots to bend over backward, in the face of all kinds of contravening developments, just to be China's friend. Kissinger's decision to play the China against the Soviets was in its day brilliant, establishing a reapproachment with a country showing some domestic promise while giving much pause to a menacing Soviet Union. But in the last decade the United States has frequently found itself blindly doing things for China that not only make no strategic sense but are also morally disastrous. Under the guidance of would-be China hand George Bush, this past year the fixation became particularly absurd and embarrassing: What was the point after Tiananmen Square and the triumph of glasnost? Nowadays China doesn't even amount to a glimmer of a reason for supporting the Khmer Rouge. At last, after years of moral complexity in the Far East, the United States has found a place where it can remove all ambiguity from its actions: In Cambodia we are doing a bad thing for a bad reason.

Playing the China card in Cambodia fits beautifully with what might be called the Metternich Fallacy—the belief that morality plays only a bit part in foreign policy and that it's the country with the most ingenious schemes that wins.

The current flurry of international diplomatic activity over Cambodia may yet produce some sort of workable, UN-sponsored peace plan. More likely it won't, and fighting will continue in a nation already as traumatized as any on earth.

Admittedly the situation in Cambodia is far from simple. The Khmer nation has long served as a regional Belgium, a battleground for larger neighbors who don't want to fight on their own territory. For those who have preferred to ignore Indochina since the Vietnam war, here is a quick glossary of the players and their positions:

Khmer Rouge.—Still the unspeakable thugs they used to be, still apparently headed by the notorious Pol Pot and his henchmen, the Khmer Rouge are the strongest faction in the tripartite force fighting the incumbent Cambodian government.

China.—Main patron, banker, and armorer of the Khmer Rouge, China is motivated by a desire to inflict as much pain as possible on a nation it views as an ungrateful upstart and regional rival, Vietnam.

Prince Sihanouk.—Head of one of two noncommunist resistance factions, and main political spokesman for the tripartite resistance, Sihanouk is continuing his uneasy associations with the Khmer Rouge, who are probably responsible for the death of at least 15 of his relatives.

United States.—Provider of aid for Sihanouk and his fellow noncommunist leader Son Sann, the U.S. hopes the Khmer Rouge role in the resistance somehow will disappear or be contained by Sihanouk political magic.

Hun Sen.—Prime minister of the current Cambodian government, which was installed by the Vietnamese after they conquered Cambodia in 1979; a former Khmer Rouge commander who defected to Vietnam in 1977.

Vietnam.—Having invaded Cambodia in the wake of brutal Khmer Rouge border raids, Vietnam has apparently now withdrawn its occupying forces but continues to provide arms and aid to Hun Sen.

USSR.—Once Vietnam's main backer, the Soviet Union may well have pushed for the Vietnamese troop withdrawal.

American officials have no illusions about the Khmer Rouge. They say they don't want them back in Phnom Penh. But the U.S. policy is a strange one of quasi-alliance with a group that is officially an anathema. The United States strongly backs Sihanouk and the Association of South East Asian Nations (ASEAN), both of whom consider the Khmer Rouge a military tool and a bad guy who is easier to deal with if he's on your side. The Khmer Rouge have an estimated 30–40,000 fighters, far more than the other resistance factions. Sihanouk calls siding with them a "terrible choice" he is obliged to take.

"We can't disagree with Sihanouk," says a State Department official. "Maybe there are other solutions, but we haven't found any."

The vision held in Foggy Bottom and ASEAN embassies goes like this: We'll be able to defang the Khmer Rouge with a comprehensive political solution. Either through a direct agreement between the resistance coalition and the Hun Sen government or under UN auspices, all the different political factions in Cambodia will agree to free elections. Military units will move to quarantine zones in the country and voluntarily give up their arms. The Khmer Rouge will get .01 percent of the vote in an election, providing their main backer, China, a face-saving excuse to drop them. With no money, no support, and no bullets, the last of the Khmer Rouge will live out their days as guerrillas, easily handled by Sihanouk or whatever democrat wins the vote.

Khmer Rouge leaders have indicated their willingness to go along with parts of this political vision. At last year's Paris peace talks, to everyone's astonishment, the Khmer Rouge said OK to quarantine zones.

But do we really believe this? Abiding by the ballot box? Voluntary disarmament? This is the Khmer Rouge, not the Boy Scouts of America. This is one of the most inexplicable horrors of modern times, a guerrilla group from Stephen King. In the three-and-a-half year period they ruled Cambodia, the Khmer Rouge killed more than a million people through execution, starvation, and overwork. They took the country back to a proclaimed "Year Zero" and made grass grow in the streets of Phnom Penh.

If the Khmer Rouge are to be kept from ever again seizing Cambodia, they will have to be defeated in war. The only questions are: When do you fight them, and who does the fighting? If you wait too long, it could be just like 1975—too late to stop them.

"If the Khmer Rouge take over, we'll share complicity," says Jeremy Stone, son of I.F. Stone, president of the Federation of American Scientists and a fierce critic of U.S. Cambodia policy.

TANKS AGAIN

Three problems combined with the overarching China fixation to dog the U.S. policy towards postwar Cambodia from the outset: overemphasis on superpower involvement, too much Washington intramural politics, and a considerable desire for revenge against Vietnam.

When Vietnamese Soviet-built tanks rolled into Cambodia on Christmas Day 1978, the invasion could have been seen as a nationalist struggle best avoided by the United States. Some high U.S. officials—notably, Secretary of State Cyrus Vance and his assistant secretary for East Asia, Richard Holbrooke—throught exactly that.

Cambodia and Vietnam, after all, had been vacillating between uneasy cooperation and war for centuries. Enmity was deep-rooted, particularly on the part of Cambodians, who had seen much of their territory gradually swallowed up in greater Vietnam. In his excellent history of 1970 Indochina, former Far East Economic Review correspondent Nayan Chanda tells a story he heard countless times in Khmer Rouge Cambodia, involving three Khmer forced laborers in 1820 who were punished by their Vietnamese overlord for not working hard enough. "The Vietnamese buried the hapless Khmers to their necks, so the story

runs, and used their heads to support a kettle for boiling water," writes Chanda.

But Jimmy Carter's National Security Advisor Zbigniew Brzezinski saw the new Indochina war as a black-and-white struggle between superpower proxies. In his view, Vietnam was a client state urged on by the Soviets in an effort to make a strategic thrust against the Chinese, Cambodia's ally. True, the Khmer Rouge were somewhat distasteful and hard to paint as aggrieved innocents. But it seemed that siding with a two-bit regional villain was surely defensible if it meant standing nobly against Soviet expansionism.

In his memoir, "Power and Principle," Brezezinski writes that in a January 1979 letter President Carter "reminded Moscow of its special responsibility for Hanoi's action and stressed that continued Vietnamese aggression could lead to serious problems for the USSR. These warnings went unheeded." And what might those threatened "serious problems" be? Mostly one—a united U.S.-Sino front. Brezezinski cautioned the Soviets that "their actions might have some impact on the nature of the American-Chinese relationship." In other words, get your friend to leave Cambodia to its genocidal maniac rulers or we'll tip the global geostrategic balance against you.

Besides anti-Soviet sentiment, the other main reason for taking this line was the, above all else, U.S. Far Eastern policy had become obsessed with keeping China happy. And the Chinese wanted the United States to support the Khmer Rouge. China saw the new Indochina war as a Soviet-backed move against their own region of influence. During his visit to Washington in January 1979, Deng Xiaoping spoke ominously of teaching Vietnam a lesson, foreshadowing the punitive Chinese attack against Vietnam that was to follow shortly thereafter. One major lesson of this move was that outmoded Chinese tactics were little match for a battle-hardened army, but that didn't stop Brezezinski from admiring Deng's style in his memoirs. In words that subsequent events have given more meaning than he intended, Brezezinski wrote that "I secretly wished that Deng's appreciation of the uses of power would . . . rub off on some of the key U.S. decisonmakers."

Milquetoast on China, the United States was anything but when it came to Vietnam. A trade embargo had been placed on Vietnam after the fall of Saigon, and the American public and Congress had no interest in extending a hand to a nation that had so recently bested them on the battlefield. Brezezinski considered relations with Vietnam a minor issue—one that threatened better ties with China.

So he scuttled the State Department vision of balanced openings to China and Vietnam in favor of the tilt to Beijing. The illogical outcome of this approach, as applied to Cambodia, became apparent in late 1979. By then the Khmer Rouge were reduced to desperate guerrillas, and Vietnam firmly controlled the Cambodian nation. But the United Nations Credential Committee voted 6-to-3 to let the Pol Pot regime keep its UN seat. The United States voted with the majority. Even though President Carter, human rights advocate, had called the Khmer Rouge the "greatest violator of human rights" in the world, his administration voted to give them international recognition. Similar votes transpired in subsequent years.

This policy rolled along unchanged through the early, firecely anticommunist years of the Reagan administration. With domestic tax and budget cuts high on the Reagan agenda, Nicaragua was the only non-Soviet foreign issue that got much attention in the White House.

In 1982 Secretary of Defense Caspar Weinberger swung through the region and took the opportunity to reiterate U.S. coldness to Vietnam as long as Cambodia was occupied. "We will not reward Vietnamese aggression of any kind," he said. At the same time, there was still reluctance on the part of the State Department to be drawn into a greater role in the Cambodian conflict. In 1985, then-Assistant Secretary of State for East Asian Affairs Paul Wolfowitz was testifying before Congress that military aid for the noncommunist rebel factions was a bad idea, and that the U.S. wouldn't even indirectly aid the Khmer Rouge.

But that same year a new Washington intramural battle over Cambodia broke out. This one wasn't between executive branch factions. It began in Congress, with Rep. Stephen Solarz as its instigator, and it ended by opening a pipeline of U.S. aid for the Khmer Rouge.

THE SOLARZ SYSTEM

Foreign affairs is not traditionally popular on Capitol Hill, due to its inherent lack of vote-getting potential. Legislators who take to it always face the danger of the "Chuck Percy Syndrome," after the former GOP senator from Illinois who was defeated partly because voters thought he was spending too much time hobnobbing with foreign dignitaries and not enough time in Alton or Chicago.

In this climate of low interest, Solarz has risen easily to power. He's smart, energetic, and meddlesome—reportedly, during last December's Philippine coup attempt he requested an Air Force plane so he could fly to Manila to criticize administration actions on site.

On Capitol Hill he is widely considered Mr. Asia, even by those who wish it weren't so. In 1985, Solarz decided that the logical end of the U.S. approach to Cambodia could be the horror of the return to power of the Khmer Rouge. His solution: Arm the noncommunist factions of the tripartite resistance. Even though the administration hadn't requested it, Solarz pushed for $5 million in aid to the fighters of Prince Sihanouk and Son Senn.

Ultimately the aid package passed by a large margin. In the House, the feeling among some members was that the Democrats needed an opportunity to look tough in the context of their opposition to arming the Nicaraguan contras and Ronald Reagan's continuing diatribes about the evil empire. Rep. Jim Leach, a moderate Republican and ranking minority member of Solarz's subcommittee, opposed the aid. "I have a sense that this committee is trying to make a mark on this town, that we're going to be more anticommunist than Ronald Reagan. That is tough competition," he said at the time.

Between 1985 and 1988, Congress voted $5 million a year in aid to the resistance. Largely due to Leach's efforts, the money was supposed to be for "nonlethal" aid—bandages and food as opposed to bullets. But as the experience with the Nicaraguan contras shows, the concept of "nonlethal" aid is a convenient fiction. Every dollar not spent on food is one freed up for AK-47s.

In 1989 the issue of forthright lethal aid arose: The White House went to the Senate and House Intelligence Committees with a request for covert funds to arm the Sihanoukist factions. With strong White House backing—including Dan Quayle's presence in the Senate chamber in case his tie-breaking vote was needed—the concept of lethal aid for Cambodia was approved by both the House and Senate last July.

STOOGE OF THE ROUGE

Ignited by an obsession with China and superpower politics, fueled by congressional macho posturing, it seems to be something driven by people who aren't watching where they're going. In July 1988, a senior administration official, briefing reporters on a trip by Secretary of State Shultz to Asia, was asked what measures the United States had in mind to keep Pol Pot from returning to power. "This is not anything that we have carefully worked out, by any means, or thought about to the degree, or extent of what is possible," he said, displaying a startling lack of follow-through.

Surely this is geopoliticism run amuck. Set aside for a moment whether Cambodia should have been seen as a superpower cockpit at all. Where else in the world are we continuing to pursue a policy which began as anti-Soviet and pro-Chinese? Not only have these two powers since swapped images—they're not even that mad at each other anymore. Remember that it was Gorbachev's visit to Beijing that forestalled the crackdown on the Tiananmen protesters.

While Vietnamese troops remained in Phnom Penh, the policy had some cover. It might have been asking too much of the U.S. body politic for it to condone the aggressive occuption of a neighbor by a country that had only lately been killing GIs. But it's 1990 now, and the Vietnamese have apparently pulled out and gone, leaving the Hun Sen regime they installed in their wake. It used to be that U.S. officials held out such a withdrawal as the goal they were after. As late as July 1988, Assistant Secretary for East Asian and Pacific Affairs Gaston Sigur was telling Congress: "We have refrained from establishing normal diplomatic relations with Vietnam as a demonstration of our opposition to Vietman's illegal occupation of Cambodia."

Is any change in U.S. attitude imminent? Probably not, if Secretary of State James Baker's comments on the subject early this year are indicative. At the Senate Foreign Foreign Relations Committee annual kickoff hearing. Sen. John Kerry questioned the continued full support of the tripartite resistance: "I'm deeply concerned that our current policy . . . is perhaps playing a greater role in facilitating the return of the Khmer Rouge than we would like." In reply, Secretary Baker held out the promise of a UN-negotiated political settlement. "I don't think that simply saying, well, let's recognize Hun Sen, let's talk to him now that Vietnam has left, is an answer that will get the U.S. where we want to go," said Baker. Where Baker, sponsor of two secret post-Tiananmen, high-level China missions, wants to go is Beijing.

Perhaps all parties involved will reach agreement on a transitional UN administration, and elections that cause the Khmer Rouge to fade gently into history will follow. Perhaps. But Sihanouk himself has said that a UN role could require that a multinational peacekeeping force—presumably to protect against the Khmer Rouge—remain in the country for 10 years or more.

Equally unlikely is a peace agreement calling for a transitional power-sharing arrangement among the three resistance factions and Hun Sen. Such an all-party coali-

tion would be "extremely fragile and easily shattered so that it would not last long," judges a U.S. Army War College study.

Gathering evidence indicates that Hun Sen is neither an abandoned puppet nor a closet Khmer Rouge but the closest thing to a legitimate leader that the traumatized nation has had in many years.

Joel Charny, the regional director of Oxfam America, a nonprofit international agency that funds development and disaster relief in poor countries, was impressed by a visit to Cambodia earlier this year. As far as he could see, all Vietnamese troops and advisers had indeed left. In Phnom Penh "whole streets that were blocked off because Vietnamese advisers lived there are now open. People bicycle down them," he said. Charny says the most important thing is that Hun Sen has struggled to rebuild the country and shows little evidence of Khmer Rouge like brutality. Compared to the tripartite resistance, "I'll take Hun Sen," says Charny.

START A WAR, LOSE A TURN

Throughout the years of the Reagan and Bush administrations, rhetoric against the Khmer Rouge has increased, but the policy of tacit support has persisted, as China continues to cast its large shadow over the problem. In deference to China, the ASEAN nations have taken a strong stand against Vietnam from the first days of the Cambodian operation.

Even so, Thailand, the ASEAN nation closest to the action, has shown more courage on this point than the United States has. Thai Prime Minister Chatichai Choonhaven has hosted three Hun Sen visits, and in January, 90 Thai MPs delivered Chatichai a petition calling for the ouster of Cambodian guerrillas, including the Khmer Rouge, from Thai territory.

As for Prince Sihanouk, he is no longer the man he was. He seems a captive of the Khmer Rouge even as he denounces them. "The Prince's entourage is penetrated by the Khmer Rouge . . . his army is likewise penetrated in key positions. So it would be grossly imprudent not to regard him as to all intents and purposes a Khmer Rouge stooge," concludes John Pedler, a British journalist.

Somewhere along the way, the concept of morality was left out of U.S. approaches to Cambodia. There doesn't seem to be much weighing as to whether it is right to grope for a perceived advantage in the superpower game by allowing the most evil political faction in the world to continue to exist, not to mention to support it. It is not enough to say we abhor it and will throw it away when it is no longer militarily useful; the thing to be disposed of may not cooperate. Will they really just wither away, these men who have killed millions? In Washington, assistant secretaries like to think they are tough. In reality, they are men with drivers who cannot imagine the toughness of those in the jungle.

The problem is that so often there is legitimate moral ambiguity in foreign policy. Was it right to invade Panama, killing civilians and U.S. troops, if democracy was the result? Is it moral to take bread from the mouth of a worker in South Africa through economic sanctions, if the end is pressure on the white regime? Is covert lethal aid always wrong? If it is, what about our role in Afghanistan? These are arguable questions, and the Fletcher School of Diplomacy types who run U.S. foreign policy learn to set them aside to prevent paralysis so that they can focus on perceived national interest. That's what realpolitik is all about. If an ethical impact statement had to be compiled for every U.S. action in the world, there wouldn't be any.

As a result, the Fletcher class leaves its "moral judgment" switch off. When a policy rolls in that is clearly wrong, it still gets waved right on through the planning department. Most officials just aren't used to thinking in moral terms. The very phrase makes them uncomfortable, or impatient, or angry. They call it a simplistic way of looking at the world. It is, but that doesn't mean some policies aren't just plain wrong.

In Cambodia the U.S. has been playing "Diplomacy: The Exciting Game of International Intrigue." This is a real board game published by Avalon Hill—a classic, in which every participant can play Metternich with his schemes. "Diplomacy" appeals to the Washington policy class. (I know. I play it with them myself.) It is set in the year 1901, in Europe. Players become one of the Great Powers, and negotiate with the others to strike alliances, make attacks, and divide up the spoils. It is full of conversations such as this: "If you support my Army Ruhr into Belgium, Bill's Army Gascony will be forced to cover Brest, thereby preventing him from building a fleet and allowing you to move into the Mid-Atlantic in two turns to make a strategic thrust at Portugal and Spain."

The glow of laying schemes is the thing. They never work out—but, oh, weren't they brilliant?

This fallacy of statesmanship animates the U.S. approach to Cambodia. We have a scheme. The problem is, the Khmer Rouge have guns.

Mr. KERREY. There is an interesting piece in this article, Mr. President. And I will read a couple of paragraphs about it. That is:

On April 11, 1975, the chief of the United States mission in Beijing, George Bush, asked a storied prince to return to his homeland.

The exile was Prince Norodom Sihanouk of Cambodia, a small man given to nervous giggles and strangely effective political theatrics. Placed in power by the French in 1941, Sihanouk ruled Cambodia with vigor and inconsistency before ousted by right-wing legislators in 1970.

Now he was living in a Beijing mansion and filling his time with cooking experiments. In Camobodia, the government of his replacement, General Lon Nol, was tottering as the fighters of the leftist Khmer Rouge battered their way towards Phnom Penh. Bush, through a French diplomat, offered to fly Sihanouk back to his capital if he would agree to once again become head of state. The United States felt that Sihanouk, a nationalist figure still beloved by peasants, was the only one who could head off a Khmer Rouge victory.

Mr. President, this particular episode led, in my judgment, to the unbalanced nature of our current policy. It is an attitude that assumes that all we need to do is choose a racehorse, to pick one individual over another, to have a policy that will work.

As a veteran journalist put it to me recently, today in Indochina, the Soviets are in retreat in Asia as well as Europe, which means that the Chinese who have become increasingly active, end up calling the shots while America remains basically passive, allowing events to proceed of their own accord as if we had no real influence in the region.

Technically, Mr. President, our nonlethal covert aid which journalists and congressional observers estimate to be somewhere between $30 and $20 million this year is going to the two noncommunist groups in the resistance coalition. But the plain fact is most of the fighting is being done by the Khmer Rouge, who also wield the diplomatic muscle in the resistance coalition. While we say we do not want anything to do with the Khmer Rouge, who killed one out of five Cambodians between 1975 and 1978, our money is going to the coalition that they effectively lead.

This administration's policy is in conflict with itself. One day we say the Khmer Rouge participation in any future Cambodia settlement is unacceptable. And the next day we say that we will play ball with them, if Sihanouk insists.

Mr. President, our leaders owe the American people an open accounting and an honest explanation of what we hope to accomplish in Cambodia. We are making a terrible mistake when we become more concerned with who may or may not rule Cambodia than with how that nation ought to be ruled.

A thoughtful assessment of our policies in Cambodia must begin with a definition of our interests there. There are, to my mind, three overarching and compelling reasons for us as a nation to take a continuing and active interest in the fate of Cambodia, and its people.

First, Mr. President, I believe we should take an interest because it is the right thing to do. As human beings we cannot stand back and watch a nation languish under authoritarian rule and civil war. The exact nature of Cambodia's strategic value to the United States is often debated by the members of the defense and intelligence communities. What is not subject to debate is the importance to us of the well-being and friendship of the Cambodian people.

The second reason is because Vietnam is a significant military power in this region. We must understand and tame its expansionism for the sake of our friends and interests in the Pacific. It is always in our interest to encourage free countries with free markets, not just for business' sake but because it is our democratic faith and our will to use that faith to make a better world that gives our own endeavors meaning and purpose.

The third reason is because we will be facing up squarely to what we are doing in Cambodia. It is absolutely essential, if we ever hope to come to grips with our experience in Vietnam, that we do this. We must do this if we

hope to function as a mature and responsible world power.

Mr. President, by now it is clear beyond any doubt that we are entering a new phase of world history. The universal values and beliefs upon which our country was founded and which guided our decisions for 200 years are triumphing around the globe, not because we have imposed them with military advisers and gunboats, but because they are compelling in their own right, and they are just.

We still, as a nation, have a great role to play on the world stage, but first we must understand exactly what we can and cannot do. Cambodia, for me, is a good place to start.

I do not believe that we can just go over there with some magical chess move and solve everybody's problems. Before we can do anything, we have to find out just what is going on in that particular region. For example, on September 26 of last year, Vietnam announced the complete and final withdrawal of all of its troops from Cambodia. Yet, there are persistent rumors of several thousand Vietnamese troops that are still there. It would be a good thing to know if in fact they are still in that country. I believe it is crucial and critical to our policy for us to make that determination.

We do not even know how many people of voting age live in Cambodia; yet, we are rushing quickly to a policy that hinges upon a free and open election in that nation. We do not know how many people would even vote for the Khmer Rouge, who, incredible though it may sound, have adroitly played on anti-Vietnam sentiment and exploited their marriage-of-convenience to Sihanouk to portray themselves as the standard bearers of Cambodian nationalism.

Their return to power in 1975, their defeat of Lon Noll in 1975 was in no small measure, as a consequence of the support Sihanouk gave them saying that the people should rise up against Lon Noll and support the Khmer Rouge as their liberators.

There are many other things we do not know about Cambodia, such as how much popular support the existing government enjoys, and whether it would be possible to construct any future government at all without them. We do not know whether or not the resistance coalition is viable without the Khmer Rouge.

So it seems to me, Mr. President, we blunder about providing assistance to a coalition we hope will itself fall apart, bewildering our friends in the region and spending precious tax dollars to further the goals of some of the greatest mass murderers in history.

I am personally going to Cambodia, not to preach, or stand with a magic wand trying to wave away the problems, not to score, finally, any debating points. I am not going there with some idea that I hope to win an argument upon this floor. I am going there to listen, to learn, hopefully, to understand.

When I return, I hope to further explore the various policy options open to us; whether it would be changing course and refusing to allow the Khmer Rouge their customary seat at the United Nations, as we have up until now, encouraging the non-Communist resistance groups to stand on their own feet, or making use of our trade policy to shore up our relations with our friends in the region.

Unless we change course, our policy will unravel of its own incoherence and demonstrate once again to the people of Southeast Asia that America is a confused and heedless giant whose understanding is too shallow and whose attention span is too short to be of any help in bringing peace to the region.

If, instead, we can formulate an alternative, one that does honor to our deepest values and safeguards our interests, now and in the future, we will have earned the friendship of the Cambodian people and proven to ourselves that we can wield our stength with good sense, compassion, and integrity.

PROTECTION OF THE CHINESE STUDENTS

Mr. KERREY. Mr. President, I want to associate myself with the remarks made earlier this afternoon by the Senator from Illinois [Mr. DIXON].

It seems to me, Mr. President, that President Bush did not in fact in the end issue an Executive order protecting the Chinese students, as was represented to many of us during the debate after we came back from the Christmas recess in January.

The President's veto was sustained at that time, and I believe it is entirely possible that that veto would have been overridden had Congress understood clearly, had the Members of the Senate understood clearly that the Executive order had in fact not been issued, and that what occurred instead was a simple directive to the U.S. Department of Justice.

It seems to me, Mr. President, that the United States has, in this past decade, been blindly doing things for China that not only make no strategic sense, but are also morally disastrous. We must take care in the nineties, when the world will be looking to the United States as a country which—as President Havel said to us in the joint meeting—has had 200 years of uninterrupted progress toward the goal of democracy. They will be looking to us not only for our leadership, but for our words and our moral guidance.

We have provided far more than just words and moral guidance in the past, Mr. President. At times we have responded with our lives and with our help in the defense of individuals whose freedom is being denied them. It is incumbent upon us today, with the possibility of having to give our lives, which is now a remote possibility, that we be prepared to stand with our words in the defense of individuals on this Earth of ours, whose freedom is being denied as a consequence of military dictatorship.

With that, I yield the floor.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. BYRD] is recognized.

LITHUANIAN INDEPENDENCE

Mr. BYRD. Mr. President, on February 25, the Republic of Lithuania held the first multiparty elections anywhere in the Soviet Union in 72 years. Candidates supported by the Sajudis independence movement captured an overwhelming majority of seats in the legislature. On March 11, that new legislature met and unanimously passed a declaration of Lithuanian independence. What a courageous act on the part of those men and women!

I have heard people suggest that the situation between Lithuania and the Soviet leadership is somehow comparable to the crisis that faced President Abraham Lincoln at the outset of the War Between the States, that Gorbachev is simply trying to keep the Soviet Union together, and that their internal affairs are none of our business. I submit that a more accurate historical analogy would be to our own Continental Congress and America's declaration of independence from England. The Lithuanians are not trying to destroy a freely formed, homogenous union because they have a policy disagreement with the current regime. The Lithuanians, like our own Founding Fathers, are declaring their independence from an authoritarian, imperial power that is occupying their country and denying them their own sovereignty.

Mr. President, the people of the Baltic nations have been subjugated by the rule of Soviet Empire for almost half of a century. During that time the United States steadfastly refused to recognize Soviet sovereignty over these nations. We referred to the Baltic States of Estonia, Latvia, and Lithuania as "captive nations." And they are still politically captive, despite the recent elections, and despite the Lithuanian declaration of independence.

Freedom for those nations, which was traded like so much feed grain between Hitler and Stalin during the Second World War, is not yet secured, not yet won, but suddenly we have begun to waver in our support for the restoration of full international sovereignty for those nations. Are we so

concerned not to offend the sensitivities of the Soviet Politburo? Is it inconvenient for the Lithuanians to demand their freedom at this time?

The Lithuanians have taken bold and courageous steps toward securing self-determination. In the wake of these historic events, the United States seems suddenly to have lost sight of what we had hoped for all of these years and lost sight of our own fledging country and the drives and ambitions and hopes and aspirations of our own forefathers in the late 1700's. Suddenly, it is not convenient for us to continue to support the cause of freedom for the captive nations. Have we decided that the freely elected governments of Lithuania and the other Baltic nations must meet some higher test before they can count on our support? The State Department says the new government must be in effective control of its territory before we can establish diplomatic relations. What does that mean? Do we intend to wait until the Soviets have withdrawn all of their troops and relinquished any claim on Baltic territory before we state clearly our support? Does the administration plan to wait until every Soviet soldier has been withdrawn from East Germany before we recognize the newly elected government there? Did President Endara have control of Panamanian territory before we recognized his government? Why, then, have we lost the will to speak out plainly, clearly and unequivocally in the case of the Baltic republics? These people deserve our support. They have pleaded for international recognition, and we ought to make our position clear.

Some may say President Gorbachev has accepted the right of republics to secede and is trying to enact a law to allow secession to go forward in an orderly manner. The People of Lithuania see it otherwise. They believe that this is only a delaying tactic. Mr. Gorbachev's proposition will require a 75 percent approval vote, followed by a 5-year waiting period, and then approval of the Soviet Union. The people of the Baltic countries have good reason to doubt that will ever happen.

They know that immigration patterns over the past 45 years, including the influx of ethnic Russians, have changed the demographics of their countries, and that these changes would make it difficult, if not impossible, to reach the 75-percent hurdle. And they also remember that their countries were forcibly incorporated into the Soviet Union and have been illegally occupied since the Second World War. They want their freedom. They deserve their freedom.

America, the Senate of the United States, the Congress of the United States, and the White House should stand clearly, unequivocally, and visibly for that process to move forward now. We should rejoice in the freedom of these valiant courageous people, rejoice in their courage, in their faith, and their aspirations. America has become the dream which so many other peoples and so many other parts of the world have sought to emulate. Let us not disappoint the Lithuanians.

I am worried that we are losing the will to speak out in support of oppressed people struggling throughout the world. It seems to be more important to maintain smooth relations and it is important that we maintain smooth relations with regimes.

But it is also important and even more important that we not hide from expressing the faith in freedom and expressing support for other people who have been denied freedom so long and who want it now.

It seems that we have learned to take freedom for granted here in our own country, forgetting the sacrifices that our forebears were willing to make that we, their sons and daughters, could enjoy.

The United States cannot stand up for self-determination in Poland, Hungary, and the rest of Eastern Europe where it is easy now to do so and then remain silent on the Baltic question because it poses a more serious problem for Gorbachev. If we ignore the Lithuanian struggle for self-determination after calling for it for over four decades our credibility is reduced throughout the world, particularly in the emerging democracies of Eastern Europe and the Third World.

So I urge the President to take action in support of the Lithuanians and to make the United States position clear to Mr. Shevardnadze, and I urge him to make it clear to the Soviet leadership at every opportunity.

What we think, if we express it with conviction, can have an impact on the thinking of the Soviet leadership and on its actions. We do not have to rattle any swords. We simply need to speak out and let the world know what our conscience is. After all, the world looks to America for leadership and we ought to demonstrate that we are capable of it and worthy of it.

We are obligated to do whatever we can to encourage the Soviets to grant the Baltic nations their freedom.

What does America stand for if we do not stand for freedom in Lithuania? What does America stand for if we do not stand for freedom in Estonia? And what does America stand for if we do not stand for freedom in Latvia and are willing to say so? Have we lost faith in ourselves? What is wrong with America and America's leadership in this hour of Lithuania's need?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEBRASKA KIDS HELP REDUCE THE DEFICIT

Mr. EXON. Mr. President, I would like to take a moment to recognize the great work of the kids in Nebraska School District 60 in Hastings, NE. After completing a monthlong study of the Federal budget, they decided to do something about the national debt.

By collecting dimes and quarters from their parents for good grades and organizing an aluminum can collection drive, the students sent a check for $115 to President Bush to be used to reduce the national debt.

The students also participated in posture and essay contests and learned a great deal about the Federal budget.

Soon after the Senate returns from its break to observe religious holidays, the effort to craft a 1991 budget will be one of the first orders of business.

The hard work, good study, and public service of the kids, teachers, and parents of district 60 serve to remind the Senate of its mission in the budget debate. The Congress must reduce the deficit for the sake of America's young people. The national debt is a burden on their economic future.

The Hastings Tribune printed an excellent story on the work of the students of district 60 and reprinted some of their award winning essays. I ask unanimous consent that the text of these articles be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. I urge my colleagues to review the thoughtful work of the students of district 60 and keep their good advice in mind as the Senate begins work on the 1991 budget.

EXHIBIT 1

[From the Hastings (NE) Tribune, Feb. 22, 1990]

LOCAL STUDENTS STUDY U.S. DEBT

(By Julia McCord)

A poster, one of several in a brightly-colored display on the bulletin board of District 60 gymnasium, says it all: "I hate the (national) debt. It is stupid."

The 100 students at District 60, located one mile south of U.S. Highway 6 on U.S. Highway 281, came to this conclusion after completing a month's study of the federal government.

The study included talks by Lloyd Brown, business and management instructor at Central Community College-Hastings Campus, Dennis Storer, professor of political science at Hastings College and Conrad Grothen, a local parent.

After getting all the facts, they took action.

They decided to help reduce the national debt by raising money and sending it to President George Bush.

The 18 fourth-graders, whose teacher is Kelli Trausch, started it all.

They choose to collect aluminum cans. Then they challenged the fifth-graders to an aluminum can count-down. The challenge spread to other grades.

They also thought up a creative way to collect money from their parents.

They contracted with them to earn a certain amount of money for grades they earned in each subject. And they came through, Mom and Dad shelled out 10 to 25 cents for each A or B.

The children collected $90 for their good grades. They added $15 from can collections (the fifth grade won 1,700 to 1,560)

Soon a letter and a check for $115 will be on their way to the President. The money is earmarked for deficit reduction.

The children said they will ask President Bush to write and tell them how he used the money.

The school also conducted poster and essay contests. Hastings Mayor Phyllis Lainson presented awards Tuesday to first-place essay winners. They are: Abbey Bruntz, Grade 3; Jason Buss, Grade 4; Paige Miller, Grade 5, Stacy Mousel, Grade 6.

The first-place poster winners were Scott Pauly, Grade 1; Casey Marsh, Grade 2; Julia Grothen, Grade 3; and Lanette Grothen, Grade 4.

The fourth-graders said they have learned a lot. They had several suggestions for reducing the debt.

They are: cut aid to Japan by 50 percent; reduce military forces in South Korea and Western Europe now that the Communist threat has diminished; ban the import of goods we can make ourselves; increase social security taxes by 1 percent, state income tax by 2 percent, and federal income tax by 3 percent; raise luxury taxes; tax the rich; raise taxes on cigarettes and alcohol; cut military spending; and cut the number of federal jobs.

They also had ideas on how money should be spent.

Erica Rudolf, 9, said more needs to be allocated to the needy.

Maricela Espinosa, 10, said financing the drug war is critical.

Another voted for education. Still another favored putting the money in a savings account.

At least one student doesn't mind studying subjects that are usually not the fare of fourth-graders.

Derrick Schwabauer, 9, said he wants to study about the deficit until it stops.

ESSAYS ENCOURAGE A BALANCED BUDGET

The following are some of the award-winning essays by District 60 students:

ABBEY BRUNTZ, GRADE 3

I would like to relieve the deficit by encouraging people to not waste natural resources and to spend less money.

I would do this by telling people to not live so fancy. The government should build up a savings account. We should all learn to make better use of who we have at home. The government should spend less money on other countries so we can have more money to help the homeless and stop drug abuse here in America.

JASON BUSS, GRADE 4

My essay is about some of my ideas on how to lower the deficit. It consists of ideas I have heard from teachers from the community college and from other various speakers.

The budget deficit of the United States government is large each year because the government spends more money than it gets from taxes. Each year the government does not get enough money to pay what it borrowed the year before. So each year the national debt gets larger. The government has to pay more money each year for interest on the money it has borrowed in the years before.

The first thing to do is to stop waste at the Pentagon. We give other countries such as Panama billions of dollars even though they can't ever pay it back. They can't even pay back the interest. We give so much support when they have never and will never give us things such as military aid.

The second thing we should do is raise taxes on the wealthy who can certainly pay more taxes. Government officials should be included in these taxes. They go home with thousands of dollars as their paycheck.

The third thing we should do is lower our weapons. We spend billions of dollars on weapons. We have bought many weapons already but then if something new comes out they are thrown away even though they cost so much.

Another problem is we are borrowing billions of dollars from social security when we all know that then the baby boomers will not be covered.

Taxes will eventually be raised to the point when people cannot pay them. That will make problems into the future that kids like us will have to deal with. Kids are the leaders of tomorrow. I think that the money from some of this should go to grants to gifted programs or research on AIDS.

In conclusion I think America should be smart with their money and when trying to solve a problem they should listen to their people.

RYAN SHUEEY, GRADE 4

I think that the best way to balance the budget is to increase the budget of those agencies that raise money for the government.

One of these agencies is the Internal Revenue Service. Right now their budget is being cut and they may need to lay off over 5,000 workers this year.

I don't understand this because my mother was reading from a newsletter from where she works. It said: "In New Jersey alone, close to $696 million from about 41,000 tax returns that haven't been filed or are in a holding file because there are not enough people to do this work."

If it is like this in New Jersey it is about the same in all the states.

It's too bad that there aren't more people to collect this money. When the Internal Revenue collects money, they tell the states so they can collect their taxes and increase their revenue too.

I think instead of lowering their budget we should get more people to work there because for every $1 they spend they make $6. So this would help to balance the federal budget without hurting other budgets like education and welfare.

PAIGE MILLER, GRADE 5

The biggest problem our government has is a very large national debt. We are adding to this problem by borrowing money from the social security fund. If we can't repay the money borrowed from the social security fund, then older people won't be able to collect social security payments when they qualify.

My solution to the problem is to cut back on military spending and to cut back on the number of government jobs. The military buys more equipment and services than are necessary. We could have a strong military without spending so much money. Our government could also save money by cutting back on the number of government jobs. We need better managers in the military and in our government who can decide what is necessary and what is a waste of money. Our government needs to start living within a budget just as most families do. If we spent a lot less on the military and on government jobs we would have more money to pay off the national debt.

STACY MOUSEL, GRADE 6

Our nation is in debt. The problem is the government is spending more money than they have to spend. There are lots of ways we can cut spending like stop buying so many expensive weapons. Another way is that we can stop giving money away to help foreign countries.

There are things we should not cut like drug programs. If we don't have drug programs so many people will be able to use drugs and get no help.

Another thing we should not cut is education. We all need an educated life. If we are not educated it will be hard to live in the future. Some of these things are very important to many people. They should not be taken away.

We can find ways to solve this problem. The government could raise taxes to get the money they need or they can just stop spending so much money.

If government overspending does not subside we will have to put up with high taxation. We can help solve this problem by working together to reduce the national debt.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITHUANIA

Mr. COATS. Mr. President, several years ago, when the late Soviet diplomat Andrei Gromyko nominated Mikhail Gorbachev to head the Communist Party, he warned that the new leader had "a broad smile, but teeth of steel."

Today those teeth have left scars in tiny Lithuania. Incidents of aggression, even violence, raise urgent questions about Soviet promises of peaceful change in the Baltic States.

The Congress waits on events in sombre expectancy. We could simply be seeing Soviet posturing aimed at gaining the upper hand in future negotiations. Or we could be witnessing an escalating contest between intimi-

dation and defiance in which Lithuanian hopes will end in cataracts of violence and fire.

In either case, I believe American commitments are clear. We have an historic role as defender of freedom in times of maximum peril. And we have a specific commitment, championed since Franklin Roosevelt, to an independent Lithuania.

In the last year or so, we have lived through a new springtime of nations in Eastern Europe. It has been a welcome relief to those who've grown weary of the long twilight struggle. But we cannot forget that our strength and commitment remain the motive for this momentum.

Soviet rationalizations are transparent. Spokesmen have defended their actions in Lithuania in the language of law. They claim as their primary motivation the prevention of anarchy. They mouth the words of peace and security.

But for 50 years the Lithuanians have known the stability of membership in the Soviet Empire. And they have only found the peace of the grave or the security of the slave.

Now, with insistent voices, they demand what is theirs by right. They make a claim we've recognized for generations.

I am told that since the Nazi-Soviet pact, which set the lock on Lithuania's prison, the flag of a free Lithuania has flown at the Department of State. I am informed that 10 administrations, of both political parties, have maintained diplomatic relations with the free Lithuanian legation in Washington.

It was our consistent commitment to Lithuanian freedom that helps explain that Nation's heroic assertiveness. We guided them down a path and nurtured their just indignation. Any failure to uphold this commitment would be to extinguish our credibility before a watching world.

Duff Cooper, a Member of the British Parliament in the 1930's, once advised, "It is of first importance that we should know our minds; it is of almost equal importance that the world should make no mistake about our intentions."

What should be done? At the very least, we should make sure the Soviets know the stakes for which they are playing. That should mean promising an end to talks negotiating new trade agreements if Lithuania is not given a plan for its freedom. It should mean appointing a U.S. Representative to the Lithuanian Government, formalizing a commitment that we have already given. And we in the Congress should strike economic development funds for the Soviet Union in any legislation sent to us, until the situation in Lithuania is peacefully resolved.

In any case, we cannot allow a scheme of partial pardons to guarantee the Soviet Union remains a prison of nations. Words of unequivocal support for Lithuania can make a difference to a people who have survived on the hope of those words for five decades.

The crisis in Lithuania is a test. It is a test, first, to see if Soviet leaders remain Stalin's children.

But it is also a test of American character. It will determine our willingness to remain the leader in freedom's cause. And if we fail that test, we will be haunted once again by pleading voices. Voices we heard after Yalta. Voices we heard in Hungary in 1956, and Czechoslovakia in 1968.

None of us want to hear those voices again.

STATE JUSTICE INSTITUTE NOMINATIONS

Mr. HEFLIN. Mr. President, I rise in support of the President's nomination of six highly qualified individuals to the board of directors of the State Justice Institute. The six nominees who were cleared by the Senate Judiciary Committee earlier today include four new appointments and two incumbents.

The four new directors are:

Malcolm M. Lucas, Chief Justice of the Supreme Court of California (replacing Ralph J. Erickstad, Chief Justice of the Supreme Court of North Dakota);

Vivi Dilweg, circuit judge, Brown County, WI (replacing Rodney A. Peeples, judge, second judicial circuit, South Carolina);

Carl F. Bianchi, Administrative Director of the Idaho Courts (replacing Larry P. Polansky, former Executive Officer of the District of Columbia Courts); and

Terrence B. Adamson, of Dow, Lohnes & Albertson, Atlanta, GA (filling the vacancy left by Lawrence H. Cooke, former chief jugde of the New York Court of Appeals, in 1988).

The two reappointments are:

James Duke Cameron, Justice, Supreme Court of Arizona; and

Janice L. Gradwohl, judge, County Court, Third Judicial District, Lincoln, NE.

Both Justice Cameron and Judge Gradwohl have served on the Board of Directors since the inception of the institute in 1986. Judge Gradwohl will soon leave full-time status but she will remain eligible for judicial assignments under the provisions of Nebraska law.

The State Justice Institute is making an increasingly important contribution to the administration of justice in this country. The institute made its first grant less than 3 years ago; since that time, it has awarded over $25 million to support more than 250 projects serving the most critical needs of the State courts across the Nation.

The institute is at the forefront of helping judges respond more effectively to the Nation's drug crisis, to the needs of victims and witnesses, and to the crisis in America's families. SJI has greatly enriched judicial education and demonstrated new applications of technology that should lead to lasting improvements in both the State and Federal courts. I believe that the great experience and insights of the directors to be confirmed today will enable the institute to continue to find effective ways to help the State courts respond to the many serious challenges confronting them.

I also would like to express my sincere appreciation to the three departing directors who served the institute so well since its creation. Judge Peeples, the vice chairman of the Board of Directors, Chief Justice Erickstad, and Mr. Polansky, the treasurer of the board, made unique contributions to the success of the institute. I thank them for their great help in establishing SJI as an integral part of the Nation's justice system.

PROPOSED AMENDMENT TO S. 543, JOB TRAINING AND BASIC SKILLS ACT

Mr. HEINZ. Mr. President, I rise at this time to inform my colleagues of my interest in offering an amendment during Senate consideration of S. 543, the Job Training and Basic Skills Act amending the title II of Job Training Partnership Act [JTPA].

My amendment seeks to reserve 9 percent of the JTPA title II State funds for the Governor. This reserve allows States to respond to unanticipated fluctuations in unemployment and economically disadvantaged populations.

As proposed under S. 543, it maybe virtually impossible to assist service delivery areas [SDA's] that find themselves with an unpredicted increase of eligible title II recipients and without the available resources to serve them. This amendment, supported by the National Governors' Association, [NGA] empowers States to target resources toward areas with unmet need.

I urge you to join me in helping our Governor's respond to unanticipated fluctuations in unemployment and economically disadvantaged adult, older workers, and youth.

Mr. President, I ask unanimous consent to print in the RECORD my proposed amendment to S. 543, and letter from NGA supporting it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENTS INTENDED TO BE PROPOSED BY MR. HEINZ

On page 91, line 3, insert "(i)" after "(c)(1)".

On page 91, line 4, strike "91" and insert "82".

On page 91, between lines 10 and 11, insert the following:

"(ii) After determining the amounts to be allotted under subsections (a) and (b), 9 percent of the remainder shall be reserved for allocation by the Governor. The Governor shall determine which service delivery areas within the State shall receive funds pursuant to this clause and shall allocate all of such reserved funds to such service delivery areas.

On page 91, lines 12 and 13, strike "this subsection" and insert "subsection (c)(1)(i)".

On page 104, line 21, insert "(i)" after "(c)(1)".

On page 104 line 22, strike "91" and insert "82".

On page 105, between lines 2 and 3, insert the following:

"(ii) After determining the amounts to be allotted under subsections (a) and (b), 9 percent of the remainder shall be reserved for allocation by the Governor. The Governor shall determine which service delivery areas within the State shall receive funds pursuant to this clause and shall allocate all of such reserved funds to such service delivery areas.

On page 105, lines 4 and 5, strike "this subsection" and insert subsection "(c)(1)(i)".

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, April 4, 1990.

Hon. JOHN HEINZ,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HEINZ: I am writing on behalf of the National Governors' Association to convey the Governors' support for your proposed amendment to enable each Governor to reserve up to nine percent of his state's service delivery area [SDA] Job Training Partnership Act [JTPA] allocation so that he may respond to unanticipated fluctuations in unemployment or other local emergency needs.

We commend the amendments proposed in S. 543, which would result in greater targeting of JTPA funds to individuals with multiple barriers to employment, and have urged only that these provisions result in changes that we can effectively implement at the state and local levels. Specifically, the Governors consider it essential that the amendments acknowledge that definitions of those most in need or most at risk in local populations will vary across the country and even within any single state.

Similarly, the Governors support amendments which would result in greater resources being targeted to the areas with the greatest incidence of poverty and consider these changes to be an important recognition that allocation of funds must be consistent with policy changes.

At the same time, however, it is important to acknowledge that the economic circumstances within a state are subject to change. A Governor should have the capacity to respond to communities that are unexpectedly in need of additional resources to serve their economically disadvantaged population, specifically where the need is not adequately reflected in aging national data (for example the Census). This will be particularly important if the proposed changes to the formula are enacted. Whereas currently, JTPA funding allocations are determined two-thirds by unemployment factors which are easily captured through timely unemployment rates, under the proposed construct only 25 percent of the formula will be driven by unemployment levels. Seventy-five percent will be based on the size of the economically disadvantaged population. Our understanding is that it will be extremely difficult for the Department of Labor to incorporate timely data; therefore distributions within the state may be based on out of date information unreflective of the true incidence of poverty.

By enabling the Governor to reserve 9 percent of the Service Delivery Area allocation, we will most effectively ensure that the most needy sub-state areas are in receipt of an adequate level of JTPA funds.

As you know, there is precedent for this set-aside in the amendments passed to Title III of the Job Training Partnership Act, the Economic Dislocation and Worker Adjustment Assistance Act [EDWAAA]. Under EDWAAA, a Governor may reserve up to 10 percent of his state's allocation so that he may then distribute this amount to the substate areas on the basis of unexpected need. The Governor must allocate this money within nine months of the program year.

We support your proposal to incorporate a similar provision in the amendments to Title II. Please let me know if I can be of assistance. On behalf of the Governors, I thank you for your efforts.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director.

COMMENDING R. MARSHALL WITTEN

Mr. LEAHY. Mr. President, there are many citizens who perform public service to their State and country with very little recognition. Until recently, few Vermonters knew the history of R. Marshall Witten, son of a Texas oil driller, who came to Vermont in the sixties. He served as Bennington County State's attorney, was elected to the Vermont General Assembly, and has chaired the board of trustees of the Vermont State Colleges for 12 years.

A profile of Mr. Witten, written by Allen Gilbert, appeared in the Sunday Rutland Herald of April 1, 1990. I ask that it be reprinted in the RECORD so Members of Congress and the general public can read about this extraordinary Vermonter and good friend. I have always treasured my friendship with him and his advice and help.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rutland Herald and the Sunday Times Argus, Apr. 1, 1990]

MARSHALL WITTEN WINS RESPECT FOR PUTTING STATE COLLEGES ON EVEN KEEL

(By Allen Gilbert)

To look at R. Marshall Witten is to see Eastern Establishment Ivy League: bow tie, wire-rim glasses, Oxford button-down pinstripe shirt, gray flannel suit and the visage of an Andover preppie. He's trim and healthy-looking, like he just stepped off a sailboat.

There's a good deal of reality behind the image. But the true Marshall Witten comes from Texas ranch land and oilfields—not as George Bush, who was bankrolled before he went there—but as the son of an oil driller who worked his way up to foreman and superintendent. His father's father had been a rancher, "a genuine cowboy," Witten says, complete with spurs and 10-gallon hat. No one in Witten's family had ever been to college.

Last month, in San Diego, Calif., Witten was honored by the Association of Governing Boards of Universities and Colleges for his "extraordinary qualities of leadership and dedication" in serving 13 years as trustee for the Vermont State Colleges, 12 of them as chairman.

Witten's personal story—from his early years in the small Texas town of Poteete, to his college and law school education, his legal career, his service in the Legislature and his time with VSC—is, he says, the story of what VSC is all about.

"I'm the person that education made," he says.

Witten's success story is also, to a large degree, a parallel for the Vermont State Colleges. To see the colleges now—there are five in the system, Lyndon, Johnson, Castleton, Vermont Technical and Community College—is to see stable enrollment, new facilities and a growing appreciation of their role in Vermont higher education.

The image hides the fact that 13 years ago VSC was a squabbling, disorganized collection of five schools that was, some felt, on the brink of ruin. Disorganization and questionable bookkeeping had led to a $2-million deficit. It appeared a campus might have to close.

Witten is credited with turning the system around.

There just isn't any question that they've come a long way since then (1977), and the person who deserves much of the credit for that is Marshall Witten," says former Gov. Phil Hoff, who, as lawyer for the colleges' faculty union, has often tangled with Witten.

The VSC system still has its problems. Faculty salaries are low (the latest union contract talks have reached an impasse), tuition is high (the highest of any state school in the country), and there is never enough of anything (last year Johnson ran out of dorm space and housed students in a motel and later the president's house).

But the colleges are survivors and have, in a sense, come from nowhere—just like Marshall Witten.

Witten was in 10th grade in Hammond, Ind., (his father had transferred there to work at petrochemical plants), when, one day as he was walking down the hall, the school guidance counselor popped out of her office and asked, "How'd you like to go to college?"

The Ford Foundation wanted to send some sophomores to college to see if the last two years of high school were really necessary. The guidance counselor thought Witten, a hard worker, might be a good candidate.

Witten took the Scholastic Aptitude Test (SAT) that spring and scored in the 97th percentile. He applied to Yale and was accepted. In September 1952, at the age of 15, he was in New Haven, Conn.

The beginning months were a bit tough. But after the first semester. "You couldn't have found" the 50 young Ford scholars at Yale, Witten says. Social problems? "You simply learned after the first date to keep your mouth shut."

If Witten's experience is any indication, the last two years of high school are indeed superfluous. He finished Yale in four years and went straight to Columbia Law School.

After law school he worked for awhile as an assistant in the Manhattan district attorney's office. But then, one very hot, windless Labor Day weekend in New York City, he telephoned a former law school friend ("his name was Williams, so the alphabet put me next to him in all my classes") who had married a Vermont woman, and he went to visit them in Bennington. Witten stayed.

He established a criminal law practice, and eventually, in 1967, became Bennington County state's attorney. He was elected to the Legislature in 1969, and within two years had been appointed to one of the most powerful positions in the House: Appropriations Committee chairman. He had quickly developed a reputation for organization, detail and toughness.

Gov. Madeleine M. Kunin, who served in the House beginning in 1972 and later also chaired the Appropriations Committee, remembers that she knew Witten first by reputation. At a recent awards ceremony in her office for Witten, Kunin said, "I'd always heard how tough he was." Then, she said, "I met him."

He seemed a calm and compassionate person, not quite the bulldog she had expected. She and others came to realize he was a gentle man but one who held strong convictions, for which he would fight.

When Gov. Richard A. Snelling had to fill an unexpired term on the VSC board in August 1977, he turned to Witten. Already cracks had appeared at VSC. The five schools fought for turf, offering competing courses and arguing their own self-interested financial cases before the Legislature. In truth, there was no system. The chancellor held titular power, while the five presidents went to bat for themselves.

Snelling prodded the system to define its "mission" and to coordinate its courses. Then in October 1977 reports surfaced of a $2 million operating deficit, which had actually been concealed for several years by tapping bond reserves. Politicians argued with college administrators over who was to blame. The administrators said the system was underfunded, while politicians charged mismanagement. Finally the Legislature bailed the system out with a special appropriation.

By appointing Witten, then a Snelling ally, the governor was seen as sending in a disciplinarian to handle a wayward child. Sen. Graham Newell, chairman of the Senate Education Committee and a Lyndon State College professor, managed to hold up confirmation of the appointment at least for a while.

Newell "was not going to let a minion of Gov. Snelling go unscathed," said Hoff.

Witten's appointment finally was confirmed, of course, but several years later the Snelling-Witten alliance would wither somewhat over the freezing of some funding for the colleges and over the colleges' general level of state support. "Witten took on Dick Snelling," says Hoff. "It indicates how strongly he felt about the state colleges."

Although new to the board, Witten plunged into the system's problems. He chaired an ad hoc panel that organized a committee structure for the board—the trustees had before always met as a whole—and clarified the board's role in setting policy. He initiated a re-examination of the structure of the VSC system, which led to revised by-laws and a new chain of command from the presidents to the chancellor of the board.

At one point he floated the idea of eliminating the presidents, but after further study the board decided that wouldn't work.

"My appointment, and my early years, were to impose a fiscal control over the schools," Witten says now. If that meant cutting top administrative jobs, he'd consider it.

Witten also pushed for recognition of the system's mission for the entire state. Before, the individual campuses had been seen largely as small comprehensive colleges serving local regions. When a new chancellor, Richard Bjork, was hired in May 1978, one of the first things he did was to restructure the entire system.

No longer would each school offer general courses and reach out mainly to its immediate area; instead, the "colleges should develop distinctive abilities and play to their strengths" and offer specialized professional training programs, Bjork said. Castleton, for example, would stress nursing, criminal justice and physical education therapy; Johnson, environmental studies, the performing and creative arts and human services; and Lyndon, meteorology, media services and recreation. VTC already had its niche as a technical training school school (and indeed served as a model for the entire restructuring, says Witten), as did CCV, which catered to adults wanting courses that would help them with their jobs.

Witten, who was elected trustee chairman in February 1979, and Bjork became a team. Witten's hallmark was asking a series of basic questions: "Who are we? Where are we going? How do we get there? How do we know when we've arrived?" After getting the answers, he insisted that the board and Bjork act on them.

The administrative reorganization and campus restructuring led to some angry confrontations. In May 1979 more than 100 students and faculty hanged Bjork in effigy at VCS's Waterbury headquarters. Castleton President Donald Wilson resigned that same month to head up a Long Island college; he said the campus restructuring was based on "a hardness of soul and a sclerosis of imagination." CCV President George Bilicic also resigned.

The confrontations were heightened by Witten and Bjork's desire for tighter management control of the VSC system. They collided head on with the VSC faculty union. Through contract negotiations, labor board hearings and court cases, the two sides slugged it out. One Lyndon professor called on the other VSC board members to "silence" Chairman Witten because he was "fomenting hatred" between teachers and the colleges, administration. Another professor said Witten was "obviously an embarrassment" to the trustees.

Witten's response was, "Let there be conflict. It is inevitable in light of what VSC management is trying to do."

Looking back on those years, Witten says calmly, "The boat was leaking and sinking, and we were in an emergency situation."

"It was simply, 'You take this bucket and bail now. We really don't have time to discuss the dimensions of the bucket, or where you will bail. Just bail."

"We stopped the lead," he says, "we floated the hull and tied it up at a safe dock."

The administrative reorganization had transformed the board into an efficient, productive body that established policy and passed on to the chancellor to carry out. The chancellor now stood as the chief administrator of the entire system, with the five college presidents reporting to him. Tighter administration had also led to tighter finances; it was no longer possible to hide overspending by raiding other accounts, and the college presidents stopped making their separate, competing pitches to the Legislature.

By 1981, Bjork could announce the system was again financially stable. Also in that year he said VSC would move to serve nontraditional students—a prescient strategy that positioned VSC in the forefront of a major demographic shift, that of more adults attending college.

"We entered a second phase," says Witten, "where we could stop bailing and ask, 'Where should we sail this boat? What crew shall we have? What cargo shall we have? How do we design the superstructure? What kind of sails shall we have"?

Witten himself seemed to adopt a new management tack. From confrontation he moved to conciliation. Hoff says the union also saw "the time had come" to explore whether union and management could "work together to keep the college going," Contract negotiations went more smoothly in 1982, and in 1983 the two sides met informally to discuss cooperating to meet mutual goals.

It was a turning point, says Hoff. "There's no question there's been cooperation since that date, with success on certain things."

"I wouldn't want to suggest they (union and management) are off dancing together," he says, "but certainly there is more cooperation now."

The new relationship continued into the later 1980s, leading to a 1988 meeting of management and union with Albert Shanker, president of the American Federation of Teachers, which is the VSC professors' parent union.

"Shanker's message was that if you want educational improvement, you work outside the collective bargaining process to do so," says current Chancellor Charles I. Bunting. Faculty were asked to join the trustees' Futures Task Force, which had been established in 1985 to evaluate VSC's mission.

In July 1984 VSC suffered another setback, the death from cancer of its energetic chancellor, Bjork. Lawyer and banker Hilton Wick agreed to serve as interim chancellor, and in 1985 Bunting was hired.

VSC still faces serious problems. Faculty salaries are low; part-timers, who teach a quarter of the courses, earn little more than substitute high school teachers. The general economic slowdown threatens the system's requested state appropriation of $18.2 million, which means tuition could rise at double-digit speed. That, in turn, could choke enrollments.

Current union leaders respect Witten, even though they might not always see eye-to-eye with VSC management.

The faculty union president, Assoc. Prof. Tim Sturn of Lyndon State College, says, "There's no question Marshall Witten loves VSC and acts in what he believes are its interests. I don't think anyone doubts his sincerity, although at times we might disagree with his judgment."

Sturn applauds Witten "for his energy and persistence" but cautions "(I) hope he and the board have additional energy to give to VSC because it appears we're headed into difficult times again."

The staff union president, Castleton circulation librarian Jean DeVoe, says her dealings with Witten are minimal but that he is

clearly "a good leader. He's done a lot for the leadership of the state colleges."

Bunting sees VSC's big challenges as "Keeping going on the road to improvement of the quality of our programs" and working with the State "to come to terms with what it (the state) really wants in terms of its investment in higher education."

Despite a continued financial squeeze, Witten tries hard to find a way to bring about, for Vermont students, " that wonderful magic" of the classroom.

An important part of the campus restructuring was to put more emphasis on job training programs so students and their families could see the direct, financial advantage of going to college. During their four days students also could be given a hefty dose of traditional liberal arts courses.

"We're going to have to find more efficient ways to get the job done," says Witten. But his commitment remains: "We want all Vermonters to be able to experience that wonderful magic, regardless of where they live in the state or how much money they have or how much academic preparation they've had or regardless of any psychological or emotional fear they might have in going back to the classroom."

He says he sees an educated citizenry as key to the state and country's health, and feels the necessary minimum level of education has moved beyond completion of high school. That's why, he says, access to college is essential.

Currently Vermonters constitute 78 percent of the VSC student body. The system enrolls 85 percent of all adult learners outside Chittenden County, and adults are a majority of students on all campuses.

Witten is modest about the award he received in San Diego. "If the success story of the state colleages in the last 13 years says anything, it says what a group of people can do if they work together. It's not the story of any one person, or even the board of trustees alone. It's the story of a lot of folks."

Union president Sturn echoes that view, "Everyone, from the board on down to the dorm doorkeepers, deserves credit for improving the VSC. * * * People worked collaboratively."

It's clear, though, that Witten has been a personal dynamo in that story. The dedication shows in his 100-percent attendance record at VSC board meetings, despite the 250-mile round trip from his home in Bennington. (His record for committee and planning meetings slips to 97 percent.)

During his 13 years on the board, he has kept up a personal regimen of doing "something athletic everyday," although he admists he has had less time for hobbies such as hunting, fishing and flying (he has a commercial pilot's license). He does sail, though, and he says he hopes at some point to get back to playing piano.

THE DEATH OF OTHA WEARIN

Mr. HARKIN. Mr. President, Otha Wearin had a pioneer spirit that led him to Washington, DC, as the youngest Member of the U.S. House of Representatives. That same spirit guided him as he experimented with farming practices that conservationists came to praise, and as he wrote a series of books and essays.

As a Congressman from the Fifth District of Iowa, Otha served his State with conviction and a sense of history. When he spoke of his time in Washington, DC, in the 1930's, the listener left with a special understanding of the Roosevelt era. He was an important part of the Progressive movement and was an inspiration to many other young Iowans who dreamed of a life in public service.

Otha Wearin has a rightful place in Iowa history. But he also has a special place in my personal history. I too served as the Representative of the Fifth District and Otha Wearin was a learned teacher as well as a valued friend. Many days, I would stop at Nishnavale Farm to share a meal with Otha and his wife Lola and talk about politics, philosophy, and life on the prairie.

Otha was a great lover of history and possessed a keen insight into people. I considered—and still do—his advice and understanding invaluable.

On a personal level, I will miss Otha Wearin's fellowship, but I will remember—as all Iowans will—how effectively our State was served by Otha's wisdom and dedication to Midwest values.

THE TEXTILE, APPAREL AND FOOTWEAR TRADE ACT OF 1990

Mr. HEFLIN. Mr. President, I rise today to express my strong support for the Textile, Apparel and Footwear Trade Act of 1990 which my friend from South Carolina, Senator HOLLINGS, introduced yesterday. I am proud to be one of the 54 original cosponsors of this important legislation.

It is not often that legislation is introduced in this body with 54 original cosponsors. But I would urge each of the 165 countries which export textiles into our Nation each year to note the level of interest and concern in the Congress for immediate action to protect what remains of this vital domestic industry.

Since coming to the Senate in 1978, I have seen textile legislation pass the Congress by an overwhelming majority on three separate occasions. Each time, that legislation has been vetoed, as various Administrations have been largely unwilling to vigorously enforce the trade laws and agreements meant to protect our domestic industry.

During that time, thousands of jobs have been lost in this country, many of them in Alabama. Over the course of the past decade, imports have continued to grow on average 12 percent per year while our domestic market has grown only about 1 percent per year. So our industry has lost 11 percent market share annually this decade.

Mr. President, this situation in getting worse, not better. In 1989, we saw a 13-percent increase in imports, as import penetration of clothing and clothing fabric reached 58 percent and as import penetration of footwear reached 70 percent. If this trend continues, we will not have a textile industry left in this country in the year 2000.

I therefore urge my colleagues to support this bill which squarely addresses the problem faced by our domestic industry by imposing global quotas on textiles and apparel with 1 percent growth annually, freezing footwear imports at the 1989 levels, providing for a quota auctioning pilot program in 1991 for one-fifth of the imported textiles and apparel, and by giving increases in quotas to countries which increase their purchases of U.S. farm products.

We must let this administration know early on that we will no longer tolerate lackadaisical enforcement of our trade agreements—that the textile, apparel and footwear workers in Alabama, in South Carolina, in Georgia, in Maine and all over our country deserve more than lipservice when it comes to their futures and to the future of our textile, apparel and footwear industry.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MASS TRANSIT

Mr. PELL. Mr. President, I rise today to bring to the attention of my colleagues a column that recently appeared in the Rhode Island Providence Journal. The column, "Ride mass transit and see how it grows," by Barry Schiller and Sarah Gleason of the Rhode Island Sierra Club, is a call to arms to various groups in Rhode Island: Federal, State and local government, public transportation agencies, the private sector, environmental groups, and citizens to increase the use of mass transportation while decreasing pollution of the environment. Although this particular column is directed at the people of Rhode Island, I commend it to my colleagues as guide for similar action in other States.

In particular, I would point out the comments of the authors regarding proposals by the Bush administration to cut Federal funding of transportation and to, once again, eliminate all funding for Amtrak. While States and localities should not expect a blank check, continued reductions in transportation aid are counterproductive.

I ask unanimous consent that the column be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

RIDE MASS TRANSIT AND SEE HOW IT GROWS

(By Barry Schiller and Sarah Gleason)

All Rhode Islanders should be concerned about the continuig decline of mass transit in our state. The latest blow is $300,00 in cuts to be implemented between now and June 31 as part of the governor's deficit saving package for the remainder of this fiscal year. The governor has proposed further cuts for fiscal 1991.

The decline of mass transit means more congested roads and more pressure to build new highways through our remaining rural areas. The proposed $40 million for a new Route 138 through South County is a recent example.

The decline of mass transit means more pollution: Not incinerators, not power plants, but motor vehicles are the main source of air pollution in Rhode Island, contributing approximately 84 percent of the carbon monoxide and seven percent of the gases that form smog. Our state does not meet the health-based federal air quality standards for these pollutants; increased use of mass transit was one way the state hoped to meet these standards.

The decline of mass transit also means more energy is used for transportation, contributing to global warming and to pressures for oil drilling in environmentally sensitive areas. More of our dollars go to out-of-state oil companies and to OPEC; RIPTA fares remain in Rhode Island.

Ten years ago state planners targeted a 20 percent increase in RIPTA ridership, from 20.8 to 25 million annually, as one means of reducing air pollution. But the opposite has happened: Ridership dropping by 28 percent to 14.9 million. Nothing should be done that would reduce ridership even more. Bus fares and advertising contribute $7.7 million to RIPTA's present budget of $24.5 million, while the state contributes $11.7. Increasing RIPTA's state subsidy, projected to grow to $16.3 million by 1993, is unrealistic. Something must be done to stop this downward spiral. The Sierra Club proposes the following:

To RIPTA: Give up your "give-up" attitude. Market RIPTA's services aggressively to attract more riders. Through monthly pass programs, promotions, better information services, and cooperation with RIPTA drivers and caring employees. RIPTA can increase use throughout the state. Other systems have proved it can be done. The MBTA, for instance has increased its ridership by 23 percent in this decade. If RIPTA had done the same, we would not be in this mess today.

To the State: Operating subsidies to RIPTA have been generous, but alternative means of funding, not dependent upon the state's economy, must be found. In Connecticut, bus service is financed from a dedicated fund created from gasoline taxes, fines, and other income. In Rhode Island, a one-cent increase in gasoline taxes would generate about $3 million for this purpose. With better service we would have fewer cars on the road and have to spend less on highway repairs.

Promotion of RIPTA must be coordinated with that of other transport such as vanpooling and ride-share. In Connecticut, a statewide campaign, "Ride Together Connecticut, It's The Best Way To Work," has reduced use of single occupancy vehicles significantly in only 18 months. Money must be found to promote mass transit, as with any business losing market share, failure to advertise effectively is false economy.

State employees, like others, should be encouraged to use public transit. Surveys indicate that state employees do so less than other workers, encouraged to use their cars by subsidized parking paid for, finally, by the taxpayers. The state can start promoting RIPTA by making bus schedules and books of RIPTIKs available to state workers, and other employees, through their place of work.

The state must also support rail transport. Not a penny of state money is spent on rail though millions go to aviation, a fuel-expensive way to travel. In the $9-million transportation bond issue approved by voters in 1988, about 30 percent went for airports and nearly 70 percent for highways. Only two percent went for RIPTA, and nothing at all for rail or bikeways.

To the City: Providence pays nothing for RIPTA, so has all the more responsibility to encourage downtown workers to use the bus for commuting and business whenever possible. Transit planners encourage intermodal connections, but the city has done nothing to mitigate the effect of moving the train and bus stations away from downtown and from each other. The new train station has an out-of-date bus schedule, no maps, and no short-term parking for those needing to make a quick stop for tickets or schedules.

To the federal government: Incredibly, President Bush has proposed a further 23 percent cut in federal transit aid and the elimination of all AMTRAK train service. Congress must resist these irresponsible proposals. Federal aid to transit, however, should not be a blank check, but should reward those systems that attract more riders.

To the private sector: If you provide free parking for employees or customers, you should also provide incentives for using public transit. Fewer parking lots will not only save you money but will help preserve green spaces and lessen water-polluting surface runoff. RIPTA can assist you through its RIPTIK program. Some employers do offer this service, including Textron and Amica.

To environmental groups: Help save transit by educating your members and the public to the many environmental advantages of a good public transit system.

To the people of Rhode Island: Many ask the Sierra Club what they can do to protect the environment. One way is to use buses and trains wherever feasible. RIPTA and AMTRAK service is usually pretty good; try it. Using public transit will help us get better service that will attract more riders. This is the only way we can reverse the present downward spiral.

THE NEW AMERICAN WORKER

Mr. MOYNIHAN. Mr. President, Mr. Paul F. Cole, secretary-treasurer of the New York State chapter of the AFL-CIO, has written an excellent and hugely well-researched piece on the changing education needs of our Nation's work force, entitled "The New American Worker." The article is particularly apt on the day that we have just voted to reauthorize the Carl D. Perkins Vocational Education Act. Mr. Cole provides a cogent analysis of the change in the "very nature of work" and calls for restructuring our educational system.

I ask unanimous consent that Mr. Cole's paper "The Changing American Worker" be printed in the RECORD at this point, and I would urge Senators to read it with careful attention.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE NEW AMERICAN WORKER

(By Paul F. Cole)

The United States is in the midst of a great national debate over the future of its economic role in the world and how America's education system should respond. The fortunes of both are interwined and the solution to each is the same—restructuring. The very changes that are taking place in America's most progressive corporations must be mirrored in her schools if the United States is to remain a world leader. The economic restructuring requires an educational restructuring.

America is experiencing a transformation not witnessed since the Industrial Revolution.

An increasingly competitive global economy is challenging America's economic preeminence.

Fundamental changes are rapidly taking place in the nature of work and of the workplace requiring new and different skills.

Demographic trends and societal changes are transforming America and presenting new concerns about the workforce of tomorrow.

Our ability to respond will have a major impact on the economic, social and political future of our nation.

A CHANGING ECONOMY

Following World War II, the American economy emerged as the undisputed leader in the world. The United States enjoyed a huge domestic market. It was the world leader in technology. It possessed a workforce more skilled than most other countries. It was wealthier than other nations and had the best managers in the world.

Since the war, America's economic primacy has waned as other nations rebuilt their industries, made improvements in technology, upgraded their education systems and adopted new and innovative management practices. For example, while American management continued its traditional strategies, the Japanese adopted the management system of W. Edwards Deming that is widely credited with improving the quality and productivity of Japanese industry.

Demings, an American, told U.S. businessmen following World War II that unless they changed their approach to productivity and quality, our economy would suffer.

Fundamental to Deming's approach was his belief that workers were not simply flesh and blood robots, but thinking, creative human beings who could make major contributions to improving production quality and efficiency.

Using Deming's strategy, the Japanese began to out perform American industry and gain increasing market share in auto, electronics and other fields. American management was quick to blame taxes, regulations, unions, societal problems or anything other than how their corporations were run.

The American production system was based upon principles developed by Frederick W. Taylor called "scientific management." It is characterized by the division of production work into simple, repetitive tasks performed by unskilled workers under

strict control of supervisors. The system is highly authoritarian.

In addition, many place the blame for American corporate failure squarely on U.S. management's preoccupation with their personal welfare and on short-term profits, while ignoring more long-run investments in technology and workers. Robert Hayes and William Abernathy in the *Harvard Business Review* charged the economic decline to "the failure of American managers to keep their companies technologically competitive over the long run." They argued that the failures were in large part due to a concentration on short-term marketing and financial concerns and a neglect of production improvements (Hayes and Abernathy, 1980).

This philosophy was a major contributor to the decline of America's economic leadership. The United States has gone from the world's largest creditor nation to its largest debtor nation in less than a decade. We are experiencing the largest budget and trade deficits in our history.

The impact on America's workers and families has been devastating. Hundreds of thousands of manufacturing jobs have been lost, entire industries have been gutted and opportunities to build new industries in such fields as electronics have been squandered.

Since the early 1970s, real wages and incomes have stagnated and declined as a result of a weakening U.S. economy. In take-home pay, U.S. workers in 1986 were 14 percent worse-off in real terms as they were in 1973. The real earnings are lower today than in 1961. American families are working more hours yet earned 11 percent less in 1984 than they did in 1967 taking inflation into account (*Crossroads for America,* 1987).

Much of America's economic strength was based on mass production techniques that made it possible to employ workers with modest skills to rurn out low-cost, high quality products in large volume. The benefits were good profits, good wages and an ever expanding market. Using machinery and the assembly line, most jobs could be done by unskilled or semi-skilled workers with skilled craft workers performing some functions.

Today, however, that machinery is available virtually anywhere in the world where workers are willing to work longer hours at lower pay than American workers.

American can no longer compete at prevailing world wage levels for low-skilled or semi-skilled labor without suffering a massive decline in its standard of living.

Today, high industrial wages require highly skilled workers interacting with the latest technology. In today's world, it is easy to move machinery, capital and technology, but it is difficult to sustain a large and well educated workforce.

According to Thomas Bailey, the successful corporations of tomorrow will be those able to respond to ever changing markets for goods and services. Consumers are increasingly demanding more variety, style, quality and service. As a result, firms are attempting to increase their variety and reduce the time it takes to make their products or services available. To accomplish this, they are not only taking advantage of new technology but restructuring their production process to one where "the relationships among individuals within firms, among the departments and divisions of firms, and among firms in the overall supply chain are more integrated, interactive, immediate and complex" (Bailey, 1989). These trends are already occurring in the more progressive corporations in textile and other industries.

THE CHANGING NATURE OF WORK

Current efforts by American corporations to restructure are having a far reaching impact on the nature of work and the workplace.

Bailey argues that the changes have resulted in occupational upgrading and not "deskilling." The very lowest level jobs are being eliminated and middle level jobs are becoming more demanding. Increasing intellectual and skill demands are being placed on lower and middle level workers. These personnel will require greater specific technical skills as well as the know-how to manage and operate in interactive environments.

Bailey points out that workers will need a greater ability to work in an environment that is more uncertain and non-routine.

Sue E. Berryman of the National Center on Education and Employment at Columbia University also describes dramatic changes in the nature of work. Citing the work of Bailey and Thierry Noyelle, she notes that "The key change in the economy for both the manufacturing and service sectors is a shift from mass production to flexible production" (Berryman, 1988). Citing changes in the textile and banking industries, Berryman concludes that the traditional methods of work are being altered.

"Ever since Henry Ford mobilized the labor of low skilled factory workers through the assembly line to replace teams of skilled workers, technology innovations, at least in the United States, have almost always been synonymous with specialization of labor and mass production. Flexibility has usually been achieved by reversing Ford's process, moving back up the range of skill levels, shifting from specialized to general purpose tools and machines, and reorganizing how people get the work done" Berryman declared.

Both in banking and textiles, workers are more likely to be engaged in a greater variety of activities and thus need to know more than just the particular task they are assigned. Workers are also becoming involved in contributing to ways production techniques can be improved.

The advanced technology, which is increasingly characterizing new machinery, is also having an impact. Historically, machines and production methods were basically simple. How machines operated could be visually observed and with some additional skills, could be repaired.

That is rapidly changing, Berryman asserts. Today's machines have microprocessors and other electronic components. It is impossible to directly observe how they function. As a result, workers and repair technicians must be able to process information symbolically which requires not only higher literacy skills to read complicated manuals and diagrams, but the ability to think and reason differently. As Berryman notes:

"Productivity gains are coming as much from changing the way that workers work together, their orientation towards their work and the nature of their responsibility and involvement in the firm's changing strategy and orientation towards the markets as from applications of new technology. While many jobs used to be based on the repetition of a particular set of well-defined tasks, jobs are now more likely to demand varied and unpredictable responses to a variety of stimuli and information. Employment now involves interaction in constantly changing ways with production technology. The spread of micro-electronics and related technologies does not just result in new machines that must be mastered, but in a much deeper change in the ways that workers relate to the production process and to each other."

Former Secretary of Labor Ray Marshall also maintains that America's ability to compete in a global economy will depend upon basic restructuring of how we produce. The traditional mass production system is obsolete and will have to become less bureaucratic, more decentralized and rely more on advanced technology.

Mass production technology was a standard, stable technology. Information technology is much less standardized and stable which needs constant improvement. It has greatly changed what people need to know and how they work (Marshall, 1987).

Marshall suggests there are three ways to attempt to compete internationally.

First, use standardized technology and unskilled workers—a system under which the United States will lose. Second, try what both General Motors and the Defense Department tried—use higher technology and unskilled workers. They both found out that didn't work. Third, use higher skilled workers and leading edge technology—a system that is most likely to succeed. It will succeed because those workers who use the technology will be able to improve the technology itself and make most effective use of it.

With information technology, work becomes very different than in the mass production system and more of the work becomes indirect because the machines do the direct work. Indirect work also has very different characteristics.

New technology makes more information available and requires the worker to know what to do with it. The use of the new information technology tends to be group work and not individual which is characteristic of mass production work. Group work requires new skills such as the ability to communicate with precision. Working in a team also requires better interpersonal skills and the ability to learn in a different way.

In the mass production system, workers learned by seeing and observing. Information technology learning, on the other hand, is abstract and not directly observable. For example, you can't see what is happening inside a computer.

Marshall argues that creative thinking depends on one's ability to do abstract thinking. By definition, Marshall says, "creativity is what can only be seen in the mind's eye" (Marshall, 1989).

Thus, only by combining leading edge technology with higher order thinking skills will America be able to advance productivity and effectively compete in the international market place.

Shoshana Zuboff, of the Harvard Business School, in her book *In The Age of The Smart Machine: The Future of Work and Power,* underscores the work of Bailey, Berryman and Marshall.

New technology, computers in particular, can transform work in two different ways. It may simply "automate" which will achieve speed and consistency. That will rob workers of whatever skills they have, and any gratification they gain from their work, as well as increase the remoteness and impersonality of management. Or, Zuboff maintains, it may "informate" and empower workers with broad knowledge of production systems and enhance their capability of

collaborative and critical judgment about both production and distribution (Zuboff, 1988).

Zuboff examined a variety of settings from high-tech papermaking plants to insurance offices and a pharmaceutical manufacturer and concluded that the nature of work is undergoing a fundamental revolution. Traditional work skills based upon the human senses of touching, feeling, seeing, hearing and smelling of real objects were being replaced by skills that are "abstract, symbolic and ethereal."

UNIONS AND THE CHANGING WORKPLACE

Teamwork, or worker participation, employee involvement or jointness, as it is also known, is also reshaping the American workplace. Frequently the result of new labor-management cooperation, teamwork efforts are more commonplace if not universally embraced by every corporation or union leader. The trend is clearly in the direction of increased worker participation, however.

According to Robert Kuttner, the old industrial relations system that began in the 1930s is one in which unions largely refrained from challenging management prerogatives. The basic goal was to "take wages out of competition" and provide for relative stability within an industry (Kuttner, 1987).

Today, however, all that has changed since wages are very much part of the competition, not only within industries but especially because of increased competition from both foreign and American firms who are manufacturing abroad using low paid workers.

Some critics, particularly Jane Slaughter and Mike Parker in their book, *Choosing Sides: Unions and the Team Concept*, suggest that worker participation, which they refer to as "management by stress," should be rejected in favor of a traditional trade union role. (Slaughter and Parker, 1988). The mainstream of American labor, however, increasingly endorses the concept and works to implement it in a variety of settings. The Amalgamated Clothing and Textile Workers (ACTWU), the United Steel Workers (USWA) and the United Auto Workers (UAW) are among the leaders.

In their seminal study *Worker Participation and American Unions: Threat or Opportunity?* Thomas A. Kochan, Harry C. Katz and Nancy R. Mower concluded that there is a strong potential for worker participation especially where actual changes were made in the organization of work and unions served as full joint partners in the process (Kochan, Katza and Mower, 1984).

Perhaps the best known example is the experiment at the New United Motor Manufacturing Inc. (Nummi), the Toyota Motor Corporation—General Motors Corporation joint venture in Fremont, California.

Bruce Lee, director of the UAW western region who was involved in the creation of the Nummi joint venture, called the team system introduced there a "spectacular success . . . not due to advanced robotics or sub-union wages . . . (but) a revolutionary team production system run by workers themselves" (Lee, 1988).

The system, according to Lee, "is based on the principle that workers build cars; managers don't. He pointed out that the team system at Nummi is based on shifting control over the production process to the workers on the assembly line who know if the job is being done right.

At Nummi, workers are given new responsibilities. Teams of workers handle a series of related assembly operations and are encouraged to develop ways to improve the system. Lee maintains that the UAW has been telling auto industry management for years that their members take pride in their workmanship. "We have said workers will cooperate enthusiastically in finding ways to do a job better if managers are smart enough to tap into their pride and expertise," he said.

At their recent convention in Anaheim, UAW President Owen Bieber declared: "I think those who say that workers don't want change in the workplace—who insist that the old ways were always the best ways—are insulting the intelligence of UAW members" (*UAW Washington Report*, 1989).

Workers are "stakeholders" in their corporations and want them to be successful. Unions have the long term interest of workers in mind and want them to have the skills needed to work productively. They are not focused on maximizing short-term profits.

Cooperative labor-management strategies will fail if the goal of management is to create docile workers and weak unions or a "union-free environment." There must be genuine sharing of responsibility and authority and a prospect for mutual gain if it is to succeed.

According to Kochan, Katz and Mower, employers must accept the legitimacy of the union if they expect labor's support to be viable. Union representation is the vehicle through which employees can secure and define their right to participation. Employers may choose to give non-union workers a greater voice but only legal union representation provides equal representation and independent power (Kochan, Katz, Mower, 1984).

In non-union settings, the employers decide what the rules are going to be and can unilaterally decide to alter the arrangements at any time, particularly if new management takes over. Unions are accountable to the members who created them and are more likely to have the resources to allow them to participate effectively. If Americans want more teamwork and true labor-management cooperation to help make the U.S. economy competitive, the relentless anti-union crusade among many employers must end.

In a cover story entitled "Go Team! The Payoff from Worker Participation," *Business Week* praised a number of recent efforts to incorporate worker participation or employee involvement (EI) (July 10, 1989).

Business Week states that worker participation in the United States has evolved from some small scale efforts in the 1920s and 1930s at "problem-solving teams," to "special-purpose teams" in the 1980s to "self-managing teams" which they argue "appear to be the wave of the future."

Under "self-managing teams," usually from 5-15 in number, employees produce an entire product instead of various sub-units. Under the system, team members learn all tasks and rotate from job to job and take over certain managerial duties. It fundamentally changes how work is organized and gives employees greater control over their jobs.

The employee involvement movement "has unleashed enormous energy and creativity stored up in (workers) who like the idea of using their brains, as well as their bodies, on the job. It increases their feelings of dignity and self-worth," *Business Week* notes (July 10, 1989).

In fact, if America is to be a world-class manufacturing country, they argue, companies will have to be able to produce in small lots and customize their products. Teamwork provides the flexible work practices that enable firms to respond to these demands. One manager quoted in the same article said that when "you combine automation with new systems and work teams, you get a 40 percent to 50 percent improvement in productivity."

The *Business Week* article also quotes Harvard University theorist Richard E. Walton who said, "To have world-class quality and the ability to assimilate new technology, we must have the world's best ability to develop human capabilities."

THE BUSINESS CONCERN

While America faces dramatic new challenges as a result of a changing global economy, and attempts to respond by restructuring the means by which it produces goods and services, the question that comes to the forefront is "Do we have the human resources available now or in the future to win the battle?" The alarming conclusion of most economists, government and corporate leaders, and educators is a resounding "No!" As a result, labor force policy is replacing traditional economic topics as the central economic issue around the world. Human resource development is being more and more recognized as the key to economic survival. Because of demographic trends and an inadequate system of education and training, there is a growing mismatch between skills and jobs, and unless something is done, the United States will quickly fade as a world economic power.

A *Business Week* "Special Report" examined the growing mismatch between jobs and the ability of Americans to do them. Citing work done by the U.S. Department of Labor and the Hudson Institute, *Business Week* found that more than three-quarters of new workers will have limited verbal and writing skills (the lowest level on a sliding scale measuring levels of reading, writing and vocabulary needed to perform a wide range of jobs) but will be competing for only 40 percent of the new jobs. Fewer than one in four new employees will have the needed skills to perform at the higher end of the scale where the majority of jobs will be (*Business Week*, September 19, 1988).

Many leading American corporate officers have begun to focus on human resource development and are urging others to do as well. Owen B. Butler, retired chairman of Proctor and Gamble; David Kearns, Chairman and Chief Executive Officer of Xerox; Kay Whitmore of Eastman Kodak Company; and John Creedon, president and chief executive officer of Metropolitan Life are but a few. In addition, numerous business organizations are entering the human resource arena led by the Committee for Economic Development.

A number of conferences have been held, reports and books have been published, and CEOs have both spoken out and taken concrete action to meet the problem head on. The Committee for Economic Development has been in the forefront by disseminating some thoughtful and thorough studies on what America needs to do to stay competitive. In large part, the various reports focus on demographic trends and strategic for enchancing human resource development.

Charles Marshall of the American Telephone and Telegraph Company told a Congressional panel, "We are not interested in education simply for altruistic reasons; we need knowledgeable, well-educated, highly

skilled employees if our business is to succeed" (quoted in Jennings, 1987).

DEMOGRAPHIC TRENDS

A number of studies have been completed on what the future of the American workforce is likely to look like and what the implications are for the economy.

A U.S. Department of Labor commissioned study by Hudson Institute entitled "Workforce 2000" estimates that 25 million entrants to the labor force will be needed by the year 2000. Most of these will be nonwhite, female or immigrant workers. Native white males, who now constitute 47 percent of the labor force will account for only 15 percent of the new entrants into the labor force by the year 2000 (Johnston, 1987).

The American workforce is also growing older. In the 1990s, the labor force will be dominated by "middle-aged" workers aged 25-54.

The number of young Americans is shrinking dramatically. Between 1980 and 1996, our youth population (15-24) is expected to drop by 21 percent or from 43 to 34 million. Young people as a percentage of the nation's population will also drop from 18.8 percent to 13 percent during the same period. In addition, the composition of the new entrants is changing rapidly to include a higher percentage of minorities who have historically not been well served by society.

Also, according to *The Forgotten Half: Non-College Youth In America*, published by the W.T. Grant Foundation, approximately four million young people between 15 and 24 years of age are challenged by some sort of impairment, either a permanent physical or psychological condition that limits their activities (W.T. Grant Foundation, 1988).

According to a study entitled *All One System* by Harold L. Hodgkinson, published by the Institute for Educational Leadership, "Changes in the composition of the group moving through the educational system will change the system faster than anything else except nuclear war . . . By knowing the nature of those coming into first grade in the U.S., one can forecast with some precision what the cohort of graduating seniors will be like 12 years later" (Hodgkinson, 1985).

According to the report, the birth rate of whites and Cubans is below the stay-even point, while that of blacks and Mexican-Americans is well-above. Thus, the latter two groups will be a larger part of the future population. "All these young people have to do is grow older and we have the future," Hodgkinson declares.

Hodginson notes that in 1955, 60 percent of the households in the U.S. consisted of a working father, a housewife mother and two or more school-aged children. In 1980, that family unit was only 11 percent of our homes and in 1985 it is 7 percent, "an astonishing change".

A key point that Hodgkinson and other demographers frequently emphasize is that 20 percent of the students currently in public elementary and secondary schools are economically disadvantaged. By the year 2000, one-third of all students will be economically disadvantaged and these students do less well in school. In addition, Hodgkinson points out that the "normal" childhood experience is becoming a thing of the past with increasing numbers of children born out of wedlock, being born to parents who divorce before the child is 18 or to parents who separate. In fact, he asserts, only 41 of 100 will reach 18 "normally."

One major impact on the schools and the workforce of the future will be the huge increase in children born out of wedlock, half of them born to teenage mothers. Indeed, Hodgkinson asserts, every day 40 teenage girls give birth to their third child. "To be the third child of a child is to be very much 'at risk' in terms of one's future," he states. An important aspect of this trend is that teenage mothers tend to give birth to children who are premature because of poor diet and lack of physical exams. This leads to low birth weight which is a good predictor of major learning difficulties when a child gets to school. The effect is that about 700,000 babies of the annual cohort of around 3.3 million births are almost assured of being either educationally retarded or "difficult to teach."

The W.T. Grant study points out that growing up inpoverty will have a dramatic impact on a young person's chance of having weak basic skills. The report notes that "Nearly half of all poor youth score in the bottom fifth of the basic skills distribution, while over three-fourths of all poor youth have below average basic skills." The combination of poverty and weak basic skills, and not ethnicity or race, correlates highly with dispartities in teen childbearing rates.

TRADITIONAL AMERICAN EDUCATION

The American education system has historically served our nation well. At the founding of our republic, Thomas Jefferson said that a more general diffusion of knowledge was necessary to create "an aristocracy of virtue and talent" that would help to ensure the great American experiment with democracy and liberate the energies and imagination from within the "common man." For our nation's first century, our economy was basically rural and formal education was limited. In the 1820s, the American labor movement intensified its efforts to establish a free, universal, public education system "that shall unite under the same roof the children of the poor man and the rich, the widow's charge and the orphan, where the road to distinctions shall be superior industry, virtue and acquirement without reference to descent" (*Labor: Champion of Public Education*, 1986).

Following the Industrial Revolution, our elementary and secondary education system reflected the needs of an economy based on mass production. The system was modeled on the factories, where many of the students would one day work, and placed emphasis on following instructions, discipline and routine tasks—all hallmarks of factor work. Unfortunately, the system has not changed much since. It is larger, more children attend and graduate, but the typical pattern of "chalk and talk" with one teacher lecturing to 25 students five times a day remains true in most schools.

By some measures, our schools have been very successful. Over three-quarters of the adult population has a high school diploma and the figure is 87.5 percent for younger adults. Nearly two-thirds of all high school graduates begin post-secondary education and 17.4 percent of American adults have a college degree, which is twice the number in 1960. One in four younger Americans are now receiving college degrees.

In 1940, only about 25 percent of Americans earned a high school diploma. In 1953, a majority of high school students graduated, 66 percent in 1980 and 75 percent today. Despite the nation's preoccupation with the drop-out rate, one of American education's great successes has been its ability to retain a larger number of students through high school and onto postsecondary education. A generation ago and before, however, young people who left school after the eighth or ninth grade were likely to find a job in a mass production industry such as auto or steel. Since the work was unskilled or low-skilled, these workers were able to earn a middle class living, buy a home and send their children to college.

All of that, of course, has changed. It is not that our schools are less competent than they once were, but that work is more complex that it ever was, and so there is a growing mismatch between jobs and skills. Declining numbers in our workforce mean that our economy and our standard of living will not be maintained unless we are successful with more students.

Recent studies of the National Assessment of Educational Progress (NAEP) including *The Reading Report Card and Crossroads In Education* report some interesting findings. The positive news is that virtually everyone has mastered the "basics." Students can read simple material and add, subtract, multiple and divide whole numbers. Also, while an unacceptable gap still remains, blacks and Hispanics have been successful in narrowing the distance between their scores and those of white students in reading and math.

The problem is that beyond these minimum basics, large percentages of students do not perform very well. Only about 6 percent of 17 year olds can solve a multi-step math problem and only 7 years are able to infer relationships and draw conclusions from detailed scientific knowledge. Only 20 percent can write an "adequate" letter applying for a job at a local swimming pool demonstrating a little critical thinking and persuasive ability. And only 20 percent of a total sample of 3,600 individuals between the ages of 21 and 25 could correctly answer a question that involved reading a bus schedule.

A study recently concluded by the Educational Testing Service, *A World of Difference*, compares the math and science performance of 13-year-old students from the U.S. and 11 other countries and Canadian provinces. The American students perform at the very bottom (LaPointe, Mead, Philips, 1989).

Paralleling NAEP findings, U.S. students did very well at the easiest and lowest levels in math, e.g. 97 percent of U.S. students are able to add and substract with others scoring 98, 99 or 100 percent.

The results were essentially the same in science. Almost all students in all countries knew simple everyday facts but applying simple scientific principles once again found the U.S. near the bottom. At the highest level tested—applying scientific principles—33 percent of the Koreans showed proficiency while only 12 percent in the U.S. did and only three countries scored lower.

One reason for the poor performance of U.S. students has been the lowering of high school diploma and college entry standards, which have recently begun to turn around.

Ironically, 23 percent of the Korean students tested said they thought they were good in math while 68 percent of the American students answered yes to the same questions.

The conclusion is that American students have mastered the basics but they are no longer sufficient. Increased competiton from foreign workers, many of whom are better educated, and the increasing complexity of the workplace, are leaving those without advanced skills out in the cold. While most Americans realize there is a

problem with the nation's educational system, most believe their local schools are good and that their children are doing well. The Gallup poll reports that Americans give higher marks to the schools their children attend than they do schools-in-general. And by the most frequently used measurements, parents have reason to believe that their own children are doing well. States and local school districts contribute to the sense that all is well by citing standardized test results. All of their own students are "above average," as John J. Cannell demonstrated. Japanese mothers give their children's schools much lower approval ratings. It is also generally believed that Japanese parents believe that school success is the result of effort while American parents attribute success largely to ability. That basic difference has profound implications on how hard U.S. students work and what is expected of them by both parents and schools.

What Americans and parents expect of their schools and students is an important part of any effort to make the education system meet the demands of the workplace of tomorrow.

SKILLS FOR TOMORROW

Public education in a democratic society should prepare students to be productive and contributing members of the nation's economic life but also to be responsible citizens who can make informed decisions on issues affecting their personal lives and those affecting public policy. Increasingly, those skills have more in common than not.

As Sue Berryman has pointed out, the transformation of work currently underway is requiring not necessarily "more" or "less" skill but new and differnt skills. "Employment now involves interaction in constantly changing ways with production technology. The spread of micro-electronics and related technologies does not just result in new machines that must be mastered but in a much deeper change in the way production is organized and the ways workers relate to the production process and to each other," Berryman asserts (Berryman 1988). She says there is still a need for good basic skills but there is now also the need for higher order thinking. She argues that there is also "a stunning parallel between changes in the structure of work and the defining characteristics of higher order thinking," and that it is important to include thinking, problem-solving and reasoning skills for all students and not just those destined for college. She suggests that making thinking and problem solving a regular part of the curriculum for everyone and cites the work of cognitive psychologist Lauren Resnick of the University of Pittsburgh for a description of higher order thinking as well as the work of CUNY Professor Dr. Sylvia Scribner who explores the relationship between school-based and non-school-based learning.

Scribner's work, notes Berryman, challenges implicitly the traditional distinctions between "head" and "hand," between "academic" and "vocational" and between school-based and work-based learning.

In summary, Resnick concludes that, in school, a student's success or failure is essentially independent of what other students do (except for grading on a curve) while activity in the "real world," depends a great deal on working interdependently with others. School-based-learning is also based a great deal on "pure thought" as opposed to reliance on calculators and other "tools" often found in life and work settings. In addition, school learning is most often "symbol-based" but with little connection from any meaningful or wordly content. Finally, the kind of "generalized" learning in schools is rarely linked to the "situation-specific competencies" required in out-of-school environments, Resnick notes.

These findings have major implications for how schools should teach according to Berryman. In sum, she argues for more team and co-operative learning with the student being held accountable for their individual as well as team performance; situations where students are taught *how* to get the right answer and not just *having* the right answer (and situations where teachers, as well as students, do not know the answers); and "contextualized learning" where instruction would more closely mirror real life, for example, more apprenticeship-like and simulated experiences.

In a speech delivered to the business community in Kansas City last year, SUNY at Delhi professor Vincent Ryan Ruggiero echoed the findings of Berryman, Resnick and Scribner. "Business and the professions don't need walking encyclopedias—they need problem solvers and decision makers. And the only way they will get them is if thinking instruction is made the central objective at all levels of education," Ruggiero told the group. Schools need to replace "mindstuffing" with "mindbuilding" he argued (Ruggiero 1988).

Ruggiero also noted that intellectual skills are really no different from physical skills and that there is a difference in telling students *what* to think as opposed to teaching them *how* to think. He criticized schools for assuming that thinking skills are automatically learned as a byproduct of amassing facts.

A number of studies have been completed recently that outline the knowledge, skills and attitudes those entering postsecondary education or the world of work need. *Academic Preparation for College: What Students Need To Know And Be Able To Do* by the College Board is a fairly comprehensive outline of the basic academic competencies and academic subjects required of college entrants. A more recent publication, *Workplace Basics: The Skills Employers Want* summarizes a two-year research project of the American Society for Training and Development and the U.S. Department of Labor (Carnevale, Gainer, Meltzer, n.d.).

Workplace Basics reinforces the findings that there is a trend in the "upskilling" of work in the United States that is being driven by technical changes, innovation and competition. Companies are requiring adaptive and innovative workers with strong interpersonal skills. New business strategies such as collaboration, emphasis on quality, and exemplary customer service are demanding better listening and problem-solving skills and of attention to teamwork, creativity and the ability to set goals.

The *Workplace Basics* prescription for a well-rounded worker includes the basic skills associated with formal schooling but, in addition:

"Employers want employees who can learn the particular skills of an available job—who have 'learned how to learn.'

"Employers want employees who will hear the key points that make up a customer's concerns (listening) and who can convey an adequate response (oral communications)."

Employers want employees who can think on their feet (problem-solving) and who can come up with innovative solutions when needed (creative thinking).

Employers want employees who have pride in themselves and their potential to be successful (self-esteem); who know how to get things done (goal setting motivation); and who have some sense of the skills needed to perform well in the workplace (personal and career development);

Employers want employees who can get along with customers, suppliers or co-workers (interpersonal and negotiations skills); who can work with others to achieve a goal (teamwork); who have some sense of where the organization is headed and what they must do to make a contribution (organizational effectiveness); and who can assume responsibility and motivate co-workers when necessary (leadership).

RESTRUCTURING SCHOOLS

The American education system offers the best hope to improve American productivity as has been the case for at least sixty years. As Anthony Patrick Carnevale noted:

"People, not machines, are the well-spring of productivity. Since 1929, growth in on-the-job know-how, the reallocation of labor through retraining, and increased labor quality through education, training, and health care consistently have accounted for more than three-quarters of productivity improvements and most of our growth in national income. By comparison, over the same period, machine capital has contributed a consistent and disappointing 20 percent or less (Carnevale, 1983)."

The convergence of an increasingly competitive global economy, transformations in the nature of work and the workplace and the skills they demand, and disturbing demographics trends call for a redefinition of the purpose of schooling and the way schools are organized. A fundamental restructuring of American public education is not only desirable, it is imperative if the United States is to remain a nation of economic, social and political vitality.

American Federation of Teachers president Albert Shanker frequently draws the analogy between education in the 1980s and the auto industry in the 1960s and 1970s. Until fairly recently the American auto industry had little to worry about. The cars produced in the 25 years following World War II were considered the best in the world and U.S. automakers faced little competition. In the 1970s, Japanese automakers began to penetrate the American market with high quality, low cost cars and earned a steady increase in its share of the American market. The American automakers responded by denying that any problem existed and turned to Madison Avenue to solve the problem. Meanwhile, the Japanese, who were joined by the Koreans and West Europeans, continued to produce cars of higher quality at a price American consumers were willing to pay. The result was the near bankruptcy of Chrysler and serious problems for both Ford and General Motors. Only recently have U.S. automakers responded by attempting to revitalize the industry by adopting strategies employed by its foreign competitors. Today the GM, Chrysler and Ford cars are much better than those produced in the 1960s and 1970s. Unfortunately, that's not good enough. People don't buy cars because they are better than the ones we used to make. They buy the best car for the money (Shanker, *The College Board Review*, 1988).

The same lesson applies to American education, Shanker argues. A generation ago, our schools were meeting the demands of our economy. Even though there was a 75 percent drop-out rate in 1940 and 50 percent drop-out in 1950, the labor market was able

to absorb those drop-outs and those who went on to school were sufficient to meet the skilled needs of industry. As a result, public schools enjoyed wide approval.

Now, everyone is alarmed by a 25 percent drop-out rate—and should be. The reason is that there are new demands on the labor force that were not there were not there 20 or 30 years ago. As former Maryland Superintendent of Schools David Hornbeck remarked, "It used to be the case that the victim of our failure with youngsters was only the youngster. Today, because we need all the kids, we all become the victims. The demographics no longer permit throw away or disposable children."

The problem, then, is not that the schools are worse or are doing a poorer job—the evidence is to the contrary—but that much more is demanded of them if our workforce is to be "world-class."

Just as GM has launched the Saturn project and hundreds of American corporations have restructured the way they produce, so too, does the American education system need restructuring. Xerox's David Kearns said that in restructuring his company, he realized that incremental changes were no substitute for structural reforms. "At Xerox, we realized we couldn't beat our Japanese competitors just by tinkering with our production methods . . . So we revolutionized the way we do things . . . We restructured everything—the way we manufacture, the way we design, the way we think." Kearns then concluded, "That's what our public schools have to do, too . . . " (Kearns, 1986).

Perhaps the leading charge for educational restructuring comes from AFT's Al Shanker. He says that the present system is based on the factory model. It is based largely on teacher talk which fails to reach the overwhelming number of students. Schools currently view the teacher as the worker and the student as the product—as passive receivers of knowledge, he argues.

There is a better way, he states, and that is essentially to view students as workers and teachers as managers. The "work environment" is not the factory floor of the past but the complex workplace of the future where students and teachers both are actively engaged in the learning process (Shanker, College Entrance Examination Board, 1989).

What would such a school look like? While the first wave of the education reform movement raised academic standards and focused on developing a quality teaching corps, the second wave is zeroing in on ways to "restructure." A number of experiments are underway in Rochester, Miami, Toledo, Cincinnati, Pittsburgh, New York City and dozens of other districts (David, 1989).

An excellent example of a restructured school is found in Cologne, West Germany. The Köln-Holweide school is a "comprehensive" school that grew out of a German education reform movement that began in 1963 with the publication *German Educational Disaster* which focused attention on an outmoded, class-based school system. The report concluded that the German school system was not producing enough qualified students to fill jobs in modern industry, technology and science (*American Educator*, Spring 1988).

The 2000-student school has a pupil population composed of a fairly equal mix of high, middle and low ability students including 35 percent who are foreign born, mostly Turks.

By virtually any measure, the school is succeeding. Only one percent of the students drop-out compared to the West German average of 14 percent. Sixty percent of its students score well enough to be admitted to a four-year college compared to a national average of 27 percent. In addition, there is practically no truancy, very little teacher absenteeism and only minor discipline problems.

According to headmistress Anne Ratzki, the Köln-Holweide school differs from most American schools in five ways. First, teachers work as part of a team of six to eight teachers that is responsible for the education of the three groups of twenty-seven to thirty students.

Second, teachers are responsible for the total education of the students making sure they are a success personally as well as academically.

Third, the teacher teams and students remain together for six years—from fifth grade until they earn their "leaving certificate" at the end of tenth grade.

Fourth, the teacher teams are empowered to make all the decisions regarding teaching, scheduling, inservice training, mentoring of new teachers and other responsibilities.

Finally, Köln-Holweide students do not compete against each other in traditional ways. In their groups, children are encouraged to cooperate and work with one another. They encourage one another, and in some instances, tutor teammates.

Classrooms look very different from traditional classrooms of five rows of five or six students facing a lecturing teacher. Students are engaged in solving problems, writing, talking with one another or preparing for a class presentation among other active endeavors. Teachers are more managers of a learning environment than dispensers of information.

Forty percent of the Köln-Holweide students, as opposed to 25 percent of all students, also pass the German national exam known as the *abitur*. Unlike standardized tests in the U.S. that rely on multiple choice questions, the *abitur* is a six hour written examination in two subjects, a three hour exam in one subject and one thirty minute oral examination. The test is developed by the teacher and approved by government authorities and must cover the curriculum.

There are approximately twenty similar schools in Germany today that incorporate many of the approaches of Köln-Holweide school. Since the number of applicants now far exceed the available spots of Köln-Holweide, that number is likely to grow.

Similar experiments are underway in the United States. For example, in the Twin Cities, the Chiron Middle School in Minneapolis and the Saturn School of Tomorrow in St. Paul are restructuring (Pearlman, 1989).

The Chiron Middle School, named after a newly discovered star in the universe, opened in September 1989. The school's 300 students will attend nine-week sessions at a series of learning centers in the community including government, manufacturing, communications, environmental, health, retailing, zoological, and information processing among others. Students will be involved in a variety of activities and projects. Students will work in teams and interact with community resources and make presentations, not only to fellow students, but to parents and the community as well.

St. Paul's Saturn School of Tomorrow, which grew out of a suggestion by AFT president Al Shanker, is named after GM's Saturn project. It opened in September 1989, with 150 students in grades 4–6 and additional grades will be added in subsequent years. The goal of Saturn is the "reformation and redesigning of the schooling process." The Saturn curriculum will consist of the district curriculum plus "the skills and knowledge necessary to succeed in the 21st century: world languages, global education, technologies, ethics, careers, mentorships."

Saturn students will work cooperatively in teams and will develop a personal portfolio of their work and projects. Teachers will also work in teams and be empowered to determine schedules and learning activities.

In addition to the St. Paul Public Schools and the St. Paul Federation of Teachers, other partners in the Saturn school include Apple Computer, Control Data, Pioneer Communications and a local college education department.

School restructuring is not limited to elementary and secondary education. The McMaster University Medical School in Hamilton, Ontario, has replaced its traditional lecture format with problem solving teams. The results to date indicate that students have improved not only their knowledge base but have improved skills needed to practice medicine as well.

The American Federation of Teachers has taken the lead nationally to promote school restructuring, Its Education Research and Dissemination Project links the latest research to classroom teachers. The 1989 AFT QuEST Conference was devoted entirely to retructuring and the AFT sponsored a Restructuring Academy on the campus of Michigan State University this summer. In addition, a large number of AFT affiliates are actively engaged in a wide variety of programs to redesign and restructure schools in addition to Minneapolis and St. Paul.

A NEW FOCUS ON THINKING SKILLS

Common to restructured schools is the effort not only to promote the mastery of a body of knowledge but the enhancement of thinking and reasoning skills as well. Indeed, an entire movement seems to have grown up in recent years around the theme "critical thinking." If workers are to be prepared for the future of work, the trend needs to be accelerated.

Jack R. Fraenkel, in his book *Helping Students Think and Value: Strategies For Teaching Social Studies* attacks a number of unwarranted assumptions about teaching thinking. Fraenkel makes the following observations:

Thinking skills can be taught.

Thinking involves an active transaction between an individual and the data with which he is working. Data (information) becomes meaningful only when an individual performs certain cognitive operations upon it. Thus students must be involved and actively working with data if thinking is to be encouraged.

The ability to think cannot be "given" by teachers to students. How well an individual thinks depends on the richness and significance of the content with which he works, his own interests and desire to participate in the endeavor, the processes he uses, and the initial assistance he is given in the development of such processes.

All subjects offer an appropriate context for thinking.

All children are capable of thinking, though the quality of individual thinking differs markedly.

Since thinking takes many forms, the specific thinking processes which are being developed should be clearly differentiated in the teacher's mind.

Precise teaching strategies can be developed which will encourage and improve students thinking (Fraenkel, 1980).

Fraenkel states that there are essentially four forms of thinking: convergent, divergent, critical and creative. Convergent thinking occurs when one organizes ideas so that they *converge* or point toward one logically correct answer. It is basically logical thinking or deductive reasoning of which the syllogism is probably the best example.

Divergent thinking is when there is no one right answer. One tries to come up with as many different answers, ideas, alternatives and conclusions as possible. One example is inductive reasoning which is frequently called the scientific method.

Critical thinking is the attempt to make an intelligent judgement to decide which among alternatives is better. It is the basis of evaluation and requires criteria of some sort.

Creative thinking is the attempt to create a new or novel idea and is not bound by logic. It has no set of rules or procedures and is actually a form of divergent thinking.

Fraenkel discusses eleven different "operations" he argues can be effectively taught. They include observing, describing, comparing and contrasting, developing concepts, differentiating, defining, generalizing, predicting, explaining, hypothesizing and offering alternatives. He offers a number of strategies for teaching these "thinking skills."

Thinking and reasoning skills cannot be taught, nor should they be, in a knowledge content vacuum. The mastery of a body of knowledge in not of greater or less importance but of equal importance. The mastery of content and the development of thinking and reasoning skill should be interdependent and taught simultaneously.

If students are to have the needed skills for tomorrow's workplace, the development of thinking and reasoning skills should become the "core curriculum" in grades K-12 and in every secondary subject. Restructuring schools should develop a comprehensive and systematic method for introducing and reinforcing thinking and reasoning skills throughout the curriculum.

TEAMWORK

Another key ingredient of the workplace of the future is the ability to work as a member of a team. Restructured schools are placing important emphasis on collaborative or cooperative learning. Learning to be an effective member of a group or team can be taught. A large number of teachers and schools already are employing cooperative learning strategies with a great deal of success. Working in a group supports the concept of the "student as worker" and is an excellent method for teaching the thinking and reasoning skills outlined by Fraenkel and others. It is a natural marriage.

Workplace Basics includes "Group Effectiveness" as one of its major recommendations for skills employers want. "Whenever people work together, successful interaction depends upon effective interpersonal skills, focused negotiations, and a sense of group purpose," the report says. It adds that training in group effectiveness also "includes techniques for separating people from the problem, focusing on interests not positions, inventing options for mutual gain and insisting on the use of objective criteria" (Carnevale, Gainer, Meltzer, n.d.). Team members should also have an understanding of group dynamics such as understanding consensus decision-making techniques, brainstorming, leadership functions and so on.

As is the case with thinking and reasoning skills, collaborative learning is not devoid of content mastery but one effective means to help master knowledge while developing a host of skills.

Restructuring schools around the concept of students as workers advanced by Shanker will incorporate these strategies. As Shanker points out, the idea of students as workers "is central to the improvement of education and schooling. Basically, all education is self-education. In order to learn, a student must work at it by listening, reading, writing, drawing, speaking, questioning, imagining, building, etc. We learn by doing, not merely through passive presence in a classroom, sitting in front of a teacher. Students must be actively engaged in their work" (Shanker, November 20, 1988).

THE AT-RISK: A SPECIAL EMPHASIS

Because of the labor shortage and demographic trends, special attention must be given to the category commonly referred to as the "at-risk" students. These are students who do not perform well and are "at-risk" of dropping out and not having the necessary skills to become a productive worker or member of society. While at-risk students come disproportionately from poor families, the category can and does include others.

The good news is that for the first time in recent history, the needs of the disadvantaged and the needs of the American workplace are merging. The efforts to increase productivity and competitiveness is changing the debate over social equality into one about economic growth (*Business Week*, September 19, 1988).

A large number of studies and reports have focused on this population and numerous recommendations have been advanced including improved efforts at pre-natal care, early childhood education, enhanced Headstart funding and special efforts by communities and schools to help at-risk children succeed.

The restructed school can go a long way to create an environment where these youngsters can enhance their self-esteem and learn. The Köln-Holweide experience is illustrative.

THE SCHOOL-TO-WORK TRANSITION

Business can also play an important role in improving the chances of at-risk students. If students sense that their work will pay off and can see themselves in a job, they are more likely to try harder in school. As *The Forgotten Half* states, "When [students] observe a direct relationship between what they do in school, their work experience, and accessible future careers, they are more willing to make present sacrifices in hopes of future gains" (W. T. Grant Foundation, 1988).

The Forgotten Half points out that many youngsters, irrespective of how well they do in school, are seldom hired out of high school by employers. Employers typically wait until young people reach the age of 20–22, or later, before hiring them, leaving recent graduates who are not college bound, to "alternate low paid work and unemployment with a growing frustration that erodes their confidence." The report suggests that employers seek out recent graduates so they can begin meaningful work sooner and also to offer hope to those currently enrolled.

Some very interesting research on school-to-work transition has been completed by Cornell professor John H. Bishop. Bishop contends that while evidence shows that there are benefits to staying in school, "most students do not benefit very much from working hard in school" (Bishop, 1987). The problem, Bishop asserts, is a lack of incentives. He argues that the labor market fails to reward effort and achievement in high school since employers do not pay attention to high school records beyond the granting of a diploma. If employers are competing for better workers, why don't they reward those who have achieved more in school? Why don't young workers who have achieved well in school receive higher wages? Japan, Germany and other nations demand a lot of students and have systems in place that reward school success. Admittance to the German apprenticeship system is a prime example.

Bishop also calls for a radical restructuring of schools and proposes a series of recommendations including better measures for academic measurement, cooperative learning, mastery learning, increased opportunities for outside of school learning and a better system for linking employment opportunities to school performances. The last recommendation is particularly important for at-risk youngsters.

Similar conclusions have been reached by James E. Rosenbaum of Northwestern University and Takehiko Kariya of the Japanese National Institute of Multimedia Education. Writing in the *American Journal of Sociology* they describe how the Japanese link success in school with employment. That system, they conclude, provides strong incentives for high school achievement (Rosenbaum and Kariya, 1989).

APPRENTICESHIP—A MODEL THAT WORKS

The most successful model for preparing a highly trained and competent workforce has been developed primarily in the building and construction industry—the joint apprenticeship program. Registered apprenticeship programs are responsive to the demand of the workplace because the standards for training are jointly set by employers and unions both of whom have a vested interest in a highly qualified workforce.

Quality apprenticeship programs combine strong academic education, skills development and on-the-job training. Curriculum is constantly updated to meet the demands of new technology. Apprenticeship programs are also designed to match the employment needs of the industry by limiting entrants for available jobs when the economy is slow and increasing the number as the economy expands.

Vocational education in secondary schools should support, and not undermine or compete with, apprenticeship programs. Educating students to directly enter industries that have existing apprenticeship programs undermines those programs and compromises the standards of the industry by providing workers whose skills do not measure up to those who successfully earn their journeyman card. They also can play havoc with the labor market by producing workers for industries where there are no jobs or are already trained apprentices and journeyman available.

The apprenticeship system should be expanded into the manufacturing, public, and service sectors. Some corporations have successfully emulated the apprenticeship system of the building and construction industries with great success by maintaining the same high standards typical of registered programs. Any new programs should

be required to meet these traditional high standards and those that are designed to circumvent or compromise these standards shold be rejected.

Schools have much to learn from the apprenticeship model which is particularly relevant given the needs the changing workplace in the manufacturing and service sectors.

THE ROLE OF VOCATIONAL EDUCATION

The first phase of the education reform movement treated vocational education with either hostility or neglect and focused on raising "academic standards." While the attention to academic standards was important, reformers missed important lessons from vocational education for restructuring schools and improving the school-to-work transition.

According to *The Unfinished Agenda: The Role of Vocational Education in the High School*, ". . . instruction in vocational classrooms offers an alternative—an avenue for breaking away from the all-too-similar characteristics of so many classrooms" (The National Commission on Secondary Vocational Education, n.d.). The report argued that the teaching-learning process characteristics of quality vocational education programs is able to respond to diverse learning styles.

The study notes that vocational programs teach problem solving and analytical skills and reinforces basic communications and interpersonal skills through applied and small-group learning activities. Vocational education teaches the ability to gather and analyze information, reasoning, applications of technology and an understanding of the American economic system.

In quality vocational courses, instruction is "individualized and cooperative and often emphasizes student mastery of specific skills or competencies," the study notes. In addition, students frequently work in teams and often on group projects. Vocational education also more closely reflects real life and provides opportunities for real life or simulated workplace experiences.

Ironically, then, vocational education, long viewed as an educational step-child, provides an excellent model for restructuring the academic learning environment.

There needs to be better articulation between academic and vocational education and between secondary and postsecondary vocational education as well as improved linkages between vocational education and the world of work, but educators involved in school restructuring will find that vocational education, in addition to meeting labor market needs, has a lot to offer as a process as well.

TOWARD A NEW AMERICAN WORKER

A recent survey by Louis Harris and Associates for the Carnegie Forum on Education and the Economy entitled *Redesigning America's Schools: The Public Speaks*, concluded "It is clear . . . that the American people and business leaders are both convinced that the way for this country to become competitive with foreign business, especially the Japanese, is not to try to revert back in time and try to compete with unskilled and low skilled labor. But instead, they believe, the U.S. should face up to exporting or automating such lower skill jobs and production activities and turn to creating whole new opportunities on a base of a labor pool that is far more sophisticated and far better trained to perform those highly skilled tasks that would once again make the U.S. competitive in the world" (Harris, 1986). Harris reported that large majorities are convinced that a whole new approach to educating and training the American workforce must be undertaken. New skills are required of everyone and they must be targeted in the public schools to all students. And Americans are willing to pay according to Harris. He reported that "77 percent of the public is willing to pay a tax increase to improve the quality of education, as are 65 percent of the top business leaders willing to pay higher corporate taxes to make the quality of education better."

American public education has historically responded to meet the needs of a changing American economy and society. In response to the Industrial Revolution, the United States developed an education system that prepared workers to function in mass production and emulated the factory system. Simultaneously, it produced a sufficient number of trained people for the professions, management and technical positions such as engineering.

Tomorrow, the challenge will be very different. The very nature of work and the workplace are dramatically changing requiring new sets of skills. The schools of tomorrow must prepare all students to be successful in the new work environment.

The "New American Worker" is really two people. The first is a worker who has the knowledge, skills and attitudes to successfully function as a member of a team and who interacts with everchanging technology in a decentralized and flexible *production* environment. The second is the student who functions as a member of a team and who interacts with everchanging technology in a decentralized and flexible *learning* environment. The characteristics of the new American worker and the new American student are merging into one and the same.

That is the lesson American corporations are quickly learning and restructuring to accommodate. The question remains as to whether the nation's public schools will learn the same lesson and restructure to meet the challenge.

The economic imperative is obvious. However, much more is at stake. The future of a nation and its people depend on how we respond. A new American worker can keep the American Dream alive.

WORKS CITED

Academic Preparation For College: What Students Need To Know And Be Able To Do. New York: The College Board, 1983.

Applebee, Arthur N., Judy A Langer, and Ina V.S. Mullius. *Crossroads in American Education.* Educational Testing Service. Princeton: February 1989.

Bailey, Thomas. *Changes in the Nature and Structure of Work: Implications for Skills and Skill Formation.* Executive Summary. n.d.

Berman, Melissa A. Report. *Restructuring Education: Highlights of a Conference.* The Conference Board. 1987.

Berryman, Sue E. "Education And The Economy: What Should We Teach? When? How? To Whom?" 1988 Distinguished Speaker Series in Adult Learning at the Graduate School and University Center. National Center on Education and Employment Teachers College. Columbia University. New York: March 30, 1988.

Bishop, John H. "Why High School Students Learn So Little And What Can Be Done About It" Testimony. Subcommittee on Education and Health of the Joint Economic Committee on "Competitiveness and the Quality of the American Workforce." October 1987.

Carnevale, Anthony P. *Human Capital: A High Yield Corporate Investment.* American Society for Training and Development. Washington: 1983.

Carnevale, Anthony P., Leila J. Gainer, and Ann S. Meltzer. *Workplace Basics: The Skills Employers Want.* The American Society for Training & Development and U.S. Department of Labor Employment & Training Administration, Washington. n.d.

Committee for Economic Development. *Investing in Our Children: Business and the Public Schools.* New York: 1985.

Committee for Economic Development. *Children in Need: Investment Strategies for the Educationally Disadvantaged.* New York: 1987.

Crossroads For America. American Federation of Labor and Congress of Industrial Organizations, Industrial Union Department. Washington: 1987.

David, Jane L. *Restructuring in Progress: Lessons From Pioneering Districts.* National Governors Association. Washington: 1989.

Educating the Class of 2001: An Agenda For Education. Addresses to the College Board National Forum, The College Board, Washington: November 2-4, 1988.

"For Auto Workers, It's Team Spirit vs. Suspicion." *Business Week*, 10 July 1989, p. 60.

The Forgotten Half: Non-College Youth in American. The William T. Grant Foundation, Washington: January 1988.

Fraenkel, Jack R. *Helping Students Think And Value: Strategies for Teaching The Social Studies.* New Haven: Prentice-Hall, 1980.

"Go Team! The Payoff From Worker Participation." *Business Week, 10 July 1989, pp. 56-62*

Harris, Lou & Associates. *Redesigning America's Schools: The Public Speaks.* New York: Carnegie Forum on Education and the Economy, 1986.

Hayes, Robert H. and William J. Abernathy. "Managing Our Way To Economic Decline." *Harvard Business Review*, July-August 1980, pp. 67-77.

"Help Wanted: America Faces An Era of Worker Scarcity That May Last to the Year 2000." *Business Week*, 10 Aug. 1987, pp. 48-53.

Hodgkinson, Harold L. *All One System.* The Institute for Educational Leadership, Inc., Washington: 1985.

"Human Capital: The Decline of America's Work Force." *Business Week*, 13 Sept. 1988, pp. 100-121.

Jennings John F. "The Sputnik of the Eighties." *Phi Delta Kappan*, October 1987:

Johnston, William B. *Workforce 2000: Work and Workers For the 21st Century.* Indianapolis: Hudson Institute, 1987.

Kearns, David T. Address. "Economics and the Student: Business Must Be Involved in Education." 34th Annual Management Conference. The University of Chicago, Graduate School of Business. Apr. 8, 1986.

Kochan, Thomas A., Harry C. Katz and Nancy R. Mower. *Worker Participation and American Unions: Threat or Opportunity?* Kalamazoo: W.E. Upjohn Institute for Employment Research, 1984.

Kuttner, Robert, "Austerity or Collaboration" Paper. Symposium on the Future of Labor Management Relations and the Role of Public Policy. New York: 1 Nov. 1987.

Labor: Champion of Public Education. American Federation of Labor and Congress of Industrial Organizations, Washington: 1986.

LaPointe, Archie E. Nancy A. Mead and Gray W. Phillips. *A World of Difference: An*

International Assessment of Mathematics and Science, Educational Testing Service. 1989.

Lee, Bruce. "The GM-Toyota Team: Worker Harmony Makes Nummi Work." *New York Times,* Dec 25, 1988.

Marshall, Ray. *Unheard Voices: Labor and Economic Policy in a Competitive World.* New York: Basic, 1987.

——Address. "The Economics of Minority Education" QUEST Conference of the American Federation of Teachers. Washington: July 22, 1989.

National Assessment of Educational Progress. *The Reading Report Card: Progress Toward Excellence in Our Schools.* Princeton: n.d.

National Commission on Secondary Vocational Education. *The Unfurnished Agenda: The Role of Vocational Education in the High School.* Columbus: Ohio State University. n.d.

Pearlman, Robert. "Technology's Role in Restructuring Schools." *Electronic Learning,* June 1989. p. 8+

"The Remarkable Impact of Creating A School Community." *American Educator,* Spring 1988.

Rosenbaum, James E. and Takehiko Kariya. *American Journal of Sociology.* Vol. 94, No. 6 May 1989, pp. 1334–1365.

Ruggiero, Vincent Ryan. Speech. "The Role of Business in Educational Reform: Pessimism and Popular Culture." Kansas City: Dec. 8, 1988.

Shanker, Albert. "Learning Conditions and Working Conditions: Recognizing the Student Workers." Column. *The New York Times,* Nov. 20, 1988.

——"Restructuring Leadership: A Contemporary West German Public School Offers A Display of Educational Leadership in Some Unconventional Ways" *The College Board Review,* New York: Fall 1988.

——Address. "The Class of 2001: Standards and Values in a Multicultural Society" *Educating the Class of 2001: An Agenda for Education.* College Entrance Examination Board. New York: 1989. pp. 15–19.

Slaughter, Jane & Mike Parker. *Choosing Sides: Unions & the Team Concept.* Boston: South End Press, 1988.

UAW Washington Report. "Bieber Firmly Sets UAW Agenda." Vol. 29, No. 19 Washington: June 26–July 7, 1989.

United States. Dept. of Labor. *The Bottom Line: Basic Skills in the Workplace.* Washington: n.d.

Workforce Policies for the 1990s. Economic Policy Institute. Washington: 1989.

Zuboff, Shoshana. *In the Age of the Smart Machine: The Future of Work and Power.* New York: Basic, 1988.

REPORTS OF THREE NEW SOVIET VIOLATIONS OF THE INF TREATY SHOW A CONTINUING NEED FOR A UNITED STATES COMPLIANCE POLICY FOR PROPORTIONATE RESPONSE

Mr. McCLURE. Mr. President, as all my distinguished colleagues know very well, I was one of the supporters of the INF Treaty signed by former President Reagan in December 1987. The INF Treaty was given the advice and consent by the Senate for Presidential ratification on May 27, 1988, by a vote of 93 to 5.

I was 1 of the 93 Senators who voted in favor of the INF Treaty. Moreover, I argued in favor of the INF Treaty throughout the ratification process, while voting for some measures which I believe would improve the treaty. I also voted for some measures which were intended to help to detect and therefore deter potential Soviet violations of INF.

Mr. President, as a supporter of the INF Treaty, I am now deeply concerned about reports of three serious new Soviet violations of the INF Treaty. We should insist upon full Soviet treaty compliance, because without strict and full compliance on both sides arms control is meaningless.

Last October, the State Department published a long study which confirmed that Soviet President Gorbachev has continued his active measures campaign of Soviet diplomatic deception and disinformation aimed at disrupting American foreign policy, despite an earlier Gorbachev promise in 1987 to cease these negative activities.

Nevertheless, Gorbachev's diplomatic deception not only seems to continue through 1990, but it now also seems to include even serious Soviet violations of an arms control treaty signed by Gorbachev himself.

Recently, Mr. President, Soviet SS-23 missiles banned by the INF Treaty have been detected and are confirmed to be deployed in East Germany.

Even more significantly, Mr. President, the Soviets are denying the United States its INF Treaty monitoring rights by refusing to allow operation of our Cargo-scan x-ray system at the Soviet Votkinsk missile factory. Reportedly, they are also forcibly smuggling new type SS-25 ICBM's out of Votinsk.

The Soviets have now been publicly confirmed to have deployed at least 24 SS-23's in East Germany, for which the Soviets control the nuclear warheads, an apparent violation and irreversible "material breach" of the INF Treaty. Even the State Department reportedly regards this problem as a serious "breach of good faith" by the Soviets.

Mr. President, these Soviets SS-23's also seem to be positive confirmation of the existence of Soviet covert INF forces. But how should the United States deal with this positive confirmation of covert Soviet INF missile forces? Is there evidence of other covert Soviet INF missiles, such as covert SS-20's, covert SS-CX-4's and covert SS-4's? What are the implications of covert Soviet INF missiles for trying to ban covert forces in a possible START Treaty?

But, Mr. President, there is a second recent example of Soviet covert INF forces.

An unclassified Soviet military publication published in May 1989 revealed that in addition to the 239 Soviet SS-23's that were eliminated under the INF Treaty, there was also a total of 211 more Soviet SS-23's which had either been test-fired or had been transferred to Soviet allies in Eastern Europe.

Moreover, the distinguished reporter Robert Toth stated in the Los Angeles Times of March 8, 1990, that "In 1984 and 1985, the Soviet Union moved a number of SS-23's from its territory into Czechoslovakia and East Germany in an effort to intimidate Western Europe." This is the first known public reference to the presence of Soviet SS-23's in Czechoslovakia.

Based upon these two unclassified pieces of information on the Soviet transfer of SS-23's to Czechoslovakia, I would like to pose several questions.

Mr. President, were up to about 100 SS-23's probably test-fired by the Soviets?

I ask further, has the Czechoslovakian army recently admitted that it has nearly 80 Soviet SS-23 missiles?

Mr. President, if 211 Soviet SS-23's were test-fired or transferred to Soviet allies in Eastern Europe, then does this total comprise the following three categories: First, 24 Soviet SS-23's confirmed to be deployed in East Germany; second, nearly 80 Soviet SS-23's deployed in Czechoslovakia; and third, up to about 100 Soviet SS-23's test-fired?

Mr. President, since the above three categories total only about 204 of about 211 SS-23's reported to have been test-fired or transferred to Soviet allies, is there still another batch of SS-23's unaccounted for?

I have several more questions.

Did the Soviets ever tell the United States during the INF negotiations that they had transferred SS-23's to their allies?

Did the Soviets, in fact, propose during INF negotiations in 1987 that all U.S. Pershing IA missiles transferred to West Germany, and other INF missiles transferred to allies by either side, should be banned under the INF Treaty?

Finally, Mr. President, I ask, do Soviet SS-23's transferred to Czechoslovakia violate the INF Treaty? Do they constitute a material breach of the INF Treaty?

If so, what will the United States do about the Soviet INF violations, which then-Secretary of State Schultz promised in January 1988 to react strongly against?

In sum, Mr. President, are Soviet covert SS-23 INF forces in East Germany and Czechoslovakia further positive evidence of Soviet covert INF forces?

But, Mr. President, there is yet a third area of recent Soviet violation of the INF Treaty—the Soviet break out from our cargo-scan x-ray monitoring

rights at their Votkinsk missile factory.

Is the Soviet removal of 3 missiles from Votkinsk without our treaty-guaranteed x-ray scanning irreversible, and does this Soviet denial of our x-ray monitoring rights at Votkinsk also constitute a violation and a material breach of the INF Treaty?

Mr. President, have the Soviets actually admitted that they have a new type of SS-25 ICBM being produced at Votkinsk, but have they also admitted that this new Soviet missile was never discussed with the United States in the INF negotiations? Is there evidence that the Soviets have set up a second, covert, production facility to produce the new type SS-25 ICBM's? What effect will a new type SS-25—probably carrying 3 MIRV's—have on START warhead counting rules, START constraints on new type missile modernization, and START verification regimes for mobile ICBM's?

If the Soviet prevention of our x-ray monitoring rights at Votkinsk is a serious INF violation, it is still only a procedural violation of the INF Treaty. But if the purpose of this Soviet procedural violation is to prevent the United States from detecting by x-ray the probable new type, 3 MIRV SS-25 ICBM, then an even more serious violation of the INF Treaty may be taking place.

Thus the Soviets may not ever be able to allow us to see this new type SS-25 missile at Votkinsk at all, without confirming that they are engaged in committing an even more serious, military significant violation. Soviet break out from Cargo-scan for the forcible removal of the first three new type SS-25's is irreversible. Indeed, it is possible that these Soviet actions will have a negative impact upon START.

President George Bush has a sound policy of not signing a START Treaty unless the Soviet-admitted illegal Krasnoyarsk radar is full dismantled to American satisfaction. The Congress strongly supports this policy. I wonder whether it would also be wise for President Bush to refuse to sign a START Treaty unless these two new Soviet INF Treaty violations are corrected?

As one Senator interested in sound arms control and strict compliance, I believe that President Bush should not sign a START Treaty until Krasnoyarsk is satisfactorily dismantled, and further, he should not sign START until these three apparent new Soviet INF Treaty violations are either explained or corrected as well.

I would now like to have some important documentation supporting my views printed in the RECORD.

First, I ask unanimous consent that an excellent article by Sven F. Kraemer, in the winter, 1990 edition of Strategic Review, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follow:

[From Strategic Review, Winter 1990]

THE KRASNOYARSK SAGA

(By Sven F. Kraemer)*

In brief: Soviet Foreign Minister Shevardnadze's admission that the giant radar at Krasnoyarsk represents a breach of the ABM Treaty climaxed a long and somber story. It is a story not only of elaborate and sustained Soviet deception, but also of efforts within the U.S. bureaucracy to hammer out an effective compliance policy, as well as of at-large attitudes in the United States of dogmatic faith in arms control and easy beguilement by Soviet professions, even in the face of incontrovertible evidence. The story is not over: the Krasnoyarsk radar may yet play a part in the end-game of hastened negotiations toward the conclusion of a START Treaty.

After years of denial and cover-up at the highest levels of the Soviet Government, Foreign Minister Eduard Shevardnadze acknowledged, in an October 23, 1989, address to the Supreme Soviet, that construction of the giant Soviet radar at Krasnoyarsk, first discovered and protested by the United States in 1983, marked a clear and deliberate violation of the ABM Treaty of 1972. "All these years," said Shevardnadze, "we have been fighting for preservation of the ABM Treaty as a basis for strategic stability. Yet, at the same time, the construction of this station equal in size to the Egyptian pyramids constituted an open violation of the ABM Treaty." Implying that responsibility lay elsewhere, he asserted that it had taken the Soviet leadership four years to "come to know the truth" and to "sort our matters."[1]

Whatever may have been the intent behind Shevardnadze's revelation in the context of accelerated U.S.-Soviet negotiations toward a treaty on mutual reductions in strategic arms (START)—or in the continuing Soviet offensive against the U.S. Strategic Defense Initiative (SDI)—his statement clearly was meant also to reinforce the image of the Gorbachev regime's domestic reforms and its "New Thinking" in foreign policy. It flaunted the new "openness" that supposedly applies not only to the Soviet Union's internal life, but also its dark, embarrassing past. It attributed the onus for the origin of the Krasnoyarsk transgression to the Brezhnev regime, which has been blamed for much of the Soviet Union's current ills. And it sought to absolve the Gorbachev regime of responsibility by implying that it had been duped for four years by its own senior military commanders.

Shevardnadze's message to the United States was in effect: "We have sinned. We have deceived you. But with this confession, let us close the book on this regrettable episode in our past relations."

Yet, that book cannot be closed. It is precisely for its import for the future of U.S.-Soviet relations that the story of the Krasnoyarsk radar needs to be rehearsed and pondered. That story reflects not only on a Soviet policy of deception, but also on the critical issue of a U.S. policy on arms control compliance, and thus on the continuing East-West "arms control process."

BACKGROUND IN THE 1970'S

The Krasnoyarsk violation must be placed historically within the larger context of Soviet violations of international agreements. It involved only one, albeit a particularly significant, breach by the Soviet Union of agreements reached with the United States during the 1970s. It is the legacy of a decade in which the U.S. Government increasingly ignored and/or excused Soviet transgressions of not only arms control and human rights treaties, but also regional agreements involving Vietnam, the Middle East, Africa and Central America.

Soviet violations continued to mount even as three successive U.S. Administrations, under Presidents Nixon, Ford and Carter, vainly sought to bring about a more constructive Soviet behavior through what Henry A. Kissinger had characterized as an "entangling web" of arms control, trade, regional and cultural agreements with Moscow. Typical of the spirit of the time, a report issued in 1978 by the Department of State on Soviet compliance with arms control agreements essentially absolved the Soviets of any violations.

In the latter 1970s, the increasingly glaring gap between official U.S. judgments of Soviet behavior and the reality of that behavior—particularly as it was expressed in an ever more aggressive extension of Soviet power into the Third World and a massive buildup of Soviet military power across the full spectrum of capabilities—provided the magnet for the coalescence of a small band of professionals in the Washington policy community. It was an informal and loose grouping of active and former Executive Branch officials, Congressional staffers and members of foreign policy "think tanks," including both "Jackson" Democrats and "Reagan" Republicans. They communicated with one another and met occasionally to discuss shared concerns on arms control and compliance issues. In this, they drew on analyses of the Armed Services, Intelligence and Republican Policy Committees of the U.S. Senate, on such private organizations as the Committee on the Present Danger, and on detailed criticisms of the arms control compliance process such as those by former Defense and ACDA officials Melvin Laird, Fred Iklé and John Lehman, and by ex-CIA analyst David Sullivan.[2]

The group's concerns rose as Congressional hearings on the SALT II Treaty, tabled by the Carter Administration, bared deep problems in that treaty, especially those related to definition, verification and enforcement—problems that were compounded by the loss of major U.S. monitoring sites in Iran following the revolution that overthrew the Shah, as well as by widening disparities in the U.S.-Soviet strategic balance in favor of the Soviet Union.

EARLY THRUSTS IN THE REAGAN ADMINISTRATION

Largely through the efforts of the group, many of whom joined the ranks of Ronald Reagan's foreign policy and defense advisers, their concerns became dominant themes in the 1980 Presidential campaign. The planks of the Republican Party Platform of

*The author: Sven Kraemer is Deputy Director of the Center for Security Policy in Washington. He served for a total of 16 years with the National Security Council under Presidents Johnson, Nixon, Ford and Reagan. As the NSC's Director of Arms Control in the Reagan Administration, from early 1981 until his resignation in August 1987, Mr. Kraemer represented the NSC in numerous interagency committees, with a focal role in the areas of arms control verification and compliance, including the policy issues described in this article.

[1] Footnotes at end of article.

1980 scored non-compliant and aggressive Soviet behavior and weak U.S. responses, warned of widening vulnerabilities in the U.S. defense and deterrence posture and urged the rapid modernization of U.S. deterrent forces. The Carter Administration was accused of a cover-up of Soviet arms control violations.[3]

Following Ronald Reagan's election victory, these concerns and themes were injected into the coming Administration's transition teams, notably those in the Departments of Defense and State, the Central Intelligence Agency and the Arms Control and Disarmament Agency. Although a number of the group's members were eventually denied positions in the Reagan Administration itself, others, including this writer, gained senior positions within the Government.[4]

By dint of their previous experience, these self-styled "realists" were well-versed in the issues as well as in the ways of the bureaucracy. In the arms control arena, they particularly benefitted from a strong bridge between the new officials dealing with arms control matters in the National Secruity Council (NSC) and the Defense Department, while they also found enclaves of support for their general perspective within the White House staff, at senior levels of the Central Intelligence Agency and in the Arms Control and Disarmament Agency's Verification Bureau.

During 1981 and 1982, this core network of officials pressed ahead on a broad front of arms control and defense issues. They were instrumental in the preparation and implementation of Presidential instructions to the dozen Interdepartmental Groups (IGs) working on a wide range of arms control issues. By mid-1982, the Reagan Administration had formulated farreaching, new arms control proposals for strategic and intermediate-range nuclear weapons reductions, and major reviews on nuclear weapons reductions, and major reviews on nuclear testing policy. Although new interagency efforts to assess Soviet violations of the SALT II agreement were blocked by the Department of State during 1981, extensive reports were issued in 1981 and 1982 on Soviet violations of chemical and biological weapons conventions.[5]

ADVENT OF COMPLIANCE MACHINERY

Late in 1982, the National Security Council established a new body for optimizing the decisionmaking process with respect to arms control negotiations: the Senior Arms Control Group (SACG). Meeting in the White House Situation Room, chaired by the National Security Adviser and supported by NSC arms control staff, the SACG embraced officials at undersecretary and assistant secretary levels in some seven government agencies. Through intensive senior-level discussion and centralized direction, even highly complex negotiations issues could now be brought into focus.

The same degree of clarity and effective decisionmaking grasp unfortunately could not be brought to bear on matters of verification and compliance. On these issues, the Senior Arms Control Group repeatedly became mired in technical complexities, policy dilemmas and, above all, delaying tactics and resistance from within the governmental bureaucracy, especially in the State Department, ACDA and parts of CIA.

At this stage, the National Security Council staff responsible for arms control issues came up with the design of additional instrumentalities which could give the President's arms control criteria—particularly those applying to verification and compliance—a better chance to prevail. First came the establishment of a new senior-level NSC group—the Arms Control Verification Committee (ACVC)—with the mandate of focusing exclusively on verification and compliance issues and of providing assessments and options to the National Security Council and the President.[6] The fact that the committee was chaired by the National Security Adviser or his representative lent assurance that the NSC would play a decisive role in its agenda, procedural arrangements and the framing of final drafts for Presidential decision.

The Presidential control function was enhanced by the creation of two major components of the Arms Control Verification Committee, one "technical" and the other "policy-oriented," each cochaired by at least one Reagan appointee strongly supportive of the President's objectives. Thus, the ACVC Technical analysis component was cochaired by the tough-minded head of ACDA's Verification Bureau, along with a senior intelligence expert from CIA. The chair of the ACVC Policy component was shared by the Director of the Department of State's Bureau of Political-Military Affairs and the Assistant Secretary of Defense for International Security Policy.

In this way, the Ams Control Verification Committee was able both to complement the Senior Arms Control Group and to reduce its burden of contentious verificaton and compliance issues. At the same time, a more effective meachanism was created for zeroing in on those issues.

TWO TASKS FOR THE VERIFICATION COMMITTEE

Early in 1983, the Arms Control Verification Committee was assigned two major tasks that would decisively shape the Administration's verification and compliance policy. First, the ACVC was asked systematically to evaluate and attest to the "effective" verifiability of any and all of the Administration's arms control proposals—i.e., to certify that every provision of such a proposal was clear in its definitions and its data base, and that there was high confidence that compliance could be monitored in a timely and unambiguous manner.

The "effective verification" criterion directly contested the prevailing bureaucratic view that arms control agreements required only "adequate" verification. "Adequate" had served in the past as a highly elastic standard, according to which verification was deemed satisfactory so long as it enabled the detection of violations of "major" military consequence or "breakout" potential. The criterion of "effective verification," along with the requirement of senior-level certification, meant more rigorous standards to be applied.

At the same time, the ACVC was directed to prepare for review by the National Security Council and the President a comprehensive report of major issues of Soviet noncompliance with arms control agreements. Initially, Department of State representatives and their allies in the Verification Committee proposed to respond to this directive by considering the total provisions of all major arms control agreements and then undertaking what amounted to a "net assessment" of Soviet compliance with each accord, based on an arithmetic count of whether or not the Soviet Union was adhering to a majority of its provisions. This was clearly a prescription for an endlessly drawn-out review process, along with a method that would have the effect of burying specific Soviet violations within a generalized judgment.

The NSC arms control staff ultimately prevailed against this proposal, arguing that it was analogous to declaring that the gangster Al Capone had been in net "compliance" with the U.S. tax code so long as he adhered to a majority of its detailed provisions, even while violating others. The Verification Committee was thereupon directed to concentrate on six major cases of suspected Soviet noncompliance: (1) chemical, biological and toxic weapons conventions; (2) the Helsinki Final Act; (3) encryption of missile tests under SALT II: (4) the development of the new Soviet SS-X-25 missile under SALT II; (5) Soviet SS-16 missile deployments under SALT II; and (6) the Threshold Test Ban Treaty.

In July 1983, when U.S. intelligence discovered the new Soviet radar facility under construction at Abolakova near Krasnoyarsk, Siberia, this issue was added to the six arealy under special review. Additional tasks and procedures were outlined, setting a pattern for all future compliance reports. The ACVC was directed to prepare:

Technical analyses of the intelligence data, monitoring capabilities, etc.

Legal analyses, to include the treaty language and negotiating record.

Policy recommendations for appropriate U.S. responses.

Diplomatic demarches and exchanges with the Soviet Union in the U.S.-Soviet Standing Consultative Commission (SCC) and other diplomatic forums in order to seek explanation or resolution of U.S. compliance concerns.

A classifed report on Soviet noncompliance for highest-level review.

Classified compliance briefings to Congress.

THE PRESIDENT'S GENERAL ADVISORY COMMITTEE

It was anticipated in the NSC that the imposition of the Verification Committee on a recalcitrant bureaucracy would not suffice to overcome the latter's by-now reflexive resistance and foot-dragging on compliance issues. What was needed, in addition to the new "inside" mechanism, were the objective views of independent experts—to assure that the President would receive assessments and policy options undistorted by interagency infighting.

This second instrument was the President's General Advisory Committee on Arms Control and Disarmament (GAC), a group of distinguished experts from the private sector chaired by Dr. William Graham. In the late fall of 1982, at a swearing-in ceremony in the White House, the President asked the GAC to prepare a comprehensive, independent review of noncompliant Soviet activites. The review was to be classified and to include the Committee's own policy recommendations.[7]

Although the GAC's independent effort was subsequently opposed by the State Department and the Director of the Arms Control and Disarmament Agency, it completed the review by October 1984. Detailing an extensive pattern of Soviet treaty violations covering a twenty-five year period, the GAC report strongly corroborated the assessments of the seven compliance issues undertaken by the Arms Control Verification Committee, including the Kasnoyarsk radar. The GAC's chairman subsequently briefed the President on the Committee's findings and recommendations. At Congressional request, the GAC report and briefings were provided to the Congress, and

summaries subsequently appeared in the press.

THE KRASNOYARSK VIOLATION

It was through such concerted mechanisms that the Reagan Administration was able to enforce a new governmental focus on the issue of Soviet compliance with existing obligations, including—after its discovery in July 1983—the Krasnoyarsk radar. The construction of the radar was a clear violation of several key provisions of the 1972 ABM Treaty.

First of all, the Treaty, as amended by subsequent protocol agreed-upon by the United States and the Soviet Union, banned the deployment of anti-ballistic missile defenses by either side except at one optional location: either around the national capital or at a selected area of ICBM deployment. The Soviets had designated Moscow as that single, permitted location. In behest of that choice, they deployed radars and up to 100 missile launchers around the national capital—systems which they steadily continued to improve. The United States, in contrast, had designated the Minuteman silos at Grand Forks, North Dakota, as its ABM site, but already by 1975 had abandoned all ABM deployment even there.

Second, the Krasnoyarsk construction breached the Treaty provisions applying to early-warning radars. In order to prevent the erection of a territorial ABM defense, the Treaty limited the deployment of Ballistic Missile Early Warning Systems (BMEWS), including Large Phased-Array Radars (LPARs) used for that purpose, to locations along the periphery of the territory of each party. It also required that such radars be oriented outward.

The ABM treaty did invite ambiguity by not restricting LPARs put up for the purpose of tracking objects in outer space or for use as national technical means to verify compliance with arms control agreements. It was this ambiguity that the Soviets deliberately set out to exploit in the Krasnoyarsk construction. Once the construction was discovered and could no longer be denied, the Soviets invoked the fiction that the radar was being erected for purposes of space-tracking. They maintained that fiction—and deliberate deception—until Shevardnadze's admission to the contrary in 1989.

Yet, the Soviet fiction was transparent from the outset. The phased-array-radar being put up at Krasnoyarsk was identical to a new class of Soviet radars, including the LPAR at Pechora, which had been explicitly identified by the Soviets as a Ballistic Missile Early Warning Radar. It was clearly designed for the detection and tracking of ballistic missiles. It is located remote from the "periphery" of the Soviet Union—more than 700 kilometers from the nearest border (with Mongolia). It faces not south toward that border, but across 4,000 kilometers of Siberia toward the northeast. Thus positioned, it is strategically sited near major Soviet ICBM bases and in a direct line between those bases and the one area which had remained a possible gap in the Soviet Union's BMEWS coverage.

It needs to be stressed that the actual operational status of the Krasnoyarsk facilities is not a factor or variable bearing upon its status as a violation. The record of the ABM Treaty negotiations makes it clear that the very construction of an LPAR is inconsistent with the terms of the Treaty. The intent was to prevent the components of a territorial ABM defense from being put into place over time toward a potential "breakout" from the Treaty.

It is precisely in a larger context of Soviet ABM activities, also involving probable or potential violations, that the Krasnoyarsk construction—serious enough in its own right—took on added magnitude. Such related Soviet activities have included the following:[8]

ABM component mobility: the development and testing of various components of a potential ABM system that could thereby be made deployable in a relatively short time.

Concurrent operation of air defense components and ABM components.

Air Defense with ABM capabilities: the development of modernized strategic air defense systems notably the SA-10 and SA-12 surface-to-air missiles that may have effectiveness against ballistic missiles.

ABM rapid reload: the demonstration of an ability to reload ABM launchers in a period of time short enough to cause the United States concern as to Soviet capabilities and intent with regard to rapid reload.

The Gomel Radars: as first noted in the President's December 1987 report, the deployment by the Soviets of a Flat Twin radar and a Pawn Shop radar-van at Gomel—i.e., at a prohibited location neither at the periphery of the Soviet Union nor at the Soviet ABM test site at Shary Shagan.

The sum of these Soviet activities led to a Presidential conclusion that the Soviets might be preparing a prohibited territorial defense against missiles. It needs to be noted that, given the scope of Soviet ABM efforts, this conclusion would remain valid even if the Krasnoyarsk radar were actually dismantled.

THE SCC AND THE PRESIDENT'S REPORTS

Critics of the Reagan Administration's position on the Krasnoyarsk radar and other compliance issues frequently accused the Administration of deliberately inflating the issue of Soviet noncompliance for domestic-political purposes and/or in order to "undermine" the arms control process. They charged that the Administration failed to use existing diplomatic mechanisms, particularly the U.S.-Soviet Standing Consultative Commission (SCC), for resolving compliance problems—indeed, that it broke diplomatic procedures by going public with the details of SCC deliberations and other confidential diplomatic exchanges.

These charges were totally off the mark. Insiders in the Reagan Administration can attest to the often grueling patience with which the Administration pursued existing diplomatic procedures in particular holding to the hope that compliance issues could be explained or resolved in the forum of the U.S.-Soviet Standing Consultative Commission (SCC).

The SCC had been established in 1972 in the context of the ABM Treaty, as well as the SALT I Interim Agreement Limiting Offensive Arms. Its mandate was later extended to the SALT II Agreement of 1979.[9] The Administration continued to raise SALT I and SALT II noncompliance issues in the SCC at least until 1986, when President Reagan made the decision that the United States would finally step away from these breached agreements.

For each semi-annual session of the SCC in Geneva, which usually spanned from four to six weeks, detailed options papers and instructions were reviewed at the NSC and Presidential levels. The objective was to seek explanation or resolution of each issue, and SCC reporting cables were carefully reviewed by a "backstopping" support group and the ACVC in Washington.

The SCC exchanges were never made public; extensive summaries of those exchanges were provided to the Congress only in classified form. The record of those exchanges establishes the accuracy of the President's statement in his initial compliance report: "We have discussed with the Soviets all of the activities covered in the report, but the Soviets have not been willing to meet our basic concerns which we raised in the Standing Consultative Commission in Geneva and in several diplomatic demarches. Nor have they met our requests to cease these activities."[10] Subsequent compliance reports continued to note that "the Soviet Union has failed to correct its noncompliant activities; neither have they provided explanations sufficient to alleviate our concerns. . . ."[11]

THE PRESIDENTIAL FINDINGS

Following the totally unproductive session of the SCC in the fall of 1983, and upon further review by the National Security Council, a Presidential finding was issued on the Krasnoyarsk radar and the other six major compliance issues as part of a report. In September 1983, the Congress had passed a legislative request for such a Presidential report.[12] On January 23, 1984, the President transmitted his first comprehensive, classified statement on compliance to the Congress. In some hundred pages, the report conveyed his findings, along with detailed description of the evidentiary base and the SCC discussions on each issue. The Presidential finding in the January 1984 report was that the Krasnoyarsk radar facility represented an "almost certain" violation of the ABM Treaty. The qualification "almost" reflected the hesitation of those in the Administration who had not yet confronted the fuller implications of the Soviet activity and urged diplomatic restraint.

By the time of the President's second compliance report to the Congress in February 1985, additional intelligence and legal analysis elevated the finding to that of a "certain" violation—a position that was supported by all the relevant agencies of the Government. This has remained the official U.S. judgment in subsequent, yearly reexaminations of the issue. In the last compliance report submitted by the Reagan Administration, issued on December 2, 1988, the Krasnoyarsk radar was described as "a singificant violation of a central element of the Treaty."[13] The report added that "the radar demonstrates that the Soviets were designing and programming a prospective violation of the ABM Treaty even while they were negotiating a new agreement on strategic offensive weapons with the United States."

The President's 1988 report, for the first time, also described the radar as a "material breach" of the ABM Treaty. Nevertheless, the Administration stopped short of the warranted conclusion that the U.S. Government should end continued compliance with the ABM Treaty (as it had finally done in late 1986 with respect to SALT I and SALT II accords).

CONGRESSIONAL CONCERNS

During the 1970s, Congressional interest in compliance issues had been limited to a relatively small core of members and staff who became concerned about both Soviet treaty violations and weaknesses in U.S. monitoring capabilities—concerns that came to the fore in the debates over the SALT II Treaty in 1979. Congressional interest rapid-

ly grew during 1981 and 1982 in pace with a rash of U.S. intelligence reports of mounting problems of Soviet noncompliance with major agreements. The rising concern on Capitol Hill was expressed, *inter alia*, in the September 1983 requirement for a Presidential report to the Congress on the subject.

Once briefed on the facts about the Krasnoyarsk radar, a large majority in the Congress accepted the Administration's position that the radar marked a clear violation of Soviet treaty obligations and thus constituted a serious obstacle to the mutual trust essential to new arms negotiations. By substantial majorities, the Congress repeatedly urged that the radar be dismantled. Thus, a Senate resolution, passed in February 1987 by a 93-2 vote, declared "that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violation of existing agreements, and calls upon it to take steps to rectify its violation of such agreements and, in particular, to dismantle the newly-constructed radar site at Krasnoyarsk, USSR, since it is a clear violation of the terms of the ABM Treaty." [14]

A Senate resolution dated September 16, 1987, and passed unanimously, repeated the call for dismantlement of the Krasnoyarsk radar, asserting that the Krasnoyarsk violation had to be corrected before any future U.S.-Soviet agreements on strategic arms could be concluded. The House of Representatives, on May 6, 1987, voted 416-0 in support of a resolution which expressed the recognition that in constructing the Krasnoyarsk radar the Soviet Union was in violation of its legal obligations under the ABM Treaty. In 1987 and 1988, the House overwhelmingly adopted amendments declaring Krasnoyarsk to be a "material breach" of the ABM Treaty.

There can be no doubt that Soviet officials were completely aware of the concerns in the U.S. Congress about the Krasnoyarsk radar, conveyed in such resolutions and amplified by individual members of Congress in numerous exchanges with senior Soviet officials, including Mikhail Gorbachev. A notable example was a letter addressed to Gorbachev by leading members of the House of Representatives headed by the Chairman of the Armed Services Committee, Les Aspin (D-WI). In the letter, dated March 20, 1985, the Congressmen warned that "adherence to existing treaties is a necessity in order for future agreements to be possible." [15]

SOVIET DENIAL AND COUNTERCHARGES

Notwithstanding the clear, physical evidence of the Krasnoyarsk radar's location and purpose—and despite numerous U.S. diplomatic initiatives and repeated expressions of Congressional concern—the Soviets for some six years played a game of cover-up and prevarication. The game involved the highest levels of the Soviet Government. In the ten Standing Consultative Commission sessions and other forums during the period—two ABM Treaty Review Conferences in 1983 and 1988 and four summit meetings—the Soviets adopted a two-pronged tactic vis-a-vis the U.S. charges.

One tactic was bland denial. Soviet officials, including successive foreign ministers and heads of state, notably Mikhail Gorbachev after he became General Secretary in 1985, categorically rejected all U.S. charges about the radar, declaring them to be completely without foundation and provocative and injurious to the arms control process and relations between the two superpowers. A typical example of this official denial was the following statement in a press release issued by the Soviet Embassy in Washington on April 23, 1985: "This radar, the construction of which was started but is not completed, has nothing to do with the obligations assumed by the sides under the ABM Treaty. Its purpose is to follow space objects." [16] What makes this statement of particular interest is that it must have been approved by the Soviet Ambassador at the time, Anatoli Dobrynin. Subsequently Dobrynin was recalled to Moscow to become a senior adviser to Mikhail Gorbachev on policy toward the United States.

The second Soviet tactic was to launch countercharges: Soviet officials went on the offensive with allegations of American violations of arms control compacts. Adding to the cynicism of this gambit was the fact that for years the Soviets had denied not only the purpose of the Krasnoyarsk radar, but the most basic facts concerning the massive Soviet program in strategic defenses—a program which included deployed missiles, as well as extensive research in advanced technologies, including space-based systems.[17] Still, following President Reagan's announcement on March 28, 1983, of his Strategic Defense Initiative (SDI), the Soviets launched a worldwide campaign spearheaded by the charge that the SDI program was being conducted in violation of the ABM Treaty. In fact, the Soviets were well aware, through their comprehensive intelligence coverage of the United States, that the SDI research and development program, as prescribed by both the Executive and Legislative branches of the U.S. Government, was being kept scrupulously within the Treaty limits—indeed, within a narrow definition of those limits.

To the false charges against SDI the Soviet Union added the allegation that long-planned improvements of the U.S. Ballistic Missile Early Warning System (BMEWS) radar facilities in Greenland and the U.K. were in violation of the ABM Treaty. In fact, however, as the United States made clear in rejecting a Soviet offer to consider a "trade" of the illegal Krasnoyarsk radar for these two legal U.S. radars, the construction of the U.S. radars had preceded the ABM Treaty, their upgrading was not barred by the Treaty and, unlike the Krasnoyarsk radar, those radars were remote from any U.S. missile fields.

INITIATIVE OF THE ARMS CONTROL ASSOCIATION

The Soviet campaign of denial and counteroffensive struck resonant chords in the American political scene, particularly among organizations that had gained influence during the "detente" years of the 1970s. Centered in Washington, these groups have styled themselves an "arms control community" or "arms control lobby." There can be, in the space of this article, no detailed nomenclature of this "community." Suffice it to say that its members are linked by an interest in promoting the cause of U.S.-Soviet arms agreements and encouragement of the arms control "process."

One prominent such organization is the Arms Control Association (ACA). In the context of the history of the Krasnoyarsk issue, it is of interest to note that leading spokesmen of the Association offered their pronouncements on the Krasnoyarsk radar as early as four days *before* the President's classified report was scheduled to be transmitted to the Congress and while senior National Security Council officials and President Reagan were still giving final consideration to the assessments of evidence, SCC exchanges and options presented by the Verification Committee and the Senior Arms Control Group.

In a January 18, 1984, press release issued on the letterhead of the Arms Control Association, three prominent former Government officials—Gerard Smith, Paul Warnke and Herbert Scoville—gave their view of the Krasnoyrask issue. They centered their concern not so much on the question of whether the Soviet radar was or was not in violation of the ABM Treaty, but on the risks of raising the issue at all. They warned:

"Any public pronouncement by the President that the Soviets are violating arms control agreements is irrevocable. It will certainly not induce them to change their position or to come to the negotiating table with a more positive attitude. . . . Such accusations can only add to the already widespread concern that President Reagan has not been truly interested in nuclear arms control. . . ."

A second theme of the Smith-Warnke-Scoville statement was to downgrade any military significance of a "potential" violation. They averred:

"This radar, *even if it were to become part of an ABM system*, would not provide the Soviet Union with a capability that could seriously downgrade our strategic deterrent. . . . It will not be completed or operational until the late 1980s. . . . There is still time to get the Soviets to stop the deployment through private negotiations in the SCC. . . . *They will never halt this deployment in the glare of an official charge of cheating. . . .*" [18]

This Arms Control Association perspective on Krasnoyarsk and the more general issue of a U.S. compliance policy remained unchanged even after an extensive, classified briefing on the report's evidence and findings was provided by Administration experts to senior ACA members. Paradoxically, however, the ACA's "preemptive strike" enable proponents of a strong policy on compliance within the Administration to argue successfully that the White House could not afford to rest its case behind veils of classification and leave unanswered the ACA's confusion about the facts and its challenge to the Administration's integrity. In short, the Administration had to "go public" with an unclassified version of the President's report.

Press guidance, an unclassified summary of the findings, as well as a declassified version of the President's transmittal letter to the Congress, were duly prepared by the NSC staff and ACVC representatives for release as a White House "Fact Sheet." When the State Department refused to publish the Fact Sheet as part of the Department's official document series, the NSC staff worked with the Congress to ensure that this product would set the precedent for an unclassified version of future compliance reports to the Congress.

As a postscript to the Arms Control Association's perspective on Krasnoyarsk and compliance, it should be noted that after four years of ACA critiques and complaints, an ACA staff review, cited in the Association's March 1987 newsletter, acknowledged, briefly and without reference to the ACA's previous allegations, that "the Administration's charge that Krasnoyarsk violates the ABM Treaty appears to be correct." Still, the review wound up with the stock judgment that the radar "does not fundamentally undercut the treaty's objectives. . . ." [19]

THE FEDERATION OF AMERICAN SCIENTISTS

The Federation of American Scientists (FAS) has established itself as a frequent and vigorous critic of U.S. defense policy. It clearly prides itself on the scientific basis of the analyses that it applies to its policy recommendations.

On March 7, 1984, the FAS issued an extensive attack on the President's January compliance report. In the FAS document, a group of scientists, headed by John Pike and Jonathan Rich, gave special attention to the Krasnoyarsk radar, developing arguments and themes that would become standard in the arguments of the "arms control lobby" on the issue.[20]

The FAS report acknowledged that the radar installation did raise a number of possible compliance problems. For example, "the Abolakova [Krasnoyarsk] radar is far from the periphery of the Soviet territory and has a primary coverage field that encompasses much of Siberia. Thus it does not meet the criteria established for early warning radars." Furthermore, "the proximity of Abalakova to Soviet ICBM facilities at Alyesk (SS-18), Gladkaya (SS-11), Itatka (SS-11), Uzhur (SS-18) and Zhangiztobe (SS-18) has also been cited as evidence for the ABM function. And, "it is clear [that] when completed, the radar will have a power aperture product far in excess of the three million figure . . . subject to the Treaty's limitations."

Having granted these incontrovertible facts, the FAS report then set out to denigrate their import. In the main reflecting acceptance of the Soviet position, the essential arguments in the lengthy document were that:

"Concern over the ABM potential of Abalakova [Krasnoyarsk], and suspicion aroused by the Soviet's explanation of this facility, are more a product of faulty deduction than of analysis of the facts.

". . . The Soviets do not claim that the radar satisfied the Treaty's definition of an early warning radar, they contend that the radar is for tracking satellites . . . [and] the Soviet explanation is fairly credible when viewed in the context of the Soviet anti-satellite (ASAT) program."

The FAS report drew two major policy conclusions from its ostensibly scientific analyses. First, according to the report, the radar "provides further incentive for the negotiations of limitations on anti-satellite weapons." Aside from rejecting the most salient technical and legal facts about the Krasnoyarsk violation, this puzzling policy recommendation was indicative of another prevalent theme in the response from the "arms control community" to violations of existing agreements: namely, that such breaches do not invalidate the arms control process, but call instead for still further agreements.[21]

Second, the report averred that, "since the radar will take some years to complete, there is ample time for negotiating a satisfactory solution to this grey area problem, with little danger to U.S. national security in the process." Again, this recommendation ignored the fact that the radar's construction, not operational status, constituted a violation. No "grey area" was involved.

THE STANFORD UNIVERSITY STUDY

In order to illuminate the Krasnoyarsk dialogue over time, we now take up the February 12, 1987, report of a Working Group of Stanford University's Center for International Security and Arms Control.[22] The study effort was headed by Gloria Duffy and was publicized as enjoying the support of such specialists on arms control as Sidney Drell, Philip Farley, Wolfgang Panofsky, Robert Buchheim, Raymond Garthoff, Sidney Graybeal and Michael Krepon.

By 1986, the data on the Krasnoyarsk radar was unchallengeable to the point where the Stanford Working Group acknowledged that the Soviet claim that the radar "is designed for space-tracking is contradicted by all available evidence." Still the violation was given an implicitly relative rating; it represented "a more clear-cut treaty violation" than any other compliance issue raised by the Reagan Administration. Moreover, notwithstanding the concessions to the accuracy of the U.S. Government's case against Krasnoyarsk, the Stanford group's report quoted with approval the judgment of RAND Corporation Sovietologist Arnold Horelick that the radar represented "no strategic threat in and of itself and probably at best only a marginal add-on to a breakout capability." The radar, concluded the report, was merely "a technical violation of the ABM Treaty, but is of little military significance by itself."

What made the Stanford Working Group's assessment all the more noteworthy is that they attest to the impact of Soviet countercharges of alleged U.S. violations of the ABM Treaty. The notion of an equivalence in non-compliance was implicit in the statement that "the radar raises the troubling possibility of each side chipping away at the ABM Treaty."

THE CONGRESSIONAL VISIT TO KRASNOYARSK

Perhaps the peak of irony in the "Krasnoyarsk saga" was reached in a visit to the radar facility on September 5, 1987, by a U.S. Congressional delegation including Representatives Thomas J. Downey (D-NY), Jim Moody (D-WI) and Bob Carr (D-MI) accompanied by Congressional staffers. The visit, ostensibly arranged under the new Soviet policy of *glasnost*, was facilitated by a private U.S. organization, the National Resources Defense Council. In evaluating the "findings" of the visit, it nees to be borne in mind that the Congressmen and their staff reached their conclusions despite access to extensive prior reports and briefings by the Administration on the Krasnoyarsk radar, including the detailed, classified record of unsatisfactory exchanges in the Standing Consultative Commission.

On September 8, 1987, Representatives Downey, Moody and Carr issued a press release to report on their tour of the facility.[23] They had been escorted by senior Soviet officials. Among them were Yevgeni Velikhov, a Soviet scientist reportedly active in Soviet strategic defense programs, as well as a leading propagandist against the U.S. SDI program, and Alexei Arbatov, the son of the prominent Soviet propagandist and expert on the United States, Georgi Arbatov, and himself a member of the Moscow Institute for the Study of the USA and Canada.[24]

The report by the Congressmen made it clear that, in a tour lasting but four hours, they had been given at best limited access to the facility. They had walked around the exterior of the huge installation. They were permitted to see an interior section of but one of at least seven floors, in one of the two radar buildings. Nevertheless, the Congressmen elected to characterize the visit as precedent-setting "on-site inspection."

The Congressmen's report indicated that, on the basis of their visit, they could not reach a definitive conclusion on whether the radar was there for early warning, as has been determined by the U.S. Government, or for space-tracking purposes, as the Soviets continued steadfastly to claim. Notwithstanding the limited access to the facility, as well as the detailed facts made available to him earlier on a classified basis by the U.S. Government, Congressman Downey stated in the press release: "We know a good faith effort when we see it." Presumably impressed by the Soviets' "good faith," the Congressional group concluded that U.S. claims about the radar were "exaggerated," that the radar was not yet "operable," and that "we judge it to be not a violation of the ABM Treaty at this time."

LESSONS UNLEARNED

The Krasnoyarsk violation casts profound and durable implications for U.S.-Soviet relations and U.S.policy. It puts into sharp and inescapable relief fundamental questions regarding the integrity of the arms control process and Soviet intentions—and does so at the very time that the U.S. Administration is accelerating efforts toward concluding a series of major new agreements at the U.S.-Soviet summit in June 1990.[25]

Those questions have not been dispelled by Shevardnadze's belated admission in October 1989, nor will they fade even if the radar is ever dismantled. The Krasnoyarsk case strikes to the heart of the arms control process and the vital national security interests invested in it by the United States. It demonstrates starkly that the "bottom line" of that process should not be verification—the ability to monitor compliance—but a compliance policy which conveys the ability, and more important the determination, to call the violator to account and take the necessary redressive steps in response to the violation.

In this latter respect, the story of the Krasnoyarsk radar illuminates not only Soviet deception, but even more poignantly a predisposition in the American body politic toward self-deception—even a willingness to be deceived. The history recounted here shows that the critical battle over the Krasnoyarsk violations—and over the core issue of compliance in the larger arms control context—took place not so much in the Standing Consultative Commisson and other U.S.-Soviet fora, but within the U.S. bureaucracy and the broader American political arena.

More specifically, the Krasnoyarsk story bares a seemingly reflexive tendency among American proponents of arms control to sidestep the issue of compliance—by denying and/or excusing clear-cut evidence of violations, by denigrating the implications of the breach, and by adducing a "solution" in the pursuit of still further arms control agreements. Irnoically, even in the wake of Shevardnadze's admission, the lessons not only are being denied, but turned on their head. A new "revisionism" has come to the fore averring that the Krasnoyarsk radar was an issue raised and exploited by the Reagan Administration largely in order to justify its own Strategic Defense Initiative.[26]

Still, the somber implications of the Krasnoyarsk saga apply to the Gorbachev regime, its objectives and intentions. The pyramid-sized radar installation, to use Shevardnadze's imagery, stands a a landmark to the longstanding Soviet policy of deception and breaches of treaty obligations that has been described above. Shevardnadze's suggestion that it took Soviet political leaders four years to "sort things out" with respect to the radar challenges all that has been

known about the Soviet system. If accepted at its face value, it would mean that the regime in Moscow does not control its own military—a notion that would not only devalue all existing and future arms agreements with the Soviet Union, but raise staggering implications for the U.S.-Soviet relationship more generally. Yet, if Gorbachev was duped by his military leaders, would he not have dismissed, rather than promoted, such as his current Defense Minister, Marshal Dmitri Yazov, and his senior arms control adviser, Marshal Sergei Akhromeyev, who clearly share responsibility for the erection of the radar? Not only has no Soviet officer or official been dismissed, but, according to U.S. sources, ranking Soviet military officers continue to express disagreement with the Soviet Foreign Minister's acknowledgement of the violation.[27]

There is the added irony that the U.S. Government's compliance policy has meanwhile been substantially watered down. In President Reagan's March 1987 compliance report, it was declared to be U.S. policy that: "Compliance with past arms control commitments is an essential prerequisite for future arms control agreements. . . . Strict compliance with all provisions of arms control agreements is fundamental, and this Administration will not accept anything less." Yet, at the December 1987 summit, the INF Treaty was signed, without the Soviet Union having corrected numerous major treaty violations. The December 1988 Compliance Report contained a statement of intent that was conspicuously qualified:

"We have informed the Soviets that the radar calls into question the viability of the AMB Treaty and makes it impossible to conclude future arms control agreements in the START or Defense and Space areas. The violation caused by the Krasnoyarsk radar will continue to raise the issues of material breach and proportionate responses until it has been resolved." [28]

There is every reason to expect that the story of Krasnoyarsk by no means has ended with Shevardnadze's statement. Indeed, as the United States and the Soviet Union are rushing toward the conclusion of a START agreement in the June summit, the radar is likely to play a prominent role in the Soviet "end-game" against what remains the central target of their negotiation strategy and political offensive: namely, the U.S. Strategic Defense Initiative.

Already in high-level meetings with Secretary of State James Baker in Wyoming in September 1989,[29] and at the Malta summit in December 1989, the Soviets "raised the ante" against SDI by warning that future Soviet compliance with a new START agreement, strongly pursued by the Bush Administration, would be hostage to continued U.S. compliance with the ABM Treaty.

With the Krasnoyarsk radar and the ABM Treaty issue now seen by U.S. and Soviet negotiators as the main remaining obstacles to START—on the assumption that such other contentious issues as those relating to sea-launched cruise missiles, missile-test data encryption, etc., will have been cleared out of the way by then—the Soviet Union's pre-summit gameplan can be expected to include the ostentatious gesture of beginning the dismantlement of the radar. The gesture would, of course, leave untouched the steadily expanded network of other Soviet programs destined for extensive Soviet strategic missile defenses. At the same time, it could assure the long-standing Soviet objective of enshrining a permanent, if essentially unilateral, U.S. adherence to the ABM Treaty, thereby foreclosing any future U.S. strategic defense. With SDI effectively blocked, so would be the best U.S. insurance against Soviet cheating in START, against a Soviet "breakout" from the ABM Treaty, as well as against potential missile threats from elsewhere on the globe.

In short, the shadow of Krasnoyarsk hangs heavily over the "new era" of U.S.-Soviet relations. It demonstrates that we may be entering a time of high expectations, but also a time of high stakes and risks—of clear and present danger.

FOOTNOTES

[1] Reuters News Service, "Kremlin Says It Knew Siberian Radar Station Broke Treaty," Moscow, October 23, 1989. See "Radargate: Soviet Admission of an Open Treaty Violation Makes Fools of American Apologists," Center for Security Policy, Washington, DC, October 23, 1989, No. 89-65.

[2] See, for example, Melvin R. Laird, "Is This Detente?" *Readers Digest*, July 1985; and David S. Sullivan, "The Legacy of SALT I: Soviet Deception and U.S. Retreat," *Strategic Review*, Winter 1979. Also see Sullivan's expanded "Soviet SALT Deception" (Boston, VA: Coalition of Peace Through Strength, February 1979).

[3] As Chairman of the GOP Convention's Resolutions (Platform) Committee, Senator John Tower (R-TX), had overall responsibility for conducting the platform hearings and for preparing the platform's draft text. This effort was coordinated through the senior staff of the Senate Republican Policy Committee. The author, the Policy Committee's Senior Staff Member for Defense and Foreign Policy, was assigned chief responsibility for preparing the final draft of the sections on arms control and on foreign policy. The defense section was drafted by John Lehman, Robert McFarlane and William Schneider.

[4] The author sought to ensure that the arms control section was placed with the defense section in the GOP Platform as well as in President Reagan's NSC Staff organization, thus signalling the importance of national security criteria in arms control.

[5] As a major compliance effort, the new Administration in 1981 and 1982 provided extensive analyses and reports on the Soviet use of "yellow rain" chemical weapons (CW) and toxins in Afghanistan and Laos, as well as of biological weapons (BW) at Sverdlovsk, inside the Soviet Union. The Soviets denied all charges. At least, however, they did not proffer the explanation adopted by a number of American arms control critics who denied the evidence both of laboratories and of Afghan and Southeast Asian refugees, and instead claimed that yellow clouds of bees and bee feces, rather than "yellow rain" CW, were the cause of the problem.

[6] The author, having earlier prepared the terms of reference for the Senior Arms Control Group, following extensive negotiations with senior arms control officials, also prepared the terms of reference for the Arms Control Verification Committee. Following approval of these terms by the National Security Adviser and the President, the author was chief NSC staff coordinator for the Committee's activities.

[7] The author worked with the Chairman of the GAC to develop the terms of reference and move the location of the ceremony from the ACDA/State Department building to the White House in order to facilitate the NSC role and the Presidential tasking.

[8] The most recent official summary available as of this writing is *The President's Unclassified Report to the Congress on Soviet Noncompliance with Arms Control Agreements.* The White House, December 2, 1988, pp. 15-18 [hereafter cited as *President's Report of 1988*]. For detailed depictions of Soviet strategic defense programs, see Department of Defense and Department of State, *Soviet Strategic Defense Programs*, October 1985; Department of Defense. The Soviet Space Challenge, November 1987; and the annual Department of Defense publication, *Soviet Military Power.*

[9] The SCC mandate also enabled other concerns affecting the strategic balance to be raised, including U.S. concerns about Soviet violations of chemical weapons conventions in Afghanistan and Southeast Asia and of biological conventions as Sverdlovsk in the USSR.

[10] *The President's Report to the Congress on Soviet Noncompliance with Arms Control Agreements. The White House*, January 23, 1984, 1984. p. 2.

[11] *The President's Unclassified Report to the Congress on Soviet Noncompliance with Arms Control Agreements*, March 10, 1987, p. 2.

[12] Urged on by Senators James A. McClure (R-ID) and Steve Symms (R-ID), the Senate passed this amendment to the Arms Control and Disarmament Act of FY 1984 by a vote of 93-0. Passage of the amendment provided new leverage within the Administration to press bureaucratic elements opposed to the Arms Control Verification Committee's compliance report to work vigorously on completing the President's requirement.

[13] *President's Report of 1988*, p. cit., p. 1.

[14] Cited in ibid. p., 3.

[15] Cited in U.S. Arms Control and Disarmament Agency, *Soviet Noncompliance* (Washington, DC: March 1986), p. iii.

[16] Press Release, Embassy of the USSR, Washington, DC, April 23, 1985. Cited in *Compliance and the Future of Arms Control*, prepared by a Working Group of the Center for International Security and Arms Control, Stanford University, Palo Alto, CA, February 12, 1987, p. III-122.

[17] For official sources of detailied descriptions of the Soviet strategic defense programs, see Note 8 above.

[18] Statement by Ambassador Gerard C. Smith, Ambassador Paul C. Warnke, Dr. Herbert Scoville, Jr., "Alleged Violations of Arms Control Agreements," press release of the Arms Control Association, Washington, DC, January 18, 1984, emphasis added.

[19] Arms Control Association Staff, "Analysis of the President's Report on Soviet Noncompliance with Arms Control Agreements," *Arms Control Today*, April 1987, p. 2A.

[20] All citations are from the March 7, 1984, News Advisory and attached article, "Charges of Treaty Violations: Much Less Than Meets the Eye," FAS Public Interest Report, *Journal of the Federation of American Scientists*, March 1984, pp. 1-19.

[21] See Center for Security Policy, "Toward a U.S. Anti-Satellite Capability: Correcting 'America's Most Serious Military Deficiency'," Washington, DC, July 31, 1989, No. 89-43. Also see Henry F. Cooper, "Anti-Satellite Systems and Arms Control: Lessons from the Past," *Strategic Review*, Spring 1989. The Federation's scientists do not appear affected by the reality, as thoroughly documented in a 1984 Presidential report to the Congress, that no meaningfully definable or verifiable ASAT limitations regime has ever been identified. See *Report to the Congress on U.S. Policy on ASAT Arms Control*, submitted by President Reagan, March 21, 1984, pp. 6-7. Another example of those who sought to avoid the issue of the treaty violation by dismissing the importance of the radar came from a group of former senior officials. McGeorge Bundy, George Kennan, Robert McNamara and Gerald Smith. "The President's Choice: Star Wars or Arms Control," *Foreign Affairs*, Winter 1984-1985, dismissed the radar's significance, holding that: "A single highly vulnerable radar installation is of only marginal importance in relation to any large-scale breakout from the ABM Treaty."

[22] *Compliance and the Future of Arms Control*, op. cit.

[23] Press Release by Congressmen Downey, Moody and Carr dated September 7, 1987, as provided for September 8 press conference.

[24] According to Georgy Arbatov, the Director of the Soviet Institute for the Study of the USA and Canada, "What our specialists say is that when the radar is finished, everyone will see that it is designed for following space research and other space systems." Cited in R. Jeffrey Smith, "U.S. Experts Condemn Soviet Radar," *Science*, Vol. 227, p. 1442.

[25] Senior U.S. officials have indicated that at the June 1990 summit, the United States is seeking new trade and regional agreements as well as progress on far-reaching new arms control agreements including strategic, chemical and conventional weapons, nuclear testing and "open skies" and "open lands" confidence-building measures.

[26] See for example, Thomas J. Downey, "Krasnoyarsk and the Conservatives," *Washington Post*, December 4, 1989. According to Downey: "Those who now choose to boast of their role in turning the screws on the Soviets . . . are the very same people who, from the moment Ronald Reagan made his 1983 Strategic Defense Initiative speech, set out to eliminate the ABM Treaty because they saw it as inimical to the interests of SDI." Also see R. Jeffrey Smith, "Confession and Recriminations:

U.S. Arms Experts Trade Barbs After Soviets Admit to ABM Violations," *Washington Post*, November 24, 1989. According to Smith, a number of those in the arms control community who have been challenged to acknowledge their errors on Krasnoyarsk following Shevardnadze's admission, answer as follows: "Hogwash, say the targets of this ideological criticism, several of whom charge Gaffney with McCarthyism or 'outright lies' of his own." Smith quotes James P. Rubin, Associate Director of the Arms Control Association as saying: "In fact it is not the arms control community that should apologize for 'errors' but Gaffney and the rest of those who attempted to use Krasnoyarsk as an excuse to sabotage the ABM Treaty."

[27] As reported by U.S. officials in conversations with the author, January 1990. In a development that bears watching, the military members of Soviet arms control delegations reportedly began in November and December 1989 to become markedly more assertive toward U.S. officials and toward civilian members of their own delegations.

[28] *President's Report of 1988*, op. cit., p. 1.

[29] See "The Soviet Wyoming Formula on START Would Kill SDI," Center for Security Policy, September 29, 1989, No. 89-60. At this meeting, Secretary of State Baker made an additional major concession on SDI, when rather than rejecting outright any parallel between the Soviet Union's illegal Krasnoyarsk radar and the two legal U.S. radars in Greenland and Great Britain, he signed a Joint Statement which included the following sentences granting a measure of legitimacy to the Soviet claim: "The Soviet side stressed again the necessity of removing its concerns about the U.S. radar stations in Greenland and Great Britain. The U.S. side promised to consider these concerns, in consultations with its Allies." U.S. Department of State, Joint Statement, September 23, 1989.

Mr. McCLURE. Mr. President, this article is entitled "The Krasnoyarsk Saga," and it was authored by Mr. Sven F. Kraemer, who served a total of 16 years with the National Security Council staff, including 6 years as President Reagan's NSC Director of Arms Control. Sven's important article speaks for itself, and I agree with its thrust.

Sven almost singlehandedly overcame the State Department's strong and sustained resistance to dealing forthrightly with Soviet arms control violations. Without Sven, the United States Government would be even further away from having a compliance policy for dealing with Soviet arms treaty violations than we still are today.

Unfortunately, we still do not have any compliance policy at all, such as for example, a safeguards package of options to enforce compliance, agreed upon before ratification of an arms control treaty, or alternatively, a package of proportionate response options agreed upon to deal with Soviet material breaches after ratification. And thus we still cannot deter or deal with Soviet arms control violations even today, because Krasnoyarsk still stands, and there are reportedly now three new serious, uncorrected Soviet violations of the INF Treaty.

Second, as is my longstanding tradition since the first report of January 23, 1984, I ask unanimous consent that the text of a letter from the President to the Speaker of the House of Representatives and the President of the Senate, dated February 23, 1990, and signed by President George Bush, also be printed in the RECORD. The enclosed unclassified Presidential Report with the Bush letter is entitled "Soviet Noncompliance With Arms Control Agreements."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
February 23, 1990.

[Text of a letter from the President to the Speaker of the House of Representatives and the President of the Senate]

DEAR MR. SPEAKER (DEAR MR. PRESIDENT): Pursuant to section 1002 of Public Law 99-145 (22 U.S.C. 2592a), I am forwarding herewith the classified version of the Administration's report to the Congress on Soviet Noncompliance with Arms Control Agreements. Also enclosed is the unclassified version of the report.

This is the fifth in a series of reports on Soviet compliance with their international obligations. On the whole, our compliance policy has made progress since last year's report. The report notes certain constructive steps the Soviets have taken, such as the destruction of the radar illegally deployed at Gomel and Soviet Foreign Minister Shevardnadze's commitment to correct the Krasnoyarsk radar violation of the ABM Treaty. At the same time, the report details several issues that continue to concern the United States.

I intend to continue to press for scrupulous Soviet compliance with their arms control treaty obligations. The principle of scrupulous compliance is particularly important as we near completion of new arms control treaties.

I value the strong congressional support for our compliance policy to date, and look forward to working closely with the Congress on these issues in the future.

Sincerely,

GEORGE BUSH.

SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

As required by law, I am submitting this Report on Soviet Noncompliance with Arms Control Agreements. This Report is one of a series of Reports to Congress by the Executive Branch regarding these issues. In 1984 President Reagan submitted the Report on Soviet Noncompliance prepared by the independent General Advisory Committee on Arms Control. The series mandated by Congress includes Reports dated January 1984, February and December 1985, March and December 1987, the March 1988 Report (which dealt exclusively with the Threshold Test Ban Treaty (TTBT)), and most recently the December 1988 Report.

Previous Reports have documented Soviet violations of the major arms control treaties and agreements. These included the Anti-Ballistic Missile (ABM) Treaty, SALT I and II, the Geneva Protocol on Chemical Weapons, the Helsinki Final Act, the Biological Weapons Convention (BWC), the Limited Test Ban Treaty (LTBT), and the Intermediate-Range Nuclear Forces (INF) Treaty. Past evidence suggested that the Soviet Union also violated the TTBT. This year, however, while serious concerns about noncompliance remain, I am pleased to report that our uncompromising demand for strict adherence to arms control treaties is yielding positive results. The Soviet Union now appears to be willing to take significant action to resolve some U.S. concerns.

COMPLIANCE AND ARMS CONTROL

Without exception, the United States expects meticulous fulfillment of all existing and future arms control agreements and all obligations that they entail. Otherwise, the arms control process cannot benefit U.S. national security, nor can treaties be ratified. I am committed to ensuring that there is scrupulous compliance with all arms control agreements and related undertakings. We cannot and will not accept any lesser standard. Put simply, arms control commitments must be precisely defined and scrupulously observed. Nothing less will do.

My Administration is committed to the pursuit of new arms control agreements that reduce the threat of the outbreak of war and contribute to international stability. Those goals are closer to reality than ever before. However, they will be achieved only if effective verification and total compliance are integral elements of the process. We must be able to determine whether the other party is complying with the agreement. I will therefore continue to insist that our verification measures and our verification means be appropriate and robust.

I am hopeful that recent Soviet actions to correct treaty violations indicate a new willingness also to address and resolve our remaining concerns. Yet, hoping for compliance is not enough. When violations of arms control agreements are identified, we will continue to utilize the traditional consultative mechanisms, to seek the support of Congress, and to evaluate and take the appropriate responses.

SCOPE OF REPORT

This Report addresses issues of Soviet failure to comply with existing arms control agreements, including the 1987 Intermediate Range Nuclear Forces Treaty (INF), and the 1972 Anti-Ballistic Missile (ABM) Treaty. The 1974 Threshold Test Ban Treaty (TTBT), the 1963 Limited Test Ban Treaty (LTBT), the Biological and Toxin Weapons Convention (BWC) and the Geneva Protocol on Chemical Weapons are tested later in this section of the Report.

SOVIET ACTIONS

As I noted, during the past year, there has been an encouraging change in the Soviet approach toward arms control compliance. Recent remarks by Soviet Foreign Minister Shevardnadze appear to permit greater oversight responsibilities for foreign affairs to be assumed by the new Congress of Peoples' Deputies. Through the institutionalization of a more accountable Soviet government, we hope a lasting foundation will be laid for constructive Soviet behavior more compliant with international norms and agreements.

I welcome Soviet Foreign Minister Shevardnadze's statement in Wyoming that the Krasnoyarsk radar will be completely eliminated, as well as his frank admission to a plenary session of the Supreme Soviet on October 23, 1989, that the construction of the Krasnoyarsk radar was "a clear violation" of the ABM Treaty. The U.S. has told the Soviet Union that the United States will not conclude a START or Defense & Space Treaty until U.S. concerns about this violation are resolved. The Soviet commitment to eliminate the Krasnoyarsk radar completely will, if carried out in a verifiable manner that meets U.S. criteria, improve the atmosphere surrounding bilateral relations.

The Soviet Union's admission that the Krasnoyarsk radar was a "clear violation" was the direct result of strenuous U.S. ob-

jections to this violation and repeated demands for corrective action. Indeed, it was the persistence and consistently strong U.S. stance against violations in support of the principle that arms control agreements must be complied with strictly that has paid off. The support of the U.S. Congress on this issue was of immeasurable value in convincing the Soviet Union that this violation must be corrected. We must remember that it was not by shying away from the fact of a violation that we have moved toward its positive resolution.

During the past year the Soviet Union has also admitted to taking some other actions inconsistent with its arms control obligations. In these cases as well, the Soviet Union has taken steps toward resolution of U.S. concerns. With respect to the INF Treaty, for example, the Soviet Union admited certain technical errors and corrected them. In other cases, while the Soviet Union did not directly admit to taking actions inconsistent with its treaty oblibations, it nevertheless has been willing to take steps toward alleviating our concerns. Thus, while never formally admitting that the ABM radar deployment at Gomel violated the ABM Treaty, the Soviet Union has taken constructive steps, destroying the Flat Twin radar at Gomel and Pawn Shop vans there and at Vnukovo. We were concerned, however, that although the Gomel violation was eliminated, the Soviet Union failed to honor certain specific procedures agreed to in December 1988. We have concluded that the Flat Twin radar and the Pawn Shop van near Gomel are no longer deployed in violation of the ABM Treaty.

Although the Soviet Union does not acknowledge that its actions with regard to rapid reload are inconsistent with treaty obligations, there have been no detected instances of the activity of concern since 1983. Given the extended period of time since the last detected evidence of this activity, this issue is not addressed in this Report.

INF TREATY IMPLEMENTATION

The INF Treaty continues to meet its goal of eliminating an entire class of U.S. and Soviet missiles under conditions of strict verification. As of November 30, 1989, the U.S.S.R. has eliminated all 957 of its shorter-range missiles and all 238 of its launchers for such missiles. The Soviets have eliminated 433 of 809 intermediate-range missiles adn 299 of 581 launchers for such missiles. Elimination of remaining U.S. and Soviet missiles and launchers must occur by June 1, 1991.

One issue arose for which the U.S. has made a noncompliance finding:

Transit of Missiles on Launchers at Lebedin.—Beginning in December 1988, Soviet SS-20 missiles on launchers transited between Lebedin missile operating base and Lebedin missile/launcher repair facility, in violation of paragraph 8 of Article VIII of the INF Treaty. The Soviets notified the U.S. of the transit in accordance with the Treaty, and stated in the notification that the route was entirely within the boundary of the deployment area. After a U.S. demarche, the Soviets admitted that there had been a technical error in determining the actual boundaries of the deployment area by local officials, and that the error had been corrected. Since then, no further instances of missiles on launchers outside of deployment areas and missile support facilities have been noted.

Questions about compliance also arose, but did not result in conclusions of noncompliance. These include the SS-20 launch canister near Moscow and the welded SS-23 transporter-erector-launchers (TELs). The above noncompliance finding and compliance-related questions are addressed in greater detail in the findings below.

A generic cause for concern is the implementation of the "look-alike/count-alike" principle. On two occasions the Soviets restored to original outward configurations equipment eliminated either under terms of the Elimination Protocol or prior to Treaty entry into force. Whether or not restoration permits use of the items for purposes inconsistent with the Treaty, such activity complicates national technical means (NTM) monitoring of Treaty limitations on the items. These two incidents involved an SS-20 launch canister near Moscow, and SS-23 launchers, at Stan'kovo. In both cases the Soviets responded to U.S. concerns by displaying to U.S. NTM or inspectors the equipment in a configuration that removed questions about the status of these items.

THE ABM TREATY

Previous reports have detailed our deep concern about Soviet noncompliance with the ABM Treaty, in particular the Krasnoyarsk radar, which is a signification violation of a central element of the Treaty. The Soviet Union has now committed to complete elimination of the radar. Although the Soviets have not yet begun dismantlement of this radar, preparation for its dismantlement may have begun. The U.S. and U.S.S.R. are currently addressing its elimination. We look to a prompt follow-through on the Soviet Union's commitment, and we will follow Soviet actions closely.

While the elimination of the Krasnoyarsk radar will resolve a major U.S. concern, other concerns about Soviet ABM and ABM-related activity will remain. These are detailed in this report. The construction of new LPARs on the periphery of the Soviet Union and the upgrade of the Moscow ABM system, the only deployed system for defense against strategic ballistic missiles in the world, appear to be consistent with the ABM Treaty. LPARs, however, have always been considered to be the long lead-time element of a possible territorial defense. Krasnoyarsk is only one of a network of nine such radars. Because they have an inherent capability to track large numbers of objects accurately, these radars, depending on location and orientation, have the inherent technical potential to contribute to ABM battle management.

There are several other U.S. concerns treated in this report. They are:

The development and testing of components required for a mobile ABM system;

The concurrent operation of air defense components and ABM components;

The development of modern air defense systems that may have some ABM capabilities;

The totality of Soviet ABM and ABM-related activities which suggest that the USSR may be preparing a defense of its national territory.

CHEMICAL, BIOLOGICAL, AND TOXIN WEAPONS

The U.S. judges that the Soviets continue to be in violation of the 1972 Biological and Toxin Weapons Convention. As documented in previous Reports, the U.S. found that the Soviets had violated the 1925 Geneva Protocol and related rules of customary international law, we found no basis for amending the previous conclusion that the Soviet Union has been involved in the production, transfer, and use of trichothecene mycotoxins for hostile purposes in Laos, Cambodia, and Afghanistan in violation of its legal obligation under international law as codified in the Geneva Protocol of 1925 and the Biological Weapons Convention of 1972. These violations, together with ongoing Soviet activities in these areas, remain a cause for serious concern. Since the January 1984 Report, we have had no confirmed evidence of use of lethal agents.

The U.S. has determined that contrary to Soviet claims, the Soviet Union has maintained an active offensive biological warfare (BW) program and capability in violation of the 1972 Biological and Toxin Weapons Convention. We judge that the Soviet capability may include advanced biological and toxin agents of which we have little or no knowledge, and against which the U.S. has no defense.

As a result of the 1986 BWC Review Conference, States party to the Convention agreed to exchange information on facilities built for high-risk (high-containment) biological experiments and facilities engaged in other activities relating to the Convention. While the Soviet submission of data have been welcomed, the U.S. believes that activities continue at facilities which we believe to be associated with the offensive Soviet program, not all of which were contained in the Soviet declaration.

We continue to be dissatisfied with Soviet explanations regarding an outbreak of anthrax in Sverdlovsk in 1979. We have raised the issue repeatedly with the Soviets since March 1980, and have been told that the outbreak stemmed from the consumption of contaminated meat. However, based on information available to the U.S., we concluded that the outbreak occurred as a result of an accidental release of anthrax spores from a prohibited BW facility.

In April 1987, General Secretary Gorbachev announced that the Soviet Union had halted production of chemical weapons. In December 1987, the Soviets stated that they maintained a stockpile of 50,000 metric tons of chemical agents.

On September 23, 1989, the U.S. and the Soviet Union signed a Memorandum of Understanding (MOU) regarding a bilateral verification experiment and data exchange on chemical weapons. The MOU consists of a two-phase agreement, the first phase of which will be comprised of an exchange of data and visits to relevant CW facilities. The nature of the data to be exchanged includes the aggregate quantity of chemical weapons, the types of chemicals possessed, and the relative percentages in munitions and in bulk.

On December 29, 1989, the Soviets provided data pursuant to this agreement. These data are presently being studied; preliminary indications are that these data differ in a number of respects from our understanding.

LIMITED TEST BAN TREATY

Since the Limited Test Ban Treaty (LTBT) came into force over 20 years ago, the Soviet Union has conducted its nuclear weapons test program in a manner incompatible with the terms of the Treaty. Since publication of the December 1988 Report, that conduct has continued and still results in the release of nuclear debris into the atmosphere beyond the borders of the USSR. Even though the material from these Soviet tests does not pose calculable health, safety or environmental risks, and the infractions have no apparent military significance, in response to our repeated attempts to discuss these occurrences with Soviet authorities,

they have only denied that these events have occurred and rebuffed U.S. requests for technical discussions which might lead to prevention of further Soviet venting.

THRESHOLD TEST BAN TREATY

On November 9, 1987, the United States and Soviet Union began negotiations in which a priority is to agree on effective verification measures which will make it possible to ratify the U.S.-U.S.S.R. TTBT and the Peaceful Nuclear Explosions Treaty (PNET).

As part of those negotiations, the sides conducted a Joint Verification Experiment, with a Soviet-monitored nuclear explosion at the U.S. test site on August 17, 1988, and a U.S.-monitored nuclear explosion at the Soviet test site on September 14, 1988.

On September 23, 1989 at the Wyoming Ministerial, with regard to the verification protocol to the TTBT, the United States and Soviet Union agreed to a package approach that would include three verification methods: on-site hydrodynamic measurements, on-site inspections, and in-country seismic stations.

In the current round of the Nuclear Testing Talks (NTT), the sides are negotiating the detailed provisions necessary to implement the agreements reached during the Wyoming Ministerial. Our goal is to complete protocols to the two Treaties and submit them to the Senate for advice and consent as to ratification. Implementation of these two treaties with the provisions necessary to achieve effective verification, following their ratification, will provide the Soviets the opportunity and obligation to address our longstanding concerns regarding Soviet compliance with the 150 kt threshold.

SUMMARY

The U.S. demand for scrupulous compliance is not negotiable. We will continue to insist on effective verification of the provisions of these new agreements, respond appropriately to any Soviet noncompliance, and continue to make our strategic decisions based on the nature and magnitude of the Soviet threat. A double standard of compliance with arms control obligations is unacceptable.

During the past year, our insistence on scrupulous compliance, together with improved cooperation by the USSR, has enabled generally successful implementation of the INF Treaty, the removal of one ABM Treaty violation and positive movement toward Soviet correction of the Krasnoyarsk radar violation. This represents encouraging and significant positive movement in arms control Treaty compliance. We hope that the USSR will continue such cooperation in the future.

I look forward to continued close consultations with the Congress as we seek to make progress in resolving compliance issues and in negotiating sound arms control agreements.

The findings on INF Treaty implementation and the ABM Treaty follow.

THE FINDINGS

INF TREATY IMPLEMENTATION

Treaty status

The INF Treaty continues to meet its goal of eliminating an entire class of U.S. and Soviet missiles under conditions of strict verification. As of November 30, 1989, the USSR has eliminated all 957 of its shorter-range missiles and all 238 of its launchers for such missiles. The soviets have eliminated 433 of 809 intermediate-range missiles and 299 of 581 launchers for such missiles. Elimination of remaining U.S. and Soviet missiles and launchers must occur by June 1, 1991.

During the past year of Treaty implementation, a number of compliance issues have arisen, and in one instance, the U.S. has made a noncompliance finding. In every case, however, the issue or violation has been resolved or corrected after it was raised with the Soviets.

1. Transit of missiles on launchers at Lebedin

Obligation.—Paragraph 10 of Article II of the Treaty defines the term "transit" to include movement of an intermediate-range missile (such as an SS-20), or launcher of such a missile, between a deployment area and a missile support facility (such as a missile/launcher repair facility (MLRF). Paragraph 12 of Article II of the Treaty provides that the term "non-deployed missile" includes an intermediate-range missile located outside a deployment area. Paragraph 8 of article VIII provides that non-deployed intermediate-range missiles shall not be carried on their launchers, "except as required for maintenance conducted at repair facilities or for elimination by means of launching conducted at elimination facilities." This exception in paragraph 8 of Article VIII means that intermediate-range missiles may be carried on their launchers only while they are actually located at repair or elimination facilities and only for the purpose of maintenance or elimination by means of launching. Missiles may not be carried on their launchers while in transit to or from such facilities unless the transit route lies entirely within a deployment area (DA).

Background.—Beginning in December 1988, Soviet SS-20 missiles transition on their launchers between Lebedin deployment area and Lebedin MLRF. In notifications subsequent to these transits, the Soviets stated the transit route of the launchers lay entirely within the deployment area boundaries.

Alhough the deployment area is adjacent to the MLRF, analyses indicate that it is not possible for launchers to move from the deployment area to the MLRF without leaving the deployment area. (This has to do with the location of gates and roads.) These analyses were confirmed on June 30, 1989 by U.S. inspectors.

Based on the above analysis, the U.S. presented a demarche to the Soviet Union. The Soviets admitted that their mistake resulted from a "technical error" by local Soviet officials in determining the actual boundaries of the Lebedin deployment area. Due to this error, the Soviets thought the section of road used to transport their missiles was actually within the limits of the deployment area. The Soviets stated that this error had been corrected, and that in the future such transits of missiles on launchers would not occur on this road.

Findings.—Although the Soviets notified the U.S. of the transit of these SS-20 missiles on launchers at Lebedin, such transits violated paragraph 8 of Article VIII of the Treaty. Since the Soviets responded to the U.S. concerns this problem appears to have been corrected.

2. Welded SS-23 launchers at Stan'kovo

Paragraphs 7 and 8 of Article XI of the Treaty provide for on-side inspection to confirm the process specified for elimination has been completed, and further provides for confirmation of the process of elimination for missiles and launchers subject to the Treaty. Paragraph 1 of Section II of the Elimination Protocol provides for the general requirement to follow specific procedures delineated in the Elimination Protocol for each type of missile, missile launcher, etc., and further specifies "these procedures preclude the possibility of restoration of such items for purposes inconsistent with the provisions of the Treaty." Paragraph 10 of section II (SS-23) specifies that "a portion of the launcher body, at least 0.85 meters in length, shall be cut off aft of the rear axle." To ensure verification of compliance with the Treaty, paragraph 1 of Article XII recognizes the legitimate use of national technical means (NTM); and paragraph 2(b) of Article XII specifies that neither Party shall use concealment measures which impede verification of compliance with the provisions of this Treaty by national technical means of verification.

Following completion of the procedures to eliminate 30 SS-23 launchers at Stan'kovo in April 1989, U.S. inspectors asked and were allowed to inspect vehicles being stored outside and covered. They discovered that the Soviets had welded a rear portion onto 24 of the 27 eliminated launchers. The Soviets stated that the weld of the rear portion would make the vehicle watertight, so that it could continue to be used as an amphibious vehicle for the civilian economy. The inspection team chief declared an "anomaly." The Elimination Protocol requires the Soviets to remove a portion (0.85 meters) in length after the rear axle, to preclude the possibility of restoration of the vehicle for purposes inconsistent with the provisions of the Treaty as stated above. The Soviets agreed to re-cut all of the chassis and did so. The inspection procedure was formally completed on April 29, 1989 when the official inspection report was signed. The U.S has not seen any further evidence of reattachment.

3. SS-20 launch canister near Moscow

The Treaty requires in subparagraph 10(b) of Article VII that SS-20 launch canisters be counted as SS-20 missiles unless the Soviet Union proves to the satisfaction of the United States that the canister in question does not contain a missile. In accordance with paragraph 1 of Article VIII, SS-20 missiles must be located within deployment areas or at missile support facilities. Whether or not an SS-20 launch canister contains a missile, the canister itself is accountable under the terms of the Treaty as support equipment for which the Soviets are required to give an accurate count. Items eliminated prior to entry into force of the Treaty are not subject to provision of the Treaty.

In March 1989, the U.S. observed an object which appeared to be an SS-20 launch canister at a non-declared missile-associated facility near Moscow. This facility was not declared to be an INF facility in the Memorandum of Understanding (MOU) or in subsequent MOU data updates. After the U.S questioned the Soviet Union about the suspect item the Soviets stated the item in question did not contain an INF missile. They described the item as a former SS-20 launch canister which was eliminated prior to signing the Treaty by cutting it into three parts. The parts were placed together, but unattached, in what the Soviets describe as a museum.

The U.S. asked the Soviets to demonstrate that the canister had been eliminated by separating the three pieces to create a space between them that is at least the length of

the longest piece and leaving them in place for at least 30 days; the Soviets complied in July 1989. The fact that the canister has been in open storage for some time, apparently without environmental control, lends credence to the Soviet claim that this launch canister was destroyed prior to Treaty entry into force. The U.S. is satisfied that the former SS-20 launch canister had been eliminated by the Soviets.

THE ABM TREATY

Treaty status

The 1972 Anti-Ballistic Missile (ABM) Treaty and its Protocol ban deployment of ABM systems except that each party is permitted to deploy one ABM system around the national capital area or, alternatively, at a single intercontinental ballistic missile (ICBM) deployment area. The ABM Treaty is in force and is of indefinite duration. Soviet actions not in accord with the ABM Treaty are, therefore, violations of a legal obligation.

1. The Krasnoyarsk radar

Obligation.—To preclude the development of a territorial defense or providing the base for a territorial ABM defense, the ABM Treaty provides that radars for early warning of ballistic missile attack may be deployed only at locations along the periphery of the national territory of each party and that they be oriented outward. The Treaty permits deployment (without regard to location or orientation) of large phased-array radars (LPARs) for purposes of tracking objects in outer space or for use as national technical means (NTM) of verification of compliance with arms control agreements.

Background.—The Krasnoyarsk radar is assessed to be designed for ballistic missile detection and tracking but the Soviets have claimed it is intended for space tracking and NTM. An LPAR designed for ballistic missile detection and tracking could serve as a radar for warning of strategic ballistic missile attack but also has the inherent potential of supporting ABM battle management. LPARs were, and still are, considered to be long-lead time elements of a possible territorial defense. The Krasnoyarsk radar is about 740 kilometers from the U.S.S.R's nearest border—that with Mongolia. Moreover, the Krasnoyarsk radar is not directed outward as specified by the ABM Treaty but, rather, looks toward the Soviet Union's northeast border—almost 4,600 kilometers away.

This issue has been discussed with the Soviets since the fall of 1983 including during the 1988 ABM Treaty Review. Prior to the past year, Soviet responses have denied that the Krasnoyarsk radar violates the ABM Treaty. At the U.S.-Soviet Ministerial meeting, held a Jackson Hole, Wyoming on 22-23 September, however, the Soviets stated that they would eliminate the Krasnoyarsk radar, without preconditions. Although the Soviets have not yet begun dismantlement of this radar, preparations for dismantlement may have begun. And on October 23, 1989, in a speech to a plenary session of the USSR Supreme Soviet, Soviet Foreign Minister Shevardnadze acknowledged that the radar was a violation of the ABM Treaty.

The U.S. believes that a satisfactory solution to the Krasnoyarsk radar violation must reestablish the lead time acceptable to the United States that was the purpose of the LPAR provisions of the ABM Treaty; must verifiably remove all treaty-prohibited radar capability; should add no new obligations, requirements, or definitions to the ABM Treaty such as on-site inspections; and should not prejudice the sides' positions in the Defense and Space negotiations.

Finding.—The U.S. Government has determined that the large phased-array deployed near Krasnoyarsk constitutes a significant violation of a central element of the Anti-Ballistic Missile Trearty of 1972. Its associated siting, orientation, and capability are prohibited by this Treaty. While the Soviet Union has acknowledged that the radar violates the ABM Treaty, and has committed to eliminate the radar, no action has yet been taken that would correct this violation.

2. Mobility of ABM system components

Obligation.—Paragraph 1 of Article V of the ABM Treaty prohibits the development, testing or deployment of mobile land-based ABM systems or components. The Parties reached a general common understanding that they could not deploy ABM launchers and radars that were not permanent fixed types.

Background.—The ABM Treaty explicitly prohibits the development, testing, or deployment of mobile land-based ABM systems or components, including ABM interceptor missiles, ABM launchers, and ABM radars. The sides arrived at a Common Understanding indicating that an ABM Treaty prohibition on development, testing, and deployment of mobile land-based ARM systems and components would rule out deployment of launchers and radars which were "not permanently fixed types." The concern in this case was not tactical mobility but concern about "breakout." The term "mobile" used in the Treaty describes components which can be readily transported from one place to another as well as components designed to be moved frequently during their service life, as contrasted with permanently fixed installations, even if these components were not "mobile" in the sense of having wheels or being self-propelled.

In early December 1987, the U.S. accepted a Soviet invitation for a U.S. team to inspect the Pawn Shop vans at both Gomel and Moscow, and also to look at the Flat Twin "fragments" at Gomel. With regard to Pawn Shop mobility, the visit confirmed that the van was road-mobile.

The U.S. visit to Gomel also confirmed the modular design of the Flat Twin and potential for relocation of the Flat Twin modules.

Finding.—The U.S. Government judges that Soviet elimination of the Pawn Shop vans at Gomel and Moscow, the apparent elimination of the third Pawn Shop van and the dismantlement of the Flat Twin radar at Gomel has lessened U.S. concern regarding ABM component mobility. Two Flat Twin radars at the ABM test ranges, however, remain. These radars can be moved relatively quickly from one deployment area to another as demonstrated by the redeployment of the Flat Twin to Kamchatka, and the relocation of major parts of the Flat Twin to Gomel. In these moves the Soviets demonstrated a capability to transport and redeploy the radar in a matter of weeks or months. The two Flat Twin radars cannot be said to be truly mobile, but neither can they be considered to be immobile.

3. Concurrent testing of ABM and air defense components

Obligation.—The ABM Treaty and its Protocol limit the parties to one ABM deployment area. In addition to the ABM systems and components at that one deployment area, the parties may have ABM systems and components for development and testing purposes so long as they are located at agreed test ranges. The Treaty also prohibits giving components, other than ABM system components, the capability "to counter strategic ballistic missiles or their elements in flight trajectory" and prohibits the parties from testing them "in an ABM mode."

The United States and the Soviet Union agreed in the 1970s to prohibit concurrent testing of air defense components and ABM system components at the same test range.

Background.—In negotiating the ABM Treaty, the U.S. was determined to constrain the USSR's ability to upgrade its extensive surface-to-air missile (SAM) defense force to have ABM capabilities, and to constrain development of future SAM systems with ABM capabilities. Compliance questions arose with regard to the Treaty provision not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode.

We are concerned about three general classes of activities involving SAM and ABM components: (1) SAM radars operating at about the same time as either strategic ballistic missile reentry testing or ABM missile testing; (2) ABM radars operating at about the same time as either SAM launches or SAM target flights; and, (3) SAM radars operating at about the same time as ABM radars. Such activities raise the possibility of testing SAM components "in an ABM mode." Since the signing of the ABM Treaty in 1972, there have been many instances of the activities of concern.

All three types of concurrent operations have been raised with the Soviets.

Finding.—The U.S. Government finds that the Soviet Union has conducted tests that have involved air defense radars in ABM-related activities. The large number, and consistency over time, of incidents of concurrent operation of ABM and SAM components, plus previous Soviet failure to accommodate fully U.S. concerns, indicate the USSR probably has violated the prohibition on testing SAM components in an ABM mode as defined in a 1972 U.S. Unilateral Statement on testing in an ABM mode (a statement which the Soviets did not reject) prior to the 1978 Agreed Statement. (The 1978 Agreed Statement refined the definition of testing "in an ABM mode.") In several cases, this may be highly probable. No known violations have occurred which meet the 1978 Agreed Statement's definition of testing "in an ABM mode." Recently, the sides appear to have moved closer to resolution of this issue since the Soviet Union has stated that it is willing to take steps to cease these activities.

4. ABM capability of modern SAM systems

Obligation.—Under subparagraph (a) of Article VI of the ABM Treaty, each party undertakes not to give non-ABM interceptor missiles, launchers or radars "capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode."

When the ABM Treaty was negotiated, the potential ABM capability of air defense systems was a major concern. Clearly, the phrase "capabilities to counter" as used in the ABM Treaty was intended to have the ordinary meaning of "blocking" or "stopping" a reentry vehicle. In the context of the ABM Treaty giving a SAM system "ca-

pabilities to counter strategic ballistic missiles" means giving them actual ABM capabilities.

Since virtually any air defense missile system has some level of ABM capability, the Treaty was not intended to preclude an incidental or insignificant ABM capability, but rather a meaningful or significant capability. Such a determination must ultimately be a factual determination taking into account the military significance of whatever ABM capability is present.

Background.—The ABM Treaty and its negotiating record reflect a long-standing and persistent U.S. concern that the USSR might upgrade its then-existing surface-to-air missile (SAM) defense systems into ABM systems or might, in the future, deploy air defense systems with ABM capabilities. The Soviets opposed a ban on SAM upgrade, but finally yielded to U.S. concerns after the U.S. agreed that SAM systems could be improved so long as they were not given ABM capabilities.

Concern has existed for some time about the possibility of a ballistic missile defense capability with the SA-10 and SA-12 air defense systems. Improving technology is blurring steadily the technical distinctions between air defense and ABM systems.

Finding.—The U.S. Government concludes that the evidence of Soviet actions with respect to SAM upgrade is insufficient to assess compliance with the Soviet Union's obligations under the ABM Treaty.

5. ABM territorial defense

Obligation.—The ABM Treaty and Protocol allow each party a single deployment area, explicitly permit modernization and replacement of ABM systems of their components, and explicitly recognize the existence of ABM test ranges for the development and testing of ABM components. The ABM Treaty prohibits, however, the deployment of an ABM system for defense of the national territory of the parties and prohibits the parties from providing a base for such a defense.

Background.—The Soviet Union has carried out a number of ABM activities, or activities that could be characterized as ABM-related, which have created concerns.

The objective of the allowed ABM activities is to increase the effectiveness of allowed ABM deployments; these activities also undoubtedly reduce the time for the deployment of an effective territorial defense. What must be determined is whether the totality of Soviet ABM and ABM-related activities have moved beyond acceptable ABM research, development, testing and deployment, and, therefore, can be concluded to have provided a base for a territorial defense.

The Soviet Union has carried out a number of ABM activities, or activities that could be characterized as ABM-related, which taken together have created concerns within the United States. Information on specific compliance concerns is presented in individual analysis papers on the Krasnoyarsk radar, ABM component mobility, concurrent testing of ABM and SAM components, and ABM capabilities of modern SAM systems. The issue of ABM rapid reload is discussed only in the introduction to the Report. Other concerns with respect to the totality of Soviet ABM and related activities include the construction of a network of nine large, phased-array radars (LPARs), including the one at Krasnoyarsk, which could constitute the deployment of a major long lead-time component of a nationwide ABM system and the Moscow ABM system which provides the world's only active production line for ABM interceptors.

Finding.—While many Soviet ABM or ABM-related activities appear to be consistent with the provisions of the ABM Treaty, such as their recent modernization of the world's only operational ABM system, the Krasnoyarsk radar remains a significant violation of a central element of the ABM Treaty and other Soviet activities are a cause for concern. The U.S. Government judged in the December 1988 Report that the aggregate of the Soviet Union's ABM and possible ABM-related actions suggests that the Soviet Union may be preparing an ABM defense of its national territory. Subsequent Soviet action to correct the Gomel ABM Treaty violation was a positive step. Moreover, the Soviet offer with regard to Krasnoyarks when carried out, and a cessation of the concurrent activities of concern to the U.S., could further affect our earlier judgment.

Mr. McCLURE. Mr. President, I strongly agree with President Bush's sound statement in this report that:

Arms control commitments must be precisely defined and scrupulously observed. Nothing less will do * * * When violations of arms control agreements are identified, we will continue to utilize the traditional consultative mechanisms, to seek the support of Congress, and to evaluate and take the appropriate responses.

I would emphasize that President Bush also stated in this report that:

The United States has told the Soviet Union that the United States will not conclude a START or Defense and Space Treaty until U.S. concerns about this [Krasnoyarsk] violation are resolved. The Soviet commitment to eliminate the Krasnoyarsk radar completely will, if carried out in a verifiable manner that meets U.S. criteria, improve the atmosphere surrounding bilateral relations * * * The support of the U.S. Congress on this issue was of immeasurable value in convincing the Soviet Union that this violation must be corrected * * * The U.S. demand for scrupulous compliance is not negotiable. We will continue to insist on effective verification of the provisions of these new agreements, respond appropriately to any Soviet non-compliance, and continue to make our strategic decisions based on the nature and magnitude of the Soviet threat.

I fully agree with these important policy statements.

Third, Mr. President, in regard to the public evidence of the three reported new Soviet INF Treaty violations, I ask unanimous consent that the following documentation be printed in the RECORD:

First. The Los Angeles Times, article entitled "East Germany Admits It has Missiles Banned by Treaty," dated March 8, 1990, by Robert Toth;

Second. The New York City Tribune, article entitled "U.S. Lodges a Protest With Soviets Against 'Blatant Violation' of INF Pact," datelined March 12, 1990, by Peter Samuel;

Third. Letter from Senator HELMS to Arms Control and Disarmament Agency Director Ronald F. Lehman, dated March 12, 1990, and hand delivered to ACDA on March 13, 1990;

Fourth. The Los Angeles Times, article entitled "U.S. Sends Arms Pact Protest to Soviets," dated March 15, 1990, by Robert Toth;

Fifth. The Washington Times, article entitled "Soviets Block U.S. Inspection at Missile Plant," dated March 16, 1990, by Warren Strobel;

Sixth. Human Events, article entitled "Soviets Fail to Comply With INF Treaty";

Seventh. The Washington Post, article entitled "Missile Crisis," dated March 16, 1990, by Rowland Evans and Robert Novak;

Eighth. The Washington Post, article entitled "Missile-Inspection Technicality Provokes Top-Level Protest to Soviets," dated March 19, 1990, by R. Jeffrey Smith; and

Ninth. The Washington Times, article entitled "U.S. May Cite Soviets for violation of Treaty," dated March 19, 1990, by Bill Gertz.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 8, 1990]

E. GERMANY ADMITS IT HAS MISSILES BANNED BY TREATY

(By Robert C. Toth and John Broder)

WASHINGTON.—Dealing a potentially serious blow to confidence in U.S.-Soviet arms pacts, East Germany acknowledged Wednesday that it has 24 previously undeclared Soviet-made missiles that were banned by the 1987 medium-range missile treaty.

The East German government said that it will destroy the SS-23 missiles, which are capable of carrying nuclear warheads but apparently were equipped with conventional explosives or other non-nuclear devices. It said two launch platforms were destroyed last month.

The Bush Administration, which discovered evidence of SS-23 components in East Germany last week, has asked Moscow to explain how the Soviet-made missiles got there and why they were not disclosed when information was exchanged on missiles covered by the 1987 accord.

The intermediate-range Nuclear Forces (INF) Treaty called for elimination from superpower arsenals of all missiles with ranges from 300 to 3,400 miles. The SS-23 missiles have a range of 550 miles.

The East German SS-23s may not constitute a violation of the treaty, however, if ownership of the weapons was transferred from the Soviet Union before the pact took effect, because the agreement technically covers only U.S. and Soviet weapons.

Even so, the existence of the undeclared SS-23s will be viewed as an act of bad faith on the part of the Soviets, who demanded during negotiations of the 1987 accord the elimination of U.S.-made Pershing 1 missiles that had been purchased by West Germany.

"I can't say they (the SS-23s) are illegal," Ronald F. Lehman, director of the U.S. arms control agency, told a Senate Committee Wednesday, "But we didn't know they were there, so they were covert."

Lehman said it was "premature" to speculate on the impact of the disclosure on the strategic arms treaty expected to be completed this year. The far-reaching U.S.-Soviet accord calls for cuts of 30% to 50% in

long-range offensive nuclear warheads and bombs held by each superpower.

"The Soviets are going to look bad on this, even conniving," predicted a senior U.S. official. "Why didn't they come back to us on this earlier and say the East Germans had these weapons, particularly after they made such a fuss over the West Germans' Pershings during the negotiations?"

During the INF Treaty negotiations, Moscow demanded that the Pershing 1 missiles be dismantled because they fell within the banned missile range. The United States argued that it did not own the weapons, but West Germany unilaterally declared that it would destroy all 70 Pershing 1 missiles in its arsenal to resolve the impasse.

In 1984 and 1985, the Soviet Union moved a number of SS-23s from its territory into Czechoslovakia and East Germany in an effort to intimidate Western Europe. Moscow had broken off arms talks and wanted the Continent to reject deployment of U.S. Pershing 2 missiles.

At some point, ownership of the SS-23s stationed in East Germany apparently was transferred to the government in East Berlin during the hard-line regime of former East German Communist Party leader Erich Honecker, who resigned in disgrace late last year.

The Soviets never announced that they had transferred possession of the missiles to either country. The fate of the SS-23s in Czechoslovakia is unclear.

The disclosure of the hidden missiles raises questions about the effectiveness of U.S. surveillance efforts, which rely primarily on satellites to detect undeclared missiles.

The presence of the East German SS-23s was reported in a German newspaper last week. U.S. spy satellites then found "a couple (of) items associated with the SS-23 system, a launcher and a transporter, maybe a canister (in which a missile would be carried), but no missiles as such," one source said.

In making the disclosure, the reformist Communist government of East Germany said that it had begun the process of destroying the missiles and their launchers in February on the orders of new Prime Minister Hans Modrow.

East German Defense Ministry spokesman Uwe Hempel told the East German ADN news agency that two launch ramps already had been destroyed.

The entire SS-23 system in East Germany had consisted of four launch ramps, four transporters, 24 rockets equipped with nonnuclear warheads and technical infrastructure such as repair and maintenance facilities, Hempel said.

"The destruction of the entire weapons system will be completed in November, 1990," Hempel said, according to an Agence France-Press report from East Berlin.

East Germany reported that the SS-23s were equipped with non-nuclear warheads, but it did not provide details.

[From the New York City Tribune, Mar. 13, 1990]

U.S. LODGES A PROTEST WITH SOVIETS AGAINST "BLATANT VIOLATION" OF INF PACT

(By Peter Samuel)

WASHINGTON, March 12.—The United States has forcefully protested what one government official calls a "blatant violation" of U.S. monitoring rights at the Votkinsk missile factory in the Soviet Union, according to the source.

The official, who requested anonymity, says that Soviet personnel ran missile railcars through the U.S. perimeter monitoring station at the missile plant last Friday without allowing officials there to carry out X-ray and other inspections under the terms of the intermediate nuclear forces (INF) treaty.

A light barrier and a semaphore stop-and-go signal were reportedly damaged in the incident.

The official says that U.S. protests included a phone call to Secretary of State James Baker III to Soviet Foreign Minister Eduard Shevardnadze over the weekend, as well as protests by U.S. Ambassador to the Soviet Union Jack Matlock and additional complaints by the State Department in Washington.

An Arms Control and Disarmament Agency (ACDA) spokesman today confirmed that there is a problem at the inspection post at Votkinak and said that "we are looking into it."

He said he also believed that the State Department would be making a statement on the incident at today's daily noon briefing, but no statement was made.

State Department public affairs officer David Denny confirmed that the Soviet Union has recently sent a number of missile canisters out of the production facility at Votkinak "without allowing the U.S. to use the Cargoscan system (an x-ray system) to image those missile canisters. This Soviet action denies U.S. inspection rights under the INF treaty.

"The U.S. regards this as a very serious matter," he continued. "We have raised this issue at high levels in both Moscow and Washington including a communication from Secretary Baker to Foreign Minister Shevardnadze and are continuing to press the Soviets to solve this problem by allowing us to use the Cargoscan system."

Another government official told the New York City Tribune that the incident is indeed "very serious." A former Reagan administration official said it could be "as serious as Krasnovarsk," a reference to the large anti-ballistic missile (ABM) radar that the Soviets have admitted is a breach of the ABM treaty.

Though details of the incident are still incomplete, sources say that last Friday, March 9, the Soviets sent a locomotive through the U.S. monitoring station over a number of U.S. objections. It was then that a light barrier—apparently a break-off arm similar to those used at highway tollgates or parking station exits—and a semaphore signal were damaged.

The locomotive then reportedly hooked up with a disputed missile-carrying railcar and towed it out through the moniter again, while U.S. inspectors were prevented from using the X-ray machine to scan the missile inside.

On Saturday, reports say the Soviets sent two more missile carrying railcars through the monitoring station, while U.S. inspectors were again prevented from operating the X-ray machine.

The United States first insisted on the right to measure missiles departing the Votkinak factory in 1988 because the plant produced SS-20 and SS-23 intermediate range missiles that are banned by the INF treaty.

The missiles are transported inside protective canisters and the X-ray scanning is needed to "see" inside canisters and distinguish the shorter INF-banned missiles from the longer legal missiles.

The U.S. On Site Inspection Agency (OSIA) told the Soviets on February 6 that beginning 3 days later, on Feb. 9, the United States would exercise its rights under the INF Treaty to measure all missiles exiting the factory with the Cargoscan X-ray machine established at the U.S. Perimeter Portal Monitoring system (PPMS), as the inspection facility is known.

The United States was in fact entitled to operate the X-ray monitor from December 1, 1988, but a combination of Soviet objections, construction delays and technical problems had delayed its operation over 14 months.

Just a month ago, a few days after the X-ray monitor finally became operational, the Soviets raised new objections to use of the machine, and said it could not be used without further modifications. They demanded that the machine be modified so that it could not image interior secrets of the weapon system.

The Soviets also apparently laid down new limits on the use of computer tape from the X-ray imaging system.

U.S. officials said the Soviet demands were unacceptable, though a technical team was sent to Votkinsk to discuss the matter with the Soviets. Meanwhile, there was a standoff at Votkinsk between officials of the two nations from mid-February, when the Soviets shunted a railcar out of the factory and demanded to go through the monitoring post without use of the X-ray machine.

But U.S. inspectors apparently insisted on their right to inspect the railcar, so it remained in a shed just inside the monitoring post for nearly 4 weeks during the impasse, according to sources. The railcar was said to have been barred from leaving by the semaphore signal and the light barrier.

On March 5, an interagency arms control group in Washington agreed that if the Soviets did not allow the railcar to be inspected, the United States would formally declare the Soviet action an "anomaly" under the treaty—one step short of calling the Soviets in violation.

Ambassador Matlock reportedly conveyed the ultimatum to the Soviets by mid-week.

Following this threat, the Soviets apparently forced their way through the U.S. monitoring station, which sits astride the only rail line out of the factory.

The government official says the missiles being forced through the Votkinsk barrier are not thought to be illegal INF missiles, but a new more powerful SS-25 intercontinental missile with three warheads.

"We think they just don't want us to know about the three warhead version of the missile," he said.

The SS-25 is similar in size to the U.S. Minuteman III missile which carries three warheads, but has only been tested with one warhead and the draft Strategic Arms Reduction Treaty (START) counts it as single-warheaded.

If the Soviets reveal a 3-warheaded version of the SS-25, completion of the START treaty would be complicated.

"We think this incident is a START issue as well as an INF issue." said the official.

"Either way it is a major Soviet assault on arms control."

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 12, 1990.

Hon. RONALD F. LEHMAN II,
Director, U.S. Arms Control and Disarmament Agency, U.S. Department of State, Washington, DC.

DEAR RON: You did a good job responding to questions at the March 7 Committee

hearing on arms control. I appreciate your obvious desire to be as forthcoming as possible on some difficult issues. However, there are a few important aspects of these that need to be cleared up.

Both you and I have long been deeply concerned about Soviet non-compliance with arms control treaties, and I have recently become alarmed about reported new violations of the INF Treaty. In order to follow up on some of the issues that were developed in the Committee hearing, I request that you answer the enclosed questions, which are in addition to the questions which my staff gave you on START, the Kennedy-Khrushchev Agreement, and ACDA management, which are to be answered for the record.

I am disturbed by reports that, even as the hearing progressed on Wednesday, the Soviets were planning to take missiles out of the plant at Votkinsk without allowing the United States to X-ray the containers—even though Cargo-scan is presumably fully operational.

My additional questions cover four topics—the hundreds of clear violations in the Soviet non-compliance record, the newly discovered Soviet SS-23s in East Germany, the Cargo-scan impasse and the recent Soviet "break out" from Cargo-scan, and some new issues on Soviet ABM Treaty compliance.

Kindest personal regards,

Sincerely,

JESSE HELMS.

[Letter to ACDA Director Lehman, Mar. 12, 1990]

ATTACHMENT: FURTHER HELMS QUESTIONS ON INF AND ABM TREATY COMPLIANCE

I. HUNDREDS OF CONFIRMED SOVIET INF TREATY VIOLATIONS?

1. Has the President already reported to Congress the following six types of multiple confirmed Soviet violations of the INF Treaty and the following six types of INF compliance problems?

(a) Six Types of Confirmed Soviet INF Treaty Violations

First—Has the President reported that "since entry into force, the Soviets have conducted nearly 200 non-compliant transits of SS-20 missiles on their launchers between Missile Operation Bases, Missile/Launcher Repair Facilities, and elimination facilities?" Are these 200 transits characterized as clear "violations?"

Second—Has the President reported that the Soviets did not list about 50 of their Treaty-Limited Items and their locations in the data update to the INF Treaty Memorandum of Understanding on Data? Are these 50 serious omissions characterized as clear "non-compliance" and "violations?"

Third—Has the President reported that the Soviets conducted about 20 unnotified movements of training launchers? Did these 20 movements constitute clear "violations?"

Fourth—Has the President reported that the Soviets had 2 Treaty-Limited Items at a facility declared ready for elimination? Did these items constitute clear "violations?"

Fifth—Has the President reported that the Soviets had about 7 Treaty-Limited Items at non-declared locations? Did these items constitute clear "violations?"

Sixth—Has the President reported the transit of 8 SS-20 missiles on launchers at Lebedin? Were these transits characterized as clear "violations?"

(b) Six Types of Soviet INF Compliance Problems

First—Has the President reported 1 case in which the Soviets failed to provide complete and accurate technical data in the Memorandum of Understanding on Data? Was this case described as a Soviet failure "to provide true and accurate data?"

Second—Has the President reported that about 6 GLCM-like launchers were aboard a Soviet patrol boat?

Third—Has the President reported a Soviet cruise missile undergoing about 2 flight-tests which were not declared?

Fourth—Has the President reported about 5 cases of Soviet interference with U.S. National Technical Means of monitoring? Were these a cause of "concern?"

Fifth—Has the President reported 1 undeclared Soviet SS-20 canister near Moscow? Did the U.S. declare this a "suspect item?"

Sixth—Has the President reported 24 cases of rewelded SS-23 Transporter-Erector-Launchers? Did the U.S. declare this an "anomally?"

2. If there is a grand total of 287 confirmed, clearcut, separate Soviet violations of the INF Treaty, and if there is a grand total of 39 Soviet compliance problems, is it accurate to describe the Soviet INF compliance record as a record of "generally successful implementation of the INF Treaty," as the President did in his February 23, 1990 Report to Congress on Soviet Noncompliance with Arms Control Agreements?

3. While most of these violations and problems eventually seem to have been corrected by the Soviets, nevertheless is it not a fact that there have been an inordinate number of Soviet violations and problems in complying with the INF Treaty?

4. Why have the Presidential reports tended to obfuscate the excessive number of incidents of Soviet INF violations and compliance problems—a grand total of about 326?

II. SERIOUS NEW SOVIET INF VIOLATION—24 COVERT SS-23S?

1. An East German army spokesman publicly confirmed on March 7, 1990, that the East German army had begun destroying 24 SS-23 missiles and 4 launchers. This confirmation came less than 24 hours after the United States officially said it was investigating reports that the SS-23s newly detected in East Germany violated the INF Treaty. Now that the East German army has admitted that it has at least 24 Soviet SS-23 missiles and 4 launchers and 4 transporters, how long have these missiles been in East German army hands? Are there more SS-23s in East German hands? How can we rule this out?

2. How many other SS-23 missiles and launchers are in the hands of non-Soviet Warsaw Pact allies? How can we rule out the possibility that the Soviets have provided SS-23s to other non-Soviet Warsaw Pact armies? Are recent press reports that the Soviets have provided SS-23s to the Czech army correct?

3. How can we rule out the existence of more SS-23s in Soviet hands?

4. Does the detection of these Soviet SS-23s in East Germany positively confirm that there are some covert INF forces?

5. According to the East German official announcement on March 7, the East German army started destroying these SS-23 missiles and launchers in early February, 1990, on the orders of East German Prime Minister, Hans Modrow. This destruction evidently began before the United States detected them. The East Germans claimed that the SS-23s carried only conventional, non-nuclear warheads, and were not covered by the INF Treaty. But why would the East Germans have started destroying these SS-23s, unless they believed that they violated the INF Treaty?

6. Are Soviet SS-23s capable of carrying the following kinds of warheads: high explosive, and three kinds of "weapons of mass destruction"—chemical, biological, and nuclear?

7. Under Soviet military doctrine, do the Soviets control all "weapons of mass destruction," such as all SCUD, SS-21, and FROG CBW and nuclear warheads, and all CBW and nuclear artillery rounds and all CBW and nuclear bombs for air delivery, deployed in the Warsaw Pact?

8. Given the relatively high cost of each SS-23 missile and the relatively low destructive capability of a high explosive warhead for it, is it true that the least cost-effective and therefore the least likely warhead for this missile is the high explosive, conventional warhead?

9. Does U.S intelligence therefore estimate a nuclear warhead as the most likely and most common warhead for the SS-23, and further, that these warheads are all controlled by the Soviets, even if the missiles are deployed with a non-Soviet Warsaw Pact army?

10. Were the Soviets required to declare and destroy all SS-23s when they signed the INF Treaty on December 7, 1987, and when they updated their data after they ratified it on June 1, 1988? How many times have the Soviets declared or updated their data during INF negotiations or since the Treaty's entry into force, and failed to declare these 24 SS-23s in East Germany?

11. Would this requirement to declare fully be extended under the "good faith" provision of the Vienna Convention on the international law of treaties to include all Soviet SS-23 missiles and launchers which had previously been given to a Warsaw Pact ally, but for which the Soviet Union still controlled the nuclear warheads?

12. Why did the Soviets not declare and destroy these SS-23s in East Germany under the INF Treaty?

13. Did the Soviets insist in a secret protocol to the INF Treaty that the 70 Pershing IA missiles belonging to the Federal Republic of Germany had to be destroyed, even with Soviet on-site inspection at joint U.S./FRG sites in West Germany, and at sites in the United States, and that the United States take back the 70 Pershing IA nuclear warheads which the United States owned, in addition to destroying all 170 U.S. Pershing IA missiles?

14. Are the newly-discovered Soviet SS-23s in East Germany analogous to the West German Pershing IA missiles that the Soviets required the elimination of in a secret side agreement to the INF Treaty? Should the Soviets have declared the East German SS-23s, especially since they controlled their warheads, and they were demanding the elimination of similar missiles that the United States had given to the West Germans?

15. Has the United States already confirmed in multiple cases that the Soviets did not list all Treaty-Limited Items and their locations, kept Treaty-Limited Items at non-declared locations, and failed to provide complete and accurate technical data, in the INF data, MOU, and updates?

16. Given the confirmed inaccuracy of the Soviet INF data, how likely is it that the So-

viets could have retained other undeclared, covert INF forces?

17. Should the United States declare that these Soviet covert SS-23s discovered in East Germany violate the INF Treaty? Please give a full legal explanation for your answer.

18. If the fundamental purpose of the INF Treaty was to eliminate all shorter-range and intermediate-range missiles, should the United States consider these covert SS-23s a "material breach" of the INF Treaty? Please give a full legal explanation.

19. Does the Intelligence Community estimate that about 500 to 600 Soviet SS-23s were produced, of which only 239 were eliminated under the INF Treaty?

20. Because we have already positively confirmed a covert force of at least 24 Soviet SS-23s in East Germany, could the estimated 261 to 361 remaining Soviet SS-23s also constitute a covert force of illegal INF missiles? Can we rule this possibility out?

21. Has the United States ever detected covert Soviet mobile missile forces by National Technical Means, such as covert SS-16s, SS-25s, and SS-24 mobile ICBMs, or covert SS-20 IRBMs, or covert SS-CX-4 GLCMs, or covert SS-23 SRBMs?

22. Are not all Soviet mobile missile forces designed to be covert forces, by using camouflage, concealment, deception, and mobility?

23. Is it not a confirmed fact that we know that the Soviets have covert mobile missile forces?

24. Are the order-of-battle or deployment number estimates by U.S. Intelligence of all Soviet mobile missile forces inherently uncertain, because these forces use camouflage, concealment, deception, and mobility to hide from U.S. NTM?

25. Now that we have positively confirmed Soviet covert SS-23 forces in East Germany, what is the likelihood of similar Soviet covert forces of SS-20s, SS-4s, and SS-CX-4s? Is there strong evidence from non-technical sources of hundreds of covert Soviet SS-CX-4s?

26. Did U.S. Intelligence detect any deployment of Soviet SS-CX-4s before they were banned by the INF Treaty? Did U.S. Intelligence only fortuitously detect SS-23 deployment, by non-technical means? Have there always been large uncertainties in SS-20 deployment estimates? Have there often been lags in detecting SS-20 deployment, and continuous indications of undetected forces?

27. Does DIA estimate the following probable numbers of Soviet covert INF missiles?

About 300 to 550 covert SS-20 missiles;

About 1,000 covert SS-4s;

About 350 to 450 covert SS-CX-4s?

28. What are the implications of the positive U.S. detection of the covert Soviet INF forces on Soviet intentions, reliability, and good faith in START negotiations?

29. Should all Soviet camouflage, concealment, and deception measures be banned in START, so as to reduce the possibility for the maintenance of covert forces?

30. Because all Soviet mobile missile forces are inherently covert, can START be verifiable with any confidence unless all such forces are completely banned?

SECTION III. CARGO-SCAN IMPASSE AND SOVIET "BREAK OUT" FROM CARGO-SCAN—ANOTHER NEW SOVIET INF VIOLATION?

1. Has the United States used the Cargo-scan x-ray system at the Soviet Votkinsk missile factory to measure a Soviet missile yet, since we declared the system to be operational on February 9, 1990?

2. Have the Soviets insisted at the last moment that the United States must redesign the shutters on the Cargo-scan x-ray system, use only one computer tape permanently stored in the USSR for recording missile images, and refrain from making duplicate tapes to be sent back to the United States for further analysis? Is this Soviet insistence causing a protracted impasse in our first use of Cargo-scan?

3. Are the Soviets also refusing to allow the United States to measure by Cargo-scan their missile railcar brought out of the Votkinsk perimeter the week of February 19, 1990? Is there a stand-off on this issue at Votkinsk? Does this Soviet missile railcar probably contain a new follow-on to the SS-25, perhaps capable of delivering 3 MIRVs, in further violation of SALT II and the already agreed START warhead counting rules?

4. Is the new Soviet position consistent with the Memorandum of Agreement Regarding the Implementation of Verification Provisions of the INF Treaty signed on December 21, 1989, or have the Soviets imposed new demands?

5. Do the terms of the INF treaty, Article XI Paragraph 6(b), which state: "If, after the end of the second year after entry into force of this Treaty, neither Party conducts the process of final assembly described in subparagraph (a) for a period of 12 consecutive months, then neither Party shall have the right to inspect by means of continuous monitoring any missile production facility for the other Party unless the process of final assembly as described in subparagraph (a) is initiated again."

provide the Soviets the option of declaring a one year moratorium on all missile production at Votkinsk after June 1, 1990?

7. If the Soviets declared a one-year moratorium on all missile production at Votkinsk beginning on June 1, 1990, would the United States lose its rights under the INF Treaty to have a Perimeter-Portal Monitoring system at Votkinsk after June 1, 1991?

8. If the Soviet Union exercises its options to exclude the United States Perimeter-Portal Monitoring system from Votkinsk after June 1, 1991, would the INF Treaty still remain in effect for the next ten years?

9. Would the Soviets then be able to resume secretly their production of SS-20s and SS-23s—or even better, a 3-MIRV SS-25—at Votkinsk for the next 10 years of the INF Treaty from 1991 to 2000, without the United States being able to determine that this circumvention of the Treaty was occurring?

10. Would the result then be that all U.S. Pershing IIs and GLCMs would be permanently removed from NATO, but the Soviet Union could secretly reconstitute its entire INF missile force?

11. Would this situation result in "cutting the heart out" of the INF Treaty, by gutting the key verification provisions?

12. Is it likely that there are several new Soviet weapon systems being produced at Votkinsk which the Soviets, by raising obstacles to verification, are trying to keep the United States from seeing? Could it be possible that the Soviets are trying to keep the United States from using Cargo-scan until June 1, 1990, after which they may declare a one year "moratorium" on all missile production at Votkinsk?

13. Could the Soviets even now be secretly stockpiling illegal INF missiles at Votkinsk?

14. During the first two years of the Treaty, the United States has the right to sample Soviet missile canisters emerging from the Votkinsk factory for inspection. Eight times per Treaty-year, the United States can open a Soviet missile canister emerging from Votkinsk. But all we see is the bottom end of the missile. We can not tell visually whether the missile is a legal SS-25 or an illegal SS-20. The Soviets have designed and provided a so-called "stage mesuring device" for the United States to use in "measuring" the length and diameter of the missile's second stage during these open canister inspections, but this device is derisively called "the stick and mirrors" by U.S. inspectors. Does the United States believe that this device is adequate for the Intended purpose? Are U.S.-Soviet negotiations continuing in the INF Treaty Special Verification Commission aimed at perfecting this device so that we can be confident that it can not be spoofed, and so that it can accurately perform its intended purpose? Is the failure to provide an accurate stage measuring device in a timely fashion another example of Soviet efforts to obstruct and resist United States verification at Votkinsk?

15. Does this result—the probable Soviet attempt at cutting the heart out of the INF Treaty by gutting the key verification provision at the Votkinsk Portal—mean that the INF Treaty is dangerous to the security of NATO and the United States, and therefore dangerous to world peace?

16. Has the United States sent a recent demarche to the Soviets stating that if the Soviets try to move the missile railcar currently sitting outside the perimeter of Votkinsk, which the Soviets refused to allow the United States to measure using Cargo-scan, the United States will declare such return inside the perimeter and refusal to allow inspection an "anomaly"? Is the U.S. declaration of an "anomaly" tantamount to the declaration of a seventh area of clearcut Soviet violation of the INF Treaty?

17. Is the United States sending a "technical team" to Votknsk to try to negotiate resolution of the three new Soviet restrictions on the U.S. use of Cargo-scan? Is this in fact an attempt to convert a political and diplomatic problem into a mere technical problem?

18. Did the Soviets recently forcibly break through the seal on the environmental shelter outside the Votkinsk perimeter containing one of their missile railcars, forcibly send in a locomotive in a "break out" through Cargo-scan, and illegally haul the missile railcar through Cargo-scan without allowing the United States to turn on the X-ray?

19. Did the Soviets do the same thing again twice a day later, again in flagrant violation of the INF treaty?

20. Did the United States recently strongly protest these Soviet refusals to allow Cargo-scan X-ray measurements, in flagrant violation of the INF Treaty, at the Secretary of State Baker-Schevardnadze and Matlock-Dubinin levels last Friday and Saturday?

IV. QUESTIONS ON SOVIET ABM COMPLIANCE

1. Has ACDA requested that CIA do a thorough analysis and a detailed report on the information supplied by the Soviet defector from the Soviet "Astrophysica" project for launching space-based lasers capable of being used as Anti-Ballastic Missile weapons?

2. Has ACDA done its own analysis of the Soviet "Astrophysica" project?

3. Has ACDA obtained a copy of the CIA reports received from a Soviet military officer in the early 1980s, who was later imprisoned, describing how the Soviet Moscow ABM system violates the ABM Treaty?

4. Are the Soviets working on a ground-based laser or hyper-velocity railgun, or conventional gattling gun ABM weapons at their Kamchatka ICBM Re-entry Vehicle impact area?

5. Has ACDA done an analysis of a possible Soviet "Dome of Light" ABM system using covert SS-4 or covert SS-20 boosters, to give the USSR a temporary ABM capability in a crisis or a war?

I realize, Ron, that these are a large number of questions, but I believe that each is well worth answering.

Our national security may depend upon the answers.

As you can see, I am deeply concerned about Soviet non-compliance with the INF Treaty and the ABM Treaty, and I will continue to ask these questions until I get all the answers.

Thank you for your attention to these questions, and I hope that you and your agency can answer them promptly and can keep the answers un-classified and short. Most can be simple "yes" or "no" answers.

[From the Los Angeles Times, Mar. 15, 1990]

U.S. Sends Arms Pact Protest to Soviets

(By Robert C. Toth)

WASHINGTON.—In a second serious dispute over missile verification, the Bush Administration has officially protested the Soviet Union's refusal to allow X-rays of three missile containers at a plant monitored under the 1987 Intermediate-range Nuclear Forces Treaty, U.S. sources confirmed Wednesday.

Secretary of State James A. Baker III personally protested Soviet behavior in a letter to Foreign Minister Eduard A. Shevardnadze this week, a State Department official said.

Sources said the refusal occurred last weekend at the Votkinsk missile plant.

Last week, it was disclosed that East Germany has been secretly in posession of 24 Soviet-made SS-23 missiles. The INF treaty bans Soviet and American missiles with a rang of 300 to 3,400 miles, and the SS-23s have a range of 550 miles. U.S. sources said it would be a violation of the treaty if the missiles had been transferred to East German control after the agreement was reached. A State Department official said Wednesday that the Administration was dissatisfied with the Soviet's explanation of that incident.

Baker's personal intervention in the Votkinsk case indicates the Administration is concerned that unless the matters are quickly resolved, conservative critics will use the two episodes to attack new strategic arms treaties. Both a nuclear arms pact and a conventional arms reduction agreement are expected to be signed this year.

The protest, although rooted in a narrow technical dispute, is believed to be the highest-level complaint ever concerning the INF treaty.

The episode involves a controversial X-ray device called a "cargoscan." It is now installed at the Votkinsk assembly plant, where on-site U.S. inspectors monitor missile-containing canisters.

The purpose is to ensure that none of the intermediate-range SS-20 missiles are produced and sent out under the guise of SS-25 long-range missiles, which are not covered by the INF treaty.

The SS-25 is essentially a variation of the SS-20. The X-ray machine can differentiate between the two.

The INF treaty provided that such a machine could be used at Votkinsk after a memorandum covering its use was signed. Considerable delay was encountered in building and testing the machine. In the interim, the missile canisters were examined from the outside, and any eight of the canisters could be randomly opened and inspected by the Americans during one year.

Although the memorandum was signed over a year ago, the machine was put in place only last month. The United States declared it operational, but the Soviets protested that some technical factors did not conform precisely to the description in the memorandum.

In essence, the Soviets want to ensure that the machine does not photograph more of the missile than necessary to establish its dimensions.

The Soviets refused to allow the machine's use before ironing out the differences. They also delayed the departure of one missile canister for at least a day in apparent hopes of working out the dispute.

But on Saturday, they moved three canisters out of the plant. U.S. inspectors were allowed to examine them in the old manner, but the locomotives pulling the canisters in railroad cards were not stopped to permit the X-ray machine to be used.

In replying to a U.S. note regarding East Germany's possession of SS-33 missiles, Moscow claimed the weapons were transferred to East Germany before the U.S.-Soviet treaty took effect, U.S. officials said. Thus, the East Germans were not required to disclose the weapons because East Germany was not a party to the INF agreement, and the Soviets were not required to destroy the missiles because they no longer owned them.

[From the Washington Post, Mar. 16, 1990]

Soviets Block United States Inspection at Missile Plant

(By Warren Strobel)

In yet another dispute over the U.S.-Soviet medium-range missile treaty, the Soviet Union has refused to allow American monitors to inspect missile-carrying canisters shipped from a weapons factory in the central U.S.S.R., the Bush administration confirmed yesterday.

The incident last weekend at the Votkinsk factory, whose output the United States is allowed to monitor under terms of the 1987 Intermediate-range Nuclear Forces [INF] accord, prompted Secretary of State James A. Baker III to complain to Soviet Foreign Minister Eduard Shevardnadze.

It also led the U.S. inspection team to declare an "ambiguity" concerning Soviet compliance with the treaty—the most serious action the team could take.

The dispute follows the discovery by the British, first reported by The Washington Times last week, of the existence of as many as 24 SS-23 missiles and a smaller number of launchers, which must be destroyed under the pact, in East Germany.

Administration officials, however, sought to dispel any linkage between the two matters.

State Department spokeswoman Margaret Tutwiler confirmed yesterday that the Soviets shipped canisters from the Votkinsk plant without first allowing the U.S. team to X-ray their contents. Administration officials said three such canisters were forced past the U.S. checkpoint, reportedly in separate incidents last Friday and Saturday.

Because the factory produces the long-range Soviet SS-25 missile, which is not covered by the INF treaty but is nearly identical to a missile that is, the treaty gives the United States special monitoring rights to ensure that only SS-25s come out of the plant.

But the superpowers have had a running dispute over the U.S. X-ray system, called Cargoscan, and signed a memorandum on its use only last December—two years after the INF treaty was signed.

After extensive testing of the Cargoscan equipment, the United States recently declared it ready to enter service. The Soviet Union balked, maintaining that the sophisticated device will allow the U.S. team to gather more data than it is entitled to under the treaty.

Since the treaty was signed, U.S. inspectors have been able to monitor the factory's output by measuring the canisters and opening some of them on a random basis.

While the issue is technical, "it's also for us a question of political importance—whether we're allowed to exercise treaty rights," a U.S. official said.

Both superpowers have sent teams of experts to Votkinsk, just west of the Ural Mountains, to resolve the issue.

Miss Tutwiler said, "The US regards any question of compliance with the INF treaty as a very serious matter" and is "continuing to press the Soviets to solve this problem by allowing us to use the Cargoscan system." She added, however, that Mr. Baker and Mr. Shevardnadze agree "that this needs to be resolved as soon as possible."

The incident at Votkinsk was first reported in yesterday's editions of the Los Angeles Times.

U.S. officials, speaking on condition of anonymity, also said yesterday that the United States is unhappy with the Soviet explanation for the SS-23 missiles, whose status is ambiguous because they are in the possession of East Germany.

[From Human Events, Mar. 16, 1990]

Defense Experts Alarmed: Soviets Fail To Comply With INF Treaty

Soviet non-compliance with the Intermediate-Range Nuclear Forces Treaty, has become so serious that sources both inside and outside the Administration are saying that the strategic arms treaty that President Bush wants to conclude with the Soviets by the spring may have to be indefinitely delayed.

What particularly troubles U.S. officials and congressional lawmakers, as reported in these pages last week, is that the Soviets transferred at least 24 SS-23 missiles to East Germany in a secretive manner that has even disturbed liberal arms controllers within the Administration.

Moreover, Secretary of State James Baker has been so concerned about Soviet efforts to hamper our usage of monitoring equipment in Votkinsk—installed to X-ray Soviet missile canisters carried on railroad cars—that he has sent several protest notes to Soviet Foreign Minister Eduard Shevardnadze, so far to no avail. (The purpose of the machines is to ensure that the Soviets are no longer producing the SS-20 intermediate range missiles banned by the INF treaty.)

Indeed, Shevardnadze has responded by complaining about the monitoring machines, insisting they cannot be turned on

until the Soviets are satisfied that they do only what the U.S. claims they do.

Even more disturbing is that the Soviets are said to be illegally manufacturing at Votkinsk a three-warhead mobile ICBM, a new form of the SS-25, and have even used force to prevent our X-raying the canister reportedly carrying the missile.

Sen. Jesse Helms (R.-N.C.), the ranking Republican on the Foreign Relations panel, is extremely concerned about the reported Soviet violations as well, and on March 12 dispatched a 10-page letter to Ronald Lehman, the director of the Arms Control and Disarmament Agency, asked him pointed questions about Soviet actions in connection with the INF treaty.

Though Helms has friendly relations with Lehman, and complimented him on his forthright testimony on the SS-23 matter, he said he was "disturbed by reports that, even as the hearing progressed on Wednesday [March 7], the Soviets were planning to take missiles out of the plant at Votkinsk without allowing the United States to X-ray the containers. . ."

The Center for Security Policy, headed by a key Reagan defense expert on disarmament, Frank Gaffney, in the wake of what has happened, has asked the Bush Administration to "disclose publicly the full extent of Soviet violations of the 1987 INF Treaty" in light of the two instances of reported non-compliance within the last several weeks.

After the Bush Administration sent its sanguine INF compliance report to Capitol Hill, noted the Center, the U.S. government discovered in East Germany a number of launchers of SS-23 missiles, together with as many as 24 associated missiles.

This discovery, stressed the Center, "gave the lie to the assurances in the compliance assessment" that all was well with the treaty. What's more, the Center went on, "this covert mobile missile deployment was successfully concealed for over two years."

The Center also complained about events that triggered Secretary Baker's strong protests to Shevardnadze, subsequently rebuffed, concerning two separate incidents on March 9 and 10 when "Soviet personnel crudely breached their obligations under the INF accord bearing upon U.S. monitoring rights at the Votkinsk missile factory.

"As a result of conscious, and evidently *officially sanctioned*, actions of Soviet individuals, the United States was unable to exercise its right to scan canisters exiting this facility. The purpose of such scanning is to assure the United States that SS-20 missiles banned by the INF Treaty were no longer being assembled at this facility. . . ."

The Center went on: "Despite formal representations by the U.S. government, including a direct communication over last weekend by Secretary of State James Baker with Soviet Foreign Minister Eduard Shevardnadze, the Soviet Union has refused to permit American personnel at Votkinsk to utilize the treaty-authorized monitoring device, nicknamed 'Cargoscan.'

"Indeed, on March 9, they [the Soviets] actually rammed a locomotive towing a missile railcar through the U.S. treaty monitoring station without stopping for the mandated inspections. This action was repeated on March 10 with two more railcars bearing missile canisters. In the process of crashing through the U.S. portal-monitoring facility, the Soviets reportedly damaged a barrier and warning device."

Gaffney's group stressed they viewed this Soviet behavior "with alarm," and specifically recommended:

"First, that the United States revisit at once its ill-advised decision to permit mobile missiles under the emerging strategic arms reduction treaty. These missiles will also be unverifiable, will likely be covertly maintained by Moscow and will pose a vastly more significant strategic threat than do their shorter-range counterparts.

"The Bush Administration should closely reconsider the adequacy of its on-site inspection demands—both for the existing INF agreement and for upcoming accords regarding strategic, chemical and conventional forces and nuclear testing. Clearly, the Votkinsk experience has shown the shortfalls of the current standard, and of the practice of working out 'technical details' regarding such inspections after the treaties are signed (*as was done with the Votkinsk inspection arrangements*).

"Finally, the Center believes this evidence of unacceptable conduct at the highest [levels] of the Soviet government offers futher compelling evidence as to why a formal 'second opinion' on the prospects and implications of Soviet behavior is so urgently required. Director of Central Intelligence Webster's benign assessment of the current—and *all prospective*—Soviet regimes does not square with the evidence of Moscow's ongoing noncompliance. Neither is it likely to stand up to rigorous analysis and challenge from a new 'Team B' of independent, nongovernmental experts."

[From the Washington Post, Mar. 16, 1990]

MISSILE CRISIS

(By Rowland Evans and Robert Novak)

Soviet guards drew their pistols against unarmed U.S. technicians in a standoff at the Votkinsk missile plant last Fri., Sat., Sunday night. Soon afterward, Ambassador Jack Matlock rushed to the Foreign Ministry near midnight in a crisis mood over relations with Moscow not felt in Washington since Mikhail Gorbachev took power.

Operating on presidential orders, Matlock warned that the United States may accuse the Soviets of violating the INF treaty. That a charge of such gravity would threaten the new amity between the superpowers made no difference. Pistols won the standoff, blocking the United States a second time from turning on its new X-ray to prevent production of illegal missiles.

The events in Votkinsk were first minimized by the White House on grounds Gorbachev was so busy acquiring presidential power that he was probably unaware of what was happening. But U.S. officials are coming to suspect something dangerous—exactly what they do not know.

A team of mid-level officials, on first learning the facts, decided to send Matlock an immediate SOS, demanding Moscow's backdown. But when the matter reached the White House, the order was countermanded—until last weekend.

Some Soviet specialists here still believe Gorbachev has not concentrated on Votkinsk and that when he does the crisis will blow away. But Foreign Minister Eduard Shevardnadze's initial reaction to the U.S. threat to accuse Moscow of violating the INF treaty was disturbing. He sided with the Soviet military and suggested it was the United States that was violating the treaty.

That raises two questions, both of which are unanswerable today. Is Gorbachev forced by political weakness to do the bidding of the military or of Stalinist holdovers aligned with the military? Or is Gorbachev, having seized supreme presidential power, consolidating hard-line support as unhappy reformers go on the attack against him?

The INF treaty outlawing the intermediate SS-20 was ratified in June 1988 with much fanfare over its new verification features, including the X-ray "cargo scan" designed to enforce Soviet compliance. Its sole purpose is to make certain no SS-20 missiles are produced at the Votkinsk plant.

The United States expected to have it in place by December 1988—16 months ago. But Moscow raised one objection after another in a full year of foot-dragging and nay-saying. Moscow finally signed an agreement last Dec. 21 to set the huge machine in its housing and start X-raying new missiles Feb. 9.

On Feb. 6, the Soviets wheeled out a missile. Insiders here believe that it was a powerful new type of SS-25—a lethal, railroad mobile, single-warhead intercontinental missile. For almost three years, U.S. intelligence has suspected that the Votkinsk plant was getting ready to produce an enhanced SS-25 with three warheads. Though not illegal, the missile would change the balance of nuclear terror, and Moscow would want to keep the production secret as long as possible.

Since the X-ray was not yet operating on Feb. 6, no objection could be raised. Two weeks later, when another new missile was rolled out on its railroad car, U.S. technicians tried to turn on the X-ray. They were stunned when the Soviets said no, raising three fresh objections.

Until last weekend, that missile sat at the entrance to the X-ray building surrounded by personnel from both sides. When the Soviets unlimbered their pistols, the U.S. technicians got out of the way, and it was rammed through the X-ray building with the machine turned off. Two more missiles followed the same path.

The long stall by Moscow may be explained as an effort to produce the new SS-25 without discovery. That would deny the United States essential information about Soviet missilery as the Geneva negotiations on the new strategic arms treaty reach a climax.

Defense Secretary Dick Cheney has warned that since nobody can predict where Gorbachev's revolution really is going, the United States must be prepared for anything. Last weekend at Votkinsk supports his theory.

[From the Washington Post, Mar. 19, 1990]

MISSILE-INSPECTION TECHNICALITY PROVOKES TOP-LEVEL PROTEST TO SOVIETS

(By R. Jeffrey Smith)

Secretary of State James A. Baker III sent an urgent letter of protest to his Moscow counterpart last week-end after the Soviet Union insisted on shipping a new strategic missile from a remote factory in the Ural Mountains without what U.S. technicians said was a proper inspection.

Baker's message was part of a long-running squabble between Washington and Moscow over highly technical aspects of a U.S. X-ray inspection device at the Votkinsk missile factory, an arcane dispute elevated to senior bureaucratic levels against the backdrop of warming U.S.-Soviet relations.

The protest, according to several U.S. officials, was not driven by sudden fear that the Soviets had violated the 1987 Intermediate-Range Nuclear Forces (INF) Treaty by sneaking a banned, SS-20 medium-range missile out of Votkinsk in the guise of a more powerful SS-25 long-range missile.

The decision to involve Baker was instead provoked largely by domestic political concerns, the officials said. The fear was that without a major demonstration of U.S. resolve, the incident could lead to criticism of President Bush by the Republican Party's conservative wing just as the administration nears completion of four new arms accords with Moscow, the officials said.

"We don't believe the Soviets are hiding anything," a senior official said. "But the incident got the arms control compliance buffs around town all wound up, and it was decided at a high level that we'd better get out front on it."

The episode exemplifies the political dynamic of the East-West arms control process, which, after years of complex and detailed negotiations may soon result in treaties on strategic, conventional, and chemical weapons, as well as underground nuclear tests.

These accords will be subjected to a congressional review that may not be completed before the start of the 1992 presidential campaign. Senior Bush aides are both enthusiastic and uneasy about that prospect.

But political analysts said that amid declining public fears of the Soviet threat almost any East-West arms treaty will be approved and that Bush is unnecessarily concerned about charges by conservatives of weakness on the issue of Soviet cheating.

The Votkinsk dispute involves differing U.S. and Soviet views of the capability of an immense, $30 million, U.S. X-ray machine known as Cargoscan, recently installed to help verify that Soviet workers are not hiding SS-20 missiles inside large cannisters for the SS-25 missile, which is not constrained by the INF Treaty but is monitored by U.S. inspectors.

Prospects that the Soviets would substitute the banned SS-20 for the much more capable SS-25 are considered negligible by administration officials and many independent arms experts.

But a U.S. delegation has been working with the Soviets for over a year to hammer out procedures for x-raying a "slice" of each SS-25 missile cannister as a supplement to periodic visual inspections of the canister interiors allowed under the INF Treaty. In the meantime, the administration has considered the visual inspections, in combination with routine exterior missile measurements, adequate to certify Soviet compliance with that portion of the INF Treaty.

The two sides appeared to reach accord last December, but the Soviets complained after a recent test that the machine was recording images that were too detailed—which they evidently feared would enable the United States to learn Soviet missile design secrets.

The dispute, according to one official, centers on a difference of several centimeters in the area of the missile that is to be subjected to the X-rays. The Soviets also have protested a U.S. demand that the X-ray images be stored on tape for later return to the United States, where they could be electronically enhanced. The INF Treaty is silent on both issues.

The discussions came to a boil several weeks ago when the Soviets barred use of the X-ray on an SS-25 cannister because they did not accept the U.S. interpretation of the test. Shipment of the Soviet missile was delayed, while the administration assembled a group of technicians to fly to Moscow to argue its case.

But last weekend, the Soviets insisted on shipping the missile before the U.S. group arrived, prompting the urgent, nighttime letter from Baker. Since then, the Soviets have shipped at least two more missiles from Votkinsk without X-ray inspection, and have said they expect to be financially compensated by the United States for the shipping delays.

After reports of the dispute, White House press secretary Marlin Fitzwater said last Friday "the president believes that we have a difference of interpretation here. We do consider the matter serious."

Administration officials said a key reason for their labors is the intense interest of INF Treaty opponent Sen. Jesse Helms (R-N.C.), the Senate Foreign Relations Committee's senior Republican, and a key conservative participant in future hearings on arms accords.

"We've been following the Cargoscan issue for a year-and-a-half," said Helms aide David Sullivan. "This is all good for us. We don't need anything more than this."

Officials said they prodded Baker to send the letter because they expected critical articles such as the account of the dispute in Friday's Washington Post by newspaper columnist Rowland Evans.

Evans wrote that "Soviet guards drew their pistols against unarmed U.S. technicians in a standoff at the Votkinsk missile plant last Sunday night," an account that was repudiated by Fitzwater, Pentagon spokesman Pete Williams, and various State Department officials. "We can't find any evidence of an altercation" or guns being pulled, Williams said.

Evans said, in a telephone interview, that "I have absolute confidence in the accuracy" of the column, which he said was "reported at . . . high levels."

U.S. officials said they did not know whether the team of technicans sent to Moscow had resolved the dispute by Friday evening. But they did not expect it to interfere with completion of additional arms accords or pose a serious problem in U.S.-Soviet relations.

One official said the decision to protest Votkinsk was also influenced by press accounts that the recent discovery of two dozen previously undeclared SS-23 missiles in East Germany was a blow to arms control. The missiles are banned by the INF accord and are now being destroyed.

The Soviets have told the administration that the missiles do not have nuclear warheads and were sent to the East Germans prior to signing of the INF accord, which both sides agree is legal.

[From the Washington Times, Mar. 19, 1990]

U.S. MAY CITE SOVIETS FOR VIOLATION OF TREATY

(By Bill Gertz)

Soviet refusal to permit U.S. inspectors to use special X-ray equipment at a missile factory in Votkinsk could lead to a U.S. declaration that Moscow is violating the 1987 intermediate-range nuclear forces treaty, Bush administration officials say.

"This is the most serious compliance issue since Krasnoyarsk," said one administration intelligence official. The official was referring to the discovery in the mid-1980s that the Soviets had built a radar at Krasnoyarsk, Siberia, in violation of the anti-ballistic missile treaty.

U.S. officials said privately that the Soviet refusal to permit the use of the special inspection equipment could jeopardize the conclusion of the more sweeping strategic arms reduction talks (START) or a conventional forces in Europe arms control treaty (CFE). The INF verification provisions are viewed as the model for similar measures to be included in the START and CFE pacts.

The dispute began last month when Soviet military officials refused permission for a team of U.S. INF inspectors at Votkinsk, a town several hundreed miles east of Moscow, to use special X-ray equipment to view the contents of missile cannisters leaving the factory there.

The factory produces Soviet SS-25 ICBMs and had produced SS-20 INF missiles. Both missiles are nearly identical in size, and the Soviets are oposing the use of X-ray equipment on SS-25 cannisters that leave the factory on rail cars.

Under the terms of a U.S.-Soviet memorandum of agreement reached in January, U.S. inspectors can use the X-ray equipment at Votkinsk for inspections. But after the equipment became operational in February, the Soviets refused to permit its use.

The Soviets say the X-ray equipment will permit the inspection team to see details of the SS-25 the Soviets want to remain secret.

According to administration officials, who asked not to be named, the Soviet reluctance to permit X-ray inspections has raised suspicions that the Votkinsk factory is producing a new, three-warhead version of the SS-25, now deployed with one warhead.

A test of a new missile, possibly the multiple-warhead version of the mobile ICBM, is set for later this month, officials said.

White House and State Department officials denied a report Friday in The Washington Post that Soviet guards at Votkinsk drew their pistols on U.S. inspectors during a recent showdown over X-ray inspections.

But a State Department arms controls specialist said the Soviets moved three new missiles out of the factory. Two missiles were inspected under rules that permit opening the cannisters, but the third was uninspected, the official said.

Another official said four more cannisters are ready to leave the plant.

Secretary of State James A. Baker III has written to Soviet Foreign Minister Eduard Shevardnadze protesting the Soviet opposition to the X-ray equipment, known as Cargoscan, the official said.

A team of U.S. technicians also was sent to Votkinsk more than a week ago to try to solve the problem. The report of the group will be used in determining what action the administration takes, the officials said.

White House spokesman Marlin Fitzwater said the administration "hasn't voiced any conclusion yet" on whether the Soviets violated the INF treaty by denying the technical inspections.

"It is a very serious matter and could lead to conclusions about a violation," Mr. Fitzwater said. "But we're not there at this point."

The Votkinsk standoff is the second INF compliance problem to come up in the past several weeks. Soviet-made SS-23 missiles were discovered recently in East German military units, in possible violation of the terms of the pact because the Soviets did not declare the missiles during negotiations.

CONGRATULATIONS TO THE ARKANSAS RAZORBACKS

Mr. BUMPERS. Mr. President, on behalf of myself and my colleague Senator PRYOR, I want to commend the University of Arkansas Razorbacks

for the great job they did in the NCAA semifinals on Saturday.

Our Razorbacks made us all proud, not just because of the NCAA tournament, but because a bunch of youngsters showed unbelieveable character in coming back time and time again. And while basketball has become a contact sport, and tempers flair more than in the old days, this season was also a demonstration of good sportsmanship.

Every player was superb in one or more games—and it would be unfair to pick any single player out for recognition. It was all a great team effort, and they have made this one of the most memorable years in Razorback sport history.

Coach Richardson, a great role model, has represented the team and our beloved State in an exemplary manner. I was never prouder of him than in his nationally televised interview following our loss to Duke. He was gracious to Duke, but as proud as a father of every one of his players. It's easy to be gracious when you win, but the mark of a champion is when you're gracious in defeat.

We almost went berserk in Washington when CBS switched from the Arkansas-North Carolina game to the Clemson-Connecticut game for about 10 minutes. When we got back to the Razorbacks, the Razorbacks had a comfortable lead, if there is such a thing.

Coach Richardson has a great bunch of players, many of whom will be back next year, and we can all look forward as proud alumni, and as proud Arkansans to a lot of excitement in 1991. And maybe, just maybe, that elusive title will be ours.

I would be remiss if I didn't also express our great pride in the Lady Razorbacks. Not only did they make the elite eight for the first time, they also brought us the Southwest Conference crown.

Now I just want to know what the "Big O" said to that guy Dudek in the Texas game.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2364

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers S. 2364 that it consider it under the following time limitations: 20 minutes for debate on the bill, including a managers technical amendment, equally divided between Senators PELL and HELMS or their designees; that no amendments except for the managers' technical amendment be in order, that no motions to recommit be in order; that when all time is used or yielded back the Senate, without any intervening action, proceed immediately to third reading and final passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, this agreement now provides for prompt action and the legislation to provide economic assistance to Panama and Nicaragua and others. This is the authorization bill which we have been attempting to clear for such action throughout the week and I am gratified that we have been able to do so and will now be able to act on this legislation. We have no requests for a rollcall vote on this legislation. I want to check on the minority side and am advised that there is no request on that side either.

Does the acting minority leader agree with that?

Mr. McCAIN. I say to the majority leader we have no request for a rollcall vote. Also, if he would indulge me, I would like to express my appreciation for his very hard work in making this issue become a reality. We will be able to address it before adjournment. Without his intense commitment, this would not have happened.

Mr. MITCHELL. I thank the Senator.

Accordingly, Mr. President, not having received any request for a rollcall vote, it is my intention that this legislation, following the debate agreed to just moments ago, will be approved by voice vote. This does pass, then, the authorization bill and sets up the procedure by which the Appropriations Committee can now proceed promptly to consider this matter and report it to the full Senate.

That being the case, there will be no further rollcall votes this evening and the Senate will not be in session tomorrow. The Senate will return to session on Wednesday, April 18, which is 2 weeks from yesterday, at noon. There will be no rollcall votes on that day, although legislation will be laid down on that day. There will be rollcall votes and the possibility of many of them on that Thursday and on that Friday. So Senators should be aware of that schedule as they plan their travels around the Easter recess.

There will be no further rollcall votes this evening. The Senate will not be in session tomorrow. When we return to session on Wednesday, April 18, it will be at noon on that day. We will lay down a bill on that day. There will be debate with the possibility of amendments being offered. There will be votes and the possibility of several votes on that Thursday, April 19, and Friday, April 20.

Then of course the following week will begin on Monday.

I thank my colleagues for their cooperation in this regard. Mr. President, I now yield the floor.

I understand the distinguished chairman of the Foreign Relations Committee is prepared to proceed to manage this legislation, along with the distinguished Senator from Arizona, and gain enactment of it following the brief time for debate set forth in the agreement.

AUTHORIZING SUPPLEMENTAL ECONOMIC ASSISTANCE TO SUPPORT DEMOCRACY IN PANAMA, NICARAGUA, AND SUB-SAHARAN AFRICA

The PRESIDING OFFICER (Mr. ROBB). The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask that the Senate proceed to the immediate consideration of S. 2364, which is presently at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2364) to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and so forth.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, the United States and democracy have won a series of stunning victories around the globe in recent months. As we spend less on weapons serving no current purpose, we will have to spend more on waging peace. Freedom for Panama and Nicaragua comes with a price, one that the United States must, in part, be prepared to pay. The bill before the Senate provides the necessary authorization of funds to help the two emerging democracies in our own hemisphere, Panama and Nicaragua, build democracy and foster economic recovery.

S. 2364 authorizes a total of $870 million of supplemental assistance; $470 million for Panama, $300 million for Nicaragua, $30 million for sub-Saharan Africa, and $70 million for refugee programs. The inclusion of $30 million in authorization for sub-Saharan Africa reflects an agreement made between Congress and the administration at the time Congress approved the first package of assistance for Panama earlier this year, $30 million of which was transferred from unobligated funds in Africa.

The levels of authorization, with the exception of the above mentioned transfer of funds from Panama to Africa, are consistent with the levels requested by the administration on March 15. The administration intends

that this assistance be derived from funds transferred from appropriation accounts of the Department of Defense.

In addition, S. 2364 authorizes $400 million in guarantee authority under AID's Investment Guarantee Program to build housing and necessary infrastructure for the enormous influx of Soviet refugees in Israel. I would point out to my colleagues that this is a loan guarantee program with no budget impact. No direct appropriation of budget authority is necessary.

Let me take a moment to describe in slightly more detail the assistance package for Panama and Nicaragua. Section 2 of the bill authorizes $470 million of assistance to "jump-start" the Panamanian economy and help Panama regularize its relations with external creditors. Specifically, this section authorizes up to $170 million to help business finance a resumption of investment expenditures and restock inventories, with priority to be given to businesses that were looted after the invasion, and for export promotion activities; up to $125 million is authorized to be provided as budget support to the Government of Panama to finance construction in the transportation, education, agriculture, and health sectors; up to $45 million is authorized to assist the Government to facilitate judicial reform and the needs of the civilian police force, fiscal management and accountability, and the restoration of public services, and to support direct programs to protect the environment, particularly watershed protection for the Panama Canal; and up to $130 million to pay the one-third United States contribution to clear Panama's arrearages to the IMF, IBRD, and IDB so that Panama will be eligible for new lending.

Section 2 fences 20 percent of the amount appropriated for Panama until such time as the Secretary of the Treasury reports to Congress that the United States and Panama have reached an international currency transaction agreement and the Secretary of State reports that progress is being made towards signing a Mutual Legal Assistance Treaty, or alternatively, with respect to an international currency transaction agreement, the Secretary of the Treasury reports that Panama is negotiating in good faith. In addition, the committee bill conditions next year's narcotics certification for Panama under the full cooperation standard in the Foreign Assistance Act on a signed agreement between the United States and the Government of Panama that provides for mutual access to financial transactions records for purposes of drug-related law enforcement investigations and efficient mechanisms for obtaining bank records in drug-related proceedings.

Section 3 of the bill authorizes $300 million of economic assistance for Nicaragua to support the Chamorro Government's efforts to democratize, demilitarize, and develop the economy. Of this total amount, up to $128 million is authorized to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan economy through imports of agricultural equipment, petroleum and oil products, and materials and goods to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors; up to $50 million is authorized to assist Nicaragua in paying its $234 million in arrearages to international financial institutions; up to $75 million is authorized to assist in longer-term economic growth and development needs; and up to $47 million is authorized for assistance to support the demobilization and demilitarization process and to reintegrate former combatants, Nicaraguan refugees, and other Nicaraguans displaced by the conflict into the social, economic and political life of Nicaragua.

The longer-term economic growth and development assistance authorized includes programs to repair, improve, and maintain existing public infrastructure such as schools, health clinics, roads, and community facilities; provision of medical equipment, commodities, training, and other support for the health sector, provision of assistance and training to improve Government administration and strengthen democratic institutions; provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise; support for education programs; and support for the agricultural sector.

Let me provide one example of the kind of development assistance in the health sector which is contemplated by this authority. For the past several years, the Department of Family Medicine of Brown University and the Training Exchange, a Rhode Island-based, nonprofit organization, have worked to provide much needed training to Nicaraguan health teachers. They have established programs to teach primary care and family medicine to young physicians who in turn teach primary care to fourth and fifth year medical students. This exchange program in Leon is well established and is already at the stage of being turned over to Nicaraguan physicians for continued implementation. Nurse teachers have contributed significantly in areas of maternal-child care, midwifery, primary care and rehabilitation. In addition, the program is involved in an ambitious attempt to provide prostheses for the thousands of children whose limbs were lost during the conflict. This is the kind of program which should be maintained and expanded to continue helping our neighbors to help themselves in bringing improved health care to Nicaraguans.

Section 4 of the bill authorizes up to $10 million of the funds appropriated for Panama and Nicaragua under sections 2 and 3 to be used by AID for administrative expenses incurred in implementing those sections, not more than $60,000 of which may be used for administrative expenses associated with winding down the Resistance Task Force.

Section 5 sets forth Congressional policy that recognizes the significant environmental challenges facing Panama and Nicaragua, and prohibits any assistance under this act from being used for any project that is inconsistent with long-term, environmentally sustainable development or that would result in the destruction of tropical forests. In addition, up to $4 million of the amount authorized for Panama and Nicaragua under sections 2 and 3 is authorized to be used by AID to undertake education, policy training, research, technical and financial assistance, monitoring, and coordination, as may be requested by the Governments of Nicaragua or Panama, to protect the environment and strengthen public and private environmental institutions in those countries.

Section 5 further contains a statement of congressional support for the ongoing efforts of Nicaraguan and Costa Rican environmentalists to create the International System of Protected Areas for Peace [the SI-A-PAZ Program]. In 1988, Costa Rica's Minister of Natural Resources and Nicaragua's Director of IRENA [Nicaragua's environmental agency], signed a letter of intent to create an international biosphere reserve along their shared border. This proposed SI-A-PAZ is an integrated development project which aims to protect precious natural resources on both sides of the border while promoting economic development in surrounding zones. Costa Rica's President, Oscar Arias Sanchez, reflected this cooperative spirit in saying, "What do we do with this region of conflict? We make it into an area to study nature. We don't send soldiers with instruments of death. We send students, scientists and naturalists with the instruments they need for their intellectual work." It is my hope that AID and other Federal agencies will lend assistance to the SI-A-PAZ Program specifically, and to the peace park concept generally in the region.

I urge my colleagues to join me in supporting passage of this urgently needed authorization bill.

Mr. HELMS. Mr. President, before proceeding to a general discussion of S. 2364, let me state that I have reached an accord with the White House with regard to a provision of

this bill which I consider very unfair—namely that the requirement of laying down arms is imposed only upon the members of the Nicaraguan Resistance, and not upon the Sandinista paramilitary groups and militias which have been arming themselves to the teeth in the past few week.

This legislation proposes to give $30 million to the members of the Resistance—I prefer to call them freedom fighters—to induce them to lay down their arms. This is an outright bribe, which the leader of the Resistance, Commander Franklin, has strongly rejected in a telephone call to me.

However, the White House this afternoon, has sent me a letter, signed by General Scowcroft, the President's National Security Adviser, drafted after several conversations with the General and with Governor Sununu, Chief of the White House staff. Both agree that it is essential that all groups—not just the members of the Resistance—all groups should lay down their arms, except of course any army units which will be under the control of Mrs. Chamorro.

Mr. President, I ask unanimous consent that the text of the letter from General Scowcroft be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, April 5, 1990.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: This Administration shares your concern for and commitment to the security and safety of the members of the Nicaraguan Resistance. We believe that security guarantees must be part of any demobilization process as the Central American peace process requires. We support the agreement reached by the Resistance, UNO, and the Catholic church at Toncintin which provides a framework for demobilization and believe it is the responsibility of the parties to implement the agreement, including provisions for the security and safety of Resistance members and means to verify both. We also believe that the full transfer of civil and military power to Mrs. Chamorro's government must take place on April 25 and that weapons distributed to armed militia and paramilitary groups should be reclaimed by the government. We believe that the collection of such weapons will contribute to an atmosphere of security in Nicaragua that will support demobilization.

Sincerely,

BRENT SCOWCROFT.

Mr. HELMS. Mr. President, we should take a close look at this letter. General Scowcroft says,

We support the agreement reached by the Resistance, UNO, and the Catholic church at Toncintin which provides a framework for demobilization and believe it is the responsibility of the parties to implement the agreement, including provisions for the security and safety of Resistance members and means to verify both.

Mr. President, as I will discuss in more detail in a few moments, the March 23 agreement referred to by the General, does not commit the Resistance to any demobilization or disarmament procedures while in Nicaragua. It commits them only to disarmament and demobilization procedures in Honduras—procedures which, for Honduras, have already been carried out. Most able-bodied members of the Resistance have already gone to Nicaragua.

As far as Nicaragua is concerned, the freedom fighters agreed only to the concentration of their Armed Forces in Nicaragua in security zones. The Resistance has made no commitment to laying down their arms in Nicaragua, although a commission will be set up to discuss such matters.

Furthermore, the General states that it is the policy of the U.S. Government that "the full transfer of civil and military power to Mrs. Chamorro's government must take place on April 25, and the weapons distributed to armed militia and paramilitary groups should be reclaimed by the government."

That is the heart of the problem, Mr. President, and I am pleased to learn that this policy will guide the United States Government in the implementation of assistance to Nicaragua. It should also be noted for the record, Mr. President, that the legislation itself, one-sided as it is, does not require any timetable for the laying down of arms. It speaks only of requiring an agreement, not the actual laying down of arms.

Mr. President, if the assistance is implemented in accord with this policy, then there is some hope that Mrs. Chamorro will have an atmosphere of peace in which to work, and the members of the Resistance will feel more confident of their security.

With those facts in mind, Mr. President, permit me to discuss the overall implications in the bill, as well as the particular problem in more detail.

Mr. President, S. 2364, the supplemental authorization bill to provide emergency aid to Panama and Nicaragua, would provide $770 million in aid to Panama and Nicaragua, $400 million in aid to Panama and Nicaragua, guarantees for up to $400 million to support housing for Soviet Jews in Israel, and $70 million for refugees. It also repays $20 million to the Southern African Development account, and $10 million to Namibia, a total of $30 million which had been temporarily reprogrammed for earlier emergency aid to Panama.

Mr. President, with regard to Panama, all Senators are familiar with the grave economic crisis facing that country after more than two decades of de facto military dictatorship. This bill would authorize $470 million in aid to Panama. We have been assured by the administration that this is a one-shot deal: The aid that this bill would provide should be sufficient to jump start the Panamanian economy.

The health of the Panamanian economy has a direct and immediate strategic impact upon the United States. If Panama is unable to become a strong and democratic country, the functioning of the Panama Canal would be put at risk. The criminal actions of Manuel Noriega destroyed the economy of Panama, crippled its democracy, and attacked the rights of the Panamanian people. Now that Noriega is out, we have a strong and immediate interest in helping to restore a strong and democratic government to the Panamanian people.

Mr. President, a week or two ago, I met with the distinguished Vice President of Panama, Mr. Billy Ford. He made impressive arguments for the need for this assistance. Mr. Ford was very thankful that the United States had liberated his country from the Noriega dictatorship. However, he had one more favor to ask—that the United States provide this one-shot aid. I think that the United States should respond. Through four administrations the United States Government gave inexplicable support to the drug-dealing dictator Noriega—despite evidence of drug trafficking by Torrijos and other members of his regime which I and other Senators presented on the Senate floor in 1978. We have created an obligation to undo the harm we have done.

Mr. President, this bill would also provide $300 million to Nicaragua. Of course, the subject of Nicaragua has been hotly debated for more than a decade. In 1980, and 1981, many Senators on this floor advocated millions of dollars in assistance to the Communist Sandinista government. We heard arguments that this money was to strengthen the private sector. But I strongly opposed that aid, because it was clear that giving a Communist government funds supposedly to strengthen the private sector actually gave more power to the Communist central authority, putting it in a position to give out bribes at the same time it instituted more controls.

Indeed, in the 2 years immediately following the Sandinista takeover, more aid was given to Nicaragua from Western countries than during the previous two decades combined. All this money was wasted. Much of it was transferred to Communist weapons-producing countries to pay for the huge army necessary to keep the regime in power. At the same time the economic needs of the people and of the economy in general were strangled. The Sandinistas used this support, which came both from the West and from the Soviet bloc nations, to entrench their totalitarian position and to destroy the free opposition.

However, on February 25, the people of Nicaragua voted overwhelmingly to throw out the Communist Sandinistas. It was a vote for freedom and against Communist oppression.

Yet, Ortega and the Sandinistas remain entrenched in the governmental apparatus. He has thousands of bureaucrats under Sandinista Party control. He is in control of 65,000 troops in the Sandinista Army, and he has organized at least 200,000 more of the party faithful in militia groups all over the country. Ortega has been distributing tens of thousands of rifles and pistols to Sandinista militants over the past few weeks. We have seen pictures of truckloads of arms being delivered to the party faithful. This is not the action of a man who expects to turn to a peaceful political process; it is the action of a man who expects to lie low until it is time to strike.

Moreover, since the election, the Sandinista-controlled National Assembly has attempted to protect the defeated Sandinista party by passing a series of obnoxious laws. They have deeded luxurious homes and factory facilities to themselves. They have seized property which once belonged to U.S. citizens.

Mr. President, I ask unanimous consent that a list of Sandinista abuses and harassments during the transition process be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. For this reason, I am surprised, Mr. President, that this bill, as reported from committee, contains some very unfair language.

Mr. President, the bill which has been reported from the Committee on Foreign Relations includes a provision which is diametrically opposed to the American concept of fairness. It is in the section which provides for assistance for demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families. At first glance, this seems to be a generous provision.

However, page 18 contains the following paragraph:

> Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

Mr. President, I can see how some Americans, how some members of this body, might conclude that the war in Nicaragua is over. They might conclude that a democratic settlement has been reached, and that it is appropriate for all parties to lay down their arms.

And indeed, it is appropriate for all parties to lay down their arms. Unfortunately, Mr. President, it is not appropriate to require that only one side lay down its arms. For 10 years, the Sandinistas have been subjecting Nicaragua to Communist domination. For 10 years, the Sandinistas have been strangling the liberties of the Nicaraguan people. For 10 years they have run a military dictatorship in Nicaragua. And as I have already pointed out, Ortega has been shipping truckloads of weapons to these militia groups, arming them to the teeth in anticipation of the rule of Mrs. Chamorro.

Therefore, it is not at all clear that Ortega and the Sandinistas will actually turn over the military forces to Mrs. Chamorro. We have had conflicting statements. It may very well turn out that hardcore units of the Sandinista Army will desert, and disappear into the jungle. Under these circumstances, it would be a clear and present danger for any members of the Resistance in Nicaragua to give up their arms. If they are defenseless, they could be surrounded by Ortega's people and murdered.

Mr. President, the $30 million, given under the attached condition, is not an honest offer. It is an attempt to induce the freedom fighters to act against their own security interests. There is no possible way that the freedom fighters can be secure in Nicaragua so long as the Communist Sandinistas themselves can keep their own weapons and organizations.

The Sandinistas would not have been defeated in the elections, if it were not for the valiant and courageous actions of the freedom fighters. The Resistance forces were the winners; the Sandinistas were the losers. But this bill would disarm the winners, and leave the losers in full possession of their weapons. How can we disarm the winners, and put them at the mercy of the losers, who remain in control of their own weapons and organization? That is manifestly unfair.

The Resistance is not the problem in Nicaragua; the Sandinistas are the problem. Why does this bill not address the real problem?

Mr. President, I have seen statements that the Resistance has already agreed to demobilize and disarm. Even Assistant Secretary of State Bernard Aronson has asserted that the representatives of the Resistance had signed an agreement to that effect. But it is not true that the Resistance has given unconditional support to demobilization. The Resistance has agreed to demobilization and turning in their weapons for members in Honduras only—not in Nicaragua. The State Department does not emphasize this distinction.

The reason the Resistance has agreed to demobilization and surrender of arms in Honduras is that virtually all of the 12,000 able-bodied members of the Resistance had already left Honduras with their weapons before the March 23 agreement had been signed. Only dependents and about 2,000 wounded remain, along with a small number of protective forces. Therefore, the agreement to demobilize and give up arms in Honduras is irrelevant.

Of course, few Senators, and apparently not even Assistant Secretary Aronson have had an opportunity to review the actual terms of the document, which is in Spanish. I have had a summary of the March 23 agreement prepared in English. It shows clearly that there is no agreement to lay down arms in Nicaragua—only in Honduras.

Mr. President, I ask unanimous consent that a summary of the English text of this agreement be printed in the RECORD at the conclusion of my remarks.

The Presiding Officer. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. Mr. President, that is why the Resistance absolutely will not lay down their arms in Nicaragua as long as 65,000 troops and 200,000 militia are under the effective control of the Communist Sandinistas. To do so would be a death sentence.

EXHIBIT 1

POST-ELECTION HARASSMENT BY THE COMMUNIST SANDINISTAS AND OTHER EVENTS

PRE-ELECTION COMMENTS

Interior Minister Tomas Borge:

"If a new government is formed . . . it will have to name its cabinet and if it names another interior minister, it would have to get rid of the staff as well, because they certainly wouldn't obey the new minister."

Defense Minister Humberto Ortega:

Even if Mrs. Chamorro won "she would still have to deal with me." He further stated that the armed forces may not obey orders they consider unsound.

Foreign Ministry Secretary General Alejandro Bendana:

"This country is ungovernable without the FSLN. There can be no stability in this country without the FSLN. There can be no democracy without the FSLN."—The Washington Times, The Washington Post February 26, 1990.

February 26, 1990

The UNO headquarters in Managua was attacked by Sandinista supporters with bottles and rocks.

In a half dozen northern cities, homes of party supporters and several party headquarters were stoned, according to UNO officials. While attacking several homes, Sandinista supporters fired automatic rifles into the air.

In the town of Esteli, the Sandinista police stood by as the homes of UNO supporters were attacked and UNO headquarters were burned.

The UNO campaign headquarters in Matagalpa was occupied for two hours.

Several Sandinista officials said the front can make Nicaragua ungovernable if they so decide. Health Minister Dora Maria Tellez said in a nationally televised speech that "the cooperation of the Sandinista Front is indispensable to govern this country."—The Washington Post February 26, 1990, Miami Herald February 27, 1990, The New York

Times, The [Baltimore] Sun February 28, 1990.

February 27, 1990

Out-going President Daniel Ortega told a crowd of 3,000 supporters: "We will continue to govern from below." He also said that the Sandinistas would not allow land expropriated by the Sandinistas to be given back to its former owners.

This one of a series of "irreversible" social advances that he demanded the new government keep. Others included demobilizing the contras, maintain the labor code and nationalization of international trade, banking and natural resources, protect the jobs of those on the public payroll, and continue to allow labor activism, strikes, agrarian reform, payments to war veterans and war widows and the freedom of the press.

Ortega made this statement despite an announcement from the Supreme Electoral Council that UNO won eight of the nine electoral regions, losing only the remote sparsely populated Rio San Juan region in the southeast.

At a separate speech, Ortega vowed to protect the "professionalism" in the army saying "We are going to govern from below and defend from below." [All officers above the rank of captain are members of the Sandinista Party.]

At the rally, Sandinistas supporters cried "[F]raud," "[W]e are the army," and "[W]e've got the guns."

Over four hundred AK-47 assault rifles were unloaded from an army truck in Jinotega and distributed to selected residents by a local Sandinista leader.

Today was the first day that civilians could sign up for FSLN militias. In one neighborhood in Managua, 300 people joined. The militias are trained with weapons, practice intelligence gathering and weapons maintenance and must attend daily meetings, advise leaders of their movements and leave a means where they can be reached in case of an emergency. They are classified as active reservists. The Sandinistas are also recruiting teenagers for "four months of voluntary combat duty."

President-elect Chamorro declared that the removal of General Humberto Ortega from the Defense Ministry was "non-negotiable."

Callers to Sandinista-controlled Radio Sandino threatened to take to the streets to block Mrs. Chamorro's inauguration. Despite objections from party leaders, the station continued to air inflammatory anti-UNO spots.

A Sandinista supporter burst into the house of a 50-year-old farmer, Francisco Benevides of Jalapa and sprayed machine-gun fire before being disarmed.—The Washington Post, The [Baltimore] Sun, Boston Globe, Miami Herald, Los Angeles Times February 28, 1990, Miami Herald March 1, 1990, The Washington Times March 2, 1990, Washington Post March 5, 1990, Los Angeles Times March 8, 1990.

February 28, 1990

President-elect Chamorro announced that she would remove Gen. Humberto Ortega from his position as Defense Minister.—Los Angeles Times, Miami Herald March 1, 1990.

March 1, 1990

Sandinista union leaders promised to paralyze the country if the government does not improve the economy in the 100 days. "If they don't respond, we will paralyze production," said Bernicia Sandiers head of the Sandinista textile union.

The same union leaders promised strikes if the new Chamorro government privatizes firms nationalized by the Sandinista government.

Contra leaders in Honduras report violence between Sandinista forces and army deserters. According to contra spokesman Alejandro Acevedo, "we have information that there have been massive desertions in at least three brigades and violent clashes in a number of battalions.

Juan Carlos Medina, 18, told the Associated Press that 40 of the 60 members in his Sandinista air force unit, based at the international airport, deserted since Monday [February 26, 1990]. "They took our weapons away on Monday and didn't give them back. Maybe they didn't trust us."

Interior Minister Tomas Borge offered to resign when Mrs. Chamorro takes power on April 25, 1990.—The [Baltimore] Sun, Miami Herald March 2, 1990.

March 2, 1990

Bayardo Arce, one of the nine Sandinista commanders, said that the command structure of the Army cannot change.

An unknown assailant threw a bomb at the home of a priest, Father Eliar Pineda of Jinotega. Father Pineda was an UNO supporter. He had received numerous death threats.

A group of Sandinista supporters attempted to rip the iron grating off the house of Trinidad Gonzalez of Jinotega. His house was flying a UNO banner.

In Jalapa, Sandinista youths or turbas attacked the houses of six UNO supporters. These families were forced to barricade themselves into the UNO headquarters in that city. In a separate attack, a group of turbas attacked the house of UNO activist Jorge Alberto Marin. During the attack, they tore down an iron gate, broke through a door and sprayed automatic rifle fire throughout the house. One of the attackers was wounded when Marin slashed his arm with a machete.—AFP March 2, 1990, La Prensa March 4, 1990, Washington Post, March 5, 1990.

March 3, 1990

Three MI-25 helicopters bombed the house of an UNO supporter, Trinidad Ubeda Gonzalez in the Ducuali neighborhood of Jinotega. Two minors were wounded and the family van, that was used for UNO rallies, was partially destroyed.—La Prensa March 4, 1990, Miami Herald March 8, 1990.

March 5, 1989

Yatama, a Miskito Indian organization, reported that on the Atlantic coast Cuban doctors have been left go. When those in the region, especially those who are not Sandinistas, have asked for medical aid or attempted to buy food from ENABAS, the Sandinista food distribution organization, they have been told, "You voted for Yatama and UNO, go ask them for help."

UNO has filed a protest with the Supreme Electoral Council (CSE) over the "annulment" of more than 90,000 votes for "irregularities." If the count stands the Sandinistas could gain one seat in the legislature.

President Ortega said the Sandinista armed forces "cannot be replaced by contras or Samoza's guard because this would be the signal for a national war against the mercenaries and the Somocistas."

Minister of Trade and Industry Luis Carrion warned that there would be "civil war, instability and chaos" if the Chamorro government attempted to break up the Sandinista army and police.

President-elect Chamorro said that there would be no jobs for the contras in her cabinet or in the Army.—Boston Globe Los Angeles Times, March 6, 1990, Latin American Monitor, March 7, 1990.

March 6, 1990

President Ortega announces a new press law that would allow the Sandinistas to set up a television station before they leave power. The law would also leave Nicaragua without press restrictions for the first time in over a decade.

[There are two television stations in Nicaragua, one of which was expropriated by the Sandinistas in 1979.]

Outgoing Managua mayor Carlos Carrion, a Sandinista, noted that repealing the media law would be in the Sandinistas interest now that they will be in the opposition.

La Prensa [Panama] eidtor Winston Robles said, "He's preparing to become a member of the opposition, and he doesn't want [Chamorro's government] to apply his own medicine."—Miami Herald, Los Angeles Times, Washington Post, March 7, 1990.

March 7, 1990

President-elect Chamorro charged that the Sandinistas have handed out 10,000 AK-47 assault rifles and pistols to its supporters in urban factories, factories and collective farms "in the name of self-defense during the post-revolutionary era." The charge was confirmed in two northern provinces and by witnesses in other areas of the country.

Luis Serrano, an Organization of American States officials monitoring events in post-election Nicaragua, said, "[E]veryone here is getting arms. It's incredible! It's a bomb that could explode at any moment."

In the Matagalpa region, two collective farms have received 2,500 assault rifles and residents of the area have been put into weekend training courses.

The Miami Herald and Los Angeles Times report that "hundreds" of Nicarguan soldiers have abandoned their posts since the victory of Violeta Chamorro on February 25. The desertions are most prevalent in the Nueva Segovia and Jinotega regions. This includes 100 of 120 soldiers in the 368th Brigade in Jinotega and 300 out of 800 draftees in the Omar Torrijos Battalion in Managua. The Sandinistas deny that they are allowing the desertions to take place in order to keep the army ideologically pure.

The Washington Times reported a series of post-election Sandinista intimidation actions:

Conception Salazar, a UNO activist in Titapa, reported receiving death threats from Sandinista supporters, including the outgoing mayor, since February 26, 1990.

Zacaria Vaya, a UNO poll-watcher, was placed under arrest for two days in retaliation for his role during the election.

Marisol Perez, 19, said her father was arrested and held for three days because of his role as an UNO activist. When Sandinista activist came for her father, they struck her aid in their escape.—Miami Herald, Los Angeles Times, Washington Times, March 8, 1990.

March 8, 1990

The Sandinista controlled National Assembly passed a new media law that would allow for greater press freedom and would allow the Sandinistas to set up their own television station, a right they denied the opposition while controlling the government.

The National Assembly also began work on a package of laws that would transfer

ownership of approximately 10,000 homes now owned by the state to their occupants, grant broad amnesty against future prosecution of crimes committed in the past decade and would offer extensive protection to civil servants.

According to the President of the Nicaraguan Bar Association, Roger Guevara, "This [the amnesty law] authorizes and pardons in advance the theft and decapitation of the goods of the state." The Nicaraguan Constitution prohibits the imposition of retroactive penalties. An UNO leader said, "the Sandinistas are giving themselves a hell of a send-off party."

Even before the debate, the government began to seize property. At 4 PM three armed soldiers arrived at a house in the Alta Gracisa district in Managua that had been rented by three divorced women since 1979. The house was taken over by the wife of an army captain and the locks were changed.

Opposition radio stations continued to air persistent reports that Sandinista public employees have been looting government offices, carting away office equipment, files and furniture.

Cuban President Fidel Castro announced that his country will stop sending Nicaragua military aid, 90,000 tons of petroleum and food that fed 50,000 a day on Nicaragua's Atlantic coast.—DPA, March 8, 1990, The Washington Post, The New York Times, Miami Herald March 9, 1990.

March 9, 1990

The UNO Political Council charged that FSLN leaders had taken to "passing state machinery, homes and property of all sorts to private hands."

UNO leader Guillermo Taboada noted that in several parts of the country cattle were being slaughtered to export beef. He also said that there were reports about "the disappearance of trucks" from the state Automobile Distributors Firm (Edina).—ACAN-EFE March 10, 1990.

March 13, 1990

The Sandinista controlled National Assembly passed an amended version of the amnesty law. The law extends from July 19, 1990 to the day the law is published.

La Prensa, the main opposition newspaper commented that "until it is published by the official journal of the government, it represents a veritable invitation to commit crimes. If it is not published until the end of April, Nicaragua could be plunged into a dangerous period of anarchy, since any crime could legally be committed."

One section of the law would provide amnesty to "government officials and public employees" who may be charged with misappropriation of funds or other economic crimes.—The New York Times March 12, 1990, Miami Herald March 14, 1990.

March 14, 1990

The Sandinista controlled National Assembly approved 69-0, with one abstention, an amendment to the civil service and administrative career law that would make it more difficult to remove government employees.

In a separate action the Assembly passed a law that would guarantee that legislators who leave the Assembly would receive benefits until January, 1991. The money be given out at the rate of "one month of salary for each year of service based on the latest salary figure."—Barricada March 14, 1990.

March 15, 1990

In the town of Camoapa, in the Boaco Department, an army lieutenant Joaquin Sandoval delivered a shipment of AK-47 assault rifles and ammunition to two neighborhood Sandinista leaders. The weapons were distributed to 22 people. Similar deliveries were made at the "Red Ranch" Peasant Development and in Las Lajas, Yalguas, Salinas and in other towns.

UNO leaders in Campona report that military commanders are offering salaries of 5 million cordobas and a government food package if they are willing to carry out operations against UNO supporters. They also report that Battalion 5-13 has stored 200 rifles, 45,000 rounds of ammunition, 60 cutlasses and various other military equipment.—La Prensa March 20, 1990.

March 16, 1990

In an interview with a French magazine Paris Match, outgoing President Ortega admitted that the Sandinistas are continuing to distribute arms throughout all regions of the country. Ortega also said that he would continue to live in his house which had been confiscated [as part of the property law]. On his position in the National Assembly said "I am a deputy by law but I do not think I will take my seat in the assembly."

Ortega said in the interview that he thought that President Chamorro should rule in association with the Interior and Defense ministries. [This position was changed when Ortega met with Quayle on March 15.]

Vice-President-elect Godoy confirmed that current oil reserves will last only through April 28. Godoy said that the Sandinistas had cancelled contracts with Exxon without consulting UNO and that during the first week after the election, $10 million dollars had left Nicaragua.

Godoy also noted that the government had been reexporting supplies of fertilizer [to Honduras to pay off debt] and food. He also commented on "looting" of state property, the destruction of documents, delays in appointing technical commissions, the disappearance of livestock from state farms and electrical problems throughout the country.

Citing confirmation by Colonel Salvatierra of the 6th Region, he also noted that 40,000 pistols and rifles had been distributed to private individuals since February 25.

Vasily Voinov, chief of the Soviet trade mission, told Barricada that the last scheduled Soviet oil and free food shipments to Nicaragua will come in March. The Soviets say that new aid must be requested.—Managua Radio Catolica, La Prensa, ACAN, Barricada March 16, 1990, Paris Match March 22, 1990.

March 20, 1990

Out-going President Ortega submitted a bill to the National Assembly seeking immunity for the current public officials, including the highest ranking members of the executive branch, National Assembly representatives, justices on the Supreme Court of Justice and Supreme Electoral Council judges. The president and vice-president would also receive a pension for life.

Sandinista Commander Jaime Wheelock confirmed that the Sandinista Army had been distributing arms to civilians after the Panama invasion. He made no mention that the Army had ever attempted to take the weapons back.—ACAN March 20, 1990, AFP March 21, 1990.

March 21, 1990

The National Assembly approves the amnesty law, submitted on March 20.—Radio Sandino March 21, 1990.

March 22, 1990

In an interview with a Caracas newspaper El Nacional, President Ortega warned that "a president who attempts to eliminate the army is exposed to a military coup."

The Soviet Union announced that the last free food was delivered to Nicaragua. The food, rice and wheat, was the last food the Soviets agreed to send under a five year food agreement. The last shipment of fuel oil will come this month and the last supplies of animal feed, food oil and machinery will be sent at a later date.—EFE March 22, 1990, Barricada March 27, 1990.

EXHIBIT 2 APPENDIX—MARCH 23 AGREEMENT BETWEEN THE RESISTANCE AND THE CHAMORRO GROUP

The agreement, signed at Toncontin Airfield in Honduras, consists of two sections. The first section states the position of the negotiators for the Resistance, and the second section states the position of the delegation representing President-elect Chamorro.

The first section states that the Resistance recognizes that the elections of February 25 have permitted the triumph of the will of the Nicaraguan people to establish a democratic process. The Resistance then declares that it wishes to "begin a process of general demobilization of our forces leading to start disarming those forces which remain in Honduras by April 20." For this purpose, the Resistance seeks the cooperation and help of international organizations such as ONUCA, CIAV, and Cardinal Obando y Bravo.

The Resistance then states that, at the same time, there should be an immediate cessation of military engagements in Nicaragua in order to proceed to the following:

(1) An effective cease-fire on both sides, verifiable by the international organizations (ONUCA and CIAV) and Cardinal Obando y Bravo.

(2) The concentration of their armed forces in Nicaragua in the security zones previously agreed upon, monitored by the same international organizations and the Cardinal, so that the process of demobilization will be effected in an atmosphere of security and order which will guarantee the enjoyment of a normal life and peaceful labor.

The second section states four points by the representatives of President-elect Chamorro.

(1) They take note of the decision of the Resistance to initiate the beginning of a process of demobilization on this date;

(2) As a gesture of proper recognition of the patriotic work of the Resistance, it is necessary to assist the wounded, orphans, and widows, innocent victims of the armed fight. Therefore, Violeta Chamorro commits herself to assure the rehabilitation and social-readaption of the affected parties. Furthermore, they will have the right to their appropriate monthly pensions.

(3) In order to execute everything agreed to in the accord, they agree to set up a special transition commission composed of members of the government and the Resistance, to be announced.

(4) The new government of President-elect Chamorro promises to seek humanitarian assistance for the members of the Resistance, as well as the medical infrastructure to provide proper attention to the victims of the conflict for as long as the de-mobilization lasts.

The document is signed by Cardinal Obando y Bravo, Antonio Lacayo, Emilio Alvarez Montalban, and Comandante Ruben.

AMENDMENT NO. 1467

(Purpose: Technical amendment to comply with the Budget Act)

AMENDMENT NO. 1468

(Purpose: Technical amendment to clarify committee jurisdiction)

AMENDMENT NO. 1469

(Purpose: To promote market economy and political democracy in Nicaragua)

AMENDMENT NO. 1470

(Purpose: To promote market economy and political democracy in Namibia)

Mr. PELL. Mr. President, I send four technical amendments to the desk, ask they be treated en bloc, and I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes amendments numbered 1467 and 1468, and for Mr. GRAMM proposes amendments numbered 1469 and 1470.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 1467

At the end of section 8, add the following new subsection:

"(c) COMPLIANCE WITH THE BUDGET ACT.—New credit authority provided in this section is to be effective only to such extent or in such amounts as is provided in advance in appropriation Acts.".

AMENDMENT No. 1468

Beginning on page 20, with line 20 strike all through the "(2)" on line 3 of page 21.

AMENDMENT No. 1469

Section 3 is amended by inserting immediately after subsection (a) the following subsection:

"( ) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Nicaragua in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.".

AMENDMENT No. 1470

Section 7(a) is amended by inserting immediately after paragraph (1) the following paragraph:

"( ) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Namibia in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments.

The amendments (Nos. 1467, 1468, 1469, and 1470) were agreed to.

Mr. HELMS. Mr. President, it is my understanding that the House Foreign Affairs Committee is considering adding its version of the supplemental for Panama and Nicaragua a great many additional items authorizing funding for fiscal year 1991.

In particular, among the items the committee is considering including is additional funding for Eastern Europe, the foreign aid bill for fiscal years 1990 and 1991 upon which the Senate has yet to act, greatly expanded funding for Africa, and funding for United Nations Fund for Population Activities programs in Romania. Is that the understanding of the distinguished chairman of the Foreign Relations Committee?

Mr. PELL. I understand that while the House Committee has not yet reported out its companion S. 2364, the scenario that the Senator describes is indeed a possibility.

As the Senator knows, the House has already passed the supplemental appropriations bill for aid to Nicaragua and Panama. If the authorizing committees desire to protect their roles in the process, we are going to have to act quickly to pass the authorization for Nicaragua and Panama.

Any attempt by the House to use the authorization bill as a vehicle for unrelated authorizations for fiscal year 1991 would greatly delay the process, effectively killing our chances of producing an authorization bill prior to passage of appropriations.

Mr. HELMS. I could not agree more with the distinguished chairman of the Foreign Relations Committee. Should we go to conference on S. 2364, or have such legislation returned with amendments by the House, would the chairman be willing to work with me to oppose any and all fiscal year 1991 authorizations the House may choose to attach to this legislation?

Mr. PELL. I would be pleased to work with the Senator from North Carolina in this regard, since the bill before us is limited to fiscal year 1990 supplemental authorization.

Mr. HELMS. I thank the Chairman.

AFRICA

Will the Chairman yield further for some questions on the Africa section of the bill before us?

Mr. PELL. Certainly.

Mr. HELMS. Specifically, $10 million for the new government in Namibia and $20 million to increase development assistance funding for Africa have much to recommend them. As the chairman pointed out, the administration has dipped into Africa funding to provide money for the initial Panama assistance bill enacted earlier this year. While this may have been a temporary necessity, does the chairman agree that some attempt should be made to restore funding?

Mr. PELL. I do, emphatically. I have serious concerns that development and economic needs in Africa may be shortchanged because of the administrations desires to move funds elsewhere in the world.

Mr. HELMS. I wonder if the chairman would agree with me further that this supplemental authorization should not be used to fund new and untried programs in Africa. Here I refer to attempts to fund South African political parties and movements with funds authorized in the pending legislation. A committee staff member reported to me after recently visiting South Africa that neither the United States Ambassador, Bill Swing, nor the Mission Director for the Agency for International Development, Dennis Barrett, believe United States Government funding of South African political parties and movements is desirable at this point in time.

Mr. PELL. Since I have not spoken with those gentleman, I am not prepared to take a position on these issues at this time. However, I believe the language in the Senate version on Africa is good, and I pledge to support the Senate position in conference.

Mr. ROTH. Mr. President, the Panamanian people have suffered greatly under the reign of General Noriega, and their economy has been left in a shambles. Removing Noriega from power has required significant sacrifice, both by American servicemen, some of whom made the ultimate sacrifice of their lives, and by the Panamanian people. Some Panamanians also died, but all suffered the effects of loss of freedom and democracy and the devastation brought on by the breakdown in the Panamanian economy.

But let us not forget that, for many years, Panama had an economy that was fed a daily diet of drug traffickers' money. Panamanians, both for and against Noriega, nurtured that economy which was structured around bank secrecy and paper corporations designed to attract illegal money. Panamanian President Endara has acknowledged that the boom in Panama's banking industry was a direct result of drug money.

I rise to sound a word of caution. Since 1988, when the Permanent Subcommittee on Investigations first held hearings which revealed the role of General Noriega and the Panama Defense Forces in money laundering and

drug trafficking in Panama, I have had a special interest in the issue of Panama and drug money laundering.

It would be a mistake to assume that with the removal of General Noriega, the potential for large-scale drug money laundering in Panama was also removed. What concerns me is that many of the laws and policies which made Panama such an attractive money laundering center are still in place. There has been only one minor change, regarding reporting requirements, in Panama banking laws which were used over more than 10 years to securely house drug traffickers' deposits.

Also disturbing was a New York Times article of February 6, 1990, headlined, "Panama Is Resisting U.S. Pressure To Alter 'Inadequate' Banking Laws." This article listed the current President, Second Vice President and Attorney General of Panama as having direct ties to prominent banks which have, in the past, been used to launder drug money. While I am aware of no evidence that these persons had any knowledge of the crimes which were taking place in those banks, I repeat that the problem of Panama as a money laundering center has not been solved by arresting General Noriega.

For this reason, I strongly endorse the provisions of S. 2364 which support changes by the Government of Panama to end the era of Panama as the money laundering haven of the Western Hemisphere. I cite specifically the provision which requires that the United States and Panama reach an agreement for exchanging adequate information and records on currency transactions, or certification that Panama is negotiating in good faith to reach such an agreement. I am also aware that negotiations are now ongoing between Panama and the United States, but I am not convinced that this indicates any progress is being made. The United States has been negotiating with Panama for years with no meaningful results. The fact of ongoing discussions has always been used to convince us that meaningful changes were forthcoming. Well, the time is now. We must insist on a Mutual Legal Assistance Treaty, signed, sealed, and delivered.

Panama faces a great challenge and a great opportunity. I am glad that the United States is able to be there, in some small way, for Panama at this critical juncture in its history. But we must not be foolish with our money. Our economic assistance must be used in rebuilding a legitimate economy, not one based on secret bank accounts and corporations. I urge the Panamanian Government to meet this challenge so that their people will never again be victims to the abuses of the past.

Mr. McCAIN. Mr. President, we have good reason today to be proud of the critical role that we as a nation have played in what could be called the great democratic awakening of recent months. Since our independence, we have served the world as the focus for aspiring democracies as an example for all nations seeking just government. In the last half of this century we continued our critical support for the cause of freedom, while globally confronting a formidable enemy whose power served a cause antithetical to ours.

Mr. President, the United States has good reason to be proud of the critical role we have played in what could be called the great democratic awakening of recent months. Since our independence, we have served the world as the focus for aspiring democracies—as an example for all nations seeking just government. In the last half of this century, we continued our critical support for the cause of freedom while globally confronting a formidable enemy whose power served a cause antithetical to ours.

Mr. President, now that we have peace, we have to make sure that our commitment to peace continues. We must help these countries attain the one essential ingredient to a free and open democracy, that is economic development.

Mr. President, the urgency of the situation in Panama and Nicaragua cannot be overstated. Neither can the importance to the United States of stability in those countries be overstated. The United States, of course, is concerned with the success and survival of democracy everywhere in the world. Our policies in support of that cause through successive Presidential administrations have always been global. But we must be mindful of our unique responsibility to the other Americas. Unlike the countries of Eastern Europe, who enjoy a close affinity and historical association with Western European nations, the countries of the Americas look primarily to the United States for assistance and cooperation in their political and economic development.

Although the stability and development of democracies in all parts of the world is the concern of the United States, it is in this hemisphere that the consequences of instability most directly affect our own society.

We have risked much for our cause and we mut take care that the global advance of liberty is not now hindered or reversed because the United States has reduced its commitment to that progress.

In recent years, one of the more disturbing costs of American foreign policy was the steady deterioration of a bipartisanship consensus on, if not the goals, then certainly the means of that policy. Appropriately, one of the most attractive opportunities provided by the stunning changes occurring in the world is the opportunity for the restoration of bipartisanship in the design and conduct of our foreign policy. For this Senator, a return to close cooperation and broad agreement on the role our country will play in the world is a most welcome prospect. And I sincerely hope that as Congress considers how the United States will consolidate the many successes of recent months, bipartisanship will be the norm and not the exception in our deliberations.

It is a source of great personal satisfaction, that on a question that involves the United States' role in Nicaragua I find myself in agreement with my good friend from Connecticut, Mr. DODD. Though, we have often disagreed over how best to serve democratic values in that troubled country, we are now in agreement that the United States will best serve our own values and interests by immediately and generously contributing to the repair of the devastated economies of Nicaragua and Panama. Our agreement encourages me that Congress will indeed return to the spirit of bipartisanship that has guided us at other critical moments in history.

Mr. President, in recent years, approximately 15 percent of the population of Nicaragua has sought refuge from political and economic turmoil in the United States. If we will assist their economy, many of those Nicaraguans will be able to return, easing an economic burden on the United States and providing a much needed infusion of enthusiasm and desire into Nicaraguan society.

The presence of so many refugees from turmoil and poverty in Latin America is a constant reminder of how important the political and economic development of our neighbors is to the well-being of the United States.

It is also a constant reminder of the close connection Americans feel to the populations of our neighboring countries. Of course, our affinity with Latin America is most keenly felt in that large and growing segment of our population—Hispanic Americans. Indeed, the Latin aspect of our national character grows stronger every year. And while all Americans share good will for Latin America, Hispanic Americans, understandably, are especially concerned that the blessings of democracy and free market economies are enjoyed in the lands of their fathers.

Let me add, Mr. President, this increasingly influential segment of our society will rightly hold their elected officials accountable for the depth of our commitment to hemispheric freedom and prosperity.

I know that some Senators would like to reduce our aid to Panama and Nicaragua in order to provide greater

assistance to the emerging democracies of Eastern Europe. Mr. President, I do not advocate ignoring our responsibilities in Europe or anywhere else in the world. But Eastern Europe enjoys the support and assistance of many countries. The G-24 countries have already pledged over $23 billion in assistance for Hungary and Poland alone, and they are now planning additional assistance for the rest of Eastern Europe. While the world hails the triumph of freedom in Eastern Europe with generous economic assistance, democracy in Central America is left at risk to the politically destabilizing effects of extreme poverty. In fact, the poorest economies in Eastern Europe have a per capita GNP of over $6,000. Panama has one-quarter that amount, and in Nicaragua the per capita GNP is roughly one-tenth that amount. In Nicaragua, the economic basket case of Latin America, the per capita GNP is now lower than Haiti.

Mr. President, Panama faces 30 percent unemployment. Social unrest is the consequence of widespread unemployment. Indeed, increasing instability is already evident in Panama. In Nicaragua, the Sandinistas are pinning their hopes for a return to power on Mrs. Chamorro's failure to improve the miserable poverty that afflicts her people. Certainly, failure to plant this year's crops will make economic progress nearly impossible to achieve this year.

Mr. President, the United States must endeavor to do all it can to see that the promise of freedom is fulfilled in these two countries. We have obligations and interests linked to the welfare of these people. Let us provide Panama with the startup capital it requires to restore its traditionally vigorous economy. Let us provide Nicaragua with the seed and fertilizer it desperately needs to begin its long struggle back from near total bankruptcy.

This is a golden opportunity to prove our commitment not only in war, but in peace to these two fledgling democracies. Let Panama and Nicaragua know we will neither neglect nor ignore the problems that afflict those unfortunate societies, that we want them to take part in the great experiment called the free enterprise system, to grow and prosper not only for themselves but for future generations of Latin Americans.

And, Mr. President, let us seize this opportunity to restore bipartisan unity to our efforts to promote democratic development in the world, and most especially in that corner of the world—Central America—whose economic and political survival depend on the support of all Americans. The prospect of democracy as the ascendant political force in mankind is a cause America has supported for a very long time. Let us come together at this critical time to ensure that progress toward that goal is irreversible—especially here in what humanity has always called the new world.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. How much time remains?

The PRESIDING OFFICER. The Senator controls 6 minutes 18 seconds.

Mr. PELL. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank the chairman of the Foreign Relations Committee and also commend my colleague from Arizona for his statements and comments.

This is an historic day, Mr. President. We have been over an awful lot of ground over these last 9 or 10 years on this issue. I suppose some may have wondered during those moments if this kind of day would ever arrive. But, in fact, it has. I am delighted to be a part of this effort to authorize much needed assistance to both Nicaragua and to Panama.

Today, the Senate, Mr. President, is being asked to consider the provision of a substantial economic assistance program to two countries that have virtually been on the blacklist here for some time—in the case of Nicaragua, for nearly 10 years; and in the case of Panama, for 2 years.

What we are doing here today is more than simply voting on a $770 million emergency aid package for these two countries. What we are doing is turning the page with respect to our policies toward Panama and Nicaragua and beginning a new chapter in our relations with them and, hopefully, more cordial relations.

What is this economic assistance for? In the case of Panama, the $470 million in assistance is designed to—

Revitalize the private sector, by providing an infusion of funds into the Panamanian banking system;

Facilitate public investment in infrastructure and the social sectors, through budgetary support to the Government;

Reestablish Panama's eligibility to borrow from the international financial institutions by paying arrears, in cooperation with the Government of Panama and other donors;

Replace the corrupt Panamanian Defense Forces with a well-trained, civilian national police force;

Strengthen the managment and administrative capabilities of the government, including environmental protection and resource management capabilities; and

Facilitate improved cooperation between the United States and Panama in criminal matters, and particularly in the area of narcotics trafficking and money laundering.

Mr. President, if we are truly going to close one chapter in our relations with the Government of Panama and begin another then two fundamental issues must be effectively addressed: The first, the permanent demise of the Panamanian Defense Force. That means more than simply changing its name. It will require the creation of a police force, trained as police and equipped as police, with limited powers and under strick civilian control. The second issue pertains to the judicial system in Panama. This system has allowed money-laundering and other illegal activities to flourish without detection or prosecution; and the absence of an effective legal framework for international cooperation on criminal matters between the United States and Panama has internationalized the legal problem it has created domestically.

Both of these matters I believe have been addressed in the legislation before us today. But, these are problems that were a long time in the making and will require concerted effort by the Endara government to permanently resolve. The assistance we are considering today, in and of itself, is not going to correct these problems—only the Endara government and the people of Panama, with our help and encouragement can accomplish those goals.

In the case of Nicaragua, Mr. President, the $300 million in emergency assistance is designed to do the following:

Facilitate the importation of petroleum products, agricultural equipment, and spare parts;

Restore Nicaragua's eligibility to borrow from international financial institutions by paying arrears;

Participate in longer term economic growth and development needs through programs designed to improve infrastructure; assist in social sector programs, such as health and education; and provide technical assistance to the private sector;

Support the demobilization, repatriation and resettlement of Nicaraguan resistance fighters and their families by the United Nations and OAS, under conditions agreed to by the Central American Presidents, at Tela, Honduras, in August 1989, and in subsequent summit meetings;

Assist in the resettlement of Nicaraguan refugees and other displaced persons; and

Remove any remaining legal impediments to restoration of full economic relations with our country.

In the case of Nicaragua, beginning a new chapter will require that the remnants of our previous policies not be permitted to impede efforts by the newly elected government of Violeta Chamorro to achieve national reconciliation, so that she can get on with

the business of restoring that war ravaged economy. This will require that, from this moment on, all United States assistance provided for the demobilization and repatriation of Nicaraguan resistance fighters be channeled through the organs established by the five Central American Presidents, as part of the Central America peace process; namely, the U.N. sponsored Observer Group for Central America [ONUCA] and the International Commission of Support and Verification [CIAV].

I know that foreign aid is never popular. This is particularly the case at a time when we face severe budgetary constraints at home. But I believe we have an obligation to make sure that the promise of democracy in these countries has a fighting chance to take root and flourish. That is not going to happen if people find themselves no better off tomorrow under the new governments, than they were yesterday under previous ones.

With respect to Panama, we made it clear at the outset that the actions which we were taking against the Noriega regime were not intended to do harm to the Panamanian people. Unfortunately, it was not within our power when applying economic sanctions to target them solely against Noriega and his cronies. An infusion of funds now, to get what had once been a vibrant economy back on track, is really all that is needed to rectify the damage.

I believe it would be the ultimate irony, if we were to deny assistance to the newly elected Government of Nicaragua on budgetary grounds at the very time it faces the daunting task of rebuilding its war torn economy. Certainly we never seemed to have any trouble over the past decade finding the cash to fuel the armed conflict in that country.

Many innocent people in both Nicaragua and Panama have suffered as a result of our policies. We have a duty and responsibility to assist in efforts to turn the tide on economic hardship and suffering. We have a duty and responsibility to support democracy with more than words and resolutions. The bill before us today is a concrete way to fulfill our obligations and demonstrate our support for democracy. Therefore, I urge my colleagues to support passage of this very important legislation.

Mr. President, I ask unanimous consent that I be allowed to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent to have printed in the RECORD the declaration of Montelimar, which was entered into the other day by the five Central American Presidents which Mrs. Chamorro attended and offered her support.

There being no objection, the declaration was ordered to be printed in the RECORD, as follows:

DECLARATION OF MONTELIMAR

The Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, gathered at Montelimar, Republic of Nicaragua, on the second and third days of April of 1990:

Taking into account the contents of the various documents and declarations of the Esquipulas peace process, which constitutes a unique and indivisible whole, and motivated by the same patriotic and Central American spirit that has made it possible for dialogue and negotiations among the Central American governors to be an historical and decisive contribution for regional peace,

AGREE

1. To affirm unequivocally each and every commitment made during the Esquipulas process and to renew the decision to comply with the agreed upon accords fully.

2. To express their satisfaction for the advances obtained for consolidating democracy in the region through clean and honest electoral processes, which are proof of the efficacy and fulfillment of the political commitments undertaken in the Esquipulas framework.

3. To declare their satisfaction with the successful culmination of the electoral process in the Republic of Nicaragua on February 25 of this year, given that those elections were conducted in conditions of complete freedom and honesty, as attested by numerous international observers;

To commend the guarantees presented by the Government of Nicaragua in fulfillment of the political commitments undertaken at the different stages of the Esquipulas process and to express satisfaction with the agreements reached by the Transition Teams of the present Government and the Government-elect, to which they give their moral support as a mark of respect for the sovereign decisions agreed upon among Nicaraguans;

In virtue of which, the Presidents of Costa Rica, El Salvador, Guatemala and Honduras express to the President of Nicaragua, Daniel Ortega Saavedra, their recognition of his promoting and strengthening the process toward consolidation of representative and pluralist democracy in his country.

4. To ratify their commitment to continue promoting respect for human rights, including the strengthening and perfecting of their democratic systems, fully guaranteeing participation of all citizens in the political life of their countries, independence and impartiality of the judicial power and respect for civil, political, economic, social and cultural rights.

5. To emphasize again the need for immediate demobilization of the Nicaraguan Resistance subscirbed to at the Tele Summit on August 7, 1989 and in the Toncontin Agreement signed in Honduras on March 23, 1990, and to express their satisfaction for the goodwill demonstrated by the parties involved in carrying out that objective.

The Presidents of Costa Rica, El Salvador, Guatemala and Honduras applaud the immediate support tht the Government of Nicaragua gave that Agreement, to which they also give their complete support so that peace will be reestablished in the country and a transfer of power will be achieved with absolute normality.

To support the Protocol of Procedure for the transfer of the Presidential Mandate of the Republic of Nicaragua and to request the United Nations Observers Group for Central America (ONUCA) and the International Commission of Support and Verification (CIAV) to take the necessary steps to guarantee opportune support for the demobilization and disarmament of the members of the Resistance inside or outside Nicaragua, which should begin immediately and conclude by this coming April 25 at the latest.

The arms that ONUCA will receive should be destroyed on site in the presence of representatives of other Central American governments invited for the purpose by the corresponding Government.

To call upon the Government of the United States of America to continue supporting and contributing to the demobilization of the Nicaraguan Resistance and to channel funds approved for these forces to the International Commission of Support and Verification (CIAV) to use for the reintegration of the exmembers of the Nicaraguan Resistance who deliver their arms to the Group of Observers of the United Nations (ONUCA) into the normal life of the country, and of their families.

To express gratitude and recognition of the valuable cooperation of the Government of Honduras for the demobilization of the Nicaraguan Resistance.

6. To express gratitude to the Secretary General of the United Nations and the Secretary General of the Organization of American States for their continuous efforts in support of the Esquipulas process, as well as repeating support for the work of DNUCA and CIAV.

7. To reaffirm the importance to the consolidation of democracy of the incorporation of the irregular forces into political life in the framework of the provisions of the Esquipulas Accords. In this regard, they declare their satisfaction with the imminent reinitiation of the dialogue between the Government of El Salvador and the FMLN and for the agreements reached in Oslo between the National Commission of Reconciliation of Guatemala and the URNG. Similarly, the Central American countries offer themselves as sites for meetings for these purposes.

8. To condemn acts of terrorism in the region and to repeat the call to end all kinds of violent acts that directly or indirectly harm the civilian population or the productive infrastructure and to demand immediate release of all individuals who have been sequestered and are under the power of irregular forces or terrorist groups.

9. In accordance with point 7 of the Esquipulas II Accords and in view of the advance in the processes of National reconciliation, consolidation and perfecting Democracy, they have decided that it is now time to promote and schedule pending negotiations with regard to security, verification, control and limitation of armaments. Therefore, they call on the Security Commission to meet in Costa Rica on May 15.

10. That the consolidation of democracy, once obstacles to peace are overcome, demands decisive confrontation with the economic challenge and therefore they have decided that the next summit should fundamentally analyze:

a. The restructuring, strengthening and reactivation of regional economic integration;

b. Evolution toward a regional integrative productive system;

c. Reconsideration of the problem of the external debt;

d. A better distribution of the social costs of necessary economic adjustments.

To support national programs of necessary economic adjustment to face the serious economic and social situation of the area, on whose solution depends the stability of the countries of the region.

In this respect, they call on the International Community to reenforce, consolidate and amplify economic support for the regions, in ways such as the Luxembourg Accord, direct cooperation and the Joint Plan of Cooperation for Central America. In this context they reiterate the urgent need to supply Central America with additional financial resources under favorable conditions.

To recognize the need to strengthen the activities of the public and private, national and international organizations that aid in overcoming the political obstacles to the solution of social problems and to the promotion of the economic development of the region. In this respect, they express their pleasure because of the offers presented by the Governments of Canada and Japan to contribute to these tasks.

To express their conviction that in this new stage, the integration of the People and Government of Panama is fundamental to the efforts made toward strengthening and perfecting democratic and pluralist regimes committed to economic and social development of their people. With the firm purpose of materializing this concept and supporting its efforts to normalize political life, within the strictest respect to International Legal Order and, in particular, to the norms of coexistence among sovereign states, we have decided to invite the Government of Panama fraternally to take an active part in the processes of dialogue, negotiation and cooperation that the Central American governments carry out on these matters.

To manifest their satisfaction for the advances reached in carrying out the special Plan of Economic Cooperation for Central America (PEC) as a valuable instrument of the Peace Plan and to exhort the contracting of commitments to finance projects in the framework of the sectional meetings sponsored by the United Nations Program for Development (PNUD). To underscore the importance of that mechanism's continuing with budgetary support within the United Nations Program for Development (PNUD).

To take grateful advantage of the proposal formulated by the Governments of Colombia, Mexico and Venezuela in respect to lending their cooperation for the development and strengthening of National Centers established in the Central American countries so they can have regional effect and significance in the areas of education, health, agriculture and energy, as well as recognizing their contribution toward peace in Central America.

11. To express profound satisfaction for the process of ratification of the Protocol for the Constitutive Treaty of the Central American Parliament permitting establishment of that Parliament, thereby beginning a new stage in the process of Central American integration.

12. To subscribe to the Accord of Regional Cooperation for the Eradication of Illegal Traffic of Drugs, as an expression of determined political desire to collaborate closely in uniting forces to prevent and confront the dangers that derive from the illicit traffic. They particulary emphasize the importance of regional and international cooperation and of the adoption of laws that will permit eradication of drug traffic.

13. To declare their satisfaction with the work of the Central American Commission on Environment and Development and to reaffirm support for its continuation and evaluation of the necessity and appropriateness of looking for financial sources and innovative mechanisms to promote its programs and projects. In this respect they agree to discuss the subject of debt conversion for environment at the next Summit.

14. To support carrying out programs of development for displaced populations, refugees and repatriated persons in Central America, requesting the International Community to maintain and amplify support for commitments already made so as not to put off their implementation, and to express support for the first international meeting of the Committee of Supervision of the International Conference on Central American Refugees (CIREFCA), which will be celebrated soon at the United Nations headquarters.

15. To reaffirm that the health of Central American people is a political priority that implies maintenance and deepening of joint health endeavors, conceived as a bridge to peace and understanding among the peoples of the area. For these purposes, they have decided to orient their Health Ministers to evaluate immediately the achievements of the last five years of the Plan of Health Priorities (PPSCAP) and to elaborate a new health initiative for Central America. For that purpose, they request the collaboration of the Pan American Health Organization and the World Health Organization (OPS/OMS), among others.

16. They have decided to meet in the second trimester of the present year in the anticipated Regular Meeting to be held in the Republican of Guatemala.

17. The Presidents of Costa Rica, El Salvador, Guatemala and Honduras wish to commend the fraternal hospitality of the People and Government of Nicaragua that contributed decisively to creating a frank and constructive atmosphere that permits looking forward to the determined continuation of the Central American endeavors for peace.

Signed in Montelimar, Republic of Nicaragua, on the third day of April of one thousand nine hundred ninety.

Oscar Arias Sanchez, President of the Republic of Costa Rica; Vinicio Cerezo Arevalo, President of the Republic of Guatemala; Alfredo Cristiani Burkard, President of the Republic of El Salvador; Rafael Leonardo Callejas, President of the Republic of Honduras; Daniel Ortega Saavedra, President of the Republic of Nicaragua.

Mr. DODD. Lastly, I say I to my friend from Arizona, who I think made an excellent point, this aid package is good and is needed. But what is really needed is trade improvement so that we do not have these barriers that exist to debt relief, and foreign investment in these countries.

Aid will provide some infrastructure assistance, but long-term economic growth in Central America will require that we change the way we have been doing things with regard to trade and debt and foreign investment. That is really going to offer these countries a future. Foreign aid helps, but it really is not the ultimate answer.

I could not agree with him more about Central Europe. We certainly want to be helpful, but my colleagues should have no doubt whatsoever about the ability of Central Europe to get on its feet economically. The European countries are going to pour in assistance there. You cannot get a hotel room in Prague or Budapest today because of the people over there that are doing business.

They are announcing at least 10 joint ventures in East Germany a day. I think that is wonderful. Unfortunately, the European Community has also announced that is going to be pulling back on its financial commitment in Latin America. Europe will celebrate 1992 by entering into a single market. In 1992 we will celebrate the 500th anniversary of America.

Let us make no less a commitment in our hemisphere to see that these wartorn countries that have been denied opportunity for a democratic future have the blessing and support of the American people.

What we are doing today is beginning that process. I hope we pass this legislation on a unanimous vote, Mr. President. That is the kind of signal that our colleagues and our friends in Latin America need and deserve.

I urge the adoption of this resolution.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. McCAIN. Mr. President, I yield however much time the Senator may use to the Senator from Wisconsin [Mr. KASTEN].

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KASTEN] is recognized for up to 3 minutes, 31 seconds.

Mr. KASTEN. I thank the Chair. I simply want to join with my colleagues in support of this legislation and make a number of observations.

First of all, I think it is very significant that this legislation will pass with unanimous support. I do not know when was the last time we have had either an appropriation or an authorization with regard to Central America on which we have had unanimous bipartisan support. That support is bicameral as well.

The House of Representatives in the last few days passed not only the authorization bill, which this is, but they also passed the appropriations bill. They passed that appropriations bill by an overwhelming vote, and they passed the authorization as well.

Mr. President, we should be doing the same. It is not enough simply to pass the authorization bill tonight. We should be staying here, not going on vacation, and we should be doing the same so that the dollars would be in Central America: the $500 million for Panama, the $300 million for Nicaragua, and the other important money that is requested.

The vote in the House of Representatives on the appropriations measure was only 59 votes against, 362 votes in favor; an overwhelming vote for the appropriations.

We, because of a number of difficulties, are unable now to pass the appropriations bill. We are going to go another couple of weeks while we are on vacation and then come back.

Mr. President, when we come back we cannot afford to get into a long, drawn-out partisan wrangle on where this money is going to go. There is clear bipartisan support for the dollars going to Central America.

Yes, we can deal with Europe, and we must deal with the developing democracies in Eastern Europe, but as my friends from Connecticut and Arizona have both pointed out, the European Community is also working in Eastern Europe and they have responsibilities there.

Our first responsibility is to our hemisphere, and in this hemisphere we are going to be going almost alone. Yes, we are hoping for some help from the Japanese and from some others, but our primary responsibilities are here.

As ranking member of the Foreign Operations Subcommittee, I am going to work to pass this legislation quickly—I know we have strong support on the committee to pass this legislation quickly—that will in fact send the money to Central America, where it is needed.

It is a tragedy that we are going out on vacation today and not working tonight or tomorrow in order to pass the appropriations bill as well, as did the House of Representatives. But when we come back, we will have to act quickly and with dispatch and pass that emergency supplemental appropriations bill which contains this important money.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. How much time remains?

The PRESIDING OFFICER. The Senator controls 26 seconds.

Mr. PELL. How much remains for the minority?

The PRESIDING OFFICER. It happens that the minority controls 26 seconds as well. The Senator's side is now down to 13 seconds.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona for up to 26 seconds.

Mr. McCAIN. I thank my friend from Wisconsin. I think his words are very important, particularly on the absolute urgency of finishing this process by enacting the appropriations bill.

I also thank my friend from Connecticut for his continued commitment to this effort to aid both Nicaragua and Panama.

I yield back my remaining seconds.

Mr. PELL. I yield back the remainder of my time.

Mr. CHAFEE. Mr. President, while we have seen dramatic change in Eastern Europe, we have also witnessed extraordinary democratic revolutions in our own hemisphere. The Panamanian people, once again, have a duly elected government led by President Endara; and former dictator Noriega is in United States custody under trial for drug trafficking.

Let us look at Nicaragua. In Nicaragua, the Nicaraguan people, in free and fair elections, chose UNO candidate Violetta Chamorro to be their President. This historic election has put an end to the suppressive Sandinista rule and demonstrates the desire of the Nicaraguan people for democracy.

It is my fervent hope, and I believe the fervent hope of this entire Senate and indeed of our Nation, that this transition to democracy in our own hemisphere will go smoothly. However, we are presented with new responsibilities and challenges. Both Panama and Nicaragua must establish and strengthen democratic institutions and work toward economic recovery. I think that is the real problem that is facing those nations. Their economies are in chaos. How should the United States respond? How can we best help these two fledgling democracies?

I strongly believe that the Senate should approve this authorization for assistance as soon as possible. These nations for years have undergone strife and oppression that have resulted in human losses and destruction of homes and property. We must act to address these problems. This is a matter of the utmost urgency.

What exactly does this bill do?

First, we must bear in mind that the overall objective of this assistance is to promote democracy and free-market economies in these nations.

The bill provides $470 million in economic support funds for Panama. This assistance will help the Panamanian people in many ways:

How? All right.

It will encourage private and public investment in that nation; up to $130 million is provided in relief of international debts; it will strengthen the administrative and management capabilities of the government; and it will promote environmental protection.

What about Nicaragua?

Nicaragua will receive $300 million in assistance. The main objective in that country is to restore productivity in the economy of Nicaragua and to promote long-term economic recovery. Furthermore, the $300 million or portions of it will provide funds for the demobilization and demilitarization of the Contras and for the repatriation of displaced refugees.

Mr. President, it is absolutely critical that the Senate rapidly approve this bill and appropriate the necessary funds. I might point out that the appropriation is necessary. That is going to follow on. Let us get the authorization done and rapidly move to the appropriation. The United States played a vital role in the promotion of democratic change in these two countries. The President's military initiative clearly accomplished the goals in Panama of capturing Noriega and restoring democracy. In Nicaragua, the bipartisan accord on Central America, which was worked out by the Congress and the administration, contributed to the free and fair elections which Mrs. Chamorro won so decisively.

We had bipartisanship in that area and it has demonstrated its effectiveness in implementing sound and effective policy. I urge my colleagues to move forward in this same spirit and to vote for this aid that is so desperately needed in those countries.

Mr. SANFORD. Mr. President, I rise in support of this measure which provides urgently needed assistance to Nicaragua and Panama. I also wish to congratulate the majority leader on his remarks earlier this week. He is absolutely right. We need strategic planning in the expenditure of both our foreign aid and defense dollars. I believe that we need to sit down, define exactly what our foreign policy and national security goals are, and determine how we can best achieve those goals with the tools that are available to us. Those tools include not only defense and foreign aid, but trade policy, multilateral lending, and export financing.

I strongly support the Nicaraguan aid package because it is the result of strategic planning. In 1987, the International Commission on Central American Recovery and Development set out to draw a blueprint for economic development in Central America. The Commission was unique because it consisted primarily of Central Americans, with help from representatives of other donor countries and international organizations. There were four Nicaraguan members, two with ties to the Sandanista government and two affiliated with what was then the opposition. One of those commissioners, Francisco Mayorga, is now the chief economic adviser to President-elect Chamorro. Mr. Mayorga recently spent time in Washington working with AID, the State Department, and others to develop this proposal.

The bill before us is based largely upon, and is entirely consistent with, the Commission's report. It provides urgently needed assistance for refugees, including the internally displaced. It provides support for agricultural products, petroleum, and equipment needed to plant crops for this year's season. It provides debt relief

and money for schools, medical care, and roads. It grants OPIC the authority to operate in and confers CBI benefits on Nicaragua. It anticipates the future, and is a more regional approach to Central America's economic development. It's a solid, thoughtful program, and one that deserves our support.

Many of us have taken the position that the root causes of the problems in Central America are economic and social, rather than military, in nature. I for one, believe that is true. In order to break the vicious cycle of conflict we must strive to eliminate its causes—poverty and inequality. Of course we can't fix all of Nicaragua's problems with this aid package, but it's a start, and a good one.

I urge your support for this bill.

Mr. GRAHAM. Mr. President, I strongly support the action which the Senate and the House will now take in contributing to the completion of our national responsibilities and challenges in Central America and Panama.

We have fought a long decade to try to move Nicaragua and Panama from a totalitarian state, a state which denied basic human rights into one that adopted a democratic process for the selection of political leadership and the protection of human values.

In Panama, a similar pattern of U.S. involvement has taken place throughout the decade of the 1980's. It is, therefore, with great pleasure that the citizens of this country can see the results of their long effort in the democratization of these two countries.

I believe the step we will take now in extending a hand of support to the economic revitalization of these countries is not only appropriate in the context of our long commitment, but also very much necessary. Unlike Central Europe, there is going to be no other significant democracy participating in the economic revitalization of Central America, other than the United States of America. This is an area of special concern to us and special historical economic and cultural interest. The step that we take today is in that history, that tradition of a long-sustained U.S. interest.

I also comment, Mr. President, that one of the most positive aspects of this program is its focus on the private sector. I met yesterday with a group of journalists from Chile, Argentina, Brazil, and Uruguay. They asked about the Alliance for Progress and what the alliance would have been like, had it still been in effect today. They commented as to the fact that they did not necessarily feel it would have been advantageous to Latin America for the alliance to still be in existence today, because during its period in the early sixties, it was primarily focused on government-to-government aid programs, the development of large-scale, generally public-sector-managed projects.

I commented that I felt, first, that the Alliance for Progress was essentially a statement of the United States' recognition of the common destiny of the persons who happen to share the Western Hemisphere; that the particular projects that it implemented in the early sixties were a statement of the then philosophy of what was appropriate developmental policy by an industrialized country to aid an emerging country.

I held that if the Alliance for Progress had a continuous existence, it also would have had a maturation process, and part of that would have been by today a greater recognition of the importance of the private sector of the entrepreneurial spirit and a similar commitment in our efforts through a continued Alliance for Progress to that end.

Although the alliance has not continued, I would offer the proposal that we have before us today as an example of that maturing of American attitude, maturing of American appreciation of what constitutes appropriate development policy in the last decade of the 20th century.

The heavy emphasis on private sector rejuvenation, aid to agriculture, to industrial development, assistance in rebuilding an infrastructure upon which any market-based economy must depend are extemely important elements of this legislation and indicates that the United States is not prepared to assist in a more contemporary, a more private sector entrepreneurial-oriented aid program.

Finally, I would hope that this action today will be seen as part of a larger pattern. The United States throughout its history has seen Latin America in a very episodic manner. When there was a crisis we would send in the marines or other appropriate Armed Forces to deal with that crisis. Once we felt the crisis had been resolved we would leave the scene. The fundamental social, political, economic, and cultural issues that caused the crisis in the first place largely went unattended.

We now are excited about the developments around the world with particular attention to the developments in Central Europe. I suggest that the revolution that is occurring in Latin America deserves an equal amount of enthusiastic interest from the United States.

It was only a few years ago that there were only four democracies in all of Latin America. Today, all of Latin America is a democracy, except for two, Cuba and Haiti. Those are now the holdouts in a whole continent as well as the Caribbean of emerging democracies. We should take pride in that fact.

We should also understand that we are going to have a continuing opportunity to see that those democracies are stable and growing and give to their people the benefits of liberty, freedom, and justice and that they are supported by economies that give to their people a sense of hope in a future of greater prosperity. It is in that area that the United States will not finish its task by any means even in the countries of Nicaragua and Panama by what we do today, but rather this will be part of a longer and sustained involvement of the United States in the political and economic development of Latin America.

I believe that what our generation of Americans, Americans from Canada through Argentina, should be focusing on is what do we believe our common relationship should be over the next quarter century? I believe that common relationship should be one of respect, of national identity but also recognition of some important regional issues.

We must work together with the tremendous problem of drug trafficking being just one of the items on that agenda and the opportunities that we will have more closer economic cooperation. Those I believe should be our goals for a quarter of a century. And the question today is what can we do now to contribute to the realization of those goals in the year 2015.

The step that we take today is a contribution toward the realization of those goals in the next century.

I extend my appreciation to those who have brought us to the point that we can adopt this measure speedily as a statement of the importance that we place on these two countries, the importance which we place on a new relationship with the citizens of those two countries, the support that we give to the governments and their leaders who are now directing Panama and Nicaragua toward a new course, and the recognition that this is a step in a long walk toward fulfillment of the potential that exists in these lands that we call the Americas.

Mr. DURENBERGER. Mr. President, I rise to offer my strong support for this supplemental funding measure that will provide much needed assistance to Nicaragua and Panama as well as other recipients. I believe United States interests are extremely well served by our efforts to promote democracy and stability in our own hemisphere.

Recent events in Nicaragua and Panama represent the culmination of an important and difficult phase in United States relations with the region. The United States now has the opportunity to move vigorously to begin consolidating these developments as we enter into a new phase in our relations. This aid package is good

start in our efforts to assist Nicaragua and Panama in establishing democratic societies and rebuilding damaged economies.

Longstanding United States objectives in the region, as elsewhere around the world, have been to foster democracy, to free nations from tyranny, and to promote the creation of an environment in which the people can choose for themselves the form of government and the leaders they wish to have. In Nicaragua and Panama, we are beginning to see the results for which we have hoped and worked.

Reasonable debate will continue on the wisdom of specific past United States policies in the region. People will also continue to debate whether United States policies had any positive impact at all in bringing about the dramatic and encouraging events there, especially the holding of fair elections in Nicaragua and the stunning victory of the democratic forces.

Mr. President, let me suggest that while this debate will no doubt persist for years to come, a definitive resolution of the debate really is not necessary at this point. The facts on the ground remain the same: democracy and pluralism in Nicaragrua and Panama now have a chance to grow and establish strong, deep roots. The United States has a profound interest in promoting these developments. We have a opportunity not to do just that.

This aid package is just the beginning of the new phase in the region. But it is an important beginning, one that deserves the full support of the Congress and the American people.

If the United States is indeed serious about promoting and strengthening democracy, if we have really meant what we have been saying for all these years, we have a deep obligation to provide concrete assistance to these countries. Not only is it our obligation to follow through assertively to the next phase in United States toward the region, but it serves our best long-term interest as well.

If democracy and pluralism take hold in Nicaragua and Panama, everyone benefits. The people of those countries will have the opportunity to live in peace, to choose their own leaders, to advocate whatever policies they wish. In short, Mr. President, they will experience the challenges and fruits of self-determination.

The United States benefits from stable, peaceful, and hopefully prosperous countries in our own hemisphere, our own backyard. This is crucially important. Stable democracies tend not to go to war with each other. They tend not promote instability among their neighbors. They also tend to provide good markets for U.S. products as well as good sources of U.S. imports.

Mr. President, there has also been some debate regarding priorities for United States foreign assistance money. Should we provide more money to eastern Europe or more to Central America? This is how one of the arguments have been framed. I want to make clear that I do not accept the premise of this argument. It is not a zero-sum game. A gain for Central America does not translate to a loss for Eastern Europe.

The United States has a strong, solid program for assisting the emerging democracies in Eastern Europe. There are legitimate concerns regarding the amount of money that these countries can reasonably and efficiently absorb.

What is clear to me, however, is that there is a dire need in Nicaragua and Panama for the assistance contemplated in this measure. Without question, there is also the ability to absorb the assistance.

At this point, it appears to me that the United States can in fact provide meaningful and desperately needed assistance to both regions—Central America and Eastern Europe. We are not forced to make a black and white, up or down choice on this aid. We can assist the countries in question in both regions.

They need this assistance. We can provide it. All sides will benefit from the programs. And I strongly urge my colleagues to support this measure to provide substantial and badly needed assistance to Nicaragua and Panama.

Thank you, Mr. President. I yield the floor.

Mr. PELL. Mr. President, yesterday the distinguished Senator from Rhode Island [Mr. CHAFEE] raised questions with regard to section 8 of S. 2364.

Section 8 establishes a housing guaranty program for new immigrants to Israel. Senator CHAFEE raised several questions, which I answered. Unfortunately, with regard to a question about restrictions that would pertain, I did not give him a very complete answer, and, because of an error, the matter is not at all clear in the RECORD. Accordingly, I would like to ask now if the Senator would like to restate his question.

Mr. CHAFEE. I would be pleased to do so. Am I correct that the Agency for International Development policies would ensure that the $400 million in housing guaranty money which would be authorized by this bill could not be spent with regard to housing on the West Bank or in Gaza?

Mr. PELL. Yes. The Senator is correct. The bill specifically states that, "such guaranties shall be issued only in conformity with AID policies governing assistance to Israel in effect on the date of enactment of this Act." It has been the policy of successive Administrations, and, by extension, the Agency for International Development, that United States assistance would only be available for expenditures within Israel as it existed before the June 1967 war.

Mr. CHAFEE. I thank my Rhode Island colleague, the chairman of the Committee on Foreign Relations, for this clarification.

Mr. PELL. I thank my distinguished colleague for his forbearance as we have endeavored to respond correctly and completely to his inquiry.

Mr. BIDEN. Mr. President, it was my intention to offer an amendment to the bill currently before us.

The amendment I would have offered was very simple: It would have authorized $125 million in economic assistance for the three coca-producing countries of South America—Bolivia, Colombia, and Peru—during fiscal year 1990.

I make this proposal because I believe a great opportunity lies before us in the Andes, an opportunity that may be wasted if we do not provide immediate help to the Andean countries.

One need only examine the events of the past 7 months to see that this is true. Last August, following the tragic death of Senator Galan, Colombia launched a total war on the drug cartels—extraditing leading members of the Medillin cartel, seizing millions in assets of drug barons, destroying hundreds of processing labs. Rodriguez Gacha, one of the most notorious leaders of the cartels, was killed.

In Bolivia, the new government of Jaime Paz Zamora increased its suppression of drug traffickers, showing a dedication to the antidrug effort not seen before in that country.

Finally, the Presidents of each of the three coca-producing nations met in a historic summit with President Bush in February, beginning a new partnership against the blight that affects the entire Western Hemisphere.

This confluence of events, and the new commitment on the part of all nations involved to fight cocaine cultivation, have helped bring about a remarkable occurrence: the price of the coca leaf—the raw material for cocaine—has plummeted in the Andes.

In Bolivia, for example, the price of a 100-pound bag of coca, which a year ago sold for $70, now sells for $5–$10 a bag. Since the break-even point is $30, Coca farmers are suffering huge losses. As a result, farmers are getting out of the business, in record numbers.

In the first 2 months of this year, 1,639 hectares of coca in Bolivia have been eradicated, compared to 2,504 hectares for all of last year. To repeat—65 percent of the total for 1989 has already been eradicated, in just 2 months' time. At this pace, Bolivia will easily surpass its eradication target of 6,000 hectares.

Farmers in the Chapare Region of Bolivia are lining up to join Government buyout and crop substitution programs.

All of these events, I need not remind my colleagues, are unprecedented. Never before has the price of the coca leaf stayed this low for this long. Never before has Bolivia eradicated fields of coca at such a rapid pace. And never before have we had such a phenomenal opportunity to help the Andean countries move their citizens out of the coca trade.

These facts were attested by Samuel Doria Medina, a senior economic advisor to the President of Bolivia, in testimony before the Judiciary Committee last month. The dramatic decline in the price of the coca leaf has also been confirmed by U.S. officials.

In spite of this evidence, the administration clings to its plan to delay new economic assistance for the Andean countries until fiscal 1991. In my view, the administration's position at this critical moment is fundamentally flawed and tremendously short-sighted.

The drop in coca prices gives the Andean nations—and the United States—a small window of opportunity to convince farmers in the coca-growing regions to switch to legal alternatives. But the window will slam shut in a matter of months. If alternative means of employment are not available, farmers will become quickly disillusioned and return to their coca fields or, as some have suggested, move up the chain and become involved in processing coca paste.

Moreover, despite continued enforcement measures, it seems likely that the disruption of trafficking—and the resulting low prices for coca leaf—will not last forever. Chances are good, I believe, that the prices for the leaf will rise again by the end of this year.

When that happens, I can guarantee that there will be an increase in coca farmers, an increase in hectares under production, and an increase of cocaine on the streets of this country.

Mr. President, we must act now to prevent this from happening. We are all aware of the devastating drug problem facing our country. But, despite dramatic increases in our anti-drug efforts, cocaine, heroin and marijuana continue to flow into this country at alarming rates.

We cannot allow the opportunity that lies before us to slip from our grasp. The drop in the price of the coca leaf gives us a chance, however small, to make a real dent in the cultivation of coca in South America. And because the cartels in Colombia are on the defensive, we may be able to severely disrupt the flow of cocaine into the United States.

Mr. President, time is of the essence. The nations of the Andes desperately need our help. Their economies have become addicted to dollars generated by coca profits. If the drug profits are reduced, economic disruption and recession could result.

Unfortunately, there is little U.S. assistance in the pipeline. We have appropriated just $56.3 million in economic aid for the Andean nations in this fiscal year—$41.1 million for Bolivia, $15.2 million for Peru, and nothing for Colombia. And much of this aid is development assistance—project assistance which often spends out slowly.

My proposal would add $125 million in economic assistance—right now—to help the Andean countries at this critical moment in the drug war. I believe this is a modest investment, and just the beginning of a much larger Andean plan.

I would remind my colleagues that last fall, we appropriated an extra $125 million in military and law enforcement assistance for Bolivia, Colombia, and Peru. We need to match his commitment with additional economic assistance at this important moment.

We all know the importance of the bill before us for Panama and Nicaragua, two nations that have recently escaped the grip of tyranny. We have a unique responsibility to help both of these countries get back on their feet.

But we also have a unique responsibility to help the Andean countries which suffer under a different kind of tyranny—the narco-traffickers—who pose a serious threat to democracy, stability, and United States interests in the region.

Mr. President, I have no desire to slow down the aid package for Panama and Nicaragua. But I do not believe that my proposal does that. On the contrary, this is a perfect complement to the Central America aid package, since it addresses another major security threat in the hemisphere—drug trafficking.

As I said at the outset, I had planned to offer this amendment to the authorization bill before us. However, the leadership on both sides of the aisle asked me not to introduce it at this time, and I agreed to withhold.

However, I want to serve notice that I will be back with this amendment when the appropriations bill comes before us. I invite the support of my colleagues, and hope that the Senate will approve my proposal at that time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This act may be cited as the "Emergency Supplemental Assistance for Panama, Nicaragua, and sub-Saharan Africa Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Assistance for Panama.
Sec. 3. Assistance for Nicaragua.
Sec. 4. Administration uses of funds for Panama and Nicaragua.
Sec. 5. Environmental Authorities and Limitations.
Sec. 6. Assistance for refugees.
Sec. 7. Assistance for sub-Saharan Africa.
Sec. 8. Housing Guarantee program for new immigrants to Israel.

SEC. 2. ASSISTANCE FOR PANAMA.

(a) ECONOMIC SUPPORT FUND ASSISTANCE.—

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to support the efforts of Panama to restructure and restore its economy, restore relations with international financial institutions, and strengthen democratic institutions, there are authorized to be appropriated $470,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(2) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Panama in taking the necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(3) ALLOCATIONS OF ASSISTANCE.—Except as provided in paragraph (5), the funds authorized to be appropriate by paragraph (1) shall be allocated and used as follows:

(A) PRIVATE SECTOR REVITALIZATION.—

(i) IN GENERAL.—Up to $170,000,000 shall be for assistance to revitalize the private sector in Panama. Such assistance shall include the following:

(I) BUSINESS INVESTMENT AND INVENTORY.—Assistance to help business finance a resumption of investment expenditures and restock inventories. Priority should be given to those businesses that suffered from looting in late December 1989 and for which a rapid resumption of economic activity would generate substantial employment.

(II) EXPORT PROMOTION.—Assistance for export promotion activities.

(ii) CREDIT ASSISTANCE.—Except for the assistance described in clause (i)(II), assistance under this subparagraph shall be provided through the commercial banking system and other financial intermediaries.

(B) PUBLIC INVESTMENT PROGRAM.—Up to $125,000,000 shall be for assistance to revitalize public investment in Panama. Such assistance shall be provided as budget support to the Government of Panama to finance construction and other activities in such sectors as transportation, education, agriculture, and health. This assistance shall be administered by the Government of Panama and by nongovernmental organizations, with implementation to be carried out for the most part by private contractors.

(C) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—Up to $130,000,000 shall be for assistance to assist Panama in paying its arreagages to international financial institutions. Such assistance

shall be provided as part of a package of assistance for such purpose that includes the participation of the Government of Panama and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(D) STRENGTHENING PUBLIC ADMINISTRATION.—Except as provided in paragraph (4)(D), up to $45,000,000 shall be for—

(i) assistance to strengthen the administrative and management capabilities of the Government of Panama, including the National Banking Commission;

(ii) assistance to promote environmental protection and natural resource management, with special attention to protection of the Panama Canal watershed;

(iii) assistance under section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c) to strengthen the administration of justice in Panama, including the Office of the Attorney General; and

(iv) notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces)—

(I) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civlian law enforcement techniques;

(II) assistance in developing a curriculum and faculty for a civilian police training academy in Panama; and

(III) assistance to finance the procurement for civilian law enforcement forces in Panama of equipment that are appropriate for standard civilian law enforcement requirements.

(4) LAW ENFORCEMENT ASSISTANCE.—

(A) PROHIBITION ON LETHAL EQUIPMENT.—Only equipment that is nonlethal may be provided under paragraph (3)(D).

(B) LIMITATION ON EQUIPMENT.—Not more than $5,000,000 of the funds made available under paragraph (3)(D) may be used for the procurement of equipment for law enforcement of Panama.

(C) DEFINITION OF EQUIPMENT.—For purposes of this paragraph and paragraph (3)(D), the term "equipment" has the same meaning as is given the term "commodities" by section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c)).

(D) ASSISTANCE FOR OTHER COUNTRIES.—Up to $1,200,000 of the amount allocated pursuant to paragraph (3)(D) may be used under section 534(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346(b)(3)) for countries in Latin America and the Caribbean other than Panama.

(E) LIMITATIONS NOT APPLICABLE.—The second sentence of section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), shall not apply with respect to assistance provided under paragraph (3)(D), including assistance under subparagraph (D) of this paragraph.

(5) REALLOCATIONS.—Funds allocated pursuant to any subparagraph of paragraph (3) may be reallocated for use under any other such subparagraph if, at least fifteen days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(b) MONEY LAUNDERING AND MUTUAL LEGAL ASSISTANCE.—

(1) COOPERATION BY THE ENDARA GOVERNMENT.—The Congress commends the Endara government for—

(A) its cooperation and assistance in freezing Panamanian bank accounts believed to be used for laundering narcotics proceeds;

(B) signing a counter-narcotics agreement;

(C) taking the initiative to establish legal requirements to ensure the availability of currency and other financial transaction information to regulatory and law enforcement authorities;

(D) signing the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; and

(E) initiating discussions with the United States on information sharing and other law enforcement agreements, including agreements regarding narcotics and money laundering.

(2) UNITED STATES POLICY.—It is the policy of the United States to support the efforts of the Government of Panama to ensure that abuse of Panama's private and public institutions by drug traffickers and money launderers will not again be permitted to occur. To this end, the United States should—

(A) pursue to a prompt conclusion the discussions initiated by the Government of Panama concerning arrangements for information sharing and other law enforcement agreements with a view toward formalizing appropriate arrangements, to include—

(i) a mechanism for exchanging adequate records (as defined in section 4702(f)(2) of the Anti-Drug Abuse Act of 1988) on currency transactions in connection with narcotics investigations and proceedings;

(ii) mutual access to records of financial transactions for purposes of law enforcement investigations; and

(iii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records and other evidence for use in criminal proceedings;

(B) utilize funds appropriated under this and other acts to provide appropriate training, materials and equipment requested by the Government of Panama to facilitate implementation of such agreed arrangements;

(C) utilize funds appropriated pursuant to this and other acts to provide appropriate training, materials and equipment requested by the Government of Panama to ensure effective implementation of its recently adopted financial transaction requirements; and

(D) utilize funds appropriated pursuant to this and other acts to assist the office of the Attorney General of Panama in obtaining appropriate training, materials and equipment requested by the Government of Panama to ensure effective implementation of its declared policy of prosecuting drug traffickers and money launders, and seizing their assets.

(3) APPLICABILITY OF KERRY AMENDMENT TO PANAMA.—Panama shall be considered to be a country described in the second sentence of section 4702(c)(1) of the International Narcotics Control Act of 1988 (31 U.S.C 5311 note; relating to "highest priority" countries for purposes of negotiations concerning laundering of United States currency).

(4) BANK RECORD SHARING AGREEMENT.—Not more than 80 percent of the funds appropriated pursuant to the authorization of appropriations provided in this section may be expended until—

(A)(i) the Secretary of the Treasury reports to the Congress that the Government of the United States and the Government of Panama have reached an agreement for exchanging adequate records (as defined in section 4702(f)(2) of the International Narcotics Control Act of 1988) on international currency transactions in connection with narcotics investigations and proceedings, and

(ii) the Secretary of State, in consultation with the Attorney General, reports that progress is being made towards signing a Mutual Legal Assistance Treaty; or

(B) if a report has not been submitted under subparagraph (A)(i) as of the time the Secretary of the Treasury submits the final report required by section 4702(d) of that Act, the Secretary of Treasury reports to the Congress that Panama is negotiating in good faith to reach such agreement.

(5) 1991 NARCOTICS CERTIFICATION.—

(A) SEPARATE CERTIFICATIONS FOR BILATERAL AND MULTILATERAL ASSISTANCE.—In the case of the certification requirements of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)), the President shall submit separate certifications with respect to Panama for fiscal year 1991 for purposes of paragraphs (1)(A) and (1)(B) of that section.

(B) REQUIREMENT FOR BILATERAL ASSISTANCE CERTIFICATION.—The President may make a certification with respect to Panama for fiscal year 1991 for purposes of paragraph (1)(A) of that section under paragraph (2)(A)(i) of that section (relating to countries which are fully cooperating with respect to illicit drug production, trafficking, and money laundering) only if an agreement has been signed between the Government of the United States and the Government of Panama that provides for—

(i) mutual access to records of financial transactions for purposes of drug-related law enforcement investigations, and

(ii) efficient mechanisms for each government to obtain from the other country, in judicially admissible form, bank records for use in drug-related proceedings.

(c) CONGRESSIONAL NOTIFICATIONS.—At least fifteen days before each obligation of funds for assistance under this section (including assistance authorized by subsection (e)), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reppprogramming procedures) in accordance with the procedures applicable under that section.

(d) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATION.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until September 30, 1991.

(e) OTHER ASSISTANCE.—In addition to the funds authorized to be appropriated by this section for assistance for Panama, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Panama authorized by this section notwithstanding the provisions of law cited in subsection (f).

(f) WAIVER OF BROOKE/ALEXANDER AMENDMENT.—The assistance authorized for Panama by this section may be provided for a period of twelve months after the date of enactment of this Act nothwithstanding section 518 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1990 (Public Law 101-167), section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)), and any similar provision of law relating to foreign assistance repayments.

SEC. 3. ASSISTANCE FOR NICARAGUA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to help restore the productive capacity of the Nicaraguan economy, restore Nicaragua's relations with international financial institutions, provide support for long-term economic growth and development in Nicaragua, and provide assistance for the repatriation and reconciliation process in Nicaragua, there are authorized to be appropriated $300,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this section under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

OBJECTIVES OF ASSISTANCE—The assistance authorized by this section shall be used to encourage and assist the Government of Nicaragua in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(c) ALLOCATIONS OF ASSISTANCE.—Except as provided in subsection (c), the funds authorized to be appropriated by subsection (a) shall be allocated and used as follows:

(1) RESTORING THE PRODUCTIVE CAPACITY OF THE NICARAGUAN ECONOMY.—Up to $128,000,000 shall be for assistance to support the efforts of the Government of Nicaragua and the private sector in Nicaragua to restore the productive capacity of the Nicaraguan economy. Such assistance may include support for public and private sector imports of—

(A) agricultural equipment, spare parts, fertilizer, and other inputs needed to restore the agricultural sector;

(B) petroleum and oil products; and

(C) raw materials, equipment, intermediate goods, and spare parts to rehabilitate existing facilities and stimulate new productive enterprise in the industrial and agricultural sectors.

(2) PAYMENT OF ARREARAGES TO INTERNATIONAL FINANCIAL INSTITUTIONS.—Up to $50,000,000 shall be for assistance to assist Nicaragua in paying its arrearages to international financial institutions. Such assistance shall be provided as part of a package of assistance for such purposes that includes the participation of the Government of Nicaragua and other donor nations and multilateral institutions. This effort should be accompanied by a rescheduling of official bilateral and commercial debt.

(3) ECONOMIC GROWTH AND DEVELOPMENT.—Up to $75,000,000 shall be for assistance to assist Nicaragua to meet its longer-term economic growth and development needs, directly or through regional and other international insitutions, through support for—

(A) programs to repair, improve, and maintain existing public infrastructures, such as schools, health clinics, roads, and community facilities;

(B) provision of medical equipment, commodities, training, and other support for the health sector;

(C) provision of assistance and training to improve government administration and strengthen democratic institutions;

(D) provision of technical assistance and training to the private sector to permit the rehabilitation and modernization of private enterprise in Nicaragua;

(E) support for primary school education and university level scholarships and training;

(F) support for the agricultural sector through small farmer credit activities and improvement of input supply and production marketing systems; and amendment

(G) programs to protect and manage the environment and natural resources.

(4) DEMOBILIZATION AND REPATRIATION; ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.—Up to $47,000,000 shall be for assistance to support the demobilization and demilitarization process and to reunite former combatants (including members of the Nicaraguan Resistance), as well as Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict, into the social economic, and political life of Nicaragua, as follows:

(A) DEMOBILIZATION, REPATRIATION, AND RESETTLEMENT OF MEMBERS OF THE NICARAGUAN RESISTANCE.—

(i) Not more than $30,000,000 shall be used to support the voluntary demobilization, repatriation, and resettlement of members of the Nicaraguan Resistance and their families.

(ii) Such assistance shall be provided—

(I) through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, and

(II) in coordination with the Government of Nicaragua,

unless the President notifies the Congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1; relating to reprogramming procedures) in accordance with the procedures applicable under the section.

(iii) Assistance may be provided under this subparagraph for members of the Nicaraguan Resistance only if there is agreement that such members will give up their weapons as part of the demobilization process.

(B) ONUCA.—Up to $2,000,000 shall be used to support the Observer Group for Cental America (ONUCA) if, with the consent of the United Nations Security Council, it plays a role in supporting the voluntary demobilization of former combatants and supporting safe conditions in Nicaragua in accord with the Central American peace process.

(C) REPATRIATION AND RESETTLEMENT OF REFUGEES AND DISPLACED PERSONS.—Up to $15,000,000 shall be used for the repatriation and resettlement in Nicaragua of Nicaraguan refugees and other Nicaraguans who have been displaced by the conflict in Nicaragua (without regard to whether they are within or outside Nicaragua). Such repatriation and resettlement shall be carried out under the international auspices, including through the United Nations Commissioner for Refugees (UNHCR) and the International Conference of Central American refugees (CIR-EFCA), in accordance with the Government of Nicaragua. Assistance under this subparagraph may be provided under the authorities of the Migration and Refugee Assistance Act of 162 (U.S.C. 2601 and following).

(d) CHANGES IN ALLOCATIONS.—Funds authorized pursuant to any paragraph of subsection (b), or any subparagraph of paragraph (4) of that subsection, may be reallocated for use under any other such paragraph or subparagraph (except that assistance made available pursuant to subparagraph (4)(A)(i) may not exceed $40,000,000) if, at least fifteen days before such reallocation, the President notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(e) CONGRESSIONAL NOTIFICATIONS.—At least fifteen days before each obligation of funds for assistance under this section (including assistance pursuant to the amendments made by subsection (f) and assistance provided pursuant to subsection (h)), the President shall notify the Congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 (U.S.C. 2394–1; relating to reprogramming procedures) in accordance with the procedures applicable under that section.

(f) AUTHORIZATION OF EXTENDED PERIOD OF AVAILABILITY FOR OBLIGATIONS.—Funds appropriated pursuant to the authorizations of appropriations contained in this section may be made available for obligation until September 30, 1991.

(g) EXPANDING USES OF SURVIVAL ASSISTANCE FOR VICTIMS OF CIVIL STRIFE IN CENTRAL AMERICA.—Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101–215), is amended—

(1) in the first sentence of subsection (a), by striking out "noncombatants";

(2) in the second sentence of subsection (a), by striking out "noncombatants" and inserting in lieu thereof "those"; and

(3) by repealing subsection (c).

(h) TRADE BENEFITS AND OPIC PROGRAMS—OPIC DETERMINATION.—OPIC programs may be made available in Nicaragua notwithstanding the provisions of section 231A of the Foreign Assistance Act of 1961, as amended, until such time as a determination shall be made pursuant to section 2462(b)(7) of title 19, United States Code. If that determination is positive, Nicaragua shall be considered in compliance with the requirements of section 231A of the Foreign Assistance Act of 1961, as amended. If the determination is negative, OPIC shall cease offering new insurance, finance or guaranties pursuant to this provision.

(i) OTHER ASSISTANCE.—In addition to the funds made available by this section for assistance for Nicaragua, funds available for fiscal year 1990 under other provisions of law may be used to provide the economic assistance for Nicaragua authorized by this section, and to provide otherwise authorized training and services provided by the Office of Security of the Department of State for law enforcement personnel of Nicaragua for VIP protection and the physical protection of internationally protected persons and related facilities, notwithstanding the provisions of law cited in subsection (i).

(j) WAIVER OF BROOKE/ALEXANDER AMENDMENT.—The assistance authorized for Nicaragua by this section may be provided notwithstanding section 518 of the Foreign Operations, Export Financing, and Related Program Appropriations Act, 1990 (Public Law 101–165), and section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and any similar provision of law relating to foreign assistance repayments.

SEC. 4. ADMINISTRATIVE USES OF FUNDS FOR PANAMA AND NICARAGUA.

Up to $10,000,000 of the funds authorized to be appropriated by section 2 and 3 of this

Act may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under those sections or under the Act entitled "An Act to Implement the Bipartisan Accord on Central America of March 24, 1989", approved April 18, 1989 (Public Law 101-14), provided that not more than $60,000 of any such administrative funds may be used in connection with administrative expenses incurred in concluding activities under Public Law 101-14.

SEC. 5. ENVIRONMENTAL AUTHORITIES AND LIMITATIONS.

(a) POLICY.—The Congress recognizes the significant environmental challenges facing Panama and Nicaragua, including the preservation of tropical forests, promotion of sustainable agriculture, control of pollution and restoration of the natural resource base on which a sustainable, healthy economy depends. Therefore, the President is directed to give a high priority to addressing these problems by all United States agencies in implementing assistance to Panama and Nicaragua under this Act.

(b) LIMITATION.—None of the funds made available for Nicaragua or Panama under this Act shall be used for any project that would result in the destruction of tropical forests, including their colonization, unless for a project for which the Administrator of the Agency for International Development, in consultation with the appropriate environmental institutions of the Governments of Nicaragua or Panama and the appropriate non-governmental environmental organizations in Nicaragua or Panama, makes a written finding to the Senate Committee on Foreign Relations and the Speaker of the House of Representatives that such project—

(1) is consistent with long-term, environmentally sustainable development;

(2) results in no significant destruction of primary tropical forests; and

(3) results in no significant net loss of other tropical forest.

(c) AUTHORIZATION OF ENVIRONMENTAL ACTIVITIES.—

(1) In consultation with the Environmental Protection Agency, the Agency for International Development is authorized to undertake such educational, policy training, research, technical and financial assistance, monitoring, coordination and other activities as may be requested by the Governments of Nicaragua and Panama to protect the environment and to strengthen government and non-government environmental institutions.

(2) Of the amounts authorized to be appropriated under sections 2 and 3 of this Act, there are authorized to be available for the purposes of subsection (c)(1) $4,000,000.

(d) SI-A-PAZ PROJECT.—In order to help reverse the rapid decline in tropical forests and other natural resources in Central America, the Congress supports the ongoing efforts of Nicaraguan and Costa Rican environmentalists to create the International System of Protected Areas for Peace (the SI-A-PAZ program) on their shared border. Congress shares the hope that such an integrated development project, which aims to protect precious natural resources on both sides of the border while promoting economic development in surrounding zones, will help raise the standard of living of people in the zone and contribute to peace in the region.

SEC. 6. ASSISTANCE FOR REFUGEES.

Section 104(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), is amended by striking out "$415,000,000" and inserting in lieu thereof "$438,409,000".

SEC. 7. ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) ASSISTANCE FOR NAMIBIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 as supplemental appropriations for fiscal year 1990 for assistance in accordance with this subsection under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), which shall be for assistance for Namibia. Funds appropriated pursuant to the authorization of appropriations contained in this paragraph may be made available for obligation until September 30, 1991.

(2) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Namibia in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.

(3) USES OF ASSISTANCE.—Except as provided in paragraph (3), funds appropriated under this subsection shall be provided to the Government of Namibia for budgetary support and to nongovernmental organizations to finance development activities in the priority sectors of agriculture, health, education, and housing.

(4) AID MISSION.—Up to $1,000,000 of the funds appropriated under this subsection shall be used for the expenses of establishing and maintaining an Agency for International Development Mission in Namibia.

(b) DEVELOPMENT ASSISTANCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 as supplemental appropriations for fiscal year 1990 for the "SUBSAHARAN AFRICA, DEVELOPMENT ASSISTANCE" account under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), which shall be for additional assistance for countries for which assistance under that account is allocated for fiscal year 1990 in the report submitted to the Congress pursuant to section 653 of the Act (22 U.S.C. 2413).

(2) AVAILABILITY OF FUNDS.—Funds appropriated under this subsection may be made available for obligation through September 30, 1991.

SEC. 8. HOUSING GUARANTEE PROGRAM FOR NEW IMMIGRANTS TO ISRAEL.

(a) ESTABLISHMENT OF PROGRAM.—Title III of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 222A (22 U.S.C. 2182a) the following new section:

"SEC. 222B. GUARANTY PROGRAM FOR HOUSING FOR NEW IMMIGRANTS TO ISRAEL.

"(a) AUTHORITY.—The President is authorized to issue guaranties on an expedited basis to eligible investors (as defined in section 238(c)) assuring against losses incurred in connection with loans made for housing projects in Israel for newly arrived immigrants in that country.

"(b) LIMITATION.—The total principal amount of guaranties issued under this section that are outstanding at any one time may not exceed $400,000,000. The limitation established by the second sentence of section 222(a) does not apply with respect to guaranties issued under this section.

"(c) TERMS AND CONDITIONS.—Guaranties hereunder shall be issued upon review solely to ascertain whether Israel's planned or actual expenditures have or will be expended for the purposes set forth in this section and to assure that guaranties will be utilized in a manner that improves the efficiency and increases the privatization of the housing sector in Israel, provided that such guaranties shall be issued only in conformity with AID policies governing assistance to Israel in effect on the date of enactment of this Act.

"(d) FEES.—Notwithstanding subsection (c) of this section, the only guaranty fee to be charged pursuant to section 223(a) or otherwise shall be an initial fee of one quarter of 1 percent of the principal amount of such loan."

(b) CONFORMING AMENDMENTS.—Section 223 of that Act (22 U.S.C. 2183) is amended—

(1) in subsection (a), by inserting a comma after "222A" and by inserting ", of for each guaranty issued under section 222B" after "President";

(2) in subsection (b)—

(A) by inserting "or 222B" after "222" the first and third places it appears, and

(B) by inserting "and 222B" after "222" the second place it appears;

(3) in subsection (c), by inserting "or 222B" after "222";

(4) in subsection (d), by striking out "or 222A" and inserting ", 222A, or 222B";

(5) in subsection (f), by inserting "or 222B" after "222"; and

(6) in subsection (j)—

(A) in the second sentence, by striking out "this title" and inserting in lieu thereof "section 222", and

(B) in the third sentence, by inserting "under section 222" after "issued" both places it appears.

(c) COMPLIANCE WITH THE BUDGET ACT.—New credit authority provided in this section is to be effective only to such extent or in such amounts as is provided in advance in appropriation Acts.

Mr. PELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORE. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENVIRONMENTAL CHALLENGES

Mr. GORE. Mr. President, nearly 20 years ago, as a nation, we stopped to think about the health of the world in which we live. Later this month, on April 22—Earth Day 1990—we will again stop to think about the environmental challenges we face, not only as a nation, but as neighbors in a global

environment with problems that were unforeseen 20 years ago.

The world's forests are being destroyed at the rate of one football fields worth each second. An enormous hole has appeared in the stratospheric ozone layer. Species are dying at an unprecedented rate: 1,000 times faster than at any time in the last 65 million years. Chemical wastes are seeping down to poison ground water, while huge quantities of carbon dioxide, methane, and chlorofluorocarbons are entering the atmosphere to threaten the planet with climate change.

From the time of Christopher Columbus to the beginning of this century, world population tripled. In only the past 75 years it tripled again, to today's 5.2 billion. In the next 75 years, we are told, it will double and possibly even triple yet again. Nearly every aspect of modern industrialized society follows the same pattern of sudden, unprecedented acceleration.

To secure our planet, we need to deal comprehensively with global warming, stratospheric ozone depletion, species loss, deforestation, ocean pollution, acid rain, air and water pollution, and other threats. In every major sector of the economy, we must find and disseminate new technologies that will help us to meet this challenge.

Some of these technologies are being brought to our doorstep—the Earth Tech Fair, which I am honored to cochair with my good friend from Pennsylvania [Mr. HEINZ], will open tomorrow on The National Mall. There, many of the technologies of sustainable development will be demonstrated—from photovoltaic arrays, to a device that actually vacuums bugs from agricultural crops in the field.

Slowly we are beginning to take the right steps. Earlier this year scientists, policymakers, and religious leaders gathered in Moscow to address global environmental concerns. Soviet President Mikhail Gorbachev delivered a message of environmental awareness to the gathering and in so doing demonstrated an understanding and sensitivity rarely seen among world leaders. Later this month, the Senate will host the first Interparliamentary Conference on the Global Environment, which will gather together representatives from around the world to craft the policies necessary to slow our planet's destruction.

The 1990's must be the decade of decisive action. If major national and international efforts are not pursued during this period, irreparable damage will be done to the environment and the resources on which life, our economy, and our security so greatly depend. These problems will not disappear of their own accord. They will only prove increasingly intractable and expensive, ultimately demanding crisis management.

We know what to do. The task before us may seem immense, but Earth Day 1990 will remind us that it is manageable, that working together, we can protect our planet, the future of our children and all children around the globe. It will mark the beginning of a new decade of the environment and a critical resolve to make basic changes that will bring big results: Reducing ozone-depleting chemicals and carbon dioxide emissions; preserving forests and endangered species; reducing our waste load and our energy consumption; coming to grips with explosive population growth and forging, once and for all, the path of substainable development toward a sustainable future.

A wide variety of events have been planned as part of Earth Day 1990. Many of these events focus on the vital role local governments must play in confronting both regional and global environmental issues. A key component of the Earth Day Program is the Global Cities project, which will assist cities throughout the world with programs such as recycling, energy and water conservation, and ridesharing.

Earth Day volunteers are in the process of organizing gatherings in cities and towns throughout the world. These gatherings may take the form of small town parades or mass gatherings of many thousands of people. In every case, the goal is to raise consciousness and encourage activism in protecting our environment.

Our educational institutions will also play an active role in Earth Day 1990. Many activities are planned throughout the Nation's schools designed to raise environmental awareness among younger children. Universities will hold campus teach-ins in order to provide a forum for the exchange of ideas on how to best address global environmental issues.

On a larger scale, Earth Day organizers have set goals such as planting 1 billion trees, organizing 10,000 local recycling programs, and urging adoption of the Valdez principles by as many corporations and State and local governments as possible. The Valdez principles are 10 guidelines for corporate conduct designed to incorporate concern for the environment into the decisionmaking process. The guidelines cover the release of pollutants, sustainable use of natural resources, reduction and safe disposal of waste, energy efficiency, and several other items crucial to the protection of our global environment.

Mr. President, these issues are important to every American, and to every resident of this planet. As Earth Day 1990 approaches, I urge my colleagues to come to the Senate floor to speak about the environmental challenges and opportunities ahead—our grandkids are counting on us all.

Mr. President, during the days following the recess leading up to Earth Day, a number of Senators have agreed to give daily speeches about this problem. I circulated a "Dear Colleague" letter, and earlier this year introduced a resolution establishing April 22 as Earth Day 1990. It is a celebration organized in the private sector, but we in the U.S. Senate, along with our colleagues in the other body, passed a resolution, which was sponsored in the other body by the distinguished MO UDALL, of Arizona.

The solutions, as I mentioned, fall in three areas. I talked about population. There is a way to stabilize world population. It involves making certain that birth control technology and information is widely accessible. But we cannot stop there, because a new strategy is called for. We need to focus on two specific goals. No. 1, lifting child survival rates above the threshold beyond which family sizes fall. In most of the world there is no such thing as Social Security, and parents want to make certain that at least some of their children survive into adulthood to help take care of them. All the research over the last several decades shows that if children have a very high likelihood of dying in infancy, then family sizes become very, very large because parents want to make certain that at least some of their children survive.

The research also shows definitively that if children survival rates go above that threshold above which parents have confidence that children will survive, then family sizes come back down, provided a second factor is also present; that is, the level of education, especially among women, reaches the threshold above which women feel empowered to participate in the decision and know-how to implement decisions to have smaller families.

Sustainable economic growth is almost always a prerequisite for achieving these two conditions, high child survival rates and adequate levels of education, especially among women. Again, the availability of birth control devices and knowledge is a prerequisite.

What about the second area of solutions? Technology. Some of today's technologies need to be abandoned. Chlorofluorocarbons represent a good example. We had a vote on that issue here in this body not long ago. By an overwhelming vote, the Senate agreed that we really should get rid of these chemicals.

But other technologies also need attention. We need to unleash the energy and power of business and industry to develop new technologies capable of substituting for the ones that are helping to cause the problem today.

One way to look at the problem is to compare it to the problem of warfare. For thousands of years humankind has had wars. But when nuclear weapons were developed in this century, suddenly the consequences of war became completely unacceptable for new reasons. So our way of thinking about warfare had to change. We are all optimistic that we are seeing just such a change now as our Nation and the Soviet Union move toward a new generation of arms control agreements that hold out the realistic hope of putting that genie back in the bottle.

Well, I wanted to use that as an example to illustrate what needs to happen with the technologies that are harming the environment. For thousands of years, just as humankind has had wars, we have also exploited the resources of the Earth for sustenance. Just in this century, just as nuclear weapons were invented, we have invented a whole range of new technologies for improving the way in which we exploit the resources of the Earth. We improved the efficiency of war and our ability to kill lots of people with nuclear weapons. We have improved our ability to gain sustenance from the Earth with insecticides, pesticides, and new machines, new mining techniques and extraction techniques.

While none of these new technologies is anywhere nearly as dramatic as nuclear weapons, taken together they have changed the consequences of exploiting the resources of the Earth.

If we now continue in an unrestrained way with growing population and a growing demand for more and more resources from the Earth, then the consequences will become unthinkable. So, as a result, we need to start changing the way we think about this pattern of behavior. And in order to do so, we need to develop new technologies to avoid this conflict between economic growth and environmental protection.

Incidentally, I have joined with our colleague, Senator JOHN HEINZ, as a cochair of Earth Tech 1990, which is displaying more than 100 new technologies on The Mall right now, down in front of the Capitol Building, to show some of these new technologies. We are also in the midst right now and tomorrow of an international forum conducted in the Hart Building, with satellite linkups to Europe and Japan, with roundtable discussions of new technologies in areas such as transportation, energy, agriculture, consumer goods, and the like. These discussions are very interesting, and, indeed, I am going back over to them this evening.

Mr. President, I said there were three areas: Stabilizing global population, developing and disseminating new technologies, and, third, changing our way of thinking about our realtionship to the world's environment.

We have for centuries thought of ourselves as separate from the environment, entitled to exploit it at will. Indeed, in my own religious tradition I am taught we are given dominion over the Earth, and, indeed, I believe that very strongly. But the same religious tradition teaches that we are required to be good stewards of the Earth. And other religious traditions teach the same values.

It is that shift from an emphasis purely on dominion and exploitation to an emphasis on stewardship and caring for the sustainability of our endeavors and the long-term future of the environment it—is prescisely that shift—which is now beginning to take place.

A lot of the solutions which need to be implemented are currently inaccessible politically, but what today is unimaginable will soon become imaginable. I was reviewing a list of the technological solutions that are required with a friend who is a scientist long active in this field. He said, "You know, I agree with you, but I know enough about politics in the Government to tell you that these steps which you say are necessary are simply unlikely." I said, "Wait just a minute. Let me ask you a question. What if I asked you 6 months ago how likely is it that in the next 90 days every single country in Eastern Europe will abandon communism, tear down the statues of Lenin, and embrace democracy and free markets? Would you have said that was unlikely?" He said, "Yes, I would have."

Well, what changed in Eastern Europe was their way of thinking about communism. When enough people changed their minds, the Berlin Wall came down in their thoughts before the first chisel hit the stones.

What is changing now is our way of thinking about the environment. And while today it seems impossible to take some of the steps that are necessary, when enough people change their minds about how important it is, then solutions which seem inaccessible today will become accessible.

Many of us in this Chamber, Mr. President, have long been aware of the fact that no issue energizes people at the local level more than a proposal to locate a new garbage dump or landfill near their backyard. Economic issues quickly become secondary when the backyard is threatened.

Another way of describing the change now underway is to say the definition of that word "backyard" is beginning to change. The air in this Chamber, which we are breathing into our lungs at this moment, has 600 percent more chlorine atoms per lungful that it did just 40 years, or even 3 billion years ago in this same space.

It is amazing to me to think that we in our civilization could engineer a change of that magnitude in the makeup of the Earth's atmosphere everywhere on Earth in just 40 years time.

Breathing in six times as many chlorine atoms in each lungful does not directly hurt human health, as far as we know, but it does burn the stratospheric ozone layer and create a chain of consequences for the web of life and threatens to do irreparable harm to the global atmosphere.

If we reflect on that fact and consider that the air we breathe every minute is affected by actions around the world, that perhaps we will begin to think of the global atmosphere as part of our backyard and being able to protect it with the same kind of emotional intensity that individuals bring to the protection of their own backyard when a new landfill is going to be sited.

I saw a television show recently called "Saturday Night Live," Mr. President. They have the habit of putting on humorous pretend commercials that look like real commercials. In this particular commercial they brought out a new consumer device about the size of two of these desks, and it was called the catapulto, modeled on a medieval catapult but downsized, with the same kind of spring-operated arm that would throw things. And the use was, according to this made-believe commercial, for the homeowner to take his garbage out, and instead of worrying about a landfill or incinerator or paying a garbage company to pick it up, he put it in the catapulto and pulled the lever, and it went flying over his backyard into the neighbor's yard two houses down. By the end of the commercial, his neighbors had gotten these devices as well, and the garbage bags were flying across backyard fences throughout the neighborhood.

I found it to be very funny. But when you think about it, that is what our civilization is doing. The garbage barge which took an 18-month tour of the Caribbean before it came back to New York City, no better for having made that journey, represented the same kind of behavior on the part of our civilization. When we dump gaseous waste into the atmosphere, dump liquid waste down into the ground water, on which 50 percent of Americans rely for their drinking water, it is the same as in that make-believe commercial, which was funny because it seemed so absurd.

What we are doing is wrong, and we have to change the technologies we use, the way we think about our relationship to the environment and stabilize global growth.

Earth Day 1990, which many of us will speak about after the recess on a regular basis up until April 22, is an occasion for Americans throughout

this country to think about the ways in which we can solve the global environmental crisis. It will be recognized and participated in by all 50 States and in foreign countries all around the world. And I urge my colleagues to participate actively in their home States, as many, of course, are already planning to do.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recogniation?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items Nos. 601, 695, 696, and 697, and the nominations reported today by the Committee on Agriculture, Nutrition, and Forestry; the Committee on the Judiciary; the Committee on Banking, Housing, and Urban Affairs; and the Committee on Foreign Relations, except the nomination to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

John Wesley Bartlett, of Massachusetts, to be Director of the Office of Civilian Radioactive Waste Management.

RAILROAD RETIREMENT BOARD

Charles J. Chamberlain, of Illinois, to be a member of the Railroad Retirement Board for the term of 5 years from August 29, 1989. (Reappointment.)

Glen L. Bower, of Illinois, to be a member of the Railroad Retirement Board for the remainder of the term expiring August 28, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Lynne Vincent Cheney, of Wyoming, to be Chairperson of the National Endowment for the Humanities for a term of 4 years. (Reappointment.)

FROM THE COMMITTEE ON FOREIGN RELATIONS

H. Douglas Barclay, of New York, to be a member of the Board of Directors for the Overseas Private Investment Corporation for the term expiring December 17, 1991;

Henrietta Hugentobler Holsman, of California, to be an Assistant Administrator of the Agency for International Development;

James Henry Michel, of Virginia, to be an Assistant Administrator of the Agency for International Development;

J. Carter Beese, Jr., of Maryland, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1992;

Donald Burnham Ensenat, of Louisiana, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1992;

C. Anson Franklin, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Richard E. Bissell, of Virginia, to be an Assistant Administrator of the Agency for International Development;

James Henry Michel, of Virginia, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1992;

Deane Roesch Hinton, of Illinois, a career member of the Senior Foreign Service, with the personal rank of Career Ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama, to which position he was appointed during the recess of the Senate from November 22, 1989, to January 23, 1990.

Nelson C. Ledsky, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Cyprus Coordinator.

Jonathan Moore, of Massachusetts, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

FROM THE COMMITTEE ON THE JUDICIARY

Alan D. Lourie, of Pennsylvania, to be U.S. circuit judge for the Federal Circuit;

John S. Martin, Jr., of New York, to be U.S. district judge for the Southern District of New York;

Daniel B. Sparr, of Colorado, to be U.S. district judge for the District of Colorado;

Norman H. Stahl, of New Hampshire, to be U.S. district judge for the District of New Hampshire;

Leo A. Giacometto, of Montana, to be U.S. Marshal for the District of Montana for the term of 4 years;

Terrenace B. Adamson, of Georgia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991;

Vivi L. Dilweg, of Wisconsin, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991;

Carl F. Bianchi, of Idaho, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992;

James Duke Cameron, of Arizona, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992;

Janice L. Gradwohl, of Nebraska, to be a member of the Board of Governors of the State Justice Institute for a term expiring September 17, 1992; and

Malcolm M. Lucas, of California, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992.

FROM THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

John C. Foltz, of Ohio, to be Administrator of the Federal Grain Inspection Service.

FROM THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Robert C. Larson, of Michigan, to be a member of the Oversight Board of the Resolution Trust Corporation for a term of 3 years; and

Philip C. Jackson, Jr., of Alabama, to be a member of the Oversight Board of the Resolution Trust Corporation for a term of 3 years.

STATEMENT ON THE NOMINATION OF JOHN W. BARTLETT

Mr. McCLURE. Mr. President, on February 21, 1990, the Committee on Energy and Natural Resources favorably reported the nomination of John W. Bartlett to be Director of the Department of Energy's Office of Civilian Radioactive Waste Management by a vote of 19 to 0.

Dr. Bartlett's background as a nuclear engineering executive will serve him well in carrying out his responsibilities for developing the Nation's waste disposal system for spent nuclear fuel and high-level radioactive waste. For a decade, prior to his joining the Department of Energy as a consultant to the Secretary, Dr. Bartlett directed energy and environment work for the Analytic Science Corp. in Reading, MA. His work there included detailed knowledge of high-level radioactive waste programs. Prior to that (1969–78), as the manger of system studies in the nuclear waste technology program office of Battelle Pacific Northwest Laboratories in Richland, WA, he directed analytic and institutional high-level waste programs. Dr. Bartlett received his Ph.D. and masters in chemical engineering from Rensselaer Polytechnic Institute and his bachelor of science degree in chemical enigneering from the University of Rochester. His experience and educational background certainly make him well-qualified for the position to which he has been nominated.

Mr. President, I urge my colleagues to join me in supporting Dr. Bartlett's confirmation as Director of the Office of Civilian Radioactive Waste Management.

Mr. REID. Mr. President, what to do with waste generated by nuclear power plants has plagued this nation for decades. During the waning hours of the 97th Congress, it appeared that a solution had finally been reached to create a national disposal system to deal with mounting levels of nuclear waste. The 1982 Nuclear Waste Policy Act sought a regional and equitable balance to deal with the 40,000 metric

tons of spent fuel anticipated by the year 2000. The Act directed the Department of Energy to open a permanent deep repository by 1998 and to recommend a second site that would begin receiving waste about 5 years later. President Reagan signed the bill into law in January 1983 stating, "The step we are taking today should demonstrate to the public that the challenge of coping with nuclear waste can and will be met."

The Department of Energy was required to pick three finalists for the repository and evaluate each site simultaneously. The DOE formally identified nine sites in five distinct geohydrologic settings as potentially acceptable for a mined geological repository for spent nuclear fuel and high-level radioactive waste. DOE reduced the number from nine to five and proposed the nomination of sites at Hanford, WA; Yucca Mountain, NV; Deaf Smith County, TX; Davis Canyon, UT; and Richton Dome, MS.

Three sites were to be intensely studied or characterized, with primary emphasis placed on geologic factors for the selection of the sites. The Nuclear Waste Policy Act authorizes a number of key activities designed to meet the objectives of providing safe and permanent disposal of spent fuel and high-level waste. These components call for the:

First, protection of public health and safety along with environmental acceptability;

Second, acceptance of waste for disposal starting not later than Janaury 31, 1998;

Third, a repository for permanent disposal of spent fuel and high-level waste;

Fourth, safe transportation of waste to the repository;

Fifth, provision of limited interim storage of spent fuel for utilities, as required by the Nuclear Regulatory Commission [NRC];

Sixth, encouragement to nuclear facilities to use existing storage facilities at reactor sites effectively until waste is accepted for disposal;

Seventh, involvement of the States and Indian tribes and full and open public participation;

Eighth, full cost recovery, with costs borne equitably by the waste generators.

President Reagan named three sites: Nevada, Washington, and Texas, as the final candidates for the first permanent repository in May 1986. To be selected as a "host state" was considered a dubious honor by anyone's standards. But, the Secretary of Energy further bungled an already suspect program by announcing the indefinite postponement of further screening of sites for a second repository. Until then the active search had been undertaken in granite and other crystalline rocks east of the Mississippi River, the section of the country that generates more than two-thirds of the Nation's nuclear waste. According to the Department of Energy, a second repository was no longer necessary due to lower than anticipated volumes of spent fuel. Others speculate that election year politics prompted DOE's decision. In any event, the agency's announcement further eroded the little confidence that existed in DOE's ability to successfully manage the nuclear waste program. Subsequently Congress placed a moratorium on funds, precluding the Department of Energy from sinking exploratory shafts at the three Western sites.

In January 1987, the DOE proposed amendments to the mission plan required by the Nuclear Waste Policy Act calling for a delay in opening of a first repository beyond 1998; plans to accept spent fuel beginning in 1998 at a monitored retrievable storage facility that Congress would have to authorize; and deferral for an indefinite period of site-specific work on a second repository. Clearly the nuclear waste program was in trouble causing one Member of Congress to comment that "the only thing the Department has managed to bury is its credibility."

Legislation was introduced to delay site selection by an additional 18 months while a special commission studied ways to get the program back on track, including incentives to encourage States to voluntarily accept the repository, a responsible proposal which I supported. Serious concerns were raised about the program's future and the path of least resistance was taken. The 100th Congress ostensibly resolved the issue by restricting characterization for the first repository to Nevada's Yucca Mountain. If Yucca Mountain is found suitable by the NRC, the permanent repository then would be constructed at the site. If fatal flaws are found, DOE must terminate the site search and submit a report to Congress. A monitored retrievable storage facility for storing and packaging spent fuel is also authorized. Mr. President, the package approved by Congress is known in my home State as the "Screw Nevada Bill."

Cutting off other studies and designating Yucca Mountain as the sole candidate repository site may have resolved some short term issues; but it appears that we are no closer to solving the nuclear waste problem than we were 2½ years ago.

Mr. President, another devastating problem this Nation faces involves the Department of Energy's handling of the nuclear weapons program. The General Accounting Office estimates that there are over 3,000 inactive waste sites within the weapons complex that need to be cleaned up, a cleanup that could take 20 years and cost $100 billion. In the book "Forevermore—Nuclear Waste in America," by Donald L. Barlett and James B. Steele, succinctly recap this tragic situation. They state:

> The turtles that creep along the banks of the Savannah River, near Aiken, South Carolina, are radioactive, So is the water in a well that serves the borough of Lodi, New Jersey. So, too a drainage ditch that runs along a street in an industrial park in southeast Houston. The turtles, the water, and the soil were once free of radioactivity. They are now contaminated because of the ignorant and careless handling of radioactive materials. More important, they are a symptom of the inability of government and industry to control nuclear waste, a catchall phrase for scores of the most deadly and long-lived toxic substances ever manufactured.

DOE's incompetence and its apparent disregard for the environmental rules and regulations which ordinary citizens and industry are required to follow have raised awareness and levels of mistrust in my State about the agency's ability to effectively characterize a nuclear waste repository. The DOE has made science a second-class citizen. Since 1979, the State of Nevada has warned the DOE about the many technical issues that would disqualify Yucca Mountain during NRC licensing. Volcanoes, faults, ground water problems, nuclear weapons testing at the Nevada Test Site, Air Force bombing activities could render the site unsuitable for the 10,000 year lifespan of the repository.

Nevada lies in one of the most seismically active regions in the Nation. The area has averaged one major trembler, measuring more than 6 on the Richter scale, every 27 years since the mid 1800's. In 1954 alone, four quakes measuring between 6.6 and 7.2 caused significant damage in the Lahontan Valley just 75 miles east of Reno. An engineering geologist for the Nevada Bureau of Mines has said:

> We should anticipate another major earthquake in Western Nevada in the near future.

The site of the nuclear dump sits on a fault where a major earthquake could occur.

In fact, these very concerns have been raised by scientists outside of the State of Nevada. Jerry Szymanski, a DOE scientist, concluded that the Yucca Mountain site should be abandoned since it would be impossible to predict when earthquakes or other disasters might occur. His research suggested that tectonic activity could result in a rapid rise in ground water, which could flood the repository allowing radionuclides to escape. A Nuclear Regulatory Commission geologist, John Trapp, cautions that volcanic activity renders the site unsuitable. Dr. Trapp visited Yucca Mountain in May 1989 and reported,

I, therefore, am of the opinion that this is not the site at which * * * to license the first high-level radioactive waste repository.

Secretary of Energy Watkins announced late last year the Department's plan to restructure the flawed program, apparently agreeing with what we in Nevada have said all along. In the "report to Congress on Reassessment of the Civilian Radioactive Waste Management Program," states:

The Secretary of Energy has recently completed an extensive review of the Civilian Radioactive Waste Management Program and concluded that it cannot be effectively executed in its current form. An important underlying premise of these Secretarial actions is that the program and supporting activities have a sound scientific basis. The intent is to develop and follow a solid, integrated plan based on a realisitc assessment of the current situation.

DOE outlined the three-point action plan which includes:

First, a restructuring of the Office of Civilian Radioactive Waste Management;

Second, initiatives to gain access to the Yucca Mountain site to continue the scientific investigations needed to evaluate the site's suitability for a repository; and

Third, an initiative for establishing integrated monitored retrievable storage [MRS] with a target for spent-fuel acceptance in 1998.

In presenting this restructuring plan to Congress, DOE admits its efforts to date had been unrealistic. The plan delays the opening of the repository by 7 years, from 2003 to 2010. After spending $2 billion, DOE admitted that "dissatisfaction existed with earlier assessment of the site."

The Nevada Legislature has outlawed nuclear waste in the State. Consequently, the State has refused to act on DOE permit applications necessary for testing activities at the Yucca Mountain site. Nevada filed its own lawsuit in December 1989 claiming that it has the right to bar DOE from carrying out Congress' mandate because the State has "disapproved" the Yucca Mountain site. Congress has not taken action to override the State's veto. In January, the Department of Energy filed a lawsuit against Nevada asking for a court order that would require the State to act on DOE permit applications. We hope these judicial avenues are allowed to continue on course.

Mr. President, the Nuclear Waste Technical Review Board, created by the 1987 amendments to the Nuclear Waste Policy Act, recently reported to Congress on the Nuclear Waste Program. The Board agreed with DOE's restructuring program. The Board's first report states that:

The DOE needs to implement management improvements, to pursue an orderly program of scientific investigations that is not driven by unrealistic scheduling demands, and to establish a monitored retrievable storage [MRS] facility with more flexible linkages to the repository to allow early acceptance of spent nuclear fuel.

The Board also urged that:

High priority be given to the studies of the natural hazards of volcanism, faulting, and earthquakes, as well as to the hydrogeologic framework of Yucca Mountain.

After spending $3 billion already on a bad idea, it's time to stop throwing money away. If allowed to continue, the agency's policies and programs will only bring failures. We should seriously consider other options to address nuclear waste disposal. Onsite storage is definitely feasible. It is safe, fair, and less expensive.

I have had an opportunity to meet on several occasions with John Bartlett, the President's nominee to fill the position of Director of the Office of Civilian Radioactive Waste Management. We discussed at length the many difficulties facing the program. Mr. Bartlett seems to understand the need for an independent oversight role for the State and has pledged to ensure that adequate funding is provided for this purpose. He has also agreed with the need to decouple the MRS schedule from the repository schedule and feels the current judicial process should be given fair opportunity to resolve the waste issues. I hope to work with Mr. Bartlett to see these objectives come to pass.

Mr. BRYAN. Mr. President, today I wish to inform the Senate of a very pressing issue for the State of Nevada. One of the most critical posts in the Department of Energy, the Director of the Office of Civilian Radioactive Waste Management, is vacant and the administration has submitted Mr. Bartlett for approval of the Senate.

Mr. Bartlett's nomination posed an opportunity for those of us from Nevada to delve deeper into the DOE's intentions on a number of fronts: What is the direction of the Yucca Mountain repository project? What are DOE's intentions toward the State of Nevada, should my State prevail in the ongoing litigation with the DOE. And finally, what opinion did Mr. Bartlett have toward the funding of vital independent research being done by the State of Nevada on nuclear waste issues? This last point has been of particular concern for those of us in Nevada, who have seen the DOE and the Congress reduce and attempt to limit our use of these funds.

Together, with Senator REID, I met with Mr. Bartlett on two separate occasions. We expressed as forcefully as we could the unfair treatment our State has received over the nuclear waste issue. He listened.

His responses were forthright, but it has been the painful lesson learned by Nevadans, that things are not always as they seem. We respectfully asked him to respond to some questions, which to his credit, he agreed to immediately.

In his reply to our questions, Mr. Bartlett addressed a number of concerns, the most critical being his degree of support for the State of Nevada's independent research of the work being done at Yucca Mountain by the DOE. After an exchange of memos, he defined a clear funding philosophy and put that down on paper. Under that formula, the State of Nevada program would be entitled to triple the amount of Federal funds for independent research; an increase from the presently budgeted $5 million to almost $15 million.

We were also concerned about the continuing rumors that should the ongoing litigation between the State of Nevada and the DOE end in failure for the DOE, that the agency would come to Congress to seek to reverse the decision through legislation. Mr. Bartlett indicated his opposition to seeking a Federal legislative override of any court decision.

Finally, we asked Mr. Bartlett to meet personally with the director of the Nevada State nuclear waste office; that meeting was held yesterday.

Mr. Bartlett's nomination will go forward. Only the course of events will show if Mr. Bartlett will bring to this failed program the needed objectivity and courage to reevaluate this program. And I am confident, that if Mr. Bartlett did take a fair look at the program, then the DOE would withdraw from Yucca Mountain. If Mr. Bartlett does take that second look, then he will have earned the respect of an entire State.

STATEMENT ON THE NOMINATION OF LEO A. GIACOMETTO

Mr. BURNS. Mr. President, today one of the outstanding young leaders of Montana was accepted as President Bush's appointment to serve as U.S. Marshall for the State of Montana. Leo Giacometto is just one of many young men and women that this adminstration has attracted to public service. Mr. Giacometto served two terms as a State representative from the southeastern district and ranched down on the Little Missouri River just north of Alzata, MT. He was the youngest member of the Montana State House of Representatives and a strong law and order advocate.

I would like to thank him and his family for stepping forward and accepting this challenging position and wish them well. Mr. Giacometto has my full support.

STATEMENT ON THE NOMINATION OF GLEN L. BOWER

Mr. DIXON. Mr. President, I am pleased to speak today in support of Mr. Glen L. Bower, who has been nominated by the President to serve as the Chairman of the Railroad Retirement Board. I believe the President has

made an excellent choice for this important position.

Glen Bower was born and raised in the State of Illinois, and has a long record of distinguished public service in our great State. He has recently served as the assistant director and general counsel at the Illinois Department of Revenue. In 1979, Glen was sent by the voters to the Illinois House of Representatives, where he served his constituents until 1983. Just prior to his tenure in the State house, Glen served a four year elected term as state's attorney for Effingham County, during which time he also co-chaired the Illinois State's attorney association's Juvenile Justice Committee.

I am only lightly touching upon this man's vast record of public service. In addition to the jobs I have described that he has held over the last 15 years, Glen has also served on several boards and committees. These additional contributions to public service include, the "Committee of Fifty," which met for 2 years to review the need for an Illinois constitutional committee; the U.S. Economic Advisory Board, to which Commerce Secretary Malcolm Baldrige appointed Glen to serve from 1982 to 1985; serving on the board of trustees of McKendree College in Lebanon, IL; and serving a 4-year appointment by President Ford to the 21-member National Advisory Committee for Juvenile Justice and Delinquency Preventions.

I have known Glen Bower for at least 10 years, and in that time I have always known him to take a bipartisan approach to issues. Glen is very highly regarded by members of the Illinois congressional delegation that have had the privilege to work with him. He is highly intelligent, and he is a devoted public servant. I unequivocally recommend him, and I am delighted that the Senate will confirm him to the Railroad Retirement Board.

DEPARTMENT OF VETERANS AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the nomination of D'Wayne Gray, to be Chief Benefits Director of the Department of Veterans Affairs, be discharged from the Committee on Veterans' Affairs; that the Senate proceed to the immediate consideration of the nomination; that any statements be inserted in the RECORD, as if read; that the nominee be confirmed; that the motion to reconsider the vote be laid upon the table; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed.

STATEMENT ON THE NOMINATION OF D'WAYNE GRAY

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise in support of the nomination of D'Wayne Gray to be the Chief Benefits Director of the Department of Veterans Affairs, for a term of 4 years. Mr. Gray is the first nominee to this position under the legislation, the Department of Veterans Affairs Act (Public Law 100-527), which elevated the Veterans' Administration to Cabinet status. Section 3(c) of that measure also provided, for the first time, for the Chief Benefits Director to be a Presidential nominee subject to Senate confirmation and prescribed a statutory term of 4 years. Previously, the Chief Benefits Director was named by the Administrator of Veterans' Affairs, with no statutorily established term.

Our committee, by a poll completed today, has voted 11 to 0 in support of Mr. Gray's nomination. Since, however, we were not able to meet to vote on the nomination, we are proceeding by way of unanimous consent to have the committee discharged from further consideration in order to obtain Senate action before the Senate goes out today.

As head of the Veterans Benefits Administration [VBA], D'Wayne Gray would be the principal VA executive responsible for the payment and administration of a vast array of benefits, which will involve total expenditures of $16.4 billion in fiscal year 1990—nearly 60 percent of VA's projected expenditures for this year. Through its 58 regional offices, VBA provides services to a potential clientele that totals 74 million people or almost 30 percent of the Nation's population. Programs within VBA include, among others, service-connected disability compensation, non-service-connected disability pension for wartime veterans, survivors' benefits, education, home loan guaranty, vocational rehabilitation for service-disabled veterans, and life insurance.

QUALIFICATIONS OF THE NOMINEE

Mr. President, as I noted during the committee's February hearing on this nomination, D'Wayne Gray's qualifications are impressive. His distinguished military career covered over 35 years of service in the U.S. Marine Corps, beginning with a year and a half as a private and PFC prior to entering the University of Texas. Upon graduation he received his commission. By the time of his retirement in 1987, he was a three-star general. Along the way, he served three tours in combat theaters, one in Korea and two in Vietnam. From 1979 to 1985, he served in a succession of positions of increasing responsibility at the U.S. Marine Corps Headquarters in Washington, culminating in his service as Chief of Staff, and concluded his service as the commanding general of the Marine Corps in the Pacific from 1985 to 1987. His military decorations include the Distinguished Service Medal, Legion of Merit, Bronze Star, Meritorious Service Medal, Air Medal, Joint Service Commendation Medal, Navy Commendation Medal, and Combat Action Ribbon.

Since retiring, D'Wayne has served as a consultant for the Naval Research Advisory Committee, and as executive director of the Montgomery County Revenue Authority in Rockville, MD. He currently is serving as a consultant to the Secretary of Veterans Affairs.

Mr. President, in addition to the great responsibilities and challenges inherent in the important position of Chief Benefits Director, D'Wayne Gray will have the added burden of being a pioneer of sorts. Assuming his confirmation as the 12th Chief Benefits Director, not only will he be the first Presidential appointee and thus the first Director to have come before the Senate for confirmation, but he will also be the first to come from outside of VA's benefits program career force. Being the first such "outsider" should present him with many challenges; likewise, it should give VA the benefit of a fresh perspective and approach.

In establishing the statutory position for which Mr. Gray has been nominated, Congress took great pains to ensure the selection of a qualified person and to provide that person with independence and insulation from political interference. Section 3(c) of Public Law 100-527 specifies that the Chief Benefits Director is to be appointed by the President "without regard to political affiliation or activity." The appointment must be made "solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope." Moreover, the appointment may be made only after the establishment of an independent Search Commission, with the majority of members from outside Government, and the Commission's submission of recommendations of at least three individuals to the President along with the Secretary's comments on those recommended by the Commission. The law requires that the Chief Benefits Director be appointed for a term of 4 years with successive reappointments permitted and provides that, if the President removes the Chief Benefits Director prior to the completion of the appointed term, the President must communicate the reasons for removal to both Houses of Congress.

I was instrumental in authoring these rather extraordinary protective provisions, and I believe very strongly

in the importance of each of them in precluding the politicization of the position of Chief Benefits Director.

I also want to note that Congress quite deliberately chose to make the title of this position the same title that has been attached to it for some 37 years. Although the position is of Under Secretary rank as an Executive Level III position, it is not in any way a traditional, political Under Secretary position—filled in the traditional manner as sub-Cabinet jobs throughout the Government are filled. I know of no position in the Federal Government—other than the counterpart position of VA Chief Medical Director—that has this degree of statutorily prescribed independence from the political selection process.

Further, it is notable that there are a number of other top Department or agency operating officials at the so-called Executive Level III, Under Secretary level who carry significant historical titles which have not been altered, such as the Commissioner of Internal Revenue, the Urban Mass Transportation Administrator, the Director of the FBI, and the Archivist of the United States.

Mr. President, the fresh insights and perspectives which Mr. Gray brings from outside the Department likely will afford him many opportunities within it; by the same token, there will be equally significant challenges for him—including some arising from the apprehensions of others about his being an outsider. Based on the nominee's remarks to me and committee staff throughout the confirmation process and his responses to questions posed by committee members prior to, during, and subsequent to his confirmation hearing, I am confident that he has the capacity to meet these challenges with the sensitivity needed to allay any misgivings and to win the confidence of those with whom he will work and interact.

Finally, I note that the committee received a January 30, 1990, letter from the Office of Government Ethics to the effect that Mr. Gray is in compliance with applicable laws and regulations governing conflicts of interest and that my review of the FBI report on the nominee has revealed no bar to his confirmation. Assuming Senate action to confirm this nomination, I look forward to working with D'Wayne Gray in ensuring that our Nation's veterans are well served and receive all the benefits to which they are so justly entitled.

Mr. President, on behalf of the Committee on Veterans' Affairs, I recommend this nomination to the Senate.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1048) to provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

At 6:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2571. An act to provide for the designation of certain National Wildlife Refuge lands as wilderness in the State of Arizona.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2571. An act to provide for the designation of certain National Wildlife Refuge lands as wilderness in the State of Arizona; to the Committee on Environment and Public Works.

H.R. 4404. An act making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. HARKIN) reported that on today, April 5, 1990, he had signed the following enrolled bill, which had previously been signed by the Speaker of the House:

S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 5, 1990, he had presented to the President of the United States the following enrolled bill:

S. 1813. A bill act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2717. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's second special impoundment message for fiscal year 1990; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly of the Committee on Appropriations, the Committee on Budget, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Foresty, and the Committee on Commerce, Science, and Transportation.

EC-2718. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on trade policies and market opportunities for United States farm exports for 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2719. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the selected acquisition reports for the quarter ended December 31, 1989; to the Committee on Armed Services.

EC-2720. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Environment), transmitting, pursuant to law, notice that the Army intends to initiate, during May 1990, lethal chemical disposal operations at the Johnston Atoll Chemical Agent Disposal System; to the Committee on Armed Services.

EC-2721. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report containing an analysis and description of services performed by full-time U.S. Government employees under certain sections of the Arms Export Control Act; to the Committee on Armed Services.

EC-2722. A communication from the Chairman of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report of the Council for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-2723. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, the biennial report of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

EC-2724. A communication from the Secretary of the Interior, transmitting, pursuant to law, part 1 of the report on National historic landmarks that have been damaged or to which damage to their integrity is anticipated; to the Committee on Energy and Natural Resources.

EC-2725. A communication from the Administrator of the Energy Information Administration, transmitting, pursuant to law, a report entitled "Annual Report on U.S. Coal Imports, 1989"; to the Committee on Energy and Natural Resources.

EC-2726. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant

to law, the annual report on progress being made towards termination of ocean dumping of sewage sludge and industrial waste for calendar year 1989; to the Committee on Enviroment and Public Works.

EC-2727. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on surveillence and enforcement of sewage sludge dumping; to the Committee on Environment and Public Works.

EC-2728. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend Federal laws in order to extend the low-income housing credit; to the Committee on Finance.

EC-2729. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes; to the Committee on Finance.

EC-2730. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the 1990 annual report of the Commission; to the Committee on Finance.

EC-2731. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the annual reports on the Airport and Airway Trust Fund, the Asbestos Trust Fund, the Black Lung Disability Trust Fund, the Harbor Maintenance Trust Fund, the Hazardous Substance Superfund, the Highway Trust Fund, the Inland Waterways Trust Fund, the Leaking Underground Storage Tank Trust Fund, the Nuclear Waste Trust Fund, the Reforestation Trust Fund, and a Statement of Liabilities and Other Financial Commitments of the United States Government; to the Committee on Finance.

EC-2732. A communication from the President of the African Development Foundation, transmitting a draft of proposed legislation to authorize appropriations for the African Development Foundation, and for other purposes; to the Committee on Foreign Relations.

EC-2733. A communication from the Secretary of State, transmitting, pursuant to law, the 1989 annual report on Voting Practices in the United Nations; to the Committee on Foreign Relations.

EC-2734. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 29, 1990; to the Committee on Foreign Relations.

EC-2735. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the board under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-2736. A communication from the Acting Director of the Office of Government Ethics, transmitting, pursuant to law, the first biennial report of the Office of Government Ethics; to the Committee on Governmental Affairs.

EC-2737. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-182 adopted by the Council on March 13, 1990; to the Committee on Governmental Affairs.

EC-2738. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-183 adopted by the Council on March 13, 1990; to the Committee on Governmental Affairs.

EC-2739. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-138 and D.C. Act 8-184; to the Committee on Governmental Affairs.

EC-2740. A communication from the Executive Director of the Interstate Commission on the Potomac River Basin, transmitting, pursuant to law, a report on the financial audit of the Commission for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2741. A communication from the President of the American Academy and Institute of Arts and Letters, transmitting, pursuant to law, the annual report on the activities of the Academy during calendar year 1989; to the Committee on the Judiciary.

EC-2742. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the annual report of the Department of Veterans Affairs under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2743. A communication from the General Counsel of the Federal Housing Finance Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2744. A communication from the Acting Solicitor of the United States Commission on Civil Rights, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2745. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on activities and accomplishments of the State programs operated to assist persons with developmental disabilities and their families; to the Committee on Labor and Human Resources.

EC-2746. A communication from the Chairman of the Federal Courts Study Committee, transmitting, pursuant to law, the report and recommendations of the Committee; to the Committee on the Judiciary.

EC-2747. A communication from the Director, Office of Public Affairs, Department of Agriculture, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1989; to the Committee on Judiciary.

EC-2748. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Low-Income Home Energy Assistance Act of 1981; to the Committee on Labor and Human Resources.

EC-2749. A communication from the Secretary of Education, transmitting, pursuant to law, a report describing the Homeless Children and Youth Program activities for the period October 1, 1988, through September 30, 1989; to the Committee on Labor and Human Resources.

EC-2750. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to revise the copayment formulas for those non-service-connected veterans with the means to contribute toward the cost of their care; to the Committee on Veterans' Affairs.

EC-2751. A communication from the Secretary of Veterans Affairs urging the adoption of certain Veterans health care legislation; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment, in the nature of a substitute:

S. 1511. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans and for other purposes (Rept. No. 101-263).

By Mr. PELL, from the Committee on Foreign Relations, without amendment, and with a preamble:

S. Res. 231. Resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

By Mr. BIDEN, from the Committee on the Judiciary, unfavorably without amendment:

S. 640. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

By Mr. PELL, from the Committee on Foreign Relations, without amendment, and with a preamble:

S. Con. Res. 112. Concurrent resolution expressing the sense of the Congress that the United States should seek to obtain an Advisory Opinion for the International Court of Justice concerning the right of self-determination of the people of Lithuania.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

John C. Foltz, of Ohio, to be Administrator of the Federal Grain Inspection Service.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Robert C. Larson, of Michigan, to be a Member of the Oversight Board of the Resolution Trust Corporation for a term of 3 years;

Philip C. Jackson, Jr., of Alabama, to be a Member of the Oversight Board of the Resolution Trust Corporation for a term of 3 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Alan D. Lourie, of Pennsylvania, to be U.S. Circuit Judge for the Federal Circuit;

John S. Martin, Jr., of New York, to be U.S. District Judge for the Southern District of New York;

Daniel B. Sparr, of Colorado, to be U.S. District Judge for the District of Colorado;

Norman H. Stahl, of New Hampshire, to be U.S. District Judge for the District of New Hampshire;

Leo A. Giacometto, of Montana, to be U.S. Marshal for the District of Montana for the term of 4 years;

Terrenace B. Adamson, of Georgia, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991;

Vivi L. Dilweg, of Wisconsin, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991;

Carl F. Bianchi, of Idaho, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992;

James Duke Cameron, of Arizona, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992;

Janice L. Gradwohl, of Nebraska, to be a member of the Board of Governors of the State Justice Institute for a term expiring September 17, 1992; and

Malcolm M. Lucas, of California, to be a member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992.

By Mr. PELL, from the Committee on Foreign Relations:

H. Douglas Barclay, of New York, to be a member of the Board of Directors for the Overseas Private Investment Corporation for the term expiring December 17, 1991;

Henrietta Hugentobler Holsman, of California, to be an Assistant Administrator of the Agency for International Development;

James Henry Michel, of Virginia, to be an Assistant Administrator of the Agency for International Development;

J. Carter Beese, Jr., of Maryland, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1992;

Donald Burnham Ensenat, of Louisiana, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1992;

C. Anson Franklin, of Virginia, to be an Assistant Administrator of the Agency for International Development;

Richard E. Bissell, of Virginia, to be an Assistant Administrator of the Agency for International Development;

James Henry Michel, of Virginia, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1992;

Deane Roesch Hinton, of Illinois, a career member of the Senior Foreign Service, with the personal rank of Career Ambassador, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama, to which position he was appointed during the recess of the Senate from November 22, 1989, to January 23, 1990.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Deane R. Hinton.

Post: Ambassador to Panama.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Deborah Hinton, Chris Hinton, Joe and Kathy Hinton, Joanna Hinton, Veronica Hinton, Mr./Mrs. Pedro Arrivillaga, Mr./Mrs. Guillermo Arrivillaga, Mr./Mrs. Grimm, Juan Jose Arrivillaga, Sebastian Hinton, and Deane Patrick Hinton, none.

4. Parents, Col. Joe Hinton contributes $300 to $700 a year to various GOP committees. Mrs. Doris Hinton—deceased.

5. Grandparents, Mr./Mrs. Frank Roesch—deceased. Mr./Mrs. Arthur Hinton—deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, none.

Jonathan Moore, of Massachusetts, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Jonathan Moore.

Post: U.S. Ambassador to the United Nations and Representative to ECOSOC.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Joan, Jocelyn, Jennifer, and Charles, none.

4. Parents, Adeline N. Moore, none.

5. Grandparents, Deceased.

6. Brothers and spouses, Benjamin and Barbara Moore, $75, November 1986, $50, November 1988, Sid Yates for Congress; $50, August 1989, Royer Committee; $50, November 1989, People for Joe King; and $25, December 1989, Norman Rice Celebration.

7. Sisters and spouses, Deborah and Peter Geithner, none. Lydia DuPertuis, $10, October 1986, Hoffer for Congress.

Shirin Raziuddin Tahir-Kheli, of Pennsylvania, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Shirin Tahir-Kheli.

Post: Alternative Representative of the U.S. for Special Political Affairs in the U.N.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, $20, January 19, 1934, Republican National Committee; $25, March 9, 1984, National Federation of Republican Women; $10, March 9, 1984, Republican National Committee; $25, September 7, 1984, Republican National Committee; $25, March 1, 1985, Republican National Committee; $25, March 1, 1985, National Federation of Republican Women; $25, October 4, 1986, Republican National Committee; $25, March 11, 1987, Republican National Committee; $25, January 7, 1988, Republican National Committee; $25, December 24, 1988, Republican National Committee; $25, July 17, 1989, Republican National Committee.

3. Children and spouses, none.

4. Parents, none.

5. Grandparents, none.

6. Brothers and spouses Toufiq and Ulrike Siddiqi, none.

7. Sisters and spouses, none.

Nelson C. Ledsky, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Cyprus Coordinator.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Nelson C. Ledsky.

Post: Special Coordinator for Cyprus.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Cecile W. Ledsky, none.

3. Children and spouses, Rebecca, Jonathan, Karen Ledsky, none.

4. Parents, Nathan and Bertha Ledsky (deceased).

5. Grandparents, Morris and Libby Ledsky (deceased); Jacob and Gazella Glattstein (deceased).

6. Brothers and spouses, none.

7. Sisters and spouses, Robert and Rita (sister) Fueglein, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON:

S. 2421. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide transitional Medicare eligibility rules for State and local government employees covered by optional State agreements; to the Committee on Finance.

By Mr. BOND (for himself and Mr. PRYOR):

S. 2422. A bill to establish a research program for the development and implementation of new technologies in food safety and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 2423. A bill to provide for Federal recognition of the United Houma Nation of Louisiana, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 2424. A bill to amend the Internal Revenue Code of 1986 to provide for the imposition of certain excise taxes related to the enforcement of provisions of the Clean Air Act added by the Clean Air Act Amendments of 1990; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BIDEN, and Mr. BRADLEY):

S. 2425. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending and public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other pur-

poses; to the Committee on Rules and Administration.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. BURNS, Mr. BRADLEY, Mr. GRAMM, Mr. WIRTH, Mr. DURENBERGER, Mr. PRYOR, Mr. BOSCHWITZ, Mr. SANFORD, Mr. JEFFORDS, Mr. MCCAIN, Mr. WARNER, Mr. D'AMATO, Mr. MURKOWSKI, Mr. GARN, Mr. HATCH, Mr. STEVENS, Mr. GORTON, Mr. BOND, Mr. COATS, Mr. WILSON, Mr. KASTEN, Mr. SIMON, and Mr. ADAMS):

S. 2426. A bill to authorize the President to designate a private nonprofit Foundation as eligible to receive funds for the purpose of promoting community tree planting and cultivation projects to authorize the Secretary of Agriculture to establish a rural tree planting program and a community tree planning program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. BAUCUS, and Mr. CONRAD):

S. 2427. A bill to provide for the establishment of a coordinated and cooperative Federal, State, and local forest program for the management and enhancement of forest lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAMM (for himself and Mr. DOMENICI):

S. 2428. A bill to authorize negotiation of Mexico-United States free trade agreement, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2429. A bill to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2430. A bill to amend the Zuni-Cibola National Historical Park Establishment Act of 1988 to enlarge the time in which the Secretary of the Interior may accept a leasehold interest for inclusion in the park; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 2431. A bill to provide for the establishment of farmland resource conservation programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN:

S. 2432. A bill to provide for payments in lieu of taxes to be made with respect to certain lands comanaged by the Bureau of Land Management and the Secretary of the Army; to the Committee on Energy and Natural Resources.

By Mr. WIRTH (for himself and Mr. GRAHAM):

S. 2433. A bill to establish a Financial Services Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for Mr. D'AMATO) (for himself, Mr. DECONCINI, Mr. WILSON, Mr. MCCONNELL, and Mr. COATS):

S. 2434. A bill to permit the implementation of the Department of Transportation anti-drug program rule for recipients of Federal mass transit assistance; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM:

S. 2435. A bill to establish within the U.S. Information Agency the Andrei Sakharov Educational Exchange Program; to the Committee on Foreign Relations.

By Mr. CRANSTON (for himself, Mr. PELL, Mr. BOREN, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 2436. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1992, to provide for limited exceptions to the limitation on reemployment by the Peace Corps and to establish a Peace Corps foreign fluctuations account, and for other purposes; to the Committee on Foreign Relations.

By Mr. JOHNSTON:

S. 2437. A bill to authorize the acquisition of certain lands in the State of Louisiana for inclusion in the Vicksburg National Military Park; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 2438. A bill to amend title XVIII of the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to hospitals located within rural areas with 50 beds or fewer, to improve the delivery of health services to individuals residing in rural areas, and for other purposes; to the Committee on Finance.

By Mr. GORE (for himself and Mr. GLENN):

S. 2439. A bill relating to the advertising of certain alcoholic beverages and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2440. A bill to amend various provisions of law that affect the operations and management of the Department of Defense particularly in the areas of military personnel, acquisition reform, civilian personnel management, and for real property; to the Committee on Armed Services.

By Mr. KOHL:

S. 2441. A bill to amend title 17, United States Code, to assure the protection of motion picture copyrights, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. METZENBAUM, and Mr. KENNEDY):

S. 2442. A bill to amend the Occupational Safety and Health Act of 1970 to expand the rights of victims of occupational safety and health hazards, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ARMSTRONG (for himself and Mr. BURNS):

S. 2443. A bill to amend the Internal Revenue Code of 1986 to provide that the rate of interest on overpayments and underpayments of tax be the same; to the Committee on Finance.

By Mr. MACK (for himself, Mr. GRAHAM, Mr. GRAMM, Mr. LIEBERMAN, Mr. KASTEN, Mr. DECONCINI, Mr. MCCAIN, Mr. PRESSLER, Mr. HUMPHREY, and Mr. GORTON):

S. 2444. A bill to require limitations and restrictions concerning trade and other transactions with Cuba; to the Committee on Foreign Relations.

By Mr. BOSCHWITZ (for himself, Mr. DOLE, Mr. LUGAR, Mr. MCCONNELL, Mr. LEAHY, and Mr. HARKIN):

S. 2445. A bill to amend the Food Stamp Act of 1977 to require participating retail food stores and wholesale food concerns to provide their taxpayer identifying numbers to the Secretary; to establish criminal penalties applicable to laundering funds obtained from trafficking in coupons; and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON:

S. 2446. A bill to take measures to improve the employment verification system under the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 2447. A bill to establish the Bayou Cocodrie National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2448. A bill providing for modification of employment tax treatment of certain crew members on fishing vessels; to the Committee on Finance.

By Mr. RUDMAN (for himself and Mr. HUMPHREY):

S. 2449. A bill to authorize the Secretary of the Air Force to purchase the mobile homes of certain members of the Air Force stationed at Pease Air Force Base, NH; to the Committee on Armed Services.

By Mr. SYMMS (for himself, Mr. HATCH, and Mr. GARN):

S. 2450. A bill to amend the Internal Revenue Code of 1986 to clarify that qualified contributions to a missionary of a church are treated as contributions to the church; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. BAUCUS, Mr. REID, Mr. BURDICK, Mr. DASCHLE, Mr. DECONCINI, Mr. WIRTH, Mr. CONRAD, and Mr. NICKLES):

S. 2451. A bill to establish in the Department of the Interior a Trust Counsel for Indian Assets; to the Select Committee on Indian Affairs.

By Mr. ARMSTRONG:

S. 2452. A bill to amend the Federal Rules of Evidence to establish a tax preparer's privilege; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, and Mr. PRYOR):

S. 2453. A bill to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. D'AMATO, Mr. DOMENICI, and Mr. COATS):

S.J. Res 286. Joint resolution to designate the week beginning May 6, 1990, as "National Correctional Officers Week"; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. HATFIELD, Mr. MITCHELL, Mr. JEFFORDS, Mr. CRANSTON, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. MATSUNAGA, and Mr. SIMON):

S.J. Res. 287. Joint resolution requesting the President of the United States to negotiate agreements to achieve early prohibition of nuclear explosions; to the Committee on Foreign Relations.

By Mr. KASTEN:

S.J. Res. 288. Joint resolution designating January 6 through 12, 1991, as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BRYAN (for himself and Mr. REID):

S. Res. 268. Resolution commending the Runnin' Rebels of the University of Nevada at Las Vegs for winning the 1990 National Collegiate Athletic Association Men's Basketball Championship; considered and agreed to.

By Mr. MOYNIHAN (for himself Mr. BENTSEN, Mr. BRADLEY, and Mr. HEINZ):

S. Res. 269. Resolution to express the sense of the Senate that the President ought promptly send to the Senate nominations for the vacancies on the Social Security Board of Trustees.

By Mr. SIMON (for himself, Mr. HUMPHREY, Mr. PELL, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. CRANSTON, Mr. HELMS, and Mr. MITCHELL):

S. Res. 270. Resolution expressing the sense of the Senate regarding the urgent famine situation in Ethiopia; to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S. Con Res. 119. Concurrent resolution setting forth the congressional budget for the U.S. Government for fiscal years 1991, 1992, and 1993; to the Committee on the Budget.

By Mr. BOSCHWITZ (for himself, and Mr. DURENBERGER):

S. Con. Res. 120. Concurrent resolution to commend the National Mental Health Leadership Forum and the National Advisory Mental Health Council; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. Con. Res. 121. Concurrent resolution expressing the sense of the Congress regarding the need for the negotiation of an international agricultural cropland conservation reserve treaty; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON:

S. 2421. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to provide transitional Medicare eligibility rules for State and local government employees covered by optional State agreements; to the Committee on Veterans' Affairs.

MEDICARE ELIGIBILITY FOR STATE AND LOCAL GOVERNMENTS

Mr. CRANSTON. Mr. President, today I am introducing legislation that would provide certain employees of State and local governments coverage under the Medicare Program.

In 1985, Congress passed legislation requiring all State and local employees hired after April 1, 1986, to participate in the Medicare Program and pay Medicare hospital insurance [HI] taxes. Since this mandate has been in effect, the pool of individuals who are paying into non-Medicare retiree health insurance programs has steadily decreased. This decrease, coupled with the skyrocketing inflation in health care costs we have seen over the past several years, has led to an increase in the cost of providing health insurance coverage for retirees. As a result, school districts in my home State, and possibly other State and local governments, have reported difficulty in continuing to provide retiree health benefits for employees hired before April 1, 1986, who have not been paying into Medicare.

To help address this problem, the California Legislature last year passed a law to allow school districts in the State to elect coverage for their employees under the Medicare HI Program. However, some teachers in school districts that elect this option who, as employees of local government, have not paid HI taxes during their teaching years, will reach retirement age before earning the necessary 40 quarters for Medicare eligibility.

The legislation I am introducing today aims to remedy this shortcoming. It would give credit toward Medicare eligibility for employees—hired before April 1, 1986—of State or local governments voluntarily opting into the Medicare Program for those quarters worked in non-Medicare-taxed jobs. This would allow individuals, generally those aged 55 to 65, to become eligible for Medicare upon reaching age 65 without necessarily having paid the mandatory 40 quarters—or 10 years—in Medicare HI taxes. For California teachers, this bill would allow teachers in districts voluntarily participating in Medicare to receive credit toward Medicare eligibility for those year that they have taught.

This concept of grandfathering into the Medicare Program employees who have not accrued sufficient numbers of quarters for Medicare eligibility is not a new one. When Medicare coverage was extended to Federal employees in 1983, for example, a grandfather clause similar to the one I have proposed was included. That law gave credit for quarters worked in Federal employment to those Federal employees who would not otherwise have met the required number of quarters paid in HI taxes before reaching age 65. Similarly, in 1984, when changes were made regarding Social Security coverage of employees of nonprofit organizations, special eligibility requirements were established for individuals who were near retirement.

Mr. President, this legislation would help protect a small number of elderly citizens against the danger of being without vitally needed health insurance coverage. For example, the California Teachers Association estimates that, if all school districts elect to participate in Medicare, approximately 16,800 teachers between the ages of 55 and 65 would not be fully vested in Medicare by the time they became eligible for Medicare at 65. This represents 7.8 percent of the more than 213,000 teachers who were employed prior to April 1, 1986. At present, an individual is eligible to receive Medicare benefits upon reaching age 65 if he or she has paid Medicare hospital insurance taxes for a minimum of 40 quarters or has become eligible through a spouse. Since it is likely that some of these individuals would become eligible for Medicare through their spouses, this figure represents the maximum number of California teachers who would be grandfathered under this legislation. Should other State or local governments decide to cover employees hired before April 1, 1986, I would expect a similarly small percentage of employees would need assistance under this legislation.

In fact, the Congressional Research Service estimates that approximately 95 percent of all State or local government employees hired prior to April 1986 who have not paid HI taxes during their employment at the State or local level will, upon reaching age 65, nevertheless be eligible for Medicare either through previous work experience in the private sector or through a spouse. Moreover, according to CRS, the number of Federal employees who were grandfathered into the Medicare Program as a result of the 1983 law was extremely small and resulted in no significant cost.

Mr. President, I am concerned about those individuals who, because they work in State and local government, are ar risk of being without vital medical insurance coverage when they reach retirement age. The legislation I am introducing today is designed to address this problem, and I urge my colleagues to join me in cosponsoring this important measure to ensure that older Americans have access to basic and necessary medical care.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 13205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end thereof the following new subsection.—

"(e) TRANSITIONAL PROVISIONS.—

"(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual—

"(A) who is described in section 218(n)(2) of such Act,

"(B) who performs service both during April 1986 and before April 1, 1986, which constitutes medicare qualified government employment (as defined in section 210(p) of such Act, and

"(C) who would be entitled, under section 226(a)(2)(C), 226(b)(2)(C), 226(a)(1)(A)(ii), or 226A(a)(1)(B)(iii) of such Act, to hospital insurance benefits under part A of title XVIII of such Act but for the failure to include medicare qualified government employment (as so defined) within the meaning of the term 'employment' for purposes of title II of such Act for remuneration paid before April 1, 1986.

the individual's medicare qualified government employment (as so defined) performed before April 1, 1986, for which remuneration was paid before such date, shall be considered to be 'employment' (as so defined), but only for the purpose of providing such entitlement.

"(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person's eligibility for hospital insurance benefits.

"(3) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

"(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1) or (2) of this subsection,

"(B) the additonal administrative expenses resulting or expected to result therefrom, and resulting or expected to result therefrom, and

"(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.".

(b) The amendment made by subsection (a) shall take effect as if included in the provisions of section 13205 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

By Mr. BOND (for himself and Mr. PRYOR):

S. 2422. A bill to establish a research program for the development and implementation of new technologies in food safety, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY ACT

● Mr. BOND. Mr. President, this morning I rise to reintroduce legislation concerning the safety of food products of animal origin. It is a pleasure once again to be joined in this effort by my distinguished colleague from Arkansas [Mr. PRYOR]. In July 1987, we introduced this initiative with a majority of the Agriculture Committee as cosponsors. It is our hope that we will have the same widespread support again as we move to include it in the 1990 farm bill.

To begin, I must reiterate a point that has been stated many times before—the United States has the safest food supply and best inspection system of any country in the world. This past year, however, a number of food scares have alarmed consumers and drawn attention to some shortcomings in food regulatory laws and programs. In my opinion, suggestions for improvement should not be regarded as condemnation of the present system but recognition of emerging technologies which could make current programs more effective and efficient. Food safety research that results in improved consumer confidence helps build demand for agricultural commodities and is vital to producers, processors, and consumers.

The U.S. Meat and Poultry inspection system is one of the most comprehensive public health programs in the world with nearly 9,000 employees located in over 6,700 meat and poultry plants in every State and territory. My home State of Missouri has 265 federally inspected plants with approximately 313 total USDA meat and poultry inspectors.

The vast majority of food animals in the United States are found to be healthy upon entering the meat supply. In 1988, Food Safety and Inspection Service [FSIS] inspectors examined 5.6 billion chickens, turkeys, and other domesticated waterfowl; 32.7 million cattle; 4.7 million sheep and goats; and 79 million swine. Each of these animals was inspected and very few were found to be diseased or otherwise unfit for consumption.

Further evidence of this fact is the percent condemnation of these animals. In 1988, less than 1 percent of livestock and poultry were condemned at both ante mortem and post mortem inspections.

Mr. President, the wholesomeness and safety of food products of animal origin is very important to the health and well-being of our Nation. Foodborne illnesses are a major public health concern which impose significant costs, both direct and indirect. Direct costs include medical care and lost wages, while indirect costs include recalls and investigations.

Furthermore, it should be noted that one-third of all reported outbreaks of food-related illnesses are attributed to meat and poultry. Although this bill authorizes research for livestock and poultry products only, it is important to recognize that fish and seafood are significant vehicles identified in food poisoning outbreaks.

The legislation which we are introducing today is the logical first step in the process of developing a comprehensive quality assurance program which includes chemical and microbiological sampling. Furthermore, the importance of preventing foodborne illness is growing as larger percentages of the population become more susceptible. These groups include the elderly, young children, and others whose immune systems are suppressed.

Mr. President, the objectives of this legislation were developed from reports, discussions, and testimony presented by people representing a wide variety of interests. Let me summarize the objectives:

The Secretary of Agriculture is authorized to establish a research program which includes:

First, developing the technology for rapid identification of microbiological or chemical contaminants on the farm or throughout the processing and distribution chain. The goal is to have access to accurate results in a matter of seconds or minutes rather than hours or days. For example, a complete analysis could be performed before the product leaves the processing facility and enters the distribution chain.

Second, establishing a statistical framework under which the potential health risks posed by contamination can be measured. In a nutshell, this could be termed risk assessment. Risk assessment is the use of the factual base to define the health effects of exposure of individuals or populations to hazardous materials and situations.

Upon the successful development of these two objectives, the Secretary is further requested to provide funding to:

First, analyze the entire animal product food chain and determine the most effective points where intervention could occur to control or prevent a microbiological or chemical cycle.

Second, develop techniques to monitor the animal product food chain and detect potential microbiological or chemical agents and assist in the removal from commerce of those foods which would be unacceptable under the statistical framework mentioned earlier.

The research projects awarded under this act will be approved by the Secretary of Agriculture on a competitive grant basis. Projects eligible for funding may be submitted by entities within public and private colleges and universities or other entities involved in research in the area of food safety.

To carry out these objectives, there are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this act.

Mr. President, the control of microorganisms such as Salmonella, E. Coli, and Listeria is a very complex issue. We all realize there are no easy answers to this problem. I must reiterate that all foods have the potential for Salmonella contamination, and that it is not feasible to expect eradication in such products in the near future.

It is important that we keep this entire issue in perspective. These are not new bacteria, they have been

around as long as man has been able to identify them and will probably remain long after we are gone. Today, however, the climate is right to work together to obtain the information to control these mircoorganisms. In my judgment, all players in the game: Producers, processors, USDA, marketers, educators, and consumers are aware of the task and are willing to cooperate in efforts to move our current system into the 21st century.

Even if researchers could guarantee animal products free of contaminants, their efforts would be wasted without the cooperation of consumers. Lacking the proper education regarding handling practices, consumers unknowingly exacerbate the extent of foodborne illnesses.

In my view the solution to this problem is threefold. First, children must be exposed to safe handling practices early in life. In today's society, fast food is in and sitdown family dinners often take second place. Without the proper education, children are apt to acquire the bad habits of their elders.

Second, adults must be better informed of these safe handling practices. The livestock and poultry industries, as well as consumer groups, are to be commended for their efforts better to educate consumers. This information can be passed along through various voluntary labeling practices as well as in store point-of-purchase pamphlets and brochures.

Finally, educational programs must be administered throughout the food service industry. As larger proportions of our population eat away from home, the importance of food safety in restaurants and cafeterias becomes critical.

Mr. President, at this point I would ask unanimous consent that an outline of safe handling practices be inserted into the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD; as follows:

SAFE HANDLING PRACTICES

1. Cooking all meat until it is fully done;
2. Washing all cutting boards and utensils thoroughly;
3. Washing hands completely after handling meat and poultry and before moving to the preparation of other foods; and
4. Only thawing products in the refrigerator or on the defrost setting of a microwave and never at room temperature or in warm water.

Mr. BOND. Mr. President, in conclusion, the public's concern over microbiological and chemical contaminants in livestock and poultry must be addressed by the research community. The ability to move beyond visual inspection and into microbiological and chemical sampling is a process which will benefit all of those involved. We must move forward to ensure that appropriate standards are developed to control or prevent the growth and spread of harmful microbes.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) food borne illness is a major public health concern that imposes large costs on the public, including expenses related to direct medical care, lost wages, recalls, and investigations;

(2) all food groups have the potential to cause food borne illness, with approximately 33 percent of all reported outbreaks of food-related illnesses attributed to meat and poultry;

(3) the wholesomeness and safety of food products of animal origin is very important to the health and well-being of the United States;

(4) maintenance of consumer confidence in the wholesomeness and safety of food products of animal origin is very important to the food industry and producers; and

(5) the importance of preventing food borne illnesses in growing, due to the increase in the number of older Americans, people with suppressed immune systems, and other individuals who are susceptible to food borne illnesses.

SEC. 2. RESEARCH PROGRAM.

The Secretary of Agriculture (referred to in this Act as the "Secretary") shall establish a research program for the development and implementation of new technologies in food safety. The program shall include research projects designed to decrease the susceptibility of food products of animal origin to infectious or toxic agents (referred to in this Act as "research projects"), including research projects to—

(1) develop technology for the rapid identification of infectious agents and toxins on farms and within the processing and distribution chain;

(2) establish a statistical framework to measure the extent of potential health risks posed by the contamination of the animal product food chain by the agents referred to in paragraph (1);

(3) analyze the animal product food chain to determine the most effective intervention point to control or prevent a microbiological or chemical cycle in—

(A) a production unit;

(B) a processing unit; and

(C) a distribution element; and

(4) develop techniques to monitor the production of food animals and the processing and distribution of food products of animal origin to detect potential microbiological or chemical agents.

SEC. 3. RESEARCH GRANTS.

(a) AUTHORIZATION.—The Secretary shall award grants, for periods not to exceed 5 years, to pay for the Federal share of the costs of funding research projects.

(b) RESEARCH PROPOSALS.—

(1) ELIGIBILITY.—The Secretary shall seek research proposals for research projects. In seeking proposals, the Secretary shall seek the widest participation from persons eligible for research grants, which shall include—

(A) individuals associated with public and private colleges and universities, including—

(i) food scientists;

(ii) agricultural engineers;

(iii) veterinary and public health scientists; and

(iv) animal scientists; and

(B) other entities involved in research in the area of food safety.

(2) EVALUATION.—The Secretary shall perform peer review evaluations of research proposals. In performing the evaluations, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of grants provided for under this section shall be 75 percent.

(2) INCREASES.—The Secretary may increase the Federal share of a grant provided for under this section to 100 percent, if the Secretary determines such action is appropriate.

(d) LIMITATION.—The Secretary may not make a grant under this section for any purpose for which a grant may be made under section 2(d) of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i(d)) or for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this Act.

(b) ADMINISTRATIVE COSTS.—Four percent of the amount appropriated for each of fiscal years 1991 through 1995 may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this Act.●

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 2423. A bill to provide for Federal recognition of the United Houma Nation of Louisiana, and for other purposes; to the Select Committee on Indian Affairs.

UNITED HOUMA NATION RECOGNITION ACT

Mr. JOHNSTON. Mr. President, on behalf of Senator BREAUX and myself, I am pleased to introduce today a bill to extend Federal recognition to the United Houma Nation of Louisiana.

Before the creation of the State of Louisiana, the Houma Indians lived along the banks of the Mississippi River in an area now known as Baton Rouge. Driven from their homelands by the encroachment of new settlers, the Houma Indians moved further south into the swamplands of southeast Louisiana and eventually isolated themselves along the coast of the Gulf of Mexico where they currently reside. Despite these disruptions, the Houma have continually maintained their identity as an Indian tribe and community, exercising self-government and autonomy over its members. At present, the United Houma Nation is the largest Indian tribe in Louisiana with approximately 11,000 members

living in seven settlements within Lafourche and Terrebonne Parishes. These settlements, which are currently threatened by severe coastal erosion, have otherwise changed little since the early part of the century. Although trapping and farming have declined because of ecological changes to the surrounding lands and bayous, fishing and shell fishing remain the principal occupations of most families.

Throughout its history, the Houma Tribe has maintained relationships with the Governments of Spain, France, and the United States. In fact, in 1806, 3 years after the Louisiana Purchase, the territorial governor of Louisiana, W.C.C. Claiborne presented medals to the Houma chiefs. In accordance with the policy of the United States at the time, bestowing these medals upon Indian leaders was the official manner of extending political recognition to an Indian tribe. Unfortunately, the United Houma Nation has been denied this status and now requests that the Congress take appropriate action to correct the situation by extending Federal recognition to the tribe.

Mr. President, as you are well aware, the current acknowledgment process administered by the Bureau of Indian Affairs is an inadequate method for processing the applications of Indian tribes seeking Federal recognition. This procedure is lengthy, cumbersome, and extremely expensive. At present, it takes the Bureau of Indian Affairs an average of 10 years to process an application, and there is a backlog of over 100 applications which have yet to be processed. On July 18, 1985, the Houma Tribe submitted a petition to the Bureau of Indian Affairs outlining the existence of the tribe from their early European contacts to the present day Houma community. Despite their comprehensive petition and detailed responses to inquiries made by the Bureau of Indian Affairs, the United Houma Nation appears to have made little progress in their quest for Federal recognition and must continue to wait for several more years before their petition will even be reviewed.

I understand that legislation is currently pending before the Senate Select Committee on Indian Affairs to reform the Federal acknowledgment process in order to facilitate the consideration of tribal applications for Federal recognition. I fully support this idea and have signed on as a cosponsor of S. 611 which was introduced by the distinguished chairman of the committee. While I commend the committee for their desire to improve the acknowledgment procedure, I do not feel that the consideration of such reform measures should prevent the Congress from taking action to correct this situation. Therefore, I ask my colleagues to carefully consider this legislation which would extend Federal recognition to the United Houma Nation of Louisiana.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 2424. A bill to amend the Internal Revenue Code of 1986 to provide for the imposition of certain excise taxes related to the enforcement of provisions of the Clean Air Act added by the Clean Air Act Amendments of 1990; to the Committee on Finance.

ENVIRONMENTAL EXCISE TAXES

● Mr. BAUCUS. Mr. President, previously, we considered and adopted an amendment to the clean air substitute measure deleting certain Federal fee collection authorities. This action was necessary because our colleagues in the House of Representatives had indicated that they believed that the fee provisions constituted revenue raising measures and infringed upon their Constitutional prerogatives.

At the time the amendment was adopted to strike the fee provisions, the distinguished Chairman of the Finance Committee, Senator BENTSEN, indicated his willingness to consider fee provisions similar to those contained in the clean air substitute as part of a 1990 tax measure. Today, I'm introducing legislation that contains the fee provisions that were stricken from the substitute amendment.

In order for the Environmental Protection Agency [EPA] to fully implement the provisions of the clean air amendments, it is essential that there be a dedicated revenue source to help fund the program. The Congressional Budget Office has estimated that a $15-per-ton Federal emissions fee would bring in approximately $90 million annually starting in 1993. That is a significant contribution toward the costs of implementing the new requirements. Other provisions of the bill would enable Federal collection of fees in the event that States fail to establish comparable mechanisms for assessing emission fees.

Mr. President, by introducing this measure today, we are making our intent clear to work toward establishment of a funding source for implementation of the clean air amendments. This measure serves as a basis for discussion of possible revenue provisions as the Finance Committee proceeds on the 1990 tax measure.●

By Mr. KERRY (for himself, Mr. BIDEN, and Mr. BRADLEY):

S. 2425. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

SENATORIAL ELECTION PUBLIC FUNDING AND CAMPAIGN ACT

Mr. KERRY. Mr. President, on behalf of myself, Senator BIDEN, and Senator BRADLEY, I am introducing today the Senatorial Election Public Funding and Campaign Act of 1990.

We have introduced this legislation today because we believe that money is distorting the American political process.

There is a growing gap between the representative and the represented. The reason is an increasing perception that only those with access to huge sums of money can run for high office—and only those with huge sums of money can affect what happens in the Halls of Congress.

Someone once said, "money is the mother's milk of politics." Well, it's gone sour.

Too many have the perception that money has come to dominate the process of how laws get made—that the system is rigged—that special interests get special favors because they contribute money to politicians—and that some elected officials spend so much time and energy raising money that they aren't doing the jobs they were elected to do.

Now that we've passed a clean air bill, it is time to pass a clean campaign bill.

What this bill does is make a few critical changes to S. 137, the Boren-Mitchell bill. Each of us is a cosponsor of that bill, and we continue to support it.

Our bill adds voluntary public funding for general elections and creates an exemption from spending caps for small donations from voters within a candidate's own State.

An exemption for small donations from in-State voters was a key recommendation of the Bipartisan Task Force on Campaign Finance appointed by the majority and minority leaders earlier this year.

This exemption is one way to insure that campaigns can continue to organize grassroot support all the way through to election day—even while living within spending caps and accepting public funding as an alternative to larger donations.

There is a great irony here in our democracy. Recently, we have had a consensus in Congress that it is OK to spend public funds in elections to promote democracy abroad. We had no trouble, for example, agreeing to use public United States funds to support the opposition in the recent elections in Nicaragua. If we can spend the money to ensure fairness in Nicaraguan elections, we certainly ought to be able to do the same at home—particularly on a voluntary basis.

I have been working closely with Senator BOREN and the majority leader on their campaign finance

reform legislation as a member of the Democratic Task Force on Campaign Finance. They expect to bring a vehicle on campaign finance to the floor later this month or in May. When they do so, it is my hope that public funding will have received enough support that we can bring it to a vote on the floor as an amendment to the Boren-Mitchell bill.

I ask unanimous consent that this legislation be printed in full in the RECORD following my remarks, together with an analysis of the act and a chart listing the impact, State by State, of the system of spending caps and voluntary public funding established by this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2425

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senatorial Election Public Funding and Campaign Act of 1990".

SEC. 2. SPENDING LIMITS.

The Federal Election Campaign Act of 1971 (referred to as "the Act") is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For the purposes of this title—

"(1) the term 'authorized committee' means, with respect to a candidate for election to a seat in the United States Senate, a political committee that is authorized in writing by the candidate to accept contributions or make expenditures on behalf of the candidate to further the election of the candidate;

"(2) the term 'candidate' means an individual who is seeking nomination for election, or election, to a seat in the United States Senate, and such an individual shall be deemed to be seeking nomination for election, or election, if the individual meets the criteria stated in subparagraph (A) or (B) of section 301(2);

"(3) the term 'eligible candidate' means a candidate who has made the filings prescribed by section 502 (a) and (b);

"(4) the term 'election cycle' means, with respect to an election to any Senate seat—

"(A) in the case of a candidate or the authorized committee of a candidate, the period beginning on the day after the date of the most recent general election for the seat that the candidate seeks and ending on the date of the next general election; or

"(B) in the case of other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next election;

"(5) the term 'general election' means an election that will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(6) the term 'general election period' means the period beginning on the day after the date of a primary or runoff election, whichever is later, and ending on the first of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(7) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of a person described in subparagraph (B);

"(8) the term 'major party' has the meaning stated in section 9002(6) of the Internal Revenue Code of 1986 (the Presidential Election Campaign Fund Act), except that a candidate in a general election held by a State to elect a Senator subsequent to an open primary in which all the candidates for the office participated and which resulted in the selection of the candidate and at least one other candidate for the ballot in the general election, shall be treated as a candidate of a major party for purposes of this title;

"(9) the term 'primary election', with respect to an election for any Senate seat, means an election that may result in the selection of a candidate for the Senate on the ballot of in a general election;

"(10) the term 'primary election period', with respect to an election for any Senate seat, means the period beginning on the day following the date of the last Senate election for that seat and ending on the first of—

"(A) the date of the first primary election for that seat following the last Senate election for that seat; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(11) the term 'runoff election', with respect to an election for any Senate seat, means an election held after a primary election for that seat, prescribed by State law as the means for determining the candidates that will be certified as nominees for the Senate;

"(12) the term 'runoff election period', with respect to an election for any Senate seat, means the period beginning on the day following the date of the most recent primary election for that seat and ending on the date of the runoff election for that seat;

"(13) the term 'Senate Account' means the Senate Election Campaign Account maintained, pursuant to section 506, by the Secretary of the Treasury in the Presidential Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1986; and

"(14) the term 'voting age population' means the resident population, 18 years of age or older, as certified for a State pursuant to section 315(e).

"ELIGIBILITY TO RECEIVE BENEFITS

"SEC. 502. (a) To be eligible to receive benefits under this title, a candidate shall make the filings required by subsections (b) and (c).

"(b) To become an eligible candidate, a candidate shall, on the day that the candidate files as a candidate for the primary election, file with the Commission a declaration whether—

"(1) the candidate and the candidate's authorized committees agree to make expenditures for the primary election in an amount greater than the lesser of—

"(A) 67 percent of the general election spending limit applicable to the candidate under section 503(b); or

"(B) $2,750,000;

"(2) the candidate and the candidate's authorized committees agree to make expenditures for a runoff election, in an amount equal to no more than 20 percent of the general election spending limit applicable to the candidate under section 503(b); and

"(3) the candidate and the candidate's authorized committees agree to make expenditures for the general election in an amount equal to no more than the general election spending limit applicable to the candidate under section 503(b).

"(c) To become an eligible candidate, a candidate shall, not later than 7 days after qualifying for the general election ballot under State law or, if the candidate's State is one that has a primary election to qualify for the general election ballot after September 1, not later than 7 days after the date such candidate wins in such primary, whichever occurs first, file a certification with the Commission under penalty of perjury stating that—

"(1) during the period beginning on January 1 of the calendar year preceding the year of the general election, or in the case of a special election for the seat of a United States Senator, during the period beginning on the day on which the seat was vacated, and ending on the day the certification is made, the candidate and the candidate's authorized committees have received contributions in an amount at least equal to the lesser of—

"(A) $650,000; or

"(B) the greater of—

"(i) $150,000; or

"(ii) 10 cents multiplied by the voting age population of the State;

"(2) all contributions received for purposes of paragraph (1) have come from individuals, and no contribution received from an individual, when added to all contributions to or for the benefit of the candidate from the individual, was taken into account to the extent that the contributions from that individual exceed $250;

"(3) the candidate and the candidate's authorized committees have not expended for the primary election more than the amount described in subsection (b)(1);

"(4) the candidate and the candidate's authorized committees have not expended for any runoff election more than the amount described in subsection (b)(2);

"(5) at least 75 percent of the amount of contributions received for purposes of paragraph (1) have come from individuals residing in the candidate's State;

"(6) at least one other candidate has qualified for the same general election ballot under State law;

"(7) the candidate and the candidate's authorized committees—

"(A) have not made and will not make expenditures for the general election that exceed the general election spending limit applicable to the candidate under section 503(b), unless permitted to do so under section 504(a)(2);

"(B) will not accept any contributions in violation of section 315;

"(C) will not accept any contribution for the general election except contributions from any individual who resides in the candidate's State, which, in the aggregate, do not exceed $25, except as permitted by this Act;

"(D) will deposit all payments received under this section in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(E) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(F) will cooperate in any audit and examination conducted by the Commission pursuant to section 507; and

"(8) the candidate intends to make use of the benefits provided in section 504.

"(d) For the purposes of subsection (c)(1) and section 504(a)(2)(B), in determining the amount of contributions received by a candidate and the candidate's authorized committees—

"(1) no contribution other than a gift of money made by a written instrument that identifies the person making the contribution shall be taken into account;

"(2) no contribution made through an intermediary or conduit referred to in section 315(a)(8) shall be taken into account;

"(3) no contribution received from a person other than an individual shall be taken into account, and no contribution received from an individual shall be taken into account to the extent such contribution exceeds $250 when added to all other contributions made by that individual to or for the benefit of such candidate since the date specified in paragraph (4); and

"(4) no contribution received prior to January 1 of the calendar year preceding the year in which the general election is held or received after the date on which the general election is held shall be taken into account, and in the case of a special election, no contribution received prior to the date on which the seat was vacated or received after the date on which the general election is held shall be taken into account.

"(e) The threshold amounts in subsection (c)(1) shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in section 315(c) shall mean the calendar year of the first election after the date of enactment of the Senatorial Election Public Funding and Campaign Act of 1990.

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) No candidate shall—

"(1) make expenditures from the personal funds of the candidate or the funds of a member of the immediate family of the candidate; or

"(2) incur personal debt,

in excess of $20,000 in connection with the candidate's campaign for the Senate during an election cycle.

"(b)(1) Subject to paragraph (2), no eligible candidate may make expenditures for a general election in excess of the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000 plus 30 cents multiplied by the voting age population of 4,000,000 or less, plus 25 cents multiplied by the voting age population over 4,000,000,

plus any amount permitted under paragraph (3) and section 504 (b) and (c).

"(2) No eligible candidate in a State with no more than 1 transmitter for a commercial very high frequency television station licensed to operate in the State, who receives a benefit under section 504, may make expenditures for a general election in excess of the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000 plus 45 cents multiplied by the voting age population of 4,000,000 or less, plus 40 cents multiplied by the voting age population over 4,000,000,

plus any amount permitted under paragraph (3) and section 504 (b) and (c).

"(c) The amount otherwise determined under this section shall be increased by the amount of contributions for the general election from any individual residing in the candidate's State which, in the aggregate, do not exceed $25.

"(c) No candidate who is otherwise eligible to receive benefits under this title for use in a general election may receive such benefits if the candidate makes expenditures for the primary election in excess of the lesser of—

"(1) $2,750,000; or

"(2) the amount equal to 67 percent of the limitation on expenditures for the general election determined under subsection (b).

"(d) No candidate who is otherwise eligible to receive benefits under this title for use in a general election may receive such benefits if the candidate makes expenditures for a runoff election in excess of an amount equal to 20 percent of the limitation on expenditures for the general election determined under subsection (b).

"(e) For purposes of this section, the amounts set forth in subsections (b), (c), and (d) shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in section 315(c), means the calendar year of the first election after the date of enactment of the Senatorial Election Public Funding and Campaign Act of 1990.

"(f)(1) The limitation stated in subsection (b) shall not apply to expenditures by a candidate or the candidate's authorized committees from a compliance fund established to defray the costs of legal and accounting services provided solely to insure compliance with this Act, if—

"(A) the compliance fund contains only contributions (including contributions received in excess of any amount necessary to defray qualified campaign expenditures pursuant to section 313) received in accordance with the limitations, prohibitions, and reporting requirements of this Act, and does not contain any funds received by the candidate pursuant to section 504(a);

"(B) the amount of contributions to and expenditures from the compliance fund do not exceed 10 percent of the limitation on expenditures for the general election determined under subsection (b); and

"(C) no transfers are made from the compliance fund to any other accounts of the candidate's authorized committees.

"(2) If, after a general election, a candidate determines that the costs of necessary and continuing legal and accounting services require contributions to and expenditures from a compliance fund in excess of the limitation stated in paragraph (1), the candidate may petition the Commission for a waiver of such limitation up to any additional amount that the Commission may authorize, the determination of which shall be subject to Federal review under section 508.

"(3) Any money remaining in a compliance fund when a candidate decides to terminate or dissolve the compliance fund shall be—

"(A) contributed to the United States Treasury to reduce the budget deficit; or

"(B) transferred to any fund of a subsequent campaign of that candidate.

"(f) If during a primary election period or runoff election period preceding a general election, independent expenditures aggregating more than $10,000 are made or obligated to be made in opposition to a candidate or for the opponent of a candidate, the limitations stated in subsections (c) and (d), as they apply to such candidate, shall be deemed to be increased for that primary or runoff election in an amount equal to the amount of such independent expenditures made during the primary election period or runoff election period.

"ENTITLEMENT OF ELIGIBLE CANDIDATES TO BENEFITS

"SEC. 504. (a)(1) Except as otherwise provided in section 506(c)—

"(A) an eligible candidate who is a major party candidate shall be entitled to a payment under section 506 in an amount equal to the general election spending limit applicable to the candidate under section 503(b) (without regard to paragraph (3) thereof); and

"(B) an eligible candidate who is not a major party candidate shall be entitled to matching payments under section 506 in an amount equal to the amount of each contribution received by the candidate and the candidate's authorized committees.

"(2) In determining the amount of contributions for the purposes of paragraph (1)(B)—

"(i) the provisions of section 502(b) shall apply; and

"(ii) the contributions required by section 502(a)(1) shall not be eligible for matching payments under this title.

"(3) The total amount of payments to which a candidate is entitled under paragraph (1)(B) shall not exceed 50 percent of the difference between—

"(A) the general election spending limit applicable to the candidate under section 503(b) (without regard to paragraph (3) thereof); and

"(B) the amount required to be raised by such candidate to establish eligibility under section 502(c)(1).

"(b) An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under subsections (b) and (d)(3) of section 315 of the Communications Act of 1934 (47 U.S.C. 315);

"(2) mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments under section 506 equal to the total amount of independent expenditures made or obligated to be made in the general election by any person in opposition to, or on behalf of an opponent of, the eligible candidate, as such expenditures are reported by such person or determined by the Commission under section 304(f); and

"(4) if an eligible candidate's opponent who is not an eligible candidate either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed the general election spending limit applicable to the eligible candidate under section 503(b)—

"(A) in the case of an eligible candidate who is a major party candidate, a payment under section 506 (in addition to payments to which the candidate is entitled under paragraph (1)) in an amount equal to—

"(i) two-thirds of the amount of the general election spending limit applicable to the eligible candidate under section 503(b) (without regard to paragraph (3) thereof), in a case in which the opponent either raises aggregate contributions or makes or becomes obligated to make aggregate ex-

penditures for the general election that exceed 100 percent of the applicable general election spending limit; and

"(ii) one-third of the amount of the general election spending limit applicable to the eligible candidate under section 503(b)) (without regard to paragraph (3) thereof), in a case in which the opponent either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 133⅓ percent of the applicable general election spending limit; or

"(B) in the case of an eligible candidate who is not a major party candidate, matching payments under section 506 (in addition to payments to which the candidate is entitled under paragraph (1)) equal to the amount of each contribution received by such eligible candidate and the candidate's authorized committees, except that in determining the amount of each such contribution—

"(i) section 502(b) shall apply; and

"(ii) threshold contributions required to be raised under section 502(b)(1) shall not be matched,

to the extent that aggregate payments to a candidate under this subparagraph do not exceed 50 percent of the amount of the general election spending limit applicable to the candidate under section 503(b)) (without regard to paragraph (3) thereof).

"(c) An eligible candidate who receives payments under paragraph (1)(C) or (2) of subsection (b) may spend such funds to defray expenditures in the general election without regard to the general election spending limit applicable to the candidate under section 503(b).

"(d)(1) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to subparagraph (A) of section 502(a)(7) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponent who is not an eligible candidate either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 133⅓ percent of the general election spending limit applicable under section 503(b).

"(2) A candidate who receives benefits under this section may receive contributions for the general election without regard to subparagraph (C) of section 502(a)(7) if a major party candidate in the same general election is not an eligible candidate, or if any other candidate in the same general election who is not an eligible candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 75 percent of the general election spending limit applicable to the candidate under section 503(b).

"(d) Benefits received by a candidate under this section shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such benefits shall not be used—

"(1) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506 the Commission shall certify such eligibility to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled, unless section 506(c) applies. The request shall contain—

"(1) such information and be made in accordance with such procedures, as the Commission may provide by regulation;

"(2) a certification that the candidate has raised contributions in the applicable threshold amount stated in section 502(b)(1) and has met all other requirements to become an eligible candidate; and

"(3) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) Certifications by the Commission under subsection (a) and all determinations made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 508.

"ESTABLISHMENT OF FUND; PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a)(1) The Secretary shall maintain in the Presidential Election Campaign Fund (referred to as the 'Fund') established by section 9006(a) of the Internal Revenue Code of 1986, in addition to any other accounts maintained under such section, a separate account to be known as the 'Senate Account'. The Secretary shall deposit into the Senate Account, for use by eligible candidates, the amounts available after the Secretary determines that the amounts in the fund, plus the amounts of revenue the Secretary projects will accrue to the fund during the remainder of the period ending on December 31 of the year of the next Presidential election, equal 110 percent of the amount the Secretary projects will be necessary for payments under subtitle H of the Internal Revenue Code of 1986 during such remainder of such period. The monies designated for the Senate Fund shall remain available without fiscal year limitation.

"(2) On May 15 of each year following the year during which a regularly scheduled biennial Senate election has occurred, the Secretary shall determine the amount in the Senate Fund, and determine whether that amount, plus the amount of revenue the Secretary projects will accrue to the Senate Account (based on the computation made by the Secretary with respect to the fund, as provided in paragraph (1)) during the period beginning on such date and ending on December 31 of the year of the next regularly scheduled biennial election, exceeds 110 percent of the total estimated expenditures of the Senate Account during that period. If the Secretary determines that an excess amount exists, the Secretary shall transfer the excess to the general fund of the Treasury of the United States.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate named in the certification, out of the Senate Account, the amount certified by the Commission.

"(c)(1) If at the time of a certification by the Commission under section 505 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Account are not, or may not be, sufficient to satisfy the full entitlement of all such eligible candidates, the Secretary shall withhold from such payment such amount as is necessary to ensure that an eligible candidate will receive a pro rata share of such candidate's full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient monies in the Senate Account to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient monies in the Senate Account to satisfy the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such a manner that each eligible candidate receives a pro rata share of the candidate's full entitlement. The Secretary shall notify the Commission and each eligible candidate by registered mail of the reduction in the amount to which that candidate is entitled under section 505.

"(2) If the application of this subsection results in a reduction in the amount to which an eligible candidate is entitled under section 505 and payments have been made under this section in excess of the amount to which the candidate is entitled, the candidate shall be liable for repayment to the Senate Account of the excess under procedures that the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a)(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible candidates of each major party and 10 percent of all other eligible candidates, as designated by the Commission through the use of an appropriate statistical method of random selection to determine, among other things, whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements of this title.

"(2) After each special election, the Commission shall conduct an examination and audit of the campaign accounts of each eligible candidate in such election to determine whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements under this title.

"(3) The Commission may conduct an examination and audit of the campaign accounts of any eligible candidate in a general election if the Commission, by an affirmative vote of four members, determines that there exists reason to believe that the candidate has violated any provision of this title.

"(b) If the Commission determines that any portion of the payments made to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the excess.

"(c) If the Commission determines that any part of a payment benefit made to a candidate under this title was not used as required by this title, the Commission shall so notify the candidate and the candidate shall pay to the Secretary an amount equal to 200 percent of the amount of the benefit that was used otherwise than as permitted by this title.

"(d) If the Commission determines that a candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 percent or less the general election spending limit applicable to the candidate under section 503(b), the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the amount of the excess expenditure.

"(e) If the Commission determines that a candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 percent general election spending limit applicable to the candidate under the limitation set forth in section 503(b), the Commission shall so notify the candidate, and the candidate shall pay the Secretary an amount equal to three times the amount of the excess expenditure.

"(f) Any amount received by an eligible candidate under this title may be retained for no more than 60 days after the date of the general election for the liquidation of all obligations to pay general election campaign expenses incurred during the general election period. At the end of 60 days any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

"(h) All payments received under this section shall be deposited in the Senate Account.

"CRIMINAL PENALTIES

"SEC. 507A. (a) No candidate shall knowingly or willfully accept benefits under this title in excess of the aggregate benefits to which the candidate is entitled or knowingly or willfully use such benefits for any purpose other than one permitted by this title or knowingly or willfully make expenditures from the candidate's personal funds, or the personal funds of the candidate's immediate family, in excess of the general election spending limit applicable to the candidate under section 503(b).

"(b) A person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to the making of an expenditure in violation of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(c)(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or authorize the use of, such benefit or such portion except as provided in section 504(d).

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d)(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(e)(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any benefits received by a candidate, or an authorized committee of a candidate who receives benefits under this title.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by a candidate or an authorized committee of a candidate pursuant to the provisions of this title shall pay to the Secretary for deposit in the fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 508. (a) Any action by the Commission made under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court not later than 30 days after the Commission action for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) Chapter 7 of title 5, United States Code, applies to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 509. (a) The Commission may appear in and defend against any action instituted under this section and under section 508 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under section 507 to be payable to the Secretary.

"(c) The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 510. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission deems appropriate) made by each eligible candidate and the authorized committees of that candidate;

"(2) the amounts certified by the Commission under section 505 for payment to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507, and the reasons for each such repayment; and

"(4) the balance in the fund, the Senate Account and any other account maintained in the fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission may prescribe such rules and regulations in accordance with subsection (c), conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

"(c) Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated to the Commission such sums as are necessary for the purpose of carrying out the Commission's functions and duties under this title.".

SEC. 3. SENATE ACCOUNT.

(a) INCREASE IN CHECK-OFF AMOUNTS.—Section 6096(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$1" each place it appears in that subsection and inserting "$3"; and

(2) by striking "$2" each place it appears in that subsection and inserting "$6".

(b) PUBLIC EDUCATION EFFORTS.—The Director of the Internal Revenue Service and the Federal Election Commission shall take steps to increase the resources available to the Senate Account through public education efforts aimed at increasing the number of individuals who choose to contribute to the fund through the voluntary check-off.

SEC. 4. BROADCAST RATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with such person's campaign for nomination for election, or election, to such office shall not exceed—

"(A) during the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same amount of time for the same period; and

"(B) at any other time, the charges made for comparable use of the station by other users thereof.

"(2) Notwithstanding subparagraph (A) of paragraph (1), a candidate for the United States Senate shall not be entitled to the rate specified in that subparagraph during the 60 days preceding a general election, but may be charged the rate specified in subparagraph (B) of that paragraph, unless—

"(A) the candidate is an eligible candidate within the meaning of section 501(5) of the Federal Election Campaign Act of 1971; and

"(B) the candidate is identified or is identifiable during at least 50 percent of the broadcast time of the candidate's political announcement or advertisement.";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to the provisions of subsection (b)(1).".

SEC. 5. REPORTING REQUIREMENTS.

(a) ADDITIONAL REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsections:

"(d)(1) Not later than the day after the date on which a candidate for the United States Senate qualifies for the ballot for a general election, as that term is defined in section 501(5), or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first, each such candidate in such election shall file with the Commission a declaration whether the candidate intends to make expenditures in excess of the general election spending limit applicable to the candidate under section 503(b).

"(2) A declaration filed pursuant to paragraph (1) may be amended or changed at any time within 7 days after the filing of the declaration, and may not be further amended or changed.

"(e)(1) A candidate for the United States Senate who qualifies for the ballot for a general election, as that term is defined in section 501(5)—

"(A) who is not eligible to receive benefits under section 502; and

"(B) who either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 75 percent of the general election spending limit applicable to the candidate under section 503(b) for such Senate election,

shall file a report with the Commission not later than 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made, or not later than 24 hours after the date of qualification for the general election ballot, whichever is later, setting forth the candidate's total contributions and total expenditures for such election. Thereafter such candidate shall file additional reports with the Commission not later than 24 hours after each time additional contributions are raised or expenditures are made, or are obligated to be made, which aggregate an additional 5 percent of such limit. A candidate shall continue to file such reports until the candidate has raised aggregate contributions or made or has become obligated to make aggregate expenditures equal to 133⅓ percent of the general election spending limit applicable to the candidate under section 503(b).

"(2) The Commission, not later than 24 hours after such a report has been filed, shall notify each candidate in an election who is eligible to receive benefits pursuant to this title of the filing of such report, and after an opposing candidate has raised aggregate contributions or made or has become obligated to make aggregate expenditures in excess of the applicable general election spending limit, the Commission shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled.

"(3) Notwithstanding the reporting requirement established in this subsection, the Commission may make its own determination that a candidate in a general election, as such term is defined in section 501(5), who is not eligible to receive benefits under section 504, has raised aggregate contributions or has made or has become obligated to make aggregate expenditures for such election that exceed general election spending limit applicable to a candidate under section 503(b). The Commission, not later than 24 hours after making such determination, shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about the making of such determination, and shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which any such candidate is entitled.

"(f)(1) All independent expenditures, if any (including those described in subsection (b)(6)(B)(iii)), made by any person after the date of the last Federal election with regard to a general election, as such term is defined in section 501(5), and all obligations to make such expenditures incurred by any person during such period, if any, shall be reported by such person to the Commission as provided in paragraph (2), if such expenditure or obligation is described in such paragraph.

"(2) Independent expenditures by any person referred to in paragraph (1) shall be reported not later than 24 hours after the aggregate amount of such expenditures incurred or obligated exceeds $10,000. Thereafter, independent expenditures referred to in paragraph (1), made by the same person in the same election, shall be reported not later than 24 hours after each time the aggregate amount of such expenditures incurred or obligated, not yet reported under this subparagraph, exceeds $5,000.

"(3) Each report under this subsection shall be filed with the Commission and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii); and

"(B) a statement filed under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat. The Commission shall, not later than 24 hours after such report is made, notify each candidate in the election involved who is eligible to receive benefits pursuant to section 504(a)(1)(C), about the making of each such report, and shall certify such eligibility to the Secretary of the Treasury for payment in full of any amount to which any such candidate is entitled.

"(4)(A) Notwithstanding the reporting requirements established in this subsection, the Commission may make its own determination that a person has made independent expenditures, or has incurred an obligation to make such expenditures, as the case may be, with regard to a general election, as defined in section 501(5), that in the aggregate total more than the applicable amount specified in paragraph (2).

"(B) The Commission shall, not later than 24 hours after such determination is made, notify each candidate in the election involved who is eligible to receive benefits under section 504(a)(1)(C) about the making of each determination under subparagraph (A), and shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

"(g)(1) When 2 or more persons make an expenditure or expenditures in coordination, consultation, or concert (as described in paragraph (2) or otherwise) for the purpose of promoting the election or defeat of a clearly identified candidate, each such person shall report to the Commission, under subsection (f), the amount of such expenditure or expenditures made by such person in coordination, consultation, or concert with such other person or persons when the total amount of all expenditures made by such persons in coordination, consultation, or concert with each other exceeds the applicable amount provided in such subsection.

"(2) An expenditure by a person shall constitute an expenditure in coordination, consultation, or concert with another person when—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the persons making the expenditures, including any officer, director, employee or agent of such person;

"(B) in the same 2-year election cycle, 1 of the persons making the expenditures (including any officer, director, employee or agent of such person) is or has been, with respect to such expenditures—

"(i) authorized by such other person to raise or expend funds on behalf of such other person; or

"(ii) receiving any form of compensation or reimbursement from such other person or an agent of such other person;

"(C) one of the persons making expenditures (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled such other person in connection with such expenditure; or

"(D) one of the persons making expenditures and such other person making expenditures each retain the professional services of the same individual or person in connection with such expenditures.

"(h)(1) Every political committee, as defined in section 301(4), active in non-Federal elections and maintaining separate accounts for this purpose shall file with the Commission reports of funds received into and disbursements made from such accounts for activities which may influence an election to any Federal office. For purposes of this section, activities that may influence an election to any Federal office include—

"(A) voter registration and get-out-the-vote drives directed to the general public in connection with any election in which Federal candidates appear on the ballot;

"(B) general public political advertising that includes references, however incidental, to clearly identify Federal and non-Federal candidates for public office, or that does not clearly identify Federal candidates but urges support for or opposition to all the candidates of a political party or other candidates in a classification or context which includes Federal candidates; and

"(C) any other activities that require an allocation of costs between a political committee's Federal and non-Federal accounts reflecting the impact on Federal elections in accordance with regulations prescribed or Advisory Opinions rendered by the Commission.

"(2) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under section 304(a), and shall include:

"(A) a separate statement, for each of the activities in connection with which a report is required under paragraph (1), of the ag-

gregate total of disbursements from the non-Federal accounts; and

"(B) supporting schedules, providing an identification of each donor (except donors whose aggregate donations do not exceed $200 in a calendar year) together with the amount and date of each donation with regard to the receipts of the non-Federal account that comprise disbursements reported under subparagraph (A).

"(3) Reports required to be filed by this subsection need not include donations made to or on behalf of non-Federal candidates or political organizations in accordance with the financing and reporting requirements of State laws, or other disbursements from the non-Federal accounts in support of exclusively non-Federal election activities, if such donations or disbursements are governed solely by such State laws and not subject to paragraph (1).

"(i) The certifications required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination, notwithstanding section 505(a).

"(j) Not later than 15 days after a candidate for the Senate qualifies for the primary ballot under applicable State law, such candidate shall file with the Commission a declaration stating whether or not such candidate agrees to expend from the candidate's personal funds, or the funds of the candidate's immediate family, or incur personal loans, in connection with the candidate's campaign for such office, in the aggregate of $250,000 or more, for the election cycle.

"(k)(1) A candidate for the United States Senate who expends from the candidate's personal funds or the funds of the candidate's immediate family, or incurs personal loans, in connection with the candidate's campaign for such office, in the aggregate in excess of $250,000, for the election cycle, shall file a report with the Commission not later than 24 hours after such expenditures have been made or loans incurred. Thereafter the expenditures referred to in this paragraph shall be reported not later than 24 hours after each time the aggregate of additional expenditures or loans exceeds $10,000.

"(2) Not later than 24 hours after a report has been filed under paragraph (1), the Commission shall notify each candidate in the election who is eligible to receive payments under section 504 of the filing of each such report.

"(3) Notwithstanding the reporting requirements in this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures from the personal funds of such candidate or the funds of any member of a candidate's immediate family or incurred personal loans in connection with the candidate's campaign aggregating in excess of $250,000, or thereafter in increments of $10,000 during the election cycle. Not later than 24 hours after making such determination, the Commission shall notify each candidate in the general election who is eligible to receive benefits under section 504 of the making of each such determination.".

(b) CONTENTS OF REPORTS.—Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(1) in paragraph (2) by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,";

(2) in paragraph (3)—

(A) in subparagraph (A) by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,";

(B) in subparagraph (F) by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,"; and

(C) in subparagraph (G) by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,";

(3) in paragraph (4) by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,";

(4) in paragraph (5)—

(A) in paragraph (A) by inserting after "calendar year" the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees; and

(B) by striking the semicolon at the end thereof and inserting the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons who provide goods or services to the candidate or the candidate's authorized committees, the name and address of such other person, together with the date, amount, and purpose of such expenditure, shall also be disclosed;"; and

(5) in paragraph (6)(A) by striking "calendar year" and inserting "election cycle".

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended—

(1) in paragraph (4) by adding at the end thereof the following:

"Whether a committee, club, association, or other group of persons has received contributions within the meaning of this paragraph shall be determined by the Commission on the basis of facts and circumstances, in any combination, demonstrating a purpose of influencing any election for Federal office, including the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office, as defined in paragraph (2) of this section, or of any political party, in general public political advertising; and the proximity to any primary, run-off, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.";

(2) in paragraph (8)(B) by—

(A) inserting "except for purposes of reporting and disclosing, pursuant to section 304, such amounts in excess of $200," at the beginning of clauses (v) and (viii); and

(B) inserting at the end thereof the following:

"(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not be exclusions from the definition of contributions for purposes of reporting contributions as required by section 304, and all such contributions shall be reported.";

(3) in paragraph (9)(B) by—

(A) inserting "except for purposes of reporting and disclosing, pursuant to section 304, such amounts in excess of $200," at the beginning of clauses (iv) and (vi); and

(B) inserting at the end thereof the following:

"(C) The exclusions provided in clauses (iv) and (vi) of subparagraph (B) shall not be exclusions from the definitions of expenditures for purposes of reporting expenditures as required by this Act, and all such expenditures shall be reported.";

(4) in paragraph (13) by striking "mailing address" and inserting "permanent resident address"; and

(5) by adding at the end thereof the following new paragraph:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or an authorized committee of a candidate, the period beginning on the day after the date of the most recent election for the seat that the candidate seeks and ending on the date of the next general election; or

"(B) in the case of other persons, the period beginning on the first day following the date of the most recent general election and ending on the date of the next election.".

SEC. 6. LIMITS ON CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES AND SEPARATE SEGREGATED FUNDS.

(a) LIMITS.—(1) Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended—

(A) in subparagraph (A) by striking "$5,000" and inserting "$2,500";

(B) in subparagraph (B) by striking "or" at the end thereof;

(C) in subparagraph (C) by—

(i) striking "$5,000" and inserting "$2,500"; and

(ii) striking the period at the end thereof and inserting a semicolon; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) to any candidate for the office of Member of, or Delegate or Resident Commissioner to, the House of Representatives and the authorized political committees of such candidate with respect to—

"(i) a general or special election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress (including any primary election, convention, or caucus relating to such general or special election) which exceed $100,000 (or $125,000 if at least 2 candidates qualify for the ballot in the general or special election and at least 2 candidates qualify for the ballot in a primary election relating to such general or special election), when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election); or

"(ii) a runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which exceed $25,000 when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such

candidate and the candidate's authorized political committees with respect to such runoff election;

"(E) to any candidate for the office of Senator and the authorized political committees of such candidate with respect to—

"(i) a general or special election for such office (including any primary election, convention, or caucus relating to such general or special election) which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election) exceeds an amount equal to 30 percent of the amount provided in section 315(i); or

"(ii) a runoff election for the office of United States Senator which exceeds, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such runoff election, an amount equal to 30 percent of the limitation on expenditures provided in section 315(j) for runoff elections; or

"(F) to any State committee of a political party, including any subordinate committee of a State committee, which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such State committee exceeds the greater of—

"(i) 2 cents multiplied by the voting age population of the State of such State committee; or

"(ii) $25,000.

The limitation of subparagraph (F) shall apply separately with respect to each two-year Federal election cycle, covering a period from the day following the date of the last Federal general election held in that State through the date of the next regularly scheduled Federal general election.".

(2) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsections:

"(i) For purposes of subsection (a)(2)(E)(i), such limitation for the election cycle shall be an amount equal to the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $900,000; or

"(ii) 67 percent of the sum of—

"(I) $400,000; and

"(II) 30 cents multiplied by the voting age population of 4,000,000 or less, plus 25 cents multiplied by the voting age population over 4,000,000.

"(j) For purposes of subsection (a)(2)(E)(ii), such limitation for the election cycle shall be an amount equal to the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $900,000; or

"(ii) 20 percent of the sum of—

"(I) $400,000; and

"(II) 30 cents multiplied by the voting age population of 4,000,000 or less, plus 25 cents multiplied by the voting age population over 4,000,000.".

(b) INCREASES IN LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1) by striking "subsection (b) and subsection (d)" and inserting "subsections (b), (d), (i), and (j)"; and

(2) in paragraph (2)(B) by striking the period at the end thereof and inserting "as applied in subsections (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Public Funding and Campaign Act of 1990, as applied in subsections (i) and (j).".

(c) EXPENDITURES BY NATIONAL AND STATE COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (4), and (5)";

(2) by adding at the end thereof the following new paragraphs:

"(4) No congressional campaign committee may accept contributions from multicandidate political committees and separate segregated funds, during two-year election cycle, which, in the aggregate, exceed 30 percent of the total expenditures that may be made during such election cycle by that campaign committee on behalf of candidates for Senator, Representative, Delegate, or Resident Commissioner pursuant to paragraph (3).

"(5) No national committee of a political party may accept contributions from multicandidate political committees and separate segregated funds, during two-year election cycle, which, in the aggregate, are in excess of an amount equal to 2 cents multiplied by the voting age population of the United States.

"(6) The limitations contained in paragraphs (2) and (3) shall apply to any expenditure through general public political advertising, whenever made, which—

"(A) clearly identifies by name an individual who is, or is seeking nomination to be, a candidate in the general election for the Federal office of President, Senator or Representative; and

"(B) does not constitute a direct mail communication designed primarily for fundraising purposes that makes only incidental reference to a Federal candidate.".

SEC. 7. INTERMEDIARY OR CONDUIT.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) For purposes of this subsection—

"(i) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate; and

"(ii) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

"(I)(aa) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(bb) the conduit or intermediary is a political committee, other than an authorized committee of a candidate, within the meaning of section 301(4), or an officer, employee or other agent of such a political committee, or an officer, employee or other agent of a connected organization, within the meaning of section 301(7), acting in its behalf; and

"(II) the conduit or intermediary is required to register as a lobbyist or lobby organization as defined under the Federal Regulation of Lobbying Act (2 U.S.C. 266), or an officer, employee or other agent of such an organization.

"(B) The limitations imposed by this subsection shall not apply to—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other event in accordance with rules and regulations prescribed by the Commission by—

"(I) two or more candidates;

"(II) two or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by either two or more candidates or one or more candidates and one or more national, State, or local committees of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate which are conducted by another candidate within the meaning of section 301(2).

In all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.".

SEC. 8. INDEPENDENT EXPENDITURES.

Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate when—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(ii) serving as an officer of the candidate's authorized committees; or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for

election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with—

"(i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, if the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

SEC. 9. INDEPENDENT EXPENDITURE BROADCAST DISCLOSURE.

Section 318(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d(a)(3)) is amended by striking the period at the end thereof and inserting the following: ", except that when a person makes an independent expenditure through a broadcast communication on any television station, the broadcast communication shall include a statement clearly readable to the viewer that appears continuously during the entire length of such communication setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization, and when a person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.".

SEC. 10. PERSONAL LOANS.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For purposes of the limitations imposed by this section, no contributions may be received by a candidate or the candidate's authorized committees for the purpose of repaying any loan by the candidate to the candidate or to the candidate's authorized committees.".

SEC. 11. REFERRAL TO THE DEPARTMENT OF JUSTICE.

Section 309(a)(5)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(C)) is amended by striking "may refer" and inserting "shall refer".

SEC. 12. EXTENSION OF CREDIT.

Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by adding at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized political committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, by direct mail (including direct mail fund solicitations) or other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period of more than 60 days after the date on which such goods or services are furnished, which date in the case of advertising by direct mail (including a direct mail solicitation) shall be the date of the mailing.".

SEC. 13. REDUCED RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3629. Reduced rates for certain Senate candidates

"The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501 of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1),

subject to the condition that the total paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) shall not exceed 5 percent of the general election spending limit applicable to such candidate under section 503(b) of the Federal Election Campaign Act of 1971.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

SEC. 14. DISCLOSURE.

Section 318(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) by striking the period at the end of paragraph (3) and inserting "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(4) if paid for or authorized by a general election candidate for the Senate, or the authorized committee of such candidate who has not agreed to abide by the expenditure limits in section 503, such advertisement or announcement shall contain the following sentence: 'This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'.".

SEC. 15. EXCESS CAMPAIGN FUNDS.

Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking "political party;" and all that follows through the end of the section and inserting "political party.".

SEC. 16. POLITICAL COMMITTEE POSTAL RATES.

Section 3626(e) of title 39, United States Code, is repealed.

SEC. 17. CERTIFICATION BY PRESIDENTIAL CANDIDATES ACCEPTING PUBLIC FUNDS CONCERNING COMPLIANCE WITH FUNDRAISING AND EXPENDITURE LIMITATIONS.

Section 9006 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(d)(1) In order to be eligible to receive any payments under this section, a candidate described in subsections (b) and (c) shall certify to the Commission, under penalty of perjury, that during the Presidential primary and the general election period, the candidate and the candidate's authorized committees and agents have not solicited, received, or spent, and will not solicit, receive or spend, directly or indirectly, any funds in connection with a Federal, State, or local election, including funds for get-out-the-vote, voter registration, and generic campaign activities, unless such funds are subject to this Act, including its limitations and prohibitions.

"(2) For the purposes of this subsection, the term 'agent' includes a person—

"(A) who is, or has been, authorized to raise funds;

"(B) who is, or has been, an officer of an authorized committee;

"(C) who is, or has been, receiving any form of compensation or reimbursement from a candidate or a candidate's authorized committees; and

"(D) who has, or has had, actual oral or written authority, either express or implied, to make or authorize the making of expenditures on behalf of a candidate or to authorize the receipt of contributions on behalf of a candidate.".

SEC. 18. SOFT MONEY.

(a) LIMIT.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)), as amended by section 6(c), is further amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7);

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A State committee of a political party, including any subordinate committee of a political party, may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 4 cents multiplied by the voting age population of that State (as certified under subsection (e) of this section).".

(b) DEFINITIONS OF CONTRIBUTION AND EXPENDITURE.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by repealing the following clauses: clause (x) and clause (xii) of subsection 431(8)(B) and clause (viii) and clause (ix) of subsection 431(9)(B).

(c) AMOUNTS SOLICITED, RECEIVED, OR SPENT IN CONNECTION WITH A FEDERAL ELECTION.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), is amended by adding at the end thereof the following new subsection:

"(k)(1) Any amount solicited, received or spent by a national, State or local committee of a political party, directly or indirectly, shall be subject to this Act, if such amount is solicited, received or spent in con-

nection with a Federal election. No part of such amount may be allocated to a non-Federal account or otherwise maintained in, or paid from, an account that is not subject to this Act. This section shall not apply to amounts described in section 301(b)(9)(B)(viii).

"(2) For the purposes of this subsection, the term 'in connection with a Federal election' includes any activity that may affect a Federal election including but not limited to the following:

"(A) voter registration and get-out-the-vote activities;

"(B) generic activities, including any broadcasting, newspaper, magazine, billboard, mail, or similar type of communication or public advertising; and

"(C) campaign materials that identify a Federal candidate, regardless of any other candidate who may also be identified.".

SEC. 19. FEDERAL ELECTION COMMISSION REFORM.

(a) INCREASE IN MEMBERSHIP.—Section 306(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)) is amended—

(1) by striking "6 members" and inserting "7 members"; and

(2) by amending the last sentence thereof to read as follows: "No more than 4 members of the Commission appointed under this paragraph may be affiliated with the same political party, and such appointments shall be made in a manner to assure that the same political party shall not have 4 or more members affiliated with such party on such Commission for 2 succeeding years.".

(b) TERMS.—Section 306(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(2)) is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 7 years, except that of the members appointed after April 30, 1989—

"(i) one of the 2 members appointed for the term beginning May 1, 1991, shall be appointed for a term of 6 years;

"(ii) one of the 2 members appointed for the term beginning May 1, 1993, shall be appointed for a term of 6 years; and

"(iii) one of the 2 members appointed for the term beginning May 1, 1995, shall be appointed for a term of 6 years.

"(B) One additional member of the Commission shall be appointed for a term beginning May 1, 1989, and shall be appointed for a term of 5 years.".

SEC. 20. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance, is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 21. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective for any election held in 1992 or thereafter.

(b) IMMEDIATE EFFECTIVE DATE.—The amendments made by sections 3, 7, 8, and 9 shall become effective on the date of enactment of this Act.

ANALYSIS OF THE SENATORIAL ELECTION PUBLIC FUNDING AND CAMPAIGN ACT OF 1990

The Senatorial Election Public Funding and Campaign Act of 1990 is based on S. 137, as reported out of the Senate Rules Committee. It amends S. 137 as follows:

1. Provides for a system of voluntary full public funding of general election campaigns.

2. Creates an exemption from spending caps under S. 137 for contributions of $25 or less from voters within the candidate's state.

3. Provides that broadcast advertisements by eligible candidates may not be preempted for other advertisements, while insuring that they pay the lowest or pre-emptible rate.

4. Increases the "check-off" on individual tax returns from $1 to $3, and directs that the FEC and IRS publicize the check-off to increase voluntary participation in public funding of campaigns.

The anticipated cost of the legislation, should all candidates participate in each election cycle, would be approximately $60 million for an average election cycle. By comparison, public funding for elections, through the 50 percent tax deduction applicable until 1986, cost about $230 million per election cycle.

PURPOSE OF THE BILL

The purpose of the Senatorial Election Public Funding and Campaign Act of 1990 is to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and public benefits for Senate general elections, including public funding for general elections, to limit contributions by multicandidate political committees and separate segregated funds to candidates and party committees, to extend and improve reporting and disclosure requirements, and to improve other provisions of the Act as amended.

PUBLIC BENEFITS FOR SENATE ELECTIONS

Like S. 137, this bill establishes a voluntary system of spending limits tied to public benefits for candidates to the United States Senate in general elections, including public funding of general elections, beginning in the first election held in 1992. The bill establishes a number of conditions to which a candidate must agree as a condition of eligibility for public benefits.

To be eligible for public benefits, a candidate must have received contributions from individuals in an amount based on the population of the State from which the candidate seeks office. The qualifying threshold of contributions would range from $150,000 in the less populated States to $650,000 in the States with the highest populations based on the formula of 10 cents multiplied by the voting age population of the State. Such contributions must be raised from individuals in amounts of $250 or less, with at least 75 percent from in-state donors.

All candidates who wish to receive public benefits must agree to limit expenditures in the general election campaign to $400,000, plus 30 cents times the voting age population of the State up to four million population, plus 25 cents times the voting age population in excess of four million, but in no case less than $950,000, nor more than $5.5 million. Participating candidates would also be limited in expenditures or loans of their personal and immediate family's funds to $20,000; in expenditures in a primary election to the less of $2,750,000 or 67 percent of the State's general election limit; and in expenditures in a runoff election to 20 percent of the general election spending limit. All such limits will be annually adjusted to account for inflation, and an additional 10 percent of the general election limit will be allowed for legal and accounting fees spent to insure compliance with the Act.

A participating candidate will be entitled to receive in the general election: public funds to the amount of the spending cap; lowest unit rates for broadcast advertising (with additional requirement that the candidate must be identified or identifiable during at least 50 percent of such broadcasts); lower postal rates for first- and third-class mailings (up to 5 percent of the general election limit); and direct payments equal to the total independent expenditures made against that candidate or for his opponent in the general election.

The Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1, 57 (n. 65) 85–76 (1976) has upheld as constitutional voluntary expenditure limitations on campaign spending by candidates who receive public benefits. While those candidates who do not accept public benefits may not be subject to such limitations, they are required by this bill to file certain reports.

EXEMPTION FOR SMALL IN-STATE DONATIONS

The bill exempts donations from individuals who reside in the candidate's State of $25 or less from the spending caps in the bill, by permitting candidates to be eligible for public funding and the other public benefits set forth in the Act regardless of how much they raise in in-state contributions of $25 or less.

OTHER PROVISIONS

The bill provides for eligible candidates to receive the lowest unit rate for broadcast advertising, with such advertising not being subject to pre-emption; increases the check-off on individual returns from $1 to $3; and authorizes the FEC and IRS to publicize the check-off to increase participation.

OTHER REFORMS FROM S. 137

The bill retains all reforms contained within S. 137, as described in the Report of the Rules Committee on S. 137.

APPLICABLE SPENDING CAPS AND PUBLIC FUNDING

A chart setting forth the applicable spending caps and public funding amounts for general elections is attached.

VOLUNTARY EXPENDITURE LIMITS FOR SENATE ELECTIONS AND PUBLIC FUNDING

State	VAP (1990)	Election cycle limit	General election limit (public funding)	Primary election limit	Qualifying threshold
Alabama	3,010,000	$2,176,010	$1,303,000	$873,010	$301,000
Alaska	362,000	1,586,500	950,000	636,500	150,000
Arizona	2,575,000	1,958,075	1,172,500	785,575	257,500
Arkansas	1,756,000	1,586,500	950,000	626,500	175,600
California	21,350,000	8,250,000	5,500,000	2,750,000	650,000
Colorado	2,453,000	1,896,953	1,135,900	761,053	245,300
Connecticut	2,479,000	1,909,979	1,143,700	766,279	247,900
Delaware	504,000	1,586,500	950,000	636,500	150,000
Florida	9,799,000	5,093,083	3,049,750	2,043,333	650,000
Georgia	4,639,000	2,938,783	1,759,750	1,179,033	463,900
Hawaii	825,000	1,586,500	950,000	636,500	150,000
Idaho	710,000	1,586,500	950,000	636,500	150,000
Illinois	8,678,000	4,625,065	2,769,500	1,855,565	650,000
Indiana	4,133,000	2,727,528	1,633,250	1,094,278	413,300
Iowa	2,132,000	1,736,132	1,039,600	696,532	213,200
Kansas	1,854,000	1,596,854	956,200	640,654	185,400
Kentucky	2,760,000	2,050,760	1,228,000	822,760	276,000
Louisiana	3,109,000	2,225,609	1,332,700	892,909	310,900
Maine	917,000	1,586,500	950,000	636,500	150,000
Maryland	3,533,000	2,438,033	1,459,900	978,133	353,300
Massachusetts	4,576,000	2,912,480	1,744,000	1,168,480	457,600
Michigan	6,829,000	3,853,108	2,307,250	1,545,858	650,000
Minnesota	3,224,000	2,283,224	1,367,200	916,024	322,400
Mississippi	1,852,000	1,595,852	955,600	640,252	185,200
Missouri	3,854,000	2,598,854	1,556,200	1,042,654	385,400
Montana	588,000	1,586,500	950,000	636,500	150,000
Nebraska	1,187,000	1,586,500	950,000	636,500	150,000
Nevada	833,000	1,586,500	950,000	636,500	150,000
New Hampshire	828,000	1,586,500	950,000	636,500	150,000
New Jersey	5,903,000	4,945,204	2,961,200	1,984,004	590,300
New Mexico	1,074,000	1,586,500	950,000	636,500	150,000
New York	13,600,000	6,680,000	4,000,000	2,680,000	650,000

VOLUNTARY EXPENDITURE LIMITS FOR SENATE ELECTIONS AND PUBLIC FUNDING—Continued

State	VAP (1990)	Election cycle limit	General election limit (public funding)	Primary election limit	Qualifying threshold
North Carolina	4,929,000	3,059,858	1,832,350	1,227,608	492,900
North Dakota	481,000	1,586,500	950,000	636,500	150,000
Ohio	8,090,000	4,379,575	2,622,500	1,757,075	650,000
Oklahoma	2,371,000	1,855,871	1,111,300	744,571	327,100
Oregon	2,123,000	1,731,623	1,036,900	694,723	212,300
Pennsylvania	9,199,000	4,842,583	2,899,750	1,942,833	650,000
Rhode Island	767,000	1,586,500	950,000	636,500	150,000
South Carolina	2,558,000	1,949,588	1,167,400	782,158	255,800
South Dakota	519,000	1,586,500	950,000	636,500	150,000
Tennessee	3,685,000	2,514,185	1,505,500	1,008,685	368,500
Texas	12,038,00	6,027,865	3,609,500	2,418,365	650,000
Utah	1,076,000	1,586,500	950,000	636,500	150,000
Vermont	425,000	1,586,500	950,000	636,500	150,000
Virginia	4,615,000	2,928,763	1,753,750	1,175,013	461,500
Washington	3,545,000	2,444,045	1,463,500	980,545	354,500
West Virginia	1,394,000	1,586,500	950,000	636,500	150,000
Wisconsin	3,612,000	2,477,612	1,483,600	994,012	361,200
Wyoming	339,000	1,586,500	950,000	636,500	150,000

[1] For States with runoff provisions, the limits would be as follows: Alabama—$260,600; Arkansas—$190,000; Florida—$609,950; Georgia—$351,950; Mississippi—$191,120; North Carolina—$366,450; Oklahoma—$222,260; South Carolina—$233,480; South Dakota—$190,000; Texas—$721,900.

Mr. BIDEN. Mr. President, I am very pleased today to join with my colleagues Senator KERRY and Senator BRADLEY in introducing the Senatorial Election Public Funding and Campaign Act of 1990.

We are introducing this bill for one reason: the present system of funding campaigns doesn't work. Everyone knows it doesn't work and that change is needed.

Moderate reform, however, is not enough.

Since I came to the Senate in 1973, we have had two opportunities to enact real and meaningful campaign finance reform. The first time was after Watergate. The American people truly wanted fundamental change. Unfortunately, we missed that opportunity.

The second opportunity is now. We must not let it pass. To continue the existing trends in campaign finance is to threaten the foundation of our democratic system.

As important as clean air, or child care, or crime legislation are, I believe the single most significant thing Congress can do is improve our ability to govern well; the single most important act would be to change the way in which the electoral system functions—the way we choose our leaders and finance our campaigns.

There are two things driving the debate at the moment:

First, the public is demanding change; and

Second, my colleagues are in agreement that, within the present system, no matter how well intended or how scrupulously they act, they are vulnerable. They are vulnerable to accusations about their association with anyone who contributes to their campaign.

The only question is what is the best reform to enact? Since 1973, I have felt that the most straightforward, most direct, and most significant change we can make to the electoral process in America is to provide for public funding of Senate campaigns—just as we do for our Presidential campaigns.

Public funding would allow candidates—incumbents and challengers alike—to compete more on the basis of merit than on the size of the pocketbook. Too often, private money in political campaigns is funny money with unfunny results. Public funding would free candidates from potentially corroding dependence on personal or family fortune or the gifts of special interest backers—be they those of business, organized labor or conservative or liberal interests.

In 1974, in an article I authored for the Northwestern University Law Review, I said:

There are three principal reasons why existing campaign financing practices should be reformed. First, an electoral system supported solely by private contributions affords certain wealthy individuals or special interest groups the potential for exerting a disproportionate influence over both the electoral mechanism and the policy-making processes of the government. Second, the concept of American democracy presumes that all citizens, regardless of personal wealth, have equal access to the political process. Under the present system of financing, however, the individual of moderate means lacks the financial resources necessary to mount an effective campaign and, therefore, is precluded from attaining public office. Third, our current method of financing campaigns tends to "lock-in" incumbents by making it extremely difficult for a challenger to mount a successful campaign.

In 1990, the reasons for reforming the campaign financing system are stronger than ever.

Mr. President, I ask unanimous consent that the full text of the law review article be printed in the RECORD.

In closing, I want to encourage my colleagues to support public funding of campaigns and not stop short of real and important change to the system. As Thomas Paine once wrote: "A thing moderately good is not as good as it ought to be. Moderation in temper is always a virtue; but moderation in principle is a species of vice."

I commend Senator KERRY for his leadership in developing this proposal. I urge my colleagues to join with me, Senator BRADLEY, and Senator KERRY and support this important legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Northwestern University Law Review]

PUBLIC FINANCING OF ELECTIONS: LEGISLATIVE PROPOSALS AND CONSTITUTIONAL QUESTIONS

(By Joseph R. Biden, Jr.*)

During my campaign for the United States Senate in 1972, I paid a visit to certain leaders of a labor union whose members worked in the aircraft industry, and who intended to contribute $5,000 to the campaigns of various Senate candidates. It was an honest and open procedure, and payment was by check. They asked what my chances of winning were, and I explained for perhaps the hundredth time of the campaign why I thought I would win. I want to emphasize that no one asked me to promise my vote on any particular issue, but they did ask, "Well, Joe, had you been in the ninety-second Congress, how would you have voted on the SST? [1] And while you are at it, how would you have voted on bailing out Lockheed?" [2] A candidate does not have to be very sophisticated to know the correct answers to such questions posited by labor leaders.

Later in the campaign, when I began to show strength in the polls and it looked as though I might win, thirteen multi-millionaire Republicans from my state invited me to cocktails. The spokesman for the group said, "Well, Joe, let us get right to it. You are a young man, and it looks as if you may win this damn thing, and it appears that we underestimated you. Now, Joe, we would like to ask you a few questions. We know that everybody running for public office feels compelled to talk about tax reform, and we know that you have been talking tax reform, particularly capital gains and gains for millionaires by consequence of unearned income." Then one man leaned over, patted me on the knee in a fatherly fashion, and said—as if to say it was just among us—"Joe, you really don't mean what you say about capital gains, do you?" Again, I knew that the right answer to that question was worth $20,000 in contributions.

I did not give the "correct" answers in either instance, and accordingly, I received no money. But it is no secret that, in similar situations, other candidates have not hesitated to answer "correctly," feeling that it is better to win their elections even while compromising certain principles, than to lose with all their principles remaining intact.[3] Certainly few politicians would choose to be included in a second edition of *Profiles in Courage* at the expense of a long and productive political life. To say the least, a political system which requires such a choice deserves serious re-examination. On the basis of such an inquiry, I have concluded that the present system of campaign financing should be reformed, and a system of public financing of elections consistent with constitutional mandates adopted.[4]

POLITICAL DARWINISM: THE POOR GET POORER AND THE RICH GET ELECTED

There are three principal reasons why existing campaign financing practices should be reformed. First, an electoral system supported solely by private contributions affords certain wealthy individuals or special interest groups the potential for exerting a disproportionate influence over both the electoral mechanism and the policymaking processes of the government. Second, the concept of American democracy presumes that all citizens, regardless of personal wealth, have equal access to the political process.[5] Under the present system of financing, however, the individual of moderate means lacks the financial resources necessary to mount an effective campaign and, therefore, is precluded from attaining elective public office. Third, our current method of financing campaigns tends to "lock-in" incumbents by making it extreme-

Footnotes at end of article.

ly difficult for a challenger to mount a successful campaign.[6]

The source of most of our present problems is the high cost of running for election. In 1972, for example, the average reported expenses for candidates winning closely contested elections[7] to the House of Representatives was more than $100,000.[8] In elections with no incumbent running, the House candidates spent an average of $89,000[9] while their counterparts in Senate elections spent an average of over $450,000.[10] On the other hand, candidate running against incumbents were generally outspent by a margin of two-to-one.[11] These averages, however, tell only part of the story. Certain individual campaigns cost as much as $320,000 for the House of Representatives and $2,300,000 for the Senate.[12] Furthermore, the most expensive House campaigns were run by those candidates who managed to unseat an incumbent. The ten victors over incumbents in 1972 spent an average of $125,000, compared to $86,000 for their opponents.[13] Because of a deficiency in the reporting requirements of the Federal Election Campaign Act of 1971,[14] the exact amount spent in the presidential campaign of 1972 is not known. It has been reliably estimated, however, that President Richard M. Nixon's campaign cost approximately $46 million and Senator George McGovern's $36 million.[15]

Not only are campaign expenses high, but they are increasing at an alarming rate.[16] To the general public this trend may seem disturbing; to a potential candidate, it poses an often insurmountable financial barrier. Without great personal wealth,[17] there is only one way for a candidate to be able to run a competitive race, and that is through donations. Although other reasons motivate an individual to donate money to a political campaign,[18] all too often a contribution is made with the hope of gaining influence with the candidate should he win the election.[19] As Represenative John Anderson, an Illinois Republican, has said:[20]

"[T]he cliches and the nice rationalizations of the defenders of the status quo aside, the fact is that the wealthy and the special interests do not simply contribute to campaigns; they invest in candidates and in officeholders." Such donations are necessarily tainted: minimally they succeed in gaining access to the office holder,[21] at worst, they "buy" his vote.[22] Even if funds are donated without a suspect motivation, the public perceives these transactions, especially the very large ones,[23] as constituting a sale rther than a gift.[24] Whether such a view is justified or not, the resulting lack of confidence that arises concerning public officials is, to say the least, distressing,[25] and reason enough to reform the law in this area.

Special interest group contributions also cause problems for elected candidates. An office holder is frequently forced to choose between the suspicion which results from voting in accord with the position of his major contributors and the prospect of losing financial support from those contributors by failing to do so.[26] The legislator's dilemma may be particularly acute when to vote his convictions would appear to generate a conflict of interest because of certain campaign donations.[27] Furthermore, an interest group tends to have selfish concerns about government; its interest is not necessarily consistent with the public welfare. Frequently, various interest groups contributing funds to campaigns of public officials have conflicting interests among themselves, and some type of "balance of power" is struck. Rarely, however, do any of these groups represent the ordinary citizen,[28] who all too often is ignored in the councils of government. Even if every segment of the public could be represented by its own interest group contributing funds to various candidates, I hardly think it desirable to have a "government by auction."

A second reason for reform is to allow a wider range of individuals to participate as effective candidates. Under our current system of private financing, candidates, typically, are weathly individuals.[29] The explanation for this fact is simple: generally only the wealthy are able to amass, either through personal resources or contributions from friends, the vast sums of money needed to finance an effective campaign for public office. Many a candidate has had to mortgage his house to finance his campaign,[30] or at least to keep his campaign going until private donations were received.[31] Moreover, all too often money flows to those who have it; in other words, unless a candidate is able to finance his campaign himself, nobody else will be willing to finance it for him. For example, Representative Bertram Podell has said:[32]

"When I ran for Congress the first question asked me was whether I could finance my own campaign. If I had said, "No, I cannot," I would not have been a candidate. When you mention candidates for public office, you are only mentioning men of affluence."

The existing system of campaign financing discriminates not only against the person of modest means, but also against other classes of people such as non-whites[33] and women.[34] In part, this is explained by the fact that these two groups have little access to wealth.

A third reason for reforming our system of campaign financing is that in our time incumbent members of Congress are virtually assured of re-election. Since 1954, well over ninety percent of all incumbents seeking reelection to the Congress have been victorious.[35] Furthermore, those who have gained re-election generally do so without a great struggle. Typically, only about fifty of the four hundred thirty-five elections for the House of Representatives are seriously contested,[36] while in the remainder, the race is a rather one-sided affair.

Of course, it is to be emphasized that many reasons unrelated to the financing of campaigns help explain why incumbents are so successful in gaining re-election.[37] For example, incumbents are generally better known than their opponents and during their terms of office can usually gain the attention of the news media through press conferences, announcements and other official ceremonies. In addition, they have the benefit of their office and large staffs, paid for at government expense, and the ability to create goodwill through such tasks as cutting government red tape on behalf of constituents. Also most legislators quite properly avail themselves of the "franking" privilege by sending constituents news letters which during an election campaign serve as a free source of name identification and thereby accentuate the disparity in power between an incumbent and his opponent. In re-election campaigns, these benefits have been estimated to give each incumbent a minimum financial advantage of $16,000 over his challenger.[38]

Moreover, one of the incumbent's foremost advantages over his opponent is his ability to raise funds. During the 1972 congressional campaigns, incumbents generally out-raised and out-spent their opponents by a margin of two-to-one.[39] The reasons for this disturbing statistic are not difficult to discern. In the eyes of many contributors a campaign contribution is effective only if made to a winner and, judging from prior performance, an incumbent is the most likely to win—again. In the words of Democratic Senator William Proxmire of Wisconsin:[40]

"The point is that the incumbent gets the big contribution because the people who are making contributions want to make them to the winners and not to the losers."

The effect of this resulting financial imbalance is devastating on the challenger, who generally must spend at least as much money as the incumbent, if not more, to have any hope of victory. To gain at least a chance of winning, a challenger is obliged to raise a sizable amount of money early in a campaign, but he often cannot raise the money because he has such a slim chance of winning a competitive race.[41] The result under the current system is a vicious and often fatal circle. Furthermore, the challenger must spend valuable time even late in the campaign to solicit contributions, time that could be better spent seeking votes. On the other hand, the incumbent, being virtually assured sufficient funds, can devote his full attention to the hustings. The importance of this factor was acknowledged in a joint statement issued by a bipartisan group of fifty-five unsuccessful candidates for the House of Representatives in 1972, released through the Center for Public Financing of Elections:[42]

"We found that incumbents uniformly outraised and outspent us by substantial margins. We found that while we were putting our own savings on the line, and begging and borrowing from family and friends, many incumbents had easy access to large pools of special interest money from Washington and elsewhere. . . .

Some people have expressed concern that public funding would unfairly help the incumbents. As recent candidates, we know that simply is not true. The challenger could never be at a greater disadvantage than he or she now is."

This financial imbalance and the resulting competitive disadvantage has prompted an official of Common Cause to remark that the United States no longer has a two-party system under the Republicans and Democrats; it has a one-party system under the Incumbents.[43]

Thus, the problems inherent in our current system of private campaign financing are clear. It provides a selected few individuals—generally distinguished by their wealth—a disproportionate say in the workings of government. It excludes all but those with great wealth or access to it from any hope of achieving elective office. Furthermore, by giving incumbents virtual life terms, it destroys the competitive political system upon which our government is supposedly based. Finally, the present system places what amounts to an often intolerable burden on the candidate. As Democratic Senator Hubert Humphrey of Minnesota has said:[44]

"I have been in a number of campaigns, and I enjoy the campaigns. I like them. But the most demeaning, disgusting, depressing and disenchanting part of politics is related to campaign financing."

Put rather simply, there must be a better way.

WHAT KIND OF REFORM WILL WORK?

Although the need to change the present system is apparent, the formula for doing so is not so obvious. Many preliminary questions must be considered before deciding upon what type of campaign financing reform should be enacted.[45] The difficulties involved in adopting a fair and workable system are reflected in the large numbers of bills which have been introduced in Congress. Recently, the Senate passed the Federal Election Campaign Act Amendment of 1974.[46] A bill that provided for the public financing of federal elections. Prior to passage of this bill numerous others dealing with election reform had been introduced in both the Senate [47] and the House of Representatives.[48] In addition, President Nixon has put forward his own proposals for campaign financing reform.[49] Before discussing the specific provisions of these proposals, it will be useful to outline the existing laws regulating campaign financing.

DISCLOSURE, CHECK-OFFS, AND MEDIA LIMITATIONS

The two most recent major enactments dealing with campaign financing are the Presidential Election Campaign Fund Act,[50] also known as the Dollar Check-Off Act, and the Federal Election Campaign Act of 1971.[51] The main provisions of the Campaign Act of 1971 concern media spending, funding of one's own campaign, and disclosure of political contributions. Under the Act, candidates in the general election for a federal office are limited to media expenditures of ten cents for every person of voting age in the district, or $50,000 whichever is greater.[52] No more than sixty percent of this money may be used for advertising through the electronic media.[53] The Act also limits the amount which a broadcasting station may charge a candidate for a political advertisement of the same class and amount of time broadcast during the same period of the day.[54] Candidates in a presidential primary have a ceiling on expenditures for radio or television time similar to that of an individual running for the senate from that state.[55] These limitations had the effect in 1972 of limiting candidates for the Senate from, for example, Wyoming to the minimum of $50,000 in total media expenditures, while candidates from California would have been limited to $1,394,000.[56] In addition, the Act limits the amount which a candidate or a member of his immediate family [57] can contribute to his own campaign. Candidates for the Presidency and the Vice-Presidency are limited to expenditures of $50,000 out of family funds; candidates for the Senate are limited to $35,000; and candidates for the House of Representatives are confined to a contribution not in excess of $25,000 from family resources.[58] Finally, the Act is best known for its disclosure requirements. Candidates are required periodically [59] to make reports of all receipts and expenditures, including the names and addresses of all contributors of more than $100 and all persons to whom expenditures of over $100 have been made.[60] Political committees, defined as organizations which make expenditures or accept contributions of over $1,000 in a calendar year,[61] are also covered by these requirements.[62] These reports are made to the Secretary of the Senate by Senate candidates, to the Clerk of the House of Representatives by House candidates, and to the Comptroller General by presidential and vice-presidential candidates.[63] In addition, reports must be filed with the Secretary of State of the state in which the candidate seeks election, or in the case of presidential and vice-presidential candidates, of each state in which an expenditure is made.[64] These disclosure requirements made available reliable information on campaign financing for the 1972 elections, for the first time in American history, at least after the April 7th deadline.[65]

The Dollar Check-Off Act represents the first real breakthrough in history in the area of public funding of campaigns. Under this Act, every taxpayer may designate one dollar, or two dollars in the case of a joint return, to be deposited in a Presidential Election Campaign Fund.[66] The money in the Fund is to be used to cover the campaign expenses of presidential general elections. The candidates of major parties—those which received twenty-five percent of the popular vote in the previous election [67]—are, if they so choose, entitled to receive fifteen cents for every person of voting age in the country to be used to finance their campaigns, provided that they meet a number of conditions.[68] First, they must not exceed in expenditures the amount of their share of the public fund and must accept no private contributions,[69] second, they must keep certain financial records for inspection by the Comptroller General.[70] A candidate of a minor party—defined as one whose candidate received between five percent and twenty-five percent of the popular vote in the preceding presidential election [71]—may be funded in the same proportion to the major party subsidy as its previous popular vote bears to the average popular vote of the major parties.[72] A minor party accepting federal funding, unlike a major party, would be allowed to accept private contributions, but only up to the limit of major party funding.[73] A party which received less than five percent of the total popular vote in the previous election is termed a "new party," [74] and is eligible to receive retroactive federal funding if it receives at least five percent of the vote in the current election. If this condition is met, the party's subsidy is calculated by the same formula as the subsidy of a minor party, except that figures for the current election are used.[75] The new party formula may also be used by minor parties, subject to offset for whatever funds it received under the minor party formula.[76]

In its first year of operation, only slightly over three percent of the taxpayers availed themselves of the check-off privilege.[77] A major reason for the disappointing participation in the program was that the check-off was included on a separate form in the income tax materials and was not only difficult to find, but also was not described in understandable language.[78] Many citizens were unaware of its existence and unaware that the dollar donation did not increase their personal tax liability.[79] Thus, the check-off's failure in the initial year of operation did not necessarily indicate a lack of public interest in public campaign financing. Fortunately, in 1974 the check-off box is being placed at line eight of page one on both the long and short tax form. It should be both conspicuous to and understandable by the taxpayer.[80]

REFORM PROPOSALS

CANNON BILL

In April, 1974, the Senate passed and sent to the House the Federal Election Campaign Act Amendments of 1974,[81] a bill which provides for the federal financing of campaigns for federal office. In addition the bill imposes limitations on overall campaign expenditures and contributions to a candidate.[82] The funding is optional and extends to both primary and general elections. The proposal provides for matching grants in the primary elections, based on contributions of $250 or less for President and $100 or less for Senator or Representative.[83] Primary candidates would be allowed to spend eight cents times the voting age population, except that candidates for Senator and Representative from one-district states would be allowed to spend at least $125,000, and candidates for Representative from all other states at least $90,000.[84] Candidates in presidential primaries would be allowed to spend twice the amount allowed Senate candidates from that state.[85]

Major party candidates [86] who opt for public funding could receive in the general election a subsidy equal to the full amount of the expenditure limitations.[87] For all federal candidates the spending limit is twelve cents per voting age person, except that candidates for Senator or Representative in one-district states are allowed at least $175,000 and all other candidates for Representative at least $90,000.[88] Minor party candidates [89] would be allowed funding based on past or current performance.[90] All other candidates would be allowed retroactive funding based on current performance.[91] To make monitoring of spending easier, candidates would be required to establish a central committee and campaign depositories, through which all money must be channelled.[92] The system is to be supervised by an independent commission.[93]

Contributions to a candidate are limited to $3,000 by an individual and $6,000 by a committee or organization. No individual may donate more than $25,000 in total contributions in a year. Other provisions of the bill would amend the equal time provision of the Communications Act of 1934,[95] provide for financial disclosure for all federal office-holders and candidates,[96] and change the date and time of federal elections.[97]

The Cannon bill represents only one approach to the question of public financing of elections. Numerous alternatives to it have been suggested in other recent proposals. Since the bill must be passed by the House and signed by the President before it becomes law, an examination of these other proposals is useful. For example, the House could pass legislation that differs from the Cannon bill, and incorporates provisions taken from these other proposals. Also, even if the House enacts the Cannon bill, the President could veto it; in which case one of these presently dormant bills could be revived. Finally a discussion of the alternative proposals provides a useful framework for analysis of the policy questions relating to public financing of elections.

THE NIXON PROPOSAL

On March 8, 1974, President Richard M. Nixon delivered a message to the Congress setting forth his proposal with respect to campaign financing.[98] In the President's view "the single most important action to reform campaign financing should be broader public disclosure." [99] To this end Mr. Nixon proposes that all candidates in federal elections be required to designate one committee to handle all campaign funds, and that indirect private contributions through organizations be severely limited.[100] In addition, to augment the reform implemented by the disclosure requirements, the President recommends that there be limits placed on individual contributions to campaigns.[101] The President, however, specifically opposes both ceilings

on total campaign spending by a candidate and the public financing of elections.[102]

THE HART BILL

The Congressional Election Finance Bill of 1973[103] proposed by Senator Hart is one of the leading congressional bills providing for public financing of elections. Covering nomination and election to Congress but not to the presidency.[104] the bill is most notable for its requirement of a threshold showing of support to qualify a candidate for public funding. A candidate of a major party,[105] if he chooses to participate in the optional program, must post a security deposit of twenty percent of the subsidy which he is entitled to receive.[106] The security deposit, composed of small contributions,[107] will be refunded to the contributors if the candidate receives a minimum percentage of the vote in the election.[108] If the candidate fails to receive an even small percentage of votes, he must repay the entire subsidy to the government.[109]

The amount of the subsidy is sufficient to run a relatively strong campaign.[110] Minor party candidates are eligible to receive a smaller subsidy.[111] In addition, a candidate may supplement the subsidy to which he is entitled with money raised from small private contributions.[112] Those candidates who elect not to receive public fundings are not limited either in spending or in contributions.[113]

THE KENNEDY-SCOTT BILL

The Federal Election Campaign Act[114] introduced by Senators Kennedy and Scott, passed the Senate in late 1973 as a rider to a debt-ceiling bill, but was not enacted into law at that time.[115] It would extend the Dollar Check-Off Act[116] to congressional general elections but not to primaries, and would increase the amount of the check-off from one dollar to two dollars, or to four dollars on a joint return.[117] Private contributions would be prohibited by the Kennedy-Scott Bill in all federal general elections, but again not in the primaries.[118] The amount of the subsidy would tend to maintain present spending levels.[119]

THE STEVENSON-MATHIAS BILL

The Federal Election Finance Act of 1973,[120] introduced by Senators Stevenson and Mathias, relies heavily on private financing and provides for public financing in all federal general elections, but not in primaries.[121] The subsidy is optional, but the bill provides an overall spending ceiling on all primary and general election campaigns somewhat higher than that contained in the Campaign Amendments Bill of 1973.[122] On the other hand, the provisions of the two bills limiting private contributions are similar.[123] Candidates may receive up to one-third the maximum spending amount from the public treasury[124] and may qualify for funding in one of two ways, past performance and submission of petition signatures.[125]

THE MONDALE-SCHWEIKER BILL

The Mondale-Schweiker Bill, also known as the Presidential Campaign Financing Act of the 1973.[126] provides public financing for presidential candidates only. It utilizes a variation of the Dollar Check-Off Act[127] for purposes of the general election and a system of matching grants in the pre-nomination campaign. Each dollar designated by the taxpayer will be matched by the treasury in the general election.[128] with candidates able to supplement the subsidy with private funds.[129] For pre-nomination campaigns, the fund matches small contributions once the candidate has amassed a "trigger."[130] The proposal contains relatively generous spending and contribution ceilings.[131]

THE CRANSTON BILL

The Clean Election Financing Act of 1973,[132] introduced by Senator Cranston, provides for a financing system in all federal elections which depends to a very great extent on public subsidies. The program is to be funded on a variation of the Dollar Check-Off Act,[133] and grants matching payments in the primaries and flat subsidies in the general elections. Individual private contributions are severely limited,[134] whereas spending ceilings are generous.[135] To qualify for subsidies in pre-nomination campaigns, candidates must raise a "trigger fund" from small contributions,[136] they are then entitled to receive matching payments in the proportion of four dollars for every one dollar raised from private contributions of limited amounts.[137] In general election campaigns, the system provides a grant to major party candidates of eighty percent of the spending limit.[138] Candidates of other than major parties receive smaller subsidies.[139]

THE CLARK BILL

The Comprehensive Election Reform Act of 1974,[140] introduced by Senator Clark, would virtually eliminate the role of private financing in all federal primary and general elections while providing for generous public subsidies based on the Check-Off Act to both candidates and political parties. Under the proposal, primary candidates would qualify for funding by submitting petition signatures.[141] In general elections, major party candidates would be given full funding, and minor party and independent candidates partial funding based on past or current performance.[142] Private money would be prohibited except in petition drives and minor party and independent campaigns.[143] The subsidy would be subject to repayment according to the candidate's electoral performance.[144]

THE ANDERSON-UDALL BILL

The Clean Election Act of 1973,[145] introduced in the House by Representatives Anderson and Udall, is another matching payment proposal and is perhaps most notable for its provision for free broadcasting time for candidates. The campaign subsidy is provided in all federal primary and general election campaigns.[146] The proposal is unique among the bills in that, in presidential general election campaigns, funding is to be made to party committee rather than to the candidates themselves,[147] the idea being to allow party committees to play a key role in the campaigns of presidential nominees. Once a candidate or committee has amassed a small "trigger fund," [148] the first $50 of each contribution[149] is matched by the government, until a certain level of subsidy is reached.[150]

Under the proposal for free broadcasting time—to be called "Voter's Time"—federal candidates in general elections may qualify for a certain number of prime time blocks of television time to be aired, in most cases, simultaneously[151] over all stations in the district. Each broadcast must include a substantial live appearance of the candidate and be of a format designed to promote rational political discussion, to illuminate campaign issues, and to give the audience insight into the abilities and personal qualities of the candidate.[152]

THE BIDEN PROPOSAL

The Cannon Bill, as recently passed by the Senate, is a significant step towards the enactment of a plan of publicly financed elections. For this reason I voted in favor of its passage. However, in the process of formulating my own thoughts on the issue of campaign financing. I find that I differ from the Cannon Bill in certain respects. The following is a discussion of what I would propose ideally as a plan for public financing.

Briefly, my proposal would cover both nomination and general elections for all federal offices. It would provide federal subsidies to candidates for nomination based both on petition signatures and on security deposits from small contributions. For general elections it would provide funding for major party candidates, with funding up to the major party amount for other candidates based not on past performance, but on petition signatures or security deposits. Public funding would be adequate to run a competitive race. In addition, subsidies in kind would be given. Small private contributions would be allowed, but cash contributions of $50 or more would be prohibited as well as large contributions from a candidate's personal or family funds. In an effort to offset constitutional objections that expenditure limitations are an infringement on the first amendment, total campaign spending would be limited at either a high level or not at all. To enforce the plan, an independent elections commission would be created. Most importantly, candidates would be required to maintain one central "checkpoint" to monitor all financial transactions.

WHICH ELECTIONS TO COVER?

The deficiencies of our present method of financing campaigns are found throughout the entire electoral system. Correspondingly, they should be corrected everywhere. Although the problem of presidential campaign financing is perhaps most visible, reform is also needed with regard to congressional campaigns. The Hart[153] and Mondale-Schweiker[154] bills cover only congressional or presidential campaigns respectively and thus leave the completion of the reform process until a later date. Nevertheless, it seems necessary to cover all levels of the federal election process simultaneously. If, for example, large sums of private money were precluded only from presidential campaigns, they might have moved to congressional campaigns. Reforms of presidential campaign financing at the expense of creating more severe problems for congressional campaigns is no reform at all.

The above problem also arises in connection with any attempt to provide public financing for general election campaigns, while leaving primaries and primary runoffs unregulated. It has been suggested that any public financing system which attempts to include primaries within its coverage has a minimal chance of enactment.[155] If the Congress is serious about reform of the political process, however, primaries should not be ignored. Private money statutorily excluded from the general election may be used to influence the primaries and the evil of its presence at that level of an election is no less real than in the general election itself. In fact, in certain circumstances large contributions may be more influential in the primary than in the general election.[156] Thus, any system of campaign financing which would be both workable and fair would necessarily have to cover primary and general elections for all federal elections.

ARE SUBSIDIES NECESSARY?

Some have commented that the Federal Election Campaign Act of 1971 [157] should be given an opportunity to demonstrate its effectiveness before further reform is attempted,[158] or that appropriate limitations on contributions and expenditures should be adequate to cure the current evils.[159] It would seem clear, however, that neither of these two partial reforms is sufficient to correct the widespread shortcomings of current campaign practices.

The disclosure requirements of the 1971 Act, it is argued, were not given a chance to prove themselves in the 1972 elections because of the April 7 loophole.[160] If operative for the entire campaign process, the argument continues, the requirements would be effective and render subsidies unnecessary, because large private contributions cannot stand "the light of day." The public reaction to a candidate receiving special interest contributions and to interest groups making large contributions will be so adverse that both parties will stop the practice. Both fact and logic, however, would seem to demonstrate the remoteness of that possibility. First, although substantial 1972 contributions were made before April 7 to avoid the reporting requirement, most candidates, especially those for Congress, appeared to obey both the spirit and the letter of the law and reported large amounts of interest group contributions.[161] Nevertheless, no large scale public reaction to these contributions occurred. There has, of course, been a great public reaction since the 1972 election to allegations of misconduct involving large presidential campaign contributions. The aim of campaign finance reform, however, is to prevent not just the undue influence of a $400,000 presidential contribution but also of a $5,000 congressional contribution.

The problem of insufficient campaign funds is also the drawback of a statutory system dependent solely on limitations on contributions and spending. If contributions by interest groups were sharply limited, many candidates, especially those challenging incumbents, might suffer from a serious lack of funds. Such a system without the addition of public funding would be likely to "lock-in" incumbents to a greater extent than they are at present. Challengers, especially those without access to wealthy individuals as a source of funds, would be likely to have greater difficulty than incumbents in raising adequate small contributions to compensate for the loss of large contributions. This result would be intensified if low limitations on overall spending were enacted. Incumbents already can secure reelection with little effort; we hardly need to make it easier for them. Thus, the need for public subsidies is demonstrated.

A MIXED PUBLIC AND PRIVATE SYSTEM

The answer to the problem of creating a campaign finance system which diminishes the influence of interest groups without "locking-in" incumbents would seem to be a scheme of public subsidies supplemented, for constitutional reasons,[162] by small private contributions. The full subsidy should be sufficient to allow a candidate to run a reasonable race, but additional provisions should be made, particularly in the primaries, for partial funding, at least until a candidate is able to take his campaign to the public and thereby obtain sufficient support to qualify for the full amount of public funds.

My proposal would not be based on matching grants for a number of reasons. Matching grant proposals provide money for those who already have sufficient financing under the present system, but makes it difficult for precisely those candidates whom the system should be designed to help—the non-wealthy individual. Incumbents, for example, would not find it difficult to raise the funds necessary to receive similar sums from the treasury. A matching grant of $50 as provided for in the Anderson-Udall Bill [163] or $100 as provided for in the Cranston Bill [164] may not sound like a very large amount to raise when compared with some of the huge contributions publicized recently,[165] but it is clearly beyond the capacities of most Americans. If candidates were permitted to use public money only after they had demonstrated strength by raising private money, the well-to-do would maintain their present stranglehold on the supply of public offices.[166] Furthermore, by magnifying the difference in private money raised by the candidates, matching grants place the non-wealthy individual at a "self-perpetuating disadvantage." [167] Every extra dollar raised by an incumbent or a wealthy candidate over his opponent actually becomes two dollars to use to influence the electorate and to raise more money. The less affluent candidate would thus find it increasingly difficult to catch up. A system of matching grants combined with small private contributions would, in short, satisfy one of the three goals of campaign reform—that of curtailing the influence of special interest money—but not the other two. Non-wealthy individuals with no access to the wealthy would still be shut off from running for public office and incumbents would still retain a tremendous advantage over challengers.[168]

The system which I would prefer to see enacted would allow less wealthy individuals greater financial access to the political arena. The full-funding amount would be, for the Senate and the Presidency, ten cents per voting age person in the district in the primary—including the entire pre-nomination period in the case of the Presidency—and fifteen cents per voting age person in the general election. The minimum subsidy would be $100,000 and $150,000 in Senate primary and general elections. Candidates for the House of Representatives would be eligible to receive a full-funding amount of twenty cents per voting age person in the primary and twenty-five cents in the general election, with a minimum full subsidy of $40,000 and $50,000 respectively. A House candidate from a one-district state would, however, receive the subsidy which a Senate candidate from that state would receive because the constituencies and thus the needs of the candidates are the same. Candidates in primary run-off elections would be given half the total subsidy which they had received in the primary.

The amounts would be sufficient to enable a candidate to take his case before the voters. A candidate for the presidential nomination could receive up to $14,000,000 and could spend that amount in any way which he chose to win the nomination; he would not be restricted to spending his subsidy in primaries, but could use it in state or local conventions or at the national convention. A presidential nominee who qualified for the full-funding amount would receive about $21,000,000.[169] The full-funding amount for a candidate for the Senate from, for example, Minnesota would be about $250,000 in the primary and $375,000 in the general election.[170] The amounts for a Senate candidate from Ohio would be $720,000 and $1,080,000 and for New York $1,280,000 and $1,900,000.[171] A congressional candidate from a typical district with 300,000 residents of voting age would receive up to the full subsidy of $60,000 in the primary and $75,000 in the general election.

In primary elections, funding would be qualified in two ways. The first would be a variation of the Hart Bill's security deposit.[172] As in the Hart Bill, a candidate for the House or Senate would have to raise twenty percent of the full amount of the primary subsidy in contributions of $250 or less.[173] He would then qualify to receive the full subsidy. Also, as in the Hart Bill, if the candidate received ten percent of the vote or more, the security deposit would be refunded to his contributors; otherwise, unless he withdrew from the primary more than one month before the election, it would be forfeited. Unlike the Hart Bill, under my proposal a candidate would not be forced to repay the amount of his subsidy if he received few votes in the election. It hardly seems to be good policy to permit a candidate to risk placing himself in debt for years because he might lose the election. One of the goals of campaign reform is to induce more people to enter the political process. To frighten people away because of a large penalty for failure is inconsistent with that goal.

The security deposit method of qualification would also be available for candidates for the presidential nomination. Because of the great amount of money involved, however, the security deposit would be five percent of the full subsidy, or, for the current population, $700,000 in contributions of $500 or less. The amount would be refunded to the contributors if the candidate attained a minimal level of success, in particular if he received the nomination or if he was one of the top three finishers, in total votes, on the first ballot at his party's convention.

One drawback to the security deposit system is that it would tend to give public money to those already capable of raising a substantial amount of private funds. Nevertheless, the reason for requiring candidates to qualify for public subsidies is to prevent frivolous candidates with no hope of victory from receiving money. It certainly cannot be said that a candidate for the Presidency who is able to raise $700,000 from contributions of $500 or less is a frivolous one. Similarly, an individual able to raise $9,000 from contributions of $250 or less is likely to run a competitive race for the House of Representatives.

Nevertheless, candidates should not be limited to the security deposit method of qualifying for public funds. First, the security deposit would, in practice, be limited to those who have access to substantial amounts of private money. Qualified potential officeholders are not found solely among the rich, but the security deposit system would tend to attract candidates from this group exclusively. Second, since the security deposit is an "all or nothing" device, with no provision for partial funding, it places a premium on immediate celebrity.

Therefore, there should be an alternative method of qualifying for federal funding, namely petition signatures. A candidate for any federal office should, if he submits signatures of ten percent of the registered voters in his potential constituency, receive the full subsidy.[174] Under this system, he would also qualify for partial funding. For each ten percent of the signatures required for full-funding which a candidate submits, he should receive ten percent of the full-

funding amount. In other words, if a candidate submitted signatures equaling one percent of the registered voters in his potential constituency, this would amount to ten percent of the amount required for full-funding and he would be entitled to receive ten percent of the full-funding amount. He could then begin his campaign and try to sell the public on his candidacy. If his candidacy "caught hold," he would be able to obtain more signatures and thus receive more money from the government. This method would be especially appealing to potential presidential candidates. An individual could submit the minimal amount of signatures and receive enough money to enter a few primaries. If he did well there, he should be able to obtain additional signatures, sufficient to take his candidacy to primaries in other states. This "snowball" effect might propel to victory a candidate who might otherwise not be able to enter the race at all. In this way candidates would be given the opportunity to prove themselves, and the public would receive the benefit of an influx of new and, in all likelihood, talented individuals into the political process.

In general elections, candidates of major parties—which would be defined, as in present law,[175] as those whose candidates received in the previous election twenty-five percent of the votes for that office— would receive the full subsidy without having to submit signatures or file a security deposit. The danger is present that this proposal would become an "immorality law" for the Democratic and Republican parties because their continual existence would be virtually assured by a guaranteed source of funds for their candidates. Nevertheless, it seems almost certain that their candidates would qualify for full-funding if required to do so. For them to obtain signatures or contributions for a security deposit would amount to mere busy-work.

Independent candidates and those of non-major parties, on the other hand, would be required, as in primary campaigns, either to file a security deposit or to submit signatures in order to qualify for public funding. The pending proposals base minor party qualification for funding either on performance in the previous election or, by means of retroactive funding, on the party's performance in the current election, whichever formula generates the greater subsidy. This method, however, has several drawbacks. To base funding on past performance [176] makes it difficult for a new party to become established. A party can rarely become successful without money, yet the parties are not eligible to receive money *unless* they have proven relatively successful in the past. The other proposals generally provide for retroactive funding *after* the election for parties which have done well without it. By its very nature, therefore, this subsidy comes after the money could be of any help to fledgling political parties. Retroactive funding is really a reward for past performance, whereas public funding should be a vehicle for achieving future success.

One objection concerning public financing of general election campaigns is that to finance the campaign of the opponent of an entrenched incumbent is a waste of the taxpayer's money.[177] The opponent has very little chance of winning anyway, the argument goes, so it serves no purpose to give him money. Furthermore, according to this reasoning, it is wasteful to give money to the incumbent since he can obtain private financing so easily. It seems to me, however, that our electoral system could be improved only by promoting vigorous contests between incumbents and challengers. Perhaps incumbents would still win the vast majority of their elections; nevertheless, with an adequately financed opponent they would not be as assured of victory as they are under the present system of financing campaigns.[178] This increased competition would force incumbents to be more responsive to the interests of their constituents, for they would be truly accountable to the electorate at the next election. As one political scientist has observed.[179]

"Elections have become the first and most important article in our unwritten constitutional arrangements. They give people a direct check upon officials. But elections—like the separation of powers—depend entirely upon the counterposing of ambitions of men. Here candidates provide the necessary competition.

"Their campaigns alert the people to the on-coming election; advance their personal qualifications and program [sic]; and supply a searching scrutiny of the opposition record. Only with this kind of vigorous competition are elections meaningful. Without it, they present the people no real choices and are as irrelevant to self-government as the staged elections in authoritarian countries."

The argument that incumbents should not receive money from the government because they are able to raise sufficient private funds overlooks one of the major goals which campaign financing reform is designed to achieve. The object of the proposal is not simply to enable poor people or non-incumbents to run for office, but also to diminish the domination of politics by special interests. To achieve that goal, the reliance of incumbents on large private contributions must be ended.

PAYMENTS IN KIND

In addition to subsidy payments, the government could provide candidates with services, namely reduced postage rates and free broadcasting time. If these proposals are adopted, campaign expenses would decrease and the amount of the cash subsidy could be decreased accordingly. Although I have serious doubts, on a constitutional level, concerning the proposal, the idea of giving candidates free access to the broadcast media has received great attention and has been endorsed by a number of organizations.[180] Television and radio are perhaps the most effective as well as possibly the most expensive means which a candidate has available for reaching the voters. Campaign advertising through these media have been the subject of increasing criticism because of the "slick" techniques used.[181] In fact, most of the criticism directed against the "Madison Avenue" approach to campaigning has been a result of the use of television, particularly "spot advertising" of a minute or less. A proposal such as the Anderson-Udall Bill's "Voter's Time,"[182] which provides for free television use in large blocks of time, would go far toward mitigating these problems. By making free time available to all candidates [183] the use by well-financed campaigns of what has become known as a "media blitz" would be eliminated. At the same time, because the Anderson-Udall Bill provides for campaign broadcasts to be aired over all stations simultaneously, it removes a traditional drawback of long political programs—the tendency of viewers to watch competing entertainment programs instead.[184]

Candidates could also be provided gratuitous services with respect to their use of the mails. Rather than prohibit the use of the "frank" for mass mailing of newsletters during campaigns, as one bill provides,[185] Congress should extend the "frank" to all candidates for federal office for perhaps two free mailings of campaign materials.[186] Without the full use of the "frank" during campaign periods, incumbents are still able before the campaign period to use the "frank" at least indirectly for re-election purposes by means of both mass mailings and personal letters. Fairness therefore dictates that challengers be allowed to use the "frank" as well. Such a measure would also help decrease campaign costs.

Because of the tendency by voters to ignore campaign mailings as "junk-mail," a sounder proposal would be to issue a "Voter's Pamphlet," as is already done by the states of Washington[187] and Oregon.[188] This pamphlet would be published by the government and mailed to all registered voters. Space would be made available to each candidate for a picture and a statement setting forth his personal background and program. The pamphlet would be less expensive than individual mailings, and because it contains information about all candidates, less likely to be discarded without reading. The pamphlet would probably be the best means available to provide voters with information about the various issues and to make intelligent decisions about the candidates. A "Voter's Pamphlet" proposal was made on the floor of the Senate in 1973 in the form of an amendment to a bill. Regrettably the amendment was withdrawn because it had not been studied in committee.[189] It is hoped, however, that such a proposal will be adopted in the future.[190]

LIMITATIONS ON CONTRIBUTIONS

The most direct method of curtailing the influence of large contributions on the political process is simply to limit them outright. Because of constitutional considerations,[191] it seems unlikely that contributions can be prohibited entirely. Nevertheless, a reasonable limitation could satisfy the constitutional considerations,[191] it seems unlikely that contributions can be prohibited entirely. Nevertheless, a reasonable limitation could satisfy the constitutional standard by maintaining an outlet for citizen expression of candidate preference. The $3,000 limitation adopted in the Cannon Bill,[192] however, seems too high to achieve the desired purpose. Many contributions made by special interest groups presently are not above $3,000.[193] An incumbent's campaign for the House of Representatives might cost $75,000, and in such a campaign $3,000 is a significant figure. A limitation of $500 on contributions by individuals or political committees to any campaign or political committee with an overall limitation of $2,500 on all such contributions in a calendar year, would appear more likely to eliminate the undue influence of special interests in the electoral process. Such a limitation would also be large enough to satisfy constitutional requirements.[194] The limitation on contributions by a candidate or his family to his own campaign, however, should not be quite so small. There are certain "start-up" expenditures involved in any campaign, particularly to qualify for public funding. A limitation of $3,000 from personal and family funds would seem to be sufficiently high for a candidate to begin his campaign and sufficiently low to prevent wealthy candidates from buying their way into office.

LIMITATION ON EXPENDITURES

Although the increasing cost of campaigning has been cause for public concern, the beneficiary of a low limitation on total campaign spending will not be the public, but rather incumbents, who do not need to spend as much money on the campaigns as do their challengers.[195] The Senate-passed Cannon Bill in particular works to the advantage of incumbents,[196] with its $90,000 limitation for House campaigns.[197] The average expenses of all challengers who defeated an incumbent Representative in 1972 exceed that figure by $35,000.[198] Chances are that, had the $90,000 limitation been in effect in 1972, those defeated incumbents would still be serving in the Congress.

Three possible reasons can be advanced for enacting some limitation on overall expenditures. First, it would prevent an affluent candidate from being able to finance a lavish campaign. Second, it would prevent wealthy contributors from doing the same on behalf of favored candidates. And third, it would prevent the use of sophisticated and expensive advertising techniques which sell candidates to the public as if they were laundry detergents. The first two of these goals, however, are achieved more directly by limitations on contributions. Furthermore, although the present use of certain advertising techniques is disturbing, as well as debasing, it is not nearly as disturbing as the prospect of providing life terms for incumbent office holders which might occur if a fairly low overall expenditure limitation was enacted into law. Moreover, limitations on contributions would provide a rough check on spending. Limited to $500 per contributor, candidates would not easily procure the funds to allow excessive spending.

Nevertheless, campaign expenditures should be limited, at least to some degree, for two reasons. It would assure that expenditures do not get completely out of hand and it would prevent candidates with access to the wealthy from amassing a large number of $500 contributions. For these purposes an appropriate limitation would be $200,000 each for primary and general election campaigns for the House of Representatives and twenty cents and twenty-five cents per voting age person in pre-nomination and general election campaigns respectively for both the Senate and the Presidency.

The best way to enforce these limitations would be to require each campaign to designate one central "check point" through which all receipts and expenditures would be channeled. Similarly, each campaign would be required to maintain one designated bank account, which would be the sole repository of campaign funds, After the campaign—and, perhaps, at periodic intervals during the campaign—a candidate would be required to make public this account together with all its deposits and withdrawals. Since all campaign expenditures could be withdrawn from this account, the amount of withdrawals could not exceed the limitation on spending. To prevent candidates from evading this requirement there would have to be a prohibition on all large cash transactions—for example, above $50.

SUPERVISION

The 1971 Campaign Act provides for a tripartite system of supervision, with disclosure reports required to be made to three enforcing congressional officers, the Secretary of the Senate, the Clerk of the House of Representatives, and the Comptroller General.[199] In addition, reports must be made to the Secretary of State of the state in which the campaign is being conducted.[200] This system was generally effective in the last national elections,[201] nevertheless, the full-time and vigorous enforcement necessary to carry out campaign reform requires an independent supervisory commission.

In reforming the electoral process one of the major goals is restoring public confidence in the political system. Thus, any enactment must have the appearance of genuine reform. The major drawback of the present enforcement system is that supervision by employees of those who are to be supervised, no matter how effective it may in fact be, gives the appearance of only a half-hearted effort at reform. Not only is there an inherent conflict of interest between the supervisory duties of those to whom reports are presently to be made and their position as employees of party leaders and candidates in their own right, but also it is doubtful that they have the staffs or resources necessary to enforce a public financing system.[202]

The system proposed by the Campaign Amendments Bill[203] is an improvement on the present system. It provides for a bipartisan commission composed of members appointed by a process in which the President, congressional leaders of both parties, and Congress itself participate. This commission would have complete enforcement powers including that of initiating criminal proceedings. It has the advantage of being dominated neither by one branch of government, nor by one political party.

An intriguing suggestion has been made by an academician to draw the members of the commission from the ranks of retired judges.[204] The proposal has the advantage of assuring the public that the commission members would be independent. It could be combined with an attractive proposal made by the Director of the Office of Federal Elections of the General Accounting Office that the commission members serve part-time and be supported by a large professional staff and a "strong executive director."[205] Talented individuals might be more attracted to serve in a part-time position rather than in a full-time capacity.[206] In addition, the commission should be given, along with its powers to initiate criminal proceedings, the power to initiate civil proceedings and the power to exact civil penalties.[207]

A provision for a commission was originally part of the 1971 Campaign Act, but was removed because of opposition by the House of Representatives.[208] The same fate should not await any bill enacted in the future. Unless Congress wishes to give the impression that it is converting the present statutory campaign finance system, which is "more loophole than law,"[209] into one in which violations are difficult to enforce, a strong, independent campaign commission must be created.

SUMMARY

In a fashion similar to the Cannon Bill, recently passed by the Senate, the system which I have outlined here would go a long way towards eradicating the major evils inherent in the current method of financing campaigns. By limiting contributions and by limiting spending, a curb would be imposed on the power of special-interest groups. The public subsidy would enable more people from diverse economic backgrounds to run for office and would help challengers to run more vigorous campaigns against incumbents. The fulfillment of these last two goals would be served in particular under my proposal by the provisions authorizing an alternative method of qualifying for funding simply by presenting petition signatures, since it would enable individuals without significant access to wealth to run for office and would allow them to receive increasing amounts of partial funding as the campaign progressed.

A CONSTITUTIONAL DEFENSE

Federal regulation of campaign financing poses several potential problems from a constitutional standpoint. Specifically, two general issues are raised by the legislation recommended both by this article and by the other proposals already introduced into the Congress. The first is whether Congress has the constitutional authority to enact such legislation, and the second is whether this type of legislation violates constitutional rights of a candidate or members of the electorate.[210]

CONSTITUTIONAL AUTHORITY FOR REGULATION OF ELECTIONS

With respect to the regulation of congressional elections, the authority of Congress is derived from article I, section 4 of the Constitution, which states: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the Legislature thereof; but the Congress may at any time by law make or alter such regulations. . . ."[211] A program which combines federal subsidies with limitations on contributions and expenditures would appear to deal with the "manner" of holding elections and, therefore, to be a proper exercise of congressional authority. This view is supported by a broad interpretation given the phrase "times, places and manner" by the Supreme Court in *Smiley v. Holm*,[212] in which it stated:[213]

"[T]hese comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved."

The *Smiley* Court further ruled that article I, section 4 gave the Congress "a general supervisory power over the whole subject"[214] of congressional elections. It seems apparent, therefore, that, at least with respect to congressional elections, Congress has the authority to regulate federal campaign spending.[215]

The congressional power to impose similar legislation on a presidential campaign presents a more difficult question. The Constitution provides that it is the state which "shall appoint, in such manner as the legislature thereof may direct," its presidential electors.[216] Indeed Congress' express authority extends only to "the time of choosing the Electors, and the day on which they shall give their votes."[217] The propositions, however, that the states possessed exclusive authority over the "manner" of presidential elections was put to rest in *Burroughs and Cannon v. United States*.[218] That case involved a constitutional challenge to a section of the Corrupt Practices Act of 1925,[219] which required that any political committee accepting contributions or making expenditures for the purpose of influencing the election of presidential electors file state-

ments containing the name and address of each contributor. In sustaining the constitutional validity of the statute, the Court expressly rejected the argument that congressional authority in this area was limited merely to setting the date for selection of electors and the date on which those electors were to cast their votes.[220] The Court added that Congress has the power on policy grounds to enact substantive legislation affecting the conduct of elections.[221]

"The importance of [a presidential] election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption."

Admittedly, *Burroughs* might be limited on its facts to controversies concerning disclosure laws. In that cae, however, the petitioner's constitutional objection was that the statute allowed Congress to invade an area under the exclusive authority of the states. Since the Court overruled this objection with respect to a filing requirement, it seems reasonable that an objection to Congress' power to enact a program of federally subsidized elections would similarly be overruled. This conclusion is supported by the broad language employed by the Court in the *Burroughs* opinion. In holding that Congress possessed the power "to pass appropriate legislation to safeguard [a presidential election] from the improper use of money to influence the result,"[222] the Court apparently left room for legislation combining government subsidies with limitations on contributions and campaign spending.[223]

A final question with regard to congressional authority to enact one of the proposed reform bills is whether Congress has the power to regulate campaign primaries. Although the Court had discussed the question previously,[224] the first decision on the issue of whether the constitutional grant of power to regulate "the manner of holding elections" [225] extended to primary elections was rendered in *United States v. Classic.*[226] An eight-man majority in that case held.[227]

"[T]he authority of Congress, given by § 4, includes the authority to regulate primaries when, as in this case, they are a step in the exercise by the people of their choice of representatives in Congress."

Although victory in the primary in that jurisdiction was tantamount to victory in the general election, that fact was not crucial to the decision of the Court. Moreover, in subsequent cases, the primary has been held to be a part of the general election process without the presence of any such special circumstances.[228]

The constitutional provisions dealing with the regulation of elections have, as these cases demonstrate, been broadly construed. As a result, Congress possesses far-reaching authority to enact measures necessary to protect the integrity of the electoral process. The scope of the authority extends beyond the comparatively explicit constitutional delegation with respect to congressional elections and includes presidential and primary elections. Given the policy motivation for enactment, passage of the proposed program of federal subsidies combined with contributions and spending limits is clearly within the constitutional authority of the Congress.

LIMITATION ON CONTRIBUTIONS

A number of commentators have expressed doubt concerning the constitutionality of limitations on the size of campaign contributions.[229] Indeed, supporters of public financing themselves have expressed concern in this area. These doubts are based on the belief that a contribution to a political campaign is a means of political expression, and since free political expression is protected by the first amendment,[230] political expression in the form of a campaign contribution is similarly protected. Under this view, the act of contributing is characterized as symbolic speech.

As a threshold consideration, two factors must be taken into account here. First, it is not at all clear that the act of making unlimited contributions to a political campaign is protected as "speech" under the first amendment. Second, assuming that the act is so protected, the state interest in preserving the integrity of the electoral and governmental processes from the corruptive influence of large contributors might be found to be sufficiently compelling to justify an incidental infringement on first amendments rights.

The first amendment clearly protects more than purely verbal communications.[231] It may well be, however, that courts will not regard a campaign contribution as protected symbolic speech. When pure speech is joined with verbal acts which are not necessary to the communication, the state may regulate that mode of expression.[232] Certainly, a limitation on contributions does not abridge free speech on its face because "there is nothing necessarily expressive about" contributing to a political campaign.[233] Nevertheless, the argument could be made that in particular cases campaign contributions were expressive. The judiciary may, however, hold that the physical act of delivering unlimited amounts of money or property to a candidate is not essential to political expression and that a campaign donation is thus not protected symbolic speech.

To the extent that the right to make unlimited contributions is protected by the first amendment, it is my belief that some limitation on contributions would be constitutionally valid because of the compelling state interest in protecting the electoral and governmental process from the undue influence of excessively large contributions.[234] This view was taken by Mr. Justice Douglas, dissenting in *United States v. United Auto Workers,*[235] a case in which the majority specifically declined to address itself to the question of whether a prohibition on labor union campaign contributions.[236] was constitutionally valid. Justice Douglas, joined in his dissent by Mr. Chief Justice Warren and Mr. Justice Black, emphatically stated that the absolute prohibition on campaign contributions constituted "a broadside assault on the freedom of political expression guaranteed by the First Amendment." [237] He was careful to note, however, that: [238]

"[I]f Congress is of the opinion that *large* contributions by labor unions to candidates for office and to political parties have had an undue influence upon the conduct of elections, it can prohibit such contributions."

Thus Mr. Justice Douglas, the jealous protector of first amendment freedoms, adopted the position that large political contributions are not protected under the Constitution to the extent that they exert an undue influence upon the election process.

Justice Douglas' remarks suggest that the constitutionality of limitations on campaign contributions depends upon the particular level of limitation imposed. While Justice Douglas deemed invalid an absolute prohibition on contributions, he recognized that at some point the size of contributions can be restricted because of the very real likelihood of undue influence on the political process. In light of the presumption of constitutionality afforded a congressional act, it would appear, therefore, that a limit on contributions would be held unconstitutional only if it were shown that the limitation, was manifestly below the level at which there could be a reasonable fear of improper influence on the recipient candidate.[239]

The level at which restrictions are imposed is a matter largely overlooked by those who would argue that limits on political contributions are unconstitutional. These critics treat a limitation in amount as if it were an absolute prohibition on contributions. The error in so doing is illustrated by *Kovacs v. Cooper,*[240] a case which is relevant if a campaign contribution is viewed as symbolic speech. In *Kovacs* the Court [241] upheld against a first amendment challenge an ordinance which forbade the use on public streets of a sound truck emitting "loud and raucous noises." It was noted that an "absolute prohibition within municipal limits of all sound amplification, even though reasonably regulated in place, time and volume, is . . . probably unconstitutional . . . . " [242] The ordinance, however, was upheld because its prohibition applied only to "loud and raucous" noises. Thus, while the absolute prohibition would be unconstitutional, a limitation on the permissible physical volume of the regulated communicative conduct was held valid. In applying this rationale to the issue of campaign contributions, Professor Freund has stated.[243]

"We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels. And just as the volume of sound may be limited by law, so the volume of dollars may be limited without violating the First Amendment."

It might be argued that an overall limit on contributions would be an absolute prohibition on contributions as to those who seek to contribute after the ceiling has been reached. If this situation were to pose a serious obstacle to the passage of the proposed limitations, Congress could enact a program of pro-rata contribution refunds. Under such a program all who so desired could contribute up to the limit imposed on the individual contribution. If the sum of these contributions exceeded the overall limit on contributions received, the excess could be refunded to all contributors on a pro-rata basis of the size of their original contributions. For example, if total contributions exceeded the overall limit by twenty-five percent, someone who had contributed $80 would receive a refund of twenty-five percent of his contribution, *i.e.,* $20. To avoid the administrative burden of mailing refund checks to each contributor, the amount to be refunded would be turned over to the Internal Revenue Service and would be credited against the contributor's income tax in the following year.

The Supreme Court has held that: [244]

"When 'speech' and 'non-speech' elements are combined in the same course of conduct, a sufficiently important governmental inter-

est in regulating the non-speech element can justify incidental limitations on First Amendment freedoms."

In attempting to define the elements of this "sufficiently important governmental interest," the Court in *United States v. O'Brien* stated: [245]

"[W]e think it clear that a government regulation is sufficiently justified if it is within the constitutional power of the Government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest."

In view of this standard the proposed limitations on campaign contributions are constitutionally valid. With regard to the first element of the test, it has been previously shown that Congress has power under the Constitution to regulate congressional and presidential elections both at the primary and at the general election levels.[246] The second element is also satisfied since the limitation on contributions is designed to advance substantial governmental interest: the independence of elected officials from large contributors and the prevention of fraud and corruption in the electoral process. These interests are sufficiently important to satisfy the *O'Brien* test. In *Ex parte Yarbrough* [247] the Court stated: [248]

If the government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government, it must have the power to protect the elections on which its existence depends from violence and corruption.

"If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and *insidious corruption.*"

And in another case the Court said: [249]

"To say that Congress is without power to pass appropriate legislation to safeguard [a presidential and vice-presidential] election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self protection."

The third element of this test is that "the governmental interest is unrelated to the suppression of free expression." [250] Since the governmental interest in regulating campaign contributions is to preserve the integrity of the election process and the independence of elected officials, this condition would clearly appear to be satisfied, especially in view of the rationale of the *O'Brien* decision. In that case the defendant contended that a statute which prohibited the knowing destruction of a draft card was unconstitutional as to him because the act of burning his draft card was "symbolic speech" protected under the first amendment. The Court upheld the statute and thereby acknowledged that the governmental interest involved was "unrelated to the suppression of free expression." Such a conclusion was justified since the statute did not seek to prohibit communication of the defendant's antiwar beliefs but only to assure the effective operation of the Selective Service by prohibiting the act of draft card burning.

In much the same way the proposed limitations on campaign contributions seek not to prohibit communication of political beliefs, but only to assure the effective operation of the electoral process and to prevent corruption on the part of elected officials. Furthermore, the Court in *O'Brien* attempted to clarify this third element by citing *Stromberg v. California.*[251] In *Stromberg* the Supreme Court struck down a statute which punished those who expressed their "opposition to organized government" by displaying "any flag, badge, banner or device." Under this statute, therefore, a banner or badge could have been prohibited based solely on the written contents contained thereon. The statute did not seek to prohibit the act of displaying a banner nor the act of displaying a banner for the purpose of expressing any abstract idea; it sought to prohibit the expression of a particular idea or belief. Put another way, the conduct was lawful but for the particular idea it sought to express. The majority in *O'Brien* indicated that a *Stromberg*-type statute could not be sustained because it "was aimed at suppressing communication" and, therefore, violative of the third element of the *O'Brien* balancing test.

The case of limitation on contributions is clearly distinguishable from *Stromberg.* An excessive contribution is unlawful under my proposal regardless of the particular political idea or belief which the contributor seeks to express by his act of contributing money. In *Stromberg* the act was illegal only if it were performed for the purpose of expressing an opposition to government. This type of prohibition clearly suppresses expression and is distinguishable from a ceiling on political contributions where only the act of excessive contributions is suppressed without regard to the idea sought to be expressed by that act. It appears, therefore, that the proposed limitation on contributions satisfies the third element of the *O'Brien* test.

Finally, it must be shown that the alleged incidental infringement on first amendment rights is no greater than is necessary to achieve the governmental interest. Critics of limitations have suggested that alternative remedies could insulate the electoral process from undue influence of unlimited contributions without the arguable infringement on free expression. Suggested alternatives include free broadcast time or franking privilege and tax incentives for contributions. While such measures might solve some of the problems of the current system, none would work to improve all problems as would public financing coupled with limitations on contributions. As long as there are limitations neither on expenditures nor on contributions, a candidate can be expected to spend up to and beyond the limits of the funds which he is able to raise. As a result, any right to mail campaign circulars for free or to receive free radio and television time will not reduce the pressure on the candidate, once elected, to repay in one form or another "debts" owed to major campaign contributors. Clearly, the limitation on contributions is essential to the elimination of this potential for undue influence. Furthermore, this final element of the *O'Brien* test is perhaps not quite as rigorous as are the other elements. Elsewhere, the Supreme Court has stated: [252]

"The power of Congress to protect the election of President and Vice President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress. If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted and the end to be attained, are matters for congressional determination alone."

A judgment by Congreses, therefore, that limitation on contributions constitutes the only effective remedy is likely to be given great deference by the Court.

Another line of precedent lends support to the conclusion that the right to contribute to a campaign may be outweighed by the strong policy considerations inherent in any congressional act designed to limit the right to contribute. These cases deal with the Hatch Act's [253] prohibition of political activity by public employees. In *United Public Workers v. Mitchell* [254] the Supreme Court sustained the validity of a provision of the Act which prevented employees of the executive branch from taking an "active part in political campaigns." [255] The Court justified this total prohibition of political activity by balancing it against the determination by Congress of the "material threat to the democratic system" [256] posed by partisan activity on the part of government employees. *Oklahoma v. Civil Service Commission,*[257] a case decided the same day, upheld a similar ban imposed on state officials whose work was financed in part by a federal agency.[258]

Mitchell was recently reaffirmed by the Court in *United States Civil Service Commission* v. *National Association of Letter Carriers.*[259] The Court balanced against the infringement of first amendment rights a number of factors which also apply to limitations on contributions: effective and fair operation of the government, protection of the role of elections in representative government, and—a factor not mentioned in the cases discussed thus far—maintenance of public confidence in the government by avoiding the appearance of corruption.[260]

Significantly, these cases upheld a complete ban on all political activity, except the right to vote, on the part of government employees. Such a prohibition was held justified to prevent undue influence on government workers. The proposal made by this article for campaign financing reform would constitute only a partial prohibition on a specific type of political activity—contributions of money. It is designed to prevent undue influences, not on government employees working in a non-political part of the government,[261] but on elected officials. Since the Hatch Act has withstood the constitutional challenge, it seems only reasonable to conclude that limitations on campaign contributions will do so as well.[262]

LIMITATION ON EXPENDITURES

Legislation restricting the amount of a particular campaign contribution may be accompanied by limitation on campaign expenditures. Without the restrictions on expenditures candidates with access to large numbers of wealthy individuals might, despite the limitations on contributions, be able to amass a large campaign treasury from many individual $1,000 contributions. Thus, non-wealthy candidates, without significant contacts among the wealthy, would still be essentially shut off in many instances from effectively seeking elective office. Political offices would remain within the reach of the affluent or those associated with them.[263] To avoid such a result it seems necessary to implement the proposed limitations on campaign expenditures.[264]

Limits on expenditures, however, have encountered many of the same constitutional questions raised by limits on contributions.[265] Since campaign expenditures are viewed as indispensible to mass communication of political ideas, it has been suggested

that such expenditures constitute speech plus conduct and are protected under the first amendment.[266] The validity of this suggestion hinges on many of the same factors discussed in relation to whether limitations on contributions would be constitutionally permissible.[267] Accordingly, the first issue is whether the act of making unlimited campaign expenditures is protected under the Constitution. Unquestionably, campaign expenditures are indispensable to effective political speech, probably more so than contributions. If contributions are limited, the candidates can nevertheless effectively communicate his political message to the voters through expenditures of his own personal resources. Once a limit on expenditures is enacted, however, and that limit is reached by a candidate, the prohibition on effective political speech by that candidate is absolute. As a result, one could likely make a stronger argument for a constitutional right to unlimited campaign expenditures than could be made for unlimited campaign contributions. This fact alone, however, does not guarantee the right to make unlimited campaign expenditures. Again the sound truck cases are applicable. In *Saia* v. *New York*[268] the Supreme Court concluded that amplified speech was deserving of first amendment protection since "loud-speakers are today indispensible instruments of effective public speech."[269] Less than a year later, however, the Court allowed a local government to accommodate the public interest in privacy by upholding a reasonable limitation on amplified speech.[270] The rule to be taken from these cases is that where a sufficiently important governmental interest exists as a justification, a reasonable limitation on the use of an instrumentality indispensible to effective public speech may be enacted.

Application of this rule to limits on campaign expenditures again necessitates the balancing test analysis of *O'Brien*.[271] The constitutional authority of the Congress to regulate campaign expenditures is derived from the same source as is the authority to regulate contributions.[272] The countervailing governmental interest present in this instance is that both the wealthy and the not-so-wealthy, or those without access to the wealthy, share an equal opportunity to participate in the electoral process. The importance of this objective was emphasized in *Kramer v. Union School District*,[273] in which the Court declared that "unjustified discrimination in determining who may participate in political affairs . . . undermines the legitimacy of representative government."[274] Elsewhere, the Court has stated, "wealth, like race, creed, or color, is not germane to one's ability to participate intelligently in the electoral process."[275] It seems clear, therefor, that the governmental interest of fostering equal political opportunity for both those with vast as well as those with meager resources is "important or substantial." With regard to the third requirement of the *O'Brien* test, the governmental interest in equal political opportunity is "unrelated to the suppression of free expression."[276] Any doubt on this point is resolved in favor of limitation on expenditures by the sound truck cases. Finally, without limits on expenditures the candidate who has access to vast financial resources can overwhelm his poorer opponent. Although a ceiling on contributions would prevent an elected official from being unduly influenced by a single large contributor, without a limit on total spending a number of individuals with similar interests could together contribute a large sum of money to a candidate; the same evil of undue influence on elected officials would then be present. Moreover, because of the natural tendency of candidates to spend all available funds, this problem would persist even where a program of federal subsidies would assure a certain level of funds to all qualified candidates. It is apparent, therefore, that a persuasive argument can be made for expenditure limits on the basis of a balancing test analysis.

A second constitutional criticism of campaign spending limits focuses on undue interference with the right of the voter to receive information relevant to his electoral decisions. It is well established that freedom of speech and press necessarily protects an individual's right to receive information and ideas.[277] Two cases dealing with this right have been cited in support of the position that spending limits are constitutionally invalid.[278] In *Red Lion Broadcasting Co. v. FCC*,[279] the petitioner challenged the Federal Communication Commission's "fairness doctrine"[280] on the ground that it denied the petitioner its right to free speech by dictating in certain cases which material would be broadcast. The essence of the petitioner's argument was that the broadcaster enjoyed the same constitutional right of free speech as the individual. In upholding the "fairness doctrine" the Court emphasized that the public's right to receive diverse social and political ideas overrode the broadcaster's right to free speech by radio.[281]In *Mills* v. *Alabama*[282] the Court found invalid a statute prohibiting solicitation of votes on election day. The Alabama Supreme Court had sustained the statute on the ground that it protected the public from the confusion of unverified, last-minute political charges. In striking down this statute, the Court in *Mills* has been heralded as sustaining the public's right to receive political information in situations in which that information might be unverifiable. It should be noted, however, that the reasoning of the Court in *Mills* was based on the right of a newspaper to publish an editorial, not on the right of public to read it.

On the basis of this precedent it has been argued that limits on campaign spending abridge the individual's constitutional right to receive political information. Under this view the ceiling on spending is regarded as a restriction upon the ability of the candidate to convey information to the public and is, therefore, unconstitutional.[283] In my opinion the effect of the proposed spending limits will be precisely the opposite. Instead of reducing the flow of political information to the voting public, these ceilings will help assure a balanced flow of diverse viewpoints. Without spending limits those candidates having unlimited financial resources are able to dominate the flow of political information to the public. They do this by monopolizing the most effective channels of communication. For example, there is only a limited supply of prime time television advertising slots. If these are all taken by a wealthy candidate who can in essence outbid all other candidates, those political viewpoints that are less than extravagantly financed will be denied this highly effective means of presenting their case to the electorate.[284] Limiting expenditures, however, helps to promote "free trade in ideas"[285] and "provides hopes for access to the political process by the weaker minority interests. . . ."[286] The proposed federal campaign subsidies would make this hope a reality. Thus, the ceilings would protect the flow of political information to the public by preventing the well-financed candidates from overwhelming by sheer volume of spending the communications of other candidates. In this manner the public would be exposed to a greater diversity of viewpoints. Such a result seems highly consistent with the constitutional right of the public to receive information and ideas.[287]

Admittedly, the validity of any limitation might hinge upon the level of restriction. A limit could be set so low as to deny all candidates the chance to present their cases effectively to the electorate. Such legislation would be difficult to justify. Thus, the limitations should be set at a relatively high level, but low enough to prevent the heavily financed candidate from "so overloading the channels of communication as to render his opponent's right to speak virtually worthless."[288] The limitations contained in my proposal set forth in this article would seem to meet that test.[289] Once Congress has set such limits, its judgment in setting the level of limitation so as to maximize the flow of political information should be given great deference by the Court.[290]

A final challenge to the constitutionality of spending limits is the contention that such limits favor the incumbent because of the public familiarity which he has acquired prior to the campaign. The argument here is that the only way in which the relatively unknown challenger can overcome the "recognition gap" between himself and the well known incumbent is by outspending the incumbent on media campaigning. Under this rationale a limit on spending is thought to preclude the challenger from any chance to close this "recognition gap."[291]

Proponents of this view cite *Williams* v. *Rhodes*[292] as authority for their position. In that case the American Independent Party and the Socialist Labor Party challenged the constitutionality of an Ohio law which required a new political party to obtain petitions signed by qualified electors totaling fifteen percent of the number of the votes in the last gubernatorial election to be placed on the presidential ballot. On the other hand, the Democratic and Republican parties retained their positions on the ballot merely by polling ten percent of the votes in the last gubernatorial election, and were not required to obtain signature petitions.[293] The State of Ohio sought to justify the restriction on the ground that it promoted political stability, and that by minimizing the number of new parties placed on the ballot, it would protect voters from "a choice so confusing that the popular will could be frustrated."[294] The Court, however, found that the effect of this election law was to "make it virtually impossible for any party to qualify on the ballot except the Republican and Democratic Parties."[295] Having concluded that the State had failed to demonstrate any "compelling interest" to justify these restrictions, the Court held them to be a violation of both first amendment and equal protection rights.[296]

Williams calls into question the constitutionality of any election law which tends to lock in the Democrat-Republican, two-party system. Some have argued that limits on expenditures prevent smaller parties from closing the "recognition gap" by effectively denying them the opportunity to outspend the two major parties. On this basis it is urged that the spending limits fall within the prohibition of *Williams*.[297]

The restrictions overturned in *Williams*, however, are clearly distinguishable from the spending limitations contained in my

proposal. In fhe first place, the burden of the spending limits will fall equally on all parties and on all candidates. The unequal burden of the regulation in *Williams* was obvious. This distinction, however, is unlikely to settle the issue since critics of campaign spending limits view the equal burden of the limits as the factor which will most tend to solidify the presently dominant position of the two major parties.[298] A stronger distinction lies in the existence of a more compelling state interest in the case of campaign spending limits. The state interest articulated in *Williams*, namely to protect the electorate from undue confusion, sounds suspiciously like the state interest rejected in *Mills*.[299] On the other hand, the limits on campaign spending are imposed to further a state interest which has on many occasions been upheld: an equal opportunity to participate in the electoral process regardless of ability to pay.

The principle announced in the *Williams* case does not prohibit every measure which restricts the right of a new party to appear on the ballot, but merely holds that in that particular case the regulation was unreasonably restrictive. Restrictions deemed reasonable by the Court have been upheld subsequently. In *Jenness v. Fortson*[300] a Georgia law was challenged which provided that a candidate for elective public office who did not win a political party's primary election could have his name printed on the ballot at the general election only by filing a nominating petition signed by at least five percent of the number of registered voters who voted at the last general election for that particular office. The Court unanimously upheld the Georgia statute and distinguished it from *Williams v. Rhodes* primarily on the ground that "Georgia's election laws, unlike Ohio's do not operate to freeze the political status quo."[301] The proposed campaign spending limits would likewise not freeze the existing political status quo, which can be characterized as the domination of politics by those with access to vast financial resources. Furthermore, by providing qualified minor party candidates with funds, the program of subsidies would serve to encourage them actively to challenge the dominance of the major parties and might enable them to become more competitive. Such an effect seems entirely consistent with *Williams* and *Jenness*.

As with limitations on contributions, the conclusion here is that reasonable limitations on campaign spending are constitutionally valid. Because campaign expenditures are essential to effective political speech, it appears that such expenditures are protected under the first amendment. The protection of these expenditures does not, however, guarantee to the candidate the right to make unlimited expenditures when a compelling state interest requires limitation. Equal political opportunity for wealthy classes and prevention of undue influence on elected officials are, as demonstrated, sufficiently compelling interests to justify spending limits. Furthermore, instead of infringing on the voting public's right to receive information, the limits can be set so as to enhance that right by assuring that political information flows to the public from viewpoints which might otherwise be drowned out by the more heavily endowed interests. Finally, rather than "freezing the status quo," the limitation on expenditures when combined with the proposed subsidy will enable minor party candidates to challenge the major party candidates with unprecedented vigor. On this basis it seems clear that the spending limits are constitutionally valid.[302]

CONTRIBUTION DISCLOSURE REQUIREMENTS[303]

To enforce the limitation on campaign contributions it will remain necessary, as the law now provides,[304] for a candidate to disclose the amount and donor of all political contributions received. While this disclosure requirement raises several constitutional questions, it seems clear upon analysis that such a requirement is constitutionally permissible.

The first question relates to what might be called the first amendment right to anonymity.[305] The rationale supporting this "right" is that, where, because of fear of embarrassment or reprisal a disclosure requirement stifles an individual's freedom of association or speech, the requirement is constitutionally invalid. This doctrine was developed in a series of cases which overturned statutes requiring disclosure of NAACP membership lists.[306] These cases originated in southern communities at a time of violent hostility to civil rights groups. Under these circumstances the fear of reprisals was sufficiently acute that disclosure of membership lists would have serverly threatened rights of association. The right of anonymity was also upheld in *Talley v. California*,[307] in which the Court invalidated an ordinance prohibiting the distribution of a handbill which did not have printed on its face the name and address of the person responsible for its printing and distribution. The Court concluded that the ordinance would discourage the expression of unpopular ideas and thereby restrict the freedom of speech. On the other hand, where the government interest was deemed to be sufficiently compelling, disclosure of membership lists has been upheld in spite of the infringement on the right of association.[308]

On the basis of the *Talley* precedent it has been contended that campaign disclousre laws might impose an unconstitutional burden on the freedom of political expression. For example, a resident in a predominantly Republican neighborhood might be discouraged from contributing to a Democratic candidate for fear that disclosure would subject him to social ridicule. The constitutionality of disclosure requirements, however, seems to be established in *Burroughs and Common v. United States*.[309] In that case the Court upheld the constitutionality of the Federal Corrupt Practices Act of 1925 on the ground that disclosure requirements "would tend to prevent the corrupt use of money to affect elections."[310] It should be noted, however, that the first amendment arguments dealing with the right to anonymity were not raised in *Burroughs*.[311]

Any lingering doubt as to the first amendment constitutionality of campaign disclosure requirements was erased by *United States v. Harriss*.[312] In *Harriss* the Court employed the rationale of *Burroughs* in upholding the constitutionality of a statute which required a lobbyist to disclose the source and amount of any contributions made to him. The majority in *Harriss* declared.[313]

> Congress has . . . merely provided for a modicum of information from those who for hire attempt to influence legislation. . . . It wants only to know who is being hired, who is putting up the money, and how much. It acted in the same spirit and for a similar purpose in passing the Federal Corrupt Practices Act—to maintain the integrity of a basic governmental process.

The first amendment arguments were offered and specifically rejected in *Harriss*.[314] On the basis of *Burroughs* and *Harriss*, therefore, it seems clear that campaign disclosure requirements do not offend the first amendment.

The second constitutional question raised by the proposed disclosure requirements involves the privilege against self-incrimination. Given that the contributor must report his contribution and that he can be held criminally liable for making a contribution which exceeds the limitation, it would appear that he is compelled to incriminate himself by compliance with the disclosure requirement.[315] This view seems to be supported in *Marchetti* v. *United States*[316] *and Grosso* v. *United States*.[317] In each of these cases a statute requiring anyone engaged in specified gambling practices to register and to pay a special tax on gambling activities was held invalid on the ground that compliance would have the unmistakable result of incriminating the registrant.

It is significant to our inquiry that the majority in *Marchetti* made a special point to distinguish and reaffirm *United States* v. *Sullivan*.[318] In *Sullivan* the taxpayer, a bootlegger, was convicted for failing to file an income tax return despite his claim that filing a return would have necessitated his admission of violations of the National Prohibition Act. The Court in *Sullivan* concluded that the taxpayer could have answered most of the questions on the return without making incriminating disclosures and indicated that he could lawfully withhold answers only with respect to those questions which elicited incriminating answers. *Marchetti* distinguished *Sullivan* on the ground that "every portion of these [gambling] requirements had the direct and unmistakable consequence of incriminating the petitioner,"[319] thereby rendering inapplicable the solution of partial compliance suggested in *Sullivan*. The basis for this distinction is that in the case of the income tax return the questions "were neutral on their face and directed at the public at large,"[320] while the gambling disclosure requirements were directed at a "highly selective group inherently suspect of criminal activities."[321] In the latter case the disclosure requirement violates the privilege against self-incrimination while in the former it does not.

In applying this test to the campaign contribution disclosure requirement, it seems clear that there is no violation of the privilege. The requirement is neutral on its face and is directed not at some suspect group but at the general public. Furthermore, anyone who makes an illegal contribution can still be required to report all legal contributions he makes. Since the non-incriminating data is severable from the incriminating, the contribution disclosure requirement is analogous to the *Sullivan* case and distinguished from *Marchetti* where selective compliance was impossible without violation of the privilege. On the basis of this distinction the contribution disclosure requirement would not violate the fifth amendment privilege against self-incrimination.

CONCLUSION

Public financing proposals have provoked strong remonstrances from critics, one of the most effective of whom is Representative Bill Frenzel. Mr. Frenzel has charged, among other things, that public financing will have a number of drastic effects on our political system.[322] He believes that, by placing an over-all spending limit on cam-

paigns while inadequately funding them through public subsidies, the re-election of incumbents will be made easier, the influence of political parties will be diminished by direct subsidies for individual candidates and abuse through discriminatory application of the law may result from increased bureaucratic control over our electoral process. Furthermore, taxpayers, in Frenzel's view, will object to government funds provided to candidates whom they oppose. Election for local offices will also be affected by public financing of federal campaigns, Frenzel contends, with one of two consequences: either private money, unable to find an outlet in congressional and presidential campaigns, will flood state and local campaigns; or the entire source of private money will dry up, leaving local candidates unable to fund their own campaigns. Moreover, special interest groups will concentrate on the non-electoral sources of their power to maintain their control over governmental decision-making, such as increased lobbying efforts. Finally, in Frenzel's view, private financing is not a bad system. Private money, he contends, is not necessarily tainted, and controlled by appropriate limitations it provides an effective "market test" for candidates.

Many of these are valid criticisms. Some of them, such as the possibility of advantage for incumbents, are met through my proposal. Others, such as the possibility of abuse of bureaucratic control, can be prevented by appropriate statutory standards for administration of the system. On balance, however, the advantages of public financing seem to outweigh the potential drawbacks. Although some taxpayers may object to the funding of candidates whom they oppose, it seems better that the public subsidize them rather than allowing special interests to do so. Furthermore, the loss of the "market test" provided by private contributions will be more than offset by its replacement with a system in which the true market test, one in which all citizens participate equally, is that of the election itself.

It is important to recognize that public financing is not a cure-all for all the ills besetting our present political system. In particular we cannot expect to see the influence of special interest groups vanish with the enactment of a system of public campaign subsidies. Nevertheless, by eliminating an important source of special interest power, an adequate campaign finance law will go a long way toward reducing the disproportionate political strength of these groups. Similarly, public financing by itself may not provide equal access to elected public office for all those capable and desirous of serving; nor is it alone likely to place incumbents and their challengers on an equal footing. Public financing of elections will, however, constitute a sizeable step in those directions, and that prospect alone should be sufficient reason for its enactment.

[1] United States Senator from Delaware; A.B., University of Delaware, 1965; J.D., Syracuse University College of Law, 1968. The author wishes to acknowledge the substantial assistance received in the preparation of his article from *Review* members Richard Cornfeld and James Halleck Hoeland.

[1] Yates Amendment to H.J. Res. 468, 92d Cong., 1st Sess., 117 CONG. REC. 7023-24 (1971); First Senate Committee Amendment to H.J. Res. 468, 117 CONG. REC. 7828-29 (1971).

[2] Emergency Loan Guarantee Act, 15 U.S.C. §§ 1841-52 (1971).

[3] Senator Walter F. Mondale has said, "I think any candid study of American politics shows that that temptation [to receive contributions from the special interests] is almost irresistible." *Hearings on S. 1103, S. 1954 and S. 2417 Before the Subcomm. on Privileges and Elections of the Senate Comm. on Rules and Administration.* 93d Cong., 1st Sess. 29 (1973) [hereinafter cited as *Hearings on S. 1103*]. The pressure, of course, is not always inflicted by the contributor on the candidate. Sometimes the candidate, using the fear of future recriminations as a weapon, pressures the contributor. *See, e.g, id.* at 30 (press release from American Airlines).

[4] It is perhaps presumptuous to speak of "proposing" an idea which, if it were a person, would be of retirement age. Public financing of presidential campaigns was proposed by President Theodore Roosevelt in his State of the Union Message in 1907. 42 CONG. REC. 78 (1907). President Roosevelt conceded that he was "well aware that it will take some time for people so to familiarize themselves with such a proposal as to be willing to consider its adoption." *Id.*

[5] *Cf.* the observations of Alexis de Tocqueville in 1835 that wealthy men were ill-disposed to seek public office and that the public was less-inclined to elect them. A. DE TOCQUEVILL, DEMOCRACY IN AMERICA 182-84, 188-89 (1966 ed.)

[6] A third reason commonly heard for reform is the high cost of the campaigns themselves. Nevertheless, as will be shown, a severe limit on campaign spending would seriously tend to hamper efforts of challengers to unseat incumbents. *See* notes 195-98 and accompanying text *infa.*

[7] An election in which the winning candidate received less than 55% of the vote.

[8] *Hearings on S. 1103, supra* note 3. at 96 (Common Cause study). The exact figure was $107,378. These figures from the Common Cause study represent the first comprehensive spending figures on congressional races ever made public.

[9] *Id.* The Republican candidates averaged $88,375 while the Democratic candidates averaged $89,430.

[10] *Id.* at 97. The Republican candidates averaged $465,264 while the Democratic candidates averaged $496,297.

[11] *Id.* at 96-97.

[12] *Id.* at 102, 105. Moreover, Senate elections were held in neither of the two most populous states, California and New York, where campaigns would tend to be the most expensive.

[13] *Id.* at 105. This trend was not apparent in campaigns for election to the Senate. Two of the five candidates who defeated incumbents spent less than their opponents. *Id.* at 110-11. This difference has been attributed to the greater amount of media attention a Senate race receives as compared to a House race. Thus the need for a Senate challenger to spend money to create name identification is lessened. *Id.* at 142. (remarks of Rep. Bill Frenzel).

[14] 2 U.S.C. § 431 (note) (Supp. II, 1972) [hereinafter cited as Campaign Act of 1971]. The Act did not go into effect until April 7, 1972; thus, many of the expenditures in the presidential campaign went unreported.

[15] *Hearings on S. 23, S. 343, S. 372, S. 1098, S. 1189, S. 1303, S. 1355, & S.J. Res. 110 Before Senate Subcomm. on Privileges and Elections and Senate Comm. on Rules and Administration,* 93d Cong., 1st Sess. 268 (1973) (remarks of Fred Wertheimer, Director, Legislative Activities, Common Cause) [hereinafter cited as *Hearings on S. 372*]. Estimates of the size of President Nixon's campaign fund have ranged as high as $60 million. Reichley. *Let's Reform Campaign Financing—But Let's Do It Right,* FORTUNE, December, 1973, at 95,97.

[16] For example the campaigns of victorious Senate candidates in 1972 cost an average of over $500,000. *Hearings on S. 1103, supra* note 3, at 108. The corresponding figure ten years before was perhaps $200,000. CONGRESSIONAL QUARTERLY SERVICE, GUIDE TO THE CONGRESS OF THE UNITED STATES, 471-72 (1971).

[17] *Cf.* notes 29-34 and accompanying text *infra.*

[18] *See* D. DUNN, FINANCING POLITICAL CAMPAIGNS 17 (1972) thereinafter cited as DUNN]. For example, a common reason for the giving of a campaign contribution appears to be "social." A contributor may desire nothing more than to be able to "show off" a United States Senator as a guest at one of his parties.

[19] *See id.*

[20] *Hearings on S. 1103, supra* note 3. at 32.3 (remarks of Rep. John Anderson).

[21] DUNN, *supra* note 18, at 17.

[22] Instances of vote-buying through the device of campaign contributions are necessarily hard to document. Nevertheless, in the words of one veteran officeholder, "whether we want to admit it or not, some contributors have at least felt they 'owned' us on certain occasions." *Hearings on S. 1103, supra* note 3, at 86 (remarks of Sen. Frank E. Moss).

[23] In 1972, 18 individuals contributed almost $7.5 million to the Committee to Re-elect the President. This was more than the entire amount spent by President Lyndon B. Johnson in his campaign eight years earlier. *Id.* at 66 (remarks of Sen. Adlai E. Stevenson III). One individual alone donated $2 million, almost all of it before the Campaign Act's reporting requirements went into effect. 33 CONG. Q. WKLY REP'T 2382 (Sept. 1, 1973).

[24] This impression is strengthened by the character of many of the contributors. Large contributions have been given by interest groups—organizations of individuals having in common a specialized occupational interest in one aspect of government, for example, businessmen all dealing in the same industry. For a list of 1972 contributions to congressional and presidential candidates of selected interest groups, see 31 CONG. Q. WKLY REP'T 571-88 (March 17, 1973).

[25] *Hearings on S. 1103, supra* note 3, at 34 (remarks of Sen. Hugh Scott).

[26] *Id.* Senator Scott also quoted an expression of former New York Mayor Fiorello LaGuardia: "The most important quality an office-holder can have is monumental ingratitude." *Id.*

[27] *See Hearings on S. 372, supra* note 17, at 207 (remarks of Sen. James Abourezk concerning controversial amendments to a recent farm bill and the donations he received from dairy farmers).

[28] One exception is Common Cause.

[29] In recent years there have been a few notable examples of wealthy candidates, previously politically unknown, gaining electoral victories because of extraordinarily well-financed campaigns. *See* CONGRESSIONAL QUARTERLY SERVICE, GUIDE TO THE CONGRESS OF THE UNITED STATES 475-76 (1971). There is no reason for a publicly unknown individual not to be encouraged to seek public service, and an expensive campaign may be a necessity for such a person to carry his message to the public. Unfortunately, however, if one is neither well-known nor wealthy, his candidacy is often doomed from the start.

[30] Including the author. *See also Hearings on S. 1103, supra* note 3, at 176 (statement of losing candidates for the House of Representatives).

[31] Senator Floyd Haskell recounted his experience in running for the Senate in 1972: "In my case in Colorado, the primary was September 12. That gave me less than 60 days to raise money for the general election. It was necessary to make a commitment the day after the primary for TV productions. If I had not had some money in the bank, I could not have done that and I would not be here today." *Hearings on S. 1103, supra* note 3, at 69.

[32] 27 CONG. Q. WKLY REP'T 2434 (December 5, 1969).

[33] *Hearings on S. 1103, supra* note 3, at 254 (remarks of Rep. Barbara Jordan).

[34] *Id,* at 159-61 (remarks of Frances Tarlton Farenthold, chairwoman of the National Women's Political Caucus).

[35] *See,* TWENTIETH CENTURY TASK FORCE ON FINANCING CONGRESSIONAL CAMPAIGNS, ELECTING CONGRESS: THE FINANCIAL DILEMMA 6-7 (1970) [hereinafter cited as ELECTING CONGRESS]; CONGRESSIONAL QUARTERLY, INC., ALMANAC 1073, 1080 (1970); *Hearings on S. 1103, supra* note 3, at 105, 110-11 (Common Cause study).

[36] *Hearings on S. 1103, supra* note 3, at 144 (statement of Rep. Bill Frenzel).

[37] *See, e.g.,* ELECTING: CONGRESS, *supra* note 35, at 26.

[38] Rosenbloom, *A Background Paper,* in ELECTING CONGRESS 36.

[39] *Hearings on S. 1103, supra* note 3, at 95-96, 101 (Common Cause study). My campaign was an exception. *See* note 13 and accompanying text *supra.*

[40] 119 CONG. REC. 14794 (daily ed. July 26, 1973).

[41] *See,* note 35 and accompanying text *supra.*

[42] *Hearings on S. 1103, supra* note 3, at 176. Another graphic comment was made by Norma B. Handloff, unsuccessful candidate for the House of Representatives from Delaware: "By election day my husband and I had acquired debts that we shall spend the rest of our lives paying off. . . . To those [who talk to me about running 'next time'] I have only one possible answer: What kind of a nut do you think I am?" *Id.* at 178.

[43] Id, at 97.

[44] 119 CONG. REC. 14985 (daily ed. July 28, 1973).

[45] For example: is disclosure of contributions and spending enough? How much should contributions be limited, if at all? Should contributions by com-

mittees and organizations be limited? Should overall campaign spending be limited? How could these limits be enforced? Should presidential and congressional campaigns be financed by the public? If so, to what extent? Should contributions be limited to money or should they also include services? How should third party and independent candidates qualify for funding? Should primary candidates be financed? If so, how can this policy be carried out without opening the floodgates to frivolous candidates? Should the government finance candidates in "one-party districts" to the same extent candidates are funded in more competitive districts? Finally, would any such system be constitutional?

[46] S. 3044, 93d Cong., 2d Sess. (1974), introduced by Senator Cannon, passed, 120 CONG. REC. 5853 (daily ed. Apr. 11, 1974).

[47] Congressional Election Finance Act of 1973, S. 1103, 93d Cong., 1st Sess. (1973) [hereinafter cited as Hart Bill]; Federal Election Finance Act of 1973, S. 1954, 93d Cong., 1st Sess. (1973) [hereinafter cited as Stevenson-Mathias Bill]; Clean Election Financing Act of 1973, S. 2417, 93d Cong., 1st Sess. (1973) [hereinafter cited as Cranston Bill]; Presidential Campaign Financing Act of 1973, S. 2238, 93d Cong., 1st Sess. (1973) [hereinafter cited as Mondale-Schweiker Bill]; Federal Election Campaign Fund Act, S. 2297, 93d Cong., 1st Sess. (1973) [hereinafter cited as Kennedy-Scott Bill]; Comprehensive Election Reform Act of 1974, S. 2943, 93d Cong., 2d Sess. (1974) [hereinafter cited as Clark Bill].

[48] Clean Elections Act of 1973, H.R. 7612, 93d Cong., 1st Sess. (1973) [hereinafter cited as Anderson-Udall Bill].

[49] 199 CONG. REC. 3211 (daily ed. March 8, 1974) (message from the President).

[50] INT. REV. CODE OF 1954 §§ 6096(a), 9001-13, 9021 (1972).

[51] 2 U.S.C. §§ 431-42, 451-54; 18 U.S.C. §§ 591, 600, 608, 610-11; 47 U.S.C. §§ 312, 315, 801-05 (Supp. II, 1972). This legislation repeated the earlier largely ineffective limitations on campaign spending and contributions of the Hatch Political Activity Act. 18 U.S.C. §§ 608, 609 (1970). The Act prohibited campaign contributions exceeding $5,000 per year, 18 U.S.C. § 608 (1970); and the receipt and expenditure by any national political committee of more than three million dollars per year, *id.* § 609; and contributions by national banks, corporations and labor unions to federal election campaigns, *id.* § 610. These limitations were to be enforced by disclosure provisions of the Federal Corrupt Practices Act which directed every campaign committee to account for all its receipts and expenditures, 2 U.S.C. § 242 (1970); and to report such data to a clerk of one of the houses of Congress within thirty days after the election, *id.* § 248.

Enforcement of these early limitations on spending and contributions, however, was quite ineffective. The three million dollar limit on receipts and expenditures by any national political committee was avoided by the formation of numerous independent committees that did not conform to the strict definition of "political committee" found at 18 U.S.C. § 591 (1970). The enforcement problems were compounded by the fact that the expenditure ceilings did not apply to primaries, that contributions received by political committees without the candidate's knowledge were exempt from reporting requirements, that there was no required form for a candidate's financial statements and that complete discretion was given congressional clerks in reporting spending violations. 2 U.S.C. §§ 244-46 (1970).

[52] Campaign Act of 1971 § 104(a)(1), 47 U.S.C. § 803(a)(1) (Supp. II, 1972). The statute does not cover primary or run-off elections. The amount is to be increased as the cost of living increases. Campaign Act of 1971 § 104(a)(4), 47 U.S.C. § 803(a)(4) (Supp. II, 1972).

In order to enforce these limitations regulations have been passed pursuant to the Act that require the media before accepting advertisements in support of a candidate to obtain certification from that candidate that the payment of the charge for such advertisement will not violate the applicable expenditure limitation. 11 C.F.R. § 4.4(a) (1973).

[53] Campaign Act of 1971 § 104(a)(1)(B), 47 U.S.C. § 803(a)(1)(B) (Supp. II, 1972).

[54] Campaign Act of 1971 § 103(a)(1), 47 U.S.C. § 315(b) (Supp. II, 1972).

[55] Campaign Act of 1971 § 104(a)(3)(A), 47 U.S.C. § 803(a)(3)(A) (Supp. II, 1972).

[56] S. Rep. 93-170, 93d Cong., 1st Sess., 40-41 (1973).

[57] Immediate family was defined as "a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons." Campaign Act of 1971 § 203, 18 U.S.C. § 608(a)(2) (Supp. II, 1972).

[58] Campaign Act of 1971 § 203, 18 U.S.C. § 608(a)(1) (Supp. II, 1972).

[59] The reports must be filed on March 1, June 1 and September 1 during the election year, and also five and 15 days before the election and January 31 after the election. Any contribution of $5,000 received after the last reporting date before the election must be reported within 48 hours of its receipt. Campaign Act of 1971 § 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[60] Campaign Act of 1971 § 304(b), 2 U.S.C. § 434(b) (Supp. II, 1972).

[61] Campaign Act of 1971 § 301(d), 2 U.S.C. § 431(d) (Supp. II, 1972).

[62] Campaign Act of 1971 § 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[63] Campaign Act of 1971 § 301(g), 2 U.S.C. § 431(g) (Supp. II, 1972), 304(a), 2 U.S.C. § 434(a) (Supp. II, 1972).

[64] Campaign Act of 1971 § 309, 2 U.S.C. § 439 (Sup. II, 1972).

[65] *See* notes 7-15 and accompanying text *supra*. The act did not go into effect until April 7, 1972; thus all contributions and expenditures made before that date were exempt from its requirements, Campaign Act of 1971 § 406, 2 U.S.C. § 431 (note) (Supp. II, 1972).

[66] INT. REV. CODE OF 1954, § 6096.

[67] *Id.*, § 9002(6).

[68] *Id.* § 9004(a)(1).

[69] *Id.* § 9003(b). It should be noted if the amount available to the candidate from the fund is less than the amount he is entitled to, he may make up the difference in private contributions.

[70] *Id.* § 9003(a).

[71] *Id.* § 9002(7).

[72] *Id.* § 9004(a)(2)(A). In other words, if party A received forty-five percent of the vote, party B thirty-five percent and party C twenty percent, parties A and B would be major parties and party C a minor party. If parties A and B decided to accept federal funding in the next presidential election they would receive the full subsidy of fifteen cents for every voting age citizen in the United States. Since in our example we have assumed that the average vote received by A and B was forty percent, or twice party C's vote of twenty percent, party C would be eligible to receive half the full subsidy.

[73] *Id.* § 9003(c)(2).

[74] *Id.* § 9002(8).

[75] *Id.* § 9004(a)(3).

[76] *Id.*

[77] *Hearings on S. 372, supra* note 15, at 170 (remarks of Sen. Edward M. Kennedy).

[78] Id.

[79] Id.

[80] Internal Revenue Service Form 1040, 1040A (1974). In March, the three member Delaware delegation (Senator Roth, Representative duPont and I) at my instigation wrote more than 1600 employers in the state and all local union heads urging them to publicize the check-off provision among their employees.

[81] S. 3044, 93d Cong., 2d Sess. (1974) (introduced by Senator Cannon), passed, 120 CONG. REC. 5853 (daily ed. April 11, 1974).

[82] This is the second bill passed by the Senate in less than a year that imposes such limitations on campaign spending and contributions. In July 1973, the Senate passed and sent to the House of Representatives the Federal Election Campaign Act Amendments of 1973. S. 372, 93d Cong., 1st Sess. (1973). Since that time the bill has remained in committee in the House.

With regard to spending limitations, the 1973 Campaign Amendments Bill requires that spending by Senate and House candidates in states where there is only one congressional district be limited in primary elections to either ten cents for every individual of voting age in the state or $125,000 whichever is greater. House candidates in other states would be limited to ten cents per voting age individual in the respective congressional district or $90,000, whichever is greater. For general elections, the limit would be fifteen cents per person of voting age of $175,000 for candidates for the Senate or House of Representatives in a state with one congressional district, and $90,000 for other congressional candidate, whichever is greater. S. 372, 93d Cong., 1st Sess § 20(a) (1971) (to create 18 U.S.C. § 614). Candidates running in a primary for the presidential nomination and candidates for the Presidency itself are allowed to spend in each state the amount which a candidate for Senate might spend for the nomination or in the general election respectively. In addition, expenditures for a vice-presidential candidate count toward the totals of his presidential running mate.

The 1973 Campaign Amendments Bill also imposes limits on contributions. *Id.* § 20(a) (to create 18 U.S.C. § 615). Individuals and independent political committees are restricted to total contributions not exceeding $3,000 for any presidential candidate or for any congressional primary or general election. In addition, an individual is prohibited from making total contributions to all candidates and political committees of more than $25,000 per year. The bill would also increase the limitations on the amount which a candidate could spend out of personal or family funds to finance his campaign to $100,000 for a candidate for President or Vice President, $70,000 for candidate for the Senate, and $50,000 for candidate for the House of Representatives. *Id.* § 18(a)(1).

Every candidate would be required to have one central campaign committee through which all donations and contributions must be channeled. A presidential candidate would be allowed one central committee in each state, as well as one overall national committee. Each candidate would also have to designate one bank as a campaign depository to receive all deposits and to make all payments. *Id.* § 9(a) (to amend the Campaign act of 1971, compiled at 86 Stat. 3 (1972). to create §§ 310.311). To supervise the law, the bill sets up a Federal Election Commission, similar to that in the Cannon Bill.

In addition, this bill would repeal the "equal time" requirement of the Communication Act of 1934, 47 U.S.C. § 315(a) (1970), prohibit the use of the "frank" for mass mailings of congressional newsletters within two months of an election, S. 372, 93d Cong., 1st Sess. § 11 (1973), limit the amounts which citizens could contribute to campaigns and which candidates could spend, and require campaigns to fellow certain procedures. For example, a candidate must designate one committee as his central campaign committee through which all financial reports must be channelled. *Id.* § 9(a) (to amend Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 310). A candidate must also designate one checking account to receive all contributions and from which all expenditures must be made. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 311).

[83] S 3044, 93d Cong., 2d Sess. § 101 (1974) (to create § 503(a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). In order to avoid the funding of frivolous candidacies candidates would be required to raise a "trigger fund" before qualifying for the subsidy. The "trigger fund" would amount to: $10,000 for house candidates; twenty per cent of the maximum spending allowance on $125,000, whichever is lesser, for senatorial candidates, and $250,00 with not less than $5,000 being received from residents of at least twenty states, for Presidential candidates. *Id.* § 101 (to create § 502(c) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[84] *Id.* § 101 (to create § 504(a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). Candidates who elect not to accept public funding are subject to the same limitations. *Id.* § 304(a) (to create 18 U.S.C. § 614(a)(1)).

[85] *Id.* § 101 (to create § 504(a)(2)(A) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). These limits would be increased in line with the cost of living. *Id.* § 101 (to create § 504(f) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[86] Defined as a party whose candidate in the previous election for that office received at least 25 percent or more or finished in second place while receiving at least 15 percent of the vote. *Id.* § 101 (to create § 501(g) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[87] *Id.* § 101 (to create § 504(b)(1) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[88] *Id.* § 101 (to create § 503(b) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[89] A minority party candidate is one whose candidate received between five and twenty-five percent of the vote in the previous election for that office. *Id.* § 101 (to create § 501(a) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[90] A minor party candidate would be allowed the amount which beats the same ratio to the major

party amount as the candidate's vote (or the vote of the candidate for that party) in the last election bears to the average major party vote. In addition, a candidate who ran for party A in the previous election and received between five and 25 percent of the vote is eligible to receive funding according to this formula even if he switches from party A to party B in the next election. If this candidate does switch to party B, party A nevertheless remains eligible for funding on the basis of his performance as a party A candidate in the previous election. *Id.* § 101 (to create § 503(b)(2) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). If, after the election, the above formula as applied to the curent election would yield a greater amount, the candidate is entitled to retroactive funding in the amount of the difference. *Id.* § 101 (to create § 503(b)(4) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[91] A candidate of a party which is neither "major" nor "minor" who receives five percent of the vote is funded in the amount which bears the same ratio to the major party amount as his vote bears to the average major party vote. *Id.* § 101 (to create § 503(b)(4) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[92] *Id.* § 207(a) (to create §§ 310, 311 of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)).

[93] *Id.* § 207(a) (to create § 308 of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). The Commission is to consist of the Comptroller General and a bipartisan group of seven other members appointed by the President with the advice and consent of the Senate for staggered seven-year terms. Two of the members are to be appointed from different parties from a list of individuals recommended by the President pro tempore of the Senate with the consultation of the Senate majority and minority leaders. Two of the members are to be members of different parties appointed from a group recommended by the Speaker of the House of Representatives with the consultation of the majority and minority leaders of the House. Of the remaining three members no more than two are to be members of the same parties. *Id.*

The Commission is to be given a wide range of powers, including the power to compel testimony and production of documentary evidence, to initiate civil and criminal proceedings, and to assess civil penalties of up to $10,000. In enforcing these sections the Commission is to take precedence over the Justice Department.

[94] *Id.* § 304 (to create 18 U.S.C. § 615(a)(1), (a)(2) and (d)(1). In addition, contributions by foreigners are prohibited. *Id.* § 304 (to create 18 U.S.C. § 615(a)(2)(A)(i)). Candidates may not receive from personal or family funds in excess of $50,000 in the case of presidential or vice-presidential candidates, $35,000 in the case of candidates for Senator and $25,000 in the case of candidates for Representative. *Id.* § 302(a)(1).

[95] 47 U.S.C. § 315(a) (1970). The "equal time" requirement compels broadcasting stations which provide air time to a candidate to afford equal broadcast opportunities to his opponents. The effect of this provision of the present law is to prevent stations, particularly in those elections where a great number of minor party candidates are running, from providing free air time to major party candidates. It would be amended to require licensees to provide opponents, in federal elections other than for President or Vice President, five minutes. *Id.* § 201.

[96] *Id.* § 401.

[97] The first Wednesday after the first Monday in November of all even numbered years would become a national holiday, federal Election Day. *Id.* § 502. All polls in the country in federal elections would close simultaneously at 11 p.m. Eastern Standard Time. *Id.* § 501.

[98] 119 CONG. REC. 3211 (daily ed. March 8, 1974) (message from the President). The proposal has not been introduced in the form of a bill at this writing.

Other portions of this same presidential message deal with campaign practices, campaign duration, and encouragement of candidate participation. The President proposes that there be enacted federal criminal statutes regulating deceptive campaign practices, such as issuing fraudulent public opinion poll results, placing misleading advertisements in the media, or misrepresenting a Congressman's voting record. In addition, activities involving the use of organized demonstrators to impede entry at a political rally, and practices such as stuffing ballot boxes and rigging voting machines, would become federal offenses. Mr. Nixon recommends that presidential campaigns be shortened by having the primaries and state conventions held no earlier than May of the election year, and urging that the national nominating conventions be delayed until the month of September. The President also urged the Congress to consider possible action to limit the benefits of incumbency such as the "frank" and large staffs which enhance re-election efforts, and the repeal of the "equal time" provision of the Communications Act of 1934, 47 U.S.C. § 315(a) (1970). Finally the President called for legislation making a libel remedy for public figures more readily available. *Id.* at 3213–14.

[99] *Id.* at 3212.

[100] *Id.* Every donation to the candidate's central committee would have to be tied directly to the original individual donor, except donations by a national political party organization. The exception, of course, is designed to allow individuals to make general donations to a political party without specifying a candidate. *Id.*

[101] Individual contributions to House or Senate campaigns in primary or general elections would be limited to $3,000, and contributions to pre-nomination or general election campaigns for the presidency would be limited to $15,000. Non-monetary campaign contributions such as the use of a private airplane or paid campaign workers are prohibited when donated by any organization other than a major political party. If these "in-kind" contributions are given by an individual, they are to be covered by the same ceiling applicable to cash contributions. In addition, all loans to political committees are to be prohibited, as are contributions from foreign citizens. The program is to be supervised by a bipartisan Federal Elections Commission. *Id.* at 3212–13.

[102] *Id.* at 3212–13. Mr. Nixon feels as I do, *see* notes 195–98 and accompanying text *infra*, that low spending limitations may unduly hamper the efforts of candidates challenging incumbents.

The major reason for the President's opposition to campaign subsidies seems to be the idea that taxpayers should not be forced to support candidates they oppose. In addition, he makes the point that public financing will not increase but diminish the ability of prospective candidates to enter the political arena: "[I]f we outlaw private contributions, we will close the only avenue to active participation in politics for many citizens who may be unable to participate in any other way. Such legislation would diminish, not increase, citizen participation and would sap the vitality of both national parties by placing them on the federal dole." *Id.* at 3213. Many public financing proposals, however, including the one suggested by this article, *see* notes 191–94 and accompanying text *infra*, do not prohibit private contributions.

[103] S. 1103, 93d Cong., 1st Sess. (1973). The program is to be carried out by the Congressional Election Finance Board. *Id.* §§ 5, 6.

[104] *Id.* § 2(1).

[105] A major party is defined as one whose candidate received at least twenty-five percent of the vote for that office in the preceding election. *Id.* § 3(9)(A). In addition, an independent candidate who received twenty-five percent of the vote in the previous election qualifies as a "major party." *Id.* § 3(9)(B).

[106] *Id.* § 7(a)(2).

[107] The contributions may not exceed $250. *Id.* § 12(a)(1).

[108] The percentage is ten percent. Otherwise, the security deposit is forfeited. *Id.* § 7(a)(1)(B).

[109] The percentage is five percent. *Id.* § 7(a)(1)(C).

[110] A candidate of a major party is eligible to receive the greater of ten cents for every voting age person in the state or $75,000 in Senate primary elections and fifteen cents or $150,000 for the general election. *Id.* § 10(a). Major party candidates for Representative may receive fourteen cents for each voting age resident of the district for a primary election and twenty cents for a general election. *Id.* § 10(b)(1). A candidate for Representative in a district representing an entire state, however, is eligible to receive the same amount as the candidate for Senator from that state. *Id.* § 10(b)(2). It should be noted that unless a candidate elects to receive public funding for a primary election (or unless he does not participate in a primary) he is ineligible to receive funding in a general election. *Id.* § 7(c). If a candidate runs unopposed in the primary, he receives one-third the full subsidy. *Id.* § 8(d).

[111] A minor party is defined as one whose candidate received between ten and twenty-five percent of the vote for the previous election. *Id.* § 3(10)(A). An independent candidate who received between five and twenty-five percent of the vote in the previous election also qualifies as a "minor party." *Id.* § 3(10)(B). A minor party candidate may, if he so elects, receive the greater of one-fifth the major party subsidy or the amount which bears the same ratio to the major party subsidy as his vote total in the previous election bears to the vote received by the major party candidate who received the fewest votes. *Id.* § 10(c)(1). A minor party candidate must, of course, post a security deposity of twenty percent of the subsidy. In no event, however, is the security deposit to be less than $3,000. *Id.* § 7(a)(2). Any other candidate may receive the greater of one-tenth the major party subsidy or an amount calculated by the same formula used to calculate the alternative subsidy for minor party candidates. *Id.* § 10(c)(2). Non-major party candidates can make up in private contributions the difference between their subsidies and the total spending allowance of major party candidates who elect to receive public financing. *Id.* § 11(d). If they receive twenty-five percent of the votes in the current election they are to have their expenses reimbursed to the limit of the major party subsidy. *Id.* § 10(d). In addition, a candidate who is neither from a major or a minor party who receives ten percent of the vote may have his expenses reimbursed to the limit of the minor party subsidy. *Id.* § 10(d)(7).

[112] In senatorial primary campaigns, the limit for private funding is the greater of two cents per voting age resident or whatever sum is needed to reach $100,000 for total campaign funds; in general election campaigns, the limit is five cents or whatever is needed to reach $200,000. *Id.* § 11(b). In elections for the House of Representatives the limit is three cents per voting age person in the primary and five cents in the general election. *Id.* § 11(c). No private contribution may exceed $250. *Id.* § 12(a).

[113] *Id.*

[114] S. 2297, 93d Cong., 1st Sess. (1973).

[115] *See* 31 CONG. Q. WKLY REP'T. 3177 (Dec. 3, 1973).

[116] *See* notes 66–80 and accompaning text, *supra*.

[117] S. 2297, 93d Cong., 1st Sess. § 2(a) (1973). The program is to be supervised by the Comptroller General.

[118] *Id.* (to amend INT. REV. CODE OF 1954, § 9012(b)). In addition, individuals not authorized by a candidate may not spend more than $1,000 on behalf of a candidate eligible for public funds. *Id.* (to amend INT. REV. CODE OF 1954, § 9012(f)).

[119] *Id.* (to amend INT. REV. CODE OF 1954, § 9004(a)(1)). The bill follows the same basic formula as the Check Off Act in allocating funds between major and minor parties. *See* text accompanying notes 67–76 *supra*. As is provided for in presidential campaigns, major party senatorial candidates are to receive fifteen cents per voting age person, with a $175,000 minimum. *Id.* In elections for the House of Representatives, a major party candidate is to receive the greater of $90,000 or the average major party expenditure in that district for the past two elections. *Id.* Congress is to appropriate funds to make up any deficits after the operation of the check off. *Id.* (to amend INT. REV. CODE OF 1954, § 9006(a)).

[120] S. 1954, 93d Cong., 1st Sess. (1973).

[121] *Id.* § 1(c) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 308(a), present § 101 to be renumbered as § 311).

[122] *See* note 82 supra. For presidential candidates there is a limit of fifteen cents per each person of voting age within a state first for the primaries and if the candidate receives the nomination then for the general election. In no event, however, shall a candidate be required to spend less than $175,000 per state in presidential primaries. S. 1954. 93d Cong., 1st Sess. § (c) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 308(a), (b), present § 308 to renumbered at § 316). For senatorial primaries and elections the limit is the greater of twenty cents per voting age person or $175,000 and for the House twenty-five cents or $90,000, except for House candidates running in states with one district where the limit is twenty-five cents or $175,000. Id. (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 308(d), (e) present § 308 to be renumbered as § 316).

[123] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 309, present § 309 to be renumbered as § 317). *See* note 82 *supra*. Individual and committee contributions to a single candidate are limited to $3,000 per campaign in the aggregate for both the primary and general elec-

tion. No limit is made on total donations to all candidates by a contributor. Id.

[124] Major party candidates would receive one-third the maximum spending allowance from the public treasury. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 304(a), present § 304 to be renumbered as § 312). The minor party subsidy is calculated by the same formula as in the Hart Bill, *see* note 111 *supra*, except that the *average* major party vote in the previous election is used in place of the *lowest* major party vote. In addition, if a non-major party candidate performs like a major party candidate in the election, he is to be reimbursed his expenses to the limit of the major party candidate's subsidy. A similar reimbursement is provided for in the case of a candidate who before the election qualifies as coming from neither a major nor minor party, but in the particular election performs well enough to meet the requirements of a minor party candidate. Otherwise, such a candidate receives no subsidy funds. S. 1954, 93d Cong., 1st Sess. § 1(c) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 304, present § 304 to be renumbered as § 312).

[125] The two methods of qualification are implicit in the definitions of major and minor parties. A major party is one whose candidate received twenty-five percent of the vote in the previous election for that office or, in the case of Senate and House candidates, if a party's candidate did not attain the requisite twenty-five percent figure, the party will still be considered a major one if it received twenty-five percent of the vote in that state's previous gubernatorial election. In addition, if a candidate presents to the supervisory commission petitions containing signatures of eight percent of the voting age population of the district, or, in the case of a presidential election, eight percent of the voting age population of half the states, such a candidate would be treated as a major party candidate. A minor party is one which received ten percent of the vote in the previous election or presents signatures of four percent of the voting age population. A presidential candidate would have to present signatures of five percent of the voting population from half the states, ten percent from one-third of the states, or fifteen percent from one-fourth of the states, to qualify as a minor-party candidate. Id. § 1(b)(6). In addition, to be eligible for funding a candidate must furnish a security deposit of one-fifth the amount which he is entitled to receive, but in no event less than $3,000, *Id.* § 1(c) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 305(a)(2), present § 305 to be renumbered as § 312). Each candidate must also designate one central campaign committee to make all required reports and receive all subsidies. *Id.* § 1(d).

[126] S. 2238, 93d Cong., 1st Sess. § 4 (1973).

[127] *See* notes 66.80 and accompanying text *supra*. S. 2238, 93d Cong., 1st Sess. § 4 (1973). The bill attempts to remedy the situation which occurred in 1973, when many people were unaware of the check-off provision, by directing the Secretary of the Treasury to publicize it though the use of poster, media publicity, and the like. *Id.*

[128] *Id.*

[129] *Id.* § 7 (to amend INT. CODE OF 1954, § 9012(b)).

[130] The first $100 of every private contribution is to be matched by the government, so long as total payments do not exceed five cents for every voting age person in the United States. *Id.* § 8 (to create INT. REV. CODE OF 1954, §§ 9034(a), 9035(a)(2)). To be eligible for payments a candidate must raise $100,000 in contributions of $100 or less during the fourteen months preceeding his party's convention. As soon as he does so, this money is matched *Id.* (to create INT. REV. CODE OF 1954, § 9035(b)).

[131] Candidates may not spend more than $30,000,000 in the general election campaign, *Id.* § 6, nor more than $15,000,000 in the pre-nomination campaign. *Id.* § 8 (to create INT. REV. CODE OF 1954, § 9037(a)). Contributions to presidential candidates are limited to $3,000 per candidate per year by an individual and $25,000 by a registered political committee. *Id.* § 10. The bill also limits cash transactions to $100, *id.* § 9 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 310, present § 310 to be renumbered as § 313), and repeals the "equal time" requirement for presidential and vice-presidential candidates. *Id.* § 11.

[132] S. 2417, 93d Cong., 1st Sess. (1973). The program is to be supervised by a bipartisan commission. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 502).

[133] *See* notes 66–80 and accompanying text *supra*. Under this bill the amount of the check-off is to be increased from one dollar to two dollars and four dollars for a joint return. In addition, instead of indicating that he wishes to participate, as the program works now, the taxpayer is to "check-off" if he desires not to participate. S. 2417, 93d Cong., 1st Sess. § 4 (1973).

[134] No private contributions may exceed $250. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972) to create § 507(a)). No matching payment at all is awarded for any aggregate contribution of over $100 from one contributor. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)(2)). In primary elections, candidates may not receive from all sources total contributions which do no qualify for matching funds in excess of $100,000 for President, $10,000 for Senator and $5,000 for Representative. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), (to create § 507(b)(2)). A candidate is also limited to $250 from personal funds. Family funds are not included in this limitation. *Id.* § 3.

[135] Primary candidates are limited to the following total expenditures; for Senator or President the greater of fifteen cents for every voting age person in the State or $250,000, for Representative, $150,000, or $200,000 if the candidate's state has only one congressional district. *Id.* § 2 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(b)). The spending limits for general elections are, for Senator or President, the greater of $250,000 or twenty cents for each voting age person in the state, and, for Representative, $150,000. The limit for candidates for the House of Representatives in states with one Congressional district is, however, $200,000. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)).

[136] The trigger fund is $2,500 for candidates for the House of Representatives, $5,000 for the Senate and $50,000 for the Presidency. A candidate for the Presidency must raise $50,000 no matter how many primaries he enters. A candidate for the Senate from a state with only one congressional district need only raise $2,500. *Id.* (to amend the Campaign Act of 1971), compiled at 86 Stat. 3 (1972), to create § 504(c)).

[137] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat 3, 1972), to create § 505(b)(1)).

[138] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat 3, 1972), to create § 505(b)(1)). The definitions of major, minor and new parties are the same as those in the Campaign Act of 1971. INT. REV. CODE OF 1954, §§ 9002(6), (7), & (8).

[139] Minor and new party candidates are awarded twenty-five percent of the maximum expenditure, with provision for retroactive major party payments if they receive at least twenty-five percent of the vote. In the latter case, they must return all private contributions which exceed twenty percent of the maximum expenditure. *Id.* (to create § 505(a)(2) of the Campaign Act of 1971).

[140] S. 2943, 93d Cong., 2d Sess. (1974).

[141] *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 504(d)). A candidate for Representative must file petitions 210 days before the primary election with the supervisory commission containing signatures of more than two percent of the voting age population of the district. Candidates for President, Vice-President, Senator, or Representative in a state which is entitled to only one representative must file petitions containing signatures of more than one percent of the voting age population of the state in which the primary election is being conducted.

Primary candidates are to receive an amount equal to the entire spending limit. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(a)). The spending limit for candidates for representative is twenty-five cents for each voting age person. For President, Senator, or Representative in a state with only one congressional district the limit is fifteen cents for each voting age person or $175,000, whichever is greater. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)(1) and (b)(1)). Where a convention or caucus is held in place of a primary, candidates are limited to ten percent of the amount to which they would otherwise be entitled. *Id.* § 3(a) (to amend the Campaign Act of 1971, to create § 505(c)(3)). All expenditures incurred by any candidate or political party are to be paid by the supervisory commission directly to the person contracting with the candidate or party. *Id.* § 3(a) (to amend the Campaign Act of 1971, to create § 509(d)(1)).

[142] A candidate in the general election for Representative may receive thirty cents for every voting age person in the district. A candidate for Senator or Representative in a state with one congressional district is to be subsidized twenty cents for each voting age person in the United States or $250,000, which ever is greater. Presidential candidates are to be allotted twenty cents for each voting age person in the country. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 506(a)(2) and (b)(2)). Minor party and independent candidates are to be funded according to whichever of two formulae yields the greater amount. Under the first formula, such a candidate is to receive the amount which bears the same ratio to the major party amount as the vote received by the minor party candidate in the previous election bears to the average major party vote. Under the second formula the current election is used in place of the previous election. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)(1)(B) and (b)(2)(B)).

A major party is defined as one whose candidate in the previous election for that office received at least twenty-five percent of the vote or finished first or second. A minor party is any other party. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 501(7) and (8)). A minor party or independent candidate is treated as a major party candidate if he was the candidate of a major party in the previous election for that office, finished first or second in total votes in the previous election, or received more than twenty-five percent of the vote in the previous election, *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(c)).

Political parties are entitled to payment for expenditures incurred in voter registration efforts, get-out-the-vote drives and nominating conventions. These expenditures are limited during a presidential election year to twenty percent of the amount to which the party's presidential candidate is entitled and during any other year to fifteen percent of the presidential allotment. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(d)).

[143] *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507(a)). Minor parties and minor party candidates may accept contributions of $100 or less until the major party entitlement is reached. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b), (c), (d), and (e)). Candidates are allowed to use private contributions in connection with primary election petition drives. In such efforts, a candidate for Representative may spend two cents for each voting age person in the district. Candidates for President, Senator, or Representative in a one-district state may spend one cent for each voting age person or $7,500, whichever is greater. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 508(a)). Each contributor is limited to overall contributions of $1,000 a year, with contributions to be made directly to the commission. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 507(g) and (h)). Candidates themselves are limited to $1,000 out of personal or family funds. *Id.* § 5. The public subsidies are to be financed out the Dollar Check-Off Act, *see* notes 66–80 *supra*, with the amount paid to the campaign fund to be increased to two dollars or four dollars for a joint return. The taxpayer is to "check-off" if he wishes not to participate. *Id.* § 8(a) (to amend INT. REV. CODE OF 1954, § 6096(a)).

[144] A major candidate must repay the subsidy if he fails to receive fifteen percent of the votes in the primary or of the delegate votes in the nominating convention or if he fails to receive twenty-five percent of the vote in the general election. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 510(a)(3)). In addition, a candidate who withdraws more than forty-five days before the primary or thirty days before the general election and before receiving twenty-five percent of the subsidy must repay half the amount received. *Id.* § 3(a) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 510(d)).

Other provisions of the Clark Bill would repeal for federal elections the equal time requirement of the Communications Act of 1934, 47 U.S.C. § 315(a) (1970), *Id.* § 6(a), and would eliminate the franking privilege. The frank would not be allowed within

ninety days of a federal election. In its place, all federal candidates would be allowed to mail campaign material at a reduced rate. *Id.* § 4.

[145] H.R. 7612, 93d Cong., 1st Sess. (1973).

[146] *Id.* § 201 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 402(a), present § 402(a) to be renumbered as § 502).

[147] *Id.* Party congressional campaign committees, as well as congressional nominees themselves are also eligible to receive funding.

[148] The fund must come from contributions of $50 or less. A candidate for the House of Representatives must raise $1,000 and a candidate for the Senate $5,000. Both national party committees and candidates for presidential or vice-presidential nominations must raise a fund of $15,000. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 403, present § 403 to be renumbered as § 503).

[149] Individual contributions are limited to $2,500 for a presidential campaign and $1,000 for a congressional one. Contributions to or by political committees are limited to $2,500. *Id.* § 301 (to create 18 U.S.C. § 608(c), (d), present subsection (c) to be redesignated as (f)).

[150] Total payments from the government fund are limited to ten cents per eligible voter for congressional candidates and candidates for presidential or vice-presidential nomination, and to $15,000,000 for a national party committee and its affiliated congressional campaign committees. *Id.* § 201 (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 403(a)(2), present § 403 to be renumbered as § 503).

[151] *Id.* § 501 (amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(c), (d)(1), and (f)(1)). Eligibility for "Voter's Time" depends on the status of a candidate's party. Any party whose candidate finished first or second in either of the last two elections for that office is a "major party." A "third party" is one whose candidate received fifteen percent of the vote in the previous election for that office. A "minor party" for the purposes of presidential elections is one whose candidate appears on the ballot in more than thirty states or, in the case of Senate but not House elections, received over five percent of the vote in the previous election for that office or presents petitions containing signatures of registered voters equal to five percent of the total vote for Senator in the previous election, including signatures from each congressional district in the state equal to at least two percent of the vote in that district. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 602). Under the proposal, presidential candidates of major parties would receive five half-hour blocks of air time with each block to be broadcast simultaneously over all stations and networks in the country. Each third party candidate for President would receive two such half-hour blocks, and each minor party candidate one such block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(a)(1)).

In Senate elections, each candidate would receive three half-hour blocks of time, each block of time to be broadcast simultaneously by every station in the state and, where part of the state is served only by out-of-state stations, by those stations. Each third party Senate candidate is to receive one half-hour block, and each minor party candidate one fifteen-minute block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603 (a)(2) and (d)(2)).

Major party candidates for the House of Representatives are to receive two half-hour blocks and minor party candidates one fifteen-minute block. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 603(a)(3)). These broadcasts are to be aired over one station, if that station is the only one which substantially serves the district. If more than one station substantially serves the district they are to broadcast the "Voter's Time" simultaneously unless any of them substantially serves a part or whole of an adjoining district and substantially served by another station. In districts where no station is located, the broadcasts are to be carried on a nearby station. In large metropolitan areas where two or more stations serve a number of districts, the Federal Communications System is to allocate broadcasts over the stations, with all broadcasts to be aired simultaneously, provided no broadcasts of competing candidates are aired at the same time. *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3(1972), to create § 603(f)).

[152] *Id.* (to amend the Campaign Act of 1971, compiled at 86 Stat. 3(1972), to create § 603(h)).

[153] S. 1103, 93d Cong., 1st Sess. (1973). *See* notes 103–13 and accompanying text *supra*.

[154] S. 2238, 93d Cong., 1st Sess. (1973). *See* notes 126–31 and accompanying text *supra*.

[155] *Hearings on S. 1103, supra* note 3, at 39 (remarks of Sen. Hugh Scott).

[156] In order to see how effective large private primary contributions could be, you need only ask any successful politician what particular financial help he valued above any he has received in his career. Almost always the answer will come back that the money that helped him most was the early primary contribution in his very first race. The refrain is certainly familiar to all of us here. 'So and so has become one of my closest friends. He helped me back when I really needed it. In those days nobody had ever heard of me and I couldn't raise a dime,' is the way most candidates would put it. *Id.* at 71 (remarks of Sen. James Abourezk).

[157] 86 Stat. 3 (1972).

[158] *See Hearings on S. 372, supra* note 15, at 81, 93–94 (remarks of Sen. Claiborne Pell).

[159] *Hearings on S. 1103, supra* note 3, at 142–45 (remarks of Rep. Bill Frenzel).

[160] *See* note 65 and accompanying text *supra*.

[161] *See* note 24 *supra*.

[162] *See* notes 240–43 and accompanying text *infra*.

[163] H.R. 7612, 93d Cong., 1st Sess. § 201 (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 402(a), present § 402 to be renumberd as § 502). *See* notes 145–52 and accompanying text *supra*.

[164] S. 2417, 93d Cong., 1st Sess. § 2(a) (1973) (to amend the Campaign Act of 1971, compiled at 86 Stat. 3 (1972), to create § 505(b)). *See* notes 132–39 and accompanying text *supra*.

[165] One contributor reportedly donated approximately $2,000,000 in the presidential campaign alone. Reichley, *supra* note 15, at 96.

[166] *Cf.* Comment of Sen. Adlai E. Stevenson III that a matching grant system "runs counter to the purpose of reducing or eliminating private moneys in politics." *Hearings on S. 1103, supra* note 3, at 64.

[167] *Id.* at 259 (remarks of Sen. Philip A. Hart).

[168] One writer in a business magazine favored a matching giant system because "businessmen as a group [would] still be able to gain some extra leverage within the political system." Reichley, *supra* note 15, at 162. It is for precisely this reason that a matching grant system should not be adopted. Neither businessmen nor anybody else should be able to buy any more political leverage than they already possess as interested and concerned citizens.

[169] *See* S. Rep. No. 93-170 93d Cong., 1st Sess. 40 (1973).

[170] *Id.*

[171] *Id.*

[172] S. 1103, 93d Cong., 1st Sess. § 7(a)(2) (1973). *See* notes 105–09 and accompanying text *supra*.

[173] Individuals could actually contribute up to $500 to a candidate under my proposal but only the first $250 could be used for the security deposit. *See* notes 191–94 and accompanying text *infra*.

[174] The signatures would be submitted to the supervisory commission which would have the task of verifying them. *See* notes 199–209 and accompanying text *infra*. This process would be potentially difficult and contain the risk of fraud. One method of preventing this possibility which has been suggested is that each registered voter receive a computer card, one each for the offices of President, Senator, and Representative, which he would give to the candidate instead of signing his name on a petition.

[175] Int. Rev. Code of 1954, § 9002(6).

[176] *E.g.*, S. 1103 § 10(c)(1)(B).

[177] *Hearings on S. 1103, supra* note 3, at 144 (remarks of Rep. Bill Frenzel).

[178] Members of the House might have to neglect their duties as congressmen, at least during the second year of their terms, to run for re-election. During this time Congress might come to a standstill. For this reason, the proposal made by, among others, President Richard M. Nixon to amend the Constitution to provide for a four year term of office for representatives should receive careful consideration. 119 Cong. Rec. 3698 (daily ed. May 16, 1973).

[179] *Hearings on S. 1103, supra* note 3, at 188 (remarks of David Admany, Professor of Political Science, University of Wisconsin).

[180] This idea has been endorsed by the National Committee for an Effective Congress, *Hearings on S. 1103, supra* note 3, at 202; the AFL-CIO, *id.* at 347; the Communications Workers of America, *id.* at 359; and Common Cause, *id.* at 140. In addition, a Twentieth Century Fund study recommended providing candidates with air time at reduced rates. Electing Congress, *supra* note 35, at 21.

[181] See *generally* The Twentieth Century Fund, Voter's Time (1969).

[182] H.R. 7612, 93d Cong., 1st Sess. § 501 (1973). *See notes* 151–52 and accompanying text *supra*.

[183] The Anderson-Udall Bill provides for payment by the government to the television station for "Voter's Time."

[184] *See* Dun, *supra* note 18, at 38–39.

[185] S. 372, 93 Cong., 1st Sess. § 11 (1973). *See* note 82 *supra*.

[186] *See* Electing Congress, *supra* note 35, at 26; *Hearings on S. 1103, supra* note 3, at 202–03 (remarks of Russell D. Hemenway, National Director, National Committee for an Effective Congress); *Id.* at 347 (remarks of Andrew J. Biemiller, Director, Department of Legislation, AFL-CIO).

[187] Wash. Riv. Doce Ann. § 29.81 (West Supp. 1972).

[188] Ore. Riv. Stat. § 255 (1971).

[189] 119 Cong. Rec. 14859-60 (daily ed. July 27, 1973).

[190] This proposal was also recommended in Electing Congress, *supra* note 35, at 23.

[191] *See* notes 240–43 and accompanying text *infra*.

[192] S. 3044, 93d Cong., 2d Sess. § 304(a) (to create 18 U.S.C. § 615(a)(1) (1974)).

[193] *See* note 24 *supra*.

[194] *See* notes 240–43 and accompanying text *infra*.

[195] *See* Electing Congress, *supra* note 35, at 18.

[196] During debate over a similar limitation in the Campaign Amendments Bill of 1973 the following colloquy took place on the Senate floor between Senator John Pastore and Senator Marlowe Cook:

Mr. Pastore. Is it not a fact that the lower you make the amount [for overall spending] the more you make it an incumbent's bill?

Mr. Cook. That is what bothers me.

Mr. Pastore. That is just the point.

119 Cong. Rec. [4985 (daily ed. July 28, 1973).

[197] S. 3044, 93d Cong., 2d Sess. § 101 (to create § 504(b) of the Campaign Act of 1971, compiled at 86 Stat. 3 (1972)). The $90,000 limitation applies if it is greater than an amount equal to twelve cents times the number of voting age persons. In most cases it will be greater.

[198] *See* text accompanying note 13 *supra*.

[199] Campaign Act of 1971 §§ 301, 304, 2 U.S.C. §§§ 431(g), 434 (Supp. II, 1972), *Formerly*, ch. 368, title III, 43 Stat. 1070 (1925).

[200] *Id.* § 309.

[201] *See generally Hearings on S. 372, supra* note 15, at 33–65 (remarks of Francis R. Valeo, Secretary of the Senate); *Id.* 66–73 (remarks of Phillip S. Hughes, Director, Office of Federal Elections, General Accounting Office).

[202] *See* Electing Congress, *supra* note 35, at 19, 48–39.

[203] S. 3044, 93d Cong., 2d Sess. § 307(a) (1974). *See* note 93 and accompanying text *supra*.

[204] *Hearings on S. 1103, supra* note 3, at 228–29 (remarks of Joel L. Fleishman, Director, Institute of Policy Sciences & Public Affairs, and Associate Professor of Law, Duke University).

[205] *Id.* at 283 (remarks of Phillip S. Hughes).

[206] We believe men and women who have demonstrated their ability and integrity would be more easily persuaded to serve part-time, rather than full-time, especially given the intermittent nature of elections. *Id.*

[207] *See Hearings on S. 372, supra* note 15, at 91 (remarks of Fred Wertheimer, Director of Legislative Activities for Common Cause).

[208] *Id.* at 190 (remarks of Chairman Pell).

[209] 112 Cong. Rec. 11951 (1966) (message of Pres. Lyndon B. Johnson).

[210] For a discussion of the constitutional questions raised by regulation of election campaign practises see *Hearings on S. 372, supra* note 15, at 356; Court & Harris, *Free Speech Implications of Campaign Ceilings*, 7 Harv. Rev. Rights-Civ. Lib. L. Rev. 214 (1972); Ferman, *Congressional Controls on Campaign Financing: An Expansion or Contraction of the First Amendment?*, 22 Am. U.L. Rev. 1 (1972); Fleishman, *Public Financing of Election Campaigns: Constitutional Constraints on Steps Toward Equality of Political Influence of Citizens*, 52 N.C.L. Rev. 349 (1975); Fleishman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Campaign Act of 1971*, 51 N.C.L. Rev. 389 (1973); Redish, *Campaign Spending Laws and the First amendment*, 46

N.Y.U.L. Rev. 900 (1971); Rosenthal, *Campaign Financing and the Constitution*, 9 Harv. J. Legis. 359 (1972).

[211] U.S. Const, art. I, § 4.

[212] 285 U.S. 355 (1932).

[213] *Id.* at 366.

[214] *Id.* at 367.

[215] The expansive definition of "manner" was first employed by the Court in *Ex parte Siehold*, 100 U.S. 371 (1879) ("manner" held to include authority to provide for election marshals to supervise congressional elections) and *Ex parte Yarbrough*, 110 U.S. 651 (1884) (*sustaining* a congressional act which protected voters from intimidation, threat, force or hindrance with respect to exercise of right to vote).

For a discussion of alternative theories concerning the authority of Congress to regulate congressional elections, see Rosenthal, *supra* note 210, at 364-65.

[216] U.S. Const. art. II, § 1, cl. 4.

[217] U.S. Const. art. II, § 1, cl. 2.

[218] 290 U.S. 534 (1934).

[219] 2 U.S.C. §§ 241 *et seq.* (1970).

[220] 290 U.S. at 544.

[221] *Id.* at 545.

[222] *Id.*

[223] The view that Congress has broad authority to regulate presidential elections is supported by Mr. Justice Black in Oregon v. Mitchell, 400 U.S. 112 (1970). In an opinion announcing the judgment of the Court and expressing his own view of the cases, Justice Black stated: "I would hold, as have a long line of decisions in this Court, that Congress has ultimate supervisory power over congressional elections. Similarly, it is the prerogative of Congress to oversee the conduct of presidential and vice-presidential elections and to set the qualifications for voters for electors for those offices. It cannot be seriously contended that Congress has less power over the conduct of presidential elections than it has over congressional elections." *Id.* at 124 [footnotes omitted].

[224] In Newberry v. United States 256 U.S. 232 (1921), the Court split four to four on the issue of whether Congress had the constitutional power to regulate primaries, with the ninth Justice reserving the question and holding that, since the statute involved was enacted prior to the adoption of the seventeenth amendment, it did not cover senatorial primaries. His reasoning was apparently that before the passage of the seventeenth amendment senatorial primaries were merely advisory and not binding on the state legislatures, and thus they were not elections within the meaning of article I, § 4. *See* United States v. Classic, 313 U.S. 299, 317 (1941). In addition, United States v. Gradwell, 243 U.S. 476, 489 (1917), discussed but reserved the question of Congress' constitutional power to regulate primaries.

[225] U.S. Const art. I, § 4.

[226] 313 U.S. 299 (1941).

[227] *Id.* at 317.

[228] Terry v. Adams, 345 U.S. 461 (1953); Smith v. Allwright, 321 U.S. 649 (1944); Rice v. Elmore, 165 F.2d 387 (4th Cir. 1947), *cert denied*, 333 U.S. 875 (1948).

[229] Ferman, *supra* note 210, at 9-12; Lobel, *Federal Control of Campaign Contributions*, 51 Minn. L. Rev. 1, 24 (1966); Rosenthal, *supra* note 210, at 372.

[230] De Jonge v. Oregon, 299 U.S. 353 (1937).

[231] See, *e.g.*, West Virginia Bd. of Educ. v. Barnette, 319 US.. 624 (1943); Stromberg v. California, 283 U.S. 359 (1931).

[232] Cox v. Louisiana, 379 U.S. 536 (1965); *cf.* California v. La Rue, 409 U.S. 109, 117 (1973).

[233] United States v. O'Brien, 391 U.S. 367, 375 (1968).

[234] An argument advanced by Common Cause on behalf of limitations on contributions has been that they effectuate the constitutional policy of "one person, one vote." Gray V. Sanders, 372 U.S. 368, 381 (1963). *See Hearings on S. 372, supra* note 15, at 364 (Memorandum from Common Cause on the Constitutionality of Contribution and Expenditure Limitations). This argument is not that limitations on contributions are constitutionality mandated, for presumably the element of state action is absent; rather, the argument seems to be that the limitations help assure equality of voting power and that this policy goal outweighs the incidental infringement on first amendment rights. The policy basis of the argument seems to be supported to some extent by language in Columbia Broadcasting Sys. v. Democratic Nat'l Comm., 412 U.S. 94 (1973), a case holding that broadcasting stations were not required by the first amendment—assuming governmental action—to accept editorial advertisements. The Court stated: "[T]he public interest is providing access to the marketplace of 'ideas and experiences' would scarcely be served by a system so heavily weighted in favor of the financially affluent, or those with access to wealth. . . . Even under a first-come first-served system . . . the views of the affluent could well prevail over those of others, since they would have it within their power to purchase time more frequently. Moreover, there is the substantial danger . . . that the time allotted for editorial advertising could be monopolized by those of one political persuasion." *Id.* at 123. Nevertheless, as a policy justification for incidental infringement of first amendment rights, effectuation of the principle of one perrson, one vote seems questionable. No matter how much money is spent in a political campaign, each votes retains his equal voice at the ballot box. Thus, the case involving limitations on contributions is not similar in all respects to cases involving malapportioned legislative districts. Reynolds v. Sims, 377 U.S. 533 (1964), or unit voting districts, Gray v. Sanders, 372 U.S. 368 (1963), nor is it like the imposition of financial burdens on the right to vote. Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966). In fact, this policy basis seems valid only if it is assumed that the principle of one person, one vote is a reflection of a larger constitutional policy of equal political input or "one person, one unit of political power"—an assumption that is dubious at best. For example, aside from financial considerations, some individuals have greater influence over the outcome of elections than others by virtue of their positions as publishers of newspapers, or as leaders of organizations, or even by virtue of their ability as speechwriters or orators. Still, the power of certain people to influence the votes of others most certainly does not violate the policy of one person, one vote.

Fleishman, in his article *Public Financing of Election Campaigns: Constitutional Constraints on Steps Toward Equality of Political Influence of Citizens, supra* note 210, makes the further argument that the current system of private financing of elections is a violation of the federal equal protection requirement incorporated into the due process clause of the fifth amendment, and thus that the courts have an affirmative obligation to require public financing of elections. *Id.* at 352-68. Mr. Fleishman appears to reason that private financing discriminates against the non-wealthy in three ways: first, as Common Cause also argues, it violates the principles of one person, one vote; second, it deprives potential candidates of the right to compete equally for elective office; and third, it denies citizens of the opportunity to vote for non-wealthy candidates. Fleishman translates this discrimination into a denial of equal protection of the laws by asserting, without support of case citation, that there is no "state action" requirement contained in the equal protection guaranty. He adds that, even if the fifth amendment is deemed to require some sort of governmental participation before a finding of unconstitutionality may be made, the requirement is met for two reasons: first, state action is present because of government regulation of campaign financing; and second, Congress by permitting private contributions participates in the present discriminatory system of financing.

There are several problems with Fleishman's analysis. It is highly doubtful that the court would either make the novel ruling that state action is not required for purposes of equal protection or find that it is present in private financing of elections. Although government compulsion of private discrimination constitutes a violation of equal protection, Adickes v. S.H. Kress and Co., 398 U.S. 144, 170 (1970), the element of state action is absent when the government, as it does in campaign financing, merely regulates private conduct. Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972). In that case, for example, the granting by the state of a liquor license to a private club even when combined with a number of regulations such as the keeping of financial records did not constitute state action. Fleishman's argument that discriminatory campaign financing is an act of the state because of state permission to finance campaigns would seem to mandate a finding of state action in any case where the government is able to but does not prohibit private action; this argument is dubious at best. *See* Lucas v. Wisconsin Elec. Power Co., 466 F.2d 638 (7th Cir. 1972), *cert. denied*, 409 U.S. 1114 (1973). Moreover, it is questionable whether private financing, even were state action present, would constitute an unconstitutionally discriminatory practice. Of Fleishman's three reasons supporting such a finding of unconstitutionality, the one based on the principle of one man, one vote has been discussed *supra*. The argument that private financing prevents citizens from voting for non-wealthy candidates is founded on the assumption that non-wealthy individuals are prevented from running for office because of private financing. In truth, they are merely prevented from waging effective campaigns. Private financing does not prevent individuals from voting for non-wealthy candidates, but merely from voting for viable non-wealthy candidates, and it is highly questionable whether there is a constitutionally protected right to vote for a winning candidate. On the other hand the argument that private financing discriminates between candidates on the basis of wealth may have some validity, but only if it be assumed that the right to run a viable campaign is a constitutionally protected right. Thus far the Court has not held that the right to wage a serious campaign—as opposed to the right to a place on the ballot—is a fundamental interest. *See* Bullock v. Carter, 405 U.S. 134, 142-44 (1972). Finally, there is the problem of what kind of relief the Court could fashion to remedy the discriminatory system of private financing—a problem which Fleishman, to be sure, acknowledges.

[235] 352 U.S. 567 (1957).

[236] 18 U.S.C. § 601 (1970).

[237] 352 U.S. at 598.

[238] *Id.* at 598 n.2 (emphasis added).

[239] Rosenthal, *supra* note 210, at 373.

[240] 336 U.S. 77 (1949).

[241] Although there was no majority rationale in *Kovacs*, its holding and reasoning were approved by the Court in Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 386-87 (1969).

[242] 336 U.S. at 81-82.

[243] Commentary of Professor Freund, of the Harvard Law School, in Rosenthal, Federal Regulation of Campaign Finance: Some Constitutional Questions (1971) included in *Hearings on S. 372, supra* note 15, at 357.

[244] United States v. O'Brien, 391 U.S. 367, 376 (1968). *See* Sherbert V. Verner, 374 U.S. 398, 406 (1963); NAACP v. Button, 371 U.S. 415, 438 (1963); Bates v. Little Rock, 361 U.S. 516, 524 (1960).

[245] 391 U.S., 377 (1968).

[246] *See* text accompanying notes 211-28 *supra*.

[247] 110 U.S. 651 (1884).

[248] *Id.* at 657-58 (emphasis added).

[249] Burroughs & Cannon v. United States, 290 U.S. 534, 545 (1934).

[250] 391 U.S. at 377.

[251] 283 U.S. 359 (1931).

[252] Burroughs & Cannon v. United States, 290 U.S. 534, 547-48 (1934).

[253] 5 U.S.C. §§ 1303, 1502, 3333. 7311, 7325, 7327; and 18 U.S.C. §§ 594, 595, 598, 600, 601, 604, 605, 1918 (1970).

[254] 330 U.S. 75 (1947).

[255] *Codified at* 5 U.S.C. § 7324(a)(2) (1970).

[256] 330 U.S. at 99.

[257] 330 U.S. 127 (1947).

[258] Two previous Supreme Court cases dealt with similar issues. In *Ex parte* Curtis. 106 U.S. 371 (1882), the defendant was convicted of violating the predecessor of the Hatch Act which prevented subordinate government employees from receiving money from other government employees. The Court upheld this statute on the ground that the need to "promote efficienty and integity in the discharge of official duties," justified the prohibition on policial contributions. *Id.* at 373. The Court held that the statute was within the legislative power of Congress and that it did not restrict any political privileges of government employees. It "simply for[bade] their receiving [money] from or giving [money] to each other." *Id.* at 372. It should be noted that even Justice Bradley, who dissented on the grounds that the statute was an infringement of government employees' freedom of speech and assembly, observed, "The legislature may make laws ever so stringent to prevent the corrupt use of money in an election, or in political matters generally . . . ." *Id.* at 378. In United States v. Wurzbach, 280 U.S. 396 (1930), the respondent was indicted on charges of having violated an act under which members of Congress were prohibited from receiving contributions for "any political purpose whatever" from any federal employee. The respondent, a member of the House of Representatives, was alleged to have received contributions from United States employees to promote his nomination in a party primary. The Court, per Justice

Holmes, dismissed in one sentence the respondent's argument that the act was unconstitutional because of its interference with the rights of a citizen to make a political contribution. *Id* at 399.

[259] 413 U.S. 548 (1973). A few courts has taken exception to the validity of *Mitchell. See* Hobbs v. Thompson, 448 F.2d 456, 472 (5th Cir. 1971); Mancuso v. Taft. 341 F. Supp. 574, 581 (D.R.I. 1972).

[260] 413 U.S. at 564–65.

[261] The employee in *Mitchell* was a roller in the government mint, with no contact with the public.

[262] It sould be noted here that the Supreme Court on three occasions has dealt with the absolute prohibition on labor union contributions to federal political campaigns under 18 U.S.C. § 610 (1970). Pipefitter's Local 562 v. United States, 407 U.S. 385 (1972); United States v. UAW, 352 U.S. 567 (1957); *cf,* United States v. CIO, 335 U.S. 106 (1948). Each time, however, the Court failed to address itself specifically to the issue of whether such a prohibition was constitutionally valid.

There is also a ban on corporate contributions which is contained in the same section of the United States Code, 18 U.S.C. § 610 (1970), as the restriction on labor union contributions, but it has never been construed in a Supreme Court case. As a result of the Campaign Act of 1971, the Court may never reach this issue because the Act makes legal accumulation of "voluntary" labor union and corporate funds for the purpose of political contributions. 18 U.S.C. § 610 (Supp. II, 1972).

[263] Some would say that politics has already become a plaything of the wealthy. See F. Lundberg, The Rich and the Super-Rich 584–678 (Bantam ed. 1968).

[264] For a discussion of similar issues see Ferman, supra note 210, at 24.

[265] Since the existing campaign spending limits have been largely unenforced, there is very little case law dealing with the constitutionality of such regulations. Indeed, State v. Kohler, 200 Wis. 518, 288 N.W. 895 (1930) is the only case reported which addresses itself to this question. The Wisconsin Supreme Court upheld the validity of such ceilings in that case. The court declared: "It is a matter of common knowledge that men of limited financial resources aspire to public office. It is equally well known that successful candidacy often requires them to put themselves under obligation to those who contribute financial support. If such a candidate is successful, these obligations may be carried over so that they color and sometimes control official action. The evident purpose of the act is to free the candidates from the temptation to accept support on such terms and to place candidates during this period upon a basis of equality so far as their personal ambitions are concerned, permitting them, however, to make an appeal on behalf of the principles for which they stand, so that such support as may voluntarily be tendered to the candidacy of a person will be a support of principles rather than a personal claim upon the candidate's consideration should he be elected. . . . It may be replied that the act seeks to throw democracy back upon itself, and so induce spontaneous political action in place of that which is produced by powerful political and group organizations." *Id.* at 565–66, 228 N.W., at 912.

[266] Court & Harris, supra note 210, at 220; Ferman, supra note 210, at 13.

[267] See text accompanying notes 229–62 supra.

[268] 334 U.S. 558 (1948).

[269] *Id.* at 561

[270] Kovacs v. Cooper, 336 U.S. 77 (1949). *See* text accompanying notes 240–42 supra.

[271] See notes 244–52 and accompanying text supra.

[272] See notes 244–45 and accompanying text supra.

[273] 395 U.S. 621 (1969).

[274] Id. at 626.

[275] Harper v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966).

[276] United States v. O'Brien, 391 U.S. 367, 377 (1968).

[277] Stanley v. Georgia, 394 U.S. 557, 564 (1969).

[278] *See* Redish, supra note 210, at 908.

[279] 395 U.S. 367 (1969).

[280] The "fairness doctrine" is the term used to describe the requirement imposed by the Federal Communications Commission on radio and television broadcasters that discussion of public issues be broadcast and that each side of those issues be given fair coverage. The "fairness doctrine" is separate from the statutory provision § 315(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 315(a) (1970), which requires that equal time be allotted all qualified candidates for public office.

[281] 395 U.S. at 390.

[282] 384 U.S. 214 (1966).

[283] See Redish, *supra* note 210, at 910–11.

[284] At first glance, limitations on spending may seem to be no different for purposes of the right to receive information from the law struck down in *Mills.* Even assuming that the Court in *Mills* was concerned with the right to receive information, see text accompanying note 282 *supra,* there are several distinguishing factors. In *Mills* the prohibition was absolute; in order to protect the public from some potentially false and unrebuttable charges, all election day editorials were banned. Limitations on spending, on the other hand, prohibit individuals from spending money on a campaign only after a certain point—indeed, under the system recommended by this article, after a point which is more than adequate to run an effective campaign. *See* text accompanying notes 195–98 *supra.* The limitations are designed not to protect the public from the evils of potentially false, unrebuttable speech, but from the corruptive influence which it is felt is present in all excessively financed campaigns. Furthermore, the limitations are designed not to stifle speech, but rather to perfect the right to receive campaign information from all sides—to assure that the few hours a member of the public has to devote to politics are not dominated by the din emanating from one or two campaigns. This idea of perfecting competition in the "marketplace of 'ideas and experiences'" received the approval of the Supreme Court in a somewhat different context in *Columbia Broadcasting Sys. v. Democratic Nat'l Comm.,* 412 U.S. 94, 123 (1973), a case holding that the first amendment did not require broadcasters to sell air time for editorial advertisements in part because of the public interest in receiving a balanced viewpoint on public issues. *See* note 234 *supra; cf.* Justice Stewart's concurring opinion, 412 U.S. at 133.

[285] Abrams v. United States, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

[286] Ferman, *supra* note 210, at 24.

[287] It is interesting to note here that the governmental interest in limiting expenditures (i.e., to open the channels of political process and expression to the weaker minority viewpoints is derived from the same constitutional source as the first amendment rights which have been viewed as the countervailing interest in this balancing test. In the more typical case the constitutional interest is balanced against an interest which derives from the police or health and safety powers of the state, examples being the interest in keeping sidewalks open for pedestrians or in maintaining the efficiency of the Selective Service System. When both interests are constitutionally derived the balancing test will merely weigh the extent to which the regulation serves each first amendment interest. *See* Ferman, *supra* note 210, at 25; Redish, *supra* note 210, at 907.

[288] Rosenthal, *supra* note 210, at 389.

[289] *See* notes 195–98 and accompanying text, *supra.*

[290] *See* test accompanying note 252 *supra.*

[291] *See* Fleishman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of 1971, supra* note 210, at 468; Redish, *supra note* 210, at 917–20.

[292] 393 U.S. 23 (1968).

[293] For additional burdens Ohio law places on those seeking to establish a new party *see id.* at 25 n.l.

[294] *Id.* at 33.

[295] *Id.* at 25.

[296] *Id* at 30, 34.

[297] *See* Fleishman, *Freedom of Speech and Equality of Political Opportunity: The Constitutionality of the Federal Election Campaign Act of* 1971, *supra* note 210, at 468; *Redish, supra* note 210, at 919.

[298] *Id.*

[299] *See* test accompanying note 282 *supra.*

[300] 403 U.S. 431 (1971).

[301] *Id.* at 438.

[302] In order to enforce these spending limitations the proposals generally provide that a candidate must certify that a given expenditure will not violate the applicable limitation on spending. Before accepting any campaign expenditure, therefore, a newspaper or radio station must obtain such certification from the candidate's central campaign finance committee. In this manner, however, the candidate is given the veto power over campaign expenditures an independent party might want to make in his behalf. Recently a federal district court held this type of requirement to be an unconstitutional prior restraint of free speech. *ACLU* v. *Jennings.* 662 F Supp. 1041 (D.D.C 1973). If this holding is ultimately sustained, it will require implementing an alternative method for enforcement of spending limitations. In that case one possible solution would be to require affidavits of all those makeing expenditures on behalf of a candidate stating that they are making such expenditures independently of the candidate and not through his central finance committee. In this manner the level of expenditures attributable to the candidate himself could be monitored without the prior restraint of free speech.

[303] For a discussion of the constitutionality of campaign disclosure laws, see Note, *The Constitutionality of Financial Disclosure Laws,* 59 Cornell L. Rev. 345 (1974).

[304] 2 U.S.C. §§ 431 *et seq.* (Supp. II, 1972). *See* notes 59–65 and accompanying test *supra*

[305] This is the term used by Redish, *supra* note 210, at 925.

[306] Louisiana *ex rel.* Gremillion v. NAACP, 366 U.S. 293 (1961); Shelton v. Tucker, 364 U.S. 479 (1960); Bates v. City of Little Rock, 361 U.S. 516 (1960); NAACP v. Alabama *ex rel.* Patterson, 357 U.S. 449 (1958).

[307] 362 U.S. 60 (1960).

[308] See, e.g., Rabinowitz v. Kennedy, 376 U.S. 605 (1964) (registration of foreign agents): Communist Party of the United States v. Subversive Activities Control Bd., 367 U.S. 1 (1961) (registration of Communist Party members and officials). See also Pilcher v. Jennings, 347 F. Supp. 1061 (S.D.N.Y. 1972) where the court dismissed a constitutional challenge to the financial disclosure provisions of the Campaign Act of 1971, 2 U.S.C. §§ 431–41 (Supp. II, 1972). See notes 59–65 and accompanying text supra. The complaint was dismissed for failure to allege any specific deprivations of first amendment rights.

[309] 290 U.S. 534 (1934).

[310] Id. at 548.

[311] The narrow constitutional holding of Burroughs was that Congress had authority under the Constitution to regulate presidential and vice-presidential elections. The regulation which was the subject of the constitutional challenge to the power of Congress to regulate presidential elections was a disclosure requirement.

[312] 347 U.S. 612 (1954).

[313] Id. at 625 (citations omitted).

[314] Id. at 625–26.

[315] The Supreme Court has stated that: "By its very nature, the privilege [against compulsory self-incrimination] is an intimate and personal one. . . . The Constitution explicitly prohibits compelling an accused to bear witness "against himself": it necessarily does not proscribe incriminating statements elicited from another." Couch v. United States, 409 U.S. 322, 327, 328 (1973).

Since enforcement authorities would acquire knowledge of an illegally large contribution only through the candidate's campaign finance reports, there may well be no self-incrimination questions here because of the personal nature of the privilege. The following textual discussion, however, takes the position that there is a self-incrimination question and demonstrates that even if there is, the disclosure requirements here do not violate the privilege.

[316] 390 U.S. 39 (1968).

[317] 390 U.S. 62 (1968).

[318] 274 U.S. 259 (1927).

[319] 390 U.S. at 49.

[320] Albertson v. Subversive Activity Control Bd., 382 U.S. 70, 79 (1965).

[321] Id.

[322] Hearings on S. 1103, supra note 3, at 141–58.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. MITCHELL, Mr. DOLE, Mr. EVANS, Mr. BRADLEY, Mr. GRAMM, Mr. WIRTH, Mr. DURENBERGER, Mr. PRYOR, Mr. BOSCHWITZ, Mr. SANFORD, Mr. JEFFORDS, Mr. MCCAIN, Mr. WARNER, Mr. D'AMATO, Mr. MURKOWSKI, Mr. GARN, Mr. HATCH, Mr. STEVENS, Mr. GORTON, Mr. BOND, Mr. COATS,

Mr. WILSON, Mr. KASTEN, Mr. SIMON, and Mr. ADAMS):

S. 2426. A bill to authorize the President to designate a private nonprofit foundation as eligible to receive funds for the purpose of promoting community tree planting and cultivation projects, to authorize the Secretary of Agriculture to establish a rural tree planting program and a community tree planting program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. BAUCUS, and Mr. CONRAD):

S. 2427. A bill to provide for the establishment of a coordinated and cooperative Federal, State, and local forest program for the management and enhancement of forest lands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FORESTRY LEGISLATION

Mr. LEAHY. Mr. President, with my colleague, Senator LUGAR, I am introducing two major forestry bills today.

The first bill challenges every American to pick up a shovel and plant a tree.

The second bill challenges the 8 million owners of private forest lands to develop a stewardship strategy that sustains and preserves their forests for future generations.

The first bill that I am introducing, the National Tree Trust Act, provides a statutory authorization for the President's proposal to plant a billion trees each year for the next 10 years. I am gratified that the President recognized that the Senate's passage of a major tree planting initiative last year signalled that the leadership of the Senate Agriculture Committee was ready to work with the President on this issue.

Under the initiative, which calls for planting 1 billion trees a year for 10 years, we would be planting enough trees to fill an area the size of Connecticut, Massachusetts, Vermont, and New Hampshire combined.

Mr. President, global warming is one of the most serious environmental threats facing us today.

Even the dry statistics are ominous. A mere 4 degree rise in average temperature could cause a dramatic 50 percent reduction in rice production—the staff of life for 70 percent of the world's population.

There are some who argue that this tree planting effort is an inadequate response to a threat of such magnitude.

I believe that the threat of global warming is so large that I will support any step—small or large—that moves us down the long road to solving this problem. As long as President Bush is ready to take a step in the right direction, I will move with him.

The second bill that we are introducing today is just as immediate—and in the long run may be much more significant. The Forest Stewardship Act challenges the 8 million private forest owners—who manage 482 million acres of forest covered by an estimated 200 billion trees—to sustain and protect those forest for the future.

Our Nation's forests are far more than our national forests. Almost three quarters of our forests are privately owned.

There was a time when managing our private forests was limited to controlling pests and putting out fires.

Today new, and more severe hazards—such as development and acid rain—threaten our forests.

For example:

In Maine, 23,000 acres of forests were subdivided between 1985 and 1988.

Air pollution threatens to reduce growth and increase dieback in most Eastern States.

And in the face of threats of pollution, development, and over harvesting, Forest Service assistance to private forest owners was cut by 44 percent between 1979 and 1989.

Our private forests are important to every American, not just their landowners. Americans want more forest products, more recreational opportunities, and more fish and wildlife habitat.

As a private forest landowner—managing land the Leahy family has held for many years—I know that forest stewardship makes both economic and environmental sense.

We need a forest stewardship program as big and imaginative as the threats facing our forests.

This stewardship program we are introducing today expands existing mandates so that it is clear that the responsibilities of the Forest Service and the Department of Agriculture do not end at boundaries of each National Forest.

Key elements of this stewardship program, which will be the heart of the forestry title of the farm bill, include:

Protection of forestland through conservation easements;

Expansion of technical and financial assistance beyond tree planting, fire control and pest management;

State coordination of national and local forestry programs to better manage our Nation's forests;

Expansion of disease-prevention programs to include combating manmade threats to forests, such as acid rain.

Mr. President, the legislation we are introducing today provides a framework for forestry title of the 1990 farm bill—a framework that will sustain and preserve our Nation's forests.

The Forest Stewardship Act has support from such groups as the National Association of State Foresters, Wilderness Society, National Wildlife Federation, National Woodland Owners Association, and International Association of Fish and Wildlife Agencies.

Let us join together to plant a billion trees as a down payment on our Nation's and the Earth's future. Let us join together to sustain and preserve the 25 million acres of forest lands—and the 10 billion trees they sustain—as an investment in our Nation's future.

Mr. LUGAR. Mr. President, it is an honor to introduce the National Tree Trust Foundation Act with my distinguished chairman, Senator LEAHY, to implement President Bush's tree planting initiative. It was my privilege to be with the President in Indiana on Tuesday. He planted a tree at the city-county building and certainly gave a very eloquent statement about his own personal interest in forestry and specifically the ways in which a billion new trees in our country will do wonders for the environment. It is an equal privilege to be associated with Chairman LEAHY in introducing the Forest Stewardship Act of 1990. It incorporates so many aspects that are important in providing good lands on private property, on farms, and small wood lots all over America. It has been my privilege to plant eight acres of hardwoods, walnuts and oaks, on my own farm, to see the forestry talents that are available in the State of Indiana and which I know are abundant throughout our country.

It is the hope of Senator LEAHY and myself and others on the committee that there will be strong support for this initiative, indeed strong support all over the Nation, particularly with the rural phases of this bill and the ways in which we help people utilize private plots.

As submitted by the administration, the National Tree Trust Foundation Act will provide the legislative authority needed to implement the President's National Tree Planting and Forest Improvement Program as contained in his fiscal year 1991 budget proposal. Specifically, the administration's bill authorizes the Secretary of Agriculture to use existing authority to establish a rural tree planting and forest improvement program and a community tree planting and improvement program. The bill authorizes a fiscal year 1991 appropriation of $175 million, including a one-time startup grant of $35 million to the National Tree Trust Foundation, a private nonprivate foundation which the President is authorized to designate and which will solicit private contributions, accept and administer gifts and make grants to encourage local participation in the planting and cultivation of trees.

In the administration's fiscal year 1991 budget proposal, the President's

Tree Planting and Forest Improvement Program has three elements:

First, rural assistance: The President's tree planting and forest improvement initiative includes $110 million for cost sharing and technical assistance with private landowners to plant, maintain, and improve trees on suitable lands. This program will be implemented through existing delivery mechanisms and through State forestry agencies.

Second, National Tree Trust Foundation: The bill designates the National Tree Trust Foundation and authorizes a one-time grant of up to $35 million to it. The National Tree Trust Foundation will be a private, nonprofit foundation which will accept donations and make matching grants for community tree planting programs.

Third, community trees: $30 million to help plant an average of 30 million trees annually in the 40,000 cities, towns, and communities of our Nation. The intent of the Community Tree Program is to reverse the current rate of urban deforestation whereby only one tree is planted for every four that dies or is removed.

Specifically, the Leahy-Lugar forestry title would include—

First, a newly authorized Forest Stewardship Management Program to provide for cost-sharing of up to 75 pecent with private forestland owners for enhanced timber management, wildlife habitat improvements, agroforestry, forest wetlands, trails, and other purposes.

Second, establishment of broadly representative statewide forest stewardship advisory committees.

Third, an expansion of existing educational and technical assistance programs for forestry.

Fourth, a pilot forest reserve program by which the Forest Service could acquire lands or easements on lands to protect environmentally sensitive forest land from conversion to nonforest uses.

I look foward to speedy passage of the President's bill. I welcome Senator LEAHY's strong interest in the State and private forestry program and look forward to working with him and other Senators in drafting the forestry title of the 1990 farm bill.

By Mr. GRAMM (for himself and Mr. DOMENICI):

S. 2428. A bill to authorize negotiation of a Mexico-United States free-trade agreement, and for other purposes; to the Committee on Finance.

MEXICO-UNITED STATES TRADE ACT

Mr. GRAMM. Mr. President, Senator DOMENICI and I today are introducing the Mexico-United States Trade Act.

This bill sets into place a mechanism to initiate negotiations with Mexico with a goal of, on a reciprocal basis, reducing trade barriers so that goods and services can flow across our joint borders, so that we can create more jobs, more growth, more opportunity on both sides of the border.

Mr. President, this bill simply establishes the mechanism whereby President Bush would enter into negotiations with President Salinas to hammer out a trade agreement as we did with Canada. At the same time the bill would guarantee expedited consideration by the Senate of that agreement.

Mr. President, I know there are many who say the obstacles to a free-trade agreement with Mexico are insurmountable.

Twenty years ago, the same people were saying that the obstacles to a free-trade agreement with Canada were insurmountable. Today, that free-trade agreement is in effect, and every day more trade occurs between the United States and Canada, and every day people on both sides of the border benefit.

Mr. President, I know there are thousands of voices in this country and in Mexico that will say that we cannot deal with the 1,001 practical problems that stand in our way in opening up trade with Mexico and ultimately achieving a free-trade agreement.

But I think the time has now come to act boldly. This is not a proposal for those who have faint hearts and small dreams. This is a proposal for those who believe that while we are talking about free enterprise, rebuilding Eastern Europe, that we ought to be working to use the same system to create jobs, growth, and opportunity not just here in the United States, but in Mexico as well.

Mr. President, I know there will be some who say that my State will be a big beneficiary of this bill. It is true. My State is now second only to California in total exports, and greater than California in exports per capita. Our growth in the last 3 years has been due almost entirely to the growth of exports. And there is no doubt about the fact that a free-trade agreement with Mexico will make Laredo a world trade center, will expand the capacity of Corpus Christi and San Antonio to become hubs for trade between the United States and Mexico, will benefit communities from El Paso to the Valley in terms of expanded commerce and job creation.

Mr. President, there is hardly a State further from Canada than my State. I strongly supported the Canada-United States free trade agreement because it was good for the United States of America, and it was good for all free people all over the world.

So I think this is an important piece of legislation. We are encouraged by the fact that President Salinas in the last few weeks has come out and said that perhaps we can now begin to talk in earnest about a free trade agreement.

The substance of this bill was offered as an amendment to the 1988 trade bill. That amendment was adopted in the Senate. It died in conference. There is support in his body for a free trade agreement with Mexico.

Our objective today is not to try to preempt the President or the President of Mexico. Our objective is to set out a procedure and to show support in the U.S. Senate for getting on with the job of trading with a country that has almost 100 million people living right next door to us.

As President Salinas said last week, they can export goods or they can export their own workers. They would rather export goods. This bill will create jobs, growth, and opportunity on both sides of the border.

I am happy to yield to my colleague from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. DOMENICI. I thank my good friend from Texas for yielding.

Mr. President, the euphoria with which the America people and many Senators of the United States here on the floor have accepted the changes moving toward freedom in Eastern Europe is amazing. It was almost an atmosphere of exhilaration as we watched the Berlin Wall fall, and Poland proceed to adopt freedom and shake off the shackles of communism and Marxism.

Beyond East central Europe there is a silent economic revolution occurring in this hemisphere, thanks to one person, the current President of the Republic of Mexico.

No one should doubt that it is more in the long-term interests of the United States to look south to Mexico, Central America, and South America than ever before in our history.

President Salinas has said Mexico must change or Mexico will go backward. What he has done in the past 18 months as a leader of those people called Mexicans in the Republic of Mexico is absolutely amazing.

As a matter of fact, right now if I had to pick an outstanding leader in the world, I would look for one in charge of a country that needs to develop, that has human population and resources galore. I would look for a leader who inherited an economy that is absolutely in the doldrums. Who would that leader be that is most apt to succeed in setting the best example?

Mr. President, unequivocally, I would pick the President of Mexico.

He understands. He knows. He is a brilliant economist, moving them toward a decentralized economy, getting rid of central bureaucracy, moving toward privatization, inviting back Mexican capital, and inviting foreign investment.

Guess what is happening? Productivity is up, growth is up, and there is exhilaration among those who have watched Mexico. That quite revolution is why I am here on the floor.

It seems to me the time is right to send a signal that we want to develop this hemisphere, this hemisphere made up of millions of Hispanic-cultured people who Naturally relate to us here in North America.

For that reason, I do not think we ought to look exclusively across the oceans when on our back door is the potential for economic prosperity and trade for this hemisphere and for all of our people.

The Ambassador of Mexico, talking with me and to people in New Mexico today, said that he believes the trade with the United States, which is $55 billion, could double in the foreseeable future—double. That means we must trade with them, and they will trade with us.

To do that, we have to get rid of barriers. We have to have some confidence in people and marketplaces. That is why I am cosponsoring this bill. It is not to preempt either our President or the President of the Republic of Mexico; not at all.

As a matter of fact, I hope it is not taken as any indication that we want to move faster than the President of Mexico or that we want to move faster than our President as of today. Rather, we encourage the broadest negotiations between Mexicans and Americans toward the end that we begin to develop our hemisphere free of trade barriers. We should strive to develop our own continental North American Market by, let's say, 1994.

While we worry so much about Europe 1992, in our own neighborhood is the potential for economic growth, prosperity, and trade with our friends.

We ought not to continue to second-guess Mexico. Every time we talk about Mexico, somebody talks about the way it used to be. Well, the way it used to be would not have led to positive change there or anywhere else in the world.

Mexico seems to be ready to enter this new millennium as coequals with us in developing their resources and their people. They are committed to increasing productivity, GNP growth, which means jobs and the benefits that we have grown accustomed to also being made available to millions of Mexican people across the border. Mutual benefits multiply naturally if we do it right, and if we support our friends and neighbors as coequals.

That is why I support this proposal—to send a message to negotiate, to get on with getting rid of barriers—so we can count on trade that benefits both Nations.

Incidentally, for those who do not focus on Mexico, but so much on Europe, Mexico is not asking for any aid, to my knowledge. They are asking for trade. Frankly, when you have that situation, you ought to encourage it. It is too rare.

The President of Mexico could even help us work toward Central American development. He relates to their leaders. They are already beginning to look to him for his tremendous capability in the field of economics and his astuteness in politics.

I submit that the United States ought to recognize that role of President Salinas. He ought to be our partner, or at least in a leadership role, as we try to help Panama, Nicaragua, and those other countries that so desperately need economic development of the type he is trying to bring to the United States of Mexico.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mexico-United States Trade Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The income and prosperity of the citizens of the United States and Mexico are increased by the mutual reduction of trade barriers.

(2) The free trade agreements into which the United States has entered with Israel and Canada symbolize the path of prosperity for the United States in its trade relations into the next century.

(3) The establishment of a Mexico-United States Free Trade Area will promote the mutual reduction of trade barriers with other countries as well, initiating a series of trade barrier reductions, instead of the dismal succession of trade barrier increases likely to result from a resort to protectionism and trade retaliation.

(4) Trade protectionism endangers economic prosperity in the United States, Mexico, and globally, and undermines civil liberty and constitutionally limited government.

SEC. 3. MEXICO-UNITED STATES FREE TRADE AGREEMENT.

(a) IN GENERAL.—The President shall take action to initiate negotiations to obtain a trade agreement with Mexico, the terms of which provide for the reduction and ultimate elimination of tariffs and nontariff barriers to trade, and is authorized to enter into a trade agreement with Mexico that provides for the elimination or reduction of any duty imposed by the United States and for the establishment of a free trade area between Mexico and the United States.

(b) RECIPROCAL BASIS.—An agreement entered into under subsection (a) shall be reciprocal and provide mutual reductions in trade barriers to promote trade, economic growth, and employment.

(c) PHASED REDUCTION OF BARRIERS.—Any agreement entered into under subsection (a) may provide for a reduction or elimination of tariff and nontariff barriers to trade that may be gradually reduced or eliminated over a period that does not exceed 10 years.

SEC. 4. EXPEDITED CONSIDERATION OF FREE TRADE AGREEMENT.

(a) CONSULTATION WITH CONGRESS.—(1) Before the President enters into any trade agreement under section 3 of this Act, the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988; and

(C) all matters relating to the implementation of the agreement under subsection (b) of this section.

(b) IMPLEMENTATION.—(1) Any agreement entered into under section 3 of this Act shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of the implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of section 1101 of the Omnibus Trade and Competitiveness Act of 1988,

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interest of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and

(II) the agreement applies to or affects purchases and sales by such enterprises.

(3) To ensure that the foreign country which receives benefits under a trade agreement enter into under section 3 of this Act is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(c) QUALIFYING FOR EXPEDITED CONSIDERATION.—Any draft of a bill implementing a trade agreement entered into under section 3 of this Act, that is submitted to the Congress by the President shall be considered to be an implementing bill for purposes of section 151 of the Trade Act of 1974 (19 U.S.C. 2191).

SEC. 5. EFFECT OF COUNTRIES NOT PARTY TO AN AGREEMENT.

Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under section 3 of this Act with such other country.

Mr. DOMENICI. Mr. President, I am pleased to join the Senator from Texas [Mr. GRAMM] in introducing the Mexico-United States Trade Act. This bill instructs the President of the United States to initiate negotiations to obtain a free-trade agreement with Mexico. It provides for consultation with the Congress and provides for fast track consideration by the Congress of the agreement once the negotiations and consultations are concluded.

Mexico and the United States entered into a "Framework of Principles and Procedures for Consultations Regarding Trade and Investment Relations" in 1987. Authorizing negotiations for a free trade agreement is the logical next step. The section 332 ITC investigation on the economic impact and potential for such an agreement will be published later this month, April 18.

I regard this legislation as an expression of support for an enhanced long term trade and investment relationship with Mexico. I am fully aware that the potential for Mexico-United States trade is tremendous. I am also aware that thus far that potential has barely been tapped.

Mexico is a grand country of 80 million people. It is the 10th biggest global economy and the cultural leader of the 260 million Spanish speaking Latin-Americans.

We have an interest in Mexico's success. We are more than neighbors. We have common ancestors. Mexico's society penetrates the United States more deeply than any other country.

A third of the continental United States was Mexican territory until just 145 years ago. There are 17 million Americans of Hispanic descent—and more than 10 million of them are Mexican in origin.

A robust Mexican economy could be a larger export market for the United States.

A robust Mexico could assume a leadership role in our hemisphere—that of economic example as well as cultural leaders for Central America.

In his tenure as President of Mexico, Salinas has taken some dramatic actions to tame inflation, to stop inefficient subsidization, and to privatize the economy.

In effect, Salinas has been turning back the clock on economic policies that have cost his country precious time and prosperity. He is rewinding the clock with the hope of bringing Mexico's economy back.

Between 1940 and 1970, the economists called it the Mexican miracle. The Mexican economy grew at an average annual rate of 6 percent, a pace rivaling that of the world's economic dynamos—Japan, South Korea, and West Germany. Annual inflation over those three decades averaged less than 5 percent and all major indicators pointed to sustained economic growth and development. Then the Government changed and Mexico's economic picture changed for the worse.

Mexican President Carlos Salinas de Gortari has chosen to reverse this and lead his country back to the future.

President Salinas hopes to create the Mexican economic miracle by implementing his national development plan and meeting its goals by 1994. If a leader can be only as great as the problems he must overcome, Salinas could go down as one of the great leaders of the 20th century.

To get Mexico back on the prosperity track he has to overcome triple-digit inflation, centralized planning, state ownership of many industries, inefficient subsidies, capital flight, and a crippling foreign debt.

During his tenure as President, Salinas has unleashed a series of changes that make many of the reforms underway in Eastern Europe look modest. In both places, leaders are walking a tightrope with inadequate safety nets.

He is moving as fast as the political system permits and is pursuing a program of economic reform based on what he calls the "disincorporation of parastatal entities." This is privatization of Mexico's huge state-owned economic sector.

In the 1970's Mexico had 1,155 state-owned enterprises. This year the number of state-owned enterprises had declined to 400.

He is treating the foreign investment phobia and Yanqui phobia by liberalizing foreign investment regulations and relaxing the 49-51 percent rules that made majority foreign ownership impossible. While the $24 billion that Americans have invested in Mexico represents only a little over 2 percent of total United States investment, it accounts for 62 percent of all foreign investment in Mexico. Salinas is showing his people that foreign investment can mean jobs and a better standard of living.

He is committed to revitalizing the Mexican economy so that it can produce more goods and services. He is trying to broaden the country's economic base and modernize its plants and equipment. He is working for continued social stability; he is making permanent structural changes.

The bill Senator GRAMM and I are introducing today is a vote of confidence that the Mexican economy can be successful.

President Salinas is taking on entrenched myths and trying to show his people the benefits of free trade. Some Mexican nationals fear opening up their market to the American colossus whose $5 trillion gross national product dwarfs Mexico's $150 billion.

Most Mexicans still assume that they cannot compete with rich and technologically sophisticated American enterprises. This is ironic, for so many Americans complain that it is impossible for American enterprises to compete with the low wages available to Mexican businesses. Both sets of critics are mistaken, as the maquiladora program has proved. But the myths are deeply entrenched.

The maquiladora program, on balance, has been a tremendous success. The reason is the program makes good use of comparative advantage and geography. The United States and Mexico share a 2,000-mile border much of which has been and can continue to be developed with more maquiladoras.

Maquiladora roughly translates to "hands on." Mexican workers get hands-on experience assembling components manufactured in the United States.

Launched in 1965, this officially entitled "Border Industrial Program" has created 350,000 Mexican jobs assembling components and about as many American jobs supplying these plants.

The maquila industry has become one of the most important sectors of the Mexican economy, second only to exports of petroleum as a foreign exchange earner.

We should take every opportunity to build this industry. New Mexico needs additional ports at Santa Teresa and Anapra. We should assign additional Customs agents at the border to facilitate the efficient movement of goods through the border.

Continuing with the bold reforms put in place by President Salinas, building upon the maquiladora program, while working toward a free trade agreement could bring Mexico back to the economic prosperity it enjoyed during the 1940 and 1970 period. The United States and Mexico together could bring the two countries back to a future of economic prosperity, and into the future of greater cooperation within this hemisphere.

By Mr. BINGAMAN:

S. 2429. A bill to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico; to the Committee on Energy and Natural Resources.

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to establish the Mimbres Culture National Monument and to create a protection system for Mimbres sites in southwestern New Mexico.

This measure is the logical sequence to my National Mimbres Culture Study Act of 1988. The act directed the Secretary of the Interior to analyze the significance of the Mimbres culture, to identify sites appropriate for interpreting the culture, to recommend measures for preserving known Mimbres resources located in and around Silver City, NM, and to outline development that would facilitate public use and enjoyment.

The National Park Service has not released the results of their study; however, I have had an opportunity to discuss the draft information with them and I believe that it is an appropriate time to introduce legislation to create a national monument. This national monument would recognize the national significance of the cultural resource properties associated with the Mimbres culture, and would protect and interpret these resources for the benefit and enjoyment of present and future generations.

My home State of New Mexico is rich in cultural resources. People have lived there for at least 11,000 years. Three great civilizations, including the Anasazi, Hohokam, and Mogollon, flourished in the region. Each of these cultures expressed distinctive lifestyles, based in large part on their adaptations to specific geographic locations.

The most significant expression of the Mogollon culture has been left by a group of people who are known today as the Mimbres. They lived between A.D. 200 and 1150, although the origins of the Mimbres culture and the reasons for its demise are not fully understood.

The region occupied by the Mimbres people extended from southwestern New Mexico into southeastern Arizona and the northern Chihuahua State of Mexico. Today many of the Mimbres sites are in the river valleys of Mimbres, Gila, and San Francisco that surround present day Silver City, NM.

Originally, the Mimbres people lived as nomadic hunters and gatherers. After A.D. 200 they began to build agricultural villages consisting of a few hundred people and supplemented farming with hunting and foraging. They excelled in agricultural development including the creation of sophisticated stream diversion and canal irrigation systems.

The Mimbres first lived in semisubterranean pithouses, but around A.D. 1000 they began to build masonry villages, achieving levels of population density unknown by other contemporary southwestern societies. Some of the pueblos built during the later Mimbres period are among the largest in the Southwest. The significance of the large pueblos and extensive irrigation systems of the Mimbres culture has been underestimated in the prehistory of the Southwest.

Even though the Mimbres architectural remains are highly significant, these people are best known for a major cultural achievement. That is the development of an extraordinary decorated pottery that is characterized by striking black-on-white paintings. Mimbres pottery went through a series of well-defined changes from early to late periods but it is the later black-on-white pottery that distinguishes Mimbres ceramic art.

Some of these black-on-white pots are painted with highly complex geometric designs, but the most intriguing works are beautifully executed representational designs, including paintings of plants and animals, as well as humans and mythological beings. The mythical beings painted on Mimbres pottery sometimes are the combination of features of real animals and are often shown interacting with humans or animals. Scenes of pottery making, food gathering, hunting, planting, childbirth, story telling, swimming, gambling, and many other activities are depicted on Mimbres pottery. Mimbres art is a unique visual resource that documents the natural and cultural world of the Mimbres as well as their intellectual life. It is the pictorial content of Mimbres ceramic art that captivates us and provides an important source of information.

Mimbres pottery now enjoys an international reputation, and about 7,000 pieces are displayed in museums around the world. Much scholarly and popular literature has been devoted to the beauty and craftsmanship of the work. Mimbres pottery is perhaps the single most famous prehistoric American Indian art style.

It was during the 1870's and 1880's that accounts of ruins in the Southwest began to receive widespread attention in the East. These accounts focused on the cliff dwellings of Mesa Verde and the ruins of Chaco Canyon, but the ruins of the Mimbres area were also known to early archeologists.

It was not until the second decade of the 20th century that J. Walter Fewkes of the Smithsonian Institution made a reconnaissance of the Mimbres area and brought back the first collections of Mimbres pottery to the Smithsonian and the Museum of the American Indian in New York. His discovery led to a wave of scientific excavations in the 1920's and early 1930's. These excavations produced the first good evidence of the full range of Mimbres material culture. Several hundred rooms were excavated and over 2,500 painted bowls were recovered.

As a result of the 1988 National Mimbres Culture Study Act, the National Park Service has evaluated 22 of the largest, most well-known, and nationally significant sites in the Silver City area. These sites span a period of about 1,700 years and include numerous pithouses, roomblocks, rock art, and ceramic and lithic materials, as well as agricultural irrigation systems. Some Mimbres sites have been vandalized and destroyed, but outstanding Mimbres sites, that have a high degree of integrity, still exist in the Silver City area.

While interest in Mimbres culture and artifacts is international in scope. No unit of the National Park System or of any other agency is dedicated to the preservation and interpretation of the Mimbres culture. My bill is intended to protect Mimbres sites and to provide for interpretation, recreational use, and scientific study.

The legislation I am introducing today would create a new unit of the National Park System dedicated to the Mimbres culture. Four of the sites, the Cameron Creek, Maddock, TJ Ruin and Woodrow Units, evaluated in the National Park Service study will comprise the new national monument. In addition, a Mimbres Archeological Site Protection System would be established to coordinate the protection of other Mimbres cultural sites and materials and would involve a variety of public and private parties.

A visitor center for the interpretation of Mimbres culture, the exhibition of Mimbres artifacts, and the orientation of visitors will be developed in Silver City as a part of the national monument. The subdued Mimbres ruins may require onsite interpretation to facilitate public understanding and enjoyment. Through interpretation and education, visitors can better comprehend the architectural, artistic, social and economic aspects of Mimbres culture, the relationship of the Mimbres to the Mogollon, Salado, and Casa Grandes cultures, and the tie between the Mimbres people and the land.

The National Park Service will coordinate with public and private entities in establishing, planning, and managing the Mimbres Culture National Monument and the Mimbres Archeological Site Protection System. For example, Western New Mexico University and the National Park Service will work cooperatively to provide curatorial services for Mimbres cultural materials. The National Park Service will provide leadership in coordinating the efforts of the various landowners, such as Federal, State, and local agencies, foundations, private individuals, and others, involved in the Mimbres Archeological Site Protection System. An advisory committee representing these parties will work with the National Park Service to promote the protection of Mimbres cultural resources and to provide for interpretation and research.

My goal is to foster public understanding of this Nation's rich heritage and afford additional protection for Mimbres cultural resources. I urge my colleagues to join me in supporting this legislation to protect and preserve this important part of our past for the benefit of present and future generations.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Mimbres people were the most significant expression of the Mogollon culture, 1 of the 3 great prehistoric civilizations of the American Southwest;

(2) the Silver City, New Mexico area, including the Mimbres and Gila River valleys, contains numerous Mimbres sites;

(3) some of the Mimbres pueblos built during the classic phase of that culture in the 11th century are among the largest in the Southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi culture;

(5) the Mimbres culture is epitomized by distinctive and strikingly painted black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic prehistoric traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting;

(8) development of interpretive and visitor education programs will help protect Mimbres sites and enhance public understanding and appreciation of our Nation's cultural heritage;

(9) the National Park System has no unit established for the specific purpose of protecting, preserving, and interpreting the Mimbres culture; and

(10) in light of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resource properties from vandalism and destruction, it is appropriate that a national monument be established in New Mexico.

(b) PURPOSE.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resource properties associated with the prehistoric Mimbres culture in southwestern New Mexico;

(2) to provide for the protection and interpretation of Mimbres resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities associated with Mimbres resources; and

(4) to encourage governmental and private sector protection actions.

SEC. 3. ESTABLISHMENT OF THE MIMBRES CULTURE NATIONAL MONUMENT.

(a) ESTABLISHED.—There is established in the State of New Mexico the Mimbres Culture National Monument (referred to as the "monument") as a unit of the National Park System, consisting of approximately _____ acres, including the Cameron Creek, Maddock, TJ Ruin, and Woodrow Units, as generally depicted on the map entitled "Mimbres Culture National Monument", numbered _____ and dated _____ 1990, which shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in appropriate offices of the National Park Service in the State of New Mexico.

(b) ACQUISITION OF LANDS.—Within the boundaries of the monument, the Secretary of the Interior (referred to as the "Secretary") may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange.

(c) VISITOR CENTER.—The Secretary shall establish a visitor center and administrative headquarters for the monument in Silver City, New Mexico, and may acquire, through donation, purchase with donated or appropriated funds, or exchange, up to 10 acres of land in Silver City for that purpose.

(d) BOUNDARY ADJUSTMENTS.—The Secretary may from time to time make minor adjustments to the boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 4. ADMINISTRATION OF THE MONUMENT.

(a) IN GENERAL.—The Secretary shall administer, manage, and protect the monument in accordance with this Act and the law generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7) and in such manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for interpretation of and research on those resources.

(b) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with Western New Mexico University for the purposes of establishing a curatorial operation for the care and maintenance of Mimbres cultural materials. The curation operation shall be the responsibility of Western New Mexico University, with funding assistance from the Secretary under the cooperative agreement.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than 3 years after the date funding is made available for the purposes of preparing a general management plan, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the monument consistent with the purposes of this Act, including—

(1) a statement of the number of visitors and types of public use within the monument that can be reasonably accommodated consistently with the protection of its resources;

(2) a general development plan for the monument and a description of facilities needed to accommodate public use, including estimates of cost thereof;

(3) an interpretive program for units of the monument and the Silver City visitor center, including a means of dissemination of information on the Masau Trail;

(4) a long-range strategy for completion of needed research, inventory, evaluation, nomination, and protection of cultural resource properties of the monument; and

(5) an outline of the coordination with Federal and State agencies and other entities and proposed cooperative agreements that will be undertaken to ensure that proper actions will be taken to accomplish the purposes of the monument, including the specific arrangements and cost thereof to be included in a cooperative agreement for curation with Western New Mexico University.

SEC. 6. MIMBRES CULTURE ARCHEOLOGICAL SITE PROTECTION SYSTEM.

(a) ESTABLISHMENT.—(1) To foster the protection, interpretation, research, and integration of information about the Mimbres Culture, there is established the Mimbres Archeological Site Protection System (referred to as the "system"), as generally depicted on a map numbered _____ and dated _____ 1990.

(2) The 18 archeological sites included in the system are—

(A) In the Mimbres Valley the following:

(i) Black Mountain.

(ii) Cottonwood.

(iii) Faywood.

(iv) Gatton Park.

(v) Janss.

(vi) Lake Roberts.

(vii) NAN Ranch.

(viii) Old Town.

(ix) Pony Hills.

(B) In the Silver City Area the following:

(i) Pine Flat.

(ii) Treasure Hill.
(C) In the Gila Valley the following:
(i) Fort West/Lee Village.
(ii) Kwilleylekia.
(iii) Red Rock Cemetery.
(iv) Red Rock Pithouse.
(v) Winn Canyon.
(vi) WS Ranch.
(D) In the Rio Grande Valley, the Rio Vista.

(b) DIRECTOR.—The Mimbres Archeological Site Protection System shall be under the general direction of the Secretary, acting through the Director of the National Park Service. The Secretary, along with other entities, shall administer the system in a manner that will protect and preserve the cultural resources and provide for interpretation and research.

(c) PLAN.—Not later than 3 years after the date funding is made available, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a comprehensive plan for the management, protection, research, and interpretation of the system. The plan shall include detailed maps of each site and shall indicate the acreage to be protected.

(d) ADVISOR COMMITTEE.—The Secretary shall form an advisory committee, composed of Federal and State government agency representatives, and other interested parties to provide guidance in the preparation of the comprehensive plan and its implementation.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary of the Interior and the Secretary of Agriculture may enter into cooperative agreements with other Federal, State, and local agencies, foundations, private landowners, and others for the purposes of system management, protection, research, and interpretation.

(2) Federal funds may be expended on non-Federal sites through cooperative agreements described in program (1) for the purposes of the section.

(f) RESERVE.—The Secretary shall undertake research to locate additional Mimbres sites on Federal lands in New Mexico and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representative, not later than 3 years after the date funding is made available for the purposes of this subsection, a report that provides recommendations for additions to or deletions from the list of archeological protection sites in subsection (a)(2).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. BINGAMAN:

S. 2430. A bill to amend the Zuni-Cibola National Historical Park Establishment Act of 1988 to enlarge the time in which the Secretary of the Interior may accept a leasehold interest for inclusion in the park; to the Committee on Energy and Natural Resources.

EXTENSION OF TIME FOR ENLARGEMENT OF ZUNI-CIBOLA NATIONAL PARK

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to amend the Zuni-Cibola National Historical Park Establishment Act of 1988. This amendment simply enlarges the time in which the Secretary of the Interior may accept a leasehold interest for inclusion in the park.

The act allows for certain portions of the Zuni reservation to be designated as the Zuni-Cibola National Historical Park. Establishment of the park is dependent on members of the Zuni Tribe offering, and the Secretary of the Interior accepting, a leasehold interest in the land. The act terminates if the Secretary does not accept a leasehold within 2 years of the establishment of the act. Unfortunately the time limitations for the tribe and the Secretary are quickly approaching with little hope of establishing the park.

Members of the Zuni Tribe have approached me and asked that I offer an amendment to extend the time limitations for both the tribe and the Secretary. They believe, just as I do, that the Zuni-Cibola National Historical Park has merit and that members of the Zuni Tribe should be allowed adequate time to consider all of the issues.

The national significance of the Zuni culture is well documented. In many studies conducted by the National Park Service, Zuni has been identified as a major focal point of the Anasazi culture, as crossroads of Southwestern events since 1539, and as one of the most important centers of ethnological studies in the United States.

Mr. President, the Zuni-Cibola National Historical Park is worthy of designation and could serve as a model for future designations on trust lands. However, this is a new idea and requires careful review by all involved. I believe that the time requirements were too restrictive in the act when you take into consideration all of the factors which the Zuni Tribe and Secretary must consider.

In order to allow the members of the Zuni Tribe adequate time to review and consider the establishment of Zuni-Cibola National Park, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENLARGEMENT OF TIME.

The Zuni-Cibola National Historical Park Establishment Act of 1988 (16 U.S.C. 410pp et seq.) is amended—

(1) in section 2(c)—

(A) by striking "24 months" and inserting "6 years"; and

(B) by striking "24-month" and inserting "6-year"; and

(2) in section 3(a) by striking "18 months" and inserting "5½ years".●

By Mr. LEAHY:

S. 2431. A bill to provide for the establishment of a Farmland Resource Conservation Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARMS FOR THE FUTURE ACT OF 1990

Mr. LEAHY. Mr. President, I am introducing a bill today that will address a growing problem in my State of Vermont and many other States concerned about the rapid loss of valuable farmland to development.

Many Vermont farmers cannot pass their farms on to their sons or daughters because they need to sell the farm for retirement income.

The children cannot afford to pay the development price for the farm because farming will not support the high mortgages needed to pay for expensive land.

Vermont now has an excellent program which provides the retiring farmer the income he needs, while providing the young beginning farmer the opportunity to begin without going deep into debt—if he guarantees that land will remain in farming.

I have developed legislation which will make available to States like Vermont $50 million in loan guarantees combined with an interest rate reduction for the repayment of these loans over 10 years so that they can establish permanent farm preservation revolving funds.

This legislation will preserve Vermont's rural future, and make possible a future in farming for young Vermonters and young people throughout the Nation. That is why I have named this act the Farms for the Future Act.

Mr. President, attached is a brief summary of how the program will work. I ask unanimous consent that it be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FARMS FOR THE FUTURE PROGRAM: HOW IT WORKS

Loan guarantees will be made through the Farmer's Home Administration.

These guarantees would help states because they would make it much easier to develop capital and build a self sustaining fund.

The interest will be paid for the first 5 years of the 10 year loans by FmHA.

For the second five years, the Secretary will pay the difference between the current limited resources rate used by Farmer's Home Administration (FmHA) and the interest charged by the lending institution.

Because the loans will be below the market rate, and there will be no interest for 5 years, states will be able to reinvest the funds and use the gain on the reinvested funds to create a self sustaining fund.

The Federal government would loan $2 for every one dollar available on the local level. The non-federal match could be state, local, or private funds, thereby providing a strong incentive for local support of programs.

Vermont is now spending about $2.5 million a year for farmland preservation.

Example: If Vermont invests $5 million/year the fund will yield, after 10 years, approximately $13.4 million/year, after 15 years when all bills are paid, it will yield $9.67 million.

Participation in the program by farmers will be entirely voluntary.

When the program is fully developed it will offer many options. It will permit beginning farmers to buy farmland by making land available at prices which can be supported by farm income. It will give middle aged farmers the opportunity to keep their land in farming, but plan for their retirement through annuities. It will permit retiring farmers to pass their land on to their children who wish to farm, and still provide the retirement income they need.

By Mr. BINGAMAN:

S. 2432. A bill to provide for payments in lieu of taxes to be made with respect to certain lands comanaged by the Bureau of Land Management and the Secretary of the Army; to the Committee on Energy and Natural Resources.

PAYMENTS IN LIEU OF TAXES FOR PUBLIC LANDS

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to allow payments in lieu of taxes for public lands which are within the McGregor Range.

The McGregor Range, totaling 608,394 acres, was originally withdrawn for military purposes in 1957. Since this time, the Department of Army has agreed that 271,000 acres could be a co-use area for livestock grazing under the management of the Bureau of Land Management. As a result, the Bureau of Land Management has managed 14 grazing units and offers them for public grazing yearly under an oral bidding system.

The Military Land Withdrawal Act of 1986 continued the withdrawal of McGregor Range for military purposes for 15 years, until 2001. As part of the withdrawal, the Secretary of the Interior was given 3 years to develop a multiple-use management plan for the area. I am pleased to report that the plan, known as the White Sands resource management plan amendment for McGregor Range, has been completed. It represents one of the first multiple-use plans in the Nation to meet Army and Bureau of Land Management management needs. I congratulate both the Bureau of Land Management and the Army for their diligence, especially for completion of the effort in such a timely fashion.

Due to the multiple-use status of the McGregor Range and the management role of the Bureau of Land Management, it is appropriate to make the lands eligible for payments in lieu of taxes to local governments. Similar payments are authorized for other lands owned by the United States including lands administered by the Secretary of the Interior through the Bureau of Land Management. This legislation would allow the Secretary of the Interior to make payments for the public lands encompassed within the McGregor Range.

Although this bill will allow the Secretary to make payments in lieu of taxes for lands within the McGregor Range, there will be no immediate benefit to Otero County which currently receives the maximum allowable payments. However, it is important to recognize the unique cooperative management of the area and provide the potential for the lands to receive payments in lieu of taxes.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENTS IN LIEU OF TAXES WITH RESPECT TO THE McGREGOR RANGE.

The McGregor Range, described in section 1(d)(2) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3458), which is comanaged by the Secretary of the Interior through the Bureau of Land Management under an agreement with the Secretary of the Army, shall be deemed to be land that the Secretary of the Interior administers through the Bureau of Land Management for the purposes of section 6901(1)(B) of title 31, United States Code.●

By Mr. WIRTH (for himself and Mr. GRAHAM):

S. 2433. A bill to establish a Financial Services Commission, and for others purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL SERVICES COMMISSION ACT

Mr. WIRTH. Mr. President, today, along with my good friend and colleague Senator GRAHAM, I am introducing the Financial Services Act of 1990. This legislation is similar to a proposal we introduced last Congress and seeks to implement a financial restructuring plan proposed by Mr. E. Gerald Corrigan, the president of the New York Federal Reserve Bank.

The 1980's were a time of rapid and significant change in the financial services industry. The development of new and innovative financial products and services, widespread use of new telecommunications and computer technologies, increasing internationalization of markets, and the blurring of distinctions between various sectors of the industry were all important features of the decade. The variety, volume, and speed of financial transactions have all increased dramatically in recent years.

We have also seen significant changes in the competitive position of the financial services industry, both at home and abroad. The rapid growth of foreign financial companies presents formidable challenges for U.S. corporations. For example, from 1981 to 1987, the number of foreign banking offices in the United States increased by 57 percent and foreign banks' share of U.S. banking assets moved up from 15 to 21 percent. We have witnessed similar trends in the securities industry and in overseas markets. Regulatory changes underway in Europe and Japan may soon provide further impetus to these developments.

Unfortunately, our financial regulatory structure has not kept pace with these changes. I am concerned that an outmoded regulatory framework may limit our ability to prevent, or adequately respond to, crises within the industry and has undermined the competitive position of our financial institutions. Mr. President, we need to modernize our financial laws to reflect the changes of recent years and to provide the flexibility to adapt to continued change in the future.

There are a number of issues that must be examined when we consider financial modernization legislation. Among the most important are:

The safety and soundness of our financial system, which is vital to assure public confidence and protect small investors;

Maintaining and enhancing our competitive position in both domestic and international markets;

Ensuring that our financial markets continue to be an efficient source of the capital that our businesses need to fuel long-term economic growth; and

Upgrading both the physical machinery and the human expertise necessary to help our markets effeciently move capital and information.

In recent years, Congress has considered but not passed financial restructuring legislation. Last Congress, for example, the Senate passed the Proxmire Financial Modernization Act during the 100th Congress. Unfortunately, the House of Representatives was unable to pass similar legislation. This stalemate was typical of the fate of attempts to enact comprehensive legislation in this area.

This inaction has led to piecemeal changes as regulators and the courts have stepped in to fill the void, in some cases making decisions of a nature that in the past had been left to Congress. For example, the Federal Reserve Board has permitted some banks to underwrite corporate debt and engage in insurance activities, and the Fed may soon permit some banks to underwrite equities.

We cannot afford to continue muddling through with piecemeal regulatory changes that struggle just to keep up with innovations in financial markets. The S&L crisis offers a vivid example of the potential costs. Although no specific cause can be cited for the

S&L crisis and a number of factors contributed to the industry's problems, the regulatory structure certainly didn't help. We all hope the S&L crisis will be an isolated event but I am concerned that a failure to take a comprehensive approach to financial modernization may eventually lead to problems in other sectors of the financial services industry.

In the past, much of the legislation we have considered has focused exclusively on expanding the powers and activities of financial institutions. But I believe determining which institutions can engage in which types of activities is only part of the equation. Other issues, such as the regulatory structure and deposit insurance reform, must also be considered in this debate. Focusing only on powers will keep regulators struggling to keep pace with events. What we need to do is adopt a structure to oversee our financial markets that can adapt to the markets as they evolve and change, and helps our financial system to create the capital needed for economic growth.

To address this concern, Senator GRAHAM and I are reintroducing the Financial Services Act because we believe the Corrigan plan offers such a structure. The legislation would establish a 15-member Financial Services Commission with nine voting members and 6 advisory members. The chairs of the national regulatory agencies, along with a chairman and vice chairman appointed by the President, would by voting members while the six advisory members would represent State regulators. The Commission would provide an umbrella supervisory structure over the financial industry. The Commission would determine the permissible activities, capital standards, and other regulatory requirements and safeguards for various types of financial institutions.

The Corrigan plan provides a framework for regulating banking and financial firms that engage in a variety of activities by providing for three types of diversified financial institutions. Such firms would, depending on their activities, be regulated as bank or thrift holding companies, financial holding companies, or commercial holding companies. Importantly, this approach would preserve the separation of banking and commerce. In addition, independent banks, thrifts, and other financial firms could continue to exist outside of this framework and engage in the activities permitted for similar institutions that are part of a holding company.

Bank or thrift holding companies could own and control banks or thrifts and engage in a broad range of financial services. Deposits in checking and savings accounts would be eligible for Federal deposit insurance. These holding companies, however, could not be controlled by a nonfinancial commercial concern. Nor could they engage in commercial activities.

Financial holding companies could not be owned by commercial firms. They could offer transaction accounts that are not eligible for Federal deposit insurance. These companies could become bank holding companies by acquiring a bank.

Commercial holding companies could engage in nonbank financial activities, along with commercial enterprises, but could not own or control a bank or thrift. They could, in some circumstances, offer certain types of uninsured transaction accounts through a financial affiliate. If a subsidiary or affiliate wished to offer an insured transaction account or engage in other banking activities they would have to sever ties with any commercial enterprise.

This approach would provide firms with the flexibility to choose their own place on the financial landscape and allow them to engage in a range of financial activities. In addition, by providing coordination between regulators, the Financial Services Commission could help resolve differences and disputes within the industry. For example, through the Commission, the SEC could have input input the regulatory treatment of securities issues or investments by banks. In this way, the Corrigan proposal would help regulators coordinate their policies in areas that cross traditional regulatory boundaries. In the future, we may need this flexibility as the market continues to create new products that further blur the distinctions between sectors of the financial services industry.

The ability of the Commission to apply consistent, equitable standards to different types of institutions that are involved in similar activities would help overcome an impediment that has often prevented the creation of a level playing field between competing sectors of the financial services industry. The increased flexibility of the framework would promote the international competitiveness of our financial firms and help both businesses and regulators to more quickly adjust to changes in the marketplace.

An important element of financial modernization is improving our electronic payments system. The increasing interdependencies between institutions and transactions, along with the provisional nature of many payments, makes financial institutions vulnerable to disruptions in the payment system. Like our regulatory structure, the present payments system has developed in an ad hoc manner. The system is made up of a variety of componenets that were not originally designed to work with each other and many of its key parts do not provide adequate reliability and backup capabilities.

To address these and other problems, the legislation would establish a National Electronic Payments Corporation to upgrade the payments system and facilitate large dollar financial transactions. This step would improve liquidity and confidence in the system. Access to the system would carry with it some degree of consolidated oversight as well as a requirement to maintain liquidity deposits. The Corporation would determine which entities would have access to the system. Again, improvements in the payments system will also help promote our international competitiveness in financial services.

Mr. President, the Senate Banking Committee will soon embark on a series of financial restructuring hearings. Senator GRAHAM and I are introducing the Financial Services Act because we believe the Corrigan proposal warrants careful attention and consideration as part of this debate. There are, however, several specific issues that the proposal does not address and we do not intend for this proposal to be our final word on this topic.

For example, the proposal does not discuss Federal deposit insurance reform, a question I believe must be a part of any comprehensive legislation. We may also wish to provide some mechanism to give Congress more input into the Financial Services Commission's determination of what activities will be permitted for various types of financial firms or holding companies, perhaps by requiring Congress to approve the Commission's initial recommendations before they can take effect. Of course, Congress, in any case, will retain ultimate authority in this area.

Mr. President, we do need comprehensive legislation to improve the efficiency and competitiveness of our financial markets, the safety and soundness of the financial system, and the flow of capital within the economy. I believe the Corrigan plan makes a significant contribution to discussion of these issues. I look forward to working with the chairman of the Banking Committee, Senator RIEGLE, the ranking member, Senator GARN, as well as my other colleagues on the committee and in the Senate as we again turn our attention to the important issues of modernizing our financial system.

Mr. GRAHAM. Mr. President, Senator WIRTH and I are re-introducing the Financial Service Commission Act which is almost identical to a bill we introduced November 20, 1987—S. 1891, the Financial Services Oversight Act.

We are re-introducing this legislation based upon many of the ideas set out in New York Federal Reserve Bank president, E. Gerald Corrigan's report entitled "Financial Market Structure: A Longer View."

This legislation looks at the entire edifice of banking and commercial money operations and provides a new framework for soundness and intelligent expansion.

This legislation designs a user friendly banking industry for the 21st century, the users of financial services all benefit from the increased competitiveness and security and availability of those services. The small depositor gets greater security. The government users—municipal bond financing for public projects—get a more competitive market. The corporate community can more readily access U.S. banks for its needs because those banks can be more active in the existing global financial market.

At present the traditional narrow lines of banking and commerce are blurring as the industry responds to change. Loopholes and court challenges and the variable nature of international and domestic economies have altered the landscape. While Congress has been involved in other issues, the world has not waited.

The past patchwork approach to change has not suited the competitive environment. Patches in a climate as volatile as the global financial markets are too risky. If we are to allow the industry to develop naturally without sacrificing security—then we must allow for more choices and we must provide for accountable regulation. The Congress must reassert its traditional primary role in establishing the structure of America's financial systems.

The Financial Services Commission Act will create a 15-member Financial Services Commission made up of both private and public sector. The commission will be made up of nine voting members from the national financial regulatory agencies and six advisory members representative of State regulators. The commission will act as an umbrella supervisory structure.

Among other things—under that structure banking and commerce would be kept separate but financial institutions could engage in a broader range of financial services. Commercial holding companies could not own or control a bank but they could engage in all nonbank activities. Financial holding companies could not be owned by a commercial firm. They could offer transaction accounts but would not be eligible for Federal insurance. However, if they chose to own and control an insured bank or thrift, they could shift their status to that of a bank holding company. The act would terminate the grandfather status of nonbank banks and amend sections 20 and 32 of the Glass-Steagall Act.

It would also set up a National Electronic Payments Corporation to coordinate and speed up existing technologies to facilitate large dollar transactions and to increase liquidity and safety in electronic payments.

We are confident the bill will encourage the kind of probing and exhaustive consideration of the future of our financial industries which an architectural approach demands.

Whether or not it survives as a piece of legislation the Financial Services Commission Act will start the discussion and debate and for the American consumer and the financial industry the debate should conclude with a realistic and contemporary, secure and prudently regulated system to provide America's financial services—now and well into the 21st century.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE FINANCIAL SERVICES COMMISSION ACT

(Based upon "Financial Market Structure: A Longer View" by E. Gerald Corrigan, President, Federal Reserve Bank of New York)

A. PURPOSE OF THIS ACT

The purpose of this Act is to preserve and strengthen the regulatory and supervisory frameworks and the public safety net surrounding banking and finance;

To respond to functional—rather than institutional distinctions—by ensuring an appropriate degree of consolidated supervision of diversified financial services;

To protect depositors, policy holders and investors by ensuring the integrity of institutions and markets, by providing safeguards from excessive risk, and by ensuring the banking and financial system exercises its fiduciary responsibility with respect to maintaining the value of financial investments;

To assure fairness in accessiblity of capital and credit, ensure impartial credit decisions, promote balanced distributions of credit in the marketplace, preserve competitive equity and market efficiency,

And prevent conflicts of interest, concentration of financial resources and unfair competitive practices.

B. TITLE I—CREATION OF THE FINANCIAL SERVICES COMMISSION

Membership: The Commission shall be made up of 9 voting members who will appoint an advisory council made up of at least 6 advisory members. The nine voting members are made up of the national financial regulatory agencies. The advisory members represent the state regulators who will participate fully in all discussions of the Commission. No rule will take effect until the advisory members have had time to comment.

Duties: The duties of the Commission will be to promulgate regulations defining the types of activities in which bank holding companies, financial holding companies, and commercial holding companies may engage and to assure that transactions between financial services subsidiaries of all holding companies are conducted in an appropriate manner to reflect the purposes of this Act; to take appropriate action to enforce compliance with such regulations either directly or through referrals to primary regulatory agencies; to establish minimum standards of capital adequacy for financial holding companies and their affiliates; to coordinate its activities with the rulemaking and enforcement activities of other Federal and State agencies; and to consult with the advisory members.

Permissible Activities: Describes the powers of bank holding companies, financial holding companies and commercial holding companies and preserves the separation of banking from commerce.

Bank holding companies could own and control one or more banks or thrifts and could engage in a broad range of financial services but could not be owned or controlled by a nonfinancial-commercial concern nor be engaged in "nonfinancial" activities.

Financial holding companies could not be owned by a commercial firm; they could offer noninsured transaction accounts; at their option, they could obtain access to the payments system and in that process gain limited access to the discount window; and in such circumstances, be subject to interest earning liquidity reserves. A financial holding company could also choose, at its option, to own and control insured banks and thrifts thereby voluntarily shifting its status to a bank or thrift holding company.

Commercial holding companies may engage in any commercial enterprise they choose and may also engage in nonbank financial activities. Commercial holding companies may not own or control a bank or thrift, and are barred from any direct access to the payments system and may not receive liquidity assistance from the central bank.

Enforcement and Regulatory Jurisdiction: Pending or actual violations will be referred to the current primary regulator in most cases. The Commission would coordinate the regulation of the Financial and Commercial Holding Companies. If violations are found by the primary regulatory, he can require divestiture with respect to the conduct of any activity which violates the Commission's rules or regulations, impose additional capital requirements, or issue an order to cease and desist.

Powers of the Commission: Enables the Commission to do what is necessary and commensurate to carry out the powers of this Act.

C. TITLE II AMENDMENTS TO BANKING AND SECURITIES LAWS

Amends the bank holding company act and the securities laws to effect the purposes of this Act by:

Terminates the grandfather status of nonbank banks;

Amends the Bank Holding Company Act to allow banks to engage in regulations allowed by the Commission;

Amends the National Housing Act to eliminate the unitary thrift holding company status;

Amends the Federal Reserve Act to permit the expansion of the imposition of reserves on transaction accounts, provides for the maintenance of liquidity reserve balance for shareholders in the National Electronic Payments Corp. on which the Fed will pay interest and repeals the payment of interest on demand deposits;

Amends the International Banking Act to say that foreign banks who are major users of the National Electronic Payments Corp. may be required to set up subsidiaries after a hearing by the Corporation; and

Amends Sections 20 and 32 of the Glass-Steagall Act.

D. TITLE III—NATIONAL ELECTRONIC PAYMENTS CORPORATION

Purpose: The purpose of this title is to provide capital needed to modernize the large dollar electronic payments system; to speed its operation; to increase liquidity associated with its operation; to provide a vehicle through which public and private institutions can work together in securing a safer and more efficient payments mechanism; and to establish a vehicle which can materially reduce the susceptibility of the payments system to shocks whether they are operational, liquidity, or credit in nature.

Duties: The National Electronic Payments Corporation shall consist of 7 members, 4 members selected by the Board of Directors of the Corporation and 3 members selected by the private shareholders of the Corporation.

The Corporation shall establish, operate, and maintain a national electronic payments system to facilitate large dollar transactions, funds transfers, and transfers of book entry U.S. Government securities, drawn on accounts at Federal Reserve banks;

Promulgate and enforce policies governing standards for utilization of the national electronic payments system including requirements for the maintenance of liquidity balances in Federal Reserve banks, including a stock subscription requirement;

Provide for the improvement to telecommunications facilities including backup and bypass facilities;

Prescribe procedures relating to the operation of the system, including those that deal with intraday overdrafts.

Establish mechanisms to monitor and control the financial and operational security of the payments system.

Access to the System: The Corporation will invite participation of those organizations which deal in large volumes of funds and government securities. The Corporation may limit access to the payment system to only those organizations which are shareholders and which have established adequate reserve balances in Federal Reserve banks.

Reports to Congress: The Corporation shall send an annual report to Congress on its activities during the preceding fiscal year.

By Mr. DOLE (for Mr. D'AMATO) (for himself, Mr. DECONCINI, Mr. WILSON, Mr. MCCONNELL, and Mr. COATS).

S. 2434. A bill to permit the implementation of the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance; to the Committee on Commerce, Science, and Transportation.

PERMITTING DRUG TESTING FOR TRANSIT WORKERS

Mr. D'AMATO. Mr. President, I rise today, along with my distinguished colleagues Senators DECONCINI, WILSON, and MCCONNELL, to introduce a bill to permit the U.S. Urban Mass Transportation Administration [UMTA] to reissue its drug testing rule for transit workers in safety sensitive positions. I believe that such testing is necessary to ensure the safety of transit riders and workers.

UMTA had issued a drug testing rule on December 21, 1989, but it was struck down by the U.S. Court of Appeals for the District of Columbia on January 19, 1990. The court held that UMTA lacked the statutory authority to issue this rule. It said that UMTA's enabling statute did not give it the legal authority to issue "uniform national criteria" to be imposed on local transit authorities.

UMTA needs the power to reissue this important rule. Working with Secretary Skinner, I have drafted a bill to accomplish that goal. Without changing the UMTA statute, which I intend to propose amending during the UMTA program's reauthorizaton next year in the Senate Banking Committee, my bill simply gives UMTA the power to reissue its rule despite the problem with its statute. It is vital that UMTA have this authority. during just the brief month that UMTA's rule was in effect, 3 to 5 percent of the drug tests taken were positive—and these were mainly preemployment, not random tests.

This rule would cover about 195,000 transit workers in safety sensitive jobs and their firstline supervisors. The rule includes five kinds of tests: preemployment, reasonable cause, postaccident, return-to-work, and random. It would test for five drugs: PCP, marijuana, opiates, cocaine, and amphetamine.

Transit authorities would be required to implement programs to meet four requirements:

First, a policy statement on drug use in the workplace;

Second, employee/supervisor education and training program;

Third, Drug Testing Program for employees and applicants in safety sensitive positions and

Fourth, administrative duties such as, recordkeeping, reporting, confidentiality, and certification of compliance.

I believe that the rule safeguards employees' rights. Transit grantees would be required to use U.S. Department of Health and Human Services certified labs. Employees would be permitted to submit blind samples to assure accuracy, and qualified medical officers would review test results. Positive results would be retested using different techniques. Employees would be notified first of positive results and then given the opportunity to explain them. Persons testing positive would not automatically be fired, but would be removed from saftey sensitive jobs until they no longer tested positive. Rehabilitation is not required by the rule, but can be included in grantees' programs under local labor-management agreements.

At this time, the UMTA rule does not cover testing for alcohol use. However, it does not preclude grantees from enacting alcohol testing rules on their own. DOT has issued an advance notice of proposed rulemaking on alcohol testing, and is awaiting public comments.

Accurate figures are not available on how many mass transportation accidents may have been caused by persons who use illegal drugs. However, we can look at a few recent examples:

First, in Philadelphia, transit operators tested positive for drug or alcohol use in six major accidents in 1986–90 involving at least 183 injuries and 3 deaths. The most recent accident occurred on March 7;

Second, in Cleveland on January 17, a supervisor and a driver/trainee smashed a transit vehicle into construction equipment—they tested positive for illegal drug use;

Third, in 1985, two Miami transit trains collided injuring 16 people and causing $1.6 million in property damage—one operator tested positive for marijuana, cocaine, and valium;

Fourth, a 1988, a Metro-North commuter train, crashed into a stationary train in the Bronx killing the engineer and injuring two workers—the engineer, who was killed, tested positive for marijuana use and four other employees involved in the accident tested positive for morphine, marijuana, and butalbital; and

Fifth, on February 17, 1987, an empty Metro-North train crashed into a crowded train injuring 30 people—the engineer tested positive for marijuana.

The Federal Railroad Administration has its own drug testing rules. In 1988, after the January 1987 Amtrak-Conrail crash killed 16 people, it found that train accidents involving drug/alcohol use had been occurring at the rate of 1 every 10 days. Over a 16-month period from 1987 to May 1988, those accidents resulted in 30 deaths and 335 injuries. It is possible that the drug problem in mass transit bears some relationship with the problem experienced by the railroad industry.

Mr. President, the Federal Government has drug testing rules in final stages for aviation, highways, maritime, railroads, Coast Guard and pipeline workers. UMTA's rule is the only one struck down by the courts. Although some local transit authorities have issued their own drug testing rules—such as the MTA and SEPTA in Philadelphia—not all have, and this legislation is needed to protect public safety.

Mr. President, I urge my colleagues to suppport this bill and to press for its early passage.

Thank you, Mr. President.

By Mr. GRAHAM:

S. 2435. A bill to establish within the U.S. Information Agency the Andrei Sakharov Educational Exchange Program; to the Committee on Foreign Relations.

ANDREI SAKHAROV EDUCATIONAL EXCHANGE ACT

Mr. GRAHAM. Mr. President, I am introducing legislation today that would establish a graduate education exchange program with the Soviet Union in the areas of environment and health sciences.

I am proposing to name this program in honor of Dr. Andrei Sakharov, that great humanitarian who passed away last year.

Sakharov knew that both countries face serious environment and health problems. He also knew that scientific cooperation rather than competition was the surest route to finding solutions to these problems.

Under this program, cooperation would come in the form of a student exchange on the graduate level. As part of this effort, we intend to establish linkages between universities in both countries. We will work to identify study priorities and target efforts to take advantage of the research strengths of each country.

The program would fall under the supervision of the Bureau of Educational and Cultural Affairs at the U.S. Information Agency.

Both the Soviet Union and the United States have much to learn and much to offer each other in environment and health studies. The Soviets, for example, are particularly strong in several key health areas.

They have made impressive strides in the areas of orthopedics, cancer research, ophthalmology, laser surgery, and other surgical methods.

They also are conducting cutting-edge research in the areas of hypotherapy, biofeedback, artificial organs, and the retardation of bone decalcification.

We in turn can offer the Soviets high-quality graduate work in virtually all areas of health and environmental studies.

In fact, we have a long history of scientific cooperation with the Soviet Union. Former Member of Congress James Symington has written that our scientific dialog with Russia preceded not only our diplomatic dialog, but our nationhood.

It began in the 1760's, when Benjamin Franklin joined his friend Ezra Stiles in corresponding with members of the St. Petersburg Academy of Sciences about their works on magnetism, electricity, and freezing of mercury.

It continued when Robert Fulton helped the Russians design and construct the first Russian steamboat and continued more recently in the past decade when American and Soviet medical scientists jointly studied rheumatoid arthritis in children.

This is the kind of cooperation Sakharov envisioned building on. Despite all the sorrow and upheaval he saw during his long life, Andrei Sakharov possessed an optimism that comes with wisdom—wisdom gained through a life of generosity, sensitivity, learning, and activism.

He was convinced that despite man's many weaknesses man could rise above them and by so doing improve himself and the world in which he lives.

That is the kind of optimism and vision that moves people. I know because it certainly inspired me when I met Dr. Sakharov during a visit to the Soviet Union in 1988.

Indeed, this exchange program is really his idea. After having visited, with other Members of the Senate, a Soviet research academy, at that evening's dinner held at the Ambassador's residence in Moscow, I asked Dr. Sakharov what he felt would be appropriate areas in which the United States and the Soviet Union could cooperate for our mutual benefit.

Dr. Sakharov was convinced that the human condition can be—and should be—enhanced through cooperation and learning.

It is upon this vision that I hope we can build a program that will lighten the burden for both countries.

I ask unanimous consent to print the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Andrei Sakharov Educational Exchange Act of 1990".

SEC. 2. AMENDMENT OF THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961.

Section 112(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)) is amended so that a section (10) is added to section 112(a), which will read as follows:

§ 2460. Bureau of Educational and Cultural Affairs

(a) ESTABLISHMENT; RESPONSIBILITIES.—In order to carry out the purposes of this chapter, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs, established pursuant to this chapter, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 2452(a)(1) of this title;

(2) the Hubert H. Humphrey Fellowship Program which finances (A) study at American universities and institutions of higher learning, including study in degree granting programs, and (B) participation in fellowships, internships, or other programs in American governmental and nongovernmental institutions for public managers and other individuals from developing countries;

(3) the International Visitors Program which provides grants for short-term visits to the United States for foreign nationals who are, or have the potential to be, leaders in their respective fields in their own countries;

(4) the American Cultural Centers and Libraries which make available at selected foreign locations, books, films, sound recordings, and other materials about the United States, its people and culture, and about other topics;

(5) the American Overseas Schools Program which provides financial assistance to the operations of American-sponsored schools overseas;

(6) the American Studies Program which fosters and supports the study of the United States, and its people and culture, in foreign countries;

(7) a program of working with private, not-for-profit groups through contracts, grants, or cooperative agreements, as authorized by section 2452 of this title, so as to provide financial assistance to nongovernmental organizations engaged in implementing and enhancing exchange-of-persons programs;

(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a) [section 1141(a) of Title 20, Education])) who have not received their initial baccalaureate degree;

(9) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists, in other countries; and

"(10) the Andrei Sakharov Educational Exchange Program to further cooperation between the United States and the Soviet Union in the fields of environmental protection and the health sciences through the exchange of graduate students.".

By Mr. CRANSTON (for himself, Mr. PELL, Mr. BOREN, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 2436. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1992, to provide for limited exceptions to the limitation on reemployment by the Peace Corps, and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS OF 1990

Mr. CRANSTON. Mr. President, today I am introducing S. 2436, legislation to extend the authorization of appropriations for the Peace Corps through fiscal years 1991 and 1992—at levels that would enable the Peace Corps to continue making progress toward achieving the congressionally established goal of a Peace Corps volunteer strength of 10,000, as enacted in section 1102 of the International Security and Development Cooperation Act of 1985, Public Law 99-83.

The bill would also provide for a limited number of exemptions from current restrictions on reemployment of Peace Corps employees and establish a foreign currency fluctuations account from which the Peace Corps could draw when the costs of its operations increase as a result of a decline in the value of the U.S. dollar.

Joining me in introducing this measure are the chairman of the Foreign Relations Committee, Senator PELL, and Senators BOREN, ROCKEFELLER, and DECONCINI, all strong Peace Corps supporters.

For more than 28 years, Peace Corps volunteers have promoted international peace and friendship by helping persons in many nations overcome the often harsh circumstances of their lives. Since the Peace Corps' establishment in 1961, over 130,000 American men and women have served as volunteers in 100 nations around the world. Of this total, I am terribly proud that 17,191 enthusiastic and dedicated individuals have volunteered from California.

The unique work of Peace Corps volunteers has been in demand more than ever this year due to recent events in Eastern Europe—an area of the world to which the Peace Corps has not previously been invited. Following the dramatic changes in Hungary, Poland, Czechoslovakia, Romania, and East Germany, the Peace Corps has received requests for volunteers from these countries. These assignments would highlight the special value of Peace Corps volunteers as not only teachers but as cultural and personal links between very different worlds. Their upcoming entry into Eastern Europe is amost exciting development.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, section 2 of our bill would amend section 3 of the Peace Corps Act to authorize Peace Corps appropriations of $197,800,000 for fiscal year 1991 and $210,900,000 for fiscal year 1992. As I mentioned earlier, these funding levels are essential if the Peace Corps is to continue progress toward achieving the congressionally established goal of a 10,000-volunteer strength. As the Senate author of this goal, I believe very strongly that Congress should provide the funding necessary to enable the Peace Corps to make steady progress toward realizing this goal.

Following the establishment of the 10,000-volunteer goal, I and the leadership and several members of the Senate Foreign Relations Committee and of the House Foreign Affairs Committee, requested that Loret Ruppe, then-Director of the Peace Corps, develop a phased, realistic, and programmatically appropriate plan to meet that goal. Director Ruppe's original plan, submitted to Congress on March 5, 1986, provided a blueprint for moderate Peace Corps growth through the end of this decade and into the beginning of the 1990's. Since then, I and my colleagues on the Senate Foreign Relations and Appropriations Committees—as well as the full Senate—have generally followed the funding levels called for in that plan in legislation authorizing and providing Peace Corps appropriations.

However, Mr. President, in fiscal years 1989 and 1990, the amounts contained in the final Peace Corps appropriations have, when combined with the effects of sequestration, made the actual funding available for the Peace Corps $3.5 million and $7.2 million, respectively, short of the funding called for in the Director's original 10,000-volunteer plan. In addition, the effects of inflation in the United States and deflation of the dollar in foreign markets is an additional cause of a shortfall in funding for the Peace Corps from the target program levels set. Thus, the actual funding has not sustained a rate of growth that the authors of the congressionally mandated goal had hoped for.

For this reason, we have adopted in this year's legislation the funding levels contained in a revised plan which we requested and which Director Ruppe submitted on April 17, 1987. This revised plan, which I mentioned last year when introducing similar legislation, presents a more accurate estimate of the appropriations Peace Corps truly needs in view of experience under levels in the original plan. The shortfalls I have outlined make it necessary to switch over to the levels contained in the revised plan in order to make meaningful progress and to avoid turning away enthusiastic volunteers and deserving host countries.

Mr. President, I ask unanimous consent that the April 17, 1987, letter from Director Ruppe setting forth the revised plan and our letter of March 11, 1987, requesting the revision be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PEACE CORPS,
Washington, DC, April 17, 1987.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your earlier letter requesting an update to the plan submitted last year for attaining a volunteer strength of 10,000. We continue to feel very strongly that such an increase would be very much in the best interests of overall U.S. Foreign policy. We also recognize, of course, that any such plan must conform to national economic planning objectives.

As you know, the original plan reflected assumptions about funding levels for FY 1987 which did not occur. The impact of lower funding levels this year would normally be seen in lower volunteer levels in FY 1988 and FY 1989. We feel that these reductions can be minimized by a more rapid increase in our trainee levels in these two years, but some impact on total volunteer levels will be inevitable.

We estimate that the annualized impact of the Federal Employees' Retirement System (FERS) and the 1987 and 1988 pay raises to be between $2.5 million and $3.4 million. We estimate that FAAS costs will rise by between $.3 million and $2.3 million between now and 1992, while FECA costs will rise by between $1 million and $3 million. Other uncontrollables (rents, mail, severance pay, and communications) are projected to increase by between $1 million and $4 million. Estimates of the impact of currency revaluations and in-country inflation are, as you know, dependent on both the international trade situation and the economic situation in each country in which we serve, and are therefore very difficult to predict. If we assume roughly the status quo, we would project a need for roughly $2 million each year to preclude a reduction in real dollars available for our programs.

The net effect of these projections, partially offset in FY 1987 and FY 1988 by lower volunteer levels, would be to revise the budget requirements identified in our original plan, as follows:

[In millions of dollars]

	Original plan	Revision
Fiscal year:		
1988	146.2	149.4
1989	157.0	164.7
1990	172.8	182.4
1991	185.3	197.8
1992	196.2	210.9

We are continually seeking ways to reduce our operating costs, so some reductions to these estimates may be possible. As with any projections so far into the future, our revised plan reflects our best estimates of future costs, assuming that authorizations and appropriations will occur in a timely enough fashion to permit effective planning for orderly growth.

We would be happy to answer any questions you may have about these revisions. We greatly appreciate your continued interest in Peace Corps' programs. We completely agree that the long range value to the United States of our continued people-to-people support to the developing world can not be overestimated.

Sincerely,

LORET MILLER RUPPE,
Director

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 11, 1987.

Hon. LORET MILLER RUPPE,
Director, Peace Corps, 806 Connecticut Avenue NW., Washington, DC.

DEAR LORET: We are writing in connection with the plan you developed last year to achieve the Congressionally-mandated goal of a Peace Corps volunteer strength of 10,000 individuals.

As you are well aware, following enactment of legislation contained in section 1102 of Public Law 99-83, establishing the 10,000 volunteer strength goal, we, along with a number of members of the authorizing and appropriating committees of both the House and Senate, requested that you prepare a detailed plan on how to achieve that growth in a phased and orderly manner within present stringent budgetary limitations. Your plan, submitted on March 5,

1986, was extraordinarily helpful in providing guidance to our efforts in the 99th Congress to secure the legislative changes to start on the path toward achieving this growth in volunteer strength.

As we renew those efforts in the new Congress, we would appreciate your providing us with an update of the plan, taking into account FY 1987 staff salary increases, those estimated for FY 1988, increase in Peace Corps' fixed costs, FERS costs, and fluctuations in international currency exchange rates.

We look forward to working with you on this and other matters aimed at strengthening and improving the Peace Corps.

With every good wish.

Ever sincerely,

CHRISTOPHER J. DODD,
Chairman, Subcommittee on Western Hemisphere Affairs.
CLAIBORNE PELL,
Chairman.
ALAN CRANSTON,
Chairman, Subcommittee on East Asian and Pacific Affairs.

Mr. CRANSTON. Mr. President, one final note on the authorization levels in this legislation. Each year my colleagues and I have introduced legislation to provide authorizations for the coming 2 fiscal years. I believe the time has come to change from annual appropriations and to provide Peace Corps appropriations on the basis of a 2-year cycle. The annual struggle for funding for the 1 upcoming fiscal year substantially impedes Peace Corps operations and planning. When the Peace Corps makes plans to enter a new country or accept a new group of volunteers, the agency is making a commitment of at least 2 years to both the country and the volunteers. Requiring a wait-and-see approach to funding each year causes underutilization of resources and a failure to achieve steady and well-planned growth. In order to avoid these problems, I urge my colleagues on the Appropriations Committees as well as the President to provide at least a 2-year appropriation cycle for the Peace Corps; by providing for a 2-year appropriation this year, a cycle could be established whereby the Peace Corps would be forward funded hereafter.

I believe that the Peace Corps has just as vital a mission today as it did in 1961. We must continue to give our support to the Peace Corps' mission and volunteers who embody the highest ideals and spirit of our country in promoting world peace and understanding.

FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

Mr. President, as I mentioned earlier in my statement, one significant factor in the slowed growth toward the 10,000 volunteer goal has been the decreased value of Peace Corps funding due to foreign currency fluctuations.

In a February 27, 1989, letter to me, then-Peace Corps Director Ruppe stated that, due to the falling dollar, $1.8 million was lost in fiscal year 1988. The Peace Corps has recently advised that, in 1989, $1.5 million was lost to foreign currency fluctuations and an estimated $2 million will be lost in fiscal year 1990. In order to avoid such losses in the future, section 4 of our bill would establish a foreign currency fluctuations account for the Peace Corps—patterned after similar accounts established for the Departments of Defense and State in 10 U.S.C. 2779 and 22 U.S.C. 2696, respectively, and for the American Battle Monuments Commission in 36 U.S.C. 138c—and would authorize appropriations of amounts sufficient to maintain a balance of $5 million in the account. Such a foreign currency fluctuations account would help to ensure that, by stabilizing Peace Corps fiscal support, the congressionally intended levels of program operations are achieved. The account would provide a mechanism for redistributing savings realized in certain years when the value of the dollar has risen to offset losses in other years in which the dollar has dropped.

This provision is identical to section 1103 of S. 1347 as reported by the Foreign Relations Committee on July 18, 1989 (S. Rept. 101-80).

Mr. President, I ask unanimous consent that a copy of Director Ruppe's February 27, 1989 letter, which expresses support for this approach, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PEACE CORPS,
OFFICE OF THE DIRECTOR,
Washington, DC, February 27, 1989.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: As you requested, enclosed is information relative to the establishment of a currency fluctuation account for the Peace Corps. Should such an account be established, Peace Corps would benefit in three ways:

It will help alleviate program erosion. Currently, funds that could be used for program growth are reduced because we must pay exchange rate losses out of our annual appropriation. For example, in FY'87 we estimated a loss of $3.2 million, FY'88 $1.8 million, FY'89 $3.0 million, and in FY'90 $3.4 million. The most vulnerable are our West African countries whose economies are based on the Franc. In the first quarter of FY'87, the dollar's devaluation in West Africa caused an $800,000 shortfall.

A fluctuation account will provide an efficient mechanism to centrally redistribute funds as needed. Should the legislation require that the fund be replenished, savings in Peace Corps countries where the dollar is strong could be used to offset losses in countries where the dollar is weak.

By having a multi-year account, the Peace Corps could potentially stabilize fluctuation by being able to plan and budget across fiscal years. If for example, exchanges are favorable in FY'89, the Peace Corps could use these savings in FY'90.

Attached is a summary data sheet for the Philippines which illustrates which expenses are most vulnerable to foreign currency fluctuation. Also attached is a report on uncontrollable expenses for FY'89 and FY'90.

In reference to your inquiry regarding the in-and-out rule, the major justification for its adjustment to a maximum of 2½ years out before rehire, is that it would afford more excellent employees the opportunity to return to the agency with expanded knowledge and skills. As it currently stands, American Peace Corps employees above the GS 8 grade level, must leave the agency for as long as they were employees, thus making it almost impossible for some of our brightest and best to return.

Please let me know if you need more detailed information on the impact of currency fluctuations on our budget or further details relative to a shortened in-and-out rule.

With best wishes,

Sincerely,

LORET MILLER RUPPE,
Director.

Enclosures.

[From the Peace Corps, Nov. 2, 1988]

SUMMARY DATA SHEET

Additional detail on inflation and exchange rate projections.

The overseas inflation and exchange rate calculation is based upon: individual country budget submissions, and forecasts issued by the Department of State. The individual country budget submissions identify the portions of the budget which are subject to local currency fluctuations and inflation.

The estimate included in Peace Corps current services budget submission reflects a worldwide average of 6.7 percent of affected program dollars, such as, FN salaries and benefits, rents, communications and utilities, volunteer support costs and all other items procured on the local market. The exposure rates vary slightly from post to post depending on the local availability of goods and services. A sample country budget request is attached.

SUMMARY DATA SHEET—APPROPRIATED FUNDS FOR THE PHILIPPINES—FISCAL YEAR 1989

[Exchange rate used for budget United States dollars = Pesos 21.00]

	Exposure rate	Budget
Program support:		
FP salaries	0.0	275.7
FP benefits	0.0	79.1
FN benefits	1.0	109.4
FN benefits	1.0	22.7
Other salaries	0.0	0.0
Other benefits	0.0	0.0
ED/Dep Travel	0.0	0.0
In-CTY trvl	0.0	0.0
Intrnl travel	0.0	0.0
Trnsp things	0.0	0.0
Rnt, CM, UT	0.9	109.0
Prntg and Rep	0.0	0.0
Other Svcs	1.0	101.8
Supplies	1.0	13.2
Equipment	0.0	0.0
Clms and Indem	0.0	0.0
Program support total		710.9
Volunteer operations preservice training:		
Trainer salary	0.4	56.0
Trainer benefits	0.8	2.4
Trainer travel	0.7	26.6
Trainee costs	0.0	15.2
Trainee travel	0.7	61.4
Transpt things	1.0	3.8
RNT, CM, UT	1.0	2.0
Printing and Rep	1.0	7.0
Other services	1.0	88.3
Supplies	0.8	9.7
Equipment	0.6	9.3

SUMMARY DATA SHEET—APPROPRIATED FUNDS FOR THE PHILIPPINES—FISCAL YEAR 1989—Continued

[Exchange rate used for budget United States dollars=Pesos 21.00]

	Exposure rate	Budget
Claims and indem	0.0	0.0
Preservice training total		281.7
In-service training and conference:		
Trainer salaries	0.9	99.5
Trainer benefits	1.0	4.4
Trainer travel	1.0	93.6
Vol tutoring	1.0	6.1
Vol costs		
Vol travel	1.0	43.8
RNT, CM, UT	1.0	8.0
Printing and rep	0.0	0.0
Other services	1.0	181.6
Supplies	0.6	6.9
Equipment	1.0	3.5
In-service training total		447.4
Volunteer support:		
Settling allow	1.0	27.3
Leave allow	0.0	94.1
Living allow	1.0	459.2
Cos/ET travel	0.0	104.5
Extnsn travel	0.0	20.0
In-Cty travel	1.0	156.8
Tramp things	1.0	3.0
RNT, CM, UT	0.9	82.9
Printing and Rep	1.0	10.0
Other Services	1.0	39.1
Supplies	0.7	150.9
Equipment	0.7	52.5
Medical travel	1.0	68.6
TSP things Med	0.0	0.0
Other SVC Med	0.3	137.3
Supplies Medical	0.3	87.9
Equipment Med	0.0	0.0
Clms and Indem	0.0	0.0
Volunteer support total		1,494.1
Volunteer OPS total		2,223.2
Total country budget		2,934.1

PEACE CORPS UNCONTROLLABLE EXPENSES

	Fiscal years—				
	1988	1989	1989 Inc/ (Dec)	1990	1990 Inc/ (Dec)
FAAS	2,900	3,300	400	3,650	350
GSA rents	3,354	4,613	1,259	4,752	139
Communications	1,586	1,037	(549)	1,037	0
Term lv/sev/unempl	620	1,058	438	1,260	202
FECA:					
Staff	262	212	(50)	207	(5)
Volunteer	4,753	5,621	868	6,025	584
Penalty mail	764	828	64	833	5
Total	14,239	16,669	2,430	17,944	1,275
INCREASE ONLY					
Fiscal year 1988 pay raise			196		
Fiscal year 1989 pay raise			1,200		400
Retirement-related increases			525		351
Inf/Exch rate			2,970		3,400
Total increases			7,321		5,426

PEACE CORPS EMPLOYEES

Mr. CRANSTON. Mr. President, under legislation enacted in 1965—in section 7(a) of the Peace Corps Act, 22 U.S.C. 2506(a)—Peace Corps employees are generally precluded from serving for more than a period of 5 consecutive years, normally consisting of two consecutive, 30-month appointments, with the exception that the Director of the Peace Corps may personally grant 1-year extensions in individual cases where the Director finds that special circumstances warrant the extension.

Additionally, under 1985 amendments to section 7(a) which I authored, service for a third 30-month tour is currently authorized for exceptional employees—not to exceed 15 percent of the Peace Corps' U.S. citizen employees—in certain specified circumstances in which the individual's extended service would be particularly valuable to the Peace Corps. Such appointments were given to 11, 28, 24, and 12 employees in fiscal years 1986, 1987, 1988, and 1989, respectively—far short of the 15-percent ceiling.

An essential corollary to these limits is a rule—known as the in-out rule—which prescribes how long an employee must remain outside Peace Corps employment before being reemployed. Under current law, the rule is that the former employee is ineligible for reemployment for a period of time equal to the length of his or her previous period of employment.

These limits on length of employment and in-out rule are intended to prevent Peace Corps employment from becoming a career unto itself and to ensure that turnover in employment provides a substantial number of openings for former volunteers to return to Peace Corps employment with new ideas and field experience. However, for those employees who have served for long periods—which now may extend to 6 years, 7½ years, and even 8½ years—the in-out rule can be unduly restrictive. From discussions with Peace Corps officials and others, I believe that a modification of this rule would be beneficial in affording a limited number of highly effective former employees whom the agency would like to rehire the opportunity to return to the Peace Corps while still maintaining the essential purpose and principal of the "in-out" rule.

Thus, section 3 of the bill would modify the rule to allow the Director of the Peace Corps to rehire a limited number of employees—no more than 5 percent of Peace Corps' U.S. employees—after a minimum of 30 consecutive months away from Peace Corps employment. The 5-percent limitation on this authority was requested by current Peace Corps Corps Director Paul Coverdell, who was confirmed last year, after a similar provision with no limitation was introduced in S. 487 and incorporated into S. 1347 as reported by the Foreign Relations Committee. I was willing to add this limitation in exchange for the Director's agreement to the basic intent of the provision to allow qualified individuals to return to Peace Corps employment more easily while preserving at the same time the spirit of the 5-year rule.

PEACE CORPS NAME

One final feature of the bill designed to ensure that the special value and magic symbolism of the name "Peace Corps" is maintained. Section 2 of the bill prohibits the use of any funds authorized by this legislation to be used to refer within the United States to the Peace Corps by any name other than "the Peace Corps." I know of no more generally positive set of words in our lexicon than "the Peace Corps." At home and abroad, these words generally stand for person-to-person communication, assistance, and understanding. They need no embellishment, clarification, or modification. Recent efforts to associate the program and its mission more closely with the U.S. Government or U.S. foreign policy or just the United States are not only superfluous but counter to the best interests of the program and its historic traditions.

CONCLUSION

Mr. President, of all the international efforts we can make to achieve world peace and understanding, there is no greater contribution than that which the American people make through the Peace Corps. Our investment in the Peace Corps is small compared to the benefits here at home as well as abroad. We must ensure that the Peace Corps stays on the path we have forged thus far toward the 10,000-volunteer goal while we continue to search out ways to improve Peace Corps operations and administration.

I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Peace Corps Act Amendments of 1990".

SEC. 2. APPROPRIATONS FOR THE PEACE CORPS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appointed to carry out the purposes of this Act $197,800,000 for fiscal year 1991 and $210,900,000 for fiscal year 1992. No funds appropriated to carry out such purposes may be used to refer within the United States to the Peace Corps by a name other then the official name of the agency provided by this Act.".

SEC. 3. PERIOD OF INELIGIBILITY FOR PEACE CORPS REEMPLOYMENT.

(a) AUTHORITY FOR EXCEPTION.—Section 7(a) of the Peace Corps Act (22 U.S.C. 2506(a)) is amended—

(1) by inserting before the period at the end ", except as provided in paragraph (7)"; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Notwithstanding the limitation set forth in paragraph (2)(B) on the reappointment or reassignment of former employees, the Director of the Peace Corps may appoint or assign an individual under para-

graph (2) before the expiration of a period of time equal to the preceding tour of duty of that individual if that individual's most recent appointment or assignment terminated more than 30 months earlier and the Director finds the individual to be of exceptional value to the Peace Corps. At no time may the number of appointments or assignments in effect under this paragraph exceed five percent of the total of all appointments and assignments of United States citizens then in effect under paragraph (2).".

(b) REPORTS.—Not later than January 1, 1991, the Director of the Peace Corps shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the criteria to be applied by the Director in exercising the authority provided by the amendment made by subsection (a). Not later than each January 1 thereafter, the Director shall submit to such Committees, as part of the annual report required by section 1103(b) of Public Law 99-83, a report on the exercise of such authority during the preceding fiscal year.

SEC. 4. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended by inserting after section 15 the following new section:

"FOREIGN CURRENCY FLUCTUATION ACCOUNT

"SEC. 16. (a) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) Funds transferred under subsection (a) shall be merged with and be available for the same time period as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the 2-fiscal-year period immediately succeeding the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the 2-fiscal-year period immediately succeeding the fiscal year for which appropriations for the expenses of the Peace Corps have been made available to the Peace Corps, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with and available for the same period and purposes as that account.

"(g) There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for a fiscal year such sums as are sufficient to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) The Director of the Peace Corps shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1990.

By Mr. JOHNSTON:

S. 2437. A bill to authorize the acquisition of certain lands in the State of Louisiana for inclusion in the Vicksburg National Military Park; to the Committee on Energy and Natural Resources.

RELATING TO THE VICKSBURG NATIONAL MILITARY PARK

● Mr. JOHNSTON. Mr. President, I am pleased today to introduce legislation to authorize the Secretary of the Interior to acquire a 2.5-acre parcel of land in Madison Parish, LA, for inclusion in the Vicksburg National Military Park.

This tract of land, known as the Grant's Canal property, contains the only remaining portion of the Grant's Canal dug by the Union Army in 1863 in an effort to change the course of the Mississippi River to bypass the confederate batteries at Vicksburg. In recognition of its historic significance, the National Park Service has identified this property for possible acquisition in the land protection plan for the Vicksburg National Park.

Now, because of the outstanding work of the conservation fund, a nonprofit conservation organization located in Arlington, VA, the inclusion of this property in the park boundary can now become a reality. Recently the conservation fund acquired this significant property by donation and, in turn, is prepared to donate this property to the Park Service upon the passage of the necessary authorizing legislation. The bill I am introducing today will allow this donation to the Park Service to take place.

Mr. President, I have received numerous letters from citizens of Louisiana expressing their desire to have this historically significant property protected. I am hopeful that we can enact this legislation expeditiously so that this important piece of Civil War history will be preserved for future generations to enjoy and appreciate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2437

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That—

(a) The Secretary of the Interior is authorized to acquire, by donation, exchange, or purchase with donated or appropriated funds, approximately 2.5 acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) Upon acquisition of the property referred to in subsection (a), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of the Vicksburg National Military Park to reflect the inclusion of these additional lands.

(c) The lands acquired pursuant to this Act shall be administered as a part of the Vicksburg National Military Park in accordance with all applicable laws and regulations.●

By Mr. BAUCUS:

S. 2438. A bill to amend title XVIII of the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to hospitals located in rural areas with 50 beds or fewer, to improve the delivery of health services to individuals residing in rural areas, and for other purposes; to the Committee on Finance.

FAIRNESS IN RURAL HEALTH CARE ACT OF 1990

● Mr. BAUCUS. Mr. President, I rise today to introduce the Fairness in Rural Health Care Act.

There is a popular assumption that rural health care is the same as urban health care, only smaller.

That assumption could not be further from the truth. Rural health care is in a very frail and perilous condition. Small rural hospitals, in particular, are struggling against staggering obstacles. One of those obstacles is Medicare's prospective payment system [PPS].

The Prospective Payment Assessment Commission [ProPAC] reported in testimony to the Finance Committee on March 22 that in 1988 rural hospitals with fewer than 50 beds, on average, had negative PPS operating margins of nearly 6 percent. By contrast, urban hospitals with more than 400 beds had positive operating margins of 6 percent. Since PPS began, over 300 small community hospitals across the country have been forced to close.

Mr. President, that's not fair. PPS clearly does not work for small rural hospitals. It is not that we have not tried to make PPS work for them. Every year we have made payment adjustments, increased the inflation update, and exempted some small

rural hospitals from cuts. In spite of all those efforts, rural hospitals are still losing—and those with fewer than 50 beds are losing the most, and the most consistently.

In my own State, we have about four hospitals for every 10,000 square miles. That's about one-fourth the national average. And every one of those hospitals is fighting for survival. Of Montana's 39 rural hospitals, only 6 broke even or made a profit last year. The other 33 operated in the red.

In Montana and other rural States, a sparse population spread out over a large area makes it a challenge to provide high quality, modern health care—and not go broke doing it. For small rural hospitals, Medicare payments are often the largest single source of funds. Therefore, how and how much Medicare pays for medical care is extremely important to maintaining the financial solvency of these hospitals. And their financial solvency is extremely important to their communities.

Mr. President, I've heard some people say "there are too many small, rural hospitals." They say rural hospitals are too small to be efficient; they duplicate services; and people don't want to go to them anyway.

Well, they're wrong.

Sweet Grass Community Hospital in Big Timber, MT, is a case in point. The hospital has only 15 beds and it has been losing money for a long time. But the people of Big Timber decided to take the bull by the horns and do something about it. They got together and figured out a way to keep their hospital open. They had a local fund drive and raised half a million dollars. All from the town of Big Timber, a community of about 2,000 people. They care enough about their hospital to keep it open themselves. With their own money. In spite of Medicare. In spite of the experts who say small, rural hospitals are obsolete.

I've heard of other examples like Big Timber, where people in a community open their wallets to keep their hospital alive. That says a lot about how much people value their local hospitals. There is a lot of change afoot in rural health care delivery, to be sure. But there is still not a good, viable alternative to the hospital model that people trust.

The idea behind PPS was to reduce health care costs by forcing hospitals to be more competitive, more efficient. That makes sense for big-city hospitals. But it doesn't work when there is no competition. For rural hospitals, the prospective payment system is the problem. It needs to be fixed.

Mr. President, my bill will give rural hospitals fewer than 50 beds the choice of opting out of PPS. Those who opt out will be reimbursed by Medicare according to their reasonable costs; that is, their payments will be subject to the lesser of cost or charges provisions in the statute now. Their choice will be binding for 3 years. Those hospitals which choose the non-PPS payment will also be exempt from capital payment reductions which most PPS hospitals undergo.

Very simply, this bill changes Medicare so that it pays small rural hospitals what it costs them to treat their Medicare patients. The American Hospital Association has endorsed this concept. The National Rural Health Association, in recent testimony before the Finance Committee, urged Congress to consider this approach.

The cost of this greatly needed change in Medicare is small, considering it will affect about 1,200 hospitals nationwide. A rough estimate would put the cost at about $150 million next year. That is about one-fourth of 1 percent of the total Medicare budget for hospital payments in fiscal year 1991. And for those communities whose hospitals are on the brink of financial insolvency, it will make a world of difference.

I urge my colleagues to take a careful look at this legislation. I hope that many Senators will join me in this important effort to make Medicare fairer for rural hospitals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness in Rural Health Care Act of 1990."

SEC. 2. OPTION FOR SMALL, RURAL HOSPITALS TO RECEIVE PAYMENT FOR INPATIENT SERVICES BASED ON REASONABLE COSTS.

(a) IN GENERAL.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

"(10)(A) For cost reporting periods beginning on or after October 1, 1990, a subsection (d) hospital (as defined in subsection (d)(1)(B) located in a rural area (as defined in subsection (d)(2)(D)) with 50 beds or fewer may elect to be paid with respect to operating costs of inpatient hospital services on the basis of its reasonable costs.

"(B) In the case of a hospital that elects to be treated as specified in subparagraph (A), payment shall be—

"(i) based upon reasonable costs as defined in section 1861(v) (but not subject to limits which may be established by the Secretary under that section);

"(ii) subject to the lesser of cost or charges provisions referenced in section 1814(b)(1); and

"(iii) determined without regard to the limits imposed by the provisions of subsection (b).

"(C) A hospital electing to be treated according to subparagraph (A) shall notify its fiscal intermediary of the election no later than 60 days prior to the first day of the cost reporting period for which the election is made. Election of treatment according to subparagraph (A) shall be effective for three (3) consecutive cost reporting periods. The Secretary shall establish procedures for renewal of the election."

(b) REGULATIONS.—The Secretary shall promulgate regulations implementing section 1886(d)(10)(C) of the Social Security Act (as added by subsection (a)) within 180 days of enactment.

SEC. 3. EXEMPTION FROM REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

Section 1886(g)(3) of Social Security Act (42 U.S.C. 1395ww(g)(3)) is amended by striking subparagraph (B) and inserting the following—

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that—

"(i) is a sole community hospital (as defined in subsection (d)(5)(C)(ii); or

"(ii) is a hospital for which an election under subsection (d)(10) is in effect."

SEC. 4. APPLICATION OF PERIODIC INTERIM PAYMENT PROVISIONS.

Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(e)) is amended by:

(1) striking "and" from subparagraph (2)(D);

(2) inserting "and" after "hospice care;" in subparagraph (2)(E); and

(3) inserting the following after subparagraph (2)(E)—

"(F) inpatient hospital services of a hospital for which an election under section 1886(d)(10) is in effect;".●

By Mr. GORE (for himself and Mr. GLENN):

S. 2439. A bill relating to the advertising of certain alcoholic beverages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SENSIBLE ADVERTISING AND FAMILY EDUCATION ACT OF 1990

● Mr. GORE. Mr. President, I rise today on behalf of myself and my colleague, Senator GLENN, to introduce the Sensible Advertising and Family Education Act of 1990, which requires that health and safety messages be included on all broadcast and print advertisements and promotional displays in stores for beer, wine, and other alcoholic beverages.

The purpose of this bill is to inform the public about the potential hazards of drinking alcohol; to balance the one-sided promotions by the alcohol industry in all media; and, to give additional information and resources about alcohol use to individuals and their families by establishing a Federal 1-800 number. Five different warnings would be rotated for both broadcast and print advertising. The print and broadcast warnings would be slightly different but dealing with the same subjects. The toll free number, required in all print advertisements and promotional displays, will be established and maintained by the Federal Trade Commission in consultation with the Department of Health and Human Resources. Both sets of warn-

ings would be required 1 year after passage.

Mr. President, last year we passed a law requiring labels on bottles and cans of alcoholic beverages. In a short period of time, their existence has generated a tremendous amount of public discussion and awareness, both about the labels and their content. I am confident that they will be helpful to educate consumers. But, we must do more. We must make the same effort to inform the public about the serious negative consequences of drinking as the alcohol industry's advertising campaigns promote the social acceptability of alcohol consumption.

To illustrate, the alcohol beverage industry spends approximately $2 billion each year on advertisements and promotions in the United States. This has had a strong impact on each and every one of us. In fact, the Surgeon General's advertising panel at his December 1988 Workshop on Drunk Driving recommended "a goal of equivalent exposure with the level of alcohol advertising for effective prohealth and safety messages to provide more complex and accurate information."

The intention of the Sensible Advertising and Family Education Act [SAFE] is to do just that—heighten the public awareness of the adverse health consequences of using alcohol.

Consequences which include, but are not limited to, fetal alcohol syndrome [FAS], a combination of serious physical, mental, and behavioral problems directly caused by alcohol consumption during pregnancy. Once you see a child affected with FAS, his or her distorted facial features will never leave you. You realize you have seen far too many of these children.

Each year more than 5,000 infants are born suffering from fetal alcohol syndrome and another 50,000 babies experience milder but still serious birth defects known as fetal alcohol effects. These birth defects include slow growth before and after birth, abnormal physical development such as small heads, facial deformities, heart defects, and abnormal limbs. Alcohol goes directly into the baby's bloodstream. Due to its small and undeveloped system, the baby can't get rid of the alcohol as fast as the mother can. The baby uses its energy to get rid of the alcohol instead of using it to grow new cells and tissue.

Mr. President, maternal alcohol abuse is the leading preventable cause of mental retardation in children. Yet, in a 1985 survey of persons under the age of 45 conducted by the National Center for Health Statistics, almost half had never even heard of fetal alcohol syndrome.

With the enactment of SAFE, we can communicate to the public what doctors and other experts already know—there is no safe level of alcohol consumption during pregnancy. Should not we as public policymakers, take the lead to ensure that pregnant women know the health risks involved when drinking? To date, no major manufacturer of alcoholic beverages urges women to abstain from alcohol consumption during pregnancy.

Not only should expectant mothers be made aware of the health effects due to alcohol consumption, but millions of other consumers deserve to be warned of the potential dangers associated with alcohol use and misuse. The public's attention will not only be drawn to the glamorous use of alcohol, but also to the possible real consequences of its use—addiction, physical and mental impairment, and death.

Another audience which requires particular attention are teenagers and young adults under the age of 21. They are a prime target for the liquor industry's promotional campaigns. A major study found that a relationship exists between youth exposure to liquor ads and drinking behaviors and attitudes. Statistics show that an estimated 4.5 million young people are dependent on alcohol, or are problem drinkers. The messages set forth in the advertisements will not only inform the public of the health and safety risks, but also remind the public that persons under the age of 21 are, in fact, prohibited by law from purchasing alcohol.

Of course, this bill is not the solution to alcohol-related problems. But, it is an important stride forward for public health education. It will reinforce information that is already available to the public but not always sought, or received by the public.

Mr. President, alcohol advertising represents the single greatest source of alcohol education for Americans. Thus, it seems only logical that we use this vehicle to be effective in educating the public on the health and safety risks involved in the consumption of alcohol. I hope that my colleagues will agree that the passage of the Sensible Advertising Family Education Act of 1990 is in the public's best interest and is a positive measure toward preventing alcohol-related disease, injuries and death in the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sensible Advertising and Family Education Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Alcohol is by far the most used and abused drug among young people in the United States today. Its purchase by those under the age of 21 is illegal in all 50 of the United States and the District of Columbia.

(2) By the time they reach senior year, 90 percent of high school students report using alcohol at least once in the preceding year. The 1989 National Institute on Drug Abuse/University of Michigan survey of high school seniors found that 33 percent of those surveyed reported that they had consumed five or more drinks at one time in the two weeks preceding the survey.

(3) Alcohol use during pregnancy is the number one preventable cause of birth defects and mental retardation.

(4) The average age at which young people begin drinking is 12. By the age of 13, approximately 30 percent of boys and 22 percent of girls classify themselves as "drinkers". Studies demonstrate that the use of alcohol before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use.

(5) Young people are not well informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is a great risk of harm from risky drinking activities such as binge drinking once or twice each weekend.

(6) According to the National Institute on Alcohol Abuse and Alcoholism, an estimated 18,000,000 Americans 18 years and older currently experience problems as a result of alcohol use. It is estimated that 4,500,000 young people are dependent on alcohol or are problem drinkers.

(7) Nearly one half of all deaths from motor vehicle crashes are alcohol related.

(8) It is estimated that 25 percent of all hospitalized persons have alcohol-related problems.

(9) Alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for Americans. Children see as many as 100,000 television commercials for beer alone before they are old enough to buy alcoholic beverages.

(10) A major 1981 federally funded study found a significant relationship between youth exposure to alcoholic beverage advertising and drinking behaviors and attitudes which can lead to certain forms of problem drinking. Over 80 percent of 2,000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco, and Firearms by the Opinion Research Corporation believe that alcohol advertising influences underage youth to drink alcoholic beverages. The survey also found that the general public feels that the Nation's young people constitute the group that is most at risk from drinking alcoholic beverages.

(11) The alcoholic beverage industry spends approximately $2,000,000,000 each year on advertising and promotions in the United States.

(12) The 1988 Surgeon General's Workshop on Drunk Driving has recommended that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages and also recommended the inclusion of health warning messages in all alcohol advertising.

(13) Two-thirds of those surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking on both alcoholic beverage containers and in alcohol advertisements.

SEC. 3. HEALTH WARNINGS.

(a) IN GENERAL.—On and after the expiration of the 6-month period following the date of enactment of this Act, it shall be an unfair or deceptive act or practice under section 5 of the Federal Trade Commission Act for any person to—

(1) advertise or cause to be advertised through magazines, newspapers, brochures, and promotional displays, within the United States any alcoholic beverage unless the advertising bears, in accordance with requirements of section 4(a), one of the following health warnings:

SURGEON GENERAL'S WARNING: Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregancy. If you are pregnant and can't stop drinking, call [insert appropriate toll free number].

WARNING: Alcohol impairs your ability to drive a car or operate machinery. If you or people you love drink and drive, call [insert appropriate toll free number].

WARNING: Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs. To find out what happens when you drink while using other drugs, call [insert appropriate toll free number].

WARNING: Drinking alcohol may become addictive. If you know someone who has an alcohol or other drug problem or has trouble controlling their drinking, call [insert appropriate toll free number].

WARNING: It's against the law to purchase alcohol for persons under age 21. For more information about the risks associated with alcohol use among teenagers and young adults, call [insert appropriate toll free number], or

(2) advertise or cause to be advertised through radio or television broadcasting (including cable broadcasting) any alcoholic beverage unless the advertising includes, in accordance with requirements of section 4(b), one of the following health warnings:

SURGEON GENERAL'S WARNING: Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy.

WARNING: Alcohol impairs your ability to drive a car or operate machinery.

WARNING: Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs.

WARNING: Drinking alcohol may become addictive. If you know someone who has an alcohol or other drug problem or has trouble controlling their drinking, call [insert appropriate toll free number].

WARNING: It's against the law to purchase alcohol for persons under age 21.,

(b) TOLL FREE NUMBERS.— The Federal Trade Commission, in consultation with the Secretary of Health and Human Services, shall be responsible for establishing and maintaining the toll free numbers referred to in the health warnings required by subsection (a)(1). The Federal Trade Commission shall report to Congress annually on the number of calls received using those numbers and the types of referrals made.

SEC. 4. REQUIREMENTS.

(a) IN GENERAL.—The health warnings required for alcoholic beverage advertisements by section 3(a) shall—

(1) be located in a conspicuous and prominent place on each such advertisement, as determined by the Federal Trade Commission in regulations to take effect no later than 6 months after the date of the enactment of this Act, except that such regulations shall require that all letters in such health warnings appear in conspicuous and legible type that is not script or italic and that such health warnings be in contrast by typography, layout, and color with all other printed material in the advertisement, be surrounded by typographic lines that form a box, and, on an appropriate visual medium, appear on the front of an advertisement as indicated by labeling of the manufacturing or importer, and

(2) be rotated in an alternating sequence on each advertisement of a brand style in accordance with a plan submitted by such manufacturer or importer to the Federal Trade Commission.

The Federal Trade Commission shall approve a plan submitted under paragraph (2) by a manufacturer or importer that assures that each sequence of the same or substantially similar advertisement for a brand style has displayed upon it an equal distribution of each health warning at the same time. If an application is approved by the Federal Trade Commission, the rotation shall apply with respect to the applicant during the one-year period beginning on the date of the application approval.

(b) RADIO AND TELEVISION.—The health warnings required for alcoholic beverage advertisements placed on radio or television broadcasting by section 3(a) shall—

(1) be included in a conspicuous and prominent manner in such advertisement, as determined by the Federal Trade Commission in regulations to take effect not later than 6 months after the date of the enactment of this Act, except that such regulations shall require—

(A) that such health warnings be read as part of an alcoholic beverage advertisement in an audible and deliberate manner and in a length of time that allows for a clear understanding of the health warning message by the intended audience, and

(B) that for television a graphic representation of such health warning required by section 3 be included after each advertisement, that all letters in such health warning appear in conspicuous and legible type that is not script or italic, that such health warning be surrounded by typographic lines that form a box, and that such health warning appear in the same length of time as is required for the reading of the message required by subparagraph (A), and

(2) rotated in an alternating sequence on each such advertisement of a brand style in accordance with a plan submitted by such manufacturer or importer to the Federal Trade Commission.

The Federal Trade Commission shall approve a plan submitted under paragraph (2) by a manufacturer or importer that assures that an equal distribution of each of the health warnings is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time. If an application is approved by the Federal Trade Commission, the rotation shall apply with respect to the applicant during the one-year period beginning on the date of the application approval.

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2440. A bill to amend various provisions of law that affect the operations and management of the Department of Defense particularly in the areas of military personnel, acquisition reform, civilian personnel management, and for real property; to the Committee on Armed Services.

DEFENSE MANAGEMENT IMPROVEMENT ACT

● Mr. NUNN. Mr. President, the Department of Defense has transmitted to the Senate today a legislative proposal, entitled the "Defense Management Improvement Act." This proposal is the product of the legislative task force established by Secretary Cheney in conjunction with the Defense management report.

As is the custom on our committee when we receive a major legislative proposal from the Department of Defense, we are introducing this proposal by request. The Armed Services Committee has not had the opportunity to study the substance of this proposal, but we shall ensure that it receives a thorough and fair review.

Our committee's consideration of this proposal will begin with a hearing before the Subcommittee on Defense Industry and Technology on Tuesday, April 24. This subcommittee, under the leadership of Chairman JEFF BINGAMAN and ranking minority member MALCOLM WALLOP, will receive testimony at that time from the Department of Defense. The Defense Industry and Technology Subcommittee will conduct a further hearing on May 14. Members of the public interested in testifying or submitting testimony for the record at the May 14 hearing should contact the Armed Services Committee.

In addition to the hearings before the Subcommittee on Defense Industry and Technology, it is likely that further hearings will be held by other subcommittees of the Armed Services Committee with respect to aspects of the legislative proposal that fall within their jurisdiction.

I ask unanimous consent that the text of the bill, the Department's legislative proposal, along with the transmittal letter and the Department's sectional analysis, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Management Improvement Act".

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TITLE I—MILITARY PERSONNEL

SEC. 101. AUTHORITY TO TERMINATE SELECTIVE REENLISTMENT BONUS.

(a) Subsection (b) of section 308 of title 37, United States Code, is amended by adding at the end of the following new paragraph (3):

"(3) Whenever refund is not required under subsection (d), the Secretary of Defense may provide that bonus installments due to a member who does not complete the term of enlistment for which a bonus was paid under this section or who ceases to perform in the specialty for which a bonus was paid under this section will not be paid. In exercising this authority, the Secretary is authorized to prescribe the circumstances under which bonus installments terminate."

(b) This amendment shall apply to bonuses paid on or after the effective date of this Act.

SEC. 102. PERMANENT AUTHORITY TO PAY SELECTIVE REENLISTMENT BONUSES.

Sections 308(g) of title 37, United States Code, are hereby repealed.

SEC. 103. VARIANCE IN OFFICER STRENGTH AUTHORIZATIONS.

Subsection (a) of section 521 of title 10, United States Code, is amended by adding at the end "The Secretary of Defense may apply to 0.5 percent increase in end strength authorized pursuant to section 115(b)(1)(A) of this title in prescribing the total number of officers authorized to serve on active duty, provided that the resulting number of officers authorized to be on active duty at the end of the fiscal year in an armed force is not greater than 100.5 percent of the total number of officers otherwise authorized by the Congress for that armed force for that fiscal year.".

SEC. 104. ANNUAL MANPOWER END STRENGTHS: REDISTRIBUTION OF MANPOWER AUTHORIZATIONS: APPROPRIATION TRANSFERS.

(a) Subparagraph (b) of section 115 of title 10, United States Code, is amended in paragraph (1) by—

(1) deleting the second sentence of subparagraph (D) as (F); and

(3) inserting after subparagraph (C) the following new subparagraphs (D) and (E):

"(D) Upon determination by the Secretary of Defense that such action is in the national interest, end strengths authorized for a component of the armed forces pursuant to paragraph (a)(1) and clauses (b)(1)(A)(i) and (ii) may be distributed among the (i) Selected Reserve (as defined in section 368(b) of this title), (ii) active-duty personnel who are to be paid from funds appropriated for active-duty personnel and (iii) active-duty personnel and full time National Guard duty personnel who are paid by funds appropriated for reserve component personnel.

Upon the exercise of the foregoing authority, in addition to any other transfer authority available to the Department of Defense, appropriations available to the Department of Defense for the pay of such personnel may be transferred in such sums as may be necessary to reflect the distributions made pursuant to the foregoing authority.

The total end strength shall not exceed the sum of the end strengths authorized pursuant to clauses (i), (ii), and (iii) in the preceding sentence including any increase in end strength made pursuant to subparagraph (E) of this paragraph.

"(E) The end strength authorized pursuant to clause (ii) of subparagraph (D) for a fiscal year may be increased by a numbber equal to not more than 0.5 percent of the end strength authorized for such component for that fiscal year, and the end strength authorized pursuant to clause (iii) of subparagraph (D) for a fiscal year may be increased by a number equal to not more than 2 percent of the end strength authorized for such component for that fiscal year. Increases may be made under this subparagraph to officer end strength, enlisted end strength, or any combination of officer and enlisted end strength as long as the increases do not exceed the limits established by this clause.".

SEC. 105. INVOLUNTARY RELEASE OF REGULAR OFFICERS FROM ACTIVE DUTY.

Subchapter III of chapter 36, title 10, United States Code, is amended as follows:

(a) By amending section 630, to include its catchline, to read as follows:

"§ 630. Discharge or involuntary transfer to reserve component of regular commissioned officers with less than eight years of active comissioned service

"(a) Upon a determination by the Secretary concerned that such action is necessary to meet the needs of the military department concerned, a regular officer on the active duty list with less than eight years of active commissioned service, but who has remaining obligated service pursuant to section 651 of this title or under regulations prescribed by the Secretary of the military department concerned, may be involuntarily released from active duty and transferred to the Ready Reserve for the remainder of that officer's period of obligated service.

(1) The officer, if otherwise qualified, shall be tendered an appointment as prescribed in section 595 of this title. Provided that the officer is transferred to the reserve component in the same grade held in the regular component, subscription to a separate oath of office pursuant to section 591 of this title is not required.

(2) An officer who declines the tender of a reserve appointment under the circumstances described in this section shall be transferred to the reserve component in an enlisted status pursuant to sections 510(a) and 651(b) of this title, in a grade to be determined by the Secretary of the military department concerned.

"(b) The Secretary of the military department concerned may discharge any regular officer on the active duty list who—

(1) has less than five years of active commissioned service; or

(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the regular grade of first lieutenant or lieutenant (junior grade).

"(c) The Secretary of the military department concerned shall establish the discharge date for any officer separated pursuant to this authority. For an officer described in paragraph (b)(2), unless the officer has been promoted, this date shall be not later than the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(d) The provisions of this section do not apply to an officer separated pursuant to chapter 60 or section 632 of this title.

"(e) The Secretary of Defense shall prescribe regulations for the administration of this section."; and

(b) The table of sections at the beginning of subchapter III is amended by amending the item relating to section 630 to read as follows:

"630. Discharge or involuntary transfer to reserve component of regular commissioned officers with less than eight years of active commissioned service.".

SEC. 106. RANK UPON RETIREMENT.

(1) Chapter 345 of title 10, United States Code, is amended (a) by adding at the end the following new section 3583:

§ 3583 Rank: retired commissioned officers

"An officer who is retired in a grade below the highest grade held while on active duty, pursuant to section 1370(a)(2) of this title, may, upon approval of the Secretary of the Army, retain the rank and insignia of grade for the highest grade in which he served on active duty satisfactorily for a period of 18 months and, for all purposes of law other than computation of retired pay, be considered to have retired in the higher grade."; and

(b) By amending the table of sections at the beginning of such chapter by adding at the end the following:

"3583. Rank: retired commissioned officers.".

(2) Chapter 535 of title 10, United States Code, is amended (a) by adding at the end the following new section 5509:

"§ 5509. Rank: retired commissioned officers

"An officer who is retired in a grade below the highest grade held while on active duty, pursuant to section 1370(a)(2) of this title, may, upon approval of the Secretary of the Navy, retain the rank and insignia of grade for the highest grade in which he served on active duty satisfactorily for a period of 18 months and, for all purposes of law other than computation of retired pay, be considered to have retired in the higher grade."; and

(b) by amending the table of sections at the beginning of such chapter by adding at the end the following:

"5509. Rank: retired commissioned officers.".

(3) Chapter 845 of title 10, United States Code is amended (a) by inserting at the end the following new section 8583:

"§ 8583. Rank: retired commissioned officers

"An officer who is retired in a grade below the highest grade held while on active duty, pursuant to section 1370 of this title, may, upon approval of the Secretary of the Air Force, retain the rank and insignia of grade for the highest grade in which he served on active duty satisfactorily for a period of 18 months and, for all purposes of law other than computation of retired pay, be considered to have retired in the higher grade."; and

(b) By amending the table of chapters at the beginning of such chapter by adding at the end:

"8583. Rank: retired commissioned officers.".

SEC. 107. NAVY LIMITED DUTY OFFICERS; INVOLUNTARY RETIREMENT OF CAPTAINS AND COMMANDERS.

(a)(1) Section 633 of title 10, United States Code, is amended by inserting "or section 6383" after "section 5596(e)," the first time it appears in that section.

(2) Section 634 of title 10, United States Code, is amended by inserting after "each officer of the Regular Navy" "except an officer designated for limited duty to whom section 6383(a)(3) of this title applies".

(b) Section 6383 of title 10, United States Code, is amended—

(1) by redesignating subsection (a) as paragraph (a)(1);

(2) by adding the following new paragraphs:

"(2) Each regular officer of the Navy who is an officer designated for limited duty and who is serving in the grade of commander, who has failed of selection for promotion to the grade of captain for the second time and whose name is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if he is eligible for retirement as a commissioned officer under any provision of law, be retired under that law on the date requested by him and approved by the Secretary of the Navy, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

"(B) if he is not eligible for retirement as a commissioned officer, be retired on the date requested by him and approved by the Secretary of the Navy after becoming eligible for retirement as a commissioned officer which date shall be not later than the first day of the seventh calendar month beginning after the month in which he becomes eligible for retirement as a commissioned officer. If not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander, and whose name is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which he completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(3) Each regular officer of the Navy who is an officer designated for limited duty and who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which he completes 38 years of active naval service, exclusive of active duty for training in a reserve component."; and

(3) By inserting in the last sentence of subsection (i) after "lieutenant colonel" "or commander, or 30 years active commissioned service for an officer of the Navy if in the grade of captain,".

SEC. 108. SELECTION AND PROMOTION OF OFFICERS IN THE GRADE OF FIRST LIEUTENANT OR LEIUTENANT (JUNIOR GRADE).

(a) Section 611 of title 10, United States Code, is amended by redesignating subsection (a) as (a)(1) and by adding at the end the following new paragraph (2):

"(2) Whenever the needs of the service require the number of officers to be recommended for promotion to the grade of captain in the Army, Air Force, or Marine Corps, or lieutenant in the Navy, as determined pursuant to section 622 of this chapter, to be equal to, or greater than the number of officers eligible to be considered for promotion by a selection board convened under this section, the Secretary of Defense may waive the requirement to convene a selection board and allow those officers who would otherwise be considered by the selection board to be considered under regulations prescribed by the Secretary of the military department concerned.".

(b) Paragraph (a)(1) of section 624 of title 10, United States Code, is amended to read as follows:

"(1) When the report of a selection board convened under section 611(a)(1) of this title is approved by the President, or when a list of officers is approved for promotion pursuant to the waiver authority of the Secretary of Defense, as prescribed in section 611(a)(2) of this title, the Secretary of the military department concerned shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the active duty list.".

(c) Section 631 of title 10, United States Code, is amended by adding at the end the following new subsection (c):

"(c) An officer whose name is not placed on a list of officers to be promoted to the grade of captain in the Army, Air Force, or Marine Corps, or lieutenant in the Navy, in accordance with the waiver authority of the Secretary of Defense, as prescribed in section 611(a)(2) of this title, shall be considered to have failed of selection for promotion.".

SEC. 109. AUTHORIZE TRAVEL AND TRANSPORTATION ALLOWANCES.

Section 408 of title 37, United States Code, relating to travel and transportation allowances for travel within the limits of the duty station, is amended:

(1) by inserting "(a)" before "A member of a uniformed service"; and

(2) by adding at the end the following new subsection (b):

"(b) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service, directed by competent authority to perform duty at a location within the limits of his duty station, other than his residence or normal duty location, for a period of time that requires the member to utilize overnight accommodations, is entitled to the travel and transportation allowances authorized by section 404 of this title.".

SEC. 110. REMOVAL OF FIXED LIMITS ON SENIOR ENLISTED GRADE STRENGTH.

Section 517 of title 10, United States Code, is repealed, and the corresponding item in the table of sections at the beginning of chapter 31 is deleted.

TITLE II—ACQUISITION

SEC. 201. MULTIYEAR CONTRACTING ENHANCEMENT.

(a) AUTHORITY FOR USE OF MULTIYEAR CONTRACTS.—Subsection (h) of section 2306 of title 10, United States Code, is amended—

(1) by striking out "To" in paragraph (1) and inserting in lieu thereof "Subject to paragraph (6) and to";

(2) by striking out in paragraph (1) "(other than contracts described in paragraph (6))";

(3) by striking out in subparagraph (1)(A) "reduced total costs under the contract" and inserting in lieu thereof "substantial savings of the total anticipated costs of carrying out the program through annual contracts";

(4) by inserting before the period in paragraph (6) ", unless the Secretary of Defense finds with respect to such a contract that application of this subsection is in the national interest"; and

(5) by striking out paragraphs (9) and (11) and by redesignating paragraph (10) as paragraph (9).

(b) LIMITATIONS ON MULTIYEAR CONTRACTING.—Section 9021 of the Department of Defense Appropriations Act for Fiscal Year 1990 (Public Law 101-165; 103 Stat. 1133) is repealed except for the last sentence authorizing the acquisition of certain programs on a multiyear basis.

SEC. 202. COMMERCIAL STYLE ACQUISITION PRACTICES.

(a) This section may be cited as the "Commercial Products Acquisition Act of 1990."

(b) The Congress finds that the economy, efficiency, and effectiveness of product acquisition by the executive agencies would be improved if they purchased off-the-shelf products available in the commercial market whenever such products will satisfy agency requirements. Many of the specifications and other requirements in Government solicitations and contracts are unique and serve no commercial purpose. These specifications and requirements result in additional costs to the seller of the products as well as the agency buying them. As a result, many sellers of commercial products do not compete for Government contracts, and the Government is unable to take advantage of the vigorous competition, large economies of scale, short delivery times, market-driven efficiency and innovation, and high value products that are available in the commercial market.

(c) The purpose of this provision of the Defense Management Improvement Act is to require the development of commercial-style purchasing procedures to be used by executive agencies to better utilize market research, avoid over-specification and otherwise facilitate the acquisition of commercial products.

(d)(1) The Administrator of the Office of Federal Procurement Policy, jointly with the Administrator of the General Services Administration, the Secretary of Defense, and the Administrator of the National Aeronautics and Space Administration, shall develop regulations that set forth commercial-style procedures for the acquisition of commercial products. These regulations shall be incorporated into the Federal Acquisition Regulation. Consistent with the authority of the Administrator of General Services under section 111 of the Federal Property and Administrative Procedures Act of 1949, the Administrator shall prescribe such additional regulations as may be necessary to implement this section as it relates to automated data processing equipment. To ensure consistency with the objectives of this section, any unreconciled implementation issues may be referred to the Office of Management and Budget for resolution pursuant to section 111 of the Federal Property and Administrative Procedures Act of 1949. For the purpose of this section, commercial products are products that are:

(A) competitively available and sold in significant quantities in the commercial market; and

(B) required in the same form as they are available in the commercial market or with only minor modification that does not alter their essential performance or functional characteristics. Contracts for commercial products may include those incidental services that are normally provided with sales of such products in the commercial market.

(2) The regulations issued under subsection (d)(1) shall—

(A) require procedures conducted under this section to be advertised by a public notice in the Commerce Business Daily. The notice shall include—

(i) a product description;

(ii) in a case where the agency expects to issue a series of solicitations under one notice, the time period during which solicitations are expected to be issued;

(iii) at the discretion of the contracting officer, a brief summary of the performance or functional requirements, tests, essential physical characteristics, or other requirements that will be used to ensure that offered products are suitable for the agency's use or any other criteria which the contracting officer determines are appropriate;

(iv) a reference to Federal Information Processing Standards required for agency use under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)), so as to ensure interoperability or compatibility; and

(v) the name, business address, and telephone number of the official to whom any submissions required by the notice are to be made and from whom solictations issued under the notice may be obtained,

(B) authorize the contracting officer to require offerors to demonstrate, in accordance with criteria prescribed by the contracting officer, that products being offered have achieved a level of market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; and when such criteria are specified, prohibit the award of a contract to any offeror who has not made the required demonstration to the satisfaction of the contracting officer; and

(C) authorize the contracting officer to include in the public notice a provision that waives the requirement that a product be sold in significant quantities in the commercial market in order to qualify as a commercial product, provided that the product—

(i) has been satisfactorily supplied under current or recent contracts for the same requirements;

(ii) otherwise meets the product description; specifications, and other criteria prescribed by the public notice and solicitation; and

(iii) is evaluated on an equal basis with the commercial products offered.

(D) authorize the contracting officer, after publication of the public notice, to take one or a combination of the following actions—

(i) issue solicitations;

(ii) review the responses to the notice and then—

(I) issue solicitations;

(II) adopt additional specifications or other criteria and issue solicitations prescribing those specifications or other criteria; or

(III) establish a list of sources that will be issued a series of solictations during the period of time specified by the notice; or

(iii) determine that suitable commercial products are not available and cancel the notice.

(E) except as provided for in subparagraph (F), require solicitations that are issued under subparagraph (D)(ii) or synopses of such solicitations to be issued to all sources that (i) make the submission required by the public notice either within the time period specified by the notice; or sufficiently in advance of the issuance of a solicitation, as specified in the notice, to ensure the submission can be adequately evaluated before a solicitation is issued; and

(ii) are not notified that their submission is not responsive to the notice or that they are not responsible sources.

(F) authorize the contracting officer, in issuing solicitations to sources on a list established under clause (D)(ii)(III), to rotate among such sources whenever the number qualifying for inclusion on the list is extensive.

(G) require the contracting officer to reject an offer that—

(i) is submitted in response to a solicitation issued under subparagraph (D)(ii) by a source that is not required to be issued a solicitation under paragraph (E);

(ii) is not submitted within the time period specified in the solicitation for the submission of offers;

(iii) is not responsive to the solicitation; or

(iv) is submitted by a source that is determined not to be a responsible source.

(H) require the contracting officer, in establishing deadlines for submissions required by the public notice and for offers, to ensure that interested sources have a reasonable opportunity, consistent with the needs of the agency, to participate in the competition;

(I) require the evaluation of offers and selection for contract award to be based solely on the factors specified in the solicitation. Such factors shall include price and any other factors which the contracting officer determines are necessary to identify the offer that provides the greatest benefit to the agency. The past performance of products and sources may be among those factors;

(J) authorize the award of a contract without discussions or a request for best and final offers;

(K) require prompt publication in the Commerce Business Daily of a notice announcing the award of a contract to a source on a list established under subparagraph (D)(ii)(III); and

(L) require the use of commercial-style contract terms and conditions to the maximum extent consistent with the interests of the Government.

(3) The provisions in this subsection governing the publication of public notices announcing procurements, the issuance of solicitations, the time periods for submitting offers, or otherwise the procedures for conducting procurements shall apply to procurements conducted under this subsection in lieu of such requirements in other provisions of law; and to the extent any other provisions in this subsection are inconsistent with any other provision of law, the provisions in this section shall govern the conduct of procurements under this section. However, this section shall not be implemented in a manner that would violate any United States obligation under the Agreement on Government Procurement negotiated pursuant the General Agreement on Tariffs and Trade.

(e)(1) Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end thereof the following:

"SEC. 311. ACQUISITION OF COMMERCIAL PRODUCTS.

"(a) The contracting officer shall use commercial-style procedures to procure commercial products unless the contracting officer purchases them under simplified small purchase or multiple award schedule procedures or determines and documents that another authorized method of acquisition is more appropriate.

"(b) For the purposes of this section—

"(1) 'Commercial products' are products that are—

"(A) competitively available and sold in significant quantities in the commercial market; and

"(B) required in the same form as they are available in the commercial market or with only minor modification that does not alter their essential performance or functional characteristics. Contracts for commercial

products may include those incidental services that are normally provided with sales of such products in the commercial market,

"(2) 'Commercial-style procedures' are those prescribed in the regulations issued pursuant to subsection (d) of the Commercial Products Acquisition Act of 1990.

"(c) Purchases of commercial products made pursuant to the commercial-style procedures required by this section or simplified small purchase or multiple award schedule procedures shall be exempt, except as provided in subsection (e), from any other requirement of law that—

"(1) prescribes terms and conditions to be included in contracts,

"(2) prescribes preferences to be given to any source or class of sources or mandates a particular source or class of sources, or

"(3) prescribes requirements to be imposed on the contractor that relate to the contractor's performance of the contract,

and which requirements of law are not equally applicable to contracts to which the United States Government is not a party.

"(d) This section shall apply to the acquisition of automatic data processing equipment. However, nothing in this section is intended to impair the authority of the Administrator of General Services as conferred by section 111 of the Federal Property and Administrative Services Act of 1949.

"(e) This section does not authorize—

(1) any exemption from the provisions of law requiring Federal agencies to purchase certain listed products from—

(A) qualified workshops for the blind and other severely handicapped in accordance with the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c); or

(B) prison industries in accordance with sections 4121 through 4129 of title 10, United States Code.

(2) Any exemption from the following provisions of law related to the employment of labor to manufacture products for delivery under government contracts—

(A) the non-discrimination and affirmative action requirements of the program for the employment of qualified handicapped persons under section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793);

(B) the nondiscrimination and affirmative action requirements of the program for qualified disabled veterans under section 503(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012);

(C) the non-discrimination and affirmative action requirements of the program to implement Executive Order 11246; or

(D) the labor standards applicable under the Walsh-Healey Act (41 U.S.C. 35–45).

(3) Any exemption from the requirements of section 304(d) of this title or any policies or procedures established by the Administrator with respect to the negotiation and award of Multiple Award Schedule Contracts.".

(2) The table of contents of such Act is amended by adding at the end of Title III the following new section:

"Sec. 311. Acquisition of Commercial Products.".

(f)(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2331. Acquisition of commercial products

"(a) The contracting officer shall use commercial-style procedures to procure commercial products unless the contracting officer purchases them under simplified small purchase or multiple award schedule procedures or determines and documents that another authorized method of acquisition is more appropriate.

"(b) For the purposes of this section—

"(1) 'Commercial products' are products that are—

"(A) competitively available and sold in significant quantities in the commercial market; and

"(B) required in the same form as they are available in the commercial market or with only minor modification that does not alter their essential performance or functional characteristics. Contracts for commercial products may include those incidental services that are normally provided with sales of such products in the commercial market.

"(2) 'Commercial-style procedures' are those prescribed in the regulations issued pursuant to subsection (d) of the Commercial Products Acquisition Act of 1990.

"(c) Purchases of commercial products made pursuant to the commercial-style procedures required by this section or simplified small purchase or multiple award schedule procedures shall be exempt, except as provided in subsection (e), from any other requirement of law that—

"(1) prescribes terms and conditions to be included in contracts,

"(2) prescribes preferences to be given to any source of class of sources or mandates a particular source or class of sources, or

"(3) prescribes requirements to be imposed on the contractor that relate to the contractor's performance of the contract,

and which requirements of law are not equally applicable to contracts to which the United States Government is not a party.

"(d) This section shall apply to the acquisition of automatic data processing equipment. However, nothing in this section is intended to impair the authority of the Administrator of General Services as conferred by section 111 of the Federal Property and Administrative Services Act of 1949.

"(e) This section does not authorize—

"(1) any exemption from the provisions of law requiring Federal agencies to purchase certain listed products from—

"(A) qualified workshops for the blind and other severely handicapped in accordance with the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c); or

"(B) prison industries in accordance with sections 4121 through 4129 of this title; or

"(2) any exemption from the following provisions of law related to the employment of labor to manufacture products for delivery under government contracts—

"(A) the non-discrimination and affirmative action requirements of the program for the employment of qualified handicapped persons under section 503(a) of the Rehabilitation act of 1973 (29 U.S.C. 793(a));

"(B) the nondiscrimination and affirmative action requirements of the program for qualified disabled veterans under section 503(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012(a));

"(C) the non-discrimination and affirmative action requirements of the program to implement Executive Order 11246; or

"(D) the labor standards applicable under the Walsh-Healey Act (41 U.S.C. 35–45).".

(2) The table of contents at the beginning of such chapter is amended by inserting at the end the following new item:

"2331. Acquisition of commercial products.".

(g) INTRA-AGENCY PROTEST PROCESS.—The Secretary of Defense may authorize selected components of the Department of Defense, for a period of three years beginning 90 days after the regulations required by subsection (d) are incorporated into the Federal Acquisition Regulation, to conduct a pilot program to test the following procedures for resolving protests of actions taken in conducting procurements pursuant to such regulations—

(1) An interested party may file with the head of an agency a written protest concerning an alleged violation of a statute or regulation relating to the award or proposed award of a contract made pursuant to this section in accordance with procedures promulgated by the Secretary of Defense. Such protest shall be the sole administrative remedy available to an interested party. The procedures authorized by this subsection shall, at a minimum, provide for:

(A) an impartial review by an official designated by the head of the agency of all protests that are filed by an interested party within 10 working days of the date on which the basis of the protest was known or should have been known;

(B) the stay of the award of the contract pending resolution of the protest, unless the head of the agency determines in writing that the equipment or supplies to be contracted for are urgently required and delivery or performance will be unduly delayed by failure to promptly make award or that other compelling considerations make necessary the prompt award of the contract;

(C) a written decision within 30 working days of the filing of the protest, unless the official designated for deciding protests determines and states in writing the reasons that the specific circumstances require a longer period for resolution of the protest and award of the contract has been stayed; and

(D) designation of the official to decide protests at a level not lower than a general or flag officer if a member of the armed forces or if a civilian is serving in position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to the grade of brigadier general or rear admiral (lower half).

(2) For purposes of subsection (f), purchases of commercial products under this Act shall be exempt from any Federal statute conferring jurisdiction on any governmental entity, other than United States federal courts, for the resolution of protests that is inconsistent with this subsection, including sections 3551 through 3556 of title 31 and section 111(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(h)).

(3) For purposes of this subsection:

(A) "Protest" means a written objection by an interested party to the prequalification of commercial products, or to a solicitation for bids or proposal for a proposed contract for the procurement of commercial products or a written objection by an interested party to a proposed award or to the award of such a contract.

(B) "Interested party" means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract for commercial products procured under the authority of this section.

(h) EFFECTIVE DATES.—The regulations required by subsection (d) shall be issued 270 days after the date of enactment of this Act. Subsections (e), (f), and (g) shall become effective 90 days after the regulations required by subsection (d) are incorporated into the Federal Acquisition Regulation.

SEC. 203. RECISION OF COMMERCIAL PRICING CERTIFICATION REQUIREMENT.

Section 2323 of title 10, United States Code, is hereby repealed.

SEC. 204. AWARDS WITHOUT DISCUSSIONS.

Section 2305(b)(4)(A)(ii) of title 10, United States Code, is amended adding at the end ", or the greatest benefit to the United States considering factors such as price, quantity, design, performance, management capability, technical capability, delivery, or risk as stated in the solicitation in accordance with paragraphs (a) (2) and (3),".

SEC. 205. PROCUREMENT SIMPLIFICATION—UNIFORM-THRESHOLD FOR VARIOUS SOCIO-ECONOMIC REQUIREMENTS.

(a) Section 2304 of title 10, United States Code, is amended by adding at the end of subsection (g) the following new subparagraph (5):

"(5) The following provisions of the Small Business Act (15 U.S.C. 631-650) shall not apply to a small purchase as defined in section 2304(g)(2) of this title:

"(A) The last sentence of section 8(b)(7)(A) (15 U.S.C. 637(b)(7)(A)); and

"(B) Section 8(b)(7)(C) (15 U.S.C. 637(b)(7)(C)).".

(b) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended by adding at the end of subsection (g) the following new paragraph (5):

"(5) The following provisions of the Small Business Act (15 U.S.C. 631-650) shall not apply to a small purchase as defined in section 303(g)(2) of this act:

"(A) The last sentence of section 8(b)(7)(A) (15 U.S.C. 637(b)(7)(A)) and

"(B) Section 8(b)(7)(C) (15 U.S.C. 637(b)(7)(C)).".

(c) Sections 8 and 15 of the Small Business Act (15 U.S.C. 637 and 644) are amended as follows:

(1) In section 8(d)(2)(A) (15 U.S.C. 637(d)(2)(A)) and sections 8(e)(1)(A) (i) and (ii) (15 U.S.C. 637(e)(1)(A) (i) and (ii)) by striking out "$10,000", "$25,000", and "$25,000)), respectively, and inserting in lieu thereof in each instance "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an executive agency other than those listed in section 2303 of title 10, United States Code".

(2) By striking out section 8(e)(1)(A)(iii).

(3) In sections 8(e)(1)(B) (i) and (ii) (15 U.S.C. 637(e)(1)(B) (i) and (ii), by striking out "$25,000;" and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10 United States Code" in lieu thereof.

(4) In section 8(e)(1)(C) (15 U.S.C. 637(e)(1)(C)), (A) by striking out "$25,000," each place it appears and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case an agency other than those listed in section 2303 of title 10, United States Code".

(5) In section 15(j) (15 U.S.C. 644(j)), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(d) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 16) is amended as follows:

(1) In sections 18(a)(1)(A)(i) and 18(a)(1)(A)(ii), by deleting "$25,000" and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(2) By deleting section 18(a)(1)(A)(iii) in its entirety.

(3) In sections 18(a)(1)(B)(i), and 18(a)(1)(B)(ii), and 18(a)(1)(C) by deleting "$25,000" and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(e) Section 503(a) of the Rehabilitation Act of 1973 (29 U.S.C. 793(a)) is amended by striking out "$2,500" each place it appears and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2), of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(f) Section 503(a) of the Vietnam Veteran's Readjustment Assistance Act of 1972 (38 U.S.C. 2012(a)) is amended by striking out "the amount of $10,000 or more" and inserting in lieu thereof "excess of the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Service Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(g) Section 1 of the Act approved June 30, 1936 (commonly referred to as the "Walsh-Healey Act") (41 U.S.C. 35) is amended by striking out "$10,000," in the first sentence and insering in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(h) Section 2 of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended by striking out "$2,500" and inserting in lieu thereof "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

(i) Section 6002(a) of the Solid Waste Disposal Act of 1976 (42 U.S.C. 6962(a)) is amended by striking out "$10,000" the first time it appears and "$10,000 or more" and inserting in lieu thereof in each instance "the small purchase threshold as established in section 2304(g)(2) of title 10, United States Code, in the case of agencies listed in section 2303 of title 10, United States Code, or the small purchase threshold as established in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)) in the case of an agency other than those listed in section 2303 of title 10, United States Code,".

SEC. 206. FEDERAL ACQUISITION REGULATORY COUNCIL MEMBERSHIP.

Section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) as amended by P.L. 100-679 is further amended by striking out subparagraph (b)(2) and inserting in lieu thereof the following new subparagraph (b)(2):

"(b)(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official—

"(A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies with authority in the case of the Department of Defense to further redesignate an official at an organizational level not lower than an Assistant Secretary of Defense within the Office of the Under Secretary of Defense for Acquisition; or

"(B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. Further redesignation may not be made.".

SEC. 207. COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT.

Section 2438 of title 10, United States Code, is amended to read as follows:

"(a)(1) Prior to the completion of full-scale development under a major program the Secretary of Defense shall prepare an acquisition strategy for the program.

"(2) The Secretary shall ensure that contracts for each major program are awarded in accordance with the acquisition strategy for such program.

"(b)(1) The acquisition strategy prepared under subsection (a)(1) shall provide that there will be competitive alternative produc-

tion sources available for major programs and for major subsystems under the major program when the establishment and maintenance of two or more production sources—

"(A) would likely result in reduced costs for such program;

"(B) would not result in unacceptable delays in fulfilling the needs of the Department of Defense; and

"(C) is otherwise in the national security interests of the United States.

"(2) In carrying out this subsection, the Secretary may provide that the requirement for competitive alternative production sources of a major program or subsystem is satisfied even though the sources for that major program or subsystem do not develp or produce identical systems if the systems developed serve similar functions and compete effectively with each other.

"(c) In this section:

"(1) 'Major program', means a major defense acquisition program, as such term is defined in section 2430 of this title.

"(2) 'Major subsystem', with respect to a major program, means a subsystem of the system developed under the program, that is purchased directly by the United States and for which—

"(A) the amount for research, development, test and evaluation is 10 percent or more of the amount specified in section 2430(2) of this title as the research; development, test and evaluation funding criterion for identification of a major defense acquisition program; or

"(B) the amount for production is 10 percent or more of the amount specified in section 2430(2) of this title as the production funding criterion for identification of a major defense acquisition program.".

SEC. 208. CERTIFIED COST OR PRICING DATA THRESHOLD.

Subsection (a) of section 2306 of title 10, United States Code, is amended by striking out "$100,000" each place it appears and by inserting in lieu thereof "$500,000".

SEC. 209. SOLICITATION AREA POLICY FOR WEST COAST NAVAL RESERVE FORCE SHIPS.

Subsection (d) of section 7299a of title 10, United States Code, is amended in paragraph (3) by striking out "apply-(A) in the case of voyage repairs; or (B) in the case of a vessel that is assigned to the Naval Reserve Force and homeported on the West Coast of the United States" and inserting in lieu thereof "apply in the case of voyage repairs".

SEC. 210. AUTHORITY TO AWARD CONTRACTS WHEN COMPETITION EXISTS BETWEEN PUBLIC AND PRIVATE SHIPYARDS.

Section 7313 of title 10, United States Code, (Overhaul of naval vessels.: competition between public and private shipyards) is hereby repealed and the corresponding item in the chapter analysis for chapter 633 is hereby deleted.

SEC. 211. AUTHORITY FOR NAVY TO CONSIDER COSTS FOR WORK OUTSIDE HOMEPORT WHEN EVALUATING BIDS.

Section 9053 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165; 103 Stat. 1140) is hereby repealed.

SEC. 212. REMOVAL OF RESTRICTION ON CONTRACTING OUR CORE LOGISTICS.

Section 2464 of title 10, United States Code, is hereby repealed and the corresponding item in the chapter analysis for chapter 146 is hereby deleted.

SEC. 213. ELIMINATION OF PROHIBITIONS ON CERTAIN ACTIVITIES.

Sections 2465 and 2466 of title 10, United States Code, are hereby repealed and the corresponding items in the chapter analysis for chapter 146 are hereby deleted.

SEC. 214. EXCEPTION TO COST PROHIBITION FOR CERTAIN OVERSEA SEVERANCE PAY.

(a) Subparagraph 2324(e)(1)(M) of title 10, United States Code, is amended by adding the following proviso at the end: "; *provided*, however, that, under such regulations as are prescribed by the Secretary of Defense, any severance pay paid to foreign nationals in order to comply with the laws of the local host nation may be allowable".

(b) The foregoing proviso to subparagraph 2324(e)(1)(M) shall apply with respect to all costs incurred by contractors after the date of enactment of this Act under covered contracts.

SEC. 215. AUTHORITY GOVERNING OPERATION OF WORKING-CAPITAL FUNDED ACTIVITIES.

Paragraphs (1) and (2) of section 2208(i) of title 10, United States Code, are amended to read as follows:

"(i)(1) Regulations under subsection (h) may authorize an article manufactured by a working-capital funded Department of the Army arsenal (or other Army industrial facility) that manufacturers large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to be sold to a person outside the Department of Defense if—

"(A) the article is sold to a United States manufacturer, assembler, developer, or other concern (i) for use in developing new products; (ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States; (iii) for incorporation into items to be sold to, or to be used in a contract with, or for purposes of soliciting a contract with a friendly foreign government; or (iv) for use in commercial expendable launch vehicles;

"(B) the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

"(C) the article is not readily available from a commercial source in the United States; and

"(D) the sale is to be made on a basis that does not interfere with performance of work by the arsenal for the Department of Defense or for a contractor of the Department of Defense.

"(2) Services related to an article sold, or authorized to be sold, under this subsection (i), may also be sold to the purchaser if the services are to be performed in the United States for the purchaser.".

SEC. 216. AUTHORIZATION OF PRINTING FOR TECHNICAL DATA.

Technical data to be delivered under Department of Defense contracts shall not be subject to any law that imposes restrictions on the procurement from commercial sources of any printing, binding, or blankbook work.

SEC. 217. PILOT PROGRAM FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section 2332 (after section 2331 added by section 302 of this Act):

§ 2332. Pilot program for major defense acquisition programs

"(a) IN GENERAL.—The Secretary of Defense is authorized, subject to subparagraph (d), to conduct a pilot program in accordance with standard commercial, industrial practices with the objective of identifying the potential for increasing the efficiency and effectiveness of the acquisition process. The Secretary may waive for purposes of such pilot program any provision of law or regulation that the Secretary is not otherwise authorized to waive that:

"(1) prescribes procedures for the procurement of supplies or services;

"(2) prescribes preferences to be given to any source or class of sources or mandates a particular source or class of sources;

"(3) prescribes requirements to be imposed on the contractor that relate to the contractor's performance of the contract;

"(4) prescribes requirements governing cost allowability, cost accounting, or auditing, except a provision intended to assure financial integrity for the conduct of government programs and except a provision relating to the authority of the Inspector General of the Department of Defense;

and which law is not equally applicable to contracts to which the United States Government is not a party; or

"(5) prescribes requirements for the management, testing, evaluation of, or reporting on, a program.

"(b) DESIGNATION PARTICIPATING PROGRAMS.—The Secretary of Defense may designate no more than six major defense acquisition programs, as defined in section 2430 of title 10, United States Code, to participate in the pilot program.

"(c) REGULATIONS.—The Secretary of Defense shall promulgate regulations to implement the pilot program within 270 days after the date of enactment of this section.

"(d) NOTIFICATION.—Whenever the Secretary of Defense determines that a major defense acquisition program should be designated as part of the pilot program under this provision, the Secretary shall notify the Congress of his intention to designate such program for inclusion in the pilot program."; and

(b) the table of sections for such chapter 137 is amended by adding after the item relating to section 2331 (as added by section 202 of this Act) the following:

"2332. Pilot program for major defense acquisition programs.".

SEC. 218. DAVIS-BACON REFORM.

(a) REFERENCE.—Whenever in this section (other than in section 10) an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act of March 3, 1931 (commonly referred to as the "Davis-Bacon Act").

(b) INCREASE IN THRESHOLD AMOUNT.—Subsection (a) of the first section (40 U.S.C. 276a) is amended by striking out "$2,000" and inserting in lieu thereof "$250,000".

(c) APPROPRIATE CIVIL SUBDIVISION FOR COMPUTATION OF PREVAILING WAGE.—Subsection (a) of the first section is further amended by striking out "the city, town, village, or other civil subdivision of the State, in which the work is to be performed," and inserting in lieu thereof "the particular urban or rural subdivision (of the State) in which the work is to be performed,".

(d) DETERMINATION OF PREVAILING WAGE.—Subsection (a) of the first section is further amended by adding at the end thereof the following: "In determining the prevailing wage for a class of laborers, mechanics, or helpers where more than a single wage is being paid to the corresponding class of laborers, mechanics, or helpers, the Secretary shall establish as the prevailing wage—

"(1) the wage paid to 50 percent or more of the corresponding class of laborers, mechanics, or helpers employed on private industry projects of a character similar to the

contract work in the urban or rural subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there, or

"(2) if the same wage is not paid to 50 percent or more of the laborers, mechanics, or helpers in the corresponding class, the weighted average of the wages paid to the corresponding class of laborers, mechanics, or helpers employed on private industry projects of a character similar to the contract work in the urban or rural subdivision of the State in which the work is to be performed, or in the District of Columbia, if the work is to be performed there.".

(e) EXCLUSION OF FEDERAL PROJECTS FROM PREVAILING WAGE COMPUTATION.—Subsection (b)(1) of the first section is amended by inserting before the semicolon the following: ", excluding the basic hourly rates of pay of individuals whose wages are established pursuant to the requirements of this Act, unless it is determined that there is insufficient wage data to determine the prevailing wages in the absence of data from Federal or federally assisted projects; data from Federal or federally assisted projects may be used in compiling wage rate data for heavy and highway wage determinations".

(f) CLASSIFICATION OF HELPERS.—The first section is further amended by adding at the end thereof the following new subsection:

"(c)(1) For the purposes of this Act, helpers of a class of laborers or mechanics shall be considered as a separate class and prevailing wages for such helpers shall be determined on the basis of the corresponding class of helpers.

"(2) For the purposes of this section, the term 'helper' means a semi-skilled worker (rather than a skilled journeyman mechanic) who—

"(A) works under the direction of and assists a journeyman,

"(B) under the direction and supervision of the journeyman, performs a variety of duties to assist the journeyman, such as—

"(i) preparing, carrying, and furnishing materials, tools, equipment, and supplies and maintaining them in order,

"(ii) cleaning and preparing work areas,

"(iii) lifting, positioning, and holding materials or tools, and

"(iv) other related semi-skilled tasks as directed by the journeyman, and

"(C) may use tools of the trade which are under the direction and supervision of the journeyman.".

(g) PROHIBITION ON CONTRACT-SPLITTING.—The first section of the Davis-Bacon Act (as amended by subsection (f) of this section) is further amended by adding at the end thereof the following new subsections:

"(d) any person entering into a contract under which wages are to be determined in accordance with this Act shall not divide any project into contracts of $250,000 or less if the project would not have been so divided but for the purpose of avoiding application of this Act.

"(e) Whenever the Secretary of Labor determines that a division for such a purpose has occurred, the Secretary may (1) require that the contracts, grants, or other instruments providing Federal financing or assistance be amended so as to incorporate retroactively all the provisions which would have been required under this Act or other applicable prevailing wage statute, and (2) require the contracting or assisting agency, the recipient of Federal financing or assistance, or any other entity which awarded the contract or instrument providing Federal financing or assistance in violation of this section, to compensate the contractor, the grantee, or other recipient of Federal assistance, as appropriate, for payment to each affected laborer and mechanic, of an amount equal to the difference between the rate received and the applicable prevailing wage rate, with interest on wages due at the rate specified in section 6621(c) of title 26, United States Code, from the date the work was performed by such laborers and mechanics. The Secretary shall make such a determination only where the Secretary has notified the agency or entity in question no later than 180 days after completion of construction on the project that an investigation will be conducted concerning an alleged violation of this subsection.".

(h) TECHNICAL AMENDMENT APPLYING REFORM TO RELATED ACTS.—The Davis-Bacon Act is further amended by adding at the end the following:

"SEC. 8. No provision of any law requiring the payment of prevailing wage rates as determined by the Secretary in accordance with this Act shall apply to contracts for construction, alteration, or repair valued at $250,000 or less, or in the case of rent supplement assistance or other assistance for which the instrument of Federal financing or assistance does not have an aggregate dollar amount, where the assisted project is in the amount of $250,000 or less.".

(i) TECHNICAL AMENDMENTS.—(1) The following is inserted before the first section: "Section 1. This Act may be cited as the 'Davis-Bacon Act'.".

(2) The first section is amended by striking out "(a) That the" and inserting in lieu thereof "Sec.2. (a) The".

(3) Sections 2 through 8 are redesignated as sections 3 through 9, respectively.

(4) Subsection (a) of section 3 (40 U.S.C. 276a-2) is amended by striking the first sentence and inserting in lieu thereof the following: "In accordance with regulations issued by the Secretary pursuant to Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), any wages found to be due to laborers and mechanics pursuant to this Act shall be paid directly to such laborers and mechanics from any accrued payments withheld under the terms of the contract. Any sums due laborers or mechanics under section 1, not paid because of inability to do so within 3 years, shall revert to or be deposited into the Treasury of the United States. The Administrator of General Services shall distribute a list of all departments of the Government giving the names of persons or firms that the Secretary has found to have disregarded their obligations to employees and subcontractors.".

(j) COPELAND ACT PAPERWORK REDUCTION AMENDMENT.—Section 2 of the Act of June 13, 1934, entitled "An Act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes" (40 U.S.C. 276c) (commonly referred to as the "Copeland Act") is amended by striking out "shall furnish weekly a statement with respect to the wages paid each employee during the preceding week" and inserting in lieu thereof "shall furnish weekly a statement with respect to the wages paid each employee during the preceeding week" and inserting in lieu thereof "shall furnish, at the beginning, midpoint, and conclusion of the period covered by the contract, a statement with respect to the weekly wages paid each employee during such period, except that such statement shall be furnished no less often than every 3 months.".

(k) REPORTS REQUIRED.—Beginning 1 year after the effective date of the amendments made by this Act, and at intervals of 1 year thereafter, the Secretary of Labor and the Comptroller General of the United States shall each prepare and transmit to the Congress a report describing the results of a review of the implementation, enforcement, administration, impact on local wages, and impact on local and national economies of the Act of March 3, 1931 (the Davis-Bacon Act), the Act of June 13, 1934 (the Copeland Act), and the amendments made by this Act during the preceding 12-month period, including recommendations for such further legislation as may be appropriate.

(l) EFFECTIVE DATE.—The amendments made by section 218 shall take effect 60 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitations for bids outstanding on that date.

TITLE III—CIVILIAN PERSONNEL

SEC. 301. REPEAL OF THE 180 DAY LIMITATION PERIOD FOR THE HIRE OF RETIRED MILITARY MEMBERS.

Section 3326 of title 5, United States Code, is repealed.

SEC. 302. OPTIONAL EXCLUSION OF PERFORMANCE RATINGS FOR CERTAIN TEMPORARY EMPLOYEES SERVING LESS THAN ONE YEAR.

Section 4301 of title 5, United States Code, is amended—

(1) by deleting "or" at the end of subparagraph (2)(F) and "and" at the end of subparagraph (2)(G);

(2) by inserting "or" at the end of subparagraph (2)(G); and

(3) by adding the following new subparagraph at the end of paragraph (2):

"(2)(H) an individual who is serving under temporary appointment for less than one year within the Department of Defense who agrees to serve without a performance rating unless such individual is being considered for (i) an increase in pay that is dependent on performance or (ii) a reappointment; and".

SEC. 303. REIMBURSEMENT FOR HOUSE HUNTING TRIPS TO ALASKA AND HAWAII.

Section (a) of section 5724a of title 5, United States Code, is amended by striking out in paragraph (2) "continental".

SEC. 304. TRANSPORTATION FOR EMPLOYEES WHO DIE WHILE ASSIGNED TO ALASKA OR HAWAII OR WHO HAVE EXECUTED MANDATORY MOBILITY AGREEMENTS.

Section 5742 of title 5, United States Code, is amended—

(1) in paragraphs (1) and (2) of subsection (b) by inserting "continental" after "outside the" in each instance, and

(2) by adding at the end the following new subsection (e):

"(e) The benefits under this section shall apply to an employee who has relocated pursuant to a mandatory mobility agreement executed as a condition of employment.".

SEC. 305. SEPARATE MAINTENANCE ALLOWANCE FOR EMPLOYEES IN PANAMA.

Section 5924 of title 5, United States Code, is amended in paragraph (3) by inserting after "in a foreign area" "or in the Republic of Panama".

SEC. 306. EXCEPTION TO $10 LIMIT ON REMOTE WORKSITE ALLOWANCE.

Section 5942 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding", and

(2) by adding at the end the following new subsection (b):

"(b) The maximum allowance described in subsection (a) may be adjusted from time to time under regulations of the President, when necessary to alleviate deterrents to hiring and retaining employees at remote work sites.".

SEC. 307. REPEAL OF REQUIREMENT FOR AUTHORIZATION OF CIVILIAN PERSONNEL BY END STRENGTH.

Section 115(b)(2) of title 10, United States Code, is repealed and paragraphs (3), (4), and (5) of section 115(b) are designated as paragraphs (2), (3), and (4), respectively.

SEC. 308. REVISION TO PROHIBITIONS ON CERTAIN PERSONNEL MANAGEMENT CONSTRAINTS.

Section 129, title 10, United States Code, is amended to read as follows:

"(a) The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with the work load required to carry out the functions and activities of the department and the appropriations and funds available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject to any statutory end strength or work year constraint or limitation, and the management of such personnel in any fiscal year shall not be subject to any statutory end strength or work year floor or minimum staffing level.

"(b) The number of, and the amount of funds available to be paid to indirectly funded Government employees of the Department of Defense may not be—

"(1) subject to any statutory constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year; or

"(2) managed on the basis of any statutory end-strength or work year.

"(c) In this section, the term "indirectly funded Government employees" means civilian employees of the Department of Defense who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title.".

SEC. 309. REPEAL OF CEILING ON EMPLOYEES IN HEADQUARTERS AND NON-MANAGEMENT HEADQUARTERS AND SUPPORT ACTIVITIES.

(a) Sections 194, 3014(f)(1), 5014(f)(1), and 8014(f)(1) of title 10, United States Code, are hereby repealed.

(b) The table of sections for subchapter I of chapter 8, United States Code, is amended by striking out the last line (relating to section 194).

SEC. 310. HOMEOWNERS ASSISTANCE TO CERTAIN EMPLOYEES OVERSEAS.

Section 3374 of the Demonstration Cities Metropolitan Development Act of 1966, as amended, (42 U.S.C. 3374) is amended by adding at the end the following new subsection (o):

"(o) Notwithstanding the provisions of subsections (b) and (c), Federal employees and nonappropriated fund personnel serving overseas with reemployment rights to an organization undergoing a base closure, wholly or in part, or a reduction in scope of operations, shall be entitled to the benefits of this section to the same extent that they would be had they remained with the organization.".

TITLE IV—REAL PROPERTY

SEC. 401. REVENUE FROM SALE OF EXCESS DEPARTMENT OF DEFENSE LAND.

Section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) is amended—

(1) in subsection (a) by striking "subsections (b), (c), (d), and (e) of this section" and inserting in lieu thereof "subsections (b), (c), (d), (e), and (h) of this section";

(2) in subsection (b) by striking "All the proceeds" in the first sentence and inserting in lieu thereof "Except as provided in subsection (h), all the proceeds"; and

(3) by adding at the end the following new subsection (h):

"(h) Whenever the Secretary of Defense determines that land under the control of the Department is excess property, as defined by section 3 of this Act, the Secretary will request the Administrator of General Services to dispose of that property in accordance with this Act. If, as a result of this process, the land is sold and revenues are realized, the Administrator will, in the manner and to the extent provided in an appropriation act, deposit half of the net proceeds from the sale of the excess land to a special account of the Department of Defense to be used to meet the Department's mission essential requirements that are in the best interests of national defense.".

SEC. 402. REVENUE FROM OUT LEASING OF DEPARTMENT OF DEFENSE ASSETS.

Subsection (d) of section 2667 of title 10, United States Code, is amended to read as follows:

"(d) Payments for utilities or services furnished to a lessee under a lease authorized by this section shall be covered into the Treasury to the credit of the appropriation from which the cost of furnishing them was paid. Half of the money rentals received under this section, in excess of payments for utilities or services furnished to the lessee, may be retained and expended by the Secretary concerned, in the manner and to the extent provided in an appropriation act, to meet mission essential requirements. The remainder of money shall be covered into the Treasury as miscellaneous receipts.".

THE SECRETARY OF DEFENSE,
Washington, DC, April 5, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I have the honor to transmit for the consideration of the Congress the Administration's proposed "Defense Management Improvement Act." This legislation further implements the recommendations of the Packard Commission and my July 1989 Report to the President on Defense Management. The legislation is an important element of the President's Program and will substantially strengthen the Department's ability to use available resources effectively.

Shortly after his inauguration, the President announced his intention to implement the Packard Commission recommendations. When he asked me to become Secretary of Defense, he made it clear that the effort to strengthen and streamline the management of the Department of Defense was one of our top priorities. This legislative initiative is a significant step forward in reaching this goal.

The "Defense Management Improvement Act" provides a statutory foundation for improvements in defense acquisition, military and civilian personnel management, and the management of real property. Enactment of this legislation will increase efficiency and effectiveness of our activities and reduce the size and cost of our defense structure. It will remove many legal road blocks that currently inhibit sound management of the Department. Enactment of the legislation will help the Department perform its crucial national security mission and over time realize substantial savings for America's taxpayers.

I urge prompt enactment of this legislation in this session of Congress.

Sincerely,

DICK CHENEY.

SECTION-BY-SECTION ANALYSIS

TITLE I—MILITARY PERSONNEL

Section 101

Amends 37 U.S.C. § 308 to allow the Secretary of Defense to terminate Selective Reenlistment Bonus (SRB) payments in cases where a member who is receiving such payments does not complete the term of enlistment or ceases to perform in the military specialty for which the bonus was paid.

Under current regulations, an SRB recipient who separates under hardship or dependency reasons receives the SRB balance upon separation regardless of time served in the SRB skill. Additionally, persons who are reclassified or reassigned out of the SRB skill for reasons beyond their control either separate and receive the SRB balance or retrain and continue receiving SRB anniversary payments.

This section would prevent SRB recipients who separate under hardship/dependency from receiving the unearned portions of their reenlistment bonus upon separation. It would also include other not-for-cause reclassification such as humanitarian reassignment to other duties, loss of security clearance through no fault of the member, injury, illness or impairment not the result of the member's misconduct, pregnancy and failure to attain a higher standard of technical qualification required for effective performance in the military specialty after payment of the bonus. This provision would not suspend any SRB payments from members reclassified as a result of service-directed employment in another specialty to meet Continental United States (CONUS) and overseas rotation, sea and shore rotation, or other mission essential requirements, since these actions are used exclusively to meet the needs of the military service and suspending the full SRB contract would unfairly penalize service members and diminish the integrity of the SRB program.

Section 102

Repeals 37 U.S.C. § 308(g) and 308(a)(c) thereby providing the Department of Defense with permanent authority to pay bonuses under the Enlistment Bonus (EB) and Selective Reenlistment Bonus (SRB) programs.

Under the present statutes, authority to pay EB and SRB expires on September 30, 1992. This date coincides with the end of fiscal year 1992. Therefore, Congress must provide for continued authority in the fiscal year 1993 Defense Authorization Act. If an Authorization Act is not passed by Congress and signed by the President prior to the beginning of fiscal year 1992, the services will be unable to approve new contracts for enlistment or reenlistment into critical skills until such time as the new Authorization is enacted.

Section 103

Amends 10 U.S.C. § 521 by adding a new sentence at the end of subsection (a). The amendment clarifies the authority of the

Secretary of Defense to use the increase in officer strength authorized under 10 U.S.C. § 115(b)(1)(E) (as amended by section 204 of the bill) when determining the total number of officers authorized to be on active duty in an armed force at the end of a fiscal year, provided that the resulting number in an armed force does not exceed the number otherwise directed by Congress for that armed force, by more than one-half of one percent.

Section 104

Amends 10 U.S.C. § 115b to allow the Secretary of Defense to shift authorized end strength and reprogram funds between active and reserve components of each of the Armed Forces so that the Secretary of Defense has full use of authorized end strength and corresponding funds for all components of the Armed Forces when responding to contingency operations or force restructure. It would allow smooth transfer of units from active to reserve components as part of force restructure and provide the ability to work within congressionally authorized total force fiscal year end strength limits to conduct contingency operations directed by the President.

Section 105

Substitutes a new 10 U.S.C. § 630 that would retain existing provisions of section 630 that allow for discharge of regular officers with less than five years active commissioned service, but adds a new provision, that would permit the Secretary of the military department concerned to involuntarily release from active duty and transfer to the Ready Reserve any regular officer with less than eight years of active commissioned service, who has remaining obligated service, whether that obligation is pursuant to law (10 U.S.C. § 651) or service regulations. Assuming the officer is otherwise qualified, he or she shall be tendered a reserve appointment. Any officer who declines the tenured reserve appointment will be transferred to the reserve component in an enlisted status under existing provisions of law.

Existing statute provides no option, short of discharge, for the Secretary concerned to direct the release of a regular officer from active duty and to then utilize the officer in the reserve component for any remaining service obligation. The Secretary must *discharge* a regular officer or retain the officer on active duty, even though the officer's skills may be "excess" to active duty requirements and in short supply in the reserve component.

Subsection (d) of the revised section 630 specifies that this section does not apply to officers separated "for cause" pursuant to Chapter 60, nor to officers in the grade of captain, or lieutenant (senior grade) in the Navy, who are discharged for failure of promotion under section 632 of title 10.

Section 106

Adds 10 U.S.C. § 3583, 5509 and 8583 so as to permit the Secretary of the military department concerned to authorize an officer retired in a grade below the highest grade held on active duty, pursuant to 10 U.S.C. § 1370(a)(2), to retain the rank and insignia of grade of the highest grade in which the officer served on active duty satisfactorily for a period of at least 18 months. An officer who is allowed to retain the rank and insignia of the higher grade pursuant to the authority of this section shall, for all purposes of law other than computation of retired pay, be considered to have retired in the higher grade.

Current law requires that officers selected for promotion to the grade of lieutenant colonel or commander and above, serve a full three years in grade before being allowed to retire in that pay grade. Officers who voluntarily retire prior to completion of the required time-in-grade must retire in the next lower grade. Allowing an officer to retire voluntarily at the pay scale applicable to the lower grade, but to retain the insignia of the higher grade and the nonfinancial deference accorded the higher grade in professional associations, would serve to eliminate any stigma, and encourage additional retirements without increasing retirement costs.

Section 107

Authorizes involuntary retirements of regular Navy officers designated for limited duty (LDOs) who are serving in the grades of commander and captain. Under this section, a commander not on a promotion list for captain, would be required to retire upon completion of 35 years of active naval service or the second failure of selection for promotion to the grade of captain, whichever occurred first. A captain would be required to retire upon completion of 38 years of active naval service.

Mandatory retirement of LDO commanders and captains are now governed by the same provisions that apply to non-LDO's in the same grade, 10 U.S.C. § 633 and 634. Those provisions require the retirement of a commander who is not on a promotion list when the officer completes 28 years of active commissioned service and of a captain on completion of 30 years of active commissioned service. In the case of the LDO community, retaining officers until those service points significantly restricts promotion flow points for more junior officers compared to flow points under a system that required separation following the second failure of selection for captain or a shorter term of service.

Section 108

Amends 10 U.S.C. § 611(a) to allow the Secretary of Defense to waive the requirement in existing law to convene a selection board to recommend officers for promotion to captain or lieutenant (senior grade), whenever the determination required by 10 U.S.C. § 622 reveals that the number of officers which should be recommended to meet projected vacancies in the grade and competitive category, is greater than or equal to, the number of officers eligible to be considered by the prospective selection board. Officers in the prospective zone of consideration would be considered for promotion under service regulations.

Also amends 10 U.S.C. § 624(a) to require that the names of officers approved for promotion under the waiver authority of the Secretary of Defense (as described above) be placed on a promotion list for the competitive category in order of seniority consistently with the existing statutory requirement for officers recommended for promotion by a selection board convened in accordance with 10 U.S.C. § 611(a).

Also amends 10 U.S.C. § 631 to add the provision that an officer who is considered for promotion under the waiver authority specified in subsection 213(a) of the bill, but whose name is not placed on the promotion list as required by subsection 213(b) of the bill, shall be considered to have failed of selection for promotion.

A board to select officers for promotion from lieutenant (lieutenant (junior grade) in the Navy) to captain (lieutenant (senior grade) in the Navy) is not appropriate in those competitive categories where constructive service credit is awarded and the promotion process is "fully qualified." Consideration for promotion to this junior grade in some categories (e.g., Chaplains) is essentially noncompetitive (i.e., "fully qualified") and occurs normally within three to six months of entry on active duty. Allowing the Secretary of Defense the option to utilize a board to select officers for promotion to captain (lieutenant (senior grade) in the Navy) would improve the effectiveness and efficiency of force management for professional branch officers.

Section 109

Authorizes the expenditure of appropriated funds to pay the meal and lodging expenses of members who are directed to reside at a location other than their normal duty location, but within the limits of the duty station. Such duty, performed within the limits of the duty station, does not fall within the provisions of 37 U.S.C. § 404 Code, as the members are not considered away from the permanent duty station. Therefore, the expenses associated with such duty are not reimbursable.

The proposal would amend 37 U.S.C. § 408 by adding a new subsection (b) that would authorize joint travel regulations to permit an entitlement to travel and transportation allowances under 37 U.S.C. § 404 when ordered to perform duty at a location within the normal limits of the duty station but at a location where the member would be away from his or her residence or duty location for a period of time that would require overnight accommodations.

Section 110

Replaces the fixed numerical limits on the number of personnel in pay grades E-8 through E-9 who may be on active duty as of the end of any fiscal year by substituting force structure requirements as adjusted within funding availability in the defense appropriation act or continuing resolution for that fiscal year. Also repeals 10 U.S.C. § 517, which provides the fixed numerical limits.

TITLE II—ACQUISITION

Section 201

Amends 10 U.S.C. 2306(h) and repeals section 9021 of P.L. 101-165, to eliminate certain requirements that must be met before entering into a multiyear contract. Current law requires that multiyear candidates meet certain criteria prior to forwarding them to Congress for approval. Among these criteria is a requirement that the multiyear achieve a 10 percent savings over current negotiated contracts or over annual contracts. This requirement could result in the Department of Defense missing opportunities to realize significant savings simply because the arbitrary percentage threshold is not met. Section 201 will enable the Department to take greater advantage of potential savings and thereby promote greater program stability.

Section 202

Furthers the recommendations of the Defense Management Review that the Department of Defense place greater reliance on commercial products and commercial-style procurement practices. This section authorizes the head of an agency to use simplified commercial-style procurement procedures for the acquisition of commercial products. These procedures will place greater emphasis on the use of product descriptions rather than detailed specifications. Procurements

using these procedures will be further streamlined by requiring that a product have achieved commercial acceptance in order to compete as a commercial product. However, products that have been supplied under recent or current contracts for the same agency requirements may also be considered if such products otherwise meet the criteria that commercial products must meet and are evaluated on an equal basis with the commercial products. These procedures will enable contracting officers to avoid using detailed specifications and having to conduct extensive source reviews and product tests and evaluations. This section also will permit selecting products on the basis of the greatest benefit to the agency. This section would make inapplicable to the purchase of commercial products provisions of law that relate generally to source preferences and unique contract requirements if they are not equally applicable to contracts to which the United States Government is not a party. It is not the intent of this section to affect or impair existing authorties with respect to the required use of GSA as a source of supply. These are provisions that frequently prohibit or discourage many sellers of commercial products from competing for Government contracts. Finally, this section would establish in the Department of Defense a three year pilot program at components designated by the Secretary of Defense for the filing of protests by interested parties in connection with the acquisition of commercial products with an official designated to hear protests. During the period of the pilot program, this procedure shall be the sole administrative remedy available to interested parties.

Section 203

Repeals the commercial pricing certification requirement imposed by 10 U.S.C. 2323 (Public Law 98-525) as amended by section 926 of the Defense Acquisition Improvement Act (Public Law 99-500). Section 2323 requires the Department of Defense to obtain a certification from contractors that the Government is receiving the lowest commercial price for spare and repair parts procured using other than competitive procedures. The commercial pricing certification requirement is not cost-effective and its continued use imposes a burden on the procurement process without a beneficial return.

Section 204

Amends 10 U.S.C. 2305 (b)(4) to authorize the Department of Defense to evaluate competitive proposals and award a contract without discussions to the offeror whose proposal represents the greatest benefit to the Government based upon the evaluation factors set out in the solicitation.

The Competition in Contracting Act permits award of a contract without discussions only if, among other requirements, it is demonstrated that award of an initial proposal would result in the lowest overall cost to the Government. Recent GAO cases have interpreted this to mean that award can be made without discussions only to the lowest priced acceptable offeror.

In solicitations where an offeror other than the low offeror clearly provides the best technical proposal at a reasonable price, it is in the Government's best interest to award to that offeror. A round of discussions will not significantly improve the superior proposal, but will only result in unnecessary and potentially multiple requests for best and final offers and additional costs to the offerors and to the Government.

Section 205

Amends title 10, United States Code, and the Federal Property and Administrative Services Act to exempt small purchases from certain socio-economic provisions, and amends various socio-economic statutes to remove specific dollar thresholds in favor of language establishing a uniform threshold for their application at the small purchase threshold in section 2303 of title 10, United States Code or in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 for agencies other than those subject to title 10. The Armed Services Procurement Act of 1947 and the Federal Property and Administration Services Act of 1949 initially authorized small purchase procedures for procurements up to $1,000. Over the years, these Acts were amended to raise the small purchase threshold to $2,500, $10,000, and subsequently $25,000. Threshold adjustments reflected Congress' recognition of the impact of inflation on low dollar value purchases. Also over the years, Congress enacted legislation, generally outside of the major procurement statutes, which nonetheless imposed significant requirements on government acquisition. These statutes were frequently drafted so as to have little or no application to small purchases setting a "floor" in terms of contract dollar value at the existing statutory "ceiling" for small purchases. Although the "ceiling" for small purchases was regularly adjusted to account for the declining purchasing power of the dolar, the "floors" for applying other statutory requirements did not keep pace. Procedures originally intended to expedite the economic acquisition of low dollar value items and services are now subject to a wide array of relatively complex and costly administrative steps, solicitation provisions, and contract clauses.

Section 206

Amends section 25 of the Office of Federal Procurement Policy Act, as amended by P.L. 100-679 (41 U.S.C. 421), to permit designation in the Department of Defense of an official at an organizational level not lower than an Assistant Secretary of Defense within the Office of the Under Secretary of Defense for Acquisition to serve on and attend meetings of the Federal Acquisition Regulatory Council. By law, only the USD(A) may be designated by the Secretary of Defense to serve on the FAR Council. This places the USD(A) in the unworkable position of having to attend all sessions of the Federal Acquisition Regulatory Council. With the other extensive responsibilities of the USD(A), this may result in DoD not being represented at a large number of Council meetings and could serve to unreasonably delay the issuance of needed policies and procedures. The other agency members of the FAR Council are not faced with a similar problem since those agencies were authorized to designate their Procurement Executives or serve on the Council.

Section 207

Amends 10 U.S.C. 2438 to require a cost benefit analysis before undertaking dual sourcing for major programs and subsystems. Currently, section 2438 assumes that dual sourcing is appropriate for most major systems and subsystems and requires detailed justification when dual sourcing is not considered appropriate. Dual sourcing decisions should be made on a case-by-case basis, with detailed consideration of cost and other factors. Any unit cost savings times the number of units to be procured competitively should be sufficient to amortize the costs associated with dual sourcing. These costs include facility costs, shorter production runs, lower production rates, duplicative qualification costs, "educational buys," and the costs associated with technology transfer. This amendment recognizes the fact that the dual sourcing decision is a complex one and that dual sourcing is not suited to every major program. The change retains a preference for dual sourcing, but allows the Secretary of Defense more flexibility in reaching a decision on this issue.

Section 208

Revises the threshold for the mandatory submission of certified cost or pricing data, established under the Truth in Negotiations Act, from $100,000 to $500,000 (10 U.S.C. 2306a). Submission of certified cost and pricing data is required for contracts, modifications, and subcontracts, over the stated threshold, except when the price agreed upon is based on: adequate price competition; established catalog or market prices of commercial items, or, law or regulation. The current threshold should be escalated to reflect inflation. In addition, raising the threshold will significantly reduce the paperwork burden on the government and on contractors, and will be consistent with the threshold for Cost Accounting Standards, that was raised to $500,000 in 1988.

Section 209

Repeals the exception to 10 U.S.C. 7299a(d) that requires that short-term repair work (6 months or less) on ships assigned to the Naval Reserve Force that are homeported on the West Coast be competed without regard to area. This is an exception to the general provisions of section 7299a(d) that permit limited area for competition if adequate competition is available in that area. The proposal would repeal the exception to the general provision thereby affording the Secretary of the Navy the authority to permit short-term repairs to be solicited only in the homeport area unless inadequate competition exists, in which case the solicitation would be expanded to include the next adjacent homeport area.

Section 210

Repeals 10 U.S.C. 7313 that requires that the Secretary of the Navy ensure, prior to award of a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that the certain criteria must be met. The bid of the public shipyard must include (a) the full cost to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by the Office of Management and Budget Circular A-76 and (b) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs to the Navy supply system. Costs applicable to oversight of the contract by the appropriate Navy Supervisor of Shipbuilding, Conversion and Repair must be added to the bid of any private shipyard for the purpose of comparability analysis. The award is required to be made using the results of the comparability analysis. Repeal of the provision would allow the Navy to follow the intricate methodology worked out with Congress since the inception of the public/private competition program.

Section 211

Repeals a provision of the Department of Defense Appropriations Act, 1990 which provides that the Department of the Navy

may use no funds in the fiscal year 1990 Appropriations Act to enter into contracts for the overhaul, repair or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for "interport differential" as an evaluation factor for award. Repeal of the provision would make 10 U.S.C. 7299a(c) the controlling provision. This section requires the Secretary of the Navy, in determining the cost or price of work to be performed in an area outside the homeport of the vessel, to consider foreseeable costs of moving the vessel and its crew from the homeport to the outside and from the outside area back to the homeport of the vessel after completion of the contract.

Section 212

Repeals 10 U.S.C. 2464 which restricts the acquisition of "core logistics functions" by commercial contracts. This provision of law is no longer necessary as adequate procedures have been developed by the military services and are in place to determine the applicability of performing depot maintenance functions organically or by contract.

Section 213

Repeals 10 U.S.C. 2465 and 10 U.S.C. 2466, pertaining to the performance by contractors of so-called "commercial activities" for the Government. Section 2465 bars the use of appropriated funds to acquire fire fighting and security guard services for military installation. Section 2466, as recently by section 313 of the 1990 National Defense Authorization Act, bars the Army and Air Force from competing depot maintenance tasks among Government activities and private contractors.

Section 214

Creates an exception to the prohibition in 1 U.S.C. 2324(e)(1)(M) regarding payment of the costs of severance pay paid to foreign nationals employed by Government service contractors outside the United States. Currently such costs are unallowable to the extent that they "exceed the amount in the industry involved under the customary or prevailing practice for firms in that industry performing similar services in the United States . . ."

The proposed exception in the nature of a proviso at the end of the subparagraph would make severance pay paid in orders to comply with local host nation laws governing such payments allowable notwithstanding that such payments ae out of line with the compensation practice of comparable United States firms.

Subsection (b) of section 214 would make clear that the proviso added by this amendment applies not only to contracts entered into after the date of the legislation's enactment, but also to contracts entered into prior to the date of enactment, provided in all events that the costs were incurred by the contractor after the date of enactment.

Section 215

Amends 10 U.S.C. 2208(h) to authorize arsenals and other Army industrial activities to sell supplies, services, or work outside the Department of Defense if the articles to be sold may be incorporated into items to be sold or used in a contract with, or for the purposes of soliciting a contract with a friendly foreign government, or will be used in commercial expendable launch vehicles.

Section 216

Authorizes the military departments and the defense agencies to require contractors to print technical data rather than requiring them to deliver the data as directed by the Government Printing Office for printing. This will reduce the cost of defense procurement of technical data, improve defense data management procedures, and remove one barrier to the use of commercial products by the Department of Defense.

Section 217

Adds a new section 2332 to title 1, United States Code. Subsection (a) would authorize the Secretary of Defense to conduct a pilot program for up to six major defense programs in order to test methods to increase the effectiveness and efficiency of the acquisition process. This section would also permit the Secretary to waive for purposes of the pilot program any provision of law or regulations that he is not otherwise entitled to waive, that is not equally applicable to contracts to which the United States government is not a party and that:

(1) prescribes procedures for the procurement of supplies or services;

(2) prescribes preferences to be given to sources or mandates particular sources;

(3) prescribes requirements to be imposed on contractors that relate to the contractor's performance of the contract, or that

(4) prescribe requirements governing cost allowability, cost accounting, or auditing, except for provisions intended to assure financial integrity for the conduct of government programs. "Assuring financial integrity" involves the determination that the government use of funds is accurately identified and reported.

Subsection (a) also would permit the Secretary to waive any provision of law or regulation that he is not otherwise authorized to waive that prescribes requirements for the management, testing, evaluation of, or reporting on, a program.

Subsection (b) would permit the Secretary to designate up to six major defense acquisition programs, as defined in 10 U.S.C. 2430, for participation in the pilot program.

Subsection (c) would require the Secretary to promulgate regulations to implement the pilot program within 270 days after the date of enactment of this law.

Subsection (d) would require the Secretary of Defense to provide the Congress notice of his intention to designate a major defense acquisition program for inclusion in the pilot program.

Section 218

Amends the Act of March 3, 1931 (the Davis Bacon Act) to raise the threshold for application of the statute to contracts in an amount of $250,000. This will encourage greater participation by small and minority businesses and will reduce the administrative burden on agencies. This section would also permit greater use of entry- and training-level "helpers" by recognizing a semi-skilled helper classification; require separate wage surveys to be conducted for rural and urban areas; prohibit splitting up large contracts to avoid the threshold; move responsibility for debarment of firms or persons violating Davis Bacon from the Comptroller General to the Department of Labor. Finally, this section would significantly reduce the paperwork burden by reducing from weekly to quarterly the required submission of detailed payroll records to the government—at a minimum, three submissions would be required, at the beginning, midpoint, and conclusion of the contract period.

TITLE III—CIVILIAN PERSONNEL

Section 301

Repeals 5 U.S.C. 3326 which generally prevented employment of retired military members within 180 days of their retirement. The 180 day waiting period for retired military members often discourages well qualified and highly trained candidates from competing for civilian positions in the Department of Defense. Elimination of the waiting period will enable DoD to better compete with the private sector for applicants with critical skills.

Section 302

Amends 5 U.S.C. 4301(2) to exclude from system coverage temporaries serving on less than 1 year appointments within the Department of Defense except upon pay change or reemployment. Temporary appointments do not warrant the expenditure of time and resources required by the performance appraisal process. Such coverage overloads administrative systems, drains manpower and increases paperwork.

Section 303

Amends 5 U.S.C. 5724a to provide house-hunting trips to Hawaii and Alaska. This will facilitate recruitment by providing the same relocation benefits to employees transferring to Alaska and Hawaii as to other states.

Section 304

Amends 5 U.S.C. 5742 to include employees or family members assigned in Alaska or Hawaii and employees who have signed mandatory mobility agreements as a condition of employment among those for whom transportation of remains, dependents and effects are authorized. Enactment on this change will remove a deterrent to recruitment for positions in Alaska, Hawaii or under mandatory mobility agreements.

Section 305

Amends 5 U.S.C. 5924 to include the Republic of Panama as a post of assignment for which separate maintenance allowance may be authorized. This will help avoid imposition of unacceptable economic burdens on current and future employees who would otherwise be required to establish and/or maintain a second residence at their own expense where family members may not accompany the employee to Panama or must be evacuated at the direction of the Government.

Section 306

Amends 5 U.S.C. 5942 by providing that the $10 maximum allowance will not apply within DoD and by authorizing the Secretary of Defense to adjust the remote worksite allowance to alleviate deterrents to hiring and retaining employees. This will facilitate hiring and retaining employees and will increase an allowance set almost 20 years ago. The current rate is inadequate to cover the expenses, hardships, and inconveniences associated with assignments on isolated islands or sites in deserts or other areas remote from civilization.

Section 307

Repeals 10 U.S.C. 115(b)(2) which provides that Congress shall authorize civilian personnel end strength for each component of the Department of Defense. These work force floors and ceilings restrict the authority of the Secretary of Defense and the Service Secretaries, and their ability to effectively manage the Department's resources consistent with changing missions and overall personnel requirements.

Section 308

Amends 10 U.S.C. 129. These work force floors and ceilings restrict the authority of the Secretary of Defense and the Service

Secretaries, and their ability to effectively manage the Department's resources consistent with changing missions and overall personnel requirements.

Subsection (a) of amended section 129 deletes the requirement to manage the civilian personnel of the Department of Defense on the basis of authorized end strength and provides that the management of such personnel shall not be subject to any statutory end strength, work year floor or minimum staffing level.

Subsection (b) of amended section 129 deletes the prohibition against military secretary control of the number of or funds available for indirectly funded employees of the Department of Defense.

Subsection (c) of amended section 129 reenacts existing subsection (c)(1). As amended, subsection (c) no longer includes in the definition of "indirectly funded" employees those "whose salary and benefits are funded from sources other than appropriated funds."

Section 309

Repeals 10 U.S.C. 194, 3014(f)(1), 50149(f)(1) and 8014(f)(1) which enacted numerical limits on the numbers of personnel assigned or detailed to management headquarters activities, management headquarters support activities or to Department headquarters staff. These work force floors and ceilings restrict the authority of the Secretary of Defense and the Service Secretaries, and their ability to effectively manage the Department's resources consistent with changing missions and overall personnel requirements.

Section 310

Amends the Demonstration Cities Metropolitan Development Act of 1966, as amended, 42 U.S.C. 3374, to apply to nonappropriated fund employees and to provide employees serving overseas with reemployment rights the same homeowner's assistance benefits that they would have received had they remained with the CONUS-based organization undergoing closure or reduction. Currently, employees serving on overseas tours, accompanied by their dependents, and employees serving overseas 15 months or more after announcement of the closure or reduction in their CONUS organization, are not covered by the homeowners assistance program. This is extremely disruptive to individuals overseas and might deter homeowners from accepting overseas assignments if there is the potential that their CONUS organization might undergo closure or reduction while they are overseas.

TITLE IV—REAL PROPERTY

Section 401

Amends sections 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) to permit the Department of Defense to receive half of the revenues generated by the sale of excess real property under the control of the Department. Under the proposal, the Administrator would deposit half of the net proceeds into a special account of the Department of Defense in the manner and to the extent provided in an appropriation act. Currently, section 204 requires that these revenues be deposited into the Treasury as miscellaneous receipts. Section 204, as amended, would provide a strong incentive for managers of real property under the control of the Department of Defense to examine the long-term requirements for land and determine if certain parcels are necessary for the nation's military strategy or could be declared excess for sale.

Section 402

Amends 10 U.S.C. 2667 to permit the Secretary of a military department to retain half of the net proceeds received as rent for leases of property under the control of the Department. Under the proposal, the authority of the Secretary concerned to retain or to expend such proceeds would be exercised in the manner and to the extent provided in an appropriation act. Currently, section 2667 requires that his money be deposited into the Treasury as miscellaneous receipts, except for rent received under a lease for agricultural or grazing purposes. Section 2667, as amended, would encourage installation commanders and other real property managers within a military department to examine their immediate land use requirements with a view to increasing the use of leases where deemed appropriate.●

By Mr. SIMON (for himself, Mr. METZENBAUM, and Mr. KENNEDY):

S. 2442. A bill to amend the Occupational Safety and Health Act of 1970 to expand the rights to victims of occupational safety and health hazards, and for other purposes; to the Committee on Labor and Human Resources.

OCCUPATIONAL SAFETY AND HEALTH HAZARDS VICTIMS RIGHTS ACT

● Mr. SIMON. Mr. President, a year ago I was in Chicago to meet several people who in recent years had family members killed in job-related accidents. The meeting was coordinated by the National Safe Workplace Institute, a Chicago not-for-profit research and education organization. What I experienced during the course of that meeting will stay with me for the rest of my life.

At the meeting, my constituents revealed a breakdown in the basic process of Government. I learned that the Occupational Safety and Health Administration's [OSHA] procedures had evolved to a point where victims and family members of workers who died or were injured in workplace accidents are left in the dark. They have no rights to information or to participate in the Government decisionmaking process associated with the enforcement or correction of job safety and health violations, even when those violations have led to death or serious injury.

Today, I am proud to be joined by Senator METZENBAUM and Senator KENNEDY in introducing legislation designed to provide victims and their families with the right to participate in the process and to have access to information regarding the OSHA investigations. Under current OSHA procedures, the family members of injured or killed workers are considered disinterested outsiders with no rights or privileges with regard to the procedures of our Government. We must change this unfairness.

Under the status quo, the Government enforcement agency, OSHA, meets with employers charged with potentially serious violations and negotiates remedies. These negotiations almost invariably do not include the participation of the injured workers or their families. Victims feel locked out of the process, and the penalties meted out often amount to a mere slap on the wrist. At the very least we owe victims and their families a right to tell their side of the story. My bill will provide that right.

Victims of workplace accidents and their families suffer enough from the accident itself. They should not be victimized and traumatized again by the agency of Government investigating the accident.

Examples of this unfairness come from all over the country:

Lee and Mary Doyle of Bloomington, IL. The Doyles lost their only son Tim, when he was electrocuted in a workplace accident. Lee Doyle phoned the OSHA area office in Peoria after Tim's death asking for a copy of the citation. Lee Doyle was told that such information "was none of his business." Last year the National Safe Workplace Institute drafted a Freedom of Information Act request for Mr. and Mrs. Doyle to help them get a copy of the citation. OSHA then wrote the Doyles and told them that they could have a copy of the citation—but there was a catch. The Doyles were told that they would have to first agree to pay search and copy fees that could amount to $50 before OSHA would give them the documents.

The "Bastian Plating" families, Auburn, IN. In 1988, the worst factory accident in the history of OSHA felled five young men, aged 19 to 29, at Bastian Plating in Auburn, IN. The tragic accident shocked Auburn, the people of Indiana and those who believed that American workplaces were safe. This horrible tragedy demonstrated that work in the United States can still be far too dangerous. The families filed a petition for a party status with Indiana OSHA. The outrageous nature of this tragedy demanded special compassion for the families. The request, however, was dismissed in a single sentence: "After checking the act very carefully it is apparent that we cannot grant this special request for party status."

Heidi Yantes of Mantua, UT. Heidi Yantes' husband Bryan was killed in 1988 in an accident at a steel processing facility in Brigham City. Her husband was tragically crushed to death. Bryan Yantes, 27, was killed in an accident similar to one that killed Jan Gray, 25, just 6 months before at the same facility. Utah OSHA did not cite the employer in Jan Gray's death, even though some independent accounts indicated clear safety violations. This time, Utah OSHA issued a citation involving serious violations, but imposed a paltry $560 fine. The

story did not end there. Just a few months ago, Heidi insisted upon seeing a copy of the citation. After initial reluctance, the Utah OSHA official gave her the document. Much to her dismay, Heidi read that the citation had been deleted following a meeting between Utah OSHA and the employer's attorney. In Heidi Yantes' view, a very modest Government enforcement action stemming from a tragedy had been transformed into a nonevent, without even an opportunity for her family's point of view to be represented.

In all three cases, serious violations of the Occupational Safety and Health Act had been alleged against an employer. In all three cases, one or more workers had died. Yet, our Government chose to disregard the most fundamental right to information for aggrieved family members, treating them as if they were disinterested bystanders. Mr. President, that is unacceptable.

Last year, the National Safe Workplace Institute undertook a survey of 208 families in all 50 States who had lost a family member to a workplace accident in recent years. The Institute wanted to learn about two issues. First, the Institute wanted to know what surviving families thought of OSHA and, second, if such families would exercise rights to participate if granted the opportunity.

The findings with respect to OSHA were: 93 percent of the surviving families said that they believed that OSHA should explain its procedures; 86 percent said that they should have the right to meet with OSHA before the investigation files are closed; 70 percent said that they had no idea what OSHA was doing in their case; and 49 percent said that they had not seen the citation or investigative report—37 percent said that they did not know they could have access to this information and 20 percent who had the report, had to pay to receive it.

The findings with respect to their rights were: 98 percent said that they should know when and if OSHA was meeting with employers; 86 percent said that they should have a right to meet with OSHA before the investigative file was closed; and only 2 percent said they would not attend such meetings if they had the right.

The Institute also made an appraisal of how much time it took for OSHA to provide a copy of the citation, when this information was requested. The average time that it took to receive the information was in excess of 8 months following the accident. This is for a Government document that is typically mailed to an employer within 10 days of such an investigation.

In reading the comments on the survey forms, it becomes clear that governmental disregard for the rights of victims has caused a great deal of disenchantment. Many victims of workplace accidents are angry and bitter toward our Government. When one multiplies these sentiments by the number of workers killed or seriously injured in recent years, it is easy to come to the conclusion that such decisions only weaken the respect and expectations that citizens have for government.

The legislation that I am introducing is not being offered as a criticism of the current administration. Indeed, Secretary of Labor Elizabeth Dole and Assistant Secretary for Occupational Safety and Health Gerald Scannell are sympathetic to injured workers and their family members. Secretary Dole and Mr. Scannell have provided leadership that has boosted the moral of OSHA employees after years of neglect. Mr. Scannell recently demonstrated his commitment to workplace safety, when upon hearing of the Phillips Petroleum explosion and fire, he left for Houston to supervise the inspection and to meet with family members of dead, injured, and missing workers. His actions were commendable.

Much to their credit, Secretary Dole and Mr. Scannell have indicated to me that they will use their administrative authority to implement many of the rights that this bill would enact into law. I commend them for this wise, humane, and just decision. We must also recognize, however, that unless the law itself is amended, OSHA policy changes made today may be changed again tomorrow. Similarly, nothing done by Secretary Dole or Mr. Scannell will have any bearing on decisions made by State governments in States that have the regulatory authority for occupational safety and health. It is clear that the most meaningful, comprehensive, and just remedy is Federal legislation.

Mr. President, the legislation that I propose today is simple. It would grant surviving family members and injured workers with a right to a precitation briefing by OSHA, a right to participate as parties in hearings conducted pursuant to the Occupational Safety and Health Act, a right to participate as part of a settlement agreement, and the right to copies of the citation and investigative report free of charge. I am hopeful that the Department of Labor will fully embrace this legislation and support its enactment into law. To continue to deprive aggrieved families of basic rights is both intolerable and unjust, and I trust that this body will move to remedy this defect in our law.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at the conclusion of this statement.

There bring no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Occupational Safety and Health Hazards Victims' Rights Act".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to ensure that victims of workplace accidents and conditions are informed about inspections and investigations relating to the circumstances of their accidents or exposure to chemicals or products that led to disease;

(2) to provide victims of workplace accidents and disease an opportunity to participate in proceedings relating to the circumstances of their accidents and disease; and

(3) to ensure that injured and diseased employees and their family members are accorded the consideration and respect due to them.

SEC. 3. OCCUPATIONAL SAFETY AND HEALTH HAZARDS VICTIMS' RIGHTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by redesignating sections 28 through 33 as sections 29 through 34, respectively; and

(2) by inserting after section 27 the following new section:

"SEC. 28. OCCUPATIONAL SAFETY AND HEALTH HAZARDS VICTIMS' RIGHTS.

"(a) DEFINITIONS.—As used in this section:

"(1) ACCIDENT.—The term 'accident' means the circumstances relating to the death, injury, or illness of an employee.

"(2) FAMILY MEMBER.—

"(A) IN GENERAL.—The term 'family member' may include a parent, legal guardian, spouse, brother, sister, or child of an employee.

"(B) NO FAMILY MEMBER.—In a case in which a family member cannot be identified and a deceased employee has no legal representative, the Secretary may grant 'family member' status to any interested coemployee or acquaintance of the deceased employee.

"(3) VICTIM.—The term 'victim' means—

"(A) an employee who has sustained an injury or suffered an illness as a result of an accident or condition that results in an inspection or investigation conducted under section 8; or

"(B) a family member of an employee, if—

"(i) the employee is killed as a result of an accident or condition that results in an inspection or investigation conducted under section 8; or

"(ii) the employee sustains an injury as a result of an accident or condition that results in an inspection or investigation conducted under section 8, and the employee cannot reasonably exercise the rights of the employee under this section.

"(b) VICTIMS' RIGHTS.—Notwithstanding any other provision of law, on request, a victim shall be afforded the right (with respect to an injury, illness, or death involving the victim) to—

"(1) meet with the Secretary relating to the death, injury, or illness of an employee prior to the issuance of a citation, or report of an action, as the result of an inspection or investigation conducted under section 8;

"(2) receive, at no cost, a copy of the citation or report at the time of issuance;

"(3) appear, participate in, and make a statement as part of any settlement discus-

sions between the Secretary and the employer; and

"(4) appear and participate as a party at all proceedings conducted under section 10.

"(c) VICTIMS' ACCESS TO INFORMATION AND DOCUMENTS.—

"(1) IN GENERAL.—A victim shall have the right to obtain, at no cost and within a reasonable period of time, all public documents relating to an inspection or investigation by the Secretary into an accident resulting in the death, injury, or illness of an employee.

"(2) WAIVER OF WITNESS CONFIDENTIALITY.—If a witness is interviewed as part of an inspection or investigation conducted under this Act, the Secretary shall provide the witness with a form on which the witness shall indicate—

"(A) the willingness of the witness to waive confidentiality to victims; or

"(B) the unwillingness of the witness to waive confidentiality to victims.

"(d) REMEDIES.—On a violation of this section, in addition to any other remedies that might be available to a victim under Federal or State law, a victim shall be entitled to—

"(1) declaratory relief;

"(2) injunctive relief;

"(3) any costs incurred by the victim in securing the documents referred to in subsections (b)(2) and (c); and

"(4) reasonable attorney fees and costs.

"(e) NOTIFICATION.—The Secretary shall take reasonable actions to inform victims of their rights under this section.".

SEC. 4. CONFORMING AMENDMENT.

Section 10(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(c)) is amended by adding at the end the following new sentence: "A victim shall have the opportunity to participate in a proceeding conducted under this section in accordance with section 28.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall—

(1) become effective on the date of enactment of this Act; and

(2) apply to all investigations and proceedings pending or conducted on or after such date.●

By Mr. ARMSTRONG (for himself and Mr. BURNS):

S. 2443. A bill to amend the Internal Revenue Code of 1986 to provide that the rate of interest on overpayments and underpayments of tax be the same; to the Committee on Finance.

RELATING TO INTEREST RATES TAXES

● Mr. ARMSTRONG. Mr. President, imagine you are walking down the steps of the Tax Court, finally victorious after a 4-year running battle with the Internal Revenue Service over a $10,000 claim against you for additional taxes owed. The judge in the case ruled in your favor, the IRS was wrong all along.

As you reach the bottom of the steps, you shake hands with your lawyer and he hands you his final bill for $8,000. Out of no fault of your own as the court has decided, the Federal Government through its agent, the IRS, has caused you to lose $8,000, not to mention months and years of worry.

Under current law, you may recover reasonable litigation and administration costs, such as professional fees, court costs, et cetera, incurred in defending yourself but only if you prevail in the case and if you can prove the IRS "was not substantially justified" in pressing its case. Not only is the burden of proof on you as the taxpayer, but you have a very murky standard to meet in order to recover your costs.

The facts are, the IRS claimed you owed additional tax, the Tax Court ruled in your favor, and you're out $8,000. Whether the IRS thought it had a good case or not is completely irrelevant. You have suffered a financial loss at the hands of the Government and you should be entitled to recover the full $8,000.

The Senate recognized the inequity in this situation when it shifted the burden of proof to the IRS as part of the Technical and Miscellaneous Revenue Act of 1988. Under the Senate's provision, the IRS was required to prove its position was substantially justified. This provision in the Senate's bill was dropped in conference.

I believe it only fair for a taxpayer to be compensated to the extent he incurs costs in successfully defending himself against claims of the IRS. While the Senate's position in 1988 was an improvement over current law, I believe it missed a basic principle. Whether the IRS was substantially justified and whoever is tasked with proving justification is irrelevent to the fact the taxpayer has suffered a financial loss at the hands of the Government through no fault of his or her own.

This situation is unfair and unacceptable. Therefore, I am introducing legislation with a single purpose: to remove the standard of "substantially justified" and replace it with the simple rule that if the taxpayer prevails in a tax dispute with the IRS, then the taxpayer may recover the costs of defending himself.●

By Mr. MACK (for himself, Mr. GRAHAM, Mr. GRAMM, Mr. LIEBERMAN, Mr. KASTEN, Mr. DECONCINI, Mr. MCCAIN, Mr. PRESSLER, Mr. HUMPHREY, Mr. GORTON):

S. 2444. A bill to require limitations and restrictions concerning trade and other transactions with Cuba; to the Committee on Foreign Relations.

FREEDOM AND DEMOCRACY IN CUBA ACT

● Mr. MACK. Mr. President, I am proud to introduce, on behalf of myself and the other cochairmen of the Senate Cuba Freedom Caucus, Senators GRAHAM, GRAMM, and LIEBERMAN, the Freedom and Democracy in Cuba Act of 1990. I am pleased to add Senators KASTEN, DECONCINI, MCCAIN, PRESSLER, HUMPHREY, and GORTON as original cosponsors of the bill.

Armando Valladeres, author of "Against All Hope," survivor of Castro's prisons, and now U.S. Ambassador to the United Nations Human Rights Commission in Geneva called Fidel Castro the "Ceaucescu of the Caribbean." Tragically, I believe the label is appropriate.

We do not know how or when the end of Fidel Castro's 31 years of dictatorship will come. What we do know is that we in the free world have the responsibility to do what we can for those who still live under tyranny. In his stirring speech to a joint session of Congress this year, President Vaclav Havel of Czechoslovakia quoted our President Lincoln's reference to the "family of man".

With the collapse of communism throughout the world proceeding at a breathtaking pace, we should have every hope that the free world will have the opportunity to create a true "family of man". Fidel Castro's Cuba is now the one glaring exception in our hemisphere to this hopeful wave of freedom.

The purpose of the Freedom and Democracy in Cuba Act of 1990 is to turn up the economic pressure on Fidel Castro to allow the people of Cuba to speak their will in free elections. We have few illusions that Castro will willingly take this course. But we know the Communist tyrannies have not fallen because their leaders have suddenly had a change of heart, but because the system has effectively collapsed from underneath them.

The bill, combined with the images of freedom broadcast into Cuba by TV Marti, will have a material effect on Fidel Castro's ability to maintain his regime. I would like to commend President Bush for his excellent speech to the National Association of Broadcasters in which he eloquently articulated the responsibility of the United States to convey the message of freedom to Cuba through TV Marti.

Mr. President, I ask unanimous consent that the Freedom and Democracy in Cuba Act of 1990 be printed in the RECORD at this point, along with a section-by-section analysis of the bill, and excerpts from President Bush's remarks on TV Marti.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

SEC. 2. FORFEITURE OF VESSELS WHICH ENTER CUBAN PORTS TO ENGAGE IN TRADE AND SUBSEQUENTLY ENTER UNITED STATES PORTS.

(a) IN GENERAL.—

(1) A vessel under paragraph (2) shall be subject to seizure, forfeiture, and sale by the United States.

(2) A vessel which enters a port or place in Cuba to engage in trade more than 60 days after the date of enactment of this Act and within 180 days of departure from such port or place in Cuba enters a port or place in the United States to engage in trade shall be subject to the provisions of paragraph (1).

(b) DEFINITIONS.—For purposes of this section—

(1) the term "vessel"—

(A) does not include vessels not documented under the laws of the United States; and

(B) includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation, in water, but does not include aircraft; and

(2) the term "United States" includes all territories and possessions of the United States.

SEC. 3. REDUCTION OF ASSISTANCE TO COUNTRIES WHICH IMPORT SUGAR FROM CUBA.

(a) REDUCTION OF ASSISTANCE BY VALUE OF SUGAR IMPORTS FROM CUBA.—Beginning October 1, 1991, the President shall have the authority to withhold from the amount of assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) which is allocated to a country for a fiscal year the amount equal to the value of confirmed sales of sugar which is the product of Cuba and which is imported by that country in the preceding fiscal year.

(b) REDUCTIONS TO BE MADE NOTWITHSTANDING EARMARKINGS.—The withholding of amounts under subsection (a) may be made notwithstanding any provision of law specifying the amount of assistance to be provided to a particular country.

(c) SENSE OF CONGRESS WITH RESPECT TO OTHER COUNTRIES.—It is the sense of the Congress that the President should urge countries that import sugar which is the product of Cuba and do not receive economic support fund assistance or other forms of foreign assistance from the United States to import sugar from other Central American or Caribbean countries with democratically elected governments.

SEC. 4. PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.

Section 15 of the Trading With the Enemy Act (50 U.S.C. App. 15) is amended by adding at the end thereof the following: "The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.".

SECTION-BY-SECTION ANALYSIS OF THE FREEDOM AND DEMOCRACY IN CUBA ACT OF 1990

SECTION 1: RESTORING CUBAN EMBARGO

This language passed in the Senate 82 to 13 on July 20, 1989. It would apply the U.S. embargo on Cuba to "American owned or controlled" subsidiaries in foreign countries. From 1963 to 1975, the embargo did apply to U.S. subsidiaries. U.S. embargoes on North Korea, Vietnam, and Cambodia currently apply to subsidiaries.

U.S. foreign subsidiaries now to about $300 million/year in trade with Cuba.

Total value of licensed imports and exports

1982	253,000,000
1983	142,000,000
1984	275,000,000
1985	288,000,000
1986	354,000,000
1987	243,000,000
Total 1982 to 1987	1,555,000,000

Source: Office of Foreign Assets Control—Treasury Department.

TOP TRADERS WITH CUBA UNDER THE SUBSIDIARIES EXCEPTION

[In millions of dollars]

	5-year total	Fiscal year 1987
United Kingdom	480	109
Switzerland	239	57
Canada	211	26
Argentina	103	75

Under this exception to the embargo the U.S. has received 1,279 license requests (1982-87), of which 1,242 were approved.

SECTION 2: SHIPPING PROVISION

This provision prohibits any non-U.S. flag vessel that lands in Cuba for the purposes of trade from entering a U.S. port for 6 months. This section, like section 1, restores a part of the Cuban embargo which was lifted in 1975.

Cuba's foreign trade represents about 50% of its GDP. If ships landing in Cuba could not carry U.S. goods on return trips, Cuba's shipping costs could more than double.

SECTION 3: CUBAN SUGAR

This provision passed the House Foreign Affairs Committee in similar form in 1987. It grants authority to the President to withhold economic support funds to any country that buys Cuban sugar, up to the value of such purchases in the preceding fiscal year. Assistance may be withheld notwithstanding earmarks.

The assistance would not be reduced but withheld, pending an agreement with that nation not to buy Cuban sugar. This is similar to provisions the Congress has enacted regarding South African goods.

The provision also includes Sense of Congress language encouraging the President to urge nations that do not receive U.S. economic support funds to "import sugar from other Central American or Carribean countries with democratically-elected governments."

In addition to curbing an important source of income to the Castro government, the provision would help Latin democracies who are seeking to increase their sugar exports.

Countries that purchased Cuban sugar in 1989 and receive U.S. foreign aid include Egypt, Colombia, Peru, and Tunisia.

SECTION 4: CIVIL PENALTIES

This provision fulfills a Treasury Department request to have authority to impose up to $50,000 in civil penalties for violations of the embargo. The Treasury Department also wanted to increase existing criminal penalties, but this language was not included.

EXCERPT OF REMARKS BY THE PRESIDENT TO THE NATIONAL ASSOCIATION OF BROADCASTERS

Last May, I discussed the future of Europe with the citizens of Mainz, a German city nestled in the green hills along the Rhine River. And it was while I was there that I appreciated anew the Biblical expression, "In the beginning was the word." For it was in that German town that the inventor of the printing press, Johann Gutenberg, first put the scholarship of the ages into the hands of millions of knowledge-hungry readers.

His one invention made possible all the pamphlets and journals of the Enlightenment and of the American Revolution. From the call to arms of Thomas Paine to the cool logic of the Federalist Papers. You might argue that out of that one invention sprang the very idea called America.

Today, along with the word, we have the image—images projected on cooler television and evoked by the sounds of radio. But while Western democracy broadened, as our knowledge broadened, the circle of democracy and knowledge narrowed under communist regimes that took power on many continents.

For these nations, truth was something to be twisted and stretched by the brutal hands of authority, manipulated beyond recognition. The Czech author, Kundera, calls this time the "kingdom of forgetting." When whole nations almost forgot their heroic histories and finest traditions. From Havana to Prague to Phnom Penh, the peoples of these lands never fully gave into the amnesia because even in the worst hours of repression, they could always count on a friendly voice to remind them of the truth: Radio Marti, Radio Liberty, Radio Free Europe—and, God bless it, the Voice of America.

To fully appreciate what these broadcasts mean, you need only ask someone who listened to them. Sichan Siv, a young man now works on our White House staff, he's a Cambodian. An American who lived through the horrors of the killing fields. And he's told me that when the Khmer Rouge took control of village, the very first items they confiscated were the radios; for if they respected and feared anything, it was the power of free information. But even under the threat of death, men and women like Sichan Siv were so hungry for news from the outside world that they would turn on a hidden transistor radio at the lowest possible volume and then put it up flush to one ear. We take free news broadcasters for granted in America. But some people risked death to hear the truth. And some people still do. And we're not going to let them down.

In the realm of ideas and ideals, there are no borders. No government should fear free speech, whether it's from entertainment programs or accurate, unbiased news about world events. And that is why Congress strongly supported TV Marti and why I strongly support TV Marti. We will scrupulously adhere to the letter of the law; but let me say again, the voice of freedom will not be stilled as long as there is an America to tell the truth. (Applause.)

And, look, I do understand the practical concerns that some of you have about this. But I also understand that you represent the very principle TV Marti exists to serve—that free flow of ideas. Before we are businessmen and women—before we are doctors, lawyers or mechanics—we are Americans. Americans have always stood for free speech, and we always will.

So I have come here to ask something of you. I ask you to stand by your traditions—the best traditions of America. I ask you, once again, to stand for TV Marti and to stand for freedom.

If we broadcast freedom, our message will be heard. After the bloodshed at Tiananmen Square—and the expulsion of the VOA from China—I was heartened to see that Beijing relented a little bit and permitted a VOA correspondent to return. In the Soviet Union, publications that once vilified the Voice of America now praise it. Warm words

of support even come from Izvestia. A commentator in Moscow News thanks VOA and says that it uses—and here is the quote—"our own broadening sources of information better than we do and without delay return to us what they have gathered."

And now Radio Free Europe has bureaus in Warsaw, in Budapest, and VOA even has one in Moscow—an unthinkable development just a few years ago. The very fact that it is no longer considered remarkable for USIA's Worldnet to link live programs from Washington to Kiev, or from Chicago and New York to Gdansk and Warsaw is, in itself, remarkable.

How did this happen? It happened in part because of the power of truth. Czechoslovakia's playwright, President Vaclav Havel, paid a very personal tribute to this power in his recent visit to Washington. First he came to the White House and told me personally what this broadcasting of the truth had meant to those who were fighting for freedom. And then he visited the Voice of America and not the employees of its Czech division. It was a very poignant encounter—for though Havel didn't recognize any of them by face—he knew them all by name the instant he heard them speak.

And it's moments like that that convince me of one sure thing: I am determined that America will continue to bear witness to the truth. America must never lose its voice. (Applause.) Just as President Havel and others who were once under communist domination have thanked us, I am convinced that the people of Cuba will thank us when they, too, win the liberty they yearn for.●

By Mr. BOSCHWITZ (for himself, Mr. DOLE, Mr. LUGAR, Mr. MCCONNELL, Mr. LEAHY, and Mr. HARKIN):

S. 2445. A bill to amend the Food Stamp Act of 1977 to require participating retail food stores and wholesale food concerns to provide their taxpayer identifying numbers to the Secretary; to establish criminal penalties applicable to laundering funds obtained from trafficking in coupons; and for other purposes: to the Committee on the Judiciary.

FOOD STAMP TRAFFICKING PREVENTION AND PENALTY ACT OF 1990

● Mr. BOSCHWITZ. Mr. President, today I am introducing legislation to curb the disturbing problem of food stamp trafficking. I am pleased that Senators DOLE, LUGAR, MCCONNELL, LEAHY, and HARKIN have joined me as cosponsors.

As the senior Republican on the Senate Nutrition Subcommittee, I have been a strong supporter of the Food Stamp Program. After working hard to ensure that food stamp benefits are available to those who need them, I find reports of food stamp trafficking activities quite disturbing.

The Food Stamp Program has lost millions of dollars because food stamps have been illegally traded for drugs, guns, and stolen property. These illegal activities cheat those in need, who the Food Stamp Program was designed to help.

In an effort to help stop this illegal activity, my bill increases the penalty for food stamp traffickers. The maximum penalty would be the same as that for money launderers, a maximum of a $500,000 fine and a 20-year prison sentence. The current maximums are a $10,000 fine and a 5-year prison sentence.

My bill also increases efforts to monitor food stamp traffickers. Approved retailers would be required to report their employer identification number to USDA, and individuals convicted of food stamp trafficking would be subjected to Federal asset seizure and forfeiture.

I urge my colleagues to join me in cosponsoring this important bill.●

By Mr. SIMPSON:

S. 2446. A bill to take measures to improve the employment verification system under the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

EMPLOYER SANCTIONS IMPROVEMENTS AMENDMENTS

Mr. SIMPSON. Mr. President, I rise today to introduce legislation to make the corrections to employer sanctions that the General Accounting Office recently recommended.

On March 29, 1990, GAO determined that a widespread pattern of discrimination has arisen based "substantially" on the enactment and implementation of employer sanctions. I believe that GAO's measure of the discrimination is inaccurate, and that they did not tie what discrimination they did find to the implementation of employer sanctions. Nevertheless, their findings trigger certain expedited procedures in the House and Senate which could lead to a vote, shortly, on whether to retain or repeal employer sanctions.

In hearings before the Senate Subcommittee on Immigration and Refugee Affairs on March 30, 1990, GAO testified that employer sanctions should not be repealed. Instead, GAO believed that increased education of employers, and an improvement in our present worker verification system, would likely alleviate the discrimination that might have arisen because of employer sanctions.

The legislation I am introducing today does exactly what GAO recommends: First, it creates an Employer Education Program that will specifically focus on the relationship between employer sanctions and our Nation's antidiscrimination rules; and second, it improves our present system of worker verification.

This second issue is one that gives some pause for concern. Indeed, some antisanctions zealots, like the editorial board of the Wall Street Journal, insist on calling any proposal in this area a "National ID Card." Well, let me level with you straight out: Those are gross distortions, and completely inaccurate. No one is proposing a national ID card.

My bill considers two possible methods for improving our worker verification system. First, it requires the Social Security Administration to make such improvements in the Social Security card as are necessary to ensure that: First, the card is resistant to tampering and counterfeiting, and second, the card may not be used by someone who is falsely claiming the identity of the true owner of the card.

Second, the bill requires the Attorney General and the Secretary of Health and Human Services to conduct demonstration projects to determine whether a computerized call-in worker verification system would be the most effective means of determining whether someone is authorized to be employed in the United States. These projects will help Congress and the executive branch determine whether a call-in system, improved documents, or a combination of the two would be the best method to improve and simplify our worker verification system.

Let me emphasize that this legislation is not written in stone. I fully intend to discuss my proposal with the administration, with GAO, and with other Members of Congress who are interested in this issue. I expect to work closely with Members of the House Immigration Subcommittee who participated in the debate on the Immigration Reform and Control Act of 1986. I also intend to seek the counsel of my fine friend Senator PAT MOYNIHAN, who has a very good proposal to improve the Social Security card, which is reflected in his bill, S. 214.

I am introducing legislation today to let everyone know that I am serious about making the changes necessary to improve employer sanctions. I look forward to working with my colleagues to enact this important legislation in the near future.

By Mr. JOHNSTON:

S. 2447. A bill to establish the Bayou Cocodrie National Wildlife Refuge; to the Committee on Environment and Public Works.

BAYOU COCODRIE NATIONAL WILDLIFE REFUGE

Mr. JOHNSTON. Mr. President, today I am introducing legislation to create the Bayou Cocodrie National Wildlife Refuge in Concordia Parish, LA. Upon enactment of this bill, this refuge will become the fifth refuge in Louisiana that I have created by legislation in the last decade and the ninth refuge in Louisiana to be created since I came to the Senate.

The Bayou Cocodrie refuge will consist of 11,300 acres of valuable mature bottomland hardwoods and minimal agricultural lands, giving the refuge a diverse and complex habitat. The tract represents one of the last large tracts

of bottomland hardwoods still in private ownership in the Mississippi Delta of Louisiana. This area has already been identified in the lower Mississippi River Delta section of the North American waterfowl management plan [NAWMP] as high quality waterfowl habitat. It is also part of the three rivers waterfowl habitat conservation plan, a project initiative of the lower Mississippi River Delta joint venture of the NAWMP.

The vicinity of the proposed refuge provides wintering habitat for mallards and woodducks and is in close proximity to the Catahoula Lake, one of the most important wintering areas in the Mississippi flyway with peak populations in 1988 of up to 400,000 birds. As a resting migratory resource, over 1.5 million waterfowl are estimated to use the lake annually. For the past 3 years, Catahoula Lake has provided wintering habitat for up to 80,000 canvasback ducks, a concentration which comprises more than one-third of the total North American population. Unfortunately, Catahoula Lake has a serious lead shot poisoning problem. Establishment of this new refuge will increase the size of the wildlife habitat corridor and could thus dissipate the concentration of waterfowl that are currently exposed to lead shot poisoning at the lake.

In addition, the refuge will provide excellent habitat for resident game species such as deer, turkey, and squirrels. It is also feasible that the area will be attractive to endangered and threatened species such as the wintering bald eagles, peregrine falcons and the Louisiana black bear.

Mr. President, I am very excited about this project because it demonstrates what can be accomplished when Federal and private interests work together to preserve our Nation's vanishing inland wetlands. The property that will comprise the Bayou Cocodrie NWR was part of a larger 57,000-acre tract that had been owned by the Fisher Lumber Co. division of General Motors since the 1920's. General Motors used the Bayou Cocodrie hardwoods to produce the various wood products that went into manufacturing their automobiles. Inasmuch as wood is no longer used in automobiles, General Motors recently announced its intent to sell the entire 57,000 acres for conservation purposes. Two conservation groups, the Nature Conservancy and the Delta Environmental Land Trust Association [DELTA] are buying the property and/or placing conservation easements on it so that the property could be preserved for future generations.

Upon learning of this proposed transaction, the U.S. Fish and Wildlife Service expressed an interest in eventually acquiring the Bayou Cocodrie area; however, the Service had neither the authorization nor appropriations to do so at that time. Therefore, the Nature Conservancy offered to act as their intermediary by purchasing and managing the land until such time as the Service was able to acquire it.

The balance of the General Motors property, 45,700 acres, will be disposed of in an environmentally sound manner. With respect to the woodlands on the Fisher tract, the Delta Foundation intends to place conservation easements on this property prior to resale so it will be managed in a conservation-oriented manner. Any tracks that are not sold will be managed in a like fashion by the Delta Foundation. Finally, the agricultural land not included within the refuge will be resold, with current tenants being given the right of first refusal.

Mr. President, given the broad base of support for this project by the State of Louisiana, local officials, the U.S. Fish and Wildlife Service, and conservationists, I hope the Congress will act expeditiously in approving this legislation to create the Bayou Cocodrie National Wildlife Refuge.

I ask unanimous consent that the text of the bill be printed immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States, and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers and others;

(3) the Bayou Cocodrie area is a bottomland hardwood swamp which harbors over one hundred fifty species of birds and many other types of wildlife, including several species threatened with extinction, such as the Louisiana population of black bears;

(4) The Bayou Cocodrie area includes some of the least disturbed bottomland hardwood forest in the Southeast and significantly contributes to the biodiversity in the region;

(5) similar habitat located elsewhere is threatened by disruptive practices and/or conversion to other uses; and

(6) this area is deserving of inclusion in the National Wildlife Refuge System.

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the term "refuge" means the Bayou Cocodrie National Wildlife Refuge; and

(2) the term "Secretary" means the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

ESTABLISHMENT OF THE REFUGE

SEC. 3. (a) The Secretary is authorized and directed to acquire approximately 18,000 acres of lands and waters, as depicted upon a map entitled "Bayou Cocodrie National Wildlife Refuge", dated February 1990 and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(b) The Secretary may make such minor adjustments in the boundaries designated under subsection (a) as may be appropriate to facilitate acquisition of property within the refuge or to otherwise carry out the purposes of this Act.

(c) When sufficient property within the boundaries has been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge by publishing a notice to that effect in the Federal Register.

REFUGE PURPOSE

SEC. 4. The Bayou Cocodrie National Wildlife Refuge is established and shall be managed for the purposes of—

(1) conservation and enhancement of wetlands;

(2) general wildlife management as a unit of the National Wildlife Refuge System, including management for migratory birds; and

(3) fish and wildlife-oriented recreational activities.

ADMINISTRATION

SEC. 5. (a) The Secretary shall administer all lands, waters and interests therein acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) The Secretary may utilize such additional statutory authority as may be available to him for conservation and development of wildlife and natural resources, water supplies and water control structures, outdoor recreational activities, including hunting and fishing, and interpretive education as he deems appropriate to carry out this Act.

(c) There shall be no commercial harvest of timber within the refuge; nor shall there be cutting of timber other than to provide or improve public access, or for the prevention or control of insect infestation and disease.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2448. A bill modification of employment to tax treatment of certain crewmembers on fishing vessels; to the Committee on Finance.

TAX TREATMENT OF FISHING VESSEL CREWMEMBERS

● Mr. KERRY. Mr. President, a recent interpretation of the Internal Revenue Code by the Internal Revenue Service threatens to drive some small fishing boat owners into bankruptcy. Although the interpretation arose in an audit of New Bedford fishermen, the outcome will affect the fishing industry nationwide. The IRS position contradicts the intent of Congress and a clarification by Congress is needed to alleviate the problem. No substantive changes in the law are required.

The need for action is urgent. IRS has sent out second and third notices of intent to levy. After the fourth notice, they will send out collectors to

knock on doors and then to seize property. IRS is reluctant to cease collection because Congress has not taken action. That is why it is imperative that we introduce this bill at this time.

Ambiguities in the current law, section 3121(b)(20) of the Internal Revenue Code, led IRS to recently conclude that some "self-employed" crewmembers were really employees that should have been subject to withholding taxes. The IRS is assessing boat owners $10 million in taxes for 1985, 1986, and 1987 even though crewmembers have already paid these taxes individually for these years. This assessment is unfair and, if collected, will cause severe economic hardship in the New Bedford fishing community.

The Tax Code stipulates that fishermen may be considered self-employed if: First, the boat "normally" carries less than 10 crewmembers; and second, the amount of compensation to an individual depends solely on the amount of the boat's catch.

IRS interpreted "normally" to mean "more often than not" and to determine this on a quarterly basis, which is not indicated either in the statute or in its legislative history. The basis of the IRS definition of normally is General Counsel Memorandum 39184, a document that was never published in the Federal Register and which clearly states that it is "not to be relied upon or otherwise cited as a precedent by taxpayers." The fishing industry interpreted normally to reflect its most common usage: "on the average over the taxpayers year."

The second problem relates to a small compensation paid to the cook, mate, and engineer in recognition of services performed in addition to fishing. These token payments, called "pers" in Massachusetts, are customary in the industry nationwide. In the cases currently under audit in New Bedford, this additional compensation accounts for only 4 percent of the total compensation. Nevertheless, the IRS has taken the position that crewmembers receiving this compensation are considered employees whose full income is subject to withholding taxes.

The current position of the IRS is unequitable and is not what Congress intended when it stipulated these rules for the fishing industry. A simply clarification of these rules by Congress, applied retroactively to tax year 1985, is needed to remedy this situation.

I ask unanimous consent that the bill be printed in its entirety at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF EMPLOYMENT TAX TREATMENT OF CERTAIN CREWMEMBERS ON FISHING VESSELS.

(a) 10-MEMBER CREWS PERMITTED.—

(1) AMENDMENT OF 1986 CODE.—Paragraph (20) of section 312(b) of the Internal Revenue Code of 1986 (defining employment) is amended by striking "fewer than 10" and inserting "10 or fewer".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Paragraph (20) of section 210(a) of the Social Security Act is amended by striking "fewer than 10" and inserting "10 or fewer".

(b) CERTAIN CASH REMUNERATION PERMITTED.—

(1) AMENDMENT OF 1986 CODE.—Subparagraph (A) of section 3121(b)(20) of such Code is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip,

"(ii) which is contingent on a minimum catch, and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subparagraph (A) of section 210(a)(20) of the Social Security Act is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip,

"(ii) which is contingent on a minimum catch, and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1990.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall also apply to remuneration paid after December 31, 1984, and before January 1, 1990, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.●

By Mr. RUDMAN (for himself and Mr. HUMPHREY):

S. 2449. A bill to authorize the Secretary of the Air Force to purchase the mobile homes of certain members of the Air Force stationed at Pease Air Force Base, New Hampshire; to the Committee on Armed Services.

PURCHASE OF MOBILE HOMES AT PEASE AIR FORCE BASE

● Mr. RUDMAN. Mr. President, along with my colleague from New Hampshire, Senator HUMPHREY, I am introducing a bill to authorize the Secretary of the Air Force to purchase the mobile homes on Pease Air Force Base from the Air Force personnel who own them. The bill would require the Secretary to pay an amount equal to the greater of the fair market value of the home or the total financial investment the owner has in it.

This legislation is necessary to correct a severe inequity afflicting the 50 mobile homeowners at Pease Air Force Base. Pursuant to section 3374 of title 42, the Secretary of Defense may purchase the homes of military or civilian Federal employees adversely impacted by a base closure or major realignment. This is known as the Homeowners Assistance Program, or HAP. Unfortunately, the HAP only covers fixed structures, and thus does not apply to mobile homes.

Pease Air Force Base contains a mobile home park which has 50 developed lots. In 1985, the Air Force waived the normal "first come, first served" method of assigning lots and permitted the development of, in effect, an active real estate market in mobile homes among departing and incoming military personnel. As a result, the value of the homes shot up. The current residents have a substantial investment in their homes, which they purchased with the expectation they would enjoy the same benefits as mobile homeowners among the general public. I suspect that the Air Force now regrets that decision, but that is beside the point.

These mobile homeowners have been placed in an untenable position with the upcoming closure of Pease Air Force Base. They must sell their homes because they are going to be reassigned, but there are no new military personnel—the only eligible buyers—arriving at Pease to sell to. As a result, they cannot sell their homes.

These servicemen are facing a substantial financial loss due to the combination of the Air Force's 1985 decision and the closing of Pease. These losses are the result of Government action, the Government they have volunteered to serve has an obligation to make them whole.

My colleagues from New Hampshire and I have been working with the Air Force to remedy this problem, and it is clear that legislative action is necessary. I should note that the Air Force recognizes the problem, and acknowledges that equity demands assistance for the mobile homeowners, although I cannot say they have endorsed this particular solution.

Mr. President, Pease Air Force Base is scheduled to be closed in just a few months. The need for this bill is compelling and time is of the essence. I urge the Senate Armed Services Committee to give this bill speedy consideration and hope to see the Senate pass it in the near future.●

By Mr. SYMMS (for himself, Mr. HATCH, and Mr. GARN):

S. 2450. A bill to amend the Internal Revenue Code of 1986 to clarify that qualified contributions to a missionary of a church are treated as contributions to the church; to the Committee on Finance.

CHARITABLE CONTRIBUTIONS TO MISSIONARIES

● Mr. SYMMS. Mr. President, it has recently come to my attention that a great injustice is being done to church missionaries. The Internal Revenue Service has refused to allow a tax deduction on contributions to the expenses of missionaries.

Today I am introducing a bill to correct this injustice.

Contributions made to missionaries of a church have always been deductible from the income tax. The Internal Revenue Service, however, has recently refused to allow the deduction on the grounds that charitable contributions should not be made directly to nor be earmarked for individuals. Mr. President, this new view by the IRS is contrary to years of established practice.

Many times churches prefer that money be given directly to its missionaries because it simplifies the administrative burden of supporting missionaries. It has been a historical practice for centuries that missionaries generally must become selfsupporting or at least must do whatever they can to contribute to their own support. They have always been considered as authorized agents who can accept donations for their support, and any unused moneys actually belong to the church.

The Internal Revenue Code allows for deductions for donations made to or for the use of a church. Mr. President, missionaries are part of a church's missionary program—indeed, these programs are inseparable from the people who carry them out. They spend hours teaching and studying on the church's behalf. Money donated to the missionary fund is always used for missionary use.

This issue is presently before the Supreme Court of the United States. Before the Supreme Court makes its ruling, I feel that it would be useful if we, the Members of Congress, clarify what the meaning of a church deduction is.

Many churches use missionaries as an extension of the church and these missionaries work toward the benefit of the church. To penalize them is to penalize the church itself by making it more difficult for members to make contributions.

Mr. President, contributions made to a church should be deductible if made for church use. If the Internal Revenue Service takes away this deduction, the Federal Government will be committing just one more antireligious bad deed in the mistaken misunderstanding of separation of church and state.

The Internal Revenue Service has argued to the Supreme Court that the Tax Code requires certain strict, new rulings. It is our power, Mr. President, as writers of the Income Tax Code to make clear what all of us have understood the law to permit since the very beginning of history.

I ask unanimous consent for the text of my bill to be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS TO CHURCH MISSIONARIES.

(a) IN GENERAL.—Section 170(f) of the Internal Revenue Code of 1986 (relating to disallowance of deductions in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONTRIBUTIONS TO CHURCH MISSIONARIES.—

"(A) GENERAL RULE.—Any qualified contribution to a missonary of a church shall be treated as a charitable contribution to the church.

"(B) QUALIFIED CONTRIBUTION.—For purposes of this paragraph, the term 'qualified contribution' means a contribution to a missionary of a church if—

"(i) such missionary is performing missionary services required by the church,

"(ii) such contribution is only for reasonable and necessary living expenses while performing such missionary services, and

"(iii) such missionary is not claimed by the taxpayer as a dependent (as defined in section 152)."

(b) EFFECTIVE DATE.—The amendment made by this Act shall apply to contributions made before, on, or after the date of the enactment of this Act.●

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. BAUCUS, Mr. REID, Mr. BURDICK, Mr. DASCHLE, Mr. DECONCINI, Mr. WIRTH, Mr. CONRAD, and Mr. NICKLES):

S. 2451. A bill to establish in the Department of the Interior a Trust Counsel for Indian Assets; to the Committee on Indian Affairs.

ESTABLISHING A TRUST COUNSEL FOR INDIAN ASSETS

● Mr. INOUYE. Mr. President, today I am introducing legislation to establish in the Department of the Interior a Trust Counsel for Indian Assets.

This new Trust Counsel will be empowered to provide independent administrative review of the actions of the Federal Government to ensure compliance with the trust responsibility of the United States in the management of Indian trust assets. In order to accomplish this mission, this legal officer will be charged with two primary functions: developing standards of performance to guide each Federal agency which has significant responsibilities in the management of Indian trust assets and investigating allegations that a Federal agency has violated or plans to conduct an activity that would violate the trust responsibility of the United States to protect and maintain Indian trust assets.

In the long history of this country's relations with Indian people, there is no issue which has been more troubling to the legal conscience of public officials than the absence of a meaningful remedy when the Government is faced with a conflict between its fiduciary responsibility to the Indians and directly competing governmental interests. As trustee, the United States holds legal title to significant Indian assets—over 50 million acres of land, associated natural resources, and more than a billion dollars in funds derived from these assets as well as from the settlement of legal claims. Often the same Government agencies that control and manage these assets are also charged with the responsibility to manage public lands and resources in ways which conflict with their duties as trustee for the Indian assets. On many occasions other public agencies which have no responsibility for the management of Indian assets undertake programs such as flood control dams or mineral leases that conflict with Indian trust interests or inflict physical damage to Indian trust assets. Yet, there is no established procedure or administrative process within the entire Federal Government to resolve such conflicts or develop an accommodation of competing interests consistent with our fiduciary duties to tribal governments.

Two years ago, the Senate established a Special Committee on Investigations as a subcommittee of the Select Committee on Indian Affairs in response to charges of fraud, abuse and mismanagement of Indian resources. Many abuses were corrected as a direct result of the committee's investigations and extensive, far reaching recommendations have been submitted to the select committee where they are being given the most serious consideration. Regarding the record of the Federal Government's stewardship of Indian trust assets, compelling and persuasive testimony was presented to the special committee by many former and current Federal officials. Of particular interest was a statement submitted by former President Richard M. Nixon who recalled his own recommendations to the Congress in 1970 that an Indian Trust Counsel Authority be established. We believe his analysis that "no self-respecting attorney should ever attempt to serve clients with conflicting interests" is as valid now as it was 20 years ago. Other witnesses before the special committee hearings, such as former Presidential Counselor Leonard Garment, specifically described efforts made over the years to resolve the serious legal and ethical problems confronting public officials in attempting to meet their responsibilities as trustee of Indian resources in the face of competing or conflicting

demands. The testimony of witnesses documenting many recent and ongoing examples in which Indian trust interests continue to be compromised, confirmed to the committee that a solution must be found.

I believe that this legislation to establish an Indian Trust Counsel in the Department of the Interior is a workable solution that is much needed and long overdue. The trust counsel legislation proposes a reasonable means to address the Federal Government's conflict of interest problems with an effective and administratively feasible mechanism and I hope that the Senate will act expeditiously on this important bill. I am pleased to note that the vice chairman of the Select Committee on Indian Affairs, my good friend Senator JOHN MCCAIN, joins me as an original cosponsor of this legislation as well as the chairman of the Special Committee on Investigations, Senator DENNIS DECONCINI.●

By Mr. ARMSTRONG:

S. 2452. A bill to amend the Federal Rules of Evidence to establish a tax preparer's privilege; to the Committee on Judiciary.

ESTABLISHING A TAX PREPARER'S PRIVILEGE

● Mr. ARMSTRONG. Mr. President, you probably thought, as I did, that a client's communications with his tax-preparer, tax lawyer or accountant, are confidential and protected. Well, they aren't. The Internal Revenue Service can obtain all of an accountant's or lawyer's notes and client communications relating to the preparation of a tax filing. It seems to me that this gives the Service an unfair advantage in tax disputes. I am introducing a bill to put taxpayers on a more equal footing with the IRS by providing for a "privilege" for lawyers and accountants doing tax work.

Like the lawyer-client privilege in current law, an accountant-client privilege means an accountant could not generally be forced to reveal to the IRS or to a court communications with his client relating to the filing of tax returns. Confidentiality would not apply to accounting matters unrelated to tax preparation nor to communications in anticipation of criminal activity or fraud.

Establishing a privilege would not protect factual information needed to calculate tax liability. As a general rule, information in the possession of a client cannot be shielded simply by communicating the information to an accountant.

Some might argue that the innocent need no protection from the IRS. I doubt anyone would apply this same standard to civil and criminal cases because, in these cases just as in many tax disputes, the issues are not black and white but are a matter of interpretation.

The assurance of confidentiality which follows from establishing a privilege for tax preparers would actually improve the operation of our tax system. As every practicing attorney can attest, in telling his story a client will sometimes be reluctant to convey certain information. This is especially true if the client believes the information may be made public. Tax preparers can do their jobs properly only if they have all the necessary information. If a client withholds information because he's concerned it will be made public if it is disclosed, the tax filings may be inaccurate.

Similar to the need for confidentiality to assure full and free disclosure by the client to his accountant is the need for accountants to be able to keep their own thoughts and conclusions private. Clearly, the ability of the IRS freely to examine all of the correspondence, memoranda, notes, etc., produced by an accountant which constitute the client's file sorely hinders his freedom to study the data and record his opinions and tentative conclusions if he believes these could be used against his client. Establishing a privilege for tax prepayers would protect these private notes under a doctrine similar to the "work-product" doctrine used to maintain the privacy of a lawyer's work.●

By Mr. MOYNIHAN (for himself, Mr. RIEGLE, and Mr. PRYOR):

S. 2453. A bill to establish the Social Security Administration as an independent agency, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY RESTORATION ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Social Security Restoration Act of 1990, legislation to restore vitality and fairness to the administration of the Nation's most important domestic program. I am joined by my distinguished colleagues, Senators RIEGLE and PRYOR.

By now, I believe, the problems at the Social Security Administration are well known and documented. Staff has been cut by 17,000 workers over a 5-year period, a 21-percent reduction. The supposed rationale was that computer modernization would allow the agency to do the same job with fewer workers. But as we have seen many times in recent years, the agency's quality of service to the public has declined markedly.

Last year, for example, an internal SSA study revealed that 54 percent of those who had their supplemental security income benefits suspended over a 2-month study period should not have had their benefits temporarily discontinued. We are talking here of the country's most vulnerable citizens—the needy, aged, blind, and disabled—who needlessly lost their benefits because of these staff cuts.

But the staff reductions are only a part of a bigger problem that has taken root at the Social Security Administration in recent years, a problem of ideological and budget-driven policymaking and administration. It began in the early 1980's when hundreds of thousands of disability beneficiaries were wrongfully thrown off the rolls. The tragedy and hardship to these disabled workers was then compounded as they were forced to deal with a cumbersome, backlogged, and nightmarish administrative appeals process.

There is also a problem of instability of leadership at this important agency. This is my 14th year on the Finance Committee, and in that time there have been nine administrators at the Social Security Administration. Naturally each has wanted to reorganize the agency before he or she moved on. This pattern of instability has disrupted effective management and policy development.

These factors have contributed to a still bigger problem of a lack of public confidence in our Social Security program. Polls consistently show that only about half of nonretired adults are confident that Social Security will be there for them when they need it.

So I propose measures today to restore the Social Security Administration's reputation for fairness and efficiency, to restore due process to the agency's administrative appeals system, and, most important, to restore public confidence in the Social Security program.

First, the bill would remove SSA from the Department of Health and Human Services and restore it to its original status an an independent executive branch agency headed by a three-member bipartisan board. Board members would be appointed by the President and confirmed by the Senate and serve staggered 6-year terms. A board-appointed Executive Director would oversee day-to-day administrative operations.

Next, the bill provides for the development of a permanent, durable, counterfeit-resistant Social Security card that could also be used by employers to verify a job applicant's eligibility for employment under the Immigration Reform and Control Act of 1986.

Third, the bill would require that Social Security account statements be sent to all workers on annual basis, telling them what they have paid into Social Security and what they could expect to get back in the way of benefits.

Fourth, the legislation streamlines the present Social Security administrative appeals process. It takes almost 2 years for the average claimant to get through the current process. The bill would eliminate two stages in the process and establish time limits

within which the agency would have to provide hearings.

Fifth, the bill would establish a floor staff level for SSA of 70,000 full-time workers. In the past 5 years, staff levels have been reduced from about 80,000 workers to the present 63,000. The bill would give them enough workers to do the job and to provide the service that our aged and disabled citizens expect and deserve.

Finally, the bill would provide for the restoration of telephone access to local SSA offices and around the country.

Mr. President, it is past time to take action on these important matters. The administration of our most important domestic program is faltering. I urge the favorable consideration of my colleagues, and I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Restoration Act of 1990".

SEC. 2. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

TITLE I—SOCIAL SECURITY ADMINISTRATION

Subtitle A—Establishment

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY.

Section 701 is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of the Government a Social Security Administration (hereafter in this title referred to as the 'Administration'). It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.".

SEC. 102. SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; DEPUTY DIRECTOR; BENEFICIARY OMBUDSMAN; OTHER OFFICERS.

(a) IN GENERAL.—Section 702 is amended to read as follows:

"SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; OTHER OFFICERS; OFFICE OF RESEARCH AND STATISTICS

"Social Security Board

"SEC. 702. (a)(1)(A) The Administration shall be governed by a Social Security Board (hereafter in this title referred to as the 'Board'. The Board shall be composed of 3 members appointed by the President, by and with the advice and consent of the Senate. The members shall be chosen, on the basis of integrity, impartiality, and good judgment, from among individuals who, by reason of education, experience, and attainments, are exceptionally qualified to perform the duties of members of the Board.

"(B)(i) Except as provided in clauses (ii) and (iii), members of the Board shall be appointed to serve for a term of 6 years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than 5 days after the date on which such finding is made.

"(ii) Of the members initially appointed under this paragraph—

"(I) 1 member shall be appointed for a term ending January 31, 1993,

"(II) 1 member shall be appointed for a term ending January 31, 1995; and

"(III) 1 member shall be appointed for a term ending January 31, 1997,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the chairman of the Committee on Finance of the Senate.

"(iii) The President may not nominate an individual for appointment to a term of office as member of the Board before the commencement of the term of office of such President during which the term of office of such member commences. Except as provided in clause (iv), a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

"(iv) A member may, at the request of the President, serve for not more than 1 year after the expiration of his or her term until his or her successor has taken office. A member of the Board may be appointed for subsequent terms after the expiration of a term.

"(C) Not more than 2 members of the Board shall be of the same political party.

"(D) A member of the Board may not, during his or her term as member, engage in any other business, vocation, profession, or employment. A member of the Board may continue as a member of the Board for not longer than the 30-day period beginning on the date such member initially fails to meet the requirements of the preceding sentence.

"(E) 2 members of the Board shall constitute a quorum, except that 1 member may hold hearings.

"(F) A member of the Board shall be designated by the President to serve as Chairperson of the Board for a term of 4 years.

"(G) The Board shall meet at the call of the Chairperson or 2 members of the Board.

"(2) Each member of the Board shall be compensated at the rate provided for level II of the Executive Schedule.

"(3) The Board shall—

"(A) govern by regulation the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) establish and oversee efficient and effective operations in the Administration,

"(C) devise long-term plans to promote and maintain the effective implementation of programs referred to in subparagraph (A),

"(D) appoint an Executive Director of the Administration, as described in subsection (b), to act as the chief operating officer of the Administration responsible for administering the programs referred to in subparagraph (A),

"(E) constitute 3 of the members the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, with the Chairperson of the Social Security Board serving as Chairperson of such Board of Trustees,

"(F) make annual budgetary recommendations relating to the Administration, including program costs of the supplemental security income program under title XVI, and defend such recommendations before the appropriate committees of each House of the Congress,

"(G) study and make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance and supplemental security income and as to legislation and matters of administrative policy concerning the programs referred to in subparagraph (A),

"(H) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Administration with respect to the programs referred to in subparagraph (A) and any other information relating to such programs; and

"(I) conduct policy analysis and research relating to the programs referred to in subparagraph (A).

"(4)(A) The Board may prescribe such rules and regulations as the Board determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Board shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(B) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Board considers necessary or appropriate to carry out the functions of the Board, except that this subparagraph shall not apply with respect to any unit, component, or position provided for by this Act.

"(C) The Board may, with respect to the administration of the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI, assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Board may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"Executive Director

"(b)(1) There shall be in the Administration an Executive Director who shall be appointed by the Board.

"(2) The Executive Director shall be appointed for a term of 4 years coincident with the term of the Commissioner, or until the appointment of a qualified successor, except that the individual initially appointed to the office of Executive Director shall be appointed for a term ending September 30, 1996.

"(3) An individual appointed to a term of office as Executive Director after the commencement of such term may serve under such appointment only for the remainder of such term.

"(4) At the request of the Chairperson of the Board, an individual may serve as Exec-

utive Director after the expiration of his or her term, until his or her successor has taken office, for not more than 1 year.

"(5) An individual may be removed from the office of Executive Director before completion of his or her term only for cause found by the Board.

"(6) The Executive Director shall be compensated at the rate provided for level III of the Executive Schedule.

"(7) The Executive Director shall—

"(A) constitute the chief operating officer of the Administration, responsible for administering, in accordance with applicable laws (including regulations) the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) maintain an efficient and effective operational structure for the Administration,

"(C) implement the long-term plans of the Board to promote and maintain the effective implementation of such programs,

"(D) make annual budgetary recommendations of the Administration for the ongoing administrative costs of the Administration and the program costs of the supplemental security income program under title XVI and defend such recommendations before the Board.

"(E) advise the Board and the Congress on the effect on the administration of such programs of proposed legislative changes in such programs,

"(F) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund,

"(G) in December of each calendar year, report to the Board for transmittal to the Congress the administrative activities and accomplishments of the Administration; and

"(H) carry out such additional duties as are assigned by the Board .

"(8) Any reference to the Board in this Act or any other provision of law in connection with the exercise of a function of the Board which is delegated to the Executive Director pursuant to this section shall be considered a reference to the Executive Director.

"Deputy Director of Social Security

"(c)(1) There shall be in the Office of the Executive Director a Deputy Director, who shall be appointed by the Board. The Deputy Director shall be appointed for a term coextensive with the term of the Executive Director.

"(2) An individual may be removed from the office of Deputy Director before completion of his or her term only for cause found by the Board.

"(3) The Deputy Director shall be compensated at the rate provided for level III of the Executive Schedule.

"(4) The Deputy Director shall perform such duties and exercise such powers as the Executive Director shall assign or delegate.

"(5) The Deputy Director shall be Acting Executive Director of the Administration during the absence or disability of the Executive Director and, unless the Board designates another officer of the Government as Acting Executive Director, in the event of a vacancy in the office of the Executive Director.

"General Counsel

"(d)(1) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Board. The General Counsel shall be the principal legal officer in the Administration.

"(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule.

"Inspector General

"(e)(1) There shall be in the Administration an Office of the Inspector General. Such Office shall be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(2) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

"Beneficiary Ombudsman

"(e)(1) There shall be in the Administration an Office of the Beneficiary Ombudsman, to be headed by a Beneficiary Ombudsman appointed by the Board.

"(2)(A) The Beneficiary Ombudsman shall be appointed for a term of 5 years, except that the individual initially appointed to the office of Beneficiary Ombudsman shall be appointed for a term ending September 30, 1996.

"(B) An individual appointed to a term of office as Beneficiary Ombudsman after the commencement of such term may serve under such appointment only for the remainder of such term.

"(C) At the request of the Chairperson of the Board, an individual may serve as Beneficiary Ombudsman after the expiration of his or her term, until his or her successor has taken office, for not more than 1 year.

"(D) An individual appointed to a term of office as Beneficiary Ombudsman after the commencement of such term may serve under such appointment only for the remainder of such term.

"(E) An individual may be removed from the office of Beneficiary Ombudsman before completion of his or her term only for cause found by the Board.

"(3) The duties of the Beneficiary Ombudsman are—

"(A) to represent within the decisionmaking process of the Administration the interests and concerns of beneficiaries (and potential beneficiaries) under the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) to review the policies and procedures of the Administration for possible adverse effects on such beneficiaries and potential beneficiaries;

"(C) to recommend within the decisionmaking process of the Administration changes in policies which have caused problems for such beneficiaries and potential beneficiaries;

"(D) to help resolve the problems under such programs of individual beneficiaries and potential beneficiaries in unusual or difficult circumstances as determined by the Board; and

"(E) to represent within the decisionmaking process of the Administration the views of beneficiaries in the design of forms and the issuance of instructions.

"(4) The Board shall ensure that the Office of the Beneficiary Ombudsman has staff sufficient to enable the Beneficiary Ombudsman to efficiently carry out the duties of the Office.

"(5) The annual report of the Board under section 704 shall include a description of the activities of the Beneficiary Ombudsman.

"Chief Administrative Law Judge

"(f)(1) There shall be in the Administration an Office of the Chief Administrative Law Judge. The Office shall be headed by a Chief Administrative Law Judge. All functions in the Administration relating to hearings before an administrative law judge conducted in the Administration shall be under the operational control of the Chief Administrative Law Judge.

"(2) The Chief Administrative Law Judge described in paragraph (1) shall be appointed by the Board.

"(3) The Chief Administrative Law Judge shall be compensated at the rate provided for level V of the Executive Schedule.

"Chief Actuary

"(g)(1) There shall be in the Administration a Chief Actuary.

"(2) The position of Chief Actuary shall be a Senior Executive Service Position under the provisions of subchapter 2 of chapter 31 of title V, United States Code.

"(3) The Chief Actuary shall direct, on an ongoing basis, analyses of the actuarial status of the the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

"(4) The Chief Actuary shall consult, on an ongoing basis, with—

"(A) the Board,

"(B) the Chairman of the Committee on Finance in the Senate; and

"(C) the Chairman of the Committee on Ways and Means in the House of Representatives,

concerning the financial status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

"Chief Economist

"(h)(1) There shall be in the Administration an Office of the Chief Economist. The Office shall be headed by a Chief Economist.

"(2) The Chief Economist shall direct the research activities of the Administration.

"(3) The position of Chief Economist shall be a Senior Executive Service Position under the provisions of subchapter 2 of chapter 31 of title V, United States Code.".

(b) INTERIM AUTHORITY OF THE COMMISSIONER.—The President shall nominate for appointment the initial members of the Social Security Board not later than April 1, 1991. In the event that, as of July 1, 1991, all members of the Social Security Board have not been appointed, the officer serving on July 1, 1991, as Commissioner of Social Security in the Department of Health and Human Services (or Acting Commissioner, if applicable), or the successor of such officer, shall, while continuing to serve as Commissioner of Social Security (or Acting Commissioner) in such Department, serve as head of the Social Security Administration established under section 701 of the Social Security Act and shall assume the powers and duties of such Board and of the Executive Director under such Act.

SEC. 103. PERSONNEL; BUDGETARY MATTERS; FACILITIES AND PROCUREMENT; SEAL OF OFFICE.

(a) IN GENERAL.—Section 703 is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE COMMISSIONER

"Personnel

"SEC. 703. (a)(1) The Board shall appoint such additional officers and employees as the Board considers necessary to carry out the functions of the Administration under this Act. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Restoration Act of 1990, to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Board under subsection (b)(1). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

"(4) In addition to the positions of the Administration in the Executive Schedule specified in section 702, the Administration is authorized 6 additional positions at level IV of the Executive Schedule and 6 additional positions at level V of the Executive Schedules.

"(5) All authority and functions of the Office of Personnel Management under section 4703 of title 5, United States Code (relating to demonstration projects), to the extent such section relates to personnel or positions in the Administration, shall be exercised exclusively by the Board. The Board shall report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the demonstration projects undertaken by the Board pursuant to this paragraph.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Board. The entire amount of appropriations provided for the administrative costs of the Administration shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this subsection.

"(2) The report submitted pursuant to section 704 shall include a section reflecting the use of budget authority provided to the Administration by quarters.

"(3)(A) Authority of the Administration for automated data processing procurement and facilities construction shall be provided in the form of contract authority covering the total costs of such acquisitions, to be available until expended.

"(B) Amounts necessary for the liquidation of contract authority provided pursuant to this paragraph are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to the extent that the Board, with the concurrence of the Secretary of the Treasury, determines that such amounts are not necessary to meet the current obligations for benefit payments from the Trust Funds.

"(C) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Board and reported to each House of the Congress.

"Seal of Office

"(d) The Board shall cause a seal of office to be made for the Administration of such design as the Board shall approve. Judicial notice shall be taken of such seal.".

(b) DEMONSTRATION PROJECTS RELATING TO PERSONNEL MATTERS.—(1) As soon as practicable after June 30, 1991, the Social Security Board (hereafter in this subsection referred to as the 'Board') and the Director of the Office of Personnel Management (hereafter in this subsection referred to as the 'Director') shall, in consultation with the Comptroller General, jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration—

(A) the Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical and professional employees as the Board considers appropriate whose compensation may be fixed by the Board without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that such employees may not be paid at a rate in excess of the rate payable for level IV of the Executive Schedule; and

(B) the Director shall delegate to the Board (pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section) functions relating to—

(i) recruitment and examination programs for entry level employees, and

(ii) classification and standards development systems and pay ranges for those job categories identified by the Board in assuming such delegation.

(2) The Comptroller General of the United States, the Director, and the Board shall each issue a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the demonstration projects described in paragraph (1), together with any recommendations, not later than December 31, 1992. Such reports shall include an evaluation of the readiness of the Social Security Board to assume permanent and full authority over the functions described in subparagraphs (A) and (B) of paragraph (1).

(c) DEMONSTRATION PROJECTS RELATING TO DELEGATIONS FROM ADMINISTRATOR OF GENERAL SERVICES.—(1) As soon as practicable after June 30, 1991, the Social Security Board (hereafter in this subsection referred to as the 'Board') and the Administrator of General Services shall jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration the Board shall have—

(A) all authorities permitted to be delegated under the provisions of Federal law codified under title 40 of the United States Code, relating to the acquisition, operation, and maintenance of the facilities needed for the administration of programs for which the Board is given responsibility under the Social Security Act,

(B) all authorities permitted to be delegated under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to the lease, purchase, or maintenance of automated data processing equipment; and

(C) the authority to contract for any automated data processing equipment or services which the Board considers necessary for the efficient and effective operation of such programs.

(2) The Comptroller General of the United States, the Administrator of General Services, and the Commissioner of Social Security shall each issue a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the demonstration projects described in paragraph (1), together with any recommendations, not later than December 31, 1992. Such reports shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in subparagraphs (A), (B), and (C) of paragraph (1).

SEC. 104. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this Act and the amendments made thereby. The Social Security Board shall allocate such functions in accordance with sections 701, 702, and 703 of the Social Security Act.

(b) PERSONNEL, ASSETS, ETC.—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Social Security Board in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this Act and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) The Secretary of Health and Human Services shall terminate—

(A) six positions in the Department of Health and Human Services placed in level IV of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5315 of title 5, United States Code, or any other provision of law; and

(B) six positions in such Department placed in level V of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5316 of such title or any other provision of law.

(c) ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective upon the appointment of a Social Security Board pursuant to section 702 of the Social Security Act—

(1) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(2) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services.".

SEC. 105. TRANSITIONAL RULES.

(a) INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.—(1) At any time on or after the date of enactment of this Act—

(A) any of the officers provided for in section 702 of the Social Security Act may be nominated and appointed, as provided in such section; and

(B) the Social Security Board, upon the nomination and appointment of all of the members of such Board, may prescribe regulations providing for the orderly transfer of proceedings before the Secretary of Health and Human Services to the Social Security Board.

(2) Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Social Security Board or the Social Security Administration by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this section until such time as funds for that purpose are otherwise available.

(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this Act, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board; and

(2) which are in effect immediately before July 1, 1991,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Board.

(c) CONTINUATION OF PROCEEDINGS.—The provisions of this Act (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before July 1, 1991, with respect to functions vested (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Board. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board, by a court of competent jurisdiction, or by operation of law.

(d) CONTINUATION OF SUITS.—(1) Except as provided in this subsection—

(A) the provisions of this Act shall not affect suits commenced prior to July 1, 1991; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(2) No cause of action, and no suit, action, or other proceeding commenced by or against any officer in the official capacity of such officer as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before July 1, 1991, the court may at any time, on the motion of the court or on the motion of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board.

(f) JUDICIAL REVIEW.—Orders and actions of the Social Security Board in the exercise of functions vested in such Board under this Act (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before July 1, 1991. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board shall continue to apply to the exercise of such function by such Board.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Social Security Board under this Act, the amendments made thereby, and regulations prescribed thereunder, such Board shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Board, and actions of such Board shall have the same force and effect as when exercised by such Secretary.

(h) OPERATION OF TRANSITIONAL RULES IN THE EVENT OF INTERIM AUTHORITY IN THE COMMISSIONER.—For purposes of this section, in any case in which the powers and duties to be transferred to the Social Security Board are transferred to the Commissioner of Social Security (or acting Commissioner) in the Department of Health and Human Services for an interim period pursuant to section 102(b), the preceding provisions of this section shall apply with respect to the transfer of such powers and duties to and from such Commissioner (or acting Commissioner) pursuant to such section in the same manner and to the same extent as they would have applied to a direct transfer from the Secretary of Health and Human Services to the Social Security Board if all initial appointments to such Board had been made.

SEC. 106. EFFECTIVE DATES; SPECIAL RULES.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by such subtitle shall take effect July 1, 1991.

(b) TRANSITIONAL RULES.—Sections 102(b) and 105 shall take effect on the date of the enactment of this Act.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this subtitle shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Subtitle B—Conforming Amendments

SEC. 111. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Title II (other than section 201, section 218(d), section 231(c), section 226, and section 226A) and title XVI are each amended—

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Social Security Board",

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration",

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration",

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", "he","her", and "she", and inserting (in the case of the word "Secretary") "the Social Security Board", (in the case of the word "Secretary's") "the Social Security Board's", (in the case of the word "his") "the Board's", (in the case of the word "him") "the Board", and (in the case of the words "she" or "he") "the Board"; (in the case of the word "her") "the Board" or "the Board's", as may be appropriate; and (in the case of the words "she" or "he") "the Board"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO SECTION 201.—(1)(A) Sections 201(a)(3), 201(a)(4), 201(b)(1), and 201(b)(2) are each amended by striking "Secretary of Health and Human Services" and "Secretary" each place it appears and inserting "Social Security Board"; and

(B) Sections 201(a)(3) and 201(b)(1) are each amended by striking "such Secretary" and inserting "such Board".

(2) Section 201(c) is amended—

(A) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the members of the Social Security Board, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio",

(B) by inserting after the first sentence the following new sentence: "The Chairperson of the Social Security Board shall be the Chairperson of the Board of Trustees."; and

(C) by striking "The Commissioner of Social Security" and inserting "The Executive Director of the Social Security Administration".

(3) Section 201(g)(1)(A) is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by him, the Social Security Board, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department" and inserting "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury",

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under

paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Social Security Board and the Secretary of Health and Human Services", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Social Security Board is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.".

(4) Section 201(g)(1) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Social Security Board shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the General Fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund; and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the General Fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund,

except that the determination of the amounts to be borne by the General Fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Social Security Board and the Secretary of Health and Human Services shall each certify to the Managing Trustee the amounts which should be transferred from each of the Trust Funds to the General Fund in the Treasury and from the general fund in the Treasury to each of the Trust Funds, in order to ensure that each of the Trust Funds and the General Fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Social Security Board is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made.".

(5) Section 201(g)(2) is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Social Security Board", and by striking "Secretary shall furnish" and inserting "Social Security Board shall furnish".

(6) Section 201(g)(4) is amended to read as follows:

"(4) The Social Security Board shall utilize the method prescribed pursuant to this paragraph, as of immediately before the date of the enactment of the Social Security Investment Reform Act of 1987, for determining the costs which should be borne by the General Fund in the Treasury of carrying out the functions of the Board, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Board considers such action advisable, the Board may modify the method of determining such costs.".

(7) Section 201(i)(1) is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.".

(8) Subsections (j) and (k) of section 201 are each amended by striking "Secretary" each place it appears and inserting "Social Security Board".

(9) Section 201(l)(3)(B)(iii)(II) is amended by striking "Secretary" and inserting "Social Security Board".

(10) Section 201(m)(3) is amended by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(11) Section 201 is amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO SECTION 218.—Section 218(d) is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Social Security Board".

(d) AMENDMENTS TO SECTION 222.—Section 222(d) is amended—

(1) in the last sentence of paragraph (1), by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration"; and

(2) in the first sentence of paragraph (2), by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(e) AMENDMENTS TO SECTION 225.—Section 225(b)(2) is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(f) AMENDMENT TO SECTION 231.—Section 231(c) is amended by striking "Secretary determines" and inserting "Social Security Board and the Secretary jointly determine".

(g) AMENDMENT TO SECTION 1615.—Section 1615(d) of such Act is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

SEC. 112. OTHER AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—(1) Section 704 is amended to read as follows:

"REPORTS

"SEC. 704. The Secretary and the Board shall make full reports to Congress, not less than 120 days after the beginning of each regular session, of the administration of the functions with which they are charged under this Act. In addition to the number of copies of such reports authorized by other law to be printed, there is hereby authorized to be printed not more than 5,000 copies of each such report for use by the Secretary and the Social Security Board for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the programs provided for in this Act.".

(2) Section 709(b)(2) is amended by striking "(as estimated by the Secretary)" and inserting ", as estimated by the Social Security Board or the Secretary (whichever administers the program involved),".

(3) Title VII is amended by adding at the end thereof the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. (a)(1) The Secretary shall perform the duties imposed upon the Secretary by this Act.

"(2) The Secretary shall also have the duty of studying and making recommendations concerning—

"(A) the most effective methods of providing economic security concerning the programs administered by the Secretary under this Act,

"(B) legislation and administrative policy concerning the programs administered by the Secretary under this Act; and

"(C) other related subjects,

except that nothing in this section shall be construed so as to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Administration.

"(b) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act. Appointments of attorneys and experts may be made without regard to the civil service laws.

(4) Title VII is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

"SEC. 713. (a) During 1993 (but not before February 1, 1993) and every fourth year thereafter (but not before February 1 of such fourth year), the Commissioner shall appoint an Advisory Council on Social Security (hereafter in this section referred to as the 'Council') for the purposes of reviewing—

"(1) the status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in

relation to the long-term commitments of the old-age, survivors, and disability insurance program; and

"(2) such programs, including the scope of coverage and the adequacy of benefits under such programs, and the relationship of such programs to other programs providing income security, health benefits, and social services.

"(b) Each such Council shall consist of a Chairman and 12 other individuals, appointed by the Commissioner without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(c) Members appointed to each such Council under this section shall, to the extent possible, represent organizations of employers and employees in equal numbers, and represent self-employed persons and the public.

"(d)(1) The Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out the functions of the Council.

"(2) The Board shall make available to the Council such—

"(A) additional secretarial, clerical, assistance,

"(B) actuarial and other relevant data; and

"(C) other assistance that the Board determines to be appropriate,

as may be required by the Council to carry out the functions of the Council.

"(d)(1) Members of each such council who are not full-time Federal employees, while serving on business of the Council (including travel time), shall receive compensation at rates fixed by the Board, but not to exceed a daily rate of $100.

"(2) While serving on business of the Council away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(e) (1) The Council shall submit reports (including any interim reports such Council may have issued) of the findings and recommendations of such Council to the Board not later than January 1 of the second year after the year in which such Council is appointed. The Board shall thereupon transmit such reports and recommendations to the Congress and to the Board of Trustees of each of the Trust Funds described in subsection (a).

(2) The reports required under this section shall include reports concerning—

(A) the old-age, survivors, and disability insurance program under title II,

(B) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986; and

(C) the taxes imposed under section 86 of the Internal Revenue Code of 1986 on social security benefits (within the meaning of section 86(d)(1)(A) of such Code).

"(f) A Council appointed under this section shall cease to exist on the date immediately following the date prescribed for the transmittal to the Commissioner the reports described in subsection (e).".

(5) Section 706 is amended—

(i) by striking the heading and inserting "ADVISORY COUNCIL ON HOSPITAL AND SUPPLEMENTARY MEDICAL INSURANCE",

(ii) in subsection (a)—

(I) by striking "1969" each place it appears and inserting "1993",

(II) by striking "Social Security" and inserting "Hospital and Supplementary Medical Insurance",

(III) by striking "the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund,",

(IV) by striking "Fund, and" and inserting "Fund and"; and

(V) by striking "the old-age, survivors, and disability insurance program and"; and

(iii) in subsection (d)—

(I) by striking paragraph (1); and

(II) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(5) Sections 706, 709, and 710 of such Act are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(6) Paragraph (2) of section 709(b) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)".

(7) Sections 719 and 710 are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO TITLE XI.—(1) Section 1101(a) is amended by adding at the end thereof the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise.".

(2) Section 1106(a) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(D) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.".

(3) Section 1106(b) is amended—

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Social Security Board or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Board or Secretary".

(5) Section 1107(b) is amended by striking "the Secretary of Health and Human Services" and inserting "the Social Security Board or the Secretary".

(6) Section 1110 is amended—

(A) in paragraphs (2) and (3) of subsection (a), by inserting "(or the Social Security Board with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(B) in subsection (b)—

(i) by striking "Secretary" each place it appears and inserting "the Board", and

(ii) by striking "the Secretary's" each place it appears and inserting "the Board's"; and

(C) by striking "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting "the Board", "the Board's", "the Board", and "itself", respectively.

(7) Subsections (b) and (c) of section 1127 are each amended by striking "Secretary" and inserting "Social Security Board".

(8) Section 1128(f) is amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(9) Section 1131 is amended—

(A) by striking "Secretary" each place it appears and inserting "Social Security Board";

(B) in subsection (a)(1)(A), by adding "or" at the end thereof;

(C) in subsection (a)(1)(B), by striking "or" at the end thereof;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) by striking "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting "the Social Security Board".

(10) Section 1155 is amended by striking "(to the same extent as is provided in section 205(b))" and all that follows and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Social Security Board under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Social Security Board or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is $2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection.".

(11) Sections 1101, 1106, 1107, and 1137 are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO TITLE XVIII.—(1) Subsections (a) and (f) of section 1817 are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(2) Section 1840(a) is amended—

(A) in paragraph (1)—

(i) by striking "Secretary" and inserting "Social Security Board"; and

(ii) by adding at the end thereof the following new sentence: "Such regulations shall be prescribed after consultation with the Secretary."; and

(B) in paragraph (2) by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(3) Section 1872 is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(4) Section 1869(b)(1) and the last sentence of section 1876(c)(5)(B) are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Sections 1817, 1862, and 1886 are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(d) AMENDMENT TO TITLE XIX.—Section 1910(b)(2) is amended, in the first sentence, by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(e) AMENDMENT TO TITLE XX.—Section 2002(a)(2)(B) is amended by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(f) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5313 the following new items:

"Members, Social Security Board (3).

"Executive Director, Social Security Administration;

(2) by adding at the end of section 5314 the following new items:

"Deputy Director, Social Security Administration.

(3) by adding at the end of section 5315 the following new items:

"General Counsel, Social Security Administration.

"Inspector General, Social Security Administration.

"Additional officers, Social Security Administration (6).";

(4) by adding at the end of section 5316 the following new items:

"Beneficiary Ombudsman, Social Security Administration.

"Chief Administrative Law Judge, Social Security Administration."; and

(5) by striking "Secretary of Health Education, and Welfare" each place it appears in section 8141 and inserting "Social Security Board".

(g) AMENDMENT TO FOOD STAMP ACT OF 1977.—Section 6(c)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3)) is amended by inserting "the Social Security Board and" before "the Secretary of Health and Human Services".

(h) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707 of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(i) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(2) Section 3121(b)(10)(B) of such Code is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(3) Subsections (d) and (f) of section 6057 of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(4) Section 6103(l)(5) of such Code is amended—

(A) by striking "Department of Health and Human Services" and inserting "Social Security Administration"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(5) Section 6511(d)(5) of such Code is amended by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(j) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 3005 of title 38, United States Code, is amended by striking "Secretary of Health and Human Services" and "Secretary" each place they appear and inserting "Social Security Board".

(k) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1)—

(A) by striking "and" at the end of subparagraph (U); and

(B) by adding at the end thereof the following new subparagraph:

"(V) of the Social Security Administration (to the extent provided in the Social Security Restoration Act of 1990), the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(2) in section 11(1), by striking "or" after "Commission" and inserting a semicolon, and by inserting after "Board;" the following: "or the Social Security Board;"; and

(3) in section 11(2), by striking "or" after "Information Agency,", and by inserting after "Veterans' Administration" the following: ", or the Social Security Administration;".

SEC. 113. RULES OF CONSTRUCTION.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this part or part I or a provision of law amended by either such part), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this part or part I or a provision of law amended by either such part), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to the Social Security Board.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this part or part I or a provision of law amended by either such part), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 114. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this subtitle shall take effect July 1, 1991.

(b) EXCEPTIONS.—

(1) Subsection (a)(4) of section 112 shall take effect on January 1, 1993.

(2) Subsections (f)(1), (f)(2), (f)(3), and (k) of section 112 shall take effect October 1, 1990.

TITLE II—SOCIAL SECURITY CARDS

SEC. 201. SOCIAL SECURITY CARDS.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall, in accordance with the provisions of this section, develop a prototype counterfeit-resistant social security card. Such prototype shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic strips, holograms, and integrated circuits,

(C) be developed to provide a more reliable means of verifying eligibility for employment under the Immigration Reform and Control Act of 1986; and

(D) contain features allowing such card to be utilized as a voter registration card.

(2) The Attorney General of the United States shall provide such information and assistance as the Secretary determines to be necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—(1) The Secretary shall conduct a study and issue a report to the Congress that examines methods of reducing fraud in the application process for social security cards in effect on the date of the enactment of this Act.

(2) Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on the Judiciary of the House of Representatives, and the Committee on Finance and the Committee on the Judiciary of the Senate—

(A) the report described in paragraph (1); and

(B) the prototype social security card described in subsection (a)(1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

TITLE III—SOCIAL SECURITY ACCOUNT STATEMENTS

SEC. 301. MANDATORY PROVISION OF STATEMENTS.

Section 1142(c), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "1995" each place it appears and inserting "1992",

(2) by striking "1994" and inserting "1991",

(3) by striking "1999" each place it appears and inserting "1994"; and

(4) in paragraph (2), by striking "a biennial" and inserting "an annual".

TITLE IV—HEARINGS; MISCELLANEOUS

SEC. 401. HEARINGS.

(a) AMENDMENTS TO TITLE II.—Section 205(b) is amended to read as follows:

"(b)(1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this title. Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.

"(2) Upon request by any individual described in paragraph (1), or upon request by a wife, divorced wife, widow, surviving divorced wife, divorced husband, widower, surviving divorced husband, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered, the Secretary shall give such individual described in paragraph (1) and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at such hearing, affirm, modify, or reverse his or her findings of fact and such decision.

"(3) Except as otherwise provided in this section, the Secretary is authorized to hold such hearings and to conduct such investigations and other proceedings as he or she may determine to be necessary or proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, the Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

"(4)(A) In any case where the Secretary makes a determination concerning the entitlement of an individual to benefits under this title or provides notice of any administrative action the effect of which is to decrease the payments of benefits to such individual or affect the entitlement of such individual to benefits under this title, for which such individual has a right of appeal under this title, such individual shall have a right to request a hearing by an administrative law judge to review such determination or administrative action. Any request for such hearing shall be made not later than 60 days after receipt of notice of such initial determination or administrative action. Such hearing shall be held not later than 90 days after a request for a hearing under this subparagraph.

"(B) During the period of time between a request for a hearing and such hearing before an administrative law judge, the Secretary may reconsider such decision or administrative action and modify or reverse such decision or administrative action with respect to the individual who requested such hearing.

"(C) Not later than 30 days after the completion of the hearing before an administrative law judge under this paragraph, the administrative law judge shall render a decision, on the basis of evidence adduced at the hearing to affirm, modify or reverse the decision or administrative action of the Secretary.

"(D) Not later than 30 days after the administrative law judge renders a decision, the Secretary shall review such decision and approve or disapprove such decision. The Secretary's approval or disapproval shall be considered to be a final decision, and shall be appealable to a district court of the United States pursuant to subsection (g).".

(b) AMENDMENTS TO TITLE XVI.—Section 1631(c) is amended to read as follows:

"(c)(1)(A) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this title. Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.

"(2) Upon request by an individual described in paragraph (1) with respect to a determination described in paragraph (1), or any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this title with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, the Secretary shall provide reasonable notice and an opportunity for a hearing before an administrative law judge pursuant to the procedures described in section 205(b)(4).

"(3) Except as otherwise provided in this section, the Secretary is authorized to hold such hearings and conduct such investigations and proceedings as the Secretary may determine to be necessary and proper for the administration of this title. In the course of any hearing, investigation, or other proceeding, the Secretary may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under the rules of evidence applicable to court procedure.

"(5) The Secretary shall review any decision made by an administrative law judge under paragraph (2) in accordance with the procedures under subparagraph (D) of section 205(b)(4). The Secretary's approval or disapproval shall be considered to be a final decision, and shall be appealable to a district court of the United States pursuant to subsection (g).".

(c) CONFORMING AMENDMENTS TO TITLE XI.—(1) Section 1128(f), as amended by section 112(b)(8) of this Act, is further amended by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "as provided in section 205(b)".

(2) Section 1155, as amended by section 112(b)(10) of this Act, is further amended by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "under section 205(b)".

(3) Section 1156(b) is amended—

(A) in paragraph (4), by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "as is provided in section 205(b)"; and

(B) in paragraph (5), by striking "(described in section 205(b))" and inserting "(described in section 205(b), as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990)".

(d) CONFORMING AMENDMENTS TO TITLES XVIII AND XIX.—(1) Section 1869 (b)(1), as amended by section 112(c)(4) of this Act, is amended in the matter following subparagraph (D), by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "section 205(b)".

(2) Subparagraph (B) of section 1876(c)(5) is amended by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "section 205(b)".

(3) Section 1910(b)(2), as amended by section 112(d) of this Act, is amended by inserting ", as in effect immediately preceding the date of the enactment of the Social Security Restoration Act of 1990" after "section 205(b)".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to requests for hearings made on or after the date that is 180 days after the date of the enactment of this section.

TITLE V—SOCIAL SECURITY ADMINISTRATION EMPLOYEES

SEC. 501. MINIMUM FULL-TIME EMPLOYEE LEVEL.

(a) IN GENERAL.—The number of Federal employees in full-time positions in the Social Security Administration shall be not less than 70,000.

(b) EFFECTIVE DATE.—This section shall take effect beginning on the first day of fiscal year 1991.

TITLE VI—TELEPHONE ACCESS

SEC. 601. TELEPHONE ACCESS TO FIELD OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary"), in consultation with the Commissioner of the Social Security Administration (hereinafter referred to as the "Commissioner") shall require that—

(1) each field office of the Social Security Administration shall receive telephone calls from the general public in the geographic area in which the field office operates; or

(2) shall restore and maintain the level of regional telephone access by the general public to the level that was available on September 30, 1988.

(b) TOLL-FREE TELEPHONE SYSTEMS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Commissioner, shall require that when a caller from the general public makes a call through a toll-free telephone system provided by the Social Security Administration, such caller shall be informed that such caller has the option of contacting—

(A) the field office in the geographic area in which the caller resides (if any); or

(B) the regional teleservice center that is closest to such geographic area (if such regional teleservice center received local calls prior to October 1, 1988).

(2) Whether or not a caller requests an option described in subparagraph (A) or (B) of paragraph (1), the regulations promulgated under subsection (b) shall require that a caller be provided the telephone number of the local field office or regional teleservice center described in such paragraph upon the request of such caller.

(c) PUBLICATION OF TELEPHONE NUMBER AND ADDRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Commission-

er, shall require the publication for each local geographic area of—

(1) the telephone number and address of the field office described in subsection (a) serving such local geographic area; or

(2) the telephone number of the regional teleservice center in the geographic area that is closest to such geographic area.

TITLE VII—IMPROVEMENT OF W-2 FORMS

SEC. 701. IMPROVEMENT OF W-2 FORMS.

For taxable years beginning after December 31, 1991, the Secretary of the Treasury shall revise—

(1) W-2 forms; and

(2) any other Federal tax forms that the Secretary of the Treasury determines to be appropriate,

to change the designation for social security and medicare taxes from "FICA" to "SOC SEC" (for old-age, survivors, and disability insurance taxes), and "MEDICARE" (for hospital insurance taxes).●

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. D'AMATO, Mr. DOMENICI, and Mr. COATS):

S.J. Res. 286. Joint resolution to designate the week beginning May 6, 1990, as "National Correctional Officers Week"; to the Committee on the Judiciary.

NATIONAL CORRECTIONAL OFFICERS WEEK

● Mr. RIEGLE. Mr. President, today I am introducing legislation to designate the week beginning May 6, 1990, as "National Correctional Officers Week". I hope that this designation will provide much-deserved public recognition of the difficult and often dangerous work performed by our Nation's correctional officers.

Correctional officers work throughout our jail and prison systems and are currently responsible for the containment and control of over 600,000 prisoners. These officers must maintain order and protect inmates from violence while also encouraging them to develop skills and attitudes that can help them become productive members of society following their release.

These men and women are on the front lines in our criminal justice system. Since their work is out of the public's view, however, they remain unsung soldiers in the war against crime. I hope that this week of recognition will offer some form of public recognition and appreciation for a job well done.

The House and Senate passed this resolution in 1984, 1985, 1987, and 1989. As we enter the 1990's and step up our efforts in the war against crime and drugs, it is again appropriate to recognize the professionals who dedicate their lives and careers to law enforcement. I urge my colleagues to join me in cosponsoring this resolution.

Mr. President, I ask unanimous consent that the full text of the resolution be included in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 286

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over 600,000 prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities;

Whereas correctional officers had been similarly honored by a joint resolution in the Senate and House of Representatives of the United States in Congress assembled in 1984, 1985, 1987, and 1989; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning May 6, 1990, is hereby designated "National Correctional Officers Week", and the President of the United States is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.●

By Mr. PELL (for himself, Mr. HATFIELD, Mr. MITCHELL, Mr. JEFFORDS, Mr. CRANSTON, Mr. HARKIN, Mr. KENNEDY, Mr. KERRY, Mr. MATSUNAGA, and Mr. SIMON):

S.J. Res. 287. Joint resolution requesting the President of the United States to negotiate agreements to achieve early prohibition of nuclear explosions; to the Committee on Foreign Relations.

NUCLEAR TESTING

● Mr. PELL. Mr. President, today the Senator from Oregon [Mr. HATFIELD] and I and eight other original cosponsors are introducing a joint resolution designed to put the Congress on record with regard to nuclear testing constraints and a complete ban on nuclear testing.

At present, the United States and the Soviet Union are completing negotiations on verification protocols for two nuclear testing treaties, the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. The two protocols are to be signed at the June summit and sent to the Senate for consideration together with the two treaties. The resolution endorses that plan by the leaders of the two sides.

The resolution also encourages a successful summit by urging that the President—

Convey to the Soviet Union the desire of the United States to continue the bilateral Nuclear Testing Talks to identify and agree upon a definite timetable for the early achievement of a verifiable comprehensive test ban.

There is no reason not to continue immediately with these talks. To do so would represent the fulfillment of a solemn and long-standing commitment. I am sure that our early experience under the TTBT and PNET with the provisions of the new in force protocols would help as we shape further agreements, although it would not be critical to that effort.

The resolution also encourages the President to express to those nations party to the Limited Test Ban Treaty of 1963 our willingness to "prepare for and pursue negotiations in good faith" at a Test Ban Treaty Conference that will be convened early next year to consider amending the Limited Test Ban Treaty. The LTBT banned all but underground nuclear explosions. The amendment would make the treaty comprehensive. Under the terms of the treaty, any amendment must be approved by a majority of the parties to the LTBT, as well as by all of the original parties—the United States, Great Britian, and the Soviet Union. Thus, the three original parties have veto rights.

I am sure that many would believe that a comprehensive test ban is not an immediate prospect, nor, even, an urgent goal. Moreover, some would argue a multilateral conference is not the way to achieve a total ban. I am convinced that the comprehensive test ban is a major and justifiable goal and that we should be serious in our dealings with other nations with regard to the Soviet Union and to a comprehensive ban. If we are serious about this, I am convinced that we can achieve an effectively verifiable comprehensive test ban which enhances our national security interests.

I hope that the administration will understand the vital importance of moving forcefully so that we can curb the development of new weapons, decrease our reliance upon nuclear weapons, and show other potential nuclear weapons states that we are serious about halting nuclear weapons tests.

Mr. President, we are now in the midst of the fifth decade since nuclear weapons were used in war against Hiroshima and Nagasaki. Most of the world's population was not yet born when that devastation occurred. And for those who were alive in 1945, the ruination brought on by these two bombs is now a remote memory.

Most of those who saw those early atomic tests, who felt that first flash and its heat upon their faces, have passed from the scene. And, as nuclear testing has gone underground, these weapons have, in a sense, become sanitized for many. They have lost their ability to awe and shock.

The Hiroshima and Nagasaki holocausts were brought on by two crude weapons, each with an explosive force of less than 20 kilotons. Today, the five known nuclear weapons states have deployed nuclear arsenals containing a total of more than 40,000 weapons. Most of those weapons are far larger than the two weapons that introduced the world to nuclear war. Moreover, more than five nations may have nuclear weapons, and others want them—including terrorists desperately seeking the ultimate terrorist threat.

The need to seek controls upon and the reduction of nuclear weapons will remain until nations no longer perceive themselves to be dependent on nuclear weapons, no longer see them as a means of war, and no longer wish to threaten others with annihilation.

We knew in 1963 that the Limited Test Ban Treaty represented a signal success for President Kennedy. He understood fully the importance of that treaty and put his personal effort into achieving agreement with the British and the Soviets. The treaty was negotiated in Moscow in only 10 days in a process that built upon the good aspects of the Soviets' initial position.

In the preamble to the treaty, the nations signing asserted that they were:

> Seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time, determined to continue negotiations to this end, desiring to put an end to the contamination of man's environment by radioactive substance.

The flame of hope represented by that pledge has flickered, sputtered, and even seemed about to expire. That flame of hope has never died.

Speaking as one Senator, I believe it is appalling that we have made so little progress toward bringing nuclear testing to an end since President Kennedy's dramatic breakthrough in 1963. It is pathetic that we are still wrestling with the TTBT and PNET, 13 years after they were negotiated by Presidents Ford and Nixon. It is shameful that we have not resumed the negotiations during which so much progress was made by President Carter toward a comprehensive test ban. Sometimes we seem to have a striking and lamentable inability to recognize our true national interests and to pursue them.

Mr. President, I believe that our President will complete work on the verification protocols and submit them to the Senate within several months. I believe that the President and the Soviet leader should agree in June to deal with the comprehensive test ban issue forcefully and effectively. We have an opportunity to fulfill a pledge made 25 years ago. We must not falter now.

Mr. President, I hope very much that other Senators will join us in cosponsoring this legislation and that the Congress will approve the resolution—thus making a strong and clear statement in support of early progress toward a comprehensive test ban.●

● Mr. HATFIELD. Mr. President, as Senators who have long struggled for nuclear arms control, we are introducing this resolution as a symbol of congressional support for a Comprehensive Test Ban Treaty. Senator PELL and I have known times of real discouragement in our efforts to achieve lasting security through verifiable bans on nuclear testing. But I think he and many of our colleagues share the view that we now are faced with an incredible opportunity to achieve limitations on nuclear testing—and a better chance to end the existence of nuclear weapons.

This resolution is offered as an encouragement to President Bush as he prepares this summer's summit with President Gorbachev. The freeing of Eastern Europe and the warming of effects of glasnost and perestroika have changed our own security interests in both perception and reality. As our relationship with the Soviet Union moves from one of suspicion and confrontation to one of stability, mutual agreements on nuclear testing are vital. For until limitations on testing are in place our countries will continue to have an escalating arms race clouding our relationship.

As the calls for new national security policy are heeded by those responsible for conventional and nuclear disarmament, we cannot ignore the efforts of those parties to the Limited Test Ban Treaty who seek to broaden that agreement into a verifiable and broad-ranging ban on nuclear testing. Our resolution asks that the United States clearly communicate that we have a desire to pursue negotiations to their natural conclusion: a Comprehensive Test Ban Treaty.

Mr. President, we have moved forward in the arena of nuclear arms treaty agreements but we have not truly moved forward with nuclear arms control. Despite the INF Treaty and the likely START agreement, our arsenals are bulging with sophisticated, destabilizing weaponry. Only if we are able to develop a comprehensive and verifiable ban on the testing of these weapons will we come closer to guaranteeing that our world will never again suffer nuclear destruction.●

ADDITIONAL COSPONSORS

S. 273

At the request of Mr. HEINZ the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 273, a bill to amend title 39 United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 341

At the request of Mr. HOLLINGS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 341, a bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in air travel.

S. 1109

At the request of Mrs. KASSEBAUM, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1109, a bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995.

S. 1511

At the request of Mr. PRYOR, the names of the Senator from California [Mr. CRANSTON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1542

At the request of Mr. HATFIELD, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 1542, a bill to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1557, a bill to amend title 17 United States Code to permit the unlicensed viewing of videos under certain conditions.

S. 1578

At the request of Mr. FOWLER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1578, a bill to provide for the creation of an independent Historic Preservation Agency and a National

Center for Preservation Technology, and for other purposes.

S. 1579

At the request of Mr. FOWLER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1579, a bill to amend the National Historic Preservation Act, the Historic Sites Act, the Archaeological Resoures Protection Act, and the Abandoned Shipwreck Act, and certain related Acts to strengthen the preservation of our historic heritage and resources and for other purposes.

S. 1890

At the request of Mr. THURMOND, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oregon [Mr. HATFIELD], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1933

At the request of Mr. HEINZ, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Montana [Mr. BURNS], the Senator from Utah [Mr. HATCH], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. BIDEN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1933, a bill to provide for the minting of coins in commemoration of the bicentennial of the death of Benjamin Franklin and to enact a fireservice bill of rights and programs to fulfill those rights.

S. 2005

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2005, a bill to repeal the provision of law exempting intercity rail passenger service from certain waste disposal requirements.

S. 2046

At the request of Mr. BURDICK, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2046, a bill to establish a National Infrastructure Council and for related purposes.

S. 2187

At the request of Mr. COCHRAN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2187, a bill to amend the Public Health Service Act to make grants to encourage States to establish Offices of Rural Health to improve health care in rural areas.

S. 2222

At the request of Mr. BRADLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2227

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2227, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to reform the provisions of such Act governing exported pesticides, and for other purposes.

S. 2229

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2252

At the request of Mr. SIMON, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2252, a bill to encourage and facilitate entry into the teaching profession, and for other purposes.

S. 2256

At the request of Mr. HARKIN, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Washington [Mr. GORTON], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. BURDICK], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment formula relating to urban and rural areas, and for other purposes.

S. 2286

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2286, a bill to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of a magnetic levitation transportation system.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2400

At the request of Mr. ARMSTRONG, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2400, a bill to amend section 7430 of the Internal Revenue Code of 1986 with respect to eligibility of taxpayers to receive attorney fees and other costs.

SENATE JOINT RESOLUTION 228

At the request of Mr. FORD, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 228, a joint resolution to designate May 1, 1990, through May 31, 1990, as "Worldwide Bluegrass Music Month."

SENATE JOINT RESOLUTION 275

At the request of Mr. PELL, the names of the Senator from Washington [Mr. ADAMS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Maine [Mr. COHEN], the Senator from California [Mr. CRANSTON], the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. SANFORD], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Virginia [Mr. WARNER], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 275, a joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. D'AMATO], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Minnesota [Mr. DURENBERGER],

the Senator from Florida [Mr. MACK], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 106

At the request of Mr. MOYNIHAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Concurrent Resolution 106, a concurrent resolution expressing the sense of the Congress concerning Jerusalem and the peace process.

SENATE CONCURRENT RESOLUTION 119—CONCURRENT RESOLUTION ON THE BUDGET

Mr. HOLLINGS submitted the following resolution; which was referred to the Committee on the Budget.

Subsequently,

The Committee on the Budget was discharged from the further consideration of the concurrent resolution; which was placed on the calendar:

S. CON. RES. 119

Resolved by the Senate (the House of Representatives concurring), That the Congress determines and declares that the concurrent resolution on the budget for fiscal year 1991 is established and the appropriate budgetary levels for fiscal years 1992 and 1993 are set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985 and the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,182,000,000,000.
Fiscal year 1992: $1,321,500,000,000.
Fiscal year 1993: $1,439,300,000,000.

(2) The appropriate levels of total budget authority are as follows:

Fiscal year 1991: $1,438,500,000,000.
Fiscal year 1992: $1,478,000,000,000.
Fiscal year 1993: $1,564,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,241,500,000,000.
Fiscal year 1992: $1,282,300,000,000.
Fiscal year 1993: $1,324,100,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1991: $59,500,000,000.
Fiscal year 1992: $39,200,000,000 (surplus).
Fiscal year 1993: $115,200,000,000 (surplus).

DEBT INCREASE AS ONE MEASURE OF DEFICIT

SEC. 3. The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1991: $186,400,000,000.
Fiscal year 1992: $103,700,000,000.
Fiscal year 1993: $41,600,000,000.

DEFICIT LEVELS EXCLUDING TRUST FUND SURPLUSES

SEC. 4. (a)(1) The amounts of the surpluses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1991: $74,200,000,000.
Fiscal year 1992: $85,100,000,000.
Fiscal year 1993: $97,300,000,000.

(2) The amounts of the deficits excluding the receipts and disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1991: $133,700,000,000.
Fiscal year 1992: $45,900,000,000.
Fiscal year 1993: $17,900,000,000 (surplus).

(b) The amounts of the deficit excluding the receipts and disbursements of all Federal trust funds are as follows:

Fiscal year 1991: $197,900,000,000.
Fiscal year 1992: $105,700,000,000.
Fiscal year 1993: $39,300,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 5. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, and October 1, 1992:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $873,100,000,000.
Fiscal year 1992: $991,800,000,000.
Fiscal year 1993: $1,087,100,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $26,600,000,000.
Fiscal year 1992: $88,100,000,000.
Fiscal year 1993: $117,500,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $74,600,000,000.
Fiscal year 1992: $79,600,000,000.
Fiscal year 1993: $85,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,129,500,000,000.
Fiscal year 1992: $1,148,100,000,000.
Fiscal year 1993: $1,212,300,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,006,800,000,000.
Fiscal year 1992: $1,037,700,000,000.
Fiscal year 1993: $1,069,200,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1991: $133,700,000,000.
Fiscal year 1992: $45,900,000,000.
Fiscal year 1993: $17,900,000,000 (surplus).

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,312,100,000,000.
Fiscal year 1992: $3,417,300,000,000.
Fiscal year 1993: $3,520,300,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, and October 1, 1992, are as follows:

Fiscal year 1991:
(A) New direct loan obligations, $20,900,000,000.
(B) New primary loan guarantee commitments, $106,100,000,000.
(C) New secondary loan guarantee commitments, $85,400,000,000.

Fiscal year 1992:
(A) New direct loan obligations, $17,700,000,000.
(B) New primary loan guarantee commitments, $109,900,000,000.
(C) New secondary loan guarantee commitments, $88,800,000,000.

Fiscal year 1993:
(A) New direct loan obligations, $18,100,000,000.
(B) New primary loan guarantee commitments, $112,600,000,000.
(C) New secondary loan guarantee commitments, $92,300,000,000.

(b) The Congress hereby determines and declares that the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, new primary loan guarantee commitments, and new secondary loan guarantee commitments for fiscal years 1991 through 1993 for each major functional category are:

(1) National Defense (050):

Fiscal year 1991:
(A) New budget authority, $292,700,000,000.
(B) Outlays, $292,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1992:
(A) New budget authority, $304,400,000,000.
(B) Outlays, $298,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

Fiscal year 1993:
(A) New budget authority, $316,600,000,000.
(B) Outlays, $306,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

(2) International Affairs (150):

Fiscal year 1991:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $16,900,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $6,700,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1992:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $17,200,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.

Fiscal year 1993:
(A) New budget authority, $18,500,000,000.
(B) Outlays, $18,422,200,000.

(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1991:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $16,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $17,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $17,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1991:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $4,700,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1991:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $18,700,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $18,800,000,000.
(B) Outlays, $18,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,400,000,000.
(B) Outlays, $18,400,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1991:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $15,100,000,000.
(C) New direct loan obligations, $9,100,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $21,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $8,900,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $18,900,000,000.
(B) Outlays, $14,700,000,000.
(C) New direct loan obligations, $8,700,000,000
(D) New primary loan guarantee commitments, $6,700,000,000.
(E) New secondary loan guarantee commitments, $0.
(7) Commerce and Housing Credit (370):
Fiscal year 1991:
(A) New budget authority, $46,000,000,000.
(B) Outlays, $45,900,000,000.
(C) New direct loan obligations, $6,200,000,000.
(D) New primary loan guarantee commitments, $63,300,000,000.
(E) New secondary loan guarantee commitments, $85,000,000,000.
Fiscal year 1992:
(A) New budget authority, $14,900,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $3,500,000,000.
(D) New primary loan guarantee commitments, $65,500,000,000.
(E) New secondary loan guarantee commitments, $88,400,000,000.
Fiscal year 1993:
(A) New budget authority, $25,900,000,000.
(B) Outlays, $13,700,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $67,900,000,000.
(E) New secondary loan guarantee commitments, $91,900,000,000.
(8) Transportation (400):
Fiscal year 1991:
(A) New budget authority, $31,900,000,000.
(B) Outlays, $30,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $100,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $33,600,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $35,000,000,000.
(B) Outlays, $33,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1991:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $7,400,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $6,000,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(E) New secondary loan guarantee commitments, $0.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1991:
(A) New budget authority, $47,700,000,000.
(B) Outlays, $43,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $12,800,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $47,600,000,000.
(B) Outlays, $46,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,500,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $48,700,000,000.
(B) Outlays, $48,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,800,000,000.
(E) New secondary loan guarantee commitments, $0.
(11) Health (550):
Fiscal year 1991:
(A) New budget authority, $65,800,000,000.
(B) Outlays, $64,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $72,800,000,000.
(B) Outlays, $72,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $80,200,000,000.
(B) Outlays, $79,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
(E) New secondary loan guarantee commitments, $0.
(12) Medicare (570):
Fiscal year 1991:
(A) New budget authority, $123,400,000,000.

(B) Outlays, $102,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $134,200,000,000.
(B) Outlays, $115,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $147,000,000,000.
(B) Outlays, $128,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1991:
(A) New budget authority, $202,400,000,000.
(B) Outlays, $156,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $210,600,000,000.
(B) Outlays, $164,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $218,300,000,000.
(B) Outlays, $175,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1991:
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $4,400,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1991:
(A) New budget authority, $32,400,000,000.
(B) Outlays, $31,500,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $15,500,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $32,700,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $15,900,000,000.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $33,600,000,000.
(B) Outlays, $33,400,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $16,200,000,000.
(E) New secondary loan guarantee commitments, $0.
(16) Administration of Justice (750):
Fiscal year 1991:
(A) New budget authority, $13,300,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $13,800,000,000.
(B) Outlays, $14,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $14,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1991:
(A) New budget authority, $12,200,000,000.
(B) Outlays, $10,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $13,500,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1991:
(A) New budget authority, $204,000,000,000.
(B) Outlays, $204,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $210,000,000,000.
(B) Outlays, $210,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $214,400,000,000.
(B) Outlays, $214,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(19) The corresponding levels of gross interest on the public debt are as follows:
Fiscal year 1991: $270,900,000,000.
Fiscal year 1992: $227,400,000,000.
Fiscal year 1993: $214,900,000,000.
(20) Allowances (920):
Fiscal year 1991:
(A) New budget authority, −$3,400,000,000.
(B) Outlays, −$2,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$3,600,000,000.
(B) Outlays, −$3,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$3,800,000,000.
(B) Outlays, −$3,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1991:
(A) New budget authority, −$29,900,000,000.
(B) Outlays, −$70,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$29,000,000,000.
(B) Outlays, −$46,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$27,800,000,000.
(B) Outlays, −$70,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(E) New secondary loan guarantee commitments, $0.

RECONCILIATION

SEC. 6. (a) Not later than June 15, 1990, the committees named in subsections (b)

and (c) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

SENATE COMMITTEES

(b)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $1,179,000,000 in budget authority and $1,179,000,000 in outlays in fiscal year 1991; $1,282,000,000 in budget authority and $1,282,000,000 in outlays in fiscal year 1992; and $1,286,000,000 in budget authority and $1,286,000,000 in outlays in fiscal year 1993.

(2) The Senate Committee on Armed Services shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $216,000,000 in fiscal year 1991; $301,000,000 in fiscal year 1992; and $320,000,000 in fiscal year 1993.

(3)(A) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $56,000,000 in budget authority and $554,000,000 in outlays in fiscal year 1991; $127,000,000 in budget authority and $900,000,000 in outlays in fiscal year 1992; and $200,000,000 in budget authority and $772,000,000 in outlays in fiscal year 1993.

(B) The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase revenues: $90,000,000 in fiscal year 1991; $94,000,000 in fiscal year 1992; and $97,000,000 in fiscal year 1993.

(4) The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $295,000,000 in budget authority and $295,000,000 in outlays in fiscal year 1991; $317,000,000 in budget authority and $317,000,000 in outlays in fiscal year 1992; and $327,000,000 in budget authority and $327,000,000 in outlays in fiscal year 1993.

(5) The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $204,000,000 in budget authority and $153,000,000 in outlays in fiscal year 1991; $214,000,000 in budget authority and $209,000,000 in outlays in fiscal year 1992; and $214,000,000 in budget authority and $214,000,000 in outlays in fiscal year 1993.

(6) The Senate Committee on Environment and Public Works shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $206,000,000 in budget authority and $206,000,000 in outlays in fiscal year 1991; $228,000,000 in budget authority and $228,000,000 in outlays in fiscal year 1992; and $236,000,000 in budget authority and $236,000,000 in outlays in fiscal year 1993.

(7)(A) The Senate Committee on Finance shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $3,001,000,000 in fiscal year 1991; $4,898,000,000 in fiscal year 1992; and $6,588,000,000 in fiscal year 1993.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues: $26,400,000,000 in fiscal year 1991; $79,800,000,000 in fiscal year 1992; and $117,100,000,000 in fiscal year 1993.

(8) The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $1,703,000,000 in fiscal year 1991; $1,501,000,000 in fiscal year 1992; and $838,000,000 in fiscal year 1993.

(9)(A) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $65,000,000 in outlays in fiscal year 1991; $0 in budget authority and $65,000,000 in outlays in fiscal year 1992; and $0 in budget authority and $67,000,000 in outlays in fiscal year 1993.

(B) The Senate Committee on Labor and Human Services shall report changes in laws within its jurisdiction sufficient to increase revenues: $108,000,000 in fiscal year 1991; $229,000,000 in fiscal year 1992; and $280,000,000 in fiscal year 1993.

(10) The Senate Committee on Small Business shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $50,000,000 in budget authority and $50,000,000 in outlays in fiscal year 1991; $52,000,000 in budget authority and $52,000,000 in outlays in fiscal year 1992; and $54,000,000 in budget authority and $54,000,000 in outlays in fiscal year 1993.

(11) The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $386,000,000 in budget authority and $366,000,000 in outlays in fiscal year 1991; $425,000,000 in budget authority and $426,000,000 in outlays in fiscal year 1992; and $455,000,000 in budget authority and $464,000,000 in outlays in fiscal year 1993.

HOUSE COMMITTEES

(c)(1) The House Committee on Agriculture shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $1,179,000,000 in budget authority and $1,179,000,000 in outlays in fiscal year 1991; $1,282,000,000 in budget authority and $1,282,000,000 in outlays in fiscal year 1992; and $1,286,000,000 in budget authority and $1,286,000,000 in outlays in fiscal year 1993.

(2) The House Committee on Armed Services shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $216,000,000 in fiscal year 1991; $301,000,000 in fiscal year 1992; and $320,000,000 in fiscal year 1993.

(3)(A) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $56,000,000 in budget authority and $554,000,000 in outlays in fiscal year 1991; $127,000,000 in budget authority and $900,000,000 in outlays in fiscal year 1992; and $200,000,000 in budget authority and $772,000,000 in outlays in fiscal year 1993.

(B) The House Committee on Banking, Finance and Urban Affairs shall report changes in laws within its jurisdiction sufficient to increase revenues: $90,000,000 in fiscal year 1991; $94,000,000 in fiscal year 1992; and $97,000,000 in fiscal year 1993.

(4)(A) The House Committee on Education and Labor shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $0 in budget authority and $65,000,000 in outlays in fiscal year 1991; $0 in budget authority and $65,000,000 in outlays in fiscal year 1992; and $0 in budget authority and $67,000,000 in outlays in fiscal year 1993.

(B) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase revenues: $108,000,000 in fiscal year 1991; $229,000,000 in fiscal year 1992; and $280,000,000 in fiscal year 1993.

(5) The House Committee on Energy and Commerce shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $401,000,000 in budget authority and $401,000,000 in outlays in fiscal year 1991; $445,000,000 in budget authority and $445,000,000 in outlays in fiscal year 1992; and $463,000,000 in budget authority and $463,000,000 in outlays in fiscal year 1993.

(6) The House Committee on Interior and Insular Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $204,000,000 in budget authority and $153,000,000 in outlays in fiscal year 1991; $214,000,000 in budget authority and $209,000,000 in outlays in fiscal year 1992; and $214,000,000 in budget authority and $214,000,000 in outlays in fiscal year 1993.

(7) The House Committee on Merchant Marine and Fisheries shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1991; $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1992; and $100,000,000 in budget authority and $100,000,000 in outlays in fiscal year 1993.

(8) The House Committee on Post Office and Civil Service shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $1,703,000,000 in fiscal year 1991; $1,501,000,000 in fiscal year 1992; and $838,000,000 in fiscal year 1993.

(9) The House Committee on Small Business shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $50,000,000 in budget authority and $50,000,000 in outlays in fiscal year 1991; $52,000,000 in budget authority and $52,000,000 in outlays in fiscal year 1992; and $54,000,000 in budget authority and $54,000,000 in outlays in fiscal year 1993.

(10) The House Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce budget authority and outlays as follows: $386,000,000 in budget authority and $366,000,000 in outlays in fiscal year 1991; $425,000,000 in budget authority and $426,000,000 in outlays in fiscal year 1992; and $455,000,000 in budget authority and $464,000,000 in outlays in fiscal year 1993.

(11)(A) The House Committee on Ways and Means shall report changes in laws within its jurisdiction that provide spending authority (as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974, other than as defined in section 401(c)(2)(C) of the Act, or any combination thereof) sufficient to reduce outlays: $3,001,000,000 in fiscal year 1991; $4,898,000,000 in fiscal year 1992; and $6,588,000,000 in fiscal year 1993.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues: $26,400,000,000 in fiscal year 1991; $79,800,000,000 in fiscal year 1992; and $117,100,000,000 in fiscal year 1993.

SALE OF GOVERNMENT ASSETS

SEC. 7. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority, outlays, or revenues under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respect to the level of budget authority, outlays, or revenues reconciled under section 6 of this resolution.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987); and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR MEDICAID

SEC. 8. (a) It is assumed that, in the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased Medicaid funding if the Committee on Finance or the committee of conference reports Medicaid funding legislation that—

(1) will, if enacted, make funds available for that purpose; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1993.

(b) Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

SENATE CONCURRENT RESOLUTION 120—COMMENDING THE NATIONAL MENTAL HEALTH LEADERSHIP FORUM AND THE NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Mr. BOSCHWITZ (for himself and Mr. DURENBERGER) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 120

Whereas one in five individuals will suffer from a mental illness at some time in their life, yet only one in five adults suffering from a mental illness receive care for their illness;

Whereas rates of teenage suicide are much higher in rural areas of the Nation than in urban areas;

Whereas one in five rural residents in the United States experience high levels of stress and depressive symptomatology;

Whereas mental illness among homeless individuals is a growing concern among mental health care providers;

Whereas mental health professionals have testified before the Congress regarding the alarming increase in the rate of mental disorders suffered by rural residents in the United States;

Whereas the Congress is concerned about the unmet mental health needs of older Americans and the necessity of increasing the knowledge of the causes, prevention, and treatment of childhood mental disorders; and

Whereas the National Mental Health Leadership Forum and the National Advisory Mental Health Council are cosponsoring a series of public hearings in 1990 addressing mental health topics of pressing concern in the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends the National Mental Health Leadership Forum and the National Advisory Mental Health Council for cosponsoring a series of public hearings in 1990 addressing mental health issues important to the people of the United States, particularly the mental health of rural residents, child and adolescent mental disorders, and the mental health problems faced by homeless individuals.

● Mr. BOSCHWITZ. Mr. President, I rise today to submit a concurrent resolution on the importance of addressing mental health issues in this country. The resolution specifically commends

the National Mental Health Leadership Forum and the National Advisory Mental Health Council for cosponsoring a series of public hearings focusing on these issues. On April 12, a hearing on rural mental health will be held in Marshall, MN. I ask all of my colleagues to join Senator DURENBERGER and me in paying tribute to these organizations and their important work in the field of mental health.●

SENATE CONCURRENT RESOLUTION 121—RELATING TO AN INTERNATIONAL TREATY ON AGRICULTURAL CROPLAND CONSERVATION

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 121

Whereas approximately one-fifth of the world's cropland is experiencing an intolerable rate of soil erosion;

Whereas the cost of farm program subsidies is at record levels in many nations;

Whereas the United States has taken the initiative of enrolling 31 million acres of agricultural land in a ten-year Conservation Reserve Program;

Whereas world food production historically has increased at an annual rate of 2.5 percent, but world food production during the 1980s has increased at an average rate of over 3 percent annually;

Whereas other grain surplus producing nations have expressed a need to limit agricultural production; and

Whereas all nations would benefit from the decreased agricultural subsidies and stabilized food production an international agricultural conservation reserve could provide: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that the President should initiate multilateral negotiations with all major agricultural commodity exporting nations to establish an international agricultural cropland conservation reserve to stabilize worldwide grain production and control soil erosion.

(b) Such an international agricultural cropland conservation reserve should include the following features:

(1) All signatory nations shall agree not to bring any virgin land into crop production, to return a certain percentage of cropland to its natural state, and to keep that land out of production for a minimum of ten years. The amount of land to be taken out of production shall be large enough to bring grain supplies in line with demand while still maintaining an adequate emergency food reserve.

(2) Cropland shall be taken out of production and sound conservation practices shall be implemented on that land to control soil erosion. Land taken out of production shall not be required to be classified as highly erodible.

(3) A portion of the land of all signatory nations may be returned to production if stocks fall below the level established for an emergency food reserve.

(4) A signatory nation may return a portion of its land to production if its production fails to meet domestic consumption demand.

Mr. PRESSLER. Mr. President, today I am introducing a resolution urging the administration to initiate multilateral negotiations with all major agricultural exporting nations to establish an international agricultural conservation reserve that would reduce soil erosion and equalize agricultural subsidy programs. The high cost of farm programs, export subsidies, and worldwide soil erosion problems provide a unique opportunity and need to reach such an agreement.

My resolution says that the administration should initiate multilateral negotiations on an international agricultural conservation reserve program. Such an agreement would require all grain exporting nations to agree not to bring any virgin land into production and to return an equal percentage of their cropland to grass or other natural cover. The land would have to be held out of production for a minimum of 10 years. Emergency provisions would be included to allow land to be brought back into production if a shortage of grain occurred or a nation's production fell below domestic consumption. Such an agreement would benefit all nations.

The United States has taken the initiative in idling more than 30 million acres through its Conservation Reserve Program [CRP]. In addition, more than 20 million more acres are idled because of U.S. farmers' cropland enrollment in other Federal farm programs. U.S. farmers must idle a percentage of their cropland in order to be eligible for crop subsidy payments. This has given an unfair advantage to foreign competitors who receive crop subsidies that do not hinge on the idling of cropland.

It is unfair for other countries to increase production when U.S. farmers idle millions of acres in an attempt to reduce surpluses and protect fragile lands. In 1983 the United States idled 83 million acres under the Payment-in-Kind [PIK] Program while other nations increased production. Total world production actually increased at that time. This illustrates not only the need for a global land diversion program, but also demonstrates that unnatural production controls would be unsuccessful in reducing world grain stocks.

Mr. President, as we work together in crafting the 1990 farm bill, we need to formulate a bill to keep our agricultural community prospering. However, one objective expressed to me by the farmers and ranchers I've visited with, and from whom I have received letters and phone calls, is fair treatment in the world trade arena. Our farmers and ranchers have proven that they are the most efficient and productive in the world. They desperately need to be able to compete fairly with other major agricultural exporting nations. At the appropriate time, I intend to offer my resolution as an amendment to the farm bill.

The 1990 farm bill will not eliminate set-aside programs. This is why we must look at an international land conservation program. It is vital not only for fair trade but also for the global protection of fragile lands.

I urge my colleagues to support this resolution, and welcome their suggestions for improving its provisions.

SENATE RESOLUTION 268—CONGRATULATING THE UNIVERSITY OF NEVADA AT LAS LEGAS FOR WINNING THE 1990 NCAA MEN'S BASKETBALL CHAMPIONSHIP

Mr. BRYAN (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 268

Whereas the University of Nevada at Las Vegas has consistently produced one of the Nation's outstanding Division I men's basketball teams, the Runnin' Rebels;

Whereas the head coach and assistant coaches have led the Runnin' Rebels to the three final four appearances and one of the highest percentages of wins in National Collegiate Athletic Association men's basketball;

Whereas UNLV defeated Duke by the largest margin of victory in NCAA Men's Basketball Championship history (103-73) and is the only team to score over 100 points in a championship game;

Whereas three team members have been named to the All-Tournament Team, one member has been named as a first selection All-American, and one member represented his country in basketball during the 1988 Olympic Games; and

Whereas one team member epitomized the spirit and courage of the Runnin' Rebels by playing throughout the entire tournament with a broken jaw: Now, therefore, be it

Resolved, That the Senate commends the Runnin' Rebels of the University of Nevada at Las Vegas for winning the 1990 National Collegiate Athletic Association Men's Basketball Championship.

SENATE RESOLUTION 269—RELATIVE TO VACANCIES ON THE SOCIAL SECURITY BOARD OF TRUSTEES

Mr. MOYNIHAN (for himself, Mr. BENTSEN, Mr. BRADLEY, and Mr. HEINZ) submitted the following resolution; which was ordered to lie over under the rule:

S. RES. 269

SEC. 1. FINGINGS.—The Senate finds that—

(1) In the Social Security Amendments of 1983, Pub. L. 98-21, Congress made provision for two members of the public, one Democrat and one Republican, to serve on the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds for four-year terms; and

(2) In September 1984 President Reagan nominated the first public trustees, and these nominees were confirmed by the Senate the same month. The statutory

terms of the first public trustees expired in September 1988, and subsequent recess appointments by President Reagan of the same individuals to the same posts expired on November 22, 1989; and

(3) President Bush has not so far nominated any individuals to fill the posts of public trustees, and the posts remain vacant; and

(4) The Social Security Act requires the Social Security Board of Trustees to report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds; and

(5) April 1 has passed and the Board of Trustees has not submitted the required report on the status of the Trust Funds by the required due date.

SEC. 2. SENSE OF THE SENATE.—It is the sense of the Senate that the President should send to the Senate nominations for two public trustees to fill the current vacancies on the Social Security Board of Trustees, and upon confirmation such Trustees should be afforded full participation in the preparation of this year's Trustees Report.

SENATE RESOLUTION 270—RELATIVE TO THE FAMINE IN ETHIOPIA

Mr. SIMON (for himself, Mr. HUMPHREY, Mr. PELL, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. CRANSTON, Mr. HELMS, and Mr. MITCHELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas famine threatens the lives of some three million five hundred thousand to five million people in the northern Ethiopian provinces of Eritrea, Tigray, and Wello;

Whereas the major causeof the famine is ongoing civil war;

Whereas all parties to the conflict have deliberately put military objectives above the food needs of innocent civilians;

Whereas cross-border feeding operations are insufficient to meet the desperate needs;

Whereas the northen corridor through the Eritrean port of Massawa, currently held by the rebel Eritrean People's Liberation Front, is critical to relief efforts to feed some one million five hundred thousand people in need in rebel and government-held areas;

Whereas the Government of Ethiopia has has refused to accept the offer made by the Eritrean People's Liberation Front to allow international relief access through Massawa; and

Whereas the relief operation along the southern corridor through Wello Province must be expanded to reach the one million four hundred thousand people estimated to ba risk there: Now, therefore be it.

Resolved, That it is the sense of the Senate that—

(1) all parties to the conflict in Ethiopia must put humanitarian needs above military goals and adopt an immediate ceasefire;1

(2) cross-border feeding oprations shold be expanded to their fullest capacity;

(3) the Government of Ethiopia should permit the Port of Massawa to be opened immediately for the purposes of international relief operations;

(4) the President should encourage all parties to the conflict to adopt an immediate case-fire;

(5) the President should impress upon all nations supplying military assistance to the parties in the conflict the importance of their role in facilitating a cases-fire;

(6) the President should impress upon the Govrnment of Ethiopia the urgent need of allowing relief access through the Massawa Port and along the northern corridor;

(7) the President should encourage the United Nations to take a more prominent role in cordinating relief efforts in Ethiopia;

(8) the President should call on the Soviet Government to continue to respond to the war and famine in Ethiopia by exerting increased pressure on the Ethiopian regime to allow for the full utilization of all available relief corridors; and

(9) the President should encorage Euopean, African, and other leaders to help facilitate a ceasefire and emergency relief efforts.

● Mr. SIMON. Mr. President, there is a crisis in the Horn of Africa. War and drought once again threaten the lives of millions of people in Ethiopia and Sudan. Today, I am submitting a resolution, on the situation in Ethiopia, to highlight the urgency of finding every possible way to get food relief to people in great need. Senators HUMPHREY, PELL, KASSEBAUM, KENNEDY, CRANSTON, HELMS, and MITCHELL join me in this effort.

We want to impress upon the Ethiopian Government to permit the safe transport of food. We ask the same of the rebel movements. We encourage the United Nations and the international commnity to respond to this urgent crisis. And we will continue to work with our own administration.●

AMENDMENTS SUBMITTED

CARL D. PERKINS VOCATIONAL EDUCATION ACT AMENDMENTS

PELL (AND OTHERS) AMENDMENT NO. 1465

Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill (S. 1109) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995, as follows:

On page 3, beginning on line 1, strike all through page 110, line 4, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Carl D. Perkins Vocational Education Act Amendments of 1989".

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

SEC. 101. ALLOTMENT.

(a) IN GENERAL.—Section 101(a)(1) of the Carl D. Perkins Vocational Education Act (hereinafter referred to as the "Act") is amended—

(1) in subparagraph (A) by—

(A) striking "2" and inserting "2.75"; and

(B) striking "part E" and inserting "part D"; and

(2) by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) 2 percent for the purpose of carrying out section 103; and

"(C) .25 percent for the purpose of carrying out section 104.".

(b) TERRITORIES.—Section 101 of the Act is amended by inserting at the end thereof the following new subsection (d):

"(d) For the purpose of this section, the term 'State' means any one of the fifty States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.".

(c) TECHNICAL AMENDMENT.—(1) Section 101(a)(3)(C) of the Act is amended by striking ", Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands,".

(2) Section 101(c)(1)(B) of the Act is amended by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting "and the Virgin Islands".

SEC. 102. WITHIN STATE RESERVATION.

Section 102 of the Act is amended to read as follows:

"SEC. 102. (a) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed—

"(1) 20 percent for State programs and State administration of which—

"(A) 75 percent of such 20 percent shall be available for State programs and State leadership; and

"(B) the remainder of such 20 percent shall be available for State administration;

"(2) 5 percent for technical preparation education under part B of title II; and

"(3) 75 percent for basic programs under part C of title II of which—

"(A) 65 to 75 percent of such 75 percent shall be available for subpart 1 of part C of title II; and

"(B) the remainder of such 75 percent shall be available for subpart 2 of part C of title II.

"(b) SPECIAL RULES.—(1) From the amount reserved pursuant to subsections (a)(1)(A) and (a)(1)(B) each State shall reserve 20 percent for sex equity programs carried out in accordance with section 202.

"(2) From the amount reserved pursuant to subsection (a)(3)(B) each State shall reserve for single parents, displaced homemakers, and single pregnant women programs carried out in accordance with section 242 an amount which equals or exceeds 10.5 percent of the total amount reserved pursuant to subsection (a)(3) for subparts 1 and 2 of part C of title II.

"(c) MATCHING REQUIREMENT.—Each State receiving financial assistance under this Act shall match, on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(1)(B) from non-Federal sources.

"(d) HOLD HARMLESS PROVISION.—The requirements of subparagraphs (A) and (B) of subsection (a)(3) shall only apply to—

"(1) 20 percent for fiscal year 1991,

"(2) 36 percent for fiscal year 1992, and

"(3) 51 percent for fiscal year 1993,

of the funds available under subsection (a)(3) to each State for basic programs under part C of title II.".

SEC. 103. INDIAN AND HAWAIIAN PROGRAMS.

Section 103 of the Act is amended to read as follows:

"INDIAN AND NATIVE HAWAIIAN PROGRAMS

"SEC. 103. (a)(1)(A) From 7/12 of the amount of funds reserved under section 101(a)(1)(B), the Secretary shall award grants to, or enter into contract with—

"(i) Indian tribes that are eligible to receive a grant from, or to enter into a contract with, the Secretary of the Interior under—

"(I) the Indian Self-Determination and Education Assistance Act, or

"(II) the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 452, et seq.), and

"(ii) tribal organizations of such Indian tribes,

to plan, conduct, and administer programs, or portions of programs, that provide vocational-technical training and related activities.

"(B) Grants awarded, and contracts entered into, under subparagraph (A) shall—

"(i) be subject to the terms and conditions of section 102 of the Indian Self-Determination and Education Assistance Act, and

"(ii) be conducted in accordance with those provisions of sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596, chapter 147; 25 U.S.C. 455, 456, 457) that are relevant to the programs for which the grant or contract is provided.

"(C) In awarding grants and entering into contracts under this section, the Secretary shall give special consideration to applications from tribally controlled community colleges which—

"(i) are accredited or candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

"(ii) operate vocational education programs that are accredited or candidates for accreditation by a nationally recognized accreditation organization; and

"(iii) issue certificates for completion of vocational education courses.

"(2)(A) From 1/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall provide a grant to each Bureau funded school that is a secondary school for the purpose of providing vocational education programs for secondary students attending the school.

"(B)(i) The amount of each grant provided under subparagraph (A) shall equal or exceed $35,000.

"(ii) If the amount of funds available for any fiscal year for grants under subparagraph (A) exceeds the amount necessary to provide each Bureau funded school a grant of $35,000 for the fiscal year, the excess shall be used to increase the amount of the grants a follows:

"(I) 80 percent of such excess funds shall be allocated among Bureau funded schools in accordance with the formula used to distribute funds under section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008), and

"(II) 20 percent of such excess funds shall be allocated among Bureau funded schools in accordance with the formula used in allocating funds under section 611 of the Education of the Handicapped Act (20 U.S.C. 1411).

"(C) Where a grant provided under subparagraph (A) is awarded on behalf of a school operated directly by the Bureau of Indian Affairs, the Secretary of the Interior is authorized and directed to accept and use such grant for the purposes for which the grant is awarded.

"(D) For purposes of this paragraph, the term 'Bureau funded school' has the meaning given to such term under section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)).

"(3)(A) From 3/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall award grants for vocational-technical training, and related activities, to two or more schools of vocational-technical education, each of which—

"(i) is governed by a board of directors or trustees, a majority of whom are Indians,

"(ii) has been in operation for 5 or more years,

"(iii) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians, and

"(iv) is accredited, or a candidate for accreditation for not less than five years, as a postsecondary vocational education institution by a nationally recognized accrediting agency for postsecondary vocational education institutions.

"(B) If any portion of the funds that are authorized to be used to provide grants under subparagraph (A) for any fiscal year remains after all schools eligible for the grant that submitted acceptable applications for the grant have been awarded a grant under subparagraph (A) for the fiscal year, the Secretary may use the remaining funds—

"(i) to award grants under subparagraph (A) to institutions of higher education that are eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978, and

"(ii) if funds remain after all grants authorized under clause (i) have been awarded to eligible institutions that submitted acceptable applications for the grant, to fund grants and contracts provided under paragraph (1).

"(C) Each grant awarded under subparagraph (B)(i) shall equal or exceed $50,000.

"(D) The Secretary shall, subject to the availability of appropriations, provide for each program year to each school of vocational-technical education having an application approved by the Secretary under subparagraph (A), an amount necessary to pay expenses associated with—

"(i) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contribution to the costs of education for dependents);

"(ii) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(iii) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(4) For purposes of this Act, the Bureau of Indian Affairs of the Department of the Interior shall be considered to be a State board.

"(5) Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this Act.

"(b)(1) From 3/12 of the funds reserved under section 101(a)(1)(B), the Secretary shall enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions of programs, that provide vocational-technical training, and related activities, for the benefit of Native Hawaiians.

"(2) For purposes of this section, the term 'Native Hawaiian' means any individual who has any ancestors that were natives, prior to 1778, of the area which now constitutes the State of Hawaii.

"(c) Grants awarded, and contracts entered into, under this section shall be subject to such terms and conditions as the Secretary may prescribe relating to satisfactory performance of the grant or contract.

"(d) Nothing in this section shall be interpreted as affecting or limiting the ability, or eligibility, of any person or agency to which this section applies to apply for, or receive assistance from, any other source, including assistance provided by the Federal Government under any provision of law other than this title.".

SEC. 104. THE TERRITORIES.

Part B of title I of the Act is amended by inserting at the end thereof the following new section:

"THE TERRITORIES

"SEC. 104. (a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall make grants to—

"(1) both Guam and the Federated States of Micronesia in an amount which is the same as the amount provided to Guam in fiscal year 1990 for vocational education programs under this Act; and

"(2) each of American Samoa, Palau, the Marshall Islands and the Commonwealth of the Northern Mariana Islands in an amount which is the same as the amount provided to American Samoa in 1990 for vocational education programs under this Act.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity or entities to make vocational education and training grants in Guam, American Samoa, Palau, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of the Marshall Islands, or cooperative efforts involving two or more of these entities for the purpose of—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Center for the Advancement of Pacific Education may use no more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 105. STATE ADMINISTRATION.

Section 111 of the Act is amended—

(1) in subsection (a)(1)(A) by striking "113(b)(9)" and inserting "113(b)(14), section 115 and section 232(b))";

(2) in subsection (a)(1)(C) by inserting ", including business and industry" before "involved";

(3) in subsection (b)(1) by—

(A) redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively, and

(B) inserting the following new subparagraph (C) after subparagraph (B):

"(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies to ensure that the needs of women and men for training in nontraditional jobs are met and recommending programs concerning equity, single parents, and displaced homemakers, for funding by the State board;";

(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(1)(B)" before "expend";

(5) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively; and

(6) by inserting the following new subsections after subsection (b):

"(c)(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to—

"(A) review all plans of local eligible recipients to ensure that students with disabilities are receiving vocational educational services required by their individual educational program pursuant to Public Law 94-142;

"(B) ensure that the plans of the local educational agency, area vocational school, or intermediate educational agency provide assurances of compliance with the provisions of section 504 of the Vocational Rehabilitation Act of 1973 and the Education of Handicapped Act regarding equal access to programs;

"(C) review all plans of local eligible recipients to ensure that local educational agencies, area vocational schools or intermediate educational agencies have—

"(i) identified the number of students with disabilities enrolled in vocational programs operated by the local eligible recipient,

"(ii) assessed the vocational needs of the students identified pursuant to clause (i), and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students; and

"(D) evaluate the plans of all local eligible recipients with respect to the appropriateness of the program and the quality of the program.

"(2) For purposes of this subsection and subsections (d) and (e), the term 'State' means any one of the 50 States and the District of Columbia.

"(d) Any State desiring to participate in the programs authorized by this Act shall assign the individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to review the plans of the local eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering programs for students with limited English proficiency to review the plans of the local educational agencies, area vocational schools, or intermediate educational agencies to ensure that the number of students with limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans.

"(f) The State board shall consult with parents, students, and teachers in the planning of programs funded under this Act.".

SEC. 106. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act is amended—

(1) in subsection (a)(1)(A) by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2) by striking the period at the end thereof and inserting in lieu thereof "and may include members of vocational student organizations and school board members.";

(3) in subsection (a) by inserting the following new sentence after the matter following paragraph (2): "No employee of the State board shall serve on the State council.";

(4) in subsection (d)(2) by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) immediately preceding subparagraph (B) (as redesignated in subparagraph (B)):

"(A) the State plan;";

(6) in subsection (d)(8) by—

(A) striking "201(b)" and inserting "223"; and

(B) striking "and" at the end thereof;

(7) by striking subsection (d)(9) and inserting in lieu thereof the following new paragraph:

"(9) analyze and review corrections education programs; and

"(10)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State,

"(ii) the vocational educational program delivery system assisted under this Act, and under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the two Acts, and

"(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action as put into practice;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.";

(8) in subsection (e) by inserting the following new sentences at the end thereof: "Each State Council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State Plan.";

(9) by amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 3(c) the Secretary shall first make grants of $150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth section 101(a)(2) of this Act, provided that—

"(i) no State council shall receive more than $250,000 for each fiscal year; and

"(ii) no State council shall receive less than $150,000 for each fiscal year; and

"(iii) no State council shall receive less than such State council was allotted in fiscal year 1990;"; and

(10) in subsection (f) by amending paragraph (1)(B) to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of—

"(i) $60,000 to each of the State councils of the Virgin Islands, Guam, and the Federated States of Micronesia; and

"(ii) $25,000 to each of the State councils of American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 107. STATE PLANS.

Section 113 of the Act is amended to read as follows:

"SEC. 113. (a)(1)(A) Any State desiring to receive funds from its allotment under this Act for any fiscal year shall submit to the Secretary a State plan for a 3-year period in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by paragraph (1) of this subsection shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto) the State board shall meet with and utilize, before the development of such plan, the State Council, established pursuant to section 112 of this Act.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct a State assessment according to section 115.

"(b) Each State plan shall—

"(1) describe the procedures and the results of each of the assessments required by paragraphs (A) through (F) of section 115(a)(1), including the needs identified by such assessments; and

"(2) describe how uses of funds reflect the needs described in paragraph (1);

"(3) provide assurances that, and where necessary a description of the manner in which eligible recipients will comply with the requirements of titles I, II, and III of this Act including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for the special populations described in section 223;

"(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of special populations;

"(C) an assurance that the State board will conduct adequate monitoring of programs in local educational agencies, area vocational schools, intermediate educational agencies, and other eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals described in section 223, who are enrolled in private elementary and secondary schools, provision is made for the participation of such individuals in the vocational education program assisted under subpart 1 of part C of title II;

"(4) set forth the planned distribution to local educational agencies, area vocational schools, correctional institutions, or intermediate educational agencies as prescribed by section 221;

"(5) provide assurances that the State will comply with the provisions of section 102;

"(6) set forth the criteria the State board will use—

"(A) in approving applications of eligible recipients, and

"(B) for spending the 20 percent reserve for the State as authorized under section 102(a)(1);

"(7) provide assurances that if the State exercises the option to redistribute the 10 percent reserve described in section 222, the State will match the reserve as prescribed under section 101(c);

"(8) describe how funds expended for occupationally specific training will be used only for occupations in which job openings are projected or available;

"(9) provide assurances that the goal of each program shall be to give a student experience in, and understanding of, all aspects of the industry in which the student is preparing to enter;

"(10) describe in each State plan submitted after fiscal year 1991, the progress the State has made in achieving the goals set forth in previous State plans;

"(11) provide such methods of administration as are necessary for the proper and efficient administration of the Act;

"(12) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 242, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(13) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(14) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 231;

"(15) provide a description of how the State will—

"(A) develop measures of the effectiveness of programs assisted under this Act in meeting the needs described in paragraph (1), including evaluative measurements of factors such as—

"(i) the occupations to be trained for, which will reflect a realistic assessment of the labor market needs of the State;

"(ii) the levels of skills to be achieved in particular occupations, which will reflect the hiring needs of employers; and

"(iii) the basic employment competencies to be used in performance outcomes, which will reflect the hiring needs of employers;

"(B) as a component of the measures under subparagraph (A) of this paragraph, establish appropriate measures for evaluating the effectiveness of programs for the special populations described in section 223 assisted under this Act; and

"(C) evaluate the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year;

"(16) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship programs;

"(17) provide assurances that programs of personnel development, and curriculum development shall be funded to further the goals identified in the State plan;

"(18) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(19) provide assurances that the State board will cooperate with the State council in carrying out its duties under this part;

"(20) provide assurance that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(21) provide assurances that Federal funds made available under this Act will be used so as to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the State plan, and in no case supplant such State or local funds;

"(22)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

"(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career guidance and vocational counseling from allotments under title II are not less than such expenditures for such guidance and counseling within the State in the fiscal year 1988;

"(23) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act); and

"(24) specify for each of the programs assisted under subpart 2 of title II—

"(A) the methods by which the special needs of the individuals described in section 223 shall be assessed and met; and

"(B) the number of individuals in each of the categories set forth in section 223 for each occupationally specific program.

"(c) When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council, and the State council.".

SEC. 108. APPROVAL.

Section 114 of the Act is amended—

(1) in subsection (a)(1) by inserting ", the chief executive officer of the State" after "legislature" each place such term appears; and

(2) redesignating subsection (c) as subsection (d); and

(3) inserting the following new subsection after subsection (b):

"(c)(1) The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, technical preparation education and for secondary education after consultation with the State agency responsible for supervision of community colleges and the State agency responsible for secondary education, respectively. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult and postsecondary students. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(2) Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing performance evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.".

SEC. 109. STATE ASSESSMENT.

Section 115 of the Act is amended to read as follows:

"STATE ASSESSMENT

"SEC. 115. (a)(1) Each State board receiving assistance under this Act shall develop measurable objective criteria by which to assess the quality of, and standards for, State and local programs. Such criteria shall be developed in consultation with local educational agencies, area vocational schools, intermediate educational agencies, correctional institutions, postsecondary institutions, business and industry, union and trade representatives, vocational educators, counselors, superintendents, community-based organizations, parents, representatives of special populations described in sections 223 and 242, the sex equity administrator, the head of the State correctional education agency, the head of the State office responsible for administering Part B of the Education of the Handicapped Act, the individual responsible for coordinating services under Chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and the head of the State agency responsible for administering programs for students with limited English proficiency, guidance counselors and the State council. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later than the beginning of school year

1993, and shall use criteria to assess program quality. Assessment criteria shall include—

"(A) student improvement in basic skills;

"(B) gains in learning and educational outcomes;

"(C) competence in all aspects of the industry the students are preparing to enter;

"(D) student improvement in life skills, problem solving skills and career decision making;

"(E) the ability of local educational agencies, area vocational schools and intermediate educational agencies, postsecondary institutions and other local recipients under subpart 2 of part C of title II to meet the needs of special populations such as the economically disadvantaged, students with disabilities, students with limited English proficiency, and women and men in programs for training in nontraditional occupations, and criminal offenders in correctional institutions, for access to vocational education and vocational services in terms of labor market needs;

"(F) the quality of vocational education in terms of—

"(i) the pertinence of programs to the workplace and to new and emerging technologies;

"(ii) the technological and educational capacity of vocational curricula, equipment, and instructional materials to enable vocational students and instructors to meet the challenges of increased technological demands of the workplace;

"(iii) the capability of vocational education programs to meet the needs for general occupational skills and improvement of basic academic skills in order to address the changing content of jobs;

"(iv) the capability of vocational education programs to—

"(I) give students experience in, and understanding of, all aspects of the industry in which the student is preparing to enter; and

"(II) provide job placements; and

"(v) measuring the state-of-the-art quality of the vocational education provided; and

"(G) setting measurable goals to meet the needs of special populations.

"(2) In developing assessment criteria pursuant to the provisions of paragraph (1)(E), the head of the special education office, the sex equity administrator, the individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, and the individual designated under section 111(e) to monitor programs for students with limited English proficiency shall each develop data collection procedures appropriate to the special populations being served. Data collected should include information about program services and outcomes, as well as which individuals are being served.

"(b) Each State board receiving assistance under this Act shall assess improvements needed in vocational education programs and may conduct such assessment through the use of Federal funds provided under this Act and State and local vocational education funds. Such assessment shall utilize the following factors:

"(1) integration of academic and vocational education;

"(2) instruction and experience in all aspects of the industry the students are preparing to enter;

"(3) sequential course of study;

"(4) increased student job placement;

"(5) increased linkages between secondary and postsecondary educational institutions;

"(6) ensuring that special populations obtain assistance necessary to enroll and succeed in upgraded programs; and

"(7) raising the quality of vocational education programs in schools with high concentrations of poor and low achieving students.

"(c) Each State board shall complete the assessment under this section pursuant to a timetable consistent with the State plan.".

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"STATE PROGRAMS AND STATE LEADERSHIP

"SEC. 201. (a) From amounts reserved under section 102(a)(1)(A) each State shall conduct State programs and State leadership activities.

"(b)(1) State programs conducted pursuant to subsection (a) may include—

"(A) training and retraining programs for teachers, administrators and counselors, including corrections educators and counselors, and educators and counselors in community-based organizations, which may include—

"(i) training in the integration of academic and vocational studies and programs that give students experience in, and understanding of, all aspects of the industry the student is preparing to enter; and

"(ii) retraining of vocational teachers in modern instructional techniques and new technologies;

"(B) curriculum development, curriculum dissemination and field-testing of curriculum;

"(C) instructional programs in technology education, including curriculum development and teacher training; and

"(D) supporting vocational student organizations, with every effort made to increase minority participation in such clubs.

"(2) Training and retraining programs conducted pursuant to paragraph (1)(A) shall give particular emphasis to recruiting and training minority teachers and counselors and shall encourage the utilization of business and industry equipment and personnel.

"(3) In carrying out the provisions of paragraph (1)(B) the State—

"(A) shall give priority to curriculum which integrates academic and vocational studies;

"(B) shall provide special emphasis on curriculum which incorporates the needs of business, industry and labor in high skilled occupations;

"(C) may award contracts to the Corporation for Public Broadcasting; and

"(D) may provide grants for technical preparation education programs as described in part B of this title.

"(c)(1) Leadership activities conducted pursuant to subsection (a) may include—

"(A) monitoring and evaluation, including technical assistance to local recipients;

"(B) development and implementation of performance evaluations and improvement plans required under section 250, including technical assistance;

"(C) development and implementation of the State assessment required under section 115;

"(D) promoting business, industry, labor and interagency linkages;

"(E) promoting technology education courses and instruction particularly courses and instruction which integrate mathematics, science, and technology studies;

"(F) establishing guidelines for the development of local plans;

"(G) the creation and maintenance of a public awareness program;

"(H) developing linkages with community-based organizations; and

"(I) building collaboration and joint efforts among education, labor, job training, public assistance, and other State agencies to improve vocational education services to traditionally underserved populations.

"(2) Each State receiving financial assistance under this Act shall match, on a dollar for dollar basis and from non-Federal sources, the funds received pursuant to section 102(a)(1)(A) for leadership activities.

"SEX EQUITY PROGRAMS

"SEC. 202. (a) From amounts reserved under section 102(b)(1) the State shall, under the administration of the sex-equity administrator described in section 111(b)(1)—

"(1) support programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) support vocational and prevocational education programs, services, comprehensive career guidance counseling, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) provide support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2) including dependent-care services and transportation.

"(b) The requirement with respect to age limitations contained in subsection (a)(2) may be waived whenever the sex equity administrator determines that the waiver is essential to meet the objectives of this section.

"PART B—TECHNOLOGY PREPARATION

"PROGRAM AUTHORIZED

"SEC. 211. From amounts reserved under section 102(a)(2) the State board shall award competitive grants, or grants on the basis of a formula as determined by the State board, for activities carried out under this part to consortia of—

"(1) local educational agencies, intermediate educational agencies serving secondary school students, area vocational schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs; and

"(2) community colleges (including postsecondary vocational technical schools), apprenticeship programs, or institutions of higher education offering—

"(A) a two-year degree,

"(B) an associate's degree, or

"(C) a two-year post-secondary certificate.

"TECHNICAL PREPARATION EDUCATION PROGRAMS

"SEC. 212. (a) Each consortium receiving a grant under this part shall use amounts paid under this part to develop and operate a 4-year technical preparation education program.

"(b) Each such program shall—

"(1) be carried out under an articulation agreement among the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation followed by 2 years of higher education, or a 2-year apprenticeship program, with a curriculum based on a common core of material intend-

ed to develop a student's proficiency in mathematics, science, communications and technologies designed to lead to an associate degree in a specific career field;

"(3) include the development of a technical preparation education program curriculum appropriate to the needs of the student's participating in the consortium; and

"(4) include in-service training for teachers and counselors that—

"(A) is designed to train teachers and counselors to implement effectively technical preparation education curriculum;

"(B) provides for joint training for teachers and counselors from all participants in the consortium; and

"(C) may provide such training in weekend, evening and summer sessions, institutes or workshops;

"(5) provide equal access to the full range of technical preparation programs to the individuals described in sections 223 and 242, including the development of technical preparation education program services appropriate to the need of participants described in sections 223 and 242; and

"(6) provide for prevocational programs which assist the participants described in sections 223 and 242.

"(c) Each such program may—

"(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for technical preparation education programs, and ensure their successful completion of such programs and their placement in appropriate employment;

"(2) provide for the acquisition of technical preparation education program equipment; and

"(3) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated technical preparation education programs.

"APPLICATIONS

"SEC. 213. (a) Each consortium that desires to receive a grant under this part shall submit an application to the State board at such time and in such manner as the State board shall prescribe.

"(b) Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this Act.

"(c) The State board shall approve applications based on their potential to create an effective technical preparation education program as described in section 212.

"(d) The State board shall give special consideration to applicants whose applications—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs; and

"(2) are developed in consultation with business, industry, and labor unions.

"DEFINITIONS

"SEC. 214. For purposes of this part—

"(1) the term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a technical preparation education program;

"(2) the term 'community college'—

"(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1976 (25 U.S.C. 1801(4))); and

"(3) the term 'technical preparation education program' means a combined secondary and postsecondary education program which—

"(A) leads to an associate degree;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, or mechanical, industrial, or practical art or trade;

"(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

"(D) leads to placement in employment.

"PART C—SECONDARY, POSTSECONDARY AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"WITHIN STATE ALLOCATION

"SEC. 221. (a) From amounts reserved under section 102(a)(3)(A), the State board shall, subject to subsection (b), allocate to each local educational agency an amount that bears the same relationship to such funds as the amount such local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

"(b)(1)(A) In the case of criminal offenders who are in State correctional institutions the State board shall ratably reduce the percentages obtained under subsection (a) in order to make available to the State correctional education agency an amount which is substantially equivalent to the amount which such agency would have been eligible to receive under section 1005 of the Elementary and Secondary Education Act of 1965 for the previous fiscal year if the State correctional education agency were a local educational agency.

"(B) For the purpose of subparagraph (A) the age of individuals in correctional institutions to be counted shall be ages 9 through 35.

"(C) The amount determined pursuant to subparagraphs (A) and (B) shall not exceed 5 percent of the amount reserved under section 102(a)(3)(A), or shall not exceed the amount allocated for corrections education pursuant to this Act in the fiscal year 1990, whichever is greater.

"(2) In the case of an area vocational school the amounts calculated under subsection (a) that are available to local educational agencies served by that area vocational school shall be made available to that area vocational school.

"(3) In the case of an intermediate educational agency the amounts calculated under subsection (a) that are available to local educational agencies served by that intermediate educational agency shall be made available to that intermediate educational agency.

"(c)(1) No local educational agency, area vocational school or intermediate educational agency, shall be eligible for an allocation unless the amount calculated under subsection (a) equals or exceeds $25,000.

"(2) Local educational agencies, area vocational schools or intermediate educational agencies may form consortia and aggregate the amounts such agencies or schools would be eligible to receive under subsection (a) in order to comply with the provisions of paragraph (1).

"(3) The provisions of paragraph (1) shall not apply to State correctional agencies.

"(4) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to local educational agencies in accordance with the provisions of this section.

"(d) In the case that an area vocational school and a local educational agency served by such area vocational school offer comparable vocational education programs, the State agency may distribute funds to both an area vocational school and a local educational agency served by such area vocational school, provided the provisions of subsection (c)(1) are met for each area vocational school and the local educational agency.

"(e) In the case that an intermediate educational agency and a local educational agency served by such an intermediate educational agency offer comparable vocational education programs, the State agency may distribute funds to both an intermediate educational agency and a local educational agency served by such intermediate educational agency provided the provisions of subsection (c)(1) are met for both the intermediate educational agency and the local educational agency.

"(f) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

"STATE RESERVE FOR AREAS WITH SEVERE PROBLEMS

"SEC. 222. (a)(1) Each State receiving financial assistance under this subpart may reserve not to exceed 10 percent of such amount for distribution to local educational agencies, area vocational schools, or intermediate educational agencies in areas experiencing particularly severe hardships such as severe unemployment, a severe poverty concentration, a high dropout rate, a high crime rate, a high incidence of drug abuse or a high concentration of limited English proficient students, all of which percentages or concentrations of which are above the statewide average.

"(2)(A) In addition to the distributions described in paragraph (1), a State may distribute funds reserved pursuant to paragraph (1) to community colleges to enable such community colleges to conduct programs which provide high school diplomas to individuals aged 16 through 18.

"(B) In the event a State distributes funds pursuant to the provisions of paragraph (1) to a community college pursuant to the provisions of subparagraph (A), such community college shall match such funds on a dollar for dollar basis.

"(b)(1) If a State elects to reserve funds pursuant to subsection (a) the State shall match, on a dollar-for-dollar basis, such funds provided to each local educational agency, area vocational school or intermediate educational agency from State sources or from private sources.

"(2) In no event shall a State reserving funds pursuant to subsection (a) use funds from local educational agencies, area vocational schools, or intermediate educational agencies to meet the requirements of paragraph (1).

"POPULATIONS TO BE SERVED

"SEC. 223. (a) Each local eligible recipient receiving funds under this subpart shall use such funds to provide vocational education

services and activities, including comprehensive career guidance and counseling, designed to meet the special needs of, and to enhance the participation of—

"(1) the economically disadvantaged;

"(2) individuals with disabilities;

"(3) individuals who participate in programs designed to eliminate sex bias and stereotyping in vocational education;

"(4) students with limited English proficiency;

"(5) economically disadvantaged adults; and

"(6) criminal offenders, both juvenile and adults, who are serving in a correctional institution.

"(b) Notwithstanding any other provision of this section, each local educational agency with a student enrollment exceeding 100,000 which served economically and educationally disadvantaged adults in fiscal year 1990 pursuant to the provisions of this section may continue to serve such adults in each fiscal year with funds available under this section in an amount which bears the same relationship to the total amount of funds available under this section in each fiscal year as the amount available to carry out such programs for such adults in fiscal year 1990 bears to the total amount available under this section in fiscal year 1990.

"PROGRAMS FOR ECONOMICALLY DISADVANTAGED STUDENTS

"SEC. 224. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to disadvantaged students—

"(1) equal access in recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs available to nondisadvantaged individuals, including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services; and

"(3) the supplementary services necessary to ensure full and equitable participation in vocational education programs.

"(b) For the purpose of this section the term 'disadvantaged student' means a student who is economically or educationally disadvantaged.

"PROGRAMS FOR STUDENTS WITH DISABILITIES

"SEC. 225. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to all students with disabilities within the jurisdiction of the recipient an equal opportunity for an appropriate vocational education. Such recipients shall provide to students with disabilities—

"(1) equal access to recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs available to nondisabled individuals, including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) vocational education programs and activities in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act;

"(4) the vocational education component of the individualized education plan required under sections 612(4) and 614(a)(5) of the Education of the Handicapped Act;

"(5) supplementary services including curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices; and

"(6) vocational education planning for individuals with disabilities which shall be—

"(A) coordinated with appropriate representatives of vocational education and special education, and

"(B) reviewed by the head of the State office responsible for administering part B of the Education of the Handicapped Act.

"(b) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall comply with the provisions of section 504 of the Rehabilitation Act of 1973 and the Education of the Handicapped Act regarding equal access to programs.

"PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH PROFICIENCY

"SEC. 226. Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to students with limited English proficiency—

"(1) equal access in recruitment, enrollment, and placement activities;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) supplementary services to ensure full and equitable participation in programs, such as—

"(A) providing adapted vocational instruction simultaneously with English language instruction;

"(B) utilizing appropriate agencies and community-based organizations to communicate in, and to provide counseling in, the students' language; and

"(C) bilingual and cultural counseling; and

"(4) vocational education planning which shall be reviewed by the head of the State administrative office responsible for the education of students with limited English proficiency.

"PROGRAMS TO ELIMINATE SEX BIAS

"SEC. 227. (a) Each local educational agency, area vocational school, or intermediate educational agency receiving financial assistance under this subpart shall provide to women and men—

"(1) equal access in recruitment, enrollment, and placement activities in education and training programs in nontraditional occupations;

"(2) equal access to the full range of vocational programs including occupationally specific courses of study, cooperative education programs, apprenticeship programs, and comprehensive career guidance and counseling services;

"(3) programs to overcome sex bias, stereotyping and other barriers which inhibit the participation of women and men;

"(4) programs to expand outreach and orientation to nontraditional occupations for women and men;

"(5) supplementary services including, but not limited to, curriculum modification, equipment modification, classroom modification, supportive personnel, instructional aids and devices, and subsidized employment opportunities; and

"(6) programs to increase and provide support services.

"(b) Programs and services provided pursuant to subsection (a) shall be reviewed by the sex-equity administrator consistent with the provisions of section 111(b)(1)(A).

"PROGRAMS FOR CRIMINAL OFFENDERS

"SEC. 228. Each State correctional education agency receiving financial assistance under this Act shall—

"(1) administer vocational education programs for criminal offenders, both juveniles and adults, in correctional institutions;

"(2) provide vocational education programs for women who are incarcerated;

"(3) use funds provided pursuant to the provisions of section 221(b)(1)(A) to update equipment; and

"(4) distribute funds for services to correctional institutions in proportion to the number of individuals served by each facility, giving special emphasis to ensure services for women who are incarcerated.

"USE OF FUNDS

"SEC. 229. (a)(1) Each local eligible recipient receiving financial assistance under this subpart shall use such funds to—

"(A) provide to the individuals described in sections 223 and 224 the supplementary services and prevocational programs necessary to ensure full and equitable participation in vocational education programs;

"(B) ensure that programs for the individuals described in section 223 are of the highest quality and are state-of-the-art; and

"(C) support supplemental or additional staff, equipment, materials, and services for the individuals described in section 223.

"(2) The necessary services described in paragraph (1)(A) shall be identified and designed through an assessment of the interests, abilities and needs of the students, and shall reflect the participation of the student and parent, and the guidance and counseling activities carried out under subsection (b)(1)(D).

"(3) Each local eligible recipient receiving funds under this section shall use no more than 5 percent of such funds for administrative costs.

"(4) Each local eligible recipient receiving funds under this section may use such funds to develop programs in consortia or in cooperation with community-based organizations.

"(b)(1) Each local eligible recipient receiving financial assistance under this subpart shall, to the extent practicable, use such funds for individuals described in section 223 to—

"(A) integrate academic and vocational training in a manner which—

"(i) provides a sequential course of study that—

"(I) uses an applied context based on both broad and specific job training;

"(II) reinforces and enhances academic skills;

"(III) motivates students to excel in both academic and vocational courses; and

"(iv) provides students with experience in, and understanding of, all aspects of the industry such students are preparing to enter; and

"(ii) encourages utilization of a business-industry model of applied learning techniques;

"(B) carry out program improvement activities, including instructional services, curriculum and materials development and state-of-the-art equipment and construction to upgrade instruction;

"(C) designate a special populations coordinator who shall be a qualified counselor or teacher to ensure that special populations described in section 223 are receiving adequate services and job skill training; and

"(D) provide comprehensive guidance and counseling to the individuals described in

section 223 who are participating in correctional education programs and who have not entered grade 9, and to the parents of such individuals, concerning—

"(i) the course of study in each vocational program offered;

"(ii) the occupational opportunities for employment after graduation, as well as summer and part-time employment during the school year;

"(iii) information about postsecondary education opportunities;

"(iv) information about apprenticeship program opportunities;

"(v) guidance and counseling at the prevocational level and during the vocational program;

"(vi) career guidance and counseling;

"(vii) assessment of interest, abilities, and special needs with respect to successful completion of the vocational education program;

"(viii) guidance, counseling, and career development activities conducted by professionally trained counselors who are associated with the provision of such services;

"(ix) counseling services designed to facilitate the transition from school to postschool employment and career opportunities; and

"(x) a career plan or career assessment for the student.

"(2) Each local eligible recipient receiving assistance under this subpart may use such funds for technical preparation education programs described in part B of this title for special populations described under section 223.

"(3) The individual described in paragraph (1)(C) shall be compensated in whole or in part through funds reserved pursuant to subsection (a)(2) for administrative costs.

"(4) Funds used to carry out the provisions of paragraphs (1)(A) and (1)(B) may be used to benefit other populations providing the needs of the individuals described in section 223 are being met.

"(5) Equipment purchases pursuant to paragraphs (1)(A) and (1)(B), when not being used to carry out the provisions of this Act, may be used for other instruction purposes if—

"(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this title;

"(B) is used after regular school hours or on weekends; and

"(C) such other use is—

"(i) incidental to the use of that equipment under this title;

"(ii) does not interfere with the use of that equipment under this title; and

"(iii) does not add to the cost of using that equipment under this title.

"(6) Each local eligible recipient receiving funds under this subpart may only use such funds if such agency or school has provided for consultation with members of special populations, students, parents, teachers, workers and members of community-based organizations in the planning of the programs provided pursuant to this subpart, particularly with respect to the quality of the programs and supplementary services provided.

"LOCAL APPLICATION

"SEC. 230. (a) Any local eligible recipient desiring financial assistance under this subpart shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded;

"(2) contain a report on the number of individuals in each of the special populations categories contained in section 223;

"(3) contain a description of how the needs of the special populations will be assessed and a description of the planned use of funds to meet such needs;

"(4) identify the planned use of resources allocated to meet such needs;

"(5) ensure full and equitable participation in a vocational educational program of quality;

"(6) provide assurances that the programs funded under this subpart shall be carried out according to the criteria for programs for each special population described in section 223;

"(7) describe the performance evaluation standards the applicant will use to measure its progress;

"(8) demonstrate that in using funds in accordance with the provisions of sections 229 (b)(1)(A) and (b)(1)(B) the local eligible recipient has first met the needs of the individuals described in section 223 as required by section 229(b)(4);

"(9) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under the Job Training Partnership Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(10) describe methods used to develop vocational educational programs in consultation with parents and students of special populations described in section 223; and

"(11) provide a description of coordination with community-based organizations.

"(b) The individual described in section 229(b)(1)(C) shall review and comment on the application submitted pursuant to subsection (a) regarding the assurances contained in such application and the services to be provided to the special populations described in section 223.

"PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 231. (a) Each local eligible recipient receiving financial assistance under this subpart shall develop goals for, and evaluate the effectiveness of, the program conducted pursuant to this subpart with respect to—

"(1) the progress of students in the achievement of basic academic skills;

"(2) the progress of students in achieving occupational skills necessary to obtain employment in the field for which the students have been prepared, including occupational skills in all aspects of the industry the students are preparing to enter;

"(3) the ability of the local eligible recipient to meet the needs of the special populations described in section 223; and

"(4) any other measures the local eligible recipient includes to reflect accurately the success of the program.

"(b) Each entity described in subsection (a) shall consult with the State board in determining measurement indicators pursuant to the criteria set forth in subsection (a).

"(c) Each local eligible recipient shall annually evaluate whether such entity is meeting the criteria developed under subsection (a). If any entity described in subsection (a) determines that such entity is not making substantial progress in meeting the criteria set forth in subsection (a), such entity shall develop a plan, in consultation with teachers, parents and students, for program improvement for the subsequent school year.

"(d) Each local eligible recipient shall regularly review programs, with the full and informed participation of representatives of the special populations described in section 223, to identify and to adopt measures to overcome any barriers which are resulting in lower rates of access or success for special populations.

"PROGRAM IMPROVEMENT PLAN

"SEC. 232. (a) The plan developed pursuant to section 231(c) shall describe how the local eligible recipient will identify and modify programs funded under this subpart including—

"(1) a description of vocational education and career development strategies designed to achieve the goals set forth in section 231(a); and

"(2) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"(b) If after one year of implementation of the plan described in subsection (a), sufficient progress in meeting the criteria described in section 231 has not been made, the State shall work jointly with the local eligible recipient and teachers, parents and students to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the local eligible recipient;

"(2) a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) a description of measures designed to improve supplementary services provided to special populations described in section 223.

"Subpart 2—Postsecondary and Adult Programs

"POSTSECONDARY AND ADULT PROGRAMS

"SEC. 240. (a) From amounts reserved under section 102(a)(3)(B) the State board shall make grants, on a competitive basis, or on the basis of a formula as determined by the State board, to—

"(1) postsecondary educational institutions;

"(2) local educational agencies for programs for adults in secondary schools;

"(3) area vocational schools serving postsecondary students or adults;

"(4) community-based organizations providing vocational education to adults;

"(5) any of the entities set forth in paragraphs (1) through (3) in partnership with business, industry and labor; and

"(6) consortia of the entities described in paragraphs (1) through (5);

to improve vocational education programs, including comprehensive career guidance and counseling, for postsecondary students, adults, and single parents, displaced homemakers, and single pregnant women.

"(b) In awarding grants under this section the State board shall give priority to—

"(1) programs serving economically disadvantaged individuals, individuals with disabilities, individuals with limited English proficiency and traditionally underserved populations, including women and men in non-traditional programs;

"(2) apprenticeship programs, especially programs that serve the individuals described in paragraph (1);

"(3) programs that are strongly tied to economic development efforts within the State;

"(4) programs which—

"(A) train adults and students for all aspects of the occupations in which job openings are projected or currently available;

"(B) provide comprehensive career guidance and counseling for adults and students;

"(C) are developed in conjunction with business, industry, labor, the community, the State board, and other local eligible recipients; and

"(D) focus on the most salable, highest placement aspects of the industry; and

"(5) partnerships described in subsection (a)(5).

"(c) Grants awarded under this section shall be coordinated with programs and services provided through—

"(1) the Job Training Partnership Act,

"(2) the Adult Education Act, and

"(3) the Family Support Act of 1988,

to avoid duplication of effort and to ensure maximum effective utilization of funds under this subpart.

"POSTSECONDARY AND ADULT USE OF FUNDS

"SEC. 241. (a) Grants awarded under this subpart may be used for—

"(1) vocational programs for training or retraining adults or career counseling, including programs for older individuals;

"(2) the costs of serving adults in other vocational education programs, and paying the costs of instruction or the costs of keeping school facilities open longer;

"(3) education and training programs designed cooperatively with employers or labor, such as workplace literacy programs, worksite programs, and apprenticeship training programs (or combinations of such programs);

"(4) industry-education-labor partnership training programs in high-technology occupations (including programs providing related instruction to apprentices) and projects to train skilled workers needed to produce, install, operate, and maintain high-technology equipment, systems, and processes;

"(5) programs at postsecondary institutions to which provide high school diplomas to individuals aged 16 through 18; and

"(6) technical preparation education programs described in part B of title II.

"(b) The State shall use funds provided pursuant to this subpart for apprenticeship training programs especially tailored to—

"(1) the needs of an industry or groups of industries for skilled workers, technicians, or managers, or

"(2) enable the existing work force to adjust to changes in technology or work requirements.

"(c) Grants awarded under this subpart may be used to provide education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers whenever such institutions, employers or labor organizations can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(d)(1) From funds available under this section, the State board may establish and support, through grants to institutions of higher education offering comprehensive programs in teacher or counselor preparation, statewide mentoring programs to—

"(A) fully use the skills and work experience of individuals employed or formerly employed in business and industry who become classroom instructors;

"(B) meet the needs of vocational educators who wish to upgrade their teaching competencies; and

"(C) meet the needs of counselors who wish to upgrade their counseling competencies.

"(2) Any mentoring program established under this program shall—

"(A) establish partnerships among State certification agencies, institutions of higher education offering comprehensive vocational education programs, and local educational agencies to deliver a professional development program aimed at preparing and meeting the continuing training needs of vocational educators and counselors;

"(B) provide competency-based vocational teacher education programs; and

"(C) provide assessment of professional education skills and develop a plan leading to probationary certification within 3 years;

"(D) employ as mentors highly qualified classroom educators who shall be selected by a process collaboratively developed by the institutions of higher education and local educational agencies within the State, and the State board, who shall assist in—

"(i) developing and demonstrating mentor competence in planning, teaching, evaluating, and managing classrooms, particularly for the special populations described in section 223;

"(ii) supervising vocational students' organizations;

"(iii) working with advisory committees;

"(iv) understanding cooperative vocational education programs;

"(v) understanding the foundations of vocational education; and

"(vi) identifying other sources of educational support and information to assist new vocational educators in becoming effective teachers.

"PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN

"SEC. 242. (a) From amounts reserved under section 102(b)(2) each State board shall provide vocational and prevocational educational programs, including comprehensive career guidance and counseling, and services for single parents, displaced homemakers, and single pregnant women.

"(b)(1) From amounts reserved under section 102(b)(2) each State board shall provide vocational and prevocational education programs and services in postsecondary or secondary school settings, including area vocational schools serving single parents, displaced homemakers and single pregnant women.

"(2) Programs and services provided pursuant to this subpart shall be administered by the sex equity administrator as described in section 111(b)(1)(A).

"(c) From amounts reserved under section 102(b)(2) each State may—

"(1) provide, subsidize, reimburse or pay for vocational and prevocational education and training activities, including basic academic skills, necessary educational materials, and career guidance and counselings that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

"(2) make grants to local recipients for expanding vocational and prevocational education services when such expansion directly increases the capacity of local recipients for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of vocational and prevocational education services and career counseling to single parents, displaced homemakers, and single pregnant women, if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training and the characteristics of the participants;

"(4) make vocational and prevocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by providing support services including dependent care, transportation services, special services and supplies, books and materials, and by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs and related support services and career counseling.

"SERVICES FOR MEMBERS OF SPECIAL POPULATIONS.

"SEC. 243. Each recipient of a grant under this subpart shall—

"(1) provide to individuals who are members of the populations described in section 223—

"(A) equal access in recruitment, enrollment, and placement activities, and to vocational programs available to other individuals, including occupationally specific courses of study, cooperative education programs, and apprenticeship programs;

"(B) the supplementary services needed by such students to successfully complete and master all aspects of the program in the most integrated setting possible; and

"(2) regularly review the programs assisted under this subpart, in consultation with members of the populations described in section 223, to identify any barriers which are resulting in lower rates of access or success for special populations and to adopt measures to overcome such barriers.

"Subpart 3—General Provisions

"STATE PERFORMANCE EVALUATION AND IMPROVEMENT

"SEC. 250. (a) Each State desiring financial assistance under this part shall develop criteria for, and evaluate the effectiveness of, programs under this part with respect to—

"(1) student progress in the achievement of basic academic skills;

"(2) student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in all aspects of the industry the student is preparing to enter;

"(3) the program's ability to meet the needs of special populations; and

"(4) any other measures the State shall deem necessary.

"(b) In developing the criteria required in subsection (a), the State board shall make every effort to develop criteria consistent with the standards and evaluations developed pursuant to section 231 by local eligible recipients of financial assistance under subpart 1. If after 2 years the State board determines that the local eligible recipient of financial assistance under subpart 1 is not making progress in meeting the goals set forth by such local eligible recipient, the

State shall work in conjunction with such local eligible recipient as prescribed in section 231 by providing program and technical assistance from funds provided under section 102.

"ADMINISTRATIVE PROVISIONS

"SEC. 251. (a)(1)(A) Funds made available under this part shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under this part may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(3) The Secretary may waive, as necessary, for each of the fiscal years 1991, 1992, and 1993 on an annual basis, the requirements of paragraphs (1) and (2) with respect to any State that expended for postsecondary education programs more than 70 percent of the funds available under this title in fiscal year 1989.

"(b) Any project assisted with funds made available under this part shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c)(1) Vocational education services and activities authorized in this part may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in this part may include placement services for students who have successfully completed vocational education programs.

"(3) Vocational education services and activities described in this part may include programs which involve students in addressing the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

"(d) Each State board receiving financial assistance under this part may consider granting academic credit for vocational education courses which integrate core academic competencies.

"(e)(1) In addition to the State plan, the State may submit a petition to waive the percentage requirements of section 102(a)(3). Such petition for a waiver shall be filed together with the State plan. The Secretary may approve the petition for a waiver only if the State adequately demonstrates that—

"(A) the waiver is necessary to serve more effectively the vocational education needs of economically disadvantaged families or individuals, minorities, individuals with limited English proficiency, or individuals with disabilities, if such individuals are—

"(i) students enrolled in secondary schools or area vocational schools;

"(ii) students who have dropped out of high school;

"(iii) adult individuals who have not earned high school diplomas; or

"(iv) adult individuals who are participating in programs assisted under the Job Training Partnership Act, the JOBS program under title II of the Family Support Act of 1988, the Adult Education Act, or adult literacy programs;

"(B) funds made available pursuant to a waiver under paragraph (1) shall be used—

"(i) to encourage and assist the individuals described in subparagraph (A) to prepare more effectively to enter or reenter the job market and compete for jobs in an increasingly technological workplace;

"(ii) to assist in the coordination of postsecondary vocational programs and secondary vocational programs serving the individuals described in subparagraph (A);

"(iii) to serve the individuals described in subparagraph (A) who seek to improve their employability through retraining programs which upgrade or update skills in accordance with changed work requirements, or through training for high-skilled occupations;

"(iv) to the extent practicable, by postsecondary schools and colleges to enable the students of such schools and colleges to earn high school diplomas or certificates of General Education Development; and

"(v) by postsecondary schools and colleges to serve the students of such schools and colleges through strengthened coordination among programs supported under this subsection and programs assisted under the Job Training Partnership Act, the JOBS program under title II of the Family Support Act of 1988, the Adult Education Act, or adult literacy programs.

"(2) Funds made available pursuant to a waiver under paragraph (1) shall only be used in postsecondary schools and colleges of the State serving high concentrations of economically disadvantaged families or individuals, minorities, individuals with limited English proficiency, or individuals with disabilities, if—

"(A) at least 30 percent of the population of the postsecondary school or college are economically disadvantaged individuals, minorities, individuals with limited English proficiency, or individuals with disabilities; or

"(B) the State provides assurances that it will rank-order postsecondary schools and colleges on the basis of need as determined by the number of Pell Grant recipients attending such schools and colleges, and shall limit assistance under this subsection to schools in the top 25 percent of such ranking.

"(3) In the case of a disagreement concerning an application for a waiver under this subsection pursuant to paragraph (4) between the State agency or department responsible for vocational education at the postsecondary level and the State agency designated as the sole State agency responsible for the administration or supervision of the State vocational education program under section 111 of this Act, the State agency or department responsible for vocational education at the secondary level shall file such objections with the State Board. The State Board shall respond to any objections of the such agency in submitting its State plan to the Secretary. The Secretary shall consider such comments in reviewing and approving the State plan and the provision for a waiver under this subparagraph.

"(4) Each State desiring a waiver under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(f) Notwithstanding the provisions of section 102(a)(3), not more than 50 percent of funds available under such section shall be available to carry out the provisions of subpart 2 of part C of title II.

"(g)(1) The Secretary may waive the provisions of subsection (f) on a demonstration basis for not more than 5 States and make available not more than 65 percent of the funds available under section 102(a)(3), if the State demonstrates that the requirements of subsection (f) would adversely effect the vocational educational programs in the State based on the demand for postsecondary programs within the State as demonstrated by—

"(A) the State's average dropout rate, as reported by the State in accordance with the definition of a school dropout developed pursuant to section 6201(a) of the Elementary and Secondary Education Act of 1965;

"(B) the number of local educational agencies in the State which have dropout rates in excess of 10 percent;

"(C) the number of applications in the State for postsecondary vocational and technical programs as compared with the number of applications for vocational education programs in secondary schools or area vocational schools;

"(D) the unemployment rate of the State as compared with the average unemployment rate of all the States;

"(E) the demand for participation in the JOBS program under title II of the Family Support Act of 1988 or programs assisted under the Job Training Partnership Act; and

"(F) any other information the Secretary determines necessary for awarding such waiver.

"(2) Each State desiring a waiver under this subsection shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) include a description of the dropout rates in all local educational agencies in the State; and

"(B) contain such other information and assurances as the Secretary may reasonably require to ensure compliance with the provisions of this subsection.".

TITLE III—SPECIAL PROGRAMS

SEC. 301. SPECIAL PROGRAMS AMENDMENTS.

Title III of the Act is amended—

(1) in section 302(b) by—

(A) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;";

(2) in section 311 by inserting "individual and family health," after "nutrition,";

(3) in section 312—

(A) in subsection (b)(1) by—

(i) striking "managing home and work responsibilities" and inserting "balancing work and family";

(ii) inserting "(including family violence and child abuse)" after "family crisis";

(iii) inserting "(especially among teenage parents), preventing teen pregnancy," after "parenting skills";

(iv) inserting "assisting at-risk populations (including the homeless)," after "handicapped individuals,"; and

(v) striking "improving nutrition" and inserting "improving individual child and family nutrition and wellness";

(4) in section 313 by—

(A) in subsection (a) by inserting "educational" after "experience and";

(B) redesignating subsection (b) as subsection (c); and

(C) inserting the following new subsection (b) after subsection (a):

"(b) Funds available under this part may be used to provide full-time State leadership and administrators with educational preparation in home economics education."; and

(5) by repealing parts C, D, and E.

SEC. 302. SUPPLEMENTARY GRANTS.

Title III of the Act is amended by inserting at the end thereof the following new part F:

"PART F—SUPPLEMENTARY GRANTS

"STATEMENT OF PURPOSE

"SEC. 351. It is the purpose of this part to provide additional resources to local educational agencies, area vocational schools, and intermediate educational agencies in economically depressed areas to improve the quality of their vocational education programs.

"ALLOTMENT TO STATES

"SEC. 352. (a) Except as provided in subsection (b), from amounts appropriated to carry out the provisions of this part, the Secretary shall allot to each State an amount which bears the same ratio to such amounts as the amount the State received in the previous fiscal year under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the total amount received by all States under such section in such year.

"(b)(1) In any fiscal year in which the amount appropriated to carry out the provisions of this part does not equal or exceed $50,000,000, the Secretary shall, in accordance with the provisions of this part, make grants to States.

"(2) In awarding grants pursuant to this subsection the Secretary shall—

"(A) give priority to States which have—

"(1) high percentages of children eligible to be counted under section 1006 of the Elementary and Secondary Education Act of 1965,

"(2) high percentages of individuals living below the poverty level, and

"(3) high percentages of school dropouts;

"(B) take into consideration the State's commitment to education as demonstrated by the total elementary and secondary educational expenditures of the State divided by the total personal income of the State; and

"(C) ensure an equitable distribution of assistance among geographic regions of the country.

"ALLOCATION OF FUNDS TO ELIGIBLE RECIPIENTS

"SEC. 353. Each State receiving funds under this part shall use not less than 95 percent of such funds to award grants, on a competitive basis, to eligible recipients within the State to improve vocational education programs in the areas served by the eligible recipient.

"STATE APPLICATIONS

"SEC. 354. (a) Each State that desires to receive an allotment or a grant under this part shall submit an application to the Secretary at such time, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) designate the sole State agency described in section 111(a)(1) as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) provide for a process of consultation with the State Council on Vocational Education established under section 112;

"(3) describe how funds will be allocated in a manner consistent with section 323 that will serve eligible local educational agencies with the greatest need, especially—

"(A) eligible recipients in areas with the highest percentages of children eligible to be counted under section 1006 of the Elementary and Secondary Education Act of 1965; or

"(B) eligible recipients that have—

"(i) high percentages of individuals living below the poverty level,

"(ii) high percentages of school dropouts,

"(iii) high unemployment rates,

"(iv) high percentages of limited English speaking individuals,

"(v) a need to address community economic or employment issues; or

"(vi) a combination of conditions described in subparagraphs (A) through (E);

"(4) provide for an annual report of data concerning the use of funds and students served with assistance under this part;

"(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and

"(6) contain assurances that the State comply with the requirements of this part.

"(b) An application submitted by the State under subsection (a) shall be for a period of not more than 3 years.

"LOCAL APPLICATIONS AND LOCAL USE OF FUNDS.

"SEC. 355. (a) Each eligible recipient that desires to receive a grant under this part shall submit an application to the State at such time, and containing or accompanied by such information, as the State may reasonably require.

"(b) Each eligible recipient receiving funds under this part shall use such funds to meet the vocational education needs of economically disadvantaged students in a manner consistent with the goals and objectives of this Act.

"(c) Each eligible recipient receiving funds under this part shall use such funds to supplement and not supplant vocational education resources available in the area served by the eligible recipient.

"DEFINITIONS

"SEC. 356. For the purpose of this part—

"(1) the term 'eligible recipient' means a local educational agency, area vocational school or intermediate educational agency in an economically depressed area that is eligible to receive funds under section 221; and

"(2) the term 'State' includes each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.".

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH ACTIVITIES.

Section 402 of the Act is amended—

(1) in subsection (a) by striking "National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate" and inserting "Office of Educational Research and Improvement";

(2) in subsection (a)(1) by striking "individuals who are single parents or homemakers" and inserting "single parents, displaced homemakers, single pregnant women";

(3) by amending subsection (b) to read as follows:

"(b) In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this Act.";

(4) in paragraph (1) of subsection (d) by striking "(1)"; and

(5) by striking paragraph (2) of subsection (d).

SEC. 402. NATIONAL ASSESSMENT.

(a) AMENDMENT TO TITLE.—The heading to section 403 of the Act is amended by striking "PROGRAMS ASSISTED UNDER THIS ACT".

(b) AMENDMENT TO TEXT.—Section 403 of the Act is amended to read as follows:

"SEC. 403. (a)(1) The Secretary shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Secretary shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, representatives of business, industry, labor, and other relevant groups, to advise the Secretary on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The application of the Federal Advisory Committee Act is waived for the provisions of this paragraph.

"(b) The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State and Tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, Tribal and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, Tribal and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of these teachers;

"(4) participation in vocational education programs, including, in particular, access of special populations identified in this Act to high-quality vocational education programs and the impact, on the delivery of services to these populations, of Federal legislation giving States flexibility in allocating funds to serve these populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the impact of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the impact of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the impact of Federal requirements regarding criteria for services to special populations identified in this Act, participatory planning in the States, and articulation between secondary and postsecondary programs; and

"(9) coordination of services under this Act, the Adult Education Act, the Family Support Act of 1988, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act.

"(c) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a). The Secretary shall submit an interim report no later than January 1, 1994, to the Congress. The Secretary shall submit a final report, summarizing all studies and analyses completed after the assessment, to the Congress not later than July 1, 1994. Notwithstanding any other provision of law or regulation, such reports shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.".

SEC. 403. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) AMENDMENT TO TITLE.—The heading to section 404 of the Act is amended by striking "CENTER" and inserting "CENTERS".

(b) AMENDMENT TO TEXT.—Section 404 of the Act is amended to read as follows:

"SEC. 404. (a)(1) The Office of Educational Research and Improvement shall conduct a competition for the establishment and operation of 3 or more vocational education research centers (hereinafter referred to as the 'National Centers') of which—

"(A) one National Center shall be a research center on Native American education;

"(B) one National Center shall be a research center which conducts applied research and provides technical assistance for vocational education and training programs serving youths and adults; and

"(C) one National Center shall have as its primary purpose conducting applied research and providing comprehensive direct technical assistance and outreach activities to enhance the ability of personnel in the fields of vocational education and training to deliver programs that meet the needs of learners and the workplace.

"(2) Each entity selected to establish and operate a National Center pursuant to paragraph (1) shall operate such National Center for a period of 5 years.

"(3) Beginning after December 31, 1992, the Office of Educational Research shall award an annual grant to each National Center selected pursuant to paragraph (1) for each of the five years such National Center is operated. After the third year in which a National Center receives a grant under this section the Secretary shall review the research priorities of such National Center.

"(4) Each National Center may reserve not more than 10 percent of the grant awarded in each fiscal year for the purposes of addressing field-initiated projects which had not been foreseen in submitting the annual budget described in subsection (c).

"(5) Each National Center shall appoint a Director for such National Center.

"(b) The Secretary shall continue to honor the provisions of the grant awarded to the National Center for Research in Vocational Education located in Berkeley, California, through December 31, 1992.

"(c) Each entity desiring to establish and operate a National Center shall submit an application for each fiscal year to the Office of Educational Research and Improvement at such time, in such manner, and accompanied by such information as the Office of Educational Research and Improvement may require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) contain an annual budget; and

"(3) contain such additional assurances as are necessary to ensure compliance with the provisions of this section.

"(d) The National Centers shall, directly or through contracts, conduct research and development projects and programs with other public agencies and public or private institutions of higher education. The National Centers shall disseminate information on the results of the research and development activities funded by the National Center as well as other available research. The National Centers shall conduct applied research and development on—

"(1) economic changes that affect the skills which employers seek and entrepreneurs need;

"(2) integration of academic and vocational education;

"(3) efficient and effective practices for addressing the needs of special populations described in section 223;

"(4) efficient and effective methods for delivering vocational education;

"(5) articulation of school and college instruction with high quality work experience;

"(6) recruitment, education, and enhancement of vocational teachers and other professionals in the field; and

"(7) such other topics as the Secretary may designate.

"(e) The National Center described in subsection (a)(1)(C) shall give priority to projects, programs, and activities which include—

"(1) teacher and administrator training and leadership development;

"(2) technical assistance to programs serving special populations described in section 223;

"(3) needs assessment, design, and implementation of new and revised programs, with related curriculum materials; and

"(4) evaluation and follow-through to maintain and extend quality programs.

"(f) The National Center described in subsection (a)(1)(A) shall conduct research on the educational participation, needs and performance of Native Americans. The Center shall consider teaching and learning for Native American students from childhood through adulthood. Specific priorities shall include, but not be limited to—

"(1) early childhood education;

"(2) home, family, and cultural influences on education;

"(3) vocational education and training, particularly services for special populations described in section 223; and

"(4) participation in postsecondary education, especially the factors that limit participation of Native Americans.

"(g) For the purposes of this section, the term 'Native American' includes American Indians, Native Alaskans, Native Hawaiians, and indigenous people of the Pacific Basin including American Samoans.".

(c) The amendment made by subsection (b) shall not affect contracts made by the National Center for Research in Vocational Education prior to the date of enactment of this Act.

SEC. 404. FORMULA STUDY.

Part A of title IV of the Act is amended by inserting at the end thereof the following new section:

"STUDY OF CARL D. PERKINS VOCATIONAL EDUCATION ACT FORMULA

"SEC. 405. (a) The Secretary shall, through grant or contract conduct a study of the distribution of Federal vocational education funds to the States. The study shall consider the distributional effects of the within State allocation formula set forth in section 102 including the age cohorts and the per capita income allotment ratios and shall also examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act. The study shall specifically address the appropriate distribution mechanism to serve the target populations of the Act.

"(b) The study shall explore the use of other possible methods of targeting funds to special populations of the Act, particularly the economically disadvantaged, including but not limited to the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(c) The findings of the study shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(d) The study required under subsection (a) shall be completed by January 1, 1994.".

SEC. 405. DEMONSTRATION PROGRAMS.

Part B of title IV of the Act is amended to read as follows:

"PART B—DEMONSTRATION PROGRAMS

"PROGRAMS AUTHORIZED

"SEC. 411. (a) From amounts available for this part pursuant to section 101(a)(1)(A) in each fiscal year the Secretary shall reserve—

"(1) 5 percent for demonstration programs in accordance with the provisions of section 416; and

"(2) 20 percent for demonstration programs in accordance with the provisions of section 419.

"(b) From the remainder of funds available under section 101(a)(1)(A) for this part, the Secretary shall make demonstration grants in accordance with the provisions of this part.

"DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING

"SEC. 412. (a) The Secretary is authorized to make grants to institutions of higher education, area vocational schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or

any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network;

"(b) In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve special populations;

"(4) that programs supported under this section serve—

"(A) vocational students in secondary schools and at postsecondary institutions;

"(B) individuals enrolled in adult programs; and

"(C) single parents, displaced homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.

"BUSINESS, INDUSTRY AND LABOR PARTNERSHIPS

"SEC. 413. (a) The Secretary is authorized to make grants to partnerships among—

"(1) an area vocational school, a State agency, a local educational agency, a secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State correctional education agency or an adult learning center; and

"(2) business, industry, labor, or apprenticeship programs.

"(b) Grants awarded under this section may be used to—

"(1) increase the access to, and quality of, programs for the special populations who are described in section 223;

"(2) strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(3) address the economic development needs of the area served by the partnership;

"(4) provide training and career counseling that will enable workers to retain their jobs;

"(5) provide training and career counseling that will enable workers to upgrade their jobs; and

"(6) address the needs of new and emerging industries, particularly those in high-technology fields.

"(c)(1) In awarding grants under this section, the Secretary shall give priority to partnerships whose programs provide job training in areas or skills where there are significant labor shortages.

"(2) In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution of funds awarded pursuant to this section.

"MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES

"SEC. 414. (a) The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States, and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) The regional model centers described in subsection (a) shall—

"(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skilled shortages;

"(2) provide prejob and apprenticeship training and career counseling in skilled trades;

"(3) upgrade specialized craft training; and

"(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with disabilities and ex-criminal offenders to trade occupations and training.

"(c) In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

"BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS

"SEC. 415. (a) The Secretary shall disseminate information and exemplary materials regarding effective vocational education.

"(b) The Secretary shall, in consultation with the National Centers for Research in Vocational Education (hereafter in this section referred to as the 'National Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality, to be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

"(c)(1) The Secretary, in consultation with the National Centers for Research and the National Occupational Information Coordinating Committee (hereafter in this section referred to as the 'Committee'), shall designate each fiscal year a category or several categories of vocational education, which may include technology preparation education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of special populations and may give special consideration to any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(d)(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational school, intermediate educational agency, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

"MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS

"SEC. 416. (a) From amounts reserved under section 411(a)(1) the Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b)(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

"(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

"(c) Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators and correctional educators.

"(d) In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) students in area vocational and technical schools;

"(2) teachers, administrators, and counselors in need of training or retraining;

"(3) out of school adults in need of basic skills improvement or a high school equivalency diploma to improve such individual's employability;

"(4) college students, particularly those working toward a 2-year associate degree from a technical or community college;

"(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

"(6) workers who need to upgrade their skills to obtain jobs in high growth industries.

"PROFESSIONAL DEVELOPMENT

"SEC. 417. (a) The Secretary shall make grants to institutions of higher education, State educational agencies or State correctional education agency for teacher education, career counselor education, and professional development.

"(b) Grants awarded pursuant to this section shall be used for—

"(1) leadership development stipends for experienced vocational educators to participate in advanced study of vocational education;

"(2) teacher education fellowships for individuals who are—

"(A) currently employed in vocational education who need to update or maintain currency in their technological skills;

"(B) employed in agriculture, business, or industry who have skills and experiences in vocational fields for which there is a need for vocational educators; or

"(C) certified teachers with skills related to vocational fields who can be trained as vocational educators, especially minority instructors and those with experience in teaching the economically disadvantaged, individuals with disabilities, students with

limited English proficiency, and criminal and juvenile offenders; and

"(3) internships for gifted and talented vocational education students to intern in Federal and State agencies, vocational education research centers, or recognized vocational education associations.

"(c) In carrying out this section, the Secretary shall, based on information from the National Occupation Information Coordinating Committee and other appropriate sources, publish a listing of—

"(1) the areas of vocational education which are in need of additional personnel; and

"(2) the areas of teaching in which technological upgrading may be especially critical.

"EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS

"SEC. 418. (a) The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or the private sector, to provide education and training for criminal offenders in such institutions.

"(b) Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from incarceration.

"VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"SEC. 419. (a) From amounts reserved under section 411(a)(2) the Secretary shall make grants to local schools to establish and operate vocational education lighthouse schools.

"(b) Grants awarded under this subsection shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

"(F) which offers a full range of programs, including comprehensive career guidance and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training and assistance, through off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) technical assistance and staff development as appropriate.

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education training needs and career counseling needs of minority, disadvantaged, disabled, and limited English-proficient students, and

"(B) to reduce and eliminate sex bias and stereotyping.

"CAREER AND GUIDANCE COUNSELING PROGRAMS

"SEC. 420. (a)(1) The Secretary is authorized to make grants to State boards for programs designed to improve, expand, and extend career guidance and counseling programs, to meet the career development, vocational education, and employment needs of vocational education students and potential vocational education students. Such program shall be designed to assist individuals to—

"(A) acquire self-assessment, career planning, career decisionmaking, and employability skills;

"(B) make the transition from education and training to work;

"(C) maintain marketability of current job skills in established occupations;

"(D) develop new skills to move away from declining occupational fields and enter new and emerging fields in high-technology areas and fields experiencing skill shortages;

"(E) develop midcareer job search skills and to clarify career goals; and

"(F) obtain and use information on financial assistance for postsecondary and vocational education and job training.

"(2) Programs assisted under paragraph (1) shall be organized and administered by certified counselors.

"(b) The programs authorized by this section shall include services and activities to ensure the quality and effectiveness of career guidance and counseling, including, but not limited to, career information delivery system development and implementation, and the establishment of student/client outcome standards against which the effectiveness of future career guidance and counseling programs can be measured.

"DROPOUT PREVENTION

"SEC. 420A. (a) The Secretary is authorized to make grants to partnerships between—

"(1) local educational agencies or area vocational schools; and

"(2) institutions of higher education and/or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

"(b) Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

"(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

"(2) provide inservice training for teachers and administrators in dropout prevention; and

"(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the ERIC Center on Adult, Career and Vocational Education.

"(c) In awarding grants under this section, the Secretary shall give priority to partnerships which—

"(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

"(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.".

SEC. 407. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act is amended to read as follows:

"SEC. 421. (a)(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, implement and develop a vocational educational data system (hereafter in this section referred to as the 'system') using comparable information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than 6 months after the enactment of this Act.

"(3) The National Center for Education Statistics (hereafter in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) Through the system, the Secretary shall collect and analyze data in order to provide—

"(1) the Congress with information relevant to policy making, and

"(2) Federal, State and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c)(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, programs, and to the extent practicable, facilities and equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force described in subsection (g), the National Center, and the Office of Adult and Vocational Education (hereafter in this section referred to as the "Office"), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in their design, implementation and reporting in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) economically disadvantaged students (including information on students in rural and urban areas);

"(B) individuals with disabilities;

"(C) individuals of limited English proficiency;

"(D) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(E) adults who are in need of training and retraining;

"(F) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(G) single parents and displaced homemakers; and

"(H) minorities.

"(3) The Secretary, through the National Center and the Office, shall maintain and update the system at least every 3 years and ensure that the system provides the highest quality statistics and is adequate to meet the vocational education information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

"(d) The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations that are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

"(e)(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 of this Act with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that, to the extent feasible, the system allows international comparisons.

"(3) The Secretary shall ensure that the system, to the extent practicable, uses data definitions common to State plans, performance evaluations, and other evaluations required by this Act. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations.

"(f) The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g)(1) The Secretary, in consultation with the National Center and the Office, shall convene a vocational education data task force (hereafter in this section referred to as the 'Task Force').

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of this Act, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and postsecondary vocational institutions, representatives of vocational education student organizations, representatives of special populations described in section 223, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

"(h) As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and other students in the areas assessed. Such assessment may include international comparisons.".

SEC. 408. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO TITLE.—The heading for section 422 of the Act is amended to read as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(hereafter in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Post Secondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: "including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and";

(2) by adding at the end thereof the following new subsections:

"(c)(1) The Committee, in consultation with the National Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

"(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

"(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to insure that the information disclosed to the Committee is used only for the purposes of this subsection.

"(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No

individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) Of the amounts available pursuant to section 3(e) for each fiscal year for this part, 22 percent shall be reserved to carry out the provisions of this section. Of such amounts, the Committee shall use—

"(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

"(A) amounts appropriated or otherwise made available for that purpose for the fiscal year 1989; and

"(B) an amount equal to not less than 75 percent of the amounts available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.".

SEC. 409. NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION.

Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"NATIONAL NETWORK FOR CURRICULUM COORDINATION IN VOCATIONAL AND TECHNICAL EDUCATION

"SEC. 424. (a) From the sums allocated to carry out this section, the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education consisting of six regional curriculum coordination centers. The Network shall encourage the designation of a State liaison representative in each of the States, and where appropriate, a Tribal liaison. It shall be the purpose of the Network to—

"(1) provide leadership and technical assistance in vocational and technical education curriculum design, development, and dissemination;

"(2) coordinate vocational and technical education curriculum information sharing among all the States, tribes, and the territories;

"(3) reduce duplication of effort in vocational and technical education curriculum development activities among the States, Tribes, and territories; and

"(4) promote the use of vocational and technical education curriculum research findings.".

SEC. 410. NATIONAL COUNCIL.

(a) APPOINTMENTS AND VACANCIES.—The first sentence of section 431(a)(2) of the Act is amended to read as follows: "The members of the Council shall be appointed and serve for such terms as the Council shall prescribe. A vacancy in the Council shall be filled in such manner as the Council shall prescribe".

(b) REPEAL.—Part D of title IV of the Act is repealed.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on September 30, 1991.

(2) The amendment made by subsection (b) shall take effect on October 1, 1992.

SEC. 411. GENERAL PROVISIONS.

Section 451 of the Act is amended to read as follows:

"SEC. 451. (a) Subject to the provisions of subsection (b), of the amounts available pursuant to section 3(e) for any fiscal year for this title—

"(1) 35 percent shall be available for part A, relating to research;

"(2) 33.5 percent shall be available for part B, relating to demonstration projects; and

"(3) 31.5 percent shall be available for part C, relating to vocational education in occupational information data systems.

"(b) From amounts available pursuant to subsection (a)(3)—

"(1) at least 3.5 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in each fiscal year to carry out section 421; and

"(2) at least 1.75 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in fiscal year 1991 to carry out the provisions of section 405, relating to the study of the within State allocation formula set forth in section 102;

"(3) at least 3.5 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available in each fiscal year to carry out the provisions of section 424.".

TITLE V—GENERAL PROVISIONS

SEC. 501. CERTIFICATION REQUIREMENTS.

(a) AMENDMENT TO TITLE.—The heading to section 502 of the Act is amended to read as follows:

CERTIFICATION REQUIREMENTS

(b) AMENDMENT TO TEXT.—Section 502 of the Act is amended to read as follows:

"SEC. 502. (a) As part of the State plan required by section 113, each State board desiring to receive assistance under this Act shall—

"(1) provide assurances that the State board, or local educational agencies within the State, will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of such State board, such local educational agencies or other personnel for whom such State board or such local educational agencies have any administrative responsibility;

"(2) provide assurances that the State board or the local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the enrollment of students in schools or in courses of instruction within schools of such State board or such local educational agencies except to carry out the approved plan; and

"(3) to provide assurances that the State board or local educational agencies within the State will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students.

"(b) No plan may be approved under section 113 unless the Secretary, through the Assistant Secretary of Education for Civil Rights, determines that the assurances described in paragraphs (1), (2), and (3) of subsection (a) will be met.".

SEC. 502. REGIONAL MEETINGS ON REGULATIONS.

Part A of title V of the Act is amended by inserting at the end thereof the following new sections:

"REGIONAL MEETINGS ON REGULATIONS

"SEC. 507. (a) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education programs under this Act, such as Federal, State, Tribal and local administrators, parents, teachers, members of local boards of education and special populations described in section 223.

"(b) During each such meeting, the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational Education Act Amendments of 1989. The Secretary shall take into account information received at these meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(c) Once such regulations have been promulgated as final, the Secretary shall convene regional meetings to share information regarding implementation of the final regulations under the Carl D. Perkins Vocational Education Act Amendments of 1989. Such meetings shall include individuals and groups involved in vocational education under this Act, such as Federal, State, Tribal, and local administrators, parents, teachers, and members of local boards of education.

"FEDERAL MONITORING

"SEC. 508. The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this Act with the provisions of this Act. Such monitoring activities shall be developed by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

"(1) consider items such as whether the provisions of the State plan are being fully implemented;

"(2) consider items such as whether the State board's monitoring of local recipients of assistance under this Act is adequate to assure full compliance with the provisions of this Act by such recipients;

"(3) consider items such as whether the State-level coordinators for each of the special populations described in section 223 are able to review the local plans for serving such special populations;

"(4) consider items such as whether the other State responsibilities under this Act are being implemented; and

"(5) provide for input from students, parents, teachers, and special populations in the States.".

SEC. 503. DEFINITIONS.

Section 521 of the Act is amended—

(1) in paragraph (2), by striking "program";

(2) by amending paragraph (3) to read as follows:

"(3) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market; or

"(B) the department of a high school exclusively or principally used for providing vocational education in no less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market; or

"(C) a school that offers both secondary and postsecondary instruction, but where secondary instruction is provided in no less than 5 different occupational fields to indi-

viduals who are available for study in preparation for entering the labor market.";

(3) by striking paragraph (10) and redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(4) by inserting the following new paragraph (8) after paragraph (7);

"(8) the term 'State correctional education agency' means the State agency or agencies responsible for carrying out correctional education programs in the State;"

(5) by striking paragraphs (12), (13), and (14) and redesignating paragraphs (15), (16), and (17) as paragraphs (11), (12), and (13), respectively;

(6) in paragraph (12) (as redesignated in paragraph (4)) by striking the "term 'handicapped', when applied to individuals, means" and inserting "terms 'individual with a disability or individuals with disabilities' means";

(7) by inserting the following new paragraph (14) after paragraph (13) (as redesignated in paragraph (4)):

"(14) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.";

(8) by redesignating paragraphs (18) through (32) as paragraphs (15) through (29), respectively; and

(9) by inserting the following new paragraphs at the end thereof:

"(30) the term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety;

"(31) the term 'local eligible recipient' means a local educational agency, an area vocational school, an intermediate educational agency, or the State correctional education;

"(32) the term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(33) the term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act Aid to Families With Dependent Children within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate.

"(C) is described in subparagraph (A) or (B) and is a criminal offender;

"(34) the term 'prevocation services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities;

"(35) the term 'sequential course of study' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education;

"(36) the term 'technology education' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy; and

"(37) the term 'specific job training' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.".

TITLE VI—CORRECTIONAL EDUCATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1989".

SEC. 602. CORRECTIONAL EDUCATION.

Title II of the Department of Education Organization Act is amended by—

(1) redesignating section 214 as section 215; and

(2) inserting the following new section 214 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 214. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs; and

"(5) consult with, and provide outreach to, State directors of correctional education and correctional educators.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

"(3) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Act is amended to read as follows:

"SEC. 3. (a) There are authorized to be appropriated $1,500,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III and IV of this Act.

"(b) There are authorized to be appropriated $10,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 for section 112 of title I, relating to State councils on vocational education.

"(c)(1) There are authorized to be appropriated $14,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part A of title III, relating to State assistance for vocational education support programs by community-based organizations.

"(2) There are authorized to be appropriated $37,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out part B of title III, relating to consumer and homemaking education.

"(d) There are authorized to be appropriated $100,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of this part F of title III.

"(e) There are authorized to be appropriated $3,000,000 for each of fiscal years 1991 and 1992 to carry out the provisions of section 403. Such funds shall remain available until expended.

"(f)(1) There are authorized to be appropriated $350,000 for fiscal year 1991 to carry out part D of title IV relating to the National Council on Vocational Education.

"(2)(A) There are authorized to be appropriated $200,000 for fiscal year 1992 to carry out part D of title IV relating to the National Council on Vocational Education.

"(B) Amounts available from any amount appropriated pursuant to the authority of subparagraph (A) shall be limited to an amount equal to 200 percent of the services and funds received pursuant to section 431(c)(4) and 431(c)(5) during such fiscal year.

"(g) There are authorized to be appropriated $7,000,000 for the fiscal year 1991 and such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995 to carry out part E of title IV, relating to bilingual vocational training programs.

"(h) From the funds appropriated pursuant to subsection (a) for each fiscal year, 2.75 percent shall be available to carry out the provisions of title IV (other than part E), relating to national programs.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Act is amended by—

(1) striking the item relating to section 115 and inserting "State Assessment";

(2) striking out the items relating to title II and inserting the following:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"Sec. 201. State programs and State leadership.
"Sec. 202. Sex equity programs.

"PART B—TECHNOLOGY PREPARATION

"Sec. 211. Program authorized.
"Sec. 212. Technical preparation education programs.
"Sec. 213. Applications.
"Sec. 214. Definitions.

"PART C—SECONDARY, POST-SECONDARY, AND ADULT VOCATIONAL PROGRAMS

"Subpart 1—Secondary School Programs

"Sec. 221. Within State allocation.
"Sec. 222. State reserve for areas with severe problems.
"Sec. 223. Populations to be served.
"Sec. 224. Programs for economically disadvantaged students.
"Sec. 225. Programs for students with disabilities.
"Sec. 226. Programs for students with limited English proficiency.
"Sec. 227. Programs to eliminate sex bias.
"Sec. 228. Programs for criminal offenders.
"Sec. 229. Use of funds.
"Sec. 230. Local applications.
"Sec. 231. Performance evaluation and improvement.
"Sec. 232. Program improvement plan.

"Subpart 2—Postsecondary and Adult Programs

"Sec. 240. Postsecondary and adult programs.
"Sec. 241. Postsecondary and adult use of funds.
"Sec. 242. Programs for single parents, displaced homemakers and single pregnant women.

"Subpart 3—General Provisions

"Sec. 250. State performance evaluation and improvement.
"Sec. 251. Administrative provisions.";

(3) inserting the following at the end of title III:

"PART F—SUPPLEMENTARY GRANTS

"Sec. 351. Supplementary grants.
"Sec. 352. Allotment to States.
"Sec. 353. Allocation of funds to eligible recipients.
"Sec. 354. State applications.
"Sec. 355. Local applications and local use of funds.
"Sec. 356. Definitions.";

(4) in the item relating to section 403 by striking "programs assisted under this Act";

(5) in the item relating to section 404 by striking "Center" and inserting "Centers";

(6) inserting the following at the end of part A of title IV:

"Sec. 405. Study of Carl D. Perkins Vocational Education Act Formula.";

(7) striking the items relating to part B of title IV and inserting the following:

"PART B—DEMONSTRATION PROGRAMS

"Sec. 411. Programs authorized.
"Sec. 412. Demonstration projects for the integration of vocational and academic learning.
"Sec. 413. Business and industry partnerships.
"Sec. 414. Model programs of regional training for skilled trades.
"Sec. 415. Blue ribbon vocational education programs.
"Sec. 416. Materials development in telecommunications.
"Sec. 417. Professional development.
"Sec. 418. Educational programs for Federal correctional institutions.
"Sec. 419. Vocational education lighthouse schools.
"Sec. 420. Career and guidance counseling programs.
"Sec. 420A. Dropout prevention.";

(8) striking the item relating to section 422 and inserting "National Occupational Information Coordinating Committee";

(9) inserting the following new item after the item relating to section 423:

"Sec. 424. National network for curriculum coordination in vocational and technical education.";

(10) striking the item relating to section 502 and inserting "Certification requirements"; and

(11) inserting after the item relating to section 506 the following:

"Sec. 507. Regional meetings on regulations.".

SEC. 802. THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) TABLE OF CONTENTS.—Section 1 of the Department of Education Organization Act is amended by striking the items relating to section 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.
"Sec. 215. Federal Interagency Committee on Education.".

(b) REPEALER.—Section 213 of the Department of Education Organization Act is repealed.

SEC. 803. HIGHER EDUCATION ACT.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE IX—EFFECTIVE DATE

SEC. 901. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this Act shall take effect on July 1, 1991.

(b) INDIAN PROGRAMS.—(1) Except as provided in paragraph (2), the amendments made by sections 101(a)(2) and 103 of this Act shall take effect on October 1, 1990.

(2) The provisions of section 101(a)(1)(C) of the Carl D. Perkins Vocational Education Act, as added by this Act, shall not apply before July 1, 1991.

TITLE X

The General Accounting Office (GAO) shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany.

Furthermore, the GAO shall conduct a thorough study of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

In studying the West German Dual System of Vocational Education, the GAO shall assess:

the ability of such a system to prepare workers for the technical workplace;

the level of academic skills an apprentice in the Dual System acquires;

the effectiveness of combining on-the-job training with classroom instruction;

the dropout rate of West German students;

the construction and oversight of skill certification tests;

the labor mobility of apprentices;

if such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;

the value and productivity of apprentices to business;

the direct and indirect costs/benefits to the country, industry, company and individual that result from the Dual System of Vocational Education.

In assessing the ability of a similar program to be replicated in the United States, the GAO shall evaluate such factors as:

existing job apprenticeship programs and their ability to prepare workers for the technical work place;

the future need for skilled workers and the extent to which job apprenticeship programs could meet these future workforce needs;

the appropriate age or grade level for students to enter job apprenticeship programs (i.e. secondary v. postsecondary students or both);

the potential for such programs to reduce the dropout rate, place more qualified workers in the work place, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

the training wage appropriate for an apprentice;

the estimated value and productivity of apprentices to business;

the federal and state role in regulating and funding such programs;

the direct and indirect costs-benefits of such a program to the federal and state governments, industry, the company and the individual.

The study, together with comments and recommendations, shall be completed and presented to Congress no later than one year from the date of enactment of this Act.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1466

Mr. LAUTENBERG (for himself, Mr. BRADLEY, Mr. HEFLIN, Mr. KOHL, and Mr. MOYNIHAN) proposed an amendment to amendment No. 1465 proposed by Mr. PELL (and others) to the bill S. 1109, supra, as follows:

In the pending amendment at the end of title III:

On page 87, between lines 3 and 4, insert the following:

SEC. 303. COMMUNITY EDUCATION EMPLOYMENT CENTERS.

Title III of the Act (as amended by section 302) is further amended by inserting at the end thereof the following new part:

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1989'.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions: and

"(3) employment, including military service.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients having applications approved pursuant to section 10 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extend possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into one or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels, with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities; and

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not reduce academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (hereinafter referred to as the 'Council') consisting of one individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State Council on vocational education; and for the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations; and

"(G) parents.

"(b) FUNCTIONS OF THE COUNCIL.—(1) Council shall provide recommendations to, and work with, eligible recipients to—

"(A) establish annual community education employment center priorities, programs, and procedures;

"(B) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

"(C) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(D) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(E) assist in the selection and application of assessment tools for continuous evaluation of student learning progress; and

"(F) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment.

"SEC. 367. PROFESSIONAL STAFF.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY AND APPLICATIONS.

"(a) ELIGIBILITY.—An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves one or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965:

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part, shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentra-

tion of children from low-income families, relative to the county and State as a whole:

"(2) describe the activities and services for which assistance is sought:

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368:

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary school in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 370. EVALUATION AND REPORT.

"(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student and community participation in the activities of the community employment education center.

(b) REPORT.—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) by October 1, 1995.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

"SEC. 372. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $16,000,000 for fiscal year 1991 and each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of this part.".

EMERGENCY SUPPLEMENTAL ASSISTANCE FOR PANAMA, NICARAGUA, AND SUB-SAHARAN AFRICA ACT

PELL AMENDMENTS NOS. 1467 and 1468

Mr. PELL proposed two amendments to the bill (S. 2364) to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and sub-Saharan Africa, and for other purposes, as follows:

AMENDMENT No. 1467

At the end of section 8, add the following new subsection:

"(c) COMPLIANCE WITH THE BUDGET ACT.—New credit authority provided in this section is to be effective only to such extent or in such amounts as is provided in advance in appropriation Acts.".

AMENDMENT No. 1468

Beginning on page 20, with line 20 strike all through the "(2)" on line 3 of page 21.

GRAMM AMENDMENTS NOS. 1469 AND 1470

Mr. PELL (for Mr. GRAMM) proposed two amendments to the bill S. 2364, supra, as follows:

AMENDMENT No. 1469

Section 3 is amended by inserting immediately after subsection (a) the following subsection:

"( ) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this section shall be used to encourage and assist the Government of Nicaragua in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.".

AMENDMENT No. 1470

Section 7(a) is amended by inserting immediately after paragraph (1) the following paragraph:

"( ) OBJECTIVES OF ASSISTANCE.—The assistance authorized by this subsection shall be used to encourage and assist the Government of Namibia in taking necessary steps to restructure government policy and administration in order to allow the proper functioning of a market economy and political democracy. Among these steps should be the formulation and execution of sound economic policies and improved public sector management, with special attention to such areas as fiscal policy, the financial sector, budget planning and implementation, privatization of public enterprise, trade policy, and regulatory policy.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resouces.

The hearing will take place on Monday, April 19, 1990, at 2 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony concerning reclamation and bonding practices associated with hard rock mining on Federal and State lands.

Those wishing to submit written statements for the hearing record should deliver them to the Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, room 364, Washington, DC. 20510. For further information, please contact Lisa Vehmas of the subcommittee staff at (202) 224-7555.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on May 1, 1990, beginning at 2 p.m. The purpose of the hearing is to receive testimony on the following measures currently pending in the subcommittee. The measures are:

S. 1831, to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM;

S. 2014, to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico;

S. 2143, to establish the Organ Mountains National Conservation Area in the State of New Mexico and for other purposes;

S. 2165, to establish the Glorieta National Battlefield in the State of New Mexico;

S. 2254, to establish the Pecos National Historical Park in the State of New Mexico, and for other purposes;

S. 2420, to establish the Mimbres Cultural National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico and for other purposes;

S. 2430, to amend the Zuni-Cibola National Historical Park Establishment Act of 1988 to enlarge the time in which the Secretary of the Interior may accept a leasehold interest for inclusion in the park; and

S. 2432, to provide for payments in lieu of taxes to be made with respect to certain lands co-managed by the Bureau of Land Management and the Secretary of the Army.

The hearing will be held in room SD-366 of the Senate Dirksen Office Building in Washington, DC. Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding this hearing, please contact Beth Norcross of the subcommittee staff at (202) 224-7933.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, the Committee on Small Business has scheduled a hearing for Wednesday, April 18, 1990, to receive testimony on the Small Business Administration's Small Business Development Center Program. It is to be held in the committee's hearing room, SR-428A, commencing at 9 a.m. Senator NUNN will serve as acting chairman.

The Small Business Administration's Small Business Development [SBDC] Program provides a diverse array of business counseling, training, and other specialized assistance to many types of small business clients. The SBDC Program is conducted at the State and local level through a national network of centers, which are most commonly operated by college and universities. Currently, the program operates some 56 centers in 49 States, the District of Columbia, Puerto Rico, and the Virgin Islands. In addition, these centers provide services to their clients through over 600 subcenters.

Individual centers receive Federal funding through annual cooperative agreements awarded by the SBA. By statute, an SBDC's Federal funding must be matched by an equal amount of funding from non-Federal sources.

The SBDC Program was started by the SBA in 1977, on a pilot program basis. It was provided statutory authorization through Public Law 96-302, the Small Business Development Center Act of 1980 (15 U.S.C. 648).

Testimony will be requested from representatives of the General Accounting Office [GAO], the Association of Small Business Development Centers, and three participating SBDC's. At my request, the GAO conducted a review of the SBDC Program. On November 22, 1989, GAO submitted its report, "Small Business Development Centers Met Counseling Needs of Most Clients" (GAO/RCED-90-38BR). GAO's witness will present to the committee the findings of this report.

Further information concerning the committee's hearing on the Small Business Development Center Program may be obtained from the committee's procurement policy counsel, William B. Montalto; Bill may be reached at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. MITCHELL. Mr. president, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, April 5 at 10 a.m. for a hearing on reauthorization of the National Endowment for the Humanities.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 5, at 2 p.m. to hold a hearing on the state of the world's children.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 5, 1990, at 2 p.m. to hold a hearing on the nomination of Lawrence M. McKenna, to be U.S. district judge for the Southern District of New York, James F. McClure, Jr., to be U.S. district judge for the Middle District of Pennsylvania, David H. Souter, to be U.S. circuit judge for the first circuit, and Samuel A. Alito, Jr., to be U.S. circuit judge for the third circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Armed Services Committee be authorized to meet in closed session on Thursday, April 5, 1990, at 9 a.m. to discuss and act on the issue of unauthorized appropriations, issues relating to the fiscal year 1990 supplemental, and the military personnel reprogramming request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet in open session on Thursday, April 5, 1990, at 2 p.m. to receive testimony on chemical deterrent programs in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 5, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 5, 1990, at 10 a.m. to hold a hearing on Pension Benefit Guaranty Corporation insurance of retirement annuities provided by insurance companies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., April 5, 1990, for a hearing to receive testimony on S. 324, the National Energy Policy Act of 1990, a joint staff amendment in the nature of a substitute; and S. 2191, the Federal Energy Management Amendments of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., April 5, 1990, for a hearing to receive testimony on S. 2117 and H.R. 2570, to designate certain lands as wilderness in the State of Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, April 5, 1990, at 10 a.m. to hold hearings on S. 2028, the Fair Trade in Financial Services Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 5, at 3 p.m. to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 5, 1990, at 2:30 p.m. on the Air-

line Competition Enhancement Act (S. 1741).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Consumers, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 5, 1990, at 9:30 a.m. on the effect of product liability law on competitiveness and on insurance (S. 1400).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 5, at 10:30 a.m., for a markup on: S. 1742, the Federal Information Resources Management Act, and nomination of Richard G. Austin, to be Administrator of General Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, April 5, 1990, at 8:30 a.m. to hold a hearing business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RON ROHMER, WELI-AM'S "MORNING MAN"

● Mr. LIEBERMAN. Mr. President, today I rise to recognize the contributions of one of Connecticut's most familiar radio personalities, Ron Rohmer who recently celebrated his 30th anniversary with New Haven radio station WELI-AM. As WELI's "morning man" he has had the professional distinction of waking up Connecticut radio listeners including me with his quick wit, celebrated personality, important information, and good music.

Ron Rohmer immigrated to the United States in the 1950's from Canada. As a native of Winnipeg, Manitoba, Ron developed an early interest and talent in the sport of ice hockey. After playing professional hockey in Detroit and Cleveland, Ron moved to New England and began skating for the New Haven Blades, better know today as the New Haven Nighthawks.

Even after retirement from professional hockey, Ron continued a personal interest in the sport and become the first radio play-by-play announcer for the Nighthawks. He also achieved another first in his 1972 broadcast of the first American Hockey League game against a Soviet team.

It is with great pleasure that I take this moment to honor Ron Rohmer for the significant contributions he has made to Connecticut broadcasting over the past 30 years. It takes incredible determination to host a live radio show every weekday morning beginning before the sun rises. I can only imagine the sacrifices he has had to make to fulfill his responsibilities to our community. Even when it would have been more desirable to roll over, turn off the alarm, and miss his moring show, Ron never disappointed his listeners. Although the broadcast signal of WELI doesn't reach me here in the Nation's Capitol, I'm sure Ron started this day as he has for the past 30 years, with thousands of faithful listeners at WELI.

I congratulate Ron for the success of his show and the continued enjoyment he shares with each and every listener. Mr. President, radio listeners throughout Connecticut have relied on Ron Rohmer to let them ease into the day. His dedication to broadcasting and to his State is a inspiration. May he enjoy many more years of good health and happiness as the on-air morning man for WELI.●

BATES FABRICS AND THE GEORGE WASHINGTON QUILT

● Mr. COHEN. Mr. President, the saying that quality never goes out of style has particular relevance to a fabrics manufacturer in Lewiston, ME. In the time that more faddish products have come and gone, this company has continually produced one of its quality products.

I am referring to Bates Fabrics and its famous George Washington's choice bedspread, a familiar aid to many who weather Maine's frigid winters. This past President's Day, Bates celebrated the 50th year anniversary of this quilt.

Production of the George Washington quilt began less than auspiciously in 1940. It did not catch on with consumers. But following the addition of a double knit fringe and some other minor adjustments, sales took off. In its heyday, 200,000 quilts were purchased each year. Weavers worked 7 days a week making the quilt but could not keep up with demand.

Today Bates may be a victim of its own success. It sells only about 35,000 George Washington's choice quilts a year. The reason, says Fred Lebel, Bates' executive vice president, is that people who bought the quilts years and years ago still have them and don't need to buy new ones.

An article about this 140-year-old company and its famous quilt recently appeared in the Lewiston Sun Journal. I congratulate Bates Fabrics on its tradition of quality and ask that the article be placed in the RECORD.

The article follows:

[From the Lewiston (ME) Sun-Journal, Feb. 22, 1990]

FAMOUS SPREAD HITS 50

(By Martha C. Dumais)

LEWISTON.—They have names like George Washington, Abigail Adams and Queen Elizabeth, but they're not historical figures. They are, instead, bedspreads that have made history for Bates Fabrics.

Tonight, on the birthday of the first U.S. president, Bates, celebrates the 50th anniversary of its "George Washington's Choice" bedspread, the one that "probably made Bates," according to Fred Lebel, the company's executive vice president.

Bates has sold about 5,000,000 of the bedspreads since 1940, Lebel said. The item is available in white and antique white. The king-size version retails for approximately $200, Lebel said, and is available "at better retail stores around the country."

It was designed by George Mills and developed by Bates production men, Level said. "Fixers," now known as loom technicians, took Mills' idea and adapted it to "only 36 looms at first," Lebel said.

Eddie Langlois, one of the original weavers said the first George Washingtons had many problems. When production of the bedspread first started, Lebel said, "It was a dud. It didn't even have a fringe." A doubleknotted fringe was added and other adjustments were made, and "then it took off," Lebel said. The company sold 200,000 George Washingtons a year then, and about 35,000 a year now.

According to Langlois, weavers in the bedspread's heyday worked seven days a week around the clock, and production still couldn't keep up with sales.

"I wish this were the case today," Lebel said. "We've been knocked off by competitors," he said, many of whom copied the George Washington design. "But they could never copy our quality."

His claim was echoed by Don Taylor, plant manager, and Maurice Provencher, weaver room superintendent, who take pride in weave room equipment and products. A modern, 1983-vintage machine is "the cadillac of looms," Provencher said. But the real beauties are the 1940 machines, which today still produce George Washington after George Washington, using miles of 100 percent cotton thread and about 5,000 pattern cards.

In response to the success of the George Washington's Choice, which Taylor referred to as the "Style 2,000," Bates became interested in making the bedspread in king size. Loom manufacturers said a machine that size wasn't feasible, Lebel said. But the Bates employees "didn't accept that. They built the king-size loom."

The old looms that produce the George Washington shine with wood and make loud, clanking, noises as they weave the pattern, including a "pedigree" at one end of each bedspread that tells its size, style, year of production and loom number.

The bedspread comes off the loom "in the gray," or unfinished, and is then washed, fringed, inspected, bundled, packed and shipped, Taylor said.

To celebrate the George Washington, the 140-year-old firm will gather management and veteran employees at the Harvest House in Lisbon this evening. The event will

include a drawing for the George Washington' Choice Sweepstakes. Three bedspread owners will be shosen as winners of cash prizes totaling $10,000.

Whether sweepstakes winners or not, Lebel said, owners of the bedspread are happy with their purchases. One reason sales have declined, he said, is that "people who bought the bedspreads years and years ago still have them" and don't need new ones.●

UNIVERSITY OF WISCONSIN-MADISON NCAA HOCKEY CHAMPIONS

● Mr. KOHL. Mr. President, in Wisconsin, our State's tourism slogan is: "You're among friends." Lately, there's talk of changing that slogan to: "You're among friends and the 1990 NCAA Hockey Champions."

Last Sunday, the hockey team at the University of Wisconsin-Madison glided past Colgate to win the 1990 National Collegiate Athletic Association Hockey Championships. The score was 7 to 3.

I congratulate Coach Jeff Sauer and the entire Badger team on their impressive and well-deserved victory. I am proud of them; the entire State is proud of them, not only for their incredible athletic skills but also for their solid academic achievement.

Hockey is a long and proud tradition in Wisconsin, and this superb team has kept up that tradition in fine form by giving UW its fifth national title. Next year, we're going for No. 6. Go Badgers.●

LUCY POULIN AND HOME

● Mr. COHEN. Mr. President, we all know that the best things in life don't come from money but from the human heart. But few would guess just how much good can be created with a little money and a lot of heart unless they looked at Homemakers Organized for More Employment or HOME in Orland, ME.

HOME was created almost entirely without Federal funds, relying instead on donations, volunteer labor, and a ragpicker's philosophy of recycling discarded items to help the needy.

HOME is a community built and run by people who would usually be considered unemployable. Many are poor, largely untrained, and illiterate. But they have put their energies and determination together to create an extraordinary community.

With the perseverance and determination of its founder, Lucy Poulin, HOME has spread from an old farm bought to serve as a retail outlet for Maine craftsmen to include such services as a 2-year accredited college, four food banks, a free firewood project, four emergency shelters for the homeless and battered women, a day care center, a cobbler's shop, and a flea market selling clothes and shoes, and is currently working on a free medical clinic for the poor. Poulin estimates that over 30,000 low-income people have benefited from HOME's array of services.

I encourage all my colleagues to visit this wonderful triumph of the human heart and ask that an article that appeared in the Boston Globe describing HOME be placed in the RECORD.

The article follows:

IN MAINE, A H.O.M.E. WITH HEART

(By Judith Gaines)

ORLAND, MAINE.—As a driver nears the crest of a hill along Route 1 in Orland, on the tourist trail to booming Bar Harbor, a large board with handcut wooden letters announces the beginning of this story. "This is h.o.m.e.," the sign says.

Then it appears: an odd little village consisting of a few homes, a market stand, learning center, a big crafts store, cobbler's shop, weaving shop, stitchery, leather shop, flea market, woodworking shed, pottery shop, museum, church, woodlot, sawmill, shingles factory, garage and more—simple, rustic structures, all neatly labeled.

The more you know about H.O.M.E.—or Homemakers Organized for More Employment—the more unbelievable it seems:

It's a community built and run by poor, largely untrained and illiterate folks usually assumed to be unemployable, "society's discards" in the words of H.O.M.E.'s founder, Lucy Poulin, 49.

It has been created almost entirely without federal funds, relying instead on donations, volunteer labor and an ingenious "ragpicker's" philosophy: Consider the waste thrown away by the rich and recycle it, piecing together one scrap here, another there, to help the needy.

Many of its programs are highly unconventional. The learning center, for instance, includes an accredited two-year college offering an associate liberal arts degree to students who do not need a high school diploma to apply.

After a well-known management consultant visited H.O.M.E. about 15 years ago, he told community members that, considering their financial and organizational structure, they shouldn't exist and wouldn't last much longer without drastic changes.

But they kept plugging away in the same unconventional spirit, and this year H.O.M.E. is celebrating its 20th anniversary.

Poulin estimates that, to date, more than 30,000 low-income people have been served by H.O.M.E.'s wide array of programs and services.

There never was a plan behind it all, explained this intense and determined woman, sitting in her make-shift office wearing jeans, boots, a flannel shirt and, around her head, her trademark's bandana.

In 1970, Poulin was a Carmelite nun living in a hermitage nearby when a local quilter asked for help. Like many Maine craftspeople working in their homes at that time, the quilter needed a retail outlet.

So Poulin and a group of interested locals arranged to buy an old farm on 23 acres in Orland and began selling crafts there. The project was so successful that they soon outgrew the farmhouse and built a large store.

As the group began working to improve the quality of the crafts, they realized some people couldn't follow patterns because they couldn't read. So they started a school stressing basic adult literacy. And they built craft shops where people could come for more training. Some began living at the site.

As Poulin and others became more involved with the families they helped, they discovered more needs. Gradually H.O.M.E. expanded to include four food banks, a free firewood project, four emergency shelters for the homeless and for battered women and children, a day-care center, a cobblers' shop and a flea market selling clothes and shoes.

H.O.M.E. is located in Hancock County, where the booming tourist business and influx of affluent outsiders means many locals are being squeezed out of the housing market and off their land, Poulin said. So in 1978 she launched a low-cost homebuilding program on land trust property.

As Jack Hovey, 47, president of the Covenant Community Land Trust, explained, under this program, families can use the land and pass it along to their children; but they cannot sell it. They can sell their home, but only for the amount they invested in it.

"About 350 volunteers built my home and many of the other ones," said Hovey, who couldn't read or write when he came to H.O.M.E. 13 years ago. "We didn't think people should make interest off free labor, and we want those houses to stay in the low-income bracket forever."

Currently, the land trust consists of 660 acres with four rehabilitated houses and 13 new homes, including two unusual duplexes for single-parent families, "so they can share the shopping and parenting and such," Poulin said.

To make the idea work, H.O.M.E. begged and borrowed money to buy the land, cut the trees on it, milled them into timbers and shingles, gathered other materials wherever they could find them, and then got volunteers to help with plumbing, wiring and construction.

H.O.M.E.'s school expanded to include a two-year liberal arts college. Its shelters expanded to include an alternative prison program. And now Poulin is busy developing its latest service: a clinic providing free medical care for the poor.

Who's funding the clinic? she was asked.

"No one," she replied, explaining that some clinics have donated old examining tables, and doctors have agreed to volunteer some time, and maybe some hospitals "will clean out part of their basements," giving them old equipment and supplies. "We'll make it work," she said flatly.

Wandering around this unusual village, a visitor soon feels that H.O.M.E. is more than a ragtag collection of jerrybuilt homes and patchwork programs. It's a sales outlet for 350 craftspeople, school for 80 students, college for 12, day-care center for 15 children, outreach center for 300 families. It's literally home to hundreds of poor people, providing permanent housing for about 40 and temporary shelter for 525. And it's a minimum-wage employer for about 60 people whom, Poulin says, "most companies wouldn't hire."

But more than this, as Karen Gilman, 29, a single, unemployed parent living in one of the land trust homes, observed, "It's a bond, an ongoing bond." And as Marion Bridges, 75, a craftswoman suffering debilitating arthritis, commented, it's a community of "decent, caring people."

In interviews last week, many told moving stories about how H.O.M.E. has changed their lives.

"My parents had this habit of giving nicknames. Mine was Stupid." said Theresa Harriman, 41, now working in H.O.M.E.'s stitchery. "Until I went to school, I thought

that was my name because that's what they called me."

"The more I felt inadequate, the farther behind I got until they just passed me over because I was too far behind to catch up," she continued. "And I never opened my mouth, because I was afraid they'd find out I couldn't read or write."

After her husband left her and her mother and sister were killed in a car accident, "I thought I was headed for a nervous breakdown," Harriman said.

Befriended by a crafter at H.O.M.E., Harriman discovered she wasn't dumb, just dyslexic. She joined the literacy program, got her driver's license and learned how to make toys.

"Now I don't like anybody telling me I can't," she said.

Arlene Alden, 54, an epileptic from a family of 23, fell on a red hot stove at age 5, suffering third-degree burns. After that she spent seven years in and out of the hospital, "out of school more than I was in, always sick and upset," she said.

Afraid that people would make fun of her burns and her "spells," she spent her first 50 years unable to read even grocery labels or street signs. To find her way around, she said, she looked for clues. "If I saw a penny with its head up, I'd know that was the right way," she said.

Now she spends part of each workday helping out in the day-care center and the rest "visiting people in all the different places here, tellin' 'em how great they're doin'," she said.

"It feels like a whole new life to me."

As H.O.M.E. begins its 20th year, its financial situation is "desperate," Poulin said, and particularly so because Commercial Union Insurance of Massachusetts just canceled all H.O.M.E.'s insurance.

"But it's been very difficult for 20 years," Poulin said, and she isn't discouraged.

"Something clicks when you create an atmosphere where it's easy for people to do the right thing," she said.●

NATIONAL LABORATORY WEEK

● Mr. ADAMS. Mr. President, I rise today to recognize National Laboratory Week, April 8–14, 1990. Approximately 250,000 certified laboratory personnel in the United States including pathologists, medical technologists, medical laboratory scientists, specialists, technicians, and assistants in clinical laboratory science work in more than 12,000 medical laboratories in the United States. In light of reports citing serious and sometimes tragic problems regarding the accuracy of laboratory test results, it is even more important that we recognize those certified laboratory personnel who perform their jobs accurately and responsibly.

Medical technologists also provide their technical skills in research of new disease entities at universities and research centers such as the National Institutes of Health.

These dedicated health professionals make a substantial contribution to quality health care in this country. I am actively involved in efforts to help certified laboratory technologists produce dependable laboratory test results. The accurate work of these dedicated professionals is essential to the detection, diagnosis, treatment, and prevention of disease.●

RECOGNITION OF A SPEECH MADE BY RONALD LANGSTON FROM DES MOINES, IA

● Mr. GRASSLEY. Mr. President, at this time, I want to bring to the attention of my colleagues a prophetic speech made by Mr. Ronald Langston from Des Moines, IA, 5 years ago today regarding the ultimate reunification of Germany.

Mr. Langston, who currently serves as a national urban fellow, gave this speech to the Third Transatlantic Conference of the Atlantic Alliance which met in West Berlin on April 5, 1985. The topic of his address was "The New Grand Allliance—The Next Generation."

In his address, Mr. Langston boldly sounded a note of optimism regarding Germany's inevitable reunification. Unwilling to accept the status quo, he issued a challenge for action to reunite Germany and called for a free Europe.

Now, as we begin the 1990's, a long-divided Germany leaps toward reunification, and a dominated Eastern Europe moves toward freedom and democracy. We are all watching with exhilaration the series of unfolding events taking place around the world. Upheaval after upheaval has changed the face of rule and dominion. Few of us foresaw just how radically the political landscape of the world could be altered in the space of a few months.

Today, on the fifth anniversary of Ronald Langston's address, I commend him for his wisdom and vision.

Mr. President, I ask that Mr. Langston's speech be printed in the RECORD following my introductory remarks.

The speech follows:

THE NEW GRAND ALLIANCE—THE NEXT GENERATION

(By Ronald Nathaniel Langston)

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new so we must think anew. We must disenthrall ourselves."—Abraham Lincoln.

Forty years ago the Allied Big Three: Great Britain, The United States and the Soviet Union met at Yalta to settle the fate of post World War II Europe. In the balance lay the division of Europe into Eastern and Western spheres of power and the partitioning of Germany.

I can think of no other city than Berlin which represents the legacy of Yalta and the reality of the present state of East-West relations in the context of this Third Trans-Atlantic Conference.

The city of Berlin represents what is still terribly marred about the past history of our respective nations, . . . but it also symbolizes hope and optimism that the present peace and co-existence among the allies and the Soviet Union will someday lead to freedom through self-determination and unity for all of Europe.

The purpose of my remarks today is not to present a dissertation on the status of the Atlantic Alliance, but rather to reaffirm a commitment that the unity of the free world and all those who seek freedom through self-determination is still the goal of yet another generation of young Americans.

Furthermore, it is important for the Soviet Union (in particular) to realize that the next generation of young Americans will not view the Yalta Agreement as giving an absolute free-simple conveyance (i.e. a lifetime right of ownership) of Eastern Europe to the Soviet Union or her heirs.

The West and especially the new emerging leadership must commit itself to the development of a new unified Europe. They must disenthrall themselves from the dogmas of the past, learn from the present and confront the future anew with wisdom as well as optimism.

However, before we can forget the past, we must understand what happened. . . Why . . . and be cognizant that the past affects the future. The new emerging leadership in the West must learn Soviet history, for therein lies the key to predicting her behavior more so than her actions.

Imagine yourself as the Caspar Weinberger of the Soviet Union at the end of World War II. Your commander in chief is greatly concerned about the historic vulnerability of the Soviet border. You are asked to devise a strategy to protect the national interest and sovereign integrity of the Motherland. What would your response be? I suggest it would be the following:

Eliminate the historic "German Invasion route" through Poland, Estonia, Lativa and Lithuania by annexing those countries and bringing them under the direct control of the Soviet Union.

Prevent German allies such as Rumania and Bulgaria from threatening the security of Russia in the future.

Occupy and control the countries bordering the Soviet Union such as Czechoslovakia, Hungary and Finland.

Control access to Yugoslovia and Albania.

Pressure Austria, Greece and Finland to become neutral thereby curtailing occupation expenses but maintaining the threat of possible occupation; and

Internally disrupt Germany and divide it into small states.

A student of European history, particularly Russian history, will quickly recognize the above-stated goals as the traditional Czarist Vision of Russia prior to the turn of the century. It is no coincidence that Post World War II Europe, particularly after Yalta, matches the Czarists vision almost identically.

Here is the heart of the Soviet motive in Europe. It is an historic concern for defense against invasion which precedes World War I or II . . . with particular precaution against its perceived natural predator Germany.

Having examined and analyzed Soviet history, we must now observe the new leader in Moscow in order to determine his posture in the East-West dialgoue. He is younger, more vigorous, allegedly "Westernized" and I suspect more committed to the national survival and economic prosperity of Mother Russia than his predecessors. I make this claim based upon my belief that the issue of economic competition with the West, namely the United States, has become an economic liability potentially as destructive as the perceived military threat from the West.

Specifically, Eastern Europe is now looking for a better quality of life . . . and frankly the West offers a great deal in the way of goods and services through economic trade. Former President Nixon in his book *Real Peace*, states this point most eloquently;

"Our strategy for peaceful competition affects all of our global relationships. We must unify the economic power of the industrial democracies so that we can gain political concessions from the Eastern block in exchange for our economic cooperation, * * *

"Our most difficult problem in this competition is finding a way to go over, under and around the Iron Curtain to carry it on in Eastern Europe and the Soviet Union itself * * *

"We must not treat the countries of Eastern Europe as if they were part of a monolithic Soviet block * * *

"Increased trade and contacts can advance peaceful change within the Soviet bloc."

Understanding the awesome responsibility and burden of the new leadership in the Kremlin to promote domestic economic prosperity in the Eastern block and within Russia will greatly assist the next generation of leaders from the West in planning a strategy to compete peacefully but successfully with the Soviets. What we must *not* do is give simple slogans or hollywood characterizations to a clearly defined and carefully planned history of Soviet national interests and future ambitions.

Specifically, there are those in the government and in the private sector, who do not analyze or characterize the relationship between the West and the Soviet Union as a space odyssey featuring Darth Vader, Luke Skywalker and "The Force".

The evil Empire of which Mr. Reagan speaks is not per se evil as much as it is paranoid of conquest and skeptical of foreign intrustion, however friendly or benign. Based on several centuries of Russian history it should be of no surprise to anyone, least of all the West, why the Soviet Union is determined to maintain its influence over Eastern Europe and in particular the partition of Germany.

The Soviet Union *may* alter its present posture in Europe if, and only if, the above stated historic national concerns for defense and territorial expansionism have unequivocally become moot issues. There are many who believe that the Soviet Union will never change, will never relinquish control of Eastern Europe, and that the suggestion that the Soviet Union will have a change of heart or conscience regarding Germany, in particular, is ludicrous.

To this view the cold war warrior has many friends and frankly it is a perspective which has great reality and merit. Nevertheless, if we are to remain optimistic about the future and vigilant in our fight for freedom we cannot subscribe to the dogmas of the past.

As we look toward the future it is important that the next generation of Western leaders take note and observe carefully the present world leadership and the political dynamics of East-West confrontation. This is especially true of President Reagan and Premier Gorbachev.

If all goes according to plan, President Reagan and Premier Gorbachev will meet to discuss East-West relations. Presently the Americans and the Soviet Union are meeting in Geneva over Strategic Defense Systems and nuclear arms control. There is no question that the occasion is piled high with difficulty, and we must rise to the occasion. There is, I believe, reason to hope. However, there must be something for which to hope.

The President of the United States in his upcoming visit to Bonn, West Germany has an excellent opportunity to interject the questions of a free Europe through self-determination into the present dialogue of East-West relations and the arms race. The President can no longer speak with eloquence and grace about freedom for those behind an Iron Curtain and yet fail to bring their plight to the conference table with the Soviets.

If the Soviets truly seek legitimacy and respectability in the International arena among Western nations, it should yield to new discussions on the question of a reunited Europe and within that context a reunited Germany. I believe that through improved relations between East and West there can be a new traditional balance of power in Europe where peace, freedom and unity can flourish once again.

The next emerging generation of leadership from the West will have to face these issues if they are to remain the defenders of freedom.

For the new emerging young leadership of the West, particularly in America, "the dogmas of the quiet past are inadequate to the stormy present." The present requires us to confront the status quo in Europe especially the partitioning of Germany. It further calls upon us to listen to the voices of change, and to extend the policy of Ostpolitik to a broader policy of "Deutschlandpolitik". In a recent article for *Foreign Affairs*, Winter, 1984–85, Walter Leider Kiep, former member of the Presidium of the Christian Democratic Union and former member of the West German Bundestag makes the following note:

"Deutschlandpolitik is a reflection of changing West German attitudes. The quest for new ideas and opportunities for personal identification is leading Germans back to their own history and into public discussion of 'national awareness,' 'homeland', 'fatherland' and 'nation'."

Herr Kiep further adds that "the fact there is currently no recognizable political opportunity to restore German unity peacefuly and in freedom, must not keep us from seeing that this might well be feasible some day, and, indeed that a change in the curent state of affairs is a historical necessity".

The time has come for the issue of a free united Europe, which includes Eastern European bloc countries, be made part of the East-West dialogue for peace. It is no longer acceptable dogma on the part of the Soviet Union in an age of inter-continental weapons and mass conventional forces to claim national defense and protectionism from the West as a basis for control of Eastern bloc nations.

The Soviet Union, if it has faith in its system, should support a democratic process of self-determination for all of Europe. The issue of German unification should be the decision of the two Germanys, not the Soviet Union or the United States.

THE AMERICAN COMMITMENT

Nearly 25 years ago a youthful American President proclaimed "That a torch has been passed to a new generation of Americans born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage . . . and unwilling to witness or permit the slow undoing of those human rights to which we are committed today and around the world."

This new emerging generation of which I speak are the children and grandchildren of those who fought to rid the world of Nazi tyranny and who today in their latter years still represent the beacon of light and best hope for freedom in the world. Their heirs, now adults, represent a "gigantic bulge of 56 million people from age 25–39 years old." According to Business Week of July 2, 1984. "There are now 55% more Americans aged 25–39 than 40–51." Furthermore, they represent 14.2% of the total U.S. population, 34.7% of the total U.S. labor force, and in the area of education they represent 13.9% of the general population.

To those in Europe and within the Eastern bloc, who believe that America's Baby Boomers, Yuppies and disenchanted youth are more concerned about obtaining material and financial wealth than the problems of the world. I suggest they look again.

In America there has always been a strong moral and social conscience to do what is right and to meet the challenges of change. This is most evident in the recent multi-million dollar success of the U.S.A. Africa recording of "We are the World". The words to that song represent the continued belief in the American Mission and the American dream of freedom, the pursuit of life, liberty and equality.

This new emerging generation in John Kennedy's words from "Strategy for Peace," "does not have to find new purposes. The American purposes are still wholly relevant. What this generation must do is to face its problems at home and abroad."

If there are any doubts among my colleagues from France, Great Britain or the Federal Republic of Germany as to the commitment of this emerging young America, fear not, " 'we will accept the risks and burdens to work for freedom . . . We will defend freedom.' "

"Peace in our time" must not be an empty promise . . . meaningless words on paper or the disdained symbolic security of an Iron Curtain. It must be a poignant reality measured in mutual appreciation and respect for the territorial integrity of sovereign nations' right to self-determination.

I can fully appreciate the sense of frustration and uncertainty resulting from American policy in Europe. The questions regarding the American Strategic Defense Initiatives and the role such initiative will play in determining a new European policy are critical elements to an already complicated scenario. However, do not confuse the rhetoric with the commitment. They are often not mutually inclusive. The commitment will endure as long as the beliefs upon which the commitment were founded remain a part of the United States Constitution, moral will, and the American sense of justice and equality.

Here in America you will find a young (Baby) Boomer generation who will conclude that our case is new, so we must think anew. They will not be the captives of the past dogmas nor the victims of fear and prejudice which marked the year immediately after World War II. I predict that this new emerging generation from America and the West will be practical in the application of justice, calm in their pursuit for equality and unafraid to see the world as it is and meet the challenges of change.

The issue is whether the Soviets will join in establishing a new Grand Alliance with the "Next Generation" of the West, or will the Soviets remain true to the dogmas of the past. The next generation of American

youth I predict shall disenthrall themselves from that past.

Ten years from today will be the 50th Anniversary of the Yalta Conference. It should be our pledge that by then the question of a divided Europe should be resolved. Equally important the question of a partitioned Germany should also be resolved effective the year 2000. "Deutschland 2000" should be based on the proposition that we should not enter the next century with a divided Germany or a divided Europe.

A new Grand Alliance and the emerging next generations can forge a new peace in which all of Europe can be free.

John R. Deane from his book "Strange Alliance," noted that "The Soviets and Americans collaborated to bring an end to tyranny and war in Europe. I ask that we collaborate once again and bring an end to division and fear in Europe".●

AN INVESTMENT PAYS OFF

● Mr. SIMON. Mr. President, on March 24, 1990, I had the pleasure of attending the address of Poland's Prime Minister Tadeusz Mazowiecki to the Polish-American community of Chicago. His speech, which I commend to my colleagues, justly praises the good work of Ed Moskal and the Polish American Congress in all their endeavors to help the people of Poland. I join with him in commending the consistently good work of the Polish American Congress, an organization with whom I have had the pleasure of working before, during and after drafting my legislation last year to assist the new Poland.

I first met Tadeusz Mazowiecki last August just days after he was sworn in as Poland's first non-Communist Prime Minister, and we have communicated several times since then. I have been impressed with his performance and his leadership. His visit to the United States was exciting and inspiring, and I think it's fair to say that the United States-Polish official relationship is becoming as warm as the people-to-people relations, which have always been warm.

Mr. President, I ask that Prime Minister Mazowiecki's address be printed in the RECORD in full.

The address follows:

ADDRESS OF POLISH PRIME MINISTER TADEUSZ MAZOWIECKI

Honored Governor, Honored Senator, Mr. President of the Polish American Congress, Ladies and Gentlemen—Dear Fellow Poles: I have come to Chicago, the capital of Polonia on the invitation of the Polish American Congress and through the personal efforts of President Edward J. Moskal. I am happy to be in this wonderful city which is the most populous center of the Polish diaspora, a city which has in the past and still continues to accept new visitors from Poland; a city which has become for these newcomers their second homeland.

I have come here with a special enthusiasm, because our journey here represents a return visit to the Polish American Congress, whose delegation was the first to travel to Poland after the establishment of our new government. Indeed, it was the Polish American Congress which provided the impetus for Polish organizations in the USSR, in France, and in the German Democratic Republic to begin to reestablish contacts with our land.

I would like to thank all of the Polish people as well as Americans of Polish descent and friends of our country for their long-term activism on behalf of Poland.

I sincerely thank you for your many charitable acts dating back to the 1940's and continuing to the present. Thank you for your support of Polish schools, of Polish publishers and publications, of Polish organizations, institutes and radio and television programs which serve to support our Polish heritage and your bonds with the land of your forebears.

I would now like to direct special words of gratitude to the leadership of the Polish American Congress for its efforts on behalf of and in defense of matters which are especially important to Poland. While never compromising your loyalty to America you have worked in the Polish national interests. The rebuilding of democracy in Poland is likewise due—to no small degree—to the achievements and efforts of the emigration.

I extend special thanks to you for your defense of our position on the issue of the inviolability of the Western border of Poland, and for your recent actions in the matter of the need for Polish participation at the conference over the reunification of Germany.

Poland owes a lot to its emigration, and we can hope to begin to pay off this debt by changing our politics in a fundamental way—under the watchful eye of all the Polish communities throughout the world.

Our doors are open to all generations of Polish Americans. We are presently tearing down all the barriers which had been constructed in the post-War period. Newly enacted laws and regulations involving the issuance of passports and the parameters of citizenship will make it possible for all generations to have a more productive climate in which to nurture their bonds with the Polish nation.

A new organization has been formed in Poland called the United Association of Poles and its chief goal is the full cooperation with all segments of the Polish communities throughout the world. We hope to work together with Polish parishes, with Polish American schools of language and culture and with other institutions throughout the emigration which wish to uphold the development of Polish culture.

We are also hopeful that through an understanding with the Free World Polonia Coordinating Council we can help structure a new organizational presence which will be fully adjusted to the new role of World Polonia. The democratic transformations which Poland has undergone have led to an increasingly more vibrant voice from the Polish sectors in the Soviet Union—the neglected and forgotten Polonia.

We hope to create in Poland conditions which are conducive for the investment of Polish American capital. Poland can be a good place for your investments. There are today many Polonian firms developing many phases of the Polish economy. Specifically, the development of agro-consumer, tourist and ecological initiatives eagerly await foreign investors.

Our politics toward Polonia rest on the proposition that Poland is the common home of the whole nation and people and so also of its people who live beyond her borders. Our political, domestic and economic reforms aim to lay the full groundwork for democracy. In the not-too-distance future, autonomous elections will be conducted in Poland and the schedule for fully free parliamentary elections will be accelerated. This future Parliament, with its adoption of a new Constitution for the nation will mold the Polish nation for the future.

We all hope that—perhaps as soon as the 200th anniversary of the May 3 Polish Constitution—a gathering of the Free World Polonia can be held in a fully democratic Polish republic.

Dear Compatriots!

Your assistance to the land of your forebears is a most valuable investment in the development of democracy and of the economy in Poland. Without the integration of our mutual efforts and without the united efforts of the entire Polish American community here in the United States it would indeed be difficult to achieve such lofty goals.

I encourage the creation of a powerful Polish lobby. Many initiatives in this realm are already being accomplished by the Polish American Congress. The Polish American community controls an enormous intellectual, organizational as well as economic potential. The release of our energies in these arenas can create a truly potent lobby, a lobby able to effectively influence American political and economic thought.

It is important also to take advantage of the great potential which is to be found in the Polish emigrants of the recent past. I realize that experiences and viewpoints may differ, but we must remember that you have common roots and a mutual goal.

Become powerful! I wish this with all my heart and with a deep conviction that this is possible. We do, after all, need each other. Poland needs a strong and organized Polonia and Polonia needs a strong and sovereign Poland. We have then—common needs, common aspirations and common goals.

I trust that—together—we will achieve success.●

CORRECTION OF RECORD ON FOREIGN LOBBYING REGISTRATION

● Mr. HEINZ. Mr. President, on Tuesday, March 17 I testified before the Foreign Relations Committee on my bill, S. 176, which would amend the Foreign Agents Registration Act to improve and broaden disclosure of foreign lobbying activities.

As part of my testimony, I submitted a list of U.S. parties representing Japanese clients for which they had apparently not registered under FARA. Subsequently, I discovered that list contained some inaccuracies, and I want to set the record straight by making a corrected list available. The committee's hearing record will also be corrected.

In correcting the list, the following U.S. parties have been deleted entirely from it: Heron, Burchette, Ruchert & Rothwell; Mudge, Rose, Guthrie, Alexander & Ferdon; Paul, Hastings, Janofsky & Walker; TKC International; Richard A. Frank; Milbank, Tweed, Hadley & McCloy; Robinson, Lake, Lerer & Montgomery; Civic Service, Inc.; and Sedam & Shearer. In addition, one or more Japanese firms were

removed from the listings of Tanaka, Ritger, & Middleton; Donald G. Lerch & Co., Inc.; Saunders & Co.; and Marks, Murase & White; and the body of my testimony has been corrected to make clear that Mudge, Rose does not represent the Japan Iron and Steel Exporters Association.

In printing this list, Mr. President, I want to repeat what I told the committee: appearance on it does not necessarily indicate a violation of FARA. In the most likely circumstance, the U.S. party simply has not engaged in any disclosable activities on behalf of that client. At the same time the length of the list points up the vagueness and uncertainty associated with the act and serves as additional evidence of the need to amend it.

Mr. President, I ask that the corrected version of my testimony and the two attachments be printed at this point in the RECORD.

The material follows:

STATEMENT BY SENATOR JOHN HEINZ

Mr. Chairman, thank you for the opportunity to testify on behalf of my bill, S. 176, which would amend the Foreign Agents Registration Act. This bill would increase disclosure of foreign lobbying and propaganda activity and would improve our ability to achieve that objective through better enforcement. In my testimony I want to provide some background on the Act, the reasons for this bill, and the changes it would make in current law.

As you know, the Foreign Agents Registration Act was originally enacted in 1938 to counteract the efforts of Hitler's Nazi propaganda agents by making public who was working for the Nazis and how much financial support they were receiving. The Act was not intended to suppress their freedom of speech or any other rights. It was intended as an information gathering and public disclosure device.

Fifty years later we live in a much different world. Nazi propaganda is no longer the threat it once was. Our main threats are economic rather than military, which has led to growing concern about the role foreign companies play in American political and economic life. Our open market and open investment policy, as well as our continuing trade deficit over $100 billion, have produced a giant increase in the foreign stake in our economy in the form of sales and profits dependent on imports into the U.S. and in the form of inward investment. The trade policy actions our government takes are of critical importance to foreign interests, and they maintain an active presence here to monitor and influence those actions.

Much foreign activity in this country is at worst benign and at best constructive. Some efforts, while arguably legal, do not necessarily lead to consequences that are in our interest.

One anecdote told by James Fallows in his article in Atlantic suggests the worst of this:

"The student was an American fluent in Japanese. He had spent the previous three years working at a Japanese-owned electronics plant in Japan. While he was there, the U.S. government accused the plant of dumping its chips, at prices below those permitted under the U.S. anti-dumping law. At that point the company hired two Americans who had just resigned from the Commerce Department. Weeks earlier they had helped draft the anti-dumping agreements that the company was now accused of violating.

"'I never felt so humiliated in all my life,' the student told my friend. 'These guys came in and showed the company how to conceal all the damaging information. They knew exactly how to do it, because they knew where the U.S. inspectors would look. I saw the United States get bamboozled by a Japanese company that was willing to pay a lot of money'—and by Americans willing to do the bamboozling."

That incident, of course, can be addressed by revolving door legislation, but it does make the point that what the federal government does has a big impact on foreign companies, and they are often happy to pay large sums of money precisely to avoid the consequences of our actions.

A noteworthy example relevant to this bill; indeed, one which aroused my interest in this subject, is Toshiba Corporation's effort to avoid sanctions in the wake of Toshiba Machine's sale to the Soviet Union of precision milling equipment used for the production of submarine propellers. This sale has had a serious adverse impact on the balance of naval power. Not only do the Soviets have the largest submarine force in the world, their ships will now become significantly quieter, and thus more difficult to detect. Estimates of the cost to the United States to compensate for the effects of this sale range from $8 billion to over $100 billion.

While the amount Toshiba spent on representation did not approach those sums, it was still substantial. For example, from 1987 through 1989, the law firm of Mudge, Rose, Guthrie, Alexander and Ferdon reported receiving nearly $11 million from Toshiba to act on its behalf, and they are just one of at least three law firms hired by Toshiba during 1987 for help on this issue.

What further clouds the issue is the fact that only the Toshiba Corporation itself is represented in these numbers. When Senator Garn and I initially proposed sanctions, it is fair to say we did not fully appreciate the diversity and complexity of Toshiba's corporate organization. The company possesses a vast number of holdings around the world, including over 600 subsidiaries and affiliates, a number of which also lobbied on behalf of their parent's interests. One subsidiary, Tokyo Electric Company, paid the Washington law firm of Kelley, Drye, and Warren over $213,000 from 1987 to 1989 to lobby on the Toshiba matter.

Kelley, Drye, and Warren was required to file because Tokyo Electric is clearly a foreign entity, although its subsidiary relationship to Toshiba is less well known to the American public, and it would not be immediately obvious that its efforts were on behalf of the same cause.

We have no idea how many other Toshiba subsidiaries have been actively lobbying for their parent's interest. Toshiba branches or subsidiaries located within the United States are not generally required to file under FARA. Thus we see only the tip of what may be a very large iceberg. One indication of the size of that iceberg is my calculation that from 1987 to 1989 the total spent by all registered agents for Japanese entities was over $120 million. Perhaps more significant is the fact that the reported amount has increased in each of those years—from $36 million in 1987 to $43 million in 1989. Also attached to my testimony is an illustrative list of registered agents for Japanese entities.

Another recent example is that of efforts made on behalf of a number of Brazilian and Japanese companies regarding the President's Steel VRA Program. The law firm of Wilkie, Farr, and Gallagher represents the Japan Iron and Steel Exporters Association, Japan Galvanized Iron Sheet Exporters Association, and Japan Wire Products Exporters Association as well as two major Brazilian steel companies. From 1987 to 1989, the firm reported receipts from these clients of more than $900,000, and it is not the only firm representing these clients. There are four additional parties working for the Japan Iron and Steel Exporters Association. Mudge, Rose also earned more than $275,000 working for the Korean Iron and Steel Association.

I am also submitting a list of American firms which have been identified as representing Japanese companies but which have not so filed under FARA. In doing so, let me say this list is compiled on the basis of best information available and should not be considered authoritative, particularly since client relationships change frequently. In addition, since registration is not presently required for most subsidiaries or for clients where the agent did not engage in any reportable activity, appearance on this list does not indicate any violation of FARA has occurred. It does suggest, however, how much we do not know about foreign lobbying activity in Washington and how big that iceberg might actually be.

Correcting this deficiency in filing is the cornerstone of my bill. Right now the Justice Department determines foreign control through an ad hoc approach that focuses on whether the U.S. subsidiary has an actual operational presence here or is just a "shell." That approach results in the conclusion that many U.S. companies are not foreign entities even if they are owned and controlled by a foreign party.

I want to broaden that approach through use of a "control" test. Entities that are more than 50% foreign owned are presumed under foreign control, and their agents would have to register. Between 20% and 50% foreign ownership would also be considered foreign "control", subject to presentation of rebuttal evidence. Foreign ownership of less than 20% would be presumptively not controlling. The effect of these provisions would be to require the disclosure of activities on behalf of many more U.S. subsidiaries of foreign entities.

The second proposal in the bill repeals the lawyers' exemption. Currently lawyers are exempt from registration and disclosure for activities they undertake in the context of administrative or judicial proceedings. While that may have made sense 50 years ago, these days practically all trade policy decisions take place in the context of administrative proceedings like antidumping or countervailing duty cases, or section 301 or section 201 petitions. Exempting otherwise disclosable activities on behalf of clients in these situations opens up an enormous loophole.

The bill's third proposal modifies the reporting time frame. Currently, agents register initially with the Justice Department containing the provisions of their contract when they begin their representation and then file updates every six months thereafter. Unfortunately, the inconsistent reporting dates lead to confusion. Justice is unable to effectively monitor incoming reports, or the lack thereof, nor can anyone conduct effective research. No matter when one reviews the files, there are always reports due

in the next few weeks. Unless the information desired is at least eight months old, it is difficult to track. As a result, S. 176 proposes maintaining the initial registration requirement as is, but modifies the procedure so that subsequent filings would be made on January 30 and June 30 of each year. This will insure greater uniformity of data, will help us track real trends, and will also help Justice to identify missing filings.

The last proposal concerns penalties and enforcement. While the Act contains criminal penalties for willful violations, they are rarely imposed because of the difficulty in proving intent and because of their severity. Adding a schedule of civil fines provides a more reasonable option that should encourage compliance. It would also help compliance to give the Justice Department authority to summon individuals to appear, testify, or produce records, common authority for agencies enforcing laws that have a public disclosure component. Both these changes were proposed in a 1980 GAO report, but no action was taken at that time.

I also want to mention some issues that are not addressed in S. 176. The first of these is what activities need to be reported. Generally speaking, an agent only reports contacts which attempt to influence opinions. This means that lobbyists who come to my office to speak with me or my staff to gather intelligence do not have to report either such activities or the considerable amount of money they receive to make such visits. This information, while not directly aimed at influencing lawmaker's views, is sent to an agent's clients, which in turn influences its actions and political stance. One recent case illustrates both this problem and the next one I want to mention.

NovAtel, a Canadian firm interested in selling cellular telephones in this country, hired the law firm of Heron, Burchette, Ruckert and Rothwell and over the course of 1988 paid them over $1.3 million to advise it on American rules, regulations, and legislation concerning cellular telephones.

In its two filings for 1988 Heron, Burchette did not report any activities aimed at influencing the government and subsequently decided to stop filing on the grounds that it was not taking any overt actions on NovAtel's behalf. In reading this, my first instinct was to question what the firm did for its $1.3 million. If it simply sent copies of rules and proposed legislation, I know people who will do it for half the price, or even a quarter. NovAtel has not ceased its relationship with Heron, Burchette; yet now its activities will not be reported.

This example also illustrates the wide disparity in reporting under current law. Some firms report activities in intricate detail, but in this case nothing was reported beyond receipt of funds. I suppose we should commend Heron, Burchette for even filing at all, because there is no one over at the Justice Department with the time or resources to track down every company that fails to file. And clearly, the firms rationale for not reporting is acceptable under current practice.

Mr. Chairman, the Foreign Agents Registration Act is a useful public policy tool. I believe it is in the national interest to maintain a public record of foreign efforts to influence government policy. We cannot simply assume that because a foreign company has a domestic presence it is automatically pursuing objectives consistent with national policy and national security. S. 176 is a useful tool for making the Act more effective. Both it and the original Act were not designed to punish individuals for their beliefs or representations. They are designed to keep lobbying activities in the proper perspective. Needless to say, I will be happy to work with the Committee to address any concerns you might have.

	1987	1988	1989	Total: 1987–89
Selected agents of Japanese entities:				
Akin, Gump, Strauss, Hauer & Feld	$1,028,120.28	$984,400.86	$1,583,481.21	$3,596,002.35
Anderson, Hibey, Nauheim & Blair	901,427.61	756,118.20	662,702.12	2,280,247.93
Arnold & Porter	30,236.74	15,000.00	22,028.69	67,265.43
Charles E. Butler	112,929.22	125,421.00	59,042.00	297,392.22
First Associates, Inc.	32,271.02	22,769.07	31,820.25	86,860.34
Graham and James	0.00	0.00	45,000.00	45,000.00
Global U.S.A.	1,286,284.77	1,626,331.16	1,571,410.12	4,484,026.05
H. William Tanaka	266,358.11	310,590.71	352,305.95	929,254.77
Hill & Knowlton	1,245,888.33	1,064,506.42	2,906,701.16	5,217,095.91
Hogan & Hartson	103,298.75	79,962.81	83,785.65	267,047.21
Japan Auto Manufacturers	823,360.00	986,350.00	959,760.00	2,769,470.00
Japan Center of Information and Cultural Affairs	3,883,691.00	0.00	0.00	3,883,691.00
Japanese Economic Institute of America	826,445.00	926,950.00	879,804.00	2,633,199.00
Japan Iron and Steel Exporters Association	204,261.93	191,500.00	213,376.99	609,138.92
Japan National Tourist Organization	1,935,948.17	2,043,252.20	2,259,999.68	6,239,200.05
Japan External Trade Organization (JETRO)	11,300,033.32	10,480,127.54	15,152,435.44	36,932,596.30
Japan Tobacco	955,000.00	840,000.00	833,000.00	2,628,000.00
Kelly, Drye, & Warren	57,104.31	137,738.31	337,171.67	532,014.29
Manatt, Phelps, & Rothenberg	25,000.00	173,753.82	172,868.03	371,621.85
Mudge, Rose, Guthrie Alexander & Ferdon	1,457,392.00	5,940,029.52	3,517,501.11	10,914,922.63
Patton, Boggs, and Blow	334,826.38	334,826.38	247,462.31	917,115.07
Paul, Hastings, Janofsky, & Walker	66,479.02	0.00	286,082.16	352,561.18
Paul, Weiss, Rifkind, Wharton & Garrison	917,891.22	102,707.81	956,339.60	1,976,938.63
Pettit & Martin	30,000.00	144,567.75	13,257.49	187,825.24
Sedam & Shearer	400.00	39,560.00	29,443.48	69,403.48
Stafford, Burke	90,000.00	60,000.00	60,000.00	210,000.00
Steptoe & Johnson	0.00	0.00	56,841.75	56,841.75
Wald, Harkrader & Ross	32,632.15	0.00	0.00	32,632.15
Weil, Gotshal, & Manges	190,548.15	152,404.60	199.00	343,151.75
Williams & Jensen	43,218.05	46,099.74	45,080.29	134,398.08
Subtotal	27,226,045.53	26,744,967.90	32,505,900.15	86,436,913.58
All others:	9,586,891.65	13,096,262.61	10,910,259.89	33,633,414.15
Total for all companies reporting receipts from Japan	36,812,937.18	39,841,230.51	43,416,160.04	120,070,327.73

UNITED STATES COMPANIES IDENTIFIED AS HAVING JAPANESE CLIENTS WHICH HAVE NOT BEEN REGISTERED UNDER FARA

UNITED STATES COMPANY AND JAPANESE COMPANY

Mike Masaoka Associates: Towa Optical; Ajinomoto USA; American Japanese Trade Commission; Takata Corp.; Suntory Intl.; Sumitomo Corp.; Nisei Lobby; Bank of Tokyo Trust Co.; Japan Railway Technology Corp.

Daniel J. Edelman, Inc.: All Nippon Airways Co.

SMC International: All Nippon Airways Co.

Zuckert, Scoutt, & Rasenberger: All Nippon Airways Co.; Nippon Cargo Airlines.

Schmeltzer, Aptaker & Sheppard: American Honda Motor Co.

Wilmer, Cutler & Pickering: American Honda Motor Co., OKI Electric.

Barnes, Richardson & Colburn: Asahi Chemical Industry Co.; Mitsubishi Corp.; Mitsui and Co.

Tanaka, Ritger & Middleton: Brother Int'l, Inc.; Minebea Co.

Lerch and Co., Inc: Marubeni America, Inc.

Kirlin, Campbell & Keating: Council of European & Japanese National Shipowners.

Saunders and Co.: Electronic Industries Association of Japan; Florida Council on Asian Affairs; The Japan Times; OKI Electric.

Shaw, Pittman, Potts and Trowbridge: Electronic Industries Association of Japan.

Patton, Boggs & Blow: Fuji USA; Matushita Electric Corp. of America; TEAC Corp.; Sanyo Electric Co. Ltd.; Sharp Electronics Corp.; Sony Corp.

Tighe, Curhan & Piliero: Fuji USA; Fujinon, Inc.; Sharp Electronics Corp.

Marks, Murase & White: Fujinon, Inc.; Sharp Electronics Corp.

McDermott, Will and Emery: Hitachi America Ltd.

Graham & James: Hitachi Metals Ltd.; Izumi Seimitsu Kogyo Habushihi Kaisha, Ltd.; Shigehiro Uchida; Komatsu Forklift Ltd.; Nissan Chemical Industries.

Bishop, Cook, Purcell & Reynolds: Japan Bearing Industrial Assn.

Kaye, Scholer, Fierman, Hays & Handler: Japan Center for Information and Cultural Affairs.

International Business & Economic Corp.: Japan Chemical Fibers Assn.; Japan Lumber Importers Assn.; Japan Textiles Exporters Assn.

Rogen, Tremaine, Kreiger, Schmeer & Neill: Embassy of Japan.

Sutherland, Asbill & Brennan: Embassy of Japan.

Verner, Liipfert, Bernhard, McPherson & Hand: Embassy of Japan; JETRO.

Eileen Marie Doherty: Japan Economic Institute of America.

Barbara Warner: Japan Economic Institute of America.

Ginsburg, Feldman & Bress: Japan Fisheries Assn.; Komishoruku Photo.

Warren & Associates: Yamashita Shinnibon Steamship Co.; Trans-Pacific Freight Conference of Japan/Korea; Japan/Korea Atlantic and Gulf Freight Conference; Nippon Yusan Kaisha Line; Japan Pottery Exporters Assn.; Mitsui O.S.K. Lines Ltd.; Shows Line Ltd.

Eddie Mahe, Jr. & Assoc.: Japan Ministry of Foreign Affairs.

Wellford, Wegman & Hoff: Japan Ministry of Int'l Trade and Industry.

Robert N. Meiser, P.C.: Kiutetsu World Express; Sumitronics, Inc.

Arnold & Porter: Komatsu Ltd.; Nissan Industrial Equipment Co.

Jones, Day, Reavis & Pogue: Konishoruku Photo USA; Toyota Motor Corp.

Bell, Boyd & Lloyd: Makita Electric Corp. of America.

Winston & Strawn: Mitsubishi Corp.; Nippon Telephone and Telegraph Corp.

Baker & McKenzie: Mitsubishi Electric Corp.

Steptoe & Johnson: Mitsui & Co.

Government Research Corp.: Mitsui & Co.

Coudert Brothers: NEC Corp.; Nippon Electric Co.

Dorsey and Whitney: NEC Electronics, Nissan Motor Corp.

Akin, Gump, Strauss, Hauer & Feld: Nippon Benkan Kogyo Co. Ltd.

Lord, Day and Lord: Nippon Cargo Airlines.

Willkie, Farr & Gallagher: Nippon Kokan K.K.

Sharrets, Paley, Carter & Blauvelt: Sambo Copper Co.

Pettit & Martin: Suzuki Motors Co. Ltd.

Garvey, Schubert & Barer: Taiyo Fishery Co.

Arent, Fox, Kintner, Plotkin & Kahn: Toshiba America Inc.

O'Melveny & Myers: Toyo Umpanki Co. Ltd.

Miller & Chevalier: Toyota Motor Corp.

Wald, Harkrader & Ross: Yamaha Motor Corp.

Brownrigg and Muldoon: Yamaichi Int'l.

Finnegan, Henderson, Farabow, Garreti and Dunner: Yamazaki Machinery Works Ltd.

Hoppel, Mayer & Coleman: Shows Line Ltd.●

BUSINESS OPPORTUNITIES IN EASTERN EUROPE

● Mr. LIEBERMAN. Mr. President, on March 23, the Small Business Committee held a hearing on business opportunities for American firms in Eastern Europe. At the hearing, we heard testimony from representatives of the public and private sectors. All agreed that there are good opportunities for American firms in Eastern Europe, but that those opportunities cannot be fully realized unless business and government work together to develop them.

All of the testimony that we received was uniformly excellent. I am, however, taking the opportunity of inserting in the RECORD today the testimony of one particular witness, Frank Doyle, a senior vice president at General Electric.

I think that Frank made some important points that touch on not only our ability to do business in Eastern Europe but throughout the world. He emphasized the need for us to increase funding for the Export-Import Bank of the United States. American exporters are dependent on the Bank's support to get involved in Eastern Europe and in the Third World. The Bank's direct loan program for this past fiscal year was a little more than 10 percent of what it was a decade ago, yet our trade deficit remains out of control.

I ask my colleagues to take a moment and read Frank Doyle's testimony. His ideas are certainly worth considering.

The testimony follows:

TESTIMONY OF FRANK P. DOYLE, SENIOR VICE PRESIDENT, GENERAL ELECTRIC

Thank you for inviting me to testify this morning. It is not often that a GE executive is invited to testify before the Small Business Committee. So this is a novel experience for which I am grateful.

But there is an important connection between a large American company like GE and export opportunities for small businesses: GE is an export channel for hundreds of small companies who are subcontractors on major capital goods such as turbines and aircraft engines. This relationship is one to which I will return in a few minutes.

But first let me establish why GE has an interest in the newly liberalizing nations of Central and Eastern Europe. Our interest is two-fold, as an investor in—and as an exporter to—these economies.

Our investment in Tungsram of Hungary, announced the week after the Berlin Wall fell last November, is especially exciting for GE. We bought a 51% majority controlling interest in that long-established and highly-regarded lighting company. Through the management expertise we bring and the investments we plan to make in Tungsram's process and product technology, we expect to contribute significantly both to Hungary's economic development and to GE's overall competitive position in the global lighting market. To run the business, we appointed an American named George Varga. Varga is not only a seasoned GE executive, but a native Hungarian who escaped in 1956 while a high school student in Budapest.

In late January we also announced an agreement with a Czech aircraft engine firm (LET) to jointly produce up to $300M of turboprop engines for a Czech commuter aircraft being developed for world markets. We are continuing to assess going concerns in the region for similar investments or joint ventures in other product markets we serve.

We also hope to expand exports to Central and Eastern European nations. Our greatest success in the region to date has been with our Aircraft Engines business, which has already won orders with the national carriers of East Germany, Poland and Czechoslovakia and has others pending. Expected demand for infrastructure modernization also may provide export opportunities for other GE businesses, especially our Industrial and Power Systems group.

It is this second arena—the export opportunity arena both for large and smaller U.S. companies—that I want to make the focus of my testimony this morning. I am also submitting for the record a longer paper that addresses the export finance issue, along with proposals to encourage and ease U.S. direct investment in the region.

Of particular interest to small business, our paper recommends simplifying the OPIC insurance application process for smaller U.S. firms. Attaining OPIC insurance was essential to the GE/Tungsram deal. The further expansion of OPIC involvement in Eastern Europe—especially to the extent that it is made more accessible to smaller firms—will provide indispensable confidence for prospective U.S. investors.

The legislation just introduced by Senator Lieberman also contains several very constructive proposals for assisting U.S. small business in Central and Eastern Europe. The proposal to increase the number of commercial and economic officers in the region could help provide greater access for smaller companies. The Foundation envisioned in the bill could become a vital tool for small and mid-sized businesses and entrepreneurs as opportunities expand in these emerging markets.

The rebuilding of the economies of Central and Eastern Europe will be one of the great economic dramas of the late twentieth and early twenty-first centuries. Infrastructure is hardly the stuff of poetry, but the building of power plants and highways east of the Elbe in the Nineties may become the stuff of epic. More than orders and profits will be up for grabs; also at stake will be jobs, trade patterns and living standards, East and West.

These opportunities for American companies are potentially enormous, extending from the simplest consumer to the most complex capital goods. Economic liberalization was mostly responsible for the 13 percent increase in the East Bloc's import volume last year, almost entirely run up before the democratic upheavals of November and December. Although economists argue over how much and how quickly trade will expand this year and next, it seems certain that the process will continue to accelerate.

These liberalizing nations have a dire need, but also a tough problem: no hard currency. Without hard currency, they are dependent on credit. Until currency convertibility is achieved, financing packages for big ticket capital goods may prove unfortunately decisive in winning major orders.

These simple linkages are obvious to our competitors and their governments. That's why much of the new Japanese and Western European aid to Eastern Europe just announced over the past several months is in concessionary trade financing. Virtually all of Japan's half-billion commitment to Hungary will come in the form of guarantees and credits that could be tied to purchases from Japanese suppliers. More than two-thirds of the $1B European Investment Bank commitment to Poland and Hungary over the next three years will take a similar form.

Although Japanese trade with Eastern Europe has been relatively small to date, the new interest on the part of Japanese companies is being reinforced by pledges of substantial government assistance. Prime Minister Kaifu announced on his recent trip to Eastern Europe a combined credit and aid

package that includes: $500M of Export-Import Bank credits each for Poland and Hungary; $350M in trade insurance to cover Polish imports from Japan; $200M in new trade insurance for exports to Hungary; and $25M for technical cooperation with Poland and Hungary.

In the short term, this likely imbalance in trade finance assistance could mean fewer American export orders and greater initial Western European and Japanese penetration of developing Eastern European markets. In the long term, it may mean the setting of patterns of trade and investment for the next decade, perhaps even for the next half century.

I have no illusion that we won't win many orders without the best products at the best quality and the best price. But I also have no illusion that without competitive financing, we won't win any orders at all.

Now the Administration is proposing to cut Ex-Im FY'91 direct lending authority to $500M exactly at a time when U.S. export opportunities are increasing not only in Central and Eastern Europe, but in the Asian countries where Japanese competition is severe and in Latin America where economies are beginning to recover.

Ex-Im's direct lending authority of $612M last year pales into virtual unilateral disarmament when compared not only to these growing export opportunities, but to the aggressive concessionary trade finance war chests maintained by Japan and several of the European nations.

A substantial boost right now in Ex-Im funding amounts to a long term investment that the U.S. may not get another chance to make. A serious effort to match the challenge would require doubling the Administration's FY'91 Ex-Im direct loan proposal of $500M to $1B.

Such additional funding (above the Administration's request) should be authorized in a manner that Ex-Im would be strongly encouraged to expand lending programs for the Eastern European nations. Legislative language—along the lines of Senator Lieberman's bill—could make clear "the Sense of the Congress" that greater support should be dedicated to Eastern Europe. This approach has the advantage of allowing the Bank to meet increased demand on its direct loan program while retaining the flexibility that might be lost through specific earmarking.

On top of this additional direct loan authority for Ex-Im, a stand-by credit facility should be established to meet foreign mixed credit or tied aid offerings. At present such a war chest—funded at $300M—is in place for use around the world. An additional $200M should be authorized, with the informal understanding that it is being added to match the European and Japanese mixed credit packages for Eastern Europe. The facility could be terminated by the President on a determination that effective discipline has been achieved so that U.S. exporters are no longer competitively disadvantaged.

Adding to the war chest will help the U.S. government increase its leverage in the forthcoming OECD negotiations on tied aid in order to curtail these uneconomic, distorting subsidies. It will also help U.S. companies stay competitive in Eastern Europe. Unfortunately, this is an issue over which we probably must prepare to play poker in order to call off the game.

Even these proposals for beefing up both the war chest and Ex-Im direct loan authority would leave the Japanese and Europeans potentially offering concessional export assistance at levels far above the U.S. It is important to recall when considering raising direct loan authority to $1B that the program has suffered a catastrophic erosion in funding from its peak of $5.4B in FY'81.

It is at least as important to recall why those deep cuts were made and why they were politically acceptable to those who made them. The explanation involves much more than the fundamental budget pressures of the Eighties.

I will offer the unexpected view that there was some justification for cutting Ex-Im direct loan authority from its 1981 peak. The fact is that U.S. producers of capital were not at cost competitive as we should have been then or are now; to that extent, some Ex-Im loans probably in effect subsidized some inefficient producers.

But American industry regained its cost competitiveness through the wrenching, even agonizing restructuring process of the Eighties. We cut costs, re-focused our businesses, invested in plant and equipment and raised productivity. Productivity growth in U.S. manufacturing at the end of the Eighties is more than twice what it was at the beginning of the decade. At GE, annual productivity growth rose from the 1-2 percent range in the early Eighties to nearly the 6 percent level as we enter the Nineties.

Let me be blunt: U.S. industry is now doing its part on cost competitiveness. Now it's time for the U.S. government to do its part to help us compete on a level playing field with our Western European and Japanese competitors.

I think another set of facts should transform the way we view Ex-Im. We're all aware of the lingering perception that the Bank is a big company benefit. Of course large companies use Ex-Im facilities. But there also is a less well-known small business constituency at the heart of the Bank's mission that can be seen in two ways.

First, companies that meet the SBA's definition of "medium-to-small" account for fully 30 percent of Ex-Im's transactions to date in the current fiscal year. There is direct access to the Bank's facilities for small business, though that access should be further expanded and simplified.

Second, smaller companies participate in export markets—and indirectly in Ex-Im financing—through the large companies that have the resources and reach to sell big ticket capital goods overseas. They participate through us as sub-contractors, in many cases supplying a majority of the content of completed goods big companies sell and ship.

Two GE examples demonstrate our export relationship with small business:

Some 65 percent of the manufacturing content of a GE jet engine—parts worth 45 percent of its sales volume—is supplied by sub-contractors. Small businesses helped our Aircraft Engines business account for the largest part of GE's $4.8 billion positive contribution to the U.S. balance of trade in 1989.

The other GE example is from our Industrial and Power systems business. Some 83 percent of the average material cost of a typical MS9001 gas turbine is supplied by domestic sub-contractors to GE. For a typical large steam generator unit, 67 percent of the average material costs are sub-contracted. Both gas and steam turbine sales have received Ex-Im support. Allowing smaller companies to export through us.

The Ex-Import Bank now has the chance to be of even greater assistance to American businesses—small and large alike—If it receives the resources it needs to make a difference in the real competitive world.

The dramatic changes in Central and Eastern Europe will and should be of greatest benefit to those emerging democracies themselves. Trade and investment links to the West—not just back across the Elbe but across the Atlantic—should also be part of their reintegration in the free world. The Congress and the Administration have a rare chance in history right now to seize that opportunity for the benefit of us all.

SUPPLEMENTING U.S. AID TO CENTRAL AND EASTERN EUROPE: SUMMARY PROPOSALS

U.S. Economic policy toward the newly liberalizing nations of Central and Eastern Europe should advance two mutually-reinforcing goals. First, we should support movement toward free market economies to complement the creation of free democratic institutions. Second, U.S. investment should be promoted, with the cororally objectives of boosting U.S. exports and remaining competitive with government-supported Western European and Japanese companies in the region.

Summary recommendations for additonal U.S. assistance are:

Restore U.S. competitiveness in export finance at a time when export opportunities are expanding, more nations are gaining Ex-Im eligibility, and EC governments and Japan are targeting concessionary trade financing to Eastern Europe.

Double the Administration's proposed FY '91 Ex-Im direct loan authority request from $500M to $1B.

Add $200M to the $300M war chest in place to meet the challenge of foreign mixed credit or tied aid offerings, while negotiating to end such distorting subsidies.

Expand OPIC direct loan and investment guarantee programs in Central and Eastern Europe, and streamline the OPIC application process to benefit smaller firms.

Assure that the evolving economic relationships between the Central and Eastern European nations and established market economies are built on free trade and open investment by securing market access for a fair share of Central and Eastern European exports to the U.S., the EC and Japan. As economic reforms progresses, certain countries should be "graduated" from their status as state-trading (non-market) economies so as to eliminate or phase-out disavantages they suffer under GATT rules such as the anti-dumping code.

Work within Cocom to more quickly and comprehensively relax export control restrictions without jeopardizing security.

Expand management training and technical assistance by:

Funding American experts to advise on the writing of basic financial, banking and economic regulations, and retired executive volunteers to advise on managing business.

Further supplementing labor training by the Department of Labor and providing U.S. labor-management expertise on adjustment for displaced workers in a free labor market.

Playing a more active role in G-24 multilateral assistance in areas such as environmental protection.

Support the establishment and substantial capitalization of a European Bank for Reconstruction and Development, with an initial U.S. contribution of at least $250M.

Assist investors seeking to repatriate profits—and help Central and Eastern European nations expand trade beyond the Eastern bloc—by helping establish a multilateral re-

volving fund in the absence of convertible currencies.

PROPOSALS FOR SUPPLEMENTING U.S. AID TO CENTRAL AND EASTERN EUROPE

Following are recommendations for additional U.S. assistance beyond the SEED legislation enacted last November:

EXPORT FINANCE

The Administration is proposing to cut Ex-Im FY'91 direct lending authority to $500M exactly at a time when U.S. export opportunities are increasing not only in Central and Eastern Europe, but in the Asian countries where Japanese competition is severe and in Latin America where economies are beginning to recover.

Already the direct loan program is overcommitted with projects in the pipeline. Moreover, it is clear that there will be substantial new demand for Ex-Im support, with eligibility newly approved or likely to be negoitated by the end of this year for Panama, Yugoslavia, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, China and the USSR (with the expected end of Jackson-Vanik restrictions.)

Ex-Im's direct lending authority of $612M last year pales into virtual unilateral disarmament when compared not only to these growing export opportunities, but to the aggressive concessionary trade finance war chests maintained by Japan and several of the Western European nations.

Moreover, much of the new Japanese and Western European aid to Central and Eastern Europe just announced over the past several months is in concessionary trade financing. Virtually all of Japan's half-billion commitment to Hungary will come in the form of guarantees and credits and could be tied to purchases from Japanese suppliers. More than two-thirds of the $1B European Investment Bank commitment to Poland and Hungary over the next three years will take a similar form.

Although Japanese trade with Central and Eastern Europe has been relatively small and doubts persist about investment prospects, there is new interest on the part of Japanese companies (as demonstrated by the proposed Suzuki investment in Hungary) that is being reinforced by pledges of substantial government assistance. Prime Minister Kaifu announced on his recent trip to Eastern Europe a combined credit and aid package including: $500M of Export-Import Bank credits each for Poland and Hungary; $350M in trade insurance to cover Polish imports from Japan; $200M in new trade insurance for exports to Hungary; and $25M for technical cooperation with Poland and Hungary.

In the short term, this likely imbalance in trade finance assistance could mean fewer American export orders and greater initial Western European and Japanese penetration of developing Central and Eastern European markets. In the long term, it may mean the setting of patterns of trade and investment for the next decade, perhaps even for the next half century.

A substantial boost right now in Ex-Im funding amounts to a long term investment that the U.S. may not get another chance to make. A serious effort to match the challenge would require doubling the Administration's FY'91 Ex-Im direct loan proposal of $500M to $1B.

An alternative means of achieving the $1B would be to increase the the Administration's $500M request by 50% to $750M, and then applying an operational IEP (Interest Equalization Program) appropriation of $25M. This alternative, as currently proposed by the business-labor Coalition for Employment Through Exports, Inc. (CEE), rests on the assumption that a $25M interest subsidy has a 10:1 leveraging factor, therefore amounting to $250M. (IEP effectively compensates the commercial bank for the difference between the commercial rate and the OECD rate.)

Such additional funding (above the Administration's request) should be authorized in a manner that Ex-Im would be strongly encouraged to expand lending programs for the Central and Eastern European nations. Committee language could make clear the sense of the Congress that greater support should be dedicated to Central and Eastern Europe. This approach has the advantage of allowing the Bank to meet increased demand on its direct loan program while retaining the flexibility that might be lost through specific earmarking.

Even this proposal would leave the Japanese and Western Europeans potentially offering concessional export assistance at levels far above the U.S. It is important to recall when considering raising direct loan authority to $1B that the program has suffered a catastrophic erosion in funding from its peak of $5.4B in FY'81.

On top of this additional direct loan authority for Ex-Im, a stand-by credit facility should be established to meet foreign-mixed credit or tied aid offerings. At present, such a war chest—funded at $300M—is in place for use around the world. An additional $200M should be authorized, with the informal understanding that it is being added to match the European and Japanese mixed credit packages for Central and Eastern Europe. The facility could be terminated by the President on a determination that effective discipline has been achieved so that U.S. exporters are no longer competitively disadvantaged. Creating an effective mixed credit program would require allocating substantial additional resources to AID and changes in AID's current thrust toward more support for capital projects.

But adding to the war chest will help the U.S. government increase its leverage in the forthcoming OECD negotiations on tied aid in order to curtail these uneconomic, distorting subsidies. It will also help U.S. companies stay competitive in emerging markets. Unfortunately, this is an issue over which we probably must prepare to play poker in order to call off the game.

Ex-Im also needs modest additional funds to hire additional trained project experts (with engineering degrees or MBAs) to evaluate project risks, as well as to relax current stiff restrictions on staff travel. At present, Ex-Im loan officers are evaluating commercial risks based almost entirely on written applications. Additional funds for these twin purposes—probably in the $5M range—could help Ex-Im more effectively target its loans and guarantees.

Finally, we should continue the process of broadening Ex-Im eligibility. Building on Secretary Baker's constructive recent announcement of Czech eligibility for Ex-Im lending, eligibility should also be reinstated for Romania and extended to East Germany and Bulgaria. But, once again, Ex-Im will need greater resources to meet these greater demands.

OPIC

In addition to expanding Ex-Im's resources, we should utilize other tools available to enhance U.S. competitiveness in Eastern Europe. Beyond Secretary Baker's February 6th pledge in Prague for Czech eligibility for OPIC programs, OPIC's authority should be expanded to cover other countries, particularly Czechoslovakia, Romania, East Germany and Bulgaria, and its resources should be augmented accordingly. Demand for OPIC's direct loan and investment guarantee programs in Central and Eastern Europe is already exceeding current funding levels and will likely grow substantially through 1990 as U.S. investments increase.

OPIC's pilot equity program, section 234(g)(2) of the Foreign Assistance Act of 1961, currently limited to Subsaharan Africa and the Caribbean, should be fully funded and expanded to cover Eastern Europe, and its flexible "special projects" authority—22 U.S.C. S2194(e)—should be funded and directed toward Central and Eastern European projects. Such funds can be used to assist U.S. companies competing for projects in Eastern Europe against subsidized financing packages available from other countries. Giving OPIC a significant role in the mixed credit process could also help energize AID to become more aggressive in utilizing its resources in cooperation with OPIC and Ex-Im.

OPIC seems to have a problem with visibility and access, especially with smaller firms. OPIC itself recognizes this problem, and has recently upgraded its communication and outreach efforts in the small business community. Still, the perception lingers that insurance applications are lengthy and complex, and therefore are bureaucratically beyond the means of small firms that must make and execute investment decisions quickly. OPIC should receive modest further budget allocations for improving outreach and streamlining application processes.

Attaining OPIC insurance was essential to the GE/Tungsram deal. The expansion of OPIC involvement in Central and Eastern Europe—especially to the extent that it is made more accessible to smaller firms—will provide indispensable confidence for prospective U.S. investors.

MARKET ACCESS FOR EASTERN EUROPEAN NATIONS

It is critical that U.S.-Eastern European trade and investment move both ways. Not only are hard currency-earning exports crucial to economic development, but real (or perceived) trade barriers to Central and Eastern European goods raise the risk of political backlash against Western investment. Although there are few quality goods currently attractive and available to U.S. buyers, that should change quickly as Western investment aid, management assistance and technical training make some initial progress.

As economic reform progress within Poland, Hungary, Romania, Czechoslovakia, these countries should be "graduated" from their status as "state-trading" (non-market) economies. This will reward their efforts by eliminating or phasing out the disadvantages they suffer under such GATT rules as the anti-dumping codes.

As Central and Eastern Europeans make difficult strides towards multi-party democracy and the open global economy, we should be quick to encourage exports form—as well as to—those nations. The U.S. should accept its fair share of imports, and work just as quickly to assure the same on the part of the EC and Japan.

EXPORT CONTROLS

The Bush Administration's recent decision to relax certain export controls (on preci-

sion machine tools, 32K microprocessors and some telecommunications equipment) is a step in the right direction. So too was U.S. participation in the February 14-15 Cocom comprehensive review of current restrictions. But the U.S. runs the risk of being left behind as other Cocom nations press for further loosening of restrictions on industrial products such as higher-speed computers and more sophisticated telecommunications equipment. If these nations are truly expected to enter the global trading system and become competitive, they must be able to buy the building blocks of modern industrial infrastructures. The legislative proposals that are being introduced (including "SEED II") may be useful vehicles for encouraging the Administration to consider areas of further relaxation without jeopardizing national security.

MANAGEMENT TRAINING AND TECHNICAL ASSISTANCE

If wisely targeted and efficiently administered, such assistance could be as helpful to the success of U.S. investment in Central and Eastern European countries as any other form of aid. Investor confidence will sag after the initial euphoria when the depressing reality sets in that these are economies without financial markets, rational accounting systems, realistic pricing or other fundamentals of market economies. Here U.S. expertise can make a difference.

With few additional resources, the U.S. could set up a special endowment to fund American experts—working with European experts and officials in the newly liberalizing countries—to advise on the writing of basic financial, banking and other economic regulations. The sooner that specific, dependable legal frameworks are in place, the sooner that rational markets and serious investment will follow.

A constructive element of the Pell/Biden proposed "SEED II" legislation is increased funding (at $5M) for the International Executive Service Corps for retired executive volunteers to advise on enterprise management. Also constructive are provisions for expanded labor training ($5M) by the Department of Labor and an additional $10M in AID technical training.

Building on the programs about to be launched in Poland and Hungary under the auspices of the SEED legislation, the U.S. government could also provide modest additional resources to coordinate pooled training—both management and technical—that could be conducted together by several or more American firms in various capitols or in other areas where a critical mass of investors takes shape. That way the U.S. private and public sectors could together make substantive contributions to local management and labor market skills, while at the same time investing in the success of their own ventures.

Another area to apply U.S. expertise is in the functioning of a free labor market. Given the painful restructuring that these nations are beginning—especially as privatizations, price and currency reforms are set in motion—unemployment and social pressure will certainly rise. Lessons from the U.S. experience with plant closings, retraining and reemployment of displaced workers can be helpful, especially to the extent that those lessons are suggested in a balanced, non-ideological way that embraces some of the substantive areas of consensus reached by U.S. companies and unions in the Eighties.

The U.S. should also play an activist role in the G-24 multilateral assistance arena (chaired by the European Commission), which currently includes programs ranging from vocational training to environmental protection standards and technologies. In this context, the Pell/Biden "SEED II" legislation helpfully provides for an increase in the EPA environmental assistance program for Central and Eastern Europe from $40M to $60M. That is an especially crucial priority as EC and other multilateral pollution control standards are stiffened and the Eastern European nations continue to slip back.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

This proposed bank would provide multilateral support for private sector initiatives in Central and Eastern Europe, although state-owned entities would not be entirely excluded. The French government has taken the lead in creating this institution, with a running argument on capitalization between the French proposal on the high end at $12B and the British on the low end at $6B. The capitalization issue will be likely settled, and the bank formally launched, next month in Paris.

The U.S. should take a leadership role—not a follow-on or sideline role—in the creation of the bank. We should push for a high level of capitalization, and immediately embrace the 8.5% share in the bank porposed for the U.S. (equivalent to the commitments expected of the Soviet Union, Japan, Britain, France, West Germany and Italy). The U.S. should make an initial contribution of at least $250M (the amount proposed on January 30 under the auspices of the Senate "SEED II" legislation), with the contribution contingent on a fair sharing of burdens and responsibilities among donors.

The bank's establishment would lead to multilateral support and funding for major infrastructure development projects, potentially benefitting a wide range of U.S. companies. It is not unreasonable to conclude that these potential benefits for U.S. companies will depend in part on strong U.S. support and substantial funding for the bank.

REVOLVING FUND

Right now only Poland has currency convertibility, and that is only partial. Therefore it is difficult for investors in Central and Eastern European nations to repatriate profits unless they produce goods for export. The lack of convertibility is a critical barrier to smaller prospective investors with fewer resources and necessarily shorter investment horizons than a GE or GM.

A revolving fund, as proposed by Bob Hormats of Goldman Sachs in a recent New York Times op-ed, would assist in the transition to convertible currencies by providing a supply of dollars, marks and other hard currencies on which the countries could draw to settle accounts. As proposed by Hormats, "they would draw down their accounts when they are running deficits and pay the fund back when they have surpluses." A similar "convertibility fund" was proposed earlier this month by the Kiel Economic Research Institute in West Germany.

Such a transition mechanism on the way to convertibility would allow Central and Eastern European nations to expand trade beyond the Eastern bloc, a critical objective if they are to spur growth and raise living standards.

CONDITIONING AID ON CONTINUING REFORM

Finally, there should be some conditions attached to the assistance we give to Central and Eastern Europe. The process of political and economic reform seems irreversible in East Germany, Poland, Hungary and Czechoslovakia. But the fact is that reform is only now really beginning in these nations, and it is not clear whether or when in the near future a reform course will advance in Yugoslavia, Bulgaria and Romania. The important point is that all economic progress in the region— whether it's creating market economies, privatizing state enterprises, attracting foreign investment or raising living standards—depends on continued success by political reformers.

Although the U.S. government has little leverage on political developments in these nations, there is a helpful stance we can take. We can indicate that we are watching the progress of reform, and that we will step up our assistance as we are assured that political and economic progress is continuing. Secretary Baker essentially made this point on his early February trip to the region, and it was a constructive signal. Conditioning U.S. aid on political and economic reform is good foreign policy and good business policy. We should also be prepared to signal that our assistance is contingent on market access for U.S. as well as EC and other foreign companies.

SHORT-TERM ECONOMIC GOALS

But as critical as foreign aid and investments are, Eastern European governments must take even more fundamental steps themselves in order to sustain their economies in the global marketplace. Such short-term goals include:

Achieve realistic cost and exchange rates allowing them to export in world markets.

Diminish inflationary pressure (down from some prevailing rates nearing 50%) by pursuing conservative fiscal policies and wage restraint until their industries gain productivity and more secure export positions in the West.

Restrict the incurrence of new foreign debt to a level that limits their debt service to a reasonable relationship to export earnings.

Develop a climate that would encourage the inflow of western capital and direct investment.

These goals are reasonable and attainable. They are consistent with the conditions that international lending agencies set for extending assistance to LDCs and consistent, for example, with the World Bank conditions agreed to by Poland. Steps toward meeting these goals are bound to accelerate the successful integration of these countries into the nexus of free market economies.●

S. 2341: A BILL TO REAUTHORIZE THE TEA PROGRAM

● Mr. COHEN. Mr. President, I am pleased to join my distinguished colleague from California, Senator WILSON, and others in introducing legislation to reauthorize the Targeted Export Assistance [TEA] Program. The TEA Program was authorized under the Food Security Act of 1985, to assist organizations and private firms to promote their products overseas. The TEA Program represents a positive solution to unfair trade practices by foreign competitors. It provides important promotional and technical assistance to U.S. producers enabling them to compete directly in foreign markets. The Federal Govern-

ment has a legitimate role to play in promoting U.S. exports into markets which have been unfairly closed to U.S. producers. U.S. products can compete in any market into which they are given access. The TEA Program is an important tool in opening up new foreign markets for U.S. producers.

Maine companies have been able to enter these markets with the help of the Eastern United States Agricultural Food and Export Council [EUSAFEC] which facilitates the TEA Program for companies in the Northeast. Through the hard work and experience of EUSAFEC, Maine businesses of all sizes have successfully marketed their products abroad. For example, the Maine Potato Board has successfully marketed seed potatoes in Venezuela. With the help of EUSAFEC and the TEA Program, DeCoster Egg Farms has been able to open up markets in Japan and the Middle East. Maine Coastal Brewing Co. has also been successful in selling its products in Japan.

The money invested in the TEA Program pays for itself many times over in terms of trade development. In 1988, with a $67,000 TEA grant last year, the 1,000 members of the Wild Blueberry Association of North America increased their exports by $3.8 million. Last year, with a $75,000 allocation, the members expanded their markets into Spain, Italy, and Austria and have targeted Israel, Korea, and Australia as potential future markets.

These companies are representative of the hundreds of similar success stories throughout the United States which, taken together, have enhanced the international competitiveness of the United States. These accomplishments would not have been possible without the resources of the TEA Program.

Our legislation will authorize the TEA Program at a rate of $325 million for each fiscal year from 1991 through 1995. The bill will also expand the Secretary of Agriculture's authority to monitor expenditures under the TEA Program to assure the best and highest use of these moneys.

I am pleased to join my colleagues in introducing this legislation and look forward to seeing it enacted into law.●

HERMAN MILLER, INC., OF ZEELAND, MI, DEMONSTRATES COMMITMENT TO GLOBAL ENVIRONMENT

● Mr. RIEGLE. Mr. President, I am proud today to congratulate Herman Miller, Inc., of Zeeland, MI, on their decision to purchase only those tropical woods harvested in an environmentally sound manner. Herman Miller, one of the country's leading office furniture manufacturers, made this commitment without a Government mandate and without public indignation or protest. They were sensitive to the tropical deforestation crisis, took the time to study the problems and identified what Herman Miller could do to help.

Their decision to scrutinize wood sources sends a strong message to those who would pillage the rain forests for fast financial gain. Herman Miller will now buy tropical wood only from those who harvest timber in a manner that maintains the value and ecological integrity of the rain forests. Timber companies now must certify they act responsibly if they wish to do business with Herman Miller. Business leadership like this is essential in our efforts to slow the destruction of what we now realize is a vital resource—our tropical forests.

As the Senate confronts the growing global environmental threat, we are often frustrated by our inability to affect resource management decisions in other countries. Unilateral Government policy has serious limitations when addressing problems like tropical deforestation and global warming. While Government action will be an important element in our fight against global degradation, an equally important source of international pressure must come from voluntary actions of businesses like Herman Miller. They are to be strongly commended for charting a course that may cost them in the short run, but will over time help protect the planet's important natural resources.●

SELF-DETERMINATION FOR PUERTO RICO

● Mr. SIMON. Mr. President, I rise for the purpose of sharing with my colleagues the recent statement of the Honorable Luis A. Ferre on the subject of Puerto Rico. Many of my colleagues know and respect Luis Ferre as the former Governor of Puerto Rico. He recently wrote in response to a newspaper columnist's inept comparison of Puerto Rico with Northern Island.

Governor Ferre makes clear to his fellow American citizens: Puerto Ricans are American citizens, too. They are willing to pay their fair share of the Nation's responsibilities and have contributed mightily to the Nation's defense for 80 years without ever once being able to cast a vote for the President or a Member of Congress who can vote on our Nation's defense or military policies.

Later this spring, the Energy and other relevant committees will bring to the floor S. 712, the Johnston-McClure Puerto Rico plebiscite bill that I was proud to cosponsor. In order that my colleagues can have the full breadth of information on Puerto Rico and Puerto Ricans, I ask that the statement previously referred to be printed in the RECORD immediately following my remarks.

The article follows:

[From the Washington Times, Mar. 16, 1990]

PUERTO RICO IS NOT NORTHERN IRELAND

Seldom has the image of the United States of America been soiled with greater injustice and prejudice than in the Feb. 26 column of Patrick Buchanan, "Puerto Rico as our 51st," which deals with Puerto Rico's rightful aspiration to become a state of the Union. His was a gratuitous attack on 6 million Americans, 3½ million of whom live in the Island of Puerto Rico. The other 2½ million have made their homes in the 50 states.

Mr. Buchanan seems to echo the economic interest of a number of investors who want to continue enjoying a tax exemption, which costs the U.S. Treasury, and hence the American taxpayer, about $3 billion yearly. These same interests remain content to deny the U.S. citizens of Puerto Rico the minimum social benefits that are enjoyed by all other American citizens on the mainland. We Puerto Ricans are willing to pay our share. We do not want handouts or welfare. We want to work and save, to prosper and to pay our federal income taxes.

It is ironic that Mr. Buchanan, who is known for his hatred of communism and its denial of freedom, refuses to support the right of self-determination for Puerto Ricans. He says statehood is a mistake, that it won't work, that our island will become another Northern Ireland. Rubbish!

Mr. Buchanan's illogic would be complete only if he denounced the sacrifices of Puerto Ricans in the defense of liberty. Does he not give any credit to the 200,000 veteran Puerto Ricans who have served in the U.S. military forces and to the thousands of dead and wounded who fought during all the wars our country has waged in this century?

He forgets such men as Fernando Ledesma, who won the Congressional Medal of Honor because he thrust himself upon a grenade to save the life of his companion in Korea. Or Air Force Maj. Fernando Ribas Dominici, who gave his life to serve his country and his president, Ronald Reagan, during the military mission againt Moammar Gadhafi's Libya.

Mr. Buchanan ignores Puerto Ricans in the armed services—Adm. Horacio Rivero, Vice Adm. Diego Hernandez and Gen. Pedro del Valle. He forgets professionals like Dr. Enrique Mendez, assistant secretary of health for the Defense Department, and Dr. Antonia Novello, who was just confirmed as U.S surgeon general. He forgets actors like Jose Ferrer and Raul Julia; opera singers Justino Diaz and Pablo Elviro, both of the Metropolitan Opera Co., and the brilliant pianist Jesus Sanroma of the Boston Symphony. And even the late Roberto Clemente.

Hundreds of thousands of Puerto Ricans work in U.S. factories, as university professors, teachers and businessmen, each, in his own way, contributes to the growth and prosperity of this country.

Against these positive contributions, Puerto Ricans are compared to a few self-appointed terrorists, whose actions were instantly condemned by public opinion in Puerto Rico, including a 1954 legislative resolution to that effect. Mr. Buchanan forgets that terrorism and insanity know no geographic boundaries, as witnessed by the attack on President Reagan and the assassinations of President Kennedy and the Rev. Dr. Martin Luther King Jr.

Puerto Rico is a community of loyal American citizens who have evolved within the American way of life and who seek to assume full responsibilities in the Union. We want to pay taxes, not to be an economic burden, as we are today under the system that Mr. Buchanan praises.

We were brought into the American family, without our request, by unilateral action of the United States, which understood that Puerto Rico's position in the Caribbean was essential to its defenses.

Certainly we welcomed the U.S. soldiers as deliverers. We took at face value the promises of Gen. Nelson Miles, who upon arrival in 1898 proclaimed, "We have come to bestow the immunities and blessings of our enlightenment and liberal institutions and government."

Except a handful, all Puerto Ricans living today were born under the American flag; most everyone speaks English. We pose no more of a threat to the use of English than do the other 15 million Hispanic Americans living in the United States. We feel we have the right now to achieve the goal that is due to every U.S. citizen—equality through statehood.

Finally, we have faith and confidence in the spirit of Thomas Jefferson and Abraham Lincoln that has inspired Presidents Reagan and Bush to spread the winds of freedom and self-determination throughout the world.

The time has come to practice these same principles at home, with Puerto Rico.

LUIS A. FERRE,
Former Governor of Puerto Rico.●

HISTORIC PRESERVATION LEGISLATION

● Mr. LEAHY. Mr. President, today I have signed on as cosponsor of S. 1578, the National Historic Preservation Act, and S. 1579, the National Historic Preservation Policy Act.

Taken together, these bills present a comprehensive, effective vision of our Nation's historic preservation policies. They are the product of several years' work by people involved in historic preservation nationwide.

There is a significant role for the Federal Government to play in preserving our past. We best understand the meaning of our times and the currents which guide our lives and our politics by assessing our past. And increasingly, the economic future of old American downtown districts are tied to how well we respect and restore the landmarks of the past. We must not only continue but expand our efforts to improve the social and economic vitality of our communities through thoughtful preservation work.

But our current Federal policies are falling short. Policy directives are not clear and articulate. Valuable preservation funds are lost in bureaucracy.

This legislation will do much to improve our historic preservation efforts. I thank Senator FOWLER for his hard work on these bills, and commend his commitment to preserving our Nation's historic resources through this legislation.●

HENRY M. MANN

● Mr. FORD. Mr. President, fortunate indeed is the community that has a citizen who devotes his life to the community. One such community is Lakeside Park in Kenton County, KY. Its citizen is Henry M. Mann.

Henry is at a point in time where he is easing down in his efforts. Mr. President, his community, his county and his State are all the better for what Henry Mann has put into them.

Henry Mann exemplifies what a citizen is in the Greek meaning of the term. I am honored to have known him.

Mr. President, I ask that a summary of Henry Mann's life work be printed in the RECORD at this point.

The summary follows:

HENRY M. MANN

EDUCATION

Glasgow High School—Glasgow, Kentucky.

B.S.—Western Kentucky University.

M.A.—University of Cincinnati.

WORK EXPERIENCE—PRESENT

Owner—Henry Mann Company, Builders and Developers, residential and light commercial building and development.

Chairman of Board—Citizens National Bank, Covington, Kentucky.

WORK EXPERIENCE—PAST

Executive Vice President, Nutone, Incorporated, Cincinnati, Ohio (1952-1971).

Vice President, Director and Consultant to—Ferguson-Randolph, Inc., Geneva, Illinois and Palm Beach, Florida (1981-1982).

Gibson Art Company—Cincinnati, Ohio (1947-1952).

Covington School System—1935-1942.

EXTRA/OUTSIDE ACTIVITIES—PRESENT

Mayor—Lakeside Park, Kentucky—1980 to Present.

City Councilman—1972-1980.

St. Elizabeth Medical Center Board of Trustees—1971 to Present (President of Board—1973-1976).

Northern Kentucky University Foundation Board of Trustees—1974 to 1988.

Prichard Committee for Academic Excellence—1981 to Present.

Northern Kentucky District Board of Health—1982-1984.

Hoxworth Blood Center Advisory Board—1980-1988.

Ohio-Kentucky-Indiana (OKI) Regional Council of Governments Board of Trustees—1983 to Present (President—1986-1989.)

Madison Avenue Christian Church Elder (Chairman of Board—1965-1966).

EXTRA/OUTSIDE ACTIVITIES—PAST

Northern Kentucky University Board of Regents—1974-1982.

CORVA (Health Planning Association of the Central Ohio River—HSA) Board of Trustees—1973-1981, Chairman—1976-1977.

Kentucky Council on Higher Education—1966-1968.

Hospital Council of Greater Cincinnati—1972-1977 (President—1976).

Kentucky Hospital Association Council of Trustees—1971-1975.

St. Francis Hospital Board of Trustees (Cincinnati)—1973.

Providence Hospital Board of Trustees (Cincinnati)—1973.

St. Marys Hospital Board of Trustees (Cincinnati)—1973.

Kenton County Democratic Executive Committee (Chairman—1984-1988).

Kentucky State Democratic Central Executive Committee—1984-1988.

Kentucky Bicentennial Commission—1986-1989.

Kenton County Transportation Task Force (Chairman 1985-Present).

Community Chest of Cincinnati Board of Trustees—1973-1977.

Northern Kentucky Health and Social Planning Council (President—1973-1974).

Chairman, Special Task Force to Study Management and Operations of Transportation Authority of Northern Kentucky (TANK)—1977.

Northern Kentucky Area Development District Board of Directors—1974-1976.

Greater Cincinnati Chamber of Commerce Board of Trustees—1963-1968.

Covington YMCA Board of Trustees—President 1964-1965.

Fort Mitchell Country Club Board of Directors—1958-1961 (President 1961).

Commanding Officer, U.S. Naval Reserve Training Center, Covington, Kentucky—1952-1954 (civilian reservist).

Kenton County Chairman/Martha Layne Collins for Governor—1982-1983.●

THE 200TH ANNIVERSARY OF THE PHILADELPHIA STOCK EXCHANGE

● Mr. HEINZ. Mr. President, I rise to pay tribute to the Philadelphia Stock Exchange, which today celebrates its 200th anniversary. Over the last 200 years, the exchange has played an integral role in the development of southeastern Pennsylvania's and the Nation's economy, because it has been a forerunner in the creation of new products and economic instruments that have provided the investment capital for businesses to grow and to create jobs.

The Philadelphia Stock Exchange was founded in 1790, by a small but inspired group of visionary men who transformed a popular Philadelphia coffee house into a place where American industry could gain the sustenance for growth and a vision to build further on the foundation of established achievements. At first, the exchange in Philadelphia traded primarily bank stocks and government bonds. But its members focused on the future, and they saw a rapidly developing country. Soon the exchange began to trade stock in America's fledgling industries, helping provide them with the capital they needed to establish themselves and grow.

The growing exchange communicated price information with its New York counterpart via a series of elevated stations across the New Jersey landscape. From these stations, signals were flashed by mirrors in the daytime and lanterns at night. Of course, a communications system that seemed sophisticated then appears primitive in our day and age when satellites transmit market information instantaneously to computer screens throughout the world.

For the next century, the Philadelphia Stock Exchange prospered as America prospered. Its stock trading helped provide the necessary capital to fuel the growth of such vital industries as railroads, coal mining, steel, insurance, and automobiles.

Then came the Great Depression and an accompanying slump in stock trading. When the slump lifted in the mid-1940's, the Philadelphia Stock Exchange was ready to introduce an innovation that revolutionized stock trading. Its newly invented clearing system guaranteed the integrity of all trades, making it unnecessary for market participants to assess the credit risk of each individual trader. This system is now used by every stock exchange in the world.

In the late 1940's, the exchange transformed itself into a major national force. A series of smaller regional exchanges, including the Baltimore and Washington Stock Exchanges, merged with the Philadelphia Stock Exchange, and the exchange entered into associate memberships with the Pittsburgh and Montreal Stock Exchanges.

The 1970's heralded another wave of innovation by the exchange. In 1975, the exchange dared to help pioneer an unproven idea for the trading and hedging of stocks—listed stock options. Not long after this, the Philadelphia Stock Exchange became the first stock exchange to trade the now-popular foreign currency options—introduced to help the international financial community respond to more volatile currency markets.

And today, the exchange is pioneering the use of state-of-the-art communications systems for executing and reporting trades and disseminating market information.

The Philadelphia Stock Exchange is now located in an ultramodern, eight-story building on Market Street in downtown Philadelphia. Here, specialists and brokers traded hundreds of millions of shares of stock each year. More than 1,800 individual companies are available for trading on the exchange.

The exchange also houses one of the world's most important marketplaces for listed stock options. It trades more than 140 stocks on major corporations. Listed stock options have made it safer and more profitable for institutions and individuals to invest in the future of companies. Companies, in turn, have benefited from a greater freedom to grow and innovate.

The Philadelphia Stock Exchange also has been instrumental in reshaping the foreign exchange markets. Today, the exchange ranks as one of the largest currency options markets in the world, trading options on eight currencies.

As the exchange helped lead the way toward globalizing the financial markets, it took steps necessary to become the first securities exchange to hold evening trading sessions for foreign currency options. These sessions offer the Pacific Basin countries access to a successful foreign currency options market here during their normal business hours.

The subsequent introduction of early morning hours added further opportunities for the European participants. With its extended trading hours and its international presence, the exchange can help businesses respond more quickly and efficiently to rapidly shifting international economic conditions.

As the world financial community becomes more sophisticated, complicated, and interrelated, the Philadelphia Stock Exchange is committed to anticipating the new challenges and responding to them with ingenuity and creativity.

The Philadelphia Stock Exchange takes pride in being recognized as one of the most innovative exchanges in the world—creating new products and new financial instruments that promise to change the way businesses do business now and for the next 200 years.●

JERUSALEM

● Mr. KERREY. Mr. President, I rise to state the obvious: that a unified Jerusalem properly ought to be recognized by this government as the rightful capital of the State of Israel.

Mr. President, there is almost something unseemly about American politicians such as ourselves moving to legitimize the status of Jerusalem, the sacred place invested with the deepest hopes and dreams of history. The recent hue and cry over President Bush's remarks has, as often happens, generated more heat than light. But one thing ought to be clear. Jerusalem is, and will be, the seat of Israel's Government and there is no good reason why we should not treat it as such.

The State of Israel is one of our most loyal and valuable allies. It makes little sense to me that we entrust Israel with our military hardware and our strategic cooperation, but quibble over where they choose to seat their capital and their government. This anomalous state of affairs results in repeated debates and resolutions over this one issue which in the end divert our attention from the real and immediate issues that most deeply implicate Israel's security.

Mr. President, the State of Israel's claim to Jerusalem has deep roots in history. For thousands of years Jews turned toward Jerusalem three times a day to pray for their return to that place, where, the Talmud says, the heavens kiss the earth. For nearly 200 years Jews have been renewing their residence in Jerusalem, brick by brick and life by life. For nearly two decades after winning their independence they were denied access to the city and the graves of their ancestors on the Mount of Olives were destroyed. In 1967, Israel was forced by the world's indifference to fight for its life and when the smoke cleared Jerusalem was in its hands.

Now, Mr. President, when the Middle East is wracked with strife and change, we ought not to waste our time and energy on an issue that should have been laid to rest a long time ago, nor should we let Jerusalem be used as a political football by this administration or any other.

Mr. President, Jerusalem is the capital of Israel because, having won it in a war of self-defense, the entire political spectrum of that country—left, right, and center—has declared it to be so. Let us now get on with the serious business of working with Israel, Egypt, and our other friends to bring a just and lasting peace to that war-torn land.●

COMMEMORATING THE CIVIL RIGHTS ACT OF 1968

● Mr. BOSCHWITZ. Mr. President, I rise today to commemorate the 22d anniversary of the Civil Rights Act of 1968.

Many of us remember April 4, 1968, as the day that a powerful voice for justice was silenced. For on this day, Dr. Martin Luther King, Jr. was assassinated. I must tell you that I, like many Americans, felt a great emptiness in my heart on that day; indeed, it was a terrible loss for this Nation and the civil rights movement that he had led.

On April 11, the day Dr. King was buried, President Lyndon Johnson signed into law the Civil Rights Act of 1968, a landmark piece of legislation that enacted the first open housing law of the 20th century. As President Johnson said, "With this bill, the voice of justice speaks again."

The Civil Rights Act of 1968 was truly a historic bill. The fair housing provision ensured that all Americans could buy or rent housing, regardless of race, color, religion, or national origin. In addition, the act provided protection for civil rights workers and all those seeking to exercise their right to vote, campaign for political office, serve on a jury, or attend a public school or college—rights that we now take for granted.

We, as a nation, have come a long way since the turbulent days of the late sixties. By creating fair housing laws and providing other civil rights protections, the Civil Rights Act of 1968 opened the door to many families that would have been left behind as our society moves into the next century.

But we cannot simply sit back on the achievements of the past. We must continue to provide the opportunity for every American to fulfill his or her God-given potential—to give people the chance to succeed or fail on the basis of their abilities, determination, and character.

Representative John Anderson, a Republican from Illinois, expressed the sentiment of both Houses best when he said, "I legislate today not out of fear but out of deep concern for the America I love." Let us also do our best in this Chamber for the America that we love.●

MIKE FORREST IS ON THE MARK ON ALCOHOL ABUSE

● Mr. HARKIN. Mr. President, I have long said that in our rush to tackle the drug problem, we have forgotten the biggest drug problem of them all—alcohol abuse.

Alcohol may not get its fair share of attention in our war on drugs. But alcohol is doing more than its fair share of infecting our youth and causing harm to our families and communities.

What is the most deadly drug of them all?

It is not marijuana. It is not crack. It is alcohol.

Alcohol is responsible for more deaths than all other drugs combined.

Alcohol is the No. 1 killer of young people.

Almost 10,000 young people are killed in alcohol-related car crashes every year.

Alcohol is a leading cause of other avoidable deaths—like drowning and suicides.

In Iowa, use by high school students of marijuana and other illegal drugs is on the decline; alcohol use is on the rise.

An estimated 15.1 million Americans suffer from alcoholism or alcohol dependence—more than five times the number of regular cocaine or crack users.

Two-thirds of those Americans seeking treatment for substance abuse list alcohol as their primary problem.

In Iowa, 80 percent of people seeking treatment were admitted for alcohol.

Nor can we forget that alcohol is the gateway drug—the legal drug that leads to illegal drugs such as marijuana, cocaine, crack, and heroin.

Yet, the alcohol problem receives little recognition from the leaders of the Federal Government's war on drugs. I was discouraged to discover that the President's two national drug control strategies, released in September 1989 and January of this year, fail even to acknowledge alcohol abuse.

One of the lone voices speaking about this blind side of our Nation's war on drugs is Iowa's drug czar Mike Forrest.

According to Mr. Forrest, whose official title is Drug Policy Coordinator for the Governor's Alliance on Substance Abuse: "The worst problem we face in Iowa, by far, is alcohol abuse." Yet, Forrest continues, "in the public mind, I'm not certain people see that * * *."

I share Mike's concerns as well as his frustration with the public's and the Federal drug agency's apparent disinterest in alcohol abuse. In 1986, during Senate debate on the Anti-Drug Act, I was one of the lone voices addressing the alcohol abuse problem, and cited the inconsistency of our fighting the drug epidemic while tolerating the media's glamorization of alcohol consumption.

For these reasons, I commend to my colleagues the following article from the April 2 Washington Post on Mike Forrest's efforts to expose the scope of the alcohol abuse problem in Iowa.

My message to Mike is "Good work and keep up the fight for a drug and alcohol abuse free Iowa."

I ask that the article be printed in the RECORD.

The article follows:

ALCOHOL: THE WORST DRUG PROBLEM: OFFICIALS IN MIDWEST FRUSTRATED BY GOVERNMENT PRIORITIES

(By Michael Isikoff)

DES MOINES.—Last summer, amid a barrage of news accounts about crack-dealing gangs spreading through Iowa, Gov. Terry E. Branstad (R) appointed F.H. Mike Forrest, a blunt-talking former Army Reserve officer and retired lawyer, as the state's first "drug czar."

But soon after taking office, Forrest said, he discovered that the state's most serious drug problem had nothing to do with crack. And what's more, neither the news media nor anybody else wanted to hear about it.

"The worst problem we face in Iowa, by far is alcohol abuse," said Forrest. "Yet in the public mind, I'm not certain people see that. . . . Every time I start talking about it, all the television people turn off those cameras. And all those good quotations I give them never get used."

Forrest is not alone in his frustration. While the Bush administration and state governments pour billions of new dollars into fighting illegal drugs, a growing number of public health officials fear that this effort has overshadowed the far more damaging and pervasive problems caused by alcohol abuse.

This is especially true in many midwestern and Rocky Mountain states where officials say the toll from alcohol—measured by highway fatalities, teenage drinking and thousands of babies with fetal alcohol syndrome—dwarfs the problems created by cocaine and other illegal drugs. And they charge the Bush administration with exacerbating the imbalance by omitting alcohol from its drug control strategy and directing that new treatment aid to the states be spent exclusively for illegal drug users rather than alcohol abusers.

"It doesn't make any sense," said Jan Smaby, Minnesota's new drug policy director. "Alcohol is the number one abused drug here by a landslide. . . . Particularly in a state like Minnesota, it's just ridiculous to say we're going to talk about illegal drugs—we're not going to talk about alcohol."

But the imbalance is not only on the federal level. For much of the past year, Iowa's news media and political leaders have been preoccupied with reports of crack cocaine and other illegal drugs sweeping the state. Police officials have reported crack seizures in remote rural communities, and in Des Moines, where drug arrests jumped 169 percent last year, police are worried about a potential outbreak of drive-by shootings and other violence among rival drug gangs this summer.

But at the same time, many officials say there is little hard evidence that cocaine has penetrated widely into the general population. Consistent with national trends, the last statewide survey of high school students here showed that weekly use of marijuana and other illegal drugs had dropped by more than half between 1978 and 1987, while regular alcohol use (also illegal for teenagers) was on the rise.

Meanwhile, Des Moines school officials say that while they see almost no signs of drug abuse in the public schools, they do see alarming increases in binge drinking, weekend beer parties and other alcohol-related problems.

"They are literally drinking until they fall down or throw up," said Barb Madden-Bittle, nurse at 1,400-student Roosevelt High School. "I see a real increase in alcohol—it's really worrisome. . . . But the kids are telling us that it's really okay because it's not marijuana or crack."

"The way people view this problem—it's distorted, it's warped," added Harold Hughes, a former Iowa governor and recovered alcoholic who now runs a private substance-abuse treatment clinic. "People panic when they hear about drugs. . . . But it's alcohol that is killing, maiming and crippling people and filling our jails. . . . It's doing 10 times more damage than all the illegal drugs put together."

Confronted with an increasing number of such complaints, national drug policy director William J. Bennett tells audiences that his mandate from Congress is to be "the drug czar, not the health czar."

At a recent meeting in Omaha, members of the National Commission on Drug Free Schools told Bennett they wanted to begin their upcoming report to President Bush with a powerful warning about the dangers of alcohol abuse among the nation's youth. But Bennett, the commission's co-chairman, warned panel members that they were forgetting their "homework assignment" and risked losing their credibility if they concentrated on alcohol.

"The point is, right now, the American people are eager to get this drug thing behind us," Bennett said in a recent interview. "There are opportunities to talk about alcohol. . . . Why are people changing the subject? . . . There are still some neighborhoods in parts of America where crack is tearing the hell out of places."

In other forums, Bennett has drawn a sharp distinction between alcohol and illegal drug use, which he says "degrades the human character."

"We regard drug use as morally wrong," Bennett said in a recent speech to the conservative-oriented Heritage Foundation. Unlike "90 percent" of alcohol consumption, he said, when illegal drugs are used, "the primary object is to zonk out."

But many public health officials contend that the distinction is not quite so clear-cut and may give rise to cynicism about the

anti-drug effort. The Department of Health and Human Services recently estimated that 15.1 million Americans are suffering from alcoholism or alcohol dependence—more than five times the government's estimated number of regular cocaine or crack users (about 3 million) and more than 30 times the estimated number of heroin addicts (500,000).

A study by the Centers for Disease Control released last month found that alcohol contributed to the deaths of 105,095 people in 1987, including 57,230 deaths from cirrhosis of the liver and other diseases, 20,282 highway fatalities and 8,552 suicides.

Perhaps more significant, given public concern about the links between crack and crime, the CDC study found that 9,107 of the nation's homicides in 1987 were alcohol-related, or about 46 percent of the total. In cities such as the District, police have estimated that as many as 60 percent of murders are "drug related," but say that most result from turf wars and other disputes related to distribution rather than crimes spurred by consumption.

These numbers are striking, some public health experts say, because of the dramatic shift in spending for substance abuse prompted by the federal government's drug war. Under the Bush administration's latest budget proposal, all of the proposed $100 million increase for block grant funding of state substance-abuse treatment programs must be spent exclusively for illegal drug users.

Yet two-thirds of the 1.7 million Americans seeking treatment from such programs last year reported alcohol as their primary problem, according to a recent national survey by the National Association of State Alcohol and Drug Abuse Directors. In Iowa, four of five people seeking treatment were admitted for alcohol, while in Nebraska and Colorado, nine of 10 treatment admissions were for alcohol.

Many state officials acknowledge that these figures may be misleading because alcoholics are more likely to openly admit their problems. But at the same time, they say, it is increasingly common to find treatment patients who are "polydrug abusers," addicted to both alcohol and illegal substances.

"The overwhelming majority of people are seeking treatment for alcohol or alcohol in combination with other drugs," said Diane Canova, director of public policy for the alcohol and drug abuse directors group. "For us, to have [an anti-drug] policy that excludes alcohol doesn't mirror reality."

Even the mounting national concern over crack-addicted babies may be out of proportion, some health officials say. In Iowa, local hospitals report that they continue to see far more babies suffering from fetal alcohol syndrome—a set of birth defects that can include low birth weight, a diminished cranium, distorted facial features and slow cognitive and muscle development.

Some doctors and researchers now believe that at least some of the adverse symptoms detected in "crack babies" may actually be the consequence of alcohol use by the mother. Rizwan Shah, who treats many inner-city patients here as medical director of the Family Ecology Center at Iowa Methodist Hospital, said, "For every one cocaine baby, I see five or six with fetal alcohol syndrome."

But sometimes, she said, it is difficult to tell what may have caused the low birth weight or slow motor coordination of a newborn infant. "I have yet to see a cocaine-using mother who had not also used alcohol," she said.

Forrest said that when he read in a recent medical newsletter about the link between fetal alcohol syndrome and mental retardation, it reinforced his determination to "raise consciousness" about the state's alcohol problem.

"That got my attention," Forrest said. "There are probably academicians who would say, 'We've known that for years.' But as one member of the general public, I didn't. And I have to assume a lot of other people didn't, either."

Nevertheless, Forrest acknowledges that his efforts have been largely ignored. Over the past 18 months, the threat of illegal drugs has rocketed into the forefront of public discussion here.

Private polls taken in this year's Senate race show that drugs are "one of the top two" issues on voters' minds, about even with the economy and ahead of abortion and the environment, according to Phil Roeder, spokesman for Sen. Tom Harkin (D), who is using the slogan "Drug Free by '93" as part of his reelection campaign.

Much of the reason, Roeder said, is that Iowans have watched national television news coverage of drug-related violence in cities such as the District and Los Angeles "and are saying, 'We're not going to let that happen here.' "

Not surprisingly, most of the concern over drugs is centered in Des Moines, the state's largest city with a population of 191,000. Last year the police department called crack a "growing epidemic" and the City Council passed a resolution declaring fighting drugs the city's top priority.

About the same time, the police began a policy of inviting local television news crews to accompany the narcotics squad as it made drug arrests. "It make dramatic film—people see officers running into a home with sledgehammers, guns drawn," said police spokesman Thomas Van Baale. "People see that and they get scared."

Police say there was legitimate reason to worry. In the city's largest public housing project, the Homes of Oakridge, drug dealers had moved into many apartments and were dealing crack. Many were being supplied by gangs from Los Angeles and Chicago.

WHAT IS ABUSED WHERE?

[Number of patients admitted for treatment in selected areas]

	Alcohol	Other drug
Alaska	8,650	1,528
California	108,000	64,408
Colorado	50,667	4,032
D.C.	5,696	5,173
Florida	60,551	18,142
Iowa	18,282	4,713
Kansas	10,476	3,289
Kentucky	14,284	4,730
Maine	16,395	2,760
Maryland	18,127	18,320
Minnesota	44,155	7,628
Montana	8,845	2,135
Nebraska	19,563	2,221
Nevada	9,320	1,613
New Hampshire	4,087	773
North Carolina	19,164	4,144
Oregon	32,578	6,594
Pennsylvania	35,203	32,571
Puerto Rico	3,341	14,766
South Carolina	27,512	6,361
Texas	10,650	12,290
Utah	11,450	2,240
Virginia	48,608	12,534
West Virginia	10,996	2,024
Wisconsin	72,335	12,501
Total United States	1,217,285	518,851

Note.—Figures are for fiscal 1988. Data for alcohol client admissions in California and Virginia are estimated. Figures for Colorado represent episodes, not admissions. Figures for D.C. are based on provisional year and expenditure reported. For Puerto Rico, alcohol figures include only state agency clientale and drug client admissions data are estimated.

Source: State Alcohol and Drug Abuse Profile, FY 1988. Data are included only for those programs that received funds administered by the state drug agency.

But police officials say that visible evidence of crack and other illegal drug use remains largely limited to a 20-block low-income neighborhood just north of the central business district. And while drug arrests more than doubled last year, at least in part because the city hired more narcotics officers, overall crime—including murders, robberies and burglaries—dropped by 10 percent.

"I don't think the drug problem has increased, but our awareness of what's going on has," said Pete Rounds, chief of the police department's narcotics division.

Mark Horstmeyer, public relations director for the Des Moines school system, said the system in recent years has beefed up its drug education programs, but quickly added: "We don't have a drug problem in the schools. . . . I sometimes think the TV is playing it up a little because they think it's exciting."

Indeed, some students said crack smokers they see on the streets—known here as "geekers"—are mostly in their 30s and are objects of ridicule. "We all make fun of geekers," said Azim Rashad, a 16-year-old junior at Roosevelt High. "The police are trying to say all of Des Moines is filled with dope. I think they're just trying to get some more money."●

THE 100TH ANNIVERSARY OF THE BIRTH OF FORMER U.S. SENATOR MILLARD EVELYN TYDINGS, MARYLAND

● Mr. SARBANES. Mr. President, tomorrow, April 6, marks the 100th anniversary of the birth of one of the most courageous and independent individuals to serve in the U.S. Senate.

Senator Millard Evelyn Tydings was born at Havre de Grace, MD, in 1890, and died there in 1961. During his lifetime, which covered some of the most eventful periods of American history, Millard Tydings served with distinction in the Army during the Mexican border campaign and World War I, as a member, then Speaker of the Maryland House of Delegates, member of the Maryland State Senate, U.S. House of Representatives and then four terms in this body. At the time of his defeat in 1950, following what was later described by a Senate committee which investigated the campaign as a back-street type campaign conducted by non-Maryland outsiders, Millard Tydings had served with honor and distinction in public life for 35 years.

Mr. President, much has been said and written over the years about Senator Tydings' independence. In 1937 he led the opposition in this body to President Roosevelt's plan to pack the Supreme Court. Thirteen years later, as chairman of a special Senate Foreign Relations subcommittee to investigate Senator Joseph McCarthy's charges of Communist influence in the State Department, Senator Tydings

told the Senate that "there was not an ounce of truth" in the McCarthy allegations, which he described as "false and contemptible."

During his four terms in the Senate, he became chairman of the Armed Services Committee as well as a member of the Foreign Relations Committee and Joint Committee on Atomic Energy, Senator Millard Tydings became the third most senior Member of this body in terms of continuous service. He will be remembered for his leadership on innumerable issues and development of important legislation; however, we are all in his debt, in the words of the Washington Post, for "the two momentous occasions when he stood courageously against tides that were running powerfully against the basic principles of democratic government."

Mr. President, I ask that an editorial from the Washington Post recalling Senator Millard Tydings contributions to our Naiton be reprinted in the RECORD at this point.

[From the Washington Post, Feb. 11, 1961]

MILLARD E. TYDINGS

The tall, lean, sandy-haired Marylander who represented his state in the United States Senate for 24 years ending in 1950 has quietly closed his career at his farm in Havre de Grace. In his day Millard Evelyn Tydings was perhaps the best known Marylander in the country. Always a colorful figure and a speaker of great power, he managed to occupy a prominent position in some of the most spectacular fights of his generation. Though it cannot be said that he was always right, he is entitled to an honored niche in history because of the campaigns he waged on basic questions of principle.

In some respects Mr. Tydings was an enigma. In attitude and affiliation, he seemed to be a strong party man. Yet his partisanship had in it a powerful strain of independence. He was one of that courageous band of Democrats in the Senate who in 1937 resisted President Roosevelt's attempt to pack the Supreme Court. Against what seemed to be overwhelming odds, they persisted in their campaign until public sentiment had rolled up an impassable barrier to the measure. When F.D.R. attempted to drive Mr. Tydings from the Senate because of this opposition to an Administration bill, the Senator again won a significant victory.

The same type of courage was again demonstrated when Senator McCarthy went on the rampage with his accusations that 205 or 80 or 57 card-carrying Communists were being harbored in the State Department. It was Senator Tydings who headed the Senate subcommittee that looked into the McCarthy charges and found them to be "a fraud, a hoax and a deceit." For this exposure of the McCarthy nightmare Senator Tydings was bitterly assailed. Charges of "whitewashing the State Department" were carried into the Tydings campaign for reelection in 1950 by Senator McCarthy and others. Indeed, the slander against the courageous Marylander culminated in the circulation of a faked picture of the Senator allegedly conversing with Earl Browder, one-time head of the Communist Party in this country.

This deplorable episode in our political history ended in the election of John Marshall Butler to the Senate. No doubt there were other accumulated grievances against Senator Tydings, but the nature of the campaign against him made the outcome a tragedy for Maryland and for the Senate. There were indications that Mr. Tydings might reverse the decision of 1950 when he became a candidate against Senator Butler in 1956, but an acute case of the shingles forced him to give up the fight before election day. He will be remembered chiefly for the two momentous occasions when he stood courageously against tides that were running powerfully against the basic principles of democratic government.●

CONTRIBUTIONS OF ACADEMIC PUBLIC HEALTH TO DISEASE PREVENTION

● Mr. DURENBERGER. Mr. President, I want to take this opportunity to give special mention to the 24 Schools of Public Health in our country which, over the past 50 years, have made some of the most important breakthroughs in science and medical technology the world has ever known.

This year marks the 50th anniversary of the annual meeting of the Deans of Public Health. To commemorate this important anniversary, the Senate Committee on Labor and Human Resources, on April 24, will hold a special hearing. I am privileged to serve as the honorary chair of this special hearing. And I want to invite all of my colleagues to attend this hearing which will document the impressive track record of these schools.

Mr. President, America's Schools of Public Health are one of our great national resources. The faculty and research staffs of these schools have made unparalleled contributions to improving the health of people throughout the world. I would like to just mention a few of their contributions: First, development of the iron lung, along with research that led to the eradication of polio; second, playing a critical role in the complete eradication—for the first time in history—of a worldwide public health scourge—smallpox; third, discovery of vitamin D; and fourth, development of strategies to eradicate hookworm and other infections, including sexually transmitted diseases. These schools have also provided important insights into the prevention of typhus, trachoma, malaria, and numerous other diseases. Today, many faculty members in these schools are working on AIDS prevention and control techniques, and on identifying and dealing with a host of newly recognized risks such as hazardous waste and indoor air pollution.

Mr. President, the witnesses who will testify at the April 24 hearing are nationally recognized Deans of the leading Schools of Public Health. The witnesses include: Dr. Robert Kane, the University of Minnesota; Dr. Palmer Beasley, the University of Texas; Dr. Jacob Brody, the University of Illinois at Chicago; Dr. Harvey Fine-berg, Harvard University; Dr. Jerrold Michael, the University of Hawaii; Dr. June Osborn, the University of Michigan; Dr. Winona Vernberg, the University of South Carolina; and Dr. Donald Henderson, the Johns Hopkins University. I want to thank the president of the Association of Deans of Public Health, Michael Gemmell, and his assistant, Joan Piculell for assisting congressional staff in arranging for these witnesses to participate in this hearing.

Mr. President, I invite my colleagues to join me in recognizing these accomplishments by attending the April 24 hearing on "Contributions of Academic Public Health to Disease Prevention and Health Promotion."●

TRIBUTE TO MAYER MITCHELL, FIRST ALABAMIAN ELECTED PRESIDENT OF AIPAC

● Mr. SHELBY. Mr. President, it is with a great deal of pride that I rise today to pay tribute to a man who has recently been elected to the prestigious position of national president of the American Israel Public Affairs Committee [AIPAC]—Mayer Mitchell. He is the first Alabamian in the organization's history to hold this post. Being elected to this new position is the most recent honor for this outstanding Alabamian whose life can be characterized by his commitment to his country, State, family, and faith.

From an early age, it was apparent that Mayer Mitchell would be an outstanding Alabamian as well as an outstanding American. After graduating from Wharton School of Finance at the University of Pennsylvania in 1953 with a bachelors of science degree in economics, Mayer joined the battle ranks in Korea and fought for democracy. A young and committed man, Mayer Mitchell served his country courageously as a first lieutenant with the Army and was decorated with distinction. He was honored with a commendation ribbon with medal pendant from the Department of the Army in 1955 for Meritorious Service in Korea. At the young age of 33, Mayer Mitchell was recognized for his unique contributions and awarded the Outstanding Young Men of America Award in 1966 by the U.S. Chamber of Commerce. And in 1970, Mayer was honored by the Jewish Welfare Fund and named Man of the Year.

Upon returning to civilian life, Mayer Mitchell established himself as a well-respected and successful member of the Mobile community. From 1955 to 1986, he served as chairman and chief executive officer of the Mitchell Co. He is one of the owners

of Mitchell Brothers, Inc., a private investment company.

Although business has been an important focus for Mayer, I know that it is not the central component which has shaped his life. Mayer is extremely involved in civic activities, especially with regard to the medical and educational facilities in his community. Mayer Mitchell is known to all as a compassionate and caring man, a good friend, and a concerned citizen who is generous to a fault.

In 1969, Mayer received the startling diagnosis that he suffered from Hodgkin's Disease and was given only a few months to live. The same determination that helped him to achieve success in other areas of his life was the factor that enabled him to beat the odds and survive this almost always fatal disease. As a survivor, he has been an inspiration to many individuals across the country. He has spread his unique "will to live" philosophy and in doing so has impacted many lives.

Not only has he been and inspirational figure to many individuals, he has been concretely involved in advancing cancer research. In honor of the many outstanding physicians who were responsible for his miraculous recovery, he has established several Chairs at medical institutions across the country to further cancer research efforts. These Chairs are located at the University of South Alabama School of Medicine, the University of Rochester School of Medicine, and Stanford University School of Medicine. In addition, he served in 1974 as the industry and commerce chairman for the South Alabama Campaign for the Leukemia Society of America fund drive. He was also elected as the first honorary member of the Mobile Kiwanis Club and presented with that organization's Distinguished Service Award for his generous contributions to the Mobile Kiwanis Children's Cancer Clinic in 1977.

Mr. President, Mayer Mitchell embodies the very characteristics that identify the American spirit—faith, courage, and determination. He is a great source of pride for the State of Alabama and has given Mobile the opportunity to add yet another outstanding citizen to that city's history. I know that I join Mayer's wife, Arlene, his four children and seven grandchildren in sharing their pride in Mayer's many accomplishments. I salute Mayer as a man of great personal character, and I am honored to serve as one of Mayer's Representatives in Washington and even prouder to call him my friend.●

LITHUANIA

● Mr. LEVIN. Mr. President, Lithuania was a free and independent nation for the two decades prior to the Second World War. In July 1922 the United States recognized the Government of Lithuania. During the period between the World Wars, Lithuania was free to exercise its sovereignty as an independent country, a member of the family of nations. This year, Lithuania has boldly and legitimately reclaimed its place among the nations of the world.

In 1939, Lithuania, Latvia, and Estonia were forcefully and illegally annexed by the Soviet Union as the result of the secret Molotov-Ribbentrop pact between Hitler and Stalin. The United States did not, and has never, recognized this illegal annexation, and every President and Congress from Franklin Roosevelt through George Bush have rightfully denounced it.

Last year, on the 50th anniversary of the Stalin-Hitler pact, a Soviet parliamentary commission officially acknowledged for the first time the existence of the pact, and its illegality. The commission found that the pact was contrary to international law because it violated the sovereignty of other states.

Just last week at the Soviet Embassy here in Washington, the deputy head of the Soviet delegation to the United States repeated the official Soviet position that Lithuania had the right to be an independent and sovereign nation if it so desired.

It has been the proper and appropriate position of the United States and the American people over the years that Lithuania is a sovereign nation under Soviet occupation. The United States never withdrew its recognition. In the hearts of Lithuanians and in the hearts of people everywhere who cherish freedom, Lithuania never lost its claim—never lost its right—to its freedom and independence.

On March 11, 1990, the freely elected representatives of the brave and proud people of Lithuania once again asserted their right to their proper and legitimate place as a free and independent nation.

Our administration should do all it can to urge the two nations involved—Lithuania and the Soviet Union—to meet and negotiate a peaceful and political resolution to their differences. A peaceful solution needs to be found.

All Americans condemn the current display of Soviet military might in Lithuania in an attempt to intimidate the Lithuanian people and their new government. Military threats and ominous displays of power will not extinguish the Lithuanians' just demand for freedom. It is a heavy-handed reaction fearing freedom, and Moscow needs to understand that it is unacceptable.

But we should do more than condemn Soviet displays of might. The United States should reiterate to the Soviet Union and the world that we never withdrew recognition of Lithuanian sovereignty. Simply stated, the United States should inform the Soviet Union that the sovereignty and legitimacy of the new, freely elected, Government of Lithuania is a given fact that cannot be denied, and cannot be negotiated.

The United States should inform the Soviet Union in clear, firm, and honest terms that it is important to the future of American-Soviet relations that representatives of the Soviet Union and Lithuania meet and negotiate. The Soviet Union has acknowledged the illegitimate nature of the Hitler-Stalin pact which led to the Soviet occupation of the Baltic nations. It is now a question of when and how the Soviet Union and Lithuania restructure their relationship. The United States should make it clear we support efforts to correct the historical crime of Stalin's illegal conquest and occupation of the sovereign nation of Lithuania. In this context, the administration should support the independence of Lithuania, and recognize the new government as the sole legitimate government of a free and independent Lithuania.

This is not an anti-Gorbachev suggestion, since the Soviet Union has repeatedly said its republics have the right to independence. This is a profreedom proposal. This is a proposal that reflects America's own ideals, and a proposal that reflects the historical fact that Lithuania was illegally occupied by Stalin in 1940 and remains illegally occupied to this date.

The desire for freedom never died in the hearts of the Lithuanian people. Lithuania is once again at a crossroads. But so is the world. The embers of freedom never died under the repressions of the 20th century, and the fires of freedom now burn strongly. The American people worked and died for that, and we must not waver now.●

THE CASE OF SOVIET REFUSENIK VLADIMIR TSIVKIN

● Mr. LEVIN. Mr. President, as part of the continuing Congressional Call to Conscience Vigil, I would like to present the case of Mr. Vladimir Tsivkin, a Soviet Jewish refusenik from Leningrad.

Vladimir Tsivkin has not worked in his classified position as an engineer/chemist since 1978. The family's first application for permission to emigrate was made in 1979, and refused on the grounds of "state secrecy." Applications in 1980 and 1981 were also denied.

The Tsivkins were again refused permission to leave in 1988. However, in March 1989, they applied for and received permission to emigrate. Vladimir and his wife Irina left their jobs, sold most of their belongings and

turned in their official documents. Eight days later, OVIR informed them that permission was given by mistake and was rescinded.

In July 1989, Vladimir Tsivkin was issued a visa to take part in a human rights conference in Paris. The family took this as a signal that, perhaps, they might finally be given permission to emigrate. Not only was permission denied again, but Mr. Tsivkin was told that the earlier permission to travel to Paris had also been a mistake.

Vladimir Tsivkin no longer has his military card, without which he cannot earn a living. Lack of this card also makes him liable for criminal prosecution. The Government has stated that the Tsivkins' request for emigration will be considered no earlier than 1995.

Because of the recent sharp rise in anti-Semitism which generated concern for their daughter's life, the Tsivkins have decided to emigrate separately. Irina and Susanna were recently granted a tourist visa, and decided to leave the Soviet Union permanently—they now live in Stamford, CT. Vladimir is still in the Soviet Union. His very survival now depends on being able to leave the Soviet Union, as he has adenoma of the thyroid, and appropriate treatment is not available to him there.

Mr. President, the urgency of this case is evident. I know our colleagues will join me in urging the Soviet Government to look upon Mr. Tsivkin's case favorably, and to do so as soon as possible.●

THE RETIREMENT OF ED KOLPACK, FARGO FORUM SPORTSWRITER

● Mr. CONRAD. Mr. President, I rise today to note that Ed Kolpack, a major voice in North Dakota sports reporting, is retiring from the Fargo Forum after 38 years.

At the outset, let me offer one perspective on Ed Kolpack's dedication to North Dakota sports and the Fargo Forum. I was 4 years old when Ed started covering sports and writing stories for the Forum.

In that time, Ed has covered a lot of big-time sports. He covered the Minnesota Vikings when they were known as the Purple People Eaters. He covered the Minnesota Twins when the lineup boasted the likes of Harmon Killebrew, Tony Oliva, and Rod Carew. Ed was at Yankee Stadium—the house that Ruth built—the day the team honored the man who broke Babe Ruth's well-known record of 60 home runs in a season, Fargo's own Roger Maris. Ed was there, and got a long and satisfying taste of what some sports people call The Show.

But interviewing some of the greatest names in sports and reporting their performances is only part of what makes up Ed's legacy in North Dakota. He said that he always preferred hometown sports and writing about athletes in his own backyard. He will be remembered for that, and for giving attention, resources, and space to young athletes born and bred in North Dakota.

Ed also will be remembered for his reporting, which I have admired both as a reader and member of a newspaper family. What's distinguished Ed's reporting is accuracy, attention to detail, and balance. As Ed told a Fargo Farm writer:

> As a reporter I am the eyes of some of the fans who could not attend a game. The next step, as a columnist, is to give my opinion on certain things. I have received my share of letters that were not very complimentary, but that goes with the territory. I just tried to be fair.

Perhaps another reason for Ed's achievements as a sports writer and editor has been his ability to listen to the hundreds of coaches and athletes he's watched through the years. It has been that talent, combined with his quite enviable ability to write, that has formed countless stories in the Fargo Forum.

Mr. President, as Ed Kolpack writes his last stories for the Fargo Forum this week, he leaves North Dakotans with thousands of memories and impressions. It is quite a legacy, between his reputation as a journalist and the thousands of stories and columns he has written. He left another legacy to North Dakotans, too, one that tells worlds about the kind of man Ed Kolpack is.

Two of Ed's sons have followed him into journalism and both are sports writers. His son Dave has literally followed his father's footsteps—right to the sports desk of the Fargo Forum. Another son, Jeff, is a sports writer for the Bismarck Tribune. Kolpack is a byline North Dakotans will be reading for years to come.

As Dave Kolpack said:

> The thing that impressed me most about him is his writing is so clean. He doesn't waste a word. I don't know of anyone who is so economical in his writing. Not everyone agrees with his style. But to me he's just the essence of a professional journalist.

Thank you, Mr. President. I yield the floor.●

HUNGARIAN DECISION TO CONTINUE FLIGHTS TO ISRAEL FOR SOVIET JEWS

● Mr. KOHL. Mr. President, the New York Times and the Washington Post reported this week that Malev, the Hungarian airline, has reversed its recent decision to suspend flights to Israel for Soviet Jews. I would like to congratulate the Hungarians for their courageous action in the face of terrorist threats.

Even as Jews are being permitted to leave the Soviet Union in unprecedented numbers, they face increasing obstacles to their efforts to actually leave the country. Moscow refused to follow through on the Aeroflot-El Al agreement to provide direct flights from the U.S.S.R. to Israel. Then, in response to threats from Arab terrorists, Hungary announced that it would no longer honor tickets from Jews emigrating through Budapest.

The Post stated that—

> Budapest became the largest single transit point early this year for the large and controversial wave of Soviet immigration to Israel . . . Israeli press reports have said about 65 percent of the immigrants from the Soviet Union were traveling to the country through Budapest.

Understandably, the loss of Budapest as a transit point caused alarm throughout the Jewish community. This additional hurdle came at a time when reports from the Soviet Union indicated widespread increases in anti-Semitic activity.

The reversal of the Hungarian decision this week is welcome news for all Jews trying to leave the Soviet Union. Like the Poles, who recently agreed to allow charter flights for Soviet Jews to Israel from their country, the Hungarians have bravely shown the world that they will not let terrorists dictate policy. Our governments need to work together to send this message to would-be terrorists across the globe, rather than acquiesce to their demands. Mr. President, I hope that all my colleagues will join me in commending the Hungarians for helping to ensure that glasnost exists not just in theory for Soviet Jews, but also in practice.●

GLOBAL WARMING: WHAT CAN THE WORLD'S LEGISLATORS DO ABOUT IT?

● Mr. BOSCHWITZ. Mr. President, this body last August authorized seven of its members, including myself, to host an international conference for parliamentarians on global warming and other related environmental issues. The formal name of this conclave is the Interparliamentary Conference on the Global Environment. The conference, with my friend AL GORE chairing the U.S. delegation, will take place in Washington at the end of this month, just a week after Earth Day 1990. We anticipate that upwards of 150 legislators from over 30 countries will be taking part—in addition to our Senate group and a delegation from the House.

Nowadays, global warming meetings seem to be a growth industry in Washington. Just what do we seven Senators representing the United States hope to accomplish? Well, first of all, we see a need for sharing information among a variety of men and women who are directly elected political leaders in their own countries—leaders in

touch with the pulsebeat of their citizens, leaders who can influence opinion and push for necessary political actions by their governments.

Our goal is not necessarily for legislators from the other nations to embrace 100 percent the "American" point of view. We want, however, to share with our foreign counterparts what we and the best U.S. scientists know and can conjecture upon—to initiate a continuing dialog on what is known about global climate modification and about the prospects for drastic changes in all our lives.

Current worldwide climate changes will most likely lead—if not in our lifetimes, then in those of our children—to warmer temperatures, less participation, lower soil moisture, and consequent declines in farm production—at least in our country—and large ecological tolls. Many islands and low-lying lands may be flooded. Agriculture, wildlife, river transport, and water and energy supplies are bound to be influenced, in many cases adversely.

Most of you have heard these horror stories before, as well as some skepticism implying maybe it is all a fabrication of some wild imaginations. The global warming theory is still just that—a theory, a hypothesis attempting to relate plausibly a set of causes and effects with consequences of utmost importance for the quality of life of our Earth's billions of people and for the children and grandchildren of today's billions. But considerable data indicate a definite relationship between so-called greenhouse gas emissions and recent upward movements in themometers around the world.

Reputable scientists still are not certain whether or not the few heatwaves of the last decade are definitely part of a long-term weather trend which will irrevocably change all of our and our children's patterns of farming and housing, and, for that matter, of the whole way we live and work together. So at the outset, we want to share what we know. We want to learn what others know. We want to share not only the facts, but also mutual concerns.

We obviously have to continue our research on global warming, and on just how serious its consequences might be for us. But one thing is sure. We cannot wait until we have complete scientific proof. If we wait until all the results are in, it could be too late for all of us. We have to take further decisive actions now and in the years ahead if we want to get ahead of the curve. That's why we have been working on the clean air bill. That is why we will probably amend the Montreal Protocol on eliminating CFC's. That is why we and other countries must take further steps very soon to reduce emissions and protect our precious heritage.

In my view, global climate change, and what this change means for all of us and our heirs, is potentially the single most important environmental problem we face today. If current predictions are right—or even come close—on upward temperature change and on related problems, such as air pollution, ozone depletion, and energy scarcity, the legislators of the world have quite a task in front of them.

What we legislators of the globe will have to grapple with later on this month in our conference here—is how to protect, on the one hand, our granaries from depletion and our coastal lands from flooding, and, on the other, to face up to the need, already underway, to restructure our industries, our transportation, our whole life and work styles.

We legislators will discuss the responsibilities and obligations of all our countries to solve these common problems. We will explore prospects for setting up ongoing professional networks of continuing education. Most importantly, we will have an opportunity to start developing a political consensus for a blueprint of corrective actions available, both globally and to individual countries, and to agree on potential next steps to protect the world's common environmental heritage.

I anticipate a very interesting and hopefully useful meeting. Tune in next month, and we will give you the initial results.●

GOOD DEEDS IN A CENTENNIAL YEAR

● Mr. WALLOP. Mr. President, several weeks ago, I joined with my colleague from Wyoming, Senator SIMPSON, in introducing a resolution regarding the Wyoming centennial. During 1990, the people of Wyoming will undertake a variety of projects to celebrate our 100 years as a State. There will be a wagon train from Fort Caspar to Cody. In my hometown of Sheridan, we will have a western film festival. Many great western films, such as "Shane," were filmed in Wyoming. And, in Cheyenne, the Frontier Days clebration will be bigger and bolder than ever.

Not all centennial events are devoted to fun and frolic. There is a more serious side to our celebration of statehood. During this special year, people throughout Wyoming will participate in voluntary projects to improve their communities and assist those less fortunate. One voluntary project was recently organized by the medical staff of DePaul Hospital in Cheyenne. Each physician's office has agreed to provide free medical care to the medically indigent in the community. The medical staff has set up a program to coordinate this service.

This effort by the DePaul medical staff demonstrates the two sides of the pioneer spirit which built Wyoming. The physicians have forged ahead on their own without any government mandates or support to undertake this project. And, they have responded to a serious problem in their community. Many pundits deride rugged individualism and community spirit. However, these are the characteristics that made my State. It is good to know that these values are still strong in Wyoming.●

COORDINATING SERVICES IN CREATIVE WAYS: DAMIANO CENTER HELPS PEOPLE HELP THEMSELVES

● Mr. BOSCHWITZ. Mr. President, I rise today to bring an article about the Damiano Center to the attention of my colleagues.

The article identifies the Damiano Center—located in Duluth, MN—as an example of a successful public-private partnership. The center operates a soup kitchen, a clothing exchange, a job program, and distributes food through the Federal Temporary Emergency Food Assistance Program. Last year they also operated a food stamp training program. About 10 percent of the Damiano Center's budget comes from Federal sources with the remainder coming from private sources.

The Damiano Center and four other nonprofit agencies form a network to address hunger problems in Duluth. This coalition works together to find ways for low-income families and individuals to help themselves.

I commend the Damiano Center for its efforts to assist those in need in their local area. As the senior Republican on the Senate Nutrition Subcommittee, I have long believed that private sector initiatives are vital in the fight against hunger in our country.

I ask that the article from the Food and Nutrition magazine be printed in the RECORD.

The article follows:

COORDINATING SERVICES IN CREATIVE WAYS—DAMIANO CENTER HELPS PEOPLE HELP THEMSELVES

(By Mary Jane Getlinger)

From the "Land of Sky Blue Waters"—Minnesota—comes a model of a successful public-private partnership working toward a common goal of food self-sufficiency. Damiano Center is located in Duluth, Minnesota, and forms a network with four nonprofit agencies which address the problems of hunger in Duluth.

Founded in 1982, Damiano Center is a private, not-for-profit corporation that provides networks with other private, nonprofit agencies to help poor people who need food, shelter, or clothing.

"Our goal is to create a coalition of agencies working to provide low-income people with ways to help themselves," says Jim Dwyer, program coordinator for Damiano Center.

Although non-denominational, Damiano Center is based on the ideals of the San Damiano monastery, where St. Francis of Assisi received his calling to go to work among the poor. The center is housed in an old Catholic grade school building owned by the Catholic Diocese of Duluth. The Diocese allows Damiano Center to use the building rent free.

Duluth (population 84,000) stretches 23 miles along a mountain bordering Lake Superior. The city's primary products relate to its resources and its position on Lake Superior.

Across the St. Louis River lies Duluth's sister city, Superior, Wisconsin (population 32,000). Much flatter than her sister, Superior has many of the railyards which serve the region, and is a trucking center for foodstuffs. Together the two cities are a major port where ores, grain, and other bulk cargoes are shipped throughout the world.

Years ago, the livelihood of the northland people was tied to the land's resources—mining, logging, and fishing. Although these industries still remain strong, the focus has shifted.

Today there are more than 18,000 low-income households—roughly 41,000 people—in St. Louis, Lake, Cook, Koochiching, Itasca, and Carlton counties in Minnesota who use the services offered by the center and its coalition agencies. An additional 3,200 low-income households, or about 8,000 people from Douglas, Ashland, Iron, Price, and Bayfield counties in Wisconsin, also take advantage of coalition services.

"Damiano Center is based on the belief that the best hope for eliminating hunger is in actively working with people, enabling them to provide food for themselves," says Jim Dwyer's brother, Paul, who coordinates food stamp outreach and the Temporary Food Assistance Program (TEFAP) at the center.

"Once their basic food needs are met, we try to create opportunities for low-income people to learn to be more self-reliant."

HELP WITH FOOD, CLOTHES, JOBS

Damiano Center's soup kitchen, clothing exchange, and Handy Hands jobs program provide immediate assistance. "If someone needs a meal or clothing, our volunteers will assist—immediately," says Jim Dwyer.

Soup Kitchen coordinator Jean Gornick says the kitchen has plenty of volunteers. Many churches in the area provide cooking staff—a head cook and 6 to 10 helpers 1 day each month. Grade schools, confirmation classes, Outward Bound groups and other service organizations also volunteer.

Last year the kitchen served nearly 53,000 meals on a budget of $77,000. The kitchen serves all-you-want-to-eat meals at 11:30 a.m., 5 days a week. Two paid workers manage the kitchen, set up the menus after surveying the foods available that day, and arrange for volunteers to do the cooking.

The Handy Hands jobs program offers the community a day labor service and gives people eager to work opportunities to make some money. The program offers jobs such as painting, unloading trucks, distributing and harvesting food, and cleaning.

"Handy Hands teaches the importance of showing up for work" says Jim Dwyer. "It gives people some pocket money for the bus fares or food on the days the kitchen does not operate. If workers prove to be reliable, Handy Hands will push for full-time employment and provide needed references."

The center also has donated clothing available for those who need it."We distributed 100,839 clothing items last year to 16,500 people," says part-time clothing exchange coordinator Clare Ritchie.

MONEY COMES FROM PUBLIC, PRIVATE SOURCES

Damiano Center's $225,000 budget is funded 40 percent from private donations, 30 percent from private foundations and 20 percent from other agency sources. The remaining 10 percent comes from federal sources, including the Federal Emergency Management Agency, Housing and Urban Development community block grants, and USDA's Food and Nutrition Service (FNS) food assistance programs.

"Although our center receives only 10 percent funding from governmental agencies," says Jim Dwyer, "Our interaction with government programs is even greater because we assist people using the center in applying for and receiving federal aid."

The Damiano Center has been responsible for distributing USDA-donated foods through TEFAP (the Temporary Emergency Food Assistance Program) in Duluth since 1983. Since that time Damiano has set up 83 distribution sites in Duluth to allow easy access at a minimal cost for the elderly.

"This was especially important in Duluth because of the steep hills," says Paul Dwyer. "It is next to impossible for an elderly individual to carry a 20-pound bag of food up or down one of these hills in the winter, so we set up a network of volunteers to take commodities to the highrises for distribution."

TRAINING PEOPLE TO HELP PEOPLE

"The most unique approach we use at Damiano is that we train our recipients to help other members of their family, friends, or neighbors to utilize programs they qualify for," says Jim Dwyer.

For example, last year Damiano Center worked closely with the Food and Nutrition Service field office staff in Superior, Wisconsin, to set up a food stamp training program in Duluth. The pilot project now has 144 trained volunteers, of whom 81 percent are food stamp recipients.

New volunteer training and refresher classes are held bi-weekly at the center on the correct use of food stamp forms. Volunteers are taught how and why to accurately fill out each question on the food stamp application, and how to secure necessary documentation.

The training helps caseworkers as well as applicants. "Any time a person comes into our office with an application which is completely and accurately filled out, it helps the caseworker," says Arlene Bjorkman, St. Louis County food stamp administrator. "We know the client has a better understanding of the questions. There will be fewer errors."

The Dwyers believe 520 households were helped by food stamp volunteers from September 1987 through April 1988.

"We also made a big push for the Minnesota state legislature to implement a plain language law that will require that all state application forms and notices be written for seventh grade reading comprehension level," says Paul Dwyer. "Keep it simple—people who understand do not make errors."

NETWORKING IS KEY TO SUCCESS

The Duluth Hunger Coalition links Damiano Center, the Food and Nutrition Council, the Community Garden Program, and the Central Hillside United Ministries.

"The decision to link the agencies into the coalition was formalized in 1984 to expand networking and to increase accessibility to outside resources," says Jim Dwyer. "The network helps move people from immediate need to longer term self-sufficiency."

A quick look at some of the other components of the coalition networks:

The Food and Nutrition Council provides nutrition education for low- and moderate-income families.

The council also has a resource center or pregnant teenagers, provides food consultants to teach nutrition and food preparation at the emergency food shelves, and operates a cannery program, providing equipment and hands-on instructions in safe food preservation techniques.

The Duluth Community Garden Program provides 3½ acres divided into 15 garden plots throughout the city and offers gardening instruction for low-income families. "The plots are fertilized, tilled and ready for planting," says Mary Beth Nevers, Community Garden executive director. "We also provide a tilling service to more than 250 elderly or low-income gardeners who have access to their own plots. About 135 households use the 15 community plots."

The garden program also purchases bulk seeds in the spring. Volunteers package the seeds and sell packets to gardeners for 10 cents each. The Agricultural Extension Service holds workshops on gardening techniques, and experienced gardeners are available to answer questions.

The Central Hillside United Ministries administers the Emergency Food Shelf, the First Street Drop-In Center, Fare Share Program, Men's and Women's Sleeping Shelters, and the Food Accessibility Program.

Each year the Emergency Food Shelf provides a 5-day food supply in crisis situations to some 8,000 individuals and families. People using this service generally live independently and are able to prepare food themselves.

The First Street Drop-In Center is an informal, supportive, chemical-free setting for street people and those with drug problems, perhaps the community's most vulnerable population. The Drop-In Center offers a safe haven, with coffee, bakery goods, and sandwiches for guests.

Fare Share is a self-help food distribution system where people work together to lessen their food shortage problems and to save money. There are no eligibility requirements or screening processes. Participants pay $12 (cash or food stamps) and do 2 hours of community volunteer work each month. In exchange they receive a food package valued at $25 to $40.

The main work of the Food Accessibility Project is to refer individuals to food assistance programs, help them through food program application processes, and counsel them about food buying and menu selections.

THE COALITION'S NETWORK IN ACTION

An example of coalition networking would be Damiano soup kitchen users enrolling in Food and Nutrition Council cooking classes to learn about low-cost nutritious foods and ways to expand the buying power of food stamps.

While taking cooking classes, clients receive information about the Community Garden Program. Some choose to apply for and use a community garden to growh fresh produce for themselves throughout the summer. The Food and Nutrition Council's cannery is available to help gardeners preserve produce for the winter.

"Workshops have been set up to help other northern Minnesota communities follow the Duluth Hunger Coalition networking pattern," explains Jim Dwyer.

"We teach these communities how to form a coalition similar to ours."

"The Damiano Center will stay in operation as long as there is a need for our services. When that need no longer exists, we will be satisfied that our job is done," say the Dwyers.

For more information about the Duluth Hunger Coalition and the Damiano Center contact: Jim Dwyer, Program Coordinator, Damiano Center, 206 West 4th Street, Duluth, Minnesota 55806.●

DESERET NEWS ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, many opponents of congressional term limitation like to point out that 56 percent of the current Congress has been elected since 1980. They would further add that in the last election, 38 new Members were elected. I would note, however, that of those 38 new Members, only 7 defeated incumbents. The rest won open seats. That is the rule of thumb nowadays: Never run unless the seat is open.

Mr. President, deaths, resignations, retirements, and races for other office account for the majority of the congressional turnover. Further, those who remain by choice, are those who have accumulated all of the power. The average tenure of a chairman of a House committee is 26 years, and of a Senate committee, 20 years. The Chairman of the House Appropriations Committee is in his 49th year, and the chairman of the Senate Appropriations Committee is in his 32d year. Yes, there may be a decent turnover, but there are many who wish to remain, and the system is rigged in their favor.

Mr. President, I ask that an outstanding editorial from the Deseret Mountain News of Salt Lake City, UT, be entered in the RECORD immediately following my remarks. I continue to urge my colleagues to join in this far-reaching, fundamental reform of Congress:

The editorial follows:

[From the Salt Lake City (UT) Dessert News, Feb. 21-22, 1990]

IS IT TIME TO IMPOSE A LIMIT ON TERMS IN CONGRESS?

A few years ago, the Utah Legislature went on record favoring a constitutional amendment that would let members of Congress serve no longer than 12 years.

The plan had plenty of grass-roots support, with Deseret News polls showing that 68 percent of the people in Utah favored limiting the length of time that U.S. senators and representatives may serve.

Though the plan went nowhere, it isn't dead yet.

A new nationwide Gallup poll shows that 70 percent of the American people would like to limit how long members of the U.S. House and Senate can serve.

Asked specifically about a 12-year limit—six terms for House members and two terms for senators—58 percent favored that.

The latest poll and the persistence of support for the proposed limit on its members' terms should send a strong message to Congress.

The message is one of deep, lasting dissatisfaction with Congress performance.

The idea behind the proposal is that with more turnover among its members, Congress would get fresher ideas, the power of special interests would be diminished.

Further, this nation's lawmakers would be more willing to make tough decisions based on what's best for the country rather than just what would get them re-elected.

What's more, since the adoption of the 22nd Amendment limiting presidents to two terms in the White House, it has become harder to object to some kind of limit on terms of service in the legislative branch of government, too.

The trouble with both such limits is that they artifically keep the voters from retaining exceptional public servants in office.

Moreover, it can be argued that as domestic government and international relations have become increasingly complex, it takes longer than it once did for public servants to become expert in various issues.

Despite such objections, the fact remains that the public is becoming increasingly soured on Washington, particularly Congress. Why?

Because of the repeated scandals involving members of Congress. Because of the lawmakers' continuing reluctance to make the government live within its means. Because the lawmakers had to bribe themselves with a pay raise just to get themselves to do the right thing by abandoning payments from special interests.

And because the advantages of incumbency are so strong that it's hard to pry a member out of Congress once he or she is in. The return rate for House members who seek re-election is more than 98 percent. In the Senate, the figure is somewhat lower but still daunting to potential challengers—75 percent.

Yes, plenty of lawmakers complain about the "financial hardships and sacrifices" of serving in Congress.

Some hardship. Some sacrifice. The lawmakers' income is higher than that of about 99 percent of their constituents. No wonder that the Capitol Hill newspaper Roll Call recently noted that at least 12 former members of Congress plan to try for a comeback this year.

Anyway, the meaning of the new poll and the others that preceded it should be clear: If Congress won't reform itself, the public could start imposing sharp limits to how long this nation's lawmakers can stay abroad the gravy train.●

HOME HEALTH CARE DEMONSTRATION PROJECTS

● Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleague from Utah [Mr. HATCH] as a cosponsor of S. 2342, legislation authorizing additional grants under the Health Care Services in the Home Demonstration Program. I commend my colleague for his efforts to expand this worthwhile program.

Congress included this program in the Older Americans Act Amendments of 1987 in an effort to find new ways to provide home health care to low-income persons who might otherwise require lengthy hospital stays or institutionalization. To date, grants have been awarded in five States, allowing numerous chronically ill and disabled individuals to receive vitally needed services.

Among the beneficiaries of the program have been technology dependent children; migrant farm workers; people with AIDS, hypertension, or diabetes; and the frail elderly. The advantages of the case-managed approach embodied in the program are well stated by the director of one State project, who said, "patients and their families have liked this home health care option. They feel that they have more control over their lives and they feel better being at home. Often the family can feel overwhelmed having the ill family member in the home, but to have someone on the case to call and reassure them and offer support makes all the difference in the world."

I think the decision of Congress to establish this program was both farsighted and compassionate. Unfortunately, no more than five 3-year grants were authorized under the provisions of the 1978 Act. I believe it would be unwise to allow these grants to expire after only 1 year of development and 2 years of providing services. In fact, in light of the many questions that remain to be answered about how best to coordinate home care services among community health care providers, I think it is vital that we expand this program to all States.

Once again, I commend my colleague from Utah for his commitment to the concept of providing health care in the home, and I urge my colleagues to join me in supporting his worthwhile legislation.●

TRIBUTE TO JAMES HERMAN FAULKNER

● Mr. SHELBY. Mr. President, Mr. James Herman (Jimmy) Faulkner, vice chairman of the board of David Volkert & Associates, Engineers and Architects, is a gentleman, scholar, businessman, and patriot. I would ask that my colleagues join me in honoring this great and selfless Alabamian.

Montgomery, AL, has proclaimed April 20, 1990, a "Day of Tribute to Jimmy Faulkner," an honor he richly deserves.

James Herman (Jimmy) Faulkner has earned his reputation as a scholar and friend of education in Alabama and across the United States. After attending Freed-Hardeman College he earned his BJ degree from the University of Missouri in 1936. Because of his distinguished service as a journalist and supporter of higher education, he is also the recipient of doctor degrees from Freed-Hardeman College, Livingston University, AL, Christian College, Oklahoma Christian College, Jones

School of Law, and the University of North Alabama.

Mr. Faulkner has indeed been a lifelong friend of higher education. For many years he served on the board of directors for Alabama Christian College and Faulkner University. He has also served many years as chairman of James H. Faulkner State Junior College, as well as the Public Educational Building Commission of Bay Minnette, and the Alabama Commission on Higher Education. In 1982, he was given the Exemplary Dedication to Higher Education Award by the Alabama Association of Colleges & Universities.

Mr. Faulkner has served his State and Nation well. As mayor of Bay Minette from 1941 to 1943, he was, at the age of 25, the youngest mayor in America. A veteran, he served during World War II as a combat pilot in the Air Force. Returning from war, he continued to serve his fellow citizens as State senator from Baldwin, Escambia, and Monroe Counties from 1950 to 1954, being chosen as Most Outstanding Freshman Senator in 1953.

A lifelong Democrat, he has traditionally played a significant role in the party. A member of the Baldwin County Democratic Executive Committee from 1936 to 1978, and the State Democratic Executive Committee in 1948, he was finance chairman for the Alabama Democratic Campaign in 1976.

I am proud to be associated with James Herman (Jimmy) Faulkner. I am proud to be honored with his friendship. He represents much that we hold dear. I would ask my colleagues to join me in saluting this truly great American.

Jimmy Faulkner is not only a valued educator and public servant, he is also an important radio executive and former newspaper publisher. He has owned and published the Baldwin Times and copublished the Onlooker and the Fairhope Courier.

The youngest person ever elected director of the Alabama State Chamber of Commerce in 1945, Mr. Faulkner is the epitome of the American businessman. He earned positions as chairman of the Board of Alpine Laboratories in Bay Minette, president and founder of Loyal American Life Insurance Co. in Mobile, AL, president and director of the Gulf Area Insurance Agency, director of the Baldwin National Bank of Robertsdale, AL, and director of the First National Bank Fairhope, AL. Additionally, this amazing businessman was president of Faulkner Radio, Inc., from 1958–85.

Honors have rained on Jimmy Faulkner. He's listed in Who's Who not only in the South and Southwest, but also in America, as well as World Commerce. He's been chosen as one of 12 outstanding Young Men in America in 1942, received an outstanding citizen award from the Bay Minette Jaycees, and chosen as Weekly Newspaper Journalist of the Year by United States Steel in 1966. Sigma Delta Chi awarded him with a certificate of appreciation, and an appreciation award from North Baldwin Hospital Board for outstanding service as chairman of the North Baldwin Hospital Board from 1965–73.

Over 200 years ago, 40 of our forefathers signed the Constitution of the United States. Like James Herman (Jimmy) Faulkner, these men served their Nation well. Among them were men who would become judges, representatives, senators, cabinet ministers, and ambassadors. One would become our first President. All committed themselves to a lifetime of service to their fellow citizens. Such a man is James Herman (Jimmy) Faulkner.

Active with his church, as well as the Boy Scouts, Mr. Walker also has a beautiful family: his wife, Evelyn, his sons, James Herbert and Henry Wade, and a number of wonderful grandchildren. I share with them their pride in this great man.

I could go on and on listing the contributions this gentleman has made to Alabama and our Nation. There is so much I have not mentioned—his service with the Alabama Institute for the Deaf and Blind or his work with American Cancer Society, or with the Alabama Safety Council, Bay Minette Housing Authority, the Agriculture Hall of Fame, the Industrial Development Board for Bay Minette, and much, much more. Suffice it to say that I have tried to demonstrate to you, my dear colleagues, that Jimmy Faulkner has served his State and and his country well.

A fine American, a loving family man, a devout Christian, I am thankful Alabama can claim Jimmy Faulkner as a native son.●

H.R. 4404, SUPPLEMENTAL APPROPRIATIONS

● Mr. MURKOWSKI. Mr. President, earlier this week the House passed H.R. 4404, the fiscal year supplemental appropriations bill. This legislation contains funding for important veterans programs. I understand that the Senate will consider this bill after the Easter recess and I urge my colleagues to take up this bill in a prompt manner.

Of significance are the following supplemental increases:

Veterans Benefits Administration: Compensation and pension of $190 million; loan guaranty revolving fund of $150 million.

Veterans Health Service and Research Administration: Medical care of $50 million; medical administration of $1.3 million; and

General administration of $1 million.

The funds appropriated will most certainly have a salutary effect on the Department of Veterans Affairs. It will result in increased personnel to administer the various programs and activities of the Department so that VA may reduce the waiting period for the delivery of benefits and services.

In the medical care area, the funds will be used to support increased staff—which results in more medical care treatment for veterans. Many have argued that the proposed $50 million increase is not enough. They may be right. However, we live in a difficult fiscal climate and we may not always get all we want. Given that reality, I urge my colleagues to support H.R. 4404 when it is considered by the Senate.●

NO MORE SLIDE-BY BUDGETS; IT'S TIME FOR A BITE-THE-BULLET BUDGET

● Mr. HOLLINGS. Mr. President, I have examined the President's budget and the various proposals percolating to the surface here in the Senate. More than ever, I am frustrated that political Washington is frozen in fiscal gridlock.

Indeed, the whole country seems comfortably resigned to the budget box we are in. We accept that no one—Democrat or Republican—can show leadership on the critical issues of the day because the Government is broke. Alone, interest costs on the national debt are increasing by up to $30 billion each year, all of it down a rabbit hole. As Alice learned to her dismay: "It takes all the running you can do to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that."

To do that, Mr. President, to "run at least twice as fast," entails painful budget cuts and major tax increases. Only traumatic intervention can save the patient, and to that end I offer today my own budget plan for fiscal 1991.

But, Mr. President, before we jump to the treatment, let's be clear about the diagnosis.

First, Gramm-Rudman-Hollings is the cure not the cancer. Some say that Gramm-Rudman-Hollings is the problem because it has spawned a brood of budget tricks and dodges: assets sales, payday shifts, and so on. Their cry is, "Get rid of Gramm-Rudman-Hollings and we can get to truth in budgeting." Wrong. Gramm-Rudman-Hollings is truth in budgeting—that is why it is such a nuisance. Gramm-Rudman-Hollings is not the problem; the problem is our failure to bite the bullet on spending and taxes. The solution is simple: Just meet the Gramm-Rudman-Hollings targets and Gramm-Rudman-Hollings will disappear all by itself.

Second, Mr. President, let us be clear that the budget fraud is blissfully bipartisan. This year as in past years, the President and Congress are in unholy cahoots. The Congressional Budget Office gives an honest estimate of the 1991 deficit at $161 billion, requiring a reduction of $97 billion to meet the target, G-R-H target, of $64 billion. But the Office of Management and Budget concocts a dishonest deficit projection of $101 billion requiring only $37 billion in reductions.

With this fake starting line provided by OMB, the President's task is easy: cut $3 billion from defense, $12 billion from entitlements, and add $14 billion in revenues plus $8 billion in asset sales and user fees—voila. And now, the Democrats are about to join the fraud by embracing OMB's $101 billion deficit projection and proposing $15 billion in defense cuts, $15 billion in revenues and a mix of $7 billion in savings from Medicare, user fees, et cetera.

Same act, same players, same monkey business. Last year, we adjourned at Thanksgiving congratulating each other on passing a deficit of only $100 billion, but today the deficit has swelled to $159 billion. If this is budget chastity, I would hate to see budget promiscuity.

Third, Mr. President, the fact is that our colleague Senator MOYNIHAN laid bare the blarney on Social Security. He said let us stop stealing wholesale from the Social Security trust fund in order to mask the deficit, and let us put Social Security on a pay-as-you-go basis.

With the latest payroll tax increase on January 1, surplus Social Security revenues are now accumulating at a rate of $1 billion a week, rising to $2 billion a week in 1993, $3 billion a week in 1997, and $4 billion a week in 2000. At our current pace of stealing from the trust fund, we will have taken $500 billion from Social Security in 5 years' time—the grandest larceny in history.

However, by rolling back the payroll tax and drastically reducing the Social Security surpluses, we will add $74 billion to the deficit next year. Regrettably, on the question of how to pay for his daring proposal, Senator MOYNIHAN changes from salesman to sphinx.

Fourth, Mr. President, Representative ROSTENKOWKI's budget plan is all austerity and no vision. I join the chorus of praise for Chairman ROSTENKOWSKI. Too bad his freeze idea comes at a time of global political warming when the need is for mini-Marshall plans in Eastern Europe and Central America, and a maxi-Marshall plan here in the United States.

Moreover, his freeze perpetuates the ransacking of Social Security—spending $546 billion from the trust fund. Of course, by reducing the Federal deficit by $546 billion, we simply create a $546 billion deficit in the trust fund. Thus: no trust and no fund.

In short, ROSTY wants to leave in place the January 1 Social Security tax increase while freezing Social Security benefits and stripping naked the Social Security trust fund. If Representatives vote yes on this, we will have discovered an instant cure for the House's 98-percent reelection rate.

Mr. President, the point is that it is high time we put aside the budget gamesmanship. We need to sit down and decide where we want this country to be 5 years from now, 10 years from now—and how to get there.

President Bush and Congress both want to do more for education, child care, the environment, the war on drugs, you name it. Mega-bills for the S&L bailout, the HUD fraud, and nuclear-waste cleanup are all coming due. So even if you factor in selected budget cuts and the elusive peace dividend, the Federal budget is going nowhere but up.

With a 15-cent increase in the gas tax and a whole raft of excise taxes, you do not even keep up with last year's $27 billion increase in interest payments on the debt. And, yes, Senator MOYNIHAN is right: we need to raise $74 billion elsewhere so we can stop the Social Security thievery.

Mr. President, if we are going to match our foreign competition—if we are going to stop the borrowing binge, reduce the cost of capital, and retool America for the 21st century—then we must first match Japan's and Europe's discipline on taxes and spending.

That is why the centerpiece of my plan is a 5-percent value-added tax [VAT] exempting food, health care, and housing. European nations average a 17-percent VAT; in Korea the VAT is 25 percent. A VAT tax is equitable, self-enforcing, and can be rebated on exports to make them more competitive. Best of all, VAT generates real revenue, and lots if it. We need it all—every dime of it earmarked for deficit reduction.

My plan calls for $26.6 billion in new revenues in 1991, rising sharply to $88.1 billion in new revenues in 1992 as the VAT kicks in. Over the 5 years of the plan, some $497.5 billion in new revenues would be raised—all of it earmarked for deficit reduction.

In addition, Mr. President, my plan would cut defense $14 billion in 1991, with further cuts rising to $25.6 billion in 1995, for a 5-year defense reduction of $105.2 billion.

By reducing the deficits in accord with my plan over the next 5 years, we will save some $101.2 billion in interest payments on the national debt. A portion of that savings—some $38 billion over 5 years—would be used to fund urgent new domestic initiatives, beginning with $5 billion in new outlays in 1991 rising to $10 billion in new outlays in 1995.

Using the honest CBO baseline as the starting point, my plan will reduce the deficit to $118.4 billion in 1991, will surpass the Gramm-Rudman-Hollings target with a $7.8 billion deficit in 1992, and will generate surpluses of $27.5 billion in 1993, $63.2 billion in 1994, and $100 billion in 1995. Of course, this will give us the leeway we need to take Social Security off budget and stop the thievery from the Social Security trust fund once and for all.

Mr. President, my plan is doable. It is honest. It is based on real numbers, real savings, and real revenues. My druthers are for a VAT because of its advantages to our export industries and because it tackles the problem of excessive consumption. However, I am open to all serious suggestions on the revenue front.

This plan can and will break the deadlock and the gridlock in our Federal finances. We need to get the country moving again. And to that end, we first need to get the Government moving again—on education, on infrastructure, on the whole range of investments in our future.

The deficits have condemned America to a course of stagnation, do-nothingism, and slow decline. By restoring fiscal balance, we can bring down interest rates, reduced the cost of capital, set in motion a surge of investment and growth. But first we must all have the courage to bite the bullet on budget cuts and on taxes. The plan I propose today will get the job done.

Mr. President, I ask that a copy of my balanced budget plan be printed in the RECORD.

The plan follows:

HOLLINGS BALANCED BUDGET PLAN

[In billions of dollars]

	1991	1992	1993	1994	1995	5-yr total
CBO baseline deficit	161.5	124.4	132.1	121.4	110.3	
Deficit reduction:						
Defense	−14.0	−19.1	−22.3	−24.2	−25.6	−105.2
Nondefense	−6.0	−8.0	−10.0	−11.5	−13.5	−49.0
Revenues [1]	−26.6	−88.1	−117.5	−127.6	−137.7	−497.5
Debt service	−1.5	−7.5	−17.8	−30.3	−44.1	−101.2
Domestic initiatives	+5.0	+6.0	+8.0	+9.0	+10.0	+38.0
Total reduction [2]	−43.1	−116.6	−159.6	−184.6	−210.9	
New deficit	−118.4	−7.8	+27.5	+63.2	+100.6	

[1] Revenue increases are shown as minuses because they reduce deficits.
[2] Totals may not add due to rounding.●

BILL TO BE REFERRED—S. 1165

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate Governmental Affairs Committee reports S. 1165, the Fair Employment in Congress Act, that the bill then be automatically referred to the Committee on Rules for up to 90 calendar days; that if the bill is not reported by the Rules Committee within this period, that the bill then be auto-

matically discharged and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE AND DISTRIBUTION OF SEMINOLE INDIAN AWARD—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on S. 1096 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1096) to provide for the use and distribution of funds awarded the Seminole Indian in dockets 73, 151, and 73-A of the Indian Claims Commission, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 29, 1990.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE RUNNIN' REBELS OF UNLV

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 268, submitted earlier today by Senators BRYAN and REID, commending the Runnin' Rebels of UNLV as the 1990 National Collegiate Athletic Association men's basketball champions.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 268) commending the Runnin' Rebels of the University of Nevada at Las Vegas for winning the 1990 National Collegiate Athletic Men's Basketball Championship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 268) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 268

Whereas the University of Nevada at Las Vegas has consistently produced one of the Nation's outstanding Division I men's basketball teams, the Runnin' Rebels:

Whereas the head coach and assistant coaches have led the Runnin' Rebels to three final four appearances and one of the highest percentages of wins in National Collegiate Athletic Association men's basketball;

Whereas UNLV defeated Duke by the largest margin of victory in NCAA Men's Basketball Championship history (103-73) and is the only team to score over 100 points in a championship game;

Whereas three team members have been named to the All-Tournament Team, one member has been named as a first selection All-American, and one member represented his country in basketball during the 1988 Olympic Games; and

Whereas one team member epitomized the spirit and courage of the Runnin' Rebels by playing throughout the entire tournament with a broken jaw: Now, therefore, be it

Resolved, That the Senate commends the Runnin' Rebels of the University of Nevada at Las Vegas for winning the 1990 National Collegiate Athletic Association Men's Basketball Championship.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCAIN. I move to lay that motion of the table.

The motion to lay on the table was agreed to.

COMMENDING THE BLUE DEVILS OF DUKE

Mr. MITCHELL. Mr. President, although there is no resolution to that effect, in view of the resolution just adopted and the Presiding Officer's former role as the president of Duke University, I think we ought to also take a moment to commend the Blue Devils of Duke for a great season and the valiant effort of getting to the final four, although they lost to the University of Nevada-Las Vegas. I know my distinguished colleague will join me in paying tribute to them.

The PRESIDING OFFICER. The Chair thanks you.

Mr. McCAIN. Mr. President, I think it is worthy of note that Duke University has achieved the lofty goal of the final four in 3 of the last 4 years, which is a record unequalled in college basketball in recent history.

HOMER THORNBERRY JUDICIAL BUILDING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Government Affairs Committee be discharged from further consideration of H.R. 2334 designating the "Homer Thornberry Judical Building" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2334) to redesignate the Post Office located at 300 East Ninth Street in Austin, TX, as the "Homer Thornberry Judicial Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2334) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DAY IN SUPPORT OF FREEDOM AND HUMAN RIGHTS IN CHINA AND TIBET

Mr. MITCHELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 275 designating "National Day in Support of Freedom and Human Rights in China and Tibet," and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 275) designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 275) and its preamble are as follows:

S.J. RES. 275

Whereas the United States supports the legitimate and democratic aspirations for freedom of peoples throughout the world;

Whereas students and citizen groups throughout the world have taken great risks in pursuit of reform;

Whereas on May 13, 1989, Chinese students began a hunger strike in Tiananmen Square seeking nonviolent dialogue with the Chinese Government;

Whereas the Chinese Government responded to the Chinese students with violence, killing many;

Whereas the non-violent resistance of the people of Tibet to the Chinese Government has also been met with violence;

Whereas the Chinese students and the Tibetan people follow the tradition of the Dalai Lama's and Mahatma Gandhi's doctrine of non-violence, and have inspired the world;

Whereas student organizations throughout the United States and around the world have declared May 13, 1990, as an international day of fasting in support of democratic reforms in China and Tibet; and

Whereas this effort is being undertaken in the hope of bringing the current tragedies in China and Tibet to a peaceful end, and in the hope that productive dialogue will replace an atmosphere of suspicion and reprisal: Now, therefore, be it *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet", and calling on the people of the United States to observe such a day with appropriate ceremonies and activities.

Mr. MITCHELL. I move to reconsider the vote by which the joint resolution was passed.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STAR PRINT OF S. 2403

Mr. MITCHELL. Mr. President, I ask unanimous consent that a star print be made of S. 2403, the Montana Interim Roadless Lands Release and Conservation Act of 1990 to reflect the changes I now send to the desk, along with a statement of explanation by Senator BAUCUS.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. BAUCUS. Mr. President, earlier this week, I introduced S. 2403, the Montana Roadless Lands Release and Conservation Act of 1990. This bill was subsequently referred to the Committee on Energy and Natural Resources.

However, through an oversight, this bill contained two drafting errors. I am asking unanimous consent for a star print making the following changes to clarify my intent:

1. On page 9, strike lines 7 through 12; and

2. On page 17, insert:

(c) SUFFICIENCY OF REVIEW.—The wilderness suitability review and evaluation of national forest system lands in the State of Montana completed as part of the Land and Resources Management Plans that were completed prior to the date of enactment of this Act satisfy the provisions of subsection (b)(2) as an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plan, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to that time the Secretary finds that Conditions in a unit have significantly changed.●

VETERANS READJUSTMENT APPOINTMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 491, S. 2338, a bill dealing with veterans readjustment appointments.

Mr. McCAIN. Mr. President, reserving the right to object, and I will object, I have to object on behalf of another Member on this side of the aisle.

The PRESIDING OFFICER. Objection is heard.

AUTHORIZATION TO MAKE TECHNICAL CORRECTIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Secretary be authorized to make technical corrections in the star print of S. 2235.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 12 noon on Wednesday, April 18; that when the Senate reconvenes on Wednesday, April 18, the Journal of proceedings be deemed to have been approved to date; that the call of the calendar be waived, and no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired. I further ask unanimous consent that following the time for the two leaders there be a period for morning business not to extend beyond 1 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum. I withhold my request.

OUTSTANDING LEADERSHIP OF THE MAJORITY LEADER

Mr. McCAIN. Mr. President, we are completing business and adjourning for a brief break back in our respective States. I think it is well to point out the outstanding leadership which has been exerted by our distinguished majority leader, the Senator from Maine. I am particularly referring to the passage of the Clean Air Act.

Mr. President, I know that the distinguished majority leader has been involved in this issue for many, many years. He had several unfortunately failed attempts at achieving a compromise on perhaps one of the most complex and contentious issues that has ever come before not only this body but the Nation. He crafted a fragile compromise. He beat back the many efforts that would have severely impaired that compromise. I might confess that I was a party to one or two myself.

But the fact is that this legislation would not have been passed by this body if it had not been for the perserverance, the patience, the guidance, and the leadership of our distinguished majority leader. I know that I reflect the views of my 98 other colleagues when I commend him for doing something not only for America today, but for future generations of Americans who will be able to express their gratitude because they will live in an environment which is far cleaner, far healthier, and far better for all of our citizens.

Mr. MITCHELL. Mr. President, I thank my colleague. I am genuinely moved by his remarks. I appreciate them very, very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY BOARD OF TRUSTEES

Mr. MITCHELL. Mr. President, earlier today the distinguished Senator from New York [Mr. MOYNIHAN] offered a resolution to express the sense of the Senate that the President ought to promptly send to the Senate nominations for the vacancies on the Social Security Board of Trustees. Senator MOYNIHAN offered the resolution, and made what I believe to be a powerful and compelling argument in behalf of its adoption given the fact that these vacancies have existed for many, many months.

Objection was made on the Republican side to Senator MOYNIHAN's proceeding with this resolution. I am now advised that the objection is continuing. Therefore, the Senate will not be able to act on this resolution at this time. I regret that very much, as does Senator MOYNIHAN.

I hope that we will be able to get this cleared so that we can take it up promptly upon our return because this deals with a very important matter,

the vacancies on the Social Security Board of Trustees of persons who would if they were in office be charged with the responsibility of maintaining supervision over this important program and fund.

ADJOURNMENT UNTIL WEDNESDAY, APRIL 18, 1990

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in adjournment, under the provisions of House Concurrent Resolution 299, until 12 noon on Wednesday, April 18.

There being no objection, at 7:28 p.m. the Senate adjourned until Wednesday, April 18, 1990.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 5, 1990:

DEPARTMENT OF ENERGY

JOHN WESLEY BARTLETT, OF MASSACHUSETTS, TO BE DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

RAILROAD RETIREMENT BOARD

CHARLES J. CHAMBERLAIN, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE TERM OF 5 YEARS FROM AUGUST 29, 1989.

GLEN L. BOWER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE REMAINDER OF THE TERM EXPIRING AUGUST 28, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LYNNE VINCENT CHENEY, OF WYOMING, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR A TERM OF 4 YEARS.

DEPARTMENT OF AGRICULTURE

JOHN C. FOLTZ, OF OHIO, TO BE ADMINISTRATOR OF THE FEDERAL GRAIN INSPECTION SERVICE.

RESOLUTION TRUST CORPORATION

ROBERT C. LARSON, OF MICHIGAN, TO BE A MEMBER OF THE OVERSIGHT BOARD OF THE RESOLUTION TRUST CORPORATION FOR A TERM OF 3 YEARS.

PHILIP C. JACKSON, JR., OF ALABAMA, TO BE A MEMBER OF THE OVERSIGHT BOARD OF THE RESOLUTION TRUST CORPORATION FOR A TERM OF 3 YEARS.

DEPARTMENT OF STATE

DEANE ROESCH HINTON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, WITH THE PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

JONATHAN MOORE, OF MASSACHUSETTS, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

NELSON C. LEDSKY, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL CYPRUS COORDINATOR.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

H. DOUGLAS BARCLAY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS FOR THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR THE TERM EXPIRING DECEMBER 17, 1991.

HENRIETTA HUGENTOBLER HOLSMAN, OF CALIFORNIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

C. ANSON FRANKLIN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

RICHARD E. BISSELL, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

JAMES HENRY MICHEL, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

THE FOLLOWING-NAMED INDIVIDUAL TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1992:

J. CARTER BEESE, JR., OF MARYLAND.

THE FOLLOWING-NAMED INDIVIDUAL TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1992:

DONALD BURNHAM ENSENAT, OF LOUISIANA.

INTER-AMERICAN FOUNDATION

James Henry Michel, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1992.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Alan D. Lourie, of Pennsylvania, to be U.S. Circuit Judge for the Federal Circuit.

John S. Martin, Jr., of New York, to be U.S. District Judge for the Southern District of New York.

Daniel B. Sparr, of Colorado, to be U.S. District Judge for the District of Colorado.

Norman H. Stahl, of New Hampshire, to be U.S. District Judge for the District of New Hampshire.

DEPARTMENT OF JUSTICE

Leo A. Giacometto, of Montana, to be U.S. Marshal for the District of Montana for the term of 4 years.

STATE JUSTICE INSTITUTE

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991:

Terrence B. Adamson, of Georgia.

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1991:

Vivi L. Dilweg, of Wisconsin.

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992:

Carl F. Bianchi, of Idaho.

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992:

James Duke Cameron, of Arizona.

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992:

Janice L. Gradwohl, of Nebraska.

The following-named person to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992:

Malcolm M. Lucas, of California.

DEPARTMENT OF VETERANS AFFAIRS

D'Wayne Gray, of Virginia, to be Chief Benefits Director, Department of Veterans Affairs, for a term of 4 years.

SENATE—*Wednesday, April 18, 1990*

The Senate met at 12 noon and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Our Father, we thank Thee for the life and labors of a faithful public servant, SPARK MATSUNAGA. We are grateful for his friendship, for his gentleness and kindness; for his broad influence. We commend to Thee his family and pray that, in this time of great loss, they will be aware of Your Fatherliness, Your love, Your compassion, and the reality of eternity.

"O give thanks unto the Lord; for he is good: for his mercy endureth forever."—Psalm 136:1.

Gracious God, we do give thanks unto You with all our heart. We thank Thee for the glorious, eternal realities which the celebration of Passover and Easter represent. We thank Thee for life and breath, for family and friends, for freedom and responsibility, for work and play, for the beauties of nature and the promises of spring. We thank Thee for the opportunities recess brings: to meet with various groups, to spend time with constituents; time for reading, recreation, and rest. We thank Thee for traveling mercies and for a safe return. We thank Thee for the privilege of serving the people, the privilege and duties of leadership. We thank Thee for the lessons of the past and the challenge of the future.

In Jesus' name who is Life and Light. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 18, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

RELATIVE TO THE DEATH OF SENATOR SPARK M. MATSUNAGA

Mr. CRANSTON. Mr. President, the Senate, all of us who are its Members, learned with profound sorrow of the death of our honored colleague, Senator SPARK MATSUNAGA, on Sunday, April 15. In his memory, the Senate will conduct no business and have no speeches during today's session. On behalf of Senators INOUYE, MITCHELL, DOLE, and all other Members of the Senate, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 271) relative to the death of the Honorable Spark M. Matsunaga, late a Senator from the State of Hawaii.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 271) was agreed to.

The resolution reads as follows:

S. RES. 271

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Spark M. Matsunaga, late a Senator from the State of Hawaii.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on April 6, 1990, during the adjournment of the Senate, received the following message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing;

H.R. 1048. An act to provide for the acquisition of data about crimes that manifest prejudice based upon certain group characteristics; and

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bills were signed on April 9, 1990, during the adjournment of the Senate, by the President pro tempore [Mr. BYRD].

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on April 9, 1990, he had presented to the President of the United States the following enrolled bills:

S. 1813. An act to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters; and

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2752. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the FDA's progress in negotiations with foreign governments toward obtaining foreign pesticide usage information; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2753. A communication from the Secretary of Defense, transmitting, pursuant to law, notification that the Air Force intends to obligate $12 million for research and de-

velopment for the ALQ-161A "core" program; to the Committee on Appropriations.

EC-2754. A communication from the Assistant Secretary of the Army, Manpower and Reserve Affairs, Department of the Army, transmitting a draft of proposed legislation to increase the authority of the military departments to settle administrative tort claims under the Federal Tort Claims Act; to the Committee on Armed Services.

EC-2755. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to transfer jurisdiction, custody, and control of the Pentagon reservation from the General Services Administration to the Department of Defense; to the Committee on Armed Services.

EC-2756. A communication from the Director of Consumer Affairs, Office of Thrift Supervision, transmitting, pursuant to law, the annual report of the Office on efforts to prevent unfair and deceptive trade practices in the thrift industry; to the Committee on Banking, Housing, and Urban Affairs.

EC-2757. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the Export Administration Act of 1979, as amended, and to authorize appropriations for fiscal year 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-2758. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Department of Transportation-Adequacy of Current Federal and State Earthquake Design Standards"; to the Committee on Commerce, Science, and Transportation.

EC-2759. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration for fiscal year 1989; to the Committee on Commerce, Science, and Transportation.

EC-2760. A communication from the Acting Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the twenty-eighth annual report of the activities of the Commission for fiscal year 1989; to the Committee on Commerce, Science, and Transportation.

EC-2761. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to make effective the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance; to the Committee on Commerce, Science, and Transportation.

EC-2762. A communication from the Director of the Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the Department's final eligibility and suitability report for the Upper Klamath Wild and Scenic River Study; to the Committee on Energy and Natural Resources.

EC-2763. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's report on enforcement actions initiated during the fourth quarter of fiscal year 1989 with regard to State expenditures of petroleum violation escrow funds, a well as the status of actions begun earlier; to the Committee on Energy and Natural Resources.

EC-2764. A communication from the Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the sixth annual report of the Department on the activities and expenditures of the Office of Civilian Radioactive Waste Management; jointly to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

EC-2765. A communication from the Acting Administrator of the General Services Administration, transmitting an informational copy of a lease prospectus for the Department of Commerce, Patent and Trademark Office; to the Committee on Environment and Public Works.

EC-2766. A communication from the Associate Director, State and Local Programs Support, Federal Emergency Management Agency, transmitting, pursuant to law, proposals to improve the operational and fiscal relationships among Federal, State, and local disaster and emergency officials; to the Committee on Environment and Public Works.

EC-2767. A communication from the United States Trade Representative, transmitting, pursuant to law, a report on recent developments regarding implementation of the Trade Act of 1974; to the Committee on Finance.

EC-2768. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the administration, impact, and cost of the Utilization and Quality Control Peer Review Organization program during the preceding fiscal year; to the Committee on Finance.

EC-2769. A communication from the Acting Assistant Secretary, Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use of the Pueblo of Santa Clara judgment funds in Docket 356, before the United States Claims Court; to the Committee on Indian Affairs.

EC-2770. A communication from the Attorney General, transmitting, pursuant to law, a report on the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities; to the Committee on the Judiciary.

EC-2771. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation to amend the Immigration and Nationality Act to authorize appropriations for the refugee assistance program for fiscal years 1991, 1992, and 1993; to the Committee on the Judiciary.

EC-2772. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled the "Food, Drug, and Device Fee Amendments of 1990"; to the Committee on Labor and Human Resources.

EC-2773. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, a report on the extent to which activities at VA health care facilities have been performed by contractors and the cost savings that resulted from these activities; to the Committee on Veterans' Affairs.

EC-2774. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to recover the costs for all activities associated with the importation of animals and animal products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2775. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of July 2, 1962, to give the Secretary of Agriculture additional intrastate authority to prevent the spread of any dangerous communicable disease of livestock or poultry during extraordinary emergencies; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2776. A communication from the Comptroller General of the United States, transmitting an informational report on issues covered in the 1990 farm bill; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2777. A communication from the Deputy Director, Office of Management and Budget, transmitting, pursuant to law, a report indicating the necessity for a supplemental estimate of appropriation for the Department of Veterans Affairs; to the Committee on Appropriations.

EC-2778. A communication from the Secretary of Defense, transmitting, pursuant to law, a copy of the White Paper on the Department of Defense and the Congress regarding the constitutional responsibility of providing for the common defense; to the Committee on Armed Services.

EC-2779. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report on funds obligated in the chemical warfare—chemical/biological defense programs during fiscal year 1989; to the Committee on Armed Services.

EC-2780. A communication from the Assistant Secretary of Defense, Production and Logistics, transmitting, pursuant to law, three reports on the effects of Navy shipbuilding and repair on U.S. public and private shipyards during peacetime and mobilization; to the Committee on Armed Services.

EC-2781. A communication from the Assistant Secretary of Defense, Force Management and Personnel, transmitting, pursuant to law, a report on the Montgomery GI Bill Education Benefits Program; to the Committee on Armed Services.

EC-2782. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notification of the Navy intends to offer for lease a naval vessel to the Government of Venezuela; to the Committee on Armed Services.

EC-2783. A communication from the Assistant Secretary of Defense, Production and Logistics, transmitting, pursuant to law, a report on the Department's Metric Transition Program; to the Committee on Armed Services.

EC-2784. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the Supportive Housing Demonstration Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-2785. A communication from the Chairman of the Federal Reserve System, transmitting, pursuant to law, a report on the implementation of the Expedited Funds Availability Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-2786. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the 1990 annual report of the Administration; to the Committee on Banking, Housing, and Urban Affairs.

EC-2787. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the 1990 annual report on the community development programs administered by the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC-2788. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the cumulative report on rescissions and defer-

rals; pursuant to the order of January 30, 1975, referred jointly to the Committee on Budget and the Committee on Appropriations.

EC-2789. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, notice of a delay in the preparation of the Commission's annual report; to the Committee on Commerce, Science, and Transportation.

EC-2790. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation entitled "The United States Travel and Tourism Administration Facilitation Act of 1990"; to the Committee on Commerce, Science, and Transportation.

EC-2791. A communication from the Secretary of Energy, transmitting, pursuant to law, the 1989 Annual Report on the Bonneville Power Administration; to the Committee on Energy and Natural Resources.

EC-2792. A communication from the Assistant Secretary, Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, reports on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act; to the Committee on Energy and Natural Resources.

EC-2793. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on operating, statistical, and financial information of the Government's helium program for fiscal year 1989; to the Committee on Energy and Natural Resources.

EC-2794. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2795. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Annual Report on the Youth Conservation Corps Program; to the Committee on Energy and Natural Resources.

EC-2796. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2797. A communication from the Secretary of Energy, transmitting, pursuant to law, the 1990 annual report on nuclear waste management at the Western New York Nuclear Service Center; to the Committee on Energy and Natural Resources.

EC-2798. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1988 and 1989 Annual Report for the Interior Department's Office of Surface Mining Reclamation and Enforcement; to the Committee on Energy and Natural Resources.

EC-2799. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2800. A communication from the Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, the Agency's second annual report on Superfund implementation entitled "Progress Toward Implementing Superfund: Fiscal Year 1988"; to the Committee on Environment and Public Works.

EC-2801. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the 1989 Annual Report on the International Fund for Ireland; to the Committee on Foreign Relations.

EC-2802. A communication from the Assistant Secretary for Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, the 90-day report on the investigation into the death of Enrique Camarena; to the Committee on Foreign Relations.

EC-2803. A communication from the Assistant Secretary of Legislative Affairs, U.S. Department of State, transmitting, pursuant to law, the quarterly report of the Department concerning human rights activities in Ethiopia, covering the period October 15, 1989, through January 14, 1990; to the Committee on Foreign Relations.

EC-2804. A communication from the Chairman of the Council on Environmental Quality, transmitting, pursuant to law, the annual report of the Council under the Government in the Sunshine Act for the Calendar Year 1989; to the Committee on Governmental Affairs.

EC-2805. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-187 adopted by the Council on March 13, 1990; to the Committee on Governmental Affairs.

EC-2806. A communication from the Director of the Information Security Oversight Office, transmitting, pursuant to law, the annual report to the President for fiscal year 1989; to the Committee on Governmental Affairs.

EC-2807. A communication from the U.S. Commissioner of the Delaware River Basin Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2808. A communication from the U.S. Commissioner of the Susquehanna River Basin Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act Amendments of 1988; to the Committee on Governmental Affairs.

EC-2809. A communication from the Director of Central Intelligence, Central Intelligence Agency, transmitting, pursuant to law, a draft of proposed legislation entitled "Intelligence Authorization Act for Fiscal Year 1991"; to the Select Committee on Intelligence.

EC-2810. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the fourteenth annual report of the Department under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-2811. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's fiscal year 1988 annual report on the National Institute for Occupational Safety and Health; to the Committee on Labor and Human Resources.

EC-2812. A communication from the Secretary of Education, transmitting, pursuant to law, a copy of a document entitled "Final Regulations for the Pell Grant Program—Expected Family Contributions for Students with Special Conditions"; to the Committee on Labor and Human Resources.

EC-2813. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a special report on the use of consortia for research and development of vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome [AIDS]; to the Committee on Labor and Human Resources.

EC-2814. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the status of health personnel in the United States; to the Committee on Labor and Human Resources.

EC-2815. A communication from the Chairman of the Board of the U.S. Institute of Peace, transmitting, pursuant to law, the second biennial report on the Institute for fiscal years 1988 and 1989; to the Committee on Labor and Human Resources.

EC-2816. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the pay system for registered nurses employed by the Veterans Health Services and Research Administration, and for other purposes; to the Committee on Veterans' Affairs.

EC-2817. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care, to revise VA authority to furnish outpatient dental care, and for other purposes; to the Committee on Veterans' Affairs.

EC-2818. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

EC-2819. A communication from the Executive Director of the Navajo and Hopi Indian Relocation Commission, transmitting, pursuant to law, the Commission's report under the Inspector General Act Amendments of 1988; to the Committee on Indian Affairs.

EC-2820. A communication from the President of the United States, transmitting, pursuant to law, notification of the termination of the Panamanian emergency declared on April 8, 1988, while preserving enforcement and blocking authorities as authorized by law; to the Committee on Banking, Housing, and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-448. A resolution adopted by the Senate of the State of Michigan; to the Committee on Appropriations:

"SENATE RESOLUTION No. 294

"Whereas the Michigan Employment Security Commission (MESC) provides a wide range of important services to claimants and those employers in Michigan whose services provide a measure of stability in the labor market and Michigan's economy; and

"Whereas through this system, employers pay federal unemployment taxes pursuant to the Federal Unemployment Tax Act. One of the major taxes of the MESC is administering the unemployment insurance system throughout the state; and

"Whereas serious concerns have arisen over the ability of the MESC to continue to provide an appropriate level of services because of insufficient appropriations. The United States Department of Labor has not provided state employment security agencies, including Michigan's, with enough funds to properly administer their duties. Without appropriate action, Michigan's services are in great jeopardy, even at a time when there exists a positive balance of $1.08 billion in the Employment Security Administrative Account; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body hereby memorialize the Congress of the United States and the Secretary of the United States Department of Labor to provide supplemental appropriations to the Michigan Employment Security Commission for administrative costs, with the funding coming from the positive balance currently in the Employment Security Administrative Account, and to implement changes in the financing mechanism; and be it further

"Resolved, That copies of this resolution be transmitted to the Secretary of the United States Department of Labor, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

POM-449. A resolution adopted by the Council of the District of Columbia urging the Congress to accord self-determination to the District of Columbia with respect to the funding of abortions; to the Committee on Appropriations.

POM-450. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Armed Services.

"HOUSE JOINT RESOLUTION 90-1009

"Whereas women in both military and civilian service have made an outstanding contribution to our country since the founding of the Republic and the Revolutionary War, serving with commitment, dedication, and sacrifice; and

"Whereas women in civilian service have served as nurses, doctors, Red Cross and USO workers, interpreters, librarians, school teachers, and missionaries, and in the special services, providing direct support to the Armed Forces of our country; and

"Whereas women in military service have performed a wide range of military jobs, from stenographers and technicians to truck drivers and gunners' mates, from doctors and nurses to air traffic controllers and military police; and

"Whereas women in military and civilian service have increased dramatically during this century, with 35,000 women serving in World War I, and over 400,000 women serving in all branches of the Armed Forces and in all overseas theaters in World War II; and

"Whereas in 1948, the Women's Armed Services Integration Act gave women a permanent place in the Armed Forces, and hundreds of thousands of women have since served during the Korean and Vietnam conflicts, in other military actions, and in peacetime; and

"Whereas women veterans and women in civilian service have earned combat decorations, endured imprisonment in enemy camps, suffered lasting physical and mental disabilities, and sacrified their lives in service to their country; and

"Whereas over 20,000 women veterans and an unknown number of women from civilian service are citizens of Colorado; and

"Whereas women veterans constitute the fastest growing segment of the veteran population; and

"Whereas women veterans are entitled to full participation in veteran's benefits programs but, due to many factors, including lack of knowledge, failure to receive appropriate recognition for their service, and discrimination in the administration of some programs, have often not sought or received those benefits; and

"Whereas women veterans and women in civilian service have organized to reach, educate, and service their members: Now, therefore, be it

"Resolved by the House of Representatives of the Fifty-seventh General Assembly of the State of Colorado, the Senate concurring herein, That we, the General Assembly, recognize and appreciate the contributions of women who are serving and have served our country in the civilian and armed services and support the efforts of those women who are seeking to serve their members through education and outreach programs: Be it further

"Resolved, That copies of this Resolution be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each member of the Congressional delegation from Colorado."

POM-451. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Banking, Housing, and Urban Affairs:

"HOUSE JOINT RESOLUTION 90-1002

"Whereas there is a great and growing need for affordable housing in Colorado and throughout the United States; and

"Whereas it is vital that all government funds used to provide public housing be used as efficiently as possible; and

"Whereas under the Low Rent Public Housing Program, as it is currently administered by the federal Department of Housing and Urban Development, the total development cost of the units that a local housing authority may acquire is specified by the Department, and this often does not allow local housing authorities to purchase the greatest possible number of adequate housing units for a given level of funding; and

"Whereas if such restrictions on the use of federal funds by local housing authorities were removed, local housing authorities would be able to implement innovative housing programs which would provide a greater number of adequate housing units for the same level of funding: Be it

"Resolved by the House of Representatives of the Fifty-seventh General Assembly of the State of Colorado the Senate concurring therein, That the General Assembly urges the Congress of the United States to authorize and to direct the Department of Housing and Urban Development to alter its practices relating to its Low Rent Public Housing Program in order to allow local housing authorities to develop as many units of adequate housing as is possible within a given level of funding: Be it further

"Resolved, That copies of this resolution shall be transmitted to the Secretary of the United States Department of Housing and Urban Development, Mr. Jack Kemp, the President of the United States Senate, the Speaker of the United States House of Representatives, and members of the Colorado delegation to the Congress of the United States, in order that they may be apprised of the sense of the Colorado General Assembly."

POM-452. A joint resolution adopted by the Legislature of the State of Utah; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT RESOLUTION NO. 40

"Whereas an earthquake measuring 7.1 on the Richter Scale caused 66 deaths and an estimated five billion dollars in direct economic damages to 11 northern California counties on October 17, 1989;

"Whereas the scientific community continues to warn that the United States is on the verge of a major earthquake within the next 20 to 30 years with anticipated overall property damage losses alone estimated at $70 billion;

"Whereas according to the United States Congress, all 50 states are vulnerable to the hazards of earthquake and at least 39 states are subject to major or moderate seismic risk;

"Whereas 70 million Americans are exposed to severe earthquake risk and an additional 120 million people are exposed to moderate earthquake risk;

"Whereas a catastrophic earthquake in a populated, developed area would inflict severe damage on the nation's economy;

"Whereas in Utah we have been recently reminded that fault lines have the potential of causing major damage to our state and its economy;

"Whereas insurance companies and government at all levels need to make advance preparations for a cooperative effort to respond to a major earthquake disaster;

"Whereas the Earthquake Project has developed a program for both a primary residential earthquake program and a federal reinsurance program to provide an economic safety net in the event of a major earthquake; and

"Whereas the Federal Earthquake Insurance and Reinsurance Corporation Act developed by the Earthquake Project would ensure that the public receives affordable, reliable, and adequate insurance against the risk of earthquake, protect people and businesses by providing for the prompt and efficient handling of claims, reduce the inevitable economic fallout from a devastating earthquake, and avoid large amounts of federal disaster relief by relying on a prefunding mechanism through the vehicle of insurance: Now, therefore, be it

"Resolved, That the Legislature of the state of Utah urge the President and Congress to carefully study and consider the Earthquake Project in order to determine whether such a similar program should be established in the United States to insure against a catastrophic earthquake: be it further

"Resolved, That copies of this resolution be sent to the President of the United States, United States congressional leadership, and Utah's congressional delegation."

POM-453. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation:

"JOINT RESOLUTION

"Whereas a study undertaken by the United States Coast Guard after the wreck of the *Exxon Valdez* has found that the loss of oil from the *Exxon Valdez* would have been substantially less if the tanker had been of appropriate double-hulled design and construction; and

"Whereas an oil tanker built with double-hulled construction has cargo and bunker

tanks surrounded with a complete and protective second hull; and

"Whereas chemical tankers and gas carriers are already required to use double-hulled construction to provide maximum protection for the cargo tanks; and

"Whereas the Congressional Office of Technology Assessment and the United States Coast Guard have estimated that double hulls would have prevented spills from over 90 percent of the oil lost in groundings and from over 80 percent of the oil lost in collisions at sea; and

"Whereas double-hulled design and construction provides the highest probability of preventing the loss of oil either from groundings or collisions; and

"Whereas the tanker fleet of the United States is overage and will need to be replaced in the near future; and

"Whereas the additional cost of building a double-hulled vessel in a shipyard in the United States is estimated to add less than one-tenth of a cent per gallon to the cost of crude oil carried over the life of the tanker; and

"Whereas double-hulled design and construction can be achieved without a reduction in the cargo carrying capacity of the vessel: Be it

"Resolved, That the Alaska State Legislature urges the Congress to require all vessels designed to carry oil and constructed after June 1, 1990, to be double-hulled and to prohibit the carriage of oil in single-hulled tankers in United States waters after the year 1999.

"Copies of this resolution shall be sent to the Honorable George Bush, President of the United States; to the Honorable Dan Quayle, Vice-President of the United States and President of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; to the Honorable George Mitchell, Majority Leader of the U.S. Senate; to the Honorable Robert Dole, Minority Leader of the U.S. Senate; to the Honorable Richard A. Gephardt, Majority Leader of the U.S. House of Representatives; to the Honorable Robert Michel, Minority Leader of the U.S. House of Representatives; to the Honorable Samuel K. Skinner, Secretary of Transportation; to Admiral Paul A. Yost, Commandant of the U.S. Coast Guard; to the governors of the following states: the Honorable Guy Hunt, Governor of Alabama; the Honorable George Deukmejian, Governor of California; the Honorable William O'Neill, Governor of Connecticut; the Honorable Michael Castle, Governor of Delaware; the Honorable Bob Martinez, Governor of Florida; the Honorable Joe Frank Harris, Governor of Georgia; the Honorable John D. Waihee III, Governor of Hawaii; the Honorable Charles E. Roemer III, Governor of Louisiana; the Honorable John R. McKarnan, Jr., Governor of Maine; the Honorable William Donald Schaefer, Governor of Maryland; the Honorable Michael Dukakis, Governor of Massachusetts; the Honorable Ray Mabus, Governor of Mississippi, the Honorable Judd Gregg, Governor of New Hampshire; the Honorable James Florio, Governor of New Jersey; the Honorable Mario Cuomo, Governor of New York; the Honorable James Martin, Governor of North Carolina; the Honorable L. Douglas Wilder, Governor of Virginia; the Honorable Edward DiPrete, Governor of Rhode Island; the Honorable Carroll A. Campbell, Jr., Governor of South Carolina; the Honorable William P. Clements, Governor of Texas; the Honorable Booth Gardner, Governor of Washington; the Honorable Neil Goldschmidt, Governor of Oregon; the Honorable Robert Casey, Governor of Pennsylvania; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-454. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT MEMORIAL NO. 15

"Whereas advances in technology have brought our society to the threshold of the information age; and

"Whereas the national welfare will be greatly enhanced by bringing about the universal availability of the information age to the American people through the development and deployment of innovative technologies; and

"Whereas the provision of information services, and the removal of judicially imposed restrictions on the development and availability of such services, will stimulate and encourage use of information age technology by the American people; and

"Whereas it is the responsibility of Congress, rather than the courts, to determine communications public policy including its effect on economic competitiveness, national security, and foreign trade which are essential elements of a sound national telecommunications policy; and

"Whereas the continued economic growth and international competitiveness of American industry are dependent upon permitting all American companies to provide information services, to conduct research and to design, develop, manufacture, and market software, firmware, telecommunications equipment and customer premises equipment for all American residential, business and governmental telecommunications users; and

"Whereas it is imperative that American industry provide new and innovative telecommunications services and an efficient, reliable, state-of-the-art, and internationally competitive public telecommunications network to serve the growing needs of the people of the United States; and

"Whereas existing new and innovative telecommunications technologies are less accessible and less affordable in rural and small communities than in larger, urban centers; and

"Whereas the Federal Communications Commission is the appropriate federal agency, in conjunction with appropriate state regulatory agencies, to ensure fair competition in the telecommunications industry, while protecting the interests of the basic local exchange customers; and

"Whereas the court order, referred to as the "Modification of Final Judgment" (MFJ) that broke up the former Bell System, prohibits the divested Bell operating companies from participating in certain telecommunications markets, namely, manufacturing and information services and long distance servies; and

"Whereas the MFJ has prevented some two-thirds of America's domestically-owned telecommunications industry from competing with foreign telecommunications firms in the United States; and

"Whereas, removal of MFJ restrictions on manufacturing of telecommunications equipment and customer premises equipment and on provision of information services would foster American competitiveness because:

"(a) Removal would facilitate competitiveness with foreign telecommunications companies who are free to compete in markets in the United States;

"(b) Removal would help bring needed telecommunications technologies that are already in existence, but which the Bell operating companies are prohibited from providing by the MFJ, to hearing impaired persons, rural schools and hospitals and others who might benefit from improved and affordable telecommunications;

"(c) Removal would help stimulate the invention of new and innovative telecommunications technologies and facilitate access of said innovations to rural America;

"(d) Removal would encourage investment in research, development, design and manufacture of telecommunications and customer premises equipment: Now, therefore, be it

"Resolved by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, That we urge the President of the United States, George Bush, and the Congress of the United States to remove restrictions that prohibit Bell operating companies from engaging in the manufacture of telecommunications equipment and customer premises equipment and the provision of information services, in the public interest of the citizens of the state of Idaho and the citizens of the United States of America, through the passage of appropriate legislation: Be it further

"Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, George Bush, and to the President of the Senate and the Speaker of the House of Representatives of Congress, and to the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-455. A concurrent resolution adopted by the Legislature of American Samoa; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION NO. 87

"Whereas tuna canning is the only industry in American Samoa; and

"Whereas the Saiki Amendment is a threat to the economic survival of America's only tuna canning industries located in American Samoa and Puerto Rico; and

"Whereas with the eventual destruction of the tuna industry by the passage of the Saiki Amendment, American Samoa's economy will be devastated; and

"Whereas the tuna industry in American Samoa is the largest employer in the private sector; and

"Whereas no alternative industry can support the American Samoa economy; and

"Whereas maintaining the status quo of the tuna policy provisions of the Magnuson Act will not only save the tuna industry of America and the economy of American Samoa, but will continue to help them grow and develop to the benefit of our people: Now, therefore be it

"Resolved by the House of Representatives of the Territory of American Samoa, the Senate concurring, That the United States Senate is respectfully requested to reject the Saiki Amendment to the Magnuson Act for the sake of America's tuna industry and American Samoa's economy; and be it further

"*Resolved*, That the Chief Clerk of the House of Representatives is directed to transmit copies of this concurrent resolution to: the President of the Senate, Honorable Dan Quayle; U.S. Senator, Honorable Ernest F. Hollings, Chairman, Senate Committee on Commerce, Science and Transportation; Honorable Congressman Eni F. Hunkin; and to the Honorable Peter T. Coleman, Governor of American Samoa."

POM-456. A concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on Commerce, Science, and Transportation:

"SENATE CONCURRENT RESOLUTION No. 128

"Whereas the current status of the laws and regulations governing cable television do not provide protection from rate escalation of the type that could divide society into those who can and those who cannot afford to avail themselves of this educational and entertainment service; and

"Whereas this division is a result of the current status of cable television being that of an unregulated monopoly, resulting from a lack of competition and a preempted regulatory environment; and

"Whereas the lack of competition has arisen from the absence of alternative delivery methods of cable television; and

"Whereas a switched fiber optic network could provide competition for the cable television industry and also provide advanced services to consumers; and

"Whereas a statewide switched fiber optic network will serve as a vital component to Iowa's future public and continuing education structures; and

"Whereas a highly-featured switched fiber optic network would be an asset to the economic development within the state of Iowa and provide international competitiveness for the United States; and

"Whereas the current trends of horizonatal consolidation, the practice by which one cable company merges with others in the same delivery area, and vertical integration, the process by which cable companies purchase rights in programming, has further inhibited competition; Now therefore, be it

"*Resolved by the Senate, the House concurring*, That the General Assembly of the state of Iowa call upon the United States Congress and the executive branch administration, in order to guarantee the right of all citizens to the educational and entertainment opportunities and other necessities provided by cable television, to address this issue by enacting laws which encourage the introduction of competition into the cable market: Be it further

"*Resolved*, That until and unless such competition is achieved, Congress and the administration must again provide for regulation of rates and technical delivery. Specifically, the General Assembly of the state of Iowa calls upon the Congress and the administration to do all of the following:

"1. Regulate basic cable in the absence of a switched fiber optic network or a second multichannel alternative.

"2. Permit telephone companies to own and operate cable systems if all of the following conditions are met:

"a. The law does not relieve telephone companies, as common carriers, which provide video transmission facilities by use of an integrated switched network, of the obligation to comply with the order of the Federal Communications Commission entitled "Filing and Review of Open Network Architecture Plans," CC Docket 88-2, Phase I, released December 22, 1988, and any amendment or revision of the order.

"b. State and federal regulations are in place to prevent cross subsidization between a telephone company's cable programming operations and regulated telephone operations. State regulations of intrastate fiber optics shall not be preempted by the federal government.

"c. All other requirements of a local franchise agreement are enforceable at law against a telephone company operating as a video transmission facilities provider.

"d. Regulations are in place to ensure that fiberoptic cable deployed to homes is accorded the legal status of a common carrier.

"e. Regulations are in place to prohibit common carriers, which provide video transmission facilities by use of an integrated switched network, from providing, pursuant to customer desires, individual customer data accumulated by the carrier in the course of furnishing regulated common carrier services to the customer, to all enhanced service providers whether they are affiliated or unaffiliated with the involved common carrier. Penalties must be assessed of any carrier that violates these disclosure rules.

"3. Encourage telephone and cable companies to deploy fiber optic cable to homes, so the maximum number of Americans will benefit from the abundance of the information age services and programming that could be provided over a switched fiber network.

"4. Mandate that as a term and condition of availing a video transmission facilities provider of the compulsory license, that this provider or its affiliates make programming available at a reasonable profit to all other delivery providers."

POM-457. A resolution adopted by the Municipal Assembly of San Juan, Puerto Rico favoring legislation to allow the people of Puerto Rico to exercise political status self-determination in the year 1991; to the Committee on Energy and Natural Resources.

POM-458. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT RESOLUTION No. 35

"Whereas the capacity of the solid waste landfills in Indiana will be reached within the next few years; and

"Whereas rates of solid waste disposal are increasing significantly as a result of both increased waste generation in Indiana and increased shipments of solid waste into Indiana for disposal; and

"Whereas recent shipments of garbage by rail into Indiana for handling and disposal without lawful permits for unloading have highlighted both the increased strain on Indiana's landfill capacity and the health hazards that such unlawful shipments may pose for the people of Indiana; and

"Whereas the practice of using the same vehicles to transport garbage into Indiana and Indiana farm products out of Indiana threatens the reputation and integrity of Indiana's farm products; and

"Whereas without its full consent, none of the fifty states should be used as a dumping ground for the garbage and other waste material from another state; and

"Whereas the health and safety of the people of every state is threatened when they are unwilling recipients of the garbage and other solid wastes of the people of another state: Therefore, be it

"*Resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

"Section 1. That the Congress of the United States is urged to enact a law giving each state the authority to enact laws that permit or deny out-of-state solid waste to be brought into their state for disposal.

"Section 2. That copies of this Resolution be sent to the presiding officers and to the majority and minority leaders of both Houses of Congress and to each member of the Indiana Congressional Delegation."

POM-459. A resolution adopted by the Jewish National Fund Leadership Conference relating to the status of Jerusalem; to the Committee on Foreign Relations.

POM-460. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Foreign Relations.

"S. RES. 150

"Whereas anti-Semitism is one of the most dangerous elements to emerge from the era of glasnost in the Soviet Union. From State-sponsored anti-Semitism of the earlier eras of Soviet history, in which Soviet Jews understood that there were limits to its reach and that in the final analysis the State would probably protect their physical security, we have now moved to a period of overt, public anti-Semitism fanned by nationalistic and chauvinistic groups and individuals; and

"Whereas the Soviet Jews now perceive a direct and real threat to their physical well-being and existence, and, in the present circumstances, are unsure about the willingness or ability of the State to protect them; and

"Whereas the rising sense of fear—even panic—widely shared among the Soviet Jewish population is fueled by the growing economic and political instability in the U.S.S.R., by the spread of ethnic tensions, by the deep concerns about the future of the country, and, finally, by the recent pogroms which took place against the Armenian majority residing in certain areas of Azerbaidzhan; and

"Whereas there have already been a number of physical attacks upon Jews reported in the West, including the brutal disruption and vandalism of a Writer's Union meeting by anti-Semitic thugs; and

"Whereas action is needed now to call to the attention of Soviet leadership the urgent need to undertake effective measures to combat this pernicious manifestation which is threatening the lives and security of the Jewish population. Our efforts can help to ease the fears of Soviet Jews and decrease the potential physical risks about which they are so concerned; therefore be it

"*Resolved*, That the Senate of the Commonwealth of Pennsylvania memorialize the President of the United States, the Secretary of State and the Congress of the United States to use every opportunity to sensitize the Soviet leadership to the dangers of their current inaction in combating anti-Semitism and to the need of making a strong statement on anti-Semitism, and to ensure that Soviet laws on ethnic incitement are fully enforced; and be it further

"*Resolved*, That copies of this resolution be transmitted to President George Bush, Secretary of State James Baker, to the presiding officers of each house of Congress, and to each member of Congress from Pennsylvania."

POM-461. A resolution adopted by the Senate of the State of Washington; to the Committee on Foreign Relations:

"SENATE RESOLUTION 1990-8755

"Whereas the recent elections in Nicaragua demonstrate that fair and open elections can promote democracy through nonviolent means; and

"Whereas fair and open elections offer the best hope for reducing political violence; and

"Whereas existing democracies, able to do so, should lend assistance and encouragement to people and organizations working for democracy and free elections by peaceful means throughout the world; and

"Whereas the United States of America is recognized by the people of the world as the leading example of democracy: Now, therefore, be it

"Resolved, That the Senate encourages the government of the United States to continue working with international bodies such as the Organization of American States, the United Nations, the Council of the Freely Elected Heads of States, Chaired by former President Jimmy Carter and assisted by former Senator Dan Evans, and the many nongovernmental organizations that participate as election observers in promoting fair and open elections throughout Central America, Lithuania, and the rest of the world, as a means of promoting viable democracies and reducing violence; and be it further

"Resolved, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable George Bush, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-462. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"SENATE RESOLUTION

"Whereas Lithuania was illegally occupied and annexed by the Soviet Union in nineteen hundred and forty; and

"Whereas the Government of the United States has never recognized the incorporation of Lithuania into the Soviet Union; and

"Whereas on February twenty-fourth, nineteen hundred and ninety, the people of Lithuania held the first democratic multiparty elections in more than half a century in which the people elected candidates to the Supreme Council of Lithuania who support a free and independent Republic of Lithuania; and

"Whereas on March eleventh, nineteen hundred and ninety, the newly elected Lithuanian Parliament reaffirmed the independence of the Republic of Lithuania only to have the Union of Soviet Socialist Republic ignore this democractic action; and

"Whereas the Soviet Government has taken action, including staging military maneuvers, ordering Soviet military units to assert more active and visible control over Lithuanian installations, and the violent abduction of citizens of Lithuania, in an apparent attempt to intimidate the people and their representatives in the Lithuanian parliament; and

"Whereas the Lithuanian people should be commended for their courage and perseverance in reaffirming the independence of the Republic of Lithuania, and in asserting their right to self-determination peacefully and through the democratic process; and

"Whereas the people of the Commonwealth of Massachusetts strongly and unequivocably support the right of the people of Lithuania to independence and democracy and condemn the recent actions of the Soviet Union in its attempt at intimidation of the Lithuanian Parliament and its refusal to recognize the independent, Democratic Republic of Lithuania; now therefore be it

"Resolved, That the Massachusetts Senate hereby respectfully urges the Congress and the President of the United States to condemn the recent actions of the Soviet Union in using force to interfere with the Lithuanians' peaceful exercise of their democratic rights and to accord full diplomatic status to the government of the Republic of Lithuania; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Presiding Officer of each branch of Congress, to the members thereof from this Commonwealth."

POM-463. A resolution adopted by the Eighth District American Legion, Department of New York, favoring an amendment to the Constitution prohibiting the physical desecration of the flag of the United States; to the Committee on the Judiciary.

POM-464. A resolution adopted by the Legislature of the State of Iowa; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 108

"Whereas, it has been proposed that September 23 be designated American Coal Miners' Memorial Day; and

"Whereas, the purpose of the holiday would be to educate school children about the dangers of coal mining and the importance of the coal industry; and

"Whereas, this holiday will provide an opportunity to teach about the place of coal miners in America's industrial society, and it will provide an opportunity for people to learn more about the uses of coal in metallurgical, electrical, chemical, and transportation industries; and

"Whereas, in addition, the memorial recalls the sacrifices and hardships the coal miners suffered to make America a safer and better place to work and live; and

"Whereas, through organization and collective bargaining, miners helped win the five-day, forty-hour work week, helped establish a national minimum wage, and helped keep children from being exploited in factories and mines; Now therefore, be it

Resolved by the Senate, That the United States Congress is urged to designate September 23 as an official commemorative holiday in honor of America's coal miners: be it further

"Resolved, That copies of this Resolution be presented to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of Iowa's congressional delegation."

POM-465. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas Joseph Patrick Doherty, a citizen of the Republic of Ireland of the United Kingdom, was convicted in a special nonjury British Diplock court in 1981 of offenses related to an incident involving the death of a British Army soldier and was sentenced to life imprisonment; and

"Whereas Joseph Patrick Doherty escaped from prison and fled to the United States, where he was arrested on June 18, 1983, pursuant to a deportation warrant; and

"Whereas Joseph Patrick Doherty has been a prisoner in the federal prison system since June 18, 1983, solely because of extradition proceedings and charges of having illegally entered the United States; and

"Whereas on June 28, 1983, the United Kingdom, acting through the United States Department of Justice, requested the extradition of Joseph Patrick Doherty to the United Kingdom; and

"Whereas on December 12, 1984, the United States District Court of the Southern District of New York in the action entitled Matter of Doherty (599 F. Supp. 270 (1984)), denied the request for extradition on the ground that the acts for which the British Government sought Joseph Patrick Doherty were within the political offense exception of the then existing extradition treaty between the United States and the United Kingdom; and

"Whereas on November 14, 1988, the Board of Immigration Appeals ruled to allow Joseph Patrick Doherty to apply for political asylum in the United States, superseding an earlier order by the Attorney General of the United States ordering Joseph Patrick Doherty deported to the same country, the United Kingdom, to which his extradition had been previously denied; and

"Whereas in so ruling, the Board of Immigration Appeals expressly stated that Joseph Patrick Doherty had submitted sufficient evidence to establish a prima facie claim of a well-founded fear of persecution if returned to the United Kingdom; and

"Whereas on June 18, 1989, Joseph Patrick Doherty began his 7th year of federal confinement, despite the fact that he has never been convicted of, or even charged with, a criminal offense in the United States, circumstances which only serve to heighten legitimate concerns about the most fundamental violations of basic due process rights; now, therefore, be it

"Resolved, That We, your Memorialists, commend the decision of the Board of Immigration Appeals to allow Joseph Patrick Doherty to apply for political asylum in the United States, and express our concern at the decisions of Attorneys General Meese and Thornburgh, which, in ignoring successive decisions in favor of Joseph Patrick Doherty duly rendered by immigration judges and by the Board of Immigration Appeals, raise serious issues of denial of due process; and be it further

"Resolved, That the President and the Congress take all appropriate action to see that the Attorney General of the United States respect the decision of the Board of Immigration Appeals and permit Joseph Patrick Doherty the hearing ordered by the Board of Immigration Appeals on his claim for political asylum and that Joseph Patrick Doherty's request to be released on bond, pending the final outcome of the immigration proceedings be immediately addressed; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of the State, be transmitted to the Honorable George H.W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to each Member of the Maine Congressional Delegation, to Attorney General Richard Thornburgh and Joseph Patrick Doherty."

POM-466. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Labor and Human Resources:

"HOUSE CONCURRENT RESOLUTION No. 73

"Whereas because the United States Department of Labor underestimated by $121,000,000 the unemployment insurance workload nationally, Indiana will receive $2,300,000 less than expected; and

"Whereas the $2,300,000 shorfall in funding for administration of the unemployment insurance program in Indiana during the Fiscal Year 1990 will force the state to discontinue unemployment insurance services at seventeen full time Workforce Indiana offices, to eliminate unemployment insurance services at forty-five part-time offices, and to lay off up to 100 part-time employees; and

"Whereas it is estimated that the United States Department of Labor has more than $3,000,000,000 in funds paid by employers to finance 100% of the costs of administering the unemployment insurance programs; and

"Whereas the severeity of the Department of Labor underfunding threatens the integrity of the unemployment insurance programs in Indiana: Therefore, be it,

"Resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate Concurring:

"Section 1. That the General Assembly of the State of Indiana urges the Congress of the United States to act quickly to restore the $121,000,000 cut from the budget for unemployment insurance staff and operations.

"Section 2. That copies of this Resolution be sent to the Presiding Officers and to the Majority and Minority Leaders of both houses of the Congress of the United States, and to the Indiana Congressional Delegation."

POM-467. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Labor and Human Resources:

"ENROLLED JOINT RESOLUTION No. 1

"Whereas the Alcohol, Drug Abuse and Mental Health Block Grant as established permitted states to determine service needs and treatment priorities within the areas of alcohol and drug abuse and mental health; and

"Whereas the prescriptive set asides and requirements are a significant change in the Block Grant and an encroachment by the federal government upon the state's discretion to determine service priorities; and

"Whereas it is vital to the management of the Block Grant under Wyoming's unique circumstances as a frontier state that state agencies and citizens determine the service priorities; and

"Whereas the designation of target groups is appropriate, but the prescriptive set asides and requirements are inappropriate and in fact impossible to manage in a frontier state; and

"Whereas Wyoming could attempt to manage the Block Grant to meet the technical requirements but in doing so would not adequately respond to the substance abuse, treatment and rehabilitation needs of Wyoming citizens; and

"Whereas Wyoming's treatment and rehabilitation programs must be responsive to a wide array of substance abuse and alcohol related problems; and

"Whereas additional prescriptive set asides and requirements would jeopardize the existence of Wyoming's treatment and rehabilitation programs: Now, therefore, be it

"Resolved by the Members of the Legislature of the State of Wyoming:

"Section 1. That the State of Wyoming opposes without equivocation the federal government's prescriptive set asides and requirements for the use of the Alcohol, Drug Abuse and Mental Health Block Grant.

"Section 2. That the State of Wyoming opposes the absence of waivers for these requirements when Wyoming cannot meet the prescriptive set asides and requirements. The continued imposition of inappropriate set asides and requirements creates the potential of the state of Wyoming returning the federal monies or using the monies in a manner that is not responsive to the substance abuse, treatment and rehabilitation needs of Wyoming citizens.

"Section 3. That the Secretary of State of Wyoming send copies of this resolution to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, each member of the Wyoming Congressional Delegation and the Secretary of the Department of Health and Human Services."

POM-468. A resolution adopted by the City Council of Duluth, Minnesota favoring the reauthorization of the Low-Income Home Energy Assistance Program and an increase in its appropriation for fiscal year 1991 and subsequent years; to the Committee on Labor and Human Resources.

POM-469. A resolution adopted by the California Republican Party expressing opposition to H.R. 2190 and S. 874, the National Voter Registration Acts; to the Committee on Rules and Administration.

POM-470. A resolution adopted by the Legislature of the State of South Carolina; to the Committee on Veterans' Affairs.

"CONCURRENT RESOLUTION

"Whereas the late Ralph H. Johnson was Private First Class, United States Marine Corps, Company A, 1st Reconnaissance Battalion, 1st Marine Division (Rein), FMF; and

"Whereas he was born on January 11, 1949, at Charleston, South Carolina; and

"Whereas he entered the military service of his country at Oakland, California, and he died near the Quan Duc Valley, Republic of Vietnam, on March 5, 1968; and

"Whereas he was cited for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while serving as a reconnaissance scout with Company A in action against the North Vietnamese Army and Viet Cong forces; and

"Whereas his bravery and gallantry saved another life at the cost of his own and inspired valor and selfless devotion to duty among others in keeping with the highest traditions of the Marine Corps and the United States Naval Service; and

"Whereas for his heroism he was awarded the Congressionial Medal of Honor; and

"Whereas it would be fitting memorial indeed to this great South Carolinian and American, and it would honor the heroism of thousands of young Americans who served the cause of freedom in Vietnam, to name the Veterans Administration Hospital in Charleston for the late Ralph H. Johnson: Now, therefore, be it

"Resolved by the Senate, the House of Representatives concurring: That the General Assembly of the State of South Carolina, by this resolution, memorializes Congress to take whatever action may be necessary to name the Veterans Administration Hospital in Charleston, South Carolina in honor of the late Ralph H. Johnson of Charleston County, a great South Carolinian and American and recipient of the Congressional Medal of Honor who gave his life in the cause of freedom while in the service of his country in Vietnam: Be it further

"Resolved, That a copy of this resolution be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, and all eight members of South Carolina's congressional delegation, all at Washington, D.C."

POM-471. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Commerce, Science, and Transportation:

"HOUSE JOINT MEMORIAL No. 18

"Whereas an earthquake measuring 7.1 on the Richter Scale caused 66 deaths and an estimated $5,000,000,000 in direct economic damages to 11 northern California counties on October 17, 1989; and

"Whereas in 1983, Idaho suffered an earthquake measuring 7.2 on the Richter Scale in the Challis area which caused two deaths and occasioned substantial property damage throughout the southern portion of the state which was estimated to have exceeded $12,000,000 in damages; and

"Whereas during this century there have been more than ten Idaho earthquake recorded with a magnitude greater than 6.0 on the Richter Scale; and

"Whereas each year there are approximately three or four earthquake in Idaho measuring more than 4.0 on the Richter Scale; and

"Whereas Idaho is within the region of the United States which is classified as having moderate to major risk or earthquake damage and injury; and

"Whereas all five states of the Pacific Northwest are vulnerable to serious earthquakes, and major seismic damage anywhere in the region will adversely affect the highly interdependent economies of all five states; and

"Whereas the scientific community continues to warn that the United States is on the verge of a major earthquake within the next 20 to 30 years with anticipated overall property damage losses alone estimated at $70,000,000,000; and

"Whereas according to the Congress of the United States, all 50 states are vulnerable to the hazards of earthquake and at least 39 are subject to major or moderate seismic risk; and

"Whereas 70 million Americans are exposed to severe earthquake risk and an additional 120 million are exposed to moderate earthquake risk; and

"Whereas the Director of the National Center for Earthquake Engineering Research at the State University of New York at Buffalo, New York, states that "The probability of (an earthquake) occurring somewhere in the Eastern United States before the year 2000 can be considered better than 75 to 95 percent. Before the year 2010, nearly 100 percent"; and

"Whereas a catastrophic earthquake in a populated, developed area would inflict severe damage on the nation's economy; and

"Whereas the citizenry, insurance companies and the government at all levels need to make advance preparations for a cooperative effort to respond to a major earthquake disaster; and

"Whereas the Earthquake Project has developed a program for both a primary resi-

dential earthquake program and a federal reinsurance program to provide an economic safety net in the event of a major earthquake; and

"Whereas the Federal Earthquake Insurance and Reinsurance Corporation Act developed by the Earthquake Project would insure that the public receives affordable, reliable, and adequate insurance against the risk of earthquake; that people, businesses and all levels of government would be protected by providing for the prompt and efficient handling of claims, which will reduce the inevitable economic fallout from the devastating earthquake and avoid the necessity of large amounts of federal disaster relief by relying on a prefunding mechanism through the vehicle of insurance: Now, therefore, be it

Resolved by the members of the Second Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, That we respectfully request the current administration, and the Congress of the United States, to study and consider carefully the Earthquake Project's program in order to determine whether such a program should be established in the United States to insure against a catastrophic earthquake: Be it further,

"Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

SENATE RESOLUTION 271—RELATIVE TO THE DEATH OF SPARK M. MATSUNAGA, A SENATOR FROM THE STATE OF HAWAII

Mr. CRANSTON (for Mr. INOUYE, for himself, Mr. MITCHELL, Mr. DOLE, Mr. ADAMS, Mr. ARMSTONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WILSON, and Mr. WIRTH) submitted the following resolution; which was considered and agreed to:

S. RES. 271

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Spark M. Matsunaga, late a Senator from the State of Hawaii.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

CLEAN AIR ACT AMENDMENTS

The text of the bill S. 1630, as passed by the Senate on April 3, 1990; is as follows:

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Clean Air Act Amendments of 1990".

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TITLE I—ATTAINMENT AND MAINTENANCE OF AMBIENT AIR QUALITY STANDARDS

DESIGNATION OF AREAS

SEC. 101. (a) DESIGNATIONS.—Section 107 of the Clean Air Act is amended by adding the following new subsection:

"(f)(1)(A) Upon promulgation of a new or revised national ambient air quality standard, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—

"(i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,

"(ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or

"(iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.

The Administrator may not require the Governor to submit the required list sooner than one hundred and twenty days, or later than three hundred and sixty-five days, after promulgating a new or revised national ambient air quality standard.

"(B)(i) Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted under subparagraph (A) as expeditiously as practicable, but in no case later than six months from the required date of submission of the State list required under subparagraph (A). Such period may be extended for specific areas for up to six additional months in the event the Administrator has insufficient information to promulgate the designations.

"(ii) In making the promulgations required under clause (i), the Administrator may make such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) submitted under subparagraph (A) (including to the boundaries of such areas or portions thereof). Whenever the Administrator intends to make a modification, the Administrator shall notify the State and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate. The Administrator shall give such notification no later than one hundred and twenty days prior to the date the Administrator promulgates the designation, as may be modified. If the Governor fails to submit the list in whole or in part, as required under subparagraph (A), the Administrator shall promulgate the designation that the Administrator deems appropriate for any area (or portion thereof) not designated by the State.

"(iii) If the Governor of any State, on the Governor's own motion, under subparagraph (A), submits a list of areas (or portions thereof) in the State designated as nonattainment, attainment, or unclassifiable, the Administrator shall act on such designations in accordance with the relevant procedures under subsection (d)(5) (relating to redesignation).

"(2) A designation for an area (or portion thereof) made pursuant to this subsection shall remain in effect until the area (or portion) is redesignated pursuant to subsection (d)(5).

"(3)(A) Each area which, as of the last calendar year before the date of enactment of this subsection for which data are available, did not meet the national primary ambient air quality standard for ozone or such standard for carbon monoxide, as determined in accordance with the same methods as are used under regulations of the Administrator for determining attainment of the standard, is hereby designated by operation of law as nonattainment for the applicable pollutant.

"(B)(i) Within one hundred and twenty days of the date of enactment of the Clean Air Act Amendments of 1990, each Governor of each State shall submit to the Administrator a description of the boundaries, identified by the Governor, of the areas within such State that were designated nonattainment under subparagraph (A) of this paragraph or under paragraph (4).

"(ii) No later than one hundred and twenty days after the date the Governor is required to submit the description of boundaries required under clause (i), the Administrator shall promulgate such boundaries as supplements to the designations under subparagraph (A) of this paragraph and under paragraph (4), making such modifications to such boundaries as the Administrator may deem necessary, in the same manner, and under the same procedure, as is applicable under paragraph (1)(B)(ii), except that the phrase 'sixty days' shall be substituted for the phrase 'one hundred and twenty days' in the clause. If the Governor does not submit, in accordance with clause (i), the required identification of boundaries for an area (or portion thereof), the Administrator shall promulgate the boundaries that the Administrator deems appropriate for such area.

"(C) No nonattainment area may be redesignated as an attainment area under this paragraph.

"(D) No later than thirty days after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance describing the criteria upon which the identification of boundaries required under subparagraph (A) shall be based.

"(4) Until redesignation by the Administrator, each area which—

"(A) is identified in 52 Federal Register 29383 (August 7, 1987) as a Group I area (except to the extent that such information was modified by the Administrator prior to the date of enactment of the Clean Air Act Amendments of 1990), or

"(B) contains a site for which air quality monitoring data shows a violation of the national ambient air quality standard for PM-10 before the date of enactment of this subsection (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations), is hereby designated by operation of law nonattainment for PM-10. All other areas of the country not described in subparagraph (A) or (B) are designated unclassifiable for PM-10, until such time as the Administrator redesignates any such area. Any designation for particulate matter (measured in terms of total suspended particulates) which the Administrator promulgated pursuant to section 107(d), as in effect before the date of enactment of this subsection, shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(d), until the Administrator determines that such designation is no longer necessary for such purpose.

"(5) PROCEDURE.—(A) The Administrator shall publish a notice in the Federal Register promulgating any designation under paragraph (1) or (7) or announcing any designation under paragraph (3) or (4), or promulgating any redesignation under subsection (d)(5).

"(B) Promulgation or announcement of a designation or boundaries under paragraph (1), (3), (4) or (7) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein should be construed as precluding such public notice and comment whenever possible.

"(6)(A) Notwithstanding any other provision of this Act, any ozone nonattainment area that—

"(i) did not violate the national ambient air quality standards for ozone for the thirty-six month period commencing on January 1, 1987, and ending on December 31, 1989, and

"(ii) by the date of enactment of this paragraph, submitted to the Administrator all measures intended to satisfy the applicable requirement for reasonably available control measures, reasonably available control technology, and vehicle inspection and maintenance under section 172(b) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the United States Environmental Protection Agency prior to the date of enactment of this paragraph,

shall, within thirty days of enactment of this paragraph, either be redesignated by the Administrator as an attainment area for ozone or be classified by the Administrator, in lieu of any classification that might otherwise apply under section 181, as a transitional ozone nonattainment area. For the period from the date of such classification as a transitional ozone nonattainment area until December 31, 1992, each such area shall not be subject to the requirements of the Clean Air Act Amendments of 1990 (other than the requirements of this paragraph), and shall be subject to the provisions of this Act (except the provisions requiring a demonstration of attainment of the national ambient air quality standards for ozone) which were in effect immediately prior to the date of enactment of such amendments.

"(B) Notwithstanding section 107(d)(5)(C), the Administrator may redesignate a transitional ozone nonattainment area to attainment if such area satisfies the requirements of section 107(d)(5) and part D as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990 (except the requirements relating to attainment of the national ambient air quality standards for ozone, as such requirements were interpreted in guidance issued by the United States Environmental Protection Agency prior to the date of enactment of such amendments.

"(C) Whenever a location within a transitional ozone nonattainment area violates the national ambient air quality standards for ozone during a thirty-six month period that includes all or a part of the period commencing on January 1, 1990, and ending on December 31, 1992, such area shall promptly be classified by the Administrator pursuant to section 181 and be subject to the requirements applicable by virtue of such classification, except that any absolute, fixed date applicable in connection with any such requirement is extended for such area by operation of law by a period equal to the length of time between the date of enactment of this paragraph and the date the area is classified pursuant to section 181.

"(D) Any transitional ozone nonattainment area that, as of January 1, 1993, has not been either redesignated to attainment or classified under section 181 (pursuant to subparagraph (C) of this paragraph) shall on that date become subject to the requirements of the Clean Air Act Amendments of 1990 that would have applied to such area if this paragraph has not been enacted, except that any absolute, fixed date applicable in connection with any such requirement is extended for such area by operation of law by a period equal to the length of time between the date of enactment of such amendments and December 31, 1992.

"(7) The Administrator may, in the Administrator's discretion, at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of enactment of this paragraph, in accordance with the procedures under paragraph (1).".

(b) REDESIGNATION.—Section 107(d)(5) of the Clean Air Act is amended to read as follows:

"(5)(A) Based on a request for area redesignation by the Governor of any State, or at any time on the Administrator's own motion, the Administrator may revise the designation of any area or portion of an area in accordance with this section. In the case of a complete request by the Governor of any State to revise the designation of any area or portion of an area from nonattainment to attainment, the Administrator shall approve or deny such request within eighteen months of the Administrator's receipt of the submittal.

"(B) Whenever the Administrator obtains evidence demonstrating that an area exceeds a national ambient air quality standard for any pollutant and is not designated as a nonattainment area for such pollutant pursuant to this section, the Administrator shall, within ninety days of receiving such evidence, propose, and within one hundred and eighty days promulgate by rule, a revised designation of such area as nonattainment for such pollutant, and where applicable, a classification of such area in accordance with part D.

"(C) Except as otherwise provided in subsection (f)(6), the Administrator may redesignate a nonattainment area to attainment only if—

"(i) the Administrator promulgates the redesignation by rule, after notice and opportunity for comment;

"(ii) the Administrator determines that the area has attained the national ambient air quality standard;

"(iii) the Administrator has fully approved the applicable implementation plan;

"(iv) the Administrator determines that the improvement in air quality is due to permanent reductions in emissions;

"(v) the Administrator has fully approved a maintenance plan for the area as meeting the applicable requirements of section 110 and part D; and

"(vi) the State containing such area has met all requirements applicable to the area under section 110 and part D.

"(D) The Administrator shall not redesignate any area from nonattainment to unclassifiable.".

(c) Section 103 of the Clean Air Act is amended by adding at the end thereof the following:

"(g) STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences may conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

"(3) The director shall assure that such programs shall not conflict with research undertaken by the Administrator.

"(4) There are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out the purposes of this subsection.".

ENHANCED MONITORING AND INVENTORIES

SEC. 102. Section 108 of the Clean Air Act is amended by adding the following at the end thereof:

"(g) GUIDELINES FOR ENHANCED MONITORING AND INVENTORIES.—Not later than six months after enactment of this subsection, the Administrator shall publish the following:

"(1) guidelines for enhanced monitoring by the State or local air pollution control agencies of emissions of pollutants (or precursors thereof) for which there is a national ambient air quality standard established under section 109, including guidelines governing the frequency, location, and maintenance of monitors;

"(2) guidelines for improving the inventories of emissions from mobile and stationary sources (including, but not limited to, emissions factors for estimating emissions from stationary sources which emit less than twenty-five tons per year, procedures for estimating motor vehicle mile of travel, and emissions factors for other area sources) of pollutants (or precursors thereof) for which there is a national ambient air quality standard established under section 109; and

"(3) guidelines for emission reduction requirements of this Act (including, but not limited to, preparation of base inventories, accounting for stationary and mobile source growth, and calculating the emission reductions that are creditable toward specific reduction requirements).

Failure by the Administrator to publish guidelines required under paragraphs (1) and (2) shall not affect other applicable deadlines under this Act, including, but not limited to requirements under section 110 or part D.".

TRANSPORTATION GUIDANCE

SEC. 103. (a) TRANSPORTATION PLANNING GUIDANCE.—Section 108(e) of the Clean Air Act is amended by deleting the first sentence and inserting in lieu thereof the following: "The Administrator shall, after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards.".

(b) TRANSPORTATION CONTROL MEASURES.—Section 108(f)(1) of the Clean Air Act is amended by deleting all after "(f)" through the end of subparagraph (A) and inserting in lieu thereof the following:

"(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1990, and from time to time thereafter—

"(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, regarding the formulation and emission reduction potential of transportation control measures related to carbon monoxide, ozone precursors, particulate matter, carbon dioxide, and toxic air pollutants, including, but not limited to—

"(i) programs for improved public transit;

"(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

"(iii) employer-based transportation management plans;

"(iv) trip-reduction ordinances;

"(v) traffic flow improvement programs that achieve emission reductions;

"(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

"(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

"(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

"(ix) transportation management plans for shopping centers;

"(x) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

"(xi) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protec-

tion of bicyclists, in both public and private areas;

"(xii) programs to control extended idling of vehicles;

"(xiii) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations;

"(xiv) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions;

"(xv) employer-sponsored programs to permit flexible work schedules;

"(xvi) programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality;

"(xvii) programs for new construction and major reconstructions of paths, tracks or areas solely for the use by pedestrian or other non-motorized means of transportation when economically feasible and in the public interest. For purposes of this clause, the Administrator shall also consult with the Secretary of the Interior; and

"(xviii) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model light duty trucks.".

GENERAL PLANNING REQUIREMENTS

SEC. 104. (a) SUBMISSION OF PLANS.—Section 110(a)(1) of the Clean Air Act is amended by striking "(1)" after "(a)" and by striking "nine" each time it appears and inserting in lieu thereof "twenty-four".

(b) STATE IMPLEMENTATION PLAN ELEMENTS.—Section 110 of the Clean Air Act is amended by striking subsection (a)(2) and subsection (a)(3)(A) and inserting the following:

"(b) MAINTENANCE PLANS.—

"(1) Whenever an area containing all or part of a metropolitan statistical area or consolidated metropolitan statistical area is designated attainment or unclassifiable with respect to a national ambient air quality standard, the Administrator shall, and in other cases may, require the State containing such area to submit an implementation plan (including such emissions inventories as the Administrator may prescribe) that provides for maintenance of such standard for at least twenty years from the date such plan is submitted. Every ten years after submission of the last twenty-year maintenance plan, the State shall submit an updated twenty-year maintenance plan.

"(2) Any plan required to be submitted pursuant to paragraph (1) shall meet the applicable requirements of subsection (c) (concerning general plan requirements).

"(3) Any plan required to be submitted pursuant to paragraph (1) shall be submitted by the State in accordance with such schedules as the Administrator may reasonably prescribe.

"(c) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLAN SUBMITTALS.—Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

"(1) include enforceable emission limitations and other control measures, means, or techniques as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

"(2) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

"(A) monitor, compile, and analyze data on ambient air quality, and

"(B) upon request, make such data available to the Administrator;

"(3) include a program to provide for the enforcement of the measures described in paragraph (1), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved and maintained, including a permit program as required in parts C and D;

"(4) contain adequate provisions—

"(A) prohibiting any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

"(i) contribute significantly to nonattainment in or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard,

"(ii) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility, or

"(iii) contribute to atmospheric loadings of pollutants or their transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State,

"(B) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

"(5) provide—

"(A) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), including a statement from the attorney general (or the attorney for those relevant State (or, as appropriate, local) air pollution control agencies which have independent legal counsel) that the laws of such State (or locality) provide adequate authority to carry out such implementation plan,

"(B) requirements that the State comply with the requirements respecting State boards under section 128, and

"(C) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provisions;

"(6) require, as may be prescribed by the Administrator—

"(A) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

"(B) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and

"(C) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;

"(7) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

"(8) provide for revision of such plan—

"(A) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

"(B) except as provided in section 110(h)(2), whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

"(9) in the case of a plan or plan revision for an area designated as nonattainment under section 107, meet the applicable requirements of part D (relating to nonattainment areas);

"(10) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

"(11) provide for—

"(A) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

"(B) the submission, upon request, of data related to such air quality modeling to the Administrator;

"(12) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—

"(A) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(B) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action).

"(d) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.—

"(1)(A) The Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection.

"(B) Within sixty days of the Administrator's receipt of a plan or plan revision, the Administrator shall determine whether each part of the plan or revision meets the minimum criteria established pursuant to subparagraph (A). Any plan or plan revision that a State submits to the Administrator, and that has not been determined by such date to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

"(C) Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

"(2) Within twelve months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the

minimum criteria established pursuant to paragraph (1), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall—

"(A) approve such submittal as a whole if it meets all of the applicable requirements of this Act, or

"(B) disapprove the submittal in whole (or approve it in part, based on criteria established by the Administrator, and, simultaneously with such partial approval or subsequently disapprove it in part) if it does not meet all of the applicable requirements of this Act.

"(4) Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date except as prescribed under part D).

"(5) Whenever the Administrator determines that his action approving, disapproving, or promulgating any plan or plan revision (or part thereof), was in error, the Administrator may, in the same manner as the approval, disapproval, or promulgation, revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and be public.

"(e) PLAN REVISIONS.—(1) Each revision to an implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement of this Act.

"(2)(A) Except as provided in subparagraph (B), each State that contains a nonattainment area shall fully implement all provisions of any implementation plan for such area that has been approved by the Administrator, in accordance with the schedules contained in the plan.

"(B) The State shall not relax a provision or schedule described in subparagraph (A) unless the Administrator has approved an alternative control measure pursuant to paragraph (3) of this subsection relating to such provision or schedule.

"(3) Nothing in this Act shall prohibit a State that contains a nonattainment area from revising the implementation plan of such State for such area to substitute an alternative control measure for a control measure in effect at the time of such revision (hereinafter referred to as an 'existing control measure'), if the State convincingly demonstrates, to the satisfaction of the Administrator, that the existing control measure is not otherwise required under this Act or under guidelines or regulations issued or promulgated by the Administrator and the alternative control measure—

"(A) is not included in the implementation plan to be revised;

"(B) is not otherwise required by this Act;

"(C) will provide a degree of emissions control that is equal to or greater than the degree of emissions control that the full implementation of the existing control measure would provide; and

"(D) will provide such degree of emissions control as expeditiously as would the full implementation of the existing control measure.

"(4) If the Administrator determines, after reasonable notice and public comment, that—

"(A) the State described in paragraph (3) has made a convincing demonstration required under such paragraph; and

"(B) the proposed revision to the implementation plan of the State meets the requirements of paragraph (1), the Administrator shall approve such revision.

"(f) FEDERAL IMPLEMENTATION PLANS.—

"(1) The Administrator may, after notice and opportunity for public comment, promulgate regulations setting forth an implementation plan, or portion thereof, for a State whenever the Administrator—

"(A) finds a State has failed to submit an implementation plan or revisions as required by this section or part C or D;

"(B) determines that a plan, or portion thereof, submitted by a State is not in accordance with the requirements of this section or part C or D.

"(2) With respect to each failure of a State described in section 176(a)(1) (A) or (B) as to a particular nonattainment area (but in no event, except as provided in paragraph (1), with respect to more than one such failure in any single year as to a particular area and pollutant), twelve months after the application under section 176(a)(1) or (3) of the first sanction applied with respect to such failure, and annually thereafter until such sanction is rescinded or the Administrator determines that the area has attained the relevant national ambient air quality standard (whichever is earlier), the Administrator shall promulgate, as a Federal measure to be included in the applicable implementation plan for the area—

"(A) in the case of an ozone nonattainment area—

"(i) a measure or combination of measures sufficient to achieve, within three years of such promulgation, volatile organic compound emission reductions from baseline emissions of at least three per centum of baseline emissions in such areas. Such baseline emissions and per centum emission reductions shall be calculated in accordance with the provisions of section 183(b)(3)(C)(i), (ii) and (iii). For purposes of meeting the requirements of this subparagraph, reductions in emissions of oxides of nitrogen, to the extent they will occur by the applicable deadline, may be substituted for all or part of the reductions of emissions of volatile organic compounds required by this clause at no less than one-to-one ratio (oxides of nitrogen to volatile organic compounds) if the Administrator determines that such reductions of emissions of oxides of nitrogen, together with whatever reductions of emissions of volatile organic compounds the Administrator is promulgating to meet the relevant requirements of this clause, would result in a reduction in ozone concentrations at least equivalent to that which would occur from the reductions in volatile organic compound emissions required under this clause. In the event a measure or combination of measures promulgated by the Administrator under this clause for a particular area in a particular year would achieve greater reductions in emissions of the relevant pollutant than the amount required under this clause, the Administrator may credit such excess emissions reductions toward meeting any emissions reductions requirement applicable for such area under this subparagraph in a subsequent year;

"(ii) as one of the measure or measures promulgated under clause (i) for the first year such promulgation is required, the control measure from the following list that will achieve the greatest reductions in emissions of volatile organic compounds in the area (unless the Administrator determines that other measures are more appropriate or each measure described in subclauses (I) through (III) is already substantially included in the applicable implementation plan for the relevant area)—

"(I) the measure required under section 183(a)(1)(B) (relating to a system for vapor recovery of emissions from the refueling of motor vehicles);

"(II) the measure required under section 183(a)(1)(A) (relating to an enhanced vehicle inspection and maintenance program to reduce hydrocarbon emissions); or

"(III) a measure requiring the application of reasonably available control technology for all sources of volatile organic compounds in the area covered by a Control Techniques Guideline (CTG) document issued by the Administrator and all other stationary sources in the area that have the potential to emit at least twenty-five tons per year of volatile organic compounds; and

"(B) in the case of a pollutant other than ozone, at least one control measure that will result in significant reductions in emissions of such pollutant.

"(3) In the event any court of the United States is presented with a request to modify an order or settlement agreement entered by the court implementing the requirements of section 110(c) of the Clean Air Act as in effect before the date of enactment of the Clean Air Act Amendments of 1990, such court shall, in considering and ruling on such request, consider the effect of such Amendments (including the changes made by such Amendments to the requirements for Federal implementation plans, the development of State implementation plans, and attainment dates) on such settlement agreement or order.

"(g) SAVINGS CLAUSE.—(1) Any provision of any applicable implementation plan or any revision thereof that was approved or promulgated by the Administrator pursuant to this section as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

"(2) In the case of an area to which, immediately prior to the date of enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in section 110(a)(2)(I) as in effect immediately prior to the date of enactment of the Clean Air Act Amendments of 1990 applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) or

172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately prior to the date of enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(6)(A) (as redesignated by this Act), insofar as they relate to the permit requirements for construction of new or modified major stationary sources, and section 173(a) (relating to construction permit programs for such sources) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide in effect as of the date of enactment of this paragraph), respectively.".

(c) CONFORMING AMENDMENTS.—Section 110 of the Clean Air Act is amended as follows:

(1) Redesignate subparagraph (B) of section 110(a)(3) as paragraph (1) of section 110(h) and, in this newly designated paragraph, strike the phrase "paragraph (2) of this subsection" and insert "subsection (c)".

(2) Redesignate subparagraph (C) of section 110(a)(3) as paragraph (2) of section 110(h) and, in this newly designated paragraph—

(i) strike the word "subsection" after the phrase "approved under this" and insert "section",

(ii) strike the reference to subsection (c) and insert "subsection (f)", and

(iii) strike "section 110 (f) or (g)" and insert "section 110 (l) or (m)" and in newly designated subsection (l)(1)(A), after "implementation plan" insert "or of any requirement under section 411 (concerning excess emissions penalties or offsets) of title IV of the Act".

(3) Delete subparagraph (D) of section 110(a)(3).

(4) Delete paragraph (4) of section 110(a).

(5) Delete paragraph (5) of section 110(a).

(6) Redesignate paragraph (6) of subsection (a) as subsection (i).

(7) Delete subsection (b).

(8) Delete paragraph (1), (2), (4), and (5) of subsection (c) and redesignate paragraph (c)(3) as subsection (j).

(9) Strike subsection (d) and add the following new subsection after subsection (j):

"(k) APPLICABLE IMPLEMENTATION PLAN.—(1) For purposes of this Act, an applicable implementation plan is the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under this section or promulgated under subsection (f) and which implements the requirements of the Act. Such term includes any portion of an implementation plan which has been submitted by a State and approved by the Administrator. Notwithstanding any other provision of this Act, each provision of such implementation plan (and each permit in effect under such plan) shall remain in effect, and shall be enforced under this Act, until a revision of such plan is approved by the Administrator or a plan is promulgated by the Administrator under subsection (f).".

(10) Delete subsection (e).

(11) Redesignate subsections (f) through (j) as subsections (l) through (p).

(12) In newly designated subsection (m), strike "the required four month period" and inserting "twelve months of submission of the proposed plan revision".

(13) In newly designated subsection (n)—

(i) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "five years after the date of enactment of the Clean Air Act Amendments of 1990, and every three years thereafter"; and

(ii) strike the second sentence of paragraph (1).

(14) In newly designated subsection (o)—

(i) strike "110(f) or (g)" and inserting "110(l) or (m)"; and

(ii) strike "110(a)(3) and insert (110(e)".

(d) Section 110 of the Clean Air Act is amended by adding at the end the following:

"(q) SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.—

"(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under this section, plans for establishing a small business stationary source technical assistance program. Such submission shall be made within 24 months after the date of enactment of this subsection. The Administrator shall approve such program if it includes, as appropriate, the following:

"(A) adequate mechanisms for developing, collecting, evaluating, and coordinating information concerning compliance methods and technologies for small business stationary sources (as defined in paragraph (6));

"(B) adequate mechanisms for advising small business stationary sources on pollution prevention, including providing information concerning alternative technologies, process changes, chemical products, and methods of operation that help reduce air pollution;

"(C) a designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act;

"(D) adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act; and

"(E) Such a program, may, at the discretion of the States include a voluntary Compliance Agreement for Term permits as described in paragraph (3) of this subsection.

"(2) The Administrator shall establish within 9 months after the date of the enactment of this section a small business stationary source technical assistance program. Such program shall—

"(A) assist the States in the development of the program required under paragraph (1) of this subsection and section 112(m);

"(B) issue technical guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources.

"(3) The State may establish a permit program under part B of title III for small business stationary sources located within a nonattainment area, ozone transport area, or subject to a standard under section 112. Such program may provide that—

"(A) a small business stationary source may obtain a Compliance Agreement for Term permit under this subsection as a substitute for any general permit issued under section 353(e);

"(B) such Compliance Agreement for Term permit may be developed after consultation with the small business stationary source or with duly authorized representatives of the small business stationary sources;

"(C) Compliance Agreement for Term permits issued under this subsection to small business stationary source shall require compliance with applicable emission limitations, pollution control measures, and recordkeeping and reporting requirements under this Act: *Provided,* That methods of compliance with any such standard or requirement may be modified for a small business stationary source in such permit based on the technical and financial capability of the small business stationary source or group of sources and the availability of less burdensome alternatives, and, in particular, pollution prevention measures, that will achieve equivalent emission reductions consistent with the public health, welfare, and environmental protection goals and deadlines of this Act;

"(D) any Compliance Agreement for Term permit issued to a small business stationary source under this subsection shall be issued in accordance with the procedures under part B of title III of this Act, and shall be subject to review by the Administrator, as provided in such part;

"(E) the State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of a small business stationary source;

"(F) requirements for continuous emission monitoring will not be imposed on a small business stationary source (or sources) unless the State (or the Administrator) has determined, on the basis of substantial evidence, that such requirements are necessary and appropriate.

"(4) With respect to small business stationary sources, in exercising prosecutorial discretion under section 113(c) of this Act, in issuing orders under section 113(d) of this Act, or in determining the amount of any penalty to be assessed under this Act, the United States, the State, and the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

"(5) Compliance with the terms and conditions of a permit issued in accordance with the requirements of part B of title III and this subsection shall be deemed compliance with all requirements of the Act that are explicitly addressed by such terms and conditions: *Provided, however,* That compliance with the terms and conditions of a permit so issued shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

"(6) For purposes of this subsection, the term 'small business stationary source' is a small business concern as defined by the Small Business Act, section 632 of title 15, United States Code and regulations promulgated by the Environmental Protection Agency: *Provided,* That for any small business compliance program promulgated pursuant to paragraph (3) of this subsection, a 'small business stationary source' is further

defined as any stationary source of air pollutants regulated under this Act that emits or has the potential to emit not greater than 100 tons per year of any criteria pollutant or of oxides of nitrogen or volatile organic compounds (or 50 tons of such compounds in any severe or extreme nonattainment area) and not greater than 10 tons per year for any pollutant or 25 tons per year for any combination of pollutants which have been listed as hazardous air pollutants under section 112. The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from this definition any category or subcategory of sources that the Administrator determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(7)(A) The Administrator, acting through the Director of the Office of Small Business Advocacy (hereinafter referred to as the 'Director') to monitor the Small Business Environmental Compliance Assistance Program under this subsection. In carrying out such monitoring activities the Director shall—

"(i) render advisory opinions on the overall effectiveness of the Small Business Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Congress on the compliance of the Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information to be issued by the Small Business Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(8)(A) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 small business owners. This Panel shall—

"(i) render advisory opinions concerning the effectiveness of the Small Business Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(ii) make periodic reports to the Administrator concerning the compliance of the State Small Business Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;

"(iii) review information for small stationary sources to assure such information is understandable by the layperson; and

"(iv) have the Small Business Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(B) The Panel shall consist of—

"(i) 2 members selected by the Governor;

"(ii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and clause (iii) shall not apply);

"(iii) 2 members selected by the State legislature (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(iv) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs.".

FEDERAL FACILITIES

SEC. 105. The second sentence of section 118(a) of the Clean Air Act is amended to read as follows: "The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner.".

GENERAL PROVISIONS FOR NONATTAINMENT AREAS

SEC. 106. (a) HEADING.—Part D of the Clean Air Act is amended by inserting "SUBPART 1—NONATTAINMENT AREAS IN GENERAL" immediately after the heading "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS."

(b) APPLICABILITY.—Subpart 1 of part D of the Clean Air Act is amended by adding a new section 170 as follows:

"APPLICABILITY

"SEC. 170. Each provision of this subpart applies as set forth herein, except to the extent it is inconsistent with a provision in another subpart, in which case the provision in such other subpart shall apply.".

(c) DEFINITIONS.—Section 171 of the Clean Air Act is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant pursuant to section 107."; and

(2) by adding the following sentence at the end of paragraph (4): "Where the applicable implementation plan for a nonattainment area defines 'major stationary source' as a combination of discrete operations, units or other pollutant emitting activities, the terms 'modification' and 'modified' include each change to such a source, as described in section 111(a)(4), that results in a net increase in emissions from such source, regardless of the amount of such increase."

(d) PERMITS.—

(1) Section 172 of the Clean Air Act is amended as follows:

(A) Subsection (a) is amended to read as follows:

"(a) ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(1) The attainment date for an area designated nonattainment with respect to a primary national ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the date such area was designated nonattainment under section 107, except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than ten years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(2) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be within a reasonable time after the date such area was designated nonattainment under section 107.";

(B) Subsection (c) is deleted, subsection (b) is redesignated as subsection (c), the heading "NONATTAINMENT PLAN PROVISIONS.—" is inserted after "(c)", the text following "The" through "subsection (a)" in the first sentence is deleted, and the following is inserted in lieu thereof: "provisions of an applicable implementation plan for a State relating to attainment and maintenance of national ambient air quality standards in any nonattainment area";

(C) Section 172(c)(6) (as redesignated by subparagraph (B) is amended to read as follows:

"(6)(A) require permits for the construction and operation of new or modified major stationary sources, and, beginning not later than three years after the date of enactment of the Clean Air Act Amendments of 1990, for the operation of all major stationary sources, in accordance with section 173 (relating to permit requirements); and

"(B) include provisions for permit fees that meet the requirements of section 351(b)(3) (except that for purposes of this subparagraph, the term 'regulated pollutant' in section 351(b)(3)(B) shall be defined as the pollutant or pollutants (or, in the case of ozone, the precursors of such pollutant) for which the area is designated nonattainment (except that carbon monoxide shall be excluded from this reference)). Provisions comparable to the provisions of section 351(b)(3)(C) (concerning fee collection by the Administrator) shall apply with respect to the permit fees required under this subparagraph (except that for purposes of this subparagraph, the references under section 351(b)(3)(C)(i) to 'section 351(d)', 'section 351(i)', and 'this title' shall be considered references to section 176(a)(1)(A)-(B), section 176(a)(1)(C), and title I of the Clean Air Act, respectively).";

(D) A new subsection (b) is added as follows:

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator designates an area as nonattainment with respect to a national ambient air quality standard under section 107, the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(c). Such schedule must, at a minimum, include a date or dates, extending no later than two years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(c)."; and

(E) A new subsection (d) is added as follows:

"(d) PROHIBITION ON USE OF OLD GROWTH ALLOWANCE.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990)

or under section 110(d)(4) that its applicable implementation plan containing such allowances is substantially inadequate.".

(2) Section 173 of the Clean Air Act is amended by inserting "(a) CONSTRUCTION PERMITS.—" after "SEC. 173.", by deleting "and operate" in the first sentence, by substituting "172(c)" for "172(b)" each time it appears, by inserting "and" at the end of subsection (a)(2), and by replacing the semicolon and "and" at the end of subsection (a)(3) with a period and deleting paragraph (4) of subsection (a), and by adding the following at the end thereof:

"(b) OPERATING PERMITS.—

"(1) Each operating permit issued as required pursuant to this part for a new or existing stationary source shall—

"(A) be for a fixed term not to exceed five years and shall require compliance with applicable emission limitations and with such monitoring measures as are appropriate for adequately determining compliance with such limitations;

"(B) require the permittee to submit quarterly reports to the permitting authority containing the results of the monitoring required under subparagraph (A) and, no less often than every six months, certification to the permitting authority that demonstrates compliance with the permit. Any report or certification required to be submitted by a permittee under this title shall be signed by a responsible corporate official who shall certify its accuracy;

"(C) require that the permittee promptly report any violations of the permit or other requirements under this Act to the permitting authority and a program for correcting these violations including a schedule for implementation of the corrections; and

"(D) set forth inspection and entry requirements to assure compliance with the permit terms and conditions.

"(2) Applicants for, and recipients of, any permit issued pursuant to this part shall be subject to fee requirements sufficient to cover all reasonable costs of developing and administering the permit program in accordance with the provisions of section 172(c)(6)(B).

"(3) Before issuing any permit pursuant to the provisions of this part the State shall provide notice of the application and an opportunity for a public hearing on the conditions to be included in the permit.

"(4) No permit may be issued pursuant to this part if the Administrator within sixty days objects to its issuance as not meeting the goals and objectives of this Act.

"(5) A copy of each permit and certification shall be submitted by the permittee, or by the permitting authority (as determined by the permitting authority), to the Administrator and shall be available to the public in the same manner as is provided for records and reports under section 114(c). No such permit may be issued unless the permitting authority or its agent has conducted an on-site inspection of the source to which such permit is issued. Not later than six months after the enactment of this subsection the Administrator shall publish guidelines for permit programs under this part. Such guidelines may be revised from time to time as the Administrator deems appropriate.".

(e) OFFSETS.—Section 173 is further amended by adding at the end thereof the following new subsection:

"(c) OFFSETS.—A new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant by obtaining enforceable emissions reductions of such air pollutant from other sources in the same nonattainment area. Such enforceable emissions reductions shall be in effect by the time a new or modified source commences operation and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by a greater reduction in the actual emissions of such air pollutant from other sources in the area. Emissions reductions otherwise required by this Act for a pollutant shall not be creditable as emissions reductions for purposes of any such offset requirement to the extent this Act requires the reduction of the pollutant.

"(d) Every five years, beginning in the fifth year after enactment of this subsection, the Administrator shall submit a report to Congress concerning the extent to which the fees required under this Act are adequate to meet State and local agency expenses associated with permitting and other implementation activities required under this Act.

"(e) The permitting authority of a State or political subdivision shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

"(1) any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is currently permitted to test such engines;

"(2) the source demonstrates to the satisfaction of the permitting authority of the State or political subdivision that it has used all reasonable means to obtain offsets, as determined on an annual basis, for the emissions increases beyond permitted levels, that all available offsets are being used, and that sufficient offsets are not available to the source;

"(3) the source has obtained a finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national interest; and

"(4) the source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee, which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous three years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.".

(f) PLANNING PROCEDURES.—Section 174 of the Clean Air Act is amended to read as follows:

"PLANNING PROCEDURES

"SEC. 174. (a) For any ozone, carbon monoxide or PM-10 nonattainment area, the Governor of the State containing such areas and elected officials of affected local governments shall, prior to the date required for submittal of the inventories described under sections 182(a), 188(a), and 192(a), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990 or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local government in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality attainment and maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part.

"(b) The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part. The Administrator shall consult with, and make recommendations to, the Secretary of Transportation within nine months from the date of enactment of the Clean Air Act Amendments of 1990 on changes to the Department of Transportation policies and planning and programming process that will assist the planning and implementation process of this part.

"(c) In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section.

"(d)(1) The head of each Federal agency may, in consultation with local health or air pollution control authorities within a nonattainment area, determine whether the implementation of an alternative work schedule plan for such agency in accordance with the provisions of paragraph (2) will reduce air pollution within such nonattainment area.

"(2) If there is a determination under paragraph (1) that an alternative work schedule plan would reduce air pollution within a nonattainment area without jeopardizing the mission of the agency or hindering its service to the public, such head of the agency shall—

"(i) implement an alternative work schedule plan in accordance with the provisions of subchapter II of chapter 61 of title 5, United States Code, for employees of such agency within such area; and

"(ii) to the greatest degree practicable, include employees within such area performing services pursuant to a contract with such agency in a similar alternative work schedule to coordinate and maximize the reduction of such air pollution.".

(g) SANCTIONS.—Section 176 of the Clean Air Act is amended by—

(1) inserting in the heading "SANCTIONS AND" before "LIMITATIONS";

(2) deleting subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively; and

(3) amending subsection (a) to read as follows:

"(a) SANCTIONS.—

"(1) For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(d)(4)), at such time as—

"(A) a State fails to make the required plan submission, or the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(d)(1)(A),

"(B) the Administrator disapproves the submission in whole or in part, or

"(C) the Administrator finds that any requirement of the approved plan (or approved part of the plan) is not being implemented, the Administrator shall publish in the Federal Register a determination of whether the State is making reasonable efforts to cure the relevant failure. If the Administrator determines that the State is not making reasonable efforts to cure the failure, the Administrator shall simultaneously apply, with respect to the relevant area within such State, at least one of the sanctions specified in paragraph (2). No sanction under paragraph (2) that is imposed because of a failure by a State may be applied, based on such failure, outside the borders of that State.

"(2) The following sanctions are available to the Administrator for the purpose of implementing paragraphs (1) and (3)—

"(A) a prohibition by the Administrator on the construction or modification of any major stationary source of the relevant pollutant or pollutants in a nonattainment area (or portion thereof, where the Administrator determines by rule that the State failure relates exclusively to such portion). Where the State failure relates to ozone, the Administrator may apply such prohibition with respect to both the nonattainment area and the area within twenty-five miles of the boundary of such area. For purposes of this subparagraph, the term 'major stationary source' shall have the meaning provided in section 302(j), except that, where the State failure relates to ozone, 'twenty-five' shall be substituted for 'one hundred' in that section;

"(B)(i) a prohibition, applicable to a nonattainment area, on the approval by the Secretary of Transportation of any projects or the awarding by the Secretary of any grants, under title 23, United States Code, other than projects or grants specified under clause (ii). Such prohibition shall become effective upon the selection by the Administrator of this sanction;

"(ii) projects or grants that may be approved, notwithstanding the prohibition in clause (i), are the following—

"(I) capital programs for improved public transit;

"(II) construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles;

"(III) planning for and implementation of requirements for employers to reduce employee work-trip-related vehicle emissions;

"(IV) highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

"(V) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations;

"(VI) programs for inspection and maintenance of vehicle emission control systems;

"(VII) programs for the conversion of publicly-owned fleet vehicles to vehicles that use low-polluting fuels, or to otherwise control fleet vehicle operations and miles traveled;

"(VIII) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

"(IX) programs for breakdown and accident scene management, nonrecurring congestion, and vehicle information systems, to reduce congestion and emissions; and,

"(X) such other transportation-related programs as the Administrator, in consultation with the Secretary of Transportation, finds would improve air quality and would not encourage single occupancy vehicle capacity.

In considering such measures, the State should seek to ensure adequate access to downtown, other commercial, and residential areas, and avoid increasing or relocating emissions and congestion rather than reducing them. Notwithstanding the requirements of title 23, United States Code, or any other provision of law, any Federal funds made available to a State to carry out the provisions of such title shall be available without limitation to implement the programs and provisions of this subparagraph in nonattainment areas, and the State share shall not be required to exceed 10 per centum of the cost of such programs.

"(iii) Nothing in this paragraph shall preclude the Secretary of Transportation from approving projects or awarding grants under title 23, United States Code, for (I) elimination of highway safety hazards pursuant to sections 130, 152, and 402 of such title, or (II) rehabilitation or replacement of deteriorated highway bridges, provided that such projects or grants will add no significant additional right-of-way and are determined by the Administrator to be consistent with maintaining air quality;

"(iv) whether or not the conditions under paragraph (1) calling for application of a sanction are satisfied, the Governor of a State containing a nonattainment area for ozone or carbon monoxide may elect to use in such area (or areas) all or part of the funds available to the State for such area (or areas) under title 23, United States Code, for projects specified in clause (ii).

"(C) a prohibition of any public water system regulated under title XIV of the Public Health Service Act from providing drinking water service in the nonattainment area (or portion thereof, where the State failure relates exclusively to such portion) to any structure to which such service was not provided before the Administrator's choice of this sanction. The Administrator may not prohibit any public water system from providing water service to any customer requiring such service to correct an existing public health hazard;

"(D) the withholding by the Administrator of all or part of the grants for support of air pollution planning and control programs that the Administrator is authorized to award under section 105.

"(3) Not later than twelve months after the Administrator makes a determination under paragraph (1) that a State is making reasonable efforts to cure the relevant failure, the Administrator shall make a final determination, which shall be published in the Federal Register, of whether the State has cured such failure. If the Administrator determines that the State has not cured such failure, the Administrator shall immediately apply, with respect to the relevant area within such State, at least one of the sanctions specified in paragraph (2).

"(4) The Administrator may, in the Administrator's discretion, apply any sanction or sanctions listed in paragraph (2) to address any of the failures specified in subsection (1) relating to any plan required under this title.

"(5)(A) Within six months following the applicable attainment date for any nonattainment area, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

"(B) Upon making the determination under clause (A), the Administrator shall publish a notice in the Federal Register identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

"(6) No person shall construct or modify a major stationary source of any pollutant in a nonattainment area for such pollutant after the date forty-two months from the date of enactment of the Clean Air Act Amendments of 1990 or the date forty-two months from the date such area was designated nonattainment for such pollutant, whichever is later, unless, as of the later of such dates, the Administrator has approved a plan submission for the area meeting the requirements of section 172(c)(6) with respect to such pollutant as those requirements relate to the construction of new or modified major stationary sources. Before the later of the dates set forth in this subsection, no State shall issue a permit for construction or modification of a major stationary source unless such permit meets the requirements of section 173(a).

"(7) Whenever—

"(A) an ozone nonattainment area fails to achieve the emissions reductions required under section 183(b)(2) or (3),

"(B) a carbon monoxide nonattainment area fails to achieve the emissions reductions of a mile-stone required under section 188(g)(3), or

"(C) a PM-10 nonattainment area fails to achieve the emission reduction of a milestone required under section 192(e)(2), but no later than twelve months after passage of the date for achieving such reductions, the Administrator shall notify the State containing such nonattainment area of such failure. No later than nine months after such notification, the State shall submit to the Administrator a revision to the applicable implementation plan adequate to achieve the emissions reductions that the area failed to achieve before such plan revision was due. Such revision shall provide that such emissions reductions shall be achieved by the end of the next complete three-year period (described in section 183(b)) or milestone period (described in section 188(e) or section 192(e)), as the case may be. Notwithstanding any other provision of this Act, the Administrator shall act on such revision under section 110(d)(3) no later than six months after the date on which the State submits such revision.".

(g) TRANSPORTATION SYSTEM IMPACTS ON CLEAN AIR.—Section 108(f) of the Clean Air

Act is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1992, and every three years thereafter a report that—

"(A) reviews and analyzes existing State and local air quality-related transportation programs including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any Federal efforts to promote those programs;

"(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with the Clean Air Act; and

"(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

"(4) Within one hundred and twenty calendar days of submitting each report, the Secretary of Transportation in cooperation with the Administrator shall undertake all appropriate steps within existing authority and available resources to implement the recommended changes to the existing programs and proposed budget specified in subparagraph (3)(C).".

(h) CONFORMITY REQUIREMENTS.—Section 176(b) of the Clean Air Act (as redesignated by subsection (g)) is amended by deleting the second sentence, by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(b)", and by adding the following at the end thereof: "Conformity to a plan means—

"(A) conformity to a plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not, considering any growth likely to result from such activities—

"(i) cause or contribute to any new violation of any standard in any area;

"(ii) increase the frequency or severity of any existing violation of any standard in any area; or

"(iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

"(2) Any transportation plan or program developed pursuant to title 23, United States Code, or the Urban Mass Transportation Act shall implement all relevant transportation provisions of any implementation plan approved under this Act applicable to all or part of the area covered by such transportation plan or program. No Federal agency may approve, accept or fund any transportation plan, program or project unless such plan, program or project has been found to conform to this Act and any implementation plan in effect under this Act. In particular—

"(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23, United States Code, or the Urban Mass Transportation Act, or be found to be in conformity by an air quality planning agency, department or officer until a final determination has been made that emissions expected from implementation of such plans and programs are consistent with estimates of emissions from motor vehicles and necessary emissions reductions contained in the State's implementation plan, and that the plan or program will, considering any growth likely to result from such plan or program, conform to the requirements of paragraph (1)(B);

"(B) no metropolitan planning organization or other recipient of funds under title 23, United States Code, or the Urban Mass Transportation Act shall adopt or approve a transportation improvement program of projects until it determines that such program provides for timely implementation of transportation control measures consistent with schedules included in the applicable implementation plan;

"(C) no transportation project may be adopted or approved by a metropolitan planning organization or any recipient of funds designated under title 23, United States Code, or the Urban Mass Transportation Act, or found in conformity by an air quality planning agency, or approved, accepted, or funded by the Department of Transportation unless—

"(i) such a project comes from a conforming plan and program;

"(ii) the design, scope, and emissions from such project have not changed significantly since the conformity finding regarding the plan and program from which the project derived;

"(iii) emissions from such a project remain consistent with emissions reduction schedules in the applicable implementation plan; and

"(iv) it is demonstrated, in any case where such a demonstration was not made during the process to determine the conformity of the plan and program from which project derived, that the project is consistent with the provisions of paragraph (1)(B).

With regard to subparagraphs (A), (B), and (C) of paragraph (2), the requirements of such subparagraphs shall comprise the statutory criteria for making transportation project conformity determinations under this Act.

The determinations required by this subsection shall be made by Federal, State and local agencies as prescribed pursuant to criteria and procedures which shall be promulgated by the Administrator no later than one year after the date of enactment of the Clean Air Act Amendments of 1990. Such procedures shall include a requirement that each State containing an ozone or carbon monoxide nonattainment area shall submit to the Administrator within eighteen months of such date of enactment, a revision to its implementation plan that includes, for each such nonattainment area, criteria and procedures for assessing the conformity of any plan, program or project subject to the conformity requirements of this subsection.".

(i) MAINTENANCE PLANS.—Subpart 1 of part D of the Clean Air Act is amended by adding a new section 179 as follows:

"MAINTENANCE PLANS

"SEC. 179. (a) PLAN REQUIREMENTS.—The maintenance plan required under section 107(d)(5)(C) as a precondition for redesignation of an area shall—

"(1) comply with the provisions of section 110(b)(2);

"(2) provide for the maintenance of the national ambient air quality standard of the relevant air pollutant in such area for a period of twenty years after attainment; and

"(3) include the following provisions—

"(A) an identification of sources, including area and mobile sources, that are expected to contribute to increases in emissions of such pollutant after attainment of a national ambient air quality standard;

"(B) a quantitative estimate of emissions increases from such sources for each three-year period following attainment;

"(C) an identification of transportation control measures, emission control limitations or standards, or permit requirements as may be necessary to limit emissions or permissible emission increases; and

"(D) an identification of contingency measures to be implemented in the event of an exceedance of the air quality standard sufficient to correct any air pollution problem which may lead to redesignation as a nonattainment area.

"(b) PLAN REVISIONS.—Maintenance provisions required by this section shall be updated every ten years and submitted to the Administrator for approval pursuant to section 110 and this part as a revision to the implementation plan.".

ADDITIONAL REQUIREMENTS FOR OZONE NONATTAINMENT AREAS

SEC. 107. Part D of the Clean Air Act is amended by adding the following new subpart at the end thereof:

"SUBPART 2—ADDITIONAL PROVISIONS REGARDING OZONE NONATTAINMENT AREAS

"CLASSIFICATION OF OZONE NONATTAINMENT AREAS

"SEC. 181. (a) CLASSIFICATION BY OPERATION OF LAW.—Each area designated nonattainment for ozone under section 107(f)(3) is hereby classified by operation of law in one of the following categories based upon the percentage by which such standard is exceeded:

"Area classification	Amount by which standard exceeded
Moderate ozone nonattainment area.	Not greater than 20 per centum
Serious ozone nonattainment area.	More than 20 per centum but less than 50 per centum
Severe ozone nonattainment area.	Equal to or greater than 50 per centum but not more than 120 per centum
Extreme ozone nonattainment area.	More than 120 per centum

"(b) DATA AND METHODS FOR CLASSIFICATION.—For purposes of determining the percentage by which the national primary ambient air quality standard for ozone is exceeded in any area—

"(1) the most recent monitoring data available as determined by the Administrator shall be used; and

"(2) the interpretation methodology issued by the Administrator most recently before the date of enactment of this subpart for determining attainment of the standard shall be applicable (including the design value, reference methods, and guidelines for interpretation of ozone air quality standards).

Not later than thirty days after the enactment of this subpart, the Administrator shall publish a notice of the percentages by which the national primary ambient air quality standard for ozone was exceeded in each area referred to in subsection (a).

"(c) DEADLINES FOR ATTAINMENT.—The following deadlines apply to the ozone nonattainment areas classified in accordance with subsection (a):

"Area classification	Applicable attainment date (in years after enactment of the Clean Air Act Amendments of 1989)
Moderate Area	5 years
Serious Area	10 years
Severe Area	15 years
Extreme Area	20 years.

"(d) REFERENCES TO TERMS.—Any reference in this subpart to a 'moderate area', a 'serious area' a 'severe area', or an 'extreme area' shall be considered a reference to a moderate ozone nonattainment area, a serious ozone nonattainment area, a severe ozone nonattainment area, or an extreme ozone nonattainment area as classified under this section.

"(e) Any area that is not designated nonattainment for ozone under section 107 as of the date of enactment of this section, and that is subsequently redesignated to nonattainment for ozone under section 107, shall, at the time of the redesignation, be classified by operation of law in accordance with the table under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified as of the time of the classification under subsection (a), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of enactment of this section and the date the area is classified.

"REQUIREMENTS APPLICABLE TO ALL OZONE NONATTAINMENT AREAS

"SEC. 182. (a) INVENTORIES.—Not later than one year after the date of enactment of this subpart in the case of each State that contains a nonattainment area or portion thereof classified pursuant to section 181(a), or in the case of a State containing an area subsequently designated nonattainment pursuant to section 107(d)(5) and classified pursuant to this subpart, within eighteen months of such classification, such State shall submit to the Administrator—

"(1) for each such area, a comprehensive, accurate, current inventory of actual emissions of volatile organic compounds and oxides of nitrogen from all sources in such area. Such inventory shall be of emissions in the calendar year of enactment, or such other calendar year between 1987 and the year of enactment, inclusive, approved by the Administrator (or in the calendar year of classification, in the case of an area subsequently designated nonattainment under section 107(d)(5) and classified pursuant to this subpart). Each such inventory shall be prepared in accordance with the guidance required to be published by the Administrator pursuant to section 108(g)(2), if such guidance is available. Revisions of each such inventory shall be submitted every three years thereafter until the area for which the inventory is prepared is redesignated attainment, and then shall be submitted, to the extent required, in accordance with the maintenance plan; and

"(2)(A) a revision to the State implementation plan that contains a requirement that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds within an ozone nonattainment area or portion thereof in such State provide the State with a statement in such form as the Administrator may prescribe (or the State may prescribe, if the Administrator does not) for classes or categories of sources, showing the actual emissions from that source during the previous calendar year of oxides of nitrogen and volatile organic compounds. The first such statement shall be submitted as expeditiously as practicable but no later than 18 months after the date such revision is submitted to the Administrator, and shall show such emissions for the calendar year in which the revision referred to in the first sentence of this subparagraph was required to be submitted to the Administrator, or another appropriate year if such emission data are shown not to be reasonably available. Subsequent statements shall be submitted at least annually thereafter. The State shall make such statements, or the data contained therein, available to the Environmental Protection Agency, upon request.

"(B) The State may waive the application of subparagraph (A) to any class or category of stationary sources which emit less than twenty-five tons per year of oxides of nitrogen or volatile organic compounds if the State, in its submissions under paragraph (1), provides an inventory of emissions from such class or category of sources based on guidelines provided by the Administrator under section 108(g)(2) (relating to inventories).

"(b) IMPLEMENTATION OF CURRENT REQUIREMENTS.—Each State containing an ozone nonattainment area or portion thereof shall—

"(1) not later than eighteen months after the date of enactment of this subpart, fully implement all provisions of any implementation plan for the attainment of the ozone air quality standard for each such area or areas which have been approved by the Administrator prior to the date of enactment of this subpart, and

"(2) within six months after the date of enactment of this subpart, submit a revision or revisions to the applicable implementation plan to include provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of enactment of this subpart), including a requirement to implement within one year after submission reasonably available control technology with respect to all sources of volatile organic compounds in such area or areas covered by a control technique guideline issued before the date of enactment of this subpart.

"(c) PERMIT REQUIREMENT.—Each State containing an area or portion thereof classified pursuant to section 181(a) or subsequently classified pursuant to section 107 and this subpart shall, not later than eighteen months after the date of such classification submit to the Administrator a revision to the implementation plan for each such area requiring an operating permit (including permit fees) as provided in sections 172(c)(6) and 173(b) for each new or existing major stationary source of volatile organic compounds or oxides of nitrogen located within any such nonattainment area. It shall be unlawful to operate any such major stationary source without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(d) Notwithstanding any other provision of this Act, any State implementation plan submittal required for any ozone nonattainment area (or portion thereof) not designated nonattainment prior to the date of enactment of the Clean Air Act Amendments of 1990, that is required to be submitted within six or twelve months from the date of enactment, classification, or designation of such area, shall be required to be submitted within six or twelve months, as the case may be, of the date the area (or portion thereof) is included within the boundaries of an area designated nonattainment under section 107(f)(3)(B).

"REQUIREMENTS FOR SPECIFIC CLASSES OF OZONE NONATTAINMENT AREAS

"SEC. 183. (a) REQUIREMENTS FOR MODERATE AREAS.—Each State containing an area classified as a moderate nonattainment area pursuant to section 181(a) or subsequently so classified pursuant to section 107(d)(5) and this subpart, shall, with respect to the moderate area, submit to the Administrator, by the dates provided, the following revisions to the applicable implementation plan:

"(1) within one year of the date of classification, a revision that requires implementation, within one year of submission of such revision, of requirements in either paragraph (A) or (B)—

"(A) an enhanced vehicle emissions control inspection and maintenance program to reduce in-use emissions of volatile organic compounds and oxides of nitrogen from motor vehicles, which program shall include each of the following elements—

"(i) require coverage of all light-duty vehicles registered in, at a minimum, each metropolitan statistical area (as defined by the Office of Management and Budget) with a population of one hundred thousand or more according to the 1980 Census,

"(ii) direct inspection of components of vehicle emission control systems (including evidence of misfueling) and, where such components have been rendered inoperative, the repair or replacement of such components,

"(iii) computerized emission analyzers,

"(iv) if a provision waiving the requirements for repairing the emission control system in the event of failure is included, a provision that such waiver shall apply only when the costs of repair exceed $200,

"(v) enforcement through denial of vehicle registration (except for any program in operation prior to the effective date of this section whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in assuring that noncomplying vehicles are not operated on public roads), and

"(vi) any requirements the Administrator may prescribe under section 202(j)(3) (pertaining to onboard emission diagnostic systems), or

"(B) a requirement that all owners or operators of gasoline dispensing systems within the area install and operate a system designed to (i) prevent discharge of hydrocarbon vapors into the ambient air, (ii) direct vapor displaced from the automotive fuel system to a system where organic compounds in the displaced vapor are recovered, and (iii) prevent vehicle fuel tank overflows or spillage on fill nozzle disconnect. The requirement of this subparagraph shall apply only to facilities which dispense more than twenty thousand gallons of gasoline per month. The Administrator may revise or waive the requirements of this subparagraph, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this Act are in widespread use throughout the motor vehicle fleet.

Each vehicle inspection and maintenance program required by this paragraph shall

include such additional elements as are necessary to assure that the program would achieve a reduction in emissions of volatile organic compounds equivalent to a reduction of four thousand seven hundred tons of such emissions per million vehicles covered in the year of enactment of this subpart (if such program had been operating in such year). The Administrator may establish an alternative performance standard with respect to such programs for nonattainment areas located in California, if the Administrator finds that such alternative standard is necessary to reflect lower average emissions of volatile organic compounds from vehicles operating in such State. Any area which is already operating a vehicle emission control inspection and maintenance program or for which the implementation plan, as of the date of enactment of this subpart, includes a specific schedule for implementation of such a program shall comply with subparagraph (A);

"(2)(A) an ozone nonattainment area for which the design value, as determined by the Administrator under section 181(a), is less than .13 parts per million, as determined under section 181(a), shall not be required to comply with the requirements of subsection (a)(1) (pertaining to inspection and maintenance and refueling programs) unless such compliance is needed to bring the area into attainment with the primary ambient air quality standard for ozone by the date specified in section 181(c);

"(B) for any such area that is not required to comply with the requirements of subsection (a)(1), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of enactment of this section, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program;

"(3) within one year after the date of classification, a revision that contains a permit program which meets the requirements of sections 172(c)(6) (as it relates to requirements for permits for the construction of new or modified major stationary sources), and 173(a).

"(b) REQUIREMENTS FOR SERIOUS AREAS.—Each State containing an area classified as a serious area pursuant to section 181(a) or subsequently so classified pursuant to section 107(d)(5) and this subpart shall, with respect to the serious area, make the submissions described under subsection (a) and in addition submit to the Administrator the following revisions to the applicable implementation plan and other items:

"(1) an inventory that meets the requirements of section 182(a)(1) and, where all or part of such area is in a metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA), includes emissions from all sources within such MSA or CMSA, whichever is applicable, plus the twenty-five-mile radius around such area;

"(2) no later than one year after the date of classification, a revision to provide for, and a demonstration that the plan as revised will provide for, within three years after classification, emissions reductions of volatile organic compounds of 12 per centum from actual anthropogenic emissions in the calendar year of classification. Emissions reductions that will occur by the applicable deadline from measures required under either the applicable implementation plan or rules promulgated by the Administrator (other than rules promulgated under section 211(h)) may be credited toward the required 12 per centum reduction. The provisions of paragraph (3)(D)(ii) (relating to carryforward of excess reductions) shall apply with respect to reductions in excess of the required 12 per centum reduction;

"(3) no later than three years from the date of classification a revision which demonstrates, based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective, that the plan, as revised—

"(A) will provide for attainment by the applicable attainment date;

"(B) will result in volatile organic compound emission reductions from emissions reported in the initial inventory required under section 182(a)(1) equal to 12 per centum (in addition to the reductions required under paragraph (2)), averaged over the three-year period beginning with the fourth year after the date of classification. Emissions reductions may be credited towards the 12 per centum reduction requirement to the extent they will occur by the applicable deadline from measures required under either the applicable implementation plan or rules promulgated by the Administrator (other than rules promulgated under section 211(h)); and

"(C) will result in volatile organic compound emission reductions from baseline emissions equal to at least 3 per centum of baseline emissions each year, averaged over each consecutive three-year period beginning with the seventh year after the date of classification, and extending until the area attains the primary ambient air quality standard for ozone:

"(i) For purposes of this subparagraph, the term 'baseline emissions' means emissions reported in the initial inventory required under section 182(a)(1), excluding emissions that would be eliminated under the regulations described in clauses (iii) (I) and (II).

"(ii) Except as provided under clause (iii), emissions reductions are creditable toward the per centum reductions required under this subparagraph to the extent they will occur, by the applicable deadline, from measures required under either the applicable implementation plan or rules promulgated by the Administrator.

"(iii) Emission reductions from the following measures are not creditable toward the per centum reductions required under this subparagraph:

"(I) Any measure relating to motor vehicle tailpipe or evaporative emissions promulgated by the Administrator by the date of enactment of this section.

"(II) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of enactment of this section or required to be promulgated under section 211(h).

"(III) Measures required under section 182(b)(2) (concerning corrections to implementation plans).

"(iv) The demonstration referred to in this paragraph may, in order to meet the requirements of this subparagraph, provide for emission reductions in an amount less than 3 per centum of the baseline emissions if the State (following a public hearing, and by a statement signed by the Governor as a nondelegable action) demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area (in light of technological achievability, costs, and any nonair quality and other air quality-related health and environmental impacts).

"(D)(i) The demonstration referred to in this paragraph shall explicitly quantify projections with respect to emissions and necessary emission reductions from motor vehicles, using estimates for growth in vehicle miles traveled, congestion levels, and other relevant parameters that are used by the agency or agencies responsible for transportation planning for the area.

"(ii) Any area that achieves, or the demonstration for which projects, a reduction in emissions in excess of that required by this paragraph, as determined by the Administrator, may credit such excess emissions reductions toward the next three-year reduction requirement period.

"(iii) The revision referred to in this paragraph may provide that reductions in emissions of oxides of nitrogen, to the extent they will occur by the applicable deadline from measures required under either the applicable implementation plan or fuels promulgated by the Administrator (calculated in accordance with the requirements of subclause (I) or (II)), may be substituted for the reductions of volatile organic compounds required by this subparagraph at no less than a one-for-one ratio (nitrogen oxides to volatile organic compounds) if a State demonstrates to the satisfaction of the Administrator that such reductions of oxides of nitrogen, together with remaining reductions of volatile organic compounds, would result in a reduction in ozone concentrations at least equivalent to that which would occur from the reductions in volatile organic compound emissions required under this subparagraph. A State may request, and the Administrator may provide, technical assistance in making this demonstration.

"(I) In the case of the per centum reductions required under subparagraph (B), the reductions in oxides of nitrogen shall not include reductions attributable to Federal motor vehicle standards.

"(II) In the case of the per centum reductions required under subparagraph (C), the reductions in oxides of nitrogen shall not include reductions identified in subparagraph (C)(iii).

"(4)(A) beginning in the first calendar year that commences on or after the date one year after the date of classification, annual reports on measures adopted or implemented during the preceding calendar year and any failure to implement measures scheduled for implementation during such year;

"(B) beginning with the fourth such report and in each third such report thereafter, a demonstration by the State as to whether current vehicle miles traveled, congestion levels and other relevant parameters are consistent with those used for the demonstration required in paragraph (2) or for emissions projections pursuant to paragraph (3)(B)(i). Where such parameters and emissions levels exceed the levels projected for purposes of the area's three-year emissions reduction demonstration, the State shall, within one year, develop and submit a revision to the applicable implementation plan that includes a transportation control measures program consisting of measures from, but not limited to, section 108(f) that will reduce emissions to levels that are consistent with emission levels projected in such demonstration. In considering such measures, the State should ensure adequate

access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(e) and with the requirements of section 174(b) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections;

"(5) within one year of the date of classification, a revision that satisfies the requirements of subparagraphs (A) (pertaining to vehicle inspection and maintenance) and (B) (pertaining to vapor recovery during vehicle fueling) of subsection (a)(1);

"(6) within twelve months of classification, a revision to require implementation of reasonably available control technology for all stationary sources of volatile organic compounds that are not covered by a control technique guideline or listed pursuant to section 185(a) and that have the potential to emit 100 tons or more per year of such compounds and for all stationary sources of oxides of nitrogen that have the potential to emit one hundred tons or more per year of such pollutant. Such revision shall require the implementation of such technology no later than two years after classification and, in the case of volatile organic compounds, shall provide that reductions of 80 per centum or more from uncontrolled levels be achieved unless the State determines for a category of sources that such level of reductions is not technologically or economically feasible, in which case the required reduction shall be the maximum that is technologically and economically feasible;

"(7) within the timeframes provided in that section, such revisions as are required by section 212(a)(8) to implement the clean alternative fuel vehicle program with respect to the Federal Government fleet program described in section 212(a)(1)(B).

"(c) REQUIREMENTS FOR SEVERE AREAS.—Each State containing an area classified as a severe area pursuant to section 181(a) or subsequently so classified pursuant to section 107(d)(5) and this subpart shall, with respect to the severe area, comply with the requirements of subsections (a) and (b) (except that the requirements of subsection (b)(6) concerning implementation of reasonably available control technology by stationary sources of volatile organic compounds shall apply with respect to such sources that have the potential to emit fifty tons or more per year of such compounds) and in addition submit to the Administrator the following revisions to the applicable implementation plan and other items:

"(1) within two years after the date of classification, a revision that identifies and adopts specific enforceable strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection (b)(3)(B) (pertaining to periodic three-year emissions reduction requirements). The State shall consider measures specified in section 108(f), and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards; in considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them;

"(2) within one year after the date of classification, a revision requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of one hundred or more persons in such area increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 per centum above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify average vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within two years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this paragraph not later than four years after such date. An employer may demonstrate in such plan compliance with a vehicle occupancy rate less than 25 per centum greater than the average in the area, if expenditures by the employer in implementing the compliance plan are equal to or greater than the cost of providing employees with parking spaces at the location of the workplace;

"(3) within the timeframes provided by that section, such revisions as are required by section 212(a)(8) to implement the clean alternative fuel vehicle program with respect to the private fleet program described in section 212(a)(1)(C) and the general vehicle requirements described in section 212(a)(2).

"(d) REQUIREMENTS FOR EXTREME AREAS.—

"(1) When all or part of an extreme area is in a metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA), the boundaries of the extreme area for the purposes of this subpart shall be defined, by operation of law, as the boundary of such MSA or CMSA, as applicable, plus twenty-five miles. If a State demonstrates to the satisfaction of the Administrator within sixty days of such designation that with respect to a portion of such area—

"(A) sources in that portion do not contribute to violations of the standards, and

"(B) there is a geographical basis for excluding that portion,

the Administrator may approve a State's request to exclude such portion from the nonattainment area. The Administrator shall determine whether or not to exclude such portion within sixty days of receiving the State's request.

"(2) Each State in which an extreme area or portion thereof is located shall, with respect to the extreme area, comply with the requirements of subsections (a), (b), and (c) and in addition submit to the Administrator revisions to the applicable implementation plan that comply with subsection (b) (2) and (3) (pertaining to initial and periodic per centum emission reduction requirements) except that in addition to the required reductions in emissions of volatile organic compounds, the State shall submit revisions providing for initial and triennial 12 per centum reductions in emissions of oxides of nitrogen.

"(3) The Administrator may approve provisions of an implementation plan for an extreme area which anticipate development or improvement of control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that:

"(A) such provisions are not necessary to achieve the periodic emission reductions required by paragraphs (2) and (3) of subsection (b) during the first ten years after enactment of this subsection;

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions. The contingency measures shall be submitted to the Administrator no later than three years prior to proposed implementation of the plan provisions. The contingency measures shall be adequate to produce emission reductions sufficient to, in conjunction with other approved plan provisions, achieve the periodic emission reductions required by paragraph (3) of subsection (b) and attainment by the applicable dates. If the Administrator determines that an extreme non-attainment area has failed to achieve an emissions reduction requirement set forth in paragraph (3) of subsection (b) or to attain by the applicable date, and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with paragraph (3) of subsection (b) or to achieve attainment; and

"(C) the plan contains enforceable, adopted measures establishing an economic incentive program that the Administrator determines is adequate, when considered in conjunction with other enforceable plan measures, to induce the development or improvement of the anticipated technologies.

"(4) An implementation plan for an extreme area revised in compliance with this section may include measures providing economic incentives and disincentives, such as differential emission fees, marketable permits, road use and congestion fees, and emission charges, in combination with or as a supplement to regulatory requirements.

"(5) An implementation plan for an extreme nonattainment area may provide that the offset provisions of this part shall not be applicable to a modification of an existing source if such modification consists of installation of equipment required to comply with a plan provision establishing a system-wide average emission limit applicable to steam electric generating units of an electric utility system which are located within the nonattainment area: *Provided*, That such limit will be no greater than 0.25 pounds of oxides of nitrogen per net megawatt hour of generation averaged over a twenty-four-hour period, commencing no later than December 31, 1999.

"(e) CERTAIN NON-SELF-GENERATING AREAS.—

"(1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include and is not adjacent to any part of a metropolitan statistical area or, where one exists, a consolidated metropolitan statistical area (as defined by the Office

of Management and Budget), which area is determined by the Administrator to be non-self-generating within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it complies with regulations promulgated by the Administrator. Such regulations shall be promulgated no later than January 1, 1991, and shall, at a minimum, require compliance with the provisions of section 182 and such other measures as the Administrator determines appropriate to provide for the attainment and maintenance of the national ambient air quality standard for ozone.

"(2) The Administrator may determine an ozone nonattainment area to be non-self-generating if the Administrator finds that sources of volatile organic compounds and oxides of nitrogen emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

"FAILURE TO ATTAIN

"SEC. 184. (a) FAILURE TO ATTAIN.—For any ozone nonattainment area that fails to attain the primary ozone air quality standard by the date applicable to such area pursuant to section 181, the Administrator shall—

"(1) in the case of a moderate area reclassify such area as a serious area, in the case of a serious area, reclassify such area as a severe area, and in the case of a severe area, reclassify such area as an extreme area. From the date of reclassification each such area shall be subject to the provisions of this subpart, including the attainment date, that are applicable to the classification to which the area has been reclassified; and

"(2) assure that the provisions of the implementation required by section 184(e) (pertaining to emissions for major stationary sources) are enforced.

"(b) FEE FOR FAILURE TO ATTAIN.—

"(1) The revision to the applicable implementation plan required under section 183(a)(1) (relating to the State implementation plan submittal required for all ozone nonattainment areas) shall provide that if the area has failed to attain by—

"(A) in the case of moderate, serious, and severe ozone nonattainment areas, the end of the fifteenth calendar year beginning after enactment of this section; and

"(B) in the case of extreme ozone nonattainment areas, the applicable attainment date;

each major stationary source of volatile organic compounds located in the area shall, except as otherwise provided under paragraph (4), pay a fee, computed in accordance with paragraph (2), for each calendar year beginning after the date identified in subparagraph (A) or (B), as applicable, until the area is redesignated as an attainment area.

"(2)(A) The fee shall equal $5,000, adjusted in accordance with subparagraph (B), per ton of VOC emitted during the calendar year in excess of 80 per centum of the amount of emissions allowed under the applicable implementation plan (in accordance with such guidance as the Administrator may provide), during the year identified under paragraph (1) (A) or (B), as applicable.

"(B) The fee amount under subparagraph (A) shall be adjusted annually, beginning in the year beginning after the year of enactment, by the percentage, if any, by the which the Producer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Producer Price Index for the calendar year 1989.

"(3) For areas with a total population under two hundred thousand which fail to attain the standard by the applicable attainment date, no sanction under this or any other section of the Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

"ADDITIONAL FEDERAL MEASURES TO CONTROL OZONE POLLUTION

"SEC. 185. (a) CONTROL TECHNIQUES GUIDELINES.—

"(1) Not later than six months after the date of enactment of this subpart, the Administrator shall publish a list of at least twelve categories of stationary sources for which control technique guidelines, in accordance with subsection 108(b), have not previously been published and which the Administrator considers to make the most significant contribution to the formation of ozone air pollution. The categories shall be divided into three groups (with an equal number of categories in each group) and the Administrator shall establish a schedule for publication of guidelines for each of such groups at the time of publication of the list of categories.

"(2) The Administrator shall publish control technique guidelines for sources within the categories listed under paragraph (1). The guidelines shall be published for the first group of such sources within the first eighteen months after publication of the list and for at least one additional group in each succeeding eighteen-month period until guidelines have been published for all listed categories.

"(3) Within thirty-six months after the date of enactment of this subpart, and every four years thereafter, the Administrator shall review and, if necessary, update control technology guidelines including those issued before the enactment of this subpart. The Administrator may publish such additional guidelines as the Administrator deems necessary.

"(4) For other source categories not covered by paragraph (1) but for which a control technique guideline would, as determined by the Administrator, further the purposes of this Act and provide guidance to the States, such as commercial bakeries, the Administrator shall issue a control technique guideline not later than thirty-six months after enactment of this subpart.

"(b) VOLATILE ORGANIC COMPOUNDS EMISSIONS FROM LOADING AND UNLOADING OF CERTAIN VESSELS.—Within two years after the enactment of this subpart, the Administrator shall publish a control technique guideline, in accordance with section 108(c), regarding control of volatile organic compound emissions from the loading or unloading of petroleum products onto or from vessels. Such emissions shall be considered to be direct emissions of the onshore terminal for all purposes under this Act.

"(c) VOLATILE ORGANIC COMPOUNDS EMISSIONS FROM AEROSPACE COATINGS AND SOLVENTS.—Within two years after the enactment of this subpart, the Administrator shall publish a control techniques guideline for all aerospace coating and solvent applications (including military and commercial applications), after consultation with the Department of Defense, the Federal Aviation Administration, the National Air and Space Administration, and the affected industry. In evaluating VOC reduction strategies, the guidelines shall take into account the applicable requirements of section 112 and the need to protect stratospheric ozone.

"(d) CONSUMER OR COMMERCIAL PRODUCTS.—

"(1) Within three years after the date of enactment of this subpart, the Administrator shall submit to the Congress a final report on emissions of ozone precursors from consumer or commercial products which emit significant quantities of ozone precursors, and include recommendations for the control of such emissions. The Administrator shall commence such study not later than sixty days after the date of the enactment of this subpart. The report shall consider the costs and technological feasibility of controlling emissions of ozone precursors from consumer or commercial products, as well as the amount of emissions reductions from consumer or commercial products that would be necessary for areas designated nonattainment for ozone to attain and maintain the national ambient air quality standard for ozone. In addition, the report shall estimate the total amount of reductions of emissions of ozone precursors that is appropriate and achievable from regulation of consumer or commercial products.

"(2)(A) Within one year of submission of the report required under paragraph (1), the Administrator shall propose, and within two years of such submission shall promulgate, regulations to aid in the attainment of the ozone ambient air quality standard by decreasing emissions of ozone precursors from classes or categories of consumer or commercial products. Such regulations shall be designed to achieve reductions from the product categories selected by the Administrator to a level equal to the level that would be achieved by the application of reasonably available controls to each such class or category of consumer or commercial products and shall, at a minimum, achieve, within two years after promulgation, reductions in nationwide anthropogenic emissions of volatile organic compounds of at least one per centum below the level of such emissions in the calendar year of enactment of this subpart.

"(B) Such regulations may include any system or systems of implementation as the Administrator may deem appropriate, including but not limited to requirements for registration and labeling, self-monitoring and reporting, prohibitions, or limitations concerning the manufacture, processing, distributions, use, consumption, or disposal of the product.

"(C) The regulations may exempt health-use products for which the Administrator determines there are not suitable substitutes.

"(3) Any standard established under this subsection shall be treated, for purposes of sections 113, 114, 120, 304, and 307 and other enforcement provisions of this Act, as a standard under section 111.

"(4) Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure adequate, he shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.

"(5) For the purposes of this subsection—

"(A) the term 'reasonably available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is reasonably achievable through the application of any equipment measures, processes methods, systems or techniques, including, but not limited to, chemical reformulation, product or feedstock substitution, repackaging, or directions for use, consumption, storage, or disposal;

"(B) the term 'consumer or commercial products' means any substance, product, or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives as defined under section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under section 216.

"(e) HAZARDOUS WASTE FACILITIES.—The Administrator shall, not later than March 31, 1991, and after notice and opportunity for public comment, promulgate regulations pursuant to section 3004(n) of the Solid Waste Disposal Act controlling emissions of volatile organic compounds and other pollutants from treatment, storage, and disposal facilities subject to such Act which shall, at a minimum, achieve within three years after promulgation, a 90 per centum reduction in uncontrolled emissions of volatile organic compounds from such facilities.

"CONTROL OF INTERSTATE OZONE AIR POLLUTION

"SEC. 186. (a) OZONE TRANSPORT REGIONS.—The area comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia, and the consolidated metropolitan statistical area including the District of Columbia is established as an ozone transport region. The Administrator may add any State or portion of a State to any region established under this subsection or establish other ozone transport regions, consisting of two or more States, when the Administrator determines that the interstate transport of air pollutants from such State or States significantly contributes to concentrations of ozone or ozone precursors in any nonattainment area in another State classified under section 181(a) as a serious, severe, or extreme area for ozone. The ozone transport commission established under subsection (b) for any ozone transport region may remove any State or portion of a State from the region if the commission determines that the control of emissions in that State or portion of a State pursuant to this section will not significantly contribute to the attainment of the primary ambient air quality standard for ozone in any nonattainment area.

"(b) OZONE TRANSPORT COMMISSIONS.—Not later than six months after enactment of this subpart, the Administrator shall establish an ozone transport commission for the ozone transport region established by the first sentence of subsection (a). Not later than three months after the establishment of any other ozone transport region, the Administrator shall establish an ozone transport commission for the region. Each ozone transport commission shall be comprised of the following members—

"(1) an air pollution control official representing each State in the region, appointed by the Governor or as provided under State law;

"(2) the Administrator (or an employee designated by the Administrator from the headquarters office of the Environmental Protection Agency); and

"(3) the Regional Administrator (or an employee designated by the Regional Administrator) for each Environmental Protection Agency regional office for each Environmental Protection Agency region affected by the ozone transport region concerned.

Decisions of each ozone transport commission may be made only by a majority vote of all members other than the Regional Administrators (or designees thereof).

"(c) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—Not later than two years after the enactment of this subpart (or nine months after the subsequent inclusion of a State in an established ozone transport region), each State included within an ozone transport region shall submit a State implementation plan or revision thereof to the Administrator which requires the following—

"(1) that each area in such State that is in an ozone transport region, that is not a nonattainment area, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more, comply with the provisions of section 183(a)(1)(A) (pertaining to vehicle inspection and maintenance programs);

"(2) implementation of reasonably available control technology with respect to—

"(A) all sources of volatile organic compounds in the State covered by a control techniques guideline issued before the date of enactment of this subpart.

"(B) all sources of volatile organic compounds or oxides of nitrogen in the State covered by a control techniques guideline issued by the Administrator after the date of enactment of this subpart, and

"(C) all stationary sources that have the potential to emit one hundred or more tons of volatile organic compounds and that are not covered by a control technique guideline or listed pursuant to section 185(a); and

"(3) a requirement that all owners or operators of gasoline dispensing systems within the area install and operate a system designed to (i) prevent discharge of hydrocarbon vapors into the ambient air, (ii) direct vapor displaced from the automotive fuel system to a system where organic compounds in the displaced vapor are recovered, and (iii) prevent vehicle fuel tank overflows or spillage on fill nozzle disconnect. The requirement of this subparagraph shall apply only to facilities which dispense more than fifty thousand gallons of gasoline per month. The Administrator may revise or waive the requirements of this subparagraph, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this Act are in widespread use throughout the motor vehicle fleet.

"(d) ADDITIONAL CONTROL MEASURES.—

"(1) Upon petition of any State within an ozone transport region, the commission may, after notice and opportunity for comment, develop a plan of additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such plan to the Administrator.

"(2) Whenever the Administrator receives a plan prepared by a commission pursuant to paragraph (1) (the date of receipt of which is hereinafter in this section referred to as the receipt date), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the plan is available and that written data, views, or comments on the plan may be submitted to the Administrator within ninety days beginning on the receipt date; and

"(B) commence a review of the plan to determine whether the control measures in the plan are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views and comments received pursuant to paragraph (2)(A).

"(4) Within one hundred and twenty days after the receipt date, the Administrator shall determine whether to approve, disapprove, or partially disapprove and partially approve the plan; shall notify the commission in writing of such approval, disapproval or partial disapproval; and shall publish such determination in the Federal Register. If the Administrator fails to act within one hundred and twenty days, the plan shall be deemed approved. If the Administrator disapproves or partially disapproves a plan, the Administrator shall specify—

"(A) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(B) recommendations concerning actions that could be taken by the commission to conform the disapproved portion of the plan to the requirements of this section.

"(5) Upon approval or partial approval of a plan submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(d)(4) that the implementation plan for such State is inadequate to meet the requirements of section 110(c)(4). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(e) EXEMPT AREAS.—(1) Upon petition of any State within an ozone transport region, the Administrator, after seeking written views of the commission and after publishing a written finding in the Federal Register, may exempt any area within such State from one or more of the requirements of subsection (c) if the State demonstrates to the satisfaction of the Administrator that stationary or mobile sources within the area do not contribute to nonattainment in any other area in such region. The Administrator shall make a determination under this paragraph within nine months following receipt of a petition.

"(2) The requirements of subsection (c)(3) shall not apply to any State that contains no ozone nonattainment area or portion thereof unless the Administrator determines that such requirements are necessary to achieve attainment in any area in an adjoining State or the Governor of the State containing no ozone nonattainment area determines, pursuant to State law, that such requirements should apply in such State.

"(f) PETITIONS.—Any State or political subdivision may petition the Administrator to make a determination that any other State or portion thereof should be included

within an ozone transport region under this section. The petitioning State shall include with such petition such evidence as is available to it regarding the contribution made by sources located in (or operating in) the State (or portion thereof) which is the subject of the petition to ozone concentrations in the petitioning State. Within one hundred and twenty days after receipt of any petition under this subsection and after a public hearing, the Administrator shall include the State (or portion thereof) within an ozone transport region or deny the petition.

"(g) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than six months after the enactment of subpart, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.".

ADDITIONAL REQUIREMENTS FOR CARBON MONOXIDE NONATTAINMENT AREAS

SEC. 108. NEW REQUIREMENTS FOR CARBON MONOXIDE NONATTAINMENT AREAS.—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 2:

"Subpart 3—Additional Provisions Regarding Carbon Monoxide Nonattainment Areas

"CLASSIFICATION OF CARBON MONOXIDE NONATTAINMENT AREAS

"SEC. 187. (a) CLASSIFICATION BY OPERATION OF LAW.—Each area designated nonattainment for carbon monoxide under section 107(f)(3) is hereby classified by operation of law in one of the following categories based upon the percentage by which the national primary ambient air quality standard for carbon monoxide averaged over an eight-hour period was exceeded in that area:

"Area classification	Percentage exceedance
Moderate	Not Greater than 55 per centum
Serious	Greater than 55 per centum.

Any reference in this subpart to a 'moderate nonattainment area' or a 'serious nonattainment area' shall be considered a reference to a moderate or serious carbon monoxide nonattainment area as classified under this subsection (or as subsequently reclassified under this subpart). Any reference in this subpart to the 'carbon monoxide air quality standard' shall be considered a reference to the national primary ambient air quality standard for carbon monoxide averaged over an eight-hour period.

"(b) DATA AND METHODS FOR CLASSIFICATION.—For purposes of calculating the percentage by which the carbon monoxide air quality standard is exceeded in any area—

"(1) the most recent monitoring data available as determined by the Administrator, shall be used; and

"(2) the interpretation methodology issued by the Administrator most recently before the date of enactment of this subpart for purposes of determining attainment of the standard shall be applicable.

Not later than thirty days after the date of enactment of this subpart the Administrator shall publish a notice identifying the percentage by which each area referred to in subsection (a) exceeds the carbon monoxide air quality standard and the classification of each area as moderate or serious.

"(c) DEADLINES FOR ATTAINMENT.—The following deadlines apply to the carbon monoxide nonattainment areas classified in accordance with subsection (a)—

"Area Classification	Applicable attainment date (in years after enactment of this subpart)
Moderate	5 years
Serious	10 years.

"(d) NEW STANDARD.—If the Administrator revises the carbon monoxide air quality standard after the enactment of this subpart, the Administrator shall, within six months after the revision, promulgate requirements applicable to all areas which have not attained the revised standard and shall require the submission of implementation plans or revisions to such plans for such areas within twenty-four months after the revision of the standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas classified under subsection (a) and shall provide for attainment of such revised standard according to a schedule which is comparable to that specified in subsection (c).

"(e) Any area that is not designated nonattainment for carbon monoxide under section 107 as of the date of enactment of this section, and that is subsequently redesignated to nonattainment for carbon monoxide under section 107, shall, at the time of the redesignation, be classified by operation of law in accordance with the table under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified as of the time of the classification under subsection (a), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of enactment of this section and the date the area is classified.

"REQUIREMENTS APPLICABLE TO ALL CARBON MONOXIDE NONATTAINMENT AREAS

"SEC. 188. (a) INVENTORIES.—Each State containing a nonattainment area classified pursuant to section 187(a) shall, not later than one year after the date of enactment of this subpart and every three years thereafter, submit an inventory of carbon monoxide emissions from stationary and mobile sources located within each such area as provided in the guidelines issued by the Administrator pursuant to section 108(g). The initial inventory shall report emissions occurring in the calendar year immediately preceding enactment of this section or the subsequent year. Any area subsequently designated nonattainment pursuant to section 107(d)(5) and classified pursuant to this subpart shall submit (and update as provided in this subsection) a carbon monoxide emissions inventory for the calendar year of classification beginning eighteen months after the date of classification. Guidance for inventory preparation published by the Administrator pursuant to section 108(g) shall contain factors for estimating carbon monoxide emissions from wood stoves and other small combustion sources.

"(b) MONITORING.—The enhanced monitoring program required by section 108(g) shall include the use of mobile monitors for carbon monoxide to determine the geographic extent of any nonattainment problem for such pollutant within an area. Monitoring pursuant to such guidelines shall be commenced in all areas classified pursuant to section 187(a) or subsequently pursuant to section 107(d)(5) and this subpart not later than eighteen months after such classification. The Administrator may require through guidance or by rule the use of mobile monitoring devices for carbon monoxide in areas designated as attainment areas.

"(c) EXISTING COMMITMENTS.—

"(1) Not later than eighteen months after the date of enactment of this section each State containing an area classified nonattainment pursuant to section 187(a) shall fully implement all provisions of any implementation plan for the attainment of the carbon monoxide air quality standard for such area or areas which have been submitted to the Administrator for approval (whether or not approved) prior to the date of enactment of this section.

"(2) Each State containing an area classified pursuant to section 187(a) shall promptly and fully implement any additional measures not previously proposed by the State but required by subpart 1.

"(3) Nothing in this Act shall prohibit a State containing an area classified nonattainment pursuant to section 187(a) from revising its implementation plan to substitute an alternative control measure for an existing control measure if the State demonstrates that:

"(A) the alternative control measure—

"(i) is not already included in the implementation plan;

"(ii) is not otherwise required by this Act;

"(iii) will provide an equal or greater degree of carbon monoxide emissions control as full implementation of the existing control measure would provide; and

"(iv) will be implemented not later than 18 months after the date of enactment of this Act; and

(B) the existing control measure is not otherwise required under this Act or under guidelines or regulations issued by the Administrator.

When the State makes such a demonstration, the Administrator shall approve a revision to the implementation plan which incorporates the alternative control measure.

"(d) PERMIT REQUIREMENT.—

"(1) Each State containing an area classified pursuant to section 187(a) or which contains an area subsequently classified pursuant to section 107 and this subpart shall not later than eighteen months after the date of such classification submit to the Administrator for approval a revision to the implementation plan for each such area requiring an operating permit (including permit fees) as provided in sections 172(a)(6) and 173(b) for each new or existing major stationary source of carbon monoxide emissions located within any such nonattainment areas. It shall be unlawful for any person to operate a major source of carbon monoxide emissions without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(2) Each permit issued pursuant to this subsection shall require the installation of continuous emission monitoring for carbon monoxide emissions from the source.

"(e) ATTAINMENT DEMONSTRATION AND MILESTONES.—

"(1) Each State containing a moderate or serious nonattainment area shall, after notice and opportunity for public comment but not later than twenty-four months after such area has been designated nonattainment, submit to the Administrator for approval revisions to the implementation plan for each such area which demonstrate, as provided in section 110 and this part, attainment of the carbon monoxide air quality standard by the deadline for attainment for such area or areas as provided in section 187(c).

"(2)(A) Notwithstanding the provisions of paragraph (1), revisions demonstrating attainment under this subsection shall not be required for any moderate nonattainment area for which the design value in the most recent calendar year immediately preceding enactment of this section did not exceed the carbon monoxide air quality standard by more than 10 per centum: *Provided*, That, within three months after the date of enactment of this subpart the Governor of such State submits to the Administrator a detailed statement of the measures to be undertaken in such area which will assure attainment of the carbon monoxide air quality standard by not later than thirty-six months after such date of enactment.

"(B) In the event that a moderate nonattainment area for which an attainment demonstration has not been submitted pursuant to subparagraph (A) does not attain the carbon monoxide air quality standard by the date thirty-six months after the date of enactment of this subpart, the State in which such area is located shall, after notice and opportunity for public comment, submit within an additional twelve-month period revisions to the implementation plan for the area making such demonstration and such area shall be subject to all of the requirements of this subpart applicable to moderate nonattainment areas including implementation of a vehicle inspection and maintenance program pursuant to subsection (i) and the deadlines for attainment established by section 187(c).

"(3) Revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain quantitative milestones to be achieved in each year in which an inventory is required under subsection (a) until the area is reclassified attainment and which demonstrate, as defined in section 171(1), reasonable further progress toward attainment by the date applicable to the area under section 187(c). Milestones proposed for inclusion in an implementation plan under this paragraph may be stated as—

"(A) reductions in vehicle miles traveled or vehicle trips in the nonattainment area, or both, during periods when the standard is likely to be violated;

"(B) reductions in tons of emissions of carbon monoxide emitted annually in the nonattainment area;

"(C) reductions in the design value for carbon monoxide averaged over an eight-hour period for the area;

"(D) reductions in the number of exceedances of the national carbon monoxide air quality standard which would be expected to occur each year; or

"(E) any combination of the above.

"(4) Revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain one or more contingency measures sufficient to reduce (singly or in combination) carbon monoxide emissions in the nonattainment area as reported in the most recent inventory by not less than 5 per centum for moderate nonattainment areas and not less than 10 per centum for serious nonattainment areas. The revisions shall provide for automatic implementation of the measures in the event the area does not attain the carbon monoxide air quality standard by the date applicable to the area as provided in section 187(c). Contingency measures may be implemented only in part if all measures are not necessary to assure attainment of such standard as determined by the Administrator. Implementation of contingency measures shall not be delayed by any extension granted pursuant to section 190(d)(1).

"(5) The Administrator may not approve any revisions submitted pursuant to this subsection unless such revisions taken as a whole convincingly demonstrate attainment by not later than the dates specified in section 187(c). Notwithstanding the provisions of this paragraph, the Administrator may order that any or all requirements contained in such revisions be implemented and enforced pending submission of additional revisions of the implementation plan which can be approved as demonstrating attainment of the carbon monoxide air quality standard by the dates applicable under section 187(c).

"(f) CONTINUING AUDITS OF IMPLEMENTATION PLANS.—

"(1) The Administrator shall conduct an audit of each implementation plan for carbon monoxide for each area designated nonattainment for the carbon monoxide air quality standard to determine whether the State (or local air pollution control agency) is adequately implementing and enforcing each provision of the plan and achieving the milestones established pursuant to subsection (e). Audits shall be conducted not less frequently than every three years and shall be scheduled, to the extent practicable, in years immediately following the compilation of an inventory as provided by subsection (a).

"(2) If the Administrator finds that any provision required by section 110, section 172(a) (1) through (10), section 173 or this subpart is not being adequately implemented and enforced, the Administrator shall promptly notify the State in which the area is located and shall impose the sanctions required by section 190 until such time as full implementation is achieved.

"(3) If the Administrator finds that any milestone established pursuant to subsection (e) has not been achieved by the applicable date, the Administrator shall require the State in which the area is located to promptly submit revisions to its plan, including provisions which may be identified by the Administrator, assuring achievement of the milestone as expeditiously as practicable but not later than eighteen months after the date originally scheduled for achieving the milestone. The Administrator shall also impose the sanctions required by section 190 until such time as the milestone is achieved.

"(g) VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—Each State containing an area classified nonattainment pursuant to section 187(a) or which contains an area subsequently classified nonattainment and which is required to submit revisions to the implementation plan for such area demonstrating attainment pursuant to subsection (e) shall, not later than one year after the date of such classification, submit a revision to the applicable plan providing for implementation of a vehicle inspection and maintenance program which achieves carbon monoxide emissions reductions equivalent to a reduction of fifty-two thousand tons of such emissions per million vehicles covered in the year of enactment of this subpart (if the program had been operating in such year) and includes each of the elements in clauses (i) through (vi) of section 183(a)(1)(A).

"(h) OXYGENATED FUELS.—Revisions demonstrating attainment submitted pursuant to subsection (g) shall contain provisions implementing and enforcing an oxygenated fuels program for each moderate or serious nonattainment area as provided in section 211(e).

"(i) Notwithstanding any other provision of this Act, any State implementation plan submittal required for any carbon monoxide nonattainment area (or portion thereof) not designated nonattainment prior to the date of enactment of the Clean Air Act Amendments of 1990, that is required to be submitted within twelve months from the date of enactment, classification, or designation of such area, shall be required to be submitted within twelve months of the date the area (or portion thereof) is included within the boundaries of an area designated nonattainment under section 107(f)(3)(B).

"REQUIREMENTS APPLICABLE TO SERIOUS CARBON MONOXIDE NONATTAINMENT AREAS

"SEC. 189. (a) TRANSPORTATION CONTROL MEASURES.—In revisions submitted pursuant to section 188(e) for any serious nonattainment area, the State shall consider measures specified in section 108(f), and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards. In considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them.

"(b) EMPLOYER RIDERSHIP PROGRAM.—Revisions demonstrating attainment submitted pursuant to section 188(e) for any serious nonattainment area shall contain provisions requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of one hundred or more persons increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 per centum above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within two years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this subsection not later than four years after the date the revison is submitted. An employer may demonstrate in such plan compliance with a vehicle occupancy rate less than 25 per centum greater than the average in the area, if expenditures by the employer in implementing the compliance plan are equal to or

greater than the cost of providing employees with parking spaces at the location of the workplace.

"FAILURE TO ATTAIN STANDARD

"SEC. 190. (a) FAILURE TO ATTAIN.—The Administrator shall reclassify any moderate nonattainment area failing to attain, as provided in section 187(c), the carbon monoxide air quality standard by the date five years after the date of enactment of this subpart as a serious nonattainment area, and such area shall from the time of reclassification be subject to the provisions of this subpart applicable to serious nonattainment areas. The Administrator may grant a one-year extension of the attainment date established by section 187(c) for a moderate nonattainment area before reclassification provided that the State has fully implemented all provisions in the implementation plan for the area and the area has not exceeded the carbon monoxide air quality standard by more than 10 per centum in the two years prior to such date. Not more than two one-year extensions may be granted to any area under this subsection. Within twelve months of reclassification, the State shall submit to the Administrator for approval revisions to the implementation plan for such area as may be necessary to comply with the requirements for serious nonattainment areas.

"(b) In the case of an area classified as a serious nonattainment area in which the carbon monoxide air quality standard is not attained by the date provided in section 187(c), the State in which such area is located shall, after notice and opportunity for public comment, submit within twelve months after the applicable attainment deadline plan revisions which provide for attainment of the carbon monoxide air quality standard as provided in section 172(a), and, from the date of such submission until attainment, for an annual reduction in carbon monoxide emissions within the area of not less than 5 per centum of the amount of such emissions as reported in the most recent inventory prepared for such area.".

ADDITIONAL REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS

SEC. 109. (a) NEW REQUIREMENTS FOR PM-10 NONATTAINMENT AREAS.—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 3:

"Subpart 4—Additional Provisions for PM-10 Nonattainment Areas

"ATTAINMENT DEADLINES FOR PM-10 NONATTAINMENT AREAS

"SEC. 191. (a) DEADLINES FOR ATTAINMENT.—State implementation plans required for any PM-10 nonattainment area not meeting the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (as measured by such method as the Administrator may determine) under this subpart shall demonstrate attainment as expeditiously as practicable but not later than the date five years after the date on which such area was designated nonattainment for PM-10. The attainment deadline for areas designated nonattainment pursuant to subparagraph (A) or (B) of section 107(f)(4) shall not extend beyond December 31, 1994. The Administrator may extend the deadline applicable to any area under this subsection upon a showing by the State that—

"(1) attainment within five years is impracticable because measures or technology to reduce PM-10 emissions are not available or secondary aerosols account for a significant portion of PM-10 levels in such area;

"(2) the State will implement all reasonably available control measures including all measures and control technology requirements described in any guidance issued by the Administrator pursuant to section 195; and

"(3) reasonable further progress toward attainment will be achieved and demonstrated at regular intervals until the attainment date, as provided in section 192(e).

No extension provided under authority of this subsection may extend for a period beyond the date ten years after the date on which an area has been designated nonattainment.

"(b) NEW STANDARD.—If the Administrator revises the particulate matter air quality standard after the date of enactment of this subpart, the Administrator shall, within six months after such revision, promulgate requirements applicable to all areas which have not attained the revised standard and shall require the submission of implementation plans or revisions to such plans for such areas within twenty-four months after the revision of the standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment for PM-10 and shall provide for attainment of such revised standard.

"REQUIREMENTS APPLICABLE TO PM-10 NONATTAINMENT

"SEC. 192. (a) INVENTORIES.—Each State containing an area designated nonattainment pursuant to section 107(f)(4) shall, not later than one year after the date of enactment of this subpart and every three years thereafter, submit an inventory of PM-10 (and PM-10 precursors) emissions from stationary and mobile sources located within each such area as provided in guidelines issued by the Administrator pursuant to section 108(g). Any area subsequently designated nonattainment pursuant to section 107 or this subpart shall submit (and update as provided in this subsection) such emissions inventories beginning eighteen months after the date of designation. Guidance for inventory preparation issued by the Administrator pursuant to section 108(g) shall contain factors for estimating PM-10 (and PM-10 precursors) emissions from area and natural sources.

"(b) APPROVED SIPS.—Nothing in this section shall be interpreted to require preparation and submission of plan revisions for areas for which the State has submitted and the Administrator has approved a plan revision pursuant to regulations promulgated on August 7, 1987 (52 Federal Register 29383) if such plan revisions otherwise meet the requirements of this subpart.

"(c) PERMIT REQUIREMENTS.—

"(1) Each State containing an area designated nonattainment for PM-10 pursuant to section 107(f)(4) or which contains an area subsequently designated nonattainment for PM-10 pursuant to section 107 or this subpart shall not later than eighteen months after the date of such designation submit to the Administrator for approval a revision to the implementation plan for each such area requiring an operating permit (including permit fees) as provided in sections 172(a)(6) and 173(b) for each new or existing major source of PM-10 or PM-10 precursor emissions located within such areas. It shall be unlawful for any person to operate a major source of PM-10 or PM-10 precursor emissions without a permit issued pursuant to an approved implementation plan beginning thirty-six months after the date of enactment of this subpart.

"(2) Each permit issued pursuant to this subpart shall require monitoring of PM-10 or PM-10 precursor emissions from the permitted source not less frequently than monthly. The owner or operator shall periodically (but not later than twenty-four hours after any violation is detected) report the results of such monitoring to the State in which the source is located.

"(d) ATTAINMENT DEMONSTRATION AND MILESTONES.—

"(1) Each State containing an area designated nonattainment pursuant to section 107(f)(4) shall, after notice and opportunity for public comment but not later than twenty-four months after such designation, submit to the Administrator for approval revisions to the implementation plan for each such area which demonstrate attainment of the PM-10 air quality standard by the date provided in section 191(a).

"(2) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain quantitative milestones which are to be achieved in each year in which an inventory is required under subsection (a) until the area is redesignated attainment and which demonstrate, as defined in section 171(1), reasonable further progress toward attainment by the date applicable under section 191(a).

"(3) If a State includes in a plan revision an attainment date for an area which is after the date five years after the date of designation of such area as nonattainment for PM-10, the State shall commit to implementing each of the guidelines for control technology and measures which the Administrator promulgates pursuant to section 194 for each class or category of PM-10 or PM-10 precursor emission sources in the area. If the Administrator promulgates guidelines which are applicable to such classes and categories of sources after the date on which a plan revision is required by this subsection, the State shall further revise its plan within one year after the promulgation of such additional guidelines to provide for prompt implementation.

"(4) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subsection shall contain one or more contingency measures sufficient to reduce (singly or in combination) PM-10 or PM-10 precursor emissions in the nonattainment area as reported in the most recent inventory by not less than 10 per centum. The plan revision shall provide for automatic implementation of the contingency measures in the event the area does not attain the PM-10 air quality standard by the date established pursuant to section 191(a). Implementation of contingency measures shall not be delayed by any extension granted pursuant to section 193(d).

"(5) The Administrator may not approve any revisions submitted pursuant to this subsection unless such revisions taken as a whole convincingly demonstrate attainment by not later than the dates applicable under section 191(a). Notwithstanding the provisions of this paragraph, the Administrator may order that any or all requirements contained in a plan revision be implemented and enforced pending submission of additional revisions of the implementation plan which can be approved as demonstrating attainment of the PM-10 air quality standard by the dates applicable under section 191(a).

"(e) CONTINUING AUDITS OF IMPLEMENTATION PLANS.—

"(1) The Administrator shall conduct an audit of each implementation plan for PM-10 for each area designated nonattainment pursuant to section 107(f)(4) to determine whether the State (or local pollution control agency) is adequately implementing and enforcing each provision of the plan and achieving the milestones established pursuant to subsection (d). Audits shall be conducted not less frequently than every three years and shall be scheduled, to the extent practicable, in years immediately following the compilation of an inventory as provided in subsection (a).

"(2) If the Administrator finds that any provision required by section 110, subpart 1 or this subpart is not being adequately implemented and enforced, the Administrator shall promptly notify the State in which the area is located and shall impose sanctions required by section 193 until such time as full implementation is achieved.

"(3) If the Administrator finds that any milestone established pursuant to subsection (d) has not been achieved by the applicable date, the Administrator shall require the State in which the area is located to promptly submit revisions to its plan, including provisions which may be identified by the Administrator, assuring achievement of the milestone as expeditiously as practicable but not later than eighteen months after the date originally scheduled. The Administrator shall also impose the sanctions required in section 194 until such time as the milestone is achieved.

"(f) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive a requirement applicable to an area granted an extension under subsection 191(a) where he determines that nonanthropogenic sources of PM-10 are the principal cause of the violation of the PM-10 standard in the area, except that no requirement for reasonably available control measures or best available control measures applicable to anthropogenic sources which make a significant contribution to PM-10 levels and which are required pursuant to an extension granted under subsection 191(a) shall be waived. The Administrator may also waive a specific date for attainment of the standard where he determines that nonanthropogenic sources of PM-10 in combination with extraordinary meterological conditions or emissions of PM-10 emanating from outside the United States, contribute significantly to the violation of the PM-10 standard in the area.

"FAILURE TO COMPLY OR ATTAIN STANDARD

"SEC. 193. (a) The Administrator may, for any area, grant a one-year extension of the attainment date established pursuant to section 191(a) provided that—

"(A) the State has fully implemented all provisions in the implementation plan for the area;

"(B) the area does not exceed the PM-10 standard averaged annually; and

"(C) the area has not exceeded the PM-10 air quality standard averaged over twenty-four hours by more than 10 per centum in the two years prior to such date.

Not more than two one-year extensions may be granted pursuant to the authority of this subsection.

"(b) In the case of an area designated nonattainment pursuant to section 107(f)(4) in which the PM-10 standard is not attained by the date provided in section 191(a) (and considering any extension provided in paragraph (1)), the State in which such area is located shall, after notice and opportunity for public comment, submit within twelve months after the applicable attainment date, plan revisions which provide for attainment of the PM-10 air quality standard as provided in section 172(a), and, from the date of such submission until attainment, for an annual reduction in PM-10 or PM-10 precursor emissions within the area of not less than 5 per centum of the amount of such emissions as reported in the most recent inventory prepared for such area.

"(c) Within three years after enactment, the Administrator shall review pertinent information and report to the Congress on the need to modify subsection (b) to take into account infeasible requirements that might be placed on certain rural areas of the country where a substantial percentage of ambient PM-10 concentration in the area is caused by the suspension of natural soils in the ambient air due to non-industrial, anthropogenic activities. Included in this review shall be a recommendation on whether exemptions from the 5 per centum annual reduction requirement should be granted to certain areas. In making such recommendations, the Administrator shall consider the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures.

"GUIDELINES FOR PM-10 SOURCES

"SEC. 194. (a) INITIAL GUIDELINES.—Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate control technique guidelines with respect to reasonably available control technology and best available control technology for PM-10 (and PM-10 precursor) emissions from major stationary sources. At the same time, the Administrator shall publish guidelines with respect to reasonably available control measures and best available control measures for controlling PM-10 (and PM-10 precursor) emissions from area sources which cause or contribute to PM-10 nonattainment. At a minimum, guidelines published under this subsection shall include identification of technology and measures for combustion sources including wood smoke, prescribed burning for silviculture and agriculture, and urban fugitive dust.

"(b) WOODSTOVE CURTAILMENT.—In addition to the guidelines required by subsection (a), the Administrator shall, not later than twelve months after the date of enactment of this subpart, publish guidelines for the curtailment of residential wood burning as a reasonably available control measure under this subpart. Each State containing an area or areas which are designated nonattainment for PM-10 and for which residential wood burning contributes 20 per centum or more of PM-10 levels shall, not later than twenty-four months after the date of designation of such area or areas as nonattainment for PM-10, submit a plan revision for each such area providing for the implementation of guidelines issued under this subsection. A State may elect to exempt wood heaters that have certified under the Environmental Protection Agency's Wood Heater Certification Program from any such curtailment.

"(c) ADDITIONAL GUIDELINES.—Not later than six months after the date for submission of plans and plan revisions pursuant to section 192(e)(1), the Administrator shall publish a list of all other classes and categories of sources of PM-10 emissions which States have indicated will prevent attainment of the PM-10 air quality standard within five years after the date of enactment of this subpart because control technology is not available. Not later than forty-eight months after the date of enactment of this subpart, the Administrator shall publish control technique guidelines and guidelines for area sources (as provided in subsection (a)) for each such class or category.".

(b) PM-10 INCREMENTS IN PSD AREAS.—Section 166 of the Clean Air Act is amended by adding the following new subsection:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to ten micrometers. Such substituted maximum allowable increases shall be at least as stringent in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this section, the current maximum allowable increases in concentrations of particulate matter shall remain in effect.".

(c) WOODSTOVE MODERNIZATION.—(1) Section 194 of the Clean Air Act is further amended by adding at the end thereof the following new subsection:

"(d) INCENTIVES FOR WOODSTOVE MODERNIZATION.—Not later than forty-eight months after the date of enactment of this subpart, the Administrator shall publish guidelines which may be used by States in implementing programs to encourage the modernization of wood-burning stoves. Such guidelines shall—

"(1) encourage the use to the maximum extent practicable of the exemption under subsection (b) from woodstove curtailment as a means of prompting woodstove owners to convert to wood heaters certified under the Environmental Protection Agency's Wood Heater Certification Program, and

"(2) describe how the State might implement either a low-interest guaranteed loan or grant program to assist low-income woodstove owners in modernizing to less-polluting heating sources, such as any EPA Phase II certified wood heater, solar heating system, or other demonstrably less polluting heating source.".

(2) It is the sense of the Senate that of the receipts received from any fees levied on emissions of substances regulated under this Act and dedicated for the use of the Environmental Protection Agency, an appropriate amount should be made available through section 105 of the Clean Air Act to assist States in wood heater modernization programs as described pursuant to section 194(d)(2).

ADDITIONAL REQUIREMENTS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR DIOXIDE, NITROGEN OXIDES, OR LEAD

SEC. 109A. NEW REQUIREMENTS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR DIOXIDE, NITROGEN OXIDES, OR LEAD.—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 4:

"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Dioxide, Nitrogen Oxides, or Lead

"PLAN SUBMISSION DEADLINES

"SEC. 195. (a) Any State containing an area designated or redesignated under section 107(f) as nonattainment with respect to the national primary air quality standards for sulfur dioxide, nitrogen oxides, or lead subsequent to the date of enactment of this

section shall submit to the Administrator, within 18 months of the designation or redesignation, an applicable implementation plan meeting the requirements of section 110 and this part.

"(b) Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur dioxide or nitrogen oxides as of the date of enactment of this section, but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately prior to the date of enactment of this section, shall submit to the Administrator, within 18 months of enactment of this section, an implementation plan meeting the requirements of section 110 and subpart 1 (except as otherwise prescribed by section 196).

"ATTAINMENT DATES

"SEC. 196. (a) Implementation plans required under section 195(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation or redesignation.

"(b) Except as provided in subsection (c), implementation plans required under section 195(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years from the date of enactment of this section.

"(c) Implementation plans for nonattainment areas for sulfur dioxide or nitrogen oxides with plans that were approved by the Administrator before the date of enactment of this subpart but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.

INTERSTATE POLLUTION

SEC. 110. (a) Section 126 of the Clean Air Act is amended as follows:

(1) by adding a new subsection as follows:

"(d) Emissions of air pollutant which, by itself or in combination, reaction, or transformation, adversely affects the public health or welfare of another State, is a violation of this section.";

(2) in subparagraph (B) of subsection (a)(1), by striking "in excess of the national ambient air quality standards";

(3) in subsection (b)—

(A) in the first sentence, following "major source", by inserting "or group of sources"; and

(B) by striking "110(a)(2)(E)(i)" and inserting in lieu thereof "110(c)(4) or this section"; and

(4) in subsection (c)—

(A) in the first sentence, following the words "violation of", inserting "this section and"; and

(B) striking "110(a)(2)(E)(i)" wherever it appears and inserting in lieu thereof "110(c)(4) or this section".

(b) Section 302(h) of the Clean Air Act is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

(c) Section 304(a)(1) of the Clean Air Act is amended by—

(1) striking "or" after "Act" and inserting a comma in lieu thereof, and

(2) inserting at the end thereof the following: "or (C) section 126,".

VISIBILITY

SEC. 111. Section 169A of the Clean Air Act is amended by adding the following new section:

"STUDIES

"SEC. 169B. (a)(1) The Administrator, in conjunction with the National Park Service and other appropriate Federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impairment and regions that provide predominantly clean air in class I areas. A total of $8,000,000 per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other Federal agencies to conduct this research. The research shall include—

"(A) expansion of current visibility related monitoring in class I areas;

"(B) assessment of current sources of visibility impairing pollution and clean air corridors;

"(C) adaptation of regional air quality models for the assessment of visibility;

"(D) studies of atmospheric chemistry and physics of visibility.

"(2) Based on the findings available from the research required in subsection (a)(1) of this section as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years of enactment.

"IMPACTS OF OTHER PROVISIONS

"(b) Within 24 months of enactment, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every five years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

"ESTABLISHMENT OF VISIBILITY TRANSPORT REGIONS AND COMMISSIONS

"(c)(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected States, the Administrator has reason to believe that the current or projected interstate transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendations of a transport commission established under subsection (b) of this section may—

"(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

"(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

"(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1) of this section, the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

"(A) the Governor of each State in the Visibility Transport Region, or the Governor's designee.

"(B) The Administrator or the Administrator's designee; and

"(C) A representative of each Federal agency charged with the direct management of each class I area or areas within the Visibility Transport Region.

"(3) All representatives of the Federal Government shall be ex officio members.

"(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, Section 1).

"(5) Sections 113(a)(1) and 113(a)(2) are revised to add 'or of implementing section 169B' after 'air pollution'.

"DUTIES OF VISIBILITY TRANSPORT COMMISSIONS

"(d) A VISIBILITY TRANSPORT COMMISSION.—

"(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the Visibility Transport Region; and

"(2) shall, within four years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

"(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

"(B) the imposition of the requirements of part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors specifically including the alternative siting analysis provisions of section 172(b)(11)(A) of this title; and

"(C) the promulgation of regulations under section 169A of this title to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

"DUTIES OF THE ADMINISTRATOR

"(e)(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring 'reasonable progress' toward the national goal.

"(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to

revise within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

"GRAND CANYON VISIBILITY TRANSPORT COMMISSION

"(f) The Administrator pursuant to subsection (c)(1) shall, within 12 months, establish a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.

"(g) NOTICE TO FEDERAL LAND MANAGERS.—Section 165(d)(2)(A) of the Clean Air Act is amended to read as follows:

"'(2)(A) Upon transmitting a copy of a permit application and notice under paragraph (1) to the Administrator, the State shall also provide a copy of such permit application to any Federal land manger and any Federal official charged with direct responsibility for management of any lands within a class I area, or an area described in paragraph (1) or (2) of section 164(a), which may be affected by emissions from the proposed facility. The Administrator shall require applications submitted under paragraph (1) to contain sufficent information to enable the appropriate Federal land manager of such Federal lands to determine the potential effects of such facility on the air quality related values (including visibility) of such Federal lands.'.

"(h) IDENTIFICATION OF POTENTIAL ADVERSE IMPACTS.—Section 165(d)(2)(b) of the Clean Air Act is amended, after the words 'affirmative responsibilities to' add the words 'identify and'.".

OUTER CONTINENTAL SHELF ACTIVITIES

SEC. 112. Title III of the Clean Air Act is amended by adding the following new section after section 326:

"AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES

"SEC. 327. (a).—

"(1) Due to severe and unique air quality problems in California, Congress finds that Outer Continental Shelf ("OCS") oil and gas activities (which, for the purposes of this section, shall include activities of vessels associated with OCS facilities, including in transit activities of vessels associated with the OCS facility they service and within twenty-five miles of such facility) offshore California significantly affect air districts in that State. Therefore, based on such finding, the Secretary of the Interior, pursuant to authorities granted under section 5(a)(8) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1334(a)(8) ("OCSLA")), shall promulgate regulations to reduce this significant effect by limiting emissions of air pollutants from OCS activities in the area adjacent to California. Such regulations shall be promulgated only after consultation with appropriate state and local agencies and after obtaining the written concurrence of the Administrator of the Environmental Protection Agency. In order to assist the Secretary in formulating these regulations, the Administrator shall provide the Secretary with a draft of proposed regulations that meet the requirements of this section. The regulations shall be as stringent, in terms of the level of pollution control technologies and the emission offset requirements, as those regulations applied onshore for onshore sources of air pollution in California air districts adjacent to the portion of the OCS in which the activities are occurring. Such regulations may incorporate by reference, as appropriate, the rules of the adjacent onshore air districts. However, the construction phase offset requirement may be averaged over a number of consecutive years such that the annual construction phase offset requirement is reduced down to the level of the peak annual development/production phase offset requirement. In such event, construction phase offsets shall continue at such level until all construction emissions are offset. In addition, the Secretary may substitute a pollution control technology with an alternative technology that achieves the same level of emission control. The OCS requirements shall not impose a greater burden of air pollution control on OCS sources than is imposed on onshore sources, and shall not require pollution control technology that is technically infeasible or that causes an unreasonable threat to health and safety. Based on the above criteria, and after obtaining the written concurrence of the Administrator and providing for public comment, the Secretary may waive an OCS requirement and impose another requirement in its place. The Administrator shall delineate OCS air districts on the basis of their location relative to adjacent onshore air districts. Such OCS air districts shall extend a distance of twenty-five miles from the shoreline, with such outer boundary subject to review and extension by the Administrator in the event that a new exploration plan or development and production plan involving OCS activities beyond that boundary is proposed pursuant to section 1340 or section 1351 of OCSLA. OCS equipment contained in a plan of exploration or development and production plan approved by the Secretary prior to enactment of this section shall be considered to be existing sources. The Secretary shall promulgate the regulations required by this section within one hundred and eighty days of enactment of this section and shall update those regulations as necessary to maintain consistency with onshore regulations in accordance with the provisions of this section. The authority of this section shall supersede any inconsistent authorities under this Act or the OCSLA, but in no case shall allow violation of national ambient air quality standards.

"(2) There is hereby established a Project Emission Reduction Fund ("Fund") to acquire or create emissions offsets to mitigate emissions of air pollutants from OCS activities. This Fund shall be a separate account in the Treasury into which the Secretary or his designee shall deposit fees collected pursuant to this section. Fees shall be payable, through the Secretary or his designee, to the Fund by the owner or operator of any facility that is subject to regulation under this section and for which such owner or operator seeks to obtain emissions offsets, as required by regulation pursuant to paragraph (1), through participation in the Fund. The Fund shall be available for acquisition or creation of emissions offsets directly or through cooperative agreements with State or local agencies. The regulation may provide that in lieu of deposit of fees in the Fund, the Secretary may approve the direct transfer of such fees from the owner or operator to the person or entity implementing the emission reduction project upon the approval of an emission reduction plan by the Secretary. All emissions offsets obtained through this Fund shall meet all offset requirements established by the Secretary pursuant to regulations promulgated under paragraph (1). The Fund shall be used to acquire or create only those emissions offsets which are not already required by the applicable implementation plan or other laws or regulations. The Secretary may, with the consent of the Administrator, allow the Fund to be used to pay for an early implementation of emission control measures planned for the future under the applicable implementation plan or other relevant laws or regulations. In the event of such early implementation of emission control measures, the reductions shall be credited as offsets against OCS emissions only for the period for which the reductions are not otherwise required under the applicable implementation plan or other relevant law or regulation in effect at the time the emission control measures are approved. The Secretary, in consultation with appropriate State and local agencies and with the written concurrence of the Administrator, shall promulgate regulations necessary for the operation of this Fund within one hundred and eighty days of enactment of this section.

"(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the OCS that are adjacent to States other than California, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for OCS emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within three years of enactment of this section and submit to the relevant congressional committees a research study examining the impacts of current and future emissions from OCS activities in such areas on adjacent onshore areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall, in consultation with the Administrator, determine if any additional actions are necessary and, if so, develop a plan to implement such actions. The Secretary shall make a periodic review of new OCS activities to determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.".

INDIAN TRIBES

SEC. 113. (a) Title III of the Clean Air Act is amended by adding the following at the end thereof:

"INDIAN TRIBES

"SEC. 328. (a) IN GENERAL.—Subject to the provisions of subsection (b), the Administrator—

"(1) is authorized to treat Indian tribes as States under this Act,

"(2) may delegate to such tribes primary responsibility for assuring air quality and enforcement of air pollution control, and

"(3) may provide such tribes grant and contract assistance to carry out functions provided by this title.

"(b) EPA REGULATIONS.—

"(1) The Administrator shall, within eighteen months after the enactment of this section, promulgate final regulations specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—

"(A) the Indian tribe is recognized by the Secretary of the Interior and has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian tribe are within the area of the tribal government's jurisdiction; and

"(C) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to

be exercised in a manner consistent with the terms and purposes of this title and of all applicable regulations.

"(2) Indian tribes shall not be treated as States for purposes of the last sentence of section 105(c). For any other provision of this Act where treatment of Indian tribes as identical to States is inappropriate, administratively infeasible or otherwise inconsistent with the purposes of this Act, the Administrator may include in the regulations promulgated under this section, other means for administering such provision in a manner that will achieve the purpose of this section and such other provision. Nothing in this section shall be construed to allow Indian tribes to assume or maintain primary responsibility for assuring air quality and enforcement of air pollution control in a manner less protective of public health or welfare than this Act requires of a State. An Indian tribe shall not be required to exercise criminal jurisdiction for purposes of complying with the preceding sentence.".

(b) Section 302(e) is amended by inserting ", or an Indian tribe or authorized tribal organization or Alaska Native village or organization" at the end thereof.

MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 114. (a) Section 106 of the Clean Air Act is amended by inserting—

(1) after "section 107" the following: "or of implementing section 186 (relating to control of interstate ozone air pollution)";

(2) after "program costs of" the following: "any commission established under section 186 (relating to control of interstate ozone air pollution) or"; and

(3) in the last sentence after "such agency" in each place it appears the following: "or such commission".

(b)(1) SURFACE COAL MINE FUGITIVE EMISSIONS.—Prior to any use of the Industrial Source Complex (ISC) Model using AP-42 Compilation of Air Pollutant Emission Factors to determine the effect on air quality of fugitive particulate emissions from surface coal mines, for purposes of new source review or for purposes of demonstrating compliance with national ambient air quality standards for particulate matter applicable to periods of twenty-four hours or less, under section 110 or parts C or D of title I of the Clean Air Act, the Administrator shall analyze the accuracy of such model and emission factors and make revisions as may be necessary to eliminate any significant over-prediction of air quality effect of fugitive particulate emissions from such sources. Such revisions shall be completed not later than four years after the date of enactment of this subpart.

(2) Until such time as the Administrator develops a revised model for surface mine fugitive emissions, the State may use alternative empirical based modeling approaches pursuant to guidelines issued by the Administrator.

(c) INCREMENT EXEMPTIONS.—Section 163(c)(1) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (C) with a period;

(2) replacing the period at the end of subparagraph (D) with a comma and "and"; and

(3) adding a new subparagraph (E), to read as follows:

"(E) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions resulting directly or indirectly from surface coal mines.".

(d) Section 163(c) of the Clean Air Act is amended by—

(1) replacing the comma and "and" at the end of subparagraph (D) with a period;

(2) replacing the period at the end of subparagraph (E) with a comma and "and" and

(3) adding a new subparagraph (F) to read as follows:

"(F) except for purposes of determining compliance with the maximum allowable increases in ambient concentrations in any area designated as class I under this part, concentrations of particulate matter attributable to the increase in fugitive emissions resulting directly or indirectly from hardrock and noncoal mining.".

ROLE OF SECONDARY STANDARDS

SEC. 115. (a) The Administrator shall request the National Academy of Sciences to prepare a report to the Congress on the role of national secondary ambient air quality standards in protecting welfare and the environment. The report shall:

(1) include information on the adverse effects on welfare and the environment which are caused by ambient concentrations of pollutants listed pursuant to section 108 and other pollutants which may be listed;

(2) estimate welfare and environmental costs incurred as a result of such effects;

(3) examine the role of secondary standards and the State implementation planning process in preventing such effects;

(4) determine ambient concentrations of each such pollutant which would be adequate to protect welfare and the environment from such effects;

(5) estimate the costs of meeting secondary standards which are protective of welfare and the environment; and

(6) consider other means consistent with the goals and objectives of the Clean Air Act which may be more effective than secondary standards in preventing or mitigating such effects.

(b) The report shall be transmitted to the Congress not later than three years after the date of enactment of this section. There are authorized to be appropriated such sums as are necessary to carry out this section.

INTERNATIONAL BORDER AREAS

SEC. 116. Subpart 1 of part D of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

"INTERNATIONAL BORDER AREAS

"SEC. 180. (a) IMPLEMENTATION PLANS AND REVISIONS.—Notwithstanding any other provision of law, an implementation plan or plan revision required under this Act shall be approved by the Administrator if—

"(1) such plan or revision meets all the requirements applicable to it under the Act other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, and

"(2) the submitting State establishes to the satisfaction of the Administrator that the implementation plan of such State would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, but for emissions emanating from outside of the United States.

"(b) ATTAINMENT OF OZONE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to an ozone nonattainment area in such State, such State would have attained the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 184.

"(c) ATTAINMENT OF CARBON MONOXIDE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator, with respect to a carbon monoxide nonattainment area in such State, that such State has attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 190.

"(d) ATTAINMENT OF PM-10 LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to a PM-10 nonattainment area in such State, such State would have attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside the United States, shall not be subject to the provisions of section 193.".

ENVIRONMENTAL IMPACT STATEMENT

SEC. 117. (a) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency and the Director of the Centers for Disease Control, shall each prepare an environmental impact statement on the Federal forest fire management policy applicable to lands within their respective jurisdictions.

(b) Such environmental impact statements shall address, among other things, the health effects of cancer causing chemicals in wood smoke and the impacts of smoke and particulates from forest fires on visibility in class I areas and regional haze.

(c) Based upon such environmental impact statements, the Secretary of the Interior and the Secretary of Agriculture shall determine whether to modify the Federal forest fire management policies applicable to lands within their respective jurisdictions.

(d)(1) The Secretary of the Interior and the Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency shall, where appropriate, install temporary air quality monitors at sites where natural fires are allowed to burn as well as adjacent to such sites where humans reside.

(2) The appropriate Secretary, in consultation with the Administrator, shall determine the nature and location of such monitors, the time and duration of such monitoring activity, and other appropriate criteria related to the monitoring program.

ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND THE UNITED STATES OF MEXICO

SEC. 118. (a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is authorized, after consultation with the Department of State and the affected States, to negotiate with representatives of the United States of Mexico to authorize a program to monitor and improve

air quality in regions along the border between the United States and the United States of Mexico. The program authorized under this section shall not extend beyond July 1, 1995.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of programs conducted under this section shall identify and determine sources of pollutants for which National ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and the United States of Mexico. Any such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Any such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both the United States of Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Any such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator is authorized to negotiate with appropriate representatives of the United States of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and the United States of Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Any such remediation program shall also identify those control measures implementation of which in the United States of Mexico would be expedited by the use of material and financial assistance of the United States.

(c) ANNUAL REPORTS.—The Administrator shall, each year the program authorized in this section is in operation, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator may, where appropriate, make available, subject to the appropriations, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in the United States of Mexico, the Administrator shall develop grant agreements with appropriate representatives of the United States of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. With respect to any control measures within the United States of Mexico funded by the United States, the Administrator shall, to the maximum extent practicable, utilize resources of the United States of Mexico where such utilization would reduce costs to the United States. Such funding agreements shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under and the purposes set forth in this Act; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of the Act.

STATES AUTHORITY TO REGULATE

SEC. 119. (a) The Administrator and the Secretary of Transportation, in consultation with the Secretary of Defense, shall commence a study and investigation of the testing of uninstalled aircraft engines in enclosed test cells that shall address at a minimum the following issues and such other issues as they shall deem appropriate—

(1) the circumstances under which control of emissions of oxides of nitrogen from test cells would assist in attaining national ambient air quality standards;

(2) whether technologies exist to control emissions of oxides of nitrogen from test cells;

(3) the effectiveness of such technologies;

(4) the cost of implementing such technologies;

(5) whether such technologies affect the safety, design, structure, operation, or performance of aircraft engines; and

(6) whether such technologies impair the effectiveness and accuracy of aircraft engine safety design, and performance tests conducted in test cells.

(b) Not later than twenty-four months after enactment of the amendment made by this section, the Administrator and the Secretary of Transportation shall submit to Congress a report of the study conducted under this section.

(c) For any standard applied to aircraft engine test cells in the State of Connecticut following the enactment of this amendment and upon completion of the study conducted under this section, the State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of oxides of nitrogen from test cells if the State or political subdivision thereof finds that such standard does not affect the safety, design, structure, operation, or performance of aircraft engines, and does not impair the effectiveness and accuracy of aircraft engine tests conducted in test cells, and the Secretary of Transportation concurs with such a finding.

TITLE II—MOBILE SOURCES

EMISSIONS STANDARDS FOR CERTAIN MOTOR VEHICLES

SEC. 201. (a) Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(g) MODEL YEARS AFTER 1992.—(1) The regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), total hydrocarbons (HC), oxides of nitrogen (NO_x), carbon monoxide (CO) and particulates (PM) from the light duty motor vehicles and engines specified in tables 1a and 1b shall contain standards which provide that such emissions from 40 and 80 per centum of each manufacturer's 1993 and 1994 model year vehicles, respectively, and 100 per centum of 1995 through 2003 model year vehicles may not exceed the levels specified in the tables. The remaining 60 and 20 per centum of each manufacturer's 1993 and 1994 model year vehicles, respectively, shall be subject to the emissions standards in effect with respect to 1992 model year vehicles. Except as provided below in paragraphs (2) and (3), the emissions standards prescribed under this paragraph shall apply to vehicles from 2004 and later model years.

"TABLE 1a.—EMISSIONS STANDARDS FOR GASOLINE-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard	
	Column A [1]	Column B [2]
NMHC	0.25 gpm	0.31 gpm.
HC	0.31 gpm	0.39 gpm.
NO_x	0.4 gpm	0.5 gpm.
CO	3.4 gpm	4.2 gpm.

"TABLE 1b.—EMISSIONS STANDARDS FOR DIESEL-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard	
	Column A [1]	Column B [2]
NMHC	0.25 gpm	0.31 gpm.
HC	0.31 gpm	0.39 gpm.
NO_x	1.0 gpm	1.25 gpm.
PM	0.08 gpm	0.10 gpm.
CO	3.4 gpm	4.2 gpm.

[1] In the case of the standards under column A, the applicable useful life shall be 5 years or 50,000 miles, whichever first occurs.

[2] In the case of the standards under column B, the applicable useful life shall be 10 years or 100,000 miles, whichever first occurs.

"(2)(A) If more than eleven ozone nonattainment areas outside of the State of California classified as serious under section 181(a) each have four or more exceedances of an ozone level of 0.12 parts per million in the period from January 1, 1999, through December 31, 2001, then the regulations under subsection (a) applicable to emissions of total hydrocarbons (HC), oxides of nitrogen (NO_x), carbon monoxide (CO), and particulates (PM) from the light-duty vehicles and engines specified in tables 1c and 1d below shall contain standards which provide that such emissions from 2004 and later model year vehicles may not exceed the levels specified in the tables.

"TABLE 1c.—EMISSIONS STANDARDS FOR GASOLINE-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard
HC	0.125 gpm.
NO_x	0.2 gpm.
CO	1.7 gpm.

"TABLE 1d.—EMISSIONS STANDARDS FOR DIESEL-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard
HC	0.125 gpm.
NO_x	0.7 gpm.
CO	1.7 gpm.
PM	0.08 gpm.

"(B) If these standards do not go into effect pursuant to subparagraph (A), they shall go into effect with respect to vehicles

from 2007 and later model years if more than eleven ozone nonattainment areas outside of the State of California classified as serious under section 181(a) each have four or more exceedances of an ozone level of 0.12 parts per million in the period from January 1, 2002, through December 31, 2004.

"(3) The regulations under subsection (a) applicable to all light-duty vehicles distributed for sale in model years 2004 and thereafter in ozone nonattainment areas that are classified as severe or extreme under section 181(a) and that have an ozone design value at or above 0.15 parts per million as of December 31, 2000, shall contain standards that provide that emissons from such vehicles may not exceed the levels specified in tables 1e and 1f.

"TABLE 1e.—EMISSIONS STANDARDS FOR GASOLINE-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard
HC	0.6 gpm. total vehicle emissions
NO_x	0.2 gpm.
CO	1.7 gpm.

"TABLE 1f.—EMISSIONS STANDARDS FOR GASOLINE-FUELED LIGHT-DUTY VEHICLES

Pollutant	Standard
HC	0.6 gpm. total vehicle emissions
NO_x	0.7 gpm.
CO	1.7 gpm.
PM	0.08 gpm.

The 0.6 gpm total vehicle hydrocarbon emissions standard specified in Tables 1e and 1f shall be revised as appropriate by regulation by the Administrator if the Administrator determines that the total hydrocarbon emissions standard that is equivalent to a 0.125 gpm exhaust hydrocarbon emissions standard vehicle when operating on model year 1990 certification gasoline (indolene) with a Reid vapor pressure of 9.0 pounds per square inch, is a standard other than 0.6 gpm. When the provisions of this paragraph apply to an area to which the provisions of section 212(a)(2) also apply, the hydrocarbon in-use total vehicle emissions standard of this paragraph supersedes the 0.66 gpm or other hydrocarbon in-use standard established under section 212(a)(2) in that area. Except for section 212(a)(2)(A)(iv) and the requirements in section 212(a)(2)(B)(ii) concerning the specification of a reformulated gasoline, all other provisions of section 212(a) applicable to the hydrocarbon in-use standards apply to the hydrocarbon in-use standard of this paragraph.

"(4) The Administrator shall—

"(A) survey all available measures for the control of emissions of hydrocarbons, oxides of nitrogen and carbon monoxide from mobile sources or stationary sources, other than measures that are required to be implemented pursuant to this title (prior to the year 2003) or pursuant to title I; and

"(B) assess such measure in terms of—

"(i) the technological feasibility and cost effectiveness of such measures;

"(ii) the ability of the Federal, State, or local governments to implement and enforce such measures;

"(iii) the effect of such measures on emissions in nonattainment areas and ozone transport areas, including the effects on emissions associated with interregional travel; and

"(iv) the degree to which such measures differ in their effectiveness in emissions reductions on an area-by-area basis.

"(5) If the Administrator determines that any available measures surveyed pursuant to paragraph (4)—

"(A) would result in actual reductions in emissions of hydrocarbons, oxides of nitrogen, and carbon monoxide, on a pollutant-by-pollutant basis, at least equal to the reductions attributable to the emissions standards specified in tables 1c and 1d for model years 2004 and after;

"(B) would achieve such reductions in the same time period as the standards specified in tables 1c and 1d for model years 2004 and after, which reductions would be equitably dispersed on a regional basis and at least as consistent and durable over time as the reductions attributable to such standards; and

"(C) would be more cost effective in terms of cost per unit of emissions reduced than the emissions standards specified in tables 1c and 1d for model years 2004 and after,

the President may submit to the Congress a proposal to adopt such other available measures in lieu of the standards specified in tables 1c and 1d for model years 2004 and after.

"(6) The survey and assessment required by paragraph (4) shall be submitted to the Congress not later than June 30, 1999, together with any proposal submitted pursuant to paragraph (5).

"(7) During the one-hundred-and-twenty-calendar-day period beginning on the date that the President submits a proposal to the Congress pursuant to paragraphs (5) and (6), it shall be in order as a matter of highest privilege in each House of Congress to consider a bill embodying such proposal.

"(8)(A) Effective with respect to the model years specified in table 2 below, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), total hydrocarbons (HC), oxides of nitrogen (NO_x), carbon monoxide (CO) and particulates (PM) from motor vehicles and motor vehicle engines in the classes specified in table 2 shall contain standards which provide that such emissions may not exceed the levels specified in table 2.

"(B) Notwithstanding any other provision of law, upon the completion of the regulations promulgated under this paragraph to accomplish the emission standards specified in table 2, the Administrator shall not promulgate additional regulations establishing emission standards under this paragraph that would be effective prior to January 1, 2002.

"TABLE 2.—EXHAUST EMISSIONS STANDARDS FOR GASOLINE AND DIESEL-FUELED TRUCKS AND BUSES

Vehicle or engine type	Pollutant	Model years	Standard [1]
Trucks (3,751 lbs or more but less than 5,750 lbs, loaded vehicle weight).	NMHC	1995 and after	0.32 gpm.
	HC	1995 and after	0.38 gpm.
	NO_x	1995 and after	0.7 gpm.
	CO	1995 and after	4.4 gpm.
Trucks (5,750 lbs loaded vehicle weight or more but less than 8500 lbs GVW).	NMHC	1995 and after	0.39 gpm.
	HC	1995 and after	0.46 gpm.
	NO_x	1995 and after	1.1 gpm.
	CO	1995 and after	5.0 gpm.
	PM	1995 and after	0.12 gpm.
Heavy duty trucks	NO_x	1991 through 1997.	5.0 gbh.
	NO_x	1998 and after	4.0 gph.
	PM	1991–93	0.25 gbh.
	PM	1994 and after	0.1 gbh.
Heavy duty urban buses	PM	1991	0.25 gbh.
Heavy duty urban buses	PM	1992 and after	0.1 gbh.

[1] Standards are expressed in grams per mile (gpm) or grams per brake horsepower hour (gbh).

"(9) Effective with respect to model years after 1992, any motor vehicle with a loaded vehicle weight of three thousand seven hundred and fifty pounds or less, as determined by the Administrator, shall be a light duty vehicle.".

(b) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) of the Clean Air Act is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare, taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard.".

CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES

SEC. 202. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(h) COLD CO STANDARD.—The Administrator shall promulgate regulations under subsection (a) applicable to emissions of carbon monoxide from light duty vehicles and light duty trucks when tested at twenty degrees Fahrenheit. Such regulations shall contain standards which provide that, with respect to model years 1993 through 1999, emissions of carbon monoxide in the case of light duty vehicles may not exceed ten grams per mile and, in the case of light duty trucks, thirteen grams per mile. Such regulations shall also contain standards that provide that with respect to model year 2000 and thereafter, emissions of carbon monoxide in the case of light duty vehicles may not exceed three and four-tenths grams per mile, and, in the case of light duty trucks, four and four-tenths grams per mile.".

CONTROL OF VEHICLE REFUELING EMISSIONS

SEC. 203. Section 202(a)(6) of the Clean Air Act is amended to read as follows:

"(6)(A) The Administrator shall promulgate regulations applicable to all motor vehicles requiring that such vehicles be equipped with vehicle-based ('onboard') systems for control of evaporative emissions during refueling. Except as provided in subparagraph (B), such regulations shall take effect, with respect to light duty vehicles, beginning in model year 1993, and, with respect to other vehicles, at the earliest date the Administrator determines is feasible, and shall require that such systems provide a minimum evaporative emission capture efficiency of 95 per centum.

"(B) No later than June 30, 1991, the Secretary of Transportation shall complete a study to assess the impacts on motor vehicle safety of the use of onboard systems for the control of evaporative emissions during refueling. Such study shall consider any spe-

cial safety considerations which may arise in the use of onboard systems in recreational vehicles (as defined by the Secretary of Transportation). If the Secretary of Transportation determines that such onboard systems will present an unreasonable motor vehicle safety risk, the Secretary shall report to the Administrator and Congress in accordance with subparagraph (C). If no legislation concerning the use of onboard systems has been enacted within twelve months after the receipt of the Secretary's report, the regulations requiring the use of onboard systems shall go into effect as of model year 1995.

"(C)(i) A determination by the Secretary pursuant to subparagraph (B) which includes proposed amendments to this paragraph shall be transmitted in legislative form as a special message to the Speaker of the House of Representatives and to the President of the Senate not later than July 15, 1991.

"(ii) any bill introduced with respect to a special message shall be referred to the Committee on Environment and Public Works in the Senate and the Committee on Energy and Commerce in the House of Representatives.

"(iii)(I) If the committee to which a bill with respect to a special message has been referred has not reported it at the end of sixty calendar days of continuous session of the Congress after its introduction, it is in order to move to discharge the committee from further consideration of the bill.

"(II) A motion to discharge may be made only by an individual favoring the bill, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill with respect to the special message); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iv)(I) When the Energy and Commerce Committee of the House of Representatives has reported, or has been discharged from further consideration of, a bill with respect to the special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(II) Debate on any bill with respect to the special message shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable.

"(III) Motions to postpone, made with respect to the consideration of a bill with respect to a special message, and motions to proceed to the consideration of other business, shall be decided without debate.

"(IV) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill with respect to a special message shall be decided without debate.

"(V) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any bill with respect to a special message and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

"(v)(I) Debate in the Senate on any bill with respect to a special message, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than fifteen hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

"(II) Debate in the Senate on any amendment to a bill with respect to a special message shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a bill with respect to a special message shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a bill with respect to a special message or impoundment resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(III) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided beteween, and controlled by, the mover and the manager of the bill.

"(IV) The conference report on a bill with respect to a special message shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

"(V) During the consideration of the Senate of the conference report on any bill with respect to a special message, debate shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(VI) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to twenty minutes, to be equally divided between and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(VII) In any case in which there are amendments in disagreement, time on each amendment shall be limited to thirty minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.".

EVAPORATIVE EMISSIONS

SEC. 204. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(i) EVAPORATIVE EMISSIONS.—Within eighteen months after the enactment of this subsection the Administrator shall promulgate regulations under subsection (a) applicable to evaporative emissions of hydrocarbons, including emissions during vehicle operation, from all gasoline-fueled motor vehicles. Such regulations shall take effect beginning in model year 1994 and shall require the greatest degree of emission reduction achievable by means expected to be available during any model year to which such regulations apply.".

ONBOARD EMISSION DIAGNOSTIC SYSTEMS

SEC. 205. Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(j) ONBOARD EMISSION DIAGNOSTIC SYSTEMS.—

"(1) Within eighteen months after enactment of this subsection, the Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostic systems capable of—

"(A) accurately identifying for the useful life as established under this section, emission-related systems deterioration or malfunction including, at a minimum, the catalytic converter and oxygen sensor, which could cause or result in failure of the vehicles to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

"(C) storing and retrieving fault codes specified by the Administrator, and

"(D) providing access to stored information in a manner specified by the Administrator.

The Administrator may, in the Administrator's discretion, promulgate regulations requiring manufacturers to install such onboard diagnostic systems on heavy-duty vehicles and engines.

"(2) The regulations required under paragraph (1) with respect to light duty vehicles and light duty trucks shall take effect no later than model year 1994.

"(3) The Administrator shall by regulation require States that have implementation plans containing motor vehicle inspection and maintenance programs to amend their plans within two years of promulgation of such regulations to provide for inspection of onboard diagnostic systems (as prescribed by regulations under paragraph (1) of this subsection) and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostic system. Such regulation shall not be inconsistent with the provisions for warranties promulgated under section 207 (a) and (b).

"(4) In promulgating the regulations under this subsection, the Administrator shall require—

"(A) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

"(B) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(C) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any decoding information or device.

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require manufacturers to provide promptly any person engaged in the business of diagnosing, or selling parts or of repairing or servicing motor vehicles or motor vehicle engines, and EPA for the use by any such persons, with any and all information needed to make use of the emission control diagnostics systems prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs.".

CLEAN ALTERNATIVE FUELS PROGRAM

SEC. 206. (a) DEFINITIONS.—Section 216 of the Clean Air Act is amended by adding the following new paragraphs at the end:

"(7) The term 'clean alternative fuel' includes methanol or a mixture containing methanol and gasoline, ethanol or a mixture containing ethanol and gasoline, reformulated gasoline, natural gas, liquefied petroleum gas, electricity, or any other fuel or power source provided that such fuel or power source, when used in a motor vehicle, results in compliance with the emissions standards prescribed under section 212(a).

"(8) The term 'covered fleet operator' means any person who, on or after January 1, 1990, controls the operation of twenty or more light-duty vehicles or light-duty trucks that are centrally maintained and use as their primary fuel source, a central refueling station, which are registered in, or primarily operating in, any area which has a 1988 ozone design value of 0.18 parts per million or greater or area for which a Governor requests coverage pursuant to section 212(a)(6); and who, on or after such date, provides a facility or facilities for the central refueling and maintenance of such vehicles in the normal course of business. For purposes of this paragraph—

"(i) the term person means an individual, corporation, partnership, association, State, municipality, and political subdivision of a State; and

"(ii) each motor vehicle operated by person controlling, controlled by or under common control with any person shall be treated, under regulations of the Administrator, as operated by a single person.

"(9) The term 'baseline vehicle' as used in section 212 means a light-duty vehicle meeting exhaust emission standards of 0.25 grams per mile NMHC for five years or 50,000 miles, meeting the evaporative emissions standard under section 202(i), operating on model year 1990 certification gasoline (indolene) with a Reid vapor pressure of 9.0 pounds per square inch which, as of the date of enactment, is calculated to produce total in-use emissions (exhaust, evaporative, and refueling) of ozone-forming volatile organic compounds of 0.95 grams per vehicle mile.

"(10) The term 'carcinogenic air pollutants' as used in section 212 means benzene, 1,3-butadiene, gasoline refueling vapors, polycyclic organic material (POM), including POM in diesel particulates, and formaldehyde.

"(11) The term 'ozone-forming volatile organic compound emissions' includes tail pipe, evaporative, refueling, and running loss emissions, adjusted for reactivity.".

(b) CLEAN FUEL REQUIREMENTS.—Section 212 of the Clean Air Act is amended to read as follows:

"CLEAN FUEL REQUIREMENTS

"SEC. 212. (a) CLEAN ALTERNATIVE FUEL VEHICLE PROGRAM.—The Administrator shall promulgate, and may from time to time revise, regulations that provide for the following:

"(1) FLEET VEHICLE REQUIREMENTS.—

"(A) EMISSIONS STANDARDS.—Not later than October 1, 1992 the Administrator shall promulgate regulations under section 202(a) applicable to vehicles certified and made available for purchase or placement into use pursuant to subparagraphs (B) and (C) which shall contain, in addition to the standards otherwise applicable, standards that yield when the vehicle is operated exclusively on clean alternative fuels—

"(i) for light-duty vehicles, total in-use emissions (exhaust, evaporative, and refueling) of ozone-forming volatile organic compounds not in excess of 0.25 grams per vehicle mile,

"(ii) for light-duty vehicles, total in-use emissions of carcinogenic air pollutants not in excess of a level that, in the Administrator's judgment, may be reasonably anticipated to achieve a 75 per centum reduction in the annual incidence of human cancer reasonably attributable to such emissions from baseline vehicles, on a per vehicle basis,

"(iii) for light-duty vehicles, emissions of formaldehyde not in excess of 0.015 grams per mile, and

"(iv) for light-duty trucks, reductions in emissions of ozone-forming volatile organic compounds, carcinogenic air pollutants and formaldehyde equivalent to the reductions for light-duty vehicles required by clauses (i)-(iii).

In-use compliance with the additional standards prescribed under this subparagraph shall be determined in accordance with paragraph (4).

"(B) FEDERAL GOVERNMENT PROGRAM.—

"(i) For model years 1995 and 1996, 30 per centum, for model years 1997 and 1998, 60 per centum, and for model years after model year 1998, 90 per centum, of all light-duty vehicles and light-duty trucks purchased or leased for more than one hundred and twenty days by any agency, department, instrumentality, or any quasi- or independent instrumentality of the United States and primarily operating in each of the areas classified as serious, severe or extreme ozone nonattainment areas under section 181(a), shall comply with the emissions standards prescribed under subparagraph (A).

"(ii) With respect to vehicle model years 1995 and 1996 only, the Administrator may include a lesser percentage of such vehicles under this subparagraph if the Administrator determines that the required percentage cannot be feasibly achieved or would impose unreasonable costs. For model years after 1998 the Administrator may require a percentage less than 90 per centum, but in no event less than 60 per centum, if the Administrator determines that a higher percentage would impose unreasonable costs, including costs associated with vehicle acquisition, fueling facilities, operation, maintenance, safety, reliability and resale value.

"(iii) REQUIRED OPERATION.—The Administrator of General Services, the Postmaster General, and the Secretary of Defense, with the concurrence of the Administrator, after consultation with the Secretary of Energy, shall, before October 1, 1993, issue regulations to ensure that a vehicle acquired pursuant to this subparagraph—

"(I) shall be supplied with appropriate clean alternative fuel in its primary area of operation, using commercially available fueling facilities to the maximum extent practicable; and

"(II) shall be operated exclusively on such fuel except when operated so as to make it impracticable to obtain such fuel.

"(iv) CONSIDERATION.—

"(I) Funds appropriated for carrying out this subparagraph shall be applied on a priority basis, for expenditure first in areas of the United States which the Administrator determines have the most severe air pollution problems.

"(II) A Federal officer or agency responsible for deciding which types of clean alternative fuel vehicles to acquire in order to comply with this subparagraph shall consider as a factor in such decision which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent.

"(v) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949, as amended, the Administrator of General Services shall not include the incremental costs of clean alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator of General Services determines that appropriations provided pursuant to this subparagraph are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional fueled vehicles.

"(vi) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this subparagraph shall be applicable only—

"(I) to the portion of the cost of acquisition, maintenance and operation of vehicles acquired under this subparagraph which exceeds the cost of acquisition, maintenance and operation of comparable conventional fueled vehicles;

"(II) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional fuel vehicles; and

"(III) to the portion of the costs of acquisition of clean alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as com-

pared to revenue resulting from the disposal of comparable conventional fueled vehicles.

"(vii) VEHICLE COSTS.—The incremental cost of vehicles acquired under this subparagraph over the cost of comparable conventional fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be required by the United States.

"(viii) EXEMPTIONS.—The requirements of this subparagraph shall not apply to vehicles—

"(I) with respect to which the Secretary of Defense has certified to the Administrator that an exemption is needed based on national security consideration; or

"(II) used for law enforcement or emergency purposes.

"(ix) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be required to carry out the provisions of this subparagraph: *Provided,* That such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this subparagraph shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949, as amended.

"(x) Nothing in this subparagraph shall be construed to require conversion of new or existing vehicles capable of operating on gasoline or diesel fuel only to a clean alternative fuel in order to achieve compliance with this subparagraph.

"(C) PRIVATE FLEET PROGRAM.—For model years 1997 and thereafter, 30 percent of all light-duty vehicles or light-duty trucks purchased for use or placed into service in fleets of vehicles registered in or primarily operated in areas classified as severe or extreme ozone nonattainment areas pursuant to section 181(a) having a 1980 population of two hundred and fifty thousand or more, by a covered fleet operator shall comply with the emission standards prescribed under subparagraph (A). The Administrator shall by regulation establish a program under which any State may grant a covered fleet operator an appropriate amount of credits toward compliance with the requirements prescribed under this subparagraph only for purchasing or placing into service more vehicles meeting the emission standards prescribed under this subparagraph than the regulations prescribed under this subparagraph require or vehicles which achieve greater emissions reductions than those required by subparagraph (A). The Governor of any such State shall issue appropriate credits to each covered fleet operator for the use of fleet vehicles in excess of the percentage required under this subparagraph or which achieve greater emission reductions than those required under subparagraph (A). The Governor shall also issue appropriate credit to owners and operators of clean alternative fuel vehicles who have been designated as covered fleet operators pursuant to subparagraph (L) for vehicles meeting the requirements of subparagraph (A) and operating within the nonattainment areas but not subject to the requirements of this subsection. Any person granted such credits may trade, sell, or otherwise transfer some or all of such credits to a covered fleet operator within such nonattainment area who may use such credits to demonstrate compliance with the requirements of this subparagraph.

"(D) FUEL USE.—Vehicles purchased or placed into service pursuant to subparagraph (C) shall be exclusively operated on the clean alternative fuel needed by those vehicles to comply with the emissions standards prescribed under subparagraph (A), when operated by a covered fleet operator in the nonattainment area.

"(E) EXEMPTION FROM REQUIREMENTS.—This paragraph shall not apply to law enforcement or emergency vehicles, retail rental fleets, automobile dealer demonstration vehicles, or motor vehicle manufacturer demonstration, test and evaluation vehicles, as defined by the Administrator.

"(F) CONVERSIONS.—

"(i) The Administrator shall by regulation set standards and requirements for the conversion of new (as determined by the Administrator) gasoline or diesel-powered vehicles into vehicles that satisfy the emissions standards prescribed under subparagraph (A). Such vehicles shall be subject to the provisions of sections 203, 204, and 205, the certification requirements of section 206, the requirements of section 207, the requirements of section 208, and the enforcement provisions of paragraph (4). Any person who obtains such certification shall be considered a manufacturer for purposes of sections 203, 204, 205, 206, 207, and 208 and paragraph (4). A vehicle converted in accordance with these regulations shall be considered equivalent to a purchase of a vehicle for purposes of determining compliance with the requirements of subparagraph (C).

"(ii) Nothing in this paragraph shall be construed to require conversion of new or existing vehicles capable of operating on gasoline or diesel fuel only to a vehicle capable of operating on a clean alternative fuel in order to achieve compliance with subparagraph (C).

"(G) EMISSIONS OF OXIDES OF NITROGEN.—If the Administrator determines that it is not technically feasible for light-duty vehicles satisfying the emissions standards prescribed under subparagraph (A) to satisfy the applicable emissions standard for oxides of nitrogen prescribed under tables 1a and 1c of section 202(g), the Administrator may by regulation modify the emissions standard for oxides of nitrogen as it applies to such vehicles as follows: for model years 1995 through 1997, emissions of oxides of nitrogen may not exceed 1.0 gram per vehicle mile and, for model years 1998 through 2000, emissions of oxides of nitrogen may not exceed 0.7 grams per vehicle mile. The Administrator may grant equivalent waivers for the same two three-year periods for emissions standards for oxides of nitrogen prescribed under section 202(g) for light-duty trucks.

"(H) VEHICLE AVAILABILITY.—The Administrator shall promulgate regulations as the Administrator finds necessary to assure that the vehicles needed to permit compliance with the requirements of subparagraphs (B) and (C) are certified under section 206 and made available for purchase or placement into use. Nothing in this subparagraph shall authorize the Administrator to mandate the production or sale of a specific quantity of vehicles by any motor vehicle manufacturer.

"(I) INCENTIVES.—

"(i) Any State which obligates the operator of a clean alternative fuel vehicle controlled by a covered fleet operator in compliance with subparagraph (C) to comply with the transportation control measures specified in section 108(f)(1)(A)(iv) (relating to trip-reduction ordinances) or (vii) (relating to vehicle operational restrictions) may not credit toward the emission reduction requirement under section 183(b)(3)(B) any emission reduction pursuant to subparagraph (C).

"(ii) Notwithstanding the provisions of clause (i), a State may credit under section 183(b)(3)(B) any emission reductions pursuant to subparagraph (C) if the State demonstrates to the satisfaction of the Administrator that any increase in emissions which would result from traffic congestion caused by the operation of such fleet vehicles exceeds the emission reductions attributable (directly or indirectly) to the use of clean alternative fuel vehicles under subparagraph (C).

"(J) FUEL CHOICE.—The choice of available clean alternative fuel vehicles and clean alternative fuels shall be made by covered fleet operators subject to the requirements of subparagraph (C).

"(K) EXEMPTION.—

"(i) The Administrator shall establish by rule not later than twenty-four months after the date of enactment of this subsection standards to be used to determine the availability of suitable clean alternative fuels or clean alternative fuel vehicles, taking into consideration vehicle size and type, driving range, cargo area, unique requirements for vehicle use, and other factors which may create undue hardship for covered fleet operators.

"(ii) The Governor of any State under an approved implementation plan shall, upon a showing by a covered fleet operator that a suitable clean alternative fuel is not available or a suitable clean alternative fuel vehicle is not available from any vehicle manufacturer in accordance with the applicable standards established under clause (i), and that excess credits are not reasonably available under the fleet program to offset the requirements of subparagraph (C) exempt such operator from the requirements of this subsection for a period of one year. A covered fleet operator may certify annually thereafter that such suitable clean alternative fuel or clean alternative fuel vehicle and credits to offset the requirements of subparagraph (C) are not reasonably available, and the Governor shall provide further annual exemption from the requirements of this subsection upon such certification, unless the Governor finds that the requirements of this subparagraph have not been met.

"(L) CREDITS FOR OTHER FLEET OPERATORS.—

"(i) The Administrator may on the Administrator's own motion or in response to a petition from any person establish in-use emission standards under subparagraph (A) for vehicles or engine families, other than light-duty vehicles, which yield total emissions reductions (exhaust, evaporative and refueling) per vehicle of not less than 75 per centum in ozone-forming volatile organic compounds and not less than 75 per centum in the annual incidence of human cancer attributable to emissions of carcinogenic air pollutants from levels that would otherwise occur under the requirements of this title.

"(ii) The operator of any fleet of light-duty trucks or other vehicles meeting the emissions standards established pursuant to clause (i) or the operator of a fleet of light-duty vehicles meeting the standards established pursuant to subparagraph (A) who is not otherwise covered by the requirements of this paragraph, may elect to be designated a covered fleet operator under an approved State implementation plan and receive credits pursuant to subparagraph (C) for each new vehicle which such operator purchases and operates as authorized and

granted by a State under its implementation plan.

"(2) GENERAL VEHICLE REQUIREMENTS.—

"(A) EMISSIONS STANDARDS.—The regulations under section 202(a) applicable to light-duty vehicles that are certified and made available in areas classified as severe and extreme ozone nonattainment areas pursuant to section 181(a), having a 1980 population of two hundred and fifty thousand or more, shall contain in addition to the standards otherwise applicable, standards that yield—

"(i) effective with respect to the model years specified in table 1 below, total in-use emissions (exhaust, evaporative and refueling) of ozone-forming volatile organic compounds (VOCs) not in excess of the levels specified in the table (except that the Administrator shall adjust the calculation of the total in-use emissions (exhaust, evaporative, and refueling) of ozone-forming volatile organic compound emissions from the baseline vehicle not sooner than one year or later than two years after the date of enactment of the Clean Air Act Amendments of 1990 and shall at the same time adjust the standard in table 1 applicable to model years 1999 and after by an amount reflecting the proportion by which the baseline vehicle emissions are less than 0.95 grams per vehicle mile),

"TABLE 1

Pollutant	Model years	Standards
VOCs	1995 through 1988	0.75 gpm.
VOCs	1999 and after	0.66 gpm.

"(ii) total in-use emissions of carcinogenic air pollutants from light-duty vehicles manufactured during the model years 1995 through 1998 and during and after the model year 1999 not in excess of a level that, in the Administrator's judgment, may be reasonably anticipated to achieve a 12 per centum reduction and a 27 per centum reduction, respectively, in the annual incidence of human cancer attributable to such emissions from baseline vehicles on a per vehicle basis (if the Administrator determines that it is not technically feasible to reduce emissions of carcinogenic air pollutants so as to attain a 27 per centum reduction in the annual incidence of human cancer, the Administrator may modify the carcinogenic air pollutant emissions standards by regulation six months prior to the start of each model year after 1998 to limit such emissions to a level that may be reasonably anticipated to achieve a reduction of no less than 18 per centum in the annual incidence of human cancer attributable to such emissions from baseline vehicles), and

"(iii) emissions of formaldehyde not in excess of 0.015 gpm.

In-use compliance with the standards prescribed under this subparagraph shall be determined in accordance with paragraph (4). The regulations containing standards applicable to model years 1995 through 1998 shall be promulgated no later than April 1, 1991, and the regulations containing standards applicable to model years beginning with the 1999 model year shall be promulgated no later than September 1, 1994;

"(iv) Light-duty vehicle manufacturers may apply for a two-year renewable waiver of the table 1 emission standards (and including any adjustment pursuant to clause (i)) for model years 1999 and thereafter. Any such waiver request must include a demonstration that the table 1 emission standards cannot be met with a vehicle that—

"(I) uses the reformulated gasoline specified in subparagraph (B)(ii);

"(II) meets all standards under section 202(g) for model years 1993 through 2003;

"(III) meets on-board refueling requirements as required by section 202(j) or achieves an equivalent additional emissions reduction from a system not otherwise required by section 202; and

"(IV) includes such minor technical modifications as are necessary to optimize vehicle emission performance on the reformulated gasoline specified in subparagraph (B)(ii).

If such a waiver is requested and, if by rule, the Administrator determines that the demonstration required has been made, the Administrator shall grant the waiver request. If such waiver is granted, the Administrator must set an interim performance standard at a level that can be met with a vehicle meeting the above requirements.

"(B) SELECTION OF FUELS.—

"(i) No later than January 1, 1992, the Administrator shall conclude a rulemaking to determine the clean alternative fuels that will be made available pursuant to the regulations prescribed under paragraph (5) for vehicles for model years 1995 through 1998 and to determine the certification specifications for such fuels. In determining the specifications for each fuel or fuels to be made available, the Administrator shall select the specifications resulting in the maximum level of emissions reductions that can be achieved to the extent that it is needed to meet the standards applicable to model years 1995 through 1998, provided that such specifications will result in the establishment of a cost effective combination of fuel or fuels and motor vehicle technology. Such specifications shall include at least one standard for a reformulated gasoline that will meet the standards prescribed under subparagraph (A) when utilized in gasoline-fueled vehicles satisfying the emissions standards prescribed under section 202(g) for model years 1995 through 1998. Any manufacturer who elects to meet the requirements of this subparagraph using the reformulated gasoline specified by the Administrator is in compliance, if the vehicles produced by such manufacturer for sale in the covered areas comply with the standards established under sections 202 and 206 of this Act that are generally applicable to light-duty vehicles in the model year in which they are produced.

"(ii) No later than September 1, 1995, the Administrator shall conclude a rulemaking to determine the clean alternative fuels that will be made available pursuant to the regulations prescribed under paragraph (5) for vehicles for model years 1999 and thereafter and to determine the certification specifications for such fuels. In determining the specifications for each fuel or fuels to be made available, the Administrator shall select the specifications resulting in the maximum level of emissions reductions that can be achieved to the extent that it is needed to meet the standards applicable to model years 1999 and thereafter: *Provided,* That such specifications will result in the establishment of a cost effective combination of fuel or fuels and motor vehicle technology. Such specifications shall include at least one reformulated gasoline that will achieve the standards required in this subsection when utilized in gasoline-fueled vehicles satisfying the emissions standards prescribed under section 202(g) for model year 1999 and thereafter, unless the Administrator determines that it is not technologically or economically feasible to achieve such standards with fuel changes alone. In such case, the Administrator must specify a reformulated gasoline achieving the maximum emissions reductions that are economically and technologically feasible. The regulations promulgated pursuant to that proceeding shall be promulgated no later than September 1, 1996.

"(iii) Clean alternative fuels for which certification specifications have been established shall be made available pursuant to regulations prescribed under paragraph (5).

"(C) EMISSIONS CREDITS.—The Administrator shall by regulation grant a manufacturer an appropriate amount of credits toward compliance with the emission standards prescribed under this subsection for selling vehicles that are certified to achieve emission reductions greater than those required by such standards. Such regulations shall also grant credits toward compliance with emissions standards prescribed under this paragraph or paragraph (3) for selling vehicles that are certified to meet the emissions standards prescribed by paragraph (1)(A) in quantities required by paragraph (1) (B) or (C). Implementation plan revisions submitted by States pursuant to paragraph (8) may also establish programs to grant manufacturers credits toward compliance with emissions standards prescribed under this subsection for selling vehicles that are certified to achieve emissions reductions greater than those otherwise required by such plan (but not less than the emissions reductions required by this paragraph) or for selling vehicles meeting the emissions standards prescribed in paragraph (1)(A) in quantities greater than prescribed by subparagraph (1)(B) or (1)(C). A manufacturer may use such credits to demonstrate compliance with the standards established by this paragraph in the model year in which the credits were earned or in following model years, or may transfer some or all of the credits for use by one or more other manufacturers in demonstrating compliance with such emissions standards. Credits granted pursuant to this subparagraph shall not be used to modify in any way emissions standards or other requirements applicable to vehicles under any other section of this Act, nor shall credits granted under the Administrator's regulations or the plan of any State for exceeding requirements with respect to vehicles sold in a particular nonattainment area be used to modify the requirements including emissions standards established under this section applicable to vehicles sold in other areas. The Administrator (or a State pursuant to an implementation plan revision) may make the credits available for use after consideration of enforceability, environmental and economic factors and upon such terms and conditions as he finds appropriate.

"(3) CALIFORNIA VEHICLE PROGRAM.—The applicability of section 209 shall be deemed to be waived with respect to standards adopted by the State of California as part of a program to limit motor vehicle emissions through the use of clean alternative fuels. Such State standards may include standards requiring vehicles that operate on clean alternative fuels to meet emissions standards that differ from those prescribed under paragraphs (1) and (2).

"(4) COMPLIANCE WITH STANDARDS.—In determining compliance by vehicles and engines in actual use with the emission standards prescribed under this subsection by

testing in-use vehicles on certification-type fuels, only vehicles that have been obviously abused or tampered with in a manner that would likely affect emissions performance may be excluded from the sample tested pursuant to section 207(c) (with appropriate adjustments to the above standards determined by the Administrator to be necessary to reflect the exclusion of such vehicles from the sample). When a vehicle that operates on two kinds of fuel is certified or tested, it shall be certified or tested on each fuel only after all traces of the other fuel that can practically be removed from the vehicle's fuel system have been removed.

The Administrator may require a manufacturer to remedy nonconforming engines or vehicles pursuant to section 207(c) either (A) when a substantial number of vehicles fails to comply with the applicable emissions standards prescribed under this subsection or (B) when the average emissions performance of the tested sample does not satisfy the applicable emissions standards prescribed under this subsection. Recall procedures established under this paragraph apply only to standards promulgated pursuant to this section. Any manufacturer who chooses to meet the standards established by paragraph (2)(A) for model years 1995 through 1998 by using reformulated gasoline specified by the Administrator and who complies with the standards established by sections 202 and 206 shall not be subject to recall under this paragraph.

"(5) FUEL AVAILABILITY.—The clean alternative fuels needed to operate vehicles so that they comply with the emissions standards prescribed under paragraph (1), (2), or (3) shall be made available by fuel providers in areas subject to the clean alternative fuel vehicle program and, as the Administrator finds necessary, along major nationwide transportation corridors at such time as vehicle manufacturers project sales of dedicated clean alternative fuel vehicles other than reformulated gasoline, in a manner to be specified by the Administrator. Before requiring availability in such transportation corridors, the Administrator shall determine, in consultation with the Department of Energy and the Department of Transportation, that production and distribution of such clean alternative fuel vehicles to such corridors is feasible. For purposes of supplying vehicles with the clean alternative fuels needed to comply with the emission standards prescribed under paragraphs (2) and (3), at a minimum one such fuel (and at a maximum one fuel in addition to reformulated gasoline) shall be offered for retail sale at service stations dispensing at least fifty thousand gallons of motor vehicle fuel per month, on average, in the areas in which such vehicles are required to be made available. The Governor of any State in which the requirements of this paragraph apply, may modify such requirements exempting some service stations for a period not longer than four years after such requirements first apply, provided that information available to the Governor indicates that such fuels will be readily available throughout the area. If a service station would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this section, and it had removed and replaced such tank or tanks and accompanying piping prior to the date on which this section is enacted, it shall not be required to comply with this subsection until a period of seven years has passed from the date of the removal and replacement of such tank or tanks:

"(A) The Administrator shall determine the types and amounts of clean alternative fuels necessary to operate vehicles so that they comply with the emissions standards prescribed under paragraph (1), (2), or (3) based on motor vehicle manufacturers' projections of future sales of vehicles capable of complying with those emissions standards, and consultations with the affected State and local governments. The Administrator shall not require the availability of any fuel, other than reformulated gasoline, if vehicle manufacturers do not project sales of motor vehicles operating on fuels other than reformulated gasoline. Any information provided by a motor vehicle manufacturer pursuant to this subparagraph shall, at the request of the manufacturer, be protected as a trade secret pursuant to subsection (c)(2). Each motor vehicle manufacturer must submit its projections of sales to the Administrator in accordance with regulations to be promulgated by the Administrator. Not later than January 1, 1992, the Administrator shall provide notification of the types and amounts of clean alternative fuels that the Administrator determines are initially needed to supply such vehicles and that shall be distributed by persons who first introduce for sale motor vehicle fuel into the areas that are subject to the clean alternative fuels program, according to their relative market share. The required types and amounts shall be adjusted based on the information provided to the Administrator pursuant to this paragraph as needed to reflect changes in the number or nature of vehicles that the Administrator reasonably expects will occur and the Administrator shall periodically revise the notification required by this subparagraph.

"(B) The Administrator may by regulation grant a person subject to the requirements prescribed under this paragraph an appropriate amount of credits for exceeding such requirements, and any person granted credits may transfer some or all of the credits for use by one or more persons in demonstrating compliance with such requirements.

"(C) The Administrator may by regulation establish requirements for colorization, odorization, luminosity or other similar requirements for any fuel required under this paragraph, other than reformulated gasoline, as the Administrator finds necessary to reduce or eliminate an unreasonable risk to public health, welfare or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics.

"(6)(A) PROGRAM SCOPE.—In addition to the areas specified in paragraphs (1) and (2), the emissions standards prescribed under either of those paragraphs shall apply in any other area at the request of the Governor of the State in which the area is located, upon the approval of the Administrator. The Administrator shall approve any such request where the Governor of the State has made a determination that inclusion of the area in the clean alternative fuel vehicle program is appropriate and would result in progress toward attainment of any national ambient air quality standard and the Administrator finds that such request and such determination is not arbitrary or capricious. Any such additional requirements resulting from such approval shall become applicable after such period as the Administrator finds by rule necessary for the requisite vehicles and fuels to be made available, giving appropriate consideration to model availability and the cost of compliance within such period. The Administrator shall approve a revision to a State implementation plan proposed under this paragraph, if the Administrator determines that it is feasible to produce the quantities of clean alternative fuel vehicles and clean alternative fuels called for in the time frame established in the State implementation plan. In assessing State implementation plans and the availability of clean alternative fuels under this paragraph, the Administrator shall give priority to the sale of clean alternative fuel vehicles and clean alternative fuels in severe and extreme ozone nonattainment areas. (The Administrator shall publish the request submitted by a Governor of a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on the period of time that may be necessary for the requisite vehicles and fuels to be made available, and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment).)

"(B) The Governor of a State containing an area classified as a serious carbon monoxide nonattainment area under section 187(a) with a population of 250,000 or more, who requests that the standards specified in subparagraph (1)(A) apply in such area, may request that in addition to such standards a certification standard for carbon monoxide emissions apply to vehicles made available for purchase or placement into use in such area pursuant to subparagraphs (1)(B) and (1)(C). The certification standard requested pursuant to this paragraph shall not be less than 1.0 grams per mile for emissions of carbon monoxide from light duty vehicles and an equivalent level for emissions from light duty trucks. The Administrator shall approve a request for a certification standard under this paragraph if the Administrator determines that no fewer than two motor vehicle manufacturers are already producing vehicle models (not including conversions pursuant to subparagraph (1)(F)) for purchase or placement into use under paragraph (1) that meet the requested certification standard and that all other requirements of these paragraphs are met. The credit provisions in subparagraph (1)(C) and the exemption provisions in subparagraph (1)(K) shall apply with respect to certification standards approved pursuant to this provision. The requirements of paragraph (4) shall not apply with respect to such certification standards. When a vehicle that operates on two kinds of fuels is certified for the purposes of this provision, it shall be certified on one fuel only after all traces of the other fuel that can practically be removed from the vehicle's fuel system have been removed.

"(7) INCREASE PROGRAM REQUIREMENTS.—

"(A) REQUEST.—The Governor of any State containing any area specified in paragraphs (1) or (2) or an area included in the clean alternative fuel vehicle program pursuant to paragraph (6) may submit to the Administrator a request either—

"(i) to increase the percentage of new fleet vehicles purchased or placed into use by covered fleet operators that are required to meet the emission standards prescribed under paragraph (1);

"(ii) to require that all light-duty vehicles certified and made available in the area in 1995 or later model years meet the emissions standards prescribed under paragraphs (1) or (3); or

"(iii) both (i) and (ii).

"(B) PLAN REVISIONS.—The Administrator shall approve any such request where the Governor of the State has made a determination that the request is appropriate and would result in progress toward attainment of any national ambient air quality standard within the State, if the Administrator finds that such determination is not arbitrary or capricious. The Administrator shall approve a revision to a State implementation plan proposed under this paragraph, if the Administrator determines that it is feasible to produce the quantities of clean alternative fuel vehicles and clean alternative fuels called for in the time frame established in the State implementation plan. In assessing State implementation plans and the availability of clean alternative fuels under this paragraph, the Administrator shall give priority to the sale of clean alternative fuel vehicles and clean alternative fuels in severe and extreme ozone nonattainment areas.

"(C) MODIFICATION OF FEDERAL REQUIREMENTS.—If the Administrator approves one or more such requests, he shall by regulation and as appropriate—

"(i) increase the percentages of fleet vehicles required to meet the emission standards prescribed under paragraph (1) in the relevant area or areas by the amount requested,

"(ii) revise the regulations prescribed under section 202(a) so that the emission standards prescribed under paragraphs (1) or (3) apply to all vehicles certified and are made available in the relevant area or areas, and

"(iii) revise the requirements prescribed under paragraph (5) regarding the availability of the clean alternative fuels needed by vehicles to comply with the emission standards prescribed under paragraphs (1), (2), or (3), as appropriate.

"(D) OTHER PROGRAMS.—

"(i) The Governor of any State may request either that less than all of the vehicles certified and made available in the area meet the emissions standards prescribed under paragraph (1) or that less than all of the vehicles certified and made available in the area meet the emissions standards prescribed under paragraph (3): *Provided,* That the Governor also proposes specific incentives to encourage the purchase of such vehicles. The Administrator shall only approve the plan revision if the Administrator determines that in his judgment, the purchase incentives included in the State Implementation Plan will achieve a level of purchase of such vehicles in quantities proposed in the plan. The Administrator shall approve a revision to a State implementation plan proposed under this paragraph, if the Administrator determines that it is feasible to produce the quantities of clean alternative fuel vehicles and clean alternative fuels called for in the time frame established in the State implementation plan. In assessing State implementation plans and the availability of clean alternative fuels under this paragraph, the Administrator shall give priority to the sale of clean alternative fuel vehicles and clean alternative fuels in severe and extreme ozone nonattainment areas.

"(ii) If the Administrator approves a revision to a State Implementation Plan pursuant to clause (i), the Administrator shall require motor vehicle manufacturers selling vehicles in the area to—

"(I) Begin the production and distribution in the necessary quantities of vehicles certified to meet the applicable requirements to the area at a time and in a manner that accords with normal business practices; and

"(II) Make reasonable efforts to promote and sell the vehicles, at a price comparable to the price at which the vehicles are sold in other areas.

"(iii) The Administrator may on his own motion or in response to a petition review the implementation of the revision to determine whether purchases of vehicles have achieved their expected levels. If such purchases have not achieved expected levels after a period of one year, the Administrator shall conduct such a review. If, pursuant to such review, the Administrator determines that motor vehicle manufacturers have complied with the requirements of subparagraph (ii) and expected purchase levels have not been met, then manufacturers shall be deemed to have satisfied their obligations under this paragraph, and the State shall be required to revise its implementation plan so as to increase incentives to purchase the vehicles or to reduce the expected levels of purchase of such vehicles.

"(iv) No sanction or penalty may be imposed on a motor vehicle manufacturer for failure to produce or sell specific quantities of vehicles, if the manufacturer has in good faith complied with the requirements of subparagraph (ii).

"(E) IMPLEMENTATION OF ADDITIONAL REQUIREMENTS.—Any additional requirements prescribed under this paragraph shall become applicable after such period as the Administrator finds by rule is necessary for the requisite vehicles and fuels to be made available, giving appropriate consideration to model availability and the cost of compliance within such period. (The Administrator shall publish the request submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on the period of time that may be necessary for the requisite vehicles and fuels to be made available and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in section 553 through 557 of title 5 of the United States Code (related to notice and comment).) Any regulations promulgated by the Administrator under paragraph (1) or (2) that provide for credits to be granted toward compliance with requirements prescribed under those paragraphs shall also be applicable to any requirements prescribed under this paragraph.

"(8) REVISIONS TO STATE IMPLEMENTATION PLANS.—

"(A) REQUIRED REVISIONS.—Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B) the State shall submit to the Administrator, within forty-two months of enactment of this section, a revision to the applicable implementation plan for each area subject to requirements prescribed under paragraphs (1) and (2) to include such measures as may be necessary to promote and ensure the effectiveness of the clean alternative fuel vehicle program prescribed under this subsection. Such revisions shall include provisions establishing the private fleet program prescribed under paragraph (1)(C) and such vehicle registration provisions as may be necessary to ensure the effectiveness of the requirements prescribed under paragraph (2), which shall be based on guidance developed by the Administrator. Each State shall develop its implementation plan revision with respect to fleet programs after consultation with covered fleet operators, vehicle manufacturers, fuel producers and distributors, and other interested parties, taking into consideration vehicle operational range, specialty uses, vehicle fuel availability, costs, safety and resale value. Such a revision shall also be submitted for each area included in the clean alternative fuel vehicle program under paragraph (6) within twelve months of the inclusion of such area in the clean alternative fuel vehicle program. A revision to the applicable implementation plan shall also be submitted for each area for which a request to increase program requirements pursuant to subparagraph (7) is made at the time of such request. In the event the State of California adopts a program pursuant to paragraph (3) to limit motor vehicle emissions through the use of clean alternative fuels, it shall submit a revision to the applicable implementation plan or plans within twelve months of the adoption of such program.

"(B) REVISIONS TO IMPLEMENT SUBSTITUTE PROGRAM.—The Administrator shall approve, as a substitute for all or a portion of the clean alternative fuel vehicle program prescribed under this section, any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term emissions reductions in ozone-forming volatile organic compounds and carcinogenic air pollutants equal to or greater than those reasonably expected to be achieved by the program, or the percentage thereof attributable to the portion of the clean alternative fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision with respect to the requirements established by paragraph (1) or by paragraph (2) for model years 1995 through 1998 must submit the revision to the Administrator within twenty-four months of enactment of this paragraph. Any State seeking approval of such revision with respect to the requirements established by paragraph (2) for model years 1999 and thereafter must submit the revision to the Administrator within sixty months of enactment of this section. The Administrator must approve or disapprove any such revision within six months of receipt of such revision. (The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt.) Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States (related to notice and comment). However, no authority not expressly granted to the Administrator by law is conferred by this section.

"(C) REFORMULATED GASOLINE REVISIONS.—Any State in which there is a serious, severe or extreme ozone nonattainment area may propose as a revision to the applicable implementation plan for such area or areas a requirement that the reformulated gasoline specified by the Administrator as a clean alternative fuel pursuant to subparagraph (2)(B) be offered for sale and sold in such area or areas beginning on October 1, 1994. The Administrator may delay the date on which reformulated gasoline is to be offered for sale and sold to a date later than October 1, 1994, in order to provide adequate lead time for such fuel to be made available in the necessary quantities. In assessing proposed implementation plan revisions pursuant to this subparagraph and the availability of reformulated gasoline, the Administrator shall give priority to the sale of refor-

mulated gasoline in severe and extreme ozone nonattainment areas.

"(9) REVISIONS TO FUEL AVAILABILITY AND OTHER REQUIREMENTS.—If one or more areas are exempted from the clean alternative fuel vehicle program under paragraph (8)(b), are included in the program under paragraph (6), or increase program requirements under paragraph (7), the Administrator by regulation shall revise, as appropriate, the requirements prescribed under paragraph (5) regarding the availability of clean alternative fuels needed by vehicles to comply with the emissions standards prescribed under by paragraphs (1), (2) and (3) in such area or areas. Any additional requirements prescribed under this paragraph shall become applicable after such period as the Administrator finds by rule is necessary for the requisite vehicles and fuels to be made available, giving appropriate consideration to model availability and the cost of compliance within such period.

"(10) STUDIES TO BE UNDERTAKEN BY THE ADMINISTRATOR.—

"(A) Not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990, the Health Effects Institute, after consultation with the Environmental Protection Agency, the National Institute of Health, the Department of Energy, the Department of Health and Human Services, the Department of Transportation, and the Office of Management and Budget, shall complete an analysis of the risk of carcinogenic effects, if any, associated with the use of methanol as a motor vehicle fuel and, if such a risk exists, of the need for and feasibility of controlling emissions of methanol.

"(B) The Administrator may also conduct an analysis of the risk of carcinogenic effects posed by any air pollutant associated with motor vehicles and motor vehicle fuels. After completing such an analysis, the Administrator shall by regulation include the air pollutant within the definition of the term 'carcinogenic air pollutants' contained in section 216(11) if the Administrator determines that the pollutant poses such a risk.

"(C) The Secretary of Energy shall report to the Congress not later than July 1, 1993 on the relationship between electric vehicle use and electric generation capacity and the potential to meet additional electric energy demand which may be associated with use of electric vehicles using off-peak capacity.

"(11) CONVENTIONAL GASOLINE.—Not later than July 1, 1992, the Administrator shall promulgate regulations ensuring that, beginning on January 1, 1993, gasoline sold on a nationwide basis does not result in per gallon emissions of volatile organic compounds, oxides of nitrogen, carbon monoxide, and overall emissions of carcinogenic air pollutants in excess of per gallon emissions of such pollutants attributable to gasoline sold in calendar year 1989.

"(b) TANK AND FUEL SYSTEM SAFETY.—The Secretary of Transportation shall, in accordance with the National Motor Vehicles Traffic Safety Act of 1966, promulgate applicable regulations regarding the safety and use of fuel storage cylinders and fuel systems in vehicles capable of operating on clean alternative fuels.

"(c) INFORMATION COLLECTION.—

"(1) For purposes of enforcing regulations implementing this section, the Administrator may by regulation require manufacturers, importers, distributors, and retailers of motor vehicles or motor vehicle fuels to establish and maintain records, make reports, and provide information concerning the sales of (A) motor vehicles capable of operating on clean alternative fuel, and (B) clean alternative fuels. Nothing in this subsection shall be construed to limit the Administrator's authority under sections 114, 206, 208 or 211.

"(2) Any records, reports or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular portions thereof (other than emission data), to which the Administrator has access under this subsection would, if made public, divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) shall be considered an employee of the United States for purposes of section 1905 of title 18 of the United States Code. Nothing in this section shall prohibit the Administrator or authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports, or information to other officers, employees, or authorized representatives of the United States (including any authorized contractor acting as a representative of the Administrator) concerned with carrying out this Act or, when relevant, in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under his control (including any authorized contractor acting as a representative of the Administrator) from the duly authorized committees of the Congress.

"(d) CONSULTATION WITH DEPARTMENT OF ENERGY AND DEPARTMENT OF TRANSPORTATION.—The Administrator shall consult with the Secretaries of the Department of Energy and the Department of Transportation in carrying out the Administrator's duties under this section.".

(c) CONFORMING AMENDMENT.—Section 202(a)(4) of the Clean Air Act is amended by striking the phrase "standards prescribed under this subsection" every place it occurs and inserting the phrase "requirements prescribed under this title".

(d) STUDY OF ULTRA-CLEAN VEHICLES.—

(1) Section 216 of the Clean Air Act is amended by adding the following new subsection:

"(13) The term 'ultra-clean vehicle' means any light-duty vehicle powered by batteries, fuel cells, hydrogen, or any comparably low-polluting power source. In determining whether a power source is comparably low-polluting, the Administrator shall consider the level of emissions of air pollutants from vehicles using the power source, the level of emissions from plants and refineries generating or processing power for such vehicles and the contribution of such emissions to ambient levels of air pollutants. For purposes of this subsection, battery-powered vehicles include hybrid vehicles which are powered primarily by a battery and also have a secondary power source.".

(2) Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(m) ULTRA-CLEAN VEHICLES.—

"(1) The Administrator, in coordination with the Department of Energy and the Department of Transportation, and other appropriate Federal agencies, shall—

"(A) conduct a survey of available and forseeable technologies for the production of ultra-clean vehicles and the feasibility and cost effectiveness of using such technologies to reduce pollutant emissions from mobile sources;

"(B) develop a plan to foster joint public-private development of practical and economical ultra-clean vehicle technologies and encourage the gradual introduction of ultra-clean vehicles into use; and

"(C) take into consideration the conclusions and recommendations made by the Interagency Commission on Alternative Fuels.

"(2) The survey and plan required by this subsection shall be completed and submitted to the Congress no later than December 31, 1992.".

LIGHT DUTY VEHICLE USEFUL LIFE

SEC. 207. Section 202(d)(1) of the Clean Air Act is amended to read as follows:

"(1)(A) in the case of light duty vehicles and light duty vehicle engines manufactured during or before the 1994 model year, be a period of use of five years or of fifty thousand miles (or the equivalent), whichever first occurs;

"(B) in the case of light duty vehicles and light duty engines manufactured in the model year 1995 and thereafter, be a period of use of ten years or one hundred thousand miles (or the equivalent), whichever first occurs;".

RESEARCH ON HEAVY-DUTY VEHICLES

SEC. 208. RESEARCH ON HEAVY-DUTY VEHICLES.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator, in cooperation with the Secretary of Energy and the Administrator of the Urban Mass Transportation Administration, and such other agencies as the Administrator deems appropriate, shall establish a research and technology assessment center to provide for the development and evaluation of less-polluting heavy-duty engines and fuels for use in buses, heavy-duty trucks, and non-road engines and vehicles, which shall be located at a high-altitude site that represents high-altitude conditions. In establishing and funding such a center, the Administrator shall give preference to proposals which provide for local cost-sharing of facilities and recovery of costs of operation through utilization of such facility for the purposes of this section.".

WARRANTIES

SEC. 209. Section 207 of the Clean Air Act is amended as follows:

(a) strike out "its useful life (as determined under section 202(d))" in each place it appears in subsection (b) and insert in lieu thereof "warranty period (as determined under subsection (i))";

(b) strike so much of section 207(b) as follows the third sentence thereof;

(c) add the following new subsection at the end thereof:

"(i) WARRANTY PERIOD.—

"(1) For purposes of subsection (a)(1) and subsection (b), the warranty period, in the case of light duty vehicles and light duty vehicle engines manufactured during or before the 1994 model year shall be the useful life (as determined under section 202(d)). For the purposes of such subsec-

tions, the warranty period, in the case of such vehicles and engines manufactured during model year 1995 and thereafter, shall be the first two years or twenty-four thousand miles of use (whichever first occurs), except as provided in paragraph (2).

"(2) In the case of a specified major emission control component, the warranty period for purposes of subsection (a)(1) and subsection (b) shall be eight years or eighty thousand miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter, on board emission control diagnostic device, including any device installed for the purpose of storing or processing emissions related diagnostic information, but not including any parts or other systems which it monitors except specified major emissions control components, or electronic emissions control unit, except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds $200 (in 1989 dollars, adjusted for inflation or deflation as calculated by the Administrator at the time of such determination).

Nothing in this Act shall be interpreted to mean that parts other than those specified by the Administrator as major emission control components shall be construed to be warranted under this Act for eight years or eighty thousand miles.

"(3) Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3).''; and

(d) amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the period of two years or twenty-four thousand miles of use (whichever first occurs), except that for a specified major emission control component (as defined in subsection (i)) such warranty shall require that such component is free from any such defects for the period of eight years or eighty thousand miles of use (whichever first occurs).".

NON-ROAD ENGINES

SEC. 210. (a) DEFINITIONS.—Section 216 of the Clean Air Act is amended by adding the following new subsections:

"(8) The term 'non-road engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or in a vehicle designed solely for competition which is not capable of operating on streets and highways, or which is not subject to standards promulgated under section 111 (pertaining to new stationary sources) or to regulation under part B of this title (pertaining to aircraft emissions).

"(9) The term 'non-road vehicle' means a vehicle that is powered by a non-road engine and that is not a motor vehicle.".

(b) Subsection (1) of section 219 of the Clean Air Act (as redesignated by section 206) is amended by striking the phrase "new motor vehicles or new motor vehicle engines" every place it occurs and inserting in its place "new motor vehicles, new motor vehicle engines, new non-road vehicles or new non-road engines".

(c) The Clean Air Act is amended by adding a new section 217 as follows:

"EMISSION STANDARDS FOR NON-ROAD ENGINES AND VEHICLES

"SEC. 217. (a) LIST OF CATEGORIES.—Not later than twenty-four months after the date of enactment of this section and after notice and opportunity for public comment the Administrator shall publish (and from time to time revise) a list of all categories of non-road engines and non-road vehicles together with estimates of the contribution of each category to ambient ozone and carbon monoxide levels in nonattainment areas and to oxides of nitrogen and total particulate levels.

"(b) EMISSION STANDARDS.—Whenever the Administrator determines that emissions from categories of non-road engines or vehicles contribute significantly to concentrations of ozone, carbon monoxide or to oxides of nitrogen or particulate levels or otherwise contribute to air pollution that may reasonably be anticipated to endanger public health or welfare, the Administrator shall promulgate regulations applicable to emissions from new vehicles or engines in such categories. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. In determining what degree of reduction will be available, the Administrator shall first consider standards equivalent in stringency to standards for comparable motor vehicles or engines (if any) regulated under section 202, taking into account the technological feasibility, costs, safety, noise and energy factors associated with achieving standards of such stringency.

"(c) ENFORCEMENT.—The standards under this section shall be subject to the same provisions of title II as are applicable in the case of standards under section 202, and shall be enforced in the same manner as the standards under section 202, with such modifications as the Administrator deems appropriate.".

PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE

SEC. 211. The Clean Air Act is amended by adding a new section 218 as follows:

"PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE

"SEC. 218. The Administrator shall promulgate regulations applicable to motor vehicle engines and non-road engines manufactured after model year 1992 that prohibit the manufacture, sale, or introduction into commerce of any engine that requires leaded gasoline.".

MOTOR VEHICLE TESTING AND CERTIFICATION

SEC. 212. (a) IDLE TEST.—Section 206(a) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(4) Not later than one year after the enactment of this paragraph, the Administrator shall promulgate regulations adding an idle test and idle test mode to the Federal test procedure for light duty vehicles. Such modified test procedure shall be used for the certification of light duty vehicles and engines manufactured during or after model year 1992.".

(b) PRODUCTION LINE TESTING.—Section 206(b) of the Clean Air Act is amended by adding the following at the end thereof:

"(3) The Administrator shall revise the regulations under this section regarding selective enforcement auditing of new light duty vehicles (as set forth in section 86.610 of subpart G of part 86 of title 40 of the Code of Federal Regulations) such that the maximum percentage of failing vehicles that, for purposes of sampling inspection, can be considered satisfactory as a process average for purposes of such selective enforcement audits shall be 10 per centum. Such revised regulations shall apply with respect to motor vehicles manufactured after the model year 1991.".

(c) REVISION OF CERTAIN TEST PROCEDURES.—Section 206 of the Clean Air Act is amended by adding the following new subsection:

"(h) Within eighteen months after the enactment of this subsection and at least every four years thereafter, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration and altitude. Such revised test procedures shall include testing of evaporative emissions (including running losses) as well as tail-pipe emissions and shall provide for the testing of trucks with a gross vehicle weight rating of six thousand pounds or more in a loaded mode approximating such rating.".

(d) AVERAGING.—Section 202 of the Clean Air Act is amended by adding the following new subsection:

"(l) AVERAGING.—(1) Each emission standard under this section shall apply to, and be met by, each and every vehicle or engine sold, offered for sale, introduced into commerce, or imported, and may not be met or complied with by the average of the performance of various vehicles, engines, engine families, or models manufactured by the same manufacturer.

"(2) Paragraph (1) shall not apply to emission standards applicable to heavy duty vehicles or engines. The Administrator may by regulation provide for manufacturers to demonstrate compliance with emission standards for heavy duty vehicles or engines by averaging credits for emission reductions between engine families of the same manufacturers, by banking credits over time, and by trading credits with other manufacturers.

"(3) By June 1, 1994, the Administrator shall complete and submit to Congress a study of the impacts on costs, economic efficiency, emission reductions and environmental impacts from any rule adopted by the Administrator under this subsection permitting trading, banking, and averaging.".

(e) ESTABLISHMENT OF A HIGH-ALTITUDE RESEARCH CENTER.—Section 103 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"( ) The Administrator shall designate at least one center at high-altitude conditions to provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternate fuels and conversion kits, and the development of curricula, training courses and materials to maximize the effectiveness of inspection and maintenance programs as they

relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.".

IN-USE COMPLIANCE—RECALL

SEC. 213. (a) USE OF INFORMATION FROM STATE PROGRAMS.—Section 207(c) of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(4) In making determinations of nonconformity under this subsection, the Administrator shall take into account information collected under any State vehicle emission control inspection and maintenance program. Any State in which such a program is operating may petition the Administrator to make a determination of nonconformity under paragraph (1) on the basis of information collected in such program. The Administrator shall act upon such petition within sixty days of receipt of such petition.".

(b) RECALL TESTING AT MANUFACTURER'S EXPENSE.—Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph:

"(5) If the Administrator has reason to believe that in-use vehicles or engines may not conform to regulations prescribed under section 202, the Administrator may require the manufacturer of such vehicles or engines to pay the costs that the Administrator incurs in procuring and testing such vehicles or engines. Such reason to believe shall be based on data or information available to the Administrator, including but not limited to, field surveys, State vehicle emission control inspection and maintenance programs and consumer complaints.".

(c) IN-USE TESTING AT HIGH-ALTITUDE.—Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph:

"(6) The Administrator shall maintain through fiscal year 1995 at least one testing center which shall be located at a site that represents high-altitude conditions to ascertain whether, when in actual use throughout their useful life (as determined under section 202(d)), each class of vehicle and engine to which regulations under section 202 apply conforms to the emission standards of such regulations. The Administrator shall, in cooperation with the States, conduct routine testing of a representative sample of classes or categories of vehicles and engines to which regulations under section 202 apply. In carrying out such tests, the Administrator shall assure that the testing procedures and methods are of sufficient accuracy and consistency to carry out the purposes of this section. For the purposes of this paragraph, the term 'high-altitude conditions' refers to high altitude as defined in Environmental Protection Agency regulations in effect as of the enactment of this Act. Preference shall be given to existing in-use vehicle emission testing and research centers located at high-altitude conditions.".

(d) RECALL TESTING OF CLEAN ALTERNATIVE FUEL VEHICLES.—Section 207(c) of the Clean Air Act is further amended by adding the following new paragraph:

"(7) In determining in-use compliance by vehicles and engines in actual use with the emissions standards prescribed under section 212(a), the provisions of this section shall be applied with such modifications as are necessary to reflect the provisions of section 212(a)(4).".

FUEL VOLATILITY

SEC. 214. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(h) EVAPORATIVE EMISSIONS FROM MOTOR VEHICLE FUELS.—

"(1) The Administrator shall promulgate regulations to reduce evaporative emissions from motor vehicle fuels.

"(2) Regulations under this subsection shall include a standard for gasoline volatility which shall apply to all gasoline sold, offered for sale, or introduced into commerce or imported for use in motor vehicles during the high ozone period of each year, as determined by the Administrator under paragraph (3). Effective with respect to gasoline sold in the second high ozone period which commences after the date of enactment of the Clean Air Act Amendments of 1990, the standard shall require that such gasoline sold, or offered for sale, or introduced into commerce for use in motor vehicles in class C areas (as defined by the American Society of Testing Materials as of said date of enactment) shall not exceed a Reid vapor pressure of nine pounds per square inch, except that the Administrator may establish a lower Reid vapor pressure as necessary and appropriate to achieve further overall reductions in motor vehicle emissions contributing to the formation of ozone, taking into account safety, enforceability, driveability, and public health. The Administrator shall establish standards for gasoline volatility for Class B and Class A areas that achieve comparable overall reductions in motor vehicle emissions to those achieved by the standard for Class C areas, taking into account appropriate variables such as temperature and humidity.

"(3) For purposes of regulations referred to in paragraph (2), the high ozone period shall be the period between May 16 and September 15 each year or such longer period as the Administrator establishes for any region to cover periods of potential ozone air pollution in excess of the standard for ozone for the region.

"(4) For fuel blends containing gasoline and 10 per centum denatured anhydrous ethanol, the Reid vapor pressure limitation pursuant to this subsection shall be one pound per square inch greater than the applicable Reid vapor pressure limitations established under paragraph (2): *Provided, however,* That a distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser-consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder, if it can demonstrate (by showing receipt of a certification or other evidence acceptable to the Administrator) that (A) the gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection, and (B) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4).

"(5) The provisions of this subsection shall apply only to the forty-eight contiguous States and the District of Columbia.".

DESULFURIZATION

SEC. 215. Section 211 of the Clean Air Act is amended by adding the following new subsection to the end thereof:

"(i) DESULFURIZATION OF DIESEL FUEL.—

"(1) Effective October 1, 1993, no person shall manufacture, sell, offer for sale, supply, offer for supply, dispense, transport or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.

"(2) No later than twelve months after the enactment of this subsection, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator shall require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such fuel in order to segregate it from motor vehicle diesel fuel. The Administrator may establish an equivalent aromatic level to the cetane index specification in paragraph (1).

"(3) The sulfur content of fuel required to be used in the certification of 1991 through 1993 model year heavy-duty diesel vehicles and engines shall not exceed 0.10 per centum (by weight). The sulfur content and cetane index minimum of fuel required to be used in certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2).

"(4) The requirements of paragraph 1 of this subsection shall not apply to diesel fuel produced by any refinery which has a crude oil or bona fide feedstock capacity (as determined by the Administrator) of less than 25,000 barrels per day, is located on the North Slope of Alaska, and whose products are sold or transferred on the North Slope for use to support oil or mineral exploration, production or development activity. It shall not be a violation of this title to transfer, sell for use in, or to use any such fuel in motor vehicles located in and operated solely on the North Slope of Alaska.".

LEAD PHASEDOWN

SEC. 216. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(j) PROHIBITION ON LEADED GASOLINE FOR HIGHWAY USE.—Effective January 1, 1992, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 219(2)) any gasoline which contains lead or lead additives. The Administrator shall extend the January 1, 1992, deadline annually for up to three years, if the Administrator determines in consultation with the Secretary of Agriculture, that unavailability of gasoline containing lead or lead additives for such vehicles will reduce the availability of such gasoline for farm vehicles and that adequate alternatives to gasoline containing lead or lead additives are unavailable for use in gasoline powered farm vehicles.".

FUEL QUALITY

SEC. 217. Section 211 of the Clean Air Act is amended by adding the following new subsection to the end thereof:

"(k) FUEL QUALITY.—

"(1) Not later than thirty-six months after the date of enactment of this subsection the Administrator shall, after notice and opportunity for public comment, promulgate regulations establishing specifications for fuel quality which will minimize, to the extent economically and technically achievable, emissions (including evaporative emissions) of hydrocarbons, carbon monoxide, oxides of nitrogen, particulate matter and hazardous air pollutants over the useful life of vehicles and engines certified for manufacture under this title. Such regulations may prohibit the presence of fuel impurities and

other substances or mandate the use of additives to achieve the purposes of this subsection. The regulations shall be effective for fuels sold, offered for sale, supplied, offered for supply, dispensed, transported, or introduced into commerce on and after January 1, 1994. In the event that the Administrator does not promulgate the regulations required by this paragraph, effective January 1, 1994, it shall be unlawful to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce any fuel for use in a gasoline-powered vehicle unless such fuel contains additives effective in preventing the accumulation of deposits in fuel-injected engines.

"(2) CLEAN FUELS FOR CONVENTIONAL VEHICLES.—(A) Within one year of enactment of the Clean Air Amendments of 1990, the Administrator, pursuant to paragraph (1), shall promulgate regulations establishing specifications for reformulated gasoline to be used in conventional gasoline fueled motor vehicles in any nonattainment area with a 1989 ozone design value equal to or exceeding 0.18 parts per million. Such regulations shall prohibit any person from selling, offering for sale, dispensing, supplying offering for supply, transporting or introducing into commerce in such area or areas any gasoline not meeting the requirements of this paragraph for use in gasoline fueled motor vehicles. Such regulations shall take effect in accordance with the phase in schedule set forth in subparagraph (B). Such regulations shall be incorporated in the final regulations promulgated pursuant to paragraph (1).

"(B) Subject to the limitations set forth in subsection (h) and section 212(a)(11), the specifications for fuel quality promulgated pursuant to subparagraph (A) shall, at a minimum, provide for—

"(i) a maximum aromatic hydrocarbon content by volume of not greater than 30 per centum as of January 1, 1992; of not greater than 28 per centum as of January 1, 1994, and of not greater than 25 per centum as of January 1, 1996;

"(ii) a maximum benzene content by volume which shall be the lowest concentration by benzene accompanying the maximum aromatic hydrocarbon content under clause (i) that can be achieved without additional capital investment but, in no event may such maximum benzene content be greater than 1.0 per centum by volume;

"(iii) during the high ozone season (as defined by the Administrator), a 15 per centum reduction in the ozone-forming potential of volatile organic compounds and no increase in oxides of nitrogen emitted from existing vehicles (as determined by the Administrator) using such fuel compared to conventional gasoline with a Reid vapor pressure of 9.0 pounds per square inch sold in calendar year 1989; and

"(iv) subject to paragraph (D), an oxygen content by weight equal to or greater than 2.0 per centum as of January 1, 1992, 2.5 per centum as of January 1, 1993, and 2.7 per centum as of January 1, 1994, except where a higher oxygen content is required under section 211(l) or section 188, except as provided in subparagraph (D).

"(C) The regulations promulgated under paragraph (A) shall include procedures under which the Administrator shall certify fuels as complying with the specifications established pursuant to paragraph (B).

"(D) The Administrator may waive, in whole or in part, the requirements of paragraph (2)(B)(iv) upon a determination by the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by such area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(E) Sellers of fuels subject to this paragraph with an oxygen content higher than the percentages specified in subparagraph (B)(iv) shall be eligible for credits in accordance with the terms and conditions of section 211(l)(2).

"(F) The regulations promulgated under this paragraph shall include procedures under which the Administrator may certify fuels as complying with the specifications established pursuant to subparagraph (B). The regulations shall establish a procedure by which the Administrator may certify a gasoline as complying with such specifications if such gasoline (i) complies with the specification in clauses (iii) and (iv) of subparagraph (B) and (ii) achieves equivalent or greater emission reductions that are achieved by a gasoline meeting the specifications established pursuant to clauses (i) and (ii) of subparagraph (B).

"(3)(A) Any State in which there is a moderate or serious ozone non-attainment area may propose as a revision of the applicable implementation plan for such area or areas a requirement that reformulated gasoline sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in such area or areas for use in gasoline fueled motor vehicles shall be subject to all the requirements of this subsection beginning on the date specified in the revision.

"(B) For the purposes of paragraph (A), the Administrator may delay, for not to exceed three years, the date on which reformulated gasoline which meets the specifications in paragraph 2(B) is to be offered for sale or sold in order to provide adequate lead time for such fuel to be made available in necessary quantities. The decision of the Administrator to provide such delay shall be accompanied by an explanation of the reasons for such delay.".

OXYGENATED FUELS

SEC. 218. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(l)(1) Except as provided in paragraph (2) and effective October 1, 1991, no person shall, during the period from October 1 to March 31 each year, sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce in any area classified as nonattainment for carbon monoxide any gasoline fuel for use in a motor vehicle unless the oxygen content of such fuel shall be 3.1 per centum or greater. Not later than twelve months after the enactment of this subsection, the Administrator shall submit to the Congress a report on the feasibility and effectiveness of requiring the provisions in this paragraph to be applied to all cities of 100,000 population or greater regardless of their attainment status. At the request of a State with respect to any area designated as nonattainment for carbon monoxide, the Administrator may reduce the period specified in the preceding sentence, if the State can demonstrate that because of meteorological conditions, a shorter period will assure that there will be no exceedances of the carbon monoxide standard outside of the time that such fuels are to be sold.

"(2) The Administrator shall, not later than twelve months after the date of enactment of this subsection, promulgate regulations allowing the exchange of marketable oxygen credits between sellers of fuels with an oxygen content higher than that required by paragraph (1) and other sellers of fuels to offset the sale or use of fuels with a lower content than required: *Provided*, That such exchanges shall not be permitted between sellers located in different nonattainment areas and that the average oxygen content of fuels sold in any area that is nonattainment for carbon monoxide be 3.1 per centum or greater.

"(3) The Administrator may waive, in whole or in part, the requirements of this subsection in any area upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated fuels would prevent or interfere with the attainment by such area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(4) The Administrator may waive in whole or in part the requirements of this subsection in any carbon monoxide nonattainment area in Alaska if the Administrator finds that prevailing temperatures in that area cause engine or fuel system malfunctions in vehicles using fuels meeting such requirements. The Administrator shall conduct a study to determine the effect of cold temperatures on fuels which meet the oxygen content requirements of this subsection and the feasibility of using such fuels during periods of sustained cold temperatures.

"(5) Any person selling or offering for sale oxygenated fuel at retail outlets pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the fuel is oxygenated and will reduce carbon monoxide emissions from motor vehicles.".

MISFUELING

SEC. 219. Section 211 of the Clean Air Act is amended by deleting subsection (g) and inserting the following new subsection:

"(g)(1) No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled 'unleaded gasoline only,' which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which such person knows or should know is a vehicle designed solely for the use of unleaded gasoline.

"(2) Beginning October 1, 1993, no person shall introduce or cause or allow the introduction into any motor vehicle of diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05 per centum (by weight) or which fails to meet a cetane index minimum of 40.".

URBAN BUSES

SEC. 220. (a) Section 216 of the Clean Air Act is amended by adding the following new paragraph at the end thereof:

"(13) the term 'urban bus' has the meaning provided under regulations of the Administrator promulgated under section 202(a).".

(b) Section 212 of the Clean Air Act, as amended by section 206, is further amended by adding at the end thereof the following new subsection:

"(e)(1) Not later than twelve months after the enactment of this section, the Administrator shall promulgate regulations requiring the use of low polluting fuels in new urban buses operated primarily in a metro-

politan statistical area or consolidated metropolitan statistical area (as defined by the United States Office of Management and Budget) with a 1980 population of one million persons or more. The regulations shall provide that all new urban buses beginning with the model year 1997 purchased or placed into service by owners or operators of urban buses in such areas must be capable of operating, and must be exclusively operated, on low polluting fuels. The Administrator shall prescribe a schedule phasing in the applicability of the requirements established by this subsection over the 1991 through 1997 model years as follows: (A) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of one million five hundred thousand persons or more, 10 per centum of new urban buses purchased or placed into service in model year 1991; 25 per centum of new urban buses purchased or placed into service in model year 1992; 60 per centum of new urban buses purchased or placed into service in model year 1993; and 100 per centum of new urban buses purchased or placed into service in 1994 and later model years; and (B) for metropolitan statistical areas or consolidated metropolitan statistical areas with a population of less than one million five hundred thousand persons but more than one million persons, 10 per centum of new urban buses purchased or placed into service in model year 1993; 25 per centum of new urban buses purchased or placed into service in model year 1995; 60 per centum of new urban buses purchased or placed into service in 1996; and 100 per centum of new urban buses purchased or placed into service in 1997 and later model years. Emissions of particulate matter from buses purchased or placed into service as required by this subsection shall not exceed 0.10 grams per brake horsepower-hour.

"(2) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations requiring that, beginning January 1, 1992, any urban bus operating in any area specified in paragraph (1) shall, at the time of any major engine overhaul, be retrofitted so as to comply with the emissions standards under section 202(a) applicable for model years 1992 and after to new urban buses.".

ENFORCEMENT

SEC. 221. (a) TESTING.—Section 203(a)(2) of the Clean Air Act is amended by inserting before the semicolon at the end thereof the following: ", or to refuse to pay for procurement or testing under section 207(c)".

(b) TAMPERING WITH VEHICLE EMISSION CONTROLS.—(1) Section 203(a)(3) of the Clean Air Act is amended to read as follows:

"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

"(B) for any person to manufacture or sell, or offer to sell, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of such part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where such person knows or should know that such part or component is being offered for sale for such use or put to such use; or".

(2) At the end of section 203(a) of the Clean Air Act insert the following: "No action with respect to any device or element of design referred to in paragraph (3)(A) shall be treated as a prohibited act under that paragraph until the vehicle or engine on which such device or element of design had been installed (i) has been subsequently released from the custody and control of the person performing such action, if such person is a manufacturer, dealer, or person engaged in the business of repairing, servicing, selling, leasing or trading motor vehicles or motor vehicle engines (or an employee or agent of such a person), or (ii) has been subsequently operated on a street or highway, if the person performing such action is a person who operates a fleet of motor vehicles or any person other than a person listed in (i).".

(c) PROHIBITED ACTS.—(1) Section 203(a)(4) of the Clean Air Act is amended by striking out the period at the end and inserting in lieu thereof: "; and".

(2) Section 203(a) of the Clean Air Act is amended by inserting the following new paragraphs after paragraph (a)(4):

"(5) for any owner or operator of urban buses to purchase or place into service a new bus that does not comply with the requirements of section 212 or regulations prescribed under such section; or

"(6) for any person to manufacture, except for export, sell, or introduce into commerce a motor vehicle engine or nonroad engine (or a vehicle containing such an engine) that does not comply with the requirements of section 218 or regulations prescribed under such section.".

(d) CIVIL AND ADMINISTRATIVE PENALTIES.—Section 205 of the Clean Air Act is amended to read as follows:

"SEC. 205. (a) CIVIL PENALTIES.—Any person who violates paragraph (1), (2), (4), (5) or (6) of section 203(a) or regulations prescribed under paragraph (a)(1), (a)(2), (a)(6), or (a)(7) (except (a)(7)(C)(iii)) of section 212 or any manufacturer or dealer who violates paragraph (3)(A) of section 203(a) of this title shall be subject to a civil penalty of not more than $25,000. Any other person who violates paragraph (3)(A) or any person who violates paragraph (3)(B) of such section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3)(A), (4), (5) or (6) of section 203(a) or regulations prescribed under paragraph (a)(1), (a)(2), (a)(6), or (a)(7) (except (a)(7)(C)(iii)) of section 212 of this title shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to paragraph (3)(B) of section 203(a) shall constitute a separate offense with respect to each part or component. Any such violation with respect to paragraph (2) of section 203(a) or regulations prescribed under section 212(c) shall constitute a separate offense with respect to each day of violation.

"(b) CIVIL ACTIONS.—The Administrator may commence a civil action to assess and recover any civil penalty prescribed in subsection (a) of this section, subsection (d) of section 211 (pertaining to fuels and fuel additives), subsection (b) of section 216 (pertaining to emissions of carbon dioxide), or subsection (c) of section 217 (pertaining to nonroad engines and vehicles). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business, and such court shall have jurisdiction to assess such civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, any good faith efforts to comply with the applicable requirements, action taken to remedy the violation, the economic impact of the penalty on the violator, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

"(c) ADMINISTRATIVE ASSESSMENTS.—(1) The Administrator may assess a civil penalty prescribed in subsection (a) of this section, subsection (d) of section 211 (pertaining to fuels or fuel additives), subsection (b) of section 216 (pertaining to emissions of carbon dioxide) or subsection (c) of section 217 (pertaining to nonroad engines and vehicles), except that the maximum amount of any civil penalty sought against each violator in a penalty assessment proceeding under this paragraph shall not exceed $200,000. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5, United States Code. The Administrator may issue rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 15 days of the date the notice is received by such person. The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.

"(2) In determining the amount of any civil penalty assessed under this subsection, the Administrator shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, any good-faith efforts to comply with the applicable requirements, action taken to remedy the violation the economic impact on the violator, and such other matters as justice may require.

"(3)(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act, except that any violation—(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or (ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection, shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) An order issued under this subsection shall become final thirty days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) Any person against whom a civil penalty is assessed in accordance with this subsection may obtain review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides or where such person's principal place of business is located, by filing a notice in such court within the thirty-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator and the Attorney General. The Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the order was issued within thirty days. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and such court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any such proceeding, the United States may seek to recover civil penalties assessed under this section.

"(6) If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to 26 U.S.C. 6621(a)(2) from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.".

(e) ENFORCEMENT OF SECTION 211.—Section 211(d) of the Clean Air Act is amended to read as follows:

"(d) ENFORCEMENT.—(1) CIVIL PENALTIES.—Any person who violates subsection (a), (f), (g), (j), or (l) of this section or the regulations prescribed under subsection (c), (h), (i), (k) or (l) of this section or paragraph (a)(5), (a)(7)C)(iii), (a)(9) or (a)(11) of section 212 or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section, or any owner or operator of urban buses who violates regulations prescribed under section 212 concerning operation of such buses on low polluting fuel, shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for each and every day of each such violation or the amount of economic benefit resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c) of this section or paragraph (a)(5), (a)(7)(C)(iii), (a)(9), or (a)(11) of section 212 which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Such civil penalties shall be assessed in accordance with the provisions of subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsection (a), (f), (g), (j), or (l) of this section and of the regulations prescribed under subsection (c), (h), (i), (k), or (l) of this section or under paragraph (a)(5), (a)(9), or (a)(11) or subsection (e) of section 212, to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b) of this section. Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.".

(f) INJUNCTIVE RELIEF.—

(1) Section 204(a) of the Clean Air Act is amended by inserting the following phrases immediately after "section 203 (a)": "and of the regulations prescribed under paragraph (a)(1), (a)(2), (a)(6), or (a)(7) of section 212, to compel the establishment and maintenance of records, the making of reports, and the provision of information under subsection (c) of section 212, and to award other appropriate relief".

(2) Section 204(b) of the Clean Air Act is amended by inserting a comma and the words "compel such actions, and award such relief" immediately after "violations".

COORDINATION OF FEDERAL TRANSPORTATION AND ENVIRONMENTAL POLICIES

SEC. 222. (a) FINDINGS.—The Congress finds that—

(1) it is Federal policy, as reflected in the Clean Air Act, to require the use of new technologies and low polluting fuels by public transportation vehicles to further improve air quality;

(2) the installation and use of new technologies and low polluting fuels by public transportation vehicles will require substantial capital investment, and could significantly increase the costs of operating such vehicles;

(3) under existing Federal transportation policy, Federal funding for maintenance, improvement, and expansion of public transportation systems is very limited;

(4) it is in the public interest that such new technologies and low polluting fuels be brought into use in the appropriate timeframe, and that public transportation systems become more available and efficient; and

(5) Federal surface transportation programs must be reauthorized by September 30, 1991.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) increased use of multipassenger and public transportation vehicles should be strongly encouraged by Federal, State, and local governments;

(2) Federal transportation policy should reflect environmental policy and concerns; and

(3) the upcoming reauthorization of Federal surface transportation programs should—

(A) take into account and authorize appropriate Federal funding of additional costs imposed on State and local entities relating to environmental requirements contained in this Act;

(B) encourage increased State and local funding for public transportation systems; and

(C) provide various regions, States, and localities with the flexibility to best meet their transportation and environmental needs.

FEDERAL COMPLIANCE

SEC. 223. (a) GENERAL COMPLIANCE.—Section 118 of the Clean Air Act is amended by inserting "GENERAL COMPLIANCE.—" after "SEC. 118. (a)".

(b) SPECIFIC COMPLIANCE.—Section 118 is further amended by adding at the end thereof the following new subsections:

"(c) IMPLEMENTATION PLAN PROVISIONS.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall comply with all applicable provisions of any implementation plan submitted by a State and approved by the Administrator as provided in section 110(a) and part D.

"(d) EMISSION INVENTORIES.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall submit all relevant and requested information regarding air pollutant emissions as expeditiously as possible following a request for such information from an appropriate Federal, State, or local agency.

"(e) GOVERNMENT VEHICLES.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall comply with all applicable provisions of a valid inspection and maintenance program established under the provisions of section 183(a)(1)(A) or section 188(g) except for such vehicles that are considered military tactical vehicles.

"(f) VEHICLES OPERATED ON FEDERAL INSTALLATIONS.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility shall require all owners of non-federally owned motor vehicles which operate on the property or facility to furnish proof of compliance with the requirements of any vehicle inspection and maintenance program established under the provisions of section 183(a)(1)(A) or section 188(g). The installation shall use one of the following methods to establish proof of compliance—

"(1) presentation by the vehicle owner of a valid certificate of compliance from the vehicle inspection and maintenance program;

"(2) presentation by the vehicle owner of proof of vehicle registration within the geographic area covered by the vehicle inspection and maintenance program (except for any program whose enforcement mechanism is not through the denial of vehicle registration);

"(3) another method approved by the vehicle inspection and maintenance program administrator.".

ETHANOL SUBSTITUTE FOR DIESEL

SEC. 224. Within one year after the enactment of this Act, the Administrator shall contract with a laboratory which has done research on alcohol esters of rapeseed oil to evaluate the feasibility, engine performance, emissions, and production capability associated with an alternative to diesel fuel

composed of ethanol and high erucic rapeseed oil. The Administrator shall submit a report on the results of this research to Congress within three years of the issuance of such contract.

FUEL AND FUEL ADDITIVE IMPORTERS

SEC. 225. Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(m) FUEL AND FUEL ADDITIVE IMPORTERS AND IMPORTATION.—For the purposes of this section, the term 'manufacturer' includes an importer and the term 'manufacture' includes importation.".

EPA STUDY OF MAGNETIC LEVITATION

SEC. 226. The Administrator of the Environmental Protection Agency shall provide for the analysis of the health and environmental aspects of magnetic levitation technology, and shall report to the Congress and the President on such activity not later than six months after the date of enactment of the Clean Air Act Amendments of 1990.

TITLE III—AIR TOXICS

HAZARDOUS AIR POLLUTANTS

SEC. 301. Section 112 of the Clean Air Act is amended to read as follows:

"HAZARDOUS AIR POLLUTANTS

"SEC. 112. (a) DEFINITIONS.—

"(1) The term 'major source' means any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits, considering installed and operating controls, in the aggregate, ten tons per year or more of any hazardous air pollutant or twenty-five tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors. Notwithstanding the provisions of this paragraph, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such wells or stations are major sources. Notwithstanding the provisions of this paragraph, the Administrator shall not be required to aggregate the emissions of a research or laboratory facility with emissions of other units within a contiguous area and under common control, to determine whether such a research or laboratory facility is a major source, but such emissions shall be aggregated with such other units for purposes of determining whether such units are subject to regulation under subsections (f) and (g). For purposes of this section, 'research or laboratory facility' means any stationary source whose primary purpose is to conduct research and development into new processes and products: *Provided,* That such source is operated under the close supervision of technically trained personnel, and does not produce a substantial quantity of products for commercial sale in commerce.

"(2) The term 'area source' means any stationary source of hazardous air pollutants that is not a major source.

"(3) The term 'stationary source' means any facility or installation or unit of such facility or installation which emits or may emit any hazardous air pollutant.

"(4) The term 'new source' means a source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under this section establishing emissions standards applicable to such source.

"(5) The term 'hazardous air pollutant' means any air pollutant listed pursuant to subsection (b).

"(6) For purposes of this section, the term 'adverse environmental effects' means any threat of significant adverse effects, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources including disruption of local ecosystems, impacts on populations of endangered or threatened species, significant degradation of environmental quality over broad areas, or other comparable effects.

"(7) The term 'electric utility steam generating unit' means any fossil fuel fired steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than twenty-five megawatts electrical output to any utility power distribution system.

"(8) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a stationary source.

"(9) The term 'existing unit' means any stationary source other than a new source.

"(10) The term 'carcinogenic effect' shall have the meaning provided by the Administrator under Guidelines for Carcinogenic Risk Assessment.

"(b) LIST OF POLLUTANTS.—

"(1) The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	Chemical name
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorine
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
7664417	Ammonia
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3'-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
7783064	Hydrogen sulfide
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
78933	Methyl ethyl ketone (2-Butanone)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4'-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine

CAS number	Chemical name
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds [1]
0	Glycol ethers [2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Mineral fibers [3]
0	Nickel Compounds
0	Polycyclic Organic Matter [4]
0	Radionuclides (including radon) [5]
0	Selenium Compounds

Note.—For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

[2] includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH2CH2)_n-OR'$ where
n = 1, 2, or 3
R = alkyl or aryl groups
R' = R, H, or groups which, when removed, yield glycol ethers with the structure: $R-(OCH2CH)_n-OH$
Polymers are excluded from the glycol category

[3] includes glass microfibers, glass wool fibers, rock wool fibers, and slag wool fibers, each characterized as "respirable" (fiber diameter less than 3.5 micrometers) and possessing an aspect ratio (fiber length divided by fiber diameter) greater than or equal to 3, as emitted from production of fiber and fiber products.

[4] includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C

[5] a type of atom which spontaneously undergoes radioactive decay.

"(2) The Administrator shall, from time to time, but not less often than every five years, review and revise the list established by paragraph (1) adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic but not including effects for which a pollutant has been listed pursuant to section 108 of this Act) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under section 129 as a result of emissions to the air. No substance, practice, process, or activity regulated under title V of this Act shall be subject to regulation under this section solely due to its adverse effects on the environment.

"(3)(A) Any person may petition the Administrator to modify the list established by paragraph (1) by adding or deleting a substance or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycyclic organic matter) removing certain unique chemical substances. Any such petition shall include a showing by the petitioner that there is adequate data on the health effects of the pollutant or other evidence adequate to support the petition. Within twelve months after receipt of a petition the Administrator shall either grant the petition or publish a statement of the reasons for not granting the petition. The Administrator may not deny a petition on the basis of inadequate resources or time for review.

"(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects, or that the substance is an air pollutant that qualifies, as a result of emissions to the air of such pollutant, for addition to the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(C) The Administrator shall remove a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of substance to determine that emissions, ambient concentrations, bioaccumulation or deposition of the substance may not reasonably be anticipated to cause any adverse effects to human health or adverse environmental effects, or that the substance qualifies for deletion from the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986. Action by the Administrator pursuant to section 313(d)(3) of such Act prior to the date of enactment of this paragraph shall constitute a deletion for the purposes of this section.

"(D) The Administrator shall remove one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meets the removal requirements of subparagraph (C). The Administrator must grant or deny a removal petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a removal petition has been filed within ninety days of the enactment of this subparagraph.

"(4) If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use the authorities of the Comprehensive Environmental Response, Compensation, and Liability Act and other information-gathering authorities under such Act and other laws administered by the Agency to acquire such information.

"(5) The Administrator may establish test measures and other analytic procedures for monitoring and measuring emissions, ambient concentrations, deposition, and bioaccumulation of hazardous air pollutants.

"(6) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990 or within six months of adding any substance to the list established by paragraph (1), the Administrator shall establish significant emission levels for any listed substance for purposes of the preconstruction requirements of section 165.

"(7) The Administrator may not list elemental lead as a hazardous air pollutant pursuant to this subsection.

"(c) LIST OF SOURCE CATEGORIES.—

"(1) Not later than twelve months after the date of enactment of this paragraph and after notice and opportunity for public comment, the Administrator shall publish (and from time to time revise) a list including all categories and subcategories of major sources of hazardous air pollutants which shall, to the extent practicable, be consistent with the list of source categories established pursuant to section 111 and part C of this Act.

"(2) The Administrator shall list under this subsection and designate for regulation under subsection (d) each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section except that the Administrator shall not list oil and gas production and exploration wells (with its associated equipment) as an area source category under this section.

"(3) In addition to those categories and subcategories of sources designated for regulation pursuant to paragraphs (1) and (2), the Administrator may at any time designate additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for designation applicable under such paragraphs and at the time of designation shall establish a date for the promulgation of emissions standards under subsection (d).

"(4) At the time of setting a standard for any category or subcategory of sources pursuant to subsection (d), (f), or (g), the Administrator shall also establish a minimum emissions rate for each hazardous air pollutant emitted by sources in the category or subcategory reflecting the criteria for listing a hazardous air pollutant established by subsection (b)(2). All sources in the category or subcategory emitting more than the minimum emissions rate for any hazardous air pollutant shall be subject to standards promulgated under subsection (d), (f), or (g). In no event shall the minimum emissions rate be greater than ten tons per year for any one hazardous air pollutant or twenty-five tons per year for any combination of such pollutants.

"(5) Notwithstanding the provisions of paragraph (4), the Administrator may establish a minimum emissions rate of more than ten tons for a category or subcategory and a pollutant for which a health effects threshold can be established, *Provided:* That the minimum emissions rate assures, with an ample margin of safety, such threshold will not be exceeded within the vicinity of the sources in the category and that no adverse environmental effects will occur as the result of emissions from the sources individually or in combination with emissions from other similar sources.

"(6) With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans and 2,3,7,8-tetrachlorodibenzo-p-dioxin, the Administrator shall establish minimum emissions rates for categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4).

"(7) Notwithstanding the provisions of paragraph (1), the Administrator may delete from the list any source category for which—

"(A) the hazardous air pollutants emitted by sources in the category (in quantities greater than ten tons per year for any pollutant or twenty-five tons per year for any combination of pollutants from a source) are all known, probable or possible human carcinogens with no other adverse health or environmental effect; and

"(B) no source in the category emits a hazardous air pollutant in quantities which may cause a lifetime risk of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of such pollutant from a source in the category.

"(8) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall withdraw the source category from the list if it is approprate because of action taken under either subparagraphs (C) or (D) of section (b)(3).

"(d) EMISSIONS STANDARDS.—

"(1) The Administrator shall promulgate emissions standards for every category or subcategory of sources of hazardous air pollutants designated for regulation pursuant to subsection (c). The Administrator may distinguish among classes, types and sizes of sources within a category or subcategory in establishing such standards, except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence.

"(2) Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of each hazardous air pollutant emitted by any source in the category or subcategory (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emissions reduction, and any non-air-quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emissions standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

"(A) reduce the volume of such pollutants through process changes, substitution of materials, or other modifications,

"(B) enclose systems or processes to eliminate emissions,

"(C) collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point,

"(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification as provided in subsection (h)), or

"(E) are a combination of the above:

Provided, however, That none of the measures described in subparagraphs (A) through (D) shall compromise any patent or trademark or require the release of any trade secret or other intellectual property right.

"(3) The degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the most stringent emissions level that is achieved in practice by a source in the same category or subcategory, as determined by the Administrator, and may be more stringent where feasible. Emissions standards under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in a similar category or subcategory: *Provided,* That, the emissions limitation for existing sources in the category or subcategory shall not be less stringent, and may be more stringent than—

"(A) the average emissions limitation achieved by the best performing 10 per centum of the existing sources (for which the Administrator has emissions information) in the category or subcategory for categories or subcategories with thirty or more sources, or

"(B) the average emissions limitation achieved by the best performing three sources (for which the Administrator has emissions information: *Provided,* That the Administrator has made reasonable efforts to obtain such information) in the category or subcategory for categories or subcategories with fewer than thirty sources.

The Congress finds that an average reduction of 90 per centum (95 per centum in the case of particulates) from uncontrolled levels is an appropriate benchmark for emissions standards applicable to existing sources in a category or subcategory under this subsection.

"(4)(A) With respect to pollutants for which a health threshold can be established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emissions standards under this subsection.

"(B) Standards for sources of ammonia shall be established pursuant to this subsection within the time established by subsection (e)(1)(C). The Administrator shall establish a health threshold for ammonia before standards are required to be promulgated pursuant to subsection (e)(1)(C). Emission standards for sources of ammonia shall be established at levels which protect public health with an ample margin of safety.

"(5) With respect only to categories and subcategories of area sources listed pursuant to subsection (c)(2), the Administrator is authorized, in addition to the authorities provided in paragraph (2) and subsections (f) and (g), to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of cost-effective and generally achievable control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

"(6) The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emissions standards promulgated under this section no less often than every seven years.

"(7) No emissions standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, part C, section 172(b) (3) or (6), or other authority of this Act or a standard issued under State authority.

"(8) Not later than two years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing emission standards for coke oven facilities. Such regulations shall assure that such sources will not exceed—

"(i) 8 per centum leaking doors;

"(ii) 1 per centum leaking lids;

"(iii) 5 per centum leaking offtakes; and

"(iv) sixteen seconds visible emissions per charge, as modified by any necessary technical corrections.

"(9) Notwithstanding the provisions of paragraph (2), for categories and subcategories of sources of hazardous air pollutants engaged in mining, extraction, beneficiation, and processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials, the Administrator shall not consider the substitution of, or other changes in, metal- or mineral-bearing raw materials that are used as feedstocks or material inputs, or metal- or mineral-bearing materials processed or derived from such feedstocks or materials in setting emissions standards, work practice standards, operating standards or other prohibitions, requirements or limitations under this section for such categories and subcategories. The prohibition of the preceding sentence shall not apply to the substitution, modification, or changes of chemicals (not including metal- or mineral-bearing materials) used in mining, extraction, beneficiation, or processing of nonferrous ores, concentrates, minerals, metals, and related in-process materials which is necessary to reduce air emissions of such chemicals and for which substitutes that are safe and effective in performing the intended function of the chemical to be substituted are reasonably available.

"(10) Emissions standards promulgated under this subsection shall be effective upon promulgation.

"(11) No standard for radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under section 111 or section 112.

"(e) SCHEDULE FOR STANDARDS AND REVIEW.—

"(1) The Administrator shall promulgate regulations establishing emissions standards for categories and subcategories of sources designated for regulation pursuant to subsection (c) as expeditiously as practicable, assuring that—

"(A) emissions standards for categories or subcategories of sources of acrylonitrile, benzene, 1,3-butadiene, cadmium, carbon tetrachloride, chloroform, chromium, ethylene dichloride, ethylene oxide, methylene chloride, perchloroethylene, trichloroethylene, and coke oven emissions are promulgated not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1990;

"(B) emissions standards for 25 per centum of the categories and subcategories designated pursuant to subsection (c) (1) and (2) shall be promulgated not later than four years after the date of enactment of the Clean Air Act Amendments of 1990;

"(C) emissions standards for 50 per centum of the categories or subcategories designated pursuant to subsection (c) (1) and (2) shall be promulgated not later than six years after the date of enactment of the Clean Air Act Amendments of 1990; and

"(D) emissions standards for all categories and subcategories designated for regulation pursuant to subsection (c) (1) and (2) shall be promulgated not later than ten years after the date of enactment of the Clean Air Act Amendments of 1990.

"(2) In determining priorities for scheduling the promulgation of standards pursuant to subparagraphs (1) (B), (C), and (D), the Administrator shall consider—

"(A) the known or anticipated adverse effects of such pollutants on human health and the environment;

"(B) exposure to and the location of major sources of such pollutants including risks to individuals most exposed and the consequent urgency of a national standard;

"(C) the quantity of hazardous air pollutants that sources in each category or subcategory emit; and

"(D) the efficiency of grouping the categories or subcategories according to the pollutants emitted or the processes or technologies used.

"(3) Not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1990 and after opportunity for comment, the Administrator shall publish a schedule establishing a date for the promulgation of emissions standards for each category and subcategory of sources listed pursuant to subsection (c) (1) and (2) which shall be consistent with the requirements of paragraphs (1) and (2). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304 of this Act.

"(4) If, under other provisions of this Act, the Administrator is proposing or promulgating requirements applicable to a class of sources similar to a category or subcategory listed pursuant to this section, the Administrator may simultaneously propose or promulgate emissions standards under this section for such category or subcategory notwithstanding the priorities established by paragraph (2). Nothing in this paragraph shall be construed or applied to stay a deadline for control requirements otherwise applicable under this or other law.

"(5)(A) The Administrator shall conduct, and transmit to the Congress not later than three years after the date of enactment of this paragraph, a study of emissions of hazardous air pollutants which are particulates from electric utility steam generation units, considering the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions and the costs of such technologies.

"(B) The Administrator shall conduct, and transmit to the Congress not later than four years after the date of enactment of this paragraph, a study of mercury emissions from electric utility steam generating units considering the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions, and the costs of such technologies.

"(C) The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than four years after the date of enactment of this paragraph, a study to determine the threshold level of mercury.

"(D) Notwithstanding the requirements of subsection (e), standards under subsection (d) for the control of emissions of hazardous air pollutants which are particulates and mercury emissions from electric utility steam generation units shall be promulgated not sooner or later than five years after the date of enactment of this paragraph. The studies required by subparagraphs (A), (B), and (C) shall be placed in the relevant docket for any rulemaking that would establish emissions standards under subsection (d) for particulates or mercury from electricity utility steam generating units and shall be considered by the Administrator, along with other public comments, before any such standard is promulgated. Such standards shall be consistent with the requirements of subsection (d) and take into account such information on cost and feasibility as is contained in the study required by subparagraph (B). Electric utility steam generating units shall be in compliance with such standards not later than eight years after the date of enactment of this paragraph.

"(E) Notwithstanding the provisions of this section, the Administrator shall not be required to promulgate standards to control emissions of organic or inorganic acid gases from electric utility steam generating units unless the Administrator finds that such standards are warranted to protect public health or the environment. Nothing in this section shall be construed to authorize the Administrator to promulgate standards requiring use of flue gas stream scrubbing technology by electric utility steam generating units for the control of hazardous air pollutants.

"(F) Notwithstanding the provisions of this section, the Administrator shall not promulgate standards to control emissions of any hazardous air pollutant, other than mercury, which is emitted in gaseous form from electric utility steam generating units, if the emissions of such pollutant are less than ten tons per year.

"(G) Emissions of organic and inorganic acid gases shall be included in determining whether an electric utility steam generating unit is a major source of hazardous air pollutants which are particulates of mercury under this section.

"(6) Notwithstanding the provisions of paragraph (1), the Administrator shall promulgate standards pursuant to subsection (d) applicable to publicly owned treatment works (as defined in title II of the Federal Water Pollution Control Act) not earlier or later than five years after the date of enactment of this paragraph.

"(7) The Administrator shall consider, but need not adopt, the recommendations contained in the report of the National Academy of Sciences prepared pursuant to subsection (r) and the views of the Science Advisory Board, with respect to such report. Prior to the evaluation of remaining risks pursuant to paragraph (8), and after notice and opportunity for comment, the Administrator shall publish revised Guidelines for Carcinogenic Risk Assessment or a detailed explanation of the reasons that any recommendations contained in the report of the National Academy of Sciences will not be implemented. The publication of such revised Guidelines shall not be a final Agency action for purposes of section 307.

"(8)(A) If legislation recommended by the Risk Assessment and Management Commission established by subsection (u) in accordance with this section or alternative legislation providing for the regulation of risks to public health resulting from exposure to emissions of hazardous air pollutants after application of controls in accordance with subsection (d) is not enacted by a date five years after the date of enactment of the Clean Air Act Amendments of 1990, the provisions of this paragraph and subsections (f) and (i)(4) through (i)(8) shall become effective on such date.

"(B) Not later than three years after the initial promulgation of emissions standards for a category or subcategory of sources pursuant to subsection (d), the Administrator shall commence an evaluation of the risks to human health and the environment resulting from emissions of hazardous air pollutants by sources in the category or subcategory remaining after application of such standards. If the Administrator finds as the result of such evaluation, that emissions of hazardous air pollutants from sources in the category or subcategory (or portion thereof), individually or in the aggregate, after application of the prescribed standards, present a significant risk of adverse effects on public health or a threat of adverse environmental effects, the Administrator shall complete, within two years after the date of commencement, such evaluation and revise standards applicable to such category or subcategory (or portion thereof) using the authorities of subsection (f) or (g), as appropriate.

"(C) The Administrator shall take such steps as are necessary, including studies pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, to assure that adequate data on the health and environmental effects of any hazardous air pollutant emitted by sources in a category or subcategory subject to review under this paragraph are available at the commencement of the evaluation.

"(D) To the extent that standards promulgated under subsection (d) do not eliminate lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory (as determined according to Guidelines for Carcinogenic Risk Assessment published by the Administrator), the Administrator shall use the authorities of subsection (f) to revise the standards applicable to such pollutant (or stream of pollutants) and categories or subcategories. To the extent that standards promulgated under subsection (d) do not reduce emissions to a level at or below the threshold for adverse health effects, with an ample margin of safety, for pollutants other than carcinogens, the Administrator shall use the authorities of subsection (g) to revise the standards applicable to such pollutants and categories or subcategories. With respect to any hazardous air pollutant which is both a carcinogen and causes adverse health effects for which a threshold exists, the Administrator shall establish standards pursuant to subsection (f) for sources of such pollutant, unless a more stringent standard than would be promulgated pursuant to subsection (f)(1)(A) is necessary to assure that such threshold, with an ample margin of safety, will not be exceeded. The Administrator shall in any such case establish a standard under subsection (g) in lieu of the standard which would be applicable under (f)(1)(A).

"(E) The Administrator shall not be required to conduct any review under this paragraph or promulgate emissions limitations under subsections (f) or (g) for any category or subcategory of area sources which is listed pursuant to subsection (c)(2)

and for which an emissions standard is promulgated pursuant to subsection (d)(5).

"(F) In establishing standards for the control of unique chemical substances of listed pollutants without CAS numbers under subsection (f) or (g) the Administrator shall establish such standards with respect to the health and environmental effects of the substances actually emitted by sources and direct transformation byproducts of such emissions in the categories or subcategories.

"(G)(i) Any recommendation of the Risk Assessment and Management Commission established by subsection (u) which includes proposed amendments to this section shall be transmitted in legislative form as a special message to the Speaker of the House of Representatives and to the President of the Senate not later than forty-two months after the date of enactment of this paragraph.

"(ii) Any bill introduced with respect to a special message shall be referred to the Committee on Environment and Public Works in the Senate and the Committee on Energy and Commerce in the House of Representatives.

"(iii)(I) If the committee to which a bill with respect to a special message has been referred has not reported it at the end of sixty calendar days of continuous session of the Congress after its introduction, it is in order to move to discharge the committee from further consideration of the bill.

"(II) A motion to discharge may be made only by an individual favoring the bill, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill with respect to the special message); and debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(iv)(I) When the Energy and Commerce Committee of the House of Representatives has reported, or has been discharged from further consideration of, a bill with respect to the special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(II) Debate on any bill with respect to the special message shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable.

"(III) Motions to postpone, made with respect to the consideration of a bill with respect to a special message, and motions to proceed to the consideration of other business, shall be decided without debate.

"(IV) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill with respect to a special message shall be decided without debate.

"(V) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any bill with respect to a special message and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

"(v)(I) Debate in the Senate on any bill with respect to a special message, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than fifteen hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(II) Debate in the Senate on any amendment to a bill with respect to a special message shall be limited to two hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or the minority leader's designee. No amendment that is not germane to the provisions of a bill with respect to a special message shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a bill with respect to a special message, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(III) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed three, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the bill.

"(IV) The conference report on a bill with respect to a special message shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

"(V) During the consideration of the Senate of the conference report on any bill with respect to a special message, debate shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(VI) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or minority leader's designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to thirty minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to twenty minutes, to be equally divided between and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or the minority leader's designee.

"(VII) In any case in which there are amendments in disagreement, time on each amendment shall be limited to thirty minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or the minority leader's designee. No amendment that is not germane to the provisions of such amendments shall be received.

"(vi) Beginning on the date one hundred and eighty calendar days following the submission of the report of the Risk Assessment and Management Commission established by subsection (u), a bill consisting of any draft legislation accompanying the report shall be privileged in both the House of Representatives and the Senate. In the Senate, such legislation shall be subject to a limitation of debate of fifteen hours, equally divided between the majority leader and the minority leader. Relevant amendments to the legislation shall be in order. At the conclusion of the fifteen-hour period, no intervening action shall be in order, and the bill shall be read a third time followed by a vote on final passage. This subparagraph is enacted as an exercise of the rulemaking power of the House of Representatives and of the Senate.

"(f) ADDITIONAL REGULATION OF CARCINOGENS.—

"(1) The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is a known, probable, or possible human carcinogen. For each such pollutant (or stream of pollutants containing carcinogens) the Administrator shall establish two simultaneously applicable standards including—

"(A) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in ten thousand to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory; and

"(B) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory.

No consideration of cost, cost effectiveness, economic, energy, or other factors or technological feasibility shall be included in the determination of the appropriate level of any emissions standard under this subsection.

"(2) Any standards promulgated under this subsection shall be effective upon the date of promulgation.

"(g) STANDARDS TO PROTECT HEALTH AND THE ENVIRONMENT.—

"(1) The Administrator is authorized to promulgate emissions standards under this

subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is not a carcinogen. The Administrator shall establish any emission standard or standards under this subsection at the level which, in the judgment of the Administrator, provides an ample margin of safety to protect the public health, unless a more stringent standard is required to protect the environment. No consideration of costs, cost effectiveness, economic, energy, or other factors or technological feasibility shall be included in the determination of the appropriate level of any emission standard or the margin of safety to protect the public health under this subsection.

"(2) Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(h) WORK PRACTICE STANDARDS AND OTHER REQUIREMENTS.—

"(1)(A) In addition to any numerical emissions limitation established under this section, the Administrator is authorized to promulgate a design, equipment, work practice, or operational standard (including requirements for operator training or certification), or combination thereof, applicable to sources in categories or subcategories listed pursuant to subsection (c) and consistent with the provisions of subsection (d), (f), or (g). The Administrator shall promulgate such standards whenever it is not feasible to prescribe or enforce an emission standard for a category or subcategory for control of hazardous air pollutants (or a stream of such pollutants). In the event the Administrator promulgates a design or equipment standard under this paragraph, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(B) For the purpose of this paragraph, the phrase 'not feasible to prescribe or enforce an emission standard' means any situation in which the Administrator determines that (i) a pollutant (or stream of pollutants) listed pursuant to subsection (b) cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (ii) the application of measurement methodology to a particular category or subcategory of sources is not practicable due to technological and economic limitations.

"(C) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant (or stream of pollutants) at least equivalent to the reduction in emissions of such pollutant achieved under the requirements of subparagraph (A), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(D) Any standard promulgated under subsections (d), (f), or (g) shall include a numerical emissions limitation whenever it is feasible to promulgate and enforce a standard in such terms.

"(2) For the purposes of developing or assisting in the development of any standard, requirement, or regulation, conducting any study, or enforcing the provisions of this section, the Administrator (or a State with an approved program under subsection (l)) may require the owner or operator of any facility which emits air pollutants subject to this section or stores any substance subject to section 129 of this Act to monitor for the presence of such pollutant in the emissions (both point and nonpoint) from such source and in the ambient air within the vicinity of the facility, to install and maintain leak detection systems, and to keep records and make reports on the results of such monitoring and leak detection.

"(3)(A) Emissions standards promulgated pursuant to this section shall include, where appropriate, leak prevention, detection and correction requirements consistent with the provisions of subsection (d)(2) and may include monitoring, recordkeeping, reporting, vapor recovery, secondary containment, or other requirements, which shall be applicable to devices and systems (including pumps, compressors, valves, flanges, connectors, containers, and vessels) from which there may be emissions of any pollutant subject to this section.

"(B) Regulations under this paragraph may require the owner or operator of a source to carry out an annual audit and safety inspection to locate and correct all leaks and other preventable routine or episodic releases of any air pollutant subject to this section. The results of such inspection and the results of any other safety inspection, survey, or audit carried out with respect to the source shall be available to the Administrator, to the State in which the source is located, and to the public, consistent with the provisions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(4) Any design, equipment, work practice, or operational standard, audit or monitoring requirement or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection).

"(i) SCHEDULE FOR COMPLIANCE.—

"(1) After the effective date of any emission standard, limitation, or regulation under subsection (d), (f), (g), or (h), no person may construct any new major source or reconstruct any existing major source subject to such emission standard, regulation or limitation unless the Administrator (or a State with a permit program approved under subsection (j)) determines that such source, if properly constructed and operated, will comply with the standard, regulation or limitation except that a source otherwise subject to subsection (f) or (g), may in the alternative, seek approval of an emissions limitation under paragraph (3) or (4), as appropriate.

"(2) After the effective date of any emissions standard, limitation or other requirement promulgated under this section, no person may operate any source in violation of such standard, limitation or regulation or an alternative emissions limitation established pursuant to paragraph (3) or (4), except in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than three years after the effective date of such standard, except as provided in paragraphs (3) through (14).

"(3) With respect to standards established pursuant to subsection (g), the Administrator (or a State with an approved program) shall establish an alternative emissions limitation if the owner or operator of a source provides a site-specific health assessment, performed in accordance with regulations promulgated by the Administrator under paragraph (6). Such alternative emissions limitation shall be established to protect public health with an ample margin of safety (unless a more stringent limitation is necessary to protect the environment) based on the results of the site-specific health assessment.

"(4)(A) With respect to standards established pursuant to subsection (f), the Administrator (or a State with an approved program) shall, after consultation with the State in which the source is located, grant a source an alternative emissions limitation, if the Administrator (or the State) determines, based on a site-specific health assessment provided by the owner or operator of the source and other information prepared in accordance with rules issued under paragraph (6), that such alternative emissions limitation provides that the actual person living within the vicinity of the source who is most exposed to emissions of any hazardous air pollutant from the source will not experience an individual lifetime risk of carcinogenic effects exceeding one in ten thousand as the result of such exposure. No alternative emissions limitation applicable to a source and authorized by this paragraph shall be less stringent than an emission standard established pursuant to subsection (d) applicable to such source. Any alternative emissions limitation shall be reviewed at the time the permit for the source is renewed to assure that such controls and mitigation measures as are being employed continue to be effective.

"(B) An alternative emissions limitation established under this paragraph shall, to the extent possible using available technology and operational controls, reduce the expected risk of carcinogenic effects to the actual person living within the vicinity of the source most exposed to emissions of any hazardous air pollutant from the source to a level not exceeding one in one million. To the extent that such level cannot be achieved, the Administrator (or a State with an approved program) shall assure that all available technology and operational controls are employed and that the alternative emissions limitation is reviewed at the time the permit for the source is renewed to determine whether further technology and operational controls are available. The Administrator (or the State) may require the owner or operator of the source to conduct research and development on improved or more effective control technologies or management practices as a condition for any alternative emissions limitation or permit renewal established pursuant to this paragraph.

"(5)(A) Any request for an alternative emissions limitation under paragraph (3) or (4) shall be submitted within one year of the date on which an emission standard applicable to an existing source is promulgated pursuant to subsection (f) or (g). Any request for an alternative emissions limitation for any source shall include all supporting information as required by rule which is necessary for the Administrator (or the State with an approved program) to make a determination with respect to the eligibility of the source for an alternative emissions limitation. The site-specific health assessment submitted by the owner or operator of the source in support of a request for an alternative emission limitation shall comply with rules for preparing such health assessments which have been promulgated by the Administrator pursuant to paragraph (6).

"(B) The Administrator (or the State with an approved program) shall make a determination upon any request one year before the date of compliance established for the emissions standard promulgated pursuant to subsection (f) or (g) and the alternative emissions limitation shall be effective upon the date of compliance, except that the Administrator (or the State with an approved program) can provide the owner or operator of the source one additional year to comply with the alternative emissions limitation upon a showing by the owner or operator of the source that additional time is necessary to comply.

"(C) If a State has an approved program and initial authority to grant an alternative emissions limitation and a complete application has been timely filed by the owner or operator of the source, but the State has failed to act on such application, the Administrator shall review and approve or disapprove such application by a date not later than three years after the relevant standard has been promulgated. The Administrator may provide the source up to two years from the date an alternative emission limitation is established to comply with such limitation, but in no event longer than five years after the relevant standard was originally promulgated under subsection (f) or (g).

"(D) A new source subject to an emissions standard under subsection (f) or (g) shall be in compliance with any applicable alternative emissions limitation before operation of the source commences.

"(E) The Administrator shall review and approve or disapprove, after an opportunity for public comment, each alternative emissions limitation granted by a State to a source under this subsection which is less stringent than an emissions standard promulgated under subsection (f)(1)(A) and which would otherwise be applicable to such source. The Administrator's decision to approve or disapprove an alternative emissions limitation pursuant to this subparagraph shall not be subject to judicial review. Nothing in this subparagraph shall restrict the right of any person to judicial review of a permit.

"(6)(A) Not later than five years after the date of enactment of this paragraph, the Administrator shall, after notice and opportunity for public comment, promulgate rules for site-specific health assessments to be prepared in support of applications for alternative emissions limitations pursuant to paragraphs (3) and (4). In promulgating such regulations, the Administrator shall provide methods for submitting and including in the health assessment information including, but not limited to, configuration of the facility, actual meteorology and terrain of the site, dispersion modeling reflecting actual rates of operation of the source, direct and indirect exposure pathways, and typical lifestyles (including length of residency within the vicinity of the source) and patterns of activity of the residents of the area. To the extent that actual information is not submitted or governed by the last sentence of this subparagraph, the model used to conduct the health assessment shall include the default assumptions from the Agency's standard model. Regulations promulgated under this paragraph shall require use of unit risk factors for each hazardous air pollutant as determined by the Administrator, provide methods for estimating exposure for the actual person most exposed to emissions of any hazardous air pollutant from the source, specify dispersion modeling methodology and monitoring methods and require that all data collected in the assessment must be available for inspection by the Administrator (or the State with an approved program). For purposes of estimating exposure to any hazardous air pollutant from the source, exposure parameters with respect to lifestyles and activity patterns are to be based on information gathered by the Administrator concerning persons living under comparable socioeconomic conditions and reflecting expected exposure of one standard deviation above the mean level of exposure which would be expected for such persons.

"(B) The health assessments supporting applications for alternative emissions limitations under paragraph (3) or (4) shall identify the actual person most exposed to emissions of any hazardous air pollutant from the source and shall determine risks of carcinogenic effects to such person.

"(7) Each alternative emission limitation established pursuant to paragraph (3) or (4) shall be implemented through a permit under subsection (j). Prior to the issuance of any such permit, the Administrator (or the State with an approved program) shall publish a notice of the request for an alternative emissions limitation along with a brief analysis prepared by the Administrator (or the State) of the site-specific health assessment or site-specific health risk assessment provided by the owner or operator and make the analysis along with the health assessment available to the public (prior to the public hearing). The Administrator (or the State with an approved program) shall provide an opportunity to comment on the site-specific health assessment in writing and at a public hearing held within the vicinity of the source during the permit process. The notice of the hearing shall be published in a general circulation newspaper and include sufficient information as necessary to provide a reasonable explanation of the health assessment. The health assessment shall be made available to the public not less than 60 days before such hearing. The Administrator (or the State with an approved program) shall respond to any written comments received from the public on the health assessment at the time of permit issuance incorporating any alternative emissions limitation.

"(8)(A) With respect to standards promulgated pursuant to subsection (f)(1)(B) the Administrator (or a State acting pursuant to a program approved under subsection (l)) may grant an existing source a temporary exception from the standard, if the Administrator (or the State) determines, based on specific information provided by the owner or operator of the source and other information, that the standard cannot be achieved by the source using all available technology and operational controls and that the source will implement a risk-reduction program employing all such technology and controls. For purposes of this section, consideration of cost is implicit in the term 'available'. Controls which are so expensive that they force closure of the source or would severely impair its continuation as an economic entity are not 'available'. The Administrator (or the State) may require the owner or operator of the source to conduct research and development on improved or more effective control technologies or management practices as a condition for any temporary exception or permit renewal pursuant to this paragraph.

"(B) Any request for an exception under this paragraph shall be submitted within six months of the date of promulgation of the applicable standard and shall include all information necessary for the Administrator (or the State) to make a determination with respect to the eligibility of a source for an exception. The Administrator (or the State) shall review and approve or disapprove any request within one year of submittal. Any request failing to meet the requirements of this subparagraph shall be deemed denied.

"(C) An exception may only be granted under this paragraph, if the Administrator (or the State) has provided notice of the proposed exception and has provided an opportunity for public comment and a public hearing on the conditions of the proposed exception. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any exception granted by a State under this paragraph. The Administrator shall make a determination with respect to any appeal within one hundred and eighty days.

"(D) An exception granted under this paragraph shall be reviewed upon renewal of the permit for the source, and may be extended after a further determination subject to the same terms and conditions as applicable in the first instance.

"(9) The President may exempt any source from compliance with paragraph (1) or (2) for a period of not more than two years if the President finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

"(10)(A) The Administrator (or a State acting pursuant to a program approved under subsection (l)) shall exempt any existing source from an emissions standard promulgated pursuant to subsection (d) upon a showing by the owner or operator of such source that it has achieved a voluntary reduction of 90 per centum or more in emissions of hazardous air pollutants (95 per centum or more in the case of a pollutant which is a particulate) which are listed in subsection (e)(1)(A) from the source on or before the date three years after the date of enactment of this paragraph and has achieved a voluntary reduction of 90 per centum or more in emissions of all other hazardous air pollutants (95 per centum or more in the case of pollutants which are particulates) from the source on or before the date four years after the date of enactment of this paragraph.

"(B) The reduction shall be determined with respect to verifiable and actual emissions in a base year not earlier than calendar year 1985: *Provided,* That, there is no evidence that emissions in the base year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures. Emissions data satisfying at a minimum all requirements imposed pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 shall be considered 'verifiable and actual' for the purpose of establishing base year emissions.

"(C) For each source granted an exemption under this paragraph there shall be established by a permit issued pursuant to subsection (j) an enforceable emissions limitation for hazardous air pollutants reflecting the reduction which qualifies the source for an exemption under this paragraph. An

exemption under this paragraph shall not include an exemption from standards or requirements promulgated pursuant to subsection (f) or (g) and the Administrator shall review emissions from sources granted exemptions under this paragraph according to the provisions of subsection (e)(8) at the same time that other sources in the category or subcategory are reviewed.

"(D) For purposes of this paragraph, the term 'voluntary' means not otherwise required by a Federal air pollution control law or regulation.

"(E) The Administrator shall promulgate regulations to carry out the provisions of this paragraph as expeditiously as practicable, but not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990. Such regulations may include fees sufficient to offset the costs of reviewing applications for exemptions submitted under this paragraph. Revenues from such fees received by the Administrator shall, notwithstanding the provisions of the Miscellaneous Receipts Act, be used for the purpose of administering this section.

"(F) With respect to pollutants for which high risks of adverse human health effects may be associated with exposure to small quantities including, but not limited to, chlorinated dioxins and furans, the Administrator shall by regulation limit the use of offsetting reductions in emissions of other hazardous air pollutants from the source as counting toward the 90 per centum reduction in such high-risk pollutants qualifying for an exemption under this paragraph.

"(11) Notwithstanding the requirements of this section, no existing source that has installed—

"(A) reasonably available control technology (which achieves a reduction of 80 per centum or more from uncontrolled levels of hazardous air pollutants emitted by the source or which requires a substantial capital investment (as determined by the Administrator) by the source),

"(B) best available control technology (as defined in section 169(3)),

"(C) technology required to meet a lowest achievable emissions rate, or

"(D) has voluntarily achieved (as certified to the Administrator) on or after January 1, 1993, a reduction of 90 per centum in the emissions of the hazardous air pollutants emitted by the source,

prior to the promulgation of a standard under this section applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to an action described in subparagraph (A), (B), (C), or (D) shall be required to comply with such standard under this section until the date five years after the date on which such installation or reduction has been achieved, as determined by the Administrator. The Administrator may issue such rules and guidance as are necessary to implement this paragraph.

"(12)(A) If at any source a hazardous air pollutant is subject to regulation under this section because the source emits more than the minimum emissions rate of other pollutants, the Administrator (or a State acting pursuant to a program approved under subsection (l)) may, at the request of the owner or operator of the source, waive the requirements applicable to such pollutant where emissions of the pollutant are in de minimis amounts and do not present a significant risk of adverse effects to human health or adverse environmental effects and control of the pollutant would require installation of additional and separate control technologies for that pollutant only.

"(B) Applications for waivers under this paragraph shall be submitted not later than four months after the effective date of the relevant standard and the Administrator (or the State) shall make a determination on any application within six months of submission. Applications which are not complete shall be deemed denied without further opportunity for reapplication. An application for a waiver under this paragraph shall not stay the applicant's obligation to comply with emissions standards applicable to other pollutants. Applications shall be accompanied by fees adequate to offset all direct and indirect costs of reviewing such applications. Not later than eighteen months after the date of enactment of this paragraph, the Administrator shall publish guidance on procedures for application and review.

"(13) A source for which construction or reconstruction is commenced after the date an emissions standard applicable to such source is proposed pursuant to subsection (d) but before the date an emissions standard applicable to such source is proposed pursuant to subsection (f) or (g) shall not be required to comply with the emissions standard under subsection (f) or (g) until the date ten years after the date construction or reconstruction is commenced.

"(14)(A)(i) Any source of coke oven emissions which achieves the emissions limitation specified in clause (ii) beginning on or before January 1, 1995, and continues to achieve such limitation after such date, and complies with the provisions of clause (iii) shall not be required to achieve emissions limitations promulgated under subsection (d), (f), or (g) until January 1, 2020.

"(ii) Sources of coke oven emissions qualifying for an extension under this subparagraph shall not exceed—

"(I) 3 per centum leaking doors (5 per centum leaking doors for six meter batteries);

"(II) 1 per centum leaking lids;

"(III) 4 per centum leaking offtakes; and

"(IV) Sixteen seconds visible emissions per charge.

"(iii) Sources of coke oven emissions qualifying for an extension under this subparagraph shall make available not later than January 1, 2000, to the surrounding communities the results of any risk assessment performed by the Administrator to determine the appropriate level of any emissions standard established by the Administrator pursuant to subsection (f) or the results of the risk assessment performed by such source pursuant to paragraph (3) or (4).

"(iv) Notwithstanding the provisions of this section, including paragraph (6)(D), reconstruction of any source of coke oven emissions qualifying for an extension shall not subject such source to emissions limitations under subsections (f) or (g) more stringent than those established in subparagraph (A)(ii) or subparagraph (B)(iii).

"(B)(i) Any source of coke oven emissions which is not owned or operated by an integrated steel company, and which was in operation on January 1, 1990, may elect to meet the standards and schedule specified in this subparagraph.

"(ii) A source electing the regulatory schedule under this subparagraph shall meet the standards established in subsection (d)(8) not later than three years after date of enactment and the standards established under clause (B)(iii) not later than ten years after the date of enactment of the Clean Air Act Amendments of 1990.

"(iii) Not later than seven years after the date of enactment of this paragraph, the Administrator shall promulgate emissions standards for categories of coke oven emissions qualifying under this subparagraph with the presumption that such standards will include a standard for leaking doors as specified in subparagraph (A)(ii)(I) unless determined otherwise by the Administrator. Standards under this clause shall be established pursuant to the authorities of subsection (d).

"(iv) Any source of coke oven emissions which is not owned or operated by an integrated steel company and which meets emission standards pursuant to clauses (ii) and (iii) and which complies with the provisions of subparagraph (A)(iii) shall not be required to meet emissions standards which would otherwise be applicable to the source under subsection (f) or (g) until January 1, 2020.

"(C) The Administrator shall promulgate monitoring, reporting and recordkeeping, and other requirements including national test methods, as necessary, to implement and enforce standards under this paragraph and subsections (d), (f), and (g).

"(D) Any facility qualifying under this subparagraph and requesting an alternative emissions limitation under subsection (i), shall submit the requisite information under subsection (i), two years prior to the date of compliance for the facility under subparagraph (A)(ii) or (B)(iv).

"(j) PERMIT PROGRAM.—

"(1) Except as provided in paragraph (2) and after the date of enactment of this section, it shall be unlawful for any person to construct a new source, or for the owner or operator of any source to emit any air pollutant, subject to any emissions standard under this section, except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (l)) under this subsection. The Administrator shall promulgate within twelve months after the date of enactment of this subsection regulations establishing the minimum elements of a permit program. These elements shall include—

"(A) requirements for permit applications, including a standard application form and fees sufficient to offset the direct and indirect cost of processing applications;

"(B) requirements for monitoring (including continuous emissions monitoring, unless determined to be unavailable or inappropriate) the mass and rate of emissions for each hazardous air pollutant emitted by the source according to test procedures established by the Administrator, reporting of monitoring results not less frequently than annually and the maintenance of such records with respect to monitoring which the Administrator shall require;

"(C) a requirement that permittees pay an annual fee sufficient to offset all direct and indirect costs of administering the program (if such fees are paid to the Administrator, the Administrator may, notwithstanding any requirement of the Miscellaneous Receipts Act, expend such receipts for the purposes of administering the provisions of this section); and

"(D) a requirement that any State seeking approval of a program pursuant to subsection (l) have adequate personnel and funding to administer the program and adequate authority to—

"(i) issue permits that apply, and assure compliance by all sources within the State

with, each applicable standard, regulation or requirement under this section;

"(ii) issue permits for a fixed term, not to exceed five years;

"(iii) terminate or modify permits for cause, including establishment of a new emissions standard applicable to the source;

"(iv) enforce permits and the requirement to obtain a permit, including adequate civil and criminal penalties;

"(v) provide public notice of each application for a permit and an opportunity for public hearing before a determination on each such application; and

"(vi) assure that no permit will be issued if the Administrator timely objects to its issuance.

No fee schedule established by the Administrator under this subsection shall be designed with the purpose of supporting other aspects of any State air pollution control program including elements for control of area sources or prevention of accidents. Nothing in this subsection shall prevent a State from imposing additional permit fees, except that, the Administrator shall not approve any program pursuant to subsection (l), if revenues from such fees are used for purposes other than the development and implementation of programs to control the emissions of hazardous air pollutants. When issuing permits in the absence of an approved State program, the Administrator shall comply with the guidelines issued to implement this paragraph.

"(2)(A) Notwithstanding the requirements of paragraph (1), an existing source in a category or subcategory subject to an emissions standard under this section may continue operations prior to the issuance of a permit, provided that, the owner or operator of the source certifies to the Administrator (or to the State) that the source will comply with all applicable standards and requirements under this section. Certification pursuant to this paragraph shall be provided not later than six months after the effective date of any applicable standard or revision of a standard under this section. The certification shall be accompanied by a compliance plan describing means by which the source intends to achieve the standard on and after the compliance date established by subsection (i) and shall be signed by a responsible official of the business concern owning or operating the source.

"(B) Upon receipt of any certification, the Administrator (or the State) shall issue a temporary operating permit for the source, unless within thirty days the Administrator (or the State) notifies the owner or operator of the source that the certification does not adequately demonstrate compliance with all applicable standards and requirements under this section. Any temporary permit issued under this paragraph shall be for a term not exceeding one year and shall be enforceable to the same extent as any standard or other requirement promulgated under this section.

"(C) Within six months of the issuance of any temporary operating permit for any source under this paragraph, the Administrator (or the State) shall complete a review of the operations of such source, including an inspection at the site of the source, to determine whether a full operating permit under this subsection should be issued. If upon conclusion of such review (including any right to administrative appeal, but not including pendency of any judicial proceeding), the Administrator (or the State) determines that a permit should not be issued, the temporary permit granted under this paragraph shall be suspended immediately.

"(D) The Administrator shall require that certifications under this paragraph be accompanied by a fee sufficient to offset the full administrative costs of reviewing certifications.

"(3)(A) In the event that the Administrator fails to promulgate a standard for a category or subcategory of sources by the date established pursuant to subsection (e)(1)(A) or (e)(3), and beginning six months after such date, it shall be unlawful for the owner or operator of any source in such category or subcategory to emit any hazardous air pollutant except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (l)) under this paragraph.

"(B) The permit shall be issued pursuant to the provisions of paragraph (1) and such other provisions as are necessary to carry out the objectives of this Act. In preparing applications for permits under this paragraph, the owner or operator of the source shall commit to the installation and operation of technology and practices to control emissions of hazardous air pollutants which are the best technology and practices available for such source, as certified by an independent, registered professional engineer.

"(C) Each permit issued under this paragraph shall include an enforceable emission limitation for each hazardous air pollutant emitted by the source and no such pollutant may be emitted in amounts exceeding the applicable limitation immediately for new sources and, as expeditiously as practicable, but not later than the date three years after the permit is issued for existing sources.

"(D) If the Administrator subsequently promulgates a standard which would be applicable in lieu of the emissions limitations established by permit under this paragraph, the Administrator (or the State) shall revise such permit upon the next renewal to reflect the standards promulgated by the Administrator.

"(E) Paragraph (2) shall not be available to any source requiring a permit under this paragraph.

"(4) The Administrator shall suspend the issuance of permits by the Agency in any State promptly upon approval of a program for that State under subsection (l).

"(5)(A) Each State shall transmit to the Administrator a copy of each permit application (but not including certifications for temporary permits) and including any application for an extension or modification submitted under this section, and shall provide for notice of each permit proposed to be issued by the State.

"(B) No permit shall be issued if the Administrator within sixty days objects in writing to its issuance as not in compliance with the requirements of this section. The Administrator shall provide with the objection a statement of the reasons for the objection and the terms and conditions that the Administrator would impose if the permit were issued by the Administrator.

"(C) If the State fails within ninety days after the date of the objection to submit a permit revised to meet the objection, the Administrator shall have authority to issue or deny the permit.

"(D) Nothing in this paragraph shall be interpreted, construed, or applied to require the Administrator to review each permit to be issued by a State, provided that the Administrator conducts an audit program which assures that State permitting activities are consistent with the goals and objectives of this section.

"(6) To the maximum extent practicable, permits issued under this section shall be consolidated with other permits required under this Act.

"(k) AREA SOURCE PROGRAM.—

"(1) The Congress finds that emissions of hazardous air pollutants from area sources may individually, or in the aggregate, present significant risks to public health in urban areas. Considering the large number of persons exposed and the risks of carcinogenic and other adverse health effects from hazardous air pollutants, ambient concentrations characteristic of large urban areas should be reduced to levels substantially below those currently experienced. It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources including a reduction of not less than 75 per centum in the incidence of cancer attributable to emissions from such sources.

"(2) The Administrator shall, after consultation with State and local air pollution control officials, conduct a program of research with respect to sources of hazardous air pollutants in urban areas and shall include within such program—

"(A) ambient monitoring for a broad range of hazardous air pollutants (including, but not limited to, volatile organic compounds, metals, pesticides and products of incomplete combustion) in a representative number of urban locations;

"(B) analysis to characterize the sources of such pollution with a focus on area sources and the contribution that such sources make to public health risks from hazardous air pollutants; and

"(C) consideration of atmospheric transformation and other factors which can elevate public health risks from such pollutants.

Health effects considered under this program shall include, but not be limited to, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, reproductive dysfunction, and other acute and chronic effects including the role of such pollutants as precursors of ozone or acid aerosol formation. The Administrator shall report the preliminary results of such research not later than three years after the date of enactment of this paragraph.

"(3)(A) Considering information collected pursuant to the monitoring program authorized by paragraph (2), the Administrator shall, not later than five years after the date of enactment of this subsection and after notice and opportunity for public comment, prepare and transmit to the Congress a comprehensive strategy to control emissions of hazardous air pollutants from area sources in urban areas.

"(B) The strategy shall (i) identify not less than ten hazardous air pollutants which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas and which are or will be listed pursuant to subsection (b) and (ii) identify the source categories or subcategories emitting such pollutants which are or will be listed pursuant to subsection (c). When identifying categories and subcategories of sources under this subparagraph, the Administrator shall assure that sources accounting for 90 per centum or more of the aggregate emissions of each of the ten iden-

tified hazardous air pollutants are subject to standards pursuant to subsection (d) or this subsection.

"(C) The strategy shall include a schedule of specific actions to substantially reduce the public health risks posed by the release of hazardous air pollutants from area sources which will be implemented by the Administrator under authority of this or other laws (including, but not limited to, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Resource Conservation and Recovery Act) or by the States. Requirements applicable to mobile sources or to fuels shall be established pursuant to title II of this Act. The strategy shall have as a goal a reduction in the incidence of cancer attributable to exposure to hazardous air pollutants by 75 per centum, considering control of emissions of hazardous air pollutants from all stationary and mobile sources and resulting from measures implemented by the Administrator or by the States under this or other laws.

"(D) The strategy may also identify research needs in monitoring, analytical methodology, modeling or pollution control techniques and recommendations for changes in law that would further the goals and objectives of this subsection.

"(E) Nothing in this subsection shall be interpreted to preclude or delay implementation of actions with respect to area sources of hazardous air pollutants under consideration pursuant to this or any other law and which may be promulgated before the strategy is prepared.

"(F) The Administrator shall implement the strategy as expeditiously as practicable assuring that all sources are in compliance with all requirements not later than nine years after the date of enactment of this subsection.

"(G) As part of such strategy the Administrator shall provide for ambient monitoring and emissions modeling in urban areas as appropriate to demonstrate that the goals and objectives of the strategy are being met.

"(4) In addition to the national urban air toxics strategy authorized by paragraph (3), the Administrator shall also encourage and support areawide strategies developed by State or local air pollution control agencies which are intended to reduce risks from emissions by areas sources within a particular urban area. From the funds available for grants under this section, the Administrator shall set aside not less than 10 per centum to support areawide strategies addressing hazardous air pollutants emitted by area sources and shall award such funds on a demonstration basis to those States with innovative and effective strategies. At the request of State or local air pollution control officials, the Administrator shall prepare guidelines for control technologies or management practices which may be applicable to various categories or subcategories of area sources.

"(5) The Administrator shall report to the Congress at intervals not later than eight and ten years after the date of enactment of this subsection on actions taken under this subsection and other parts of this Act to reduce the risk to public health posed by the release of hazardous air pollutants from area sources. The reports shall also identify specific metropolitan areas which continue to experience high risk to public health as the result of emissions from area sources.

"(6) The Administrator shall prepare a report with recommendations on health impacts of mobile source benzene emissions considering both fuel and vehicle-based control strategies to be submitted to the Environment and Public Works Committee of the Senate and the Energy and Commerce Committee of the House of Representatives not later than twenty-four months after the date of the enactment of the Clean Air Act Amendments of 1990.

"(l) STATE PROGRAMS.—

"(1) Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of sudden, accidental releases pursuant to section 129. A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administrator under this Act.

"(2) Not later than twelve months after the date of enactment of this paragraph, the Administrator shall publish guidance which would be useful to the States in developing programs for submittal under this subsection. Guidance shall, at a minimum, include permitting requirements for new and existing sources of air pollutants subject to this section. The guidance shall also provide for the registration of all facilities producing, processing, handling, or storing any substance listed pursuant to section 129 in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b).

"(3) The Administrator shall establish and maintain an air toxics clearinghouse, control technology center and risk information center to provide technical assistance and information to the States and local agencies and, on a cost reimbursable basis, to others on—

"(A) measures, methods, practices and techniques effective in reducing emissions of air pollutants subject to this section or section 129;

"(B) risk assessment;

"(C) ambient monitoring and modeling and emissions measurement and modeling.

The Administrator may conduct research on methods for preventing, measuring and controlling emissions and evaluating associated health and environmental risks. All information collected under this paragraph shall be available to the public.

"(4) Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants other than those specifically subject to this section or section 129. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k).

"(5) Not later than one hundred and eighty days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(A) the authorities contained in the program (including conditions in permits) are not adequate to assure compliance by all sources within the State with each applicable standard, regulation, or requirement established by the Administrator under this section;

"(B) adequate authority does not exist, or adequate resources (including revenues from permit fees) are not available, to implement the program;

"(C) the schedule for implementing the program (including the schedule for issuing permits) and assuring compliance by affected sources is not sufficiently expeditious; or

"(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

"(6) Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within ninety days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

"(7) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section or section 129.

"(8) The Administrator may after notice and opportunity for public comment approve programs developed and submitted by a local pollution control agency (after consultation with the State) pursuant to this subsection and any such agency implementing an approved program may take any action authorized to be taken by a State under this section.

"(m) STATE AUTHORITY.—Nothing in this section shall preclude, deny, or limit any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard (including any procedural requirement) which is more stringent than a regulation, requirement, or standard in effect under this section or that applies to a substance not subject to this section. Nothing in this section shall authorize any State to impose any standard, limitation or requirement on the emissions of radionuclides from facilities licensed by the Nuclear Regulatory Commission where such standard, limitation or requirement would be barred by other Federal law including the Atomic Energy Act.

"(n) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—

"(1) The Administrator shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants and other air pollutants to the Great Lakes, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

"(A) monitor Great Lakes and coastal waters, including monitoring of Great Lakes waters through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

"(B) investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

"(C) conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to Great Lakes and coastal waters;

"(D) evaluate any adverse effects to human health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

"(E) sample for such pollutants in biota, fish, and wildlife of Great Lakes, Lake Champlain and coastal waters and characterize the sources of such pollutants.

"(2) The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants and other air pollutants to the Great Lakes.

"(A) As part of the network provided for in this paragraph, and not later than December 31, 1990, the Administrator shall establish in each of the five Great Lakes at least one facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

"(B) The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other management plans as required by the Great Lakes Water Quality Agreement.

"(C) The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in a format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

"(3) The Administrator shall establish at Lake Champlain an atmospheric deposition station to monitor deposition of hazardous air pollutants and other pollutants within the Lake Champlain watershed. The Administrator shall determine the role of air deposition in the pollutant loadings of Lake Champlain, investigate the sources of air pollutants deposited in the watershed, evaluate the health and environmental effects of such pollutant loadings and shall sample such pollutants in biota, fish and wildlife within the watershed as necessary to characterize such effects.

"(4) The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring methods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings.

"(5) Within two years of the date of enactment of this Act and biennially thereafter, the Administrator shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

"(A) the contribution of atmospheric deposition to pollution loadings in the Great Lakes, Lake Champlain and coastal waters;

"(B) the environmental and human health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, Lake Champlain, and coastal waters;

"(C) the source or sources of any pollution to Great Lakes, Lake Champlain, and coastal waters which is attributable to atmospheric deposition;

"(D) whether pollution loadings in Great Lakes, Lake Champlain, or coastal waters cause or contribute to violations of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act; and

"(E) a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

"(o) PUBLICLY OWNED TREATMENT WORKS.—The Administrator may conduct, in cooperation with the owners and operators of publicly owned treatment works, studies to characterize emissions of hazardous air pollutants emitted by such facilities, to identify industrial, commercial and residential discharges which contribute to such emissions and to demonstrate control measures for such emissions. When promulgating any standard under this section applicable to publicly owned treatment works, the Administrator shall consider control measures which include pretreatment of discharges causing emissions of hazardous air pollutants and process or product substitutions or limitations which may be effective in reducing such emissions. The Administrator may prescribe uniform sampling, modeling and risk assessment methods for use in implementing this subsection.

"(p) HYDROGEN SULFIDE.—The Administrator is directed to assess the hazards to public health and the environment resulting from the emission of hydrogen sulfide associated with the extraction of oil and natural gas resources. To the extent practicable, the assessment shall build upon and not duplicate work conducted for an assessment pursuant to section 8002(m) of the Solid Waste Disposal Act and shall reflect consultation with the States. The assessment shall include a review of existing State and industry control standards, techniques, and enforcement. The Administrator shall report to the Congress within twenty-four months of the enactment of this subsection with the findings of such assessment, together with any recommendations, and shall develop and implement a control strategy for emissions of hydrogen sulfide as appropriate to protect human health and the environment, based on the findings of such assessment, using authorities under this Act including section 111 and this section.

"(q) SAVINGS CLAUSE.—No amendment to this section made by the Clean Air Act Amendments of 1990 shall affect any emission standard for a hazardous air pollutant which has been promulgated prior to the enactment of such Act. Emissions standards for categories and subcategories of sources of radionuclides for which standards were proposed at 54 Federal Register 9612 (March 7, 1989) except sources which are subject to licensing by the Nuclear Regulatory Commission and including any emission standards for a new subcategory of grate calcination elemental phosphorus plants, shall be established in accordance with section 112 of the Clean Air Act as in effect prior to the enactment of this subsection.

"(r) NATIONAL ACADEMY OF SCIENCES STUDY OF RISK ASSESSMENT.—

"(1) Within three months of enactment of this subsection, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of—

"(A) risk assessment methodology used by the Environmental Protection Agency to determine the carcinogenic risk associated with exposure to hazardous air pollutants from source categories and subcategories subject to the requirements of this section; and

"(B) improvements in such methodology.

"(2) In conducting such review, the National Academy of Sciences should consider, but not be limited to, the following:

"(A) the techniques used for estimating and describing the carcinogenic potency to humans of hazardous air pollutants; and

"(B) the techniques used for estimating exposure to hazardous air pollutants (for hypothetical and actual maximally exposed individuals as well as other exposed individuals).

"(3) To the extent practicable, the Academy shall evaluate and report on the methodology for assessing the risk of adverse human health effects other than cancer for which safe thresholds of exposure may not exist, including, but not limited to, inheritable genetic mutations, birth defects, and reproductive dysfunctions.

"(4) A report on the results of such review shall be submitted to the Senate Committee on Environment and Public Works, the House Committee on Energy and Commerce, the Risk Assessment and Management Commission established by subsection (u) and the Administrator not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1990.

"(5) The Administrator shall assist the Academy in gathering any information the Academy deems necessary to carry out this subsection. The Administrator may use any authority under this Act to obtain information from any person, and to require any person to conduct tests, keep and produce records, and make reports respecting research or other activities conducted by such person as necessary to carry out this subsection.

"(6) Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out this subsection.

"(s) ANNUAL REPORT.—Not later than January 15, 1991, and every three years thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency

and by the States to implement the provisions of this section and section 129. The Administrator shall maintain a database on pollutants and sources subject to the provisions of this section and shall include aggregate information from the database, in each annual report. The report shall include, but not be limited to—

"(1) a status report on standard-setting under subsections (d), (f), and (g);

"(2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories;

"(3) development and implementation of the national urban air toxics program;

"(4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of sudden, accidental releases; and

"(5) such recommendations for additional legislation to achieve the purposes of this section and section 129 as the Administrator may deem appropriate.

"(t) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—

"(1) The Secretary of the Department of Energy and the Administrator of the Environmental Protection Agency shall jointly undertake a six-year research program to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which have the potential for significant reduction in emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design as well as alternatives to existing coke oven production design.

"(2) The Secretary and the Administrator is authorized to enter into agreements with persons who propose to develop, install, and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 per centum of the cost of any project assisted pursuant to this subsection.

"(3) The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study shall make recommendations to the Administrator as to the lowest achievable emissions rate for the coke oven emissions category or subcategories thereof.

"(4) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1996 to carry out the research program authorized by this subsection.

"(u) RISK ASSESSMENT AND MANAGEMENT COMMISSION.—

"(1) There is hereby established a Risk Assessment and Management Commission (hereafter referred to in this subsection as the 'Commission'), which shall commence proceedings not later than eighteen months after the date of enactment of this subsection and which shall make a full investigation of the policy implications and appropriate uses of risk assessment in the regulation under this section of hazardous air pollutants that present a risk of carcinogenic effects.

"(2) The Commission shall consider the report of the National Academy of Sciences pursuant to subsection (r) and based on that report and its own deliberations the Commission shall consider—

"(A) the use and limitations of risk assessment in establishing emission standards for hazardous air pollutants that present a risk of carcinogenic effects and the suitability of risk assessment for such purposes;

"(B) the most appropriate methods for measuring and describing cancer risks from exposure to hazardous air pollutants considering such alternative approaches as the lifetime risk of cancer or other effects to the individual or individuals most exposed to emissions from a source or sources on both an actual and worst case basis, the range of such risks, the total number of health effects avoided by emissions reductions, reductions in the number of persons exposed at various levels of risk, the incidence of cancer, and other public health factors;

"(C) methods to reflect uncertainties in measurement and estimation techniques, the existence of synergistic or antagonistic effects among pollutants, the accuracy of extrapolating human health risks from animal exposure data, and the existence of unquantified direct or indirect effects on human health in risk assessment studies;

"(D) risk management policy issues including the use of lifetime cancer risks to individuals most exposed, incidence of cancer, the cost and technical feasibility of emission reduction measures and the use of site-specific actual exposure information in setting emissions standards applicable to sources of hazardous air pollutants; and

"(E) and comment on the degree to which it is possible or desirable to have the risk assessment methodology relating to hazardous air pollutants conducted under this section be part of a consistent risk assessment methodology, or a consistent standard of acceptable risk, among various government programs.

"(3) Such Commission shall be composed of ten members who shall have knowledge or experience in fields of risk assessment or risk management, including three members to be appointed by the President, two members to be appointed by the Speaker of the House of Representatives, one member to be appointed by the minority leader of the House of Representatives, two members to be appointed by the majority leader of the Senate, one member to be appointed by the minority leader of the Senate, and one member to be appointed by the President of the National Academy of Sciences. Appointments shall be made not later than eighteen months after the date of enactment of this subsection.

"(4) The Administrator and the heads of all other departments, agencies, and instrumentalities of the executive branch of the Federal Government shall assist the Commission in gathering such information as the Commission deems necessary to carry out this subsection.

"(5)(A) In the conduct of the study required by this subsection, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

"(B) The Commission may appoint and fix the pay of such staff as it deems necessary. The Commission may request the temporary assignment of personnel from the Environmental Protection Agency or other Federal agencies to assist it.

"(C) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chair, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

"(6) A report containing the results of all Commission studies and investigations under this subsection, together with any appropriate legislative recommendations (presented in the form of a bill proposing amendments to this section) or administrative recommendations, shall be submitted to the President and to the Congress not later than forty-two months after the date of enactment of this section. In such report, the Commission shall make recommendations with respect to the appropriate regulation of any risks of carcinogenic effects remaining after application of emissions standards under subsection (d) to a category or subcategory of hazardous air pollutants, including an assessment of the residual risk reduction approaches in subsection (f) and (i). The Commission shall cease to exist upon the date determined by the Commission, but not later than nine months after the submission of such report.

"(7) There are authorized to be appropriated such sums as are necessary to carry out the activities of the Commission established by this subsection.

"(8) Any emissions standards established pursuant to this section for a category or subcategory of sources of emissions of ammonia shall not apply to a cargo tank (commonly known as a nurse tank and considered an implement of husbandry) transporting anhydrous ammonia, and operated by a private carrier exclusively for agricultural purposes, as described in the regulations under 49 Code of Federal Regulations 173.315(m), as in effect on the date immediately preceding the date of the enactment of the Clean Air Act Amendments of 1990.

"(v) HEALTH AND ENVIRONMENTAL EFFECTS OF PESTICIDE USE.—

"(1) The authorities of this section shall not be available for the purpose of protecting public health or the environment from adverse effects which may result from the use of a pesticide in a commercial agricultural operation where such use is regulated pursuant to the authority of the Federal Insecticide, Fungicide and Rodenticide Act.

"(2) For purposes of this subsection, the term 'commercial agricultural operation' means any activity conducted for the production of one or more agricultural products or commodities and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"(w) NATURAL URBAN AIR TOXICS RESEARCH CENTERS.—

"(1) The Administrator shall oversee the creation of a National Urban Air Toxics Research Center, to be located at a university, a hospital or other facility capable of undertaking and maintaining similar research capabilities in the areas of epidemiology, oncology, toxicology, pulmonary medicine, pathology and biostatistics. The geographic site of the National Urban Air Toxics Research Center should be further directed to Harris County, Texas, in order to take full advantage of the well developed scientific community presence currently on-site at the Texas Medical Center as well as the exten-

sive data previously compiled from the comprehensive monitoring system currently in place.

"(2) The National Urban Air Toxics Research Center shall be governed by a Board of Directors to be comprised of nine numbers, the appointment of which shall be allocated pro rata among the Speaker of the House, the Majority Leader of the Senate and the President. The members of the Board of Directors shall be selected based on their respective academic and professional backgrounds and expertise in matters relating to public health, environmental pollution, and industrial hygene. The duties of the Board of Directors shall be to determine policy and research guidelines, submit views from Center sponsors and the public and issue periodic reports of Center findings and activities.

"(3) The Board of Directors shall be advised by a Scientific Advisory Panel, the thirteen members of which shall be appointed by the Board, and to include eminent members of the scientific and medical communities. The Panel membership may include scientists with relevant experience from the National Institute of Environmental Health Sciences, the Center for Disease Control, the Environmental Protection Agency, the National Cancer Institute and others, and the Panel shall conduct peer review and evaluate research results. The Panel shall assist the Board in developing the research agenda, reviewing proposals and applications and advise on the awarding of research grants.

"(4) The Center shall be established and funded with both Federal and private source funds.".

OTHER PROVISIONS

SEC. 302. (a) When establishing emissions standards for styrene under section 112 of the Clean Air Act, the Administrator shall list boat manufacturing as a separate subcategory unless the Administrator finds that such listing would be inconsistent with the goals and requirements of such Act.

(b) Not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a review and, if appropriate, revise the unit risk estimate for the carcinogenic efforts of 1,3-butadiene.

(c) Prior to establishing standards under section 112(d) for sources employing Frasch sulfur extraction and processing technology, the Administrator shall establish a health threshold for hydrogen sulfide. Emissions standards with respect to hydrogen sulfide for sources employing Frasch sulfur extraction and processing technology shall be established at levels which protect public health with an ample margin of safety, unless a more stringent standard is necessary to protect the environment.

CHEMICAL PROCESS SAFETY MANAGEMENT

SEC. 303. (a) The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than twelve months after the date of enactment of this section, the Secretary of Labor, in coordination with the Administrator, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the work place.

(b) The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive, and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986, title III of the Superfund Amendments and Reauthorization Act (SARA). The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

(c) Such standard shall, at minimum, require employers to—

(1) develop and maintain written safety information identifying, workplace chemical and process hazards, equipment used in the processes, and, technology used in the processes;

(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of the workplace effects of a range of releases, estimation of the health and safety effects of such a range on employees;

(3) consult with workers and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation and emergency responses;

(5) periodically review the workplace hazard assessment and response system;

(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) ensure contractors and contract employees are provided appropriate information and training;

(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(b) of SARA;

(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) conduct pre-start up safety reviews of all newly installed or modified equipment;

(13) establish and implement written procedures to manage change to process chemicals, technology, equipment, and facilities; and

(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

(d) Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 304(k).

ACCIDENT PREVENTION

SEC. 304. The Clean Air Act is amended by adding the following new section at the end of part A of title I:

"PREVENTION OF SUDDEN, ACCIDENTAL RELEASES

"SEC. 129. (a) PURPOSE AND GENERAL DUTY.—It shall be the objective of the regulations and programs authorized under this section to prevent the sudden, accidental release and to minimize the consequences of any such release of any substance listed pursuant to subsection (c) or any other extremely hazardous substance. The owners and operators of facilities producing, processing, handling, or storing such substances have a general duty to identify hazards resulting from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of sudden, accidental releases which do occur. Nothing in this subsection shall be interpreted, construed, or applied to create any liability for compensation for bodily injury or property damages to any person which may result from sudden, accidental releases of such substances.

"(b) DEFINITIONS.—

"(1) The term 'accidental release' means the direct or indirect introduction of an extremely hazardous substance into the air under circumstances which are not routine and which are not authorized pursuant to any permit or emission limitation or standard under any other provision of this Act or any other Federal law. Such term shall not include a release from a vent or relief value, or a release that results from a disturbance in a process (commonly referred to as a 'process upset') that is planned and designed to prevent catastrophic events.

"(2) The term 'facility' means all buildings, structures, equipment, installations or substance emitting stationary activities or any other point or nonpoint source of a release. The term 'facility' does not include the right-of-way of a railroad outside of any railroad yard.

"(c) LIST OF SUBSTANCES.—The Administrator shall, not later than twelve months after the date of enactment of this section, propose and, not later than twenty-four months after such date, promulgate, a list of not less than fifty substances which may, as the result of sudden events, be released in concentrations that may reasonably be anticipated to cause acute adverse health effects in humans. The list shall be drawn from, but not be limited to, those substances on the list established by section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and shall include those substances with the greatest likelihood to cause death, injury, property damage, or evacuations as the result of sudden, accidental releases. The initial list shall include sulfuric acid, chlorine, anhydrous ammonia, hydrochloric acid, methyl chloride, ethylene oxide, toluene, vinyl chloride, methyl alcohol, nitric acid (94 per centum by weight or more HNO_3), styrene, tetrachloroethylene, ammonia, hydrogen sulfide, acetone, methylene chloride, benzene, methyl ethyl ketone, toluene diisocyanate, phosgene, sulfur dioxide (10 per centum or more by volume), formaldehyde (gas), butadiene, hydrofluoric acid, and acrylonitrile. The Administrator shall from time to time (but not less often than every five years) review and revise the list established by this subsection adding substances which, as a result of sudden events, may be

released in concentrations that may reasonably be anticipated to cause acute adverse health effects in humans. At the time any substance is placed on such list, the Administrator shall establish a threshold quantity for such substance, taking into account the toxicity (including short- and long-term health effects), reactivity, volatility, dispersibility, combustibility, or flammability of the substance.

"(d) HAZARD ASSESSMENTS.—

"(1) Not later than twelve months after a substance is listed under subsection (c), the owner or operator of each facility at which such substance is present in amounts greater than the threshold quantity shall conduct and complete a hazard assessment for each such substance present at the facility. The Administrator is authorized to establish a greater threshold quantity for, or to exempt entirely, any substance that is a nutrient used in agriculture when held by a farmer. The purpose of such assessment shall be to anticipate the consequences of a range (including worst case events) of sudden, accidental releases of such substances from the facility and to provide information that may aid in the prevention, or mitigation, of or response to such releases.

"(2) Not later than twelve months after the date of enactment of this subsection the Administrator shall propose and not later than twenty-four months after such date publish guidance with respect to the preparation of hazard assessments. In preparing such guidance, the Administrator shall consider the extent to which each of the following elements should be required:

"(A) basic data on the facility, units at the facility which contain or process substances listed under subsection (c) (including the longitude and latitude of such units), facility operating procedures, population of the nearby communities, and the meteorology of the area where the facility is located;

"(B) an identification of the potential sources of sudden, accidental release from the facility of substances listed under subsection (c);

"(C) an identification of any previous such releases from the facility for which a report was required under this or other laws, including the amounts released, frequencies, and durations;

"(D) an identification of a range (including worst case events) of potential releases from the facility including an estimate of the size, concentration, and duration of such potential releases and a correlation of such factors with the distance from the source of release;

"(E) a determination of potential exposure (including the concentration and duration of exposure) for all persons who may be put at risk as the result of a sudden, accidental release from the facility;

"(F) a determination of the probability of exposure as the result of various release scenarios including consideration of meteorological factors;

"(G) information on the toxicity of the substances listed under subsection (c) present at the facility and;

"(H) a review of the efficacy of various release prevention and control measures, including process changes or substitution of materials.

The Administrator shall prepare and distribute information on the health effects and other hazards associated with each extremely hazardous substance listed pursuant to subsection (c) which shall be included, pursuant to subparagraph (G), in each hazard assessment prepared under this subsection.

"(3) Each hazard assessment prepared pursuant to this subsection shall be updated every five years, except that any hazard assessment for a facility shall be updated within six months of any facility alteration which may substantially increase (as determined under rules promulgated by the Administrator) the likelihood of an accidental release of an extremely hazardous substance from the facility or the severity of the consequences of such release. Hazard assessments shall not be required to include potential releases from rolling stock infrequently and temporarily located at the facility but may be required to consider hazards with respect to the substances contained in rolling stock which are regularly present.

"(4) To the maximum extent practicable, the Administrator shall coordinate requirements for hazard assessments under this section, including a review of the standard required under section 303 of the Clean Air Act Amendments of 1990, with any comparable requirements that may be imposed by the Occupational Safety and Health Administration including joint promulgation of regulations: *Provided*, That, impacts of potential releases on human health and property outside the boundary of the facility are fully considered in any such regulation, that hazard assessments are available to the public as provided in this subsection, and that nothing in such regulation is interpreted, construed, or applied to preclude or diminish the right of any State or a political subdivision thereof to impose requirements for hazard assessment or accident prevention and mitigation more stringent than those established under such regulations. In exercising any authority under this section, the Administrator shall not, for purposes of section 653(b)(1) of title 29, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

"(5) To the extent practicable, and where there are a large number of small facilities with similar business and operating characteristics which are likely to present similar risks of sudden, accidental releases of extremely hazardous substances, the Administrator shall facilitate compliance with the requirements of this subsection by designing generic hazard identification and assessment tools including training manuals, checklists, and workbooks which would be useful to the owners and operators of such facilities. The Administrator is authorized to cooperate with trade associations and other organizations representing such facilities and other advisory groups to develop hazard identification and assessment materials and to conduct training programs in the use of such materials.

"(6) Hazard assessments prepared pursuant to the requirements of this subsection shall be available to the Administrator, to the Chemical Safety and Hazard Investigation Board, to the State in which the facility is located, to any local emergency planning entity or public safety agency having responsibility for planning or response with respect to sudden, accidental releases which may occur at such facility, and to the public subject to the conditions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986. The Administrator shall conduct compliance audits of hazard assessments prepared pursuant to this subsection reviewing not less than 1.4 per centum each year.

"(7) After the effective date of any hazard assessment requirement promulgated pursuant to this subsection and applicable to a facility, it shall be unlawful for any person to operate such facility until such hazard assessment has been prepared or updated as provided in this subsection. For purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, any requirement imposed under this subsection shall be treated as a standard in effect under section 112.

"(8) As a part of the guidance published pursuant to paragraph (2), the Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under subsection (c). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques of hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

"(e) CHEMICAL SAFETY BOARD.—

"(1) There is hereby established within the Environmental Protection Agency an independent safety board to be known as the Chemical Safety and Hazard Investigation Board.

"(2) The Board shall consist of three members, including a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, chemical safety, toxicology, or chemical regulation.

"(3) The terms of office of members of the Board shall be five years. Any member of the Board, including the chairperson, as determined by the President, may be removed for inefficiency, neglect of duty, or malfeasance in office.

"(4) The chairperson shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board including the selection, appointment and compensation of such officers and employees as are necessary to carry out the functions of the Board.

"(5) The Board shall—

"(A) investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any sudden, accidental release involving the production, processing, handling, or storage of chemical substances resulting in a fatality, serious injury, or substantial property damages;

"(B) issue periodic reports to the Congress, Federal, State, and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of sudden, accidental releases and proposing corrective steps to make chemical production, processing, handling, and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administrator under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act to prevent or minimize the consequences of any release of substances that may have an acute adverse effect on human health as a result of sudden events; and

"(C) establish by regulation requirements binding on persons for reporting accidental releases subject to the Board's investigatory jurisdiction under this paragraph: *Provided,* That, reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations: *Provided further,* That, the Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(6) The Board shall coordinate its activities under paragraph (5) with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where a sudden, accidental release involving the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

"(7) The Board is authorized to conduct research and studies with respect to the potential for the sudden, accidental release of substances subject to section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and other extremely hazardous substances, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent practicable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

"(8) No part of the conclusions, findings, or recommendations of any report of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

"(9) Not later than eighteen months after the date of enactment of this section, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of sudden, accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances (including threshold quantities for such substances) and categories of facilities for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to include in any hazard assessment. The Board shall also make recommendations with respect to the role of risk management plans as provided for in subsection (f)(2) in preventing accidental releases. The Board may from time to time review and revise its recommendations under this paragraph.

"(10) Whenever the Board submits a recommendation with respect to the safety of chemical production, processing, handling, and storage to the Administrator, the Administrator shall respond to such recommendation formally and in writing not later than one hundred and eighty days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

"(A) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

"(11) The Board may make recommendations with respect to the safety of chemical production, processing, handling, and storage to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than one hundred and eighty days after receipt thereof. The response to the Board's recommendation shall indicate whether the Secretary will—

"(A) initiate rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation, or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.

"(12) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by paragraph (5)(A)—

"(A) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of chemical substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

"(B) upon presenting appropriate credentials and a written notice of inspection authority, enter any property where a sudden, accidental release causing a fatality, serious injury or substantial property damage has occurred and do all things therein necessary for a proper investigation pursuant to paragraph (5)(a) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this section, workers and their representatives shall have the same rights to participate in such inspections as provided for in the Occupational Safety and Health Act.

"(13) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 5 of title 41 of the United States Code to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

"(14) After the effective date of any reporting requirement promulgated pursuant to paragraph (5)(C) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such paragraph. The Administrator is authorized to enforce any regulation or requirement established by the Board pursuant to paragraph (5)(C) using the authorities of section 113. Any request for information from the owner or operator of a facility made by the Board or by the Administrator under this section shall be treated, for purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, as a request made by the Administrator under section 114 and may be enforced by the chairperson of the Board or by the Administrator as provided in such sections.

"(15) The Administrator shall provide to the Board such support and facilities as may be necessary for operation of the Board.

"(16) Any records, reports, or information obtained by the Board shall be available to the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This paragraph does not constitute authority to withhold records, reports, or information from the Congress.

"(17) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Administrator, or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress. In the performance of their functions as established by this Act, the members, officers and employees of the Board shall not be responsible to or subject to supervision or direction of any officer or employee or agent of any other part of the Environmental Protection Agency or any other agency of the

United States except that the President may remove any member of the Board for inefficiency, neglect of duty or malfeasance in office.

"(18) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on sudden, accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

"(19) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $12,000,000 in each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994.

"(f) ACCIDENT PREVENTION.—(1) In order to prevent the release of substances listed pursuant to subsection (c) or other extremely hazardous substances (which may cause acute adverse effects on human health as the result of sudden events) from devices and systems (including, but not limited to, pumps, compressors, valves, flanges, connectors, containers, and vessels but not including rolling stock), the Administrator shall promulgate release prevention, detection, and correction requirements which shall include monitoring, recordkeeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this subsection may make distinctions between various types, classes, and kinds of facilities, devices, and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any facility.

"(2) The regulations under this subsection may require the owner or operator of any facility handling an extremely hazardous substance to prepare and implement a risk management plan to detect and prevent or minimize the potential for an accidental release of extremely hazardous substances and to provide prompt emergency response in the event of a release. The Administrator may require that such plans be reviewed by an independent engineer and that any deficiencies identified be corrected.

"(3) In carrying out the authority of this subsection, the Administrator shall consult with the Secretary of Labor and seek to coordinate any requirements under this subsection with any requirements established for comparable purposes by the Occupational Safety and Health Administration. Nothing in this section shall be interpreted, construed, or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction and operation of facilities licensed by the Nuclear Regulatory Commission.

"(4) After the effective date of any regulation or requirement imposed under this subsection or subsection (g), it shall be unlawful for any person to operate a facility subject to such requirement in violation of such requirement.

"(g) DETECTION.—Within thirty-six months of enactment of this subsection, the Administrator shall conduct a study and report to Congress, assessing the best available technology to monitor devices and systems (including, but not limited to, pumps, compressors, valves, flanges, pipes, and pipelines, connnectors, processes, containers and vessels), storage facilities, and transfer points adequate to detect immediately and report concurrently to the facility operator accidental release of such substances from facilities regulated under this section. Such study shall include an assessment of the cost effectiveness and feasibility of each technology. The study shall build upon and not duplicate work conducted pursuant to section 305(b) of the Emergency Planning and Community Right-to-Know Act of 1986. After reviewing the findings of the study, the Administrator shall, within twenty-four months after completion, promulgate regulations, taking cost effectiveness and technological feasibility into account, with respect to accidental leak detection monitoring requirements.

"(h) ORDER AUTHORITY.—

"(1) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a substance listed pursuant to subsection (c) or other extremely hazardous substance from a facility, the Administrator may secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the facility is located, take other action under this subsection including, but not limited to, issuing such orders as may be necessary to protect human health, welfare, or the environment.

"(2) Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under paragraph (1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $25,000 for each day in which such violation occurs or failure to comply continues.

"(3) Within one hundred and eighty days after enactment of this section, the Administrator shall publish guidance for using the order authorities established by this subsection. Such guidance shall provide for the coordinated use of the authorities of this subsection with other emergency powers authorized by section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act, sections 311(c), 308, 309, and 504(a) of the Federal Water Pollution Control Act, sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, sections 1445 and 1431 of the Safe Drinking Water Act, sections 5 and 7 of the Toxic Substances Control Act, and sections 113, 114, and 303 of this Act.

"(i) ENFORCEMENT.—Each requirement under this section shall, for purposes of sections 113, 114, 116, 120, 304 and 307 and other enforcement provisions of this Act, be treated as a standard in effect under section 112.

"(j) PRESIDENTIAL REVIEW.—The President shall conduct a review of release prevention, mitigation, and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Board in conducting such review. At the conclusion of such review, but not later than twenty-four months after the date of enactment of this section, the President shall transmit a message to the Congress on the release prevention, mitigation, and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this subsection shall be interpreted, construed, or applied to authorize the President to modify or reassign release prevention, mitigation, or response authorities otherwise established by law.

"(k) STATE AUTHORITY.—Nothing in this section shall preclude, deny, or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard (including any procedural requirement) that is more stringent than a regulation, requirement, or standard in effect under this section or that applies to a substance not subject to this section.

"(l) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out the provisions of this section.".

CONFORMING AMENDMENTS

SEC. 305. (a) Section 111(d)(1) of the Clean Air Act is amended by striking "112(b)(1)(A)" and inserting in lieu thereof "112(b)".

(b) Section 111 of the Clean Air Act is amended by striking paragraphs (g)(5) and (g)(6) and redesignating the succeeding paragraphs accordingly. Such section is further amended by striking "or section 112" in paragraph (g)(5) as redesignated in the preceding sentence.

(c) Section 114(a) of the Clean Air Act is amended by striking "or" after "section 111," and by inserting ", or any accident prevention regulation under section 129," after "section 112".

(d) Section 118(b) of the Clean Air Act is amended by striking "112(c)" and inserting in lieu thereof "112(i)(9)".

(e) Section 302(k) of the Clean Air Act is amended by adding before the period at the end thereof ", and any design, equipment, work practice, or operational standard authorized by this Act constitutes a violation of an 'emission standard' whether or not an air pollutant is emitted to the ambient air".

(f) Section 304(b)(1) of the Clean Air Act is amended by striking "112(c)(1)(B)" and inserting in lieu thereof "112".

(g) Section 307(b)(1) is amended by striking "112(c)" and inserting in lieu thereof "112".

MUNICIPAL WASTE COMBUSTION: AIR EMISSIONS

SEC. 306. (a) Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"MUNICIPAL WASTE COMBUSTION

"SEC. 130. (a) NEW SOURCE PERFORMANCE STANDARDS.—

"(1)(A) The Administrator shall establish performance standards and other requirements pursuant to section 111 and this section for each category of solid waste incineration units. Such standards shall include

emissions limitations and other requirements applicable to new units and guidelines (under section 111(d) and this section) and other requirements applicable to existing units.

"(B) Standards under section 111 and this section applicable to solid waste incineration units with capacity greater than 250 tons per day combusting municipal waste shall be promulgated not later than six months after the date of enactment of this section.

"(C) Standards under section 111 and this section applicable to solid waste incineration units with capacity equal to or less than 250 tons per day combusting municipal waste or units combusting hospital waste, medical waste and infectious waste shall be promulgated not later than twenty-four months after the date of enactment of this section.

"(D) Standards under section 111 and this section applicable to solid waste incineration units combusting commercial or industrial waste shall be proposed not later than thirty-six months after the date of enactment of this section and promulgated not later than forty-eight months after the date of enactment of this section.

"(E) Not later than eighteen months after the date of enactment of this section, the Administrator shall publish a schedule for the promulgation of standards under section 111 and this section applicable to other categories of solid waste incineration units.

"(2) Standards applicable to solid waste incineration units promulgated under section 111 and this section shall reflect the greatest degree of emission reduction achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard)—

"(A) has been achieved in practice by a solid waste incineration unit in the same category, excluding periods of malfunction or misoperation, or

"(B) is contained in a State or local regulation or any permit for solid waste incineration units in the category, and will be implemented at such units,

whichever is more stringent, unless the Administrator determines that such degree of emissions limitation will not be achievable by units to which the standards apply or was adopted for reasons that are not nationally applicable or is otherwise not appropriate as a nationally applicable standard. In determining the emissions limitation to be required under section 111 and pursuant to this subsection, the Administrator shall take into account the performance of all units which achieve, in whole or in part, emissions limitations more stringent than current standards and may subsequently exclude units from consideration only to the extent provided in this subparagraph. The Administrator shall distinguish among classes, types (including mass-burn, refuse-derived fuel, modular and other types of units), and sizes of units within a category in establishing such standards. Emissions limitations and other requirements applicable to existing units may be less stringent than such limitations and requirements applicable to new units.

"(3) Standards under section 111 and this section applicable to solid waste incineration units shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site-specific basis, to the maximum extent practicable, potential risks to human health or the environment.

"(4) The performance standards promulgated under section 111 and this section and applicable to solid waste incineration units shall specify opacity (as appropriate) numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. The Administrator may promulgate numerical emissions limitations or provide for the monitoring of post combustion concentration of surrogate substances, parameters or periods of residence time in excess of stated temperatures with respect to pollutants other than those listed in this paragraph.

"(5) Not later than five years following the initial promulgation of any performance standards and other requirements under this section and section 111 applicable to a category of solid waste incineration units, and at five year intervals thereafter, the Administrator shall review, and in accordance with this section and section 111, revise such standards and requirements.

"(b) EXISTING UNITS.—

"(1) Performance standards under this section and section 111 for solid waste incineration units shall include guidelines promulgated pursuant to section 111(d) and this section applicable to existing units. Such guidelines shall include as provided in this section each of the elements required by subsection (a) (emissions limitations), subsection (c) (monitoring), subsection (d) (source separation, recycling and ash management), subsection (e) (operator training) and subsection (f) (permits) of this section.

"(2) Not later than one year after the Administrator promulgates guidelines for a category of solid waste incineration units, each State in which units in the category are operating shall submit to the Administrator a plan to implement and enforce the guidelines with respect to such units. The State plan shall be at least as protective as the guidelines promulgated by the Administrator and shall provide that each unit subject to the guidelines shall be in compliance with all requirements of this section not later than three years after the State plan is approved by the Administrator but not later than five years after the guidelines were promulgated. The Administrator shall approve or disapprove any State plan within one hundred and eighty days of the submission, and if a plan is disapproved, the Administrator shall state the reasons for disapproval in writing. Any State may modify and resubmit a plan which has been disapproved by the Administrator.

"(3) The Administrator shall develop, implement and enforce a plan for existing solid waste incineration units within any category located in any State which has not submitted an approvable plan under this subsection with respect to units in such category within two years after the date on which the Administrator promulgated the relevant guidelines. Such plan shall assure that each unit subject to the plan is in compliance with all provisions of the guidelines not later than five years after the date the relevant guidelines were promulgated.

"(4) Publicly owned existing municipal waste incinerators which are permitted by a State agency responsible for the protection from contamination of the water resource of the State and for the enforcement of a coordinated statewide solid waste management program designed to achieve a 30 per centum reduction by the end of 1994 of municipal solid waste prior to final disposal or inceneration, and which, after recycling, utilize resource recovery for at least 75 per centum of their solid waste management disposal technology for their solid waste flow control area, and for which either of the following applies: (A) a health risk assessment completed prior to the effective date of enactment of this section in accordance with State regulatory guidelines has concluded that the associated health risk is negligible; or (B) a retrofit of acid gas scrubbing or baghouse particulate control systems would cause diversion of refuse to a landfill where the municipal waste incinerator does not control tipping fees or accessibility, shall be deemed to be in compliance with paragraphs (2) (C) and (D), when such incenerators are equipped with a dry sorbent injection system which is installed and operated in accordance with guidelines published by the Administrator.

The Administrator shall promulgate a schedule for compliance with the standards required by this subsection. In no event shall such schedule provide for compliance with such standards later than the date six years after the enactment of this section.

"(c) MONITORING.—The Administrator shall, as part of each performance standard promulgated pursuant to subsection (a) and section 111, promulgate regulations requiring the owner or operator of each solid waste incineration unit—

"(1) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect human health and the environment;

"(2) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and

"(3) to report the results of such monitoring.

Such regulations shall contain provisions regarding the frequency of monitoring, test methods, and procedures validated on solid waste incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating an exceedance of any standard under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.

"(d) SOURCE SEPARATION, RECYCLING AND ASH MANAGEMENT.—

"(1) As part of any performance standard or guidelines for solid waste incineration units combusting municipal waste promulgated pursuant to this section and section 111, the Administrator shall include regulations for recycling applicable to jurisdictions served by such units. Such regulations shall provide, beginning twelve months after promulgation of performance standards under subsection (a)(2), that no permit shall be issued under this Act to a solid waste incineration unit combusting municipal waste unless each of the jurisdictions served by the municipal waste incineration unit (as designated by the State in accord-

ance with section 4006 of the Solid Waste Disposal Act) has been certified by the director of the solid waste program for the State in which the unit is to be located in compliance or subject to an enforceable schedule to be in compliance with all solid waste planning requirements under the Solid Waste Disposal Act with respect to planning and the director has approved a plan for each jurisdiction (enforceable pursuant to subsection (h) against the jurisdiction) which will achieve a municipal waste recycling rate of at least 25 per centum of the municipal waste (but not including construction waste) generated within the service area of the unit, (i) before such unit begins operation or four year after a permit is issued for the unit, whichever is later, if such unit is a new unit, and (ii) not later than five years after the date of enactment of this section if such unit is an existing unit. If the director determines that recycling at such rate is not economically feasible or that recycling capacity does not exist to achieve such rate, the director shall establish an alternative rate. Any determination under the preceding sentence shall be reviewed not less frequently than every two years. The director may provide additional time, but not to exceed five additional years, for jurisdictions served by an existing unit to achieve the recycling rate required by this subparagraph: *Provided,* That any such extension shall include annual milestones which demonstrate progress toward achieving the required rate. The Administrator (or a State with a program approved under subsection (g)) is authorized to use the authorities of section 113 to enforce the requirements established under this paragraph. Yard waste shall not be credited for more than 40 per centum of the recycled waste volume for purposes of the recycling requirement under this paragraph.

"(2)(A) At the time of promulgating any performance standard for a category of solid waste incineration units, the Administrator shall publish guidelines identifying items or materials that should be removed from municipal or solid waste to be combusted in such units, the removal of which has been demonstrated in the judgment of the Administrator to reduce the concentration of the pollutants identified in subsection (a)(5) over and above the concentration of such pollutants after treatment by the post-combustion technologies set forth in subsection (a) (3) and (4) (to the extent that standards for the category of units are based on the availability of such technologies for units in the category).

"(B) Nothing in this section or section 4011 of the Solid Waste Disposal Act shall authorize the Administrator to prohibit or limit the mining, processing or manufacture of any product, article or substance for any purpose.

"(C) Regulations under this section shall require the operator of any solid waste incineration unit to establish contractual requirements or other appropriate notification and inspection procedures sufficient to assure that the unit does not receive any waste required to be placed in a facility permitted under section 3005 of the Solid Waste Disposal Act.

"(3) Except as provided in this subsection, the Administrator shall not require solid waste recycling or materials separation with regard to the waste combusted by a solid waste incineration unit pursuant to the authority under this Act. Nothing in this section shall diminish the authority of the Administrator to require recycling and materials separation under the Solid Waste Disposal Act.

"(4) Effective twelve months after the date of enactment of this section, the disposal or combustion of lead-acid batteries in solid waste incineration units is prohibited. The Administrator shall publish guidelines with respect to the management of discarded lead-acid batteries.

"(5)(A) Beginning twelve months after the date of enactment of this section, no permit may be issued under this Act to a solid waste incineration unit unless an ash management plan has been submitted for the ash from such unit. The application for each permit to be issued to a new or modified municipal waste incineration unit or renewal or issuance of a permit for an existing unit, shall include a reasonable demonstration of adequate capacity to treat, manage, or dispose of the ash produced by the unit for a period of not less than five years in compliance with the requirements of section 4011 of the Solid Waste Disposal Act. Demonstrations required by this paragraph shall be updated every five years as required by subsection (f).

"(B) The Administrator may promulgate regulations or issue guidelines for the implementation of this paragraph which shall provide that, to the extent practicable, demonstrations are based on the characteristics of ash from the solid waste incineration unit as determined by testing methods prescribed pursuant to section 4011 of the Solid Waste Disposal Act. The initial demonstration required for new or modified solid waste incineration units under this paragraph shall be based on the characteristics of the ash from units of comparable design (including pollution control equipment and ash treatment systems) combusting similar waste streams.

"(C) Notwithstanding any other provision of this Act or the Solid Waste Disposal Act, no person may operate a solid waste incineration unit unless adequate capacity is available to treat, manage or dispose of the ash produced by the unit in compliance with section 4011 of the Solid Waste Disposal Act.

"(e) OPERATOR TRAINING.—Not later than twenty-four months after the enactment of this section, the Administrator shall develop and promote a model State program for the training of solid waste incineration unit operators. The Administrator may authorize any State or private entity to implement a State program for the training of solid waste incineration unit operators if the State or private entity has adopted a program which is at least as effective as the model program developed by the Administrator. Beginning on the date thirty-six months after the date on which performance standards and guidelines are promulgated under subsection (a) and section 111 for any category of solid waste incineration units it shall be unlawful to operate any unit in the category unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training program meeting the requirements established by the Administrator under this subsection.

"(f) PERMITS.—Beginning thirty-six months after the promulgation of a performance standard under subsection (a) and section 111 applicable to a category of solid waste incineration units, each unit in the category shall operate pursuant to a permit issued under this subsection and part B of title III. Notwithstanding any other provision of this Act, each permit for a solid waste incineration unit combusting municipal waste issued under this Act shall be issued for a period of up to thirty years and shall be reviewed every five years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines—

"(1) that the unit is not in compliance with all standards and conditions contained in the permit; or

"(2) capacity to treat or dispose of the ash from such unit in compliance with section 4011 of the Solid Waste Disposal Act for a five-year period after such determination has not been demonstrated.

Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed five years, and only after public comment and public hearing. No permit for a solid waste incineration unit may be issued under this Act by an agency, instrumentality or person that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or the State shall require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or the State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment. The Administrator's determination under the preceding sentence is a discretionary decision.

"(g) STATE PROGRAMS.—Any State may submit to the Administrator a proposed State program for implementation and concurrent enforcement of the requirements of this section. The Administrator shall approve or disapprove any State program proposed under this subsection within one hundred and eighty days of submission. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization for such State. Each State program approved under this subsection shall, at a minimum, include permitting requirements for each new and existing solid waste incineration unit located in the State. Any permit issued by a State may be reviewed and withdrawn by the Administrator on the Administrator's own motion or upon a showing by any person that the conditions contained in such permit are not in compliance with the requirements of this Act.

"(h) EFFECTIVE DATE AND ENFORCEMENT.—

"(1) Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to new solid waste incineration units shall be effective as of the date six months after the date of promulgation.

"(2) Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to existing solid waste incineration units shall be applicable as expeditiously as practicable after approval of a State plan under subsection (b)(2) (or promulgation of a plan by the Administrator under subsection (b)(3)) but in no event later than five years after the date of such standards of requirements are promulgated.

"(3) After the effective date of any performance standard, emissions limitation or other requirement promulgated pursuant to this section, it shall be unlawful for any

owner or operator of any solid waste incineration unit to which such standard, limitation or requirement applies to operate such unit in violation of such limitation, standard or requirement or for any other person to violate an applicable requirement of this section.

"(4) For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each performance standard, emissions limitation or other requirement established pursuant to this section including any requirement for recycling imposed under subsection (d) by the Administrator or a State or local government, shall be treated in the same manner as a standard of performance under section 111 which is an emissions limitation. Actions to enforce compliance with the recycling requirements of subsection (d)(1) may only be brought against the governments of the jurisdictions served by the unit, unless it is established by agreement between the governments of the jurisdictions served by the unit and the owner or operator of the unit that the owner or operator will be responsible for compliance with some or all aspects of the requirements of subsection (d)(1) in which case an action to enforce may be brought against the owner or operator of the facility with regard to the aspects of the recycling requirement for which it is responsible.

"(5) Any civil penalty imposed by a court against a unit of local government under this Act for violations of this section shall be paid into a trust fund or comparable mechanism established by a court or the State and shall be applied in support of public programs or activities, as authorized by the court (or a fund administrator appointed by the court), that serve to enhance the protection of human health and the environment of the persons residing within the jurisdiction of such unit of local government but shall not be used to comply with requirements established under this section, section 111 or section 4011 of the Solid Waste Disposal Act.

"(i) DEFINITIONS.—As used in this section—

"(1) The term 'solid waste incineration unit' means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term 'solid waste incineration unit' does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovery metals, (B) qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769 (17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such incinerators comply with opacity limitations to be established by the Administrator by rule.

"(2) The term 'new solid waste incineration unit' means a solid waste incineration unit the construction or modification of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit. Any solid waste incineration unit which combusts municipal waste and is granted an operating permit with a term of thirty years pursuant to subsection (f) shall be considered a new solid waste incineration unit for the purposes of this section upon the expiration date of such permit.

"(3) The term 'modified solid waste incineration unit' means a solid waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section or section 111.

"(4) The term 'existing solid waste incineration unit' means a solid waste incineration unit which is not a new or modified solid waste incineration unit.

"(5) The term 'municipal waste' means refuse (or refuse-derived fuel) collected from the general public more than 30 per centum of which consists of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as glass and metal including household wastes and waste from institutional, commercial, and industrial sources, but does not include industrial process wastes or medical wastes.

"(6) The terms 'solid waste' and 'medical waste' shall have the meanings established by the Administrator pursuant to the Solid Waste Disposal Act.

"(j) OTHER AUTHORITY.—

"(1) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard relating to solid waste incineration units that is more stringent than a regulation, requirement, or standard in effect under this section or under any other provision of this Act.

"(2) Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements under any other authority of law, including the authority to establish for any such air pollutant a national ambient air quality standard, except that no solid waste incineration unit subject to performance standards under this section and section 111 shall be subject to standards under section 112 of this Act. Solid waste incineration units shall not be affected units for purposes of title IV of this Act.

"(3) No requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1) (D) or (E)) or under section 172(b)(6) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section.".

(b) Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than".

(c) Prior to the promulgation of any performance standard for solid waste incineration units combusting municipal waste under section 111 or section 130 of the Clean Air Act, the Administrator shall review the availability of acid gas scrubbers as a pollution control technology for small new units and for existing units (as defined in 54 Federal Register 52190-52304 (December 20, 1989)), taking into account the provisions of subsection (a)(2) of section 130 of the Clean Air Act.

ASH MANAGEMENT AND DISPOSAL

SEC. 307. (a) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section:

"MUNICIPAL WASTE COMBUSTION ASH

"SEC. 4011. (a) IN GENERAL.—(1) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units, as may be necessary to protect human health and the environment. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units shall be subject to this section and subtitle and not subject to the provisions of subtitle C. The provisions of section 3007, 3008, and 3013 shall apply to ash from municipal waste incineration units and the requirements of this section to the same extent that such sections apply to hazardous wastes and the requirements of subtitle C.

"(2) For the purposes of this section, the term—

"(A) 'municipal waste incineration unit' means a solid waste incineration unit combusting municipal waste as such terms are defined in section 130 of the Clean Air Act; and

"(B) 'treatment' means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or permanently fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, may pose a threat to human health or the environment and includes testing of such ash to assure that criteria promulgated under subsection (e) are satisfied.

"(3) Regulations promulgated under this section may establish requirements that apply to fly ash separately, to bottom ash separately, or to the combination of fly ash and bottom ash.

"(b) DISPOSAL.—(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of a double liner consisting of one flexible membrane liner and a composite liner with a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) groundwater monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of liners designed, operated, and constructed of materials to prevent the migration of any constituent into and through such liners during the period such facility remains in oper-

ation (including any post-closure monitoring period). For the purposes of this section the term 'composite liner' means a liner which consists of a flexible membrane liner and at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1×10^{-7} centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3)(A) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a) shall authorize the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner designed, operated and constructed of materials to prevent the migration of any constituent into and through such liner during the period the monofill remains in operation (including any post-closure monitoring period), ground water monitoring and a leachate collection system.

"(B) For the purpose of paragraph (4), a monofill (containing only ash from municipal waste incineration units) with two or more flexible membrane liners, a leachate collection system above and between such liners and ground water monitoring is determined to be an alternative design which will prevent the migration of any hazardous constituent into ground water or surface water at least as effectively as the design requirements of subparagraph (A).

"(C) If fly ash is to be disposed in a monofill containing solely or substantially fly ash, such ash shall be treated pursuant to treatment standards established under this section before disposal or such monofill shall be constructed with an additional liner and a leachate detection and collection system between the liners.

"(D) Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse effects on human health or the environment.

"(4) The design requirements of paragraphs (1) and (3) shall not apply if the owner or operator of a solid waste management unit utilizing an alternative design demonstrates to the State, and the State finds, that the alternative design will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the design requirements of paragraph (1) or (3) of this subsection. The State shall not solely or substantially rely upon location characteristics to make any determination under this paragraph. States may authorize such alternative design requirements only under a permit program approved by the Administrator as required under subsection (f) of this section. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any determination made by a State under this subsection. The Administrator shall make a decision on any appeal within one hundred and eighty days.

"(5) Liner requirements imposed under paragraph (1) or (3) of this subsection or subsection (c) shall include provisions for quality control and quality assurance with respect to the design and installation of the liners.

"(6) Nothing in this section shall be interpreted, construed or applied to require the routine testing of ash which is disposed in a landfill or monofill meeting the requirements of this subsection.

"(c) DISPOSAL IN SANITARY LANDFILLS.—Regulations promulgated under subsection (a) may allow disposal of ash from municipal waste incineration units in sanitary landfills with at a minimum one liner, leachate collection and ground water monitoring and otherwise meeting the requirements of revised criteria promulgated under section 4010(c), if (1) such ash is routinely tested and does not fail any criteria under subsection (e); and (2) any fly ash so disposed (including any fly ash combined with bottom ash) has undergone treatment (as defined in subsection (a)) in accordance with regulations for treatment promulgated under this section and such treated fly ash is separately tested and does not fail any criteria established under subsection (e). For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment. Ash may not be disposed of in units that are created as a result of vertical expansion of an existing waste disposal facility unless the owner or operator of such facility demonstrates, and the State finds, that there will be no settling (that would impair the integrity of any required liner, leachate collection or leak detection system, final cover, or any other structural component of the landfill containment system) of the waste upon which the proposed unit is to be built. In no event may such ash be disposed in a landfill from which the Administrator or the State has determined there is a release into ground water or surface water, unless such release would not require corrective action pursuant to Federal or State law or regulation or landfill that is in violation of Federal or State regulations or other requirements.

"(d) REUSE.—(1) The regulations under this section shall include such requirements applicable to the reuse and recycling of the ash from municial waste incineration units, including criteria and routine testing procedures, as may be necessary to protect human health and the environment. The Administrator shall develop such regulations for the specific end uses of such reused or recycled ash. In developing such regulations, the Administrator shall consider, to the extent feasible and appropriate, all potential pathways of human and environmental exposure, including both short-term and long-term, to hazardous constituents of such ash from such recycling and reuse. The pathways to be considered shall include, but not be limited to, inhalation, ingestion as a consequence of incorporation of the ash or any hazardous constitutents into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its hazardous constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash. At a minimum the Administrator shall consider with respect to such recyling and reuse, appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) Such regulations shall require treatment of ash from municipal waste incineration units before any such ash is recycled or reused to protect human health and the environment. Such regulations shall specify those levels or methods of treatment that, taking into account the potential pathways of exposure identified in paragraph (1)—

"(A) substantially reduce the likelihood of migration of ash or its hazardous constituents so that short-term and long-term threats to human health and the environment are minimized;

"(B) satisfy any criteria and routine testing procedures included in the regulations under paragraph (1); and

"(C) assure that the recycling or reuse of such ash is protective of human health and the environment.

"(3) If the Administrator fails to promulgate regulations under this subsection, no person may reuse or recycle ash from a municipal waste incineration unit after the date thirty-six months after the date of enactment of this section unless such ash is treated and leachate from an extraction procedure toxicity test applied to such ash does not exceed standards established pursuant to section 1412 of the Safe Drinking Water Act.

"(e) CRITERIA AND TESTING.—(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units under this section, the Administrator shall, not later than eighteen months after the date of enactment, promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider, to the extent appropriate and feasible, all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompanying testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and ash from municipal waste incineration units, including seasonal variations in the constituents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding and maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by a factor of one hundred or more shall, unless the Administrator establishes a more stringent requirement, constitute a failure of the test required by this section.

"(2) When disposal of ash occurs pursuant to subsection (c) or (d), the Administrator shall require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recylcing, or disposing of ash from such unit to test such ash in accordance with the appropriate criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be

tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the appropriate criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility in compliance with subsection (b) (1) or (3), or shall be treated (as defined in subsection (a)) in accordance with regulations promulgated under subsection (a) and shall be demonstrated to satisfy all applicable criteria promulgated under this subsection before disposal (pursuant to subsection (c)) or reuse (pursuant to subsection (d)).

"(4) The Administrator shall seek to validate the criteria and testing procedures established pursuant to this subsection by conducting a program of analysis of leachate produced at facilities disposing or reusing ash from municipal waste incineration units.

"(f) PERMITS.—(1) Beginning thirty months after the date of enactment of this section any facility receiving ash from municipal waste incineration units for the purpose of treatment, storage, reuse, recycling, or disposal shall be subject to a permit program or other system of prior approval and conditions comparable to those required by section 4005(c).

"(2) Before the issuance of a permit or other prior approval to any person with respect to any facility for treatment, storage, reuse, recycling or disposal of incinerator ash, the Administrator or the State shall provide for public notice and the opportunity for an informal public hearing, in accordance with the provisions of section 7004(b)(2) of this Act.

"(g) CORRECTIVE ACTION.—

(1) Corrective action regulations issued pursuant to subsection 4010(c) when promulgated, shall apply to any facility regulated under this section. The Administrator may establish such additional requirements for units regulated under this section as may be necessary to protect human health and the environment.

(2)(A) Until such time as regulations are promulgated pursuant to paragraph (1), whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action or such other response measure as the Administrator deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

"(B) Any order issued under this subsection may include a suspension or revocation of authorization to operate, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.

"(C) Regulations promulgated under subsection (a) shall require corrective action for all releases pursuant to Federal or State law or regulation of hazardous constituents from any solid waste management unit at a facility seeking a permit under this section, regardless of the time at which waste was placed in such unit. Permits issued under this section shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(h) CLOSURE.—Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities for a period of not less than thirty years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

"(i) STATE PROGRAMS.—(1) Beginning eighteen months after the date of enactment of this section, any State may submit to the Administrator a proposed program for implementation and concurrent enforcement of the requirements of this section which may be considered and approved by the Administrator in accordance with the procedures established in section 4007. State programs approved under this subsection shall contain provisions assuring that each facility receiving ash from a municipal incineration unit obtains a permit or other form of prior approval as provided in subsection (f). Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization of such State program under this subsection.

"(2) Nothing in this section shall prohibit any State or political subdivision thereof from imposing any requirement with respect to the management, handling, storage, treatment, transportation, reuse, recycling or disposal of ash from municipal waste incineration units which is more stringent than any requirement established under this section.

"(j) EFFECTIVE DATES.—(1) Regulations promulgated under this section shall be effective upon promulgation, except that requirements promulgated pursuant to subsection (b) or (c) with respect to the disposal of ash from municipal waste incineration units shall be effective on and after the date forty-eight months after the date of enactment of this section.

"(2) Beginning eighteen months after the date of enactment of this section and until the effective date of disposal requirements promulgated pursuant to subsection (b) or (c), ash from municipal waste incineration units shall not be disposed in landfills unless such landfills have, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meet the criteria for sanitary landfills issued under this subtitle.

"(3) Notwithstanding the provisions of paragraph (2), the Administrator of a State may grant on a case-by-case basis a variance from the requirement that ash from each municipal waste incineration unit be disposed in a facility with a liner, leachate collection and ground water monitoring beginning eighteen months after enactment of this section, on a showing by the owner or operator of any such unit that sufficient capacity to dispose of ash in compliance with such requirements is not available for the unit taking cost into consideration. No variance granted under this paragraph shall extend for a period longer than thirty months after the date of enactment of this section.

"(4) Notwithstanding the provisions of paragraph (1), the Administrator of a State may grant on a case-by-case basis a variance from the requirement that ash from municipal waste incineration units be disposed only in landfills meeting the requirements of subsection (b) or (c) beginning forty-eight months after the date of enactment of this section, on a showing by the owner or operator of any such unit that good faith efforts were made to satisfy such requirement but the unit will fail to do so for reasons not in control of the owner or operator of such unit. No variance granted under this paragraph shall extend for a period longer than seventy-two months after the date of enactment of this section.

"(5) If the Administrator fails to promulgate regulations under subsection (a) for the disposal of ash from municipal incineration units, no person may dispose of ash in a landfill after forty-eight months after the date of enactment of this section unless such landfill satisfies the requirements of subsection (b)(1) or (b)(3).

"(k) PROHIBITION.—(1) Beginning on the effective date of any regulation or requirement under this section it shall be unlawful to manage, handle, store, treat, transport, reuse, recycle, or dispose of ash from a municipal waste incineration unit otherwise than in accordance with such regulation or requirement or a State program approved pursuant to subsection (i).

"(2) Prior to and after the effective date of regulations under this section, the Administrator may use the authorities of section 3008 to enforce the requirements of this section. In the case of a violation in a State which is authorized to implement and enforce a program under subsection (i), the Administrator shall give notice to the State in which a violation has occurred prior to issuing an order or commencing civil action under section 3008.".

(b) The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item at the end thereof:

"Sec. 4011. Municipal waste combustion ash.".

(c) Subsection (i) of section 3001 of the Solid Waste Disposal Act is repealed.

CONSULTATION

SEC. 308. Notwithstanding the provisions of the Federal Advisory Committee Act, prior to promulgation of any regulations, requirements, or guidelines pursuant to section 130 of the Clean Air Act or section 4011 of the Solid Waste Disposal Act, the Administrator shall consult with elected officials of State and local governments, or their representatives or representatives of their organizations which may develop plans, administer programs, issue permits, promulgate regulations or take corrective action under such sections to receive their advice and recommendations on such regulations, requirements and guidelines.

DEVELOPMENT OF REFUSE DERIVED FUEL PLANT

SEC. 309. The Tennessee Valley Authority, (hereinafter referred to as the "TVA") in cooperation with regional waste authorities in the Tennessee Valley is authorized and directed to develop a plan for the construction of a combustion unit capable of using refuse derived fuel, with specific analysis of construction of the facility at the site of the TVA steam generation plant located at Gallatin, Tennessee. The TVA shall submit to Congress not later than ninety days after the date of enactment of this Act a report setting forth its plan for completion of such a facility.

EMISSIONS STUDY

SEC. 310. The Administrator shall conduct, and transmit to Congress not later than two years after the enactment of this Act, a study of the emissions of hazardous air pollutants from motor vehicle tire incineration facilities and the feasibility of substituting appropriate tire recycling procedures for current and projected tire incineration facilities. There are authorized to be appropriated such sums as may be necessary.

TITLE IV—ACID DEPOSITION CONTROL

ACID DEPOSITION CONTROL

SEC. 401. The Clean Air Act is amended by adding the following new title:

"TITLE IV—ACID DEPOSITION CONTROL

"FINDINGS AND PURPOSES

"SEC. 401. (a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels;

"(3) the problem of acid deposition is of national and international significance;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment; and

"(7) control measures to reduce precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of ten million tons from 1980 emission levels, and, in combination with other provisions of this Act, of nitrogen oxides emissions of approximately two million tons from 1980 emission levels, in the forty-eight contiguous States and the District of Columbia. It is the intent of this title to effectuate such reductions by requiring compliance by affected sources with prescribed emission limitations by specified deadlines, which limitations may be met through alternative methods of compliance provided by an emission allocation and transfer system. It is also the purpose of this title to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as a long-range strategy for reducing air pollution and other adverse impacts of energy production and use.

"DEFINITIONS

"SEC. 402. As used in this title—

"(a) The term 'affected source' means a source that includes one or more affected units.

"(b) The term 'affected unit' means a unit that is subject to emission reduction requirements or limitations under sections 403(e), 404, 405, 406, 407, 409, or 410 of this title.

"(c) The term 'allowance' means an authorization, issued to an affected source by the Administrator under this title, to emit, during or after a specified calendar year, one ton of sulfur dioxide.

"(d) The term 'baseline' means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ('mmBtu's'), calculated as follows:

"(1) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF). For non-utility units, the baseline is the NAPAP Emissions Inventory, Version 2. The Administrator may exclude periods during which a unit is shutdown for a continuous period of four months or longer.

"(2) For any other non-utility unit that is not included in the NAPAP Emissions Inventory, Version 2, the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the administrator shall prescribe by regulation to be promulgated not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(3) CORRECTION OF DATA.—The Administrator shall, upon application or on his own motion, by December 31, 1991, correct any factual errors in data from which affected Phase II units' baselines or actural 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

"(e) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(f) The term 'compliance plan' means a plan submitted pursuant to section 408 describing how the source will comply with all applicable requirements under this title, including a schedule and description of the method or methods for compliance and certification by the owner or operator that the source is in compliance with the requirements of this title.

"(g) The term 'continuous emission monitoring system' (CEMS) means the equipment as required by section 412, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 412 of this title).

"(h) The term 'existing unit' means a unit (including units subject to section 111) that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990. Any unit that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990 which is modified, reconstructed, or repowered after the date of enactment of the Clean Air Act Amendments of 1990 shall continue to be deemed an existing unit for the purposes of this title. For the purposes of this title, existing units shall not include simple combustion turbines.

"(i) The term 'generator' means a device that produces electricity and which is reported as a generating unit pursuant to Department of Energy Form 860.

"(j) The term 'new unit' means a unit that commences commercial operation on or after the date of enactment of the Clean Air Act Amendments of 1990.

"(k) The term 'permitting authority' means the Administrator, or the State or local air pollution control agency, with an approved permitting program under part B of title III of the Act.

"(l) The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler generation efficiency and with significantly greater solid waste reduction relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1990. For the purpose of this title, the term 'repowering' shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"(m) The term 'reserve' means the bank of allowances established by the Administrator either under section 404(a)(2) or under section 405(a)(2).

"(n) The term 'State' means one of the forty-eight contiguous States and the District of Columbia.

"(o) The term 'unit' means a fossil fuel-fired combustion device.

"(p) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For non-utility units, the term 'actual 1985 emission rate' means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(q) The term 'utility unit' means a unit that serves a generator in any State that produces electricity for sale. For purposes of this title, a unit that cogenerates steam and electricity shall be considered a utility unit if the unit supplies more than one-third of its potential electric output capacity and more than twenty-five megawatts electrical output to any utility power distribution system for sale.

"(r) The term 'allowable 1985 emissions rate' means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall determine the annual equivalent of that emissions limitation to establish the allowable 1985 emissions rate.

"(s) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 per centum reduction in emissions of a pollutant from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"(t) The term 'alternative method of compliance' means a method of compliance in accordance with one or more of the following authorities:

"(1) the purchase and use of allowances in addition to those allocated to a unit directly by the Administrator, at sale in accordance with section 403(a)(2);

"(2) the purchase and use of allowances in addition to those allocated to a unit directly by the Administrator, at auction in accordance with section 403(a)(3);

"(3) the use of transferred allowances held between allowance holders pursuant to section 403(b);

"(4) a substitution plan submitted and approved in accordance with subsections 404 (b) and (c);

"(5) a phase I extension plan approved by the Administrator under section 404(d), using qualifying phase I technology as determined by the Administrator in accordance with that section; or

"(6) repowering with a qualifying clean coal technology under section 409.

"(u) The term 'commenced' as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

"(v) The term 'commenced commercial operation' means to have begun to generate electricity for sale.

"(w) The term 'construction' means fabrication, erection, or installation of an affected unit.

"(x) The term 'industrial source' means a unit that does not serve a generator that produces electricity, a 'non-utility unit' as defined in this section, or a process source as defined in section 410(e).

"(y) The term 'non-utility unit' means a unit that serves a generator that produces electricity which sells no more than one-third of its potential electric output capacity and no more than twenty-five megawatts electrical output to any utility power distribution system.

"(z) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"(aa) The term 'life-of-the-unit, firm power contractual arrangement' means a contractual arrangement under which a utility receives a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, for the life of the unit.

"SULFUR DIOXIDE ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS

"SEC. 403. (a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title, in an amount equal to the annual tonnage emission limitation calculated under section 404, 405, 406, 409, or 410 except as otherwise specifically provided elsewhere in this title. Except as provided in sections 405(a)(2) and 410, beginning January 1, 2000, the Administrator shall not allocate or issue annual allowances to emit sulfur dioxide pursuant to section 405 in such an amount as would result in total annual emissions of sulfur dioxide from utility units in excess of 8.90 million tons: *Provided,* That the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were issued. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the annual allowances allocated for each unit subject to the requirements of section 405, based on allowances allocated pursuant to subsections (b) (1), (3), (4) and (5); (c) (1), (2) and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405. Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator shall issue allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 408. If an existing unit is, or would be, subject to the requirements of section 404, 405, or 406 is removed from operation after the date of enactment of the Clean Air Act Amendments of 1990, such removal from operation shall not affect the number of allowances allocated or issued for the unit annually as provided in section 408.

"(2)(A) FIXED PRICE SALE OF ALLOWANCES.—In accordance with the provisions of this paragraph, the Administrator, pursuant to regulations promulgated not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990, shall offer and sell allowances, at a price of $1,500 per ton (adjusted for inflation to the date of payment based on the Consumer Price Index beginning on the date of enactment of the Clean Air Act Amendments of 1990 and annually thereafter) in accordance with regulations for the use of allowances pursuant to subsection (b). The number of allowances offered and sold under this paragraph that can become usable in any given calendar year shall not exceed one hundred thousand. The Administrator shall offer to sell the maximum number of allowances permitted under this subparagraph and shall complete such sales as provided further under this paragraph. No allowance offered and sold under this paragraph shall become usable (i) prior to the year 2000, and (ii) until two calendar years after the calendar year in which it has been offered.

"(B) Beginning ninety days after the promulgation of regulations and anytime thereafter, an applicant under this paragraph may submit an application or applications for the purchase of allowances. An applicant shall demonstrate that (i) the applicant is, or will be, an owner or operator of a unit subject to subsection (e), and (ii) the applicant has entered into binding agreements to construct the unit for which the allowances are being sought or that the public service commission with jurisdiction over the unit has given its approval for the construction and operation of the unit. No applications may be: (i) for the purchase of more than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of twenty years, or (ii) for the purchase of allowances that become useable in a given calendar year in an amount greater than the number of allowances needed to operate the unit, for which allowances are being sought, for a period of one year.

"(C) The Administrator shall approve or disapprove applications no later than ninety days after submission by the applicant. Notwithstanding the fact that the approval of applications may exhaust the supply of allowances available to subsequent applicants in a given year, the Administrator shall consider applications in order of submission and, subject to the restrictions of subparagraph (A), approve such applications if the requirements of subparagraph (B) are met. If an application that would otherwise be approved would exhaust the supply of allowances in a given year, the Administrator shall offer to sell only those allowances in the application that are still available to be offered. The Administrator shall calculate an estimated purchase price to the applicant according to subparagraph (A) and rules promulgated under this paragraph. Such estimated purchase price shall reflect the discounted present value of the payments that the applicant would otherwise make if it were to pay for the allowances applied for on a year-to-year basis, and shall provide for the use of a discount rate equal to an interest rate on short-term borrowing by the Department of the Treasury. Each applicant shall be required to pay earnest money equal to one half per centum of the estimated purchase price within six months of approval of the application. Upon the receipt of such payment the Administration shall issue to the applicant a letter certifying that the applicant is eligible to purchase allowances as specified in the approved application and stating that such eligibility shall expire one year and one day prior to the calendar year in which any of the allowances becomes useable. Within 90 days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (D).

"(D) The Administrator shall promulgate regulations not later than thirty-six months after the date of enactment of the Clean Air Act Amendments of 1990 specifying: (i) one or more payment options (accounting for the earnest money paid for under subparagraph (C)) for purchase of allowances applied for under this paragraph, and (ii) methods by which an applicant can decrease, without penalty, the number of allowances purchased relative to the number of allowances applied for. Not later than one year and one day prior to the calendar year in which any of the allowances that have been reserved in accordance with an approved application become useable, the applicant who wishes to purchase such reserved allowances shall make a payment to the Administrator as specified in regulations promulgated under this subparagraph. If the applicant does not make such payment, the earnest money paid under subparagraph (C) shall be forfeited and the applicant's eligibility to purchase the allowances applied for shall expire. Following each payment specified in the regulations, the Administrator shall issue the allowances

paid for to the approved applicant and on a pro-rata basis deduct, from the allowances allocated pursuant to subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h) (1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued. The Administrator shall record the transfers of allowances as a result of each sale in accordance with the requirements of subsection (b). Within ninety days of the issuance of allowances, all funds collected as a result of the sale of such allowances under this paragraph shall be disbursed on a pro-rata basis to the owners or operators of the affected units from whose allocations the allowances are deducted. No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. Any allowances that are available for sale under this paragraph, and that remain unsold as of one year prior to the calendar year in which they become useable, shall be added to the allowances available for sale at auction under paragraph (3).

"(3)(A) ALLOWANCE AUCTION—In accordance with the provisions of this paragraph, the Administrator shall conduct auctions of allowances no less than twice in each calendar year beginning in calendar year 1995 and in each year thereafter. In conducting such auctions the Administrator, in accordance with the requirements for the use of allowances pursuant to subsection (b), may sell both allowances which are useable in the calendar year in which an auction is held and allowances which are not useable until a specified calendar year following the auction: *Provided*, That—

"(i) no allowance sold in an auction under this paragraph shall be useable prior to the year 2000;

"(ii) except for allowances contributed under subparagraph (D) of this paragraph and allowances added under subparagraph (D) of paragraph (2), the total number of allowances sold in auctions under this paragraph that can become useable in any given calendar year shall not exceed one hundred thousand; and

"(iii) in each calendar year beginning with the year 2000, the number of allowances that have been previously sold at auction and that become useable in such year together with the number of allowances that are offered for sale at auction in such year and become useable in such year shall not be less than one hundred thousand.

In each auction the Administrator shall offer to sell long-term streams of allowances consisting of allowances that are not useable until specified calendar years following the auction. Such long-term streams shall be sufficient to permit the operation of units that in the aggregate would use no less than seven thousand five hundred allowances per year for a period beginning no earlier than the calendar year following such auction and not less than fifteen years thereafter. Allowances not sold in long-term streams shall be offered no later than two years from the calendar year in which they become useable. Not later than thirty-six months after the enactment of the Clean Air Act Amendments of 1990, the Administrator, after consultation with the Secretary of the Treasury and the Chairman of the Federal Energy Regulatory Commission, shall promulgate regulations setting forth the method by which each auction shall be conducted. The regulations shall assure that the auction is open to any person who may hold allowances pursuant to this section and shall not require that a minimum price be met for the purchase of allowances. Allowances awarded at auction may be used for any purpose subject to the provisions of this title. Persons awarded allowances pursuant to each auction shall be required to pay a specified per centum of the total purchase price within a specified period of time subsequent to the date of award, as set forth in the regulations promulgated under this paragraph, except as otherwise provided in subparagraph (B). Upon the receipt of such payment the Administrator shall issue to the person a letter certifying that the person is eligible to purchase allowances as specified according to the bid and award and stating that such eligibility shall expire one year prior to the calendar year in which any of the allowances becomes useable. Within ninety days of receipt of such payment, the Administrator shall distribute such payment pro-rata to the owners or operators of affected units from whose allocations allowances may be deducted under subparagraph (B).

"(B) Not later than one year prior to the calendar year in which any of the allowances awarded to a person becomes useable, such person who wishes to purchase such awarded allowances shall pay to the Administrator the balance of the purchase price. In the case of an award of allowances in which one or more allowances are useable in the year of award, the person who wishes to purchase such allowances shall pay the full purchase price within a specified period of time less than a year after the award, as set forth in the regulations promulgated under this paragraph. If the person does not consummate a purchase, any amount previously paid shall be forfeited and the person's eligibility to purchase such allowances shall expire. The Administrator shall issue the auctioned allowances as purchased to the person and on a pro rata basis deduct, from the allowances allocated pursuant to subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j) and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405 for the calendar year for which the purchased allowances are issued, allowances in an amount equal to the number of purchased allowances issued.

"(C) Within ninety days of the issuance of allowances, all funds collected as a result of the sale of allowances under this paragraph shall be disbursed to the owners or operators of the affected units from whose allocations the allowances are deducted. Such disbursement shall be on a pro-rata basis except with respect to proceeds from the sale of contributed allowances under subparagraph (D). No funds transferred from a purchaser to the owners or operators of the affected units from whose allocations the allowances are deducted shall be treated for any purpose as revenue of the United States. The Administrator shall make information publicly available concerning the nature, price, and results of each auction including the prices of successful bids and shall record the transfers of allowances as a result of each auction and purchase in accordance with the requirements of subsection (b).

"(D) Any holder of allowances may contribute to any auction allowances and shall receive the proceeds from the auction of such allowances. Allowances contributed for auction under this subparagraph may be useable in the calendar year in which an auction is held or may not be useable until a specified calendar year following the auction in accordance with the requirements for allowance use specified in subsection (b). Allowances that are contributed and sold shall be deducted from the allowances allocated to the owner or operator making the contribution. The holder of such allowances may specify a minimum sale price and time of payment provided that the Administrator finds that doing so would not interfere with the purposes and functioning of the auction.

"(4) The regulations promulgated under paragraphs (2) and (3) and the discretion exercised by the Administrator in conducting sales and auctions shall be consistent with the competitive functioning of a national market for allowances and preservation of competition in the electric power industry. Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 2001 decrease the number of allowances sold in, and modify other terms of, the sales and auctions provided under paragraphs (2) and (3) if the Administrator finds that such changes would be consistent with the competitive functioning of a national market for allowances and the preservation of competition in the electric power industry. Pursuant to the regulations the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

"(b) ALLOWANCE TRANSFER SYSTEM.—Allowances issued under this title may be transferred among designated representatives of the owners or operators of affected sources under this title and any other person who lawfully holds such allowances, as provided by the allowance system regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the issuance, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was issued, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, including allowances issued to units subject to phase I requirements (as described in section 404) which are applied to emissions limitations requirements in phase II (as described in section 405). Transfers of allowances shall not be effective until written certification of the transfer, signed by a responsible official of each party to the transfer, is received and recorded by the Administrator. Such regulations shall permit the transfer of allowances prior to the issuance of such allowances. Recorded pre-issuance transfers shall be deducted by the Administrator from the number of allowances which would otherwise be issued to the transferor, and added to those allowances issued to the transferee. Pre-issuance transfers shall not affect the prohibition contained in this subsection

against the use of allowances prior to the year for which they are issued.

"(c) INTERPOLLUTANT TRADING.—Not later than January 1, 1994, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances, for nitrogen oxides allowances.

"(d) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate, not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990, a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit requirements pursuant to section 408, without any further permit review and revision. If the Administrator determines that the use of a code that prescribes safety standards for equipment design, procedures, and systems developed by a professional organization or entity (including the American National Standards Institute and the American Society of Mechanical Engineers) is appropriate, the Administrator shall require the use of such code.

"(e) NEW UTILITY UNITS.—After January 1, 2000, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g) (2) or (3) of section 405. New utility units may obtain allowances from any unit allocated allowances under this title. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance issued under this title is a limited authorization to emit sulfur dioxide or nitrogen oxides in accordance with the provisions of this title. Such allowance may be limited, revoked, or otherwise modified in accordance with the provisions of this title or other authority of the Administrator. Such allowance does not constitute a property right.

"(g) PROHIBITION.—It shall be unlawful for any person to hold, use, or transfer any allowance issued under this title, except in accordance with regulations issued by the Administrator. It shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for use for that unit for that year by the owner or operator of the unit. Allowances may not be used prior to the calendar year for which they were issued. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected sources of their requirements and liabilities under this Act.

"(h) Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(i) APPLICABILITY OF THE ANTITRUST LAWS.—

"(1) Nothing in this section affects—

"(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

"(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, 'antitrust laws' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

"PHASE I SULFUR DIOXIDE REQUIREMENTS

"SEC. 404. (a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 404(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless (i) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or (ii) the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions. The owner or operator of any unit in violation of this section shall be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 411 of this title.

"(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between: (A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and (B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this section that the Administrator finds would have occurred in the absence of the imposition of such requirements. Not later than June 1, 1996, the Administrator shall adjust, if necessary, the number of allowances remaining in the reserve to reflect the actual emissions reductions achieved by such units during calendar year 1995 as measured by CEMS pursuant to section 412. Such an adjustment shall be deemed necessary if the sum of the reductions actually achieved in calendar year 1995 and the number of allowances issued from the reserve, created pursuant to this paragraph, in calendar year 1995 to eligible phase I extension units pursuant to subsection (d) does not equal the reductions projected by the Administrator for calendar year 1995. In making any such adjustment, the Administrator shall take into account, inter alia, whether emissions reductions achieved by any unit subject to the requirements of this section resulted from reduced utilization of the unit as compared with its baseline or from shutting the unit down and whether additional emissions of sulfur dioxide from units not subject to the emissions limitations of this section occurred as a result of those units' provision of electrical generation to compensate for the reduced output resulting from any affected unit's reduced utilization or shutdown. Pursuant to subsection (d), the Administrator shall issue allowances from the reserve established hereinunder until the earlier of such time as all such allowances in the reserve are issued or December 31, 1999.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 408 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

"(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

"(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, the substitute unit or units, based on the baseline for each unit, as defined in section 402(d), multiplied by the lesser of the unit's allowable 1985 emissions rate;

"(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

"(6) such other information as the Administrator may require.

"(c) ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.—

"(1) The Administrator shall take final action on such substitution proposal in accordance with section 408(c): *Provided*, That the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

"(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 408. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 403. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds for use allowances to

emit not less than the units total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 411 of this title. If a substitution proposal is disapproved, the Administrator shall issue allowances to the original affected unit or units in accordance with subsection (a).

"(d) ELIGIBLE PHASE I EXTENSION UNITS.—(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 408 for an extension of two years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds for use allowances to emit not less than the unit's total annual emissions for each of the two years of the period of extension. To qualify for such an extension, the affected unit must either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 408, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

"(2) Such extension proposal shall—

"(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

"(B) provide an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

"(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

"(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

"(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

"(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 408, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the title.

"(4) In order to determine the number of proposals eligible for allocations from the reserve and the number of allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraphs (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

"(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

"(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

"(C) the difference between the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, and the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

"(5) Each eligible phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, in calendar year 1995, the Administrator shall issue to each eligible phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall issue to each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds for use allowances to emit not less than the unit's total annual emissions.

"(6) In addition to allowances specified in paragraph (5), the Administrator shall issue to the owner or operator of each eligible phase I extension unit employing qualifying phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction provided for in paragraph (4), not to exceed the difference between (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000, and (B) the tonnage level specified under subparagraph (D) of paragraph (2) of this subsection. However, the number of allowances issued shall be reduced, on a pro rata basis, as the result of any adjustment by the Administrator's June 1, 1996 recalculation of the level of the reserve under subsection (a)(2) of this section.

"(7) After January 1, 1997, in addition to any liability under this Act, including under section 411, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (3) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES

(Tons)

State	Plant Name	Generator	Phase I Allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
	Bartow	1	4,190
Georgia	Bowen	1	56,330
		2	54,770
		3	71,750
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
		7	21,480
Illinois	Baldwin	1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
	Grand Tower	4	5,910
	Hennepin	2	18,410
	Joppa Steam	1	12,590
		2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
		3	13,890
	Vermilion	2	8,880
Indiana	Bailly	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E.W. Stout	5	3,880
		6	4,770
		7	23,610
	F.B. Culley	2	4,290
		3	16,970
	F.E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H.T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,440
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES—Continued

(Tons)

State	Plant Name	Generator	Phase I Allowances
		5	3,670
		6	12,280
	Warrick	4	26,980
Iowa	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,300
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	1,125
		2	12,840
		3	12,350
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,890
		2	24,330
	C.P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
		2	38,480
Michigan	J.H. Campbell	1	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,490
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
		7	38,510
	Muskingum River	1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES—Continued

(Tons)

State	Plant Name	Generator	Phase I Allowances
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270
	Martin's Creek	1	12,660
		2	12,820
	Portland	1	5,940
		2	10,240
	Shawville	1	10,320
		2	10,320
		3	14,220
		4	14,080
	Sunbury	3	8,760
		4	11,450
Tennessee	Allen	1	15,320
		2	16,770
		3	15,670
	Cumberland	1	86,700
		2	94,840
	Gallatin	1	17,650
		2	17,310
		3	20,020
		4	21,260
	Johnsonville	1	7,790
		2	8,040
		3	8,410
		4	7,990
		5	8,240
		6	7,890
		7	8,980
		8	8,700
		9	7,080
		10	7,550
West Virginia	Albright	3	12,000
	Fort Martin	1	41,590
		2	41,200
	Harrison	1	48,620
		2	46,150
		3	41,500
	Kammer	1	18,740
		2	19,460
		3	17,390
	Mitchell	1	43,980
		2	45,510
	Mount Storm	1	43,720
		2	35,580
		3	42,430
Wisconsin	Edgewater	4	24,750
	La Crosse/Genoa	3	22,700
	Nelson Dewey	1	6,010
		2	6,680
	N. Oak Creek	1	5,220
		2	5,140
		3	5,370
		4	6,320
	Pulliam	8	7,510
	S. Oak Creek	5	9,670
		6	12,040
		7	16,180
		8	15,790

"(e) RENEWABLE ENERGY TECHNOLOGY RESERVE.—(1) Notwithstanding any other provision of law, beginning on January 1, 1995, the Administrator may allocate from a Renewable Energy Technology Reserve a tonnage amount equal to a total of 80,000 tons of allowances for emissions of sulfur dioxide pursuant to section 403, in an annual amount to be determined by the Administrator subject to paragraph (2) to owners or operators of affected units at affected sources. Such allowances shall be allocated to an owner or operator described in this subparagraph in an amount calculated pursuant to paragraph (2) if, beginning on January 1, 1991, such owner or operator—

"(A) generates electricity at a new renewable energy power plant (as defined in paragraph (4)); or

"(B) purchases electric energy generated at a new renewable energy power plant owned or operated by any person other than the owner or operator of an affected source.

"(2) The Administrator shall allocate annual allowances from the Renewable Energy Technology Reserve pursuant to paragraph (1) as follows:

"(A) Any annual allowance allocated under this subparagraph shall be allocated in a tonnage amount equal to the number of kilowatt hours generated or purchased by the owner or operator (as described in paragraph (1)), multiplied by the emissions rate of the lowest emitting coal- or oil-fired unit of the operating company applying for the allowance (as defined by the Administrator in concurrence with the Secretary of Energy, and excluding any oil- and gas-fired unit with an average annual fuel consumption for calendar year 1985 that, on a Btu basis, exceeded 90 per centum consumption in the form of natural gas), divided by 2,000. (The product of such calculation shall be divided by one hundred to reflect the conversion rate between Btu's and kilowatt hours, assuming a heat transfer of ten thousand Btu's per kilowatt hour).

"(B) Allowances allocated under this paragraph shall be allocated in accordance with the order of receipt of applications for such allowances.

"(3) Beginning on January 1, 2000, the Administrator shall deduct a tonnage amount equal to eight thousand tons per year for a period of ten years from the annual allocation of allowances for units subject to requirements of section 405 on a pro rata basis. Such allowances shall be deposited in the Renewable Energy Technology Reserve. The pro rata share for each such unit shall be calculated on the basis of the allowances that would be allocated pursuant to subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j) and the equivalent of the emissions limitations requirements of paragraphs (5) and (6), of subsection (d); of section 405.

"(4) As used in this subsection, the term 'new renewable energy power plant' means a power plant for which construction is initiated on or after January 1, 1991, or which realizes a significant increase in energy output (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) attributable to the replacement of renewable energy equipment (as defined and determined by the Administrator, in concurrence with the Secretary of Energy) installed prior to January 1, 1991, by more efficient of productive renewable energy equipment (as determined by the Administrator in concurrence with the Secretary of Energy), and that operates primarily on energy derived from—

"(A) solar sources;

"(B) geothermal sources;

"(C) biomass sources; or

"(D) wind sources.

"(f) APPLICATION FOR ALLOWANCES FROM THE RENEWABLE ENERGY TECHNOLOGY RESERVE.—The owner or operator of an affected unit under subsection (a) may submit an application to the Administrator at any time after January 1, 1991, for allowances from the Renewable Energy Technology Reserve to be calculated using the formula described in subparagraph (A) of subsection (e)(2). Such application shall include—

"(1) the number of kilowatt hours the affected units generated or purchased from a new renewable energy power plant as defined in subsection (e)(4); and

"(2) documentation of kilowatt hours generated or purchased as recorded in a certified meter reading from the point of entry into the utility grid, or in an executed sales contract.

"(g) ACTION BY ADMINISTRATOR.—(1) The Administrator, in consultation with the Secretary of Energy, shall approve or disapprove an application submitted pursuant to subsection (f) not later than six months after receipt of the application. If an application proposal does not meet the requirements of subsection (f), the Administrator shall disapprove the application.

"(2) If the Administrator approves an application submitted pursuant to subsection (f), the Administrator shall notify the applicant in writing of the number of allowances to be received pursuant to this paragraph. On or after January 1, 1995, the Administrator shall allocate allowances for the affected units in accordance with the amount specified in the written notification described in this subparagraph, upon written request by the owner or operator of the affected units at the affected source.

"PHASE II SULFUR DIOXIDE REQUIREMENTS

"SEC. 405. (a) APPLICABILITY.—(1) After January 1, 2000, each steam-electric existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 411 of this title.

"(2) Following the issuance of permits pursuant to section 408 to the owners or operators of units subject to the emissions limitation requirements of this section, the Administrator shall calculate the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 2000, achieved as result of compliance by units subject to this section with the emissions limitation requirements of subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d). In calculating such reductions the Administrator shall compute for each unit subject to the emissions limitation requirements of section 404 the difference between: (A) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000. For each unit not subject to section 404, but subject to the emissions limitation requirements of subsections (b) and (c) of this section, except for those units granted an extension pursuant to section 409, the Administrator shall compute the difference between: (A) the product of each unit's baseline multiplied by the lesser of its allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and (B) the product of each unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect the utilization of such plants that the Administrator finds would have occurred in the absence of the imposition of emissions limitation requirements. The Administrator shall establish a reserve of allowances equal in number to the tons so calculated and adjusted to reflect the actual emissions reductions achieved during calendar year 2000, as measured by CEMS pursuant to section 412, up to a limit of 5.30 million allowances. If the Administrator determines that the total of actual emissions reductions achieved in calendar year 2000 is less than 5.30 million tons, the Administrator shall deduct from each unit's annual allocation its pro rata share of 10 per centum of the difference between 5.30 million tons and actual emissions reductions achieved in calendar year 2000. Each unit's pro rata share shall be calculated on the basis of allowances that would be allocated in subsections (b) (1), (3), (4), and (5); (c) (1), (2), and (3); (d)(4); (e); (f); (g) (1), (2), and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d). Notwithstanding any other provision of this paragraph, pursuant to section 403, subsections (b)(2), (c)(3), (d)(3) (A) and (B), (g)(3), (h)(2) of this section, and section 406(a), the Administrator shall issue annually 530,000 allowances from the reserve established hereunder for calendar years 2000 through 2009.

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 per centum capacity factor.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 per centum in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated non-attainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided*, That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated and issued for each unit under this paragraph.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—

"(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is less than 250 MWe to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with a total fossil fuel steam-electric generating capacity greater than 250 MWe

and less than 450 MWe which serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1990 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the units total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 per centum, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 per centum of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 per centum capacity factor.

"(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—

"(1) After January 1, 2000, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(3)(A) At the election of an operating company, after January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1), allowances in an amount equal to either (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (1) and section 403. Allocations made pursuant to clause (i) shall include allowances subject to the restrictions imposed pursuant to section 403(a)(1) as well as allowances from the reserve created pursuant to subsection (a)(2) of this section.

"(B) At the election of the operating company, after January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (2), allowances in an amount equal to either (i) the product of the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate multiplied by the difference, on a Btu basis, between the unit's baseline and its fuel consumption at a 60 per centum capacity factor, divided by 2,000, or (ii) 20 per centum of the allowances allocated for the unit pursuant to paragraph (2) and section 403. Allocations made pursuant to clause (i) shall include allowances subject to the restrictions imposed pursuant to section 403(a)(1) as well as allowances from the reserve created pursuant to subsection (a)(2) of this section.

"(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect only one formula for the allocation of allowances as provided under subparagraphs (A) and (B), which elected formula shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall issue allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

"(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate and issue in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

"(5) After January 1, 2010, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate of less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(6) After January 1, 2010, it shall be unlawful for any coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(7) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, such unit may use any three consecutive years between 1980 and 1989 in calculating its baseline, as defined in section 402(d)(1).

"(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and a numerical factor of 120 per centum divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any oil and gas-fired utility unit the lesser of whose actual or allowable 1985 emission rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during 1985, 1986, and 1987 on a Btu basis was 90 per centum or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions and a numerical factor of 120 per centum, divided by 2,000, unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(g) UNITS THAT COMMENCE OPERATION BETWEEN 1985 AND DECEMBER 31, 1995.—(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1985, but not later than September 30, 1990 to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate and issue to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000: *Provided*, That after January 1, 2000, the Administrator shall allocate and issue for each unit with a nameplate capacity equal to, or greater than, 1,000 MWe that commences, or has commenced commercial operation, on or after October 1, 1990, but not later than June 30, 1991, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.50 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(3) After January 1, 2000, the Administrator shall allocate and issue to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and Decem-

ber 31, 1995, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu, divided by 2,000.

"(4) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been issued a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq, repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 per centum capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions.

"(5) Any unit that is a qualifying small power production facility or qualifying cogeneration facility within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act (16 U.S.C. (17)(c) or 796 (18)) that—

"(A) has commenced operation as of December 31, 1989, or

"(B) has entered into a power sales contract prior to December 31, 1989, shall not be subject to the emissions limitations pursuant to this section, or to any other provisions of this title, except if the Administrator has approved a designation of such unit under section 410.

"(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PER CENTUM OIL CONSUMED.—(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during 1985, 1986 and 1987 on a Btu basis exceeded 90 per centum in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds for use allowances to emit not less than the unit's total annual emissions.

"(2) Beginning January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(3) Beginning January 1, 2010, the Administrator shall allocate and issue annualy for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(i)(1) In addition to allowances allocated pursuant to this section, the Administrator shall allocate and issue annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

"(A) has experienced a growth in population in excess of 25 per centum between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981-1988 issued by the United States Department of Commerce, and

"(B) had an installed capacity of more than 30,000,000 kw in 1988,

in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: *Provided,* That the number of allowances allocated and issued pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated and issued to each unit under this subsection.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 per centum or more as of the date of enactment of the Clean Air Act Amendments of 1990, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970 and (D) which is owned by a utility company whose combined kilowatt-hour sales have increased by more than 20 per centum between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1990, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): *Provided,* That the number of allowances allocated and issued pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated and issued to each unit pursuant to this paragraph.

"(j) CERTAIN MUNICIPALLY-OWNED POWER PLANTS.—(1) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally-owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"(2) After January 1, 2000, the Administrator shall allocate and issue annually for each existing municipally-owned coal-fired utility unit with nameplate capacity less than 25 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 per centum capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU

"SEC. 406. (a) ELECTION OF GOVERNOR.—In addition to allocations of allowances pursuant to subsections (b) (1), (3), (4) and (5); (c) (1), (2) and (3); (d)(4); (e); (f); (g) (1), (2) and (4); (h) (1) and (3); (i); (j); and the equivalent of the emissions limitation requirements of paragraphs (5) and (6) of subsection (d), of section 405, upon the election of the Governor of any State, with a 1985 state-wide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, the Administrator, in lieu of allocations pursuant to subsections (b)(2), (c)(3), (d)(3) (A)(i) and (B)(i), (g)(3), and (h)(2) of section 405, shall allocate and issue allowances from the reserve created pursuant to section 405(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

"(b) NOTIFICATION OF ADMINISTRATOR.—Not later than January 1, 1997, each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate and issue allowances pursuant to section 405.

"(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate and issue allowances to units subject to the provisions of this section pursuant to section 405.

"NITROGEN OXIDES EMISSION REDUCTION PROGRAM

"SEC. 407. (a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of section 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided,* That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially-fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers and for cell burners, 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

"(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish

allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially-fired and dry bottom, wall-fired boilers (including cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided,* That, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

"(1) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

"(2) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, that the owner or operator—

"(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

"(2) has properly operated such equipment for a period of fifteen months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

"(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III—

"(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

"(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsection (b) (1), (2), or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b) (1) and (2).

"If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

"PERMITS AND COMPLIANCE PLANS

"SEC. 408. (a) PERMIT PROGRAM.—This title shall be implemented by operating permits issued in accordance with the provisions of this section and part B of title III of this Act. Not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations consistent with regulations required to be promulgated under title III of this Act to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit in accordance with this title and part B of title III to implement the requirements of sections 403, 404, 410, 411, 412, 413, and 414. Such permit shall supersede any permit application and proposed compliance plan submitted by the owner or operator under subparagraph (1). Any permit issued by the Administrator, or by a State with a permit program approved under part B of title III of this Act, shall prohibit each of the following:

"(1) exceedances of applicable sulfur dioxide or nitrogen oxide emissions limitations,

"(2) annual emissions of sulfur dioxide or nitrogen oxides in excess of the applicable emissions limitation under this title, unless, in the case of sulfur dioxide, the owner or operator holds allowances to emit not less than the total annual emissions of the affected unit or source,

"(3) the use of any allowance prior to the year for which it was issued, and

"(4) contravention of any other provision of the permit.

"(b) PERMIT APPLICATIONS AND COMPLIANCE PLANS GENERALLY.—Permit applications required by this seciton shall be submitted by the designated representative of the owner or operator of the unit, shall identify each person on whose behalf allowances will be received, and shall specify the nature and extent of the interest of each person. Each permit application shall be submitted by the designated representative of the owner or operator and shall be accompanied by a compliance plan for the source to comply with its requirements under this title. The compliance plan shall provide all necessary information on the schedule and means by which the source will comply with its annual tonnage emissions limitation, as provided under this title, including specification of the owner's or operator's intent to use an alternative method of compliance, and the owner's or operator's certification that such owner or operator will comply with the requirements of this title in all circumstances, including, but not limited to, those in which such owner or operator fails for whatever reason to secure any such additional allowances necessary to achieve compliance. The Administrator may also require—

"(1) for a source, a demonstration of compliance with any other applicable emissions limitation or requirement under this Act, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to the affected sources under section 404 as follows—

"(1)(A) Not later than thirty months after the date of enactment of the Clean Air Act Amendments of 1990, the designated representative of the owner or operator of each affected source under sections 404 and 407 shall submit a permit application and proposed compliance plan for that source in accordance with regulations issued by the Administrator. The permit application and proposed compliance plan shall be binding on the owner and operator, and be enforceable for purposes of this Act, until a permit is issued by the Administrator for the source pursuant to this section and title III of this Act. During pendency of the permit application and proposed compliance plan, the designated representative of the owner or operator may amend such application or plan automatically provided that the Administrator is given prior notification of such amendment.

"(B) In the case of a compliance plan for an affected source under sections 404 and 407 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit as compared with the baseline prescribed in section 402(d), or by shutting down the unit, the owner or operator shall include in the proposed compliance plan a specification of the unit or units that will provide electrical generation to compensate for the reduced output at the affected source, or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The unit to be used for such compensating generation, which is not otherwise an affected unit under sections 404 and 407, shall be deemed an affected unit under section 404, subject to all of the requirements for such units

under this title, except that allowances shall be allocated to such compensating unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000.

"(2) The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within six months after receipt of a complete submission. The Administrator may approve a compliance plan in whole or in part, and with such modifications or conditions as may be necessary consistent with the orderly functioning of the allowance system and to ensure the emissions reductions contemplated by this title.

"(d) SECOND PHASE PERMITS.—(1) To implement sections 403, 405, 406, 407, 409, 410, 411, 412, 413, and 414, each State in which one or more sources subject to those sections are located, shall submit a comprehensive and enforceable permit program to the Administrator for approval in accordance with this title and part B of title III. The Administrator shall approve any permit program meeting the requirements of this title and part B of title III.

"(2) The designated representative of the owner or operator of each affected source under section 405, including an affected unit under section 409, shall submit a permit application and proposed compliance plan (which shall include a description of any alternative method of compliance) for that source to the permitting authority, not later than January 1, 1994.

"(3) Not later than July 1, 1995, each State with an approved permit program pursuant to this section and part B of title III of this Act shall issue permits with all necessary compliance plan requirements and conditions to the owners and operators of existing affected sources under section 405, that satisfy the requirements of this Act. In the case of a State without an approved permit program, or a State that fails to issue permits to all of its existing affected sources by July 1, 1995, the Administrator shall, not later than July 1, 1996, issue a permit with all necessary compliance plan requirements and conditions to the owner or operator of each such affected source. The Administrator or permitting authority may approve a compliance plan in whole or in part and with such modifications or conditions as may be necessary consistent with the orderly functioning of the allowance system and to ensure the emissions reductions contemplated by this title.

"(4) The owner or operator of any unit subject to the requirements of section 406 shall submit a permit application and proposed compliance plan for such unit to the permitting authority not later than July 1, 1997. Not later than January 1, 1998, the permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title and part B of title III, including any appropriate monitoring reporting requirements.

"(5) The designated representative of the owner or operator of any unit subject to the requirements of section 407 shall submit a permit application and proposed compliance plan for such unit to the permitting authority, not later than January 1, 1997. The Administrator shall, not later than July 1, 1998, issue a permit and compliance plan to the owner or operator of each such affected source that has not been issued a State permit. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(e) NEW UNIT PERMITS.—(1) Each State shall submit a comprehensive and enforceable operating permit program for new units to the Administrator for approval, as provided under part C of title III. The Administrator shall take final action on complete new unit permit program submittals within one year of their receipt.

"(2) The designated representative of the owner or operator of each source that includes one or more new units shall submit a permit application and proposed compliance plan to the permitting authority not later than twenty-four months prior to January 1, 2000, or to commencing commercial operation of the new unit, whichever is later. The permitting authority shall issue a permit and compliance plan to the owner or operator of the new unit that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(f) ELECTION UNIT PERMITS.—(1) Each State shall submit a comprehensive and enforceable operating permit program for election units under section 410 to the Administrator for approval, as provided under part B of title III. The Administrator shall take final action on complete election unit permit program submittals within one year of their receipt.

"(2) The owner or operator of each source that includes one or more election units shall submit a permit application and proposed compliance plan to the permitting authority with the proposed election designation. The permitting authority shall issue a permit and compliance plan to the owner or operator of the election unit that satisfies the requirements of this title and part B of title III, including any appropriate monitoring and reporting requirements.

"(g) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of a permit application and proposed compliance plan under this section, the permit applicant may submit a revised permit application and compliance plan, in accordance with the requirements of this section or part B of title III.

"(h) PROHIBITION.—It shall be unlawful for an owner or operator and its designated representative (1) to fail to submit a permit application or proposed compliance plan in accordance with the deadlines specified in this section or otherwise to fail to comply with regulations implementing this section, or (2) to operate any source subject to this title except in compliance with the terms and requirements of a permit application and proposed compliance plan, or a permit and compliance plan issued by the Administrator or a State with an approved permit program.

"(i) MULTIPLE OWNERS.—No permit under this section shall be issued to an affected unit until the designated representative of the owner or operator has filed a certification concerning the holding and distribution of allowances. Where there are multiple holders of a legal or equitable title to or a leasehold interest in such a unit, or where a utility purchases power from an affected unit under life-of-the-unit, firm power contractual arrangements, the certification shall (1) state that allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual share or, (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, state that allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person.

"REPOWERED SOURCES

"SEC. 409. (a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the requirement of section 405 may demonstrate to the permitting authority that one or more units will be repowered with a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed and binding contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act, and shall continue to be subject to requirements under this title as if it were a unit subject to section 405.

"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator thereafter satisfies the Administrator (i) that the clean coal technology to be utilized by such unit is economically or technologically infeasible, (ii) that by January 1, 2000, the owner or operator has demonstrated to the Administrator a good faith effort to achieve compliance with the requirements of subsection (a), and (iii) that such existing unit will be retrofitted or repowered with equipment utilizing another clean coal technology or other available control technology, then such extension shall continue until December 31, 2003.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall issue to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan emissions limitation or its actual emission rate for 1995. Such allowances may not be transferred or used by any other source to meet emission requirements

under this title. The source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(2) Effective on that date, the unit shall be subject to the requirements of section 405. Allowances for the year in which the unit is removed from operation to install the repowering technology shall be calculated as the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for such existing utility units for calendar years after the year the repowering is complete shall be calculated as the product of the existing unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(d) CONTROL REQUIREMENTS.—Any unit qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant regulated under the Act shall not be subject to any standard of performance under section 111 of this Act.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D of title I of this Act for any source qualifying for an extension under this section.

"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirement of this section, or any regulations of permit requirements to implement this section, including the prohibition against emitting sulfur dioxide in excess of allowances held.

"ELECTION FOR ADDITIONAL SOURCES

"SEC. 410. (a) APPLICABILITY.—The owner or operator of any unit that is not; nor will become, an affected unit under section 403(e), 404, or 405, or that is a process source under subsection (e), that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this title. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 408. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit, or source, shall be issued allowances, and be an affected unit for purposes of this title.

"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

"(c) EMISSION LIMITATIONS.—Annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

"(d) PROCESS SOURCES.—The Administrator shall establish a program under which the owner or operator of a process source that emits sulfur dioxide may elect to designate that source as an affected unit for the purpose of receiving allowances under this title. The Administrator shall, by regulation, define the sources that may be designated; specify the emissions limitation; specify the operating, emission baseline, and other data requirements; prescribe CEMS or other monitoring requirements; and promulgate permit, reporting, and any other requirements necessary to implement such a program.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c) or (d), in accordance with section 403. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 403. Affected sources under this section shall be subject to the requirements of sections 403, 408, 411, 412, 413, and 414.

"(f) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown: *Provided*, That, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993, meeting the requirements of subsection 211(i) of this Act.

"(A) ALLOWANCE PERIOD.—Allowances may be issued under this subsection only for the period from October 1, 1993, through December 31, 1999.

"(B) ALLOWANCE DETERMINATION.—The number of allowances issued pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2,000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 per centum (by weight) and 0.050 per centum (by weight).

"(C) REFINERY ELIGIBILITY.—As used in this subsection, the term 'small refinery' shall mean a refinery or portion of a refinery—

"(i) which has bona fide crude oil throughput of less than eighteen million two hundred and fifty thousand barrels per year, as reported to the Department of Energy, and

"(ii) which is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than fifty million one hundred eighty-seven thousand and five hundred barrels per year, as reported to the Department of Energy.

"(D) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually issued to a small refinery pursuant to this subsection is one thousand and five hundred.

"(E) LIMITATION ON TOTAL.—In any given year, the total number of allowances issued pursuant to this subsection shall not exceed thirty-five thousand.

"EXCESS EMISSIONS PENALTY

"SEC. 411. (a) EXCESS EMISSIONS PENALTY.—The owner or operator of any unit or process source subject to the requirements of sections 403, 404, 405, 406, 407 or 409, or designated under section 410, that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(l). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the operator holds for use for the unit for that year, multiplied by 2,000. Any such penalty shall be due and payable without demand to the Administrator as provided in regulations to be issued by the Administrator by no later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Any such fee shall be deposited in the United States Treasury pursuant to the Miscellaneous Receipts Act. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source that emits sulfur dioxide during any calendar year in excess of the unit's emissions limitation requirement or of the allowances held for use for the unit for the calendar year, shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within sixty days after the end of the year in which the excess emissions occured, submit to the Administrator, and to the State in which the source is located, a proposed plan to achieve the required offsets. Upon approval of the proposed plan by the Administrator, as submitted, modified or conditioned, the plan shall be deemed at a condition of the operating permit for the unit without further review or revision of the permit. The Administrator shall also deduct allowances equal to the excess tonnage from those issued for the source for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

"(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a) for inflation, based on the Consumer Price Index, on the date of enactment and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a penalty and offset under this section to fail (1) to pay the penalty under subsection (a), (2) to provide, and thereafter comply with, a compliance plan as required

by subsection (b), or (3) to offset excess emissions as required by subsection (b).

"MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS

"SEC. 412. (a) APPLICABILITY.—The owner and operator of any source subject to this title shall be required to install and operate CEMS on each affected unit at the source, and to quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow at each such unit. The Administrator shall, by regulations issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations or the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title.

"(b) FIRST PHASE REQUIREMENTS.—Not later than thirty-six months after enactment of the Clean Air Act Amendments of 1990, the owner or operator of each affected unit under section 404, including, but not limited to, units that become affected units pursuant to subsections (b) and (c) and eligible units under subsection (d), shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each affected unit that has not previously met the requirements of subsections (a) and (b) shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(d) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation which shall be issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 411 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"GENERAL COMPLIANCE WITH OTHER PROVISIONS.

"SEC. 413. Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"ENFORCEMENT

"SEC. 414. It shall be unlawful for any person subject to this title to violate any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit to emit sulfur dioxide in excess of allowances held for use for such unit shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

"SEC. 415. (a) DEFINITION.—For purposes of this section, 'clean coal technology' means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

"(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit powerplant emissions. The regulatory incentives shall include—

"(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

"(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

"(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

"(A) the program initially will have a five-year life;

"(B) the program will cover no more than four units in each technology class; and

"(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

"(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

"(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

"(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in States where—

"(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the State or States in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

"(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

"(e) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—

"(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project conducted under title II, section 101(d) of the Further Continuing Appropriations Act of 1985 (section 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal ' contribution for a qualifying project shall be at least 20 per centum of the total cost of the demonstration project.

"(2) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

"(3) PERMANENT PROJECTS.—(A) For permanent clean coal technology demonstration projects that constitute repowering as defined in section 402(l) of this title, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

"(B) Any permanent clean coal technology demonstration project that constitutes a retrofit project and, notwithstanding the provisions of paragraph (1), any other utility unit pollution control project, including, but not limited to, alterations that allow the use of natural gas as a fuel, where such project constitutes a retrofit pollution control project and where such project complies with the State implementation plans for the State in which the project is located, and with other requirements necessary to attain and maintain the national ambient air quality standards shall not be deemed to be a major modification subject to the review and permitting requirements of part C or D of title I: *Provided*, That the project will not result in a significant net increase in actual emissions of any pollutant regulated under this Act. For purposes of this subsection, the Administrator shall presume

that a retrofit project will not result in an increase in the capacity utilization of the source. This presumption may be overcome if the Administrator concludes, based on information submitted pursuant to regulations or interpretative rulings promulgated under this section, that there is a likelihood that hours of operation or rates of production will increase because of the retrofit project. For purposes of this subsection, 'retrofit project' is defined as the permanent installation or operation of an emissions control system or device designed primarily to improve the control or prevention of emissions of any air pollutant, other than a repowering as defined in section 402(1) of this title.

"(4) EPA REGULATIONS.—Not later than twelve months after the date of enactment, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

"(f) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—Because the use of clean coal technologies is in the national interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

"(1) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

"(2) elimination of retroactive 'used and useful' reviews for clean coal technologies;

"(3) rapid amortization of clean coal technology expenditures; and

"(4) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.".

FOSSIL FUEL USE

SEC. 402. (a) Any person who enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

(b) A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration. Any person who sells or provides electric energy to a Federal Power Marketing Administration shall comply with the provisions and requirements of this title.

REPEAL OF PERCENT REDUCTION

SEC. 403. (a) REPEAL.—Section 111(a)(1) of the Clean Air Act is amended to read as follows:

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than three years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new fossil fuel fired electric utility units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit sulfur dioxide at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section prior to such revision.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as the provisions of section 403(e) of the Clean Air Act remain in effect.

(d) BACT DETERMINATIONS.—Section 169(3) of the Clean Air Act is amended by inserting: ", clean fuels," after "including fuel cleaning,".

ACID DEPOSITION STANDARDS

SEC. 404. Not later than thirty-six months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(a) identification of the sensitive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(b) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(c) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(d) description of the measures that would need to be taken to integrate such standard or standards with the control program required by title IV of the Clean Air Act;

(e) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(f) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new source performance standards and the requirements of title IV of the Clean Air Act.

NATIONAL ACID LAKES REGISTRY

SEC. 405. The Administrator of the Environmental Protection Agency shall create a National Acid Lakes Registry that shall list, to the extent practical, all lakes that are known to be acidified due to acid deposition, and shall publish such list within one year of the enactment of this Act. Lakes shall be added to the registry as they become acidic or as data become available to show they are acidic. Lakes shall be deleted from the registry as they become nonacidic.

INDUSTRIAL SO_2 EMISSIONS

SEC. 406. (a) Not later than January 1, 1995 and every five years thereafter, the Administrator of the Environmental Protection Agency shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, for all years for which data are available, as well as the likely trend in such emissions over the following twenty-year period. The reports shall also contain estimates of the actual emission reduction in each year resulting from promulation of the diesel fuel desulfurization regulations under section 214.

(b) Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator of the Environmental Protection Agency shall take such actions under the Clean Air Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 405(g)(5) of the Clean Air Act, under section 111(b), as well as promulgation of standards of performance for existing sources, including units subject to section 405(g)(5) of the Clean Air Act, under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) Regulations promulgated under section 405(b) shall not prohibit a source from electing to become an affected unit under section 410.

SENSE OF THE CONGRESS ON EMISSION REDUCTIONS COSTS

SEC. 407. It is the sense of the Congress that the Clean Air Act Amendments of 1990, through the allowance program, allocates the costs of achieving the required reductions in emissions of sulfur dioxide and oxides of nitrogen among sources in the United States. Broad based taxes and emissions fees that would provide for payment of the costs of achieving required emissions reductions by any party or parties other than the sources required to achieve the reductions are undesirable.

CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

SEC. 408. (a) The National Acid Precipitation Assessment Program created by Public Law 96-294 shall be continued pursuant to this section. The Chairman of the Joint Chairs of the National Acid Precipitation Task Force shall be the Administrator of the Environmental Protection Agency.

(b) The Task Force shall sponsor monitoring and research in the Federal agencies and in the scientific community that is necessary to understand the effects of the emissions control program created by this title. The Task Force shall undertake cost-benefit

analyses of the effects of the emissions control program created by this title.

(c) The Task Force shall provide for the collection of information regarding—

(1) natural and anthropogenic emissions of the precursors of acid deposition;

(2) actual levels of all types of acid deposition;

(3) the status of ecosystems (including forests and terrestrial waters), materials, and visibility affected by acid deposition; and

(4) the costs and benefits of the control program created by this title.

The Task Force shall assure that this data is interpreted in such a way as to allow interested persons to determine as accurately as possible the total effects of the emissions control program created by this title.

(d) The Task Force shall provide for the maintenance and updating of models that describe the interaction of emissions with the atmosphere such as the Regional Acid Deposition Model, and models that describe the response of ecosystems to acid deposition.

(e) The Task Force shall make a unified budget recommendation. Every two years beginning in 1992, the Task Force shall submit a report to the President and the Congress describing the results of its investigations and analysis of the effects of the emissions control program contained in this title.

(f)(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

(A) the occurrence and effects of acid deposition on surface waters located in that part of the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, elimatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississippi River. The Task Force shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

(g) There are authorized to be appropriated the amount of $10,000,000 per year to carry out the purposes of this section, to remain available until expended.

MONITOR ACID RAIN PROGRAM IN CANADA

SEC. 409. (a) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of State, the Secretary of Energy, and other persons the Administrator deems appropriate, shall prepare and submit a report to Congress on January 1, 1994, January 1, 1999, and January 1, 2005.

(b) The report to Congress shall analyze the current emission levels of sulfur dioxide and nitrogen oxides in each of the provinces participating in Canada's acid rain control program, the amount of emission reductions of sulfur dioxide and oxides of nitrogen achieved by each province, the methods utilized by each province in making those reductions, the costs to each province and the employment impacts in each province of making and maintaining those reductions.

(c) Beginning on Janaury 1, 1999, the reports shall also assess the degree to which each province is complying with its stated emissions cap.

REPORT ON CLEAN COAL TECHNOLOGIES EXPORT PROGRAMS

SEC. 410. The Secretary of Energy in consultation with the Secretary of Commerce shall provide a report to the Congress within one year of enactment of this legislation which will identify, inventory and analyze clean coal technologies export programs within United States Government agencies including the Departments of State, Commerce, and Energy and at the Export-Import Bank and the Overseas Private Investment Corporation. The study shall address the effectiveness of interagency coordination of export promotion and determine the feasibility of establishing an interagency commission for the purpose of promoting the export and use of clean coal technologies.

ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 411. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

STUDY OF BUFFERING AND NEUTRALIZING AGENTS

SEC. 412. There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

TITLE V—PERMITS

PERMITS

SEC. 501. The Clean Air Act is amended—

(1) by inserting after the heading "TITLE III—GENERAL" the subheading "PART A—MISCELLANEOUS"; and

(2) by adding at the end of title III the following:

"PART B—PERMITS

"DEFINITIONS

"SEC. 350. As used in this part—

"(1) The term 'affected source' shall have the meaning given in title IV of this Act.

"(2) The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that—

"(A) is a major source as defined under section 112 or part D of this Act; or

"(B) is a major stationary source or major emitting facility as defined in section 302(j).

"(3) For sources subject to standards issued under section 112 of this Act, the terms 'new source', 'stationary source', and 'area source' shall have the meaning given in that section.

"(4) For sources subject to standards issued under section 111 of this Act, the terms 'new source', 'modification', 'existing source', 'stationary source', and 'owner or operator' shall have the meaning given in that section.

"(5) The term 'schedule of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

"(6) The term 'permitting authority' means the Administrator, or the air pollution control agency authorized by the Administrator to carry out a permit program under this part.

"PERMIT PROGRAMS

"SEC. 351. (a) After the effective date of any permit program approved or promulgated under this part, it shall be unlawful for any person: (i) to violate any requirement of a permit issued under this part, or (ii) to operate a major source, any source subject to title IV of this Act, any other source (including an area source) subject to standards or regulations under section 111 or 112, any source required to have a permit under parts C or D of this Act, or any other source designated by regulations promulgated by the Administrator, except in compliance with a permit issued by a permitting authority under this title. Nothing in this subsection shall be construed to alter the requirements of sections 165, 172, and 173 regarding the requirement that a permit be obtained prior to construction. The Administrator may, in the Administrator's discretion, after notice and opportunity for public comment, promulgate regulations to exempt one or more source categories from a permit program and the requirement of this part to have a permit, if the Administrator finds that such an exemption is warranted and would be consistent with protection of the public health, welfare and the environment.

"(b) Not later than twelve months after the date of enactment of this part, the Administrator shall promulgate regulations establishing the minimum elements of a permit program to be administered under this Act by any air pollution control agency. These elements shall include:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion when such applications are complete.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State or local law that the owner or operator of each source subject to the requirement to obtain a permit under this part pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable costs of developing and administering the permit program, including, but not limited to, the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of enactment of this section, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the air pollution control agency demonstrates that, except as otherwise provided in clauses (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such lesser amount that the Administrator determines, after notice and opportunity for public comment, adequately reflects the costs of the program.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean: (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In calculating the amount to be collected on a per ton basis under clause (i), the permitting authority shall exclude emissions of regulated pollutants from any source that are in excess of four thousand tons per year.

"(iv) The requirements of clause (i) to collect the amount specified under such clause shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under clause (i) will satisfy the requirements of subparagraph (A).

"(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover reasonable costs) in each year beginning after the year of enactment of this section by the percentage, if any, by which the Producer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Producer Price Index for the calendar year 1989.

"(C) Any fee required to be collected by an air pollution control agency under this subsection shall be utilized to support the air pollution control program of such agency.

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to—

"(A) issue permits that apply, and assure compliance by all sources required to have a permit under this part with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed five years;

"(C) assure that permits include emission limitations and other conditions required by section 353(a);

"(D) terminate, modify, or revoke and reissue permits for cause;

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and to seek appropriate criminal penalties;

"(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under section 354; and

"(G) grant limited extensions of a permit's term upon a timely and complete application for renewal, pending final action upon the renewal application by the permitting authority.

"(6) A requirement that the permitting authority establish and implement adequate procedures for processing permit applications expeditiously, and for public notice, including offering an opportunity for public comment and a hearing, on any permit application. These procedures shall include a requirement that the permitting authority include in public notices of any application for a permit that would amend or alter an applicable implementation plan an explicit statement describing the ways in which the permit would amend or alter such plan.

"(7) A requirement that all permit applications, compliance plans, permits, and monitoring or compliance reports filed under section 352 shall be made available to the public, subject to section 114 of this Act.

"(c) Each permit issued under this part shall include conditions providing for review and revision prior to expiration of the permit term for purposes of—

"(A) incorporating requirements of this Act that become applicable to the permitted source prior to expiration of the permit term, where such review and revision may be necessary to protect the public health or welfare and the environment; and

"(B) correcting any material mistake or material error made in establishing the emission standards or limitations, or other requirements of the permit.

"(d) A single permit may be issued for a facility with multiple sources.

"(e)(1) Each permit application or request for permit modification or renewal shall be acted upon by the permitting authority as expeditiously as practicable, and, except as provided in paragraph (2), final action upon any such application or request for modification or renewal shall be required to be taken by the authority not later than twelve months after receipt of a complete application or request.

"(2) Notwithstanding the requirement of paragraph (1), a permitting authority may extend the twelve-month deadline for final action on a permit application or request for modification or renewal if the authority determines that, as a result of technical complexity or insufficient administrative resources, it is not possible to take final action within twelve months as provided in paragraph (1). Such extension may be for a period not to exceed eighteen months and may not be further extended nor renewed.

"(f) Not later than three years after the enactment of this part, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality or the interstate compact provide adequate authority to carry out the program. Not later than one year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator shall approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b) of this section. If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within one hundred and eighty days after receiving notification. If the Governor fails within such period to resubmit an approvable program, the Administrator—

"(1) shall apply at least one of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); and

"(2) unless required to act pursuant to subsection (j) of this section, may in the Administrator's discretion promulgate, administer, and enforce a program, or partial program, under this part.

"(g) The Administrator shall suspend the issuance of Federal permits promptly upon approval and implementation of a permit program under this section, but may retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this part until they are replaced by a permit issued under an approved permitting program. Nothing in this provision shall be construed to limit the Administrator's ability to enforce permits issued by a State.

"(h) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this part substantially meets the requirements of this part, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than two years after such approval, and may not be renewed.

"(i) EFFECTIVE DATE.—The effective date of a permit program, or interim program, approved under this part, shall be the effective date of approval by the Administrator.

"(j) Whenever the Administrator makes a preliminary determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this part, the Administrator shall notify the permitting authority of such determination and the reasons therefore. Such notice shall be made public. If the permitting authority fails to take action to assure adequate administration and enforcement, the Administrator may in the Administrator's discretion, but not before ninety days after issuing such notice, take one or more of the following actions:

"(1) withdraw approval of the program or portion by rule;

"(2) apply any of the sanctions specified in section 176(a) of this Act other than the sanction specified in section 176(a)(2); or

"(3) promulgate a program, or portion of a program, under this part.

"(k) In the event the Administrator determines that (1) a permitting authority is not adequately administering and enforcing a program, or a portion thereof, in accordance with the requirements of this part and (2) such permitting authority has failed to take action to assure adequate administration and enforcement of such a program within sixty months after enactment of this part, or two years after receiving notice from the Administrator under subsection (i) of this section, whichever is later, the Administrator shall promulgate, administer and enforce a program under this part to assure compliance with the requirements of this part.

"PERMIT APPLICATIONS

"SEC. 352. (a) Any source specified in section 351(a) shall become subject to a permit program and, except as provided in subsection (g), shall be required to have a permit, on the later of the following dates:

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 351(a).

"(b) The regulations required by section 351(b) shall include a requirement that the owner or operator submit with the permit application a compliance plan describing (1) how the source will comply with all new requirements applicable to the source under this Act, including a schedule for achieving compliance with such new requirements, and (2) in the event the source is not in compliance with all existing applicable requirements of this Act at the time it submits the permit application, a description of how the source will comply with all such requirements, including a schedule for achieving compliance with such requirements. The compliance plan shall include a schedule under which the owner or operator will submit progress reports to the permitting authority no less frequently than every six months. The regulations shall further require any owner or operator submitting a compliance plan to certify periodically that the facility is in compliance with any applicable requirements under this Act, and to report promptly any violations of such requirements to the permitting authority.

"(c) The owner or operator of any source required to have a permit shall, not later than thirty months after the date on which the source becomes subject to a permit program approved or promulgated under this part, or such earlier date as the permitting authority shall establish by regulations, submit to the permitting authority a compliance plan in accordance with subsection (b) of this section and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted.

"(d)(1) Each permitting authority shall, in consultation with the Administrator, establish by regulations a schedule for the submission of all or part of the application by sources or categories of sources (including any class, type, or size within such category) within the thirty-month period in a manner that minimizes administrative burdens. Such schedules shall be based on the nature and amount of emissions from the sources or categories of sources, similar air quality considerations, and such other factors as may be relevant.

"(2) The schedules established pursuant to paragraph (1) shall provide that, to the maximum extent practicable:

"(i) those sources that represent the most significant contributions or potential contributions to air pollution shall be required to submit permit applications not later than ten months after the date on which such sources become subject to a permit program approved or promulgated under this part;

"(ii) those sources that represent significant contributions or potential contributions to air pollution shall be required to submit permit applications not later than twenty months after the date on which such sources become subject to a permit program approved or promulgated under this part; and

"(iii) all other sources shall be required to submit permit applications not later than thirty months after the date on which such sources become subject to a permit program approved or promulgated under this part.

"(e)(1) To the maximum extent practicable, each of the three permit tiers established by the permitting authority under subsection (d) shall include not less than one-third of all sources estimated by the permitting authority to be subject to the permit program approved or promulgated under this part (other than sources subject to section 408 of this Act).

"(2) All sources subject to section 408 of this Act shall be subject to the provisions of this part, except that such sources shall submit their permit applications in accordance with the schedule established under section 408 in lieu of the schedules established under subsection (d) of this section.

"(3) The regulations required by this subsection and section 351(b) shall, with respect to sources subject to section 112 of this Act, incorporate the requirements of subsection 112(j).

"(f) No permit shall be issued to any source located in a nonattainment area unless (A) the permitting authority has made the determinations required under section 173 of this Act, and (B) the conditions of section 173 are satisfied.

"(g) Except for sources required to have a permit prior to construction under sections 165, 172, or 173, if an applicant has submitted a timely and complete application for a permit required by this part, but final action has not been taken on the application, the source's failure to have a permit shall not be a violation of this Act, unless the delay in final action was due to the failure of the applicant to timely submit information required or requested to process the application. No source required to have a permit under this part shall be in violation of section 351(a) before the date on which the source is required to submit an application under subsection (c) of this section.

"(h) A copy of each permit application, compliance plan, emissions or compliance monitoring report, certification, and each permit issued under this part, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit or of a compliance plan shall not be entitled to protection under section 114(c).

"PERMIT REQUIREMENTS AND CONDITIONS

"SEC. 353. (a) Each permit issued under this part shall include enforceable emission limitations and standards, a schedule of compliance in accordance with section 352(b), and such other conditions and measures as are necessary to assure prompt and continuing compliance with applicable requirements of this Act.

"(b) The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act.

"(c) Each permit issued under this part shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulations under subsection (b) of this section. Any report required to be submitted by a permit issued to a corporation under this part shall be signed by a responsible corporate official, who shall certify its accuracy.

"(d) A permit for a source that is an affected source under title IV shall prohibit the emission of sulfur dioxide in excess of the allowances acquired by the source through trading or otherwise under title IV. No permit modification shall be required for increases in emissions that are authorized by allowances acquired through trading or otherwise under title IV, *Provided*, That any such increase complies with other requirements of the Act.

"(e) The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this part. No source covered by a general permit shall thereby to relieved from the obligation to file an application under section 352.

"(f) The permitting authority may issue a single permit to an owner or operator authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visability requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(g) Compliance with the terms and conditions of a permit issued in accordance with the requirements of this part shall be deemed compliance with all requirements of this Act that are explicitly addressed by such terms and conditions: *Provided, however*, That compliance with the terms and conditions of a permit issued in accordance with the requirements of this part shall not alter, modify, or otherwise affect the authority of the Administrator under section 303 (emergency powers) or the requirement to comply with any order issued under section 303.

"NOTIFICATION TO ADMINISTRATOR AND OTHER STATES

"SEC. 354. (a)(1)(A) Each permitting authority shall transmit to the Administrator a copy of each draft permit or draft permit modification release for public comment, including any compliance plan, and such other information as the Administrator may by rule require in order to carry out the Administrator's duties under the Act. Each permitting authority shall provide public notice, in accordance with regulations promulgated by the Administrator, of each permit or permit modification proposed to be issued or granted by the authority, and, except as provided under subparagraph (B), transmit a copy of each such proposed permit to the Administrator for review under subsection (b). Such notice shall include a concise description of the manner in which a proposed permit or permit modification does not implement or otherwise proposes to change the requirements of any applicable implementation plan.

"(B) A proposed permit shall not be required to be forwarded to the Administrator for review under subsection (b) if the permit only implements and does not change any material requirement of any applicable implementation plan (a 'codifying permit') and

the permitting authority so states in the public notice, unless—

"(i) the Administrator notifies the permitting authority, not later than the close of the public comment period, that the permit does not so implement without change all such requirements or is otherwise not in compliance with the requirements of this Act; or

"(ii) the final permit modifies any provision that was included in the proposed permit submitted for public notice.

In any case in which a proposed permit contains a provision that changes any material requirement of an applicable implementation plan or is otherwise not in compliance with the requirements of this Act, failure by the Administrator to notify the permitting authority under clause (i) of this paragraph shall be subject to an action under section 304(a)(2) of this Act: *Provided,* That no person may commence such a civil action unless such person has, in accordance with procedures established under section 351(b)(6) of this part, participated in the public comment process relating to the permit. In any action brought under this provision, pending a final decision in such action, the court shall have jurisdiction to entertain an application to maintain in effect the provisions of the applicable implementation plan that affect the source seeking the permit or permit modification.

"(2) The permitting authority shall provide notice of each permit or permit modification proposed to be issued by the authority and forwarded to the Administrator under this section, to any State that is susceptible to adverse air quality effects resulting from emissions that would be allowed under the permit.

"(3) The permitting authority shall provide an opportunity for each State that satisfies the condition set out in paragraph (2) of this subsection to submit written recommendations respecting issuance of the permit, including proposed terms and conditions for the permit. If any part of those recommendations is not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and its reasons therefor.

"(4) For purposes of paragraph (2), any State that is within fifty miles of a source that applies for a permit under this Act shall be deemed susceptible to adverse air quality effects resulting from emissions that would be allowed under the permit. The Administrator shall promulgate guidelines with respect to application of paragraph (2) in cases involving the emission and transport of specific pollutants that have the potential to affect air quality adversely in areas located further than fifty miles from the source of such pollutants.

"(b) No permit shall be issued, and no permit modification shall be granted, if the Administrator (1) within ninety days after receipt of the proposed permit or permit modification under subsection (a)(1)(A) of this section, or (2) within ninety days after receiving notification under subsection (a)(2), objects in writing to its issuance. Such objection may be based on the Administrator's determination that the proposed permit or permit modification is not in compliance with the applicable implementation plan or other applicable emission limitations, standards, or other applicable requirements of this Act. The Administrator shall object to the issuance of any proposed permit or permit modification that contains provisions which are not in compliance with the requirements of this Act. The Administrator shall provide with each objection a statement of the reasons for the objection, along with the terms and conditions which such permit or permit modification would include if it were to be issued by the Administrator. A copy of any objection and statement shall be provided to the applicant.

"(c)(1) If the permitting authority fails within ninety days after the date of the objection under subsection (b) to submit a permit revised to meet the objection, the Administrator shall promptly issue or deny the permit in accordance with the requirements of this part. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(2) A failure by the Administrator to object to the issuance of a permit containing provisions that are not in compliance with the requirements of this Act shall be subject to an action under section 304(a)(2) of this Act: *Provided,* That no person may commence such a civil action unless such person has, in accordance with procedures established under section 351(b)(6) of this part, participated in the public comment process relating to issuance of the permit. In any action brought under this provision, pending a final decision in such action, the court shall have jurisdiction to entertain an application to maintain in effect the applicable provisions of the implementation plan that affect the source seeking the permit or permit modification.

"(d) The Administrator may, by regulation, require that specified modifications to requirements of the applicable implementation plan with respect to specified categories of sources (including any class, type, or size within such category) be made only through a revision to the applicable implementation plan.

"(e)(1) The Administrator shall, by regulation, require that if a permit applicant identifies the composition of emissions under the reasonably anticipated operating conditions of the permitted facility, the permit shall set forth the emission limitations, standards, and other requirements that would apply under all such reasonably anticipated operating conditions.

"(2) The Administrator shall, by regulation, require that emission limitations contained in permits, as well as other permit terms, provide the owner or operator of a facility the flexibility to make changes in the operation of the facility that might shift permitted emissions from one source to another within the same facility, as authorized by a permit, without the necessity for a permit modification: *Provided,* That the owner or operator provides the Administrator and the permitting authority with advance written notification specifying the proposed changes and the anticipated emissions effects of such changes not less than thirty days prior to making such changes: *Provided further,* That the permit includes such emission limitations, monitoring provisions, and other requirements as are necessary to assure that all permit requirements will continue to be enforceable. Changes in the operation of a facility that will cause an increase either in the rate at which emissions are allowed under a permit issued under this part, or in total emissions allowed by such permit shall not be authorized by the regulations promulgated to implement the preceding sentence.

"(f) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a State or local permit under this part, the Administrator shall notify the permitting authority of such finding. The permitting authority shall, within ninety days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The Administrator may extend such ninety-day period for an additional ninety days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b) of this section. If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within the period prescribed in subsection (c) of this section, the Administrator may, after notice and in accordance with duly promulgated procedures, terminate, modify, or revoke and reissue the permit.

"RELATION TO OTHER AUTHORITY

"SEC. 355. (a) Nothing in this part shall prevent an air pollution control agency from establishing additional permitting requirements not inconsistent with this Act.

"(b) Nothing in this part shall be construed to authorize the Administrator, or a State, or other permitting authority, to modify or revoke any allowance granted under title IV, or to alter or amend any provision of title IV or of section 111 or 112.

"(c) Permits issued under this part shall, to the maximum extent practicable, be coordinated and consolidated with all other permits required under this Act, including permits required under sections 112, 172, 173, and 408.

"(d) In promulgating any standard under section 111 or 112, the Administrator shall identify which sources or categories of sources (including any class, type, or size within such category) subject to such standard shall be subject to this part.

"(e) For the purposes of this Act, any permit properly issued or revised under this part shall become part of, and supersede any inconsistent portion of, the applicable implementation plan, and shall have the effect specified in section 353(g).".

DEFINITION OF EMISSION STANDARD OR LIMITATION

SEC. 502. Section 304(f)(1) of the Clean Air Act is amended to read as follows:

"(1) an emission limitation, standard of performance, or an emission standard, or a schedule or timetable of compliance that is currently legally enforceable;".

TITLE VI—ENFORCEMENT AND REAUTHORIZATION

SECTION 113 ENFORCEMENT

SEC. 601. (a) The heading of section 113(a) of the Clean Air Act is amended by replacing the words "FINDING OF VIOLATION" with the words "NOTIFICATIONS AND COMPLIANCE ORDERS".

(b) Section 113(a)(1) of the Clean Air Act is amended as follows:

(1) In the first sentence, after "finds that any person", insert the words "has violated or"; and following the words "shall notify the person" replace "in violation of" with "who violated".

(2) In the second sentence,

(A) strike the words "If such violation extends beyond the thirtieth day after the date of the Administrator's notification,"

and insert in lieu thereof the words "At any time after the expiration of thirty days following the date on which such notice of a violation is issued," and;

(B) strike all after "of such plan" and insert in lieu thereof the following: ", may issue an administrative penalty order under subsection (d), or may bring a civil action under subsection (b), without regard to the period of the violation (subject to section 2462 of title 28 of the United States Code). Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.".

(c) Section 113(a)(2) of the Clean Air Act is amended as follows:

(1) Insert the words "or approved permit program" after "applicable implementation plan" in the first sentence.

(2) Insert the words "or permit program" after "in which the plan" in the first sentence.

(3) Insert the words "or permit program" after "enforce the plan" in the first sentence.

(4) Insert the words "or permit program" after "enforce such plan" in the third sentence.

(5) Insert the words "or permit program" after "requirement of such plan" in the third sentence.

(6) Strike the "or" at the end of section 113(a)(2)(A), redesignate subparagraph "(B)" as "(C)", and insert the following new subparagraph (B):

"(B) by issuing an administrative penalty order under subsection (d) of this section, or".

(7) Insert the following new sentence at the end of section 113(a)(2): "Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) without such notification for any such violation.".

(d) Section 113(a)(3) of the Clean Air Act is amended as follows:

(1) Insert the words "has violated or" before the words "is in violation of" in the first sentence.

(2) Strike the words "section 111(e)" and all that follows down through "(relating to inspections, etc.), he" and insert in lieu thereof the following new language: "any other requirement of this title, title III, or title IV, including, but not limited to, a requirement of any rule, plan, order, waiver or permit promulgated, issued or approved under those titles or for the payment of any fee owed the United States under this Act, the Administrator".

(3) Strike the words "or he" before the words "may bring a civil action" and insert in lieu thereof the following words: "may issue an administrative penalty order in accordance with subsection (d), may".

(4) Insert ", or may bring a criminal action in accordance with subsection (c)" immediately before the period at the end of the sentence.

(e) Section 113(a)(4) of the Clean Air Act is amended by inserting at the end thereof: "An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event later than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State, the Administrator, or a court in an action brought under section 304, from assessing any penalties nor otherwise affect or limit the State or the United States' authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act, or a term or condition of any permit or applicable implementation plan promulgated or approved under this Act. Any order issued under this subsection shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. In connection with any proceeding under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.".

(f) Section 113(a)(5) of the Clean Air Act is amended to read as follows:

"(5) Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

"(A) issue an order prohibiting the construction, modification or operation of any major stationary source in any area to which such provisions apply;

"(B) issue an administrative penalty order in accordance with subsection (d); or

"(C) bring a civil action under subsection (b)(5).

Nothing in this subsection shall preclude the Administrator from filing a criminal action under section 113(c) at any time for any such violation.".

(g) Section 113(b) of the Clean Air Act is amended to read as follows:

"(b) The Administrator shall, in the case of any person which is the owner or operator of a major emitting facility or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, whenever such person—

"(1) has violated or is in violation of any requirement of an applicable implementation plan (such action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of a finding that such person has violated or is in violation of such requirement); or

"(2) has violated or is in violation of any other requirement of this title, title III, or title IV, including, but not limited to, a requirement of any rule, order, waiver, plan or permit promulgated, issued or approved under this Act or for the payment of any fee owed the United States under this Act; or

"(3) attempts to construct, modify, or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States under the Act and any noncompliance assessment and nonpayment penalty owed under section 120, and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any party or parties against whom such action was brought if the court finds that such action was unreasonable.".

(h) Section 113(c) of the Clean Air Act is amended to read as follows:

"(c) CRIMINAL ENFORCEMENT.—

"(1) Any person who knowingly fails to pay any fee owed the United States under this Act shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who negligently releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, which release such person knows or reasonably should have known could place another person in imminent danger of death or serious bodily injury and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than one year, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emission standard or limitation (by rule, in a permit that is in effect and was issued to the source under part B of title III, or in a temporary operating permit that is in effect and was issued to the source under section 112), or for which any other relevant standard or limitation regarding emissions into the ambient air of such pollutant has been set under this Act, a release of such pollutant from such source shall not constitute a violation of this paragraph unless it exceeds or is otherwise not in accordance with such standard or limitation.

"(3) Any person who knowingly violates any requirement or prohibition of this title, title III, or title IV, including but not limited to a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those titles shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code per day for each violation, or by imprisonment for not more than five years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who knowingly—

"(A) makes any false material statement, representation, or certification in, or omits

material information from, or knowingly alters, conceals or fails to maintain or file, any notice, application, record, report, plan, or other document required pursuant to this Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State); or

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act;

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code per day for each violation, or by imprisonment for not more than two years, or by both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 11002(a)(2) of title 42 of the United States Code, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, per day for each violation, or by imprisonment for not more than fifteen years, or by both. Any person committing such violation who is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 per day for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any hazardous air pollutant listed pursuant to section 112 for which the Administrator has set an emissions standard or limitation (by rule, in a permit that is in effect and was issued to the source under part B of title III, or in a temporary operating permit that is in effect and was issued to the source under section 112), or for which any other relevant standard or limitation regarding emissions into the ambient air of such pollutant has been set under this Act, a release of such pollutant from such source shall not constitute a violation of this paragraph unless it exceeds or is otherwise not in accordance with such standard or limitation.

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(D) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purposes of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.".

(i) Section 113(d) of the Clean Air Act is amended to read as follows—

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—

"(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day for each violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) has violated or is violating any requirement of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person has violated or is violating such requirement); or

"(B) has violated or is violating any other requirement of this title, title III, or IV, including, but not limited to, a requirement of any rule, order, waiver, permit, or plan promulgated, issued or approved under this Act or for the payment of any fee owed the United States under this Act; or

"(C) attempts to construct, modify or operate a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than twelve months prior to the initiation of the administrative action.

"(2)(A) An administrative penalty order under paragraph (1) shall be issued by the Administrator after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator may issue rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to whom the order is to be issued of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within thirty days of the date the notice is received by such person. An administrative penalty order issued under paragraph (1) shall become final if no hearing is requested within thirty days or upon issuance of the order following the hearing provided for in this paragraph.

"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under paragraph (d)(1).

"(3) The Administrator may implement through regulation, after consultation with the Attorney General, a field citation program for appropriate minor violations, which authorizes the issuance of field citations assessing civil penalties not to exceed $5,000 per inspection. During any six month period, the total penalty assessed under this paragraph for any single facility shall not exceed $25,000. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, nor shall it be a defense to liability for payment of the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection or to whom an administrative penalty order is issued under paragraph (1) of this subsection may seek review of such assessment or order in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within thirty days following the date the administrative penalty order becomes final under paragraph (2), the assessment becomes final under paragraph (3), or a final decision following a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall promptly file in such court a certified copy, or certified index, as appropriate, of the record on which the administrative penalty order or assessment was issued within thirty days. Such court shall not set aside or remand such order or assessment unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or penalty assessment constitutes an abuse of discretion. Such order or penalty assessment shall not be subject to review by any court except as provided in this paragraph. In any such proceedings, the United States may seek to recover civil penalties assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order—

"(A) after the order or assessment has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount ordered or assessed (plus interest at rates established pursuant to section 6621(a)(2) of title 26, United States Code, from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings,

and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 per centum of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.".

(j) Current section 113(e) of the Clean Air Act is deleted in its entirety and replaced with the following new sections 113(e) and 113(f):

"(e) PENALTY ASSESSMENT CRITERIA.—(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the court shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with administrative subpoenas under section 307(a), or actions under section 114 of this Act, where the violator had sufficient cause to violate or fail or refuse to comply with such subpoena or action.

"(2) A penalty may be assessed for each day of each violation. For purposes of determining the number of days of violation for which a penalty may be assessed under subsection (b) or (d)(1) of this section, or section 304(a), or an assessment may be made under section 120, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator proves by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) MONETARY AWARDS.—The Administrator may pay an award, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a civil judicial or administrative judgment of liability for any violation of this Act enforced under this section. Any officer or employee of the United States or any State or local government who furnishes information or renders service in performance of an official duty is ineligible for payment under this subsection. An authorized contractor acting as a representative of the Administrator shall be considered an employee of the United States for purposes of this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.".

COMPLIANCE CERTIFICATION

SEC. 602. (a) Section 114(a)(1) of the Clean Air Act is amended by—

(1) inserting ", on a one-time, periodic or continuous basis" immediately before "to (A) establish and maintain";

(2) inserting ", audit procedures," immediately before "or methods, (D)";

(3) inserting "procedures or" immediately before "methods, at such locations,";

(4) inserting "during such continuous periods" immediately before ", and in such manner as the Administrator";

(5) striking "and" immediately before subparagraph (E); and

(6) redesignating subparagraph (E) as (G) and inserting the following new subparagraphs: "(E) keep periodic or continuous records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical, (F) submit compliance certifications in accordance with section 114(a)(3); and".

(b) Section 114(a) is amended by adding the following new paragraph:

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (i) identification of the applicable requirement that is the basis of the certification, (ii) the method used for determining the compliance status of the source, (iii) the compliance status, (iv) whether compliance is continuous or intermittent, (v) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be public information. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement the Act.".

(c) Section 307(b)(1) is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator".

CONTRACTOR INSPECTIONS

SEC. 603. (a) Section 114(a)(2) of the Clean Air Act is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)," immediately before "upon presentation of his credentials".

(b) Section 114(c) is amended by striking ", except that such record," and all that follows in the subsection and inserting ". Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) shall be considered an employee of the United States for purposes of the provisions of section 1905 of title 18. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records, reports or information to other officers, employees or authorized representatives of the United States (including any authorized contractor acting as a representative of the Administrator), or to any State concerned with carrying out this Act, or when relevant in any proceeding under this Act.".

ADMINISTRATIVE ENFORCEMENT SUBPOENAS

SEC. 604. Section 307 of the Clean Air Act is amended by redesignating subsection (a)(1) as subsection (a), and, in that newly designated subsection, striking "or" before "section 202(b)(5)" and inserting "any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under the Act (including but not limited to section 113, section 114, section 120, section 129, section 167, section 205, section 206, section 208, section 303 or section 306)," immediately after "section 202(b)(4) or 211(c)(3)".

EMERGENCY ORDERS

SEC. 605. (a) Section 303(a) of the Clean Air Act is amended by—

(1) striking "the health of persons, and that appropriate State or local authorities have not acted to abate such sources" and inserting "public health or welfare, or the environment";

(2) revising the second sentence to read, "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.";

(3) striking the last three sentences in their entirety; and

(4) inserting the following at the end of the subsection: "Prior to taking action under this section, the Administrator shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the action proposed to be taken is based. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than sixty days, unless the Administrator brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the Administrator brings such an action within the sixty-day period, such order shall remain in effect for an additional fourteen days or for such longer period as may be authorized by the court in which such action is brought.".

(b) section 303(b) of the Clean Air Act is amended by—

(1) striking "willfully" immediately after "Any person who" and inserting in lieu thereof "without sufficient cause";

(2) striking "$5,000" and inserting in lieu thereof "$25,000"; and

(3) inserting immediately before the period at the end of the sentence the following: ", be subject to imprisonment for not more than one year, or both".

CONTRACTOR LISTINGS

SEC. 606. Section 306(a) of the Clean Air Act is amended by—

(a) striking "(1)" after "section 113(c)"; and

(b) inserting at the end thereof: "For convictions arising under section 113(c)(4), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(4). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION

SEC. 607. Section 307(b)(1) of the Clean Air Act is amended by adding at the end thereof the following: "A petition for reconsideration by the Administrator of any otherwise final agency action shall not render the action nonfinal for purposes of judicial review nor extend the time within which a petition for review may be filed, and shall not postpone the effectiveness of the agency action.".

CITIZEN SUITS AND PETITIONS

SEC. 608. (a) CIVIL PENALTIES.—(1) Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (a)(2)), including those pursuant to a consent judgment, payable to

the special fund as established in subsection (g), taking into account the factors listed in section 113(e)".

(2) Section 304(a) of the Clean Air Act is amended by adding the following new subsection:

"(g) PENALTY FUND.—Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services, which shall be available for appropriation, and remain available until expended for use by the Environmental Protection Agency to finance air compliance and enforcement activities.".

(3) Paragraph (2) of subsection 304(c) of the Clean Air Act is amended to read as follows:

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(b) UNREASONABLE DELAY AND NATURE OF VIOLATION.—Section 304(a) of the Clean Air Act, as amended by subsection (a), is further amended by—

(1) inserting "to have violated or" immediately preceding "to be in violation of" in paragraph (1);

(2) amending paragraph (2) to read as follows:

"(2) against the Administrator where there is alleged a failure to perform any act or duty under this Act which is not discretionary with the Administrator, including failures to act that violate one or more of the standards set forth in section 307(d)(9), or that violate the duty to object to issuance of a permit as set forth in section 354(b), or that constitute unreasonable delay, provided however that a failure to act does not include a written decision not to take action which the Administrator designates, within such decision, as a final action within the meaning of section 307(b)(1); or";

(3) inserting immediately before the period at the end of paragraph (3) the following: ", or of any condition of a temporary operating permit issued under section 112 or other permit issued under part B of title III.";

(4) inserting after "to perform such act or duty," the following: "or to compel agency action unreasonably delayed,"; and

(5) adding at the end thereof the following: "Where a provision of the Act mandates that the Administrator shall take specified action when certain preconditions are met, the court's power to compel the specified action under paragraph (2) shall not depend in any manner upon whether the Administrator has published in the Federal Register a proposed final determination that the threshold preconditions are met.".

(c) NOTICE TO THE GOVERNMENT.—Section 304(c) is amended by adding the following new paragraph:

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to forty-five days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator, during which time the government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(d) DEFERRED ACTIONS.—Section 307(b) of the Clean Air Act is amended by adding the following at the end thereof:

"(3) Where a final decision by the Administrator undertakes to perform an action, but defers such performance to a later time, any interested person may bring an action at any time under section 304(a)(2) to compel such performance.".

(e) PETITIONS.—Section 307 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(h) PETITIONS.—(1) Any interested person shall have the right to petition the Administrator to issue, amend, reconsider, or repeal any regulation or order issued under the authority of this Act, unless such right is expressly limited by any other provision of this Act.

"(2) To the maximum extent practicable, within six months after receiving a petition, the Administrator shall publish in the Federal Register a finding as to whether the petition presents substantial information indicating that the petition has merit. In the event the petition is found not to present such information, the Administrator shall deny it and publish notice of such denial with notice of the finding required by the preceding sentence.

"(3) In the event the Administrator finds that the petition presents substantial information indicating that it has merit, the Administrator shall immediately undertake a review of the regulation or order that is the subject of the petition, and shall either grant or deny such petition within twelve months of the date of the Federal Register finding, except that in the case of a petition for reconsideration under section 307(d)(7)(B), the Administrator shall grant or deny the petition not later than twelve months after receiving such petition. In any case in which the Administrator grants a petition, the Administrator shall take final action in response to any such petition within a reasonable time.".

ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS

SEC. 609. Section 167 of the Clean Air Act is amended by—

(a) striking "the construction of a major emitting facility" and inserting in lieu thereof "the operation, construction, or modification of a major emitting facility"; and

(b) inserting at the end thereof the following: "Any order issued under this section shall be effective upon issuance and shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. In connection with any proceeding under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.".

MOVEABLE STATIONARY SOURCES

SEC. 610. Section 302 of the Clean Air Act is amended by adding the following subsection:

"(q) STATIONARY SOURCE.—The term 'stationary source' means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes.".

ECONOMIC IMPACT ANALYSES

SEC. 611. Section 312 of the Clean Air Act is amended to read as follows:

"ECONOMIC IMPACT ANALYSES.

"SEC. 312. (a) The Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis (as established under subsection (f) of this section), shall conduct a comprehensive analysis of the impact of the Act on the public health, economy, and environment of the United States. In performing such analysis, the Administrator should consider the costs, benefits and other effects associated with compliance with each standard issued for—

"(1) a criteria air pollutant subject to a standard issued under section 109;

"(2) a hazardous air pollutant listed under section 112, including any technology-based standard and any risk-based standard for such pollutant;

"(3) emissions from mobile sources regulated under title II of this Act;

"(4) a limitation under title IV of this Act for emissions of sulfur dioxide or nitrogen oxides;

"(5) a limitation under title V of this Act on the production of any ozone-depleting substance; and

"(6) any other section of this Act.

"(b) In describing the benefits of a standard described in subsection (a), the Administrator shall consider all of the economic, public health, and environmental benefits of efforts to comply with such standard. In any case where numerical values are assigned to such benefits, a default assumption of zero value shall not be assigned to such benefits unless supported by specific data. The Environmental Protection Agency should be required to assess how benefits are measured in order to assure that damage to human health and the environment are more accurately measured and taken into account.

"(c) In describing the costs of a standard described in subsection (a), the Administrator shall consider the effects of such standard on employment, productivity, cost of living, economic growth, and the overall economy of the United States.

"(d)(1) Not later than twelve months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that summarizes the results of the analysis described in subsection (a), which reports—

"(A) all costs incurred previous to the date of enactment of the Clean Air Act Amendments of 1990 in the effort to comply with such standards; and

"(B) all benefits that have accrued to the United States as a result of such expenditures.

"(e) Not later than twenty-four months after the date of enactment of the Clean Air Act Amendments of 1990, and every twenty-four months thereafter, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that updates the report issued pursuant to subsection (d), and which in addition makes projections into the future regarding expected costs, benefits, and other effects of compliance with standards pursuant to this Act as listed in subsection (a).

"(f) Not later than six months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce and the Secretary of Labor, shall appoint an Advisory Council on Clean Air Compliance Analysis of not less than nine members (hereafter in this section referred to as the 'Council'.) In appointing such members, the Administrator shall appoint recognized experts in the fields of the health and environmental effects of air pollution, economic analysis, environmental sciences, and such other fields that the Administrator determines to be appropriate.

"(g) The Council shall—

"(1) review the data to be used for any analysis required under this section and make recommendations to the Administrator on the use of such data;

"(2) review the methodology used to analyze such data and make recommendations to the Administrator on the use of such methodology; and

"(3) prior to the issuance of a report required under subsection (d) or (e), review the findings of such report, and make recommendations to the Administrator concerning the validity and utility of such findings.".

AUTHORIZATIONS

SEC. 612. Title III of the Clean Air Act is amended by adding at the end thereof the following new section:

"(c)(1) There are authorized to be appropriated $120,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to make grants to the States pursuant to section 105. In addition there are authorized to be appropriated $50,000,000 for each of the fiscal years ending September 30, 1991, 1992, and 1993 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D.

"(2) There are authorized to be appropriated $120,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the research and development activities authorized by sections 103 and 104 and other sections of this Act.

"(3) In addition to the sums authorized by paragraphs (1) and (2) there are authorized to be appropriated $250,000,000 for each of the fiscal years ending September 30, 1991, 1992, 1993, 1994, and 1995 to carry out the activities authorized under this Act.".

ASBESTOS IN SCHOOLS

SEC. 613. (a) Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) EPA INFORMATION OR ADVISORY.—The Administrator shall, not later than thirty days after enactment of this paragraph, publish and distribute to all local education agencies and State governors information or an advisory to—

"(A) facilitate public understanding of the relative risks associated with in-place asbestos-containing building materials;

"(B) promote the least burdensome response actions;

"(C) describe the limited circumstances in which asbestos removal is necessary to protect human health; and

"(D) describe the relative risks associated with removal of asbestos-containing building materials.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished and redistributed as appropriate, to reflect new scientific findings.".

(b) Title II of the Toxic Substances Control Act is amended by adding the following new section at the end thereof:

"ASBESTOS HEALTH EFFECTS STUDY

"SEC. 216. The Administrator in conjunction with the Health Effects Institute shall conduct a study to identify, characterize, and quantify risks to human health from exposure to each form of asbestos, including but not limited to the health effects of serpentine and amphibole fibers, and report to Congress within twenty-four months after enactment of this section. Not later than ninety days after completion and submission of such study, the Administrator shall report to Congress with recommendations for modifications or changes, if any, to statutory or regulatory requirements under this Act. Such recommendations shall be based on the findings of the study prepared under this section and such other information as the Administrator deems appropriate.".

SAVINGS PROVISIONS AND EFFECTIVE DATES

SEC. 614. (a) Except as otherwise expressly provided in this Act, no suit, action, or other proceeding lawfully commenced by the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, shall abate by reason of the taking effect of the amendments made by this Act.

(b) All rules, regulations, standards, orders, deteminations, contracts, certifications, authorizations, delegations, notices, guidance, or other actions duly promulgated, issued, made, or taken by the Administrator pursuant to the Clean Air Act as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c)(1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on the date of enactment of this Act.

(2) The Administrator's authority to assess civil penalties under section 205(c) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act. Civil penalties for violations that occur prior to such date and do not continue after such date shall be assessed in accordance with the provisions of the Clean Air Act in effect immediately prior to the date of enactment of this Act.

(3) The civil penalties prescribed under sections 205(a) and 211(d)(1) of the Clean Air Act, as amended by this Act, shall apply to violations that occur on or after the date of enactment of this Act. Violations that occur prior to such date shall be subject to the civil penalty provisions prescribed in sections 205(a) and 211(d) of the Clean Air Act in effect immediately prior to the date of enactment of this Act. The injunctive authority prescribed under section 211(d)(2) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act.

(4) For purposes of paragraphs (2) and (3), where the date of a violation cannot be determined it will be assumed to be the date on which the violation is discovered.

TITLE VII—STRATOSPHERIC OZONE AND GLOBAL CLIMATE PROTECTION

SUBPART B REPEAL

SEC. 701. Part B of the Clean Air Act entitled "Ozone Protection", sections 150 through 159, is hereby repealed.

STRATOSPHERIC OZONE AND GLOBAL CLIMATE PROTECTION

SEC. 702. The Clean Air Act is amended by adding the following new title:

"TITLE V—STRATOSPHERIC OZONE AND GLOBAL CLIMATE PROTECTION

"FINDINGS

"SEC. 501. The Congress finds that—

"(1) the best available scientific evidence shows that manufactured substances, including chlorofluorocarbons and other substances covered by this title, are destroying stratospheric ozone, and significantly contributing to global climate change by enhancing the greenhouse effect and causing other atmospheric modifications;

"(2) no level of stratospheric ozone depletion or global climate change caused by human activities can be deemed safe;

"(3) stratospheric ozone depletion will lead to increased incidence of solar ultraviolet radiation in the troposphere and at the surface of the Earth;

"(4) increased incidence of solar ultraviolet radiation will cause increased rates of disease in humans (including increased rates of skin cancer, cataracts, and, potentially, suppression of the immune system), threaten food crops and marine resources, and otherwise damage the natural environment;

"(5) the Ozone Trends Report completed in March 1988 through the effort of over one hundred international scientists found undisputed observational evidence that the atmospheric concentrations of source gases important in controlling stratospheric ozone levels and aggravating the problem of uncontrolled global climate change (chlorofluorocarbons, halons, methane, nitrous oxide, and carbon dioxide) are increasing on a global scale as a result of human activities;

"(6) scientific expeditions and analyses have established that chlorine compounds derived from emissions of chlorofluorocarbons are responsible for destruction of the stratospheric ozone layer over the Antarctic and the surrounding oceans;

"(7) recent scientific reports indicate that a similar destruction of the ozone layer may occur over the Arctic region and that the same chlorine compounds found in the Antarctic region are present in areas of the Arctic ozone layer;

"(8) experimental laboratory studies and measurements of ozone depletion suggest that the chemical reactions responsible for destruction of ozone over Antarctica could operate in the aerosol layer of the stratosphere and would not be limited to the polar regions;

"(9) the Montreal Protocol on Substances That Deplete the Ozone Layer (the Montreal Protocol) provides a framework for all nations of the world to protect the Earth's ozone shield;

"(10) the control measures that are set forth in the Montreal Protocol (a freeze on the consumption of certain chlorofluorocarbons at 1986 levels in 1989 followed by a 20 per centum reduction in 1993 and an additional 30 per centum reduction in 1998, coupled with a freeze on the consumption of certain halons at 1986 levels in 1992) will allow atmospheric concentrations of chlorine to increase by at least a factor of two to three;

"(11) because of the worldwide recognition of the need to reduce significantly the use of ozone-depleting chemicals, United States chemical producers and chlorofluorocarbon and halon user industries should be encouraged to develop improved chemicals, products, and technologies that do not rely on chlorofluorocarbons and halons;

"(12) the Ozone Trends Report and other recent scientific studies have raised serious questions about the adequacy of the control measures that are set forth in the Montreal Protocol;

"(13) ozone depleting chlorofluorocarbons are also powerful greenhouse gases projected to be responsible for 15 to 25 per centum of global warming and, under the existing Montreal Protocol, 10 per centum of future warming;

"(14) stratospheric ozone depletion and global climate change from continued emissions of chlorofluorocarbons and other halogenated chlorine containing halocarbons with ozone depleting potential, and emissions of other gases, such as methane and carbon dioxide, imperil human health and the environment worldwide;

"(15) in order to stabilize and eventually reduce concentrations of chlorine and bromine in the stratosphere, to conserve the stratospheric ozone layer (an exhaustible natural resource), and to reduce the extent of global climate change—

"(A) emissions of chlorofluorocarbons and other substances covered by this title, including partially halogenated chlorine containing halocarbons with ozone depleting potential, should be terminated rapidly;

"(B) it is necessary to control international trade in substances covered by this title and products containing such substances; and

"(C) emissions of other gases, such as methane and carbon dioxide, should be controlled;

"(16) the highest priority must be given to developing and deploying safe and energy efficient products and technologies as substitutes for ozone depleting substances as rapidly as possible; and

"(17) the United States needs to develop and deploy safe, energy efficient substitutes to replace ozone depleting substances in order to demonstrate to the world its commitment to protect the stratosphere and to limit global climate change.

"OBJECTIVES AND NATIONAL GOAL

"SEC. 502. (a) The objectives of this title are to restore and maintain the chemical and physical integrity of the Earth's atmosphere, to protect human health and the global environment from all known and potential dangers due to atmospheric or climatic modification, including stratospheric ozone depletion, to provide for a smooth transition from the use of ozone-depleting chemicals to the use of safe chemicals, products, and technologies that do not threaten the ozone layer, and to reduce the generation of greenhouse gases in order to protect the Earth's ozone layer and to limit anthropogenically induced global climate changes by—

"(1) reducing significantly the production and emission into the atmosphere of pollutants caused by human activities;

"(2) promoting the rapid development and deployment of energy efficient alternatives to the use of chlorofluorocarbons and other substances covered by this title;

"(3) assuring that such alternatives reduce ozone depleting potential to the maximum extent possible and, at the same time, do not exacerbate the problem of human induced global climate change either directly as radiatively important trace gases or indirectly as substances that reduce the energy efficiency of products which incorporate or use such substances; and

"(4) promoting additional scientific research on atmospheric or climatic modification, including stratospheric ozone depletion, and on the known and potential adverse effects therefrom on human health and the global environment.

"(b) In order to achieve the objectives of this title, it is the national goal to eliminate atmospheric emissions of manufactured substances with ozone depleting potential as well as direct and indirect global warming potential, including chlorofluorocarbons and other halogenated chlorine or bromine containing halocarbons with ozone depleting and global warming potential, to reduce to the maximum extent possible emissions of other gases caused by human activities that are likely to affect adversely the global climate, and to provide for an orderly and equitable shift to alternative, safe chemicals, products, and technologies.

"DEFINITIONS

"SEC. 503. As used in this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'household appliances' means noncommercial personal effects manufactured prior to January 1, 2015, including air-conditioners, refrigerators, and motor vehicles;

"(3) 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States;

"(4) 'manufactured substances' means any organic or inorganic chemical substances of a particular molecular identity, or any mixture, that has been manufactured for commercial purposes;

"(5) 'medical purposes' means medical devices and diagnostic products (including drugs, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) and drug delivery systems (A) for which no safe and effective substitute has been developed and, where necessary, approved by the Commissioner of the Food and Drug Administration (the Commissioner) and (B) which, after notice and opportunity for public comment, has been approved and determined to be essential by the Commissioner in consultation with the Administrator;

"(6) 'person' means an individual, corporation (including a government corporation), partnership, firm, joint stock company, trust, association, or any other entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof (including any interstate body), or of any foreign government (including any international instrumentality);

"(7) 'to produce' means to manufacture a substance from any raw material or feedstock chemical but does not include the manufacture of substances that are used and entirely consumed in the manufacture of other chemicals; and

"(8) 'substances covered by this title' means those substances which are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion, and are listed under subsections (a) or (b) of section 504 of this title.

"PART A—CONTROL OF CHLOROFLUOROCARBONS AND OTHER MANUFACTURED SUBSTANCES

"LISTING OF REGULATED SUBSTANCES

"SEC. 504. (a) PRIORITY LIST AND INITIAL LISTS OF SUBSTANCES TO BE PHASED-OUT.—Within sixty days after enactment of this title, the Administrator shall publish a priority list of manufactured substances which are known or may reasonably be anticipated to cause or contribute significantly to atmospheric or climatic modification, including stratospheric ozone depletion. The initial list shall include all fully halogenated chlorine or bromine containing halocarbons, including chlorofluorocarbon-11, chlorofluorocarbon-12, chlorofluorocarbon-113, chlorofluorocarbon-114, chlorofluorocarbon-115, carbon tetrachloride, halon-1211, halon-1301, and halon-2402.

"(b) OTHER REGULATED SUBSTANCES.—Simultaneously with publication of the priority list, the Administrator shall create a list of other manufactured substances which, in the judgment of the Administrator, are known or may reasonably be anticipated to cause or contribute to atmospheric or climatic modification, including stratospheric ozone depletion. The list of other substances shall be subject to monitoring and the limitations on production and use under section 508 of this title and shall include all partially halogenated chlorine containing halocarbons not listed under subsection (a), including hydrochlorofluorocarbon-22, hydrochlorofluorocarbon-123, hydrochlorofluorocarbon-124, hydrochlorofluorocarbon-141(b), hydrochlorofluorocarbon-142(b), and methyl chloroform. At least annually thereafter, the Administrator shall publish a proposal to add to the priority list under subsection (a) or the list under this subsection other manufactured substances which, in the judgment of the Administrator, meet the criteria set forth in the first sentence of subsection (a) or this section and warrant listing under subsection (a) or under this subsection. Within one hundred and eighty days of any such proposal, after allowing an opportunity for public comment, the Administrator shall promulgate a regulation adding each such substance to the appropriate list, unless the Administrator determines that such substance clearly does not meet the criteria set forth in the first sentence of subsection (a) or this subsection.

"(c) OZONE DEPLETION POTENTIAL, GLOBAL WARMING POTENTIAL, AND ATMOSPHERIC LIFETIME.—Simultaneously with publication of the lists or additions thereto under this section, and at least annually thereafter, the Administrator shall assign to each listed substance numerical values representing the ozone depletion potential of such substance, on a mass (per kilogram) basis, as compared with chlorofluorocarbon-11, the chlorine or bromine contribution of such substance, the global warming potential of such substance, and the atmospheric lifetime of such substance. Unless the Administrator promulgates regulations under this subsection setting forth a different value, the following ozone depletion factors shall apply for the following listed substances:

"Substance	Ozone depletion factor
chlorofluorocarbon-11	1.0
chlorofluorocarbon-12	1.0
hydrochlorofluorocarbon-22	0.05
chlorofluorocarbon-113	0.8
chlorofluorocarbon-114	1.0

"Substance	Ozone depletion factor
chlorofluorocarbon-115	0.6
hydrochlorofluorocarbon-123	0.02
hydrochlorofluorocarbon-124	0.02
hydrochlorofluorocarbon-141(b)	0.1
hydrochlorofluorocarbon-142(b)	0.06
carbon tetrachloride	1.06
methyl chloroform	0.15
halon-1211	3.0
halon-1301	10.0
halon-2402	6.0

"REPORTING REQUIREMENTS

"SEC. 505. (a) PRIORITY LIST.—Unless such information has previously been reported to the Administrator, within ninety days after enactment of this title, each person producing or importing a substance listed pursuant to subsection (a) of section 504 shall file a report with the Administrator setting forth the amount of the substance that was produced or imported by such person during calendar year 1986. Not less than annually thereafter, each such person shall file a report with the Administrator setting forth the production and importation levels of such substance in each successive twelve-month period until such person ceases production or importation of the substance. Each such report shall be signed by a responsible corporate officer.

"(b) OTHER REGULATED SUBSTANCES.—Within ninety days of the date on which a substance is placed on the list under subsection (b) of section 504, each person producing or importing such substance shall file a report with the Administrator setting forth the amount of the substance that was produced or imported by such person during the twelve months preceding the date of listing. Not less than annually thereafter, each such person shall file a report with the Administrator setting forth the production or importation levels of such substance in each successive twelve-month period until such person ceases production or importation of the substance. Each such report shall be signed by a responsible corporate officer.

"PRODUCTION PHASE-OUT OF SUBSTANCES ON THE PRIORITY LIST

"SEC. 506. (a) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that the production and use of substances listed under subsection (a) of section 504 are to be reduced and eliminated as expeditiously as possible.

"(b) ACCELERATED SCHEDULE.—The Administrator shall promulgate regulations, after notice and opportunity for public comment, which control and reduce production of—

"(1) a substance listed under subsection (a) of section 504 more rapidly than the schedule provided under this title; or

"(2) a substance listed under subsection (b) of section 504 on a specific schedule not otherwise provided for in this title;

if (A) the Administrator determines that such revised or specific schedule (i) based on the latest assessments of information regarding the harmful effects on the stratosphere or climate which may be associated with a listed substance, may be necessary to protect human health and the environment or (ii) based on the availability of substitutes for a listed substance, is attainable, or (B) the Montreal Protocol is modified to include a schedule to control and reduce production or consumption of any such substance more rapidly than the schedule set forth in subsection (c) of this section or in regulations promulgated in accordance with this subsection. Any person may petition the Administrator to issue such regulations. The Administrator shall issue such regulations within one hundred and eighty days after receipt of any such petition, unless the Administrator determines that such regulations are not necessary and denies the petition. No less often than every eighteen months, the Administrator shall, in response to a petition or otherwise, either publish such regulations or a determination that such regulations are not necessary.

"(c) SCHEDULE.—In the absence of regulations promulgated in accordance with subsection (b) establishing earlier dates—

"(1) effective July 1, 1989, it shall be unlawful for any person to produce substances listed under subsection (a) of section 504 in annual quantities greater than the combined ozone depletion weighted amount of such substances produced by such person during calendar year 1986;

"(2) effective July 1, 1993, it shall be unlawful for any person to produce substances listed under subsection (a) of section 504 in annual quantities greater than 80 per centum of the combined ozone depletion weighted amount of such substances produced by such person during calendar year 1986;

"(3) effective July 1, 1998, it shall be unlawful for any person to produce substances listed under subsection (a) of section 504 in annual quantities greater than 50 per centum of the combined ozone depletion weighted amount of such substances produced by such person during calendar year 1986; and

"(4) effective July 1, 2000, it shall be unlawful for any person to produce any quantity of a substance listed under subsection (a) of section 504 unless such person has, in accordance with subsection (d), received prior authorization to produce such substance.

"(d)(1) EXCEPTION FOR MEDICAL PURPOSES.—Notwithstanding the prohibition set forth in subsection (c)(4) or in regulations promulgated in accordance with subsection (b), the Administrator, after notice and opportunity for public comment, shall authorize the production or importation of limited quantities of a substance listed under subsection (a) of section 504 solely for medical purposes if such authorization is determined by the Commissioner of the Food and Drug Administration, in consultation with the Administrator, to be necessary for medical purposes.

"(2) EXCEPTION FOR AVIATION SAFETY.—Notwithstanding the prohibition set forth in subsection (c)(4) or in regulations promulgated in accordance with subsection (b), the Administrator, after notice and opportunity for public comment, may authorize the production or importation of limited quantities of halon-1211, halon-1301 and halon-2402 solely for purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

"(3) EXCEPTION FOR EXPORT TO DEVELOPING COUNTRIES.—Notwithstanding the prohibition set forth in subsection (c)(4) or in regulations promulgated in accordance with subsection (b), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a substance listed under subsection (a) of section 504 solely for export to and use in developing countries that are parties to the Montreal Protocol on Substances that Deplete the Ozone Layer and are operating under Article 5 of such Protocol. Any production authorized under this paragraph shall be solely for purposes of satisfying the basic domestic needs of such countries.

"(4) CAP ON EXCEPTIONS.—Under no circumstances may the authority set forth in paragraphs (1), (2), and (3) of this subsection be applied to authorize any person to produce a substance listed under subsection (a) of section 504 in annual quantities greater than 10 per centum of that produced by such person during calendar year 1986.

"(e) IMPORTATION.—Any person who imports a substance covered by this title shall, for the purposes of this section and section 508 (control of other regulated substances), be deemed to have produced an equivalent amount of such substance on the date of such importation.

"PRODUCTION PHASE-OUT EXCEPTION FOR NATIONAL SECURITY

"SEC. 507. The President may issue such orders regarding production and use of chlorofluorocarbon-114, halon-1211, halon-1301 and halon-2402, at any specified site or facility as may be necessary to protect the national security interests of the United States if the President finds that adequate substitutes are not available and that the production and use of such substance is necessary to protect such national security interests. Such orders may include, where necessary to protect such interests, an exemption from any requirement contained in this title. The President shall notify the Congress within thirty days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed one year. No exemption shall be granted under this paragraph due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. For the purposes of this section, the phrase 'national security interests of the United States' shall be deemed to include domestic production of crude oil and natural gas energy supplies on the North Slope of Alaska.

"CONTROL OF OTHER REGULATED SUBSTANCES

"SEC. 508. (a) NATIONAL POLICY.—The Congress hereby declares it to be the policy of the United States that the production and use of ozone depleting substances listed under subsection (b) of section 504 are to be monitored closely and controlled in such a manner as to assure that the production and use of such substances will not—

"(1) increase the peak chlorine loading that is projected to occur with interim chloroflurocarbon emission controls followed by a year 2000 global phase-out of all halocarbon emissions (the base case);

"(2) reduce significantly the rate at which the atmospheric abundance of chlorine is projected to decrease under the base case; or

"(3) delay the date by which the average atmospheric concentration of chlorine is projected under the base case to return to a level of two parts per billion, the highest

concentration at which repair of the Antarctic ozone hole may be possible.

"(b) MONITORING GROWTH IN PRODUCTION AND USE.—The Administrator shall monitor and not less often than every three years following enactment of this title submit a report to Congress on the production and use of substances listed under subsection (b) of section 504. Such report shall include data on domestic production compiled under section 505 and an estimate of worldwide production and use of such substances.

"(c) MONITORING ATMOSPHERIC CONCENTRATIONS OF CHLORINE.—The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall monitor and not less often than every three years following enactment of this title submit a report to Congress on the current average tropospheric concentration of chlorine. Such reports shall include, under the base case as well as on the basis of current international and domestic controls on substances covered by this title, updated projections of—

"(1) peak chlorine loading;

"(2) the rate at which the atmospheric abundance of chlorine is projected to decrease after the year 2000; and

"(3) the date by which the atmospheric abundance of chlorine is projected to return to a level of two parts per billion.

"(d)(1) PHASE-OUT SCHEDULE FOR METHYL CHLOROFORM.—In the absence of regulations promulgated in accordance with subsection (b) of section 506 establishing earlier dates—

"(A) effective on the date of enactment of this title, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than that produced by such person during calendar year 1989;

"(B) effective January 1, 1996, it shall be unlawful for any person to produce methyl chloroform in annual quantities greater than 50 per centum of that produced by such person during calendar year 1989; and

"(C) effective January 1, 2000, it shall be unlawful for any person to produce any quantity of methyl chloroform.

"(2) PHASE-OUT SCHEDULE FOR OTHER REGULATED SUBSTANCES.—Except as provided in paragraph (1) of this subsection or in regulations promulgated to establish earlier dates—

"(A) effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any substance listed under subsection (b) of section 504 unless such substance—

"(i) has been used, recovered, and recycled;

"(ii) is used and entirely consumed in the production of other chemicals, or

"(iii) is used to maintain and service household appliances or commercial refrigeration and air-conditioning units manufactured prior to January 1, 2015;

"(B) effective January 1, 2015, it shall be unlawful for any person to produce any substance listed under subsection (b) of section 504 in annual quantities greater than that produced by such person during calendar year 2014; and

"(C) effective January 1, 2030, it shall be unlawful for any person to produce any substance listed under subsection (b) of section 504.

"(e) TECHNOLOGY STATUS REPORT IN 2010.—The Administrator shall review, on a periodic basis, the progress being made in the development of alternative systems or products necessary to manufacture and operate household appliances and commercial refrigeration and air-conditioning units without substances listed under subsection (b) of section 504. If, in the Administrator's judgment, as a result of technological development problems, the development of such alternative systems or products will not occur within the time necessary to provide for the manufacture of such equipment without such substances prior to 2015, the Administrator shall, not later than January 1, 2010, so inform the Congress.

"(f) EMERGENCY REPORT.—If, in consultation with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, the Administrator determines that the production and use of substances listed under subsection (b) of section 504 is projected to contribute to an atmospheric chlorine loading in excess of the base case projections by more than five-tenths parts per billion, the Administrator shall so inform the Congress immediately. The determination referred to in the preceding sentence shall be (A) based upon worldwide production and use levels extrapolated from domestic production and use levels and the domestic share of the worldwide market; and (B) in accordance with subsection (c) of this section, updated not less often than every three years.

"NATIONAL RECYCLING AND DISPOSAL PROGRAM

"SEC. 509. (a) The Administrator shall, not later than July 1, 1991, promulgate regulations establishing standards and requirements regarding the use of substances covered by this title. Such standards and requirements shall become effective not later than twelve months after promulgation of the regulations. Such regulations shall include requirements that (1) reduce the use and emission of such substances to the lowest achievable level and (2) maximize the recapture and recycling of such substances. Such regulations may include requirements to use alternative substances (including substances which are not covered by this title) or to minimize use of substances covered by this title.

"(b) The Administrator shall promulgate regulations establishing standards and requirements controlling the production or use of any manufactured substance that may, either directly as a radiatively important trace gas or indirectly as a substance that reduces the energy efficiency of products which incorporate or use such substance, exacerbate the problems of human induced global climate change.

"(c) The Administrator shall, before January 1, 1994, promulgate regulations establishing standards and requirements for the safe disposal of substances covered by this title. Such regulations shall include requirements that—

"(1) substances covered by this title that are contained in bulk in appliances, machines or other goods (including but not limited to refrigerators and air-conditioners) shall be removed from each such appliance, machine or other good prior to the disposal of such items;

"(2) any appliance, machine or other good containing a substance covered by this title in bulk shall not be manufactured or distributed in commerce unless it is equipped with a servicing aperture or an equally effective design feature which will facilitate the recapture of such substance during service and repair or disposal of such item; and

"(3) any product in which a substance covered by this title is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the disposal of any product covered by paragraph (3) would result in producing only marginal environmental benefits, the Administrator shall include in such regulations an exception for such product.

"(d) Effective January 1, 1992, it shall be unlawful for any person in the course of maintaining, servicing, repairing, or disposing of a household appliance or a commercial refrigeration or air-conditioning unit to knowingly vent or otherwise knowingly release or dispose of any substance used as a refrigerant in such appliance or unit and covered by this title in a fashion which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any substance covered by this title shall not be covered by the preceding sentence.

"MOTOR VEHICLE AIR-CONDITIONING

"SEC. 510. (a) CERTIFICATION OF EQUIPMENT.—Within one year after the date of enactment of this title, the Administrator shall issue regulations which provide that on or after January 1, 1992, no person shall perform service for consideration on a motor vehicle air-conditioning system, including maintenance and repair services, unless such person uses equipment which is certified as meeting the standards set by the Society of Automotive Engineers for the extraction and reclamation of a refrigerant from motor vehicle air-conditioning systems by—

"(A) the National Institute of Standards and Technology,

"(B) the Underwriters Laboratories, or

"(C) an entity which the Administrator determines to be comparable to the entities described in subparagraphs (A) or (B).

"(b) SCHEDULE FOR ACQUISITION AND USE OF EQUIPMENT AND DOCUMENTATION OF SUCH USE.—(1) Within one year after the date of enactment of this title, the Administrator shall issue regulations establishing a phased schedule of deadlines by which the equipment described in subsection (a) shall be acquired by entities that perform service for consideration on motor vehicle air-conditioning systems.

"(2) In establishing the schedule under paragraph (1), the Administrator shall—

"(A) set an earlier deadline for any entity that performs service on a high volume of motor vehicle air-conditioning systems, as determined by the Administrator, and

"(B) require all entities that perform service for consideration on motor vehicle air-conditioning systems to have such equipment operational and in use for any such service performed on or after January 1, 1992.

"(c) DOCUMENTATION REQUIREMENTS.—Within one year after the date of enactment of this title, the Administrator shall promulgate regulations which require entities described in subsection (b)(1) to document the following on a form provided by the Environmental Protection Agency—

"(A) the number of motor vehicle air-conditioning systems repaired or otherwise serviced by such entity;

"(B) the amount and type of substances covered by this title that are purchased by such entity; and

"(C) the amount and type of substances covered by this title that are sold by such entity.

"(d) RESTRICTIONS ON THE SALE OF LISTED SUBSTANCES.—Effective January 1, 1992, it

shall be unlawful for any person to sell or offer for sale to any person or entity (other than a person or entity performing service for consideration on motor vehicle air-conditioning systems in compliance with subsection (a) of this section) any substance covered by this title that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and is in a container which contains less than twenty pounds of such refrigerant.

"(e) RESTRICTIONS ON THE SALE OF MOTOR VEHICLE AIR-CONDITIONING SYSTEMS THAT USE CHLOROFLUOROCARBONS.—(1) Within two years after enactment of this title, the Administrator shall issue regulations establishing standards and requirements to assure that a minimum percentage of the motor vehicles manufactured in the United States and imported into the United States that are equipped with passenger compartment air-conditioning systems are equipped with systems that are not dependent on chlorofluorocarbon-12 as a refrigerant (or any substitute refrigerant with a comparable ozone depletion factor). Such regulations shall provide that, beginning with model year 1994, not less than 25 per centum of such motor vehicles are so equipped and, beginning with model year 1996, not less than 50 per centum of such motor vehicles are so equipped.

"(2) If the Administrator determines that, as a result of technological development problems, the development of alternative systems or products necessary to equip motor vehicle passenger compartments with air-conditioning systems that are not dependent on chlorofluorocarbon-12 as a refrigerant (or any substitute refrigerant with a comparable ozone depletion factor) will not occur within the time necessary to provide for compliance with paragraph (1) of this subsection, the Administrator shall so inform the Congress and propose alternative effective dates for this subsection.

"(3) DEMONSTRATION PROGRAMS.—At the request of any State, the Administrator, in consultation with a manufacturer or distributor of a product that uses alternative substances to CFC-12, may establish programs to demonstrate the technical feasibility and consumer acceptance of such alternative products in order to assist in the implementation of this subsection.

"(f) DEFINITION.—As used in this section, the term 'motor vehicle' has the meaning given for such term under section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391(3)).

"NONESSENTIAL CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS

"SEC. 511. (a) Effective twelve months after the date of enactment of this title, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, nonessential products that release substances listed under subsection (a) of section 504 into the atmosphere during use, including chlorofluorocarbon-propelled plastic party streamers and noise horns, chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and other consumer products determined by the Administrator to be nonessential. Nothing in this section shall apply to products used for medical purposes, as defined in section 503(5) of this Act.

"(b) Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution—

"(1) any aerosol product or other pressurized dispenser (other than a medical devise or diagnostic product, including drugs, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) or a drug delivery system) which contains a substance listed under subsection (b) of section 504; or

"(2) any plastic foam product (other than a foam insulation product) which contains or is manufactured with a substance listed under subsection (b) of section 504.

"CERTIFICATION OF EQUIVALENT PROGRAMS

"SEC. 512. (a) IMPORTS.—(1) Effective twelve months after the date on which a substance is placed on the priority list under subsection (a) of section 504, it shall be unlawful for any person to import such substance or any product containing such substance unless the Administrator, in consultation with the Secretary of State (the Secretary), has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported are parties to and in compliance with the Montreal Protocol on Substances that Deplete the Ozone Layer. Effective July 1, 2000, it shall be unlawful for any person to import a substance listed under subsection (a) of section 504 or any product containing such substance unless the Administrator, in consultation with the Secretary, has published a decision, after notice and opportunity for public comment, certifying that the nations in which such substance or product was manufactured and from which such substance or product is imported have established and are fully implementing programs that require reduced production of such listed substance, and limit production of other substances covered by this title, on a schedule and in a manner that is at least as stringent as the reduction schedule for, and limitations on, domestic production which apply under this title. The prohibition on the import of any product containing a substance listed under subsection (a) of section 504 shall include, after notice and opportunity for public comment, any product which the Administrator has reason to believe may contain or is designed to contain or use such substance. The Administrator's decision that a product contains or is designed to contain or use such substance shall constitute a rebuttable presumption.

"(2) The President may, after notice and opportunity for public comment, prohibit the importation of any product that has been (A) made with a subtance listed under subsection (a) of section 504 and (B) manufactured in or exported from a nation that has not been certified under this section. The authority to prohibit the importation of any product made with a subtance listed under subsection (a) of section 504 shall include the authority to prohibit the import of any product which the President has reason to believe may have been made with such a substance. The President's decision that a product was made with such a substance shall constitute a rebuttable presumption.

"(b) CERTIFICATION OF NATIONAL PROGRAM.—The Administrator shall not certify any national program under the second sentence of subsection (a) unless it is determined that—

"(1) the Nation has adopted legislation or regulations which give the reduction schedule for each listed substance the force of law; and

"(2) the legislation or regulations include reporting requirements and enforcement provisions no less stringent than those specified in sections 505 and 515 of this title, and that the information contained in such reports is available to the Administrator and the Secretary.

"(c) REVOCATION.—At least annually, the Administrator, in consultation with the Secretary, shall review each certification made under this section and shall revoke such certification, after notice and opportunity for public comment, unless it is determined that the applicable conditions of subsections (a) and (b) remain satisfied and that the reduction schedule for each listed substance is in fact being carried out in such nations. Any such revocation shall take effect one hundred and eighty days after notice of the revocation has been published.

"(d) INVESTMENT AND EXPORT.—(1) Immediately upon enactment of this section, the President shall prohibit—

"(A) the export of technologies used to produce a substance listed under subsection (a) of section 504; and

"(B) direct or indirect investments by any person in facilities designed for or capable of producing a substance listed under subsection (a) of section 504 in nations not certified under this section.

"(2) Not later than January 1, 1992, and every two years thereafter, the President shall, after notice and opportunity for public comment—

"(A) determine whether there exists, for each class of products containing a substance listed under subsection (a) of section 504 or manufactured with a process that uses such substance, substitute products or manufacturing processes that do not rely on the use of such substances; and

"(B) promulgate regulations for each class of products for which a positive determination has been made under subparagraph (A).

Such regulations shall prohibit direct or indirect investments by any person in facilities designed for or capable of—

"(i) using a substance listed under subsection (a) of section 504 in nations not certified under this section in quantities that will increase use of such substance in any such nation, or

"(ii) manufacturing products that require the use of a substance listed under subsection (a) of section 504 in nations not certified under this section in quantities that will increase use of such substance in any such nation.

"(e) FOREIGN AID.—The President shall direct that no agency of the government provide bilateral or multilateral subsidies, aids, credits, guarantees, or insurance programs, for the purpose of producing any substance listed under subsection (a) of section 504.

"(f) DEFINITION.—For purposes of this section, methyl chloroform shall be deemed to be a substance 'placed on the priority list under section 504' and a substance 'listed under subsection (a) of section 504'.

"LABELING

"SEC. 513. (a) Not later than January 1, 1992, and every two years thereafter, the Administrator shall, after notice and opportunity for public comment—

"(1) determine whether there exists, for each class of products containing a substance listed under subsection (a) of section 504 or manufactured with a process that uses such substance, substitute products or manufacturing processes that do not rely on the use of such substances; and

"(2) promulgate regulations for each class of products for which a positive determination has been made under paragraph (1). Such regulations shall prohibit the intro-

duction or reintroduction into interstate commerce of any product containing such substance or manufactured with a process that uses such substance ninety days after promulgation of such regulations unless such product bears a label stating either of the following as appropriate:

"(A) 'Warning: This product contains (insert name of listed substance) a substance which harms public health and the environment by destroying ozone in the upper atmosphere and by disrupting the climate'.

"(B) 'Warning: This product is manufactured with (insert name of listed substance) a substance which harms public health and the environment by destroying ozone in the upper atmosphere and by disrupting the climate'.

"(b) The Administrator shall, after notice and opportunity for public comment, promulgate labeling requirements determined by the Administrator to be appropriate for products containing a substance listed under subsection (b) of section 504 or manufactured with a process that uses such substance.

"SAFE ALTERNATIVES POLICY

"SEC. 514. (a) POLICY.—To the maximum extent practicable, substances covered by this title shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

"(b) REVIEWS AND REPORTS.—The Administrator shall—

"(1) in consultation and coordination with interested members of the public and the heads of relevant Federal agencies and departments, recommend Federal research programs and other activities to assist in identifying alternatives to the use of substances covered by this title as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications and in achieving a transition to such alternatives, and, where appropriate, seek to maximize the use of Federal research facilities and resources to assist users of substances covered by this title in identifying and developing alternatives to the use of such substances as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications;

"(2) examine in consultation and coordination with the Secretary of Defense and the heads of other relevant Federal agencies and departments, including the General Services Administration, Federal procurement practices with respect to substances covered by this title and recommend measures to promote the transition by the Federal Government, as expeditiously as possible, to the use of safe substitutes;

"(3) specify initiatives, including appropriate intergovernmental, international, and commercial information and technology transfers, to promote the development and use of safe substitutes for substances covered by this title, including alternative chemicals, product substitutes, and alternative manufacturing processes; and

"(4) maintain a public clearinghouse of alternative chemicals, product substitutes and alternative manufacturing processes that are available for products and manufacturing processes which use chemicals covered under this title.

"(c) ADDITIONAL MEASURES.—Notwithstanding any other provision of law, the Administrator shall require that—

"(1) any person who produces a chemical substitute for substances covered by this title shall provide to the Administrator all published and unpublished health and safety studies on such chemical substitute; and

"(2) any person who produces a chemical substitute for substances covered by this title shall notify the Administrator of such person's intent to introduce such chemical substitute into commerce not less than sixty days prior to such introduction.

"(d) FEDERAL PROCUREMENT.—

"(1) APPLICATION OF SECTION.—Each Federal agency or department shall comply with the requirements set forth in this subsection and any regulations issued under this section, with respect to any purchase or acquisition of an item where the purchase price of such item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more.

"(2) Within twelve months of enactment of this section, the Administrator of the General Services Administration (GSA), in consultation with the Administrator, shall develop a strategic plan for the procurement of substances as substitutes for those listed pursuant to section 504 (a) and (b) of this title.

"(3) No later than thirty-six months after enactment of this section, each agency or department of the Federal Government shall conform its procurement regulations and specifications to the strategic plan promulgated by the Administrator of the GSA or, if the Administrator of the GSA has not met the requirements of paragraph (2), to the requirements set forth in this subsection.

"(4) REQUIREMENTS FOR STRATEGIC PLAN.—

"(A) GENERAL.—The strategic plan referred to in paragraph (3) shall provide for Federal Government-private sector cooperation in research, development, and deployment of non-ozone depleting technologies, processes, and chemical alternatives to the ozone depleting substances listed in section 504 (a) and (b). The plan shall provide greater regulatory certainty regarding alternatives to ozone-depleting substances by hastening the identification, development and deployment of alternative technologies with maximal environmental benefit. To ensure maximal environmental benefit, the strategic plan shall seek to maximize the use of alternative materials, process modifications, product redesign and substitution in order to minimize the use of materials and substances, including energy, which contribute to stratospheric ozone depletion, the creation of tropospheric ozone, global climate change, or which have been identified by an agency as a probable or known human carcinogen, or a known animal carcinogen.

"(B) SPECIFIC.—The strategic plan shall identify alternatives to categorical uses of substances listed in section 504 which meet the general criteria of subparagraph (A). The categorical uses, referenced in the preceding sentence shall be: air-conditioning and refrigeration, solvents, rigid and flexible foam, fire extinguishers and other miscellaneous uses. The plan shall also include a list of persons and firms known to manufacture, sell, or utilize such alternatives.

"(5) PROCUREMENT PROGRAM.—Within thirty-six months after enactment of this section each agency or department of the Federal Government shall have in place an affirmative procurement program which will assure that future purchases of items known to use or be manufactured with substances listed in section 504 will, to the maximum extent practicable, conform to the requirements of this subsection. Each such procurement program shall, at a minimum, contain—

"(A) a preference program for alternatives which maximize the environmental benefit to be obtained by eliminating use of substances listed in section 504;

"(B) an agency promotion program to promote the preference program adopted under subparagraph (A); and

"(C) annual review and monitoring of the effectiveness of an agency's procurement program adopted in accordance with the requirements of this subsection.

"FEDERAL ENFORCEMENT

"SEC. 515. (a) COMPLIANCE ORDERS.—(1) Whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this title, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator under this title and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this title. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(b) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator.

"(d) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly exceeds the production limits under section 506 (production phaseout for initial list) or section 508 (control of other regulated substances);

"(2) knowingly introduces into interstate commerce a substance that was produced in violation of section 506 or section 508;

"(3) knowingly imports a substance listed under subsection (a) of section 504, or a product containing such substance, in violation of section 512 (certification of equivalent programs);

"(4) knowingly exports technologies or invests in facilities in violation of section 512 (certification of equivalent programs);

"(5) knowingly vents or releases a substance into the environment in violation of

section 509 (recycling and disposal program);

"(6) knowingly introduces into interstate commerce a substance or product in violation of section 508 (control of other regulated substances), section 509 (recycling and disposal program), section 510 (motor vehicle air-conditioning), section 511 (nonessential consumer products), or section 513 (labeling);

"(7) knowingly omits material information or makes any false material statement or representation in any application, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this title; or

"(8) knowingly produces, transports, distributes or uses any substance listed under section 504, or a product containing such substance, and who knowingly destroys, alters, conceals, or fails to file any record, application, report, or other document required to be maintained or filed for purposes of compliance with this title

shall, upon conviction, be subject to a fine in accordance with title 18 of the United States Code for each day of a violation, or imprisonment not to exceed two years, or both. If conviction is for a violation committed after a first conviction of such person under this subsection, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(e) CIVIL PENALTY.—Any person who violates any requirement of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation.

"(f) VIOLATIONS.—Each day of violation of any requirement of this title shall, for purposes of this section, constitute a separate violation. In addition, for purposes of section 506 (production phase-out for initial list) and section 508 (control of other regulated substances), the production, introduction into commerce, or importation of each one hundred pounds of a substance listed under section 504 that is in excess of the production limits under section 506 or section 508 shall constitute a separate violation.

"JUDICIAL REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS

"SEC. 516. Any judicial review of any final action of the Administrator pursuant to this title shall be in accordance with sections 701 through 706 of title 5 of the United States Code, except that—

"(1) a petition for review of any final action of the Administrator may be filed by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business, and such petition shall be filed within ninety days from the date of such action or after such date if such petition is for review based solely on grounds arising after such ninetieth day; action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement; and

"(2) if a party seeking review under this title applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the information is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper; the Administrator may modify administrative findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file with the court such modified or new findings and the Administrator's recommendation, if any, for the modification or setting aside of the original administrative order, with the return of such additional evidence.

"CITIZEN SUITS

"SEC. 517. (a) IN GENERAL.—Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (a) the United States, and (b) any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to have violated or to be in violation of any permit, regulation, condition, requirement, prohibition, or order which has become effective pursuant to this title; or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this title which is not discretionary with the Administrator.

Any action under paragraph (1) of this subsection shall be brought in the district court for the district in which the alleged violation occurred. Any action brought under paragraph (2) of this subsection may be brought in the district court for the district in which the alleged violation occurred or the District Court of the District of Columbia. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the permit, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 515.

"(b) ACTIONS PROHIBITED.—No action may be commenced under subsection (a)(1) of this section—

"(1) prior to sixty days after the plaintiff has given notice of the violation to—

"(A) the Administrator; and

"(B) to any alleged violator of such permit, regulation, condition, requirement, prohibition, or order; or

"(2) if the Administrator has commenced and is diligently prosecuting a civil or criminal action in a court of the United States to require compliance with such permit, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1), any person may intervene as a matter of right. Any action respecting a violation under this title may be brought under this section only in the judicial district in which such alleged violation occurred or is occurring.

"(c) NOTICE.—No action may be commenced under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice to the Administrator that said plaintiff will commence such action. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(d) INTERVENTION.—In any action under this section the Administrator, if not a party, may intervene as a matter of right.

"(e) COSTS.—The court, in issuing any final order in any action brought pursuant to this section or section 515, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or substantially prevailing party, whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) OTHER RIGHTS PRESERVED.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or requirement or to seek any other relief (including relief against the Administrator).

"SEPARABILITY

"SEC. 518. If any provision of this title, or the application of any provision of this title to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this title shall not be affected thereby.

"RELATIONSHIP TO OTHER LAWS

"SEC. 519. (a) Nothing in this title shall be construed to alter or affect the authority of the Administrator under any other provision of this Act or the Toxic Substances Control Act or to affect the authority of any other department or agency, or instrumentality of the United States under any provision of law to promulgate or enforce any requirement respecting the control of any substance, practice, process, or activity for purposes of protecting the stratospheric ozone layer or reducing the extent of global climate change.

"(b) Nothing in this title shall preclude or deny any State or political subdivision thereof from adopting or enforcing any requirement respecting the control of any substances, practice, process, or activity for purposes of protecting the stratospheric ozone layer or reducing the extent of global climate change.

"AUTHORITY OF ADMINISTRATOR

"SEC. 520. The Administrator is authorized to prescribe such regulations as may be necessary to carry out this title. If, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere and such effect may reasonably be anticipated to endanger public health or welfare, the Administrator shall promptly promulgate regulations respecting the control of such substance, practice, process, or activity.

"INTERNATIONAL COOPERATION

"SEC. 521. (a) The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this title, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes, the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

"(b) The Administrator, in consultation with the Secretary of State, is authorized to support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer and to assist developing countries that are parties to the Protocol and

are operating under Article 5 of such Protocol.

"GRANTS

"SEC. 522. (a) The Administrator is authorized to establish and carry out a grant program through the Office of Air and Radiation for purposes of promoting the objectives of this title by: testing the basic properties of chemical substitutes; examining product redesign and technological innovations that would reduce, avoid, or eliminate chemical use in specific production processes; testing the applicability of possible substitutes in specific products; examining health, environmental, and safety issues related to the use of potential chemical substitutes; developing new technologies; improving the energy efficiency of new or modified technologies; monitoring environmental impacts; conservation; and other related purposes. Grants made under such program may be made to public and private entities, or combinations thereof, including consortia established expressly for the purpose of conducting research and related activities pursuant to this title.

"(b) Applications for grants under this title shall be submitted at such time and in such form and contain such information as the Administrator shall prescribe by regulation.

"(c) In making grants under this section, the Administrator shall consider, among other factors: the quantities of ozone-depleting chemicals or greenhouse gas emissions the proposed substitute, product or technology would replace; the timing of possible reductions with preference given to substitutes, products and technologies that will yield prompt reductions in demand for ozone-depleting chemicals covered by this title; the global climate implications of a proposed project; the likelihood of commercialization of the technology; the degree of public and private participation and support for a proposed project; the extent to which the results of the project will be accessible to the public; and the energy efficiency that would result from the project.

"(d) There are authorized to be appropriated to the Environmental Protection Agency such amounts as may be necessary to carry out the grant program pursuant to this section.

"PART B—METHANE ASSESSMENT

"OBJECTIVE AND NATIONAL GOAL

"SEC. 523. (a) The objective of this part is to identify and analyze options to reduce the risks of tropospheric ozone formation and global climate change by—

"(1) reducing global methane emissions sufficiently to assure that the atmospheric concentration of methane does not rise above current levels;

"(2) identifying and analyzing the relationships among methane and other atmospheric pollutants to determine the synergies that may be contributing to tropospheric ozone formation and global climate change;

"(3) promoting additional analyses of the factors causing methane concentrations to increase and of the sources of methane emissions and the opportunities for reducing such emissions; and

"(4) identifying emissions reductions options that are economically as well as environmentally advantageous.

"(b) In order to achieve the objective of this part, it is a national goal to—

"(1) reduce methane emissions associated with human activities in the United States;

"(2) stimulate international agencies to fund projects in developing countries that will reduce methane emissions;

"(3) stimulate other governments to implement measures to reduce methane emissions; and

"(4) in support of international efforts to reduce methane emissions, provide data regarding sources of methane emissions and options for reducing such emissions.

"INFORMATION COLLECTION

"SEC. 524. The Administrator is authorized to collect from persons responsible for the release of methane to the atmosphere during manufacturing, processing, resource recovery or distribution, waste management, or other economic activities information concerning such releases as may be necessary to complete the studies required by this part. Failure or refusal to provide such information in such form as the Administrator may reasonably require shall constitute a violation for purposes of section 515 of this title. To the extent information concerning methane releases is already being reported to a State or Federal agency and such information is available to the Administrator, the Administrator shall utilize such sources of information.

"ECONOMICALLY JUSTIFIED ACTIONS

"SEC. 525. Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit a report to the Congress that identifies activities, substances, processes, or combinations thereof that could reduce methane emissions and are economically justified with or without consideration of environmental benefit.

"DOMESTIC METHANE SOURCE INVENTORY AND CONTROL OPTIONS

"SEC. 526. (a) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress reports on:

"(1) Methane emissions associated with natural gas extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from natural gas and oil wells, pipelines, processing facilities, and gas burners.

"(2) Methane emissions associated with coal extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from mining shafts, degasification wells, gas recovery wells and equipment, and from the processing and use of coal.

"(3) Methane emissions associated with management of solid waste. Such report shall include an inventory of methane emissions associated with all forms of waste management in the United States, including storage, treatment, and disposal.

"(4) Methane emissions associated with agriculture. Such report shall include an inventory of methane emissions associated with rice production in the United States.

"(5) Methane emissions associated with biomass burning. Such report shall include an inventory of methane emissions associated with the intentional burning of agricultural wastes, wood, grasslands, and forests.

"(6) Other methane emissions associated with human activities. Such report shall identify and inventory other domestic sources of methane emissions that are deemed by the Administrator to be significant.

"(b) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report that presents a plan outlining measures that could be implemented to stop the growth in atmospheric concentrations of methane from sources within the United States. This plan shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (a) as well as other activities or sources deemed by the Administrator to be significant and shall include an evaluation of costs. The plan shall identify the emissions reductions that must be achieved to prevent increasing atmospheric concentrations of methane. The plan shall also identify programs of the United States and international lending agencies that could be used to induce lesser developed countries to undertake measures that will reduce methane emissions and the resource needs of such programs.

"INTERNATIONAL STUDIES

"SEC. 527. (a) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrator of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane emissions associated with the activities listed in subsection (a) of section 526.

"(b) Not later than September 30, 1990, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to the Congress a report that analyzes the potential for preventing an increase in atmospheric concentrations of methane from activities and sources in other countries. Such report shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (a) of section 526 as well as other activities or sources that are deemed by the Administrator to be significant and shall include an evaluation of costs. The report shall identify the emissions reductions that must be achieved to prevent increasing atmospheric concentrations of methane. The report shall also identify technology transfer programs that could promote methane emissions reductions in lesser developed countries.

"NATURAL SOURCES

"SEC. 528. Not later than September 30, 1992, the Administrator shall develop in consultation and coordination with the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, as well as the heads of other relevant Federal agencies and departments, and submit to Congress reports on—

"(1) methane emissions from biogenic sources such as (A) tropical, temperate and subarctic forests, (B) tundra and (C) freshwater and saltwater wetlands; and

"(2) the changes in methane emissions from biogenic sources that may occur as a result of predicted increases in temperatures and atmospheric concentrations of carbon dioxide.".

TITLE VIII—MISCELLANEOUS EXEMPTIONS

EXEMPTIONS FOR STRIPPER WELLS

SEC. 801. (a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of title I of the Clean Air Act Amendments of 1990 relating to the regulation of areas designated under section 107 of the Clean Air Act, other than areas designated as severe or extreme pursuant to such section or part D of such title and the amendments made by such provisions, shall not apply with respect to the production of and equipment used in the exploration, production, development, storage or processing of—

(1) oil from a stripper well property, within the meaning of the June 1979 energy regulations (within the meaning of section 4996(b)(7) of the Internal Revenue Code of 1986, as in effect before the repeal of such section); and

(2) stripper well natural gas, as defined in section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b)).

TITLE IX—ASBESTOS ABATEMENT

AMENDMENTS TO TOXIC SUBSTANCES CONTROL ACT

SEC. 901. (a)(1) Section 206(a) (1) and (3) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding at the end of each the following: "or a public or commercial building,".

(2) Section 206(b)(1)(A)(i) of such Act is amended by inserting immediately before the period at the end thereof the following: "or who inspect for asbestos-containing material in public or commercial buildings".

(3) Section 206(b)(1)(A)(iii) of such Act is amended by inserting immediately before the period at the end thereof the following: "or public or commercial buildings".

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a public or commercial building; or

"(3) employs individuals to conducts response actions with respect to friable asbestos-containing material in a public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this Act, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

EFFECTIVE DATE

SEC. 902. Section 901 shall take effect upon the expiration of the twelve-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641), and such an extension is necessary to ensure effective implementation of section 203 of this Act.

TITLE X—SOLAR AND RENEWABLE ENERGY

INCENTIVES

SEC. 1001. (a) DEFINITION.—For purposes of this section, solar and renewable energy means photovoltaic, solar thermal, wind, geothermal and biomass technologies, or any other energy production technology, other than hydroelectric, recognized as "renewable energy" by the Department of Energy.

(b) FEDERAL RATE INCENTIVES.—(1) Within twenty-four months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote and encourage solar and renewable energy. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for solar and renewable energy development and distribution that recognizes their inherent risk; and

(B) allowance of a ten-to-twenty-year amortization period to recover the capital costs of solar and renewable energy technologies.

(2) The initial Federal Energy Regulatory Commission demonstration program shall be in effect for five years.

(3) At the end of the initial five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether to extend such program, including the establishment of a permanent program.

(c) FERC PREAPPROVAL OF PRUDENCE FOR SOLAR AND RENEWABLE ENERGY TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of solar and renewable energy technologies to agree upon costs caps for future projects and preapproval of the prudence of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—Because the use of solar and renewable energy is in the national interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(1) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction; and

(2) rapid amortization of solar and renewable energy expenditures.

TITLE XI—MISCELLANEOUS PROVISIONS

CLEAN AIR STUDY OF SOUTHWESTERN NEW MEXICO

SEC. 1101. The Administrator shall conduct a study of the causes of degraded visibility in southwestern New Mexico. The Administrator, in consultation with the Secretary of State, is encouraged to cooperate with the Government of New Mexico, other Federal agencies, and any other appropriate organizations in conducting the study. Nothing in this section shall be construed as contravening or superseding the provisions of any international agreement in force for the United States as of the date of enactment of this section, or any relevant Federal statute.

IMPACT ON SMALL COMMUNITIES

SEC. 1102. Before implementing a provision of this Act, the Administrator of the Environmental Protection Agency shall consult with the Small Communities Coordinator of the Environmental Protection Agency to determine the impact of such provision on small communities, including the estimated cost of compliance with such provision.

RESEARCH, INVESTIGATION, TRAINING, AND OTHER ACTIVITIES

SEC. 1103. Section 103 of the Clean Air Act is amended—

(1) by amending subsection (c) to read as follows:

"(c) In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of air pollutants and their chemical transformations in the atmosphere.

"(2) Development of improved monitoring and modeling techniques to increase understanding of the sources of ozone precursors, ozone formation, ozone transport, regional ozone trends, and physicochemical interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds contributing to urban air pollution, including anthropogenic and natural sources; and

"(B) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(3) Efforts to ensure the comparability of air quality data collected in different States and in different nations.

"(4) Periodic reports to the Congress which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring data collected pursuant to this subsection.";

(2) by amending subsection (d) to read as follows:

"(d)(1) The Administrator shall conduct a research program on the short- and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory studies, as necessary to identify and evaluate effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other appropriate Federal agencies to ensure that similar research being conducted in other agencies is coordinated and is not duplicative.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof.";

(3) by amending subsection (f) to read as follows:

"(f) In carrying out the provisions of subsection (a), the Administrator shall conduct a research program to improve the understanding of the causes, effects, and trends of natural resource damage from air pollutants. Such program shall include—

"(1) identification of regionally representative and critical ecosystems for research;

"(2) evaluation of risks to natural resources exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of such effects;

"(3) development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution;

"(4) evaluation of the effects of air pollution on water quality, including assessments of the short- and long-term ecological effects of acid rain and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and ground water;

"(5) evaluation of the effects of air pollution, including acid rain, on forests, biological diversity, soils, materials, crops, and other terrestrial systems exposed to air pollutants; and

"(6) estimation of the ecological damages and their associated costs which have occurred as a result of exposure to air pollutants."; and

(4) by inserting at the end thereof the following new subsections:

"(g) Not later than one hundred and twenty days after the date of the enactment of this subsection, the Secretary of Energy shall report to Congress on plans and procedures for entering into contracts and cooperative agreements with other Federal agencies, and private, public, and academic research organizations for use of the Liquefied Gaseous Fuels Spill Test Facility.

"(h)(1)(A) Not later than one hundred and eighty days after the date of enactment of this subsection the Secretary of Energy shall establish and operate an air toxics emissions program to conduct research, development and technology demonstration activities in cooperation with the Liquefied Gaseous Fuels Spill Test Facility in accordance with the provisions of this subsection.

"(B) Not later than one hundred and twenty days after the date of enactment of this subsection the Secretary of Energy shall prepare and submit a report to the Congress on plans and deadlines to be implemented in carrying out the program described in paragraph (1)(A).

"(2) The research, development, and technology demonstration activities described in paragraph (1)(A) shall include—

"(A) developing and implementing improved procedures to predict behavior of dense gases including the transport and fate of such emissions;

"(B) developing new and improved analytical monitoring methods;

"(C) investigating and evaluating response methods to control toxic air emissions-related emergencies;

"(D) researching and evaluating monitoring techniques to improve knowledge of threats to human health and the environment with emphasis on cross-media effects of such emissions;

"(E) testing, development and demonstration of alternative or innovative technologies which may be utilized to control, abate, or minimize air toxic emissions.

"(3) In carrying out the provisions of this subsection, the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall select at least two chemicals listed in section 112(b) of the Clean Air Act for research, development and technology demonstration activities pursuant to this subsection. The Secretary of Energy shall select two such chemicals annually for such activities. In selecting such chemicals, priority shall be placed on chemicals the Secretary of Energy determines pose the greatest threat to human health and the environment.

"(4) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in paragraph (2).

"(5)(A) In carrying out the provisions of this subsection, the Secretary of Energy is authorized to enter into contracts and cooperative agreements with, and make grants to, nonprofit entities affiliated with the University of Nevada and the University of Wyoming.

"(B) The agreement described in subparagraph (A) shall provide that such nonprofit entities—

"(i) may provide basic technical and management personnel; and

"(ii) shall provide permanent research institutes.

"(6) The research institutes described in paragraph (5) shall be authorized to make grants, accept contributions and enter into agreements with other entities to carry out the provisions of this subsection.

"(7) There are authorized to be a appropriated to the Department of Energy $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of paragraph (5). Such amounts shall remain available until expended.".

ORDERS FOR THURSDAY, APRIL 19, 1990

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate recesses today it stand in recess until 10 a.m., Thursday, April 19; that the Journal of proceedings be deemed approved, that following the time for the two leaders or their designees under the standing order, there be 2 hours of morning business under the control of Senator NUNN for his and other members of the Armed Services Committee's usage, and that there then be a period for the transaction of routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein not to exceed 10 minutes each, during which time period Senators may eulogize Senator MATSUNAGA.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL THURSDAY, APRIL 19, 1990, AT 10 A.M.

Mr. CRANSTON. Mr. President, pursuant to the provisions of Senate Resolution 271, I ask unanimous consent that the Senate stand in recess until 10 a.m., Thursday, April 19, 1990.

There being no objection, at 12:05 p.m., the Senate recessed until Thursday, April 19, 1990, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, April 18, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In grateful appreciation, O God, we welcome a new day together with all its responsibilities and duties, with all the hopes and fears, with all the opportunities and trials. As we have been given another moment in time to be the people You would have us be, we pray that Your good Word would guide us in the way of justice and Your good spirit would show us the paths of reconciliation and healing in our lives and in the lives of those about us. Bless us this day, O God, and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. GILLMOR] please come forward and lead the House in the Pledge of Allegiance.

Mr. GILLMOR led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment, a bill of the House of the following title:

H.R. 2334. An act to redesignate the Post Office located at 300 East Ninth Street in Austin, TX, as the "Homer Thornberry Judicial Building."

The message also announced that the Senate had passed a bill, joint resolutions, and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2364. An act to authorize supplemental economic assistance to support democracy in Panama, Nicaragua, and sub-Saharan Africa, and for other purposes;

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week";

S.J. Res. 275. Joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet";

S. Con. Res. 117. Concurrent resolution expressing the appreciation of Congress for the contributions of the Friends of the National Arboretum in providing for the preservation and public display of 22 of the original columns of the East Front Portico of the U.S. Capitol Building; and

S. Con. Res. 118. Concurrent resolution to authorize the printing of a brochure describing the history, design, and functions of the U.S. Capitol as the seat of the legislative branch of the Government.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1096) "An act to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 5, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 9:40 a.m. on Thursday, April 5, 1990 the following message from the Secretary of the Senate: That the Senate passed without amendment, H.R. 3968 and H. Con. Res. 275.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.
(By) DALLAS L. DENDY, Jr.,
Assistant to the Clerk.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Friday, April 6, 1990:

H.R. 1048. An act to provide for the acquisition of data about crimes that manifest prejudice based on certain group characteristics;

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations; and

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

HARRY TRUMAN AND LITHUANIA

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, the Berlin airlift, in response to the Berlin blockade, will go down in modern history as one of the most creative and courageous countermoves to the cynical squeeze play against the struggle of a city to survive.

The brave people of Lithuania deserve no less. The best insurance policy against the possible economic stranglehold over Lithuania is for the West to be ready with the full spectrum of nonmilitary assistance measures ranging from fuel to food and to opening of duty-free markets for Lithuania's products.

I call on the President to coordinate immediate action plans with the leaders of Europe to preserve the budding democracies of the Baltic States.

Of one thing I am sure, Mr. Speaker, Harry Truman would do no less.

NICARAGUA: WHAT IS LEFT FOR THOSE WHO CAME IN FIRST?

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, time is running out on the Sandinistas. They are supposed to turn over power to the incoming Chamorro government on April 25.

But they have given a new meaning to the term "transition government."

The Sandinistas make these 2 months after their election loss more like a continual spinning of the "Wheel of Fortune."

The list of prizes include:

A lifetime supply of amnesty for Sandinista officials for any crimes they might have committed over the past decade.

Ten thousand government homes for Sandinista officials currently occupying them.

Unlimited government assets to be sold at discount, such as broadcast stations and military equipment.

And all those prizes go to the second place winner.

One wonders what is left for those who came in first?

SUPPORT THE PRESIDENT'S CRIME PACKAGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise today to voice my opposition to the rule on H.R. 1236, and to urge my colleagues to join me in voting "no" on the previous question. It is not that I disapprove of the open rule on this bill, but that I disapprove of the way this House is spending its time.

H.R. 1236 is legislation that attempts to fix a problem that does not exist. Instead of working to overturn two Supreme Court decisions, we should be considering the President's crime package.

This crime package has been sitting idle in the Judiciary Committee for almost a year now. Meanwhile, according to the FBI, law enforcement agencies are solving only 17 percent of all murders, and while the number of violent crimes has increased 34 fold since 1950, the number of law enforcement officers has merely tripled. We need more man power, we need more prison space, and we need stiffer penalties. These are the issues we should be addressing today. Defeat the previous question and lets consider the Presidents anticrime package.

□ 1210

PRESERVE AMERICA'S HERITAGE THROUGH ADMINISTRATION ACTIONS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, Teddy Roosevelt was perhaps the first environmental President, a title to which George Bush is now trying to lay claim. President Roosevelt was a man of action. He stood up against opposition and protected vast areas of our Nation's precious resources. After designating the Grand Canyon National Monument, President Roosevelt visited the area. He said "Do nothing to mar its grandeur." President Bush has taken his advice too literally and has done nothing.

Mr. President, actions speak louder than words! Not just a speech for Earth Day but action each and every day. Today the Grand Canyon is shrouded in a haze of air pollution and the President has done nothing but propose more studies. While President Bush aspires to sound like President Teddy Roosevelt, the drum major of his march of inaction is President Reagan.

Mr. Speaker, it is the Democratic Party that is leading today in establishing the great natural environmental legacy of lands for our Nation: parks, national forests, wildlife refuges, wild rivers, and wilderness areas. However, the survival of these national treasures for the 21st century is seriously threatened. Polluted air and water, toxic waste, and mindless development as well as a lack of sound management by the Federal Government pose the threat. Actions speak louder than words.

Democrats in Congress are continuing to fight to protect the very best of our public land heritage—

Expanding our national park system;

Protecting the last of our remaining rivers;

Preserving our last wilderness areas;

Protecting temperate rain forests and their unique biodiversity;

Preventing the dewatering of wild rivers, parks and wilderness areas; and

Protecting our parks and wilderness from air and water pollution and toxic wastes.

Too often these Democratic efforts are hindered by a simple lack of attention, endless pointless excuses to study an issue to death, or finally outright opposition from most of our Republican colleagues led by President Bush.

President Bush's administration has no position on protecting our remaining old growth forests when the circumstances demands a solution, not more excuses.

President Bush had hardly finished announcing his "no net loss" policy for wetlands when his own advisers fatally weakened wetland protections caving into developer opposition.

Despite a campaign pledge to expand and strengthen our Nation's park system, the President still has not sent Congress a single new park proposal and is opposed to these proposed new national parks in the proposed California Desert Conservation Act.

The Grand Canyon remains shrouded in a haze of air pollution while the GOP administration procrastinates with more study.

Water development projects threaten to dry up national parks and wilderness areas, and yet the Bush administration refuses to use existing law to protect park and wilderness water and in fact oppose effort by Congress to enact new laws protecting wilderness water.

The Bush administration says "trust us" on the environment and opposes legislation to remove politics from the NPS after 10 years of unprecedented politicization of the park agency during the Reagan-Bush administration.

At a time when our Nation faces and astonishing budget deficit, they oppose our efforts to stop the "give away" of minerals from the public lands and to temper the subsidy of livestock grazing on public lands with conservation safeguards.

During the last decade of the Reagan-Bush administrations, the percentage of the Federal budget spent to protect America's cultural and natural resources and the environment was cut from a minimal 2 percent to a wholly inadequate 1 percent—yes, 1 percent. That's the low priority the GOP Bush administration has given the environment.

As I said before, during the 20th anniversary of Earth Day, actions speak louder than words. I urge the President to join with Congress, Democrats and Republicans, to turn his lip service of good intentions into actions which will preserve America's heritage for the 21st century.

H.R. 1236 NEEDS DOUGLAS AMENDMENT

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, today we are going to take up H.R. 1236, which is called the Price Fixing Prevention Act. I have an amendment that I will be offering that will do what the Supreme Court did in 1911, namely, to outlaw vertical price fixing. Vertical price fixing is when a manufacturer tells a retailer, "You must sell this product for this price." It has been illegal, under the Supreme Court opinion of Dr. Miles, since 1911. Unfortunately, H.R. 1236 does more than just codify that case.

H.R. 1236 goes on to overrule two other Supreme Court decisions, the Monsanto decision in 1984, and the Sharp decision in 1988. For that reason, the American Bar Association and the Justice Department, as well as America's electronics industry, urges a "no" vote on H.R. 1236.

It will confuse the law. It came out of our subcommittee on only a 9-to-6 vote. It came out of the full Senate Judiciary Committee on only a 7-to-6 vote. It will be vetoed, according to the Attorney General.

I urge Members to support my amendment to codify the Dr. Miles decision, but not to go on and overturn two other U.S. Supreme Court decisions in this complicated, tricky area of antitrust law.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HONORABLE SPARK M. MATSUNAGA, SENATOR FROM THE STATE OF HAWAII

Mr. GEPHARDT. Mr. Speaker, I offer a privileged resolution (H. Res. 377) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 377

Resolved, That the House has heard with profound sorrow of the death of the Honorable Spark M. Matsunaga, a Senator from the State of Hawaii.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That a committee be appointed on the part of the House to join a committee appointed on the part of the Senate to attend the funeral.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The SPEAKER. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, several days ago this Nation lost a great patriot in the Congress, one of its most distinguished Members. A veteran of World War II, a public school teacher, a prosecutor, a skillful legislator, the Senator from Hawaii will be missed by his family, by his friends, and by this body.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF THE FUNERAL COMMITTEE OF THE LATE SPARK M. MATSUNAGA

The SPEAKER. Pursuant to House Resolution 377, the Chair appoints as members of the funeral committee of the late SPARK M. MATSUNAGA, the following Members on the part of the House:

Mr. AKAKA of Hawaii;
Mrs. SAIKI of Hawaii; and
Mr. MINETA of California.

ENVIRONMENTAL TRAIL OF SHAME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, Earth Day is coming. Since President Bush likes to travel, we are preparing an environmental travelogue for him. Let Members now back that environmental RV out of the White House garage and put it on the road.

Unfortunately, this is not going to be any AAA trip-tick, but a national trail of environmental shame. I will trace the route for Members here.

First, we can take a brief foray to the Anacostia River, and then to the Chesapeake Bay which Congress has had to act to clean up. Then we head up north to Boston Harbor, where the promise of independence began. Unfortunately, that is the only promise that has been kept on Boston Harbor, in cleaning it up, since the President's campaign. Then we head across the country through the bad air in major cities, the Ohio Fernald plant, military bases needing toxic cleanup, we can take some pictures in scenic Colorado, but do not go too near Rocky Flats because the radiation will expose the film. As happy White House campers sally forth on Earth Day, do not forget the places that the Federal Government made impossible to camp.

Mr. Speaker, so that the vacationers will have to carry a Geiger counter and air meter when they travel, it is time to make Earth Day a reality.

SANDINISTAS LEAVE NICARAGUA IN SHAMBLES

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, one week from today, Violeta Chamorro will be inaugurated as President of Nicaragua.

This will be the culmination of one of the most dramatic and spectacular election victories ever won in this hemisphere.

But the Sandinistas have left the country in economic shambles. After 10 years of Communist mismanagement, Sandinista corruption, and the ravages of war, Mrs. Chamorro will inherit an empty shell.

The new government needs economic help. They will need to purchase oil immediately. They need seeds and fertilizer. They need access to spare parts.

At the beginning of this month, the House of Representatives did its part in helping Nicaragua by voting for $300 million in aid.

But I am sorry to report that the other body has not followed through on our action.

A failure to act in a timely manner is a form of congressional mismanagement. A failure to act because of petty, partisan considerations is a form of congressional dereliction of duty.

I urge the other body to act and act now to help freedom in Nicaragua. There is no reason for delay. There is no excuse for inaction.

MILITARY TOXICS

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, I rise to draw the attention of my colleagues to the growing environmental threat posed by toxics leaching from our military bases into both the surface and ground water all across the country.

Over the years, this problem of toxics at military facilities has escalated from a few thousand sites nationwide at a few hundred bases to one that now includes over 14,000 sites on more than 1,500 installations in every corner of the Nation.

The number of military sites on the Environmental Protection Agency's national priorities list, the list of the most contaminated hotspots in the country, has also grown dramatically. Last year alone, EPA added 34 new military facilities to this list of the Nation's worst dumps.

On the watch of the Bush administration cleanup, progress continues at an abysmally slow rate. DOD's latest survey revealed that the Department has completed cleanups at only 287 or .02 percent—far less than 1 percent—of the more than 14,000 military toxic sites.

Mr. Speaker, the environmental President should start cleaning up the Federal backyard first. It will take more than lipservice to solve this problem. We need a commitment to hold these Federal facilities to the same standard as the private sector and most of all we need sufficient cleanup dollars to make real progress.

□ 1220

TRIBUTE TO THE LATE HONORABLE J. KENNETH ROBINSON

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise today to pay tribute to J. Kenneth Robinson, a former Member of this body and my predecessor, a man who served in the House of Representatives with distinction and courage.

J. Kenneth Robinson of Winchester, VA, died on Sunday, April 8, 1990. He was 73.

Kenneth served as a Member of the House for 14 years. He was the ranking member of the House Permanent Select Committee on Intelligence. He also served with uncommon distinction as a member of the Appropriations Committee.

Kenneth Robinson left a legacy of service and accomplishment to this Nation that few men in longer lifetimes have been able to approach. He

gave close to 30 years of service to his community, Virginia, and to our country.

To Kit, Kenneth's wife of 43 years, and the family, please know that we share the loss you feel and we extend our deepest sympathy.

Mr. Speaker, on May 2 I plan to offer a 60-minute special order to remember Kenneth Robinson and to reflect upon his life of achievement.

CLEANUP OF ANACOSTIA RIVER AN ENVIRONMENTAL MUST

(Mr. HOYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, as Earth Day 1990 approaches, we are all looking at the environmental necessities in our areas of the country. Today I rise to discuss an environmental nightmare literally in the Capitol's backyard.

The Anacostia River runs less than a mile from here, straight down Pennsylvania Avenue. It feeds into the Potomac River and, ultimately, the Chesapeake Bay. The watershed for the river includes a good portion of my district of Prince Georges County, Montgomery County, and, of course, the District of Columbia.

Mr. Speaker, the Anacostia River is a disgrace. It is, unfortunately, one of the dirtiest rivers in the United States. But, surprisingly, its dirt is not due to any point source—no specific factory or no water waste treatment plant, but zinc, lead, and copper run into the Anacostia each year from erosion and flooding.

Mr. Speaker, we in Congress have begun to right this wrong. Last year we appropriated $130,000 for a Corps of Engineers study on how to clean up the Anacostia. I am sure we will continue to fund this project, because it is absolutely essential for our region and for America.

Just yesterday, Mr. Speaker, a local group announced the formation of START—"Stop Trashing the Anacostia River Today."

Mr. Speaker, Carly Simon wrote a song for the 1988 movie, "Working Girl," and she called it "Let the River Run." In it she said, "Let all the dreamers wake the Nation."

Mr. Speaker, let us together wake the Nation to the absolute essential nature and importance of cleaning up our environment for ourselves, for our children, and for the generations to come.

A SPECIAL TRIBUTE TO THE MEN AND WOMEN OF THE NATION'S FIRE AND EMERGENCY SERVICES

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to pay special tribute to America's domestic heroes, the 3 million men and women of this country who make up our fire and emergency services network.

Over the past year, Mr. Speaker, we have seen tragedies ranging from Hurricane Hugo to the earthquake in California, the responses to the air crashes in Sioux City and Long Island, nursing home fires in Virginia and Tennessee, and large loss fires recently in New York City and down in Miami, as well as thousands and even millions of other emergencies all across this Nation.

Those are the heroes that we will honor tonight, Mr. Speaker, and they deserve the appreciation and support of this body. Tonight we will honor them at a special banquet, the Second Annual National Fire and Emergency Services Dinner. I ask my colleagues to join Vice President Dan Quayle, the leadership of both political parties, and 2,000 leaders from across this country in this annual tribute to these unsung heroes.

ENVIRONMENTAL PROBLEMS OF THE GREAT LAKES VIE FOR ATTENTION

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, as this map so adequately presents to us, a journey across this Nation leaves a trail of tears, tears from broken promises, false promises, and political promises made and left, crashed like the oil tanker *Exxon Valdez* on the shores of the rocks, spilling its noxious wastes all across this country.

In my own backyard, the Great Lakes, we suffer today from the refusal of the administration to come to grips with the most pressing environmental threat to the world's largest supply of fresh water, and that is airborne toxics pollution. Ninety-three percent of the PCB's that fall in the Great Lakes come from hundreds of miles away; 96 percent of the lead falling in the Great Lakes today comes from industrial sources hundreds and thousands of miles away. Yet, while this Congress works hard and our Committee on Energy and Commerce reports a strong Great Lakes air toxics provision, the administration sleeps idly away, hoping that the problem will soon disappear.

No, Mr. Speaker, as we approach Earth Day, we have to understand that the Great Lakes, a source of fresh, renewing water upon which all growth and life depends, will only survive if in fact we work hard to preserve it and protect it.

REAL ESTATE LOAN-LOSS PROBLEMS THREATEN ECONOMIC STABILITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I was not surprised to read in today's Washington Post that the epidemic of losses on real estate loans is spreading rapidly throughout the country.

The article quotes a study by an information service of Austin, TX, which claims future real estate loan-loss problems are likely to occur in places like my home State of Florida, southern California, and metropolitan Atlanta.

I was not surprised because I believe this problem can be attributed to the continuing S&L problem and Congress' inability to effectively solve this problem. Unless we can band together and present a reasonable long-term solution, I worry that we will threaten our Nation's economy.

The long-term economic stability of healthy S&L's and banks will be seriously affected unless we take some additional action.

Mr. Speaker, I urge all of my colleagues to read today's Washington Post article by Jerry Knight in the business section. It is an eye opening account of the growing problem at hand.

SUPPORT URGED FOR LEGISLATION TO PROTECT NEW MEXICO RIVERS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, in honor of Earth Day, many of our colleagues are rising to speak about serious environmental issues in our States. New Mexico has serious environmental problems. The House tomorrow will have the opportunity to act on one of those problems when it considers H.R. 644. This bill designates the East Fork of the Jemez and the Pecos Rivers as part of the National Wild and Scenic Rivers System.

The East Fork of the Jemez is threatened by a pumice strip mining operation on its banks. Pumice is a soft stone used for "Stonewashing" denim. In a very real sense, the pristine East Fork River is threatened by stonewashed jeans. American Rivers, the Nation's leading river conservation organization, has placed the East Fork on its 10 most endangered American rivers list.

Mr. Speaker, this bill is supported by the Forest Service, by public land owners, by the State of New Mexico, and by the New Mexico congressional delegation, and it will be voted on to-

morrow. It is an important piece of legislation.

It is also critically important that we recognize on Earth Day our endangered river systems. It is not just clean air or global warming; it is also important that we continue to protect our rivers across our country.

ENVIRONMENTAL PROCEDURES AT THE CAPITOL—SUPPORT URGED FOR CRIME PACKAGE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I have been a little surprised this morning to hear some of our colleagues coming to the floor and complaining about the environmental procedures of Federal facilities. There is one group of Federal facilities that has absolutely no Environmental Protection Agency covering it, and that is the U.S. Capitol Building and the facilities of the U.S. Congress. We specifically exempt ourselves from all the environmental laws. Maybe some of the Members should address that as well as addressing their concerns to the President.

But I have another topic I would like to raise as well in my 1 minute. Later on this afternoon we will have a rule before us. Some of us are going to seek to defeat the previous question on that rule in order to try to bring to the floor the President's crime package.

When I was home, my constituents told me very flatly they want something done about crime. They are disgusted that Congress has had the President's crime package before us for almost 1 year and has done absolutely nothing. The Judiciary Committee can bring before us today a so-called price fixing bill which none of my constituents have talked to me about, but we cannot get out of that committee a crime package.

So we will seek today to defeat the previous question in order to make in order the President's crime package. That would bring before us capital punishment procedures, death penalties for drug kingpins, exclusionary rule reform, habeas corpus reform, prison construction, and increased penalties for the use of guns in crimes.

Mr. Speaker, it seems to me that is what we ought to be acting on, and we would ask the Members for their support.

ROCKY FLATS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, most people do not realize that the environmental mess at our nuclear weapons complex, including Rocky Flats in my district, is a national scandal involving costs almost as large as the S&L debacle.

Energy Secretary Watkins is finally making some serious and substantial efforts to clean up these sites. For the first time, there's some progress.

Sadly, the Bush administration refuses to give Secretary Watkins its full backing. At Rocky Flats alone, the 1991 Bush budget shortchanges cleanup and environmental programs by half: over $100 million.

Despite his proenvironment rhetoric, the President has proposed that we fully fund nuclear weapons production, but has put off cleaning up the nuclear weapons mess. The 1991 Bush budget would increase the nuclear weapons production budget by $869 million; it would underfund cleanup and waste management by nearly $500 million.

There is an important lesson to learn here as we approach Earth Day 1990.

We have to watch more than President Bush's lips. He's great at "greenspeak," but when it comes to finding "greenbacks" to clean up the nuclear weapons cesspools, it is a pretty limp performance.

□ 1230

MISSISSIPPI RIVER SAMPLE TELLS US WE ARE SUFFERING FROM POISONING

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, if our Nation went to get an Earth Day physical, we would have to take a blood sample from our Nation's most important artery, its most important vein, the mighty Mississippi River, and I am sorry to say, Mr. Speaker, that that sample would tell us that our Nation is suffering from blood poisoning of sorts, the poisoning of toxic and hazardous chemicals.

A water sample from the 2,300 miles of our Mississippi River, stretching from Minnesota on down to the Gulf of Mexico, reveals to us some of our greatest environmental ills. At least 468 million pounds of toxic chemicals are dumped into the river annually.

Mr. Speaker, this river is becoming a soup of chemicals. The mortality rates for the counties bordering the river are 3 percent higher than the rest of the Nation. The mortality rates from the counties from Kentucky on down are 14 percent higher than the rest of the Nation.

Mr. Speaker, with the passage of bills like the Clean Air Act, the Mississippi River Heritage Corridor Act and similar legislation, hopefully, when we celebrate Earth Day 20 years from now, we will be able to take a sample from the Mississippi River and at that time be able to give our country and our river families a cleaner bill of health.

THE CRIME CLOCK CONTINUES TO TICK

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the story you are about to hear is true.

In the United States today, the crime clock continues to tick.

As Jack Webb used to say on Dragnet, let me give you some of the facts, just the facts:

There is a violent crime every 20 seconds.

There is one murder every 25 minutes.

One rape occurs every 6 minutes.

An aggravated assault occurs every 35 seconds.

How does the Democrat leadership address this problem? The Democrat-controlled Judiciary Committee, which has refused to act on the President's crime package, brings up a price-fixing bill instead.

Today Members have an opportunity to go on record in support of the President's crime bill. Members should vote "no" on the "previous question" when the rule on H.R. 1236 is considered, so we can bring the President's anticrime bill to the floor of the House for a vote.

While the crime clock ticks, the Democrats sit on their hands, refusing to act. Today, we will have a chance to do something about it.

THE WESTLY TIRE PILE IN MODESTO

(Mr. CONDIT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONDIT. Mr. Speaker, all across this country are reminders of ways in which we have failed to take care of our environment.

My district in California is no exception; in fact, we have one of the largest used tire piles in the country just sitting there in the central San Joaquin Valley. What does this tire pile add to the aesthetic value of the community—nothing. In fact, it detracts from it.

The Westly Tire Pile is composed of 45 million tires. That totals out to 80,000 tires per Member of Congress. This pile of tires is just sitting there, waiting for an accident to happen.

If this pile were to catch on fire, it would cover the San Joaquin Valley in oily smoke, contaminate ground water, cause evacuations of residents, and affect the abundance of agricultural

crops that feed this Nation and countries abroad.

But cleaning this pile up is not an easy task.

The State had to take the tire pile owners to court to get them to begin the cleanup. Now we have made some progress on this environmental monstrosity but it is not enough.

Federal, State, and local officials need to work together with industry and citizens to stop these environmental disasters from happening. We in Congress must be careful not to make ourselves part of the problem, by refusing to address the issue and act on it.

THE CONGRESSIONAL RECYCLING ACT OF 1990

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, recently, while on a short walk to the Capitol, I could not help but notice several large waste cans filled to the brim with all sorts of trash: bottles, cans, cardboard boxes, and paper products of various dimensions. As I walked, I tried to imagine what America's municipal landfills look like when all this waste is dumped into them. Not a pretty sight, I am sure.

I began to wonder why it is that we do not recycle more of our waste than we do, and why it is that more people do not get involved with recycling as a business. Surely, with a heightened awareness among Americans that we can make better use of our solid waste, many entrepreneurs would jump at the chance to be pioneers in the recycling business. But maybe the problem is not finding enough people who want to recycle waste, but people who want to buy it. If we can get as many people to buy recycled material as we have producing it, we will be on our way to a much cleaner environment.

So we must find ways to enhance the market for recycled goods and it is Congress who must take the lead in this area.

That is why today I am introducing the Congressional Recycling Act of 1990. This bill will require the House of Representatives and Senate to use recycled paper and paper products to the greatest extent practical in their daily operations and increase their procurement of paper and paper products with the highest percentage of recycled content. This sends a clear message to the rest of the Nation that Congress is actively involved in addressing America's environmental concerns.

Mr. Speaker, with Earth Day fast approaching, and as the United States heads into the 21st century, we will face tremendous environmental challenges. Every citizen will have to become environmentally conscious if we are to protect our precious natural resources.

However, we cannot expect our citizenry to help us in areas such as recycling if we in Congress do not do it ourselves. So I ask my colleagues to please make Congress a leader and not a follower of the environmental movement by cosponsoring the Congressional Recycling Act of 1990.

□ 1240

RAPID POLITICAL CHANGES DEMAND PROMPT ACTION

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I rise to commend the gentleman from Illinois [Mr. MICHEL], the Republican leader, on his statement.

Mr. Speaker, the issue we face at this moment is whether the U.S. Congress can respond adequately to the rapidly changing political face of the globe.

President Bush has shown he can, with his prompt proposal for aid to the new democracies of Central America. The House of Representatives has shown it can, by acting rapidly on H.R. 4404, the dire emergency supplemental that provides $870 million in foreign aid.

The question now arises—can the Senate respond? I join my leader and my President in urging quick action by the Senate on the pending supplemental appropriations bill.

Let us strike a quick blow for democracy.

INTRODUCTION OF WETLANDS NO NET LOSS ACT OF 1990

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, today I am introducing comprehensive national wetlands protection legislation, the Wetlands No Net Loss Act of 1990, which addresses the growing problem of wetlands loss.

Wetlands are immensely important to both the environmental and economic health of our Nation. They provide essential habitat for a great variety of wildlife including migratory birds, commercially and recreationally important finfish and shellfish, and many endangered and unique plant and animal species and communities. They provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property. And, finally, they enhance the water quality and water supply of the Nation by serving as ground-water recharge areas and nutrient traps.

Yet, in spite of these benefits, we are losing wetlands at the rate of almost one-half million acres each year. We do not adequately protect these limited resources, nor do we have a comprehensive Federal program to preserve them. Instead, we have a hodge-podge of efforts, both public and private, that does not adequately protect these assets while often placing burdensome costs on wetlands owners.

At the request of the U.S. Environmental Protection Agency, William K. Reilly, then president of the Conservation Foundation, convened the National Wetlands Policy Forum, chaired by Gov. Thomas H. Kean of New Jersey, to address major policy concerns about how the Nation should protect and manage its valuable wetlands resources. The forum, composed of legislators, environmentalists, developers, farmers and ranchers, and academic experts, sought to "develop sound, broadly supported recommendations on how federal, state and local wetlands policy could be improved." The efforts of the forum culminated in a report entitled "Protecting America's Wetlands: An Action Agenda." The Wetlands No Net Loss Act of 1990 is based upon the recommendations set forth in this report.

Despite its apparently clear title, "No Net Loss" of wetlands does not actually mean that development will be halted cold in its tracks. It does not mean that all growth will be stopped. However, it does mean that every attempt should be made to direct growth away from wetlands where possible, and to minimize the effects on wetlands where it is not possible to avoid wetlands. A third option, to be used only when the first two options are not possible, is to restore or create new wetlands to mitigate damages.

President Bush recognizes the importance of wetlands, and reportedly has made wetlands protection his top environmental priority. In a letter to Louisiana State Senator Ben Bagert, Jr., dated October 20, 1988, President George Bush, then Vice President and Presidential candidate, emphatically stated his views on the issue of wetlands loss:

> I share your concern about wetland erosion and congratulate you on your hard work to increase both public and governmental awareness of this issue. My own view is that wetlands are a tremendously valuable resource—as a habitat for fish and waterfowl, as a flood control device, and as a natural filter which helps create clean water. I have pledged a new national goal: no net loss of wetlands. We have been losing wetlands at a rate of half million acres a year, and we must protect what remains.

President George Bush further reiterated his position on wetlands in Sports Afield magazine—Washington Post, December 15, 1989:

My position on wetlands is straightforward. All existing wetlands, no matter how small, should be preserved.

The Wetlands No Net Loss Act of 1990 develops a sound national policy on how Federal, State, and local wetlands policy could be improved. To attain the President's goal, it creates incentives for the public and private sector for wetlands protection, improves management of Government-owned wetlands, and institutes effective and evenhanded regulatory programs to ensure that no type of wetland conversions are allowed without being reviewed. It also sets up a fund to develop and implement State plans and to acquire wetlands from the private sector, plus it calls on the Office of Technology Assessment to prepare a study of Federal policies that impact wetlands and Federal and State wetlands protection programs.

Comprehensive wetlands legislation is desperately needed if we are to preserve these areas for future generations. I hope my colleagues will join as cosponsors of this bill to implement the President's stated goal. Furthermore, I hope the various committees with jurisdiction will hold early hearings on this. Noble words are nice: action is better.

UNITED STATES SHOULD REJOIN UNESCO

(Mr. LEACH of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the Department of State issued a congressionally required report yesterday which concludes that the United States should not rejoin the United Nations Educational, Scientific, and Cultural Organization [UNESCO]. I believe the Department of State has made a profound mistake.

The reasons for American withdrawal from UNESCO in 1984 are well known. My own view is that we overreacted to the feeble gibberings of leftist cranks abroad who wanted to radicalize the agency, as well as to the isolationist palaver of noisy ideologues at home who wanted the United States—the historic sponsor of the United Nations and the foremost champion of international law—to lead in emasculating the U.N. system.

The fact is that UNESCO is one of the least dangerous international institutions ever created. While some member countries within UNESCO attempted to push journalistic views antithetical to the values of the West and to engage in mindless Israel bashing, UNESCO itself never adopted such radical postures. The United States opted for "empty chair" diplomacy after winning, not losing, the battles we engaged in.

It is obvious to all that both the world and the United Nations are changing. Philosophically, the taproot of the profound changes taking place in the world is a historical recognition that it is the 200-year-old model of Jeffersonian democracy that provides the most revolutionary, adventuresome, and humane model for political and economic organization in recorded history. Politically, this means that as worldwide trends come, as they inevitably do, to be reflected in the institutions of the United Nations, American values will increasingly be vindicated.

The fact that the momentum of events is so overwhelmingly on our side has apparently been lost, however, on the pariah skeptics who remain philosophically manacled to an outdated past in their lonely dungeon outpost in the International Organization Affairs Bureau at the Department of State.

The fact is that, like other aspects of the U.N. system, UNESCO itself has shown substantial evidence of change and reform. The new Director General, Mr. Frederico Mayor, of Spain, has pledged to redirect UNESCO away from the controversial management style and half-baked theoretical projects that were identified with its previous chief, Mr. M'Bow.

Mr. Mayor has served notice that UNESCO under his leadership will not countenance toying with invasions into journalistic freedoms of expression.

Few countries are as protective of first amendment values as the United States. Mayor is prepared to carry the Western banner on this issue, but his, and more importantly, future directors' leadership options are diminished if the United States continues to play ideological games with one of the profoundest threads of American political philosophy.

The developing countries which comprise the majority of U.N. member nations, out of respect for the United States, acquiesced in the designation of a new leader and new management approach for UNESCO. For the United States to refuse to respond to such a positive gesture from centrist states implies insensitivity in this specific instance and will almost certainly undercut efforts of the United States to seek responsible accommodations in other fora on other issues.

Mr. Speaker, there is no reason the United States should not resume immediate membership and participation in UNESCO. It was nuts to get out and it is nuttier still not to rejoin. "Empty chair" diplomacy is an oxymoron.

A TRIBUTE TO RALPH D. ABERNATHY

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I want to use this opportunity to reflect upon the life of a great individual. Our Nation has suffered a great loss in the death yesterday of Ralph David Abernathy. He was an American hero. He played a critical role in the American civil rights movement. His life epitomized the highest ideals and aspirations of the movement. Reverend Abernathy's commitment to justice and freedom inspired many of us who participated in the struggle for civil rights. I am deeply saddened by the loss of this great man.

I first met Reverend Abernathy in 1958 when I was a young man preparing to go to college. I traveled 50 miles from my home in Troy, AL, to Montgomery, AL, to meet with Reverend Abernathy and Dr. Martin Luther King, Jr. I was seeking their counsel because I had planned to try to become the first black student to attend all-white Troy State College. Reverend Abernathy hosted this meeting in the study of his church in Montgomery. I will never forget that spring day in 1958 because the meeting would change my life. It was the beginning of a long and beautiful relationship.

I soon became a disciple of the philosophy of nonviolent protest. I followed the example that Reverend Abernathy and Dr. King set during their leadership of the Montgomery bus boycott.

He and Dr. King were the "Movement's Twins." They were just young men in 1955 when they led the Montgomery bus boycott. They were young men leading—not just a community—but the Nation and the world. They were my heroes, my friends, and later, my colleagues in the struggle for peace, freedom, and fairness. If it had not been for Dr. King and Reverend Abernathy, I don't know what would have happened to me. They showed me and many others the power and moral authority of nonviolent protest.

As Dr. King's closest associate, Reverend Abernathy was embodiment of the spirit of the civil rights movement. He showed tremendous courage in standing up to the brutal system of segregation and racial degradation that had existed in the South. He was a fighter and a champion of justice.

Time and time again over our 30-year association, we marched together, we went to jail together, and we prayed together—all in the struggle for peace, freedom, and fairness.

I salute the life of Reverend Ralph D. Abernathy. He should be remembered as a great individual who served his fellow man with greatness.

PRESIDENT BUSH HAS KEPT HIS PROMISE ON THE ENVIRONMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, we have heard a number of statements already and we will hear a few more from that side of the aisle, talking about our great President, George Bush.

You know, back in 1988 when there was a question of which Republican we would nominate to take the place of the great Ronald Reagan, many of us picked George Bush because he promised to put his emphasis as President on saving the environment. If any President has ever lived up to a promise, it is George Bush. He has put his weight behind raising the Environmental Protection Agency to Cabinet-level status, so that we will have an equivalent department to all the other industrialized nations around the world. He has put his backing behind the Environmental Protection Agency plan to rewrite the Clean Air Act, which is going to stop acid rain from coming into my Adirondack Mountains and my Catskill Mountains.

Now that we all agree that we have to concentrate on the environment, I expect everybody on that side of the aisle to join with everybody on this side of the aisle to unanimously pass the Clean Air Act so that we can stop acid rain once and forever.

"Thanks for putting your weight behind it, folks. We appreciate it."

THE ENVIRONMENT

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, just the other day USA Today contacted me at my office and asked me what I personally was going to do to work for the environment as we begin this Earth Day celebration.

My answer was simple. I told them that I would do what my wife tells me to do, because my wife works to help teach our four children the value of preserving the environment for their generation and for future generations. Her attitude is that if we can teach our children responsible habits at an early age, they will carry those habits with them for a lifetime.

Barbara has two basic rules for our family. The first is to conserve energy, and the second is to have the children save for recycling whatever they can. Even though our children are very young, Barbara is attempting to teach them the importance of saving electricity. They know the less electricity we use, the less coal or oil we use, the cleaner the air and the water.

Now, of course, my wife's pet project is to save gasoline and therefore reduce air pollution by having me take the subway, so here I am, delivered to Congress by the Metro.

Mr. Speaker, we should all remember one simple saying when we think about the environment on Earth Day, and that is that we do not inherit the Earth from our parents, we borrow it from our children. We need to work hard to conserve energy and preserve the environment. Our future depends on it.

A TRIBUTE TO A YOUNG AMERICAN HERO

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I, too, would like to pay tribute to an American hero, as the gentleman from Georgia [Mr. LEWIS] had mentioned about Reverend Abernathy, and I agree; but this one is a young fellow. His name is Ryan White. Ryan White died a few days ago because he was a hemophiliac and contracted AIDS. He was truly an American hero.

One thing about Ryan White is the fact that he did not like his celebrity status because he had AIDS. I do not think that was really the reason that he was projected as such. I think AIDS was a thrust which threw him out to the American people because he had been rejected by his own town and then accepted by another.

I think his celebrity status came as a result of his courage, his compassion, and his intelligence, and I think that people who heard Ryan White and heard him speak and speaking to young people, trying to get a message across, knowing that his days were numbered, I think will live as a tribute.

He truly is an American hero. He truly is my hero, and I only regret that I did not get a chance to know him, but he is at rest now. He will stand, though, for years to come as a symbol to many people in this country for those things for which he stood.

□ 1250

CRIME PACKAGE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, when people across the country wake up in the morning, they generally are not thinking about price fixing. More likely, they are concerned about the seemingly endless litany of murders, rapes, robberies, and drug busts that dominate the days' news.

That is what the American people are upset about, the real, and very frightening threat of crime and drugs, not in some faraway place, but in their own communities.

There is no reason why this body should not be responding decisively to the legitimate concerns of the American public. It is time we started working on developing responsible, meaningful legislation to fight crime.

More than 10 months ago, President Bush sent us a comprehensive crime package, and we have not yet considered the issue. Instead, we have spent dozens of legislative sessions discussing technical matters that any one of us would rank lower on our list of priorities than fighting crime.

We have heard a lot of rhetoric about the need to get tough on criminals. But so far the President's crime package gathers dust. While we occupy ourselves too often with lesser matters.

EMPLOYER SANCTIONS

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I join my colleagues from New Mexico and California today to express my concern about the employer sanctions provisions of the Immigration Reform and Control Act of 1986. It has been clear for some time now that these provisions have caused employment discrimination against minorities simply because individuals are perceived by potential employers as being "foreign." When I voted for immigration reform, I and many others expressed our concern that the employer sanction provisions could cause discrimination. We agreed to support the bill on the condition that Congress would revisit the discrimination issue in 3 years and remedy a problem if one had in fact developed. Recently, the General Accounting Office released a report confirming that employer sanctions had in fact caused widespread discrimination against U.S. citizens and legal residents.

I believe it is now the duty of Congress to respond swiftly and repeal these discriminatory provisions. Accordingly, I have cosponsored resolutions to repeal employer sanctions and I urge my colleagues on the Immigration Subcommittee to schedule hearings on the issue as soon as possible. Anything less than immediate action on this matter will constitute blatant neglect of a serious discrimination problem in this country. Hard-working Hispanic, Asian, and other minority citizens across the Nation urgently need our help. We must respond.

EARTH DAY

(Ms. KAPTUR asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this Sunday we will celebrate the 20th anniversary of Earth Day. Twenty years ago Americans demonstrated the concerns that we as a country have about our environment and, as a result, shortly thereafter major legislation passed this Congress.

The Clean Air Act amendments set air quality standards for our entire country. The Clean Water Act was enacted, and the Environmental Protection Agency was established. New emphasis was placed on the importance of protecting our environment and the health of our citizens.

This year Earth Day will be recognized throughout the world. During our recent delegation visit to central and Eastern Europe, we were overwhelmed by the environmental degradation apparent and in need of attention in that part of our world.

By contrast, in my home community of Toledo, OH, we can boast of being one of the leading environmentally conscious communities in America for resource recovery, recycling, and reuse.

Some of the jobs being created in my district directly flow from new environmental technologies. N-Viro Energy Systems in Toledo has taken the lead in utilizing byproducts to manufacture new products. For example, kiln dust and sewage sludge are combined to produce fertilizer that is safe and odorless. Plastics Technologies of Toledo is recovering copper, brass, and plastics for reuse and resale. Omni Source in Toledo is recovering precious metals, and Glasstech has invented new solar technologies and new glass products for the future.

Through global, local, and individual means, we can make significant changes and encourage a lifestyle which emphasizes conserving, recovering, reusing, and recycling our Earth's precious resources.

It is time to make our world a cleaner and safer place to live. After all, it is the only Earth we have.

BRIEFING REGARDING B-2 PROGRAM

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, as cochairman of the Stealth Caucus, I would like to inform my colleagues of an upcoming series of briefings regarding the B-2 program.

Mr. Speaker, the purpose of these briefings is quite simple. As Members of Congress, we will soon be faced with the difficult decisions affecting our national security, and the Stealth Caucus would like to provide all Members with a forum for gathering as much information on the B-2 program as they deem necessary to make the tough choices for the future.

Those of us on the Committee on Armed Services are divided on this issue. How can we make a decision without knowing the facts?

This Friday we will have a beginning, and the Air Force will come and be available to discuss the cost aspects of the B-2 program. I encourage Members and their staffs to take advantage of this opportunity, especially in light of the different cost figures that are now being cited by various groups.

While this briefing will concentrate on the cost, we will later at an available date discuss the mission and then also the Stealth technology.

I urge my colleagues to take advantage of this opportunity.

CHESAPEAKE BAY

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. CARDIN. Mr. Speaker, 20 years ago, the Chesapeake Bay was still considered the world's richest estuary with unparalleled fisheries. But long-term environmental misuse started taking its toll. The underwater grasses began to disappear, and the fisheries declined. Fish once plentiful, such as the striped bass, began to vanish. Bay-wide cleanup programs to control the increased usage and abuse of the bay did not exist.

In 1975, bay watch programs began after the EPA was commissioned to study the loss of the grasseries, toxic contamination of the bay, and oxygen loss.

In 1987, the Federal Government, along with Maryland, Virginia, the District of Columbia, and Pennsylvania signed the Chesapeake Bay Agreement which pledged to establish a cleanup policy to restore the bay's natural resources.

The past 20 years have brought a new awareness, and with it a new commitment to preserve the Chesapeake. But the more we learn about the bay, the greater is our understanding of its fragility. The Chesapeake Bay has greatly improved over the past decade, but this is truly a war we have just begun to fight. We must move forward with stronger regulations to avoid environmental neglect, because once we have lost our resources to neglect, they cannot be recovered.

FLORIDA KEYS ESPECIALLY VULNERABLE TO POSSIBLE OIL SPILL

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, on Earth Day weekend, the President is going to Islamorada to enjoy the clear ocean waters and pristine beaches of the famous Florida Keys.

Yet even as he enjoys the unique natural beauty of these waters, he seems intent on risking their destruction. The President has time and again refused to support a permanent ban on offshore oil drilling in the Florida Keys.

Although he has visited the keys, the President is evidently not familiar with them. Evidently he does not realize that because of the keys' sandy and porous soil, unique coral reefs, and swirling currents, the keys would never, I repeat, never recover from an oilspill.

The delicate coral reefs would be blackened and die. The porous beaches would be irrevocably soiled and would literally have to be hauled away. Water currents would play havoc with any futile cleanup effort, spreading the spill across the entire region. In short, the keys would stand no chance.

Mr. Speaker, I hope the President can visualize blackened beaches, damaged reefs, and dead fish and water fowl. I hope he can also visualize the complete ruination of an economy which depends on the environment. Because unless he acts, that is what the President may find next time he visits the keys.

MERGERS AND BUYOUTS CRIPPLE MAIN STREET

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am not going to speak on a galactic issue such as peace in Europe, or acid rain, or global warming. But I am speaking to a topic of great importance to Louisville, KY, my hometown and congressional district.

Without so much as a "fare thee well," on Monday, Hess's Department Store, Inc., an Allentown, PA, corporation, shut down its Hess' store in downtown Louisville, KY, after 83 years of operation at that location—perhaps the most important spot in the downtown area of Louisville.

This is no knock on Pennsylvania that Allentown is the home headquarters of Hess. But absentee ownership encouraged by leveraged buyouts, by the merger mania that we have seen for the last 10 years, makes for bloodless, insensitive, and callous business operations.

□ 1300

Why, for example, would any Pennsylvania corporation, or a Wyoming corporation, or any other corporation, care about the heritage and traditions

of Louisville, KY, or care about our esthetics?

Congress may not be able to fill the vacant building at Fourth and Muhammad Ali, Mr. Speaker. It may not be able to take down the kraft paper in the windows and open for business next Monday. But certainly Congress should look at our tax laws or any other laws on our books which somehow encourage and give advantages to those who would merge and buyout and consolidate. These mergers and buyouts may add wealth to Wall Street, Mr. Speaker, but they are killing the wealth of Main Street, or, as in my case in Louisville, killing the wealth of Fourth Avenue.

OFFSHORE WOODBURNING

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, in the district that I represent, located along the New Jersey shore, public support for environmental protection is at least as strong, and possibly stronger, than in any other region of our country. The quality of the coastal environment where my constituents live is vital to their quality of life, and in many cases, their livelihoods.

That is why I would like to address at this time a unique threat to the waters of the Jersey shore: The practice of burning wood collected from New York Harbor on open barges at a site 17 miles offshore from some of our most popular bathing beaches. This practice, conducted under EPA permits, results in half-charred timbers landing in the coastal waters, creating a threat to navigation for small private vessels, posing a danger to swimmers, and cluttering our beaches. The fumes from the burn process include creosote and other toxic substances that harm the marine environment and the fish that are caught for human consumption.

At this time of supposedly great enlightenment about the need for protecting our environment, it is unacceptable that our EPA continues to permit this primitive, outdated, irresponsible, and unnecessary disposal practice. I have introduced legislation that would impose a firm deadline at the end of 1991, for when woodburning must be halted. But I am using this occasion to reiterate to the EPA that it is entirely feasible for this practice to be halted much sooner than that. Such a step by the EPA would send the signal that the ideals of Earth Day really do have meaning to our Nation's top environmental officials, the point that we are trying to make, now that Earth Day approaches over the next few weeks.

BUDGET PROCESS REFORM ACT OF 1990

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, Monday this week, April 16, was tax day. Millions of Americans paid over $1 trillion to keep our Federal Government and all of its bureaucrats and programs and debts paid up. Post offices around the country stayed open so that taxpayers could meet their midnight filing deadline.

No one in America likes to pay taxes, but there is not much question that most Americans take seriously our responsibility to do so by the April 15 deadline.

Here in the Congress, where we are responsible for spending that $1 trillion, there is no such sense of responsibility. April 15 here was also the deadline for the Congress to pass a budget. It has come and gone, and the Congress, as usual, has failed to do so.

Already the House has passed tens of billions of dollars of new spending, spending that was not included in the budget of the President. The Congress does not know where this money is coming from because the Congress does not have a plan. The Congress does not have a budget.

As a result of this slipshod congressional management of our budget process, interest on the national debt this year will accumulate more than all of the taxes paid by all of the people in California from where I come, and all of the taxes paid by all of the people west of the Mississippi.

It is time we cleaned up the budget mess. It is time we stopped breaking the law here in the Congress. Soon I will introduce the Budget Process Reform Act of 1990, with over 100 cosponsors in this House. Soon we will find out whether Congress is serious about its responsibilities to current and future generations of Americans.

SUNDRY DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-170)

The SPEAKER pro tempore (Mr. MONTGOMERY) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three revised deferrals of budget authority now totaling $2,097,533,159.

The deferrals affect programs in Funds Appropriated to the President and the Departments of Defense and Health and Human Services. The details of the deferrals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1990.*

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES, FISCAL YEAR 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(b)), I am pleased to transmit herewith the 24th Annual Report of the National Endowment for the Humanities for fiscal year 1989.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1990.*

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, April 5, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, the House Committee on Public Works and Transportation approved the following resolutions on April 3, 1990:

11(b) RESOLUTIONS

Birmingham, Alabama, Metropolitan Area.
St. Louis, Missouri.
Beaver County, Pennsylvania.
Utica, New York.
Tallahassee, Florida.
Elberton, Georgia.
Kansas City, Missouri.
Washington, D.C.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3848, DEPOSITORY INSTITUTION MONEY LAUNDERING AMENDMENTS OF 1990

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 101-449) on the resolution (H. Res. 378) providing for the consideration of the bill (H.R. 3848) to require the appropriate Federal depository institution regulatory agency to revoke the charter of any Federal depository institution which is found guilty of a crime involving money laundering or monetary transaction report offenses and to require the Federal Deposit Insurance Corporation and the National Credit Union Administration Board to terminate the deposit insurance of any State depository institution which is found guilty of any such crime, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4380, SUPERCONDUCTING SUPER COLLIDER PROJECT AUTHORIZATION ACT OF 1990

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 101-450) on the resolution (H. Res. 379) providing for the consideration of the bill (H.R. 4380) to authorize appropriations for the Superconducting Super Collider, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PRICE FIXING PREVENTION ACT OF 1989

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 373 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 373

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1236) to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 373 is a simple open rule providing for the consideration of H.R. 1236, a bill to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. When the bill is considered for amendment under the 5-minute rule, the rule also provides that each section shall be considered as having been read. And, because this is an open rule, any amendment germane to H.R. 1236 will be in order when the bill is read for amendment.

Finally, Mr. Speaker, House Resolution 373 provides that at the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as having been ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Speaker, H.R. 1236 is a proconsumer bill. The bill seeks to prohibit vertical price-fixing by establishing evidentiary standards for Federal civil antitrust claims based on resale price fixing. Price fixing is prohibited under the Sherman Anti-Trust Act, but since the early 1980's the Department of Justice has not pursued prosecution of such price fixing and the Supreme Court has handed down decisions which have created confusion as to the evidentiary standards to be applied in dealer termination cases. The Judiciary Committee is to be commended for bringing this important proconsumer legislation to the House for consideration, and I urge my colleagues to adopt the rule so that the House may proceed to the consideration of H.R. 1236.

□ 1310

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1920, Warren G. Harding promised the Nation a "return to normalcy." In 1990, I am pleased to join the gentleman from Texas in returning this House to normalcy. This is a fully open rule for which I strongly urge support.

After the debacle of a couple of weeks ago, we can all be grateful to Chairman BROOKS of the Judiciary Committee for requesting an open rule, and to the Rules Committee for writing one. An open rule provides the House with the opportunity to debate H.R. 1236 in a fair and civilized manner. And so I urge support for the rule, confident in the hope that it does indeed signal a return to normalcy.

The bill itself, Mr. Speaker, is another story. H.R. 1236, it seems to me, falls into that category of a solution searching for a problem. This isn't the first bill we've had this year which fits that description, and I am sure it will not be the last.

In the words of the dissenting views signed by a number of Republicans on the Judiciary Committee, this bill is likely to create a legal situation that will do serious and costly harm to thousands of businesses.

Reading further in the dissenting views: This bill is "greatly expanding the risk of antitrust liability for routine, everyday decisions made by companies with respect to the distribution and marketing of the products they manufacture and sell."

I am also concerned that H.R. 1236 seems to address only one aspect of the relationship that exists between manufacturers, distributors, and consumers: namely, pricing. But it seems to me that the servicing of a product is equally as important in maintaining a clientele of customers for a given manufacturer and distributor.

The small business, the mom-and-pop stores, and all the others which have worked so hard to build such a clientele aren't frightened by the prospect of competition from the discount chains. These kinds of businesses know the value of loyalty—that much abused virtue. They know that there is more to building a successful business than merely offering a low price.

But, in my view, this bill does not take into account such realities in the marketplace. It is a short-sighted attempt to solve a problem when no such problem has been demonstrated to exist, at least it doesn't exist to the extent that would warrant the use of such a blunt instrument as H.R. 1236.

We should exercise caution whenever we consider passing a bill that holds the potential for opening the floodgates of litigation. This bill holds that potential—and for no good reason! This bill threatens to embroil legitimate businesses in costly litigation—court cases brought on the flimsiest of evidence for the narrowest of purposes. The bill in its present form is nothing but a lawyers income enhancement program. So if you want to line the pockets of lawyers with money, vote for the bill.

Mr. Speaker, the rule is a good rule which will permit us to amend the serious deficiencies in H.R. 1236.

However, Mr. WALKER of Pennsylvania will attempt to defeat the previous question in order to make in order an amendment containing the text of H.R. 3119, which is the President's anticrime package.

Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. QUILLEN], the ranking minority member of the Committee on Rules.

Mr. QUILLEN. Mr. Speaker, I rise in opposition to H.R. 1236, the Price Fixing Prevention Act.

I am not an antitrust lawyer, but H.R. 1236, seems inherently unfair to me. In essence, H.R. 1236 attaches a presumption of liability to a manufacturer just because one of its dealers complains about another dealers' pricing policies. If the manufacturer later terminates the complained-about dealer for any reason, however legitimate, he is going to face an antitrust suit and probably a full trial on the merits, just because a third party complaint exists in the files. Manufacturers cannot stop dealers from complaining about each other, any more than we can stop our constituents from complaining to us. I find this sort of potential liability, premised on nothing more pernicious than a manufacturer opening its mail, to be fundamentally unfair.

If a terminated dealer alleges a vertical price-fixing conspiracy, let that dealer carry its minimal burden of proof by showing at least a complaint, followed by termination, plus something more by way of direct or circumstantial evidence to indicate that an illegal conspiracy exists. The plaintiff in the Monsanto case made such a showing, based upon some additional evidence of conspiracy, and recovered over $10 million. Let's bear in mind that we are not talking about a situation that involves minimal financial exposure, plus a full opportunity to defend your conduct at trial. We are dealing with treble damage liability, plus the plaintiffs' attorney's fees. Moreover, since a conspiracy to fix resale prices is per se illegal, a manufacturer's only real defense is that it did not conspire. Especially in the circumstance of treble damages and a per se violation, I do not see any reason to infer such a conspiracy from the mere receipt of a dealer's complaint. There is not another law on the books I can think of which actively encourages the imposition of punitive sanctions for conduct which is both unavoidable and lawful. In short, I cannot believe that H.R. 1236 can be justified by its proponents as either necessary or fair. Very simply, the Monsanto decision should not be reversed.

Mr. Speaker, this legislation also reverses the Supreme Court's 1988 Sharp Electronics decision. Simply put, that decision reached the logical conclusion that in order to be liable for price-fixing, a defendant must be shown to have agreed on a specific price or price-level. An agreement to terminate a dealer on the basis of his pricing policy is not enough. Again, while I am not an antitrust lawyer, the wisdom of that decision is apparent to me.

Mr. Speaker, at issue today is no less than the freedom of our system of commerce to be flexible and responsive to the needs of consumers. Passing this legislation would take us a giant step backward. While the proponents of this legislation say this bill is necessary to prevent price fixing, we must all remember that vertical price fixing has been illegal since 1911. This bill is not necessary to do what is already the law.

I urge my colleagues to vote against this ill-conceived legislation.

□ 1330

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, this legislation is not only opposed by manufacturers and the various trade associations representing manufacturers, it is also opposed by a number of retail organizations. Further, H.R. 1236 is opposed by the American Bar Association and the nationally respected Antitrust Section of the City Bar Association of the City of New York.

I would like to point out, Mr. Speaker, that the American Bar Association and the City Bar have lawyer members that represent both plaintiffs and defendants in these types of antitrust cases. Therefore, I think it is particularly noteworthy that both these organizations unequivocally are opposed to H.R. 1236, because they are the most qualified to understand its real consequences.

My purpose for rising under the rule primarily, Mr. Speaker, is to have inserted in the RECORD letters from the two Federal Government antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission. Both these letters are addressed to me. The letter from the Attorney General, of April 3, reads:

DEAR HAM: This letter is in response to your request for a restatement of the views of the Department of Justice on H.R. 1236, a bill that addresses alleged resale price maintenance agreements between manufacturers and distributers as a basis for treble damage claims under the antitrust laws. For the reasons discussed below, I and other senior advisers to the President would recommend Executive disapproval of H.R. 1236, if it reached the President's desk.

I would like to insert both this letter from the Attorney General, and a letter dated April 17, addressed to me, from the Federal Trade Commission, signed by Janet D. Steiger, Chairman.

The letters referred to follow:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, April 3, 1990.

Hon. HAMILTON FISH, Jr.,
Ranking Minority Member, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR HAM: This letter is in response to your request for a restatement of the views of the Department of Justice on H.R. 1236, a bill that addresses alleged resale price maintenance agreements between manufacturers and distributors as a basis for treble-damage claims under the antitrust laws. For the reasons discussed below, I and other senior advisors to the President would recommend Executive disapproval of H.R. 1236, if it reached the President's desk.

Our serious concerns with the bill are as follows:

The freedom of a manufacturer unilaterally to decide whether or not to deal with a distributor is an essential part of our free enterprise system. H.R. 1236 would create a presumption of illegality for such conduct, forcing a manufacturer to prove his innocence or face penalties.

Contrary to the predictions of those who support overturning the *Monsanto* and *Sharp* decisions as contemplated by H.R. 1236, discounters are thriving under current laws.

Manufacturers rely on feedback from their distributors to ensure they are supplying the market with the goods and services that consumers want. H.R. 1236 could hinder this exchange of information, complicating this process.

Product expertise and exclusive distributorships actually benefit consumers. Manufacturers should be free to terminate dealers who don't provide adequate product service. H.S. 1236 could make this illegal.

The Office of Management and Budget has advised us that there is no objection to the submission of this report and that enactment of H.R. 1236 would not be in accord with the program of the President.

Sincerely

DICK THORNBURGH,
Attorney General.

FEDERAL TRADE COMMISSION,
Washington, DC, April 17, 1990.

Hon. HAMILTON FISH, Jr.,
Ranking Minority Member, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE FISH: The Federal Trade Commission is pleased to have this opportunity to comment on H.R. 1236. If enacted, the proposed legislation would codify the existing per se prohibition of minimum resale price maintenance. In addition, the legislation would modify existing evidentiary presumptions in vertical price restraint cases. Under the bill, a finder of fact would be allowed to find a vertical price fixing conspiracy on the basis of evidence that a supplier had terminated or reduced its sales to a discounting dealer and that complaints concerning the discounter from a competitor had been "a substantial contributing cause" for the supplier's action.

The Commission believes that current law is adequate to address anticompetitive uses of resale price maintenance and that the proposed legislation is therefore unnecessary. The Commission opposes codification of the per se rule because it believes that the courts should continue to have the

flexibility to interpret the antitrust laws in light of current economic understanding. The Commission also believes that the evidentiary standard embodied in the bill is likely to result in the condemnation of legitimate resale pricing policies that are adopted unilaterally by sellers.

CODIFICATION OF THE PER SE RULE

H.R. 1236 would enact into law the existing per se prohibition of minimum resale price maintenance. The legal treatment of this practice traditionally has been determined by the courts under section 1 of the Sherman Act. The broad mandate of section 1 has led to the development of a common law of antitrust, which has evolved over the years as the economic foundations of competitive practices have become better understood. We would expect this evolution to continue in the future, and current law gives the courts the flexibility to interpret the antitrust laws in light of contemporary understanding of competitive practices. This is a tradition from which consumers have benefitted. The Court has recently reaffirmed the applicability of the per se rule to resale priced maintenance,[1] and we have no reason to believe that it will retreat from this position in the foreseeable future. Nevertheless, codification of the per se rule would create an undesirable rigidity in the law.

The Commission believes that vertical restraints, including resale price maintenance, can often serve procompetitive purposes. Suppliers commonly impose such restraints to facilitate the delivery to consumers of a variety of services that enhance the value of products. These services include informing consumers of product features and attributes, servicing the product both before and after the sale, providing product display facilities, and promoting the product.

Suppliers may use vertical price restraints to induce dealers to educate consumers fully about their products. Because acquiring the necessary expertise and conveying the desired information to consumers can be costly, dealers may be reluctant to provide retailing services if consumers can receive these services from one dealer and then buy the product more cheaply from another dealer who does not provide the services. Although in the very short run some consumers may benefit from lower prices, consumers will be harmed in the longer term because dealers would be discouraged from providing the desired services.[2] Vertical price restraints can also prevent free riding on promotional activities and thereby facilitate interbrand competition.

Suppliers may also use vertical restraints to ensure that dealers provide valuable retailing services that may be invisible to consumers at the time of purchase. These services affect the quality of the product as it is received by consumers and, therefore, the reputation of its manufacturer or distributor. For example, some products may require handling procedures to prevent latent damage. By guaranteeing higher margins to retailers through vertical restraints, suppliers can provide an incentive to dealers to provide those services.

Two empirical studies prepared by economists on the staff of the Commission have concluded that vertical price restraints often promote efficiency in distribution. One study found that most observed uses of resale price maintenance involve small firms in relatively unconcentrated markets.[3] Because the ability to raise prices above the competitive level usually requires a concentrated market structure, this evidence suggests that vertical price restraints are commonly used to benefit consumers. A more recent study concluded that approximately 70 percent of litigated cases concerning vertical price restraints involved restrictions designed to prevent erosion of dealer services.[4]

Resale price maintenance may, of course, be an instrument for anticompetitive practices, such as when the practice is used to facilitate or police collusion at the manufacturer or dealer level. The most recent empirical study by an economist on the staff of the Commission concluded that vertical price restraints had an anticompetitive potential in 15 percent of litigated cases.[5]

The Commission intends to enforce the prohibition against resale price maintenance whether the prohibition is a product of judicial doctrine or legislation. Nevertheless, the Commission believes that codifying the per se rule will introduce an undesirable rigidity into the law.

THE PROPOSED EVIDENTIARY STANDARD

H.R. 1236 would broaden the definition of an unlawful price fixing conspiracy by allowing triers of fact to find a conspiracy when a complaint from a discounting dealer's competitor was "a substantial contributing cause" of a supplier's termination of or curtailment of supply to the discounter. We are concerned that this aspect of the legislation would interfere with the ability of suppliers to select the distributors with whom they will deal.

The antitrust laws have traditionally permitted sellers to take unilateral action to restrict pricing decisions by downstream distributors. This has been the law since the Supreme Court held in *United States* v. *Colgate & Co.*[6] that a seller acting alone is free to "exercise his own independent discretion as to parties with whom he will deal." Under Colgate, sellers have been able to terminate dealers who do not adhere to announced price schedules, so long as there is no agreement to fix resale prices. Colgate was reaffirmed by the Supreme Court in *Monsanto Co.* v. *Spray-Rite Corp.*[7] H.R. 1236 would effectively overrule this long-standing doctrine and allow juries to find an unlawful conspiracy merely because a supplier, acting unilaterally, had terminated a discounting dealer after receiving complaints from full-service dealers.

The current legislation has its genesis in bills introduced in the 100th Congress to overrule the Monsanto decision. The hearings on these bills disclosed a concern that Monsanto has erected an exceedingly difficult standard of proof for establishing conspiracies to set resale prices. An examination of the Monsanto decision, however, shows that it did not place an unreasonable burden on plantiffs.

Monsanto does not mandate the exclusion of evidence concerning complaints to suppliers from the competitors of discounting dealers. Rather, the decision holds that evidence of such complaints, standing alone, is insufficient to support a finding of a price fixing conspiracy.[8] The Court said: "We do not suggest that evidence of complaints has no probative value, but only that the burden remains on the antitrust plaintiff to introduce additional evidence to support a finding of an unlawful contract, combination, or conspiracy."[9] Indeed, the Court went on to affirm a finding of a resale price maintenance conspiracy on the basis of circumstantial evidence. Consequently, we cannot agree that Monsanto has unreasonably increased the burden of proof for plaintiffs seeking to establish such a conspiracy.[10]

Under H.R. 1236, a trier of fact may rely on evidence of dealer complaints concerning a discounter to find a conspiracy even when that evidence is not supported by other circumstantial evidence. The bill would require a court to submit a case to the jury whenever evidence would permit the jury to conclude that a supplier's receipt of a complaint concerning a discounter had been "a substantial contributing cause" of the discounter's termination.

The bill fails to recognize that suppliers and dealers may have a common interest in promoting various distribution services, and that suppliers may act in ways that benefit complaining dealers without any agreement or commitment to a joint course of illegal action. Suppliers may wish to eliminate discounting dealers because discounters, by failing to provide support services that suppliers want customers to receive and, instead, free riding on competing dealers who do provide such services, jeopardize the suppliers' product marketing plans. A decision to cut off a price cutter, even if prompted by a communication from a competing dealer, may therefore serve the interests of the supplier as well as those of the complaining dealer. When two firms take actions in their own self interest, as "agreement" should not be inferred merely because the actions are mutually beneficial. As the Commission observed in *General Motors Corp.*, 99 F.T.C. 564, 576 (1982), "Even in cases where direct action is taken by the supplier, and such action is precisely what is requested by complaining distributors, the inference of concerted action, 'a conscious commitment to a common scheme,' is not made automatically." Yet, under the bill a supplier would risk antitrust liability whenever it terminates or fails to provide all of the supplies requested by a dealer following the receipt of a complaint from another dealer. A jury would be free to find that such a complaint, merely by alerting the supplier to the discounting, was "a substantial contributing cause" of the termination.

It if possible that enactment of this bill could induce some manufacturers to integrate downward to lower distribution levels. This would enable them to ensure that consumers receive the necessary level of serv-

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[1] See *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 108 S. Ct. 1515 (1988).

[2] Certainly there are consumers who do not want or need higher levels of retail services, and some manufacturers will choose to serve them. H.R. 1236 would make it more difficult, however, for manufacturers to provide higher levels of these services to the consumers who want more service.

[3] T. Overstreet, *Resale Price Maintenance: Economic Theories and Empirical Evidence* (1983).

[4] P. Ippolito, *Resale Price Maintenance: Economic Evidence from Litigation* (1988).

[5] Id.

[6] 250 U.S. 300, 307 (1919).

[7] 465 U.S. 752, 760 (1984).

[8] 465 U.S. at 764.

[9] *Id.* at 764 n.8.

[10] The Monsanto rule was affirmed in *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 108 S. Ct. 1515 (1988), which held that an agreement to terminate a discounter, in and of itself, does not establish an agreement to fix resale prices. We read Sharp only to require the submission of some evidence of an agreement on price, which Monsanto required as well.

ices, without incurring the risk of free riding or antitrust liability. Ironically, downward integration would harm those dealers that the bill is intended to protect.

CONCLUSION

The Commission is concerned that enactment of H.R. 1236 could stifle some procompetitive conduct and expose suppliers to antitrust liability for unilateral action that traditionally and appropriately has been protected from antitrust liability. For this reason, the Commission opposes enactment of this proposed legislation.

By direction of the Commission. Commissioner Strenio does not join in this letter. Commissioner Owen did not participate in this matter.

Sincerely,

JANET D. STEIGER,
Chairman.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me, and I rise to say that the open rule is certainly a very welcome thing to have on the floor, but we will attempt to defeat the previous question in order to try to get an amendment brought to the floor that would permit the President's crime package to be considered as a part of our effort here today.

Some Member may say, well, if we are dealing with the price fixing bill, why bring up the crime package now? First, the committee of jurisdiction on the crime package is the Committee on the Judiciary. They are active, they had the President's crime package before them for 10 months, and we have seen no activity whatsoever.

This is also an open rule. We often get bills out from the Committee on the Judicary that do not come out under open rules, and its seems appropriate to have an open rule to consider the crime package, because it is a fairly massive effort, and something that Members should have an opportunity to amend. We ought to have full debate, and the open rule makes sense there.

If the committee is not going to debate the issue of the crime and violence and deal with an issue that the American people regard as uppermost in their minds, it seems to me we ought to debate it on the floor. What we are trying to do is give the Members an opportunity to debate that very fundamental issue on the floor. I realize the schedule of the committee was impacted, of course, by illness of the chairman, the gentleman from Texas. We are glad to see him back and in fighting trim here again on the House floor. However, we are troubled that even though the chairman was not available for a period of time, and we understand that, the subcommittee of his committee have not acted on the President's crime package at this point. We feel as though the need for action on the crime package is now, and that this will give the Members an opportunity to reflect on whether or not they also believe that this is a priority. We do not want the American people to believe we have a priority of a price fixing bill, and not a priority of the crime package. So really, what we are asking Members to do is choose among which priority they regard as most important. If the Committee on the Judiciary is coming to the floor and bringing things to Members for debate, we think the real thing we ought to be debating in this Congress at this point is crime and violence. Let Members get the President's crime package to the floor.

Mr. MOAKLEY. Mr. Speaker, I yield myself 1 minute.

I am reading from the RECORD of the House of March 19, quoting the gentleman who just left the microphone. It says,

> Obviously, that would solve this problem if the Democrats were willing to bring a bill to the floor with an absolutely open rule so that we could take the language in the bill and modify it as a result of the work of the committee as a whole, and that would certainly be an acceptable way of dealing with the matter.

That is what we are doing, Mr. Speaker. We are bringing a bill to the floor with an absolutely open rule in order that the gentleman can amend it within the rules of the House.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I appreciate the chairman quoting me, and I would say to the gentleman from Massachusetts [Mr. MOAKLEY] that I said that, and that I am pleased it is an open rule. One reason for offering the motion to strike on the previous question, or the defeat of the previous question, is so that the crime package can be debated under the same open rule. It gives Members an opportunity to look at these issues and deal with them under an open rule.

I congratulate the committee for the open rule. We would like to expand it and make certain we get more subject matters out here under debate under the open rule, including crime.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, let me ask the gentleman from Massachusetts [Mr. MOAKLEY] a question on my own time.

The gentleman says that under this rule we could offer our amendment, right?

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, I said under this rule you can offer any germane amendments.

Mr. DANNEMEYER. But that is the interesting key word "germane."

Mr. MOAKLEY. Of course, the gentleman is aware we operate under the germaneness of the House.

Mr. DANNEMEYER. That is a point I seek to make. The crime package we seek to bring to the floor for debate, if we offered to the rule that is a part of this package, the Parliamentarian, I suspect, would rule that it is not germane, we cannot bring it up.

Mr. MOAKLEY. The gentleman is absolutely——

Mr. DANNEMEYER. That is our whole point, why we want to defeat the previous question, so that we can offer a rule that would permit Members. After all, Democrats control this place and determine when we are going to take up what bill and under what circumstances they can write the rule. They can write a rule that waives all the points of order. They have done so repeatedly.

We will offer a rule that will permit Members to offer the crime package that is not germane to your price-fixing bill. That is why we want to defeat the previous question. Does the Member think that is a good idea?

Mr. MOAKLEY. If the gentleman is asking me a question, no, I do not think so. I think the gentleman should wait for the appropriate vehicle and bring the bill to the floor.

Mr. DANNEMEYER. We have been waiting for months, and as I say, the importance of this issue cannot be overemphasized for those people in the country that support capital punishment, and I am one.

As a Californian, I can tell Members what is happening in the courts of this country dealing with implementing capital punishment, is a tragedy, and it is bringing the entire administration of justice in America into disgrace. The case that I cite to emphasize this point is a fellow named Harris, who was convicted years ago for a heinous crime in San Diego County, CA, where he took the lives of a couple of young kids, snuffed them out. He went through the entire appellate process in the California court system, and this defendant, now sitting on death row in San Quentin, CA, on the eve of a recent execution was able to convince a member of the Circuit Court of Appeals of the Federal system in San Francisco to give a stay, not more than 2 or 3 weeks ago. This happened to be the third stay.

What we need, and it is part of the crime package that we want to bring to the floor of the House, is a reform of the habeas corpus proceeding so that after a person is convicted, with due process, in a State court, and a capital punishment is ordered, that person gets one shot and one shot only in the Federal court system by way of review.

That, to me, is all the due process that any person should be entitled to enjoy, and that is an indispensable essential part of the crime package that

we want to bring to the floor of the House.

□ 1330

Another essential part of it is the exclusionary rule. We have tried repeatedly over the past few years to modify the exclusionary rule so as to insert into the law a good faith requirement that when law enforcement obtains evidence in good faith, even though technically every "i" has not been dotted and every "t" has not been crossed, if good faith has been exhibited by law enforcement people, the evidence can be used, and we would then have the ability in criminal cases in the country to administer justice fairly.

Mr. Speaker, I ask for the defeat of the previous question so we can have a rule that would allow us to offer our amendment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I would like to thank the gentleman for yielding this time to me, and I would like to say that we are going to debate a bill that will make vertical price fixing illegal. It is already illegal. All it is going to do is change it a little bit and make it easier for everybody to sue.

The people of this country today are worried to death about crime and drugs and everything else. The Judiciary Committee has the President's crime package in its fold, shall we say. I have a statistical analysis here from my home area of Charlotte, NC. This is what it says: "The risk a criminal will wind up in prison is less than half of what it was in 1950 * * *."

Those are FBI statistics. The people of the country today are worried about crime and drugs, and the only way we seem to be able to get any opportunity to ever approach the subject of the criminal system and the crime package the President has sent up is to defeat the previous question.

Mr. Speaker, I would just like to say that I would like to ask my colleagues to do that. Let us defeat the previous question and bring up the President's crime package.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I also rise in support of the efforts of my colleague, the gentleman from Pennsylvania [Mr. WALKER], to defeat the previous question.

I think at this point my colleagues on this side are trying to make the statement that all of us go back to our home districts and we are continually asked, "Why don't we have the President's crime package on drugs?"

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I am happy to yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, the gentleman said they would want to make a statement. I ask, why did they not make it on the dire emergency supplemental bill with the Nicaraguan and Panamanian money in it? That happened 2 weeks ago, and they could have gotten the bill to the floor a lot quicker.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. STEARNS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The problem, of course, is that that is an appropriation bill and we are not allowed to legislate on an appropriation bill. The chairman of the Rules Committee knows that.

We have the President's entire crime package here, and this is the Judiciary Committee. This is the committee of jurisdiction. I would suggest to the gentleman that he would probably regard it as inappropriate to bring a massive bill of the nature of the President's crime package on a supplemental appropriation bill as well.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I am happy to yield to the chairman of the Rules Committee.

Mr. MOAKLEY. Then I will yield the gentleman some more time if he needs it later.

Mr. STEARNS. I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, I think, since the gentleman on the other side is trying to waive the germaneness rule, you could have waived the rule on the dire emergency supplemental bill just as easily.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Of course, but then the argument certainly would have been made that we are dealing with a supplemental appropriation bill that covers appropriations rather than the subject matter that we want to cover here, namely, crime and violence. That is in the Judiciary Committee's jurisdiction, and we think it is entirely appropriate to debate that under an open rule procedure, which is what we are asking to do today.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Florida [Mr. STEARNS] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Florida [Mr. STEARNS].

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman now yield?

Mr. STEARNS. I would just like to reclaim my time.

Mr. COLEMAN of Texas. Mr. Speaker, at the end of the gentleman's remarks, I would ask if he would consider yielding to me.

Mr. STEARNS. Yes, I would.

Mr. COLEMAN of Texas. I thank the gentleman.

Mr. STEARNS. Mr. Speaker, I think at this point this side of the aisle would just like to make the statement clear that by defeating the previous question we would have an opportunity to bring the President's proposal to the floor. It has been 9 months. Obviously you can have a baby in 9 months. It seems like on an important issue like crime and drugs we should be able to get this matter on the House floor here in this country.

So, Mr. Speaker, I support the defeat of the previous question, and I am now glad to yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman says he wants to get it on the House floor without it going through the committee process; is that right?

Mr. STEARNS. I think what we want to do is to get this fully debated on the House floor.

Mr. COLEMAN of Texas. No, I would ask the gentleman to just answer my question. You want to avoid the committee process, is that not correct? You want to bring it on the House floor the way you want it, not the way the committee or the other members of the committee process would consider bringing it to the House floor?

Mr. STEARNS. Mr. Speaker, I would reclaim my time.

The SPEAKER pro tempore. The gentleman from Florida [Mr. STEARNS] has the time, and he reclaims his time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Texas seems to forget the fact that the President's crime package has been in the committee process now for 10 months. In other words, it has been buried in the committee, and we think it is time to unbury it.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield on that question?

Mr. WALKER. We think it should be brought to the floor rather than have it buried in the committee.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield, yes or no?

Mr. WALKER. This gentleman does not control the time.

Mr. STEARNS. I have the time, Mr. Speaker. I will finish, and then I will be glad to yield.

Mr. COLEMAN of Texas. Mr. Speaker, Mr. Speaker, will the gentleman yield to me, please?

Mr. STEARNS. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Speaker, the gentleman says it has been there 10 months. I have had a bill that has been in the committee longer than that. It seems appropriate that the committee process should be permitted to work.

What you want is to bring the bill on the floor only as you want it, not going through the committee process where others have the right to bring up amendments and offer them and discuss them and debate them. Is that correct, yes or no?

Mr. STEARNS. Mr. Speaker, may I reclaim my time?

The SPEAKER pro tempore. The gentleman from Florida [Mr. STEARNS] reclaims his time, and the gentleman is recognized.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to my colleague, the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I say to my friend that we are here because, very simply, the chairman of the Judiciary Committee, as we know, has been ill, and we are glad to see him back. Aside from that, there has been ample time for the Judiciary Committee, of which this Member is a member, to consider this legislation, and it is buried there in the bottom of the box. That is the problem.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. STEARNS] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I think it is interesting that my colleagues, the gentleman from California and the gentleman from Florida, would come out here and say that this is the only way to get the bill to the House floor. It is pretty obvious that they do not understand the process. We have a committee process. A lot of bills stay in the committee longer than a lot of us would like them to. Yet you want to say, "We can avoid all that process, and I can get the bill on the House floor only the way I want the bill on the House floor."

What they ask for, I say to my colleagues, is anarchy. They think that everybody should bring a bill out only as they want it so all of us can spend all day or a week or a month debating the bill as we individually want them to debate it.

I think everyone fully understands the tomfoolery and trickery offered by the gentleman from Pennsylvania and his colleagues, the gentleman from California and the gentleman from Florida. What they are after is a process that permits them, and only them, the right and the prerogatives and the privilege of saying what gets on this floor and when it gets on this floor, with this previous question procedural vote.

So I would ask all my colleagues to stand up for what is right in the process and that is to let the system work.

If you want to change the way bills get to the House floor, I suggest amendments to the rules. I suggest to the minority that they make some serious proposals to the Rules Committee throughout the balance of the year, and perhaps they could finally accomplish something in the way it ought to be accomplished.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to try to bring things back down, cool things off, and bring a little comity back to the House.

Let me say to my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], whom I deeply admire and respect, that before he came on the floor, I commended him for getting back on track with fair rules and open rules on this floor. But let me say to my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], and my good friend, the gentleman from Texas, who just spoke, that we are simply going by the rules.

The rules allow for this kind of procedure to be offered. I just want to assure my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], again that, yes, this is a fair rule and, yes, when I debated the rule earlier, I said it was a fair and open rule, and I urge support for the rule.

But there is a procedure which allows the gentleman from Pennsylvania [Mr. WALKER] to try to defeat the previous question in order to add something else to the rule. That is part of the House rules. As the gentleman from Texas said, if we want to change the rules, that is fine. I want to assure the gentleman from Massachusetts that if the motion of the gentleman from Pennsylvania [Mr. WALKER] fails or we do not defeat the previous question, I am going to support an open rule on this floor. I am going to vote yes, because the chairman of the Rules Committee was good enough to give us a fair rule on the floor.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the chairman of the committee first.

□ 1340

Mr. MOAKLEY. Mr. Speaker, I wish the gentleman from New York [Mr. SOLOMON] would tell his membership how fair the rule is and, if they wanted to amend the rule, why did they not take a rule that was not so open and was not so fair and amend that rule, if that is the situation?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding, and, as my colleagues know, heaven forbid that someone would accuse me of tomfoolery and trickery on the House floor. However, Mr. Speaker, the reason for having it here under an open rule is because we think that it is the kind of subject that ought to be debated under an open rule, that when an issue as big as crime and with as many controversial issues are brought to the floor, it ought to be under an open rule. The Members ought to have an opportunity to have their full say on that kind of bill. That is exactly what we are proposing here.

Mr. Speaker, to the gentleman from Texas [Mr. COLEMAN] who suggested that what we ought to do is change the rules: The rules vote every year is by party line vote. We have offered reforms to the rules consistently out here on the first day, and I say to the gentleman from Texas, "and by party line you have always defeated every one of the reforms that we have offered."

Mr. Speaker, I would suggest to the gentleman from Texas [Mr. COLEMAN] that is not a real process. All he is doing——

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, I do not have the time.

Mr. COLEMAN of Texas. Mr. Speaker, will the gentleman from New York [Mr. SOLOMON] yield to me to ask a question?

Mr. WALKER. Mr. Speaker, the gentleman from New York yielded to me.

Mr. SOLOMON. Mr. Speaker, I would reclaim my time and yield to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] says that it is a party line vote. Why is that? I can answer the question.

Mr. Speaker, it is because a lot of times they have refused to participate in a number of issues, not the least of which has been the budget, in recent years.

I say to the gentleman from Pennsylvania, "your party has sat on its hands and done nothing many times,

but, when it comes to issues like this, you attempt to bring a bill before the House floor that has not been through the committee process, that has not had the opportunity for amendments and suggestions to be offered by our entire colleagues in the entire House on both sides of the aisle, I might say, in the committee, and so you want to bring a bill only the way you want to see the bill on the House floor, and then you say we should have an open rule and debate it."

Mr. Speaker, I ask the gentleman from Pennsylvania, "How long do you want to debate it?"

Mr. SOLOMON. Mr. Speaker, I want to reclaim my time.

Mr. WALKER. As long as necessary.

Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the gentleman from Texas [Mr. COLEMAN] helps make my point when he brings the whole budget debate into it and so forth. The point is that there is not a fair process, the majority runs the rules process around here, and we are simply following the rules, and we are attempting to bring to the floor a bill which the majority of the American people want to see us deal with, and, if the committee had done it in timely fashion, we would not have to do this.

However, Mr. Speaker, the committee did not, so now we are trying it this way.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to read a statement from the minority whip on the child care bill. It says:

> It would seem to me that the Democratic leadership owes it to the country to produce their version of child care on a Wednesday or Thursday and allow a weekend to intervene before rushing to a vote. It would be literally impossible for Members and for interested constituencies around the country to analyze a child care bill which did not come out of a committee and did not have a normal amount of time to be looked at.

Mr. Speaker, we had 1 hour's notice that this was going to be appended to this bill, and I think there is a question of fairness, but I just would hope that everybody would look into their own motives to see where that fairness issue really lies.

Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I appreciate the gentleman from Massachusetts [Mr. MOAKLEY] yielding to me.

Mr. Speaker, I just hope that we can lower our voices a little bit and try to get down to the facts.

Frankly, I support the price fixing bill. It is a good bill. I think that anticompetitive behavior is inimical to our economy. There was a time when Republicans and Democrats both wanted to enforce our antitrust laws, and it is sad commentary that in the last 10 years we have lost ground, and the anticompetitive behavior throughout the country today is not in the national interest. I support it.

Now, Mr. Speaker, my colleagues may oppose it, and that is fine. I say to them, "You oppose the bill. You want to vote against the bill? Vote against the bill."

However, my colleagues, it is just fun and games to suggest that what we ought to do is debate the previous question so we can vote on a crime package.

Mr. Speaker, the suggestion has been made time and time again that the Committee on the Judiciary has not been working on the President's crime package; however those who make those statements do not know the facts. Let us bring to the floor some of the Members that serve, for instance, on my subcommittee, the committee which has a major portion of the President's crime package. The gentleman from Pennsylvania [Mr. WALKER] is not on the Subcommittee on Crime. If he were, Mr. Speaker, he would know that we have reported out some of the provisions of the President's crime package and they are awaiting full committee action.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I will yield to the gentleman from Pennsylvania in just a moment.

Mr. Speaker, it is unfortunate that our chairman was ill and we were not able to have full committee meetings and we have not been able to process some of those bills through the full committee. I regret that.

As my colleagues know, our chairman was very gravely ill for about 3 months, and even with that he worked very diligently from his hospital bed to try to keep things moving within the committee, but he was not present to hold full committee hearings. He is back, fortunately in good health, returning to good health, and we will be processing bills including the President's crime package.

However, Mr. Speaker, my colleagues know they are not going to amend the President's package by defeating the previous question. They want to offer the crime package of the gentleman from Florida [Mr. MCCOLLUM]. There is a difference because we are still waiting for the President to tell us, give us some language with regard to the death penalty provisions. I have held two hearings, two major hearings, on the death penalty alone, and that is not something we should debate here on the floor without working it through the committee process because, in addition to all the emotionalism involved, there are very serious constitutional issues involved as to whether or not we can, in fact, extend capital punishment to nondeath drug cases.

Mr. Speaker, there are some serious questions, and that is something we should consider very carefully.

Insofar as guns are concerned, we have reported out the firearms related amendments. In fact, it is awaiting full committee action. We have gone a little further than the President wants to go. We have, in addition to banning feeding devices of over 15 cartridges, we have done a number of other things. We have banned assault weapons that have no sporting purpose. We have just taken the President's criteria for imports, and we have extended that to the domestic manufacture of those assault weapons, and we have enhanced the penalty for those that carry those types of weapons in the commission of a crime.

We have passed out of the committee the after-care provisions, drug testing provisions.

In addition, Mr. Speaker, we have a number of other technical amendments that the President has recommended that are noncontroversial which are awaiting committee action.

Unfortunately, however, we have been sidetracked by other issues, including RICO reform and a whole host of other issues, such as attempting to develop a drug package that the leadership wants to move through the Congress. The Committee on the Judiciary has been acting diligently.

So, I say to my colleagues, "Don't argue here on the floor that the Judiciary Committee hasn't been working on the President's crime package because that's not so."

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. HUGHES. Where is my ranking Republican? Let the gentleman from Florida [Mr. MCCOLLUM] come out here and suggest, because he cannot, that we have not been working on the President's crime package. Mr. Speaker, it is not true.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the fact is that the only thing the subcommittee of the gentleman from New Jersey [Mr. HUGHES] has reported out is the gun provision; is that not correct, that the rest of the package has not been reported; and, second, that other subcommittees, other than the committee of the gentleman from New Jersey, has this before it, and none of those subcommittees have reported any-

thing to the full committee? Is that not correct?

Mr. HUGHES. Mr. Speaker, that is absolutely not true. We have reported out some of the drug testing provisions, the after-care provisions. We are working on a number of other drug provisions which we are going to tack on to the bill, including those dealing with steroids. We have had a series of hearings. We have had other hearings scheduled on aspects of the death penalty provision. We are awaiting the President's language with regard to the death penalty provisions because there is a debate within the Justice Department over whether or not we can extend constitutionally, as my colleagues know, the death penalty or capital punishment in drug cases where death does not ensue. There are major constitutional issues involved.

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield the gentleman from New Jersey an additional 2 minutes.

Mr. HUGHES. Mr. Speaker, the fact of the matter is that we are working on provisions of the President's crime package. I would say that probably two-thirds of the President's crime package is noncontroversial. There are some sentence enhancements which the committee is going to report out in short order, but we are now trying to tackle some of the more controversial provisions including the death penalty.

Mr. Speaker, for those who would suggest that we should write the death penalty statute on this floor, trying to navigate the constitutional mine fields that are out there in this fashion, just do not know what they are doing.

□ 1350

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my good colleague, the gentleman from California, who is a member of the Judiciary Committee and who has his own agenda on the price fixing bill, and we all know that.

Mr. DANNEMEYER. Mr. Speaker, let us put this issue in perspective. The Democratic Party that controls the House is opposed to implementing the death penalty in this country, and they will use any means they can within the rules to prevent its implementation. That is why you do not want to bring the issue of death penalty to a debate on the floor, is it not?

Mr. HUGHES. Not so, I say to my colleague, because he knows better. He knows that this chairman has reported out the death penalty out of the subcommittee.

I can tell you that if I have the votes, I am going to report out another death penalty after we have gone through the hearing process.

The gentleman from California has his own agenda with regard to price fixing, and I understand that; but don't play fun and games this way. Vote against it if you do not want to support price fixing. It is an open rule. If you want to amend it, amend it. If you do not like it after it is amended, vote against it, but do not try to fool us around here that you are doing it because you want to defeat the previous question and bring up something you cannot otherwise bring up on the floor. That is not so. It is not going to happen, and the gentleman knows it.

I would urge my colleagues at this point to vote for the rule. It is a good rule. It is an open rule, and then we will vote on the crime provisions after we report them out of the committee, after the gentleman from California, who serves on the committee, has an opportunity to work his will in the full committee.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Speaker. I plan to vote "No" on the previous question in order to bring an amendment to the rule allowing H.R. 3119, the Anti-Crime Act of 1989, to be brought up for a floor vote.

The majority has ignored the President's plan to fight crime and drugs for almost a year now. They have instead spent this body's time bringing veto bait such as H.R. 1236 from the Judiciary Committee to the floor. Why can the House not address the real problems of crime and drugs at a time when it is so needed?

In this box are 350 letters from students of Logan-Rogersville Middle School in my district, addressed to the President expressing their concern about drugs and crime. These students are afraid of what lies ahead for them because Congress has refused to act on this issue. They don't care about vertical-price maintenance which the majority gives us to vote on today, they care about the threat of drugs and crime.

I urge my colleagues to join me to defeat the previous question so we can address a matter of urgent concern that effects all our citizens and especially our children.

Mr. Speaker, I include a letter previously referred to, as follows:

GREENE COUNTY SCHOOL DISTRICT,
Rogersville, MO, April 9, 1990.

President GEORGE BUSH,
White House Office, 1600 Pennsylvania Ave., Washington, DC.

DEAR MR. PRESIDENT: We're sure that you are wondering why you are receiving these letters from our school. Basically, we want to commend you on your efforts and work in trying to control the drug trafficking and the drug wars now taking place in South and Central America.

Our community is involved in the education and the prevention of the spread of drugs throughout this nation. The school and community of Rogersville is conducting a "Wise Choice Week." During this week, April 9-12, we will be hearing several speakers on the choices that will affect the futures of our students, as well as the future of this country. We decided to write these letters to commend you on your wise choices. Thank you for serving as such a good example for the students of Logan-Rogersville Middle School.

Sincerely,

THE STUDENTS OF LOGAN-ROGERSVILLE MIDDLE SCHOOL.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I think we need to make it very clear what we are trying to do here. We are not trying to disrupt the process that is so important to Members in this body, but rather to make it clear that the process just has not worked. The President's crime package was introduced on August 3, 1989. We have had plenty of time since that time to bring to the floor this most important piece of legislation. All of the public opinion surveys will show what we learned from visiting with our constituents back home, that the top problems in their minds in this country are drugs, drugs, violent crime, drugs, violent crime, in that order. That is what the people of this country are concerned about, not vertical price fixing. I know that is important to some people, but let us do the people's business in this body.

Now, there has been a legitimate point made that not all the details of the President's crime package have been worked out through the full committee process. We have plenty of time to bring that bill to the floor here under an open rule, take all the time we need to bring up whatever amendments people want to bring up, be it on guns, be it on the death penalty, people can bring whatever version of the death penalty they want. We can have debate on it as long as we want. There is nothing to prevent us from doing that.

What else are we doing around here? We do not have any other important legislation tomorrow, the next day, the following Monday, the following Tuesday. There is plenty of time. So let us do the people's business.

They are accusing us of being a do-nothing Congress this year. We have been a do-nothing Congress this year by and large. We have not acted on the most important piece of legislation that the President has sent to us, and we have not acted on the most important subject that the people of this country want us to deal with. That is why I urge my colleagues to defeat the previous question so we will have an opportunity to present a rule that would allow us to bring the crime package to the floor under an open rule where all these various issues can be debated. Let us do the people's business on the floor here in the peo-

ple's body and let the people's will be done.

I urge my colleagues to defeat the previous question for this purpose.

Mr. SOLOMON. Mr. Speaker, before the gentleman from Texas [Mr. BROOKS] speaks, let me just say that I sent the gentleman a get well card a number of weeks ago, welcoming him back, and saying there is an old slogan, 40 years ago the Marine Corps was looking for a few good men, and they found one in the gentleman from Texas [Mr. BROOKS].

So Mr. Speaker, let me reserve the balance of my time so that the gentleman can speak.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Speaker, as one marine to another, I say to the gentleman from New York [Mr. SOLOMON], "Semper Fidelis."

Mr. Speaker, I would urge my colleagues to vote in favor of moving the previous question on the rule which will permit consideration of H.R. 1236, the Price Fixing Prevention Act. As we have previously noted, this is a straightforward open rule which will permit the House to consider, and if it should be its will, to amend the bill as reported by the Committee on the Judiciary. All members who proclaim themselves in support of procedures which allow the consideration of legislation in a fair and straightforward manner should demonstrate that support by voting to move the previous question at this time.

H.R. 1236 is an important piece of legislation which will protect the ability of citizens and businesses across this Nation to compete in an open economy without the threat of illegal conspiracies which are designed to drive low-cost competitors out of the market. The American people deserve to have this bill considered and voted on today, not encumbered by procedural maneuvers in an attempt to score political points.

The Committee on the Judiciary has pursued active and detailed review of numerous measures related to drugs and violent crime, including the President's proposals. Our Subcommittee on Crime has held several days of hearings on assault weapons and has ordered reported H.R. 4225, which the full committee will consider shortly. The Crime Subcommittee has also held hearings on death penalty related measures including proposals for the death penalty for drug kingpins. In addition, our Courts Subcommittee is considering the issue of changes in Habeas Corpus procedures following the issuance of the report by the commission headed by former Justice Lewis Powell.

In short, Mr. Speaker, the Judiciary Committee is fulfilling its responsibilities in the multiple areas of the law over which it has jurisdiction. The drug and crime measures that I have referred to are an important element of that responsibility. And, the measure we have before us today, the Price Fixing Prevention Act, is an important procompetition measure that will benefit all of our citizens.

Mr. Speaker, I would ask Members to support the previous question and adopt the rule; then we will take up the bill and pass it.

□ 1400

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that there will be an effort made to defeat the previous question so that we can bring up the President's anti-crime package dealing with capital punishment procedures, the death penalty for drug kingpins, prison construction which is so badly needed, and increased penalties for using guns in crimes. We need that bill on the floor of the House.

But let me also assure the Members who may not be on the floor that if this procedure does fail, if the previous question is agreed to, then I would urge every Member on this side of the aisle to vote for the open rule. And let me just also assure the chairman of the Committee on Rules about something. He was concerned 2 weeks ago, when he brought to this floor one of the worst rules we ever had in the history of the House, that I was going to remove him from my Christmas card list. Let me assure the gentleman that he never was removed, he is still on my Christmas card list, and I appreciate his support here.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, fairness is a two-way street. I think the Committee on Rules tried to be very fair on this bill.

I remember on the child care bill that we gave an additional day notice to the Members on the other side of the aisle so that they could look at the bill. Today we come to the floor and we get a 1-hour notice that this 42-page bill is going to be put on a 4-page bill as an amendment.

I think when we are talking fairness, Mr. Speaker, just think about that. If we in the Committee on Rules find that an open rule is not enough for anybody, then maybe there is no point in using them anymore.

The gentleman proposes that the House defeat the previous question on the rule on H.R. 1236 which, as I said, is a 4-page antitrust bill, in order to offer an amendment to the rule which would permit H.R. 3119, a 42-page crime bill, to be offered as an amendment.

Mr. Speaker, the amendment is not germane, and if we reach that stage, the point of order will be made, and it is inconceivable that it would not be sustained. Indeed, the amendment is so nongermane that there is even some question whether its discussion constitutes a proper parliamentary debate.

I certainly will not question the motives of the authors of the amendment, but the oportunity they provide to the House is only a rhetorical one.

The House has before it a very important bill, Mr. Speaker, a bill to protect our constituents from anticompetive practices which force them to spend more money at the checkout counter.

A "yes" vote on the previous question is a vote to consider that bill today. A "no" vote leads only to more inaction.

Whatever side trails Members have been invited to take during this debate, Mr. Speaker, I can assure the Members, they are all dead ends.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 235, nays 157, not voting 41, as follows:

[Roll No. 69]

YEAS—235

Ackerman	Carper	Fascell
Alexander	Carr	Fazio
Anderson	Chapman	Feighan
Andrews	Clarke	Flake
Annunzio	Clement	Foglietta
Anthony	Coleman (TX)	Ford (MI)
Applegate	Condit	Frank
Aspin	Conyers	Frost
Atkins	Cooper	Gaydos
AuCoin	Costello	Gejdenson
Barnard	Coyne	Gephardt
Bates	Darden	Geren
Beilenson	de la Garza	Gibbons
Bennett	DeFazio	Glickman
Berman	Dellums	Gonzalez
Bevill	Derrick	Gordon
Bilbray	Dicks	Gray
Boggs	Dixon	Guarini
Bonior	Donnelly	Hall (OH)
Borski	Dorgan (ND)	Hall (TX)
Bosco	Downey	Hamilton
Boucher	Dwyer	Harris
Boxer	Dymally	Hatcher
Brennan	Dyson	Hawkins
Brooks	Early	Hayes (IL)
Browder	Eckart	Hayes (LA)
Bruce	Edwards (CA)	Hertel
Bryant	Engel	Hoagland
Bustamante	English	Hochbrueckner
Byron	Erdreich	Hoyer
Campbell (CO)	Espy	Hubbard
Cardin	Evans	Huckaby

Hughes
Hutto
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Moakley
Mollohan
Montgomery
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Rangel
Ray
Richardson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Washington
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—157

Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Billirakis
Bliley
Boehlert
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell (CA)
Clinger
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Cox
Crane
Dannemeyer
Davis
DeLay
DeWine
Dickinson
Douglas
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Ireland
Jacobs
James
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Miller (OH)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Oxley
Packard
Pashayan
Paxon
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schiff
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Sundquist
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—41

Akaka
Brown (CA)
Chandler
Clay
Collins
Craig
Crockett
Dingell
Dornan (CA)
Durbin
Flippo
Ford (TN)
Grant
Hefner
Horton
Inhofe
Jenkins
Leath (TX)
Lent
Lewis (CA)
Lukens, Donald
Machtley
McGrath
Michel
Miller (WA)
Mineta
Moody
Nelson
Owens (NY)
Owens (UT)
Parris
Rahall
Robinson
Saiki
Savage
Smith (NE)
Stump
Tanner
Tauke
Thomas (CA)
Watkins

□ 1423

The clerk announced the following pairs:

On this vote:

Mr. AKAKA for, with Mr. THOMAS of California against.

Mr. OWENS of New York for, with Mr. STUMP against.

Mr. MOODY for, with Mr. LEWIS of California against.

Mrs. COLLINS for, with Mr. CRAIG against.

Mr. LEWIS of Florida, Mrs. ROUKEMA, and Mrs. BENTLEY changed their vote from "yea" to "nay."

Mr. BRUCE changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to House Resolution 373 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1236.

□ 1424

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1236) to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes and the gentleman from New York [Mr. FISH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, I am pleased to bring to the floor the bill H.R. 1236, the Price Fixing Prevention Act of 1989—the very first piece of legislation that I introduced after becoming chairman of the Committee on the Judiciary at the beginning of the 101st Congress.

I chose this bill to begin my legislative chairmanship of a committee with far-ranging jurisdiction because the bill got to the very heart of our free enterprise system. It will safeguard the ability of individuals and businesses to compete in an open and free-moving economy without the threat of illegal conspiracies to drive competitors out of the marketplace. At a time when America is struggling to retain its world economic leadership, we must not stand by and allow price-fixing conspiracies to rob us of our greatest resource—the free enterprise spirit of the entrepreneur and innovator.

The bill reflects a congressional policy that most of us understandably take for granted. The economic crime of price fixing is absolutely repugnant to all of us—Democrat and Republican alike. But this practice is again proliferating because of the lax enforcement of our antitrust laws and two recent Supreme Court rulings that blatantly ignore longstanding congressional policy.

Exactly 100 years ago, our predecessors in this body saw the need for a competition policy that banned illegal restraints of trade. In 1890, Senator John Sherman stood up to the so-called economic Darwinists, stood up to the trusts, and helped pass a law that became the core of our antitrust laws to this very day. Those antitrust laws were based on principles of free enterprise and fair play, and they have been termed America's "economic bill of rights." The antitrust laws embody a philosophy that all should have a chance to compete if we are to prosper and enjoy the fruits of increased productivity and diversity of goods and services.

All seemed to go well with the enforcement of the antitrust laws until a series of recent events which made resale price maintenance an economic crime where offenders have no fear of sanctions. Due to lax enforcement and misguided judicial decisions, the antitrust prohibition against vertical price fixing lies in ruins in 1990.

Since 1981, the law against resale price maintenance has not been enforced by the Justice Department. No cases—none—have been brought, not a single one; and in a number of instances, several former heads of the antitrust division stated publicly and in appellate briefs that vertical price fixing might even be procompetitive.

This view of price fixing was so radical—so unbelievable—that all anticipated that there would be an immediate correction. But there was no change. By 1983, the Department of Justice went so far as to file amicus briefs with the Supreme Court to argue that vertical price fixing was not always illegal. The breaking point has been reached; Congress took immediate action.

Congress passed an appropriations rider forbidding the antitrust agencies from filing briefs that argued against clear congressional policy. This policy was clearly stated by the passage in 1976 of the Consumer Goods Pricing Act that repealed the so-called fair trade laws. These laws had permitted vertical price fixing to exist so long as it was confined within a single State.

To compound the Justice Department's failure to enforce the law, two recent Supreme Court decisions have gutted congressional policy in the area. One case, the Monsanto decision, erected a near-impossible evidentiary standard for retailers injured by conspiracies to even have the opportunity for their suits to be heard by a jury. A second case—the Sharp decision—stated that unless price fixers were so foolish as to establish a specified price by an explicit agreement, there was no such thing as price fixing.

H.R. 1236 is Congress' response to these developments. As the branch of government with the ultimate responsibility for antitrust policy, we cannot stand passively by any longer. Moreover, the bill is the product of extensive compromises that ensure that the right of businessmen to do business with whomever they choose is not affected—provided that a conspiracy is not involved.

Mr. Chairman, there is one final aspect of this issue that involves a touch of irony. In the past few weeks, we have read how the United States Trade Representative has triumphantly stated that we are not going to prevail upon the Japanese to open their marketplace to larger discount stores that will provide more goods—including American goods—to Japanese consumers. The administration considers this to be a major achievement of its so-called structural impediments discussions with Japan.

As the Deputy U.S. Trade Representative, S. Linn Williams wrote in March 19, 1990, issue of Economic Review:

> One need not wonder why foreigners believe that Japanese companies collude and have every reason to continue to collude. Collusion is profitable—and the bill is paid by foreign companies in the form of lost business, and by Japanese consumers in the form of higher prices (p.11).

Yet, as we attempt to break down the anticompetitive barriers of the Japanese markeplace through the emergence of discount stores, our own discount stores here in America are at great risk by price-fixing conspiracies in this country. Let's be consistent on what our policies are and what we value as Americans. If retail innovation and initiative are truly considered to be the hallmarks of our free enterprise system, then let's be certain they continue to flourish on these shores as well. I am gratified that yesterday 42 State attorneys general—Democrat and Republican alike—wrote to all of the Members endorsing H.R. 1236 for just these reasons.

Mr. Chairman, I ask for the Members' continuing support for this important initiative. I urge a vote for H.R. 1236 as ordered reported by the Committee on the Judiciary.

□ 1430

Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, as a member of the Subcommittee on Economic and Commercial Law, I have listened to testimony and analyzed the implications of this legislation for the last two Congresses. Because of my concern regarding the bill's likely adverse effects, I have voted "nay" on no less than three different occasions. I remain convinced that this measure—in the form it comes to the floor of this House—would be economically counterproductive for our country.

First of all, H.R. 1236 is a direct attack on the venerable Colgate doctrine in antitrust law. Simply put, this legislation is an attempt to undermine the ruling of the Supreme Court in *U.S.* v. *Colgate*, 250 U.S. 300,307 (1919). That decision made it clear that a manufacturer has a lawful, recognized right to decide with whom it will do business. There is nothing in the antitrust laws that interferes with the right of a manufacturer or wholesaler to select their retail outlets. Manufacturers have a recognized right to establish their own distribution systems and can lawfully terminate poor performing dealers for nonprice reasons.

Second, and just as importantly, this year's version contains new language in section 4 that could be used to partially negate the 1977 Supreme Court decision in the GTE-Sylvania case. See: *Continental T.V.* v. *GTE-Sylvania, Inc.*, 433 U.S. 36 (1977). That decision, universally followed in the Federal courts, recognizes that nonprice requirements, placed by manufacturers on their retail outlets, are not per se violations of the antitrust laws. Instead, they are judged under the more flexible rule of reason standard.

Manufacturers have a right to establish quality requirements and service standards for their retail outlets. If a dealer doesn't advertise or promote the product, doesn't train his sales staff, doesn't provide adequate repair and warranty services, or doesn't stay within his assigned territory, then a manufacturer has a right to end that business relationship. As we all know, the sales success of a product depends upon its goodwill—its reputation for quality and reliability—and that, ultimately, depends upon the consumer's impression in the retail marketplace.

The language of H.R. 1236 is erroneous because it presumes a price-related motive in every dealer termination case. It obscures the clarity of the Colgate doctrine, and, unfortunately, it is intended to do so. The inference or presumption created by this bill assumes that a particular goal was in mind, when the identical facts could lead a reasonable judge or a reasonable juror to conclude otherwise.

Later on, when we are in the 5-minute rule, there will be a series of amendments offered that deserve favorable action by this House. These include amendments to be offered by the gentleman from New Hampshire [Mr. DOUGLAS], the gentleman from New York [Mr. FISH], and the gentleman from California [Mr. CAMPBELL], and myself. My amendment, which in the last Congress had been agreed to by the majority in the Judiciary Committee, would simply make the provisions of this bill prospective. It would be particularly unfair to overrule two recent Supreme Court decisions by statute and, in essence, change the rules in the middle of the game for persons and organizations already engaged in related litigation. If this House makes the unfortunate choice to adopt the Judiciary Committee version of H.R. 1236, at the very least we ought to make these radical changes to the antitrust laws apply only to cases brought on or after the bill's effective date.

As I have said on numerous occasions, since our subcommittee began consideration of this legislation in April 1987, it seems to me that the large discounters like K-Mart, Burlington Coat Factory, Fedco, Levitz, and others are doing extremely well. The fact is, their sales are climbing each year. Also, the number of discount outlets grows larger every year. It is the small, individual Main Street retailer that has been in business for many years that is struggling in my area of southern California and elsewhere. In fact, many of them have been forced out of business by the success of the discounters.

Vertical price fixing conspiracies are per se violations of the Federal antitrust laws and should be punished. That is already the law. But what the proponents of H.R. 1236 are asking Congress to do is confuse and obscure

the very clear distinction between illegal price-fixing conspiracies and legitimate, lawful business decisions. Congress should not be gerrymandering or micro-managing the antitrust laws so as to favor a particular class of litigants.

□ 1440

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES], the chairman of the subcommittee.

Mr. HUGHES. Mr. Chairman, I rise today to support H.R. 1236, the Price Fixing Prevention Act of 1989. I would like to express my thanks to the chairman of the Judiciary Committee, Mr. BROOKS, for reintroducing this legislation that was passed by the House during the last Congress as H.R. 585. This legislation has now been approved by both the House and Senate Judiciary Committees, and we stand here today ready to move forward and resolve this issue once and for all.

Mr. Chairman, all of my colleagues in the House understand the need to uphold the antitrust principles first laid out in the Sherman Act. There is absolutely no place for price fixing or monopolies in the American marketplace. Competition has been the cornerstone of our economy, and we should not allow special interests to undercut competition in our domestic market while the world marketplace is becoming more competitive. This legislation will prevent price-fixing conspiracies while in no way limiting a manufacturer's or supplier's right to unilaterally require retailers or distributors to market a particular product at a certain price. What it does do is give competitive retailers the right to prevent their suppliers from cutting them off at the request of a competitor.

We all understand that horizontal price fixing—a conspiracy among retailers to avoid competition and inflate prices—is both legally and morally wrong in addition to being bad for our economy. We must not lose sight of the fact that vertical price fixing, also known as retail price maintenance, can produce the same result. Large retailers can conspire with distributors to prevent competitors from offering products at a lower price. The intent of Congress in the original Sherman Act was to prevent such conspiracies, and the courts correctly interpreted this intention for the first 94 years after passage of the Sherman Act.

Only during the last decade have American retailers and consumers lost their protection from vertical price fixing. Since 1981 the Department of Justice has adopted the view that vertical price-fixing cases should not be pursued. In addition, they have filed amicus briefs urging the Supreme Court to abandon the traditional reading of the Sherman Act and to require an impossibly high standard of evidence before even allowing a case to go to trial.

After the Supreme Court apparently responded to the arguments made by the Department of Justice—policy arguments that directly conflict with the explicitly expressed will of Congress—it ruled in the 1984 Monsanto case that victims of a conspiracy between a manufacturer and a rival dealer who complained about the victim's low prices must produce evidence that not only indicates a conspiracy, but precludes any other explanation of the defendant's action. Victims who cannot produce this "smoking gun" level of evidence find that their cases are subject to summary judgment and dismissed without a trial.

Congress has already acted to correct the interpretation of these statutes and the laissez-faire attitude of the Justice Department. The 99th Congress passed the vertical restraints guidelines resolution (H. Res. 303) to condemn the Department's guidelines that effectively eviscerated the Sherman Act restrictions against the vertical price-fixing. This language was included in a Department of Justice appropriations bill and signed into law by President Reagan. As I mentioned earlier, in the last Congress the House passed H.R. 585 under suspension of the rules, and H.R. 585 is nearly identical to the legislation before us today.

Ignoring previous court precedents, legislative history, and congressional intent as evidenced in the above legislation, the Supreme Court then went on to rule in the 1988 Business Electronics versus Sharp case that victims of vertical price fixing must supply evidence that a contract termination or other attempt at price fixing involved an explicit agreement to maintain a specific price for a product. In other words, victims of vertical price fixing have no hope of legal redress unless their evidence is equivalent to producing a signed agreement between the conspiracies to violate the law.

For example, if H.R. 1236 is not passed, let us suppose that a retailer could prove that a long relationship with a major supplier was terminated shortly after a larger competing chain of stores began carrying the supplier's products at a higher price, could prove that the larger retailer complained to the supplier about the low prices at the small store, and could prove that there were no independent reasons for termination of the supplier's contract—such as volume, distribution, and so forth. In light of the Supreme Court's ruling in the Sharp case, that retailer's case would be dismissed from court unless there was proof of the specific price that the supplier was conspiring to maintain.

Mr. Chairman, clearly a businessman in such a position has every right to have a case heard by a jury. We agreed to restore that right by passing H.R. 585 in the last Congress. The recent shift in interpretation of the evidentiary standards by the Supreme Court and the Department of Justice sends a loud and clear message to those seeking to fix prices: As long as you don't give the victims of your conspiracy a signed confession, you can get away with anything.

This practice hurts consumers, denies small businesses access to valuable products, and prevents efficient retailers from competing for customers by lowering their prices. Additionally, it is contrary to what Congress intended by enacting the Consumer Goods Pricing Act of 1976 as well as the vertical restraints resolution. In some instances, retailers can be forced out of business if they are denied access to popular products. To succeed in having such a case heard by a jury, a victim of this practice should certainly be required to prove that termination of a contract was in response to a complaint from a competitor about the plaintiff's low prices. But to ask him to also prove that any other explanation of the defendant's actions must be false is an absurd, double-barrelled evidentiary standard found nowhere else in the antiturst laws. What we therefore seek to do in H.R. 1236 is to restore a reasonable balance of the burden of proof between the defendant and the plaintiff.

Mr. Chairman, during the last Congress there was a great deal of concern that this legislation would open up the possibility of frivolous law suits, allowing merchants whose contracts are terminated for legitimate reasons to harass suppliers. Although I felt at the time that this concern was probably unjustified, I worked with Members and interested parties to develop an acceptable, explicit protection from frivolous suits for defendants in these cases. That amendment was included in the bill passed by the House 2 years ago, and the language of that compromise is found in section 2(a) of the act. I quote,

> Nothing herein shall preclude the court from entering judgment in favor of the defendant, at trial or prior thereto, if the court determines * * * that no such inference of concerted action can reasonably be drawn by a trier of fact.

This language is a good compromise that protects suppliers from frivolous legal expenses. We resolved this issue 2 years ago, and I hope that my colleagues will remember that and refuse to support any attempt to delay or weaken the bill that would force us to waste valuable time and hash this matter out once again.

Although erroneous charges have been made that the current bill is substantially altered from the previous legislation, H.R. 1236 differs from H.R. 585 only in the addition of a sen-

tence that was made necessary by the Supreme Court's 1988 Sharp decision. The only other difference in the new bill is an additional section 3 that explicitly limits the scope of the bill by restating the Sherman Act's requirement that a violation of the act must involve entering into an illegal contract, combination or conspiracy.

H.R. 1236 is an outstanding piece of legislation, and one that all who truly believe in free enterprise can support without reservation. I urge my colleagues to join me in voting for H.R. 1236 without amendment.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to H.R. 1236. In my opinion, it is another harassment of private enterprise. There are enough laws on the books now to protect against price fixing. This legislation, if enacted, would only bring more lawsuits on individual companies; just because the plaintiff didn't like the way that company was doing business with them.

America now sues itself seven times more than the Japanese and three times the rate in Germany. This bill will only serve to increase that rate to even higher levels.

Some products require a trained sales and service force to ensure that those products are used properly. Manufacturers ought to have the right to insist on those standards. If a dealer or distributor fails to follow the guidelines set up to provide adequate sales and service, the manufacturer should have the flexibility to terminate that dealer. The action has nothing to do with price fixing. It has to do with the manufacturer trying to protect the reliability and good name of its product.

But this legislation would make it possible for those terminated dealers to bring suit. Juries could easily misinterpret a lawful and innocent business decision as a price fixing conspiracy, this is just not fair.

Current law is adequate. This bill would overturn the standards already in place and expose law-abiding manufacturers to the threat of lawsuit, when their only purpose was to protect the integrity of their products.

One manufacturer in my district said he has been able to beat the Japanese and Koreans by making a better product and selling it at a better price. But besides the foreign competition, he says, "I also have to fight my own Government because of legislation like this."

Let's continue to enforce current law and not pass the bill today. Let's preserve the freedom of manufacturers, large and small, to determine how their products are marketed and serviced.

I urge my colleagues to vote against the bill and to support the Douglas, Fish, or Moorhead amendments, if offered.

□ 1450

Mr. BROOKS. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from California [Mr. EDWARDS], chairman of the subcommittee.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong support of H.R. 1236, the Price Fixing Prevention Act of 1989.

This bill is essential in furthering Congress' long-standing commitment to ensure vigorous price competition in the marketplace and to protect consumers from price fixing in all its pernicious forms.

We are here today because the Supreme Court, in its 1984 Monsanto decision and its 1988 Sharp decision, overturned many years of settled precedent in the price-fixing area. With these decisions, the Court has erected insurmountable barriers for private plaintiffs injured by anticompetitive price fixing behavior.

Today, under Monsanto, a plaintiff seeking to go to trial by jury must prove to the judge not only that there was a conspiracy to maintain a price level, but also that there are no explanations for the manufacturer's behavior that might justify a dealer's termination.

Today, under Sharp, a plaintiff must prove not only a conspiracy to terminate a dealer, but also an express agreement between the conspirators that establishes a specific price for the resale of goods and services.

With these decisions, the Court in effect has obliterated the antitrust remedy of private plaintiffs, except in the most blatant of price fixing cases.

Yet today, especially in the face of the Department of Justice's refusal to bring any resale price maintenance enforcement actions over the past 9 years, it is ever more imperative to preserve the ability of private plaintiffs to pursue antitrust remedies in this area.

We all know that conspiracies are not spelled out in every detail and signed on the dotted line by the price fixers. We all know that price agreements are often done with "a wink and a nod," not with a public contract between the price fixers.

Opponents of H.R. 1236 say it will create untold problems for honest businesspeople. Yet, this legislation does nothing more than remove the barriers to valid lawsuits which have been created by the Court in recent years.

The law as it was applied before Monsanto and Sharp was well understood by all concerned. It holds no deep surprises.

I might note that, in restoring pre-Monsanto and Sharp law, H.R. 1236 follows the approach which the State attorneys general steadfastedly have advocated and which has the staunch support of numerous consumer advocacy groups.

Like the so-called State fair trade laws which Congress overrode in 1975, the law under Monsanto and Sharp is stifling price competition and harming consumers. This is totally contrary to the purpose and design of our national antitrust laws.

The sad record of fair trade laws, which allowed legalized price fixing, demonstrates just how inflationary, anticompetitive, and costly resale price fixing is—with consumers bearing untold and unnecessary billions of dollars in added costs.

We know the harsh effect of price fixing on American consumers, especially on the poor and on those Americans living on fixed incomes. In the past, we in Congress repeatedly have done all we could to protect consumers against this.

Mr. Chairman, I urge my colleagues to support H.R. 1236 and to reject the weakening amendments which will be offered today. Once again, we can and we must act to preserve the benefits of price competition for consumers and for the general health of our economy.

Mr. FISH. Mr. Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. First of all, Mr. Chairman, I think we ought to clarify what it is that this bill does and what it is that we are all here to fix.

Let me say, first of all, that retail price fixing or retail price maintenance or vertical price fixing it is a process where the manufacturer says to its retailers or its distributors, "You can only sell this product at a certain price. You can't discount it."

That is illegal. We can have a suggested manufacturer's price, but they cannot fix the retail price. That is what retail or vertical price maintenance is all about, and we are against it. The Republicans are against it, and the Democarats are against it. The Supreme Court is against it, and in 1911, the U.S. Supreme Court said, "You can't do that under the Sherman Anti-Trust Act." The decision in the Doctor Miles medical case specifically said that retail price fixing is per se unconstitutional.

I am against retail price fixing, and I will be offering an amendment that will take the Supreme Court line in the Dr. Miles case and put it into the statutes so all of us can go on record against fixing prices in the marketplace.

But that is not what H.R. 1236 does. H.R. 1236 has on paragraph buried in it that takes the Dr. Miles language and puts it into the United States

Code. It then goes on in three other pages with inferences and evidentiary standards and a whole variety of misstatements of the law that overturn two Supreme Court opinions, the Monsanto opinion in 1984 and the Sharp Electronics opinion in 1988.

It is nice that on this Wednesday afternoon the U.S. Congress will come in here and, after the Supreme Court, since 1903 and since 1911 in the Dr. Miles case, has dealt with this area, say that we are somehow going to fix it ourselves because we do not think the Supreme Court got it right.

I think the Supreme Court has been in this game a long time, and that they did get it right. The reason I am concerned and why I am going to offer my amendment is that we are going to offer an amendment that we are in competitive battle with a lot of countries around the world, and if we look at those who oppose the bill, not my amendment but the bill, we see it is a very interesting lineup. It is the Department of Justice, it is the White House, it is the American Bar Association, and the American Bar Association and the Department of Justice do not always see eye to eye on a variety of issues. It is the Chamber of Commerce of the United States, the National Association of Manufacturers, but, more importantly, it is our electronics industry, our leading edge to fight international competition, that is on record as being against this bill. It is also the Microcomputer Industry Association, the Computer and Business Equipment Manufacturers Association, the Electronic Industries Association, the National Electrical Manufacturers Association, COMPAQ Computer, and IBM. And I could go on and on.

Now, the reason all these companies are concerned is that they want to be able to terminate a dealer who is not doing the warranty work, who is not doing what they promised the consumer, and if we are really concerned about the consumer, we should not vote for H.R. 1236 but we should vote for my amendment.

My amendment would merely outlaw retail price fixing, but it will not fool around with Supreme Court decisions that have been cooked and synthesized in the last nine decades as the Supreme Court has dealt with antitrust law.

Mr. Chairman, I have one final note. The discussion on the Department of Justice is a red herring. The very title of the bill says that it is to establish Federal civil antitrust claims, and that is all we are talking about, the kind of claims plaintiffs can bring in Federal court.

Mr. Chairman, I urge a "no" vote on H.R. 1236 in its present form and a "yes" vote on my amendment that I will shortly offer.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

□ 1500

Mr. GLICKMAN. Mr. Chairman, I rise to enthusiastically support H.R. 1236, the Price Fixing Prevention Act of 1989. The antitrust laws were intended to maintain competition, not to maintain prices, and this legislation is needed to restore that intent of the law.

The invasion of the Federal courts and Justice Department by reactionary theorists during the last decade has resulted in an interpretation of the law that is anticonsumer and anticompetitive. We need to undo the damage and bring the focus of concern back to the consumer.

In the last 8 years, the administration has ignored the anticompetitve effects of vertical price pricing and declined to enforce the law. In addition, 2 years ago, the Supreme Court handed down a ruling that struck a blow at vigorous competition in the retail marketplace. The Court held, in Business Electronics Corp. versus Sharp Electronics Corp., that a manufacturer's decision to stop selling goods to a discounting retailer in response to another retailer's complaints about price cutting was not a per se violation of the Sherman Act. The basis for Justice Scalia's decision was the absence of an agreement to set a specific price or price level. What the majority classified as a vertical nonprice restriction was in fact a conspiracy to fix prices, and such conduct should be, per se, illegal under the Sherman Act.

The logic for this decision was lifted directly from the Justice Department's vertical restraints guidelines, which are not law or regulation, and which the House condemned in a resolution in the 99th Congress. That resolution said the Justice Department was wrong in stating that an agreement about a specific price was necessary to prove a per se violation of the Sherman Act. Ironically, the sponsor of that resolution, the gentleman from New York [Mr. FISH], will offer an amendment today that backs off considerably from his own resolution of the 99th Congress.

The combined effect of the Justice Department's inaction and the Supreme Court's confusion has been to make it easier for manufacturers to force discounters such as K-Mart, Walmart, Sam's, and Burlington Coat Factory to charge higher prices. Of course, this means ultimately that the consumer either pays a higher price at those stores or finds that certain manufacturer's goods are no longer available from discounters. Tens of millions of Americans, our constituents, shop at these discount stores, getting the benefit of lower priced goods not available to average Americans in years past.

Discounting is the purest form of competition and keeps the marketplace vital. The existence of brand name discounters not only makes goods available at a lower price at those stores, but it forces other retail competitors to lower their prices to compete, so all consumers benefit.

Under current law, as interpreted by the Supreme Court, a full-price retailer could go to a manufacturer and complain that Burlington Coat Factory's prices on x-brand raincoats is too low. It could threaten to stop carrying that line unless something was done. The manufacturer could then refuse to supply Burlington Coat Factory, as a result of the complaint about price competition. If Burlington sued, they would never get past a motion for summary judgment because they would not be able to show an agreement about a specific price or price level.

Such an outcome is a travesty. There is almost never a smoking gun in these cases. If there were, the defendants should also be convicted of incredible stupidity. In the same vein, the discounter would be extremely reluctant to bring a case because of the impossible evidentiary standard set up by the Supreme Court.

Amendments will be offered today that virtually gut the bill by changing the evidentiary standard it sets out. The heart of this bill is the ability to prove vertical price fixing without having to point to an agreement about a specific price or price level. The example I gave where a complaint about a discounter's prices result in termination of the discounter should be enough to sustain a case. Support for those amendments will undo the careful work and compromise embodied in this bill, and I urge my colleagues to vote against those amendments.

Seldom do we get an issue that is so clearly proconsumer. Vote for your constituents who can't afford to shop at full-price retailers by supporting H.R. 1236 and opposing weakening amendments.

Mr. FISH. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, there are a few points that should be clarified in the debate.

First of all, there are different kinds of price agreements. The first is where two groups together horizontally fix price; for example, the old oil trusts: One oil company and another oil company fix price. That is, per se, illegal, hurts the consumer, and no economist would stand for it. The other is where a manufacturer and a retailer have an arrangement suggesting what price will be charged. That is completely different, economically and legally.

Mr. Chairman, listening to my colleagues earlier, I heard it described that this has been settled law ever since the beginning of this century, the only change being when the Supreme Court issued Monsanto. That is not true. Since 1936, fair trade laws were permitted, and it was only in 1976, that fair trade was repealed. So, the Supreme Court has only had to deal with this issue, in modern times since 1976.

Mr. Chairman, what the Supreme Court did, immediately after that, in 1977, was to say, "Vertical agreements were different than horizontal. You can have a vertical agreement, which is an exclusive territorial, and yet you can't have a horizontal agreement, which is an exclusive territorial. One is governed by the rule of reason because it is vertical, the other, per se, because it's horizontal."

And when the Supreme Court got to the question of the price, they started with their 1911 opinion, that vertical price agreements were illegal but, in the Monsanto case said, "You know, we're going to be very careful before we infer that there's an agreement on price because that means per se is the test."

Mr. Chairman, I have heard the argument just recently by the gentleman from Kansas [Mr. GLICKMAN] that, if we adopt this legislation, discounters will be abolished, discounting will no longer be a practice. Actually the outcome is likely quite the opposite. If we abolish this practice presently whereby manufacturers suggest a price and whereby manufacturers try to preserve quality through the practices that we have been describing, the only way to guarantee that quality will then be to vertically integrate, to purchase your distributor.

When I was in private practice, I had the opportunity to represent Sealy Mattress Co., and they were in competition with Simmons and Serta, and they were losing because Sealy used distributors, while Serta and Simmons were vertically integrated.

In conclusion, I just urge my colleagues to recognize the differences in the law between vertical and horizontal practices. The Supreme Court has held those two to be different. Today we would establish the same rule for per se condemnation, and the result must be more lawsuits and, curiously, fewer independent distributors.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I rise today to speak in support of H.R. 1236, the Price Fixing Prevention Act of 1989. This bill is a much-needed congressional clarification of antitrust law. It is a carefully crafted bipartisan bill which will protect consumers and clarify legal sanctions against vertical price fixing.

For most of the 1980's we endured an executive branch that was indifferent if not hostile to antitrust concerns. And while these concerns may seem legalistic or philosophical to some, they affect consumers each and every day. H.R. 1236 addresses the need to protect those businesses which provide discounted products to the American consumer. It codifies a longstanding judicial rule that vertical price restraints are per se illegal. This rule is nothing new; codification of it is. We need to make sure the courts know that Congress intends a strict interpretation of this doctrine. Vertical price restraints harm competition and they harm consumers.

As part of the per se rule, the bill clarifies congressional policy that a specific price is not the only means by which price fixing can occur. Congress established this principle when it passed House Resolution 303 in the 99th Congress. This measure, signed into law by President Reagan, affirmatively stated that the Justice Department's vertical restraint guidelines did not have the force of law and were "inconsistent with established antitrust law * * * in stating that vertical restraints that have an impact upon prices are subject to the per se rule of illegality only if there is an 'explicit agreement as to the specific price.'" Prices can be fixed in many ways, not only by mentioning a specific price. The damage to competition is just as severe and the cost to consumers is just as great.

H.R. 1236 also clarifies exactly what type of evidence is required to overcome a motion for summary judgment in a price-fixing case. This provision—virtually identical to the provision in the bill we passed last year—makes it clear that if a plaintiff can present evidence that a seller received a communication from a competitor and in response terminated the plaintiff, then the case must go to the jury to determine whether the law was violated. This provision is essential if we are to ensure that meritorious cases are not dismissed on summary judgment.

The bill, however, also includes a provision I offered last year as an amendment to H.R. 585, the predecessor to H.R. 1236, which reaffirms that the legislation is not intended to preclude summary judgments; it is intended only to ensure that legitimate price-fixing allegations reach a jury for judgment. This amendment was offered as a compromise developed in consultation with many current opponents of the bill, in light of assertions that the evidentiary standard in the bill went too far. I was very pleased to see that my amendment language was included in the legislation introduced this year by the distinguished chairman of the Judiciary Committee, Mr. BROOKS.

I would also like to commend the chairman on the exclusion of maximum price fixing from coverage by the bill. This exemption does not sanctify maximum price fixing, it merely does not subject it to per se illegality. Thus the judge in a maximum price-fixing case may choose which rule to apply. There are cases in which maximum prices are actually minimum prices in disguise. However there are also cases in which maximum prices are just that. Newspapers, for example, set maximum prices in order to maximize circulation. This makes economic sense only because newspapers have a second source of revenue: advertising. If prices are low and circulation is high, then ad revenue is greater. Everyone benefits: More people read newspapers at a lower cost per paper, advertisers pay more but get more for their money. I would not like to see maximum prices subject to a per se rule and thus preclude a judge from considering these types of procompetitive effects.

Mr. Chairman, I strongly support H.R. 1236. I am an original cosponsor and one of 23 members of the Judiciary Committee who voted to favorably report this bill. I think it is a balanced approach to protecting American consumers while not unduly restricting the rights of American firms to choose with whom they want to do business and under what conditions. I urge my colleagues to vote in favor of the bill without any weakening amendments.

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I am very pleased to support this excellent bill, and I congratulate the gentleman from Texas [Mr. BROOKS] for bringing it forward.

Vigorous competition on the basis of price saves consumers billions of dollars a year and is a cornerstone of our free enterprise system. Congress recognized this when it repealed the Federal authority for State fair trade laws in 1975. The passage of H.R. 1236 will serve notice that the House of Representatives still believes it. The bill will give a fighting chance in court to a discounting retailer who is punished by the concerted actions of a manufacturer and competing dealers hoping to maintain high and unchallenged prices.

The Supreme Court's decisions in the Monsanto and Sharp cases and their progeny have significantly raised the burden of proof faced by a discounter. Since these decisions, instances have abounded of emboldened manufacturers putting pressure on discounters through the threat, often carried out, of a termination of supply. For example, a 100-year-old discount furniture company was cut off by several major suppliers without explana-

tion. And a general merchandise discounter was threatened with a supply cutoff by appliance, computer and toy manufacturers unless it increased catalog prices.

To combat these abuses, the bill would codify the 78-year-old rule that vertical price fixing is per se illegal and would modify or overrule Monsanto and Sharp to the extent necessary to establish uniform and fair evidentiary standards in dealer termination cases.

H.R. 1236 is a well-crafted, modest, but very important, legislative proposal. The bill has been improved over the last 2 years by benefit of the valuable suggestions of those who have argued against it. At every step of the way, reasonable modifications have been considered and included. Through the twists and turns of the legislative process, however, the bill has always remained true to its basic principles—price fixing hurts the economy and conspiracies to enforce it will not be tolerated.

I urge support and prompt passage for H.R. 1236.

□ 1510

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank our chairman for his leadership on this issue and for yielding me this time.

Mr. Chairman, I rise in support of H.R. 1236. H.R. 1236 is vital to law enforcement efforts in this country. Blatant attempts by manufacturers to force higher retail prices have been proliferating since the Supreme Court decision in Sharp. Without an express agreement between a manufacturer and a full price retailer to set specific prices or price levels, enforcement efforts are hamstrung. Consumers are stuck paying higher prices, and businesses are unable to make their own, independent pricing decisions. Since Sharp, we are now witnessing situations effecting entire industries. Manufacturers, pressured by retailers with clout, are forcing discounters to either raise prices or be discontinued. Prices are never mentioned. They don't need to be. And activities that would have been clearly illegal—even criminal—10 years ago, can't be touched today.

Manufacturers are using some of the most egregious, blatant methods possible to force higher prices. Since it is easy to avoid express agreements detailing price levels but still get the desired effect—higher prices—the manufacturers and pressuring retailers are getting away with it. In some instances, manufacturers are requiring discounters that have relied on mail order that they can no longer take orders over the telephone—or that they must get proof that the customer resides in the same State as the discounter before a sale is permitted. In other instances, manufacturers have ordered discounters to clear certain stores of stock because full price retailers have been complaining—or be discontinued throughout the country.

Under current law, enforcement officials are virtually powerless to stop this type of anticompetitive behavior. H.R. 1236 would allow enforcement officials to take these cases to a jury which they cannot do now. That's an important point to note. All H.R. 1236 does is allow an enforcement official to get his case before a jury. It does not mandate a finding of illegality, it does not mean that someone is automatically culpable. All it does is help restore a previously existing balance that enables enforcement officials to have a fighting chance to preserve free competition in the marketplace. Free competition was and is the intent of our country's antitrust laws. H.R. 1236 will help restore that fundamental economic freedom.

Mr. FISH. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I oppose H.R. 1236, and I oppose it really for only one reason, that I believe as a former businessman that this is a "legal work program," and that it will hurt consumers.

Now, this is not the way the opposition positions this bill. Lots of us have lived and worked and sold under fair trade. Fair trade, as you remember, forced suggested prices through the system. Fair trade was outlawed in the seventies. This was a difficult period for adjustment for manufacturers, but it worked its way through, and most of all, it helped consumers. No longer was there as price straitjacket where there was little or no competition allowed.

Now, since 1975 the consumer now pays, if he or she wants it, the lowest price available in the competitive marketplace. This is fair. It provides good value. It is the best value of any country in the world and it protects the consumer.

Now, what H.R. 1236 does is not provide a better price for the consumer. How can it? We are the forces that promote that. What it does do is provide a better deal for the lawyers, making it easier to sue and to sue and to sue. And what will this do? It will hurt the consumer, because he or she will have to pick up the additional legal bills.

Second, it will hurt the younger and the smaller retailer or wholesaler because the manufacturers will not be able to take a chance on those younger people. It is just too risky.

What is happening to us? Well, with the abolition of the fair trade laws, the consumer is protected. He now can determine the price he wants to pay.

I am an old salesman, and as a salesman I believe the consumer is king, and if we are interested in king consumer, let us not pass H.R. 1236.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of this proconsumer, procompetitive bill and congratulate Chairman BROOKS on his fine leadership in bringing it to the floor today.

This bill will make clear the standards of evidence necessary to establish unlawful vertical price fixing. It would also codify the per se rule established by the Supreme Court in 1911 which held that price restraints are automatically illegal, even if a specific minimum price is not established.

Until recently, the Supreme Court did not require that price fixers actually agree upon specific prices or price levels, so long as the clear purpose of the conspiracy was to suppress price competition.

To require that a specific price be agreed upon by the parties involved ignores the variety of indirect ways in which a retailer can conspire with a discounter to suppress price competition.

For example, in a market were every retailer sells at a 50 percent markup, except for one discounter who sells at a 25 percent markup, elimination of that discounter will, obviously, result in a complete lack of price competition.

My colleagues, vertical price fixing is contrary to our belief in the free market. It causes distortions and creates inefficiencies in the economy. It harms those members of our society who can least afford it—the price conscious consumer. Unfortunately, the Justice Department and the court have allowed long-standing and clear protection against price fixing to erode. To correct this adverse situation, we must pass H.R. 1236.

Mr. Chairman, my constituents need this bill. The retailers in Morgantown, WV, should have the freedom to set prices according to the market in their area. However, opponents of this legislation would argue that the local retailer should not have this freedom to compete; rather, the manufacturer should dictate prices at the local level. This bill would insure that efforts by manufacturers to pressure retailers to inflate prices will not be tolerated.

This bill is supported by consumer groups which characterize it as the most important consumer legislation to be addressed by Congress this term. Those who are at the forefront of enforcing antitrust laws, the State attorneys general, also are supporting the bill. I urge my colleagues to support the Price Fixing Prevention Act. Let's

not allow the term "suggested retail price" to become "mandated retail price."

Mr. FISH. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I commend the Judiciary Committee and its chairman, the gentleman from Texas [Mr. BROOKS] for bringing this important piece of legislation to the House floor.

H.R. 1236, which I have cosponsored, helps to insure that American consumers enjoy the benefits of price competition. Price competition is important in a market-oriented economy, and price competition together with strong antitrust enforcements have been the hallmarks of my party.

Congress has examined this issue frequently, Mr. Chairman. Over the last quarter of a century Congress on numerous occasions has addressed the question of whether retailers and consumers ought to have retail prices dictated to them. Each time our answer has been the same. No, retail price maintenance is wrong.

The sorry history of fair trade laws demonstrates clearly that price fixing is anticonsumer, anticompetitive and ought to remain per se illegal.

I have long been concerned with this issue, and I am convinced that Federal Government enforcement in this area is inadequate. I have come to the conclusion that we also need vigorous private enforcement of the law against retail price maintenance to ensure maximum competition in the marketplace. The Judiciary Committee bill serves this purpose: It provides the guidance that a private plaintiff needs to sustain a legitimate price fixing case and also affirms that resale price fixing is wrong and remains illegal per se.

This legislation is urgently needed. Court rulings have made it very difficult for a distributor terminated because it discounts to sue those who cause the illegal termination. We do not, of course, want to encourage frivolous lawsuits—and H.R. 1236 does not do that. Rather, this bill is a measured legislative effort to assure that legitimate suits involving anticompetitive resale price maintenance agreements to terminate discounting retailers will have a fair hearing on their merits. I urge support for the bill.

□ 1520

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I rise today in support of H.R. 1236. This bill is of critical importance to the consumers of this country.

By enacting this bill, Congress will be taking guard against unnecessary inflation. Inflation will be the inevitable result as full price retailers flex their economic muscle to get rid of their discount competition. Under the recent Supreme Court decision, Business Electronics Corporation versus Sharp Electronics, it is no longer illegal for manufacturers to stop supplying discount retailers solely on the basis of price complaints by a retail competitor, so long as no price or price level is specifically discussed. Yet this used to be illegal.

In areas where some retailers have already acted to get rid of their discount competition, consumers are forced to pay higher prices for the goods they used to be able to purchase at competitive prices. These higher prices hurt discount retailers, consumers and even manufacturers; they only benefit the full priced retailer who doesn't want to compete. The discount retailer is harmed by not being able to sell the goods which he wants to sell for the prices which he wants to charge. The consumer is harmed by having to pay higher prices for the same goods. Even the manufacturer is harmed because it is subject to threats from full priced retailers which it formerly could avoid.

In the Sharp case, Justice Scalia said that high prices mean better service for consumers. Mr. Scalia is denying consumers the choice as to how much service they want, need and can afford. Consumers I know want active and open retail competition to assure them that they are getting the best value for their money. They want a variety of stores offering different levels of service from which to choose. They also want stores which offer different shopping environments. On a day when they want to pamper themselves, shoppers can go to the full-priced department stores. On other days, they can utilize specialty discount stores or catalogs.

The economic theory that consumers benefit from fixed higher prices has already been tried and soundly rejected. The sorry history of the fair trade laws—State laws which until Congress overwhelmingly repealed them in 1975 allowed legalized price-fixing—clearly shows that resale price-fixing is inflationary and anticompetitive. Studies of the Department of Justice, cited in a 1969 Economic Report of the President, indicated that consumers would save $1.2 billion a year if that form of legalized price-fixing were eliminated. Updated for inflation, this figure came to 2.1 billion in 1975 when Congress overwhelmingly repealed State fair trade laws. Another Department of Justice study estimated that fair trade laws increased prices of fair traded goods 18-27 percent.

The terrible effects of price-fixing on American consumers, especially on the poor and those Americans on fixed incomes ought to be obvious—except, perhaps, to would be price-fixers.

Competition and consumer choice in the retail markets is a sign of a healthy thriving economy. Congress should act to perpetuate this vitality, rather than letting the Supreme Court and Justice Scalia take away the retail competition which is so important to our consumers.

These are the reasons, Mr. Chairman, why I urge my colleagues in the House to support H.R. 1236. Let's act to preserve the benefits of retail competition for our constituents.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I want to voice my strong support for H.R. 1236, a bipartisan bill introduced by the chairman of the Judiciary Committee, Mr. BROOKS, and supported by colleagues on both sides of the aisle on the committee.

In 1890, Congress passed the Sherman Act to prohibit "[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States or with foreign nations * * *." Since 1911, the Supreme Court has stated that an agreement between a manufacturer and a retailer to set retail price is prohibited. However, during the past 8 years, the ability of retail outlets, particularly off-price discounters, to set their own prices has been threatened.

Antitrust law historically has protected retailers from agreements between others to keep them from discounting. Traditional antitrust law has recognized that agreements in restraint of trade usually must be proved by indirect circumstantial evidence. When a plaintiff presents evidence showing dealer complaints to a manufacturer, the absence of evidence by the manufacturer explaining legitimacy for the termination has been considered reasonable grounds for suspecting collusion between the manufacturer and the complainers. A manufacturer should be required to come forward with evidence to explain that its termination of a discount dealer was for some reason other than the complaints of other dealers about the price.

While reaffirming that it is still per se unlawful to agree to fix prices, in 1984, the Supreme Court introduced a confusing and difficult evidentiary standard for proving such agreements. This standard is one that undercuts Government enforcement and private challenges to anticompetitive conduct. In the Monsanto case, the Court held that the evidence most often relied upon by discounters—complaints by

dealers concerning price competition followed by termination by the manufacturer—as insufficient to permit a jury to find an antitrust violation.

Then, in 1988, the Supreme Court further eroded antitrust protection in the Sharp decision. Termination in response to complaints about lower prices from a competing dealer is not necessarily unlawful, the Court concluded, unless the manufacturer and the complaining dealer have agreed on a specific price level.

Let us look at the practical impact of these decisions: High-Brow Fashions sells its goods to both the Ritzy-Glitzy chain and to Rock Bottom Discounters. Ritzy-Glitzy does not like its competition and makes its views known to High-Brow by complaining that "Rock Bottom's prices are killing us." Anxious to keep Ritzy-Glitzy's business, High-Brow terminates its relationship with Rock Bottom. Consumers now must buy High-Brow fashions at Ritzy-Glitzy's upscale prices. Under Monsanto, Rock Bottom does not have an antitrust case.

To make matters worse, under Sharp, unless High-Brow and Ritzy-Glitzy agree on a specific price, Rock Bottom also is out of luck. As I read Sharp, High-Brow and Ritzy-Glitzy could discuss a price range—say "between $150 and $175 per unit"—and still be protected from the antitrust laws.

Mr. Chairman, let me remind my colleagues that Congress repealed the so-called Fair Trade laws in 1975 because it recognized that price-fixing increased consumer prices and was anticompetitive. Additionally, in recent years Congress clearly has been incensed at the lack of enforcement by Federal officials in growing price-fixing problems.

We must pass H.R. 1236 because it addresses the issue of evidence of anticompetitive activity. The bill permits a jury to draw reasonable inferences of conspiracy from the direct and/or circumstantial evidence presented at trial, thereby returning antitrust law to its position prior to Monsanto and Sharp.

H.R. 1236 establishes a violation of section 1 of the Sherman Act upon the presentation of evidence showing, first, coercion of a reseller to follow the pricing practices of a seller through the seller's cancellation of supplies, threats of termination, or other coercive acts; second, complaints by a competing reseller concerning price competition followed by any of the following acts by a seller: termination of the reseller or coercion of the reseller.

H.R. 1236 further codifies the long held per se rule and restores the notion that providing price-fixing does not require showing an agreement to set a specific price or price level. To any reasonable person, terminating a discounter for this pricing policy clearly is an attempt to fix prices at a higher level.

It is time for Congress to demonstrate clearly to the courts, the business community, and consumers that our commitment to price competition remains unwavering.

Mr. Chairman, the National Association of Attorneys General supports H.R. 1236 because it furthers the goal of the antitrust laws "to maintain a freely competitive environment in which all business ventures are given a reasonable and equal opportunity to succeed, guaranteeing consumers the best possible produce at the lowest possible price."

Last fall, Prof. Louis B. Schwartz of the Hastings College of Law wrote to Chairman BROOKS in support of H.R. 1236. As the author of the casebook "Free Enterprise and Economic Organization," Professor Schwartz understands the misinformation that has been circulated about H.R. 1236. He states:

> The issue is not whether manufacturers may "stop supplying products to distributors who fail to provide consumers with the services and information that manufacturers believe will be most responsive to consumer demand." The issue is whether manufacturers should be permitted to conspire with some distributors to require all distributers (sic) * * * to charge prices high enough to pay for such services. Surely believers in "the market," such as the Chicago-Schoolers purport to be, ought to rely upon the willingness of consumers to pay for available services by patronizing the full-service dealer.

Professor Schwartz also bursts the free rider bubble, the argument that discounters receive the benefit of advertising and other expenses of the manufacturers and nondiscount resellers. The free ride theory, he wrote:

> * * * falls of its own weight once one realizes that vertical restraints are often employed in connection with goods and services that typically are not serviced at all, e.g. gasoline, patent medicines. In many contexts, where the customer does not need information after the initial purchase by him, subsequent purchases from the same or other dealers add nothing to the buyer's information and he should not be required to pay for unneeded service.

Professor Schwartz also says:

> [I]t is a glaring fiction that a manufacturer who terminates a dealer in response to a competitor's price-cutting complaint is "seeking to discover the most effective way of distributing its products."

Insofar as the need to establish a price understanding between the manufacturer and the complaining dealer, Professor Schwartz makes an interesting real-world observation.

> If such a complaining dealer subsequently became a discounter, would the manufacturer's expectations be disappointed!

For these and other reasons, I support H.R. 1236 as reported by the Judiciary Committee.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this piece of legislation aptly demonstrates the fact that labels are one thing and what's really inside a particular package can be quite another. The title of this legislative package is, itself, a misnomer; perhaps, it should be labeled the Price Fixing Invention Act. I say this because H.R. 1236 would invent anticompetitive conspiracies out of innocent and lawful business decisions.

Mr. Chairman, the difficulty with this bill is in explaining its actual consequences in clear and readily understandable language. The antitrust terminology surrounding H.R. 1236 is certainly tedious and cumbersome dealing as it does with "resale price maintenance"—price and nonprice vertical restraints.

I shall attempt to explain in plain English why I have serious reservations about this legislation.

First of all, this is a bill that purports to fix a problem that does not exist. No one argues that manufacturers and retailers should be allowed to conspire and fix prices. Price fixing—both vertical and horizontal—is per se illegal right now! Vertical price fixing has been illegal since 1911 and we don't need a new statute to tell us what is already the law.

If the current legal climate is so negative, then why are the discount stores doing so well? Discount stores are thriving and the discounters are rapidly taking market share away from the department stores and the more traditional Main Street retail outlets.

Second, this bill is not proconsumer. In fact, in significant ways it is anticonsumer. For example, it would harm purchasers seeking products that require special servicing and marketing. If it is enacted, buyers will likely receive less warranty protection and repair service than is now the case. If you are purchasing a personal computer, a VCR, or a camera, for example, warranty and repair service is a vital element of the purchase.

Third, small independent retailers are also likely to suffer if H.R. 1236 is enacted. Because this bill would interfere with a manufacturer's current right to choose the retail outlets for its products, manufacturers may well opt to open their own distribution centers and retail outlets. Manufacturers are rightly concerned about the reputation and good will surrounding their products. And, make no mistake about it, product reputations are made in the retail marketplace.

The unilateral decision of a manufacturer—to select its own retail outlets—is currently protected by the Federal antitrust laws. *United States* v. *Colgate,* 250 U.S. 300, 307 (1919). But H.R. 1236 intends to change that by essentially overruling portions of

the "Colgate doctrine." What some proponents want from this legislation is more economic and legal leverage, so that they can force a manufacturer to sell its products to them.

Fourth, this legislation also means more lawsuits and more cases going to trial. Here again, this bill is intended to have that very effect. Antitrust litigation is by its nature lengthy and time-consuming. Typically, cases take years to resolve. What the advocates of H.R. 1236 know is that if these weak cases get by preliminary motions for early dismissal; that is, motions for summary judgment, then the timeframe itself will force manufacturers to agree to a monetary settlement. Meanwhile, the backlog of civil cases in our Federal courts will certainly worsen.

This legislation is not only opposed by manufacturers and the various trade associations representing those companies, it also is opposed by a number of retail organizations and the two antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission. Further, H.R 1236 is also opposed by the American Bar Association and by the nationally respected antitrust section of the Association of the Bar of the City of New York.

Mr. Chairman, I read just one sentence from a letter of the Attorney General of the United States dated April 3, 1990, and addressed to me:

> For the reasons discussed below, I and other senior advisors to the President would recommend Executive disapproval of H.R. 1236, if it reached the President's desk.

Both the American Bar Association and the City Bar have lawyer members that represent both plaintiffs and defendants in these types of antitrust cases. So, I think it is particularly noteworthy that both of these organizations are unequivocally opposed to H.R. 1236—because they are the most qualified to understand its real consequences.

Perhaps the best way to demonstrate the practical unfairness of this legislation is to refer to a letter I received from a small manufacturer in Tennessee. He writes:

> It is difficult to understand why a manufacturer should be forced to sell to any retailer who wants his product, while the retailers have no obligation to buy from the manufacturer.

We can quote all the antitrust jargon and antitrust case law we want on both sides of this issue. But the fairness question posed by that small Tennessee manufacturer is the one that Congress really ought to consider.

If H.R. 1236, as reported by the House Judiciary Committee, is enacted into law, then Congress will have created a legal situation that will result in serious and costly harm to thousands of businesses—manufacturers and retailers—all across this country. The bill would establish a statutory presumption of unlawful price fixing and, as a result, weaken evidentiary standards in complex antitrust cases dealing with resale price maintenance. The bill would encourage plaintiffs to bring antitrust suits that would not be filed today.

Mr. Chairman, America already sues itself seven times the rate of Japan and three times the rate of Germany. The Federal antitrust laws award successful plaintiffs treble damages—three times actual damages. What the committee version of H.R. 1236 is about, Mr. Chairman, is adding to the cost of doing business in America, at a time that our Nation is being sorely tested in the international marketplace. If amendments to be offered by Congressmen DOUGLAS, MOORHEAD, CAMPBELL, and myself are not adopted, the correct vote—based upon legal fairness and sound national economic policy—is "no" on H.R. 1236.

□ 1530

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I think we ought to act immediately to state clearly and once and for all that vertical price fixing is illegal, that it is not going to be tolerated, and will be subject to redress by injured parties. Any Member who is against vertical price fixing ought to vote against it. To say that one is against vertical pricing, but does not want to penalize anybody for that activity, is just like telling them, "Do not steal the money, but if you do, I am not going to do anything to you for stealing it."

It is just that bad. That is what the situation is. That is what we are determined to remedy now.

Mr. Chairman, I would ask wholehearted support for the bill, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I rise today to express my strong support for H.R. 1236, the Price Fixing Prevention Act of 1989. On very few occasions does legislation come before the House with such clear and direct implications for the consumer. Passage of this important bill, Mr. Chairman, is one such example. H.R. 1236 would provide a substantial boost to the buying power of American families and help drive illegal restraints of trade from the marketplace.

I am proud of the success of the free market system in our economy. We should be encouraging those businesses which compete by offering the lowest price to the buying public, we should not be supporting the legal roadblocks created by our courts. Price competition is what drives capitalist economies and spurs on business opportunities.

H.R. 1236 is designed to prohibit a practice that is totally contradictory to our traditional economic policies—the practice of vertical price fixing. By amending our Federal antitrust laws, H.R. 1236 will establish new evidentiary standards whereby a terminated retail distributor can bring a case against a manufacturer for conspiracy to fix prices. Furthermore, the legislation will codify current rules holding resale price maintenance agreements and vertical price fixing as per se violations of antitrust law.

There have been some questions and the effect passage of this measure may have on our business community. Specifically, concerns have arisen about the litigation which may be spurred by this bill. Since the Price Fixing Prevention Act will overturn the tight evidentiary standards created by the Monsanto and the Sharp decisions, I understand that it may be easier to bring suits alleging price fixing. However, before a judge or a jury can take such a case, the claimant must prove the substantial cause of this distributor being terminated was a result of a competitor's communication regarding price competition. Only legitimate cases, therefore, will get a hearing under this strict causation standard. Frivolous lawsuits must also face the traditional defense of summary judgment and the strong sanctions against spurious suits under rule 11 of the Federal Rules of Civil Procedure.

In conclusion, Mr. Chairman, I believe this sound legislation will arm consumers against inflationary price fixing and will bolster the legal protections available to those businesses which closely adhere to our antitrust laws and pursue energetic marketing and pricing strategies. As one of the bipartisan cosponsors of the bill, I join the numerous economists, law professors and antitrust experts in urging my colleagues to support the pasage of H.R. 1236.

Mr. KLECZKA. Mr. Chairman, the Price Fixing Prevention Act of 1989 (H.R. 1236) has my full support. Consumers, especially those on fixed or low incomes, owe Chairman BROOKS a debt of gratitude for bringing it to the House floor today.

Competition makes our American markets the envy of other nations. But the Supreme Court's decisions in the Monsanto and Sharp cases endanger the fair pricing standards of vital importance to our economy.

Unfortunately, the price-fixing agreements between certain manufacturers and retailers have flourished during the previous decade. Despite existing antitrust laws and nearly eight decades of case law documenting the ways in which price fixing can be anticompetitive, the Department of Justice has refused to press cases during the Reagan and Bush administration. To assist private parties injured by price-fixing schemes, H.R. 1236 would finally codify the ban against illegal pricing agreements.

Enactment of H.R. 1236 would also help prevent the American product distribution system from becoming rigidly controlled by cartels that set prices the market would not normally bear. Studies of this subject in the 1970's found that State laws which ease retail price fixing increased prices on some goods between 18 and 27 percent, and cost the consumer an additional $1.2 billion at the check out line. Our system of open competition, in which low-price and high-price retailers discipline each other, would clearly be strengthened by passage of this legislation.

Competition must be preserved at all levels of a manufacturing and distribution scheme to provide benefits to the consumer. H.R. 1236 takes a step toward protecting this principle by reversing the Court's recent limitations on fair commerce. This legislation deserves to become public law in 1990.

Mr. CONYERS. Mr. Chairman, I stand before you today to endorse H.R. 1236. This bill is critical to assuring that our senior citizens, many of whom live on fixed incomes, can benefit from retail price competition.

The Supreme Court, in the Monsanto decision and again in the Sharp decision, attacked the idea of retail competition, as when different retail outlets charge different prices for the exact same goods. Yet, retail competition is necessary for consumers to benefit from comparison shopping. Comparison shopping assures consumers that they are getting the very best value for their shopping dollars.

Our citizens who live on a fixed or low-income benefit from retail competition as it gives them access to goods they otherwise could not afford. Many senior citizens can enhance their quality of life by comparison shopping for their purchases. These important members of our communities have time to find the best value while making their purchases, and they have the incentive to stretch their shopping dollars. Thousands of senior citizens every year participate in bus tours to shop in places like North Carolina and New Jersey, which are known for their discount store industries.

Without this bill, however, our elderly consumers will find their shopping options limited. As more and more full-priced retailers exert their recently gained ability to get rid of their competition, the discount industry will change from a thriving vital industry, to one in which only the largest discount chains with a greatly limited supply of goods can survive. All the small, single store discounters will be put out of business by their competition. The elderly shopper will no longer have access to high quality goods at reasonable prices.

With all the financial pressures on our elderly citizens today, this body should act to protect their ability to comparison shop, to assure that those senior citizens who most need to stretch their shopping dollars to meet their needs can do so. Competition is a fundamental component of our economy and our consumers have the right to enjoy the benefits of free and open competition. Protecting our senior citizens from unnecessary infringements on their buying powers should be among the highest goals of this body.

For these reasons, Mr. Chairman, I urge my colleagues to join with me in supporting H.R. 1236 without amendment. This is the most important consumer protection issue which this body is likely to address this session.

Mr. BALLENGER. Mr. Chairman, this legislation would overrule two recent Supreme Court decisions—Monsanto and Sharp—affecting the antitrust law on resale price maintenance or vertical price fixing. This change would force manufacturers to deal with certain retailers or face threats and frivolous lawsuits from these retailers over alleged price fixing. As a practical matter, it shifts the burden of proof, in dealer termination cases, regarding alleged price fixing to the manufacturer, who must show that termination of a distribution agreement was not due to price fixing.

Vertical price fixing is automatically illegal under current law. Any retailer who is the victim of price fixing can sue the manufacturer. The penalties are severe. The Supreme Court decisions in question do not change the basic antitrust prohibition against price fixing. They merely clarify the law relating to price fixing by requiring the plaintiff to show at least some evidence that a price-fixing conspiracy actually occurred before the case is given to a jury. That is how it should be.

The market is fluid; manufacturers change distribution arrangements for a number of reasons. It is unwise to change the law to force a manufacturer to prove that every termination of a distribution agreement is not due to price fixing. This proposed change in the law would adversely affect consumers, and small businesses would find it more difficult to enter the market with new brands and products. Innocent manufacturers could be held liable under this legislation and would face costly legal bills defending their good name in court.

I urge my colleagues to oppose H.R. 1236.

Mr. GOODLING. Mr. Chairman, I rise in support of H.R. 1236, the Price Fixing Prevention Act of 1989. I want to congratulate Chairman BROOKS and Congressman HYDE and others for their time and effort in fashioning this legislation which rededicates the Federal Government to its longstanding opposition to resale price maintenance.

Resale price maintenance in its unvarnished form, is nothing more than price fixing and comes about when a manufacturer requires its distributors to agree to charge certain prices for goods or services and thereby eliminates price competition to the ultimate consumer.

As early as 1911, the Supreme Court struck down such a scheme as illegal per se in Dr. Miles Medical Company versus John Park and Sons. Justice Charles Evans Hughes concluded in that decision:

> The complainant having sold its products at prices satisfactory to itself, the public is entitled to whatever advantage may be derived from competition in the subsequent traffic.

This simple and effective rule has served us well for over three quarters of a century, and today we are merely reaffirming it.

The bill before us codifies this rule and clarifies some evidentiary ambiguities that have arisen since recent Court decisions in the Monsanto and Sharp decisions.

There is concern that the bill could result in juries misinterpreting and treating many innocent and completely lawful business practices as vertical price fixing. However, the legislation makes it clear that the plaintiff must prove there was a communication from a competitor of the claimant to the supplier regarding price competition and in response to the communication the claimant was terminated.

While I support additional amendments to address some of the other concerns of the business community, I am pleased with this particular legislation of what I consider a proconsumer and probusiness bill.

I urge my colleagues to join me in supporting H.R. 1236.

Mr. WISE. Mr. Chairman, I rise in support of H.R. 1236, the Price Fixing Prevention Act of 1989. This bill represents one of the most important consumer issues Congress will address this year. This legislation is necessary if American consumers are to have access to the large discount industry.

Since 1911 the antitrust laws have protected price competition by making vertical price fixing—agreements between manufacturers and dealers—an automatic violation of the antitrust laws. The laws against vertical price fixing are designed to protect retail price competition. The law has encouraged the growth of the discount industry by allowing smaller discount stores to compete with larger established stores by offering brand name merchandise at lower prices.

Two recent Supreme Court decisions, however, threaten this consumer advantage. The discounters' protection was seriously eroded in 1984 by the Supreme Court's decision in Monsanto. This ruling placed an incredible burden of proof on plaintiff-discounters claiming their supplies had been cut off by manufacturers because of full price retailers' complaints about price competition. Yet the 1988 ruling in Sharp cleared the way for anticompetitive conduct. In that case, a manufacturer stopped supplying calculators to a discount store after a retailer complained his prices were being undercut by the discounter. The Supreme Court ruled there was no price fixing because the manufacturer and the high priced retailer had not discussed a specific price to be maintained after the discounters' supplies were terminated. As long as manufacturers and retailers do not discuss a specific price or price level, they are free to fix prices with a wink and a nod.

The judicial fall out from the Sharp decision has already begun. Lower courts are dismissing cases where there is clear evidence of larger dealers coercing manufacturers to terminate rival discounters. Most recently, Kids "R" Us, a nationwide discounter of children's clothing, alleged that Macy's pressured two manufacturers of children's swimwear not to supply the discounter. The New York District Court ruled that although there was evidence of coercion on Macy's behalf and that Macy's had been acting to protect its own higher prices, there was no automatic antitrust violation because there was no agreement on a specific price or price level. With rulings like the Macy's decision, consumers are faced with fewer choices and are forced to pay higher prices. This is not how the American marketplace should operate.

In addition, more and more discounters are going out of business. To continue at this rate will inevitably mean an end to vigorous retail competition and force American consumers to buy most products at full retail price.

We should prove we are serious about preserving a principle of American capitalism—price competition—and that we care about consumer welfare by passing this antiprice-fixing, proconsumer bill.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by sections and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price Fixing Prevention Act of 1989".

The CHAIRMAN. Are there any amendments to section 1 of the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOUGLAS

Mr. DOUGLAS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DOUGLAS: Strike all after the enacting clause and insert the following language:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price Fixing Prevention Act of 1990".

SEC. 2. PROHIBITION AGAINST RESALE PRICE FIXING.

In any civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3), and alleging a contract, combination or conspiracy to set, change or maintain prices, the fact that the seller of a good or service and the purchaser of such good or service entered into an agreement to set, change, or maintain the price (other than a maximum price) or such good or service for resale shall be sufficient to constitute a violation of such section."

Mr. DOUGLAS. Mr. Chairman, I wanted the amendment to be read because in fact it is only one sentence long. It also does what the gentleman from Texas [Mr. BROOKS] wants us to do and what I want us to do.

Today we ought to take the Doctor Miles decision of 1911 from the U.S. Supreme Court that says you should not have any retail price fixing under the Sherman Act, and it puts it in the United States Code. That is all we need to do today, take one sentence, codify the Doctor Miles case, and make it very clear that if you are going to allege a conspiracy to fix prices between a manufacturer and a seller of those products, you can get 300 percent of your damages.

So if the opponents of my amendment say that it somehow guts the antitrust laws, in fact what it does is to codify the Doctor Miles case and permit someone to go to court and get 300 percent, treble damages, if they prove that there was a fixing on retail prices.

One of the reasons that Apple Computer, a little company run by a guy in his thirties, Steven Jobs, and big old IBM are opposed to the other four pages of the Brooks bill is that it creates a lawyers' field day to get cases wrapped around the axle in Federal court. It overturns two U.S. Supreme Court decisions, whereas the Douglas amendment codifies, puts into the law books, the one decision we can all agree on, the Doctor Miles case.

Let me just finally point out there are reasons why manufacturers terminate dealers. Some dealers do not service the product. Some dealers do not live up to the warranty. Some dealers do not employ the salesmen that are properly trained to explain to the consumer how to use the product. Some do not adequately display the product or put it out in the proper place within the store.

There are a number of reasons why dealers get complaint letters against other dealers who are selling low but are not providing the service to the consumer.

What we ought to do is today go on record, for the first time since 1911, saying we are against price fixing. We are going to do that. We are going to pass the Douglas amendment, but we are not going to pass all this other stuff that the subcommittee narrowly on a 9-to-6 vote reported out, that the Senate Committee on the Judiciary only on a 7-to-6 vote reported out, and we are going to get to price fixing and price fixing only, and we are going to strip out of the bill all of the stuff that will have the lawyers in their platoons and squads hanging around courthouses for years, arguing over inferences and presumptions and what is a communication, all of the stuff that is a mess in the committee bill.

Mr. Chairman, I urge the adoption of my amendment.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

I want to first thank the gentleman from New Hampshire for having shown the courtesy of publishing his amendment in the CONGRESSIONAL RECORD of April 4, 1990. Nevertheless, I must vigorously oppose it, since it fails to address in any way the difficulties created by the two Supreme Court decisions that have gutted the very per se prohibition against vertical price fixing that he wishes to codify by his amendment.

The amendment would simply say that vertical price fixing is illegal. Fifteen years ago, that statement could have stood alone as an accurate restatement of congressional policy, especially given the legislative history of the Consumer Goods Pricing Act enacted in 1976. After that act—introduced at the urging of Presidents Nixon and Ford—injured plaintiffs could receive a jury trial if they could show a reasonable nexus between a price complaint from a rival dealer and a manufacturer that led to the discounter's termination. But no longer. The 1984 Monsanto decision has ensured that such cases will never get to the jury.

Similarly, in 1976, there was never any question that price fixing conspiracies rarely—if ever—involve the "smoking gun" practice of two conspirators getting together to set a specific price for all the world to see. But no longer. The 1988 Sharp decision now requires such proof—even though we in this body and the other body as recently as the 99th Congress passed a resolution (H. Res. 303) rejecting the requirement that a specific price be set. At that time, we emphasized that such a notion was too limiting and contrary to past congressional intent.

Thus, the amendment before us is unfortunately not adequate to deal with the conditions we face today. It would have indeed been appropriate in 1976. It would have equally been appropriate in 1980 when the antitrust laws were still being enforced. But in 1990, this statement of the law is insufficient. It would represent a denial of reality—the reality that vertical price fixing enforcement lies in ruins.

I would ask my colleagues to oppose the amendment.

□ 1540

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by my colleague from New Hampshire.

As this debate reflects, there are some very fundamental and serious problems with this legislation. As it is currently constituted, H.R. 1236 would legislatively overturn two recent Supreme Court decisions *Business Electronics Corporation* v. *Sharp Electronics Corporation*, 108 S.Ct. 1515 (1988), and *Monsanto* v. *Spray-Rite Service Corporation*, 465 U.S. 752 (1984). In addition, Section 4 of this year's version contains ill-advised language that might well be used to undermine the scope of the well-established Supreme Court decision in *Continental T.V., Inc.* v. *GTE-Sylvania, Inc.*, 433 U.S. 36 (1977).

I am of the view that the committee version of H.R. 1236 can only be counterproductive to the interests of both American business and the American consumer. What the Douglas amendment would do would be to provide the members of this House with the opportunity of going on record against vertical price fixing—or, as it is often called resale price maintenance—without accepting the more questionable aspects of this bill. If the Douglas amendment is adopted, H.R. 1236 would codify the per se rule against resale price maintenance for the first time. The bill, however, would no longer overrule the Supreme Court decisions that I referred to earlier.

The adoption of the Douglas amendment would be a sensible solution to the quandary posed by this bill. The House of Representatives would be on record against vertical price fixing without creating an unfair litigation situation for manufacturers and distributors.

I urge a favorable vote on the Douglas amendment.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite

number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the amendment. This amendment would strike the two main provisions that the Committee on the Judiciary has labored so intensively to craft.

Section 2(a) is a provision that would modify the evidentiary standard set forth in the Monsanto case which would allow, under my former scenario, Ritzy Glitzy to cause the High Brow Manufacturing Co. to drop the others' sales, retail sales outlets; and that part of section 2(b) that would overrule the Supreme Court's holding in the Sharp case.

The purpose of the amendment is fairly plain. It would kill this bill.

For the past several years the committee has worked long and hard to study the law concerning vertical price fixing. The gentleman from New Hampshire was not a member of the committee for the time, up until this year, that we considered previous bills on vertical price fixing.

This is not an easy subject. It is not easy because there is a lot of consternation, there is a lot of previous antitrust law, there are a lot of case laws. But the bottom line is that we have looked at it, and we have worked on it, and we have attempted to understand the Department of Justice's enforcement attitudes, and the basis of those attitudes. We have had to grapple with the Supreme Court's decisions in this area, and to make judgments about the effect of those decisions.

We have heard from witness after witness after witness, representatives of a huge variety of potentially affected interests have met with us in committee, in offices, in the Halls to give us the benefit of their views and experience. We have held markups in the subcommittee and the full Judiciary Committee at which compromises have been reached, and the amendments of this nature and others have been considered and been rejected.

I set this forth because I think it is important, very important to understand that this legislation is not some radical idea, but is the product of a lengthy, bipartisan, considered effort by the Committee on the Judiciary to resolve a problem that plagues consumers in this country.

I also want to let my colleagues know that the language before the House is based on our findings that the law, as it currently exists, is unfair in many cases to plaintiffs in these lawsuits. In the Monsanto case the Supreme Court reasoned that a plaintiff could not prove a conspiracy by showing that he was terminated after a price complaint from one of his full-price competitors because there could be other innocent reasons that caused the termination. Fair enough.

Mr. DOUGLAS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. Mr. Chairman, I will not yield until I have finished my statement.

Fair enough. There could be other reasons.

However, some of the language in the Monsanto case has been interpreted subsequently to mean that even when the plaintiff can establish a high degree of causation between the price complaint and his termination, he still cannot get his case to a jury unless he can produce evidence, evidence that must come from the files of the defendants and the mouths of the defendants' executives that refutes every other innocent explanation that the defendants' lawyers can come up with. So not only do you have to prove the positive, but you have to prove the negative, and it is impossible.

I think, and my colleagues on the committee have agreed with me, that this is too high a standard of proof for plaintiffs to bear. And those knowledgeable in the field have reached the same conclusion.

Writing in the Cornell Law Review, Prof. John Flynn found that "a striking feature" of the post-Monsanto cases was that more than half were decided by judges and not by juries in favor of the defendants. The professor commented that "the extensive and widespread use of summary judgment to terminate vertical restraint cases raises the question of whether some courts are infringing upon the rights to a jury trial."

According to a 1987 survey article in Antitrust, the magazine of the section of antitrust law of the American Bar Association:

> It is tempting to say that the only consistencies in these applications of Monsanto is that the defendants always win. That would be an overstatement. However, it is clear that the plaintiff rarely wins.

It is in response to these findings and findings made by the committee that we crafted the evidentiary section.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

Mr. SMITH of Florida. Mr. Chairman, I ask unanimous consent that I may have 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. DOUGLAS. I would object, Mr. Chairman. I asked the Member to yield and he would not yield, so I object to his request.

Mr. SMITH of Florida. The gentleman objects on an open rule to my request for 3 additional minutes?

Mr. DOUGLAS. The gentleman objected to my request that he yield.

The CHAIRMAN. Does the gentleman from New Hampshire reserve the right to object or does he object?

Mr. DOUGLAS. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it would have been my hope that we could have had a colloquy with my brother from Florida. Unfortunately, he has chosen not to yield.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. DOUGLAS. I am glad to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, if the gentleman would have allowed me time to finish my statement, I would have been happy to yield and to engage in a colloquy. The gentleman obviously does not understand the rules in this House.

Mr. DOUGLAS. No, I understand the rules. The gentleman said he would not yield until he was done, and then when he wanted 3 more minutes. I can listen as well as understand the rules.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield further?

Mr. DOUGLAS. I will when I finish my statement.

Mr. SMITH of Florida. I was not finished with my statement.

Mr. DOUGLAS. I will yield as soon as I have made my point. My point is that in what the gentleman from Florida [Mr. SMITH] was talking about, and the confusion that he is trying to clarify allegedly in this bill is that one of the things a competitor can do to another competitor is send a communication to the manufacturer. He thinks that is a neat idea in this bill. It says a communication, and I remember as he said we took this up during the subcommittee as well as the full committee asking does this have to be an oral or a written communication, and that is not clear. The bill merely says a communication.

The bill also says that any communication from a competitor has to be merely a substantial contributing cause. There can be many contributing causes as to why a manufacturer chooses to let a dealer go.

□ 1550

But unfortunately that is going to mean more litigation, more confusion, because we are now dealing not with the primary cause for why someone was terminated because they were not providing service or they were not providing a warranty, merely a substantial cause out of many causes. That is why the language is so confusing. That is why Mr. SMITH and I agree it

is very complex, and that is why I stand by my amendment, which is very simple; it will codify the rule and solve our problem by outlawing price fixing without getting into the kind of colloquy that we could go on for days in nitpicking, very confusing lawyer phrases in this particular bill.

Mr. CAMPBELL of California. Mr. Chairman, I yield to my colleague from Florida if the gentleman from Florida [Mr. SMITH] wishes to speak.

Mr. SMITH of Florida. I appreciate it, but someone else will ask for time for me to finish my statement.

Mr. CAMPBELL of California. Mr. Chairman, I yield back.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words and yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

If I may continue so that I can finish my statement.

Mr. Chairman, it is in response to these findings and findings made by the committee that we crafted the evidentiary section. The evidentiary section that we are considering today is the same as the one that passed the House last Congress under suspension of the rules with the bipartisan support of every member of the House Judiciary Committee and the acquiescence of many of the groups that are now opposing H.R. 1236. It was a compromise and reasonable provision then and it is a compromise and reasonable provision now. To strike it at this juncture would be completely inconsistent with the action that we took last Congress when we sent H.R. 585 to the Senate for approval.

I would only briefly address the portion of the amendment striking the section in H.R. 1236 overruling Sharp. H.R. 585 in the last Congress did not overrule Sharp because the Sharp decision had not been decided when we acted. We passed H.R. 585 in November 1987; the Supreme Court's decision in Sharp came down in May 1988. However, it is absolutely clear from looking at the legislative history and the committee report that it was our unanimous view that an agreement to terminate a discounter with the purpose and effect of eliminating price competition is a price-fixing agreement—whether or not there is a second agreement on a price or a price level. And so, in overruling Sharp, we are only doing what we were prepared to do unanimously before. If we were willing to do it then, we ought to be willing to do it now.

And to my colleague from New Hampshire, the antitrust laws which were passed over 70 years ago are laws which have grown up and are technical and they are lawyerlike and they have protected a lot of people because they are, and the gentleman, as a jurist, knows that. And to now discount the fact that this is a highly technical and lawyerlike piece of legislation and say we ought to "stop messing around with all that stuff, let's just get to my stuff," does a grave disservice to the amount of work that has been done on the antitrust laws which protect consumers in this country and have done so for the last 70 years.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Hampshire [Mr. DOUGLAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DOUGLAS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 70]

ANSWERED "PRESENT"—395

Ackerman	Callahan	Early
Alexander	Campbell (CA)	Eckart
Anderson	Campbell (CO)	Edwards (CA)
Andrews	Cardin	Edwards (OK)
Annunzio	Carper	Emerson
Anthony	Carr	Engel
Applegate	Chapman	English
Armey	Clarke	Erdreich
Aspin	Clement	Espy
Atkins	Clinger	Evans
AuCoin	Coble	Fascell
Baker	Coleman (MO)	Fawell
Ballenger	Coleman (TX)	Fazio
Barnard	Combest	Feighan
Bartlett	Condit	Fields
Barton	Conte	Fish
Bateman	Conyers	Flake
Bates	Cooper	Foglietta
Bennett	Costello	Ford (MI)
Bentley	Coughlin	Frenzel
Bereuter	Courter	Frost
Berman	Cox	Gallegly
Bevill	Coyne	Gallo
Bilbray	Crane	Gaydos
Bilirakis	Dannemeyer	Gejdenson
Bliley	Darden	Gekas
Boehlert	Davis	Gephardt
Boggs	de la Garza	Geren
Bonior	DeFazio	Gibbons
Borski	DeLay	Gillmor
Bosco	Dellums	Gilman
Boucher	Derrick	Gingrich
Boxer	DeWine	Glickman
Brennan	Dickinson	Gonzalez
Brooks	Dicks	Goodling
Broomfield	Dixon	Gordon
Browder	Donnelly	Goss
Brown (CO)	Dorgan (ND)	Gradison
Bruce	Douglas	Grandy
Bryant	Downey	Gray
Buechner	Dreier	Green
Bunning	Duncan	Guarini
Burton	Dwyer	Gunderson
Bustamante	Dymally	Hall (OH)
Byron	Dyson	Hall (TX)
Hamilton	McHugh	Schroeder
Hammerschmidt	McMillan (NC)	Schuette
Hancock	McMillen (MD)	Schulze
Hansen	McNulty	Schumer
Harris	Meyers	Sensenbrenner
Hastert	Mfume	Serrano
Hatcher	Michel	Sharp
Hawkins	Miller (CA)	Shaw
Hayes (IL)	Miller (OH)	Shays
Hayes (LA)	Moakley	Shumway
Hefley	Molinari	Shuster
Hefner	Mollohan	Sikorski
Henry	Montgomery	Sisisky
Herger	Moorhead	Skaggs
Hertel	Morella	Skeen
Hiler	Morrison (CT)	Skelton
Hoagland	Morrison (WA)	Slattery
Hochbrueckner	Mrazek	Slaughter (NY)
Holloway	Murphy	Slaughter (VA)
Hopkins	Murtha	Smith (FL)
Horton	Myers	Smith (IA)
Houghton	Nagle	Smith (NE)
Hoyer	Natcher	Smith (NJ)
Hubbard	Neal (MA)	Smith (TX)
Huckaby	Neal (NC)	Smith (VT)
Hughes	Nielson	Smith, Denny (OR)
Hunter	Nowak	
Hutto	Oakar	Smith, Robert (NH)
Hyde	Oberstar	
Ireland	Obey	Smith, Robert (OR)
Jacobs	Olin	
James	Ortiz	Snowe
Johnson (CT)	Owens (NY)	Solarz
Johnson (SD)	Oxley	Solomon
Johnston	Packard	Spence
Jones (GA)	Pallone	Spratt
Jones (NC)	Panetta	Staggers
Jontz	Parker	Stallings
Kanjorski	Parris	Stangeland
Kaptur	Pashayan	Stark
Kasich	Patterson	Stearns
Kastenmeier	Paxon	Stenholm
Kennedy	Payne (NJ)	Stokes
Kennelly	Payne (VA)	Studds
Kildee	Pease	Sundquist
Kolbe	Pelosi	Swift
Kolter	Penny	Synar
Kostmayer	Perkins	Tallon
Kyl	Petri	Tauzin
LaFalce	Pickett	Taylor
Lagomarsino	Pickle	Thomas (GA)
Lancaster	Porter	Thomas (WY)
Lantos	Poshard	Torres
Laughlin	Price	Torricelli
Leach (IA)	Pursell	Towns
Lehman (CA)	Quillen	Traficant
Lehman (FL)	Rangel	Traxler
Levin (MI)	Ravenel	Unsoeld
Levine (CA)	Ray	Upton
Lewis (FL)	Regula	Valentine
Lewis (GA)	Rhodes	Vander Jagt
Lightfoot	Richardson	Vento
Lipinski	Ridge	Visclosky
Livingston	Rinaldo	Volkmer
Lloyd	Ritter	Vucanovich
Long	Roberts	Walgren
Lowery (CA)	Roe	Walker
Lowey (NY)	Rogers	Walsh
Luken, Thomas	Rohrabacher	Washington
Machtley	Ros-Lehtinen	Waxman
Madigan	Rose	Weber
Manton	Rostenkowski	Weiss
Markey	Roth	Weldon
Marlenee	Roukema	Wheat
Martin (IL)	Rowland (CT)	Whittaker
Martin (NY)	Rowland (GA)	Whitten
Martinez	Roybal	Williams
Matsui	Russo	Wilson
Mavroules	Sabo	Wise
Mazzoli	Sangmeister	Wolf
McCandless	Sarpalius	Wolpe
McCloskey	Savage	Wyden
McCollum	Sawyer	Wylie
McCrery	Saxton	Yates
McCurdy	Schaefer	Yatron
McDade	Scheuer	Young (AK)
McDermott	Schiff	Young (FL)
McEwen	Schneider	

□ 1614

The CHAIRMAN. Three hundred ninety-five Members have answered to their names, a quorum is present, and

the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from New Hampshire [Mr. DOUGLAS] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Under a previous ruling of the Chair, the time for this vote will be reduced to 5 minutes.

The vote was taken by electronic device, and there were—ayes 155, noes 242, not voting 36, as follows:

[Roll No. 71]

AYES—155

Archer	Hancock	Quillen
Armey	Hansen	Ravenel
Baker	Hastert	Ray
Ballenger	Hefley	Regula
Barnard	Herger	Rhodes
Bartlett	Hiler	Ritter
Barton	Holloway	Roberts
Bateman	Horton	Rogers
Bentley	Houghton	Rohrabacher
Bereuter	Hubbard	Ros-Lehtinen
Bilirakis	Hunter	Roth
Bliley	Hutto	Schaefer
Boehlert	Ireland	Schiff
Broomfield	James	Schneider
Buechner	Kasich	Schuette
Bunning	Kolbe	Schulze
Burton	Kyl	Sensenbrenner
Byron	Lagomarsino	Shaw
Callahan	Leach (IA)	Shumway
Coble	Lewis (FL)	Shuster
Coleman (MO)	Lightfoot	Skeen
Combest	Livingston	Slaughter (VA)
Coughlin	Lloyd	Smith (NE)
Courter	Lowery (CA)	Smith (VT)
Cox	Machtley	Smith, Denny (OR)
Crane	Madigan	Smith, Robert (OR)
Dannemeyer	Marlenee	Snowe
Davis	Martin (IL)	Solomon
DeLay	Martin (NY)	Spence
Derrick	McCandless	Stallings
DeWine	McCrery	Stangeland
Dickinson	McEwen	Stearns
Douglas	McMillan (NC)	Stenholm
Dreier	Meyers	Sundquist
Duncan	Michel	Tauzin
Edwards (OK)	Miller (OH)	Taylor
Emerson	Molinari	Thomas (WY)
English	Montgomery	Upton
Fawell	Moorhead	Valentine
Fields	Morella	Vander Jagt
Fish	Morrison (WA)	Vucanovich
Frenzel	Myers	Walker
Gallegly	Neal (NC)	Walsh
Gekas	Nielson	Weber
Gillmor	Oxley	Weldon
Gingrich	Packard	Whittaker
Goss	Parker	Wolf
Gradison	Parris	Wylie
Grandy	Pashayan	Young (AK)
Green	Patterson	
Gunderson	Paxon	
Hall (TX)	Petri	
Hammerschmidt	Pickett	

NOES—242

Ackerman	Boucher	Condit
Alexander	Boxer	Conte
Anderson	Brennan	Conyers
Andrews	Brooks	Cooper
Annunzio	Browder	Costello
Anthony	Brown (CO)	Coyne
Applegate	Bruce	Darden
Aspin	Bryant	de la Garza
Atkins	Bustamante	DeFazio
AuCoin	Campbell (CA)	Dellums
Bates	Campbell (CO)	Dicks
Bennett	Cardin	Dixon
Berman	Carper	Donnelly
Bevill	Carr	Dorgan (ND)
Bilbray	Chapman	Downey
Boggs	Clarke	Dwyer
Bonior	Clement	Dymally
Borski	Clinger	Dyson
Bosco	Coleman (TX)	Early
Eckart	Lantos	Rowland (CT)
Edwards (CA)	Laughlin	Rowland (GA)
Engel	Lehman (CA)	Roybal
Erdreich	Lehman (FL)	Russo
Espy	Levin (MI)	Sabo
Evans	Levine (CA)	Sangmeister
Fascell	Lewis (GA)	Sarpalius
Fazio	Lipinski	Savage
Feighan	Long	Sawyer
Flake	Lowey (NY)	Saxton
Foglietta	Luken, Thomas	Scheuer
Ford (MI)	Markey	Schroeder
Frank	Martinez	Schumer
Frost	Matsui	Serrano
Gallo	Mavroules	Sharp
Gaydos	Mazzoli	Shays
Gejdenson	McCloskey	Sikorski
Gephardt	McCollum	Sisisky
Geren	McCurdy	Skaggs
Gibbons	McDade	Skelton
Gilman	McDermott	Slattery
Glickman	McHugh	Slaughter (NY)
Gonzalez	McMillen (MD)	Smith (FL)
Goodling	McNulty	Smith (IA)
Gordon	Mfume	Smith (NJ)
Gray	Miller (CA)	Smith (TX)
Guarini	Moakley	Smith, Robert (NH)
Hall (OH)	Mollohan	Solarz
Hamilton	Morrison (CT)	Spratt
Harris	Mrazek	Staggers
Hatcher	Murphy	Stark
Hawkins	Murtha	Stokes
Hayes (IL)	Nagle	Studds
Hayes (LA)	Natcher	Swift
Hefner	Neal (MA)	Synar
Henry	Nowak	Tallon
Hertel	Oakar	Thomas (GA)
Hoagland	Oberstar	Torres
Hochbrueckner	Obey	Torricelli
Hopkins	Olin	Towns
Hoyer	Ortiz	Traficant
Huckaby	Owens (NY)	Traxler
Hughes	Pallone	Udall
Hyde	Panetta	Unsoeld
Jacobs	Payne (NJ)	Vento
Johnson (CT)	Payne (VA)	Visclosky
Johnson (SD)	Pease	Volkmer
Johnston	Pelosi	Walgren
Jones (GA)	Penny	Washington
Jones (NC)	Perkins	Waxman
Jontz	Pickle	Weiss
Kanjorski	Porter	Wheat
Kaptur	Poshard	Whitten
Kastenmeier	Price	Williams
Kennedy	Pursell	Wilson
Kennelly	Rangel	Wise
Kildee	Ridge	Wolpe
Kleczka	Rinaldo	Wyden
Kolter	Roe	Yates
Kostmayer	Rose	Yatron
LaFalce	Rostenkowski	Young (FL)
Lancaster	Roukema	

NOT VOTING—36

Akaka	Ford (TN)	Moody
Beilenson	Grant	Nelson
Brown (CA)	Inhofe	Owens (UT)
Chandler	Jenkins	Rahall
Clay	Leath (TX)	Richardson
Collins	Lent	Robinson
Craig	Lewis (CA)	Saiki
Crockett	Lukens, Donald	Stump
Dingell	Manton	Tanner
Dornan (CA)	McGrath	Tauke
Durbin	Miller (WA)	Thomas (CA)
Flippo	Mineta	Watkins

□ 1624

The Clerk announced the following pairs:

On this vote:

Mr. Thomas of California for, with Mr. Akaka against.

Mr. Lewis of California for, with Mr. Nelson against.

Mr. Stump for, with Mr. Dingell against.

Mr. Jenkins for, with Mr. Moody against.

Mr. Craig for, with Mr. Collins against.

Messrs. HOYER, CONTE, and UDALL changed their vote from "aye" to "no."

Mr. LIVINGSTON changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. EVIDENTIARY STANDARDS IN FEDERAL CIVIL ANTITRUST ACTIONS RELATING TO PRICE FIXING.

(a) In any civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3) and alleging a contract, combination, or conspiracy to set, change, or maintain prices (other than a maximum price), evidence that a person who sells a good or service to the claimant for resale—

(1) received from a competitor of the claimant a communication regarding price competition by the claimant in the resale of a good or service, and

(2) in response to such communication terminated the claimant as a buyer of a good or service for resale, or refused to supply to the claimant some or all of such goods or services requested by the claimant,

shall be sufficient to raise the inference that such person and such competitor engaged in concerted action to set, change, or maintain prices for such good or service in violation of such section. For purposes of this subsection, a termination or a refusal to supply is in response to a communication if such communication is a substantial contributing cause of such termination or refusal to supply. Nothing herein shall preclude the court from entering judgment in favor of the defendant, at trial or prior thereto, if the court determines on the basis of all the evidence and pleadings submitted by the parties, in accordance with the Federal Rules of Civil Procedure and the requirements of this subsection, that no such inference of concerted action can reasonably be drawn by a trier of fact.

(b) In any civil action based on a claim arising under section 1 or 3 of the Sherman Act (15 U.S.C. 1, 3), and alleging a contract, combination, or conspiracy to set, change, or maintain prices, the fact that the seller of a good or service and the purchaser of such good or service entered into an agreement to set, change, or maintain the price (other than a maximum price) of such good or service for resale shall be sufficient to constitute a violation of such section. An agreement between the seller of a good or service and the purchase of such good or service to terminate another purchaser as a dealer or to refuse to supply such other purchaser because of that purchaser's pricing policies shall constitute a violation of such section, whether or not a specific price or price level is agreed upon.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FISH: On page 2, line 15, strike "price competition" and insert in lieu thereof "the specific price or prices charged."

On page 2, line 16, insert "requested termination of the claimant" after the comma and before "and".

On page 2, line 17, strike "in response to" and insert in lieu thereof "because of and in agreement with".

On page 3, line 7, strike "in response to" and insert in lieu thereof "because of".

On page 3, line 8, strike "a substantial contributing" and insert in lieu thereof "the major".

Mr. FISH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FISH. Mr. Chairman, this amendment would revise and clarify the language in H.R. 1236 dealing with the Supreme Court decision in Monsanto Co. versus Spray-Rite Corp.

My continuing concern has been that the language in H.R. 1236 is overly broad and would cover situations that do not, in fact, involve anticompetitive activities. A manufacturer can have valid, nonprice reasons for terminating a retail dealer. For example, a retail outlet may be terminated for not advertising a product as agreed upon, failure to provide adequate repair or warranty service, failure to hire trained sales or service personnel, failure to properly display the products of the manufacturer, or simply because its sales are poor. All these are legitimate nonprice reasons and terminations based upon those reasons in no way violate the antitrust laws.

Manufacturers have a right to be concerned about the impact that retail outlets can have on the reputation and good will that surrounds their products in the marketplace. My amendment is intended to prevent the possibility that a defendant-manufacturer could find itself carrying the burden of proof in an alleged antitrust conspiracy, even though its motives and actions had nothing to do with the price of the product or products in question. The fact is, that Congress shouldn't be micromanaging evidentiary standards in these complicated, fact-based cases at all.

Simply put, my amendment would require some preliminary showing of a conspiracy—an agreement—between the defendant-manufacturer and another dealer. So, before the plaintiff would be able to defeat a motion for summary judgment, there would have to be some evidence of a conspiratorial agreement. Further, my amendment would make it explicitly clear that the claimant's termination occurred because of that conspiracy. The conspiracy would have to be the major cause of the termination. Through these changes, the Fish amendment would resolve the confusion and concern prompted by the vague, ambiguous language currently contained in section 2(a) of H.R. 1236. My "major current" language is identical to language adopted by the Senate Judiciary Committee.

It is important to understand that when a price-fixing allegation is made under the antitrust laws—a plaintiff must show there was an agreement or conspiracy among two or more participants. Unilateral action is not a violation—"Colgate doctrine." A key problem with the language in this bill is that it probably will be interpreted as meaning that no preliminary proof of a conspiracy is necessary. I know of no instance where a court has found a Sherman Act—section 1 or section 3—violation without proof of a conspiracy. We should not imply that less would suffice in the cases covered by this legislation. The result of the language now in the bill could only be to prolong and extend unjustifiable litigation.

Under my amendment, an inference of price fixing could only be raised in a resale price maintenance termination or supply case if: First, the plaintiff-dealer can demonstrate evidence of a conspiracy early in the litigation; and second, a direct causal link between that conspiracy and the manufacturer's ultimate decision to terminate the dealer can be shown.

If Congress intends to legislate an evidentiary standard for dealer termination cases, then we cannot ignore the fundamental standard for proving a violation of section 1 or section 3 of the Sherman Act. In a price-fixing case there has to be some evidence of a common design—an agreement. My amendment would ensure legal consistency and firmness.

This amendment is supported by a number of trade associations including the National Association of Manufacturers, the Electronic Industries Association, the Chamber of Commerce of the United States, and the Computer and Business Equipment Manufactures.

I urge the adoption of my amendment.

□ 1630

Mr. BROOKS. Mr. Chairman, I rise to oppose the amendment. The evidentiary standard set out in section 2(a) represents the carefully crafted compromises which were worked out by the members of the Judicary Committee.

Our effort was to restore the balance of the evidentiary standard existing prior to the 1984 Monsanto decision. Monsanto created a near-impossible evidentiary burden for plaintiffs by requiring them not only to prove their own case at summary judgment but also to disprove the case of the defendants. Nowhere does that burden exist under the antitrust laws. Thus, section 2(a) simply returns to the evidentiary standard adopted by a majority of Federal circuit courts of appeal prior to the Monsanto decision—it does nothing to create a new standard.

The key to section 2(a) is its recognition that if a plaintiff can show that a price complaint from a rival dealer was a substantial contributing cause to his termination by a manufacturer, then he should at least be allowed to be heard by a jury on the merits of the case. However, the standard does nothing to influence the jury's ultimate determination about whether a price-fixing conspiracy occurred. This point is made absolutely clear in both the statute and the legislative history.

The word "substantial" was chosen because it has a readily understandable meaning in the law. The words "primary," "sole," or "exclusive" were not chosen because often there may be other reasons coexisting with a price fixing conspiracy scheme to terminate a dealer. In such a case, it may not be possible at the early pretrial stage of summary judgment to decide that the price-fixing reason was the sole or primary reason. That is for a jury as the trier of fact to decide.

The attempt to insert the word "agreement" is another instance of attempting to reopen the very issues that we put to rest during the compromise negotiations. To repeat one more time, section 2(a) is an evidentiary standard relating to what a plaintiff must show to get past summary judgment and receive a trial on the merits. At this stage, he does not have to prove the existence of an agreement—again, that is the ultimate question of fact for a jury to decide once a complete trial on the merits has been conducted.

Finally, to reassure everyone that nothing in the bill would alter the traditional conspiracy requirements under the Sherman Act, section 3 of the bill was included to make clear that concerted action must always be shown in vertical price-fixing cases, as in all antitrust suits.

Mr. Chairman, I want to mention one other matter that has been added to this amendment recently dealing with specific price. The relevant passage in the amendment was dealt within House Resolution 303, introduced in the first session of the 99th Congress by the gentleman from New York [Mr. FISH] for himself, the gentleman from New Jersey [Mr. RODINO], the gentleman from Illinois [Mr. HYDE], the gentleman from Texas [Mr. BROOKS], the gentleman from California [Mr. DANNEMEYER], the gentleman from California [Mr. EDWARDS], the gentleman from Ohio [Mr. SEIBERLING], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Kansas [Mr. GLICKMAN], and others. It was introduced by the very gentleman from New York [Mr. FISH] who is the sponsor of this amendment today. I think it is appro-

priate to quote from House Resolution 303 to demonstrate the inconsistency of this provision:

Whereas such Department of Justice policy guidelines are inconsistent with statements of congressional intent in stating that vertical restraints that have an impact on prices are subject to the per se rule of illegality only if there is an "explicit agreement as to the specific prices."

Both Houses of this Congress, the House and the Senate, adopted that resolution, which was then placed in an appropriations bill, passed by both Houses and signed by President Reagan.

I therefore must oppose this or any other amendment that would seek to impose the proposition that vertical price fixing can only be found where conspiracies set or maintain an exact or specific price.

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the last word. I rise in favor of the amendment.

Mr. Chairman, hard as it is to believe, I am coming to the conclusion that not everybody finds resale price maintenance exciting or interesting. This is a very difficult lesson for me. I used to spend easily 2 weeks in class on the subject, and at the end of this topic I looked out over the students and saw them glazed-eyed, and nothing brought back that feeling as much as looking out over this body today, reaching the same conclusion.

Perhaps it is just as well that most of our colleagues here are not attorneys and do not find this of great interest, but there is one important distinction that an attorney would grant, and that is that getting to the jury is everything, particularly where you have the chance to get treble damages. If you can get to the jury, you have got a shot at the big spin, and no one can predict a jury, particularly when there are treble damages at stake.

So what we have in the law are various stopgaps that the normal case needs in order to prevent the big spin, taking the case to a jury on treble damages, the law establishes at least two stopgaps. One is the directed verdict motion, and the other is the summary judgment motion. What that does is give the judge a chance to say, "Wait a minute, you really do not have much of a case here, and we are not going to let you take your case to the jury for your turn at the big winnings." That is very sensible. The judge has control under existing law. If they did not have that, I predict, and I think I would be completely on safe ground in doing so, that every case would go to the jury, because there is nothing to lose. Why not bring a case and get it to the jury and try to get treble damages?

□ 1640

If this amendment passes, we will have the correct rule that allows bypassing summary judgment and bypassing the directed verdict only where there really is enough evidence to suggest that there is a price-fixing agreement, and that is just the point. Plaintiffs ought to have something to get past and in to the jury.

Without this amendment, all it takes to get to a jury and thereby get the chance at treble damages is proof that another distributor complained about you to the manufacturer on the topic of price, and that that was a cause, a substantial cause, but not the controlling cause, in your being terminated.

Those of my brothers and sisters in this body who have been in retail distribution will surely bear me out when I say there is not a distributor in America who has not at one time or another been complained against by a competing distributor. It is almost inevitable. It goes with the territory. Your distributor always is lowballing you on price, always cutting into your territory, always doing things that hurt your business. Now, if you have any familiarity with retail, I suggest, therefore, that to say one distributor gets to the jury merely by showing that another competitor complained is to say you almost always get to the jury and, as a result, we will have many, many more cases, many, many more large settlements in this area.

In conclusion, I want to point out something about the modest nature of the vice chairman's amendment, and that is that it does not overrule Sharp. This amendment by the gentleman from New York [Mr. FISH] does not try to change the language of the statute relative to the Sharp case. It only says that if one is going to get to the jury on this agreement issue, they have to have a little bit more than just that another person complained against you.

Sharp, bear in mind, was the case where the Supreme Court said one needed to prove more than just an agreement concerning price; they had to prove an agreement on the exact price.

For those of my colleagues who think that I applaud everything the Supereme Court has done to cut back antitrust, let me put on the record that I think that the Court got it wrong in Sharp, and if this bill merely reversed Sharp, I would support it.

Wisely, my colleague from New York does not attempt that in his bill. He leaves the bill on Sharp the way it was, but prevents something very important and worth preventing, the shot at the big spin, treble damages, merely on the fact that another distributor made a complaint about you.

I suggest to my colleagues that happens every day. If we are interested in many, many more lawsuits, if we are not troubled by the fact, as has been pointed out by my colleagues from Mississippi and New York, that America has seven times the litigation rate of Japan, then we would see no reason not to support the bill; if those things do concern us, then do not create an opportunity for wide-open litigation for treble damages, and support the amendment by the gentleman from New York [Mr. FISH].

Mr. SYNAR. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me start off to help some of our colleagues who may not have been following the debate on why we are here today in general.

Since 1911 vertical price fixing has been per se illegal under the antitrust laws. Price fixing between the manufacturer and the retailer to drive a competitor out of business is intolerable in an open and free market system, and I think both the Republicans and Democrats agree on that.

Mr. Chairman, we would not be here today, very honestly, had it not been for the Reagan administration's decision to abandon 70 years of enforcement of vertical price fixing in 1980 and their active assistance to the alleged price fixers.

In response to that, let me remind my colleagues what we did in this Congress. We passed a bipartisan resolution in 1985 condemning the administration's efforts. This resolution's chief sponsor was the gentleman from New York [Mr. FISH], who today is offering that amendment.

Let me remind my colleagues the history of that resolution by reading exactly what it stood for. The policy guidelines that were being used by the Justice Department "are inconsistent with established antitrust law." That resolution specifically criticized the administration's decision to apply that law when only a specific price agreement existed. We thought it was right then. We think it is right now.

The gentleman from New York [Mr. FISH] and this Congress knew that requiring specific price was an impossible standard in bringing any antitrust suits.

What the gentleman from California [Mr. CAMPBELL] just advocated is that the plaintiff would have to prove conclusively at the summary judgment that a conspiracy existed. That is what a jury should have to decide based upon the full disclosure of the merits.

At summary judgment, it should be the responsibility of the plaintiff to show that there was a likely cause of the termination of that price contract. What the gentleman from New York and, now, the gentleman from California would have us do is that they would basically have us make that decision before any of the witnesses, any of the evidence, any of the experts are brought into the court, and that would

go contrary to what we tried to do in 1985. That is why that resolution passed in a bipartisan fashion both in the House and in the Senate, and that is why it was signed by the President. Yes, the amendment by the gentleman from New York [Mr. FISH] offered today will require a specific price agreement in order that we basically allow this bill to change, and that amendment was specifically rejected by this Congress.

In conclusion, I think it is simply to say that if it was wrong to require a specific price agreement in the 99th Congress in a bipartisan fashion signed by the President, it is wrong to require today in the 101st Congress.

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I am happy to yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I wanted to put to the gentleman what his sense would be of what would be appropriate for what a plaintiff would need to show in order to make a summary judgment case go beyond summary judgment.

The form of my question is specifically this: Does the gentleman believe that all a plaintiff need show in order to escape a defense motion for summary judgment, defense motion for a directed verdict, is that another distributor complained to the manufacturer about that distributor's behavior on price?

Mr. SYNAR. Mr. Chairman, reclaiming my time it has to be, as the gentleman knows in this legislation, a substantial showing that there is a likely cause for termination of the price complaint. That is what we did in 1985. That is what we are trying to instate today, and it is no different than what we supported then, and what we think is right now.

Mr. CAMPBELL of California. If the gentleman will yield further, in his remarks he characterized my position as saying the proof has to be conclusive. I wonder if he would consider modifying that from the point of view of the need for the plaintiff merely to put into evidence something more than a complaint. The evidence of an agreement is not the conclusion of an agreement. I put to the gentleman and ask whether he would not more aptly have said the position I and the gentleman from New York [Mr. FISH] are advocating is that more evidence need be put in, that both of us, the gentleman from New York [Mr. FISH] and I, agree the fundamental decision is for the jury.

Mr. SYNAR. I do not mean to lecture the gentleman, who is a distinguished professor of law for many years, but I think the gentleman is aware that the civil rules of procedure govern a situation such as this, and this, combined with the legislative intent that it has to be a substantial showing, should remedy the gentleman's problem that a mere complaint alone could trigger this.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. SYNAR] has expired.

(At the request of Mr. FISH and by unanimous consent, Mr. SYNAR was allowed to proceed for 1 additional minute.)

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I am happy to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just wanted to clarify something, that there is nothing in my amendment that is inconsistent with my sponsorship in an earlier Congress of the vertical guidelines resolution. That resolution recognized that a proof of price-fixing conspiracy was essential in these cases and that is the bottom line. That was the law then. It is the law now. We should require it in H.R. 1236.

□ 1650

Mr. SYNAR. Mr. Chairman, would the gentleman from New York [Mr. FISH] point to the resolution that this House passed in 1985 that included specific price as part of the agreement?

Mr. FISH. I have not got the resolution in front of me.

Mr. SYNAR. Well, I can tell the gentleman from New York that the resolution that the gentleman authored that was passed in a bipartisan fashion and signed by the President did not include specific price, and that this legislation and this amendment which the gentleman is offering today does include that. So that is substantially different than the original resolution.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. Mr. Chairman, I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, we just differ on that. My recollection is that the presumption was one would have to prove a conspiracy as one does in all antitrust law.

Mr. JAMES. Mr. Chairman, I would like to be recognized in support of the amendment. I am concerned specifically about the language in the statute. I will read from the bill itself. As I understand it, and this has been argued, all it would take is a complaint, and Members will have to read lines 14 through 18 which I will not read because they can read it for themselves, which establishes that which the gentleman from California [Mr. CAMPBELL] has so competently argued.

Mr. Chairman, I would like to add to that my concern about the specific language, the very specific language that I would like Members to read from lines 3 through 16 of the bill, which in essence says that an inference is drawn from the specific set of facts. Those lines are incompetently written to establish whether or not there is a cause of action as a matter of law. You will confuse the courts in the scenario and the situation more now than ever before with the language in the bill. You will have accomplished nothing but unending litigation as to what inference means when it does not talk in the technical language that is essential to establish what is a cause of action.

Mr. Chairman, it is rare that I have seen a piece of legislation so poorly drafted that leaves the question in the air as to what is the cause of action if an inference is the langauge of the laws of evidence, and it is only one part or one rule that helps establish admissible facts to establish the cause of action in the first place. But worse than that and more confusing than that, it allows you to establish for whatever your cause of action a specific inference.

Then it says a trial judge can turn around and rule that there are insufficient facts for the initial inference. It says on line 11, "If the court determines on the basis of all the evidence and pleadings submitted by the parties, in accordance with the Federal Rules of Civil Procedure and the requirements of this subsection, that no such inference of concerted action can reasonably be drawn by a trier of fact," he could discard it.

That is an anomaly. That is wiping out what you initially intended to say in the first place, that you would have a rule of evidence that would assist you, and you turn around and say the judge can pretend those facts were not proven and not let the jury hear the inference. Those are totally inconsistent.

But what is further inconsistent, if you are really trying to reestablish a cause of action, an inference alone would not do it. So you are going to have litigation again and again and again on whether or not there is a cause of action created by this specific set of facts.

Mr. Chairman, I am against the bill because it is incredibly poorly drafted and creates additional problems for both the retailer and the manufacturer. I am against the bill because it shifts the pendulum too far back over in the other dirction, even though you may be trying to correct the Monsanto decision.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 192, noes 204, not voting 37, as follows:

[Roll No. 72]

AYES—192

Applegate	Hammerschmidt	Ray
Archer	Hancock	Regula
Armey	Hansen	Rhodes
Aspin	Harris	Ridge
AuCoin	Hastert	Ritter
Baker	Hefley	Roberts
Ballenger	Henry	Rogers
Barnard	Herger	Rohrabacher
Bartlett	Hiler	Ros-Lehtinen
Barton	Holloway	Roth
Bateman	Hopkins	Roukema
Bentley	Horton	Rowland (CT)
Bereuter	Houghton	Sarpalius
Bilbray	Hubbard	Saxton
Bilirakis	Huckaby	Schaefer
Bliley	Hunter	Schiff
Boehlert	Hutto	Schneider
Broomfield	Ireland	Schuette
Brown (CO)	James	Schulze
Buechner	Johnson (CT)	Sensenbrenner
Bunning	Jones (GA)	Shaw
Burton	Kasich	Shays
Byron	Kolbe	Shumway
Callahan	Kyl	Shuster
Campbell (CA)	Lagomarsino	Sisisky
Campbell (CO)	Leach (IA)	Skaggs
Clinger	Lewis (FL)	Skeen
Coble	Lightfoot	Skelton
Coleman (MO)	Livingston	Slaughter (VA)
Combest	Lowery (CA)	Smith (NE)
Conte	Machtley	Smith (NJ)
Coughlin	Madigan	Smith (TX)
Courter	Marlenee	Smith (VT)
Cox	Martin (IL)	Smith, Denny (OR)
Crane	Martin (NY)	
Dannemeyer	McCandless	Smith, Robert (NH)
Davis	McCollum	
DeFazio	McCrery	Smith, Robert (OR)
DeLay	McEwen	
Derrick	McMillan (NC)	Snowe
DeWine	Meyers	Solomon
Dickinson	Michel	Spence
Dornan (CA)	Miller (OH)	Stallings
Douglas	Molinari	Stangeland
Dreier	Montgomery	Stearns
Duncan	Moorhead	Stenholm
Edwards (OK)	Morella	Sundquist
Emerson	Morrison (WA)	Tallon
English	Murphy	Tauzin
Erdreich	Myers	Taylor
Fawell	Neal (NC)	Thomas (WY)
Fields	Nielson	Upton
Fish	Oxley	Valentine
Gallegly	Packard	Vander Jagt
Gallo	Parker	Vucanovich
Gekas	Parris	Walker
Gillmor	Pashayan	Walsh
Gilman	Patterson	Weber
Goodling	Paxon	Weldon
Goss	Payne (VA)	Whittaker
Gradison	Petri	Wolf
Grandy	Pickett	Wylie
Green	Pursell	Yatron
Gunderson	Quillen	Young (AK)
Hall (TX)	Ravenel	Young (FL)

NOES—204

Ackerman	Boxer	Cooper
Alexander	Brennan	Costello
Anderson	Brooks	Coyne
Andrews	Browder	Darden
Annunzio	Bruce	de la Garza
Anthony	Bryant	Dellums
Atkins	Bustamante	Dicks
Bates	Cardin	Dixon
Bennett	Carper	Donnelly
Berman	Carr	Dorgan (ND)
Bevill	Chapman	Downey
Boggs	Clarke	Dwyer
Bonior	Clement	Dymally
Borski	Coleman (TX)	Dyson
Bosco	Condit	Early
Boucher	Conyers	Eckart
Edwards (CA)	Lehman (CA)	Rinaldo
Engel	Lehman (FL)	Roe
Espy	Levin (MI)	Rose
Evans	Levine (CA)	Rostenkowski
Fascell	Lewis (GA)	Rowland (GA)
Fazio	Lipinski	Roybal
Feighan	Lloyd	Russo
Flake	Long	Sabo
Foglietta	Lowey (NY)	Sangmeister
Ford (MI)	Luken, Thomas	Savage
Frank	Manton	Sawyer
Frost	Markey	Scheuer
Gaydos	Martinez	Schroeder
Gejdenson	Matsui	Schumer
Gephardt	Mavroules	Serrano
Geren	Mazzoli	Sharp
Gibbons	McCloskey	Sikorski
Glickman	McCurdy	Slattery
Gonzalez	McDade	Slaughter (NY)
Gordon	McDermott	Smith (FL)
Gray	McHugh	Smith (IA)
Guarini	McMillen (MD)	Solarz
Hall (OH)	McNulty	Spratt
Hamilton	Mfume	Staggers
Hatcher	Miller (CA)	Stark
Hayes (IL)	Moakley	Stokes
Hayes (LA)	Mollohan	Studds
Hefner	Morrison (CT)	Swift
Hertel	Mrazek	Synar
Hoagland	Murtha	Thomas (GA)
Hochbrueckner	Natcher	Torres
Hoyer	Neal (MA)	Torricelli
Hughes	Nowak	Towns
Hyde	Oakar	Traficant
Jacobs	Oberstar	Traxler
Johnson (SD)	Obey	Udall
Johnston	Olin	Unsoeld
Jones (NC)	Ortiz	Vento
Jontz	Owens (NY)	Visclosky
Kanjorski	Pallone	Volkmer
Kaptur	Panetta	Walgren
Kastenmeier	Payne (NJ)	Washington
Kennedy	Pease	Waxman
Kennelly	Pelosi	Weiss
Kildee	Penny	Wheat
Kleczka	Perkins	Whitten
Kolter	Pickle	Williams
Kostmayer	Porter	Wilson
LaFalce	Poshard	Wise
Lancaster	Price	Wolpe
Lantos	Rangel	Wyden
Laughlin	Richardson	Yates

NOT VOTING—37

Akaka	Gingrich	Nagle
Beilenson	Grant	Nelson
Brown (CA)	Hawkins	Owens (UT)
Chandler	Inhofe	Rahall
Clay	Jenkins	Robinson
Collins	Leath (TX)	Saiki
Craig	Lent	Stump
Crockett	Lewis (CA)	Tanner
Dingell	Lukens, Donald	Tauke
Durbin	McGrath	Thomas (CA)
Flippo	Miller (WA)	Watkins
Ford (TN)	Mineta	
Frenzel	Moody	

□ 1716

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Ford of Tennessee against.

Mr. Lewis of California for, with Mr. Nelson against.

Mr. Jenkins for, with Mr. Moody against.

Mr. Stump for, with Mr. Dingell against.

Mr. Thomas of California for, with Mr. Akaka against.

Mr. GEJDENSON changed his vote from "aye" to "no."

Mr. HUCKABY changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments to section 2 of the bill?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to change the requirement of the Sherman Act that a violation of section 1 or 3 of such Act may only be found upon a determination that the defendant entered into an illegal contract, combination, or conspiracy.

The CHAIRMAN. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. RULE-OF-REASON STAND.

(a) IN GENERAL.—Nothing in this Act shall affect the application of the rule-of-reason standard to vertical location clauses or vertical territorial restraints under the antitrust laws.

(b) DEFINITION.—For purposes of subsection (a), the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. APPLICABILITY.

Section 2(a) of this Act shall not apply to civil actions commenced before the date of the enactment of this Act.

The CHAIRMAN. Are there any amendments to section 5?

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOORHEAD: On page 4, strike lines 21-22 and insert the following in lieu thereof:

"With the exception of the first sentence in section 2(b), section 2 of this Act shall not apply to civil actions commenced before the date of enactment of this Act."

Mr. MOORHEAD. Mr. Chairman, when the predecessor of this bill was considered in 1987, I offered an amendment concerning the effective date of this legislation. It was my feeling at that time, and it still is my view, that the presumption and new evidentiary standards being established through this legislation should not apply to pending cases.

The Judiciary Committee, over the years, has had a traditional policy in favor of prospectivity only, and it would be unfair to existing litigants to potentially affect the outcome of their cases through legislative action. When I made these points in 1987, then Judiciary Committee Chairman Peter Rodino agreed with the principle of my amendment, and it was adopted on a voice vote. The language of my amendment eventually passed the full House of Representatives.

The language contained in section 5—entitled "Applicability"—is the same effective date provision that I offered in 1987. However, because of

changes made to other sections of the bill, particularly in section 2(b), the reference solely to section 2(a) no longer achieves my original purpose and intent. Section 2(b), of course, would overrule the Supreme Court's decision in *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 108 S.Ct. 1515 (1988). Consequently, the amendment before you would substitute new language which simply says that both section 2(a) and that portion of section 2(b) which overrules the Supreme Court decision in Sharp would have prospective effect only.

It is my hope that this amendment—which parallels the intent of this House in the last Congress—will be adopted.

I urge the adoption of my amendment.

□ 1720

Mr. BROOKS. Mr. Chairman, I rise in opposition to this amendment. I want to say that I believe that I could agree to the amendment that the gentleman from California [Mr. MOORHEAD] has offered, with the understanding that this provision and this agreement does not in any way condone the view that vertical price fixing requires a specific price. I do not agree with that.

I think it was a rotten court decision, but because there was some possible unfairness to the people who foolishly operated under that bad ruling of the court in the last year, they would be exposed. I would not want them to be endangered unfairly.

Therefore, with that understanding, with these equitable considerations, and the fact that the gentleman from New York [Mr. FISH] has a big dinner date with his wife, a longstanding dinner engagement with his beloved wife, and I have one with mine, and that is another consideration along with the other equities. For that reason, I agree to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CAMPBELL OF CALIFORNIA

Mr. CAMPBELL of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL of California: At the end of the bill, add the following:

SEC. 6. DEFENSE.

It shall be a defense to an action described in this Act that the defendant was so small in the relevant market as to lack market power.

The CHAIRMAN. The gentleman from California [Mr. CAMPBELL] is recognized for 5 minutes.

Mr. CAMPBELL of California. Mr. Chairman, the amendment I offer would have been offered in the subcommittee of which I am now a member and in the Committee on the Judiciary itself, were I a member at the time of this bill's consideration. However, because my accession to the subcommittee and committee was late in this session of Congress, I did not have the opportunity to present it.

The amendment in its entirety is one sentence, which says that this law that we will be enacting today should allow a defense if you are small. That is it. It says that the defense shall be "that the defendant was so small in the relevant market as to lack market power."

The reason I offer this amendment is that we have had a fairly good discussion, I think, on what this legislation will lead to in terms of more lawsuits. We heard letters from small manufacturers and letters from retailers, from distributors who would be described as discount houses. The common point in the letters we have read today is that they were from small business persons who were worried about this law, or about the existing law that this statute would propose to change.

So I offer the following amendment: If we are speaking about a defendant who is so small in the market as not to have market power, would it not be sensible that these new rules not apply? The reason I suggest that is that we do have a risk of excessive litigation in America. As you may recall in the discussion earlier on the amendment by the gentleman from New York [Mr. FISH], I pointed out that as long as we have the right to go to a jury, and try for treble damages there is a tremendous club over the defendant.

There are those that think this is how plaintiffs should be positioned, relative to a defendant in this sort of case. However, not when the defendant is small, nor where the defendant is attempting to break into a market, shall we say, with a new product. We spoke a lot today about competition with the Japanese, with Europe. In that competition, bear in mind that a number of fields have already been lost to our foreign competitors. In the Silicon Valley that I represent, we hardly make memory chips anymore. American firms hardly make electronics anymore. So suppose an American firm wished to reestablish itself in this area and thought that to do so it would like to suggest how the product be sold, that it be sold to high quality outlets, that it be sold with a lot of demonstration of the qualities of the particular good.

These are reasons why it makes sense for the manufacturer to suggest that the distributor be an upscale, up market distributor. That is all I am suggesting. Give that small manufacturer the right to suggest that this new product, to get back into a market, be marketed through the upscale distributor. The danger with the present bill is that it applies across the board no matter how small a business is, even if the business does not have market power. If the defendant is a manufacturer that wants to pursue that form of selling and one distributor does not like it, and another calls up the manufacturer, that is it. That would be enough, as I read the bill, to go to a jury, with treble damages being the possible outcome.

So I offer this amendment. It provides for the small producer in the United States, the small American producer who wants to get back into a market, to establish a niche herself or himself who wants a quality image, an upscale distributor, or wants the manufacturer's product to be displayed at the point of sale with adequate service. For that purpose, I offer the amendment which reads:

It shall be a defense to an action described in this Act that the defendant was so small in the relevant market as to lack market power.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment, and I rise in opposition to any amendment that would somehow carve out an exception to the per se prohibition against price fixing, simply because the offender is small or possesses no great market power.

This is an absurd notion that never had any place in antitrust law. A per se offense is one which is very straightforward in application. If they commit the act, they will be held accountable, regardless of any justification they may attempt to assert. In other words, no mitigating factors in a per se offense, because the conduct is deemed so pernicious as to be without redeeming economic value.

□ 1730

Mr. Chairman, a market power exemption would be the equivalent of saying that insider trading is acceptable but only if you illegally trade 200 shares or less, or that Bonnie and Clyde should have been given leniency, that they should never have shot them because they were only robbing small banks in Kansas and Missouri.

For 100 years price fixing has applied to all entities, large and small. They violate our most basic tenets of a free and fair market system. This is not the time nor the vehicle for such radical notions to take root and undermine our commitment to free enterprise, at a time when we need to be at our competitive best.

Mr. Chairman, I urge opposition to the amendment.

Mr. FISH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will not take my full 5 minutes, but I do want to emphasize that this is the last amendment that will be offered this evening,

and that it is a small business amendment.

The amendment has been explained by my colleague, the gentleman from California, as one that will hopefully not subject small business persons to huge damage awards. The amendment offered by the gentleman from California [Mr. CAMPBELL] is endorsed by the American Federation of Small Business, by the National Office Machine Dealers Association, by the Illinois Small Business Association, and by the ABCD, the Microcomputer Industry Association.

Mr. Chairman, I would like to read from the letter to the gentleman from California [Mr. CAMPBELL] from the American Federation of Small Business dated April 2:

DEAR REPRESENTATIVE CAMPBELL: We oppose H.R. 1236 and support your amendments for Small Business. Dominance of the market in terms of power to set prices should be the test in Anti-Trust.

Mr. Chairman, I ask for a "yes" vote on my collegue's amendment.

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, I thank my colleague for yielding.

I wish to make one clarifying point because I have been asked about it. The amendment to the statute is very simple. It refers to market power, and people have asked, what does that mean? That is a well established principle in antitrust law. If you want a rule of thumb, roughly 15 percent of the market is where the courts have said that above that you are approaching market power. But the point is that it has been litigated now for close to 100 years in antitrust cases, so it is quite well established.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CAMPBELL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CAMPBELL of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 199, not voting 44, as follows:

[Roll No. 73]

AYES—190

Archer	Broomfield	Conte
Armey	Brown (CO)	Coughlin
AuCoin	Buechner	Courter
Baker	Bunning	Cox
Ballenger	Burton	Crane
Barnard	Byron	Dannemeyer
Bartlett	Callahan	Davis
Barton	Campbell (CA)	DeLay
Bateman	Carper	DeWine
Bentley	Clinger	Dickinson
Bereuter	Coble	Dornan (CA)
Bilirakis	Coleman (MO)	Douglas
Bliley	Combest	Dreier
Boehlert	Condit	Duncan
Edwards (OK)	Marlenee	Schulze
Emerson	Martin (IL)	Sensenbrenner
English	Martin (NY)	Sharp
Espy	McCandless	Shaw
Fawell	McCollum	Shays
Fields	McCrery	Shumway
Fish	McEwen	Shuster
Gallegly	McMillan (NC)	Sisisky
Gallo	Meyers	Skaggs
Gekas	Michel	Skeen
Gillmor	Miller (OH)	Skelton
Gilman	Molinari	Slaughter (VA)
Goodling	Montgomery	Smith (NE)
Goss	Moorhead	Smith (NJ)
Gradison	Morella	Smith (TX)
Grandy	Morrison (WA)	Smith (VT)
Green	Myers	Smith, Denny (OR)
Hall (TX)	Neal (NC)	Smith, Robert (NH)
Hamilton	Nielson	Smith, Robert (OR)
Hammerschmidt	Oxley	Snowe
Hancock	Packard	Solomon
Hansen	Parker	Spence
Hastert	Parris	Stallings
Hefley	Pashayan	Stangeland
Henry	Patterson	Stearns
Herger	Paxon	Stenholm
Hiler	Payne (VA)	Sundquist
Holloway	Petri	Tallon
Hopkins	Pickett	Taylor
Horton	Pickle	Thomas (WY)
Hubbard	Pursell	Torres
Hunter	Quillen	Udall
Hutto	Ravenel	Upton
Ireland	Ray	Valentine
James	Regula	Vander Jagt
Johnson (CT)	Rhodes	Visclosky
Johnson (SD)	Ridge	Volkmer
Johnston	Ritter	Vucanovich
Kasich	Roberts	Walker
Kolbe	Rogers	Walsh
Kyl	Rohrabacher	Weber
Lagomarsino	Ros-Lehtinen	Whittaker
Leach (IA)	Roth	Wolf
Lewis (FL)	Roukema	Wylie
Lightfoot	Rowland (CT)	Young (AK)
Livingston	Sarpalius	Young (FL)
Lloyd	Saxton	
Long	Schaefer	
Lowery (CA)	Schiff	
Machtley	Schneider	
Madigan	Schuette	

NOES—199

Ackerman	Dicks	Hughes
Alexander	Dingell	Hyde
Anderson	Dixon	Jacobs
Andrews	Donnelly	Jones (GA)
Annunzio	Downey	Jones (NC)
Anthony	Dwyer	Jontz
Applegate	Dymally	Kanjorski
Aspin	Dyson	Kaptur
Atkins	Early	Kastenmeier
Bates	Eckart	Kennedy
Bennett	Edwards (CA)	Kennelly
Berman	Engel	Kildee
Bevill	Erdreich	Kleczka
Bilbray	Evans	Kolter
Boggs	Fascell	Kostmayer
Bonior	Fazio	LaFalce
Borski	Feighan	Lancaster
Bosco	Flake	Lantos
Boucher	Foglietta	Laughlin
Boxer	Ford (MI)	Lehman (CA)
Brennan	Frank	Lehman (FL)
Brooks	Frost	Levin (MI)
Browder	Gaydos	Levine (CA)
Bruce	Gejdenson	Lewis (GA)
Bryant	Gephardt	Lipinski
Bustamante	Geren	Lowey (NY)
Campbell (CO)	Gibbons	Luken, Thomas
Cardin	Glickman	Manton
Carr	Gonzalez	Markey
Chapman	Gordon	Matsui
Clarke	Gray	Mavroules
Clement	Guarini	Mazzoli
Coleman (TX)	Hall (OH)	McCloskey
Conyers	Harris	McCurdy
Cooper	Hatcher	McDade
Costello	Hayes (IL)	McDermott
Coyne	Hefner	McHugh
Darden	Hertel	McMillen (MD)
de la Garza	Hoagland	McNulty
DeFazio	Hochbrueckner	Mfume
Dellums	Hoyer	Miller (CA)
Derrick	Huckaby	Moakley
Mollohan	Richardson	Studds
Mrazek	Roe	Swift
Murphy	Rose	Synar
Murtha	Rostenkowski	Thomas (GA)
Nagle	Rowland (GA)	Torricelli
Natcher	Roybal	Towns
Neal (MA)	Russo	Traficant
Nowak	Sabo	Traxler
Oakar	Sangmeister	Unsoeld
Oberstar	Savage	Vento
Obey	Sawyer	Walgren
Olin	Scheuer	Washington
Ortiz	Schroeder	Waxman
Owens (NY)	Schumer	Weiss
Pallone	Serrano	Wheat
Panetta	Sikorski	Whitten
Payne (NJ)	Slattery	Williams
Pease	Slaughter (NY)	Wilson
Pelosi	Smith (FL)	Wise
Penny	Smith (IA)	Wolpe
Perkins	Solarz	Wyden
Porter	Spratt	Yates
Poshard	Staggers	Yatron
Price	Stark	
Rangel	Stokes	

NOT VOTING—44

Akaka	Gunderson	Morrison (CT)
Bellenson	Hawkins	Nelson
Brown (CA)	Hayes (LA)	Owens (UT)
Chandler	Houghton	Rahall
Clay	Inhofe	Rinaldo
Collins	Jenkins	Robinson
Craig	Leath (TX)	Saiki
Crockett	Lent	Stump
Dorgan (ND)	Lewis (CA)	Tanner
Durbin	Lukens, Donald	Tauke
Flippo	Martinez	Tauzin
Ford (TN)	McGrath	Thomas (CA)
Frenzel	Miller (WA)	Watkins
Gingrich	Mineta	Weldon
Grant	Moody	

□ 1752

The Clerk announced the following pairs:

On this vote:

Mr. Thomas of California for, with Mr. Akaka against.

Mr. Stump for, with Mr. Moody against.

Mr. Lewis of California for, with Mr. Nelson against.

Mr. Craig for, with Mrs. Collins of Illinois against.

Mr. Houghton for, with Mr. Ford of Tennessee against.

Mr. McCLOSKEY changed his vote from "aye" to "no."

Mr. HENRY and Mr. ROBERT F. (BOB) SMITH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. HENRY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have cosponsored the vertical price restraints legislation for several years, and I am a cosponsor of the bill before us today, H.R. 1236.

I cosponsored this legislation initially because of my concern that the Supreme Court's decision in the Monsanto case upset the important balance in commercial relations between manufacturers and retailers, between a manufacturer's right to unilaterally deal with whomever it wished to sell its products and a retailer's right, once the product is purchased, to sell it to whomever at whatever price it wished.

I am concerned, however, that the bill as presently before us would right the imbalance created by the Monsanto decision by creating an imbalance of its own, in the other direction.

If the Monsanto case puts too great an evidentiary burden on a retailer seeking to prove that it was cut off by a manufacturer for price fixing reasons, the legislation puts to great a risk on a manufacturer by allowing an inference of price fixing to be made too easily.

I intend to vote for the legislation today and let the Senate work its will on it, and hopefully achieve a better balance than I think the committee bill does. If that does not happen, then I will likely not support the bill when it comes back or in any attempt to override a Presidential veto, should it come to that point.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. SKAGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1236) to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing, pursuant to House Resolution 373, had reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FISH

Mr. FISH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FISH. I am opposed to the bill in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FISH moves to recommit the bill, H.R. 1236, to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FISH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 157, not voting 41, as follows:

[Roll No. 74]

AYES—235

Ackerman	Hall (OH)	Pelosi
Alexander	Hamilton	Penny
Anderson	Harris	Perkins
Andrews	Hatcher	Pickle
Annunzio	Hayes (IL)	Porter
Anthony	Hefner	Poshard
Applegate	Henry	Price
Aspin	Hertel	Rahall
Atkins	Hoagland	Rangel
AuCoin	Hochbrueckner	Ravenel
Bates	Hoyer	Richardson
Bennett	Huckaby	Roe
Bevill	Hughes	Ros-Lehtinen
Bilbray	Hyde	Rose
Boggs	Jacobs	Rostenkowski
Borski	Johnson (CT)	Roukema
Bosco	Johnson (SD)	Rowland (CT)
Boucher	Johnston	Rowland (GA)
Boxer	Jones (GA)	Roybal
Brennan	Jones (NC)	Russo
Brooks	Jontz	Sabo
Bruce	Kanjorski	Sangmeister
Bryant	Kaptur	Savage
Bustamante	Kastenmeier	Sawyer
Cardin	Kennedy	Saxton
Carper	Kennelly	Scheuer
Carr	Kildee	Schroeder
Chapman	Kleczka	Schumer
Clarke	Kolter	Serrano
Clement	Kostmayer	Sharp
Coleman (TX)	LaFalce	Shays
Condit	Lancaster	Sikorski
Conte	Lantos	Sisisky
Conyers	Laughlin	Skaggs
Cooper	Lehman (CA)	Skelton
Costello	Lehman (FL)	Slattery
Coyne	Levin (MI)	Slaughter (NY)
Dannemeyer	Levine (CA)	Smith (FL)
Darden	Lewis (GA)	Smith (IA)
de la Garza	Lipinski	Smith (NJ)
DeFazio	Long	Smith, Robert (NH)
Dellums	Lowey (NY)	Snowe
Dicks	Luken, Thomas	Solarz
Dingell	Manton	Spratt
Dixon	Markey	Staggers
Donnelly	Matsui	Stark
Dorgan (ND)	Mavroules	Stokes
Downey	Mazzoli	Studds
Dwyer	McCloskey	Swift
Dymally	McCollum	Synar
Dyson	McCurdy	Tallon
Early	McDade	Thomas (GA)
Eckart	McDermott	Torres
Edwards (CA)	McHugh	Torricelli
Engel	McMillen (MD)	Towns
Erdreich	McNulty	Traficant
Espy	Meyers	Traxler
Evans	Mfume	Udall
Fascell	Miller (CA)	Unsoeld
Fazio	Moakley	Vento
Feighan	Mollohan	Visclosky
Flake	Morrison (CT)	Volkmer
Foglietta	Mrazek	Walgren
Ford (MI)	Murphy	Washington
Frank	Murtha	Waxman
Frost	Nagle	Weiss
Gallo	Natcher	Wheat
Gaydos	Neal (MA)	Whitten
Gejdenson	Nowak	Williams
Gephardt	Oakar	Wilson
Geren	Oberstar	Wise
Gibbons	Obey	Wolpe
Gilman	Olin	Wyden
Glickman	Ortiz	Wylie
Gonzalez	Owens (NY)	Yates
Goodling	Pallone	Yatron
Gordon	Panetta	Young (FL)
Gray	Payne (NJ)	
Guarini	Pease	

NOES—157

Archer	Bliley	Campbell (CO)
Armey	Boehlert	Clinger
Baker	Broomfield	Coble
Ballenger	Browder	Coleman (MO)
Barnard	Brown (CO)	Combest
Bartlett	Buechner	Coughlin
Barton	Bunning	Courter
Bateman	Burton	Cox
Bentley	Byron	Crane
Bereuter	Callahan	Davis
Bilirakis	Campbell (CA)	DeLay
Derrick	Lewis (FL)	Roberts
DeWine	Lightfoot	Rogers
Dickinson	Livingston	Rohrabacher
Dornan (CA)	Lloyd	Roth
Douglas	Lowery (CA)	Sarpalius
Dreier	Machtley	Schaefer
Duncan	Madigan	Schiff
Edwards (OK)	Marlenee	Schneider
Emerson	Martin (IL)	Schuette
English	Martin (NY)	Schulze
Fawell	Martinez	Sensenbrenner
Fields	McCandless	Shaw
Fish	McCrery	Shumway
Gallegly	McEwen	Shuster
Gekas	McMillan (NC)	Skeen
Gillmor	Michel	Slaughter (VA)
Goss	Miller (OH)	Smith (NE)
Gradison	Molinari	Smith (TX)
Grandy	Montgomery	Smith (VT)
Green	Moorhead	Smith, Denny (OR)
Gunderson	Morella	Smith, Robert (OR)
Hall (TX)	Morrison (WA)	Solomon
Hammerschmidt	Myers	Spence
Hancock	Neal (NC)	Stallings
Hansen	Nielson	Stangeland
Hastert	Oxley	Stearns
Hefley	Packard	Stenholm
Herger	Parker	Sundquist
Hiler	Parris	Taylor
Holloway	Pashayan	Thomas (WY)
Hopkins	Patterson	Upton
Horton	Paxon	Valentine
Hubbard	Payne (VA)	Vander Jagt
Hunter	Petri	Vucanovich
Hutto	Pickett	Walker
Ireland	Pursell	Walsh
James	Quillen	Weber
Kasich	Ray	Whittaker
Kolbe	Regula	Wolf
Kyl	Rhodes	Young (AK)
Lagomarsino	Ridge	
Leach (IA)	Ritter	

NOT VOTING—41

Akaka	Gingrich	Moody
Beilenson	Grant	Nelson
Berman	Hawkins	Owens (UT)
Bonior	Hayes (LA)	Rinaldo
Brown (CA)	Houghton	Robinson
Chandler	Inhofe	Saiki
Clay	Jenkins	Stump
Collins	Leath (TX)	Tanner
Craig	Lent	Tauke
Crockett	Lewis (CA)	Tauzin
Durbin	Lukens, Donald	Thomas (CA)
Flippo	McGrath	Watkins
Ford (TN)	Miller (WA)	Weldon
Frenzel	Mineta	

□ 1813

The Clerk read the following pairs:

On this vote:

Mr. Hawkins for, with Mr. Jenkins against.

Mr. Akaka for, with Mr. Tauzin against.

Mr. Moody for, with Mr. Hayes of Louisiana against.

Mr. Nelson for, with Mr. Lewis of California against.

Mrs. Collins of Illinois for, with Mr. Thomas of California against.

Mr. Rinaldo for, with Mr. Stump against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1236, the bill just passed.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 69.

PERSONAL EXPLANATION

Mr. DURBIN. Mr. Speaker, due to a personal matter I was unable to be present on the floor during consideration of H.R. 1236, the Price Fixing Prevention Act. Had I been present, I would have voted yea on roll No. 69, on ordering the previous question; nay on roll No. 71, Mr. DOUGLAS' amendment; nay on roll No. 72, Mr. FISH's amendment; nay on roll No. 73, Mr. CAMPBELL's amendment; and yea on roll No. 74, passage of bill.

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr. Speaker, I was unable to be on the House floor when the House voted on H.R. 1236, the Price Fixing Prevention Act of 1989. Had I been here, I would have voted: "Nay," on ordering the previous question; "yea," on the Douglas amendment; "yea", on the Fish amendment; "yea," on the Campbell amendment; and "yea," on final passage on H.R. 1236, nothwithstanding the failure to adopt any of the preceeding amendments.

Mr. Speaker, I also supported Representative MOOREHEAD's amendment, which was adopted by voice vote.

PERSONAL EXPLANATION

Mrs. SAIKI. Mr. Speaker, I missed several rollcall votes while I was attending the funerals of Senator Spark Matsunaga and Mayor Bernard Akana. Had I been present for these votes, I would have voted as follows:

On rollcall 69, I would have voted "nay";

On rollcall 71, I would have voted "nay";

On rollcall 72, I would have voted "nay";

On rollcall 73, I would have voted "nay";

On rollcall 74, I would have voted "aye"; and

On rollcall 75, I would have voted "aye".

NATIONAL TOURISM WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 153) designating the third week in May 1990 as "National Tourism Week," and ask for its immediate consideration.

The clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so because there are a few Members who would like to speak on this matter.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, the U.S. Travel and Tourism Administration recently—February 1990—announced that tourism to the United States from foreign countries has become America's largest export. That is important in an era of big trade deficits.

International visitors are coming to our country in record numbers. Nearly 38 million foreign travelers visited this Nation in 1989 and the figures are expected to reach 43 million next year—1991.

With so much competition among nations, it is gratifying to know that our country and its magnificent resources attracts millions.

And, although I may be partial, travel in America ranks among the most beautiful and the most diverse of any country in the world.

Travel and tourism is second only to health services in private employment in the nation, 5.6 million jobs, that is more than all the manufacturing jobs in the top 4 industrial States—California, New York, Pennsylvania, and Texas. Yet manufacturing of trains, planes, and automobiles are essential to travel and tourism. Construction of roads and buildings also are stimulated by travel and tourism.

Direct employment generated by travel in the United States exceeds the population of 80 countries.

We are successfully marketing our treasures.

In the past 6 years, National Tourism Week has brought the economic, social, and cultural aspects of the travel and tourism industry to the American public.

I am proud to have been the sponsor of the first Tourism Week in 1984. Since then, we have annually designated the third week in May as National Tourism Week.

The Seventh Annual National Tourism Week, from May 13 to 19, has been selected to honor the travel and tourism industry for its many contributions to the economic and social vitality of this Nation.

This year's poster theme is "Tourism: A Vision of America." As hosts to the world, I would like to see as many people as possible have the opportunity to see America.

I urge my colleagues to support this Seventh Annual National Tourism Week to enhance awareness of the important role tourism serves in the American economy and urge you to travel the U.S.A. this summer and see the vision that is America.

Mr. RIDGE. Mr. Speaker, continuing my reservation, I yield to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, I would simply like to say that as chairman of the Congressional Travel and Tourism Caucus, it is my pleasure to speak to you and my colleagues about the seventh celebration of National Tourism Week.

Senate Joint Resolution 153 designates the week beginning May 13, 1990, as "National Tourism Week."

This resolution is an important vehicle to applaud the efforts of an industry that is vitally important, not only to my own State of South Carolina's economic, social and cultural well-being, but also to that of the Nation.

The tourism community includes millions of workers in hotels, entertainment, amusement parks, recreation, transportation, restaurants, and other tourist-related enterprises. All of these businesses combine to make a valuable contribution to the economic well-being of our country.

Today, as always, travelers from our own country and abroad benefit tremendously from the educational and cultural enlightenment of a travel experience. Tourism is vital to our way of life, and to the understanding and friendship among people of many lands.

To pay tribute to tourism for all its educational, economic, and recreational benefits, I urge today the passage of Senate Joint Resolution 153, commemorating National Tourism Week.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Virginia [Mr. PAYNE].

□ 1820

Mr. PAYNE of Virginia. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE] and appreciate having this Senate joint resolution considered this afternoon.

Tourism is big business. Tourism last year accounted for some $350 billion in gross revenue in this country, 6.7 percent of our gross national product, the third largest retail industry in the country and the second largest in employment with nearly 6 million jobs created by tourism.

In addition to that, international tourism is America's largest export. Last year, in 1989 there were 39 million foreign visitors spending about $43.8 billion. Every 32 overseas visitors creates one new job in America. This business and these jobs are spread throughout our country and not a single State or area is excluded from this growth in this industry.

So in recognition of this industry and the nearly 6 million men and women who work hard every day to ensure that our visitors are being properly attended to and are being treated hospitably, I am very supportive of National Tourism Week as being proposed, and supportive of all that is being done by the tourism industry in the United States.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I simply would like to identify the primary and chief sponsor of House Joint Resolution 290, our colleague, the gentleman from Florida [Mr. NELSON].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 153

Whereas travel and tourism is the third largest retail industry and the second largest private employer in the United States, generating more than five million five hundred thousand jobs and indirectly employing another two million two hundred thousand Americans;

Whereas total travel expenditures in the United States amount to more than $313,000,000,000 annually, or about 6.4 percent of the Gross National Product;

Whereas tourism is an essential American export, as thirty-three million seven hundred thousand foreign travelers spend approximately $18,000,000,000 annually in the United States;

Whereas development and promotion of tourism have brought new industries, jobs, and economic revitalization to cities and regions across the United States;

Whereas tourism contributes substantially to personal growth, education, appreciation of intercultural differences, and the enhancement of international understanding and good will; and

Whereas the abundant natural and manmade attractions of the United States and the hospitality of the American people establish the United States as the preeminent destination for both foreign and domestic travelers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on the second Sunday in May 1990 is designated as "National Tourism Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time and was read the third time.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. DYMALLY:

Page 1, in the first whereas clause beginning on that page, strike "five million five hundred thousand" and all that follows through "Americans" and insert in lieu thereof "five million nine hundred thousand jobs".

Page 1, in the second whereas clause beginning on that page, strike "$313,000,000,000" and "6.4" and insert in lieu thereof "$350,000,000,000" and "6.7", respectively.

Page 2, in the first whereas clause beginning on that page, strike "thirty-three million" and all that follows through "$18,000,000,000" and insert in lieu thereof "thirty-eight million three hundred thousand foreign travelers spend approximately $43,000,000,000".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. DYMALLY].

The amendment to the preamble was agreed to.

The Senate joint resolution was passed.

A motion to reconsider was laid on the table.

NATIONAL CRIME VICTIMS' RIGHTS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 242) designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my friend and colleague, the gentleman from Pennsylvania [Mr. GEKAS], who is the chief sponsor of this Senate joint resolution.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding and for bringing up this measure at a time when on the eve of the week that we are commemorating, the question of crime and crime victims is uppermost in the minds of not only the Members of Congress but in the minds of the American public generally.

Mr. Speaker, again I express my gratitude for this opportunity. Those of us who have over the years observed the scene in the American courtroom, especially in the last generation, know full well the drama that occurs there every single day. The most important element of those little dramas and some very severe dramas that unfold depict the victim of the crime as the most pitiable and most frustrated individual caught up in that process. We have seen it a thousand times, from the most serious victim, the person who is killed at the hands of a murderer, and the family members who are left to appear in the courtroom for one reason or another at the prosecution of the culprit who caused the death of their loved one, to the people involved in that whole atmosphere of havoc that has been wreaked by the killer, ranging down to a businessman who has been victimized time and time again on a series of bad checks, that kind of victimization of the American citizen is what we are trying to in effect say we must reduce, we must advocate for the crime victim and we must elevate the sense of dignity that those people who suffer at the hands of the criminals will have to sustain them as they go through life without any more the benefits of their loved one, and with that scar on their own tissues, and the scar on their own consciousness carried with them the rest of their lives.

I know that this is just a commemoration, but in a deeper sense that is the pledge of the Congress of the United States, that we will continue the war on crime, that we will continue to advocate for victims of crime, that we will do everything in our power statutorily, legislatively, and as individual members of society to curb the scourge of crime that is devastating our neighbors.

There are people throughout the society who are helping in this. For instance, just to put together this National Crime Victims' Rights Week, which begins April 22 through April 28, we have had the superb assistance of the Office for Victims of Crime of the U.S. Department of Justice, the National Victims Center, NOVA which is the National Organization for Victim Assistance, and of course MADD, Mothers Against Drunk Drivers. All four organizations have shown significant contributions in the war on crime, and we wish to thank them through the acknowledgment during this particular time, and also with our further pledge to them that we will continue their efforts every way we can.

I thank the Speaker, the Members of the House, the gentleman from Pennsylvania and the gentleman from California.

Mr. MICHEL. Mr Speaker, I rise today to offer my firm support for House Joint Resolution 464, which designates April 22 through April 28 as "National Crime Victims' Rights Week."

As my colleague from Pennsylvania, Mr. GEKAS, has pointed out, the victim is often the forgotten person in the criminal justice system. We must work harder to include victims in the criminal justice process, to support victims in times of crisis, and to acknowledge those advocates who already serve them.

This resolution reminds us of these critical necessities, and for that reason I support it. I would like to congratulate Mr. GEKAS for his work on this important resolution, and urge everyone to fully support House Joint Resolution 464.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I thank the gentleman for yielding. I want to commend the gentleman from Pennsylvania [Mr. GEKAS] for bringing this issue to our attention.

For those of us who look at crime from a distance because we have not been personally affected, we always think it is the other person, not us, recently, and there is some humor to this, my wife went to have her car washed, and while she was paying for the car a thief just got into the car and drove away with a brandnew car. It did not even have permanent license plates and less than a thousand miles. I suspect that car is somewhere in Mexico or Guatemala now.

But what was ironic about this is that she had just left the court where she had testified in a preliminary hearing on two men who had stuck her up the week before at her doorstep, and she was on her way to attend a meeting for me in the district when she thought she ought to get the car cleaned, and that car was stolen right before the eyes of everybody there. The car was being vacuumed, and the thief just came up and pushed the two men who were vacuuming the car back, backed the car out because he could not go forward or sideways because of a wall, and drove off with the car.

So for the first time I really have experienced crime at my own doorstep and with my own automobile. And even though there is a slight amount of humor to this, I think it is a very serious issue.

I cannot let this opportunity go by, Mr. Speaker, without bringing to the attention of the Members of the House who want to eliminate these commemorative resolutions why they are so important. It gives us an opportunity to address issues in our constituencies, and to respond to legitimate requests of constituents to raise these issues. So I hope Members will recognize that when there might be an oddball commemorative here and there, they are usually sponsored by more than 218 Members, a majority of the House, and that is what democracy is all about. More specifically, they address very serious problems affecting us, and in my case affecting me right now.

Again I thank the gentleman. It is a pleasure to be back in my old job.

Mr. RIDGE. Mr. Speaker, it is a pleasure to be with my friend and colleague.

Mr. Speaker, I withdraw my reservation of objection.

Mr. GEKAS. Mr. Speaker, "What about the victim?" This is a question that has greatly concerned me throughout my career in public service, and it is a question which this House addressed when it passed National Crime Victims' Rights Week for April 22 through 28, 1990.

All of us are concerned about the level of crime—violent crime—in our society. Every day we read about it in the newspapers and every night we watch it on the evening television news. But with increased awareness and attention turning toward the battle against crime, there is often someone who is lost among the headlines, the sound bites and the "tough on crime" rhetoric. That someone is the victim of crime and the victim's family.

Mr. Speaker, the numbers are staggering. Thirty-five million Americans are victimized by crime each year, with 6 million falling prey to violent crime. At this rate the U.S. Department of Justice estimates that five out of six United States residents will be the victim or intended victim of crime during their lifetime. In 1988, according to information published by the Bureau of Justice Statistics, one in four American households—23 million families—were touched by either a crime of rape, robbery, assault, burglary, household theft, or motor vehicle theft. Unaccounted for in this statistic are the grim figures for homicide (20,675), fatalities from drunk driving (18,500) and child abuse (1,225). Nor does it include the catastrophic physical injuries incurred by those involved in drunk driving accidents or unreported domestic violence.

Nineteen eighty-nine also proved once again that crime does not pay—the victim does. Figures recently released by the Federal Bureau of Investigation show that in the past year murder rose 4 percent, aggravated assault was up 5 percent and forcible rape increased 1 percent.

The reasons for the burgeoning crime rate are complex and numerous. The solutions are even more elusive. But one thing is for certain: An overloaded court docket resulting in long pretrial periods, a seemingly endless appeal process, and reduced sentences because of prison overcrowding only compound the suffering of victims.

If the physical pain of a violent crime were not enough, the victim of a brutal assault also suffers through a myriad of emotional pain such as confusion, anger, fear, a sense of being alone, self blame, and helplessness. I know from my experience with victims that those who have never endured this agony cannot imagine it.

If the perpetrator is even caught, the court process worsens the crime by dramatizing and compounding the victim's ordeal. There is the courtroom process, the lineups, the cross-examination, the appeals, and the agonizing waiting. As this drama unfolds the victim of the crime is left feeling isolated and pitiable. By the time this is all over, the victim often feels more like the criminal. Of course, the hallmark of our judicial system is that all accused persons are innocent until proven quilty, but the nobility of that system is no solace to someone who has faced death, felt the impact of a bullet or piercing knife, or known the violation of a brutal assault.

Of course, the real answer is to win the war against a crime, a task easier said than done. However, while the battle to make our streets safe rages, we must make an effort to show concern for victims of crime. That is why I have introduced legislation to designate this week—April 22 through 28, 1990—as National Crime Victims' Rights Week. This week is a time to express support for crime victims, to acknowledge the advocates who serve them, and to endorse the rights of victims and their role in the criminal justice system.

This week was marked by candlelight vigils, balloon lifts, and conferences held by numerous victim advocacy organizations across the country. For instance the National Victim Center sponsored a candlelight vigil in New York City and held an awards ceremony at Texas Christian University, and the National Organization for Victim Assistance [NOVA] held its 10th annual forum for crime victims in Washington, DC.

The highlight of National Crime Victims' Rights Week was a White House Rose Garden ceremony in which President George Bush and Attorney General Dick Thornburgh honored seven people who have made outstanding contributions in assisting victims of crime. Among those honored were Howard and Constance Clery of Bryn Mawr, PA. The Clerys dedicated their lives to preventing future campus victimization since the murder of their daughter, Jeanne, in her dormitory room by a fellow student at Lehigh University in April 1986. They founded the nonprofit organization, Security on Campus, Inc., and spearheaded a national campaign to obtain passage of legislation mandating that colleges and universities be required to publish their violent crime and drug and alcohol offense statistics. Four States have adopted such legislation, and Federal legislation, Crime Awareness and Campus Security Act of 1989, has been introduced in both Chambers of the Congress.

Other award recipients included Milton Cole of Jamaica Plain, MA; Sandra Heverly, of Las Vegas, NV; Dean G. Kilpatrick of Charleston, SC; Emelia "Mimi" Olson of Fort Thompson, SD; and John Walsh of Fort Lauderdale, FL. As President Bush stated at the awards ceremony, these recipients "embody the power of volunteerism, the power of the physically challenged, and the power of a just cause—the campaign to build an America where every victim of every crime is treated with dignity and the compassion they deserve."

Mr. Speaker, many groups and individuals throughout the country were instrumental in securing the passage of National Crime Victims' Rights Week in the House of Representatives. My office had the superb assistance of the Office for Victims of Crime of the U.S. Department of Justice, the National Victim Center, NOVA, and MADD—Mothers Against Drunk Drivers. I would also like to thank the 236 Members of Congress who cosponsored the House resolution, House Joint Resolution 464, to designate this week as National Crime Victims' Rights Week. Their compassionate concern for the crime victim and the advocates who serve them assured the passage of the legislation.

The adoption of National Crime Victims' Rights Week by the Congress of the United States was a pledge to the citizens of this country that we will continue the war on crime, that we will continue to advocate for victims of crime, and that we will do everything in our power statutorily, legislatively, and as individual members of society to curb the scourge of crime that is devastating the people of this great Nation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 242

Whereas thirty-five million individuals in the United States are victimized by crime each year, with six million falling prey to violence;

Whereas the Department of Justice estimates that five out of six individuals will be the victim or intended victim of crime during their lifetimes;

Whereas many victims suffer severe psychological, physical, and emotional hardships as a result of victimizations;

Whereas the Nation must commit its collective energies to improving the criminal justice and social services response to victims;

Whereas injustice to crime victims must be redressed by implementing the recommendations proposed by the President's Task Force on Victims of Crime; and

Whereas, as a Nation committed to justice and liberty for all, efforts must be continued to remove the inequities victims face and to protect and restore individual rights: Now, therefore, be it

Resolved, That April 22 through April 28, 1990, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE AUDIT, THE SUICIDE, AND THE WIDOW'S BATTLE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TRAFICANT. Mr. Speaker, Alex Council, a 49-year-old graduate of Wake Forest University, a husband, father, and grandfather, committed suicide.

Alex Council walked into the woods, he put a gun to his head and he killed himself because, he said in his own words, the IRS hounded him and his wife for $300,000 in back taxes, penalties, and interest that they did not owe.

As fate would have it, Kay Council won her case in court but what a bittersweet victory: Her husband is dead, the business is ruined, her credit destroyed, her family decimated.

Kay Council is left with $16 in her checking account.

What really grinds it in, she was at a Senate hearing about the IRS abuses and IRS Commissioner Goldberg walked right past her without one single word of apologies.

Mr. Speaker, I would like every Member to listen to the suicide note of Alex Council: "I have taken my life in order to provide capital for you to fight the IRS who has taken liens against our property illegally and is an agency of our government out of control. I love you dearly."

Mr. Speaker, this is a sad chapter in American history, it is a sad chapter when American people fear their own Government, and the Congress of the United States of America had done nothing more than provide fuel for this runaway agency.

I submit the following article for the RECORD:

THE AUDIT, THE SUICIDE AND THE WIDOW'S BATTLE

(By Megan Rosenfeld)

It was a rational suicide, she said, if there can be such a thing, Kay Council's husband, Alex, killed himself nearly two years ago at the age of 49, leaving her two eerily businesslike notes that she found when she came home from taking her mother to a bingo game. A postscript to one of the notes said she would find his body on "the north side of the house," where he lay with a bullet through his head.

Another, longer note referred her to a tape recording. "I suggest you transcribe it so that . . . you can more easily refer to the information," he wrote. He also urged her to move quickly to "obtain the required evidence of death from the authorities" so that she could get the money from his suicide-proof insurance policy. His death, he wrote, "was a simple business decision."

Kay Council blames his death on the Internal Revenue Service.

For more than four years before he walked into the woods near the house they'd built, the Councils had been fighting to prove they did not owe the IRS nearly $300,000 in penalties, interest and payment on a $70,000 investment in what turned out to be an invalid tax shelter. Six months after Alex Council's death that June evening, a U.S. District Court judge in North Carolina agreed with them—but by that time the victory was muted. The Councils' house-building business was nearly defunct, Kay Council's credit was nearly ruined, her house was on the block, she owed thousands in legal fees, and she had about $16 in her bank account.

And, of course, her husband didn't know they'd won.

"I don't know which is harder for people to talk about, suicide or [troubles with] the IRS," Council said last week. But recently she decided she would talk about it, she said, because there have been so many rumors back home in North Carolina about why her husband killed himself. And besides, she said, she is still mad. She came to Washington at the suggestion of the National Taxpayers Union to testify at a Senate committee hearing.

The Councils met when they both worked at the same mortgage insurance company in Greensboro, N.C.; she was a data processing manager and he was the vice president and controller of the company. She was a high school dropout with a GED diploma, and he had a degree from Wake Forest University. Both had married young and had two children each and were in the process of divorce when they met.

In 1973 Alex Council was offered a job in California running a new mortgage insurance company; it looked like the fresh start he wanted. Kay followed him to a suburb of San Francisco the next year and they were married. They bought a condo, then moved up to a house, and then to a bigger house, taking advantage of California's spiraling real estate values.

By 1978 the business was a success, and the Councils found themselves the happy recipients of a $300,000 bonus. They wanted to invest it in a way that would ensure their retirement and also minimize their tax liability. Their accountant suggested oil and gas leases and a tax shelter called Jackie Fine Arts, which involved buying the rights to reproduce paintings.

Investors in the company could receive a tax credit in the first year and a depreciation over the total investment during the term of the deal, according to 1980 news stories about Jackie Fine Arts. In addition, the Councils believed they could recoup their investment through the sale of lithographs made from the original paintings.

But in late 1979, after the Councils had claimed a $470,000 write-off for that year's taxes, the IRS announced that those seeking tax shelter at Jackie Fine Arts might find themselves under a leaky roof.

So the Councils expected to be audited and knew they might have to ante up. Indeed, an auditor contacted their accountant and during the next few years repeatedly asked for information that the Councils dutifully produced.

When neither they nor their accountant had received an official "notice of deficiency" by the time the statute of limitations ran out in May 1983, "we thought we were home free," said Council. But five months later they did hear from the IRS—not the notice, which would have given them a 90-day period to fight the assessment in tax court, but a bill for a tax of $115,895, a penalty of $5,795 and interest of $61,331.12, for a total of $183,021.12. As they tried unsuccessfully to find out what had happened to the original notice, which the IRS said it sent in April 1983 (one month before the statue of limitations expired), the interest meter continued to run until the total reached nearly $300,000.

"Prior to this bill, neither my accountant . . . nor I had received an audit report, a 30-day letter, a 90-day letter or any other notice of assessment," Alex Council said in an affidavit he filed in 1987. "The only communication I had received from the IRS since 1983 indicated receipt of my letters requesting the above information, bills threatening collection procedure, and notices of intent to levy on my assets."

Notices like this one, sent in 1985 and written in the urgent style the IRS favors:

"WE HAVE PREVIOUSLY WRITTEN TO YOU ABOUT THE FEDERAL TAX SHOWN BELOW. IT IS OVERDUE AND YOU SHOULD PAY THE TOTAL AMOUNT DUE IMMEDIATELY TO AVOID ADDITIONAL INTEREST AND PENALTIES.

"IF YOU CANNOT PAY THIS AMOUNT IN FULL, PLEASE WRITE OR CALL US IMMEDIATELY. . . . WE HAVE ENCLOSED A COPY OF PUBLICATION 568A, WHICH PROVIDES INFORMA-

TION ABOUT OUR COLLECTION PROCEDURES AND YOUR RIGHTS IN RELATION TO THEM."

Before receiving their first bill from the IRS and starting their lengthy legal battle, the Councils moved back to North Carolina. They wanted to be closer to her daughter and the child she was about to have, and Alex Council wanted to get into the construction business. "He had always been a coat and tie sort of man," said Kay Council. "Now he was in jeans and flannel shirts and couldn't have been happier."

They continued to correspond with the IRS. They asked for a copy of the notice the IRS said it had sent, and got it—two years later. The IRS maintained the original notice had been sent by certified mail, so the Councils asked for the certification number so they could check with the San Francisco post office. The IRS produced that in 1987, but all the paperwork except one list had been destroyed two years before in routine Post Office procedure.

That list, however, showed a curious error. The Councils' notice of deficiency had been slightly misaddressed. Instead of sending it to 71 Corte Del Bayo, Larkspur, Calif., the IRS sent it to 7+.

The IRS is prohibited by privacy laws from commenting about a specific case, but in its legal brief (which contained two typos itself), the agency's lawyer argued that "actual receipt of the notice is not required if the notice was properly mailed." During the district court trial in October 1988, the IRS called as witnesses the Councils' regular mailman, who said he might have delivered the misaddressed letter anyway, but he couldn't remember whether he had. The IRS also called the clerk who would have put the notice in the envelope, but she couldn't say for sure whether it had been in a window envelope (the address was correct on the actual notice) or mailed in a regular envelope.

The Councils' attorney, James M. Iseman Jr., produced two other persons' deficiency notices that were not mailed in window envelopes, and examples of other incorrectly typed addresses—including that of the Councils' accountant. He too never received the notice of deficiency.

But that was after the matter finally came to trial four months after Alex Council's death. Meanwhile, the IRS had, as a result of the 1979 audit, also audited the Councils' 1978 return, as well as the business returns for 1983, 1984 and 1985. A penalty of $6,821 was levied for 1978—as a result of the problems with Jackie Fine Arts—and was paid.

Council had borrowed money to build his first development of middle-class, suburban homes, sold them and then bought more land. They built a house for themselves first, taking out a $112,000 construction loan to do it, which they planned to convert to a standard mortgage once the development was built and sold. But in July 1987, the IRS placed a lien on the home, and the Council Development Co. began to crumble.

As a result of the lien, which lenders would discover in a routine credit check, mortgage insurance on the houses under construction was canceled, and Alex Council couldn't get the money he needed to keep his business afloat. They could not convert the construction loan on their own home to a mortgage because of the lien, and faced losing the house altogether when the loan came due.

"You get to the point where you expect them to walk in any day and take what you have," said Council. "We lived with that every day. But when they didn't, I came to believe that it was because they knew they were wrong."

In May 1988, the Councils celebrated their 14th wedding anniversary with a three-day trip. "We talked through the whole thing for three days," Kay Council said. "I said I could live with losing everything and having to start over, as long as we had each other. He let me think he felt that too."

That month they had what appeared to be a hopeful sign when the judge in U.S. District Court granted them an injunction against the IRS enforcing the lien. But instead of ruling that the IRS was wrong, as the Councils had hoped, the judge scheduled a trial and allowed the IRS more time to gather evidence.

"There was something so defeating about expecting an answer and getting another delay," she said. "That was a real downer. Of course the 60 days turned into October." By that time the Councils' net worth was about $15,000, she said, their business was stymied, their lives were consumed with their tax battle, and they could not see how to get out from under it all.

A month after their anniversary trip, Alex Council was dead.

In the shorter of the two notes he left, he wrote:

"My dearest Kay,

"I have taken my life in order to provide capital for you. The IRS and its liens which have been taken against our property illegally by a runaway agency of our government, have dried up all sources of credit for us. So I have made the only decision I can. Its purely a business decision. I hope you can understand that.

"I love you completely,

ALEX."

"He was the last person in the world people thought would kill himself," said his widow. "He was the one who always had a solution to any problem. . . . He loved life. This was a man who loved to learn—when he died he was taking a course at Wake Forest in the Constitution. He wanted to know everything, do everything, experience everything. We never fussed or fought. This was a man who never missed a day telling me he loved me, and never got up from my table without thanking me for a good meal. If two people were ever close to being one, it was Alex and me."

After her husband's death, Kay Council had the tape he left transcribed. It ran 15 pages and contained detailed instructions about everything he wanted her to do. Although Kay was a half owner of the construction business, she knew little about the details, she said. For example, she did not know that here husband did not have mortgage insurance.

After she got the $250,000 from his insurance policy (it had a clause that paid off for suicide after two years of premium payments), she tried to do what he wanted her to: keep the court case against the IRS alive, pay off bills, finish building the housing development, in debt.

"I was determined the IRS would not get one penny of Alex's money," she said. "Even if I had to burn it in my back yard. My lawyer said, 'Don't you know you could go to jail for that?' And I said I didn't care."

So she paid her credit card bills, bought herself a $70,000 "cracker box" town house with cash, gave her attorneys $15,000, and tried to run the construction business, which she found rough going. "I really didn't know about that part of the business," she said "What I had done was pick out the color of carpets and that kind of thing."

When the case came to trial, the IRS argued that since the Councils knew from their auditor that their deduction probably would not be allowed, they should have contacted the agency to find out what happened. The judge, in a sentence Council's friends love to quote, dismissed that notion sharply: The tax code "does not place upon plaintiffs the burden of hounding the IRS for delivery of a possible notice of deficiency." He also said that neither the Councils nor their accountant had any motive to falsely claim they had not received the notice, because they had no way of knowing whether the IRS would be able to prove it had sent it. He ordered the deficiency cancelled and the lien revoked.

But Kay Council's troubles were not quite over.

Knowing the construction loan on the house was coming due in March, she put the house up for sale. But in February of last year, one week before the closing, she learned the lien had not been removed by the IRS, and the sale was doomed. Her attorney arranged for the lien to be lifted under the condition he hold the net proceeds of the sale for 10 days. When she went to get the money from him, she said Iseman told her the money was owed to him and refused to release it until she had paid him $10,000 and a deed of trust for $3,000 on her town house.

Iseman says he understands that Council feels attorney's fees were high but that they didn't realize that bills had been mounting since 1985. Although the IRS had been ordered to pay attorney's fees, it did not pay them until two weeks ago—one week before Council was scheduled to tell a Senate committee about her experiences.

Council must pay the difference between the amount Iseman charged and the IRS paid as well as what is left from the other audit. She currently owes about $14,000, and she discovered, to her dismay, that it is her responsibility to convince credit bureaus that the lien has been removed and was improperly filed in the first place.

Kay Council speaks of herself as a woman who had to become tough or "lay down and die." In choosing to fight, she gained strength she never thought she could possess. But she doesn't know quite what to do with it.

Her victory last October was hollow, she said sadly. There was something missing in the dry legal language of the court decision and the dry legal handshakes of her attorney. When she came to Washington last week to tell Sen. David Pryor's committee about what had happened to her, she knew that IRS Commissioner Fred Goldberg was going to precede her at the witness table, and she wanted to meet him.

"I wanted him to shake my hand," she said. "What I wanted was for him to say he was sorry. That they made a mistake, and they were sorry. But he left before I even got near him."

INTRODUCTION OF LEGISLATION REQUIRING DOE TO REMOVE HAZARDOUS WASTE FROM ST. LOUIS AIRPORT SITE

(Mr. BUECHNER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BUECHNER. Mr. Speaker, too often the business of politics is compromise—balancing the ideal between the feasible. But there are issues which do not lend themselves to compromise. The radioactive waste which currently exists in my congressional district is such an issue.

Last year I introduced legislation to help arrive at a reasonable solution to a long-standing problem—the safe disposal of radioactive waste left over from the development of the first atomic bomb stored near the St. Louis airport for the last 40 years.

My bill was designed to break an impasse between the Department of Energy and the city of St. Louis over the exploration of alternative sites for the waste. However, no such exploration has taken place and St. Louis recently transferred control of the property to the DOE for the express purpose of building a permanent facility on site. This transfer ignores the possibility of finding a more satisfactory solution and is an affront to the legitimate health and safety concerns of my constituents.

That's why today I am forced to introduce legislation directing the DOE to remove all contaminated material from the St. Louis urban area to a less populated and safer location.

Mr. Speaker, this is not an action I have taken easily; it is one to which I am compelled. I ask the support of my colleagues to help me end this nightmare which haunts my constituents and has compromised their safety and the environmental integrity of this area for more than two generations.

[From the New York Times, Mar. 24, 1990]

MOUNTAIN OF NUCLEAR WASTE SPLITS ST. LOUIS AND SUBURBS

(By Keith Schneider)

ST. LOUIS.—Nearly half a century after a company here began processing fuel for nuclear weapons, St. Louis and several western suburbs are battling over a new disposal plan for millions of cubic yards of dirt contaminated with uranium, thorium, radium, actinum and other radioactive elements that are polluting the water, soil and air.

Not even in Denver, where plutonium particles escaped from the nearby Rocky Flats Plant, or in Salt Lake City, where a pile of uranium wastes was recently moved from the city to the desert, has a major metropolitan area contended with radioactive wastes on the scale facing St. Louis.

"We have a million cubic yards of radioactive waste on this side of the Missouri River, a million and a half on the other side, and they don't know where to put the first cupful," said Kay Drey, a nuclear opponent here who is providing technical assistance to several suburban leaders. "This is the oldest radioactive waste of the atomic age, and there still is no safe place to put the stuff."

WE HAVE NO SAY

The Federal Government, which has spent a decade and $75 million studying the extent of the contamination, has not settled on a solution, but officials are leaning toward a plan that they say can accommodate half the waste: consolidating debris from a former uranium processing plant downtown and a handful of other sites onto 82 acres just north of Lambert International Airport in the suburb of Berkeley.

The City of St. Louis owns the land, which is divided into a site where some waste is already stored and an adjoining park that was closed in 1988 because of radiation in the soil.

Showing support for the Energy Department plan, St. Louis's board of Aldermen has voted to transfer ownership of the land to the department. But the Mayor of Berkeley, William Miller, wants all the wastes removed from the area: he is leading a campaign to collect signatures from 15,000 St. Louis voters and repeal the board's decision.

"It makes no sense at all to have this much hot dirt around so many people and so many businesss." Mr. Miller said in an interview. "Ultimately we're going to have the responsibility to watch this site. But we have no say in what's done here."

Mr. Miller's campaign has drawn support from the St. Louis County Municipal League, which represents more than 90 municipalities, and the mayors of Bridgeton, Hazelwood and eight other cities.

A POTENTIAL HEALTH HAZARD

The Energy Department's response to such concerns has hardly been reassuring. It has displayed a new candor about the risks that residents face, describing in a January report the extent of contamination around the metropolitan area, with special attention paid to the problem in Berkeley.

The radioactive waste near the airport, along the Berkeley-Hazelwood border, represents a potential health hazard to the general public," the authors of the report said. "There is no control of off-site contamination to prevent further spread of this material. The problem is magnified by the extensive commercial developments in this area.

The situation here is one of the most graphic illustrations of the enduring costs paid by an American community for its participation in the cold war. For 21 years, St. Louis was a vital link in the chain of production for atomic weapons because of a chemical process that the Mallinckrodt Chemical Works developed for purifying large quantities of uranium.

The company, one of the city's oldest industrial concerns, produced the uranium used at the University of Chicago on Dec. 2, 1942, to sustain the world's first nuclear chain reaction and for the atomic bombs that destroyed Hiroshima and Nagasaki in August 1945.

GOVERNMENT APPROVED DUMPING

Until 1966, Mallinckrodt processed uranium for nuclear weapons at its main plant along the Mississippi River in downtown St. Louis and in Weldon Spring, 25 miles to the west.

Under the cover of national security secrecy, the Government authorized the company to dump radioactive wastes quietly in the suburbs, including a 21-acre Berkeley field owned by St. Louis. It is that field and the 61-acre park across the street that the Government is considering for a permanent storage site.

David R. Bohm, an assistant city counselor for St. Louis, said the transfer of the land to the Government was subject to conditions. "For the Department of Energy to gain control of the land," he said, "they must agree that they will not charge the city for the cost of the cleanup. They must also agree not to put any other radioactive wastes there except those from three specific sites in the region."

The Energy Department has spent $75 million since 1977 to assess the extent of contamination here and to build several small projects at Weldon Spring to reduce water pollution. In the meantime, the estimated cost of cleaning up Mallinckrodt's two plants and controlling the wastes at the site abutting the airport has reached $1.4 billion and is certain to climb as more contamination is found.

And the department also acknowledges that even though it has settled on a possible solution new estimates of the size of the problem, inevitable court challenges and an array of other political hurdles mean that it is no closer to a permanent answer than it was when work began in the region 13 years ago. In 1981 the department estimated that there were 556,000 cubic yards of radioactive wastes in the St. Louis metropolitan area, roughly a fifth the current estimate.

"It's the most frustrating part of my life as a public official," said Mr. Miller, the 43-year-old Berkeley Mayor. "People are retiring on the money they're making off this. It's a multimillion-dollar wait-and-see."

DANGER DENIED IN 1946

The wastes became an issue momentarily in 1946, when newspaper reporters here asked questions about the trucks that were hauling dirt from the plant to land bordering the airport. The concerns disappeared after the Government and Mallinckrodt assured reporters that the wastes were "not radioactive or otherwise dangerous."

From 1946 to 1957, Mallinckrodt hauled wastes from its downtown processing plant and dumped them in shallow pits north of the airport. In some places in Berkeley and Hazelwood, along roads where waste spilled from trucks, the Energy Department has found radiation levels seven times normal. Uranium, thorium and radium have also been found in sediments in Cold Water Creek, which drains the Berkeley park and then flows to the Missouri River.

The park, where children and adults played softball for decades, was closed in 1988 because of the high radiation levels found in the soil. The Energy Department hopes to use the park as the site for a permanent bunker to store the wastes, which will remain radioactive for tens of thousands of years.

While the Government favors this plan as the most economic cleanup method, it is studying a variety of options and says it will not make a decision until 1994 or 1995. Further tests and studies are planned to determine the scope of the contamination.

PROBLEMS ACROSS THE RIVER

The problem is not Berkeley's alone. In 1957 Mallinckrodt transferred uranium processing to a new Government-owned plant across the Missouri River in Weldon Spring, and began dumping radioactive wastes and debris into a quarry on the site. Uranium processing was halted in 1966, but the accumulated wastes remain. Cleaning them up is now expected to cost $594 million. In 1979 the Energy Department estimated the Weldon Spring cleanup cost at $3.6 million.

And in downtown St. Louis, just south of the McKinley Bridge, the department found radiation levels in excess of Federal health guidelines inside 14 buildings at the Mal-

linckrodt chemical plant that are still in use.

A fourth contaminated site, the West Lake landfill, has been found about 10 miles west of Berkeley in Bridgeton.

Keith F. Pickett, a spokesman for the company, now called Mallinckrodt Inc. and owned by the International Minerals and Chemical Corporation, says the hazard to the company's workers is negligible because most of the contamination is confined to small spots. "The Department of Energy has assured us and our employees that there is no real risk," he said.

But some workers are worried. In 1980 a study by epidemiologists under contract to the Energy Department found an excessive number of deaths from cancer of the esophagus and leukemia among 2,731 white males who processed uranium for Mallinckrodt from 1942 to 1966. The researchers did not identify a cause of the cancers.

Scientists have long known that high levels of radiation, far above the levels at which the Mallinckrodt workers have been exposed, can lead to malignancies of the blood, bones and organs. At low levels the effect is much less certain, although a recent study by the National Academy of Sciences said low doses of radiation were more dangerous than was thought even five year ago.

"My concern is that we're getting doses that are bad and nobody wants to tell us," said Kathy Collins, a 38-year-old chemical operator at the plant." "The company doesn't want to talk about this because it's a skeleton in their closet. They hide behind the Energy Department which tells them there is no problem.

USIA SPENDING $60,000 ON UNITED STATES TOUR FOR RUSSIAN ANTI-SEMITES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BURTON of Indiana. Mr. Speaker, today I was scheduled to meet with a USIA-sponsored foreign visitor. I canceled that meeting, and here's the reason.

Yesterday, the Washington Post carried a shocking story on its front page. The U.S. Information Agency, at a cost of $60,000 to the U.S. taxpayers, is sponsoring a tour of Russian anti-Semites to the United States. The mere idea of this boggles the mind. I am outraged that the USIA would have anything to do with such contemptible people. Anti-Semitism, which has caused so much death and suffering through the ages, has no place here in America.

What makes this matter even more infuriating, is the USIA's official response. Their spokesman justified this disgusting act by saying that not all our visitors have to share our views.

Mr. Speaker, I believe we ought to kick these so-called visitors, right in the rear end, right back to Russia. And I urge my colleagues to boycott the USIA until they resolve this matter.

The article referred to follows:

[From the Washington Post, Apr. 17, 1990]

SOVIET GROUP ON USIA TOUR INCLUDES ALLEGED ANTI-SEMITES

(By Judith Havemann)

The United States Information Agency is financing a month-long tour of the United States by a group of Soviet editors and writers associated with extreme Russian nationalist publications, some of whom have been accused of antisemitism.

Several leaders of American Jewish groups have criticized the USIA for bringing the group to this country. "Inviting these kinds of people from the Soviet Union with known antisemitic views is unacceptable and harmful," said Mark E. Talisman, director of the Washington office of the Council of Jewish Federations. "Sponsorship by the federal government is ludicrous and appears to smack of approval."

USIA spokesman Frank S. Johnson Jr. said, "I'm not in a position to confirm* * *whether they have antisemitic views or not. These people are Russian nationalists. That is why they were invited.

"This is the means available for the U.S. to transmit the value and advantage of a pluralistic society," he said. "Is the situation such that everybody has to agree with us before they can be invited?"

The delegation of Russian nationalists includes well-known figures in a movement that is apparently growing in strength in the Soviet Union, according to news reports from that country. Though the movement contains many different strains, its adherents share a suspicion of westernized liberals and an attachment to traditional Russian institutions and values. Many members of the movement have made antisemitic pronouncements.

Three of the eight members of the Soviet delegation are among 74 signatories to a letter published in Literaturnaya Rossiya that is viewed with great alarm by Jews in the Soviet Union. Literaturnaya Rossiya is edited by a fourth member of the delegation, Ernst Safonov.

The letter said: "It is precisely Zionism that is responsible for many things, including Jewish pogroms, for cutting off dry branches of their own people in Auschwitz and Dachau * * *." Zionists deliberately stirred up antisemitism so they could more easily emigrate to Israel or become refugees in the United States, it said.

In an inteview in Washington yesterday, Safonov said: "If you were to read the letter carefully* * *I think you would have noticed that the letter per se is not directed against the Jews," but against "Zionists." He called the letter "a cry of the writer's heart * * *. The treasures of Russian culture are in danger of extinction."

The three signers of the letter visiting the United States are Viktor Likhonosov, an author; Oleg Mikhailov, a scholar at the World Literary Institute in Moscow; and Stanislav Kunayev, chief editor of Nash Sovremennik (Our Contemporary).

In Nash Sovremennik last June, Kunayev wrote that the "Protocols of the Elders of Zion," an infamous antisemitic document concocted in Russia early in this century, was in fact a real document written by "an anti-human intelligence and an almost unnatural, santanic will." At another point in the article, Kunayev described "an immoral system by which publicists of Jewish origin use Russian surnames and write about the defects of the Soviet people."

In an interview here yesterday, Kunayev said hatred of Russia and Russians is now a theme of commentators who suggest that Russian characteristics are dangerous or that the Russian nationality ought to be annihilated. "Can we take it lying down?" he asked emphatically. "Can we be calm about it?"

Members of the delegation said they view accusations against them of antisemitism as "a small issue," as one put it—a diversion from more serious problems afflicting their country.

With "all the myriad unsolved calamities" facing the Soviet Union, Safonov said, journalists "have nothing better [to do] than beat this horse to death."

The Soviet visitors have been invited to speak at a seminar today at the Kennan Institute for Advanced Soviet Studies.

Daniel Abele, research associate at the institute, which is partially funded by the government, said the Kennan Institute agreed, at the request of the USIA, to "have these people give their presentation at the center. It's our view that it's important that a plurality of viewpoints are presented at the Kennan Institute."

"We realize that some of these people are editors of journals and newspapers which often have antisemitic articles presented there * * *. Some of these ideas are extremely dangerous, but we believe that it is important that people here in Washington become a little more aware of what is going on in the Soviet Union," Abele said.

"Government sponsorship of even one notorious antisemite is a travesty," said Martin A. Wenick, executive director of the National Conference on Soviet Jewry. "I don't believe a prestigious organization such as the Kennan Institute should be giving a platform to people who openly espouse antisemitic views."

The $60,000 trip will take the writers to Pittsburgh; Iowa City; Urbana, Ill.; Oxford, Miss.; San Francisco; Bozeman, Mont.; and New York City.

According to the USIA, the visit was proposed by the public affairs office of the U.S. Embassy in Moscow.

□ 1830

SIGNORE MARIO CASALINI AND CASALINI LIBRI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

Mr. FAZIO. Mr. Speaker, I rise today to recognize the contribution to intercultural relations around the world made by Signore Mario Casalini, the proprietor and operator of Casalini Libri—a book dealership and bindery in Florence, Italy.

For over 30 years Sig. Casalini has committed himself to fostering cultural understanding through the distinguished profession of bookselling. Just one beneficiary of his efforts is the Library of Congress, whose Italian language collections are unsurpassed in the United States and are a great service to the Congress, scholars, and the general public. Sig. Casalini's lifetime of service through books was inherited from his forefathers. For many generations they have been printers and publishers in the magnificent city of Florence, which is in many respects the cultural capital of Italy. His services are not only in the areas of finding, acquiring, binding, and selling books, but also in his provision of essential bibliographic records for international scholarship. Through the efforts of Casalini Libri, li-

braries around the world benefit form bibliographic data on Italian publishing. For all practical purposes this data serves as the national bibliography of Italy.

Casalini Libri was established in 1958 by Mario Casalini at the request of several American university libraries which were seeking help in the acquisition of Italian publications. He was approached to perform this task because of his family's long association with the printing and publishing of scholarly and educational materials. For many years, he served as president of the publishing house, La Nuova Italia Editrice, and he also served as vice-president of the Italian Publishers' Association. Although the family has recently sold their publishing activities, the firm, Casalini Libri, specializes in the export of Italian publications to foreign libraries, including many university, public, and government libraries in the United States. Casalini Libri is the preeminent exporter of Italian publications. Family members who continue to play an active rule in the firm's export business include Mario's wife, Gerda, and two of their children, Barbara and Michele.

The Library of Congress has done business with Casalini Libri since the firm's earliest days. It is their exclusive supplier of current Italian books. During the 1989 fiscal year, they acquired 3,639 books, 7,381 serial pieces, and 426 other items such as microfilm, photos, music scores, maps, and sound recordings for a total of 11,446 pieces from Italy. Casalini Libri also fills the Library's needs for trade monographs and noncommercial publications that are not available through international exchange programs. Most of these items are acquired on blanket orders which provide monographs upon publication according to predetermined specifications.

Casalini Libri's cataloging information for Italian publications is the best, fastest, and most comprehensive produced in Italy. The Library of Congress and other U.S. academic libraries rely on this data for information about new Italian books. In fact, of all the European vendors, Casalini Libri has pioneered the process of dissemination of bibliographic data in machine readable form to libraries throughout the world.

Mr. Speaker, it is with pleasure that I recognize the lifelong efforts of Mario Casalini and his family in fostering cultural understanding and scholarship between Italy and the United States and internationally, as well. I'm sure I speak for all of us in wishing Sig. Casalini many more years of service to the Library of Congress and other U.S. libraries. We appreciate his good work on behalf of our Library.

A TRIBUTE TO THE LATE PETER KILBURN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, Peter Kilburn, an American that was taken captive in Lebanon in December 1984 and executed after 2 years in captivity, has not been given the recognition that his memory deserves.

It is for this reason that I would like to honor a man who dedicated his life to the betterment of the people of the world.

Yesterday, April 17, marked the fourth solemn anniversary of Mr. Kilburn's death, and I wish to recount some of the deeds of this educator, scholar, and man of peace.

Born on February 10, 1924, Peter Kilburn was a native Californian who called Lebanon his home after the mid-1960's. He had a formal background in library science and obtained his masters degree in that field from the University of California at Berkeley.

He served his country as a professional librarian in the U.S. Air Force at the base in Izmir, Turkey, during the mid-1950's and later assumed a similar civilian position at the American University in Lebanon.

It is in Lebanon that Mr. Kilburn found the cosmopolitan society and intellectual satisfaction that this eclectic lover of—as a close friend termed—"obscure and ridiculous things" craved. It was also in Lebanon that Mr. Kilburn so clearly displayed the generosity that best describes him.

After his death, his many friends recalled that Peter would often pay for student's educations and books, occasionally at the expense of his own well-being. Sometimes money that should have gone to pay for his own medication went for the payment of students' school requirements or just for the room and board of those that were in need. Peter further gave of himself by teaching English to the numerous people that asked for his help.

Often called the "forgotten hostage," Mr. Kilburn's confinement ended 4 years ago that terrible day in April when his body was found in the mountains outside of Beirut.

It is my sincerest wish that Mr. Kilburn's memory live on, not for the atrocity of his death, but for the absolute humanity that defined his life.

POLISH OFFICERS HONORED ON KATYN MASSACRE ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, this month marks the 50th anniversary of the infamous Katyn Forest Massacre of thousands of captive Polish army officers by the Soviet secret police. In Wisconsin's Fourth Congressional District, this tragic event is being commemorated on April 22, 1990 by a mass at our Lady Queen of Peace Roman Catholic Church in Milwaukee and the showing of a documentary film on the massacre, obtained from the Library of Congress.

Following the September 1939 invasion of Poland by Nazi Germany and Soviet Russia, 300,000 Polish soldiers were captured by the Soviets after valiantly resisting overwhelming odds. Of these, approximately 15,000 were officers, who were separated from their troops, and placed in three special camps located in Starobielsk, Ostashkov, and Kozielsk, near the Katyn Forest. Over 90 percent of the remaining 285,000 Polish soldiers were killed by the Soviets during the war, often in slave labor camps.

The officers were held in the three camps from fall 1939 until spring 1940. The fate of those detained in Kozielsk, near the Katyn Forest, is best known because the German troops who later occupied the region publicized their plight in a big anti-Soviet propaganda campaign. Local Russian peasants testified that between January and April 1940 thousands of Polish officers were brought from the camp, interrogated in a nearby castle, and then taken into the forest with their hands tied behind their back to be shot in the head by Soviet soldiers, and left to die in mass graves.

The officers in the other two detention camps met equally brutal, if less well-documented, deaths. In all, over 15,000 Polish army officers, many of whom were professors, doctors, and community leaders in civilian life, were killed. Many historians believe the murders were intended to strip the Polish nation of its leadership so that the Soviet Union could more easily dominate it.

Poland suffered terribly as a result of the massacres and the war but it nevertheless survived; in the end, the Soviets were unable to subdue the Polish nation. Now, 50 years after this tragedy, Poland has regained its liberty and is adopting a democratic political system and a free market economy.

Emboldened by this new freedom, Poland helped force the Soviets on April 13, 1990 to admit responsibility for this atrocity, which had been blamed on the Nazis. While this long overdue acknowledgment of guilt is welcome, the Soviet Union still must offer compensation to Poland and the families of those killed, and still must punish those responsible for this crime. Only after this has been done can the massacred rest in peace.

ADRIANO MANOCCHIA'S EARTH DAY EXHIBIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, I would like to draw the attention of my colleagues to a display of works by Andriano Manocchia which will be on display in the capitol rotunda of the New York State Capitol as part of the State's Earth Day commemoration. His lithograph, "A Waiting Game," will also be unveiled as the first New York State Audubon Society commemorative lithograph. Mr. Manocchia's stunning works show an intimate aspect of our natural heritage which serves to remind us all of just how beautiful our environment can be.

This display is especially appropriate as part of the Earth Day celebration. Earth Day is intended to renew the commitment of all citizens to work together toward the preservation of our precious environment. Mr. Manocchia's works encourage that commitment by realistically portraying endangered species, like the giant pandas, in their natural environments. One cannot help but feel the urgent necessity to protect these animals after viewing one of Mr. Manocchia's works.

Mr. Manocchia began his career in photojournalism while completing his B.A. degree at Pace University in New York. In 1973, he became the head photographer for the International Ladies Garment Workers Union [ILGWU]. During 5½ years at the ILGWU, he photographed Presidents Ford and Carter on several occasions. In 1976, he won a national first prize for his photo-essay on sweatshops in the back hills of Tennessee. During the Carter Presidential campaign, he was asked to cover the New York campaign tour.

In 1980, he devoted his time completely to the pursuit of his artistic talents. He became increasingly interested in depicting animals in their natural settings. He also became concerned about the problems that face wildlife, especially the high rate at which species are becoming extinct. His stated goal became to "leave some kind of record" of the way he saw these animals and their environments.

His works have been received with great acclaim. His limited edition prints of a giant panda and snow leopard were endorsed by the National Zoological Society. His painting of a bald eagle was chosen to commemorate the 200th anniversary of the U.S. Constitution by the bicentennial committee in Washington, DC. His work in oil titled "Fall Fishing," which was featured on the cover of Fly Fishing Heritage magazine, won the prestigious DuPont Annual Art Award for published art.

Mr. Manocchia's works are much more than mere pictures of exotic animals. They place the viewer on an intimate level with the subject. The viewer receives the feeling that he has actually fished in the mountain streams or experienced the presence of the giant panda along with the artist. The viewer understands the artist's desire to be much more than a spectator to the images which he paints. It is this sense of intimacy which makes him so popular with lovers of the environment and which makes his works such an appropriate part of Earth Day activities.

IN RECOGNITION OF NATIONAL MEDICAL RESEARCH DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, the week of March 26, 1990, marked the third annual observance of National Medical Research Day. Several of my own constituents were in town to mark this special occasion and to participate in the Advocacy/Mentor Conference sponsored by the National Health Council [NHC]. The National Health Council is comprised of 39 voluntary health agencies [VHA's] and the Pharmaceutical Manufacturers Association. These eminent organizations put aside their individual disease or disorder focuses to concentrate their collective energies on achieving stability and growth in our Nation's overall medical research enterprise.

National Medical Research Day, observed this year on March 27, is a tribute to our Nation's continued leadership, nationally and internationally, in the field of medical research. We must recognize and celebrate that status while also realizing that our Nation's predominance in medical research is threatened by the continuous downward trend in Federal funding for vital research-related activities. Each year our Nation spends more than $2,000 per person to treat health problems while the Federal Government expends only $35 per person for the medical research that could prevent those problems from occurring in the first place. In 1989, approximately $600 billion, more than 11 percent of the gross national product [GNP], was spent largely to treat illness. At the same time, only $8 billion in Federal support, or approximately one-third of 1 percent of the GNP, was devoted to research.

This discrepancy cannot continue if we have any hope for addressing the long-term health and well-being of all Americans. We must develop positive public policy that effectively promotes private sector research activities.

Mr. Speaker, no one can deny the critical role of medical research in enhancing the quality of life for people throughout the world. For example, advances in combatting such respiratory diseases as tuberculosis, emphysema and asthma have saved thousands of lives over the years. At the same time, however, knowledge of respiratory system development before and shortly after birth remains inadequate. Even tuberculosis, which we believed was well under control after the 1950's, has begun to haunt us again. In 1986, the steady downward trend in reported cases of TB stopped as reported cases of TB increased. Most public health authorities relate that reversal to the high incidence of TB in individuals infected with the human immunodeficiency virus [HIV], which causes AIDS. Experts conclude that, above all, an effective vaccine against tuberculosis offers the only realistic route to achieving the complete eradication of the disease. Can we afford to turn our backs on current and future research activities in this area? I think not.

Maintaining the priority status of medical research in the public and private sectors is good public policy. It is a sound investment yielding tremendous dividends. We can ill-afford to allow inadequate Federal funding or an environment that does not encourage a continued public-private partnership in medical research activities to jeopardize the discovery, diagnosis, and teatment of disease.

Let us use the observance of National Medical Research Day to reaffirm the commitment of Congress and the private sector to ensuring that this country's leadership in the world of medical research will continue and grow.

DUKE ELLINGTON DOLLAR COIN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROYBAL] is recognized for 5 minutes.

Mr. ROYBAL. Mr. Speaker, today I am submitting the Duke Ellington Dollar Coin Act which would authorize the making of a $1 coin for general circulation that would bear the likeness of a truly honorable man Edward Kennedy "Duke" Ellington.

Though born in the era of rigid segregation, the Duke strove for a climate of equity and goodwill for all people. His orchestra was integrated throughout his long and illustrious career, his compositions embraced all races in good taste and style and his general appeal as a musician was broad.

As a goodwill ambassador to the world, the Duke was a tremendous source of credit to his country. His composition "Of God and Country" and his epic efforts toward war bonds sales during World War II bespeaks his devotion and patriotism.

The Duke was one of the most honored American musicians; composer, arranger, orchestra leader and conductor, receiving among his many citations, the Presidential Medal of Freedom, our country's highest civilian award, presented to him in 1969.

A dollar coin bearing the likeness of Edward Kennedy "Duke" Ellington is a fitting tribute to honor this great man. I urge my colleagues to cosponsor this bill.

H.R. 4552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Duke Ellington Dollar Coin Act".

SEC. 2. LARGE $1 COINS BEARING LIKENESS OF DUKE ELLINGTON AUTHORIZED.

(a) LARGER $1 COIN AUTHORIZED.—Section 5112(a)(1) of title 31, United States Code, is amended to read as follows:

"(1) a dollar coin that is 1.5 inches in diameter and weighs 22.68 grams.".

(b) OBVERSE OF DOLLAR COIN TO BEAR LIKENESS OF DUKE ELLINGTON.—Section 5112 (d)(1) of title 31, United States Code, is amended by striking out the 6th sentence and inserting in lieu thereof "The obverse side of the dollar shall have the likeness of Edward Kennedy 'Duke' Ellington.".

VETERANS BUDGET, FISCAL YEAR 1991

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Indiana. [Mr. JONTZ] is recognized for 60 minutes.

Mr. JONTZ. Mr. Speaker, this evening I am taking this special order along with my distinguished colleagues, the gentlewoman from Indiana [Ms. LONG], from the Fourth District, the gentleman from Indiana [Mr. BURTON], from the Sixth District, to discuss a very important issue coming before the Congress, and that is our obligation to our Nation's veterans, and how we will attempt to meet that obligation in the budget that will soon be passed by this House for fiscal 1991.

I am hopeful that a number of colleagues will be able to join in this special order tonight to speak to the issues that are important to our Nation's veterans, to speak to our obligation to those men and women who have fought for our country and to express support for adequate funding for the very important programs that are administered through the Department of Veterans' Affairs to fulfill those obligations.

Mr. Speaker, I am very pleased to be able to yield at this point to the Member of the House who should most appropriately begin our special order, the gentleman who serves with distinction as the chairman of our Committee on Veterans' Affairs.

Mr. Speaker, since coming to the Congress, it has been my honor to serve on the Committee on Veterans' Affairs. All Members of this body and all veterans of our country know that no individual is a more capable spokesman for the veterans of our Nation, no individual exerts as much influence and leadership as the distinguished gentleman, the chairman of our House Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY]. And I yield to the chairman at this time for his comments on this subject.

Mr. MONTGOMERY. I thank the gentleman for yielding and for the kind remarks which he expressed.

Mr. Speaker, I enjoy very much having the gentleman from Indiana, JIM JONTZ, serving on the Committee on Veterans' Affairs. He is a great member. He comes to all the meetings. He takes an active part. He has been very helpful to me and to the full committee as well as to our veterans and their dependents of this country.

JIM, I want to thank you and DAN BURTON, also from the great State of Indiana, for taking this special order tonight, as well as JILL LONG, also from the great State of Indiana, for taking the time tonight to talk about the budget that affects the 29 million veterans of this country, pertaining to medical care, education, insurance, home loans, across the spectrum of where our veterans are helped by the Congress and by this budget that we will talk about here in just a few minutes.

Mr. Speaker, the Committee on Veterans' Affairs has reported a VA budget for fiscal year 1991 which will help us correct some of the problems which have been accumulating in the veterans' benefits and health care delivery systems over the last few years. While our budget proposal will halt the erosion of services, it will not restore them to levels which veterans deserve and expect.

We have recommended a $729 million increase in budget authority above the level recommended by the President. This represents a 2-percent increase over the administration's proposal. We believe this is entirely reasonable. If accepted, the VA could provide health care to about the same number of veterans in fiscal year 1991 as it provided in fiscal year 1988. It is important to note that our request would just get us back to where we were 3 years ago, not to where we need to be.

The fiscal year 1991 budget proposal submitted by the White House is far better than anything we have seen in the past decade, but it is only a beginning. Over the past 10 years or so, we have received less-than-current-services budgets which allowed only 3 or 4 percent annual increases for inflation. The problem has been that medical inflation has been around 10 percent or more over the same period. What the Committee on Veterans' Affairs has recommended for fiscal year 1991 would cover inflation.

Even with the bright signs of a realistic budget out of The White House and a more visible and effective rule for the VA in Federal pie slicing and policymaking, much work remains. An aging veteran population will place quite a strain on the VA health care delivery system. By the turn of the century, two out of three males age 65 and older will be veterans. Accordingly, the demand for health care will increase dramatically.

There is a well-documented dire need for more direct care resources for our VA medical facilities. The current shortfall amounts to more than one-half billion dollars. On a patient level, this means continuing backlogs for outpatient and nursing care, closed beds, delayed equipment replacement, and loss of personnel.

Twenty thousand hospital beds are vacant because of inadequate resources and staff.

Modernization of facilities is not keeping pace. Many facilities are old and in need of repair or replacement. A VA-study of the 132 hospitals built before 1970—most of which are more than 35 years old—concludes that well over a billion dollars in construction funding is needed just to make necessary renovations and repairs. Some of these repairs concern safety or would make the facilities more functional. You have to have adequate facilities to maintain quality health care.

Medical equipment purchases, both new and replacement, are 3 years or more behind schedule.

Many eligible veterans in need of geriatric care—nursing home care, hospital-based home care, and other forms of extended care—are unable to obtain it.

Even if enacted, our budget proposal would not cure all of the problems veterans face today in trying to get care in many VA hospitals and most outpatient clinics. It is clear that for the remainder of this fiscal year some veterans will be denied care.

I am pleased that the VA has formed a blue ribbon commission to study our veterans' health care delivery system to determine how it can be restructured to provide more timely health care to all eligible veterans in need well into the next century. But restructuring alone won't do the job. There must be adequate financial support.

Other programs as well have suffered.

Some of our national cemeteries are not up to standard.

Since 1982, staffing levels for those employees in VA's 58 regional offices who are responsible for processing claims for disability, death and education benefits have fallen by 25 percent.

Some veterans must routinely wait 6 months to recieve a decision on claims for compensation and the backlog continues to grow.

A service-connected disabled veterans seeking vocational rehabilitation must wait about 100 days after filing an application before the VA can schedule the first job interview.

Further, many veterans are unable to obtain basic information about the benefits which Congress has provided. This is totally unacceptable.

Hopefully, this budget will begin to turn things around during the next fiscal year. But my point is that we are still a good distance from where we should be, even if the committee's proposal is enacted.

Veterans deserve a system which can deliver quality and timely services, something they have been unable to obtain in the last few years because of the drive to reduce the deficit. If the Budget Committee continues to reduce defense spending in order to have additonal funds to provide increases for domestic programs, then it's time to pay some attention to those who defended the country. No group is more deserving of benefits from the peace dividend than those who did the most to make it possible—our veterans.

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Mr. JONTZ. Mr. Speaker, again I thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY] for participating this evening, and for his leadership on the House Committee on Veterans' Affairs. I know that the recommendations that the committee has forwarded to the Committee on the Budget were the result of a great deal of thought and a great deal of commitment to our Nation's veterans. I trust they will be very carefully considered by the Committee on the Budget in these next few days, as the important decisions are made.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON], one of the Members of this body who is joining me in sponsoring or holding this special order tonight, my friend and colleague and a neighbor to the south of my district, the representative from the Sixth District of Indiana, who is a member of the Committee on Veterans' Affairs. I thank the gentleman for his assistance in organizing this special order.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague from

Indiana for starting the process toward having this special order tonight. It was a pleasure to work with him to get this organized. I also see another one of our colleagues from Indiana that will participate in this special order, so we have good representation from Indiana here tonight.

I am going to have to cut my remarks short because I have to go to a dinner, but I would like to point out that while the Veterans' Administration does an outstanding job in helping veterans overall, there are some weak points that need to be addressed, and need to be corrected.

In Indianapolis, we have a hospital called the Richard A. Roudebush Hospital, which has done a good job overall of taking care of the veterans' needs. However, I have been told of some glaring problems over the past few months that need to be corrected.

We had one patient who was a Vietnam veteran who is a paraplegic, and he had to go into a hospital for a very quick service. His problems required immediate attention. We went into the hospital, and they put him into a bed where the sheets had not been changed, and there was blood from the previous occupant of that room on the sheets and on the pillowcase. Now we all know the problem that we have with AIDS and other blood-borne diseases, and that is something that should never happen. In addition to that, the bedpans, I was informed, had not been properly cleaned, and he was in this bed under this condition for at least 2 or 3 days.

Now, those kinds of things should not occur. We say to our veterans who have served this country and served this country well that they deserve the best, the best treatment in ths hospitals, the best protection that we could possibly give them, and then we have a patient like this who has literally given part of his body to his country and he goes into the hospital and he is put into a bed that is not even clean. In addition to that, the staff treatment of this individual was not up to par, and we have investigated that.

I had one of my relatives contact me who has been undergoing severe depression because of military-related injury from the Korean war, and he was in this same facility. They had to take him from the Cold Springs Annex to the hospital downtown for an x ray, a CAT scan. They told him it was an emergency and they wanted to get them down there and get this CAT scan taken very quickly. They took him down in an ambulance, and when his wife got there, she was called and told he was being taken downtown. When his wife got there, they did not have any notification that he had been admitted, no evidence he was even in the hospital. She wandered upstairs looking for him, and found him outside the room where the CAT scan was to take place. He had been sitting there for an hour on an unattended stretcher. Nobody was there, and the man was in a semicomatose condition. He could have died. Then, they found out that the CAT scan had been broken down for 3 days before he was even brought down there. So there was no reason to bring him from the annex down to the hospital for the CAT scan because it could not be given in the first place.

These are just a couple of examples of the problems that they face at this hospital. I have talked to some of the doctors and the nurses—I am not at liberty to give their names out now, but there are real management problems at the facility. I talked to the chairman of the committee and informed him of my concerns, and after we conclude our research into the problems at the hospital, I will turn this over to the chairman of the committee and to the VA for complete investigation of the problem.

I am not trying to say the entire VA hospital program is in a shambles. I am not even saying that the Roudebush Hospital is in need of complete renovation as far as the administration is concerned there, but I am saying that there are problems at the VA hospital in Indianapolis, and there are problems at the VA hospital that have been brought to my attention in Marion. There are problems in other VA hospitals across this country. We need to address those problems and address them very quickly to make sure that our veterans get the best in health care.

RICHARD E. BAKER,
R.R. 1 Box 64,
Alexandria, IN, December 29, 1989.

Congressman DAN BURTON,
8900 Keystone at the Crossing, Suite 1050, Indianapolis, IN

Re.: Carry Jolliff

On August 17, 1989 Jenny Jolliff, Rosemary Bateman and myself arrived at VA Hospital at approximately 10:30 A.M. to pick up Carry Jolliff. Dr. Javed who was treating Mr. Jolliff was in a patients room next to Mr. Jolliff and as he left he bypassed Mr. Jolliff. Mr. Jolliff and myself followed Dr. Javed down to the nurses station and when Mr. Jolliff asked Dr. Javed if he could talk to him, Dr. told him to go back to his room and he would get to him as soon as he could. (this was said in a very abrupt way) Finally dr. came to the room, I stayed outside so I don't know what the conversation was. At this time Mr. Jolliff was released. We went down to the nurses station to get the release at which time we found everyone had went to lunch and left a housekeeper in charge. The housekeeper informed us we would have to wait until they returned from lunch to get the release. (this we did) When they returned and we were waiting for the release I observed them taking a patient for a test, whether this being the patient or not the employees at the desk were stating they had lost a patient and did not know where he was. We left the desk and went back up stairs on 3rd floor West to wait for Mr. Jolliffs medication for which he was to take home with him. We waited approximately 3 hours for this and from conversations I heard in the halls they hadn't found their lost patient yet. . . .

I believe in my heart we were given the run around because of Mrs. Jolliff's complaints about the housekeeping and the care that Mr. Jolliff received. We finally left the hospital at approximately 3:40 P.M.

Richard E. Baker

PATIENT, *W. 10th St. Veteran's Hosp.*
& Cold Springs Rd. Hosp.,
Indianapolis, IN., January 9, 1990.

Hon. Dan Burton,
6th District, 8900 Keystone Crossing, Indianapolis, IN

I am writing on behalf of my husband, who has been hospitalized since 11-16-89 at W. 10th St. Veterans Hospital, Indianapolis, IN. There have been some things which have happened recently and in the past which could have been life threatening.

My husband is what is considered a Brittle Diabetic, with all the complications, such as kidney failure, legally blind, neuropathy, temporal arteritis, high & low blood pressure, etc., in addition he has had several strokes (right side) and has developed Cripticosal Meningitis.

After this background, one occasion when visiting my husband on a Sunday afternoon, I went to his room and found him on oxygen, catheterized and I was unable to wake him, his color was very bad—I went to the nurse and asked what was wrong—she said . . . had developed pneumonia and had a problem with his kidneys and they could not wake him, she said she had called the Doctor. No one had called to inform me of a change in his condition. They came in to take a blood sugar check and it was low, they took it at least twice while I was waiting on the Doctor. When the Doctor finally came she could not arouse . . . either. I told her his blood sugar was too low and she disagreed, she said a blood draw had been made a couple hours prior and it was alright, on rechecking she found it had been low at that time, they were going to take him to intensive care but after giving him a shot they were able to rouse him somewhat. He does not remember the entire day. If I had not come in when I did and insisted his blood sugar was low, he could have gone into a comma and died. There is no excuse for this type of carelessness, plus the fact I was not informed of a change in his condition.

On Dec. 21st, 1989, my husband was transfered from W. 10th St. V.A. Hosp. to Cold Springs Rd. Hosp. for therapy, he has been boing treated for Meningitis since 11-16-89. The first drug they used caused considerable damage to his kidneys, now they are using another drug that seems to be helping, however, he has not had kidney function since the first medication. I feel they transferred him too soon, before he was able to participate in therapy. At time of transfer it was the Holidays, they were short of staff and as many patients they could get out the better, in fact, Cold Springs Staff said he was not expected till after Christmas. After arriving on Dec. 21st, on Dec. 25th he was sent to E.R. at 10th St. Hosp., with high blood pressure and a low grade fever. They decided he had a urinary tract infection and sent him back to Cold Springs after five hours in E.R., (with only two patients during that time). On Dec. 26th, I received another call from Cold Springs saying . . . had fallen out of his wheel chair

because of weakness on the right side. About 3:00 p.m. I went to see him and as I was getting off the elevator they were putting . . . on the elevator. I asked the attendant where he was taking him and he said to 10th St. Hosp. for a Cat Scan, I asked . . . what was going on and he said they felt he might have had a light stroke. I went to the nurse and asked what had happened, she said after observing him they noticed he had no strength on right side and could not use right hand to eat and when he tried to sit up he would fall to right and they were sending him to E.R. for tests and evaluation. After leaving Cold Springs Rd. I went directly to 10th St. V.A. Hosp. to E.R. and asked if . . . was there, they said he hadn't arrived yet but was expected. I told them he should be there because he left Cold Sprigns before I did, then I remembered what the attendant said about Cat Scan and said I would go up there. I went to Cat Scan, there was no one to be found in that wing of the Bldg., Cat Scan had been broke down since before Christmas, my husband was sitting in a wheel chair in the middle of the hallway, (unattended) where the attendant had dumped him. This was a man they suspected of having a stroke and who was leaning very heavily to right and could have fallen out of chair again if I had not arrived. I took him to E.R. and told them what happened and they took him right in. He was in E.R. for (6) hours before I was ever able to talk to a Doctor and he said he needed a Cat Scan but they couldn't do it because theirs was broke, he also said they needed to do other tests, I asked him why they didn't keep him at 10th St. Hosp. instead of sending him back and forth each day, he gave a very evasive answer (no reason). It was 12:30 p.m. before . . . was returned to Cold Springs R. I am not complaining about this incident for my husband alone but for all the other men who have to use the V.A. Hosp. There is no excuse for such carelessness and if I had not been there to care what happened to my husband it could have been very serious and even fatal. I am concerned about the men who have no one to care or speak up for them, for them it would have been whoever happened to come down to that wing of the Bldg.

On one occasion they forgot his breakfast (this is a diabetic who usually has low blood sugar in the mornings) after several reminders to the staff his breakfast was brought at 9:30 a.m. For a diabetic a regular meal time is a must because the insulin is given and then they are to eat. This carelessness could cause diabetic shock or even death. It should be stressed that all diabetic patients receive their meals at a regular time.

There are many caring people at the V.A. Hosp. and we appreciate those, and then there are those who seem to consider the Veteran a second class citizen. These are men who have fought for their country and deserve to be treated with dignity and respect. Most of them would not go to a V.A. Facility if they had any other choice, mainly because of the hours spent waiting in the various clinics and E.R. If you have an appointment for 8:00 or 9:00 a.m., you can plan on being there till at least about 4:00 p.m.

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Mr. BURTON. And if we do not, then shame on the Congress of the United States.

Mr. Speaker, I want to thank my colleague once again for taking this special order. I appreciate working with him on this matter.

Mr. JONTZ. Mr. Speaker, let me thank my colleague, the gentleman from Indiana [Mr. BURTON], for his contribution to our special order this evening. I think that the gentleman feels very strongly, as all of us on the Committee on Veterans' Affairs do, that every veteran in our country deserves the best possible care. The circumstances that the gentleman describes in Indianapolis certainly would be of concern to all the people of this country, and my hope is that the budget that we pass in the Congress this year will allow that facility and other VA facilities to make the improvements necessary to provide the highest quality care to every veteran who needs the attention.

Mr. Speaker, I yield now to my colleague on the Committee on Veterans' Affairs, the gentleman from Pennsylvania [Mr. RIDGE], who is a very capable spokesman on the committee for the interests of our Nation's veterans. As I yield to the gentleman, I want to express my thanks to him for his participation this evening in speaking to the important issues in the budget for the Department of Veterans Affairs.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first of all, I want to thank the gentleman, as well as our colleague, the gentleman from Indiana [Mr. BURTON], who just left, and I want to express my thanks to the gentleman from Mississippi. I do not know whether we should call him "chairman" or "General MONTGOMERY," and perhaps we should call him both. I thank these gentlemen for their leadership in taking out this special order.

As a special note, I want to acknowledge publicly as a Vietnam veteran the work that the gentleman from Indiana [Mr. JONTZ] has done with regard to posttraumatic stress. The gentleman has taken a leadership role within the committee on this very important and sensitive issue. I say to the gentleman, you have addressed it with a compassion and a desire that we need, and as one man speaking, I believe, for many, let me say that we appreciate your leadership, and I know I will continue to work with you as you work your way through a very difficult and complex issue, not only financially but medically as well.

Mr. Speaker, I rise today in support of our Nation's veterans and to call attention to the 1991 budget for the Department of Veterans Affairs. I sense that one of the reasons that this special order is being conducted is as a gentle reminder hopefully to those who serve on the Budget Committee or on the Appropriations Committee that we have taken a look at the budget that was proposed by the administration, and we allowed it and approved the increase of in excess of $1 billion, but we thought there were vital, essential programs that needed more dollars. We are most hopeful that the $770 million that we have included in addition to the President's mark, with the leadership of Chairman MONTGOMERY and with the broad bipartisan support of Republicans and Democrats on the committee, will be the bottom line so they can start their deliberations from that point. We know that there will be no objection if any Member of the other committees choose to go above that figure or to exceed it. If they do, they will not hear any argument from those of us on the Committee on Veterans' Affairs.

Mr. Speaker, I will tell the Members as a member of the committee that I have been encouraged by the willingness of Secretary Derwinski to receive input not only from Members of Congress but, frankly, from people who matter even more, those men and women or those veterans who are affected by the actions of the Department and who have looked to the Department for different kinds of assistance. The Secretary has been in my congressional district, where he not only talked to veterans and service officers and organization representatives but had a closed door, very open and frank discussion with staff, nursing personnel, and the like to get a feeling for what it was they needed to continue providing quality health care in the VA medical center that is in my congressional district.

As I said before, we were encouraged by the President's public and financial recognition of the role and the importance of veterans with his addition of almost $1 billion to the budget. We are just hoping that the actions of the committee will carry to the rest of the House and hopefully over to the Senate, and that they will include the other $770 million which we added. Really we are not talking about new programs; we are not talking about anything fancy. This budget has been cut over the years. We have fine tuned it, and we found out we have to play catchup ball now, and again we implore those on the other committees to start with the Veterans' Committee's mark, with $770 million more than the President requested. While we appreciate that $1 billion, we want to start with the Veterans' Committee mark.

At a time when constraints on the Federal dollar are growing, I believe it is more important than ever to give our Nation's veterans the priority that they deserve in the budgetmaking process.

I might add that over the years I have always said that the cost of health care to veterans and the benefits that we give to disabled veterans is a continuing cost of defense. I know

for budget reasons and committee reasons and jurisdictional reasons, we have and should have a separate Veterans' Affairs Committee. But from my point of view, we have as much responsibility to those men and women who previously wore a uniform as we do to those who wear it today, particularly when it comes to those who have been engaged in battle and suffered loss of life or limb and require medical attention and require disability benefits. It is a continuing cost of defense, and it speaks loud and clear about what a country thinks of its veterans. It is clear over the years that we have held all of our veterans in very high esteem, but when we start looking at budget restraints, the last place we should be looking is at the program directed to those men and women who wore the uniform, who preserved the freedoms and opportunities that not only we in the country enjoy but that are enjoyed by millions of people elsewhere.

I might add, as I think of it in terms of a continuing cost of defense, that our modest and welcome increase of over $700 million is slightly over the cost of one B-2 bomber. I do not normally like to compare domestic programs with military programs because I do think sometimes we get into situations where we are comparing apples with oranges. But if we think of the continuing care for veterans as a continuing cost of defense, than I wonder where we would come out. I would hope that we would come out in defense of those hundreds and thousands of men and women who wore the uniform, who suffered disabilities, who require medical treatment, and who require disability payments, and that we would agree they are clearly worth one B-2 prototype bomber.

I say that many of us rhetorically claim that we must not balance the budget on the backs of our veterans. However, these words at times probably seem to ring hollow in the ears in some of the veterans who depend on the VA for benefits and for a small measure—not so much as financial security—in many instances, a small measure of sustenance, as well as those who seek care in VA medical facilities.

I think we have made great strides in providing care and benefits to our veterans. Much of that credit goes strictly to our chairman, General MONTGOMERY. However, during the same time the VA medical system has suffered in the past because of inadequate budgets that failed to keep pace with the soaring medical costs that our facilities must absorb. Medical costs are growing far in excess of the inflationary rate throughout the country. We see it in the private sector all the time, and yet people continually come back to the VA medical system and say, "You've got to do better at keeping your costs under control."

I think the VA has a system of cost containment that they can be very proud of. The point is that they have done just about everything they can in terms of management within the system, and now we need simply more dollars. The past is catching up with many of our facilities, and as our veteran population ages, it is evident that the VA will be dealing with new problems and new demands in an already overstretched budget.

I might add that in many cases the Veterans' Committee has authorized new programs and tried to help out, tried to reach out to the veterans population, to these men and women, and unfortunately many of these efforts have gone unfunded.

□ 1900

Mr. Speaker, I believe that there are a number of things that we can do to upgrade the status of our veterans facilities and to provide assurances that calls for help from those who defended our country will not go unheeded by Congress. Like many of my colleagues, I believe now is the time to address the issues faced by the Department of Veterans Affairs.

When Secretary Derwinski appeared before the committee to detail the plans to establish a VA commission on the future structure of veterans health care, I welcomed this initiative. As many of us regretfully acknowledge, it has been nearly 25 years since the last comprehensive review of VA medical operations. A study that aims to improve the delivery of medical services at our Nation's VA hospitals is certainly warranted, and I think we just leave it, that endorsement, simply to that limited amount. We know, and I am confident that any cost saving measures that Secretary Derwinski and this commission could identify would not be used to reduce the budget, would not be used to reduce any particular line item, but, if we can save some cost here, we can channel those resources into another area, and we all know, those of us who sit on the Committee on Veterans' Affairs, there is plenty of places we can channel new or old resources to.

So, Mr. Speaker, I think we have to keep a very open mind with regard to this initiative, the members of the committee, and Members of Congress and members of the veterans organizations, but let us see what they have to say. One of the things that we know is that they have to run a pretty tough test, a pretty tough political gauntlet, when they bring those programs, whatever they might be, to the Committee on Veterans' Affairs.

Mr. Speaker, when we attempt to guarantee our veterans an equitable share of the Federal budget, let us also make sure that this share is used wisely. Let us see to it that we compensate our doctors, dentists and nurses adequately so that their salaries are not woefully below their counterparts outside the VA. I do not think anybody on the committee thinks we will ever elevate them to the same level that exists in the private health care sector. It is pretty clear from my experience in northwestern Pennsylvania, when I walk through a VA medical center there, that when we have got trained professionals, nurses, pharmacists, physical therapists, and in the same community there are several other hospitals who are advertising for nurses, physical therapists and pharmacists, that we know very clearly that what keeps those men and women in a VA health care system is not the wages because, if they were looking for money, they could take their degrees and their uniform and move down the street. What I think keeps most of those people in the VA health care delivery system is an emotional commitment, a personal commitment, to caring for veterans. Although we will never be able to compete with the private sector completely, I think we ought to do all we can to raise the compensation to attract and retain as many of these professionals as we possibly can.

As I said before, I think we need to do more in the area of posttraumatic stress disorder, and I thank my colleague for his work in this particular area. Let us see to it that veterans are not turned away from outpatient care, that in-patient care is not denied, and the list can go on and on, and I know there are others to speak at this special order, so I will conclude my remarks without going further with an itemized list.

Mr. Speaker, we can begin to address the unique problems of our Nation's largest health care delivery system by supporting the budget proposed by the Committee on Veterans' Affairs. I think that is a great place to start.

As we witness the unbelievable events in Eastern Europe and in the Soviet Union, let us not forget the individuals who have enabled us to look upon these changes as a free and democratic nation. The thought occurred the other day that there are many people who are taking credit for what is going on in Eastern Europe and the Soviet Union, and clearly there are many people in institutions that deserve the credit. But rarely in any public discussion do I hear mention of World War I or World War II veterans and the men and women who this country sent over there, the men and women whose presence, whose fighting skills, whose commitment to freedom stood out through the entire 20th century, even to those countries that temporarily after World War II were locked up behind the Iron Cur-

tain. There is truly a better way to govern, there is truly a better way to live, and those Americans who wore those uniforms, those men and women who served in World War I and World War II in my mind deserve the kind of recognition that has been given to a lot of other people in Europe.

Mr. Speaker, I urge my colleagues to fully support the 1991 budget proposal, and I thank my colleagues, the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Indiana [Mr. JONTZ] for giving me the opportunity to participate in this special order.

Mr. JONTZ. Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. RIDGE] for his very eloquent statement, and for his continuing contributions of the Committee on Veterans' Affairs and specifically for his support and cosponsorship of the posttraumatic stress disorder legislation. I want to underscore the importance of addressing all aspects of the VA budget and the medical budget in particular, but at the same time I want to note that we hope to be able to add some funds for posttraumatic stress disorder, that with the support of the chairman of our committee, the committee recommendation that the gentleman from Pennsylvania [Mr. RIDGE] spoke to includes some additional funding, and, after these many years, we are recognizing the extent of this problem and the importance of addressing it. I thank the gentleman from Pennsylvania for his help in that regard.

Mr. Speaker, I am joined this evening in sponsoring this special order by two of my colleagues from Indiana. No State has more members on the Committee on Veterans' Affairs than Indiana does. I think that speaks to the commitment of the people of our State to seeing that our obligations to our Nation's veterans are fulfilled.

I am very pleased to be joined by the gentlewomen from Indiana's Fourth District [Ms. LONG], my neighbor. She has been a member of our Veterans' Affairs Subcommittee since she came to the Congress, and it is a pleasure to work with her and have her support for this special order this evening, and I yield to her at this point.

Ms. LONG. Mr. Speaker, I am pleased to join my colleagues, Mr. BURTON and Mr. JONTZ, in sponsoring this special order on the Veterans' Affairs budget for fiscal year 1991. I have joined them this afternoon because I believe strongly that this Congress must address the needs of America's veterans. The budget we pass for this coming year, and in all the years that follow, should reflect the importance of our Nation's veterans.

These men and women risked their lives for our country. They made great sacrifices and did so willingly. My own father served in World War II. Fathers, sons, sisters and daughters have served and continue to serve in our Armed Forces, all of them willing to put their lives on the line for their country. Our Nation owes a great deal to each of these veterans.

That debt must be repaid with more than lip service. It must be repaid through the programs and the care that we provide our veterans. And if our veterans' programs are to be successful, they must receive the funding they need.

President Bush's proposed budget is a good start. For the first time in years, the administration has proposed a sizable increase in funding for the Department of Veterans Affairs. The $12.3 billion requested by the President for veterans' medical care represents an increase of almost $1 billion over the funding levels for fiscal year 1990. This is a victory for our veterans, who have been fighting for needed increases in the medical care budget.

But it is not enough. Even with this proposed increase, too many veterans will be without needed care. Too many will be unable to receive the attention they need when they need it. Too many will be forced to go to non-VA hospitals. America's veterans need more, and we on the house Veterans' Affairs Committee have attempted to ensure that they get more. We have recommended an additional increase of 2 percent in funding above the amount proposed by the President.

Now, a 2 percent addition to the budget will not work magic. It will not solve all the problems or provide all that is needed. But it will enable the DVA to provide care to about the same number of veterans in 1991 that it did in 1988. It will at least allow our veterans to make up the losses in care that they have suffered in the years since 1988. During those years, the number of patients for whom the DVA has been able to provide care has fallen steadily. It is time that we end this decline and begin to move forward. We need to increase the number of veterans helped by the system and improve the level of care they receive.

This is not the time to cut the benefits these men and women receive, or reduce the incentives that encourage highly qualified personnel to work in the DVA medical system. We should not cut the funding for medical and prosthetic research, as recommended by the President. Rather, we should increase it. This research greatly benefits our veterans, many of whom depend on prosthetic devices and all of whom can benefit from the medical advances created by research. Moreover, a quality research program helps to attract and retain doctors and other health care professionals into the veterans' health care system. In light of the difficulty that DVA has been having in recruiting and retaining doctors, nurses, and other personnel in the veterans' health care system, we should do everything possible to increase the attractiveness of the system. An increase in the DVA's medical and prosthetic research budget will encourage qualifed personnel to enter and remain in the veterans' health care system and will improve the care our veterans receive.

Medical care is not the only type of assistance that we as a nation should continue to provide to our veterans. The men and women who have served their country so honorably deserve the opportunity to provide a home for themselves and their families. For years they have been given that opportunity through the veterans' home loan program. Now the administration is proposing that, for the first time ever, veterans be required to make down payments in order to qualify for most of these loans. And the administration has proposed that the DVA increase the mortgage indemnity fee that is charged to certain veteran borrowers.

Both of these proposals are outrageous. There is no evidence that a down payment is needed or that it will improve the program. It is clear, however, that such a requirement will be very difficult for many veteran borrowers to meet. Many of the veterans who could under other circumstances benefit from the program would not be able to participate in it if a downpayment requirement were instituted.

Similarly, there is no evidence that an increase in the mortgage indemnity fee is needed or would in any way aid the Home Loan Program. The current mortgage indemnity fee was implemented only months ago, with the support of the Congressional Budget Office, which projected that such a fee would be sufficient to support the program. It seems far too soon for the administration to be proposing changes in a program that has barely begun. We should give this program a chance to get off the ground before considering any increase in the indemnity fee. Our veterans deserve the opportunity to provide a home for themselves and their families. Congress should oppose these two proposals and ensure that our veterans retain that opportunity.

There is no question that we face an uphill battle in the struggle to create a sensible Federal budget and reduce our soaring deficit. But that is no excuse for denying our veterans the services they need. We must bring the deficit under control. But we cannot, and must not, attempt to do so on the backs of our veterans.

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Mr. JONTZ. Mr. Speaker, I want to thank my colleague from the Indiana Fourth District, Congresswoman LONG,

for her statement and her contribution this evening. I had the opportunity a couple years ago to visit the Fort Wayne VA Hospital. I am sure the Congresswoman has been back on several occasions since then. I know of her commitment to the veterans of her district and to the veterans of our entire country, and I thank her for her participation this evening in this special order.

Mr. Speaker, I want to summarize a few of the remarks which have been made this evening and add some personal words with regard to our proposed VA budget and again thank my colleages for their participation this evening, to bring to the attention of our colleagues here in the House the important issues which face us as the Budget Committee and then the Appropriations Committee make their decisions for the budget of the Department of Veterans Affairs.

Certainly the proposed fiscal year 1991 administration budget for the VA is the best veterans budget that I have seen in my 3 years in the Congress. I think to a large extent that is the result of the work of our new Secretary, Secretary Derwinski.

The Congress saw fit to make the Department of Veterans Affairs a Cabinet-level Department and to bring the Secretary of the new Department into the inner circle of the President's advisors. I think that we are seeing the benefits of that move.

At the same time, I would be remiss if I did not say that I believe that the improved budget recommendation from the administration this year is also the result of the efforts of veterans around this country, of the veterans' organizations working through the Congress and taking their case directly to the President and convincing our Nation of the importance of this obligation. I want to say thanks to those veterans for the sacrifices they have made, for their willingess to serve our country, and for their continuing contribution to our Nation through their organizations and as individuals.

The good news is that the President's spending blueprint for this coming year increases funding for veterans' health care programs by $1 billion to $12.3 billion out of a total VA budget of $31 billion for this next year.

Regretably, much of this new money will have to be used to make up for lost ground, to get programs back up to the service levels that existed several years ago and to simply account for the effects of inflation.

I believe that the veterans's budget could and should go a lot further than the administration proposal. The Veterans' Affairs Committee, as our chairman outlined earlier this evening, recognized this fact in February when it approved its own spending initiative which adds $722 million to the administration's proposal. Among the key committee additions were $96 million to restore funding for nursing home care to 1988 levels; $69 million to increase outpatient care; $40 million for medical research, and rejection of an administration proposal opposed by the committee and all the veterans groups that veterans be required for the first time ever to make down payments on VA guaranteed home loans.

This plan that the Veterans' Committee endorsed has been sent to the House Budget Committee which will be considering these recommendations soon.

The guidance for these additions came from hearings that our committee conducted in February where the major veterans groups at the national level made their recommendations about what is necessary to meet the needs of our Nation's veterans.

The independent budget for Veterans' Affairs prepared by the AmVets, the Veterans of Foreign Wars, and the Disabled American Veterans and the Paralyzed Veterans of America, called for a spending level of $13.4 billion, $1 billion higher than the administration proposal and $300 million higher than the final committee-approved plan.

This fourth independent budget proposed for the Department of Veterans Affairs was entitled, "The Price of Peace." These four organizations formulated and presented to the Congress the budget for veterans based on need, not based on OMB guidelines.

Eighteen other veterans groups and medical care associations have endorsed this independent budget proposal, which would be an increase of $1.1 billion over the administration's request. While our committee was not able to include all of the independent budget recommendations for medical care, we were able to increase the administration's proposal by $246 million and provide for overall increases of $729 million.

The independent budget I believe is right on target with their proposal for overall level of funding for VA programs. The VA has suffered from a decade of inadequate budgets. The budgets for medical care and research, for example, have lagged behind other Government health care programs in terms of funding over the last four fiscal years. While Medicare has had an average annual increase of 7 percent, Medicaid an average increase of 11 percent and health research programs a 12-percent increase, veterans health care has seen only a 4-percent annual increase, and veterans medical research has suffered from an average decline of almost 2 percent.

The independent budget groups in hearings which the Veterans' Affairs Committee held under the leadership of our distinguished chairman, the gentleman from Mississippi [Mr. MONTGOMERY] pointed out several medical care issues that were of concern to them. The growing evidence of the quality erosion in medical care delivery, the failure to change the medical care system to accommodate the needs of the growing elderly veterans population, the growing threat to the continuity and integrity of the VA's link to medical schools, confusing entitlements to health care and the failure to adequately identify or address medical care program funding deficits are all a part of this.

I might mention, Mr. Speaker, with regard to the issue of confusing entitlements to health care, legislation which this House passed to provide for access to outpatient care for our Nation's veterans on the same basis of the current entitlement for in-patient care. Last year I became aware of this problem when veterans were turned away from the Adam Benjamin Outpatient Clinic in Crown Point, IN, category A veterans, who are identified by the VA as the highest priority for medical care.

I was alarmed that the VA was turning away such veterans. I was under the impression that the law required all category A veterans to be served, and I found to my disappointment in fact a different standard exists for outpatient care than for inpatient care.

□ 1920

To the credit of this House and the leadership of the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], this House did pass that measure to provide entitlement to all veterans for outpatient care on the same basis as inpatient care, and my hope is the other body will be able to pass the legislation this year.

I want to continue by saying that the proposals that came from the various veterans' groups in the independent budget would provide the resources necessary to meet these needs, veterans' needs, for hospital, outpatient, and nursing-home-care needs, to expand programs needed to care for aging veterans, and to provide adequate support for the flight against the growing AIDS epidemic so that funds are not diverted from the basic medical program of the VA to meet the growing AIDS workload.

Another chief concern of these groups that I might speak to briefly has been the handling of claims by the Veterans' Administration. The underfunding of the Veterans' Benefits Administration has caused a tremendous backlog in compensation and pension claims. Veterans have often had to wait for several months for benefits and are not receiving the attention they deserve because of underfunding.

I think this is a matter of concern to all the members of the Veterans' Com-

mittee and all of the Members of Congress, because we want to make sure that those veterans who fought for our country and who are entitled to these benefits are able to have their applications considered in a timely manner and receive the proper attention.

The Veterans' Committee recommendations to the Committee on the Budget include funding sufficient to increase staffing of benefits personnel by 577 in order to improve the quality and timeliness of services. I am hopeful that approving of this increase will help restore a higher degree of quality services to these veterans.

While I fully support the goals outlined in the budgets prepared by the committee and various veterans' groups and the independent budget, the proposal that we received from the administration and also the independent budget did fail in one other regard that I want to mention, to address a problem that has been a great concern of mine that the gentleman from Pennsylvania [Mr. RIDGE] spoke about earlier this evening, and that is care for posttraumatic stress disorder.

Posttraumatic stress disorder is a psychological readjustment condition that has occurred among all veteran populations but is particularly prevalent among Vietnam-era veterans. According to a study that the VA sponsored which was completed just a little over a year ago, only 1 in 10 veterans currently suffering from this combat-related condition has received treatment for PTSD from the Veterans' Administration.

During the committee consideration of the budget, I was able, with the support of my colleagues on the committee, to offer successfully an amendment to authorize some $7 million to fund the first phase of legislation I have introduced as H.R. 3037 to assist veterans suffering from posttraumatic stress disorder.

I want to add that my colleagues who participated this evening in this special order, the gentlewoman from Indiana [Ms. LONG], the gentleman from Pennsylvania [Mr. RIDGE], and many other Members of this House on the Committee on Veterans' Affairs and outside of the Committee on Veterans' Affairs have sponsored this legislation to bring to the attention of all of our Members the importance of addressing this issue.

The Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs under the capable chairmanship of my colleague, the gentleman from Illinois [Mr. EVANS], held a field hearing last September on services and benefits and treatment provided to Hoosier veterans suffering from PTSD, along with our colleague, the gentlewoman from Indiana [Ms. LONG], and we traveled to Huntington, IN, to hear from veterans and from officials of the Department of Veterans Affairs and from PTSD treatment professionals.

I want to commend the fine work of my colleague, the gentleman from Illinois [Mr. EVANS], for his leaderhip in conducting this hearing, and to commend the gentlewoman from Indiana [Ms. LONG] for her sponsorship, and also to thank our colleague, the gentleman from Indiana [Mr. MCCLOSKEY], from Indiana's Eighth Congressional District, for testifying at this hearing at Huntington.

We also held a forum on PTSD for Vietnam veterans at the 7th annual Vietnam veterans' reunion in Kokomo, IN, in my own district. There we heard from over 30 veterans on their personal experiences with PTSD, the problems they are encountering with the DVA, and we heard from their families. We listened to their recommendations on what we can do here in Congress to make sure these veterans are getting the treatment and services they deserve.

I would like to address for just a minute the question of how this problem has evolved. Homecomings and counsellings are usually furnished veterans with the transition from stress, even severe stress known as shellshock in World War I, and combat fatigue in World War II, but there was no homecoming for many Vietnam veterans, no debriefing, and very little counseling. Many veterans returned to our country in civilian dress, and the wounded were often returned fom a Vietnamese jungle to a stateside hospital within 24 hours.

While most Vietnam veterans readjusted back into civilian life without any problems, others had difficulty in reestablishing family ties, educational and employment careers, and simply placing their veteran experience in some understandable context.

Beyond the usual stresses of war, the Vietnam veteran was surrounded by many extraordinary circumstances, problems in distinguishing the enemy from the nonenemy, ambiguous objectives, widespread terrorism, and unusual brutality. Perhaps the greatest inhibiting factor was the extent of the national debate in this country about the value, the conduct, and the meaning of the war.

This left many of our Vietnam veterans alienated. Many did not join the veterans' service groups, and more stayed away from the Government and from the Veterans' Administration. As with many issues and problems surrounding the Vietnam war, posttraumatic stress disorder has been grossly misunderstood by the public.

At the forum we conducted on posttraumatic stress disorder, together with my colleagues, the gentlewoman from Indiana [Ms. LONG], and the gentleman from Illinois [Mr. EVANS], we heard from the wife of a veteran suffering from PTSD who told us about the lack of understanding by the public and by the media of this condition.

After her husband had put on his combat fatigues and put on camouflage face paint, he went out to the woods near their home to relive his Vietnam experience. The headline in the hometown paper the next day led the public to believe that he was some kind of terrorist and ignored the fact that this type of behavior was most likely attributable to posttraumatic stress disorder.

PTSD, unfortunately, was not even recognized formally by health professionals until 1980, a decade after many of our men and women veterans had left Vietnam. We find ourselves today understanding for the first time the extent of the number of veterans who are still suffering from this condition.

A long-awaited study undertaken by the Research Triangle Institute under contract with the Department of Veterans Affairs concluded just about a year ago that as many as 15 percent of Vietnam theater veterans are currently suffering from PTSD and another 11 percent have some effects of PTSD. This number, much higher than previously estimated, equals over 800,000 of the 3.1 million men and women who served in Vietnam. Over 479,000 men and women currently have full-scale PTSD. This study also showed that rates of instances of PTSD among Hispanic veterans and black veterans are considerably higher than among white veterans.

The RTI study has been confirmed by the findings of a study recently published in the March 2 edition of the Journal of the American Medical Association regarding the impact of military service during the Vietnam era.

Mr. Speaker, it is critical that we address the issue of PTSD, that we address the issues of concern to our Nation's other veterans in the budget this year, and I hope that the special order we have conducted this evening has made it possible for us to bring to the attention of our colleagues some of these issues.

At this time, with the remaining minutes that we have remaining, I yield to one of my colleagues, the distinguished gentleman from the State of Texas, Mr. LAUGHLIN, who is a strong supporter of the veterans of our Nation. I thank the gentleman for his appearance this evening to speak on behalf of the veterans of our country.

Mr. LAUGHLIN. Mr. Speaker, I want to thank the gentleman from Indiana for this opportunity to appear before the House as a veteran to speak on behalf of veterans. I thank the good Lord that I am one of those vet-

erans who has not needed veteran benefits.

I am here on behalf of many Americans who made the decision to serve our country at a young age. Most veterans make the decision to serve our country somewhere between the ages of 17 and 22.

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Youngsters in our Nation that make that decision make it out of a true sense of commitment to our Nation, a true sense of patriotism. They make that decision as youngsters between the age of 17 and 22, not for the appearance it will give them when they get to be 45 years of age, or 48, as I am this year, standing before the public asking in the name of patriotism for a vote so that they can represent the people in Congress or the State legislature at the county courthouse. These youngsters make that decision because of a true commitment to our country.

I think it is remiss on the part of our country and I think it is a terrible statement on the part of the Members of this body if we turn our backs on the youngsters who served at a time when this Nation needed them to serve, whether it was in Korea or any of the great battlefields of World War II, and more particularly in Vietnam, where that service was not as popular as it was in other battlefields and other areas of combat.

So I am proud to stand before this House and urge my colleagues not to forget a commitment and not to forget the service that was rendered by these veterans who made that decision to serve when they were quite young, and who were making the commitment to serve this Nation with no alternative purposes of gain in the popular workplace or in the public arena where they were seeking seats.

I thank the gentleman from Indiana [Mr. JONTZ] for this opportunity. It is very gratifying to see our veterans who still express that commitment, and some of those have prosthetic devices, some are confined to wheelchairs, and others have maladies brought about by exposure to agent orange.

I think as a grateful nation we should not forget those grateful, committed, dedicated Americans known as the American veterans. I thank the gentleman very much for allowing me to share in this time.

Mr. JONTZ. Mr. Speaker, I want to thank the gentleman from Texas [Mr. LAUGHLIN] for his contribution this evening. The gentleman speaks very well to the obligation that we owe to the veterans of our Nation, and hopefully the budget that we will pass here in the House in the weeks to come will help us to fulfill that obligation.

Mr. Speaker, in concluding this special order this evening I want to take just a minute to say thanks to our Nation's veterans, and also to say thanks for those dedicated employees of the Department of Veterans Affairs who are now in work in Marion, IN, at our VA medical center there, at the Adam Benjamin Outpatient Center in Crown Point in my district, and all of the VA medical facilities across our country in the benefits offices, which in so many ways are helping our Nation to fulfill its obligation to our veterans.

When we speak tonight about the need to improve the budget, when we speak tonight about the need to better fund programs, it would be a mistake for the impression to be left that we are not appreciative of the good work that is now being done by those VA employees. I understand the problems that have been so difficult for them over these last few years. We hope that in the budget this year we can provide the needed personnel that will be in each of our VA facilities to see that our Nation truly does meet its obligation.

EXISTING PTSD TREATMENT FACILITIES

The 16 inpatient treatment facilities which exist offer varying degrees of treatment. Only two of the units have been funded through the central DVA office. The rest, such as the recently reopened unit at the Marion VAMC in the Fifth Congressional District of Indiana which I represent, were created from existing resources and exist on a very tenuous basis given the funding crisis in the VA health care system.

In Indiana alone, they are estimated to be around 10,000 veterans suffering from PTSD. Only 18 received treatment from the Fort Wayne VAMC in 1988, and just 19 at the Indianapolis VAMC. While the inpatient PTSD unit at the Marion VAMC and the four Vet Centers in the State pick up some of the slack, these numbers are still very low, and I imagine that they could be applied nationwide.

Another issue is outreach. Vet Centers were designed to reach out to Vietnam veterans with readjustment problems and give them the help that they need to get back on their feet. While they do a good job in my opinion, there is still a lot to be done if only 10 percent of those with PTSD are getting treatment from the VA. Many veterans don't realize that they have PTSD or are not aware of the help that is available.

Many more veterans are afraid of the stigma attached to PTSD—crazed veterans and all—and have been reluctant to come forward because of the likely repercussions to come from their employer or their friends.

Even more reluctant to come forward are active duty personnel. A recent study of Pentagon officers who served in Vietnam showed that 20 percent of these officers display symptoms of PTSD. Many more are expected to experience delayed PTSD, or symptoms of PTSD that begin appearing after leaving the military service. We need to make sure that there is a better awareness within the military regarding treating active duty personnel with PTSD.

At the hearing and at the forum, we also heard from families of PTSD suffers as to the problems and lack fo attention that they receive from the DVA. Part of the healing process, according to clinical PTSD specialists, involves helping the family as a whole. The RTI study included interviews with spouses of Vietnam veterans who revealed that PTSD has had a negative impact not only on the veterans' own lives, but also on the lives of their spouses and children.

The basic problems of coming back to children you don't know and families that have gone ahead without you, perhaps compounded by joblessness and alienation, have led to many problems for veterans with PTSD and their families. If a veteran does get admitted on an inpatient basis, he returns from treatment a different person—alienated again. The cycle can go on and on. It would be much more effective for the VA to include family participation in the healing process, rather than admitting and readmitting the affected veteran time after time.

While there should be no doubt in anyone's mind that PTSD is a service-related disability, a relatively small amount of veterans with PTSD are receiving benefits for their disability. According to the Indiana Regional Office of the VA, however, only 269 of the estimated 10,000 Hoosier veterans with PTSD are receiving disability compensation.

According to testimony that we heard at the hearing, diagnostic examinations for PTSD only involve the veteran, and are often completed in 20 to 30 minutes. It is the opinion of clinical psychologists that it takes at least 2 to 3 hours with a veteran and his or her family to make an accurate diagnosis. My colleague FRANK MCCLOSKEY pointed out the problems that his caseworkers are having in securing treatment and benefits for veterans with PTSD, saying that one veteran was given a disability rating for the same reason that another one was denied.

Perhaps this difficulty in securing favorable disability determinations relates to another problem that disturbs me about the VA's attitude towards PTSD. If anyone should believe that PTSD is a bonafide, legitimate mental disorder caused or triggered by combat or combat-related experience, it should be the VA. But that is not the impression I have received from testimony at our hearing or from talking to mental health professionals. Too many VA psychiatrists, I am told, take a so-called Freudian approach to mental health concerns, focusing on the extent to which problems encountered in adulthood are often the result of a childhood experience. This mode of psychological thought has not been in the mainstream for quite a while, and I find it hard to believe that it would continue on at the VA. One Vietnam veteran with PTSD was told by the VA that his problems stemmed from "flunking the second grade," and not from the horrors of his war experience in Vietnam. Perhaps more research into the causes and treatment of PTSD within the VA would address this problem and help to update the psychological mode of thinking within the organization.

I first became aware of the PTSD issue through the treatment facility at the Marion VAMC, and the program's director, Dr. Donald Schmidt. The program has been popular with its patients, and has been a quality program.

But the capacity of the program has never been more than 12 beds, and thus only the most severe cases have been treated.

Nationally, waiting lists exist for many DVA inpatient PTSD units, with delays as great as 18 to 20 months before admission. This is inadequate for many veterans who have serious PTSD problems now. Since PTSD can be a chronic illness in many cases, time spent waiting will not make a veteran better—over half of the men and a third of the women that ever had PTSD still have it. PTSD is not a problem that will just go away.

PTSD LEGISLATION

Legislation which I introduced last year, in H.R. 3037, would address this problem and other components of the PTSD issue. I'd like to thank the Vietnam Veterans of America and the Wabash Valley Vietnam Veterans in Indiana for their good work in developing the legislation. I'd also like to thank the 82 members who have cosponsored H.R. 3037, and the veterans groups who have endorsed the legislation: AMVETS, VFW, Disabled American Veterans, and the American Legion, in concept.

Let me briefly summarize the components of this legislation. The bill would add at least 30 additional inpatient PTSD units to VA medical centers over the next 5 years, which would make a total of roughly one VA inpatient PTSD unit per state. This is a recommendation which has been made the past 6 years.

I was pleased to see that the DVA has added 23 PCT's, or PTSD Clinical Teams, to existing VA hospitals through the United States. These teams will help to alleviate the shortfall in PTSD care, but should not be considered long-term solutions to this problem given the VA funding crunch. Centrally funded inpatient units are the way which we should go.

This legislation would also require the DVA to add at least 40 vet centers for readjustment counseling. We heard from many veterans in Indiana who were pleased with the services that vet centers had to offer, and I have visited several myself. I appreciate the good work that the staff of the vet centers do with their limited resources.

I learned from Dr. Arthur Blank, director of the Vet Center Program, that cities as big as Toledo, OH, and Nashville, TN, are without vet centers. These outreach and counseling centers are popular and effective in treating Vietnam veterans with PTSD. Vet center staff members often travel many miles to help veterans with their adjustment problems. I'm sure that some of the costs of expanding the Vet Center Program would be offset by savings in travel time and expenses.

The Vet Center Program celebrated its 10th anniversary this year. I'm sure that my colleagues with vet centers in their districts are pleased to have these services available to the Vietnam veterans in their districts. If my colleagues that do not have a vet center in their district had a chance to visit one, I'm sure that they would agree that adding more vet centers would be an excellent way to reach out to those hundreds of thousands of veterans that are having readjustment problems but cannot get help.

H.R. 3037 would authorize stable funding for VA contract counseling programs for PTSD, which serve veterans in areas not served by VA vacilities. We heard at the hearing that only 5 individual PTSD cases were contracted out of the Indianapolis VAMC catchment area last year. This is a tool that could be very beneficial in reducing the burden on overcrowded hospitals that are besieged by veterans suffering from PTSD who could otherwise be assisted by private clinics.

In addition to expanding treatment, the bill would encourage the DVA to recruit qualified professionals to administer PTSD care by encouraging the inclusion of psychiatrists, psychologists and others who specialize in the treatment of PTSD in the Health Professionals Scholarship Program. One step that we must take if we are to expand the treatment of PTSD is recruiting qualified professionals to staff these programs.

H.R. 3037 would give permanent, statutory authority to the Advisory Committee on Readjustment of Veterans. Similar to the POW and Women Veterans Advisory Committee, the group would continue to advise and report on the activities relating to PTSD. If we want the DVA to focus on the issue of PTSD, then we are going to have to make sure that veterans' groups and PTSD treatment professionals have their voices heard by the Secretary.

The bill would also create a research program for the treatment of PTSD. While a lot of attention has focused on exploring the causes and extent of PTSD, little coordinated study has been done on the treatment of PTSD. This program, conducted within the VA, would study the best treatment methods for PTSD to insure that quality care can be given on a consistent basis throughout the country. We have heard that treatment for PTSD varies widely from place to place. Research on PTSD can help the VA to serve those veterans with the disease in a much more effective manner.

Finally, H.R. 3037 would establish a pilot program for PTSD care in halfway houses. This program would be similar to the halfway house program for drug and alcohol abuse treatment, and would take an additional burden off of the already overcrowded VA medical system. This halfway house program comes at the suggestion of a local veterans group in Indiana along with a VA administrator.

Mr. CONTE. Mr. Speaker, one of the most important responsibilities of Congress is, in the words of Abraham Lincoln, "to care for him who shall have borne the battle and for his widow and orphan." That is a responsibility that we must not take lightly, for serving as a legislator in a representative democracy is a privilege that veterans have defended with their very lives.

We must use the power entrusted to us to ensure that the U.S. Government acknowledges and satisfies its moral obligations to this country's veterans—the men and women who have risked life and limb to preserve our liberty.

It is sometimes said that our national memory of the sacrifices of our veterans dims during peacetime. But now, more than ever, the contributions of our veterans should be celebrated and commemorated. The principles and ideals that our veterans have struggled so tenaciously to preserve have bubbled to the top of humanity's consciousness. From China to the Baltic Republics, democracy is the universal beacon of hope and freedom is the watchword.

The battles waged by our veterans have been validated, and the value of their blood, sweat, and tears has been affirmed in the register of world opinion. Now is the time for us, as a nation, to renew our gratitude to our veterans for their selfless devotion to this country.

And, in fact, there has been a greater focus on our national obligations to our veterans in the past several years. Back in the late sixties and early seventies, very little attention was being paid to the mounting needs of veterans who had so ably served their country.

I became alarmed when I heard from young men returning to western Massachusetts from Vietnam that they were being ignored and neglected by a disinterested bureaucracy. So when the National League of Cities and Towns and the U.S. Conference of Mayors needed someone to chair a Special Veterans Opportunity Committee to examine veterans issues in 1973, I took the job on behalf of American veterans everywhere. After taking weeks of testimony—in Newark, in Cleveland, in Seattle—we designed a comprehensive plan to solve those problems. And a great many of our recommendations have been incorporated into programs that are currently serving the veterans community.

Without the active support and involvement of the veterans service organizations and others, we would not be where we are today. The progress we have made in attending to the needs of our veterans has been nothing short of spectacular.

In the past few years, the veterans community has enjoyed a number of legislative and policy victories.

We have elevated the VA to Cabinet-level status; created the Court of Veterans Appeals; expanded and strengthened the GI education bill; reformed the VA Home Loan Program to provide important protections to veteran home buyers; and created special programs for veterans who are homeless, jobless and in need of special services.

Last year, this Congress became engaged in a protracted battle over supplemental funding for VA medical care. After months of negotiations and political infighting, we were ultimately successful in appropriating $340 million in new budget authority for VA medical care in fiscal year 1989.

The House Appropriations Committee then carried the veterans' torch into fiscal year 1990 by recommending an appropriation of $11.56 billion, $820 million more than requested by the administration. Now, the President's budget for fiscal year 1991 proposes a $900 million increase over last year's final program level to operate our VA hospitals. We are making progress. Still, we cannot relax our guard until every eligible veteran receives the medical attention that he or she needs and deserves. That must be our priority.

The veterans of today are the soldiers of yesterday who invaded Normandy, risking their lives to liberate Europe from the clutches of Hitler. In 1990, those veterans need access to life-sustaining medications, and it is up to us to provide them. The veterans of today are

the patriots who, 40 years ago, landed on Inchon to face the armaments of Communist aggression. Today, those selfsame veterans cannot afford to wait 6 months to get an appointment with their medical doctors, and we better speed up the line.

And it seems like only yesterday that the American veteran marched out from Da Nang across the swamps of Vietnam to face snipers' bullets and enemy mines. Today, those veterans urgently need replacements for their worn artificial limbs. This country cannot ignore its moral imperative to attend to those veterans' medical needs. Those veterans fought to preserve our freedom; now we must fight to ensure their security.

The progress we have made in caring for our veterans, important as it has been, fails to adequately reward them for their heroism. That can only be achieved through universal respect and reverence for American veterans as the architects of our modern era of peace with freedom. Peace, of course, was never the ultimate object of their battles; peace is achieved more easily by surrender and submission than by war. But freedom—freedom to live life as we choose, freedom to express ourselves without reprisal from the Government, freedom to pray to the God in which we believe—is a right worth dying for.

I am proud to join my colleagues today in paying tribute to our veterans and in pledging my continued support for the programs that keep our veterans healthy and secure.

Mr. LENT. Mr. Speaker, I would like to join those of my colleagues who have chosen today to speak out in support of our veterans and for the vitally important programs of the Department of Veterans Affairs.

I am particularly concerned at this time by the level of the medical care offered to Nassau County vets who must journey to the VA Medical Center in Northport, NY. As many of my colleagues know, the Northport VA hospital serves the greatest concentration of veterans in the United States. Despite the fact that it is not easily accessible to a great many Long Island veterans, the Northport VA hospital treated over 200,000 men and women in 1989.

The Northport VA hospital's ability to provide quality care has been severely impaired in recent years as budget cuts have taken their toll. In the last year alone, a surgical ward and a long-term care ward have been closed, staff has been cut back, and the construction of a long overdue and much needed ambulatory care unit has been postponed indefinitely. I have heard from and met with countless veterans who are dismayed and angered by the deteriorating situation in Northport. Mr. Speaker, I must say that I share their disappointment because I know we can and should do better for our vets.

Last month, a group of concerned veterans in Nassau County came to me to propose converting a vacant hospital in Freeport, NY, a centrally located and easily accessible village, into an ambulatory care clinic. According to this modest proposal, the facility would offer only the most basic services such as an eye, ear, nose, and throat clinic, a radiology clinic, a pharmacy, and outpatient psychiatric care. Most importantly, the new Freeport facility would liberate thousands of vets in my district from the uncertainties involved in the long trip to Northport and enable scores more elderly and infirm vets to seek the treatments they require.

It was 125 years ago that Abraham Lincoln uttered the phrase that has been adopted as the mission of the VA, "to care for him who shall have borne the battle and for his widow and his orphan." Our veterans entered active military service with the assurance that their health care needs would be met in a dignified manner by a grateful nation. In keeping with that commitment, I urge you to join me in support of full funding for the Northport VA hospital and the establishment of an ambulatory care clinic in Freeport.

Mr. DINGELL. Mr. Speaker, eloquently stating a paradox of human behavior, Franklin Roosevelt once said that "those who have enjoyed such privileges as we enjoy forget in time that men have died to win them." It is my fear, that even in this time of momentous change, as emerging democracies develop around the world, we are in danger of forgetting the tremendous contributions to liberty made by our Nation's veterans.

As we enter the decade of the 1990's, we do so with the knowledge that veterans' health care resources have lost ground, and many services to our veterans have deteriorated. While America's veterans population ages and becomes more in need of medical care, we grow less capable of meeting their most elementary needs.

I am continually reminded by my constituents of serious flaws and inequities existing in medical care and other services provided to our veterans. These problems are not limited to the 16th Congressional District, but are, instead, national in scope. The House Committee on Veterans' Affairs reports that approximately three-quarters of those veterans who apply for compensation benefits from the Veterans' Administration [VA] can expect to wait at least 3 months for their claim to be processed. Additionally, staffing levels for employees in the VA's regional offices have declined 25 percent since 1982.

The administration's $30.5 billion fiscal year 1991 budget request for veterans' programs is inadequate to properly address the needs of all veterans. More funds are necessary to increase staffing of benefits personnel to improve the quality, timeliness, and access of care; restore funding for outpatient and nursing home care; restore research funding to an adequate level; and preserve home loan programs.

The amount of funds authorized and appropriated for our veterans must go beyond merely halting the trend in declining services. It must restore a high quality of medical care and ensure access to the system. Our actions must prove that we honor our Nation's veterans in both substance and in spirit.

Mr. ANNUNZIO. Mr. Speaker, the Nation's veterans have suffered severely during the past 10 years, particularly in the area of health care benefits. The Reagan administration, in its questionable wisdom, subjected veterans to a series of budgetary restrictions that have created a situation in which the mission of the Veterans Affairs Department [VA] has been jeopardized. It is important now more than ever to demonstrate congressional support for veterans and programs within the VA.

For that reason, I strongly support the budget proposal for fiscal year 1991 presented by the House Committee on Veterans' Affairs. As I said recently in a floor statement on the supplemental appropriation bill for this year, the proposed budget would not cure all the problems veterans have today in trying to get care in many VA hospitals and most outpatient clinics. However, the budget proposal may begin to turn things around.

The President's budget appears to be a sincere attempt to provide adequate funding for veterans health care. Still, due to a number of factors, it nonetheless falls somewhat short. The President's budget proposes a $30.9 billion spending plan for veterans programs for fiscal year 1991. The $12.2 billion request for VA health care, approximately $1 billion or almost 8 percent over the 1990 level, is still about $1 billion less than many veterans' groups believe is necessary for next year.

The House Veterans' Affairs Committee has recommended that next year's budget for veterans' programs be increased to $32.5 billion, a 7-percent hike in projected spending for the current year. For health services, the committee recommends a budget of $12.5 billion, an increase of approximately $246 million over the administration's proposal.

An important measure in the budget includes funds of $38.6 million to increase special pay for physicians and dentists, although details are not spelled out. I support the action of the Veterans' Affairs Committee to consider legislation to modify the authority to compensate physicians and dentists. The Department of Veterans Affairs has not implemented a substantial increase in the pay of physicians and dentists since 1980. The changes to the special pay structure and pay rates instituted in 1980 remain in place despite major changes that have occurred in the health care industry since that time.

In addition, the VA has difficulty in filling senior administrative positions. Long and middle-term tenure is not rewarded. Most turnovers occur within 4 years of a physician's joining the VA, so that among physicians under age 35 with 2 to 4 years of VA experience, the turnover rate was 22 percent in 1987.

Mr. Speaker, as I indicated earlier, VA medical care delivery deserves to be recognized and rewarded for its management of Federal dollars over the past decade. I agree with the American Legion that VA medical care delivery has been a model of fiscal restraint and has been a major contributor to VA's overall budgetary performance during that period.

I fervently join the American Legion in saying that the system now operated by the VA to deliver medical treatment deserves to be recognized for what it is—a natural resource. The system maintains contractual and other professional relationships with community-based facilities, 103 of the Nation's medical schools and the Defense Department's health care network. Through its affiliation with medical schools nationwide, VA is the largest single trainer of health care manpower. It is also the place where 50,000 medical students

and residents receive a portion of their training each year.

Mr. Speaker, the budget deficit needs to be reduced, but it shouldn't be done on the backs of veterans.

Mr. DWYER of New Jersey. Mr. Speaker, I would like to thank my colleagues, Mr. JONTZ, Ms. LONG, and Mr. BURTON, for taking time today to provide a forum for the discussion of a small, but very significant portion of the Federal budget—the Department of Veterans Affairs.

According to recent VA figures, there are approximately 27.1 million veterans and 46 million dependents and survivors who are potential VA beneficiaries. The benefits for which these individuals might be eligible are varied due to the particular needs of the veteran, however, there has been a common thread among all VA services during the past decade; the reduction of benefits and diminished services available for veterans and their dependents.

The assault on veterans benefits has been most pronounced in the area of health care. Veterans once eligible for hospital and nursing home care have found themselves categorized with eligibility based on income levels for those with non-service-connected ailments. Beneficiary travel reimbursement has been severely curtailed and access to outpatient medical treatment has been restricted both by imposed categories for veterans and by the increased numbers of those seeking care.

The full impact of the health care crisis necessitated a supplemental appropriation of over $1 billion last year and a $390 million supplemental for the current fiscal year. The Veterans' Affairs Committee has recommended a 7-percent increase in funding for fiscal year 1991, for a total package of $32.5 billion for the next fiscal year.

The VA runs the largest health care system in the United States. It is to our advantage to maintain quality services at these facilities; and it is our responsibility to provide eligible veterans with an environment in which they can obtain competent care.

The demands for Federal dollars are great, but we must act fairly with those who have already given so much to our country.

Mr. RANGEL. Mr. Speaker, I am pleased to join with my colleagues in demonstrating support for our Nation's veterans and for the programs directed at veterans by the Department of Veterans Affairs.

Over the course of several decades, men and women of every race and nationality have responded to the call of this Government in time of national and international crisis to defend democracy and further the cause of peace throughout the world. Often those men and women have made tremendous sacrifies in service to their country. Indeed, many have given their lives to ensure freedom for us in the United States and for others in foreign countries as well.

As a former combat veteran I am ultimately aware of the commitment and sacrifice made by the members of the military and the obligation on the part of this country to provide for them. I am pleased by the progress made by the Department of Veterans Affairs in meeting needs of veterans and encouraged by the Departments' plans for the future.

It gives me great pride to acknowledge, along with my colleagues, the work of the DVA and the enduring patriotic spirit that is typical of the American veteran.

GENERAL LEAVE

Mr. JONTZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the special order just given.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. GEPHARDT), for April 18 and 19, on account of personal injury.

Mr. FORD of Tennessee (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. STUMP (at the request of Mr. MICHEL), for today and the balance of the week, on account of family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative programs and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. SLAUGHTER of Virginia, for 60 minutes, on May 2.

Mr. BLILEY, for 60 minutes, on May 2.

Mr. GINGRICH, for 60 minutes each day, on April 18 and 19.

Mr. DELAY, for 60 minutes each day, on April 24 and 25.

Mr. DREIER of California, for 5 minutes, today.

Mr. PASHAYAN, for 60 minutes, on April 23.

Mr. KYL, for 60 minutes each day, on May 2, 9, 16 and 23.

(The following Members (at the request of Mr. WASHINGTON) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. FAZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mr. ROYBAL, for 5 minutes, today.

Mr. WISE, for 5 minutes, on April 19.

Mr. OWENS, of New York, for 60 minutes, today.

Mr. WASHINGTON, for 60 minutes, today.

Mr. WISE, for 60 minutes each day, on April 24, 25, and 26.

Mr. TALLON, for 30 minutes, on April 24.

Mr. AKAKA, for 60 minutes, on April 24.

Mr. OWENS of New York, for 60 minutes each day, on April 19, 23, 24, 26, 27, and 30.

Mr. WASHINGTON, for 60 minutes each day, on April 19, 24, 25, and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. GINGRICH.
Mr. LENT.
Mr. SAXTON.
Mr. SCHULZE.
Mr. MACHTLEY in five instances.
Mr. DEWINE.
Mr. SOLOMON in three instances.
Mr. KYL.
Mr. LAGOMARSINO in four instances.
Mr. BROWN of Colorado.
Mr. LEWIS of California in two instances.
Mr. SCHUETTE.
Mr. LEWIS of Florida.
Mr. MCDADE.
Mr. HANCOCK.
Mr. GEKAS in two instances.
Mr. SHUSTER.
Mr. COBLE.
Mr. PORTER in two instances.
Mr. GALLO.
Mr. PETRI.
Mr. LOWERY of California in two instances.
Mrs. MEYERS of Kansas in two instances.
Mr. MCEWEN.
Mr. MICHEL.
Mr. BROOMFIELD.
Mr. BUECHNER.
Mr. HUNTER.

(The following Members (at the request of Mr. WASHINGTON) and to include extraneous matter:)

Mr. ATKINS.
Mr. MATSUI in two instances.
Mr. MCNULTY.
Mr. DWYER of New Jersey.
Mr. BILBRAY.
Mr. BARNARD.
Mrs. LOWEY of New York.
Mr. MAVROULES.
Mr. BRYANT in two instances.
Mr. MAZZOLI.
Mr. TRAXLER.
Mr. YATRON in three instances.
Mr. RANGEL.
Mr. WOLPE in two instances.
Mr. KENNEDY.
Mr. ANTHONY.
Mr. FORD of Michigan.
Mr. MURTHA.

Mr. MOODY.
Mr. RICHARDSON in two instances.
Mr. DIXON.
Mr. FROST in two instances.
Mr. FAUNTROY.
Mr. NELSON of Florida.
Mr. HAMILTON in three instances.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. WISE.
Mr. TALLON.
Mr. ROE.
Mr. LANTOS in two instances.
Mr. EDWARDS of California in two instances.
Mr. MRAZEK in four instances.
Mr. PENNY in two instances.
Mr. STARK in three instances.
Mrs. BOXER.
Mr. LEHMAN of Florida.
Mr. FAZIO.
Mr. UDALL.
Mr. SOLARZ.
Mr. GRAY.
Mr. WEISS.
Mr. LEVINE of California.
Mr. GIBBONS.
Mr. LIPINSKI.
Mr. LEHMAN of California.
Mr. FOGLIETTA.
Mr. STUDDS.
Mr. ACKERMAN.
Mr. TRAFICANT in four instances.
Mr. SAWYER.

SENATE JOINT RESOLUTIONS AND CONCURRENT RESOLUTIONS REFERRED

Joint resolutions and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week;" to the Committee on Post Office and Civil Service.

S.J. Res. 275. Joint resolution designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet;" to the Committee on Post Office and Civil Service.

S. Con. Res. 117. Concurrent resolution expressing the appreciation of Congress for the contributions of the Friends of the National Arboretum in providing for the preservation and public display of 22 of the original columns of the East Front Portico of the United States Capitol Building; to the Committee on Public Works and Transportation.

S. Con. Res. 118. Concurrent resolution to authorize the printing of a brochure describing the history, design, and functions of the United States Capitol as the seat of the legislative branch of the Government; to the Committee on House Administration.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1048. An act to provide for the acquisition of data about crimes that manifest prejudice based on certain group characteristics;

H.R. 2334. An act to designate the Post Office located at 30 East Ninth Street in Austin, Texas, as the "Homer Thornberry Judicial Building;" and

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1096. An act to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission; and

S. 1949. An act to amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On April 11, 1990:

H.R. 3968. An act to further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations; and

H.R. 1048. An act to provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

ADJOURNMENT

Mr. JONTZ. Mr. Speaker, pursuant to House Resolution 377, I move that the House do now adjourn in memory of the late SPARK M. MATSUNAGA.

The motion was agreed to; accordingly (at 7 o'clock and 35 minutes p.m.), pursuant to House Resolution 377, the House adjourned until tomorrow, Thursday, April 19, 1990, at 11 o'clock a.m. in memory of the late Honorable SPARK M. MATSUNAGA.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2932. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to consolidate and expand the statutory authority for the National Agricultural Library in the Department of Agriculture; to the Committee on Agriculture.

2933. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of July 2, 1962, to give the Secretary of Agriculture additional intrastate authority to prevent the spead of any dangerous communicable disease of livestock or poultry during extraordinary emergency conditions; to the Committee on Agriculture.

2934. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's third impoundment message for fiscal year 1990, pursuant to 2 U.S.C. 685 (H. Doc. No. 101-172); to the Committee on Appropriations and ordered to be printed.

2935. A letter from the Deputy Director, Office of Management and Budget, transmitting a report that the appropriations to the Department of Veterans Affairs for "Compensation and Pensions" for fiscal year 1990 have been reapportioned on a basis that indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

2936. A letter from the General Counsel, Department of Defense, transmitting a copy of amendments to the Manual for Courts-Martial, United States, 1984, pursuant to 10 U.S.C. 836(b); to the Committee on Armed Services.

2937. A letter from the Secretary of Defense, transmitting the annual report from the Reserve Forces Policy Board for fiscal year 1989 on the progress made in improving the readiness of the National Guard and Reserve components, pursuant to 10 U.S.C. 113(c), (e); to the Committee on Armed Services.

2938. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles estimated to cost $50 million or more (Transmittal No. 90-30), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2939. A letter from the Principal Deputy Comptroller, Department of Defense, transmitting a copy of the contract award report for the period May 1, 1990, to June 30, 1990, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

2940. A letter from the Under Secretary of Defense (Acquisition), transmitting a copy of the Selected Acquisition Reports [SAR's] for the quarter ending December 31, 1989, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

2941. A letter from the Secretary of Defense, transmitting a copy of the "White Paper on the Department of Defense and the Congress"; to the Committee on Armed Services.

2942. A letter from the Under Secretary of Defense, transmitting a report on funds obligated in the chemical warfare—chemical/biological defense programs during fiscal year 1989; to the Committee on Armed Services.

2943. A letter from the Secretary, Department of Housing and Urban Development, transmitting the 1990 Consolidated Annual Report on the community development programs administered by the Department, pursuant to 42 U.S.C. 5313(a); to the Committee on Banking, Finance and Urban Affairs.

2944. A letter from the Secretary, Department of Housing and Urban Development, transmitting a report entitled, "Alternative Methods of Funding Public Housing Mod-

ernization", pursuant to Public Law 101-235, section 124 (103 Stat. 2022); to the Committee on Banking, Finance and Urban Affairs.

2945. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting its 1990 report on actions taken, and progress made to implement expedited funds availability schedules, pursuant to Public Law 100-86, section 609(d)(1)(A) (101 Stat. 648); to the Committee on Banking, Finance and Urban Affairs.

2946. A letter from the Acting General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend title 31, United States Code, to provide for the effective and efficient production, marketing, sale, and financing of numismatic items of the U.S. Mint, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

2947. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-187, "Housing Production Trust Fund Board Amendment Act of 1990", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

2948. A letter from the Secretary of Education, transmitting a copy of Final Regulations for the Pell Grant Program—Expected Family Contributions for Students with Special Conditions, pursuant to 20 U.S.C. 1232(d)(i); to the Committee on Education and Labor.

2949. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report on the National Institute for Occupational Safety and Health for fiscal year 1988, pursuant to 29 U.S.C. 671(f); to the Committee on Education and Labor.

2950. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the status and accomplishments of the runaway and homeless youth centers for fiscal year 1988, pursuant to 42 U.S.C. 5715(a); to the Committee on Education and Labor.

2951. A letter from the Secretary of the Interior, transmitting reports from the U.S. Fish and Wildlife Service and the National Park Service on the activities of the Youth Conservation Corps Program operations in fiscal year 1989, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

2952. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the State Department Care Development Grants Act, pursuant to 31 U.S.C. 1110; to the Committee on Education and Labor.

2953. A letter from the Deputy Under Secretary for Travel and Tourism, Department of Commerce, transmitting a marketing plan to stimulate and encourage travel to the United States for fiscal year 1991, pursuant to 22 U.S.C. 2123(a)(15); to the Committee on Energy and Commerce.

2954. A letter from the Secretary of Health and Human Services, transmitting a special report on the use of consortia for research and development of vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome [AIDS], pursuant to Public Law 100-607, section 203(b); to the Committee on Energy and Commerce.

2955. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission has extended the time period for issuing a decision in Finance Docket No. 31387 (Sub-No. 1), "Canadian National Railway Company—Lease from Grand Trunk Western Railway Company", July 24, 1990, pursuant to 49 U.S.C. 10327(k); to the Committee on Energy and Commerce.

2956. A letter from the Acting Secretary of State, transmitting on behalf of the President, a report on the situation in El Salvador, which documents the progress achieved by the Government of El Salvador from October 1, 1989, to March 31, 1990, pursuant to Public Law 101-167, section 554(b) (103 Stat. 1237); to the Committee on Foreign Affairs.

2957. A letter from the Administrator, Agency for International Development, transmitting the 1989 Annual Report on the International Fund for Ireland, pursuant to Public Law 99-415, section 6 (100 Stat. 949); to the Committee on Foreign Affairs.

2958. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting its quarterly report concerning human rights activities in Ethiopia, covering the period October 15, 1989, through January 14, 1990, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

2959. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of the Price and Availability Report (Part III) for the quarter ending December 31, 1989, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

2960. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Canada for defense articles and services (Transmittal No. 90-32), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2961. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services estimated to cost $100 million (Transmittal No. 90-30), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2962. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the production of significant military requirement in Australia (Transmittal No. MC-10-90), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2963. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment in the Republic of Korea (Transmittal No. MC-7-90), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2964. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed amendment to a manufacturing license agreement for the production of significant military equipment in the Republic of Korea (Transmittal No. MC-6-90), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2965. A communication from the President of the United States, transmitting a report on the activities of U.S.-U.S.S.R. Standing Consultative Commission during calendar year 1989, pursuant to 22 U.S.C. 2578; to the Committee on Foreign Affairs.

2966. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from January 1 through early March 1990, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2967. A letter from the Secretary of the Navy, transmitting notification that the Navy intends to offer for lease, through the Director, Defense Security Assistance Agency, the naval vessel *Blueback* to the Government of Venezuela, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

2968. A letter from the Under Secretary of State for Security Assistance, Science and Technology, transmitting the ninth report on the activities of the Multinational Force and Observers [MFD] and certain financial information concerning U.S. Government participation in that organization for the period ending January 15, 1990, pursuant to 22 U.S.C. 3425; to the Committee on Foreign Affairs.

2969. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2970. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on terrorism-related assistance provided to foreign countries by the U.S. Government, pursuant to 22 U.S.C. 2349aa-7(b); to the Committee on Foreign Affairs.

2971. A letter from the Secretary of State, transmitting the activities of the U.N. Educational, Scientific and Cultural Organization since the United States' withdrawal on December 31, 1984, pursuant to 22 U.S.C. 287r nt.; to the Committee on Foreign Affairs.

2972. A letter from the Administrator, Agency for International Development, transmitting notification of his approval for the continuation of the African-American Labor Center [AALC] Program in Sudan; to the Committee on Foreign Affairs.

2973. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intended purchase of articles under categories I and III of the U.S. Munitions List, pursuant to section 507 of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986; to the Committee on Foreign Affairs.

2974. A letter from the Director, Peace Corps, transmitting a draft of proposed legislation to authorize appropriations under the Peace Corps Act for fiscal year 1991 and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

2975. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the Export Administration Act of 1979, as amended, and to authorize appropriations for fiscal year 1991, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

2976. A communication from the President of the United States, transmitting a copy of the executive order terminating the national emergency with respect to Panama (H. Doc. No. 101-171); to the Committee on Foreign Affairs and ordered to be printed.

2977. A letter from the Secretary, Commission of Fine Arts, transmitting its 1989 report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

2978. A letter from the Chairman, Council on Environmental Quality, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1989, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2979. A letter from the U.S. Commissioner, Delaware River Basin Commission, transmitting the Commission's decision not to establish an Office of Inspector General since it is only a two-position agency; to the Committee on Government Operations.

2980. A letter from the Director of Public Affairs, Department of Agriculture, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2981. A letter from the Vice President, Farm Credit Services, transmitting the annual reports for the year ended December 31, 1988, for the 12th District Farm Credit retirement plan and thrift plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

2982. A letter from the Director, Information Security Oversight Office, transmitting a copy of the Office's "Annual Report to the President FY 1989", and a copy of the President's letter in response to the report; to the Committee on Government Operations.

2983. A letter from the President, National Endowment for Democracy, transmitting its first annual report in compliance with the Inspector General Act Amendments of 1988; to the Committee on Government Operations.

2984. A letter from the Chairman, National Relations Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1989, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2985. A letter from the Acting Director, Office of Government Ethics, transmitting a report on its activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

2986. A letter from the Secretary of Housing and Urban Development, transmitting the Department's report on activities under the Freedom of Information Act for calendar year 1989, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

2987. A letter from the Acting Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of the Pueblo of Santa Clara judgment funds in Docket 356, before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

2988. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2989. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2990. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2991. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2992. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2993. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2994. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2995. A letter from the Secretary of the Interior, transmitting a report on the Government's helium program providing operating statistical and financial information for the fiscal year 1989, pursuant to 50 U.S.C. 167n; to the Committee on Interior and Insular Affairs.

2996. A letter from the Secretary of the Interior, transmitting the 1988 and 1989 annual report for the Office of Surface Mining Reclamation and Enforcement, pursuant to 30 U.S.C. 1211(f), 1267(g), 1295; to the Committee on Interior and Insular Affairs.

2997. A letter from the Commissioner, Immigration and Naturalization Service, transmitting a copy of the decision granting defector status in the case of a certain alien who has been found admissible to the United States under law, pursuant to 8 U.S.C. 1182(a)(28)(I)(ii); to the Committee on the Judiciary.

2998. A letter from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend title IX of the act commonly referred to as the Civil Rights Act of 1968 to increase the penalties for violating the act, and for other purposes; to the Committee on the Judiciary.

2999. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to authorize appropriations for the Refugee Assistance Program for fiscal years 1991, 1992, and 1993, pursuant to 31 U.S.C. 1110; to the Committee on the Judiciary.

3000. A letter from the U.S. Merit Systems Protection Board, transmitting a report titled "Attracting and Selecting Quality Applicants for Federal Employment", pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

3001. A letter from the Acting Administrator, General Services Administration, transmitting a copy of an amended report of building project survey for the consolidation of the Internal Revenue Service National Office in suburban Maryland, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3002. A letter from the Board of Directors, Tennessee Valley Authority, transmitting a report on TVA's activities during the fiscal year beginning October 1, 1988, and ending September 30, 1989, pursuant to 16 U.S.C. 831h(a); to the Committee on Public Works and Transportation.

3003. A letter from the Secretary of Energy, transmitting the 13th annual report on activities under the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976, pursuant to 15 U.S.C. 2513; to the Committee on Science, Space, and Technology.

3004. A letter from the Assistant Secretary of Defense, transmitting a report on the Department's metric transition program during fiscal eyar 1989, pursuant to Public Law 100-418 section 5164; to the Committee on Science, Space, and Technology.

3005. A letter from the Secretary, Department of Veterans Affairs, transmitting a report covering the disposition of cases granted relief from administrative error, overpayment and forfeiture by the Administrator in 1989, pursuant to 38 U.S.C. 210(c)(3)(B); to the Committee on Veterans' Affairs.

3006. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care, to revise VA authority to furnish outpatient dental care, and for other purposes; to the Committee on Veterans' Affairs.

3007. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the estate limits for certain incompetent institutionalized veterans, and for other purposes; to the Committee on Veterans' Affairs.

3008. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a non-service-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

3009. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, improve the pay system for registered nurses employed by the Veterans Health Services and Research Administration, and for other purposes; to the Committee on Veterans' Affairs.

3010. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to clarify the eligibility of certain minors for burial in national cemeteries and to authorize use of flat grave markers in a section of Florida National Cemetery; to the Committee on Veterans' Affairs.

3011. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to recover the costs for all activities associated with the importation and exportation of animals and animal products, and for other purposes; jointly, to the Committees on Agriculture and Ways and Means.

3012. A letter from the Secretary of Transportation, transmitting a report entitled, "Department of Transportation-Adequacy of Current Federal and State Earthquake Design standards"; jointly, to the Committees on Appropriations and Public Works and Transportation.

3013. A letter from the Assistant Secretary of Defense, transmitting the biennial report on the Montgomery GI Bill Educa-

tion Benefits Program; jointly, to the Committees on Armed Services and Veterans' Affairs.

3014. A letter from the Director, Office of Thrift supervision, transmitting the agencies' annual report on efforts to prevent unfair and deceptive trade practices in the thrift industry, pursuant to Public Law 101-73, section 301 (103 Stat. 279); jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

3015. A letter from the Secretary, Department of Health and Human Services, transmitting recommendations on performance standard rates of increase for all physicians' services for fiscal year 1991, pursuant to Public Law 101-239, section 6102(a) (103 Stat. 2178); jointly, to the Committee on Energy and Commerce and Ways and Means.

3016. A letter from the Chairman, Interstate Commerce Commission, transmitting notification that the Commission has been unable to meet its deadline this year, but shall make every effort to assure that the 1990 ICC annual report is delivered in a timely fashion; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

3017. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the fourth calendar quarter of 1989, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3018. A letter from the Secretary of Health and Human Services, transmitting a report on FDA's progress in negotiations with foreign governments toward obtaining foreign pesticide usage information; jointly, to the Committees on Energy and Commerce and Agriculture.

3019. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to amend various provisions of law that affect the operations and management of the Department of Defense particularly in the areas of military personnel, acquisition reform, civilian personnel management, and for real property; jointly, to the Committees on Armed Services; Government Operations; Post Office and Civil Service; and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on April 4, 1990, the following report was filed on April 12, 1990]

Mr. ROE: Committee on Science, Space, and Technology. H.R. 4380. A bill to authorize appropriations for the Superconducting Super Collider, and for other purposes; with an amendment (Rept. No. 101-448). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Apr. 18, 1990]

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 378. Resolution providing for the consideration of H.R. 3848, a bill to require the appropriate Federal depository institution regulatory agency to revoke the charter of any Federal depository institution which is found guilty of a crime involving money laundering or monetary transaction report offenses and to require the Federal Deposit Insurance Corporation and the National Credit Union Administration Board to terminate the deposit insurance of any State depository institution which is found guilty of any such crime (Rept. 101-449). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 379. Resolution providing for the consideration of H.R. 4380, a bill to authorize appropriations for the Superconducting Super Collider, and for other purposes (Rept. 101-450). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHARP (for himself, Mrs. JOHNSON of Connecticut, Mr. HAMILTON, Mr. LEVIN of Michigan, Mrs. MARTIN of Illinois, Mr. JACOBS, and Mr. BONIOR):

H.R. 4520. A bill to amend title 13, United States Code, and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States, and for other purposes; jointly, to the Committees on Energy and Commerce; Post Office and Civil Service; and Foreign Affairs.

By Mr. BROWN of California (for himself, Mr. ROE, Mr. WALKER, Mr. SCHEUER, Mrs. LLOYD, Mr. LEWIS of Florida, Mr. NELSON of Florida, Mr. HALL of Texas, Mr. MCCURDY, Mr. VALENTINE, Mr. TORRICELLI, Mrs. MORELLA, Mr. ROHRABACHER, Mr. PRICE, Mr. SKAGGS, Mr. BROWDER, Mr. BRUCE, Mr. MINETA, Mr. RITTER, and Mr. AKAKA):

H.R. 4521. A bill to establish a Hydrogen Research and Development Program; to the Committee on Science, Space, and Technology.

By Mrs. MEYERS of Kansas (for herself, Mr. ROE, Mr. BROWN of California, Mr. SCHEUER, Mrs. LLOYD, Mr. BOEHLERT, Mr. WALGREN, Mr. GLICKMAN, Mr. NELSON of Florida, Mr. HALL of Texas, Mr. MCCURDY, Mr. VALENTINE, Mr. TORRICELLI, Mrs. MORELLA, Mr. PERKINS, Mr. SKAGGS, Mr. BROWDER, Mr. PENNY, Mr. NEAL of North Carolina, Mr. PAXON, Mr. PALLONE, Mr. LAGOMARSINO, Mr. ECKART, Mrs. COLLINS, Mr. POSHARD, and Mr. BRUCE):

H.R. 4522. A bill to improve the information available to emergency response personnel in the field, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. ANDERSON (for himself and Mr. KLECZKA):

H.R. 4523. A bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable; to the Committee on House Administration.

By Mr. ANTHONY:

H.R. 4524. A bill to amend the Internal Revenue Code of 1986 to provide that an advance refunding bond will not be a tax-exempt bond if it results in amounts becoming available which are invested in substantially guaranteed higher yielding investments; to the Committee on Ways and Means.

By Mr. FRANK (for himself, Mr. KANJORSKI, and Mr. JAMES):

H.R. 4525. A bill to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. BENNETT:

H.R. 4526. A bill to provide for an outlying landing field for the Naval Air Station, Cecil Field, Jacksonville, FL; to the Committee on Armed Services.

H.R. 4527. A bill to prohibit any department, agency, or instrumentality of the Federal Government, or any Government-sponsored enterprise, from requiring as a condition of sale of a property that the prospective buyer also buy a property that is contaminated with hazardous waste; to the Committee on Government Operations.

By Mr. BENNETT (for himself, Mr. BOSCO, Mr. LIPINSKI, Mr. RICHARDSON, Mr. MINETA, Mr. HOCHBRUECKNER, Mrs. SAIKI, Ms. SCHNEIDER, Mr. BILIRAKIS, Mr. LEHMAN of Florida, Mr. IRELAND, Mrs. COLLINS, Mr. FAUNTROY, Mr. HAMILTON, Mr. RAVENEL, and Mr. WALGREN):

H.R. 4528. A bill to promote the conservation and enhancement of wetlands and to offset or prevent the loss of wetlands; jointly, to the Committees on Ways and Means; Merchant Marine and Fisheries; Public Works and Transportation; and Interior and Insular Affairs.

By Mrs. BOXER:

H.R. 4529. A bill to establish a program of grants of local educational agencies for purposes of conducting after-school activities designed to promote learning and finishing high school; to the Committee on Education and Labor.

H.R. 4530. A bill to protect employees who report violations of Federal laws and regulations; to the Committee on Education and Labor.

H.R. 4531. A bill to amend title 5, United States Code, to allow Federal employees within an installation or other unit of the Department of Defense undergoing a reduction in force to be credited with an additional 5 years (in age or length of service) to encourage voluntary retirements; to the Committee on Post Office and Civil Service.

By Mrs. BOXER (for herself, Mr. STARK, and Ms. SCHNEIDER):

H.R. 4532. A bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BUECHNER:

H.R. 4533. A bill to require that remediation of certain defense-related radioactive wastes currently located in the city and county of St. Louis, MO, be conducted in a nonurban area; jointly, to the Committee on Energy and Commerce and Armed Services.

By Mr. CHAPMAN:

H.R. 4534. A bill to amend title 11, United States Code, to ensure that the bankruptcy laws are not used to prevent restitution to, or recovery of, failed financial institutions; to the Committee on the Judiciary.

By Mr. FRANK:

H.R. 4535. A bill to amend chapter 37 of title 31, United States Code, with respect to debt collection by the United States; to the Committee on the Judiciary.

By Mr. HATCHER (for himself and Mr. COBLE):

H.R. 4536. A bill to suspend temporarily the duty on fluometuron and IBTF; to the Committee on Ways and Means.

By Mr. JENKINS:

H.R. 4537. A bill to extend until January 1, 1995, the existing temporary suspension of duty on diamino phenetole sulfate; to the Commiteee on Ways and Means.

H.R. 4538. A bill to extend until January 1, 1995, the existing temporary suspension of duty on p-chloro-o-nitro aniline; to the Committee on Ways and Means.

H.R. 4539. A bill to extend until January 1, 1995, the existing temporary suspension of duty on nitro sulfon 8; to the Committee on Ways and Means.

H.R. 4540. A bill to extend until January 1, 1995, the existing temporary suspension of duty on chlor amino base; to the Committee on Ways and Means.

H.R. 4541. A bill to extend until January 1, 1995, the existing temporary suspension of duty on amino sulfon br; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 4542. A bill to suspend for a 3-year period the duty on [3*R*-[3-alpha(*R**),4-beta]]-4-(acetyloxy)-3-(1-(((1,1-dimethyl ethyl)dimethylsily)oxy)ethyl)-2-azetidinone, also known as acetoxy azetidinone; to the Committee on Ways and Means.

H.R. 4543. A bill to suspend for a three-year period the duty on 4-(6-fluoro-2 methyl indine-3-methyl) phenyl methyl sulphide dissolved in toluene, also known as IN-4; to the Committee on Ways and Means.

By Mr. McMILLAN of North Carolina:

H.R. 4544. A bill to suspend for a 3-year period the duty on DNCB; to the Committee on Ways and Means.

H.R. 4545. A bill to suspend for a 3-year period the duty on C.I. Pigment Red 214; to the Committee on Ways and Means.

H.R. 4546. A bill to suspend for a 3-year period the duty on C.I. Pigment Yellow 155; to the Committee on Ways and Means.

H.R. 4547. A bill to suspend for a 3-year period the duty on C.I. Pigment Red 242; to the Committee on Ways and Means.

By Mr. MATSUI (for himself and Mr. STARK):

H.R. 4548. A bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals; jointly, to the Committees on Ways and Means; Energy and Commerce; and Agriculture.

By Mr. MRAZEK (for himself and Mr. HOCHBRUECKNER):

H.R. 4549. A bill to establish programs to promote the development and construction of magnetic levitation transportation systems and to establish a Magnetic Levitation Transportation Administration in the Department of Transportation; jointly, to the Committees on Energy and Commerce; Science, Space, and Technology; and Public Works and Transportation.

By Mr. NIELSON of Utah (by request):

H.R. 4550. A bill to amend the Federal Property and Administrative Services Act of 1949 to direct the Administrator of General Services, in negotiating reduced rates for transportation services procured for Federal agencies from common carriers, to ensure that those rates apply to persons acting as agents of Federal agencies while employed by a State; to the Committee on Government Operations.

By Mr. OBEY (for himself and Mr. MCDERMOTT):

H.R. 4551. A bill to require each State to adopt by 1995 a plan for ensuring the provision of health insurance to all residents of the State, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. ROYBAL:

H.R. 4552. A bill to amend section 5112 of title 31, United States Code, to increase the size and weight of the dollar coin and to provide that the obverse side of such coin shall bear the likeness of Edward Kennedy "Duke" Ellington; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROBERT F. SMITH (for himself and Mr. MADIGAN):

H.R. 4553. A bill to improve and reform the Short-Term Export Credit Program to enhance its effectiveness and promote the expansion of exports of agricultural commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. WASHINGTON:

H.R. 4554. A bill to amend title 18, United States Code, to provide the penalty of life in prison for bankers laundering drug money; to the Committee on the Judiciary.

By Mr. WOLPE (for himself, Mr. MRAZEK, Mr. OWENS of New York, Mr. BERMAN, Mr. GRAY, Mr. MURPHY, Mr. NEAL of North Carolina, Mr. TRAFICANT, Mr. HAMILTON, Mr. LEVIN of Michigan, Mr. FAUNTROY, Mr. OBERSTAR, Ms. KAPTUR, Mr. DWYER of New Jersey, Mr. SWIFT, Mr. KILDEE, Mr. BRYANT, Mr. SOLARZ, Mr. LANCASTER, Mr. MORRISON of Connecticut, Mr. CARR, Mr. ATKINS, Mr. FAZIO, Mr. PRICE, Mr. DELLUMS, Mr. MCMILLEN of Maryland, and Mr. HAYES of Louisiana):

H.R. 4555. A bill to amend the Internal Revenue Code of 1986 to require that the major categories of Federal outlays and income be shown in graphs on the first page of the instructions for individual income tax returns; to the Committee on Ways and Means.

By Mr. BROOMFIELD (for himself and Mr. YATRON):

H.J. Res. 550. A joint resolution to prohibit the proposed sale to Turkey of AH-1W attack helicopters; to the Committee on Foreign Affairs.

By Mr. LAGOMARSINO:

H.J. Res. 551. A joint resolution designating the month of November 1990 as "Dyslexia Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.J. Res. 552. A joint resolution to designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

By Mrs. BOXER:

H. Con. Res. 304. A concurrent resolution requiring Congress to purchase recycled paper; to the Committee on House Administration.

By Mr. BROOMFIELD (for himself, Mr. WALSH, Mr. LAGOMARSINO, Mr. RANGEL, Mr. INHOFE, Ms. LONG, Mr. JAMES, and Mr. EMERSON):

H. Con. Res. 305. A concurrent resolution expressing the sense of the Congress that community service should be required for graduation from high school; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H. Res. 377. A resolution expressing the profound sorrow of the House of Representatives of the death of the Honorable Spark M. Matsunaga, a Senator from the State of Hawaii; considered and agreed to.

By Mr. LAGOMARSINO (for himself, Mr. RICHARDSON, Mr. GALLEGLY, and Mr. VENTO):

H. Res. 380. A resolution expressing the sense of the House of Representatives with respect to the need to encourage mailers of second-class and third-class mail matter to use recycled paper; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

348. By the SPEAKER: Memorial of the Senate of the State of Iowa, relative to barley production during the droughts of 1988 and 1989; to the Committee on Agriculture.

349. Also, memorial of the Legislature of the State of South Carolina, relative to the Army Junior Reserve Officer Training Corps [JROTC]; to the Committee on Armed Services.

350. Also, memorial of the Legislature of the State of Colorado, relative to affordable housing; to the Committee on Banking, Finance and Urban Affairs.

351. Also, memorial of the General Assembly of the State of Indiana, relative to solid waste; to the Committee on Energy and Commerce.

352. Also, memorial of the Senate of the State of Washington, relative to competition for existing cable television services; to the Committee on Energy and Commerce.

353. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to a national health plan; to the Committee on Energy and Commerce.

354. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to the addition of a bittering agent to household, automotive, and gardening products that are hazardous if ingested by children; to the Committee on Energy and Commerce.

355. Also, memorial of the Senate of the State of Washington, relative to fair and open elections through nonviolent means; to the Committee on Foreign Affairs.

356. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to antisemitism; to the Committee on Foreign Affairs.

357. Also, memorial of the Legislature of the State of Maine, relative to Joseph Doherty; to the Committee on the Judiciary.

358. Also, memorial of the Senate of the State of Iowa, relative to American Coal Miners' Memorial Day; to the Committee on Post Office and Civil Service.

359. Also, memorial of the Legislature of the State of Alaska, relative to Earth Day; to the Committee on Post Office and Civil Service.

360. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to reenactment of the Federal Surface Transportation Act; to the Committee on Public Works and Transportation.

361. Also, memorial of the Legislature of the State of South Carolina, relative to the naming of the veterans hospital in Charleston, SC, in honor of the late Ralph H. Johnson; to the Committee on Veterans' Affairs.

362. Also, memorial of the Legislature of the State of Colorado, relative to women in civilian and military service; to the Committee on Veterans' Affairs.

363. Also, memorial of the Senate of the State of Idaho, relative to the Federal trust

fund; jointly, to the Committees on Government Operations and Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 41: Mr. BONIOR, and Mr. BUSTAMANTE.

H.R. 70: Mr. DOUGLAS.

H.R. 82: Mr. SOLARZ.

H.R. 92: Mr. LIPINSKI.

H.R. 98: Mrs. COLLINS, Mr. SKELTON, Mr. MATSUI, Mr. ROBERTS, Mrs. MEYERS of Kansas, Mr. WHITTAKER, Mr. SAXTON, Mr. KENNEDY, Ms. SNOWE, Mr. CARPER, Mr. SANGMEISTER, Mr. SHUMWAY, Mr. FISH, Mr. MCMILLEN of Maryland, Mr. RHODES, Mr. DONNELLY, Mrs. SMITH of Nebraska, Mr. GORDON, Mr. WALKER, Mr. GUNDERSON, Mr. CRANE, Mr. MCDADE, Mr. BEREUTER, Mr. CONTE, Mr. INHOFE, Mr. GONZALEZ, Mr. COURTER, and Mr. HOPKINS.

H.R. 159: Mr. FROST.

H.R. 201: Mr. MILLER of Ohio, Mr. MARKEY, and Mr. SMITH of Vermont.

H.R. 214: Mr. VOLKMER, Mr. SMITH of Vermont, Mr. BRENNAN, and Mr. MARKEY.

H.R. 286: Mr. BLILEY and Ms. LONG.

H.R. 290: Mr. JONTZ and Mr. SCHEUER.

H.R. 303: Mr. MURTHA.

H.R. 373: Mr. FEIGHAN.

H.R. 446: Mr. AUCOIN, Mr. DEWINE, Mr. DENNY SMITH, and Mr. SKAGGS.

H.R. 505: Mr. SERRANO.

H.R. 520: Mr. HYDE.

H.R. 521: Mr. HYDE.

H.R. 522: Mr. HYDE.

H.R. 523: Mr. HYDE.

H.R. 550: Mr. DEWINE.

H.R. 551: Mr. FEIGHAN.

H.R. 586: Mr. ENGEL and Mr. POSHARD.

H.R. 638: Mr. FOGLIETTA.

H.R. 655: Mr. WASHINGTON and Mr. SIKORSKI.

H.R. 658: Mr. THOMAS of Wyoming.

H.R. 720: Mr. FEIGHAN.

H.R. 931: Mr. SOLARZ, Mr. BATES, and Mrs. BOXER.

H.R. 933: Mr. MARKEY, Mr. CONDIT, and Mr. STALLINGS.

H.R. 995: Mr. WILLIAMS.

H.R. 1068: Mr. FROST, Mr. SUNDQUIST, Mr. SARPALIUS, Mr. STALLINGS, and Mr. WHEAT.

H.R. 1200: Mr. LANTOS, Mr. HOAGLAND, Mr. WILSON, Ms. ROS-LEHTINEN, Mr. DE LUGO, and Mr. DUNCAN.

H.R. 1268: Mr. GEJDENSON, Mr. RINALDO, Mrs. UNSOELD, Mr. RICHARDSON, and Mr. SKELTON.

H.R. 1280: Mr. MILLER of California.

H.R. 1287: Mr. CRAIG and Mr. COMBEST.

H.R. 1400: Mr. KASICH, Mr. THOMAS of Georgia, Mr. IRELAND, Mr. LIPINSKI, Mr. SAVAGE, Mr. SCHUETTE, Mr. MOAKLEY, Mr. FORD of Tennessee, Mr. ECKART, Mr. DE LA GARZA, Mr. CRANE, Mr. MOODY, Mr. CAMPBELL of Colorado, Mr. JENKINS, Mr. TAUKE, Mr. NEAL of Massachusetts, Mr. CONTE, Mr. KENNEDY, Mr. COLEMAN of Texas, Mrs. COLLINS, and Mr. LEWIS of Georgia.

H.R. 1574: Mr. FAUNTROY, Mr. RICHARDSON, Mr. CONYERS, Mr. PETRI, Mr. GORDON, Mr. TRAFICANT, Mr. PAYNE of New Jersey, and Ms. SLAUGHTER of New York.

H.R. 1593: Mr. PORTER and Mr. STUMP.

H.R. 1676: Mr. MINETA.

H.R. 1699: Mr. JONTZ, Mr. KASICH, Mr. ROWLAND of Connecticut, Mrs. JOHNSON of Connecticut, Mrs. BOGGS, Mr. ACKERMAN, Mr. MANTON, Mr. FLAKE, Mr. TAUZIN, Mr. STEARNS, Mr. MYERS of Indiana, Mr. MACHTLEY, Mr. HOPKINS, Mr. MCGRATH, Mr. CARR, Mr. DANNEMEYER, Mr. MCDERMOTT, and Mr. NEAL of Massachusetts.

H.R. 1784: Mr. MCMILLEN of Maryland, Mr. THOMAS A. LUKEN, and Mr. FAUNTROY.

H.R. 1807: Mr. BUSTAMANTE and Mrs. UNSOELD.

H.R. 1918: Mr. WELDON, Mr. FLIPPO, Mr. LENT, Mr. SCHEUER, Mr. BORSKI, Mr. ROBERTS, Mr. FASCELL, Mr. WAXMAN, Mr. SHUMWAY, Mr. JAMES, Mr. MCEWEN, Mr. GORDON, Mr. MINETA, Mr. ROYBAL, Mr. RICHARDSON, Mr. DYMALLY, Mrs. UNSOELD, Mr. POSHARD, Mr. DEFAZIO, Mr. RINALDO, Mr. COSTELLO, Mr. QUILLEN, Mr. BRUCE, Mr. GALLEGLY, Mr. NATCHER, Mr. AKAKA, Mr. PALLONE, Mr. WISE, Mr. SPENCE, Mr. DERRICK, Mr. SIKORSKI, Mr. BLAZ, Mr. MCNULTY, Mr. ROSE, Mr. HAWKINS, Mr. BONIOR, and Mr. MOORHEAD.

H.R. 2025: Mr. ROE, Mr. GEJDENSON, and Mr. VENTO.

H.R. 2086: Mr. JAMES.

H.R. 2152: Mr. BROWN of California, Mr. SCHEUER, Mrs. LLOYD, Mr. NELSON of Florida, Mr. MCCURDY, Mr. VALENTINE, Mrs. MORELLA, Mr. SKAGGS, Mr. BROWDER, and Mr. TORRICELLI.

H.R. 2168: Mr. THOMAS A. LUKEN, Mr. MINETA, Mr. COYNE, Mr. ROE, Mr. SARPALIUS, Mr. MURPHY, Mr. DICKS, Mr. MCMILLEN of Maryland, and Mr. FORD of Michigan.

H.R. 2204: Mr. DURBIN and Mrs. BOGGS.

H.R. 2418: Mr. HALL of Ohio and Mr. DELAY.

H.R. 2460: Mr. BLAZ and Mr. YATRON.

H.R. 2647: Mr. HUTTO.

H.R. 2781: Mr. BLAZ and Ms. SCHNEIDER.

H.R. 2798: Mr. CONDIT, Mr. SOLOMON, Mr. DE LUGO, Ms. SCHNEIDER, and Mr. CONYERS.

H.R. 2840: Mr. FOGLIETTA, Mr. VALENTINE, and Mr. RAVENEL.

H.R. 2926: Mr. WYLIE, Mr. DONNELLY, Ms. SCHNEIDER, Mr. TALLON, Mr. SHAW, Mr. HUTTO, Mr. PETRI, and Mr. YATRON.

H.R. 2967: Mr. TRAXLER.

H.R. 2984: Mrs. LLOYD, Mr. WOLPE, Mr. NELSON of Florida, Mr. MCCURDY, Mr. VALENTINE, Mrs. MORELLA, Mr. BROWDER, and Mr. TORRICELLI.

H.R. 3004: Mr. BURTON of Indiana, Mr. DINGELL, Mr. FORD of Michigan, Mr. MANTON, and Mr. MAVROULES.

H.R. 3030: Mr. KANJORSKI and Mr. TAUZIN.

H.R. 3037: Mr. RIDGE and Mr. LENT.

H.R. 3050: Mr. MCDERMOTT.

H.R. 3123: Mr. MATSUI, Mrs. PATTERSON, Mr. YOUNG of Alaska, and Mr. MANTON.

H.R. 3210: Mr. OWENS of New York and Mr. WEBER.

H.R. 3267: Mr. CAMPBELL of California and Mr. CROCKETT.

H.R. 3283: Mrs. KENNELLY and Mr. HAYES of Illinois.

H.R. 3405: Mr. DE LUGO, Mr. BATES, and Mr. BUSTAMANTE.

H.R. 3423: Mr. TORRES.

H.R. 3430: Mr. BROWN of California.

H.R. 3447: Mr. JOHNSTON of Florida.

H.R. 3475: Mr. ENGEL and Mr. OWENS of New York.

H.R. 3498: Mr. LEWIS of Georgia, Mr. SHAW, and Mr. BENNETT.

H.R. 3511: Mr. SMITH of New Jersey.

H.R. 3546: Mr. HOCHBRUECKNER.

H.R. 3582: Mr. CRAIG and Mr. MILLER of Washington.

H.R. 3631: Mr. JAMES.

H.R. 3643: Mr. CRAIG, Mr. CHAPMAN, Mr. MICHEL, Mr. SAXTON, Mr. LANCASTER, Mr. TAUZIN, Mr. HOLLOWAY, and Mr. YOUNG of Alaska.

H.R. 3652: Mr. WOLPE, Mr. HERGER, Mr. INHOFE, Mrs. SAIKI, Mrs. MARTIN of Illinois, Mrs. JOHNSON of Connecticut, Mr. DERRICK, Mr. BRUCE, and Ms. SLAUGHTER of New York.

H.R. 3684: Mr. DYSON, Mr. YATES, Mr. RAVENEL, Mr. PALLONE, and Mr. SKAGGS.

H.R. 3686: Mr. HILER and Mr. RHODES.

H.R. 3716: Mr. ESPY and Mr. POSHARD.

H.R. 3732: Mr. BURTON of Indiana, Mr. GEKAS, Mr. MCCRERY, Mr. SHAYS, Mr. DENNY SMITH, Mr. GALLEGLY, Mr. ESPY, Mr. LAUGHLIN, Mr. FAWELL, Mr. MACHTLEY, Mr. VOLKMER, Mrs. LOWEY of New York, Mr. MOAKLEY, Mr. DOUGLAS, Ms. LONG, Mr. VISCLOSKY, Mr. WILSON, Mr. ERDREICH, Mr. STEARNS, Mr. HYDE, Mr. MILLER of Ohio, Mr. ROBERT F. SMITH, Mr. SMITH of New Hampshire, Mr. GLICKMAN, Mr. CRAIG, Mrs. BOXER, Mr. ORTIZ, and Mr. SARPALIUS.

H.R. 3735: Mr. MAVROULES, Mr. ENGEL, Mr. ESPY, Mr. GUARINI, Mr. HATCHER, Mrs. MEYERS of Kansas, and Mr. MURPHY.

H.R. 3751: Mr. MINETA, Ms. ROS-LEHTINEN, Mr. FRANK, Mr. MACHTLEY, Mr. FAUNTROY, Mr. KILDEE, Mr. SCHEUER, Mr. SWIFT, and Mr. WEISS.

H.R. 3755: Mr. JOHNSON of South Dakota.

H.R. 3773: Mr. JOHNSON of South Dakota.

H.R. 3789: Mr. MAVROULES, Mr. OWENS of New York, Mr. SAWYER, and Mr. HALL of Ohio.

H.R. 3831: Mr. MAVROULES, Mr. RICHARDSON, Mr. HOCHBRUECKNER, Mr. SMITH of New Jersey, Ms. SNOWE, Mrs. BOXER, and Mr. PICKETT.

H.R. 3851: Mr. TORRICELLI, Mr. MARKEY, Mr. WALSH, Mr. FEIGHAN, Mr. CONYERS, Mr. DELLUMS, and Mr. SAVAGE.

H.R. 3857: Mr. ESPY.

H.R. 3858: Mr. CHAPMAN and Mr. PACKARD.

H.R. 3859: Mr. GAYDOS, Mr. WALSH, Mr. GALLO, Mr. MILLER of California, Mr. HAYES of Illinois, and Mr. SLATTERY.

H.R. 3869: Mr. PETRI.

H.R. 3874: Mr. GONZALEZ, Mr. ATKINS, Mr. DELLUMS, Mr. EVANS, Mr. FOGLIETTA, Mr. DURBIN, Mrs. COLLINS, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. OWENS of New York, Mr. OLIN, and Mr. FRANK.

H.R. 3876: Mr. POSHARD and Mrs. KENNELLY.

H.R. 3880: Mr. DAVIS, Mr. GEREN, Mr. KENNEDY, Mr. MACHTLEY, and Mr. MATSUI.

H.R. 3907: Mr. BLILEY.

H.R. 3914: Mr. ORTIZ, Mr. SAXTON, Mr. RICHARDSON, Mr. GONZALEZ, Mr. ROBINSON, Mr. SLAUGHTER of Virginia, Mr. LEATH of Texas, Mrs. LOWEY of New York, Mr. CLINGER, Mrs. PATTERSON, Mr. SERRANO, Mr. MAVROULES, Mr. RINALDO, Mr. WISE, Mr. HANSEN, Mr. COYNE, Mr. COX, Mr. MILLER of California, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. TRAXLER, Mr. CHANDLER, and Mr. ERDREICH.

H.R. 3918: Mr. VUCANOVICH.

H.R. 3922: Mr. HOLLOWAY, Mr. ROBINSON, and Mr. MARTINEZ.

H.R. 3923: Mr. HOLLOWAY and Mr. CRAIG.

H.R. 3936: Mr. SWIFT, Mr. SCHUMER, Ms. OAKAR, Mr. POSHARD, Mr. ROE, Mr. BONIOR, Mr. SAWYER, Mr. MCCLOSKEY, Mr. ATKINS, Mrs. BOXER, Mr. MANTON, Mr. LEHMAN of California, Mrs. KENNELLY, Mr. SABO, Mr. LEWIS of Georgia, Mr. MINETA, Mr. WALGREN, Ms. PELOSI, Mr. VENTO, Mr. PALLONE, Mr. YATES, Mr. COLEMAN of Texas, Mrs. LOWEY of New York, Mr. MARKEY, Mr. COSTELLO, Mr. CARPER, Mr. LANTOS, Mr. SOLARZ, Mr. MURTHA, Mr. MAVROULES, Mr. HOCHBRUECKNER, Mr. COYNE, Mr. CONYERS, Mr. SCHEUER, Mr. ANNUNZIO, and Mr. TRAFICANT.

H.R. 3961: Mr. MACHTLEY.

H.R. 3973: Mr. SMITH of New Hampshire, Ms. SCHNEIDER, Mr. BATES, Mr. MACHTLEY, and Mr. DOUGLAS.

H.R. 3977: Mr. ECKART, Mr. JAMES, Mr. SCHEUER, Mr. FAUNTROY, Mr. MILLER of California, Mr. WHEAT, Mr. OBERSTAR, Ms.

SCHNEIDER, Mr. NEAL of Massachusetts, Mr. DEFAZIO, Mr. SIKORSKI, Mr. BONIOR, Mr. PALLONE, Mr. PARKER, Mr. BEILENSON, Mr. TOWNS, Mr. KASTENMEIER, Mr. MANTON, Mr. WALSH, Mr. ATKINS, and Mr. BILBRAY.

H.R. 3980: Mr. DELAY.

H.R. 3988: Mr. LEWIS of Florida and Mr. HOUGHTON.

H.R. 4038: Mr. FUSTER, Mr. LAGOMARSINO, Mr. COURTER, Mr. BARTON of Texas, Mr. HILER, Mr. TOWNS, Mr. MCDERMOTT, Mr. HYDE, Mrs. LOWEY of New York, Mr. SMITH of Vermont, Mr. LEWIS of Florida, Mr. WHEAT, Mr. ENGLISH, Mr. SOLARZ, Mr. FISH, Mr. FOGLIETTA, Mr. PACKARD, and Mr. SCHIFF.

H.R. 4060: Mr. ECKART, Mr. SUNDQUIST, Mr. DREIER of California, Mr. SOLOMON, Mr. JOHNSON of South Dakota, and Mr. GALLEGLY.

H.R. 4075: Mr. GILMAN, Mr. SKAGGS, Mr. ESPY, Mr. HOAGLAND, Mr. CHANDLER, Mr. NELSON of Florida, Mr. HOCHBRUECKNER, Mr. SLAUGHTER of New York, and Mr. LEACH of Iowa.

H.R. 4083: Mr. SABO.

H.R. 4130: Mr. LAGOMARSINO, Mr. ECKART, Mr. FRANK, Mrs. COLLINS, Mr. FORD of Tennessee, Mr. ROE, Mr. STOKES, Mr. ESPY, Ms. KAPTUR, Mr. FROST, and Mr. CHAPMAN.

H.R. 4144: Mr. KENNEDY, Mr. LEHMAN of Florida, and Mr. GORDON.

H.R. 4147: Mr. MINETA and Mr. BROOMFIELD.

H.R. 4149: Mrs. MEYERS of Kansas, Mr. DWYER of New Jersey, Mr. SLATTERY, and Mr. BARNARD.

H.R. 4160: Mr. TOWNS, Mr. ROGERS, Mrs. COLLINS, and Mr. BEVILL.

H.R. 4201: Mr. DEFAZIO.

H.R. 4207: Mr. FROST.

H.R. 4212: Mr. THOMAS of Georgia, Mr. LEWIS of Georgia, and Mr. BARNARD.

H.R. 4220: Mr. BROOMFIELD, Mr. MADIGAN, and Mr. DELAY.

H.R. 4253: Mr. LEWIS of Georgia.

H.R. 4254: Mr. HUBBARD.

H.R. 4310: Mr. BENNETT, Mr. LEATH of Texas, Mr. HOCHBRUECKNER, Mr. CARPER, Mr. VENTO, Mr. ANDERSON, Mr. STARK, Mr. MORRISON of Connecticut, Mr. BEVILL, Mr. FRANK, Mr. MRAZEK, Ms. KAPTUR, Mr. NEAL of North Carolina, Mr. PICKETT, Mr. PAYNE of Virginia, Mr. OWENS of New York, Mr. SKELTON, Mr. TANNER, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. PENNY, Mr. PRICE, Mr. SCHEUER, Mr. ROE, Mr. DWYER of New Jersey, Mr. BUSTAMANTE, Mr. MOODY, Mr. AUCOIN, Mrs. BOXER, Mr. RICHARDSON, Mr. SPRATT, Mr. MCCURDY, and Ms. SLAUGHTER of New York.

H.R. 4321: Mr. ATKINS and Mr. PALLONE.

H.R. 4347: Mr. TOWNS.

H.R. 4362: Mr. YOUNG of Alaska, Mr. LEVINE of California, Mr. MILLER of Washington, Mr. STARK, Mr. LANTOS, Mr. LAGOMARSINO, Mr. SPRATT, Mr. FAUNTROY, Mr. NOWAK, Ms. PELOSI, Mr. DEFAZIO, Mr. FORD of Tennessee, Mr. TANNER, Mr. MCDERMOTT, Mr. AUCOIN, Mrs. MORELLA, and Mrs. BOXER.

H.R. 4363: Mr. WALSH and Mr. DORGAN of North Dakota.

H.R. 4365: Mr. ACKERMAN, Mr. BONIOR, Mr. EDWARDS of California, Mr. EVANS, Mr. FAZIO, Mr. PAXON, Mr. SOLOMON, and Mr. WILSON.

H.R. 4369: Mr. DE LA GARZA, Mrs. PATTERSON, Mr. SARPALIUS, Mr. ENGEL, Mr. BARNARD, Mr. MCGRATH, Mr. GORDON, and Mr. HORTON.

H.R. 4370: Mr. DOWNEY.

H.R. 4374: Mr. CAMPBELL of California, Mr. PALLONE, and Mr. CARPER.

H.R. 4393: Mr. DAVIS and Mr. SAVAGE.

H.R. 4405: Mr. JOHNSON of South Dakota, Mr. SMITH of Florida, and Mr. HOCHBRUECKNER.

H.R. 4411: Mrs. KENNELLY, Mr. ATKINS, Mrs. BOXER, and Mr. FOGLIETTA.

H.R. 4417: Mr. SKELTON.

H.R. 4424: Mr. HYDE, Mr. ARMEY, Mr. LEWIS of California, Mr. MONTGOMERY, and Mr. NIELSON of Utah.

H.R. 4432: Mr. GLICKMAN.

H.R. 4460: Mr. DURBIN, Mr. POSHARD, Mr. BRUCE, Mr. COSTELLO, Mr. STAGGERS, Mr. MCCLOSKEY, Mr. PERKINS, Mr. APPLEGATE, and Mr. SCHIFF.

H.R. 4481: Mr. ROBERTS, Mr. CLARKE, Mr. WHITTAKER, Mr. CHAPMAN, Mr. MILLER of Ohio, and Mr. STUDDS.

H.R. 4483: Mr. WHITTAKER, Mrs. BOXER, and Mr. ROBERTS.

H.R. 4490: Mr. ESPY, Mr. HARRIS, Mr. ATKINS, Ms. PELOSI, and Mr. CLINGER.

H.R. 4492: Mr. CROCKETT, Ms. KAPTUR, and Mr. PALLONE.

H.R. 4508: Mr. BROOMFIELD, Mr. PAYNE of Virginia, Mr. ROWLAND of Connecticut, Mr. DENNY SMITH, and Mr. NEAL of North Carolina.

H.J. Res. 127: Mr. DENNY SMITH and Mr. PETRI.

H.J. Res. 290: Mr. JENKINS, Mr. VOLKMER, Mr. SMITH of Texas, Mr. GEJDENSON, Mr. HAMMERSCHMIDT, Mr. LIVINGSTON, Mr. BALLENGER, Mr. BROWN of Colorado, Mr. HYDE, Mr. LEHMAN of California, Mr. MCEWEN, Mr. YOUNG of Florida, Mr. SWIFT, Mr. BORSKI, Mrs. BOXER, Mr. COOPER, Mr. COURTER, Mr. CROCKETT, Mr. FAWELL, Mr. GEPHARDT, Mr. HARRIS, Mrs. LLOYD, Mr. NIELSON of Utah, Ms. PELOSI, Mr. RHODES, Mr. SPENCE, Mr. TOWNS, Mr. ANDERSON, Mrs. BYRON, Mr. CHAPMAN, Mr. NEAL of North Carolina, Mrs. SAIKI, Mrs. BENTLEY, Mr. CLINGER, Mr. HENRY, Mr. HUBBARD, Mr. GINGRICH, Mr. MURTHA, Mr. MCCOLLUM, Ms. OAKAR, Mr. SAXTON, Mr. SCHEUER, Mr. TAUKE, Mr. THOMAS of Georgia, Mr. WALGREN, Mr. WEISS, Mr. WILSON, Mr. THOMAS of Wyoming, Mrs. BOGGS, Mr. DEFAZIO, Mr. GILLMOR, Mr. INHOFE, Mr. MARTINEZ, Mr. MURPHY, Mr. TANNER, Mr. WATKINS, Mr. LENT, Mr. MCDERMOTT, Mr. PARKER, Mr. NEAL of Massachusetts, Mr. COX, Mr. HOPKINS, Mr. CALLAHAN, Mr. CARPER, Mr. SHUMWAY, Mr. BOEHLERT, Mr. TRAFICANT, Mr. CONYERS, Mr. DICKS, Mr. GRANDY, Mr. GUARINI, and Mrs. MARTIN of Illinois.

H.J. Res. 372: Mr. COYNE and Mr. CHANDLER.

H.J. Res. 374: Mr. GRAY, Mr. NEAL of Massachusetts, Mr. MAVROULES, Mr. GUARINI, Mr. MAZZOLI, and Mrs. ROUKEMA.

H.J. Res. 427: Mr. ARCHER, Mr. ATKINS, Mr. BARNARD, Mrs. BENTLEY, Mr. BORSKI, Mr. BOSCO, Mr. CARDIN, Mr. DONNELLY, Mr. ESPY, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. JONES of North Carolina, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCMILLEN of Maryland, Mr. MACHTLEY, Mr. MATSUI, Mr. MILLER of Washington, Mr. MOLLOHAN, Mr. OWENS of New York, Mr. RAHALL, Mr. RAVENEL, Mr. SANGMEISTER, Mr. SAWYER, Mr. SPENCE, Mr. STAGGERS, Mr. TRAFICANT, Mr. TRAXLER, Mr. WEBER, Mr. WILSON, Mr. WISE, and Mr. YOUNG of Alaska.

H.J. Res. 431: Mr. FASCELL, Mr. BROOMFIELD, Mr. SOLARZ, Mr. BENNETT, Mr. ATKINS, Mr. DARDEN, Mr. MILLER of Washington, and Mr. BATEMAN.

H.J. Res. 439: Mr. LEWIS of California and Mr. BATES.

H.J. Res. 459: Mr. SMITH of Vermont, Mr. JOHNSON of South Dakota, Mr. ROBINSON, Mr. DURBIN, Mr. PRICE, Mr. FRENZEL, Mr. JACOBS, Mr. LEWIS of California, Mr. STAGGERS, and Mr. Conyers.

H.J. Res. 464: Mr. AKAKA, Mr. ANTHONY, Mr. BALLENGER, Mr. BATEMAN, Mr. BERMAN, Mr. BROWDER, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CLEMENT, Mr. CONTE, Mr. COUGHLIN, Mr. DARDEN, Mr. DAVIS, Mr. DELAY, Mr. DIXON, Mr. EMERSON, Mr. FALEOMAVAEGA, Mr. FRANK, Mr. FRENZEL, Mr. GOODLING, Mr. GRANDY, Mr. GRAY, Mr. HARRIS, Mr. HASTERT, Mr. HUBBARD, Mr. KANJORSKI, Mr. KILDEE, Mr. LEACH of Iowa, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LOWERY of California, Mr. MCMILLEN of Maryland, Mr. MAVROULES, Mr. MICHEL, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. NATCHER, Mr. PARRIS, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Mr. PORTER, Mr. REGULA, Mr. RIDGE, Mr. RITTER, Mr. ROBERTS, Mr. SAWYER, Mr. SAXTON, Mr. SCHEUER, Mr. SHUSTER, Mr. SKAGGS, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Ms. SNOWE, Mr. SPENCE, Mr. SPRATT, Mr. STAGGERS, Mr. STOKES, Mr. SYNAR, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. TRAFICANT, Mr. TRAXLER, Mr. UDALL, Mr. VANDER JAGT, Mr. WALSH, Mr. WHITTAKER, Mr. YATES, Mr. YATRON, Mr. YOUNG of Florida, and Mr. SAVAGE.

H.J. Res. 467: Mr. HENRY, Mr. SYNAR, Mr. HANSEN, Mr. TORRICELLI, Mr. OWENS of New York, Mr. SAWYER, Mr. BROOMFIELD, Mr. MCDERMOTT, Mr. MILLER of Washington, Mr. PAXON, Mr. DICKS, Mrs. SMITH of Nebraska, Mr. KENNEDY, Mr. BLAZ, Mr. BUSTAMANTE, Mr. DENNY SMITH, Mr. RICHARDSON, and Mr. COLEMAN of Missouri.

H.J. Res. 476: Mr. PAYNE of New Jersey and Mr. GEKAS.

H.J. Res. 488: Mrs. BOXER, Mr. LANCASTER, Mr. PAYNE of New Jersey, Mr. MAVROULES, Mr. WILSON, Mr. MATSUI, Mr. DYSON, Mr. HORTON, Mr. TANNER, Mr. CLEMENT, Mr. MILLER of California, Mr. BLILEY, Mrs. BENTLEY, Mrs. LLOYD, Mr. FOGLIETTA, and Mr. TALLON.

H.J. Res. 490: Mr. BRENNAN, Mrs. COLLINS, Ms. KAPTUR, Mr. CLAY, Ms. SNOWE, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. STOKES, Mrs. BOGGS, Mr. BERMAN, Mr. ATKINS, Mr. BORSKI, Mr. BOUCHER, Mr. CAMPBELL of Colorado, Mr. DAVIS, Mr. DEFAZIO, Mr. DIXON, Mr. ESPY, Mr. HEFNER, Mr. HOUGHTON, Mr. JONES of North Carolina, Mr. KENNEDY, Mr. LANTOS, Mr. LEHMAN of California, Mr. MATSUI, Mr. MURPHY, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. OBEY, Mr. ROSE, Mr. ROYBAL, Mr. WOLPE, Mr. HUBBARD, Mr. PAYNE of Virginia, Mr. WEISS, Mr. GRAY, Mr. COUGHLIN, Mrs. BENTLEY, Mr. COBLE, Mr. HOPKINS, Mr. HYDE, Mr. SABO, Mr. WAXMAN, Mr. ROBERTS, Mrs. VUCANOVICH, Mr. MARKEY, Mr. MORRISON of Connecticut, Mr. WELDON, Mr. WYDEN, Mr. LEWIS of Florida, Mr. DINGELL, Mr. YATES, Mr. DOWNEY, Mr. JENKINS, Mr. NELSON of Florida, Mr. ANNUNZIO, Mr. SHARP, Mr. VENTO, Mr. NATCHER, Mr. WYLIE, Mr. SCHEUER, Mr. BROOMFIELD, Mr. NAGLE, Mr. KASTENMEIER, Mr. PALLONE, Mr. MAZZOLI, Mr. ERDREICH, Mr. SANGMEISTER, Mr. SERRANO, Mr. PERKINS, Mr. OLIN, Mr. INHOFE, Mr. FLIPPO, Mr. JACOBS, Mrs. MEYERS of Kansas, Mr. BLILEY, and Mr. LAUGHLIN.

H.J. Res. 497: Mr. MCCRERY, Mr. TRAFICANT, Mr. HUBBARD, Mr. SOLOMON, Mr. BENNETT, Mr. LEHMAN of California, Mr. HATCHER, Mr. DARDEN, Mr. FASCELL, Mr. PAXON, Mr. SLATTERY, Mr. DEFAZIO, Mr. MCEWEN, Ms. KAPTUR, Mr. MCGRATH, Mr. LAFALCE,

Mr. SAWYER, Mr. MCDADE, Mr. THOMAS A. LUKEN, Mr. JACOBS, Mr. STALLINGS, Mr. SCHUETTE, Mr. FUSTER, Mr. MURTHA, Mr. PAYNE of Virginia, Mr. NIELSON of Utah, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Mr. NAGLE, Mr. WEBER, Mr. FORD of Tennessee, Mr. JONES of North Carolina, Mr. FLIPPO, Mr. ROE, Mr. LEWIS of Florida, Mr. HARRIS, Mr. GRANT, Mr. OLIN, Mr. TAUKE, Mr. WYLIE, Mr. ROBERTS, Mr. WHITTAKER, Mrs. BOXER, Mr. GILLMOR, and Mr. DEWINE.

H.J. Res. 505: Mr. BARNARD, Mr. KOSTMAYER, and Mr. WILLIAMS.

H.J. Res. 519: Mr. DWYER of New Jersey, Mrs. BOXER, Mr. LANCASTER, Mr. STENHOLM, Mr. DAVIS, Mr. PANETTA, Mr. GRAY, Mr. LEHMAN of California, Mr. GEKAS, Mr. CLEMENT, Mr. CARPER, Mr. BATES, Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. OWENS of Utah, Mr. VALENTINE, Mrs. UNSOELD, Mr. TALLON, Mr. WOLPE, Mr. DYMALLY, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. WEISS, Mr. KASICH, Mr. MCCLOSKEY, Mr. LEWIS of California, Mr. BRENNAN, Mr. LAGOMARSINO, and Mr. LEVINE of California.

H.J. Res. 522: Mr. MCDERMOTT, Mr. SPRATT, Mr. BILIRAKIS, Mr. MONTGOMERY, and Mr. JOHNSON of South Dakota.

H.J. Res. 526: Mr. CLEMENT, Mr. TALLON, Mr. ROWLAND of Georgia, Mr. HEFNER, Mrs. UNSOELD, Mr. TOWNS, Mr. MOAKLEY, Mr. CLARKE, Mrs. BOXER, Mrs. MARTIN of Illinois, Mr. MONTGOMERY, Mr. MCDERMOTT, Mr. SPENCE, Mr. PARKER, Mrs. PATTERSON, Mr. TAUZIN, Mrs. MEYERS of Kansas, Mr. PORTER, Mr. FEIGHAN, Mr. TAUKE, Mr. SCHUETTE, Mr. MILLER of Washington, Mr. PALLONE, Mr. PAYNE of New Jersey, Mr. LEVIN of Michigan, and Mr. STAGGERS.

H.J. Res. 534: Mr. MATSUI, Mr. OWENS of New York, Mr. TOWNS, Mr. EDWARDS of California, Mr. SERRANO, Mr. FUSTER, Mr. FAUNTROY, Mr. MARTINEZ, Mr. BUSTAMANTE, Mr. COLEMAN of Texas, Ms. PELOSI, Mr. TORRES, Mr. DE LA GARZA, Mr. CROCKETT, and Mrs. BOXER.

H.J. Res. 540: Mr. CARPER, Mr. WEBER, Mr. PANETTA, Mr. MARTINEZ, Mr. PAYNE of Virginia, Mrs. BOGGS, Mr. OXLEY, Mr. HARRIS, Mr. LEWIS of California, Mr. HASTERT, Mr. BLILEY, Mr. TOWNS, Mr. HENRY, and Mr. SAVAGE.

H.J. Res. 542: Mr. MAVROULES, Ms. OAKAR, Mr. BRENNAN, Mr. COUGHLIN, Mr. MCDADE, Mr. ROE, Mr. LEHMAN of California, Mr. PALLONE, Mr. BERMAN, Mr. HORTON, Mr. MCNULTY, Mr. FUSTER, Mr. FOGLIETTA, Mr. FAZIO, Mr. THOMAS A. LUKEN, Ms. PELOSI, Mr. CROCKETT, Mr. FALEOMAVAEGA, Mr. MCDERMOTT, Mr. TOWNS, Mr. WEBER, Mr. SPRATT, Ms. SLAUGHTER of New York, Mr. MARTINEZ, Mr. VALENTINE, and Mr. FAUNTROY.

H.J. Res. 543: Mr. PRICE, Mr. SMITH of New Hampshire, Mr. BLAZ, Mr. WAXMAN, Mr. DWYER of New Jersey, Mr. LANCASTER, Mr. MARTINEZ, and Mr. LENT.

H.J. Res. 546: Mr. MORRISON of Connecticut, Mr. VOLKMER, Mr. DONNELLY, Mr. SUNDQUIST, Mr. DICKINSON, Mr. LANCASTER, Mr. SISISKY, Mr. HUBBARD, Mr. GORDON, Mr. GINGRICH, Mr. PURSELL, Mr. GONZALEZ, Mr. SPRATT, Mr. NATCHER, Mr. AKAKA, Mr. RICHARDSON, Mr. ACKERMAN, Mr. ENGLISH, Mr. HATCHER, Mr. OLIN, Mr. SARPALIUS, Mr. STAGGERS, Mr. STENHOLM, Mr. GLICKMAN, Mr. STALLINGS, Mr. CAMPBELL of Colorado, Mr. DYSON, Ms. LONG, Mr. MORRISON of Washington, Mr. MARLENEE, Mr. BATES, Mr. LIVINGSTON, Mr. BONIOR, Ms. SNOWE, Mr. SMITH of New Hampshire, Mr. BRENNAN, Mr. DARDEN, Mr. THOMAS of Georgia, Mr. MAZZOLI, Mr. FEIGHAN, Mr. APPLEGATE, Mr. STUDDS, Mr. PERKINS, Mr. DE LA GARZA, Mr. TRAXLER, Mr. ROBINSON, Mr. JOHNSON of South Dakota, Mr. HAYES of Louisiana, Mr. NAGLE, Mrs. KENNELLY, Mr. SLATTERY, Ms. PELOSI, Mr. TALLON, Mr. TAYLOR, Mr. MONTGOMERY, Mr. BURTON of Indiana, Mr. LEWIS of Georgia, Mr. CALLAHAN, Mr. HAYES of Illinois, Mr. SKELTON, Mr. LAUGHLIN, Mr. GEJDENSON, Mr. MFUME, Mr. WHEAT, Mr. CARPER, Mr. WISE, Mrs. MORELLA, Mrs. BENTLEY, Mr. JONTZ, Mr. LEHMAN of Florida, Mr. NEAL of North Carolina, Mr. HEFNER, Mr. LEWIS of Florida, Mr. VALENTINE, Mr. CLEMENT, Mr. ORTIZ, Mr. HERGER, and Mr. ROBERT F. SMITH,

H. Con. Res. 5: Mr. BENNETT.

H. Con. Res. 6: Mr. LIPINSKI.

H. Con. Res. 66: Mr. CROCKETT.

H. Con. Res. 149: Mr. CARDIN, Mr. FLAKE, Mr. GAYDOS, Mr. HOAGLAND, Mr. KLECZKA, Mr. LOWERY of California, Mr. MURPHY, Mr. MURTHA, Mr. PERKINS, Mr. ROWLAND of Georgia, Mr. SCHUMER, Mr. THOMAS of Georgia, Mr. WILLIAMS, Mr. SERRANO, Mr. SHARP, and Mr. PENNY.

H. Con. Res. 216: Mr. DEFAZIO.

H. Con. Res. 243: Mr. HOLLOWAY, Mr. RAHALL, Mr. MORRISON of Connecticut, Mr. HYDE, Mr. SKELTON and Mr. TAUZIN.

H. Con. Res. 249: Mr. BLAZ, Mr. ANNUNZIO, Mr. BILBRAY, and Mr. DYMALLY.

H. Con. Res. 252: Mr. MAVROULES, Mr. RINALDO, Mr. GONZALEZ, Mr. MARKEY, and Mr. TRAXLER.

H. Con. Res. 287: Mrs. MEYERS of Kansas, Mr. RAVENEL, Mr. LIPINSKI, Mr. HARRIS, and Mr. OWENS of New York.

H. Con. Res. 290: Mr. COYNE, Mr. GORDON, Mr. GRAY, Mr. HILER, Mr. INHOFE, Mr. KLY, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MOORHEAD, Mr. PACKARD, Mr. PAYNE of New Jersey, Mr. SAXTON, Mr. SHAW, Mr. SHAYS, Ms. SLAUGHTER of New York, and Mr. SOLOMON.

H. Con. Res. 298: Mr. SMITH of New Jersey, and Mrs. MEYERS of Kansas.

H. Res. 171: Mrs. COLLINS and Mr. JENKINS.

H. Res. 297: Mr. HERGER and Mr. SMITH of New Hampshire.

H. Res. 306: Mr. ESPY.

H. Res. 314: Mr. GEREN.

H. Res. 349: Mr. STARK, Mr. LEVINE of California, Mr. CROCKETT, and Mr. SCHEUER.

H. Res. 354: Mr. TORRICELLI and Mr. WAXMAN.

H. Res. 358: Mr. TRAFICANT.

H. Res. 359: Mr. BUECHNER, Mr. ARMEY, Mr. FIELDS, and Mr. CRAIG.

H. Res. 365: Mr. BOSCO, Mr. GINGRICH, Mr. MAVROULES, Mr. SIKORSKI, Mr. SMITH of New Hampshire, Mr. WEBER, and Mr. WEISS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

151. By the SPEAKER: Petition of the City of Loma Linda, Loma Linda, CA, relative to a telephone network system which could provide video transmission and programming for cable TV; to the Committee on Energy and Commerce.

152. Also, petition of the City of Richland, WA, relative to competition for existing cable TV; to the Committee on Energy and Commerce.

153. Also, petition of the Governor of the State of Hawaii, relative to Medicaid coverage for pregnant women and children up to age 6; to the Committee on Energy and Commerce.

154. Also, petition of Lucian T. Robinson, Jr., Raleigh, NC, relative to a proposed new national anthem; to the Committee on Post Office and Civil Service.

155. Also, petition of the Canal Authority of the State of Florida, Tallahassee, FL, relative to the Cross Florida, Barge Canal Project; to the Committee on Public Works and Transportation.

156. Also, petition of the council of the city of New York, City Hall, New York, N.Y., relative to services and programs for veterans; to the Committee on Veterans' Affairs.

157. Also, petition of the Berea City Council, Berea, OH, relative to Medicare budget cuts in the fiscal year 1991 Federal budget; to the Committee on Ways and Means.

158. Also, petition for the council of the city New York, N.Y., relative to the Dodd-Hawkins-Hatch Child Care Agreement; jointly, to the Committees on Education and Labor and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3848

By Mr. FOGLIETTA:

—Page 43, after line 17, insert the following new subparagraph (and redesignate the subsequent subparagraph accordingly):

(B) as a condition for the issuance and continued validity of the license—

(i) the business may not impose, charge, or collect any fee for cashing or redeeming any travelers' check, check, money order or similar instrument in excess of the amount which is equal to the greater of—

(I) an amount equal to 1.5 percent of the face amount of such check or money order (not to exceed $8); or

(II) 50 cents; and

(ii) the business shall post in a conspicuous place a schedule, in English and Spanish, of all fees and charges for cashing or redeeming any travelers' check, check, money order, or similar instrument (including the maximum charges established pursuant to clause (i)); and

—Page 43, line 17, strike "and".

EXTENSIONS OF REMARKS

ARE WE A HUMANE NATION?

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert a recent article by Arthur I. Blaustein into the CONGRESSIONAL RECORD. Mr. Blaustein was chairman of the National Advisory Council on Economic Opportunity under President Carter. He now teaches at the University of California, Berkeley. Mr. Blaustein's provides an insightful critique of society's unfulfilled goals of equality, justice, and economic opportunity. I recommend the following article as important reading to all my colleagues.

[From the San Jose Mercury News, Dec. 24, 1989]

ARE WE A HUMANE NATION?

(By Arthur I. Blaustein)

Twenty-five years ago, this nation undertook a course of action designed to combat "the paradox of poverty amidst plenty." In doing so, President Lyndon Johnson decided upon a broadside effort to seriously attack the root causes of poverty: inadequate health care, impaired education, lack of decent jobs, deteriorating housing and decaying neighborhoods. When Johnson requested—and Congress passed—the Economic Opportunity Act, it also signified a moral commitment on the part of our political leadership to pursue the unfulfilled goals of equality, justice, and opportunity.

It truly was a historic moment—one worth recalling with pride—for it was a time when Americans demonstrated their commitment, openness and generosity. A new federal agency was created to spearhead and coordinate this endeavor: the Office of Economic Opportunity (OEO), which had the responsibility for initiating several programs, including Head Start, Volunteers in Service to America (VISTA), Legal Services, Job Corps, Upward Bound, Foster Grandparents, Community Economic Development, and Community Action; all of which were direct and specific, aimed at pressing national problems.

It was a time of enthusiasm and hope. People not only thought about what was right and talked about what was wrong, but they also accepted personal responsibility for actually doing something about righting those wrongs. The nation's spirit was enlivened by the tens of thousands of young (and not-so-young) Americans who volunteered for the Peace Corps, VISTA, Legal Services and the Teacher Corps, or who supplemented their education by providing worthwhile social services to the poor through the more than 900 Community Action Agencies (CAAs) established across the country.

I do not have to tell you that times have changed. Nowadays, people complain a lot, but they do not take personal responsibility for anything other than their own ambition, career or security. On campus and off, rather than activism, idealism and vitality, the mood has shifted to apathy, fatalism, passivity and privatism: "Look out for No. 1,"—those who can't are shiftless, a drag on the economy.

Times also have changed for our disadvantaged youth. In the '60s, there was hope: Upward Bound, the Neighborhood Youth Corps and the Job Corps held out a helping hand. Youngsters who had never before had a chance believed that the dream of achieving selfhood could become a reality. By the early '80s, though, that hope had been dashed, and it was replaced with despair, as youngsters turned to drugs, crime and violence.

It is important to clarify this reality, for along the way, in deliberate efforts to destroy the credibility of these programs, conservative politicians began manipulating symbols in order to stigmatize them. During the Nixon era, they cleverly began to refer to them as "minority" and "welfare" programs, rather than as "opportunity" ones, thereby switching the message from a positive to a negative one. This kind of deceit and distortion was not an accident; it was designed to exploit fear and racial divisiveness.

By the time we reached the '80s, we had entered an era that officially—at the highest levels of government—condoned and even encouraged negative attitudes, code words and symbols directed against the poor in particular, and toward basic human and social service programs in general. Those conservative politicians who did so are adept at moralizing endlessly over the issues: the "problems" of the unemployed and underemployed, the homeless and hungry, of alcoholism, drug abuse, mental illness, infant mortality, child and spouse abuse and disrupted families. But they have neither the heart nor the will for the rigorous thoughts and work of finding cures or even just relieving some of the suffering and symptoms.

CREATING DISTORTIONS

Let me give a concrete example of what I mean. During the course of the 1980 presidential campaign, then-candidate Reagan would entertain crowds with the line, "Do you know how much it costs to keep a kid in the Job Corps? (pause) And how much it costs to send a youngster to Harvard? (long pause) Well, I'll tell you: $8,200 for the Job Corps and only $8,000 for Harvard." This usually elicited gales of smug laughter. But it was a false comparison, a perversion of reality. It just shows how distortions and false myths are created. The average taxpayer doesn't want complex economic answers, but they do deserve an honest answer. There are substantial costs if we eliminate the Job Corps. For example, it costs $26,000 a year to keep a youngster in prison. It costs $32,000 to keep a youngster in an alcohol and drug abuse program or a halfway house. It costs $55,000 to keep a youngster in a mental institution. And it costs only $16,000 to keep a youngster in the Job Corps, where they're learning self respect and job training.

The issues are: What are the values of the society, and where do we want to spend our money? The alternative to our Job Corps is not Harvard, it's despair. And there are substantial future costs to taxpayers. Drastic cuts in basic social and human service programs will exact social and human costs, and they will also appear as direct financial costs at the future times in different ledgers.

There is a price to be paid for Reagan's reduction of human and social services. The price is that these cutbacks did not reduce crime; they increased it. They did not promote better family life; they destabilized it. They did not reduce alcoholism; they increased it. They did not increase respect for the law; they weakened it.

The four particular elements of the Reagan administration's policies that have served to undermine our social equilibrium are: (1) the massive across-the-board cuts in social and human service programs; (2) the transfer of federal authority and program responsibility to states with diminished resources; (3) the abolition of delivery systems provided for in the Economic Opportunity Act; and (4) the abdication of moral leadership.

COMMITMENT TO EQUALITY

I want to quote from a tribute to Jane Addams made in 1960 by the distinguished writer and historian Archibald MacLeish; because it touches my sense of the meaning of the war on poverty. Jane Addams, he said, "was not working for her immigrants and her poor. She was committing herself with them to the common life—that life our generation watches more and more as spectators, as though it were not common, as though it were a life for someone else. She was as explicit about that as a woman could be. She was not, she said, a reformer: she wanted to establish a place (Hull House) 'in and around which a fuller life might grow for others and for herself.' And having made that much clear she then reversed her words to make her declaration clearer still. 'The good we secure for ourselves is precarious and uncertain until it is secured for all of us and incorporated into our common life.'

"No, Hull House changed Chicago and changed the United States, not because it was a successful institution but because it was an eloquent action by a woman capable of action regardless of the dark ahead. We talk as though the great question before our society was whether the things that need to be done in America to keep this last best hope of earth alive should be done by the federal government or by the states or perhaps the cities or by industries or by some other kind of organization. But that, of course, is not the question. The question before our society is simply whether or not these things will be done. And the answer is that they will be done if we ourselves see to it as Jane Addams and her friends saw it—if we accept, as she accepted, responsibility for our lives. That, when all is said and done is why our time remembers her—that she accepted for herself responsibility for the 'common life.' "

SERVING THE POOR

I cite this passage because it best describes for me the spirit and the intentionality of the Economic Opportunity Act, its programs and the people who worked at OEO.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In 1965, the concept of Hull House was institutionalized through the Economic Opportunity Act with the establishment of over 900 Community Action Agencies (CAA), an indispensable step forward in the delivery of social services to our nation's poor. These multiservice agencies have provided basic life-support services to millions of Americans. Yet, the Bush administration is still trying to undo all the positive accomplishments that have been achieved in the past 25 years by the agencies. What is it replacing them with? Vague rhetoric about "a thousand points of light" and unspecific notions as to who else might do the job. Thus, once again, the stark reality is: the question before our society is simply whether or not those things will be done.

In reviewing the policies of the past 25 years, we have seen various strategies and theories come and go—a welfare-reform strategy, a private-sector job strategy, a minority-entrepreneurship strategy, a special-revenue strategy. Yet, I believe that if we had never passed the original legislation, the Economic Opportunity Act of 1964, which created an independent federal agency supporting CAAs, we would have to invent it today. It created the only coherent delivery mechanisms—imperfect as they may be—that relate policies and programs to people. That is the genuine achievement of the Economic Opportunity Act.

Lost in the cliches, slogans, and double-talk of the conservative anti-government criticism are the solid accomplishments. The value of these programs, services, and innovations has been obscured; the extraordinary contributions have been slighted. I believe that it is particularly important during a period of passivity, privatism and rhetoric to recall a time when responsibility for the "common life," as Jane Addams put it, was the law of the land. When our government actually provided the kind of moral leadership that is consistent with the values of a just, humane and truly democratic society.

Isn't it ironic? When the Reagan administration abolished OEO in 1981 and transferred authority to the states, it was the first time a federal agency had been shut down since World War II. They shut it down under the pretense of having a better way of fighting poverty. We now know what that meant: stealing from HUD and extorting from Wedtech.

954 POINTS OF LIGHT

At this point, when we should be reaping a substantial peace dividend, I believe that a rediscovery of the spirit and a re-enactment of the content of the Economic Opportunity Act would be the most healthy response possible to cope with our present social and community problems. If President Bush is serious about establishing "a thousand points of light," he need not look very far or very long. There are 954 points of light out there now: They are called community action agencies. They have been burning the midnight oil for too long and are in need of some fuel.

With the demise of the Cold War, only a tragic failure of nerve can prevent the administration from acting upon the remarkable opportunity that history is now offering: that of reordering our national priorities. Not only the 34 million poor in America, not only the 45 million near-poor (who are one accident, layoff, illness or divorce away from poverty); but also each and every one of us who cares about the future of our nation must ask the question, "If not now, when?"

Politics today, in a period of limited economic growth, seems to have reached a level of abstractness that removes it from the commonplace circumstances of ordinary Americans. When a sane and civilized family runs into tough financial times, two things happen. The one thing that they do do is to assure that those members of the family who are least able to fend for themselves are given the protection and minimum amenities necessary for survival. The one thing that they do not do is to allow those who have more than enough and are enjoying luxuries to continue to hoard. There are certain natural principles of behavior, of caring and decency, that have prior claim over untested game plans of economic theorists or politicians on the make.

Our founding fathers were well aware of what was needed: They knew that a vital and health federal government is indispensable to the well-being of a self-governing people. They believed in the ability of government to secure and protect the liberties of all our people—the weak as well as the strong. That is, after all, what democracy is all about.

Finally, it must be said in response to the downgrading of national commitment to economic opportunity; in response to our government's avoidance of our growing social problems and its abdication of moral leadership: that only those people have a future, and only those can be called humane and historic, who have an intuitive sense of what is important and significant in both their national and public institutions, and who value them. It is this conviction, and the continuing belief in the common-sense vision of the American promise, that allows us to recall the significance of the goals and principles embodied in the Economic Opportunity Act. And to remind ourselves that the struggle for genuine equality, justice and economic opportunity is still the most important endeavor of our time.

A TRIBUTE TO KATHY BARRETTE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Kathy Barrette, of Pawtucket, RI attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Kathy and her classmates were able to achieve excellence. Kathy and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the National Competition against teams from across the Nation.

It is with great pleasure that I salute Kathy Barrette and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Kathy and her classmates good luck in the national competition.

THE CONSUMER AFFAIRS COMMISSION OF ALAMEDA COUNTY DESERVES A PAT ON THE BACK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. STARK. Mr. Speaker, I rise today to congratulate the Consumer Affairs Commission of Alameda, CA, in California's Ninth Congressional District for an outstanding year in 1989 and, for their participation in National Consumers Week—the week of April 22–28, 1990.

The Alameda County Consumer Affairs Commission is a group of individuals appointed by the Alameda County Board of Supervisors. The purpose of the commission is to advise and to educate the community on consumer oriented issues. The commission also assists consumers through mediation and serves as another place for consumers to turn to instead of taking their complaints to the courts.

I would like to congratulate the commission on the banner year in 1989. The following is a list of the commission's accomplishments:

The commission's service to the county increased at a rate of 30 percent—or from 4,207 to 6,200—from 1988 to 1989, and the commission handled over 1,275 complaints and physically mediated, resolved and closed nearly 300 of them. The remainder were handled via information dissemination and response to inquiry.

In 1989, the commission recovered more than $55,174 in cash, goods, and services—a tremendous savings to the county. They sought revenue from outside the county and received a grant from Pacific Bell. They also recruited volunteers from the community to assist the commissioners in the day-to-day operations of the commission.

As part of their Outreach Program, the commission participated in seniors fairs in both Oakland, CA and Hayward, CA. The commission met with numerous senior citizens groups, civic and community groups, as well as schools, to help educate these groups concerning problems relating to consumer issues. The commission also communicates with the Alameda city and county library systems by setting up displays with information for consumers through pamphlets and by facilitating direct contact with commissioners on consumer protection issues. They also held an open house for county employees.

As the commission's focus of participation in our local community during National Con-

sumers Week, they are sponsoring an information sharing event whereby consumers can take advantage of the educational information provided.

Mr. Speaker, the Consumer Affairs Commission is a wonderful resource for both me and the community—I refer many of my constituents to the commission where they receive excellent assistance and guidance from the commission. I would like to commend the Consumer Affairs Commission of Alameda County for their dedication to the ongoing need for consumer education and information regarding consumer rights, and I congratulate the commission on their participation in National Consumers Week.

A TRIBUTE TO LESLEE REIS: AN EXTRAORDINARY WOMAN AND RESTAURATEUR

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. PORTER. Mr. Speaker, recently the people of our area, and indeed, throughout the Nation, lost one of the culinary world's most outstanding leaders: Leslee Reis. Mrs. Reis died suddenly and unexpectedly in New Orleans during a weekend trip, and she is mourned by all those who were fortunate enough to know and work with her, as well as by countless thousands of customers who frequented her world-class restaurant, Cafe Provencal.

I became fast friends with Leslee and her husband, Andy, when we were members of the Evanston Young Republicans. She was a wonderful and energetic person, someone who always brightened the lives of those around her. She will be deeply missed, and her contributions to her profession are substantial.

Of all the recent accounts of Leslee's life which were written after her untimely passing, I found an April 27 Chicago Tribune article that captures the most important aspects and I have selected excerpts to be reprinted below. Together with the memories and love of all those who were touched by Leslee, I hope that this record may help provide a fitting tribute to a very special lady.

Mrs. Reis, a pacesetter of Chicago's culinary world, was founder and executive chef of the award-winning Cafe Provencal, which she opened in 1977, after doing her own form of market research: standing on a street corner in Evanston, asking passersby if they wanted the kind of restaurant she wanted to open. In 1982 she opened Leslee's and in 1987, Bodega Bay Cafe, both in Evanston. Both closed in 1988.

Until her marriage in 1965 to her high school sweetheart, Mrs. Reis had never cooked an entire meal, much less an epicurean feast. She was working toward her doctorate in biochemistry at Harvard when she got sidetracked, taking a course at Le Cordon Bleu and volunteering to do dishes for Julia Child, who was about to debut as "The French Chef" on television. Her first entry into the food business was catering.

"I'm terribly distressed," said Julia Child in Boston. "She did a lot for women in the business. She was a fine chef and ran a fine restaurant. The last time we were in Chicago we had a wonderful meal at her restaurant. She was a wonderful, jolly, fine, good person."

Mrs. Reis was one of the star chefs at New York City's Tribute to James Beard, City-Meals-on-Wheels in 1987 and the Wolfgang Puck Charitable Foundation's American Food and Wine Festival in 1988. She was chosen as the only Midwestern guest chef on Julia Child's television series, "Dinner at Julia's" in 1983, and was a founding member of the American Institute of Wine and Food and of Les Dames d'Escoffier Chicago.

One reason for her success as a restaurateur was that she kept a pure style at Cafe Provencal, said Gordon Sinclair, owner of Gordon's restaurant. "Leslee was very firm in her conviction that Cafe Provencal was authentic French provincial cooking. She stuck to her style. She was not affected by the nouvelle movement but maintained a hearty and robust cuisine," he said.

"Because of her bravado, I don't think any knew just how much she cared about people and the business," said cookbook author and Tribune columnist Abby Mandel. "She was extremely sensitive to people. She really cared and I think that was the secret of her success."

LOMA LINDA MEDICAL CENTER'S GIFT OF LIFE TARGETING TUMORS WITH AN ATOM SMASHER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEWIS of California. Mr. Speaker, I am pleased to share with my colleagues an article that appeared in last week's Washington Post concerning a highly advanced technology utilizing particle accelerators in the treatment of cancerous tumors. Loma Linda University Medical Center has been a pioneer in this technology for 20 years and a description of their work is included in this article. I call it to my colleague's attention because I want all of you to be aware of the availability of this cancer curing treatment center that will begin treating patients this summer.

TARGETING TUMORS WITH AN ATOM SMASHER—MAINSTAY OF PHYSICS FINDS A PLACE IN THE MEDICAL ARSENAL AGAINST GROWTHS INACCESSIBLE BY SURGERY

(By Gregg Levoy)

High on a hillside overlooking San Francisco Bay, a woman apprehensively enters a building that houses a particle accelerator, an atom smasher that is the mainstay of physics and now is being used to treat cancer and other life-threatening diseases.

The 28-year-old woman suffers from an arteriovenous malformation, a hereditary condition that results in an abnormal growth of blood vessels in the brain. Several years earlier, the malformation caused a hemorrhage that resulted in a temporary coma and paralyzed the woman's right eye. Because the malformation is too deep and inaccessible for surgery, her physician, Jacob Fabrikant, a professor of radiology at the University of California at Berkeley, fears her next hemorrhage could be fatal. His experiments in particle beam therapy at the Lawrence Berkeley Laboratory may represent her last hope.

In one of three medical "caves" at the accelerator complex, a phalanx of shirt-sleeved doctors and physicists help the woman onto the Isocentric Strereotactic Apparatus for Humans, a revolving couch that permits the accelerator's helium-ion beam to take aim at her skull from different angles. Her sister watches the hour-long procedure on a closed-circuit monitor in an adjacent room.

Strapped into the couch, the woman's head is immobilized in what looks like a custom-made hockey mask. Computerized images help technicians train the accelerator on the malformation in her brain to within a fraction of a millimeter.

Each of four doses of the therapy takes about a minute, is painless and silent and essentially clots the malformation. Because blood is unable to flow through its capillaries, it will atrophy, probably within a year and dissolve harmlessly.

Originally designed for particle physics, atom smashers have been compared to a demolition derby in which two speeding cars crash; physicists do the same thing with atoms, sending them crashing together at high speeds and then counting the particles that scatter as a result of the collision to try and determine the building blocks of matter.

Increasingly, atom smashers are regarded as promising tools to treat cancer and other diseases, because they allow doctors to lower the dose of radiation while increasing the accuracy of radiation therapy.

That is particularly true for cancers that are localized in one area of the body. "Anything that is treatable with X-rays could probably be better treated with particle beams," said Raymond Kjellberg, a neurosurgeon at Harvard Medical School, the home of the only other clinical accelerator in the United States. "My guess is that [atom smashers] will replace most X-ray use in 10 to 20 years," said Kjellberg.

Conventional radiation treatment uses X-rays, which scatter as soon as they hit the body, wasting energy and affecting healthy and cancerous tissue alike. This is especially dangerous if the tumor is in a vital spot, such as near the heart or spine. For this reason, a less than ideal dose is used to avoid damaging normal tissue.

Proton beams used in particle therapy have the same biological effect on the body as X-rays, disrupting a cell's metabolism and breaking up the DNA, making it incapable of reproducing. But unlike X-rays, they can be controlled to penetrate no farther than the tumor and to unleash their cell-killing energy directly on the target.

A particle beam's velocity can be varied by passing it through a telescoping water absorber, similar to the collapsible plastic cups used in camping. The longer the absorber, the more water the beam must pass through, and the slower it travels.

The velocity of a beam determines how far into the body it travels before reaching the end of its range. Ideally, a particle beam dumps the bulk of its energy right on top of the tumor, resulting in less damage to healthy tissue.

Particle beams are generally trained on a site from several different points, further minimizing the dose on any given path. Beams can also be shaped to the precise configuration of a tumor.

As a result, doctors can deliver up to 35 percent more radiation than with conventional X-ray therapy, while sparing sensitive surrounding tissue.

Given the complex technology involved and the difficulty in precisely controlling the beam energies, proton therapy remained a limited option until the early 1980s.

But with the advent of several advances including more sophisticated targeting procedures, an increased understanding of tumor biology and three-dimensional computer imaging techniques such as CAT scans and magnetic reasonance imaging, which can map tumors with great precision, particle beam therapy began to emerge as a promising tool.

Today, there are nine facilities around the world that use the technology: in addition to the accelerators at Berkeley and Harvard, there is one in Sweden, three in the Soviet Union, two in Japan and one in Switzerland.

Doctors in these facilities have treated a total of about 6,000 patients for cancer of the head, neck, lung, abdomen, eyes, lung, prostate, spinal cord, pelvis and cervix, as well as non-cancerous ailments such as the arterial malformation.

Fabrikant and others at Berkeley have treated about 900 patients with the device, most of whom were suffering from ocular melanoma, a cancer that used to require removal of the eye. Using helium beams, treatment not only can spare the eye but can obliterate the cancer in 95 percent of cases, compared with 60 percent of surgical cases.

One sign of the promise of accelerators is a facility under construction at Loma Linda University Medical Center outside Los Angeles. There a $40 million "proton therapy" accelerator is expected to begin operation this summer, the only machine in the world designed expressly for medical use.

As the first hospital-based facility, it reflects a change in design from earlier medical accelerators. They were modified from physics laboratories by diverting beams, usually via magnets, into a room made to look as much like a hospital setting as possible. "What we really did," said Kjellberg, "was just push 10 years of physics experiments out of the way."

Loma Linda's design puts a computer-controlled couch in the center of a three-story revolving gantry, a ferris-wheel-like apparatus with a dozen five-ton electromagnets suspended on its frame. This arrangement—it is the beam that moves, not the patient—enables greater precision for treatment involving multiple angle radiation.

There will be three treatment rooms, each with a gantry, and one with a fixed beam for single-entry treatment for diseases such as eye cancer, in which the use of a gantry is excessive. The entire facility is built underground for natural radiation shielding.

Loma Linda will have the capacity of treating up to 100 patients a day, in half-hour sessions, according to project director James Slater, chairman of the department of radiological therapy. This, he says, will undoubtedly relieve some of the pressure on more research-oriented accelerators at Berkeley and Harvard, which currently have patient waiting lists of nearly a year.

ENCOURAGE THE RECYCLING OF PAPER PRODUCTS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LAGOMARSINO. Mr. Speaker, the Environmental Protection Agency estimates that paper products will constitute approximately 40 percent of the municipal solid waste stream by the year 2000. In order to curb this trend, now is the time to establish and provide incentives which encourage the recycling of paper products.

Today I am introducing legislation to provide that incentive to companies which mass mail paper products through the U.S. Postal Services' second- and third-class mail.

Last year the U.S. Postal Service delivered approximately 62.8 billion pieces of third-class mail and approximately 10.5 billion pieces of second-class mail to households in the United States. The combined weight of second- and third-class mail in 1989, totaled approximately 11.6 billion pounds, the equivalent of approximately 46.5 pounds per American citizen.

Considering each ton of recycled paper produced saves approximately 17 trees, 11.6 billion pounds of recycled paper would save approximately 99 million trees.

In order to encourage recycling, to save millions of trees, and to reduce our solid waste stream, I am introducing legislation which states the following:

"It is the sense of the House of Representatives that the U.S. Postal Service should study and report to Congress on the feasibility of establishing lower rates for any second- and third-class mail matter which uses recycled paper and materials."

By creating a lower mail rate for mailings using recycled materials, we can make it beneficial for mailers to use recycled goods. I urge my colleagues to support and cosponsor this much-needed legislative measure.

MAHONING COUNTY TASK FORCE ON AIDS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Mahoning County Area Task Force on AIDS, which is located in my 17th Congressional District of Ohio. The Mahoning County Task Force on AIDS will be participating in AIDS Awareness Week in Ohio from May 5, 1990 thru May 11, 1990.

AIDS Awareness Week is to recognize the tens of thousands of people who have died from AIDS including the 22 people who have died in Mahoning County from this tragic virus. The week also brings attention to the millions of people who are living with the virus and encourages further education in hopes the impact of AIDS can be limited.

The Mahoning County Task Force on AIDS, as well as the AIDS unit of the Youngstown Health Department, have worked unyieldingly in their campaign against AIDS. They have gone beyond the call of duty to educate our community on the AIDS virus.

Mr. Speaker, I would like to commend the Mahoning County Task Force on AIDS for their hard work and dedication not only to Mahoning County and Ohio but also to the United States. AIDS is a threat to everyone, and groups such as this help educate communities such as ours thus enabling everyone to deal better with this tragic disease. I am honored to represent these outstanding people.

OPPOSE ARMS SALE TO TURKEY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. YATRON. Mr. Speaker, today I join with my good friend and colleague, Congressman WILLIAM S. BROOMFIELD in introducing a joint resolution disapproving of the Pentagon's proposal to sell five COBRA helicopters to the Government of Turkey.

Mr. Speaker, I recognize that it is extremely difficult to successfully oppose an arms sale of this nature. But I think it is important to send a strong and unambiguous signal to Ankara that as long as Turkish forces occupy over one-third of the sovereign nation of Cyprus, United States policymakers will continue to speak out against strengthening military relations with Turkey.

Congress has supported the United Nation's efforts to find a peaceful settlement to the dispute on Cyprus. Ambassador-designate Nelson Ledsky who serves as the Department of State's Special Representative on the Cyprus matter has worked very hard to encourage all parties to this dispute to negotiate in good faith. Unfortunately, the Turkish Cypriot leadership and its supporters in Turkey have consistently obstructed the peace process.

Mr. Speaker, the United States should not reward a government which militarily supports a breakaway regime in another country with more U.S. military aid and I would urge my colleagues to support this resolution.

TRIBUTE TO BRYAN BOJANOWSKI

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to Bryan Bojanowski, the winner of the Earth Day Essay Contest held for eighth grade students in the Fourth Congressional District. Brian is a student at Infant Jesus of Prague School in Flossmoor, IL. In his essay, Bryan shows a keen awareness that every individual citizen can make an investment in the future of our Earth by making a conscious effort to conserve our natural resources in everyday life.

I submit for inclusion to the RECORD a copy of Bryan's essay, "Doing My Part for the Environment—I Can Make A Difference".

In preparation recently for writing an essay about conservation, I decided to take a hard look at what my own family was doing to help save the environment.

Let's take paper, for instance. Mom was asking for paper, rather than plastic bags at the grocery store. We were already using both sides of scrap paper and we shared magazines and newspapers with my grandparents. I searched the pantry while I was

putting away all those groceries that came in those brown paper bags and discovered we had paper plates and cups rather than foam. So far, so good!

Continuing my search, I discovered that my sister, who is single handedly keeping hair spray companies in business, was at least using non-aerosol products. I patted her on her spray stiffened head and went on.

We closed off unused rooms in the winter and had, in fact, lowered the temperature for the entire house. I knew it was cold when Mom broke out the bunny slippers!

I determined that all our furniture was made of pine or oak rather than tropical woods and we were waiting to do full loads of dishes and laundry. We took showers, rather than baths to conserve water and we never washed the car with a hose.

Speaking of the car, our twelve year old antique was probably no longer fuel efficient, but on the positive side, it did pass the emissions test with flying colors. We also car pooled when possible and tried to avoid unnecessary trips.

Other things I know we did included using a metal chimney to start the barbecue rather than charcoal lighter. We used light timers when we were away from home on vacation and made an effort to remember to turn off the TV and the lights when we left a room. As chief battery burner in the house, I invested in a battery charger and rechargeable batteries.

One thing we were not doing was to save bottles and cans for recycling. I plan to nag family members from now on about that!

As an editor of our school newspaper, I plan to write an editorial encouraging the students to pick up trash and participate in our ongoing can recycling project. I would also like to direct the editorial at the adults who do the purchasing for our cafeteria and attempt to persuade them to purchase paper packaging instead of styrofoam.

All in all, I was surprised at how many of the things my family already practices were also helpful to our environment. None of the things I mentioned here are difficult for a family to do and hopefully, if everyone did them, the environment would be improved. A little sacrifice on everyone's part could bring lasting benefits to all mankind.

I know my colleagues will want to join me in saluting Bryan Bojanowski for his prizewinning essay.

KANSAS STUDENT WINS SCHOLARSHIP

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. MEYERS of Kansas. Mr. Speaker, it is with great pride that I announce that one of the recipients of the Shell Century III Leaders scholarship resides in my congressional district. Her name is Heather Bartel of Kansas City, KA. Heather, a student at Sumner Academy in Kansas City, received the award based on her outstanding leadership abilities.

Heather is aptly qualified for the leadership role as treasurer of Student Congress, vice president of the Key Club, and a member of the German Club, cross-country team, and orchestra. After completing the application process, which involved a current events quiz, and the preparation of a commentary citing a solution to a current problem in American society. Heather proceeded to the interview phase of the 10 finalists from Kansas.

As a State winner, Heather had the opportunity to compete in the national finals of the contest which were held in Williamsburg, VA. The questions asked involved offering solutions to critical issues which the United States will face in the next century.

Mr. Speaker, I wish to commend Heather on her scholastic achievement and leadership potential. It is reassuring to know that America's youth is already planning for the future. Heather is an outstanding example for the youth of Kansas and the entire Nation.

SUPPORT THE FUTURE OF HIGH PERFORMANCE COMPUTING

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LOWERY of California. Mr. Speaker, I rise today in support of H.R. 3131, the National High Performance Computing Technology Act and to share with my colleagues testimony submitted by Dr. Sidney Karin, director of the San Diego Supercomputer Center [SDSC], during hearings on the bill's companion measure in the other body. Located in my district, SDSC has been successfully providing high performance computing to the Nation's research community since 1985 when it was established by the National Science Foundation. I commend Dr. Karin's leadership and diligence in ensuring the success of the center; and his commitment to the field of high performance computing.

The testimony follows:

STATEMENT OF DR. SIDNEY KARIN

Mr. Chairman and Distinguished Senators: My name is Sid Karin, I was asked to testify, but I couldn't get to the hearing because I broke my leg a week ago when I was trying to go very fast down a mountain. We skiers are taught early and reminded often to reassess our surroundings and respond to all the varying factors, not only to the snow conditions, but also to the terrain, the folks in front of you, and those "hot dogs" behind you. When we go really fast, we need to make very rapid adjustments or you lose control. The lesson I learned skiing is a lesson we're all learning in the field of high-performance computing. It was my fascination with going fast that drew me to high-performance computing in the first place, I suppose, but while I can break a leg, I'd rather my country didn't. So I thank you for the opportunity to add my two cents to the record of the testimony.

My title is director of the San Diego Supercomputer Center, one of the supercomputer centers established by the National Science Foundation in 1985. I have another title also, which is vice president of a San Diego research and development company called General Atomics, which runs the San Diego Supercomputer Center under the NSF Cooperative Agreement. I'm also an adjunct professor in the Computer Science and Engineering Department at the University of California, San Diego. Prior to donning these three hats, I had yet another title: manager of the User Service Center at General Atomics, that is, the User Service Center of the National Magnetic Fusion Energy Computer Center, one of the Department of Energy supercomputer centers, located at Livermore.

Our NSF supercomputer center, the one I direct today, was so quick to get off the ground five years ago precisely because it arose as a kind of spinoff of or evolution from the DOE supercomputer effort. It was the first NSF center to have experience with linking users nationwide on a network, again because of its close relationship to the DOE effort. It's the product of a certain evolutionary path. I want to encourage your positive reading of S.1976 by drawing that evolutionary path, which is the path of high-performance computing, into the future. I have been where high-performance computing has been, and I think that gives me some insight into where it has to go.

The bill before you has four parts. The elements are establishment of a national network, development of improved software, support for high-performance computer systems, and basic research and education. This bill represents a balanced approach to continuing United States leadership in high-performance computing, and I am heartily in favor of funding all of these elements.

I should emphasize that I don't think we should be first in high-performance computing just because it would be nice to be first in as many areas as we possibly can. High-performance computing, as an enabling technology, is directly related to United States competitiveness in the world economy, and I want to explain how each part of this bill can be used to bolster and reinforce our competitive position.

The direct benefits of a national network are very obvious, as obvious to us today as the Interstate Highway System was to everyone in Eisenhower's time, when I was just a kid who loved fast cars.

Let me tell you how obvious it has become that we need a national network. When we started the San Diego center, we had before us the experience of the Magnetic Fusion Energy center, MFE, which was the first to link supercomputing researchers across the country by telephone and satellite on a true network. At all other nonclassified supercomputer centers, the remote users, and there weren't many, had to dial in and pay for a long-distance call.

When the San Diego center began, we knew we would need a network like MFE's, and we put it together that way, with links reaching from Maryland to Hawaii, with the result that we had more users working at our center between 1986 and early 1988, when the NSFnet backbone and regional networks began to take shape. We joined the NSFnet effort and began to phase out MFEnet clone. Today NSFnet and its associated regional networks, like the California Education and Research Federation network that we run from San Diego, are providing service to increasing numbers of researchers around the country. I should add that high-performance computing is Darwinist: we've made the most of our inheritance, and we've adapted swiftly for survival.

So I think a larger national network linking all researchers at high speeds is an adaptation the United States requires for competitive survival, and this bill addresses it. The funding required is not the largest part of the bill, but this initiative may well provide the most leverage.

If it has a defect, it is in its identification of the network as a "national research and education computer network" linking "gov-

ernment, industry, and the higher education community." Let's not make the mistake of isolating the research components of our economy from the engineering, design, and manufacturing sectors that benefit from the research. Let's link government, industry, higher education, and production—whether we call it manufacturing, trade, or commerce.

I'm suggesting that the various sectors of our economy can all evolve together. If they don't, we'll be in the same position as travelers were when the railroads began, having to hop out of trains at the border because the tracks in the next country were of a different gauge. Let's not keep the most productive sectors of our economy on a different gauge from research and education.

That leads me to another point about balance: high-performance computing is so important that it requires the cooperation of all agencies: not only DOE, but also NSF, NIH, NASA, the departments of Commerce and Agriculture, and others. I hope you will find a way to put in this bill or in another bill a mandate to all agencies to cooperate and to consider what the United States requires for competitive survival as they do so.

Since I'm suppporting evolution here, let me point to the ultimate development. A computational superhighway should link everyone in the same way that telephones and fax machines do today. That idea is contained in the bill in the thought, here on page 8, that the government network should be phased out or turned over to the commercial networks when they can meet the needs. At that point, all of the elements of our society that can collaborate will be able to collaborate, and Japan Incorporated will be looking at U.S. Incorporated. As a number of editorialists have suggested in recent weeks, we may also need to face Germany, Incorporated, in the world market very soon. And in 1992, Europe, Incorporated.

That goal won't be met by networking alone. We need the other parts of this bill. The balance of the program is essential. Networks will let us talk to each other and compute together, but what will we compute, and how fast can we do it? And how can we assure that all of these elements work together to provide a robust computational infrastructure?

Let me bring in Darwin again to look at this. My center is a product of evolution. Its ancestor was a youthful DOE center that is still a vigorous citizen. Our center owes a lot to this parent, and to aunts and uncles on the DOE side as well. We obtained software, documentation, and much good advice from MFE. Our mass storage system, which we have now commercialized under license from the DOE labs, was a software product from Los Alamos, with hardware from IBM. In addition, we have a similar technology transfer agreement with Lawrence Livermore for its UNIX-based file management system. As we have developed and interacted with our brother and sister NSF centers, we have been able to repay our parents and aunts and uncles. We have worked with the DOE labs on operating system issues. We are working with Los Alamos and Caltech on prototyping a gigabit per second network of the kind envisioned in this bill.

And we've also grown up and had kids of our own, and so have our brothers and sisters. We have fostered and participated in much important research, including research that speaks to one of the grandest challenges we face: maintaining American competitiveness. For example, in our center, we helped Gencorp to develop a new method for rapid injection molding of fiberglass and plastic auto body parts. The NSF center in Pittsburgh helped Alcoa to develop lighter aluminum cans, and the NSF center in Illinois helped Kodak develop new chemical processes for film developing. Moreover, we've had a vigorous program of research and technology transfer conducted jointly with members of the computer industry. At San Diego, this has included Cray, Digital Equipment, Supertek, Apple, and Alliant. This program has enable these vendors to enhance their product offerings and improve their competitiveness in the world market.

We have taken very seriously our responsibility to educate researchers, students, and young people in the use of supercomputers and the opportunities of computational science. There's the Superkids program at MFE, the SuperQuest program at Cornell, the Kid Lab program at San Diego, and programs in Research Experiences for Undergraduates at all the NSF centers, in addition to fellowships and appointments for visiting scientists. All of these centers give workshops and hold meetings to spread technique, whether it's new math or new supercomputer graphics or new biochemistry. And we also clone ourselves. Key staff members of some of the new state-supported supercomputing centers have been drawn from the many experts trained by the DOE/DOD and NSF centers.

In order words, the NSF centers and the existing DOE centers have taken a leadership role in the efforts this bill seeks to support. Those efforts are the efforts that the present centers of supercomputing have been engaged in, multiplied thirty- or forty-fold. A layer of expertise, a computational mini-infrastructure, has already evolved. The efforts envisioned in this bill will have the most leverage if the funding is channeled through this layer. I hope the language referring to new centers will be looked at very closely when the time comes to implement this bill. A center is supposed to be central and is supposed to centralize, so it can act rapidly and take advantage of economies of scale. We should not repeat the experience we already have; rather, we should build on it and very quickly evolve upward from it.

Darwinian Nature is profligate with mass extinctions and reformations of the plant and animal kingdoms, but, as Darwin himself pointed out, when humanity domesticates and breeds animals, it can choose to do better than Nature will do, and faster as well.

WE MUST HAVE A MIX OF ENERGY RESOURCES AND NUCLEAR POWER MUST BE PART OF THAT MIX

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. BYRON. Mr. Speaker, as we commemorate Earth Day, this Nation is understandably drawn to consider the protection of our natural resources and national treasures. As a member of the Subcommittee on National Parks and Public Lands, I am reminded of these obligations every day.

At this moment, Congress is seriously considering legislation to limit oil exploration in significant amounts of the Arctic Plain in Alaska, bills that would prohibit oil exploration and drilling over the vast majority of the American coastline, and vital legislation to clean up the air that will have a profound impact on our energy policy.

All of this is vital and necessary, but sooner or later we must begin to ask where we will get the energy resources to sustain our economy. If we won't drill for oil, if we discourage the use of coal, if we don't want our wild and scenic rivers destroyed by hydroelectric facilities, if we are unwilling to sustain the size and strength of our military to protect our import supply lines, what do we intend to do?

Certainly, I have supported the encouragement of alternate fuels: solar, wind, methanol, et cetera. I also believe that recycling and conservation have important roles to play. But these options are not going to sustain our economy in even the intermediate term, let alone allow us to increase our standard of living.

Sooner or later, we will be forced to confront these questions again. Mr. Speaker, I have enclosed a recent editorial from the Washington Post that contains part of the answer. That answer is nuclear.

SEABROOK STARTS UP

Despite 14 years of protest demonstrations and litigation, the Seabrook reactor in New Hampshire went into operation this week. It will generate power for New England without contributing to acid rain or to global warming. Will that end the opposition to it? Unlikely.

That opposition has two parts. Much of the legal combat has involved the plan to clear people out of the surrounding area in the event of a major accident. Seabrook is near beaches that draw heavy crowds in summer, and the claim is that people couldn't get out quickly. But there's another kind of opposition that has nothing to do with this specific site. It begins with the visceral conviction that the technology itself is illegitimate and dangerous.

Certainly it is dangerous. To illustrate the point, a truck accidentally damaged the cooling system of a reactor in Georgia this week. There were no serious consequences, but under slightly different circumstances, there could have been. Nuclear power is an unforgiving technology. There are now many dangerous and unforgiving technologies in daily use in this country saving money, time and lives. There is no way to generate large quantities of electricity without danger, and the question is which method returns the greatest benefits with the smallest risks.

New England and the whole East Coast are now at the edge of serious power shortages. Conservation of energy is essential, but even with a strenuous effort at conservation, there are going to have to be new power plants. What sort should they be? Most of the country's power is currently produced by burning coal, which greatly damages the environment. Natural gas is cleaner but more expensive and, like any fossil fuel, produces carbon dioxide, the major element in global warning. Solar energy is coming along but will always be limited by the sun's habit of periodically disappearing. The opponents of Seabrook include most of the ranking politicians in

Massachusetts, whose position is conspicuously vitiated by the extreme vagueness of their own thoughts about where and how to produce adequate energy for a modern society in a cold climate.

If this country seriously wants to reduce the amounts of carbon dioxide being pumped into the atmosphere, it is going to have to use more nuclear energy.

REAGAN'S SPEECH BRINGS THIS PATRIOT OUT OF THE "CLOSET"

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HYDE. Mr. Speaker, one isn't used to newspaper columnists writing good things about former President Reagan, and when I ran across Ken Dychtwald's article in the Chicago Sun-Times of February 18, I was pleasantly surprised. The writer recognizes what many of us have said for some time that Ronald Reagan has made us all very proud to be Americans.

I commend this article to my colleagues for their review:

[From the Chicago Sun-Times, Feb. 18, 1990]

REAGAN'S SPEECH BRINGS THIS PATRIOT OUT OF THE "CLOSET"

(By Ken Dychtwald)

Last week I had a most unusual experience. The Sara Lee Corp. had invited a small group of powerful business leaders and their spouses to a mini-conference, a kind of "think tank" focused on the future.

The faculty for this four-day gathering included, besides myself, John Naisbitt, author of Megatrends 2000; Lester Thurow, dean of the business school at the Massachusetts Institute of Technology; James Fletcher, director of NASA; Zbigniew Brzezinski, counselor for the Center for Strategic and International Studies, and former President Ronald Reagan.

President Reagan addressed our group of 50 or so people on Feb. 6, his 79th birthday. After lunch was served, his birthday cake (made by Sara Lee, of course) arrived and we all joined in singing a rousing rendition of "Happy Birthday." Then, for several hours, Reagan addressed our group with his opinions on a wide range of domestic and international issues:

Gorbachev: "I had very good 'chemistry' with Mr. Gorbachev. I'm keeping my fingers crossed for his continued success."

Leadership: "My favorite world leader is Margaret Thatcher."

His most unhappy incident as president: "The killing of the Marines in the bomb explosion in Lebanon."

A challenge to appear with the other three living past-presidents on a TV special about politics: "An interesting idea, but remember only the acting president has all the facts. I wouldn't want to do anything that would undermine President Bush."

During the question-and-answer period that followed, I raised my hand to catch his attention. When he selected me and my jitters passed, I asked: "As a long-lived American—and as a prominent leader of Americans—what, in your opinion, makes us and our country special?"

After taking a moment to reflect, and then fastening his eyes on me, he said: "Well, I have been thinking about that very question myself lately. I have never said this in public before, but here is what I think makes America great.

"In this day and age, you could go to live in Spain, but you'd never become a Spaniard. If you moved to Japan and spent the rest of your life there, you'd never be accepted as a Japanese. Similarly, if you chose to live in France, you wouldn't be accepted as a Frenchman. But anyone can move to America and become an American. Ours is the greatest social experiment in the histroy of civilization. We have a nation where people of all races, religions and ethnic backgrounds have joined together to form the great melting pot of democracy.

"The other thing that I particularly appreciate about America is that nearly all the nations of the world, each of their constitutions tell their people what they can do. In ours, the people tell the government what it can do."

And then, in a dramatic moment, Reagan began to recite the opening sentences of the U.S. Constitution: "We, the people * * *."

When he finished his answer, a hush fell over our group as we all felt touched by Reagan's observations and the deep feelings that motivate him. As a baby boomer who has for many years felt that patriotism was a bit corny and unfashionable, I must say that Reagan's comments and belief in our nation's basic values and ideals were a welcome relief from the cynicism and negativity that are so prevalent these days.

And as I heard Reagan passionately voice the importance of personal and political freedom, I felt proud to be an American, more proud than I had allowed myself to feel for some time.

It got me wondering—maybe there are other "closet patriots" out there. How do you feel about these issues? Please write to me in care of the Chicago Sun-Times, Features Department, 401 N. Wabash, Chicago 60611.

TIME TO RENEW REVENUE SHARING

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MURTHA. Mr. Speaker, in the current budget debate we have been overlooking one very important, needed step: to restart the Revenue Sharing Program.

Revenue sharing began in 1972 and over 14 years provided $83 billion to local governments. Put simply: It was a program that worked—worked to keep valuable programs underway and worked to provide for community needs.

In October 1986, I offered an amendment on behalf of the Appropriations Committee as a last-ditch effort to extend revenue sharing. The House leadership decided President Reagan would veto the entire, crucial spending bill if our amendment was included so we reluctantly agreed to a Rules Committee decision striking our amendment. Since then, Chairman WHITTEN, and I have introduced legislation to reauthorize the program.

It is needed at this time for three main reasons.

First, with cutbacks during the Reagan-Bush administrations in domestic programs, more of the burden for community services has fallen to local governments. This was the very philosophy that sparked the initial round of revenue sharing. The need is just as real today.

Second, everyone recognizes that we have a major infrastructure rebuilding problem facing us in the 1990's. Until funds became available for the Federal Government to lead the way in that effort, local government will again be carrying the burden. Revenue sharing will provide them with the financial edge to continue and improve vital water, sewage, road, and community building upkeep until we can take more major steps.

Third, while the Reagan-Bush administrations have made much of their goals of reducing Federal taxes, whether you agree with their approach or not, this policy, coupled with the decline in spending, has placed for many Americans a larger tax burden at the local level. And local governments often work with more regressive taxes that penalize the working families and older Americans on fixed incomes more than tax rates tied to income level.

We can fit revenue sharing into our overall budget picture. It marks an idea whose time has returned. Revenue sharing II should be a congressional sequel this summer, as it would provide a major economic boost.

D.L. WIEMAN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FAZIO. Mr. Speaker, I rise in honor of longtime California State transportation leader, D.L. (Larry) Wieman. After 42 years of service to the transportation industry and his community, Larry will retire on April 30, 1990.

In light of his present status and past achievements, Larry is richly deserving of the high esteem he holds in the minds of his colleagues, as well as those in Federal, regional, and local agencies.

As an engineer, planner, and executive, Larry brought innovation, commitment, and leadership to a variety of assignments. With a long history of promoting statewide improvements to transportation, projects he helped with include: the design of Interstate Route 10 through Redlands, CA; the promotion of legislation which created the present department of transportation; and, the oversight of the completion of Interstate Highway 5.

From the beginning of his career, Larry ardently pursued innovative ways to improve the transportation systems in California. After receiving his degree in engineering design from UCLA in 1950, he was appointed district engineer for the department of public works, where he planned road construction throughout the San Bernardino district.

Later, after numerous district assignments, Larry became the head of the statewide highway research program in Sacramento. Once in Sacramento, Larry became involved with the State legislature, helping to create the new department of transportation, and eventually became the acting chief of the division of transportation planning. In 1976, he was ap-

pointed director of Caltrans District 10 in Stockton, which covered nine counties in the Central Valley.

During his tenure at the department of transportation, Larry was noted for his development of a management method known as quality circles, and for his organization of a statewide planning system, "Planning in the 1990's," which yielded the advance transportation system development effort.

Larry is generous with his time and energies outside of his career. He has been extremely active in raising money for the United Way and was responsible for coordinating fundraising contests as the division and section leader of the United Way of San Joaquin County.

As a fellow in the American Society of Civil Engineers, and a member of the Transportation Research Board's Committee on Water Transportation and Statewide Planning, Larry works outside of his position to further the interests of California transportation.

Larry resides in Sacramento with his wife, Virginia. They have one daughter and two grandchildren.

Mr. Speaker, I applaud the efforts of Larry Weiman, knowing well that this career-long pursuit to improve the transportation systems in California will leave a trail of innovation and leadership. I wish him luck with his future endeavors, and congratulate him on his past achievements.

MRS. MARY BRIDGES WILL CELEBRATE HER 100TH BIRTHDAY ON APRIL 22

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to inform my colleagues of a milestone in the life of one of my constituents. On April 22, Mrs. Mary Bridges of Centerport, Long Island, will celebrate her 100th birthday.

Perhaps it will seem callow of me, Mr. Speaker, to admit that the thought of a lifetime spanning a century's time is almost incomprehensible. But think of it: Mary Bridges was born during the administration of President Benjamin Harrison. Her life and times have known the Spanish-American War, the rollout of the Model T, Woodrow Wilson's League of Nations, Prohibition, the Great Depression, and Pearl Harbor. She has seen America evolve from an agrarian country to builders of home computers and supercolliders. Her century on Earth has seen both steamships on the Mississippi and starships beyond Neptune.

How wonderful it must be for her to reflect on all of this, to see both where we've come from and where we're going. I'm certain that her perspective and her wisdom could benefit those of us here as we seek to chart a course of our Nation's future without repeating the mistakes of the past.

Mr. Speaker, I'm sure my colleagues join with me today in wishing a most happy 100th birthday for Mrs. Mary Bridges as she begins her second century on this planet.

A THANK YOU TO DR. HERBERT V. FINE FOR 43 YEARS OF SERVICE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. POSHARD. Mr. Speaker, Dr. Herbert V. Fine is a true American success story. Recently, in my district, the people he has served so faithfully for the last 43 years gave their thanks for all he has done. And I want to tell you about Dr. Fine, in hopes that his example will be a shining light for all those who read about him.

Dr. Fine was born July 2, 1917, to Philip and Bessie Fine in Chicago, IL. His life was typical until the age of 12, when his mother died. The year was 1929, and the stock market crash completed the devastation in his family. Herbert, his brother Melvin, and sister Ethel, were placed in an orphanage because his father could not care for the children. For the next 3 years, until his father remarried, Herbert kept the children together. He was forced to become a man at a very early age.

Dr. Fine attended high school in Chicago, distinguishing himself as a fine musician, and near the end of his studies he decided to become a doctor.

Through great personal determination he was accepted by the Chicago Medical School, a tremendous challenge financially and academically. Dr. Fine was a student and a worker by day, a janitor by night to make ends meet. But the fire of determination kept his will stoked high, and his sister Ethel worked as a bookkeeper to help keep him in school.

During his junior year, Dr. Fine became very ill and was hospitalized. During that time he met a pretty young nurse named Esther Schultz. They eventually were married, and with the help of his wife and sister, Herbert V. Fine became a doctor in 1943.

Dr. Fine served in the Army, was discharged in the fall of 1946, and began his continued training as a physician.

At age 29, he made a decision that symbolizes his career. Looking to help people who needed him, he sought out a small community desperate for a physician. In April of 1947, with help from the Carterville Lions Club, Dr. Fine visited Carterville, IL. With fewer than 1,000 residents and without a doctor for quite some time, Carterville was a poor community of farmers and coal miners who had received little if any medical attention.

In May 1947, Dr. Fine, his wife Esther and their 2-year-old son Rusty, made the journey to Carterville to set up his practice. Dr. Fine's dream had begun, and the town would sleep a little safer.

In 1948 his wife gave birth to twins, Beth and Bruce. Two months later his sister Ethel, who was so instrumental in his success, was killed in a fire at their childhood home in Chicago. Dr. Fine named his practice in her memory, and his prescription pads read "The Ethel Memorial Dispensary" in her tribute. Each day he practices medicine he honors her love and devotion, and the medical books that helped start his practice are often inscribed "To Herbie, With Love, 'ET'."

In the early 1950's Dr. Fine moved his office to 110 North Division Street in Carterville, where it remained until 1988. Converted from an old grocery store, this facility was state of the art, including an x-ray machine. The office was open every day of the week, from 9 a.m. until the last patient was seen. More than 100 people a day would seek attention, even though appointments were unheard of, and every patient was treated, regardless of whether they could pay. If they were sick they received Dr. Fine's care.

Around the holidays people would often bring turkeys, hams, and desserts which were given from the heart. And often Dr. Fine would take those treasures to other families who would otherwise go without.

A fourth child, Alexander, was born in 1956. Dr. Fine had been in Carterville less than 10 years, working 20 hours a day, including house calls, a practice he still keeps. Dr. Fine himself stopped deliverying babies in 1985, but up until that time he brought 2,500 new lives into this world, each delivered with a loving touch and with great respect for the meaning of life.

Dr. Fine was on the staff of Holden and Doctor's Hospital in Carbondale, Marion Memorial Hospital, and Herrin Hospital. He gradually limited his practice to Herrin, and as a member of the Williamson County Medical Society, he was recently honored as "Lifetime Secretary," giving up the post 2 years ago. He has been active in numerous professional societies and community organizations.

On August 29, 1988, Dr. Fine closed the 110 North Division Street office. I am proud to say that location is now where one of my district offices is located, and Dr. Fine helped set a standard for public service that we are obligated and honored to perpetuate.

I should mention these details were provided by his family which has generously shared its love and devotion to help make Dr. Fine's contributions possible.

From an orphan in Chicago to the lifefline for a rural community in southern Illinois. It is an amazing story. It epitomizes the success a person can have and the contribution to the community they can make if they are determined to see it through. It underscores the real strength of our society. And it highlights the brilliance of a man who gave so much that we look to him as an example of a man who made a difference.

Where would we be without the babies he delivered, the children he inoculated against disease, the adults who were given prolonged opportunities to live under his care, and the families who were comforted by his compassion in their greatest time of need?

Dr. Fine, we owe you a great deal, and knowing the kind of man you are, any sort of payment would not only be refused but considered unnecessary. So let us instead simply say, "thank you."

WORKERS MEMORIAL DAY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SCHEUER. Mr. Speaker, on April 27 and April 28, American workers killed, injured, or diseased while on the job will be remembered during Workers Memorial Day observances taking place across the Nation.

The American labor movement has fittingly chosen this weekend for its observances because it also marks the 20th anniversary of enactment of the Occupational Safety and Health Act, commonly known as OSHA.

This is a time at which all of us should reflect on—and act on—the need to strengthen and improve our Nation's landmark job safety law, as well as other workplace safety and health laws. Coming as it does on the heels of Earth Day, Workers Memorial Day also serves to remind us of the importance of rededicating ourselves to doing all that we can to promote clean and healthy workplace environments.

The Indoor Air Quality Act of 1990, of which I am proud to be an original cosponsor, would go a long way toward doing just that. This proposed legislation, currently being marked up in committee, is intended to help reduce the threat to human health posed by indoor air contaminants. Reducing these contaminants would be accomplished, in part, via the establishment of a coordinated research program and a process for directing and focusing the authorities of Federal agencies toward this goal.

Among other provisions, the Indoor Air Quality Act of 1990: Provides for development of technical and management-practice bulletins to assess technologies for control and measurement of indoor air contaminants; directs the Environmental Protection Agency [EPA] to develop a list of indoor air contaminants and prepare health advisory documents for them—describing the characteristics of the contaminant and the health threats posed at various concentrations—directs the EPA to develop a national response plan identifying actions to be taken to reduce contaminants in indoor air. In accordance with the bill, an interagency council on indoor air quality would be established to coordinate indoor air activities of federal agencies. An office of indoor air quality would also be created within the EPA.

In drafting this proposed legislation, we recognized the importance of involving State and local governmental jurisdictions as well. Indeed, development and demonstration of State and local responses to indoor air contaminaton problems is an integral purpose of our bill. It would authorize funding for Federal grants to support the development and implementation of State strategies for the management and assessment of indoor air quality.

On Friday, April 27, I shall be joining a number of dignitaries from New York City's labor, political and religious communities in paying tribute to the American worker on the occasion of the second annual Workers Memorial Day. I hope that many of my colleagues will, likewise, be participating in similar activities taking place in their areas.

Just as Earth Day and the publicity surrounding it has helped stir our ecological consciousness and strengthen our resolve to protect our environment, I hope that Workers Memorial Day will serve as a clarion call, beckoning us to implement further safeguards to protect the health and safety of America's working men and women.

FEDERAL TAXPAYERS' RIGHT-TO-KNOW ACT

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. WOLPE. Mr. Speaker, "you get what your pay for" has long been a saying for American consumers, but for years the American taxpayers have been left in the dark about where their tax dollars go. That is why today I am introducing the Federal Taxpayers' Right-to-Know Act.

Many of us are hearing from a great number of our constituents who are expressing their views on the various proposal to reduce the Federal deficit. Too often, however, the debate on fiscal policy has been clouded by persistent misconceptions. How many times have we heard, both from within Congress and without, that we could balance the budget if we would only eliminate food stamps or foreign aid or defense spending?

The Federal Taxpayers' Right-to-Know Act would inform the taxpayer about Government spending by requiring that all Federal personal income tax booklets contain two pie charts: One depicting sources of Government revenue and the other showing a breakdown of how the revenue is spent.

Mr. Speaker, I believe the simple step contained in this bill will contribute a more informed public debate on Federal budget policy and, hopefully, to the development of the national consensus necessary to tackle the deficit crisis.

I urge my colleagues to support this initiative and to cosponsor the Federal Taxpayers' Right-to-Know Act.

SOVIET "UNION" IS NO UNION, BUT A PRISON

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SOLOMON. Mr. Speaker, Captive Nations Week was first passed by bipartisan acclaim over 30 years ago. Since that time, however, many Members of this House have spoken and voted as if there was no such thing.

To those Members, it was the United States, not the Soviet Union, that should be held responsible for the suffering that still characterizes this bloody century.

Much of that blood is on the hands of those who never took the Soviet threat seriously and who now regard its retreat as proof it never existed.

But the threat was always very real to those who lived under it for 45 years, and in reality still live under it today.

That reality was outlined eloquently in a March 21 column by Richard Grenier in the Washington Times. I submit it for the RECORD.

[From the Washington Times, Mar. 21, 1990]

"NAUGHTY EMPIRE" LOSING ITS CAPTIVES

(By Richard Grenier)

Does anybody care if the Russians tried to assassinate the pope? It happened so long ago. Back there with the assassination of Abraham Lincoln, wasn't it? Is anybody still interested? So thought The New York Times, apparently, which buried the new KGB defector story strongly supporting the Soviet-instigation thesis inside the paper on page 6, below the fold, and kept out of the heading and lead the boring part about the pope.

And even is the Soviets did instigate an assassination attempt on the pope, would it matter really, compared to the unspeakable evil of exploding cigars that the CIA's fireworks department was thinking of sending Fidel Castro (a man now described as monstrous even in Moscow), and who, spared the cigars, has done for Cuba what Nicolae Ceausescu did for Romania?

The crux of the matter is: Would an assassination of the pope be really evil? Would Rep. David Bonior, Michigan Democrat and still a fervid Sandinista even after the Nicaraguan electoral landslide, consider assassinating a reactionary pope of a comparable level of wickedness to brutally crushing under our iron heel Nicaragua's freedom loving agaraian reformers? Perhaps "naughty" would be a better word for a papal assassination, conveying disapproval but moderation.

Because once you say "evil" you open the door to all kinds of absurdities, like former President Reagan calling the Soviet Union an "Evil Empire," which every sophisticated person knows was bigoted, hateful and might even have made Moscow angry. He obviously should have called the Soviet Union a "Naughty Empire."

And I hope you bad little Muscovities have learned a lesson from Afghanistan, Poland, Hungary, Czechoslovakia, Romania, Bulgaria, Georgia, Armenia, Azerbaijan, Byelorussia, the Ukraine, Kirghizstan, Uzebekistan, Tadzhikistan, Moldavia, Estonia, Latvia, Lithuania, Nicaragua and Ulan Bator. Yes, I do. And the next time I hear you say "Workers of the world, unite!" I'm going to wash your mouth out with soap.

One of the most embarrassing aspects of the expression "Evil Empire," of course, is its inextricable linking with the concept of "Captive Nations," an expression which—and you would need a diabolically long memory to remember this, like six months—used to excite an equally fervent degree of scorn from the cognoscenti, the enlightened.

Were Lithuania, Hungary, Poland and Czechoslovakia really *captive*? How ridiculous! Besides the Russians might get irate if we said things like that. And what good did it do?

It tells you something about the ecstacies of otherworldly dreaming and decline in fortitude that have beset the Democratic congressional delegation in recent decades (but far less so Democratic voters) to recall that once upon a time liberal Democrats voted for Congress' "Captive Nations Week Resolution" just like conservative Republicans.

You have only to read the ringing proclamations of President John F. Kennedy on the honor that history had conferred on America in calling upon her to defend world freedom "in its hour of greatest peril!" And his proclamations of support for "national independence and freedom" for the Captive Nations.

But for decades now, as the tide shifted, as younger brother Edward Kennedy shifted, in fact, the expression "Captive Nations" has appeared in major publications mainly in ironic quotes, often ridiculed as "Cold War rhetoric." When suddenly, mirabile dictu, even such pro-Soviet stalwarts as the Institute for Policy Studies' Richard Barnett have started singing the praises of the "wonderful flowering of democracy in Eastern Europe" (a bit baffling since Mr. Barnett has thought the Soviet system more democratic than ours all along). And it appears that the Captive Nations (ironic quote marks hastily deleted) were captive after all.

Where are all those ironic quote marks today? Where are those exquisite ironists? Why, doubtless celebrating the wonderful flowering of democracy in Eastern Europe, the uncapturing of the nations that in their view were never captured to begin with.

It is quite false to say, meanwhile, (as now is parroted daily) that "no one" predicted the collapse of the Soviet colonial empire. In 1967, if you please, professor Lev Dobriansky, then at Georgetown, published "The Vulnerable Russians," which not only predicted the collapse of the Soviet Empire but pinpointed the fatal flaw which would bring it down: the nationalism of its subject peoples.

The very words "Union of Soviet Socialist Republics" were a fallacy, Mr. Dobriansky insisted. There is no Soviet Union, he wrote, "only Russia and her prison house of nations." It would not collapse in a few years, he warned, but was doomed nonetheless.

We owe a further debt of gratitude to Mr. Dobriansky. He is the author and proponent of the celebrated Captive Nations Week Resolution, first passed by the U.S. Congress to thunderous bipartisan acclaim in July 1959, and the truth of which—after years of scorn—is now writ large on the face of the globe.

What does it feel like to be proved right, and in spades, three decades later, after all the years of disparagement? I'm elated," says Mr. Dobriansky, father of Deputy Assistant Secretary for Human Rights Paula Dobriansky. "But it's far from over. Remember, most of those countries still aren't free.

"When most Americans hear about 'ethnic' disturbances in the Soviet Union they think it's like the U.S., with Irish-American neighborhoods, Italian-American neighborhoods. In the Soviet Union, these are completely independent nations annexed by Russia by force. What I want now is to establish a Liberation Countdown."

AIDS TAKES LEADING JOURNALIST LARRY LEE—AN OLD FRIEND WHO WILL BE MISSED

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FROST. Mr. Speaker, I rise to note the passing of an old friend, Larry Lee, one of northern California's leading journalists. Larry died of AIDS recently and was the subject of a lengthy obituary in the April 8th edition of the San Francisco Examiner, which I am placing in the RECORD today.

Larry grew up in Fort Worth, TX, where he was editor of my high school paper 1 year before I held the same position. He went on to a long and distinguished career in radio and television journalism in the Bay area. It's been 30 years since I last saw Larry; but, I followed his career over the years. He was an extraordinary reporter.

I want to remember Larry by telling you a little story about him from our days in high school. In 1958, Larry ran for president of the Texas InterScholastic League Press Association. He was a decided underdog, so in joining him as his campaign manager, we hit on a novel idea. We bought matching pairs of the brightest red pants we could find and wore them throughout the State convention. This was 1958 and red pants were a novelty.

We campaigned until the very last ballot was cast. Incredibly Larry and his chief opponent wound up in a 43–43 tie for president. They were declared co-presidents for the year, and when the other fellow resigned a few months later, Larry Lee—red pants and all—became State president, an office he held with distinction for most of a year.

Larry Lee amazed people all his life. He was a great talent and will be greatly missed.

[From the San Francisco (CA) Examiner Mar. 8, 1990]

LARRY LEE: "HE WAS LEGIT, THE REAL THING"

(By Burr Snider)

When Larry Lee died of AIDS at Children's Hospital at age of 48 this week, a hot and brilliant light went out of the San Francisco sky. We won't soon see the likes of this many-faceted journalistic superstar.

As a producer, writer, newscaster, idea man, straw boss, indefatigable investigative reporter and all-round intellectual media gadfly, Lee simply had no equal.

His mere presence on a project, newcast or investigation was enough to push the quality of the work to the highest levels of excellence.

Lee first came to San Francisco in 1971 and made an immediate mark in radio, first with the Berkeley public station KPFA, and later as part of the most fearless and iconoclastic radio news show there ever was, "The 5:45 KSAN News."

He'd come from Texas, where he began his career as a copy boy with the Fort Worth Star-Telegram, quickly advancing to assistant state political editor before moving to Alabama to report on the civil rights movement.

Later he covered the space program for the Associated Press, before launching a tenacious two-year campaign to found a public radio station, KPFT, in Houston.

It was at the wild and irreverent KSAN that Lee found his true metier—and a target worthy of his scathing hatred for political chicanery: the Nixon White House. The KSAN news team, led by Lee, took on the Watergate crooks night after night, no holds barred, and pinned them to the mat every time.

When you wanted the real dark nasty conspiratorial stuff, Larry Lee always know where to shine the light.

"He was not the kind of guy you run across often in electronic journalism," says Larry Bensky, national affairs correspondent for Pacifica Radio. "Larry was enormously bright, omnivorously interested in current affairs and thoroughly versed in history and literature, politics and science. And he knew what was really going on like nobody else. One phone call to Larry was worth about a dozen to other people."

Berkeley writer Kate Coleman remembers Lee as a mentor who always demanded your best work.

"There was no fudging on the truth or on excellence with Larry," Coleman says. "He was always telling me my job wasn't to be Miss Nice Guy, and that's a voice I want in my ear the rest of my life. But how I really remember him is a playmate. He was just so much fun, a great game player. He'd come over and we'd have a slumber party, playing dominoes and watching things like 'Bambi,' sitting there crying like a couple of old maids. He could be as highbrow as you wanted, but he could really get down, too."

"He was sort of a William F. Buckley of the left," says radio newsman Scoop Nisker. "He had a brilliance for political insight and a knack for putting bad politicians down without sounding malicious."

"He was the first openly gay person to work in the mainstream media in San Francisco, and he made it so much easier for those who followed," says reporter Randy Shilts.

"We could fight furiously and remain the closest of friends," recalls TV reporter Belva Davis who worked with Lee at both KQED and at KRON-TV, where he headed the prize-winning investigative team at the time of his death.

"I'd go to him for guidance when I was writing my book and people would ask me how a white gay guy could help me write about my black childhood. It was because he was so perceptive, and because he could relate. A very special person."

"For better or worse, he formed my professional character, which I'm told is somewhat surly," laughs Danice Bordett, one of Lee's coconspirators at KSAN, now living in New York. "Larry was equally suspicious of people on either side of an issue. But he was gallant and brave and graceful all the way, and at the end he was still pissed off at the people who were wrecking his country."

"He had a direct and honest and charming manner and he was simply a wonderful journalist," says newsman Dave McQueen, who knew Lee from Texas in the '60s. "At KSAN his theory was that people wanted to be talked to, not read to, so we'd just go in with news clippings and some wire copy and talk the news. Sometimes I'd look over and Larry would close his eyes and just talk and talk and talk, everything flowing out just beautifully."

The author and poet Barry Gifford collaborated with Lee on oral biographies of Jack Kerouac and William Saroyan and became a close friend.

"We had totally different lifestyles, but my family absolutely loved Larry," says Gifford. "He just recently called my daughter and spent three hours trying to talk her out of doing a communications major in college. He said she'd just have to unlearn all that stuff when she went to work. He was just a gas. He taught me how to be a great detective: Keep your mouth shut and don't believe anything anyone says until it checks out. He was legit, the real thing. I still owe him money, for Christ's sake. I want Larry back so I can pay him what I owe him."

A lot of people do.

A TRIBUTE TO HARRY T. HARPER

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BARNARD. Mr. Speaker, I rise today to pay tribute to Harry T. Harper, Jr., M.D., who was recently awarded the American Heart Association's 1990 Heart of Gold Award.

Fully realizing the total inadequacy of words to convey the homage I wish to give Dr. Harper, allow me to review some of the highlights in the life of this outstanding man.

Dr. Harper was born almost eight decades ago in Copperhill, TN, a small town located on the north Georgia border.

He obtained his M.D. degree from Emory University School of Medicine in 1933.

Following an internship at Emory University Hospital, he joined Dr. Virgil P. Sydenstricker at the Medical College of Georgia for a fellowship in Medicine. The next 4 years were productive and exciting, establishing the tone for what the future was to be.

During this time, Dr. Harper collaborated with the cardiovascular physiologist, Dr. William F. Hamilton, and they and their colleagues made medical history with the first direct recording of blood pressure in man. This made possible the development of cardiac catheterization in the diagnosis of heart disease and laid the foundation for open heart surgery.

It was during this period that Dr. Harper did postgraduate work at Massachusetts General Hospital with the world-renowned cardiologist, Dr. Paul Dudley White, with whom he remained good friends for life.

In 1938, Dr. Harper chose to enter private practice in internal medicine with an emphasis in cardiology and, since 1946, has limited his practice exclusively to cardiology, becoming the first physician in Georgia to do so. In addition, Dr. Harper has been practicing medicine longer than any other Augusta physician.

Dr. Harper, however, continued his commitment to education. He became a faculty member at the Medical College of Georgia in 1937, was chairman of the department of medicine from 1942 to 1944 and was made clinical professor of medicine in cardiology in 1952. He served in this capacity until 1982 when he was named professor emeritus by the board of regents. On this occasion, the Medical College honored him with an entire day of activities designated as Dr. Harry T. Harper Day. He received many tributes in recognition of his numerous contributions and a lecture was presented by one of his most famous students, Dr. J. Willis Hurst.

Generations of medical students, interns, and residents attest to Dr. Harper's excellence as a professor. He possesses the rare and marvelous talent of being a master teacher.

Dr. Harper has been outstanding in local medical affairs, having served as president of the Richmond County Medical Society, president of the medical staff of both University Hospital and St. Joseph Hospital, member of the University Hospital Authority and the first physician to be elected chairman of the authority.

Recognition in the State and Nation is evidenced by his service as president of the Georgia Heart Association, as consultant to the Surgeon General and the U.S. Army, as consultant for the Veterans' Administration and as a member of numerous national medical organizations. He gained wide publicity when he was consulting cardiologist for President Eisenhower when the former President suffered a heart attack while visiting in Augusta in 1965.

Thousands of patients with heart disease have benefited from the skilled care delivered with understanding and compassion by Dr. Harper. He personifies the true meaning of the word "physician."

There is yet another important facet of Dr. Harper's life. He is a loving and devoted husband, father, and grandfather. In fact, he recently celebrated his 57th wedding anniversary.

I join the colleagues, friends, family, students, and patients of Dr. Harper in recognizing his distinguished career as a physician and as a wonderful human being.

FREMONT/NEWARK CHAPTER OF AMERICAN GI FORUM CELEBRATES SILVER ANNIVERSARY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. EDWARDS of California. Mr. Speaker, I rise today to congratulate and pay special tribute to the Fremont/Newark chapter of the American GI Forum of the United States as they prepare to celebrtate their silver anniversary.

The American GI Forum of the United States was founded over 40 years ago in Corpus Christi, TX, as an organization composed primarily of Mexican-Americans who were veterans of the United States armed services. A primary concern of the organization in those early years, was fighting the discrimination many Mexican-American veterans faced when the returned from their World War II service. Then, as now, the American GI Forum was in the forefront of antidiscrimination efforts.

The founder of this organization was Dr. Hector Garcia, whose hard work and dedication paved the way for more chapters to be formed in Texas. Eventually, Dr. Garcia was joined by Vincente Ximenes, and under their leadership the American GI Forum of the United States became nationally recognized, and established chapters nationwide.

The Fremont/Newark chapter was founded in 1964, by Forumeer Louis Cortez, and today it is one of the most progressive and active chapters. Members of the Fremont/Newark chapter have occupied State offices for the GI Forum, and forum members have served in the government on both the city and county levels.

Of particular note is the GI Forum's vital work in the area of education. Recognizing that the preservation of our freedoms depends on education, the forum has been very active in promoting educational opportunity. Over the years, they have given many thousands of dollars in scholarships to deserving students.

The Medal of Honor is the highest military award for bravery that can be awarded to an individual of the U.S. armed services. Over the years, Congress has paid reverence to over 20 members of the American GI Forum by honoring their valor with the Medal of Honor. I am honored to pay special recognition to a group with such distinguished members.

Mr. Speaker, for their work in giving educational opportunity to young people, for helping to instill patriotism in our communities, and for their efforts in working toward an America free of racial and ethnic barriers to equal opportunity, I am proud to salute the Fremont/Newark chapter of the American GI Forum.

IN TRIBUTE TO MARVIN DUNN, JR., OUTSTANDING EDUCATOR

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BRYANT. Mr. Speaker, I am pleased to pay tribute to one of my constituents, Marvin Dunn, Jr. This year is a special one for Mr. Dunn. He is ending a career in education that spans more than three decades. He is fittingly ending this distinguished career as he began it—in the classroom.

Marvin Dunn is currently a sixth grade teacher at S.S. Conner Elementary School in my district, and he is a former administrator with the Dallas Independent School District [DISD]. Mr. Dunn is a distinguished, retired veteran, having served in the U.S. Marine Corps during the Korean War. He earned the Korean Medal, the United States Service Medal, the Legion of Merit, and the Purple Heart.

Like many veterans, Marvin Dunn returned from serving his country to continue his education. Mr. Dunn earned both bachelor of science and masters of education degrees from East Texas State University. Shortly after receiving his masters of education degree, he began his long teaching career with the DISD as a seventh grade classroom teacher.

Marvin Dunn's career in education has been a multifaceted one. In his first teaching post, Mr. Dunn became dedicated to developing curriculum alternatives for the youth attending public schools in Dallas, TX. His commitment to this goal led him away from the classroom to the job of curriculum writer for DISD's Paul L. Dunbar Community Learning Center and then to the position of assistant director of the learning center.

The young people attending public schools in the DISD have benefited greatly from Mr. Dunn's leadership abilities in the educational community. For half of his lengthy career in education, Mr. Dunn was instrumental in the development of broad-based programs for the social studies curriculum of the DISD. In the area of multicultural education, he developed and managed the multiracial social studies

program and served as the manager of the cultural crossroads program for the DISD. The curriculum he designed remains the cornerstone of the DISD's district-wide social studies curriculum.

After a successful career as an administrator, Mr. Dunn chose to return to the educational front lines as a classroom teacher. For the past 8 years, Mr. Dunn has helped prepare a generation of young students attending S.S. Conner Elementary School to meet the challenges and demands of the educational system and life.

Marvin Dunn retires after 34 years of excellence in education. I thank him for his dedication to education, I congratulate him on his retirement, and I ask my colleagues to join me in saluting Marvin Dunn, Jr., one of the many hardworking and dedicated professionals of DISD, for his commitment to education and to children.

TAMAR STIEBER WINS PULITZER PRIZE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. RICHARDSON. Mr. Speaker, it gives me great pleasure to share with you the news that a New Mexico reporter has won a prestigious Pulitzer Prize.

Tamar Stieber of the Albuquerque Journal has been awarded the 1990 Pulitzer Prize for specialized reporting. Tamar is being recognized for her outstanding reporting detailing the problems associated with L-tryptophan. It was Tamar who broke the story connecting the dietary supplement L-tryptophan with a blood disorder. Tamar's stories led to the nationwide recall of the once popular dietary supplement.

It was Tamar's convincing stories which led me to introduce legislation banning L-tryptophan. Before the Congress had a chance to act on my bill, the Food and Drug Administration called for a voluntary recall of L-tryptophan.

Tamar's outstanding and persistent effort at pursuing this important story accurately reflects the excellent quality of journalism practiced by reporters, editors, and staff at the Albuquerque Journal. The Journal's exceptional editorials and superb local, national, and international coverage should serve as a model for many of our Nation's newspapers.

My congratulations are extended to Tamar and to her colleagues at the Albuquerque Journal. It was a job well done.

Attached for my colleagues review is an article which appeared in the Journal North, which is the Albuquerque paper's Santa Fe edition, detailing Tamar's Pulitzer Prize celebration.

NORTH STAFFER WINS HIGHEST HONOR

L-TRYPTOPHAN STORIES BROUGHT NATIONAL RECALL

(By Johanna King)

ALBUQUERQUE—Journal North reporter Tamar Stieber won the Pulitzer Prize Thursday for her series of articles linking a rare blood disease to the dietary supplement L-Tryptophan.

The stories, which ran in the main editions of the Albuquerque Journal, led to a national recall of the over-the-counter dietary supplement that had been used widely for more than a decade.

"This is a great thing for the Journal North Bureau, which is a close-knit group of really quality journalists," said Stieber's boss, Journal North editor Tim Coder.

Last November, Coder assigned Stieber to what he thought was another flu story.

"She took it and ran with it," he recalled.

"Tamar came back 24 hours later with information about three people who had taken the dietary supplement. Right then, we knew we had something that was potentially big."

Stieber wrote about three northern New Mexico women who had been taking L-Tryptophan and later were diagnosed with eosinophilia-myalgia syndrome (EMS). The rare blood disease causes incapacitating, often debilitating muscle pain. The women were taking L-Tryptophan for either insomnia or premenstrual syndrome.

Stieber interviewed several doctors and health officials who refused to link the disease with the dietary supplement, she said. Then she talked to Dr. Gerald Gleich of the Mayo Clinic.

"He's the one who was willing to say three women with the same symptoms taking L-Tryptophan was not a coincidence."

Coder, Stieber and Journal editors in Albuquerque decided not to run the first story until five days after it was written to avoid creating a public scare.

"We felt a responsibility to get the story right, to get it balanced," Coder said.

Stieber, 34, said she didn't realize she had written a Pulitzer Prize winner.

"It was an everyday, daily story," Stieber remembered. "I was trying to meet deadline. I was trying to get the facts right."

Since the first story ran on Nov. 7, at least 1,463 EMS cases, including 21 deaths, have been linked to L-Tryptophan, according to the Centers for Disease Control in Atlanta. Thirty-three cases have been reported in New Mexico.

A couple of weeks after the first story ran, the U.S. Food and Drug Administration called for a national voluntary recall of products in which L-Tryptophan is the major component.

"There was a lot of human suffering as a result of this disease," Coder said. "We hope in some way we alleviated some of it or prevented more suffering."

Stieber, who has been with Journal North about a year, said she was speechless when she first learned that she had won the coveted award.

"I'm totally dazed," she said.

The Pulitzer Prizes, recognizing outstanding work in journalism and the arts, are presented annually by Columbia University.

Bob Christopher, the administrator of the prizes, said the 16-member panel of judges "honed right in" on Stieber's stories because of the initiative shown in the reporting and their national impact.

"In some categories, there's a lot of debate. There wasn't on this one," he said.

Stieber says she owes a debt of gratitude to her Journal North colleagues for pitching in to cover her beats so she could concentrate or the L-Tryptophan story.

"Not only did they not resent it but they gave me support and were very excited about the story," she said. "They're a great bunch of people—and journalists."

Stieber has worked for the Journal for 10 months and has been a full-time reporter since 1987, where she began working for the Sonoma Index-Tribune in California.

TINKERING WITH SOCIAL SECURITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert a recent article by Representative ANDY JACOBS into the CONGRESSIONAL RECORD. Mr. JACOBS is a leading expert on Social Security, and I found his comments on this issue thoughtful and informative. I recommend the following article as important reading to all my colleagues.

[From the Indianapolis Star, Apr. 3, 1990]

TINKERING WITH SOCIAL SECURITY

(By Andy Jacobs, Jr.)

Truth is elusive and its interpretation the prerogative of each individual in a free society. It therefore should not be surprising that opinions differ about a current proposal to repeal one of the most prudent parts of the Social Security bailout law.

Because of the stiffest recession since 1929, the Social Security system in 1983 was on the verge of having insufficient funds to meet its obligations. Ronald Reagan, Tip O'Neill and Bob Dole struck a three-part compromise to make Social Security secure. Retirees with incomes above a certain level would pay income tax earmarked to one-half their Social Security benefits, and workers would pay gradually more in Social Security taxes both for obligations to current retirees and to make an additional investment to meet the surge in claims anticipated when the baby boomers would retire 30 years later.

The current proposal to repeal the investment part raises some serious questions.

Are Social Security surpluses being used to obscure the magnitude of annual additions to the national debt? Yes.

Can this subterfuge be stopped without discontinuing the process wisely begun in 1983 to build up a Social Security nest egg for baby boomers when they retire in the next century without enough people left in the work force to make the traditional "pay as you go" arrangement work? Also yes.

The scheme to have Social Security surpluses create the illusion of smaller federal government deficits is called the unified budget. It was the crafty invention of the Johnson administration to hide the cost of Vietnam by pretending that income to the federal trust funds is income to the regular government accounts, which are called the federal funds budget.

Subsequent administrations and congresses have used the same ledger legerdemain to mask the excesses of their deficit spending.

The way to end the practice of pretending Social Security surpluses are income to the regular federal government is not to repeal the surpluses, but simply to repeal the unified budget law and thus go back to the pre-Johnson days when federal trust funds were officially reported for what they are: self-financing entities distinctly separate from the operating budget of the U.S. government.

Contrary to popular myth, the Social Security surplus is not being used to reduce the national debt. It is part of the national debt. The surplus is not being spent to pay

current operating expenses of the federal government. Proceeds from interest-bearing bonds purchased with Social Security surpluses are being spent to pay current operating expenses of the federal government.

If you put $1,000 in the bank and I am foolish enough to borrow $1,000 from that bank to go on vacation, am I merely spending your money? Or am I the reason your money is earning interest for you?

How is it that U.S. government securities are "junk bonds" when it comes to Social Security trust funds investment, but the same securities, according to the best informed investment authorities, are the safest investment possible when it comes to everybody else?

From the very beginning of the system, Social Security trustees have been required by law to invest the surpluses in U.S. government securities for the obvious reason that the ship of state would be the last to go down. And with one unfortunate mid-1980's exception, which was quickly corrected by Congress, every president has kept faith with the law.

I may borrow $1,000 for a vacation, but the important question for you is whether your bank has made the loan to someone who will pay it back on time and with interest.

Social Security Commissioner Gwen King is on the right track when she says the important question for Social Security participants is whether the federal government is so bogged down with debt to everybody else that it won't be able to pay the bonds held by Social Security. Right now the loans from Social Security amount to about 5.6 percent of the common debt. But if the federal government doesn't start living within its means, it will have to scrape hard to pay the principal and interest it will owe to the trust fund for the baby boomers when they retire.

The key to keeping the future bearable in this regard is for the federal government to stop borrowing money from others, especially foreign others to whom Uncle Sam is now paying effectively higher interest rates than are being paid to his own citizens on the same kind of securities.

We should start paying off the entire debt by installments of 2.5 percent annually so that the pain from past profligacy can be spread evenly over the next 40 years. The money would be paid back to investors who could be expected to reinvest in the private sector and boost our capacity to produce.

Regarding the proposal to rescind the decision to save for the baby boomers' future, what has changed since 1983?

The Social Security tax is no more regressive now than it was then. The "weighted" benefits are no less progressive. The sham of a unified budget is no more deceiving now than in 1983. In fact, it is less deceiving. Despite the unified budget gimmick, the real federal government operating deficit this year is $270 billion, not the $165 billion proclaimed by the government.

But let's suppose we did rescind the part of the Social Security tax being used to build up the next egg. Does anyone really believe the federal government would borrow less? Or would it borrow a greater amount from the Japanese?

And what would happen in the 21st century when the dramatically reduced workforce could not contribute enough in payroll taxes to cover the baby boomers' benefits, and the U.S. Treasury did not have a legal obligation to pay off bonds held by the trust fund? Would the government operating budget, with its broader-based tax, rescue the bankrupt system without changing it from the dignity of earned rights into a hat-in-hand welfare system?

It has been proven that the political process can sell a lot of fantasy, but even the U.S. government cannot repeal reality. And the reality is that while enticements to stop building up the baby boomers' retirement fund are tempting, they invite a course that is hell-bent for disaster.

BISHOP KEOUGH HIGH SCHOOL HISTORY CLASS EARNS STATE TITLE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Tracey Buglio, of Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: presentation, overall knowledge of the Constitution, and application of the principles of the Constitution.

For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Tracey and her classmates were able to achieve excellence. Tracey and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Tracey Buglio and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Tracey and her classmates good luck in the national competition.

THE WAR ON DRUGS WILL BE WON THROUGH DEMAND REDUCTION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. STARK. Mr. Speaker, I believe it was the Bush administration Attorney General who said, "if you want to lose the war on drugs, leave it just to law enforcement."

He's right, for the truth of the matter is that regardless of the exceptional work and commitment of thousands of law enforcement men and women, we simply cannot prosecute our way out of this problem. We can do worthwhile short-term items like greatly expand the State and local law enforcement grant funding program, and I've commended the administration for improving the distribution of these funds this year. We not only increased the total funds, we shortened the length of time involved in getting the funds to the front lines.

Regardless, it's time we looked at the drug problem as not only a law enforcement problem, but a health problem as well. The men and women of law enforcement on the front lines realize this, and recent testimony before Congress brings it home.

The primary successes in our efforts have been achieved on the demand-side of the equation. The enhancement of drug education awareness programs, improvements in drug treatment services, and the expansion of drug prevention programs like law enforcement-supported Project D.A.R.E.

The international drug fighting community has collectively come to realize that the only way to win a war on drugs in the long-term is through better, expanded demand-side solutions. The Christian Science Monitor's coverage of the recent international summit held in London is encouraging. I offer it to my colleagues for consideration:

[From the Christian Science Monitor, Apr. 16, 1990]

DRUG SUMMIT FOCUSES ON CURBING DEMAND

(By Alexander McLeod)

"If words could win wars, the international drug crisis would be over already."

The remark came from an Australian at a three-day world ministerial drug summit in London at which 112 nations committed themselves to a renewed attack on the abuse of chemical substances—in particular, cocaine.

But the gathering—sponsored by Britain, the United Nations, and the World Health Organization—promised more than the delegate's sardonic comment suggested.

David Waddington, Britain's home secretary, chaired the proceedings and warned at the outset that the worldwide campaign against hard drugs had been losing ground. What was needed, he said, was new thinking and new approaches.

By this measure, the conference, which cost £1 million ($1.6 million) to stage, may turn out to have been a bargain.

There was impressive support for a swing from excessive reliance on curbing the supply of hard drugs toward curbing demand, by alerting people to what Prime Minister Margaret Thatcher called "the terrible consequences of drug abuse."

Her six-point strategy outlined to the conference, and later adopted, included:

A renewed drive to persuade young people that drugs are a peril.

Explicit advertising and publicity to deter potential addicts.

A strengthening of family ties, with the aim of creating barriers against loneliness and deprivation.

Earlier identification of the symptoms of drug abuse.

Improved treatment of those already dependent on drugs.

Total resistance to calls that drug taking should be made legal.

The British prime minister declared: "Reducing demand may be less dramatic and newsworthy than arresting traffickers, but without customers, the drug traffickers would soon be out of business."

United Nations Secretary-General Javier Pérez de Cuéllar noted that the Thatcher strategy was a logical follow-up to last February's drug summit at Cartagena, Colombia, attended by the United States and the three Andean cocaine-producing countries.

He said the need was to strike a better balance between halting international drug trafficking and hitting at the economic, social, and psychological factors that result in people deciding to obtain and take drugs.

The magnitude of the task of eradicating drug abuse worldwide was brought home to conference attendees over and over again.

According to UN estimates, the trade is now worth $500 billion a year—more than the global profits of the oil industry, another product whose marketing is controlled by a cartel.

Last year, 200 tons of cocaine were seized by police and customs officials around the world. But a US delegate said that that represented only a fraction of the global trade, which still appeared to be on the rise.

In pursuit of the strategy of persuading young people to avoid drugs, the Thatcher government has decided to target seven areas of Britain where, abuse is a major problem.

Local drug prevention teams will set to work in Birmingham, Brighton, Liverpool, and four London boroughs.

The teams will cooperate with central and local government agencies to produce what a Home Office minister called "a coherent policy to help young people to resist being drawn into the cycle of drug abuse."

If successful, the seven pilot schemes will become models for a more extensive antidrug network in many parts of Britain, the minister said.

Similar programs in the Netherlands have shown encouraging results.

Although the swing away from curbing supply toward reducing demand was probably the most significant development at the drugs summit, there was plenty of stress on the continuing need for watchfulness as new narcotics routes are developed by the traffickers.

About half of the drugs entering Europe, the conference learned, came via Spain, but there was a new trend: the opening up of a "Balkan corridor" for heroin from India and Pakistan.

Douglas Tweddle, Britain's chief customs investigation officer pinpointed Czechoslovakia, Bulgaria, Romania, and Yugoslavia as countries that needed to be carefully watched.

Another unwelcome trend, identified by Antonio Gava, the Italian interior minister, is that criminal teams from South America are setting up laboratories in Europe and using them to process coca paste into cocaine, which is later distributed widely in European countries.

Statistics show that seizures of cocaine in Europe are increasing. They rose from 2,400 kilograms in 1987 to 6,100 kilograms last year.

But, according to an Interpol report mentioned at the conference, the total movement of cocaine into Europe has also been increasing rapidly.

The implication of this, according to a French delegate, is that higher seizures merely reflect the growth in the European narcotics trade.

BUDGET LATE AGAIN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. PORTER. Mr. Speaker, most Members probably don't realize that an important legislative deadline passed this weekend without being met. Of course no one should feel bad about not knowing. For some reason, the powers that be here in the House don't say much about certain deadlines.

What was the deadline? By Sunday, April 15, according to the Balanced Budget and Emergency Deficit Control Act of 1985, the House was supposed to have completed action on the concurrent resolution on the budget.

The appropriations process cannot properly begin until the budget is adopted, but once again we have missed the deadline and are on target for another year of budget blunders.

With 6 months to go before our target adjournment date we are laying the groundwork for another continuing resolution by ignoring budget deadlines. This is irresponsible and just plain dumb.

There is still time to get on track and complete action on all 13 appropriations bills before the target adjournment date in October, but we need a budget to do this and we need one now.

A TRIBUTE TO LLOYD MICHAEL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a gentleman who has made a significant and critical difference to the people of southern California, Lloyd Michael of Alta Loma. On April 28, 1990, he will be honored upon his retirement for his many years of service to the community as general manager of the Cucamonga County Water District.

Lloyd Michael was born in Pomona, CA, on August 20, 1923, and attended grammar schools in LaVerne and Ontario, graduating from Chaffey High School in 1941. Following high school, he attended California State Polytechnic in San Luis Obispo. He enlisted in the U.S. Army Air Corps in 1942 and spent over 2 years in Europe during the war years. Shortly following his enlistment, Lloyd married Marian Kramer. They are the proud parents of four children—Dennis, Marianne, Anita, and Virginia—and six grandchildren.

Lloyd Michael was a general contractor in partnership with his father-in-law, operating Kramer Quality Construction from 1946 to 1952. He was the owner/operator of the Euclid Avenue Lumber Co. from 1952 to 1960 and owner/operator of citrus groves from 1950 to 1972.

Michael became a member of the board of directors of the Cucamonga County Water District in 1968 and served as president of the board for 2 years. In August 1972, he was appointed general manager of the Cucamonga County Water District.

Michael is a member and past president of the Rancho Cucamonga Rotary Club and a Paul Harris Fellow. He is presently serving on the San Antonio Community Hospital Foundation board of directors. For 12 years, he served on the Alta Loma School District board of trustees, several years as president. He is a charter member and past president of the Ontario/Upland Optimist Club as well as a member of the Rancho Cucamonga Chamber of Commerce. In addition, he is a past president of Orange Belt Lumbermen's Association and is involved with several mutual water company boards as well as citrus packing house boards.

Mr. Speaker, I ask you and our colleagues to join me today in recognizing the many achievements and contributions made to our community by Lloyd Michael upon his retirement. His commitment and hard work over the years has clearly made a difference to us all.

HONORING OUR VOLUNTEERS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LAGOMARSINO. Mr. Speaker, since we will be observing National Volunteer Week next week, I want to take this opportunity to recognize a special group of volunteers, the Community Memorial Hospital Auxiliary of Ventura, CA.

These volunteers serve selflessly, providing our greatest natural resource—human resource, to a world of need.

Each year, volunteers give freely of their time, energy, and talent. The only payment they seek is the thank you or a smile that comes with a job well done.

In my part of California, there is a long tradition of men and women volunteers who perform work of the highest quality. They brighten the lives of others while helping to create a healthy, productive, and humane society.

On behalf of myself, the people of Ventura, and the U.S. House of Representatives, I take great pleasure in honoring the volunteers of the Community Memorial Hospital Auxiliary and know my colleagues will join me in saluting their dedicated, compassionate, and continuing efforts.

TRIBUTE TO INSURANCE WOMEN OF TRUMBULL COUNTY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the insurance women of Trumbull County who will be participating in National Insurance Women's Week, which runs from May 20 through May 26, 1990.

Professional insurance women have made significant contributions to the insurance industry. They have been extremely effective in

promoting public awareness of important issues such as tort reform, automobile safety, and the problem of drinking and driving.

There are more than 20,000 women in the professional insurance industry. They have made outstanding contributions and have earned recognition for their significant accomplishments in the vital insurance industry.

Mr. Speaker, I would like to take this opportunity to praise the insurance women of Trumbull County for their exceptional work in the insurance industry. These hardworking women deserve recognition, and I am proud to support National Insurance Women's Week.

NURSES' WEEK IN THE 6TH DISTRICT OF PENNSYLVANIA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. YATRON. Mr. Speaker, today I rise to encourage my colleagues to join me in recognizing the invaluable contributions of the nursing profession to the health and well-being of the district's citizens. Nursing is a demanding occupation, and nurses are efficient, knowledgeable health care professionals who have assumed numerous leadership roles in the management and delivery of vital patient care services. Therefore, the week of May 6 through May 12 has been chosen as a time to honor these dedicated nurses, and to give their contributions and hard work the special recognition and praise they so richly deserve.

The nursing profession is fully committed to the promotion of health, the prevention and eradication of disease, and the delivery of quality health care. the competence and skill of the district's nurses is evidenced by high quality of our daily lives.

Dramatic changes are occurring in the way that we meet and pay for our health care needs. Simultaneously, the emphasis on cost effectiveness, and the rapid growth of medical technology, have given new meaning and direction to nursing care. Nurses have met the challenges of the rapidly evolving health care system while continuing to provide safe, conscientious, dependable, and compassionate care for all. Their tenacious and selfless efforts to serve humanity deserves to be given special appreciation.

Mr. Speaker, it is indeed a pleasure for me to recognize these invaluable health care professionals before you and the other Members of the House of Representatives, as well as the rest of the Nation. I urge my colleagues to join me in saluting the nurses of the Sixth District of Pennsylvania, and all nurses across the country, for their dedication and efficiency. Moreover, I wish all nurses continued success and good fortune in the future.

TRIBUTE TO STUART C. KROESCH

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SANGMEISTER. Mr. Speaker, it is with great pride that I rise today to pay tribute to an outstanding citizen of my district and a longtime friend, Stuart C. Kroesch of Joliet.

Stuart C. Kroesch has a long and exemplary history of service to his fellow man, both in the public and private sector. In the 50 years since he was admitted to the Illinois Bar, Stuart Kroesch has used his ample legal skills for the betterment of his community.

He has served on the criminal justice committee of the Will County Legal Assistance Program and as a member of the Joliet Elementary School Board in the 1950's. He has also been active in the Easter Seal Rehabilitation Center, the Will County United Way, and the Illinois and Will County chapters of the Humane Society.

His civic and professional memberships include the Will County, IL and national bar associations, Toastmasters, and the City Club. Mr. Kroesch is also appreciated by those who work for him, as he has been honored as "Boss of the Year" by the National Secretaries Association and the American Business Women's Association.

Among all of his good works, Mr. Kroesch can point proudly to his 41 years of membership in and legal assistance to the Joliet chapter of the National Association for the Advancement of Colored People. He became involved with the NAACP when the cause of civil rights for African-Americans was much less popular than it is today. Since 1949, Mr. Kroesch has provided technical assistance to the Joilet NAACP on many occasions.

Mr. Kroesch's championing of the disadvantaged and disenfranchised is all the more inspiring when you consider he has overcome his own disadvantage, blindness.

In view of Mr. Kroesch's years of unselfish contributions to his community and the NAACP, he will be honored with a life membership in the organization at its Freedom Fund dinner April 28.

Mr. Speaker, the people of Joliet are fortunate to have a community-minded gentleman like Mr. Kroesch to remind them that not all of their fellow citizens have equal opportunities and advantages. I salute my friend Stuart C. Kroesch on receiving this honor and wish him well in the future.

KANSAS STUDENT WINS IN SCRIPTWRITING CONTEST

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. MEYERS of Kansas. Mr. Speaker, each year the Veterans of Foreign Wars and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. I am pleased that one of the top 12 winners in this year's contest is Tyson Brumbaugh Cram of Overland Park, KS.

Participation in the event has grown to 137,000 students competing for $56,000 in scholarship money. This year's theme for the contest was "Why I am Proud of America."

Tyson, a high school senior at Shawnee Mission West, eloquently captures the essence of the American people. I wish to congratulate him in bringing to our attention that which truly makes America great. The text of Tyson's speech follows:

WHY I AM PROUD OF AMERICA

(by Tyson Cram)

The Little Blue Engine looked up at the hill. His light was weak, his whistle was shrill. He was tired and small, and the hill was tall, And his face blushed red as he softly said, "I think I can, I can, I can, I think I can." So he started up with a chug and a strain, And he puffed and pulled with might and main. And slowly he climbed, a foot at a time, And his engine coughed as he whispered soft, "I think I can, I think I can, I think I can!" With a squeak and a creak and a toot and a sigh, With an extra hope and an extra try, he would not stop—now he neared the stop—And strong and proud he cried out loud, "I think I can, I think I can, I think I can!" He was almost there, when—CRASH! SMASH! BASH! He slid down and mashed into engine hash on the rocks below . . . which goes to show if the track is tough and hill is rough, THINKING you can just ain't enough!

This simple little poem, by Shel Silverstein, demonstrates the main reason why I am proud of America. Though we occasionally make the wrong decisions, or at least, unwise ones, we are always certain in what we do. When we are finished debating about whether or not to do something, we act. There is no insecurity involved. Although we are not always right, at least we know that we are doing our best. We do not try; we do.

With all of the problems that plague the American people—hunger, the homeless, crime, poor education—it is amazing that we have been able to last as long as we have. But when one realizes that we have brought our country to this level of technology in a mere two hundred-odd years, we must be proud of America. We have accomplished more in a couple of centuries, with a new form of government, than has any other country in the world. And all of this because we did not try; we did.

We have truly accomplished. We have abolished the concept of slavery, and our example has echoed around the world. Now, Saudi Arabia is the only country in the world where slavery is still legal. We have reduced our crime rate. Although we are still bothered by crime and probably always will be, the problem is nowhere near as the crime rate in the late 1920's and early 1930's in metropolitan areas such as Chicago.

But what stands out for me is the fact that we do not try to help people; we do help people. It is impossible now to travel throughout the United States without seeing an advertisement or a bulletin for one cause or another, be it new organizations such as Greenpeace or Amnesty International, or even older organizations like the United Way and the Salvation Army.

When the San Francisco area was plagued by earthquakes, the American people banded together to help. Thousands of dollars worth of food and clothing, as well as

money, were sent to those whose homes had been destroyed by this catastrophe. And, even earlier than this, the Americans showed their support when Baby Jessica fell down a well in Texas, and no one knew whether she was alive or dead.

But we do not limit our support to the United States. We are not only concerned with our own country; we make the world a better place as well. We send tons of grain to other countries every year, countries that need our support, as well as food.

And isn't that most important? Isn't caring about others, others less fortunate than ourselves, what America is all about? America was founded by outcasts and refugees from larger uncaring nations; who better to understand and be empathetic to the agonies and injustice suffered by others?

Unlike the Little Blue Engine, we do not try to succeed; we do succeed. If we can't get over the hill, we will go around it or cut through it. We know that no matter what, we will get through. For we know that, all in all, "Thinking you can just ain't enough!"

IN HONOR OF MAX J. SCHMIDT

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LOWERY of California. Mr. Speaker, I rise today to call the attention of my colleagues and the American people to the accomplishments of a distinguished San Diegan.

Max J. Schmidt is a remarkable individual who has dedicated himself to the betterment of his community and fellow San Diegans. His efforts have been instrumental in the design and development of San Diego County, and his devotion to public service is truly commendable.

Max was born on February 21, 1926, in Burglenfeld, Germany. Shortly after his birth, the Schmidt family emigrated to the United States and settled in Wisconsin. Max later obtained a degree in landscape architecture at the University of Wisconsin.

Like many great Americans of our age, Max began his adult life in service to his country. He joined the old Army Air Corps in 1944 and completed a tour of duty in the South Pacific.

In 1951, Max moved to San Diego and would spend the next 39 years changing the environment of all of its citizens. After working briefly as a landscape architect, he hired on as a planner for the county. He soon moved on to become a supervising planner with the San Diego City Planning Department, which was responsible for transforming a modest, undeveloped community into a modern, Sun Belt city.

Through his work with the planning department, Max has helped shape San Diego into one of America's most beautiful and livable cities. Anyone who has visited Mission Bay, Mission Valley, or Centre City has seen his vision and felt his genius.

For the past few years, Max has overseen the engineering and planning functions of the Centre City Development Corp., where he has been one of the major designers of the revitalized downtown district, its convention center, Horton Plaza, and several residential parks.

Mr. Speaker, in many ways, we have Max to thank for making San Diego a thriving, inviting, urban center. His remarkable work will touch San Diegans today and every day for the rest of their lives. Please join me in honoring this farsighted, dedicated American.

IN RECOGNITION OF LT. STEPHEN R. CHAPIN, JR., U.S. NAVY

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. BYRON. Mr. Speaker, it gives me great pleasure today to pay tribute to my constituent, Lt. Stephen R. Chapin, Jr., U.S. Navy. In May, he will be leaving his position as congressional liaison officer for the Secretary of the Navy to the House of Representatives.

I nominated Lieutenant Chapin for appointment to the U.S. Naval Academy in 1981. He distinguished himself as a midshipman, graduating 20th in a class of 1,049. He also excelled as a battalion commander and as a member of the varsity cross country and track teams. A secretary of the Navy distinguished graduate, Lieutenant Chapin earned the Class of 1912 Award as the Naval Academy's top political science graduate. In addition to his bachelor's degree from Annapolis Lieutenant Chapin also earned a master of arts degree in political science from Georgetown University.

Following graduation, Lieutenant Chapin completed the Navy's surface warfare officer school and was assigned as ordnance officer, damage control assistant, and auxiliaries officer on U.S.S. *Doyle* (FFG39). Lieutenant Chapin's outstanding service on *Doyle* included several deployments as part of the Navy's expeditionary force to the Mediterranean Sea, Indian Ocean, and Persian Gulf.

Based upon his proven performance as a fully qualified surface warfare officer, Lieutenant Chapin was selected to represent the Navy on Capitol Hill. During his tour, many of my colleagues and I have come to rely on his excellent support. It is my understanding that upon completion of his current duties, Lieutenant Chapin will transfer to the Naval Reserve and return to his roots in Maryland. He will continue his public service in the best tradition of our Nation's citizen-soldier.

Lieutenant Chapin's dedication and commitment to the Navy and the Nation will be missed. It gives me great pleasure today to join with his family and friends in wishing Lieutenant Chapin success and happiness in all of his future endeavors.

MRS. MARGARET ORTINAU-SIMONS TO RETIRE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HYDE. Mr. Speaker, during her 19 years of devoted and nurturing service to handicapped children and young adults, Mrs. Margaret Ortinau-Simons has illustrated once again that hardworking, conscientious individuals can have a major impact in this world.

On Friday, April 20, friends, family and colleagues will gather at the Grand Swiss Hotel in Chicago to mark her retirement from Ada S. McKinley Community Services, Inc. and celebrate her years of service to some very exceptional people. Retirement sometimes has a bitter-sweet flavor. Sweet because of the recognition of hard work and responsibility, yet bitter with the realization that those years of challenge are completed.

Margaret began her career with McKinley in 1971 and rose through the organization to become director of the Division of Family Services and Schools. Her efforts have resulted in development or expansion of programs benefiting developmentally disabled, mentally retarded, and behaviorally disordered children of all ages, foster children, poverty level, and delinquent youths.

She has helped shape legislation at the State and Federal levels to cope with the needs of these children, and has served as a consultant to the U.S. Department of Education, the Illinois State Board of Education and on a number of State and locally-sponsored education task forces.

Margaret is the past president of both the Illinois Affiliation of Private Schools for Exceptional Children and the Chicago Council for Exceptional Children. She has served as a visiting faculty member at Chicago State University, Northeastern Illinois State University, and Northern Illinois University. She is active in the United Way of Metro Chicago.

Margaret lives in Elmhurst, IL, with her husband J. William Simons. With her first husband Clarence J. Ortinau, who is deceased, she is the mother of two sons and is the grandmother of eight.

Despite her retirement from McKinley, I don't expect Margaret to shirk from a new frontier. I suspect she is making plans for some new endeavors, and I wish her all the best.

TRIBUTE TO GREAT NECK NORTH HIGH SCHOOL AND THE SCHOOL COMMUNITY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SCHEUER. Mr. Speaker, the quality of education provided by America's public elementary and secondary schools has been the subject of heightened nationwide concern, debate, and discussion in recent years. We live in an era when millions of our youth are graduating from school as functional illiterates, many unable even to achieve minimum competency in basic subjects. Worse yet, millions of our young people are leaving school without even graduating.

Against this ominous backdrop, there are, of course, individual schools that stand out as sterling exceptions—as educational institutions where much learning does take place, where young people are encouraged to excel academically and do. The John L. Miller Great Neck North High School in Great Neck, Long

Island, is widely regarded as among the Nation's finest secondary schools, by such esteemed organizations as the Carnegie Foundation and the Institution for Educational Leadership at George Washington University, as well as by the National Association of Secondary School Principals.

While statistics in and of themselves may not always be all that revealing or important, the fact that over 70 percent of Great Neck North High School's more than 1,000 students achieve a "B" average or better—and that 84 percent of its most recent graduating class have opted to obtain a higher education at 4-year colleges and universities, including many of our Nation's most prestigious institutions of higher education—is certainly indicative of something very positive. These statistics alone speak volumes about the school and about a community of families that instill the importance of education in the minds of their children.

Although the fact that 129 members of Great Neck North's Class of 1989 earned New York State Regents Scholarships, and that two were awarded highly coveted National Merit Scholarships, may be a testament as much to the students themselves and to their upbringing as to the school and its fine staff, there can be no doubt that the school has provided them with the tools, mechanisms, inspiration, and opportunities for academic achievement. Advanced placement examinations in 18 subjects were offered by the school last year, as well as creative alternative-education programs, remedial programs, and English-as-a-Second Language programs designed to meet the individual needs of particular segments of its student body.

But perhaps the most telling example of Great Neck North School's success is the fact that 97.2 percent of entering freshmen and women graduate, and do so in a school district where the educational standards are very high.

On April 29, Great Neck North High School will mark its 60th anniversary. I am pleased and proud to join with the students and staff of Great Neck North High School, as well as the Great Neck Union Free School District's board of education and central administration and the Great Neck Schools' community at large in honoring the school on this important day. More than that, I salute them for their commitment to—and diligence in fostering—school and home environments in which our young people are encouraged to learn and to become all they are capable of being.

SALLY REAMES, EXECUTIVE DIRECTOR, PORTAGE COMMUNITY OUTREACH CENTER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a constituent and very special friend of mine, Ms. Sally Reames, the executive director of the Portage Community Outreach Center [PCOC]. On April 18, Sally will be honored by her friends and colleagues as she leaves her position after 9 years of dedicated service.

Sally began her career with PCOC in 1981 and is leaving behind a remarkable legacy of community service and achievement. It all began with the recognition that transportation services were sorely needed by handicapped persons in the community. In 1981, PCOC was successful in securing funding for a van equipped with a wheelchair lift which provided over 360 one-way trips per month to Portage residents with no means of transportation. In 1982, PCOC expanded the focus of the agency to provide direct assistance—clothing, food, shelter, and financial aid—to individuals and families in crisis. This initiative developed into a self-help program. Under Sally's leadership in 1983, a successful capital fund drive was launched for construction of a new facility. In 1987, a latch key program evolved from the highly successful self-help workshops, and the agency's focus began to encompass activities for youth. These activities today include tutoring programs, volunteer opportunities, the "Hire a Teen Program," and recreations. In the same year, PCOC, under Sally's direction, brought together a committee of "cruisers," parents and business owners who actively work toward conflict resolution and development of positive alternatives to "cruising."

Mr. Speaker, over the years, Sally Reames' commitment to her community, and her amazing creativity and resourcefulness, have contributed greatly to improving the quality of life of countless numbers of Portage residents. The care and concern that have always been present in her approach to local problems have earned her the respect and admiration of all who have been privileged to work with her.

I know my colleagues will want to join with me in congratulating Sally Reames for successful leadership of the Portage Community Outreach Center these past several years, and in wishing her continued success and happiness in the years ahead.

AMERICANS WANT MORE, NOT LESS, ALTERNATIVES IN CHILD CARE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SOLOMON. Mr. Speaker, even as the juggernaut of child care legislation rolls on, it might be appropriate to pause and reflect on what people are thinking in the heartland of America, outside the beltway and the distortion of Washington special-interest politics.

To that end, it is my pleasure to enter in today's RECORD a recent editorial from my hometown newspaper, the Post-Star of Glens Falls, NY.

Like other, similar expressions of common sense, the editorial reminds us that the American people want less, not more, involvement by the Federal Government in the area of child care. Give American parents more, not less choice. Give them tax credits and vouchers that allow them to choose the method tailored to their needs, and the care givers with whom they feel most comfortable. We should discard immediately our presumption to know better than parents what is good for their children.

I commend this editorial to the attention of every Member.

[From the Post-Star, Apr. 2, 1990]

BUSH SHOULD STAND FIRM ON CHILD CARE

With a growing number of mothers entering the work force, Republicans and Democrats alike generally agree on the need to expand the scope of federal child care programs. But this good intention is being jeopardized by the exorbitant bidding war taking place on Capitol Hill.

Last year, President Bush put forth a reasonable proposal to provide poor families with income tax credits or cash payments of up to $1,000 a year for each child under age 4. The strength of this proposal is its sheer simplicity. People who most need the federal assistance would receive it directly and thus be better able to choose the day care most suited to their children. No large government bureaucracy would be created to administer the Bush program, and its total cost would be approximately $5 billion during the next three years and $2.5 billion per year thereafter.

Not surprisingly, Democrats in Congress promptly raised the child care stakes to extravagant levels.

Last summer, the Senate approved the Act for Better Child Care Services, which would cost $10.3 billion during the next four years. Although the measure contains a modest tax credit provision, many of the credits would go to middle-class families who are less in need of financial assistance. The bill would also create a cumbersome federal bureaucracy to administer government-established child care standards.

Last week, the House approved a five-year, $27.5 billion child care package. Like its Senate counterpart, the elephantine Early Childhood Education and Development Act proceeds from the flawed premise that the government must play a larger role in determining how families spend their child care dollars. Under the House bill, the government would decide who is qualified to provide child care services.

In addition to an expanded income tax credit, the bill would increase block grants to states for child care services and expand Head Start for disadvantaged preschool children. And it would establish a new program of care in schools before and after class for an estimated 10 million "latchkey" children whose parents work outside the home.

A House-Senate conference committee will soon begin to reconcile the differences between the two versions. Meanwhile, the White House has promised to veto either one of these fiscally irresponsible measures.

Mr. Bush is correct to dig in his heels on this one, because the bills are a modern throwback to the discredited Great Society philosophy that the only way to solve a social problem is to throw billions of government dollars at it. If the conferees are serious about seeing a child care bill become law, they will slash the price tag and remove the paternalistic provisions of the House bill.

To have a chance of being enacted this year, the legislation must concentrate on helping the working poor. That can best be done through the Bush strategy of expanded income tax credits or cash payments,

combined with vouchers to maximize parental choice.

Instead of trying to outbid each other, lawmakers should be formulating an affordable, compassionate child care policy that minimizes the role of government regulation. That is what President Bush called for several months ago. He should stand his ground until he gets it.

REMEMBERING RYAN WHITE

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FROST. Mr. Speaker, on Sunday, April 8, 1990, the Nation once again was reminded of how vulnerable is our population to infectious diseases and how very important it is to fight the causes of those diseases.

Young Ryan White of Cicero, IN, whose name has become known throughout the world, who symbolized this Nation's fight against the AIDS virus, lost his lengthy struggle to live.

Now is the time for Ryan's family to grieve; and, we join them in their grief. We have lost a handsome young American who, through no cause of his own, became infected with the AIDS virus, and fought courageously during that time of infection.

His death reminds us all that it is vital that we generously fund the research to find a cure for this disease. His death reminds us how fragile the human body truly is and how important it is to help those who find themselves in the same situation as Ryan White.

FOREIGN TRADE ZONES IMPROVEMENTS ACT OF 1990

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BARNARD. Mr. Speaker, as an original cosponsor of H.R. 4392, the Foreign Trade Zones Improvements Act of 1990, along with my colleagues, Messrs. PEASE and LEVIN and Ms. KAPTUR, I want to urge my colleagues to join with us in support of this important yet noncontroversial step forward in leveling the playing field in one aspect of our international trade dealings. The legislation we have introduced will make much-needed changes in the foreign trade zones program, which was originally designed to promote U.S. exports but which in many cases now encourages the use of imported products.

As chairman of the Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, I presided over hearings on the subject of foreign trade zones March 7, 1989 and prepared a report on the subject for the full committee entitled, "Foreign Trade Zones [FTZ] Program Needs Restructuring,"—House Report 101-363, Nov. 16, 1989. This legislation, together with the regulations recently proposed by the Foreign Trade Zones Board of the Department of Commerce, goes a long way to solve some of the problems we noted in our hearings and report.

The heart of the new legislation is the establishment of strict public interest criteria for the establishment of zones. The public interest in this area will now be defined for the first time, and will mean the national trade and employment interest of the United States. It is about time that any U.S. trade action, such as the granting of the benefits of a foreign trade zone, should reflect serious study of the impact of the particular activity on our trade deficit and our domestic economy. Too often in the past a zone has been granted where a showing is made of increasing employment in one area, even though there would be an equivalent reduction in employment in another area of our country by reason of the advantages gained by the foreign corporation from the zone.

This very situation occurred recently, when the Foreign Trade Zones Board granted a zone for a 2-year period to Yamaha for the manufacture of golf carts in Newnan, GA. What was never full understood was that the domestic competition for golf carts was two companies in Augusta, GA, and that granting a tariff advantage to Yamaha in Newnan, GA would only detract from employment in Augusta, GA. This makes no sense. Hopefully, this kind of error will not be repeated under the new legislation.

The Foreign Trade Zones Improvements Act of 1990 would accomplish other need reforms: it would speed up the process, which now takes months and years for a decision to be rendered; it would place the burden of proof on the FTZ applicant; and would require that new FTZ's be reviewed periodically. It would also add the requirement that the International Trade Commission render opinions as to the economic impact of proposed zones, thereby removing this process from the less competent and less independent Commerce Department.

This is a useful bill. I urge my colleagues to support it.

RONALD D. GRAY—GOLD AWARD WINNER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. EDWARDS of California. Mr. Speaker, the 1990 Gold Award Ceremony of The Congressional Award was held on March 27 in the Cannon Caucus Room.

Fifty-two fine young Americans were honored at an impressive ceremony, with Senator MALCOLM WALLOP of Wyoming presenting the gold medals.

The Congressional Award was created by Congress in 1979 to recognize voluntary public service, personal development, and physical fitness achievements by young adults ages 14 through 23.

A person can be recommended for a Gold Award if he or she is at least 18 years old but has not reached his or her 24th birthday and has completed 800 activity hours within a minimum of 24 months. I was very proud that one of my young constituents, Ronald D. Gray of Fremont, CA, was the recipient of the Gold Award.

In the booklet printed for the Congressional Award ceremony Ronald Gray's impressive achievements were described as follows:

Ronald volunteered to teach scouting skills to youth and helped maintain Boy Scout Camps, including reroofing huts at Camp Royaneh. He also helped transport patients at the Veterans Administration Hospital to obtain medical care within the hospital, and offered companionship to the elderly. Ronald is a valued employee at Golden Gate Auto Auction in Fremont, where he has become a trained tow truck operator, organizes storage of vehicles on 48 acres of property and processes redemption paperwork, as well as carrying out auction procedures. He is actively involved in Indian dancing and competed in the National Order of the Arrow Conference in Colorado Springs, Colorado, representing the Bay Area council.

Ron's advisor, Jay Schmitz, says, "Ron not only works the long 8 to 10 hours days, but then entertains new and old members by participating in Indian ceremonies and dances to honor special events . . . I am proud to recommend him for the Gold Congressional Award."

At the ceremony I had the honor of escorting Ronald to the podium where Senator WALLOP congratulated Ronald and placed the gold medal around his neck.

Ronald received applause from the audience, several hundred in attendance, including his proud parents, Mr. and Mrs. Robert Gray.

Mr. Speaker, it was indeed a thrill and an honor for me to participate in this moving ceremony, and I'm sure that you join me in congratulating Ronald Gray for his significant achievements.

JOHN HENRY FAULK, GENUINE AMERICAN HERO AND FRIEND OF THE CONSTITUTION

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BRYANT. Mr. Speaker, an American hero died on Monday, April 9, 1990. "The U.S. Constitution lost a staunch friend," the Dallas Times Herald appropriately observed in an editorial, "when Texas author-humorist-actor John Henry Faulk died of cancer at 76. Thanks to John Henry Faulk and people of his rare mettle, liberty endures."

My friend John Henry Faulk was a courageous fellow. His heroics were not on a battlefield, but in courtrooms and conference centers and concert halls, where he brought to life the Constitution and the Bill of Rights he loved so dearly.

A rising young star in the rising young medium of television, John Henry Faulk knowingly chose principle over acquiesence to fear and intimidation. Although he knew neither he nor his associations were loathsome, dangerous, or un-American, he knew that attacks upon both by the blacklisters and hatemongers of the McCarthy era were still greater attacks on his beloved Constitution and Bill of Rights.

Knowing very well that he would lose his job, his opportunity for remunerative employ-

ment, and very possibly his freedom, John Henry Faulk fought back. Not so much for himself, I believe, as for every other American and "a system based on courage."

His travails are well documented in his appropriately titled autobiography, "Fear on Trial." Because John Henry Faulk had the courage not only to say no to, but to forcefully challenge, the blacklisters and hatemongers and their campaigns of intimidation and guilt by association, fear lost.

John Henry Faulk's courage—the courage that made this Nation possible and the example that encouraged courage in others at a time when there was precious little in our Nation—prevailed.

He won the largest libel judgment in history, but that didn't mean he aspired to be or became rich. He never realized a penny from his victory.

He stopped some of the blacklisting, but that didn't mean he regained his job or his promising future at CBS. He did not.

What he did achieve was what he most wanted to prove. That the Constitution, along with the liberties it promises, is the most outstanding and powerful democratic document in the history of the world—one which guarantees every citizen a chance to speak and associate freely and to right wrongs.

John Henry Faulk righted a serious and dangerous wrong, not for himself, but for the future of America.

In spite of being scorned and excoriated publicly and privately, in spite of being deprived of the fame and fortune that likely would have been his if he, like so many others, had acquiesced to fear, John Henry Faulk never waivered in his faith in America or its Constitution. And never, along the way, did he lose his humor, striving always, as he has noted, to puncture pomposity.

John Henry Faulk's courage inspires courage.

Molly Ivins, another dear friend of John Henry Faulk, paid tribute to humble giant of a man in a recent column that I would like to share with you.

[From the Dallas Times Herald, Apr. 11, 1990]

WHEN OTHERS BUCKLED, JOHN HENRY FAULK STOOD STRONG

(By Molly Ivins)

AUSTIN.—John Henry Faulk, God bless him, went and died at the age of 76, leaving the Great State shy of a freedom fighter the like of whom we've not seen since Sam Houston. They claim Faulk was the man who broke the blacklisting system during the McCarthy Era and your history books will say the same.

Ossie Davis, an actor who was a friend of Faulk and a fellow victim of the blacklist, got to recalling "the scoundrel time" not long ago, the days when you never knew who had accused you or what the charges were; you just couldn't ever get work again. Singers, dancers, actors, writers, a 7-year-old who was to play Helen Keller in "The Miracle Worker"—it made no difference.

"It reminds me of a famous photograph," said Davis, "that was printed around the world after the terrible earthquake that destroyed Tokyo in 1923. That was just after they had started to use steel in the construction of highrise buildings, and that picture showed a devastation, nothing but a sea of rubble left by this dreadful destructive force. Except for this one tall building, and the caption under the picture was 'Steel stood!' John Henry Faulk was like that building, all around him a sea of twisted wreckage and ruined lives, but John Henry stood. Steel stood!"

Johnny always said were it not for his vanity, he'd of been mortified to be called a hero, on account of he had so much fun facing up to the blacklisters. And whoever heard of a hero havin' more fun than the law allows?

Came from South Austin, Johnny did, out of an old Texas family, and was the son of one of those pure American non-conformists in the Tom Paine-Clarence Darrow tradition. His daddy was Judge Faulk, who was Eugene V. Debs' campaign manager back when the glorious old Socialist got more votes for president in Texas than the Republican candidate. On top of that, John Henry Faulk studied folklore at the University of Texas under J. Frank Dobie, one of the most independent spirits the Great State has ever produced: The two of them stayed close friends until Dobie's death in 1964.

In the late 1930s, Johnny Faulk got a Rosenwald Fellowship to travel around the South recording the folklore of rural blacks. His work is parked in the Library of Congress to this good day. Faulk specialized in the preachers of the Brazos River bottom: To the end of his life he could re-create the now lost art of "sing-preaching," a beautiful, rhythmic style of Bible storytelling once common in black America. John hated Hitler so bad, he got into the Army despite being one-eyed. He was on Christmas leave in New York City in 1945 when some executives from CBS heard him telling his Texas folk stories at a party and approached him about a job. That's how he got to be a semi-famous show-biz star. By the late 1940s, he had his own network radio program called "Johnny's Front Porch," featuring a ditzy assemblage of small-town Texans rather in the fashion of the later Broadway hit "Greater Tuna." Who are we to insist these people are too loopy to be believable? Have you checked the governor of Texas lately?

Plus being a radio star, Johnny Faulk was choppin' in the tall cotton in the early days of television as host of the morning news program on CBS, as a panelist on popular quiz programs; they said his down-home humor made him "the new Will Rogers." He got blacklisted for opposing the blacklisting system. He ran for union office in New York, the American Federation of Radio and Television Artists, on an anti-blacklisting platform. He had no sooner won than he was blacklisted himself. Instead of giving up, John Henry Faulk of South Austin, Texas, hired the best lawyer he could find and sued the scoundrels.

His case pitted two of the best-known trial lawyers of their day against one another in court. Louis Nizer defended Faulk, and Roy Cohn, former top assistant to Sen. Joe McCarthy, defended the blacklisters. It took six long years for the case to come to court, six years during which Faulk went broke, was reduced to sponging off his relatives and selling encyclopedias door-to-door.

The trial itself produced much high drama and a few moments of low comedy. (Faulk's book about the case, "Fear on Trial," was later made into a television movie starring George C. Scott as Nizer.) At one point Nizer forced John Henry, on the witness stand, to the saccharine, self-serving confession that the only prize he had ever won was a Methodist Sunday School Attendance Award—the implication being, "What the hell kind of communist can this guy be?" Faulk always recalled that Murray Kempton, who was sitting at the press table, almost urped on the spot.

The jury in Faulk's case reported back early to ask a peculiar question: Could they award the plaintiff more than he had asked for? The judge said he'd never heard of such a thing, studied his law books for a spell and then announced he could find no rule against it. So the jury gave John Henry Faulk $3.5 million, substantially more than he'd claimed, and it would be pleasant to report that justice triumphed and that the old freedom-fighter lived out his days in ease and plenty. Unfortunately, the blacklisters Johnny sued, a professional commie-hunting organization, AWARE Inc., which had been paid by the networks to "identify communists," was itself pretty-near broke by the time the case came to trial. (Justice delayed is justice denied.) Between the attorneys' fees and the expenses, John Henry Faulk barely saw a nickel of that settlement, but by then he had slowly begun to rebuild a career as an after-dinner speaker and as an authority on the First Amendment.

I s'pose John Henry could have lived on his laurels thereafter, boss hawg of the anti-blacklisters. Instead he too to preaching, in any forum from the Cattlemen's Association in the smallest Texas towns to the most prestigious universities in the country, on the history and true meaning of the First Amendment. And he was stronger than dirt on that subject. The many thousands of you who have heard him will never forget the guy who made you feel like Jamie Madison and Tom Jefferson were close personal friends of yours.

Never one just to preach on the beauties of the First, John Henry used it all his life long, used freedom of speech to denounce fascists and racists and a splendid assortment of knownothings and pinheads who sinned against the Bill of Rights. He was never against people he disagreed with: He was ever against those who cannot understand the beauty of disagreement.

Oh, damn, there's so much more I could write. About what he was like as a friend and a husband and a father and a lot of other human roles at which the great hero of the Bill of Rights was sometimes no more successful than most guys who fix Volkswagens for a living, even though he was a love of a guy. But whatthehell, Johnny Faulk, who was ever the first to laugh at his own frailties as a human being, did do something of great historical importance, put it down though he would himself. Like steel, John Henry stood. At a time no one else would. And honor him we should.

DEEPDALE GARDENS COMMUNITY COUNCIL

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SCHEUER. Mr. Speaker, I am sure most of my colleagues can attest to the fine services provided to their constituents by community councils and community centers located within their districts. Today, I rise to call your

attention to one such community council in my district.

For the past 30 years, the Deepdale Gardens Community Council has been providing a wide array of cultural, educational, recreational, and social activities for the adults, senior citizens, and youth in the northeastern section of Queens. Arts and crafts, first-aid instruction, basketball, handball and tennis, health lectures and screenings, and a supervised day camp are just a few of the many vital and enriching activities, programs, and services that have been provided to community members over the years.

Acting as a pseudo-"Y" or neighborhood house, the Seymour Perlmutter Community Center—operated under the auspices of the community council—also has opened its doors—at no cost—to neighborhood agencies and educational, health, and social organizations.

I commend the dedicated current and former board members and staffers of the Deepdale Gardens Community Council, Inc.—Seymour Perlmutter Community Center—on 30 years of distinguished service to the community.

Particularly deserving of gratitude is Chet Szarejko, its executive director. A teacher by profession, Mr. Szarejko has devoted much of his life to working with young people and has sought to instill in them the importance of getting involved in civic and community affairs, as he has. Under his stewardship, the Seymour Perlmutter Community Center has become a vital center of activity in the Borough of Queens.

TAKE TRANSPORTATION TRUST FUNDS OUT OF UNIFIED BUDGET

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. McEWEN. Mr. Speaker, for many years I have been actively seeking to enact legislation to take the transportation trust funds out of the unified budget and allow for a spend down of the cash balances which have accumulated in the trust fund accounts. This morning, I met with a number of individuals representing organizations that agree—we must take these funds offbudget in order to meet critical infrastructure needs and retain the competitive advantage that the United States has enjoyed for so long.

I would like this opportunity to share their letter of support with my colleagues.

AMERICAN TRANSPORTATION ADVISORY COUNCIL,
April 18, 1990.

Hon. BOB MCEWEN,
House of Representatives,
Washington, DC.

DEAR BOB: For over twenty years, dollars paid by highway users through the federal motor fuels taxes have sat idle in the Highway Trust Fund. Highways and bridges have deteriorated and become clogged because this country has not been using all of its available resources to meet highway improvement needs. Today, the balance in the Highway Account of the Highway Trust Fund has grown to over $10 billion—money which should be paid through the trust fund for highway work and apportioned to the states for highway improvement projects.

With needs for reconstruction, rehabilitation, capacity improvements, and safety upgrading approaching $40 billion annually as estimated by the Federal Highway Administration in reports released in 1988 and 1989, the nation must spend currently available resources to meet these needs. The first step in returning our national highway network to an adequate level of service is by releasing the balance in the Highway Trust Fund.

This can be accomplished best by taking the Highway Trust Fund and the related Federal-aid Highway Program off-budget. This action would have a two-fold benefit. First, it would restore the confidence of the highway user that his dollars are being properly invested. And second, with that confidence restored, the Federal-aid Highway Program could be expanded to better address the problems of deterioration and congestion.

An opportunity to take the Highway Trust Fund, Airport and Airways Trust Fund and Inland Waterways Trust Fund off-budget will come when the House of Representatives considers the Social Security Trust Funds issue later this year. It makes even better sense to remove these three special purpose trust funds from the budget if the Social Security Trust Funds are being removed. As with the social security program, the revenue from these three transportation trust funds should only be used for the transportation programs that they were created to support.

We the undersigned highway industry organizations urge you to vote to remove the Highway, Airport and Airways and Inland Waterways Trust Funds from the unified federal budget and to support annual appropriations which spend the balances in these funds on the purposes for which the taxes are collected.

Sincerely,

AMERICAN ROAD AND TRANSPORTATION BUILDERS ASSOCIATION; AMERICAN BUS ASSOCIATION; AMERICAN PUBLIC WORKS ASSOCIATION; ASPHALT INSTITUTE, INC.; AMERICAN CONCRETE PIPE ASSOCIATION; CONSTRUCTION INDUSTRY MANUFACTURERS ASSOCIATION, CH2M HILL; BETTER ROADS & TRANSPORTATION COUNCIL; INSTITUTE OF TRANSPORTATION ENGINEERS; HIGHWAY USERS FEDERATION; CONTECH CONSTRUCTION PRODUCTS, INC.; NATIONAL CORRUGATED STEEL PIPE ASSOCIATION; NATIONAL STONE ASSOCIATION; NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS; PORTLAND CEMENT ASSOCIATION; NATIONAL SLAG ASSOCIATION; NATIONAL WATERWAYS CONFERENCE, INC.; NATIONAL ASPHALT PAVEMENT ASSOCIATION; NATIONAL LIMOUSINE ASSOCIATION; UNITED BUS OWNERS ASSOCIATION; J.M. HUNNICUTT & ASSOCIATES; SALT INSTITUTE; ASSOCIATED BUILDERS & CONTRACTORS; NATIONAL AGGREGATES ASSOCIATION; NATIONAL READY MIXED CONCRETE ASSOCIATION; AMERICAN SOCIETY OF CIVIL ENGINEERS; AND ASSOCIATED GENERAL CONTRACTORS.

STATEMENT OF GROUP OF ARAB AND JEWISH-AMERICAN LEADERS ON MIDDLE EAST PEACE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HAMILTON. Mr. Speaker, I would like to draw the attention of my colleagues to a statement issued last month by a group of Arab-American and Jewish-American business, academic, and professional leaders on the Middle East conflict. The views expressed in this statement represent a consensus position of the group which has been meeting for the past 7 years to discuss issues related to Middle East peace.

The statement identifies four issues that present obstacles to further progress toward a settlement of the Palestinian problem. It comments on each of these obstacles and on why the issue should not be permitted to block the process toward elections in the West Bank and Gaza.

The statement and a covering letter follow:

MARCH 12, 1990.

The enclosed statement represents the consensus of a group of Arab American and Jewish American business, academic, and professional leaders who, together with former Secretary of State Cyrus Vance, have met over the past seven years to discuss a basis on which the parties to the Mid-East conflict may find their way to the peace table.

The undersigned have served as Co-Chairmen to facilitate the dialogue between the members who have signed this statement. We hope that you will find it useful and constructive.

LESTER CROWN,
ALBERT TAHMOUSH,
NAJEEB HALABY,
HOWARD SQUADRON.

FACING REALITIES ABOUT A MIDDLE EAST NEGOTIATION

We are a group of Americans of Arab background and Jewish background who along with former Secretary of State Cyrus Vance, have been working together for seven years. We have focused on two areas—economic development for the Palestinian Arab population of the West Bank and Gaza, and how to get the parties to the Middle East conflict to the peace table. We have involved ourselves in these efforts, as Americans, because we believe the United States has a vital and continuing role to play in the Middle East peace process. We expect our government to be even more deeply involved in that process in the next few years.

We have made very modest contributions in both areas, partially because the problems are so difficult, and partially because we have quite deliberately set limited goals. Thus, we have never tried to agree on, or to recommend, the terms of any possible settlement. We have recognized that only the parties, at a peace table, can work out such terms.

In the areas of our concentration we have informed ourselves through meetings with very high officials in the Israeli, Jordanian, Egyptian and American governments. We

have also met with Americans affiliated with the PLO.

The actions of, and resulting from, the intifada in the West Bank and Gaza have prevented, for the time being, all efforts in the area of economic development. On the other hand, they have highlighted the necessity for finding a way to get to the peace table. Although we have avoided public statements, we now believe that some truths about getting to the table deserve public expression. Our group reflects a broad spectrum of views and backgrounds, and we trust that its observations and conclusions will be given serious consideration.

Each of the parties to the Middle East dispute has stated publicly from time to time that it is prepared to commence peace negotiations "without any preconditions". We believe that the parties would long since have been at the table if that particular rhetorical phrase had been sincere and had been acted upon. In fact, each of the parties has raised unrealistic preconditions to a peace negotiation. We urge that these preconditions, which we regard as obstacles, be discarded.

The first obstacle is the demand that the Palestinians be represented by persons independent of the PLO.

We understand that internal political considerations in the United States and Israel may dictate a Palestinian delegation that does not include prominent PLO officials. We believe that, at the present time, the Bush administration and most of the Arab world, accept that necessity; and are prepared accordingly to work with Israel in the selection of the initial Palestinian delegation. However, in the real world, no Arab country (not even Egypt)—nor any Palestinian delegation—will participate in a peace negotiation, if the members of that delegation have not previously been approved by the PLO. It is time to acknowledge that no Palestinian delegation will make any proposal that has not received PLO sanction, and that no Palestinian delegation will agree to any solution that does not have PLO endorsement. That reality should be honestly faced.

Next, there is the demand that the discussion be limited to particular issues. Naturally, if the first meeting is to discuss procedures for an election, the agenda for the meeting should conform to that purpose. But it is inevitable that there will be some conversation about the next step after the election—if only in terms of process, timetable, and the agenda for the meeting after the election. Any attempt to circumscribe the initial discussion more closely is unrealistic.

The third obstacle is the consistent reiteration by one party or the other of ultimate goals. Depending on the party, the demand is articulated that the goal be "sovereignty", "autonomy", "confederation"—or whatever. In the real world, Israel's security concerns as well as the political needs of the Palestinians for maximum self-governance will ultimately have to be addressed, after delegations are selected, elections are held, and the parties are finally discussing substantive issues. The problems do not lend themselves to traditional solutions. New modes of relationship and new arrangements for living together will have to be developed. There will have to be lengthy and complicated negotiations directly between the parties involved, with the assistance of the United States, and possibly Egypt, if the parties want such assistance.

Finally, there is the question whether an Israeli-Palestinian agreement, if it can be achieved, is sufficient. What constitutes a comprehensive peace? Israel expects, not unreasonably, peace commitments from the entire Arab world. The Arab states take the position that the Palestinian problem must first be solved "in all its aspects"—and comprehensive peace will follow. This chicken-egg obstacle must be addressed. In some manner, the other players—particularly Syria and Jordan—must be brought into the process as quickly as possible.

Our own experience—with strong ties to both sides—teaches us that it is possible to resolve deep differences if parties with opposing viewpoints are willing to sit together and talk. We have been impressed by how our differences have narrowed over the years, because we chose to talk to each other.

We urge that the prior demands and preconditions, the proposed formulas and frameworks, the unrealistic expectations and dreams—the obstacles to progress—be put aside. We urge that sincere and serious attention be paid to taking the first step on what will be a very long and difficult road—by agreeing on the composition of a Palestinian delegation, elections, and an agenda consistent with reality.

JESSE AWEIDA,
STEPHEN COHEN,
LESTER CROWN,
PHILIP HABIB,
NAJEEB HALABY,
JOSEPH JACOBS,
ZAHI KHOURI,
HENRY ROSOVSKY,
LEWIS RUDIN,
DONNA SHALALA,
STEPHEN SHALOM,
HOWARD SQUADRON,
ALBERT TAHMOUSH,
CYRUS VANCE.

TRIBUTE TO CAROL COSTA

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to Ms. Carol Costa who has recently coached her U.S. history class to victory in the Rhode Island 1990 Bicentennial of the Constitution and Bill of Rights competition.

Ms. Costa teaches at Bishop Keough High School in Pawtucket, RI. She coached her class in this competition, which tests students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. Through the excellent guidance and preparation by Ms. Costa, the class was able to achieve excellence. A further tribute to Ms. Costa comes from her students. Said one student, Ms. Costa "believed in us when at times we didn't believe in ourselves." Ms. Costa and her class will now travel to Washington, DC in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Ms. Costa and the members of her U.S. history class from Bishop Keough High School. Her outstanding effort demonstrates a love for her work which transcends the classroom, while pushing her students to their utmost ability. I would like to wish Ms. Costa and her students best of luck in the national competition.

IN HONOR OF ADA SCHICK WING

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LAGOMARSINO. Mr. Speaker, I'd like to take this opportunity to salute Ada Schick Wing of Santa Barbara. She has spent most of her 93 years in public service, and her devotion to the support and treatment of the mentally ill has led to a special honor for her.

The Phoenix of Santa Barbara, Inc., an alternative to the State hospital, has named their Phase II Program Ada's Place in honor of her devotion and foresight in providing primary care for those suffering from mental illness. Ada's Place will provide a care facility for clients who are prepared to live in a more independent situation, yet still needing support and supervision. It will serve as a vital link in our community care system, helping to meet the need for housing of the mentally ill. The people who will benefit from Ada's Place are at a crucial stage of their rehabilitation, making the transition between full-time care and independent living. Without this program and others like it, people at this stage of treatment can end up incarcerated or living in the streets.

Ada Schick Wing's record of community involvement sets a shining example. She helped to establish the Phoenix Program, still serves on the board of directors, and helped start the Santa Barbara Mental Health Association. She has served on the Santa Barbara County Commission on Aging, served on the Santa Barbara Senior Citizen Advisory Commission until 1986, and has worked as a volunteer over the years for recording for the blind, the committee for Braille Institute among others.

Many times in the past, Ada would ask the directors of the Phoenix Program, "When are we going to get Phase II started?" On April 20, her drive and initiative will be recognized with a party in Ada Schick Wing's honor, celebrating the opening of Ada's Place.

Mr. Speaker, I would like to close this tribute with Ada Schick Wing's motto, words we can all live by. She says, "Put your heart and soul into the things you can change and don't worry about the things you cannot." I invite our colleagues to honor my good friend Ada Schick Wing, who has truly put her heart into changing things for the better. On behalf of myself, the community, the people of Santa Barbara, and the U.S. House of Representatives, let me extend to Ada Schick Wing our heartfelt thanks and congratulations.

TRIBUTE TO THE WARREN OPHTHALMOLOGY ASSOCIATES

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Dr. Richard D. Shapiro, Dr. Nigel K. Newman, and Dr. Frank A. D'Apolito of the Warren Ophthalmology Associates of my 17th Congressional District of Ohio. The Warren Opthalmology Associates recently expanded their present facility in Warren, OH.

The Warren Ophthalmology Associates recently installed state-of-the-art diagnostic and treatment equipment and renovated the building thus providing better service for their patients. Besides better medical care, the upgrade of the facility will create new temporary and permanent employment for people in the Warren area.

I commend Warren Ophthalmology Associates for their commitment to the Warren area. The decision to expand their present facility instead of moving to another area demonstrates the doctors' dedication to the enrichment of our community.

Mr. Speaker, I would like to thank Dr. Richard Shapiro, Dr. Nigel Newman, and Dr. Frank D'Apolito for the contributions they have made to our community. Their hard work and caring is greatly appreciated by myself and our fellow citizens. I am honored to represent these outstanding men.

TRIBUTE TO MOSURE & SYRAKIS CO.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Mosure & Syrakis Co., an engineering firm which is located in Youngstown, OH. Mosure & Syrakis Co. received two distinguished awards for excellence in engineering for their work on the Youngstown water treatment plant which serves the Mohoning County and parts of Trumbull County, OH.

Mosure & Syrakis Co. received the Honor Award from the American Consulting Engineers Council as a part of the council's annual engineering excellence awards competition. They also received the Ohio Outstanding Civil Engineering Achievement Award from the Ohio Council of Local Sections of the American Society of Civil Engineers. The firm is being honored for its innovations on the upgrade and expansion of the Youngstown water treatment plant.

Mosure & Syrakis Co.'s innovations in sludge handling resulted in additional EPA funding for the project and the ability to contain the project within a 5-acre area. The upgrade and improvements of the water treatment plant will enable the plant to serve the Mahoning Valley through the year 2010. The process for sludge handling employed by Mosure & Syrakis Co. resulted in a 10-percent increase in funding in addition to the existing 75-percent grant from the EPA. A total of $36 million was saved by the Mahoning Valley due to the Mosure & Syrakis Co.'s outstanding job on the Youngstown water treatment plant.

Mr. Speaker, I would like to take this opportunity to salute and thank the Mosure & Syrakis Co. for their exceptional service to my 17th Congressional District of Ohio. They did a magnificent job on the upgrade and renovation of the Youngstown water treatment plant. I would also like to congratulate Mosure & Syrakis Co. on the awards it received as recognition for the outstanding work they did on the upgrade and expansion of the water treatment plant. I am honored to have the Mosure & Syrakis Co. in my district.

TRIBUTE TO THE JUNIOR CLASS PATROL OF SENIOR TROOP NO. 688

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. YATRON. Mr. Speaker, today I rise to pay tribute to six bright, talented, and determined young women from the Sixth District of Pennsylvania. These young women are members of Junior Class No. 688, and they are all actively involved in making the life of their community better.

On April 29, 1990, a special ceremony will be held in honor of these young women at St. John's Lutheran Church in Boyertown, PA, to recognize their successful completion of all requirements for the Girl Scout's Gold Award. Their hard work and constant efforts to serve their neighbors and fellow Scouts makes them deserving recipients of the Gold Award, which is the highest honor any Girl Scout can receive.

Most of these young women have been active in Scouting for many years, and have proven their abilities and climbed the Girl Scout ranks. Their achievements simply reflect their concern for humanity, which has been cultivated by the troop leaders who have helped these outstanding Girl Scouts earn the Gold Award.

Mr. Speaker, it is indeed a pleasure for me to recognize Jennifer Little, Larin McLaughlin, Gwen Mason, Abby Parish, Heidi Schwarz, and Charlene Stoudt before you and other Members of the House of Representatives, as well as the rest of the Nation. There is no doubt that the Gold Award will be the first of many awards for these young women. Let us take this moment to commend them for their accomplishments and to wish them the best of luck and success in all of their future endeavors.

McCLELLAN PUBLIC AFFAIRS OFFICE RECEIVES TOP AWARD

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FAZIO. Mr. Speaker, it is with great pleasure that I take this opportunity to recognize the outstanding achievements of the public affairs office at McClellan Air Force Base in Sacramento, CA. Recently selected as the best public affairs office for 1989 in the entire Air Force Logistics Command, the McClellan public affairs office has excelled in all facets of public outreach. Maj. Gen. Trevor Hammond, commander of the Sacramento Air Logistics Center, and Lt. Col. Duane Roberts, director of the public affairs office, can be rightfully proud of this high honor.

With a well-planned and well-coordinated public relations program, McClellan Air Force Base has maintained an open and productive relationship with Sacramento and other northern California communities. Following is an article from the base newspaper, the Spacemaker, which gives a more detailed account of the award-winning activities of the public affairs office. I commend the article to my colleagues and congratulate General Hammond, Colonel Roberts, and the entire staff of the public affairs office for their outstanding achievements.

[From the Spacemaker, Mar. 16, 1990]

SM-ALC "BEST PA IN AFLC FOR 1989"

(By Michelle Myers)

"This selection came as no real surprise to me, but it's nice that command recognition is given."

With that comment, Maj. Gen. Trevor A. Hammond, ALC commander, presented Sacramento ALC Public Affairs the AFLC Best Public Affairs Office Award for 1989.

General Hammond continued, "I've said for a long time that our Public Affairs program is very good, and this shows that others share my opinion."

The award was formally presented to General Hammond by Gen. Charles C. McDonald, AFLC commander, at the recent AFLC Commanders' Conference at AFLC headquarters, Wright-Patterson AFB, Ohio. The local presentation was made to Lt. Col. Duane C. Roberts, PA director, and his staff in an award ceremony here March 9.

The award consists of a mounted bowl, engraved with the name of each year's winner, as a traveling trophy and a permanent wall plaque. The trophy will be placed in the display case in the front entry of center headquarters, Bldg. 200.

While the award was based on overall excellence, specific programs within the PA office were evaluated and compared to similar programs at the other Air Logistics Centers.

Community Relations was rated as best in the command, as was the Environmental Public Affairs program. Media Relations and Internal Information received second place awards.

The center's community relations program was praised for its extensive efforts in establishing a "Grass Roots" program with adjacent small communities, as well as maintaining and strengthening contacts with the larger cities and towns in the

region. Public Affairs is actively involved in 14 Chambers of Commerce and participates in two major community-action groups. These groups consist of local, state and federal representatives and local citizens working to improve their communities.

In addition to community involvement, Public Affairs operates a Speakers' Bureau, using volunteers from the center and base to speak to civic, fraternal and service organizations in communities throughout Northern California.

Speeches cover a wide variety of mission topics, career possibilities and other subjects of community interest about the Air Force and Sacramento ALC.

While base tours have always been a big part of the community relations agenda, a concerted emphasis is now being placed on education. For example, in cooperation with the Rio Linda School District, McClellan is involved in an aerospace education program which will help teach more than 600 sixth graders aerospace fundamentals.

Colonel Roberts, PA director, noted that by no means has Public Affairs alone been responsible for community relations' successes. "It takes both enthusiasm and a spirit of cooperation by many folks to achieve results. The many individuals and organizations of the center and base who've volunteered their time and effort are the real reason for success."

However, he said that the overwhelming energy Smokey Bassett and Jamie Cameron-Harley of PA's community relations program put into their jobs gave a natural edge over the other ALCs. "They go far beyond the normal demands of their jobs to help us aid the community in any way they can," he said.

Finding ways to show appreciation to volunteers and those who lend support for the center's community relations efforts is a big part of maintaining positive relationships, according to Mr. Bassett, chief of community relations.

"People must want to stay involved in order for it to work," he said.

PA's environmental program was also awarded first place for its work in establishing a cooperative relationship with the news media and local communities.

Informational methods included environmental fact sheets, environmental update newsletters and special environmental tours to keep the public informed on the center's programs.

For example, when on-base sampling of wells began last year, Mark DeFrances, PA's Environmental representative, visited off-base residents who lived near drilling sites. He explained the drilling and allayed any concerns about drinking water quality.

Media Relations also contributed greatly to the award. Over the past year, news media interest in McClellan continued to grow extensively, as was reflected by the more than 600 media queries. These ranged from ALC future workload, to budgetary impacts, to base closures. Each query was expected to be answered within hours, or at least by the next day.

"It's truly a team effort," said Linda Trogdon, chief of media relations. "Not only within Public Affairs, but also with the many people and offices that aid us in providing the proper answer, and in the shortest time possible."

The requests for information and news aren't all local. For example, Maintenance's Neutron-Radiography facility drew news coverage from Germany, Japan and Australia, as well as nationwide.

Of course, all the news isn't good news. Dealing with bad news is a constant challenge for Ms. Trogdon, and sensitive issues are dealt with daily.

"The most important thing to consider when dealing with media queries is to be accurate and to respond quickly," said Ms. Trogdon. "One thing that improves credibility is being prepared in advance. Although you can't know everything that is going on here, being aware of the most important things and possible consequences is crucial."

While the McClellan newspaper, Spacemaker, is the primary tool of the Internal Information program, it isn't the only one. Also included is Commander/Director's * * *, Hometown News Releases, the Unit Public Affairs Representative program, and other special and one-time projects to inform the center's military and civilian work force.

RACE AGAINST DRUG ABUSE WILL HOLD ANNUAL AWARD LUNCHEON

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MRAZEK. Mr. Speaker, I think it is clear to all of us that any actions taken by this body to wage the war on drugs cannot be successful in and of themselves. It will take commitment by our citizens on many levels—in schools, in the workplace, in our homes—if we are to win this long battle.

For this reason, I take great pleasure in informing my colleagues of an organization on Long Island which is taking the challenge of finding new and innovative ways to bring attention to the role we can all play in fighting drug abuse in our society. The organization, Race Against Drug Abuse, Inc., has sought to unite government, volunteers, and the business community on Long Island in this vital cause.

Race Against Drug Abuse will hold its annual awards luncheon on April 20 to honor members of the Long Island community who have distinguished themselves and their organizations in the war against drug abuse. The Drug Fighter of the Year Award will be presented to Robert Johnson, publisher and chief executive officer of Newsday.

Mr. Johnson's worthy selection for this honor results from the aggressive and intelligent programs his company has initiated in the field of drug education, both for this own employees and for the citizens of Long Island and the New York metropolitan area. First, Newsday has developed a videotape and curriculum on drug education for distribution to every school in Nassau and Suffolk Counties, Long Island, and in the five boroughs of New York. This program can be a major tool for educating our children about the dangers of drugs at an age where a strong impression can be made.

Mr. Johnson's publications, Newsday of Long Island and New York Newsday, also have printed and distributed millions of inserts on drug education in recent months for the edification of the reading public. And his company has launched a compassionate and enlightened program of drug education and assistance for his own employees who has fallen prey to the tragedy of drug abuse.

Along with Mr. Johnson, several other Long Island residents will be honored at the April 20 luncheon. They include William Haskins of Suffolk Daytop for Program of the Year; Elizabeth Madigan of the Smithtown Schools as Student of the Year; Sandi Frisch of Suffolk Safe Homes as Volunteer of the Year; Barry Romanski of Cablevision for the Media Award; Edwina Carr of Cambridge Healthcare Consultants for Outstanding Contribution to the Field; and a Special Recognition Award to Mark Baliak of European American Bank.

The festivities also will include a Montauk-to-the-Marriott Marathon to bring attention to the fight against drug abuse. Special recognition is deserved for a constituent of mine, Victor Rugg of Fort Salonga, the president of Race Against Drug Abuse, Inc., and an individual who has devoted considerable time and effort to a very worthy cause.

Mr. Speaker, I'm sure that all of my colleagues join with me today in saluting Race Against Drug Abuse, Inc., its honorees and the many concerned individuals, companies, and government agencies which have contributed to the battle against drug abuse on Long Island. Their efforts prove that the war on drugs goes far beyond this body's capacity to exact change, and that all of us in this country can become involved in combatting a problem that affects all facets of our society.

THE 100TH ANNIVERSARY FOR THE SALINE BAPTIST ASSOCIATION

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. POSHARD. Mr. Speaker, although the quality of education and the level of morality is said to be low in today's society, there is a place in my district where morality is expressed through every means possible.

I am speaking of the 33 churches that make up the Saline Baptist Association. Their livelihood is a practical example that the religious values in my district are as strong today as 100 years ago. And this October 10, the Saline Baptist Association will celebrate its 100th anniversary.

In 1890, 10 churches in Saline and Gallatin Counties organized into the Saline Baptist Association. There were some rocky times and some great challenges to be met, but the memberships' faith helped the Saline Baptist Association grow until in 1938 it reached its current membership of 33 churches, drawing from Saline, Gallatin and Johnson Counties.

The association has grown and expanded its services to where it now helps other churches within the area. These exemplary people also help their neighbors by selflessly offering emergency food supplies to those in need.

The Saline Baptist Association has survived wars, the Depression, the turbulence of the 60's and early 70's, and today's ever changing society. I strongly believe we should commend and congratulate these fine people for

their efforts in preserving human life and humanity.

KALAMAZOO YMCA BLACK ACHIEVER'S PROGRAM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Kalamazoo YMCA Black Achiever's Program.

The Kalamazoo YMCA Black Achiever's Program was developed by members of the Harlem YMCA in 1971 to motivate young black people toward setting both educational and career goals. Since its inception, the idea has spread to other areas throughout the Nation. The Kalamazoo Family YMCA adopted such a program in January of this year. The Black Achiever's Program promotes leadership and encourages development of each individual youth's social and moral character with the assistance of black role models as mentors from a variety of career fields.

The Kalamazoo YMCA has had a long history of supporting activities for the youth of the community. The Black Achiever's Program is an inspiration to teens and provides a promise for a brighter future. I am honored to represent members and volunteers of the YMCA Black Achiever's Program who recognizes that our youth are our future, and who are giving so much of themselves.

REAR ADM. LEWIS BARTON COMBS: ENGINEER AND GREAT AMERICAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SOLOMON. Mr. Speaker, when the district I represent was redrawn in 1982 to include the Dutchess County town of Red Hook, Lewis Barton Combs became my constituent.

You will understand how proud I am once I tell you a few things about his life.

The towns and villages of America are filled with unsung heroes who left their marks on history, enriched their professions, and raised families, all without fanfare and public acclaim. Lewis Combs is one such hero, a man whose accomplishments in the academic world came only after a distinguished military record.

After 31 years of service in the U.S. Navy's Civil Engineering Corps [CEC], Rear Admiral Combs retired to begin a second career as lecturer and dean of the civil engineering department at Rensselaer Polytechnic Institute in Troy, NY. He retired from RPI in 1961.

Rear Admiral Combs is best known for his key role in the formation of the famous Naval Construction Battalions, immortalized in the 1944 John Wayne movie, "The Fighting Seabees."

But let me start at the beginning.

In 1917, there were 250 applicants for a commission in the Navy's CEC. Only 20 were chosen, among whom Lewis Combs, 1 year out of RPI, was sixth in his class. Although he did not serve overseas in World War I, his interwar activities prepared him well for an important role in the Second World War.

Between the two wars, assignments in the Pacific and Far East included the design and construction of naval shore establishments and underwater construction. It made him well-qualified to help expand the CEC and organize the Seebees.

Mr. Speaker, as most Americans know, the Seabees operate on the motto of "We fight, we build." When many civilian construction workers were captured by the Japanese on Wake Island, it was a spur to form battalions of men who were capable of defending what they built. That's why the Seabees are symbolized by a figure wielding a machine gun in one hand and construction tools in the other.

When he became a rear admiral in 1942, he attained the highest rank given to an officer in the CEC. He is no stranger to honors, having been given the Distinguished Service Medal by President Truman.

In a recent newspaper interview, he declared that what we need is teachers with imagination to inspire young people with the possibilities of the future. That hardly sounds like a man who earlier this month celebrated his 95th birthday, but that spirit of youthful optimism helps explain the career accomplishments of Rear Admiral Combs.

Mr. Speaker, I ask you and Members of this House to join me in wishing him a happy birthday, with many returns. Let us rise and salute Rear Adm. Lewis Barton Combs (Retired), a great engineer, a great patriot, and a great American.

WHY I AM PROUD OF AMERICA

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BROWN of Colorado. Mr. Speaker, I would like to submit the following speech by Kimberly Killifer of Ovid, CO, for the RECORD:

WHY I AM PROUD OF AMERICA

"Domo Arigato Gozimashta America." On August 6, 1989, I heard these words whispered through tears from my host mother. I sat with my entire Japanese host family in the safety of their living room. All eyes were focused on the television as Japan remembered 44 years ago when an American atomic bomb shattered thousands of lives in a single moment. A loud siren echoed from the television as hundreds of thousands of people silently lay upon the ground. Close-ups captured by camera crews revealed the silent tears. Children too young to understand the symbolism of their parent's actions cried in fear. I sat in amazement as men, women, and children of all ages reenacted the terror that changed Japan and the world forever.

Glancing around the room, I realized the intensity in Hiroshima had invaded my Japanese home. I suddenly felt afraid, alone and confused. My only previous contact with the bombing of Hiroshima was what I'd read in a text book—a brief explanation replacing human fears and tragedies with numbers and dates. I began to understand the true destruction in Hiroshima: Families—just like the one I love so very much, the basic element of Japanese society—were shattered.

Through the haunting sound of the siren, four simple words touched my heart: "Domo Agrigoto Gozimashta America." Translated, this means "Thank you very much America." I was stunned. In the midst of sorrow over the death of family and friends, my host mother thanked America! She *thanked* America.

Not understanding this reaction, I questioned her remark and will treasure her response for the rest of my life. One moment it appeared I should be ashamed to be an American, and the next I experienced an overwhelming pride in my country. Through tears and heartache, my host mother gently explained. She told me she thanks America for its help in reshaping Japan. In a voice trembling with emotion, she told me that the bomb took many lives, yet America saved Japan from itself. Dropping the bomb was not an end, it was a new beginning. My country did not ignore the suffering. The bomb ended the war, and Americans were free to return home. Yet they stayed and helped rebuild the shattered cities, sharing their knowledge in science and industry. They provided a source of raw materials. They traded with Japan and supported her economically. My beautiful host mother smiled and said, "For Japan, America has been as your American singer says, 'The wind beneath her wings'."

The atomic bomb, developed in wartime to protect America and to end a tragic war, demonstrated unbelievable power. However, strength can be measured by various standards, and the undeniable strength of America can best be judged through her behavior toward those who have no way to help themselves. I am proud of America, and am nearly overwhelmed to finally understand my country has the courage and wisdom to kneel down, extend a hand of hope, and share her strength—by lifting a shattered nation to her feet. I can only echo the whispered words of my Japanese host mother, "Domo Agrigoto Gozimashta America!"

CLEAN POWER'S STRANGE ENEMIES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LENT. Mr. Speaker, this week marks the 20th anniversary of Earth Day, which is a milestone in America's environmental movement. As we partake of the celebrations going on all over the country, let us reflect for a moment about a strong ally of the environmental movement, yet one which frequently goes unheralded.

I'm speaking of the nuclear energy industry. As the following editorial from the New York Times points out, it is vital that America keep the nuclear power option open, because it reduces such deleterious environmental effects as acid rain and global warming. Nuclear electricity is America's largest, proven source of energy that has virtually no impact on the atmosphere. Electricity from nuclear energy currently reduces by 20 percent emissions of carbon dioxide, and by millions of tons per year four other major categories of atmos-

pheric pollutants cited by the Environmental Protection Agency: namely, particulates, carbon monoxide, volatile organic compounds, and methane.

The following editorial from the New York Times appeared on March 12, 1990.

[From the New York Times, March 12, 1990]

CLEAN POWER'S STRANGE ENEMIES

Gov. Michael Dukakis of Massachusetts owes a large debt to the owners of the Seabrook nuclear plant in New Hampshire: $2 billion. That's the cost of his refusal to help his New Hampshire neighbors devise an emergency evacuation plan.

The plant was ready to run in October 1986, and interest and maintenance costs have been growing at a rate of $50 million a month ever since. New Hampshire finally devised its own plan, and last week Federal regulators voted to grant an operating license.

The plant will probably be running soon, but burdened with the vast costs of this pointless delay. Mr. Dukakis's office, unrepentant, says the investors knew the risks. But it's his risk estimates that were awry. He exaggerated the dangers of nuclear power, while spurning those of climatic warming.

American nuclear power plants, Seabrook included, have many faults. They are too large, too expensive and too complex. Mr. Dukakis bears only part of the blame for the fact that Seabrook is 12 times over cost and 11 years behind schedule. But technology isn't wholly to blame, either. As the French have proved, plants using the basic American model can be built quickly and designed to run safely. France now uses nuclear power to produce 70 percent of its electricity.

But France does not have state governors like Mr. Dukakis and New York's Mario Cuomo. Following the Three Mile Island disaster, states were required to help devise emergency escape plans. Dukakis and Mr. Cuomo used this duty as a veto.

Mr. Dukakis offered the Chernobyl disaster as a reason for not cooperating on Seabrook, even though Soviet reactor had an entirely different design. Mr. Cuomo, citing public worries over an escape plan, effectively killed the completed reactor a Shoreham, wasting a $5.5 billion asset. These policies—along with copious errors by reactor builders and utilities—have brought America's nuclear industry to stagnation. So daunting are the political prospects that newer, more efficient plants are unlikely to get off the drawing boards.

Meanwhile, technological leadership has passed to Japan. Construction of a new plant takes five years there, compared with 11 in the U.S. And as Japan searches busily for an advanced generation of reactors, the infrastructure required to build nuclear plants dwindles in America.

Maybe the nuclear option will turn out to be a dead end. If so, Mr. Dukakis and Mr. Cuomo will have helped speed its demise. But oil prices could rise sharply. and solar energy could take decades more to develop. The greenhouse warming of the atmosphere could then create a premium for nuclear power plants, which don't produce greenhouse gases. There would be a worldwide demand for such plants, but the U.S. may be then have frozen itself out of the market.

The smarter strategy would be to keep the nuclear option open. Environmentalists are inconsistent when they press for action to avert greenhouse warming while remaining admantly opposed to nuclear power. They recently condemned John Sununu, the White House chief to staff, for opposing swift measures against warming; yet as Governor of New Hampshire, Mr. Sununu strongly supported the Seabrook reactor.

It's leaders like Governors Dukakis and Cuomo who obstruct the one kind of baseload power plant that produces no greenhouse gases. In the crowded annals of human folly, the sagas of Seabrook and Shoreham will surely rate a space.

YOUNG AMERICANS ACT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. KENNEDY. Mr. Speaker, support for the Young Americans Act (H.R. 1492) is growing. We have 67 cosponsors/supporters who feel that this legislation is greatly needed to ensure that our children have a stake in the American dream. I would like to submit for the RECORD an updated list of Members of Congress who have joined the late Senator Claude Pepper in supporting the Young Americans Act. I urge the Committee on Education and Labor to take immediate action on this legislation.

The current cosponsors/supporters include: Mr. KENNEDY, Mr. DOWNEY, Mr. CLAY, Mr. HAYES of Illinois, Mr. OWENS, of New York, Mr. ROBINSON, Mr. BOUCHER, Mr. FISH, Mr. GILMAN, Mrs. BENTLEY, Mr. JONTZ, Mr. ATKINS, Mr. BEVILL, Mr. FAUNTROY, Mr. AKAKA, Mr. DE LUGO, Mr. TRAXLER, Mr. DELLUMS, Mr. GORDON, Mr. MCDERMOTT, Mr. RANGEL, Mr. BATES, Mr. TOWNS, Mr. KOLTER, Mr. CROCKETT, Mr. DYMALLY, Mr. SKAGGS, Mr. BONIOR, Mr. LEHMAN of Florida, Mr. MOAKLEY, Ms. KAPTUR, Ms. PELOSI, and Mr. ENGEL. Also: Mr. EVANS, Ms. OAKAR, Mr. BORSKI, Mr. SMITH of Florida, Mr. FLORIO, Mr. FAZIO, Mr. JONES of North Carolina, Mr. FOGLIETTA, Mr. HERTEL, Mr. FLAKE, Mr. STAGGERS, Mr. SIKORSKI, Mr. TRAFICANT, Mr. LEVIN of Michigan, Mr. ACKERMAN, Mr. RICHARDSON, Mr. FEIGHAN, Mr. LAFALCE, Mr. FROST, Mr. DAVIS, Mr. FORD, Mr. FALEOMAVAEGA, Mr. FUSTER, Mr. BILBRAY, Mr. BRUCE, Mr. KLECZKA, Mr. DEFAZIO, Mrs. UNSOELD, Mr. SAWYER, Mr. WHEAT, Ms. COLLINS, Mr. DWYER, and Mr. POSHARD.

A VIGOROUS ECONOMY IN A VIGOROUS LAND

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SOLARZ. Mr. Speaker, earlier this month, India's new Finance Secretary, Dr. Bimal Jalan, came to Washington as head of the Indian delegation to the Indo-U.S. Economic and Commercial Sub-Commission. The subcommission, as many of my colleagues know, is one of the subordinate bodies of the Indo-U.S. Joint Commission, co-chaired by Secretary of State James Baker and Minister of External Affairs Kumar Gujral.

The Indo-United States Joint Commission was created to provide a forum where bilateral problems between the United States and India can be discussed in an atmosphere of good will and mutual understanding. In addition to covering economic and commercial issues, the Commission has also performed useful work in the areas of education, culture, and scientific exchange.

Prior to assuming his new position in January of this year, Dr. Jalan served in Washington as India's Executive Director at the International Monetary Fund. His return here several weeks ago was his first trip back since taking over his new duties.

Mr. Speaker, Dr. Jalan's remarks at the opening session of the Washington meetings not only provided a concise summary of recent developments in the Indian economy but also offered wise observations on some of the global issues that are in the process of reshaping our world. Knowing of my colleagues' interest in these matters, I now ask leave to insert Dr. Jalan's remarks into the RECORD.

REMARKS AT THE OPENING SESSION BY DR. BIMAL JALAN, FINANCE SECRETARY AND LEADER OF THE INDIAN DELEGATION TO THE INDO-U.S. ECONOMIC AND COMMERCIAL SUB-COMMISSION, APRIL 2-3, 1990

Mr. McCormack and friends, I am grateful to you Mr. McCormack for your remarks. We attach a great deal of importance to the bilateral talks between our two countries. The present meeting of the Sub-Commission is taking place at an opportune moment. We have entered the last decade of the century, and how we deal with the global challenges confronting us will have profound influence in the next century. We meet also at a time of momentous changes in the world political and economic systems. These changes affect the Great Powers, including the United States. They also affect us in India, and indeed other developing countries, as global trading and investment partners are being redesigned. And we meet soon after the new Administrations have taken over in our two countries. In the United States, you have a new Administration, and as with all new Administrations, there is a new theme and new hope.

Within a relatively short period the Administration of President Bush has set a new tone which gives hope—however faint—that after the tensions of last few decades, we may be entering an era of peace, and harmony. In my country, a new Government has taken over more recently under the leadership of Prime Minister Vishwanath Pratap Singh. It is a matter of significance and pride not only to us as Indians, but also I believe of some relevance to the rest of mankind, that the change in Government was brought about through free and fair election—an election in which two hundred and ninety six million people, i.e., close to three hundred million people, participated. This was the largest election ever held in human history. As, a Western journal remarked at that time, it was as if the entire U.S. and Europe went to polls on a single day, and voted to usher in a new Government.

2. I believe that this shared faith in the democratic process is what binds the people of our two countries in an everlasting friendship—more than trade, commerce or investment. These are important in themselves, but much more important is our abiding faith that Americans and Indians

cherish the same values, and worship the same great institutions of democracy.

3. I hope very much, along with you Mr. McCormack, that what we accomplish here today and tomorrow will carry forward the good work done by our predecessors and further strengthen the network of relationships between our people and our Governments.

4. With your permission, let me now deal with some issues about the Indian economy and Indian policies that may be of some interest to you. I do not want to deal with these comprehensively, but only selectively. The details can be dealt with in the Working Group which will be meeting a little later.

5. On the Indian economic situation—let me just highlight a few salient points. India is on a new growth path. The rate of growth in 1988-89 was 10 percent, thanks to agricultural recovery. For the last decade, we had a growth rate of slightly more than 5 percent per annum. This is higher than our own historical rate of 3.5 percent. It is also higher than the rate of growth of other developing countries.

Another striking fact is that higher growth has been achieved with relatively low rates of inflation. Our inflation rate has been in the single digit through most of the decade, and the latest deseasonalized annual rate of inflation is about 7 percent per annum. India has also been a prudent borrower abroad. Although our external debt has increased, it is within our servicing capacity. We have never defaulted on a single loan, postponed a single payment or put any restriction on repatriation of dividends or profits. Lately, those who follow our affairs closely would have heard us complaining about our high external debt. The interesting point is that it is we in India who are making these noises, not the bankers or our creditors. The reason why we are saying this is to ensure that our Departments and enterprises keep within prudent borrowing limits and do not overborrow as a soft option. Our credit rating remains high—one of the best in the developing world because of this caution, and we propose to keep it that way.

6. Another very important development in the Indian economy is the upsurge in exports. We have created an environment where exports are profitable, where our industry is becoming more outward looking, and where competition is becoming more pervasive. This fiscal year 1989-90, our exports in dollar terms have grown by over one-fifth or by more than 20 percent.

7. You would also be glad to know that the last five years have seen a major upswing in our capital markets, the volume of new issues has increased several times over, and share values have multiplied. There was a lull for about eight weeks before the new budget on the 19th of March. Since then, however, the markets have soared, and there is a new confidence in the future of the economy. Our industrial growth has been of the order of 8 percent per annum in the last six years—one of the highest in the world. There was a slight dip in the current year, but now the indications are there will be a pick-up in the next quarter. Incidentally, the new budget has done a major restructuring of the corporate tax system—which has some similarity with your own tax reform. The rate of tax has been reduced, combined with abolition of capital allowances and tax shelters of various kinds. This will simplify the system and also yield substantially higher revenue.

8. As you know, agriculture is very important to our economic future. The bulk of our people are still dependent on agricultural employment. India is now, by and large, self-sufficient in food, except for marginal imports in years of drought. We propose to give high priority to investments in this sector so that productivity increases take place and we can re-build sufficient stocks of foodgrains to meet any contingency.

9. I should not only talk about achievements. Let me also mention two problem areas: the fiscal imbalances and the pressure on balance of payments. We have a fiscal deficit which is larger than we can sustain, and an important priority of the new Government is to reduce it. The situation is not unlike yours. Expenditure programs, once in place, are extremely difficult to cut. There is also an inertia on the tax side, as there is reluctance to increase taxes which is not very popular at any time, particularly when elections are close or when they are just over. Nevertheless, I am glad to inform you that faced with a difficult situation, the new Government has decided to act boldly and strongly. The recent measures, taken in the last two weeks, are expected to raise resources, which is more than 1 percent of GDP. The fiscal deficit will decline by about 1 percent of GDP even after allowing for some increases in expenditure.

10. On the balance of payments, the problem has arisen because of upsurge in imports in the last couple of years, particularly automobile and electronic components where large investments have taken place, and petroleum products where we have had no new major discoveries of oil. We are also repaying the IMF loan. However, with the faster growth in exports and other measures, we are confident of tackling this problem.

11. This is a brief account of our economic situation. Let me now deal with two or three areas of policy that are perhaps of special interest to you. Firstly, the whole issue concerning so-called liberation. There is considerable interest in American media and ovservers on the question whether India is going to go foward and continue the process of "liberalization," or is there going to be a reversal.

12. The position of our Government is clear on this issue. We are going to go forward, but at a pace which is consistent with our needs and with our priorities. We are going to reduce red tape, reduce direct physical controls, and rely more on fiscal and financial instruments. At the same time, it is fair to say that we continue to believe that in a poor country like ours, where there is tremendous scarcity of capital and infrastructure, the State through a process of consultation with all sections of the people and free debate in Parliament, has to decide on investment priorities. Should we invest in luxury housing and new models of automobiles *or* in housing for the homeless, rural water supply and irrigation? This decision cannot be left to free markets because there are no free markets for supply of sanitation, health, water, irrigation, or housing for the poor and the landless. This is not only an Indian reality. In rich countries like yours or in Europe, these tasks are major concerns of Governments. This job has to be done by the elected representatives of the people, and the only question that we, and perhaps you, have to tackle is how to get it done in the most cost effective way.

13. So far as private sector is concerned, it is being given its due role to increase output and create jobs within the framework of national priorities. Nearly 83 percent of our income originates in the private sector. This is much higher than most countries of Europe or North America. Lately, our industry has shown tremendous capability in undertaking large projects raising finance and in setting up enterprises abroad. This new strength of our industry is fully reflected in the growth and spread of capital markets.

14. The question of foreign investment policy normally raises some passion on both sides. We believe that our point of view on this is not fully understood, and perhaps you feel that our policies are not fully responsive to the vast changes that are taking place in the world economic environment. Having been involved in this debate for some time, more recently as the Chairman of our Foreign Investment Board, I feel that the area of differences is not as wide as it seems at first sight. After all, we have 200 new foreign collaborations with American companies every year. All your major companies, with a couple of notable exceptions, are represented in our country and doing extremely well. We must be doing something right!

15. However, I should acknowledge that there are some problems. These have become rather exaggerated because of public controversy surrounding a few individual cases. Such cases are no more than 3 or 4, but they have attracted a good deal of attention. I have no doubt that these will get sorted out, one way or the other, in due course. So far as the policy of the new Government is concerned, it is the intention to simplify the procedures, make it less *ad hoc* and more transparent. The Ministry of Industry is working on this, and we hope that very soon we will evolve a procedure whereby in designated priority areas, permission for foreign equity participation up to 40 percent will be approved more or less automatically provided the foreign exchange balance is reasonable. We also permit majority equity investment in export and high technology industries. Our main worry is that we should not get into a situation where there is lots of foreign investment, but where servicing of such investment becomes a problem because of high imports of equipment and raw materials but very little exports. The best guarantee of a stable and lasting regime for foreign investment is a sound balance of payments situation. We would like American and other foreign companies to contribute to this objective.

16. A couple of days ago, we have announced a new export-import policy. This policy will be operative for the next three years. Major steps have been taken to reduce form-filling and red tape. The policy provides special support to exporters, including a new scheme for imports of machinery and capital goods at very low tariffs for export production. We believe that exports and imports are the two sides of the same coin. Imports must largely be financed through exports and not through borrowings. The greater success we have in exporting, the easier it would be to liberalize imports.

17. Let me now say a word about some of the global issues which are of particular interest to us. Along with the rest of the world, we are excited about the events taking place in Eastern Europe. We fully endorse the global and multilateral efforts to help these countries with trade, investment and finance. History will not forgive us if the world fails to come to the aid of these countries at this crucial juncture.

18. We are concerned about some slowing down of growth in the industrial countries, the continuing imbalances in the payments situation of major industrial countries, consequent pressure on interest rates and the volatility in exchange rates. There is also no easing of protectionist pressures. What is even a greater cause for concern is the retreat from multilateralism. In our view, the only way to solve the global problems in an acceptable way is to strengthen, rather than weaken, multilateral approaches and multilateral institutions, in which all countries can participate equally. We very much hope that the United States, as the largest industrial nation and as the spirit behind many multilateral initiatives in the post-war years, will play a leading role in reinvigorating multilateralism and in providing the necessary vision for ushering in a more equal world.

19. Thank you for listening to me so patiently. May I end by recalling one statistic which may be of some interest. According to data compiled by economic historians, and quoted in Paul Kennedy's celebrated book, in 1830 India accounted for 17.6 percent of the world manufacturing output as against United Kingdom's share of 9.5 percent, and only 2.4 percent of United States. This was in 1830, which was not so long ago—no more than 4 or 5 generations earlier. This was the time when the British empire in India was expanding, and by 1860, the process of colonizing India had been completed. By 1900, India's share in manufacturing output had declined to 1.7 percent as against 18.5 percent for Britain and 23.6 percent for U.S.A. The industrial revolution completely passed us by, and until independence in 1947, India had practically no industry and no growth. This historical experience had a profound impact on the evolution of our trade and industrial policies in the last forty years. When you reflect on these policies, please remember that for over two centuries, the world trading and industrial system was not very kind to us. Things are, of course, different today. We have built up a diversified industrial structure, we are expanding our participation in world trade, and we are now ready to play our role in strengthening global economic cooperation.

Thank you.

RECYCLED PAPER

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. THOMAS of Georgia. Mr. Speaker, with the 20th anniversary of Earth Day quickly approaching, many of us have read or seen stories about the "green revolution"—reports of a growing environmental awareness and activism among American consumers. Industry is answering this trend, in part, by developing products to meet consumers' pro-environmental demands. I am pleased to recognize one such contribution to the "greening" of our Nation's homes.

Fort Howard Corp., a leading paper company based in Green Bay, WI, that also has a facility in Effingham County, GA, which is in my congressional district, is introducing a new line of paper towels and bathroom tissue made from 100 percent recycled paper. As stated in a recent story in the Wall Street Journal, which appears at the conclusion of my remarks, Fort Howard hopes its "Green Forest" products will appeal to consumers who want to "use their pocketbook to not only buy a product they need, but also make a statement about the environment."

Fort Howard is investing in the notion that the rise in environmentalism is more than just a fad. They are betting that many Americans will follow the lead of consumers in Britain and elsewhere abroad, by using recycled paper products as part of everyday lives. We all should hope they are right.

This country is facing a solid waste crisis as Americans dispose of more than 160 million tons of waste every year. Our landfills are nearing capacity. While paper represents about 40 percent of solid waste, it offers the best opportunity for recycling. Today, 85 percent of everything that is recycled is paper. Clearly, an important part of the answer is recycling, and there are well over 1,000 municipal recycling programs already underway. It's a fact that for every ton of paper recycled, we save 17 trees and conserve 3.5 cubic yards of diminishing less energy and water resources. But collecting and separating paper for recycling before it enters the waste stream is only half the battle; we do not accomplish anything until we "close the loop" by creating markets for the paper through the purchase of recycled paper products.

Fort Howard has been an industry leader in paper recycling for more than 50 years. Each year its operations in Effingham County, GA, and also in Wisconsin and Oklahoma recycle more than a million tons of wastepaper. If the paper Fort Howard recycles were to end up in landfills, it would be enough to fill a 100-acre landfill to the depth of 15 feet each year. Fort Howard also works with State governments and private companies to set up their own recycling systems, and has won praise for local initiatives to collect old telephone books and for creating model recycling programs like the one with the State of Wisconsin.

The company also has supplied quality 100 percent recycled products for offices, government and commercial buildings, and other non-residential uses for many years. It was the first to develop Envision, a line of commercial tissue products specifically to meet EPA's content guidelines for paper products purchased with Federal funds.

More than ever before, the attention of this Nation and this Congress are turning to the challenges of protecting the Earth's fragile environment. Efforts such as those by Fort Howard will help remind Americans that, in a real sense, environmentalism begins both at home and at work.

[From the Wall Street Journal, Mar. 2, 1990]

FORT HOWARD CORP. INTRODUCES 100 PERCENT RECYCLED TOILET TISSUE, PAPER TOWELS

[By Vindu P. Goel]

American consumers accept recycled aluminum soda cans, recycled glass bottles, recycled grocery bags. They even accept recycled greeting cards. But are they ready for 100% recycled toilet tissue?

Fort Howard Corp. thinks so. Convinced that Americans are becoming concerned about vanishing forests and overflowing landfills, the closely held Green Bay, Wis., paper-products maker last month began a limited launch of the first major line of bathroom tissue and paper towels made entirely of recycled paper fibers—and marketed that way.

Such competitors as James River Corp., and Kimberly Clark Corp., both of whom use some recycled paper in their towels and bathroom tissue, doubt that the time has come for a marketing revolution. "The advantage has just not been in marketing products as recycled," says Jean Allen, a spokeswoman for Kimberly Clark. "Consumers, want softness, quality, and absorbency," none of which they associate with recycling, Ms. Allen says.

Fort Howard is undaunted. The company claims that its Green Forest recycled tissue is virtually indistinguishable in texture from low-cost brands currently on the market, such as Scott Paper Co.'s ScotTissue. Green Forest retails at a premium price—about $1.35 for a four-roll package. But Jeffrey P. Eves, a Fort Howard vice president, in charge of the promotional assault, contends that by purchasing a 100% recycled product, "consumers can use their pocketbook to not only buy a product they need, but also make a statement about the environment."

Scott and James River have long incorporated some recycled fibers into their products. And Fort Howard, which has based its entire business on recycled rather than virgin paper pulp, successfully introduced a 100% recycled bathroom tissue in the United Kingdom last year. Within five months, the new tissue, called Nouvelle, captured 3.2% of the market. Fort Howard's European plants are running at full capacity to meet demand.

But until now, no major paper manufacturer has dared court American consumers by boasting of the recycled content of its products. Tissue packages and advertisements for Scott's Cottonelle and James River's Northern line are silent on content, stressing instead softness and purity—not the fact that some of the paper might have had an earlier life as a computer printout. Packages for Green Forest, while not specifying exact content, are adorned with trees and a big "Made With 100% Recycled Fiber" on the front.

According to estimates for 1988, by Smith Barney, Harris Upham & Co., Fort Howard commands a mere 2% of the $2.3 billion U.S. bathroom tissue market and about 4.5% of the $1.5 billion paper towel market. The company is not expecting to seize the rest with Green Forest.

Fort Howard concedes that it won't be easy to overcome consumers' aversion to used paper, particularly for personal hygiene. But Fort Howard's market research suggest that there are enough environmentally concerned consumers out there to support a couple of extra percentage points of market share in each category, valued at about $78 million in sales.

"It's a nice opportunity," says Mr. Eves. "It is not our objective to win converts to the cause." However, if the cause grows bigger, as Fort Howard hopes, then the company won't have to play catch-up to consumer attitudes.

"Nobody is suggesting that, overnight, this thing will become a Hula-Hoop," says Mr. Eves. "On the other hand, there is a possibility that, over time, it will outlast the Hula-Hoop."

To induce wary tissue-buyers to try Green Forest, Fort Howard plans to offer 15-cent coupons, run in-store promotions, and spon-

sor special recycling events. Of course, it's possible that consumers may not love trees enough to make such a personnal sacrifice. Fort Howard launched a similar recycled tissue the last time the environment was a big issue, in the 1970s only to see it fail miserably. This time the company takes heart in the popularity of a private label 100% recycled bathroom tissue sold by Loblaw Cos., Canada's larges grocery chain. Loblaw's tissue, introduced last summer as part of a special "green" line, is the most popular toilet paper the chain sells.

The Midwestern grocers who are receiving the first shipments of Green Forest towels and toilet paper are treating them like any other new products. "I am not convinced they're going to sell," say Bernard Schipper, a senior merchandising manager for Meller Inc.'s 54 store chain in Michigan and Ohio. "But we want to at least offer them to the consumers and let them decide."

DEFENSE SPENDING MUST BE CUT, TAXES MUST BE INCREASED, IF BUSH IS TO TURN HIS RHETORIC ON EDUCATION INTO REALITY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FORD of Michigan. Mr. Speaker, as we are preparing our budget resolution and funding strategy for fiscal 1990, I would like to call to the attention of my colleagues an article, written by Robert H. Atwell, the president of the American Council on Education, which appeared in the April 4 issue of the Chronicle of Higher Education. This article, entitled "Defense Spending Must Be Cut, Taxes Must Be Increased, if Bush Is to Turn His Rhetoric on Education Into Reality," presents an insightful look at the problems our education system is facing today and the Federal assistance necessary to solve them.

I would hope that my colleagues would take Mr. Atwell's message to heart. President Bush promised the American people that he would be "the Education President." I would hope that we could send him a budget to sign this year, with significant increases in funding for all levels of education—a budget that would allow the President to achieve his goal.

[From the Chronicle of Higher Education, Apr. 4, 1990]

DEFENSE SPENDING MUST BE CUT, TAXES MUST BE INCREASED, IF BUSH IS TO TURN HIS RHETORIC ON EDUCATION INTO REALITY

(By Robert H. Atwell)

In recent weeks a typical Washington battle has broken out—the kind of conflict only a policy analyst could love. The subject in contention is national education spending and, specifically, where we stand compared with other nations.

To the outside observer, this fight may seem little more than a skirmish, a duel of statistics. But in the current political context of education summits and national goals, it masks serious disagreements over how we will improve our education system, what it will cost, and who will pay.

On one side are President Bush, his political supporters, and the Department of Education, who argue that the United States already spends more money on education than any other nation. The key to improvement, they say, is to spend it more wisely. That belief is reflected in the President's budget proposals, which would keep federal spending on education virtually level.

On the other side are the authors of a report from the Economic Policy Institute, backed by some education leaders and several key members of Congress, who claim that the United States does not stack up well compared with its international competitors and that significant increases in government support are needed.

At the heart of the debate is how one measures spending. The Administration relies on the traditional indicator, which is spending per student. By that standard, the United States is second only to Switzerland in terms of expenditures through the 12th grade.

The report of the Economic Policy Institute contends, however, that when education spending is measured as a percentage of gross national product, the United States does not come out at—or near—the top, but low on the list of industrial nations. To match just the average spending level for elementary and secondary education, the report argues, we would need to spend an additional $20 billion.

Interestingly, both sides agree that by either measure expenditures on higher education in the United States exceed those of almost every other nation—leading some policy makers to conclude that America's colleges and universities are "well off," and that any new funds should be targeted solely on the pre-kindergarten through 12th-grade levels.

However, on this score, both the G.N.P. and the per-student indicators are misleading. Essentially, they fail to reflect fundamental differences between the United States and other nations.

Most significantly, our rate of college participation—nearly 60 per cent among students of traditional college age—is the highest in the world. Of other industrialized nations, only Canada, with 55 per cent, comes close. New Zealand is the only other country with a participation rate above 40 per cent: both West Germany and Japan come in below 30 per cent.

Even after correcting for international differences in the structure of educational systems, we devote more of our G.N.P. to higher education, but we must, since we are educating a greater share of our population.

Spending per student on higher education in the United States—about $8,000 in 1985, the base year used in the economic institute's study—includes federally funded research conducted on college campuses. But a few other nations follow the U.S. research-university model, so such expenditures are not counted in their education totals. Subtracting federal research funds brings the U.S. per-student spending figure down to $7,000, below that of Denmark and Australia.

Comparing U.S. spending with other nations' also misleading because government here plays a much smaller role in financing higher education than in other industrial countries. Revenue flowing to American colleges and universities from federal, state, and local sources in 1985 amounted to $45 billion—less than half the total. The rest came from tuition, fees, and endowment income, gifts, and auxiliary enterprises such as hospitals. By comparison, in Japan, the one other nation that depends on non-governmental investments in higher education, such sources account for only about one-third of total spending. When one counts government spending alone, the United States ends up in the middle of the industrial pack, well below Japan, Great Britain, Australia, and Denmark.

As these figures show, it's dangerous to base national policy on narrow statistical measures. How much we spend should be a reflection of what we need to do, not abstract comparisons.

If such indicators tell us little about where our education system really is, where it must go, or the way to get there, other factors—demographic, economic, social, and structural—better reveal the nature of our challenge.

Our uniquely decentralized public-education system is plagued by huge disparities in investment between affluent and poor school districts. How can we provide children from poverty-stricken families in urban and rural areas with the resources they need to succeed?

By 2000, one-third of our school-age children will be members of minority groups, many of them disadvantaged and many facing severe language barriers because they are the children of immigrants. Against this background of growing diversity and rapid change, how can we raise student performance and prepare graduates to participate in an increasingly competitive international economy?

The economy of the future will place a high premium on education beyond the secondary level, yet during the last 20 years there has been a significant decline in the percentage of minority high-school graduates going on to college. As these students account for a greater share of the labor force, how can we insure that our supply of educated workers is adequate to fill the jobs that need doing?

Alone among nations, the United States has made a national commitment to guarantee access to higher education for all qualified students, regardless of their financial status. How can we fulfill that commitment in an era of tight budgets and anti-tax politics?

No doubt about it: Meeting these challenges will require us to spend more money and spend it wisely. Structural reforms are important, but they will not be enough. I'm not prepared to argue that simply spending more money than any other country necessarily will produce the results we want, but I do maintain that we can productively invest extra funds in a variety of programs that have proved their effectiveness.

The key players in this game is the federal government, which brings us to another recent example of statistical legerdemain. Challenged to explain why the Administration's budget request for fiscal 1991 does not reflect its rhetorical emphasis on educational improvement, representatives of the White House and the Education Department respond that greatly increased federal funding not only is not needed, but also wouldn't make much difference anyway because federal funds account for only 6 per cent of total education spending.

That's a bit of dissembling that should not go unchallenged. In the aggregate the figure may be true, but it provides a totally inaccurate picture of the federal role and its impact. For the past 25 years, the federal government has had the primary responsibility for guaranteeing educational opportunity to those who, for economic and social reasons, might otherwise be denied it. Thus federal spending has been targeted on a

select few areas where it can do the most good for the disadvantaged.

Take student aid, for example. Pell Grants, guaranteed loans, work-study funds, and other forms of assistance to needy students this year will total almost $20 billion. That's fully 75 percent of all financial aid available to students in post-secondary education. The federal government plays a similarly important role in other programs for the disadvantaged, including Head Start, compensatory education for elementary-school children, and education of the handicapped.

Major increases in appropriations for each of these areas in the next fiscal year would begin to make up for some of the ground lost in the 1980's. And because these programs directly and effectively serve the growing numbers of students at risk academically, such support also would make a huge difference in their educational performance.

To continue with the example of federal student aid: Even with far tighter eligibility standards for Pell Grants, the rapid growth in the number of low-income students has far outpaced growth in appropriations for this program over the past decade. As a result, since 1980 the value of the maximum grant has eroded by 16 percent.

Although the federal government now accounts for 75 percent of student aid, 10 years ago its share was 83 percent. The government's failure to keep up with growing need has been a driving force behind tuition increases, with institutions recycling a significant share of their increased revenues into financial aid.

Also, as a recent study by the American College Testing Program demonstrates, a direct relationship exists between the shift in emphasis in federal financial aid from grants to loans and declining participation in higher education by low-income students. Raising the maximum Pell Grant to $3,100—the authorized level for fiscal 1991—would cost slightly over $2 billion. But it would attract into higher education many qualified low-income students who currently forgo this opportunity, and it also would produce savings on the other side of the ledger by reducing the number of defaulted loans.

How do we pay for the kinds of investments required to transform education rhetoric into educational reality? I have argued in the past, and argue now, that it is possible only by cutting defense spending and raising taxes.

On the first count, we need a peace dividend not at some uncertain time in the future, but right now. The realities of the international situation permit, and the needs of the nation and world require, more than token cuts in the Pentagon's budget. Missiles aimed at East Germany should be traded for services aimed at our neediest students.

But even with a large peace dividend, we cannot reduce both our social and fiscal deficits. Responding to the many unmet needs of American society requires us to look for ways to raise additional revenues and to do so equitably, with the greatest burden falling on those who have benefited most from the tax reductions of the past 10 years.

We can set all the national education goals we want; but if we fail to devote the resources required to achieve them, we will be like King Canute, ordering back the tide that inevitably will wash over us. Our willingness to act—and not which side has cornered the truth on relative levels of education spending—will determine whether ours is a more competitive economy and a more democratic society in the 21st century.

THE ADMINISTRATION IN WONDERLAND—DOUGLAS BLOOMFIELD DISCUSSES AMERICAN POLICY TOWARD IRAQ

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LANTOS. Mr. Speaker, in recent weeks we have seen an incredible performance by the leaders of Iraq—that country first, executed a journalist for a British newspaper, which it accused of spying because he visited one of its poison gas factories to get details about a devastating fire, second, tested a medium range, multistage ballistic missile, third, got caught smuggling triggering devices for nuclear weapons out of the United States, fourth, has built missile launchers within range of Tel Aviv, and fifth, threatened, in the words of its irresponsible President Saddam Hussein, to destroy "half of Israel" with chemical weapons. Lest one think this last threat is an idle one, keep in mind that Iraq used chemical weapons against the Iranian army during the Iran-Iraq war in violation of international law, and used chemical weapons against its own citizens—innocent civilian Kurdish children, women, and men.

Mr. Speaker, despite the appalling and outrageous conduct of the Government of Iraq, our State Department has a "soft spot" for that vicious dictatorship. The United States is Iraq's largest trading partner and they are seeking substantial credits for the purchase of our products. Nevertheless, our State Department refuses to put any pressure on Iraq to clean up its act.

At the same time, the State Department has repeatedly criticized and threatened Israel—our democratic ally in that same region. Israel is the only functioning democracy in the area, it holds free elections, has a free press that openly criticizes the Government, and an independent judiciary which assures the enforcement of the rule of law. Israel has actively sought to establish peaceful relations with its neighbors. And how has the administration responded to our democratic ally Israel? By seeking to limit and restrict United States assistance to Israel, and making deliberate and ill-timed comments against Israel which helped bring down that country's Government. Yet the same administration which harshly criticizes the Government of Israel, coddles the Butcher of Baghdad.

Mr. Speaker, Douglas M. Bloomfield has written an excellent article on this contradiction in American policy in the Middle East. It appeared recently in The Washington Jewish Week. I ask that it be placed in the RECORD, and I urge my colleagues to give it careful attention.

AIDING AND ABETTING

(By Douglas M. Bloomfield)

It's hard to tell sometimes how George Bush picks his friends or makes decisions.

Take the example of two countries which recently asked for U.S. Government loan guarantees so they can borrow at the lowest available rates. One wants $1.25 billion to purchase American grain and other goods. The second wants less than a third that much, $400 million, to build housing for refugees.

In both instances, the President and the Congress are on different sides. For one country, the Congress shows great enthusiasm and supports the aid, but the President wants to impose restrictions on the money as well as other policies of the recipient. In his anger, he even helps bring down the country's government.

For the second, the Congress objects to any loan guarantees because the country is a notorious outlaw nation that uses nerve gas without restraint, is deploying ballistic weapons, trying to build a nuclear bomb to use against an American ally, threatens to unleash chemical and biological weapons, has the worst human rights record of any nation and is generally nasty. For that country, however, the President overrides Congressional objections and does nothing about the need for restrictions or changes in policy.

Oh Alice. It gets curiouser and curiouser.

The first country is Israel. The second is Iraq.

The Bush Administration, like its predecessor, has repeatedly demonstrated a "soft spot" for Iraq, according to people in a position to know.

"It was like pulling teeth to get any criticism of those bastards," according to a senior Pentagon official in the Reagan Administration who fought against the transfer of high western technology to Iraq.

Stephen Bryen, former deputy undersecretary of defense, said the Saudis strongly encouraged closer U.S.-Iraqi relations, telling American officials that Saddam Hussein had changed and underneath it all was really a good guy. "The Iraqi desk people at State and Defense bought that hook, line and sinker."

In recent weeks and days, Iraq has tested a medium range, multi-stage ballistic missile, executed a journalist accused of spying, gotten caught smuggling triggering devices for nuclear weapons, built fixed missile launchers within range of Tel Aviv, threatened to destroy "half of Israel" with chemical weapons and generally thumbed its nose at the civilized world.

In the face of all that, George Bush has reacted with preppy restraint. He has sent forward his spokespersons to say "we do feel very strongly about [smuggling nuclear triggers] as a non-proliferation issue," "we deplore the execution" of the British-based reporter and the threat to exterminate Israel is "irresponsible, inflammatory and outrageous."

Sounds tough, but the pity is that's as tough as the Bush Administration is likely to get with Iraq. There is nothing behind the rhetoric.

This week, Rep. Howard Berman (D-CA), a long-time critic of U.S. policy toward Iraq, plans to introduce legislation imposing meaningful sanctions on Iraq. The Bush Administration opposes it, and the congressman and his colleagues are being arduously lobbied by businessmen who not only dislike these sanctions but want to lift the last remaining restraint on high technology transfers to Iraq.

This White House/business alliance succeeded in killing tough sanctions in the Reagan Administration. At that time, the

president said congressional sanctions for chemical weapon use were not in order, but that he should be given the discretion to take whatever steps he considered necessary. Neither Ronald Reagan nor George Bush ever found any reason to exercise that discretion.

The reason, according to Sen. William Cohen (R-ME), "we love the color of money and the smell of oil." The American response to Iraqi actions, said the vice chair of the Senate Intelligence Committee, should be "sound and fury, but all we're hearing is the sounds of silence." The *Wall Street Journal* agrees: "It appears that Iraq will pay no economic price or serious diplomatic penalty for its actions."

What sets Iraq apart from other countries with weapons of mass destruction is its "chillingly unselfconscious willingness to use them," Berman points out, even against its own citizens.

Iraqi claims that it needs these weapons for self defense are betrayed by its own aggression in the Iran-Iraq war as well as its first use of ground-to-ground missiles and chemical weapons in that conflict.

American technology has played a key role in Iraq's missile program. The U.S. Commerce Department promoted high-tech imports to Baghdad despite Pentagon warnings that it could be used for Iraqi missiles, according to Stephen Bryen, who led the often-losing battle within the Administration.

The Reagan-Bush administration was loathe to criticize Iraqi use of chemical weapons, Bryen points out. In fact, it could be argued the administration to a degree condoned the practice. Evidence can be seen in efforts to give the Iraqi army military canisters of atropine, an antidote for certain chemical weapons. The advocates of the sale argued the canisters were defensive in nature, but the truth is they would have given Iraqi troops protection to move up close with their chemical weapons and be able to survive if some of the gasses blow back in their own faces. If that happens, the soldier simply takes the canister and whacks it against his thigh and is injected with the life-saving atropine. Bryen was able to block the sale.

Iraq has deployed near its border with Jordan six permanent launchers of ground-to-ground Al-Husayn ballistic missiles with a 400-mile range and capable of hitting much of Israel. It is currently developing the 1,200-mile Tammuz 1 missile.

Saddam Hussein wants missiles because he knows how badly his air force did in the war with Iran. His pilots were neither brave nor skilled enough to come in low and close enough to be effective. Missiles don't have that problem. What's more, with the warheads Iraq is building, accuracy is irrelevant. Chemical and biological weapons are used against people, not military installations. Their purpose is terror, murder and mass destruction. It makes no difference if it is a few hundred meters or even a few miles off course—unless you're underneath.

Much of the Iraqi buildup is being financed by gifts and loans from friends like Saudi Arabia and Kuwait, but a chunk is coming from American consumers. Last year the United States imported $2 billion worth of Iraqi oil. American taxpayers spent millions more keeping Persian Gulf shipping channels open for Iraq and her allies during the tanker war and provided other valuable assistance to Iraq in its war with Iran.

It is time for the United States to stop aiding and abetting the Butcher of Baghdad. The time for timidity is past. Credit guarantees for Iraq should be cancelled immediately. There should be an embargo on further importation of Iraqi oil, a broad ban on technology transfer, adoption of the Berman sanctions bill, and a recall of the American ambassador, who suffers from a bad case of clientitis, until there is more evidence of improvement in Baghdad than the word of friendly Arab diplomats whose countries live in fear of Iraq. Iraqi supporters who expect American aid, technology and weapons must be told that decisions on those matters will be in inverse proportion to their support for Saddam Hussein.

If George Bush truly wants to be the leader of the free world, he must quit hiding behind the empty rhetoric of his spokespersons and demonstrate forceful leadership against one of the most repressive and dangerous regimes in modern history.

IN RECOGNITION OF PLAY-IT-SAFE INTERNATIONAL

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEHMAN of California. Mr. Speaker, I would like to take this opportunity to commend an outstanding educational organization in my district, Play-It-Safe International, by recognizing its efforts to educate children safety techniques and crime prevention throughout the world.

The Play-It-Safe Program involves the distribution of coloring books, parent and teacher aids, and video aids in accordance with the guidelines issued by the Department of Justice. The program helps children understand commonsense rules about personal safety and crime prevention.

Play-It-Safe was founded in 1977 as a cooperative project between law-enforcement agencies, concerned citizens, and others who came together to conceive a way to teach safety to youngsters up to the third grade. From its start in Fresno, CA, the program spread quickly. Play-It-Safe is currently available in 31 languages in 2,800 cities throughout the world cultivating a mutual exchange between nations of ideas on safety.

Only by providing our children with information which will help them become more aware of how and why accidents happen can we encourage them to avoid situations where the potential for injury is great. Mr. Speaker, I believe that the achievements of the Play-It-Safe Program are felt all across the Nation and the world. I congratulate Play-If-Safe International for its concern for the welfare of our children and its aggressive program of bringing readily understandable educational materials to our youths.

THE HOMELESS OUTREACH ACT OF 1990

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MATSUI. Mr. Speaker, today, I am introducing a bill to require SSA to conduct outreach to homeless individuals who may be eligible for SSI benefits and to assist these people in obtaining and retaining their benefits. An estimated 1.3 million people would benefit from this type of outreach. According to the National Institute of Mental Health, in some cities fewer than 10 percent of eligible homeless people receive SSI benefits.

This proposal will establish a comprehensive program not only to reach the homeless but to ensure that they continue to receive the benefits and have access to other services and programs to which they are entitled, such as food stamps or health care.

In 1987, Congress took a step toward trying to reach homeless individuals who may be eligible for SSI and other benefits through a provision enacted as part of the budget reconciliation package. This provision established a demonstration outreach project to the homeless to help overcome the barriers they face in applying for benefits. Our intent was to assist homeless people in applying and receiving SSI benefits, food stamps, and medical care.

This demonstration project never was implemented by SSA. The agency argued that Congress did not appropriate money for this purpose and that they already were doing outreach to the homeless population. In response, the National Law Center on Homelessness and Poverty, along with Representative PETE STARK and a number of other plaintiffs, filed a lawsuit against SSA and the Department of Health and Human Services for failing to implement the demonstration project.

In February, a Federal judge ruled in favor of SSA and HHS, determining that Congress was not clear it its direction and therefore SSA was justified in not implementing the outreach program. Currently, there is no requirement that SSA conduct outreach to the homeless.

The legislation I am introducing today, and which has already been introduced in the Senate by Senator DON RIEGLE, will fill the gap the Court found. It would put into law the requirement that SSA not only identify homeless individuals who may be eligible for SSI, but that the agency help guide these people through the sometimes long and confusing path to receiving these and other benefits. This bill would require SSA to conduct ongoing outreach to homeless individuals through visits to soup kitchens, shelters, and day centers and other places frequented by the homeless. The agency also must provide assistance to homeless individuals in completing and filing applications for benefits, and must provide assistance in making appointments for any necessary medical examinations.

SSA would have to provide assistance to homeless individuals to prevent the inappropriate suspension of benefits. Many homeless

individuals have their benefits cut off because the local SSA office was unable to contact them through the mail or by telephone. Under this bill, SSA would have to restore these benefits immediately, or in instances where an appeal is filed, provide the homeless with the necessary support in seeking an appeal.

Homeless individuals applying for SSI benefits would receive expedited consideration of their application. If SSA is unable to make an eligibility determination within 30 days, the homeless person would become eligible immediately for benefits on the 31st day of application and benefits would be paid back to the date of application.

This bill also would allow SSA to award grants to State, local governments, or nonprofit organizations to conduct the outreach efforts. In many communities, these types of partnerships have been highly successful.

In Sacramento, we were fortunate to have the American Association of Retired Persons fund an outreach project during May, June, and July 1989 to reach homeless and homebound people who were eligible for benefits. During the months of the project, SSI applications increased by 40 percent and benefit awards increased by 32 percent. Advocates in Sacramento believe the success rate is even higher.

The Legal Center for the Elderly and Disabled, which spearheaded the Sacramento effort, decided that 3 months was not long enough to conduct an outreach program, so they managed with very little money, to continue the outreach efforts until November. The Legal Center is now seeking funds from the Department of Health and Human Services to fund a continuing outreach program to eligible homebound and homeless individuals in Sacramento. They have seen a drop in applications since the outreach project concluded.

Although, there are millions of people who would gain from receiving these important benefits, few of them know of the program or that they are eligible. There are presently 4.4 million SSI recipients. Studies of this program estimate that the participation rate for individuals 65 years and older in the SSI Program is somewhere between 50 and 60 percent.

Organizers of the Sacramento outreach project estimate that at the outset as many as 10,000 people living in Sacramento were not receiving the monthly SSI payment to which they were entitled.

The National Law Center on Homelessness and Poverty estimates that as many as 3 million Americans are homeless. As many as 55 percent of the homeless may be eligible for a modest amount of Federal assistance under the SSI Program because they are elderly, physically handicapped, or mentally ill. According to the National Institute of Mental Health, only 10 percent to 30 percent of homeless individuals actually receive the benefits to which they are entitled.

While the Sacramento outreach project was tremendously successful these local projects cannot take the place of a nationwide effort to publicize the availability of these important benefits—benefits that can mean the difference between being housed and homeless.

BISHOP KEOUGH HIGH SCHOOL STUDENTS WILL ENTER NATIONAL COMPETITION

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the bicentennial of the Constitution and Bill of Rights competition.

Valerie Brown, of Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Valerie and her classmates were able to achieve excellence. Valerie and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Valerie Brown and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Valerie and her classmates good luck in the national competition.

DESIGNATING NOVEMBER 1990 AS DYSLEXIA AWARENESS MONTH

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LAGOMARSINO. Mr. Speaker, I would like to call my colleagues' attention to a bill I am introducing today which would proclaim November 1990 as Dyslexia Awareness Month.

Because of the difficulties dyslexic students encountered with reading and writing skills, we used to wrongly and unfairly label these individuals as "stupid" and "dunce". These labels actually better describe our old, ignorant attitudes. In fact, many of these learning-disabled are very smart and talented. Despite their learning-disability, they have found innovative ways to compensate and overcome their difficulties, becoming very successful, productive, and well-respected members of our society. Who, for example, would consider Cher, Tom Cruise, and Gov. Tom Keane as disabled? Like other dyslexic individuals, they are can-do people. Did you know, for example, that such luminaries as Albert Einstein, Leonardo da Vinci, Thomas Edison, Hans Christian Andersen, Winston Churchill, President Woodrow Wilson, and Gen. George S. Patton also were dyslexic?

With a better understanding of dyslexic today, we are able to design programs to help those with dyslexic and other learning-disabilities. New, different ways of teaching are helping bright, resourceful learning-disabled students excel in a wide variety of studies. I was recently introduced to a model school especially for dyslexic and other learning-disabled students right here in Washington, DC—the Lab School. Through Meredith Reynolds, a high school social studies teacher there, I realized that with the right kind of teaching and learning atmosphere, students who would have struggled in the average classroom because of different needs, instead are right up there with the best of their peers throughout the Nation competing for slots in America's top universities. In fact, a member of my staff who has visited Meredith's classroom and talked about Congress and American Government gave her students high marks. Their questions and comments were more intelligent and insightful than those of their peers in other high schools.

I would like to pay special tribute to my constitutent, Joan Esposito, who struggled for over 40 years with this handicap before being tested and discovering that she was dyslexic. Since that time she has worked tirelessly in trying to educate the public about this learning disability. She established project Heroes which has adults with dsylexia address children in public school classrooms about the problems associated with being dyslexic. Because of her work over the years Joan will be receiving the 1990 Woman of Distinction Award by the Santa Barbara-based soroptimist organization for her work on behalf of dyslexics.

It is indeed tragic to think many people with this disorder go through life without ever having this problem detected. We must continue to focus national attention on this problem since many of these individuals could learn to read and write if they were only aware that they were dyslexic. It has been estimated that 25 million adult Americans are functionally illiterate. How many of these individuals are suffering needlessly because of this handicap? Thanks to Barbara Bush we have all been made aware of the high rate of illiteracy in this country, but we must continue to do all we can to insure that all our citizens are fully literate. I believe that efforts such as this will help to achieve this goal.

I hope you will join with me in calling attention to this situation and hope you will support me in this effort and cosponsor this worthy resolution.

IN RECOGNITION OF LT. COMDR. SHAW COHE

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. BYRON. Mr. Speaker, I would like to take this opportunity to honor and recognize Shaw H. Cohe, lieutenant commander, Supply Corps, U.S. Navy.

It has come to my attention that Lieutenant Commander Cohe has been awarded the Meritorious Service Medal for his outstanding work as the Navy's liaison officer for acquisition and contracts with the U.S. Congress. His dedicated efforts in this field have been of tremendous assistance not only to me and my colleagues but to the entire Nation as well.

I am sure that Lieutenant Commander Cohe will continue his superlative work in his current position as Military Assistant to the Principal Deputy Undersecretary of Defense for Acquisition. A man of Lieutenant Commander Cohe's talent and expertise is rare indeed, and it gives me great pleasure today to recognize him before this body.

WORK OF RESIDENTS FOR A MORE BEAUTIFUL PORT WASHINGTON PRAISED

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Residents for a More Beautiful Port Washington. As Earth Day 1990 approaches, the efforts of this fine organization of citizen activists deserves special mention.

Residents for a More Beautiful Port Washington was formed 22 years ago by a group of environmentally aware and concerned citizens. Since that time, it has been instrumental in protecting and improving the environment of Port Washington and its surrounding communities.

Some of the successful projects of Residents for a More Beautiful Port Washington have included the beautification of the local train station and post office, the prevention of dumping of garbage in Hempstead Harbor, establishment of an environmental book fund for the local library, the sponsorship of a regional park, and the production of countless informational forums and cultural events.

In addition to their tireless civic efforts, Residents for a More Beautiful Port Washington has established itself as an effective citizen lobby on the local, State, and Federal level. It has been effective in shaping governmental policy and educating our elected officials concerning a wide range of sensitive environmental issues.

Mr. Speaker, at a time when many decry the pervasive materialism and lack of community spirit in our Nation, I applaud the work of the many concerned activists of Residents for a More Beautiful Port Washington. It is my every hope that they will continue to work on behalf of their community for many years to come.

ZEIGLER-ROYALTON'S SMOKE-FREE CLASS OF 2000

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. POSHARD. Mr. Speaker, I want to call attention to some young people in my district making an important commitment to living healthy lives.

Mrs. Maudie Bell's second grade class at Zeigler-Royalton Grade School is taking the pledge to be a "Smoke-Free Class of 2000."

This is a unique program sponsored by the American Cancer Society, American Heart Association, and American Lung Association. It is a Tobacco Prevention Program targeting students who will graduate from high school in the year 2000.

Each year the students will be involved in programs to learn more about the dangers of tobacco, with the goal of a generation of young people who are smoke-free.

I want to make special mention of these students because at an early age they have made an important decision to live their lives in a healthy manner. They understand what smoking and other types of tobacco use can do to their bodies. And they are also willing to make a stand against the peer pressure that can be found even in the early grades, and which they are sure to encounter as they progress through the school system.

The toll smoking takes on our society each year is tremendous. It is a real health concern for all of us, but we can be encouraged by the actions of these second graders who are leading the way to a smoke-free generation. I look forward to the high school graduation ceremony where these youngsters, and perhaps many more who will join them after today, graduate as the "Smoke-Free Class of 2000."

They have my support and congratulations.

I am listing their names for the RECORD so they may receive appropriate recognition for their efforts.

Stevie Battaglia, Allison Chamness, Alison DeSomer, Sara Dollins, Janetta Fletcher, Beau Forbes, Jimmy Gaddis, Kristy Gayer, Matt Gayer, Ryan Goodisky, Joey Hargraves, Kacey Karnes, Deanna Kimble, Ricky Kirk, Jason Krelo, Emily Kretz, Daniel Mitchell, Melissa Mistroka, Christo Poggas, Julie Robinson, Donelle Rowland, Josh Short, Austin Simion, Erik Trusty, Linnea Vantrease, Nathan Walker.

CONGRATULATIONS TO MEL C. ROMERO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. RICHARDSON. Mr. Speaker, one of New Mexico's most dedicated workers, Mr. Mel C. Romero, is retiring after 38 years in the credit union business, the last 16 being spent at Zia Credit Union in Los Alamos, NM.

Mr. Romero began his career in Pueblo, CO, in 1953 at Mount Carmel Credit Union. He left in 1963 to lead a joint CUNA-Peace Corps Program in Chile, South America.

After 2 years in Chile, he was hired by the University of New Mexico to train future contingents of volunteers going to Central and South America. He taught Spanish/Chilean history and accounting in Spanish.

From the University of New Mexico, he went to work for the Air Defense Credit Union at Fort Bliss, TX. After 2 years there, he was offered a position at Otero Federal Credit Union at Holloman Air Force Base near Alamogordo, NM. He was serving as assistant manager there when he was asked to interview for the position of manager at Zia Credit Union. He was one of 15 candidates and was chosen after his first interview.

While Mr. Romero was at Zia, the credit union maintained the lowest delinquency ratio for a credit union of its size in the United States, and never had to foreclose on a home or mobile home. Currently it holds one of the highest capital to asset ratios in New Mexico for credit unions and banks, with over $37 million in assets and 6,500 members. Mr. Romero should also be proud that Zia Credit Union was one of only three credit unions in the State to receive a CAMEL rating of one by the New Mexico Financial Institutions Division.

Mr. Romero has done an excellent job of building and strengthening this financial institution, which plays such an important role to the people of Los Alamos County. Although he will be sorely missed as the general manager of Zia, he can leave with the satisfaction that his tireless efforts have made Zia one of the finest and strongest financial institutions in the State of New Mexico. I commend Mr. Romero for his dedicated service and commitment to his community.

THE 25TH ANNIVERSARY OF NEW YORK CITY'S LANDMARKS PRESERVATION COMMISSION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. WEISS. Mr. Speaker, I would like to share with my colleagues Mayor David Dinkins' eloquent remarks honoring the 25th anniversary of the New York City Landmarks Preservation Commission. The Landmark Preservation Commission has contributed significantly to the quality of life in New York City. It has helped New York preserve its past, its municipal identity, the fabric of many of its communities, and the architectural achievements of previous and present generations.

In 1965, during my first term as a member of the New York City Council, the city passed the Landmarks Preservation Law, which created the Landmarks Preservation Commission. Since its inception, the commission has designated 856 buildings as individual landmarks and 52 historic districts encompassing a total of more than 15,000 buildings. The commission has also expanded the preservation law to include scenic outdoor spaces, public interiors, and entire districts as landmarks.

I join Mayor Dinkins in congratulating the Landmarks Preservation Commission on its silver anniversary and in thanking the commission for all that it has done for New York City. I urge my colleagues to read Mayor Dinkins' remarks:

REMARKS BY MAYOR DAVID N. DINKINS, LANDMARKS PRESERVATION COMMISSION 25TH ANNIVERSARY

Good morning and welcome to City Hall. As one who lives and works in two historic 19th century buildings, I am particularly delighted to participate in this celebration of the 25th anniversary of the Landmarks Preservation Commission.

I salute my distinguished colleagues and predecessors in office, Mayor Robert Wagner and Mayor Abraham Beame, as well as former LPC Chairman Gene Norman, who is here representing former Mayor Koch, and my appointee to head WNYC, Tom Morgan, who is representing Mayor Lindsay.

My greetings to Barbaralee Diamonstein, Chairwoman of the Landmarks Preservation Foundation, which is sponsoring this celebration; City Council members Herbert Berman, Robert Dryfoos, June Eisland, Walter McCaffrey, Morton Povman and Priscilla Wooten; former Chairmen and Chairwomen of the Landmarks Preservation Commission, Beverely Moss Spatt, Kent Barwick, Gene Norman and David Todd; our recently designated Landmarks Commissioner, Laurie Beckelman, who will be presented for City Council consideration later this month; J. Jackson Walter, President of the National Trust for Historic Preservation; world-renowned architect I.M. Pei, distinguished architecture critic Paul Goldberger, theater impresario Joe Papp, writer and preservationist Margot Gayle, and all who have joined us on this silver anniversary of one of the most significant dates in our city's history.

On April 19, 1965, Mayor Robert F. Wagner signed Local Law No. 46 to bring the New York City Landmarks Preservation Commission into existence. While New York was not the first city to adopt landmarks legislation, we quickly found ourselves in the forefront of the preservation movement.

Since that time, the commission has designated 856 buildings as individual landmarks. But landmarks are more than individual sites. Often, it is the composition of a neighborhood that constitutes a landmark, and in that vein we have established 52 historic districts encompassing a total of more than fifteen thousand buildings. At the same time, we have expanded the law to allow the designation of scenic outdoor spaces and public interiors, as well as entire districts, as landmarks.

It hasn't all been smooth sailing. And the Commission's decisions have not always been perfect.

But on balance, the effect of the Landmarks Preservation Law on New York City has been more than positive: By preserving our past, it has also preserved our municipal identity, the fabric of many communities and the architectural achievements of former generations.

Initially, the Landmark Law was opposed by some real estate developers, who resented what they saw as an infringement on their property rights. But the law soon won widespread acceptance, for it reflected a truth—that architecture adds an important dimension to urban living.

On a practical level, even developers—frequently soon as the apostles of change—have come to appreciate the value of preservation. The Landmarks Law has enhanced the market status of such areas as Fort Greene, Brooklyn; Hunters Point, in Queens; Strivers Row, in Harlem; parts of Manhattan's Lower East Side; and so many others.

Landmarks designation often provided a cachet that made real estate more attractive and promoted owner investment. New York is a better city—and, I might add, a more competitive destination for tourism—because we have managed to save so many structures from oblivion.

Not only has Landmark designation rescued our past—but it has also helped to shape our future. Over the last 25 years, architects have come to know that their designs could become the landmarks of tomorrow. The challenge this implies is simply unprecedented in human history.

That great student of the world's cities, the late Lewis Mumford, once wrote, "The city is a fact in nature, like a cave a run of mackerel or an ant-heap. But it is also a conscious work of art, and . . . with language itself, it remains humanity's *greatest* work of art."

Just as a great book enters the consciousness of a civilization, so too does a great building enter the consciousness of a city. One can never destroy a great book; since the Landmarks Preservation Law, it is no longer easy to destroy a great building.

We have an exciting agenda in the years ahead. Our new Landmarks Commissioner looks forward to the 1990's as "the decade of neighborhoods," expanding our focus from large important public buildings and districts to include structures intrinsic to the character of neighborhoods.

To me, the word "neighborhood" has a human ring that is missing from the word "district." A district is architectural, but a neighborhood is both architectural and human. This new stress bodes well for the social fabric of our city, for it is our neighborhoods that give that fabric its unique strength.

And so I join you in thanking the Landmarks Preservation Commission for all it has done for the quality of our lives, and in wishing it a happy 25 birthday and many more years of service to the citizens of New York. Congratulations!

TRIBUTE TO EDWARD LAKE FIKE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HUNTER. Mr. Speaker, about 3 weeks ago, a good friend of mine, Mr. Edward Lake Fike, left the San Diego Union after many years of dedication to that newspaper as its editorial page editor.

Those who worked with Ed consider him a man of principle and conviction. His long and distinguished career in journalism has had a significantly positive effect on our community in San Diego.

Ed will be sorely missed in his current position. I'm sure, though, that we will continue to hear from Ed, and I, for one, will listen to all he has to say. We wish him the best for his future and the future of his family. Best wishes, Ed!

THE REAL GORBACHEV

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MICHEL. Mr. Speaker, former President Richard M. Nixon was scheduled to address a meeting of the Boston World Affairs Council, April 12, 1990. For medical reasons he was forced to postpone that speech. I was fortunate to obtain a copy of the text he would have delivered in Boston, and I want to take this opportunity to share it with our colleagues.

With incisive analysis and a mastery of a broad range of issues, President Nixon takes a look at "the real Gorbachev," and offers some advice as to how the United States might deal with a world in which "the Soviets have lost the cold war, but * * * the West has not yet won * * *."

Last month, members of the House Republican Conference heard the former President speak on many of the same subjects he covers in this speech. We found his grasp of geopolitical realities and his ability to clarify ideas remain powerful. I think all our colleagues will benefit from reading his remarks.

At this point in the RECORD, I wish to insert "The Real Gorbachev," a speech prepared for delivery by former President Richard M. Nixon, before the World Affairs Council of Boston, April 12, 1990:

THE REAL GORBACHEV

(Address by former President Nixon before the Boston World Affairs Council)

In addressing this distinguished audience of foreign policy observers, I want to tell you up front what my approach will be.

Virtually all of the foreign policy experts these days are singing the same tune. Editorial writers, columnists, think tanks, and television commentators tell us:

The Cold War is over.

The West has won.

The Soviet Union no longer poses a significant threat to our interests.

A State Department expert observes that we are witnessing what he calls the end of history. We no longer need to devote our attention to the great issues that have divided us during the Cold War, but can now devote our efforts to issues which unite us like global warming.

I believe profound changes have taken place, but I see the world from a different perspective from those who reside in the Washington Beltway, the modern version of Plato's cave.

I believe the Soviets have lost the Cold War, but that the West has not yet won it.

I believe that we are witnessing the defeat of communism, but that this alone does not assure the victory of freedom.

I believe that while the Soviets threat has receded, we face challenges all over the world which will test us to the limit of our capabilities and our will.

Finally, I also profoundly believe that if we meet our leadership responsibilities, the twentieth century, which was the bloodiest in world history, will be succeeded in the year 2000 by a century of peace.

Nineteen-eighty-nine was the year of the century for the forces of freedom in the world. We saw the Berlin Wall come down

and communist leaders in Poland, Hungary, Romania, Bulgaria, Czechoslovakia, and East Germany driven from power by the people in those countries. The year was capped by the stunning defeat in a free election of another communist leader, Daniel Ortega in Nicaragua.

We now face a new challenge. Winning an election or a revolution is difficult. But far more difficult is running a government after you win. Now that the people of these countries have ridded themselves of the evils of communism, we must help them find a way to enjoy the blessings of freedom.

Democracy alone is not the answer. Democracy means government by elected leaders and elected leaders can provide bad economic policies as well as good ones.

Democratic socialism is not the answer. For seventy years we have opposed totalitarian communism because it is evil. Today we must oppose democratic socialism because it won't work. The trouble with the socialists is that they promise the golden egg and then kill the goose that lays it.

As Czechoslovakia's brilliant finance minister recently observed, partial economic reforms won't work. There is no halfway house between communism and freedom.

There is only one way to progress for these nations which have rejected communism. They should adopt the free market policies which have produced economic miracles in the United States, Western Europe, and Japan. Those like Poland who go through the agony to move that way deserve our full support.

The newly free nations of Eastern Europe and Nicaragua rejected communism because it didn't work. Our challenge is to assist them in ways that will make certain that freedom does not suffer the same fate. Rather than sending them political experts on how to run a campaign, we should send them economic and technological experts on how to run a free economy.

In his inaugural address on January 20, 1949, President Harry Truman announced what he called a "bold new program for making the benefits of our scientific and industrial progress available for the improvement and growth of undeveloped areas." Unfortunately, while this visionary Part Four program, as it was called, was never fully implemented in the 1950s, it provides a useful example in the 1990s of how we should approach the problems of the new democracies in Eastern Europe and Nicaragua and the less developed countries of the Third World. What we need today is an International Freedom Corps sponsored by the United States, Western Europe, and Japan which would have the responsibility to provide expert economic advice to those nations who chose freedom on how to develop and implement free market policies. For example, in the United States, retired chief executive officers of major corporations who are still in the prime of life could be of invaluable assistance in such a program.

The bottom line is that we should not blithely assume that if we can just "export democracy" these countries will find an answer to their desperate need for economic progress. Far more than our money to subsidize half-baked policies that are bound to fail, these countries need the benefit of our experience in dealing with the infinite complexities of free market economic systems.

Let us now take a close look at the most remarkable statesman of our time—Mikhail Gorbachev.

Gorbachev is a troika, a three dimensional personality. The fact that he does not have a single-minded vision, as was the case with his predecessors, should not be considered a liability. Unfortunately, history tells us that leaders with vision, more often than not, produce nightmares.

Despite what you may hear that he could be a closet democrat or even a closet Christian because he treats the Pope respectfully, Gorbachev is in fact a true believing communist. His goal is not to abandon communism, but to save it.

He is a patriotic Russian nationalist. His goal is not to dismantle the Soviet empire, but to preserve it, as demonstrated by the hard-line he is taking on Lithuanian independence.

But the most dominant facet of his complex personality is that he is a consummate pragmatic politician who likes power, knows how to use it, and will do what is necessary to keep it. It is this characteristic which has primarily influenced his decisions to adopt his revolutionary political, economic, and foreign policy reforms.

Rather than trying to psychoanalyze him, let us see what he has done.

His political reforms do not meet our standards. But compared with what the Russian people had before, they are breathtaking. Where there was no freedom of the press, there is now some. Where there was no freedom to criticize party leaders, there is now some. Where there were no free elections, there are now some. After having had their voices stilled for over seventy years, the great silent majority of the Russian people are finally being heard.

On the other hand, his economic reforms have been a dismal failure. For example, in the ten years of Deng Xiaoping's reforms in China between 1979 and 1989, the per capita income of the Chinese people doubled. In the five years Gorbachev has been in power, the per capita income of the Russian people has gone down.

His foreign policy reforms, however, have exceeded all expectations. He has withdrawn the Red Army from Afghanistan. He has announced reductions in his Warsaw Pact forces and in his defense budget. Most important, he has not used the Red Army to keep his East European clients in power, as did Khrushchev in Budapest in 1956 and Brezhnev in Prague in 1968.

We must keep this last point in context, however. The conventional Beltway wisdom is that it was Gorbachev who inspired and encouraged the anti-communist revolts in Eastern Europe. The truth is that it was Western values contrasted with the failure of communist policies, which brought millions into the streets of the great cities of Eastern Europe. Gorbachev deserves credit for not sending in the Red Army. But the revolutions in Eastern Europe were not pro-Gorbachev. There were pro-freedom and anti-communist.

The most significant question to address is why Gorbachev changed previous Soviet policies. Here we see the pragmatic politician taking over from the ideological communist and the Russian nationalist. Look at what he confronted when he came to power five years ago. Everywhere he looked, communism was suffering from terminal illness.

All of the Soviet Union's Third World conquests were losers, costing the Soviet Union $15 billion a year in subsidies.

Dissent and outright rebellion were boiling beneath the surface in the captive nations of Eastern Europe.

Most ominous, the Soviet economy was a basket case plagued by shortages, crime, and corruption.

Abroad he saw that his major potential adversary, the United States had recovered from the malaise of the late 1970s and the recession of the early 1980s, had a booming economy, a stronger military, and a new initiative, SDI which would cost him billions of dollars he did not have to be competitive.

In 1985, shortly after Gorbachev came to power, I asked China's General Secretary Hu Yaobang if he thought Gorbachev would adopt economic reforms as Deng Ziaoping had. He replied, "If he doesn't, the Soviet Union will disappear as a great power in the twenty-first century." He was right and Gorbachev knows it. He had no choice but to reform at home and to retrench aborad.

There is no question that Gorbachev has changed since the time he totally supported Brezhnev's policies. But it is a change of the head, not the heart. At a time he is using his head, we should not lose ours.

Let us see what he has not changed.

In implementing his political reforms, some communist officials have lost their positions. But Gorbachev has stengthened his. He is the most powerful Soviet leader since Stalin.

Despite cuts in his defense budget, he still spends twenty percent of his GNP on defense, compared with six percent in the United States. He has modernized all three legs of his nuclear triad, as well as his conventional land, sea, and air forces. The Soviet military is leaner, but stronger than when he came to power five years ago.

He has withdrawn the Red Army from Afghanistan, but spends $4 billion a year to keep the same communist government in power. Except for Nicaragua, all of the Soviet Union's Third World clients are still in power, subsidized to the tune of $15 billion a year in arms and economic aid from the Kremlin. The Cold War may be ended in Eastern Europe, but it is still being waged in the Third World.

Why did Gorbachev act as he did in Eastern Europe? He did what he did not to help us but to help himself. If he had used the Red Army to keep his unpopular clients in power in Eastern Europe, he would have aborted his brilliant diplomatic blitzkrieg to psychologically disarm Western Europe. he had to choose between Eastern Europe and Western Europe. He made the right choice. He chose Western Europe.

He faces a similar choice today. He must choose between Lithuania and the United States. If he uses force or threats of force to deny independence to Lithuania, there is no way that the Senate of the United States would approve any arms control, trade, or other agreement at the upcoming Bush-Gorbachev summit. Those who cynically say that having a Bush-Gorbachev summit must take priority over our concern for the independence of Lithuania are profoundly wrong morally. They are also wrong politically. The tough-minded, pragmatic politician who did nothing to keep his subservient client in power in strategically important East Germany will not risk his relationship with Western Europe and the United States to keep tiny Lithuania under Soviet control. The Ukraine, maybe; Lithuania, never.

To say that we must choose between independence for Lithuania and a Bush-Gorbachev summit misses the mark. It is possible to have both. Gorbachev will go to the brink, but he will stop short of action which would irreparable damage his new relationship with Western Europe and the United

States, who in the final analysis he knows are going to have to bankroll perestroika.

Gorbachev's decision not to use force in Eastern Europe has been a brilliant success from his point of view. He has removed the fear—the glue that holds the NATO alliance together. Even more important, his benign image as a man of peace has increased his chances to get the credits and technology he needs for his sick economy.

Should we help Gorbachev? The answer is yes if it serves our interests as well as his.

It does not serve his interests or ours unless his reforms go far enough to work. His current reforms do not meet that test. As Andrei Sakharov observed shortly before his death, "In the absence of radical reforms, credits and technological aid would only prop up an ailing economy and delay the advent of democracy."

Even if his economic reforms go far enough to work, it does not serve our interests to help Gorbachev if as a result we will be facing an economically stronger Soviet Union with the same aggressive foreign policy.

As we applaud Gorbachev's new thinking in Eastern Europe, we should take a hard look at some of his old thinking in the Third World. In nation after nation he is supporting anti-American regimes in Asia, Africa, and Latin America.

He provides $6 billion a year in arms and other aid to Castro, $2.5 to Vietnam, $4 billion to Afghanistan, $1 billion to North Korea, $1.5 billion to Syria, $1 billion to Angola, $1 billion to Libya.

We hear reports that he is trying to influence his Third World clients to adopt less aggressive policies. There is one sure way he can influence them. He can quit subsidizing them.

Now that the people of Eastern Europe have ended the Cold War in Eastern Europe, the time has come for Gorbachev to end the Cold War in the Third World.

But isn't this asking him to give up too much? Let us examine this question in historical perspective. In 1945, Winston Churchill sent a message to the new President of the United States, Harry Truman: "It is vital that we reach an understanding with Russia now before we mortally reduce our armed forces and withdraw to our zones of occupation." In effect, Churchill was saying, "Make a deal now when Stalin needs one because of our strength rather than waiting until later when he will not need one because of our weakness." His advice was rejected, and as a result a hundred million people in Eastern Europe were forced to endure 40 years of Soviet domination and repression.

We are at another great watershed of history. Gorbachev needs our help for his terminally sick economy. We should make a deal now which serves our interests rather than waiting until later when as a result of our help, he may no longer need one. We should link our decisions on items he wants like trade, credits, and technology to his actions on items we want like eliminating his support of our potential enemies in the Third World.

We should totally reject the fatuous advice of those who suggest that we should help finance perestroika. It is in our interest and in Gorbachev's as well for him to finance perestroika by cutting back on his Third World foreign aid programs and his huge defense budget.

Let us assume the best—that we will be entering a new era in which the Cold War is over, not just in Eastern Europe, but in the Third World as well. What are the challenges we will face?

First, there is the Soviet Union. Even without Eastern Europe, the Baltics, and its Third World outposts, the Soviet Union will not be an international pussycat. It will still have 30,000 nuclear warheads, the world's largest conventional army, and a modern, blue-water navy. And it will have a long history of pervasive Russian expansionism which began centuries before the Bolshevik Revolution. Those who fear a united Democratic Federal Republic of Germany because of Germany's history should take a hard look at the totalitarian Soviet Union in light of Russian history.

There is China—a nuclear power with one and one-tenth billion potentially capable people which in spite of not because of communism will be a military and economic superpower in the next century. Whether China will play a peaceful or destructive role in the world, whether it will repress or respect human rights, depends on whether the United States is able to again develop a constructive relationship with China. No other Pacific power can play that role. Does anyone seriously believe that the Japanese, let alone the Russians, would export democracy to China?

There is Japan, an economic superpower. It is fashionable and politically profitable to bash Japan these days. And as last week's issue of Newsweek indicated, it has now become fashionable in Japan to bash the United States. We must insist that we have fair trade as well as free trade with Japan. But we must recognize that as the two most advanced free world economies we are destined to be vigorous and at times even fierce competitors. But we must keep that competition in perspective. Those who contend that Japan has now replaced the Soviet Union as our major adversary in the world are grossly exaggerating the problem. The Dutch own more of America than do the Japanese. Even if all trade barriers between the United States and Japan were removed, our trade deficit with Japan of $45 billion a year would be reduced by only $5 to $7 billion. As we consider the causes of our economic problems, rather than always looking out the window toward Japan, we should look in the mirror. Above all, we must never lose sight of the fact that without a constructive, strategic relationship between the United States and Japan, peace will not survive in the Pacific.

There is Western Europe, which after 1992 will challenge the United States as the world's major economic superpower. Before blithely dismantling NATO, we must remember that we need it for two reasons: As insurance against a renewed Soviet threat, and as reassurance for those who rightly or wrongly fear the power of a united Germany. Let's look at Europe without NATO. For forty years, the goal of Soviet foreign policy has been to denuclearize Europe, get the United States out of Europe, neutralize Germany, and dismantle NATO. Such a Europe would leave the Soviet Union as the only nuclear superpower and as the dominent conventional power in Europe. How long could the German economic powerhouse tolerate that situation?

There is the Third World. By the end of the century, four billion people will be living in the less developed nations of Latin America, Africa, and Asia. They will have a per capita income of $800 a year, as compared with $18,000 a year in the United States, Western Europe, and Japan. That disparity is a recipe for revolution in a part of the world in which there have been over 100 wars since World War II in which more people have been killed than in World War I.

The people of these countries have enormous problems. In the past, the communists at least have talked about the problems. Too often, we only talk about the communists. Now with the communist threat receding, we should address those problems honestly and creatively.

I could go on, but as you can see, apart from the Soviet threat which has monopolized our attention for over forty years, we face awesome challenges. But they are also inspiring because they are the challenges of peace, not of war. Can America meet those challenges? It is ironic that at the very moment we are at the brink of victory in the Cold War, a wave of isolationism is sweeping across the country. From the left we hear that the United States is a declining power and that we are no longer able or even worthy to carry the burden of free world leadership. From the right, we hear that the United States has carried that burden long enough and that the time has come for those we helped after World War II, particularly the Japanese and the Germans, to assume that responsibility.

There is no question that the Germans and Japanese should do far more. But that does not mean that the United States should do nothing.

We are not as powerful as we were after World War II, relative to the rest of the world. But the United States is still the world's only true superpower. The Soviet Union is a military superpower. The Japanese and Germans are economic superpowers. Only the United States is a military, economic, and geo-political superpower.

As Herb Stein recently pointed out, the United States is a very rich country. We are not rich enough to do anything, but we are rich enough to do everything important.

In speaking of the power of the United States in his Iron Curtin speech, Churchill said, "This is a solemn moment for the American Democracy. For with primacy in power is joined an awe-inspiring accountability for the future." That statement is as true today as it was when he spoke those words forty-four years ago. Leadership that only the United States can provide in both Europe and Asia is indispensable if peace and freedom are to survive in the world.

We should provide that leadership not just for others but for ourselves. America cannot be at peace in a world of wars. When freedom is lost anyplace, it is lost in America. We cannot have a healthy American economy in a sick world economy. For example, while there was significant progress politically in many Latin American countries in the 1980s, economically, the eighties were a lost decade. Only Colombia showed growth—and that for very unhealthy reasons. As the poor of Latin America escape from poverty, we in North America will find our lives enriched.

Let me put the challenge we face in historical perspective. In 1947, two freshman congresssmen, Jack Kennedy and I, had offfices near each other on the fifth floor of the old House Office Building. I vividly recall our first major foreign policy vote, exactly forty-three years ago, In a dramatic joint sesssion of Congress, President Truman asked for military and economic aid for Greece and Turkey to meet the communist threat to those countries. It was a tough vote for both of us. It was tough for him because the liberal Democrats in his

Massachusetts district opposed any military foreign aid. It was tough for me because the Conservative Republicans in my California district opposed all foreign aid.

We both voted for it and helped to launch the great bipartisan initiative which deterred Soviet aggression in Western Europe of the past forty years.

We were young then. And with the enthusiasm of youth, we were highly motivated by the belief that we were serving a great cause—the defeat of communism.

You, the present and future leaders of America, have a greater cause—the victory of freedom. If you meet your challenge as we met ours, your legacy will be not just that you saved the world from communism, but that you helped make the world safe for freedom.

HONORING COMDR. PAT VIGGIANO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. ENGEL. Mr. Speaker, this week, American Legion Post No. 1163 is honoring its commander, Pat Viggiano, who has served his country, his community, and his fellow veterans with distinction. I also wish to acknowledge the contributions made by this distinguished veteran.

Pat Viggiano has served as commander of the Frank A. Rea Post for the past 8 years and has been finance officer and membership chairman for the past 20 years. He has also chaired the Central Committee of War Veterans of Yonkers and still serves on its executive committee. Pat's activities during this time are well known to his friends in Yonkers, and the list of his accomplishments is a tribute to his dedication and good will.

Whether he is playing Santa Claus at a Christmas party for retarded children or organizing parades on Memorial Day and Veteran's Day, Pat Viggiano never forgets the importance of taking pride in his community and caring for his neighbors. The people of Yonkers, and especially his fellow veterans, have been enriched by his activities.

On behalf of my constituents, I thank Pat Viggiano for all his good works and wish him continued success and happiness.

COMMISSIONING THE U.S.S. "ALBANY"

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. McNULTY. Mr. Speaker, on Saturday, April 7, 1990, I had the honor of being the principal speaker at the commissioning of the U.S.S. *Albany* (SSN 753), a nuclear-powered attack submarine named for the capital city of the State of New York. With your permission, I would like to share my remarks with my colleagues.

ADDRESS BY CONGRESSMAN MICHAEL R. MCNULTY AT COMMISSIONING CEREMONIES FOR THE U.S.S. "ALBANY"

It is an honor for me to join with you today in celebrating the commissioning of the U.S.S. *Albany*—a great naval craft proudly bearing the name of the capital city of the State of New York.

Four previous U.S. Navy ships have borne the name *Albany*. The first was a sloop-of-war, commissioned 144 years ago. It served in the Mexican War.

The second was a steam sloop-of-war, commissioned the *Contocook* in 1868, but renamed the *Albany* the following year.

The third—a protected cruiser commissioned in 1900—saw service in World War I.

The fourth was a heavy cruiser, commissioned in 1946, and decommissioned in 1980 after having been converted to a guided missile cruiser. Five years later, her name was stricken from the Naval Vessel Register.

Today, we proudly commission the fifth *Albany*—a nuclear-powered attack submarine with great versatility that will enhance considerably the security of our country. The name *Albany* is back in the Naval Vessel Register.

Over the past three centuries, Albany, NY, has grown into one of our Nation's economic, commercial, cultural, and high tech centers.

In physical terms, New York's Capital District is embedded in the heart of the U.S.S. *Albany*. Its main propulsion unit was made by General Electric's Knolls Atomic Power Laboratory in Niskayuna.

In symbolic terms, the U.S.S. *Albany* stands for creativity, progress, and opportunity—characteristics which describe the capital city and the Capital District of the Empire State.

My friends, we are living through historic times. Think, for a moment, about the dramatic events of the past year. In March 1989, elections were held in the Soviet Union. Now elections in the Soviet Union are nothing new—they have been having them for decades. The only problem was that their elections had only one candidate for each office, and there was no competition.

Last year was different. No, the Soviets did not have the same kind of free and open democratic elections to which we are accustomed. They didn't even have multi-party elections. But they did allow for some choices within the party.

What was the result? Time after time, in region after region—even in the population centers of Moscow and Leningrad—when people were given the choice they picked the candidates of reform and democratization.

In Moscow, the outspoken Boris Yeltsin, was elected. When the party leadership tried to deny him a seat on the Supreme Soviet, Muscovites took to the streets in protest, and the leaders backed down.

Next were the elections in Poland. They were only for one House of Parliament—the lower House at that. But when the results were in, Solidarity won an overwhelming victory. I remember the talk around Washington at that time centered around the prediction that there could be a democratic government in Poland within a period of several years. There is a democratic government in Poland today.

You all know the rest of the story. The winds of democratic reform swept through Hungary, Czechoslovakia, Bulgaria, and Romania.

As all these changes were occurring, I will never forget the specter of Erich Honecker, then the leader of East Germany, standing up before the world and making the pronouncement: "This is where it stops, it will not happen here." Shortly after he made that pronouncement, Erich Honecker was no longer the leader of East Germany. As we speak, the process of German reunification has begun.

Just when we thought nothing more dramatic could happen, it did. The Soviet Communist Party voted to relinquish its monopoly on power. Shortly after that, the Soviet National Congress voted several sweeping reforms—including the direct election of the Soviet President in 1995.

Yes, it's been a great year for the emergence of freedom and democracy—not just in Eastern Europe, but also in Nicaragua, Panama, and in other places throughout the world.

What conclusions should we draw from this? Some say that we should unilaterally disarm; that the major world threats no longer exist. That is a simplistic point of view, in my opinion—and it totally ignores history.

I believe that there may eventually be the "peace dividend" that so many people are talking about now. But it won't be immediate. It will take time. The arms reductions which are undertaken by the United States of America should be the subject of negotiation—not unilateral action. I believe that Mikhail Gorbachev is one of the greatest politicians in the world. He has been able to establish a global reputation as a peacemaker, while simultaneously modernizing the nuclear capabilities of the Soviet Union.

When the summit between President Bush and President Gorbachev begins on May 30, we must insist that President Gorbachev begin to match his words with deeds.

While I believe that we are entering a new and better relationship with the Soviet Union—and that new relationship has the potential to help in promoting world peace—we must proceed with caution.

It should be remembered that military weakness never prevented war. When we let our defenses down—not too many years ago—we were in our greatest peril.

Today, as we commission this magnificent ship after an unprecedented military buildup, the fact of the matter is that the prospects for peace here at home and around the world are greater than they have ever been. That, my fellow citizens of America, is no coincidence.

I believe that our current military posture will prompt major concessions by the Soviets when President Bush meets with President Gorbachev next month. When our Republican President seeks those unprecedented concessions from the Soviet Union—which is still in process of strategic modernization even as we speak—this Democratic Congressman will be the first in line to support him.

Finally, I wish to pay tribute to a special individual and a special group of individuals. Congressman Sam Stratton, who represented portions of the Capital District of New York for 30 years could not be here today in person because of ill health. I visited with our friend, Sam, just a couple of weeks ago. We talked about the commissioning, and I assure you that he is with us today in spirit.

Sam is a distinguished veteran of our Armed Forces. On this special day I salute and pay tribute to him and to all who have served in our Armed Forces through the years. It is because of their tremendous bravery, dedication, and sacrifice that we

are seeing these dramatic changes which are taking place all around the globe.

Yes, freedom and democracy are emerging in every corner of the world and, yes, we may be moving toward one of the most peaceful periods we have known since we first inhabited this good earth. But let us remember that the freedom and democracy which millions of people are enjoying for the first time in their lives was purchased at a very high price.

To all those who ever served in the Armed Forces of the United States of America, and especially those, like my brother, Bill, who gave their very lives for their country let us always be grateful. They are our heros, and we salute them today.

ENDORSEMENT OF INDEPENDENT LITHUANIAN REPUBLIC

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. COX. Mr. Speaker, earlier today, I received a copy of a resolution passed unanimously by the Moscow City Council, in the U.S.S.R., expressing their full endorsement and recognition of an independent Lithuanian Republic, and condemnation of their own President, General Secretary Gorbachev, for his repressive response and tactics. In addition, Mr. Speaker, it is also my understanding that comparable resolutions have also been passed by the city councils of Leningrad and Kiev.

It is my privilege to formally present this resolution for the RECORD, which was recently cabled to the Lithuanian President, Mr. Vytautus Landsbergis:

We, the people's deputies of the 21st session of the Moscow Soviet, support the striving of the Lithuanian people for independence and self-determination. We consider inadmissible the enforced keeping of your people and state in the framework of the Soviet Union. Understanding that a nation oppressing other nations cannot be free, we condemn interference of the President of the USSR and the Government of the USSR into the internal affairs of your republic. We hope for the common sense of our leadership and for the immediate establishment of a framework for the negotiation of all arguable points between Lithuania and the USSR. We wish you and the entire Lithuanian nation success in the rebirth of your country.

IN MEMORY OF REV. RALPH DAVID ABERNATHY

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GRAY. Mr. Speaker, I rise today in memory of Rev. Ralph David Abernathy. With his death yesterday, America lost one of its greatest fighters for civil rights.

I am saddened by his death, but I will always be inspired by his life. I will remember him as a friend, a brother in spirit and a colleague in the struggle for equal rights for all Americans.

Ralph came into this world the grandson of a slave. He left, one of the great leaders of this day. As a young man, he new, as he put it, that his life was with people. So he became a student of sociology and a son of God, and emerged to move the minds and hearts of a nation.

From the Montgomery bus boycott and the Southern Christian Leadership Conference to the march on Washington and the poor people's campaign, Ralph Abernathy showed that he was a man with the humility to serve, and the ability to lead.

If African-Americans today can rise higher and look out on a brighter horizon, we can do so because we stand on the shoulders of Ralph David Abernathy and others like him. We can do so because Ralph brought to the attention of the American people and this Congress, the plight of citizens who would not be ignored and the injustice of policies that could not be tolerated.

A true advocate of freedom, Ralph David Abernathy's many accomplishments in the civil rights movement will not be forgotten. Because of his efforts, he leaves his country a better place than he found it. God rest his soul.

COMMENDING INNER CITY ARTS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEVINE of California. Mr. Speaker, today I want to pay tribute to those in my State that do so much for so many with so few thanks. These people are an inspiration to everyone, a true example of American altruism and volunteerism, and I wish to give them the praise that they so richly deserve. They are the founders and employees at Inner-City Arts, a non-profit organization serving Los Angeles' disadvantaged and underprivileged youth.

The program is a positive and refreshing approach to solving the problems generated by our inner cities today. The facility provides classes and programs in all areas of the arts including painting, drama, music, dance, drawing, and writing to 500 children and teens on a year-round basis. By providing this creative outlet to these children, they unlock their imaginations, build their self-esteem, expand their horizons, and help them realize their full potential. The program also works to improve their English language skills and helps keep kids off the street and away from drugs. The professional artists involved with the center serve as teachers and role models. Encouraging them to bridge social and cultural gaps and grow into responsible adults capable of becoming the leaders of tomorrow.

Inner City Arts is a pioneer program that serves as a model for other centers in similarly depresses areas. It works in collaboration with a number of business organizations and governmental agencies to attract a broad base of community leaders to be involved in making a difference in the lives of these young people and their neighborhoods.

This outstanding and worthwhile program is attempting to expand in order to be able to serve all 4,500 of the school children in the area. It is my most ardent hope that it will not only serve these children, but that other communities will follow the shining example it has set for having such a tremendous positive impact on America's disadvantaged youth.

I ask my colleagues to join with me in recognizing this outstanding program for its much-needed service to our community.

"OLD GLORY"

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HALL of Texas. Mr. Speaker, a constituent of mine, Burnell Hall, principal of the Community Elementary School in Nevada, TX, wrote a poem that I wish to share with my colleagues today.

Old Glory! Proud and majestic symbol, home of the brave.
Old Glory! In absolute splendor, triumphantly, does she yet wave.
Old Glory! Defender of freedom o'er land, sea, and air.
Old Glory! Sons, daughters, or foes dishonor must never dare.
Old Glory! Raised in bloody strife; Lowered always in dignity.
Old Glory! Champion of true democracy; God, country, and liberty.
Old Glory! Awaken! Forefathers, fallen heroes, countrymen and women alike.
Old Glory! Proudly salute Old Glory; forever restore her might.

Mr. Speaker, as we adjourn today let us do so in honor and respect of those who use their talent to laud and highlight our flag, our country, our history—and our future.

AWARD WINNING ESSAY BY JOHN HARMON HOLLADAY III OF MANNING, SOUTH CAROLINA

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TALLON. Mr. Speaker, I am proud today to share with my colleagues the text of an award winning essay written by one of the most promising young minds from the Sixth District of South Carolina. John Harmon Holladay III won the South Carolina State competition for the Veterans of Foreign Wars annual scriptwriting contest.

For 43 years, the Voice of Democracy Scholarship Program has provided young people the opportunity to value their democratic heritage by sponsoring an essay contest and academic scholarships. Private initiatives such as this are the key to pointing our young students toward a life-long commitment to citizenship, leadership, and democracy.

I would like to congratulate John for his excellent and insightful essay. The text follows:

WHY I AM PROUD OF AMERICA

In truth, the word "America" sparks some pride in all true patriots, but what makes

my view unique? Why am I proud of America? It, of course, has something to do with the fact that this is where I live, but there is more. To me, pride can be a complex emotion, and when I think of my pride for my country, it takes on many faces.

Even pride has a logical side to it. When I think of ideas and objects that I am proud of, many glittering generalities come to mind. However, I believe that true pride can also be backed with facts. This is what I have labeled my "justified pride". For example, the students at Tianamen Square weren't losing their lives for the sake of communism. they were revolting to bring forth a democracy, and they used America as a role model. The facts stand by themselves. The fact is that our government has lasted for over 200 years, shifting and changing to conform with the most important element, the needs and interests of the individual. For me, the facts alone are enough to be proud of, but there is more.

You see, another facet of my pride for America is my "historical pride". I live in one of the greatest experiments of history, and one that succeeded. When I was first taught history back in the earlier grades, my view was no different from everyone else. I thought that history was boring. Without knowing it however, I was learning about my own history. America was founded so that I could express my views, think my way, lead my own life, and worship my God. In a way, my name is written into the greatest living historical document of all time, the United States Constitution. It states, "secure the blessing of liberty to ourselves and our posterity". I, as all Americans can state, am the posterity to the authors of that document, the founders of our country. Throughout history, wars and conflicts have been fought for my benefit. That is why I am proud of America's history. The people in it always not only protected themselves, but the future.

That is what the third part of my pride for America is about the future. I call this pride my "pride of the possibilities". How can I be proud of the future? Proud of what hasn't even happened yet? Well, the answer to that is that pride often sparks another emotion, confidence. I have the ability to look ahead and see where America is going from our actions today. My own view of the future America is one of peace, but doesn't everyone say that they hope for peace? I'm not just saying that I hope for it, I'm saying that I envision it. America has made strides in reduction of arms, abolishment of famine, worldwide agricultural productivity, the ending of bigotry, and the beginnings of global unity. To know that my country is willing to take that first step for a peaceful future makes me proud.

However, my strongest reasons for being proud of America come from the fourth and final aspect of my pride. It is the pure and powerful gut feeling. I call it "naked pride". Why am I proud of America? Well, pride is something that has been built out of all lessons and experiences of life. It isn't something that can be brought out, used, and then returned. It is always present and powerful. We all have our little building blocks that create our pride. My pride, my naked and powerful pride, has come from my own personal experiences. Hearing the national anthem before a ball game, seeing a jet with the American flag on its side pass overhead, and hearing a veteran speak of the ultimate sacrifice are my building blocks. They are the rhyme and reason, passion and fury, to my pride. And possibly the largest single reason for my pride is the fact that I live in a country that is so confident with itself that it doesn't force me to say that I'm proud of it. It gave me the choice, and for that I want to say to my country, "thank you".

HANSON, MA, CELEBRATES PRIDE THROUGH READING DAY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. STUDDS. Mr. Speaker, I rise today to congratulate the students of the Maquan and Indian Head Schools in Hanson, MA, for their outstanding achievement in the World Book Partners in Excellence Program. Having committed their best efforts—and their free time—to reading for sponsorship, these young people have read 23,816 books, earning $20,000 for the purchase of encyclopedias, dictionaries and other educational materials for their schools. World Book's donation of $1 for every $2 raised has brought the total value of the students' accomplishment to $30,000.

Hanson, a community in southeastern Massachusetts which I am privileged to represent, has faced the challenge of decreasing resources for education with imagination, determination and singular effectiveness. As participants in the Partners in Excellence Program, the students of the Maquan and Indian Head Schools have set a nationwide record for books read and funds raised.

We join the citizens of Hanson in honoring their young people's achievement as the community celebrates Pride Through Reading Day on April 26, 1990. May good books remain the valued companions of the students of Hanson throughout a lifetime of learning.

A SALUTE TO CHARLIE BRADFORD

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute my constituent, Mr. Charlie Bradford. A 78-year-old grandfather, he has been working at the Philadelphia Naval Shipyard for 60 years—and he has no plans to retire.

This Friday, the workers and management of the Philadelphia Naval Shipyard are planning to honor Mr. Bradford for his years of service to the fleet.

Over the years, Bradford, whose friends call him "Chick" or "Brad," has encountered many brushes with death or injury. Climbing aircraft carrier antennas in freezing winds is just another day's work for Bradford. He tells one story of climbing 120 feet in the air above a ship, hitting ice and spinning around a yardarm and hanging there upside down like on a trapeze. But thrills and chills like that are just part of the job.

As he says, "It's a lot more exciting than sitting there puttering on a bicycle, going nowhere."

Charlie Bradford represents everything good about the Philadelphia Naval Shipyard. He is dedicated, hard working and loyal. Our Nation's youth look to people like Charlie Bradford for true inspiration.

I join with thousands of fans across Philadelphia and across the country in saying congratulations on a job well done, and good luck in your long and prosperous future at the navy yard.

EAGLE SCOUT HONORED

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues, a group of outstanding young individuals from the Fifth Congressional District of Illinois who have completed a major goal in their scouting careers. On Saturday, May 20, 1990 at St. Rita's Grammar School located in Chicago, IL, Sean P. Buckley, Patrick J. Krull, Michael T. Ryan and John A. Unger will be honored at an Eagle Scout Court of Honor.

It is important to note that less than 2 percent of all young men in America attain the rank of Eagle Scout. This high honor can only be earned by those scouts demonstrating extraordinary leadership abilities. These young individuals have clearly demonstrated such abilities through their dedicated community service and deserve special recognition.

In light of the commendable leadership and courageous activities performed by such fine young men, I ask you, my fellow colleagues, to join me in honoring Sean, Patrick, Michael and John for attaining the highest honor in Scouting—the Eagle Scout. With God's blessings, let us wish them the very best in all of their endeavors.

IT'S TIME TO CUT UNITED STATES ASSISTANCE TO TURKEY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BROOMFIELD. Mr. Speaker, today, Congressman YATRON and I introduced a formal resolution of disapproval denying the transfer of five Cobra helicopters to Turkey. There is no doubt about the fact that Turkey is a close ally of the United States and has a military relationship with this country. I also know that friends help friends and I am deeply disappointed that Turkey has failed to do more to settle the Cyprus problem.

Since 1974, 30,000 armed Turkish troops have occupied the northern half of Cyprus. There has been no real reduction in Turkish force levels since that time. While Turkish authorities claim that they want a resolution of this longstanding problem, Turkish force levels on Cyprus are unchanged. Is this how a friend helps the United States resolve a serious problem?

I am also concerned about Turkey's poor track record in illegally using United States supplied military equipment. Turkish military units on Cyprus are armed with United States equipment that was originally supplied to Turkey for NATO defensive purposes. Cyprus is not a member of the NATO alliance, and Turkey should not be using any of that equipment to further the division of that island. Once again, is Turkey really being helpful with the Cyprus dilemma?

With the warming in United States-Soviet relations and the welcome winds of change that are sweeping through Eastern Europe, there is a general decline in the level of tension between the former Warsaw Pact states and NATO member countries. The possibility of a Soviet military incursion into Turkey appears to have greatly diminished. Does Turkey really need more equipment at this time? Should America reward Ankara for dragging its feet on the Cyprus problem?

The American Congress, the United Nations, and the European Community want a solution to the problems that plague Cyprus. Turkey is a key player in finding that solution and should play a positive role in the overall peace process. Turkey should assume a new role by prevailing upon Mr. Denktash in northern Cyprus to return to the peace table and seriously negotiate a settlement on Cyprus. His recent performance at the U.N. talks in New York was unfortunate. Until I see a change in Turkey's attitude toward the Cyprus problem, I see no reason to transfer more United States military equipment to that country.

I urge my colleagues to support this resolution of disapproval.

TRIBUTE TO THE CITY OF OLIVETTE, MO, ON THE OCCASION OF ITS 60TH ANNIVERSARY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BUECHNER. Mr. Speaker, I rise today in tribute to a city whose story parallels that of American history. Olivette, MO, is one of the success stories that unfolded as America grew to the West; the spirit of a few determined settlers has given rise to an attractive, prosperous city. It gives me great pleasure to salute the people of Olivette on the occasion of the city's 60th anniversary.

About 150 years ago, the area that is now called Olivette was merely a handful of farms along Old Bonhomme Road, which connected ports on the Mississippi River with the Missouri. This area was simply called Central and was a common stopping point for westward travelers. As people began to realize the value of farmland so close to the city of St. Louis, the small village grew, bringing with it churches and a school. In the late 1850's, a group of St. Louis investors decided to build a plank road along the general route of Old Bonhomme, and they named it Olive Street Road.

As St. Louis County grew, the area became its own school district, which was named "The Village of Olivette." Olivette's location made it a farm service and transportation center for the farmers to the West, and by 1920, a thriving community was functioning in the area once known as Central. Finally in 1930, the State of Missouri incorporated the city of Olivette.

The postwar years saw Olivette grow into a sizable municipality, with its own police force, fire department, parks, business community, and all the earmarks of a thriving city. Still, it has never lost the essence of a small country town with a strong sense of history, and Olive Street Road—now called Olive Boulevard—remains the town's central artery. The friendliness of its citizenry, and its genuine sense of community belie the fact that it is a large suburb of a major metropolis.

Mr. Speaker, as the city of Olivette celebrates 60 years, I submit that it is a success story that is still being told. Even today, the city is getting larger, stronger, and better with every day. The story of the city that grew out of that little area called Central is testimony to the fact that the substance of a community is not its buildings, its businesses, its homes, or its government, but rather the aspirations of the people who live there. I ask that this assembly join me today in saluting the people of Olivette.

HONORING THE JAMAICA ESTATES ASSOCIATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to one of the most outstanding and dedicated community organizations in Queens, the Jamaica Estates Association. On Sunday, April 22, the association will celebrate its 60th anniversary with a dinner dance at Terrace on the Park in Flushing Meadow Park in Queens.

During its 60-year existence, the Jamaica Estates Association has continued to maintain the strong ideals, the sense of civic responsibility and community on which it was founded. In its efforts to enhance the security of its community the Jamaica Estates Association has waged an effective campaign against crime by hiring private security guards to patrol the neighborhood. It has been scrupulous in enforcing strict zoning regulations. The association has also been active in preserving the high quality of life in Jamaica Estates, particularly in the areas of road repair, sanitation, and maintainance of the large grassy areas in the neighborhood.

Over the past 60 years the Jamaica Estates Association has gone from strength to strength. In that time membership has grown to 900 family members and the governing board membership to 18. Among the many board members who have made outstanding contributions to their community, three in particular stand out. These are, the current president, Miriam Rosenblatt; the chairman of the board, Doctor Barry Weinberg; and the editor of the Jamaica Estates Association Bulletin, Michael Bookbinder. In their respective positions of authority, these individuals have all distinguished themselves in their efforts to improve life in Jamaica Estates.

In a time when many of our neighborhoods and communities appear to be threatened by numerous evils, common to life in the city, it gives me great pleasure to acknowledge a community association such as the Jamaica Estates Association that has succeeded in preserving Jamaica Estates as an oasis in a large urban area. I ask my colleagues to join me in congratulating the Jamaica Estates Association on its 60th anniversary and to extend my hope that it will continue to keep Jamaica Estates as strong and as vibrant in its next 60 years as it has in its last.

TRIBUTE TO MOLLY TURNER: A REMARKABLE SOUTH FLORIDIAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEHMAN of Florida. Mr. Speaker, my special friend, Molly Turner, has been a fixture on South Florida broadcasting for almost 40 years. I wanted to share with my colleagues a few highlights of this remarkable woman's career.

Molly Turner, a pioneer television broadcaster and feminist who broke down barriers for women journalists, is a living legend after 37 years on the air in Miami, FL.

Turner was the first woman television news anchor in south Florida and, it is believed, also in the State. She was also the first woman television reporter.

She became public affairs director at Channel 10—then WLBW—in 1961. Although she hosted interview shows and anchored the morning news, she still made time to serve on the boards of numerous community agencies, including the United Way, Salvation Army and United Cerebral Palsy. As chairperson of the Children's Service Bureau during the time of the Cuban airlift, Turner worked to place into south Florida homes the Cuban children arriving in this country alone.

Always in the forefront of women's issues, Molly Turner is credited with "integrating" Miami's political Tiger Bay Club, previously open only to male reporters. Women could not go beyond the lobby, while their male counterparts were allowed to enter the club to dine and hear the guest speakers. Turner launched a compaign to open up the meetings to women journalists in January 1970. At one point, it caused her literally to be barred from the club. But after several news reports by Turner, shot in front of the closed doors, the Tiger Bay Club was opened to all women reporters and, eventually, to women members.

Molly Turner served as founding president of the Gold Coast Chapter of American Women in Radio and Television. In 1975 she was named that organization's "Woman of the Year", and in 1986 received its "Florida Legend" award. In 1976 she was chosen a "Community Headliner" by the Greater Miami Chapter of Women in Communication. Turner was also selected as one of "Julia's Daugh-

ters"—named for pioneer Miami settler Julia Tuttle who persuaded Flagler to bring the railroad to Miami—and appears in the HERstory of Dade County, a recognition of women who have made a difference in the history of the area. In 1988, the YWCA also honored her as one of the "Women Who Make a Difference."

A leading advisor on consumer matters, Molly Turner has received many awards for her work, including three Emmy awards for investigative series—one on local water problems, another on health clubs and one a special feature on the Women's Rights Movement. The Florida Bar presented her an award for a series on the court system and she received another from the National Press Club for reports on the housing crisis. The Better Business Bureau of South Florida honored her with its "Excellence in Communications" award and she was the recipient of the prestigious "Trailblazer Award" from the Women's Committee of 100. In 1985, the Florida Council on Aging gave her the "Community Service Media Award" for her series on senior citizens. And in 1988, Florida Toastmasters presented her its "Community Leadership Award for Outstanding Accomplishments in the Field of Consumer Advocacy".

Molly Turner began her television career in 1951 on the Uncle Martin show, a live Saturday afternoon country and western music program on WTVJ, Miami. Hired as a singer by show host, Martin Wales, Turner painted on freckles and blacked out a tooth to play a hayseed comedienne called Cousin Effie. The show eventually moved to Channel 17 in Hallandale and became Sunset Ranch, a half-hour musical "soap opera" that ran 5 days a week at 5:30 pm. Turner became "Miss Molly", running the ranch house that was built in an open field at the TV transmitter site. Visiting country music stars such as Eddie Arnold and Red Foley appeared on the show. A co-producer as well as performer on Sunset Ranch, Turner's duties also included writing and delivering commercials and, sometimes, even selling them then editing the film.

Continuing with Sunset Ranch on WPST, Channel 10's call letters when National Airlines owned it, Turner also began doing freelance commercials, a 3-hour live morning news and talk show, and a weather show with Frosty Martin. At one time in the late fifties, before the days of videotape, she was doing an unheard-of 25 live appearances per week, on three different stations, from 7:30 am to 11:30 pm.

For the past 15 years, she has been the premiere consumer advocate in south Florida, with a national reputation. The Miami Herald calls her "one of the most recognizable and most respected women in local television".

Bill Ryan, former general manager of Channel 10 and now president of Post-Newsweek Stations, say that in 15 years of working with Turner, he never once saw her lose her famed lady-like demeanor. "Molly had style and grace, but you would do well not to misconstrue that because she was hard-nosed and driving in her job * * * she just did it with a touch of class," Ryan says.

Molly Turner has been a resident of Coral Gables, FL for 26 years. She and her husband, Philip Ruppenthal—now deceased—have two children * * * a daughter, Lyle Landon, an advertising executive for a group of teen magazines; and a son, John Christian, who is a screenwriter for movies and television.

THE GREATER SACRAMENTO MEDICAL PLAZA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MATSUI. Mr. Speaker, I rise today to commend and congratulate Drs. Marvin Kamras, Steven Polansky and all those who have contributed their time and efforts on the grand opening of one of the most modern medical facilities in Sacramento, CA—the Greater Sacramento Medical Plaza. Drs. Kamras and Polansky have been active participants in community activities and have played a prominent role in representing other physicians on issues of current concern.

One of the largest surgicenters west of the Mississippi River, the medical plaza covers 14,000 square feet, has 6 operating rooms, 150–200 physicians on staff, and can maintain up to 600 cases a month. The medical plaza will handle a wide range of outpatient services, including orthopedic, gynecological and plastic surgery.

The opening of the medical plaza is indeed a special honor for both Drs. Kamras and Polansky and their family and friends. I have no doubt that the operation of the plaza will be both productive and successful. Sacramentans are fortunate to have this fine establishment as a source of quality medical services. The medical plaza will be a welcome addition to our city.

Mr. Speaker, I commend Drs. Kamras and Polansky for their dedication and commitment invested in opening the Greater Sacramento medical plaza. I know that with their commitment to excellence they will see that Sacramento is provided with the highest quality in health care service. I ask my colleagues to join me in congratulating Dr. Marvin Kamras and Dr. Steven Polansky in wishing them and the medical plaza many years of success.

INTRODUCTION OF THE MAGNETIC LEVITATION TRANSPORTATION AND COMPETITIVENESS ACT OF 1990

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MRAZEK. Mr. Speaker, today I am introducing legislation that will enable the United States to recapture its historic role as a pioneer in the field of transportation. Americans once dominated the world in the development of trains, automobiles, and airplanes as revolutionary modes of transportation.

In the late 1960's, the United States began research efforts on a highly promising new mode of transportation—magnetically levitated vehicles floating on guideways that could travel at speeds of up to 300 m.p.h. Today that mode of transportation is a reality, but, unfortunately, it was not the United States that developed the first such maglev vehicles for commercial use. We abandoned our efforts back in 1975, leaving it to Japan and West Germany to carry on where we left off. Having invested more than $1 billion in government funds each, Japan and Germany are now poised to dominate a potential $300 billion world market for magnetic levitation transportation technology.

It is absolutely imperative that we not abandon that market to our international competitors. Our Nation's future economic security demands that we catch up and surpass the existing technological capabilities of Japan and Germany. It is not too late. There now exists a window of opportunity to jump start an American-based maglev technology that can leapfrog our competition so that we will enter the 21st century with a distinct advantage in the world market for maglev transportation.

The Magnetic Levitation Transportation and Competitiveness Act of 1990 will provide the funding and mechanism necessary to allow American industry to compete in the building of an American maglev prototype that will surpass the capabilities of both the German and Japanese systems. By investing in this technology now, we can be assured that American companies will be in a strong position to compete in the world market for maglev as we head into the next century.

SUMMARY OF THE BILL

The legislation provides Federal funding for American companies and research institutions to quickly develop a prototype magnetic levitation transportation system that surpasses existing Japanese and German technologies. It would create a new agency with the Department of Transportation with regulatory authority over magnetic levitation systems. The agency would oversee a two-stage competition for the design and construction of the prototype system.

National Magnetic Levitation Transportation System Design Competition: The bill provides $350 million (over 3 years) to be awarded on a competitive basis to American companies and research institutions in a multiphase grant competition that culminates in the selection of a final maglev system design. No more than six participants submitting proposals for research and development of a design will initially receive grants. Grants in successive phases of the competition will be awarded on the basis of merit and potential for further development of the participant's design.

Grant Competition for Construction of a Magnetic Levitation Transportation System: The bill provides for the awarding of one grant of $600 million to be awarded on a competitive basis to a state or local government, a public-private consortia or any combination of government entities and/or private organizations for the construction of a magnetic levitation transportation system of not less than 40 miles in length that utilizes the design selected in the National Magnetic Levitation Transportation System Design Competition. The construction of this prototype American maglev system is expected to demonstrate the technological capabilities of the system and the commercial viability of maglev systems in the United States. The $600 million grant is expected to cover only a portion of the actual

costs involved in constructing the system. The remaining costs are to be borne by the entity awarded the grant.

Magnetic Levitation Transportation Administration: The bill establishes a new agency within DOT to regulate and oversee the development of this new mode of transportation. The Administrator would establish minimum health, safety, and environmental standards for the industry, and establish such rules and regulations as may be necessary to ensure reasonable levels of safety.

Study on Guideways for Magnetic Levitation Transportation Systems: The bill requires the Administrator to conduct a study to determine the feasibility of and need for adopting a standard for the construction of guideways for maglev systems to allow for future development of an interconnecting network of maglev systems. Six months after completion of the design competition, the Administrator is to transmit a report on the study's findings and make recommendations to Congress.

CBO REPORT RECOGNIZES THAT STATEHOOD IS NOT GOOD FOR PUERTO RICO

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FUSTER. Mr. Speaker, space does not permit me today to reprint in the RECORD a lengthy article on the almost prohibitive costs of statehood for Puerto Rico, but I certainly commend the piece to my colleagues. The article appeared in the April 7, 1990, edition of the New York Times, and was headlined, "Statehood Is Seen as Setback for Economy of Puerto Rico."

Written by Martin Tolchin of the Times' Washington Bureau, the article adequately summarizes a recent report issued by the Congressional Budget Office which was entitled, "Potential Economic Impacts of Changes in Puerto Rico's Status Under S. 712." That bill, S. 712, is the "Puerto Rico Status Referendum Act" and was marked up last August by the Senate Energy and Natural Resources Committee, which has primary jurisdiction in the other body. The House Subcommittee on Insular and International Affairs has held recent hearings—both here and in Puerto Rico—on a similar proposal.

Mr. Speaker, as you know, S. 712 would authorize a congressionally sanctioned plebiscite in Puerto Rico in the summer of 191 between the choices of statehood, independence, and an enhancement of the existing Commonwealth status. I favor the latter option, and while I have great respect for the institution of statehood I do not think it is in the best interests of Puerto Rico or the United States. Commonwealth status has worked well since the Congress created it in 1952, but would work even better with the enhancements outlined in S. 712.

As for statehood, it is just not feasible, from an economic and cultural-linguistic point of view. As the New York Times article points out at the beginning:

Puerto Rican statehood could undermine the island's economy and cost as many as 100,000 of its 900,000 jobs by the end of the decade, a new study by the Congressional Budget Office has found.

The Times article continues:

The study, which many people see as a setback for statehood supporters, estimated that the island would lose 73 percent of the investment it receives from United States companies because of the elimination of tax benefits intended to stimulate such investment.

Mr. Speaker, that is a very accurate, but only partial, assessment of the economic catastrophe that awaits Puerto Rico under statehood. And the New York Times, which is justifiably considered to be the best and most authoritative newspaper in the United States, is to be commended for reporting on the CBO study at such length.

The highlights of that study were covered by the Times story. But the study itself went even further. For example, the CBO study concludes that even without analyzing the probable economic dislocations from the contractions of services and activities of the Puerto Rican Government, by the year 2000 the statehood option for Puerto Rico will have cost the U.S. Treasury a net increase of almost $18 billion in Federal expenditures.

Moreover, the CBO also estimates that Puerto Rico's GNP would be reduced by 10 percent to 15 percent under statehood by the year 2000. Also, according to the CBO, Puerto Rico's critical industrial exports—which currently are 81 percent as great as the island's GNP—would be reduced 33 percent to 43 percent by the year 2000. Since almost all industrial production is for export, this suggests that Puerto Rico's industrial base would shrink accordingly.

On the other hand, under commonwealth status, according to the CBO, Puerto Rico "will enjoy a real annual increase between 2.5 and 4.5 percent in its economy."

Thus, Mr. Speaker, it is time for my colleagues to bite the bullet on this matter of political status for my island. Even a cursory glance at the CBO report permits essentially one conclusion: that enhanced commonwealth status is the best alternative for Puerto Rico. This conclusion, based on the CBO report, should certainly alter the whole plebiscite process that is now going on in both the House and Senate. How can we in the Congress, in good conscience, now include statehood or independence as realistic alternatives?

Mr. Speaker, given the clear message from the CBO, which in any case may have understated the costs of statehood, we in the Congress now have the clear obligation to take a hard look at the statehood option and perhaps to overhaul the status plebiscite process itself. At this time, Puerto Rico is just not ready for statehood.

TRIBUTE TO MICHAEL L. MURO

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. LOWEY of New York. Mr. Speaker, today I would like to speak about an individual who was committed to his community, who was dedicated to the idea of public service, and who enriched the lives of others through his generous spirit. It is difficult to believe that Michael L. Muro was taken from us 2 years ago.

Mike Muro was a lifelong resident of Yonkers, NY. Throughout his life, he was deeply involved in community service projects and civic organizations, many of which involved children. He knew that investment in our youth is the key to strengthening our communities and building a brighter future. He was also active in our political process, a firm believer in our system of government. He had a distinguished record as Yonkers city assessor. Through his diligence and hard work, he earned the respect of those living in Yonkers and throughout Westchester County.

Now, 2 years after his untimely death, a foundation is being established in his name to fund scholarships for outstanding elementary, high school, and college students. I am sure that Mike would be pleased to know that he is being remembered through the Michael L. Muro Foundation and that the fruition of its work will be the education of children who might otherwise be denied opportunities. While he was with us, he reached out to young people. Now, this foundation will continue that valuable commitment.

SHARING THE RESPONSIBILITY FOR CLEAN AIR

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. UDALL. Mr. Speaker, my colleague and good friend from Utah, Mr. OWENS, delivered the following remarks as the keynote address to a Clean Air Conference at the University of Utah on March 24, 1990, in Salt Lake City. I am impressed with these remarks and would like to submit his speech to the RECORD so others can benefit from his insights.

SHARING THE RESPONSIBILITY FOR CLEAN AIR, KEYNOTE ADDRESS BY CONGRESSMAN WAYNE OWENS AT CLEAN AIR CONFERENCE, MARCH 24, 1990

He that troubleth his own house shall inherit the wind.—Proverbs 11:29

This familiar scripture may take on a new meaning in 1990, for we have surely troubled our own house—with ozone, carbon monoxide, PM-10, sulfur dioxide, nitrous oxide, air toxins, and the rest of the litany of air pollution problems. Unless we are careful, the wind we inherit—and our children inherit—is becoming increasingly dangerous and unhealthy.

I am pleased to see so many of you here this morning to participate in this conference, for there is something very basic, very elemental about this discussion. The clean air issue is not merely a political question. We can't hold our breath if Congress decides to stall on the question. Air is the breath of life. The Greeks understood this truth when they determined that fire, water, earth, and air were the four main elements. Thousands of years later, there is still no disputing this basic fact. Air is the most elemental human need of all. People

have survived for weeks without food, for days without water, but six minutes is about all we can normally survive without air. Politics must be transcended by this unalterable truth.

Air pollution is nothing new, from the acrid smoke in Neanderthal caves to the horrific incidents in London and Pennsylvania earlier this century. If you think we have it bad during inversion periods, consider this: in the first week of December in 1930, a thick cloud of industrial pollution settled in the Meuese Valley in Belgium for several days. Sixty people died. Thousands were hospitalized. In 1948 in Donora, Pennsylvania, a fog inversion killed twenty people and made 6,000 ill. In 1952 in London, during a five-day inversion which trapped dangerous pollutants, 4,000 deaths were attributed to the noxious air. And, of course an accidental release into the air of Union Carbide's methyl isocyanate killed over 2,500 people in Bhopal, India in 1984. This is not intended, however, to give us comfort; it should, instead, be taken as a warning.

Air pollution may not be new—but, as a serious health threat, it is fairly new to many of us. I spent my boyhood in Panguitch in south central Utah, where the air was an elixir, pure and limitless. It seems ridiculous that I should have to wax nostalgic today about what should be an inalienable right. The limitless horizons around Panguitch have been affected by our propensity to pollute and our birthright to clean air has been sold, forgive me, for a mess of wattage. We have treated air as though it were infinitely forgiving and infinitely resilient. It is neither. We have treated the atmosphere as some sort of common dumping ground for waste. We have made a habit out of poisoning America while we made it rich. And what has always been our closest ally has not, in places, become an enemy.

As incredible as it sounds, some communities around the Nation now have reason to fear their own air. As Mr. Dunlap will undoubtedly mention in his upcoming remarks, southern California has been the most heavily impacted region of all. People who enjoy exercise must do so in the early morning before carbon monoxide and ozone pollution make their lungs ache and bring tears to their eyes. The Center for Disease Control says that ozone pollution is as effective as some chemical weapons in destroying lung tissue. 1,600 lives in southern California may be lost each year to air pollution—that's as many people in that area as are killed by violent crime. And we all want to be tough on crime. Perhaps it is time to finally realize that the cost of air pollution goes for beyond the addition of a new scrubber. Human life and health is a factor that must become part of the equation, as Mr. James Cannon will discuss in his presentation on behalf of the American Lung Association later this afternoon.

Our problems in Utah are not as severe as those in California. If we take the proper steps today, they never will be. But we do have problems in Utah—even health problems—problems with air quality as the Health Panel later today will discuss. I sense that Utahans are now serious; we want to prevent further air quality deterioration and we want to restore the air quality we have lost. Poll after poll shows that Americans, Utahans included, are deeply concerned about air quality. An April 1989 Harris poll reported that nearly three in four Americans believe not enough is being done to keep clean the air people breathe. In a June 1989 Gallup poll, 63 percent said they worried about air pollution a great deal. An additional 25 percent said they were farily worried about air pollution.

We must ask ourselves how many Utahans have suffered ill health as a result of air pollution. We must wonder how many potential clean industries have resonsidered locating in our beautiful mountain valleys, when their executives found they could not see the mountains. How many companies which require a clean air environment for high-tech production have decided against Utah? How many of our children, how many of the elderly, the two most susceptible groups, have experienced respiratory problems because of our air? How many Utahans have even succumbed to cancer cause by carcinogens in our air? It is ironic that in a State of relatively few smokers, children of non-smokers living in a polluted environment may suffer a higher risk of respiratory disease than children of parents who smoke, living in cleaner areas of the country.

The unnatural pall that sometimes hangs over this valley and other nearby mountain valleys is unacceptable. Maintenance of the status quo is not enough. Conditions are not impossibly bad—but they must soon improve. Our air quality problems are most noticeable from the air, as I have seen in flights to southern Utah—a lens of brown-gray pollution suspends itself over our valleys, finally dissipating somewhere south of Spanish Fork, where views open up again for a hundred miles. But then, the pall from the Navajo Power Plant which proudly overlooks Glen Canyon Dam becomes visible on the horizon.

We clearly have a peculiar problem which must be addressed in these high valleys—a problem that touches on visibility, health, economic growth, and the beauty of our environment. Now we hear talk of more power plants to our west, across the border in Nevada, where the prevailing wind will bring more pollutants into our valley. Taken separately, the eight projected units of the Thousand Springs Power Plant are not particularly dirty. But taken all together, these eight units would generate enough pollution to be equivalent to one of the dirtiest power plants in America. We must now resolve to prevent that from happening.

There is something politically immoral about a project which bestows economic benefits on one region and dumps environmental refuse on another. Utah has had enough of such abuse.

This Thousand Springs ill wind will blow good to no Utahan—coming from out-of-State to produce power for California and the Pacific Northwest and carrying with it, for Utah, thousand of tons of sulfur and nitrous oxides.

We will have enough problems in the future coping with our own economic and quality of life considerations here without allowing ourselves to become the region's spetic tank. Such degradation of Utah's character and self-respect is unthinkable and intolerable, and further degradation of our valley's air quality for the convenience of our neighbors is unacceptable.

Utah is in the process of being probed and tested to determine its level of tolerance for the dubious honor of serving as garbage disposal for populous and politically powerful regions of this country. We successfully resisted becoming the Nation's nuclear waste repository. But, we must recall, that was not because of our State's resolve nor our political leadership's unified stand. Rather, it was transferred to Nevada because the national conscience would not permit its location outside one of our most beautiful national parks.

But, on a daily basis, Utah buries low level contaminated nuclear waste and toxic material to get them out of sight and out of mind for other regions of the country. And for that, of course, we take money and it brings jobs and economic growth of a kind.

Now our State must marshal its forces and find the means, and unity of purpose, to win what promises to be a monumental struggle against regional environmental abuse. And while our neighbors do not see themselves in that role, nevertheless they plan projects for their comfort and economic growth which will have that inevitable result for Utah.

And while we wish to resist causing regional interstate tensions, Utah's higher economic and quality of life aspirations now require that we organize the political liaisons necessary to successfully resist the Thousand Springs Power Plant. That is not just the symbol of our future problems, it is the manifestation and provocation and the place where Utah must draw a line in its desert dust.

I pledge my efforts to that end, and call Utah's congressional delegation, its Governor, and its legislature to join in that unified, non-partisan task.

Let us speak with one voice. Utah will no longer offer its unspoiled space, its landfills, its aquifers, and its air to the Nation, even for increasingly economically attractive rental fees.

So much for the bad news and the call to arms. The good news is that we can now begin to clean the nest we have so carelessly fouled. This is an extremely timely topic—in fact, this may be the best single weekend in twenty years, since the Clean Air Act initially passed, to discuss the issue. Clean air legislation is currently before both the House of Representatives where I serve and the Senate. The legislation is being debated on the floor in the Senate and in committee in the House, soon to reach the floor. We have the tools in this legislation to answer most of our pressing clean air problems if we can only hold a firm package together.

What are the current issues being discussed in Congress and in family rooms around the country? Acid rain, a problem we are just now beginning to see manifest in some of Utah's alpine lakes. Ozone pollution, what we normally call smog, the result of auto emissions for the most part. Salt Lake is a non-attainment area for ozone—not to be confused with the ozone we are losing in the upper stratosphere around the poles—and we are a non-attainment State, mostly because we love to drive and haven't fully embraced the idea of effective mass transit yet. We must follow through on the idea of an effective mass transit system, whatever form it ultimately takes, as well as tighter controls on the emissions our cars are permitted to make. No other course will solve our problems here.

PM-10, particulate matter smaller than 10 microns in diameter (five would fit on a human hair), is a particularly serious problem in Utah which has not received nearly enough attention in the national debate, since it is essentially a problem of the high-elevation, inversion-prone, sparsely-populated western States. But both Salt Lake County and Utah County are non-attainment areas for PM-10, which has been potentially implicated in both respiratory disease and cancer. I want to commend Representative Howard Nielson for his efforts in

tightening up the control standards for PM-10 in the House bill now before the committee.

The thorny issue of air toxics needs to be addressed as well. Individuals in one area of the country, Port Neches, Texas, if you can believe this, have a one-in-ten probability of developing cancer because of nearby toxic chemical emissions. Our Risk is nowhere near that high in Utah, but some people feel that even a one-in-ten-thousand risk is too great to bear. Alternative fuels are also currently being discussed—the President's ambitious and farsighted program of requiring the auto industry to produce a million alternatively fueled cars a year has, unfortunately, been seriously gutted by oil interests in the current House version of the Clean Air Act.

Like so many others, I was disappointed by the so-called "compromise" bill between the administration and the Senate which emerged from behind closed doors just a few weeks ago. There is a fine distinction between a compromise bill and a compromised bill and I fear the Senate is in the process of adopting the latter.

President Bush has done many admirable things so far in office, but I do not count this compromise bill among them. As he himself eloquently stated, not too long ago, "the wounded winds of the north, south, east, and west can be purified and cleansed—and the integrity of nature can be made whole again. Ours is a rare opportunity to reverse the errors of this generation, in the service of the next. We cannot and must not fail. We must prevail."

This is a powerful statement which must be backed up by strong legislation. It appears now that the job will fall to the House to strengthen the President's clean air proposal. This week, a fierce political battle is raging in the powerful House Energy and Commerce Committee which is debating changes to the President's bill. Will we have tougher auto emission standards? How will air toxics be regulated? Will our health be protected? Will PM-10 standards be tough enough? Will standards have the teeth necessary for enforcement? Will power consumers in the West end up paying for the cleanup of plants in the Midwest?

I am hoping the committee will act wisely and put together a clean air package which will protect our health and environment. We made a giant step toward that goal just two days ago when a comprehensive amendment passed nearly unanimously to the first title of the clean air bill. But we have a long way to go. If we do not get there, I will join my many colleagues on the House floor in insisting on a thougher clean air bill. I believe the people demand it and I believe it is the only responsible course of action.

I will be active in the debate on the House floor, as I have been active behind the scenes in the committee. Some of the areas I am most interested in include strengthening of PM-10 standards, incorporating provisions for woodsmoke, and regulating the intestate transport of air pollution—a provision just incorporated into the House bill which will be helpful in our effort to fight the proposed Thousand Springs plant in Nevada.

I am not pretending for a moment that this is an easy question to resolve. Nationwide, estimates of the annual cost of tough clean air compliance could be as high as fifty billion dollars annually. Interestingly enough, some estimates of the health and lost productivity costs associated with our present dirty air also approach that figure—and do not include the unquantifiable cost of human suffering and even death. But there are also credible studies which address the potential health cost inherent in economic disruption and unemployment. It is my convicton that clean air can be achieved without economic upheaval, but the debate still rages on where this compromise level will be.

And just as there is no simple quick fix to the clean air dilemma, there is no one clear villain in this scenario. It is human nature to find a scapegoat, place the blame, avoid personal responsibility, and solve a problem once and for all. From three trapped whales in Alaska last winter to famine in Ethiopia several years ago, we tend to look for the easy way to do the right thing. But famines still occur every year in Africa and whales are still killed for meat. We don't hear much about this, and that's probably the way we prefer it. In the same sense, we seem to look for one egregious polluter who we can blame for all our filthy-air woes. But as Walt Kelly, the cartoonist who drew Pogo, might have said, "we have met the polluter—and he is us." Collectively, we have created a problem. Collectively, we must undo the damage.

Who is the polluter? I am. You are. The answers are disturbing. Motorists who won't use mass transit. Woodstove owners. Construction workers. Industrial employees. Consumers of electricity and oil. In other words, all of us.

We cannot simply look for one source and shut it down, thinking we have solved the problem. We need to fight against this understandable tendency. There is no one identifiable evil, no Charles Mason of the polluting world. That villain does not exist. It would be so much simpler if it did. Today, at this Conference, I hope we will consider the actions we can each take to help clear the air. Utah's industrial leadership is proceeding in good faith, in my opinion, and I pledge, as one of Utah's political leaders, to help hold their feet to the fire.

The State of Utah, represented here today by Ken Alkema and Burnell Cordner from the Department of Environmental Health and the Bureau of Air Quality will discuss efforts Utah is making to quantify the sources of all the pollution we experience in Utah. One of these studies, for PM-10, small particulate matter, is nearly complete and the preliminary breakdown for Salt Lake County is enlightening: 44 percent of PM-10 comes from nitrates (mostly from automobile exhaust), 18 percent from woodburning stoves, 14 percent from sulfates (mostly from diesel fuel, oil refineries, and copper smelters), 14 percent from dust, salt, roadwork, 5 percent from diesel vehicles, and 2 percent directly from cars.

Clearly, we are all in this together. There is a striking and unavoidable commonality to this debate. We all breathe. Steelworker, environmental activist, lawyer, politician, student, businessperson. We all breathe ten to twenty thousand liters of air a day. Each breath contains 10 billion trillion molecules, literally exposed to miles of permeable membranes in our lungs. Given that biological fact, I have faith in the good will—and the good sense—of our people and I believe the basic truth of our absolute dependence on air will eventually touch us all. This is a fight too big to ignore. Let us be certain that the "wind" our children inherit will be pure, invigorating, and healthful.

EARTH DAY 1990

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. DWYER of New Jersey. Mr. Speaker, I rise to commemorate Earth Day 1970 and to call attention to April 22, Earth Day 1990.

It has been said that one can never understand the environment until one sees it as a living organism. Unarguably, Earth Day 1970 started this process of understanding by educating the American people to our responsibilities as stewards of the precious resources of the Earth, by offering a challenge to change, and, as my colleagues and I know well, by encouraging citizens to participate more actively in the political process.

In the subsequent 20 years, some of the problems that fueled Earth Day 1970 have been effectively addressed. On the Federal level, there have been some remarkable milestones: clean air, clean water, RCRA, and the Superfund. Yet, other problems have grown worse and new ones have come to light: global warming, ozone depletion, deforestation, and a host of solid-waste issues.

The solutions, however, have not been solely on the Federal level. Some aggressive responses have come from the States. For example, New Jersey has enacted some of the most innovative, timely, and farreaching environmental laws in the Union: Worker and Community Right-to-Know, the Oilspill Compensation Fund and the Environmental Cleanup and Responsibility Act, among others.

At the same time, I am constantly impressed by the efforts of individuals—some acting alone, often quietly, others acting jointly—to preserve their local environment; yet, each acting in concert with others, in different communities but possessing similar concerns, to create a better whole.

Had Earth Day 1970 never taken place, inevitably we would have had some event—either a Chernobyl, a Love Canal, a Fernald or an *Exxon Valdez*—that would have brought to light the potential consequences of our environmental neglect. But the time was right, and Earth Day 1970 altered the course of American politics by creating the modern environmental movement.

An anonymous European official recently commented that the purpose of politics is power, that the purpose of power is to govern, and that the purpose of governing is to show the way—even when it is unpopular. Perhaps it is time that we once again govern America, rather than muddle through the many issues demanding our attention.

Perhaps it is time to enact strong and effective clean air and oil pollution prevention legislation, to create programs that seek to prevent pollution rather than relying on programs that remediate it, and to fully enforce existing environmental laws.

Perhaps it is time to take a discomforting step now in order to avoid a possibly more disastrous and ultimately more costly mistake in the future—a mistake requiring harder choices with more limited flexibility in choosing among the possible solutions.

Perhaps it is time to govern America again. Perhaps April 22, Earth Day 1990 should be the starting point.

RECOGNIZING BILL SMULLIN

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BOSCO. Mr. Speaker, I would like to take a minute to recognize one of the most dedicated individuals I know, Mr. William B. Smullin.

I have known Bill for years, and I could not have been more pleased to see him recognized recently as the recipient of the National Association of Broadcasters' 1990 Distinguished Service Award—the broadcasting industry's highest honor.

No one is more deserving of this honor than Bill, and in fact, Bill is the first broadcaster from the western part of the United States to receive this award. Past recipients include other legends of the broadcasting industry, Walter Cronkite, Bob Hope, David Brinkley, and Herbert Hoover.

Over the course of his 57 years in broadcasting, Bill has been a true pioneer. In the West, Bill was always one step ahead of the pack. He was one of the earliest newspaper men to make the transition into radio, later became one of the first radio men to move into television, was one of the first television men to enter the cable industry, as well as becoming one of the first to establish a microwave link on the west coast.

Bill started his own company, California Oregon Broadcasting, Inc., in Eureka, CA in 1933 and developed it into one of the two oldest, continuously-operated, independent broadcast organizations in the United States. He remains active in the day-to-day operations of the company today.

Never one to be content to rest on his laurels, Bill is also a pioneer in the early development of cable television in Oregon and California. He built the largest multiple system operation in Oregon in the early 1950's as well as building cable systems in northern California. He was instrumental in the development of public broadcasting in southern Oregon and northern California.

In the early 1960's, Bill began Pacific Teletronics, a microwave company serving Oregon and California. The microwave company allowed residents of that region to receive all the television stations in San Francisco, Sacramento, Oakland, Portland, Salem, and Corvallis.

Bill has already received a great deal of recognition for his long, dedicated, and tremendously productive career. His awards are too numerous to mention here.

More important than recognition, however, have been Bill's continuous efforts on behalf of his local community. He has established student scholarship funds at Willamette University, the Oregon Institute of Technology, Humboldt State University, and Southern Oregon State College. He also is a major benefactor to community hospitals.

Receiving this prestigious award from the NAB is quite a feat. I know I am not alone in saying that no one deserves this recognition more than Bill. I wish Bill Smullins the best of luck in his projects to come, and am proud to be able to claim Bill as one of our own.

WILLIAMSBURG, PA, AT 200 YEARS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SHUSTER. Mr. Speaker, I would like to, at this time, tell this body of one of the special communities that makes up Pennsylvania's Ninth congressional District. The borough of Williamsburg is celebrating the bicentennial of its founding in 1990 and I am honored to be the borough's Congressional Representative during this very important year.

Williamsburg, PA is a community of small diversified businesses surrounded by picturesque dairy farms in an area with a rich historical heritage. This spot along the Frankstown Branch of the Juniata River was first settled in 1789 by Jacob Ake and became the first incorporated borough in Blair County—the town was first named Aketown, but was later renamed in honor of Jacob's son, William. Ake and others were drawn to this remote section of the area by Big Spring, which purs forth millions of gallons of water daily from its location along one of the town's two major streets—High Street.

Big Spring helped Williamsburg play a major role in the evolution of industry in the region. The community was, at first, the center of commerce for operators and residents of the iron furnace communities that dotted the region. The spring and the river into which it flowed powered several mills—and made Williamsburg a key stop along the Pennsylvania Canal during its formation in 1826—the Frankstown Branch of the canal opened on November 15, 1832. Packet boats soon carried supplies, passengers—Charles Dickens in 1842—and iron products through the region. The canal created more jobs, including a foundry in town to service the lock system.

In 1873, the Williamsburg branch of the Pennsylvania Railroad was completed, and 2 years later the canal division was closed. As the iron furnaces disappeared, a new industry was born in the surrounding valleys—stone quarries. The Piney Creek watershed held a rich abundance of limestone and Gannister granite. The large stone railroad bridge across the Susquehanna near Harrisburg—still in use today—was built entirely from these minerals.

Williamsburg is indebted to one of its native sons for the greater part of its existence today. Steel tycoon Charles Schwab was born near town in 1862, and often returned to visit his neighbors and friends. It was Schwab, on one of these visits, who told town leaders about the rise of steel and decline of iron and minerals. The community was on the verge of decay when Schwab and others saw the potential Big Spring held for powering and supplying a paper mill. On October 14, 1905—after a million dollar investment and 3 years of work—Schwab joined the community in celebration of the opening of the mill. It was Schwab who bought land to make way for homes to house the influx of new workers, and it was Schwab who brought other business, including a silk mill, to his place of birth.

Schwab's last visit, ironically was on the occasion of a celebration honoring another hometown hero, aviator Wilmer Stultz, in 1928. Stultz earned a reputation as the boldest of the young air adventurers in the years after World War I, and accompanied Amelia Earhart and mechanic Lou Gordon on Earhart's flight to fame across the Atlantic. All three came to Williamsburg on July 18, 1928 for what has been described as the biggest celebration in the town's history. Earhart later laid a bronze tablet at the Altoona-Tyrone Airport designating the location as Stultz Field. Unfortunately, the hard-living aviator's enjoyment of fame ended July 3, 1929 in a crash on Long Island.

Williamsburg enjoyed prosperity for several decades, especially with the arrival of the United States Envelope [USE] plant in the midsixties and its subsequent expansion. The first setback in a disappointing decade occurred with the June 22, 1972 flooding of the downtown area as a result of Tropical Storm Agnes. While Federal flood recovery money helped renew the damaged areas, the true devastation came on February 17, 1975 when the Westvaco Paper Mill closed its doors forever—and compounded 6 months later when the Blair County Children's Home was destroyed by fire. The shock waves of the mill closing affected every person and place in the borough, and it was a sad, but determined, community that celebrated the Nation's bicentennial the following year.

The next 15 years, however, saw improvement. USE expanded its work force, the Fonda Group opened a major cup and paper products plant, and small business has grown steadily. Population today is about 1,800 and the 700-student school system draws from a population base of 5,000 living in adjacent Woodbury and Catharine townships. The area is well known for its excellent hunting and fishing, with Piney and Clover Creeks drawing anglers from all over the State.

Williamsburg, despite adversity, has retained a small town charm. Many cars bear bumper stickers that read "Williamsburg—We Are Family!", a phrase that best sums up the character of the community. The residents support a volunteer fire company, recently upgraded an athletic field and support—in body and cheer—football and basketball teams that consistently reach the playoffs—even though the school district is among the five smallest in the State! The trees planted along Canal and First Streets after the 1972 flood have matured and present a beautiful sight to the visitor especially in spring. The town is proud of its heritage and still produces local heroes such as Galen "Butch" Hall, a football standout at Penn State and later coaching at Florida.

For 200 years Williamsburg has remained faithful to the great American values of honesty and hard work, bypassed by the urban woes of juvenile delinquency, vandalism, and major crime.

GRIFFIN CELEBRATES SESQUICENTENNIAL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GINGRICH. Mr. Speaker, I am proud to announce that 1990 marks the 150th birthday of Griffin—one of the great cities in the Sixth District of Georgia. On June 8, 1840—150 years ago—Gen. Lewis Lawrence Griffin, president of the Monroe Railroad Co., auctioned the first lots of land to establish a new town. The site was a promising one because it was to be the intersection of a north/south and east/west rail line, located on what was then the border between Henry and Pike Counties. In 1843, the State of Georgia granted a charter to the city of Griffin. She instituted her own city government in 1845.

Griffin is a small city, rich in southern tradition and history. The downtown district has a friendly, established atmosphere, made up of lovely buildings constructed predominantly in the late 19th and early 20th centuries. Among those places not to be missed are: The N.B. Drewery Drug Store—one of the oldest buildings downtown, this drug store was started by a Confederate doctor following the Civil War; Bailey's Building—constructed in 1892, is a noteworthy example of decorative brick and metalwork of the period; the Lewis-Mills House and the Prichard-Moore-Goodrich House—both beautiful homes were built around 1850 and are listed on the National Register of Historic Places; and the Sherman Opera House—constructed in 1870, it was the site of a dry goods store on one floor and the city theater on another.

Griffin, however, is not a town that time forgot. On the contrary, she is a very future-oriented community, with many healthy, competitive businesses, a thriving textile industry, good schools, and a concerned and active populace. Dundee Mills Inc., one of the largest employers in the Sixth District, is located in Griffin.

True to their enthusiastic, civic-minded nature, the citizens of Griffin have planned a creative variety of activities to celebrate their uncoming 150th birthday. Griffin's 150th Celebration Committee and the Great Griffin Mayfling Committee have joined forces to arrange kangaroo courts, made up of Celebration Belle Chapter members and Brothers of Brush Chapter members, which will promenade in period costumes at different locations in town. The high school will have a celebration dance. The city park will hold a Mayfling Golf Tournament, and a local bank and a running club will sponsor a 5K race in honor of the sesquicentennial.

On May 5, the city of Griffin will host a 150th birthday parade through downtown Griffin. That same day the 2-day Mayfling Arts and Crafts Fair will begin at city park. The Kiwanis will sponsor a tractor-truck pull at the fairgrounds, and the Griffin-Spalding Airport will hold a fly-in with antique airplanes and a dance that night. Later in May, the city plans to put on a play at Memorial Stadium about Griffin's history and to sponsor a commemorative tennis tournament at city park.

It is a great pleasure for me to represent the fine community of Griffin in the U.S. House of Representatives. I want to take this opportunity to commend the citizens of Griffin for their unending dedication to the growth and well-being of their town. I would also urge my colleagues and others to visit this wonderful place just south of Atlanta.

THE 25TH ANNIVERSARY OF THE FOSTER GRANDPARENTS PROGRAM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to recognize an important occasion, the 25th anniversary of the Foster Grandparent Program.

The Foster Grandparent Program has been operating at the national level since 1965 and its mission has been, and continues to be, to promote personal relationships between low-income persons aged 60 or over and children possessing special or unique needs. As of 1988, the program had approximately 19,000 foster grandparents serving 65,000 children across the Nation.

In Louisville and Jefferson County, the Foster Grandparent Program has been operating over the past 18 years. The Louisville and Jefferson County chapter currently has 95 senior citizen participants working with approximately 250 exceptional children.

In addition to working with children who have been abused, neglected, underprivileged or in the juvenile justice system, the Louisville and Jefferson County Foster Grandparent Program is now reaching out to children at risk of substance abuse. Senior citizens are dutifully equipped to help these youths face the hardships of substance abuse. I commend the Foster Grandparent Program for implementing this important initiative.

Mr. Speaker, it is certainly encouraging to see the spirit of voluntarism in action. For the past 25 years, the Foster Grandparent Program has employed a winning formula by matching the Nation's senior citizens with children having special needs. Let us hope the next 25 years are even more successful.

COMMEMORATING REV. NORBERT BIBEAULT, C.S.V.

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BILBRAY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the honoree for the Bishop Gorman High School's 1990 "Spring Fling," Rev. Norbert Bibeault C.S.V. This annual event, to be held on April 28, 1990, will honor the Reverend Bibeault for his unselfish contributions and dedication to the children and families of Bishop Gorman High School.

Born and raised in Hartford, CT, Father Bibeault joined the Viatorian Fathers, Clerics of St. Viator, in 1948. In 1952, he graduated from St. Ambrose College and went on to teach at Cathedral High School in Springfield, IL, for 1 year. From 1953 to 1958 he attended Catholic University in Washington, DC. It was during this time that he was ordained to the Priesthood and he received his master's degree in physics.

He began teaching physics and math at Spalding High School in Peoria, IL in 1957, and in 1959 he transferred to Alleman High School in Rock Island, IL. In 1962 he taught at McNamara High School in Kankakee, IL where he also served as the athletic director and dean of students. In 1967 he became principal at St. Viator's High School in Chicago, IL. And finally, in 1968, Father Bibeault came to Bishop Gorman High School in Las Vegas. For the next 21 years he taught physics and coached various sports committing himself to the students, the school, and the community. In 1989 he transferred to Bishop Brady High School in Concord, NH.

Among the many honors Father Bibeault has received throughout his years of education, he is probably the best known for holding the western indoor record for being the life of the party. Another dubious achievement Father Bibeault can claim is his first name basis with most gold courses in North America. I have heard it said many times during Father Bibeault's tenure at Bishop Gorman, "if you can throw it * * * catch it * * * hit it * * * or pitch it * * * Father Bibeault will be there." Truly, Father Bibeault has been one of the most well respected and admired faculty members ever to grace the halls of Bishop Gorman High School. His students all hold him in high acclaim and affection because they know he truly cares about each and every one of them.

Mr. Speaker, I urge my colleagues to join me today in commending Father Bibeault for his well-deserved recognition in outstanding contributions and loyalty to Bishop Gorman and to the Las Vegas community. Father Norbert Bibeault, C.S.V., serves as an inspiration to us all.

THE NATIONAL EXCELLENCE OF THE FUTURE FARMERS OF AMERICA, DENMARK, WI, CHAPTER

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MOODY. Mr. Speaker, today I would like to recognize an outstanding group of young people in Wisconsin: The Future Farmers of America, Denmark, WI, chapter. This chapter has an extraordinarily distinguished record of achievement in preparing young people to become good citizens and skilled farmers.

The Denmark chapter of Future Farmers of America is a national leader in community service, programming, and agricultural safety training. Out of 8,200 chapters nationwide, the Denmark group is the only chapter to receive FAA's prestigious gold rating in all three of these national chapter award programs.

What's more, they have accomplished this feat each of the last 5 years.

The family farm has been a backbone of the American tradition, and a key element of the Wisconsin economy. Carrying on that proud tradition is a priority for our Nation, and that is exactly what the Future Farmers of America seek to ensure.

I commend the Future Farmers of America for preparing the next generation of agricultural leaders, and I congratulate the young people of the Denmark chapter on their consistent record of winning awards for serving others and cultivating leadership skills. The chapter fosters and encourages values of public service, responsible community leadership, skilled agricultural practices, and farm safety.

Mr. Speaker, I am proud to cite these Future Farmers of America for the fine example they have set for the State of Wisconsin and for the Nation.

A TRIBUTE TO COL. CLINTON L. PAGANO

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Col. Clinton Pagano who is being honored for his many dedicated years and extraordinary accomplishments on the New Jersey State Police Force.

Col. Clinton Pagano is a lifelong resident of New Jersey where he and his wife Audrey raised a family of three boys. Not only did he strive to protect the citizens of New Jersey, but he also defended our country in the final days of World War II in the U.S. Army and during the Korean conflict in the U.S. Marine Corps.

The year 1952 marks the beginning of Colonel Pagano's very distinguished career with the New Jersey State Police working on general assignment in the central New Jersey area. His exceptional advancement in law enforcement shows his dedication to public security and enforcement of law and order.

As an extremely ambitious person, within 2 years he became a detective and was quickly assigned as a field investigator with the auto theft unit. He had the opportunity to work on special assignments of the attorney general's office, and he also was a confidential investigation aide for the New Jersey Supreme Court.

Colonel Pagano continued to expand his horizons by becoming a captain for the narcotic's bureau, and a year later he was promoted to the position of assistant supervisor of the criminal investigation section. In the succeeding years, he also increased his knowledge of the management of law enforcement and criminal justice systems in classes he attended in New York, Maryland, and Northwestern Universities.

Three years later, Gov. Brendan T. Byrne nominated Captain Pagano as the ninth colonel and superintendent of the State police, and the New Jersey Senate unanimously approved him.

Some of his many remarkable accomplishments include his great efforts to recruit female troopers, to establish an urban crime fighting detail, and to become the State director of civil defense and disaster control.

Among many of the positions Colonel Pagano has held, he was elected to sit as general chairman of the Division of State and Provincial Police for the term of 1981–82. His career did not end there. He then was renominated by Gov. Thomas Kean as superintendent of the New Jersey State Police.

During his tenure, the New Jersey State Police has become the most widely diversified and efficient policing unit in the Nation, and it now has over 90 different programs.

I call on my colleagues to join with me, and the people of New Jersey, in extending our gratitude and appreciation to Colonel Pagano for the outstanding and enthusiastic devotion that he has made to law enforcement.

CONGRESSIONAL SALUTE TO AUSTIN J. MACARTHUR, RETIRING EDUCATOR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. ROE. Mr. Speaker, it is with a great deal of pride and admiration that I rise today to salute an outstanding educator, administrator, coach, and athletic official who has truly distinguished himself during the past four decades.

I am speaking of Austin J. MacArthur of Clifton, NJ, who is retiring this year after 40 years as a guiding force in the Belleville, NJ, school system in my Eighth Congressional District. Mr. MacArthur will be honored for a lifetime of achievement with a testimonial dinner on Thursday, April 26, at the Friar Tuck in Cedar Grove, NJ.

Mr. Speaker, I know this event will be a source of great pride, not only to Austin MacArthur himself, but to his devoted family; his wife of 39 years, Joyce; his children, Patricia, Richard, Kenneth and Mark, and his grandchildren, Brian and Kristin Loughlin.

Mr. Speaker, Austin MacArthur has maintained such an active life, it is hard to know where to begin when recounting his numerous achievements. Following a tour of duty with the U.S. Navy during World War II where he served on the aircraft carrier U.S.S. *Croatan* CVE 25, he attended Montclair State College, earning his BA degree in business education and physical education in 1950. Two years later he earned his masters degree in personnel and guidance.

Austin J. MacArthur spent his 40-year education career making an enormous contribution to the Belleville school system. He spent 14 years at Belleville High School, 11 as a business education teacher and 3 as vice principal, before becoming principal at School Three, a position he has held for the past 26 years.

Along with his contributions as a teacher and administrator, Austin J. MacArthur was also widely known for his work as an athletic coach and as a sports official.

At Belleville High School he served as the head track coach, guiding his squad to championships at the county and State levels; as head cross country coach; as assistant basketball coach and as freshman basketball coach. Austin MacArthur has also been extremely active in baseball, having served as a coach on the Little League, Babe Ruth League, American Legion, and Metropolitan League, of which he served as commissioner.

Among his many activities, Mr. Speaker, Austin J. MacArthur was perhaps best known as one of the top basketball officials both in New Jersey and around the Nation. Collegiately, he officiated in 10 National Invitation Tournaments and handled one NIT championship game. He also officiated in 10 Holiday Festival Tournaments at Madison Square Garden in New York, also handling one championship game, and he officiated in four NCAA tournaments.

Mr. Speaker, Austin MacArthur also was the referee for a dozen New Jersey High School State Tournament championship games and for 10 Essex County Tournament championship. He also excelled as a football referee, officiating in six New Jersey High School State Tournament championship games.

Among Austin J. MacArthur's many awards and citations, he has received the New Jersey College Basketball Coaches Trophy for outstanding contributions to basketball, and the Corrigan Award of the International Association of Approved Basketball Officials [IAABO] Board No. 33 for his contributions to basketball. He also served as president of Board No. 33 IAABO, as international chairperson of the rules examination committee of the IAABO and as an Atlantic 10 Basketball Conference observer and evaluator of basketball officials.

Mr. Speaker, it is clear that Austin J. MacArthur has continued to strive for excellence regardless of his field of endeavor, whether it be as a teacher, administrator, coach or athletic official. In this regard, he has served as an important role model and influence on the youth of Belleville and of New Jersey, and has truly made his community and State, and our Nation a better place to live.

CONGRATULATIONS TO LT. COMDR. SHAW COHE

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HUTTO. Mr. Speaker, Lt. Comdr. Shaw Cohe will be leaving his position as the Navy's Congressional Liaison Officer for Acquisition and Contracts this week. Lieutenant Commander Cohe has been selected to serve as the Military Assistant to the Principal Deputy Under Secretary of Defense for Acquisition. He has provided extraordinary support for the Members of the House of Representatives and if his current performance is any indication he will be of invaluable assistance to the acquisition leadership of DOD.

Lieutenant Commander Cohe has provided outstanding support to my office and to the Readiness Subcommittee of the Armed Services Committee, which I chair. His dedication

and commitment to the Navy and the Congress of the United States were consistently demonstrated as was his technical expertise concerning a host of issues and inquiries. I would also like to thank Lieutenant Commander Cohe again on behalf of my constituents for his outstanding support of our procurement seminars in Pensacola and Panama City.

It gives me great pleasure to extend my heartfelt congratulations to Lieutenant Commander Cohe and to wish him fair winds and following seas in his new assignment.

FLORIDA ECIA AWARD WINNERS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GIBBONS. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding group of schools in my community which have been honored for their successes in education.

I am referring to 58 public and private elementary schools in Hillsborough County, FL, which recently were honored as "Top Gun" schools. The award acknowledges their special achievements with remedial reading and mathematics classes. Hillsborough County's ECIA chapter 1 basic program made the awards based on statewide standardized test scores.

As you know, ECIA stands for the Education Consolidation Improvement Act, the largest Federal-aid-to-education program in history. ECIA chapter 1 classes provide instructional help in reading and math over and above what usually is provided for all students. Congratulations are in order for the ECIA program, which coordinates remedial learning programs around the Nation. In recognition of this group's local achievements, the Hillsborough County School Board declared the week of March 19–23, 1990, ECIA Week.

Mr. Speaker, for the RECORD, I would like to insert the names of these outstanding schools, and their principals, with my heartfelt thanks and best wishes.

School and principal:
Broward Elementary, Beverly DeMott.
Bryan Elementary, O. Jack McMillan.
Cahoon Elementary, Beverly Parslow.
Christ the King, Sister Judith Suprys.
Clair Mel Elementary, Phyllis Wagers.
Cleveland Elementary, Phyllis R. Lee.
Crestwood Elementary, Patsy Sissle.
DeSoto Elementary, Rose Marie Chillura.
Dunbar Elementary, Geraldine Smith.
Edison Elementary, Sylvia H. Hornsby.
Egypt Lake Elementary, Larry Moore.
Forest Hills Elementary, Susan Turner.
Foster Elementary, Kenneth Cathcart.
Grady Elementary, Faye Pages.
Graham Elementary, James Pardo.
Incarnation School, Sister Eugene Schneider.
Jackson Elementary, James Rodgers.
Just Elementary, Lois Bowers.
Kenly Elementary, Deborah Coyle.
Knights Elementary, Sadye Martin.
Lanier Elementary, Carolyn Luis.
Lincoln Elementary, JoAnn H. Shaw.
Lockhart Elementary, Geraldine Ervin.
Lomax Elementary, Flossie Geathers.
Lopez Elementary, Harris Q. Carter.
Mabry Elementary, Joseph Trumbach.
Mary Help of Christians, Father John Nazzaro.
McDonald Elementary, Shirley Gonzalez-Day.
Mort Elementary, JoAnn McNeil.
Mt. Calvary School, Elisa Young.
Oak Park Elementary, Jack E. Davis.
Orange Grove Elementary, Velia C. Pedrero.
Pinecrest Elementary, Martha Hood.
Potter Elementary, Brenda D. Thompson.
Riverview Elementary, Sheila Jarsonbeck.
Robinson Elementary, Dennis Higgins.
Roland Park Elementary, Anthony J. Perrone.
Roosevelt Elementary, Helen Cathcart.
Sacred Heart Academy, Sister Joan Bocklet.
Seminole Elementary, Ruth Ann Reynolds.
Shaw Elementary, Earl Whitlock.
Shore Elementary, Olan Hill.
St Joseph School, Sister Mary Terzo.
St. Lawrence School, Maureen Hansma.
St. Patrick School, Robert Kenel.
Sulphur Springs Elementary, Stephanie Moffitt.
Tampa Bay Boulevard Elementary, Mary Lasris.
Thonotosassa Elementary, Sylvia McMillan.
Tinker Elementary, N. Jean Leone.
Town & Country Elementary, Barbara Santana.
Twin Lakes Elementary, Mary Libroth.
Villa Madonna School, Sister Theresa Kelly.
West Shore Elementary, Harriet Foundas.
West Tampa Elementary, Carl L. Barone.
Williams Elementary, Eloise Cabrera.
Wilson Elementary, R. Joyce Gatlin.
Wimauma Elementary, Beny Peretz.
Belle Witter Elementary, Phyllis Leidy.

IN MEMORY OF THE DIVINE AND SASSY SARAH VAUGHAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. DIXON. Mr. Speaker, I rise today to mourn the loss of a national treasure in the passing of jazz vocalist Sarah Vaughan. Known variously as "The Divine Sarah," "The Divine One," "Sassy" and "Sass," Sarah Vaughan has been described as "the most important singer to emerge from the bop era." A consummate jazz singer, Vaughan achieved enormous popularity among both jazz and pop audiences, blurring the lines between the two idioms with the immense talent and integrity she brought to both. The depth of her musical understanding and her sensitivity to the new wave of jazz music found expression in her singing and allowed the Divine Sarah to escape the disdain handed many singers—especially those who forsake jazz for pop music—by the jazz faithful. It is testament to her mastery of jazz concepts that, despite her meanderings, she always retained the deep respect and adoration of jazz musicians, her first and constant admirers.

Born in Newark, NJ, on March 27, 1924, Sarah Lois Vaughan studied piano from the age of 7 and was singing and playing organ at Zion Baptist Church by age 12. She earned entry into the jazz world by winning first prize for her rendition of "Body and Soul" in an amateur contest at Harlem's famed Apollo Theater. Stirred by her performance, singer Billy Eckstine, then with the Earl Hines Band, championed the young singer and implored Hines to hire her. Hines acquiesced and the 18-year-old Vaughan joined the group as a singer and second pianist. Her first professional performance was with the Hines group at the Apollo Theater in 1943. She had just turned 19.

Not long afterward, Eckstine left the Earl Hines Band, accompanied by Sarah, to lead his own group. Composed of such legandary jazz innovators as Dizzy Gillespie, Charlie Parker, Art Blakey, Budd Johnson and Miles Davis, the Eckstine band was a pioneering organization in which the imminent bebop revolution gestated. The band lasted only 3 years, but it would leave an indelible stamp on American music—and on Sarah Vaughan who received her training among some of the most brilliant musicians of the era.

The quality of Vaughan's own musicianship was such that her first recording experience was not as a vocalist, but as a pianist with trumpeter Gillespie and alto saxophonist Parker. Vaughan would point out that her vocal style was influenced more by horn players than by other singers. This was evident in her mastery of lyric phrasing and scat-singing and in her ability to alter a melody in subtle, unprecedented ways which bespoke a thorough harmonic understanding. Yet, the voice which conveyed this knowledge and skill was nothing short of amazing in and of itself. Sassy's was a voice of incredible range, richness and pitch. And, while they recognized her as exceptional from the very start, Vaughan's listeners were amazed and delighted to hear her smokey contralto register become steadily richer, her middle register retain its warm, lyrical tone, and her upper register remain true and pure as the years progressed. It has often been noted by aficionados of both jazz and European classical music that she possessed a voice of operatic calibre.

Notable among Vaughan's early recordings is "Lover Man," recorded with Dizzy and Bird in 1945. "It's Magic" (1947) was her first hit record and placed her squarely on the road to stardom. Other songs recorded by Vaughan include "You're Blase," "If You Could See Me Now," "I Cover the Waterfront," "Body and Soul," "Tenderly," "Everything I Have Is Yours," "I'll Remember April," "Easy Living," "I Remember Clifford," "Here's That Rainy Day," "Misty," "Perdido" and "Don't Blame Me."

During her 47-year professional career, Sarah performed and recorded with nearly every recognizable name in the world of jazz, and in a variety of musical settings and formats—from big bands and small jazz sets to philharmonics. While the small jazz set offered the most fertile setting for displaying her considerable talents, she was comfortable in any musical situation and able to keep even the largest audiences spellbound with her dynamic renditions of jazz standards and popular ballads. Vaughan received Esquire's new artist award for 1947, first place in the Down Beat

readers' poll for best female jazz vocalist from 1947–1952 and a Grammy for best vocal jazz performance, female, for "Gershwin, Live!" in 1982.

As early as 1957, it was said that Sarah Vaughan possessed "the finest voice ever applied to jazz." Few challenged the assertion then, and 33 years later it seems nearly axiomatic. For many of us who have traced her development and delighted in the vocal exploits of Sarah Vaughan over the years, the death of the Divine One marks and end of an elegant era. I ask you to join me today in celebrating the life and works of a towering figure in the world of American music. Sarah Vaughan will be sorely missed and warmly remembered by the millions whose lives she enriched through song.

BISON BASKETBALL—A TRADITION OF EXCELLENCE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to the college basketball team that won more games than any college team in America the past two seasons, and a team that proved during the decade of the 1980's to be one of the best in the history of the game. That team is the David Lipscomb University Bisons, from my hometown of Nashville, TN.

The Bisons record during the 1980's is incredible. They won 306 basketball games and lost only 63. Five times the Bisons participated in the National Association of Intercollegiate Athletics National Tournament and won the NAIA National Championship in 1985–86.

Let me begin by saluting the Bison coaching staff. Coach Don Meyer recently completed his 15th year as head coach of the Lipscomb men's basketball program. Last season the Bisons compiled a 41 to 5 record, becoming the first 4-year college program to ever win 40 or more games. Meyer was named NAIA coach of the year in 1989–90.

Under Meyer's guiding hand, the Bisons won 30 or more games five times during the past decade, capturing six conference titles, and five district titles. Nine Bison players were named All Americans, and most importantly, Coach Meyers emphasis on academics was reflected in four players being named NAIA Scholar Athletes.

The Sports Information Office at David Lipscomb, who helped provide information for this tribute, says, "Don Meyer's name will always be synonymous with the building of the David Lipscomb University basketball program. His impact has been one of gigantic proportion."

Much credit for success of the Bison program also goes to Assistant Coach Ralph Turner. In his fifth year as Meyer's assistant, Turner has been instrumental in developing the Bison basketball camp into the largest basketball camp in the country.

Meyer is also assisted by Student Assistant Coach Jason Shelton and student coaches Marty Cobb, Jon Fouss, John Martin, Ritchie Pickens, Paul Rogers, Robert Sain, and Chiffonda Washington.

And now the players.

Phillip Neil Hutcheson.

Phillip Hutcheson stands alone among NAIA basketball players. And even though the NAIA does not receive the national publicity larger colleges get, Phillip Hutcheson deserves to be mentioned in the same breath as any "big-name" college player who ever suited up for a game.

Hutcheson finished his career as college basketball's all-time leading scorer with 4,106 points. Setting an example for every player who ever follows him, Phillip managed to break just about every record which existed * * * while maintaining a perfect 4.0 grade point average. Phillip is only the third player in NAIA history to be named a four-time All American. The list of awards Phillip has gathered during his 4-year career at Lipscomb is awesome and simply too lengthy to mention.

The 1989–90 Bison season marked the close of three other brilliant careers at Lipscomb. Marcus Brodie, a 6 foot 3 inch guard from Florence, AL; Wade Tomlinson, a 6 foot 1 inch guard from Decatur, AL and Darren Henrie, a 6 foot 6 inch forward from Brentwood, TN. The four seniors ended their careers with a combined 139–16 record.

Darren Henrie was selected 1st team NAIA All Amercian, scored 3004 career points and became the NAIA career three point shooter. Henrie and Hutcheson combined for 7,110 points and 2,046 rebounds, more than any teammates to ever play college basketball.

Marcus Brodie broke NAIA National records for season and career steals.

Wade Tomlinson finished his illustrious career with over 1,700 points.

The Bison roster also included outstanding players Pete Froedden, Greg Thompson, Shannon Terry, Scott Waston, Brian Ayers, Tracey Scales, Rob Browne, Jerry Meyer, and Greg Eubanks.

Redshirt players were Mark Campbell, and Daniel Dennison, Gerald Lyle, and John Pierce.

Mr. Speaker, I ask my colleagues to join me in saluting one of the finest basketball and athletic organizations in the United States, the David Lipscomb University Bisons. This team's winning attitude, enthusiasm and focus on academics is certainly worthy of congressional recognition.

I'd like to conclude my tribute to the Bisons with the definition of a Bison basketball player. The definition, furnished by the school, could also have application as a definition for Members of Congress.

A Bison Basketball Player

A David Lipscomb University basketball player can come in any size, shape or color. There is no common denominator, except a love for the game and a desire to get the most out of his abilities. He is not only proud of his strengths, but understands his weaknesses. He is first of all concerned with the good of his team and knows that individual recognition will come through team excellence.

A David Lipscomb University basketball player has the enthusiasm of an evangelist; the discipline of a monk; the heart of a warrior; and never loses the honesty and character of a small boy.

He appreciates the support of thousands of fans, but he is much more aware of the example he is setting for some small boy watching him from the sideline. He is happy when he scores a basket, but never forgets that a teammate threw him the ball. While he never lets up at either end of the floor, the other team is not his real opponent; it is the full extent of his own potential that he is always playing against. He lets the referees, with the occasional assistance from his coach, do the officiating.

A David Lipscomb University basketball player is made and not born. He is constantly striving to reach his potential knowing that he will bypass other players who cannot withstand the strain of this quest for excellence. He realizes that the challenges and competition of today's game will better prepare him for tomorrow's world. He knows that the true measure of his performance is not recorded in wins and losses, but in how much of himself he has given to the game.

A David Lipscomb University basketball player never realizes when the odds are stacked against him. He can only be defeated by a clock that happens to run out of time. He is what a small boy wants to become and what an old man can remember with great pride that he once was.

NEW JERSEY SYMPHONY: CHOSEN AS RESIDENT ENSEMBLE FOR ADARE FESTIVAL

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GALLO. Mr. Speaker, I take great pride in announcing an historic musical event. The first annual Adare Festival in County Limerick, Ireland, will welcome conductor Hugh Wolff and the New Jersey Symphony Orchestra [NJSO] this summer, marking the first time an American symphony ensemble has been invited to become a resident ensemble in Europe.

From July 13 to 29, this artistic delegation from the State of New Jersey will perform a series of nine concerts on the grounds of Adare Manor, one of the great historic and architectural jewels of Ireland, and indeed, of all Europe.

Such an event invites the participation of exceptional artists. The NJSO will be joined by such outstanding soloists as James Galway, Julian Lloyd Webber, Barry Douglas, John O'Connor, Lucy Sheldon, Phil Coulter, Kim Kashkashian, and The Chieftains.

Visitors to Adare Manor will also see performances by the National Symphony Orchestra of Dublin, and the Radio-Television Erin Philharmonic Choir of Ireland, 150 of the finest voices to be found on the Emerald Isle.

This invitation comes as a tribute to the rich tradition of artistic expression in New Jersey. The NJSO was founded in 1928, but traces of its heritage over a century, to the creation of the Eintracht Orchestra and Singing Society of Newark in 1846. With this event, the inaugural of the Adare Festival, I am confident that the arts will continue to blossom, in both New Jersey and in Ireland.

Many people deserve praise for organizing this festival, including the hosts of this event, Mr. and Mrs. Thomas F. Kane of Summit, NJ, the honorary chairmen of this event, Gov. James Florio, and former Governors of New

Jersey: Brenden T. Byrne, William T. Cahill, Richard J. Hughes, Thomas H. Kean, Robert B. Meyner, and a committee of distinguished Americans.

Mr. Speaker, I am confident that this event will soon develop a history of its own. Thousands of Europeans and Americans gathering together to celebrate our common artistic heritage will not go unnoticed.

TAX POLICY CONCERNS DEALING WITH APPROPRIATE USE OF FUNDS

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. ANTHONY. Mr. Speaker, today, I introduce legislation the purpose of which is to address tax policy concerns dealing with the appropriate use of funds which are released when municipal bonds are advance refunded. The specific bond issue that gave rise to my concerns is the much-publicized Camden County Municipal Utilities Authority's 1990A Series and 1990B Series Capital Appreciation Sewer Revenue Bonds. The structure of that issue calls into question whether an unwarranted arbitrage opportunity is created when funds released by the advance refunding are invested, at approximately the same time as the refunding, in contracts which substantially guarantee a yield which is materially higher than the yield on the refunding bonds.

Before discussing the particular provisions of the legislation, let me digress for a moment. When I first began to assume a leadership role in the municipal bond area, I promised to seek relief in areas where I saw convincing proof that the tax law was inhibiting the ability of State and local governments to finance legitimate public projects. On the other hand, I said I would neither tolerate nor defend questionable industry practices. If problems arose, I promised to step forward with measured responses to stop them.

I think last year's legislative record speaks for itself. The 2-year exception to the arbitrage rebate provisions was supported by the Treasury Department and the Congress to provide State and local governments relief from the complex and overly burdensome arbitrage rebate regulations. At the same time, the "hedge bond" provision was a measured response to a type of municipal bond issue which at best promoted early issuance and which in too many cases could possibly have resulted in no public project being financed at all.

My goal in examining the financing structure in question was not to produce legislation to eliminate advance refundings or to require that State and local governments must be "broke to borrow." Advance refundings are important tools used by State and local governments to achieve legitimate interest rate savings, to restructure debt service, and to supersede existing bond covenants. But, advance refundings by their very nature require close scrutiny because they burden the market with multiple bond issues for the same project costs.

The structure that gives rise to my legislation uses capital appreciation bonds [CAB's] to advance refund an existing issue of tax-exempt bonds. The use of the CAB's creates a window whereby funds pledged for the payment of debt service on the refunded bonds are both released from the lien of the refunded bonds and rendered temporarily unnecessary to the payment of debt service on the refunding bonds. At approximately the same time as the refunding bonds are issued, the issuer enters into a forward purchase contract. Under the terms of the contract, as the released funds arise, they must be used to purchase investment property the yield on which is substantially guaranteed when the contract is made. The yield on that investment property materially exceeds the yield on the refunding bonds. By reason of the refunding, the released funds are made available for a use other than the payment of debt service on the refunded bonds or are not expected to be used to pay debt service on the refunded bonds until a later time.

It is neither the advance refunding nor the use of CAB's that raises tax policy concerns. It is the combination of those two factors coupled with the investment of the released funds in substantially guaranteed higher yielding investments as a part of the same overall transaction that resulted in my desire to examine the structure.

The financing structure which precipitated this legislation is very complex and, is not one entered into by most state and local governments or financing authorities. A complaint that I have heard in the past is that legislative responses are drafted without a full understanding of the particular transaction or practice which is in question. I am very pleased with the process which led to the development of this legislation. Before drawing conclusions, we met with bond counsel to gain a complete understanding of the transaction and their reasoning for structuring the transaction the way they did. Then all interested parties, including representatives from the Treasury Department, met to craft a legislative response. While I leave it to them to determine the propriety of prior transactions, I believe this legislation clarifies the tax policy direction for future transactions.

The general way the legislation addresses the tax policy concerns raised by the financing structure described above is to provide that such a financing will be viewed as a device under section 149(d)(4) of the Internal Revenue Code of 1986 if certain criteria are met. To meet the definition of a device for these purposes, the following three criteria must be present: (1) there must be an advance refunding, (2) the advance refunding must result in released funds, and (3) within 90 days before or after the date of issue of the refunding bonds the issuer enters into a contract for the purchase of investment property with the released funds which substantially guarantees a yield on the investment property that is materially higher than the yield on the refunding bonds. My bill is not intended to affect the tax treatment of released funds invested in an escrow for the refunded bonds. Nor is it intended to affect the tax treatment of a reserve or replacement fund for the refunding bonds to the extent it is transferred to serve as a reserve or replacement fund for the refunding bonds.

As with any legislation, there are always questions about definitions for certain terms or what is meant by the use of certain phrases. I will do my best to address as many of these questions as possible in advance. No doubt, there will be further comments and questions from practitioners, which I welcome. For purposes of this legislation, "refunded bonds" are bonds of a prior issue the principal of, or interest on, which is paid from the proceeds of a later bond issue. An example of a "contract" within the scope of the bill is what is commonly known as a guaranteed investment contract, or GIC. Determination that an investment contract provides a guaranteed yield is not precluded by any provisions of the Contract containing commercially normal exceptions to the guaranteed yield.

I believe this legislation is an even handed response to the problems which were presented by this particular type of transaction. I have tried to be receptive to complaints that I have heard that Congress frequently crafts overly broad responses to solve narrowly focused problems. The only problem with measured responses is that there are always individuals who will try to find new ways to circumvent the legislative fix. If this occurs in this particular instance—it will be at your own risk—because this legislation can be broadened at any time in the future. By attempting to find new ways around this legislation you not only put your particular transaction at risk, but also endanger the goodwill which is continuing to grow between practitioners and the Members and staffs of the tax writing committees.

THE 50TH ANNIVERSARY OF TROOP 320

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. COBLE. Mr. Speaker, for the past 50 years, Rehobeth United Methodist Church has sponsored a Boy Scout troop and Cub Scout pack. On Sunday, April 22, 1990, there will be a special ceremony to recognize this golden anniversary.

For the past 50 years, Rehobeth United Methodist Church, which is located in our congressional district, has sponsored Boy Scout Troop 320 and Cub Scout Pack 320. Hundreds of boys and young men have become Scouts thanks to the sponsorship of the church and the dedicated volunteers who have assisted with the program. As a former Boy Scout, I have great affection for those who participate in Scouting and great admiration for those who work with Scouts.

April 22 has been designated as "Scout Sunday" to honor the 50th anniversary of Troop 320. Among the highlights will be a demonstration of Scouting skills. One of the original founders of the troop, Mr. King Gregg, will be participating in the ceremony. Also scheduled to be there is Mr. Earl McGee, who was the scoutmaster from 1945 to 1951, and the current Scoutmaster Mr. Dale Showalter. There will be an Eagle Scout ceremony on the

same day for the lastest member of Troop 320 to receive Scouting's highest honor, Jeff Wise. In fact, in the 50-year history of Troop 320, there have been two dozen Eagle Scouts, quite an accomplishment for a troop of its size.

Special thanks must go to Rehobeth United Methodist Church for its long sponsorship of Troop 320 and Cub Scout Pack 320. Congratulations to Rev. Bruce Hobson, the minister of the church, and Mr. Ray Barbee, the chairman of the board of trustees, for their leadership. Also, a special note of thanks to Mr. Mark Floyd Reynolds II, for coordinating this 50th anniversary celebration.

Hundreds have benefited by belonging to Troop 320 and Pack 320 during these past five decades. This long and illustrious history would not have been possible without the assistance of the many scoutmasters and parents who gave of their time and talents to make Troop 320 and Pack 320 among the best in the country. On behalf of the people of the Sixth District of North Carolina, congratulations on your 50th anniversary. Bet wishes for many more years of successful Scouting.

FERRIS STATE UNIVERSITY ABIGAIL S. TIMME LIBRARY DEDICATION

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to recognize Ferris State University and their commitment to quality education. On March 31, 1990, a dedication ceremony was held at the school for the renovation and naming of the Abigail S. Timme Library.

Abigail Timme, born Abigail Smith in 1890, was a most impressive woman. She graduated from Ferris Institute in 1912 in the secretarial studies curriculum and received a special recommendation from the founding father of the university, President Woodbridge N. Ferris. After graduation from Ferris Institute, Abigail worked for Burkey & Gay Furniture Co. in Grand Rapids, MI, and then went on to join the secretarial staff of Joseph Ware and Bernard Baruch in Washington, DC. In 1921 she accepted a position with Continental Casualty Co. in Chicago, one the Nation's largest insurance firms. There she met and married her husband, Ernst Timme, with she worked closely in helping design and implement many of the firm's development projects.

Although many miles separated Abigail from Ferris Institute, she continued to make contributions to Ferris Institute for its needy and worthy students. In 1977, this distinguished alumni received the honary degree of doctorate of humane letters from Ferris State College. Her generous contributions continued until her death in October 1987.

The renovation project at Ferris State University was made possible through the final gift of the Timme Trust Fund, which was adminsitrated by former President Robert Ewigleben and board trustee Dr. Clifford Larson. Ferris state University now has the ability to expand their automation system and focus on the special needs of their students to afford them a quality, long-term education.

Mr. Speaker, and my colleagues in the House, if Abigail were alive today I am positive she would be most honored by the efforts being exhibited by President Helen Popovich, the board of control, and the faculty at Ferris State University. Please join me in applauding their hard work and dedication. I wish them continued success in their endeavors.

AMERICA WEST HEADS EAST

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. KYL. Mr. Speaker, the Department of Transportation is currently considering a request by Arizona's home-grown airline, America West Airlines, to extend its service to Tokyo, Japan. The new service will provide Arizona and the Southwestern United States with improved access to the Pacific Basin. It will also provide major economic opportunities to the State of Arizona.

In awarding the rights, the Department must be sure that a carrier has both the capacity to provide the service and the will to actually establish the service if the authority is granted. America West is ready and willing to provide that service.

Moreover, if the rights are granted to America West, I am confident that the Department will find a very receptive business community in Arizona ready and willing to stand by the airline. In fact, in the past week and a half, the State's business leaders have flooded my office with calls and letters in support of America West's proposal.

Mr. Speaker, these rights represent a valuable asset. I urge the Department's careful consideration of America West's application.

CONGRESSMAN TOBY ROTH NOMINATED FOR HONOR FOR NAVY INVESTIGATION

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. PETRI. Mr. Speaker, our colleagues will recall that during 1988 and 1989, Congressman TOBY ROTH conducted an investigation of a disturbing pattern of deaths among Navy personnel who were undergoing high-risk training. Congressman ROTH'S year-long investigation resulted in major safety improvements in an attempt to reduce a death rate which had reached one fatality every 8 weeks over the preceding 3-year period. Navy training is now safer as a result of TOBY ROTH'S work.

The investigation began after the death in early March 1988, of Lee Mirecki, a 19-year-old Navy trainee from Congressman ROTH'S hometown of Appleton, WI. Lee died of heart failure after having been held under water by his Navy instructors, in an exercise that is now banned under the new safety rules.

What is not generally known is that Congressman ROTH pursued his inquiry in the face of repeated attempts by high-level Navy brass to whitewash the problem, halt the inquiry, and sidetrack the reforms.

Nevertheless, Congressman ROTH would not be dissuaded, and his efforts resulted in a major GAO study of training safety, the replacement of the Navy training chief, an end to life-threatening situations, and a startling public admission by the Pentagon that the Navy had tried to mislead the Congress about these deaths.

Now, TOBY ROTH'S work on this case has earned him a nomination for the first annual Profile in Courage Award, to be given in President Kennedy's memory by the Kennedy Library Foundation. A citizen of Appleton, having followed the course of TOBY ROTH'S work on the Navy deaths, has submitted the nomination, and wrote the letter which follows to the Appleton Post-Crescent. The Milwaukee Sentinel followed up with an article about the nomination, which I am also inserting.

For those of us in the Wisconsin delegation who supported TOBY ROTH in his efforts, and for those of us in the House who recognize that his is a contribution to improving our military and strengthening Congress' commitment to obtaining the truth for the American people, I salute TOBY ROTH for his work work.

[From the Appleton (WI) Post-Crescent, Apr. 14, 1990]

ROTH CITED FOR ROLE IN MIRECKI INVESTIGATION

Editor, The Post-Crescent:

The Feb. 25 edition of Parade magazine featured an article on the late President John F. Kennedy and his two, now grown, children. Caroline and John F. Kennedy Jr. plan to commemorate their father on May 29, the president's birthday, by announcing the first recipient(s) of the John F. Kennedy Profile in Courage Award.

This award will be given to an American elected public official who has displayed exceptional political courage at great personal risk. The award will be $25,000, to be shared if there is more than one winner. A 12-member committee will make the final decision.

I nominated Toby Roth, our member of Congress for the Eighth District of Wisconsin. Mr. Roth clearly demonstrated excellence as our public official when he pressured, persisted and pursued a full investigation regarding the death of the naval recruit, Lee Mirecki. After talking with representatives from the Toby Roth office, I learned of the great personal and professional risks Mr. Roth was faced with. My letter and supporting information have been submitted to the nomination committee.

Additional support from your readers would greatly improve our chances of Toby Roth receiving the award. He deserves the recognition and knowing his constituents support his efforts. I ask your readers to please send a note or letter acknowledging Toby Roth as the likely candidate to receive this year's Profile in Courage Award to:

Profile in Courage Award Committee, John F. Kennedy Library Foundation, P.O. Box 436, Boston, Mass. 02103.

MAGGIE O'NEIL,
Appleton.

[From the Milwaukee Sentinel, Apr. 18, 1990]

ROTH RECEIVES NOMINATION FOR PROFILE IN COURAGE AWARD

WASHINGTON, DC.—More than 5,000 public officials—including Rep. Toby Roth (R-Wis.)—have been nominated for the first Profile in Courage award to be presented May 29, on the birthday of the late President John F. Kennedy, the director of the competition said Tuesday.

A number of Appleton residents have nominated Roth for his role in investigating the death of Lee Mirecki of Appleton, who died March 2, 1988, during rescue drill training at the Pensacola Naval Air Station.

The winner of the $25,000 award will be selected by a 12-member committee working with the John F. Kennedy Library Foundation in Boston, said Erica Stern, director of the competition.

Roth said if he won, he would donate the $25,000 to a charity in Mirecki's name.

"We received 5,000 pieces of mail in a two-week period," Stern said.

"It was gratifying to receive so many submissions from the people of this country at a time when it is widely believed that they are cynical about public service."

Many of the nominees, were local officials who are unknown outside their communities, she said. Some of the submissions ran to 100 pages.

Roth's nomination was made public in letters to the editor from residents of Appleton. The foundation has not released the names of nominees, but Stern said they have come from every state.

After Mirecki died, Roth disputed the Navy's account of the incident and sought investigations by the General Accounting Office and the Defense Department.

The House Armed Services Committee also pressed the case, and Congress adopted a Roth amendment to the 1989 defense spending bill that forced the Navy to admit the original account was misleading and to change training procedures.

DIAMOND JUBILEE OF THE NATIONAL ORANGE SHOW

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. BROWN of California. Mr. Speaker, this year marks the 75th anniversary of the National Orange Show, held in my congressional district in San Bernardino. For its Diamond Jubilee, the Orange Show has chosen "It's Our 75th Time Around" as its theme. As in past years, the Orange Show will include something for everyone: Fun zones, livestock shows, stadium events, and top-name entertainment.

The National Orange Show has played an interesting role in the Inland Empire. In 1911, in San Bernardino County, a profitable 5-acre orange grove could be purchased for about $300 down and $25 a month. The citrus industry was booming. To promote locally grown citrus products, a group of businessmen staged the first Orange Show on March 6–11, 1911, beneath a tent at the corner of Fourth and E Streets. The show included fruitstands, game booths, juggling clowns, agricultural assemblies, and music by the Bell Concert Orchestra. The first Orange Show was a success, planting the seeds for a wonderful annual tradition. Year after year the show grew bigger, attracting more visitors and more citrus exhibitors from across the country.

In 1992, the National Orange Show was established as a nonprofit organization. The following year it moved to its current location at the corner of Mill and E Streets, and the show's board of directors started making plans for permanent facilities. Except for a 5-year hiatus during World War II, the National Orange Show continued to grow, and is now the biggest annual event in the Inland Empire. I ask my colleagues to join me in saluting the National Orange Show on its Diamond Jubilee, which will be held for 11 days this month, from April 19 to 29.

MALCOLM G. WRIGHT

HON. MEL HANCOCK

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. HANCOCK. Mr. Speaker, this past week, our Nation lost a fine individual and I lost a personal friend of many years, Malcolm G. Wright of Springfield, MO.

Malcolm was a stalwart defender of the principles under which this Nation was founded. As such, he was always ready to enter the arena when individual initiative, integrity, and hard work were needed to move forward a civic or even a political project.

His friends and acquaintances mourn his loss. To his family, we extend our deepest sympathy.

WASTEFUL SPENDING

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. LEWIS of Florida. Mr. Speaker, I rise today to address the issue of H.R. 4404, the supplemental appropriations bill which the House considered on April 3, 1990.

As my colleagues are aware, I take my responsibilities with regard to the Federal budget deficit and wasteful spending very seriously. I believe the Federal Government should not be allowed to continue with these runaway spending programs. The Federal deficit must be brought under control and the budget process reformed.

For these reasons, I could not in good conscience support this supplemental appropriations bill.

In addition, many of the expenditures in this emergency bill were not emergencies at all. While I support many of the initiatives funded in this bill, I firmly believe they should be funded honestly during the normal appropriations process.

Mr. Speaker, I strongly favor many of the programs in H.R. 4404, however, I could not vote for a bill which I felt was too short term and was not fiscally responsible.

REGARDING THE 5TH ANNIVERSARY OF INDEPENDENCE DOGS, INC.

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. SCHULZE. Mr. Speaker, Independence Dogs, Inc. of Chadds Ford, PA, will be celebrating its fifth anniversary on April 29. This is particularly significant because this organization truly embodies the charitable concept of public service.

Volunteers at Independence Dogs train canines to assist mobility-impaired individuals in all areas of living. These dogs allow our handicapped citizens the opportunity to negate any physical deficiency holding them back from leading an otherwise normal life.

I congratulate Independence Dogs on 5 successful years, and wish the continued success of its important work. Indeed, Chadds Ford certainly has a special point of light shining its good work throughout the region.

HONORING LT. COMDR. SHAW H. COHE, U.S. NAVY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MAVROULES. Mr. Speaker, I rise today to recognize and honor the outstanding efforts of Lt. Comdr. Shaw H. Cohe, U.S. Navy, as the Congressional Liaison Officer for Acquisition and Contracts with Congress.

Shaw was chosen for this demanding and important assignment based on his outstanding record as a naval officer and acquisition professional. He is a graduate of the U.S. Naval Academy, the Naval War College, and the Navy's Acquisition Contracting Officer Development Program. He holds a master of business administration degree from George Washington University. In addition to his afloat service deployed overseas as a fully qualified Surface Warfare Supply Corps Officer on the U.S.S. *Wichita* (AOR–1) and the U.S.S. *Hull* (DD 945), Lieutenant Commander Cohe served in acquisition and contracting officer assignment at the Naval Air Systems Command, the Office of Naval Research/Naval Research Laboratory in Washington, DC and overseas at the Naval Supply Depot, Guam.

Lieutenant Commander Cohe has drawn on this extensive experience to be of great assistance in supporting the Committee on Armed Service Acquisition Policy Panel and more recently the Investigations Subcommittee with regard to numerous hearings, issues, and congressional factfinding missions. He has also been of great service to me and many in this body by assisting and advising our staffs and constituents in the most effective and proper means of conducting business with the Navy. Of particular note is Lieutenant Commander Cohe's program of congressionally sponsored procurement seminars which have been conducted on behalf of approxi-

mately 100 members of this body and have benefited tens of thousands of constituents.

It has come to my attention that Lieutenant Commander Cohe will soon assume duties as the Military Assistant to the Principal Deputy Under Secretary of Defense for Acquisition. I have no doubt Lieutenant Commander Cohe will continue his superlative work in his new assignment. A man of Lieutenant Commander Cohe's talent and dedication is rare indeed and it gives me great pleasure today to recognize him before my colleagues.

TRIBUTE TO MARK DAVID BECK

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join me in recognizing a young man from the 17th Congressional District of Pennsylvania who has fulfilled the requirements of Eagle Rank of the Boy Scouts of America.

Mark David Beck, of Sunbury, will be presented with this honor on April 22. He is deserving of it. Mark holds a 4.0 academic average, plays on the basketball team, and is active in school and church activities.

A Boy Scout since 1986, he has been an assistant patrol leader, patrol leader, scribe, assistant patrol leader, and is currently a senior patrol leader. He was recently inducted into the Order of the Arrow.

His Eagle service project consisted of refurbishing and repainting the playground equipment of the Kenneth L. Bingaman Memorial at the United Lutheran Church of Sunbury. This project will benefit children and area residents for years to come.

Mr. Speaker, as Members of Congress, we have seen what Scouting means in the lives of young men. We know it is more than learning how to build a campfire or tie a knot. Scouting means a love of the outdoors and appreciation of our environment; it teaches the spirit of serving others and self-respect. It teaches lessons that last a lifetime.

I am very proud that Mark Beck has worked so hard to attain this goal. His efforts are a fine reflection on America's youth.

LAWRENCE (MA) EAGLE-TRIBUNE CELEBRATES 100TH ANNIVERSARY

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. ATKINS. Mr. Speaker, it is with honor that I rise today to pay honor to the Lawrence Eagle-Tribune newspaper on the celebration of their 100th anniverary.

The Lawrence Evening Tribune, forerunner of the present daily newspaper, debuted on April 12, 1890 and merged with the Lawrence Daily Eagle 69 years later. For the past 92 years, this local daily newspaper has been owned and operated by the Rogers family in the finest tradition of the fourth estate.

The Eagle-Tribune's commitment to excellence in the coverage of local. State, and national issues has made a significant contribution to the fulfilment of the democratic ideal of an educated and informed public. The city of Lawrence and the Merrimack Valley are the richer for the Trib's presence. And in 1988 the paper received well-deserved national recognition and distinction when it was awarded the Pulitzer Prize for General News Reporting.

I salute all of the employees and owners of the Trib whose century of dedicated service has so clearly contributed to the betterment of the Merrimack Valley. It is my great pleasure to congratulate the Lawrence Eagle-Tribune on its 100th anniversary and to wish it continued success in the next century.

TRIBUTE TO ST. STEPHEN'S CHURCH, JOHNSTOWN, PA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MURTHA. Mr. Speaker, I would like to recognize the congregation of St. Stephen's Church of Johnstown, PA, which will be celebrating its 100th anniversary on October 2, 1991.

Many Eastern Europeans were among the immigrants to the Johnstown area in the late nineteenth and early twentieth centuries, searching for new jobs and the unlimited opportunities that the United States had to offer. These new immigrants worked in the steelmills and coal mines, which formed the backbone of the rapid industrial development taking place in western Pennsylvania. They also brought their faith with them from their old homes, a faith which led to the founding of St. Stephen's Parish.

Johnstown has suffered through three disastrous floods in its history. Its houses of worship have been very important in beginning the healing process for the citizens of Johnstown after these tragic events. St. Stephen's, which itself was seriously damaged in the floods of 1936 and 1977, has been a rallying point for the community in these times of crisis, and has been one of the leaders in the rebuilding process which has shown the spirit of the city.

I would like to congratulate the parishioners of St. Stephen's on this upcoming anniversary. St. Stephen's has been an important part of the Johnstown community for the past century, and I wish all those involved with St. Stephen's well during the next 100 years of service to the people of Johnstown.

EXPANSION OF DAUPHIN COUNTY LIBRARY SYSTEM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. GEKAS. Mr. Speaker, I ask my colleagues to join with me in recognizing an exciting effort underway in my congressional district in Pennsylvania. The Dauphin County Library System is expanding two of its branches, enabling the libraries to serve more central Pennsylvania residents even better.

The importance of providing additional library space and more books is far reaching. America is quickly becoming a nation of television watchers rather than a nation of thoughtful, well-read citizens. But even more disturbing than this, we are forced to face the reality that too many people in this country cannot read directions on a map or instructions on a medicine bottle.

The good news is that as the campaign for literacy becomes more visible, people are not afraid or ashamed to admit that they cannot read. The result will be an increased willingness to seek help and assistance. The good news is also that recent studies show teenagers are reading more newspapers, magazines, and books.

However, we must work to ingrain in our children a love of reading, of knowledge, and of learning. From their earliest years we must expose them to the books containing that knowledge.

I am proud that the Dauphin County Library System will now help accomplish this vital goal.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mrs. BOXER. Mr. Speaker, I would like to again commend my colleagues Congressman KOSTMAYER and Congressman JOHN MILLER for organizing this very important annual commemoration, and for their continued vigilance on behalf of those seeking to emigrate from the Soviet Union.

Additionally, I would also like to take this opportunity to thank the Bay Area Council for Soviet Jews for their tireless work on behalf of Soviet Jewry, and in particular, for their deep commitment to the reunification of families arbitrarily separated by the Soviet Government.

Despite President Gorbachev's policies of perestroika and glasnost, freedom continues to remain elusive for many Soviet Jews. Soviet Jewish emigration to Israel has been set back this year by protest from the Arab community which contributed to the breakdown of negotiations between the two countries for direct air flights, and led to a brief hiatus in flights from Budapest to Israel—the only exit route now open.

For those who wish to emigrate to the United States, the picture is no rosier. Once again, the number of Soviet Jews wishing to enter the United States far outnumbers the number of visas available. And, since this year's visas have been especially earmarked for the hundreds of Soviet Jews still stranded in Italy, the long waiting lines for exit visas in Moscow have only become worse.

At a time of growing anti-Semitism and increased threats of programs by the Soviet ultranationalist organization Pamyat, it is increasingly important that we rededicate our-

selves to the cause of freeing Soviet Jews. As part of that effort, I would like to bring the case of Joseph and Alla Roginsky to the House's attention.

Joseph Roginsky, his wife Alla, and daughter Janna, are residents of Leningrad. They first applied to emigrate in May of 1989 but were refused only 3 months later by the Soviet Government for reasons of regime consideration.

This arbitrary decison by the Soviet government now separates Joseph and Alla Roginsky from the rest of their family, all of whom now reside in the United States.

The Roginsky family has not given up hope. In January, they again applied for an exit visa. Now is the time for us to act to help reunite this family. Please join me in appealing to the Soviet Government for a prompt and positive response to the Roginsky's application.

Additionally, let us not forget the hundreds of other Soviet Jews now stranded in the Soviet Union with no way out. Jews all across the world have just finished observing Passover, a holiday celebrating freedom and liberation from bondage in Egypt. We can not rest until all those who remain trapped in the Soviet Union are given permission to leave of their own free will.

A HOLE-IN-ONE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. McDADE. Mr. Speaker, on Saturday, April 7, while golfing fans across America were gripped with anticipation over Jack Nicklaus' chances to become the oldest player ever to win the Masters, Michael J. Russen, the son of my good friend and district office administrator Michael S. Russen, had a golden golfing moment of his own; a true thrill of a lifetime.

It took place at the Skyline Golf Course in northeastern Pennsylvania; known locally as one difficult course. A cool wind was blowing from left to right at about 12 miles per hour as he approached the tee of the tough, 185-yard par 3, sixth hole.

Mike looked long and thoughtfully at the pin flag flapping in the wind nearly 200 yards away and reaching into his bag, carefully selected a six iron. He stepped up to tee, and in textbook form, gave the ball a mighty whack. It sailed through the crisp air in a matter of seconds, like a missile heading toward its target, drawing ever closer to the faraway green. As it begin to drift toward earth, he could see it was going to land right on the green itself. And as he watched with pierced eyes, the little ball landed with a slight thump, rolled with determination toward the pin flag, and bounced against the pole before falling into the cup. The true hole-in-one! Congratulations Mike!

For Mike, and all of the weekend warriors who take to the links in pursuit of their dreams and aspirations and "a few moments in the pros," I would like to extend hearty best wishes, personal regards, and Godspeed.

THE MONTROSE HISTORICAL AND TELEPHONE PIONEER MUSEUM

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. TRAXLER. Mr. Speaker, I rise today to pay tribute to the opening of the Montrose Historical and Telephone Pioneer Museum which is scheduled to open on May 6, 1990. As the grand opening nears, the Montrose Area Historical Association is putting the finishing touches on this unique museum, which will be one of only five museums in the United States dedicating a significant portion of its display to the history of the telephone.

The Montrose Historical and Telephone Pioneer Museum will display artifacts and historical information about the development of the telephone. I am so very pleased that this museum will be opening in my congressional district, and I would like to publicly congratulate all of those people who have worked so hard on this important project.

EXTENSION OF THE INTEREST EQUALIZATION PROGRAM

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. FAUNTROY. Mr. Speaker, on Tuesday, April 3, 1990, I introduced a bill (H.R. 4447) that would make what is known as the Interest Equalization Program mandatory and extend it for one more year.

During the past decade, the direct lending authority of the Export-Import Bank of the United States—Eximbank—has been reduced by 90.7 percent. It was $5.4 billion in 1981, while today the administration has proposed only $500 million for 1991.

Unfortunately, during the past several years, the funding level has been inadequate and the demand for official export credits has exceeded supply. Consequently, Eximbank has been severely restricted from effectively carrying out its mandate to combat subsidized export financing offered by our foreign trade competitors.

In response, last year, we passed legislation authorizing Eximbank to implement a pilot program known as the Interest Equalization Program [IEP]. The program was an effort to leverage limited resources for the direct lending program by as much as 10 times.

Eximbank would apply resources from the IEP to "buy down" the interest rate on a commercial bank loan backed with an Eximbank guarantee of repayment from the commercial rate to the official OECD export credit rate. In this way, the IEP would be the equivalent of the direct loan program in terms of the interest rate, but will use a lesser amount of budgetary resources.

It was hoped that in addition to leveraging resources to assist our exporters to compete, such a program would encourage commercial banks to stay in the export finance business by offering reasonable assurance of repayment and sufficient return on their export loans. U.S. commercial banks have been retreating from export financing, and there have been no significant signs of their return.

We, in Congress, trusted the administration and provided them with discretionary authority to set up this alternative means of addressing the increasing demand for direct loans. Unfortunately, the administration did not choose to utilize the opportunity to establish a pilot program for 1990 and 1991. The refusal to initiate a pilot IEP is in direct conflict with congressional intent. The Office of Management and Budget [OMB] in my view, is being penny-wise and pound-foolish to kill the IEP before giving it a chance to work.

We made clear in the legislation that this was to be a pilot program which would sunset in 2 years in the absence of further legislation. Because the difference between the official OECD export credit rate is close to the commercial rates, the time is opportune to try out the IEP to address the needs of our exporters in competing with officially subsidized export credits overseas.

Perhaps OMB or others in the administration have better ideas for meeting the competitive financing needs of U.S. exporters. If so, my door is always open. Until I see Mr. Darman's shadow in my doorway, however, not only am I introducing this bill to make the program mandatory, but as chairman of the subcommittee with oversight jurisdiction of Eximbank, I have all the intentions of making sure the bill passes this year.

I request my colleagues to support this bill.

H.R. ——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO INTEREST SUBSIDY PROGRAM.

(a) REQUIREMENT TO EXPEND ALL AMOUNTS APPROPRIATED FOR PROGRAM.—Section 2(f)(1)) is of the Export-Import Bank Act of 1945 (12 U.S.C. 635(f)(1)) is amended by striking "may enter" and all that follows through "appropriate" and inserting "shall use all amounts appropriated to carry out this subsection to make commitments to commercial lending institutions and other lenders".

(b) EXTENSION OF PROGRAM THROUGH THE END OF FISCAL YEAR 1992.—Section 2(f)(4) of such Act (12 U.S.C. 635(f)(4)) is amended by strking "1991" and inserting "1992".

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.—Section 2(f)(3) of such Act (12 U.S.C. 635(f)(3)) is amended—

(1) in subparagraph (A), by striking "and";

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) in adding at the end the following:

"(C) $35,000,000, for fiscal year 1992.".

COL. FREDERICK L. SCHUSTER WILL RETIRE FROM AIR FORCE

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. DEWINE. Mr. Speaker, on May 1 of this year my constituent, Col. Frederick L. Schuster, will retire from the Air Force. Over the last 30 years, the U.S. Air Force has benefited from the faithful and dedicated service of Colonel Schuster. Colonel Schuster received his commission in 1959 and served on active duty until 1969 when he accepted a commission in the Air Force Reserves. While on active duty, he served as a material officer at several locations prior to going to pilot training and earning his wings in 1965. From then until his separation from the active force in 1969, he served as a T-37 instructor pilot and functional check pilot. In 1969, Colonel Schuster began a 13-year stint as a C-141 aircraft commander and senior flight commander. He assumed command of an associate reserve military airlift squadron at Norton Air Force Base, CA, in 1982, and served in that capacity until 1985, where he accepted a position as individual mobilization augmentee assistant to the director of material management at Hill Air Force Base, UT. He assumed his present position as individual mobilization augmentee assistant to the commander, Logistics Operations Center, Air Force Logistics Command, WPAFB, OH, in 1988. Throughout his career, Colonel Schuster has distinguished himself as a stalwart professional who served his country with pride and honor.

THANKS TO ORVILLE MORAN

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. PENNY. Mr. Speaker, earlier this year it was my privilege to have Orville Moran of Austin, MN, work in my Washington office. During that time, Orville assisted me and my staff with various legislative projects and committee hearings.

An instructor of English at Austin Community College, Austin, MN, for over 20 years, Orville has demonstrated a commitment to education and his community that is rare. Orville Moran is a model citizen. During his stay in Washington, Orville spent much of his time researching new teaching techniques for use in his classroom. Austin Community College is lucky to have a person of Orville Moran's ability and commitment, Mr. Speaker.

My very best wishes and sincere thanks go out to Orville Moran and his wife Jeane.

A TRIBUTE TO DENISE BARON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 18, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Denise Baron, of Pawtucket, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Denise and her classmates were able to achieve excellence. Denise and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Denise Baron and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Denise and her classmates good luck in the national competition.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, April 19, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 20

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:30 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To continue hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991.
SR-222

Energy and Natural Resources
To hold hearings on the nomination of Thomas L. Sansonetti, of Wyoming, to be Solicitor, Department of the Interior.
SD-366

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on federal employee's health benefits programs.
SD-342

Judiciary
To hold hearings on S.J. Res. 280, approving the findings of the Comptroller General of the United States contained in the GAO report, dated March 29, 1990, regarding employer sanctions, and S. 2446, to improve the employment verification system under the Immigration and Nationality Act.
SD-226

Small Business
Innovation, Technology and Productivity Subcommittee
To hold hearings to examine the barriers to the sale of U.S. automobile parts to Japanese automobile companies located in the United States and abroad.
SR-428A

Joint Economic
Technology and National Security Subcommittee
To hold hearings to examine the Soviet and East European economies.
SD-562

10:00 a.m.
Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold hearings on the Department of Housing and Urban Development's (HUD's) staffing and organizational capacity.
SD-538

Labor and Human Resources
To hold hearings on S. 2056, to revise provisions of the Public Health Service Act to provide grants to States and to implement state health objective plans.
SD-430

APRIL 23

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
To hold hearings on proposed legislation to strengthen and improve U.S. agri-

cultural programs, focusing on the cost of production.
SH-216

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to review export promotion and economic competitiveness.
SD-538

10:30 a.m.
Governmental Affairs
General Services, Federalism, and the District of Columbia Subcommittee
To hold hearings on proposed legislation authorizing funds for the Washington Metropolitan Transit Authority.
SD-342

1:30 p.m.
Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold oversight hearings on management activities of the Department of Housing and Urban Development.
SD-538

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Forest Service of the Department of Agriculture.
SD-192

APRIL 24

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:30 a.m.
Armed Services
Defense Industry and Technology Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on implementation of the Defense Management Report.
SH-216

Environment and Public Works
Business meeting, on pending calendar business.
SD-406

Select on Indian Affairs
To hold hearings on S. 1289, to improve the management of forests and woodlands and the production of forest resources on Indian lands.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on the National Guard and Reserves.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Transportation Safety Board and the Federal Highway Administration.
SD-138

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

Finance
To hold hearings on the changing trade relations between the United States and the Soviet Union.
SD-215

Labor and Human Resources
To hold hearings to examine the role of treatment and prevention in the national drug strategy.
SD-430

10:30 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on proposed legislation to modernize the legal and regulatory structure of the financial services industry to increase competitiveness of U.S. institutions.
SD-538

11:00 a.m.
Environment and Public Works
To hold hearings on S. 2371, authorizing a National Academy of Sciences study of an environmental research institute, and S. 2176, to provide better enforcement of the environmental laws of the United States.
SD-406

2:00 p.m.
Labor and Human Resources
To hold hearings to examine the future of schools of public health.
SD-430

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on refugee programs.
SD-138

APRIL 25

9:00 a.m.
Labor and Human Resources
Business meeting, to consider S. 722, Food Safety Amendments, S. 1425, Nutrition Labeling and Education Act, S. 436, Employee Health and Safety Whistleblower Protection Act, and other pending calendar business.
SD-430

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings to review FHA mortgage ceilings.
SD-538

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the National Science Foundation and the upcoming scientific manpower crisis.
SR-253

Governmental Affairs
To hold oversight hearings on the operation of the Inspectors General's offices.
SD-342

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of the Attorney General.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration.
SD-116

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:30 a.m.
Finance
To hold hearings on U.S.-Japan trade negotiations, focusing on the Structural Impediments Initiative (SII) and Super 301 trade cases.
SD-215

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 370, to establish the American Heritage Trust to provide funding for the preservation of America's natural, historical, cultural, and outdoor recreational heritage.
SD-366

2:30 p.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the jurisdiction between the Commodity Futures Trading Commission and the Securities Exchange Commission.
SR-332

APRIL 26

8:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to resume consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Aeronautics and Space Administration.
S-126, Capitol

10:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for defense intelligence programs.
S-407, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of State.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Accounting Office.
SD-138

Banking, Housing, and Urban Affairs
To resume hearings on proposed legislation to modernize the legal and regulatory structure of the financial services industry to increase competitiveness of U.S. institutions.
SD-538

Finance
To hold hearings on proposed legislation regarding economic implications of changes in Puerto Rico's political status, including S. 712, Puerto Rico Status Referendum Act.
SD-215

2:00 p.m.
Energy and Natural Resources
To resume oversight hearings on the Department of Energy's Decision Plan relating to the opening of the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, and on proposed legislation to withdraw the public lands surrounding the WIPP site.
SD-366

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings on proposed legislation authorizing funds for the Asbestos School Hazard Abatement Act and to review the implementation of the Asbestos Hazard Emergency Response Act and scientific questions surrounding asbestos exposure.
SD-406

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1957, to provide for the efficient and cost effective acquisition of nondevelopmental items for federal agencies.
SD-342

2:30 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on S. 2171, to authorize funds for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991, focusing on ICBM modernization.
SR-222

3:15 p.m.
Armed Services
To hold hearings on a report from Secretary of Defense Cheney on the results of the major aircraft review by the Department of Defense.
SR-253

APRIL 27

8:30 a.m.
Agriculture, Nutrition, and Forestry Business meeting, to continue consideration of proposed legislation to strengthen and improve U.S. agricultural programs.
SR-332

9:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

10:00 a.m.
Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold oversight hearings to review low-income tax credits.
SD-538

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Foundation on the Arts and Humanities, focusing on the National Endowment for the Arts.
SD-430

APRIL 30

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for fossil energy and clean coal technology programs of the Department of Energy.
S-128, Capitol

Select on Indian Affairs
To hold oversight hearings on provisions of S. 1203, to provide tax incentives for businesses on Indian reservations, and S. 1650, to allow an Indian employment opportunity credit for qualified employment expenses of eligible employers on Indian reservations; to be followed by a business meeting to mark-up S. 143, to establish the Indian Development Finance Corporation to provide development capital for Indian businesses.
SR-485

MAY 1

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment program.
SD-366

10:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Supreme Court of the United States, the Judiciary, and the Federal Trade Commission.
S-146, Capitol

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Bureau of Land Management, Department of the Interior.
SD-192

MAY 2

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

MAY 3

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on strategic programs.
S-407, Capitol

9:30 a.m.
Governmental Affairs
To hold hearings on AIDS education for school-aged youth.
SD-342

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the National Endowment for the Arts, the National Endowment for the Humanities, and the Bureau of Mines, all of the Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the U.S. Coast Guard.
SD-138

10:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Council on Environmental Quality, the National Space Council, and the Office of Science and Technology Policy.
SD-116

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Corps of Engineers.
SD-192

MAY 4

10:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Resolution Trust Corporation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

MAY 7

9:30 a.m.
Governmental Affairs
To hold oversight hearings on implementation of the U.S.-Canada Free Trade Agreement (P.L. 100-449).
SD-342

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Minerals Management Service and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings to examine the Indian health service nurse shortage.
SR-485

MAY 8

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on tactical airpower.
SD-192

2:15 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1848, to implement and provide financial assistance for a research and demonstration program for natural gas and coal cofiring technologies.
SD-366

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. military assistance.
SD-138

MAY 9

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To resume hearings on S. 1981, to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment.
SR-253

MAY 10

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume hearings on S. 1400, to regulate interstate commerce by providing for a uniform product liability law.
SR-253
Rules and Administration
To hold hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Election Commission, and to review Senate policy on official mail.
SR-301
Select on Indian Affairs
To hold oversight hearings on initiatives for Indian programs for the 1990s.
SR-485

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on land warfare.
SD-192
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Veterans' Administration.
S-126, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Federal Aviation Administration.
SD-138

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1991 for the Federal Aviation Administration.
SR-253

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for activities of the Secretary of the Interior, the Secretary of Energy, and the Secretary of Agriculture.
S-128, Capitol

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on S. 1021, to provide for the protection of Indian graves and burial grounds, and S. 1980, to provide for the repatriation of Native American group or cultural patrimony. .
SR-485

MAY 15

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on seapower.
SD-192

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on population policy and resources.
SD-138

MAY 16

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 17

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense, focusing on space programs.
S-407, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on semi-conductors and the future of the U.S. electronics industry.
SR-253

11:00 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 22

9:00 a.m.
Appropriations
Defense Subcommittee
To hold closed hearings on proposed budget estimates for the Department of Defense, focusing on classified programs.
S-407, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the global environment.
SD-138

MAY 24

9:00 a.m.
Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for defense programs.
SD-192

JUNE 5

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of Defense.
SD-192

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

JUNE 7

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 2203, to settle certain claims of the Zuni Indian Tribe, S. 2075, to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality, and S. 1934, to revise the United States Housing Act of 1937 to provide for the payment of fees for certain services provided to Indian Housing assisted under such Act.
SR-485

JUNE 12

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on organization and accountability.
SD-138

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2358, providing U.S. consumers the opportunity to enjoy the technological advancement in sound recording by use of digital audio tape recorders.
SR-253

JUNE 19

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
Room to be announced

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1974, to require new televisions to have built in decoder circuitry designed to display closed-captioned television transmissions.
SR-253

JULY 12

9:30 a.m.
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

CANCELLATIONS

APRIL 19

2:00 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on Eastern Europe.
SD-138

POSTPONEMENTS

APRIL 23

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on the Indian Federal acknowledgement process, including S. 611 and S. 912, bills to establish administrative procedures to determine the status of certain Indian groups.
SR-485

HOUSE OF REPRESENTATIVES—*April 19, 1990*

The House met at 11 a.m.

The Reverend James Trusel, Bridgewater United Methodist Church, Bridgewater, PA, offered the following prayer:

Almighty God, we come before You in gratitude this morning—grateful for this new day and the challenge it brings, grateful for this great land of ours—filled each day with new life and new opportunities—grateful for the peace and freedom we enjoy; grateful for the high privilege of serving our fellow man in our individual and collective capacities.

As we face this new day and the challenges it presents, we acknowledge our need of divine guidance. There will be decisions facing each person, decisions that will affect the lives of a multitude of persons—decisons that won't come easily. And so, Father, we pray for wisdom and courage and guidance for each Member of this body—that the right decision might be made, this day and always. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. WOLPE] please come forward and lead the House in the Pledge of Allegiance.

Mr. WOLPE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REV. JAMES TRUSEL

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, it is with particular pride and privilege that I rise this morning to honor Rev. James A. Trusel, pastor of the Bridgewater United Methodist Church in Bridgewater, PA, located in my congressional district. Reverend Trusel has offered the opening prayer for today's legislative session.

Reverend Trusel began his ministry in 1963, when he was appointed to St. John United Methodist Church near Slippery Rock, PA. He subsequently served as pastor at the West Liberty United Methodist Church for 17 years. For the last 10 years, he has served as pastor at the Bridgewater Church.

Reverend Trusel has served his community with distinction. In addition to his formidable responsibilities as pastor, he has somehow found the time to be a leader in a variety of local civic activities, including his service as trustee for the Beaver Area School District education foundation, and as director of the Bridgewater Community Development Corporation.

I take pleasure in joining with Reverend Trusel's family—his wife, Pat, as well as his sons and grandchildren—in congratulating him on this exceptionally distinguished moment.

PERMISSION FOR MEMBER TO SIGN AND SUBMIT REQUESTS TO ADD NAMES TO LIST OF COSPONSORS ON H.R. 2273

Mr. HOYER. Mr. Speaker, I ask unanimous consent that I may be authorized to sign and submit requests to add the names of the following Members to the list of cosponsors on H.R. 2273: Mr. CRAIG WASHINGTON, Mr. CHARLES HATCHER, Mr. JOHN PAUL HAMMERSCHMIDT, and Mr. CHRIS SMITH of New Jersey.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

THE SPIRIT OF EARTH DAY IS IN EARTH, TX

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, there is a community in my congressional district named Earth, TX. I rise today to note that the people of Earth, TX are celebrating a special Earth Day. In Earth, sharing a day named after your town is cause for celebration. Now, while those of us in Texas may at times be accused of exaggerated claims, the folks in Earth, TX do not claim originality for Earth Day, but they are glad to share a good idea.

These people depend on good water and fresh air to grow their crops and raise their children. To them, the popular phrase, "the environment" has always been known simply as "the land."

There are still places where the skies are a deep blue, and where the tans and greens of the landscape promise a rich harvest. Earth Day reminds us of the realistic challenges of protecting our planet. Yet, we must also offer our children and ourselves the realistic hope of places like Earth, TX.

Today, they give our Nation a special, hello from Earth.

COMMEMORATION OF 20TH ANNIVERSARY OF EARTH DAY

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, in commemoration of the 20th anniversary of Earth Day this week Americans around the country are speaking out and participating in activities to help protect our world's fragile environment.

This week is also the time that President Bush is hosting an international conference on global warming, a conference he promised to convene during the 1988 campaign when he pledged to counter the greenhouse effect with the White House effect. Ironically, however, instead of calling for action to counteract the greenhouse effect, President Bush in his opening speech on Tuesday questioned whether there is indeed enough factual information to conclude that global climate change merits preventative action now.

Scientists may not agree on the speed with which global warming is occurring, but there is virtually no disagreement on the direction of global change. Moreover, many scientists have warned that global temperatures could rise 4 to 9 degrees by the middle of the next century if we do not take action now to stop the accumulation of the greenhouse gases.

I submit to the President that while there may be some factual uncertainty, this uncertainty does not necessarily mean that the situation is not as bad as we fear; it could just as easily prove to be worse than we could possibly imagine.

If there is some factual uncertainty about the extent of global climate change, would it not be wiser to err on the side of safety? Mr. President, the world is looking to the United States for leadership on this vital question. It is not a time for timidity, it is a time for action.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NATIONAL "CANS-TO-CONGRESS" MAIL CAMPAIGN

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, earlier this week supporters of H.R. 586, the national bottle bill, launched a national cans to Congress, writing and mail campaign. Many Members will be receiving used beverage containers urging support of this legislation.

I would simply like to indicate to Members that we have made arrangements to have the containers picked up and a call to my office will arrange that and they will be delivered to a responsible recycling source.

Mr. Speaker, I would also like to indicate a most bizarre and unusual argument now being made in opposition to this legislation. That is, because of the value of the potentially recyclable glass, plastic and aluminum, that we should not recycle it through the deposit mechanism because it will undermine the cost recovery of broader recycling. It is as if St. Paul's question, "Shall we sin all the more so that grace may abound?", is answered in the affirmative. I certainly question that logic and would warn Members that they not fall prey to it.

COMMEMORATING EARTH DAY

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, our Earth Day celebrations enable us to fulfill the biblical instruction to "Hurt not the Earth, neither the sea, nor the trees." But they can also realize a secular purpose as well.

Earth Day helps us hold politicians accountable for the sweet-sounding environmental promises they make at campaign time.

Many of us were amazed as our President, an ally of James Watt, said he wanted to be known as the "environmental President." We gave him the benefit of the doubt, and welcomed him to the environmental movement.

But now it's time to compare candidate Bush's promises with the reality of President Bush's performance.

Candidate Bush promised environmental cleanup but President Bush has delivered environmental coverup.

Candidate Bush promised "no net loss" of wetlands, while President Bush has watered down that commitment.

Candidate Bush promised action on global warming, but President Bush says we need more study.

Candidate Bush railed righteously against the pollution of Boston Harbor, but President Bush eliminated the funding to clean up Boston Harbor in his budget.

Perhaps in addition to Earth Day we need two more celebrations each year.

On June 21 we can celebrate Presidential Promises Day—because that's the longest day of the year.

And on December 22 we can commemorate Presidential Performance Day—because that's the shortest day of the year.

In reality, we must celebrate Earth Day every day because our commitment to a clean environment must survive perishable campaign promises.

□ 1110

INTRODUCTION OF THE NEWSPAPER RECYCLING INCENTIVES ACT OF 1990

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, as publicly elected officials, we have the responsibility to shape those policies which will better enable the American people to share in a commitment toward preservation of our surroundings and an overall reduction of waste. Whether or not our efforts are directed toward cutting the Federal budget deficit through an elimination of spending or toward abating our national solid waste problems, we must stop wasting time. I believe that we, as Members of Congress, must also increase our role as active participants in the race toward effective waste elimination.

To this end, I have introduced today the Newspaper Recycling Incentives Act of 1990 in order to provide a tax credit to publishers of newspapers who use recycled newsprint. This demonstrates an effective commitment toward improving our resource recovery system and promoting an overall wellness for ourselves and for our environment.

BROKEN ENVIRONMENTAL PROMISES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as we all gather on Earth Day to promise anew our efforts to clean the environment, we should also review the results of past promises.

As the President plants both trees and promises this week, let Members review the record. In 1988, he made this promise to a Seattle business group, the President said, and I quote:

> We all want an EPA that is committed unequivocably to environmental protection. We want environmental research based on good research and sound data, and under my leadership, that is what we will have.

However, in late March the House of Representatives passed a bill to establish an independent, nonpartisan Bureau of Environmental Statistics within the EPA, and President Bush said he would veto that bill if it passed. Apparently, he does not want those independent statistics, and if successful, will prevent the public from getting its environmental data developed independently of political interference.

Mr. Speaker, we cannot stand these broken promises, Indeed, while the environmental planting of trees is nice, when it comes to the environment, we cannot stand a forest of broken promises.

EARTH DAY LEGACY: GREENSPACE FOR FLORIDA

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, 20 years ago this Sunday, April 22, 1970, it was a picture-perfect spring day in most parts of the country. It was the perfect setting for the very first Earth Day, the nationwide launching of America's environmental movement.

As part of the new movement, President Nixon halted construction of the Cross Florida Barge Canal in 1971 because of the threats it posed to Florida's fragile environment.

It's fitting that we begin the decade of the 1990's and commemorate the 20th anniversary of Earth Day by taking the saga of the barge canal to its logical conclusion: returning the canal lands to the State with ample environmental protection.

Under legislation introduced by myself and Senator BOB GRAHAM, and Senator CONNIE MACK what was once to be a canal will be turned into parks and recreation areas stretching from the Gulf of Mexico east to the St. John's River.

The national coordinator of the first Earth Day celebration was Dennis Hayes, former student body president at Stanford University. Opening the event 20 years ago in Washington, Hayes said, "We are building a movement, a movement with a broad base, a movement which transcends traditional political boundaries."

Mr. Hayes' vision of the environmental movement has proven true. Twenty years later we have come up with a bipartisan, bicameral solution to the barge canal question—a solution whose main objective is to see that much of 77,000 acres of Florida's untouched beauty is finally returned to the citizens of Florida and preserved for the benefit and enjoyment of present and future generations.

HYPOCRISY IN ADMINISTRATION'S ENVIRONMENTAL POLICY

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, today is the day for the President of the United States to present an Earth Day present to the people. Yes, Mr. President, we want you to put an end to the double standard of hyprocisy in which the Federal Government says, "Do as I say, not as I do."

In 1988, as a Presidential candidate, the President promised the American people, and I quote:

> Some of the worse polluters are our own Federal facilities. As President, I will insist that in the future, Federal agencies meet or exceed environmental standards.

Well, Mr. President, the future is now. The Federal facilities legislation which has passed this House and which enjoys the support of the National Association of Attorneys General, the Western Governors, all of the major environmentalist groups, and yes, your own EPA Director, find itself thwarted by whom? Well, the Attorney General of the United States, the Secretary of Defense of the United States, the head of the Department of Energy of the United States, and yes, your own budget guru, Dick Darman.

Mr. President, what you told the people in 1988 is not what is being delivered in 1990. Yesterday's toxic travelog shows that Federal facilities pollute our environment, and Uncle Sam is, in fact, not a good neighbor. Thousands of Federal facilities are polluting our Nation's backyards, drinking waters, and fouling our air, simply because you would rather break your promise than fulfill the reality of living up to the kinds of tasks of preserving and protecting our environment that was promised the American people in 1988.

Yes, Mr. President, end the double standard—clean up your own backyard first.

CONDEMN HOSTAGE TAKERS AND THEIR SUPPORTERS

(Mr. SCHIFF asked and was given permission to address the House for 1 minute.)

Mr. SCHIFF. Mr. Speaker, the world is again being treated to the spectacle of international terrorists dangling the possible freedom of an American hostage.

What is worse than these groups deliberately inflicting more pain and suffering on the families of the hostages is that there are so-called civilized governments which support their activities. These same governments pretend to be humanitarian heroes in arranging a hostage release—but only after previously doing everything possible to encourage the hostage taking in the first place.

And, what is still worse, is that some democratic governments in the world cast a blind eye to this monstrous behavior and work hand-in-glove with the very governments who back the terrorists in everything from commercial treaties to arms sales.

The democratic governments of the world should have absolutely no dealings with counties supporting international terrorism until each and every hostage has been released.

As a nation of concerned individuals, we hope that all hostages who have been held in captivity will be released immediately and that international pressure will prevent any future use of this barbaric tactic.

OUR POLLUTING WAYS ARE DESTROYING OUR WATERWAYS

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, here is a promise: The Bush administration would enforce environmental laws aggressively.

I think that this has been broken. Mr. Speaker, our polluting ways are destroying our waterways. We have all heard of troubled waters. That is exactly the state of our Nation's waterways today. They are troubled with the dumping of billions of pounds of toxic and hazardous chemicals each year.

In 1987 alone, 9.7 billion pounds of toxic chemicals were directly discharged into our national waterways. As a Congressman whose district borders the mighty Mississippi River, many of my constituents are directly hurt by these polluters. It is estimated that from Kentucky on down along the Mississippi River, the mortality rates are 14 percent higher than the rest of the Nation.

□ 1120

The mighty Mississippi River, our Nation's greatest waterway, has become our Nation's greatest sewer ditch.

Mr. Speaker, we have done little to save this natural treasure of nature. The current administration has said it will not set pollution standards for a number of polluting industries, including the hazardous waste treatment industry, until 1995. The result of this inaction means that this waste will be dumped into our Nation's waterways without Federal oversights.

Mr. Speaker, our polluting ways are quickly destroying our waterways.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DELLUMS). The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, I note there are placards by a microphone in the well, and there is no speaker over there for that particular placard.

I make the parliamentary inquiry just to voice a concern and to say that we have a speaker here who is about to speak on a different subject, and I would assume that when some Member desires to speak from that microphone, that Member will put the placard up and it will be taken down after the Member finishes speaking; is that correct?

The SPEAKER pro tempore. The gentleman well knows that anytime Members addressing the House wish to use a display, they can do it, and at the time they finish their presentation, the display is to be taken down.

Does that answer the gentleman's inquiry?

Mr. SOLOMON. It certainly does, Mr. Speaker, and I thank the Chair for his understanding.

THE SITUATION IN LITHUANIA AND NORWAY'S OFFER OF HELP

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I will speak, as my friend, the gentleman from New York said, on a different subject, but I am going to say something kind about George Bush, which has not been said on the other side of the aisle here.

I would like to express my strong support of President Bush's policy of dialog in dealing with the situation in Lithuania, but I have to say, Mr. Speaker, that as we look at that situation, it is very important for us to recognize that as we convene this morning, the Parliament of Norway is at this moment debating whether or not they are going to provide the much needed energy supplies which the Gorbachev government has cut off to Lithuania.

I think it is very important, Mr. Speaker, for us to provide the kind of encouragement and support for dialog with the Soviets, which can only take place if this kind of supply effort which Norway is considering providing moves ahead.

PROTECT, DON'T STUDY

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the President has promised that "it is unjust to allow the natural splendor bestowed to us to be compromised."

Remarks at Ducks Unlimited Symposium, June 8, 1990.

Regretfully, like so many other promises, this one has also been broken.

The National Park Service reports that visibility monitoring indicates that scenic vistas at over 60 national parks are affected by manmade pollution over 90 percent of the time.

For example, for over 100 days last year, manmade pollution made it impossible to see across the Grand Canyon. The source of the haze is not a mystery. Extensive Federal studies released last August report that the "canyon smog" comes from a single smoke-belching powerplant located 12 miles away.

The solution is no mystery either—tough new pollution controls are needed if clear skies are to be restored over America's greatest natural wonder. However, President Bush has said that more study is needed to make sure that the powerplant is the real culprit.

Mr. Speaker, we need another study like Washington needs more lawyers.

Mr. President, we do not need more studies.

We need real leadership and direction so that we can effectively protect our environment, not just study it.

INTRODUCTION OF LEGISLATION TO CONTROL GROWTH IN FEDERAL SPENDING

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, today I am introducing legislation that outlines a simple plan to deal with the Federal deficit. This measure calls on Congress to meet the Gramm-Rudman deficit target for fiscal year 1991 by restraining the growth in spending from the previous year. Furthermore, to forestall any attempt to increase the financial burden on the American taxpayer, any revenue increase enacted would be separated from general revenues, and used solely to reduce the outstanding national debt.

President Bush's baseline budget projects a revenue increase for fiscal year 1991 of $83 billion, while the Congressional Budget Office projects a smaller increase of $70 billion. This averages out to over $76 billion. With this growth we can meet the $36 billion reduction outlined by Gramm-Rudman and still have $40 billion left over, enough to provide nearly a 4-percent increase for Federal programs.

By controlling the growth in Federal spending we can control the Federal deficit. Please join me in supporting this rational approach to fiscal responsibility.

THE BUSH ADMINISTRATION'S BROKEN PROMISES ON PESTICIDES AND FOOD SAFETY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, in October 1989, President Bush called for food safety legislation to consumers from unhealthy levels of pesticide exposure. That was the promise; what is the record?

The legislation the administration delivered fails to close one of the most egregious loopholes in current pesticide laws. The administration has taken no initiative to close the "circle of poison" which allows chemical manufacturers to export pesticides banned in this country and food treated with those products to be imported and delivered to the dinner tables of American consumers. Not only has the Bush administration failed to prevent the export of dangerous products so other consumers are not exposed to these substances, the administration has failed to stop foods contaminated with products banned in the United States from being shipped into and sold here.

Mr. Speaker, this is the President who wants to be known as the "environmental President," yet his record of action fails to deliver on his rhetoric. The American public and consumers all over the world, are still being exposed to chemicals which are threats to human health and the environment because the administration prefers to talk, not act. In recognition of Earth Week, now is the time for the administration to take an affirmative stand on this problem and deliver on its promise. Let's stop the importation of food treated with pesticides banned in the United States.

NORWAY CONTINUES NEGOTIATIONS TO SUPPLY ENERGY TO LITHUANIA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, at this moment the Norwegian Government is negotiating with the new government of Lithuania, for the sale of vital oil and natural gas supplies. Free people everywhere will rejoice and be grateful to Norway if that deal is reached and if Norway is able to help the struggling Lithuanian democracy with the energy it needs to survive.

Mr. Speaker, the hearts of all Americans are with brave little Lithuania, a nation subjugated for 50 years, a result of a blackhearted deal between this centuries two worst dictators, Stalin and Hitler.

Mr. Speaker, Norway's resistance to Hitler's occupation is well remembered in the United States. Now Norway has a chance to finish the fight by helping the Lithuanians at this pivotal moment. In doing so, Norway will take a moral stand that will inspire the West and earn Norway the appreciation of freedom loving people everywhere.

Our message from the people of the United States to the people of Norway; say yes to the Lithuanians who are asking for your help now in their hour of need. Stand tall and the American people will stand behind you. Show the world Norway's courage and love of freedom by helping free the Lithuanians, at long last, from the Hitler-Stalin pact.

Mr. Speaker history may well report that when the grip of tyranny was shaken and the cause of peace and freedom was in the balance Norway stepped forward to do what was right and in doing so, won the admiration of the world.

AS THE ENVIRONMENTAL PRESIDENT; PRESIDENT BUSH FALLS SHORT

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, among the many environmental promises the President has broken, none is more conspicuous and potentially costly than his broken promises regarding the protection of our Nation's waters.

On the campaign trail the President could not make enough of these promises. He was going to be the environmental President. He stood in front of Boston Harbor and decried pollution. But then, once elected, he submitted a budget which contained no funds whatsoever to clean up the harbor even though Congress had authorized a clean-up.

On the campaign trail, the President kept making promises. He said oil drilling off the California and Florida coasts "would not substantially add to our energy resources." But once elected, the President backtracked again, refusing to even consider a permanent ban on oil drilling in the Florida Keys.

On the campaign trail, the President made another promise. He said that "we need a President who is going to clean up our oceans. I am that man." But once elected, that man delayed and neglected clean up efforts of the largest oil spill in our Nation's history. He allowed Exxon to abandon clean-up efforts in Prince William Sound in mid-September and he allowed Exxon to continue drilling and shipping Alaskan oil.

Mr. Speaker, we do not have an environmental President. All we have are broken promises.

IT IS NOT JUST PRODUCT LIABILITY LAW THAT NEEDS FIXING

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, the explosion of civil litigation in this country has reached crisis proportions, is heaping unconscionable costs on manufacturers, health care providers, consumers, and all of us, and is stifling the very creativity and inventiveness that has made us a strong nation throughout our history. It is time for Congress to do something constructive about it.

Like many of my colleagues, I am pleased to be a cosponsor of a bill to improve the product liability system but strongly believe we must go further; that is why I am introducing legislation today to address the problems in our medical malpractice liability system.

Mr. Speaker, my bill aims to help those least able to help themselves by giving Medicare participants a streamlined process to get prompt satisfaction after medical malpractice. Under the bill, seniors with malpractice claims would be able to skip lengthy, costly court battles and use a proven form of alternative dispute resolution to get compensation for their injuries. It will not only create greater equity for seniors but also will, in the long run, reduce defensive medical practices and, therefore, the cost of health care.

Binding arbitration and other forms of alternative dispute resolution have proven their worth in many States. My bill would give senior citizens a far more efficient system to seek redress and would greatly speed up awards to deserving parties.

Mr. Speaker, the facts are startling:

A report by the Harvard Medical Practice Study on New York hospitals found that out of the cases that led to moderate to severe disability, involved strong or certain evidence of negligence, and in which a malpractice claim was not filed, 78 percent of the injuries occurred in patients over the age of 70.

Access to medical care is gradually reduced because physicians leave practice early, limit the difficulty of the procedures they perform, refuse high-risk patients, and restrict what specialties they enter as new physicians. In a survey by the American College of Surgeons, 40 percent of their new members no longer accepted high-risk cases in consultation, and 28 percent were not performing certain procedures because of the risk of malpractice.

Today's legal environment causes physicians to practice defensive medicine, which means that they order more tests and x rays, refer patients for more second opinions, and maintain more records to document their actions. The cost of these often unnecessary services has been estimated at 15 to 30 percent of the total cost of health care.

The time for serious debate and significant reform is now and I hope my colleagues will take a close look at the bill I am introducing today.

□ 1130

THE BUSH ADMINISTRATION'S BROKEN PROMISE ON WETLANDS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, George Bush, both as a candidate and since being sworn in as President, is on record with repeated public statements intended to reassure the public on his commitment to the environment. Unfortunately, a regular pattern seems to be developing where the actions of this administration have been at odds with the President's rhetoric.

On the issue of wetlands conservation, the President has told environmentalists and outdoor sportsmen that he wants no net loss of wetlands. He has said that all existing wetlands, no matter how small, should be preserved.

But when the chance came for the President to translate this goal into policy, that commitment was suddenly absent. A landmark agreement between the EPA and the Army Corps of Engineers that would have led us toward the no net loss goal was critically weakened at the last minute. The loopholes that were added to the agreement at the 11th hour basically give a green light for environmentally unsound development to proceed. The press accounts blamed the White House Chief of Staff, Mr. Sununu, as the "bad guy" in this policy change. But the question that environmentalist were asking is: Who is in charge of the administration's policies affecting our natural resources, George Bush or John Sununu?

Mr. Speaker, with Earth Day approaching, proenvironment rhetoric has suddenly become very fashionable in Washington and throughout the country. But the American people will become increasingly cynical about all this rhetoric if their elected officials keep losing their nerve when the tough policy actions have to be taken. As far as wetlands conservation is concerned, it is now up to Congress now to fulfill the promise that the President has failed to keep.

TRIBUTE TO ROBERT E. CECILE, SYRACUSE CITY COUNCILOR

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, last Thursday, April 12, 1990, the city of Syracuse was deeply saddened by the sudden and untimely death of one of its leading citizens, City Councilor Robert E. Cecile. It had been my pleasure to serve with Bob on the Syracuse Common Council. He was a dedicated, hard-working individual who accomplished what every good elected official hopes to attain—to serve the people with compassion and concern.

Constituents dealing with all levels of Government turn to their elected leaders for assistance in time of need. That is what we are here to do—serve the public. Bob Cecile exemplified the standard we should all use in helping those who elect us to office. Time and time again he went out of his way to assist those who could not help themselves. He walked the streets of his council district and took the time to listen to the people he represented. They respected and admired him for this and elected him to be their voice in local government. The people, as usual, made a wise choice.

Bob Cecile and I represent different political affiliations. He was a Democrat and I am a Republican. We never gave that a thought, because first and foremost we were friends. It is a friendship I will cherish all my life.

To his lovely wife, Norma, and their seven children, I extend my deepest sympathy. They have lost a wonderful husband and father, while our community mourns the loss of a great and caring leader.

We will all miss you, Bob—God bless.

THE BUSH ADMINISTRATION'S BROKEN PROMISE ON THE SUPERFUND

(Mr. SYNAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, during a 1988 Washington State Business Luncheon, George Bush promised to speed up the cleanup of toxic waste dumps.

He has broken this promise.

As of December 1988, EPA has cleaned up only 38 of the 1,174 Superfund sites.

In 1989, the EPA added over 109 new sites to the list of priority cleanup sites while cleaning up only 8 new sites.

Of $4.5 billion allocated to Superfund since its inception, only $1.6 billion has been used to clean up sites. Nearly $1 billion has gone to overhead and $1.9 billion has yet to be used.

The Bush administration has extracted cleanup agreements from polluters to pay $1 billion in cleanup costs. But under most agreements, corporate polluters are allowed to determine the scope and pace of the cleanup. It is like letting the fox guard the henhouse.

Under Bush, there has been little positive change in the Superfund Program. Administration costs still drain important dollars from the programs cleanup budget. Corporate polluters, held responsible for a Superfund site, continue to prefer to use the least effective and least expensive methods to clean up a Superfund location. And more and more sites are added to the list while cleanup of sites already on the list moves far too slowly.

SALUTE TO OUR FIRST ENVIRONMENTALIST: THE AMERICAN SPORTSMAN

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, as we approach the 20th anniversary of Earth Day, I want to salute the pioneers of the conservation movement in this country: the American sportsman.

Since the turn of the century, sportsmen have lead the fight to protect our environment and have literally spent billions to conserve our irreplaceable natural resources. The record of accomplishment is impressive.

Since 1934, hunters have paid $357 million to purchase 97 million duck stamps.

Since 1939, sportsmen have paid $1.3 billion in additional taxes on hunting equipment under the Pittman-Robinson Program.

Since 1952, under the Dingell-Johnson and Wallop-Breaux Programs, anglers have paid a staggering $2.1 billion in additional taxes on fishing equipment.

And the private sector has made a tremendous impact as well. Since 1937, for example, Ducks Unlimited members donated $508 million to protect 5 million acres of vital habitat in Canada, Mexico and the United States.

Mr. Speaker, American sportsmen provided the foundation for the current environmental movement in this country, and even today, sportsmen comprise an invaluable component of our national effort to preserve and conserve our natural resources.

I salute this long and proud tradition of our first environmentalists: the American sportsman.

SUNUNU'S ENVIRONMENTAL WHITEWASH EFFECT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, I rise today, just 3 days before Earth Day 1990, to lament the administration's failure to address adequately what well may be the gravest environmental threat now facing man- and womankind, namely global warming.

Mr. Speaker, when the Bush administration torpedoed the Hague Conference on Global Warming last November—destroying a consensus that had been built among 70 nations—the administration attempted to save face by announcing a conference on global warming, which finally was held this week.

Well, Mr. Speaker, this week's conference reads like a litany of broken promises by the Bush administration.

Most important, whereas the administration promised a conference to discuss policy, we instead got another discussion of research. Now of course research is of vital importance, Mr. Speaker, but it is high time for action. We will never have absolute, 100 percent certainty, but as scientists keep telling us, "we don't have to know everything to do anything."

The administration also acted in bad faith by failing to send the Nation's top environmental official, EPA Administrator Bill Reilly, to represent the United States. The reason is obvious: Reilly has been outspoken in his calls for immediate action to combat global warming.

And, Mr. Speaker, in a gaping oversight, the administration failed to invite China, the world's most populous nation, which in the near future could well become the world's greatest contributor to greenhouse gases. It boggles the mind. The President has no problem sending a secret delegation to China to "kowtow" to Beijing's aging despots, but he refuses to invite them to cooperate on solutions to the world's urgent environmental crisis.

Mr. Speaker, in March I authored an article in the New York Times which noted that despite the President's campaign promise to address the "Greenhouse Effect" with the "White House Effect," the President's Chief of Staff instead has delivered the "Whitewash Effect."

This week's meeting demonstrates that Mr. Sununu's environmental "Whitewash Effect" is alive and well.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore (Mr. DELLUMS). If the gentleman from Pennsylvania has a parliamentary inquiry, would the gentleman stand on his feet and propound the parliamentary inquiry and the Chair will be willing to answer the gentleman.

Mr. WALKER. Mr. Speaker, I do have a parliamentary inquiry. My question is whether or not the gentleman just in the well was proceeding under the 5-minute rule rather than the 1-minute rule.

The SPEAKER pro tempore. The Chair will say to the gentleman that the House is proceeding under the 1-minute rule. The Chair is trying to be fair to all Members on all sides.

SUPPORT THE B-2 TERMINATION ACT

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, in our continuing effort to inform the American people of the financial and strategic disaster of the B-2 bomber, I would like to comment on the so-called mission of the B-2 Stealth.

During an Armed Services Committee hearing last year, the Chief of Staff of the Air Force testified that the B-2 bomber would be used only after nuclear annihilation from an exchange of United States and Soviet ICBM's. Of course, this mission changes weekly.

One of the advantages touted by the proponents of the B-2 is that it, unlike ballistic missiles, is a more stabilizing weapons system, because it can be recalled.

General Welch's testimony points out that even the Air Force believes that the B-2 will be employed only after the United States and the Soviet Union have exchanged in excess of 5,000 ICBM warheads.

I pose two questions to my colleagues: First, who will be left to recall these bombers?

Second, at that point, why would you even want to?

Mr. Speaker, the B-2 is a technological marvel whose time and budget have passed. I encourage all our colleagues to join with us in supporting the B-2 Termination Act.

PRESIDENT BUSH'S RHETORIC ON THE ENVIRONMENT

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, people who will pay some attention to the 1988 Presidential campaign might have expected President Bush to show some interest in cleaning up Boston Harbor. They would have been wrong. The President's budget provides no funds whatsoever for Boston Harbor; but I want to defend him against the charge that he harbors some particular anger about Boston Harbor.

The fact is that Boston Harbor is not being treated any less effectively by the Bush administration than any other harbor. The President spent a lot of time in 1988 talking about his

commitment to the environment. Unfortunately, it has remained at the rhetoric level.

Now, I cannot blame him entirely. He fits into a tradition in America of politicians talking a lot more about the environment than they have been acting on it; but I think he misreads the current mood of the American people. I think the public understands the environmental issues better than a lot of people think they do. They are understanding of tradeoffs and they are prepared to make them.

We are in the position here as the Federal Government, with President Bush taking the lead, of ordering, dictating, mandating State and local governments to spend large amounts of money for good purposes, among them cleaning up water pollution, but we are providing no funds to help, and that is a great mistake.

THE IMPORTANCE OF THE 1990 CENSUS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the 1990 census is a massive, ambitious undertaking. With the work of thousands of census takers nationwide, we are attempting to sketch the most detailed picture of the American society.

We cannot underestimate the importance of an accurate 1990 census count—and the direct effect it will have on our lives.

The census count will be used for the next 10 years to help ensure that Federal resources are allocated fairly—so that fast-growth States like Florida get their fair share for such things as road improvements, housing, and health care.

But Mr. Speaker, I rise today because there is an ominous trend developing: So far the return-rate for census surveys has been much lower than anticipated. In Fort Myers, FL—a rapidly growing area that is customarily undercounted—just about half the surveys sent out have not yet been returned.

We already know about problems with distribution of forms—and the Census Bureau has taken steps to correct them. But the success of the 1990 census depends on individual participation. Mr. Speaker, we've got to get the word out to people that if that form is still sitting on a counter somewhere in their homes, it's not too late to send it in.

There is a great deal at stake here—it is vital that we all stand up and be counted.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DELLUMS). The Chair would like to indicate to our colleagues on this side of the aisle that the Chair was constrained by a list of speakers previously suggested to the Speaker. That list has now been exhausted and the Chair will return to the regular order of recognition.

HOUSE MUST PASS ANNUNZIO MONEY LAUNDERING BILL

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, money laundering is a multibillion dollar industry in this country. Money laundering is the lifeblood of the illegal drug trade because it permits drug dealers to funnel their illegal profits into the legal economic system.

Earlier this week, the Justice Department announced that it was seeking information from 173 financial institutions in this country concerning accounts that apparently had been used to launder drug funds. There is no evidence at this point to show that the banks were knowingly involved in money laundering, although it is interesting that some of the banks on the list had previously been convicted of money laundering activity.

It is appalling that our Nation's financial system is being used to launder drug funds. We must take action to stop this criminal activity.

Next week the House will take up legislation that I have introduced, H.R. 3848, a comprehensive money laundering bill that, among other provisions, forces the closing of any financial institution convicted of money laundering after a hearing by the regulators. This so-called death penalty is a severe step, but if we are to have a war on drugs, it has to be a war, not a pillow fight.

I urge all Members of the House to support the Annunzio money laundering legislation, H.R. 3848, when it is before this body next week.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania may propound his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, the Chair mentioned a moment ago something that I was unfamiliar with as a part of the procedures of the House of Representatives, and that is that 1-minute speeches would be designated on the basis of a previously agreed to list of speakers.

Is that a process which has changed recently? It was my impression that Members were to be recognized in the order in which they appeared on the front row.

The SPEAKER pro tempore. The Chair understands the gentleman's parliamentary inquiry. The Chair would respond to the gentleman by saying that the Chair clearly recognizes the discretion that the Chair has. The Speaker does have discretion in the order in which the Speaker chooses to recognize Members, for 1-minute speeches, and by a previous agreement the Speaker agreed to recognize listed Members. That list has now been exhausted. We have now returned to regular order.

Mr. WALKER. Mr. Speaker, I thank the Chair. A further parliamentary inquiry. If, for example, the minority were to submit a list of speakers that we wanted to have recognized on a particular subject during the 1-minute speeches, would that previously agreed to list also be considered by the Chair?

The SPEAKER pro tempore. The Chair would say to our colleague that the Speaker and the distinguished minority leader could come together and work out an agreement and under the discretionary powers of the Chair, the Chair could recognize a group of Members on either side of the aisle by previous agreement.

Mr. WALKER. So If I understand now, Mr. Speaker, the parliamentary process we are operating under is that the Chair has now adopted a process by which the majority leadership comes with a list on a particular subject and the Chair, at its discretion, recognizes those people, and if the minority leader were to request a similar kind of discretion for members on the minority side, that that in fact could be done. Is that correct?

The SPEAKER pro tempore. To the first part of the gentleman's question, the answer is that is exactly how the proceedings have gone today.

With respect to the B part of the gentleman's question, the gentleman is absolutely correct.

Mr. WALKER. Mr. Speaker, I thank the Chair.

□ 1150

EARTH DAY 1990

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, on Sunday, April 22, we will celebrate Earth Day 1990, commemorating 20 years since the original celebration on this same day in 1970.

During the past two decades we have seen the American conservation movement explode in size and in scope. And, as the front-page headlines of the Washington Post announced this morning, we have watched the envi-

ronment as a national policy issue shift from the fringe to the mainstream.

Thanks to the efforts of those who have been promoting the environment for more than the past 20 years, the timing is right to have another Earth Day. Because of the popular attention to the environment, people are ready to make their lives conform to their new values on recycling, renewables, conservation. Because of the broad changes sweeping our globe, the world is ready to work on a multilateral level to achieve successes that were inconceivable only a short time ago.

Earth Day 1990 and each day is an opportunity we cannot afford to waste. We owe it to each other, and we owe it to our children. As Alden Whitman once wrote:

Our ideals, laws and customs should be based on the proposition that each generation in turn becomes the custodian, rather than the absolute owner of our resources—and each generation has the obligation to pass this inheritance on to the future.

NAVY OWES HARTWIG FAMILY A PUBLIC APOLOGY

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, today is the anniversary of the terrible disaster of the U.S.S. *Iowa* in which 47 young men died in that explosion. Today there is a memorial service in Virginia to that effect.

The Navy prematurely blamed one of my former constituents, S1c. Clayton Hartwig, in a very superficial report that they put out. Can anyone imagine how the parents and the members of the family today at that service must feel, not only with the realization that their son died in an unfortunate explosion but being blamed nationally for that terrible disaster?

I am very pleased that under the leadership of the chairman of the Subcommittee on Investigations for the Committee on Armed Services, the gentleman from Massachusetts [Mr. MAVROULES] found that, indeed, there was absolutely no proof that S1c. Clayton Hartwig committed that terrible disastrous crime.

In addition, I have asked for a GAO report which we think will be out in June to investigate the Navy's report. We want the future of our men and women who serve in the Navy and other armed services to be assured, and we certainly do not want individuals blamed for a crime they did not commit.

Mr. Speaker, I think the Navy owes that family and the American people a public apology to say the least.

TALK, TALK, TALK BY THE CONGRESS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker and Members, I have been struck listening to the last 45 minutes of rhetoric. It seems all we do here in the Congress is talk, talk, talk, talk, talk, talk, talk, talk, talk, talk about the environment. One has to ask the question of whether the Congress is capable of doing anything other than talk about the environment.

The fact is for 35 years the Democrats have controlled the Congress of the United States. If we really have all of these environmental problems, how can they blame them on an administration that has been in power for less than 14 months?

I would suggest, as I look at this administration's 14-month record, that for the first time in 13 years we are going to see clean air legislation thanks to their leadership; for the first time ever, we are going to see the Environmental Protection Agency elevated to Cabinet-level status; for the first time ever, we are going to get some real ground-water legislation; we are going to continue what we did in 1985 in expanding and preserving our wetlands; we are going to continue our efforts on conservation reserves; and we are going to do dramatic pesticide reform.

Not bad for 14 months compared to 35 years.

SHAME ON BLUE CROSS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Pamela Pirozzi has had surgery and chemo for breast cancer. She now needs a sophisticated bone-marrow procedure to save her life.

Pamela Pirozzi has insurance. She should not have any trouble getting this coverage, right? Wrong. She went to Blue Cross-Blue Shield of Virginia, and they said no, and, in fact, they came up with one legal excuse after another.

The sad part of this case for Pamela Priozzi is she has had a tougher fight with Blue Cross than she has had with cancer. And I will tell the Members, she won her case in court. But here is what the doctors say: if Blue Cross decides to appeal the case, in that length of time Pamela Perosi may die.

They took $420 every single month. They never denied the payment. But now they use excuse after excuse.

Blue Cross, get off it. Take care of your claim with Pamela Pirozzi, and Members of Congress should think, when 37 million Americans do not have health insurance, what is their plight if a person like Pamela Pirozzi who has insurance, gets the shaft?

This is not health care. This is wealth care. Shame on you, Blue Cross.

ARE THE DEMOCRATS RUNNING SCARED?

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, who is the second-most-popular President in the history of this great country of ours? He is Ronald Reagan. Who is the most popular President this country has ever known? He is President George Bush.

By most polls around the country today, George Bush has an 81-percent approval rating. And to you Democrats there in the well who have been standing up bashing poor President George Bush all day long, I say it is good to know that you are among only 19 percent of Americans. You know, if I were a Democrat, and I used to be one, I would be running scared, too. Against a President who has 81-percent popularity, I would be running scared, too.

Yes, he has thrown his weight behind elevating the EPA, the Environmental Protection Agency, to Cabinet-level status. Yes, he has thrown his weight behind the Clean Air Act to stop that acid rain from coming into the Catskills and the Adirondacks where I live. Yes, he has thrown his weight behind it. And you people are blocking it.

Why? Where is the Clean Air Act? I am on the Committee on Rules, and I want to see a rule. I ask for one every week. It never shows up.

What is the matter? Are you Democrats running scared?

REMEMBERING THOSE LOST ABOARD THE U.S.S. "IOWA"

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, 1 year ago today 47 young Americans died when an explosion occurred in gun turret two aboard the U.S.S. *Iowa* in one of the worst peacetime military accidents in our history.

While the shock and sadness we all felt may have subsided, the families and friends of those lost still live this tragedy. In the finest Navy tradition, the captain and crew of the *Iowa*, with new resolve and determination, went quietly back to work. Many of the families are in Norfolk today for services to memorialize this occasion.

But these young people were not lost in vain, Mr. Speaker, and there is a

larger and more enduring memorial to which they are entitled. During the past year, the Berlin Wall has come down, democracy is on the rise throughout Eastern Europe, social and political reforms are surging in the Soviet Union, and free elections were held in Nicaragua.

These are the ultimate rewards of their endeavors and this is the appropriate memorial to the valiant young men of the *Iowa*. They, like so many others in peace and in war, gave their last full measure of devotion in the service of the country they loved.

So on this first anniversary of the *Iowa* tragedy, let us memorialize those lost in the conviction of liberty for all people and in the steadfastness of our Nation in its resolve for peace.

IS THERE ANY DOUBT WE SHOULD RECOGNIZE LITHUANIA?

(Mr. DORNAN of California asked and was given permission to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, here is a real entry from a real living human being's diary on the last day of his life. He was one of 15,000 Polish officers, intellectuals, senior police commanders gunned down in the Katyn Forest near Smolensk. His name was Major Adam Solski.

There is nothing poetic about his last words, because he did not know he was going to be shot in the back of the head that day by the predecessors to the Soviet KGB, the NKVD. The date was April 9, 1940. That date rings in American history, because 2 years later there occurred the Bataan death march. Katyn was a death march for Poles who numbered about three times more than the Americans and Filipinos who died on the Bataan Peninsula 2 years later.

Mr. Speaker, I will read three paragraphs including what Major Adam Solski wrote:

Polish Maj. Adam Solski stood among the pines of Katyn Forest together with about 100 fellow officers. Soviet security men were prodding them with bayonets to make them stand still.

He was writing hastily in his small pocket notebook: "9 April [1940] . . . they brought [us] somewhere in the forest. Here personal search. They took away my watch—time 6:30 [a.m.]. I was asked for my wedding ring . . . took my rubles, belt and pen knife . . ." This was the last sentence he ever wrote.

In 1943, this diary was found on his body. He had been shot in the head. He was one of the 4,400 bodies in eight mass graves—all murdered by a shot in the head.

Mr. Speaker, the Soviet Union has now admitted their guilt for this atrocity. The same people who committed this atrocity were the same people who sat at Nuremberg and judged other war criminals. Yet they were guilty of the first major horror crime of World War II, the execution of 15,000 Polish officers.

Given the bloody history of the Soviet Union, is there any doubt we should recognize Lithuania or that we should recognize Norway's decision to send them oil? Today's crisis in Lithuania grew out of that same horrible period that produced the Katyn Forest massacre. This was the terror of 1940, the crushing of Poland, the crushing of Lithuania, Latvia, Estonia. We must never forget.

□ 1200

CHINA MUST PARTICIPATE IN INTERNATIONAL AGREEMENT ON GLOBAL WARMING

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, yesterday the administration concluded a 17-nation conference on global warming and climate change, a conference which should help focus world attention on this important issue.

However, the administration failed to invite to this conference the world's largest coal burner and the third biggest generator of carbon dioxide, the People's Republic of China. As the Chinese Government pushes its plans for economic expansion, many fear that pollution will dramatically increase unless there is international pressure to use proper safeguards.

It is ironic that this same American administration claimed it was in America's best interest to do very little in response to the Chinese Government's brutal crackdown on the democracy movement in Tiananmen Square. They said it was in America's best interest not to pass legislation extending the visas of Chinese students who feared political repression and jail.

But now, on the important issue of reducing air pollution throughout the world, the administration suggests that it is in the best interest of America not to include the Chinese Government in serious negotiations.

As a member of the Committee on Energy and Commerce, which just completed its consideration of clean air legislation, I know how difficult these kinds of negotiations can be. While we all deplore the tragedy at Tiananmen Square, any international agreement on global warming would have only limited impact without the participation of the People's Republic of China. It is in the best interests of all Americans that we seek to reduce dangerous air pollutants throughout the world.

PRAY THAT NORWAY WILL DO WHAT IS RIGHT FOR LITHUANIA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, it was 50 years ago that two of the world's greatest butchers, Joseph Stalin and Adolf Hitler, got together through their Foreign Ministers and entered into a pact, the Molotov-Ribbentrop Agreement, whereby Hitler said I will take Poland, Joe; you take Estonia, Lithuania, and Latvia. So they rolled their tanks in against each other, but then stopped in agreement with their nonaggression pact.

The United States refused to recognize the occupation of Lithuania as justified and has refused to to this day. And that occupation has now been challenged by the democratically elected Parliament of Lithuania, which has declared its independence.

In response to that, the progeny of Joseph Stalin has chosen to shut off energy to that country. At this moment, 10 after 6 in Norway, the Parliament is discussing whether or not to replace the energy denied them by Mikhail Gorbachev from Norway.

Mr. Speaker, I say congratulations to Norway for this consideration. I urge them to do it. Those who recognize that freedom should be honored wherever it exists, pray that Norway will do what is right for Lithuania and not allow those people to freeze.

THE ACCESS TO EDUCATION FOR ECONOMIC SECURITY ACT

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, in the United States today the number of homeless children exceeds the population of the city of Atlanta. These children lack more than just a home. They lack continuity and security. They lack adequate nutrition and regular health care services. Too many of these children lack consistent access to an education.

Every one of these children has the potential to contribute to the growth of our country or to be a financial drain on it. An education is a crucial element of their development. And, a well educated work force is undoubtedly the best tool we have for securing our Nation's economic future. For homeless children, education is even more important because often it serves an important stabilizing force. In a world where nothing else remains constant, school provides an environment that helps meet emotional as well as academic needs.

Mr. Speaker, today I have introduced the Access to Education for Economic Security Act with my distin-

guished colleagues Mr. MILLER of California and Mr. SCHUMER. This bill removes barriers that prevent classroom learning for homeless children by building upon structures created in the Stewart B. McKinney Homeless Assistance Act of 1987. In addition, this bill provides necessary financial and technical support to State and local educational agencies.

Homeless children face tremendous obstacles in their pursuit of an education. Even routine paperwork—obtaining medical and academic records or birth certificates—can be a complicated procedure for families with no permanent address. The legislation we have introducted today requires that States remove these, and all barriers, and encourage the attendance, enrollment and school success of homeless children and youth.

Of course, the Federal Government must work to solve our Nation's housing crisis. But that won't happen overnight.

Without an education, homeless children run a high risk of continuing a cycle of poverty and homelessness instead of achieving all that they can. This is an issue that hits every single taxpaying American in the pocketbook. Common sense should tell us that we cannot afford to write off these young minds. We invest now in our insurance for the future, or we will pay later to support an uneducated, unskilled, unemployed population. The United States cannot afford to throw away its future, a future which depends on our children.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 586

Mr. FAWELL. Mr. Speaker, I ask unanimous consent to have my name removed from cosponsorship of H.R. 586.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Illinois?

There was no objection.

URGE SUPPORT OF LITHUANIA BY NORWAY

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, I understand that the Norwegian Government is considering supplying needed oil to the free people of Lithuania. I certainly fully support such a valiant step.

I applaud the voice of free people across this world that have stood shoulder to shoulder with the courageous people of Lithuania. I deplore the heavy hand of the Soviet Union in trying to suppress the efforts of a people seeking to better their own lives.

So I say congratulations to Norway and to free people everywhere for making the Soviet Union acutely aware that freedom cannot be surreptitiously put down.

A half a century ago the Lithuanina people forcibly lost their independence, and the time certainly is now that all the world recognize that independence.

RECOGNIZE EARTH DAY AND RESPECT OUR EARTH

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, if we were renting the Earth and our lease were up, I don't think we would be getting our security deposit back.

There is no question that our planet has been damaged, and that the environment in which we live is in urgent need of repair.

However, since the first Earth Day in 1970, progress has been made on a number of fronts. The Environmental Protection Agency was established, the original Clean Air Act became law, and maybe most important of all—people have a better understanding that once the environment is damaged, it takes a long time, sometime hundreds of years, to put things back in their place.

While we have made some progress, much still needs to be done. The landfills of our Nation are filling to capacity. Landfills in each of the 10 counties in my district are nearing capacity and some have closed. Oilspills seem to be taking place regularly, and incidents similar to the garbage barge may become increasingly common if we remain the "throw away" Nation that we are at present.

Mr. Speaker, my guess is that we are going to need this Earth Day and other Earth Days far into the future to bring the importance of these issues to the forefront of national debate. We must all do our part by recognizing Earth Day, 1990 and respecting our Earth.

CONGRESS SHOULD WORK TO IMPROVE THE ENVIRONMENT IN A NONPARTISAN FASHION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I rise to say that I think that Earth Day is very important. I used to teach environmental studies. I think we are making progress. I think the recent action of the other body on the clean air bill is an important first step in the right direction on a very major issue.

But there is something a little sad and almost pathetic about some of the organized Democratic Party efforts in this Chamber to partisanize Earth Day. The fact is in the Senate there were 34 Republicans and 16 Democrats who gave Senator MITCHELL the key victory on getting a signable clean air bill out of the Senate.

The fact is there is a bipartisan coalition working on the clean air bill. I would call on the Democatic leadership to join Republicans in putting into effect more recycling activities here on Capitol Hill and working to improve the environment, instead of trying to exploit the environment for purely narrow and partisan purposes.

ENVIRONMENT NEEDS ACTION MORE THAN WORDS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, unfortunately official duties here in the House today prevented my being in Frankfort, KY, our State capital, to receive an award from the Kentucky Environmental Quality Commission.

The award is the Earth Day 20 Award, which is given to commemorate or to recognize my efforts in behalf of the environment of the Commonwealth of Kentucky and of the country.

I am proud to share the award that I received in absentia today with Governor Wilkinson, State Senator Gerald Neal of Jefferson County, Principal Calvert Hydes of Wheatly Elementary School, the director of our zoo, Dr. Bill Foster, and Radio Station WFPL FM, for a series they did.

Mr. Speaker, there are many pieces of important environmental legislation pending in the Congress. But for my part, I have some priorities. One, we should raise the Environmental Protection Agency to full Cabinet rank. We should increase Federal support for the use of recycled materials. We should definitely pass a very tough uncompromising Clean Air Act, and we should call a White House Conference on Solid Waste Management and Disposal.

Mr. Speaker, far more than words, the environment, 20 years after the original Earth Day, needs our attention and our quick action.

AMERICANS SHOULD COME TOGETHER WITH THE IDEA OF PROTECTING THE ENVIRONMENT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, within the last couple of days I have learned that the Democratic Congressional Committee decided to put on the air a

very vicious ad with regard to the environment, criticizing the administration and criticizing Republicans in general.

I thought that surely this must be a mistake, because that ad referenced Earth Day and referenced the Democratic Party's participation.

I thought surely that this was not something that we wanted to make into a partisan issue.

Then I listened to the speeches on the floor today, and I realized that it was not a mistake, that this is part of a coordinated effort by the Democratic Party to make a partisan issue out of Earth Day.

Now, I thought Earth Day was put together with the idea that we would be united as a country, that we as Americans would come together with the idea of protecting the environment. That there might be differences of opinion with regard to detail, but that we were united around the idea that protecting the Earth for the future was something that all of us should do.

□ 1210

To have this made into a partisan activity I think is a little disturbing and I am sorry to see that that partisanship was brought to the House Chamber today.

GLOBAL WARMING

(Mr. WEISS asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, Earth Day should be a call for action to all of us in Congress to address our most pressing environmental problems. Global warming is one of those. But the response of President Bush is woefully inadequate.

At a conference on global warming, the only response the President issued was to request more research on the subject.

Mr. President, there is no debate about the fact the Earth's temperature is rising. Average global temperatures have been rising over the last 100 years. Of more concern are the many computer models predicting that the Earth's temperatures will rise at an even faster rate in the future.

We also know the chief causes of global warming. The concentrations of carbon dioxide, methane, and nitrous oxide are well above preindustrial levels. Western industrial nations, the United States included, are the chief contributors of these gases. But the United States has not fully met its responsibility to reduce them.

Further study of global warming only prolongs much needed action. We should be joining—indeed we should be leading—the Western industrial countries in our response to global warming. Since President Bush has abandoned this leadership role, it is up to Congress to reassert it.

CARTOONS JOIN THE WAR ON DRUGS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, and Members of the House, the Senate and House Judiciary Committees had the pleasure this morning of previewing a cartoon special that is going to be presented on Saturday morning at 10:30 eastern time, 9:30 central time and whatever time it is on the west coast. It is a special thing where all the Hollywood personalities got together and created a cartoon gang against drug abuse. And it is a wonderful effort to include Bugs Bunny, Daffy Duck, and Heuy, Louey, and Dewey and so forth.

What this does, is, believe it or not, to blend wonderfully into our three-pronged effort on the war on drugs; one is law enforcement, as we all know, second, treatment of addicts and people who have been victimized by the scourge of drugs, and third, the most important one, education.

There is no better medium for our youngsters between the ages of 5 and 14 or 5 and 12 than the cartoon. There are people, juveniles of age 60 who are still watching cartoons, let alone those youngsters.

We wish to endorse the concept and to say that the are many different ways in education in the war on drugs.

TAKING EASTERN AIRLINES BEYOND MR. LORENZO'S GRASP

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Frank Lorenzo set out to destroy a fine airline in order to enrich himself and his holding company. Thanks in good part to the help he received from the President, Mr. Lorenzo succeeded beyond his wildest dreams.

He upstreamed hundreds of millions of dollars of assets to his own coffers and sold Eastern, its employees, and the traveling public down the river.

When the employees sounded the alarm and went on strike 1 year ago and the National Mediation Board recommended a back-to-work order, the President did nothing. When the Congress passed legislation to set up an impartial commission to recommend solutions to the Eastern crisis, the President did worse than nothing; he vetoed the legislation.

When we tried some months ago to override his veto, the White House pulled out all stops to beat our override effort and our efforts to aid Eastern Airlines.

Is it the fine management of Mr. Lorenzo the President deferred to, or is it the $100,000 he contributed to the President's election?

In any case, the sad result is the same, Eastern is bankrupt, but finally, due to the action of a Federal judge, beyond Mr. Lorenzo's greedy grasp.

THE AFRICAN ELEPHANT PRESERVATION ACT OF 1990

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, today my distinguished colleague from Rhode Island, Congresswoman CLAUDINE SCHNEIDER, and I are introducing the African Elephant Preservation Act, a bill to provide additional protection for our largest and one of our most beloved land mammals.

The bill will provide that protection by strongly encouraging the People's Republic of China to end its current practice of importing and exporting elephant ivory.

In October of last year, the Convention on International Trade In Endangered Species of Wild Fauna and Flora—or CITES, as it is known—overwhelmingly voted to provide the African elephant with it highest level of protection by placing that animal on its appendix I list. By so doing, CITES decreed that on January 19, 1990, all commercial trade in elephant products should cease.

Mr. Speaker, regrettably, the People's Republic of China is the only non-African CITES member nation which refuses to abide by that decree and the People's Republic of China has, in fact, filed a reservation of noncompliance.

While the People's Republic of China historically has not been a major consumer of elephant ivory, there is great concern that those unscrupulous individuals who make millions of dollars from the illegal ivory trade, will now begin to export poached ivory to that country. The illegal ivory trade currently accounts for 95 percent of all international ivory shipments.

In fact, there is recent evidence that a large shipment of ivory was sent from Hong Kong to the People's Republic of China. Hong Kong has the largest stockpile of ivory, estimated to total approximately 474 tons.

Since the population of African elephants has plummeted from 1.5 million animals in 1979 to fewer than 400,000 today, it is critical that we do everything we can to eliminate the demand for elephant ivory.

By withdrawing its reservation, the People's Republic of China would ensure that its market, which is potentially huge, would be closed to illegal

ivory shipments. In addition, its action would help devalue the price of elephant ivory and would reduce the incentive for further slaughter of these magnificent creatures.

Mr. Speaker, were the People's Republic of China to withdraw its reservation, it would have my sincere gratitude as well as the appreciation of millions of people throughout the world who care deeply about saving this irreplaceable species.

Having traveled to Africa, I can tell you that the elephant is the flagship species for that continent. Once it is gone, it will be gone forever, and with it will have gone dozens of other species that are inseparably linked to the elephant's habitat. It is not too late, however, to save these species—if the People's Republic of China and a few other non-CITES members decide to stop trading in elephant products.

Mr. Speaker, under the terms of my legislation, the People's Republic of China would have until January 1, 1991, to withdraw its reservation. During that time, our Government could negotiate with officials of the People's Republic of China to convince them to take this course of action.

If, however, the People's Republic of China chose to continue to take a reservation, then the President would be required to direct our Secretary of the Treasury to prohibit the importation of all fish and wildlife products into the United States from the People's Republic of China.

Mr. Speaker, in 1988, the United States imported 255.5 million pounds of edible and nonedible fishery products from the People's Republic of China. The financial value of these products was $341 million. Conversely, we exported about 12.6 million pounds, or $17 million worth of fishery products to the People's Republic of China.

Clearly, the People's Republic of China has a tremendous amount to lose by continuing to take a reservation to the CITES action and by refusing to stop assisting those poachers who kill elephants regardless of their age, sex, or size of their tusks.

I have met with the Chinese Ambassador personally, and I've sent two followup letters urging the People's Republic of China to remove its reservation. Unfortunately, that Government has yet to take any action.

Frankly, I would like nothing more than to tell my colleagues that the People's Republic of China is fully committed to saving the African elephant. By withdrawing its reservation, it would clearly demonstrate that commitment and would, in my judgment, remove the possibility that legislation such as mine would be considered.

By the same token, I am committed to saving the African elephant. To do so, I will seek, if necessary, the enactment of this legislation. During the next several months, the House Merchant Marine and Fisheries Committee will be considering several wildlife protection bills. In addition, it will be debating legislation extending a governing international fishing agreement with the People's Republic of China. You can be sure that as a member of the Merchant Marine and Fisheries Committee, I will not hesitate to offer the African Elephant Preservation act as an amendment to any or all of these measures.

I believe that unless the People's Republic of China stops trading in elephant products, legislation like mine will inevitably be adopted. I believe it will be extremely difficult for Members of Congress, including those interested in improving relations with the People's Republic of China, to oppose these efforts.

Mr. Speaker, it is my sincere hope that the People's Republic of China will soon remove its reservation and will join with the more than 100 nations of the world who have already stopped all commercial trade in elephant products. This would be the best course of action for not only the People's Republic of China but also for the African elephant, which is struggling for its survival.

Mr. Speaker, I urge my colleagues to join with Congresswoman SCHNEIDER and me in encouraging the People's Republic of China to immediately remove its CITES reservation so that the destruction of the African elephant can stop.

TRIBUTE TO THE LATE HONORABLE SPARK MATSUNAGA

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, there are many great words etched in stone here in Washington.

Binding these words together is a special resolve: To seek the unique voices among us for the decency and determination to better ourselves and our Nation.

Senator SPARK MATSUNAGA—our great friend and colleague from the State of Hawaii—was such a voice.

SPARK drew his strength from people—and he responded with warmth, persistence, and inspired public service.

During the Second World War, SPARK was a highly decorated member of the All-Nisei 100th Battalion and 442d Regimental Combat Team—the most honored in the history of the United States.

Forty-five years later, he led the fight in Congress to redress the injustices endured by the 120,000 Americans of Japanese ancestry who were interned by the U.S. Government during the very war in which he and so many others fought so bravely.

SPARK's determination to correct those historic injustices was realized in the Civil Liberties Act of 1988—a law that stands as a living testament to his dedication to our great Constitution and the rights of every American.

SPARK passed away on Sunday, April 15. But his ideals will continue to live in us all so long as there are wrongs to right, people in need of justice, and a world in need of peace.

OPPOSITION TO AMENDMENT TO BE OFFERED BY MR. RICHARDSON TO H.R. 644

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I understand an amendment to H.R. 644 will be offered by my colleague from New Mexico, Mr. RICHARDSON, to his own bill today. I wish to speak in opposition to his amendment.

First, I object to the manner in which this amendment is being sought. I sit on the Mining and Natural Resources Subcommittee of the Interior Committee. That is the subcommittee that should have reviewed and debated the issue of foreclosing a mining claimant's opportunity to receive a patent to his or her valid mining claim.

Mr. Speaker, this is a very important part of the coming debate on the viability of the mining law of 1872. Our subcommittee chairman, Mr. RAHALL, introduced a bill in January to repeal this law and substitute a leasing-like system, albeit one without royalty provisions. Senator BUMPERS introduced a bill during the first session of this Congress to substitute an outright leasing system for the mining law. The revision of the location and patent system for "hardrock" minerals on the public lands of the West is a stated goal of many environmental organizations.

I understand that only 178 acres of placer mining claims would fall within the protected river corridor in this bill. Nevertheless, it is the principle of amending the mining law's effect upon existing mining claims, no matter how few, to which I object, particularly when other recourse is available.

Second, Mr. Speaker, the offered amendment is totally unnecessary because it does not bring effect to the purposes for which the withdrawal is being made, that is, protecting the East Fork of the Jemez River from degradation. Under existing law, the patent that may be issued for a mining claim within a wild and scenic river corridor is limited to the mineral estate only, unless a vested right to a full fee patent exists. The Department

of the Interior has interpreted this to mean that entitlement to a full fee patent exists only for those claims for which patent applications had been filed and all the adjudicatory steps had been completed by the date of designation.

The placer claims within the corridor that this bill would designate have not reached such stage of adjudication as yet, I'm told. In all likelihood, therefore, the miner here will receive a patent only to the mineral deposit and not the surface estate.

Why then are we embarking on this course of action? I agree that the resources of the Jemez and Pecos Rivers segment to be designated are worthy of protection. My question is how will denial of a title to the mineral estate achieve this end? The amendment offered specifically states that it does not preclude mining operations on valid claims. Mr. Speaker, I submit that the real intent of this amendment is to indeed preclude mining by taking away the right to a patent. Why? Because with a patent in hand, even one limited to the minerals only, the claim owner could more effectively resist unreasonable and burdensome regulation of activities upon his claims.

I believe that the Congress should own up to the fact that by passage of this amendment it is simply attempting to defeat mining without having to buy out these claims for which a private property right has been, or very likely will be, established. As such, Mr. Speaker, I must strongly object.

□ 1220

LORENZO OUSTED FROM EASTERN AIRLINES

(Mr. BOSCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSCO. Mr. Speaker, all Americans have something to be grateful for today: Frank Lorenzo no longer owns and manages Eastern Airlines. The bankruptcy court in New York yesterday removed Lorenzo and his management from the airlines and replaced them with a trustee, a person who Lorenzo had actually fired from the management of Continental Airlines a few years ago.

On a number of occasions, President Bush refused to step in and save Eastern Airlines, its employees, and its investors. As a result, this once great airline has now been destroyed. Thirty thousand of its employees have lost their jobs, many of them, their pensions, their health benefits, their homes, their children's college tuition. Investors are now offered 2½ cents cash on the dollar for their investment. All this could have been avoided if the President did not take the hands off, laissez faire attitude that he did.

One major issue does remain for the Government, and that is the underfunding of Eastern pension funds. The trustee and the Government should move today to keep those funds from Mr. Lorenzo's other business entities—namely Continental Airlines and Texas Air.

A decade of greed and incompetent management by Frank Lorenzo is coming to an end. Sadly, many innocent people and their families, and a once great airline have been destroyed in the meantime.

INTRODUCTION OF NONBIODEGRADABLE CONTAINERS TAXATION

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, some months ago my wife and I had the privilege and opportunity to visit a remote island in the Bahamas. Eagerly we left our plane, went to our villa, walked down toward the beach, saw the sparkling beautiful ocean, breathed the beautiful clean air, and observed a littered beach. Styrofoam and plastic containers were all over the beach, similar to the way our beaches are.

This got me thinking about what we are doing on disposable containers that were nonbiodegradable. As a result, I have drafted and am filing next Tuesday a bill that for the first time will tax nonbiodegradable containers that are used in industry and that are used in the home. It is time, if we are going to be serious about Earth Day, that we start looking at what we are doing to our beaches, our roadsides, and our landfills. We have got to stop using all of these nonbiodegradable containers that are not reusable.

Any Member that would like to become an original cosponsor of this particular bill, call my office for details as we will be filing it next Tuesday.

REMOVE EQUALITY BARRIERS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to address an issue which strikes at the core of American values—the fact that our 1986 immigration law has caused massive discrimination against U.S. citizens. When Congress passed this law, I was one of many Members of this body who expressed concern that it would cause discrimination. We included provisions in the law which intended to protect against discrimination and asked the GAO to evaluate the effects of the law. The results have been returned—the GAO found that the law has caused a widespread pattern of discrimination against Hispanics, Asians, and others who look foreign to employers. This finding triggered a 30-day procedure in which the Congress can repeal that discriminatory law; I have introduced a resolution which would do just that.

Mr. Speaker, the finding that 900,000 employers, nearly 20 percent of the GAO survey, are involved in discriminatory practices is significant and requires the immediate attention of the Congress. As a result of the 1986 Immigration Act, U.S. citizens are unjustly losing job opportunities simply because of their name, accent, or skin color. I urge my colleagues to give this civil rights crisis the attention it deserves. To do anything else sends a signal to Hispanics, Asians, and other minorities that Congress does not care about equal opportunity for them. Mr. Speaker, let's remove barriers to equality, not create them—employer sanctions should be repealed.

BOLD, BRAVE NORWAY TO HELP LITHUANIA

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, on our right is a famous painting of the Father of our country, George Washington; on my left is an equally famous painting of a man who helped the United States in its revolutionary hour of need, General Lafayette, from the country of France. Many believe that without the assistance of France, the United States would not have gained its independence.

Today, there are people in this world, in small countries like Lithuania, who, like the United States over 200 years ago, yearn again for their independence. They had it once but it was taken away from them by the Soviet Union. The United States feels bound not to help the people, as we were helped in our hour of need. However, there is a country thinking of providing oil and gas to the people of Lithuania. That country is Norway. If the United States will not stand up to Time magazine's Man of the Year, President Gorbachev, who is going to deny the people of what he considers his own country, oil and gas, I hope that our friends from Norway are brave and bold enough to do that, for the small country and the poor people of Lithuania. They deserve no less.

CHESAPEAKE BAY FOCUS ON ENVIRONMENTAL EFFORTS

(Mr. McMILLEN of Maryland asked and was given permission to address

the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, Earth Day holds a special significance for each Member. In the State of Maryland, the Chesapeake Bay is the focus of many of our environmental efforts.

I was pleased that in our recent Committee on Energy and Commerce deliberations on the Clean Air Act Amendments of 1990, special consideration was given to the bay and the regulation of air toxics. Many airborne toxics, we have learned, bioaccumulate in the food chain, causing potential risk to human health and marine life.

It is my hope that this air toxics provision for the Chesapeake Bay will be part of the legislation that emerges from this Congress. More importantly, if it is, the Environmental Protection Agency must enforce its provisions. We have seen too many times before where the EPA, the national stewards of our environment, have been derelict in their responsibilities to conserve our natural resources. If the Chesapeake Bay is to be preserved for generations to come, EPA's enforcement of the laws must be consistent and vigilant.

CONGRATULATIONS TO NORWAY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, as all of America and the free world knows, the Soviet Union has made good on its threat to cut off oil and gas supplies to Lithuania. Hours before the Soviet Union did so, a high-level delegation from Lithuania took a trip to Oslo, Norway, to negotiate from that country, oil and gas supplies to make up the difference.

I just received a fax from my friend and colleague in the Norwegian Government, Mr. Carl Hagen, who is the chairman of the Progress Party, Norway's third largest party. I would like to read from it briefly.

"The Government of Norway," he says, "must say in no uncertain terms that Norway is willing to discuss sale of its state-owned oil to Lithuania on terms favorable to the people of Lithuania. The Government of Norway must show the world that Norway is assisting and helping neighboring countries. It must take a stand and show the way for our allies to follow."

Mr. Speaker, America should take its hat off to the heroic people of Norway. They are indeed showing the way for everyone. They are indeed coming to the aid of our mutual friends who are leading a peaceful revolution in Lithuania. We should do everything we can in America to support all of them.

COSPONSOR THE MICKEY LELAND PEACE DIVIDEND HOUSING ASSISTANCE ACT OF 1990

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, today, we face the most crucial test of our national will. In an era of decreasing superpower aggression, we have the ability to recategorize our Federal spending priorities to meet our human resource needs. By the year 2000, if current trends are not corrected, nearly 19 million Americans will be unable to afford housing.

On Tuesday, April 24, 1990, we will be introducing the Mickey Leland Peace Dividend Housing Act of 1990. This vitally needed legislation will provide a variety of housing assistance to all Americans based on need and is structured to meet the demand for low-income housing by the end of the century. Our Government has not only the ability but the responsibility to develop an effective and equitable housing program. Because budget authority for housing has decreased by approximately 75 percent since 1981, day by day we slip further away as a nation from the goals of the 1949 National Housing Act to provide "a decent home and suitable living environment for every American family * * *."

This legislation is intended to be part of refocusing our resources to provide programs that invest in our greatest resource—human capital. This means a greater emphasis on education programs, food, health care, programs to help the disabled and the disadvantaged and programs to end all barriers to opportunity. Most importantly, this means supplying every American family with a decent and affordable home. These parts, taken as a whole comprise the foundation necessary for economic development and technological advancement. To allow increasing numbers of people to exist on the brink of homelessness, when adequate resources exist, shows a lack of resolve to ensure the survival of the family in this country. Adequate food and shelter are the bedrock requirement for a productive, healthy citizenry.

Provisions of this legislation will provide housing assistance to people living at the poverty level who pay over 50 percent of their income in rent; to people who live in housing without heat, electricity, or plumbing; to families living in dramatically overcrowded conditions and for those who are homeless. The Leland proposal will include: Section 8 rental assistance, public housing modernization and construction, rural housing assistance, homeless assistance and production of affordable housing by nonprofit organizations. New programs are also provided to ensure the safety and security of housing provided under this act, as well as to allow access to community services, training, day care and bridges to bring people into self-sufficiency. In addition, the legislation provides mechanisms to ensure that the taxpayer's money is spent effectively. This is first and foremost a housing program based on accountability for achieving the desired results.

Funding for this proposal will not come cheaply or quickly. Postponing solutions to our housing problems can only serve to exacerbate our existing problems and push more people over the brink into homelessness. Our Nation has always shown that when the will of the Nation exists to solve problems or address human needs, we as a nation will rise to the occasion. Where the public will exists, a way will be found. With our changing defense needs, the Congressional Budget Office [CBO] estimates that combined current and future proposals on conventional force reductions and demobilization in Europe could result in a potential savings to our defense budget of $30 billion annually, the opportunity exists.

The Leland bill would provide for 3,815,000 additional units of housing over 5 years. Funding costs for these housing programs will be no more than necessary to meet the need and based on current assumptions would average $25 billion over current programs. With a foundation of an education, healthy, housed population we can develop and sustain the economic prosperity that we so desperately desire. If we can spend over $160 billion to bail out the savings and loan industry, we can surely spend two cents on each Federal dollar for housing.

Let us take a step together, both as Democrats and as Republicans, to reaffirm the resolve of the Congress to adhere to our housing policies which make safe, decent, and affordable housing a reality for all Americans. We can do no less for our children. If you wish to cosponsor, please contact David Liss at 5-3461.

EAST FORK OF THE JEMEZ RIVER AND THE PECOS RIVER WILD AND SCENIC RIVERS ADDITION ACT OF 1989

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 360 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 360

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R.

644) to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DELLUMS). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 360 is an open rule providing for the consideration of H.R. 644, a bill to amend the Wild and Scenic Rivers Act by designating the East Fork of the Jemez and Pecos Rivers in New Mexico. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

House Resolution 360 provides that it shall be in order to consider the amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment under the 5-minute rule. The rule also provides that the substitute shall be read by section and that each section of the substitute shall be considered as having been read.

At the conclusion of the consideration of the bill for amendment, the rule provides that the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute. Finally, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, House Resolution 360 is a simple open rule allowing any Member to offer any germane amendment to H.R. 644. H.R. 644 would add segments of the Jemez and Pecos Rivers in New Mexico to the National Wild and Scenic Rivers System and their inclusion in the system is supported by the New Mexico delegation of both the House and the Senate as well as the National Forest Service.

Mr. Speaker, I urge adoption of the resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I thank my colleague, the gentleman from Tennessee [Mr. GORDON], for yielding 30 minutes to me.

Mr. Speaker, I would like to commend the chairman and ranking Republican member of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL] and the gentleman from Alaska [Mr. YOUNG] for their leadership in working out this legislation.

Mr. Speaker, the rule before us today is an open rule. There are no waivers of the Budget Act, there are no waivers of the House rules, and there are no restrictions on the normal amending process.

I commend the chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY] and my colleagues on the Rules Committee for reporting this kind of a rule. It is the right way to proceed on this bill.

Mr. Speaker, I support this rule so that the House may proceed to move promptly to the consideration of the bill to amend the Wild and Scenic Rivers Act by designating the East Fork of the Jemez and Pecos Rivers in New Mexico.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DELLUMS). Pursuant to House Resolution 360 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 644.

□ 1244

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 644) to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, with Mr. PICKETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 644, introduced by Representative BILL RICHARDSON, would designate segments of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System.

The river segments identified in H.R. 644 were studied as part of the development of the Santa Fe National Forest Plan and found eligible for wild and scenic designation. These river segments contain significant natural, scenic and recreational values, including highly popular trout fisheries.

The East Fork of the Jemez originates in the geologically significant Valles Caldera and is located in the heart of the most popular recreation area in the Jemez Mountains. Within the 11-mile river segment recommended for designation there are scenic rugged canyons, thick forests and occasional lush meadows. The river also provides habitat for the State-listed Jemez Mountain salamander, a species unique to the Jemez Mountains.

The Pecos River, renowned in folk tales of the West, originates high in the Pecos wilderness within the Santa Fe National Forest. The 20.5-mile river segment within the national forest boundary includes rugged granite canyons and waterfalls, interspersed with small high mountain meadows.

The administration and public witness testified before the Interior Committee in support of designation and the committee acted favorably on this measure last August. Further, companion legislation has also passed in the Senate.

Unfortunately, just before the House was to consider the legislation last September, a patent application was filed on Federal lands within the proposed Jemez wild and scenic river corridor. While that claim has not been patented, the unfettered development of such a claim could have a severe impact on the very values for which this river is being designated as wild and scenic. As such, our colleague, Representative RICHARDSON, who represents the area in question, has developed an amendment which I will join

him in offering today. The amendment will address this matter in the most responsible way possible, recognizing the interests of the parties involved.

I want to take this opportunity to commend our colleague, Representative RICHARDSON, the sponsor of the legislation. I have worked closely with him on several wild and scenic designations and he has been a forceful advocate on national conservation issues within the State of New Mexico, and elsewhere.

Mr. Chairman, the Richardson amendment is the only outstanding issue with this legislation. I hope at the appropriate time the House will favorably act on that amendment and provide suitable protection of the values for which we seek to designate these rivers as wild and scenic. H.R. 644, as amended, is a good river conservation proposal that will be of benefit not only to New Mexico but to the country as well.

I support H.R. 644 and urge its favorable consideration by the House.

Mr. Chairman, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 644, a bill to designate the East Fork of the Jemez and the Pecos Rivers in New Mexico as components of the Wild and Scenic Rivers System. This bill would designate a total of approximately 32 miles of these rivers as wild, scenic, or recreational rivers in accord with the Wild and Scenic River Act of 1968.

Mr. Chairman, the wild and scenic river provisions, as outlined, have been carefully considered in a public forum during development of the Santa Fe National Forest Plan. This proposal is fully endorsed by the administration and almost all of the land involved is under jurisdiction of the Forest Service and currently managed for semiprimitive recreation.

I would like to commend the gentlemen from New Mexico Mr. RICHARDSON and Mr. SCHIFF, for bringing this measure before our subcommittee; During his service on our committee Mr. RICHARDSON has brought a number of important conservation measures up for consideration. I urge my colleagues to join me in supporting the designation of these rivers.

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], the sponsor of this initiative.

Mr. RICHARDSON. First of all, Mr. Chairman, my thanks to the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], for his leadership in pursuing this legislation. My thanks to the gentleman from California [Mr. LAGOMARSINO], a member of the Committee on Interior and Insular Affairs, truly an outstanding Members of the Congress in the conservation area, and my colleague, the gentleman from New Mexico [Mr. SCHIFF], a newly elected Member from the First Congressional District of New Mexico. Mr. Chairman, many of his constituents benefit from this legislation. I also thank the bipartisan Senate delegation from New Mexico, the Forest Service, and the Bush administration, for their support on this legislation, H.R. 644.

As the gentleman from California [Mr. LAGOMARSINO] mentioned, Mr. Chairman, this legislation was drafted in consultation with the Forest Service. It is part of the Santa Fe Forest Service plan. It is a bill that is very important, not just to the State of New Mexico, but to the whole endangered river system in this country.

Mr. Chairman, let me very briefly discuss what this legislation would do and what we are talking about.

The Jemez and Pecos Rivers have tremendous wilderness value and are among the most heavily used recreational regions in New Mexico. Both rivers offer the finest trout fishing in the State of New Mexico. The East Fork of the Jemez River originates in the geologically significant Valles Caldera and is at the heart of the most popular recreation area in the Jemez Mountains. The Jemez Mountains and River have great historical and sacred significance for several native American tribes in the area, particularly the Jemez Pueblo.

Mr. Chairman, due to the threat of development along the river and in the Jemez Mountains, the East Fork of the Jemez River has been placed on the 10 most endangered American rivers list by American Rivers, the Nation's leading river conservation group.

This bill was introduced on January 24, 1989, and these two rivers, the East Fork and Pecos Rivers, again were recommended for wild and scenic designation in 1987, by the Forest Service and its management plan for the Santa Fe National Forest. The Forest Service has been most supportive of efforts to achieve wild and scenic designation for these rivers.

Mr. Chairman, H.R. 644 includes an 11-mile segment of the East Fork of the Jemez River and a 20-mile segment of the Pecos River in the national Wild and Scenic Rivers System. The Subcommittee on National Parks and Public Lands held hearings on the bill on July 25, 1989, and subsequently a markup on August 1, 1989. The Committee on Interior and Insular Affairs considered the bill on August 2, 1989, and recommended the bill favorably to the House floor by a voice vote.

□ 1250

The Senate has also acted favorably on this legislation.

Mr. Chairman, this is important legislation, as I said, not just for the State of New Mexico, but for the entire endangered river system in our country.

At one point, Mr. Chairman, I will be offering an amendment, along with my good friend, the gentleman from New Mexico [Mr. SCHIFF], and the gentleman from Minnesota [Mr. VENTO], that simply states that, subject to valid existing rights, no surface patent may be issued with respect to any claims in the river corridor areas protected by H.R. 644.

This amendment is not intended to deny existing claimholders their right to mine. In fact, the amendment explicitly states:

> Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim.

Subject to the regulations already prescribed by the National Wild and Scenic Rivers Act.

Mr. Chairman, this is most likely the only amendment that will be offered. It is supported on a bipartisan basis. As I said before, the Forest Service has assisted in its drafting. I would urge support for the bill and for the amendment that I will be offering with the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Minnesota [Mr. VENTO] at a later point in the proceedings.

Mr. LAGOMARSINO. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I want to rise in suport of both the bill and the amendment being offered by myself and my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. Chairman, my view of Federal land use issues is one of an attempt to balance the different issues. We have many legitimate requests and needs to use in Federal lands.

I think it is important to the public that we try to achieve all those needs as well as possibly, whether they are wilderness or recreation or cattle grazing or agricultural mining and so forth.

I think in this particular case, however, perservation is the major issue. I think the amendment in particular would guarantee that certain land along the river would not be subject to patent.

I think it is important if this area of river is going to be made part of the Wild and Scenic Rivers Act and protected as such that it be fully protected from any other encroachment.

Therefore, I urge all my colleagues to vote yes both on the bill and on the amendment.

Mr. VENTO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989".

SEC. 2. WILD AND SCENIC RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) EAST FORK OF JEMEZ, NEW MEXICO.—The 11-mile segment from the Santa Fe National Forest boundary to its confluence with the Rio San Antonio; to be administered by the Secretary of Agriculture in the following classifications:

"(1) the 2-mile segment from the Santa Fe National Forest boundary to the second crossing of State Highway 4, near Las Conchas Trailhead, as a recreational river; and

"(2) the 4-mile segment from the second crossing of State Highway 4, near Las Conchas Trailhead, to the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, as a wild river; and

"(3) the 5-mile segment from the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, to its confluence with the Rio San Antonio, as a scenic river.

"( ) PECOS RIVER, NEW MEXICO.—The 20.5-mile segment from its headwaters to the townsite of Tererro; to be administered by the Secretary of Agriculture in the following classifications:

"(1) the 13.5-mile segment from its headwaters to the Pecos Wilderness boundary, as a wild river; and

"(2) the 7-mile segment from the Pecos Wilderness boundary to the townsite of Tererro, as a recreational river.".

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RICHARDSON: Page 2, line 14, strike "(1)" and insert "(A)".

Page 2, line 18, strike "(2)" and insert "(B)".

Page 2, line 23, strike "(3)" and insert "(C)".

Page 2, after line 26, and page 3, after line 9, insert: "After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

Page 3, line 5, strike "(1)" and insert "(A)".

Page 3, line 7, strike "(2)" and insert "(B)".

Strike the closing quotation marks and period on page 3, line 9, and insert a closing quotation marks and period after the amendment above after line 9.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, let me just state once again that this is an amendment that is supported on a bipartisan basis, that has the support of the gentleman from New Mexico [Mr. SCHIFF]. In fact, he is the coauthor of this amendment, along with the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee.

It has been endorsed by the Nation's leading environmental organizations, the Sierra Club, the Wilderness Society, Friends of the Earth, American Rivers, and the Audubon Society. These groups have sent letters to every Member of the House to express their support for the Richardson-Vento-Schiff amendment.

Let me also say, Mr. Chairman, that I wish to thank the U.S. Forest Service for their help in drafting this amendment. I think this is an amendment that is supported on a bipartisan basis by our colleagues in the other body. It is, as I said before, a piece of legislation that is very important, not just to the State of New Mexico, but to the whole country. As we approach Earth Day, I think it is that much more important.

Mr. Chairman, let me explain the need for this amendment and why it was not considered in the committee. After the committee considered H.R. 644, a mining company applied for patent, for ownership of 188 acres worth of mining claims within the river quarter. This matter was not considered at the committee level because the Forest Service had been assured by the Copar Pumice Co. that it would not attempt to patent its claim. Not more than 3 weeks after the Interior Committee forwarded the bill, Copar Pumice filed for patent on 1,700 acres in the area, 180 acres within the river corridor.

This company went forward with its claim and patent applications with the full knowledge that the east fork of the Jemez was under congressional consideration for inclusion in the National Wild and Scenic Rivers System. Due to this dangerous situation, American rivers, the Nation's leading river conservation organization, has placed the east fork of the Jemez River on its list of the 10 most endangered American rivers.

If the patent is approved, Mr. Chairman, the Federal Government would be required to sell this land for $2.50 an acre, for the purpose of strip mining along the east fork of the Jemez River. Our efforts to protect the east fork by including it in the National Wild and Scenic Rivers Systems would be for nought.

So simply put, this amendment by myself, the gentleman from Minnesota [Mr. VENTO] and the gentleman from New Mexico [Mr. SCHIFF] states that:

Subject to valid existing rights, no surface patent may be issued with respect to any claims in the river corridor areas protected by H.R. 644.

The amendment, once again, is not intended to deny existing claimholders their right to mine.

In fact, the amendment explicitly states:

Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim.

Subject to the regulations already prescribed by the National Wild and Scenic Rivers Act.

This amendment will prevent patenting of surface claims in the river corridor. The amendment maintains this land in the Federal domain. Therefore, should mining take place along the river, Federal law would require claimholders to restore the land after mining.

The Richardson-Vento-Schiff amendment is the only way to assure that needed reclamation will take place and that the area along these rivers is managed by Congress, as was intended in the National Wild and Scenic Rivers Act.

Again, Mr. Chairman, this amendment has been worked out in consultation with the U.S. Forest Service, the chairman of the Subcommittee on National Parks and Public Lands.

The gentleman from Minnesota [Mr. VENTO] is offering this amendment today, along with me and the gentleman from New Mexico [Mr. SCHIFF]. I believe the chairman of the Subcommittee on Mining and Natural Resources, the gentleman from West Virginia [Mr. RAHAL], is also supportive of this amendment.

Mr. Chairman, this is an important environmental vote. This is an impor-

tant environmental bill. I stress again that there is no partisanship involved. It is supported in the State of New Mexico by Republicans and Democrats alike. The bill is supported too, as has been mentioned by the gentleman from California [Mr. LAGOMARSINO], by the administration through the Forest Service.

Mr. Chairman, I want to stress once again that we are not talking about amending here the 1872 mining law. I think that will be addressed in further legislation.

So Mr. Chairman, again this is an important bill. This is an important amendment. I urge support for the Richardson-Schiff-Vento amendment.

Mr. SKEEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill, but in opposition to the amendment being offered by my colleague from New Mexico, Mr. RICHARDSON.

There is no one in our delegation who opposes the intent of H.R. 644 as it was reported out of the Interior Committee. I certainly agree that we should designate parts of the Jemez and Pecos Rivers for wild and scenic protection status. However, I must object to the need for the amendment that is being debated this afternoon. I believe current law and regulations offer the level of protection the amendment purports to provide.

It appears that valid mining claims have been made on property that lies within the boundary of the proposed wild and scenic river. A patent application has been filed by the claim owner and the Forest Service with the Department of the Interior will determine the validity of the claims.

As required by Forest Service regulations regarding mining operations that would cause significant surface disturbance, the claimant has filed an approved reclamation plan.

As current law states, substantive environmental regulations apply whether mining operations are conducted on private or public lands. Beyond that, because only the mineral deposit can be patented under current law after a designation of wild and scenic, the surface estate will remain public land, thereby this land will continue to be subject to reasonable Forest Service regulation.

Those regulations include the reclamation of any surface area disturbed during a mining operation.

The central question needs to be asked—does this amendment accomplish any more than what current law and regulation provides in protecting the Jemez River? I say no.

Title to the surface mining claims that are patented within wild and scenic river boundaries is not passed. That is, the Federal Government retains ownership of the land even though title to the orebody is passed.

So if the surface area within the proposed wild and scenic river boundary cannot be patented, and the claimant exercises his valid claim, he would be required to reclaim any surface area he disturbed.

Because the current Wild and Scenic Rivers Act disallows a patent to the surface estate even for claims with a "valid and existing right," and because sufficient authority already exists for reasonable regulation of surface disturbing activities, this amendment accomplishes no more than what current law provides.

My colleagues should support the designation of part of the Jemez and Pecos Rivers as wild and scenic. But they should do so without unnecessary amendment such as the one currently being debated.

□ 1300

Mr. VENTO. Mr. Chairman, I rise in strong support, of course, of this amendment.

Mr. Chairman, I think that there are a lot of intricacies here we can get into.

Basically what is happening here is this, that we had a legislative proposal to designate a wild and scenic river in the Jemez and Pecos Rivers. At the same time we have proceeding, much to our chagrin and assurances to the contrary, a regulatory action going forth with regard to a mining claim. These two are diametrically opposed. One would designate a wild and scenic river. One would, of course, patent. Patent just is not the right to mine, it is the right to the surface, it is the right to a substantial type of surface modification in this wild and scenic corridor which would be at odds with, and as I said, a contradiction of the basic designation that is going on. So we have going on two tracks, a regulatory track, and a legal track, two different uses of the same area.

The fact of the matter is that, I think, as someone who is interested in trying to clarify this, in other words, we have, the Congress does, a right to in fact designate this river and to prevent this type of misuse or abuse to this particular type of wild and scenic river. That is what is going on.

Someone is saying, well, this is a patent, and administratively that the Congress cannot deal with this. We have to leave this contradiction go forward, and we have to take our chances with it.

The fact of the matter is, Mr. Chairman and others, I am not willing, and I do not think the gentleman from New Mexico is willing, to go the roll of the dice so as to protect this particular Jemez River corridor. That is what the issue is about.

We are trying to resolve that so that we do not leave it with an administrative cloud as to whether they decide for sufficient reasons to, in fact, patent this. Especially I think it is interesting in the fact that there were assurances given at some point that there would not be an effort to patent this. But for the fact that we had not passed this a month ahead of the time and it was signed into law, we would have avoided the particular problem that is presented to us.

I think it is good to resolve this so we do not have this legal cloud or this threat over this wild and scenic area.

As I pointed out, someone, of course, advocates that this is simply something sacrosanct, to mining. The fact is that once a patent is made, these lands, this 178 acre area along this wild and scenic river candidate would, in fact, be available for anything, for subdivision, for a whole host of other uses that have nothing to do with the type of pumice claim that is being made here. So it could be used for a whole variety of things and, of course, made at the lofty price of $2.50 an acre for that area.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from New Mexico.

Mr. SKEEN. Mr. Chairman, I certainly thank the distinguished chairman for yielding.

The question in my mind is, and I know that being a little redundant is not really a sin and buying insurance, and I can assure the gentleman that I would agree except for the fact that this is a surface mineral involved as an ore body, and somebody is going to have to make the distinction somewhere along the line of what is the difference between the surface and an ore body, because they are the same.

I do not think this amendment does one iota toward making that discernment or discrimination, and that is the point I am making, which is that I think it is going to have to be left to some regulatory body to make that decision somewhere down the line, and we are not going to do it in this amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his view and his insight.

I think that this does accomplish the purposes that we are dealing with.

Mining of the deposit will not be stopped by this amendment. Obviously we intend, of course, to deal with what happens on the surface in terms of this issue. The gentleman in that respect is correct.

But I would hope we could all support this amendment. I think we are trying to clarify it, trying to protect the surface, and trying to deal with the issue at hand.

Mr. Chairman, I would hope that we would be able to move ahead so that we could prevent, for instance, not only just the mining that occurs here, which is in and of itself a concern, but

to give the opportunity, if it is under a valid, existing right, if it is, in fact, a valid, existing right, then it comes under the provisions of regulation. If it is not, it comes under a patented claim and comes under the 1872 mining law which, as I say, for a minuscule price per acre, we could see condos developed there, we could see timber cut in the area, and it would likely to result in devastation of the entire qualities for which we are designating this resource.

I would hope that we would adopt this amendment. I think it does what needs to be done and puts, I think, an answer here legislatively at the time that we are dealing with this as opposed to leaving it up in the air for a regulatory agency to wholly decide.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Richardson amendment.

The question being raised by the gentleman from New Mexico's amendment is relatively simple: Do we continue to allow public domain lands to be sold off in a willy-nilly fashion for a mere $2.50 an acre?

This gentleman from West Virginia, the chairman of the Subcommittee on Mining and Natural Resources, has spent a great deal of time investigating this very question.

My response is, and this body's response has been, to just say no to the rip-off of the public's land for fast food hamburger prices.

Today, this body is considering a matter involving the mining law of 1872. This law allows mining claims to be staked on public domain lands for certain minerals and gives the claimholder the option of seeking title to the land, at 1872 prices, from the Federal Government.

The mining claims in question within the proposed Jemez River corridor are for pumice, a material used in the manufacture of stone-washed blue jeans. This gentleman will not argue the popularity of stone-washed blue jeans. I may even own a pair and I am certain many of our children do as well.

Moreover, it remains to be seen whether all of the claims were staked for minerals that are, in fact, even subject to the mining law in the first place. There is good reason to believe that some, if not most, of the pumice embraced by these mining claims is not eligible to be located under the mining law of 1872, but rather, is subject to sale by the Federal Government under the Materials Act of 1947.

Be that as it may, the gentleman is taking a conservative approach with this amendment. He is not seeking to extinguish the claims or prohibit the lawful mining of the pumice. In fact, the legislation would even allow for a patent to be issued to the mineral estate if the claims are found to be valid.

All that the gentleman is asking is that we maintain the surface estate of the lands, lands that will in fact be incorporated into the National Wild and Scenic Rivers System, in public ownership.

This is nothing new.

The mere fact that a mining claim exists, and that application for patent has been made, does not carry with it a vested right to a patent.

It is a well settled matter that the Congress can, and has on numerous occasions, placed limitations on the issuance of patents to mining claims on public domain lands. This is done without extinguishing any valid existing right or invoking a taking of property.

In fact, section 9(a) of the Wild and Scenic Rivers Act states that, subject to valid existing rights, a patent may be issued to a mining claim in a protected river corridor for the mineral deposit only. The surface estate would remain in public ownership.

The Richardson amendment recognizes current law, and, moreover the fact that the claim holder in question does not possess a valid existing right to obtain a full fee patent for the claims within the Jemez River corridor.

I would urge all of my colleagues to vote for the Richardson amendment.

□ 1310

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HARRIS] having assumed the chair, Mr. PICKETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 644) to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System, pursuant to House Resolution 360, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 1, not voting 41, as follows:

[Roll No. 75]

YEAS—391

Ackerman	Conte	Gephardt
Akaka	Conyers	Geren
Alexander	Cooper	Gibbons
Anderson	Costello	Gillmor
Andrews	Coughlin	Gilman
Annunzio	Courter	Gingrich
Anthony	Cox	Glickman
Applegate	Coyne	Gonzalez
Archer	Dannemeyer	Goodling
Armey	Darden	Gordon
Atkins	Davis	Goss
AuCoin	de la Garza	Gradison
Baker	DeFazio	Grandy
Ballenger	Dellums	Gray
Bartlett	Derrick	Green
Barton	DeWine	Guarini
Bateman	Dickinson	Gunderson
Bennett	Dicks	Hall (OH)
Bentley	Dingell	Hall (TX)
Bereuter	Dixon	Hamilton
Berman	Donnelly	Hammerschmidt
Bevill	Dorgan (ND)	Hancock
Bilbray	Dornan (CA)	Hansen
Bilirakis	Douglas	Harris
Bliley	Downey	Hastert
Boehlert	Dreier	Hatcher
Boggs	Duncan	Hawkins
Borski	Durbin	Hayes (IL)
Bosco	Dwyer	Hayes (LA)
Boucher	Dymally	Hefley
Brennan	Dyson	Hefner
Brooks	Eckart	Henry
Broomfield	Edwards (CA)	Herger
Browder	Emerson	Hertel
Brown (CO)	Engel	Hiler
Bruce	English	Hoagland
Bryant	Erdreich	Hochbrueckner
Buechner	Espy	Hopkins
Bunning	Evans	Hoyer
Burton	Fascell	Hubbard
Bustamante	Fawell	Huckaby
Byron	Fazio	Hughes
Campbell (CA)	Feighan	Hunter
Campbell (CO)	Fields	Hutto
Cardin	Fish	Hyde
Carper	Flake	Ireland
Carr	Foglietta	Jacobs
Chapman	Ford (MI)	James
Clarke	Frank	Johnson (CT)
Clement	Frenzel	Johnson (SD)
Clinger	Frost	Johnston
Coble	Gallegly	Jones (GA)
Coleman (MO)	Gallo	Jones (NC)
Coleman (TX)	Gaydos	Jontz
Combest	Gejdenson	Kanjorski
Condit	Gekas	Kaptur

Kasich	Nielson	Sisisky
Kastenmeier	Nowak	Skaggs
Kennedy	Oakar	Skeen
Kennelly	Oberstar	Skelton
Kildee	Obey	Slattery
Kleczka	Olin	Slaughter (NY)
Kolbe	Ortiz	Slaughter (VA)
Kolter	Owens (NY)	Smith (FL)
Kostmayer	Owens (UT)	Smith (IA)
Kyl	Oxley	Smith (NE)
LaFalce	Packard	Smith (NJ)
Lagomarsino	Pallone	Smith (VT)
Lancaster	Panetta	Smith, Denny (OR)
Lantos	Parker	Smith, Robert (NH)
Leach (IA)	Parris	Smith, Robert (OR)
Leath (TX)	Pashayan	Snowe
Lehman (FL)	Patterson	Solarz
Lent	Paxon	Solomon
Levin (MI)	Payne (NJ)	Spence
Levine (CA)	Payne (VA)	Spratt
Lewis (FL)	Pease	Staggers
Lewis (GA)	Pelosi	Stallings
Lightfoot	Penny	Stangeland
Lipinski	Perkins	Stark
Livingston	Petri	Stearns
Lloyd	Pickett	Stenholm
Long	Pickle	Stokes
Lowery (CA)	Porter	Studds
Lowey (NY)	Poshard	Sundquist
Luken, Thomas	Price	Swift
Lukens, Donald	Pursell	Synar
Machtley	Quillen	Tallon
Madigan	Rahall	Tauke
Manton	Rangel	Tauzin
Markey	Ravenel	Taylor
Marlenee	Regula	Thomas (GA)
Martin (IL)	Rhodes	Thomas (WY)
Martin (NY)	Richardson	Torres
Martinez	Rinaldo	Towns
Mavroules	Ritter	Traficant
Mazzoli	Roberts	Traxler
McCandless	Robinson	Udall
McCloskey	Roe	Unsoeld
McCrery	Rogers	Upton
McCurdy	Rohrabacher	Valentine
McDade	Ros-Lehtinen	Vander Jagt
McDermott	Rose	Vento
McEwen	Rostenkowski	Visclosky
McHugh	Roth	Volkmer
McMillan (NC)	Roukema	Walgren
McMillen (MD)	Rowland (CT)	Walker
McNulty	Rowland (GA)	Walsh
Meyers	Roybal	Washington
Mfume	Russo	Waxman
Michel	Sabo	Weber
Miller (CA)	Sangmeister	Weiss
Miller (OH)	Sarpalius	Weldon
Miller (WA)	Savage	Wheat
Mineta	Sawyer	Whittaker
Moakley	Saxton	Whitten
Molinari	Schaefer	Williams
Mollohan	Scheuer	Wilson
Montgomery	Schiff	Wise
Moody	Schneider	Wolf
Moorhead	Schroeder	Wolpe
Morella	Schuette	Wyden
Morrison (CT)	Schulze	Wylie
Morrison (WA)	Schumer	Yates
Mrazek	Sensenbrenner	Yatron
Murphy	Serrano	Young (AK)
Murtha	Sharp	Young (FL)
Myers	Shaw	
Nagle	Shays	
Natcher	Shumway	
Neal (MA)	Shuster	
Neal (NC)	Sikorski	

NAYS—1

Crane

NOT VOTING—41

Aspin	Early	McCollum
Barnard	Edwards (OK)	McGrath
Bates	Flippo	Nelson
Bellenson	Ford (TN)	Ray
Bonior	Grant	Ridge
Boxer	Holloway	Saiki
Brown (CA)	Horton	Smith (TX)
Callahan	Houghton	Stump
Chandler	Inhofe	Tanner
Clay	Jenkins	Thomas (CA)
Collins	Laughlin	Torricelli
Craig	Lehman (CA)	Vucanovich
Crockett	Lewis (CA)	Watkins
DeLay	Matsui	

□ 1334

The Clerk announced the following pair:

On this vote:

Mr. Bonior for, with Mr. Stump against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 644, the bill just passed.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. NELSON of Florida. Mr. Speaker, had I been present I would have voted "aye" on rollcall No. 75.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 98

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 98, the Guam Commonwealth Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time so that I might inquire of the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] the program for the balance of this week and next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, I would like to go through the schedule:

The House's business is finished for the day.

On tomorrow we will not have legislative business.

On Monday, April 23, the House will meet at noon, and again there will be no legislative business.

On Tuesday, April 24, the House will meet at noon to consider eight suspension bills. Recorded votes on the suspensions will be postponed until after debate on all the suspensions.

The suspensions are as follows:

House Resolution 354, regarding human rights in Liberia.

Senate Concurrent Resolution 106, concerning Jerusalem and the peace process.

H.R. 2514, thrift savings plan technical amendments.

House Joint Resolution —, technical corrections to the Ethics Reform Act of 1989.

H.R. 3961, to name a building in Birmingham, AL "The Robert S. Vance Federal Building and U.S. Courthouse."

House Resolution 4035, to name a building in Santa Rosa, CA "The John F. Shea Federal Building."

H.R. 3545, reauthorizing the Chesapeake and Ohio Canal National Historical Park Commission.

H.R. 3811, recognizing the centennials of national parks.

On Wednesday, April 25, and Thursday, April 26, we will be taking up H.R. 3848, Depository Institution Money Laundering Amendments of 1990, open rule, 1 hour of debate; H.R. 4380, authorizing the appropriations for the superconducting super collider, open rule, 1 hour of debate, and a concurrent resolution having to do with the budget for fiscal year 1991, subject to a rule.

The plan now is that the rule on the budget will be taken up in the Committee on Rules on Tuesday. The rule might be taken up on Wednesday and we would begin work on the budget on Thursday.

On Friday, April 27, the House will not be in session.

Mr. MICHEL. If I might inquire, the gentleman said we would take up the rule on the budget on Wednesday. Would there be a chance for any general debate on Wednesday or would all general debate and everything happen on Thursday?

Mr. GEPHARDT. If the gentleman would yield further, it is possible. All those specific decisions have not been made yet, but it is possible we could have general debate on Wednesday.

Mr. MICHEL. I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, I simply say to the distinguished majority leader that we are making deliberate speed to get the bill to the committee and out of the com-

mittee to the floor. It would be my hope that the majority would consider the scheduled debate on Wednesday.

□ 1340

We have a lot of debate required, allowed under the Humphrey-Hawkins section of the bill. I think it would be very helpful to the House if it fits the business that the majority has scheduled, to begin work on Wednesday.

Mr. GEPHARDT. If the minority leader will continue to yield, I appreciate the thought. We will try to see what we can get done that day. We obviously want to get the budget completed.

Mr. MICHEL. Mr. Speaker, I think if my information is correct, permission will probably be requested then for filing on Monday for the report; is that a request that would come from the majority leader later after our dialog?

Mr. GEPHARDT. I think that is correct.

Mr. GINGRICH. Mr. Speaker, if the distinguished minority leader will yield, I would like to ask two things of the majority leader: First, as I understand on April 30, a Monday, votes have been scheduled. Are we still anticipating votes, and if so, what legislation is expected? I think Members would like to be able to change their schedule if, in fact, we are not going to have votes that day.

Mr. GEPHARDT. If the gentleman will continue to yield, I am not in a position at this moment to be able to give Members a final answer on Monday, April 30. However, we will try to have an answer for Members before the close of business next Tuesday. My hope is that we can avoid votes on that day, but we are not yet in a position to do it. The reason is the budget, and where we are on the budget by that time. We want to make sure we can get this budget out of here as quickly as possible.

Mr. GINGRICH. If the gentleman will yield further, I must ask in the spirit of collegial friendship of the majority leader who made a strong 1-minute earlier, and I wanted to ask two things. First, since apparently the Democrats this week are talking about the environment and blaming George Bush, when might we expect the clean air bill to be on the floor? We think the Democratic leadership ought to actually deliver legislation, as well as attack the President. We wonder when we might have that on the floor?

Mr. GEPHARDT. As the gentleman knows, great progress has been made in the Committee on Energy and Commerce, and it has been a bipartisan progress, I might add.

The report is to be filed imminently. We believe the bill will be on the floor by the midpart of May, maybe earlier than that.

Mr. GINGRICH. As the gentleman knows, we in the House have been working on a bipartisan basis and in the other body it was a bipartisan coalition that bailed out Senator MITCHELL when we provided 34 of the 50 votes on the key vote, so it was a little painful when we saw this narrow partisanship come up.

Let me say the gentlewoman from Rhode Island [Ms. SCHNEIDER] is leading a press conference this afternoon on recycling on Capitol Hill. I hope the Democratic leadership would be as eager to rush into helping Capitol Hill become a model of recycling as it has been to blame George Bush. I encourage the majority leader to follow up on his 1-minute speech by making Capitol Hill more of a recycling center.

Mr. GEPHARDT. I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, APRIL 25, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, April 24, it adjourn to meet at noon on Wednesday, April 25, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, APRIL 23, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday, April 23, 1990, at 12 noon.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION FOR COMMITTEE ON THE BUDGET TO HAVE UNTIL 6 P.M., MONDAY, APRIL 23, 1990, TO FILE PRIVILEGED REPORT ON CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until 6 p.m., Monday, April 23, to file a privileged report on the concurrent resolution on the budget for fiscal year 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 1230

WORLD TRADE ORGANIZATION

(Mr. WALGREN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. WALGREN. Mr. Speaker, in a speech earlier this week, U.S. Trade Representative Carla Hills looked with some expectation beyond the trade negotiations now occurring under the General Agreement on Trade and Tariffs to the day when all countries would join in a World Trade Organization, bound by agreed upon rules enforced fairly and efficiently.

I commend Ambassador Hills for her vision and want to encourage her in the commitment to make it a reality. The world trading order is at a crossroads. We can continue to follow the present course characterized by confused and ambiguous rules that often result in unfair trade damage inflicted on one country—often the United States—to serve the national interests of another, or we can work toward an ongoing process to integrate what are very different national economies in a way that can serve both the world's overall interests in expanding trade and at the same time take account of the difficulties often created on a national level by international trade.

Ambassador Hills believes that the current GATT negotiations are the world's best opportunity to lay the foundation for the international economic growth. She should be encouraged to seek the fairest outcome for U.S. interests in that process. But she has also begun to look beyond the present to build a new World Trade Organization that could make a critical contribution to resolving conflicts arising in the future. The administration should be encouraged in that effort as well.

Mr. Speaker, under permission to include extraneous matter, I include a copy of the Ambassador's speech given on April 16 to the North Texas Commission in Dallas.

2001: A TRADE ODYSSEY

(By Ambassador Carla Hills)

I want you to take a short journey into the not too distant future. The date: January 1, 2001. The place: Dallas. You are president of a manufacturing company with 100 employees, annual sales of $15 million, and big problems.

It is difficult to keep your mind on the Cotton Bowl, despite the fact that SMU is in a cliff-hanger with Oklahoma. That's because your company did very badly last year. You finally gave up trying to market

your products in Europe and the Pacific Rim: there was just too much protectionism, too many trade barriers. You were forced to layoff a third of your employees and take a huge write-off on new equipment you'd purchased in anticipation of the extra business, but which now sits idle.

Then some of your most important product designs were stolen by a gray marketeer in India who is making cheap knock-offs and selling them in your markets. You spent $1 million in legal fees trying to stop it, but now your lawyers tell you that there is nothing you can do about it.

Is it you? Are you such a bad manager? No, your other friends in business are telling similar horror stories.

So you wonder: How did things ever get this bad? What went wrong? When did it start? Who's to blame?

It all began in 1990 when, after four years of hard-nosed negotiating in Geneva, the United States was unable to get its trading partners to agree to sweeping new rules for the General Agreement on Tariffs and Trade, or GATT.

Funny, but you had never heard of GATT until recently. Just the other day the newspaper did a story about the decline of world trade in the decade since the GATT's demise. The writer said that for the latter half of the 20th century, the GATT was the most important trade agreement involving nearly 100 countries and covering better than 80 percent of world trade. It was even referred to as the "Constitution of Trade."

You learned that after the GATT was signed in 1947, seven successful rounds of tariff cuts by the world's great trading nations permitted trade to soar from $60 billion to break the $3 trillion mark in 1990. As a result, the global economy grew faster in those 40 years than in any four decades of world history.

But 1990 was a turning point for the GATT. World trade had outgrown the rules that had served so well for so long. Areas inadequately covered by GATT rules, like agriculture, or not covered at all like services, investment, and intellectual property, had taken on much greater importance in global trade.

To make matters worse, many developing countries claimed exemption from the rules already in place. No longer at the margin of the trading system, they accounted for half a trillion dollars in trade.

Thus in 1990, more than $1 trillion in goods and services was not adequately covered by internationally agreed rules of fair play. That trillion dollars of trade, in industries vital to America's future prosperity, amounted to a third of world commerce. But, because the rules were weak, trade disputes turned into trade wars. Instead of uniting nations, trade started to divide them.

That was why the United States pushed hard to launch the new round of GATT talks in 1986, and why President Bush made the successful conclusion of the GATT negotiations in December 1990, America's Number 1 trade priority.

However, inadequate public support in the United States prevented government negotiations from pressing for the needed improvements in the rules. Recalcitrant nations were not convinced of the depth of American commitment to trade reform. Ultimately, no agreement was reached.

Then American firms found it increasingly difficult to break into new and vital overseas markets. Government subsidies continued to skew the marketplace. And, inadequate protection of intellectual property saw more and more American ideas pirated by dishonest businessmen abroad.

Well, how do you like the future? Not a pleasant picture, is it? As you can see, our international trade talks are not abstract discussions of arcane economic principles. The accords we seek in Geneva are essential to our future prosperity. Together we can prevent the dismal outcome I have outlined. Luckily, there still is time; not a lot, but enough.

AN OVERVIEW OF U.S. TRADE POLICY

That is why President Bush, who fervently believes in the economic and social benefits that flow from open markets, has us in a full-court press in our trade negotiations around the world. Our orders from the President: Unlock once-sealed markets so that trade can expand, and negotiate a clear set of enforceable rules that will curb unfair trade practices.

We seek to implement that policy in three ways:

First and foremost, we are laboring very hard to achieve a successful conclusion of the current round of international trade talks ongoing under the auspices of the GATT. We believe that a good agreement could transform an aging trading system of international trade rules into a passport for free trade.

Second, we are conducting market-opening negotiations with our key trading partners. These negotiations cover the entire range of American enterprise—from avocados to zincography.

Lastly, we are using our own trade laws to pry open the markets of racalcitrant nations.

THE INTERNATIONAL TRADE TALKS

As I said, a successful completion of the GATT talks in Geneva is our first priority. Look at what we are trying to achieve in this round. We seek to:

Expand market access for trade in goods; we have challenged our trading partners to envision a future tariff-free world;

Achieve fundamental reform of agriculture, to cut the $72 billion of income lost annually from world protection of agricultural markets;

Rein in the hundreds of billions of dollars of trade distorting government subsidies with which governments bribe the market instead of letting entrepreneurs win a share on the basis of price and quality;

Create a swift and effective means to resolve our trade disputes;

Ensure that the rules that we have and those that we are negotiating apply to developing countries; and finally,

Develop equitable rules for the new areas of services, investment, and intellectual property.

Opening markets will benefit all business, but particularly small businesses, which now account for 20 percent of our exports and create four out of five new jobs.

Improving protection of our intellectual property will shield our producers of fine chemicals, pharmaceuticals, films, and textbooks from the $60 billion theft of their basic know-how that occurs each year.

Eliminating the protectionist policies that exist worldwide in agriculture will put $11 billion in the pockets of American farmers—that's an extra $3,400 for each and every one of them.

There is simply no question about it: This round of the GATT is a bold and ambitious undertaking. It may be the last, best chance this century to create the trading rules we need for the next century.

INTEGRATION INTO A GLOBAL TRADING ORDER

The vision underlying all of these efforts is our belief in the benefits that will come from a integrated global trading order. We see the negotiations under GATT and our talks with individual nations as an important force to maximize each nation's prosperity and security, while broadening and strengthening its economic ties to the world.

A solid agreement coming out of this round of GATT talks can be the unifying force for integration from Budapest to Brasilia. Only through such an agreement will each nation alone, and the world as a whole, gain the assurance that can come from a strong set of fair and enforceable global trade rules.

DO WE NEED A WORLD TRADE ORGANIZATION?

If we can achieve a solid agreement, then we could enthusiastically concur with those who suggest that we go beyond the current round of the GATT and create a new institution to govern our trading system—a World Trade Organization.

But let me be clear, simply building a new edifice cannot be a substitute for the substantive rules we so sorely need. We must have the laws before we can build the courthouse.

For a World Trade Organization to succeed it will require the confidence of all it serves that it will safeguard their national interests. We believe that such confidence will be inspired if member nations know that they can rely upon clear and enforceable rules.

The trade organization we envision could be an overarching institution linking the new the new rules to the old rules, and providing a consistent means for the swift resolution of disputes.

Some may view this new organization with apprehension. Indeed, any further elaboration will require close consultation with our trading partners, as well as with Congress and American industry. But, I challenge anyone to name a single country that has been economically dominated through free trade.

Furthermore, a World Trade Organization could be a positive vehicle for cooperation between the United States, Europe, and Japan by keeping trade channels open and thus aiding the growth and progress of both the developed and the developing world. It could also enable smaller countries, who fear that the world is fissioning into trade blocs, to find a forum for raising issues of concern.

A successful GATT agreement this December can fuel the engine of growth for the 21st century; a World Trade Organization could be the engineer who helps keep the throttle wide open.

ANOTHER VISION OF THE FUTURE

I began today with an ominous trip into the future. Let me take you now on a more pleasant one. Again, the year is 2001, and the place is Dallas.

You are feeling good. You are the chairman of the board of a large manufacturer. Last year, your 1,000 employees could barely keep up with the orders from your sales reps in Tokyo, Brasilia, Berlin, Moscow, and Warsaw. Your Delhi office was able to swiftly stop a knock-off manufacturer from making cheap imitations of your hottest product by using new intellectual property rules negotiated in 1990 at the GATT talks. And, your accounting department says sales look like they are going to top $150 million for the first time.

Oh by the way, SMU beat Oklahoma in the Cotton Bowl 50 to nothing.

WE NEED YOUR SUPPORT

Nineteen-ninety is a pivotal year for the world economy. Down one path lie open markets, expanded trade, economic growth, and prosperity. Down the other lie closed markets, nations turned inward, and gravely diminished prosperity for all.

You and I need to heighten public awareness that the rules we are negotiating in the GATT to curb unfair trade practices and to open markets mean more revenues for our industries and more jobs for our people.

So, when you leave here, talk to your suppliers, buyers, employees, friends and neighbors. Ask them to urge their congressmen and senators to support our positions at the GATT trade talks. Tell them that open markets mean revenues for our industries and more jobs for our people.

And if GATT sounds too much like jargon, tell them that it means Growth, Access, and free Trade Today. And that my friends, is good for America.

HALL OF SHAME—WHAT A DIFFERENCE A YEAR MAKES

(Mr. THOMAS A. LUKEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. THOMAS A. LUKEN. Mr. Speaker, what a difference a year makes. The Department of Energy weapons plants are making headlines across the country again.

In Cincinnati the screaming banner is: "Fernald is No. 1 Polluter." Pollution Hall of Shame citations are nothing new for Fernald in my district.

But what are we talking about in pollution? We are talking about radioactivity, what the GAO terms cancer-causing radioactivity. The GAO calls it a "high risk for a threat to health."

And what is the excuse by the Department of Energy? The Department of Energy says it is not an immediate threat to health. Do we know what they mean? They mean you have got cancer, and you might not die for 10 or 20 or 30 years.

But here is the latest headlines. What a difference a year makes. Secretary Watkins said there would be a culture change in the Department of Energy. The culture change has occurred. Reporters are barred from the plant. Reporters are barred from the Department of Energy plant. That is not Lithuania, that is not South America, that is Cincinnati, OH, and the reporters are barred from going with their Congressman through that plant, which is a nuclear cesspool.

Mr. Speaker, I include with my remarks the headlines and articles to which I made reference, as follows:

[From the Cincinnati, Enquirer, Apr. 11, 1990]

LUKEN WON'T TOUR FERNALD IF REPORTERS BARRED

(By M.A.J. McKenna)

U.S. Rep. Thomas A. Luken said he won't tour the Fernald uranium-processing plant this morning if the reporters he invited are barred from the facility.

Luken was told late Tuesday afternoon by the U.S. Department of Energy that Cincinnati reporters would not be allowed in the plant, with him at 9:30 a.m. Instead, Luken could have a press conference at 12:30 p.m. after his tour.

That "is how we've chosen to accommodate the information needs of the news media," DOE spokesman Steve Wyatt said Tuesday evening. "It's basically the standard method for visits by high-level officials to any DOE facility."

That isn't Luken's understanding.

"The Congressman has told the press that he'll be there at 9:30 a.m. and he hopes they're there too," a member of Luken's Washington, D.C., staff said Tuesday.

"If DOE refuses to let the press in, they can turn everyone away from the gates, including him. He views the press as representing the public, and he's not going to participate (in the tour) if the public's participation is denied."

SECOND CONTROVERSY

Wyatt declined to say what might happen if a confrontation developed between Luken and plant officials.

This isn't the first time that Luken's plans to tour the plant have provoked controversy. Luken several times requested that Energy Secretary James Watkins accompany him on this morning's tour; Watkins repeatedly has refused. Peter Brush, acting assistant secretary for environment, safety and health, is attending instead.

Also accompanying Luken are Catherine McCord of the U.S. Environmental Protection Agency and Lisa Crawford, spokeswoman for the citizens' group Fernald Residents for Environmental Safety and Health.

[From the Cincinnati Enquirer, Apr. 19, 1990]

FERNALD IS NO. 1 POLLUTER—HIGH HEALTH RISK CITED IN REVIEW

(By Anne Willetter)

WASHINGTON.—The Fernald uranium processing plant in northwest Hamilton County tops the nation's nuclear weapons plants in health-threatening pollution, Congress' audit arm said Wednesday.

A review of Department of Energy (DOE) data since 1986 showed that Fernald has been cited for 31 serious environmental problems that pose "a high risk for a threat to health to occur," according to a General Accounting Office (GAO) study.

Pollution hall-of-shame citations are nothing new for Fernald, which stores millions of pounds of uranium and chemical waste in pits, silos and drums and has contaminated the groundwater.

But the GAO study showed how Fernald stacked up against 30 other facilities in DOE inspections:

First among DOE sites with 31 serious environmental problems, plus 37 less serious ones, for 68 total.

Third among 18 sites in safety and health problems with 186.

The report contained no details on the inspections, so it was impossible to determine whether Fernald was being measured against the same standards as, for instance, the much larger Hanford Reservation in eastern Washington state. Hanford had 58 environmental problems, 10 in the high-risk category.

DOE officials had not seen the report Wednesday and could not comment on the rankings.

The GAO study also found that hundreds of environmental, health and safety problems at the weapons plants had not been corrected years after their discovery. Only 34% of 1,731 health and safety problems and none of 1,277 environmental problems had been resolved, the report said.

"We know the problems are complex, but that is no excuse for DOE's failure even to come up with plans to clean up the hundreds of nuclear hazards that threaten people's lives and the environment," said Sen. Howard Metzenbaum, an Ohio Democrat who requested the study.

DOE spokesman Robert J. Griffin noted that Energy Secretary James Watkins has put in place a 10-point plan to make plants cleaner and safer.

"We're talking about 30 years of neglect," he said. "You are not going to turn something like this around in two or three years."

Despite Fernald's high health-and-safety ranking, it had no problems in the top category—"clear and present danger to workers or the public." Of its 186 citations, 85 were for failure to comply with DOE orders—the least serious category—and 90 were not put in a category.

Examples of problem areas were emergency readiness, fire protection and radiological protection. The report showed that 46 of Fernald's problems—24%—had been corrected.

Other DOE plants in Ohio fared better. The Piketon uranium enrichment plant ranked second in serious environmental problems with 16. The plant recorded only 39 health and safety problems and 18 had been corrected.

The Mound Laboratory near Dayton ranked 13th in environmental problems with 45. Nine were considered a threat to health.

[From the Cincinnati Enquirer, Apr. 12, 1990]

DOE SHUTS MEDIA OUT OF FERNALD TOUR

(By M.A.J. McKenna)

Fourteen Cincinnati reporters and photographers were barred from the Fernald uranium-processing plant Wednesday morning, triggering an angry reaction from U.S. Rep. Thomas Luken, who refused to enter the plant without them.

"DOE had adopted some kind of Gestapo tactics," he said in an impromptu press conference by the plant's front-door guard post, shortly after being told that media whose presence had been approved previously by the U.S. Department of Energy (DOE) would not be allowed to accompany him.

"This is not South Africa, this is not Lithuania—the press are a window to the public and they should be allowed to accompany a public official," Luken said.

OTHERS ANGERED

His anger was shared by residents and environmental and union officials who were scheduled to accompany him. They also expressed bewilderment at the abrupt change in policy. Reporters, including members of the Enquirer's staff, have toured the plant many times before, alone and with politicians.

Several representatives of DOE's Washington, D.C., headquarters staff were at the plant Wednesday morning, including Peter Brush, acting assistant secretary for environmental safety and health, who planned to accompany Luken around the plant after Energy Secretary James Watkins declined.

They also refused to meet with reporters. Several hours later, they released a statement from Brush, which said, in part: "It would be inappropriate to turn this senior briefing into a roving press conference all over the Fernald site."

"They've absolutely blown it today," said Lisa Crawford, spokeswoman for Fernald Residents for Environmental Safety and Health, which has fought DOE over increased access to information about the plant's pollution. "What little we gained here has been lost—the barricades have gone back up."

Fernald, 18 miles northwest of Cincinnati, processes uranium as part of the chain of federal nuclear-weapons plants. It has been criticized for numerous environmental problems that range from stockpiled radioactive and hazardous waste to polluted ground water and emissions of uranium dust.

Wednesday's confrontation came as Luken attempted to inspect recently discovered problems, including leaking barrels and pools of contaminated water under buildings.

Luken had been told Tuesday that the DOE, which owns the plant, would not allow reporters to accompany him on the tour. Luken said he would not enter the plant without the media.

Reporters arriving Wednesday morning were met by security guards and escorted without explanation to a trailer a quarter-mile from the plant's main entrance. Several of them evaded the guards and caught up with Luken's party inside the gates, but were denied any explanation for the blanket ban.

Representatives of Westinghouse Materials Co. of Ohio, the plant's operator, were not allowed to speak to the media.

"I don't think this is over," said Luken, who called the DOE staff's behavior "shocking and unprecedentsd." "I don't intend to take 'No' for an answer,"

EARTH DAY 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, Sunday, April 22, is the 20th Earth Day. This is the day on which the Nation comes together to focus on the environment, and the issues of human habitation on Planet Earth.

Arkansas is "The Natural State." In areas as diverse as soil and water conservation, public lands stewardship, and wetlands restoration, we are among the Nation's leaders.

The following article, reprinted from U.S. News & World Report, summarizes some of the important environmental issues confronting our Nation and the world in the 1990's.

Arkansas can also lead the way in dealing with some of these issues. One example is the production and use of clean-burning ethanol fuels. Ethanol can help our friends in the Nation's big cities breathe air that isn't poison; it can decrease our dependence on imported oil and foreign credit; and it can provide an economic bonanza to Arkansas farmers.

I challenge all of my fellow Arkansans to come up with other Arkansas answers to the environmental problems mentioned in the article.

LIVING WITH OUR LEGACY

(By Betsy Carpenter)

At Florida Technological University, students put a rusty green Chevy on trial for polluting the air. Finding it guilty, they sentenced it to death by sledgehammer and carried out the execution. It was Earth Day 1970, and with similar acts of symbolism around the country, 20 million Americans assisted at what turned out to be the birth of the modern environmental movement. Now, on Earth Day's 20th anniversary, environmentalism has soaked deep into American culture, and none too soon. The ecological woes of 1970 appear almost provincial when compared with those of 1990.

Today, it often seems that the planet itself is on the verge of physical collapse. On the first Earth Day, citizens were concerned that Lake Erie was dying, that the bald eagle was winging toward extinction, that the highways were strewn with litter and that city-dwellers were breathing in smog. Now, acid rain is killing fish in lakes from New England to the Netherlands. A great hole has been ripped in the earth's protective ozone layer, threatening us with cancer-causing rays. We've destroyed millions of acres of tropical forest, killing off plant and animal species at an alarming rate. Deserts are eating up arable land, and the possibility of dramatic climate change looms large.

Despite this catalog of calamities, however, there is reason to believe the world will be in better shape before Earth Day's 30th birthday. Several broad lessons can be drawn from the past two decades and used to guide future efforts to protect and correct the environment:

Society is capable of reversing environmental degradation if it can muster the political will. Green sentiment has waxed and waned over the years, but there is no doubt that America has made significant progress on the two problems deemed most pressing on the original Earth Day: Water and air pollution.

Cleaning up is almost always more complicated than we originally imagined. The struggle to clean up the country's waterways has shown that often it is the hidden or unknown agent that wreaks the most havoc.

Strategies to prevent pollution are much more effective over all than strategies that attempt to control contaminants. Our successes with reducing lead and DDT demonstrate this unequivocally.

The most staggering of our problems are international and will require a global response. The discovery of the ozone hole and the possibility of global warming bring home the fact that pollution knows no national boundaries.

By all accounts, America's political will to clean up is on the rise. According to a recent Gallup Poll, fully 79 percent of people age 30 to 49 now call themselves environmentalists. Two out of 3 Americans say that pollution is a "very serious threat," according to a Roper Poll. And people are joining environmental groups in droves. In the past 15 years, membership in groups like the Sierra Club and the Nature Conservancy has surged from 4 million to 12 million.

These spiraling numbers reflect a radical change in the public perception of nature and how it should be treated. Where once nature was viewed as powerful, capricious and teeming with life, today it is invariably described as fragile, delicate and sensitive. Says Environmental Protection Agency chief William Reilly, "As a little boy, I was brought up to believe I was at the mercy of nature." Now, he says, "there's a recognition that we can wreck the planet."

This remarkable shift in public opinion is evident all around the world. In October, 1988, 300,000 Lithuanians signed a petition against a nuclear power plant. In Poland, outrage over the environment—80 percent of the Vistula River is too filthy even for industrial use—helped fuel last spring's revolution. Norway has volunteered to contribute 0.1 percent of its gross national product (equivalent to about $64 million) to an international climate fund if other countries join in. And so far, more than 40 nations have approved the Montreal Protocol on protecting the stratospheric ozone layer.

The world has not always wreathed itself in green, however. Twenty years ago, the Earth Day protests and festivals had a distinctly countercultural flavor. In Washington, D.C., marchers crowded downtown streets, singing, "All we are saying is give Earth a chance." In West Virginia, demonstrators dumped litter on the Clarksburg courthouse steps. Emphasizing the environmentalists' place on the political fringe, one Georgia politician argued that it was no coincidence that Earth Day fell on Lenin's birthday.

But soon after, the environmental movement picked up respectability and power as many of the demonstrators who marched on Washington stayed and began building the green lobby. During the early 1970s, Congress tackled almost every environmental ill. A raft of legislation called for setting air-quality standards, cleaning up rivers and lakes, protecting coastal areas, regulating pesticides, safeguarding drinking water and protecting endangered species.

Just as it was beginning to gain momentum, however, the environmental movement lost steam. When the energy crisis threatened to stall the U.S. economy in the early 1970s, green concerns quickly took a back seat. Indeed, by 1974, President Ford had proposed an acceleration of his administration's leasing program for offshore gas and oil drilling. Such environmental backsliding was even more pronounced during the '80s. Walter Mondale was fond of noting that Reagan "would rather take a polluter to lunch than to court," and, indeed, the probusiness, antiregulation Reagan administration worked overtime to roll back early green victories.

Despite the wavering of political will during the 1980s, the past 20 years have produced some very tangible accomplishments. Among the most visible and quantifiable is the expansion of protected areas. Since 1970, federal parklands in the United States—excluding Alaska—have jumped 2 million acres to 26 million. In Alaska alone, 45 million additional acres have been protected, bringing that state's total to 54 million acres. Also, the extent of the waterways included in the National Wild and Scenic Rivers System has increased by more than 12 times, to 9,281 miles.

America's most notable success has been water cleanup. In the late 1960s, water pollution was pervasive. Sewage-filled lakes, like Michigan's Lake Lansing or Bugle Lake in Wisconsin, were choked with algae; beaches were posted against swimming and shellfishing. And hundreds of rivers were dead or dying. The Nashua, which runs through New Hampshire and Massachusetts, was so thick with sludge from paper mills that local folks used to describe it as "too thick to pour and too thin to plow." Like other rivers edged with mills, it ran dif-

ferent colors depending on the dye lot of the day. Public outrage over water pollution crystallized on June 22, 1969, when an oily slick on Ohio's Cuyahoga River burst into flames and floated downstream through Cleveland.

In 1972, Congress passed the Clean Water Act, requiring states to whip their rivers into "fishable [and] swimmable" shape by 1983. The law effectively tightened the emission of sewage and industrial chemicals from discharge pipes into U.S. waterways and, as a result, improvements came quickly. According to the Association of State and Interstate Water Pollution Control Administrators, today, 47,000 miles of rivers and streams and almost 400,000 lake acres are appreciably cleaner. In fact, some urban rivers, such as the Potomac near Washington, D.C., which in the 1970s often had greasy mats of debris floating on the surface, are now safe for swimming most of the time.

Hidden polluters. But cleaning up the waterways has proven to be infinitely more complicated than anyone originally imagined. As so often happens controlling one source of pollution exposes others that have been ignored or considered negligible. Within a few years after the Clean Water Act cut emissions from discharge pipes, experts realized that chemicals washed into waterways by runoff after a rainfall—"nonpoint sources"—were formidable contributors to the water-pollution problem. Indeed experts now estimate that two thirds of stream pollution comes not from villainous-looking industrial sources but from invisible nonpoint sources, most of them agricultural. Experts estimate that nonpoint sources will be particularly troublesome in the drive to clean up estuaries and coastal waters. There, the primary pollutants are sewage and the water that sheets off streets, which often is loaded with oil, salt and rubber.

Experts have also discovered belatedly that wetlands and marshes, once considered little more than breeding grounds for mosquitoes and other pests, are actually a valuable ecological resource. Among other things, they help control shoreline erosion and act as filtering systems to purify water, and they are disappearing at a rate of 450,000 acres a year in the United States.

Another anitipollution effort that received a boost from Earth day and has met with at least modest success is the drive to improve air quality, although gains have been uneven because air pollution encompasses a stew of chemicals. Levels of lead, which causes serious health effects, including mental retardation in children, have dropped precipitously, due largely to the introduction of lead-free gasoline in 1975. Between 1970 and 1988, total annual lead emissions plunged by 96 percent. Airborne dirt, dust and soot also dropped by about 63 percent between 1970 and 1988 as a result of stiffer emissions controls and cleaner fuels.

But on other air pollutants, the record is not so good. Sulfur oxides, which are major contributors to acid rain, fell by just 27 percent between 1970 and 1987. Ozone, the most harmful component of urban smog, actually rose by 2 percent over the last decade. Carbon monoxide, an odorless, poisonous gas produced primarily by cars, has dropped steadily, but 44 urban areas continue to have levels that exceed federal standards.

The track record on air pollution underscores the hard-earned lesson that real achievements come not from tacking on control devices but from simply eliminating the pollutant. The levels of lead in children's blood, for example, have fallen by more than one third because the United States was able—by legal declaration—to prohibit leaded fuel and thus prevent lead pollution. By contrast, we have had less success with ozone and carbon monoxide because, though legislation required that catalytic converters be installed on cars and trucks to control emissions, the number of vehicles on the road has nearly doubled in the past two decades and the typical car is traveling more miles per year.

Global action. As environmentalism enters its third decade, it is increasingly clear that no one country working alone can solve ecological problems. First, pollution does not respect international borders. In fact, in densely populated Europe, the transboundary problem is so severe that West German Environment Minister Klaus Töpfer argues that spending one deutschemark in East Germany on anti-air-pollution measures does more for the health of the average West German than spending five times that amount at home.

Second, the developing world will be responsible for an increasingly large share of the world's total pollution burden. At bottom, economic activity generates pollution, whether it is acid rain, toxic waste or smog. Accordingly, it is industrialized countries that currently spew out the lion's share of contaminants. But experts agree that the highest rates of economic growth in the next few decades will occur in the less developed countries. If they do not develop in an ecologically sound fashion, the increased pollution they produce could completely overwhelm any cuts made by industrialized nations.

Building international cooperation is proving to be difficult, however. Pollution prevention and control are expensive (at present the United States spends about $100 billion each year on pollution reduction) and are therefore seen as a luxury to countries that are struggling with massive problems like famine, epidemics and widespread illiteracy.

First World countries cannot ask their poorer neighbors to forestall economic growth, but they can encourage green alternatives to quick and dirty development. If the international community does not want China to burn its huge reserves of coal, for instance, it might offer to help that country design and build new energy technologies—solar-thermal power plants, for instance, which collect sunlight to produce steam that spins electrical generators.

The job of cleaning up the planet is daunting, but it is not impossible. In all likelihood the world has not yet passed the point of no return. Twenty years ago, many thought that the solution was to eschew technology and get back to nature—retreat into the forest, build a log cabin. Technology has helped get the planet into this mess, but it also can help find a path out. After all, a fuel-efficient furnace is a lot easier on the environment than a wood-burning stove.

FRED FUNG: BAY AREA INSTITUTION, RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, one of the great restaurateurs of the San Francisco Bay area, Fred Fung of Trader Vic's, has—I am sad to say—decided to retire.

As Fred says, after 40 years, "I've decided to hang up my chopsticks—spend time with Elsie—and fish."

Fred has been a true friend to thousands of people throughout the bay and has served as one of the greatest hosts I've ever met. I've known Fred for over 33 years—a third of a century now—and he has been a friend to my entire family and has shared in many of our special evenings of birthdays and other celebrations.

Fred Fung has also worked with the Asian community and has helped promote equality and advancement for innumerable families.

I know I join thousands of Californians in wishing him a great retirement and more fish than he can count.

As Fred says, it is not really goodbye, but until * * *.

IN RECOGNITION OF DR. JIM C. BARNETT UPON BEING ELECTED AS PRESIDENT OF THE SOUTHERN MEDICAL ASSOCIATION.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. PARKER] is recognized for 5 minutes.

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the people's chamber, to speak in honor of a great citizen of my district, Dr. Jim C. Barnett.

Dr. Barnett was elected president-elect of the Southern Medical Association during the First General Session of the Association at its 83d Annual Scientific Assembly held in Washington, DC.

The Southern Medical Association is a voluntary association of physicians with a membership of over 50,000 throughout its territory of 16 Southern States and the District of Columbia, the sole purpose of which is to foster the art of science and medicine.

Dr. Barnett was born in Edinburg, MS and is now a family practitioner and surgeon in Brookhaven, MS. He graduated from Tylertown High School, and after attending Millsaps College in Jackson, MS, and Tulane University in New Orleans, LA, entered the University of Mississippi School of Medicine. Dr. Barnett received his M.D. from Southwestern Medical College, Dallas, TX and later served as flight surgeon in the U.S. Navy.

As a member of the staff of King's Daughters Hospital of Brookhaven, Dr. Barnett served as chief of staff. He served two terms as president of the South Central Medical Society; is a past State president of the Flying Physicians Association; is a member of the State Board of Mental Health, serving twice as chairman of the board, and currently serves as a member on the council on legislation of the Mississippi State Medical Association.

Since joining the Southern Medical Association in 1972, Dr. Barnett has served as councilor for the State of Mississippi; member of the executive committee of the council; vice-chairman of the council; chairman of the council, and has just completed a term as vice

president of the Southern Medical Association.

Mr. Speaker, I am proud to say that Jim Barnett is my friend and to have this opportunity to recognize this great doctor and citizen from Mississippi. I am confident that the Southern Medical Association will benefit from his leadership just as we, in Mississippi, have benefited from his commitment to excellence.

REMEMBERING THE KATYN FOREST MASSACRE

The SPEAKER pro tempore (Mr. CHAPMAN). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, 50 years ago, in a remote woods of Eastern Europe called Katyn, the hopes and the future of Polish democracy disappeared into a mass grave. The best and the brightest of the officers of the Polish army and the intellectual leaders of that unfortunate country were brutally and systematically murdered.

In the titanic clash of two of the most infamous dictators in the history of the world, Poland was crushed, first by Stalin and then by Hitler. There were so many crimes—so many murders—so many horrific acts—that civilized people recoil from the memory of those dreadful days.

But we cannot forget; we must not forget. By keeping alive the memory of those millions who suffered and died at the hands of Stalin's NKVD and Hitler's Gestapo, we can assure the world that it will never happen again.

We will remember, and we will learn. But we have to learn the truth, not the lies of propaganda machines.

In 1951, this House determined to discover the truth about Katyn forest. Those who were guilty had to be exposed. The horror of the deaths of 15,000 Polish officers had to be recognized. And the truth emerged.

The select committee established by House Resolution 390 of the 82d Congress was charged to conduct a full and complete investigation of this barbarous crime. Appointed as the chief investigator was my good friend, later a Member of Congress and a distinguished Chicagoan, Roman Pucinski. That select committee did its job. It discovered the truth. Even though a war had been fought and won, and battling armies had crossed and recrossed the land, and 10 years had passed, that select committee discovered the truth and published it.

That truth, hinted at, denied, covered up, and ignored, was that the infamous NKVD troops of Josef Stalin were responsible. That was not a popular truth. They were our World War II allies. "Good Old Joe" dined with our President. We were on the same side. But the 15,000 Poles were dead. And Stalin killed them. That is what our select committee found.

Mr. Speaker, this report helped set the stage for the unbelievable changes now taking place in Eastern Europe, because it exposed the Stalinist government as proven liars and murderers. In the last Congress, I had the 1951 report reprinted to keep that truth alive, and I believe that it is just as important today as it was then.

Only this year, and only after revolutionary upheavals within the Soviet Union, has that government been willing to accept responsibility for that terrible massacre. Only this year have the Soviet people been able to hear the truth. Only after 50 years of denial.

The nations of the world can never begin to repay Poland for the loss of the flower of its youth. What possible reparation can compensate for the loss of a whole generation? We can never adequately repay the families of those brave young men. What Stalin did is unforgivable, uncompensable. The new leadership of the Soviet Union will have to decide for their country what could possibly be done for Poland as national atonement. Now, on the 50th anniversary of the massacre, all Americans should know that the truth has prevailed, and all Americans should now commit ourselves to take every measure to assure that it will never happen again.

CONGRATULATIONS TO MARTIN LUTHER KING HIGH SCHOOL BASKETBALL TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Illinois. Mr. Speaker, it is with a great deal of pride and admiration that I rise today to pay tribute to the Martin Luther King, Jr., High School's boys basketball team. King High School is an inner city school located on the south side of Chicago in the First Congressional District, the district that I proudly represent. For years King High School has led the way in Chicago's public league basketball program, producing many fine athletes and scholars.

The King High School boys basketball team recently captured the Illinois State Boys Basketball Championship. In addition to being State champions, USA Today and Scholastic Sports America, an ESPN cable network program, has named King their National Boys Basketball Champions and with a record of 32 to 0 who would argue.

I commend coach Landon Cox for his 245 to 29 career record at King High School. I also commend him for his diligent work in assisting numerous basketball players in gaining admission to prominent colleges and universities.

Coach Cox in cooperation with King's exemplary faculty, student-body, and community supporters have instituted a first-class basketball program. I am especially honored to stand here today because the program at King High School balances athletic ability with academic excellence. These youngsters are not only slam-dunking and three-sixtying with the basketball, but they are also successful students. Their dedication and tenacity are an inspiration to our community, and to our Nation.

□ 1350

A REVIEW OF COMMUNIST ATROCITIES

The SPEAKER pro tempore (Mr. CHAPMAN). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I want to continue a theme I spoke about this morning during my 1-minute speech about the savagery of communism after the Stalin-Hitler Pact was signed in the summer of 1939. I will repeat what I said in my 1-minute speech this morning, personalizing the massacre in the Katyn Forest in the name of one Polish Army major. This name is pretty easy to memorize. It is Adam Solski. Maj. Adam Solski.

The greatest killing in all of recorded history—World War II—started 8 days after the signing of the Hitler-Stalin Pact on August 23, 1939. What Stalin got out of the pact was half of Poland and the three Baltic nations, which had been flowering under two decades of freedom since World War I—Estonia, Latvia, and Lithuania. Of course, that blood pact, negotiated by Von Ribbentrop for Hitler and by Molatov for Joseph Stalin, came back to haunt the Soviet Union on June 22, 1941 in Operation Barbarossa when one of Hell's Legions, the Nazis, attacked the other of Hell's Legions, the Soviets. Stalin had run a regime of terror, bloodshed, horror, concentration camps, and Gulag camps. Any other leader in all of history would have fallen or been assassinated but Stalin managed to survive and flourish. By June 1941, or by the beginning of the fall of 1941, millions of Russian citizens, particularly in the Ukraine, had been killed, entire armies had been kidnaped, and hundreds of thousands of Soviets had been taken prisoner, all of them eventually to die under the cruel hands of their Nazi tormentors.

Let me return to the Katyn massacre.

The specific massacre in the Katyn Forest I have known about all my adult life, thanks to my mother and father who carefully tutored me in the horrors of Stalinism and communism in general as soon as these facts became known to the West in the middle of World War II.

Germany, to deflect attention from what they were doing—at the same time they were setting up the major killing camps—invited Swiss Red Cross people to come into the Katyn Forest which they had overrun after they turned on Stalin to look at the massacre of over 4,000 Polish Army officers

and high-ranking politicians, some women among them, major police officers and police commanders from cities across Poland. And here are the words in his last diary entry of Maj. Adam Solski. He stood among the pines of this Katyn Forest with about 100 fellow officers. You cannot murder 4,000-plus people without breaking them up into groups of at least 100 so you can overwhelm them with your firepower. He was writing hastily in a small pocket notebook. He dated it 9 April, and it was 1940, of course. I quote now directly from this dead Polish officer's diary.

They brought us somewhere in the forest. Here personal search. They took away my watch. Time, 6:30 a.m. I was asked for my wedding ring. Took my rubles, my belt, and penknife.

That is the last entry in his diary.

Like the majority of the other murdered victims which amounted to almost 50 percent of the entire officer and NCO corps of the Polish Army, overrun now from both directions, the Russians took the Poles' overcoats, what they call great coats, thick wool coats with high collars, and they pulled up the back of the coat, pulling it up over the shoulders and bending it up over the head. This incapacitated the arms, which were already bound under their coats. Then the Russians would fire a single bullet from a German gun into the base of the skull through the back inside of the coat which is now up over their heads, and then dumped the dead in mass graves which the conquering Germans discovered and invited the Red Cross in to look at. The Swiss Red Cross said this was definitely a Soviet atrocity.

The West was sort of deaf to this because we were now allied with the Soviet Union. As Churchill had put it, he would have made a deal with the devil himself to overcome the horrors of Nazism across occupied Europe and that is exactly what we did. The irony was that only 5 years after this massacre, in the German city of Nuremberg, where the war crime trials were going on, we had a tacit agreement with the Russians to leave the Katyn Forest massacre off the agenda. It was sort of up in the air, sort of typical Communist nonhistory, and to our shame we went along with it.

Now, 50 years to the month after this massacre, we now have the government in Moscow—this is a hopeful sign for the future—admitting to this horrible mass slaughter which began a series of horrors, most of them on the part of the Nazi government, that are without parellel in all of history.

I want to read a little bit from an article. This is where I quoted the diary from. It is by J.K. Zwadney. He is a professor emeritus at Claremont graduate school at Pomona College in California. He goes on to write about this Katyn Forest massacre.

In 1943 Major Adam Solski's diary was found on his body. He had been shot in the head, 1 of 4,400 bodies in 8 mass graves, all murdered by a single shot in the head. On Friday—

That is just this last Friday

the Kremlin admitted the Soviet Union attacked Poland on September 17, 1939.

Hitler had started his attack 17 days earlier, on the first of September.

They captured 250,000 Polish soldiers, including general officers, and they placed them in 138 camps and prisons.

A quarter of a million people is a lot of human beings.

How many of them survived is difficult to establish even to this day. However, we do know that about 14,500 of them were in fact murdered, among them 8,300 to 8,400 officers. We are beginning to gain some precision now in numbers as Polish survivors are finally willing to speak out, now that they are out from under the direct heel of communism.

As more information becomes available because of this Kremlin admission, there will be even more questions. All of the murdered were originally imprisoned in three camps. By the way, I hope that some American students out there among the million people who watch these special orders on C-SPAN everyday, will take notes on this and do research on it. It would be a good topic on which to write term papers, whether an eighth grade paper, junior high, high school or college project. I hope our students will write and learn about this Katyn Forest massacre.

The first camp is Kozelsk. The second camp is Ostashkov. And then Stero Bielsk.

Where are the graves of the rest of the murdered 10,000 people, and who specifically murdered them, About 4,400 bodies, as I mentioned, were discovered in the mass graves of the Katyn Forest, which, by the way, is no longer in Poland. At the end of World War II, in a rush to seek some sort of a peace, we sold out so much in the Crimean area of Yalta. Churchill was there with a broken heart, and Roosevelt was going to be dead within less than 2 months. This was at the end of February, and Roosevelt died on April 12, 1945. We did anything to placate the world's greatest mass killer, Joseph Stalin, who sat there at the table with a dying Roosevelt and a heartsick Churchill. By doing so we continued the atrocities of World War II.

□ 1400

By the way, Mr. Speaker, my source for identifying Joseph Stalin as the greatest mass murderer, the greatest first degree murderer, in all of recorded history is none other than the dualtitled general secretary, slash president, of the Soviet Union, Mikhail Sergeyevich Gorbachev.

In August 1988, in my seventh or eighth trip to the Soviet Union, I had come to Moscow after having ridden the trans-Siberian railroad from Mongolia all the way across to Moscow. In Moscow I was informed that I had missed a television show called "Reformation"; I think that was the title, by 1 or 2 days. In that program Gorbachev told his nation, all 11 time zones of it, all 15 so-called republics, that Stalin had murdered more people than Adolf Hitler. That is not hard to accept since Stalin ruled with a bloody heel for 29 years, whereas Hitler's Third Reich, thanks to the United States of America's entry into the war, lasted 12 horrible years—not the thousand years he said it would. Stalin, I repeat, had 29 years.

Who is the second greatest killer in all of history? Hitler—Hitler and Stalin killed more human beings than Genghis Khan, Tamerlane, Napoleon, and Julius Caesar put together. And not all of these were swift deaths; some of these were agonizing deaths. People died in gulag camps from torture and deprivation that the human mind cannot even comprehend. Put all of these past dictators together, and they do not equal these two killers.

The Stalin-Hitler Pact of 1939—I am going to give Stalin, the bigger killer, top billing—caused the crushing of Lithuania, Estonia, Latvia, and the ripping apart of Poland. We are still dealing with the results of this pact today so I want students to research these camps and what transpired as a result.

Now we find the 4,400 bodies in the Katyn Forest. These were prisoners from the first camp I mentioned, Kozelsk. Most of them were officers. Some of the murdered men were generals. Talk about violating the Geneva Convention. From sergeants to generals, men were murdered like dogs in the night in the woods of the Katyn Forest area. Again this area is now part of the Soviet Union. The east side of Poland was ripped off, a third of the entire country, by Stalin. The Katyn Forest moved, from Polish woods into a part of the Ukraine not too far, I believe, from the old Polish city of Smolensk.

Medical examinations established that most of these officers were murdered in April and May 1940. That is when the Soviet Union was at peace and collaborating with Adolf Hitler, the world's No. 2 alltime killer. The murderers were personnel of the Soviet security forces, the NKVD.

Now, Mr. Speaker, the Soviet secret police has gone through four titles. First, there was the Cheka, run by Felix Derzhinski. The KGB headquarters is on Derzhinski Square in Moscow. Stalin's and Lenin's main killer was Derzhinski. He founded the Cheka, the secret police, and pat-

terned it after the czarist secret police. Then it became the NKVD, four letters, then the NVD, and now the KGB. No change in officer corps or leadership during these four progressions and title changes. So it was the predecessor of the KGB which perpetrated this massacre. The history of this is locked up in the KGB archives.

Mr. Speaker, we have no rumors of anybody trying to burn these archives or suppress history. But that does us little good unless the Soviet authorities let people know the truth.

The cause of death in each instance: A shot in the back of the head from a German revolver to make it appear the work of the Germans.

What about the Polish prisoners from 1939 who went to the Soviet Union? Where are the Polish prisoners from Ostashkov? There were about 8,500, and they disappeared in the spring of 1940. There seem to be two versions of their fate; No. 1, that they were evacuated in small parties from that camp via stations; these are railroad stations: Bologoje, and Wiazama, and possibly Kalinin. You see that name appearing in the press today, Kelinin. Then the traces vanish.

Or theory No. 2, and get this one. Get the horror of this. Forceably boarded onto two barges, which then were subsequently towed out into the White Sea and deliberately sunk miles from shore. Now in those Baltic waters are no little wood bores and spores that you find down in the Mediterranean or the Caribbean that eat up old wrecks. This is why the Swedish historians were able to bring off from the bottom of the harbor in Stockholm, and I visited this ship, the Wasa, sunk in 1633. Two-thirds of the hull was brought up, part of it rebuilt, and it is kept in a constantly humid room as a living maritime museum. These barges are in cold enough water at the bottom of the Baltic that we may someday find evidence of this atrocity.

Just think of the greatest maritime disasters and all loss of life. The *Eastland* sunk outside of Chicago and 800–900 people died. The *Titanic*, just over 1,500, and the newspapers in those days, with a more poetic sense of eternity, would say, "Souls lost at sea." The H.M.S. *Hood*, sunk by the *Bismarck* with one gunshot right down the main funnel into the main magazine, blew apart. It sunk in less than a minute. Loss at sea: 1,500.

In the case of the Polish prisoners there were several thousand, maybe 4,000 people, 2,000 on each barge, jammed together shoulder to shoulder, on these barges. This is worse than we treat cattle. Imagine the scene when it became apparent that they would be deliberately sunk at sea. Imagine the thousands of bodies struggling to survive, souls lost in the Baltic. Such is the horror associated with the bodies we found in the Katyn Forest, all admitted to last Friday.

Where are the Polish prisoners from Stero Bielsk? There were about 4,000 of them. They also disappeared that same spring of 1940. Again two versions.

Version No. 1: that they were evacuated from the camp via Carkow. Again the traces vanished near a place called Dergachi, and, No. 2, that they were also sunk along with the Ostashkov group out in the White Sea. So, there could be over 8,000 people drowned deliberately at sea, a phenomenal war crime that we were not allowed to know much about at the end of World War II because of our complicity, our arrangement with the Soviet Union. By that time the Soviets had millions of people starving to death in gulag camps. There were crazy attempts to build railroads north out toward the Arctic Sea following some rivers where tens of thousands of workers froze to death, starved to death. The half-finished raillines are still there today with the rusting railroad engines and, in some cases, the fully completed but now rotting railroad stations.

All the experiments with human lives which took place under Stalin continued, but to a lesser degree under all of the Soviet dictators, right up to, and including, Mr. Gorbachev. To his credit, he has shut down all of the political prisoner camps out in the wastes of Siberia.

□ 1410

Back to the Katyn Forest. Where are the rest of those murdered from Camp Koszelsk? The exhumation at Katyn took place in 1943. I mentioned that the Germans, blood all over their hands, were trying to create a good image for themselves, which is why they brought in the Swiss Red Cross.

How many details remain unknown? How many graves are there in the Katyn Forest? It is still not totally excavated because now, as I said, it is in the so-called Republic of Ukraina, U.S.S.R.

How many bodies are in grave No. 8? That is a fruitful area for research. It was only partially explored by the Germans. After all, they had other duties on their hands. They had to start building the six exterminating camps inside Poland. This was when they started grisly business of murdering 12 million, 6 million of them the Jews of Europe. About 4 million Jews were killed at one double camp complex, Auschwitz-Birkenau alone. I visited that in the summer of 1988 on my way out of the Soviet Union with my son, Mark. We rented a car in Warsaw and visited all six death camps. These are not concentration camps where you concentrate people and maybe starve them to death or shoot isolated prisoners or kill hundreds for madeup offenses against the camp commandants. These six camps in Poland, going clockwise, were Treblinka, Sobibor, Belzec, Auschwitz-Berkenau. Auschwitz-Berkenau was 10 times bigger than the mother camp of Auschwitz. Finally circling back clockwise to Warsaw at night we visited Kelmo. These six camps alone accounted for over 80 percent of the European Jews that were slaughtered. So the Germans were one hell-bound group of people to be calling in the Red Cross. But the fact that it was the Nazis who exposed the crime should not have diminished the importance of the Katyn massacres after World War II was over. It should have been investigated, particularly when we had to sit with Stalinist officers on the Nuremberg trials condemning properly determined war criminals to death. Here were people with blood on their hands condemning Nazis to death. These Stalin Communists were equally as horrible and were torturing people in the Gulag camps of the Soviet Union. At the very same moment the Nuremberg trials were going on.

What happened to the six Polish women who were in Camp Kozelsk? The body of only one was found in all of the mass graves exhumed to this date. In fact, there are many other important questions that can only be answered by the Soviet Government.

Where are the military chaplains? There were many of them. It is known that they were removed from the camps by Soviet authorities before Christmas, 1939. Now, imagine, Poland is overrun at the beginning of World War II, September and October 1939. People begin to disappear into the Soviet Union at Christmas and then the Katyn Forest massacres happened 4 months later in April. Only one Catholic priest, shot in the head like the rest, was found in the Katyn Forest. How did the rest of all the other chaplains eke out their days as captives of communism?

Most of us, all of us maybe, will never know until our death day when we ask for the knowledge of eternity and a loving God. What happened to those heroes, who like most heroes in all civilization die unknown to their fellow men and women.

Where, for example, is Maj. B. Steinberg. I wish I knew what the "B." stood for. Where is Major Steinberg? He was the chief rabbi of the Polish Armed Forces, who was taken from Camp Sterobielsk in December 1939.

Dr. S. Schochet identifies 262 of the Polish officers of Katyn as of Jewish origin.

We still do not know who gave the direct order for the execution. Was it Joseph Stalin? Was it his then head of Secret Police, Lavrenti Beria? Remember who Beria was? He was the one who when Stalin died was smiling, leaning over his body in the Kremlin.

Then Stalin let out a death rattle and, bury the thought, it was as if Stalin was still alive. Suddenly Beria went from smiling at the death of his mentor to groveling and kissing his hand. "Oh, Joseph, Joseph," for fear Stalin would come back to life. Mercifully for the world, on March 5, 1953, Stalin did not come back to life and Beria was probably murdered shortly thereafter.

Here are names I am not familiar with, other Soviet murderers, W.N. Mierkulow; L.F. Rajchman; W.N. Zarubin. That last name is in quotes because even the historian, Dr. Zawadni, is not sure of the spelling Zarubin.

These were the elite officers of the KGB predecessors, the NKVD. If they were not responsible for the direct order for the executions, they were probably involved in the planning of it.

Let us face it, no lower ranking Soviet Communist officers are going to put bullets into the heads of Polish general officers in captivity when some of their own general officers, dozens of them, are being knocked off by Stalin. General officers are not excuted by even field grade officers without orders all the way from the Kremlin.

Now, who were these executioners? According to Dr. Zawadni's information, after the mass execution, there were orders and distinctions awarded—do you know what we are talking about here, folks? Medals. You know how big the Soviets are on medals, "Hero of the U.S.S.R.", hero medals, big red stars hanging on red ribbons, hanging from gold bars; orders, medals, distinctions were given to personnel participating in what they called a "Mission."

Soviet historians should look at the list of decorated NKVD officers from that period. Then we would know who carried out this mission of horror and bloodshed.

The list of names may overlap with the list of murderers. Maybe some other NKVD murderers were getting other decorations for that period in the spring of 1940.

Now, here is someting for you young men and women who want to research this further. Dr. Zawadni has written a book with a poetic title, a haunting title, "Death in the Forest." It cites 43 names of NKVD personnel who planned and carried out the massacre.

The book is "Death in the Forest." I will be getting that book from the Library of Congress this afternoon.

Dr. Zawadni writes:

> It is deemed necessary on behalf of civilization and justice that the new Polish government should initiate the first full official government inquiry, or even better, create a tribunal to inquire into the responsibility and the circumstances of the death of 45 percent of the Polish officer corps of 1939

A government based on justice, and I believe the current Polish Government now is, has a moral obligation, a legal obligation, and just as importantly, a political obligation toward all freedom loving people in the world to ascertain the truth, to establish responsibility, to demand a penalty for the murderers and to seek financial compensation for the thousands of bereaved families.

I am going to be contacting this week or what remains of it Dr. Zawadni to ask him to please fly to this Capitol, and I will get a room in this beautiful building built for freedom and ask him to educate as many Congressmen and women on both sides of the aisle as he can and try to circulate excerpts into what we call "Dear Colleague" letters of his book, "Death in the Forest."

The most recent statement of a Soviet scholar, a courageous lady, Natalia Lebedava, appeared this last March 25, 1990, in the Weekly Moscow News. It cuts through the ambiguity, and here is what she says about placing the guilt:

> Examination of the materials suggests that the Polish officers and policemen—

Remember, I said hundred of chiefs from all villages and cities around Poland—

> and these policemen were shot in April and May of 1940 by NKVD operation groups.

That is from a Soviet historian and scholar with the courage to be put in print in Moscow just last month.

□ 1420

This was further confirmed last Thursday by Radio Moscow and by Moscow newspaper reports based on previously secret wartime archives. This is why I am not a pessimistic conservative frozen with some paralysis who believes these events are a clever plot by Gorbachev to retrench communism or to eventually retake Europe in a harsher way. I know that fantastic spiritual forces have been unleashed in the Soviet Union and its 15 so-called Republics, and that liberation has taken place in Europe. For all of their horrible crimes, Communists are still in power in Romania. In Czechoslovakia, the two parts of this artificially created country are still nervous about one another. They are trying to come up with a hyphenated name now so that the Slovaks, in the East, don't feel that they are dominated by the higher numbers of the Czechs. Poland is still trying to fight out of the 50-year destruction starting with World War II, and going through another four and one-half decades of communism, 50 years of the destruction of a mercantile heritage. They do not even know how to retail market goods anymore. Thank God some of their farmers were able to cling to their farms unlike the Ukraine, where Stalin deliberately killed 5 to 15 million kulaks who owned their farms and resisted collectivization under a communism that still breathes in China, in those 15 Republics, in Albania, in North Korea, in all of Communist-conquered Vietnam, in Laos, in Cambodia, and Nicaragua.

I am going down with Vice President QUAYLE Thursday, a week from today, to watch the heroic Dona Violeta Chamorro sworn in as President of Nicaragua, one less Communist hell story on the face of the Earth.

What is today the 29th anniversary of? The anniversary of the third day of the Bay of Pigs invasion. It was on this very day 29 years ago that Pepe, the code name of the beach commander standing in the waves and the surf, hand-to-hand combat all around him, calling to America through the CIA operative, "Where is the air cover? For God's sake, give us the air cover. We are being hit with tanks, planes, jet planes are strafing the beach." These were two T-33 trainers we had given to Cuba, and Castro put .50-caliber machine guns on them. "Help us. We are dying in the water in hand-to-hand combat." But young John F. Kennedy, less than 3 months in office, turned his back on the Bay of Pigs. He tried to make up for it years later in the Orange Bowl when he held up the flag of the 2506 Brigade and said, "Someday this flag will fly again over a free Cuba." Well, it will fly over a free Cuba in this decade, thanks to the great things that are happening. As a result of the Reagan and Bush policies.

But it does not mean that we should forget the Nazi-Stalin horror and terror stories that went on during and after the Second World War and right up until this current time. Now this does not mean that I do not wish Gorbachev well, but he is never going to succeed in trying to make communism work. He is eventually going to have to turn Lithuania loose, along with Latvia, Estonia, and probably even Armenia.

At least Germany now, with East Germany joined, has apologized to the Jews of the world, has apologized in specific to Israel. Now the East German Communists, out from under communism, are going to pay reparations to Israel, and accept the full guilt as their West German brothers have done for four decades for their horrible part in World War II.

Look at this from the Wall Street Journal of April 19, today. It says, "Communism equals fascism." I will be reading this cold turkey:

> Many scholars have noted that the fascism of Hitler's National Socialists resembled communism more than it did any form of conservatism. Now the Czechs have linked communism with fascism as a matter of law. Tomas Sokol, the Prague public prosecutor, threatens to outlaw the Commu-

nist Party under an existing statute prohibiting fascism.

Poetic justice, folks.

Mr. Sokol says communism and nazism are movements aimed at the destruction of all democratic rights.

That is a quote.

Destruction of all democratic rights, through terror and social demagoguery. East Europeans understand these ideologies, having had to live under both.

But I think my fellow colleagues and fellow Americans, Mr. Speaker, will have trouble understanding that we have more apologists for communism in the United States of America and Canada and some NATO countries than there are left in any of the six countries that are moving slowly toward full freedom in middle Europe. Marxist professors and other apologists all over the United States are saying that what has happened in Eastern Europe rids us of the worst face of communism, the harsh Stalinist face. They claim it is like a reformation, and communism can come back more pure than ever. But this disregards that communism and fascism are twin brother ideologies of terror and horror. One is socialism based on race, nazism, and the other is socialism based on class, communism. They were rivals, not enemies. As Hitler himself said, "There is more that binds us to Bolshevism than separates us from it." It is a cruel joke of history that both appeared on the world stage at the same time.

Now I want to come to the focus of why I am talking about something that the Soviet Communists have admitted to a week ago Friday. I want to memorize that date. Friday was April 13, Thomas Jefferson's birthday.

On Friday, April 13, Moscow, the Kremlin, the mother wart of communism, admitted to the Katyn massacre. Here is the focus of it: Lithuania today, Estonia next week, Latvia next month or shortly thereafter.

The one thing that the White House, and I do not want to personalize it down to somebody I consider one of the finest Presidents we have ever had in the United States and a personal friend, so I will say the White House, the White House, my friend Mr. Baker over at State Department, the Secretary of State; they must realize that this is a moment in history in which they cannot come up short. We must help these three Baltic nations.

There is a wall of resistance at the White House right now to meeting delegations from Estonia, Latvia, and Lithuania. These three countries have never been unrecognized by the United States of America.

Countries that I used to hold in high esteem like little New Zealand, does in population to Lithuania, Latvia, and Estonia, recognized the Communist conquest of these three Baltic countries, but our Nation never has.

When I arrived in this House, there were two historical facts that I found most of my colleagues did not know, whether they be conservative or liberal, male, female, majority side, or minority side. The first was that the Soviet Union had three votes in the General Assembly to one for every other country in the world. This was another dying Roosevelt acquiescence to the bloody killer, Uncle Joe.

The Ukraine already has a seat in the United Nations. I should not say "the Ukraine"; it is not just a region; it is a country; Ukraine, Ukrainia. If they ever decide to break away, and there is a religious movement starting there, they can say to the Kremlin, "Hey, we already have our seat in the United Nations. We are already a nation recognized with a vote in the General Assembly." Occasionally they even come up to chair the Security Council as a Republic of the Soviet Union.

Also, Byelorussia, which ethnically is about 80 percent Russian has a U.N. seat. This, too, is one of the so-called Republics. The Soviet Union has three seats.

The second fact is that Estonia, Latvia, and Lithuania have always been recognized by the United States. Indeed, we recognize them now as we did for those 20 beautiful years of freedom between the two great catastrophic wars of this century. We have always recognized them as nations.

Right out of the north portico front door of the White House runs 16th Street, which is why we call the White House 1600 Pennsylvania Avenue.

□ 1430

On the righthand side of 16th Street is the AFL–CIO, one of the first buildings in D.C. The Motion Picture Association where Jack Valenti works, a couple of beautiful hotels, including the Hilton, stand nearby. And right next to the Hilton, a stone's throw away, is the Russian Embassy. If you keep driving up 16th Street far enough, you will come to, on the other side from the Soviet Embassy, the Embassy of the Nation of Lithuania. It has been downgraded to a legation because they have been under communism for half a century. But they have always had a living presence in the Capital of the United States on 16th Street.

The Latvian Embassy is less than a quarter of a mile north and one street over on 17th Street, the Latvian Embassy. It has always been there, since the twenties. Never unrecognized as a nation.

I just met with an Estonia hero. They call their legislature a congress, just like ours. It has a formal title, Congress of Estonia.

The head of the Estonian National Independence Party, I just met with him in the Sam Rayburn Room, Tunne Kelam, has finally, as an adult male, been allowed for the first time in his life to travel around the world. He has been circumnavigating the globe, Australia, New Zealand, everywhere around the world, all over Europe. Yet he cannot get an appointment at the White House. He cannot see anybody from the National Security Council. He sees lower name officers at the State Department. I do not even recognize their names. And this man is the chairman, in addition to his other titles, of a friendship unit between the Congress of Estonia and the Congress of the United States of America.

He spoke last night, April 18. Here is the forum announcement for the Institute of Politics at Harvard no less.

He spoke. There was also a woman, Lowrey Wyman, who is not Baltic in ethnic heritage. She is an attorney and a fellow at the Russian Research Center at Harvard University. She was recently a guest of the Lithuanian Government. She is a firebrand for freedom for Lithuania at Harvard.

Mr. Kelam, this distinguished Estonian gentleman, cannot get a hearing at the White House. I will make some calls this afternoon. I do not know what luck I will have.

I did not mention, the Estonian Embassy, they mistakenly moved it to New York. I recommended to Mr. Kelam that he find a broken-down brownstone somewhere in Washington, DC. Leave the legation for Estonia in New York where it moved shortly after the Second World War as a consulate, as a trade center, but get your legation, your Embassy, back here inside the beltway, into the District of Columbia, so that I can take groups of Congressmen from both sides of the aisle and we can go have a little tea and discuss freedom, up 16th Street, over at 17th Street, for Lithuania, Latvia, and wherever Estonia comes.

I recommended that they come up here to Congress, since they do have an entree here, and try and get one of these old broken-down brownstones that has not been rehabilitated into a million-dollar mansion, maybe behind the Library of Congress, the largest library with more works on freedom than anything that has ever been known since the burning of the library in Alexandria. Let them come right up here on Capitol Hill and fight for freedom for Estonia.

Mr. President, I know what a freedom fighter you are and a lover of freedom you are. Every person in every NATO country, every person who fights for freedom for Vietnam, all the people that live in Little Saigon in my district, your day will come, you Vietnamese; they all want Lithuania set free. To you Cubans your day will come. You are already organizing in south Florida. You are already selling

off some of your assets, waiting for the downfall of Castro to go the way of Danny Ortega, his young student, and his brother and the other seven Communist thugs in Nicaragua.

We know you Cuban-Americans are going to fight for freedom. You have your first Cuban-American Congresswoman in this House now. But the first people up to bat right now, to use a baseball term, are the Lithuanians, and then the Latvians and the Estonians. We must fight for the freedom of these three small Baltic nations. They must be at least given the minimal amount of freedom that Finland has had since the Second World War. On March 5 1946, 7 precise years before Stalin finally went to his judgment day, Winston Churchill came to a small college in Fulton, MO, called Westminster. Probably the name of the college intrigued him as a man of Westminster, where he served in the Parliament.

He gave the speech that coined the term "Iron Curtain." He did not even emphasize it. It was one rolling sentence, from Stettin in the Baltic right near the three Baltic nations I am discussing to Trieste in the Adriatic, an Iron Curtain has fallen over the middle of Europe.

Well, only two countries squeaked out from under the Iron Curtain. One was Austria, because we still had a four-power arrangement there, and our American, British, and French men were riding in Jeeps with Soviet soldiers.

And Finland. Finland was given its independence, which has grown carefully over the years.

I asked Mr. Tunne Kelam if my historical assumption was correct that Finland got out from under the Iron Curtain because the Soviet Government and the Kremlin was so psyched out by the heroism of the Finnish people that they just had to let the Finns go because they were so tough?

He said precisely, Congressman. That is the true history of it.

Well, let me close, Mr. Speaker, with a plea to a country that when I say its name I enjoy thinking about their history, back to the Vikings, which is where redheaded Irishmen get the color of their hair, like me. But when I say the name, I think of courage, steadfastness, the only underground in the Second World War not contaminated by communism, one or two, but the only one I know of. That country is Norway.

I like to say the name. I love to visit there. Norway. What a heroic people. A small country, just over 4 million people, about the same size again as Lithuania.

Norway has an unbelievable opportunity. They are considering in their Congress a decision to provide energy to Lithuania. It is night there now but they will take it up again when we are asleep in the morning hours. They will debate whether they should make up for this ugly cutoff of natural gas to Lithuania that Gorbachev has ordered from the Kremlin.

Norway, across the Baltics, a fellow Scandinavian people, can make up this difference. Norway is a country of courage and resoluteness, whose people fought heroically against the Nazi killing machine in World War II. They had a great underground, partially stopping the Nazi development of atomic weaponry because British commandoes and the Norwegian underground destroyed the heavy water plants in Norway in the middle of the Second World War.

I beg you Norwegians, reach out across that tiny little Baltic Sea and help your brothers and sisters in Lithuania. And I guarantee you I will fight with all the breath in me to have your country's leader, the Prime Minister of Norway, stand up here to address a joint session.

I will start a movement to have a joint session of Congress and invite the head of Norway. I was thinking I would do this for Lithuania, to get Vytautus Landsbergis over here, but he cannot leave his country. Because if he left Lithuania, Gorbachev would slam the door shut, and then he would be trying to work from exile, this musician, this 57-year-old professor of music, who has become the heroic figure of this year in the world struggle for freedom.

If Landsbergis cannot stand here and address a joint session of Congress, all of our senior military leaders, all of the nine Supreme Court justices, all of the ambassadors from all of the countries of Asia and Africa and Europe and all the corners of Oceana, if Landsbergis cannot stand up there, then we will invite the Prime Minister of Norway to stand up there as his surrogate and tell us about why tiny countries in the world are important in the greater scheme of freedom for the larger countries in the world.

Please, Mr. Speaker, my closing words, through you, is to Norway: To stand tall and help your Lithuanian Scandinavian brothers in their moment of trial and tribulation as they try to break free from under the heel of a dying and corrupt communism.

□ 1440

ANOTHER TOOL IN THE WAR ON DRUGS

The SPEAKER pro tempore (Mr. CHAPMAN). Under a previous order of the House, the gentleman from Texas [Mr. WASHINGTON] is recognized for 60 minutes.

Mr. WASHINGTON. Mr. Speaker, I rise today to address the House and the American public on a matter of some concern, and I use a special order for the opportunity to do so.

In the very short period of time since I have been a Member of Congress it has come to my attention that we are doing many things to fight the war on drugs. We are busy about the business in this Congress of making more money available for those who have become addicted to drugs in order that they can receive the treatment that they need and deserve. We are going to spend more money in this session of Congress to address the question of additional law enforcement so that our law enforcement officers will have the tools that they need in order to fight their part of the war on drugs. In addition to that, we are putting more money into education so that our young people can learn about the horrors of drugs before they have the misfortune of coming in contact with one of those dreaded persons in our communities who would and often do expose young people to the horrors of drugs.

There are many bills pending in this Congress that address in one aspect or another the general question of drugs and the question of crime in general. I have noticed, however, that most of our efforts with respect to the criminal penalties as they relate to drugs starts with the second and third tier. We spend a good deal of time, and we appropriately should do so, spending money, providing resources for law enforcement in order that we may ferret out and catch the criminal who is the drug dealer.

It occurs to me, however, from what little I know, that the people in the Andes Mountains and other countries where cocaine primarily is produced, and I am speaking specifically of the drug cocaine, do not send those drugs to the United States of America on consignment. The most severe penalty available for a banker who puts the money in circulation that ends up in the hands of a drug dealer, that ends up in the hands of the cartels in Central and South America and comes from banks right here in the United States, the most severe penalty available under current law for those individuals is 10 years' imprisonment and a steep fine up to $1 million.

It seems to me, as Sam Ervin said some years ago during the Watergate investigation, if we want to get to the root of a criminal problem, follow the money. We have failed to follow the money in this Congress and in preceding Congresses. We have failed to follow the money so that we can get at the persons who stand to gain the very most from putting drugs on our streets.

We do not provide adequate punishment for those who start the spiral, those who begin the spiral before it gets to the second tier, to the third

tier and to the fourth tier, because the person at the very top who stands to gain the most is, in fact, the person who receives the least punishment, and thereby we send the wrong signal to the American people. They do not believe we are serious about the so-called war on drugs because they know every time we lock up an undereducated drug dealer there are five to take his or her place. We are never going to rid our country of the scourge of drugs as long as we start at the top, and we consider the top to be those individuals who are selling drugs out on the street.

We do not attempt to get at the people who put the money in circulation. The U.S. Government prints all of the money that is available as legal tender in this country. It is printed right here in Washington at the Bureau of Engraving and Printing. We print all of the money. That money cannot be gotten by an average citizen. That money goes directly from the Bureau of Engraving and Printing to Federal Reserve banks. The money goes from Federal Reserve banks to credit unions, to savings and loans, to State banks and to national banks. One cannot walk up to a window of a Federal Reserve bank and cash a check. They only do business with other banks and other institutions such as credit unions and savings and loans.

It seems to me that every time we print a $100 bill we know the serial number of that $100 bill, we know to which Federal Reserve bank it goes, and ultimately we know to what national bank or State bank that money goes. Yet when that money ends up in the middle of a drug raid, and it is still in a bank wrapper with millions and millions of dollars of sequentially numbered and serialed $100 bills, if we trace that back to the banker who puts that money in circulation, the most punishment that person can receive, Mr. Speaker, is 10 years' imprisonment and a $1 million fine. If that person is a low-level employee or even a high-level employee of a bank, and they see the opportunity to gain millions and millions and hundreds of millions of dollars when all they have to do is sit there and take the chance of a 10-year imprisonment or $1 million fine, we are shooting with a BB in the war on drugs and we need to take out a cannon.

H.R. 4554, which is a bill that I introduced yesterday, is such a cannon. What it will provide is that if a person is charged with the offense of being a bank officer or an employee and participating in a drug transaction such that the Federal Government can trace back to the individual as being responsible for that money getting in the hands of drug dealers to begin with, and a jury will believe beyond a reasonable doubt, if evidence is offered such that a jury will believe beyond a reasonable doubt that that individual is the reason that the drugs got into circulation, by putting the money in circulation, because again the drug dealers in Central America do not send the drugs up here and say sell the drugs and send me my part, they get cash on the barrelhead, and if we do not send money to Central America they do not send drugs back to the United States of America.

So the way to address this problem, at least one additional way I submit, Mr. Speaker, is to support the adoption and the early passage of H.R. 4554. What the bill specifically does is provide for a different punishment. In the event that a Federal court is faced with an individual before him or her who has been convicted by a jury of their peers, and has been proven beyond a reasonable doubt that that person while acting as a bank officer or employee participated in putting money in circulation that ended up in the hands of drug dealers, that person will receive a punishment of life imprisonment without parole.

If we are interested in fighting a war on drugs, we cannot ignore the biggest drug dealer of all, that is the person who lives in the banks, the person who resides in the banks, the person who rides around in chauffeur-driven limousines, the person who takes the ill-gotten gain from the drug market in this country, that injures and cripples and ruins our young people throughout their lives, and sits out in the middle of a bay on a half million dollar yacht and laughs at us because we are not fighting a war on drugs. We are fighting a war on drugs that gets at the penny-ante dealers out there making nickel and dime money, who spend all of their money buying Mr. T starter sets to put around their necks, and drive around in BMW's, and they do not have a house or a place to live. But the real drug dealer is the person who lives here, who lives in the mansion here or in New York, or in some other city, or out in Westchester or some other nice secluded place, who is genteel and civil, who never touches drugs, but who only puts the money in circulation, because they know the worst that can happen if they get caught is that they will end up with a 10-year sentence in prison and a $1 million fine when they have taken the chance and they have made hundreds of millions of dollars on drug transactions.

So I think it is time for us to take out a cannon. This bill has been referred by the Speaker to the House Committee on the Judiciary. I will request an early and prompt hearing before the Judiciary Committee with the view that this bill will receive the unanimous consent of that committee, and hopefully the unanimous consent of this body as well as the Senate of the United States of America. And when H.R. 4554 becomes law, then we will have a punishment that will fit the crime. We will say that not only will we punish the small drug dealers by giving them life imprisonment, but we will give that banker life imprisonment, because it seems to me if we remove the money, then the drug dealer who makes $1,000 a day does not have any money to send to Central America. It takes millions of dollars and hundreds of millions of dollars in suitcases going down to Central America to get drugs brought back here.

H.R. 4554 is an idea whose time has come, Mr. Speaker. That bill will require, as I say, life imprisonment without parole for the most serious offenders in our society, those who buy their ill-gotten gains, live they think above the law.

I am serving notice on them, the law has finally reached you, and your punishment will fit your crime.

Mr. Speaker, I yield back the balance of my time.

□ 1450

TRIBUTE TO ROBERT G. SARLO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 60 minutes.

Mr. HANSEN. Mr. Speaker, Robert G. Sarlo, founder and director of the Homeless Veterans Fellowship, is a former Vietnam veteran currently employed by the Department of Defense in Ogden UT. As is true of many veterans, Bob found that some of the most difficult battles he had to fight—both from without and within—were not in a foreign land, but right here in America after he returned home. His many struggles included a period of homelessness, which, according to Bob, brought him to the mercy and healing power of God, and set him on the path to recovery and a renewed life of productivity and service.

Bob is a man of great caring and empathy, and has a deep sensitivity for the pain and suffering of his human family. In early 1989, he became increasingly aware of the growing number of homeless in the Ogden, UT area where he lives, and began mingling with these street folks. He was alarmed to discover that the majority of the homeless men, several hundred in Ogden alone, were veterans. For many of these, his brothers in arms, the war was still raging; others had totally abandoned hope and accepted defeat.

Upon exploring the various services available to veterans, Bob was dismayed to find that homeless veterans were typically warehoused from shelter to shelter, with no opportunity to regain the dignity they had sacrificed in service to their country or to be

reintegrated into society as healthy, productive citizens. Bob quickly recognized the need for a nontraditional approach to serving the veterans, and envisioned a project to set up a transitional home for veterans wherein they could be safely incubated while they received the counseling, training, and nurturing needed to enable them to stand on their own feet.

After identifying two HUD homes centrally located in Ogden City, Bob persuaded HUD officials at the local, regional and national level to grant him for $1 per year leases on these houses, overcoming the first major obstacle bringing his vision to reality. Bob's plan, as you can imagine, met with considerable opposition from neighboring residents, and the Ogden City Council was initially hesitant to endorse the transitional housing project. However, Bob's sincere, honest presentation, his unflappable commitment and his compelling arguments in favor of the benefits to both veterans and the community as a whole finally won the hearts of his opponents and the project received city approval.

Now, keep in mind this is not done by Government grants, this is not asking the Government for anything; this is a man on his own deciding he is going to help his buddies and the fellows he worked with in Vietnam. He said, "Let us get together, guys, and we are going to find you a home. You don't have to live under a culvert, you don't have to live out in the street, we are going to do something for you."

Bob then turned to the State of Utah and was given $15,000 to help rehabilitate and operate the two houses. This is the only place I know where he got money from the Government to operate these two houses.

Bob then singlehandedly rallied the enthusiastic support of local businesses and charitable organizations; he went to places that had closed up like the old hotel in Utah. He said, "Let us have some of your furniture," and they gladly gave it to him.

The two homes are now well stocked with furniture, clothing and food, offering housing for up to eight men.

Mr. Speaker, The Homeless Veteran's Fellowship, as Bob's dream is now known, welcomed its first resident just after Christmas. The man, upon arriving at the house, was amazed to learn he had not been offered just another cot and blanket in a cold, impersonal shelter, but in his elated words, "a home." And with a home comes hope and help and the opportunity to start a new life with dignity. Today, years after we have left Vietnam, Bob states with great caring and conviction, "There are still wounded out there, and I'm going in after them."

Bob Sarlo has my deepest respect and admiration. He is a shining example of what President Bush meant when he spoke of a thousand points of light; of a people caring and sharing. He saw a problem many people in America were otherwise ignoring, and chose to act because he really cared and shared. He represents the best in all of us, and demonstrates just how big a difference one man can indeed make.

I really acknowledge a great young man, a veteran who decided upon his own to try to turn around and help people. That is what America is really about, those who we know in our own hearts and minds want to share and help those who are less fortunate than we are.

Bob Sarlo is a great example of that.

TRIBUTE TO THE LATE HONORABLE SPARK MATSUNAGA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. AKAKA] is recognized for 5 minutes.

Mr. AKAKA. Mr. Speaker, it is with a heavy heart that I take the floor today to mourn the loss of a statesman, a poet, a peacemaker, and a friend—our colleague, SPARK MATSUNAGA.

The Halls of Congress will seem less grand and the quality of the debate will be a little weaker because he is no longer with us.

SPARK, we will miss you.

To recognize his 40 years of service to his country, I have introduced legislation to establish the Spark Matsunaga Scholarship Program and rename the U.S. Institute of Peace in his honor. It is a fitting tribute to SPARK that the organization he labored to create should bear his name.

Throughout his long career, Senator MATSUNAGA was devoted to the cause of peace, and it was due to his efforts that the Institute of Peace was established. This legislation will be a constant reminder of his vision, determination, and achievements on behalf of this noble cause.

Yesterday, I joined a number of our House and Senate colleagues at the memorial service in Honolulu. SPARK will be buried later today at the National Memorial Cemetery of the Pacific at Punchbowl. I know you share my great sadness and sense of deep personal loss over his death.

I have also reserved time for a special order at the close of business next Tuesday so that the many Members who served with him and were touched by his friendship can join me in honoring our dear friend.

UPDATE ON THE SAVINGS AND LOAN ASSOCIATION BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 30 minutes.

Mr. OWENS of New York. Mr. Speaker, again I would like to speak on the very important subject of the savings and loan association bailout.

As I returned to my district, I found we were confronted in New York City and New York State with extensive budget cuts, budget cuts for local services, budget cuts which will impact upon important things like providing housing for the homeless, providing more adequate education system, and providing better health care.

These local cuts at the State and city levels are not divorced from what is happening here in Washington. What most people have forgotten—they proceed to blame the mayor and blame the Governor—is that we have experienced considerable Federal cuts of funds that were helping cities and States before.

Particularly dramatic is the issue of revenue sharing, which was cut under the Reagan administration. We no longer have a revenue-sharing program which can relieve or could, if it existed, relieve a large part of the burden of the cuts that are being imposed now on cities in New York State.

□ 1500

Across the country in other States and other localities, there is also a budget crunch. School boards are feeling the squeeze, school budgets are being voted down, people are continuing to send the largest amount of the taxes that they pay to Washington. We just experienced an income tax deadline on Monday, April 16, and the largest segment of your tax bill always goes to the Federal Government.

Under a program like revenue sharing, it came back. Under a program like the building of low-income housing, it came back. It provided housing for homeless so that local government and State government did not have that burden.

In numerous ways before 1980, we had more of the Federal dollars coming back to the localities and the States to take care of problems at that level. Since then, we have dropped many of those programs and States and localities are feeling that squeeze again.

I am here to attempt to alert the American people to exactly what is happening with respect to the tremendous amount of tax dollars that we are sending to Washington. There is a portion of those dollars that could be coming back to the localities. It could help relieve our burdens, but is not coming back for the worst of reasons. It is not just the deficit that was also an unnecessary pile up of debt for an overinflated expenditure, set of expenditures on defense. Not just a deficit which was an evil unto itself, but now we have the savings and loan association bailout, the bailout which

was estimated to cost about $156 or $157 billion at the time we passed the legislation, and is now estimated to cost more than $500 billion. Now we are talking now about a figure that has been offered by the head of the General Accounting Office. GAO has estimated now that the bailout may cost as much as $500 billion. Five hundred billion dollars is more than the present defense budget, and the defense budget is large enough. Five hundred billion dollars is a half a trillion. That is half the total budget. That is the estimate of what this bailout of the savings and loan association will cost this country before it is all finished.

There are still people who are laboring under the misassumption, the wrong assumption, that it is necessary to do this, because in order to pay off the depositors that we are legally obligated to pay off, we have to spend the money. That is the wrong assumption. The bailout is as big as it is, and is growing, escalating all the time, because we have gone far beyond the necessity to pay off the depositors who had deposits in the savings and loan association up to the amount of $100,000. That continuing piece of misinformation has made a large segment of the American people uninterested in the problems of the savings and loan association because they conclude we have an obligation, it is a legal obligation no matter how much it costs, and we have to live up to that obligation. That is not the case. We have gone beyond, in this bailout, beyond paying the money to the depositors that we have guaranteed with our Federal backup guarantees. The savings and loan bailout attempts, the bailout attempts to guarantee that everybody who had money in a particular savings and loan association will not lose any money, even those people beyond the $100,000, and many of those people, of course, are banks and corporations. The largest amount of deposits above $100,000 are deposits from foreign concerns, foreign businesses. Japanese bankers and Arab sheiks. Those are the people who have large amounts of money above the $100,000.

We are not just paying off the depositors that we have guaranteed. We are going beyond that because we are trying to not upset any foreigners who have put money into our banks. The idea is that the credibility of our banking system would be questioned. People would become upset across the world and stop depositing money in American banks, if we allowed the savings and loan association to follow the course that they normally should follow. We are guaranteeing the foreigners their money, in order to make certain they do not pull out large sums of money that they have deposited in our banks, in other ways.

Now that may be a laudable mission, to attempt to guarantee everybody's money, but it is not a mission that has been agreed to by the American taxpayers, not a mission we will find anywhere in law. This is an improvisation to deal with the situation as it is viewed by people in the administration. We do not have to pay off people who have more than $100,000. We should not be paying off people that have more than $100,000. The bill becomes too great. Private enterprise and the free market economy dictate that there will be losses by people who take risk. What we are doing is subsidizing banks, and we are interfering with a free market economy in order to maintain a credibility of our own banks. That goes beyond anything that is a law anywhere.

My problem is that the bill is so tremendous, $500 billion, and the action is so unusual. It is unusual in the sense that the American Government has intervened into the private sector, and subsidizing the banks. That is so unusual, that it should have more discussion here in Washington. There should be more discussion in the Congress. The administration should be speaking more about it, but nothing of that kind is happening.

Irangate and Watergate, Teapot Dome—all of those scandals were tiny in comparison with the kind of scandal we are facing with the savings and loan associations. However, there is nobody who speaks continuously. There is not enough discussion to educate the American people.

I said the last time I spoke on the floor that there are some books being written. There are, of course, hundreds of articles being written now. Slowly, the media has picked up on it. There are television and radio discussions of the savings and loan scandal, but still, there is no guidance. There is no official voice speaking here in Washington.

Irangate required or stimulated the White House and the Senate to get together and form a joint investigatory body. There were hearings held jointly by the House and the Senate. They were highly publicized, and the American people learned the story of what had happened with Iran-Contragate. The case of Watergate, we had hearings. The investigations led, eventually, to the resignation of a President. The American people got a full education as to what Watergate was all about. However, here we have the S&L that dwarfs Watergate and will have consequences for years to come, for the next generation even, and nobody has called for a joint panel or some highly visible investigation.

Today I wrote to the chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS], and requested that he set up a committee-level panel to investigate not only the savings and loan scandal but also HUD. These are examples of federally guaranteed programs that we know have gone bad. We know they are in trouble. There are probably other Federal guarantee programs that are in trouble, but just to focus on savings and loan and HUD, I requested the chairman of the Committee on Government Operations, and probably I should go further and ask to speak to him. I think it would be very much in order if the Speaker of the House would set up a special committee to go further than the Committee on Banking or the committees of jurisdiction, and really discuss the implications of the savings and loan scandal.

Next week we are scheduled to take up the budget resolution. There have been many discussions in the Committee on Budget and various groups have testified before that committee about all kinds of concerns. The Congressional Black Caucus quality of life budget was discussed with the Committee on Budget. Numerous things that are very important have been discussed with the Committee on Budget, but very little talk has taken place, very little discussion taken place with respect to the savings and loan association, and money that will be needed to bail it out. Somehow we will go through the whole budget process and not discuss one of the biggest items in the budget. We are going to say that that is off budget again. We are going to say it has no impact on the expenditures, but in truth, there is only one Department of the Treasury in the United States of America.

There is only one mint. Only one mint which prints the money, and eventually all of the debts and burdens, fiscal burdens of the government, come to the same place—the taxpayers.

□ 1510

I would like to urge taxpayers who do want to get some additional information to examine some of the books that are being published. There is one gentleman named Edward J. Kane who has published several books. Mr. Kane has published a few special reports and pamphlets, in addition to several books on the savings and loan insurance crisis.

Mr. Kane has published one entitled "The Savings and Loan Insurance Mess: How did it Happen." That was published by the Urban Institute Press in Washington in 1989, last year.

Mr. Kane published an article in Challenge entitled "The Bush Plan is No Cure for the Savings and Loan Insurance Malady." That was in Challenge magazine.

Mr. Kane published another article entitled "The Unending Deposit Insurance Mess." That was in Science. An-

other one is: "How Incentive-Incompatible Deposit-Insurance Funds Fail." That was published as a working paper by Mr. Kane and by the National Bureau of Economic Research.

The National Bureau of Economic Research also published another report or working paper entitled "No Room for Weak Links in the Chain of Deposit Insurance Reform," by Mr. Kane.

There is another article entitled "Who Should Learn What From the Failure and Delayed Bailout of the ODGF?" That was a National Bureau of Economic Research working paper also.

Some other authors who have published important and enlightening books on this item are Mr. James Ring Adams, who wrote a book entitled "The Big Fix: Inside the S&L Scandal." That was published by Wiley Press.

"The Thrift Industry: History and Background" was written by Jim Lewis, and that is another important piece that might enlighten persons who are interested.

Donald L. Maggin is the author of a book entitled "Bankers, Builders, Knaves, and Thieves: The $300 Million Scan at ESM." That was published by Contemporary Books located in Chicago.

Paul Zane Pilzer was written a book entitled "Other People's Money: The Inside Story of the S&L Mess." Simon and Schuster published that book last year, in 1989.

Michael J. Stitch published a book entitled "How to Profit From the Savings and Loan Crisis," and that is by the Wilchester Publishing Co. in Houston.

Then Stephen Pizzo, who was recently featured on television in a special program on Nightline, published a book entitled "Inside Job: The Looting of America's Savings and Loans." That was published by McGraw-Hill, and it came out late last year.

Of course, all these books were published and all these articles were written before the escalation of the S&L scandal. They are all dealing with figures related to 1989. The recent revelation by the GAO that it may cost $500 billion instead of $157 billion was not known at the time these books were written. In August 1989, after the President signed the S&L bill into law, critics began to quietly predict that it would cost more than the immediate cash of $50 billion and the estimated amount of $157 billion before it was over. Still we have not officially taken steps to update that original legislation. I suspect that after the election this year we probably will deal in an open way with the problem that by that time will have gotten much worse as a result of the delay.

The first great error we committed here in Washington was to sit back quietly while all this was mushrooming to begin with. We had no other issue, and while we had no other issue, greedy thrift owners and their crooked friends were spending taxpayers' dollars on everything from prime ribs to prostitutes.

Let me just give a few examples, since personalizing it makes it possible for us to understand. The calamity was so great that when we use statistics alone, it is impossible to understand how great a crime has been committed, so let us give some examples of some of the things that were happening and where our peace dividend has gone.

A classic example, Mr. Speaker, of the scandalous abuses within the S&L industry involves one fellow named Edward McBirney III, a 33-year-old who was said to be a real estate whiz. He ran an "Animal House" version of a savings and loan association, according to the publication, Texas Monthly. His life and his brief banking career were little more than a whirlwind of parties and profligacy. In March 1986 he embarked on a Las Vegas fun spree with 50 friends and customers. According to the Texas Monthly, his guests were flown into town on a borrowed 727, and they were housed in suites at the Dunes. Four women appeared at a cocktail party in his suite and performed a striptease. McBirney was known for writing up deals on the butcher-paper tablecloths of his favorite restaurant. In 1984 and 1985 his Sunbelt Savings and Loan Association shelled out $1.3 million for Halloween and Christmas parties including $32,000 in compensation that he paid to his wife for planning them, according to a civil suit that has been filed by the government-run successor bank against McBirney. In 1985 and 1986, the Dallas-based thrift allegedly paid more than $12 million in dividends to shareholders, and Mr. McBirney was the shareholder who received the largest amount from this dividend.

Let us give another example. Mr. Donald Dixon is the owner of the Vernon Savings and Loan Association, which was shut down on March 20, 1987. At the time the Vernon Savings and Loan Association was shut down, 95 percent of its loans were in default.

Mr. Speaker, those loans, 95 of every 100 loans that Vernon had issued, had gone down the tank, not because of incompetence. No one could be that incompetant. Banks do not hire incompetant people. It had to be a conspiracy which produced 95 percent out of every 100 loans as bad loans.

Its larger than life owner, Mr. Donald Dixon, and his wife Dana could be and have been referred to as the "Bonnie and Clyde" of the thrift industry. The Dixons took friends on a whirlwind 2-week tour to Europe aboard a chartered aircraft, paid for by this bank, of course, an experience which Mrs. Dixon called a flying house party. They ate at seven three-star restaurants in France. Dixon contended that they did it because he was conducting a market study for his plan to open an upscale restaurant in Dallas.

The total cost of the Dixon's European adventures was $68,000, and this bill has been forwarded to the U.S. taxpayers. When you add to their tab a $2.6 million yacht, a Rolls-Royce and Ferrari dealership in California, along with two homes near San Diego, you have some idea of what the taxpayers' tally is covering. The final tally also includes $561,874 for personal expenses, including groceries, liquor, stereos, et cetera, as well as maid services.

To date, according to the House Banking Committee, Mr. Dixon is the target of a massive Federal investigation, with a $540 million civil lawsuit, the largest ever brought by the Resolution Trust Corporation and the Department of Justice.

Mr. Patrick King, who was the manager of Mr. Dixon's bank, the Vernon Savings & Loan Association, has been sentenced to 30 years in prison, but Mr. Dixon has not yet been touched with any criminal prosecutions. Of course, there is a statute of limitations in each State. That statute of limitations just might run out before Mr. Dixon is prosecuted.

I give these examples as just one way of trying to communicate with a baffled set of taxpayers out there so they might learn exactly what is involved in this savings and loan association debacle. Never before in the history of the country has there been a scandal of this kind, and never before have legislators and decisionmakers in Washington been so silent about a scandal. There is a need to discuss it more. There is a need perhaps for the taxpayers outside of Washington and all those Governors and those mayors out there who are facing budget cuts and receiving direct criticism from the taxpayers to be alerted as to exactly what the problem is. We have a situation where, with the largest tax bill, the largest income from a tax bill of the Federal Government, those funds are going down the drain to rescue a set of racketeering enterprisers, and this benefits no one.

We have gone far beyond the duty of the American people to pay back the depositors. We are into socialized banking, where the Government is interfering with the free market and running banks, where the Government is taking responsibility to sell or to negotiate on the assets that were the property of these failed banks. We have started a whole new bureaucracy called the Resolution Trust Corporation. They have hired 2,500 employees so far. I do not know whether they use

the civil service system or a merit system of some kind, and I do not know how they get a job there, but I am told that many of the same people who worked in the banks that failed, some of the people who were responsible for the problem, are being rehired at large salaries to help solve the problem.

□ 1520

In addition, Mr. Speaker, I am also told that some of the people responsible for the problem are now buying back some of the properties at very low cost.

This scandal will not go away. It is going to get worse. It is going to continue to escalate and get messier as time goes on.

The scandal that we should not allow to happen is silence here in Washington. There needs to be more discussion. There needs to be an investigation conducted at a high level. There needs to be a highly visible effort to educate the American people, and it is our duty, as Members of Congress, to see to it that that happens.

The savings and loan association mess, scandal, has stolen the peace dividend already. We ought to admit that, and at least discuss it and let the American people how what is happening.

LENIN LIVES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

Mr. DANNEMEYER. Mr. Speaker, "Environment" has become a sort of magic word, to be invoked whenever there is a need to either arouse or pacify a public easily swayed, much in the same way that "entitlement" is a codeword for increased government spending and peace is the rallying cry for those wanting freedom to surrender.

The issue is not littering or pollution or hazardous waste; it is not acid rain, clean air, or deforestation. No intelligent person with an ounce of civic responsibility could advocate those things. But there are ways to address those problems. Other causes such as global warning and the ozone hole are more problematic; there is conflicting evidence which induces me to suspect we are being sold a bill of goods.

It is not surprising that the so-called environmental movement is attempting to rally public opinion. And they have been very effective in doing so; the massive attention focused on Earth Day is the most complete propaganda snow job since last year's perestroika in Lithuania.

So let's remember what we are really commemorating on April 22. It is not Earth Day, it is Lenin's birthday. The same Lenin whose doctrines have been discredited and disgraced, and whose chains the people of Eastern Europe have finally traded for freedom. Those persons who promote environment using the symbol of global tyranny have another purpose in mind: International—read elitist—control over our lives.

So when you lose your job in Cleveland, Kansas City or Birmingham, because of decisions made in Brussels or Zurich or Moscow, remember the fourth Sunday in April 1990 when you celebrated Lenin's birthday.

THE AMERICAN OPPORTUNITIES WORKSHOP

The SPEAKER pro tempore (Mr. CHAPMAN). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to talk today about the American Opportunities Workshop and the effort we are engaged in to develop new approaches and new solutions for the 1990's.

On May 19 we are going to sponsor, through an organization called GOPAC, a nationwide workshop on new solutions for the 1990's. We are emphasizing the idea that the bureaucratic welfare state and the permissive attitudes that have come to characterize it simply do not work, that it is possible to develop new and better solutions to health care, to education, to the environment, to the problem of crime and drugs by using a more sensible and more commonsense approach, that we can apply the basic principles that have made America successful, principles that might best be illustrated by what we would call the triangle of American success, a triangle which has on one side entrepreneurial enterprise; on the second side, technological progress and innovation; and on the third side, basic American values, and our point is that, if you take those three, entrepreneurial free enterprise, technological progress and innovation, and basic American values, and you develop a new approach, a new solution, to education, to running a big city, to the problem of the environment, to health care, to the concerns we have for drugs and violent crime, that almost invariably any solution inside that triangle will work better than the bureaucratic welfare state and will work better than permissive attitudes.

Mr. Speaker, we are going to have on May 19, at 10 o'clock eastern time, 9 central, and 10 o'clock mountain time and 9 on the Pacific coast, a 1-hour television program, a workshop on a nationwide basis, from five sites live. We will be live in San Diego, CA, from Orange City, IA, from Detroit, MI, from Portland, ME, and from Noonan, GA. It is a nonpartisan program. We will have Democrats on the program. We will have State Representative Polly Williams of Wisconsin who is a Democrat, former Attorney General Griffin Bell. He was Attorney General of the United States under Jimmy Carter, and there will be a number of other people who represent a more independent viewpoint, and of course many Republicans. President George Bush will be on the program on video tape, as will Vice President QUAYLE and Secretary of Housing, Jack Kemp.

Our goal in that 1 hour is to initiate the idea, to communicate clearly, that there are new approaches, there are new solutions, that, as Jim Pinkerton said in a brilliant speech to the New World Society called the new paradigm:

> It is possible to develop a new model, or a new paradigm, which is more powerful and more likely to succeed than the bureaucratic welfare state and permissive attitudes.

Recently, working on the American Opportunities Workshop, and any of my colleagues who would like to participate or would like to have folks back home participate by contacting GOPAC or contacting my office can find out more about what will happen on May 19 in the American Opportunities Workshop, but, as I have been working on this idea of new approaches and thinking things through in a new way, of the fact that here we are in a world changing rapidly, and some people would have us use the same old ideas, and the fact is that the liberal, union dominated, big city machine system built on permissive attitudes of the bureaucratic welfare state simply will not solve problems, that, if you want personal security from drugs and violent crime, we need new solutions. If you want true economic security by emphasizing the opportunities and the entrepreneurship that is available in the world market, then you need new solutions. If you want to truly secure an effective community with adequate health care, and adequate education, and a sound environment as well as a sound economy, then I think you need new solutions, and, if you want to truly make America secure in terms of national security in a world where dictatorships, like Iraq, and Iran, and Syria and Libya may soon have chemical and nuclear weapons, ballistic missiles, then I think again you need new solutions.

So, we are trying to develop a basic approach to new solutions at a time when the world is changing, and I have noticed in the newspapers a number of changes happening around the world, that what we are trying to do here in the United States is not just something that is American, but, in fact, is part of a worldwide activity. I noticed, for example, in U.S. News & World Report recently, on April 2, the point was made that the East German voters, when they finally were allowed

to have a free election, they did not just vote for people who were sort of Communist, they did not just vote for people who were socialist, they did not vote for people who were bureaucrats.

Mr. Speaker, let me quote precisely what was said on page 28 of U.S. News & World Report on April 2:

> The voters are saying in the slogan of the East German winners, "No more social experiments." They are looking for economic growth, not economic redistribution, and while they want a safety net, they have little confidence in the government's ability to direct the whole economy. They prefer politicians who affirm cultural values to bureaucratic busybodies who want to reform them. History is not, it seems, an endless move to the left.

Mr. Speaker, I thought that passage by Michael Barone in U.S. News was extremely revealing, and I think that it gets us right to the core of what is happening. I might mention in passing, by the way, that Michael Barone has a brilliant new book out entitled, "Our Country, America from Roosevelt to Reagan," and I might say that that might be the best book on government and politics in my lifetime. I think it is a remarkable study about how Franklin Roosevelt developed modern American government and how it evolved over the last 50 years.

However, Mr. Speaker, I want to emphasize the point that you could literally take what is happening in East Germany, or in Poland, or in Hungary, and apply it to America's big cities.

□ 1530

After all, if we are against big bureaucracies, does not Washington, DC, fit the pattern of Warsaw? If we are worried about big bureaucracy, does not New York City fit the pattern of Budapest? If we are worried about big bureaucracies, is not Philadelphia as big a bureaucratic system as you might find in Prague?

So I think it is very, very important that we look very, very much at this question of rethinking and replacing the bureaucratic welfare state and establishing basic American values, rather than permissive attitudes.

There is an interesting side note as a sign of how much the world is changing. The current frontrunner in the election for President of Peru was supposed to be Mario Vargas Llosa, who is the poet laureate of Peru and a tremendous writer and a man who himself represented a dramatic change. Vargas Llosa was campaigning on a coalition promise that they would reform Peru, that they would privatize much of the bureaucracy, that they would be much more inclined to favor jobs and entrepreneurship and creating new approaches. Everyone expected that Mario Vargas Llosa, who I have quoted before, in talking about the need to replace the bureaucratic welfare state, that he would win because he was the most dramatic and the boldest candidate. Yet all of a sudden at the very last, during the recent first round of elections in Peru, Alberto Fujimori came from nowhere and suddenly showed up as the leading contender and almost won.

Now, it is a fascinating story, because Alberto Fujimori is a Japanese-Peruvean. That is, he comes from Japanese descent. His parents are Japanese, and Fujimori represents an even more dramatic, an even bolder, an even more radical approach to replacing the bureaucratic welfare state.

Mr. Fujimori's campaign slogan, "work, honesty and technology," was brought to my attention by one of my colleagues who said, "You know, that sounds a lot like what you are trying to talk about in the American Opportunities Workshop." We are emphasizing honest, hard work, as the most important American value, and we are suggesting that honest, hard work is an essential part of where America has to go. A lot of people who are responding in America to the need for change come out of the evangelical movement, just as in Romania it was the evangelical movement which played a major role in establishing change in Romania, just as we are seeing in a number of other countries in Eastern Europe, including Russia, an important role being played by active churches.

Well, it turns out that when you begin to investigate Alberto Fujimori's campaign that the Protestant evangelicals, who are only 4 percent of Peru's 20 million people, that represent about a third of the candidates for Congress in Mr. Fujimori's slate, are active in his campaign, and his campaign is a facinating one. It is called Change 90 and it emphasized his commitment to trying to create a more dynamic, a more open-ended future for Peru.

Now, he argues that they have to work in new ways, that his ultimate goal is a free economy.

I want to start with this notion, that in a world where we are seeing the East Germans replace their bureaucracy, in a world where we are seeing the Hungarians replace their bureaucracy, in a world where change is occurring so rapidly that we see a Japanese-Peruvean as the frontrunner for President, competing with a novelist poet, a totally new kind of politics, maybe it is time for Americans to accept the principle, as I said earlier, that in a changing world the same old ideas simply are not working.

Let me give you an example of what I mean by the bureaucratic welfare state and why it is so difficult to create the right kind of behavior. Let me show you how directly this impacts on the war on drugs.

Donald Graham, the publisher of the Post, recently wrote an article talking about being a policeman. It was entitled, "Policing: It's a Tougher Job Now." It is his reaction to riding in the fifth district police cars for 20 hours, spread over 3 nights. More than a third of the radio calls that those cars handled related in some way to drugs. Almost all involved crack.

Now, he goes through a series of specifics. He makes some very interesting points, I think.

He says:

> Twenty years ago drug traffic concentrated on only one corner in the old Ninth Precinct—8th and H NE. Now the police can show me pockets of drug dealers on 20 corners in the same neighborhood. The pervasiveness of crack seemed more like the level of alcoholism in 1969 than the level of heroin.
>
> I asked police officials if I could spend some time riding near my old beat to compare today's police work with that of 20 years ago. Along with the rides came a firsthand look at a tiny sliver (please note: I was only looking at police work—not the equally important education-and-treatment side) of the crack war. I came away confused and troubled about who's winning.
>
> The heroin epidemic of 20 years ago passed in part because of tougher law enforcement. Presidents Johnson and Nixon almost doubled the number of police, from 2,600 to 5,100. A court reform law resulted in many more stiff sentences for convicted felons. The causes of the crime wave were complex, but putting a couple of thousand bad guys in jail did a lot to end it. In a blunderbuss way, the huge numbers of police officers walking on commercial streets reduced the chances for holdups. Robberies and murders went down.
>
> Now the city is trying some of the same tactics. But will the results be the same? The drug-dealer-shooting-drug-dealer homicides of 1988-90 are unlikely to be stamped out by more police. (These shootings, unlike liquor store holdups, are unlikely to be in places that attract the chance presence of a footman.) The pervasiveness of crack will make it tougher to break the back of the problem. "We can move the problem, and we can clean up a neighborhood where we have the cooperation of most of the citizens," said a police official. "If many of the young men in a neighborhood are involved in the drug trade, you may not be able to solve the problem through law enforcement."
>
> But the raw charge of energy coming from a huge infusion of young police officers can be felt throughout the District. They city's battle with drug crime is at a very pivotal moment right now. The police academy is straining, pumping out recruits, literally day and night (it's working on two shifts). The numbers of police have climbed to 4,000 and will go to 5,000 within a year. At the same time, hundreds of 20-year police—precisely those added when Johnson and Nixon beefed up the force in 1969-70—are retiring.

He goes on to point out the following, that we have more to do than just deal with the number of policemen.

> Police always complain about the handling of their cases by the court system, but anecdotally, the amount of grousing about good arrests no-papered, serious crimes resolved by misdemeanor pleas and felonies resulting in no jail time seems to be very high.
>
> The city is about to add 1,000 new police officers. The prisons have no place to put the felons being arrested by today's police.

In this context, it seems a pathetic joke that more than a year has gone by since federal drug administrator William Bennett offered to find new prison space for D.C. and no new beds are built or planned. Mr. Bennett and Mayor Barry cannot contain their loathing for each other long enough to sit down and find a new prison site.

Police officers are risking their lives each night making arrests that the court system must wash out to sea for lack of prosecutors, judges and, above all, prison beds. The causes of crack abuse go far beyond anything law enforcement alone can deal with. At a minimum, though, the city needs the ability to send felons to jail in order to fight it.

Now, I want to make a point here before going on to his description of how the bureaucracy directly affects the policeman. Winning the war on drugs and violent crime, which is the most important crisis facing America, is going to require on all-out effort, and it has to start with an understanding that the bureaucratic welfare state and permissive attitudes have created much of our current problem. Notice that in Don Graham's essay, back in 1969 to 1970 when the murder rate first peaked, the answer was to dramatically increase the number of policemen from 2,600 to 5,100; but the bureaucratic welfare state has a bias against policemen. When leftwing mayors look at how to balance the budget, they always seem to cut the police first or the prisons or the prosecutors. When you realize, for example, the Manhattan attorney's office in New York City has four homicide investigators, you realize what a joke it is to ask the question why is New York so dangerous. It is so dangerous because despite a $27 billion budget, despite 300,000 full-time employees, the fact is that liberals do not want to hire enough police, they do not want to build enough prisons and they do not want to hire enough judges and enough prosecutors to get criminals off the streets for a long time.

□ 1540

Similarly, how can we expect the new policemen to maintain their morale when they know that once again, as we were in the late 1960's, we are back in the period where policemen can arrest the criminal, and within days the criminal is going to be right back out there dealing in drugs? In fact, being arrested right now for all too many drug dealers is a nuisance rather than a problem. It is simply one of the occupational hazards of their job.

To solve that, we are going to have to have more judges. We are going to have to have more prosecutors and we are going to have to build more prisons.

Senator PHIL GRAMM and I have introduced a bill that does just that. The Gramm-Gingrich bill provides for a very tough sentencing program, with mandatory sentences. It provides for building new prisons including temporary prisons on an emergency basis. The Gramm-Gingrich bill provides for the use of military bases that are declared surplus, because I think one of the first steps of the peace dividend should be to turn over some military bases into camps that we can use to hold violent criminals and drug dealers so they are not released back on the street for the absence of prison space. The Gramm-Gingrich bill also provides that there be very steep penalties for the users. It provides 10 percent of your gross income for first use of drugs, 20 percent for second use, and 30 percent for third. That will stop sports figures and rock stars from using drugs and thinking that after all, the current fines are so small they are not much more than the cost of their limousine for a week.

Finally, the Gramm-Gingrich bill provides that prisoners would work, that they be paid a salary, and that we would then deduct the cost of keeping them in prison from their salary. Is this a tough approach? You bet you; but I would argue, just as in the article by Michael Barone from U.S. News, that the American people "prefer politicians who affirm cultural values to bureaucratic busybodies who want to reform them." For 30 years we have tried permissive attitudes in the bureaucratic welfare state, with crime and drugs, and it has not worked, and I think it is time to try a new solution, a much tougher solution, a solution based on basic American values starting with honest hard work.

That gets me back to what the bureaucratic welfare state does to the concept of honest hard work. Let me quote again from Don Graham:

Police officers, like people, come in all types. There are good ones and bad ones. I asked to ride with the good ones, and I did. All you can do in the presence of good police work is pause and admire the people who do it. What motivates a good police officer? If one police officer is hard-working and conscientious and one is lazy and less concerned, both will be paid the same. Citizens rarely write to praise effective police work. A more active officer is more likely to draw complaints than one who spends his time drinking coffee. Amazingly, the department still has a promotion system in which effectiveness at a patrolman's job has nothing to do with promotion. Who makes sergeant is based partly on an exam and partly on a brief interview with two police officials and a citizen who are supposed to be unacquainted with the officer they are interviewing. The fear of favoritism is so strong that Hubbard and Galway, when they come to be considered for promotion, go in on equal terms with cops considered far less effective at their job.

I think that what we have to confront here is the absolute reality that the bureaucratic welfare state which avoids merit, it avoids judgment, it avoids deciding how to reward people who do better than others, the bureaucratic welfare state actually weakens the incentives for good behavior, whether it is merit pay for police, or merit pay for teachers.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate him on the statement he is making and to tell him that I think that much of the country probably agrees that we have not done sufficient kinds of things to deal with the problems of crime and permissiveness and a number of other issues that he has raised.

I asked him to yield because there is an item that has come to my attention based upon a debate that we had about this very subject on the House floor yesterday. The gentleman will remember that on the House floor yesterday we sought to bring to the floor the President's crime bill, feeling that this House now has gone too long in not enacting tough new provisions to deal with the plague of crime that is sweeping the country. We were turned down on that request yesterday. The Democratic majority voted almost unanimously.

It was a bipartisan effort to bring the bill to the floor, but there was almost a unanimous vote by the majority party not to bring up that crime bill. In the course of the debate yesterday, the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], came to the floor and made an eloquent plea for Members not to take this issue out of the hands of the committee and to allow that bill to stay in the committee rather than to be brought to the floor under the procedures that we were advancing. In the course of his remarks, he made this statement, and I am quoting the statement from the videotape of the House proceedings of yesterday; he made this statement:

And all of us have voted for crime bills almost every year for the last few years. We have got almost as many crime bills passed as they have crimes committed.

The reason why I thought that statement was rather interesting when he made it was because it seemed to me to sum up an attitudinal situation with regard to this Member who is one of the most powerful Members with regard to the crime issue.

I have to interpret that statement as saying that this is not an issue which is important for us to act on in a quick manner, because we have already solved the problem, because we have already got too many crime bills out there anyhow. I do not think the American people would agree with that statement.

But here is my point: What came to my attention today is that when we go to the CONGRESSIONAL RECORD of today to try to find that statement, it is not there. The gentleman from Texas removed that rather important statement that he made on the House floor yesterday pleading for his position, from the CONGRESSIONAL RECORD.

Once again, I would say to the gentleman that this is precisely the question that we have raised on numerous occasions on the House floor, that there is a task force now studying, of whether or not Members of Congress should be responsible for the statements they make on the floor and whether or not they should be responsible enough to be held accountable by having those statements appear in the RECORD as they were stated on the House floor. Once again we have a significant statement being made that was then removed from the CONGRESSIONAL RECORD so history would not record that the gentleman from Texas, the chairman of the Committee on the Judiciary, said, "We have got almost as many crime bills passed as they have crimes committed."

Mr. GINGRICH. Can I ask the gentleman a question? Because I am a little puzzled here. Was that statement made as a part of a dialog that involved other Members? Is it part of a debate in which other Members were trying to communicate how they felt about it?

Mr. WALKER. Let me say to the gentleman, if he has a copy of the CONGRESSIONAL RECORD there, if he goes to page H1526 he will find on page H1526 a speech by the gentleman from Texas [Mr. BROOKS] in which he details his position with regard to the action that we had on the floor and, yes, it was a part of a general debate, but this was a speech by the chairman of the Committee on the Judiciary. It is down about the third or fourth paragraph is where he makes the remarks to which I have referred that have now been excised from the CONGRESSIONAL RECORD.

The remarks, as reported there, appear on the tape, but all of a sudden there is this gaping hole where the remarks to which I have referred have been excised and so, therefore, we have a situation where the CONGRESSIONAL RECORD, rather than being an accurate reflection of the debate yesterday, is an inaccurate reflection of the debate yesterday, has remarks in it from the chairman of the Committee on the Judiciary as he wishes he would have said them rather than the way in which he actually said them, and I am concerned about that.

The task force that we have looking into this matter, I think, should be very concerned about this, and it is a part of an ongoing pattern of abuse that I find particularly disturbing at a time when we are discussing, of all things, the crime bill.

Mr. GINGRICH. Let me say that I think it is very important for us that the CONGRESSIONAL RECORD be accurate and, second, that people understand that our efforts to get the Democratic leadership to bring various drug and crime bills to the floor is a very important factor here.

The fact is that the U.S. Government does have steps it can take which will help us win the war on drugs and violent crime. The President of the United States has sent up proposals which have now been, I believe, 10 months.

Mr. WALKER. Ten months in the committee.

Mr. GINGRICH. And the Democrats in Congress have not met those proposals.

□ 1550

Chief Justice Rehnquist has called for 69 more judges because he said that there are not enough Federal judges to try all of the savings and loan cases and to try all of the drug cases. So we have a real need to have 69 more Federal judges, which I understand the Democrats have not been willing to bring forward. So in effect there are drug dealers who are not being tried because we cannot get the Federal judges because the Democrats do not want to pass them.

I think that it is inappropriate for a Member to change what he said in a dialog in which other Members were involved.

Mr. WALKER. Well, if the gentleman would yield, the problem is that the remarks that he changed indicate that he does not believe that there is any particular need for any new crime bills. The gentleman has just detailed a couple of reasons why the President's crime bill is important and why we need to report it, but the chairman of the Judiciary Committee, which controls the crime bills in this Congress, was indicating in the statement that I read that he does not believe that there is very much need for any new crime bills, because he says:

> All of us that voted for crime bills almost every year for the past few years, we have got almost as many crime bills passed as they have crimes committed.

That does not sound like a very serious concern about getting additional crime legislation to the House floor, and yet that ended up not appearing in the CONGRESSIONAL RECORD.

Mr. GINGRICH. May I ask the gentleman a question, because I am curious. I do not seem to remember, particularly considering that statement was made in Washington, DC, where they have enough crimes in a given day that that would be a big number, even if he had said as many crimes as were committed, as many murders as were committed last week.

It was sort of an outrageous comment. I am sure he meant it purely in jest and I am sure when he looked at it he found it embarrassing that he had been joking about crime.

But I am curious, do you remember other than the omnibus crime package under President Reagan, do you remember any major crime legislation we have passed?

Mr. WALKER. Well, of course we passed the omnibus drug bill in the last Congress.

Mr. GINGRICH. That was under President Reagan also.

Mr. WALKER. That was under President Reagan, that is correct. And we have not cleared any major crime legislation during the Bush administration, despite the fact that the Bush administration has sent a crime and drug package up here as the gentleman points out many months ago.

The gentleman will remember a few years ago, the only way we got a crime bill to the floor was a very interesting parliamentary maneuver where we were able to attach it to a supplemental appropriation bill at the last moment and were able to put this whole package of amendments on the floor because they had been passed by the Senate.

The Judiciary Committee has not been very fond of reporting crime bills anyhow, and I am afraid that their attitude is not particularly positive in this case.

Now we learn that they do not even want the public record to reflect what that attitude may be.

Mr. GINGRICH. Maybe if that was our attitude, we would not necessarily want the public to know it either.

Let me say that this whole problem of the bureaucratic welfare state and the way in which we are not able to solve the crime problem, I want to quote one more section from Don Graham, because it illustrates just how ridiculous America's biggest cities are getting and just how bad the bureaucratic welfare state has gotten.

Let me read this closing quote from Don Graham. He said:

> At the 5th District 16-year-old headquarters, Deputy Chief Fred Raines never has to water his potted plant. He just moved it under the biggest roof leak in his office. When it rains, it pours throughout the building. Sections of wall and ceiling have fallen. One day last week no bathrooms in the building worked, a frequent occurrence, cops said. There isn't much the rest of us can do to help police in their jobs, but the street is tough enough. It would be nice if the city's Department of Administrative Services would give the police a place to come in out of the rain.

Now, I want to expand upon what Don Graham said, because I think it has to be said more strongly. There is a reason I believe for every American to be enraged at the collapse of the bureaucratic welfare state, and at the

absolute failure of permissive attitudes, because there are real human costs.

The District of Columbia is not short of money, it is short of honesty and it is short of management. If it had an honest government and if it had a managed government that spent the money intelligently, if it applied common sense, if it broke up the bureaucracy and used entrepreneurial free enterprise, if it applied technological progress and innovation, and if it believed in honest hard work, the District of Columbia's city government would in fact be able to have a police department that did not leak, and they would be able to have a police department that had bathrooms that worked.

And it is an outrage that we ask our policemen to go out on the streets, and we cannot find a city government honest enough and effective enough to be able to do the job.

But some people might say I am just trying to attack the District of Columbia. But that is not the case. The New York City government, $27 billion in the city budget 300,000 full-time employees.

Now, my guess is if the New York City budget, simply by attrition, replaced half of this year's vacancies with policemen and put them on the street, and if the New York City government would simply give up the union work rules that make the bureaucracy so inefficient, that New York City would be 25 percent better and safer and more prosperous in a year without an additional penny from the taxpayer.

The point of my discussion today of the American Opportunities Workshop on May 19, and the point of talking about replacing the bureaucratic welfare state and permissive attitudes with a more common sense approach, and of recognizing that in a changing world we cannot stay with the same old ideas, in particular with the ideas which have failed so deeply.

Finally, let me repeat one last time what the voters have been saying in East Germany, as quoted by Michael Barone in U.S. News & World Report, and let me suggest that the people of America, if they will get active, if they will get registered, if they will get involved, they can have as big a change in the bureaucratic welfare state, they can have as big a change in the war on drugs and violent crime, as the people of Eastern Europe.

The voters are saying in the slogan of the East German winners, no more socialist experiments. They are looking for economic growth, not economic redistribution. While they want a safety net, they have little confidence in the government's ability to correct the whole economy. They prefer politicians who affirm cultural values to bureaucratic busybodies who want to reform them. History is not, it seems, an endless move to the left.

I just want to close by urging my colleagues, take a look at the Gramm-Gingrich bill on drugs and violent crime. Take a look at the American Opportunities Workshop and contact Will Pack and see what is going to be happening on that program, and recognize that if we apply common sense, if we apply the values that have worked for America, we can solve the problems we are talking about.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BONIOR (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. GRANT (at the request of Mr. GEPHARDT) for April 18 and 19 for attending the birth of Madison Kathleen Grant.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PAXON) to revise and extend their remarks and include extraneous material:)

Mr. MILLER of Washington, for 5 minutes, today.

Mr. YOUNG of Florida, for 60 minutes, on April 24.

Mrs. BENTLEY, for 60 minutes each day, on April 25, 26, and 30, and May 1, 3, 8, 9, and 10.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. PARKER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. AKAKA, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on April 25.

(The following Member (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. HANSEN, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROE and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,725.

(The following Members (at the request of Mr. PAXON) and to include extraneous matter:)

Mr. WELDON.

Mr. FIELDS.

Mr. SOLOMON.

Mr. FISH in two instances.

Mr. LENT.

Mr. SCHAEFER.

Ms. ROS-LEHTINEN in two instances.

Mr. GREEN in two instances.

Mr. DOUGLAS.

Mr. STANGELAND.

Mrs. JOHNSON of Connecticut.

Mrs. BENTLEY.

Mr. MACHTLEY in five instances.

Mr. LEHMAN of Florida.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. ROE.

Mr. LAFALCE.

Mr. FUSTER.

Ms. SLAUGHTER of New York.

Mr. MATSUI.

Mr. BONIOR.

Mr. MOODY.

Mr. MANTON.

Mr. UDALL.

Mr. JACOBS.

Mr. DONNELLY.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims Rights Week."

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 57 minutes p.m.) under its previous order, the House adjourned until Monday, April 23, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3020. A letter from the Secretary, Department of Defense, transmitting the 1990 joint military net assessment, pursuant to 10 U.S.C. 113(j); to the Committee on Armed Services.

3021. A letter from the Secretary of Agriculture, transmitting a report on the Rural Housing Demonstration Housing Program, pursuant to 42 U.S.C. 1476(b); to the Committee on Banking, Finance and Urban Affairs.

3022. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-191, "Representative and Senators Term of Office, Duties, and Use of Private Funds for Public Purposes Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3023. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-190, "Infant and Child

Abandonment Prevention Amendment Act of 1990," and report, pursuant to D.C. Code Section 1-233(c)(1); to the Committee on the District of Columbia.

3024. A letter from the Secretary of Education, transmitting a copy: "Final Regulations—Federal State and Local Partnership for Educational Improvement," pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3025. A letter from the Attorney General of the United States, transmitting a copy of a research report entitled, "Juveniles Taken Into Custody: Developing National Statistics, December 1989"; to the Committee on Education and Labor.

3026. A letter from the Chairman, Council on Environmental Quality, transmitting a draft of proposed legislation to authorize appropriations for the Office of Environmental Quality for fiscal years 1991 and 1992, and for other purposes, pursuant to 31 U.S.C. 1110; to the Committee on Merchant Marine and Fisheries.

3027. A letter from the Board of Trustees, the Federal Hospital Insurance Trust Fund, transmitting the 1990 annual report of the Federal Hospital Insurance Trust Fund, pursuant to 42 U.S.C. 1817(b)(2) (H. Doc. No. 101-174); to the Committee on Ways and Means and ordered to be printed.

3028. A letter from the Board of Trustees, the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1990 annual report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, pursuant to 42 U.S.C. 201(c)(2) (H. Doc. No. 101-175); to the Committee on Ways and Means and ordered to be printed.

3029. A letter from the Assistant Secretary of Defense for Production and Logistics, transmitting a report on the effects of Navy shipbuilding and repair on U.S. public and private shipyards and the supporting industrial base; jointly, to the Committees on Armed Services and Appropriations.

3030. A letter from the Board of Trustees, the Federal Supplementary Medical Insurance Trust Fund, transmitting the 1990 annual report of the Federal Supplementary Medical Insurance Trust Fund, pursuant to 42 U.S.C. 1841(b)(2) (H. Doc. No. 101-173); jointly, to the Committees on Ways and Means and Energy and Commerce, and ordered to be printed.

3031. A letter from the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, transmitting the fifth report on the implementation of section 318(h) of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, pursuant to Public Law 101-121, section 318(h) (103 Stat. 750); jointly, to the Committees on Agriculture, Appropriations, Interior and Insular Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4283. A bill to authorize expenditures for fiscal year 1991 for the operation and maintenance of the Panama Canal, and for other purposes; with an amendment (Rept. 101-451). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 2514. A bill amending subchapter III of chapter 84 of title 5, United States Code; with an amendment (Rept. 101-452). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON. Committee on Public Works and Transportation. H.R. 3961. A bill to redesignate the Federal building at 1800 5th Avenue, North, in Birmingham, AL, as the "Robert S. Vance Federal Building"; with amendments (Rept. 101-453). Referred to the House Calendar.

Mr. ANDERSON. Committee on Public Works and Transportation. H.R. 4035. A bill to redesignate the Federal building located at 777 Sonoma Avenue in Santa Rosa, CA, as the "John F. Shea Federal Building"; with an amendment (Rept. 101-454). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 4556. A bill to prohibit the operation of landfills within 3 miles of the Potomac River; to the Committee on Energy and Commerce.

By Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. HAMMERSCHMIDT, and Mr. ROWLAND of Georgia):

H.R. 4557. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities, to revise and improve recruitment and retention of nurses in the Department by providing greater flexibility in the pay system for nurses, to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. AKAKA:

H.R. 4558. A bill to establish a foundation in honor of Senator Spark M. Matsunaga to provide scholarships and fellowships to outstanding students, and to provide monetary awards to individuals who advance instruction, in the fields of peace studies and conflict resolution; and for other purposes; jointly, to the Committees on Education and Labor and Foreign Affairs.

By Mr. BILBRAY:

H.R. 4559. A bill to establish the Red Rock Canyon National Conservation Area; to the Committee on Interior and Insular Affairs.

By Mr. DREIER of California (for himself, Mr. HATCHER, Mr. COX, Mr. LAUGHLIN, Mr. MCEWEN, and Mr. ROHRABACHER):

H.R. 4560. A bill to establish a program for greater stability and support [PROGRESS] for Eastern Europe; jointly, to the Committees on Ways and Means; Banking, Finance and Urban Affairs; Foreign Affairs; Energy and Commerce; and Small Business.

By Mr. CARR:

H.R. 4561. A bill to amend the Solid Waste Disposal Act to prohibit the transportation of solid waste from the State in which the waste was generated to another State for purposes of treatment, storage, or disposal, unless the State in which the waste was generated has, in effect, a law prohibiting nonreturnable beverage containers; to the Committee on Energy and Commerce.

By Mr. ENGEL:

H.R. 4562. A bill to amend the Export Administration Act of 1979 to direct the Secretary of Commerce to establish indexing procedures to remove obsolete items from the commodity control list; to the Committee on Foreign Affairs.

By Mr. FIELDS (for himself and Ms. SCHNEIDER):

H.R. 4563. A bill to amend the African Elephant Conservation Act to prohibit importation of fish and wildlife from the People's Republic of China if that country does not withdraw their reservation regarding listing the African elephant as an endangered species under appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. GUNDERSON:

H.R. 4564. A bill to delay the effective date of final regulations of the Secretary of the Treasury implementing the labeling requirements of the Alcoholic Beverage Labeling Act of 1988; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. HOAGLAND (for himself, Mr. MCMILLEN of Maryland, Mr. NEAL of North Carolina, Mr. GEREN, Mr. BEVILL, Mr. LEHMAN of California, Mr. LANCASTER, Mr. HUBBARD, Mr. FLAKE, Mr. MORRISON of Connecticut, Mr. JOHNSTON of Florida, Mr. FUSTER, Mr. MCCLOSKEY, Mr. FRANK, Ms. OAKAR, Mr. BARNARD, Mr. MFUME, Mr. TOWNS, Mr. AKAKA, Mrs. UNSOELD, Mr. PARKER, Mr. ESPY, Mr. HOCHBRUECKNER, Mr. AUCOIN, Mr. KLECZKA, Mr. ENGEL, Mr. GRANDY, Mr. GALLO, Mr. SHUMWAY, Mr. BARTLETT, Mr. WHITTAKER, Mr. KOLBE, Mr. DAVIS, Mr. MCCOLLUM, Mr. GILLMOR, Mr. BALLENGER, Mr. BAKER, Mr. PAXON, Mr. ROTH, Mr. LEWIS of Florida, Mr. RIDGE, Mr. BEREUTER, Mr. PARRIS, Mrs. ROUKEMA, Mr. SAXTON, and Mr. QUILLEN):

H.R. 4565. A bill to amend certain provisions of the Home Owners' Loan Act relating to limitations on loans to one borrower by savings associations and to provide a transition period for the implementation of such limitations; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. JOHNSON of Connecticut:

H.R. 4566. A bill to amend title XVIII of the Social Security Act to require the arbitration of medical malpractice claims brought by Medicare beneficiaries; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. JOHNSON of South Dakota (for himself and Mr. CAMPBELL of Colorado):

H.R. 4567. A bill to authorize an exchange of lands in South Dakota and Colorado; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. KENNEDY (for himself, Mr. OBERSTAR, Mr. MARKEY, Mr. GORDON, Mr. FLAKE, Mr. MCDERMOTT, and Mr. PALONE):

H.R. 4568. A bill to amend title 23, United States Code, to provide a minimum level of funding for bicycle transportation and pedestrian walkways; to the Committee on Public Works and Transportation.

By Mr. LAFALCE:

H.R. 4569. A bill to provide assistance for projects designed to aid economic development in, and improve the health of the people of, certain Central European countries and other countries with emerging market economies; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEVINE of California:

H.R. 4570. A bill to amend section 438 of the General Education Provisions Act to permit the release of records of disciplinary proceedings to victims of violent crime; to the Committee on Education and Labor.

By Mr. MATSUI (for himself and Mr. SCHULZE):

H.R. 4571. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free withdrawals from individual retirement plans for first home acquisitions by taxpayers or their children or grandchildren; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 4572. A bill to amend title XVIII of the Social Security Act to require Medicare carriers to publish medical review screens and associated screening parameters before applying such screen and parameters; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Ms. SLAUGHTER of New York:

H.R. 4573. A bill to amend the Internal Revenue Code of 1986 to extend the treatment of qualified small issue bonds through 1995; to the Committee on Ways and Means.

By Ms. SLAUGHTER of New York (for herself, Mr. MILLER of California, and Mr. SCHUMER):

H.R. 4574. A bill to amend the Stewart B. McKinney Homeless Assistance Act to reauthorize provisions relating to the provision of education to homeless children and homeless youths, to establish a program of grants to State and local education agencies for the provision of support services to such children and youths, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Education and Labor.

By Mr. SLAUGHTER of Virginia:

H.R. 4575. A bill to amend the Internal Revenue Code of 1986 to allow newspapers a credit against income tax for using recycled newsprint; to the Committee on Ways and Means.

By Mr. STALLINGS (for himself, Mr. WISE, Mr. FORD of Michigan, Mr. ENGLISH, Mr. TALLON, Mr. GUNDERSON, Mr. SKELTON, Mr. OBEY, Mr. GRANDY, Mr. RAHALL, Mr. PENNY, Mr. CAMPBELL of Colorado, Mr. ESPY, Mr. THOMAS of Wyoming, Mr. HATCHER, Mr. EVANS, and Mr. JONTZ):

H.R. 4576. A bill to establish a program of grants to improve the utilization of rural schools and school systems, improve job opportunities and the business environment in rural areas, and provide needed social services to rural areas; to the Committee on Agriculture.

By Mr. STANGELAND:

H.R. 4577. A bill to amend the Solid Waste Disposal Act to establish programs to provide loan guarantees and grants to small businesses for the closure, replacement, and upgrade of underground storage tanks and for the maintenance of release detection systems for such tanks, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. TALLON:

H.R. 4578. A bill to allow holders of unclaimed Postal Savings System certificates of deposit to file claims for such certificates; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. WYDEN:

H.R. 4579. A bill to amend the Toxic Substances Control Act to require the Administrator of the Environmental Protection Agency to provide for the identification and monitoring of environmental areas of concern for the presence and effects of toxic substances, and for other purposes; to the Committee on Energy and Commerce.

By Mr. YOUNG of Florida (for himself and Mr. WAXMAN):

H.R. 4580. A bill to amend the Public Health Service Act to extend the program for a registry of voluntary bone marrow donors; to the Committee on Energy and Commerce.

By Mr. DORNAN of California:

H. Con. Res. 306. Concurrent resolution expressing the sense of the Congress that the people of the United States should be protected from ballistic missile attack with near-term development of phase I elements of the strategic defense initiative; to the Committee on Armed Services.

By Mr. SAWYER:

H. Con. Res. 307. Concurrent resolution to establish an Albert Einstein Fellowship Program; to the Committee on House Administration.

By Mr. SCHAEFER:

H. Con. Res. 308. Concurrent resolution declaring that the deficit target for fiscal year 1991 set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 should be met by limiting the growth in spending, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. FASCELL, Mr. BROOMFIELD, Mr. YATRON, Mr. BEREUTER, Mr. CROCKETT, Mr. LAGOMARSINO, Ms. ROS-LEHTINEN, Mr. GOSS, Mr. OWENS of Utah, Mr. BURTON of Indiana, Mr. LANTOS, Mr. GALLEGLY, Mr. SOLOMON, Mr. ACKERMAN, Mr. HYDE, Mr. BOSCO, Mr. MILLER of Washington, Mr. WEISS, Mr. GINGRICH, Mr. DWYER of New Jersey, Mr. ARMEY, Mr. FRANK, Mr. LENT, Mr. MAVROULES, Mr. WEBER, Mr. DORNAN of California, Mr. GALLO, Mr. SIKORSKI, Mr. RINALDO, Mr. SMITH of New Hampshire, Mr. WALKER, Mr. WILSON, and Mrs. MORELLA):

H. Res. 381. Resolution relating to human rights abuses by the Government of Cuba and reprisals by the Cuban Government against those Cuban citizens who testified before the Cuba Working Group of the United Nations Human Rights Commission; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

364. By the SPEAKER: Memorial of the Legislature of the State of Indiana, relative to restoring funds cut from the budget for unemployment insurance staff and operations; to the Committee on Ways and Means.

365. Also, memorial of the Senate of the State of Michigan, relative to providing supplemental appropriations to the Michigan Employment Security Commission; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. RITTER, Mr. GRANT, Mr. SCHIFF, Mr. STEARNS, Mr. LENT, Mr. HUGHES, and Mr. PICKETT.

H.R. 173: Mrs. MORELLA, Mr. MILLER of Ohio, Mr. WALKER, Mr. SMITH of New Hampshire, Mr. DOUGLAS, Mr. HEFLEY, and Mr. SHAYS.

H.R. 543: Mr. NEAL of North Carolina, Mrs. ROUKEMA, Mr. CARDIN, Mr. JOHNSTON of Florida, and Mr. OWENS of Utah.

H.R. 563: Mr. KASTENMEIER.

H.R. 586: Mr. MARKEY.

H.R. 830: Mr. OWENS of New York, Mr. ROBINSON, Mr. MCCLOSKEY, Mr. RANGEL, Mr. STUDDS, Mr. MOAKLEY, Mr. LEACH of Iowa, Mr. BROOMFIELD, and Mrs. PATTERSON.

H.R. 911: Mr. HANSEN, Mr. LIVINGSTON, and Mr. RAHALL.

H.R. 1041: Mr. JOHNSON of South Dakota.

H.R. 1239: Mr. INHOFE.

H.R. 1496: Mr. DWYER of New Jersey.

H.R. 2059: Mr. STUMP.

H.R. 2254: Mr. SOLOMON, Mr. VENTO, and Mr. KOLTER.

H.R. 2273: Mr. WASHINGTON, Mr. HATCHER, Mr. HAMMERSCHMIDT, and Mr. SMITH of New Jersey.

H.R. 2584: Mr. WEISS.

H.R. 2608: Mr. VENTO and Mr. KYL.

H.R. 2700: Mr. GRANDY.

H.R. 2787: Mr. PASHAYAN.

H.R. 2870: Mr. CONDIT.

H.R. 2951: Mr. YATES, Mr. BROWN of California, Mrs. UNSOELD, Mr. OWENS of New York, Mr. HOYER, and Mr. MCMILLEN of Maryland.

H.R. 2952: Mr. YATES, Mr. BROWN of California, Mrs. UNSOELD, Mr. OWENS of New York, Mr. MFUME, Mr. HOYER, and Mr. MCMILLEN of Maryland.

H.R. 3037: Mr. APPLEGATE, Mr. SANGMEISTER, Mr. PAYNE of Virginia, and Mrs. BOXER.

H.R. 3120: Mr. FAUNTROY and Mr. BONIOR.

H.R. 3212: Mr. ENGEL and Mr. BEILENSON.

H.R. 3240: Mr. MFUME, Mr. ESPY, Mr. FLAKE, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. JOHNSON of South Dakota, Mr. SAVAGE, Mrs. BOXER, Mr. FRANK, and Mr. BROWN of California.

H.R. 3243: Mr. BOEHLERT and Mr. THOMAS of Wyoming.

H.R. 3349: Mrs. COLLINS.

H.R. 3485: Mr. JAMES.

H.R. 3571: Mr. PALLONE.

H.R. 3572: Mr. DAVIS and Mr. KOLBE.

H.R. 3573: Mr. PACKARD.

H.R. 3659: Mr. SPENCE, Mr. APPLEGATE, and Mr. PAYNE of Virginia.

H.R. 3684: Mr. SLATTERY, Mrs. MORELLA, and Mr. MARTINEZ.

H.R. 3713: Mr. POSHARD.

H.R. 3732: Mrs. SCHROEDER, Mr. RICHARDSON, Mr. BARTON of Texas, Mrs. UNSOELD, Mr. JOHNSTON of Florida, Mr. MCMILLAN of North Carolina, Mr. MCDERMOTT, Mr. AKAKA, Mr. SANGMEISTER, and Mr. TRAFICANT.

H.R. 3768: Mr. SOLOMON.

H.R. 3836: Mr. HYDE, Mr. GOSS, Mr. PAYNE of New Jersey, Mr. ATKINS, Mr. LEWIS of Georgia, and Mr. BLILEY.

H.R. 3859: Mrs. UNSOELD.

H.R. 3906: Mr. HASTERT and Mr. SIKORSKI.

H.R. 3925: Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. LEWIS of Georgia, and Mr. OWENS of New York.

H.R. 3928: Mr. MOLLOHAN, Mr. GORDON, Mr. RINALDO, Mr. STUDDS, Mr. SAVAGE, Mr.

FOGLIETTA, Mr. HAWKINS, Mr. DWYER of New Jersey, Mr. NAGLE, Ms. KAPTUR, Mr. LIPINSKI, Mr. POSHARD, Mr. HUGHES, Mr. ATKINS, Mrs. COLLINS, Mr. LEWIS of Georgia, and Mr. PALLONE.

H.R. 3933: Mr. ERDREICH, Mr. AUCOIN, Mr. CONDIT, and Mr. NELSON of Florida.

H.R. 3961: Mr. ESPY.

H.R. 3972: Mr. DENNY SMITH.

H.R. 3979: Mr. TORRES, Mr. MINETA, and Mr. MCCLOSKEY.

H.R. 4006: Mr. ENGEL, Mr. EVANS, Mr. HYDE, Ms. LONG, and Mrs. UNSOELD.

H.R. 4025: Mr. FEIGHAN.

H.R. 4026: Mr. TAUZIN, Mr. TRAFICANT, and Mr. BAKER.

H.R. 4042: Mr. ATKINS, Mrs. LOWEY of New York, Mr. FAWELL, and Mr. MOAKLEY.

H.R. 4060: Mr. SWIFT, Mrs. BOXER, and Mr. BATES.

H.R. 4110: Mr. SMITH of Vermont, Mr. EVANS, Mr. DIXON, Mr. GRANT, and Mr. PAYNE of New Jersey.

H.R. 4118: Mr. OWENS of Utah.

H.R. 4151: Mr. AKAKA, Mr. PENNY, Mr. MURPHY, Mr. MILLER of California, Mr. HOYER, Mr. HUBBARD, Mr. OBERSTAR, Mr. SLATTERY, Mr. PERKINS, Mr. SKELTON, Mr. MATSUI, Mr. MCDERMOTT, Mr. SMITH of Vermont, Mr. NEAL of Massachusetts, Mr. MARTINEZ, Mr. RAHALL, Mr. BROWN of Colorado, Mr. MACHTLEY, Mr. HAYES of Illinois, Mr. FRANK, Mr. HENRY, Mr. MCHUGH, Mr. BOEHLERT, Mr. MORRISON of Connecticut, Mr. WALSH, Mr. MILLER of Washington, Mr. FORD of Michigan, Mr. KANJORSKI, Mr. OWENS of New York, Mr. BEREUTER, Mr. FAWELL, Ms. PELOSI, Mr. MRAZEK, Mr. FAUNTROY, Mr. RANGEL, Mr. COLEMAN of Texas, Mr. NOWAK, Mrs. BYRON, Mr. FAZIO, Mr. CROCKETT, Mr. LEVIN of Michigan, Mr. MCNULTY, Mr. ROE, Mr. BILBRAY, Mr. EVANS, Mr. APPLEGATE, Mr. BORSKI, Mr. KLECZKA, Mr. GUNDERSON, Mr. ATKINS, Mr. LAFALCE, Mr. HATCHER, Mrs. JOHNSON of Connecticut, Mr. CAMPBELL of Colorado, Mr. ECKART, Mr. SCHEUER, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. DWYER of New Jersey, Mr. FLAKE, Mr. FORD of Tennessee, Mr. UDALL, Mr. FLIPPO, Mr. STOKES, Mr. JONTZ, Mr. SABO, Ms. SNOWE, Ms. LONG, Mr. HOUGHTON, Mr. NELSON of Florida, Mr. DURBIN, Mr. TRAXLER, Mr. MAZZOLI, Mr. RAY, and Mr. ACKERMAN.

H.R. 4181: Mr. ATKINS, Mrs. BOXER, Mr. ECKART, Mr. GORDON, Mr. HALL of Ohio, Mr. JAMES, Mr. LANCASTER, Mr. LEWIS of Florida, Mrs. LLOYD, Mr. THOMAS A. LUKEN, Mr. MURTHA, Mr. OXLEY, Ms. PELOSI, Mr. PERKINS, Mr. RAHALL, Mr. SARPALIUS, Mr. SAWYER, Mr. WILLIAMS, and Mr. WILSON.

H.R. 4209: Mr. ATKINS, Mr. BONIOR, and Mr. MARKEY.

H.R. 4226: Mr. GOODLING and Mrs. JOHNSON of Connecticut.

H.R. 4248: Mr. SOLOMON, Mr. SENSENBRENNER, Mr. HANSEN, Mr. SMITH of New Hampshire, Mr. KYL, Mr. SMITH of Vermont, Mr. WALSH, Mr. GOSS, and Mr. PACKARD.

H.R. 4250: Mr. HORTON and Mr. HARRIS.

H.R. 4258: Mr. BILIRAKIS and Mr. PRICE.

H.R. 4274: Mr. JONTZ and Mr. WILLIAMS.

H.R. 4300: Mr. MAVROULES, Mr. LANTOS, and Mr. ROWLAND of Connecticut.

H.R. 4332: Mr. SKELTON, Mr. SUNDQUIST, Mr. FUSTER, Mr. RAVENEL, Mrs. LLOYD, and Mr. DWYER of New Jersey.

H.R. 4347: Mr. HERGER.

H.R. 4353: Mr. HOLLOWAY and Mr. WALSH.

H.R. 4411: Mr. OWENS of New York.

H.R. 4418: Mr. BILIRAKIS.

H.R. 4460: Mr. KOLTER, Mr. GAYDOS, Mr. EVANS, Mr. BORSKI, Mr. LANTOS, and Ms. OAKAR.

H.R. 4486: Mr. SIKORSKI, Mr. POSHARD, Mr. HALL of Texas, Mr. LANCASTER, Mr. ERDREICH, and Mr. CHAPMAN.

H.R. 4487: Mr. CHAPMAN, Mr. HALL of Texas, Mr. MCDERMOTT, Mr. PAYNE of Virginia, Mr. WYDEN, Mr. STUDDS, Mr. SWIFT, Mr. SCHEUER, Mr. ROBERTS, and Mr. BRUCE.

H.R. 4492: Mr. MOODY, Mr. KLECZKA, Mr. ROSE, Mr. PENNY, Mr. MARKEY, and Mr. TOWNS.

H.R. 4497: Mr. SLATTERY.

H.R. 4515: Mr. COYNE.

H.J. Res. 54: Mr. RAHALL.

H.J. Res. 256: Mr. CRAIG and Mr. KASICH.

H.J. Res. 411: Mr. BURTON of Indiana, Mr. FAUNTROY, Mr. CHAPMAN, Mr. SMITH of Vermont, Mr. MORRISON of Washington, Mr. SANGMEISTER, Mr. CARPER, Mr. GONZALEZ, and Mr. JENKINS.

H.J. Res. 417: Mr. SCHEUER.

H.J. Res. 452: Mr. WEBER, Mr. SUNDQUIST, Mr. HAYES of Illinois, Mr. QUILLEN, Mr. LEVIN of Michigan, Mr. GEREN, Mr. SIKORSKI, Mr. CRANE, Mr. BOSCO, Mr. BLILEY, Mr. DURBIN, Mr. DEWINE, Mr. BATEMAN, Mr. BORSKI, Mr. LANCASTER, Mr. BROWDER, Mr. GREEN, Mr. TANNER, Mr. HENRY, Mr. FROST, Mr. ENGEL, Mr. OWENS of New York, Mr. BENNETT, Mr. WILSON, Mr. DAVIS, Mr. BARNARD, Mr. MILLER of Washington, Mr. RAY, Mr. SAVAGE, Mr. HOYER, Mr. SOLOMON, Mr. BATES, Mr. MCMILLEN of Maryland, and Mr. FLAKE.

H.J. Res. 460: Mr. HAYES of Louisiana, Mr. SMITH of Texas, Mr. DEFAZIO, Mr. DE LUGO, Mr. HYDE, Mr. KLECZKA, Mr. MOAKLEY, Mr. MURPHY, Mr. CLARKE, Mr. BATES, Mr. BILIRAKIS, Mr. MILLER of Washington, Mr. DE LA GARZA, Mr. FALEOMAVAEGA, Mr. MANTON, Mr. PERKINS, Mr. PICKLE, Mr. KENNEDY, Mr. RAY, Mr. BROWDER, Mr. CARPER, Mr. BENNETT, Mr. PAXON, Mr. ROYBAL, Mr. SAWYER, Mr. VALENTINE, Ms. LONG, Mr. GEKAS, Mr. NAGLE, Mr. YATES, Mr. SPENCE, Mr. MACHTLEY, Mr. WYDEN, Mr. ROSE, Mr. TAYLOR, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. STUMP, Mr. MORRISON of Washington, and Mr. TAUKE.

H.J. Res. 464: Mr. WASHINGTON, Mr. WEISS, and Mr. WHEAT.

H.J. Res. 486: Mr. GILMAN, Mr. ROBERT F. SMITH, Mr. JACOBS, Mr. SCHEUER, Mr. BARTLETT, Mr. MORRISON of Connecticut, Mrs. MARTIN of Illinois, Mr. ESPY, Ms. SNOWE, Mr. MADIGAN, Mr. ERDREICH, Mr. HASTERT, Mr. ATKINS, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. BROOMFIELD, Mr. STALLINGS, Mrs. UNSOELD, Mr. STOKES, Mr. TAUKE, Mr. ANTHONY, Mr. SMITH of Iowa, Mr. GALLO, Mr. DAVIS, Mr. ROE, Mrs. KENNELLY, Mr. COX, Mr. HOPKINS, Mr. HOCHBRUECKNER, Mr. HARRIS, Mr. WEISS, Mr. YATRON, Mr. UDALL, and Mr. FRANK.

H.J. Res. 487: Mr. BORSKI, Mr. GREEN, and Mr. LIPINSKI.

H.J. Res. 490: Mr. MILLER of California, Mr. DICKS, Mr. HOYER, Mr. UDALL, Mr. SOLARZ, Mr. MCDADE, Mr. FASCELL, Mr. COLEMAN of Texas, Mr. LEVIN of Michigan, Mr. COURTER, Mr. MCNULTY, Mr. ROWLAND of Connecticut, Mr. TALLON, Mr. RANGEL, Mr. HILER, Mr. AUCOIN, Mr. HAYES of Louisiana, Mr. SISISKY, Mr. HUCKABY, Mr. FAUNTROY, Mr. FORD of Tennessee, Ms. PELOSI, Mr. CLARKE, Mr. FROST, Mr. GRANDY, Mr. STALLINGS, Mr. BEVILL, Mr. TOWNS, Mrs. JOHNSON of Connecticut, Mr. MILLER of Washington, Mr. HUGHES, Mr. FOGLIETTA, Mr. AKAKA, Mr. ROGERS, Mr. CARR, Mr. NEAL of North Carolina, Mr. LEHMAN of Florida, Mr. GEREN, Mr. UPTON, Mr. RAHALL, Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. FAZIO, Mr. HALL of Ohio, Mr. EVANS, Mr. KOLTER, Mr. WHEAT, Ms. SLAUGHTER of New York, Mr. DWYER of New Jersey, Mr. BOEHLERT, Mr. HAYES of Illinois, Mr. PANETTA, Mr. JONTZ, Mr. SHAYS, Mr. FORD of Michigan, Mr. CONTE, Mr. KANJORSKI, Mr. FUSTER, Mr. OWENS of New York, Mr. FAWELL, Mr. HORTON, Mr. MRAZEK, Mr. NIELSON of Utah, Mr. PURSELL, Mr. TRAXLER, Mrs. BOXER, Mr. MCCLOSKEY, Mrs. MARTIN of Illinois, Mr. LANCASTER, Mr. BROWN of Colorado, Mr. LEVINE of California, Mr. EMERSON, Mrs. SAIKI, Mr. FISH, Mr. LAGOMARSINO, Mrs. BYRON, Mr. CROCKETT, Mrs. MORELLA, Mr. MAVROULES, and Mr. HERTEL.

H.J. Res. 495: Mrs. LOWEY of New York, Mr. MCGRATH, Ms. SLAUGHTER of New York, Mr. PICKLE, Mr. WOLF, Mr. ERDREICH, Mr. SOLARZ, Mr. AUCOIN, Mr. INHOFE, and Mr. BURTON of Indiana.

H.J. Res. 498: Mrs. COLLINS.

H.J. Res. 519: Mr. ROYBAL, Mr. SMITH of Florida, Mr. TRAFICANT, Mr. YATRON, and Mr. SCHUETTE.

H.J. Res. 521: Mr. CHAPMAN, Mr. ROBINSON, Mr. LANCASTER, Mr. LEWIS of California, Ms. LONG, and Mr. MARTINEZ.

H.J. Res. 535: Mr. PAYNE of Virginia, Mr. SLATTERY, Mr. JOHNSON of South Dakota, Mr. PRICE, Mr. MOORHEAD, Mr. FAUNTROY, Mr. HARRIS, Mr. DWYER of New Jersey, Mr. ATKINS, Mr. LAGOMARSINO, Mr. WOLPE, Mr. YATRON, Mr. JONTZ, Mr. STOKES, Mr. SMITH of New Hampshire, Mr. ERDREICH, Mr. VALENTINE, Mr. BERMAN, Mr. DAVIS, Mr. MAVROULES, Mr. HILER, Mr. ROE, Mr. ROWLAND of Connecticut, Mr. KASICH, Mr. UPTON, Mr. QUILLEN, Mr. ROGERS, Mr. CHAPMAN, Mr. MCCANDLESS, Mr. MCDERMOTT, Mr. STUMP, Mr. HYDE, Mr. SCHUETTE, Mrs. MORELLA, and Mrs. UNSOELD.

H.J. Res. 546: Mr. PICKETT, Mr. REGULA, Mrs. BYRON, Mr. GEPHARDT, Mr. MCCLOSKEY, Mr. DELLUMS, Mr. CONDIT, Mr. STANGELAND, Mr. GUNDERSON, Mr. ROSE, Mr. VENTO, Mr. KENNEDY, Mr. MCMILLEN of Maryland, Mr. QUILLEN, Mr. FLAKE, Mr. OWENS of Utah, Mr. NELSON of Florida, Mr. FASCELL, Mr. CRANE, Mr. LIPINSKI, Mr. TOWNS, Mr. HUTTO, Mr. MOODY, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. MURTHA, Mr. LAGOMARSINO, Mr. WALGREN, Mr. WEISS, Mrs. VUCANOVICH, Mr. SHAW, Mr. FIELDS, Mr. MINETA, Mr. GEKAS, Mr. COSTELLO, Mr. CARR, Mr. ANNUNZIO, Mr. HOPKINS, Mr. WILSON, Mr. ATKINS, Mr. HALL of Texas, Mr. SANGMEISTER, Mr. BUSTAMANTE, Mr. DURBIN, Mr. DREIER of California, Mr. SKAGGS, Mrs. LOWEY of New York, Mr. SOLARZ, Mr. ROE, Mr. KANJORSKI, Mr. MCNULTY, Mr. FROST, Mr. CLARKE, Mr. COX, Mr. SKEEN, Mr. FRENZEL, Mr. ANDERSON, Mr. WEBER, Mr. FAUNTROY, Mr. CONTE, Mr. CONYERS, Mr. ROBERTS, Mr. BLAZ, Mr. SMITH of Florida, Mr. KOLTER, Mr. OWENS of New York, Mr. ECKART, Mr. SPENCE, Mr. LEVIN of Michigan, Mr. TAUKE, Mr. MANTON, Mr. CHAPMAN, Mr. WASHINGTON, Mr. WYDEN, Mr. DORGAN of North Dakota, Mr. GEREN, Mr. FORD of Michigan, Mr. JONES of Georgia, Mr. TAUZIN, Mr. BILBRAY, Mr. GRAY, Mr. EARLY, Mr. MARTINEZ, Mr. BERMAN, Mr. WAXMAN, Mr. HOYER, Mr. MAVROULES, Mr. BRUCE, Mr. FAZIO, Mr. SHARP, Mr. COLEMAN of Texas, Mr. NIELSON of Utah, Mr. KASICH, Mr. BROOKS, Mr. RUSSO, Mr. SCHUMER, Mr. MADIGAN, Mr. POSHARD, Mr. CLINGER, Mr. WOLPE, Mr. RIDGE, Mr. EMERSON, Mr. SCHULZE, and Mr. FRANK.

H. Con. Res. 23: Mr. DAVIS, Mr. GEJDENSON, Mr. GUNDERSON, Mr. ROSE, Mr. INHOFE, Mr. TANNER, Mr. COBLE, Mr. SMITH of Texas, Mr. BROOMFIELD, Mr. MAVROULES, Mrs. PATTERSON, Mrs. SMITH of Nebraska, Mr. CLARKE, Mr. KOSTMAYER, Mr. UPTON, Mrs. VUCANOVICH, Mr. SOLOMON, and Mr. LIGHTFOOT.

H. Con. Res. 172: Mr. YATES, Mr. BROWN of California, Mrs. UNSOELD, Mr. OWENS of New York, Mr. MFUME, Mr. HOYER, and Mr. MCMILLEN of Maryland.

H. Con. Res. 249: Mr. LEHMAN of Florida and Mr. TORRICELLI.

H. Con. Res. 264: Mr. BARTLETT, Mr. ENGEL, Mr. GEPHARDT, Mr. KYL, Mrs. MEYERS of Kansas, Mr. PAYNE of New Jersey, Mr. POSHARD, and Mr. SMITH of New Hampshire.

H. Con. Res. 280: Mr. DUNCAN, Mr. PAYNE of Virginia, Ms. SLAUGHTER of New York, Mr. RAHALL, Mr. CHAPMAN, Mr. PRICE, Mr. PALLONE, Mr. KANJORSKI, Mr. STALLINGS, Mr. BROWN of California, Mr. DERRICK, Mr. GILMAN, Mrs. LOWEY of New York, Mr. AUCOIN, Mr. DEFAZIO, Mr. FORD of Tennessee, and Mr. CAMPBELL of Colorado.

H. Con. Res. 281: Mr. DONNELLY.

H. Con. Res. 291: Mr. THOMAS of Georgia, Mr. EVANS, Mr. ARMEY, Mr. FROST, Mr. ROBINSON, Mr. LANCASTER, Mr. ENGEL, Mr. DANNEMEYER, and Mr. PRICE.

H. Res. 349: Mr. NEAL of North Carolina and Mr. SERRANO.

H. Res. 374: Mr. WALKER, Mr. DORNAN of California, Mr. WELDON, and Mr. SMITH of New Hampshire.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 98: Mr. MILLER of California.

H.R. 586: Mr. FAWELL.

PETITIONS, ETC.

Under clause 1 of rule XXII,

159. The SPEAKER presented a petition of the Duluth City Council, Duluth, MN, relative to the reauthorization of the Low-Income Home Energy Assistance Program; which was referred, jointly, to the Committees on Energy and Commerce and Education and Labor.

SENATE—*Thursday, April 19, 1990*

(Legislative day of Wednesday, April 18, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: He leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord forever.—Psalm 23.

Eternal God, gracious faithful Shepherd, as we express our appreciation for the life and service and friendship of a beloved leader, Senator SPARK MATSUNAGA, we are profoundly grateful for the Shepherd's Psalm, written by a great king, one of the outstanding rulers in history. We praise Thee for his word that his Shepherd, the Lord himself, is with us through the valley of the shadow of death. We share the king's hope that death opens the door to the house of the Lord where we may dwell forever.

Thank Thee, Father. In the name of Jesus, the Life and Light of the world. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 19, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader, the distinguished Senator from Georgia [Mr. NUNN] is recognized.

RESERVATION OF LEADER TIME

Mr. NUNN. Mr. President, I ask unanimous consent that the time for the majority leader and minority leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, what is the business before the Senate?

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 2 hours, to be under the control of the Senator from Georgia [Mr. NUNN] for his use and the use of members of the Armed Services Committee.

Mr. NUNN. I thank the Chair.

A NEW MILITARY STRATEGY

INTRODUCTION

Mr. NUNN. Mr. President, in the last few weeks I have delivered two speeches on our national security and our budget challenges. In the first presentation, I outlined the problems that the blanks in the Defense Department's incomplete 5-year defense plan and the amended defense budget request for fiscal year 1991 pose for our committee and Congress as a whole. In the second presentation, I assessed the recent changes in the world scene and their implications for the threat environment of the 1990's. In my remarks today, I will discuss the major changes that I believe should be made in our military strategy in light of these changes in the threat abroad and also in light of the fiscal realities here at home.

In the early 1980's, at the request of former Ambassador David Abshire, I had the privilege and honor of cochairing with then Congressman Dick Cheney a study group at the Center for Strategic and International Studies, also known as CSIS, on the subject of grand strategy. As a result of that experience, both Dick Cheney and I well understand how difficult it is to formulate a coherent military strategy, let alone a grand strategy, even when the world is not being turned upside down as it is today.

In a speech I made in connection with the CSIS project, I noted that military strategy has been defined as: "the art of looking for danger, finding it everywhere, diagnosing it inaccurately, and prescribing the wrong remedy." I will keep this definition in mind as I address the subject of strategy again today because it is a difficult subject.

In presenting these remarks, I hope to contribute to a much-needed and overdue debate and dialog on military strategy. As I discussed in my remarks to the Senate on March 29, the threat has changed significantly over the last year, and many of these changes present opportunities for substantial reduction in U.S. military expenditures over the next several years. The question today is not whether we reduce military spending. That is inevitable. The question is whether we reduce military spending pursuant to a sensible military strategy that meets the threats of today and tomorrow.

At the outset, I think it is important to distinguish between national security strategy, which is a very broad, and military strategy, which is a narrow component of national security strategy. National security strategy is designed to protect and preserve broad and enduring national interests and goals. It seeks to meld a wide array of means to achieve these ends, including political, diplomatic, arms control, economic as well as military instruments of policy. Military strategy, on the other hand, is a narrower component of national security strategy and describes how we structure our military forces, based on the threat and the

available resources, in support of our broad interests and goals.

PRESIDENT'S REPORT ON NATIONAL SECURITY STRATEGY

Last month, President Bush submitted to Congress his administration's national security strategy report for 1990. In this report, the President summarizes our Nation's broad national interests and objectives as follows:

The survival of the United States as a free and independent Nation, with its fundamental values intact and its institutions and people secure.

A healthy and growing U.S. economy to ensure opportunity for individual prosperity and a resource base for national endeavors at home and abroad.

A stable and secure world, fostering political freedom, human rights, and democratic institutions.

Healthy, cooperative and politically vigorous relations with allies and friendly nations.

The President then went on to pose a series of questions for the future, as follows:

How can we ensure continued international stability as U.S./Soviet bipolarity gives way to global interdependence and multipolarity?

What will be America's continuing leadership role—and the new roles of leadership assumed by our allies?

What are the risks that today's positive strategic trends will be reversed, and how do we take due account of them in our long-term planning?

How much risk can be prudently accepted in an era of strategic change, fiscal austerity, and great uncertainty?

While maintaining a balance of power with the Soviet Union as an inescapable American priority, how can we adapt our forces for the continuing challenge of contingencies elsewhere in the world?

How do we maintain the cohesion among allies and friends that remains indispensable to common security and prosperity, as the perceived threat of a common danger weakens?

What will be the structure of the new Europe—politically, economically, and militarily—as the Eastern countries move toward democracy and Germany moves toward unification?

If military factors loom less large in a world of a more secure East-West balance, how shall we marshal the other instruments of policy to promote our interests and objectives?

President Bush's strategy report raises the right questions concerning the security issues facing America. In considering the fiscal year 1991 defense budget request, we must begin answering these questions.

THE NEED FOR A NEW MILITARY STRATEGY

In an excellent recent paper on U.S. military strategy for the 1990's, Senator BILL COHEN and Senator JOHN MCCAIN properly urged caution in changing our defense posture. But they went on to make two important points that we should all keep in mind in the continuing debate over our national security policy.

First, they noted that "The specter of the Cold War's possible return * * * cannot be used to defer a reconsideration of defense policy that was warranted even before the events of the last 6 months."

Second, they stated that "we believe the American people will support the budget levels that are needed only if they believe our defense policies correspond to the changing world scene."

Mr. President, I agree with Senator COHEN and Senator MCCAIN. We must act now to design a new military strategy to meet the changed threat and to help shape our defense budget priorities.

KEY MILITARY MISSIONS

With an eye both to recent changes in the world and future defense budgets, I would suggest the following key tasks which we should ask and expect our military forces to accomplish:

Deter any attack on the American homeland;

Deter the use of nuclear weapons by the Soviet Union or any other nuclear-armed adversary against our homeland, against our allies, or against our military forces deployed in any region of the world;

Join with our allies to deter Soviet conventional aggression in Europe—at lower levels of forces as the threat decreases, and with the capability to rebuild to higher levels in time, should the Soviets attempt to reestablish a credible invasion threat;

Help defend our friends and allies in Korea, the Far East and Pacific, the Middle East, Southwest Asia, and Latin America with United States military capabilities tailored to complement—but not substitute for or duplicate—their own military capabilities—complement—but not substitute for or duplicate—the capabilities of our allies;

Be prepared to conduct forcible entry in small- or medium-scale contingencies;

Ensure that the sea lines of communication remain open;

Counter drug trafficking, terrorism, and other unconventional military threats; and

Provide accurate, timely and responsive intelligence in conjunction with other elements of the intelligence community concerning changes in the global threat environment.

ESSENTIAL ELEMENTS OF A NEW MILITARY STRATEGY

If we are to design a new military strategy that effectively relates our means to the ends outlined above, I believe we should be guided by five essential elements:

First, although nuclear deterrence will provide the critical underpinning of our military strategy for now and for the foreseeable future, it should be achievable at significantly lower levels of weaponry and with a much higher degree of stability; and by "Stability" I mean reduced incentives for either side to strike first with strategic nuclear weapons in any situation.

Second, our forward deployed forces, or overseas forces, should be reduced consistent with the changes in the threat while placing much greater emphasis on increased specialization among allied nations and much greater reliance on reinforcement with deployable U.S. combat forces to support our allies.

Third, more of our forces should be put in the reserves, specifically structured for a reinforcement mission.

Fourth, we should employ a concept of what I call flexible readiness, by which I mean, high readiness for certain forces and adjustable readiness for other forces.

Fifth, our defense management and resource strategy should be guided by the phrase suggested by former Ambassador David Abshire: "think smarter, not richer." Under this approach, I would include greater emphasis on flying before buying; reduced costs of procuring and maintaining weapons, including improving existing platforms and reducing new starts; innovative research to preserve our technological superiority; and preserving a viable defense industrial base.

These five elements constitute the framework I suggest for a revised military strategy. I want to take a few moments to discuss each of these five elements in greater detail.

I. DETERRENCE OF NUCLEAR WAR

The first essential element of a new military strategy is deterrence of nuclear war at lower levels of nuclear weaponry with a much higher degree of stability. This element includes two components: Deterrence of a direct Soviet nuclear strike against the United States and deterrence of a Soviet use of nuclear weapons in conjunction with aggression against a United States ally. In addition, we must join with our allies and other nations, including the Soviet Union and China, to limit the proliferation of nuclear weapons and the spread of missile technology. We must also intensify our efforts with other nations to prevent the use of any weapon of mass destruction by any nation or terrorist group. And, of course, that goes beyond simply one nation's mission. It is the mission of all the civilized world.

A. STRATEGIC NUCLEAR DETERRENCE

In my remarks to the Senate on March 29 regarding threat assessment, I stated "In contrast to the momentous reductions in the Soviet conventional threat, Soviet modernization of its strategic nuclear forces has tended to continue apace." For this reason, U.S. nuclear forces will remain the bedrock of deterrence and modernization of our nuclear forces will be required.

At the same time, the decrease in the Soviet conventional threat holds important implications for the Soviet nuclear threat. As I said in my remarks last month: "As the likelihood of a conventional war in Europe has significantly decreased, a nuclear war originating from escalation of a European conflict has also significantly decreased."

In future remarks, I will discuss in some detail my views on the implications of this development for our strategic posture, our objectives in arms control, and the appropriate role of strategic defenses.

B. SHORT-RANGE NUCLEAR FORCES

The emergence of newly-democratic governments in Eastern Europe; the scheduled withdrawal of Soviet forces from Hungary and Czechoslovakia; and the likelihood of equal ceilings on tanks, artillery, aircraft and other categories of military equipment being established in a treaty on conventional forces in Europe, known now as CFE, also have significant implications for the Alliance's short-range nuclear forces' known as SNF, and tactical air-delivered nuclear weaponry.

The United States currently provides NATO with several thousand nuclear bombs and weapons for delivery by artillery, by the short-range Lance missile, and by tactical aircraft. In addition, a number of U.S. submarine launched ballistic missiles [SLBM's] have been designated for NATO, and the Supreme Allied Commander in Europe [SACEUR] has the option of requesting other U.S. strategic and nonstrategic nuclear capabilities.

B. (1) NATO DOCTRINE

NATO doctrine has looked to nuclear weapons to serve three critical functions:

First, to provide deterrence against a Soviet first-use of nuclear weapons in Europe.

Second, to deter any massing by the enemy of its tank armies and thereby contribute to NATO's overall deterrence of conventional attack by the Soviet Union and the Warsaw Pact.

Third, to compensate for conventional inadequacies should deterrence fail. Consistent with its doctrine of flexible response, NATO has maintained that any Warsaw Pact attack could be halted and the hostilities terminated at an early stage by demonstrating that the Alliance was prepared to initiate nuclear war to defend its freedom. That has been and continues to be the NATO rationale for nuclear weapons.

B. (2) FUTURE NUCLEAR POSTURE

In a post-CFE situation of conventional parity—particularly one in which Soviet tank armies have withdrawn from Eastern Europe—NATO's reliance on the threat of an early first use of short-range nuclear weapons to deter conventional attack is no longer credible. I do not believe there is a role in a new military strategy for land-based nuclear weapons whose range is so limited that they could only detonate on the soil of our allies or the newly emerging democracies in Eastern Europe. Ground-based nuclear missiles and nuclear artillery in Europe should be phased out, preferably pursuant to NATO and Warsaw Pact discussions and agreements on a mutual basis.

Even if this is accomplished, however, a requirement will exist to deter Soviet use of nuclear weapons in Europe. Nuclear systems which are deployed on European soil, including the British and French nuclear forces, represent a credible retaliatory threat. Air-delivered weapons allow significantly greater flexibility for military planners, permit basing of nuclear capabilities in several NATO countries, and do not pose the significant security and political problems that accompany systems whose range is far more limited.

With these considerations in mind, I suggest that NATO emphasize tactical air-delivered nuclear bombs and missiles, including what is known as TASM or tactical air to surface missile, and adjust its modernization and arms control planning accordingly. For purposes both of shared risks and survivability, NATO's tactical air-delivered nuclear weapons should be widely deployed at airfields throughout NATO, including but not limited to the Federal Republic of Germany.

II. REINFORCEMENT STRATEGY—REDUCE FORWARD-DEPLOYED FORCES, INCREASE SPECIALIZATION AND EMPHASIZE REINFORCEMENT

The second element for a new U.S. military strategy is to reduce forward-deployed U.S. forces, increase specialization among allied nations, and emphasize a reinforcement capability, including the use of reserves to augment the remaining forward-deployed U.S. forces. This element applies primarily in Europe, but it also applies to a certain extent in Korea and it also applies, I think, in other regions of the world.

A. POST-CFE EUROPE

In my remarks on the Senate floor last month, I presented two key conclusions regarding the recent changes in the threat:

First, the threat of a large-scale Warsaw Pact attack against Western Europe has virtually been eliminated and the chances of any Soviet go-it-alone attack are very remote.

Second, any Soviet effort to reestablish a credible threat of a large-scale conventional attack on NATO would be very difficult and would require a vastly extended mobilization, thereby giving NATO many months of warning time.

In my remarks, I emphasized the profound implication of these developments for NATO's military strategy:

> [T]he critical point is this: even if one deems it necessary to hedge against the possibility, however, remote, of a reestablishment of a Soviet invasion threat against Western Europe, it does not necessarily follow that the appropriate precaution is to maintain huge American standing armies on guard in Europe. * * * NATO's criterion should be whether the Alliance is capable of maintaining deterrence at lower levels and mobilizing and rebuilding to higher levels in time should a Soviet buildup begin.

NATO, as an alliance still has an important role to play in safeguarding Western security—militarily, politically, and diplomatically. However, in these changed circumstances, the burden of proof is on NATO to demonstrate to its publics that it remains relevant. As former NATO Ambassador David Abshire has said, "NATO should undertake—with highest political visibility—twin studies that update its political and military strategies." A study by a recognized group of wise men equivalent to the 1967 Harmel Report could play an important role in establishing a new transatlantic consensus of the Alliance's defense needs and defense posture for the future.

I know that President Bush is meeting with President Mitterrand. I know there are a lot of discussions going on. I cannot overemphasize the importance of NATO undertaking a highly visible study, led by that I mean the top leadership of each country to determine and lead the way in pointing toward NATO's future and its future role under vastly changed conditions.

I believe this study must take into account three realities. They are harsh realities, but they are, I think, very important, underlying changes.

First, NATO's reliance on the threat of early first use of short-range nuclear weapons to deter a conventional attack is no longer credible.

Second, NATO's assumption that the United States will maintain 195,000 troops in Central Europe is no longer realistic.

Third, NATO's current strategy for forward defense at the inter-German border is no longer viable.

A. (1) REDUCE U.S. FORCES IN EUROPE

In light of future instabilities in Europe which are likely, if not inevitable, caution and prudence are clearly in order as we build down our military forces in NATO. American troops in Europe can and should and, I would say, must play a stabilizing role during this period of transition. Nevertheless, the greatly lengthened warning time of a credible Soviet conventional attack against NATO allows the United States to reduce the size of our standing armies defending well forward and to emphasize reinforcement instead.

Mr. President, the administration's view that 195,000 U.S. troops in Central Europe—assuming we get to that level in arms control talks with the So-

viets on an equal floor kind of arrangement—is a floor below which the United States cannot reduce is not, I think, the right assumption. I think we must begin planning for a significantly lower level in the years ahead. I agree with former Secretary of Defense James Schlesinger that we should start planning on a residual force in Europe on the order of 75,000 to 100,000 troops within 5 years.

These reductions not only go hand in hand with the decrease in the threat, they will also be required by changing German attitudes on the fundamental issues of sovereignty and nationalism. Opposition to a large United States military presence in Germany will increasingly come from the cumulative annoyance associated with training, exercises, maneuvers, and low-level flying. In addition, the major shortage in Germany of housing, hospitals, schools and open land is stimulating rising German desires to take United States military facilities and land areas and convert them to German civil uses.

Recently I received a letter from a member of the German Parliament, who is a member of the Defense Committee and a strong supporter of NATO. I have the letter here. He pointed out that within his constituency there are over 4,000 German families on waiting lists for apartments or other housing, and that the local hospitals are overtaxed. He then went on to list the U.S. bases, barracks and medical facilities in his district, including their acreage and recreational potential.

His request to me was that the first United States soldiers to be withdrawn from Germany be taken from his district.

As former Secretary of Defense James Schlesinger told our committee:

> Whatever its present inclinations, a German government will be obliged to pay heed to public opinion. We should begin to prepare now for that development, already foreseeable.

I agree with former Secretary Schlesinger on this matter.

A. (2) NEW FEATURES OF NATO STRATEGY

I think we need to look where we have been to determine where NATO's strategy should go.

For many years, NATO's strategy in the center region has been to defend well forward, along the West German border with East Germany and Czechoslovakia. This border has been divided into eight corps sectors, and the ground defense of each sector has been assigned to the national forces of a single country. Within each corps sector, logistics and support is also the sole responsibility of the country defending that sector. This is, of course, the opposite of "specialization"—because within its area of responsibility each nation replicates virtually all of the military capabilities in the other national sectors. In addition, the traditional strategy of "defending forward" is about to be transformed—whether we are ready or not—by the uniting of the two Germanys.

Assuming Soviet unilateral and CFE agreed reductions are completed, the changes in both the threat and Alliance geography offer the opportunity to sharply modify the traditional concept of Corps areas of responsibility within NATO. NATO must have a new strategy, one that is developed by the Alliance as a whole. The United States cannot and should not be the only voice in that overall strategy deliberation. We are part of the picture, but we are not the whole picture. My ideas as to the role our Nation should play in a new NATO strategy I will present this morning.

First, we must insist on greater specialization of roles and missions among NATO nations. The European members of NATO should assume the primary responsibility for the initial forward ground defenses, which should be heavily antiarmor and not rely on large numbers of forward-deployed U.S. ground forces. The U.S. ground force commitment to NATO should be restructured to provide NATO's mobile strategic reserves, rather than NATO's forward defenders.

Second, the U.S. peacetime ground presence in Europe should be largely lead elements of combat units and combat support units. These support units should include tactical planning elements, intelligence and surveillance units, command and control forces, and "reception" forces along the lines suggested by former Army Chief of Staff Gen. "Shy" Meyer.

Third, the United States should continue to maintain large prepositioned stocks of combat and support equipment in Europe. With this, an initial United States reinforcement of NATO could be accomplished by transporting Army combat personnel from the United States to Europe, where they would break out their prepositioned combat equipment and move to reinforce NATO's ground forces.

Fourth, the United States should maintain some tactical Air Force units in Europe for both conventional and nuclear missions, and would commit to provide significant numbers of reinforcing tactical aircraft from the United States to Europe. This pledge, however, must be contingent on NATO providing adequate numbers of semi-hardened aircraft shelters, fuel and munitions storage, and maintenance and operations areas at colocated operating bases [COB's] in Europe.

Fifth, since United States ground forces in Europe would be reduced in numbers and consist mainly of combat support units, it should be possible to greatly reduce tour lengths and, therefore, to also be able to reduce the number of accompanying dependents.

Finally, the United States should make a determined effort to obtain agreement from France in advance for the United States use of French ports, airfields, and air bases for United States reinforcing units in a period of emergency. No United States forces would need to be stationed in France in peacetime, but occasional joint exercises of reentry capability would greatly increase NATO's deterrent posture.

KOREA

In my March 29 threat assessment, I stated that North Korea continues to pose an invasion threat against our ally, South Korea. I believe that a continued United States military presence on the Korean peninsula is required to make clear to North Korea that an attack on the South will constitute an attack on the United States. Our capabilities to reinforce South Korea with tactical, naval and long-range air power are significant. The United States needs to continue to provide other forms of support to South Korea—intelligence; command, control and communications capabilities; and reconnaissance and surveillance capabilities.

Since the border with North Korea is only a few miles from South Korea's capital, Seoul, the objective of South Korean and United States military planners has been, of necessity, to defend far forward, and to blunt any massive North Korean attack without yielding territory. This can only be achieved by applying prompt and massive firepower against the assaulting waves of enemy forces. Tactical air power is one way of providing the needed firepower, and that is the main role of the U.S. Air Force in the region. The U.S. Army, however, consists largely of mechanized infantry units, which do not provide high, sustained firepower. The South Koreans have no shortage of infantry.

Again, in keeping with the concept of specialization, I believe United States ground combat forces in Korea should emphasize long-range artillery, including the multiple launch rocket system, known as MLRS. Our role should be to provide increased high-firepower support to Korean front-line defenders with United States units assigned to support specific South Korean units. This augmented firepower approach should permit a significant drawdown, over time, of United States stationed forces in Korea.

OTHER AREAS

In locations where the United States does not have prepositioned equipment and stationed forces, there is a broad range of contingencies to which U.S. forces projection capabilities must be able to credibly respond.

Many contingencies would present threats of one sort or another to

United States interests. Of course, where our vital interests may be threatened, we need to be capable of military intervention. But we should, whenever possible, attempt to manage the threats through diplomatic, economic and other nonmilitary measures, with the option of increased—and increasingly visible—military presence in the area.

FORCE PROJECTION MISSION

The United States must be capable of performing a range of force projection missions.

At the low end of the spectrum of operational intensity are missions whereby a U.S. presence is intended to deter rash actions and stabilize potential crises. Nation-building and training of foreign military forces would also be included in this category.

The next level of support would be for the United States to provide noncombat military support—things like intelligence information, surveillance and warning, logistical assistance, and perhaps rear-area security. Combat situations involving the U.S. military could range from firepower support of indigenous forces, from either aircraft or naval gunfire, through full-blown intervention by a U.S. expeditionary force.

PERSIAN GULF AND SOUTHWEST ASIA

Contingencies in and around the Persian Gulf, on the Arabian peninsula, and in Southwest Asia are a demanding case and pose serious problems for United States military planners. In the not-too-distant past, conflicts have occurred there between Israel and several of the Arab States, between the two Yemens, and between Iran and Iraq, in addition to the continuing strife in Lebanon. The United States has important security interests in Israel, Egypt, Saudi Arabia and several of the other Gulf States. In addition, the economies of the Western World are critically linked to the free flow of oil from the Middle East producing states. Our own economy increasingly and, in my view, shares a growing dependence on Middle Eastern oil as both domestic production and that of several major hemispheric producers have begun to decline.

The Persian Gulf region is also one of the most heavily armed regions in the world. Tanks abound, many countries have modern, high-performance tactical aircraft, and ballistic missiles are widely proliferated, including both suface-to-surface and antiship missiles. Any U.S. intervention in support of a friendly government must expect to encounter a high-threat environment. Our ability to provide this assistance will require an improved logistics infrastructure in the region, including prepositioned supplies and materiel.

NECESSARY RESTRUCTURING

Current U.S. capabilities for intervention at a distance, where there are few bases and a limited infrastructure, are not fully suited to our needs. Today the United States has the greatest force projection capability of any country in the world, but we are also very far from most of the potential trouble spots in the world. However, in general, Army light forces are rapidly deployable but lack sufficient firepower, sustainability and ground mobility; Army heavy forces are too heavy and too slow to deploy; and in recent years Marine Corps forces have allowed their increase in equipment to outstrip their already inadequate amphibious lift. To meet potential force projection missions, we must restructure our forces in accordance with the following priorities:

We must give priority to forces that are inherently mobile and rapidly deployable—maritime-based expeditionary forces, long-range and tactical air forces, and light combat forces that can be quickly transported using amphibious lift, sealift, and airlift assets.

Technology must be applied so that in the future our contingency forces have reduced weight and increased mobility but with improved firepower and survivability.

Special attention must be devoted to the proper mix of air, sea, and amphibious lift, including fast sea lift, to ensure deterrence by providing a ready capability for response to contingencies.

We must also continue to improve, as we in the Congress have emphasized in recent years, our special operations capabilities.

GREATER UTILIZATION OF THE RESERVES

The third element, Mr. President, relating to the strategy that I propose today emphasizes greater utilization of our Reserve forces. In this period of increased warning time and fiscal austerity, we must conduct a fundamental reexamination of the use of the Reserves in the military services. I understand full well that it will be a very difficult challenge for the services, but it is one which must be addressed.

There are some areas in which entire missions can be transferred to our Reserve components. As a corollary, active duty personnel have to be more involved in the Reserves. We must also be prepared to use the existing authority to call up the Reserves at early stages of potential crises if this element of the strategy is to be successful. That involves political leadership, usually civilian leadership.

At the time of the recent escorting of the reflagged tankers in the Persian Gulf, almost all of the Navy minesweeper ships were in the Naval Reserve. When it became necessary to deploy the minesweepers to the Persian Gulf, the Navy took the Reserve crews off the ships and replaced them with active duty crews. This delayed the deployment of the ships. It also sent the wrong message to both the Active and the Reserve forces. It told the Reserves that their skills and training would not be used in a contingency, and it told the Active Forces that "we cannot afford to rely on the Reserves." If we are going to have and rely on the Reserve forces—as I believe we must—and have a true total force policy, we must be willing to call up the reserves in the future.

A. ARMY

In the Army, the greatly increased warning time of conventional conflict in Europe increasingly allows the heavy armor mission to be shifted to the Reserve components. Army Guard and Reserve units should be designed to be capable of reaching full combat readiness within a scheduled period ranging from weeks to months of a mobilization decision, all well within the available warning times and matched to available airlift and sealift, as well as the Soviet buildup curve.

B. AIR FORCE

Within the Defense Department, the Air Force has been a leader in the effective utilization of the Reserve components. The Air National Guard and the Air Force Reserve already have made very substantial contributions to the overall Air Force missions. Even greater use of the Air Reserve components can be made in the areas of strategic and tactical airlift, close air support and air forces oriented toward a major contingency in Europe. This might require increased assignment of active pilots to expanded Reserve squadrons.

C. NAVY

Turning to the Navy, with the scaling back of the Soviet Navy out-of-area operations and other changes in the threat, the United States Navy policy that virtually all deployable ships have to either be at sea or be able to get underway in days becomes increasingly unnecessary and unaffordable. The Navy must get more serious about the use of Reserves to handle a portion of the Navy's fleet. To the active Navy, the word "Reserve" must not be synonymous with the word "mothball."

Funds will no longer be available to support all of the Navy's fleet at the operational tempos of the cold war. Thus, the Navy will be faced with choosing between reduced operational tempos, including more ships in a reserve status, or a much smaller, all-active Navy.

The leading advocate of the 600-ship Navy, former Navy Secretary John Lehman, recommended recently that more of the Navy's ships should be transferred into the Navy Reserve. The Navy will have to find innovative ways of managing a Reserve-dominated operation for a larger portion of their current fleet.

I am not suggesting that all categories of Navy ships and aircraft can be

transferred into the Navy Reserve. For instance, aircraft carriers and submarines would probably not be suitable for Reserve operation. However, ships or aircraft involved in sealift, antisubmarine warfare or sealane protection missions for NATO all lend themselves to increasing use of Reserves.

Additionally, our regional combatant commanders need to take a closer look at the requirements for carrier battle groups, so as not to place excessive at-sea demands on the balance of the active Navy. It is clear that in many instances we do not need an entire carrier battle group to "show the flag;" ships other than carriers and their escorts can perform this mission. Thus, there needs to be a reexamination of the presence mission, a recalculation of the size of a battle group when warranted, and an emphasis on the concept of ships operating independently of a carrier battle group, certainly in areas that do not have intensive and high threat environments.

By making these adjustments and by expanded use of the Reserves, I believe the Navy can meet future requirements with between 10 and 12 carrier battle groups.

IV. FLEXIBLE READINESS

The fourth essential element, is what I call flexible readiness. I define flexible readiness as the adjustment of the readiness status of various forces based on the threat, the amount of warning time, the likelihood these forces will go into action, and the ability to transport them to battle. In practical terms, the military departments currently utilize a form of flexible readiness. The units that would be the "first to fight" are the first to be equipped with the newest hardware and are manned at the highest levels. Other units, not assigned for early deployment, have older equipment and are normally manned at less than full strength.

A. SERVICE CHOICES

The reduction in the conventional threat and the severe fiscal pressures mean that the size of all military services will decrease, but the services face an important choice in how much their forces will decrease.

We can have a relatively larger force structure, but with the readiness of those forces based on the threat, the warning time, the likelihood of use, and the ability of our ships and planes to get them to battle.

If the services are reluctant to move in this direction, and there are indications they are, but if they continue to be, they will face a substantially smaller force structure than is currently being discussed in any element of the Pentagon based on the fiscal realities as I see them.

B. FORCES AFFECTED

My preferred alternative is flexible readiness. Under this alternative, the military services would keep certain high priority forces, such as strategic forces, strategic nuclear forces, expeditionary forces, forward deployed forces, special operations forces, and selected intelligence units, at a very high state of readiness. Forces that are not in the high readiness category could be sustained at adjusted readiness levels. More importantly, they could be maintained, and must be maintained, so that their readiness can be quickly increased if we observe major changes in the threat.

Those military forces that are best suited for the kinds of threats that are most likely in coming years would be kept at high readiness levels. But those forces oriented to encounter less likely threats—such as a major conventional land battle in Europe against Soviet forces—could be retained in the force structure but at readiness levels tailored to the substantially longer warning time of any increase in the threat.

C. BE READY TO GET READY

Mr. President, this is a controversial area. I recognize that. I know there is going to be a lot of debate. I just want to say a word as that debate begins. A carefully planned flexible readiness approach will not produce a hollow military. We did have serious morale problems in the 1970's but there were reasons for that. The reasons we had those problems then were because many units were told they had to be ready to carry out their mission in a matter of days but they knew they were not staffed, equipped or trained to do it, and they knew we had a very large threat.

We will not have morale problems if our military personnel in selected units understand that their mission is to get ready to mobilize and rapidly increase combat capability rather than to face an immediate deployment time. In other words, their mission is to "be ready to get ready."

D. THE NEED TO DECIDE

The Military Services and the Defense Department will need to recommend a course of action to the Congress soon. For example, does the Army want to shrink by substantially more in order to keep all active divisions at high readiness levels, or would they rather maintain a somewhat larger force structure with some forces at high readiness and others at adjusted readiness? Does the Navy want to shrink by substantially more with all ships at high readiness levels, or would they rather maintain a somewhat larger Navy with major elements at high readiness and others at adjusted readiness? Does the Air Force want to cut out substantially more of its active tactical fighter wings in order to keep all of the remaining wings on a war footing, or would they rather keep a somewhat larger force with some units at high readiness and others at adjusted readiness?

My preference is to maintain a larger force under the flexible readiness concept. I believe that this option best matches our force structure to the threats we are most likely to face, within the resources that will be available.

V. A NEW MANAGEMENT AND RESOURCE STRATEGY: "THINK SMARTER, NOT RICHER"

I have borrowed former Ambassador David Abshire's phrase to describe the fifth, and final, element of a new military strategy: "think smarter not richer."

I will be addressing this concept in more detail in the near future, but I want to point out today that no discussion of a new military strategy can ignore the major changes that are needed in our defense management and resources strategy.

For example, we must return to the principle of flying before buying. In too many cases we have overlapped development, testing and production of weapons systems, only to have to spend large amounts of money to make weapons work right after they are in the field which is very expensive. There are real concerns about the concurrency—research and development on weapons already in production—on a number of major weapons acquisition programs. With the changes in the threat, we must take the time to get it right the first time.

We must emphasize reduced ownership costs for maintenance, logistics, manpower, and support in the design of new weapons systems. The argument should not be whether we should apply new technology not just for sophistication but also for affordability and maintainability. We must also put greater emphasis on the improvement of existing platforms and systems, since we will be able to afford fewer new starts in the future.

We must put greater emphasis on innovative concepts in our research and development efforts to maintain our technological superiority. This applies particularly to systems and capabilities that offer the prospect of "breakthrough" or "leapfrogging" capabilities.

Finally, we must move aggressively to preserve and maintain a viable defense industrial base. This will be particularly important and challenging as the overall level of defense spending—and future defense investment—is adjusted over the next 5 years.

STRATEGY AND INTERNATIONAL CHANGE

Finally, Mr. President, I want to underscore that the military strategy I have outlined remains a component part of our overall national security strategy, which itself must be responsive to the changing international environment of the 1990's. As President Bush has stated, developments in the

Communist world suggest the possibility of moving beyond containment to a more cooperative relationship with the Soviet Union. Assuming that the U.S.S.R. continues to implement its announced unilateral reductions in Europe, assuming that Soviet forces are withdrawn from Czechoslovakia and Hungary, assuming that the CFE Treaty is completed, assuming that democracy takes root in Eastern Europe, and assuming that the process of reform continues in the Soviet Union, we should indeed be able to move to a new policy. This policy, however, must have some flexibility and must take into account the possibility of setbacks.

Some nine decades ago Lenin wrote a pamphlet about reform in the Czarist Russia of that day which he titled "One Step Forward, Two Steps Back." Developments in Lithuania and elsewhere in the U.S.S.R. make clear that the process of reform in today's Russia is also likely to be uneven, whether or not President Gorbachev remains in power. In the most optimistic case, I suspect we will see "two steps forward, one step back." We must be prepared for that.

MEASURED COOPERATION

However, it is not too early to consider what central concept we should be prepared to move toward, as further international change allows. My suggestion would be a policy of "measured cooperation," of cooperation calibrated so that our preparedness to cooperate with the Soviet Union and other countries is in rough proportion to their commitment to human rights, democracy and a market economy.

I hope that developments within the U.S.S.R. and other Communist regimes will allow "measured cooperation" to supersede containment on a broad scale. We must give more attention to fostering a cooperative world order and to managing potential risks before they escalate into direct threats.

If we are able to move from containment toward measured cooperation, we will need to adjust further our military strategy so that it properly reflects a changing national security strategy. We therefore will need to keep both our national security strategy and our military strategy under continuous and careful review. It has to be a dynamic process. It has to take into account changes as they occur.

CONCLUSION

Mr. President, the sudden collapse of the Communist empire over the past year has created both a new requirement and a new opportunity for a defense strategy that responds to the changed threat and realistically relates our means to our ends. Our past demobilizations—after the two World Wars, after Korea, and after Vietnam—have led, ultimately, to vastly higher defense budgets to make up for the errors of our drawdown. With a new military strategy to govern our force structure decisions and our budgetary actions, we can avoid falling into this same trap.

Mr. President, in the next few days I shall present to the Senate my thoughts on how best to implement the kind of military strategy I have outlined, and I will give my own estimates of what we should be spending on defense for fiscal year 1991 and over the next 5 years to follow consistent with this new strategy.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Georgia controls the time.

Mr. NUNN. Mr. President, I yield to the Senator from Nebraska such time as he may desire.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank my friend and colleague from Georgia.

I thank the Chair.

Mr. President, I want to salute and be associated with the excellent remarks and programs outlined by the chairman of the Armed Services Committee on which I am very pleased to serve. I have served on that committee ever since I came to the U.S. Senate.

Senator NUNN is providing great leadership with the second now of two speeches and more to follow. Senator NUNN has consulted extensively with those of us on the Armed Services Committee. What he is saying I think can best be described as a general consensus among those on the Armed Services Committee, at least the majority, as to the direction we should be following as we recognize the significantly reduced threat, and what we are going to do constructively and responsibly to declare a peace dividend that obviously is necessary.

I thank Senator NUNN. I thank him for working with the other members of the committee. I simply say to the Senate that there are more far-reaching ideas and conclusions in addition to the budget numbers that will be coming forth as a recommendation in the near future.

Those suggestions that will be authored principally by the chairman of the committee, and supported by the members of that committee as a whole, indicate that we are indeed privileged to have SAM NUNN of Georgia as the distinguished chairman of the Armed Services Committee.

Particularly, I want to point out a few of the key things that I thought the chairman referred to. First, the flexible readiness concept is one, obviously, whose time has come. A year ago now, I do not believe that any of us could have said that flexible readiness was here. But there is a major change going on today in the overall posture of the security and national defense interests of the United States. There is a geopolitical revolution or evolution, depending on which word you like to choose, but we have to come to grips with it, and we have to be more realistic, I suggest, on the recommendations that have thus far come to us from the administration.

I also want to salute the thoughtfulness and the straightforward approach the chairman took with regard to greater reliance on the Guard and Reserve forces. It seems to me that this is an absolute necessity that thus far has not been emphasized by the administration.

Only yesterday, in a hearing of the Guard and Reserve officials in the Armed Services Committee, I came to the conclusion that I am not sure that the overall strategy and planning has taken into full account the very legitimate role, very effective role, that the Guard and Reserve can play and will begin a gradual, thoughtful build-down.

Lastly, I think Senator NUNN for his emphasis on the future reduction of our troops in the NATO countries significantly below the $195,000 floor that the administration is recommending. With the significantly reduced threat—and I put the caveat only in that if that significantly reduced threat continues, and it is obvious to me as one member of the committee, that the numbers referenced by Senator NUNN and attributed to former Secretary of Defense James Schlesinger are far more reasonable. In fact, if the threat continues to decline, I can see a time in the next few years when the number of combat troops that the United States has in NATO would be down to a very limited few.

If we are going to make the reductions that most of us seem to think should be made, then we are going to have to make some sacrifices, and I believe that for the overall security interests in the United States, while we will remain a firm member of NATO, I think our role has to change, and for the better, if we recognize that 40 years after the end of World War II we still have far too many troops and their dependents stationed in the NATO countries. It does not make good sense for NATO, it seems to me, and it does not make good sense for the United States' interests as a whole.

I thank the Chairman, for his excellent remarks, and for the leadership he is providing in this very important area.

Mr. NUNN. Mr. President, I want to thank my colleague from Nebraska for his very complimentary remarks about the presentation I made. There are going to be a number of these areas that will be very controversial. As the Senator from Nebraska observed, when I get down to how to implement this strategy—and I hope to be able to

present my thoughts on that subject in the next couple of days—then target practice will really begin. I understand the nature of that. That is what we are here for.

But I appreciate the Senator's words and, more than that, I appreciate his leadership. He heads the Subcommittee on Strategic Forces. He will be making a number of very important decisions relating to both our strategic nuclear forces and tactical nuclear forces in Europe, and his leadership is an inspiration to all of us. I thank the Senator for his remarks and most of all for his outstanding leadership.

Mr. DOLE. Mr. President, the leader time has been reserved.

The PRESIDING OFFICER. The Republican leader is recognized under the leader time.

LET US CLEAN UP THE SEWER MONEY

Mr. DOLE. Mr. President, last month the New York Times ran an editorial blasting the so-called sewer money in the campaign finance system. The Times wrote that campaign finance reform will be wholly undermined if the tide of unreported sewer money continues to flow unabated over the political landscape.

DEFINING THE PROBLEM

Not surprisingly, the Times editorial was high on rhetoric—high on spoonfed partisanship—but low on content—and it failed to offer an accurate or comprehensive definition of what we really mean by the sewer-money—or soft-money—problem.

It focussed almost exclusively on party soft money, which under current law is all disclosed—all regulated—at either the Federal or State level. And it ignored the real soft-money problem stemming from the unreported, unregulated special-interest activities of corporations, labor unions, and trade associations.

In the broadest terms, soft money is political money outside of the source restrictions, contribution limits, and disclosure requirements of the Federal Election Campaign Act and its regulations. That's the academic definition, and it is the definition most widely accepted by the campaign finance experts.

But the real abuses of soft money come to life only when you look behind the academic definition and when you see what soft money means in real-life and in real-life campaigns.

Soft money is the $850,000 in corporate cash that Charles Keating contributed to a tax-exempt 501(c)(3) organization that was supposedly dedicated to nonpartisan voter registration.

Soft money is the millions of dollars spent by unions, corporations, and trade associations on the so-called administrative expenses of their special-interest political action committees.

Soft money is the millions of dollars spent on door-to-door canvassing and other campaign activities by the Citizen's Action Network, a supposedly nonpartisan tax-exempt organization now under investigation by the Federal Election Commission.

Soft money is the millions of dollars spent on phone banks by special economic interests during the waning days of a campaign.

And soft money is the $45 million spent by corporations and labor unions on voter registration and get-out-the-vote activities during the 1988 Presidential primaries and general election—activities that operated without public reporting and as a soft-money substitute for what the political parties should be doing in the sunlight of disclosure.

The Labor Department estimates that unions collect more than $3.3 billion in annual dues from members and nonmembers alike—which happens to be greater than the gross national product of more than 75 countries. Needless to say, only a statistics genius—or perhaps a fortuneteller or Democratic Party Operative—can accurately estimate how much of this money actually gets pumped into the campaign finance pipeline each year.

So soft money can mean a lot of things, and it can have many different faces. But under any definition, soft money means money that is unreported, unregulated, under the table, and unquestionably a key ingredient of the so-called special interest problem that now plagues Congress and breeds the growing cynicism among the American public.

THE SOLUTION

Sixteen years ago, Congress thought it had cleaned up the campaign finance mess when it passed the Federal Election Campaign Act of 1974. The act has certainly done some good, but one of its most enduring legacies is the gaping loophole that has led to the creation of the soft-money Frankenstein—which now operates outside the scope of any Federal or State regulation.

When Congress considers another round of campaign finance reform—perhaps as early as next week—the Senate can close the soft-money loophole by taking the following steps:

First, Congress should prohibit all tax-exempt, 501(c) organizations from engaging in activities designed to influence the election of a specific Federal candidate. If you are tax-exempt, you should not be playing the political game.

Second, Congress should restrict tax-exempt organizations from engaging in voter registration and get-out-the-vote activities if a candidate or a Member of Congress actively solicits money for the organization. When these voter registration outfits are identified with a specific political figure from a specific political party, you do not have to be Sherlock Holmes to realize that nonpartisanship is not likely to be one of the organization's top priorities.

And, third, Congress should codify the Supreme Court's Beck decision, which stands for a very simple, but important, proposition: No American should be compelled—against his or her own will—to give up a hard-earned and healthy chunk of the weekly pay check simply to finance someone's political candidacy or some organization's political agenda. That is unfair, and Congress should say so.

If Congress could take these three simple steps, we would go a long way toward putting the soft-money special-interest operators out of business for good.

PARTY-BUILDING ACTIVITIES

I know some soft-money critics are concerned about party-building activities like voter registration and get-out-the-vote that are conducted on behalf of a party's entire slate of Federal and State candidates. They are concerned about wealthy contributors who indirectly benefit Federal candidates through their contributions to the State parties. And they claim—correctly—that these soft State dollars—although totally legal under State law—are being used as an indirect supplement to the campaign coffers of Federal candidates.

Take a quick look at the 1988 Presidential election and you will see that these concerns are justified. And, no doubt about it, they should be addressed in any serious campaign finance reform proposal. If a campaign contribution ends up helping a Federal candidate—whether or not it is originally made to a State party—this contribution should be reported and regulated at the Federal level to the greatest extent possible.

To accomplish this goal, all party committees—both national and State—should be required to maintain separate Federal and State accounts if they are participating in Federal and State elections. This is basically current law, but some refinements are in order.

National and State party committees should also be required to report all of their accounts with the Federal Election Commission. This means full disclosure of the Federal account, full disclosure of the State account, and full disclosure of the building funds account. No exceptions, and no loopholes.

I am pleased to say that these were two of the key soft-money recommendations made by the bipartisan campaign finance reform panel, which was commissioned last February by myself

and by the distinguished majority leader, Senator MITCHELL.

In addition, the party committees should be required by law to finance—with Federal funds—an established percentage of any overhead and party-building program that benefits both Federal and State candidates. This would ensure that Federal candidates are financed with hard reported and regulated Federal dollars. It would also ensure that the legitimate party-building activities of the national party committees are not unnecessarily restricted.

CONCLUSION

Mr. President, if we are really concerned about cleaning up the campaign sewer money, then it is about time to spray the sewer stench with a big can of legislative Lysol.

And when the Senate finally does consider campaign finance reform, it is our duty to say no to the soft-money operators who hide behind their tax-exempt status. It is our duty to say no to the millions of dollars in coerced union dues that now run amok in the campaign finance pipeline. And it is our duty to say no to the millions of dollars spent by corporations and trade associations on PAC administrative expenses and on other unreported campaign activities.

So, I would say if the New York Times is really concerned about campaign finance reform, the so-called sewer money, I hope they will carefully read my remarks and incorporate such abuses in their next editorial.

Mr. President, I ask unanimous consent that I may have an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISITING JERUSALEM—AND REVISITING THE JERUSALEM RESOLUTION

Mr. DOLE. Mr. President, on March 22, the Senate agreed to Senate Concurrent Resolution 106—the Moynihan resolution on Jerusalem.

I and four other Senators—MCCLURE, METZENBAUM, MURKOWSKI, and SIMPSON—have just returned from a visit to the Middle East. We made stops in Syria, Egypt, Jordan, Iraq, and Israel.

We heard a lot about the resolution—and what we heard leads me to say a few words today about the resolution; and, more important, about the process of dealing with such resolutions around here.

Now, let me say up front: I do not have any quarrel with Senator MOYNIHAN, or his principal Republican cosponsor, Senator BOSCHWITZ, on this resolution. They are outstanding Senators, and strong supporters of Israel.

And, by the way, I happen to think my record of 26 years in Congress demonstrates that I am a strong supporter of Israel, too.

But they believe strongly in the views expressed in Senate Concurrent Resolution 106. And I have no quarrel with that.

They played by the rules, fair and square. Nothing I am about to say is intended to cast any aspersion on them.

But I am concerned about the process.

Senate Concurrent Resolution 106 was submitted on March 20, in 2 days, it had 84 cosponsors.

It came to the floor, in what we call wrap-up at the end of the day, on March 22. There was no debate. In my recollection, the text of the resolution was not even read into the RECORD. We had a voice vote. And the resolution was adopted. And I doubt that half of the sponsors even knew what they signed or what had been adopted.

"Now you see it—now you don't."

Again, the resolution had 84 cosponsors. By my count, 43 Senators signed on during the first 24 hours after being submitted, 40 more joined in on the second day. I was one of them.

We all know how it works around here. And again let me say: This is the way it works for all of us—not just Senator MOYNIHAN and Senator BOSCHWITZ. At one time or another, we all do it.

We carry our resolution, or our letter, into the cloakroom. We buttonhole every Senator who walks in, and push them for an immediate signature. Half the time, the signer does not even read the text.

Most of the time that does not matter. Most of the time they are good resolutions—not controversial, or not viewed as controversial by anybody else.

But in this particular case it mattered a lot.

Senator Concurrent Resolution 106 deals with one of the most sensitive and emotional issues in the Middle East—the status of the city of Jerusalem. The resolution declares Jerusalem the capital of Israel—the position of the Israeli Government; a position 180 degrees contrary to the views of the Arab States and the Palestinians.

Most important, the resolution declares on an issue that our Government—and many outside observers—see as better left to negotiations among the parties involved, rather than decided by unilateral action.

Several weeks ago, President Bush spoke one sentence—one, single sentence—on this same subject. That one sentence sparked an explosion of heated rhetoric in the Middle East—and probably also sparked this resolution.

Stressing that I do not buy this—many Israelis do believe that the President's few words were enough to bring down the Shamir government. That is how sensitive this issue is in Israel and in the region.

The main point is—the issue of Jerusalem is serious business. It is not "national silkworm week," or "underwater breathing week." Many of the resolutions passed are about in that area.

This is very serious business—and we ought to take it very seriously.

This resolution, and other sensitive resolutions, should be given the kind of consideration they deserve.

And let me do something we do not do much around here: Admit I made a mistake. I bear a personal responsibility here. I am supposed to be one of the gatekeepers, to make certain about the flow of legislation. I should have said more loudly: Wait a second, let us look at this. I certainly should not have signed on to this resolution.

The administration bears some responsibility, too. I was concerned about the text, and asked my staff to check on the administration's views. I am the Republican leader—and I like to know what the administration thinks on matters like this.

The answer I got was like the answer I get a lot: We do not like it, but we are not going to throw ourselves on any swords over this issue. It does not mean anything. And so that was it.

The point is, we are all wrong. The process is wrong. And the results can be very damaging.

During the recess, as I said, I visited the Middle East—along with Senators MCCLURE, METZENBAUM, MURKOWSKI, and SIMPSON. I list them for the RECORD. I am not suggesting they share my views on this matter. They can speak for themselves.

But we were there—we visited Syria, Egypt, Jordan, Iraq, and Israel. Everywhere we went, Senate Concurrent Resolution 106 was on the agenda. We did not put it there. The leaders we spoke with put it there and they put it on the top of the agenda.

Egypt's President Mubarak opened our meeting by raising the resolution. Jordan's King Hussein spent 20 to 30 minutes discussing it, and gave me a letter on the subject.

As we returned to our hotel that evening, after our dinner with King Hussein, we were met by about 200 antiresolution demonstrators. They felt very strongly about it.

The other Arabs leaders we met—Syria's President Assad, and Iraq's President Hussein—mentioned the issue, too.

We went to see those leaders to talk about the critical and immediate issues of the peace process—a process that has been dragging on for many months.

Instead, we spent a lot of time talking about a sense-of-the-Senate resolution that sailed through in about 15 seconds.

And I do not want to judge the motives of those leaders in raising the issue—to some of them, at least, it is a very important and highly charged issue on its merits.

Whatever anyone else may think about it, they regard Jerusalem as a part of their homeland and they have a strong emotional attachment to it.

They also see the important precedent that a final resolution of the status of Jerusalem could represent. Israel established control over east Jerusalem as a result of the 1967 war. They did it, in effect, by force.

There are certainly aspects of the Jerusalem situation that are different from the occupied territories, but the case could be made that, if the United States and the international community recognize Israel's sovereignty over all of Jerusalem, and I mean all of Jerusalem, that would be an important step toward ceding Israel's sovereignty over all of the territories over which Israel established control by force.

I am not trying to argue that point either way. I am only trying to underscore how sensitive and how complex this issue is.

In any case, if the Arab leaders are looking for an excuse to avoid the broader peace process issue, Senate Concurrent Resolution 106 gave it to them on a silver platter.

The real point, though, is not whether I or even whether 100 Senators believe that Jerusalem should or should not be the capital of Israel. The issue is whether the Senate of the United States should be jumping into the middle of an extremely sensitive situation, without looking, in many cases without even thinking first.

During our visit to Jerusalem we met with Teddy Kollek, who has served as mayor of Jerusalem for nearly 25 years. No one on this Earth loves Jerusalem more than he does and no one individual enjoys such respect from all the inhabitants city—Jewish, Arab, and Christian alike.

Let me stress this. Teddy Kollek personally believes that Jerusalem is now, and should always remain the capital of Israel. He makes no bones about it. In fact he sent me a telegram which I received this morning and he takes a back seat to no one in his advocacy of that position.

But he also happens to believe that pushing Senate Concurrent Resolution 106 right now was a big mistake. He volunteered that. We did not ask him. He just volunteered it at a breakfast meeting. He thought it was ill timed. He told our delegation clearly and unequivocally that this was the case.

There have been some press accounts purporting to represent a different view. But in his discussion with us it was stated by him, not us. We did not ask the question, he raised it voluntarily, and he was straightforward and clear. He wants to see us, see the United States, recognize Jerusalem as the capital of Israel. But he saw Senate Concurrent Resolution 106 as an ill-timed idea, since it merely stirred up controversy at a time when only extremists on both sides are helped by more controversy. It did not help him, it did not help the people of Jerusalem, and those who believe Jerusalem is the capital of Israel, or Israel itself.

That is Teddy Kollek's view and he personally authorized me to state it as his view.

But again the real issue is not his view or mine or the Jerusalem issue. A conversation I had Tuesday with the distinguished majority leader, Senator MITCHELL, underscores the point. Senator MITCHELL told me on a trip he recently completed to the Soviet Union, the Soviets spent a good deal of time talking about yet another resolution, the one we recently did on Lithuania.

I cite that, not to suggest there was anything wrong in the text of that resolution but merely to underscore the basic point that when we deal with such sensitive resolutions, we ought to think carefully about all the ramifications. At least it ought to be read. There ought to be some debate. It ought to lay over, maybe, a day, so people will have a time to reflect on it.

The bottom line issue is not the Jerusalem resolution, per se. That is just a "case in point" of the broader question of the whole process we have for dealing with these issues. These kind of resolutions, hastily prepared and even more hastily passed, are nonsense, and dangerous nonsense, and we ought to do something about it.

Mr. President, it is too late to "unscramble the egg" of the Jerusalem issue. The damage is done, if there was any damage. And I am told by the Arab leaders there was. And the less said about the substance of that issue the better. But I do hope we can learn a small lesson from what happened.

We call ourselves the "greatest deliberative body in the world." When you travel around the world you find some people still think we are. They take what we do and what we say very seriously, as we were told time after time after time. They take it more seriously than, sometimes, we do ourselves. They care about the sense, and they care about the feelings, of the U.S. Senate. They believe there is still some sense in the Senate in what we do and what we say. And they despair, just as we should, when they see that sometimes, too often, what really we deal in, is the "nonsense of the Senate."

I remember the Senator from New Hampshire [Mr. RUDMAN] standing up when we were adopting a resolution on the baseball strike. I think he probably termed it correctly.

So, I agree, as I think many others agree, that I think we can do better. We could adopt resolutions on who ought to be the Prime Minister of Israel. They do not have a government now, they have a caretaker Prime Minister. We could agree to resolutions on who ought to have the West Bank and how we ought to resolve all the points that may be negotiated if there is a peace process started. But I do not think that is the role we should play, in the U.S. Senate. That is not our responsibility.

Oh, we could make some feel good, to pick out certain claims and have us agree to pass a resolution saying this territory belongs to this country, this territory belongs to this country or whatever.

I guess you learn a lesson sometimes when you travel around the world and you talk to the people who are reading what we pass. They may see it differently. While they may know it is done to please some American constituency or some other constituency, they also told us very bluntly how it affects them and their people.

So, whehter it is a resolution praising King Hussein or Egypt or Israel or whatever, it seems to me if it starts dealing with the substance that ought to be negotiated in the peace process, then we ought to leave it alone. Or we ought to have a debate. We ought to consider it carefully.

I ask unanimous consent to have printed in the RECORD a copy of the resolution. I think it might be helpful.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Some people might like to read it. I would like people to tell me what they mean by "Jerusalem," have some who signed on as cosponsors tell me what is Jerusalem; give me the boundaries. What do they believe we voted on? As I learned, or found, there are a lot of people who have different views on what is Jerusalem.

So, I suggest that, notwithstanding the resolution, which took a great deal of our time and which, frankly, I think surprised all of us, that we came back with a feeling that the peace process can be helpful and that we ought to do all we can to urge those principals—in this case, the United States, Israel, Egypt, then hopefully Jordan and other countries—to start the dialog.

As we indicated to Prime Minister Shamir and Mr. Peres, the two leading contenders for the Prime Ministership, the American people are impatient. We understand the grave questions and we understand the need to make certain the security of Israel is protected. That is the bottom line. We all share that view.

But we also believe that we ought to start a dialog, a view shared, I think,

by most Americans and most Americans in the Jewish community.

So I suggest there are a lot of things we can do in the U.S. Senate, probably a lot of resolution we can agree to. And a lot of them are very important to many people. I am certain this resolution was important, not only to the principal sponsors but to many Americans and many in Israel and many who feel strongly about the status of Jerusalem. In my view, the view shared by this administration and past administrations, not just Republican administrations but Democratic administrations, Jerusalem should remain an undivided city and the status of the city should be left to negotiations.

EXHIBIT 1

S. CON. RES. 106

Whereas the State of Israel has declared Jerusalem to be its capital;

Whereas from 1948 to 1967 Jerusalem was a divided city and Israeli citizens of all faiths were not permitted access to holy sites in the area controlled by Jordan;

Whereas since 1967 Jerusalem has been a united city administered by Israel and persons of all religious faiths have been guaranteed full access to holy sites within the city;

Whereas the President and the Secretary of State have demonstrated their strong desire to achieve a just and lasting peace in the Middle East and have worked diligently toward that end;

Whereas ambiguous statements by the Government of the United States concerning the right of Jews to live in all parts of Jerusalem raise concerns in Israel that Jerusalem might one day be redivided and access to religious sites in Jerusalem denied to Israeli citizens; and

Whereas such concerns inhibit and complicate the search for a lasting peace in the region: Now, therefore, be it

Resolved by the Senate (the House of Reperesentatives concurring), That the Congress—

(1) acknowledges that Jerusalem is and should remain the capital of the state of Israel;

(2) strongly believes that Jerusalem must remain an undivided city in which the rights of every ethnic religious group are protected; and

(3) calls upon all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF SPARK M. MATSUNAGA, LATE A SENATOR FROM HAWAII

Mr. INOUYE. Mr. President, on Saturday, April 15, while undergoing special cancer treatments in Toronto, Canada, our beloved colleague, SPARK M. MATSUNAGA, passed away. The life story of SPARK MATSUNAGA bears repeating in all American homes as a classic example of the American success story.

SPARK MASAYUKI MATSUNAGA was born on October 8, 1916, on the Island of Kauai, to parents who had emigrated from Japan to work on a sugar plantation. He worked at many jobs through high school and graduated with honors from the University of Hawaii, where he received a degree in education in 1941.

At the time World War II broke out, SPARK was in uniform as a second lieutenant in the U.S. Army. When President Franklin Roosevelt permitted the formation of all-Japanese American units, SPARK became a member of the 100th Infantry Battalion, which later became a part of the 442d Regimental Combat Team, one of the most highly decorated Army units in history. Whatever assignments SPARK MATSUNAGA received, he performed with skill and bravery. He fought in the historic battles of Monte Cassino, Anzio, and the liberation of Rome. He was wounded twice and earned the Bronze Star Medal for heroism. He returned home as a captain, with full honors.

Using the GI bill, SPARK went to Harvard Law School, where he received his law degree in 1951. He went to work as an assistant prosecuting attorney in Honolulu from 1952 to 1954. He was elected to the Territorial House of Representatives from 1954 to 1959, serving as majority leader in 1959.

SPARK MATSUNAGA came to Washington in 1962, and served in the U.S. House of Representatives for seven terms. In 1976, he was elected to the U.S. Senate. He has served with much distinction as a member of the Finance Committee, where he was a ranking member, and chairman of the Subcommittee on Taxation and Debt Management; on the Labor and Human Resources Committee, and chairman of its Subcommittee on Aging; and on the Veterans' Affairs Committee and Joint Committee on Taxation. He served in the Senate leadership as chief deputy Democratic whip and from the 95th through the 100th Congresses.

SPARK will always be respected for his outstanding legislative record that fulfilled his visions of peace, international cooperation, and assistance to those in need.

I will remember him for these achievements, and also recall with much fondness another part of him—his always friendly personality and love of "haiku," which is Japanese poetry. SPARK was much more than a colleague from the same State; there were also many similarities in the paths of our two lives—from our parents' work on the plantations, to our military service, to our decisions to enter law school and seek elected office.

I would like to share with my colleagues a conversation that SPARK and I had about 3 years ago during a quiet moment here in the Senate Chamber. We often spoke, of course, about legislative matters, especially those affecting our State of Hawaii. But this conversation was much more personal and philosophical, focusing on our views of life. I asked SPARK how he wished to be remembered. He replied that he wanted to be remembered as a friend. That answer intrigued me, and I asked what he meant by it.

SPARK said that, "I want to be remembered as a friend of peacemakers." That he will be, for it was his 22 years of lobbying efforts that resulted in the establishment in 1984 of the U.S. Institute for Peace. He had seen firsthand the horrors of war and was determined that our Nation devote itself to the pursuit of peace.

SPARK said, "I want to be remembered as a friend of the veterans, because if not for them, we would not be enjoying the fruits of democracy." As a ranking member of the Veterans' Affairs Committee, SPARK MATSUNAGA's imprint could be seen on virtually every major bill that passed the committee. He was engaged in efforts to establish a veterans medical center in Hawaii, to serve the aging and ailing military veterans in our islands. I am confident that we will be successful in carrying on this endeavor, and when this veterans hospital is constructed, I will ask that it forever bear his name, in remembrance of his contributions to veterans of our Nation.

SPARK said that, "I want to be friend of the men and women who serve our nation in faraway lands, who stand in harm's way so that we can sleep better at night." SPARK had the highest respect for our military and diplomatic personnel, for he recognized that they actively preserve our democratic freedoms and promote democracy abroad.

He said, "I have done my best for them, and I hope that the friendless consider me a friend." SPARK was indeed a voice of compassion for the homeless as well as the physically and mentally ill. When it may have been unpopular to do so, he waged a campaign for justice for Americans of Japanese ancestry who were interned during World War II. As my colleagues know, SPARK went from office to office seeking cosponsors for a measure authorizing an apology and monetary reparations for Japanese Americans whose patriotism was questioned. When it was introduced, it bore the names of 74 Senators—a remarkable feat—and it was enacted in 1988. He was a very tough, persistent soldier in politics as well as life.

And, SPARK said, "I hope that you're my friend." SPARK, you will always be my friend.

When he escorted visitors from Hawaii through the Capitol, SPARK would always pause in the House Chambers and point to the ceiling. While a Member of the House, SPARK happened one day to gaze upward at the ceiling and upon counting the stars pictured there, realized that there were only 48 stars representing the 50 States. Somehow Hawaii and Alaska had been forgotten. He waged a one-man crusade with House Speaker Sam Rayburn for the addition of the 49th and 50th stars. SPARK never forgot to point out to visitors the results of his success, not as a matter of personal vanity, but because he knew that his deeds were a source of pride for every citizen of Hawaii.

I would like to think that when we gaze up toward the nighttime skies there is now one more heavenly star, and that he is smiling down at us all.

Mr. President, I ask unanimous consent that articles and editorials from the New York Times, the Honolulu Star Bulletin, and the Honolulu Advertiser be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 16, 1990]

SPARK M. MATSUNAGA DIES AT 73; SENATOR LED FIGHT FOR REPARATIONS

(By Peter B. Flint)

Senator Spark M. Matsunaga of Hawaii, a longtime proponent of peaceful resolution of disputes and Soviet-American cooperation in space exploration, died of cancer early yesterday in Toronto General Hospital. He was 73 years old.

Mr. Matsunaga, a liberal Democrat who served 14 years in both the House and the Senate, announced last January he was being treated for prostate and bone cancer. He flew to Toronto last week for accelerated treatments, his press secretary, Edward J. Greaney, said yesterday.

Senator Matsunaga cast his final Senate votes from a wheelchair on April 5 in support of extension of the Clean Air Act. He espoused many measures to replenish the environment, including planes fueled by hydrogen in place of petroleum-based fuel and the development of wind power for commercial ships, a concept being pioneered in Japan.

HARDSHIP AND HUMILIATION

Mr. Matsunaga, a Japanese-American, was the main Senate leader for passage of a $1.25 billion 1988 law to give $20,000 and an apology to all Japanese-Americans sent to internment camps in World War II. Addressing the Senate, Mr. Matsunaga, who was wounded twice in Italy during the war, recounted an incident of an elderly internee who crossed a fence to retrieve a ball for his grandchild and was machine-gunned to death.

After the attack on Pearl Harbor, Mr. Matsunaga, though a second lieutenant in the American Army, was detained in a Wisconsin camp. He and other internees, after petitioning President Franklin Roosevelt, were allowed to form the 100th Infantry Battalion, which became one of the most highly decorated in history.

The Senator lobbied for 22 years before persuading Congress in 1984 to establish a peace academy, which awards graduate degrees for helping to settle disputes within and among nations.

In a statement yesterday, Gov. John D. Waihee 3d of Hawaii hailed Mr. Matsunaga's "humanitarianism" and added: "He will be remembered most for his vision of peace and his faith in the human spirit. In his memory we will carry on his quest. In his spirit we will strive for the highest of principles and the brightest of worlds."

AGNEW INCIDENT RECALLED

Mr. Matsunaga, a diminutive, convivial man known to longtime associates as "Sparkie," had less impact on legislation than the state's senior Democratic Senator, Daniel K. Inouye," also a decorated war veteran, but he fought hard for goals he cherished.

In 1968, he criticized Spiro T. Agnew for calling a reporter on his Vice President-campaign tour of Hawaii "a fat Jap." Mr. Agnew apologized and expressed regret at what he viewed as a decline in the American sense of humor.

Spark Masayuki Matsunaga was born on Oct. 8, 1916, on the island of Kauai to a poor Japanese immigrant family, worked at many jobs through high school and the University of Hawaii, where he earned many honors, including election to Phi Beta Kappa, and studied at Harvard Law School under the G.I. benefits bill, graduation in 1951.

He was then successively a Honolulu prosecutor, member and majority leader of the Hawaii territorial House of Representatives. He went to Washington in 1962, serving in the House for seven consecutive terms. In 1976, he was elected to the Senate.

Surviving are his wife, the former Helene Hatsumi Tokunaga, who lived with him in Kensington, Md., and Honolulu; three daughters, Karen Hardman, of Kensington; Diane Segars, of Mississippi, and Merle, of Thailand; two sons, Keene, of Anaheim, Calif., and Matthew, of Honolulul three brothers, Andrew, Satoru Ikeda and Yutaka Ikeda, all of Honolulu; two sisters, Dorothy Hironaga, of Honolulu, and Mitsuko Ueno, of Hanapepe, Hawaii, and three grandsons.

The body will be flown this week to Honolulu to lie in state before a state funeral and burial.

[From the Honolulu Star-Bulletin Apr. 16, 1990]

FOND MEMORIES OF MATSUNAGA ABOUND

Betty Jacob received a long-distance call from Hawaii Sen. Spark. M. Matsunaga early one morning in 1985.

"It was a 2 or 3 o'clock and he was concerned about my husband, Philip, who had suffered a stroke," Jacob recalled. "As we talked, he began to cry."

"You just don't meet people like that in politics," added the former co-director of the University of Hawaii's Institute of Peace.

Matsunaga, who died Saturday night in Toronto at age 73, was a man who cared as well as a dedicated public servant.

"He was a people person, who enjoyed one-to-one contact" said Naomi "Sister" Correa, state vice chairman of the Democratic Party, who first met Matsunaga in 1954 while working at the Territorial Legislature.

"That's why he enjoyed the kind of functions where he could spend a few minutes with each person. He always took the time to listen to them. I'm going to miss him very much," said Correa.

Masayuki Matsunaga was born in Kukuiula, Kauai, and earned the nickname "Sparky" during his camp days that later became his legal first name.

"He was always the slowest runner because he was the youngest," said Tadao Kawamoto of Kauai, who grew up with Matsunaga. "So we used to call him Sparkplug to get him to run faster. The name came from a comic book character."

While attending Kauai High School, Matsunaga earned extra money by doing yard work for Gladys Ainoa Brandt, a former principal at Kamehameha Schools.

"Sparky once told students at Kamehameha that he was my yardboy," Brandt said. "I'm just glad he never mentioned how much I paid him.

"He was a fine, young lad who really cared a lot about people," Brandt added. "I'll always remember that he wanted a peaceful world. It was an elusive goal but he never gave up trying to make it happen. That was Sparky."

Matsunaga went on to attend the University of Hawaii, where he graduated with scholastic honors and an ROTC commission in 1941.

During World War II, he served with D. Company of the 100th Infantry Battalion.

"Sparky was with us from the start as our executive officer," said Martin Tohara of Manoa, Matsunaga's first sergeant. "He got hit in neck while we were on a night march on Hill 600 in Italy when a land mine went off.

"You couldn't help but like the guy," Tohara added, "and he never changed, even as a senator. If you needed information, he'd be there. He had a caring feeling. We lost a good comrade and senator."

In 1954, three years after graduating with honors from Harvard Law School, Matsunaga was elected to the territorial House as the Democrats broke the Republicans' power base at the Legislature.

"All of us in the '54 group were motivated by the desire for changes in the community," said former three-term Gov. George Ariyoshi, who returned to Hawaii last night from Seattle.

"Through the years, Sparky has remained the same," said Ariyoshi. "I was personally very close to Sparky and considered him a real friend. You could always count on his word. It's a personal loss for me and also a loss to the community."

By the mid-1950s, Matsunaga was already pushing for statehood, which came in 1959.

In 1962, Matsunaga won a seat in the U.S. House of Representatives, the first of seven consecutive terms.

He moved to the Senate in 1976.

"I worked with him for 12 years (in Congress) and found him to be a tough worker who spent long hours on the job," said former Hawaii Rep. Patsy Mink.

The creation of the U.S. Institute of Peace, which began operations in 1966, and the law providing for $1.25 billion in redress payments to Japanese-Americans interned during World War II are among Matsunaga's notable accomplishments in a distinguished 27-year Congressional career.

"He was a very good negotiator, and that takes a lot of skill in Washington," said Jacob, a former national lobbyist for the Quakers, United Nations Relief and Reconstruction Agency and UNICEF. "Great people who do a great job in Washington have to be able to work behind the scenes."

It took 22 years, for example, before Matsunaga finally saw the Peace Institute become a reality.

"All the time I worked with him, he never did an underhanded thing. When he negotiated, it was clean. But he was clever," said Jacob.

Jacob noted that Matsunaga secured approval for the Peace Institute by attaching it as an amendment to a Defense Department Authorization Bill that was signed by President Reagan in October 1984.

"He was so skillful there was no way Reagan could avoid signing it," Jacob said.

Matsunaga, who was nominated in April by the UH Institute of Peace for the "Profiles in Courage Award" sponsored by the John F. Kennedy Library of Boston, was a world peace advocate long before he became a politician.

In an English paper written during his first year at the UH, Matsunaga said, "If we want peace, we must educate people to want peace. We must replace attitudes favorable to war with attitudes opposed to war."

Earl Nishimura, president of the United Japanese Society of Hawaii, said Matsunaga was instrumental in getting reparations for Hawaii residents who lost everything under marital law during World War II.

"Executive Order 9066 applied only to West Coast internees at first, but there were 2,000 Japanese-Americans living in Hawaii who were victims of arbitrary selection without due process," Nishimura said. "He was responsible for getting Hawaii internees included."

[From the Honolulu Advertiser, Apr. 16, 1990]

SPARKY: "LASTING IMPRINTS" FOR US ALL

In the middle of the Depression, a Kauai High School student of Japanese ancestry heard his haole social studies teacher discourse on the joys of American democracy. He asked the teacher in return:

"Is it in the name of American democracy to pay a white man doing the same work as an Oriental three times the wages paid to the Oriental?"

The teacher told young Spark Masayuki Matsunaga: "The only way you're going to change the system in Hawaii is to change the laws. I'd like to see you become a senator."

That was one of the stories that the gregarious Sparky liked to tell audiences around the Islands, or over lunches he hosted in the U.S. Capitol dining room during his 28-year career in the U.S. Congress.

As we all know, that teacher's prediction did come true. Matsunaga took his concern for "changing the system" into the world of law and politics, becoming one of the most liberal members of Congress (although he was, for a time, a staunch supporter of the war in Vietnam).

His flair for dramatizing injustice showed in 1950 when, as a Harvard law student, he pleaded in a U.S. Senate hearing for the United States to add a Hawaii star to its flag.

He told senators in a moving speech that he and his nisei comrades who fought so well in Europe "were fighting not only for America but to prove that despite their racial background they were as good Americans as any. They were fighting for recognition as plain Americans, not hyphenated Americans."

He served as a territorial legislator in the heady 1950s when Democrats ended decades of Republican domination. In 1962, he became the second person of Japanese ancestry (Dan Inouye was the first) to sit in the U.S. House.

Matsunaga was the consummate political insider who never lost his "local boy" style of campaigning at home even as he mastered the knack of wooing others on Capitol Hill.

In endorsing his campaign for re-election in 1970, The Advertiser said: "Even a layman, sitting in the visitors' gallery of the House and listening to Rep. Matsunaga argue persuasively for or against a measure, can sense the respect in which he is held by his colleagues."

Years later, columnist Jack Anderson called Matsunaga one of the five "most popular" members of the Senate.

It was natural that he should be the prime sponsor of legislation to give a national apology and reparations to his fellow Americans of Japanese ancestry interned during World War II. That long, noble cause finally was won in the twilight of his Senate career.

But Matsunaga also championed offbeat issues: peace, education, international cooperation in space, science-fiction technology such as hydrogen power. In pushing those pet causes he was a workhorse, not a showhorse.

"When I first got to the Senate I felt very out of place. Everybody else was running for president," he once chuckled.

Poetry was one of his avocations. His tireless lobbying to create the post of poet laureate was regarded by some as an oddity. But he was dead serious in believing that a country ought to revere its literary artists and that poetry was a window to the soul.

As we bid aloha to this good and honest man who worked so long and hard for his native Islands, one of his own poems comes to mind. Wounded at Monte Cassino as the 442nd Regimental Combat Team "Go for Broke" soldiers worked their way up the boot of Italy, Matsunaga wrote:

"When in the light of thought I ask myself:
Just who am I and what,
What lasting imprints good or ill,
Have I for future mortals wrought?"

Your imprints were many, Sparky, and they were good ones.

[From the Honolulu Star-Bulletin, Apr. 16, 1990]

SPARK MATSUNAGA: PUBLIC SERVANT

Spark M. Matsunaga's death at 73 of cancer in a Canadian hospital over the weekend has brought to an end a life dedicated to serving Hawaii.

His career in public office began in the territorial days as a legislator and an assistant prosecutor. It led to 27 years in Congress, including 14 years in the House. he was in the second year of his third U.S. Senate term when the cancer which had attacked his prostate and later spread to his bones took his life.

Matsunaga, like his younger but senior colleague, Sen. Daniel K. Inouye, was a wounded World War II veteran and member of the famous 100th Battalion/442nd Regimental Combat Team, in which Americans of Japanese ancestry fought in Italy and France. From that unit, the most decorated in the nation's history, came a number of returning veterans who entered Hawaii politics and have helped shape the direction of government and community life here to the present day.

The Matsunaga story is reflective of postwar politics in Hawaii—the rising democratic hopes of plantation families helped by the heroism of their sons, the progress of labor unions, the G.I. Bill, and a shared spirit of social reform, that led to Statehood.

Matsunaga had the additional advantages of having graduated from Harvard Law School and of having cultivated an effective public speaking manner with the help of a voice teacher at the University of Hawaii. Except for a 1959 setback in a failed bid for lieutenant governor, his public career continued uninterrupted and upward, leading to the U.S. House in 1962 and to the Senate in 1976, when he defeated his long-time House colleague, Patsy Mink, in a primary, and former Gov. William Quinn in the general election to succeed the retiring Hiram Fong.

The Matsunaga style stayed much the same in the Senate as in the House. He was a man of the people, proud of his office's record in serving Hawaii constituents. Visitors from Hawaii to the Capitol found the Matsunaga welcome something to rave about back home. The dining room lunches where other members of Congress would drop by to share pleasantries became legendary. The Matsunaga staff's guided Capitol tours were so detailed that other Hawaii congressional offices recommended them over their own.

In the House, Spark Matsunaga became a key inside player in the process by serving on the gatekeeping Rules Committee. He provided pivotal votes to help national legislation overcome the obstruction of conservative committee leadership and reach the floor.

In the Senate, he led efforts to gain federal reparations and apologies to thousands of Americans of Japanese ancestry who were interned during World War II. He rose to the number two spot on the influential Senate Finance Committee, and could have ascended to chairman had Sen. Lloyd Bentsen, D-Texas, who now heads it, become vice president.

Hawaii's sugar industry, its military needs, transportation and travel interests had a reliable ally in Spark Matsunaga. He also was an early sponsor of the Newspaper Preservation Act, took a lead role in legislation to establish a national institute for peace, and pushed through a measure to create a poet laureate's position, a job to which the late Robert Penn Warren was the first author appointed.

Space occupied Matsunaga's attention in the mid-1980s, when he wrote "The Mars Project," a book proposing joint U.S.-Soviet space ventures. The 1985 book contained personal insights of his boyhood on Kaual and his war experiences, and the challenging view that the Air Force, instead of NASA, should play a larger role in our international space program.

In the campaigns of 1982 and 1988, Senator Matsunaga won re-election handily. The Star-Bulletin endorsed him in both. Reports of ill health during his third campaign were dismissed as unfounded. But a series of ailments and accidents sidelined him through much of 1989, and the man who prided himself on near perfect attendance missed 85 of 312 roll calls during the latter part of the year.

In January, the Senator made known his cancer and a few weeks later its worsening condition. On some key votes he arrived in the Senate chamber in a wheelchair, drawing praise from his colleagues. Debate arose in the news media on whether he should step down, to try regaining his health and

to make way for someone who could represent Hawaii's interests more actively. That issue now mooted, questions still remain about candor and the health of public officials, whether the public business can continue to be served by a disabled or slowly recuperating legislator. But these are topics for another day.

The Star-Bulletin had expressed hopes for the Senator's recovery and extends its condolences to his family, friends and followers. Spark Matsunaga had for so many years invested Hawaii politics with a personal joy and energy, a quickness and smile that seemed befitting of his first name. Politics and its parade of personalities will continue, but for many in Hawaii some of the warmth has gone out of it with the passing of a man called Spark.

SPARK MATSUNAGA—A LOVER OF PEACE

Mr. MITCHELL. Mr. President, on Sunday, our beloved colleague, Senator SPARK MATSUNAGA, passed away. The Scriptures tell us, blessed are the peacemakers, for they shall be called the children of God. SPARK MATSUNAGA, our friend and our colleague, was a child of God, for he was truly a peacemaker. He devoted many years of effort to the work of peace. He wrote, worked for, and saw enacted the law that established the U.S. Institute for Peace. It is a part of his legacy which all people will benefit from in the years ahead.

SPARKY MATSUNAGA was a lover of peace who knew war well. His heroism in the Italian campaign during the Second World War is well known. His country recognized his service with two Purple Hearts and the Bronze Star. In all of our Nation's long and valiant history, no State has ever been represented in the Senate at the same time by two greater heroes or two finer men than has Hawaii by SPARK MATSUNAGA and DAN INOUYE.

SPARKY loved his country enough to risk his life for it in war. He loved his country enough to serve it in public office for many years. But most of all, SPARK MATSUNAGA loved his country enough to make it right when he knew it was wrong.

His magnificent effort to set right the grievous wrong done to Americans of Japanese descent during the war years was an act of political courage. But more than that, it was the act of a man who loved the ideals of his country enough to insist that his country live up to those ideals.

SPARK MATSUNAGA knew his Nation's destiny lay in exploration and daring. He knew his Nation's heart needed poetry; but most of all, he knew his Nation's soul demanded justice.

It was an honor and a pleasure to know him and to serve in the Senate with him. His warmth and good cheer were legendary here. Always pleasant, smiling, he made you feel good just to see him and be with him. Even in the end, when pain engulfed him and he had difficulty moving, he never complained and his smile and his soft laugh never left him.

In the mysterious but uplifting way in which democracy works, his personality reflected perfectly the State he represented and loved so much: Open, sunny, full of life.

For most human beings, life is a continuous search for respect. First, for self-respect, then the respect of others. There are many ways to earn respect; among them service to others. SPARK MATSUNAGA served others and, in the process, earned their respect.

We hope that the ceremony held yesterday in Hawaii, which I was privileged to attend, and which was attended by those who knew and loved him, will have meaning for SPARK's family and for his memory, but perhaps they will derive even more meaning from the knowledge that many, many other people who did not know him, who never heard his name will, as a result of his efforts, lead better, more peaceful, more meaningful lives.

No man could leave a better legacy.

Mr. President, I ask unanimous consent that it be in order for flowers to be placed on the desk occupied by Senator MATSUNAGA during today's session of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING SPARK MATSUNAGA

Mr. DOLE. Mr. President, I certainly want to join the distinguished majority leader in his comments just made because it was with great sadness that all of us learned of the death on Easter Sunday of our long time friend and colleague, SPARK MATSUNAGA.

I knew SPARKY for many years. He was my friend. We served in the House together for 6 years. He was a member of the Senate Finance Committee for many, many more, including the time when I was chairman of that committee. Not many people know that, as stated by the majority leader, both he and his colleague, Senator INOUYE, were members of the 442d Regiment in Italy. Both were wounded and both had distinguished service after that. He was a genuine hero to the country and to the people of his State that he loved so much.

He also brought dignity and fairness to the business of this body. We will never forget his persistent and noble efforts to provide recognition and compensation to Japanese-Americans sent into internment camps in the Second World War. We will never forget the pride he felt when he won his 19-year crusade to establish the U.S. Institute of Peace. We will never forget SPARKY's delightful personality that graced this body for 14 years.

He also left a legacy of delighted constituents, because no one went more out of his way for his constituents than SPARK MATSUNAGA. He brightened the visit of any Hawaiian who made the long trip to Washington with a cheerful "aloha," a personal tour, and lunch in the Senate dining room. Many of us referred to it as the Matsunaga table, right in the center of the dining room. That was an experience that few of his constituents could ever forget.

SPARKY MATSUNAGA found great strength in his family and to them I join my colleagues in sending my sincerest condolences.

We will miss the contributions SPARK MATSUNAGA made to his country, to his State, and to this institution. But, most of all, we will miss our colleague and our friend.

There was a very appropriate editorial in today's Roll Call that I ask unanimous consent be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SPARK MATSUNAGA, 1916-90

Spark Matsunaga, one of the finest, kindest Members of the United States Senate, died last weekend at the age of 73. He had been pursued by poor health for six years—heart attack, ulcer, fracture, back ailments, flu, and cancer. But, through it all, he served in the Senate with tenacity, intelligence, and distinction. It's easy to forget, in an age when institutional criticism runs rampant, that many Members of Congress worked their way up to Washington the hard way, devoting themselves to lives of public service. Spark Matsunaga was such a man.

Born in 1916 to a poor Japanese immigrant family, he took jobs as a stevedore and a grocery clerk to save up the money to attend the University of Hawaii. When he graduated, he became a public school teacher—a career that was cut short by World War II. Matsunaga, like his eventual colleague in the U.S. Senate, Daniel Inouye, served with other Japanese-Americans in the famous 442nd Regimental Combat Team in Europe. He was wounded twice and highly decorated. After the war, he earned a law degree at Harvard and returned to Hawaii as a prosecuting attorney.

Public service was his life—teacher, soldier, prosecutor, territorial legislator, then Member of the U.S. House and Senate. He was a vigorous advocate for his constituents, for Japanese-Americans interned during World War II (he succeeded at last in winning compensation for them), for the poor, and for all Americans. He was a thoughtful, sweet, engaging man—one of our favorite people on the Hill. Spark Matsunaga will be sorely missed.

Mr. MITCHELL. Mr. President, I think that note should be taken on the public record of significance of the remarks by the distinguished Republican leader today, because in an ironic way, his life was intertwined with that of Senator MATSUNAGA's.

In my remarks I mentioned Senator MATSUNAGA's distinguished war record in the Second World War and that of Senator INOUYE. Of course, as my col-

leagues know but maybe not all Americans know, Senator DOLE himself was a much decorated hero in that campaign as well. Although I do not know whether he knew Senator MATSUNAGA at the time, it is an ironic twist of fate that both he and Senator MATSUNAGA should have displayed such valor at that time in their lives; both were wounded and both eventually made their way to positions of national leadership.

So, Mr. President, I think the words of the distiguished Republican leader are worthy of special note for that reason, and I am pleased to call that to the attention of my colleagues and the American people.

Mr. President, I yield the floor.

TRIBUTE TO SPARK MATSUNAGA

Mr. EXON. Mr. President, the Senate has received a severe loss with the passing of our beloved colleague, SPARK MATSUNAGA, the Senator from Hawaii.

He was a dear friend of mine. There are many words that I might utter to eulogize our lost brother, and express to his wife Helene, and the family, our sympathy and understanding of their loss.

Suffice it to say, Mr. President, words alone always seem insufficient in times like these. There were many significant accomplishments of God's sevant, SPARKY MATSUNAGA, service to his beloved Hawaii, and the blood that he gave in dedication to his country. But for me, let me simply say that above all else, SPARKY MATSUNAGA was a keeper of the faith, a truly loving and caring person, the likes of which the U.S. Senate may never have seen before and may never see again.

My memory of my dear friend will always be, and I will best remember him, for the embodiment, above all else, of what most of us would like to be remembered for. SPARKY MATSUNAGA was the kindest and most gentlemanly effective U.S. Senator that I have ever had the privilege to serve with.

Mr. President, I yield the floor.

TRIBUTE TO SPARK MATSUNAGA

Mr. NUNN. Mr. President, I would like to be associated with the remarks of the Senator from Nebraska about our departed colleague and friend, SPARK MATSUNAGA. SPARKY's voice of compassion, and his devotion to the ideals for which our Republic stands, will be missed by all who enjoyed the honor and privilege of serving with him in this Chamber.

SPARK served this Nation bravely and honorably in war, and sought to instruct it in the gentler art of peace, with a poet's graceful touch. His life exemplified his belief that the best way to achieve a goal was not through coercion, but friendly persuasion.

He was a legislator with vision who responded to the needs of his constituency while readily assuming the burdens of statesmanship. He believed deeply in the capacity of this institution to serve the public good. His devotion to the Senate was no more clearly demonstrated than by his appearance on this floor, while in ill health, to cast his vote for the Clean Air Act. It was an act of courage and determination that we all will admire for years to come.

SPARKY had a special knack for turning people's unfocused concern into concrete action. He will be remembered for his strong commitment to the State he helped establish, to justice for Japanese-Americans interned in World War II, and to the cause of peace.

We can be grateful for our memories of SPARKY—grateful that the Lord graced his lifetime with a global movement toward peace and democracy which he worked so hard to bring about. As we look at the new dawn in the East, let us remember that SPARKY brought the warmth of Hawaii's sunshine with him every day to the U.S. Senate.

Senator SPARK MATSUNAGA will be greatly missed, but thankfully his accomplishments are forever a part of the great patchwork of American life. To his wife Helene, and his entire family, I extend my condolences for their loss, and my personal respect to our friend—SPARK MATSUNAGA.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Georgia.

SPARK MATSUNAGA

Mr. FOWLER. Mr. President, I cannot be more eloquent in my remembrances of our colleague and friend, SPARK MATSUNAGA, than my senior colleague from Georgia [Mr. NUNN]. So I will simply say that he was my friend; he was a friend of all Americans. We shall miss him.

I wish to associate myself with the remarks of my colleague, Senator NUNN.

SPARK MATSUNAGA: A MAN OF PEACE

Mr. SANFORD. Mr. President, last Sunday, the Nation lost a true patriot and humanitarian. Senator SPARK MATSUNAGA was a man who lived by the principles upon which the United States was built: justice, equality, and liberty. He will be deeply missed not only by the residents of Hawaii, but by all Americans who cherish peace, poetry, and courage.

My most vivid memory of SPARKY MATSUNAGA comes from a speech he made in 1987, as he introduced legislation on Japanese reparations. SPARKY, a veteran of World War II who earned a Bronze Star and two Purple Hearts, was overcome by emotion for the Japanese-Americans interned in American concentration camps during the war. His vivid recountment of the needless death of an elderly Japanese prisoner—shot while chasing an errant ball thrown by his grandson—lives in all of our memories to this day.

In that speech, SPARKY spoke to the ideal of America and to the terrible reality wrought by war and fear and ignorance. I would like to quote a few excerpts.

Mr. President, the greatness of any nation can be accurately measured by the laws under which its people are governed. This year we celebrate the bicentennial of that greatest of documents ever written by mortals which we have adopted as the supreme law of our land. In so doing, I am extremely pleased, if not exhilarated, to announce that on this day 71 Members of the august body have joined together in introducing legislation to remove that one ugly blot which has marred our National Constitution over the past 45 years. * * *

Those of us in this Chamber who are over 50 years of age no doubt recall exactly where we were and what we were doing on December 7, 1941, the day that Japan attacked the American naval base at Pearl Harbor. I myself was in active military service on the Island of Molokai in temporary command of an infantry company defending that island against the invaders. In fact, I was one of more than 1,500 men of Japanese ancestry who had volunteered for and were in active military service in Uncle Sam's uniform 6 months or more prior to the attack on Pearl Harbor, and who stood in defense of Hawaii against the enemy.

We remember vividly the atmosphere which prevailed in this country immediately following the bombing of Pearl Harbor. Rumors of a Japanese attack on the west coast of the United States were rampant and numerous false sightings of enemy war planes off the coast were reported. A great wave of fear and hysteria swept the United States, particularly along the west coast, where a relatively small population of Japanese Americans had for many years been subjected to racial discrimination and often violent attacks, even before the outbreak of World War II. * * *

During hearings held by the Commission on Wartime Relocation and Internment of Civilians, former internees, many telling their stories for the first time, told of infants, young mothers and elderly persons who died for lack of adequate medical care and facilities; of families who were separated, with elderly parents or in-laws going to one camp and their married children to another; of large families forced to live together in one small room; of the constant, nagging uncertainty about the future, both immediate and longterm; of internees who were shot and killed by guards when they inadvertently wandered too close to the camp fence; and of the strains which all of this placed on their families and on the close-knit Japanese American community as a whole.

A dramatic incident tells of a Dr. Tashiro whose father and son were playing pitch-catch ball. No one was to be seen between barbed wire fences after 6 o'clock.

It was a summer day; although past 6 o'clock, it was broad daylight. The grandfather missed the ball, and chased after it between the two fences. The guard in the watchtower yelled out, "Get back." The grandfather responded, "Oh, I am just going for the ball," and went after the ball.

The guard from the watchtower fired with his machine gun and killed him on the spot.

But perhaps the most traumatic experience, the one thing that has haunted Americans of Japanese ancestry for 45 years, was the stigma of being cast as disloyal to their own beloved country, the United States of America. One elderly internee, an American veteran of World War I, committed suicide rather than bear the brand of disloyalty to his country, the United States of America.

SPARKY dedicated his life to the service of his country. He distinguished himself on the beaches of Italy as a member of the all-Nisei 100th Battalion of the 442d Regimental Combat Team, one of the most decorated battalions in the history of this Nation. Equally important, SPARKY worked during his 27 years in the U.S. Congress to ensure that his country lived up to its constitutional responsibility toward those Americans wrongfully interred during World War II. He helped the United States atone for the injustice done to Japanese-Americans and promoted the principles upon which this Nation was founded.

SPARKY was a great conciliator; a man whose wartime experiences catalyzed his efforts to create the U.S. Institute for Peace. This academy provides a fitting tribute to his work for the peaceful resolution of national and international disputes.

In times of peace, we also remember SPARKY for his deep love of poetry, for his interest in space exploration, and for his effective service of the citizens of Hawaii. But most of all we remember him as a humanitarian and a friend.

The contemporary theologian, Jack Reimer, captured the spirit of SPARKY MATSUNAGA in this way:

We cannot merely pray to You, O God, to end war;
For we know that You have made the world in a way
That man must find his own path to peace
Within himself and with his neighbor. * * *
Therefore we pray to You instead, O God,
For strength, determination, and willpower,
To do instead of just to pray,
To become instead of merely to wish.

I hope and pray that SPARKY MATSUNAGA has found his own path to peace.

The PRESIDING OFFICER. The Chair recognizes Senator BOSCHWITZ.

SENATOR SPARK M. MATSUNAGA

Mr. BOSCHWITZ. Mr. President, I rise to say a few words about our colleague, SPARKY MATSUNAGA, who left us in an untimely manner on Easter Sunday. I got to know SPARKY first by name rather than by person in 1976 when he was running for the Senate for the first time and became involved in a very contentious primary. I received a call from one of my friends, who said, "There is a fellow out in Hawaii who needs your help." And I, indeed, got involved with him by being a donor to his compaign. This is before I was in the Senate, and it was a joy to help him at that time and later to get to know him. He won that primary and, of course, came to the Senate, and he became quick friends with me after I arrived here. You could not help but becoming a fast friend of SPARKY MATSUNAGA. He really was one of the most friendly Members of the Senate and looked across partisan lines, looked across the aisle and sought to make friends and sought to accommodate and be helpful to people of all political persuasions. We were not on the same committees, so we did not serve together on committees, so we did not share much legislative experience together. But, indeed, we found ways to help one another and we helped one another on a number of occasions.

Then I found myself in the unusual position, as chairman of the Republican Senatorial Campaign Committee, to operate in opposition to him. I had to go out and find somebody to run against him, which was not easy, because SPARKY won by 80 percent of the vote or more. I told him one day—I happened to be going out to the Far East, to Thailand. I said, "I am going to come back by way of Hawaii, SPARKY, and I want to recruit somebody to run against you, and I am going to talk to some people." He said, "Who are you going to talk to?" I said, "If you would give me a list of those people you have not taken out to lunch in the Senate dining room, I will start with them." That would have been a very short list indeed, Mr. President, because the center table of the Senate dining room, which accommodates about a dozen people, was filled every day by SPARK MATSUNAGA and whoever came from Hawaii. If they came from Hawaii and showed up before lunch, they had lunch with their Senator, and I think that he has taken most of the constituents in his State to lunch. So he laughed when I told him that I would start with a list of those he had not taken out to lunch. And when I went to Hawaii, somebody did indeed come forward. He did get less than 20 percent of the vote. SPARKY was well over 80 percent of the vote, as usual. And there was a cartoon of me in Hawaii, and it showed me with a board going up and down the beach looking for people to run against SPARKY MATSUNAGA because it really was thought to be a rather good-humored effort because SPARKY was indeed beloved by those in Hawaii, and for good cause. So, while it is the duty of a political party to find somebody to run against an incumbent, nevertheless it was not really a serious contest, and SPARKY and I had many fine conversations and enjoyable conversations talking about his reelection campaign.

SPARKY MATSUNAGA kept unusual hours. One night I was on a CBS program between 3 and 4 in the morning, and he told me the next day how good I was on this program. I might say it was prerecorded. I would not do something between 3 and 4 in the morning, but SPARKY was still up. He kept very unusual hours. He was calling people back in Hawaii to past midnight or 1 or 2 o'clock in the morning. I said, "My God, SPARKY, when do you go to bed?" He said, "About 5 o'clock." I said, "When do you get up?" He said, "About 7:30." I knew of few people who could accommodate life on so little sleep. But he signed all his mail, he answered it all personally. He knew his constituents. That is why he got 80, 82, 84 percent of the vote, obviously.

SPARKY MATSUNAGA was a dear man, a man that we will miss. I am sorry that I did not go to his funeral. The plane left here yesterday morning at 6:15. They flew out there on a 12-hour trip and then were there for 3 hours, and then they jumped back on the plane and got back at 10:30 this morning. Not wanting to join SPARKY before my time I decided that was not a trip I want to make, but that I would talk to Helene, his wife, and tell her of my love and high regard for SPARK MATSUNAGA and how Members of this Senate on both sides of the aisle will miss him because he was indeed to all of us a friend.

I yield the floor.

ON THE DEATH OF SENATOR SPARK MATSUNAGA

Mr. DURENBERGER. Mr. President, I did not have the honor of serving in the House with SPARKY MATSUNAGA like two of my colleagues who have spoken. As I often joke, I used my midlife crisis to come to the U.S. Senate in the middle of my forties.

I could never believe a U.S. Senator would be called SPARKY. Is this some kind of a pejorative? Are we putting him down or something like that? I got lucky enough to serve with him for 11 years on the Finance Committee, and in the last year-and-a-half on the Labor and Human Resources Committee, and we are the only two people who had served on those two committees.

What Senator PRYOR and Senator SARBANES have just said about SPARKY, I guess we would all say. This world is so full of people who spend their time finding fault and electing politicians to clean up all of the things that are wrong with this world, it has been such a wonderful experience to serve

with somebody who never found fault in anybody.

I think he thought it was his job to take care of Hawaii and Hawaiians on a lot of special policy issues. On some of the trade issues, where he was not a protectionist, he helped us on those issues. But, by gosh, when it came to the steamship companies and some of the things that were important to Hawaii, he was right there to take care of those special interests. Because it was those people who gave SPARKY life. And it was those people, I think, who made him the optimist.

That is why the big round table that was referred to, because he felt so good about those people that he represented in Hawaii.

I always hoped I would have that relationship with the people I represented. I always hoped that, as a Senator, somebody would say: He is always finding good in people.

I do not think they can do that with me. I do not think anybody would get up here and eulogize me in that sense. So it is a real pleasure to be able to stand here in memory of someone that all of us truly loved for the years that we knew him, and say we loved him because he loved us, because he loved everybody. And he expressed it.

He did not mind saying it. He did not mind showing it. If you called him SPARKY, he sparkled, and he was that for all of us.

Mr. President, it is with great sadness that I take to the floor to remember a true gentleman, and a man of dogged courage and wisdom, Senator SPARK MATSUNAGA. "SPARKY," as all of us knew him, died this past Easter Sunday after fighting prostate and bone cancer. He will be sorely missed by the people of Hawaii and by all of his collegues in the Congress.

Over the past 11 years, I worked with SPARKY in the Finance Committee to try to forestall protectionist inclinations from becoming legislative mistakes. And as the only two Senators to serve on the Finance and the Labor and Human Resources Committees, we shared a common commitment to improving the health and welfare of our Nation's most needy citizens.

Mr. President, SPARK MATSUNAGA was a man of peace who knew firsthand the ravages and indelible horrors that accompany war. That is why he spent more than 20 years, as a member of the House and the Senate, working to establish the U.S. Institute for Peace. As SPARKY commented when the law establishing the Institute was finally enacted: "Peacemaking is as much an art to be learned as war."

But I think history will best remember Senator SPARK MATSUNAGA for his lifelong crusade to try to right the wrong that was inflicted on American citizens of Japanese descent during the Second World War. This Friday marks the second anniversary of Senate passage of Senator MATSUNAGA's legislation endorsing the findings of the Commission on Wartime Relocation and Internment of Civilians and authorizing reparations for the Japanese-American families who were unlawfully interned during the Second World War.

But it was not just in the U.S. Senate that SPARKY served to defend the rights and freedoms guaranteed all Americans under our Constitution. In 1941, SPARKY was a second lieutenant in the U.S. Army. After the Japanese attack on Pearl Harbor, SPARKY—while still a member of the U.S. Army—was detained along with other internees in a Wisconsin camp. SPARKY, along with other internees petitioned President Roosevelt to be allowed to form the all-Nisei 100th Battalion of the 442d Regimental Combat Team. This became one of the most highly decorated and honored combat units in the history of the American military because of men like SPARK MATSUNAGA. He served in combat in North Africa and Europe and earned the Bronze Star, the Purple Heart with Oak Leaf Cluster, and the European-African-Middle-Eastern Campaign Medal with four Battle Stars.

Mr. President, there is a very special sense of civility that we as Members of the Senate bestow on each other as representatives of the 50 States. We often refer to each other as the "Distinguished Senator." SPARKY was not just a man who had earned the title "Distinguished Senator." SPARKY was a truly distinguished and honorable gentle human being, a man whose spirit of warmth and charity will long be remembered.

TRIBUTE TO SENATOR SPARK M. MATSUNAGA

Mr. THURMOND. Mr. President, it is with a deep sense of personal loss which I know is shared by my colleagues that I rise today to pay tribute to fellow Senator SPARK M. "SPARKY" MATSUNAGA. Senator MATSUNAGA was a World War II veteran, a man of the highest principles and a dedicated public servant. We all saw firsthand the dedication he exhibited in his courageous fight against cancer when he cast his final vote as a Senator from a wheelchair on the clean air bill. Such perseverance in the fact of adversity serves as an inspiration to us all.

Senator MATSUNAGA had a distinguished service record in World War II. The son of Japanese immigrants, he volunteered for active duty in 1941. He served with the 100th Infantry Battalion in Italy which later became the famed "Go for Broke" Regimental Combat Team—which Rollcall newspaper stated was the most decorated American military unit in history. He was twice wounded while serving in Italy and was awarded the Bronze Star Medal with a "V" clasp, a Purple Heart Medal with an Oak Leaf Cluster and the Army Commendation Medal. He will be long remembered for his efforts in collaboration with the war relocation authority to move Americans of Japanese ancestry from detention camps to homes and jobs in midwestern communities. As we all know, he continued working on behalf of Japanese-Americans during his years in Congress.

After the war, SPARKY MATSUNAGA worked as a veterans counselor for the U.S. Department of the Interior and the War Assets Administration. He was admitted to the Hawaii bar in 1952 and became assistant public prosecutor for the city and county of Honolulu.

He received his B.A. in education from the University of Hawaii in 1941, and earned his law degree from Harvard law school in 1951. At Harvard, he was a semifinalist in the Ames competition in oral advocacy. In addition, Senator MATSUNAGA received honorary doctor of laws and doctor of humane letters from several colleges and universities.

Senator MATSUNAGA began his long and distinguished career in public service in 1954, when he was elected to the House of Representatives for what was then the Territory of Hawaii. He was reelected in 1956 and 1958 and became the House majority leader in 1959. He was elected to Congress in 1962 and served on the House side until 1976, during which time he served as deputy majority whip. He was elected to the U.S. Senate in 1976 and became chief deputy Democratic whip for the 95th through the 100th Congresses. In 1979, his book "Rulemakers of the House" was published. Today, the book is required reading in political science and government study courses in 37 American universities.

SPARKY MATSUNAGA was a teacher, a prosecutor, a true war hero, a poet, and a most distinguished Member of Congress. My wife Nancy joins me in extending our deepest sympathies to his wife, Helene; and his five adult children, Mrs. Karen Hardman, Keene Matsunaga, Mrs. Diane Segars, Merle Matsunaga, and Matthew Matsunaga.

TRIBUTE TO SENATOR SPARK MATSUNAGA

Mr. PRYOR. Mr. President, most of our colleagues in this body realize on many occasions what a cumbersome, unrealistic life we live around here in the Senate, especially those long night sessions when we find ourselves stranded here basically marking time waiting for a vote and wondering what to do. Even as bad as those late nights are, Mr. President, from time to time there comes something good from

them. There is that rare opportunity and window of time when we have the chance to sort of informally visit with our friends and colleagues, to get to know them and their thoughts, and also to share experiences which makes this, I think, one of the most richly rewarding experiences in life.

One late evening, Mr. President, I was sitting at SPARKY MATSUNAGA's desk. I do not know why I asked him this question, but I said, "SPARKY, what were you doing the morning of December 7, 1941?" He said at that time he had just been inducted into the Army. He was on a training program. He and his group were stationed above Pearl Harbor, in the high hills above Pearl Harbor.

SPARKY MATSUNAGA said that he spent the next 2 hours watching the Japanese planes come into Pearl Harbor, bomb and damage and sink our ships. He watched lives being lost. His squadron was taken to the scene to see what assistance they could give.

I will never forget, Mr. President, he concluded that conversation that late evening on the floor as we informally visited, he said at that time, "I decided that I would commit my life to ending the senseless brutality of war and man's hatred for his fellow man."

He did that, Mr. President. He committed his energies, his resources, and his life to not only helping to end war but to bring a better understanding among people from all parts of this world.

He is going to be sorely missed here. I have always maintained that SPARKY was sort of one of the people who represented the conscience of the U.S. Senate. I never heard him speak ill of any individual Senator nor any individual human being. He was a man who was upbeat, who was optimistic, and who believed in the system.

Mr. President, finally, he was also a person who knew this building, every inch of this Capitol Building. He knew every portrait, he knew every statue, he knew every nook and cranny of the U.S. Capitol Building. Not only did he know its location, its proximity or where special rooms were, he also knew what it all meant. And that says a lot. He took great pride in basically becoming one of the historians of this building, its rich history and what it must mean to all Americans.

It was my pleasure, Mr. President, to have known SPARKY MATSUNAGA beginning in 1967 as a Member of the U.S. House of Representatives, and then ultimately, again in 1979 as I was honored to be elected to this body. He was always a compassionate and dear and gentle friend. We will all miss him sorely. And this Senate, this country, and Hawaii will always be better because he came our way.

I yield the floor.

TRIBUTE TO SENATOR SPARK M. MATSUNAGA

Mr. SARBANES. Mr. President, I rise to join my colleagues in this tribute to our dear and beloved colleague and friend, SPARKY MATSUNAGA. It is fitting and appropriate that his desktop here in the Senate Chamber should have on it today an Hawaiian lei because on occasions SPARKY would wear a lei around the Halls of the Congress in honor of the State he represented and loved so much.

I do not know of anyone who was a greater good will ambassador for his State than was SPARKY. As others have observed, you could go into the Senate dining room on any day of the week and find him at the large center table surrounded by constituents from Hawaii who had a standing offer from him that any time they came to Washington, he would take them to lunch. It is estimated that over the course of his tenure in the Senate he took to lunch well over half the population of the State of Hawaii. I cannot vouch for those numbers, but I do know that every day, there he was, and he would call you over to the table and you would have a chance to talk with the men and women, and even more importantly, the young boys and girls from his State. And you could sense how they were receiving from SPARKY a lesson in American democracy and how significant it was for them to have the benefit of the experience which he was offering to them.

It was significant for us as well to have the experience of knowing SPARKY, of being his friend and colleague.

When I first came to the House of Representatives after the election of 1970, SPARKY had already been there for four terms. He was elected to the House in 1962 after having served in the Hawaii Territorial House and, in fact, being the majority leader of that Territorial House.

I can recall the warmth with which he greeted me when I came to the House. How he went out of his way to be helpful, to be generous of spirit, to provide counsel, to be a good friend. I still remember those very early days in the House of Representatives when I was new and on occasion somewhat confused, how SPARKY reached out in an extraordinary way to be helpful, a quality which I think all of us know he reflected throughout his life.

We came to the Senate together in 1977 having been elected in 1976. His death has a particular meaning and impact for those of us who entered the Senate with him and saw the good and constructive work that he did and the dedicated and committed way in which he met his responsibilities.

I still recall the long and determined effort he made to establish the U.S. Peace Institute. As my colleague from Arkansas has just made reference, it was a commitment of SPARKY's, based on his own experience out of the Second World War, where he fought with great bravery and was much decorated.

He was committed to getting the Peace Institute established and worked at it year in and year out, finally with success. He based his care on the single but basic proposition that peacemaking is as much an art to be learned as war. Now we have such a Peace Institute which is engaged in the effort to underwrite studies of the ways to resolve conflicts without violence.

Let me finally say that I think all of us were bound to SPARKY by a personal bond resulting from his generosity of spirit and his warm, open, and indeed sunny disposition. I never knew him to say a mean word. He always sought you out with a warm comment, with a happy demeanor. He was brave and courageous until the very end. I can recall in the last days of his illness when he would be brought on the Senate floor in a wheelchair in order to vote—he was conscientious about that—Members would go over to talk to him. And even then, when it was clearly an effort for him to come and to participate and to cast his vote, when you started to talk with him, he was always upbeat, he was always optimistic, he was always obviously concerned with helping to lift you up and not have you go away from the conversation with him depressed.

We are going to miss him deeply in this body. He made a special contribution. I, for one, am grateful for the friendship that I had with him over these many years. And I extend to his wife, Helene, and their five children, my very deepest sympathies. May they take comfort in the knowledge that Hawaii America, indeed the world, are the better for SPARKY's contributions.

Mr. President, I yield the floor.

EULOGY FOR SENATOR SPARK MATSUNAGA

Mr. ADAMS. Mr. President, I was deeply saddened to hear that cancer had claimed the life of my dear friend and colleague, SPARK MATSUNAGA of Hawaii. Those of us who knew him, both in his brilliant career and life in public service as it was lived out, came to admire him even more as he fought valiantly against that dreaded disease of cancer these past months.

Shortly before our Easter recess, SPARK cast his last vote in the U.S. Senate. He was in a wheelchair. Though his body was ravaged, his mind was clear, his sense of humor was intact, and his commitment to serve the citizens of the State of Hawaii was undiminished. In his quiet and dignified way, SPARK MATSUNAGA earned a place in the history of this

country as a soldier, a statesman, a scholar, and a poet.

SPARK MATSUNAGA displayed the love of country so frequently shown by the sons and daughters of immigrants. Following his graduation from the University of Hawaii with a degree in education, SPARK was commissioned a second lieutenant in the U.S. Army Reserve, and later volunteered for active duty with Company K of the 299th Infantry. After the attack on Pearl Harbor, SPARK was detained by his own Government in a Wisconsin internment camp. He and a number of his fellow internees successfully petitioned President Franklin Roosevelt, and they were allowed to form the 100th Infantry Batallion.

He served in fierce combat in Italy with the 100th Battalion of the 442d Regimental Combat Team, earning two Purple Hearts and the Bronze Star Medal as part of one of the most heavily decorated and famous fighting units in the history of the United States military as it carried out its missions.

Following the war, SPARK worked for the Federal Government, and later earned a law degree from Harvard University. The U.S. Senate first heard from SPARK MATSUNAGA in 1950, when he testified before this body in support of statehood for Hawaii. Recalling the effort that he and his fallen comrades had contributed to our Nation's war effort, SPARK testified that they "were fighting not only for America but to prove that despite their racial background they were as good Americans as any. They were fighting for recognition as plain Americans, not hyphenated Americans." There is no need for a hyphen in any description of SPARK MATSUNAGA; he was a great American.

Before coming to Congress, SPARK had a diverse and challenging legal career as a prosecutor, territorial legislator, and private attorney. His 14-year career in the U.S. House of Representatives began in 1962, 2 years before my own arrival. During the many years we served together in the House, I remember him as dedicated to his work, and one of the best liked Members of the body.

When we met again in the U.S. Senate, where he had served since 1976, SPARK sat on the powerful Senate Finance Committee and had developed a reputation as one of this Chamber's leading experts on international trade. He was philosophically inclined toward free trade, though his considerable legislative skills could be brought to bear on protecting his own State's pineapple market and sugar cane prices.

SPARK never lost interest in his State or the voters who sent him to Washington—in fact, he held the Senate record for entertaining visiting constituents in the Senate dining room. Is there any among us who will not miss the thoughtful gift of macadamia nuts that SPARK gave to us each Christmas?

Our service together in the Senate lasted only 3 short years, but I had the pleasure of his company on the Labor and Human Resources Committee. I also was honored to testify at his side in support of legislation providing redress to Japanese-Americans who had been interned during the war in which he and so many other sons of Nisei parents fought so bravely.

SPARK MATSUNAGA was a soldier with the heart of a poet; a writer of haiku who sponsored the establishment of the position of national poet laureate; and a visionary who argued that peacemaking was an art to be studied and learned with the same vigor that is dedicated to the study of war. His 20-year effort to establish the U.S. Institute for Peace met with success in 1984, and that program stands as SPARK MATSUNAGA's legacy to his countrymen and to mankind.

It is the rare individual who can achieve great success and still maintain the best habits and friendships of a lifetime, but SPARK MATSUNAGA was such a person. He leaves behind a wife and five loving children, and the devoted citizens of an island State in the Pacific Ocean that sent him to Congress by resounding margins term after term. And in the hearts of his fellow Senators, who saw courage and dignity on display until the very end, SPARK MATSUNAGA leaves a legacy that will be passed on to others who serve in this body. Senate President pro tempore ROBERT BYRD put it so eloquently the day SPARKY came to the floor one last time: "There is a man. When comes another?"

Mr. President, there are no easy words that can adequately express the fondness of a farewell directed to SPARK MATSUNAGA. Perhaps the language of the native people of the State of Hawaii, and from the island of Kauai where he was born, expresses it best. Though the man is gone, his fighting spirit, his easy manner and gracious way, and, yes, his spark of intellect and decency that propelled him through life will linger on in the corridors of Congress. A word of greeting and farewell to a man who will always be with us: Aloha, SPARK.

Thank you, Mr. President.

TRIBUTE TO SENATOR SPARK M. MATSUNAGA

Mr. LEAHY. Mr. President, I thank my good friend from Wyoming for his comments about Senator MATSUNAGA, and others who have spoken and will speak for him.

I must say, Mr. President, it is somewhat difficult standing here, following comments just made, beside the desk of my seatmate in this Congress, Senator MATSUNAGA, and looking at the empty chair there, and also looking at the farewell mark on that, the Hawaiian lei that is upon his desk, signifying that he has left.

I think of that because we all know the number of times when SPARK would come to applaud one of us for something that he felt we had done right—and usually it was something that we had followed his lead on—and he would bring a Hawaiian lei and put it on us.

I remember walking into the Cloakroom once with one of those, and a couple of the Senators were sitting there saying, "Well, you finally listened to SPARK long enough." And like my friend ALAN SIMPSON, I had SPARK come back so persistently that he had worn me down.

Senator SIMPSON and I are both a tad taller than Senator MATSUNAGA was, but he tended to stand a lot taller than we did at times, when he would go after us on what we should do. And we did, Mr. President, because SPARK was such a good man, a man with so much heart.

When he would come on these issues of peace, on the issue of reparations to the Japanese-Americans who were treated so poorly by this country, every time he came Senator MATSUNAGA was not speaking for himself, but it was for others, It was always for the greater good.

Again, whether it was the Peace Academy or the reparations bill or so many others, you had to stop and realize that this was nothing that went to him; it went to others. Who can argue against studying peace at the level that we studied war? Who can argue that we had a great debt incurred to our own people, to fellow Americans in World War II? And now finally this generation had the obligation to respond to it, and while some of those Americans were still left alive. We realized what we did.

Many will speak of how hard SPARKY worked, and we all know that. He was the only person who could be here representing a State with a time zone 5 hours removed from Washington, DC, and still be talking to people throughout their normal working day back there and still put in a working day here.

I asked him once if he ever slept. It was almost like SPARK had not quite thought of that aspect of life. He did put in 2 or 3 hours of sleep here and there. I am not just sure where the here and there was, because there were constituents in Hawaii who would get the cheerful voice of SPARK on the phone at their own supper time, which would be after midnight our time, and yet, he would be at many early morning meetings with the rest of us here.

He was a man of great talents. The Washington Post has spoken of his

poetry expertise. I watched him sitting in the seat next to me, Mr. President, sometimes during the discussions that were somewhat boring on this floor, writing poetry.

Mr. President, I also think of some of the personal things—his kindness to me, to my wife, my children.

One interesting little item: SPARK MATSUNAGA found out early on that my mother is a first-generation Italian-American. He asked me whether my mother speaks Italian. I said, "Yes, that is her native tongue." He asked me how good my Italian was. I said it was very, very poor. I remember a little from talking to my grandparents, and most of that I have lost. He chided me on that.

I didn't think much of it, Mr. President, until a few weeks later when my mother was here. We were walking through the halls and ran into Senator MATSUNAGA, who immediately ignored me and started speaking in rapid-fire Italian to my mother. I think today of the smile that came across her face. I also think of the smile that came upon SPARK's face as he turned back to me and said, "There, that is what you should have learned to do."

I would have come by it a little more naturally than he had. He came to it out of sheer patriotism by serving in Italy during World War II with the American forces.

There will be many stories told about SPARK MATSUNAGA, Mr. President, but I will close with this. I considered it an honor sitting beside him, and I think of just a couple weeks ago when I saw him for the last time on the floor of the Senate. It was obvious he was in great pain and discomfort, but SPARK, even then, was asking about all the other Senators. He did not show even a sign of any concern for himself.

When he left, I think a lot of us knew we would probably not see him again. I remember the feelings expressed by Senators when they went back to the cloakroom, the sadness felt by so many, Republicans and Democrats alike—there is no difference there—because we knew that we would be losing not only a great Senator, but a very special friend.

Thank you, Mr. President.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Colorado.

TRIBUTE TO SENATOR SPARK MATSUNAGA

Mr. WIRTH. Thank you, Mr. President.

In 1974 there was a political earthquake in the United States following Watergate and the Vietnam war. There was enormous political change. There were 79 Democrats elected for the first time in the House of Representatives, and 18 or 20 Republicans; a huge turnover.

We came to town, and there was a great deal of concern about who we were and what we were going to be. Carl Albert was then the Speaker of the House.

The person that Carl Albert entrusted as being kind of the shepherd for this new group coming to town was SPARK MATSUNAGA. That is where I first met him. here was this very quiet, courtly, polite Member of Congress, about halfway up the hierarchy, the person chosen by Carl Albert to be sort of shephard for all of these people coming from these divergent backgrounds at this time of enormous change.

That is a commentary on the respect with which this man was held in 1975, and right up to the time of his death. He always had that interest, concern, perspective, that wonderful, quiet humanity. That is who Carl Albert chose to be the steward of this flock of people from all over the country. That is what the people of Hawaii chose, as well, and chose so carefully.

He was a friend of mine, a mentor of mine, and I shall miss him, Mr. President.

SENATOR SPARK MATSUNAGA

Mr. HATFIELD. Mr. President, yesterday, I had the privilege of making some remarks at the funeral service for Senator SPARK MATSUNAGA. I would like to repeat those comments here.

There are those who briefly capture our attention with loud pronouncements and angry confrontations—and there are those who touch our lives forever with quiet strength and gentle compassion.

SPARK MATSUNAGA was not a loud man: although his voice was heard loud and clear. And he was not an angry man: although his fierce tenacity gave birth to several landmark pieces of legislation—most notedly legislation creating the United States Institute for Peace and providing reparations for Japanese internment victims.

In many ways, SPARK brought Hawaii—and its gentle calm—to Washington. The SPARK MATSUNAGA I knew and deeply admired was a peaceful man: a man at peace and a man of peace.

His life was a testament to the unshakable force of character, to the unmatched strength of decency. We shared the experience of war: but we also shared a commitment to peace.

SPARK M. MATSUNAGA

Mr. BENTSEN. Mr. President, SPARK MATSUNAGA's hobby was writing poetry. He had done it since he was a boy. In 1944, as a soldier wounded at the foot of Monte Cassino during the invasion of Italy, he took out his notebook and wrote these lines:

When in the light of thought I ask myself:
Just who am I and what,
What lasting imprints good or ill,
Have I for future mortals wrought?

Later, as a lawyer, SPARK MATSUNAGA summed up, many times before a jury. Now, at the end of his life, in our own summing up, we can answer the question he asked 4½ decades ago.

And the answer is contained in the flags flown at half mast over this Capitol. Few Americans have left more of a lasting imprint. We have lost a colleague and I have lost a friend. Hawaii has lost a tireless worker for its people. America has lost a distinguished public servant.

SPARK MATSUNAGA was a man of extraordinary courage—from his days in Italy in the Second World War until his final struggle against cancer. He never surrendered, never lost hope, never took defeat as anything more than a temporary setback.

We witnessed his courage; we also saw his vision and determination. He looked to the future and called for Soviet-American cooperation in exploring that last frontier of space. He insisted that we honor our commitments to veterans; he also pressed us to study the processes of peace as well as war.

SPARKY was tenacious, no doubt about that. He reasoned with us, twisting our arms with logic rather than force, gently pulling us to see things his way.

Eventually, we would agree. We agreed to establish the U.S. Institute of Peace. We agreed to measures promoting Hawaii's economy. We agreed to have a national poet laureate.

His greatest legislative achievement, of course, resulted from his battle to correct the injustice done Japanese-Americans interned in camps during World War II. It was a battle even his supporters thought impossible to win.

But in the end, he got us to agree to this view as well; he made us see, not only that a profound injustice had been done, but that words were not apology enough.

Mr. President, I sat next to SPARK MATSUNAGA on the Finance Committee. We learned from him about Hawaii's fascinating past, its vibrant present, and its promising future. He taught us to understand and appreciate the diversity of the 50th State.

And he taught us more. Throughout his public service, SPARK MATSUNAGA set high standards of conduct and performance. His very example challenged us to respond, in Lincoln's phrase, to the better angels of our nature.

Mr. President, that World War II service that earned SPARK MATSUNAGA his Purple Heart involves a story of sacrifice and heroism that stood out

even at a time of sacrifice. The Japanese-Americans who volunteered to fight were courageous and generous-spirited enough to overlook the injustice their own country had done to them. SPARK MATSUNAGA was one of those who volunteered to form the 100th Infantry Battalion. Later they linked up with the 442d Regimental Combat Team.

Texans remembered that team—which included Senator INOUYE as well. We remembered the way they came to the rescue of a battalion of Texans cut off by German troops in France. We remembered that as they advanced up the Italian boot, becoming the most highly decorated unit in the history of the United States, they became known for their slogan: "Go for Broke."

So, how do we answer the question SPARK MATSUNAGA asked himself at the foot of Monte Cassino? Did he leave the "lasting imprint" he so wanted to leave? You bet he did. He went for broke in war, and in over 30 years of his public life. I want to join my colleagues in extending sympathy to SPARKY's wife and family. As they mourn, I hope they dwell not on his passing but on his many, lasting accomplishments. He is gone, but we are better because he was here.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. REID). The Senator from Utah.

SPARK MATSUNAGA

Mr. HATCH. Mr. President, I rise today on the Senate floor to speak for my friend, SPARK MATSUNAGA. This dear colleague was a fine man, and frankly, his manner very much belied his nickname, "SPARKY."

He went about his work as a Senator from Hawaii without an entourage of staff or a gaggle of reporters. Yet, his many achievements in life showed how hard he worked.

After graduating with honors from the University of Hawaii, he was commissioned a second lieutenant in the U.S. Army Reserve and volunteered for active duty in 1941.

He served with distinction in Europe and North Africa, and earned the Bronze Star and Purple Heart with oak leaf cluster, as well as numerous other military awards.

When the war was over, he chose law as his chosen career. He excelled at the Harvard Law School. He was a local prosecutor before entering private practice and served in the Hawaiian Territorial Legislature where he became majority leader in 1959. SPARKY was elected to the U.S. House of Representatives back in 1962 and to the Senate in 1976. He came in with my class. So I felt particularly close to him, especially since he was a member of the Labor and Human Resources Committee, and I worked with him on a regular basis. Hawaiians, regardless of their views on any given issue, can be proud of the way SPARK MATSUNAGA represented them here in Washington.

SPARKY was unfailingly kind and generous. He had a special place in his heart for those who were sick and elderly and alone. I know that is why he was so dedicated as a member of the Labor and Human Resources Committee. He was a champion of the Older Americans Act and the efforts to assist America's seniors.

SPARK MATSUNAGA fervently believed that if men can study the causes and tactics of war, they can also study peace. Today, the U.S. Institute for Peace exists because Senator SPARK MATSUNAGA believed in its concept and in its mission. I know because I was there, and there was a time when that Institute was not going to pass. He came to me and asked for help, and I, finally, out of just straight friendship with him, said, "I will be glad to help you." He was so sincere and dedicated in his own quiet and kindly, effective way, and he was able to motivate and move people until we had the Peace Institute which, hopefully, will help to bring peace throughout the world.

SPARKY also had a sense of humor. I recall an executive session in the Labor and Human Resources Committee several years ago. Then Senator QUAYLE wanted the committee to take up his proposal to waive the child labor laws for those young people who received the honor of being selected bat boys or bat girls for the Indianapolis minor league baseball team. Because the games were played in the evening, the Labor Department ruled that kids' participation was a violation of the Fair Labor Standards Act. It was, frankly, a little hard to believe the seriousness of the debate over allowing kids to realize the dream of association with real baseball players. But Members on both sides had strong opinions, and the Senate is our Nation's premier forum for debate.

Senator METZENBAUM brought a young guest to the committee that day. Eight-year-old Jeffrey McGuiggen was in Washington spending the day with Senator METZENBAUM as part of the Cincinnati chapter's "Dreams Come True Cystic Fibrosis Program." SPARKY, who typically refrained from getting into the fray, asked Jeffrey if he wanted to be a bat boy. Jeffrey answered, "Yes." SPARKY went on to say that he would support the Quayle amendment because he himself had been a bat boy when he was 14 years of age. The committee agreed that Senator MATSUNAGA had turned out all right for his experience as a bat boy. SPARKY then said his only concern was the admonishment by his father, who used to say in his Japanese accent, "Bat girls, bat boys make bat citizens." We all laughed. Both sides shared a good laugh with SPARKY.

I have to say that of those in the room who were busy debating the legal pros and cons of this Fair Labor Standards Act waiver, SPARKY got to the main point first. Jeffrey wanted to be a bat boy. Unfortunately, Senator MATSUNAGA was unsuccessful in convincing the rest of the committee that this issue had a human side to it; it was not just a matter for the lawyers and the legislators to regulate.

In the nomenclature voiced in D.C., SPARK MATSUNAGA was probably low profile, but he was effective as a junior Senator, and he accomplished a great deal of things that never made the front pages. In the last month of his life, when this yet-unconquerable disease caused him great pain and discomfort, SPARK MATSUNAGA was an inspiration to all of us. He never gave in to bitterness or self pity. I knew him personally. Many times we put our arms around each other and hugged each other. He was a winning, warm, decent, wonderful man. He was a "spark" in personality. He was the type of person you could not help but like. He was a decent man. He was the kind of person I feel proud to have served with in the U.S. Senate, as I do with so many others who have served in the Senate.

I just hope that his widow and his family realize how respected he was by all of us. That is one reason I came over to the floor, just to express what is in my heart with regard to this fine fellow. He meant so much to all of us, and he basically contributed so much to this country, to this body, to his State, and to so many people. I am grateful to him, and I am grateful I served with him on the Labor and Human Resources Committee and that we had him with us as long as we did. I wish his widow and his family the very best. Our prayers are with them, and our spirit is with them, and I hope that everybody in Hawaii realizes how very, very much we think of SPARKY and in what high esteem we hold him.

I notice my distinguished friend from Ohio is here to speak for Senator MATSUNAGA himself. I compliment him for having been such a good friend of SPARKY's and for being such a good friend of mine. I am grateful for the privilege of serving in this body. One of the reasons I am is because of people like SPARK MATSUNAGA. Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 7 minutes.

SPARK MATSUNAGA

Mr. METZENBAUM. Mr. President, the remarks of my good friend, the distinguished Senator from Utah, just

previous to mine pretty much indicate the story of SPARKY MATSUNAGA. Here is a leading member of the opposition party on the floor talking about our friend, SPARKY MATSUNAGA. This is a body that has many differences of opinion across the aisle, Democrats and Republicans, and sometimes on the same side of the aisle. But the fact is that SPARKY MATSUNAGA was one of those Senators whom everybody loved. SPARKY MATSUNAGA had no enemies in the U.S. Senate. And when he decided that there ought to be an Institute for Peace, nobody could say no to him, because the warmth of his personality, the sincerity of the human being, the depth of conviction, all combined to make him a rare person in this body. It is very difficult to be universally loved in a political body, but SPARKY MATSUNAGA was able to fill that kind of spot.

He was respected. He was the kind of Senator that everybody knew was fighting and concerned about the people in his own State, and I remember so often when we would go out in the evening, we would see his beloved wife Helene. She would be out socially. And where is SPARKY? SPARKY was back in the office talking to his constituents by long distance telephone, not one night a week, but every night of the week. He was dedicated to representing the people of that great State of Hawaii.

I just came from the Senate dining room; I had lunch there. There was a little twinge when I looked over to the center of the dining room and there was no SPARKY MATSUNAGA there today. In the past he would have, every single day, every single day, a group of Hawaiians who would be visiting Washington, and he would take them to lunch. I remember those occasions when he could not accommodate all of them at one luncheon, and he would have more than one luncheon in order to accommodate those visiting Washington, DC, from Hawaii. I just think that there are few people that ever achieved the sense of respect, the sense of love, the sense of caring, the sense of personal relationships that SPARKY MATSUNAGA achieved in this body. He will be remembered as a hero in the war, a champion for peace, a credit to this body and to the Nation.

But I will miss him, as I know will many of my other colleagues. He was my friend. He sat next to me on the Labor Committee. We kidded each other often.

When we first came here a lot of people got confused between Matsunaga and Metzenbaum and he would get people coming to his office for my office and they were mixed up on the two names. It may not sound that similar but people found that kind of confusion.

I will miss SPARKY MATSUNAGA, So will the people of Hawaii and so will this Nation. He served well and ably. He was truly one of our finest public servants.

I yield the floor.

SENATOR SPARK M. MATSUNAGA

Mr. BREAUX. Mr. President, I also will join with my distinguished colleague, the Senator from Ohio, in his remarks concerning our friend SPARKY. We all share in the loss this institution, this body and this Nation will experience as a result of SPARKY's passing on. We have lost one of our certainly most beloved Members and the world has lost one of its most eloquent and passionate advocates of world peace.

There are many ways in which we could remember and describe SPARKY MATSUNAGA and many of our colleagues will bring those to the attention of this body today. I think one clear universal memory was that he was a friend to everyone that he met. There were no strangers when it came to SPARK MATSUNAGA. He cared very deeply about people, especially those in his home State. He fought fervently on their behalf in the 26 years he served in the Congress, most in the House of Representatives, as well as here in the Senate.

The fact that Hawaii is a State today is due in large part to the untiring efforts of SPARKY. He was courageous. He was a war hero who sustained two battle injuries fighting valiantly for his country in World War II, and yet his experiences in Italy and North Africa affected him deeply. So much so, he dedicated much of himself to advancing the cause of world peace.

The U.S. Institute of Peace is a monument, not only to a noble cause, but it is a monument and tribute to one man's inspiration, tenacity and patience. He touched many lives. Through dedication to peace, he is likely to continue touching the lives of millions of people for generations to come.

It seems that the essence of SPARKY's life is he left the world a better place than he found it. To me there is no better tribute that we could pay to him than to say he was one who truly made a major difference.

My best memory of SPARKY, as many of the Members speak today, is his almost daily universal luncheon he shared with his constituents from the State of Hawaii at the middle table in the dining room. Many Members commented that SPARKY probably spent less on campaigns than any other Member and more on lunch expenses in the dining room, certainly, than any other Member in the Senate. It was his way of sharing his love for this institution, his love for the Senate, with the people of the State of Hawaii.

He genuinely loved this institution and we all loved him, and he will be greatly and sorely missed by all.

A TRIBUTE TO SPARKY MATSUNAGA

Mr. MOYNIHAN. Mr. President, I rise to join the Senate in paying tribute to SPARKY MATSUNAGA who, of course, died on Sunday. As I do, I look at his empty desk just in front of me with the flowers on it—the Hawaiian leis—that we have come to associate with him. They are there as a special tribute to his passing. But they were not an uncommon sight in the Senate in the 13½ years he served here. It was very common for him to receive flowers of this kind from visiting Hawaiians and he would simply bring them into the Chamber and put them on his desk in the most natural way, such that one became used to seeing flowers in a body otherwise without them.

It is a curious thing, when you come to think of it, that in most legislative bodies, in other parts of the world, one will find flowers—surrounding the main dais or perhaps in the background. But not in our rather severe, republican, austere, Chamber.

It was SPARK, SPARKY as we called him, who brought flowers in with him with that supreme gentleness that he brought to life. We are not much accustomed to referring to grown men as sweet. Indeed, I do not call many people sweet. And yet there was a sweetness to this man that overcame any reluctance to acknowledge it. It was a sweetness that could only emanate from an internal peace which he acquired so naturally from a marriage so strong, so enduring; from a love of his country so profound and so tested.

He was, after all, a warrior before he was any other thing. He fought in that great 100th Battalion up and down the mountainous spine of Italy in the worst fighting of the Second World War. Wounded repeatedly, but deterred never. Actually, before being a warrior, he was a boxer, a lightweight. He liked that part of his life. In all, these things were part of the infinite variety of this man.

I sat next to him for 13½ years in the Committee on Finance, and never did we spend a morning together but that I did not learn something new and admirable and inspiriting from him. One would have to find out the things that SPARK MATSUNAGA had done. Sometimes one had to drag them out of him. He, the most responsive and generous of persons to others, withheld part of himself simply out of an innate courtesy and an innate sense of not wanting to invade others' space or prerogative.

I recall once calling upon him in his office to ask that he be one of the first cosponsors of what became the Family Support Act of 1988; the first change in the welfare system in a half century. It was to be a redefinition of the welfare system; directed away from its original concern as a widow's pension toward the question of the socialization of children and the lives of persons in difficulty in the cities of the country. In the most casual way, SPARK said, "Of course, I will join you." In the most casual way, he mentioned that when he was at the Harvard Law School he had worked with a law professor and his wife, Drs. Sheldon and Eleanor Touroff Gzlueck, doing statistical analyses of problems of juvenile delinquency in the neighboring Irish-Italian town of Somerville, MA. I had at this time known SPARK for a dozen years. I said, "SPARK, you worked with Sheldon and Eleanor Glueck?" He said, "Oh, yes."

I said, "But, SPARK, you cannot not tell that to a friend. That is the classic sociological study of delinquency in the 20th century." Oh, yes, he knew. He was not unaware of the power of this particular study which analyzed the effects of broken families as a predictor of delinquent behavior: a very powerful predictor. The study appeared in 1952. SPARK graduated in 1951. There was first a 1950 study entitled "Unraveling Juvenile Delinquency," then a second entitled "Delinquency in the Making: Paths to Prevention." SPARK had worked on them both. The absolute, the essential key to both was the validity of their statistical analysis.

A whole new picture of the sources of delinquent behavior in children was presented to us; wholly new and, for the first time ever, based on data, research and the analysis of findings. The data was at first accepted with great interest, but then in a strange 15-year period or so it was rejected. It was said that they had not done the data right. One of the Gluecks actually died with their study under a certain cloud. But then a new generation came along and said no, they had done it right after all. In fact, they had done it very well indeed, and a thesis of great consequence came back into the mainstream of scholarship. And who, would you guess, had been working on the data? SPARK MATSUNAGA. And who, would you guess, had got it right the first time, even if others did not see that for awhile? And who, would you guess, would never mention it to a friend as it might seem to be presenting himself in a superior light—an easy thing to do when you are such a superior person? SPARK MATSUNAGA.

I do not know that we shall see his like again. We will not see again, save in his gallant fellow Senator from Hawaii, Senator INOUYE, a man forced in the most cruel circumstances to prove his patriotism to a nation that had put his people behind barbed wire but was then to emerge wounded, yes and scarred but not embittered. To the contrary, SPARK MATSUNAGA emerged larger and more affirming of his Nation and his people and also, Mr. President, never forgetting that there was justice yet to be remedied, a wrong yet to be righted. On this floor, at that desk, he stood and fought and won from the United States an apology to Japanese-Americans whom we so wronged in those dreadful days and years of the Second World War.

He will be remembered for that. But he will be remembered for himself, and he will live on in an institution to which he gave so much of his attention as a Senator, the Institute for Peace. There will be no more appropriate statement of this man, who began his life in strife—in the strife of racial antagonism, and in the clash of arms against the totalitarian powers of Europe—than that he would end up asking but one thing of the Senate as an institution, and that was and is a place where peace would be studied and men might make war no more.

We shall not see his like again. We have been blessed and graced with his presence.

Mr. President, I yield the floor.

SPARK M. MATSUNAGA

Mr. COCHRAN. Mr. President, the death of SPARK MATSUNAGA leaves me with a profound feeling of sadness and a deep sense of loss. We have lost one of the Senate's kindest and most dedicated Members.

I served with SPARK when we were both Members of the House of Representatives. He was a very visible, active and effective Member of the House. As a member of that body's prestigious Rules Committee, he helped decide which bills came before the House and the conditions under which they would be considered.

After we were elected to the Senate, I came to know him personally as a very warm, friendly and intelligent person. He never tried to impress you with his intelligence. He was very modest. But, he had a very keen mind. And, he worked very long hours.

He was my chairman on the Aging Subcommittee. I served as the ranking member on the Republican side. Together, we have held hearings on issues affecting elderly citizens and we have worked closely on legislation that came under our jurisdiction.

The Older Americans Act was reauthorized and improved, I think, as a result of his active and thoughtful leadership as chairman of this subcommittee.

Although I am sure he had to be uncomfortable and not feeling well during the past year, he never complained. I was with him in committee when he presided without giving in to the easier course of letting someone else handle the job.

I admired his courage, his stamina and his sense of responsibility to his duties as a Senator.

He had a very impressive career. He was a fine soldier, a conscientious Congressman, a very fine Senator, and genuinely likable man. I will miss him very much.

I extend to his wonderful family, particularly to his wife, Helene, and his children, my sincere condolences.

TRIBUTE TO SENATOR SPARK M. MATSUNAGA

Mr. REID. Mr. President, I would like to ask the Members of this ancient and distinguished body to join me in a moment of reflection. We have lost one of our own, and it is fitting that in the midst of conducting the Nation's business we pause for recollection of a man who devoted so much of his life to this body and to that business.

There are things that I could say about SPARKY MATSUNAGA, about his dedication to people, and to peace, and to the future of this Earth, but they are things which have been said and will be reiterated by others in many places and at many times. We all knew his quiet wit, the decency with which he always dealt with everyone on all sides of the aisle, and the honor and pride in which he held his State, his Nation, and his heritage. We knew SPARKY and will remember.

But, Mr. President, there is something else about SPARKY MATSUNAGA that I want my honorable colleagues to remember also. Something about which, perhaps, others will not speak, and something I think he would want us all to remember. SPARKY MATSUNAGA was a victim of racial prejudice.

The Members of this body know, how could they not know, that in the 100th Congress, SPARKY MATSUNAGA was the driving force behind the successful battle to right the wrong which was done in the first years of our involvement in the Second World War to tens of thousands of loyal Americans of Japanese origin. Some, I think, voted for that bill but did not realize the true horror of what was done to those American citizens. It would be well for all of us to remember.

Let us remember that people were driven from their homes because of the color of their skins, and the shape of their eyes. Let us remember that we were also at war with Germany and Italy, and that Americans descended from immigrants from those nations were not interned or forcibly deported. Let us remember that the distinction was based on racial bias and stereotyping practiced by the U.S. Government.

Let us remember SPARKY would want us to.

My friends, there will be tributes enough to SPARKY MATSUNAGA, by others. Please join me instead in resolving that we may all profit by what happened to that great American, and to others like him including DAN INOUYE; that we may profit by their example of fortitude, and honor, and decency and patriotism; and that most of all we may profit by learning the lesson SPARKY MATSUNAGA taught us all about turning the other cheek. We are brothers and sisters in this land, and the devotion to freedom which draws us together must be and always is stronger than any hatred or bigotry which threatens to divide us.

There is no better or more fitting tribute I believe, to that fine man who we will all miss on this floor every day.

SENATOR SPARK MATSUNAGA

Mr. ROTH. Mr. President, it is never easy coming to the floor on these occasions, to honor a distinguished colleague who has passed away. Senator MATSUNAGA was a man who brought honor to this Chamber and served the people of Hawaii both wisely and well.

I had the opportunity to serve with SPARKY both in the House of Representatives as well as on the Senate Finance Committee. And through the years I have been impressed by his fairness and straightforward manner. He fought hard for what he believed in and was an eloquent voice for the concerns of his constituents.

But above all, Senator MATSUNAGA's life was marked by service. Like so many other great men of Congress, he began his career as a public servant in the school systems. There, in the forties, as a young public school teacher, he influenced countless lives before going off to serve in the Army during World War II.

With all of my distinguished colleagues, I will mourn his passing. He will be remembered fondly, as a man of consequence and quiet determination, not because of his stature or because he was given to daring feats, but because of his honor—because in this tempting and tumultuous world of politics he could be relied upon. He was honest and trustworthy, and when he said he would do a thing—he did it.

And now he has returned with honor.

IN MEMORY OF SENATOR SPARK MATSUNAGA

Mr. WALLOP. Mr. President, words are inadequate to express my feelings at the loss of my friend and colleague, Senator SPARK MATSUNAGA. I had the great pleasure to serve with SPARKY on both the Finance Committee and on the Labor and Human Resources Committee. His fierce determination and pride for his home State of Hawaii made him a formidable legislator who knew well the subtle art of compromise. SPARKY's quiet pursuit of legislative interests was effective—we all recall his work on behalf of the Peace Institute and the sugar industry. His hardworking nature, sharp intellect, and devotion to public service commanded the respect of his colleagues. He will be deeply missed, and I will be among those who miss him most.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AN ELOQUENT GENTLEMAN AND SINCERE SPOKESMAN

Mr. MURKOWSKI. Mr. President, I rise on behalf of our good and dear departed friend, Senator MATSUNAGA. I had the opportunity to work with Senator MATSUNAGA as chairman and now ranking member of the Veterans' Affairs Committee.

We worked on many matters. He was an eloquent gentleman, a sincere spokesman for veterans, and of course, served with such distinction in World War II.

Our affinity, of course, was not only on veterans but other issues, being both maritime States. I was proud to join him in pushing for the U.S. portion of the SARSAT-COSPAS system as an international satellite-based search and rescue system, which has no equal. It has been responsible for saving many lives and preventing many maritime accidents from becoming maritime disasters.

SPARK MATSUNAGA was the Senate's most dedicated proponent of completing the U.S. ground-station network for receiving emergency signals for vessels in trouble.

I also worked closely with him on many of the most important priorities which he had, including the Japanese-Americans claims legislation on the treatment of Japanese-Americans during World War II, which involved an issue in my State, and that was the treatment of the Aleuts, those residents, American citizens from the Aleutian Islands, who were removed from their communities during the war. They lost their possessions and basically were dispossessed.

I remember as a small child in Ketchikan a camp out several miles from town in the area called Ward Cove. Many were living in despicable conditions and Quonset-type construction. There was a large evidence of tuberculosis. Others were living in abandoned canneries, mining camps—taken from their homes.

I recall going to school and making friends with the Ohashis and various others, and fine Americans that were absolutely bewildered by this treatment.

I think Senator MATSUNAGA's effort in this regard to right these wrongs is something we are all very proud to be associated with.

I think the question of the Japanese-Aleut claims legislation points to the closeness that Alaskans felt and continue to feel with our neighbors in Hawaii and, of course, between my senior Senator, Senator STEVENS, who has enjoyed a long and close relationship with the late Senator MATSUNAGA.

On behalf of all Alaskans, it is with a great deal of sympathy and compassion that we extend our condolences to Mrs. Matsunaga and their five children, and say it has indeed been a privilege to work and serve with such an extraordinary American.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

SPARK MATSUNAGA

Mr. PACKWOOD. Mr. President, I wish to call something to memory about SPARK MATSUNAGA that I have not seen in any of the obituaries that have been printed so far. This happened in 1985 or 1986 in the Finance Committee upon which Senator MATSUNAGA served.

At that time, President Reagan was interested in initiating talks with the Canadians on the Canadian Free-Trade Agreement, but to do so it required a majority vote to go ahead with talks of the Ways and Means Committee and the Finance Committee. The Ways and Means Committee, by a large margin, voted for the talks.

This was at a time when America was really in the doldrums about its ability to trade, immense trade deficits. We have not yet started to see the fall in the trade deficit that we have seen in the last 2, 3 years. There was great irritation about export barriers overseas to our exports, a general frustration with the issue of trade, and in a surprising vote, the committee voted 10 to 10, which would have prevented the President from going ahead with his negotiations with Canada on the free-trade agreement. SPARKY was 1 of the 10 that voted to not go ahead.

President Reagan had the entire committee down to the White House and pleaded with us to let him simply go ahead with the negotiations. To his credit SPARKY changed his vote and said he would reserve his judgment on the Canadian Free-Trade Agreement when it was done but based on the plea of President Reagan he would change his vote to allow the negotiation to go ahead. It took a great deal of courage to let him do that. None of the other 10 to prohibit the negotia-

tion changed. He had to break from all of those.

Of course, the negotiation went ahead. The agreement has been signed. Canada is far and away our biggest trade partner. We have more trade with the province of Ontario than we do with Japan, and the agreement will be of extraordinary significance to the world.

Already there is talk of extending to Mexico in a North America free-trade agreement. These negotiations never would have started. We would not have taken the step down the road toward this extraordinary agreement had SPARK MATSUNAGA not had the courage to change his vote when he realized that the initial vote had been wrong and that the interests of the country were served by changing.

I think it is a test that many of the rest of us could observe when on occasion we may have set our feet in concrete only to discover we set them early and wrong. It was a courageous act and I have admired him for it ever since. Indeed Canada and the United States and the world are in his debt for that act of courage.

I thank the Chair.

SPARK MATSUNAGA, A STEADY EXAMPLE OF STATESMANSHIP

Mrs. KASSEBAUM. Mr. President, I want to join with others here today in paying tribute to SPARK MATSUNAGA, who served the people of Hawaii with great distinction. In his years here, he also served the Senate by his calm, quiet, steady example of statesmanship. He was a good friend, a valued colleague, and a man all of us will miss.

Like many others, I remember SPARK best as a tireless champion for the creation of a peace institute, where the skills of mediation, reconciliation, and compromise could be taught so that we could resolve conflict rather than sharpen it.

SPARK's tactics and skill in achieving his goal were the mark of the man. His persistent prodding, his thoughtful questions, and his straightforward, common-sense remarks caused me and many others to enlist in the cause.

SPARK was a man who believed that reconciliation was more important than confrontation, that friendship should moderate partisanship, that reason should balance appeals to emotion. he not only believed in these high ideals, he lived by them. In doing so, he assured that his own life and his long, productive career of public service would always stand as his most eloquent and lasting tribute.

A GREAT PUBLIC SERVANT: SPARK MATSUNAGA

Mr. FORD. Mr. President, this past weekend the U.S. Senate—and indeed our Nation—lost a good friend, SPARK MATSUNAGA. I know that I speak for all my colleagues when I say that we were all extremely blessed to have had the unique opportunity to serve in the U.S. Senate with such a great public servant.

Much has been said today about SPARK—the kindness he bestowed on everyone he knew, the unfailing service he provided to his constituents in Hawaii, the daily lunches with constituents in the Senate dining room, his efforts on behalf of Japanese-Americans, his courage in defense of our country, and his commitment to a more peaceful world. The message filling this Chamber today is that SPARK MATSUNAGA was a man who dedicated his life to an enduring dream of a better world for his fellow man.

Mr. President, SPARK MATSUNAGA was a man who never met a stranger. He was a man you could count on to have a warm smile and a kind word every time you saw him. He was a man of courage, compassion, vision, and great qualities of leadership. He was a man who brought a great spirit of humanity to the task of government and taught us all to be better public servants.

Yes, Mr. President, we have lost a good and true friend. He touched us all, and we are better for having known him. I want to join with my colleagues in expressing my sympathies to the Matsunaga family. He has left his mark on me and this entire body, and I know he will be sorely missed.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON] is recognized.

TRIBUTE TO SENATOR SPARK MATSUNAGA

Mr. SIMPSON. Mr. President, I thank the Chair.

I just wanted to take a few moments at this select time to extend my deepest sympathy to Helene Matsunaga, and to the children of these two fine people, Karen, Keene, Diane, Merle, and Matthew, and all their loved ones on the passing of our dear friend SPARKY MATSUNAGA.

As the delegation returns from the funeral services in Hawaii, it is well for us to take a moment in these busy lives we have chosen for ourselves to just note that his life was a celebration of humanity which is a shining example to us all.

I got to know him very well. He was a very kind and gentle man. We served together on the Veterans' Affairs Committee, and he always knew what he wanted to accomplish. Usually he persevered. He was a most tenacious man as to the things that he wanted to accomplish. And he accomplished much. He was a strong person. He was a person who was very helpful to me.

His wife, Helene, was of great assistance to my wife, Ann, when we came here in 1979. Helene served and assisted as Ann's "Senator mother." I believe that is the term that they used in those days for the experienced "Senate spouse who assisted the spouse that was new to this world of the Senate. Helene helped smooth the path for Ann. She introduced her to new friends and in general, provided invaluable assistance to my wife. So that was another special aspect of their influence upon us.

He and I gravitated toward each other because of the fact we both previously served in the State legislature as majority leaders. I had been the majority leader of the Wyoming House of Representatives. He has served as the majority leader of the Territorial Legislature of Hawaii before statehood. We used to get a great deal of satisfaction and pleasure talking about the old days when we had "raw power" at our fingertips. We used to chuckle about that.

He has this one remarkable penchant. I would say "When do you sleep?" He said, "Well, Henry J. Kaiser give me some advice when I was a young man—that sleep is really not a necessity in life." I said, "Well, that is a different philosophy than I have had, SPARKY." He said, "Well, watch me do it." He would rest 3 or 4 hours a night, and then he would be up early on that phone. He would be planning his legislative day, his legislative activities, his visits with constituents, and his meals with them in the Senator's dining room. How he loved that.

He had a great phrase when he would introduce you to all of his friends. He would say, "There are really two very great U.S. Senators in this place: my friend here—and then a pause—and myself." And then that big grin would come.

He was a charmer. He was very dear. He will be very missed. Those who have spoken have already talked about his courage, the struggles he had personally, the struggles after he was wounded twice serving his country. He never forgot the suffering that his kinsmen endured in that war. In his gentle, tenacious, and determined manner he engineered the passage of one of his lifetime goals—the offfical apology of the Government of the United States to its fellow American citizens. Not to aliens or other persons—it was to American citizen-internees, and a provision for their compensation. He did that all by himself.

I watched him work with fascination because I had grown up 13 miles away from the Heart Mountain Relocation Center. When I was 12 years old that center suddenly became a part of my life in Park County, WY.

He was hard task master. He expected a lot out of himself and he expected a lot out of others.

He was equally effective in establishing another dream of his, the Peace Institute. We all know how he gathered the cosponsors for that. Whether it was in the subway or the Senate dining room, he would say, "I want you on this. I want you right here as a cosponsor of this." Finally, after about seven requests, you would say, "OK, SPARK, I am ready. I am ready to go." He would say, "Well, when I get ready, you are going to be proud of what I have accomplished." We always were.

He was a vigorous advocate of Hawaii. He loved his State. He doggedly pursued those policies that were important to his State over a wide range of areas including agriculture, trade, education, health, veterans' issues—to benefit his constituents.

Every day we learn lessons in the Senate, so-called tricks of the trade, from one another that assist us in this unique craft which is called legislating. Over time these experiences enhance our effectiveness as legislators. What I learned from SPARKY MATSUNAGA was persistence, absolute persistence, and tenacity. But it also went much further and was much more significant. He enriched my life, and the lives of all who came in contact with his civility, his compassion, his love of art, his love of poetry, and most importantly the love he showed for his fellow man and his abiding faith in the inherent good in all of us.

He seemed to rise above the pettiness, the small things that we sometimes do, and the jealousies which are sadly and too often descriptive of some of our work here. He was an inspiration to all of us. It is a tough place to work. SPARKY made it seem a little more human, a little more compassionate, and that was his magic. It was very moving to me in those last few weeks as suddenly the roll would be called and the clerk would call "Senator MATSUNAGA." He would be right there; that door would open, and he would cast his vote, and then leave in his wheelchair and on into the elevator. Many of us would try to catch him and wish him well before he was spirited away from us. Now he is permanently spirited away from us.

This is a little better place because of him. We will remember that great smile you could see a mile. He will be sorely missed.

Thank you God, for SPARKY. He enlivened and enriched our lives.

Thank you.

IN MEMORY OF SENATOR SPARKY MATSUNAGA

Mr. CRANSTON. Mr. President, we join today in tribute to the memory of our dear friend, SPARK MATSUNAGA.

I know personally that SPARKY's death means a great loss to the Senate. As majority whip and chairman of the Veterans' Affairs Committee, I worked closely with SPARKY in his years as chief deputy whip and as the ranking Democrat on the Veterans' Committee.

From the very beginning of his service on the Veterans' Affairs Committee upon entering the Senate in 1977, SPARK was always a very active and valued member. Over the years, I benefited greatly from his wise counsel and support on behalf of our veterans and particularly the veterans of Hawaii, whom he served with such devotion. I'm confident that his personal efforts will have made the difference in achieving a VA medical center in his beloved Aloha State. Although our committee has always been reluctant to legislate names for VA facilities, I feel confident that we would overwhelmingly support the naming of a new VA medical center in Hawaii after SPARKY, and I certainly intend to urge Secretary of Veterans Affairs Ed Derwinski to do just that.

SPARK MATSUNAGA made a difference in many other areas as well:

SPARK brought to the Senate a deep compassion and understanding of the rights and needs of minorities. From our work together on the Japanese redress bill, I know that it was SPARK's great leadership which helped to pass the historic law which recognized and redressed the injustices and violations of civil liberties against Japanese-Americans during World War II.

SPARK was a man of peace. It was his continuous support and faith in our vision of the future that eventually led to establishment of the U.S. Peace Institute in 1984.

In the years he served as chief deputy whip, I had a special opportunity to get to know even better the man behind the causes: How he managed to achieve his goals with grace, warmth, and wit; how many lives he touched with his determination and his dreams.

He will be sorely missed by us all.

SPARK M. MATSUNAGA

Mr. KENNEDY. Mr. President, I join in honoring the memory of our friend and colleague, Senator SPARK M. MATSUNAGA. His death on Sunday leaves his State and country with a loss all of us mourn together. His dedication to education, civil rights, and the peaceful resolution of international conflicts earned him the respect of Americans in every State and in countless nations across the Earth.

SPARK MATSUNAGA was born on the island of Kauai, HI, in the year 1916. He graduated with honors from the University of Hawaii with a degree in education in 1941. With the outbreak of World War II, he joined the Army's all-Nisei 100th Battalion of the 442d Regimental Combat Team. The regiment served in Italy and became one of the most heavily decorated and illustrious units in the Army's history. Captain MATSUNAGA was decorated with the Bronze Star and two Purple Hearts for his bravery and valor while fighting on the Italian Peninsula.

Educated as a lawyer at Harvard, he returned to Hawaii, first as an assistant prosecutor in Honolulu and then as an attorney in private practice. But he could not resist the call of public service. He entered politics in 1954, as a representative in the Hawaii Territorial House, and rose to the position of majority leader. He served in the House of Representatives for 14 years, and he was with us in the Senate for 14 additional years. Now, he has been taken from us, but we shall never forget his friendship, his leadership, and his statesmanship, and the special blend of courage, humor, and grace in his battle against the illness that finally took his life.

Between the demands he faced as Senator, he took time to host his visiting constituents from Hawaii. He always treated them to lunch in the Senate dining room after a personal tour of the Senate Chamber. He endeared himself to colleagues and constituents alike by always taking time from his busy schedule to show his special brand of personal consideration for others. He truly believed that government should be accessible to the people, and he lived up to his belief.

We served together for many years on the Labor Committee, and no one served there with greater skill or dedication.

He was a tenacious fighter for justice. Throughout his career, he worked with extraordinary commitment to redress the grievances of the loyal Japanese-American citizens who were unjustly interned by the United States Government in World War II because of doubts about their loyalty. His long battle for justice culminated in the Civil Liberties Act of 1988, which proved long-overdue assistance to the surviving internees and their families and has helped to close one of the darkest chapters in our history. Enactment of this measure was one of Senator MATSUNAGA's greatest achievements, and it could not have been accomplished without his brilliant leadership and dedication over a period of many years.

On the Labor Committee, Senator MATSUNAGA has been an effective advocate for programs in all areas of the committee's jurisdiction. In this Congress, he was instrumental in securing action on the National and Community Service Act, which passed the Senate on March 1, and will provide the country with a new vehicle to

foster pride and a sense of service in our Nation. Those were the qualities that our colleague lived by and that was the hallmark of his career, and now those ideals will be carried on in future generations because of his efforts.

Most of all, we honor and remember his commitment to peace on Earth. George Washington said, "My first wish is to see this plague of mankind, war, banished from the earth." This was also the life-long goal of SPARK MATSUNAGA. A quarter century ago, he introduced legislation calling for a U.S. Institute of Peace. He believed, as he often said, that "peacemaking is as much an art to be learned as war." Because of his insight and leadership, the U.S. Institute of Peace became a reality in 1984. Today, it is supporting research on all aspects of the peaceful resolution of conflicts. We will always remember SPARK MATSUNAGA as he would want to be remembered, as a great peacemaker.

TRIBUTE TO SENATOR SPARK M. MATSUNAGA

Mr. DASCHLE. Mr. President, I have lost a dear friend and colleague; America has lost a great legislator; and the world has lost a good man. In this time of grief, permit me to take a few minutes to pay my respects to this kind, gentle man and dedicated, effective public servant, SPARK M. MATSUNAGA.

For 26 years, SPARKY, as he was affectionately known, served the people of the beautiful State of Hawaii and the people of the United States in the U.S. Congress. Serving on the Senate Finance Committee with SPARKY, I came to appreciate and be inspired by his warm disposition, his gracious, generous spirit, his intellect, and his dedication to the causes he believed in and promoted.

His was a life tempered by the ugly side of human nature. As a young man he personally experienced war. A World War II veteran himself, he saw his relatives and loved ones wrongly incarcerated because of that war.

And his life was one tempered by the practical realities of the world in which he worked. One does not serve in the U.S. House of Representatives for 14 years, and in the U.S. Senate for 12 years without mastering the art of the possible.

But his was also a life of optimism and idealism. It was a public life filled with noble causes and crusades, including promoting an institute to study peace instead of war. Of making sure that this great Nation was great enough to acknowledge the harm done to many innocent Americans of Japanese descent during the horrors of World War II. Long before the cold war began its dramatic thaw, SPARKY was calling for American and Soviet cooperation in the exploration of the heavens. And typically, it was this gentle, poetry-writing lawmaker who called for the creation of a national poet laureate.

Foremost, I will remember SPARKY as one of those rare and wonderful persons who not only looked for the best in people, but brought it out of them. You only had to be around him for a few minutes before you were touched and moved by his warm smile, his chuckle, his innate goodness and decency.

The Senate dining room will never be the same without him. As all of us are aware, his affection for the Senate was exceeded only by his love for the people he served—and it was a rare afternoon that you walked into the Senators' dining room without finding him at a table with his constituents—his neighbors and friends. It has been said that the big, round table in the center of the Senators' dining room has served more than half of the people of the State of Hawaii, and no doubt it has.

We will miss SPARKY immensely, and in this spirit I express my condolences to his family, his wife, Helene Hatsumi Tokunaga, and their five children. But I also want to thank them for sharing him with us. The U.S. Senate is richer, and the United States is a better place, because they did.

AMERICA LOST A GREAT LEADER: SENATOR SPARK MATSUNAGA

Mr. GRASSLEY. Mr. President, with the passing of Senator SPARK MATSUNAGA, the Senate lost a close friend, Hawaii lost a strong voice and advocate, and America lost a great leader.

I will always look fondly upon my experiences working with Senator MATSUNAGA during my first 6 years in the Senate as I served with him on the Senate Finance Committee. Senator MATSUNAGA was a selfless man, always concerned about others. He was a great source of guidance and assistance to me as I adjusted to my new role as a U.S. Senator.

Our cars used to be parked side by side in the Senate parking lot, which afforded us many opportunities to visit as we left for the evening. With the pressures of the day behind us, it was a real pleasure to spend some time together. Senator MATSUNAGA was a friendly man, always welcoming a conversation. He was a breath of fresh air; a very personable man in what too often is an impersonal Congress.

Mr. President, I will miss SPARK MATSUNAGA, as I know all our colleagues will. I pray for God's comforting hand to touch SPARK's wife, Helene, and their five children.

SPARK MATSUNAGA

Mr. CHAFEE. Mr. President, with the passing of SPARK MATSUNAGA, every Member of the Senate has lost a dear friend. I doubt if there was in this body a more popular Member than he. SPARKY was an extremely kind and courteous individual, who fought vigorously for those measures that he believed in. However, never did he let a grudge or animosity interfere with his relationships with those who opposed him.

The wide margins by which SPARKY was consistently reelected in his home State of Hawaii bore testimony to the tremendous popularity that he enjoyed there.

Here in the Senate, we recall many of the issues he strongly supported, usually with considerable success. For example, the reparation legislation to compensate those Japanese-Americans who were so cruely interned during World War II. This legislation passed primarily because of SPARK MATSUNAGA's tenacious and diligent efforts.

Mr. President, when my father greatly admired the character and good humor of an individual, he would say that that individual was a "lovely person." SPARK MATSUNAGA was indeed a lovely person, and we shall greatly miss him.

THE PASSING OF SENATOR SPARK M. MATSUNAGA

Mr. PELL. Mr. President, I join my colleagues in the Senate in expressing my grief at the passing of Senator SPARK M. MATSUNAGA of Hawaii.

SPARKY MATSUNAGA was a friend and an ally who worked closely with me since 1983 as a member of the Senate Subcommittee on Education, Arts and Humanities. On that committee he was a tireless champion of education at all levels and for all individuals. He was an unsurpassed advocate of elementary and secondary education, vocational education, postsecondary education, and believed strongly that education in all its forms should be made available to all including those who labored under economic or physical disadvantages.

SPARKY MATSUNAGA was deeply devoted to preservation of world peace and he believed strongly that education had an important role to play in that effort also. It was his idea that just as we have military service academies and war colleges to train experts in how to fight wars, we should have an educational institution providing training in ways to preserve and promote peace and resolve conflicts without war.

His gentle, patient but persistent advocacy of this idea resulted in the passage by the Congress in 1984 of legislation establishing the National Insti-

tute for Peace and Conflict Resolution.

This institute was so close to SPARKY's heart that I believe no more fitting tribute could be made to his memory than to name that institute after him, and I would hope that we would give that idea very serious consideration.

SPARKY MATSUNAGA also believed deeply in the contributions that the arts and humanities make to the enrichment of lives, both personally and nationally. It was to give greater recognition to the creative art of poetry that he proposed the establishment in the Library of Congress of the post of Poet Laureate Consultant in Poetry, and that proposal was enacted as part of the reauthorization of the National Endowment on the Arts in 1985.

Mr. President, SPARKY MATSUNAGA was a very good man, and a very good friend. I will miss him greatly.

IN MEMORY OF SENATOR SPARK MATSUNAGA

Ms. MIKULSKI. Mr. President, I will remember Senator SPARK M. MATSUNAGA not only as a friend and a colleague, but as one whose success and position never carried him away from the people he represented.

Like so many Americans, SPARK MATSUNAGA began life among immigrants, with the Japanese sugarcane workers on the Island of Kauai, Hawaii.

During the Second World War, he served in the Army's famous all-Nisei 100th Battalion of the 442d Regimental Combat team. Wounded twice and decorated three times, he returned to Hawaii determined to bring Japanese-Americans into the political process, and worked tirelessly to empower postwar Hawaii's minority and immigrant communities.

Their work changed the shape of Hawaii's political landscape, bringing into the process thousands who had been ignored or forgotten.

From the Hawaii's territorial House of Representatives he fought for the ultimate empowerment—full citizenship and statehood for the people of Hawaii.

In Washington, SPARKY commanded universal admiration, both as a legislator and as an individual. Indeed, the passage of his historic legislation compensating Japanese-Americans for their shameful treatment during the Second World War, is as much tribute to his personal abilities and the respect he commanded, as to the justice of his cause.

As important as this legislation was, equally important was Senator MATSUNAGA's fight to repeal a frightening McCarthy-era law which might have filled the detention camps once again. Under this law, the Attorney General had authority to detain, without arrest, American citizens and lawful residents in the very same camps in which Japanese-Americans had been detained—and for as little reason.

We in the Senate, and all Americans, owe Senator MATSUNAGA a debt of gratitude for these courageous actions—in fact, for a career spent fighting for the poor, the powerless and the unpopular.

I suspect SPARKY drew more pleasure from the great majority of Hawaiians who returned him to Washington every 2 or 6 years, than from the esteem of his colleagues.

His heart was always with his people.

A poet and Senator, a war veteran who founded a National Peace Academy, and the embodiment of Hawaii's aloha spirit despite 20 years in Washington, Senator MATSUNAGA's loss saddens us all.

SPARK MATSUNAGA

Mr. DODD. Mr. President, on Sunday, we lost a dear friend and close colleague in SPARK MATSUNAGA.

Yesterday, I had the honor and the privilege to travel to Hawaii with the majority leader, Senator GEORGE MITCHELL; the chairman of the Appropriations Committee and President pro tempore of the Senate, Senator ROBERT BYRD; Senator MARK HATFIELD; Senator STEVENS; Senator DECONCINI and his wife Susan; Senator BINGAMAN; Senator DAN INOUYE; Liz Moynihan, the wife of our distinguished colleague from New York; several Members of the House of Representatives; and numerous members of the Senate staff, including the personal staff of Senator MATSUNAGA, to pay our final respects and a farewell to one of our own.

I know, Mr. President, that all of our colleagues in this body would have wanted to be there to say goodbye to a dear friend. The Central Union Church, Mr. President, in Honolulu, was filled to capacity with friends and staff, veterans, officials, family, people who had known SPARKY well for many, many years, and, just as significantly, Mr. President, hundreds of people who did not know SPARKY personally at all but who, nonetheless, were there because they, too, had lost a dear friend. It was a moving ceremony, Mr. President, with poignant readings of Scriptures and eloquent eulogies by a number of our colleagues, including Senator BYRD, Senator MITCHELL, Senator HATFIELD, and, of course, his own colleague, Senator DAN INOUYE, who was a part of the team of MATSUNAGA and INOUYE. The ceremony was punctuated by beautiful and melodic music of SPARKY's beloved Hawaii. It was truly a wonderful ceremony on a clear beautiful day in that glorious island of Hawaii.

Much has been said, and properly so, of SPARKY's numerous accomplishments as a soldier, scholar, poet, as a statesman, as a father, husband and friend. SPARKY has left us with warm memories and a challenging legacy. But for us, we fortunate few, who have been chosen by our respective States to be Senators of the United States there is a special loss when one of us departs, and particularly when the one who leaves us embodies the essence of this institution.

SPARK MATSUNAGA was a Senate man. He loved this body. He was deeply proud to be a U.S. Senator. As importantly, we loved SPARKY. And we were proud to call him colleague.

One of the reasons why SPARKY evoked such unanimous sentiments of affection was, I suspect, our individual and collective regret that too often we, as Senators and as a Senate, were not more like him. Too often we speak too loudly, we lack patience, we do not listen carefully to one another, we are too critical, and we are too harsh and far too often too brittle.

There are many ways, of course, to memorialize a fallen colleague. I would suggest that we can pay no higher tribute to SPARK MATSUNAGA as Senators and as a Senate than to be more like him, to listen to one another more carefully, to be more patient with one another, to be more understanding, to work for the common good, and maybe most important of all to be better friends to one another.

In all the years that I served with SPARK MATSUNAGA, 10 years here in the Senate, 2 or 3 years in the House of Representatives, Mr. President, I never ever heard SPARK MATSUNAGA ever say an unkind word about another human being, colleague, official, or anyone. That is not to say he agreed with everyone or did not have his opinions of other people. But he followed that admonition that we have heard over and over again from the time we were children—"If you cannot say something kind about someone, do not say anything at all."

SPARK MATSUNAGA carried that advice through his entire life.

So, Mr. President, in a way I would like to see us pay tribute to SPARK by carrying those attributes in the conduct of our business here, to be more patient with one another, to listen to one another more carefully, to try to work for the common good, to be better Senators, better human beings, and better citizens of this country. Certainly that is how he conducted his affairs. That is how he served in this body. That is how he treated every one of us, without exception, regardless of party, or ideology of a debate or an issue before this body. He treated everyone as a dear friend. And this institution has lost one of its finest Members.

I hope that in the weeks and months ahead as we debate some of the great

issues of the day, we would not just let the moments of tributes and eulogies pass by without reflecting on this individual, and the attributes and the qualities he brought to public service. He serves as a sound reminder to all of us of how much better we can be individually as Senators and how much better this institution can be as the Senate of the United States.

SPARK MATSUNAGA had an unequaled zeal for fairness. A measure of that commitment was his ceaseless and successful efforts to pass legislation correcting one of this Nation's greatest injustices—the internment of Japanese-Americans during World War II.

For nearly a decade SPARK fought for Americans whose detention violated our Nation's founding principles, who were rounded up solely because of their parentage. He battled those who would have preferred to forget the past. He roused the indifferent from their silence, and proved that the greatest patriotism lies in fighting to make the United States live up to its lofty mission.

It was not the financial reparations to surviving detainees which were so important to SPARK, but rather the apology. Our Government had erred grievously in distrusting its own citizenry. SPARK's goal was to see this travesty of our laws righted.

Few men could have spoken for the internees more eloquently or from a more invulnerable position. A Japanese-American himself, SPARK fought bravely in World War II, invading Italy as part of the all-Nisei 442d Regimental Command Team, the most highly decorated military unit since our Nation's founding. SPARK himself earned two Purple Hearts and a Bronze Star for his bravery.

The man who served with such fortitude in war knew the need for peace. For more than two decades SPARK worked tirelessly to found the U.S. Institute for Peace, an organization dedicated to eliminating the conditions which lead to strife.

It has been my good fortune to have been able to serve most of my time in the U.S. Congress with SPARK MATSUNAGA. SPARK was my "Big Brother" upon my arrival in the House of Representatives. As the Member designated to introduce freshmen to the House in 1974, SPARK taught me the ins and outs of Congress, allowing me to get my bearings quickly.

We worked closely in both the House and Senate, and in the Senate we served together on the Labor and Rules Committees. I have watched the quiet passion of this man who was both cheerful and determined, content and resolute. It is altogether fitting that SPARK was a writer of haiku, a poetry genre the peaceful beauty of which is found within its tightly restricted form.

Mr. President, the Senate as a body will miss SPARK MATSUNAGA, and I will miss him personally. I join my colleagues in expressing my sincere condolences to his wife, Helene, his children, grandchildren, friends, and staff.

TRIBUTE TO A RESPECTED FRIEND AND COLLEAGUE

Mr. SIMON. Mr. President, I join many of my colleagues in pausing a moment to offer a tribute to my friend and colleague, SPARK MATSUNAGA. I had the privilege of serving with SPARK in both the Senate and the House. My first term in the House turned out to be his last; he then moved to the Senate with the resounding support of his constituents.

Our paths continued to cross, however, in conferences and other joint activities. And, when I was elected to the Senate and joined the Labor and Human Resources Committee, SPARK was there to show me the ropes of "the other body."

SPARK felt deeply about a number of issues and, as we all know, when he took an issue on, he did not rest until that issue was settled. While still in the House SPARK was speaking out on behalf of Japanese-Americans interned during World War II. He never wavered, throughout the ensuing 10 years, in his belief that the U.S. Government had to own up to its role in this tragedy and repay those interned for some small part of their financial and emotional costs. And, once Congress approved legislation putting this program in place, SPARK continued to fight for the dollars that would make this program more than an empty promise. SPARK applied the same single-mindedness and fervor, along with our former colleague Jennings Randolph, to the establishment of a national peace academy. Once again SPARK took an idea that was initially viewed with great skepticism and turned it into a reality, never letting go until his goal was achieved. This tenacity was with him until the end, bringing him into the Senate daily to fulfill his responsibilities to the people of Hawaii.

I will treasure many memories of SPARK; one that is very special is our shared admiration for Hubert Humphrey. We each took much from our relationship with Hubert. I know that his relationship with Humphrey was a special one for SPARK and we continued to talk of him throughout the years.

Like Hubert, SPARK was guided in his legislative career by his commitment to the poor, the disabled, the old. As a member of the House Select Committee on Aging, SPARK's rising to the chairmanship of the Subcommittee on the Aging was not only natural, but a real plus for seniors in this country. SPARK was committed to ensuring that the support systems were in place to allow all seniors to live a dignified life.

We have lost a vital and courageous Member of this body and my heart goes out to his wife Helene and their children. His legacy is one that we and they will cherish.

FAREWELL TO OUR FRIEND, SPARK MATSUNAGA

Mr. HOLLINGS. Mr. President, the Senate mourns this week for the passing of one of its favorite sons, SPARK MATSUNAGA. SPARKY won election by 80 percent of the vote in his native Hawaii, but here in the Senate he would have won by 100 percent.

What we remember best about SPARK MATSUNAGA is his simple, deep humanity. We will never forget his determined and successful effort to create the U.S. Institute for Peace—a quixotic quest in the eyes of some, but no one doubted for an instant SPARK's abiding faith in reason and good will as powerful antidotes to conflict and violence. He learned about war the hard way, as an infantryman in World War II with the famed all-Nisei 100th Battalion of the 442d Regimental Combat Team. The young hero SPARK MATSUNAGA earned a Bronze Star and two Purple Hearts fighting on the invasion beaches in Italy. Likewise, history will note his nearly singlehanded success—after 9 years of tenacious advocacy—in gaining passage of a law redressing the injustices committed against Japanese-Americans whose patriotism was questioned and who were interned in camps during World War II.

SPARK MATSUNAGA was a good friend and a shining credit to this body. We will miss him.

THE PASTORE RULE

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, has the Pastore rule run its course for the day?

The PRESIDING OFFICER. The Pastore rule is still in effect.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR SPARK MATSUNAGA

Mr. BYRD. Mr. President, I join with the distinguished Senator from Connecticut [Mr. DODD] in suggesting that as we pay tribute to our fallen friend, SPARK MATSUNAGA, we attempt to emulate him. I suggest that we ought to emulate him in additional ways to those that have been suggest-

ed by the distinguished Senator from Connecticut.

In all of my time in serving with SPARK MATSUNAGA, I never heard him use God's name in vain. I never heard him tell an off-color joke. And, as Mr. DODD said, I, too, never heard SPARK MATSUNAGA speak ill of any man. We should be like SPARKY.

When I remember all
The friends so linked together,
I've seen around me fall
Like leaves on wintery weather,
I feel like one
Who treads alone
Some banquet hall deserted;
Whose lights are fled,
Whose garlands dead,
And all but he departed.

Now, I have seen another friend fall.

SPARKY fought a long and valiant battle against that grim enemy, death. All of us one day will succumb to that unrelenting and dreaded foe.

But, as Longfellow said, "There is no death! What seems so is transition," Socrates, Plato, Aristotle, Cicero, and other ancient Grecian and Roman philosophers by pure reason and logic concluded that there is a creating, directing, controlling omnipotent divine power; and that man's soul is immortal.

That concept is the basis of all religions, whether pagan, heathen, Mohammedan, Hebrew, or Christian. And it has been believed by all races of men, whether savage tribes, semicivilized, or civilized nations, and whether they believed in many Gods or in one God.

In the Bible we are told that God created man in his own image "of the dust of the ground and breathed into his nostrils the breath of life, and man became a living soul." The Bible does not say that man became a living person. It says man became a living soul.

The serpent that induced Eve to eat of the forbidden fruit of the tree of knowledge said "Ye shall not surely die."

Job asked the age-old question, "If a man die, shall he live again?" And then he answered his own question, as I paraphrase it: Oh, that my words were written and engraved with an iron pen and lead in the rock forever; for I know that my Redeemer liveth, and some day he shall stand upon the Earth.

The Apostle Paul said, "Death is swallowed up in victory." SPARKY can say with Paul, "O Death, where is thy sting? O, Grave, where is thy victory?" So, death is not the sunset; it is the morning. And the grave is not the end of life but the portal to eternal life. We can rejoice for SPARKY. Death is swallowed up in victory.

As we remember SPARKY, we remember him as a quiet, unassuming man, a man who was brave on the far-flung battlefields of his Nation, but who was persistent in the pursuit of peace. As a public official, he was modest in his manner and bearing. He envied no one, but he was ambitious in the interest of justice and humanity.

He worked hard in the service of his people, and the people of Hawaii had in SPARKY MATSUNAGA an ever-faithful servant. We are fortunate here to have served with Hawaii's two fine Senators, DANIEL INOUYE and SPARKY MATSUNAGA, both highly dedicated to their State. Now, SPARKY is gone.

He was my friend. The Bible says, "He that hath friends must show himself friendly." SPARKY showed himself friendly. He wore a perennial smile. Even when he was rolled into the Chamber in a wheelchair to cast his vote in those last days of his life here on Earth, he wore that constant smile. When I think of SPARKY, I shall always think of dedication, loyalty, and integrity. His word was his bond. He was a good man.

I saw the Sun sink in the golden West.
No angry cloud obscured its latest ray.
Around the couch on which it sank to rest,
Shone all the splendor of a summer day.
And long, though lost to view, that radiant light,
Reflected from the sky, delayed the night.
Thus, when a good man's life comes to a close,
No doubts arise to cloud his soul with gloom,
But faith triumphant on each feature glows,
And benedictions fill the sacred room.
And long do men his virtues wide proclaim,
While generations rise to bless his name.

I will never forget this good man. I once said that when SPARKY goes to the hospital, he sends me flowers. He sent us all flowers from his native State and from time to time a pineapple, some macadamia nuts, always seeking to bring a little cheer into the hearts and the lives of others.

My wife, Erma, and I join in extending our sympathies and our condolences to Helene and her children, and to SPARKY'S wonderful staff, all of whom were so faithful to the end, all of whom tried to cheer us up as we called to ask about SPARKY. And we thank Helene and her family for giving to us for these several years this good man.

He was the chief deputy whip on this side of the aisle all during the years that I was majority leader, from 1977 until 1981, and when I was minority leader from 1981 to 1987, and when I was again majority leader in the 100th Congress. He showed the same dedication—always the same fidelity, always forthright, honest, and conscientious.

He enriched the lives of all who knew him for "his life was gentle; the elements so mixed in him that nature might stand up and say to all the world, 'This was a man.'"

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

SPARK MATSUNAGA

Mr. HEINZ. Mr. President, I want to take a moment of the Senate's time to join with many of my colleagues who earlier today have remarked on the great friendship and legacy that we both enjoyed and have been left by our departed colleague, SPARK MATSUNAGA. He has been called a very gentle friend by colleague after colleague. And that is as good a description of as special a person as any of us have had a chance to serve with.

He is indeed an old friend of mine. I served with SPARK in the House for 5 years. We came to the Senate together in 1976. We have all been in this body when we have seen people in the heat of debate or in the heat of argument in the cloakroom say things that they might regret on another occasion. Never so with SPARK MATSUNAGA.

He was always soft-spoken. He was always very thoughtful. We all know how his hospitality for his constituents down at that large table in the Member's dining room was legendary.

He was and will always be considered a cherished colleague. Our hearts go out to his wife Helene and his five children, by whom he is survived. We share their grief. We share their loss. Even if we must necessarily share it less than they do, we share it enormously. It is at times like these that we recognize how clumsy a tool the English language or any language is to express what we feel.

I was privileged to serve on the Senate Committee on Finance with SPARK. We saw him at work on two measures in particular, first his Peace Institute, which I think he worked on even longer than his bill to assist the children of Americans of Japanese background who were interned during World War II. Persistence was his hallmark—gentle persistence, calm, dignified, lovely.

When he finally approached me to support and cosponsor his legislation to apologize and to make a partial restitution for the way we treated Americans who were of Japanese ancestry, I thought back to my upbringing in the years 1945 through 1949 in San Francisco, where my family had ended up toward the end of World War II, and I remember very well what we did to those Americans. We interned them. We interned them in less than human conditions. There came to work in our family a very lovely couple who had been very sadly treated, Rose and George Honamaru, and as I look back on it now, I suppose that it was very unfortunate for us and for them that they had been able to find work. Indeed, they not only found work, but within 2 or 3 years they were earning more because they did other work. They moonlit making more than my stepfather, who was at that point a captain in the U.S. Navy.

SPARK had a great sense of fair play and justice and he would not let us, 40 years later, rightfully not let us 40 years later forget a great wrong. He reminded us that it is more important to be honest than any other quality. He kept our conscience, and it was due to that persistence and kindness and conviction that I think we all owe him a great debt and a great deal to remember him by.

So, I remember a line from Shakespeare. I looked it up to be sure I got it right. And SPARKY, who was something of an amateur poet, might appreciate it, might be a little jealous of it. After all, Shakespeare was pretty good.

His life was gentle, and the elements so mix'd in him that nature might stand up and say to all the world, "this was a man."

Mr. President, that is SPARK MATSUNAGA. So we all remember him a great and wonderful and kind and gentle man.

I yield the floor.

GLOBAL WARMING

Mr. WIRTH. Mr. President, I shall address the issue of the last 2 days of activity in the White House related to global warming.

We are moving 3 days away from Earth Day, a time in which millions of Americans, hundreds of millions of people around the world, are going to be reflecting a sense of urgency about the impact that man is having on the globe. Man is changing this globe through rapidly increased populations, through the activity of burning fossil fuels, destruction of the rain forests, and maybe, most inextricably, in the way we are putting up in the atmosphere a vast number of so-called trace gases causing a change in the so-called atmospheric greenhouse. The world is getting warmer.

The President, during his campaign in 1988, said we would look forward to seeing the White House effect on the greenhouse effect. Since then what we have really heard, and it has been said again and again and again, is a whitewash, and we most recently saw an almost embarrassing attempt by this Government, which I represent, which all of our colleagues here represent, to whitewash this issue to our partners around the world—an embarrassing attempt made.

The White House put out for its delegates a paper—this is from this morning's Washington Post—it said:

It is not beneficial to discuss whether there is or is not warming, or how much or how little warming. In the eyes of the public we will lose this debate.

PR documents are being put out to whitewash this exordinarily important issue, and the administration refuses to look at the scientific evidence.

This administration, Mr. President, is looking at evidence created by people who are absolutely out of the main stream of what is going on. For example, the two most prominent reports cited by this administration, the Marshall Institute report and an unpublished report put out by Dr. Richard Lindzen, of MIT, have not been peer reviewed by colleagues, neither have gone through the legitimate scientific process that good scientific work requires in this country. It goes without saying that neither of these studies is accepted by the scientific community, and it is upon those that the President of the United States and the administration is getting up saying we do not have to act; we just have to do more research.

I wish to put in the RECORD, if I might, at this point an analysis or discussion of the Marshall report done in Science magazine and a discussion of the Lindzen report from the same publication. I ask unanimous consent to print those in the RECORD, and then a very careful analysis of the Marshall report done by the National Center for Atmosphere Research and a distinguished senior scientist, Dr. Stephen Schneider, who goes through in great detail, looks at the Marshall report and blows holes into the Marshall report point by point. Finally, I wish to put in the RECORD at this point an extensive discussion on this issue, written by Dr. Stephen Schneider, describing the overall debate and what is going on.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 19, 1990]

CLIMATE MEETING ENDS IN CONTROVERSY

(By Michael Weisskopf)

The White House conference on global warming ended in controversy yesterday after European participants complained that the United States seemed to be trying to engineer an endorsement of its go-slow approach to the problem.

Minutes after the European delegates protested a "Charter for Cooperation" that was drafted by the Bush administration and stressed the scientific uncertainty of global warming, U.S. officials withdrew it from the closed working session. Later they described its circulation as an unfortunate mistake.

"It was drafted several weeks ago and wasn't meant to be distributed," said Michael R. Deland, chairman of the White House Council on Environmental Quality. "Sometimes in the confusion of a conference, things get passed out that aren't supposed to be."

But some European participants, who contend the meeting was skewed to justify President Bush's position that further research is needed on global warming before any action is taken, did not accept the explanation.

"The United States publicly questioned the seriousness of the European Community, but it backfired," said Pier Vellinga, director of the Dutch National Climate Program. "We Europeans have become a major economic and political power, and it's naive to challenge the integrity of a major power. They haven't done their international diplomacy well."

Jorgen Henningsen of the Commission for European Communities said the document came as a "supreme surprise" to delegates and reflected the "one-sided approach" the administration applied to the conference.

From the start, European delegates criticized the two-day meeting for what they described as its patronizing tone, the near monopoly of speakers favoring the U.S. position and the failure to discuss in open sessions the plans of European governments to curb industrial gases blamed for global warming.

The administration's strategy apparently was based on "Talking Points," a primer prepared by spokesmen for the U.S. delegation and circulated Tuesday to the Cabinet officials who were delegates.

Under the heading "Debates to avoid," the paper advised delegates that it is "not beneficial to discuss whether there is or is not warming, or how much or how little warming. In the eyes of the public we will lose this debate. A better approach is to raise the many uncertainties that need to be better understood on this issue."

As for press strategy, the primer urged the following: "Don't let reporters position this conference as an attempt to delay serious decisions on this issue."

A copy of the paper was obtained by the Sierra Club and vouched for by administration officials.

The conference grew out of a campaign pledge by Bush designed to prove his concern over global warming, which is believed to occur when industrial gases cover the Earth's surface and trap solar heat. In office, however, Bush's emphasis on the uncertainty of global warming theories reflects the concerns of advisers over the economic consequences of curbing gases produced by the burning of coal and oil.

In closing remarks yesterday, Bush mildly scolded the delegates from 17 nations, urging them to "forge solutions without the excessive heat of politics." But he also sought to quiet critics by stressing "our commitment to action, to sound analysis and sound policies."

[From Science Magazine, Nov. 24, 1989]

GLOBAL WARMING: BLAMING THE SUN

A slim, unrefereed report that many scientists have dismissed as biased and misleading is said to be at least partly behind the White House's recent temporizing on climate change.

And that is causing consternation among climatologists and other greenhouse experts, who are dismayed that this 35-page document by the George C. Marshall Institute, a Washington, D.C., think tank—rather than one of the massive, carefully researched and reviewed expert reports of the past several years—seems to be holding sway in the upper echelons of the Administration.

The report, "Scientific Perspectives on the Greenhouse Problem," is by three prominent scientists—William A. Nierenberg, director emeritus of Scripps Institution of Oceanography; Robert Jastrow, founder and former director of Goddard Institute for Space Studies; and Frederick Seitz, president emeritus of Rockefeller University and past president of the National Academy of Sciences. The trio's other major foray into public policy was a vigorous defense of the Strategic Defense Initiative a few years ago.

Summing up the abundant uncertainties that surround greenhouse models and predictions, the authors say it is too soon to take any actions to reduce greenhouse gases. And by their reckoning, there is litle need to. They argue that there is no evidence that the modest temperature rise of 0.5°C that has occurred this century is correlated with emissions of greenhouse gases, and they predict that decreased solar activity in the next century will lead to a cooling trend likely to offset any greenhouse warming. All of this is couched in ample caveats, but the underlying message is that the entire problem has been overblown.

Several scientists are up in arms. Steve Schneider of the National Center for Atmospheric Research, for one, has denounced the report as a political document. Nearly 6 months after its release, he is still arguing about the report's scientific basis with Nierenberg, via letters.

"Noisy junk science," says Jerry Mahlman, director of the National Oceanic and Atmospheric Administration's Geophysical Fluid Dynamics Laboratory, where one of the major greenhouse models was developed.

A number of other respected climate researchers have suggested that the National Academy of Sciences review the study. The Academy is likely to weigh into the ruckus in some way—a couple of committees are looking at the report—though it will stop short of giving the document a formal review.

At the Environmental Protection Agency, Alan Hecht, deputy assistant administrator in the office of international activities, says he has "real problems" with the study and recently passed a critique of it onto EPA administrator William K. Reilly. As part of this informal review, Hecht asked Schneider for his comments on the report; Schneider's less-than-flattering letter is now circulating in the scientific community and on Capitol Hill, where Senator Albert Gore (D-TN), for one, is concerned.

The report does have its scientific supporters, including meteorologists like Jerome Namias of Scripps, and Richard Lindzen and Reginald Newell of Massachusetts Institute of Technology—distinguished scientists whose major work is largely outside the greenhouse field. On 23 September, Lindzen and Namias wrote to President Bush extolling the merits of the Marshall report and citing its conclusion that "current forecasts of global warming for the 21st century are so inaccurate and fraught with uncertainty as to be useless to policymakers."

The message apparently has gotten through, if not to Bush then to his chief of staff John Sununu, who, it is widely believed, is quite taken with the report. Says Schneider; "Sununu is holding the report up like a cross to a vampire, fending off greenhouse warming."

Just what impact the report has had on Administration policy is difficult to pin down, and Sununu's office is mum on the subject. But it has been widely reported that Sununu tried to block EPA head Reilly from attending an international meeting on climate change at The Hague in early November. At that meeting, the United States refused to commit itself to cutting emissions of carbon dioxide.

Nierenberg, for his part, has been working hard to get the message into the White House. He personally briefed senior Administration staff, including representatives from the White House Office of Cabinet Affairs, the White House Office of Policy Development, the Council of Economic Advisers, and the Office of Management and Budget.

"I was impressed with the report," says Juanita Duggan, special assistant to the President in the cabinet affairs office. "Everyone has read it. Everyone takes it seriously. We have a coherent policy in the federal government that is not inconsistent with the Marshall Institute report."

"It is well worth listening to," adds Paul Roelling, a senior analyst in the White House Office of Policy Development. "They are eminent scientists. I was impressed."

But White House Science Adviser D. Allan Bromley, who was not yet in place when the report was released, seems to be distancing himself from it. "It has a distinguished group of authors, but there is no general consensus on the details and it has not been peer-reviewed," he said in a statement to *Science*.

All the critics concede that the first part of the report is a good description of the scientific uncertainties surrounding predictions of greenhouse warming. And everyone, not surprisingly, agrees with the report's plea for $100 million for more research.

Where the report veers from the mainstream is with the assertion that the warming trend of the past century was probably caused by increased solar activity and not by an accumulation of greenhouse gases—and that, ipso facto, the greenhouse warming next century will be small, perhaps 1°C.

The basis of the report is an analysis of this 0.5°C warming trend, which, the authors point out, does not follow the curve of rising emissions of greenhouse gases. Instead, they look for natural causes to explain the rise and find that solar variation mirrors it rather well. The authors' underlying assumption is that if they can break the connection between that 0.5°C rise and accumulating greenhouse gases, then all bets for future warming are off.

No such luck, says Schneider, who thinks they are setting up a straw man. "Could the sun have done it? Sure," he says, adding that a variety of natural phenomena could explain the temperature rise of the last century. But that, he adds, says nothing about the furture greenhouse warming.

"There are uncertainties, but I can't think of any combination of them that could conspire to make the problem go away," says NOAA's Mahlman. Hypotheses are fine, he adds, "but to advise the White House on the basis of this type of argument? Give me a break. That is not responsible."

The reason people are worried about greenhouse warming, Schneider, Mahlman, and others say, is not because of the 0.5°C temperature rise during the past century but because emissions of carbon dioxide, chlorofluorcarbons, and methane are clearly increasing. And it is dead certain that if enough of these greenhouse gases are released into the atmosphere, where they trap heat, global tempertures will rise. The only question is how much, and by when.

Then the Marshall Institute pulls out another card. After analyzing the historical record of solar activity, which can be inferred from carbon-14 in tree rings, the authors predict that solar activity will decrease in the next century, leading to a mini-ice Age that will offset any greenhouse warming.

Preposterous, say solar physicists like John Eddy of the University Corporation for Atmospheric Research in Boulder, who calls their extrapolation "very shaky" at best. We simply don't have the ability to predict future solar activity, he says.

Curiously, Eddy was one of the sunspot experts Jastrow consulted in writing the report. "Bob Jastrow would call me at work and at home on Saturday and Sunday. I would say, 'No, no, you can't make that prediction.' I was shocked when I saw what came out."

Jastrow says the emphasis his colleagues are putting on the solar variability discussion is a "distorted" reading of the report, maintaining, along with Nierenberg, that the solar variation hypothesis is just a minor part of their argument.

"Then why did they put it in?" snaps a senior Academy official.

Their bottom line, Jastrow insists, is simply that no scientific conclusion can be drawn about the future greenhouse warming, "and we have time to find out." They assert that with $100 million for supercomputers, answers to these questions will be forthcoming in 3 to 5 years, so why not wait before taking precipitous policy action?

"No one in his right mind would say that," counters Hecht at EPA, who, along with everyone else Science spoke with, says it will take a decade or more to address these questions.

In 25 years, Mahlman adds, "Congress will still be asking us questions we can't answer. I don't care if you pour $100 billion at the problem."

The biggest gripe people have with the report is that the authors, in summoning uncertainty to their cause, fail to acknowledge that it cuts both ways. Explains Schneider: "What we don't know is just as likely to make it worse as better."

Solar variability is a case in point. Schneider offers a counter scenario to that in the Marshall Institute report: That during the past 100 years, solar energy output was decreasing rather than increasing. And without that natural cooling, which masked the greenhouse signal, the earth's temperature would have warmed up twice as much. "It's pure speculation," he adds, but since no one really knows what the sun as doing 100 years back, "it is just as likely as theirs." Moreover, says Schneider, if the earth warms up 2 ° to 4 °C, as models usually predict, "it will swamp anything the sun has done in the past 100 years."

John Perry, a meteorologist and staff director of the Board of Atmospheric Sciences and Climate at the National Research Council, agrees. "If the report had just said, in an evenhanded way, 'don't rely on the models because there are hellacious uncertainties,' we all would have applauded. But the way it comes across is that all the uncertainties are on the downside. I don't think that is very democratic."—LESLIE ROBERTS.

[From Science Magazine, Dec. 1, 1989]

GREENHOUSE SKEPTIC OUT IN THE COLD

If the long hot summer of '88 sparked the greenhouse revolution, the near normal weather of 1989 is bringing on the counter-revolution. A small but growing cadre of skeptics is now decrying predictions that the greenhouse warming of the next century will surely be severe enough to cause drought, agricultural disaster, and inundation by rising seas.

The computer models producing such doomsday predictions are rife with uncertainty, the skeptics say, the alarm is unwarranted at this point, and the rush to reduce the emissions of carbon dioxide and the other greenhouse gases that cause atmos-

pheric warming is ill-advised. The warming in the next century may well be negligible or even benign, a few maintain.

Richard Lindzen, if not the commander-in-chief of these counterrevolutionary forces, is a top general. His troops, at least the outspoken ones, number less than a dozen and are drawn from the ranks of climatologists, meteorologists, and an assortment of related disciplines. Most have not specialized in greenhouse research and have only recently entered the fray.

The claims of Lindzen and his cohorts have not gone unchallenged, however. They are already drawing return fire from mainstream greenhouse researchers, although even some of these concede that greenhouse warming may be less severe than the worst case predictions.

One reason for Lindzen's prominence among the greenhouse skeptics is his credentials. Educated at Harvard, Sloan Professor of Meteorology at the Massachusetts Institute of Technology, and member of the National Academy of Sciences, Lindzen has made major contributions to the theory of how the atmosphere behaves.

No other U.S. skeptic has such scientific stature. So when he says the greenhouse effect "is the only subject in atmospheric science where a consensus view has been declared before the research has hardly begun," people are going to listen. Among those reportedly listening are President George Bush and White House Chief of Staff John Sununu (Science, 24 November, p. 992). In Spetember, Lindzen coauthored a letter to the President in support of a report by the George C. Marshall Institute, a Washington D.C. think tank. That report, which also dismisses current forecasts of greenhouse warming as useless, may have influenced the recent U.S. decision not to commit itself to reducing carbon dioxide emissions.

People are also listening to Lindzen because his latest volley in the greenhouse war is an extreme and potentially devastating one: he says that the computer models that predict a large greenhouse effect are probably fatally flawed because they neglect to consider that the atmosphere can take care of itself. Greenhouse gases will inevitably increase, he admits. They will even double some time in the next century, but the atmosphere will likely warm by at most a few tenths of a degree, not the 1.5° to 4.5°C that researchers running the models expect.

". . . both the data and our scientific understanding do not support the present level of concern," he has written in a widely circulated, but as yet unpublished, manuscript on the subject. As Lindzen understands the atmosphere, it will in all likelihood react to the warming effect of additional greenhouse gases with a countereffect of its own, a so-called negative feedback, that will neutralize most of the warming.

Researchers in the computer modeling community under attack by Lindzen disagree—some of them vehemently. One of those is Jerry D. Mahlman, the director of NOAA's Geophysical Fluid Dynamics Laboratory in Princeton, New Jersey. When Mahlman reviewed Lindzen's manuscript for the Bulletin of the American Meteorological Society, he "recommended the paper be rejected unless he [Lindzen] wanted to convert it into a paper about science. It came across as a whiny complaint without scientific justification. Dick Lindzen is a friend of mine, so I did not say that lightly. I was very disappointed." The paper is still pending at the Bulletin.

Others who run the big climate models join Mahlman in complaining that Lindzen seems to claim he has a better climate model in his head than they have in their supercomputers. But what Lindzen has now is not so much a complete model as an idea about how control of atmospheric temperature works. Indeed, he describes it himself as an idea of a theological or philosophical nature.

"The most likely area to search for severe problems [with the models] is in the interaction of climate with water (in all its phases)," he wrote in his paper. "The remarkable thermodynamic properties of water almost certainly lead to its acting as nature's thermostat."

Where the big greenhouse models go wrong, Lindzen says, is that their water always responds to a warming by amplifying it through positive feedbacks. Water never tends to counteract the warming. For example, a warming would drive more water vapor into the atmosphere, where it can act as a greenhouse gas to trap more heat and further warm the climate. Lindzen finds the absence of counterbalancing negative feedbacks, in which water would respond by cooling climate, to be "highly unlikely."

If water-related negative feedbacks exist, Lindzen argues, they are most likely to occur in the tropics above an altitude of 5 kilometers near towering columns of cloud. They carry air from the lower to the upper troposphere, which is the weather-generating layer of the atmosphere. As air rises, it cools. This cooling wrings out much of the air's burden of moisture, which falls back toward the surface as rain. Thus dried, the rising air fills the upper troposphere.

Lindzen contends that as carbon dioxide increases and tends to warm the atmosphere, this convention-driven conveyor belt will run faster and more efficiently so that it will carry more and even drier air to the upper troposphere. That would reduce the heat-trapping moisture in the upper atmosphere, allowing more heat to radiate to space. Voila, a negative feedback—the warmer the climate, the dryer the upper troposphere, the greater the heat loss, the more the atmosphere cools. And, crucial to his argument, Lindzen believes the models do not contain this negative feedback.

"When it is recognized that at least some of these [water-related] feedbacks are likely to be negative rather than positive," writes Lindzen in his unpublished manuscript, "it is easy to see that the actual response to a doubling of CO_2 may readily be ⅛ to 1/14—or even less—of what is suggested" by the consensus view. ". . . one may reasonably expect that corrected models may very well end up predicting greenhouse warmings of only a few tenths of a degree Centigrade" for the next century.

The modelers, perhaps predictably, object. "He says water is a negative feedback, but how does he know that?" asks Stephen Schneider of the National Center for Atmospheric Research (NCAR) in Boulder. "Does he have a calculation, or is his brain better than our models? You can't just sit there and build a model of one sector of the atmosphere, then extrapolate to the globe. That's why you build global models."

Lindzen's negative feedback mechanism "is true in a qualitative sense," says Mahlman, "but the magnitude of the effects is tiny. I know of no [obervational] evidence supporting it. I could be wrong; Lindzen is a smart person, but I'm afraid he's confused."

Rebuttals from the modelers might be predictable, but none of Lindzen's meteorology colleagues contacted by Science will take the extreme stance he has. Their reservations about Lindzen's ideas on negative feedback mechanisms harken back to the modelers' complaints. "He's focused on one aspect," says Peter Strone of Lindzen's own department at MIT, "but if you look at the whole of it, I don't think you'd have a negative feedback."

Alan Betts, a respected independent specialist in the mechanics of convection who works near Middlebury, Vermont, agrees that Lindzen's argument ignores too many of the atmosphere's complexities. According to Betts, moisture is transported into the tropical atmosphere at all levels, and not just near the bottom, as in Lindzen's scheme. "His argument depends very heavily on moisture distribution with height and how it would change with a warming," Betts says. "We don't fully understand moisture transport, but the model studies I have done would not support his arguments. I personally doubt they would hold."

At best, meteorologists take a noncommittal stance on Lindzen's ideas. For example, MIT meteorologist Kerry Emanuel points out that currently no one can estimate how much of the water that goes up in clouds precipitates and how much is left over to moisten the upper troposphere. "It's conceivable that the drying effect could outweigh the moistening effect," Emanuel remarks.

Whether this particular negative feedback counteracts the greenhouse warming or not, Lindzen argues, other negative feedbacks must be operating. In another of his philosophical assertions, Lindzen believes that negative feedbacks, whether his drying effect or others, dominate any positive, warming feedbacks. On timescales of a few hundred years and less, he says, even the hardest push from whatever quarter would not drive the relatively insensitive climate system into a distinctly warmer stage.

Lindzen's confidence in the insensitivity and stability of climate is not shared by many modelers. Skeptics "count all the negative feedbacks we don't know about," says Schneider, "and forget about the positive ones we don't know about."

There are a dozen or so potentially positive, warming feedbacks that, even in their current rudimentary forms, have yet to be included in the models. Increased temperatures would, for example, melt permafrost ice, thereby releasing methane (a greenhouse gas). Whether the net effect of such neglected feedbacks will drive the warming beyond even the range predicted by the models, no one knows. And with that kind of uncertainty remaining, the modeling community is in no mood to entertain Lindzen's criticisms, not in their present philosophical guise.—RICHARD A. KERR.

[From Science Magazine, Dec. 1, 1989]

GREENHOUSE SKEPTIC OUT IN THE COLD

TURNING DOWN THE HEAT

Greenhouse researchers may not be willing to accept Richard Lindzen's thesis that atmospheric warming over the next century will be next to nothing (see accompanying story). But some of them are willing to concede right now that things may not turn out quite as badly as some of the models have predicted. If these researchers are proven right, the scenarios that forecast everything for the next century from a new dust bowl in the American West to beachfront properties being swept away by a rising sea would have to be toned down. However, as often is

the case in this business, there is enough lingering uncertainty to give everyone pause.

One major indication that greenhouse warming may be less than expected is the modest rise in global temperatures that occurred during the past 100 years or so. It was only 0.5°C, or perhaps less. And a number of greenhouse skeptics, including meteorologist Lindzen of the Massachusetts Institute of Technology, have argued that the temperature record is so fraught with uncertainties that even this apparent warming is as good as zero. If that is the case, then temperatures are likely to go up only a few tenths of a degree Centigrade by the middle of the next century. Hardly the stuff of cataclysmic drought and coastal inundation.

But even Lindzen has admitted that the observed warming is also consistent with a future temperature increase of as much as 2°C. That still falls in the range predicted by the models, but at the lower end, not the 4° to 5°C increases of the upper end on which the scariest scenarios are based.

This middle ground is becoming more popular. "I agree the past 100 years of warming may not strongly suggest the climate sensitivity is 4°C, but it is consistent with 2°C," says Syukuro Manabe of NOAA's Geophysical Fluid Dynamics Laboratory, where he runs one of the five world-class greenhouse models. Michael MacCracken, who runs another one at Lawrence Livermore National Laboratory in Livermore, California, tends to settle on 2° ± 1°C as well (Science, 6 January, p. 28). A 2°C global warming would still have significant social and ecological effects, however.

But there is a catch to these efforts to use the past to predict the future. The past behavior could be misleading because the mechanisms capable of amplifying an increase in global temperatures can be slow to take hold. And so, a big warming could be awaiting us in the next century without having revealed itself up until now.

We may know soon. The models that predict the largest warmings call for the upward trend to become obvious by the early 1990s, barring non-greenhouse changes in climate.—R.A.K.

NATIONAL CENTER
FOR ATMOSPHERIC RESEARCH,
Boulder, CO, September 1, 1989.

Dr. ALAN HECHT,
Office of International Activities, Environmental Protection Agency, Washington, DC.

DEAR ALAN: Congratulations on your new job. I predict it will be stimulating both for you and the people you interact with. As you requested, here is my brief analysis of the recent Marshall Institute report (Scientific Perspectives on the Greenhouse Problem, 1989, George C. Marshall Institute, Washington, DC.)

The Marshall Institute report is really three reports in one. The first part is a fairly standard review of the greenhouse science problem. It is typical of that in most National Academy of Science reports, and reflects the caveats normally given in the presentations of most of the climatic modelers that talk or write on this issue. There is an impression in the Marshall report that somehow these caveats have been underrepresented by some members of the community, but this is not strongly argued. In any case, up to page 14, I have few disputes with the narrative, other than its constant focus on uncertainty and its omission of the primary reasons that climate modelers are concerned for the future: validation of the models' performance against actual climatic changes. There is insufficient mention of model validation in the Marshall report. For example, the authors do not mention the excellent performance of most General Circulation Models in simulating the vary large seasonal cycle of surface temperature, or the successes in simulation of neighboring planets, Mars and Venus, each of which has radically different greenhouse properties than earth, nor is there mention of the daily variability validation studies that have recently been published. While these validations do not remove the uncertainties focused on in the first 14 pages, the absence of the mention of the substantial degree of model validation of climate sensitivity suggests a bias.

On page 15 begin what I believe to be the major problems with this report. First of all, the authors note, citing my Science articles (S.H. Schneider, Science 243,771, 1989), that the global temperature response to CO_2 doubling is in the range of 1° to 5°C. They correctly point out that a temperature drop of roughly 1°C relative to today's temperatures occurred in the Little Ice Age. That episode occurred between about 1400 and 1850 in various parts of the world at various times and differing degrees. Thus, a natural cooling of 1°C would, the Marshall authors argue, completely compensate for the lower end of any greenhouse warming if such a Little Ice Age-like event recurred in the next century. Indeed, this is correct, but it fails to mention that the upper range of the CO_2 warming limit, (i.e. 5°C), would totally swamp any natural fluctuations of the type that have occurred in the past 10,000 years, the time since the end of the last ice age. Moreover, natural centuries-long fluctuations on the order of 1° warming (e.g., the so-called Medieval Optimum around 1,000 years ago) are just as likely to occur, and could add to any anthropogenic greenhouse warming in the next century. Indeed, what is absent in the remainder of the Marshall document is any statement, even intuitive ones, about the relative probabilities of the greenhouse warming being at the low end of the range and comparable natural cooling occurring relative to the probabilities that more middle or upper severity warming scenarios could occur. (e.g., see "Current Issues in Atmospheric Change," National Academy of Sciences, 1987 for statements of the high probability of warming greater than 1°C in the 21st century.)

In section four the authors delve into the very complicated and long debated controversial issues of potential solar effects on climate. They cite the fact that sunspots have been relatively absent for certain century long periods, which have typical recurrence intervals of hundreds of years. The coincidence between the last such minimum, the "Maunder Minimum" between 1650 and 1700, and the "Little Ice Age" is cited. But what is not cited by the Marshall authors is the fact that before and after this 50 year long minimum the so-called Little Ice Age was in full force in many parts of the world. Furthermore, the coolest periods during this time did not necessarily occur in all places at the same time nor was it fully coincident with Maunder Minimum. In addition, a 10,000 year look at tree ring evidence shows many other such minima, but does not reveal consistent correlation of these sunspots minima with glacial advance periods, and therefore, no firm correlation can be established. This is why this area of research is still controversial, a point not adequately stressed in the Marshall document. Finally, the magnitude of natural, several century long global climate fluctuations during the past 10,000 year inter-glacial period is on the order of 1°C, which is at the low end of the 1° to 5°C range the Marshall authors concede as the consensus estimate for the next century.

Therefore, the higher probabilities are that whatever nature does on the sun or earth to cause natural fluctuations is likely to be swamped by manmade influence of greenhouse gases sometime between now and the first few decades of the 21st century. These relative probabilities get no prominent attention. Rather the lower probability scenarios are what the Marshall Institute authors focus on. Moreover, they cite recent evidence that some stars have been observed to have energy output changes on the order of a few tenths of a percent to explain recent global warming trends. By no means can this be cited to explain with high confidence the observed approximately 0.5°C warming trend of the past century. It is equally likely, as not mentioned by the Marshall Institution report, that a solar constant decrease from our sun could have been in progress during the past 100 years, and therefore, any greenhouse warming that has taken place could have been masked by such an event. Since the solar constant has not been well observed, except in the past decade, both scenarios are equally likely.

Furthermore, if only a few tenths of a percent change in solar energy were responsible for the 0.5°C century long trend in climate over the past century, then this would suggest a planet that is relatively sensitive to small energy inputs. The Marshall Institute simply can't have it both ways: they can't argue on the one hand that small changes in solar energy output can cause large temperature changes, but that comparable changes in the energy input from greenhouse gases will not also produce comparable large signals. Either the system is sensitive to large scale radiative forcing or it is not, another factor not mentioned by the Marshall authors. Although they argue that a 33 year running average of sunspot numbers superficially resembles the temperature record of the past 100 years, they do wisely admit that this could well be a coincidence.

The Marshall authors go on to claim that "scientists' concern for offering sound advice on the greenhouse problem have tended to rely on the observed temperature increase of 0.5°C since 1880 as their best evidence that the greenhouse effect is already here and that steps should be taken now to cope with its full development in the next century." (Marshall Institute, page 28).

However, only very few people have made such a claim. Most scientists I know argue that it is not the performance of the planet in the past century, which only in the last decade is at the margin of the noise level of natural climate fluctuations, that motivates their concerns for the next century. Rather, our concerns are grounded in the very well validated understanding of how radiative trapping by important trace gases like carbon dioxide, methane and chlorofluorocarbons can heat the surface. Further concern is based on the (less well) validated modeling sensitivity studies which suggest that something between 1° and 5°C warming is the most probable prediction for the next century, (e.g., NAS, 1987). Indeed, it will take another decade or two of observations,

with a presumed continuing of the record heat of the 1980s, to establish to a high degree of confidence that the greenhouse forcing of the past century is finally unambiguously detected. But, if we follow the Marshall Institute's advice and wait for such certainty before implementing actions we will then have to adapt to a much larger dose of change than if we attempt to slow it down now. That decision, of course, is a value judgement, not a decision that can be made based solely on any scientific method.

Herein is my principal objection to the Marshall report, and in fact, an objection so serious as to make me doubt the capability of the authors to provide a balanced scientific view. They claim "current forecasts of the manmade greenhouse effect do not appear to be sufficiently accurate to be used as a basis for sound national policy decisions." (Marshall Institute, page 23). Furthermore, they argue that "it is our judgement that if a prudent investment is made in computing power, observing programs and added manpower, answers that have a usable degree of reliability can be provided to policy makers within three to five years." Thus, they recommend no current policy response to the present debate, other than more research. What I find so objectionable in these statements, particularly the former one, is that it is not a scientific judgement, but their value judgement, which they do not explicitly claim as their personal views of how to respond to the range of uncertainties. The second statement is technically inaccurate, I believe, in that virtually all knowledgeable scientists would never claim that we will have a strong consensus of atmospheric researchers as to the reliability of the regional distribution of time evolving climate changes in 3 to 5 years, regardless of the level of research effort. If left to its own devices, the climate community is likely to take 25 years to provide such information. If the kinds of "prudent investments" that the Marshall Institute authors do wisely call for were implemented, then it is my opinion, and one I believe is widely shared in the scientific community, that we could accelerate substantially the rate of building such consensus. But, a decade or so would still be needed before which high resolution, coupled models of atmosphere, ocean, sea ice, land hydrology, ecosystems, and chemistry could be adequately run, tested and validated to provide credible regional forecasts. Of course, it is better to produce such forecasts in ten years than in 25 and the costs are small relative to the potential risks. Thus, I agree with the advice to invest in such research. But to claim answers will be clear within three to five years and therefore, policy should wait for them, is in my opinion a scientifically erroneous judgment as well as a value judgement with which I personally disagree strongly. People may legitimately disagree about values, but scientists must always make this explicit, and the absence of this is what has me so disturbed about the Marshall Report.

Finally, the authors provide no cost/benefit analysis of the risks or benefits of alternative actions now versus the risks and benefits of delay. In the absence of such studies, or even the citation to the few such studies that exist, the Marshall report's primary conclusion to delay policy actions has little merit.

Alan, I hope this is useful to you and that you can use it to good purpose.

Warm regards and best wishes in your new position.

Sincerely,

STEPHEN H. SCHNEIDER,
Head, Interdisciplinary Climate Systems.

THE GLOBAL WARMING DEBATE HEATS UP, BUT NOTHING HAS REALLY CHANGED

(By Dr. Stephen Schneider)

As the nation celebrates the 20th birthday of Earth Day, the daunting prospect of unprecedented climate change has grabbed center stage. It has also generated a confusing, noisy and sometimes bitter debate among industrialists, environmentalists, Administration officials, members of Congress, scientists and, of course, columnists. Opponents of immediate actions (such as emissions limits) to curb the human activities that boost the greenhouse effect write stinging op-ed critiques of global warming science and scientists, trumpeting each new study that softens the global warming spectre as proof that the problem is waning. For example, Forbes magazine ran a large ad in The New York Times, patting itself on the back for a cover story that allegedly debunked the global warming "hype" ("No Guts, No Story"). Forbes claimed that recent studies show global warming to be "at worst, minimal". (As I'll address momentarily, this is, at best, seriously misinformed.) Administration officials, trying to ward off Congressional attempts to limit U.S. industrial pollution that enhances the greenhouse effect, have also resorted to citing recent studies that dropped the projected amount of warming and lowered the estimates for how much sea level rise will take place. These officials also cited recent economic model studies to the effect that it will cost trillions to abate even a fraction of U.S. greenhouse gas emissions from coal and oil combustion. While it is always legitimate to examine new studies, what is dismaying is the fact that listing only those which lower concern (sometimes exaggerating their conclusions at the same time), is a political tactic, not a fair assessment of the overall scientific debate. Recent Administration witnesses to Congress have focused on good news in their written testimonies whereas the actual spectrum of new scientific results in the past year or so contained as much bad news as good news. No wonder environmentalists are becoming disenchanted with the Bush-Sununu "go slow" rhetoric on global warming. Of course, the bad news is not left in the pages of obscure scientific journals either, but is selectively quoted on opinion page pieces by environmentalists as proof that we must act urgently to avert otherwise certain disaster.

Needless to say, the public gets confused, because so much of the media debate conveys the (false) impression that experts believe global warming is either the end of the world or a hoax. In reality, most knowledgeable scientists—not all, of course, as one can always find someone with a Ph.D. willing to say anything, no matter how ridiculous—agree that these two extremes are the least likely future outcomes. In other words, any scenario between "no problem" and "total catastrophe" is much more likely to happen. The confusing media debate has, as some of the debaters probably intended, slowed down action in the Congress to constrain what I have termed our growing commitment to a Greenhouse Century (after the subtitle of my recent book, "Global Warming: Are We Entering the Greenhouse Century?")

So if the visible debate doesn't represent well the actual scientific arguments, what then do we know for sure? What is possible? And what is speculative?

We know for sure that certain gases, water vapor and carbon dioxide, principally, trap heat near a planet's surface (this explains why the thin atmosphere around the planet Mars makes it frigid and the thick atmosphere of Venus makes it an oven). We also know for sure that growing human populations demanding more coal and oil burning, chlorofluorocarbon chemical use or agricultural conversion of forested areas, have led to an unprecedented increase in carbon dioxide and other heat-trapping greenhouse gases since the industrial revolution. Scientists also think (but not for sure) that the earth has apparently warmed up about 1° F over the last century and that the 1980's was the warmest decade in the history of the thermometer. So why do doubts linger? Nature causes climate change on her own, so the problem is determining whether the recent warming is our doing or an improbable natural fluctuation. Scientists split on this issue. My personal view is that the pollution and warmth are probably cause and effect to a considerable extent, but that it will take another decade or two of taking the Earth's temperature to be absolutely sure. The problem is that this argument is not a graduate school exercise, for we are performing our experiment on Laboratory Earth, with us and all other living things along for the ride. Moreover, if we take the Administration's or Forbes magazine's advice and do more studies to be sure there really is a serious problem before taking any actions solely for the purpose of slowing global warming (the Administration has called this the "no-regrets" strategy), then this gamble could commit the Earth to a much larger dose of change occurring much faster than if we took actions today to limit the activities that we know for certain enhance the greenhouse effect.

Whether to act on any uncertain issue is not a scientific judgment that more studies will, ipso facto, resolve, but rather is a value tradeoff about taking risks: investment costs today versus environmental risks tomorrow. Moreover, few scientists believe that any level of research will provide reliable projections about details of what will happen to local climates in less than 10 to 20 years. To me there is a big regret in the so-called "no regrets" ideology, namely, what if future climate change turns out to be as bad or worse than is currently projected—an outcome equally as likely as there being less of a problem than is currently believed. Do we wait until we get sick before buying health insurance? Does the Administration advocate that we only do studies rather than pump hundreds of billions annually into defense as a strategic hedge against possible, but not certain, threats to our security? The no-regrets plan to postpone specific actions until we know for sure about global warming, if applied to fire insurance, health insurance or defense spending would almost certainly hog-tie the "good hands" of Allstate or crumble the "rock" of Prudential, as well as whittle away the Department of Defense.

The U.S. National Research Council, an independent quasi-governmental body charged with making non-partisan scientific assessments, has studed and restudied global warming half a dozen times over the past 15 years, always with the same fundamental conclusion: There is a better than even odds chance of unprecedented climatic

changes unfolding in the decades ahead. Despite the back and forth of the recent noisy debate, nothing has been uncovered by recent research to alter the solid consensus projection of 3 °F to 9 °F warming sometime in the next century. Nor have any new findings eliminated the substantial chances that sea levels can rise, hurricanes could become stronger, heat waves will get more intense, cold waves become less frequent and local and regional climates grow more unpredictable. To summarily dismiss all this, as an Administrative official recently did ("a rise of a few degrees Celsius would be similar the change from moving from Boston to Washington"), is to ignore the obvious fact that the forests and ecosystems of Virginia can't simply phone the van lines to carry them back to their old climate conditions newly resident in Massachusetts.

Finally, we hear from many industrialists and economists that it is too costly to abate our emissions, even by only 20%. This cost fear is based on very speculative economic models, which, unlike climate models, have not been validated by the different greenhouse effects of Mars, Earth and Venus. Even worse, these economic models often cited by Administrative officials don't even attempt to factor in the climatic and other benefits (e.g., reduced acid rain, fewer acute air pollution episodes or balance of trade deficit reduction) of pollution controls or energy efficient investments. One exception is Yale economist William Nordhaus, who has estimated that the climate benefits alone from reducing carbon dioxide emissions by 10% to 47% would outweigh in the long run the immediate capital cost of such controls.

Accelerating research and development of less polluting renewable energy systems and improving the energy efficiency of our homes, cars, offices and factories can pay for itself over time. Fortunately, after eight years of policy stagnation in the Department of Energy, President Bush's appointment of Admiral Watkins as Secretary of Energy has revitalized federal desire to make the U.S. more energy efficient and independent. But as of now Administrative policy only endorses energy efficiency expenditures that are justified as if global warming were a non-problem (i.e., the Administration's "no-regrets" ideology). What I believe is a much more prudent policy is to accelerate the implementation of energy efficiency and renewable energy sources beyond the slow rates of improvement now envisioned by the Administration. Such as acceleration is a form of added insurance against the better-than-ever-odds chance of unprecedently fast climatic changes building up in the decades ahead—odds not overthrown by recent scientific results or the debate over them. In my value system, modest premiums paid now may yield big dividends in averted environmental disturbances later on, disturbances that could be loaded with big regrets had they not been averted by timely and cost-effective actions when we had the chance. It is usually too late to buy insurance after you get sick.

Mr. WIRTH. Mr. President, there should be a sense of urgency. The American people are feeling it, the world is feeling it. Unhappily that sense of urgency is not being translated by the leadership of the United States. We ought to be seeing that and not this whitewash that continues to go on.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 2462 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 2462 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes Senator DURENBERGER.

MEDICARE

Mr. DURENBERGER. Mr. President, 6 weeks ago I spoke on the Senate floor about the fiscal crisis that is certain to confront the hospital insurance—Medicare—trust fund before this decade is over. And I noted in that speech that the experts agree that the Medicare hospital insurance trust fund will be bankrupt within 15 years.

Yesterday, the experts revised their projections, and the bad news they are reporting is that Medicare will be insolvent 2 years sooner—by 2003. And, according to the trustees of the Social Security and hospital insurance trust funds, the Medicare trust funds will start being depleted in barely 5 to 7 years.

Mr. President, we owe it to every citizen of this country to ensure the fiscal integrity and financial soundness of Medicare. We should not, and need not, wait until a crisis befalls the Medicare system. We should do something this year to restore integrity to the Medicare promise.

That is why I introduced legislation last month—S. 2249—that would reallocate the composition of the Social Security and hospital insurance payroll tax to ensure that the Medicare trust fund will be solvent for the next 25 years. Under my legislation, the 7.65-percent payroll tax paid by employers and employees would neither be increased nor decreased. Instead, beginning as late as the year 2000, the Social Security portion of the tax would be reduced from 6.2 percent to 5.9 percent and the Medicare portion of the tax would be increased by 0.3 percent. A further small reallocation between the trust fund taxes would occur early next century with the result that by the year 2007, the Social Security portion of the payroll tax paid by employers and employees would be 5.65 percent, and the hospital insurance portion would be 2 percent.

Mr. President, I want to emphasize that this small shift in the payroll tax will not endanger the Social Security trust fund. In fact, these tax rates were arrived at after consultation with the professional actuaries at the Social Security Administration and the Health Care Financing Administration who advised that these rates would provide safe reserve margins for both the Social Security and the Medicare hospital insurance trust funds.

I urge my colleagues to join me in this effort to assure the workers who are today paying Medicare taxes that Medicare will be able to provide comparable, and affordable, benefits when they retire.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

A HOUSING BILL THIS YEAR

Mr. BOND. Mr. President, I rise today to discuss the prospects for a housing bill this year. I think that this should be one of the highest priorities for Congress this session. Senator CRANSTON and Senator D'AMATO both deserve a great deal of thanks and credit for the tremendous amount of work that they have done on S. 566, the National Affordable Housing Act.

I have discussed this legislation with city officials, housing authority directors, the State housing finance agency, housing advocates, developers of low-income housing, and others in the State of Missouri and they are supportive of the general thrust of this bill. There is broad agreement that a flexible housing program driven by local needs is necessary and that S. 566 moves in this direction.

There are some changes, though, that I think would improve S. 566, certainly ensure my support, and make Senate passage of the legislation easier. I have written to Senator CRANSTON and Senator D'AMATO today outlining my compromise suggestions, and I will briefly discuss a few of them for the benefit of my colleagues.

As it is currently drafted, S. 566 layers the H.O.P. or HOP Program on top of the existing housing programs such as the Rental Rehabilitation Program. It would make sense to me to fold together the existing programs, some of which are duplicative, and increase the authorization by an appropriate amount.

Cities and States should be able to access one simple housing program with clear, straightforward rules. Decisions about housing policy are best made at the State and local level and a consolidation of housing programs would make it easier for cities and States to access the Federal housing funds to carry out local housing strategies.

I believe that it is equally important for the housing bill to include provisions improving the management of public housing, an area where we have seen too many problems in the past. I have introduced legislation, S. 2301, to develop a management system for public housing that is both more flexible and more accountable. Under this legislation which builds on some of the fine concepts in the Cranston-D'Amato bill, HUD would be given more tools to enforce standards. Right now if a housing authority does not perform and the tenants in that particular development, the residents in that development are not adequately served, the only remedy HUD seems to have is to be able to cut off all funds. Therefore, the development deteriorates further and the residents of the development are the ones who suffer.

Under the approach that we have set forth, HUD would be given a series of actions requiring the working agreement to improve conditions or, if that did not work, the ability to take over development, move it out of the administration of a local housing authority and turn it over to some other group that could administer. That way, the people who live in the public housing development would not suffer if the local housing agency does not do the job.

On the other hand, for the vast majority of housing authorities which are well run and which would meet the objective goals set forth under the legislation, they would have much more freedom to plan and they would be entitled to their rehabilitation, their modernization funds and would not have to compete for them and would not have to go back to a HUD regional office and argue why their priorities, rather than the priorities of those who happen to be in the regional HUD operation, are better for the particular development they are concerned with.

I think these kind of changes would ensure that all residents living in public housing would have a decent and safe place to live.

In addition, I also support some of the fine ideas put forth in Secretary Kemp's proposal. I particularly approve of and support his desire to empower residents to be able to manage and then purchase their developments. I think we ought to start off at a slower speed and improve the concept before we jump into it all the way.

I also suggest that that emphasis on State and local decisionmaking, which is the hallmark of S. 566, be extended to the administration's HOP proposals to the greatest extent possible. I think experience has shown that the Federal Government is not usually very successful in making decisions about local housing needs and that local housing authorities and officials can play a very positive role in making the joint Federal, State, and local programs work.

Mr. President, I have a number of other additional ideas, but I ask unanimous consent the full text of my letter to Senators CRANSTON and D'AMATO be printed in the RECORD. I encourage my colleagues to consider these compromise ideas as we work out a bipartisan housing bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 18, 1990.

HON. ALAN CRANSTON,
Chairman, Subcommittee on Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: You and Senator D'Amato both deserve a great deal of thanks and credit for the tremendous amount of work that you've done on S. 566, the National Affordable Housing Act. I have discussed your legislation with city officials, housing authority directors, the state housing finance agency, housing advocates, developers of low income housing and others in the State of Missouri and they are supportive of the general thrust of your bill. There is broad agreement that a flexible housing program driven by local needs is necessary and that S. 566 accomplishes this goal.

There are some changes, though, that I think would improve S. 566, ensure my support, and make Senate passage of the legislation easier. As it is currently drafted, S. 566 layers the HOP program on top of the existing housing programs such as the rental rehabilitation program. It would make sense to fold the existing programs which are duplicative together and increase the authorization by the appropriate amount. Cities and states should be able to access one simple housing program with clear straightforward rules. Decisions about housing policy are best made at the local level and a consolidation of housing programs would make it easier for cities and states to access federal housing funds to carry out local housing strategies.

I believe that it is equally important for the housing bill to include provisions improving the management of public housing. I have introduced legislation, S. 2301, to develop a management system for public housing that is both more flexible and more accountable. With my legislation, HUD is given the tools to enforce standards, but at the same time Public Housing Authorities are given incentives to improve by freeing them from the burdensome requirements of the current system if they are well managed. In this way we can ensure that all residents living in public housing have a decent and safe place to live.

The housing bill should also include some limited exceptions to the one for one replacement requirement for public housing demolitions. I believe that this requirement is good public policy in most cases because it prevents viable public housing from being destroyed to make way for gentrification. There are cases, however, when this inflexible requirement does not make sense. For example, if a housing project has been vacant living environment for families and children, and the city government can come up with a plan for the public housing site which includes low income housing, then limited exceptions to the one for one rule should be allowed. However, these exceptions should only be allowed in cases where the city has held a series of open meetings on the subject and taken the opinions of the residents of the area into consideration.

Some additional changes to S. 566 that I would submit for your consideration would be to eliminate the guarantee authority for the HOME corporation. I believe that there are too many unanswered questions about the potential costs of this provision and it should be dropped. In addition, we should leave the current Section 8 program in place rather than moving to a system of rental credits. I also have concerns about the provisions of S. 566 which create several new Assistant Secretary positions at the Department of Housing and Urban Development. Decisions about the creation of new positions should be left to the HUD Secretary rather than Congress.

Finally, I am very pleased that you are planning to include much of Secreatry Kemp's HOPE initiative in the revised committee print. I am very supportive of Secretary Kemp's ideas about empowerment and a concerted attack on urban poverty. Resident ownership of public housing has a great deal of potential, although I do think that at first it should be tried on a smaller scale than Secretary Kemp suggests. Nevertheless, we should include this promising innovation in the Senate bill.

Operation Bootstrap, which requires housing assistance to be coupled with other social services is also a good idea which could help housing programs become a ladder out of poverty, rather than a trap. I believe that Operation Bootstrap should include early childhood education programs as well. There are many successful, innovative early childhood/parent involvement programs run by state governments (such as the Parents as Teachers program in Missouri) which should be easily available to the residents of public housing.

I would also suggest that the emphasis on state and local decision making which is a hallmark of S. 566 be extended to the HOPE proposals to the extent possible. Experience has shown us that the federal government is not very successful in making decisions about local housing conditions, and that local officials can play a very positive role in making federal programs work.

Thank you for your consideration of my ideas. I look forward to working with you on the housing bill.

Sincerely,

CHRISTOPHER S. BOND.

HOUSING LEGISLATION

Mr. CRANSTON. Mr. President, I want to say I am tremendously grateful to the Senator from Missouri for the leadership he is showing in the effort to win enactment of sound and effective housing legislation. I admire greatly the Senator's knowledge of housing issues and his determination to transfer his knowledge into a sound housing program for all Americans, and one that we can work together upon in the Senate.

KIT BOND listens carefully to the housing concerns of his own State, and he is very effective in making those concerns heard as Congress considers the future of housing policy. I have come to value Senator BOND's insight and counsel on affordable housing very highly as we have worked togeth-

er on the Senate Housing Subcommittee and the Banking Committee in the Senate and as we have discussed these issues together. He brings his experience as Governor of a major State that is affected by the country's housing problem in all of its aspects. He brings knowledge of what can be accomplished by imaginative partnerships among States, local government, private industry, and nonprofit organizations, including community groups and tenant organizations, and he brings a desire to make sure that Federal policy is built on what works.

Since he came to the Senate, KIT BOND has moved steadily in the forefront of Senators who are shaping national housing policy. Senator BOND and I have discussed housing legislation on a number of occasions. I know that he has given the matter a great deal of careful thought. We both share the conviction that Senators have to rise above considerations of partisan advantage and must work on a bipartisan basis if we are to achieve legislation that will make housing more affordable for America's families.

The need for action has become even more urgent. Millions of families, many of them with jobs, many of them with small children have become homeless or are living just one paycheck or one personal crisis away from becoming homeless. In addition, far too many working men and women cannot afford good homes for their families. Young families find it harder and harder to buy their first home, and elderly people do not have sufficient access to the housing and services they need to live with independence and dignity as they become more frail.

I believe we have a rare opportunity this year to set a new course for Federal support of affordable housing. I am confident that Senators on both sides of the aisle can work together to win enactment of a housing bill that will make a real difference, a housing bill we can be truly proud of. Over the past 3 years, leaders from around the country have worked with many of us in Congress to turn the country's best housing ideas into sound legislation. The product of that effort is S. 566, the National Affordable Housing Act, which was developed from the beginning on a bipartisan basis.

In recent weeks, the administration has also come forward with major housing proposals of its own. Secretary Jack Kemp deserves great credit for winning administration approval of a significant housing initiative. My colleagues and I want to work very closely with him. In recent weeks, the Housing Subcommittee staff has met for many hours with the staff from HUD to analyze the administration's HOP initiative. I want to find ways to accommodate these proposals in a Senate housing bill as much as possible.

I have also been seeking ways, Mr. President, to rethink S. 566 and make the bill more compatible with the administration's thinking without weakening the important housing initiatives that have emerged over the past 3 years. I have been confident that the best parts of the National Affordable Housing Act, the best parts of the HOP initiative, and some additional proposals of other Senators can all be merged into a sound piece of legislation.

Now, today, Senator BOND is proposing a framework on which a Senate housing bill can be built. I believe his leadership greatly increases his chances of achieving an effective bipartisan housing bill this year. He offers a way to arrive at a consensus housing bill that measures up to the housing challenge. I believe that I can support virtually every specific proposal that Senator BOND has made.

The Banking Committee markup is scheduled for May 2, less than 2 weeks away. I intend to work cooperatively and intensely in the next few days with Senator BOND, with other Senators, and with the administration to draft a housing bill that deserves the strong support of the administration, of Senators on both sides of the aisle—Republicans and Democrats alike—and of the American people.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized, and also reminded that the time for morning business has expired.

Mr. ADAMS. Mr. President, I ask unanimous consent that morning business be extended until 1:30 p.m., with Senators permitted to speak for up to 7 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BREAUX). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

TRIBUTE OF LT. COL. DONALD GENE GOFF, U.S. ARMY, ON THE OCCASION OF HIS RETIREMENT

Mr. THURMOND. Mr. President, I rise today to recognize the military service of Lt. Col. Donald Gene Goff on the occasion of his retirement from the U.S. Army.

Colonel Goff's current assignment is as chief of the research branch, programs division, Office of the Chief of Legislative Liaison. In addition to overseeing the office's legislative research efforts, he serves as speechwriter for the chief of legislative liaison and monitors the Army's budget. In his latter responsibility, he interfaces with the House and Senate Budget Committees and the Congressional Budget Office.

As did many of the fine officers in our Army, Colonel Goff graduated from the U.S. Military Academy in 1970. He completed airborne and ranger training. Following his initial tour in Europe, he attended flight school where he distinguished himself as an honor graduate.

Following aviation tours in Korea and Fort Carson, Colonel Goff earned a master's degree in education and counseling from Duke University. He subsequently served as an associate professor at West Point.

Colonel Goff's last overseas assignment was at Headquarters III Corps Forward in the Netherlands. In 1987, he was assigned to the Office of the Deputy Chief of Staff for Personnel, Department of the Army. In 1988, he was reassigned to the Office of the Chief of Legislative Liaison.

Throughout his distinguished career, the Army has recognized Colonel Goff's contribution to our Nation by twice awarding him the Army Commendation Medal, twice awarding him the Meritorious Service Medal and, most recently, the Legion of Merit.

I join his many colleagues in wishing Colonel Goff and his family well as he embarks on a new career in the civilian community.

Thank you, Mr President.

MOTION PICTURE COPYRIGHT PROTECTION ACT OF 1990

Mr. KOHL. Mr. President, during the 1980's the videocassette recorder [VCR] revolutionized the way Americans entertain themselves. Over the past decade, it has become easier and less expensive to watch a movie at home than in a movie theater. In fact, revenues for cassette rentals—nearly $7 billion in 1989—actually surpassed earnings from theatrical exhibitions and television sales.

For the most part, the development of videocassettes has benefited American society. It has enhanced our motion picture industry, which holds copyrights on the motion pictures. It has fostered entrepreneurialism and created hundreds of thousands of new jobs. And it has given consumers—those of us who go to the local store to rent movies—unprecedented choice

and unsurpassed convenience at moderate prices.

But the success of the video industry is threatened by "pirates" who make illegal copies of protected works. According to the Motion Picture Association of America [MPAA], this illegal copying costs the film industry over $100 million every year. The MPAA estimates that nearly 10 percent of all U.S. video stores peddle some counterfeit videos.

Unauthorized copying harms the motion picture industry, which receives no income from "bootleg" cassettes. Honest video dealers suffer as well because their unscrupulous competitors can offer more videos at lower prices. But the biggest loser from illegal copying is the consumer, who too often rents or buys pirated tapes of inferior sound and picture quality.

During the past few years, motion picture companies have taken steps to combat unauthorized duplication—and to protect their copywright works—by treating videocassettes with an anticopying process. This process adds a series of electronic pulses to the vertical blanking interval of a video signal. These pulses do not affect the picture or sound quality of the original cassette, but they ensure that no watchable copies can be made from that original. More than half of all new motion pictures released on videocassette are protected by this process.

Unfortunately, technology that undermines this copy protection has also been developed. These devices, often called "black boxes," effectively neutralize the anticopy process and allow counterfeiters to make clean copies.

Though there are criminal laws on the books to punish this type of illegal copying, law enforcement does not have the resources to catch the vast majority of video pirates. And current copyright law is inadequate to solve the problem. While a video dealer who uses a black box to duplicate a copyrighted movie will be found guilty of copyright infringement, the manufacturer of the same black box can often escape liability for contributory infringement. Unless we provide a sufficient deterrent to the production of copyright-defeating technologies, we will not be able to halt the flood of bootleg videotapes.

To protect the consumers' in high-quality video products, the video dealers' interest in fair competition and movie industry's interest in the integrity of this copyrights, I have introduced the Motion Picture Copyright Protection Act of 1990 (S. 2441). Identical legislation has been introduced in the House by my colleagues, HOWARD BERMAN and CARLOS MOORHEAD.

Our bill is straightforward, effective, and limited in scope. It would modify the Copyright Act to make it infringement to import, manufacture, sell, or distribute any equipment, the "primary use" of which is to defeat anticopy protection. And it also would make clear that the copyright holder has the exclusive right to treat its works with anticopy protection. The bill would address both tangible technologies, like a black box, and intangible processes that undermine copyright. Simply put, it would allow the motion picture industry to go after illegal copying at its source.

However, our bill would neither circumscribe legal VCR use nor limit emerging VCR technologies. And it would not affect equipment with a legitimate primary purpose—only those devices whose stated purpose is a mere protect for piracy.

Mr. President, the Motion Picture Copyright Protection Act is not a panacea for the complex problem of illegal copying. But it does help respond to the very real threat that unauthorized reproduction poses to the video marketplace.

The United Kingdom has already enacted similar legislation banning black boxes. And the U.S. Register of Copyrights has stated that "the fundamental approach of the bill is compatible with U.S. copyright policies." I urge my colleagues to follow their lead, and swiftly enact this important measure.

I ask unanimous consent that a copy of the Motion Picture Copyright Protection Act of 1990 be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Motion Picture Copyright Protection Act of 1990".

SEC. 2. SCOPE OF EXCLUSIVE RIGHTS.

(a) PROCESS OR TREATMENT OF COPIES OF MOTION PICTURES TO INHIBIT REPRODUCTION.—Chapter 1 of title 17, United States Code (relating to the subject matter and scope of copyright), is amended by adding at the end the following new section:

"§ 120. Scope of exclusive rights: Use of copies of motion pictures that have been processed or treated to prevent or inhibit reproduction

"The exclusive right to reproduce a copyrighted motion picture under section 106 includes the right to protect the copies of such motion picture from reproduction, through a process or treatment of such copies which prevents or inhibits reproduction.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 120. Scope of exclusive rights: Use of copies of motion pictures that have been processed or treated to prevent or inhibit reproduction.".

(2) Section 106 of title 17, United States Code (relating to exclusive rights of copyrighted works), is amended by striking out "119" and inserting in lieu thereof "120".

SEC. 3. MOTION PICTURE REPRODUCTION EQUIPMENT.

Section 501 of title 17, United States Code (relating to infringement of copyright), is amended—

(1) in subsection (a) by striking out "119" and inserting in lieu thereof "120", and

(2) by adding at the end the following new subsection:

"(e)(1) A person is an infringer of the copyright in any motion picture that has been processed or treated for the purpose of preventing or inhibiting the facsimile reproduction of such motion picture, if—

"(A) that person imports, manufactures, sells, or distributes any equipment the primary use of which is to make, assist in, or permit facsimile reproductions, in whole or in part, of copies of any such copyrighted motion picture; or

"(B) that person imports, manufactures, sells, or distributes any equipment which he or she intends or has reason to believe will be primarily used to make, assist in, or permit facsimile reproductions, in whole or in part, of copies of any such copyrighted motion picture.

"(2) As used in this subsection, the term 'equipment' includes materials, circuitry, processes, and the technology (including services) used to design, produce, manufacture, use, or reconstruct such materials, circuitry, or processes.".

SEC. 4. IMPORTATION.

Section 603(a) of title 17, United States Code (relating to importation prohibitions), is amended by inserting before the period at the end the following: ", including the provisions of subsection 501(e) relating to the importation of certain equipment".

MEDICAL RESEARCH DAY

Mr. HATCH. Mr. President, we enter the last decade of the 20th century with an astounding body of knowledge about illness and medicine. Spectacular breakthroughs similar to the virtual elimination of polio in the United States and the worldwide eradication of smallpox await us. Yet, our Federal Government can do more to support medical research, to move America forward toward new treatments and prevention methodologies. The potential losses from a failure to support such research are all too imaginable.

Strong evidence suggests that when it comes to medical research, spending money leads to saving money. One study indicates that from 1900 to 1975, the rate of return on every $1 invested in medical research was $13. The expense averted by the polio vaccine discovery exceeds the cumulative total of all Federal funds ever given to medical research.

What kind of investor would turn down a chance for profits like these? Yet, over the past several years, there has been a continual decline in the percentage of research grant proposals that receive Federal dollars.

The effects are potentially disastrous. Already, the Nation's pool of young researchers is shrinking; the unstable nature of research support

has diminished the attractiveness of medical research careers. Laboratories are showing signs of deterioration because of scarcity of funds does not allow for replacement and renovation.

Countries such as Japan and West Germany are devoting considerably higher proportions of their resources to life sciences than we are. In the 1980's, over 45 percent of drug and medicine patents in the United States have been granted to foreign inventors. This by itself is an alarming fact.

Our Nation has always been a leader in science and medicine. Whatever the political climate, we could always count on being first in advancing humanitarian causes through promoting universal release from illness and unnecessary death. We are perceived as a strong nation not just through our military might but also through our labors to improve the quality of life for every human being. It would be devastating to our Nation's pride to see prestige slip away in one of America's areas of greatest achievement.

Decreasing competitiveness would, of course, cost us far more than prestige. As we look for answers to our deficit, we must look at the entire financial picture. With medical costs making up so much of the GNP, we should remember the significant amount of those dollars going to foreign investors. We should remember that spending on medical research will keep down future expenses. The answer to our deficit problem will not come from any one miraculous fix. The answer will come through a number of sensible steps such as investing in research.

We would be investing in our future well-being and our children's well-being, too. What price could we ever place on a child's life? Look at the dramatic successes made in the area of childhood cancer. The National Cancer Institute estimates that the number of children living at least 5 years after a diagnosis of cancer is 63 percent—up from 24 percent in 1950. Mortality rates have declined from 8.3 per 100,000 in 1959 to 3.5 in 1986. Mr. President, these are my kind of statistics.

More than 40 years ago, acute lymphoblastic leukemia [ALL] was uniformly fatal for children. Today, the survival rate is 70 percent. Before the 1970's, fewer than 30 percent of children obtained long-term disease-free survival from non-Hodgkin's lymphomas. Currently, about 60 percent of children with this disease are considered curable.

Increased understanding of these diseases and new therapies, such as bone marrow transplantation and immunotherapy, have made these advances possible. These successes have created new challenges and are generating new research. Care for the child with cancer now focuses on psychosocial and survivior issues such as compliance with treatment regimens and long-term pain and anxiety control. Money spent on research will continue to create successes and offer lives to those coping with and cured of disease.

We have not even begun to reach our limits of capability and potential. Clearly, we must continue to support and expand our commitment to medical research. We must work to fulfill both the need and the promise.

Private industry, academia, and the voluntary health community contribute billions of dollars each year to medical research and will continue to contribute more. But success in the past has come from a public-private partnership, and the Federal Government must do its share.

Americans can be proud of the results from our Nation's support of medical research; indeed, they benefit from it in many ways. Our public policy goals must include medical research as a high-level national priority.

Generous Government funding for medical research will allow us to enter the 21st century prepared to meet emerging health care problems as well as the challenges of increasing research competition from abroad and deficit reduction. We can ensure that American medicine in the next century continues to achieve the remarkable successes it has made in this one.

PROFILE IN COURAGE AWARD

Mr. HELMS. Mr. President, Parade magazine recently invited nominations for its annual Profile in Courage Award, sponsored by the children of the late President John F. Kennedy.

William J. Hopwood, from Miami, FL, has nominated Mrs. Lillian Baker, a fine lady and prominent historian from Gardena, CA.

Mr. President, I will ask unanimous consent that the text of Mr. Hopwood's nomination letter be printed in the RECORD at the conclusion of my remarks.

In addition to her other accomplishments, Mrs. Baker's latest book, "American and Japanese Relocation in World War II: Fact, Fiction, and Fallacy," has recently been published. In it, Mrs. Baker clarifies much of the misinformation that has been circulated about a particularly emotional time in our history.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MIAMI, FL,
March 9, 1990.

THE PROFILE IN COURAGE AWARD COMMITTEE,
John F. Kennedy Library Foundation, Boston, MA.

TO THE COMMITTEE: It was once my privilege to have a long conversation with Joseph Kennedy, Jr., shortly before Pearl Harbor. We met at Naval Air Station, Jacksonville, Florida, where I was stationed and he, as a Naval Aviator, was flying through. Now, half a century later, I can see and hear him in my mind, as if it were yesterday. I believe he would have concurred with my reasons for the nomination I am about to make.

I wish to nominate for the John F. Kennedy Profile in Courage Award a lady who has, through dedication, determination, and personal courage—often in the face of mob harassment and the threat of physical violence—taken upon herself the burden of organizing the considerable opposition to P.L. 100-383 (The Japanese Money Bill) which became law in 1988.

The Act calls for payment of $20,000 each, with an apology, for "human suffering", *only* to persons of Japanese ancestry who were interned, evacuated, or relocated during the early days of World War II, despite the fact that persons of other nationalities were similarly situated but were ignored by the law. In addition to certain Congressmen of Japanese descent, who were small children during WWII, payments and apologies will go to former enemy aliens now living in Japan, former U.S. citizens who renounced their citizenship and returned to Japan, and to thousands of Japanese-Americans who spent the war years in colleges or were born in the relocation centers.

The lady I nominate is Mrs. Lillian Baker, of Gardena, California, an award-winning author, historian, and lecturer (background data attached). Mrs. Baker has, for almost two decades, researched the circumstances surrounding the necessity for internment, and/or evacuation and relocation of enemy aliens and other possible security risks in Hawaii and the U.S. West Coast at the beginning of World War II. She has written three books on the subject, the latest now in the process of release.

Mrs. Baker appeared before U.S. Congressional committees, the Commission on Wartime Relocation, and the California Landmarks Commission on this subject. During the latter two appearances—and in other, non-official hearings—she either was in a wheel-chair or assisted by a walker because of physically disabling conditions. She was not allowed to enter such hearings except under guard for her own protection against Japanese-American racial dissidents and other radical elements.

When in Seattle, before appearing on a radio talk show at KOMO, Mrs. Baker was advised to avoid public areas for her own safety, and was escorted to and From the radio station by security personnel. When at Fullerton University, Mrs. Baker was requested to move from the university auditorium to a smaller room in order to guarantee her personal safety. And all of this for defending historical truth!

Lillian Baker has opposed redress and reparations from the beginning. She was not alone, but she was the LEADER. Because of this lady's aggressive volunteer direction of the coalition group, Americans for Historical Accuracy, composed of various World War II individual veterans, veteran groups (including ex-POW's), and other concerned

citizens, the constitutionality of this law is now being challenged in the D.C. Federal Court because it clearly discriminates on the basis of our national origin.*

Syndicated columnist Charley Reese has accurately described the redress and reparations movement as: ". . . a gratuitous insult to American wartime leaders who (were) unjustly branded racist and hysterical. It is an insult to the 300,000 American war dead for whom there is no compensation, and for whom World War II was not a government-supported inconvenience but a hard death. It is an Orwellian re-write of history . . . a monstrous lie concocted by radicals who have been at this project since 1981."

President Kennedy was one for whom World War II was more than an inconvenience. It was suffering and near-death. His brother, Joseph Kennedy, Jr., was one of our 300,000 American war dead.

I believe Joe Kennedy, Jr., would have admired Lillian Baker, and so, too, would his brother, the President-to-be. They would not have admired the Congressional law now under constitutional challenge which was written on the basis of a discredited Commission report** branding the World War II administration of Franklin Roosevelt as guilty of "race prejudice, war hysteria, and a failure of political leadership." They knew better. So does Lillian Baker.

Thank you for considering my nomination of Mrs. Lillian Baker.

Sincerely,

WILLIAM J. HOPWOOD,
CDR USNR (ret.).

HIGH TAXES AND BEWILDERING TAX LAWS LEADING TO REVOLT?

Mr. HELMS. Mr. President, at this time of year, many Americans are understandably furious after paying their income taxes—for two reasons: First, they resent the enormous burden that taxes, at all levels, take from their family income; and second, they are increasingly frustrated by the complex maze of forms and procedures required to fill out even the simplest tax return.

Mr. President, in an article in the February 1990 edition of Tax Features, the Tax Foundation provides an analysis of the tax burden that will face a typical moderate-income family of four in 1990. The Tax Foundation reviewed the financial frustration for a family with two workers earning a total of $45,000, who have two dependent children.

That family's total Federal tax bill, including both direct and indirect Federal taxes, will be $12,938. And that does not include State and local taxes.

The Tax Foundation also announced recently that in 1990, Tax Freedom day will fall on May 5. That means that everything the average taxpayer earns from January 1 until May 5 goes to the Federal, State, and local government.

Mr. President, I am sure that the tax experts at the Tax Foundation are confident in their estimate of the amount of taxes owed by the average taxpayer and the typical family. Unfortunately, even tax experts do not always agree on the correct determination of taxes owed. Why? Because our tax laws have become unnecessarily complex.

Recently, I received a couple of excellent articles written by Tom Camp of Shelby, NC, in which he explains the frustrations faced by taxpayers. Mr. Camp refers to a study conducted with 50 professional tax preparers. Each was given an identical financial scenario for which each was to determine the correct tax. It is appalling that no two of the tax preparers came up with the same answer.

Mr. President, I will ask unanimous consent that the text of the Tax Foundation articles and the articles by Mr. Camp be printed in the RECORD at the conclusion of my remarks.

Mr. President, I receive thousands of letters throughout the year from citizens who are fed up with both the amount of taxes they have to pay and the complexity of the tax laws. Our tax laws make otherwise well-intentioned, law abiding citizens feel like criminals when they make a mistake in their taxes and then face enormous fines and penalties.

Furthermore, I hear from hundreds of corporate executives who warn that because of the tremendous cost and difficulty they face in trying to comply with the tax laws regarding employee benefits, they will be forced to abolish their companies' employee benefits plans.

Mr. President, this is an absurd situation approaching a crisis stage. It is high time that Congress come up with a genuine tax reduction and simplification effort before tax revolt breaks out in America.

I ask unanimous consent that the material to which I earlier referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN APPEAL TO WASHINGTON
(By Tom Camp)

Why?

One good reason is all we ask.

Why are tax laws so many and so complex the average citizen can not come close to correctly figuring his own taxes?

Why is preparing tax forms so complicated that even professional tax consultants demand immunity from penalties charged for mistakes and miscalculations?

Why can't we have a tax code so simple every educated taxpayer can get the annual chore over with in a matter of minutes?

Why?

If frustration is the vanguard of revolt, then this country is just a short form away from revolution. The victims of an impossible burden have become the accused. And they are fed up, angry.

The typical tax cheat is an ordinary citizen who commits his crime with a pencil while trying not to.

A friend tells me he is being "investigated" by the Internal Revenue Service. Not audited, investigated. Each year he has paid a reputable accounting firm to prepare his taxes. Each year, he says, he has provided the accountant with all bank statements, deposit slips, cancelled checks, and all other materials necessary for preparing a tax form. He has tried to abide by the tax laws.

Recently, an IRS agent left a calling card at his house, and with it warning that he was being "investigated." My friend is scared. An IRS calling card naturally scares the hell out of people. Tax investigators have been known to boast they can indict anybody, anytime, because taxes are never filed absolutely without error.

The situation is worthy of a banana republic, where nothing is right unless the dictator says it is.

A tax accountant tells me of a study in which 50 professional tax preparers were given identical sets of documents from which to complete a tax filing. No two preparers completed the task the same way. Only two prepared the forms close enough to correct that the phantom taxpayer would not have been hit with stiff penalties.

Two out of 50 is a rotten score, but it's better than average citizens can do.

A taxpayer who can't possibly get his tax forms filled out correctly is a taxpayer who can't possibly comply with the tax laws. Law-abiding citizens are being forced into criminal acts. And whose fault is it? Not the taxpayer's. April 15th is an annual bog of quicksand he can't avoid.

The essential duty of government is protection of the people from government. That's why our Founding Fathers wrote a Constitution—to get the government off the backs of the governed. But today, the tax code is a giant foot on the public's neck which wounds us all, some tragically.

Any citizen who is "investigated" by the IRS loses something in reputation. The very fact that an investigation occurs cast a shadow of doubt that lasts a lifetime. You can't heal a broken reputation by covering it with a bandaide that says "he was not guilty after all."

Too much law creates criminals just as much as too little law does.

We citizens can bring this criminality forced on us to a screeching halt by simply banding together and refusing to file tax forms until we can do so under laws we understand and with which we, ourselves, can comply. We can refuse, collectively, to even make an effort to figure our taxes until we feel we can do it correctly.

Or, our elected representatives in Washington can get busy, get smart, forget the special interest groups, forget who contributed what to whose campaign fund, and write some simple tax laws.

An illustration of simplicity: If you made less than $15,000 last year, you owe no taxes. If you made $15–30,000 you owe 10 percent of what you made. If you made $30–50,000 you owe 12 percent of what you made. And so on, making the salary ranges and percentages whatever is fair.

With such a simple system, everybody would pay, right up to the billionaires. There would be no long forms, no deductions, no loopholes. And every taxpayer with the ability to multiply could figure and file his own taxes.

The IRS could afford to audit everybody with half the work force it has now. April 15th would cease to have a bad name. We would probably see a drop in violence and heart attacks and blood pressure.

As it now stands, the government is only preserving disorder. Guys and gals, we are

frustrated. We might be only an April or two away from damn mad. And tax revolt.

It has happened in this country before, you know.

GUESS WHO DOESN'T UNDERSTAND THE TAX LAWS

(By Tom Camp)

An incompetent person, reads the law, does not have the mental capacity to fully comprehend legalities, to make contracts, or to control and dispose of property.

Thanks to the current tax laws, we all have a fair chance of being declared incompetent.

Figuring and filing taxes is one of the most complex, regulated activities in which any American citizen takes part. Since every taxpayer is bound by law to figure and file income taxes annually, the tax laws should be reasonable, understandable, and workable. At present, they meet neither of those criteria.

According to the American Payroll Association, more than $2 billion in penalties will be paid by United States companies this year for improper filing of payroll taxes. That's $2 billion in errors made by professional tax experts, not by individual taxpayers who are not trained and educated to perform the function.

If the experts can't get it right, what chance does John Doe the Ditchdigger have?

But here's the clincher: A recent study revealed that nearly half—HALF!!—of the 36 million letters the Internal Revenue Service mailed to taxpayers last year, demanding additional taxes and penalties, contained errors and miscalculations. As a consequence, taxpayers coughed up $7 billion in taxes they did not owe.

If the Internal Revenue Service can't get it right, what chance does Jim Smith the Salesman have?

People in this country live out their lives in fear of the IRS. It is the kind of relationship government agents enjoy. It has been nurtured into present almighty proportions.

Taxpayers, already confused and frustrated by the tax laws, are simply afraid to challenge claims and demands made by IRS agents, who have the capability of ruining reputations and careers. The IRS has become one of the most feared, if not despised, police and regulatory bodies in history.

Internal Revenue agents have a job to do, sure. We can all respect that. But respect does not automatically flow through to their methods or competence.

The Watergate scandal revealed that federal officials had attempted to use the IRS to punish their political enemies. Witnesses at the congressional hearings testified that some officials had arranged special audits of Capitol Hill opponents, for no other reason then harassment and humiliation.

If you have an enemy and want to impose some legal punishment, while you remain under the cloak of anonymity report the bastard to the IRS. At best he'll find the experience bad.

The first income tax was levied in 1862, to pay for the Civil War. It was dropped 10 years later. A second income tax was levied in 1894, but the Supreme Court declared it unconstitutional. In 1909, Congress passed a law providing for the collection of corporate income taxes, but again the Supreme Court declared such laws unconstitutional.

Finally getting the message, Congress worked for and got passed the 16th Amendment, which legally gives Congress the right to levy income taxes. From there, the laws have grown into monsters which pay our governmental bills but at tremendous loss in freedom and peace of mind.

When governmental regulations go wrong, we the citizens have the right and the duty to oppose them and to battle for change through our individual and collective actions.

The tax laws have us frustrated and angry. Unless the government comes to terms with the problem it created, those people in eastern Europe we see parading in protest across our television screens might be turning on their televisions to watch us.

Maybe we should all declare ourselves incompetent to understand the tax laws, and therefore unable to dispose of property.

AVERAGE FAMILY FACES TAX BILL OF $12,938 IN 1990

President Bush has released the Administration's budget to an uproar of criticism and commentary from interest groups all along the political spectrum, but few people are asking the most basic, down-to-earth question: How much will the government tax the average American family and how will that money be spent? According to Tax Foundation economists, a moderate-income family—two workers earning $45,000 with two dependent children—faces a tax bill of $12,938 for 1990. That covers the family's direct and indirect federal taxes. Add to this its $718 "share" of the federal deficit and the average family will contribute $13,656 to support the estimated $1.23 trillion Uncle Sam plans to spend in the new budget.

Assuming that the $12,938 tax bill is allocated to cover the typical family's entire share of federal spending, the following expenditures stand out:

Income security tops the list at $418.5 billion. This comprises primarily Social Security, federal retirement, and unemployment, extracting 33 cents for each $1 the American family sends to Washington, for a per-family total of $4,237.

National defense will cost $303.3 billion—or 24 cents out of each tax dollar. For the moderate-income family, this amounts to $3,070 per year.

Interest payment on the federal debt ranks third at $173 billion, costing a family 13 and ½ cents of its tax dollar, or a whopping $1,751 per year.

Health outlays, mainly Medicare and Medicaid, will take 13 cents of each tax dollar. The typical family will send Uncle Sam $1,643 in 1990 to pay for the $162.3 billion national health bill.

These four items alone will claim 83 percent of all federal spending and will cost the moderate-income family $10,701, or 83 cents of each tax dollar. Compared to these big four items, spending on all other programs is relatively small. With the remaining 17 cents, Uncle Sam will spend 3 cents of the family's tax dollar on education, and less than 3 cents each on environment, transportation, science, and administration of justice.

THE FAMILY TAX BILL

Direct federal taxes—individual income and personal Social Security taxes—will cost this family $8,219 in 1990. However, direct levies do not explain the whole tax burden, accounting for only about three-fifths of what the government takes in. To these must be added such indirect taxes as the employer's share of Social Security taxes; corporate income taxes; excise taxes on such items as gasoline, liquor, and tobacco; and miscellaneous levies. These will take another $4,719 from the average family's income.

Direct and indirect federal taxes will claim 28.8 percent of this family's annual income, but even that does not tell the whole story. All told, current federal taxes and borrowing will add up to nearly 30 percent of the moderate-income family's earnings.

HOW THE FEDERAL GOVERNMENT WILL SPEND A FAMILY'S TAX DOLLAR IN 1990 [1]

Function	Family's share		Spending (billions)
	Amount	Percent of total	
Income security [2]	$4,237	32.75	$418.5
National defense	3,070	23.73	303.3
Net interest	1,751	13.54	173.0
Health [3]	1,643	12.70	162.3
Education, training, employment, social services	415	3.21	41.0
Veterans benefits and service	307	2.37	30.3
Transportation	302	2.33	29.8
Environment and natural resources	184	1.42	18.2
International affairs	184	1.42	18.2
Commerce and housing credit	174	1.35	17.2
General science, space and technology	168	1.30	16.6
Agriculture	151	1.17	14.9
Administration of Justice	128	.99	12.6
General Government	114	.88	11.3
Community and regional development	79	.61	7.8
Energy	30	.23	3.0
Total	12,938	100.00	1,233.3

[1] This example uses a two-earner family earning $45,000 per year with two dependent children.

[2] Primary social security. Includes federal employees retirement, unemployment compensation, and nutrition assistance. Exclude veteran's income security.

[3] Primary Medicare and Medicaid. Excludes veteran's health care.

[4] After deducting $44.7 billion in undistributed and offsetting receipts not classified by function.

Source: Tax Foundation computations based on Fiscal Year 1991 U.S. Budget presented January 29, 1990, and 1990 tax laws from U.S. Department of Treasury.

[From the Tax Foundation, Apr. 16, 1990].

TAX FREEDOM DAY 1990 IS MAY 5: TWO DAYS LATER THAN 1989—LATEST DATE EVER

WASHINGTON, DC, April 16, 1990.—As Americans scramble to comply with the April 16 IRS filing deadline, they may think they will be free from the tax collector at the end of the day, but Tax Freedom Day doesn't come until May 5 this year. The Tax Foundation has calculated that to be the day when the American taxpayers will have earned enough money to pay this year's total taxes.

That means the average taxpayer will labor 125 days—from January 1 to May 5—to satisfy all federal, state and local tax obligations, with every cent earned from the beginning of the year going to the tax collectors. Finally, on May 5, he will heave a sigh of relief and start pocketing some of his hard-earned money.

Especially bad news is that May 5th is the latest Tax Freedom Day ever. Last year this task required 123 days and Tax Freedom Day fell on May 3. The Tax Foundation attributes the two-day advance to several important factors:

The base-broadening provisions in the Tax Reform Act of 1986 and other legislation have subjected a greater percentage of income to taxation.

The January 1, 1990, increases in the Social Security taxable earnings base and tax rate will cost taxpayers over $10 billion this year alone.

Many state and local taxes have increased sharply due to demand for higher spending.

The slowdown in economic growth has reduced the growth in individuals' incomes.

Among these factors, the most significant is the projected slowdown in income growth for 1990. The nation's nominal income is es-

timated to grow only 5.7 percent while the total tax take is projected to increase 7.2 percent. Stated simply, tax increases will outpace the growth in dividuals' incomes during 1990.

TAX FOUNDATION TO UNVEIL STATE-BY-STATE TAX FREEDOM DAY AT APRIL 16 PRESS CONFERENCE

Tax Freedom Day has always been calculated using nationwide data. The Tax Foundation has analyzed each state's tax burden and for the first time coputed a 1990 Tax Freedom Day for each state and the District of Columbia. A Tax Foundation Special Report with this information will be distributed the morning of April 16 in the Zenger Room of the National Press Club from 10:00 a.m. to 12 noon. Tax Foundation economists will be on hand to answer questions and give interviews.

THE TAX BITE IN THE EIGHT-HOUR DAY

Another way to graphically express the tax burden's effect on the average worker's paycheck is the Tax Bite in the Eight-Hour Day. In 1990, Tax Foundation analysts estimate that the average worker will spend 2 hours and 45 minutes of an 8-hour day working to satisfy federal, state and local tax collectors—three minutes more than in 1989. One hour and 47 minutes will go towards federal taxes while 58 minutes will be devoted to state and local taxes.

TAX BITE IN THE 8-HR DAY, 1989–90

[Hours: minutes]

	1989	1990
Total taxes	2:42	2:45
Federal	1:46	1:47
State and local	:56	:58
Total personal consumption expenditures	5:18	5:15
Housing and household operations	1:26	1:25
Food and tobacco	:58	:57
Health and medical care	:46	:46
Transportation	:39	:39
Recreation	:25	:25
Clothing	:23	:22
All other	:41	:41
8-hr day	8:00	8:00

Source: Tax Foundation.

So with the bulk of his workday, 2 hours and 45 minutes, spent working for the tax collector, where does the average worker spend the remaining 5 hours and 15 minutes of earnings? The largest portion is spent on housing and household operations: 1 hour and 25 minutes. Food and tobacco take 57 minutes while health & Medicare costs absorb 46 minutes. Taxpayers will then work 39 minutes for transportation expenditures, 22 minutes for clothing, and 41 minutes for "all other" expenditures (personal care, personal business, private education, religious and welfare activities, foreign travel, and net savings). The typical worker spends the money he makes during the last 25 minutes of the day on recreation.

TAX FREEDOM DAY HISTORY

The May 5, 1990, Tax Freedom Day is the latest date on record, continuing the decades-long trend of rising tax obligations. The early 1980s saw Tax Freedom Day at an all-time high of May 4 in 1981. The Reagan tax cuts under the Economic Recovery Tax Act of 1981 (ERTA) helped reduce the federal tax burden and we witnessed a temporary decline in the date of Tax Freedom Day to April 28 in 1984. Since then, major tax legislation has boosted the date to its present high of May 5. Except for the Tax Reform Act of 1986, the major drive behind tax legislation after 1981 was purely and simply to increase tax revenues. Fifteen separate tax bills passed since ERTA have resulted in net tax increases.

The state and local tax burden peaked in the 1976–1977 period before Proposition #13 in California set off a successful round of tax limitation measures in the states. The state/local tax burden dipped until 1981, then resumed its steady long-term rise. Continued fiscal pressures in many states indicate that this trend is likely to continue.

TAX FREEDOM DAY AND TAX BITE IN THE 8-HR DAY

	Tax freedom day		Tax bite (hours minutes)		
	Day	Number of days	Total	Federal	State/local
Year:					
1984	Apr. 28	119	2:36	1:42	:54
1985	May 1	121	2:38	1:44	:54
1986	May 2	122	2:40	1:44	:56
1987	May 4	124	2:43	1:47	:56
1988 [1]	May 2	123	2:41	1:45	:56
1989	May 3	123	2:42	1:46	:56
1990 [2]	May 5	125	2:45	1:47	:58

[1] Leap year causes the calendar date of Tax Freedom Day to appear 1 day earlier.
[2] Estimates by Tax Foundation.
Source: Tax Foundation.

TAX FREEDOM DAY OUTLOOK

Although the average American will work until May 5 and forfeit over 34 percent of his total income in 1990, the government will spend all that money and more. It should be noted that Tax Freedom Day does not reflect the estimated $124 billion in federal deficit spending for 1990. It can be argued, of course, that the average worker does not have a definite "share" of this deficit and will feel its effect through future increases in the tax burden and/or a weaker economy.

Spending a record 125 days until May 5 to pay off the tax collectors may come as a shock to many Americans. However, the combined pressures of a persistent federal budget deficit, demands to expand funding for new and existing programs, budget crises in numerous states and the slowdown in income growth could easily make Tax Freedom Day even later on our calendars.

The Tax Foundation is a nonprofit, nonpartisan research and public education organization founded in 1937 to monitor tax and fiscal activities at all levels of government.

[From the Tax Foundation, April 1990]

MAY 5 TAX FREEDOM DAY IS LATEST EVER: STATE-BY-STATE TAX FREEDOM DAYS VARY NEARLY 5 WEEKS

(By Paul G. Merski)

National Tax Freedom Day for 1990 falls on May 5. Tax Foundation economists estimate that the average American will work 125 days—from January 1 to May 5—to satisfy all federal, state and local tax obligations, with every cent "earned" from the beginning of the year going to the tax collectors.

While National Tax Freedom Day is May 5, the tax freedom dates for individual residing in various states will depend on their specific tax and income situations. In order to examine how the tax burden of the fifty states and the District of Columbia compare, the Tax Foundation has calculated state-specific estimates of Tax Freedom Day.

Table 1 presents 1990 Tax Freedom Day by state and rank. Tax Freedom Day estimates are calculated to represent "tax burdens" and should not be confused with tax collections. The tax burden is defined as total taxes as a percentage of total income for each state. The Tax Freedom Day by state methodology is designed to determine the geographic incidence of taxes.

TABLE 1.—TAX FREEDOM DAY BY STATE

[Calendar year 1990]

State	Tax Freedom Day	Number of days	Rank
U.S. total	May 5	125	
Alabama	Apr. 29	119	34
Alaska	May 9	129	8
Arizona	May 4	124	19
Arkansas	Apr. 25	115	45
California	May 4	124	17
Colorado	Apr. 27	117	40
Connecticut	May 12	132	5
Delaware	May 18	138	3
District of Col	May 23	143	1
Florida	May 2	122	26
Georgia	Apr. 29	119	37
Hawaii	May 17	137	4
Idaho	Apr. 24	114	48
Illinois	May 5	125	14
Indiana	Apr. 27	117	42
Iowa	Apr. 26	116	43
Kansas	May 2	122	27
Kentucky	Apr. 29	119	35
Louisiana	May 2	122	28
Maine	May 3	123	23
Maryland	May 12	132	6
Massachusetts	May 8	128	10
Michigan	May 3	123	20
Minnesota	May 8	128	11
Mississippi	Apr. 20	110	49
Missouri	May 1	121	29
Montana	Apr. 26	116	44
Nebraska	Apr. 25	115	46
Nevada	May 3	123	24
New Hampshire	Apr. 19	109	51
New Jersey	May 9	129	9
New Mexico	May 10	130	7
New York	May 23	143	2
North Carolina	May 2	122	25
North Dakota	Apr. 27	117	41
Ohio	May 4	124	18
Oklahoma	May 5	125	16
Oregon	Apr. 25	115	47
Pennsylvania	May 6	126	13
Rhode Island	May 7	127	12
South Carolina	May 3	123	22
South Dakota	Apr. 19	109	50
Tennessee	Apr. 29	119	36
Texas	Apr. 28	118	39
Utah	Apr. 28	118	38
Vermont	Apr. 30	120	30
Virginia	Apr. 30	120	33
Washington	May 5	125	15
West Virginia	Apr. 30	120	31
Wisconsin	May 3	123	21
Wyoming	Apr. 30	120	32

Source: Tax Foundation.

TABLE 2.—TAX FREEDOM DAY BY STATE TOTAL, FEDERAL AND STATE/LOCAL TAXES

[Calendar year 1990]

	Number of days	Tax freedom day	Rank
Total taxes:			
U.S. total	125	May 5	
New Hampshire	109	Apr. 19	51
South Dakota	109	Apr. 19	50
Mississippi	110	Apr. 20	49
Idaho	114	Apr. 24	48
Oregon	115	Apr. 25	47
Nebraska	115	Apr. 25	46
Arkansas	115	Apr. 25	45
Montana	116	Apr. 26	44
Iowa	116	Apr. 26	43
Indiana	117	Apr. 27	42
North Dakota	117	Apr. 27	41
Colorado	117	Apr. 27	40
Texas	118	Apr. 28	39
Utah	118	Apr. 28	38
Georgia	119	Apr. 29	37
Tennessee	119	Apr. 29	36
Kentucky	119	Apr. 29	35
Alabama	119	Apr. 29	34
Virginia	120	Apr. 30	33
Wyoming	120	Apr. 30	32
West Virginia	120	Apr. 30	31
Vermont	120	Apr. 30	30
Missouri	121	May 1	29
Louisiana	122	May 2	28

TABLE 2.—TAX FREEDOM DAY BY STATE TOTAL, FEDERAL AND STATE/LOCAL TAXES—Continued

[Calendar year 1990]

	Number of days	Tax freedom day	Rank
Kansas	122	May 2	27
Florida	122	May 2	26
North Carolina	122	May 2	25
Nevada	123	May 3	24
Maine	123	May 3	23
South Carolina	123	May 3	22
Wisconsin	123	May 3	21
Michigan	123	May 3	20
Arizona	124	May 4	19
Ohio	124	May 4	18
California	124	May 4	17
Oklahoma	125	May 5	16
Washington	125	May 5	15
Illinois	125	May 5	14
Pennsylvania	126	May 6	13
Rhode Island	127	May 7	12
Minnesota	128	May 8	11
Massachusetts	128	May 8	10
New Jersey	129	May 9	9
Alaska	129	May 9	8
New Mexico	130	May 10	7
Maryland	132	May 12	6
Connecticut	132	May 12	5
Hawaii	137	May 17	4
Delaware	138	May 18	3
New York	143	May 23	2
District of Columbia	143	May 23	1
Federal taxes:			
U.S. total	82	Mar. 23	
Mississippi	69	Mar. 10	51
South Dakota	72	Mar. 13	50
Utah	72	Mar. 13	49
Idaho	73	Mar. 14	48
Arkansas	73	Mar. 14	47
Louisiana	73	Mar. 14	46
North Dakota	73	Mar. 14	45
Kentucky	74	Mar. 15	44
West Virginia	74	Mar. 15	43
New Mexico	74	Mar. 15	42
Iowa	74	Mar. 15	41
Montana	75	Mar. 16	40
Wyoming	75	Mar. 16	39
Alaska	75	Mar. 16	38
Alabama	75	Mar. 16	37
Maine	76	Mar. 17	36
Oklahoma	76	Mar. 17	35
Nebraska	77	Mar. 18	34
North Carolina	77	Mar. 18	33
Colorado	77	Mar. 18	32
Indiana	77	Mar. 18	31
Hawaii	77	Mar. 18	30
Georgia	78	Mar. 19	29
South Carolina	78	Mar. 19	28
Wisconsin	78	Mar. 19	27
Arizona	78	Mar. 19	26
Vermont	78	Mar. 19	25
Tennessee	79	Mar. 20	24
Oregon	79	Mar. 20	22
Missouri	79	Mar. 20	22
Virginia	79	Mar. 20	21
Minnesota	80	Mar. 21	20
Texas	80	Mar. 21	19
Kansas	80	Mar. 21	18
Washington	81	Mar. 22	17
California	81	Mar. 22	16
Nevada	81	Mar. 22	15
Ohio	82	Mar. 23	14
Florida	82	Mar. 23	13
Pennsylvania	83	Mar. 24	12
Michigan	83	Mar. 24	11
Maryland	85	Mar. 26	10
District of Columbia	85	Mar. 26	9
New York	86	Mar. 27	8
Illinois	86	Mar. 27	7
New Hampshire	86	Mar. 27	6
Massachusetts	87	Mar. 28	5
Rhode Island	87	Mar. 28	4
Delaware	89	Mar. 30	3
New Jersey	92	Apr. 2	2
Connecticut	95	Apr. 5	1
State/local taxes:			
U.S. total	43	Feb. 12	
New Hampshire	23	Jan. 23	51
Oregon	36	Feb. 5	50
New Jersey	37	Feb. 6	49
Connecticut	37	Feb. 6	48
Texas	38	Feb. 7	47
South Dakota	38	Feb. 7	46
Nebraska	38	Feb. 7	45
Indiana	39	Feb. 8	44
Colorado	40	Feb. 9	43
Illinois	40	Feb. 9	42
Tennessee	40	Feb. 9	41
Florida	40	Feb. 9	40
Virginia	40	Feb. 9	39
Michigan	41	Feb. 10	38
Rhode Island	41	Feb. 10	37
Georgia	41	Feb. 10	36
Mississippi	41	Feb. 10	35
Montana	41	Feb. 10	34
Iowa	41	Feb. 10	33
Idaho	41	Feb. 10	32
Nevada	42	Feb. 11	31
Massachusetts	42	Feb. 11	30
Kansas	42	Feb. 11	29
Missouri	42	Feb. 11	28
Vermont	42	Feb. 11	27
Arkansas	42	Feb. 11	26
Ohio	42	Feb. 11	25
California	43	Feb. 12	24
Pennsylvania	43	Feb. 12	23
North Dakota	43	Feb. 12	22
Alabama	44	Feb. 13	21
Washington	44	Feb. 13	20
South Carolina	45	Feb. 14	19
North Carolina	45	Feb. 14	18
Wyoming	45	Feb. 14	17
Wisconsin	45	Feb. 14	16
Kentucky	45	Feb. 14	15
Arizona	46	Feb. 15	14
West Virginia	46	Feb. 15	13
Maine	47	Feb. 16	12
Utah	47	Feb. 16	11
Maryland	47	Feb. 16	10
Oklahoma	48	Feb. 17	9
Minnesota	48	Feb. 17	8
Louisiana	48	Feb. 17	7
Delaware	49	Feb. 18	6
Alaska	54	Feb. 23	5
New Mexico	55	Feb. 24	4
New York	57	Feb. 26	3
District of Columbia	58	Feb. 27	2
Hawaii	60	Mar. 1	1

Source: Tax Foundation.

THOSE WHO PAY TAXES THE LONGEST

Compared to the May 5 National Tax Freedom Day which requires 125 days, the residents of fifteen states and the District of Columbia will need to work 125 days or more before reaching their specific Tax Freedom Day (see map). Tax Freedom Day arrives the latest in the following "top ten" taxpaying states:

State	Number of days	Tax freedom day	Rank
District of Columbia	143	May 23	1
New York	143	May 23	2
Delaware	138	May 18	3
Hawaii	137	May 17	4
Connecticut	132	May 12	5
Maryland	132	May 12	6
New Mexico	130	May 10	7
Alaska	129	May 9	8
New Jersey	129	May 9	9
Massachusetts	128	May 8	10

Individuals in these top ten states will spend, on average, 9 extra days working to pay off their total tax liabilities when compared to the national average. At the top of this list, residents of New York and the District of Columbia will work an extra two and one-half weeks more than the average American before fulfilling their tax obligations.

THOSE WHO PAY THEMSELVES FIRST

On the early end of the 1990 Tax Freedom Day Calendar are the residents of the following ten states:

State	Number of days	Tax freedom day	Rank
New Hamsphire	109	Apr. 19	51
South Dakota	109	Apr. 19	50
Mississippi	110	Apr. 20	49
Idaho	114	Apr. 24	48
Oregon	115	Apr. 25	47
Nebraska	115	Apr. 25	46
Arkansas	115	Apr. 25	45
Montana	116	Apr. 26	44
Iowa	116	Apr. 26	43
Indiana	117	Apr. 27	42

Individuals in these states will satisfy their total tax obligations an average of 11 days earlier than the national average.

The residents of New Hamsphire and South Dakota, for example, will finish paying off their taxes more than two weeks earlier than the average American and a month earlier than the residents of New York and the District of Columbia.

FEDERAL VS. STATE/LOCAL BURDEN

The Tax Freedom Day by state and type of tax is presented in Table 2. Here the effects of federal and state/local taxes are examined separately. Individuals in the State of Hawaii, for example, will finish paying off their federal tax burden five days earlier than the average American but will spend an extra 17 days to pay state and local taxes. Therefore, the average Hawaiian will spend 60 days working to pay state/local taxes and 77 days to satisfy federal collectors. Combined, the 137 days an average Hawaiian will spend working to pay off all taxes puts his 1990 Tax Freedom Day at May 17.

TAX BITE IN THE EIGHT-HOUR DAY

How much time does the average American work each day to pay all taxes? How does the eight-hour tax bite differ from state to state?

Measuring the bite that taxes take from the typical worker's eight-hour day provides another prespective on the weight of government on the private production of the nation. In 1990, the average American will spend 2 hours and 45 minutes of an 8-hour-workday to satisfy federal, state and local revenue collectors. The federal government will claim 1 hour and 47 minutes while state/local needs will take a 58-minute chunk.

Table 3 provides a state-by-state comparison of the Tax Bite in the Eight-Hour Day for federal and state/local taxes. The residents of Connecticut, for example, will need 2 hours and 5 minutes of the workday to pay their federal tax burden—about one half-hour more each day than resident in Mississippi who will work about one and one-half hours to pay Uncle Sam. Looking at the variation in the tax bite at the state/local level, at the low end, individuals in New Hampshire will spend 23 minutes each workday to pay state/local tax obligations while, at the high end, the residents of Hawaii will need a full hour to finish this task.

TABLE 3.—TAX BITE IN THE 8-HOUR DAY: STATE-BY-STATE COMPARISON

[Calendar year 1990]

	Hours: Minutes		
	Total taxes	Federal taxes	State/local taxes
U.S. Total	2 hr:45 min	1 hr:47 min	58 min.
Alabama	2 hr:37 min	1 hr:39 min	58 min.
Alaska	2 hr:50 min	1 hr:40 min	1 hr:10 min.
Arizona	2 hr:43 min	1 hr:43 min	1 hr.
Arkansas	2 hr:32 min	1 hr:36 min	56 min.
California	2 hr:43 min	1 hr:47 min	56 min.
Colorado	2 hr:34 min	1 hr:42 min	52 min.

TABLE 3.—TAX BITE IN THE 8-HOUR DAY: STATE-BY-STATE COMPARISON—Continued

[Calendar year 1990]

	Hours: Minutes		
	Total taxes	Federal taxes	State/local taxes
Connecticut	2 hr:54 min	2 hr:5 min	49 min.
Delaware	3 hr:2 min	1 hr:58 min	1 hr:4 min.
Dist. of Columbia	3 hr:9 min	1 hr:53 min	1 hr:16 min.
Florida	2 hr:40 min	1 hr:48 min	52 min.
Georgia	2 hr:36 min	1 hr:42 min	54 min.
Hawaii	3 hr.	1 hr:42 min	1 hr:18 min.
Idaho	2 hr:30 min	1 hr:36 min	54 min.
Illinois	2 hr:45 min	1 hr:53 min	52 min.
Indiana	2 hr:33 min	1 hr:41 min	52 min.
Iowa	2 hr:32 min	1 hr:38 min	54 min.
Kansas	2 hr:40 min	1 hr:45 min	55 min.
Kentucky	2 hr:36 min	1 hr:36 min	1 hr-.
Louisiana	2 hr:40 min	1 hr:36 min	1 hr:4 min.
Maine	2 hr:41 min	1 hr:40 min	1 hr:1 min.
Maryland	2 hr:53 min	1 hr:52 min	1 hr:1 min.
Massachusetts	2 hr:49 min	1 hr:54 min	55 min.
Michigan	2 hr:42 min	1 hr:49 min	53 min.
Minnesota	2 hr:48 min	1 hr:45 min	1 hr:3 min.
Mississippi	2 hr:25 min	1 hr:31 min	54 min.
Missouri	2 hr:39 min	1 hr:44 min	55 min.
Montana	2 hr:32 min	1 hr:38 min	54 min.
Nebraska	2 hr:31 min	1 hr:41 min	50 min.
Nevada	2 hr:41 min	1 hr:47 min	54 min.
New Hampshire	2 hr:23 min	1 hr:53 min	30 min.
New Jersey	2 hr:49 min	2 hr:1 min	48 min.
New Mexico	2 hr:50 min	1 hr:37 min	1 hr:13 min.
New York	3 hr:8 min	1 hr:53 min	1 hr:15 min.
North Carolina	2 hr:41 min	1 hr:42 min	59 min.
North Dakota	2 hr:33 min	1 hr:37 min	56 min.
Ohio	2 hr:43 min	1 hr:47 min	56 min.
Oklahoma	2 hr:44 min	1 hr:41 min	1 hr:3 min.
Oregon	2 hr:31 min	1 hr:44 min	47 min.
Pennsylvania	2 hr:45 min	1 hr:49 min	56 min.
Rhode Island	2 hr:48 min	1 hr:54 min	54 min.
South Carolina	2 hr:41 min	1 hr:43 min	58 min.
South Dakota	2 hr:24 min	1 hr:34 min	50 min.
Tennessee	2 hr:36 min	1 hr:44 min	52 min.
Texas	2 hr:35 min	1 hr:46 min	49 min.
Utah	2 hr:36 min	1 hr:35 min	1 hr:1 min.
Vermont	2 hr:38 min	1 hr:43 min	55 min.
Virginia	2 hr:37 min	1 hr:44 min	53 min.
Washinton	2 hr:44 min	1 hr:46 min	58 min.
West Virginia	2 hr:38 min	1 hr:37 min	1 hr:1 min.
Wisconisin	2 hr:42 min	1 hr:43 min	59 min.
Wyoming	2 hr:38 min	1 hr:39 min	59 min.

TAX FREEDOM DAY CALCULATION

Tax Freedom Day represents the nation's "effective" tax rate or total taxes as a percentage of total income. For 1990, the Tax Foundation estimates that rate to be 34.1 percent. The associated 1990 tax and income figures for the U.S. as well as each state's share of these totals are presented in table 4. In the state of Missouri, for example, total taxes are $32.1 billion and total state income is estimated at $96.9 billion. Therefore, Missouri's ratio of taxes to income is 33.1 percent—1 percent lower than the 34.1 national average. While the National Tax Freedom Day is May 5, Missouri's lower overall tax rate causes their Tax Freedom Day to occur four days earlier on May 1.

The 1990 estimated totals for federal and state/local tax and income amounts are based on National Income and Product Account (NIPA) data produced by the U.S. Department of Commerce, Bureau of Economic Analysis. The Tax Foundation, in cooperation with other organizations, has developed a special allocation methodology to distribute the total federal and state/local tax burden by state.[1] This allocation determines the geographic origin of taxes to show where the burden of taxes is actually borne. Total income in the Tax Freedom Day analysis is represented by Net National Product (NNP).[2] Each state's share of this income total is allocated based on its specific state product and personal income.

While the results presented in this report are useful in making broad state-by-state comparisons, caution should be used in drawing conclusions from any one table.

A single analysis cannot fully reveal the entire story about a state's taxation. While this analysis specifically examines each state's total tax revenues, states may collect significant amounts of revenues from non-tax sources.

Despite the allocation of each state's tax and income amounts based on their geographic origin, the exact degree of tax burden that a state may export to nonresidents is not quantifiable. For example, a portion of sales tax in a high tourist state will be paid by nonresidents.

Finally, relatively small differences in the tax and income figures between states may cause big differences in rankings.

TAX FREEDOM DAY OUTLOOK

Although the average American will work until May 5 and forfeit over 34 percent of his total income in 1990, the government will spend all that money and more. It should be noted that Tax Freedom Day does not reflect the estimated $124 billion in federal deficit spending for 1990. It can be argued, of course, that the average worker does not have a definite "share" of this deficit and will feel its effect through future increases in the tax burden and/or a weaker economy.

Spending a record 125 days until May 5 to pay off the tax collectors may come as a shock to many Americans. However, the combined pressures of a persistent federal budget deficit, demands to expand funding for new and existing programs, budget crises in numerous states and the slowdown in income growth could easily make Tax Freedom Day even later on our calendars.

TABLE 4.—TAXES AS A PERCENTAGE OF INCOME: STATE-BY-STATE COMPARISON, TOTAL, FEDERAL AND STATE/LOCAL TAXES

[Calendar year 1990]

	Taxes as a percent of total income (billions)			Income (NNP)	Taxes (percent)		
	Total	Federal	State/local		Total	Federal	State/local
U.S. total	$1,689.5	$1,103.7	$585.8	$4,947.9	34.1	22.3	11.8
Alabama	21.1	13.3	7.7	64.4	32.7	20.7	12.0
Alaska	4.9	2.9	2.0	13.9	35.3	20.7	14.7
Arizona	21.5	13.6	7.9	63.6	33.9	21.4	12.5
Arkansas	11.5	7.3	4.2	36.3	31.6	20.1	11.6
California	219.3	143.3	76.0	645.8	34.0	22.2	11.8
Colorado	21.2	14.0	7.2	66.2	32.1	21.2	10.9
Connecticut	32.4	23.3	9.1	89.5	36.2	26.1	10.2
Delaware	5.5	3.5	1.0	14.4	37.9	24.5	13.4
District of Columbia	6.3	3.7	2.5	15.9	39.3	23.4	15.9
Florida	84.5	56.8	27.7	252.7	33.4	22.5	11.0
Georgia	38.5	25.3	13.2	118.6	32.5	21.3	11.2
Hawaii	8.6	4.8	3.7	22.8	37.6	21.2	16.4
Idaho	4.9	3.1	1.8	15.6	31.3	19.9	11.4
Illinois	85.3	58.3	27.0	248.2	34.4	23.5	10.9
Indiana	32.7	21.7	11.0	102.5	31.9	21.2	10.7
Iowa	16.4	10.5	5.9	51.6	31.7	20.4	11.3
Kansas	15.8	10.4	5.4	47.4	33.4	21.9	11.4
Kentucky	19.2	11.9	7.3	59.0	32.6	20.1	12.4
Louisiana	22.7	13.7	9.0	68.2	33.3	20.1	13.2
Maine	7.5	4.7	2.8	22.3	33.6	20.9	12.7
Maryland	39.0	25.2	13.9	108.1	36.1	23.3	12.8
Massachusetts	51.7	34.9	16.8	147.0	35.2	23.7	11.4
Michigan	62.5	41.9	20.6	184.9	33.8	22.7	11.1
Minnesota	31.0	19.4	11.7	88.5	35.1	21.9	13.2
Mississippi	10.9	6.8	4.1	36.2	30.2	18.9	11.3
Missouri	32.1	21.0	11.1	96.9	33.1	21.7	11.5
Montana	4.0	2.6	1.4	12.6	31.7	20.5	11.3
Nebraska	9.0	6.0	3.0	28.7	31.5	21.0	10.5
Nevada	7.8	5.2	2.7	23.3	33.6	22.2	11.4
New Hampshire	7.5	6.0	1.6	25.2	29.9	23.7	6.2
New Jersey	72.0	51.4	20.5	204.1	35.3	25.2	10.1
New Mexico	8.3	4.8	3.6	23.5	35.5	20.3	15.2
New York	164.2	98.4	65.9	419.0	39.2	23.5	15.7
North Carolina	38.4	24.3	14.1	114.9	33.5	21.2	12.3
North Dakota	3.5	2.2	1.3	10.9	32.0	20.1	11.9

[1] Tax Foundation, *The Tax Burden in Relation to National Income and Product, Research Aid No. 4*, 24 pp.

[2] Net National Product (NNP) equals Gross National Product less capital consumption allowances. A technical paper is available which explains why NNP is best for tax burden analysis.

TABLE 4.—TAXES AS A PERCENTAGE OF INCOME: STATE-BY-STATE COMPARISON, TOTAL, FEDERAL AND STATE/LOCAL TAXES—Continued

[Calendar year 1990]

	Taxes as a percent of total income (billions)			Income (NNP)	Taxes (percent)		
	Total	Federal	State/local		Total	Federal	State/local
Ohio	69.6	45.9	23.8	205.2	33.9	22.4	11.6
Oklahoma	18.0	11.0	6.9	52.7	34.1	20.9	13.2
Oregon	15.8	10.9	5.0	50.3	31.5	21.6	9.9
Pennsylvania	81.0	53.2	27.7	235.0	34.5	22.7	11.8
Rhode Island	7.0	4.8	2.2	20.1	34.9	23.8	11.1
South Carolina	18.0	11.4	6.6	53.4	33.6	21.4	12.3
South Dakota	3.4	2.2	1.2	11.3	29.9	19.6	10.3
Tennessee	27.0	18.0	9.1	83.2	32.5	21.6	10.9
Texas	98.4	66.9	31.5	305.7	32.2	21.9	10.3
Utah	8.3	5.0	3.3	25.7	32.4	19.6	12.8
Vermont	3.5	2.3	1.2	10.5	33.0	21.4	11.6
Virginia	42.7	28.3	14.4	130.3	32.8	21.8	11.1
Washington	32.4	20.9	11.5	94.5	34.3	22.1	12.1
West Virginia	8.8	5.4	3.4	26.8	33.0	20.2	12.7
Wisconsin	31.0	19.6	11.3	91.9	33.7	21.4	12.3
Wyoming	2.8	1.7	1.0	8.5	32.8	20.5	12.3

Source: Tax Foundation methodology and published and unpublished data from U.S. Department of Commerce, Bureau of Economic Analysis; and Government Finance Division, Bureau of the Census.

EARTH DAY 1990

Mr. KENNEDY. Mr. President, two decades ago, America witnessed one of the largest peaceful nationwide demonstrations in the country's history. In 1970, the first Earth Day brought together over 20 million Americans in a call to protect our fragile planet and to ensure the preservation of our natural resources.

In response to the widespread concern for the environment demonstrated on that historic day, Congress established the Environmental Protection Agency and enacted a far-reaching series of measures designed to reduce the pollution of our lakes, rivers, and oceans, and to clean up dangerous toxic wastesites. We were also spurred to take the first important steps in addressing the increasingly serious problem of air pollution.

Today, as we pay tribute to the successes of the past 20 years, we also recognize the major challenges that lie ahead. We must do a better job of addressing urgent contemporary environmental problems such as smog in our cities, toxic waste dumps leaching poisons into our ground water, pesticides contaminating our food supply, the solid waste disposal crisis, the acid rain destroying our forests and lakes, oil spills threatening our coastlines, the continuing depletion of our wetlands, and the overdevelopment of our public lands. And we know now, better than we realized in 1970, that many of the critical environmental challenges we face are global in scope. Ozone depletion, global warming, destruction of the rain forests, and the greenhouse effect have captured the public consciousness. They are universal threats to all of us and to all future generations, because they jeopardize the very future of our planet.

To deal effectively with these concerns, we need a bold and creative vision, strong leadership, and a national and international commitment to make greater progress toward our goals. As America moves from a cold war economy to a peacetime economy, we have an unprecedented opportunity to take the lead in devoting greater national attention and resources to cleaning up our environment. Doing so is a wise investment in our Nation's future. It is sound environmental policy, and sound economic policy too. As just one example, more and more firms are finding that energy efficiency improvements mean not only reduced air pollution but also lower operating costs, thereby enabling the firms to create new jobs and expand their facilities.

The environmental challenges we face must be addressed at every level—in the legislative arena, in the corporate boardroom, in educational institutions, and in the everyday choices each citizen makes.

Earth Day 1990 is both a celebration of the achievements of the past 20 years and a blueprint for the next 20 years. It promises to lay the foundation for a new generation of environmental awareness and progress. The 100 million people in 122 countries participating in Earth Day events this week are sending a strong signal of broad global support for urgently needed environmental measures.

I am proud to be a sponsor of the Senate resolution designating April 22 as Earth Day 1990, and I salute all those in Massachusetts and across the Nation and the globe for their efforts. We have set the stage for the progress we must achieve together if we are to be faithful to our stewardship of our common planet Earth. The challenge we face is clear. It is up to us to meet it.

PROGRESS SEEN IN HOSTAGE SITUATION—THE CAPTIVITY OF TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,860th day that Terry Anderson has been held in captivity in Beirut.

I make this announcement today—indeed, as I do every day—with a heavy heart, knowing of the hostages' suffering and of their families' grief. But on this day, the burden seems not so heavy as in days past. Real progress concerning the hostage situation appears to be taking place.

As my colleagues now know, the pro-Iranian group, the Islamic Jihad for the Liberation of Palestine, has declared that they would release by Friday one of the three Americans they are holding hostage. Those Americans are Jesse Turner, Robert Polhill, and Alann Steen.

Mr. President, we have been encouraged by such news before, but never by any so seemingly lucid and forthright. We can only hope for the sake of the hostages and their families that this time the reports prove true. We wait.

I ask unanimous consent that the New York Times article concerning the statement by the Islamic Jihad as well as the text of the statement be printed at this point in the RECORD. I would also think it appropriate at this time to include in the RECORD the names of all the American hostages in Lebanon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 19, 1990]

MILITANTS PROMISE TO FREE AMERICAN—A PRO-IRANIAN GROUP PLEDGES "GOOD WILL" ACT IN BEIRUT

(By Youssef M. Ibrahim)

PARIS, April 18.—A pro-Iranian group believed to be holding three American hostages in Beirut said today that it would release one of them within 48 hours.

The group, the Islamic Holy War for the Liberation of Palestine, said it was acting in response to "urgent appeals by officials of the Islamic Republic of Iran for a good-will initiative in order to close the hostage file."

News agencies in Beirut said the group's handwritten statement was delivered to the Beirut newspaper Al Nahar and to a Western news agency.

BAKER REACTS CAUTIOUSLY

The statement was accompanied by a photograph of Jesse Turner, 42 years old, who was a professor at Beirut University College when he was taken hostage in January 1987. Islamic Holy War has also said it is holding Alann Steen, 50, and Robert Polhill, 54, both of whom were professors at the University College. Experts on Iranian affairs speculated that the hostage to be released was Mr. Turner.

In its statement, Islamic Holy War said that it would like John H. Kelly, the United States Assistant Secretary of State for Near Eastern Affairs, to be on hand in Damascus, Syria, to "coordinate final measures necessary for the success of the release within 48 hours."

In Washington, Secretary of State James A. Baker 3d reacted cautiously to the reports and said there were no plans to send Mr. Kelly, who is in Bonn, to Damascus.

Iranian affairs experts said the formal linking of Iran's name to the pro-Iranian groups said to be holding hostages, and the positive reference to resolving the matter, was a notable change. Iran has previously denied all formal ties to the pro-Iranian groups, who are believed to be holding 18 Western hostages, including 8 Americans.

SYRIAN EFFORTS NOTED

Senior Arab government officials said the move also underlined Syria's wish to improve its ties to the West and its role in the release of hostages held by pro-Iranian militias.

In its statement, Islamic Holy War emphasized "the permanent Syrian efforts in this line," and a senior Palestinian official said tonight that "the whole thing has been cooked up by the Syrians."

Irfan Parviz, the editor of the Teheran Times, the first Iranian publication to call for the release of foreign hostages, also said Syria had helped bring about the development.

"I am really happy," Mr. Parviz said in a telephone interview from his home in the Iranian capital. "I can say it is the beginning and there will be more good news in the pipeline." The Teheran Times is known for its close ties to the Iranian Foreign Minister and President Hashemi Rafsanjani.

The move by Islamic Holy War gives support to the view that the so-called pragmatic faction of the Iranian Government led by President Rafsanjani may have settled a long-running power struggle in Teheran to its advantage.

"I think it does in fact mean that Rafsanjani and company are winning," said Gary Sick, an Iranian affairs expert formerly on the United States National Security Council who handled the first hostage crisis when American diplomats were taken prisoner in Teheran in 1979.

"A HUMANITARIAN GESTURE"

Mr. Parviz said the expected release of American hostages was because of Mr. Rafsanjani's efforts. He dismissed all notions of opposition to the Iranian President's decision to end the hostage question as a "fiction" of the Western press.

"Everything has always been under his control," Mr. Parviz said, adding, "It is a humanitarian gesture to which America can respond by ending its hostile attitude towards Iran."

Mr. Rafsanjani and his supporters in the Iranian Government have long advocated a resolution of the hostage issue to allow Iran to pursue the normalization of relations with Western countries, a process that began with France in 1988 when all French hostages held by pro-Iranian militias were released.

On March 21, Iran began a five-year development program for which it says it needs $27 billion in foreign credits and in hard currency.

Mr. Sick said the Bush Administration should respond to the potential release of an American hostage with "a gesture, but only a small one," adding that the Iranians have begun a long process of negotiations.

"The bottom line is that Rafsanjani wants to see the hostage business ended, not for humanitarian reasons, but so as to get on with his economic programs and to get access to United States technology, particularly in the area of improving Iran's oilfields," Mr. Sick said in a telephone interview tonight.

Arab diplomats noted that the goodwill gesture toward the West comes when Iraq, an enemy of Iran and Syria, finds its relations with the West deteriorating after a long period of improvement that started when the Iraq-Iran war began in 1980.

Virtually all Iranian affairs experts consulted said the offer to release an American hostage and the way it was announced strongly suggested that Iran expects countersteps by the United States.

The United States has repeatedly vowed not to bargain over the release of hostages. For its part, Iran has often asked for the return of Iranian Government funds frozen in the United States.

The statement by the terrorist organization strongly suggested that the move came after negotiations it described as assuring "a fruitful solution for all parties." It said that "all those who should be consulted were unanimous that fruitful and convincing formulas should be sought."

"AN IMPLICIT BARGAIN"

The group also said it was moving to liberate an American hostage "on the basis of reciprocal positive action from the other party to speed the issue toward a happy ending," suggesting that some bargaining over Iranian demands had taken place or was expected.

Mr. Sick and a number of other Iranian affairs experts said they felt some kind of talks between the Bush Administration and the Iranian Government must have taken place. "I don't really know, but I feel there is here an implicit bargain," Mr. Sick said.

Although little is known about Islamic Holy War, it is generally acknowledged that all the pro-Iranian groups holding hostages fall under the umbrella of a Shiite Muslim Lebanese organization known as the Party of God. The group is financed by Iran, but also has ties with Syria, which controls some of Iran's access to Lebanon.

Islamic Holy War said today that it had proposed a way for the United States to respond to its offer in a "a verbal message which will be carried to President Bush."

The statement added, "We wish the humanitarian aspect of this move to be balanced from both sides as a condition for it to move forward, otherwise there is no point in advancing from one side."

On March 15, Islamic Holy War threatened in a statement in Beirut to kill all three hostages unless the United States met its demands. It also threatened to blow up planes carrying Jewish Russian immigrants to Israel.

The group previously offered to trade the three professors for 400 Arabs held in Israeli jails. Israel rejected the proposal.

[From the New York Times, Apr. 19, 1990]

HOSTAGE STATEMENT ISSUED BY MILITANTS

BEIRUT, LEBANON, April 18 (Reuters).—Following is the text of a statement received today by a Western news organization in Beirut, as translated from the Arabic by Reuters. The statement was accompanied by a photograph of an American hostage, Jesse Turner.

The Islamic Holy War for the Liberation of Palestine organization continues the struggle to accomplish its sacred aims.

To achieve the goals for which the captives were held, after the hostage issue was set on an overall positive path to reach a fruitful solution for all parties and all those who should be consulted were unanimous that fruitful and convincing formulas should be sought, Islamic Holy War for the Liberation of Palestine announces the following:

First, in response to the wishes of Islamic leaders and urgent appeals by officials of the Islamic Republic of Iran for a good-will initiative in order to close the hostage file, and without forgetting the permanent Syrian efforts in this line, we have decided to free one American hostage within 48 hours on the basis of reciprocal positive action from the other party to speed the issue toward a happy ending.

Second, we wish the humanitarian aspect of this move to be balanced from both sides as a condition for it to move forward, otherwise there is no point in advancing from one side. We only responded to such wishes from a belief in reaching the solution as it has been proposed and on the basis of the verbal message which will be carried to President Bush. We are ready for either a positive response or escalation and the other party has to choose.

Third, to coordinate final measures necessary for the success of the release within 48 hours, John Kelly should come to Damascus to coordinate some final steps.

Peace on he who serves the right for the sake of right.

The Islamic Holy War for the Liberation of Palestine.

[From the New York Times, Apr. 19, 1990]

THE AMERICAN EIGHT

Terry A. Anderson—Chief Middle East correspondent of The Associated Press; missing since March 16, 1985.

Thomas M. Sutherland—Dean of agriculture at the American University of Beirut; missing since June 9, 1985.

Frank Herbert Reed—Director of the Lebanon International School in Beirut; missing since Sept. 9, 1986.

Joseph James Cicippio—Deputy controller of the American University of Beirut; missing since Sept. 12, 1986.

Edward Austin Tracy—Author and book salesman; missing since Oct. 21, 1986.

Robert Polhill—Assistant professor of business at Beirut University College; missing since Jan. 24, 1987.

Alann Steen—Journalism professor at Beirut University College; missing since Jan. 24, 1987.

Lieut. Col. William R. Higgins, a Marine officer who had headed an observer group attached to the United Nations Interim Force in Lebanon, is believed dead. He was taken hostage Feb. 17, 1988.

"REPEAL OF THE ZIONISM RESOLUTION"

Mr. MOYNIHAN. Mr. President, on March 30 the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations held a hearing on the infamous United Nations resolution equating Zionism with racism. For a decade and a half that Resolution 3379 has tarnished the image of the United Nations in the eyes of the world and rendered the General Assembly totally incapable of playing any constructive role in the search for peace in the Middle East.

It is an unfortunate fact that this resolution was adopted with the support of a large number of nations which receive financial assistance from the United States. Is it possible that the depth of anger Americans feel concerning this resolution has not been explained to these erstwhile friends of the United States, the recipients of our aid? Mr. President, Resolution 3379 must go. I believe that there has been some movement towards its repeal and I encourage the administration to continue to work with our friends and allies—and nations receiving United States aid—to repeal what Andrei Sakharov rightly called an abomination.

Mr. President, following the March 30 hearing, Assistant Secretary of State for International Organizations John Bolton provided me with a list of nations which voted in favor of Resolution 3379 and which presently receive U.S. foreign aid. I ask unanimous consent that this list be printed in the RECORD at this point along with an excellent article on this subject written by Mr. Stephen S. Rosenfeld which appeared in the Washington Post on April 13 under the title "The Zionism Card."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Response to Senator Moynihan's March 30 question to Assistant Secretary of State Bolton: List of countries receiving USG assistance in FY 90 (including Development Assistance, PL-408, Economic Support Funds, FMS and IMET) that voted for the 1975 UN Resolution 3379 equating Zionism with racism.

NEAR EAST/SOUTH ASIA

Afghanistan (Afghan Humanitarian)
Algeria (IMET only)
Bangladesh
Egypt
India
Jordan
Lebanon
Maldives (IMET only)
Morocco
Oman
Pakistan
Sri Lanka
Tunisia
N. Yemen

EUROPE

Cyprus
Hungary
Malta (IMET only)
Portugal
Turkey
Yugoslavia (IMET only)

LATIN AMERICA

Brazil
Guyana
Mexico

AFRICA

Burundi
Cameroon
Congo
Equatorial Guinea
Gambia
Guinea
Guinea Bisseau
Madagascar
Mali
Mauritania
Mozambique
Niger
Nigeria
Rwanda
Sao Tome
Senegal
Somalia
Tanzania
Uganda

EAST ASIA AND PACIFIC

Indonesia
Malaysia (IMET only)

[From the Washington Post, Apr. 13, 1990]

THE ZIONISM CARD

(By Stephen S. Rosenfeld)

If there was ever to be any redeeming quality to the United Nations' Zionism-is-racism resolution of 1975, it lay in undoing this little emblem of political antisemitism at a moment when the reversal might make its own contribution to Middle East peace.

Not that the grim mischief of 15 years can be whited out: the self-blinding of Arab minds to the requirement of coming to terms with Israel, the hardening of Israeli hearts against the requirement of coming to terms with Palestinian nationalism, the wasting of the United Nations as a forum where serious people would bring serious problems and the continuing incapacity of the U.N. to deal with the Arab-Israeli dispute.

Nonetheless, it was worth hoping, once the current international thaw started touching the edges of the still largely frozen Mideast, that the principal keepers of the anti-Zionist flame would find some ways to limit the damage.

The answer so far is that it isn't happening. Collectively, the Arab states and the bureaucrats and intellectuals who have invested some part of their careers in waging the struggle against Zionism have shrunk from their evident responsibility to help the PLO negotiate a settlement with Israel.

More Catholic than the pope, they have allowed a gap to develop between their positions and those of the PLO. In the case of the Zionism resolution, for instance, the PLO itself has already formally accepted the idea of a two-state solution. This is a result obviously inconsistent with the ideological rejection of the Jewish state that is the essence of this unhappy resolution. But it makers refuse to let it go.

The Israelis have their own mistakes to answer for. In this matter, however, it is notable that so much of the Arab establishment seems caught in a 1970s time warp. To signs of gathering American interest in reversing the resolution, representatives of this establishment respond 1) with abuse for the motives of interested Americans and 2) with threats to rehearse and update the whole dreary litany of complaints of 1975. Rather than review their own position, they attempt to put the onus on those in Congress and the Bush administration who want to set matters straight.

Right now the United States is consulting with other governments to see if the votes are there to overhaul the resolution in the General Assembly next fall. Some help is expected in the countries of the old Soviet bloc, although the Soviet Union itself, notwithstanding its smiles and promises, has yet to take a forthright stand against the resolution—a particularly reprehensible lapse when you consider the Kremlin's responsibility for giving this resolution currency and political thrust 15 years ago.

In the Third World, some governments, especially in Latin America, are now embarrassed by their contribution to the anti-Israeli frenzy of the 1970s, but hesitate to concede they acted foolishly. Many of the 40-odd African states are still allowing themselves to be manipulated by '70s-style Arab pleadings and blandishments. Sen. Daniel Patrick Moynihan has sent a useful chill through some of these precincts by raising the question of the continuance of American aid.

Discreet to an extent that practically invites Arab huff and puff, the Americans don't want to charge into battle unless they're sure of a comfortable victory. Ditto the Israelis. In the U.N. Secretariat can be heard the quiet suggestion that an effort to waken this particular sleeping dog could end up simply rousing an excitable American public to start bashing the U.N. again.

But why should the Palestinians, who are otherwise in the historic process of taking their destiny into their own hands, leave this particular U.N. issue in the hands of others? If they applied a little imagination, they would realize that they had a pretty good card to play—certainly a card too important to be left in the hands of ostensible patrons who have their own fish to fry. They could hold this card for a prospective negotiating endgame with the Israelis, in which case its value would considerably diminish. Better, I think, to play it now.

These months of global, regional and national transition constitute a moment of truth for Israelis. Can they pull themselves together and join the Palestinians in seeking a compromise way? This is one of those occasions where adversaries must see their interest in reaching out to build confidence in each other.

The Zionism resolution has symbolized Israel's rejection, abandonment and isolation by the full community of nations. To be ushered back into that community, by the Palestinians no less, could be a gesture of peace for which they could expect to be repaid many times.

DOCUMENTS UNCOVERED BY THE YIVO INSTITUTE

Mr. MOYNIHAN. Mr. President, my good friend New York State Attorney General Robert Abrams has recently shared some exciting news with me that I think will be of interest to the Members of the Senate.

One of the most significant pre-war archives documenting Jewish life in Eastern Europe was collected by the YIVO Institute for Jewish Research during the 1920's and 1930's in Vilnius,

Lithuania. About half of the materials were recovered after the war, and restored to YIVO in New York. The other half was long thought by YIVO to have been destroyed by the Nazis. Only recently the remarkable news was received that a substantial portion of all the missing files have recently been located in Vilnius.

The YIVO Institute of Jewish Research is a major center for the study of the history and culture of Jews in Eastern Europe and America. Founded in Vilnius in 1925, it quickly brought together the largest library and archives in the world documenting the life and creativity of contemporary Jewry. When World War II began, YIVO moved its headquarters from Vilnius to New York. The few YIVO scholars who escaped occupied Europe found refuge in New York but without managing to bring the archives; they watched helplessly as the Jews of Europe were destroyed, and with them, the institution the scholars had built in Vilnius.

In 1945, about half of YIVO's Vilnius library and archives was found in the ruins of Frankfurt. The Germans had confiscated the materials for a planned Nazi "Institute for Research on the Jewish Questions." With the help of our State Department, which recognized YIVO's right to materials, some 50,000 books and 30,000 files of archival documents were returned to YIVO's headquarters in New York.

Jewish survivors from Vilnius told of other parts of YIVO's collections that had been smuggled out of YIVO, and hidden in the ghetto. These were taken in the custody of a newly created Jewish Museum in Vilnius in 1945. Four years later, Stalin's orders closed the museum and other Jewish institutions. In 1953, during the last days of Stalin's terror, when an order was given to destroy Jewish books and documents, local non-Jewish librarians and archivists saved them. But the fate of the collections was hidden, and nothing more was heard of these materials.

The awakending that has swept the Soviet Union and Eastern Europe has produced a startling revolution: most of the "other half" of YIVO's prewar library and archives have survived, and YIVO is taking steps to recover its archives. The Jewish community of Vilnius invited Mr. Samuel Norich, YIVO's executive director, for several visits during the past year. In February, Mr. Norich and Mr. Mark Web, YIVO's chief archivist, were shown Jewish books and documents, and among them Mr. Web found the "other half" of the YIVO collections, including missing parts from manuscripts and documents which had been restored to YIVO from Frankfurt. YIVO was offered copies of collections, but it was refused its basic request: that its collections be returned. YIVO was prepared to leave its books and newspaper files at a soon-to-be-reestablished Jewish Museum in Vilnius, when it brings its documentary collections to New York, for integration into its pre-war archives. YIVO was prepared to microfilm those archives in their entirety, and to give a microfilm of the integrated archives, along with ongoing technical assistance, to archives in Vilnius.

Mr. Norich and Mr. Bruce Slovin, the next chairman of YIVO, are now traveling to Vilnius, with Moscow's permission. YIVO hopes—and we strongly join them in that hope—that a historic agreement can be reached during this visit which enables YIVO to reclaim promptly the other half of its archival collections.

I ask unanimous consent that Attorney General Abrams' letter concerning the YIVO archives be reprinted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, March 21, 1990.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senator, Russell Senate Office Building, Washington DC.

Dear PAT: It gives me great pleasure to bring to your attention a unique and historic opportunity for the Yivo Institute for Jewish Research located today in New York City. Founded in Vilna in 1925, Yivo was the preeminent intellectual center for documenting contemporary Jewry before World War II. This remarkable cultural institution was destroyed by the Nazis and it was presumed that at least half of its original holdings perished in the Holocaust.

Last year Yivo was stunned to learn that large portions of the institute's original collection had been preserved in Lithuania. As a result of the political changes in the Soviet Union, those aware of the existence of these enormously important archives contacted Yivo. Yivo has now entered into negotiations with the new leaders of Lithuania. It is my fervent hope that these historic documents will be returned to their original owners, the Yivo Institute, which will truly be a hallmark symbolizing a new era of freedom and cooperation.

I would appreciate your bringing this exciting and historic opportunity to the attention of your colleagues. This cultural exchange of great significance is yet another example of what can happen as a result of the changes taking place in Eastern Europe and the Soviet Union.

With warmest personal regards.

Sincerely,

ROBERT ABRAMS.

THE 57TH ANNIVERSARY OF THE CIVILIAN CONSERVATION CORPS

Mr. THURMOND. Mr. President, I rise today to recognize a group of men and women whose hard work and accomplishments from 1933 to 1942 are still being felt by virtually every American. I am referring to the Civilian Conservation Corps [CCC] which was established by President Franklin Roosevelt in March 1933. It was the first New Deal agency specifically charged with providing relief for unemployed young people and veterans as a result of the Depression of the 1930's. Gov. Carroll Campbell of my State of South Carolina has formally proclaimed the month of April 1990 as "National Civilian Conservation Corps History Month."

Between 1933 and 1942, more than 4 million men and women were enrolled in the CCC. Enrollees ranged from age 17 to veterans of World War I in their thirties and forties. Camps were in every State plus Puerto Rico and the Virgin Islands, working on over 100 different kinds of projects. These men and women were responsible for building, rebuilding, planting, protecting and restoring our Nation's natural resources. Some 4,000 fire observation towers were constructed, 3 billion trees were planted, miles of telephone lines were installed, and many forest trails were constructed. The enrollees planted nearly 3 billion trees, constructed over 150,000 miles of trails and roads, stretched over 85,000 miles of telephone lines, erected 4,000 fire towers, and built approximately 45,000 bridges and many buildings. Enrollees, who usually lived in camps of 200 people each, were paid $30 monthly for their work, $25 of which was sent home to their families. The Civilian Conservation Corps was abolished in 1942, not because of unpopularity, but because growing reemployment caused by World War II and the end of the Depression rendered its continued existence unnecessary. The CCC gave many unemployed Americans the opportunity to work due to the adverse effects of the Depression. The accomplishments of the CCC are still being experienced today.

Mr. President, I ask unanimous consent that the text of the proclamation of "Civilian Conservation Corps History Month" be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION BY GOVERNOR CARROLL A. CAMPBELL JR., ON CIVILIAN CONSERVATION CORPS HISTORY MONTH

Whereas the Civilian Conservation Corps was an Act of Congress signed into law by President Franklin Delano Roosevelt on March 30, 1933; and

Whereas April 1990 is the 57th anniversary of the CCC, in which nearly four million men and women were enrolled from 1933 to 1942; and

Whereas enrollees of the CCC ranged from youths under the age of 18 to veterans of World War I in their 30s and 40s, with camps in every state plus Puerto Rico and Virgin Islands, working on over 100 different kinds of projects; and

Whereas by recording the potency, power and spirit of the CCC our national fibre, morals, conduct, beliefs, patriotism, and

character may be influenced and strengthened.

Now, therefore, I, Carroll A. Campbell, Jr., Governor of the state of South Carolina, do hereby proclaim April, 1990 as "Civilian Conservation Corps History Month" in the state of South Carolina.

DISCLOSURE OF 1989 FEDERAL AND STATE TAX RETURNS

Mr. CRANSTON. Mr. President, in keeping with my practice of making my income tax returns public, I am placing my 1989 Federal Form 1040 and California Form 540 returns in the CONGRESSIONAL RECORD. I ask unanimous consent that my returns be printed at this point in the RECORD.

There being no objection, the returns were ordered to be printed in the RECORD, as follows:

FORM 1040—U.S. INDIVIDUAL INCOME TAX RETURN 1989

Your first name and initial: Alan Cranston.

Your [redacted] xxx-xx-xxxx.

PRESIDENTIAL ELECTION CAMPAIGN

Do you want $1 to go to this fund? Yes.

FILING STATUS

1. Single.

EXEMPTIONS

6a. Yourself.

6e. Total number of exemptions claimed, 1.

INCOME

7. Wages, salaries, tips, etc., $90,488.

8. Taxable interest income (also attach Schedule B if over $400), $25,485.

9. Dividend income (also attach Schedule B if over $400), $9,711.

13. Capital gain or (loss) (attach Schedule D), ($3,000).

17a. Total pensions and annuities, $66,256.

17b. Taxable amount, $65,886.

18. Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E), $92,810.

21a. Social security benefits, $18,636.

21b. Taxable amount, $9,318.

22. Other income (list type and amount) schedule attached, $1,500.

23. Add the amounts shown in the far right column for lines 7 through 22. This is your total income: $292,198.

ADJUSTED GROSS INCOME

31. $292,198.

TAX COMPUTATION

32. Amount from line 31 (adjusted gross income), $292,198.

33a. Check if: You were 65 or older.

34. Enter the larger of: Your standard deduction (from page 17 of the Instructions), or your itemized deductions (from Schedule A, line 26), $37,320.

35. Subtract line 34 from line 32. Enter the result here, $254,878.

36. Multiply $2,000 by the total number of exemptions claimed on line 6e, $2,000.

37. Taxable income. Subtract line 36 from line 35. Enter the result (if less than zero, enter zero), $252,878.

38. Enter tax. Check if from: b. Tax Rate Schedules, $71,366.

40. Add lines 38 and 39. Enter the total, $71,366.

46. Add lines 41 through 45. Enter the total, 0.

47. Subtract line 46 from line 40. Enter the result (if less than zero, enter zero), $71,366.

53. Add lines 47 through 52. Enter the total, $71,366.

55. Add lines 53 and 54. This is your total tax and any supplemental Medicare premium, $71,366.

PAYMENTS

56. Federal income tax withheld, $18,733.

57. 1989 estimated tax payments and amount applied from 1988 return, $68,660.

63. Add lines 56 through 62. These are your total payments, $87,393.

REFUND OR AMOUNT YOU OWE

64. If line 63 is larger than line 55, enter amount overpaid, $16,027.

66. Amount of line 64 to be applied to your 1990 estimated tax, $16,027.

SCHEDULES A&B (Form 1040) Schedule A—Itemized Deductions, 1989

Name(s) shown on Form 1040: Alan Cranston.

Your [redacted] xxx-xx-xxxx.

TAXES YOU PAID

5. State and local income taxes, $28,603.

6. Real estate taxes, $2,196.

8. Add the amounts on lines 5 through 7. Enter the total here. Total taxes, $30,799.

INTEREST YOU PAID

9a. Deductible home mortgage interest (from Form 1098) that you paid to financial institutions. Report deductible points on line 10, $4,623.

12a. Personal interest you paid $4,490.

12b. Multiply the amount on line 12a by 20% (.20). Enter the result, $898.

13. Add the amounts on lines 9a through 11, and 12b. Enter the total here. Total interest, $5,521.

GIFTS TO CHARITY

14. Contributions by cash or check. (If you gave $3,000 or more to any one organization, show to whom you gave and how much you gave.), $1,000.

17. Add the amounts on lines 14 through 16. Enter the total here. Total contributions, $1,000.

JOB EXPENSES AND MOST OTHER MISCELLANEOUS DEDUCTIONS

20. Unreimbursed employee expenses—job travel, union dues, job education, etc. (You must attach Form 2106 in some cases. See instructions.), $3,348.

21. Other expenses (investment, tax preparation, safe deposit box, etc.) List type and amount. Schedule attached, $1,373.

22. Add the amounts on lines 20 and 21. Enter the total, $4,721.

23. Multiply the amount on Form 1040, line 32, by 2% (.02). Enter the result here, $5,842.

24. Subtract line 23 from line 22. Enter the result. If zero or less, enter 0.

TOTAL ITEMIZED DEDUCTIONS

26. Add the amounts on lines 4, 8, 13, 17, 18, 19, 24, and 25. Enter the total here. Then enter on Form 1040, line 34, the larger of this total or your standard deduction from page 17 of the Instructions, $37,320.

SCHEDULE B—INTEREST AND DIVIDEND INCOME

PART I: INTEREST INCOME

2. Other interest income. (List name of payer.) Schedule attached, $25,485.

3. Add the amounts on lines 1 and 2. Enter the total here and on Form 1040. line 8a, $25,485.

PART II: DIVIDEND INCOME

4. Dividend income. (List name of payer—include on this line capital gain distributions, nontaxable distributions, etc.) Schedule attached, $9,711.

5. Add the amounts on line 4. Enter that total here, $9,711.

8. Add the amounts on line 6 and 7. Enter the total here, $0.

9. Subtract line 8 from line 5. Enter the result here and on Form 1040, line 9, $9,711.

SCHEDULE D (FORM 1040) CAPITAL GAINS AND LOSSES, 1989

Name(s) shown on Form 1040: Alan Cranston [redacted] xxx-xx-xxxx

PART II LONG-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD MORE THAN ONE YEAR

9a. Stocks, Bonds, and Other Securities (Include all Form 1099–B transactions. See Instructions.): Partnership liquidations—Schedule attached, $5,733.

16. Add all of the transactions on lines 9a, 9b, and 9d and lines 10 through 15 in columns (f) and (g), $5,733.

17. Net long-term gain or (loss), combine columns (f) and (g) of line 16, ($5,733).

PART III SUMMARY OF PARTS I AND II

18. Combine lines 8 and 17, and enter the net gain or (loss) here. If result is a gain, stop here and also enter the gain on Form 1040, line 13. If the result is a (loss), go to line 19 ($5,733).

19. If line 18 is a (loss), enter here and as a (loss) on Form 1040, line 13, the smaller of: a. The (loss) on line 18; or b. ($3,000) or, if married filing a separate return, ($1,500). ($3,000).

PART IV FIGURE YOUR CAPITAL LOSS CARRYOVERS FROM 1989 TO 1990

Section A.—Figure Your Carryover Limit

20. Enter taxable income or loss from Form 1040, line 37. (If Form 1040, line 37, is zero, see the instructions for the amount to enter.)

Note: For lines 21 through 36, treat all amounts as positive, $252,878

21. Enter the loss shown on line 19, $3,000.

22. Enter the amount shown on Form 1040, line 36, $2,000.

23. Combine lines 20, 21, and 22. If zero or less, enter zero, $257,878.

24. Enter the smaller of line 21 or line 23, $3,000.

Section C.—Figure Your Long-Term Capital Loss Carryover

(Complete this section only if there is a loss shown on line 17 and line 19.)

30. Enter the loss shown on line 17, $5,733.

32. Enter the amount shown on line 24, $3,000.

34. Subtract line 33 from line 32. If zero or less, enter zero, $3,000.

35. Add lines 31 and 34, $3,000.

36. Subtract line 35 from line 30. If zero or less, enter zero. This is your long-term capital loss carryover from 1989 to 1990, $2,733.

SCHEDULE E (FORM 1040) SUPPLEMENTAL INCOME AND LOSS, 1989

Name(s) shown on return: Alan Cranston.

INCOME OR LOSS FROM RENTALS AND ROYALTIES

1. Show the kind and location of rental property: A. Schedule attached.

2. For each rental property listed on line 1, did you or your family use it for personal purposes for more than the greater of 14 days or 10% of the total days rented at fair rental value during the tax year? N/A.

3. For each rental real estate property listed on line 1, did you actively participate in its operation during the tax year? (see instructions.) Yes.

RENTAL AND ROYALTY INCOME

4. Rents received, $164,360.

20. Add lines 6 through 19, $42,589.

21. Depreciation expense or depletion (see Instructions), $6,081.

25. Income. Add rental and royalty income from line 23. Enter the total income here, $115,690.

27. Combine amounts on lines 25 and 26. Enter the net income or (loss) here, $115,690.

29. Total rental and royalty income or (loss). Combine amounts on lines 27 and 28. Enter the result here. If Parts II, III, and IV on page 2 do not apply to you, enter the amount from line 29 on Form 1040, line 18. Otherwise, include the amount from line 29 in the total on line 42 on page 2, $115,690.

INCOME OR LOSS FROM PARTNERSHIPS AND S CORPORATIONS

30(a). Name: Simi-Moorepark Freeway.

(d). Employer identification number: 95-6230970. Investment At Risk, (e) All is at risk.

Nonpassive Income and Loss

(k). Nonpassive income from Schedule K-1: $14.

32. Add amounts in columns (h) and (k) of line 31a. Enter the total income here, $14.

34. Total partnership and S corporation income or (loss). Combine amounts on lines 32 and 33. Enter the result here and include in the total on line 42 below, $14.

INCOME OR LOSS FROM ESTATES AND TRUSTS

35(a). Name: Alan Cranston Qualified Blind Trust.

(b) Employer identification number: 95-6386948.

Passive Income and Loss

(c) Passive deduction or loss allowed from Form 8582, $22,894.

36b. Totals, $22,894.

38. Add amounts in columns (c) and (e) of line 36b. Enter the total here, ($22,894).

39. Total estate and trust income or (loss). Combine amounts on lines 37 and 38. Enter the result here and include in the total on line 42 below, ($22,894).

SUMMARY

42. Total income or (loss). Combine amounts on lines 29, 34, 39, and 41. Enter the result here and on Form 1040, line 18, $92,810.

FORM 2106, EMPLOYEE BUSINESS EXPENSES, 1989

Your name: Alan Cranston.

[redacted]

Occupation in which expenses were incurred: United States Senator.

EMPLOYEE BUSINESS EXPENSES

Step 1—Enter Your Expenses

1. Vehicle expense from line 28 or line 34, $43.

3 Travel expense while away from home overnight, including lodging, airplane, car rental, etc. Do not include meals and entertainment, $8,898.

4. Business expenses not included on lines 1 through 3. Do not include meals and entertainment, $9,462.

5. Meals and entertainment expenses. (See the separate Instructions), $299.

6. Add lines 1 through 5 and enter the total expenses here, $18,403 plus $299.

Step 2—Enter Amounts Your Employer Gave You For Expenses Listed in Step 1

7. Enter amounts employer gave you that were not reported to you on Form W-2 (See Instructions), $16,279 plus $299.

9. Add the amounts on lines 7 and 8. Enter the total here, $16,279 plus $299.

Step 3—Figure Expenses To Deduct on Schedule A (Form 1040)

10. Subtract line 9 from line 6, $2,124.

12. Subtract line 11 from line 10, $2,124.

13. Add the amounts on line 12 of both columns and enter the total here. Also enter the total on Schedule A (Form 1040), line 20. (Qualified performing artists and handicapped employees, see the separate Instruction for special rules on where to enter the total), $2,124.

FORM 4562, DEPRECIATION AND AMORTIZATION, 1989

Name(s) as shown return: Alan Cranston.

Business or activity to which this form relates: Real Estate Rentals.

DEPRECIATION

Section A—Election To Expenses Depreciable Assets (Section 179)

1. Maximum dollar limitation, $10,000.

3. Threshold cost of section 179 property before reduction in limitation, $200,000.

Section B—MACRS Depreciation

13h. Nonresidential real property (g) Depreciation deduction, $6.

Section C—ACRS and/or Other Depreciation

18. ACRS and/or other depreciation (see instructions), $6,075.

19. Total (Add deductions on line 11 and lines 13 through 18.) Enter here and on the appropriate line of your return (Partnerships and S corporations—see instruction), $6,081.

FORM 6251, ALTERNATIVE MINIMUM TAX—INDIVIDUALS, 1989

Name(s) shown on Form 1040; Alan Cranston [redacted].

1. Taxable income from Form 1040, line 37 (can be less than zero), $252,878.

2. Net operating loss deduction, if any, from Form 1040, line 22. (Enter as a positive amount), 0.

3. Add lines 1 and 2, $252,878.

4. Adjustments: (See Instructions before completing):

b. Personal exemption amount from Form 1040, line 36, $2,000.

e. Taxes from Schedule A (Form 1040), line 8, $30,799.

g. Personal interest from Schedule A (Form 1040), line 12b, $898.

i. Combine lines 4a through 4h, $33,697.

u. Combine lines 4j through 4t, 0.

5. Tax preference items: (See Instructions before completing.):

d. Add lines 5a through 5c, 0.

e. Accelerated depreciation of real property placed in service before 1987, $1,308.

i. Add lines 5e through 5h, $1,308.

6. Combine lines 3, 4i, 4u, 5d, and 5i, $287,883.

7. Alternative tax net operating loss deduction. (Do not enter more than 90% of line 6.) See Instructions, 0.

8. Alternative minimum taxable income (subtract line 7 from line 6). If married filing a separate return, see Instructions, $287,883.

9. Enter: $40,000 ($20,000 if married filing separately; $30,000 if single or head of household), $30,000.

10. Enter: $150,000 ($75,000 if married filing separately; $112,500 if single or head of household), $112,500.

11. Subtract line 10 from line 8. If the result is -0- or less, enter -0- here and on line 12 and go to line 13, $175,383.

12. Multiply line 11 by 25% (.25), $43,846.

13. Subtract line 12 from line 9. If the result is -0- or less, enter -0-. If completing this form for a child under age 14, see the Instructions for the amount to enter on this line, 0.

14. Subtract line 13 from line 8. If the result is -0- or less, enter -0- here and on line 19, $287,883.

15. Multiply line 14 by 21% (.21), $60,455.

16. Alternative minimum tax foreign tax credit. See Instructions, 0.

17. Tentative minimum tax (subtract line 16 form line 15), $60,455.

18. Enter your tax from Form 1040, line 38, minus any foreign tax credit on Form 1040, line 43. If an amount is entered on line 39 of Form 1040, see Instructions, $72,906.

19. Alternative minimum tax (subtract line 18 from line 17). Enter on Form 1040, line 49. If the result is -0- or less, enter -0-. If completing this form for a child under age 14, see the Instructions for the amount to enter, 0.

FORM 8582 PASSIVE ACTIVITY LOSS LIMITATIONS, 1989

Name(s) shown on return: Alan Cranston [redacted].

PART I COMPUTATION OF 1989 PASSIVE ACTIVITY LOSS

Rental Real Estate Activities With Active Participation (For the definition of active participation see Active Participation in a Rental Real Estate Activity in the Instructions.):

Activities acquired before 10-23-86 (Pre-enactment):

1a. Activities with net income (from Worksheet I, Part 1, column(a)), $115,690.

1c. Combine lines 1a and 1b, $115,690.

1g. Net income or (loss). Combine lines 1c and 1f, $115,690.

1i. Combine lines 1g and 1h, $115,690.

Activities acquired after 10-22-86 (Post-enactment):

2e. Activities with net loss (from Worksheet 2, Part 2, column (b)), $22,894.

2f. Combine lines 2d and 2e, ($22,894).

2g. Net income or (loss). Combine lines 2c and 2f, ($22,894).

2i. Combine lines 2g and 2h, ($22,894).

3. Combine lines 1i and 2i. If the result is net income or -0-, see the Instructions for line 3. If this line and line 1c or line 1i are losses, go to line 4. Otherwise, enter -0- on lines 8 and 9 and go to line 10, $92,796.

PART III COMPUTATION OF PASSIVE ACTIVITY LOSS ALLOWED

19. Total losses allowed from all passive activities for 1989. Add lines 17 and 18, $22,894.

ALAN CRANSTON 1989 INDIVIDUAL INCOME TAX RETURN

	Federal	California
Salary: U.S. Senate, Washington, DC (FICA, $3,605; W/H $18,733; Cal W/H, $5,348)	$89,500	
U.S. Senate—personal auto usage	988	
Total	90,488	$90,488
Retirement pay: State of California—legislators' retirement system	65,420	65,420
Dividend income:		
Dreyfus Liquid Assets, Inc	13,977	
Fidelity investments	2,198	
Total	15,695	15,695
Less community interest of former spouse	(7,848)	(7,848)
Total	7,847	7,847
Cranston community qualified blind trust—schedule attached	1,796	1,796
Partnership—schedule attached	68	68

ALAN CRANSTON 1989 INDIVIDUAL INCOME TAX RETURN—Continued

	Federal	California
Total	9,711	9,711
Interest income:		
Wells Fargo NOW account	315	
Riggs Money Market	1,306	
American Security Bank—NOW account	1,159	
American Security Bank—savings	11,828	
Total	14,608	14,608
Less community interest of former spouse	(7,304)	(7,304)
	7,304	7,304
Alan Cranston qualified blind trust—schedule attached	18,181	18,181
Total	25,485	25,485
Other income: Book royalties	1,500	1,500
Taxes:		
Real estate—402 Constitution Avenue, Washington, DC	1,648	
Real estate—2024 Camden Avenue, Los Angeles, CA	483	
KRAG Ranch (5 percent interest)	65	
Total	2,196	2,196
California income	28,603	
Total	30,799	2,196
Interest expense:		
Home mortgage—2024 Camden Avenue, Los Angeles	4,623	
Kim Cranston	1,627	
American Express	223	
Wells Fargo	2,287	
United Airlines	353	

ALAN CRANSTON 1989 INDIVIDUAL INCOME TAX RETURN—Continued

	Federal	California
	4,490	
Twenty percent deductible	898	
Total	5,521	5,521
Contributions: Cash to committee for study of American electorate	1,000	1,000
Miscellaneous deductions:		
Employee business expenses—congressional expenses—office miscellaneous	1,224	
Unreimbursed employee expenses—see Form 2106	2,124	
Income tax preparation	1,000	
Partnership portfolio deductions	123	
Alan Cranston qualified blind trust—tax preparation fees	250	
Total	4,721	4,721
Form 2106—line 6, part I:		
Employee business expenses:		
Living expenses—Washington, DC	3,000	
Travel	5,898	
Meals and entertainment	299	
Expenses in maintaining an office in home state	9,462	
Automobile expenses—167 miles x .255	43	
Total	18,702	
Less reimbursements	16,578	
Deductible as miscellaneous deduction	2,124	
Annuity income:		
Company (Travelers):		
Contract (02421955):		
Starting date (Dec. 19, 1979):		
First payment date (Dec. 19, 1979):		
Monthly installment	69.70	

ALAN CRANSTON 1989 INDIVIDUAL INCOME TAX RETURN—Continued

	Federal	California
Annual amount	936.40	
Investment in contract	6,390.40	
Expected return	14,425.28	
Exclusion ratio	.4430	
Received in 1989	836.40	
Excludable at 44.3 percent	370.53	
Taxable	465.87	
Capital loss—partnership liquidation:		
Adjusted basis of partnership interest as of May 31, 1989:		
Five Area Properties, Ltd.	5,527	
Four Area Properties, Ltd.	881	
	6,048	
Cash distribution	675	
Capital loss	5,733	
Partnership income: (1) Simi-Moorepark Freeway Properties Fed. I.D. 95-6230970 Portfolio income:		
Dividends	68	
Other	14	
Total	82	82
Deductions re: portfolio income (investment income, $82; investment expenses, $123	123	123

Note.—(2) Five Area Properties, Ltd. Fed. I.D. 95-6323158 No Items of income or expense. Interest terminated on 5/31/89. (3) Four Area Properties, Ltd. Fed. I.D. 95-6319195 No items of income or expense. Interest terminated on 5/31/89

TRUST INCOME (LOSSES)

	Partnership [1]		Portfolio income		Other deductions
	Federal	California	Dividend	Interest	
(A) Alan Cranston Community Qualified Blind Trust—Fed. I.D. #95-6817334			$1,796		
(B) Norma Cranston Community Qualified Blind Trust—Fed. I.D. #95-6817334			1,796		
(C) Alan Cranston Qualified Blind Trust—Fed. I.D. 95-6386948				$21,817	$300
Lakewood & Gardendale Ltd.	($7,119)	($7,100)			
Venice and Canfield Ltd.	(20,354)	(20,324)			
Tax preference—accel. depreciation	$1,159				
Total	(27,473)	(27,424)	3,592	21,817	300
Allocation of Trust (A) and (B):					
Alan Cranston—one-half			1,796		
Norma Cranston—one-half			1,796		
Allocation of Trust (C):					
Alan Cranston—83⅓ percent	(22,894)	(22,853)		18,181	250
Norma Cranston—16⅔ percent	(4,579)	(4,571)		3,636	50
Total	(27,473)	(27,424)	3,592	21,817	300
Allocation of tax preference—Trust C:					
Alan Cranston—83⅓ percent	966				
Norma Cranston—16⅔ percent	193				
Total	1,159				

[1] Activity acquired after Oct. 22, 1986.

INCOME FROM RENTS

	Total	215–225 Main, Los Altos	501–517 San Mateo, San Bruno	San Mateo, San Bruno (⅛ Interest)	University, Palo Alto (⅛ Interest)	Main, Los Altos (¼ Interest)	402 Constitution, Washington, D.C.
Rents collected	$164,360	$53,927	$17,431	$24,279	$48,771	$15,152	$4,800
Expenses:							
Real estate taxes	12,994	3,055	1,099	1,012	6,074	930	824
Insurance	8,972	2,773	1,524	2,040	1,780	659	196
Management fee	7,536	2,696	837	1,168	2,082	753	
Repairs and maintenance	7,213	1,310	50	1,703	2,113	12	2,025
Lease commission amortization	3,626	1,060	595	906	913	152	
Utilities	782			15	27		740
Dues	51	41				10	
Office rent	300				300		
Pest control	70						70
Miscellaneous	45	−14	14	7	7	3	
Total	41,589	10,949	4,119	6,851	13,296	2,519	3,855
Income before depreciation	122,771	42,978	13,312	17,428	35,475	12,633	945
Depreciation	6,081	702	783	961	2,035	724	876

INCOME FROM RENTS—Continued

	Total	215–225 Main, Los Altos	501–517 San Mateo, San Bruno	San Mateo, San Bruno (½ Interest)	University, Palo Alto (½ Interest)	Main, Los Altos (¼ Interest)	402 Constitution, Washington, D.C.
Total	116,690	42,276	12,529	16,467	33,440	11,909	69
(Less)—Accounting	(1,000)						
Net rental income	115,690						
Depreciation adjustment—California	(72)						
Net rental income—California	115,618						

DEPRECIATION—RENTAL PROPERTIES

Address and date acquired	Basis	Prior depn.	Method	Life or ACRS (percent)	1989 depn.	California		
						Prior depn.	Method rate (percent)	1989 expense
215–225 Main Street, Los Altos:								
Building (Var.)	$12,846.00	$12,846.00	S.L.	30 Yrs.				
Improvements (Var.)	4,533.00	4,533.00						
Improvements (1970)	2,506.00	2,506.00						
New roof (10/81)	7,024.75	5,092.98	S.L.	10 Yrs.	$702.48			
Total	26,909.75	24,977.98			702.48	24,977.98		$702.48
501–517 San Mateo Avenue, San Bruno:								
Building (3/69)	6,075.00	4,195.09	S.L.	28 Yrs.	216.96	4,195.09	SL 3.5	216.96
New toilet, sink and pipes (12/81)	1,300.00	920.84	S.L.	10 Yrs.	130.00	920.84	SL 10	130.00
Roof (9/86)	5,895.00	1,167.22	ACRS	7.4	436.23	1,146.25	SL 8⅓	491.25
Total	13,270.00	6,283.15			783.19	6,262.18		838.21
483–490 San Mateo Avenue, San Bruno:								
Building (Var.)	31,500.00	31,500.00	S.L.	25 Yrs.		31,500.00	SL	
Improvements (Var.)	13,290.00	13,290.00	S.L.	15 Yrs.		13,290.00	SL	
Improvements (Var.)	3,000.00	3,000.00	S.L.	15 Yrs.		3,000.00	SL	
Heater (7/77)	500.00	500.00	S.L.	10 Yrs.		500.00	SL 10	
Carpeting (6/78)	1,026.00	1,026.00	S.L.	5 Yrs.		1,026.00	SL	
Heater (9/78)	62.50	62.50	S.L.			62.50	SL	
Roof (4/80)	4,029.75	3,492.49	S.L.	10 Yrs.	402.98	3,492.49	SL 10	402.98
Back door (12/81)	1,232.00	872.67	S.L.	10 Yrs.	123.20	872.67	SL 10	123.20
Roof (11/86)	5,793.07	1,071.71	ACRS	7.5	434.48	1,045.98	SL 8⅓	482.76
Total	60,433.32	54,815.37			960.66	54,789.64		1,008.94
318–324 University Avenue, Palo Alto:								
Building (10/57)	23,205.50	19,715.29	S.L.	28 Yrs.	828.77	19,715.29	SL	828.77
Improvements (1960)	333.25	333.25				333.25		
Improvements (1965)	162.00	162.00				162.00		
Improvements (1966)	187.50	187.50				187.50		
Improvements (4/77)	6,350.54	3,730.98	S.L.	20 Yrs.	317.53	3,730.98	SL 5	317.53
Improvements (4/77)	1,835.70	1,835.70	S.L.	10 Yrs.		1,835.70		
Air conditioning (12/81)	2,880.00	2,232.00	S.L.	10 Yrs.	288.00	2,232.00	SL 10	288.00
Steel door (2/84)	720.00	367.20	S.L.	10 Yrs.	72.00	247.68	SL 7	50.40
Improvements—Gaskills (11/85)	6,976.19	1,813.80	ACRS	6.8	474.38	1,472.75	SL 6⅔	465.08
Underground electrical lines (6/87)	1,700.00	83.22	MACRS	3.175	53.98	83.22	SL 3.175	53.98
Total	44,350.68	30,460.94			2,034.66	30,000.37		2,003.76
161–165 Main Street, Los Altos:								
Building (10/57)	20,113.25	15,338.03	S.L.	28 Yrs.	718.33			
Improvements (1967)	250.00	250.00						
Improvements (2/68)	125.00	125.00						
Air conditioner (10/68)	205.00	205.00						
Air conditioner (7/70)	375.00	375.00						
Roof (12/1/89)	4,393.78		MACRS	.132	5.80			
Total	25,462.03	16,293.03			724.13	16,293.03		724.13
402 Constitution, Washington, D.C.: Building (2/77)	26,280.00	10,439.00	S.L.	30 Yrs.	876.00	10,439.00	SL 3⅓	876.00
Total	196,705.78	143,269.47			6,081.12	142,762.20		6,153.52

AMORTIZATION OF LEASE COMMISSIONS

Address and date acquired	Cost	Prior amtz.	Life in months	1989 amtz.
215–225 Main, Los Altos:				
Women's World (6/1/84)	$1,542.00	$1,413.50	60	$128.50
Quilt Bee (4/1/87)	4,052.00	1,418.20	60	810.40
Women's World (6/1/89)	1,035.00		60	120.75
Total	6,629.00	2,831.70		1,059.65
Remove fully amortized item	(1,542.00)	(1,542.00)		
Total	5,087.00	1,289.70		
501–517 San Mateo Avenue, San Bruno:				
Town Cobbler (4/1/86)	1,973.00	1,085.08	60	394.60

AMORTIZATION OF LEASE COMMISSIONS—Continued

Address and date acquired	Cost	Prior amtz.	Life in months	1989 amtz.
Do (4/1/89)	1,338.00			200.70
Total	3,311.00	1,085.08		595.30
482–490 San Mateo Avenue, San Bruno:				
(1984)	924.00	862.40	60	61.60
Bike route (1986)	1,242.00	496.80	60	248.40
Do (1987)	1,173.00	469.20	60	234.60
Do (6/1/89)	868.15		36	168.84
Do (5/1/89)	192.50			192.50
Total	4,399.65	1,828.40		905.94
318–324 University Avenue, Palo Alto:				
(1979)	1,824.00	1,672.14	120	151.86
(10/85)	2,898.00	1,883.70	60	579.60

AMORTIZATION OF LEASE COMMISSIONS—Continued

Address and date acquired	Cost	Prior amtz.	Life in months	1989 amtz.
Gleims (10/1/89)	3,643.00		60	182.16
Total	8,365.00	3,555.84		913.62
161, 163, 165 Main Street, Los Altos:				
Uptown Cafe (11/85)	759.00	480.70	60	151.80
Totals	21,921.65	8,239.72		3,626.31

TAXABLE YEAR 1989, CALIFORNIA LONG TAX FORM, 540

STEP 1 NAME AND ADDRESS

Alan Cranston, 578-38-1722.

2024 Camden Avenue, Los Angeles, CA 90025.

STEP 2 FILING STATUS

1. Single.

STEP 3 EXEMPTIONS

7. Personal: If you checked box 1 or 3 above, enter $55. If you checked box 2, 4 or 5, enter $110, $55.

9. Senior: If you or your spouse is 65 or older, enter $55. If both are 65 or older, enter $110, $55.

11. Total exemption credits. Add lines 7 through 10. Enter here and on line 20 below, $110.

STEP 4 TAXABLE INCOME

12a. State wages from your W-2 form, box 18, $90,488.

12b. Federal adjusted gross income from line 31 of your Form 1040, line 13 of your Form 1040A, or line 3 of your Form 1040EZ, $292,198.

13. California adjustments—subtractions. Enter amount from Schedule CA, line 15, $9,349.

14. Subtract line 13 from line 12b. If less than zero, enter the result in brackets. See instructions, $282,849.

15. California adjustments—additions. Enter amount from Schedule CA, line 23, 0.

16. California adjusted gross income. Combine line 14 and line 15. If $20,900, or less, see instructions, $282,849.

17. Enter the larger of Your standard deduction (see instructions), OR Your itemized deductions (from Schedule CA, line 28), $8,717.

18. Taxable income, Subtract line 17 from line 16. If less than zero, enter zero, $274,132.

STEP 5 TAX

19. Enter tax. Check if from Tax Table, $24,202.

20. Exemption credits. Enter amount from line 11 above, $110.

21. Subtract line 20 from line 19. If less than zero, enter zero, $24,092.

22a. Add line 21a and line 21b. Continue to Side 2, $24,092.

STEP 6 CREDITS

22b. Amount from Side 1, line 22a, $24,092.

25. Enter credit name Political code no. 84 and amount, $6.

29. Total credits. Add lines 23 through 28, $6.

30. Subtract line 29 from line 22b. If less than zero, enter zero, $24,086.

STEP 7 OTHER TAXES

31. Alternative minimum tax. Attach Schedule P (540), $0.

33. Total tax. Add lines 30 through 32, $24,086.

STEP 8 PAYMENTS

34. California income tax withheld. Enter told from your 1989 W-2 and 1099-R forms, $5,348.

35. 1989 California estimated tax and amount applied from 1988 return. Include amount paid with any extension request (from FTB 3502), $22,000.

38. Total payments. Add lines 34 through 37, $27,348.

STEP 9 OVERPAID TAX OR TAX DUE

39. Overpaid tax. If line 38 is larger than line 33, subtract line 33 from line 38, $3,262.

40. Amount of line 39 to be applied to your 1990 estimated tax, $3,237.

41. Amount of overpaid tax available this year. Subtract line 40 from line 39, $25.

STEP 10 VOLUNTARY CONTRIBUTIONS

California Election Campaign Fund

49. Your political party Democratic amount ($25 max), $25.

51. Total contributions. Add lines 43 through 50, $25.

STEP 11 REFUND OR AMOUNT YOU OWE

52. Refund or no amount due. Subtract line 51 from line 41. Mail your return to: Franchise Tax Board, P.O. Box 94240, Sacramento, CA 94240-0000, 0.

TAXABLE YEAR 1989, CALIFORNIA ADJUSTMENTS, SCHEDULE CA

Name(s) as shown on return: Alan Cranston [redacted].

PART I ADJUSTMENTS TO FEDERAL ADJUSTED GROSS INCOME

Step 1 Subtractions

3. Social security benefits from federal Form 1040, line 21b, $9,318.

11. Depreciation and amortization from form FTB 3885A, line 6a and line 10a, $31.

15. Total subtractions. Add lines 1 through 14b. Enter here and on Form 540, line 13, $9,349.

PART II ADJUSTMENTS TO FEDERAL ITEMIZED DEDUCTIONS

24. Federal itemized deductions from federal Schedule A, line 26, $37,320.

25. State and local income taxes from federal Schedule A, line 5 and foreign income taxes. See instructions, $28,603.

26. Subtract line 25 from line 24, $8,717

28. California deductions. Combine line 26 and line 27, $8,717.

TAXABLE YEAR 1989 ALTERNATIVE MINIMUM TAX AND CREDIT LIMITATIONS—RESIDENTS, CALIFORNIA SCHEDULE P (540)

Name(s) as shown on Form 540: Alan Cranston.

Your social security number: [redacted]

PART 1 TENTATIVE MINIMUN TAX AND ALTERNATIVE MINIMUM TAX COMPUTATION

1. Taxable income from Form 540, line 18 (may be less than zero), $274,132.

2. Net operting loss deduction from Schedule CA, line 14a. Do not enter as a nagative amount, 0.

3. Add line 1 and line 2, $274,132.

4. Adjustments: (See instructions before completing):

a. Standard deduction from Form 540, line 17

b. Medical and dental expense

c. Miscellaneous itemized deductions from federal Schedule A (Form 1040), line 24

d. Personal and real property taxes, $2,196

e. Refund of personal and real property taxes

f. Interest from federal Schedule A (Form 1040) line 12b, $898

g. Other interest adjustments

h. Combine lines 4a through 4g, $3,094

i. Depreciation of property placed in service after 1986

j. Circulation and research and experimental expenditures paid or incurred after 1986

k. Mining exploration and development costs paid or incurred after 1986

l. Long-term contracts entered into after 2/28/86

m. Pollution control facilities placed in service after 1986

n. Installment sales of certain property

o. Adjusted gain or loss

p. Certain loss limitations

q. Tax shelter farm loss

r. Passive activity loss

s. Beneficiaries of estates and trusts

t. Combine lines 4i through 4s, 0.

5. Tax preference items: (See instructions before completing):

a. Appreciated property charitable deduction

b. Depletion

c. Add line 5a and line 5b, 0.

d. Accelerated depreciation of real property placed in service before 1987

e. Accelerated depreciation of leased personal property placed in service before 1987

f. Amortization certified pollution control facilities placed in service before 1987

g. Intangible drilling costs

h. Add lines 5d through 5g, 0.

6. Combine lines 3, 4h, 4t, 5c and 5h, $277,226.

7. Alternative minimum tax net operating loss deduction. Do not enter more than 90% of line 6. See instructions, 0.

8. Alternative minimum taxable income. Subtract line 7 from line 6. If married filing separate, see instructions, $277,226.

9. Enter: $40,000 ($20,000 if married filing separate; $30,000 if single or head of household), $30,000.

10. Enter: $150,000 ($75,000 if married filing separate; $112,500 if single or head of household), $112,500.

11. Subtract line 10 from line 8. If zero or less, enter zero here and on line 12, $164,726.

12. Multiply line 11 by 25% (.25), $41,182.

13. Subtract line 12 from lne 9. If zero or less, enter zero, 0.

14. Subtract line 13 from line 8. If zero or less, enter zero here and on line 19, $277,226.

15. Tentative minimum tax. Multiply line 14 by 7% (.07), $19,406.

16. Alternative nimimum tax other state tax credit. See instructions, 0.

17. Adjusted tentative minimum tax. Subtract line 16 from line 15, $19,406.

18. Regular tax before credits (Form 540, line 19) minus other state tax credit. See instructions, $24,202.

19. Alternative minimum tax. Subtract line 18 from line 17. If zero or less, enter zero, 0.

PART II CREDIT LIMITATIONS

Section A—Tax in excess of tentative minimum tax

1a. Regular tax from Form 540, line 19 minus tentative minimum tax from Part I, line 15. Not less than zero, $4,797.

b. Exemption credits. Do not enter more than the amount on line 1a. If your exemption credits are greater than line 1a, you must reduce the amount shown on Form 540, line 20, to the amount shown on line 1a, $110.

2a. Enter the amount from Form 540, line 22a (use refigured amount if exemption credits are limited by line 1a, $24,092.

b. Tentative minimum tax from Part 1, line 15, $19,406.

3. Subtract line 2b from line 2a. This is the amount of tax that you may reduce with Section B credits, $4,686.

Section B—Credits that may not reduce excess tax below tentative minimum tax

	(a) Credit amount	(b) Credit used this year	(c) Tax balance	(d) Credit carry-over
4. Enter the amount from line 3			4,686	
5. Child and dependent care credit from Form 540 instructions worksheet				

	(a) Credit amount	(b) Credit used this year	(c) Tax balance	(d) Credit carry-over
6. Credit for taxpayers with military income from Form 540 instructions worksheet				
70–7. Joint custody head of household credit from Form 540 instructions worksheet				
73–8. Dependent parent credit from Form 540 instructions worksheet				
65–9. Credit for public retirees under 65 from Schedule RP (540), or credit for the elderly or disabled from statement				
66–10. Jobs credit from form FTB 3524				
67–11. Pollution abatement equipment credit from form FTB 3522				
68–12. Vehicle conversion to alcohol fuel credit from statement				
69–13. Enterprise zone employee credit from form FTB 1046				
71–14. Ridesharing credit: Carryover from form FTB 3518, Part I				
91–15. Ridesharing credit: Large employer program from form FTB 3518, Part II				
92–16. Ridesharing credit: Small employer program from form FTB 3518, Part III				
93–17. Ridesharing credit: Transit passes from form FTB 3518, Part IV				
94–18. Ridesharing credit: Vanpool program from form FTB 3518, Part V				
76–19. Enterprise zone hiring/sales and use tax credit from form FTB 3805Z				
77–20. Program area hiring/sales and use tax credit from form FTB 3805Z				
78–21. Water conservaiton credit carryover from statement				
79–22. Solar pump credit carryover from statement				
82–23. Energy conservation credit carryover from form FTB 3514				
84–24. Political contributions credit from statement	6	6	4,680	0
86–25. Residential rental and farm sales credit from form FTB 3529				
89–26. Employer child care program credit from form FTB 3501				
90–27. Employer child care contribution credit from form FTB 3501				
74–28. Recycling equipment credit from form FTB 3527				
75–29. Agricultural products credit from form FTB 3534				
80–30. Solar energy credit carryover from form FTB 3805L				
81–31. Commercial solar energy credit carryover from form FTB 3805L				
83–32. Research credit from form FTB 3523				
85–33. Orphan drug credit from form FTB 3528				
72–34. Low-income housing credit from form FTB 3521				
88–35. Credit for prior year alternative minimum tax from form FTB 3510			4,680	
36. Subtotal. Add column (b) of lines 7 through 35		6		

Section C—Credits that may reduce tax below tentative minimum tax

37. If line 3 is zero, enter the amount from Form 540, line 22a (use refigured amount if exemption credits are limited by line 1a). If line 3 is more than zero, enter the total of line 2b and line 25, column (c), $24,086.

YEAR 1989, PASSIVE ACTIVITY LOSS LIMITATIONS, CALIFORNIA FORM 3801

Name(s) as shown on return: Alan Cranston, xxx-xx-xxxx.

PART I COMPUTATION OF 1989 PASSIVE ACTIVITY LOSS

Rental Real Estate Activities with Active Participation

Activities acquired before 10–23–86 (Pre-enactment):

1a. Activities with net income from Worksheet 1, Part 1, column (a), $115,618.

1b. Activities with net loss from Worksheet 1, Part 1, column (b), 0.

1c. Combine line 1a and line 1b, $115,618.

1g. Net income or (loss). Combine line 1c and line 1f, $115,618.

1h. Prior year unallowed losses from Worksheet 1, Parts 1 and 2, column (c) (see instructions), 0.

1i. Combine line 1g and line 1h, $115,618.

All Other Passive Activities

Activities acquired after 10–22–86 (Post-enactment):

2e. Activities with net loss from Worksheet 2, , Part 2, column (b), $22,853.

2f. Combine line 2d and line 2e, $22,853.

2g. Net income of (loss). Combine line 2c and line 2f, ($22,853).

2h. Prior year unallowed losses from Worksheet 2, Parts 1 and 2, column (c) (see instructions), 0.

i. Combine line 2g and line 2h, ($22,853).

3. Combine line 1i and line 2i. If the result is net income or -0-, see the instructions for line 3. If line 3 and line 1c of line 1i are loses, go to line 4. Otherwise, enter -0- on line 8 and line 9 and go to line 10 (see instruction), $92,765.

PART III COMPUTATION OF PASSIVE ACTIVITY LOSS ALLOWED

19. Total losses allowed from all passive activities for 1989. Add line 17 and line 18, $22,853.

TAXABLE YEAR 1989, DEPRECIATION AND AMORTIZATION ADJUSTMENTS, CALIFORNIA FORM 3885A

Name(s) as shown on return: Alan Cranston xxx-xx-xxxx.

1. Passive Activities (see Instruction C): Real estate—Schedule attached:

(g) Depreciation for this year, $6,154.

Total passive dep'n or amortiz'n. Add column (g) and column (j) amounts of line 1, $6,154.

ST. CLAIR COUNTY CELEBRATES ITS BICENTENNIAL

Mr. DIXON. Mr. President, next week, my home county in Illinois, St. Clair County, will celebrate its bicentennial. St. Clair County is the oldest county in Illinois. I was born there. I was raised there, and I have lived there all of my life. It was a wonderful place to grow up; it was and is a truly special place to live.

I want to take this opportunity to congratulate all the residents of St. Clair County, and particularly all of my friends from my hometown of Belleville, on the county's bicentennial.

Several years ago, I authored an article for the St. Clair County Historical Journal. I do not pretend to be a great author, but I want my colleagues to know that I am very proud of this article because it is about my home town, a place that I will always continue to love.

Mr. President, I ask unanimous consent that a copy of the article be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

It is a particular pleasure for me to be asked to contribute a few words to the *Journal* of the Saint Clair County Historical Society.

From the day of my birth on July 7, 1927, to the present, Saint Clair County has been my home. I have been privileged to serve its people in the Illinois General Assembly in Springfield, in the offices of Illinois State Treasurer and Illinois Secretary of State, and now as United States Senator.

As I began to gather my recollections for this essay, it occurred to me again that Saint Clair County was a wonderful place to grow up.

I hope readers of the Journal will indulge me this brief reminiscence—not because I am a historical figure (or even, old, for that matter), but because it is always useful for us to remember where we came from, and where we've been.

I came from the east end of Belleville. I lived the first few years of my life at 1034 Forest Avenue, and then through high school at 616 Forest Avenue.

The east end was a great place for youngters, with parks and vacant lots to play ball in, to roam in, to be a boy in.

In those days, there was an open field in the 500 and 600 blocks of Forest Avenue, which, for some peculiar reason, was known as "West Pasture," even though it was in east Belleville.

We would swim there when the creek had enough water, and we would sled down the pasture's hills in winter, both of which I found to be at least as much fun as going to my classes at the old Douglas school at Douglas and East Main.

Oliver Muser was the principal. He was a great educator, and a wonderful man who, happily, is still alive and well and living in Belleville. I remember being a boy in the 6th grade, and Mr. Muser predicting that somebody named Adolf Hitler would plunge the world into war.

By the time I became a senior at Belleville High, that war was still raging. I recall going to the home of John Karsh to take extra courses in summer so I could graduate early and join the service.

Belleville was always a working town. Its people worked hard for what they had. When I was growing up, some folks didn't have much, but they still enjoyed life.

All the kids worked, too. At various times, I worked for my dad's delivery service and later for the Rock Meat Market on East Main. There I made hamburgers from a recipe, as I recall, which called for about one-third hearts, one-third fat, and one-third beef. It was cheap, but it was what the average worker could afford in those days.

While in high school, I sold shoes at Lerner's, earning four dollars for a Saturday and a commission on shoe polish and ribbons. I worked at J.C. Penney's for Clarence Manring and as a "card boy" at the Elks Club, bringing the men their drinks. At Christmas time, Mel Price got me a job at the post office delivering holiday mail.

Well, times have changed since then, of course. You aren't a kid forever. I haven't picked peaches in the summer at Waterloo in a while, haven't packed tomatoes for the Brooks Company, haven't trucked freight on weekends for the Terminal Railroad.

That was a formative time, though. I remember the day they let us out of school to go hear Wendell Wilkie talk from the back end of a train at the Lebanon Avenue overpass. He was so good I took off my Roosevelt button for a few days, until my dad converted me again.

It was a boyhood of feather beds and coal stoves at my grandparents' house, and white radish sandwiches that my grandmother would spread thick with country butter pulled up in a bucket from out of the well in back. It was also a boyhood of running down to Meyers tavern on Mascoutah Avenue to bring back beer for the men, and listening to Art Reinbold from the hardware store play the banjo and sing with my father.

That kind of childhood is special. It makes a person secure and not afraid to try things out in adult life. How else could a 21-year-old kid still in law school have the nerve to run for police magistrate on a "reform" ticket with H.V. Calhoun at the top?

How else would a 23-year-old kid working for the state's attorney's office decide to run for the state legislature against an experienced, highly-favored legislator such as Jack Wellinghoff?

I don't want to sound as if my life story might have been written by a combination of Booth Tarkington and Horatio Alger, but I do not think I am idealizing Saint Clair County as I recall growing up there.

We all live in the present and, happily enough, the present still centers for me on Belleville and Saint Clair County and my family, as it has for 56 years.

Some things in Saint Clair County have changed for the better in those 56 years, and some haven't. It does us all good, I think, to try to figure out which things fall into which category.

That is the way we must go about improving the quality of life in Saint Clair County for the greatest number of people—if it's possible to improve on icicle radish sandwiches on homemade bread spread thick with country butter.

THE GOLDMAN PRIZE—WELCOME BOOST TO ENVIRONMENTALISTS

Mr. PELL. Mr. President, I rise to share with my colleagues the welcome news that the first Goldman Environmental Prize has been awarded to six environmental activists around the world.

This prize, which is to be an annual award, recognizes the environmental efforts of individuals from six continents and awards $60,000 to each winner. It is a most welcome recognition and reward for the tireless efforts of individual environmentalists.

The awards were announced this week by Richard N. Goldman, an insurance executive, and Rhoda H. Goldman, an heir of the founder of Levi Strauss & Co. The couple established a family foundation in 1951 to support environmental organizations.

Lois M. Gibbs, who founded the Love Canal Homeowners Association and lead the successful fight to close the hazardous waste dump in that section of Niagara Falls, NY, was the winner for North America.

Mr. President, the details of the other recipients and some background about the Goldman Prize are included in an article that appeared in the New York Times of April 17.

I ask unanimous consent that this article be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Lois M. Gibbs, who founded the Love Canal Homeowners Association in 1978 and emerged as a community leader in a successful fight to close the hazardous waste dump in that section of Niagara Falls, N.Y., was one of six winners of the first Goldman Environmental Prize. The prize recognizes the environmental efforts of individuals from six continents and awards $60,000 to each winner. Mrs. Gibbs was the North American recipient.

An Audubon Society volunteer, Janet Patricia Gibson, was the chosen from the Latin America-Caribbean region, for her work in establishing the Hol Chan Marine Reserve preserving a reef off Belize. Janos Vargha, a Hungarian biologist whose criticism of a government dam project on the Danube helped get it stopped, was the Eurpoean winner.

Harrison Ngau was recognized for his fight to save Malaysian rain forests, enduring arrest and surveillance. In Kenya, Michael Mayeku Werikhe worked to create sanctuaries for the endangered black rhinoceros. And Dr. Bob Brown gave up his medical practice to help preserve the Franklin River and start the Tasmanian Wilderness Society. He is a Green Party member in the Tasmanian Parliament.

The awards were announced yesterday in San Francisco by Richard N. Goldman, an insurance executive, and Rhoda H. Goldman, an heir of the founder of Levi Strauss & Company. The couple established a family foundation in 1951 to support environmental organizations. The Goldman Prize is to be an annual award. The winners are selected from nominees of environmental organizations.

FARGO'S FINE MAYORS

Mr. BURDICK. Mr. President, a good friend of mine, Jon Lindgren, was just elected to his fourth term as mayor of my hometown of Fargo. Another good friend and former mayor of Fargo, Herschel Lashkowitz, recently announced he is retiring from public service. On behalf of every citizen of Fargo, I would like to take this opportunity to thank both men for their strong leadership, hard work, and dedication.

Jon collected 62 percent of the vote in this week's election and will serve as mayor of our fine city for another 4 years. Before Jon took office 12 years ago, Herschel served as mayor from 1954 to 1974. Herschel has since served as a State senator for Fargo's 21st District, retiring now because of poor health.

I ask unanimous consent that an editorial from the Fargo newspaper about Herschel's retirement be printed at this point in the RECORD.

There being no objection, the editorial was ordered printed in the RECORD, as follows:

LASHKOWITZ BIDS FAREWELL TO PUBLIC LIFE

For some people in public life and politics, power is the end. Not so for the man who bowed off the public stage on Wednesday after 36 years as a major player in Fargo.

Herschel Lashkowitz, Fargo's scrappy and dedicated mayor from 1954 to 1974 and a Democratic state senator from Fargo's District 21 since 1975, said farewell to government and politics. Slowed by illness, Lashkowitz demonstrated he still is able to play his part in North Dakota's political drama: He waited almost until the last minute to announce he would not seek re-election to the state Senate.

If a common thread can be traced through Lashkowitz's public service (other than controversy) it is commitment. As mayor and as senator he was motivated by service to his constituents, especially to those people he believed were sometimes forgotten or ignored by the political process.

He liked to characterize himself as the champion of "the little guy," but he understood how to apply political power and use back-room persuasion to get things done for his city. He might have been elected in 1954 as the anti-establishment candidate, but he knew how to work with the establishment to stimulate Fargo's growth.

His tenure as mayor is the stuff of legend. Locked out reporters, locked in city commissioners, threats to arrest his opponents, clandestine meetings in the dark of night, bending (shattering?) rules to accomplish his goals.

Through it all, Fargo grew and prospered. Some contend the city did well in spite of Lashkowitz, but we think that's too harsh a judgment.

Lashkowitz didn't need to be mayor. A lawyer, he could have done without public office and made a bundle practicing law. Instead, he relished the politics, controversy and significant accomplishments of his office. And he did it without enriching himself, other than securing the admiration and respect of the people he worked with and the people he served.

Through the turbulent Lashkowitz years at City Hall, this newspaper often opposed the mayor's approaches to conducting the public's business. If we found his methods objectionable, however, we always understood he was motivated to do what he believed was best for Fargo.

It's ironic Lashkowitz ends his public life in the midst of a hard-hitting Fargo mayoral campaign. We suspect he'd love to be in the thick of it. Indeed, candidates for city office ought to seek his advice and counsel.

We wish the former mayor the best in retirement. He served his city and his state with honor for a long time.

THE CHANGING NATURE OF UNITED STATES-CAPE VERDE RELATIONS

Mr. PELL. Mr. President, last October an important conference was held in Warwick, RI, to examine United States trade and investment prospects in the island nation of Cape Verde.

Located off the west coast of Africa, Cape Verde began its unique relationship with the United States in the late 18th century. Our ties to Cape Verde

developed gradually into full-fledged diplomatic relations and the assignment of a resident United States Ambassador in 1983. I represent a large and active Cape Verdean community in my State of Rhode Island, and I have held a keen interest in Cape Verde's development during my tenure in the Senate and in my chairmanship of the Foreign Relations Committee.

It is evident that Cape Verdeans are a proud and industrious people, who have overcome nearly insurmountable obstacles in their path toward development. Because it relies very heavily on foreign aid and foreign remittances for its economic well-being, Cape Verde has now embarked on a program to encourage foreign trade and investment. It is an effort that warrants our full support.

Mr. President, I was scheduled to deliver a speech to the Cape Verde-United States Trade and Investment Conference in Warwick, RI. Regrettably, Senate business prevented my appearance, but I did address the conference via telephone. I ask unanimous consent that the full text of my remarks and a letter I received from Cape Verdean Prime Minister Pedro Pires be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPÚBLICA DE CABO VERDE.

HON. CLAIBORNE PELL,
United States Senate, Washington, DC.

DEAR SENATOR PELL: I take this opportunity to convey to you my gratitude for the warm welcome and assistance granted to my delegation and myself during my recent visit to the United States.

I want also to stress our sincere appreciation for your continuous encouragement and support of Cape Verde's endeavours to surmount the constraints and move toward a viable market economy, responsive to the priorities and needs of our country. As we proceed with the development of the private sector in areas as fisheries, transshipment, tourism, coastal resource development as well as other private-sector related fields of development, we know that American expertise and experience are a matter of vital interest to us.

During my stay in the U.S.A., I was very pleased to notice a growing interest of private sectors in New England—both Cape Verdean, American and others—in availing themselves of the possible investment and trade development that are emerging in Cape Verde. I highly appreciate the participation of representatives from the University of Rhode Island and the Narragansett Bay Port Authority at the Cape Verde-U.S. Investment and Trade Conference held in Warwick at the time of my visit. It is for reasons like these and on account of your sustained and active support to Cape Verde—so clearly articulated in your address to the above mentioned Conference—that I am pleased to stress our renewed optimism in the strengthening of the traditional links of friendship and cooperation between our two countries.

In extending to you my warmest season's greetings, I am pleased to take the opportunity to invite you, on behalf of our Government and on my own, to visit Cape Verde at your best convenience during the current year of 1990.

Sincerely yours,

PEDRO PIRES,
Prime Minister.

CAPE VERDE—U.S. TRADE AND INVESTMENT CONFERENCE

(Remarks by Senator Claiborne Pell)

I appreciate the opportunity to join you today at this important meeting. It would appear that we are beginning a new phase in the relationship between the United States and Cape Verde, and I am delighted to be a part of this conference.

The bond between the United States and Cape Verde is deeply rooted in history and extends to a time long before the date when the United States recognized Cape Verde's independence from Portugal. In the late 18th Century, New England whalers began to man their crews with native Cape Verdeans, and initiated a connection that stands to this day. In 1816, an American Consul General was established in Cape Verde to facilitate the steady flow of emigration from Cape Verde to the United States. In 1983, I was an active participant in the confirmation process of and was pleased to cast my vote for our country's first resident Ambassador to Cape Verde.

The New England-Cape Verde axis, now firmly established, is perhaps best exemplified by the schooner *Ernestina*. The *Ernestina* is believed to have been the last ship in regular service to have carried immigrants to the United States. It was donated by Cape Verde to the United States in 1976, and now lies in New Bedford as a tribute to the maritime connection between our two countries.

Of the more than 300,000 Americans of Cape Verdean descent, the vast majority make their home in Rhode Island, Connecticut and Massachusetts. The Cape Verdean-American community is one of the most important fixtures in New England, and Cape Verdeans have contributed significantly to our cultural heritage.

I consider myself a long-time friend of Cape Verde. I have held a special interest in Cape Verde's economic development since it attained independence in 1975. Although it is not particularly endowed with natural resources, Cape Verde has demonstrated time and time again that its most important resource is its people. Cape Verdeans are truly in a class by themselves, as they have faced hardship after hardship with intelligence, pragmatism, and dignity.

It is the typical Cape Verdean traits of initiatives and resiliency that bring us here today. Cape Verde, in a concerted effort to achieve a greater degree of economic health, has set its sights on encouraging foreign direct investment. This new emphasis would change the focus of the U.S.-Cape Verde relationship from economic assistance to economic partnership. In this regard, Cape Verde stands out as a model for developing countries in Africa. It is an example for other countries to emulate and to admire.

By no means do I intend to suggest that the United States should re-examine its aid commitments to Cape Verde. Those commitments reflect the reality that Cape Verde is a developing country that faces continually the threats of drought, famine and flood. After more than a decade of severe drought, Cape Verde finally encountered decent rainy seasons in 1986 and 1987. Regrettably, the cycle was reversed again last year and Cape Verde was hit by yet another drought. The simple fact remains that foreign assistance is necessary as Cape Verde strives to overcome the obstacles in its path toward development.

Our aid program in Cape Verde is comprised of several types of assistance, but consists mainly of flood and developmental assistance. When the total aid package began to decline in recent years, I worked actively to reverse the trend. In the current fiscal year and in fiscal year 1987, the Senate Foreign Relations Committee reported foreign assistance authorization bills. In both of these bills, I pressed successfully for language expressing the Congress' belief that the total level of assistance for Cape Verde should be, at a minimum, equal to the total of the previous year. I am happy to say that the Bush Administration's request for assistance to Cape Verde in fiscal year 1990 is slightly above last year's total of $4,926,000.

In addition to foreign assistance from the United States, the European Community, and other countries, Cape Verde's economy relies very heavily on private funds from Cape Verdeans overseas. In a remarkable display of the devotion Cape Verdean-Americans hold for their native country, Cape Verde receives as much as $25 million per year from Americans of Cape Verdean descent. This is an important source of revenue for Cape Verde, and one that is likely to continue into the future.

Because of its proud and independent tradition, Cape Verde looks toward a future of greater economic self-sufficiency. As part of its overall economic plan, the government hopes to increase markedly the amount of foreign investment in Cape Verde. Keeping in mind the close association between our two countries, the United States can and should play an important role in helping Cape Verde achieve this goal.

For the sake of Cape Verde's future, the United States has a real interest in seeing Cape Verde succeed in this endeavor. Yet we in the United States must also recognize that Cape Verde has already taken some important first steps, suggesting that investment in Cape Verde could advance U.S. economic and commercial interests.

Cape Verde has enjoyed a degree of political stability that no other former Portuguese colony has equalled. Out of its revolutionary beginnings, the government of Cape Verde has demonstrated true respect for human rights and has made a genuine effort to guarantee individual freedoms. In recognition of Cape Verde's dire economic position, the government has adhered to strict, conservative fiscal and monetary policies. And, perhaps an anomaly in developing African nations, corruption is virtually nonexistent in Cape Verde.

In its conduct of foreign affairs, Cape Verde maintains a policy of non-alignment. Cape Verde has close ties with the nations of southern Africa—particularly those that speak Portuguese—as well as with Portugal itself, France, Brazil, and the United States. Cape Verde holds membership in a number of international and regional associations, and it has taken a responsible and active interest in promoting peace in Southern Africa. Cape Verde proved to be particularly helpful in facilitating the lines of communication between nations interested in bringing about the long overdue independence of Namibia.

As a gesture of its moral strength, Cape Verde supported the enactment of the U.S. 1986 Anti-Apartheid Act. Cape Verde's actions in this regard have come at great cost

to its own economy. Once a logical stopping point for flights between the United States and South Africa, Cape Verde has witnessed a significant decrease in South African air traffic because of existing U.S. sanctions against South Africa. Accordingly, Cape Verde has lost, by some accounts, as much as $7 million per year from the reduction in South African flights. This situation has made the need for increased foreign assistance and foreign investment an imperative.

Economically, Cape Verde is actively confronting the serious threats that it faces. While unemployment in Cape Verde remains extremely high, the government has instigated its Second National Development Plan, which includes provisions to reduce unemployment over time to an acceptable level. Cape Verde's fiscal and monetary policies have kept inflation low and growth steady. According to the U.S. Department of Commerce, the Gross National Product of Cape Verde has increased by an average of roughly 6 percent over the last five years.

One of the chief components of Cape Verde's economy is its agricultural sector. Without question, the greatest danger to Cape Verde's agriculture lies in the critical lack of desalinized water. Because of last year's drought, agriculture production fell by half from the previous year; production of staple crops fell by a third, and fruit and other cash crops declined significantly. In an effort to increase further agricultural productivity, the government recently initiated a program of agrarian reform. This program has been coupled with an ambitious construction plan to curb erosion and to increase water retention. If continued on their present course, it is estimated that these steps will do much to preserve Cape Verde's threatened agricultural sector.

The fact remains, however, that almost all of Cape Verde's capital investment is comprised of foreign assistance grants and concessionary loans. Cape Verdeans and Cape Verdean-Americans understand well the need to move beyond these types of aid relationships. To this end, Cape Verde is taking steps to make its investment climate more favorable. As an additional thrust to the Second National Development Plan, Cape Verde has enacted new, liberalized development policies in a number of key economic sectors. In 1985, the Ministry of Industry and Energy established the Industrial Promotion Unit to promote foreign investment. Just this year, the Government of Cape Verde enacted legislation to establish Cape Verde's first entreport, a free-trade zone of sorts, where goods can be shipped and stored and assembled without the payment of duties or taxes. It should be noted that goods manufactured in Africa receive favorable treatment in many European countries.

In view of the stable government and the favorable incentives for investment, the time is auspicious indeed for us to examine a new era of trade relations with Cape Verde. While current trade between our two countries is virtually nonexistent, both the Cape Verdean government and private sector are seeking to establish exports to new markets, including the United States. Furthermore, there is already a large demand for U.S. Products and services in Cape Verde.

Potential U.S. investments lie in a number of sectors, including light industry, offshore banking, agriculture and fishing, and perhaps most notably, tourism. It occurs to me that one of the few natural resources on which Cape Verde could capitalize is its raw, indigenous beauty. There have been contracts with other countries to construct additional tourist facilities on Cape Verde, and it would seem that there is much room for expansion in this sector. I understand Cape Verde is endowed with a healthy climate and magnificent beaches and mountains. Even on the flat islands, there is a perfect breeze for windsurfing and other sport activities.

It is my sincere hope that this conference will add impetus to the drive toward a strong trade relationship between the United States and Cape Verde. Already there is an atmosphere in Cape Verde that would invite and reward American investment. Cape Verde could accordingly refine its infrastructure and address with greater resources the crucial problem of drought. It could work further to bolster its educational system and combat the onslaught of AIDS. Most importantly, in strengthening its overall economic position, Cape Verde would be able to look to the day when it crosses the threshold of development.

This is a venture that truly could be beneficial to both of our countries. In the spirit of the *Ernestina*, we should begin the journey with an appropriate sense of anticipation, and the knowledge that we are contributing to the ultimate well-being of the United States and Cape Verde. Our ties are firmly established and will remain strong; and it is only proper that they should evolve in this direction.

Thank you.

GEN. BUD WATTS TAKES COMMAND AT THE CITADEL

Mr. HOLLINGS. Mr. President, on April 6, Gen. Claudius E. Watts III was formally inaugurated as the 17th president in the history of The Citadel. Wherever he has served, Bud Watts has excelled: As an undergraduate at The Citadel, class of 1958, as a Fulbright scholar at the London School of Economics, at Stanford Business School, in Vietnam, in the top ranks at the Pentagon. Small wonder that he was unanimously selected for the job from a field of 128 candidates. I congratulate General Watts on his new responsibilities. Even more, I congratulate The Citadel for its good sense and good fortune.

Mr. President, in his inaugural address, General Watts presented his vision of The Citadel's unique role in American higher education. It is an eloquent, compelling speech, and I request unanimous consent that it be reprinted in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

CITADEL PRESIDENT'S INAUGURATION ADDRESS, APRIL 6, 1990

Good morning, friends of The Citadel. Please allow me to extend my sincere welcome to all of you and to express my special gratitude to those who sit here on the dais and symbolically represent the essence of our beloved college and its ties to the world. I thank my cousin Charles, a man of God; Colonel Risher and our Board of Visitors; Senator Hollings, who, along with General Johnson, represent our nation and its military might; Lt. Governor Theodore on behalf of our state; Mayor Riley for Charleston; Julian Frasier for the alumni; Mr. Ludlum for the corps and all Citadel students; and Dr. Briggs, representing our superb faculty and staff. Thank you for your well-wishes. I am touched by the support of my classmates, for whom Larry McKay has spoken so well. I am heartened at seeing my predecessors, Generals Seignious and Grimsley, whose presence indicates survival in this position is possible. Last, but first with me, I cherish the confidence and support of my family, sitting in front of me.

Now as a first official act, so we all start with a clean slate—For those eligible—I hereby grant amnesty to the corps of cadets.

I am honored by the opportunity to lead this great institution. I also approach this morning's address to you with great humility and some trepidation, for I am painfully aware that Horace Mann once remarked that the surest and fastest way to disperse a crowd was to give a speech on education.

A visitor entering The Citadel or an alumnus returning after an absence of many years is at once struck by a sense of permanence. The imposing building surrounding the parade field exude an aura of timeless serenity as they look down upon the seemingly changeless routine of cadet life. The ritual and panopoly of parade, the bark of a sergeant's command, and the cries of the exultant victors of some intramural event are the voices of the past, present, and future. But I caution that observer. Casual impressions can be misleading; they are often hasty, and the glimpse is rarely all-encompassing.

So much here has changed. For someone of my generation, there are new buildings: Daniel Library, Jenkins Hall, Seignious Hall and Deas Hall to name only a few; and others have been renovated, most recently and visibly this field house. The faculty have changed; each year the percentage of those possessing doctorate degrees increases. Their specialization has resulted in new departments and new fields of study. And, of course, the tools of instruction are vastly different. Vacuum tubes have metamorphosed through transistors into silicon chips. In 1958 only gigantic corporate entities or the federal government needed, or could afford, computers. Today, the ubiquitous PC winks and blinks in many of our classrooms and offices, and many cadets bring their computers and CD players to college instead of the hi-fi's brought by my generation.

In spite of such dynamism, I assure you we still hold to that more difficult road, the less traveled one, but the one which, as Robert Frost noted, makes all the difference. The Citadel's philosophy is unchanged. The Citadel's pedagogical compound of a rigorous education within a structured environment that challenges our students to master themselves as they grow intellectually, physically, and spiritually endures. That compound has two noteworthy components.

First is the core curriculum, imparting to all students a bond of common knowledge. The core curriculum acquaints all students with their intellectual heritage and exposes them to disciplines in addition to their major fields of study and produces in our students an unrivaled depth. Cadets in technical fields, for example, understand man's ceaseless drive to synthesize function and beauty, knowing that Winckelmann's superb definition of classicism, "noble simplicity and quiet grandeur," came from his

contemplation of Hellenic architecture. Liberal arts cadets become conversant with black holes, genetic engineering, the rigor of numbers, and the harmony of nature, and at the same time they gain an understanding of the limitations of empiricism and glory in that spark of genius that sets our souls soaring.

The second component of our compound is the military lifestyle. A cadet undergoes the rigors of the 4th class system which teaches the importance of detail and how to cope with the stress so prevalent in our world. Later, as an upperclassman, he learns to share and to accept responsibility. He discovers how to lead. Above all, he learns the importance of integrity.

By the time he graduates, a cadet knows himself, his strengths, his weaknesses, and what he can accomplish and what he cannot. With that self-knowledge comes the self-mastery and confidence so characteristic of the graduates of this institution. The Citadel's approach is not novel; "know thyself" was inscribed over twenty-six hundred years ago on the doors of the Temple of Apollo at Delphi. But the Citadel's approach is unique, and as president, I intend to keep it that way.

Having said that, let me share with you my vision for The Citadel in the coming decade as we approach the year 2000. First, she will remain an institution where quality and excellence are prized and nurtured. Our mission is unchanged since our beginnings 147 years ago: we seek to instill a life-long love of learning in all our students along with an ability to think critically, coupled with an eloquence of expression. We seek to teach that diversity of opinion is not chaos but rather a challenge to the intellect to ascertain and impose a reasoned order. We seek for our students to understand and appreciate the heritage of our rich culture, while acknowledging that other cultures have much to offer.

Second, the corps of cadets will remain the centerpiece of the college. Educating young men within the structure of a military environment will continue as our central mission. In addition, we will continue to broaden and expand our evening college and graduate programs.

As a third goal, we must transcend our walls to share our expertise in those areas where we are uniquely qualified to enrich our community, state, and region. Three areas come readily to mind. First, we have launched an ambitious undertaking with Burke High School to enrich the curriculum of that school, showing inner-city youngsters that there is an open door to higher education and a future. Called "Project Challenge", that efforts has already garnered national foundation support. A second area in which we have unique credentials and much to offer relates to our traditional mission—producing the citizen soldier. The Citadel is not a service academy, but since its inception, Citadel men have always answered the call of state and country, and many serve today in our reserve components. It is highly appropriate that in this state, whose National Guard and reserve component forces are rated the best in the nation, that this institution should take the lead in studying and providing policy recommendations concerning reserve component forces to our state and national leader. Last, I want to see The Citadel's faculty take the lead and become the vanguard of the vital link between "town and gown" so essential to our region's economic development and prosperity. The Citadel has grown and prospered with the Lowcountry; it is our turn to carry our share.

A moment ago I spoke of the richness that diversity allows. We have a diverse student body, and as a fourth goal, I want to encourage that diversity. I mean minority students, I mean qualified foreign students, and I mean out-of-state students. The one institution in American society which has opened more doors of opportunity for our minority citizens has been the military. The Citadel is uniquely poised to emulate that example, and we will intensify our efforts in that direction. I also offer no apology for already having a good number of out-of-state students. I recognize our debt to this great state, and I assure you we have never turned away a qualified son of South Carolina, nor will we. I also remind critics that out-of-state students pay a hefty differential for the privilege of attending school in South Carolina. Moreove, out-of-state students are a investment for South Carolina. Many remain in the state after graduation or return at some point to live here. Just a few local young ladies have convinced Yankee boys that living in Charleston has its rewards. Finally, these out-of-state students are just the type of prospective citizens that any state would desire—college educated leaders.

I have pledged that The Citadel will retain that which has made her great, but she cannot and must not remain static. Our graduates enter a world that is increasingly technical, sophisticated and complicated. It is our duty to prepare them, so we must provide current equipment in our classrooms and labs. I am convinced that an excellent education comes only from a superior faculty and first-class facilities. We have the former; we shall acquire the latter. For example, those personal computers I mentioned earlier are no longer luxury items; they are as necessary to education today as slide rules and typewriters were to my generation. We have made great progress through the extraordinary generosity of friends, corporations, and The Citadel development foundation in acquiring these machines for the college and our faculty. We now have to acquire personal computers for our students, and it is my fifth goal for each student to have a personal computer not later than 1993.

Finally, I must admit I have the dream of all Citadel alumni: winning a national athletic championship. And we will accomplish this task by fielding teams of student-athletes whose members meet all NCAA standards and graduate on time.

My goals as president, then, are straightforward: preserve and enhance those strengths which have brought The Citadel to national prominence while modernizing our facilities and introducing those technologies which allow the Citadel graduates to compete in this increasingly sophisticated world. To accomplish these goals will be neither cheap nor easy. And no one person accomplish such lofty tasks by himself. We, and that "we" means me, faculty and staff, students and parents, alumni, friends of the college, and the state of South Carolina, must forge an alliance to prepare this college for the next century.

As president, it is my responsibility to articulate and focus a vision for The Citadel and to secure the means to fulfill those aspirations. Traditionally, support for a public institution comes from three sources: state assistance, tuition and fees, and private giving. All these have finite limits, and we are bumping up against those boundaries.

We are a state supported school, and to the uninitiated, that evokes a vision of an inexpensive education financed almost in its entirety by the public. Nothing could be further from the truth. At best, about one-third of our total revenues come from the state; it is perhaps more appropriate for us to say we are state-assisted. Unfortunately, year-by-year that assistance has eroded, caused largely by a lack of confidence. Public higher education has long claimed that financial support from the state is inadequate, yet sums have been spent in a manner that raises the question of whether or not our litany of complaints is justified. There is a crisis, and it stems from two causes: a funding system that rewards quantity instead of quality and our legislature's difficulty in appropriating the level of funding authorized by this state's own process.

In South Carolina, assistance from the state is derived from a formula that is largely predicated upon credit hour production. Since colleges are supposed to provide teaching, a formula based upon the number of classes taken by students appears both logical and irrefutable. Unfortunately, that formula rewards quantity without respect to quality. I'm not going to aruge that big is necessarily bad or that small is *de facto* good, but I am saying that a formula that rewards quantity over quality needs examination. The Citadel is a unique institution; we fill a special niche, and we have no desire to expand our cadet corps. This is our choice, and the strength of American higher education is that is fosters such diversity. Nonetheless, our endeavors to ensure quality to attract the best possible faculty and students, and to put them in worthy surroundings find no solace in a formula that is at best a mask for stagnation.

We deserve better. I am proud to say that two-thirds of all our students who matriculate complete their studies within the traditional four years, and for our athletes and minority students, the figures are 75% and 63%, respectively. I compare those figures to another set coming from the U.S. Department of Education. An article appearing in a recent edition of the Chronicle of Higher Education states that nation-wide, only 15% of students at four-year colleges and universities are graduated within the traditional four-year period. Only 15%. Our success emanates from selective admission standards and a tough, demanding, and challenging system. Yet, we see no tangible reward in the state funding formula for our efforts to provide quality. This situation cries for redress, so I challenge my fellow college presidents and our elected leaders to join with me in pressing for a funding process that is tied to an assessment of results that will reward quality, not just quantity.

Compounding the problems of a funding process that rewards only growth is the annual legislative dance over the level of funding. Only once in twelve years has the state of South Carolina provided the full level of the funding to the colleges and universities that it acknowledges as higher education's fair share. This year we face the likelihood of receiving only 86% of the state appropriations authorized by the approved higher education formula. This is not a recipe for success, much less quality. It is a formula for failure. It means that South Carolina's institutions of higher education will be funded well below the average for all 15 states in the southern region.

The balance of what we require to maintain our current programs and to make good the anticipated shortfall must come from

fees and tuition charged to students and the generous assistance we receive from alumni and friends. As I noted earlier, we are approaching the limits of what we can charge for tuition. To attend college is indeed a privilege, but we are penny-wise and pound foolish as a society if we do not keep the barriers to such privilege as low as possible. As an American, I believe privilege should come to those who earn it rather than those who buy it, so it is both my conviction and duty to keep our tuition and fees as low as possible.

I am thus compelled to turn to that third pillar of support, the alumni and friends of The Citadel. Your generosity has never faltered; your support is extraordinary; you are stalwarts. Just last year, we successfully completed our first capital campaign. I stand in front of you now to announce that today I am publicly launching an inaugural campaign which was quietly unveiled a month ago to our alumni. The purpose of this intensive effort is to reduce our debts incurred for essential capital improvements. This effort is a planned, focused campaign designed to clear the decks of debt prior to our 150th anniversary year beginning in 1992. We then must address a more daunting task in the mid 1990's: a multi-million dollar renovation of the barracks.

Nonetheless, there is a limit to the burden parents can and will bear, and there is also a limit to the philanthropy of our alumni and friends. In addition to calling for a re-evaluation of the higher education funding process, we have no alternative but to ask the citizens of this great state to consider the future. South Carolinians understand the simple and direct correlation between education and a future with a future. Higher education is not an expense; it is an investment. We risk our children's prosperity if we persist in neglecting higher education, and the current exodus of the best from our state will continue to swell. We must all join together to work for increased higher education funding.

Now, I have talked a great deal about what others must do for The Citadel. Let me conclude by stating what The Citadel must do. Assessment and its twin, accountability, comprise the current trend in education. We are just beginning this immense and complicated undertaking. We will evaluate our programs to measure their effectiveness so we are assured of fulfilling our mission. We owe a complete accounting to students, parents, alumni, and the public for the precious resources entrusted to us. Our stewardship must be of the highest caliber.

As president, I pledge to administer The Citadel and its resources in the most efficient manner possible. Excellence is an attitude, and we are committed to it. A college with average facilities and an average faculty can only attract average students, producing average graduates. The Citadel is not and never has been mediocre, and we will raise the resources to have first-class facilities and to attract and retain our excellent faculty. These steps will ensure that the quality of our students and, in the long run, our alumni, remains what is always has been: the best.

In 1842 The Citadel was founded upon the concept that learning best took place within the confines of a structured and disciplined environment. For almost a century and a half of turbulent, challenging years, this educational philosophy has proven its soundness, and this institution has held its head proudly among the premier institutions of higher education in our nation. As 17th president of The Citadel, I can only hold in trust our beloved institution which has stood the test of time so well. With your held and God's blessing, I will preserve and protect it while providing our graduates the technological tools and knowledge to step forth boldly and successfully into the 21st century.

THE INTERACTION COUNCIL'S LISBON STATEMENT ON GLOBAL INTERDEPENDENCE AND NATIONAL SECURITY

Mr. PELL. Mr. President, in March 1990 a group of 20 leaders from the fields of education, religion, human rights, and politics met in Lisbon to discuss the topic "Global Interdependence and National Sovereignty" under the auspices of the InterAction Council.

The group included eight former heads of government and was chaired by Maria de Lourdes Pintasilgo, Prime Minister of Portugal from 1979 to 1980. The InterAction Council, which includes 30 former presidents and prime ministers, is led by Helmut Schmidt, Chancellor of the Federal Republic of Germany, 1974–82, who participated in the meeting.

In a statement just published, the conferees concluded that stability in the 21st century will require "effective and cooperative steps to curb environmental degradation, to redress both the persistent economic imbalances between north and south and the financial disequilibria among industrialized countries, to stabilize population growth, to eradicate absolute poverty, and to reduce consumer demand in developed nations."

Mr. President, the conferees have addressed some of the most difficult and pressing issues facing our world today. While their proposals may at times be controversial, I believe that they are well worth consideration, and I commend their statement to my colleagues. I ask unanimous consent that the statement be printed following my remarks in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

LISBON STATEMENT ON GLOBAL INTERDEPENDENCE AND NATIONAL SOVEREIGNTY, MARCH 11, 1990

1. TOWARDS GLOBAL ORDER

The world is at a crucial turning point in its history. Behind us: forty years of cold war, superpower confrontation and ever-burgeoning military arsenals. Before us: the chance to move towards a new era of peace, co-operation and dialogue. But this new era will only begin if we take positive and concrete steps to seize the opportunity for change. It is in the interest of all mankind that the changes that we have so far witnessed should not be reversed.

The management of this era will require new instruments, new forms of leadership and a new definition of the interrelationship between national and global interests.

Global interdependence increasingly affects all aspects of human activity. As such, it is a reality which can no longer be ignored. Yet approaches to problem solving remain largely focused at the national level. The concept of national sovereignty, the inviolability of borders and the autonomy of the nation-state encapsulated as they are by international law, now function against a backdrop of ever-shrinking national autonomy. Unilateral national instruments cannot solve the growing number of global problems which confront us. Alone, the nation-state cannot cope.

To ensure stability for the twenty-first century, effective and co-operative steps must be taken to curb environmental degradation; to redress both the persistent economic imbalances between North and South and the financial disequilibria among industrialized countries; to stabilize population growth; to eradicate absolute poverty; and to reduce consumer demand in developed nations.

Managing interdependence will require the establishment of a new—essentially holistic—global order encompassing the areas of peace and security, the global economy, the population-environment-development nexus and human rights. This order will be characterized by the exercise of delegated sovereignty based on the principle that decisions should be taken at the lowest possible level at which they can be effective. This will entail the strengthening of existing, or the creation of new institutions. Religious leaders, scientists, educators, non-governmental organizations and the cultural community have a central role to play. But, ultimately, the global order will depend on the understanding of the citizens of all nations and on the commitment, quality and accountability of political leaders. Education is vital to the promotion of global citizenship.

II. MANAGING INTERDEPENDENCE

The following actions will be required:

Peace and Security

(a) An early conclusion of further arms reduction agreements.

(b) The establishment of international agreements to limit and control arms production and trade, particularly in the field of aircraft and ballistic missiles.

(c) The radical reduction of defence expenditures.

(d) Agreement to utilize and strengthen the United Security Council and the Conference on Security and Cooperation in Europe (CSCE).

The Global Economy

(a) The correction of the economic imbalances between the North and the South through the elimination of the debt burden, improvement in the terms of trade, and access to knowledge and skills of developed countries.

(b) The correction of financial imbalances between the United States on the one hand, and the Federal Republic of Germany and Japan on the other.

(c) The development of a system of international financial law leading to the establishment of a regulatory authority for financial markets and the international harmonization of rules governing the operations, financial transactions, social policies and practices of transnational corporations.

(d) The restoration of a system of stable and co-ordinated exchange rates.

(e) The acceptance of the principle of binding targets for Official Development Assistance (ODA) flows to developing coun-

tries linked to the progressive reduction of recipients' military expenditures.

(f) The conclusion and full application of international agreements among all those countries involved to check the growth, spread, trafficking and use of drugs.

Population

(a) The recognition that population is intimately linked to economic development and the availability of resources.

(b) The stabilisation of global population in the twenty-first century at eight to ten billion. A doubling of the resources allocated to international population assistance programmes for contraception, accompanied by a programme of education for birth control.

Environment

(a) The implementation of the agreement reached at the Hague in April 1989 for the establishment of a High Authority to set an internationally binding policy framework with regulatory powers.

(b) The convening of an international conference to adopt a convention on global warming with binding commitments.

(c) The creation of regional institutions to manage specific issues such as deforestation, shared water resources etc.

(d) The adoption of a convention on transboundary co-operation in environmental matters.

(e) The recognition that toxic wastes should be disposed of in the country of origin and should not be sent to developing countries or dumped at sea.

(f) Strict application of the 'polluter pays principle' at the national and the international level.

(g) The establishment and progressive reduction of targets for fossil fuel emissions by the major industrialized countries; the establishment of a monitoring system by the International Energy Agency (IEA) and the publication of its results.

(h) The creation of a facility to assist developing countries in the development and implementation of environmental programmes.

Energy

(a) The launching of a massive international research programme into the development of renewable energy sources—in particular nuclear fusion, solar energy (photovoltaics), and geothermal energy.

(b) The intensification of efforts, co-ordinated by the International Atomic Energy Agency (IAEA), to find solutions for safe and stable nuclear waste disposal and safe procedures for the decommissioning of nuclear reactors.

Human rights

(a) The promotion of the democratic process and international recognition of the fundamental principle of free access and unimpeded movement of observers in national elections.

(b) The International recognition and protection of the right to individuals to monitor their Government's observation of human rights.

(c) The ratification of existing human rights agreements, including the Optional Protocol to the Covenant on Civil and Political Rights which provides for the right of individuals, non-governmental organizations and governments to submit petitions to the United Nations Human Rights Committee.

(d) The incorporation into international law of the right of humanitarian assistance i.e., the right of humanitarian organizations to assist, the right to request assistance and the right to receive assistance.

(e) The extension of international law to cover United Nations-approved international sanctions against human rights violations.

Participants

Maria de Lourdes Pintasilgo, Chairperson, Prime Minister of Portugal, 1979–80.

Helmut Schmidt, Chancellor of the Federal Republic of Germany, 1974–82.

Takeo Fukuda, Prime Minister of Japan, 1976–79.

Lord Callaghan of Cardiff, Prime Minister of the United Kingdom, 1976–79.

Kurt Furgler, President of the Swiss Confederation, 1977, 1981, 1985.

Olusegun Obasanjo, Head of the Federal Military Government of Nigeria, 1976–79.

Hyon-Hwak Shin, Prime Minister of the Republic of Korea, 1979–80.

Pierre Elliott Trudeau, Prime Minister of Canada, 1969–79, 1980–84.

M. Aram (India), Executive President, World Conference on Religion and Peace; former Vice-Chancellor, Gandhigram University.

Abdelaziz Ben Dhia (Tunisia), Minister and President, Constitutional Consultative Council; former Minister for Social Affairs, National Education and Higher Education and Scientific Research; Professor of Law, Tunis.

Claude Geffré (France), Professor of Theology of Religions, Catholic Institute, Paris.

Jiri Hajek (Czechoslovakia), former Education and Culture Minister (1965–1968) and Foreign Minister (1968); Spokesman, Charter 77.

Joseph Ki-Zerbo (Burkina Faso), Professor of History, University Cheikh Anta Diop, Dakar (Senegal); President, Center of Research for Endogenous Development; President, Association of African Historians.

Bernard Kouchner (France), Secretary of State for Humanitarian Action, Office of the Prime Minister.

Halfdan Mahler (Denmark), Secretary-General, International Planned Parenthood Federation; former Director-General, World Health Organization.

Patricia M. Mische (United States), Co-founder of Global Education Associates; Founder and former Director, Institute for Peace, Justice and Human Values, Seton Hall University.

K.L. Seshagiri Rao (India), Professor of Religious Studies, University of Virginia; Chief Editor, Encyclopedia of Hinduism; President, International Association of Gandhian Studies.

Boaventura Sosa Santos (Portugal), Professor and Director, Faculty of Economics, University of Coimbra.

Manfred Stolpe (German Democratic Republic), Consistorial President, Lutheran Church of Berlin-Brandenburg and Deputy Chairman of Lutheran Church Council of the German Democratic Republic.

Karel Vasak (France), former Director of Division of Human Rights and Legal Advisor, UNESCO.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAVORED-NATION STATUS FOR HUNGARY

Mr. BENTSEN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar Order No. 486, H.R. 1594.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 3 years.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which has been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. TABLE OF CONTENTS.

TITLE I—TARIFF PROVISIONS

Subtitle A—Amendments to the Harmonized Tariff Schedule of the United States

Sec. 1001. Reference.

PART 1—PERMANENT CHANGES IN TARIFF TREATMENT

Sec. 1101. Gloves, mittens, and mitts.
Sec. 1102. Certain chipper knife steel products.
Sec. 1103. Bicycles having 26-inch wheels.
Sec. 1104. Edible molasses containing nonsugar solids.
Sec. 1105. Tobacco processed in Caribbean Basin country.
Sec. 1106. Articles exported and returned.
Sec. 1107. Brooms.
Sec. 1108. Foliage-type artificial flowers.

PART 2—TEMPORARY CHANGES IN TARIFF TREATMENT

SUBPART A—EXISTING PROVISIONS

Sec. 1201. Extension of certain existing provisions.
Sec. 1202. Certain hosiery knitting machines.
Sec. 1203. Parts and accessories of copying machines.
Sec. 1204. Toy jewelry, certain small toys and novelty goods.
Sec. 1205. Jacquard cards.
Sec. 1206. C-Amines.
Sec. 1207. Corned beef in airtight containers.
Sec. 1208. Menthol feedstocks.
Sec. 1209. Surgical gowns and drapes.

SUBPART B—NEW PROVISIONS

Sec. 1301. Calcium acetylsalicylate (calcium carbaspirin).
Sec. 1302. Bendiocarb.
Sec. 1303. Certain glass bulbs.
Sec. 1304. Octadecyl isocyanate.
Sec. 1305. Molten-salt-cooled acrylic acid reactors.
Sec. 1306. Dimethylbenzylidene sorbitol.
Sec. 1307. 4,4'-Isopropylidenedicyclohexanol.
Sec. 1308. Sulfachloropyridazine.
Sec. 1309. Thiothiamine hydrochloride.
Sec. 1310. Paramine acid.
Sec. 1311. Sucralfate.
Sec. 1312. Anthraquinone.
Sec. 1313. Theobromine.
Sec. 1314. Chlorhexanone.
Sec. 1315. Naphthalic acid anhydride.
Sec. 1316. K-Acid.
Sec. 1317. Broenner's acid.
Sec. 1318. D Salt.
Sec. 1319. Neville and winter's acid.
Sec. 1320. Anis base.
Sec. 1321. Naphthol as types.
Sec. 1322. Ceftazidime tertiary butyl ester.
Sec. 1323. Certain plastic web sheeting.

Sec. 1324. Magnetic video tape recordings.
Sec. 1325. Mixed ortho/para toluenesulfonomide.
Sec. 1326. 2,6-Dichlorobenzonitrile.
Sec. 1327. 1-[1-((4-Chloro-2-(trifluoromethyl)phenyl) imino)-2-propoxyethyl]-1-h-imidazole.
Sec. 1328. Certain Christmas ornaments.
Sec. 1329. Frozen carrots.
Sec. 1330. Impact line printers.
Sec. 1331. Amino acetanilide.
Sec. 1332. 6 Amino-2-naphthene sulfonic acid.
Sec. 1333. 8 Amino-2 naphthene sulfonic acid.
Sec. 1334. 5 (and 8) Amino-2 naphthalene sulfonic acid.
Sec. 1335. 5 Amino 2 naphthalene sulfonic acid.
Sec. 1336. 1-Naphthylamine.
Sec. 1337. 4 Amino-1-naphthalene sulfonic acid, sodium salt.
Sec. 1338. 1,4 Dihydroxyanthraquinone.
Sec. 1339. 7 Nitro naphth [1,2] oxadiazole 5-sulfonic.
Sec. 1340. 4-Chloro-α,α,α-trifluoro-o-toluidine.
Sec. 1341. 7-Amino-1,3-naphthalenesulfonic acid, monopotassium salt.
Sec. 1342. 2-Amino-4-chlorophenol.
Sec. 1343. 2,4-Diamino benzene sulfonic acid.
Sec. 1344. 2,5 Dichloro-4-(3-methyl-5-oxo-2 pyrazolin-1-yl) benzenesulfonic acid.
Sec. 1345. 7-Hydroxy 1,3-naphthalene disulfonic acid-dipotassium salt.
Sec. 1346. O-anisidine.
Sec. 1347. 1-Amino-2-bromo-4-hydroxyanthraquinone.
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Sec. 1349. (1,3,3 · Trimethyl-indoline-2-ylidene) acetaldehyde.
Sec. 1350. 2,3 Dihydro 1,3,3 trimethyl-2-methylene-1h-indole.
Sec. 1351. 2[(4 Aminophenyl) sulfonyl] ethanol hydrogen sulfate ester.
Sec. 1352. 7-Anilino-4-hydroxy-2 naphthalene sulfonic acid.
Sec. 1353. 1,4-Diamino-2,3 dihydroanthraquinone.
Sec. 1354. Castor oil and its fractions.
Sec. 1355. 0,0-Dimethyl-s-[(4-oxo-1,2,3-benzotriazin-3-(4h)-yl)methyl] phosphorodithioate.
Sec. 1356. Suspension of duty on certain machines for use in the manufacture of wheels for bicycles and on certain bicycle parts.
Sec. 1357. L-alanyl – L-proline, also known as ala pro.
Sec. 1358. Tfa lys pro in free base and tosyl salt forms.
Sec. 1359. Certain timing apparatus.
Sec. 1360. Ciprofloxacin hydrochloride, ciprofloxacin, and nimodipine.
Sec. 1361. Certain furniture and seats.
Sec. 1362. Wicker products.
Sec. 1363. (6R-(6A,7B(Z)))-7(((2-Amino-4-thiazolyl)((carboxymethoxy) imino) acetyl) amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0) act-2-ene-2-carboxylic acid.
Sec. 1364. N-(4-(((2-Amino-5-formyl-1,4,5,6,7,8-hexahydro-4-oxo-6-pteridinyl) methyl)amino)benzoyl)-l-glutamic acid.
Sec. 1365. (1)3-Quinolinecarboxylic acid, 1-ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl)-, also known as norfloxacin.
Sec. 1366. 2,2-Dimethylcyclopropylcarboxamide.
Sec. 1367. N-Amidino-3,5-diamino-6-chloropyrazinecarboxamide monohydrochloride dihydrate, also known as amiloride hydrochloride.
Sec. 1368. Chemical light activator blend.
Sec. 1369. Gripping narrow fabrics.
Sec. 1370. BPIP.
Sec. 1371. MBEP.
Sec. 1372. 2-Ethylanthraquinone.
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Sec. 1374. Polymin P and Polymin P hydrochloride.
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Sec. 1376. Ornithine.
Sec. 1377. Teicoplanin.
Sec. 1378. Acetoacet-para-toluidide (AAPT).
Sec. 1379. Acetoacetsulfanilic acid, potassium salt (AA sulfanilic acid potassium salt).
Sec. 1380. 6-Methyluracil.
Sec. 1381. Ethyl 2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate (ATHAET).
Sec. 1382. Ethyl 2-(2-aminothiazole-4-yl)-2-methoxyiminoacetate (ATMAET).
Sec. 1383. 4,4'-Methylene-bis-(2,6-dimethylphenylcyanate).
Sec. 1384. 2,2'-Bis(4-cyanatophenyl-1,1,1,3,3,3-hexafluoropropane.
Sec. 1385. 4,4'-Thiodiphenyl cyanate.
Sec. 1386. 1,1-Ethylidene-bis-(phenyl-4-cyanate).
Sec. 1387. Hydrocarbon novolac cyanate ester.
Sec. 1388. 4,4'-Methylene-bis-(3-chloro-2,6-diethyl aniline).
Sec. 1389. 4,4'-Methylene-bis-(2,6-diisopropyl aniline).
Sec. 1390. L-Carnitine.
Sec. 1391. Diphenolic acid.
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Sec. 1400. Iopamidol.
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Sec. 1403. Ioxaglate.
Sec. 1404. 7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene.
Sec. 1405. Modeling pastes.
Sec. 1406. Mercuric oxide.
Sec. 1407. 2,3,6-Trimethylphenol (TMP).
Sec. 1408. Protective sports apparel.
Sec. 1409. 1,5 Naphthalene diisocyanate.
Sec. 1410. Self-folding telescopic shaft, collapsible umbrellas.
Sec. 1411. 1,6-Hexamethylene diisocyanate.
Sec. 1412. Certain in-line roller skate boots.
Sec. 1413. Certain veneer.
Sec. 1414. p-Tolualdehyde.
Sec. 1415. Diltiazem hydrochloride, and sustained release diltiazem hydrochloride.
Sec. 1416. Clentiazim.
Sec. 1417. Personal effects and equipment of participants and officials involved in the 1990 Goodwill Games.
Sec. 1418. Copper acetate monohydrate.
Sec. 1419. Parts of generators for use on aircraft.
Sec. 1420. Certain infant nursery monitors and intercoms.
Sec. 1421. Certain glass fibers.
Sec. 1422. Three-dimensional cameras.
Sec. 1423. Personal effects and equipment for World University Games.
Sec. 1424. Karate pants and belts.
Sec. 1425. Metallurgical fluorspar.
Sec. 1426. Certain piston engines.
Sec. 1427. Quizalofop-ethyl.
Sec. 1428. Certain insulated electrical conductors.
Sec. 1429. Diphenyldichlorosilane and phenyltrichlorosilane.
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Sec. 1431. 4-Fluoro-3-phenoxy benzaldehyde.

PART 3—EFFECTIVE DATES

Sec. 1601. Effective dates.

Subtitle B—Miscellaneous Provisions

Sec. 1701. Certain forgings.
Sec. 1702. Bi-level rail passenger cars.
Sec. 1703. Certain extracorporeal shock wave lithotripter.
Sec. 1704. Foreign trade zones.
Sec. 1705. Certain entries of digital processing units.
Sec. 1706. Nuclear magnetic spectrometer.
Sec. 1707. Foreign repair of vessels.
Sec. 1708. Certain methanol entries.
Sec. 1709. Certain frozen vegetables.
Sec. 1710. Certain films and recordings.
Sec. 1711. Certain distilled spirits in foreign trade zones.
Sec. 1712. Reliquidation of certain entries and refund of antidumping duties.
Sec. 1713. Substitution of crude petroleum or petroleum derivatives.

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

Sec. 2001. Short title.
Sec. 2002. Congressional findings.
Sec. 2003. Repeal of termination date on duty-free treatment under the Act.
Sec. 2004. Worker rights.
Sec. 2005. Reports.
Sec. 2006. Increase in duty-free tourist allowances.
Sec. 2007. Duty-free treatment for articles assembled in beneficiary countries from components produced in the United States.
Sec. 2008. Conforming GSP amendment.
Sec. 2009. Pilot preclearance program.
Sec. 2010. Application of Act in Eastern Caribbean area.
Sec. 2011. Caribbean-Central American scholarship partnership.
Sec. 2012. Promotion of tourism.
Sec. 2013. Agricultural infrastructure support.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AGENCIES

Sec. 3001. Office of the United States Trade Representative.
Sec. 3002. United States International Trade Commission.
Sec. 3003. United States Customs Service.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 4001. Technical amendments regarding nondiscriminatory trade treatment.
Sec. 4002. Customs user fees.
Sec. 4003. Drug paraphernalia.
Sec. 4004. Prohibition on the importation of certain articles originating in Burma.

TITLE I—TARIFF PROVISIONS

Subtitle A—Amendments to the Harmonized Tariff Schedule of the United States

SEC. 1001. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section, chapter, subchapter, note, heading, subheading, or other provision, the reference shall be considered to be made to a section, chapter, subchapter, note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

PART 1—PERMANENT CHANGES IN TARIFF TREATMENT

SEC. 1101. GLOVES, MITTENS, AND MITTS.

(a) ICE AND FIELD HOCKEY GLOVES.—

(1) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.10.10:

"	6116.10.05	Ice hockey gloves and field hockey gloves	Free		25%	"

(2) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.92.10:

"	6116.92.05	Ice hockey gloves and field hockey gloves	Free		45%	"

(3) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.93.10:

"	6116.93.05	Ice hockey gloves and field hockey gloves	Free		45%	"

(4) Chapter 61 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6116.99.30:

"	6116.99.20	Ice hockey gloves and field hockey gloves	Free		45%	"

(5) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.10:

"	6216.00.05	Ice hockey gloves and field hockey gloves	Free		25%	"

(6) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.34:

"	6216.00.33	Ice hockey gloves and field hockey gloves	Free		45%	"

(7) Chapter 62 is amended by inserting in numerical sequence the following new subheading, with the article description having the same degree of indentation as the article description for subheading 6216.00.44:

"	6216.00.43	Ice hockey gloves and field hockey gloves	Free		45%	"

(b) OTHER SPORTS GLOVES.—The article descriptions in subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34 and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

SEC. 1102. CERTAIN CHIPPER KNIFE STEEL PRODUCTS.

(a) IN GENERAL.—Subchapter IV of chapter 72 is amended by striking out subheadings 7226.91.10 and 7226.91.30 Harmonized Tariff Schedule of the United States and inserting in lieu thereof the following new subheadings, with the article description for subheading 7226.91.05 having the same degree of indentation as subheading 7226.91.50:

"	7226.91.05	Of chipper knife steel	Free		34%	
		Other:				
	7226.91.10	Of a width of 300 mm or more	9.6%	Free (E, IL) 7.6% (CA)	29%	
	7226.91.30	Of a width of less than 300 mm	11.6%	Free (E, IL) 9.2% (CA)	34%	"

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in subheadings 7226.91.10 and 7226.91.30 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of enactment of this Act and is scheduled to take effect after the date of enactment of this Act shall take effect as provided in that proclamation.

SEC. 1103. BICYCLES HAVING 26-INCH WHEELS.

Heading 8712.00 is amended—

(1) by striking out "65 cm" each place it appears and inserting in lieu thereof "63.5 cm"; and

(2) by striking out "4 cm" in subheading 8712.00.20 and inserting in lieu thereof "4.13 cm".

SEC. 1104. EDIBLE MOLASSES CONTAINING NONSUGAR SOLIDS.

Paragraphs (a)(i), (h)(i), and (ij) of Additional U.S. Note 3 to chapter 17 are each amended by striking out "1702.90.40,".

SEC. 1105. TOBACCO PROCESSED IN CARIBBEAN BASIN COUNTRY.

The Additional United States Notes for chapter 24 are amended by adding at the end thereof the following new note:

"5. For purposes of heading 2401, any tobacco grown in the United States, and any article of tobacco grown in the United States, that falls within any subheading of heading 2401 for which the rate of duty of 'Free' followed by the symbol 'E' appears in the special subcolumn of rate of duty column 1 and that—

"(a) has been processed, advanced in value, or improved in condition in a designated beneficiary country enumerated in general note 3(c)(v), and

"(b) is not processed, advanced in value, or improved in condition in any country other than such a designated beneficiary country or the United States,

shall, when imported directly from such a designated beneficiary country, be accorded duty-free entry as an eligible article for the purpose of the Caribbean Basin Economic Recovery Act.".

SEC. 1106. ARTICLES EXPORTED AND RETURNED.

The U.S. notes to subchapter II of chapter 98 are amended by adding at the end thereof the following new note:

"6. Notwithstanding the partial exemption from duties for the value of the metal product exported from the United States provided under subheading 9802.00.60, articles imported under subheading 9802.00.60 are subject to all other duties, and any other restrictions or limitations, imposed pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) or chapter 1 of title II, or chapter 1 of title III, of the Trade Act of 1974 (19 U.S.C. 2251, et seq., 19 U.S.C. 2411 et seq.).".

SEC. 1107. BROOMS.

Chapter 96 is amended—

(1) by inserting "wholly or in part" after "Whiskbrooms," in the superior article description for subheading 9603.10.10; and

(2) by inserting "wholly or in part" after "Other brooms," in the superior article description for subheading 9603.10.40.

SEC. 1108. FOLIAGE-TYPE ARTIFICIAL FLOWERS.

Subheading 6702.90.40 is amended by inserting "and foliage" after "Artificial flowers" in the article description.

PART 2—TEMPORARY CHANGES IN TARIFF TREATMENT

Subpart A—Existing Provisions

SEC. 1201. EXTENSION OF CERTAIN EXISTING PROVISIONS.

Each of the following headings is amended by striking out the date in the effective period column and inserting in lieu thereof "12/31/92":

(1) Heading 9902.08.07 (relating to fresh cantaloupes).
(2) Heading 9902.29.04 (relating to p-toluenesulfonyl chloride).
(3) Heading 9902.29.06 (relating to dicofol).
(4) Heading 9902.29.10 (relating to 6-hydroxy-2 naphthalenesulfonic acid and its sodium, potassium, and ammonium salts).
(5) Heading 9902.29.11 (relating to triethylene glycol dichloride).
(6) Heading 9902.29.13 (relating to 2,6-dichlorobenzaldehyde).
(7) Heading 9902.29.14 (relating to dinocap).
(8) Heading 9902.29.21 (relating to m-hydroxybenzoic acid).
(9) Heading 9902.29.22 (relating to d-6-methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt).
(10) Heading 9902.29.23 (relating to triphenyl phosphate).
(11) Heading 9902.29.24 (relating to 3-amino-3-methyl-1-butyne).
(12) Heading 9902.29.28 (relating to α,α,α,-trifluoro-o-toluidine).
(13) Heading 9902.29.30 (relating to 8-amino-1-naphthalenesulfonic acid and its salts).
(14) Heading 9902.29.31 (relating to 5-amino-2-(p-aminoanilino)benzenesulfonic acid).
(15) Heading 9902.29.33 (relating to 1-amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt)).
(16) Heading 9902.29.35 (relating to 6-amino-4-hydroxy-2-naphthalenesulfonic acid (gamma acid)).
(17) Heading 9902.29.38 (relating to 3,3'-dimethoxybenzidine (o-dianisidine) and its dihydrochloride).
(18) Heading 9902.29.40 (relating to 2-amino-5-nitrophenol).
(19) Heading 9902.29.43 (relating to 1-amino-2,4-dibromoanthraquinone).
(20) Heading 9902.29.44 (relating to 1-amino-4-bromo-2-anthraquinonesulfonic acid (bromamine acid) and its sodium salt).
(21) Heading 9902.29.47 (relating to 4-methoxyaniline-2-sulfonic acid).
(22) Heading 9902.29.49 (relating to benzethonium chloride).
(23) Heading 9902.29.51 (relating to N-(7-hydroxy-1-naphthyl)acetamide).
(24) Heading 9902.29.57 (relating to N,N-bis(2-cyanoethyl)aniline).
(25) Heading 9902.29.59 (relating to 2,2-bis(4-cyanatophenyl)propane).
(26) Heading 9902.29.60 (relating to triallate).
(27) Heading 9902.29.62 (relating to paraldehyde).
(28) Heading 9902.29.63 (relating to aminomethylphenylpyrazole).
(29) Heading 9902.29.64 (relating to amino-J-pyrazolone; methylphenylpyrazolone).
(30) Heading 9902.29.66 (relating to m-sulfamino-pyrazolone (m-sulfamidophenylmethylpyrazolone)).
(31) Heading 9902.29.67 (relating to 3-methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone)).
(32) Heading 9902.29.69 (relating to 3-methyl-5-pyrazolone).
(33) Heading 9902.29.71 (relating to barbituric acid).
(34) Heading 9902.29.74 (relating to terfenadone).
(35) Heading 9902.29.76 (relating to 2-n-octyl-4-isothiazolin-3-one and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants).
(36) Heading 9902.29.79 (relating to 2-amino-N-ethylbenzenesulfonanilide).
(37) Heading 9902.30.04 (relating to nicotine resin complex).
(38) Heading 9902.32.04 (relating to methylene blue).
(39) Heading 9902.36.06 (relating to metaldehyde).
(40) Heading 9902.38.06 (relating to mixtures of dinocap and application adjuvants).
(41) Heading 9902.38.07 (relating to mixtures of mancozeb and dinocap).
(42) Heading 9902.38.08 (relating to mixtures of maneb, zineb, mancozeb, and metiram).
(43) Heading 9902.38.10 (relating to mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and stabilizers).
(44) Heading 9902.38.11 (relating to mixtures of dicofol and application adjuvants).
(45) Heading 9902.39.14 (relating to crosslinked polyvinylbenzyltrimethylammonium chloride).
(46) Heading 9902.40.11 (relating to bicycle tires, inner tubes, and rim strips).
(47) Heading 9902.51.01 (relating to certain wools).
(48) Heading 9902.61.00 (relating to certain knitwear fabricated in Guam).
(49) Heading 9902.70.13 (relating to certain kitchenware).
(50) Heading 9902.73.12 (relating to cable or inner wire for caliper brakes).
(51) Heading 9902.73.15 (relating to bicycle chains).
(52) Heading 9902.84.44 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).
(53) Heading 9902.84.48 (relating to circular knitting machines and parts).
(54) Heading 9902.84.51 (relating to knitting needles).
(55) Heading 9902.85.12 (relating to generator lighting sets for bicycles).
(56) Heading 9902.87.14 (relating to caliper brakes).

SEC. 1202. CERTAIN HOSIERY KNITTING MACHINES.

Heading 9902.84.47 is amended—
(1) by striking out "12/31/90" and inserting in lieu thereof "12/31/92",
(2) by striking out "single cylinder fine gauge and all double cylinder" and inserting in lieu thereof "and parts thereof", and
(3) by striking out "or 8447.20.60" and inserting in lieu thereof ", 8447.20.60, or 8448.59.10".

SEC. 1203. PARTS AND ACCESSORIES OF COPYING MACHINES.

Heading 9902.90.90 is amended—
(1) by inserting "and accessories" after "Parts", and
(2) by striking out "12/31/90" and inserting in lieu thereof "12/31/92".

SEC. 1204. TOY JEWELRY, CERTAIN SMALL TOYS AND NOVELTY GOODS.

Heading 9902.71.13 is amended to read as follows:

"	9902.71.13	Toy jewelry provided for in subheading 7117.19.10, 7117.19.50, 7117.90.40 (except parts) or 7117.90.50 (except parts) valued not over 5¢ per piece; and articles (except parts) provided for in heading 9502, 9503, or 9504 or subheading 9505.90 (except balloons, marbles, dice, and diecast vehicles), valued not over 5¢ per unit	Free	No change	No change	On or before 12/31/92	"

SEC. 1205. JACQUARD CARDS.

(a) EXISTING SUSPENSION.—Heading 9902.48.23 is amended—
(1) by striking out "4823.90.85" in the article description and inserting in lieu thereof "3926.90.90, 4823.30.00, 4823.90.85,", and
(2) by striking "12/31/90" and inserting in lieu thereof "12/31/92".
(b) CARDS TO BE USED AS JACQUARD CARDS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.27	Cards, not punched, suitable for use as, or in making, jacquard cards (provided for in subheading 3926.90.90, 4823.30.00, or 4823.90.85)	Free	No change	No change	On or before 12/31/92	"

SEC. 1206. C-AMINES.

Heading 9902.29.29 is repealed.

SEC. 1207. CORNED BEEF IN AIRTIGHT CONTAINERS.

Heading 9902.16.02 is amended—
(1) by striking out "3%" and inserting in lieu thereof "Free"; and
(2) by striking out "12/31/89" and inserting in lieu thereof "12/31/92".

SEC. 1208. MENTHOL FEEDSTOCKS.

Heading 9902.29.05 is amended—
(1) by striking out "20 percent" in the article description and inserting in lieu thereof "30 percent", and
(2) by striking out "12/31/90" and inserting in lieu thereof "12/31/92".

SEC. 1209. SURGICAL GOWNS AND DRAPES.

Heading 9902.62.10 is amended to read as follows:

"	9902.62.10	Spunlaced or bonded fiber fabric disposable gowns of manmade fibers for use in performing surgical procedures (provided for in subheading 6210.10.40) and spunlaced or bonded fiber fabric disposable surgical drapes of manmade fibers (provided for in subheading 6307.90.70)	5.6%	No change (E*, IL) 3.3% (CA)	26.5%	On or before 12/31/92, except that in the case of goods originating in the territory of Canada, the effective period is on or before 12/31/98	"

Subpart B—New Provisions

SEC. 1301. CALCIUM ACETYLSALICYLATE (CALCIUM CARBASPIRIN).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.07	Calcium acetylsalicylate (provided for in subheading 2918.22.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1302. BENDIOCARB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.08	2,2-Dimethyl-1,3-benzodioxol-4-yl methylcarbamate (Bendiocarb) (provided for in subheading 2932.90.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1303. CERTAIN GLASS BULBS.

Chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.11	Monochrome glass envelopes with both (1) gray, tinted skirted faceplates, and (2) either a video display diagonal of 14 inches and under or a transmission level of 37% or less (provided for in subheading 7011.20.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1304. OCTADECYL ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.09	Octadecyl isocyanate (provided for in subheading 2929.10.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1305. MOLTEN-SALT-COOLED ACRYLIC ACID REACTORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.19	Molten-salt-cooled acrylic acid reactors and their associated parts, accessories, and equipment, imported as an entirety (provided for in subheading 8419.89.50, 8419.90.30, or 8419.90.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1306. DIMETHYLBENZYLIDENE SORBITOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.10	Dimethylbenzylidene sorbitol (provided for in subheading 2932.90.41)	Free	No change	No change	On or before 12/31/92	".

SEC. 1307. 4,4'-ISOPROPYLIDENEDICYCLOHEXANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.11	4,4'-Isopropylidenedicyclohexanol (provided for in subheading 2906.19.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1308. SULFACHLOROPYRIDAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.12	Sulfachloropyridazine (provided for in subheading 2935.00.39)	Free	No change	No change	On or before 12/31/90	".

SEC. 1309. THIOTHIAMINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.13	Thiothiamine hydrochloride (CAS No. 2443-50-7) (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1310. PARAMINE ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.14	1,4-Diaminobenzene-2-sulfonic acid (CAS No. 88-45-9) (provided for in subheading 2921.59.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1311. SUCRALFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new subheading:

"	9902.30.57	Sucralfate (provided for in subheading 2940.00.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1312. ANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.16	Anthraquinone (provided for in subheading 2914.61.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1313. THEOBROMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.17	Theobromine (provided for in subheadings 2939.90.10 and 2939.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1314. CHLORHEXANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.18	Chlorhexanone (provided for in subheading 2914.70.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1315. NAPHTHALIC ACID ANHYDRIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.19	Naphthalic acid anhydride (provided for in subheading 2917.39.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1316. K-ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.20	1-Amino-8-hydroxy-4, 6-naphthalene-disulfonic acid, monosodium salt (CAS No. 85294-32-2) (provided for in subheading 2922.21.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1317. BROENNER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.21	2-Naphthylamine-6-sulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1318. D SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.22	2-Naphthylamine-1,5-disulfonic acid and the monosodium salt (CAS Nos. 117-62-4 and 19532-03-07) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1319. NEVILLE AND WINTER'S ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.23	1-Naphthol-4-sulfonic acid and the monosodium salt (CAS Nos. 84-87-7 and 6099-57-6) (provided for in subheading 2908.20.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1320. ANIS BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.24	3-Aminomethoxy-benzanilide (provided for in subheading 2924.29.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1321. NAPHTHOL AS TYPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.25	3-Hydroxy-2-naphthanilide (CAS No. 92-77-3); 3-Hydroxy-2-naphtho-o-toluidide (CAS No. 135-61-5); 3-Hydroxy-2-naphtho-o-anisidide (CAS No. 135-62-6); 3-Hydroxy-2-naphtho-o-phenetidide (CAS No. 92-74-0); 3-Hydroxy-2-naphtho-4-chloro-2,5-dimethoxyanilide (CAS No. 4273-92-1); and N,N'-bis(acetoacetyl-o-toluidine) (CAS No. 91-96-3) (provided for in subheading 2924.29.14)	Free	No change	No change	On or before 12/31/92	".

SEC. 1322. CEFTAZIDIME TERTIARY BUTYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.60.10	(6R, 7R)-7-[(Z)-2-(2-Aminothiazol-4-yl)-2-[(2-tert-butoxycarbonyl)prop-2-oxyiminol acetamido]-3-(1-pyridinium-methyl)ceph-3-em-4-carboxylate (Ceftazidime tertiary butyl ester) (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 6/30/92	".

SEC. 1323. CERTAIN PLASTIC WEB SHEETING.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following new note:

"10. For purposes of heading 9902.56.03, the term 'nonwoven fiber sheet' means sheet comprising a highly uniform and random array of polyester fibers of 1.5 to 3.0 denier, thermally bonded and calendered into a smooth surface web having—

"(a) a thickness of 3.7 to 4.0 mils;

"(b) a basis weight of 2.5 oz. per sq. yd.;

"(c) a machine tensile strength of 30 lb. per sq. in. or greater;

"(d) a low cross-direction tensile (approximately ⅓ of MD tensile strength); and

"(e) a Frazier air permeability of 1.0 to 1.5 cfm per sq. ft."; and

(2) by inserting in numerical sequence the following new heading:

"	9902.56.03	Nonwoven fiber sheet (provided for in subheading 5603.00.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1324. MAGNETIC VIDEO TAPE RECORDINGS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.24	Video tape recordings of a width exceeding 6.5 mm but not exceeding 16 mm, in cassettes of United States origin as certified by the importers, and valued at not over $7.00 per pre-recorded cassette unit (provided for in subheading 8524.23.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1325. MIXED ORTHO/PARA TOLUENESULFONOMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.26	Mixed ortho/para toluenesulfonamide (provided for in subheading 2935.00.47).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1326. 2,6-DICHLOROBENZONITRILE.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.27	2,6-Dichlorobenzonitrile (provided for in subheading 2926.90.10).....	Free	No change	No change	On or before 12/31/92	".

(b) WITH INERTS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.38.13	Mixtures of 2,6-dichlorobenzonitrile (90%) and inerts (up to 10%) (provided for in subheading 3808.30.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1327. 1-[1-((4-CHLORO-2-(TRIFLUOROMETHYL)PHENYL) IMINO)-2-PROPOXYETHYL]-1-H-IMIDAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.28	1-[1-((4-Chloro-2-(trifluoromethyl)- phenyl)imino)-2-propoxyethyl]-1-H-imidazole (provided for in subheading 2933.29.30).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1328. CERTAIN CHRISTMAS ORNAMENTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.95.05	Christmas ornaments other than ornaments of glass or wood (provided for in subheading 9505.10.25).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1329. FROZEN CARROTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.07.10	Carrots, frozen (provided for in subheading 0710.80.70).....	2.2¢/kg	No change	No change	On or before 12/31/92	".

SEC. 1330. IMPACT LINE PRINTERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.65	Impact line printers using band drive mechanisms and capable of printing speeds of not less than 1,300 lines per minute (provided for in subheading 8471.92.65).....	No change	No change	3.75%	On or before 12/31/92	".

SEC. 1331. AMINO ACETANILIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.29	4-Aminoacetanilide (CAS No. 122-80-5) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/92	".

SEC. 1332. 6 AMINO-2-NAPHTHENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.30	6-Amino-2-naphthalenesulfonic acid (CAS No. 93-00-5) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1333. 8 AMINO-2 NAPHTHENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.31	8-Amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1334. 5 (AND 8) AMINO-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.32	Mixtures of 5- and 8-amino-2-naphthalenesulfonic acid (CAS No. 119-28-8) (provided for in subheading 2921.45.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1335. 5 AMINO 2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.33	5-Amino-2-naphthalenesulfonic acid (CAS No. 119-79-9) (provided in subheading 2921.45.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1336. 1-NAPHTHYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.34	1-Naphthylamine (CAS No. 134-32-7) (provided for in subheading 2921.45.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1337. 4 AMINO-1-NAPHTHALENE SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.35	4-Amino-1-naphthalenesulfonic acid, sodium salt (CAS No. 130-13-2) (provided for in subheading 2921.45.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1338. 1,4 DIHYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.36	1,4-Dihydroxy-anthraquinone (CAS No. 81-64-1) (provided for in subheading 2914.69.50).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1339. 7 NITRO NAPHTH [1,2] OXADIAZOLE 5-SULFONIC.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.37	7-Nitronaphth-[1,2] oxadiazole-5-sulfonic acid (CAS No. 84-91-3) (provided for in subheading 2934.90.06).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1340. 4-CHLORO-α-α-α-TRIFLUORO-O-TOLUIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.38	4-Chloro-α,α,α-trifluoro-o-toluidine (CAS No. 445-03-4) (provided for in subheading 2921.43.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1341. 7-AMINO-1,3-NAPHTHALENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.39	7-Amino-1,3-naphthalenesulfonic acid, monopotassium salt (CAS No. 842-15-9) (provided for in subheading 2921.45.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1342. 2-AMINO-4-CHLOROPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.40	2-Amino-4-chlorophenol (CAS No. 95-85-2) (provided for in subheading 2922.29.10).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1343. 2,4-DIAMINO BENZENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.41	2,4-Diaminobenzene-sulfonic acid (CAS No. 88-63-1) (provided for in subheading 2921.50.51).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1344. 2,5 DICHLORO-4-(3-METHYL-5-OXO-2 PYRAZOLIN-1-YL) BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.42	2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzenesulfonic acid (CAS No. 84-57-1) (provided for in subheading 2933.19.424).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1345. 7-HYDROXY 1,3-NAPHTHALENE DISULFONIC ACID-DIPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.43	7-Hydroxy-1,3-naphthalene-disulfonic acid, dipotassium salt (CAS No. 842-18-2) (provided for in subheading 2908.20.50).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1346. O-ANISIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.44	o-Anisidine (CAS No. 90-04-0) (provided for in subheading 2922.22.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1347. 1-AMINO-2-BROMO-4-HYDROXYANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.45	1-Amino-2-bromo-4-hydroxy-anthraquinone (CAS No. 116-82-5) (provided for in subheading 2922.50.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1348. 2-CHLORO-4-NITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.46	2-Chloro-4-nitroaniline (CAS No. 121-87-9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1349. (1,3,3 TRIMETHYL-INDOLINE-2-YLIDENE) ACETALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.47	(1,3,3-Trimethyl-indoline-2-ylidene)-acetaldehyde (CAS No. 84-83-3) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92	".

SEC. 1350. 2,3 DIHYDRO 1,3,3 TRIMETHYL-2-METHYLENE-1H-INDOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.48	1,3,3-Trimethyl-2-methyleneindoline (CAS No. 118-12-7) (provided for in subheading 2933.90.39)	Free	No change	No change	On or before 12/31/92	".

SEC. 1351. 2[(4 AMINOPHENYL) SULFONYL] ETHANOL HYDROGEN SULFATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.49	2[(4-Aminophenyl)-sulfonyl]ethanol, hydrogen sulfate ester (CAS No. 2494-89-5) (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1352. 7-ANILINO-4-HYDROXY-2 NAPHTHALENE SULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.50	7-Anilino-4-hydroxy-2-naphthalenesulfonic acid (CAS No. 119-40-4) (provided for in subheading 2922.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1353. 1,4-DIAMINO-2,3 DIHYDROANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.51	1,4-Diamino-2,3-dihydro-anthraquinone (CAS No. 81-63-0) (provided for in subheading 2922.30.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1354. CASTOR OIL AND ITS FRACTIONS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.15.15	Castor oil and its fractions (provided for in subheading 1515.30.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1355. 0,0-DIMETHYL-S-[(4-OXO-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL] PHOSPHORODITHIOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.52	0,0-Dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl] phosphorodithioate (provided for in subheading 2933.90.18)	Free	No change	No change	On or before 12/31/92	".

SEC. 1356. SUSPENSION OF DUTY ON CERTAIN MACHINES FOR USE IN THE MANUFACTURE OF WHEELS FOR BICYCLES AND ON CERTAIN BICYCLE PARTS.

(a) MACHINES.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.79	Wheelbuilding, wheeltruing, rim punching, tire fitting and similar machines for use in the manufacture of wheels for bicycles (provided for in subheading 8479.89.90)	Free	No change	No change	On or before 12/31/92	".

(b) CERTAIN PARTS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.87.15	Bicycle handlebar stems wholly of aluminum alloy, valued over $2.15 each (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	
	9902.87.16	Bicycle handlebar stem rotor assemblies (provided for in subheading 8714.99.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1357. L-ALANYL - L-PROLINE, ALSO KNOWN AS ALA PRO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.53	L-Alanyl-L-proline (provided for in subheading 2933.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1358. TFA LYS PRO IN FREE BASE AND TOSYL SALT FORMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.54	Trifluoroacetyl-L-lysine-L-proline in free base and tosyl salt forms (provided for in subheadings 2922.49.50 and 2922.49.30, respectively)	Free	No change	No change	On or before 12/31/92	".

SEC. 1359. CERTAIN TIMING APPARATUS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.91.06	Apparatus for measuring, recording, or otherwise indicating intervals of time, with clock or watch movements, battery or AC powered and with opto-electronic display only (provided for in subheading 9106.90.80)	3.9% on the apparatus + 5.3% on the battery	No change	No change	On or before 12/31/92	".

SEC. 1360. CIPROFLOXACIN HYDROCHLORIDE, CIPROFLOXACIN, AND NIMODIPINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.30.55	Nimodipine (provided for in subheading 2933.39.35)..	Free	No change	No change	On or before 12/31/92	

	9902.30.56	Ciprofloxacin and its hydrochloride salt (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 1361. CERTAIN FURNITURE AND SEATS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.94.01	Furniture, seats, and parts thereof, of cane, osier, bamboo or other similar materials, including rattan (provided for in subheading 9401.50.00, 9401.90.25, 9403.80.30, or 9403.90.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1362. WICKER PRODUCTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.46.02	Wicker products (provided for in subheading 4602.10.11, 4602.10.13, 4602.10.19, 4602.10.40, or 4602.10.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1363. (6R-(6A,7B(Z)))-7-(((2-AMINO-4-THIAZOLYL)((CARBOXY-METHOXY) IMINO) ACETYL) AMINO)-3-ETHENYL-8-OXO-5-THIA-1-AZABICYCLO(4.2.0) OCT-2-ENE-2-CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.58	(6R-(6a,7B(z)))-7-(((2-Amino-4-thiazolyl)((carboxymethoxy) imino) acetyl) amino)-3-ethenyl-8-oxo-5-thia-1-azabicyclo(4.2.0)- oct-2-ene-2-carboxylic acid (provided for in subheading 2941.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1364. N-(4-(((2-AMINO-5-FORMYL-1,4,5,6,7,8-HEXAHYDRO-4-OXO-6-PTERIDINYL) METHYL)AMINO)BENZOYL)-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.59	N-(4-(((2-Amino-5-formyl-1,4,5,6,7,8-hexahydro-4-oxo-6-pteridinyl) methyl)amino)benzoyl)-L-glutamic acid (provided for in subheading 2936.29.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1365. (1)3-QUINOLINECARBOXYLIC ACID, 1-ETHYL-6-FLUORO-1,4-DIHYDRO-4-OXO-7-(1-PIPERAZINYL)-, ALSO KNOWN AS NORFLOXACIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.60	1-Ethyl-6-fluoro-1,4-dihydro-4-oxo-7-(1-piperazinyl)-3-quinolinecarboxylic acid (Norfloxacin) (provided for in subheading 2933.59.27)	Free	No change	No change	On or before 12/31/92	".

SEC. 1366. 2,2-DIMETHYLCYCLOPROPYLCARBOXAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.61	2,2-Dimethylcyclopropyl-carboxamide (provided for in subheading 2924.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1367. N-AMIDINO-3,5-DIAMINO-6-CHLOROPYRAZINECARBOXAMIDE MONOHYDROCHLORIDE DIHYDRATE, ALSO KNOWN AS AMILORIDE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.62	N-Amidino-3,5-diamino-6-chloropyrazinecarboxamide, monohydrochloride dihydrate (Amiloride hydrochloride) (provided for in subheading 2933.90.36)	Free	No change	No change	On or before 12/31/92	".

SEC. 1368. CHEMICAL LIGHT ACTIVATOR BLEND.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.63	Mixtures of dimethyl phthalate, t-butanol, hydrogen peroxide, and sodium salicylate (provided for in subheading 3823.90.29)	Free	No change	No change	On or before 12/31/92	".

SEC. 1369. GRIPPING NARROW FABRICS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.58.06	Fastener fabric tapes of man made fibers (provided for in subheading 5806.10.20)	7%	No change	No change	On or before 12/31/92	".

SEC. 1370. BPIP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.64	N,N'-Bis(2,2,6,6-tetramethyl-4-piperadinyl)-1,6-hexanediamine (CAS No. 612-55-7) (provided for in subheading 2933.39.47)	Free	No change	No change	On or before 12/31/92	".

SEC. 1371. MBEP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.65	Monobutyl-p-ethylphenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1372. 2-ETHYLANTHRAQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.66	2-Ethylanthraquinone (provided for in subheading 2914.69.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1373. RHODAMINE 2C BASE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.67	Rhodamine 2C base (CAS No. 41382-37-0) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/92	".

SEC. 1374. POLYMIN P AND POLYMIN P HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.11	Polymin P and Polymin P hydrochloride (provided for in subheading 3911.90.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1375. POLYMIN SNA 60.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.39.12	Polymin SNA 60 (CAS No. 28825-79-8) (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1376. ORNITHINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.68	L-Ornithine, ethyl ester (L-2,5-Diamino-pentanoic acid) (CAS No. 84772-29-2) (provided for in subheading 2922.49.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1377. TEICOPLANIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.69	Teicoplanin (provided for in subheading 3003.20.00 or 3004.20.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1378. ACETOACET-PARA-TOLUIDIDE (AAPT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.70	Acetoacet-para-toluidide (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/92	"

SEC. 1379. ACETOACETSULFANILIC ACID, POTASSIUM SALT (AA SULFANILIC ACID POTASSIUM SALT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.71	Acetoacetsulfanilic acid, potassium salt (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 12/31/92	"

SEC. 1380. 6-METHYLURACIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.72	6-Methyluracil (provided for in subheading 2933.59.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1381. ETHYL 2-(2-AMINOTHIAZOLE-4-YL)-2-HYDROXYIMINO- ACETATE (ATHAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.73	Ethyl 2-(2-aminothiazole-4-yl)-2-hydroxyiminoacetate (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1382. ETHYL 2-(2-AMINOTHIAZOLE-4-YL)-2-METHOXYIMINO- ACETATE (ATMAET).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.74	Ethyl 2-(2-aminothiazole-4-yl)-2-methoxyiminoacetate (provided for in subheading 2934.10.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1383. 4,4'-METHYLENE-BIS-(2,6-DIMETHYLPHENYLCYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.75	4,4'-Methylenebis-(2, 6-dimethylphenylcyanate) (provided for in subheading 2907.29.50)	Free	No change	No change	On or before 12/31/92	"

SEC. 1384. 2,2'-BIS(4-CYANATOPHENYL-1,1,1,3,3,3-HEXAFLUOROPROPANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.76	2,2'-Bis(4-cyanatophenyl)-1,1,1,3,3,3-hexafluoropropane (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1385. 4,4'-THIODIPHENYL CYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.77	4,4'-Thiodiphenyl cyanate (provided for in subheading 2930.90.20)	Free	No change	No change	On or before 12/31/92	"

SEC. 1386. 1,1-ETHYLIDENE-BIS-(PHENYL-4-CYANATE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.78	1,1-Ethylidenebis-(phenyl-4-cyanate) (provided for in subheading 2929.90.10)	Free	No change	No change	On or before 12/31/92	"

SEC. 1387. HYDROCARBON NOVOLAC CYANATE ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.79	Hydrocarbon novolac cyanate ester (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/92	"

SEC. 1388. 4,4'-METHYLENE-BIS-(3-CHLORO-2,6-DIETHYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.80	4,4'-Methylenebis-(3-chloro-2,6-diethylaniline) (provided for in subheading 2921.42.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1389. 4,4'-METHYLENE-BIS-(2,6-DIISOPROPYL ANILINE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.81	4,4'-Methylenebis-(2,6-diisopropyl-aniline) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1390. L-CARNITINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.82	L-Carnitine (provided for in subheading 2923.90.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1391. DIPHENOLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.83	4,4-Bis(4-hydroxyphenyl)pentanoic acid (CAS No. 126-00-1) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1392. 2,6-HNA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.84	6-Hydroxy-2-naphthoic acid (provided for in subheading 2918.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1393. ADC-6.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.85	3-Amino-2-(1-hydroxyethyl)-pentanedioic acid, 5-methyl ester (provided for in subheading 2922.50.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1394. DIFLUNISAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.86	2',4'-Difluoro-4-hydroxy-3-biphenylcarboxylic acid (Diflunisal) (provided for in subheading 2918.29.40)	Free	No change	No change	On or before 12/31/92	".

SEC. 1395. TRIFLUOROMETHYLANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.87	3-(Trifluoromethyl-aniline (CAS No. 98-16-8) (m-Aminobenzotrifluoride) (provided for in subheading 2921.43.50)	Free	No change	No change	On or before 12/31/90	".

SEC. 1396. TAMOXIFEN CITRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.88	Tamoxifen citrate (provided for in subheading 2922.19.10)	Free	No change	No change	On or before 12/31/92	".

SEC. 1397. FENOFIBRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.89	2-[4-(4-Chlorobenzoyl)phenoxy]-2-methylpropanoic acid, isopropyl ester					

		(Fenofibrate) (provided for in subheading 3004.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 1398. 6-T-BUTYL 2,4 XYLENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.90	6-t-Butyl-2,4-xylenol (provided for in subheading 2907.19.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1399. 2,4-DIAMINO-6-PHENYL-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.91	2,4-Diamino-6-phenyl-1,3,5-triazine (provided for in subheading 2933.69.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1400. IOPAMIDOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.92	Iopamidol (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	".

SEC. 1401. IOHEXOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.93	N,N'-Bis(2,3-dihydroxypropyl)-5-[N-(2,3-dihydroxypropyl)-acetamido]-2,4,6-triiodoisophthalamide (Iohexol) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	".

SEC. 1402. p-HYDROXYBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.94	p-Hydroxybenzaldehyde (provided for in subheading 2912.49.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1403. IOXAGLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.95	N-(2-Hydroxyethyl)-2,4,6-triiodo-5-[2-(2,4,6-triiodo-3-(N-methylacetamido)-5-(methylcarbamoyl)benzamido)acetamido]-isophthalamic acid (Ioxaglic acid) (provided for in subheading 2924.29.40)	Free	No change	No change	On or before 9/30/91	".

SEC. 1404. 7-ACETYL-1,1,3,4,4,6-HEXAMETHYLTETRAHYDRO-NAPHTHALENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.96	7-Acetyl-1,1,3,4,4,6-hexamethyltetrahydronaphthalene (provided for in subheading 2914.30.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1405. MODELING PASTES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.34.07	Modeling pastes (provided for in subheading 3407.00.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1406. MERCURIC OXIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.28.25	Mercuric oxide (provided for in subheading 2825.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 1407. 2,3,6-TRIMETHYLPHENOL (TMP).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.97	2,3,6-Trimethylphenol (provided for in subheading 2907.29.30)	Free	No change	No change	On or before 12/31/92	".

SEC. 1408. PROTECTIVE SPORTS APPAREL.

Subchapter II of chapter 99 is amended—

(1) by adding at the end of the U.S. notes thereto the following:

"11. The general column 1 rate of duty for articles provided for under heading 9902.62.01 is a rate equal to the column 1 rate of duty that would have applied to such articles under the Tariff Schedules of the United States on the day before the effective date of this schedule."; and

(2) by inserting in numerical sequence the following new heading:

"	9902.62.01	Ice hockey pants, field hockey pants, and articles provided for under subheading 6201.93 or 6203.43 which because of their design, fabric, construction and special features provide protection to athlete participants against the hazards of a sport such as injury from blows, falls, flying objects, road burns, or fire	The rates of duty prescribed in U.S. note 11 to the subchapter	No change	No change	On or before 12/31/92	".

SEC. 1409. 1,5-NAPHTHALENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.98	1,5-Naphthalene diisocyanate (provided for in subheading 2929.90.10)	Free	No change	Free	On or before 12/31/92	".

SEC. 1410. SELF-FOLDING TELESCOPIC SHAFT, COLLAPSIBLE UMBRELLAS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.66.01	Self-folding telescopic shaft, collapsible umbrellas chiefly used for protection against rain (provided for in subheading 6601.91.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1411. 1,6-HEXAMETHYLENE DIISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.30.99	1,6-Hexamethylene diisocyanate (provided for in subheading 2929.10.50)	7.9%	No change (E,IL) Free (CA)	No change	On or before 12/31/92	".

SEC. 1412. CERTAIN IN-LINE ROLLER SKATE BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.64.02	Skating boots (provided for in subheading 6402.19.10) actually used in the manufacture of in-line roller skates	Free	No change	No change	On or before 12/31/92	".

SEC. 1413. CERTAIN VENEER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.44.21	Manmade or recomposed wood veneer not exceeding 6 mm in thickness, sliced from a block composed of wood veneer sheets produced from logs and flitches (provided for in subheading 4421.90.90)	Free	No change	No change	On or before 12/31/92	".

SEC. 1414. p-TOLUALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.00	p-Tolualdehyde (provided for in subheading 2912.29.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1415. DILTIAZEM HYDROCHLORIDE, AND SUSTAINED RELEASE DILTIAZEM HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.01	Diltiazem hydrochloride (provided for in subheading 2934.90.25, 3003.90.00, or 3004.90.60)	Free	No change	No change	On or before 12/31/92	".

SEC. 1416. CLENTIAZIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.04	(+)-cis-(2s, 3s)-3-(Acetoxy)-8-chloro-5-[2-(dimethylamino) ethyl]-2,3-dihydro-2-(4-methodxyphenyl)-1,5-benzothiazepin-4(5H) one maleate (provided for in subheading 2934.90.25)	Free	No change	No change	On or before 12/31/92	".

SEC. 1417. PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 1990 GOODWILL GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.98.00	Personal effects of aliens who are participants in or officials of the 1990 Goodwill Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and other related articles as prescribed by the Secretary of the Treasury	Free		Free	On or before 9/30/90	".

SEC. 1418. COPPER ACETATE MONOHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.05	Copper acetate monohydrate (provided for in subheading 2915.29.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1419. PARTS OF GENERATORS FOR USE ON AIRCRAFT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.03	Parts of generators suitable for use on aircraft (provided for in subheading 8504.40.00 or 8525.20.20)	Free	No change	No change	On or before 12/31/92	."

SEC. 1420. CERTAIN INFANT NURSERY MONITORS AND INTERCOMS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.85.25	Infant nursery intercommunication systems, each consisting in the same package of a pair of transceivers operating on frequencies from 49.82 to 49.90 mHz and an electrical adapter (provided for in subheading 8504.40.00 or 8525.20.20)	Free	No change	No change	On or before 12/31/92	
	9902.85.26	Infant nursery monitor systems, each consisting in the same package of a radio transmitter, an electrical adapter, and a radio receiver (provided for in subheading 8504.40.00, 8525.10.60, or 8527.39.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1421. CERTAIN GLASS FIBERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.70.19	Fiberglass rubber reinforcing cord or yarn made from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.10.10, 7019.10.20, or 7019.10.60)	Free	No change	No change	On or before 12/31/92	

	9902.70.20	Fiberglass tire cord fabric woven from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50)	Free	No change	No change	On or before 12/31/92	".

SEC. 1422. THREE-DIMENSIONAL CAMERAS.

Subchapter II of chapter 99 is amended by adding in numerical sequence the following new heading:

"	9902.90.06	Cameras incorporating 4 fixed lenses which together are capable of producing a 3-dimensional effect (provided for in subheading 9906.53.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1423. PERSONAL EFFECTS AND EQUIPMENT FOR WORLD UNIVERSITY GAMES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.98.03	Personal effects of aliens who are participants in, or officials of, the 1993 World University Games, who are accredited members of delegations thereto, who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games, and such other related articles as may be prescribed by the Secretary of the Treasury	Free	No change	Free	On or before 9/30/93	".

SEC. 1424. KARATE PANTS AND BELTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.62.04	Karate pants and karate belts (provided for in subheading 6203.42.40, 6203.43.40, 6204.62.40, 6204.63.35, or 6217.10.00)	8%	No change	No change	On or before 12/31/92	".

SEC. 1425. METALLURGICAL FLUORSPAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.25.29	Fluorspar containing by weight 97 percent or less of calcium fluoride (provided for in subheading 2529.21.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1426. CERTAIN PISTON ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.07	Internal combustion piston-type engines, of a cylinder capacity exceeding 50 cc but not exceeding 1,000 cc (provided for in subheading 8407.32.20 or 8407.33.20), to be installed in vehicles specifically designed for traveling on snow, golf carts, nonamphibious all-terrain vehicles, and burden carriers, (provided for in subheading 8703.10.00, 8703.21.00, or 8704.31.00)	Free	No change	No change	On or before 12/31/92	".

SEC. 1427. QUIZALOFOP-ETHYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.06	2-[4-[(6-Chloro-2-quinoxalinyl)oxy]-phenoxy]propionic acid, ethyl ester (Quizalofop-ethyl) (provided for in subheading 2933.90.20)	Free	No change	No change	On or before 12/31/92	".

SEC. 1428. INSULATED WINDING WIRE CABLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.85.44	Self-contained fluid filled submarine cable of 345 kilovolts (provided for in subheading 8544.60.40).....	Free	No change	No change	On or before 12/31/91	".

SEC. 1429. DIPHENYLDICHLOROSILANE AND PHENYLTRICHLOROSILANE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.07	Diphenyldichlorosilane and phenyltrichlorosilane (provided for in subheading 2931.00.40).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1430. THEATRICAL, BALLET, AND OPERATIC SCENERY, PROPERTIES, AND SETS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.44.22	Theatrical, ballet, and operatic scenery and properties, including sets (provided for in subheading 4421.90.90, 5907.00.10, 5907.00.90, 9701.10.00, 9706.00.00, or 9813.00.65).....	Free	No change	No change	On or before 12/31/92	".

SEC. 1431. 4-FLUORO-3-PHENOXY BENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.31.08	4-Fluoro-3-phenoxy benzaldehyde (provided for in subheading 2913.00.10).....	Free	No change	No change	On or before 12/31/92	".

PART 3—EFFECTIVE DATES

SEC. 1601. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry—

(A) which was made after the applicable date and before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by section 1102, 1103, 1108, 1201(53), 1203, 1207, 1305, 1324, 1325, 1329, 1330, 1359, 1369, 1411, 1412, 1419, 1426, or 1430 applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term "applicable date" means—

(i) if the amendment described in paragraph (1)(B) is made by section 1412, April 30, 1986,

(ii) if such amendment is made by section 1324, December 31, 1987,

(iii) if such amendment is made by section 1330, October 1, 1988,

(iv) if such amendment is made by section 1102, 1103, 1108, 1203, 1325, 1329, 1359, 1369, 1411, 1419, or 1426, December 31, 1988,

(v) if such amendment is made by section 1305, July 1, 1989,

(vi) if such amendment is made by section 1201(53) or 1207, December 31, 1989, and

(vii) if such amendment is made by section 1430, January 31, 1990.

(B) The term "entry" includes any withdrawal from warehouse.

(c) BROOMS.—The amendments made by section 1107 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 1701. CERTAIN FORGINGS.

Notwithstanding sections 304 and 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 180 days after the date of the enactment of this Act, shall, upon request filed with the appropriate customs officer, reliquidate entries numbered 85414397-7, 85414495-0, 85414647-9, 85414649-5, 85414983-2, 85414995-5, 85415031-3, 85415122-8, 85415244-7, 85415496-6, 85415619-7, 85415683-8, and 85415828-9, filed at the Port of Portland, Oregon, and, upon such reliquidation, shall refund the additional marking duties that were collected upon such entries pursuant to such section 304.

SEC. 1702. BI-LEVEL RAIL PASSENGER CARS.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall admit free of duty each bi-level rail passenger car that was—

(1) entered after March 14, 1988, and before January 1, 1989, and classified under item 690.15 of the Tariff Schedules of the United States; and

(2) designed for, and is for the use of, the Department of Transportation of the State of Florida.

If the liquidation of the entry of any such rail car has become final before the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated in accordance with the provisions of this Act and any duties paid with respect to such entry shall be refunded.

SEC. 1703. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, entry numbered 86-707943-6, dated November 10, 1985, shall be reliquidated as duty-free and any duties paid with respect to such entry shall be refunded.

SEC. 1704. FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (19 U.S.C. 81c(b)), is amended by striking out "before January 1, 1991" and inserting in lieu thereof "on or before December 31, 1992".

SEC. 1705. CERTAIN ENTRIES OF DIGITAL PROCESSING UNITS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, any entry of a processing unit that—

(1) was entered under item 676.15 or 676.54 of the Tariff Schedules of the United States;

(2) would not, if classified under item 675.15, have been subject to temporary duties under item 945.83 or 945.84 of the Appendix to such Schedules; and

(3) was made after January 16, 1986, and before July 2, 1987;

shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duties paid with respect to such entry.

(b) PROCESSING UNIT.—For purposes of this section, the term "processing unit" means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon.

SEC. 1706. NUCLEAR MAGNETIC SPECTROMETER.

The Secretary of the Treasury shall admit free of duty a Phillips Medical Systems 4 tesla nuclear magnetic resonance (NMR) spectrometer for the use of the University of Alabama at Birmingham. If the liquidation

of the entry of the spectrometer becomes final before the date of the enactment of this Act, the Secretary of the Treasury, notwithstanding any other provisions of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this Act, and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

SEC. 1707. FOREIGN REPAIR OF VESSELS.

(a) IN GENERAL.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(h) The duty imposed by subsection (a) of this section shall not apply to—

"(1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers, or

"(2) the cost of spare repair parts or materials (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to—

(1) any entry made before the date of enactment of this Act that is not liquidated on the date of enactment of this Act, and

(2) any entry made—

(A) on or after the date of enactment of this Act, and

(B) on or before December 31, 1992.

SEC. 1708. CERTAIN METHANOL ENTRIES.

Notwithstanding section 514 or 520 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury shall—

(1) reliquidate as free of duty—

(A) Entry No. 85322102-3, dated June 21, 1985, and

(B) Entry No. 85603168-9, dated September 20, 1985,

made at New York, New York, that consists of methanol, and

(2) refund any duties paid with respect to such entries,

if the appropriate certification of actual use for such entries is submitted to the appropriate customs officer by no later than the date that is 180 days after the date of enactment of this Act.

SEC. 1709. CERTAIN FROZEN VEGETABLES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry, or withdrawal from warehouse for consumption, made after December 31, 1989, and before May 1, 1990, of—

(A) cut and frozen green beans (provided for in subheading 0710.22.40 of the Harmonized Tariff Schedule of the United States), or

(B) frozen and off the cob whole kernel sweet corn (provided for in subheading 0710.40.00 of such Schedule),

that is the product of a foreign country to which nondiscriminatory (most-favored-nation) trade treatment applies, and

(2) refund any duties paid with respect to such entry or withdrawal.

SEC. 1710. CERTAIN FILMS AND RECORDINGS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any article described in items 960.50 through 960.70 of the Appendix to the Tariff Schedules of the United States (as in effect on August 11, 1985) which was made after August 11, 1985, and before January 1, 1987, shall be liquidated or reliquidated as though such entry or withdrawal had been made on August 11, 1985 and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry or withdrawal.

SEC. 1711. CERTAIN DISTILLED SPIRITS IN FOREIGN TRADE ZONES.

Subsection (c) of section 3 of the Act of June 18, 1934 (48 Stat. 999, chapter 590; 19 U.S.C. 81c(c)) is amended—

(1) by striking out "domestic" before "denatured distilled spirits",

(2) by inserting "which have been withdrawn free of tax from a distilled spirits plant (within the meaning of section 5002(a)(1) of the Internal Revenue Code of 1986)" after "distilled spirits",

(3) by striking out "Notwithstanding" and inserting in lieu thereof "(1) Notwithstanding",

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of the fifth proviso of subsection (a), distilled spirits which have been removed from a distilled spirits plant (as defined in section 5002(a)(1) of the Internal Revenue Code of 1986) upon payment or determination of tax may be used in the manufacture of production of medicines, medicinal preparation, food products, flavors, or flavoring extracts, which are unfit for beverage purposes, in a zone. Such products will be eligible for drawback under the internal revenue laws under the same conditions applicable to similar manufacturing or production operations occurring in customs territory.".

SEC. 1712. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law—

(1) the entries listed in subsection (b) shall be reliquidated within 180 days after the date of enactment of this Act,

(2) the importer of record of the entries shall not be liable for antidumping duties, and

(3) if any antidumping duties have been paid on the entries, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), the Secretary of the Treasury shall refund the antidumping duties within 180 days after the date of enactment of this Act.

(b) APPLICABLE ENTRIES.—The entries referred to in subsection (a) are the following entries made at the port of New Orleans, Louisiana:

Entry Number	Date of Entry
74-222089	May 7, 1974.
74-225275	June 17, 1974.
76-237223	July 9, 1976.
76-247178	October 1, 1976.
79-251251	September 11, 1979.
80-223851	October 9, 1979.
80-224447	November 27, 1979.
80-224448	November 27, 1979.
80-225842	April 29, 1980.
80-225843	April 29, 1980.
80-225844	April 29, 1980.
80-225845	April 29, 1980.
80-226742	August 13, 1980.
80-226743	August 13, 1980.

SEC. 1713. SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.

(a) IN GENERAL.—

(1) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsection:

"(p)(1) When the articles manufactured or produced under subsection (a) or (b), or duty paid imported articles, are stored in common storage with other articles of the same kind and quality that were otherwise manufactured or produced, drawback shall be paid on the articles withdrawn for export from such common storage (regardless of the source or origination of the articles withdrawn) if—

"(A) inventory records on a monthly basis (not daily or transaction by transaction) demonstrate sufficient quantities of imported duty-paid articles, or articles manufactured or produced under subsection (a) or (b), in the common storage against which such withdrawal shall be designated;

"(B) the drawback paid does not exceed the amount of drawback that would be payable hereunder had all of the articles withdrawn from common storage been imported and duty-paid, or manufactured or produced under subsection (a) or (b); and

"(C) certificates of delivery, or certificates of manufacture and delivery, establishing the drawback eligibility of the imported duty-paid articles, or articles manufactured or produced under subsection (a) or (b), when required, are filed with the drawback entry.

"(2) For purposes of this section, the term 'common storage' includes all articles of the same kind and quality stored in an area regardless of the number of bins, tanks, or other containers utilized.".

(2) The amendment made by this subsection shall apply to all drawback entries which were liquidated, under protest or in litigation, in accordance with C.S.D. 88-1, or relevant predecessor decision letter versions thereof, and shall be reliquidated in accordance with such amendment.

(b) DRAWBACK ON SUPPLIES.—Subsection (b) of section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) is amended by inserting "imported articles," after "foreign-trade zone,".

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

SEC. 2001. SHORT TITLE.

This title may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1990".

SEC. 2002. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

(2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbe-

an Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

SEC. 2003. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

SEC. 2004. WORKER RIGHTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended—

(1) by striking out "and" after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting "; and";

(3) by adding at the end of subsection (b) the following new paragraph:

"(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).";

(4) by amending the last sentence in subsection (b) by striking out "and (5)" and inserting "(5), and (7)"; and

(5) by amending subsection (c)(8) to read as follows:

"(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 2005. REPORTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

"(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a complete report regarding the operation of this title.".

SEC. 2006. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—Subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting the following new note at the end of the notes to such subchapter:

"4. As used in subheadings 9804.00.70 and 9804.00.72, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).";

(2) by striking out "subheading 9804.00.65 or 9804.00.70" and all that follows thereafter in the superior article description to subheadings 9804.00.65 and 9804.00.70 and inserting "subheadings 9804.00.65, 9804.00.70, and 9804.00.72 within 30 days preceding his arrival, and claims exemption under only one of such items on his arrival.";

(3) by striking out "$800" in subheading 9804.00.70 and inserting "$1,200";

(4) by inserting "or up to $600 of which have been acquired in one or more beneficiary countries" before the parenthetical matter in subheading 9804.00.70; and

(5) by inserting after subheading 9804.00.70 the following new subheading with the article description for the new subheading having the same degree of indentation as subheading 9804.00.70:

"	9804.00.72	Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including— (a) but only in the case of an individual who has attained the age of 21, not more than 1 liter of alcoholic beverages or not more than 2 liters if at least one liter is the product of one or more beneficiary countries, and (b) not more than 200 cigarettes, and not more than 100 cigars, if such person arrives directly from a beneficiary country, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in beneficiary countries)	Free	Free	."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to residents of the United States who depart from the United States on or after the 15th day after the date of the enactment of this Act.

SEC. 2007. DUTY-FREE TREATMENT FOR ARTICLES ASSEMBLED IN BENEFICIARY COUNTRIES FROM COMPONENTS PRODUCED IN THE UNITED STATES.

(a) IN GENERAL.—U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking out "2. Any" and inserting "2. (a) Except as provided in paragraph (b), any"; and

(2) by adding at the end thereof the following new paragraph:

"(b) No article (except an article listed in section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) may be treated as a foreign article, or as subject to duty, if—

"(i) the article is—

"(A) assembled in whole of fabricated components that are a product of the United States, or

"(B) processed in whole of ingredients (other than water) that are a product of the United States,

in a beneficiary country; and

"(ii) neither the fabricated components or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term 'beneficiary country' means a country listed in general note 3(c)(V)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods assembled or processed abroad that are entered on or after October 1, 1990.

SEC. 2008. CONFORMING GSP AMENDMENT.

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

"(b)(1) The duty free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(B) the sum of—

"(i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus

"(ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

"(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.".

SEC. 2009. PILOT PRECLEARANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) RESTRICTIONS REGARDING PROGRAM.—

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a)—

(A) if preclearance operations are currently carried out by the United States Customs Service in that country; or

(B) unless immigration preinspection operations are currently carried out in that country with respect to individuals traveling to the United States.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that—

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and affords diplomatic protection to United

States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

(c) REPORT.—As soon as practicable after September 30, 1992, the Commissioner of Customs shall submit to the Congress a report regarding the preclearance operations program carried out under subsection (a). The report shall include—

(1) a summary of the preclearance operations, including the number of individuals processed, any administrative problems encountered, and cost of the operations;

(2) an evaluation of the extent to which the preclearance operations contributed to—

(A) the stimulation of the tourism industry of the country concerned, and

(B) expedited customs processing at United States ports of entry;

(3) the opinion of the Commissioner of Customs regarding the efficacy of extending preclearance operations to other countries within the Caribbean Basin that are developing tourism industries, and if the opinion is affirmative, the identity of those countries to which such operations should be extended and the estimated costs and results of such extensions; and

(4) such other matters that the Commissioner of Customs considers relevant.

SEC. 2010. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of Eastern Caribbean States countries and Belize to benefit from the Caribbean Basin Economic Recovery Act.

SEC. 2011. CARIBBEAN-CENTRAL AMERICAN SCHOLARSHIP PARTNERSHIP.

(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from eligible countries in the Caribbean and Central America to study in the United States.

(b) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(c) CONSULTATION WITH STATES.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(d) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(e) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(f) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(g) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(h) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(i) DEFINITIONS.—As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 2012. PROMOTION OF TOURISM.

(a) CONGRESSIONAL FINDING.—The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY.—It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism industry in the Caribbean Basin.

(c) STUDY.—The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include—

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agro-business.

SEC. 2013. AGRICULTURAL INFRASTRUCTURE SUPPORT.

It is the sense of Congress that in order to facilitate trade with, and the economic development of, the countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act, the Secretary of Agriculture should, in consultation with the Agribusiness Promotion Council, coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in these countries for the purpose of improving agricultural trade between these countries and the United States. Such programs should focus on improving distribution of agricultural commodities and products in these countries, and the phytosanitary institutions, quarantine capabilities, and pesticide regulations of these countries regarding agricultural commodities and products.

TITLE III—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AGENCIES

SEC. 3001. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) Subparagraph (A) of section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended to read as follows:

"(A) There are authorized to be appropriated for the purpose of carrying out the functions of the Office—

"(i) $21,200,000 for fiscal year 1991, and

"(ii) $19,027,000 for fiscal year 1992.".

(2) Subparagraph (B) of section 141(g)(1) of the Trade Act of 1974 is amended—

(A) by striking out "for fiscal year 1990" and inserting in lieu thereof "for each fiscal year", and

(B) by striking out "$89,000" in clause (i) and inserting in lieu thereof "$98,000".

(b) PANELS AND COMMITTEES UNDER CANADA FREE-TRADE AGREEMENT—Paragraph (1) of section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112, note) is amended to read as follows:

"(1) There are authorized to be appropriated to the Office of the United States Trade Representative—

"(A) $2,050,000 for fiscal year 1991, and

"(B) $2,050,000 for fiscal year 1992,

to pay during each of such fiscal years the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement.".

SEC. 3002. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere)—

"(i) $42,430,000 for fiscal year 1991, and

"(ii) $46,673,000 for fiscal year 1992.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for each fiscal year, $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission for the making of any special study, investigation, or report that is requested by any agency of the executive branch, unless that agency reimburses the Commission for the cost thereof.".

SEC. 3003. UNITED STATES CUSTOMS SERVICE.

Subsection (b) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are authorized to be appropriated for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations (other than the air interdiction program)—

"(A) $521,882,000 for fiscal year 1991, and

"(B) $547,958,000 for fiscal year 1992.

"(2) There are authorized to be appropriated from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations—

"(A) $671,645,000 for fiscal year 1991, and

"(B) $705,569,000 for fiscal year 1992.

"(3) There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service—

"(A) $143,047,000 for fiscal year 1991, and

"(B) $163,047,000 for fiscal year 1992.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 4001. TECHNICAL AMENDMENTS REGARDING NONDISCRIMINATORY TRADE TREATMENT.

(a) WAIVER AUTHORITY.—

(1) Paragraph (5) of section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)(5)) is amended—

(A) by striking out "the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any county for the 12-month period referred to in such paragraphs, and",

(B) by striking out "such authority will" in the first sentence thereof and inserting in lieu thereof "the waiver authority granted under subsection (c) will",

(C) by striking out "60-day period" each place it appears and inserting in lieu thereof "105-day period",

(D) by striking out ", either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution" and inserting in lieu thereof "a joint resolution described in section 153(a) is enacted into law,",

(E) by striking out "adoption by either House" each place it appears and inserting in lieu thereof "enactment", and

(F) by striking out "a resolution" each place it appears and inserting in lieu thereof "a joint resolution".

(2) Subsection (d) of section 402 the Trade Act of 1974 (19 U.S.C. 2432(d)), as amended by paragraph (1), is amended—

(A) by striking out paragraphs (1), (2), (3), and (4),

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (5) as paragraphs (1), (2), and (3), respectively, and

(C) by striking out "(5) If" and inserting in lieu thereof "If".

(3) Subsection (a) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(a)) is amended to read as follows:

"(a) CONTENTS OF RESOLUTION.—For purposes of this section, the term 'resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to _____.', with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the clause beginning with 'with respect to' being omitted if the extension of the authority is not approved with respect to any country.".

(4) Subsection (b) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(b)) is amended—

(A) by striking out ", and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days" in paragraph (2),

(B) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (3),

(C) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (3),

(D) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (4), and

(E) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (4).

(5) Subsection (c) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by striking out "in subsection (a)(1)" and inserting in lieu thereof "in subsection (a)".

(b) BILATERAL COMMERCIAL AGREEMENTS.—

(1) Subsection (c) of section 405 of the Trade Act of 1974 (19 U.S.C. 2435(c)) is amended to read as follows:

"(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) that approves of the agreement referred to in subsection (a) is enacted into law.".

(2) Section 151 of the Trade Act of 1974 (19 U.S.C. 2191(b)) is amended—

(A) by inserting "or resolution" after "revenue bill" in subsection (b)(2),

(B) by inserting ", or approval resolution," in subsection (b)(2) after "implementing bill",

(C) by striking out "concurrent" in subsection (b)(3) and inserting in lieu thereof "joint",

(D) by striking out "revenue bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "revenue bill or resolution", and

(E) by striking out "such bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "such bill or resolution".

(3) Subsection (c) of section 407 of the Trade Act of 1974 (19 U.S.C. 2437(c)) is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 151(b)(3) that approves of the extension of nondiscriminatory treatment to the products of the country concerned is enacted into law.", and

(B) by redesignating paragraph (3) as paragraph (2).

(c) COMPLIANCE REPORTS.—

(1) Paragraph (2) of section 407(c) of the Trade Act of 1974 (19 U.S.C. 2437(c)(2)), as redesignated by subsection (b)(3)(B) of this section, is amended—

(A) by striking out "the 90-day period" and inserting in lieu thereof "the 135-day period",

(B) by striking out "either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152)" and inserting in lieu thereof "a joint resolution described in section 152(a)(1)(B) is enacted into law that disapproves", and

(C) by striking out "the adoption" and inserting in lieu thereof "the enactment".

(2) Subparagraph (B) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(B)) is amended to read as follows:

"(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve _____ transmitted to the Congress on _____.', with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date.".

(3) Paragraph (2) of section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "407(c)(3)" in subparagraph (C) and inserting in lieu thereof "407(c)(2)",

(C) by striking out subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B).

(4) Subsection (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(f)) is amended to read as follows:

"(f) FINAL PASSAGE IN THE SENATE.—A resolution that has passed the House of Representatives shall, when received in the Senate, be placed on the calendar. The procedures in the Senate with respect to a resolution introduced in the Senate that concerns the same matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, but the vote on final passage in the Senate shall be on the resolution that passed the House of Representatives.".

(5) Subsection (b) of section 154 of the Trade Act of 1974 (194 U.S.C. 2194(b)) is amended—

(A) by striking out "407(c)(2) and 407(c)(3)" and inserting in lieu thereof "and 407(c)(2)",

(B) by striking out "such sections" and inserting in lieu thereof "section 203(c) and the 135-day period referred to in section 407(c)(2).".

SEC. 4002. CUSTOMS USER FEES.

(a) MERCHANDISE PROCESSING FEE.—

(1) Subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended by striking out paragraphs (9) and (10) and inserting in lieu thereof the following:

"(9) For the processing of any merchandise that is informally entered—

"(A) $14 if the entry is manual, and

"(B) $11 if the entry is automated.

"(10) For the processing of any merchandise that is formally entered, or withdrawn from warehouse for consumption, during any fiscal year, a fee in an amount equal to 0.15 percent ad valorem.

(2) Paragraph (8) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)) is amended—

(A) by striking out "be based" in subparagraph (A)(ii) and inserting in lieu thereof "except as otherwise provided in this paragraph, be based",

(B) by striking out "and" at the end of subparagraph (A)(iii),

(C) by striking out the period at the end of

subparagraph (A)(iv) and inserting in lieu thereof "; and",

(D) by inserting after clause (iv) of subparagraph (A) the following new clause:

"(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.",

(E) by redesignating subparagraphs (A) and (B) as subparagraphs (D) and (E), and

(F) by inserting before subparagraph (D), as redesignated by this paragraph, the following new subparagraphs:

"(A) The fee charged under subsection (a)(10)—

"(i) shall not exceed—

"(I) $403 for each manual entry, or

"(II) $400 for each automated entry, and

"(ii) shall not be less than—

"(I) $23 for each manual entry, or

"(II) $20 for each automated entry.

"(B) No fee may be charged under paragraph (9) or (10) of subsection (a) for the processing of any article that is—

"(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

"(ii) a product of an insular possession of the United States, or

"(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

"(C) For purposes of applying paragraphs (9) and (10) of subsection (a), expenses incurred in conducting commercial operations do not include costs incurred in—

"(i) air passenger processing,

"(ii) export control, or

"(iii) international affairs."

(3) Paragraph (10) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(10)) is amended—

(A) by striking out "under subsection (a)(10)" and inserting in lieu thereof "under paragraph (9) or (10) of subsection (a)", and

(B) by striking out the last sentence thereof.

(b) DISPOSITION OF FEES.—

(1) Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(A) by striking out "All Funds" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this subsection, all funds",

(B) by redesignating paragraph (4) as paragraph (5), and

(C) by inserting after paragraph (3) the following new paragraph.

"(4) No funds may be expended from the Customs User Fee Account, and no reimbursement made under paragraph (3), for the costs incurred in providing any service which is exempt from the fee.".

(2) Paragraph (3) of section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended to read as follows:

"(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a) (other than paragraph (9) or (10) of subsection (a)), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary—

"(i) in providing—

"(I) inspectional overtime services, and

"(II) all preclearance services,

for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

"(ii) to the extent funds remain available to make reimbursements under clause (i), in providing such additional personnel and equipment (distributed on a basis proportionate to the fees collected under subsection (a), other than paragraph (9) or (10) of subsection (a)), and in paying such other necessary expenses, as may be necessary to provide service to those persons paying such fees.

"(B) Reimbursement under this paragraph shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

"(C) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives summarizing the expenditures for which reimbursement has been provided under subparagraph (A)(ii).".

(c) EXTENSION OF FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1990" and inserting in lieu thereof "1991".

(d) AGGREGATION OF MERCHANDISE PROCESSING FEES.—

(1) Notwithstanding any provision of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c), in the case of entries of merchandise made under the temporary monthly entry programs established by the Commissioner of Customs before July 1, 1989, for the purpose of testing entry processing improvements, the fee charged under section 13031(a)(10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 for each day's importations at each port by the same importer from the same exporter shall be the lesser of—

(A) $400, or

(B) the amount determined by applying the ad valorem rate determined in such section 13031(a)(10) to the aggregate value of each day's importations at each port by the same importer from the same exporter.

(2) The fees described in paragraph (1) that are payable under the program described in paragraph (1) shall be paid with each monthly consumption entry. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of this section, shall take effect on October 1, 1990.

SEC. 4003. DRUG PARAPHERNALIA.

(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277, which was submitted to the Committee on Finance of the Senate in September 1989.

(b) ADMINISTRATION.—

(1) Section 1822 of the Mail Order Drug Paraphernalia Control Act (21 U.S.C. 857) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Commissioner of Customs shall prescribe guidelines for use in determining whether articles intended for importation or exportation are to be considered drug paraphernalia.

"(2) Prior to prescribing the final form of the guidelines under paragraph (1), the Commissioner of Customs shall hold a public hearing on the preliminary form of the guidelines.".

(2) The guidelines that the Commissioner of Customs is required to prescribe under section 1822(g) of the Mail Order Drug Paraphernalia Control Act, as amended by paragraph (1), shall be prescribed by no later than the date that is 6 months after the date of enactment of this Act.

(c) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.

SEC. 4004. PROHIBITION ON THE IMPORTATION OF CERTAIN ARTICLES ORIGINATING IN BURMA.

(a) IN GENERAL.—After the date of enactment of this Act—

(1) teak, and any other tropical timber, that is cut in Burma,

(2) any product that contains teak, or any other tropical timber, cut in Burma,

(3) any fish or other aquatic animal taken from the territorial waters of Burma, and

(4) any product containing any fish or other aquatic animal taken from the territorial waters of Burma,

may not be imported into the United States or into any territory or possession of the United States.

(b) ENFORCEMENT.—

(1) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(2) The regulations prescribed under paragraph (1) shall—

(A) require any importer of teak, of any other tropical timber, or of any product containing teak or any other tropical timber, to submit to the Secretary of the Treasury at the time of the importation of such teak, timber, or product into the United States, or into any territory or possession of the United States, a statement certifying the origin of the teak or other tropical timber, and

(B) require any importer of—

(i) fish or other aquatic animals, or

(ii) any product containing any fish or other aquatic animal,

that is imported from, or has passed through, Burma (or any foreign country whose nationals are allowed to fish in the territorial waters of Burma by a treaty or agreement between Burma and the foreign country or such nationals) to submit to the Secretary of the Treasury at the time of the importation of such fish, aquatic animal, or product into the United States, or into any territory or possession of the United States, a statement certifying the territorial waters

from which the fish or aquatic animal was taken.

(c) COMPLIANCE WITH GATT.—The provisions of this section shall not apply if the President submits to the Congress a written statement certifying that the provisions of this section violate the obligations of the United States under the General Agreement on Tariffs and Trade.

Amend the title so as to read: "An Act to make miscellaneous and technical changes to various trade laws.".

Mr. BENTSEN. Mr. President, we now have before the Senate a miscellaneous trade bill. This bill is largely comprised of noncontroversial but needed changes in our trade laws. It reflects the work of 57 Members of the Senate. It was reported from the Finance Committee without opposition.

Last September, the House presented us with a package of trade provisions in the budget reconciliation bill. We opposed acting on those provisions because we had not had a chance to view them in the Finance Committee, to publicize what they were, to get a public reaction, and to get the various trading interests to react and tell us how the provisions affected the economy of our country. So we insisted that all trade measures be dropped from the reconciliation bill, and they were.

We did agree to consider those matters this year and to make a best effort to move that bill by March 31, 1990. We made that conference agreement public. Therefore, everyone in the trade community has been aware since the end of the reconciliation conference last fall that the subjects in this bill would be considered early this year.

In carrying out this reconciliation agreement, the Finance Committee was careful to solicit the views of the administration, the Members of the Senate—I think that is proven by the fact we have the work of 57 of them in it—and the public. We held 2 periods for written comments on over 200 miscellaneous tariff bills. We held hearings on the other provisions of the bill. We got detailed, unbiased reports from the trade experts at the U.S. International Trade Commission.

None of the provisions on this bill, or the amendments that I am aware of, is so controversial that we cannot dispose of the controversy with agreements to debate and vote on amendments. Frankly, I do not expect many such amendments because the committee process has been so complete. Furthermore, if we go beyond the subject matter of this bill, it is clear we will in one way or another kill this bill. Dozens of industries across the country depend on these provisions coming into law this year. So I urge Senators not to offer nongermane amendments, and to vote against them if they are offered in the interest of getting a bill enacted into law this year.

Moreover, I would point out to Senators that since people have known about our March 31 objective for this bill since last fall, we will be skeptical about bills offered here for the first time. When and if the Senate passes this bill, I expect an early conference with the House. There will not be much time, either now or after the Senate acts, to evaluate the effects of new provisions that we have not had a chance to study in committee.

Now I want to describe the provisions of the bill.

MISCELLANEOUS TARIFF PROVISIONS

Miscellaneous tariff provisions in title I account for the bulk of the measures in this bill. In most cases, these bills fall into one of three classes:

CORRECTING ERRORS IN THE HARMONIZED SYSTEM

First, there are bills to correct errors in converting to the harmonized system of tariff nomenclature, which was adopted in the Trade Act of 1988 and put into effect on January 1, 1989. The harmonized system created internationally uniform categories of products for customs purposes. It was the result of 10 years of painstaking negotiations to assure the conversion from our old tariff schedules was unbiased. We were one of the last countries to adopt a harmonized system. However, mistakes were made. Over the last year, private industry has identified a number of such oversights, which this bill would correct some of those errors.

PRIVATE RELIEF PROVISIONS

The second general category of miscellaneous tariff provisions on this bill is private relief provisions, which generally prevent an unfair application of the customs laws. For example, the bill would allow the University of Alabama Medical School to buy a complicated piece of research equipment duty free, because it is not available in this country. The changes correct an unfairness or help U.S. producers if no U.S. interest is hurt.

DUTY SUSPENSIONS

The third category of miscellaneous trade provisions is temporary duty suspensions. For the most part, they relate to articles that are not produced in this country. Their aim is to make U.S. companies more competitive by reducing their costs on products that are not available for purchase within our country.

Some of these are new suspensions. Others are extensions of suspensions that expire this year. In both cases, we have asked for written comment from the public on bills introduced in the Senate through December. We had a further comment period in February, and we published a list of all the bills adopted by the committee on March 1 of this year.

Many of the original bills were changed with the agreement of the sponsor to make them noncontroversial.

Members have gone out of their way to try to assure the passage of this bill in a timely manner. Hours of negotiations have gone into these provisions. That process involved the Senators, their staffs, the committee, the administration, and private sector organization.

TRADE ACT TECHNICAL CORRECTIONS RELATING TO THE COMMUNIST COUNTRY TRADE

The second general subject matter addressed by this bill relates to the congressional role in U.S. trade policy toward Communist countries. This policy is controlled by title IV of the Trade Act of 1974. That contains two significant provisions. First, it prohibits its most favored nation, or MFN, treatment for countries that have limits or tight controls on emigration of their people and, second, it prevents the President from proclaiming MFN, or most favored nation treatment, for such a country unless he first negotiates a trade agreement with the country concerned and then gets U.S. congressional approval of that agreement.

Today these provisions face their biggest job to date because we are talking about trade liberalization with the Soviet Union and Eastern Europe. We need to have these provisions fully in effect, both to assure that the Soviets carry through on their emigration policy and to assure our businessmen that the United States Government will work to give them a fighting chance in Soviet trade. None of that will happen unless title IV of the 1974 law is put in working order, and right now, that is in serious doubt.

The reason is that Congress' authority under title IV is exercised through use of legislative vetoes. Since the 1974 provisions were enacted, the Supreme Court decided that some legislative vetoes are just not constitutional. Many in the administration have extrapolated from the Supreme Court decision that the procedures under the 1974 act are unconstitutional.

Quite frankly, I think most of the procedures in the 1974 act are constitutional, but I see no point in debating legislative vetoes in the Senate. An issue of constitutionality can only be resolved in the courts, and that is the last place I want the trade policy of the United States to be formulated. That is why I am convinced that we should change the procedure.

If we do not, every decision to give MFN to Eatern European countries and the Soviet Union will be vulnerable to litigation. These lawsuits would at least disrupt sensitive relations with those countries, some of them hanging on the brink, some of them trying to go to democratic forms of government and having a very difficult time adjusting their economy and desperately needing trade with the United States. So it is just not worth the chance of letting those lawsuits get started.

Last Thursday, the United States signed a trade agreement with Czechoslovakia. That agreement clearly calls for congressional approval. The President has indicated he is going to sign a trade agreement with the Soviet Union several weeks from now, at the

Bush-Gorbachev summit. Therefore, we have to get these provisions enacted into law quickly. Provisions in the bill are acceptable to the House. They are not opposed by the administration.

The other provisions of this bill are important, too, and I just want to take a few minutes to describe them.

This bill will put the Caribbean Basin Initiative on a permanent footing, and that is something that needs to be done. Under the current law, the program will expire in 1995. The Senator from Texas was the first Democrat to cosponsor the Caribbean Basin Initiative when it was proposed by President Reagan. This program provides the richest benefit for developing countries of any of our trade programs. It is three times as rich a program as the generalized system of preferences.

CBI countries get duty-free access to the U.S. market except for a handful of products. They are not required to make any tariff concessions in return.

The program is beginning to pay benefits. The development of nontraditional industries in the Caribbean is progressing, and the trade with the region is increasing, which it desperately needs.

The recent liberalization of Panama and Nicaragua underscores the importance of this program because we can show the people of that region that we are not only sympathetic with that struggle, but we are going to do those things that we think will be helpful to implement the change to a democratic form of government.

The most important provision in this section of the bill makes that CBI program permanent. In effect, it provides zero rates of duty indefinitely to those countries. In that way, it will promote investment in the region. It assures investors that access to the U.S. market, the biggest market in the world, will continue on a permanent basis.

But when we try to go beyond the provisions in this bill, we begin to run into difficulties. I am afraid we will kill what we have if we open up the sectors that are currently excluded from CBI benefits and, therefore, I reluctantly oppose such amendments unless they can be adopted without opposition.

The next provision I want to mention is title II, the authorization of appropriations for trade agencies. The agencies concerned are the most important in trade. We are talking about the U.S. Customs Service, the Office of the U.S. Trade Representative, and the U.S. International Trade Commission.

It is remarkable that fewer than 20,000 Government employees are employed by the agency that deals with two of the most profound problems our country faces, and that is the trade deficit—where we have moved from the No. 1 creditor nation in the world to the No. 1 debtor nation in the world—and then one of the most dire threats facing the country—the drug war. These are the frontline troops of the U.S. Customs Service.

Throughout the Reagan administration, we were in a constant confrontation with the Customs Commissioner. However, the office of Customs Commissioner became the subject of confirmation by the Senate in 1989, and I must say that the current Commissioner is making a real effort to improve communication with the Congress and balance customs' commercial and law enforcement missions.

The President's budget this year still proposed to reduce the staffing of the Customs Service by over 1,000 people of a work force of about 15,000, and we have been running into this each year. The theory of the reduction is that the Customs should pay for the Gramm-Rudman-Hollings sequester and the recent pay raise by attrition and a hiring freeze.

That makes no sense to us on the Finance Committee, because let us just remember this is an agency that raises 18 times as much revenue as its appropriation, even though U.S. rates of customs duties are amongst the lowest in the world.

In the committee, we took all of the President's suggestions for improving the efficiency of the U.S. Customs Service, but we also restored all the cuts made by the Office of Management and Budget. Moreover, we moved to a 2-year authorization of appropriations for the Customs Service. Under the current 1-year authorization, the Customs Service has faced annual threats of staff cuts from the administration, leaving Customs hesitant to hire new staff even if adequate funds are later appropriated by Congress. If we give them a 2-year authorization, that ought to enable the Customs Commissioner to do a little long-range planning and help morale.

I am well aware that there are some Senators who are concerned about losing control over the Customs Service in a 2-year cycle, so let me lay those concerns to rest. I want it understood that we will have Customs oversight hearings next spring in the Finance Committee, even if the 2-year cycle on legislation is enacted. We could then report any necessary legislation or even report a replacement authorization. Meanwhile, the Appropriations Committees, the Office of Management and Budget, and the Customs Commissioner, who deserves our support, will have the benefit of our guidance and the freedom to plan for the next 2 fiscal years.

As to the authorizations for the U.S. Trade Representative and the U.S. International Trade Commission, I will only say that these two tiny agencies, less than 700 employees between the 2 of them, are at the very center of our trade regulation and trade negotiation processes. We are proposing to authorize $70 million for the two of them, and I promise you it is a bargain at that price.

Mr. President, this is a complicated bill. It has taken a long time to put it together, but I have done everything I can to assure that it is not a controversial bill in any major way. It has taken hearings and meetings between the private sector and Senators and staff of the committee to put something together that would pass and take effect and do the job that has to be done. It makes changes which are urgently needed, but we have tried to make those changes in a way which brings about a consensus in the Senate.

There may be some Senators who are tempted to propose highly controversial measures as amendments to this bill, I have discussed this possibility with the majority leader and the minority leader, and they have both assured me of their support in moving to table such amendments. Highly controversial amendments will only casue this bill to die, and I cannot believe that a bill that has the work of 57 Senators on its should be killed for the sake of a political issue.

Mr. President, I urge the Senate to enact this bill.

Mr. HOLLINGS. Mr. President, if the distinguished chairman will yield, as he well knows, we have S. 2411, the textile apparel and footwear bill. It does have 55 cosponsors. We are very fortunate in having it cosponsored by both the majority leader and minority leader. It is a given that we can pass that bill and should pass it. It is practically the same bill we enacted in the past several years only to be vetoed.

Now we have put a provision in, one relative to the CBI. We really are just as supportive, more so than some, of the Caribbean Basin Initiative. We wanted to make sure there would not be any rollback on CBI trade and that any additional allocations of textile trade to the Caribbean Basin Initiative under globalization of importers be allowed. We have that, and it is ready to go.

Necessarily, with 55 cosponsors and trying to keep them all together, there are some who say, wait a minute, this is a wonderful opportunity; after all, in the Senate, you do not get a trade bill up very often because under the Constitution those bill affecting tariffs, revenue measures, must originate in the House of Representatives. There are those who say: let us get down there and put on an amendment.

I want to accommodate, as do we all, the distinguished chairman of the Finance Committee. He has led the way on the Caribbean Basin Initiative. This is an important bill. We would like to have an understanding that we can get a prompt hearing and action

by the committee to report out the bill.

Mr. BENTSEN. I must say I supported, if I recall, the last such bill the chairman of the Commerce Committee presented to us.

I appreciate his accommodation on this one. I would be delighted to assure him that we will give him an early hearing on this bill.

Mr. HOLLLINGS. I appreciate that very much. I think that will suffice. We will go along with the distinguished chairman's request not to offer an amendment at this time unless some others come with theirs, because we already have special provisions for textiles in the Caribbean Basin Initiative.

I thank the distinguished Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I may address the Senate for 6 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

If there is no objection, the Senator is recognized for 6 minutes to proceed as if in morning business.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2465 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Washington is recognized.

IN RECOGNITION OF EARTH DAY

Mr. ADAMS. Mr. President, I would like to take a few moments to reflect on an important occasion to be celebrated by our Nation this weekend: the anniversary of Earth Day.

Twenty years ago, a Senator from Wisconsin set in motion a very important trend. The Senator was Gaylord Nelson. The event was Earth Day.

I was a Member of the House of Representatives on that first Earth Day and recall it very well. In 1970, we were beginning to see the problems that humanity was causing in its frenzied pursuit of economic progress. Our air was becoming hazy; our water was becoming polluted; and species of plants and animals were reaching extinction. We could see the end of many natural resources that we once thought were endless.

Gaylord Nelson's purpose in establishing Earth Day was to bring these environmental concerns to the attention of the public and their elected representatives. Two decades later, it is now time to measure our progress. My feelings on this anniversary are very mixed. In some ways we have made tremendous progress. In other ways we have failed to live up to our goals.

Our achievements are considerable. In 1970, the Environmental Protection Agency was established to safeguard our environment. Since 1970, Congress has passed the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Marine Mammal Protection Act, the Coastal Zone Management Act, the Endangered Species Act, the National Forest Management Act, the Resource Conservation and Recovery Act, Superfund legislation and multiple wilderness acts among other environmental initiatives.

As a nation, we have learned a number of lessons over the past two decades. The first one is that environmental laws and regulations can work. Today's cars only emit 25 percent as much pollution as the 1970 models. Areas such as Lake Erie and Lake Washington in my own State suffered from severe pollution in 1970. Today, those lakes are much healthier as a result of major cleanup efforts. Twenty years ago we were worried that the bald eagle, the symbol of our Nation, would become extinct. Today, under the guidance of the National Fish and Wildlife Service, this species is regaining its health.

In my own State we have taken a number of steps forward since that first Earth Day. In 1972, downtown Seattle violated Federal carbon monoxide standards 112 days a year. Today that standard is violated only 1 or 2 days. In 1970, Washington State had only 1 million acres of federally designated wilderness. Today that total has increased to 4.25 million acres. Two decades ago, sulfur dioxide from a Tacoma copper smelter severely polluted the air of surrounding communities, threatening the health of many residents. In 1984, that smelter closed down and local agencies indicate that local citizens are better off as a result. One of our greatest successes involves recycling. In my own native city of Seattle, we are proud of the progress made in the recycling effort. Recently, "NBC Nightly News" aired a story noting that Seattle has acquired the nickname of "Recycling City America" for the commitment its residents have made to recycling their trash. And it is not just Seattle. Spokane, Olympia, and Clark County are embarking on ambitious recycling programs to keep our landfills from being overloaded.

On an individual level, public education about the environment has encouraged significant lifestyle changes. We now realize that the garbage we create does not disappear; it remains a part of our planet. We realize that the exhaust from our cars causes much of the haze which settles over our cities. We recognize that those conveniences of modern society, such as styrofoam, ultimately create atmospheric problems. Recognition of these problems has required lifestyle changes in the way we dispose of our trash, the way we travel and the way we heat our homes. Many people are now involved in recycling programs. Large cities now require vehicle emissions tests. More citizens are informed consumers who protest the excessive use of environmentally damaging packaging materials.

In spite of the progress over the past 20 years, we have a long way to go. Today, we recycle only 10 percent of the garbage that we produce. Our air is dirtier than it was in 1970. We have toxins in our soil, water, and food. We have problems with indoor air pollution. Our forests and species' habitats are being destroyed. And we have many new problems such as global warming that we never anticipated years ago.

In addition, during the past two decades we have failed to heed loud warning signs and we have suffered a number of environmental catastrophes as a result. A case in point is oilspill prevention; 20 years ago, we knew that one of the best ways to prevent oilspills was to require oil tankers with double hulls. We have yet to act on that knowledge. Both the oil companies and the Coast Guard have fiercely resisted efforts to mandate this structural improvement. As a result, countless gallons of oil have needlessly spilled into our oceans and waterways. For example, the Coast Guard has estimated that if the *Exxon Valdez* had been equipped with a double hull, between 25 and 60 percent less oil would have spilled into the Prince William Sound.

The pending oilspill liability legislation gives us a chance to finally require double hulls. I am involved in that fight, and I hope we will win it. But the fact remains that because of oil industry greed and agency inaction, we have failed for 20 years to take measures that would have protected our marine environments from irreparable harm. That is a terrible tragedy.

Another example that comes immediately to mind is the clean air bill the Senate recently passed. I was a Member of the House of Representatives when the original Clean Air Act was adopted. That act gave us great hope. Unfortunately, it did not live up to our expectations. After many years Congress returned recently to this issue with revisions to strengthen the act. In my home State of Washington, we are facing the problem of air pollution on a daily basis. We still experience our share of beautiful blue-sky days, but those days have dwindled be-

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cause of automobile pollution problems and temperature inversions. The Washington State Department of Ecology tells me that over the past 10 years, the number of vehicle miles traveled in our State has increased by 73 percent. As growth continues at an accelerated rate in our State, this problem may become worse and worse. It is my hope that the measures we recently passed in the Senate will help resolve some of these pollution problems. I recognize the solutions we require in this legislation involve big economic sacrifices. But my conclusion is that no price is too high to pay to reach these goals for our environment and the health and well-being of all Americans.

These are just a few examples of our successes and failures. Today, we are facing some very difficult challenges as we approach the 21st century. Fortunately, we are all much better informed about the significance of our environment as indicated by recent surveys. Poll after poll shows that the environment ranks right near the top of the Nation's agenda. Nearly half the people in our Nation believe that the environment is worse today than it was 5 years ago. In fact, citizens now rank the environment, along with Soviet aggression and economic competition with the Japanese, as a serious threat to America's security.

I believe that during the next few years we will be making some decisions that will have large impacts on the future of the United States. Some of those decisions will be very painful. But the fact is that we must now fix the problems we have created over the past 100 years. As human beings, we dominate the world; yet we also rely on a healthy planet for our own survival. If we do not make some of those tough choices, we ultimately jeopardize our own existence. Above all, I believe that we must increase our respect for the integrity of our planet and interfere as little as possible with the world ecosystem.

In conclusion, I would like to quote from Senator Gaylord Nelson's remarks on the first Earth Day.

(W)inning the environmental war is a whole lot tougher challenge by far than winning any other war in the history of man. . . . Our goal is an environment of decency, quality, and mutual respect for all other human creatures and for all other living creatures.

I believe that his words are just as true today as they were 20 years ago. The anniversary of Earth Day is a significant milestone in our country's history and another reminder of the promise made to the American people in 1970. I look forward optimistically to celebrating Earth Day 2010 and a future where the protection of the environment will not be a controversial issue but a way of life.

Mr. President, I yield the floor.

Mr. PRYOR. Mr. President, I see no one else at this time seeking recognition to speak on the pending business. I understand the distinguished Senator from Wisconsin is seeking recognition, perhaps, to speak as in morning business. We have no objection.

Mr. KASTEN. Mr. President, I ask unanimous consent to proceed as in morning business for approximately 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

HANDS OFF LITHUANIA

Mr. KASTEN. Mr. President, I rise today to address a question of the highest importance for the future of East-West relations. The Government of the Soviet Union is following a collision course in Lithuania—and we in the West cannot remain indifferent to the course they have chosen.

Since the time of Peter the Great, the Russians have viewed the Baltic area as an essential window to the West. In addition to providing the ice-free naval ports that the Russians require, this Western opening also serves as a medium of communication—a place where the democratic values of the West can reach out to the people of the East.

President Gorbachev has some important choices to make. Does he want those ice-free ports badly enough to slam shut this window to the West?

I think that Gorbachev does not understand the true sentiment of Western public opinion on this issue—and that he may be about to make a serious miscalculation, with extremely grave consequences for us and for the whole world.

Gorbachev has stated publicly that he is ruling out the option of military force in Lithuania—because he believes that this statement will cause the West to acquiesce in the continued Soviet occupation of Lithuania.

Gorbachev is gambling that the West will accept a rather unusual definition of the word "force." Under this definition, a half century of illegal armed occupation does not constitute force. Under this definition, the unauthorized overflights of hostile fighter aircraft and helicopters over an occupied capital do not constitute force. Under this definition, the confiscation of weapons from an unwilling populace does not constitute force. Under this definition, the impressment into the armed service of citizens of a subject country does not constitute force.

Mr. President, in each of these cases, let us ask ourselves a simple question: If this act were committed against the United States, would we consider it an act of force?

The answer is clear. All of these acts are hostile. They are acts of force. They are acts of war.

President Gorbachev knows this. But he is gambling that we will ignore it. And every time the West turns a blind eye to one of these actions, he will be emboldened to go an extra step, and then another, and then another—until the freedom forces in Lithuania are completely wiped out by the central government.

It is the duty of the Western Allies to make Gorbachev understand what exactly his choices are. We must help Gorbachev leave the path of confrontation—by telling him in plain terms which Soviet actions will not be tolerated by the West.

Many Balts consider a push for independence to be the only way they can survive as identifiable peoples. Since the secret protocol to the Nazi-Soviet nonaggression pact of 1939 that placed all three Baltic States into the Soviet sphere of influence, the Soviets have tried to absorb Lithuanians into Russia. This policy began with massive deportations and the immigration of non-Baltic people from the rest of the Soviet Union, and it continues today.

Shall Lithuania be free? This question ought to be determined on the basis of popular sovereignty—a free and fair plebiscite of the people of Lithuania. This is the way of peace.

The other path that is tempting Gorbachev is the path of provocation. All of the hostile acts Moscow has committed are part of a single pattern. The Soviets are waging a war of nerves against Lithuania. They are trying to provoke violence by the Lithuanians in order to provide a pretext for a full, brutal repression of the independence movement.

The West must leave no doubt as to how it will respond to this challenge. If the Soviet Union succeeds in provoking the Lithuanians to this tragic course of action, the West must be clear about the price the Soviets will have to pay.

Today, I am calling on President Bush to send the following message to the Soviet Union: Unless you turn back from this course—the path of provocation—we will try to block your participation in GATT and the Eastern European Development Bank. We will refuse you the trade credits you seek, as well as the low tariffs you would enjoy through most-favored-nation trade status.

And we will cancel the upcoming summit.

President Gorbachev needs to pull back from the course of confrontation. That means no full-scale military operation to overthrow the Lithuanian Government. It also means no imposition of direct Presidential rule on Lithuania.

It also means backing off the threat of an economic embargo of Lithuania. This embargo would be an act of economic warfare—and that would not be acceptable to the peace-loving nations of the West.

Let Gorbachev choose: Hands off Lithuania—or get kicked out of the Bank that can finance a Russian economic recovery. Hands off Lithuania—or we will scrap the summit. Hands off Lithuania—or you can kiss those trade preferences goodbye.

Mr. President, the cold war was won not just by the firmness of the West but also by the clarity of our purpose. Brezhnev, Andropov, and Chernenko could not have had any doubt where the West stood on the question of freedom versus communism.

Let us remove the doubt from the mind of President Gorbachev. Mr. Gorbachev, Lithuania is not a sideshow for us here in the West. It is the main drama. If you do not believe in glasnost and perestroika on the shores of the Baltic, it will be plain to us that we cannot trust your commitment to them anywhere.

Please consider wisely—before you rush to judgment, and make a decision that the whole world would regret.

FAVORED-NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Are we in morning business or not in morning business?

The PRESIDING OFFICER. We are not, except by unanimous consent.

Mr. PACKWOOD. So there is no time limit at the moment?

The PRESIDING OFFICER. That is my understanding. The Senator is correct.

Mr. PACKWOOD. I thank the Chair.

Mr. President, the bill we are considering today, although entitled "Miscellaneous and Technical Changes to Various Trade Laws," contains some very important provisions.

First, the bill makes several changes to the Jackson-Vanik amendment relating to the one-House/two-House veto and the issues of constitutionality we have had.

We will change the law so there is no question but what the resolutions which will be passed by the House and Senate and sent to the President for veto are constitutional, and that problem is cured. It is an important problem. The bill cures it.

The bill also contains budget authorizations for the International Trade Commission, the U.S. Customs Service, and the U.S. Trade Representatives Office.

Additionally, the bill contains over 100 miscellaneous tariff bills which temporarily suspend or reduce the tariffs on products not produced in the United States.

Mr. President, the very heart of this bill is to revisit the Caribbean Basin Initiative. The centerpiece of the 1983 Caribbean Basin Initiative was in essence a one-way free trade area in which the United States would grant to Caribbean countries duty-free access to the U.S. market. The program was designed to further the economic development and political stability of the participating Caribbean countries which in the long term was in the best interests of the United States as well.

Now, after 6 years of operation, we are being asked to revisit the Caribbean Basin Initiative program. While there has been some progress under the CBI, particularly in the increase of nontraditional imports and new investment, the benefits under the program have not provided the economic growth originally anticipated. In fact, since the program has gone into effect, total U.S. imports from the Caribbean Basin Initiative countries have declined about 30 percent, largely as a result of the decrease in petroleum imports. While the CBI program is intended to provide nonreciprocal trade benefits to the Caribbean Basin, the irony is that the program has worked the other way. Since the program's inception, U.S. export to the Caribbean have actually increased and the United States is currently running a trade surplus with the region of approximately $1.4 billion. In addition, most of these Caribbean countries have exceedingly high unemployment and heavy debt burdens. For example, Jamaica and the Dominican Republic, two of the larger CBI countries, have unemployment rates exceeding 20 percent. Jamaica's external debt exceeds $4.3 billion, while the Dominican Republic debt is just over $3.9 billion. And let us not forget the recent history of political and social unrest in all of the region—Panama, Haiti, Nicaragua, and El Salvador.

Keeping our original goal in mind, to provide economic and political stability to this region, we must ask ourselves what we can do to fine tune the CBI program to further help this region. The administration and the Caribbean countries have made numerous recommendations on how to fix the program so that it meets our original intentions. These include: One, eliminating the 1995 expiration date and making the CBI program permanent; and two, providing duty reductions on presently excluded products.

Most agree that at a minimum providing a permanent extension of the CBI program is noncontroversial and will provide significant benefits to the area because it will give investors in the region business certainty. That is the easier question, the permanent extension.

The harder question is whether we can provide duty reductions in the previously excluded products such as textiles, footwear, and petroleum. These products were previously excluded from the original CBI because they were import sensitive. While the CBI bill which passed the Ways and Means Committee last year had duty reductions in most of the previously excluded products, by the time the bill got to the House floor the various domestic industries had managed to have the provisions removed. As a result, the House CBI bill currently does not contain any duty reductions on any previously exempted products. Now the Senate is faced with the same issue of how to boost up the CBI package. With the exception of the permanent extension of the program, there is, frankly, very little in this bill which will provide significant benefits to the Caribbean. All attempts to boost the package in the Finance Committee were defeated as a result of the usual protectionist domestic interests, so as we consider floor amendments to boost the CBI package I would like my colleagues to keep a couple of points in mind. We talk a lot about supporting the fragile and struggling democracies in the Caribbean. The reality is there is not going to be a lot of U.S. foreign aid for Caribbean countries. That is a debate which is going on in this country right now, as to who should receive what little foreign aid we give. Our foreign aid package over the years has been shrinking and shrinking as we try to extend it further and further. So let us not hold out false hope to the Caribbean. There will not be extensive foreign aid.

That being so, let us focus on what the United States has been saying for years, that the kind of economic growth which supports democracies has to come mainly from increased trade, not aid. Providing the CBI with new and meaningful trade opportunities helps to break the dependence of foreign aid because it allows these countries to help themselves. It will create incentives to establish new industries and thereby diversify their traditional exports and create new jobs. As nations create new opportunities for their citizens, the greater the chance these countries will become politically and economically stable which contributes to the United States and regional security.

But I cannot deliver the message any clearer than the Caribbean countries themselves. As the Prime Minister of St. Lucia, the Right Honorable John Compton, said:

> What we in this region are seeking are not "handouts" but rather a "hand up," an opportunity to earn a living. Not food aid, but access to markets for our products; not mere promises and polite rhetoric but policies fairly administered without the bureaucratic pitfalls and administrative hurdles which so often obstruct the lofty goals approved by governments. The promises of CBI should not be the Trials of Tantalus, always receding from our thirsty lips; but rather should be a door of opportunity through

which men and women of enterprise can freely enter in search of a better and fuller life. * * * Our friends in the U.S. Congress and in the administration should assure that notwithstanding the dramatic events in Eastern Europe and Central America, we in this region, while not being "headlined," should not be sidelined to languish in a state of underdevelopment.

Mr. President, I will be offering some amendments, maybe more than one, involving trade in shoes, textiles, and other areas. I hope the Senate will join in passing these amendments to give Caribbean countries the help they really need, not a handout, not money, but an opportunity to compete so that they can help themselves. These are critical countries, in most cases led by very able men and women, and we should not stand in the way of giving them a chance to earn their own keep and at the same time enhance our own security.

I thank the Chair.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, seeing no other speakers on the pending business, I ask unanimous consent that I may be allowed to speak for not to exceed 6 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator may proceed.

ASPJ HEARING PLANNED

Mr. PRYOR. Mr. President, we all remember the Divad. It was the Army's $4.5 billion antiaircraft gun that did not work. As we all know, the Pentagon tried to build it anyway.

In 2 weeks I will hold a hearing on what may be another Divad. In dollar terms, by last summer it was $9 billion, twice as big as the Divad. In effectiveness terms it may be even worse than Divad. Nonetheless, in the midst of a defense cutback, we have begun producing the system.

What is this mystery weapon that we are about to spend $9 billion for?

It is the airborne self protection jammer or ASPJ. It is supposed to permit our jet fighters to jam enemy radar. The ASPJ does not look like much, it is contained in small black boxes, but it is extremely complex, very expensive, and more importantly it does not work.

The upcoming hearing that I will chair will review the results of investigations on the ASPJ by the Pentagon inspector general and the General Accounting Office. We will also look at ASPJ test results and the acquisition system that allowed ASPJ production to begin in the first place.

This hearing is also in response to troubling correspondence I have received from the Pentagon. Please allow me to explain.

Recently I received a letter about the ASPJ from the Pentagon's so-called acquisition czar, Under Secretary Betti. He was responding to a letter I had sent Secretary Cheney 4 months ago.

My letter had asked Secretary Cheney some difficult questions about ASPJ. You see, Mr. President, I had documents in which some of Secretary Cheney's top executives stated that the $9 billion ASPJ had failed to meet preproduction criteria and recommended terminating the program. Why then, I asked the Secretary, did his top executives turn around and vote to spend half a billion dollars to begin producing the ASPJ?

This smelled a little fishy to me and I honestly wanted Secretary Cheney's side of the story. He is a good Secretary of Defense. He is a man of good will. He is a man of common sense. But the response I received 4 months later smelled even fishier.

It says "The decision to initiate low rate ASPJ production was a difficult one." That, Mr. President, is the understatement of the year. Dishing out over $400 million to start building a 14-year-old, over budget, past schedule product that has flunked almost every test is not something to be proud of. No wonder it was a difficult decision.

Mr. Betti's letter acknowledges some risks in the production gamble but assures me that the risks are being minimized. That still does not explain why production was permitted despite failed production criteria.

Finally, the letter reassures me that before the Pentagon decides next September to build more of these duds, further testing will be conducted on the ASPJ production models to "assure that technical deficiencies have been corrected."

Now, how many times have we in the past decade, or actually the past two decades, heard that:

Oh, yes, there are deficiencies, there are problems in the system, but let us go ahead and produce a few hundred million or a couple 3 billion dollars' worth of them and as we produce them we will correct the system.

Many, many times on many weapons systems, Mr. President, we have heard this same excuse.

Mr. President, Secretary Betti's letter is inadequate. Either he thinks Congress is gullible or he is unaware of what is going on in the ASPJ Program.

According to the GAO, by this fall, when the next production decision is made, the only tests that will have been performed are production qualification tests. These limited tests are conducted by the defense contractors in Maryland and New Jersey. In effect, once again, the students will be grading their own exams.

The truth is that true laboratory testing on the ASPJ will not begin until this November, 2 months after Secretary Betti's next production decision.

The truth is that vital operational or field testing will not begin until late 1991 and will not end early 1992, a year and a half after Secretary Betti's decision to produce.

This is not the testing that Congress has requested and it is not the testing that represents good management, nor good weapons.

Mr. President, I am not the only person who disagrees with Secretary Betti's view. According to a Defense Week article, the Pentagon's top testing official, the Director of Operational Test and Evaluation, thinks testing on the ASPJ is inadequate to justify a production decision this fall.

The testing director should be complimented for taking a stand on this highly politicized weapon program, once again a weapon that is flunking its tests.

Secretary Betti is only fooling himself if he thinks his letter will satisfy concerns about this jammer when Congress is being forced to slash other weapon systems that have already proven to be effective.

Production of the ASPJ is going to waste billions of dollars. Worse yet, it could lead to putting faulty radar jammers into American jet fighters, risking American lives and missions.

I know many of my colleagues are eager to hear what has gone wrong with this program. We are particularly looking forward to hearing from Deputy Secretary Atwood, who is personally aware of the ASPJ situation.

Mr. President, I want to make clear that I am not opposed to radar jammers. I am, however, going to work harder than ever, to ensure that we do not waste precious dollars on defense projects until they have proven to work.

Mr. President, I ask unanimous consent that the Defense Week article I referred to be printed in the RECORD following my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Defense Week, Apr. 16, 1990]

DUNCAN VETOES NAVY PLAN TO BUY ASPJ

(By Tony Capaccio)

The Pentagon's director of operational testing has rejected a Navy plan to buy more than one-quarter of its new jammers before completing tests that will determine whether the system works as designed, according to internal documents.

The Navy wanted to buy between 158 and 231 of the jammers for up to $3 million apiece before operational tests are scheduled to be completed in April 1992, according to information provided by the service and gleaned from program documents.

In April 1989, initial Navy operational

tests concluded the jammer was "marginally operationally effective" in confounding enemy missile radars and only "marginally operationally suitable" for fielding because it falls far short of its reliability goals.

The Navy eventually intends to buy 770 Airborne Self Protection jammers (ASPJ), a 14-year-old joint Air Force/Navy program the Air Force dropped from its proposed fiscal 1991 budget. The service cited schedule delays and cost problems. The Air Force was to have bought 1,450 of the 2,220 jammers in the program.

The Navy's plan has drawn fire from the Pentagon's new director of operational testing, Robert Duncan. Duncan criticized the plan in a March 29 memo to Duane Andrews, assistant defense secretary for command, control and communications. Andrews had asked Duncan and other Pentagon offices for comments on the program. Duncan's memo was obtained last week by *Defense Week.*

Duncan's critique comes when the jammer program is under investigation by the Pentagon's inspector general and Sen. David Pryor (D-Ark.), who plans to hold hearings next month on the system. The IG report is nearly complete, according to a government source.

Duncan's view is important because it marks the strongest stance he has taken against a weapons system since assuming office last year.

Duncan was joined in his criticism of the program by Robert Croteau, director of the tactical air division for the assistant defense secretary for program analysis. Croteau, according to a Pentagon source, questioned whether the pricey jammers could be adequately tested to demonstrate if they can defeat the latest radars and future electronic warfare devices.

The Navy last summer was given approval by the Pentagon's Defense Acquisition Board (DAB) to buy the first 104 jammers, or Lot 1 of the contract, in order to conduct further operational testing. But a recent program schedule indicates the Navy will seek permission from the DAB this summer to buy up to another 127 jammers before the tests are completed.

Duncan wrote that the Lot 1 contract was "more than sufficient" to provide the jammers necessary to complete operational testing in April 1992. Naval Air Systems Command spokeswoman Sue Supak said last week the tests are schedule to begin in August 1991.

"The ASPJ's inability to meet established cost, performance and reliability criteria does not justify going beyond Lot 1," Duncan wrote. Duncan said his position was consistent with that taken last summer by his office when the DAB gave its approval to the Navy to buy the first jammers.

"We should not continue to Lot 2 and Lot 3 production units until ASPJ has demonstrated in operational test and evaluation that it is effective and suitable," Duncan wrote.

Supak said it was against the command's general policy to comment on Internal Navy communications.

The Pentagon said Duncan's memo was one of several Andrews received on the issue. "It is being evaluated by Mr. Andrew's staff along with nine other responses which offer a variety of opinions and recommendations. It is but one factor in formulating an office position with regard to future ASPJ actions," the Pentagon said.

The jammer has substantial progress to make before it meets its reliability goals, according to test results contained in an April 1989 report by the Navy's Operational Test and Evaluation Force. The jammer is produced by a team of ITT Avionics and Westinghouse Electronic Systems Group.

The jammer is required to have a 33 hours mean-time-between-failure, but it broke down during the initial operational tests after 19 hours. Similarly, the jammer's built-in test equipment is supposed to isolate faults at a 90-percent rate. But to date, it has correctly identified problems only 29 percent of the time.

According to the Navy's statement, 158 jammers would be bought prior to the completion of operational testing. But a recent program schedule indicates that another 73 jammers could be bought before the tests are completed. The Navy was not able by press time to clear up the discrepancy.

Major weapons systems such as the jammer are required by law to undergo rigorous operational testing before they can be mass produced. But in several instances over the last three years, the services have tried to skirt the law by producing large amounts of a weapons system under the guise of so-called low-rate production.

The Pentagon has fielded at least three other major electronic warfare devices since 1985 that have either not completed operational testing or performed below par. These devices are the AN/ALQ-131 Block II, ANM/ALQ-161 and AN/ALQ-184, said Duncan in his office's 1989 annual report, which was released last week.

Mr. PRYOR. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Madam President, I further ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LATIN AMERICA

Mr. SPECTER. Madam President, I take the floor today, the first day that we are in legislative session after the recess, to comment about the pending foreign aid bills for Nicaragua and Panama because of my concern about the urgency of action by the Congress so that those foreign aid bills may be signed into law and funding may be appropriated for Nicaragua and Panama.

I will summarize my remarks briefly on the floor today, and I ask unanimous consent that my prepared statement be printed immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Madam President, Nicaragua is especially in need of urgent attention because the new administration of President-elect Chamorro will take office next Wednesday, April 25, and we, the United States, has an enormous stake in what will happen in the future in Nicaragua.

Of course, we have an enormous stake in what will happen in many parts of the world, but a special stake in Nicaragua, as that country has been engulfed in civil war for the past decade, and as so many controversial matters have been presented in this body in the past decade involving the Sandinistas and the Contras. And happily, Mrs. Chamorro's coalition has been elected, and there is an opportunity for a new day in Nicaragua.

That country is badly in need of U.S. aid. The President has submitted an aid package for some $300 million, which this Senator believes ought to be acted on promptly and ought to be supported.

In Nicaragua, I had a chance to talk to President-elect Chamorro and found her to be a vibrant, energetic woman with a proposal for Nicaragua's future. She has a detailed program as to how she plans to use the foreign aid. She is prepared to give an accounting, and there are many problems which have to be tackled for which U.S. aid is indispensable.

The issue of the disbanding of the Contras is a key part in terms of having an orderly transition of power from Daniel Ortega and the Sandinistas to the newly elected government. It was a marvelous victory for democracy that President-elect Chamorro was elected, and it is very important that the transition occur. It is a very good sign that Mr. Ortega is prepared to yield the power, but there is going to have to be financial support.

The Sandinistas and Daniel Ortega and others will have a point for contention if the United States does not move with some dispatch in providing this monetary aid. So there are very forceful reasons why actions should be taken promptly by the Senate, and this package ought to be enacted.

Madam President, a similar situation is present in Panama. There we had an opportunity to talk to the new President Endara, who has vision and a program for Panama's future. President Bush has submitted a foreign aid package of $470 million. The House has enacted a package of $420 million. It would be my hope that the Senate would support the full $470 million because Panama is in need of this assistance. It is not necessary to recount the recent history in Panama—what has happened there with General Noriega and his dictatorship, with the election of President Endara—but we ought to proceed promptly to provide assistance to that newly formed government.

One factor is worth comment, and that is the brutality of the so-called Noriega "Dignity Battalions." That is what they are referred to as. You wonder why they got their name when you hear what they did. But on May

10, after the election, President Endara and Vice President Ford and others were riding on the back of a truck. President Endara was hit across the head and severely wounded, knocked unconscious, fortunately taken to his car and avoided further injury. Vice President Ford was attacked and was grabbed on his right shoulder with a metal bar. His tendons on his right shoulder and arm were ripped out; he sustained 22 stitches across the top of his head and 9 stitches under his eye. Fortunately, he was not killed. That is the kind of brutality which the newly elected President and Vice President faced, demonstrative of their courage in taking on these tough new jobs. We ought to be giving them our support and on a very prompt basis.

Madam President, we also stopped in El Salvador because it seems likely that there will be amendments offered to the foreign aid now being advanced to El Salvador. We discussed at length with our Embassy officials, including the distinguished Ambassador Mr. William Walker, human rights generally, and the number of cases pending with some particularity on the murder case involving the Jesuit priests. That is only one matter, among many matters of human rights concerns.

We had an opportunity to talk to Judge Zamora, who is the trial judge in that case, and also to the President Judge of the Supreme Court, Justice Gutierrez. Before proceeding to have any discussion with the judges, I wanted to be sure that we would not be violating any principles of Salvadoran law or any defendants' rights. The judges assured me we could talk in sufficient generality so that that would not be a problem. There is a very intensive investigation which is being undertaken. There are many witnesses who have been interviewed. There are many documents which have been examined. There are many ballistics tests which have been made, and that investigation is going forward.

There is a potential problem arising under Salvadoran law, as we were told, about an indicted defendant testifying against another indicted defendant in the same case. The President Judge of the Supreme Court explained that Salvadoran law is different from United States law where, as a matter of plea bargain, sometimes a lesser defendant will testify. But even under Salvadoran law, there may be some flexibility if the case is not strong or if the indicted defendant is not central to the issues, so that we will have to await developments on that matter. My impression was that Judge Zamora and President Judge Gutierrez were proceeding with diligence, but there is obviously an interest in seeing to it that there is a verdict and a conclusion in that case.

In 1983, Madam President, I had occasion to go to El Salvador under somewhat analogous circumstances when the case involving the murders of the four American nuns was being brought to trial. I offered an amendment limiting foreign aid to some 30 percent until a verdict was reached in that case. It may be appropriate to have some condition on our aid to the conclusion of the case involving the Jesuit priests and perhaps conditions on the broader reforms in the judicial systems and conditions as to human rights generally in El Salvador.

Madam President, we also visited Chile and Argentina. Those are countries which have relatively newly elected governments and where there is a real opportunity for democracy to flourish. Both countries have significant problems. Argentina, especially, is troubled by hyperinflation.

There is one matter in Chile which deserves some special comment beyond the details in the prepared statement which will be annexed at the conclusion of these comments. That relates to the Letelier case involving the 1976 car bombing on the streets of downtown Washington, DC, where Orlando Letelier, a former Chilean Ambassador to the United States, was assassinated and his American coworker, Ronni Moffit, was similarly murdered. The Chilean Government has refused over the years to cooperate in that case. There are some recent signs that the newly elected government is willing to act to bring the defendants—certain high-ranking former officers of the Chilean Government—to justice in that case.

I am concerned, Madam President, as to how the case will be handled because of my view that the appropriate procedure is to try that case in Washington, DC, which is the general rule to have a trial where the crime occurred. We were advised that under Chilean law, once extradition has been declined, which was the fact in this case, that a new extradition order cannot be obtained. My own view is that that legal judgment should be checked out very carefully to see if there are any grounds upon which we could insist that the defendants be brought to Washington, DC, for trial.

Madam President, when you deal with an act of international terrorism, we ought not to forget or to ease up on the matter simply because some substantial period of time has passed, as in this case since 1976. It was worth noting that within the past 10 days, a codefendant in that case, a fugitive, was apprehended in Florida and is being returned to Washington, DC, for trial. But terrorism is something we have to pursue regardless of how much time passes. Murder is one offense on which there is no statute of limitations, and those defendants ought to be brought to justice. The best way to bring them to justice is to bring them to the United States for trial.

Within a few feet from where this Chamber is located, Madam President, we had an assassin's bomb, back in 1983; November 7, I believe. The bomb ripped out the entire Republican Cloakroom on a Monday night. We were scheduled to be in session on that occasion and had Senator Baker, the majority leader, not recessed the Senate, given the Monday night football game and the way the Senators crowd around in the Cloakroom watching that game, there would have been a catastrophe of enormous proportions directly affecting the Senate of the United States. We know what has happened in our own environs with the security measures springing up around the Capitol so that when we think about this act of terrorism on the streets of Washington, DC, in 1976, we ought to remember it vividly, and we ought to move as vigorously as we can to see that those defendants are brought to justice. The best place for that to occur is in the Federal courts here in Washington, DC.

Madam President, we also had a brief stop in Paraguay and had a chance to meet the relatively newly elected President Rodriquez, who is a man of determination and, I think, compassion for his people, upsetting a longstanding dictatorship which had existed in Paraguay. There are many ways in which we can be of help to Paraguay, as well as to Argentina and Chile, in the war against drugs, which I think is likely to engulf those countries in a greater way as pressure on Colombia, Bolivia, and Peru pushes the activities and the drug lords into other countries, like Argentina, Chile, and Paraguay.

Madam President, I note that other Senators are on the floor seeking recognition. I will conclude these remarks with the comment that we face a unique opportunity in the Western Hemisphere with democracy breaking out all over. Except for Cuba and Haiti, all of the Western Hemisphere, all of Latin America, now enjoys democratic forms of government. There are many problems which face a number of these countries, and I think by carefully crafted assistance from the United States, we can be a great help in promoting these democracies.

EXHIBIT 1

STATEMENT ON LATIN AMERICA TRIP

I would like to share with my colleagues and constituents some observations on my trip to Latin America over the Easter recess. The first focus of attention was on Nicaragua and Panama since the Appropriations Committee, on which I serve, and the full Senate are scheduled to consider foreign aid to those countries immediately on our return. A stop was also made in El Salvador, because it is likely that amendments will be offered on our aid to that country in view of the controversies on human rights and the pending criminal case arising from the murders of the six Jesuit priests.

Following our Central America stops, we traveled on to Chile and Argentina to examine human rights, commercial and intelligence issues with special attention on the Letelier case which will be key to the future of United States-Chilean relations. Since many government offices were closed in Argentina in advance of Good Friday, we left a day early in order to add an overnight stop in Paraguay which was on the way back where we met the recently elected President Andres Rodriguez.

Latin America is experiencing a unique period in its history where all the nations, except Cuba and Haiti, are enjoying the prospects of democratic governments. This poses an opportunity and a challenge for United States foreign policy to try to nurture incipient Latin democracies at a time when there is new competition in Eastern Europe for our limited foreign aid resources.

An examination of conditions in Nicaragua and Panama and discussions with many people in those countries including Nicaraguan President-elect Violetta Chamorro and Panamanian President Endara convinced me that Congress should act immediately to approve President Bush's foreign aid request for both of those countries. The situation is especially urgent in Nicaragua where Mrs. Chamorro is scheduled to be inaugurated on April 25. All eyes in that country, and for that matter the entire region, will be focused on how the United States supports the newly elected government.

Nicaragua continues to suffer from a decade of civil war. The United States has an enormous stake in the success of the Chamorro government. Delays on our part will give the Sandinistas a political opportunity to argue the unreliability of U.S. support and will weaken the chances for success of the Chamorro government.

President-elect Chamorro is a vibrant, energetic leader who is anxious to institute significant reforms in Nicaragua providing she has the means to do so. In our meeting, she specified her plans to make good use of the $300 million in U.S. aid and to give an accounting for how it is spent. A major challenge will be the reintegration of the Contras into Nicaraguan society and its economy.

We emphasized to Mrs. Chamorro our concerns about weapons flowing from Nicaragua to El Salvador's insurgents and candidly stated that the United States did not want to trade one Central American war for another. Since recent statements from her aides had raised a question about her plans on retaining Humberto Ortega as the head of the Nicaraguan Army, I expressed my own opinion that it would be much preferable to make a clean sweep and oust him from both positions of Defense Minister and Army Commander, recognizing it was her decision. Later that day, Friday, April 6, the announcement was made that General Ortega would not command the Nicaraguan Army in the new government.

We noted a spirit of real optimism about Nicaragua's future in meetings with Nicaraguan businessmen, journalists, prospective officials in the new government, and United States Embassy officials. The arrival of U.S. aid in advance of, or at least simultaneously with, the inauguration of President Chamorro would significantly promote the prospects of success for the new government.

I long have been interested in the internationalization of efforts to combat terrorism and drug trafficking, and have proposed the creation of a multilateral strike force and an international criminal court. I raised these proposals at meetings during this trip. The Prime Minister of Jamaica, Michael Manley, has proposed the formation of a multilateral strike force to assist governments in targeting, pursuing, and apprehending international criminals. In December 1989, the Prime Minister testified before the Senate Judiciary Committee in support of this concept, stating that a number of countries are interested in participating in such a force. The Senate expressed its support on September 28, 1989, when it adopted by a vote of 95 to 5 my amendment to the fiscal year 1990 Defense appropriations bill providing for the use of Defense Department drug interdiction funds to support U.S. participation in a multinational drug strike force.

Discussions on this trip also addressed the establishment of an international criminal court. In 1986, the Senate adopted my amendment to the Omnibus Diplomatic Security and Antiterrorism Act which was signed into law, calling on the President to initiate negotiations on establishing an international tribunal for prosecuting terrorists. This concept was broadened in 1988 in the Anti-drug Abuse Act to include prosecution of international drug traffickers and other criminals.

In Panama, we met with President Guillermo Endara and Vice President Guillermo Ford. President Endara is an energetic, charming leader, who is determined to make democracy succeed after the Noriega dictatorship. The President articulated Panama's urgent need for the $470 million aid package currently pending in the Senate. He emphasized that the Panamanian people want democracy to work, have very high spirits, and are working hard to reconstruct the economy. The President told me that U.S. aid will be used for rebuilding the infrastructure, supporting private enterprise, and creating new jobs. He stated that the government commercial bank has an overdraft of approximately $950 million, and therefore the government must restore the bank's assets while decreasing government spending.

In our discussion of efforts to establish an international strike force, President Endara stated it was an "excellent idea" in principle. While he indicated that the details of such a force would have to be determined in light of sensitivities toward sovereignty and intervention, nevertheless, he indicated that under appropriate treaties a multilateral strike force would be a "perfect" way to fight drugs. Similarly, President Endara expressed support for the creation of an international criminal court. He expressed optimism that working through international agreements, such a court could be the answer for effective prosecution of international drug traffickers and terrorists.

On the issue of drugs generally, President Endara contrasted his administration to the Noriega regime by stressing the difference between a government that opposes, rather than supports, drug traffickers. He pointed out that Noriega was a very strong dictator who exercised power throughout the country through para-military and defense forces. The President also explained that Noriega had complete control over the judiciary and often influenced legislators on how they should vote. President Endara stated emphatically that his government will do all that it can to fight drug trafficking and money laundering.

When it became evident that President Endara's ticket had won by a 3 to 1 margin, the Noriega regime nullified those elections. During our meeting, President Endara detailed the vicious attack by Noriega's "Dignity Battalions" on himself and Vice President Ford on May 10, 1989. He described how he and his Vice Presidents rode through the streets of Panama City on the top of a pickup truck when they met resistance from the Police. The President told us that the truck was blocked and he was hit on the head with a lead pipe, knocking him unconscious. Fortunately, his bodyguards carried him to a side street where he escaped additional harm. He said that while Vice President Calderon escaped the violence, Vice President Ford attempted to return to his car when he was brutally beaten and his bodyguard was killed. Discussing this with the Vice President Ford, he told us how he required 9 stitches on the left side of this face, 22 stitches on his head, and suffered damage to the tendons on his right shoulder and arm. While America was shocked by the vivid image on the nightly news of that brutal assault, Vice President Ford stated that he suffered from amnesia and could not remember the violent attack when he first saw the TV replay.

In meetings with Deane Hinton, United States Ambassador to Panama, and Gen. Maxwell Thurman, commander in chief of the U.S. Southern Command, they asserted that Panama is desperately awaiting United States aid. The Ambassador and the general

felt confident that the Panamanian economy could handle this assistance, which is vital to provide an economic jump start. General Thurman stressed the importance of improving our anti-drug effort in Panama and other South American countries because he believes that as we move against the drug traffickers in Colombia, Bolivia, and Peru, they are likely to respond by moving their operations to other Latin American countries. General Thurman was interested and generally receptive to the concepts I raised regarding the establishment of an international strike force and an international criminal court.

Our meetings in El Salvador focused on human rights and several pending criminal prosecutions including the Jesuit priests case. On November 16, 1989, six Jesuit priests, including the rector and vice rector of the Central American University, were killed along with two witnesses. News reports that day contained United States Ambassador William Walker's denunciation of this act of barbarity and El Salvadoran President Cristiani's promise of an immediate investigation.

On January 13, 1990, President Cristiani announced that Army Col. Guillermo Alfredo Benavides, two lieutenants, a sublieutenant and five soldiers had been arrested in the killings and would be turned over to the courts for prosecution. Additional reports on January 16 indicated that the two lieutenants had accused the colonel of ordering them to carry out the assassination, and on January 19 Judge Ricardo Zamora of the fourth penal court ruled that there was sufficient evidence and charged the soldiers with premeditated murder.

The judge's 21-page ruling summarized the testimony provided by the defendants to a military honor commission, and held that, based on the soliders' statements and his command of the area where the murders occurred, Colonel Benavides is considered the immediate author of the order to carry out the killings.

We discussed the legal procedures and status of this case at length with Judge Zamora and the President of the Salvadoran Supreme Court, Dr. Mauricio Gutierrez. I prefaced my remarks by stating my concern not to violate any judicial rules or defendants' rights with questions on a pending case. Both judges stated a discussion could be held in sufficient generality to be appropriate under Salvadoran law.

Justice Gutierrez stated that the case currently is in the "instructional stage," after probable cause has been found and the court proceeds with the collection and determination of the evidence.

Judge Zamora elaborated that thus far, the court has received testimony from 125 witnesses, evidence from nine organizations, lists of military personnel on duty during the night of the killings, ballistics tests and other legal evidence. Judge Zamora also advised that the defendants' attorney had raised the issue, currently under judicial review, of whether jurisdiction lies with him or with the presiding judge in the jurisdiction where the murders occurred. In response to my question as to who decides this issue, Judge Zamora said that he would and has asked for the views and opinions of the Attorney General's office in this matter.

Regarding the status of the court's investigation, Judge Zamora advised that he currently is reviewing extrajudicial materials and is ruling on their admissibility. Justice Gutierrez cautioned that if a deadline is set, for example 4 to 6 months before the case is brought to a jury, a misimpression may arise that the court avoided hearing from certain witnesses or considering other evidence out of undue haste.

Both judges emphasized that the court is going to "great lengths" in this case. For example, Judge Zamora stated that Father Jose Maria Tojeira, leader of the Jesuits in Central America, met with Jesuits from the United States and then sent a letter to the court requesting that the court obtain the names of the military officers who served on the honor commission which initially reviewed the case. Although the court was not obligated to grant this request, in an effort to conduct a thorough investigation and meet the Jesuits' concerns, it obtained the list from President Cristiani and called the commission members as witnesses to give statements.

There is cause for concern about an apparent provision of Salvadoran law under which one person indicted for a crime may not provide competent evidence against another person indicted for the same crime. In response to my questioning of this so-called co-defendant rule, Justice Gutierrez indicated that, unlike in the United States where charges can be dropped in return for a defendant's testifying, in El Salvador charges cannot be dropped if there is real evidence the accused was involved in the crime. Thus, although Colonel Benavides allegedly gave the orders for the killings, a defense could be raised under Salvadoran law that bars the testimony against him from the lieutenants who were also implicated in the crime.

However, we were advised that if there is a degree of doubt regarding the participation or involvement of a defendant in the crime, or if that defendant's role is considered minimal, the ultimate decision is within the judge's discretion on dismissing the charges so that the ex-defendant can then testify against his superiors. Thus, this is an open question in the case.

We also discussed the Jesuit priests case with Dr. German Arnoldo Alvarez, Deputy Attorney General for Human Rights, and Col. Manuel Rivas of the Special Investigative Unit [SIU]. Reports indicated that the SIU, established in 1984 and funded by the United States to assist El Salvador in solving its major crimes, was responsible for initially requesting that the army unit suspected of including those responsible for the killings be confined to a military garrison during the initial investigation.

During our meeting, I expressed the importance of moving the investigation ahead in a forceful and vigorous way. Dr. Alvarez assured that all resources of the Human Rights Department are dedicated to this case. In response to my question on what more could be done, Colonel Rivas stated that the SIU currently was working on ballistic tests of the weapons from the military garrison at issue and Dr. Alvarez recommended presentation to the court of more evidence and testimony from additional witnesses. Both officials assured us that they were doing everything possible toward disposition of this important case.

I was impressed with the approach that Salvadoran officials, including the judges, are taking with the case involving the murder of the Jesuit priests.

Our meeting with Ambassador Walker included a review of other human rights cases: the 1990 shooting deaths of four American churchwomen near San Salvador, the 1981 Sheraton case in which AFL-CIO land-reform advisors were assassinated in the San Salvador Sheraton Hotel coffee shop, the 1988 shooting of 10 residents of the village of San Sebastian and other human rights cases. Ambassador Walker and other United States Embassy officials are working diligently on promoting human rights in El Salvador and bringing to justice defendants in the pending cases with special emphasis on the case involving the Jesuit priests.

As my colleagues may recall, I offered an amendment to the fiscal year 1984 appropriations bill, which was enacted to withhold 30 percent of United States military assistance to El Salvador until the National Guardsmen charged with murder in the deaths of the four United States churchwomen were brought to trial and a verdict was obtained. A similar approach may be appropriate for the case involving the murders of the Jesuit priests.

The following year during Appropriations Committee consideration of foreign aid, I offered an amendment with stiffer conditions requiring El Salvador to establish a special investigative prosecuting unit to expedite bringing alleged death squad members to justice. Under this amendment, 50 percent of the aid would have been withheld until the President certified, 60 days after the establishment of the prosecution unit, that the unit was

working. That amendment was not adopted. Beyond conditioning aid on obtaining a verdict in a specific case, it may be advisable to impose broader conditions on improving El Salvador investigative, prosecution and judicial systems.

In our continuing inquiry on the human rights situation in El Salvador, we also met with representatives of church groups, and missionaries who work directly with refugees. Father Dick Howard, the director of the Jesuit Refugee Services in El Salvador, is originally from San Francisco and will have served in that country for 3 years this July. Father Howard commented about an illustrative case involving a man who was picked up by the national police solely because he works with nuns in aiding refugees. Father Howard stated that such incidents are repeated many times regarding victims who have no real connection with the insurgent FMLN. He told of beatings and torture and frequent disappearances.

We also talked to Mr. Roger Schraeding, a Pittsburgh native, who has worked with refugees in El Salvador for 3 years. Mr. Schraeding corroborated much of Father Howard's accounts.

In addition, we interviewed Mr. Bill Stennett, who has worked in El Salvador for 13 years. He currently operates a literature ministry, providing hymnals, tapes, books, and other religious materials throughout the country. He stressed how important it is not to give the appearance of being associated with either side in the war. All three men questioned the wisdom of military aid, but supported economic aid provided it was conditional on improvement of human rights in El Salvador.

Obviously, much improvement is needed on human rights in El Salvador. We should support U.N. efforts to achieve a cease fire which could be a significant step forward in improving all conditions in El Salvador including human rights. In the interim, we should consider conditioning United States aid on specific tangible steps to be taken in El Salvador such as vigorous prosecution of human rights violations including the case involving the murders of the Jesuit priests. Additional proposals are worth considering to improve the El Salvador judicial system by revising the penal code and separating the police from the military.

We later met in Santiago, Chile, with United States Ambassador Charles Gillespie, cabinet ministers, lawyers, and trade and human rights representatives. After 17 years of military rule under Gen. Augusto Pinochet, the newly elected democratic government of President Patricio Aylwin provides a great opportunity for improving United States-Chile relations and expanding cooperation in many areas such as resolving the Letelier case, fighting drugs, expanding trade and protecting human rights.

During meetings with Government officials, I stressed the importance of a just resolution of the Letelier case. On September 21, 1976, a car bomb exploded in downtown Washington killing the driver, Orlando Letelier, a former Chilean Ambassador to the United States, and his American coworker, Ms. Ronni Moffit. That was the first political assassination in Washington, DC since President Lincoln and the first assassination ever of a foreign official in the city's history. One of those involved in the crime, Michael Townley, an American who admitted for working for the Chilean secret police, in 1978 he agreed to plead guilty to conspiracy and to serve as a Government witness.

Townley's testimony led to the indictment of three Chilean military officers, including Gen. Manuel Contreras Sepulveda, the former head of the Chilean secret police. Until very recently, the Chilean Government has refused to cooperate with the United States in any way in bringing these individuals to trial. Four Cubans also were indicted on murder and conspiracy charges. Although two of the Cubans were initially convicted, those convictions were overturned in May 1982, and the other two Cubans were fugitives. A few days ago, one fugitive, Jose Dionisio Suarez y Esquivel, was arrested by the FBI in St. Petersburg, FL, and will be transferred to Washington, DC, for trial.

The Letelier case long has been an impediment to United States-Chilean relations as evidenced by a stern statement issued by the State Department in October 1987 criticizing the Chilean Government's adamant refusal "to act in bringing those guilty of this heinous crime to justice."

We were told that since the Chilean Supreme Court denied the extradition request, under Chilean law the court cannot reconsider extradition. I believe a careful review should be made of that legal conclusion. The senior Government officials uniformly expressed interest in resolving this case in the context of prosecution in Chile.

Further proceedings in Chile will require complex proceedings which could be terminated by adverse Chilean court rulings. I expressed the view to Chilean officials that the defendants should be extradited to the United States for trial in Washington, DC, in accordance with the norm that the matter should be tried in the jurisdiction where the crime occurred. It is obviously a very complex matter, with extensive political overtones. All factors considered, it is my judgment that all legal avenues should be pursued to extradite the defendants for trial in Washington, DC.

Regarding the issue of drugs, we met with Alfredo Segundo Nunez, the inspector general of the Carabineros—national police—Haracio Toro, the chief of investigations for the civil police. We discussed the contribution of the FBI in training the Carabineros. General Nunez explained that when the United States-trained officers return to Chile, they are assigned to special roles and are instrumental in helping foster their new relationship with the civilian Government. Reciprocal training by the FBI of Carabineros and vice versa seems highly desirable.

General Nunez and Chief Toro assured us of Chile's determination to fight the special problems of drugs and terrorism. Defense Minister Rojas also described his positive meeting with Gen. Maxwell Thurman on the serious problem of drugs and cooperative efforts to fight drug trafficking. Minister Rojas stated that Chile is exercising more control over exports and air traffic, is cooperating with the DEA, and is acting in a "preventive way" to protect the financial system from money laundering by the Colombians. The importance of the United States assisting Chile in this antidrug effort is similar to our interest in assisting Panama. As the drug traffickers in Colombia, Bolivia, and Peru are squeezed by law enforcement agents, they appear to be moving their operations to other countries such as Chile, Argentina, and Paraguay.

Chilean officials also expressed an interest in proposals to establish an international strike force and an international criminal court. Minister Cimma advised that he would support Jamaican Prime Minister Manley's proposal "with no hesitation whatsoever." Regarding an international court, Minister Cimma indicated it was a "great approach," and he would broaden its jurisdiction to include the defense of human rights and democracy.

The importance of the United States as Chile's main agricultural trading partner was reflected in our meetings with Finance Minister Alejandro Foxley and Ronald Bown, the president of the Chilean Fruit Exporters Association. This issue is of special importance to Pennsylvania since 70 percent of Chilean fruit exports pass through the Philadelphia and Delaware River ports. Minister Foxley expressed concern that the limited access of Chile to the United States market may be reduced even more by efforts of the California growers. Mr. Bown reiterated the concern that California growers are pushing for marketing orders to block Chilean imports and to keep the store shelves empty to raise prices for the United State consumer. It is obvious that Chilean fruit imports into the United States should be encouraged.

We also discussed the grape contamination case of March 1989 and efforts currently underway to investigate and determine the facts in that case. In

light of the October 1989 memorandum of understanding signed by Chile and the United States implementing procedures to ensure the safety of fruit and the statements made during our meetings, I am optimistic that such trade can be safely expanded in the future.

In another trade matter, Minister Foxley expressed his concern regarding United States trade laws which impose penalties against countries such as Chile in which domestic companies produce generic drugs without patents. I countered that the United States has a justified interest in protecting its patents and explained that in the United States we place a very high value on protecting property interests because of the high research costs in developing patentable products.

In our discussions regarding human rights, we were encouraged by the restructuring of the security forces and Interior Minister Krauss' actions to assume control over Chilean police authorities. The minister assured us that he is working for a solution to human rights and the status of political prisoners. We also met with Mr. Steve Anderson, a United States citizen, of the Chilean Information Network, who stated the broad support among human rights organizations in Chile for S. 1629, the Torture Victims Protection Act, which is pending in the Judiciary Committee.

From Chile, we traveled to Argentina where we met senior Government officials and legislators to discuss the economy, drugs and nuclear proliferation. In all of our meetings, the constant theme was the negative effect that hyperinflation was having on all aspects of Argentine Government and society.

In our meetings with U.S. Ambassador Terence Todman and Manuel Solarnet, the former Treasury Minister and currently an economic adviser, we learned how public sector salaries have been slashed in half, how the Government is moving to privatize many of its holdings, and how all segments of society are suffering in this unusual economic situation.

Argentina appears to be unfairly prohibited from receiving international military education training [IMET] funds because its 1986 per capita income was $1 above the statutory limit. In light of the anticipated drop in Argentina's per capita income because the hyperinflation rate in 1989, an amendment should be passed to correct this inequity.

We also met with Argentine legislators, representing the House and Senate and a broad spectrum of political parties. We had a spirited exchange of views on a wide range of issues, including the economy, drugs, human rights, and the role of the armed forces in the drug war.

We discussed the drug issue at length with Interior Minister Mera Figueroa; Dr. Alberto Lestelle, the Secretary for the Prevention of Drug Abuse and Control of Narcotics Trafficking; Defense Minister Humberto Romero and Acting Foreign Minister Carlos Ortiz deRozas. Argentina established a secretariat to fight drug trafficking and a national command to patrol its borders. In addition, the Interior Minister is forming an executive committee of security organizations and police forces to centralize civilian control. The Argentines soon will unveil an ambitious proposal to install a communications system and computer data center for information sharing with the United States and Latin American countries to fight drugs.

Defense Minister Romero advised that while the Government is aggressively attacking the problem of drug trafficking, nevertheless, the economic problem limits the role of the armed forces. For example, of their six C-130 transport planes which carry supplies to the border patrol fighting drugs, only two are operational for a lack of spare parts. The United States can play a valuable role in assisting the Argentine antidrug efforts at this critical time by providing assistance through training Argentine officers in the United States and supplying urgently needed spare parts.

The Argentines were generally supportive of an international strike force. Minister Figueroa stated that he would raise the subject with President Carlos Menem and expressed the Government's general philosophy "to support every international force aimed at common peace and well-being." Defense Minister Romero emphatically stated that his country is "absolutely ready to support any international effort to eradicate this problem." Minister Figueroa also expressed his personal support for an international criminal court developed through the United Nations, and Minister deRozas cited the International Court of Justice and the International Court for Human Rights as precedents for possible Argentine support and participation.

During our meeting with Defense Minister Romero, we discussed the problem of nuclear proliferation. I asked about Argentina's reported move toward nuclear weapons, and Minister Romero firmly denied that Argentina was developing weapons, citing that country's long tradition and its sound management of nuclear technology. Minister Romero agreed with efforts to limit the proliferation of weapons, and stated that Argentina remains solely interested in nuclear power and nuclear medicine, not nuclear weapons.

In Paraguay, we had a very productive meeting with its relatively newly elected president, Andres Rodriguez who ousted Gen. Alfredo Stroessner after 35 years of dictatorship in a coup staged on February 2-3, 1989. Shortly thereafter on May 1, General Rodriguez was elected President.

Under Stroessner, Paraguay was considered a pariah in the international community. Torture, murder, and use of "electric showers" were reportedly prevalent under the Stroessner regime. While the United States is providing $124,000 in AID funds and limited training to military officers, the United States can play an expanded role to facilitate the development of democracy by supporting President Rodriguez's efforts to remove the military from politics and to fight drugs.

President Rodriguez is a friendly and enthusiastic leader who appears deeply committed to improving conditions for Paraguay's poor and developing democratic institutions for that country. He emphasized his commitment to helping the campesinos, the poorest sector of society. He stressed that for the people's believe in democracy, the Government must address four vital areas: Health, education, low cost housing and settlements for the campesinos. President Rodriguez stated that his Government has "decidedly declared a total war against narco-traffickers." He stated that he was favorably disposed toward the creation of an international strike force to fight drugs.

En route back to the United States, we stopped for fuel in Lima, Peru, which provided an opportunity for an Embassy briefing. We heard a progress report on U.S. efforts under way on interdiction, including the destruction of laboratories and processing facilities. Field operations have been enhanced by the increase in the number of helicopters which are used for eradication by transporting workers to destroy coca crops. We were updated on the results of $35 million in United States aid provided to the Peruvian Army for narcotics work. Considerable progress appears to have been made on the war on drugs since our visit to Peru in September 1988; but United States efforts are in mid-stream and much more needs to be done.

The countries we visited in Central and South America are facing historic opportunities for the development of democracy, yet simultaneously are threatened by the serious problems of drugs, limited economic development, inflation and the underlying threat posed by the military. The United States has a unique opportunity to promote democracy by timely and carefully crafted assistance.

First and foremost on that list would be action by the Senate on the foreign aid packages for Nicaragua and Panama. I thank the Chair and yield the floor.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAVORED-NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1463

(Purpose: To change the tariff classification of Agglomerate marble floor tiles)

Mr. ROTH. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 1463.

Mr. ROTH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, after line 12, insert the following new section:

SEC. . AGGLOMERATE MARBLE FLOOR TILES.

(a) RECLASSIFICATION.—Chapter 68 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking out subheading 6810.19.10 and inserting the following new subheadings with the article desciptions for such subheadings having the same degree of indentation as the article description for subheading 6804.22.60:

	"Floor and wall tiles:			
6810.19.12	Agglomerate marble tiles..	4.9%...	Free (A, E, IL) 4.7% (CA).	40%
6810.19.14	Other.....	21%....	Free (A, E, IL) 16.8% (CA).	55%"

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law to the contrary, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by this section applies and that was made—

(A) after December 31, 1988; and

(B) before October 1, 1990;

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

Mr. ROTH. Madam President, the objective of this amendment is to take care of an unintended consequence of the U.S. conversion to the harmonized system, a system which caused the tariff on agglomerate marble tiles to increase to 21 percent, nearly four times higher than its prior tariff rate. This amendment remedies this unfair tariff conversion by creating a new tariff subcategory for marble chip floor tiles. It brings the tariff rate in line with its historical level. It would also reliquidate the amount of higher duties paid since we implemented the harmonized system on January 1, 1989. The provisions of this amendment are similar to a bill introduced in the House.

The administration originally opposed the House bill, which prevented it from being included in the miscellaneous tariff package that passed the House last year. The administration has since agreed to withdraw its objection. Its decision is based on the "unanticipated" increase in the tariff rate on agglomerated marble tiles as a result of harmonized system. This decision has been communicated from the general counsel of the USTR based on the administration's changed position.

I urge my colleagues to support adoption of this amendment to help rectify an unfair tariff classification problem.

Mr. BENTSEN. Madam President, this amendment would correct one of the problems that arose regarding imports of marble floor tile when we converted to the harmonized tariff system. Although the provision has not been the subject of public discussion before the Finance Committee, it has been through the House before. The administration at one time did oppose it but I understand it has withdrawn any objection to it.

I am willing to accept it on this side with the understanding that if it becomes controversial within conference, we may be forced to drop it. I know of no objection to it.

Mr. PACKWOOD. Madam President, I can assure the Senate the administration does not oppose this amendment. It is a fair amendment. When we harmonized the system, the tariffs on these items went up unintentionally to around 21 percent. They used to be roughly between 5.3 and 8.5 percent. The amendment is a good amendment and should be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 1463) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Madam President, I urge my colleagues, if they have amendments to bring before the Senate, to do so now. We would like to consider several amendments yet this afternoon and this evening and have some rollcall votes, and in turn, if possible, try to finish up this bill tomorrow. Otherwise, we have no votes on Monday and that means we have to delay it until Tuesday. So if Senators will come over with their amendments, it would be most helpful.

Mr. ROTH. Madam President, I would like to ask the distinguished chairman whether we could agree to a half-hour time limit on my amendment No. 1464, 15 minutes to a side.

Mr. BENTSEN. I say to the distinguished Senator that I have no objection as manager of the bill. I know of no objection on this side. I urge Senators who are listening or their staffs to please advise us of that as quickly as possible.

Mr. PACKWOOD. Madam President, I say on this side so far no Senators have contacted me to indicate that they have objections to a time limit on this or other amendments. There may be some. Nobody has said anything to me yet.

The PRESIDING OFFICER. Without objection, the Senator's request is agreed to.

Mr BENTSEN. If the Senator will withhold for a moment, would that include second-degree amendments?

Mr. ROTH. That would exclude any second-degree amendments.

AMENDMENT NO. 1464

(Purpose: To provide administrative procedures for noncontroversial tariff suspensions)

Mr. ROTH. Madam President, I send the amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LOTT, proposes an amendment numbered 1464.

Mr. ROTH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE V—ADMINISTRATIVE PROCEDURES FOR NONCONTROVERSIAL TARIFF SUSPENSIONS

SEC. 5001. INITIATION OF INVESTIGATIONS.

(a) PETITIONS.—

(1) Any person who—

(A) uses an article in the production of a product in the United States,

(B) imports an article into the United States, or

(C) distributes an article in the United States,

may file with the United States International Trade Commission (hereafter referred to in this Act as the "Commission") a petition requesting the President to issue a proclamation under section 5003(a) that suspends the duty imposed on such article by any chapter of the Hamonized Tariff Schedule of the United States other than chapter 98 or 99, if the rate of duty applicable to such article is provided in rate of duty column 1.

(2) Any person who—

(A) produces in the United States—

(i) any article for which a duty is suspend-

ed by reason or a proclamation issued under section 5003(a),

(ii) any other article like, or directly competitive with, such article, or

(iii) any other article which is like, or directly competitive with, a product that is produced in the United States by means of a process which uses such article as a significant raw material or component,

(B) has—

(i) the capacity, and

(ii) the bona fide intent, to produce such article, or any other article like, or directly competitive with, such article in the United States in significant quantities,

may file with the Commission a petition requesting the President to issue a proclamation under section 5003(b) that reinstates such duty.

(3) The Commission shall not accept a petition under paragraph (1) or (2) for the suspension or reinstatement of a duty on an article before the date that is 1 year after the date on which a bill is introduced in the House of Representatives or the Senate that would, if enacted, effect such suspension or reinstatement.

(4) Each petition filed under paragraph (1) or (2) shall contain—

(A) sufficient information (including a precisely defined article description) to enable the Commission to determine whether an investigation into the suspension or reinstatement of the duty is justified;

(B) sufficient information for the Commission to make a determination under section 5002(a); and

(C) such other information as the Commission may require.

(5)(A) Not later than the date that is 15 days after the date on which a petition is filed with the Commission under paragraph (1) or (2), the Commission shall determine whether the information provided in the petition is sufficient to justify an investigation under section 5002.

(B) If the determination made under subparagraph (A) is affirmative, the Commission shall—

(i) transmit a copy of the petition to the United States Trade Representative,

(ii) initiate an investigation under section 5002 of the suspension or reinstatement of the duty requested in the petition, and

(iii) publish in the Federal Register notice of—

(I) the initiation of such investigation, and

(II) the opportunity for public comment on such suspension or reinstatement of the duty.

(C) If the determination made under subparagraph (A) is negative, the Commission shall dismiss the petition and notify the petitioner of the basis on which such negative determination was made.

(b) PRESIDENTIAL REQUEST OR SELF-INITIATION.—

(1) Upon request of the President, or upon the initiative of the Commission, the Commission shall initiate an investigation under section 5002 of the reinstatement of any duty that has been suspended by any previous proclamation issued under section 5003(a).

(2) Upon initiating an investigation under section 5002 by the authority of paragraph (1), the Commission shall—

(A) transmit to the United States Trade Representative a written statement describing the article and duty that are the subject of such investigation and all information available to the Commission regarding justification of the reinstatement of such duty on such article, and

(B) publish in the Federal Register notice of—

(i) such investigation, and

(ii) the opportunity for public comment on such suspension or reinstatement of the duty.

SEC. 5002. INVESTIGATIONS BY THE COMMISSION.

(a) IN GENERAL.—If the determination made under section 5001(a)(5)(A) is affirmative or section 5001(b)(1) applies, the Commission shall conduct an investigation to determine—

(1) whether the article that is the subject of the petition filed under section 5001(a), or of the notice published under section 5001(b)(2)(B), is produced in the United States,

(2) whether any other article which is like, or directly competitive with, such article is produced in the United States,

(3) whether any other article is produced in the United States which is like, or directly competitive with, a product that is produced in the United States by means of a process which uses (or could use) such article as a significant raw material or component,

(4) whether any person has—

(A) the capacity, and

(B) the bona fide intent,

to produce such article, or any other article like, or directly competitive with, such article in the United States in significant quantities,

(5) whether any person who—

(A) produces in the United States—

(i) such article,

(ii) any other article like, or directly competitive with, such article, or

(iii) any other article described in paragraph (3), or

(B) is described in paragraph (4), objects to a suspension of the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99,

(6) whether any person not described in paragraph (4) or (5)(A) objects to that suspension of duty on such article,

(7) whether any quotas or other import restrictions are imposed by Federal law on such article,

(8) whether any international agreements to which the United States is a party affect trade in such article or in any other article like, or directly competitive with, such article,

(9) whether such article, or any article like, or directly competitive with, such article, is, or has been, the subject of any investigation during the preceding 5 years under—

(A) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) or section 303 of the Tariff Act of 1930 (19 U.S.C. 1303),

(B) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337),

(C) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.),

(D) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.), or

(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862),

(10) the aggregate value of such articles imported into the United States during the calendar year preceding the calendar year in which such determination is made,

(11) the aggregate value of such articles consumed in the United States during the calendar year preceding the calendar year in which such determination is made,

(12) the principal uses of such article in the United States,

(13) the duties that are imposed by Federal law on such article and the rates of such duties, and

(14) the aggregate amount of Federal revenue derived from the duties imposed by Federal law on such article during the fiscal year preceding the fiscal year in which such determination is made.

(b) PUBLIC COMMENTS.—During the course of any investigation conducted under this section, the Commission shall provide an opportunity for any person to submit written statements regarding the subject of the investigation and, upon request and after reasonable public notice, shall hold a hearing for the oral presentation of views on the subject of the investigation.

(c) REPORTS.—

(1) Not later than the date that is 75 days after the date on which an investigation under this section is initiated, the Commission shall—

(A) complete a preliminary report on the investigation conducted under subsection (a),

(B) publish a summary of the preliminary report in the Federal Register,

(C) provide a copy of the preliminary report to the petitioner, and

(D) make the preliminary report available for public inspection.

(2) On the date that is 30 days after the date on which a summary of the preliminary report on the investigation conducted under this section is published in the Federal Register, the Commission shall submit to the President a final report on the investigation. Such report shall include—

(A) the determinations made under subsection (a),

(B) a summary of comments received by the Commission regarding such investigation, including comments on the preliminary report completed under paragraph (1), and

(C) a copy of the transcript of any hearings held in the course of such investigation.

(d) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—The determinations made by the Commission under subsection 9(a) shall not be reviewable in any court.

SEC. 5003. ACTION BY THE PRESIDENT.

(a) SUSPENSION OF DUTIES.—

(1) During the 30-day period beginning on the date on which the Commission submits to the President under section 5002(c)(2) a final report on an investigation concerning the suspension of duties on an article, the President may issue a proclamation that suspends the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99 if the President determines that—

(A) no person has a valid objection to such a suspension, and

(B) the sum of—

(i) the aggregate amount of Federal revenue derived from the duty imposed on such article by any chapter of the Harmonized Tariff Schedule of the United States other than chapter 98 or 99 during the fiscal year in which such determination is made, and

(ii) the aggregate amount of Federal revenue derived during such preceding fiscal year from all the duties imposed on all articles that are the subject of a previous proclamation issued under this paragraph during the calendar year in which such determination is made,

does not exceed $100,000,000.

(2) The President may not issue a proclamation under paragraph (1) that suspends the duty imposed by the Harmonized Tariff Schedule of the United States on any article to which the rate of duty provided in rate of duty column 2 applies.

(3) In determining whether to issue a proclamation under paragraph (1), the President may take into account—

(A) the effect such a proclamation would

have on the bargaining position of the United States in any continuing, planned, or prospective negotiations with any foreign country,

(B) the effect such a proclamation would have on the revenue of the United States,

(C) foreign policy considerations, and

(D) any other factors the President considers appropriate.

(4) If the President does not issue a proclamation under paragraph (1) with respect to any article that is the subject of a report submitted under section 5002(c)(2) during the 30-day period described in paragraph (1), the President shall publish in the Federal Register the reasons why the President is unable, or has declined, to issue such a proclamation.

(5) The duration of the suspension of duties provided in a proclamation issued under paragraph (1) shall not exceed 3 years. Such suspension may be extended by a proclamation issued under paragraph (1) with respect to subsequent investigations conducted under section 5002 for a period not to exceed 3 years for each such proclamation.

(b) REINSTATEMENT OF DUTIES.—

(1) During the 30-day period beginning on the date on which the Commission submits to the President under section 5002(c)(2) a final report on an investigation concerning the reinstatement of duty on an article that has been suspended by a proclamation issued under subsection (a), the President shall—

(A) determine whether any person has a valid objection to such suspension, and

(B) if the determination made under subparagraph (A) is affirmative, issue a proclamation that reinstates the duty which would be in effect if such suspension had not been made.

(2) The President shall publish in the Federal Register any negative determination made under paragraph (1)(A).

(c) DETERMINATIONS NOT SUBJECT TO REVIEW.—Any determination made by the President under this section shall be final and shall not be reviewable in any court.

SEC. 5004. ALTERNATIVE SCHEDULES.

The President may, by proclamation, establish—

(1) an annual deadline for the filing of petitions under section 5001(a) with respect to which—

(A) the Commission will be required to make determinations under sections 5001(a)(5) and 5002 during the calendar year, and

(B) the President will be required to make determinations under section 5003 during the calendar year, and

(2) a schedule for taking other actions under sections 5001, 5002, and 5003 that may differ from any time requirements set forth in such sections.

SEC. 5005. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1991.

Mr. ROTH. Madam President, no one can deny the exciting changes that are taking place in the world today. Dynamics that were not dreamed of only a year ago are opening up a global community that if addressed properly will be as promising and more progressive than any other time in history.

Of course as all change comes with challenge, it's not unusual that there should be concern about America's evolving role in the global economic community. For so long, now, we have been the undisputed champions in every possible realm—educationally, economically, socially, spiritually and militarily. Like the first Governor of America, Governor Winthrop of Massachusetts, said as he stood on the Arbella—America has become that shining city on a hill.

And quite frankly, Madam President, we still are. As the British magazine, the Economist, recently reported:

A combination of economic size and military strength gives America a truly global reach. * * * The ignorance of facts is startling. In a recent poll 48 percent of Americans thought that Japan's economy is bigger than America's. Actually, it is barely half the size, $2.8 trillion compared with $5.2 trillion. Adjusted to reflect real purchasing power, Americans have an average income seven percent higher than that of their nearest large rivals. * * * As for Japan's legendary productivity, it has indeed been growing faster than America's. But the average Japanese worker still takes one hour to produce what his American counterpart can off in just 31 minutes.

So what, American pessimists reply: the fact is that America's share of the gross world product has plummeted from 50 percent in the late 1940s to around 23 percent today. That is true, but misleading. In the late 1940s most of Asia's and Europe's industry was bombed-out rubble. The American share of the global economy is just five percentage points lower than 25 years ago, and 60 years ago. America's economy has weaknesses, no doubt; but it is a giant with a cold, not a pigmy with cancer.

In terms of geopolitics, the American position is even stronger. * * * All this reflects a simple truth: America is still number one.

Madam President, I ask unanimous consent that the Economic article, entitled: "Yes, you are the superpower," be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Economist, Feb. 24, 1990]

YES, YOU ARE THE SUPERPOWER

With the cameras whirring in Europe and the surpluses piling up in Japan, Americans are feeling left out of things. Gone is the confidence of the Reagan days, the sense of knowing that whatever America did mattered hugely to the world. Now, particularly in Washington, many Americans seem to think that theirs is just a large country, stuck between dull old Canada and noisy Mexico. This American variety is dangerous because it ignores facts and thus leaps to wrong conclusions.

The ignorance of facts is startling. In a recent poll 48% of Americans thought that Japan's economy is bigger than America's. Actually, it is barely half the size, $2.8 trillion compared with $5.2 trillion. Adjusted to reflect real purchasing power, Americans have an average income 7% higher than that of their nearest large rivals, who are not the Japanese but those dull Canadians. As for Japan's legendary productivity, it has indeed been growing faster than America's. But the average Japanese worker still takes one hour to produce what his American counterpart can rattle off in just 31 minutes.

So what, American pessimists reply: the fact is that America's share of gross world product has plummeted from 50% in the late 1940s to around 23% today. That is true, but misleading. In the late 1940s most of Asia's and Europe's industry was bombed-out rubble. The American share of the global economy is just five percentage points lower than 25 years ago, and 60 years ago. America's economy has weaknesses, no doubt; but it is a giant with a cold, not a pigmy with cancer.

In terms of geopolitics, the American position is even stronger. Militarily, Americans used to think of themselves as just a step or two ahead of the Russians. Now, though the Soviet military machine still has a vast stock of nuclear weapons, its might looks less impressive by the day. It could not beat the raggedy Afghans, and its next big challenge seems certain to be within its own borders, keeping intact the Soviet Disunion. That change of emphasis leaves American forces out on their own.

PRE-MILLENNIAL TENSION

A combination of economic size and military strength gives America a truly global reach. No other outsider could have taken the lead in keeping the oil tankers sailing through the Gulf, or acted as diplomatic midwife to the new Namibia. In Europe itself Americans have just shown that, by coming down on the German side, they can hasten the reunification of Germany whatever the reservations of its neighbours.

All this reflects a simple truth: America is still number one. Its dominance may be declining a little, because Japan's economy is catching up and several countries are now political powers in their region. But only the United States has the complete mixture of economic, military and diplomatic powers to qualify as a superpower. The more interesting, semi-philosophical question is this: what, in the closing years of the millennium, does a superpower do with its power?

The short answer has been true of every power in every era: that it will do only those things that serve its interests, albeit sometimes indirectly. But because a global power has a global presence—in investment and trade, and also through indefinable things like its political and cultural influence—American interests very much include stability and prosperity throughout the world.

From this comes part of a semi-philosophical answer, and at first it seems like motherhood: America's role is to help other countries do things that will make the world a safer, richer place. But that platitudinous goal becomes challenging when applied to specific countries and circumstances. For instance, Japan in the next few years: it has had no foreign policy worth the name until recently, but is now forging one with great speed. Only America can ensure that Japan is not tempted, because of western neglect and hauteur, to build an economic and perhaps military zone of its own in Asia (see next article). Or the Middle East: the United States may not be able to banish fear between Arab and Jew, but only it can make the two sides see the sense, indeed the inevitability, of a compromise. Its task is to nudge Israel into concessions on the occupied territories while insisting that, in return, Arab governments should discard the men with guns.

The most awkward challenge will be Europe, because America's power there is bound to decline as some of its troops are withdrawn. Even if Russia subsides into introspection, the American task will still be demanding: to encourage German self-esteem while reassuring the French and the British—and the East Europeans—that a strong and united Germany is not a monster stalking the continent. The best way to pull off that trick is to keep NATO alive, and a sizeable number of American troops on European soil.

In short, in various parts of the world America must swap its strategy of containing an enemy to one of encouraging allies. The new approach will require patience, just as the old one did. The prize, though less decisive, is no less appealing: a world in which America does not have to fight wars in order to defend its values and further its interests.

Then there are the truly global issues, on which America is best placed to give a lead. The environment is one such issue. Nobody knows how green mankind must become to ensure its own future; but what is clear is that no government will take the nasty medicine of, eg, higher taxes on coal if it things that others will keep spewing out the gases that may warm the world in 30 years' time. America can use its power—and its example—to promote market-based measures that do not rely on draconian and unenforceable bans.

The same is true of foreign trade and investment. The whole postwar multilateral trading system depends on a shared belief that nobody is cheating and therefore nobody else needs to. America, as the world's largest exporter, has a massive interest in open markets; and American consumers every day show their keenness to buy what they want from wherever they choose. As for foreign investment, American firms have almost $350 billion invested abroad (and that is measured by book value; the market value is much more), giving the United States the largest stake in a liberal regime for foreign ownership. Whenever America itself starts weakening the system that its companies and consumers like, it gives others the pretext to do so.

For—and this is the last bit of semi-philosophy—a modern superpower must be a place that lesser fry admire, even envy. The past 12 months have seen the triumph of western ideals, of democracy and market capitalism. One of the main reasons for that triumph was that, in the postwar decades, America lived up to its ideals while Marxist beliefs turned to venal realty. America-at-home has to stay a land of opportunity and openness, the better to ensure that the rest of the world keeps going that way. Over to you, Superman.

Mr. ROTH. Madam President, now this moral shot in the arm brings me to my thesis: America must adopt the right kinds of policies to remain on the leading edge of the emerging global community. The policies that rise from this floor must be policies that allow for our country's growth. Because while we are still the superpower, the competition is better prepared than ever before.

Last June, Senator BRADLEY and I introduced S. 1169, as a way to promote our Nation's competitiveness. It establishes a process for allowing temporary, noncontroversial duty suspension requests to move along an administrative track if Congress fails to take action on them within a 12-month timeframe. In a nutshell, this process is needed to give our businesses and industries and equal advantage in the global marketplace when they have to import an item which is not produced in the United States to distribute or use in their manufacturing.

As you know, temporary duty suspensions involving imports which do not compete with domestic products directly impact the competitiveness of U.S. industry. By allowing for duty suspensions that are not opposed here at home, the cost decreases on the raw materials, on the final product and in the marketplace. This helps us remain competitive.

Unfortunately, as the law stands now, these temporary noncontroversial duty suspensions must be acted on solely by Congress. And far too often—with its legislative calendar filled—Congress does not act on needed suspensions in a timely and predictable manner. At times, even the most noncontroversial bills have been jammed up here on the Hill for 4 years.

This is no way to increase our global competitiveness.

Consequently, Senators BRADLEY, LAUTENBERG, LOTT, and I offer this provision as an amendment to H.R. 1594. It is similar to a bill that overwhelmingly passed the Senate in 1987—when efforts to defeat it failed 88 to 9. However, it has been revised to address some of the few concerns that were raised. The major change has been to assure the primary role of Congress in this area. This amendment does not undermine nor diminish Congress' authority to enact duty suspensions, but only provides an administrative procedure for temporary noncontroversial duty suspensions of Congress fails to act on a suspension request within 1 year. The authority granted to the administration is limited to truly noncontroversial duty suspensions and would only be used should Congress fail to act in a timely and predictable manner.

Under this amendment, Congress would still have authority under the Constitution to pass or change any duty suspension, and this amendment does not preclude Members of Congress from introducing or acting upon duty suspension bills.

The narrow authority that is granted to the President under this amendment is granted because it is in our national interest to do so. This is not something new. Indeed we already grant authority to the administration to reduce or eliminate tariffs in other areas. For example, we have given the administration tariff-cutting authority in the Uruguay round and under the generalized system of preferences.

There is no private sector opposition to this amendment. Rather, it is strongly supported by industries which regularly go through the uncertain process of tariff suspensions by legislation. They seek a regularized process so that business planning can occur.

I urge your support for this amendment which will benefit U.S. industry, enhance U.S. competitiveness and provide long-term benefits—to help our business remain strong and viable well into the next century.

Mr. BENTSEN. Madam President, will the sponsor of the amendment yield 3 minutes?

Mr. ROTH. I am happy to yield 3 minutes.

Mr. BENTSEN. Madam President, the amendment offered by the Senator from Delaware would establish an administrative procedure for suspending import tariffs in limited circumstances. Essentially, the amendment would give private parties the opportunity to petition the President if legislation to suspend an import tariff has been before the Congress for 1 year, and Congress has failed to act. The amendment grants the President the authority to proclaim the tariff suspension, but only after a thorough investigation by the International Trade Commission to determine whether the suspension is controversial. The President's authority would be limited to suspensions where there is no valid objection.

The amendment also limits the potential revenue loss that may result from proclaimed duty suspensions. The total value of imports covered by these suspensions could not exceed $100 million per year. Furthermore, Federal revenues from the duties lost by reason of such suspensions may not be more than 0.01 percent of total Federal outlays in the preceding year.

The bill before the Senate today contains 194 temporary duty suspensions. These suspensions are of vital importance to the companies that have requested them. They involve, in most instances, the importation of articles that are not produced in the United States. Their purpose is to help U.S. companies compete successfully, both in the United States and in the international marketplace.

The problem is that the legislative process is not always efficient in handling these temporary suspensions. Congress last passed duty suspension legislation as part of the 1988 Trade Act. Prior to the 1988 Trade Act, it had been 4 years since the Congress passed any duty suspension legislation.

We must recognize that our failure to act on these duty suspensions harms the competitiveness of U.S. manufacturers. In some cases, delay in the legislative process has caused severe economic hardship for U.S. companies.

This amendment does not preempt the congressional process. It just complements it. Duty suspensions will continue to come to the Congress first. If they are controversial, only the Congress will have the power to act on them. But if they are not controversial, if their only effect is to make a U.S. manufacturer more competitive, and if the Congress does not respond to that purpose in a timely manner, then the President would be empowered to provide the needed tariff relief.

I urge my colleagues to support the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I, too, regard it as good legislation. I know the argument

can be made that this somehow limits the power of the Ways and Means Committee or the Finance Committee because we are giving away to an administrative agency the power to do what we otherwise do by legislation.

The chairman is right. We are very often tardy, and so many of these are important to some industries. They are often opposed by only a very small number of people, yet they get held up. I think this process would unblock what has been an unjustifiable roadblock.

I encourage support for the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Madam President, we are under a time limit, are we not?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I suggest the absence of a quorum and ask that it be charged equally against each side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Madam President, I ask unanimous consent that the present amendment be set aside for not to exceed 5 minutes, and that I be permitted to make a statement on an unrelated subject during that 5-minute period.

The PRESIDING OFFICER. Is there objection?

Mr. BENTSEN. The manager of the bill has no objection, as long as this statement will be carried after the discussion on this amendment in the RECORD.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, who is yielding time to those in opposition?

The PRESIDING OFFICER. The Senator in opposition to the amendment?

Mr. HEINZ. Yes.

The PRESIDING OFFICER. The Senator from Pennsylvania would be controlling the time in his own right.

Mr. HEINZ. Mr. President, I yield myself 5 minutes.

Mr. BENTSEN. Mr. President, the Senator would be controlling the time in opposition. I think he is the only one appearing in opposition.

Mr. HEINZ. At this time.

Mr. BENTSEN. At this time.

Mr. HEINZ. Mr. President, I rise in opposition to the Roth amendment basically as a matter of principle because this amendment conveys legislative authority to the President that he need not have and that in this Senator's judgment he should not have.

As I understand the argument of the Senator from Delaware in favor of his amendment, his point of view is that we do not do a very good job passing these miscellaneous tariff bills, that it takes a while, not all of them get passed, the controversial ones drop by the side, and the Congress is really the wrong place to do this work.

Mr. President, I think that is a deeply flawed argument, and I might add that it is a deeply troubling one if you apply it to the Federal budget, or the fact that it has taken us over 12 years to legislate, if we are lucky, on clean air, or nearly as long to make an improvement in the minimum wage. The list of all the things Congress does not do well is endless, and if the criteria that we want to adopt in this body is that if we do not do our job the way somebody thinks we ought to do it, we should just pass the buck to the President; well, then we are not going to need to be here very much, because I cannot think of too many things where we do a timely and excellent job.

In the case of the Roth amendment we are dealing with authorities that deal with interstate and foreign commerce and taxation. The Constitution specifically confers to Congress the power to regulate interstate and foreign commerce and the power to regulate taxation. But in conferring, as this amendment would do, the power to suspend tariffs to the executive branch, we confer on them the power to regulate both foreign commerce and the taxation of imports.

Mr. President, I think that is a bad principle. I understand that there have been attempts since this amendment last was before us, in 1987, to improve it. There are some public notice safeguards built in, and there is an attempt to try to get all the objections on the record.

But it has been my experience as a member of the Finance Committee for nearly 12 years now that there is only one thing that really drives all the objections and points of view out of the woodwork.

And that is a legislative markup. When we marked up the bill that is before us now, we did not know about all the objections to all these provisions until, in some cases, just a few hours before markup.

As they say, I guess, execution—in this case the execution of a law—wonderfully concentrates a person's mind. And in the case of opponents, it has done that.

There is something we can do in the legislative process, however, that the executive branch cannot, whether or not it can drive all these objections out in some kind of strung-out administrative proceeding. We can fashion a legislative compromise. When we have a dozen or two dozen or more noncontroversial bills that everybody wants passed, and there are one or two controversial measures that people oppose, in fact the legislative process often brings opposing points of view together, and the result is a compromise.

The Senator from Arkansas, [Mr. PRYOR] and other Senators, had a disagreement a few years ago on an issue involving the duty suspension on watch parts. The issue was whether or not watch parts should be allowed to come in from non-U.S. territories duty free. Many of our watch parts come from U.S. dependencies like the Virgin Islands.

The result of the legislative process was that a compromise was reached and a result occurred. That could never happen if this had been left to the executive branch, because they do not have the power to strike that kind of compromise.

In TV tubes, we had a similar experience. And in issue after issue where there have been controversies, what has forced their resolution has been the legislative process.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mr. HEINZ. Mr. President, I yield myself an additional minute.

The PRESIDING OFFICER. The Senator has an additional minute.

Mr. HEINZ. Mr. President, we ought to be cautious of delivering to the bureaucratic process in the executive branch any powers that are constitutionally ours, and particularly so with any powers where we know we can do the job.

I would argue that we do this job better than the executive branch ever could, because on the tough ones, we get answers, not procrastination.

And I would add that we set a dangerous precedent not only for big issues like the budget, but on minor ones, such as all the private bills that get referred to the Judiciary Committee. Some of them may not have merit, but a lot of them do have merit and a lot of them pass, and they pass because they have merit.

The PRESIDING OFFICER. The Senator has used his additional minute. There are 3 minutes remaining.

Mr. HEINZ. Mr. President, I will take 30 more seconds and I will reserve the remainder of my time.

Are we to surrender that authority to the executive branch, as well? Mr. President, I think the precedent that we would set would be a poor one not just for the jurisdiction of the Finance Committee, but those of many other committees as well. So for that reason I urge defeat of the Roth amendment.

I reserve the remainder of the time.

Mr. ROTH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes and five seconds.

Mr. ROTH. I yield myself 2 minutes.

Mr. President, I would point out that the authority being delegated under this proposal is very limited indeed. There are set forth in the proposal the standards that must be met.

It is important to understand that Congress still has authority, as is provided under the Constitution, to pass

or change any duty suspension. This proposal does not preclude Members of Congress from introducing duty suspension bills.

As I have already emphasized, this administrative procedure can only be used 12 months after a bill has been pending before Congress. As I say, the authority is limited. There are explicit procedures to follow. There is precedent.

Congress has in the past delegated authority to the executive branch to cut tariffs and to implement other congressional trade policy goals. For example, under the generalized system of preferences, the President can suspend tariffs under certain conditions.

Finally, let me point out, Mr. President, the administrative procedures would provide greater opportunity for comment, for public comment, and a more visible, noncontroversial tariff suspension process than under the congressional system.

The ITC must provide full notice and comment periods during the course of its investigation, and must hold hearings as well. Notice of any investigation and any findings is required to be placed in the Federal Register. Most, if not all, companies regularly scan the Federal Register to become aware of new Government regulations and other Federal decisions affecting company operations.

Mr. President, I reserve the remainder of my time and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I see no further speakers on the floor. I am prepared to yield back the time on this side.

Mr. ROTH. I am prepared to yield back the time on my side.

The PRESIDING OFFICER. All time is yielded back.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Delaware.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 3, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—90

Adams	Gorton	Metzenbaum
Armstrong	Graham, Florida	Mikulski
Baucus	Gramm, Texas	Mitchell
Bentsen	Grassley	Moynihan
Biden	Harkin	Murkowski
Bingaman	Hatch	Nickles
Bond	Hatfield	Nunn
Boschwitz	Heflin	Packwood
Bradley	Helms	Pell
Breaux	Hollings	Pressler
Bryan	Jeffords	Pryor
Bumpers	Johnston	Reid
Burns	Kassebaum	Riegle
Byrd	Kasten	Robb
Chafee	Kennedy	Rockefeller
Coats	Kerrey, Nebraska	Roth
Cochran	Kerry, Massachusetts	Rudman
Cohen	Kohl	Sanford
Conrad	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
D'Amato	Levin	Shelby
Daschle	Lieberman	Simon
Dixon	Lott	Simpson
Dodd	Lugar	Specter
Dole	Mack	Stevens
Domenici	McCain	Symms
Exon	McClure	Thurmond
Ford	McConnell	Wallop
Garn	Metzenbaum	Warner
Glenn	Mikulski	Wilson
Gore	Mitchell	Wirth

NAYS—3

Danforth	Durenberger	Heinz

NOT VOTING—6

Boren	DeConcini	Humphrey
Burdick	Fowler	Inouye

So the amendment (No. 1464) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TWENTIETH ANNIVERSARY OF EARTH DAY

(The following remarks of Mr. BUMPERS occurred earlier and, by unanimous consent, appear at this point in the RECORD:)

Mr. BUMPERS. Madam President, I want to take a moment to join with my colleagues who have and will be making statements commemorating the 20th anniversary of Earth Day, which we will celebrate officially on Sunday, April 22.

Earth Day was a massive grassroots demonstration of public concern for the environment, and it has been immensely successful. Politicians all over the country responded with environmental initiatives that became some of the key public laws protecting the environment today.

Twenty years ago, I was running in a crowded primary field for the governorship of Arkansas. One of the pledges I made to the people of the State in that campaign was to improve the quality of our State park system, which could only be described then as an unmitigated disaster. I could not have recommended more than one park for an overnight stay by a guest in our State. My State parks initiative enjoyed wide support, and we were fortunate in getting several million dollars in Federal matching grant money in the land and water conservation fund—which incidentally, was a farsighted legislation that predated Earth Day—to help pay the bills for that park improvement.

My successors continued and improved on the parks, and today our park system in Arkansas is one of the finest in the Nation. We take great pride in being called The Natural State, because of our relatively clean air, free flowing streams and scenic beauty.

In 1975, I came to the Senate and joined the Committee on Interior and Insular Affairs, later changed to the Energy and Natural Resources Committee. The hot issue then was the energy crisis, and we were right in the middle of it. Today we are more aware than ever that energy policy and environmental policy are intertwined, but that is not what I want to speak about now.

The Interior Committee was then, and continues to be, very involved in our public lands. Some great conservationists served on that committee—Scoop Jackson; Gaylord Nelson to whom we are indebted for Earth day; Lee Metcalf; Frank Church—and I consider myself fortunate to have learned from them about the importance of our public lands and resources.

Our systems of national parks, wild and scenic rivers, trails, wildlife refuges and wilderness areas are, I believe, one of the most enduring manifestations of the American public's concern for the environment and our love of nature.

Last year we celebrated the 25th anniversary of the Wilderness Act—legislation that declared it to be the "policy of Congress to secure for the American people of present and future generations, the benefits of an enduring resource of wilderness." The act defined wilderness "as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."

Today, the national wilderness preservation system totals over 90 million acres in 474 separate units. It includes glaciers and sand dunes, mountains and valleys, wetlands and deserts, forests and shorelines, the most beautiful, spectacular and diverse examples of wild country ever protected by any nation. There are some who question the value of wilderness preservation to man—"What use is it to me?" The great Western writer Wallace Stegner provided one answer to that question:

> Save a piece of country like that intact, and it does not matter in the slightest that only a few people every year will go into it. That is precisely its value. Roads would be a desecration, crowds would ruin it. But those who haven't the strength or youth to go into it and live can simply sit and look. They can look two hundred miles * * * they can also look as deeply into themselves as anywhere I know.
>
> These are some of the things wilderness can do for us. That is the reason we need to

put into effect, for its preservation, some other principle than the principles of exploitation or "usefulness" or even recreation. We simply need that wild country available to us, even if we do no more than drive to its edge and look in. For it can be a means of reassuring ourselves of our sanity as creatures, a part of the geography of hope.

I have been privileged to serve as chairman or ranking minority member of the Public Lands, National Parks and Forests Subcommittee since 1978. In that position, I have learned that probably the areas best loved by the American public are our national parks and that the National Park Service is our most popular agency.

During the 20 years since Earth Day, the parks system has been expanded and improved in many areas. The most dramatic expansion of the system in that time occurred when president Carter signed the Alaska National Interest Lands Conservation Act in 1980, essentially doubling the size of the National Park System, and vastly increasing the Wilderness, Refuge and Wild and Scenic Rivers Systems, as well.

Today there are 79.8 million acres of land within the National Park System, with 355 units located in 49 States and the District of Columbia. Last year, over 350 million people visited these magnificent areas. Yet, because parks are established both for conservation of park resources and for the enjoyment of the visitor, the Park Service must often balance competing interests in park management. Moreover, simply setting aside areas as national parks does not guarantee their protection forever. As we enter the decade of the 1990's we need to recognize that our parks are subject to increasing pressures from many sources. As the National Parks and Conservation Association has written in "To Preserve Unimpaired: The Challenge of Protecting Park Resources":

Though parks are conceived as islands of natural beauty or historical "time capsules," it is increasingly clear that they are no longer islands, and never really were. Hundreds of parks have inadequate boundaries. Wilderness, which once buffered many parks, has retreated. Critical habitat outside parks is pushing out native species. Our "effluent" society has announced its presence in parks with atmospheric and water-borne contaminants. * * * The insulation that undeveloped rural land provided many historic sites and battlefields is evaporating in whirlwinds of urban sprawl. * * * Meanwhile, a nation in search of itself continues to revere the national park system, arriving each year in record numbers.

Concern for our national parks and wilderness areas is but one aspect of the growing environmental ethic we will be celebrating and strengthening on Earth Day 1990. In our efforts to protect natural areas within the United States we have learned about ecosystems and the connections between all living things within those ecosystems. We are now beginning to see that we live in a global ecosystem and that many environmental concerns transcend local and national boundaries.

This we know: the earth does not belong to man, man belongs to the earth. All things are connected like the blood that unites us all. Man did not weave the web of life, he is merely a strand in it. Whatever he does to the web, he does to himself.

In the 1850's, Chief Seattle wrote these prophetic words to Isaac Stevens, Governor of the Territory of Washington.

It has taken us too long to fully comprehend the wisdom of those words, let us not now lose sight of their meaning.

AMENDMENT NO. 1482

(Purpose: To temporarily increase the duty on ethyl tertiary butyl ether)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. GRASSLEY, proposes an amendment numbered 1482.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . ETHYL TERTIARY BUTYL ETHER.

(a) IN GENERAL.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9901.00.52	Ethyl tertiary butyl ether (provided for in subheading 2909.19.10) and any mixture containing ethyl tertiary butyl ether.	6.66¢/liter...	No change (A, E, IL) 5.29¢/liter (CA).	6.66¢/liter...	On or before 12/13/92 or the date before 12/31/92 on which Treasury regulation §1.40–1 is withdrawn or declared invalid".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in heading 9901.00.50 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall also apply to the corresponding rates of duty set forth in subheading 9901.00.52 of such Schedule.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

Mr. DOLE. Mr. President, on behalf of Senator GRASSLEY and myself, I am offering an amendment to impose a tariff of 6.66 cents per liter on imported ETBE. This tariff will exactly offset the benefit of the blender's credit for alcohol fuels which the Treasury has announced will be received when the ETBE is later mixed with gasoline within the United States. Thus, this tariff has the same function and operation as the existing tariff on imported ethanol.

This amendment does not assume the validity of the Treasury regulation which includes ETBE under the blender's credit. If that regulation is ever withdrawn or declared invalid, this tariff will not apply.

ETBE is not currently manufactured outside of the United States. However, now that ETBE has been designated for eligibility under the blender's credit, there is concern that excess European wine will be converted into ETBE in order to penetrate the United States market duty-free. This amendment is only intended to prevent foreign interests from taking advantage of a tax incentive which was designed, among other things, to encourage domestic production.

Mr. President, it is my understanding the amendment has been cleared on both sides.

Mr. BENTSEN. Mr. President, this amendment would replace the tax credit given by an import tax. If they did not do that, they would be manufacturing ETBE overseas.

Mr. DOLE. This is correct.

Mr. BENTSEN. I see no objection to the amendment. I know of no objection on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1482) was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1483

(Purpose: To amend Section 553 of the Tariff Act of 1950 to permit transportation through the United States of lottery materials produced in Canada)

Mr. DOLE. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1483.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add:

That section 553 of the Tariff Act of 1930 (19 U.S.C. 1553) is further amended—

(a) by redesignating the text of such section as subsection (a) of such section; and

(b) by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), the

entry for transportation in bond through the United States of any lottery ticket, printed paper that may be used as a lottery ticket, or any advertisement of any lottery, that is printed in Canada, shall be permitted without appraisement or the payment of duties under such regulations as the Secretary of the Treasury may prescribe, except that such regulations shall not permit the transportation of lottery materials in the personal baggage of a traveler.

This amendment shall be effective fifteen days after the date of enactment of this Act.

Mr. DOLE. Mr. President, this is another amendment that has been cleared on both sides. I will try to explain it very quickly.

Mr. President, although lotteries are now lawful in almost half of the U.S. States and the export of lottery tickets is no longer prohibited, U.S. Customs law currently prohibits the transit through the United States of lottery tickets printed abroad. This law creates unnecessary and unreasonable interference for Canadian printers who wish to ship lottery tickets across the United States to take advantage of sales opportunities in Mexico and other markets.

This legislation amends the Customs law to permit the in bond transit of lottery tickets through the United States. It does not permit the importation of these tickets into the U.S. market. The amendment is supported in principal by both the Treasury Department and the U.S. Trade Representative.

All we do is amend the customs law to make this possible. I know of no objection to the amendment.

Mr. BENTSEN. Mr. President, I think it is a good amendment. I know of no objection. I think it is a worthy amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 1483) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1484

Mr. BIDEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 1484.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85, after line 12, insert the following new section:

SEC. 2014. EXTENSION OF TRADE BENEFITS TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that:

(1) United States antinarcotics policy places a high priority on assisting the nations of the Andean region of South America, the source of 100 percent of the world's supply of cocaine;

(2) The President and Congress have recognized that United States trade and economic policies play an important role in the overall United States antidrug strategy in the Andes.

(3) The extension of special trade preferences for articles from the Andean region would help revitalize the national economies of the Andes and further United States antinarcotics policy in the region.

(b) SENSE OF CONGRESS.—The Congress urges the President to:

(1) Review the merits of extending the benefits provided under the Caribbean Basin Economic Recovery Act to the Andean region.

(2) Continue to explore additional mechanisms to expand trade opportunities for the Andean region, and report to Congress in a regular and timely fashion on the result on this review.

Mr. BIDEN. Mr. President, I will not take much of the Senate's time with this amendment.

The amendment I offer is very simple: It asks the President to consider a proposal—which has been advanced by myself and others—to extend the benefits under the Caribbean Basin Initiative to the Andean region of South America.

As all of my colleagues are aware, the countries of the Andean region are now at the center of U.S. international drug policy. We have made a conscious decision to make the Andean region—the source of 100 percent of the world's supply of cocaine—a high priority in our drug strategy.

Although the drug strategy that I have put forward takes a somewhat different approach than the President's does with respect to the so-called Andean plan, we both agree that all routes to reducing cocaine production must be explored.

That means, as I see it, that we must use every weapon—including trade and economic policies—in the international drug effort.

However, the administration's approach to the economic side of the drug war, thus far, is lacking in some respects.

To his credit, last November, President Bush announced a new trade initiative for the Andean countries. The proposal contained some useful ideas, including the expansion of benefits under the generalized system of preferences [GSP] and technical assistance to help the Andean countries increase their exports to the United States.

But to be perfectly honest, the proposal was very, very modest. It is not likely to do much for the Andean countries; it will not create the sort of economic alternatives needed to lure Andean peasants away from the cocaine trade.

The fact is that the nations of the Andes have become literally hooked on dollars generated by drug trafficking. In Bolivia and Peru, the profits generated by the drug lords rival those produced by legal exports.

If we are going to make a serious dent in the drug problem in the Andes—among many other things—we must do more to open our markets to goods from the region.

Three months ago, I released a comprehensive drug strategy in which I proposed that we expand the trade benefits available for the coca-producing nations of South America.

One approach I suggested was extending the CBI—which we are extending in the bill before us—to Bolivia, Colombia, and Peru.

This is not the whole answer to the drug problem—or even to the Andean economic problems. But I do believe that this is one important part of the solution.

That is why I would like the administration to consider this idea, and give my proposal some thought.

That is all my amendment does—it urges the administration to consider extending the CBI to the Andean countries.

And then, after everyone involved has a chance to look at it, we can come back with a bipartisan, comprehensive approach to use trade incentives to reduce cocaine production.

This is our ultimate goal—seeing cocaine output reduced—and I know it is shared by my colleagues on both sides of the aisle.

In particular, I would like to recognize the involvement of Senators NUNN and LEIBERMAN in this area. They have been at the forefront of the effort to develop trade policies that enhance our antinarcotics policy.

Speaking with at least the staffs of the managers of both sides of the bill and the manager on one side, the Republican side, I understand there is no objection to this amendment. That is as much an inquiry as it is a statement.

Mr. BAUCUS. Mr. President, the inquiry is correct. The statement is correct. The inquiry is also correct in the sense that we have examined the amendment on this side. We think it is a perfectly proper sense-of-the-Senate resolution.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator in Delaware.

The amendment (No. 1484) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1485

(Purpose: To suspend temporarily the duty on certain paper products)

Mr. CRANSTON. Mr. President, I rise to offer an amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1485.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, before line 1, insert at the end of title I, subtitle A, part II, subpart B:

"9902.48.18	Toilet paper, of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (Provided for in Subheading 4818.10.00)	3.5%	No change	No change	On or before 12/31/92.
"9902.48.19	Handkerchiefs, cleansing or facial tissues or towels, all the foregoing of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (Provided for in Subheading 4818.20.00)	3.5%	No change	No change	On or before 12/31/92.

Mr. CRANSTON. This amendment allows for a temporary suspension of import duty on certain paper products. I believe the measure has been cleared by both sides, so I will just take a moment to outline it.

When the United States converted to the harmonized system in 1989, an oversight led to the reclassification at a higher tariff rate of certain products imported by a California company. The International Trade Commission was not aware of trade in these products. Last year Congressman STARK introduced legislation to correct this oversight.

At the request of Congressman STARK's office and the California company, I introduced S. 2192, a revised version of the bill which was narrowed to address concerns raised by two domestic companies. The amendment I now offer narrows S. 2192 even further to meet objections raised by the administration to the original proposal.

As you see, Mr. President, the amendment is truly the product of compromise and consensus. I urge my colleagues to support this noncontroversial amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the amendment offered by the Senator from California attempts to correct a tariff problem on certain paper products and detergents that resulted from conversion to the harmonized tariff system. The amendment was not offered in time for public hearings in the committee.

I am aware of any problems or controversy that might arise on this amendment. On the other hand, if it turns out in conference that the amendment becomes controversial, on behalf of the manager of the bill, I am authorized to say that the conferees may at that point then drop the amendment. If, on the other hand, it turns out the amendment is not controversial, we maintain the position of the Senate in urging the House conferees to adopt the amendment. With that proviso, Mr. President, we are willing to accept the amendment at this point.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DURENBERGER. Mr. President, there is no objection on the Republican side to the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 1485) was agreed to.

Mr. CRANSTON. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

LEGISLATIVE LINE-ITEM VETO

Mr. McCAIN. Mr. President, last November 9 my friend from Indiana, Senator COATS, and I offered an amendment to the transportation appropriations bill which would have given the President line-item veto authority over spending bills.

Even though we were not successful that day, we are here again today because we believe it is vitally important to taxpayers throughout our Nation that we adopt our amendment, the legislative line-item veto.

This is an especially important time to bring this issue up because Monday was the deadline by which every American taxpayer had to file his or her taxes.

Sunday was the day that Congress was to have completed action on the budget resolution for the next fiscal year.

While the taxpayers are forced by law to comply with the April deadline for the payment of taxes and many taxpayers have just sent their checks in to the IRS, the Congress has done nothing and is not held accountable at all.

We have not completed the budget resolution for 1991. We have not even begun it.

While the taxpayers have struggled to beat their IRS deadline, we sit here and think of ways to spend money in the upcoming supplemental appropriations bill and how to get rid of Gramm-Rudman constraints in budget reform.

This is no way for we, the elected representatives of hard-working taxpayers, to conduct this Nation's fiscal affairs.

No private company could behave this way without dire consequences—State legislatures do not—and families cannot.

Why cannot the American taxpayer expect Congress to set a budget and stick to it?

I think the answer is very simply because there is no mechanism to require Congress to assume responsibility in this sham of a budget process.

We need to grant the President with line-item veto power—we need a line-item veto to hold the Congress accountable.

Most of all, we need a line-item veto that will ensure that the taxpayers' dollars are not squandered on special interest sometimes described as pork.

Our legislative line-item veto bill will do all that. Very simply, our bill gives the President two opportunities every year to strikeout wasteful spending. First, he can line item veto out pork-barrel extravagence 20 days after signing a spending bill.

Second, in case the President misses wasteful spending the first time around, he can submit rescissions with his budget proposal in the beginning of the year.

In either case, Congress has 20 days to decide whether to overturn those line-item vetoes or accept them. If

Congress feels the spending is justified, we adopt a joint resolution disapproving the rescissions. If Congress, does not act, the waste the President has identified is erased—and the taxpayer's money is saved. Anyone looking out for the taxpayer's pocketbook should vigorously support this proven pork-buster tool.

Let me remind my colleagues that, in spite of the fact that it is already April—a third of the year has gone by—the average American taxpayer is still working for the Government.

On Monday, the well-respected Tax Foundation announced that Tax Freedom Day will be on May 5 this year.

Tax Freedom Day is the first day millions of average taxpayers will stop working to pay the government taxes—and start working for themselves.

Let me rephrase that: In 1990, the average American taxpayer will work from January 1 until May 5 to pay Federal, State, and local tax collectors.

He will have to pay his taxes before he starts working for himself.

Federal taxes claim nearly 2 hours of the average American's working day.

Despite the fact that over 70 percent of these taxpayers support giving the President a line-item veto, we have yet to give that budget slashing tool—the most effective budget tool to fight lavish congressional pork-barrel spending.

Since Congress rewrote the budget process in 1974, Federal budget deficits have ballooned from $6.1 billion to over $221 billion.

Even though our deficits are again below $150 billion they are still four times higher as a percentage of our GNP as they were in 1974.

This trend of profligate spending clearly indicates that the current budget process lets us pick the taxpayers' pockets to play pork-barrel politics and we never have to answer for our actions.

Unfortunately, we need the line-item veto to make us accountable.

We need to be able to tell taxpayers that they are sending their hard-earned dollars to the IRS on tax day for good reason.

Without the line-item veto, we cannot do that.

Mr. President, it is time we adopt a budget tool that will help force us back in line, that will force us to spend the taxpayer's money prudently, that will fix effectively a budget process that is sadly broken down.

We can give the President the line-item veto with a simple change in law—not a constitutional amendment.

The Coats-McCain legislative line-item veto, though simple, would allow the President to force Congress to think twice before spending money on special interests.

The legislative line-item veto has the full and strong support of President Bush. It has 34 Senate cosponsors. It has 43 Senators on record in favor of it. Forty-three Senators are on record in favor of this bill.

Over 40 members of the Coalition for Fiscal Responsibility [Cofire] have also voiced their support for our measure. This is significant because Cofire is staunchly opposed to tax increases and the bulk of its membership regards the legislative line-item veto as one means of avoiding a tax increase:

MEMBER-ORGANIZATIONS OF THE COALITION FOR FISCAL RESTRAINT [COFIRE] SUPPORT THE PASSAGE OF THE LEGISLATIVE LINE-ITEM VETO ACT OF 1989 (S. 1553)

Aluminum Association.
American Cyanamid Company.
American Farm Bureau Federation.
American Furniture Manufacturers Association.
American Legislative Exchange Council.
American Rental Association.
Americans for Tax Reform.
Amway Corporation.
Armstrong World Industries.
Associated Builders and Contractors.
Chamber of Commerce of the United States.
Citizens Against Government Waste.
Citizens for a Sound Economy.
Commercial Weather Services Association.
Committee for Private Offshore Rescue and Towing.
Consumer Alert.
Entrepreneurs of America.
FMC Corporation.
The Gap, Inc.
Georgia-Pacific Corporation.
Independent Bakers Association.
International Ice Cream Association.
International Mass Retail Association.
Koch Industries.
Milk Industry Foundation.
National-American Wholesale Grocers' Association.
National-Association of Brick Distributors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Truck Stop Operators.
National Candy Wholesalers Association.
National Federation of Independent Business.
National Grange.
National Independent Dairy-Foods Association.
National Limousine Association.
National Printing Equipment and Supply Association.
National Tax Limitation Committee.
National Taxpayers Union.
NL Industries.
Printing Industries of America.
Recreation Vehicle Industry Association.
Savers and Investors League.
Sears, Roebuck and Co.
United Bus Owners of America.
U.S. Business and Industrial Council.
U.S. Federation of Small Businesses.

Mr. President, our current rescission process is utterly defunct because Congress doesn't have to take any action to disapprove rescissions. It need only ignore them in order to ensure the money is spent.

Congress approved only 6 proposed rescissions out of 162 rescissions between 1986 and 1989—Congress OK'd only $179 million in budget rescissions out of a total of $16 billion requested—even though we have wasted plenty on pork during that time.

The legislative line-item veto ensures that Congress would still have the final decisionmaking authority, but there is no valid reason to deny the President the ability to review each piece of our spending bills, the same authority 43 Governors out of 50 in America have.

Requiring the President to consider entire appropriations bills on a "take it or leave it" basis is so unbalanced that it leads to certain abuse.

What is wrong with requiring the Congress to vote on these rescissions on their own merits if a President chooses to veto them?

If Congress thinks it is essential to spend money on sonar catfish counters or programs to count house pets in Ventura County, we can still do it. We have just got to be honest about it.

And that is the issue. Congress must be honest with the taxpayers.

We need to be accountable.

The legislative line-item veto will help the President eliminate unnecessary spending without disrupting the balance of power and makes us accountable.

Monday was tax day. May 5 will be Tax Free Day. These are reminders that we owe Americans a commitment to make our Federal budget accountable and efficient.

I urge each Member of this body to join the 43 Senators who are already on record, in support of the legislative line-item veto and make this pledge.

I ask unanimous consent to have a letter from the U.S. Chamber of Commerce supporting the line item veto printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CHAMBER OF COMMERCE,
Washington, DC, April 16, 1990.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Finding solutions to the problem of the federal deficit without increasing taxes on the American people remains one of the highest priorities of the U.S. Chamber of Commerce. The Chamber is committed to supporting solutions that help to curtail the rate of growth of federal spending and believes that your and Senator Coats' bill, S. 1553, the "Legislative Line-Item Veto Act of 1989," is a major step toward reducing wasteful spending and restoring discipline to the budget process. Your aggressive leadership on this issue is greatly appreciated.

Your proposal, which the Chamber strongly supports, will do much to restore fiscal responsibility by amending the 1974 Budget Act to change the procedure for considering Presidential requests for spending rescissions. Currently, to effect a rescission, Congress must approve by joint resolution within 45 days a request to rescind appropriations; by not acting, Congress disapproves a request. Your bill would simply allow the President to submit rescission proposals along with his annual budget; the rescissions would become effective unless Congress within 20 days by joint resolution dis-

approves them. Similarly, under S. 1553, the President could make cuts in appropriations bills signed into law within 20 days of signing, and Congress must disapprove the President's action within 20 days if it is to prevent the cuts from being made.

Line-item veto authority is not a partisan issue and has widespread support. In a 1989 Gallup Poll, 70 percent of the participants indicated support for a Presidential line-item veto. Presidents Ford, Carter, and Reagan proposed a total of $34 billion in rescissions that Congress rejected by inaction. The evidence is unambiguous that the present rules under which Congress and the President operate bias the federal budget process toward excessive spending. Enacting a legislative line-item veto such as that contained in your legislation would be a responsible step toward rectifying this imbalance in the budget process and would help to reestablish fiscal discipline within the federal government.

On November 9, 1989, you attempted to have your legislation passed by the full Senate. The Chamber considered this vote of great importance and included it in "How They Voted," its system of rating votes of members of Congress. If you offer your proposal again, the Chamber will again urge the full Senate to vote in favor of it.

Sincerely,

DONALD J. KROES.

Mr. McCAIN. Mr. President, finally the system is broken. It needs to be repaired. We need to go about giving the President of the United States one tool to bring about fiscal sanity in this insane process of which we are a part.

I also express my deep appreciation to my friend from Indiana, Senator COATS, who has again assumed the leadership role on this issue. I am very grateful for his commitment and hard work on this issue.

Mr. President, I yield back the remainder of my time.

THE COATS-MCCAIN LINE-ITEM VETO

Mr. KASTEN. Mr. President, there are not too many politicians out there who will say publicly that they oppose fiscal responsibility. As a matter of fact, you can count on just about any politician for glowing rhetoric about balanced budgets and the need to bring the Federal deficit under control.

But when push comes to shove, many in Congress prefer to stick with the spending habits to which they have grown so accustomed to.

That is why I am pleased to join Senators COATS and MCCAIN in pushing a plan to smoke out the big spenders. Next month, every single U.S. Senator will have to put himself or herself on the record: Are you for or against a fiscally responsible Federal budget? And will you take the actions necessary to back up your commitment?

This issue carries immense implications for our Nation's future—consequences far beyond the green-eyeshade technicalities of the Federal budget. The Federal Government spends 21.8 percent of America's gross national product [GNP]. In effect, it takes over one-fifth of America's wealth out of the economy every year.

That is money taken out of the productive economy of workers, savers, investors, and business people—and turned over to the Federal Government to do with as it sees fit.

This drag on the economy can be measured by a quick look at the excessively high tax bill which the average American has to pay each year. Tax Freedom Day—the day a taxpayer has worked long enough to support the government for that year and can get to work on supporting himself and his family—fell on May 4 last year. That means last year just to pay Congress' bills. In essence, the combined cost of government in the United States is costing taxpayers one-third of their annual work effort.

This is bad news for America's future—because Americans know that individual work effort is the source of economic growth and national prosperity. If we continue to allow government to seize this much capital, we and our children will end up paying dearly for it in terms of future productivity.

So how did it get this bad? Easy—in Washington, the big spenders in Congress have the power, and the forces of fiscal responsibility and restraint do not.

Look what happened to President Reagan. He came to office more dedicated to restraining Federal spending and taxation than any U.S. President in modern times. In 1980, Tax Freedom Day came on May 1. Reagan's best efforts succeeded only in moving Tax Freedom Day back from May 1 to April 28. And by the end of the decade, the tax increasers in Congress had brought the date up from April 28 to May 4.

Here is a popular President trying to bring some common sense to the budget—and he ends up losing ground. The Federal debt has now reached more than $3 trillion—for the first time in history. That adds up to a total debt burden of $12,000 per person.

Mr. President, there is something very seriously wrong with the process that built up this monstrous debt. I have been in the Senate for 9 years now, and every day I see what the problem is. Well-organized special interest groups control the purse strings. And the President—elected by and responsible to all the people—have very little to say about it.

This system is just not working. Everybody has some favorite examples of congressional spending waste—here are a few of my own:

Resource management related to arctic goose activity: $400,000.

A study of prostitution houses in Peru: $92,000.

The Washington, DC, lottery and charitable games enterprise fund: $8 million.

Research on the uses of fish oil: $1.3 million.

Mooring docks in Pago Pago: $12,000.

Research on maple syrup: $100,000.

Clearly, the problem here is not a lack of resources. After all, Congress is coming up with enough tax revenue to fund all these programs. What Congress does lack is the common sense to admit that the U.S. taxpayer should not have to pay for everything that everybody wants. Taxpayers expect their elected representatives to set priorities—to allocate taxpayer dollars to help meet the most important challenges facing our country.

But Congress is failing. It is not setting priorities. Congress is asking Americans to work 2 hours every day just to pay their taxes—and then throwing their money away in a special interest spending frenzy.

There is a solution. We have to strengthen the hand of the President—by giving him a legislative line-item veto.

Next month, we are going to bring this idea to an important test on the floor of the U.S. Senate. Senators COATS and MCCAIN are going to offer an amendment to give the President line-item veto authority. Senators are going to have to stand up and face the people on this issue.

A vote for this measure is a vote to cut the deficit.

A vote against it is a vote for bigger deficits, more spending—and yes, even more taxes on U.S. working families.

Here is how the legislative line-item veto would work: The Congress sends the President a spending bill with thousands of specific provisions. And the President—instead of having to accept or reject the whole bill—can eliminate or reduce funding for any single spending program he disagrees with. Our line-item veto proposal would also give the President the authority to submit spending cuts when he submits his own budget every January. In each case, the President's veto will take effect unless both Houses of Congress vote to override his objections within 20 days.

If the big spenders think their pet programs are so necessary, let them try to put together a majority to override the veto. They couldn't—because none of these programs could stand up to scrutiny on their own. They are like toothpicks. If you take them one by one, you can snap them—but if you bind them together by the hundred, they are tough as nails.

We need to let the President take these programs one by one. And to exercise the judgment and the intelligence that the American people expect of their national leaders.

Some constitutional scholars think the President already has an inherent line-item veto authority. I agree—because when the Founding Fathers wrote the Constitution they could not have imagined a congressional omnibus bill amounting to literally thousands of pages covering many thou-

sands of different and unconnected issues.

They gave the President the right to veto individual pieces of legislation. They never expected that he would face a $1.4 trillion congressional budget—and have to take it or leave it.

I think the President ought to try to exercise this inherent line-item authority right now. Let the courts decide.

I think we can win this important Senate vote on the line-item veto. Because all over America, people are fed up with congressional waste followed by tax increases followed by more waste and more tax increases. Just a few weeks ago the Senate Budget Committee chairman unveiled his solution to the deficit problem—a $73 billion tax increase.

Mr. President, we have traveled that road before. It leads to even higher deficits and higher taxes. There is no substitute for commonsense fiscal responsibility—and every U.S. Senator will have an opportunity this month to vote to put our budget on the right track.

Others can say: Let us raise taxes. I say: Let the clerk call the roll—yea or nay on the line-item veto.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I join my colleagues from Arizona in indicating to our fellow colleagues here that we intend to move forward again this year with the legislative line-item veto proposal.

Just a few short months ago, Senator MCCAIN and I stood in this Chamber and exhorted our fellow Senators to help us pass a very important bill, one that has the support of over 70 percent of the American people. We had a good debate, lively debate, with many Senators speaking nobly and eloquently about the imperative need for the measure.

We fought long and hard. We fell a few votes short. Three of our cosponsors were absent on that day on a motion to waive the Budget Act, which would have required 60 votes.

I vowed then and Senator MCCAIN vowed then, and we repeat now, the legislative line-item veto will be back.

Senator MCCAIN and I stand here today with our 32 cosponsors, planning to offer the legislative line-item vote. Just days after the infamous 15th day of April, when every working American must fork over their hard-earned dollars to Uncle Sam. We thought it good to remind this body that S. 1553 is an idea whose time has more than come. The incredible spiraling budget deficit is not a mysterious dinner guest that none of us invited to the party, it is a visitor of our own making, a skulking symbol of our profligate and heedless spending.

While many interesting budget plans have been put forth by both parties over the last few months, and the columnists have worked themselves into a lather urging we in Congress to just get it over with and pass a big tax hike, the various deadlines contained in the budget law pass unheralded by any congressional action. I am not here to blame anyone for this bleak situation, I am here to offer a solution to at least part of our fiscal woe.

If we can implement S. 1553, we will begin to chip away at a big part of the reason we have such a monstrous deficit. No longer will we all be able to tuck a favorite line item in massive appropriation bills and hope no one notices. No longer will we be able to point an accusing finger at the other body, the President, or anyone else while the spending ticks higher and higher. No longer will taxpayers grumble about the ridiculous chunk of change they must offer up to the tax collector with only a very vague idea about where those dollars go.

Our line-item veto will enable us to look ourselves in the mirror of budget truth and honestly say that we know we have done all we can to trim needless pork from spending bills. Our bill simply says that if we stick gratuitous pork in appropriations bills, the President can say no to the pork and yes to the necessary expenditure. Congress in turn, if it wants to, can say, yes, we as a body, yes, we want that Belgian endive research program; yes, we want that catfish farm; yes, we want that soybean and lentil study. If we are willing to stand here on the floor of the Senate, debate the item on its merits, and vote up or down on it, then that is the way it ought to be. But it should not be tucked away as small line item in a large appropriation bill in the hope that no one will notice it. That is all our bill will do—open up what is now a behind-the-scenes process and force institutional accountability.

Last year some of the arguments against the bill by our esteemed colleagues indicate that while the legislative line-item veto was a good idea, this was not the day or the appropriate legislative vehicle on which to enact it. Others simply feel this bill will give the Executive too much of our cherished power as spender of the public purse. Others just assume that line item-veto will not pass the procedural hurdles thrown in its way, and, thus, it is better not to rock the spending boat lest we make some of our States' projects scapegoats for our hubris.

Well, this Senator was impressed by the stamina and courage shown by some Senators on another issue many said would never pass the Senate—clean air. I am heartened by that example of an elusive legislative goal becoming reality. This Senator refuses to give up this particular fight. Senator MCCAIN and I and our colleagues will see this to the end, and will be here on the floor as many times as it takes, asking for recorded votes and insisting that the media and the so-called inside-the-beltway elite recognize what the American people already know—that raising taxes is not the answer to our deficit, but cutting spending is.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, I heartily endorse the words of the Senator from Indiana and the Senator from Arizona.

I generally assume that many Americans are like me and mailed their taxes in at the last minute, and that the pain of parting with that money—hard-earned money at that—is still fresh in their minds. I also assume that if they just mailed their taxes, they are again like me in that they owed money. Only people who get refunds mail their tax returns in early. I have done that also.

That is why I chose today to talk about how we in Congress can help relieve this annual pain for many people.

It is my responsibility as a representative of the people of Montana—yes, all Americans too—and as someone who finds excessive taxes just as hard to pay as the next person, to make sure that taxpayers' money is wisely spent. It is for this reason that I am a cosponsor and a strong advocate of S. 1553, the Legislative Line-Item Veto Act of 1989.

It is no secret that Congress lacks the willpower to reduce wasteful spending of "pork." Every Senator and Representative feels compelled to "bring home the bacon." Since there are 535 of us, that adds up to a lot of bacon.

The legislative line-item veto is a tool that the President, and the Congress, can rely on to trim the fat.

As the Wall Street Journal put in an editorial endorsing this bill on October 19, 1989, and I quote:

> The Members could still try to serve their constituents with special-interest goodies, but the police—in the form of the President—would be there with a straitjacket if they really get crazy, as they do now.

The legislation would allow a President to identify spending items which he determines to be wasteful and to notify Congress that he is eliminating or reducing them unless Congress acts to disapprove his action. As the law currently stands, the President can propose rescissions—either reductions or eliminations of items congressionally appropriated—but the rescission is implemented only if approved by Congress.

By not acting, Congress has failed to act far more often than it has acted. In fact, Congress has failed to act 96 percent of the time since 1986.

Many people have opposed the legislative line-item veto claiming that it

shifts too much power to the executive branch and that the President would use that power to punish those of the opposite party. In my judgment, that is nonsense.

The American people are just as much the President's constituents as they are ours. He has an interest in providing for the common good, while being somewhat removed the direct political pressure of specific constituencies. This helps him deal more fairly and objectively with wasteful spending.

I also want to point out—the way Congress currently operates is a departure from history and from the current practice of 43 of 50 States in the Union. Up until about 15 years ago when Congress changed the law, every President since Thomas Jefferson had the ability to impound or refuse to spend money appropriated by Congress.

For example, President Kennedy used impoundments to reduce projected congressional spending by 6 percent during his administration; President Johnson used impoundments to reduce spending 5.4 percent during his administration.

As I stated before, 43 of 50 Governors, including Montana's Governor, currently have some form of line-item veto power. This coupled with a balanced budget requirement in all of those States is the reason that most States manage to balance their budgets while Congress continues to run up huge deficits. Our national debt is now $3 trillion.

As I travel around the country the national debt is the No. 1 topic on a lot of people's minds. That amount cannot even be imagined by some people. In fact, the interest on the national debt is the second or third largest expenditure that this Government makes. What we could not do with that money in the area of housing and helping those people of the unfortunate kind.

Now, there are many ways to bring the Federal deficit under control so that we can begin ridding ourselves of this huge national debt. The legislative line-item veto is just one of those ways. It is not a cure-all, but it certainly is a start and a step in the right direction. I think that, if nothing else, most Americans could be persuaded to support S. 1553 if they realized that they work full time until mid-May, working men and women now work until mid-May paying taxes of one kind or another. I do not think it is fair. This Senator is going to fight to rid our working men and women of this Nation this yoke they have around their necks. If the fight goes on, let it go on. But I think this is one of the tools that we can use to bring that deficit down. The legislative line-item veto will fix part of that.

Mr. President, I yield the remainder of my time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, speaking on the same subject as that of the distinguished Senators from Arizona and Indiana, and feeling that perhaps my best contribution to the subject of the enhanced rescission or line-item veto might be to remind my fellow Members of the Senate of the position of my close friend and distinguished colleague and predecessor Senator Dan Evans, I have come to the floor this evening.

Senator Evans spent 12 years as Governor of Washington State, and during that time as the possessor of a rather broad authority to exercise a line-item veto. As a consequence, he was a strong and distinguished supporter of the line-item-veto concept, which he felt did not undermine the appropriate division of powers between the legislative and the executive and at the same time gave him an ability to control spending, which was of great importance and great assistance to the State of Washington and to its people.

As a consequence, since Senator Evans has, of course, since retired, I ask unanimous consent that the RECORD reprint his statements respectively of October 2, 1984, January 28, 1987, and July 31, 1987, on previous debates of the nature of that which is taking place here at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congressional Record, Oct. 2, 1984]

LINE-ITEM VETO

Mr. EVANS. Mr. President, I rise to associate myself with the Senator from Georgia in speaking on the editorial in the Washington Post of several days ago regarding the line-item veto. It is an issue whose time has come. I hope that we will yet have an opportunity in this session to debate, to vote, and to allow this Senate to indicate its will on the question of a line-item veto. Given that opportunity, I have no question in my mind that a majority of this body would vote in favor of a line-item veto.

I particularly would like to refer to that editorial and to the misconceptions which it may give to some of our colleagues. The very idea that somehow enrolling clerks would be endowed with unusual new authority simply cannot stand the light of day and the facts as they exist.

Mr. President, the Members of Congress retain the ultimate authority to determine the structure of a bill. An item is determined by the structure of the appropriations bill passed by Congress. The United States Code gives direction as to a numbered section saying that each section of a bill shall be numbered, and shall contain as nearly as may be, a single proposition. The Clerk of the House and the Secretary of the Senate currently share the responsibility to review bills and ensure accuracy with what was passed by Congress. Direction is then provided to the enrolling clerks.

I think these three points indicate pretty clearly that no greatly increased authority or discretion will be delegated outside the current delegations made by this body.

The editorial also suggested that the line-item veto wouldn't actually do much to cut the deficit" and that interest groups with weak constituencies would suffer at the hands of powerful lobbies. Interest groups with weak constituencies already suffer at the hands of Congress and there is no indication that such groups would do worse at the hand of the President. As the only nationally elected representative, he might even be more protective. The line-item veto will do nothing to cut the deficit unless it is passed. If it works, even modestly, it probably should be extended to tax expenditures and perhaps even authorization measures. Instead of wringing our hands over huge deficits, and second-guessing how a President might use this authority, let's try it. The result might be surprising.

If the line-item veto is adopted for fiscal year 1985 and we assume a 1-percent cut of all spending per year, the total savings over the next 5 years could be $174 billion, with a reduction in the fiscal year 1989 deficit of $65 billion. If we assume a 2 percent cut in just discretionary spending per year, the total 5-year savings would still be $99 billion. The fiscal year 1989 spending reduction would be $37 billion. These savings are not insignificant.

The line-item veto is a low risk/high reward proposition; as a low risk, the legislation includes a 2-year expiration clause. If it doesn't work, it will die on its own. If we try it and it does work, the potential reward is great by allowing a President the opportunity of using this one tool, together with others, to bring our huge budget deficit under control. Even if it has only a small effect as a spending control tool, then Congress could continue such a proposal, on a 2-year basis, so that Congress would always retain ultimate control over abuse of the authority.

This line-item veto authority is one important tool in the budget process to help curb our growing Federal deficit and control Government spending. There's no question we need as many tools as we can get. The President has a more restricted veto authority than almost any other chief executive in the United States. The absurd extreme of the current practice would be to present the President with a comprehensive trillion-dollar appropriations act loaded with extra substantive legislation and say, "Take it or leave it." Our constitutional drafters had no such thoughts in mind. I do not see this proposal as increasing the authority of the President, as some suggest, but as an even-handed budget control that gives the President a chance to initiate action, with opportunity for Congress to deny it.

What I find most disturbing is the fact that we, in Congress, dump on the President's desk huge trainloads of pork attached to vital pieces of legislation. We make it almost impossible for the President to veto what is frivolous without crippling the operations of Government. When he signs such legislation, he also must accept a whole

series of expenditures which could not stand on their own merits.

This line-item veto proposal is not a "cheap election-year gimmick." It is an effort to provide the President with one of the tools necessary to sculpture a responsible and controlled Federal budget.

[From the Congressional Record, Jan. 28, 1987]

By Mr. Evans (for himself, Mr. Humphrey, Mr. Boren, Mr. Proxmire, Mr. Dole, Mr. Thurmond, Mr. Hollings, Mr. D'Amato, Mr. Danforth, Mr. Bond, Mr. Lugar, Mr. Nickles, Mr. Hecht, Mr. McCain, Mr. Boschwitz, Mr. Zorinsky, Mr. Roth, Mr. Garn, Mr. Helms, Mr. Stevens, Mr. Murkowski, Mr. McConnell, Mr. Trible, Mr. Symms, Mr. Warner, Mr. Simpson, Mr. Gramm, Mr. Chafee, Mr. Wallop, and Mrs. Kassebaum):

S. 402. A bill to provide that during a 2-year period each item of any joint resolution making continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate joint resolution for presentation to the President; to the Committee on Rules and Administration.

LINE-ITEM VETO

Mr. Evans. Mr. President, I send a bill to the desk on behalf of myself, Mr. Humphrey, and 28 other cosponsors, and ask for its appropriate referral.

The Presiding Officer. The bill will be received and appropriately referred.

Mr. Evans. Mr. President, I introduce today a bill to give the President a line-item veto.

I was gratified that the President in his State of the Union Address last night once again asked for this power from the Congress.

It seems to me that our actions last year more clearly than at any year in recent history or perhaps in the history of the Congress itself proved that the President really does need this tool to help control spending.

We for years have operated under a system that calls for 13 separate appropriations bills giving both to the Congress and ultimately the President an opportunity to examine each of these bills and in turn, if the President finds it necessary, to veto one or several of those and send them back to Congress. That can be done without undue harm to the immediate operations of our Government.

Last year, however, Congress contrived to bring all of these appropriations acts together into a single continuing resolution. Some would call it really the approach of a consolidated appropriations act, which may, in fact, be desirable at some time if done appropriately.

But when that is accomplished, Congress presents the President with, in fact, no opportunity for a veto. I believe we have discovered a way to keep the President from his constitutional right of veto.

No President would veto an appropriations act containing all of the appropriations of the Government, for it would then call for an immediate cessation of all governmental operations, until such time as the differences between the Senate, the House, and the President were ameliorated.

Our forefathers could not have contemplated such a ridiculous state of affairs.

Thus, Mr. President, if we are going to work toward a more consolidated appropriations act, we ought to even the scales, as our forefathers would have appropriately suggested, by giving the President an opportunity for a line-item veto.

This proposal is very similar to the one introduced by Senator Mattingly of Georgia during the 99th Congress, which I was proud to cosponsor. It is a bill for a 2-year trial period. It cannot be carried beyond that period without reratification by the Congress. So it is a low-risk proposition. It is a trial period.

It gives us a chance to see if this really, in fact, will help. But we have added a new element. This time, it would apply only to those appropriations bills which have been combined. If Congress, as it is supposed to do, passes separate appropriations bills, they would not be subject to this line-item veto and the President could examine each of the 13 independently and separately. If Congress, in the other hand, decides it is more convenient, or, for whatever purposes, wants to weld them together, then to the degree we weld them together, the President would have an opportunity for a line-item veto.

I think it has two potential benefits, Mr. President. One, it would redress the imbalance which occurs when Congress wraps things together and prevents the President from exercising his veto. Second, it might have the even more desirable result of causing us to abandon the practice of continuing resolutions and combining of appropriations and, instead, present them to the President one by one, separately, and allow him to act on them as a single unit.

Finally, Mr. President, let me say that as Governor of Washington, I had a strong line-item veto, as other States had. Some say it is really not comparable, that this Government, at this level, is different from the individual State governments. It is different all right. We are nowhere near as competent when it comes to budgetmaking and appropriations. We come nowhere near as close as States to do balancing their budgets and operating in a fiscally responsible manner. And I certainly believe, Mr. President, that no State—no State—would suggest that a Governor should be forced to deal with a comprehensive, unified State appropriations act without being given the chance to comment upon it through veto of single items. Nor would Congress act in that manner should we go ahead with the line-item veto at this time.

I believe we have a somewhat modified proposal which has substantial benefits over the one of last year. It gives us a chance to try things and may well prove to be a better rein on our own acts than on any acts of the President.

[From the Congressional Record, July 31, 1987]

Mr. Evans. Mr. President, let me be brief. I know it is late on Friday afternoon but this is, in my view, an important amendment and one which ought to be enthusiastically adopted by this Senate and all of its Members.

There has been much talk about item veto and I know there is considerable concern about item veto, but I think we have come to a point, especially during the last year, where we lumped all 13 of the traditional appropriations bills together in one massive continuing resolution and sent to the President $580 billion worth of spending. In doing so we have virtually eliminated the responsible use of the veto by a Chief Executive.

No one, either this one or future Presidents, could afford to engage in a veto knowing that the Government of the United States would literally come to a halt if he exercised that veto. This amendment is very simple. I would introduce it as the Individual Appropriations Act. It achieves not a dramatic difference from how we now do business but, in effect, takes us back to the traditions we have had in the Senate over many years.

We have 13 subcommittees in the Appropriations Committee. We have 13 separate titles which come forward. This bill would require that any continuing resolution, or any attempt by the Congress to put those 13 bills or any number of them together, would then be separated back into their original titles before being presented to the President.

In essence, it would divide continuing resolutions into separate titles where each title is identified as a regular appropriations bill.

This amendment identifies those as the 13 appropriations bills we are most familiar with.

It would require that any general provisions of a continuing resolution would be contained in the appropriate title so there would be no separate title for general provisions. It retains the constitutionally mandated two-thirds veto override by both Houses of Congress. It includes a 2-year sunset clause.

So this gives us a chance to try something which, in my view, is nothing more or less than taking us back to the traditional balance we have enjoyed over many, many years in this Congress between the Congress and the Chief Executive.

There may be arguments against a line item veto, but I do not believe that those arguments hold in this case against the dividing of bills into their individual titles.

There was an argument, for instance, that the line item veto would give too much authority to an enrolling clerk. This clearly would not be the case where the individual titles are readily identifiable and separable and, in fact, commonly are separated.

Those who suggest that a continuing resolution leverages the President I suppose would object to this proposal. I do not think it is a question of leveraging a President or giving undue power or authority to one branch or another of our Government but merely restoring a balance which has existed traditionally and which I think ought to be reinstituted.

Mr. President, I think this would be a challenge to a President who has long sought a line item veto saying, "All right, here is an opportunity for you." It would retain an even balance, but it would retain the protection of broad legislation contained in each one of these titles for those Members who are concerned that an individual item that they are deeply interested in, might be picked out of an appropriations bill by a President who enjoyed full line item authority.

Mr. President, I shall take no more time other than to answer any questions that there might be. I think it is a simple and straightforward amendment. It deserves to be on this bill which contains many similar proposals for making our whole budget and appropriations process a little more understandable, a little more straightforward.

* * * * *

Mr. Evans. I thank the Chair. I fear that this Chamber has been flooded with red herrings this afternoon. We have heard about all of the problems and difficulties of the current system and what might happen under this rather simple proposal. Frankly, I am astounded, I am amazed to hear my

colleague from Oregon say that the Enrolling Clerk made a big error and it had to be corrected. That can happen no matter what our rules are or how we choose to put our bills together.

I suggest, Mr. President, that things are broke, as the Senator from Oklahoma has said. And one of the reasons they are broke is because we have engaged in this penchant for putting everything into one huge pot. They are not any more really continuing resolutions. It is more accurate to say that they are omnibus appropriations bills. Last year it is my understanding—and I do not serve on the Appropriations Committee, but I follow it pretty carefully—we passed most of the appropriations bills separately in the Senate, they passed virtually all of them in the House, and the conference committees joined together and reached agreement in each of their separate categories and then the decision was made to wrap all of those together along with the ones which had not been finished. It was done deliberately to make that an omnibus appropriations bill. I cannot think of any stronger argument for reseparating them than the deliberateness of that concept, that suddenly now we should have an omnibus appropriation which for all practical purposes eliminates the constitutional veto authority of a President.

Just consider: Almost $600 billion and a good amount of other legislation hooked aboard, facing the President on the eve of a new fiscal year. He cannot veto it. There is no way the President can use his constitutional veto under those circumstances.

The question has been brought up about the extraordinary power of an enrolling clerk. Well, if this amendment is adopted, as I hope it will be, and if it bcomes law, as I hope it will be, then it is up to the Appropriations Committees on both sides to be careful enough to do the job well: to identify clearly what each title is: if necessary, to give a number to each title and say, "When this bill is presented to the President, this will be the number for the military construction proposal." That is easy enough to do.

You can draft what you want in those bills as they are passed by the Senate and by the House clearly and carefully enough so that the enrolling clerk would have no task further than to put them into 13 parts. I think that is precisely what we ought to be doing.

It is bad to give unusual power to someone not elected, and I fear that is what we are doing now by creating such an extraordinarily large and complex bill that we cannot hope to follow all its elements. We do make mistakes. The very best of people make mistakes. But we tend to make more mistakes as we get something more and more complex.

If we could separately take each one of these items, each one of the appropriations bills, as we once did, adequately go through the conference committee on a military construction bill, on the legislative appropriations bill—for Heaven's sakes, on the District of Columbia bill, which certainly should not be too difficult—and on each of the other bills as they come along. Certainly, there are two or three which are of extraordinary difficulty and complexity. I understand full well that the foreign operations bill, the defense authorization bill, and the Health and Human Services side of the bill are going to be complex. But far better to deal with them separately and independently than wrapping them all together in a highly complex continuing resolution.

Mr. President, this is not a complex bill. I do not believe it is an unconstitutional bill. I believe it is worth trying as a small step back toward fiscal sanity. The Judges across the street will make the determination as to whether it is constitutional or unconstitutional, as they often do. But it is worth trying. It is worth trying, if even for only 1 year we end up doing what we once did.

All this is restoring the balance to take us back to the traditions we had in 13 separate bills. I think it would be refreshing and worthwhile. I would hope that each of those 13 bills would be brought to the floor of the Senate and dealt with separately, so that we could analyze each one in its own framework rather than facing, as we have this last year, a huge and enormous continuing resolution which no Member of the Senate outside of the Appropriations Committee—and I suspect many inside the Appropriations Committee—know from cover to cover.

We may not know bills from cover to cover if we deal with them separately, but at least we have a chance, and that is all we are asking for in the Senate—a chance to analyze and understand what we are doing, so that we can represent our people and this country better. This is a small step in that direction. It is not overly complex, and I hope it will be adopted by this body and make part of our procedure for just the next 2 years.

This has a sunset clause in it. It is a low-risk trial to see if we can do something better than we are doing today.

I urge the adoption of the amendment.

Mr. GORTON. I thank the distinguished Presiding Officer. I simply wish to summarize by saying that Senator Evans had a peculiar insight into the actual impact that this bill would create in the Government of the United States by reason of his service as chief executive and I commend his remarks and his position to my fellow Members.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I also rise to speak in favor of the position of the Senator from Arizona regarding the line-item veto. I commend my friend from the State of Washington for entering into the RECORD, once again, the statements of Senator Dan Evans, who was previously the Governor of the State of Washington, and so had experience with the line-item veto. Because of this experience, he also had a sense of the appropriate division of power between the executive and the legislative branches, and knew that the line-item veto did not unduly invade that appropriate division. I do not believe it does either.

We, in Congress, now blame the President for the budget deficit, yet spending is a result of the way we legislate and appropriate funds. Not a penny's worth of spending occurs unless we approve it here in this body, yet it is the President who must bear the brunt of the deficit, not us. We like to shift the blame and, indeed, do so with considerable vigor and effect. But, after the President submits a budget to the Congress, his job really is done. The President's budget is not adopted as a bill. The budget is not a piece of legislation that can be signed. A piece of legislation that can be signed, after all, can be vetoed. The budget is not subject to a veto. After the President submits his budget his part in the program is finished and the Congress must then go forward and adopt a budget.

As I have stated, the budget, when adopted, does not require the signature of the President of the United States and, as a result of that, is not subject to a veto. Since it is not subject to a veto, it is unfair to blame the President for the deficit because deficit spending originates here in Congress. And we should bear the principal blame for the size of the deficit, even for the very existence of a deficit.

Granting the President a line-item veto would change a good deal of that. Not only would the President be able to take certain provisions out of the spending bills that we submit to him—and certainly that would give the President some additional sway with respect to the Congress—not only could he do that, but he could then control the outlays of the Federal Government to a far greater extent than he does now. But, when he has tried to do that, we in Congress quickly find a way to close the loopholes.

Some years ago Presidents were able to find an alternative to the line item veto but we closed that avenue of approach for Presidents as well. This line-item veto would give the President the power to take out of some of the bills that we send him, the smaller types of spending that cumulatively add much to the deficit, much to the bureaucracy, and much to the size of government.

It is not unusual for the President to get a bill of 400 or 500 pages on his desk to sign. Indeed, it is almost unusual for him not to receive a bill of that length.

We can recall President Reagan at one of his State of the union addresses, holding up a continuing resolution that was a couple thousand pages long. He also had with him a reconciliation bill, which was a couple of thousand pages long as well. And he said he was not going to sign one of those again. And I do not blame him. It was a bill that would have been a marvelous subject for line-item veto. It was a bill that could have been brought down to size in this name.

Perhaps the most appealing thing, to me, about a line-item veto is the amount of work here in the Senate that would not be necessary, that would not occur, if the President had this power. If he had such a line-item veto, the effort of every Member of the House, all 435 of them, and every Member of the Senate, all 100 of

them—including me— to get a special provision in for his or her constituency would, perhaps, not be necessary. If the President had the line-item veto, much of the scurrying around that occurs here would not be necessary because, in the event an unnecessary program were passed, it clearly would be taken out of the bill by the President.

In addition to that, the thousands of letters that circulate in the Senate, the hundreds of meetings that occur, the sheer volume of the staff and the shear volume of the material that we generate here would all be minimized. All of this would be reduced substantially. So the line-item veto produces more than just savings; it is more than just an element of control.

Indeed, in my judgment, it would simplify the entire process of legislation. It would make the business of the Senate and the House much clearer. It would give Members of both bodies more of an opportunity to deal with the legislation and the major issues that we have to deal with around here and not be involved in getting a few dollars here, a few dollars there, seeing a Senator, seeing a Congressman, seeing a supplicant of one form or another who wants to get a little piece of the action.

When we have a budget of $1.2 trillion, or $1,200 billion, it is very easy to lose a few dollars here and there. In the Budget Committee, if a figure is $50 million or less, we round it out to zero. In the real world, that is a remarkable sum. But, yet, here in the Senate if it is $50 million or less, we do not think it is that important an item, even though it could have been the lifetime product of many communities an extraordinary amount of money.

In any event, Mr. President, the idea of rounding out $50 million to zero always surprises my constituents and always gets a little chuckle from the audience when I talk about it. But it is true. So when a Senator or when a Congressman or when a constituent comes and wants a few hundred thousand dollars, or wants $2 or $3 million, this is hardly worth a bother. This is something that one gives to the staff to handle, not considered worthy of deliberations in the Senator's office.

That is the scope of the amount of money that we handle; a million dollars being just a small fraction of the whole. That is why we lost a sense of reality, of what working men and women in this country have to deal with. That is why I support the idea of a line item veto, so that bills will not be thousands of pages long. So that the legislative process will be made more efficient. So that the enormity of the staff might not be needed in this place. So that we could get business done in a more expedited manner.

Mr. President, those are the reasons why I support the idea of a line-item veto. Because I support the idea of streamlining the Congress and the idea of balancing the budget and bringing our affairs into order. There is no question that one of the most meaningful and useful ways to achieve that end would be by adopting an amendment giving the power of a line-item veto to the President.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. BOSCHWITZ. I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President I associate myself with the remarks of the able Senator from Minnesota on the line-item veto. As Governor of South Carolina, I had that power, and I exercised it and saved the people of my State considerable money.

The President can do the same thing. Forty-three Governors have that power today, yet the President of the United States does not have it. There is no question in my mind that matters get into appropriations bills that should not be there. Sometimes it is log rolling, sometimes it is oversight, sometimes it is duplication and sometimes it is for various other reasons. I think it would be very helpful if the President had that power. In my opinion, if the President had that power, actually I believe we could save billions of dollars to the taxpayers. I hope we can pass legislation to that effect.

There are two things that I have stated we ought to do. One is to pass a constitutional amendment to mandate a balanced budget, mandate it in such a way so that Congress cannot spend more than it takes in. If Congress wants to spend more than revenues, then they have increase taxes to do it and then the people back home can pass on the wisdom of that action. The next thing is a line-item veto. This is very important.

If we pass these two pieces of legislation, it will do more than anything I know to help keep the budget balanced, once we get it balanced. I hope Congress this year will see fit to pass both of these measures.

In 1984, I offered a constitutional amendment to mandate a balanced budget; it passed the Judiciary Committee; it passed the Senate. It went to the House, but the leaders over there at that time killed it. They evidently did not want to stop the spending. I introduced this bill again earlier in this session of Congress. It is in the Judiciary Committee now, and Senator SIMON of Illinois is interested in this legislation. We hope to bring it out of committee this year.

We ought to pass this constitutional amendment to mandate a balanced budget. We ought to pass the line-item veto. Those two things will be helpful in properly handling the fiscal problems of this country.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAVORED NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, I ask unanimous consent on this bill to propose an amendment involving log exports to be considered with a 1-hour time limitation, time to be equally divided by both sides.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BENTSEN. Mr. President, I know of no objection on this side.

The PRESIDING OFFICER. The Chair hears none and it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, I have consulted with the managers of the bill and with the distinguished Republican leader. There do not appear to be any other amendments which will require votes that can be scheduled this evening.

Accordingly, there will be no further rollcall votes today. The managers advise me that they expect a full day tomorrow; that there will be, I do not know the number, but several amendments which will require votes, and so Senators should be aware of the fact that there will be rollcall votes tomorrow.

We are going to continue to proceed with respect to this bill. It is my hope that we could complete action on the bill tomorrow, if that is possible, and the managers have assured me they will do their best to work toward that end. That will, of course, require the cooperation of Senators in being available to offer their amendments tomorrow morning.

Mr. THURMOND. Will the distinguished Senator yield?

Mr. MITCHELL. Certainly.

Mr. THURMOND. I have an amendment accepted on both sides. There is one little change in the drafting. If I could take that up at this time, I would like to do it if there is no objection.

Mr. BENTSEN. Mr. President, we have not seen the amendment on this side. It has not been accepted on this side.

Mr. THURMOND. The Senator's staff member worked with my staff.

Mr. BENTSEN. I have no knowledge of that. I will have to see the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

AMENDMENT NO. 1486

(Purpose: To extend the temporary duty suspension on tetraamino biphenyl)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 1486.

On page 17, between lines 21 and 22, insert:

( ) Heading 9902.29.27 (relating to tetraamino biphenyl).

Mr. THURMOND. Mr. President, I rise today to propose this amendment to H.R. 1594 which will continue the duty suspension on the chemical tetra amino biphenyl, known was TAB. TAB is an essential raw material used in the production of a high performance fiber called PBI. PBI is a unique heat and chemical resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, as well as refinery workers.

Mr. President, in the 98th and 100th Congress, I introduced similar legislation to apply duty-free treatment to TAB. This bill was ultimately incorporated into the Omnibus Tariff and Trade Act of 1984 and the Omnibus Trade Act of 1988. The current duty suspension for this chemical expires December 31, 1990.

Officials at the International Trade Commission have informed me that there is still no domestic producer of TAB. I want to repeat that. There is no domestic producer of TAB. Thus the temporary suspension of duty on this chemical will not cause injury to any U.S. manufacturer of the product.

Mr. President, suspending the duty on this chemical will benefit the consumer by stabilizing the cost of manufacturing the end use products. Further, this suspension should allow domestic producers to maintain and improve their ability to compete internationally.

We have three plants I believe in my State that are interested in this, and it is very important to the economy of South Carolina that this amendment be agreed to.

I hope the Senate will see fit to adopt it expeditiously.

Mr. BENTSEN. Mr. President, I have examined the amendment as the manager of the bill on this side, and it appears to be a good amendment. I have no objection on this side.

Mr. DURENBERGER. Mr. President, there are no objections to this amendment on the Republican side. We recommend its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1486) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I wish to extend my appreciation to the mangers of the bill.

AMENDMENT NO. 1487

(Purpose: To extend trade benefits to Nicaragua)

Mr. DODD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1487.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

"SEC. . Trade Benefits for Nicaragua. Notwithstanding any other provisions of law, the President is authorized to designate Nicaragua as a beneficiary development country for the purposes of title V of the Trade Act of 1974, as amended, and as a beneficiary country under the Caribbean Basin Economic Recovery Act, and any such designation may remain effective for the duration of the calendar year 1990."

Mr. DODD. Mr. President, this is an amendment which I have discussed with the manager, the staff, as well as the ranking minority member. It is a very simple, straightforward amendment. It merely clears away certain administrative difficulties which would impede the President and the administration in their efforts to fully restore trade relations with Nicaragua, the new government of Mrs. Chamorro. Very specifically, the amendment will allow the President to confer GSP and Caribbean Basin Initiative trade benefits on Nicaragua for the remainder of this year notwithstanding any other provision of law.

As a background, Mr. President, this is the identical language that was included in the administration's emergency assistance package for Nicaragua. I note the administration is anxious that this amendment be adopted, or that language be included in the legislation. It would have been included but for a jurisdictional question that had been raised when the matter was brought up on the assistance package.

This is the proper vehicle for it to be attached, and while we are providing foreign aid assistance to the tune of some $300 million—of course, depending on what the Appropriations Committee recommends—I think all of us agree that in the long term the economic well-being of Nicaragua as well as other countries in the region will depend upon trade relations. While aid will go to the poor and housing needs of the country, this amendment is designed to help the business sector in Nicaragua to get on its feet. So that is the rationale for it.

I appreciate the patience of my colleague from Texas and the ranking minority member as well for going over this amendment with us.

Mr. BENTSEN. Mr. President, what this does, it overrides the normal statutes that apply for GSP and CBI, and gives the President the authority to designate Nicaragua for those benefits immediately. I support it. I think the amazing revolution that has taken place and the success of democracy there and the leadership of Mrs. Chamorro certainly deserves this kind of encouragement, and so I enthusiastically support the amendment.

Mr. DODD. I thank the Senator.

Mr. DURENBERGER. Mr. President, there is no objection on the Republican side, and I am also authorized to indicate that the administration does support the amendment as well, and we recommend its adoption.

The PRESIDING OFFICER (Mr. SANFORD). If there is no further discussion, the question is on agreeing to the amendment.

The amendment (No. 1487) was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1488

(Purpose: To temporarily suspend the duty on metal oxide varistors)

Mr. MACK. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself and Mr. GRAHAM, proposes an amendment numbered 1488.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, after line 12, insert the following new section:

SEC. . METAL OXIDE VARISTORS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9902.85.33	Metal oxide varistors (provided for in subheading 8533.40.00, 8541.10.00, or 8541.50.00)	Free	No change	No change	On or before 12/31/92".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry, or withdrawal from warehouse for consumption, of an article to which the amendment made by this section applies that was made—

(A) after December 31, 1988, and

(B) before October 1, 1990,

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

Mr. MACK. Mr. President, we are offering an amendment today to the miscellaneous tariff legislation to suspend the duty on metal oxide varistors. Before we made the transition to the harmonized tariff schedule, these metal oxide varistors entered the United States duty free.

Under the new system, this same product is subject to a 6-percent duty even though they are not produced domestically. My amendment will correct this inequity by returning this product to its duty-free status. It is my understanding that my amendment has been agreed to by both sides pending the approval of the administration. I would appreciate my colleagues' support on this amendment.

Mr. BENTSEN. Mr. President, I know of no objection to the amendment on this side, and I am pleased to support it. I urge its adoption.

Mr. DURENBERGER. Mr. President, there is no objection on the Republican side either.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1488) was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1489

(Purpose: To exempt intransit rail cars from user fees)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 1489.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 102, after line 11, insert the following new subsection:

(e) RAILROAD CARS.—Subparagraph (B) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(B) is amended to read as follows:

"(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or".

On page 102, line 12, strike "(e)" and insert "(f)".

Mr. DURENBERGER. Mr President, I believe this amendment has been cleared on both sides.

Mr. President, currently there is a customs user fee that is imposed on railroad cars arriving at ports of entry into the United States. However, current law exempts railroad cars that are "in transit"—that is railroad cars that originated in the United States, crossed over into Canada, and returned to the United States.

Recently, the Customs Service notified the railroads that it is interpreting current law to require the collection of user fees on railroad cars regardless of the "in transit" nature of their travels. As a result, Customs wants to collect fees on cars that originate in the United States, travel into Canada, and are brought back into the United States without any cargo being loaded or unloaded from the cars. Customs believes that if a single car is added or dropped off of a train or if a locomotive is switched out, a user fee will be assessed on all cars on the train, regardless of the "in transit" nature of any car's journey.

Mr. President, the current Customs interpretation virtually eliminates the application of the in-transit exemption. Railroads almost always add and drop cars as trains travel from origin to destination.

It seems to this Senator that only those cars that are dropped or added should be subject to the user fee, not the cars that are merely in-transit. That is what this amendment does.

Mr. BENTSEN. Mr. President, we have examined the amendment on this side. I see no objection to it. I think it is an equitable amendment and support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 1489) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CUSTOMS PRECLEARANCE

Mr. SYMMS. Mr. President, I wonder if I might engage my friend from Delaware in a brief colloquy on one of the provisions in this bill.

Mr. ROTH. I would be delighted to engage in a colloquy on this subject.

Mr. SYMMS. As my colleague is well aware, section 2009 of this bill requires that the Customs Service establish a Customs preclearance center in the Caribbean for 2 years as a test, in order to determine if such a center will have a beneficial impact on the economies of countries in the region. I would certainly expect that such a center would have a dramatic impact on tourism in the Caribbean, since getting in and out of crowded Customs facilities in the United States is probably the worst aspect of travel to the Caribbean.

Based on our committee discussion, I understand that my friend from Delaware had a particular country in mind for this center. Is that correct?

Mr. ROTH. I would like to thank my friend for his question, and note that I agree with him on his analysis of the importance of such a center. In response to his question, while the bill language does not specify any particular country, although it must be a country where the Customs Service does not now have such operations, I did have a country in mind.

In the Senate Finance Committee markup of this bill, I indicated my desire to have Jamaica established as the site of the equipment, and no opposition was expressed to my proposal. I believe that the center would have the most beneficial impact if established in Jamaica. That country is co-

operating with us greatly in the war on drugs, and needs strong U.S. support. Jamaica presents a challenge as a test case—given its size and the strength of the tourism industry—but I believe that it would be the perfect test case, and a far more valid one than one of the smaller countries in the region.

The only reason I did not offer this as an amendment was to avoid cluttering up the bill. I believe strongly, however, that unless there are clear and substantial reasons not to do so, the Commissioner of Customs should establish the preclearance station in Jamaica, and I intend to work with Customs to see that this occurs.

Mr. SYMMS. I would like to add my support to my colleague's statement. Jamaica has cooperated very closely with the United States, and is important to our national interests. I too strongly support putting the Customs center in Jamaica, and I will assist my colleague in his effort to ensure that this occurs.

Mr. ROTH. I thank my friend from Idaho for his support for this position and for this important bill.

SECTION 1103—26-INCH WHEEL BICYCLES

Mr. KASTEN. Mr. President, section 1003 of the bill before us contains the language of S. 1504, my bill to correct a mathematical error made during the conversion to the harmonized tariff system [HTS]. This error in converting inches to centimeters doubles the tariff rate on 26-inch bicycles, adversely affecting one of my corporate constituents, a company with over 400 employees in Wisconsin. Conversion to the HTS was intended to be revenue-neutral. Under section 1003, 26-inch bicycles will be subject to the same rate of duty as they were before conversion to HTS.

Mr. President, the U.S. Trade Representative has acknowledged that an error was made, and has no objection to this technical correction.

I thank the managers of the bill and their fine staffs for their assistance on this matter of importance to my State.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be allowed to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CUBA

Mr. GRAHAM. Mr. President, at a time when democracy and a heightened concern for human rights are sweeping the globe, Fidel Castro's Cuba stands out as one of the world's remaining bastions of oppression.

In the face of growing isolation, Castro has recently renewed his harsh crackdown on Cuba's human rights community, arresting nine members of the Pro-Human Rights Party. They were rounded up during early-morning raids on March 12 and charged with belonging to a counterrevolutionary organization.

Their real crime, however, is that each of them in some way cooperated with the United Nations in its first ever investigation of human rights in 1988. They were among a group of 20 to 30 human rights activists who attempted to do so.

For their efforts, each has been hounded by authorities ever since. Virtually all have been jailed. And their families continue to be terrorized by Castro's block organizations.

Last month's crackdown saw Castro put into play all of his assorted tools of oppression. For along with the arrests of the nine activists, Castro set loose mobs to harass those he did not pick up.

Among them was Sebastian Arcos and his brother Gustavo, leaders of the Cuban Committee for Human Rights. A crowd of 300, including uniformed members of the Interior Ministry, surrounded the Arcos home, thoroughly terrorizing family members over several days.

Castro's 31-year rule is replete with ironies. This latest episode is no exception. Gustavo was one of Castro's earliest followers, and fought alongside him throughout the revolution.

Gustavo, his brother Sebastian and many others continue to pay a steep price for their efforts to focus world attention on Castro's human rights violations.

Their sacrifice, thankfully, has not been in vain. In large part because of their testimony, the United Nations has approved resolutions in each of the last 2 years expressing concern over Castro's human rights record.

In fact, the resolution passed on March 6 of this year in Geneva called on the Government of Cuba to honor its repeated guarantees that it would not subject to reprisals, detention, or negative consequences of any nature whatsoever those who cooperated with U.N. human rights investigators.

The resolution calls on U.N. Secretary General Perez de Cuellar to continue to pressure Castro in this regard and to make known the results of his efforts at next year's meeting.

Another year is a long time to wait, particularly when lives are at stake. I urge the Members of the U.N. Human Rights Commission not to wait. Rather, they should call on the Secretary General, at least informally, to report fully as soon as possible as to recent actions within Cuba.

Mr. President, my remarks would not be complete unless I recognized the courageous work of Armando Valladares, our U.S. representative to the U.N. Human Rights Commission.

Due largely to his leadership, the world has finally become aware of the gross human rights violations that have taken place in Cuba under Fidel Castro. Armando knows of those abuses through personal experience. He himself was a prisoner in Castro's jails for 22 years.

His release in 1982 came about as a result of an international campaign of protest. He knows the values of such international pressure.

Armando deserves the gratitude of all Americans and all free citizens of the world for the many sacrifices he has made in behalf of the cause of human rights.

Mr. President, I ask unanimous consent to have printed in the RECORD an April 12 article from the Washington Post regarding the recent crackdown in Cuba, along with a copy of the resolution approved by the U.N. Human Rights Commission on April 6 of this year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 12, 1990]

CUBA CURBS RIGHTS MOVEMENT

(By Lee Hockstader)

HAVANA.—As Cuba braces for an era of economic austerity, President Fidel Castro is moving to stifle internal dissent and has all but crushed the island's fledgling human rights movement.

The repression, which has been intensifying for more than a year, follows a brief and unprecedented flowering of the Cuban human rights movement, which was tolerated for much of 1987 and 1988 by the authorities.

Today, however, human-rights activity has almost ceased to exist in Cuba. The few activists not in prison are harassed by government-organized mobs, deprived of jobs in their chosen fields or threatened by security agents.

Castro and other officials regularly refer to the activists as "worms" and "cockroaches" with "hairy ears" and have warned that Cuba's treason laws may be rewritten to cover those who question the regime's commitment to civil liberties.

In a speech last month, Castro's brother Raul, the defense minister, issued a warning to any who would question the regime: "The counter-revolutionaries and the anti-social elements . . . must be warned that to serve at this hour as the laughing stocks of imperialism is equal to becoming the greatest traitors in Cuban history."

"The formula is simple," said Ricardo Alvarez San Pedro, an economist who is a member of the Cuban Commission on Human Rights and National Reconciliation, one of the few remaining active human-rights groups.

"When we have a more rigid economic and social [situation], the government tries to maintain a hard line toward any nongovernmental organization."

The crackdown coincides with the collapse of Communist rule in Eastern Europe, a development that Castro has denounced. Cuba's already sluggish economy is widely expected to suffer as its trading partners in Eastern Europe shift to free-market principles. Castro is warning Cubans to prepare for a drastic austerity program during what he promises will be "years of trial."

Human-rights activists here say Castro is determined not to allow the seeds of a democratic movement to take root in Cuba.

The Polish Solidarity union "and all those groups in Eastern Europe started as very small groups," said Herardo Sanchez, a commission member. "Maybe that's why they're harassing us."

Moreover, according to Frank Calzon of Freedom House, a New York-based organization that monitors civil liberties worldwide, the steady democratization of Latin America has contributed to Castro's crackdown. "Cubans have always seen themselves as part of Latin America," he said in an interview. "They see a plebiscite in Chile. In Argentina, the generals forced out of power. . . . And, finally, the elections in Nicaragua, which were a tremendous setback. Castro's seeing these things happen, and he's decided not to take any risks."

At least 29 Cubans who were human-rights monitors are now in prison, according to Mary Jane Canejo, a researcher on Cuba for the Americas Watch human-rights organization. Dozens more have been detained and released this year, Cuban human-rights figures say. They add that Cuba holds at least 200 political prisoners, despite releases in recent years.

Last month, about 300 people, including uniformed members of the Interior Ministry, gathered in front of the house of Sebastian Arcos, a leader of the Cuban Committee for Human Rights, where they shouted "Down with the worms!"

Another target of derision by mobs has been Sebastian Arcos' brother Gustavo, a human-rights activist who fought alongside Castro in a celebrated 1953 attack on an army installation that marked the beginning of the Cuban revolution.

Earlier this year, a young man who shouted an anti-Castro slogan at a boxing match was hauled off by police and so badly beaten that he was hospitalized.

Enrique Lopez Oliva, a history professor at the University of Havana who in 1987 began publishing Cuba's only independent newsletter, "Religion in Cuba," had to suspend it last year after his authorization to use U.S. dollars was revoked and he could not purchase equipment.

"What they're doing is very effective," said an intellectual who considers himself a barely tolerated dissident. "No one can talk. No one can meet. Any form of protest is brutally surpressed."

At the same time, the Cuban armed forces under Raul Castro, who is thought to represent the most hard-line currents in the Cuban leadership, have expanded their already pervasive influence. For the first time, top officers are in charge of the block-by-block organizational tool, the Committees for the Defense of the Revolution, as well as the Transportation Ministry.

In addition, 200 armed forces officers were shifted last year to the Interior Ministry, which oversees the security apparatus, following an anti-corruption purge in the ministry.

Some analysts see evidence of Castro's impulse to impose strict military discipline during difficult times. "It's not just his brother, it's that he trusts the military as such," said a Western diplomat.

One indication of the harsher human-rights climate, as well as the island's deteriorating economy, is that a record number of Cubans are fleeing by boat to Florida.

Last year, 398 Cubans reached to the Florida coast, a figure more than four times higher than the 1988 total, according to the U.S. Immigration and Naturalization Service. So far this year, more than 100 have arrived by boat, raft, inner tube and, in one celebrated incident his winter, by windsurfing.

Diplomats and human-rights activists say conditions here started to deteriorate when the U.N. Human Rights Commission in Geneva voted March 5 to approve a U.S.-sponsored resolution calling for continued scrutiny of human rights on the island.

Cuba's leaders reacted bitterly to the vote and promised to ignore it. A week later, nine members of the Pro-Human Rights Party were arrested. This week, the nine were formally charged with belonging to a "counter-revolutionary organization" that was trying to change Cuba's socialist government and constitution and acting on behalf of the United States.

Seven of them had written a letter to the U.S. delegation to the Human Rights Commission in Geneva commending it on the resolution on Cuba.

Wayne S. Smith, former head of the U.S. Interest Section in Havana, attributes the human-rights crackdown in large part to Washington's policy of pressing and isolating Castro—a policy reaffirmed in the early days of the Bush administration by Secretary of State James A. Baker III.

"With the door slammed in their faces, part of the incentive in continuing the positive movement in human rights has disappeared," said Smith, a professor at The Johns Hopkins School of Advanced International Studies in Washington. "As long as we're going ahead with TV Marti, and the U.S. appears to have adopted a policy of pressure toward Cuba, I'm not optimistic that things will improve."

TV Marti, named for 19th-century Cuban national hero Jose Marti, is a U.S. government station that began test broadcasts last month beamed at Cuba. The signal has been blocked by Cuba, but the tests are continuing.

In the small community of human-rights activists still active, many say that pressure from Washington, often at the behest of Cuban exiles in Miami, has been a cause of Castro's severe policy.

"If there were a relaxation of relations with the U.S. and no talk of war or blockade or invasion or aggression or TV Marti, there'd be no arguments left for the Cuban government," said San Pedro, the economist and human-rights activist.

San Pedro, 53, who worked in a state-run international finance concern until last year, was fired in September. He said he was told that his political attitude was the cause. He now sustains himself by tutoring high school students in math and physics.

THE COMMISSION ON HUMAN RIGHTS

Recalling the reports of the mission to Cuba (E/CN.4/1989/46), in accordance with its decision 1988/106 of 10 March 1988;

Aware that this report contains questions and issues which have not been fully addressed, as well as testimony from hundreds of individuals concerning the question of human rights in Cuba;

Recalling also its decision 1989/113 of 9 March 1989, which requested the Secretary-General to maintain contacts with the Government of Cuba on the issues and questions contained in the report;

Noting the letter of the Secretary-General to the Chairman of the Commission, dated January 29, 1990, in which he informed the Commission that he has been maintaining ongoing contacts, both written and oral, with the Government of Cuba on this matter;

Expressing appreciation to the Secretary General for his efforts in support of respect for human rights and fundamental freedoms;

Concerned by reports that witnesses who testified before the Commission's working group have since been subject to arrest, harassment, or other forms of reprisals by the Government of Cuba;

Aware of its responsibility to defend and support those who have put their faith in this body and its representatives in promoting and protecting human rights and fundamental freedoms;

1. Calls upon the Government of Cuba to honor its repeated guarantees to the representatives of the Commission who visited Cuba pursuant to decision 1900/100 that individuals who attempted to present information to these representatives would not be subject to reprisals, detention, or negative consequences of any nature whatsoever;

2. Calls upon the Government of Cuba to provide a response under this agenda item to the Commission at its 47th session to the unanswered questions put to the Cuban authorities by representatives of this Commission (annex XVI of E/CN.4/1909/46) and to the Documents in Annex III of the same report;

3. Welcomes the willingness of the Secretary General to put himself at the disposal of the Commission regarding his ongoing contacts with the Government of Cuba, as expressed in his letter to the Chairman of January 29, 1990, and requests that he provide under this agenda item the results of those contacts to the 47th session.

March 1, 1990.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I ask unanimous consent that I may proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COATS-McCAIN LINE-ITEM VETO INITIATIVE

Mr. LOTT. Mr. President, I join with my other colleagues here tonight who have already addressed the issue of and expressed their support for the Coats-McCain line-item veto initiative.

I think this is something that is long overdue and something that I have found that the Mississippi people and Americans I have talked to all over this country support. They are attracted to the line-item veto idea.

While I was home during the Easter recess period, I went all over my own State of Mississippi and talked to a lot of different groups, and I asked them

what issues concerned them the most and what they thought the solutions might be. To my surprise, quite frankly, along with drugs and crime, people all over my State said they are still very much concerned about the Federal budget deficit, and they want to know what the Congress is going to do about it this year.

They asked a lot of questions about the Gramm-Rudman-Hollings process and how that works, and would there be a sequester or could we avoid that this year. They did not understand why Congress would not address the deficit problem without having to resort to a sequester.

When I asked, "What do you want to do about it?", then it really got interesting. I always ask, "Well, what about taxes? Do you think maybe we should look at the Tax Code? Would you be willing to go with more taxes, even in certain areas?", and I would specify the areas we might consider.

The answer came back universally, "No, that is not the answer." The people understand that the problem with the Federal budget deficit is not that we do not have enough revenue. It is that we are spending too much money in a number of areas. When I asked about the idea of the line-item veto, they responded universally, "That is clearly something that we support and we think would work."

The people understand, and in more than 40 States, their Governors have the line-item veto and use that veto very effectively. It helps the States and, frankly, I think it helps the State legislatures to know that that potential threat is hanging out there.

As a matter of fact, I note that the States had a cumulative surplus of some $9 billion last year, while we had a deficit at the Federal level of, I guess, $150 billion.

I think that the line-item veto and constitutional requirements in many States that they must have a balanced budget work, and the line-item veto helps. These States do their job. Even in a very poor State like my own of Mississippi, every year they live within their means. They do not spend more than they take in. In fact, they usually have a little cushion they leave in place.

In States all over this Nation, Governors have a line-item veto. I think it is long past due time for us to have it at the Federal level.

I have colleagues on both sides of the aisle who say, no, that would disrupt the balance between executive and legislative branches; the Presidents would use it as sort of a blackmail or intimidation against the Congress not to put certain things in the spending bills.

I think that sounds like a great idea. It would help us all to resist the temptation to do just that, put things in there that really should not be. Some examples have been cited of projects funded in the past, and on every list you can probably put something that would affect every Senator's State in this body.

But when you have things like $3.4 million to perform research on new methods of producing tailored clothing; $1 million earmarked in the defense budget for Japanese beetle suppression in the Azores; $8 million to continue to fund the District of Columbia lottery and charitable games enterprise fund, including 124 positions, 30 more than in 1988, you have to worry. And, the list goes on.

Mr. President, I ask unanimous consent that I be able to have this list printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

$3.4 million to perform research on new methods of producing tailored clothing;

A $26 million increase in the Pentagon's purchase of anthracite coal when DOD already owns a 4-year supply of anthracite coal and will need 45 new acres of land on which to store the new purchase. This appropriation, by the way, was made against the wishes of the Pentagon;

$1 million earmarked in the defense budget for Japanese beetle suppression in the Azores;

$8 million to continue to fund the District of Columbia lottery and charitable games enterprise fund, including 124 positions—30 more than in 1988;

And finally, one-half million dollars to bring foreign politicians to the United States to study the workings of Congress. I assume they are not our allies. Certainly we would not impose this particular process on our friends.

Mr. LOTT. I think it would be helpful for the President to have this opportunity. Would it by itself solve the deficit problem? Probably not. Is it one tool that Presidents should be able to use? I think so.

I supported the line-item veto when I first came to Congress as a Member of the House in 1973, and I have supported it during Republican administrations and Democratic administrations. It is not something I want just for President Bush or his predecessor.

I am willing to take my chances that some future President who might be of the other party or who would have a different philosophical persuasion than I have would use it carefully. It could be a very precision-type instrument that could take things out that we just do not need and save us, in the process, billions of dollars.

As the saying goes, those small millions, $1 million here and $3 million there, could add up to real money.

So I urge my colleagues to look over this concept again. We are going to have an opportunity to vote on the Coats-McCain line-item veto this year, probably more than once. I certainly support the concept, and I urge my colleagues to join in that effort.

Thank you, Mr. President.

FAVORED-NATION STATUS FOR HUNGARY

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the regular order?

The PRESIDING OFFICER. The committee substitute to H.R. 1594.

AMENDMENT NO. 1490

(Purpose: To encourage greater sales of U.S. products and to further the integration of production between the United States and the CBI beneficiary countries)

Mr. KERRY. Mr. President, I send an amendment to the desk which has been cleared by both sides, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 1490.

Mr. KERRY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, line 5, after "assembled" insert "or processed".

On page 75, line 7, after "components" insert "or materials".

On page 75, line 20, after "assembled" insert "or processed".

On page 75, line 21, after "components" insert "or materials".

On page 76, line 5, after "components" insert ", materials".

Mr. KERRY. Mr. President, my amendment is simple and straightforward. It involves adding only five words to section 2007 of H.R. 1594. Section 2007 deals with duty-free treatment for articles assembled in CBI beneficiary countries from components produced in the United States.

My amendment would allow such duty-free treatment for articles, or materials, produced in the United States, but which also are processed in the beneficiary countries as well.

This amendment is addressed to the particular requirements of high-technology companies and those companies which produce such things as health devices. These companies have production requirements which are unlike those companies who produce components in the United States, send the components to the beneficiary countries for assembly, and then return the end product directly to the United States for sale here. In the case of high-technology companies which produce electronic equipment or health devices, the product requires extensive processing as the final stage in the manufacturing process.

There are high-technology companies, some of them in my State, who

have responded to the urging of this administration and the previous administration to take advantage of CBI and invest in the Caribbean. However, Customs has ruled that under existing law, since the end product is not assembled or substantially transformed in the beneficiary country, the end product is not eligible for CBI duty-free treatment when it is returned to the United States.

Because of this problem, many companies in my State which produce high-technology products such as electronic equipment, or health devices, would invest in processing facilities in CBI beneficiary countries if it were not for the problems posed by Customs' interpretation of existing law. My amendment remedies this problem.

This amendment is designed to protect jobs in the United States while responding to a major foreign policy initiative of our Government—investing in the Caribbean and Central America to create the jobs necessary to begin bringing stability to that region of the world. The high-technology industry in the United States has been one of the hardest hit by foreign competition—often unfair foreign competition. If this provision were enacted into law, it would place many of our high-technology firms in a much more competitive position internationally. If not, I can assure my colleagues, that based upon discussions I have had with businessmen in my State, the Japanese will virtually take over completely the production of many high-technology products.

Mr. President, I am not aware of any opposition within the administration to this amendment. I think it makes good domestic policy and I think it makes good foreign policy.

The report accompanying H.R. 1233, the House-passed version of CBI II, stated that the provisions of the legislation were intended to provide an incentive for assembly and processing facilities in the Caribbean when only U.S. components or ingredients are used. The report stated further that section 113 of the House-passed bill, which is identical to section 2007 of H.R. 1594, was to encourage greater sales of U.S. products and further integration of production between the United States and the Caribbean.

Unfortunately, according to Customs, unless the amendment I am proposing is adopted, this goal will not be achieved. Therefore, I am hopeful the distinguished managers of the bill will accept my amendment.

Mr. President, this is a simple amendment that deals with the question of the treatment of those products which are not assembled or substantially transformed in beneficiary countries of the CBI, but adversely treated by Customs under the current interpretation of the law. By virtue of this amendment, which is very simple, it simply adds five words to the current section of H.R. 1594, this would permit certain high-technology companies to be able to invest in the CBI countries, maintain jobs in this country, advance the concepts of the CBI, and simultaneously be able to be competitive in the world in these high technologies.

It has been, as I say, cleared by both sides as well as by the administration, and I hope the Senate will agree to it.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I have been authorized by the chairman of the Finance Committee to indicate that the committee has no objection to this amendment.

CBI PROCESSING OF U.S. MATERIALS

Mr. BENTSEN. Mr. President, the amendment offered by the Senator from Massachusetts expands on a provision that is currently in the bill regarding duty-free treatment for articles assembled in CBI countries from U.S. components. This amendment would clarify that the amendment covers U.S. materials that are processed in CBI countries. That provision only applies to products eligible for duty-free treatment under the CBI and was not controversial in the committee.

It is my understanding that the administration does not object to the provision, and I know of no Senator that objects. Therefore, I am willing to accept the provision, on the understanding that if controversy arises in the conference, I would be inclined to drop the amendment.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I have examined the amendment, and I have conferred with the staff of the minority and Senator PACKWOOD's staff. It is my understanding there is no objection from those quarters.

I have no objection to the amendment, and I urge its adoption by our colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 1490) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I yield the floor.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on April 18, 1990, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations and a treaty, which were referred to the appropriate committees.

(The nominations received on April 18, 1990, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISED DEFERRALS OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 107

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified on April 18, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Armed Services, the Committee on Finance, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three revised deferrals of budget authority now totaling $2,097,533,159.

The deferrals affect programs in Funds Appropriated to the President and the Departments of Defense and Health and Human Services. The de-

tails of the deferrals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1990.*

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT—PM108

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(b)), I am pleased to transmit herewith the 24th Annual Report of the National Endowment for the Humanities for fiscal year 1989.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1990.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on April 18, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2015. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 271. Concurrent resolution expressing the sense of the Congress that the President should make the release of Americans held hostage in Lebanon a high priority and should accelerate efforts to this end; and

H. Con. Res. 289 Concurrent resolution in support of the right of the Lithuanian people to independence.

The message further announced that the House has agreed to the following resolution:

H. Res. 377. Resolution relating to the death of the Honorable Spark M. Matsunaga, a Senator from the State of Hawaii.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 1096. An act to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission; and

H.R. 2334. An act to designate the Post Office located at 300 East Ninth Street in Austin, Texas, as the "Homer Thornberry Judicial Building."

The enrolled bills were subsequently signed on today, April 19, 1990, by the Acting President pro tempore [Mr. LIEBERMAN].

MESSAGES FROM THE HOUSE

At 1:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week."

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1236. An act to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 242. Joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims Rights Week."

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. LIEBERMAN].

At 5:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 153. Joint resolution designating the third week on May 1990 as "National Tourism Week."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1236. An act to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing; to the Committee on the Judiciary.

H.R. 2015. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 271. Concurrent resolution expressing the sense of the Congress that the President should make the release of Americans held hostage in Lebanon a high priority and should accelerate efforts to this end; to the Committee on Foreign Relations.

H. Con. Res. 289. Concurrent resolution in support of the right of the Lithuanian people to independence; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 19, 1990, he had presented to the President of the United States the following enrolled bill:

S. 1096. An act to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 2466. A bill to amend title XXI of the Public Health Service Act to provide for the establishment of an atmospheric nuclear testing compensation program, and for other purposes (Rept. No. 101-264).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 198. A bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs (Rept. No. 101-265).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 459. A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space (Rept. No. 101-266).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 1622. A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments (Rept. No. 101-267).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1271. A bill to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments (Rept. No. 101-267).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 3046. A bill to reduce the number of commissioners on the Copyright Royalty Tribunal, to change the salary classification rates for members of the Copyright Tribunal and the U.S. Parole Commission and for the Deputy and Assistant Commissioners of Patents and Trademarks, and for other purposes (Rept. No. 101-268).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute.

S. 1272. A bill to amend chapter 8 of title 17, United States Code, to reduce the number of Commissioners on the Copyright Royalty Tribunal, to provide for lapsed terms of such Commissioners, and for other purposes (Rept. No. 101-268).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON (by request):

S. 2454. A bill to amend title 38, United States Code, to increase the estate limits for certain incompetent institutionalized veterans, and for other purposes; to the Committee on Veterans' Affairs.

S. 2455. A bill to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, and for other purposes; to the Committee on Verterans' Affairs.

S. 2456. A bill to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans' Affairs to contract for needed care, to revise VA authority to furnish outpatient dental care, and for other purposes; to the Committee on Veterans' Affairs.

S. 2457. A bill to amend title 38, United States Code, to revise the copayment formulas for those nonservice-connected veterans with the means to contribute toward the cost of their care; to the Committee on Veterans' Affairs.

S. 2458 A bill to amend title 38, United States Code, to improve the pay system for registered nurses employed by the Veterans Health Services and Research Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. RIEGLE, Mr. MITCHELL, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DASCHLE, and Mr. PRYOR):

S. 2459. A bill to amend title XIX of the Social Security Act to provide improved delivery of health care services to low-income children by extending Medicaid coverage to certain low-income children, and for other purposes; to the Committee on Finance.

By Mr. PELL (by request):

S. 2460. A bill to authorize appropriations for the African Development Foundation, and for other puposes; to the Committee on Foreign Relations.

By Mr. KENNEDY:

S. 2461. A bill to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WIRTH (for himself and Mr. HEINZ):

S. 2462. A bill to amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FOWLER (for himself, Mr. HEFLIN, Mr. PRYOR, Mr. HELMS, Mr. MCCONNELL, Mr. HOLLINGS, Mr. SARBANES, and Mr. COCHRAN):

S. 2463. A bill to reaffirm the importance of State and private forestry, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for himself and Mr. BRYAN):

S. 2464. A bill to establish the Red Rock Canyon National Conservation Area; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY (for himself, Mr. HEFLIN, Mr. HATCH, Mr. HUMPHREY, Mr. BIDEN, Mr. SPECTER, Mr. SIMON, Mr. LEVIN, Mr. LIEBERMAN, Mr. MURKOWSKI, and Mr. DECONCINI):

S. 2465. A bill to provide a new civil cause of action in Federal law for acts of international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals; to the Committee on the Judiciary.

By Mr. HATCH:

S. 2466. A bill to amend title XXI of the Public Health Service Act to provide for the establishment of an atmospheric nuclear testing compensation program, and for other purposes; from the Committee on Labor and Human Resources; placed on the calendar.

By Mr. ARMSTRONG (for himself, Mr. HELMS, and Mr. SYMMS):

S. 2467. A bill to amend the Internal Revenue Code of 1986 to provide civil damages for certain careless collection actions; to the Committee on Finance.

By Mr. BREAUX:

S. 2468. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste, to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CHAFEE (by request):

S. 2469. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

S. 2470. A bill to provide for increased revenues for the maintenance of commercial harbors by the Army Corps of Engineers, and for other purposes; to the Committee on Finance.

By Mr. FORD (for himself and Mr. LEAHY):

S. 2471. A bill to provide for a study of the National School Lunch Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL (by request):

S. 2472. A bill to establish a senior executive service in the Library of Congress; to the Committee on Rules and Administration.

By Mr. FOWLER (for himself and Mr. NUNN):

S. 2473. A bill to extend and revise the price support and related programs for the 1991 through 1995 crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, Mr. PRESSLER, and Mr. WIRTH):

S. 2474. A bill to authorize an exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 2475. A bill to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. HUMPHREY, and Mr. KOHL):

S. 2476. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

By Mr. PELL:

S. 2477. A bill to establish an Office of Recycling Research and Information in the Department of Commerce, to require research on the recycling of scrap automotive tires, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRADLEY:

S. 2478. A bill to provide for the extension of a Medicaid respite demonstration project; to the Committee on Finance.

By Mr. SIMON:

S.J. Res. 289. Joint resolution to designate October 1990 as "Polish American Heritage Month"; to the Committee on the Judiciary.

By Mr. ARMSTRONG (for himself and Mr. GLENN):

S.J. Res. 290. Joint resolution to designate the week of July 22 through 28, 1990, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; to the Committee on the Judiciary.

By Mr. HATCH:

S.J. Res. 291. Joint resolution designating the week of October 14, 1990, as "National Standards Week"; to the Committee on the Judiciary.

By Mr. PELL:

S.J. Res. 292. Joint resolution to designate the year 1991 as the "Year of the Lifetime Reader"; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. GORE, Mr. BURDICK, Mr. DECONCINI, Mr. GLENN, Mr. LAUTENBERG, Mr. METZENBAUM, Mr. CRANSTON, Mr. BENTSEN, Mr. KERRY, Mr. ROCKEFELLER, Mr. DIXON, Mr. BOREN, Mr. ADAMS, Mr. HOLLINGS, Mr. GRAHAM, Mr. LIEBERMAN, Mr. D'AMATO, Mr. CHAFEE, Mr. WILSON, Mr. DOMENICI, Mr. MCCLURE, Mr. BOSCHWITZ, Mr. HATCH, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. THURMOND, Mr. JEFFORDS, and Mr. COATS):

S.J. Res. 293. Joint resolution to designate November 6, 1990, as "National Philanthropy Day"; to the Committee on the Judiciary.

By Mr. PELL (for himself, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. COCHRAN, Mr. HATCH, Mr. DODD, Mr. JEFFORDS, Mr. SIMON, Mr. THURMOND, Ms. MIKULSKI, Mr. COATS, Mr. ADAMS, and Mr. DURENBERGER):

S.J. Res. 294. Joint resolution to designate May 4, 1990, as "Department of Education Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself, Mr. HUMPHREY, Mr. PELL, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. CRANSTON, Mr. HELMS, and Mr. MITCHELL):

S. Res. 272. Resolution expressing the sense of the Senate regarding the famine in Sudan; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. Con. Res. 122. Concurrent resolution to establish an Albert Einstein Congressional Fellowship Program; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (by request):

S. 2454. A bill to amend title 38, United States Code, to increase the estate limits for certain incompetent institutionalized veterans, and for other purposes, to the Committee on Veterans' Affairs.

VETERANS' PROGRAMS IMPROVEMENT ACT OF 1990

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2454, the proposed Veterans' Programs Improvement Act of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 10, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 10, 1990, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Veterans' Programs Improvement Act of 1990."

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. Section 3203(b)(1)(A) is amended—

(a) by striking out "$1,500" and inserting in lieu thereof "$4,500"; and

(b) by striking out "$500" and inserting in lieu thereof "$1,500".

SEC. 4. Section 312(c)(3) is amended by striking out all after "radiation-risk activity" and inserting in lieu thereof a period (".").

SEC. 5. Section 3203(a)(1) is amended—

(a) in subparagraph (A), by striking out "third" and inserting in lieu thereof "twelfth";

(b) in subparagraph (B), by striking out "third" and inserting in lieu thereof "twelfth"; and

(c) by adding at the end thereof the following new subparagraph:

"(E) Upon discharge, the amount which would be payable but for subparagraph (A), (B), or (C) of this paragraph shall be paid to the veteran in a lump sum; *Provided, however,* That in no event may such sum exceed the amount of $10,000; and provided further that, pursuant to regulations to be provided by the Secretary, such amount may be made available to such veteran prior to discharge for the sole purpose of facilitating placement of such veteran outside the institution."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 10, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to increase the estate limits for certain incompetent institutionalized veterans, and for other purposes." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

The bill has three substantive provisions which would: (1) increase the estate limits for certain incompetent institutionalized veterans; (2) lengthen the presumptive period for service connection for leukemia incurred by participants in certain radiation-risk activities; and (3) liberalize pension-reduction rules for certain veterans in nursing homes and domiciliaries.

INCREASE IN ESTATE LIMITS

Section 3 of the draft bill would increase the estate limits for certain incompetent institutionalized veterans.

Currently, section 3203(b)(1)(A) of title 38, United States Code, requires the Department of Veterans Affairs (VA) to suspend disability compensation or pension payments or emergency officers' retirement pay when a veteran, who has neither spouse nor child and is being furnished hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated incompetent by VA, and the veterans' estate from any source equal or exceeds $1,500. The suspension lasts until the estate is reduced to $500.

Section 3 would amend 38 U.S.C. §3203(b)(1)(A) to raise the upper estate limit to $4,500, or approximately three months' benefits at the 100-percent service-connected rate, and raise the lower limit to $1,500, or approximately one month's benefits at the 100-percent service-connected rate.

The "$1,500 rule," as it has come to be known, was enacted to prevent the accumulation of large estates of Federal benefits which would be inherited by persons who had no original entitlement to those benefits during the veteran's lifetime. The current limits are no longer realistic in terms of today's economics or administrative processing. When it was enacted in 1933, the $1,500 estate limitation represented the accumulation of a year or more of benefits. At today's 100-percent service-connected rate, the limit represents only about one month's benefits.

Because of the types of disabilities that result in incompetency ratings, many veterans who are potentially subject to the $1,500 rule are in and out of hospitals and other institutions on a regular basis. Their stays may last a few days or several weeks. Each stay must be reported to the VA regional office of jurisdiction so that a determination can be made by an adjudicator as to whether the veteran's award should be adjusted. The current value of the veteran's estate must be verified by an estate analyst through review of available records or by direct contact with the veteran's fiduciary. In many instances notification that the veteran was institutionalized and notice of verification of the size of the estate may not reach the adjudicator for award adjustment in a timely fashion. Since the payment of one month's benefits at the 100-percent rate will in all likelihood put the veteran over the current income limit, award action will be required to suspend further payments while the veteran is institutionalized. By the time that notification is received and award action taken, more than one month's benefits will have been paid and an overpayment created.

If the veteran continues to be institutionalized, the debt must be collected from the estate. On occasion, a fiduciary will challenge in court the propriety of the debt. Even if VA prevails in court, an administrative cost to the Department and the veteran is incurred. If the veteran is released from institutionalization and the award is reinstated, the debt is collected from the running award. However, in many areas of the country, particularly those where the cost of living is high, it may be difficult for the veterans to reenter the community with limited or no assets as a result of VA's attempt to collect the debt from either the estate or the running award. Further, in many cases, awards are alternately suspended and resumed every other month, compounding the volume of transactions and the potential for overpayments.

Elevating the estate limititation to $4,500 will create an administrative buffer which will decrease the number of award transactions, provide more timely administrative processing thereby decreasing the number of overpayment actions, provide for a reasonable economic base to facilitate the veteran's reentry to the community after institutionalization, and still keep at a relatively low level the value of the estate subject to distribution to remote heirs.

While it would be possible to employ an adjusted benefit rate to deal with this problem—as is done in the case of certain veterans without dependents who are in nursing homes or domiciliaries for more than three months—VA has concluded that such an approach would not be appropriate in this instance. The purpose of the $1,500 rule is to prevent the accumulation of estates composed of Federal benefits that potentially will be inherited by persons who had no original entitlement to those benefits. The estate limitation has nothing to do with the financial needs of the veteran, although it is assumed that the financial needs of a government-institutionalized, incompetent veteran without dependents are greatly reduced. Merely reducing the rate at which funds accumulate would still permit the accumulation of sizable estates in cases of lengthy institutionalization.

As a further protection against the unwarranted accumulation of estates, VA is forwarding under separate cover another draft bill "To amend title 38, United States Code, to limit the amount of funds held by fiduciaries of incompetent veterans subject to inheritance by nondependent heirs." That bill would implement the recommendations made in the VA Inspector General's 1988 report on payments to incompetent veterans. This proposal would limit the amount of accumulated veterans' service-connected compensation payments which could be inherited by nondependent heirs of incompetent veterans by providing that whenever the estate of such a veteran exceeds $25,000, no further payments of compensation will be made until the estate is reduced to

$10,000. Together, these measures would provide both realistic estate limits to institutionalized incompetent veterans and generally limit estate accumulation among incompetent veterans who have no dependent heirs.

Based upon a recent sampling of ten percent of VA's regional offices, we estimate that each month approximately 588 incompetent veterans have their benefits suspended or resumed as a result of the $1,500 rule. Many of these actions result in overpayments and collection actions. We believe that raising the estate-valuation limitations as proposed in section 3 will significantly reduce the number of transactions, overpayments, and collection actions currently attributable to the $1,500 rule. While we are unable to accurately predict whether the administrative savings would fully offset the additional benefit costs associated with this proposal, we believe the proposals more than justified on the grounds that the current limitations are patently unrealistic and are burdensome both to the veterans affected and to VA.

LENGTHENING OF PRESUMPTIVE PERIOD FOR LEUKEMIA

Section 4 of the draft bill would amend 38 U.S.C. § 312(c)(3), regarding presumptive periods for service connection of diseases associated with participation in radiation-risk activities, so that the period in which leukemia must become manifest would be increased from 30 to 40 years.

Current law, 38 U.S.C. § 312(c)(3), provides a presumption of service connection for certain diseases which become manifest to a degree of 10 percent or more within 40 years of participation in a "radiation-risk activity." The term "radiation-risk activity" refers to onsite participation in a nuclear weapons test or certain service in Japan during World War II. In the case of leukemia, however, the condition must have become manifest within 30 years of participation.

A claimant may also seek disability compensation based upon service connection under VA regulations promulgated under the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Public Law No. 98-542. Those regulations originally provided in 38 C.F.R. § 3.311b(b)(4)(i) that, in order for leukemia to be considered radiogenic, it must become manifest within 30 years of exposure. However, as the result of revised data based on the Life Span Study of the Japanese atomic bomb survivors which showed leukemia arising later in life than originally determined, the Veterans' Advisory Committee on Environmental Hazards has recommended that the time restriction for the manifestation of leukemia be deleted. VA has amended its regulations to incorporate this recommendation. *See* 54 Fed. Reg. 42,802 (1989).

Amendment of 38 U.S.C. § 312(c)(3) as contemplated in the draft bill would eliminate the 30-year manifestation period for leukemia and bring the manifestation period for that disease in line with those for other diseases covered by section 312(c). In the interest of consistency, VA believes that 38 U.S.C. § 312 should be amended to delete the requirement that leukemia become manifest within 30 years of exposure to radiation in order to warrant presumptive service connection. However, because section 312(c) creates presumptions, whereas section 3.311b of VA's regulations merely identifies diseases which may be considered radiogenic, the same open-ended manifestation period now used in the regulation for leukemia need not be incorporated in the statute.

We estimate the benefit cost of section 4 to be less than $1 million in any year. The administrative cost would be less than $100,000 in any year.

LIBERALIZATION OF PENSION REDUCTION PROVISIONS

Section 5 of the draft bill would liberalize pension-reduction provisions applicable to certain veterans without dependents by extending the time period before reduction takes place and permitting payment of withheld benefits upon discharge.

Under current law (38 U.S.C. § 3203(a)), as amended by Section 111 Public Law No. 101-237, disability pension is subject to reduction when a veteran without spouse or child is provided certain institutional care at VA expense. Specifically, when a veteran pensioner without spouse or child is furnished domiciliary or nursing home care by VA, pension may not exceed $90 monthly commencing with the first day of the fourth calendar month following the month of admission for such care. If such a veteran is furnished hospital treatment by VA, pension is not reduced. Upon authorized release from care, payments are resumed from the date of discharge. The veteran is not entitled to payment of the amounts that were withheld.

The reduction provision was originally enacted based on the assumption that, in the case of a veteran without dependents, his or her needs are substantially met by the bed and board received from VA. These provisions, however, have been criticized for many years. Even though institutionalized, the single veteran may have continuing obligations—such as payments on a house, furniture, or an automobile—which often cannot be met while receiving reduced benefits. Thus the current system often leaves a veteran with the difficult choice of remaining in the nursing home or domiciliary until able to function independently, and losing home and personal possessions, or of leaving the institution prematurely in order to meet continuing obligations. If the veteran remains long enough for the reduction to go into effect, the institutional stay may be unnecessarily prolonged since it is difficult to place the veteran back in the community when he or she lacks funds for a security deposit and other expenses.

VA does not believe that abolishing reductions for pensioners in domiciliaries and nursing homes would remedy the basic problems, since there are veterans who are maintained at VA expense for extended periods. However, VA believes that if hardship and unnecessary institutionalization are to be avoided, reductions should be reserved for veterans who will receive extended care from VA for the foreseeable future. We believe that a reduction taking effect upon the expiration of 12 months following admission would serve this purpose.

Further, VA believes that, in the situation where, due to lengthy institutionalization, a veteran's benefits are reduced, the law should be amended to provide that benefits withheld be released upon discharge, as is currently done with old-law pensioners reduced after 6 months. This money would then be available to reestablish the veteran in the community. We know that social workers at VA institutions often find it difficult to place veterans unless there is money available prior to discharge for expenses such as security deposits and first months' rent. To alleviate such problems, section 5 of the draft bill provides that the money withheld may be made available prior to discharge for the sole purpose of facilitating placement outside the institution.

There is concern that in some cases the potentially large sums of withheld benefits which could be released by VA under this proposal would exceed the needs of the veteran and only serve to increase estates which may eventually pass to remote heirs. Section 5 addresses this concern by limiting to $10,000 the maximum amount of withheld benefits which could be released.

Enactment of section 5 would result in an annual cost increase as follows:

Benefit costs

Fiscal year:	*Millions*
1991	$9.0
1992	8.9
1993	8.8
1994	8.7
1995	8.6
Five year total	44.0

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosure.

SECTION-BY-SECTION ANALYSIS OF THE VETERANS' PROGRAMS IMPROVEMENT ACT OF 1990

Section 1 establishes the "Veterans' Programs Improvement Act of 1990" as the short title.

Section 2 proves that all references in the bill to an amendment to or repeal of a section or provision shall be considered to be to or of title 38, United States Code, unless otherwise specified.

Section 3 amends 38 U.S.C. § 3203(b)(1)(A) by replacing the amounts "$1,500" and "$500" with "$4,500" and "$1,500", respectively. This amendment would raise the estate limits which apply to certain incompetent institutionalized veterans. Under current law, where an incompetent veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care at government expense, payments of VA pension or compensation or of emergency officers' retirement pay are suspended when the veteran's estate equals or exceeds $1,500. The suspension continues until the estate is reduced to $500. This amendment would raise those limits to $4,500 and $1,500, respectively.

Section 4 amends 38 U.S.C. § 312(c)(3), relating to diseases associated with participation in tests of nuclear weapons, by striking everything following the phrase "radiation-risk activity" and inserting in lieu thereof a period. As a result of this amendment, leukemia, in order to be considered associated with a radiation-risk activity, must become manifest within 40 years after participation in the activity, rather than the 30 years specified in current law.

Section 5 liberalizes pension-reduction provisions for certain veterans in VA nursing homes and domiciliaries. This section amends 38 U.S.C. § 3203(a)(1) to provide that: (a) no pension in excess of $90 per month could be paid to a veteran having neither spouse nor child who is being furnished domiciliary or nursing home care by VA after the end of the twelfth full calendar month following the month of admission; and (b), upon discharge, the amount which would be payable but for this reduction shall be paid to the veteran in a lump

sum; provided, however, that in no event may such sum exceed the amount of $10,000; and provided further, that, pursuant to regulations to be prescribed by the Secretary, such amounts may be made available to such veteran prior to discharge for the sole purpose of facilitating placement of such veteran outside the institution.

By Mr. CRANSTON (by request):

S. 2455. A bill to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a non-service-connected disability, and for other purposes; to the Committee on Veterans' Affairs.

MEDICAL CARE COST RECOVERY AMENDMENTS OF 1990

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2455, the proposed Medical Care Cost Recovery Amendment of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 3, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 3, 1990, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Medical Care Cost Recovery Amendments of 1990".

(b) Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Subsection 629(a)(2)(D) is amended to read as follows: "(D) that is incurred by a veteran who is entitled to care (or payment of the expense of care) under a health-plan contract.".

SEC. 3. Subsection 629(c)(2)(B) is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with", and inserting in lieu thereof "if provided by".

SEC. 4. Subsection 629(g) is amended to read as follows:

"(g)(1) There is established in the Treasury of the United States a separate fund to be known as the Department of Veterans Affairs Third Party Medical Recoveries Fund (hereafter referred to in this section as the "Fund"). The Fund shall be established with collections from third party medical care cost recovery activities and be available to the Secretary, to the extent provided for in advance in appropriations acts, for necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter. Such necessary expenses shall include personnel and administrative costs (including costs of equipment, computer hardware and software, word processing and telecommunications equipment, supplies and furniture, and personnel training and travel), the costs of any contract for identification, billing, or collection services, and any other necessary expenses. The Fund shall also be available to reimburse the Secretary for such services and utilities, including light, water, and heat, as the Secretary may furnish for its activities. Reasonable charges, to be determined by the Secretary, shall be paid by the Fund for the services and utilities so furnished.

"(2) The Secretary may transfer to the Fund in Fiscal Year 1991 from the Medical Care Appropriation such full-time equivalent employees (not to exceed 500 full-time equivalent employees) as have heretofore been devoted to third party medical recovery activities and funded from the Medical Care Appropriation, and sufficient funds to pay the first-year salaries of such employees and related costs (not to exceed $18,600,000).

"(3) By January 1 of each year, there shall be deposited into the Treasury of the United States as miscellaneous receipts an amount equal to the greater of the unappropriated or unobligated balance remaining in the Fund at the close of the prior fiscal year.".

SEC. 5. Subsection 629(i)(1)(A) is amended by adding at the end thereof the following new sentence:

"For purposes of this section, such term includes a Medicare supplemental insurance policy as defined in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)), and with respect to such a policy, Department of Veterans Affairs medical facilities and personnel shall be deemed Medicare-participating providers, and medical services covered by such a policy and furnished by the Department of Veterans Affairs shall be deemed Medicare-covered services.".

SEC. 6. This bill shall take effect on October 1, 1990.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 3, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, and for other purposes."

The measure would permit VA to recover from health insurers the cost of care furnished to a service-connected veteran for treatment of a nonservice-connected disability. Current law limits recoveries to health plan contracts of veterans with no service-connected disabilities.

Under the provisions of 38 U.S.C. § 629, the United States may recover from crime victims' programs, automobile reparations insurance, workers compensation laws, and health insurance plans, the cost of medical care furnished by the Department of Veterans Affairs. Except with respect to health insurance, recoveries may be had from each of these sources, as well as from tort feasors pursuant to the Federal Medical Care Recovery Act, 42 U.S.C. §§ 2651-2653, for the reasonable cost of care furnished for a nonservice-connected disability, whether or not the veteran also has a service-connected disability. The proposal would, therefore, make VA's third party medical care cost recovery program more consistent.

Where a veteran has paid premiums for health care coverage, it is only reasonable that the Government should recover its cost of care from the insurer when the veteran receives the care in a VA facility. This is especially so when, as would be the case, the recovery by the United States has no measurable impact on the veteran.

The proposal would also create a Third Party Medical Recoveries Fund ("the Fund"), to be separate and apart from the Medical Care Account. Amounts collected from third parties would be deposited in the Fund. The costs of identification, billing and collecting, currently funded from the Medical Care Appropriation, would be defrayed instead out of the collections deposited in the Fund, whether such costs were incurred in the use of VA or a contractor's services. Annually, the excess of collections over the lesser of the amount appropriated to or obligated by the Fund would be deposited in the Treasury as miscellaneous receipts.

This provision is designed to remove the current disincentive to vigorous pursuit of these collections because, while recoveries are paid into the Treasury, the VA's cost of collection must come from one of its appropriation accounts, usually the Medical Care Account. The amendment will provide VA the flexibility to choose to contract for services or utilize its own personnel, whichever is more efficient.

The Fund would be initially staffed and funded with up to 500 FTEE and $18.6 million transferred from the Medical Care Account, representing resources currently devoted to third party medical care cost recovery. In addition, the President's Budget has requested that an additional 300 FTEE be added to the program in Fiscal Year 1991. These additional resources are expected to cost $6.4 million, and would be defrayed from collections deposited into the Fund.

The proposal would also clarify the amount of an insurer's liability to VA for the reasonable cost of care furnished for a nonservice-connected disability. Some insurers have insisted on discounting VA's medical care charges without reference to the cost of similar care in the community. As currently drafted, the statute permits the insurer to make payments for care based upon reasonable cost as determined by the Secretary or in accordance with "the prevailing rates at which the third party makes payments under comparable health-plan contracts" with non-Federal facilities in the geographic area. The intent of this provision was to permit the insurer to pay the usual and customary cost of care rather than the VA determined charge when, for example, the cost in the particular medical community was lower, for example, the cost in the particular medical community was lower than the VA charges. The amendment would clearly indicate the insurer's option to pay either the VA determined charges or the amount usually and customarily paid for similar medical services in the community.

Another provision of the draft bill would clarify VA's authority to collect from Medicare supplemental (medigap) insurance policies. Section 629 excludes from the definition of "health-plan contract" the Medicare and Medicaid programs, and VA, therefore, does not submit bills to either program. While many medigap insurers reimburse VA, a number of insurers have taken the position that, because VA may not collect from Medicare, there is no liability on medigap policies. The amendment will make it clear that such policies are, indeed, liable to reimburse VA as if the care had been furnished by a private Medicare provider.

We estimate that enactment of Sections 3 and 5 of the draft bill would have an insignificant impact on recoveries and administrative costs. Enactment of Section 2 of the proposal would result in increased recoveries estimated at $111,570,000 in the first year and $597,033,000 over the first 5 years, with administrative costs to be absorbed within the total resources available for billing and collection activity as provided for the Third Party Medical Recoveries Fund. We estimate that enactment of Section 4 of the draft bill, establishing the Fund, together with approval of the President's Budget request for additional resources, would result in increased recoveries in the first year of $254 million, and $682 million over the first 5 years, with first-year and 5-year increased costs of $6.4 million and $34.2 million, respectively.

The Office of Management and Budget advises that there is no objection to the submission of the proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosures.

SECTION-BY-SECTION ANALYSIS

Section 1(a) of the draft bill states the bill's title: "Medical Care Cost Recovery Amendments of 1990".

Section 1(b) of the draft bill states that except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Section 2 of the bill would amend section 629(a)(2)(D) to provide for third-party reimbursement of the United States for the cost of health care and services furnished a service-connected disabled veteran by the Department of Veterans Affairs for treatment of a nonservice-connected disability. The present law applies to a nonservice-connected disability that is incurred by a veteran who is entitled to care under a health-plan contract and who does not have a service-connected disability.

Section 3 of the bill would clarify language in section 629(c)(2)(B) specifying the amount of an insurer's liability to VA for the reasonable cost of medical care or treatment furnished to a veteran who has no service-connected disabilities. As currently drafted, the statute permits the insurer to make payments for care based upon reasonable cost as determined by the Secretary or in accordance with "the prevailing rates at which the third party makes payments under comparable health-plan contracts" with non-Federal facilities in the geographic area. The intent of this provision was to permit the insurer to pay the usual and customary cost of care rather than the VA determined charges when, for example, the cost in the particular medical community was lower than the VA charges. Some insurers, however, have cited this provision as authority to discount the VA determined charges by a percentage as is often done in agreements between Blue Cross and Blue Shield plans and so-called participating or member hospitals. This practice is being employed even where the VA determined charges are less than the usual and customary charge in the private sector (GAO has reported that VA's national per diem rates understate the actual cost of VA care. See Opportunities to Increase VA's Medical Care Cost Recoveries, GAO/HRD-84-31, Feb. 13, 1984). In addition, a number of Blue Cross and Blue Shield plans have insisted that VA agree to discount its charges as a condition to granting VA medical centers member or participating hospital status. While VA medical centers will continue to endeavor to become participating providers with the various Blue Cross and Blue Shield plans, this should have no effect on VA's recovery under the statute. According to the Blue Cross and Blue Shield Association, more than 95 percent of acute care hospitals in the United States are Blue Cross member hospitals (Plain Talk, Blue Cross and Blue Shield Association, 1987). Member hospitals are generally paid a higher percentage of their charges than nonmember hospitals, in accordance with the subscriber's plan. Indeed, in some states, bills from nonmember hospitals are not honored at all. Such provisions in Blue Cross or other insurance plans amount to exclusionary clauses which are prohibited by the statute. The statute provides the insurer with the choice of making payment at the VA determined rate, or, in the alternative, the amount usually and customarily paid for similar services in the community. The alternative amount should be based upon what Blue Cross or other insurer customarily pays to its member hospitals, whether or not the VA medical center has entered into an agreement. This is the approach taken by Empire Blue Cross of New York, as well as a number of other insurers.

Section 4 of the bill would amend section 629(g) to provide for a Third Party Medical Recoveries Fund and would authorize the Department to retain its costs of identification, billing and collection incurred by contracting out from collection services or by utilizing the services of VA employees, to the extent authorized in annual appropriations acts. The Fund may pay the cost of contractors' services, not only for collecting amounts owed the Government, but also for identifying new cases and generating bills for the appropriate third parties. Thus, the limitations on authority to contract under the Debt Collection Act of 1982, as set out in 64 Comp. Gen. 366, are not applicable.

Section 5 of the bill would clarify the VA's authority to collect from Medicare supplemental insurance (medigap) policies. Section 19013 of Public Law 99-272, which reenacted 38 U.S.C. § 629, gave VA authority to collect from health care plans the cost of medical care furnished to veterans with no service-connected disabilities. The Medicare and Medicaid programs, however, were explicitely excluded from the definition of health-plan contract, there being no useful purpose in moving Federal funds from one program to another. Medigap plans are offered to individuals who are eligible for Medicare, and provide reinbursement for the costs of care for which payment may be made under Medicare but which are not reimbursable by reason of deductibles, coinsurance amounts, or other limitations imposed by the Medicare law. While many insurers who offer these plans reimburse VA, a number of insurers have taken the position that, because VA may not collect from Medicare, there is no liability on medigap policies.

The specific reference to Medicare supplemental plans added by the bill is designed to allay any doubts as to whether medigap plans are required to reimburse VA under the program. For purposes of the recovery provisions in section 629, medigap insurers must treat VA medical centers and personnel as if they were non-Federal hospitals and health care providers participating in the Medicare program. The medigap insurer must reimburse VA as if the claim had been previously submitted to and processed under Medicare. If the insurer is unable to determine its liability from the VA bill, it may instead make payment in an amount it can demonstrate to the satisfaction of the Secretary it would pay for the care and services if they had been furnished by a non-Federal Medicare provider.

Section 6 of the bill would make the amendments effective on October 1, 1990.

By Mr. CRANSTON (by request):

S. 2456. A bill to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care, to revise VA authority to furnish outpatient dental care, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' MEDICAL CARE AMENDMENTS OF 1990

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2456, the proposed Veterans' Medical Care Amendments of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 3, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 3, 1990, transmittal letter and enclosed analysis of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2456

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Medical Care Amendments of 1990".

(b) Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a

section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 111(b)(1) is amended by striking "if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall" and inserting in lieu thereof "the Secretary may".

SEC. 3. (a) Section 612(b)(1) is amended—

(1) by amending subparagraph (C) by striking", or of a former prisoner of war";

(2) by amending subparagraph (F) to read as follows:

"(F) from which a veteran who is a former prisoner of war is suffering;";

(3) by striking out the period at the end of subparagraph (G) and

(4) by adding at the end the following new subparagraphs:

"(H) from which a veteran of World War I is suffering; or

(I) medically necessary in preparation for hospital admission or for a veteran otherwise receiving care or services under this chapter.".

(b) Section 612(b)(3) is amended—

(1) by striking "$500" and inserting in lieu thereof "$1,000"; and

(2) by adding at the end the following: "The Secretary may periodically review the cost of dental care to determine whether the dollar ceiling contained in this clause remains appropriate to carry out the purposes of this provision, and may adjust that ceiling, as the Secretary determines necessary.".

SEC. 4. Section 620A is amended by striking subsections (e) and (f) and redesignating subsection (g) as subsection (e).

SEC. 5. (a) Sections 632(a) and 632(b)(1) are each amended by striking "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(b) Section 632(b)(1) is amended by striking "$1,000,000" and inserting in lieu thereof "$500,000".

(c) Section 632(b)(1) is further amended by inserting before the period", of which the first $50,000 of appropriated funds shall be used for the specific purpose of educating and training of personnel of the Veterans Memorial Medical Center".

SEC. 6. Section 4209(c) is amended as follows:

(a) by amendment paragraph (2) to read as follows:

"(2) may convert space furnished under clause (1) of this subsection for use as the child care center without reimbursement;".

(b) by inserting after paragraph (2) the following:

"(3) may provide, on a reimbursable basis, other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Secretary may furnish basic telephone service and surplus furniture and equipment without reimbursement;.

(c) by redesignating paragraphs (3), (4), and (5) as (4), (5), and (6), respectively.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 3, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

Dear Mr. President: There is transmitted herewith, a draft bill "To amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to contract for needed care, to revise VA authority to furnish outpatient dental care, and for other purposes." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The draft bill's major objective is the improvement of VA health care. Among its provisions, the bill would eliminate obstacles to VA's meeting veterans' medical needs.

OUTPATIENT DENTAL CARE

The draft bill contains a number of provisions extending VA outpatient dental care to veterans. First, the proposed bill would enable VA to provide limited outpatient dental services in preparation for surgery and other procedures which could be compromised by dental infection. For example, current law authorizes VA to provide outpatient medical services needed to prepare for a patient's hospital admission, but a statutory limitation on the provision of outpatient dental care precludes VA from furnishing medically-required pre-admission dental procedures. Thus, under existing law, VA must hospitalize patients to be able to perform limited dental work which is medically-needed. Enactment of this provision would reduce the period of hospitalization for such patients and thus avoid costs of some $520,000 for each of the next five fiscal years.

The draft bill would also require VA to obtain a second opinion in instances where the cost of proposed fee-basis dental care for a veteran would exceed $1000. Current law requires a second opinion for procedures over $500. In keeping with the rising cost of medical and dental care, the draft bill would provide for a $1000 ceiling and a periodic adjustment of the limit. By avoiding costly reexaminations, it is anticipated that the proposal would result in avoiding costs of approximately $198,000 annually for each of the next five fiscal years.

A third provision would permit VA to provide dental treatment, where deemed medically essential, for veterans currently in a VA treatment program. Although VA may provide outpatient dental services necessary to complete dental treatment begun incident to hospital care, VA lacks authority to provide dental treatment to other VA patients suffering from dental problems which may compromise their medical health, notably oncology and AIDS patients being treated on an outpatient basis and elderly patients participating in VA Hospital-Based Home Care programs. The current limitations on VA outpatient dental care are costly hospital admissions to assure that medically at-risk patients receive needed dental care. This proposal would avoid those additional costs as well as provide essential dental care to veterans.

Fourth, we propose authorizing VA to furnish outpatient dental care to veterans of World War I. These veterans are all in an advanced age group. The granting of dental benefits would allow them to regain or maintain systemic health functions and maintain a reasonable quality of life in recognition of their service to our Nation. The cost of this provision would be approximately $1 million annually.

Finally, the bill would also authorize VA outpatient dental care to all former prisoners of war. although outpatient medical care is currently authorized for all former prisoners of war. They are not eligible for outpatient dental benefits unless they were incarcerated for 90 days or more or unless the dental problem requiring treatment is service-connected. This proposal would align the scope of dental benefits available to former prisoners of war with the medical benefits now offered these veterans.

EXTEND AUTHORITIES TO VETERANS MEMORIAL MEDICAL CENTER

The proposed legislation would also extend for five more years, until September 30, 1995, the President's authority to enter into contracts with the Veterans Memorial Medical Center (VMMC) in the Philippines. These contracts provide payments for hospital and nursing home care to United States veterans in that hospital. This proposal would also extend for five years the Secretary's authority to make grants of up to $500,000 annually to the VMMC for replacing and upgrading equipment and rehabilitating the hospital's physical plant and facilities. These authorities both expire on September 30, 1990. Lastly, this provision would earmark the first $50,000 appropriated for grants to the VMMC for the specific purpose of educating and training VMMC personnel.

The policy of the United States has long recognized a moral obligation to provide care to Filipino veterans who served in components of the U.S. Armed Services. Congress has consistently renewed its support to help maintain a high standard of medical care to veterans. The authority to provide contract care is still needed to fulfill this obligation to United States veterans. Continuing the grant program is a cost-effective way for the VMMC to meet the needs of its facility, staffing, and equipment. Continuation of these grants would cost $500,000 for each of the next five years, for a total of $2.5 million.

EXTEND CONTRACT ALCOHOL AND DRUG TREATMENT PROGRAM

The bill would extend on an ongoing basis VA's authority to contract for care, treatment, and rehabilitative services in halfway houses and other alcohol or drug treatment facilities for eligible veterans. The VA has had considerable experience with this cost-effective contract program benefiting a core group of veterans, critically deficient in competitive job skills and/or social and family supports. The authority for this program, if not extended, will expire on September 30, 1991. Its major medical advantages—including maintained sobriety and increased employment and monthly income—have long been demonstrated. The program is an important component of VA's treatment milieu for veterans suffering from substance abuse. The estimated cost of this provision is $5.4 million per year for a five-year total of $27 million.

DISCRETIONARY AUTHORITY ON PAYING BENEFICIARY TRAVEL

The draft bill would provide VA with greater discretion to target medical care monies to areas of greatest need by permitting the Secretary to determine the circumstances under which VA would pay veterans for the cost of travel to a VA medical facility. Public Law No. 100-322 provided that "if" the Secretary provides travel payments to almost "any" veterans eligible for travel benefits, then the benefits "shall" be paid to almost all eligible veterans. Therefore, this law foreclosed VA from exercising any reasonable management flexibility by providing that travel payments must be made in almost all cases, or not at all, whether the travel is routine in nature or critical ambulance service.

By vesting more discretion in the Secretary to target the provision of benefits in most compelling situations, such as ambu-

lance travel, this provision would permit more effective management of the resources available to VA's health-care system. We do not anticipate this provision would have any overall budget impact because any savings in travel costs would be used for other health-related services to veterans.

CONVERSION COSTS FOR CHILD CARE CENTERS

The final provision of this bill would facilitate efforts to establish child care centers at VA medical facilities. The availability of child care services at our medical centers is important, particularly in recruiting and retaining qualified medical personnel. Congress provided the Secretary with authority in Public Law No. 100-322 to establish child care centers at VA facilities through the Veterans Canteen Service. This law directs VA to provide the Veterans Canteen Service with existing space in VA facilities for use as child care centers and to give those centers custodial support, utilities, and certain services and amenities needed for the children's health and safety.

VA facilities may also pay the costs of converting the space into a child care center, but the Canteen Service must reimburse the facility for the cost of the conversion. It would appear that this reimbursement may not be repaid over a multi-year period. But because it may take a considerable length of time for the Canteen Service to recoup the monies needed for reimbursement from the revenues it receives from providing child care, the financial burden imposed on the Canteen Service would severely limit its ability to establish child care centers.

This proposal would help alleviate this problem by permitting medical centers to pay for the conversion costs without requiring Canteen Service reimbursement. Permitting medical centers to fund these conversions would greatly enhance VA's ability to establish child care centers.

VA estimates that the cost of conversions would be between $50,000 and $400,000 per center if they are to meet the State and local child care standards, as required by law. Based on the renovation of ten VA facilities per year, we estimate the cost of this provision to be $1.2 million a year, for a five-year estimated cost of $6 million.

The Office of Management and Budget advises that there is no objection to the submission of the draft bill to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF BILL

Section 1 of the bill designates the proposal as the "Veterans' Medical Care Amendments of 1990" and provides that the bill's amendments to the law would amend title 38, United States Code, unless otherwise expressly stated.

Section 2 would amend section 111(b)(1) of title 38 to provide the Secretary of the Department of Veterans Affairs (VA) with the discretion to determine the circumstances under which the Department would pay the travel expenses of an eligible veteran to obtain health-care or vocational rehabilitation services at a VA medical facility. Current law requires the Secretary to pay for the travel expenses of almost all veterans eligible for these benefits if the Secretary determines that any eligible veteran should receive travel benefits under this section. This provision would not have any overall budget impact because any savings in travel costs would be used for other VA health services or benefits.

Subsection (a) of section 3 would amend section 612(b)(1) of title 38, which authorizes VA outpatient dental care.

First, subsection (a) would authorize the provision of limited outpatient dental care to veterans to prepare a patient for surgery and other procedures which could be compromised by dental infection. Section 612(b)(1) does not authorize dental services needed in preparation for hospitalization. This provision would permit VA to provide limited outpatient dental treatment to veterans when medically required for hospital treatment where the elimination of dental infection or correction of dental conditions is critical to the success of the planned hospital treatment or the welfare of the patient. These patients would be placed in a pre-bed care program for work-up prior to hospitalization, and the limited dental treatment, professionally determined to be essential, would be completed during the period.

At the present time, patients who need this type of limited dental treatment prior to certain types of surgery or other medical treatment are admitted as inpatients and the care is provided under the authority of section 17.129, 38 Code of Federal Regulations. This practice results in longer periods of hospitalization and is more costly to the Department. The extension of dental care in these situations would result in a cost avoidance of $520,000 for the first year and $2.6 million over five years.

Second, subsection (a) would extend VA outpatient dental care to all former prisoners of war. The law currently limits this care to former prisoners of war who were incarcerated for 90 days or more and those whose dental problems are service-connected. This provision would align dental benefits for former prisoners of war with the existing medical benefits now provided to them. The cost of this extension would be insignificant.

Third, subsection (a) would authorize medically necessary outpatient dental care to veterans currently active in a VA treatment program, particularly oncology and AIDS patients receiving care on an outpatient basis, contract nursing home patients, and those receiving VA Hospital Based Home Care (HBHC). Dental problems for these veterans often complicate existing health problems and may compromise the effectiveness of medical care. Those in nursing homes of homebound are particularly at risk because they typically are older and functionally impaired. The law's limitations on eligibility for dental care in effect encourage costly hospital admissions to assure that medically at-risk patients receive needed dental care. Enactment of this provision would avoid unnecessary costs which might otherwise arise from unnecessary hospital admissions.

Finally, subsection (a) would extend outpatient dental care to veterans of World War I. The veterans of this conflict are in an advanced age group. Granting this benefit would allow them to regain or maintain systemic health functions, maintain a reasonable quality of life, and have the dignity of being granted dental benefits in recognition of their service to their country. This extension would cost approximately $1 million per year for a five-year cost of $6.5 million.

Subsection (b) of section 3 would amend section 612(b)(3) of title 38 to require VA to obtain a second opinion in instances where the cost of proposed dental care for a veteran by a fee-basis practitioner would exceed $1,000. Current law requires a second opinion for procedures over $500. The increase in this ceiling amount to $1,000 would be in keeping with the rising costs of medical and dental care. Further, to avoid the cost and inconvenience of requiring a second opinion, the opinion provides for periodic review and adjustment of the ceiling amount. Approximately 11,000 VA patients undergo these required costly reexaminations annually. It is anticipated that the proposed amendment would reduce that number to 2,000. This would result in avoiding cost to VA of approximately $198,000 a year, and approximately $990,000 over five years.

Section 4 would amend section 620A of title 38 to provide ongoing authority for the pilot program under which VA is authorized to contract for care, treatment, and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities. It would also eliminate the requirement in subsection (f) of section 620A for costly special evaluations of the program which are not cost-effective based on the proven record of success of the program. Enactment of section 4 would cost approximately $5.4 million per year for a five-year cost of $27 million.

Section 5 would amend section 632 of title 38 to extend the authority of VA to provide contract care to United States veterans in the Veterans Memorial Medical Center in the Republic of the Philippines for an additional five years, to September 30, 1995. It would also extend to that date the VA authority to make grants of up to $500,000 annually to that facility for the purpose of replacing and upgrading equipment and rehabilitating the physical plant and facilities. Section 5 would further provide that the first $50,000 of grants appropriated for the hospital shall be earmarked for educating and training hospital personnel. Grants authorized by section 5 would be $500,000 a year for a five-year total of $2.5 million.

Section 6 would amend section 4209 of title 38, which authorizes VA to establish, under the Veterans Canteen Service, child care centers at VA medical centers. It would specifically amend subsection (c) to authorize medical centers to convert space at their facility for child care purposes without requiring reimbursement for the cost of conversion from the Veterans Canteen Service. This provision would cost an estimated $1.2 million a year for a five-year cost of $6 million.

By Mr. CRANSTON (by request):

S. 2457. A bill to amend title 38, United States Code, to revise the copayment formulas for those non-service-connected veterans with the means to contribute toward the cost of their care; to the Committee on Veterans' Affairs.

INCREASED COPAYMENTS FOR NON-SERVICE-DISABLED VETERANS RECEIVING VA CARE

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2457, a bill to expand the requirements for certain non-service-disabled veterans to make copayments for Department of Veterans Affairs care. The Secretary of Veterans Affairs submitted this legislation by

letter dated March 20, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 20, 1990, transmittal letter and enclosed analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2457

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. (a) Section 610 is amended—

(1) by redesignating subsections (f) and (g) as (g) and (h), respectively; and

(2) by adding a new subsection (f) to read as follows:

"(f)(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2)(A) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to $9 for each day the veteran receives hospital or nursing home care.".

(b) Section 610(a) is amended—

(1) by striking the period at the end of paragraph (2)(A) and inserting in lieu thereof "subject to the provisions of subsection (f) of this section."; and

(2) by striking (f) in paragraph (2)(B) and inserting in lieu thereof "(g)".

(c) Section 610(g)(1) (as so redesignated) is amended by striking "by reason of" and inserting in lieu thereof "under".

(d) Section 610(g) (as so redesignated) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

"(A) the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary, and

"(ii) the amount determined under paragraph (3) of this subsection; and

"(B) an amount equal to $9 for every day the veteran receives hospital or nursing home care after that number of days considered in determining the amount the veteran is liable for under subparagraph (A); and

"(C) effective on January 1 of each year, the amount in effect under clause (B) of this paragraph shall be increased by the percentage increase (if any) in the Consumer Price Index of all Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending on the previous November 30th.".

(e) Subparagraphs (A) and (B) of section 610(g)(3) (as so redesignated) are amended by striking "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(ii)".

(f) Section 610(g)(3)(E) (as so redesignated) is amended—

(1) by inserting "paragraph (2)(A) of" after the words "payment under" and after the words "veteran under";

(2) by striking "612(f)" and inserting in lieu thereof "612(g)(2)(A)"; and

(3) by striking "612(f)(4)" and inserting in lieu thereof "612(g)(4)".

(g) Section 610(g)(3)(F) (as so redesignated) is amended—

(1) by adding "paragraph (2)(A) of" after the word "under"; and

(2) by striking "612(f)" and inserting in lieu thereof "612(g)(2)(A)".

SEC. 3. (a) Section 612 is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by adding a new subsection (f) to read as follows:

"(f)(1) The Secretary may not furnish medical services under this section (including home health services under section 617 of this title) to a veteran who is eligible for hospital care by reason of section 610(a)(2)(A) of this title unless the veteran agrees to pay to the United States the amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished medical services under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States for an amount equal to $5 for each outpatient visit.".

(b) Section 612(a)(4) is amended by striking "subsection (f)" and inserting in lieu thereof "subsections (f) and (g)".

(c) Section 612(g) (as so redesignated) is amended by striking paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for—

"(A) an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Department of Veterans Affairs facility, to be determined by the Secretary, and;

"(B) an amount equal to $10 for each outpatient visit the veteran receives for which the veteran is not liable for payment under subparagraph (A) of this paragraph by reason of paragraph (3) or (4) of this subsection.".

(d) Section 612(g)(3) (as so redesignated) is amended by inserting "paragraph (2)(A) of" after "payment under" and after "veteran under".

(e) Section 612(g)(4) (as so redesignated) is amended by inserting "paragraph (2)(A) of" after the words "payment under".

(f) Section 612(g) (as so redesignated) is amended by striking "610(f)" in paragraphs (3) and (4) and inserting in lieu thereof "610(g)(2)(A)".

(g) Section 612 is further amended—

(1) by redesignating subsections (h), (i), and (j) as (j), (k), and (l), respectively; and

(2) by adding new subsections (h) and (i) to read as follows:

"(h)(1) The Secretary may not furnish a prescription drug under this section to a veteran who is eligible for hospital care by reason of section 610(a)(2)(A) or 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States, in addition to such amounts as are provided for in subsections (f) and (g) of this section, an amount determined under paragraph (2) or (3) of this subsection.

"(2) A veteran eligible for hospital care under section 610(a)(2)(A) who is furnished a prescription drug under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such prescription drug shall be liable to the United States for an amount equal to $3 for each such prescription drug.

"(3) A veteran eligible for hospital care under section 610(a)(2)(B) who is furnished a prescription drug under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such prescription drug shall be liable to the United States for an amount equal to $5 for each such prescription drug.

"(i) effective on January 1 of each year, the amount in effect under subsections (f)(2), (g)(2)(B), (h)(2) and (h)(3) of this section shall be inceased by the percentage increase (if any) in the Consumer Price Index of all Urban Consumers (as published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending on the previous November 30th.".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 20, 1990.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to revise the copayment formulas for those nonservice-connected veterans with the means to contribute toward the cost of their care." We request that it be introduced so that it may be considered for enactment.

In recent years, Congress revised VA health-care eligibility provisions, expanding eligibility, and directing that VA furnish necessary care, both hospitalization and outpatient treatment, to several categories of veterans, principally those with service-connected disabilities, and those with the greatest financial need. In defining health care eligibility, Congress has long drawn distinctions among veterans both in terms of service-connected status and income. With the new laws governing eligibility, Congress sharpened the distinctions in existing law, requiring that VA generally differentiate among three broad groups of veterans: those to whom VA "shall" provide care, those whom Congress has simply authorized VA to treat, and those whose eligibility turns both of their agreement to make a

specified payment toward their care and on resources and facilities being otherwise available. The third eligibility tier, those nonservice-connected veterans in the highest income category, generally were not previously eligible under law for VA care. In making them eligible for care, Congress determined that those so-called "category C" veterans had the means to pay for part of their care through a deductible linked to the Medicare program.

With the rising cost of medical care, and recognition that only limited resources are available to care for those with higher incomes (who thus have lower statutory priority), it is appropriate and indeed necessary, to partially offset those costs through revisions to the existing copayment formulas. Thus, we propose amendments in our draft bill to require veterans without service-connected disabilities who are in middle or higher income categories (categories B and C), to make a nominal copayment per outpatient visit ($5 and $10) and prescription ($3 and $5); and to make a nominal per diem payment ($9) for inpatient treatment. These charges are analogous to Medicare part B copayments for outpatient and inpatient doctor visits and, in our view, represent an equitable extension of a cost-sharing concept developed by the Congress.

In proposing extension of the copayment concept to "category B" veterans, we have taken notice of the fact that the income threshold for placement in that eligibility category has risen steadily since 1986. Thus, under existing law, a typical married veteran with two children is placed in category B, and is eligible for cost-free care, if annual income is between $22,989 and $31,033. That is an income which would generally not be considered insubstantial. Moreover, under existing law, VA may provide care to category B veterans only to the extent that resources are available. It is reasonable to expect such veterans who seek VA care to make a modest copayment in exchange for care.

We estimate that enactment of the draft bill would result in collections amounting to approximately $30.0 million in Fiscal Year 1991, and approximately $150.0 million over five fiscal years. These receipts to the government are included in the President's Fiscal Year 1991 budget.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF PROPOSED BILL

Section 2 would amend 38 U.S.C. § 610 to require that nonservice-connected veterans in eligibility Categories B and C (those eligible by virtue of 38 U.S.C. §§ 610(a)(2)(A) and 610(a)(2)(B)) pay a $9 copayment for each day of inpatient care they receive from the VA. For those veterans in eligibility category B, the payment would be required for every day of care. For the higher income category C veterans now eligible for care only if they agree to pay a copayment, the new per diem payment would be in addition to the copayment they must agree to pay to receive inpatient care under existing law. Category C veterans must now agree to pay the full cost of the inpatient care they receive up to the "Medicare deductible." Although that deductible varies from year to year, a veteran generally reaches the deductible after the first two days of inpatient care in a VA facility. Category C veterans would be liable for the new $9 per diem payment only for days of care after those days of care used in calculating the existing copayment. Assuming the current cost of care, and the current Medicare deductible, the $9 copayment would apply to category C veterans beginning on the third day of inpatient care, and would continue for every day in any given quarter. At the beginning of a new quarter, a new Medicare deductible would be satisfied, and then the $9 per diem would begin against. The per diem copayment would be increased each January 1st by the percent change in the Consumer Price Index.

The proposed new copayments would be a mechanism by which those veterans who were not injured during their service, and who are best able to afford care, could help defray the ever escalating cost of VA-provided health-care. Those veterans to whom VA "shall" provide inpatient care under 38 U.S.C. § 610(a), e.g., service-connected veterans, former prisoners of war, World War I veterans, and those who may have been exposed to radiation or Agent Orange during service, would not be liable for any copayment. Those individuals with incomes placing them in eligibility category B can reasonably be expected to make a modest contribution toward the cost of care for their nonservice-connected disabilities, and those in category C can be expected to make a somewhat greater contribution toward their care than is now the case.

Section 4 would amend 38 U.S.C. § 612 to require a new copayment for each outpatient visit made by a nonservice-connected veteran in hospital eligibility category B or C (those eligible for hospital care by virtue of 38 U.S.C. §§ 610(a)(2)(A) and 610(a)(2)(B)). It would impose a $5 per visit copayment for category B veterans, and a $10 per visit copayment for category C veterans. The copayments would be increased each January 1st by the percent change in the Consumer Price Index. For those veterans in eligibility category B, the copayment would be required for every outpatient visit. The higher income category C veterans would be liable for the new payment only after they have satisfied the copayment requirements imposed by current law. Those individuals are now liable, during any quarter, for 20 percent of the cost of each outpatient visit until they have agreed to pay an amount equal to the "Medicare deductible." The new $10 copayment would apply only to outpatients visits for which the veteran is not liable for the 20 percent copayment. As with the new inpatient per diem copayment which section 3 of the bill would impose, the new per visit copayments would constitute a modest and reasonable contribution to the cost of care furnished to those veterans by the VA.

Section 3 would also amend 38 U.S.C. § 612 to require a new copayment for each prescription drug furnished on an outpatient basis to a nonservice-connected veteran in hospital eligibility category B or C (those eligible for hospital care by virtue of 38 U.S.C. §§ 610(a)(2)(A) and 610(a)(2)(B)). It would impose a $3 per prescription copayment for category B veterans, and a $5 per prescription copayment for category C veterans. The copayments would be increased each January 1st by the percent change in the Consumer Price Index. As with the new copayments which sections 3 and 4 of the bill would impose on those veterans when they seek inpatient or outpatient care, the new per prescription copayments would constitute a modest and reasonable contribution to the cost of care furnished by the Government.

By Mr. CRANSTON (by request):

S. 2458. A bill to amend title 38, United States Code, to improve the pay system for registered nurses employed by the Veterans Health Services and Research Administration, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS NURSE PAY ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2458, the proposed Veterans Nurse Pay Act of 1990. The Secretary of Veterans Affairs submitted this legislation by letter dated April 9, 1990, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the April 9, 1990, transmittal letter and enclosed documents entitled "Principal Features of Draft Bill," and "Section-by-Section Analysis."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2458

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Nurse Pay Act of 1990."

SEC. 2. Except as otherwise expressly provided, whenever, in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. Section 4107 is amended as follows:

(a) Subsection (b)(1) is amended by striking out "The" at the beginning of such subsection and inserting in lieu thereof "Except in the case of basic pay increased under paragraph (3), the".

(b) A new paragraph is added at the end of subsection (b) as follows:

"(3)(A)(i) In accordance with regulations promulgated by the Secretary, the director of each Department health-care facility shall, with respect to nurse positions provided for in paragraph (1) of section 4104 of this title, review rates of basic pay paid by comparable non-Department health-care facilities within the same labor market as the Department facility.

(ii) Where feasible, such reviews will be based solely on survey data compiled by the Bureau of Labor Statistics of the Department of Labor. Such surveys shall be con-

ducted in accordance with established practice. Where the use of Bureau of Labor Statistics data is not possible, the facility shall conduct a survey of such basic pay rates and may consider available information from any source, including other Government agencies.

(iii) Such regulations shall further provide that the basic pay reviews will be conducted on an annual basis, or at more or less frequent intervals when conditions, as determined by the Secretary, so warrant.

"(B)(i) If the Bureau of Labor Statistics or Department survey shows that the rate of basic pay for comparable positions at the non-Department health-care facilities in the particular labor market are greater than the rate of basic pay for the Junior, Associate, Full or Intermediate grades at the Department health-care facility(ies), the Secretary may increase the rate of basic pay for those grades to be competitive with, but not to exceed, the rate of basic pay at the non-Department facilities.

(ii) In determining competitive rates under this subsection, the Secretary will take into consideration such factors as (I) turnover and vacancy rates, as well as patterns of career progression; (II) unemployment rates and trends in local areas; (III) indicators of trends in the quality of registered nursing personnel; (IV) the ability of the Department to fund such rates.

"(C)(i) If the rate of basic pay is increased for the Intermediate grade at a Department health care facility pursuant to subparagraph (B), the Secretary may authorize an increase in the rates of basic pay for the Senior, Chief, Assistant Director and Director grades at that facility so that the percentage of intergrade increase for such grades shall be the same as the percentage of intergrade increase for such grades under the national nurse pay schedule prescribed in paragraph (1);

"(ii) if the rate of basic pay is not increased for the Intermediate grade at a Department health-care facility pursuant to subparagraph (B), the rate of basic pay for the Senior, Chief, Assistant Director and Director grades at that facility shall be as prescribed in paragraph (1).

"(D) Increases in the rate of basic pay under this paragraph shall be effective on such date as the Secretary may prescribe, but no later than 90 days following release of the Bureau of Labor Statistics or Department survey data for such labor market.

"(E) Nothing in this paragraph affects the authority to increase the rates of basic pay provided by subsection (g). Where feasible and cost effective, the rates of basic pay increased pursunt to subsection (g) shall be based solely on data compiled by the Bureau of Labor Statistics.

"(F) An employee who is paid a rate of basic pay established under this paragraph and who is transferred at the same grade (voluntarily or otherwise) from one Department health-care facility to another Department health-care facility shall be paid the rate of basic pay in effect at the health-care facility to which the employee is transferred for the same grade and the same step within that grade as was applicable to that employee immediately before the transfer.".

(c) Subsection (e) is amended as follows:

(1) in paragraph (1), (A) by inserting "or (b)(3)" after "subsection (b)(1)"; and (B) by striking out "(8)" and inserting "(9)" in lieu thereof.

(2) in paragraph (5) by striking out in the first sentence", not to exceed one and one-half times the hourly rate of basic pay for the minimum rate of the Intermediate grade of the Nurse Schedule", and by inserting after the first sentence the following: "Nurse managers and supervisors, other than head nurses, may not receive pay for overtime service under the preceding sentence.".

(3) in paragraph (6) by striking out "or (5)" and inserting, "(5) or (9)(A)" in lieu thereof.

(4) paragraph "(9)" is redesignated as paragraph "(11)" and is further amended by inserting "84," after "83,";

(5) by adding after paragraph (8) the following:

"(9)(A) A nurse shall be paid additional pay equal to 6 percent of the nurse's hourly rate of basic pay for each hour of service as a head nurse. The preceding sentence shall apply only to nurses who are assigned to perform service as head nurses for a period of 30 consecutive days or more;

"(B) The Secretary may pay incentive pay to any nurse serving as Chief of Nursing Service at a Department health-care facility and, as determined as appropriate under regulations prescribed by the Secretary, any nurse paid at the Director grade or above. Such incentive pay shall be not less than 2 percent nor more than 6 percent of such nurse's annual rate of basic pay.".

(d) Subsection (g)(3) is amended by striking out all that follows "(3)" and by inserting in lieu thereof:

"(A) The director of a Department health-care facility may, under regulations prescribed by the Secretary, increase rates of basic pay pursuant to paragraph (1) not to exceed the twenty-eighth step of the grade;

(B) only the Secretary or designee may increase rates of basic pay pursuant to paragraph (1) in excess of the twenty-eight step of the grade, as prescribed in the Secretary's regulations;

(C) any rate of basic pay increased pursuant to paragraph (1) may not exceed the rate of basic pay for individuals serving as Assistant Chief Medical Director.".

(e) The following is added at the end thereof:

"(k) The Secretary or designee may, for nurses employed on an intermittent or fee basis, grant an exception to the reduction in the pay of a reemployed annuitant required by sections 8344(a) and/or 8468(a) of title 5; such exception may be granted only upon a determination that there are special or emergency employment needs resulting from a severe shortage of well-qualified nurses which otherwise cannot readily be met.".

SEC. 4. EFFECTIVE DATE.—The amendments made by this Act shall take effect on October 1, 1990.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, April 9, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith, a draft bill "To amend title 38, United States Code, to improve the pay system for registered nurses employed by the Veterans Health Services and Research Administration, and for other purposes" with the request that it be referred to the appropriate committee for prompt consideration and favorable action.

This proposed legislation would revise the statutory pay system for registered nurses so as to enhance the Department's ability to compete with other employers for registered nurses. The draft bill would accomplish this by partially converting the pay system to a community-based pay system, would introduce more flexibility and decentralization into the current pay system so as to better target resources to areas of need, and would add pay incentives for nurse managers and supervisors.

During the 1970's the nation began to experience a shortage of registered nurses in its hospitals. The increased demand for skilled care by registered nurses in all phases of medical care has created the need for more nurses. However, the available pool of registered nurses has not kept pace. This has resulted in a shortage of registered nurses in various parts of the country.

To assist the Department in attracting and retaining these critically important health-care workers the Congress has granted VA some degree of pay flexibility and the authority to establish special higher salary rates where needed for VA salaries to be competitive. However, the demand for increased numbers of registered nurses has continued, and VA increasingly has had to utilize the authority to establish special higher salaries to remain competitive. For example, VA was paying special rates at 89 medical centers (53.6 percent) in May 1986, at 117 medical centers (70.5 percent) by July 1988, and at 130 medical centers (78.3 percent) by March 1989. Even with the special rates, VA has not been able to offer competitive salaries at certain geographic locations (e.g., Boston, Southern California, New York City). Thus, the statutory VA salary system is no longer competitive.

In light of these circumstances, the subject of nurse pay has generated strong interest in both the House of Representatives and the Senate. In addition, VA formed a Nurse Pay Task Force to review this matter. The proposed legislation which we are forwarding represents, we believe, the best and most cost effective measures to resolve this situation. In developing these proposals we have taken into consideration the provisions of H.R. 1199, "The Veterans Nurse Pay Act of 1989," and S. 947, "The Veterans Health-Care Personnel Act of 1989," as incorporated in S. 13. Both H.R. 1199 and S. 13 contain features which are meritorious; overall, however, the solutions proposed by them are less than ideal. Our proposal presents an alternative approach which better addresses our needs. It is based on the work of the Nurse Pay Task Force. We also reviewed the findings of a major study on the effects of pay and other personnel management practices, conducted by a private contractor in response to section 231 of Public Law 100-322.

The Department's bill would be effective October 1, 1990, in order to coordinate the bill's costs with FY 1991. The principal features of the draft bill and a comparison with the provisions of H.R. 1199 and S. 13 are outlined in the enclosure.

The Office of Management and Budget advises that there is no objection to submission to Congress of this legislation and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

Enclosures.

PRINCIPAL FEATURES OF DRAFT BILL

The primary change proposed by the Department's draft bill is a revision of the registered nurse pay system in section 4107(b). Currently, that section provides for a national pay schedule comprised of eight grades, with pay set by administrative action pursuant to 5 U.S.C. § 5305. It gener-

ally corresponds to pay set for the General Schedule. The draft bill would add a new subsection (b)(3) which would add authority for an alternative partial community-based pay system. Under this new system, the first four pay grades (Junior, Associate, Full and Intermediate) could be based on community pay rates, determined through a local review of rates of basic pay paid by comparable non-VA health-care facilities in the same labor market, if necessary to keep VA as a competitive employer of registered nurses. Where feasible, this review would be based solely on survey data compiled by the Bureau of Labor Statistics of the Department of Labor (BLS). Where the use of BLS data is not possible, the bill would authorize VA to conduct the survey of basic pay rates and the VA could consider available information from any source, including other Government agencies.

This new subsection would empower the Secretary to authorize increases for the Junior, Associate, Full and Intermediate grades at VA Medical Centers in particular labor markets, in place of pay under the national pay schedule, if the survey shows that the community basic rate of pay exceeds the basic rate of pay for those grades in the national pay schedule. These increased pay rates would remain in effect unless further adjusted pursuant to a subsequent survey. If the basic rate of pay at the Intermediate grade is increased at a particular VA Medical Center, the basic rates of pay for the upper grades (Senior, Chief, Assistant Director and Director) also could be increased to retain the intergrade differentials of the national pay schedule. However, if the basic rate of pay for Intermediate grade is not increased and thus remains consistent with the national pay schedule, then the upper grades would continue to be paid under the national schedule. Where community rates are higher for small groups (e.g. nurse anesthetists) existing authority to establish special rates would be utilized. VA would use BLS data in establishing such special rates, unless BLS did not have the needed data, or could not provide it in a timely manner or without major difficulty or cost. In such situations, VA would obtain the data. In addition, in determining competitive rates, VA is to consider employment trends and availability of funds. In locations where the local surveys show that the national pay schedule is competitive overall, then that schedule will be used, and special rates would be authorized for any special cases.

The Department's proposal addresses the primary weaknesses of the existing VA registered nurse pay system: localized non-competitive rates and pay compression. Both the VA Nurse Pay Task Force and the contractor study (conducted pursuant to Public Law No. 100-322) found that VA's basic rates of pay as prescribed in the national pay schedule generally were non-competitive at the entry to staff nurse level; however, the degree of adjustment, through higher than minimum entrance rates or special salary rates, needed to attain competitiveness varied considerably according to locality. Moreover, by mandating the use of BLS data when feasible, the draft bill assures that VA will act on objective data in making its determination on whether competing local pay rates require a higher VA pay rate in that geographic area. VA will work with BLS to assure that the data collected will enable VA to make these determinations. However, where use to BLS data is not feasible, the draft bill would authorize VA to compile the data necessary to make a determination.

This proposal would invest VA with the capability of meeting the competition at the local level where it is needed and to do so in amounts needed to assure competitiveness. At the same time, under this proposal VA rates would not rise above levels needed to assure competitiveness. Moreover, this proposal addresses the problem of pay compression. The contractor study found that although the widespread use of special salary rates was necessary to be competitive at the lower grades, such use has resulted in increased pay compression at affected facilities. The draft bill would help to alleviate the compression by trying the rate for the four lower grades to community rates and by maintaining intergrade differentials at the higher grades when the Intermediate grade rises above the national pay schedule.

In our view, this approach more effectively addresses the areas in which the VA nurse pay schedule needs revision than H.R. 1199 or S. 13. H.R. 1199 would compress the existing eight grade structure into four grades, which would overlap to some extent and correspond to certain grades in the General Schedule. The pay rates for each of the "new" grades would encompass two of the existing nurse pay grades, but would raise the maximum rate by roughly one GS grade. While the smaller number of grades and "pay banding" have some attractive features, we believe that H.R. 1199 would be more expensive and less flexible than is needed for VA to compete for nurses. In the first place, because the pay grades would apply across the board, VA could be required to pay nurses at some locations more than comparable non-VA employers, e.g. in communities where no recruitment or retention problems exist. As we noted in connection with our proposal, pay at the entry and staff nurse levels are subject to wide variations according to locality.

Another provision of H.R. 1199 would authorize directors of VA medical facilities to appoint individuals above the minimum rate of the grade under criteria similar to that contained in section 4107(g). If this provision is intended to delegate fully the section 4107(g) authority for special rates to medical center directors, it falls short of the mark. Section 4107(g) authorizes two types of special higher pay rates: (1) above minimum entrance rates for new appointees and existing employees (i.e., the minimum rate of the grade is set anywhere from step 2 to step 10; however, the maximum rate of the grade is not increased); and special salary rate ranges for existing employees (i.e., the entire 10-step pay range for a particular grade is increased from 1 to 9 steps). H.R. 1199 contains provisions involving the former for new appointees but not existing employees, and does not include the latter. In any event, VA-planned administrative actions already include delegation of the section 4107(g) special rate authority to a more appropriate level.

H.R. 1199 also provides for biennial within grade step advancements based on acceptable or better performance and for within-grade step advancements for certain achievement. VA-planned administrative actions already include greater flexibility in allowing within grade step advancements based on performance and achievement.

The Department's draft bill also would expand VA's authority to establish special salary rate ranges by removing the ceiling which limits increases to the equivalent of the current administratively-established 19th step. Under the draft bill, VA medical center directors may approve special salary rate ranges up to the new statutory 28th step, and the Secretary or designee may approve them above that step. The draft bill retains the overall limit in existing law which provides that these special ranges may not exceed the basic rate of pay set for Assistant Chief Medical Director. The existing 19th step cap prevents VA from being competitive in a limited number of very high salary areas. This provision would give VA the flexibility needed to meet high salary competition in certain areas or for specific types of positions. Given the flexibility of the partial community-based salary system, we anticipate that special rates will be the exception for registered nurses instead of the rule as they are now.

In addition, the Department's draft bill would remove the existing cap on overtime pay, which is one and one-half times the Intermediate grade, step one, for staff nurses and head nurses. This cap on overtime pay rates has been a disincentive to recruitment and retention. Because of the cap, some nurses are paid less for overtime than their regular pay rate. Similar provisions are in H.R. 1199 and S. 13.

Also, the Department's draft bill would add several forms of monetary recognition. First, is additional premium pay of six percent for head nurses. Currently, there is no recognition in the pay system for the duties performed by head nurses. This provision is similar to the one in S. 13; however, S. 13 treats this additional pay as basic pay. The Department's proposal, consistent with treatment of other forms of additional pay under subsection (e), treats this additional pay as premium pay. Also, under the Department's proposal, this additional pay would be paid only so long as an individual performs head nurse duties.

The draft bill would authorize incentive pay for Chief Nurses and other nurse executives. This incentive bonus could range from two to six percent of basic pay. Its purpose is to further recognize the VA nurse executive, relieve pay compression, and make VA salaries for these positions more competitive. Competing health-care employers are providing large compensation packages to executive nurses in positions comparable to VA Chief Nurses.

H.R. 1199 provides for cash awards and step "promotions" in grade when a medical facility director determines "that a nurse has qualifications, experience, or achievement which the Director determines exceeds the standards for the nurse's grade." S. 13 would provide a one percent lump-sum pay increase to nurses who become recertified, provided their proficiency rating is satisfactory or better. The Senate bill also establishes a cash award program for managers and supervisors appointed under 38 U.S.C. 4104(1). Under that proposal, no more than 20 percent of supervisors and managers could receive cash awards ranging from 5 percent of 20 percent of basic pay.

VA's proposal better meets our needs. The House proposal would permit awards to personnel who have qualifications in excess of their grade, but such individuals more properly should be promoted. The other provisions of the House proposal are similar to existing current VA policies which provide special advancements for performance or achievement. In our opinion, the lump-sum proposed in the Senate bill would have little effect on the recruitment and retention of nurses. The amount is too small and, in some instances, the recertification that

would warrant the lump-sum payment can be obtained simply by paying a fee. The Senate's proposed range for supervisory and managerial performance awards also is unrealistic. Moreover, VA already has broad authority to grant performance awards to title 38 employees. VA-planned administrative actions include further delineation of this authority.

Additionally, the Department's draft bill would authorize VA to employ retired VA nurses on an intermittent and fee basis without the reduction in the pay of re-employed annuitants otherwise required by law. VA would utilize this exception only for emergency needs. This authority would permit VA to more readily avail itself of this valuable resource, instead of utilizing the more costly nurse agency personnel to meet emergency needs. These retired VA nurses already are familiar with the VA system and the special needs of its patients.

SECTION-BY-SECTION ANALYSIS

The draft bill would amend section 4107 of title 38, United States Code, to revise the pay system for registered nurses employed by the Department of Veterans Affairs in order to make their pay rates more competitive.

Section 1 contains the short title.

Section 2 notes that references are to title 38, United States Code.

Section 3 amends section 4107 in several ways. Section 3(a) and (b) would amend subsection (b) to add a partial community-based pay system as an alternative to the national pay schedule. Under this alternative pay system, the first four nurse grades (Junior, Associate, Full or Intermediate) could be based on competitive community pay rates determined through a survey of local pay rates, based solely, when feasible, on information gathered by the Bureau of Labor Statistics of the Department of Labor (BLS). VA would be authorized to collect data in situations where the use of BLS data is not possible. In addition, in determining competitive rates, VA must consider turnover, vacancy and unemployment rates, career progression patterns, personnel quality trends, and its ability to fund the rates. Where the survey shows that the Intermediate grade is above the national VA nurse pay schedule, the remaining four grades (Senior, Chief, Assistant Director and Director) also could be adjusted upward; otherwise they remain the same. Where the survey shows that the national pay schedule is competitive the national schedule would be used. Exceptional cases or limited deviations would be handled through existing authority to set special salary rates. VA would use BLS data in setting such special rates, where feasible and cost-effective. The estimated cost of this proposal is $10,169,600 for 1 year and $50,848,000 for 5 years.

Section 3(c) contains several amendments to the premium pay provisions of subsection (e). The amendments would:

(1) make technical amendments reflecting changes made by proposed new subsections (b)(3) and (e)(9);

(2) eliminate, for staff nurses and head nurses, the current ceiling (administratively waivable) on nurse overtime pay in subsection (e)(5);

(3) subsection (e)(6) would be amended to reflect that the 2080 hour year used in calculating the hourly rate of various forms of premium pay under this section applies in calculating the head nurse premium pay added by new paragraph (9);

(4) existing paragraph (9) would be redesignated paragraph (11), and would be amended so as to exclude premium pay under this section from being considered as basic pay for purposes of the Federal Employees Retirement System in chapter 84 of title 5; and

(5) a new paragraph (9) providing for head nurses premium pay and executive nurse incentive pay would be added.

The estimated cost of the proposal eliminating the ceiling on overtime pay is $6,948,700 for 1 year and $34,743,500 for 5 years. The estimated cost of the head nurse premium pay proposal is $5,880,400 for 1 year and $29,402,000 for 5 years; for the Chief Nurse incentive pay, it is $694,800 for 1 year and $3,474,000 for five years.

Section 3(d) of the draft bill would amend subsection (g)(3) to remove the ceiling on the special rate authority, which is equivalent to the current administratively-established nineteenth step. Under the bill, facility directors, as prescribed in regulation, could approve special rates up to a new statutory twenty-eighth step, but approval of the Secretary or designee would be required for rates above the twenty-eighth step. The ceiling in existing law that a special rate can not exceed the rate of pay for an Assistant Chief Medical Director would be retained. The estimated cost of this proposal is $7,479,200 for 1 year and $37,396,000 for 5 years.

Section 3(e) of the draft bill also would empower the Secretary or designee, when there is a severe shortage of well-qualified nurses, to grant exceptions to the reduction in pay required by law for re-employed annuitants employed on an intermittent or fee basis. This proposal would not result in increased costs to VA; however, there is the potential for decreased savings to the Treasury where the reductions in pay otherwise would be deposited.

Subsection 4 would make October 1, 1990, the effective date for the cost provisions of the draft bill to tie it in with FY 1991.

Total costs for the draft bill is $31,172,700 for 1 year and $155,863,500 for 5 years.

By Mr. BENTSEN (for himself, Mr. CHAFEE, Mr. RIEGLE, Mr. MITCHELL, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. ROCKEFELLER, Mr. BRADLEY, Mr. DASCHLE, and Mr. PRYOR):

S. 2459. A bill to amend title XIX of the Social Security Act to provide improved delivery of health care services to low-income children by extending Medicaid coverage to certain low-income children, and for other purposes; to the Committee on Finance.

MEDICAID CHILD HEALTH ACT

● Mr. BENTSEN. Mr. President, one of the most critical problems facing us today is the health of America's children. While we have taken some important steps in recent years to improve access to health services for pregnant women and children, more remains to be done. That is why my colleagues, Senator CHAFEE, Senator RIEGLE and I, are introducing the Medicaid Child Health Act of 1990, along with Senator MITCHELL, Senator MOYNIHAN, Senator DURENBERGER, Senator ROCKEFELLER, Senator BRADLEY, and Senator DASCHLE.

The statistics have become all too familiar. According to the Department of Health and Human Services, the United States ranks 22d in the world in infant mortality—behind East Germany and Singapore and all other major industrialized countries. Our infant mortality rate is twice that of Japan. The National Commission on Infant Mortality recently reported that in Los Angeles and Washington, DC, infant mortality appears to be on the rise.

We are also seeing an alarming increase in the incidence of childhood diseases that could have been prevented with such routine treatment as a timely, basic set of immunizations. In 1983, there were fewer than 1,600 cases of measles in the United States. In 1989, there were over 17,000, and early indications are for 1990 that the number continues to grow. This situation is unacceptable.

It's said that an ounce of prevention is worth a pound of cure, and that's particularly true for health care for young children. Every $1 spent on prenatal care saves more than $3 in the first year of a child's life. And for every $1 we spend on immunizations, we save $10 in health care costs later on. By investing in their health before they're born and while they're young, we can help them grow up strong and healthy. They can avoid those preventable childhood diseases that are costly to treat, and we'll be spending health dollars in an efficient way.

Clearly, we need to make sure that all children have access to preventive care and other health care services. In 1987, only half of those children in families with incomes below the poverty line were covered by Medicaid. While we have taken steps since then to increase Medicaid coverage, many children still do not have access to health care services.

The bill my colleagues and I are introducing today would take several modest and important steps to ameliorate these problems. It would expand Medicaid eligibility for low-income children, improve Medicaid services for pregnant women and children, and make administrative changes and other improvements to provide better access to services for this population. Let me highlight the major provisions of S. 2459.

Medicaid coverage for children whose family incomes are below poverty would be phased in beginning in 1991, so that by the year 2002, all children under age 19 with family incomes below the Federal poverty threshold would be eligible for Medicaid. It is a modest expectation that all children in families with incomes this low should qualify for Medicaid benefits. I would like to see us go farther. In fact, last year, my colleagues and I introduced S. 1201, which would have ex-

tended Medicaid eligibility to all children under the age of 6 with family incomes up to 185 percent of the Federal poverty level.

But the Medicaid Program is a Federal/State partnership, and by expanding coverage in this way, we are asking the States to contribute. Gov. Booth Gardner, cochairman of the subcommittee on health for the National Governors' Association has said that the Federal Government "must be sensitive to the financial situation of States, and acknowledge what's already been done." Our bill is sensitive to State fiscal constraints. We have responded to State concerns by slowly phasing in coverage of children in poverty over a number of years.

At the same time, our bill would allow maximum flexibility for those States that would like to move more quickly to expand Medicaid coverage for children. States could extend coverage to children up to age 19 with family incomes up to 185 percent of the Federal poverty line as early as 1991. States could also choose to target expanded coverage to children in foster care.

We would improve Medicaid benefits by allowing States to provide home and community based services for children who have AIDS or who are dependent on a ventilator. States could also provide home visitor nursing services to infants under 6 months with serious medical conditions. Payments for children with long, costly hospital stays would be improved, thereby ensuring access to hospital care for the sickest children.

We would allow States to provide outreach services to help find more of those pregnant women and children who are eligible for Medicaid, and enroll them in the program. A number of States already have programs of this type. Hopefully, the Federal financial assistance resulting from establishing outreach as an optional service under the Medicaid Program will encourage more States to undertake this initiative.

We may not be able to enact all the provisions of this bill this year. In fact, many of them represent those parts of S. 1201 that we were not able to enact last year. But it is important to keep moving in the direction of improving health care coverage for pregnant women and children, even if we can only take a few steps at a time.

CBO has not yet prepared a final estimate for the costs of this bill, but preliminary figures put the total at about $180 million in 1991, $220 million in 1992, the first full year, and $1.6 billion over 5 years. This is not inexpensive. If the final CBO estimates indicate the costs are much higher, we may need to make adjustments. But in the context of the $45 billion the Federal Government will spend for the Medicaid Program in 1991, $180 is a modest sum to invest in the health of America's children.

Mr. President, I ask unanimous consent that the text of S. 2459 and a brief summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Child Health Act of 1990".

SEC. 2. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 6401(a) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (V),

(B) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(3) in subsection (l)—

(A) in subparagraph (C) of paragraph (1) by inserting "children" after "(C)";

(B) by striking subparagraph (D) of paragraph (1) and inserting the following:

"(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,";

(C) by striking subparagraph (C) of paragraph (2) and inserting the following:

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(D) in paragraph (3) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)";

(E) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(F) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" ", and inserting "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(b) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 19".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(B) by inserting "1902(a)(10)(A)(i)(VII)," after "1902(a)(10)(A)(i)(VI),".

(2) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(d) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 3. OPTIONAL COVERAGE OF CHILDREN WITH INCOME BELOW 185 PERCENT OF THE POVERTY LEVEL.

(a) FLEXIBILITY ON INCOME LIMIT.—Section 1902 of the Social Security Act, as amended by section 6401(a) of the Omnibus Budget Reconciliation Act of 1989 and section 2 of this Act, is amended—

(1) in subclauses (VI) and (VII) of subsection (a)(10)(A)(i), by inserting "minimum" before "income level",

(2) in subsection (l)(2)(B), by striking "133 percent" and inserting "a percentage (established by the State, which is not less than 133 percent and not more than 185 percent)"; and

(3) in subsection (l)(2)(C), by striking "100 percent" and inserting "a percentage (established by the State, which is not less than 100 percent and not more than 185 percent)".

(b) FLEXIBILITY ON AGE.—Section 1902(l) of such Act is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (C),

(B) by inserting "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following:

"(E) at the option of the State, children born before October 1, 1983, who have attained 6 years of age but have not attained 19 years of age or a lesser age as selected by the State; and

(2) in paragraph (2)(C) by striking "subparagraph (D)" and inserting "subparagraph (D) or (E)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991.

SEC. 4. OPTIONAL COVERAGE FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) as amended by section 3 of this Act, is further amended—

(1) by striking "or" at the end of subclause (X),

(2) by striking the semicolon at the end of subclause (XI) and inserting "; or"; and

(3) by adding at the end the following new subclause:

"(XII) who are described in subclause (IX) and subsection (s);".

(b) DESCRIPTION OF CHILDREN IN FOSTER HOMES, GROUP HOMES, OR PRIVATE INSTITUTIONS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(s) Individuals described in this subsection are children who are in a foster home, group home, or private institution for whom a public agency is assuming full or partial financial responsibility or in a foster home, group home or private institution maintained by a private nonprofit agency.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991.

SEC. 5. MODIFICATION OF ASSET TEST FOR PREGNANT WOMEN.

(a) IN GENERAL.—Section 1902(l)(3) of the Social Security Act (42 U.S.C. 1396a(l)(3)) is amended by inserting before the semicolon at the end of subparagraph (B) the following: "(except that, for purposes of this subparagraph, there shall be excluded from the term 'resources', without regard to the value thereof, any automobile, household goods, personal effects, burial spaces, and insurance policies)".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective with respect to eligibility for medical assistance on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6. MODIFICATION OF DAY LIMITS FOR PRESUMPTIVE ELIGIBILITY.

(a) ELIMINATION OF 45-DAY LIMIT.—Section 1920(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r-1(b)(1)(B)) is amended—

(1) by adding "or" at the end of clause (i);

(2) by striking clause (ii); and

(3) by redesignating clause (iii) as clause (ii).

(b) 14-DAY LIMIT FOR APPLICATION EXTENDED.—Section 1920 of such Act (42 U.S.C. 1396r-1) is further amended—

(1) in subsection (b)(1)(B)(ii), as redesignated by subsection (a)—

(A) by striking "14 calendar days" and inserting "the requisite number of calendar days as specified by the State (but not less than 14 calendar days)"; and

(B) by striking "fourteenth calendar day" and inserting "requisite calendar day as specified by the State (but not less than the fourteenth calendar day)"; and

(2) in subsection (c)(2)(B) by striking "14 calendar days" and inserting "the requisite number of calendar days as specified by the State (but not less than 14 calendar days)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991.

SEC. 7. MANDATORY ELIGIBILITY, CONTINUITY OF CARE AND TEMPORARY EXTENSION OF MEDICAID ELIGIBILITY.

(a) CONTINUOUS ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e)(6) of the Social Security Act (42 U.S.C. 1396a(e)(6)) is amended—

(1) by striking "At the option of the State, in" and inserting in lieu thereof "In"; and

(2) by striking "the State plan may nonetheless treat" and inserting in lieu thereof "the State plan shall treat".

(b) CONTINUOUS ELIGIBILITY FOR CERTAIN CHILDREN.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end thereof the following new paragraph:

"(11)(A) In the case of a child who has not attained 6 years of age and who is determined eligible for medical assistance under this title (other than a child eligible for such assistance because such child is receiving aid under part A or E of title IV or under title XVI), such child shall remain eligible for medical assistance under this title after each determination of eligibility for a period of 6 months and no redetermination of such child's eligibility shall take place for a period of 6 months from the determination of eligibility of such child, regardless of any change in income or resources of the family of which such child is a member.

"(B) With respect to a child who has not attained 19 years of age and who is receiving aid under part A or E of title IV or under title XVI and who is determined to be no longer eligible for such aid, the State may not discontinue medical assistance under this title for such child until the State has determined that such child is not eligible for medical assistance under this title on a basis other than the receipt of aid under such parts or title.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall become effective with respect to eligibility determinations for medical assistance under title XIX of the Social Security Act on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 8. ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 4 of this Act, is further amended by adding at the end the following new subsection:

"(t) In order to meet the requirements of subsection (a)(53), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 19 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(3) not be limited by the imposition of dollar limits with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).".

(b) CONFORMING AMENDMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 6406(a) of the Omnibus Budget Reconciliation Act of 1989, is further amended—

(1) by striking "and" at the end of paragraph (52);

(2) by striking the period at the end of paragraph (53) and by inserting "; and"; and

(3) by inserting after paragraph (53) and before the end matter the following new paragraph:

"(54) provide, in accordance with subsection (t), for adjusted payments for certain inpatient hospital services.".

(c) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 9. OPTIONAL STATE COVERAGE OF HOME OR COMMUNITY-BASED SERVICES TO CERTAIN CHILDREN.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), as amended by section 6405 of the

Omnibus Budget Reconciliation Act of 1989, is further amended—

(1) by redesignating paragraph (22) as paragraph (23); and

(2) by inserting after paragraph (21) the following new paragraph:

"(22) home or community-based services (as described in section 1915(c)(1)) for children—

"(A) who have not attained the age of 19 years; and

"(B)(i) who have acquired immune deficiency syndrome, or

"(ii) who are medically dependent on a ventilator for life support;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1991.

SEC. 10. OPTIONAL STATE COVERAGE OF HOME VISITOR SERVICES.

(a) STATE OPTION PROVIDED.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) as amended by section 10 of this Act, is further amended—

(1) by redesignating paragraph (23) as paragraph (24); and

(2) by inserting after paragraph (22) the following new paragraph:

"(23) home visitor services as prescribed by a physician and furnished by a registered nurse to infants during their first 6 months of life who have medical conditions which require treatment with life sustaining medications or equipment or technologically assisted feeding; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to services furnished on or after January 1, 1991.

SEC. 11. LIMIT ON NUMBER OF INDIVIDUALS ALLOWED TO PARTICIPATE IN HOME AND COMMUNITY-BASED PROGRAMS UNDER WAIVERS INCREASED.

(a) IN GENERAL.—Section 1915(c)(10) of the Social Security Act (42 U.S.C. 1396n(c)(10)) is amended by striking "200" and inserting "500".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to waivers granted or renewed under section 1915(c) of the Social Security Act on or after January 1, 1991.

SEC. 12. REPORTING REQUIREMENTS OF THE SECRETARY.

(a) DEFINITION OF MEDICALLY HIGH RISK PREGNANCY AND CHILDREN TO BE DEVELOPED.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall in consultation with appropriate professional health care related groups develop definitions of medically high risk pregnancy and children at a high risk of medical problems. In developing such a definition the Secretary shall consider, among other factors, low birthweight and placement in foster care.

(2) The Secretary shall report to Congress on the definitions developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1991.

(b) DEFINITION OF MEDICALLY UNINSURABLE CHILDREN TO BE DEVELOPED.—(1) The Secretary shall in consultation with appropriate professional health care groups and health insurers develop alternative definitions of medically uninsurable children.

(2) The Secretary shall report to Congress on the definitions developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1991.

(c) MODEL HEALTH BENEFIT PACKAGE FOR PREGNANT WOMEN AND CHILDREN TO BE DEVELOPED.—(1) The Secretary shall in consultation with appropriate professional health care groups and consumers develop a model health benefit package for pregnant women and children through age 18. The package developed by the Secretary shall include—

(A) coverage for appropriately timed primary care visits (including visits for prenatal care, immunizations, screening, and followup treatment of health problems); and

(B) protection against catastrophic expenses for inpatient hospital care.

(2) The Secretary shall report to Congress on the health benefit package developed under paragraph (1) along with such further information or comments as the Secretary may deem relevant not later than March 1, 1991.

(d) REPORT ON IMPROVING PUBLIC HEALTH COORDINATION.—(1) The Secretary shall study different methodologies to improve the coordination between various public health programs, in particular the coordination of benefits provided under titles V and XIX of the Social Security Act, and the special supplemental food program (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) The Secretary in conducting the study under paragraph (1) shall consult with the Governors of the various States and the Secretary of Agriculture.

(3) The Secretary shall report to Congress on the findings of the study conducted by the Secretary under paragraph (1) not later than March 1, 1991.

SEC. 13. SECTION 209(b) STATES PROHIBITED FROM DENYING MEDICAL ASSISTANCE TO CHILDREN 18 YEARS OF AGE OR YOUNGER RECEIVING BENEFITS UNDER SSI.

(a) IN GENERAL.—Section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended—

(1) by striking "and section 1619(b)(3)," and inserting ", section 1619(b)(3) and paragraph (2) of this subsection,";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) by inserting "(1)" after "(f)"; and

(5) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of paragraph (1), a State shall provide medical assistance to any individual who is eligible for and receiving benefits under title XVI and who has not attained the age of 18 years.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective with respect to medical assistance provided on or after January 1, 1991.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 14. HEALTH CARE PLANS FOR FOSTER CARE CHILDREN.

(a) IN GENERAL.—Section 475(1) of the Social Security Act (42 U.S.C. 675(1)) is amended—

(1) by inserting "(A)" before "The term"; and

(2) by adding at the end the following new subparagraph:

"(B) The case plan must also include a health care record for the child involved which includes information obtained from the child's parents, the foster care provider responsible for the daily care of the child, the child's health care providers, and other providers of care to the child, including the following:

"(i) A copy of a preplacement health care record that has been completed before the placement of the child in foster care (or within 30 days, in the case of emergency placement in foster care) and provided to the child's foster care provider to ensure that the provider is immediately made aware of the child's health and developmental needs that require continuing attention and services. The preplacement health care record shall, at a minimum, include the following:

"(I) A record of the child's health, mental health, and dental history, including allergies, current medications, immunizations, and any known health and mental health problems.

"(II) Other information about matters concerning the child that may require emergency attention.

"(III) The names and addresses of the child's physician, dentist, and other providers of medical, mental health, developmental, and rehabilitation services.

"(ii) A record indicating that the child's foster care provider was advised of the child's eligibility under the early and periodic screening, diagnosis, and treatment program under title XIX.

"(iii) A health care plan for the child that is maintained by the agency indicating that the ongoing health, mental health, and dental needs of the child are being met. At a minimum, the health care plan shall include a record of the following:

"(I) Periodic health and dental examinations of the child.

"(II) Other diagnoses and treatment received by the child (including the dates of such examinations and treatments and the names and addresses of the health care providers).

"(III) Immunizations received by the child with a schedule of needed future immunizations.

"(IV) Known allergies of the child and prescribed treatment, if any.

"(V) Medications currently being taken by the child.

"(VI) Names and addresses of all health care providers, including those providing mental health, developmental, and rehabilitation services who have information regarding the child's current health care status.

"(iv) A record indicating that—

"(I) the foster care provider has been informed of its responsibilities related to maintaining and updating an abbreviated summary of the child's health care plan documenting the health, mental health, and dental services rendered to the child while in the care of the foster care provider;

"(II) the foster care provider and caseworkers assigned to the child clearly understand their responsibilities with respect to meeting the health care needs of the child; and

"(III) the agency has periodically reviewed the abbreviated summary of the child's health care plan which is maintained by the foster care provider to ensure that the child's health care plan is being adhered to and updated.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1991.

SEC. 15. USE OF MOST RECENT DATA IN CALCULATION OF FEDERAL MATCHING PERCENTAGE.

(a) IN GENERAL.—Section 1101(a)(8)(B) of the Social Security Act (42 U.S.C. 1301(a)(8)(B)) is amended—

(1) by striking "between October 1 and November 30" and inserting "between April 1 and May 31"; and

(2) by striking "promulgation: *Provided*" and all that follows, and inserting "promulgation. The Secretary shall publish in the Federal Register in October of each year a preliminary estimate for each State of the Federal percentage that will become effective in the following October.".

(b) EFFECTIVE DATE AND TRANSITION.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to payments for quarters beginning on or after October 1, 1991.

(2) In July 1990 the Secretary of Health and Human Services shall promulgate the Federal percentage in accordance with section 1101(a)(8)(B) of the Social Security Act as amended by subsection (a), using the most recent data that was available as of May 31, 1990. For quarters beginning on April 1, 1991 and on July 1, 1991, the Federal percentage for each State shall be the higher of the Federal percentage that became effective on October 1, 1990, or the Federal percentage calculated under this paragraph.

SEC. 16. OPTIONAL COVERAGE OF OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS.

(a) PERMITTING PAYMENT FOR OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS AT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Section 1903(a)(1) of the Social Security Act (42 U.S.C. 1396b(a)(1)) is amended by inserting "for outreach services for pregnant women and infants described in section 1902(l)(5) or" after "total amount expended during such quarter".

(b) OUTREACH SERVICES FOR PREGNANT WOMEN AND INFANTS DEFINED.—Section 1902(l) of such Act is amended by adding at the end the following new paragraph:

"(5) For purposes of section 1903(a), the term 'outreach services for pregnant women and infants' means, with respect to pregnant women and infants, services to identify individuals described in subparagraph (A) or (B) of paragraph (1), respectively, and, once identified, to assist them in applying for medical assistance under this title.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall become effective with respect to services furnished on or after January 1, 1991.

SEC. 17. EXTENSION OF FREEDOM OF CHOICE WAIVERS FOR SERVICES RELATED TO PREGNANCY.

(a) IN GENERAL.—Section 1915(b) of the Social Security Act (42 U.S.C. 1396n(b)) is amended by inserting after the matter at the end the following: "A waiver under this subsection for services related to pregnancy shall be for an initial term of 3 years and, upon request of a State, shall be extended for additional 5-year periods unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.".

(b) CONFORMING AMENDMENT.—Section 1915(h) of such Act (42 U.S.C. 1396n(h)) is amended by striking "subsection (c)" and inserting "subsection (b), (c)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective with respect to waivers granted on or after January 1, 1991.

SUMMARY OF MEDICAID CHILD HEALTH ACT

EXPANDED MEDICAID ELIGIBILITY

Optional coverage of children with incomes below 185 percent of the poverty level up to age 19. States would also have the option of setting separate age and income thresholds for foster care children, or expanding eligibility only for foster care children. (Effective 1/1/91)

Phased-in coverage of children up to age 19 in families with incomes below the Federal poverty level. States would be required to phase-in coverage of children below 100 percent of poverty a year at a time, starting with 6 and 7 year olds in 1991. All children under the age of 19 whose family incomes are below the Federal poverty level would be covered by the year 2002. (Effective 1/1/91)

Other. Extend Medicaid coverage to all children who are SSI recipients in the 14 "209(b)" States.

IMPROVED MEDICAID BENEFITS

Payments for hospital services. Payments for children in disproportionate share hospitals and infants in any hospital would no longer be subject to day limits. Outlier payments would be required in those states that pay hospitals on a prospective basis. Dollar limits could not be imposed on stays for children admitted to the hospital up to age one. (Effective 1/1/91)

Home and Community-Based services. States would have the option of providing home and community-based services under Medicaid for children with AIDS and children who are ventilator-dependent. The Secretary could not limit to fewer than 500 the number of individuals receiving services under a home and community-based services waiver. (Effective 1/1/91)

Optional Coverage of Home visitor services. States would have the option of providing physician-prescribed home visitor nursing service for infants up to 6 months. (Effective 1/1/91)

Optional Coverage of Outreach Services for Pregnant Women and Infants. Outreach services to assist pregnant women and infants in applying for Medicaid would be made an optional service under Medicaid. (Effective 1/1/91)

ADMINISTRATIVE AND OTHER IMPROVEMENTS

Modify the option for presumptive eligibility for pregnant women. Pregnant women who are presumptively eligible for Medicaid, and who apply for Medicaid during a time period specified by the State would continue eligibility until the state determines otherwise. (Effective 1/1/91)

Continuous eligibility. Pregnant women would be Medicaid-eligible for 60 days after delivery. Children would continue to be Medicaid eligible until the state determines that the child is not eligible under any rules. Eligibility redetermination would be limited to very 6 months for children up to age 6. (Effective 1/1/91)

Limit asset test for pregnant women. In determining eligibility for pregnant women, states could not count the value of an automobile, personal effects, household goods, life insurance or a burial plot. (Effective 1/1/91)

Use of Most Recent Data in Calculating Federal Matching Percentage. Annual matching rates would be recalculated in April rather than the previous October, to more accurately reflect the current condition of the state's economy. (Effective 4/1/91)

Secretary Definitions and Report. The Secretary of HHS would report to Congress on ways to improve coordination between Medicaid, Maternal & Child Health, WIC and other programs. The Secretary would also develop definitions of medically higher risk pregnancies, medically high risk children, and medically uninsurable children, and a model health benefit package for pregnant women and children.

Health Care Plans for Foster Children. Federally financed foster care children would be required to have a health care record completed and provided to the foster care provider. (Effective 1/1/91)

Extend "freedom of choice" waivers to States for pregnancy-related services. States would be allowed to receive freedom of choice waivers for innovative delivery of pregnancy related services for an initial period of three years, rather than two. States could apply for a five-year extension of waiver. (Effective 1/1/91)●

Mr. CHAFEE. Mr. President, I am pleased to join Senator BENTSEN in introducing the Medicaid Child Health Act of 1990. This legislation would require States to increase much needed Medicaid services for low-income children. It is our next step toward ensuring that all children have access to necessary health care services.

When millions of children have little or no access to health insurance, we must question the adequacy and effectiveness of our health care delivery system. We must realize the importance of ensuring that children who do not currently receive proper health care services have access to them.

As a member of the Senate Finance Committee and both subcommittees on Health, one of my highest priorities has been to provide widespread and effective preventive health care for low-income children. Since 1984, we have been successful in moving forward in incremental steps toward this goal. Yet, it is clear that much more needs to be done.

The legislation we are introducing today will improve the delivery of health services to children. This legislation requires States to phase in Medicaid coverage of children up to age 19 in families with incomes below the Federal poverty level. States would begin in 1991 by covering 6- and 7-

years-olds and phase in children up to age 19, a year at a time. All children whose family incomes are below the poverty level would be covered by the year 2002. In addition, the legislation gives States the option of covering children with incomes below 185 percent of poverty up to age 19.

This legislation also improves payments for hospital services by prohibiting the use of day limits for children in disproportionate share hospitals and infants in all hospitals. States would have the option of providing home and community-based services under Medicaid for children with AIDS and children who are ventilator-dependent. These changes are necessary to create a system of services that will achieve our goals.

Senator BENTSEN and I believe that further extension of Medicaid coverage is critical for low-income children. Children need a good healthy start in life. We must recognize this now and act on it before its too late for a generation of children living in poverty.

I know there is concern about the cost of such expansions in light of the deficit; however, we must choose our priorities. I believe there are few goals more important than ensuring that the coming generations of Americans begin life with good health and have the opportunity to grow and flourish.

Mr. President, I commend Senator BENTSEN for his continued efforts in this critical area of child health. I hope my colleagues will agree that Federal dollars for this legislation would be well spent, and that even during a time of fiscal restraint, it is sound economic policy to invest in the health of our children.

● Mr. BRADLEY. Mr. President, I rise to cosponsor the Medicaid Child Health Act of 1990. This legislation would significantly expand coverage and benefits for a significant portion of our most at-risk population in America, our poor children. The legislation would mandate the phasing in of coverage for all children below the age of 19 up to the Federal poverty level, cover SSI eligible children, and allow States the option to cover up to the age of 19 all those living below 185 percent of the poverty level. In addition, the bill would expand the State's option to provide home- and community-based services for children with AIDS, home visitation services for infants up to the age of 6 months, and coverage for outreach services for infants and pregnant women.

As we watch the amazing changes that are overtaking the world today, I am more and more convinced that the test of our leadership in the world will be the example we set in providing for the human needs of our own people. Our record on how we treat our children in America is less than exemplary. It is unacceptable that in America today, infant mortality is higher than in all other industrialized nations. It is unacceptable that the country that pioneered the development of vaccines should have childhood immunization rates among minority Americans that rank behind 48 other countries including Albania and Botswana. A country that can put men on the Moon and can dream of sending men to Mars can surely find ways to add ounces to the birthweight of an infant or to get children to the doctor for preventive health care.

This bill will greatly expand health care coverage to the 12 million children who are currently uninsured. Our greatness as a nation is fully diminished by our reluctance to provide basic health care to our children. This bill helps us to begin to redress this glaring omission. I have worked closely with my colleagues, Senators BENTSEN and RIEGLE, on these issues in the past. I welcome their leadership on this bill.●

Mr. RIEGLE. Mr. President, I am pleased to introduce the Medicaid Child Health Act of 1990 with Senators BENTSEN, CHAFEE, MITCHELL, MOYNIHAN, DURENBERGER, MATSUNAGA, ROCKEFELLER, BRADLEY, and DASCHLE. Like last year, there is bipartisan support for these needed improvements to the Medicaid Program and for Congress to complete the work started last session.

It is a national tragedy that one in five children, over 12 million, are without a penny of health insurance. Forty-one percent of uninsured children, or 5 million, live in families with incomes below the Federal poverty level—our most vulnerable families. Our Nation's public program, Medicaid, is an inadequate safety net for low-income children; covering only 50 percent of children below poverty level. In Michigan, we have 300,000 children who have no health insurance.

As chairman of the Finance Subcommittee on Health for Families and the Uninsured, I have been developing this legislation to continue our work last year to improve health care coverage for low-income pregnant women and children. Significant improvements were enacted in the first session including coverage of pregnant women and children up to age 6 in families with incomes up to 133 percent of the Federal poverty level as well as improvements in the types of services provided and reimbursement levels for certain providers.

Mr. President, our Medicaid Child Health Act includes over 15 provisions that expand Medicaid eligibility, and improve benefits and the delivery of health care services. Many of these provisions were part of the Senate or House Budget Reconciliation bills but were not included in the final version of last year's Budget Reconciliation bill. It is vital that we complete the work begun last year.

At a very minimum, I believe this country must start to invest in our most vulnerable children. This bill guarantees coverage of children in families with incomes up to 100 percent of the Federal poverty level. But we would do this in the least burdensome manner, by phasing-in the provision so that by the year 2002 these children would be covered.

States would also have maximum flexibility in designing their Medicaid programs with optional coverage of children up to age 19 with family incomes below 185 percent of the poverty level. Other provisions would improve administration of the Medicaid program including ensured payment for medically necessary services in certain hospitals; ways to prevent inappropriate interruption of coverage; and financing of outreach programs.

I am proud to say in Michigan, the Governor's "Healthy Start" program would provide health care to children up to 200 percent of the poverty level, eventually covering 200,000 uninsured children. Passage of this bill would help Michigan in this effort by allowing Federal matching funds, through Medicaid, for expanding coverage to children. An estimated 180,000 uninsured children in Michigan could potentially receive needed health care services.

Mr. President, until we address the problem of providing comprehensive health insurance for all Americans, efforts that focus on improving the current delivery of maternity and infant child health care in the United States are critical. As chairman of the Subcommittee on Health for Families and the Uninsured, I will continue working with other members of the Finance and Labor and Human Resources Committees to develop a comprehensive proposal that guarantees universal access to health insurance for the 37 million Americans who lack coverage. I am holding a hearing today on this very topic. High quality, affordable health care for all Americans is one of my top priorities in Congress.

By Mr. PELL (by request):

S. 2460. A bill to authorize appropriations for the African Development Foundation, and for other purposes; to the Committee on Foreign Relations.

AUTHORIZATION OF APPROPRIATIONS FOR AFRICAN DEVELOPMENT FOUNDATION

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the African Development Foundation, and for other purposes.

This proposed legislation has been requested by the African Development Foundation, and I am introducing it in order that there may be a specific bill to which Members of the Senate and

the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the President of the African Development Foundation to the President of the Senate, which was received on April 2, 1990.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 5050(a)(2) of Title V of the International Security and Development Cooperation Act of 1980 is amended by adding a sentence to read as follows: "The Foundation may at its discretion waive this limitation in order to add an amount, not exceeding $100,000, to an existing project where doing so is deemed critical to the fulfillment of the goals of the project."

SEC. 2. Section 510 of Title V of the International Security and Development Cooperation Act of 1980 is amended by deleting "$3,872,000 for fiscal year 1986, and $3,872,000 for fiscal year 1987" in the first sentence, and inserting "$11,500,000 for fiscal year 1991, and such other sums as may be necessary for fiscal year 1992" in lieu thereof.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends the provision of Title V which limits the African Development Foundation's authority to fund a single project to a maximum of $250,000. The amendment provides the Foundation with the discretion to waive this limitation by adding amounts up to $100,000 to an existing project in those situations where it is determined that failure to do so would critically affect the recipient's ability to realize the goals of the project. The Foundation continues to regard the $250,000 ceiling as important in retaining its focus on small-scale grassroots initiatives. However, some degree of flexibility like that enjoyed by the InterAmerican Foundation, which has no funding limitation in its legislation, is regarded as desirable. The waiver would be used in only those exceptional circumstances where on-going projects, already funded at the $250,000 legislative limit, require small amounts of additional funding because of inflation, the declining value of the dollar, or the impact of other unanticipated factors on the project.

Section 2 authorizes the appropriation of $11,500,000 for the African Development Foundation for Fiscal Year 1991, and such sums as may be necessary for Fiscal Year 1992.

AFRICAN DEVELOPMENT FOUNDATION,
Washington, DC, February 26, 1990.

Hon. J. DANFORTH QUAYLE,
Vice President of the United States and President of the Senate, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I herewith transmit a bill to amend the International Security and Development Cooperation Act of 1980 to amend section 5050(a)(2) of the legislation to permit the waiver of the $250,000 ceiling on project funding under certain circumstances; and to authorize appropriations for the Foundation for Fiscal Year 1991 and 1992. This legislative proposal is needed to carry out the President's FY 1991 budget plan.

Section 1 of the bill adds language to section 505(a)(2) of the Act which would authorize the Foundation to add funds to individual projects already funded up to the legislative limit of $250,000, but only in those cases where it is deemed critical to the achievement of the goals of the project. The $250,000 ceiling, while recognized as crucial to preserving the Foundation's focus on small projects, serves on occasion as an impediment to ADF's ability to adequately support some of its already existing projects. This situation may be due, for example, to the impact on project funding of inflation and the declining value of the dollar in the countries where the Foundation operates, or the occasional occurrence of unforeseen natural disasters.

Section 2 of the bill authorizes the appropriation of $11,500,000 for the African Development Foundation for Fiscal Year 1991, and such sums as may be necessary for Fiscal Year 1992.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

LEONARD H. ROBINSON, JR.,
President.●

By Mr. KENNEDY:

S. 2461. A bill to reauthorize appropriations to provide for and improve the Drug Treatment Waiting Period Reduction Grant Program under the Public Health Service Act, and for other purposes; to the Committee on Labor and Human Resources.

DRUG TREATMENT WAITING PERIOD REDUCTION GRANT PROGRAM REAUTHORIZATION AND IMPROVMENTS ACT

Mr. KENNEDY. Mr. President, today I am introducing a bill to reauthorize and improve the Drug Treatment Waiting Period Reduction Grant Program. Today, many thousands of drug addicts who need, want, and would benefit from treatment are turned away at the clinic door because there are too few treatment slots. This grant program is one way of responding to that crisis.

Let me briefly recount the history of the Waiting List Grant Program. Section 2053 of the Anti-Drug Abuse Act of 1988—Public Law 100-690—authorized the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] to make grants to public and nonprofit private entities to reduce the waiting lists at drug treatment programs; $100 million was authorized and appropriated for this purpose.

The legislation was prompted by widespread reports of overburdened treatment providers denying services to desperate addicts because of inadequate resources. One manifestation of the treatment shortfall was the existence of long waiting lists at many treatment programs around the country. These waiting lists had become a vivid symbol of the urgent need for expanded drug treatment capacity in the United States. Indeed, the Anti-Drug Abuse Act of 1988 embodied a fundamental goal: "to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem," section 2012(5).

In late 1989, the National Association of State Alcohol and Drug Abuse Directors [NASADAD] quantified the extent of the waiting list problems, as well as the broader need for treatment expansion. A 1-day survey of treatment providers in 44 States and the District of Columbia found that: 66,766 persons were on treatment waiting lists on September 25, 1989; approximately 50 percent of those on waiting lists had been waiting for treatment at least 30 days; and the estimated average number of days between request and admission was 22 days for outpatient programs and 45 days for inpatient programs.

Looking beyond waiting lists, NASADAD conducted a study of overall drug and alcohol treatment need. Startingly, the October 1989 study found that 1,407,519 Americans were receiving treatment for drug and alcohol abuse, while an additional 10,596,479 people needed but were not receiving treatment.

The $100 million appropriated for the Waiting List Program in 1988 has been expended, and yet the NASADAD surveys demonstrate that the need for such Federal support remains great. While there are other sources of Federal support for treatment activities—most notably the ADAMHA block grant—the Waiting List Program is one of several categorical grant programs administered by ADAMHA that enable Federal officials to target resources to populations and geographic regions of especially acute need. These categorical programs complement the more general support provided by the block grant.

Recognizing the importance of the Waiting List Program, Congress appropriated, subject to the passage of authorizing legislation, an additional $40 million for the program last year—Public Law 101-164, title IV, chapter III. A provision authorizing the expenditure of these funds would have been included in the conference report accompanying H.R. 3630, but the report has not commanded a majority of the Senate conferees for reasons that have nothing to do with this particular provision. The bottom line, therefore, is that $40 million which could be used to reduce drug treatment waiting lists will be returned to the Treasury unless authorizing legis-

lation is passed before the end of the current fiscal year.

The Senate Labor and Human Resources Committee is the authorizing committee with jurisdiction over the Waiting List Program. As chairman of the committee, I feel a responsibility to do everything within my power to see that the $40 million is expended by ADAMHA. It would be shameful if $40 million appropriated for drug treatment were returned to the Treasury at a moment when the need for treatment services in this country is so overwhelming.

It is my understanding that ADAMHA is seeking a reprogramming or reappropriation of the $40 million because administration officials believe the money could be more effectively spent for other purposes. I have no objection to this effort. Indeed, the programs for which ADAMHA would like to use the money—treatment improvement grants, medications development and AIDS outreach—are all programs I strongly support. It is my understanding, moreover, that a large portion of the money would still be spent directly on treatment services, and would therefore reach the same afflicted population that would be served by the waiting list grants.

If my colleagues on the Senate and House Appropriation Committees wish to permit the $40 million to be redirected for these purposes, I would be pleased to support that decision. If a reappropriation cannot be accomplished, however, I believe the money should be spent on the Waiting List Program, as originally intended. Simply put, I want to see this money spent for drug treatment rather than returned to the Treasury.

My legislation does more than reauthorize the Waiting List Grant Program. I am taking this occasion to propose a series of improvements in the program to assure that the $40 million is expended in the most effective manner possible. Some of these changes would have been accomplished by the passage of H.R. 3630.

First, my bill strikes subsection 509E(d) of the Public Health Service Act, which prohibits the Secretary from making more than one waiting list grant to any single treatment program. That proscription would no longer be appropriate if the Waiting List Program is transformed into a multiyear effort.

Second, I would like to see ADAMHA give priority to programs that serve pregnant and post-partum addicts. Recent studies provide dramatic evidence that substance abuse among child-bearing women has devastating consequences for their offspring. Dr. Ira Chasnoff of the National Association for Perinatal Addiction Research and Education estimates that 375,000 newborns are affected by their mother's substance abuse, a figure that represents 11 percent of all live births. The inspector general of the Department of Health and Human Services recently projected that there may be 4 million so-called crack babies by the year 2000.

Yet many treatment providers are reluctant to serve pregnant addicts because they are ill-equipped to provide comprehensive prenatal care or social services and because they fear liability. A 1989 study conducted by Prof. Wendy Chavkin of Columbia University found that less than half of the drug treatment programs in New York City were willing to admit pregnant addicts. Establishing a "pregnant addict priority" within grant programs is one way to encourage the expansion of services for this afflicted population.

Third, there should be a priority for programs that provide aftercare. Treatment experts concur that addicts are most likely to benefit from treatment if they receive continuing support after they have completed the formal component of the treatment regimen. This is especially true for addicts who complete residential programs, only to return to the community or family environment that may have fostered the addict's drug abuse in the first place.

Fourth, my bill would establish a requirement that State agencies certify the existence of waiting lists on behalf of applicants that are not themselves States. This requirement will provide greater assurance that waiting list grants are being awarded to programs that are, in fact, the most overburdened.

Finally, Mr. President, this legislation would require the ADAMHA administrator to prepare a comprehensive report on the effectiveness of the waiting list program. There has been a certain amount of controversy surrounding this program. Some contend that waiting lists are not the best measure of treatment need, because not all programs maintain such a list, not all lists are kept current and addicts may place their names on more than one list. Also, the waiting list phenomenon may be attributable, in part, to the absence of a central screening process for addicts; a recent GAO study of methadone programs found that some programs were placing addicts on waiting lists while other programs in the same city had vacant slots. Finally, some contend that the waiting list program is not sufficiently farsighted, because it provides a single infusion of resources for treatment programs that may lack long-term funding.

I expect that the Administrator's report will air these questions and provide a basis for determining whether the program should be reauthorized in the future. If waiting lists are not the best measure of treatment we need, we must ascertain a better measure of need or a more effective mechanism for targeting Federal resources to the most overburdened treatment programs.

I flatly reject the view, however, that the $40 million already appropriated for this program should be returned to the Treasury merely because these questions have been raised. NASADAD and every other informed observer of the drug treatment system in the United States have concluded that there is a dire need for Federal resources. Authorizing the expenditure of an additional $40 million for waiting list grants will provide immediate relief to thousands of our fellow citizens who desperately want to end their life-draining addictions.

There will be ample time to fine tune these treatment funding mechanisms. In the meantime, one way or another, we must deliver these urgently needed Federal treatment resources to the thousands of addicts who are turned away at the clinic door. Our failure to do so is a disservice to them and to ourselves, because every addict we do not treat is a potential criminal we may need to incarcerate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered printed in the RECORD, as follows:

S. 2461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990".

SEC. 2. IMPROVEMENT OF DRUG ABUSE TREATMENT WAITING PERIOD REDUCTION PROGRAM.

Section 509E of the Public Health Services Act (42 U.S.C. 290aa-12) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and non-profit entities—

"(1) drug treatment services to pregnant and postpartum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend in excess of 50 percent of the amount of a grant awarded under subsection (a) to develop and provide such services."; and

(3) in subsection (e)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking out "and" at the end of paragraph (2); and

(C) by inserting after paragraph (2), the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 509E(f) of the Public Health Services Act (42 U.S.C. 290aa-12(f)) is amended—

(1) in paragraph (1), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000"; and

(2) in paragraph (3), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000".

SEC. 4. REPORT.

Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Public Health Service Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under such section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local, and nongovernmental treatment experts with respect to the validity of waiting lists as a measure of treatment need and with respect to the efficiency of the waiting period reduction grant program; and

(5) any other information that the Administrator determines to be necessary to a thorough appraisal of the efficacy of the program under such section.

By Mr. WIRTH (for himself and Mr. HEINZ):

S. 2462. A bill to amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes; to the Committee on Environment and Public Works.

TIRE RECYCLING INCENTIVES ACT

Mr. WIRTH. Mr. President, I today introduce legislation on behalf of myself and Senator HEINZ related to solid waste disposal, the recycling of tires. Senator HEINZ and I together for a long time now have been involved in recycling issues trying to develop—growing out of project 88, the economic incentive programs we put together 1½ years ago—trying to develop a significant number of programs that reflect the need to use the economic incentives to solve environmental problems. Part of that is found in the Clean Air Act in the tradable permits area. We introduced legislation relating to recycling of newspapers and motor oil and today the recycling of tires.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tire Recycling Incentives Act of 1990".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The generation of solid and hazardous waste has grown to alarming proportions in the United States, with per capita disposal having increased by 80 percent from 1960 to 1989. Each person in the United States throws away 3.6 pounds of garbage every day—enough annually to fill a convoy of 10-ton garbage trucks 145,000 miles long, which is the equivalent of half-way to the moon or roughly 7 times around the equator.

(2) Frequently, economic incentives are not sufficient to encourage waste minimization and responsible environmental behavior, and such incentives actually may favor increased waste generation and improper behavior.

(3) A system of economic incentives targeted at waste reduction and recycling together with responsible regulation of recycling activity can reduce both the amount and toxicity of materials entering the environment.

(4) The Administrator of the Environmental Protection Agency requires additional statutory authority to establish appropriate management and recycling requirements and to address situations in which economic incentives to encourage waste reduction and responsible environmental behavior are not adequate.

(5) There is a need to encourage greater recycling of scrap tires. Americans generate 279 million scrap tires annually. Such scrap tires, piled one on top of another, would be 98,000 Empire State Buildings. Less than 30 percent of the currently generated scrap tires are recycled. Currently, 2½ to 3 billion scrap tires are stockpiled across America and these scrap tire dumps grow larger every year. Such stockpiling is, itself, a potential health concern.

(6) While worn out tire casings currently represent only 1.2 percent of the solid waste stream, scrap tires present a special disposal or reuse challenge because of their size, shape, and physical and chemical nature.

(7) Whole scrap tires, when disposed of whole in a landfill, have a unique tendency to rise back to the surface, thus disrupting the landfill cap and allowing water to infiltrate the landfill.

(8) Of the 279 million scrap tires generated in the United States every year, 84.5 percent are landfilled, stockpiled, or illegally dumped.

(9) The whole scrap tires which are stockpiled represent not only a waste of resources but also a health hazard because they serve as an ideal breeding ground for mosquitoes, when stockpiled. According to the Environmental Protection Agency, mosquito borne diseases, like encephalitis and yellow fever, as a result of stockpiled tires, cost an estimated $5,400,000 a year.

(10) Further, fire hazards as a result of tire stockpiles are both severe and wide-ranging. Such scrap tire fires frequently result in air, surface, and groundwater pollution. The major problem of a scrap tire fire hazard is the difficulty in extinguishing the fire due to the fact that 75 percent of tire space is void. This void space makes it difficult to put out fires or quench the oxygen supply.

(11) In addition to the difficulty in putting tire fires out, such fires represent a potential health and environmental risk in the form of both liquid and gaseous emissions from the tires. Burning tires emit solvents and polynuclear aromatic hydrocarbons (PAHs)—many of which are carcinogenic. The tires also melt while burning, releasing both sooty smoke and oily liquids. The water used to extinguish the fire mobilizes these chemicals into the surface and groundwater.

(12) Estimated direct annual expenditures for extinguishing tire fires are greater than $2,000,000. One tire fire alone, in Winchester, Virginia, required more than $5,000,000 for control and containment. These estimates say nothing of the environmental damage that must ultimately be paid for.

(13) The best way of eliminating the environmental and health hazards associated with tire piles is to minimize and ultimately eliminate the stockpiling of tires.

(14) While adequate technology exists to significantly reduce tire stockpiles, waste tires are underutilized because of adverse economics. It is simply cheaper to throw them away than to recycle. Until economic forces are reversed, tire stockpiling will be the option of choice. Producers and importers of tires are responsible for introduction of such tires into commerce and therefore need to assure that such tires are ultimately managed in a responsible fashion.

SEC. 3. REQUIREMENTS TO RECYCLE SCRAP TIRES.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following new sections:

"SEC. 4011. RECYCLING REQUIREMENTS FOR SCRAP TIRES.

"(a) GENERAL REQUIREMENT.—(1) During the period beginning not later than 24 months after the date of the enactment of the Tire Recycling Incentives Act of 1990 and ending 10 years after such date, a producer or importer of tires each year shall recycle, using a method described in paragraph (2), an amount of scrap tires equal to at least that amount of tires determined by—

"(A) multiplying the tires produced for domestic use or consumption or imported that year by such person, by

"(B) the recycling percentage established by the Administrator under subsection (b).

"(2) A producer or importer of tires may comply with this subsection by either or both of the following methods:

"(A) By recycling scrap tires in compliance with the requirements of section 4012 and regulations promulgated pursuant to such section through reintroducing the reclaimed rubber into a manufacturing process for purposes of producing new tires or by retreading old tire casings.

"(B) By purchasing recycling credits under the recycling credit system established pursuant to subsection (c).

"(3) A producer or importer of tires shall submit to the Administrator, under regulations promulgated by the Administrator, a report on the amount of tires produced or imported in each calendar year by such person. The report shall be submitted at least once a year, but the Administrator also may require such interim reports under this paragraph as he considers necessary.

"(b) RECYCLING PERCENTAGE.—The Administrator each year shall establish a recycling percentage for use under subsection (a). The percentage applicable during the first year that the requirement established by subsection (a) is in effect shall be a percentage that is 5 percentage points higher than the recycling rate for tires that exists on the date of the enactment of this section. Such recycling rate shall be determined by using data for 1988 or the most recent year for which data are available. For each of the 10 years thereafter, the recycling percentage shall be an additional 5 percentage points higher than the percentage of the previous year. Such recycling percentage shall go into effect automatically and shall be published in the Federal Register.

"(c) CREDIT SYSTEM FOR RECYCLING SCRAP TIRES.—(1) Not later than 24 months after the date of the enactment of the Tire Recycling Incentives Act of 1990, the Administrator shall promulgate regulations to establish a system under which (A) recyclers may create credits for scrap tire recycling, and (B) producers or importers of tires may purchase such recycling credits from such recyclers, for purposes of complying with subsection (a). No person may create such credits, and no producer or importer of tires may purchase such credits, except in accordance with this subsection and the regulations promulgated under this subsection. In developing the regulations, the Administrator shall, to the maximum extent feasible, allow for the use of records kept in the ordinary course of business or other approaches that facilitate the simple, rapid generation and exchange of credits without a case-by-case approval.

"(2) At a minimum, the regulations under paragraph (1) shall include each of the following requirements:

"(A) The owner or operator of any tire sale and installation facility or any scrap tire collection center shall keep receipts issued by any transporters who take delivery of the scrap tires. The receipts shall be kept for at least 3 years and shall show the date, the quantity of scrap tires taken, and the transporter's identification number. The owner or operator shall show such receipts to the Administrator or to any State enforcing this section and section 4012 upon demand. The owner or operator also shall keep on file a copy of the contract or written agreement between the owner or operator and the transporter under which the transporter agrees to take the scrap tires to a recycling facility.

"(B) The owner or operator of a scrap tire recycling facility who obtains a permit in accordance with section 4012 is the only person who may create a recycling credit for the recycling credit system. Recycling credits may be created through shredding scrap tires, burning scrap tires for energy recovery in a manner approved under Federal or State law, reusing scrap tires through retreading, utilizing crumb rubber made from scrap tires in an asphalt road paving mix, recycling scrap tires by reclaiming rubber from the tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire handled at a scrap tire recycling facility is as follows:

"(i) One-fourth of a credit for one tire shredded.

"(ii) One-fourth of a credit for one tire burned after shredding.

"(iii) One-half of a credit for one whole tire burned in an approved manner.

"(iv) Three-fourths of a credit for one tire reused or recycling after shredding.

"(v) One credit for one whole tire reused or recycled. Methods of reuse may include retreading, and methods of recycling may include reclaiming rubber from the tire to produce tires or an asphalt road paving mix. If the method of reclamation involves shredding or crumbling of the whole tire, an additional one-fourth of a credit may not be claimed under clause (i) or (ii).

"(C) Each year a producer or importer of tires shall keep records of the quantity of tires produced or imported, the recycling of scrap tires carried out to comply with subsection (a), the amount of recycling credits purchased, the names of recyclers from whom the credits were purchased and the dates of the purchases, the price paid for the credits, and the amount, if any, of recycling credits sold or carried over from previous years. The regulations shall allow for a two-year carryover of credits.

"(3) The Administrator may include such other requirements in the regulations under paragraph (1) with respect to qualifications for recyclers, importers, and producers, methods for auditing compliance with the system, and enforcement of the system as the Administrator considers necessary or appropriate for administering the recycling credit system established under this subsection.

"(d) REPORTS.—(1) Not later than six years after the date of the enactment of the Tire Recycling Incentives Act of 1990, the Administrator shall submit to Congress an interim report on the implementation of this section. The report shall include, at a minimum—

"(A) a discussion of the effects of the requirements of this section on the tire industry, the scrap tire recycling industry, and the environment, including the extent of improper tire storage and disposal; and

"(B) an evaluation of the level of the recycling percentage under subsection (b) and recommendations on whether, and at what rate, the percentage should be increased in future years.

"(2) Not later than 10 years after such date, the Administrator shall submit to Congress a final report on the implementation of this section. The report shall include an updated version of the discussion and evaluation required in the interim report, as well as such other findings and recommendations with respect to the implementation of this section as the Administrator considers appropriate.

"(3) Each year the Attorney General shall determine the effects of the credit system established under subsection (c) on competition within the tire industry and the scrap tire recycling industry and shall submit to Congress a report on such determination. With respect to any calendar year occurring after the system is established, the determination shall be made, and the report submitted to Congress, not later than 6 months after completion of an audit of compliance with the system carried out by the Administrator during that calendar year, or 6 months after the end of that calendar year, whichever is earlier. The report shall include recommendations for remediating any anti-competitive effects of the credit system, including effects that may be violations of the Sherman Act or the Clayton Act.

"(e) REGULATIONS.—The Administrator shall promulgate regulations to implement this section not later than 18 months after the date of the enactment of the Tire Recycling Incentives Act of 1990. If the Administrator fails to promulgate such regulations by that date, the recycling percentage under subsection (b) shall be 60 percent until such time as the regulations are promulgated and shall apply retroactively for each year the regulations are not in effect.

SEC. 4012. MANAGEMENT STANDARDS FOR SCRAP TIRES AND SCRAP TIRE COLLECTION, STORAGE, AND MANAGEMENT FACILITIES.

"(a) GENERAL REQUIREMENTS.—(1) Not later than 18 months after the date of enactment of this section the Administrator shall take each of the following actions:

"(A) The Administrator shall publish in the Federal Register a set of minimum requirements, together with a model program for the purposes of use by States implementing and enforcing the provisions of this section. Such minimum requirements and model program shall include provisions for collection, transport, storage, financial assurance, and management of scrap tires. In developing such provisions, the Administrator's first priority shall be to protect public health and the environment, but in adhering to that priority, he should not discourage environmentally beneficial reuse, reclamation, or recycling of scrap tires.

"(B) The Administrator shall publish in the Federal Register a procedure under which such minimum requirements shall be incorporated in the solid waste management plan submitted to the Environmental Protection Agency by such State under this title. The Administrator may not approve a State plan (or, if a State plan has already been approved in a State, the portion of the plan for that State incorporating the minimum requirements under this section) unless (i) the State has adopted all elements of the model program developed under this section, and (ii) the State has designated an agency or entity to implement such program.

"(C) The Administrator shall publish enabling regulations under which States may implement and enforce this section by adoption of the model program and regulations. Such enabling regulations shall specify the percentage of paving materials described in subparagraph (D)(i) necessary for a State to acquire in order to qualify for expedited review under that subparagraph.

"(D) In reviewing and approving the State Plan, the Administrator shall provide expedited review to any State which does one of the following in its plan:

"(i) Encourages the recycling of scrap tires by requiring the relevant State highway authority to use paving materials made from crumb rubber from scrap tires for use in asphalt or roadbed construction. Under the plan the State highway authority (or its paving contractor) would be encouraged to acquire such paving materials from a permitted tire recycler. In any such case, the State may enter into contractual arrangements to share in the revenue from the sale of recycling credits under section 4011.

"(ii) Provides for directly acquiring and recycling scrap tires for such paving materials in the same manner as may be done directly by the State highway authority. In any such case, the State may obtain a permit to

recycle such tires and may generate and sell tire recycling credits.

"(b) MANAGEMENT STANDARDS.—Not later than 24 months after the date of enactment of this section, the Administrator shall promulgate regulations establishing standards for the purpose of minimizing potential health and environmental damages from the improper storage and disposal of scrap tires. States shall adopt such standards in implementing and enforcing this section. At a minimum, such standards shall provide for each of the following:

"(1) BAN.—Not later than 12 months after the date of enactment of this section, the Administrator shall ban the disposal of whole tires in land disposal facilities. As part of the ban, the Administrator shall allow for the land disposal of shredded tires, but only in a monofill.

"(2) INVENTORY; TIRE ADVISORY BOARD.—(A) Not later than 12 months after the date of enactment of this section, each State shall conduct an inventory of scrap tire collection facilities, including existing tire piles, dumps, and landfills with aboveground storage of old tires, or any other scrap tire storage of more than 1,000 tires. Such inventory shall be provided to the Administrator and shall be made available by such State to the public for comment. At a minimum, the inventory shall include an estimate of the number of tires in each scrap tire pile, an estimate of the total amount of scrap tires at the site, a description of the site characteristics, including proximity to the 100-year flood plain, and surface water run-on or run-off characteristics, along with current management practices at the site. The inventory shall include the name of the owner or operator of each such site.

"(B) Not later than 12 months after the date of the enactment of this section, each State shall convene a tire advisory board of public and private interests. Such board shall have at least 3 members and shall help coordinate the State's efforts under this section.

"(3) ABATEMENT.—In consultation with the owner or operator of the scrap tire collection facility, the tire advisory board, and the State public health authorities, the State shall, within 18 months of the date of enactment of this section, develop a scrap tire abatement plan. The overall abatement plan for the State inventory of sites shall reflect the following parameters in such priorities as determined by the State:

"(A) Overall size of tire collection site.

"(B) Risk to public health or the environment, including fire hazard.

"(C) Proximity to populated areas.

"(D) Other factors.

In developing an abatement strategy for individual sites, the States may use the enforcement authorities of section 4013.

"(4) REQUIREMENTS; SALE AND INSTALLATION FACILITIES.—Any facility which distributes more than 1,000 tires annually into commerce for final installation onto motor vehicles shall enter into an agreement with a licensed tire hauler. No person operating such tire sale or installation facilities shall give, sell, donate or otherwise provide scrap tires to any person or entity, other than a licensed tire hauler.

"(5) TRANSPORTATION IDENTIFICATION NUMBER.—(A) Except as provided in subparagraph (B), no person may transport scrap tires from a tire sale or installation facility or scrap tire collection facility unless that person has obtained a scrap tire Transportation Identification Number from the authority designated by the State in its State plan. The Administrator shall promulgate such standards and recordkeeping requirements as are appropriate to assure that scrap tires which are collected, transported, and ultimately stored, recycled or disposed of can be correctly accounted for under this section and section 4011.

"(B) The prohibition in subparagraph (A) does not apply to any of the following:

"(A) A trash hauler, such as a municipal solid waste collection truck, carrying fewer than 50 scrap tires.

"(B) A recyclables hauler, such as an auto dismantling yard, carrying fewer than 50 scrap tires.

"(C) An individual transporting fewer than 10 scrap tires.

"(D) A person transporting products derived from tires.

"(E) A person transporting scrap tires for appropriate agricultural purposes, as defined by the Administrator.

"(F) A business that generates and transports its own scrap tires.

"(c) SCRAP TIRE COLLECTION, STORAGE, PROCESSING, TRANSFER, AND RECYCLING FACILITIES: SITE MANAGEMENT AND PERMITS.—

"(1) PERMIT GUIDELINES.—The Administrator shall publish guidelines for the State to use to issue permits to scrap tire storage, processing, transfer, and recycling facilities. Permit guidelines shall provide for effective regulatory control of scrap tires from the point of origination to final disposition. Permit guidelines shall also provide examples of cases in which class permits and permits for mobile equipment are appropriate.

"(2) OPERATION REQUIREMENTS.—The Administrator shall establish by rule each of the following requirements for the operation of such facilities:

"(A) The rules shall limit the maximum size of both existing and future scrap tire piles at scrap tire collection facilities. For existing tire piles subject to the requirements of the inventory and abatement plan, the maximum square area of such existing piles shall be 10,000 square feet, with a height limit of 40 feet and provision for adequate fencing, as determined by the Administrator, to prevent additions to the pile. For such new tire piles as may be required in the abatement program, or until recycling facilities are in operation, any new tire piles shall be limited to 5,000 square feet, with a maximum height of 20 feet.

"(B) The Administrator shall promulgate a ban on open burning within 50 feet of a scrap tire pile, along with a requirement that a 50 foot fire lane be maintained around each pile.

"(C) The Administrator shall promulgate regulations for vegetation, rodent and mosquito control at such facilities as may be appropriate.

"(3) FLOOD PLAIN, WETLAND, SHORELINE, AND RAVINE REQUIREMENTS.—The Administrator shall establish different requirements for scrap tire collection and storage facilities located in a 100-year flood plain and such other areas where water resources are critical, such as wetlands, shorelines, and ravines.

"(4) RECORDKEEPING.—The Administrator shall promulgate such recordkeeping requirements as are minimally necessary to implement this section and section 4011. Such regulations must be part of the State plan.

"(5) EMERGENCY PLANNING REQUIREMENTS.—The Administrator shall publish guidelines for States to follow in making plans for emergencies involving scrap tire facilities. The guidelines shall require States to establish contingency plans for handling an emergency. Such plans shall be developed in consultation with the tire advisory board, the State fire marshal, and local fire departments.

"(6) EMERGENCY MANUAL.—The owner or operator of the facility shall prepare and maintain at the facility an emergency preparedness manual containing the following elements:

"(A) A list of names and numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the tire facility.

"(B) A list of the emergency response equipment present at the facility, its location, and how it should be used in the event of a fire or other emergency.

"(C) A description of the procedures that should be followed in the event of a fire at the facility, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires. The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.

"(7) EMERGENCY NOTIFICATION AND REPORTS.—The operator of the facility shall immediately notify the State in the event of a fire or other emergency at the facility with potential off-site impacts. Within 2 weeks of any emergency involving potential off-site impact, the operator of the facility shall submit to the State a report on the emergency. This report shall set out the origins of the emergency, the actions that were taken to deal with the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

"(8) OPERATIONAL RECORD.—The Administrator shall promulgate regulations requiring the owner or operator of the facility to maintain records of the number of scrap tires received at the facility, stored at the facility, and shipped from the facility. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the facility. At the completion of an abatement increment, or a reporting period, the responsible owner or operator shall submit to the State a record of the approximate number of scrap tires remaining in the facility; the amount of tire-derived products stored at the facility; and the number of scrap tires or amount of tire-derived products received at the facility and shipped from the facility during the abatement increment or reporting period. For scrap tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

"(9) INSPECTION.—At the completion of each abatement increment or reporting period the responsible owner or operator shall notify the State so that an inspection of the tire facility may be conducted to certify the completion of the required abatement or permit operating conditions.

"(10) OPERATION, CLOSURE, AND POST-CLOSURE.—The Administrator shall publish guidelines for adoption by the State regulatory authority requiring that all sites regulated under this section have appropriate financial responsibility or insurance to maintain the facility for at least five years after the facility is closed.

"(11) EXEMPTIONS.—The permitting requirements of this section shall not apply to any of the following:

"(A) A tire retailer who stores no more than 500 scrap tires on the business premises.

"(B) A retreading business that stores no more than 15 percent of the amount of used tires retreaded annually on the business premises.

"(C) A business such as an auto dismantling facility that does not remove tires from vehicles as its main activity, if no more than 1500 unmounted scrap tires are kept on the business premises.

"(D) A permitted sanitary landfill that stores no more than 10,000 scrap tires at the landfill site.

"(E) A person using scrap tires on an agricultural site for legitimate agricultural purposes.

"(F) A person who has entered into a scrap tire facility cleanup agreement and is doing work specified by the agreement.

"(d) FEDERAL RESPONSIBILITY.—(1) The Secretary of the Interior, together with the heads of all Federal departments and agencies with responsibilities for public lands or military installations, shall determine the extent of scrap tire piles on such lands or installations and shall develop and implement a plan within 18 months after the date of enactment of this section to remediate such tire piles. The requirements developed in the plan shall also apply to the National Railroad Passenger Corporation.

"(2) The Administrator, in consultation with the Secretary of Energy, the Secretary of Defense, and the Secretary of Transportation, the Administrator of the Federal Highway Administration, and the Administrator of General Services (as appropriate), shall develop a guideline for procuring goods that make use of scrap or used tires, such as retread tires, tires or asphalt made from crumb rubber from scrap tires, and other appropriate goods. Such procurement guidelines shall require that, in the procurement of such goods, the heads of the Federal departments and agencies covered by the guidelines shall procure the goods at reasonable prices.

'SEC. 4013. ENFORCEMENT AND PENALTIES FOR SCRAP TIRE REQUIREMENTS.

"(a) ABATEMENT AUTHORITIES.—For the purposes of enforcing the scrap tire abatement provisions of section 4012, States are authorized to enter into consent orders with the owner and operators of any scrap tire collection facility for proper management and abatement of scrap tires. If a scrap tire collection facility does not agree to the consent order, the State or a county government acting with the consent of the State, is authorized to obtain an abatement order for the purposes of taking control of the scrap tire facility and conducting the cleanup and collecting the abatement costs through the United States Claims Court. States are also authorized to levy fines of $1,000 per day on scrap tire facilities not complying with this Act.

"(b) TIRE COLLECTORS AND TIRES SALES AND INSTALLATION FACILITIES PENALTIES.—Any tire sale or installation facility which is not exempt under sections 4011 and 4012 may be fined up to $100 per day for managing scrap tires in violation of this Act.

"(c) LANDFILLS.—Any owner or operator of a landfill who is found to knowingly violate the prohibition on land disposal by landfilling more than 100 whole tires in any month shall be subject to a $5,000 fine for each 100 tires (or increment thereof) over that limit disposed of in a month.

"(d) TIRE STORAGE, PROCESSING, TRANSFERRING, AND RECYCLING FACILITIES PENALTIES.—Any tire storage, processing, transferring, or recycling facility determined to be in noncompliance with section 4011 or section 4012 shall be subject to fines of $100 per day for each violation.".

(b) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act is amended by adding the following at the end thereof:

"(41) The term 'producer' with respect to tires means any person who produces tires for an automobile, motorcycle, truck, trailer, semitrailer or combination, or truck tractor. Such production does not include retreading tires.

"(42) The term 'importer' with respect to tires means any person who imports tires, either individually or as part of an automobile or other vehicle.

"(43) The term 'scrap tire' means a tire from an automobile, motorcycle, truck, trailer, semitrailer or combination, and truck tractor, that is no longer usable for the original purpose.

"(44) The term 'scrap tire collection facility' means any facility or entity that voluntarily or involuntarily collects, stores, or otherwise accumulates scrap tires in amounts in excess of 1,000 tires a year, including an auto parts retailer or municipality.

"(45) The term 'recycler' means with respect to tires the owner or operator of a tire recycling facility who has a permit under section 4012.

"(46) The term 'recycling credit' means with respect to tires a legal record of a recycling activity undertaken in accordance with section 4012 that represents scrap tires recycled for purposes of complying with that section and section 4011.

"(47) The term 'tire sale and installation facility' means any facility which sells or installs more than 1,000 tires for operation on the highways of the United States.

"(48) The term 'tire-derived product' means the usable materials produced from the chemical or physical processing of a scrap tire. Such term does not include ash from burning a scrap tire.

"(49) The term 'abatement increment' means a period of time not greater than six months and not less than one month, as specified in an abatement plan, during which a specified number of scrap tires will be removed from a scrap tire collection facility and processed in accordance with section 4011.

"(50) The term 'shredded tire' means a scrap tire reduced to 2-inch by 2-inch chips.".

(c) TABLE OF CONTENTS.—The table of contents for subtitle D (contained in section 1001) is amended by inserting at the end the following new items:

"Sec. 4011. Recycling requirements for scrap tires.
"Sec. 4012. Management standards for scrap tires collection, storage, and management facilities.
"Sec. 4013. Enforcement and penalties for scrap tire requirements".

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this Act.

Mr. HEINZ. Mr. President, I rise to introduce, along with my friend and colleague from Colorado, Senator TIM WIRTH, a bill for which its timing of introduction is particularly auspicious and important. We are approaching in just a few days the 20th anniversary of Earth Day, a celebration of the power of the individual to make a difference in environmental protection, a global day of awareness that this is a dynamic yet fragile planet, and the health of our planetary environment is being threatened by a full array of man-made insults. The technological gifts of man's genius have thinned the Earth's protective ozone layer, turned the air in many of our major cities into health threatening smog, fouled our rivers to the point they cannot sustain life, and polluted our ground water to the point it is no longer drinkable or usable. Man's creative genius has also produced what has come to represent his most repugnant insult on the environment—garbage.

The United States leads the world in generating garbage. Last year we generated over 180 million tons—nearly 3 pounds per day for every man, woman and child. This volume of what you might call postconsumer material, better known as trash, presents not only severe threats to our health and environment if mismanaged, and frequently it is, but also a tremendous loss to our resource base.

But largely the same genius that caused the problem can and must be instrumental in resolving it. Certainly there are efforts under way by industry to lessen the material that becomes waste. That is a hopeful sign. But much, much more needs to be done. And Americans, I believe, are poised for the third time this century to make recycling a part of their daily lifestyle. This time if we disappoint them in their expectations and in their potential habits, the consequences of failure may, indeed, be serious and permanent.

The legislation that we are introducing today, the Tire Energy Recovery and Recycling Incentives Act, is the third bill aimed at recycling of this type that Senator WIRTH and I have introduced. All of these bills have been aimed at adjusting and stimulating markets for recycled goods. In other words, to bring recycling fully into the waste materials management area.

The Tire Energy Recovery and Recycling Incentives Act has two potentially far-reaching goals. The first is to stimulate the virtually nonexisting market for the hundreds of millions of scrap tires we remove from our cars every year. Nearly 85 percent of these tires are dumped or improperly disposed of; and, second, to assure that the 3 billion or more scrapped tires now dotting our landscape as huge dump piles are managed properly to reduce the risk of fire and environmental damage. The bill aims at the ultimate elimination of these dumps but requires safe management in the interim.

Mr. President, I direct the eyes of our colleagues to the photograph of a literal tire mountain in the central

valley of California. It literally dwarfs some of the homes in the area. I believe there are some 45 million tires at that particular dump site. We should ask, when we can find a dump site, maybe not as monumental, as close as seven blocks from the U.S. Capitol, why do we have such an enormous problem with scrapped tires? Is it because they are utterly devoid of any recoverable materials? No. Scrapped tires can be a very valuable resource. The average tire contains between 2½ and 5 gallons of petroleum products. We are a net importer of 116 billion gallons of oil. We cannot afford to toss valuable resources by the side of the road and yet, of course, we are.

So the question is, Why are these tires not recycled? The answer is, it is simply cheaper to throw them away, at least right now, rather than to recycle them.

Throwing tires away is virtually free—either legally at the sanitary landfill which, by the way, then has to pay to haul or shred the scrapped tires, or they can be disposed of illegally along the roadway or in some abandoned lot. Many of the 84.5 percent of scrapped tires that are being dumped or disposed of are winding up on acres and acres of farm fields after being rejected at the landfills. That, of course, is what happened at the central valley in the picture behind me.

Frequently, the farmer is enticed to use idle acreage and is paid only a few dollars per acre for this tire graveyard. Rarely does the farmer or landowner have any idea of the liability and environmental risks he is accepting.

The solution to this problem and many other environmental problems lies in using the forces of the market for rather than against or on the sidelines in the battle for environmental protection.

Last year Senator WIRTH and I sponsored a major public policy study—Project 88. The project was to show how market forces could be used to protect the environment. The bill that we are introducing today and the two which preceded it, one to be used to encourage the recycling of used newsprint and the other used motor oil, was developed as a direct outcome of that public policy study.

Senator WIRTH and I will soon be sponsoring a second phase of Project 88 which will provide further analysis on how the recommendations of our first study can be implemented. But a major finding of our Project 88 study is that solid waste continues to pile up and that recycling to date is not providing the anticipated relief because of two factors: The first factor is the relatively low cost of disposal in landfills and incinerators does not reflect all of the costs that we incur in managing our mountains of trash. Those costs just really do not show up; and, second, the markets for recyclables have been very weak and unstable—here today, gone tomorrow and back the next day. In the case of tires it is demonstrably provable that these markets are nearly nonexistent.

What our legislation does is to require that manufacturers and importers of tires participate in the recycling of the commodity they produce. These manufacturers or importers would have to show that a minimum percentage of their production had been recycled each year. That minimum percentage will increase 5 percent each year for the next 10 years. Rather than requiring each manufacturer to invest in a recycling facility—that would clearly be costly and inefficient—our bill allows producers to demonstrate compliance by acquiring recycling credits from retreaders who do recycle tires, from producers of asphalt road surface material—they use ground-up tires to build highways—and other recyclers. In that way, we would allow manufacturers to comply in the least cost, least intrusive manner along with providing stable markets and increased economic incentives for higher forms of recycling.

Most importantly, it means that the scrap tires we generate every year will begin to be turned back into rubber for tires and become useful commercial products, not environmental tire bombs.

For those 3 billion or more tires currently sitting in tire dumps, as behind me, the bill additionally provides both an economic incentive to remediate these dumps and the management standards requisite to assure that the risks to human health and the environment are minimized.

As I have said before, without a market for it, recycled garbage is and will remain just garbage. Nowhere is this clearer than in the case of scrap tires which represent a tremendous potential energy and product resource which will continue to be wasted until we begin to build society's waste management costs into the price of the product.

It is this Senator's view that we can no longer view disposal as a cheap methodology and recycling as too expensive.

By Mr. FOWLER (for himself, Mr. HEFLIN, Mr. PRYOR, Mr. HELMS, Mr. MCCONNELL, Mr. HOLLINGS, Mr. SARBANES, and Mr. COCHRAN):

S. 2463. A bill to reaffirm the importance of State and private forestry, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

TIMBER RESEARCH, EDUCATION, AND ENHANCEMENT ACT OF 1990

● Mr. FOWLER. Mr. President, I rise to introduce—along with Senators HEFLIN, PRYOR, HELMS, MCCONNELL, HOLLINGS, SARBANES, and COCHRAN—the Timber Research, Education, and Enhancement Act of 1990, as a forestry title to the 1990 farm bill.

There has been no major revision of existing forestry statutes in over a decade. I think it is time to correct that oversight, and to recognize that the forestry products of this country are an agricultural commodity—governed in large part by our agricultural policies—and should be treated as such in the 1990 farm bill.

The TREE Act has been endorsed by the National Association of State Foresters, the Forest Farmers Association, the National Forest Products Association, the American Forest Council, and the National Association of Professional Forestry Schools and Associations.

The importance of our forestlands cannot be overstated. We all know that the United States ranks first in the world in timber production—and I am proud to say that my home State of Georgia leads the Nation in many forestry products. The forestry industry adds $62 billion a year to the value of the U.S. economy.

That does not even take into account the many other benefits of healthy, growing forests. We talk about problems of global warming, air pollution, sewage spills. According to the Maryland Forest Service, one tree has the cooling effect of five air conditioners. One acre of trees will scrub clean the air polluted by eight cars driven for 12 hours and absorb the carbon dioxide produced by 50 cars. A 129-acre woodland can absorb 1 million gallons of sewage effluent a day. And, as we all know, our forests provide indispensable fish and wildlife habitat.

Our forests, in other words, provide enormous economic and environmental benefits. Right now, neither the economic nor the ecological facts of forestry are encouraging. More acres of trees are being harvested than are being planted.

That is why we need better programs in forestry research, education and extension—to reach the 8 million private citizens who own and manage the majority of this Nation's forestlands. This legislation addresses these needs.

It also seeks to reinforce the forestry initiatives that have proven the most successful in this country. We owe a great debt to State foresters, who have led the way in developing technical assistance programs for long-term planning and forest management, and this bill provides $25 million in grant authority to State forestry programs that are already established and doing the job of improving stewardship of our forestlands.

We are seeking to establish a comprehensive and balanced forestry title, one that addresses the problems of

tree loss in urban areas as well as the opportunities for forestry in the countryside. The TREE Act provides for incentives and educational and technical assistance for maintaining trees and forested areas in urban communities.

For rural areas, it seeks to provide access for wood and wood products to guaranteed credit programs and Public Law 480, similar to other agricultural commodities. In a time of enormous budget deficits, forestry products are one area in which we can expect to expand our exports, an we must maximize those opportunities.

This legislation also calls for an assessment of the U.S. Forest Service role in the development of timber-dependent communities, and directs the Cooperative Extension Service to provide information on rural development opportunities through forestry. The key to these efforts, especially in isolated rural communities that have little diversity to their economies, is sustainable use of forest resources.

These initiatives, it seems to me, can prove decisive, especially for the small, private tree farmers who control most of this Nation's forestland. Their management capabilities will go a long way to determine our success in replenishing our forests.

We must reverse the current trend of harvests exceeding growth if we expect to keep and expand our export markets, to maintain healthy forests and a healthy forestry industry for the future. Considering the time it takes to grow a tree, we must take the strongest possible action now—to avoid the consequences of inaction in the decades ahead.

● Mr. HOLLINGS. Mr. President, I rise today to support the introduction of S. 2463, a bill to reaffirm the importance of State and private forestry. In particular, I am pleased that this bill incorporates my measure, S. 2043, a bill to establish an Emergency Reforestation Program to provide for the reforestation of timberlands that are damaged by natural disasters. Enactment of this legislation will provide necessary assistance for the timberowners who suffered damages from Hurricane Hugo and will create a program to help landowners who suffer similar natural disasters in the future.

This bill would establish a cost sharing program to pay up to 75 percent of reforestation costs for owners of timber stands which suffer damages resulting from conditions which qualify as a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

On September 21 and 22, 1989, Hurricane Hugo leveled 6.7 billion board feet of timber in South Carolina—enough timber to rebuild the city of Charleston 10 times over. This loss, at an estimated $1.04 billion, represents a severe financial blow to the private timberowners, who own almost 70 percent of South Carolina's forests. These individuals and families saw Hugo wipe away their nest eggs in the course of a few hours. The acres of splintered and shattered trees are the most persuasive testimony to Hugo's brute force, and to the fact that it will be a full generation before the land fully recovers. Since tax casualty losses are virtually nonexistent in this case, these timberowners are looking for ways to reforest their lands.

The enormous amount of wood on the ground also represents the grim possibility of another huge natural disaster in South Carolina: specifically, an uncontrollable forest fire that could feed on the downed timber unless the land is cleaned up. We simply don't have the manpower, rail access, or mill capacity to salvage all the timber, which is subject to rapid deterioration.

Reforestation of the land will also solve several environmental problems. The decomposing wood has been under swift attack of blue stain fungi as well as southern pine beetles and other insects which create health threats. The soil is in danger of extensive erosion, and the wildlife habitats of several endangered species, including the red-cockaded woodpecker, have been virtually demolished.

In the past, Congress has created several emergency programs to address specific problems: emergency housing programs, emergency soil conservation programs, emergency SBA programs, and so forth. However, no program is in place to address a forestry disaster of the scope we have in the Hugo-hit areas. This bill addresses not only the devastation of Hugo, but provides assistance to timberowners who suffer from natural disasters in the future.

I commend the distinguished chairman of the Conservation and Forestry Subcommittee, Senator FOWLER, for his hard work on this bill, which is intended to be included in the 1990 farm bill. This bill covers a wide gamut of areas—research and education, technical assistance, and fire protection, to name a few—in which the United States must continue its commitment to wise forestry practices.

The quality of our forests directly affects the quality of our water, air, forested wetlands, and wildlife habitats. Furthermore, careful stewardship of our timberlands will also help to mitigate the effects of global warming. The Timber Research, Education, and Enhancement Act of 1990 will encourage the conservation and renewal of our Nation's precious resources.●

By Mr. REID (for himself and Mr. BRYAN):

S. 2464. A bill to establish the Red Rock Canyon National Conservation Area; to the Committee on Energy and Natural Resources.

RED ROCK CANYON NATIONAL CONSERVATION AREA

Mr. REID. Mr. President, in 3 days, on April 22, 1990, this Nation will celebrate the 20th Anniversary of Earth Day, a day where 20 years ago our collective conscience awoke and we as a people, who so solidly have our roots in the land, let our voices be heard.

That day 20 million Americans from the Joshua Tree deserts of southern Nevada, to the hardwood forests of northern Maine, let the leaders of this country, so rich in natural resources, know that it was imperative that measures be taken to conserve our precious environment and preserve our proud heritage.

As Gaylord Nelson, the distinguished gentleman from Wisconsin and founder of Earth Day, so aptly put it, "Right now and in the long haul * * * no other issue is more relevant to the condition of human life than our resources."

I rise today with my colleague from Nevada, Senator BRYAN, to introduce a bill to establish the Red Rock Canyon Area of southern Nevada as a national conservation area. This area, on the outskirts of Las Vegas, is vitally important to meet the needs of the rapidly increasing population of Nevada, the fastest growing State in our Nation.

As described in a popular book on Red Rock Canyon by Cheri Cinkoske, it offers the people of the Las Vegas Valley, and indeed all Americans, "both dramatic vistas and detailed closeup views; the space and openness of the desert give the visitor an opportunity to blend with nature, to see its history revealed in rocks, plants, and animals. Forged under a sea, then buried beneath sand dunes, it is now a desert sculpted by the continuing forces of water and wind." Its beauty is one of stark contrast and awesome magnitude.

Mr. President, in considering this bill, we must realize that the time has come to protect these fragile treasures of nature, to protect these priceless values of the ages not only for our children but for their children.

Red Rock Canyon is not only a thing of stunning beauty, but it is an outdoor classroom as well, providing us with the rare opportunity to learn more about our ancient past and the forces that have shaped the natural world. It provides us with 600 million years of natural history to explore.

Red Rock Canyon is the crown jewel of the public lands administered by the Bureau of Land Management [BLM] in Nevada; indeed, it is the crown jewel of the entire 174 million acres of public land managed by BLM throughout the West.

It possesses a cadre of values recognized by this distinguished body as worthy of protection by a national conservation area designation. The

outstanding values found within Red Rock Canyon include scenic, recreational, geologic, biologic, and cultural resources.

The keystone thrust fault, and the red and white fossilized standstone bluffs, are of great interest to students of geology and visitors from all over the world as an outstanding example of this type of geomorphological phenomena. The desert riparian habitat, the unusual and diverse plant and animal life, which includes desert big horn sheep, and remnant Pleistocene flora, are but some of the plethora of natural values which visitors worldwide come to Red Rock Canyon to view. There is a National Register historic site in Brownstone Canyon and numerous rock art and prehistoric habitation sites, dating as far back as 10,000 years, which are highly prized for their interpretive and research values.

Therefore, Mr. President, in order to conserve, protect, and enhance, for the benefit and enjoyment of present and future generations, the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archaeological, ecological, cultural, scenic, scientific, and recreation resources of the public lands therein contained, I urge the support of my distinguished colleagues for this important piece of environmental legislation for establishing the Red Rock Canyon National Conservation Area.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA

SEC. 101. ESTABLISHMENT OF CONSERVATION AREA.

(a) IN GENERAL.—(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scientific, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area (referred to as the "conservation area").

(2) The conservation area shall consist of approximately 62,000 acres of federally-owned land, water, and interests as generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed" numbered NV-RRC- ——, —— - —— and dated ——, 19——.

(3) The map described in paragraph (2) shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

(b) LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the conservation area established in subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographic errors in the legal description.

(2) The legal description described in paragraph (1) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(c) DISCREPANCIES.—In the case of any discrepancy between or among the map described in subsection (a), the amount of acreage stated in subsection (a), or the legal description filed by the Secretary pursuant to subsection (b), the map described in subsection (a) shall control any question concerning the boundaries of the conservation area.

SEC. 102. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to conserve, protect, and enhance the resources specified in section 101 in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other laws, including those relating to management of wild free-roaming horses and burros on public lands.

(b) HUNTING.—(1) Subject to paragraph (2), the Secretary shall permit hunting within the conservation area in accordance with the laws of the United States and the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where and establishing when hunting shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) PROHIBITION OF COLLECTION OF WOOD.—Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease.

TITLE II—GENERAL PROVISIONS

SEC. 201. MANAGEMENT PLANS.

(a) IN GENERAL.—(1) Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the conservation area and recreation area which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this Act.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to accommodate visitors to southern Nevada;

(C) natural and cultural resources management plans for the conservation area,

ith emphasis on the preservation and long-term scientific use of archeological resource, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area;

(E) a recreation management plan for the conservation area in consultation with appropriate departments of the State of Nevada; and

(F) a wild horse and burro herd management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada.

(3) The natural and cultural resources management plans described in paragraph (2)(C) shall be prepared in consultation with the Advisory Council on Historic Preservation and the Nevada State Historic Preservation Office, and such plans shall provide for long-term scientific use of archaeological resources in the conservation area.

(b) WILDERNESS STUDY AREAS.—(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness of the lands comprising 46,500 acres, identified as "Wilderness Study Areas" on the map described in section 101.

(2) Pending submission of a recommendation and until otherwise directed by Act of Congress, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the lands within the wilderness study areas referred to in paragraph (1) so as to maintain their potential for inclusion within the National Wilderness Preservation System.

SEC. 202. ACQUISITIONS.

(a) IN GENERAL.—Within the conservation area, the Secretary may within the boundaries of his or her jurisdiction, and outside those boundaries when required for the construction or improvement of access roads thereto, acquire lands, waters, and interests in lands and waters (including scenic easements), as the Secretary considers to be in the public interest to carry out this Act by—

(1) donation;

(2) purchase with donated or appropriated funds;

(3) exchange; or

(4) transfer from another Federal agency with the concurrence of the head thereof.

(b) TERMS OF ACQUISITION.—(1)(A) Subject to subparagraph (B), all exchanges pursuant to subsection (a) shall be made in a manner consistent with law and on the basis of equal value, and either party to an exchange may pay or accept cash in order to equalize the value of the property exchange.

(B) If the parties agree to an exchange and the Secretary determines that it is in the public interest, the exchange may be made for other than equal value.

(2) Lands, waters, or interests therein owned by the State of Nevada or a political

subdivision thereof may be acquired by donation or exchange only.

(3) Federally-owned lands, waters, or interests therein located within the conservation area may be transferred out of Federal ownership only in connection with an exchange for lands, waters, or interests therein owned by the State of Nevada or a political subdivision thereof.

(c) INCORPORATION OF ACQUIRED LANDS.—Any lands, waters, or interests therein within the boundaries of the conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the conservation area and managed accordingly, and all provisions of this Act and other laws applicable to conservation areas shall apply to such incorporated lands.

SEC. 203. WITHDRAWAL.

Except as authorized in this Act, and subject to valid and existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of this Act are withdrawn from all forms of entry, appropriations, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws.

SEC. 204. COOPERATIVE AGREEMENTS.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resoruces in southern Nevada, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in southern Nevada.

SEC. 205. COORDINATED MANAGEMENT.

The Secretary shall coordinate management of the conservation area with surrounding State and Federal lands in such a manner as best to meet the present and future need of the American people.

SEC. 206. WATER RIGHTS.

(a) RESERVATION OF RIGHTS.—Congress expressly reserves to the United States the amount of water reasonably required to carry out the purposes for which the conservation area is established under this Act.

(2) The priority date of the rights reserved in paragraph (1) shall be the date of enactment of this Act.

(b) EXISTING RIGHTS.—Nothing in this section shall affect any existing valid or vested water right or application for water rights pending as of the date of enactment of this Act that are subsequently granted.

(c) FUTURE RIGHTS.—Nothing in this section shall be construed as establishing a precedent with regard to any future reservation of water rights, nor shall it affect the interpretation of any other Act or any reservation of water rights.

SEC. 207. DEFINITIONS.

For the purposes of this Act—

(1) the term "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. GRASSLEY (for himself, Mr. HEFLIN, Mr. HATCH, Mr. HUMPHREY, Mr. BIDEN, Mr. SPECTER, Mr. SIMON, Mr. LEVIN, Mr. LIEBERMAN, Mr. MURKOWSKI, and Mr. DECONCINI):

S. 2465. A bill to provide a new civil cause of action in Federal law for acts of international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals; to the Committee on the Judiciary.

ANTITERRORISM ACT OF 1990

Mr. GRASSLEY. Mr. President, I rise today to introduce, along with Senator HEFLIN, the Anti-Terrorism Act of 1990. Other cosponsors include: Senators HATCH, HUMPHREY, BIDEN, SPECTER, SIMON, LEVIN, LIEBERMAN, MURKOWSKI, and DECONCINI. This bill will, for the first time, provide for Federal civil remedies against acts of international terrorism.

In recent years, Congress has enacted several laws extending American criminal jurisdiction to acts of international terrorism against our citizens. However, our civil justice system provides little civil relief to the victims of terrorism.

We all remember the tragic case of the PLO terrorists who seized the Italian cruiseliner *Achille Lauro.*

They took 97 passengers captive including Leon and Marilyn Klinghoffer. These terrorists did not stop at surrounding the passengers with guns and explosives. They took the wheelchair bound Mr. Klinghoffer to the side of the boat where they shot him and pushed him into the sea.

In seeking justice, Mrs. Klinghoffer turned to the tort laws of her home State of New York. In Klinghoffer versus John Doe, treasurer of the Palestinian Liberation Organization, Mrs. Klinghoffer seeks compensation from those who are responsible for torts, including wrongful death, assault, battery, false imprisonment, and intentional infliction of emotional distress. This case is still pending in court.

Unfortunately, victims who turn to the common law of tort or Federal statutes, find it virtually impossible to pursue their claims because of reluctant courts and numerous jurisdictional hurdles.

Tragically, we have many more victims who will have no remedy. The Stethem family, who lost their son Robert to the hands of PLO terrorists, have not wandered from our memory.

The hundreds of victims of Pan Am 103, are still in our hearts. Narcoterrorism threatens to produce more American victims.

Just last year, Congress authorized the State Department to increase the rewards for combating terrorism.

We know the importance of providing a monetary incentive in order to gain crucial information on terrorists.

This bill will serve as a further incentive to those with the deep pockets, such as the airline industry, to spend resources and go after terrorists: This bill establishes an express cause of action to gain compensation as fruit of their efforts.

Specifically, this bill will amend title 18, United States Code section 2331.

This title already provides for criminal prosecution of terrorists. This legislation will serve as an appropriate civil counterpart to the criminal statute.

The civil remedies section provides:

First, the first section, section 2331, defines terrorism as: violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State. These are acts directed toward a civilian population not directed against military personnel or installations.

Second, section 2332 contains the criminal penalties, currently codified under section 2331. This legislation does not change the substance of the criminal penalties section, it merely reclassifies it.

Third, section 2333(a) provides that any national of the United States injured by an act of international terrorism may sue in U.S. district court for treble damages, attorney's fees and costs.

Subsection (b) provides that any final judgment rendered in favor of the United States in any criminal proceeding shall not prevent the defendant from denying the essential elements of the criminal offense in any subsequent civil proceeding.

Subsection (c) provides that a conviction in any foreign state criminal proceeding will be accorded full faith and credit and prevents defendant from denying the allegations of the criminal offense.

Section 2334 grants district court jurisdiction.

Section 2335 sets a 3-year statute of limitations for bringing suit.

Section 2336 states that no suit can be maintained under section 2333 of this chapter for: injury or loss by reason of an act of war.

This section codifies the court-fashioned act of state doctrine, by barring claims arising from official acts of foreign governments.

Finally, section 3 amends title 18, United States Code sections 1603 and 1605, the Foreign Sovereign Immunities Act, to provide for civil actions against a State where that State has entered the commercial arena and therein conducts terrorism.

With the enactment of this legislation, we set an example to the world of how the United States legal system deals with terrorists. If terrorists have assets within our jurisdictional reach, American citizens will have the power to seize them.

We tell the world that we know terrorism when we see it, and we are not shy about combating it.

This legislation reaffirms our commitment to the rule of law: the people

of the United States will be able to bring terrorists to justice the "American Way"; by using the framework of our legal system to seek justice against those who follow no framework and defy all notions of morality and justice.

Thank you, Mr. President, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism Act of 1990".

SEC. 2. TERRORISM.

(a) TERRORISM.—Part 1 of title 18, United States Code, is amended by adding immediately after chapter 113 of the following new chapter:

"CHAPTER 113A—TERRORISM

"Sec.
"2331 Definitions.
"2332 Criminal penalties.
"2333 Civil remedies.
"2334 Jurisdiction and venue.
"2335 Limitation of actions.
"2336 Other limitations.

"§ 2331 Definitions

"As used in this chapter—

"(1) the term 'international terrorism; means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate, coerce, or retaliate against a civilan population;

"(ii) to influence the policy of a government by intimidation, coercion, or retaliation, other than by attacks directed against military personnel or installations; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur totally outside the United States, or transcend national boundaries in terms of the means by whch they are accomplished, the persons they appear intended to intimidate, coerce, or retaliate against, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.

"§ 2332. Criminal penalties

"(a) HOMICIDE.—Whoever kills a national of the United States, while such national is outside the United States, shall—

"(1) if the killing is murder as defined in secton 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than 10 years, or both; and

"(3) if the killing is involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than 3 years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever outside the United States attempts to kill, or engages in a conspiracy to kill, a national of the United States shall—

"(1) in the cause of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than 20 years, or both; and

"(2) in the case of a conspiracy by two or more such persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both.

"(c) OTHER CONDUCT.—Whoever outside the United States engages in physical violence—

"(1) with intent to cause serious bodily injury to a national of the United States; or

"(2) with the result that serious bodily injury is caused to a national of the United States,

shall be fined under this title or imprisoned not more than 5 years, or both.

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which all plaintiffs reside or the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which all plaintiffs reside or the defendant resides, is found, or has an agent.

"(c) CONVENIENCE OF FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless the action may be maintained in a more convenient or more appropriate foreign court that has jurisdiction over the subject matter and over the defendant or defendants.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this chapter shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this chapter for injury or loss by reason of an act of war.".

(b) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals..... 2331"

and inserting in lieu thereof:

"113A. Terrorism..... 2331".

(c) REPEAL.—Section 2331 of title 18, United States Code, is repealed.

SEC. 3. AMENDMENTS TO THE FOREIGN SOVEREIGN IMMUNITIES ACT.

(a) GENERAL EXCEPTIONS.—Section 1605 of title 28, United States Code, is amended—

(1) in paragraph (5) of subsection (a) by striking "or" at the end thereof;

(2) in paragraph (6) of subsection (a) by striking the period at the end thereof and inserting in lieu thereof "; or"; and

(3) in subsection (a) by adding at the end thereof the following paragraph:

"(7) in which damages are sought for injuries sustained by reason of an act of international terrorism, as defined in section 2331, title 18, United States Code, or of any other violation of the law of nations which was perpetrated by or aided by that foreign state or by any official or employee of that foreign state while acting within the scope of his office or employment.".

(b) DEFINITIONS.—Section 1603 of title 28, United States Code, is amended by inserting at the end thereof the following subsection:

"(f) The term 'aided by' a foreign state means carried out—

"(1) by an agent or agents of that foreign state;

"(2) at the direction, instruction, request, or suggestion of that foreign state; or

"(3) with financial, material, or logistical support from that foreign state.".

Mr. HEFLIN. Mr. President, I rise today to join Senator GRASSLEY in introducing the Antiterrorism Act of 1990. This legislation will provide a new civil cause of action in Federal law for acts of international terrorism, by establishing extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals.

There have been several alarming trends in terrorist attacks against U.S.

citizens over the course of the last 10 years, during which time approximately 384 American citizens were killed. The first trend is the rise in attacks involving innocent bystanders, and the second is an intent to cause mass casualties.

In recent years, certain incidents of terrorism against American citizens have been particularly horrific. For example, on October 7, 1985, four Palestinian gunmen hijacked the Italian cruise ship *Achille Lauro* off Alexandria, Egypt. While off the Syrian port of Tartus, the terrorists killed wheelchair-bound American Leon Klinghoffer. On December 21, 1988, Pan Am flight 103, just out of London en route to New York City, exploded in the air over Lockerbie, Scotland. There is overwhelming evidence that a bomb in the cargo hold of the plane caused the crash.

The bombing of Pan Am flight 103 and the loss of all 289 passengers onboard may have signaled the beginning of a new Iranian terrorist campaign against the United States. There is also a threat that improved prospects for peace negotiations between Israel and Palestinian groups will generate a new round of terrorism by radical Arab groups. Historically, those who oppose peace talks with Israel have used terrorist tactics to undermine the peace process whenever there are signs of progress between the groups. If this happens, we could see a rise in Middle East terrorism.

While Congress has enacted various laws aimed at extending American criminal jurisdiction for acts of international terrorism against our citizens, there are currently no laws expressly providing Federal civil remedies against these outrageous acts. Therefore, this bill would amend title 18, United States Code, section 2331 by providing a plaintiff a civil cause of action in U.S. District court for injuries caused by acts of international terrorism.

The time has come to provide victims of terrorism with a means of civil redress, and I am proud to join in introducing this legislation.

By Mr. ARMSTRONG:

S. 2467. A bill to amend the Internal Revenue Code of 1986 to provide civil damages for certain careless collection actions; to the Committee on Finance.

CIVIL DAMAGES FOR CARELESS COLLECTION ACTIONS

● Mr. ARMSTRONG. Mr. President, Mrs. Kay Council testified recently before the Internal Revenue Service Oversight Subcommittee of the Senate Finance Committee. I commend her testimony to my colleagues, but only if they've steeled themselves beforehand to read of gross injustice done to an American taxpayer by her Government.

Mrs. Council relates her story of gross carelessness by the IRS. Through its actions, the IRS caused Mrs. Council to lose tens of thousands of dollars and, far more importantly, her husband. Near the end of a 9-year running battle with the Service, Alex Council committed suicide so his life insurance policy could provide his wife with the money she needed to defend herself. Four months later, the Tax Court ruled in favor of Mrs. Council, all liens were ordered dropped, and the Service was ordered to pay Mrs. Council's attorneys $27,900, a small fraction of the costs she has had to pay.

I ask unanimous consent to include her harrowing story.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Mr. Chairman: My name is Kay M. Council. I live in High Point, North Carolina. I am 48 years old, and I am a widow. I came home one evening in June 1988 and found the lights on, the house empty and a note from my husband:

"My DEAREST KAY—

"I have taken my life in order to provide capital for you. The IRS and its liens which have been taken against our property illegally by a runaway agency of our government have dried up all sources of credit for us. So I have made the only decision I can. It's purely a business decision. I hope you can understand that.

"I love you completely,

ALEX.

"You will find my body on the lot on the north side of the house."

I don't remember many details from the rest of that night, but I will never get over what I lost that night—what the IRS did to us, what it drove my husband to do. He was 49 years old.

Four months later, finally able to pay our attorneys with money from Alex's life insurance, I went to court and beat the IRS. The court entered a judgment barring the IRS from collecting $300,000 in tax, penalties and interest it claimed that we owed. The court agreed that we owed nothing. The court ordered the IRS to cancel the tax lien that it had placed on our property, an illegal tax lien that had ruined our personal finances and our business.

Alex had a development company that was building a residential development in Pfafftown, N.C., the town where we lived. When the IRS placed the illegal lien on our property in May 1987, he was preparing to start another development. But no one wants to lend money to someone who has a tax lien. So the development fell though.

After the IRS acted illegally, our business was practically ruined. Our income from the business then barely covered our living expenses. We owed $112,000 on a construction loan for our home but could not refinance it because of the lien. We faced losing our home when the loan came due.

People talk to me about being angry at Alex for what he did. I try to be but when I sit down and think this out, he was right. There was no other way, except to just give up. If we had given up, we would have lost our home and our business, and we still could not have paid the IRS all that they claimed we owed. We could not give up—Alex could not give up—because we knew the IRS was wrong.

The IRS was wrong from the day they sent us the first notice. They were wrong. We were innocent from day one, and the court decisions and court orders say that. But look at what was done to my life. People sit back and say, "Well, this is a terrible story but it's surely an exception to the rule, and this sort of thing could never happen to me."

They are wrong. This kind of thing should never have happened to me and Alex. We weren't criminals. We weren't trying to do anything wrong, and we didn't do anything wrong. We just got caught up in the middle of a big IRS screw-up, and we couldn't get out of it.

It began in 1979. We were living in a suburb of San Francisco, where Alex was a vice president of a mortgage insurance company that he had helped start. Alex received a bonus. We invested the money in real estate and in oil and gas leases. On the advice of our accountant and our financial consultant, we also bought rights to two paintings offered by an art company in New York. The idea was that we could sell lithographs of the paintings and use other marketing tools available to eventually recoup our investment and make a profit. It was to have been a little business for me to run. But it didn't work out, and we claimed a write-off of about $70,000 in our 1979 tax return.

The IRS audited the return and told us that our accountant was wrong, that it did not consider the art investment a legitimate tax write-off. We expected the IRS to deny the write-off and send a notice of deficiency that would give us 90 days to petition the Tax Court. We planned to fight the claim in Tax Court. If we had lost, we could have scraped together the money and paid the tax. But the IRS did not do that.

If we had received the notice, my husband would be alive. We could have fought the notice and paid the tax if we lost. There were other people who got such notices through the same process; they were fortunate enough that they got theirs and they were able to pay them. They lost money, but they didn't go through the hell that the IRS put us through.

We didn't hear from the IRS during the next couple of years. We lost money on our investments in California, and in 1983 we moved back home to North Carolina, where Alex started the housing development. Then the IRS sent us a bill for $183,021—tax of $115,895 plus penalties and interest. This was in September 1983, four months after the statute of limitations ran out. We were dumbstruck.

In an affidavit filed in federal court in November 1987, Alex described his attempts to find out what had happened.

"Prior to this bill, neither my accountant . . . nor I had received an audit report, a 30-day letter, a 90-day letter or any other notice of assessment. Since that time I have been attempting to determine why I never received these documents or any other notice, which foreclosed any administrative or Tax Court review of the proposed deficiency . . . which efforts were wholly unsuccessful until very recently. The only communication I had received from the IRS since 1983 indicated receipt of my letters requesting the above information, bills threatening collection procedures, and notices of intent to levy on my assets."

The IRS maintained that it had sent us a certified letter containing the required notice of deficiency three weeks before the statute of limitations ran out. We never re-

ceived such notice and our accountant never received such notice, and we tried repeatedly to get the IRS to show us a copy of the notice and proof that it was mailed. It would not. We tried to get the IRS to give us the number of the certified letter so that we could go to the postal records ourselves and try to trace it. The IRS did not respond.

We tried again and again to get the IRS to check into it and resolve it. We had been doing that from the day we first received the tax bill. Their attitude was simply to ignore us. We would get in touch with the problems resolution officer, and he would ask for all of this information, which we would supply him with. They were supposed to get back to us, and then months would go by and we would hear nothing. We would try to get in contact with them. Every time, for some reason, the person we had been working with was no longer in that office, or somebody else was our new resolution officer. And then we would go through the same process again, sending all of this information in. We never got any satisifaction. We were totally ignored.

I think the IRS ignored us because they knew that they didn't have a case, that they were wrong. If they thought they had a case, then why didn't they come in and take our assets, as they did to so many other people? Why did they ignore us for so many years? I feel that they said to themselves that we'll just sit back and see what happens.

If they had gone to the postal records to find out what happened to the certified letter the whole thing could have been avoided and my husband would be alive. But they would not. Alex is dead because of the IRS's arrogance and incompetence.

After two years, we finally received a copy of the notice of deficiency in 1985. In 1987, after a four year wait, the IRS sent us a copy of its only proof of mailing—a certified mail list showing that the notice was mailed at a post office in San Francisco on April 15, 1983. But the IRS's mail list had our address wrong. We lived at 71 Corte Del Bayo in Larkspur, California. The address on the IRS list was 7+- Corte Del Bayo. To us, this seemed to explain why we never received the notice; the IRS had sent it to the wrong address.

The IRS argued in U.S. Middle District Court that the mistake on the mail list didn't mean that the letter was sent to the wrong address. But it had no proof; all it had was the mail list with the incorrect address. We argued in court that the IRS could have found out what happened to the notice by going to the post office and looking at its certified mail records. It did not do this, despite our repeated queries starting in October 1983. By the time the IRS bothered to check, the post office had destroyed the records.

The IRS also argued that we knew that an assessment was likely and implied that we should have taken action ourselves to get the IRS to act before the statute of limitations ran out. That was another totally ridiculous statement, and the judge agreed in his judgment against the IRS in December 1988. Federal law, he said, "does not place upon plaintiffs the burden of hounding the IRS for delivery of a possible notice of deficiency."

Some of my friends and relatives think that I should be happy, that I have accomplished what Alex wanted me to accomplish: I beat the IRS. They ask, "Why don't you get on with your life and be a happy woman?" It's not that simple. Right now I'm fighting for my financial life. I still have that $132,000 mortgage plus interest to pay off at the Millbrook development. My legal fees were close to $70,000, and I still owe my attorneys about $14,000 plus interest even though the court ordered in August 1989 the IRS to pay them $27,900. The IRS dropped the appeal of this order in December, and the check finally came last month.

Alex took his life so I would have money to keep fighting the IRS. He believed that our lawyers were not pushing our case because we didn't have any more money to pay them. I don't think I would have ever gotten into a courtroom if my attorneys hadn't known that I had $250,000 from Alex's life insurance.

What if Alex and I had not had the money to hire the attorneys to start with? If you're poor, what do you do? There's something wrong when the IRS can accuse you of something and assume you are guilty and destroy your life. Aren't you supposed to be innocent until proven guilty? They said, "You're guilty." And I had to fight to prove I was innocent, and, sure, I proved it. Why don't I feel good about it? I always felt that if I beat the IRS I would feel good, that I could say, "All right, Alex, your death wasn't for nothing; we proved we were innocent." Big deal. I keep winning all these victories; I lost the war, a long time ago.

After Alex's death, I was left running a business that I really did not have the knowledge to run. But I had no choice. I had to sell my home at Pfafftown for much less that it was worth in order to pay off the construction loan that was due on it. I could not get the house financed because of the tax lien.

When I bought my house in High Point, I had to use money from the insurance settlement and pay cash for it. I could not get financing because of the tax lien. When I had to buy a car, I had to pay cash for that. And it continues, even though the court made the IRS remove the lien. A few weeks ago I went to buy a vacuum cleaner. The salesman said that I could have 90 days to pay cash for it, but he went ahead and applied for financing on it. They turned me down because of the tax lien that is still on my credit report. I thought that, since the IRS puts these tax liens on your credit report, when the lien is released they would have it removed. But it doesn't work that way; it's my responsibility. The credit bureau said that there is no way I can get the lien off my credit report, that it stays on there for seven years. All I can do is attach a statement to the report explaining what happened. So I'm still feeling the effects of the IRS action against us, even though I beat the IRS in court. And I'm going to feel the effects of it, because it's on my credit record and every time I apply for credit I have to sit down and explain to people. I will have to do that for the next seven years.

IRS Commissioner Fred Goldberg was on "Good Morning America" the other day talking about an article in "Money" magazine which said that American citizens pay billions of dollars that they don't owe, simply because the IRS sends out inaccurate notices. Goldberg said "Sure, people pay money they may not owe. We make mistakes." He agreed that taxpayers should fight the IRS. "Grab us by the neck and tell us," he said.

How do you grab them by the neck? How do you get to anybody in the IRS? We tried for five years, and all we got was nothing. And he says, "Grab us by the neck." Who is the IRS? The only people I have ever seen that were IRS were people that I saw in the courtroom. Other than that, I have never been able to have any contact in any way with the IRS.

The IRS should not be in the position to say to the taxpayer, "You're guilty of this." And the taxpayer should not be put in the position of spending every dime that they have, to prove that they're innocent. Look what I went through to prove my innocence. You talk about winning battles; look at the battles I won. But I lost the war because my husband is dead.

I should feel some satisfaction that I beat the IRS, that I got a $27,900 check from them to pay a portion of my attorney's fees. I don't feel good about any of it. I feel cheated.

I was cheated of my rights as a citizen. I was cheated of growing old with the man I love. I lost my best friend. I now have to start a new life and a new career at the age where I should be able to enjoy my children and grandchildren. I worked for 20 years as a professional, but I have not been in the job market since 1982. Our children have no father, only the emotional devastation left in their life to try and deal with. Our grandchildren have no "pop," that's the name they use for the grandfather they loved dearly. Our granddaughter thinks her pop got sick and died. How do you explain the IRS and suicide to a five-year-old? It seems to me that somebody has to be held accountable for the destruction to me and my family.

Yet I am told I cannot sue the IRS for damages, economical or personal. How do you put a price tag on life? I can't sue them for the illegal tax lien they put on us. I had no rights. The IRS has them all.

People ask me why I am doing this, because it just devastates me every time I have to go through this, every time I go back to the night when Alex died. All I can say is I thought that beating the IRS would give some meaning to Alex's death, but it hasn't. There has to be more.

There has to be something done to control the IRS, to keep it from destroying people's lives. And I really believe that if enough little people like me keep coming forward, there are going to have to be some changes.

Mr. ARMSTRONG. Unfortunately, the IRS' carelessness in the Council case is not unusual. Despite the best efforts of IRS personnel struggling against the usual handicaps of a large Federal bureaucracy and an antiquated information-processing system, taxpayers annually spend thousands of dollars trying to overcome IRS snafus. From the perspective of the IRS, the Treasury, and the Congress, these costs to the taxpayers are unfortunate; from the perspective of the taxpayer, they're theft.

As part of the 1988 Taxpayer Bill of Rights the Senate granted taxpayers the right to sue the Federal Government for damages if in connection with the determination or collection of any Federal tax an IRS employee carelessly, recklessly, or intentionally disregards a provision of the Internal Revenue Code. While this provision was largely accepted in the conference report, the right to sue for carelessness was deleted.

I have been introducing a series of bills called Fair Play for Taxpayers. Today, I am introducing another bill in this series to allow taxpayers to sue the Federal Government for damages if an IRS employee carelessly disregards a provision of the Internal Revenue Code. There is no excuse for imposing costs on taxpayers through IRS carelessness.

No suit could compensate Mrs. Council for the ultimely death of her husband. But taxpayers who suffer economically due to IRS carelessness should be able to recover their losses. This is the very least to which they should be entitled when their lives are disrupted due to IRS carelessness.●

By Mr. BREAUX:

S. 2468. A bill to amend the Solid Waste Disposal Act to provide for State management of solid waste; to reduce and regulate the interstate transportation of solid wastes, and for other purposes; to the Committee on Environment and Public Works.

STATE REGULATION AND MANAGEMENT OF SOLID WASTE

Mr. BREAUX. Mr. President, I rise to talk about something that is part of every single day of our lives—trash. We don't want something, we throw it away. Americans annually throw away 160 million tons of waste. That's an average of 3.5 pounds a day per person, enough to fill a convoy of garbage trucks halfway to the Moon every year. Every day each one of us throws away soda cans, newspapers, memos, letter, et cetera, often giving little to no thought of where that trash goes once it leaves our trash cans.

Because most communities have yet to enact recycling programs—only 11 percent of solid waste is ever used again—much of this garbage goes directly into landfills which are perilously close to capacity in every part of the country.

Consider these sobering facts: More than two-thirds of our country's landfills have been shut down since the late 1970's. A third of those remaining will be full within the next 5 years. All of this while our volume of waste is expected to increase by an additional 20 percent by 2000.

At the same time as landfill space is running out, intense local opposition to the siting of landfills and other solid waste disposal facilities has been increasing. This is the so called not in my backyard syndrome or "NIMBY."

A recent New York Times article points out that some communities, such as New York City, as a means to keep landfills from filling up too fast, have doubled fees that private garbage haulers have to pay for the right to dump trash in the landfill. The result? More waste is being shipped to other States for disposal.

Some communities, whose landfills have reached capacity, have negotiated with landfills in other parts of the country to dispose of that garbage. At least 28,000 tons of garbage travels our Nation's highways every day in route from cities in New York, Pennsylvania, and New Jersey to other parts of the country.

Last fall, a series of newspaper articles was published throughout the country on the extent of this problem. An article in the Washington Post, last November, talked about the fierce politics of Yankee garbage in the Virginia mountains, pointing out how the beautiful mountains of Virginia became the unwelcome recipients of somebody else's garbage.

Also last fall, the Chicago Tribune published an article titled "East Garbage Is Filling the Heartland". This article pointed out that Interstate Highway 80 traversing the northern part of the United States east to west and west to east was the garbage pipeline where unwanted garbage is being put on the interstate highway systems and traveling thousands of miles to another State for disposal.

In Louisiana, a 63-car train of sewage sludge from Baltimore found its way to several small Louisiana towns for disposal. The citizens of Shriever, Labadieville, and Donaldsonville rightfully did not want this foul-smelling, disgusting cargo, which eventually was accepted by a landfill in another State.

Who could blame any community for rejecting such a train? It sometimes seems that Louisiana, commonly known as the sportsman's paradise, is in danger of becoming the dumper's paradise. I feel strongly that Louisiana and other States should not be forced to become the dumping ground for the rest of the Nation, particularly when they are taking care to site and maintain solid waste disposal facilities.

Mr. President, these are isolated examples of a national problem. Last November, Newsweek published a cover story titled "Buried Alive the Garbage Glut: An Environmental Crisis Reaches our Doorstep." This article points out the strong need that we as a nation have to get our garbage crisis under control. There is a snowball of garbage accumulating in the heavily populated regions of the country—especially in the Northeast, where landfill capacity will run out, some say, in less than 5 years.

The downhill slope for this snowball of garbage leads to the less-populated regions, where landfill capacity will be barely sufficient through the turn of the century. By the year 2000, this snowball of trash will have rolled across the Mississippi looking for a final resting place. Already communities in the East and Midwest are contracting with private landfill owners in other regions to accept their garbage.

This game of "pass the trash" has got to stop. States and communities in these less-populated areas are revolting against this deluge of garbage pouring across their borders, while at the same time making plans to pass their own garbage on to the next State.

This game of "last tag" must be replaced with a workable solution. Individual States will not be able to handle the NIMBY opposition within their jurisdictions and create new landfill capacity, new incinerator capacity, or emplace workable recycling programs, without tough Federal guidance.

It is time for this body to pick up where we stopped 10 years ago and establish the standards needed for the States to plan out the waste management needs, for interstate cooperation, and for recycling to become the rule and not the exception.

Recognition of Earth Day is an appropriate time to introduce this legislation before our Earth gets buried in its own trash.

Traditionally, the responsibility for garbage disposal has rested with State and local governments—but the State's ability to care for its citizens is undermined by the current system. For example, in Louisiana, parishes are trying to site landfill capacity, but, at the same time, a privately owned solid waste disposal facility is accepting waste from Baltimore. Private contractors can agree to accept out-of-State waste from anywhere in the country with the State having little to say in the matter.

Many States resent their status as a dumping ground for other State's garbage, and rightfully so. States are beginning to establish legal barriers to the importation of solid waste from another State. Such barriers include refusing waste from States that fail to sufficiently address their own waste disposal problems and the charging of higher fees on out-of-State waste. The legal status of such State-imposed barriers is questionable.

A 1978 Supreme Court case, City of Philadelphia versus New Jersey, held that a New Jersey State law banning out-of-State waste from being disposed of within that State was unconstitutional as a violation of the interstate commerce clause of the Constitution. The Court found that although, relatively valueless, trash is commerce. The intent of the New Jersey law was to conserve its landfill space. However, the Court found that the means New Jersey chose to preserve that space burdened out-of-State commercial interests. And, under the commerce clause, the States are restricted in their ability to regulate interstate commerce when such regulation places an "undue burden" on that commerce.

The Philadelphia case is clear that a State, acting on its own, may not unduly burden interstate commerce by banning the importation of out-of-

State waste. Congress, on the other hand, is specifically given the authority under the Constitution to regulate interstate commerce. This authority is broad and far reaching, and Congress may use it to authorize state-imposed bans on waste shipments. I refer my colleagues to a report by the Congressional Research Service titled: "State and Local Discrimination Against Import of Solid Waste: Constitutional Issues" for a detailed discussion of the constitutional issues.

Mr. President, it is time to get the garbage crisis under control. Wastes should not be moving long distances between States creating potential health hazards, unpleasant odors, noise, increased traffic, and impeding the ability of States to effectively manage their own wastes. A State should continue to have the primary responsibility to care for its citizens by assuring solid waste management capacity. Congress must provide the means by which a State can assure its solid waste management needs are met.

Therefore, I am introducing legislation today to give the States the means and support they need. The primary Federal statute governing disposal of solid waste is the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act [RCRA]. Subtitle D of RCRA encourages, but does not require, States to develop solid waste management plans. The bill I am introducing today will require each State to develop a plan. The plan is to project how the State will manage solid waste generated within its borders for 20 years. The plan must demonstrate that solid waste will be managed in accordance with the following priorities: The State must first take steps to reduce the amount of waste generated within its borders; next, the State must encourage recycling, energy and resource recovery; and only as a final option, should the State consider landfills, incinerators, and other options of disposal. The State will be required to demonstrate that it complies with the waste management hierarchy and has issued all appropriate permits for capacity sufficient to manage the solid waste for rolling 5-year periods. The Federal Government working with the State will be required to provide technical and financial assistance to local communities to meet the requirements of the plan. The plan shall also provide that if the State accepts out-of-state waste such waste will be managed in accordance with the plan and shall be accepted only if doing so, will not impede the ability of the State to manage its own solid waste.

A State with an approved plan will then have the authority to refuse to accept out-of-state waste for purposes of solid waste management—other than transportation—and to charge higher fees on out-of-state waste based on the origin of such waste. Half of the proceeds from the out-of-state fees will go to the locality where the garbage is being disposed and may only be used for solid waste management activities.

By giving the States with approved solid waste management plans the authority to exclude out-of-state wastes, I expect the States to be better equipped, through providing and utilizing solid waste management capacity, to develop the capacity to effectively manage its own wastes within its own borders. I expect this power to be exercised to discourage garbage exports as a disposal practice and to encourage each State to manage its own solid waste. The interstate barriers will be particularly helpful in encouraging States to make significant strides toward minimizing the amount of waste generated within their borders and to increase recycling efforts since waste exports will be a less attractive waste management option.

I do not expect States to exercise these new powers to discourage the free flow of such nonhazardous scrap materials as metal, paper, or glass across State lines for recycling or resource recovery. Each State will be required in its plan to meet a particular priority of preferred methods of solid waste management. Recycling and resource recovery are key elements of this hierarchy. I would not expect that each State would necessarily need or want to consruct recycling and resource recovery facilities within its borders, since it may not be economically justifiable to do so given the uncertain markets for recycled goods. I do expect that States would find it in their interest to enter into regional or interstate agreements to facilitate scrap material recycling and the free flow of those materials to regional or interstate recycling or resource centers. Free trade in scrap is important to encouraging recycling and resource recovery and States should not use powers created by this bill to thwart national recycling and resource recovery goals of nonhazardous scrap materials.

Often solid waste that is transported between States is carried in the same vehicles as food and other consumer goods. This backhauling procedure is alarming and raises serious public health concerns. This legislation would require the regulation of those vehicles that carry both garbage and consumer goods in a manner that is protective of human health.

The concern about interstate transport of waste is not restricted to solid wastes. Many States, such as Louisiana, are also the dumping grounds of hazardous wastes generated throughout the country. The public health concerns associated with hazardous waste disposal are particularly acute. Each hazardous waste facility is subject to strict RCRA permitting requirements and is often subject to individualized treatment standards. This process is often burdensome and controversial.

Yet, States that have borne the burdens and have been responsible in siting hazardous waste facilities are often penalized for doing so by having to accept other State's hazardous wastes. Many States, such as Louisiana, have sited hazardous waste capacity and are net importers of hazardous wastes. However, other States have had difficulty in siting new capacity and send their hazardous wastes out of State, therefore, shifting the permitting burdens and potential public health risks of their wastes to another State.

Under my bill, using available data, each State will be classified as net importers or net exporters of hazardous waste. Each State will be required to develop hazardous waste management programs under which the State must demonstrate that it has capacity to handle hazardous waste it generates. Net exporter States will have to demonstrate in their programs the steps they will take to change their status. A State may change its statute as a net exporter through means that include siting additional hazardous waste management capacity, or accepting more hazardous wastes from other States. This does not mean that each State has to dispose of all of its hazardous waste within its borders, wastes may still be shipped to other States provided, that the State sending the waste is also disposing of its share of hazardous waste.

A State that is a net importer of hazardous waste and that has an approved program may refuse to accept hazardous waste and may charge higher fees on hazardous wastes generated in net exporting States that do not have approved programs.

It is not the intent of this bill that every State will be required to site facilities for every hazardous waste that is generated within its borders. It is the intent of this bill that every State share the burden of disposing of the Nation's hazardous waste. I expect States will find it preferable to enter into regional and interstate agreements to develop ways to meet their burden.

Mr. President, the interstate war over garbage is only just starting. Those States with solid and hazardous waste capacity, the "have" States, are resisting becoming the Nation's dumping grounds. Those States without solid and hazardous waste capacity, the "have not" States need help in finding management options within their own borders. Congress needs to take clear and decisive action to give the State's the powers they need to

manage their own waste and to protect all Americans from public health threats associated with interstate shipment of solid and hazardous waste.

Mr. President, I ask unanimous consent that the text of the bill and the articles mentioned earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2468

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

TITLE I.—GENERAL AMENDMENTS

SECTION 101. SHORT TITLE.

This Act may be cited as the State Regulation and Management of Solid Waste Act of 1990.

SEC. 102. CONGRESSIONAL FINDINGS.

(a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended to read as follows:

"(4) that while the collection and disposal of solid waste should continue to be primarily the function of State, regional and local agencies, the problems of waste disposal as set forth have become a matter national in scope and in concern and necessitate Federal action through—

"(A) requirements that each State develop a program for the management and disposal of solid waste generated within each State over the next 20 years;

"(B) authorizing each State to restrict the importation of solid waste from a State of origin for purposes of solid waste management other than transportation; and

"(C) financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices."

"(b) Section 1002(b) of the Solid Waste Disposal Act is amended as follows:

"(1) strike the word "and" at the end of paragraph (7);

"(2) paragraph (8) is amended to read as follows:

"(8) alternatives to existing methods of land disposal must be developed since it is estimated that eighty percent of all permitted landfills will close in twenty years; and"

(3) add the following after paragraph (8):

"(9) solid waste is being transported long distances across country for purposes of solid waste management and, in some cases, in the same vehicles that carry consumer goods. Such practices are harmful to the public health and measures should be adopted to ensure public health is protected when such goods are transported in the same vehicles as solid waste is transported."

SEC. 103. OBJECTIVES AND NATIONAL POLICY.

(a) Section 1003(a)(1) of the Solid Waste Disposal Act is amended to read as follows:

"(1) assuring that each State has a program to manage solid waste generated within its borders, and by providing techical and financial assistance to State and local governments and interstate agencies for the development of solid waste management plans (including recycling, resource recovery, and resource conservation systems) which will promote improved solid waste management techiques (including more effective organization arrangements), new and improved methods of collection, separation, and recovery of solid waste, and the environmentally safe disposal of nonrecoverable residues,".

(b) Section 1003(a) of the Solid Waste Disposal Act is further amended by:

(1) striking "and" at the end of paragraph (10);

(2) striking the period at the end of paragraph (11) and insert in lieu thereof a semicolon; and

(3) adding the following new paragraphs:

"(12) promoting the use of regional and interstate agreements for economically efficient and environmentally sound solid and hazardous waste management practices, and for construction and operation of solid waste recycling and resource recovery facilities; and

"(13) promoting recycling and resource recovery of solid waste through the development of markets for recycled products and recovered resources.".

SEC. 104. DEFINITIONS.

(a) Section 1004 of the Solid Waste Disposal Act is amended by adding at the end thereof:

"(40) The term "recycling" means any use, reuse or reclamation of a solid waste.

"(41) The term "state or origin" means any state that authorizes a person to transport solid or hazardous waste generated within its borders to a state of final destination for purposes of solid waste management other than transportation.

"(42) The term "state of final destination" means any state that authorizes a person to transport solid waste from a state of origin into such state for purposes of solid waste management other than transportation.".

(b) Section 1004(12) of the Solid Waste Disposal Act is amended to read as follows:

"(12) The term "manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of solid and hazardous waste during its transportation from the point of generation to the point of disposal, treatment, storage, recycling, and resource recovery."

(c) Section 1004(28) is amended by inserting "recycling, resource recovery," before the term "treatment."

(d) Section 1004(29)(C) is amended by inserting "recycling," before the term "treatment."

TITLE II.—STATE SOLID WASTE MANAGEMENT PLANS

SEC. 201. OBJECTIVES OF SUBTITLE D.

(a) The first two sentences of section 4001 of the Solid Waste Disposal Act are amended to read as follows: "The objectives of this subtitle are to reduce to the maximum extent practicable the amount of solid waste generated and disposed of during the 20-year period following the date of enactment of this Act by requiring each State to develop a program which will meet the aforementioned standards, and which—

"(1) first, reduces the amount of solid waste generated in the State and encourages resource conservation; and

"(2) second, facilitates the recycling of solid waste and the utilization of valuable resources, including energy and materials which are recoverable from solid waste.

"(b) Such objectives are to be accomplished through federal guidelines and technical and financial assistance to States; encouragement of cooperation among Federal, State, and local governments and private individuals and industry; encouragement of States to enter into interstate or regional agreements to facilitate environmentally sound and efficient solid waste management; and through approval and oversight of the implementation of solid waste management plans.".

SEC. 202. STATE SOLID WASTE MANAGEMENT PLANS.

(a) Sec. 4003(a) of the Solid Waste Disposal Act is amended by:

(1) inserting before the first sentence the following new sentence: Upon the expiration of 180 days after the date of approval of a State's solid Waste Management Plan required by this section or upon the date a State plan becomes effective pursuant to section 4007(d), it shall be unlawful for a person to manage solid waste within that State, to transport solid waste generated in that State to a State of final destination, and to accept solid waste from a State of origin for purposes of solid waste management other than transportation unless such activities are authorized and conducted pursuant to the provisions of the approved plan." and

(2) striking in the first sentence thereof "each State plan must comply with the following minimum requirements" and inserting in lieu thereof "each State Solid Waste Management Plan must comply with the following minimum requirements".

(b) Sec. 4003(a) is further amended by amending paragraphs 4003(a)(5) and (6) to read as follows:

"(5) The plan shall identify the quantities, types, sources, and characteristics of solid wastes that are reasonably expected to be generated within the state or transported to the state from a state of origin during each of the ensuing twenty years following the date of enactment of this Act and that are reasonably expected to be managed within the state during each of the ensuing twenty years.

"(6) The plan shall provide that the State acting directly, through authorized persons, or through interstate or regional agreements, shall ensure the availability of solid waste management capacity to manage the solid waste identified in paragraph (5) in a manner that is environmentally sound and that meets the objectives of this subtitle as defined in Sec. 4001.".

(c) Section 4003(a) of the Solid Waste Disposal Act is further amended by adding the following new paragraphs at the end thereof:

"(7) When identifying the amount of solid waste management capacity necessary to manage the solid waste identified in paragraph (5), the State shall take into account solid waste management agreements in effect upon the date of enactment of this Act that exist between a person operating within such state and any person in a state or states contiguous with such state.

"(8) The plan shall provide for the identification and annual certification to the Administrator of how the State has met the objectives of this subtitle as defined in Sec. 4001 and that the State has issued permits consistent with all the requirements of this Act for capacity sufficient to manage the solid waste identified in paragraph (5) of this section for the ensuing five year period and that the state has identified and approved the sites for capacity identified in paragraph (5) of this section for the ensuing eight year period.

"(9) The plan shall provide that all solid waste management facilities located in the state meet all applicable federal and state laws and for the enactment of such State and local laws as may be necessary to fulfill the purposes of this Act.

"(10) The plan shall provide for a program that requires all solid waste management facilities located or operating in the state to register with the state and that only registered facilities may manage solid waste identified in paragraph (5). Such registration shall at a minimum include the name and address of the owner and operator of the facility; the address of the solid waste management facility; the type of solid waste management used at the facility; and the amounts, types and sources of waste to be managed by the facility.

"(11) The plan shall provide for technical and financial assistance to local communities to meet the requirements of the plan.

"(12) The plan shall specify the conditions under which the State will authorize a person to accept solid waste from a State of origin for purposes of solid waste management other than transportation, and ensure that such waste is managed in accordance with the plan and that acceptance of such waste will not impede the ability of the State of final destination to manage solid waste generated within its borders.".

(c) Section 4006 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(d) SUBMISSION OF PLANS.—Not later than four years after the date of enactment of this Act, each State shall, after consultation with the public, other interested parties, and local governments, submit to the Administrator for approval a plan that complies with the requirements of section 4003(a) of this Act.

(d) Section 4007(a)(1) of the Solid Waste Disposal Act is amended to read as follows: "(1) it meets the requirements of section 4003(a);".

(e) Section 4007(a) is amended by deleting the period at the end of clause (C) and inserting in lieu thereof a semicolon and the word "and", and by adding the following new paragraph at the end thereof:

"(3) it furthers the objectives of section 4001 of this Act.".

(f) The third sentence of Section 4007(a) is amended to read as follows: "Upon receipt of each State's certification required by section 4003(a)(8), the Administrator shall determine whether the approved plan is in compliance with the provisions of section 4003, and if he determines that revision or corrections are necessary to bring such plan into compliance with the minimum requirements promulgated under section 4003 (including new or revised requirements), he shall, after notice and opportunity for public hearing, withhold per his approval of such plan.".

(g) Section 4007 is amended by adding the following new paragraph at the end thereof:

"(d) FAILURE OF THE ADMINISTRATOR TO ACT ON A STATE PLAN.—If the Administrator fails to approve or disapprove a plan within eighteen months after a State plan has been submitted for approval the State plan as submitted shall go into effect at the expiration of eighteen months after the plan was submitted. The plan shall remain in effect as submitted and subject to review by the Administrator and revision in accordance with section 4007(a).".

TITLE III.—HAZARDOUS WASTE MANAGEMENT PROGRAMS

SEC. 301. HAZARDOUS WASTE MANAGEMENT PROGRAM.

(a) Subtitle C of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"SEC. 3019. (a) HAZARDOUS WASTE NET EXPORTER GUIDELINES.—Within one year from the date of enactment of this section the Administrator shall promulgate guidelines, utilizing data including data received through the manifest system required by Section 3002(a)(5) of the Solid Waste Disposal Act and Title III of the Superfund Amendments and Reauthorization Act of 1986 detailing how each State shall:

"(1) estimate the amount, sources and types of hazardous waste generated within its borders during the three years prior to the date of enactment of this section and during each year thereafter;

"(2) estimate the amount of hazardous waste identified in subsection (1) that was recycled, destroyed, treated, or securely disposed within such State during the three years prior to the date of enactment of this section and during each year thereafter;

"(3) estimate the amount of hazardous waste identified in subsection (1) that was exported to a state or states of final destination to be recycled, destroyed, treated, or securely disposed during the three years prior to the date of enactment of this section and during each year thereafter; and

"(4) estimate the amount of hazardous waste that was imported from a state or states of origin for purposes of hazardous waste recycling, destruction, treatment or secure disposition during the three years prior to the date of enactment of this section and during each year thereafter.

"(b) SUBMISSION OF DATA.—Within six months after the Administrator promulgates the guidelines required by subsection (a), each State shall provide to the Administrator the data required by subsections (a)(1)–(4) for the three years prior to the date of enactment of this section and shall continue to provide to the Administrator such information for each year thereafter.

"(c) LIST OF NET EXPORTERS OF HAZARDOUS WASTE.—Based on the data received by each State pursuant to subsections (a) and (b), the Administrator shall determine whether each State is a net exporter of hazardous waste. A state shall be a net exporter if the Administrator determines that when the amount of hazardous waste identified by the state pursuant to subsection (a)(3) less the amount of hazardous waste identified by the state pursuant to subsection (a)(4) is a positive number. Upon making a determination that a state is a net exporter of hazardous waste the Administrator shall publish an initial list of such designations in the Federal Register. At any time after the date of publication of the initial list, the Administrator may revise the list to add or delete states as net exporters. A state may petition the Administrator to change its designation as a net exporter.

"(d) HAZARDOUS WASTE MANAGEMENT PROGRAM GUIDELINES.—Not later than one year from the date of enactment of this section and after notice and hearing, the Administrator shall, promulgate guidelines to assist States in the development and implementation of Hazardous Waste Management Programs that meet the requirements of subsection (e).

"(e) HAZARDOUS WASTE MANAGEMENT PROGRAM REQUIREMENTS.—Within two years from the date of enactment of this section, each State shall submit to the Administrator for approval a program, that is protective of human health and the environment, to ensure such State has adequate permitting, siting, planning and regulatory capability for recycling permitted pursuant to the requirements of this Act, destruction, treatment, or secure disposition of all hazardous waste, generated within the State for a period of five years following the date of enactment of this section, and shall revise such program for each year thereafter. Such program shall at a minimum:

"(1) provide for the siting, permitting, and construction of hazardous waste recycling, destruction, treatment, and disposal facilities consistent with federal permitting procedures;

"(2) provide that no siting or permitting laws that prohibit or restrict new and expanded capacity for hazardous waste treatment, destruction, or disposal facilities be adopted by such state or its locality without a reasonable basis in protection of human health and the environment;

"(3) ensure that all facilities identified in subsection (1) are in compliance with subtitle C of the Solid Waste Disposal Act;

"(4) provide that if such State is a net exporter of hazardous waste it shall establish a schedule and procedures that demonstrate that it will change its designation as a net exporter of hazardous waste within five years of the date of approval of the program; and

"(5) provide for the submission of annual reports to the Administrator to demonstrate compliance with the provisions of this subsection.

"(f) APPROVAL OF HAZARDOUS WASTE MANAGEMENT PROGRAMS.—Within six months upon receipt of each State program, the Administrator shall approve such program if it meets the requirements of subsection (e) and shall publish a notice of approval in the Federal Register. If the Administrator disapproves a state program, such state shall have six months to comply with the provisions of subsection (e). If after two years after a state submits the program for approval, and no later than four years after the date of enactment of this section, the program is not in compliance with the requirements of subsection (e), the state shall not be in compliance and notification of non-compliance shall be published by the Administrator in the Federal Register. Once the Administrator approves the State program, it shall publish a notice of approval in the Federal Register.

"(g) OVERSIGHT OF HAZARDOUS WASTE MANAGEMENT PROGRAMS.—For each year after approval of a State program required by subsection (e) and upon receipt of the reports required by subsection (e)(5) the Administrator shall certify whether each State's program is in compliance with the provisions of subsection (e). If the Administrator finds that a State is no longer in compliance with the provisions of subsection (e), it shall so notify the State. The State shall have six months from the date it was notified by the Administrator to demonstrate compliance with this section. If the State does not demonstrate compliance within six months after receiving notification by the Administrator, the Administrator shall publish a notice of non-compliance in the Federal Register. Once the Administrator determines the State is in compliance with the requirements of this section, it shall publish a notice in the Federal Register.".

TITLE IV.—INTERSTATE TRANSPORT OF WASTE

SEC. 401. AUTHORITY OF STATES TO CONTROL INTERSTATE SHIPMENT OF SOLID WASTE.

(a) Subtitle D of the Solid Waste Disposal Act is amended by adding at the end thereof the following new sections:

"SEC. 4011. (a) AUTHORITY TO RESTRICT INTERSTATE TRANSPORT OF SOLID WASTE.—

Upon the expiration of one hundred and eighty days after the date the Administrator has approved a Solid Waste Management Plan required by section 4003, or after the date a State plan becomes effective in accordance with section 4007(d), such State with an approved or effective State plan is authorized to prohibit or restrict a person from importing solid waste from a State of origin for purposes of solid waste management (other than transportation). A State may authorize a person to import solid waste from a State of origin for purposes of solid waste management (other than transportation) only in accordance with the provisions of section 4003(a)(12).

"(b) Each state is authorized to levy fees on solid waste that differentiate rates or other aspects of payment on the basis of solid waste origin. At least fifty percent of the revenues received from such fees collected shall be allocated by the State to the local government in whose jurisdiction the solid waste will be managed. Such fees shall be used by such local governments for the purpose of carrying out provisions of an approved plan.".

SEC. 402. AUTHORITY OF STATES TO CONTROL INTERSTATE SHIPMENTS OF HAZARDOUS WASTE.

(a) AUTHORITY TO RESTRICT INTERSTATE TRANSPORTATION OF HAZARDOUS WASTE.—Subtitle C of the Solid Waste Disposal Act is amended by adding the following new subsection:

"SEC. 3020. Effective four years after the date of enactment of this section, a State that is not a net exporter and that has a Hazardous Waste Management Program that is approved and in compliance with the requirements of this section is authorized to:

"(1) levy fees on hazardous waste received from a State or States of origin that differentiate rates or other aspects of payment on the basis of hazardous waste origin; and

"(2) restrict or limit a person from importing hazardous waste from a State or States of origin for purposes of recycling, treatment, disposal, or destruction;

if the State of origin is a net exporter of hazardous waste and does not have a Hazardous Waste Management Program that is approved and in compliance with the requirements of this section. At least fifty percent of revenues derived from the fees collected shall be allocated to the local government in whose jurisdiction such hazardous waste is being recycled, disposed, treated, or destroyed.".

"(i) JUDICIAL REVIEW.—Section 7006(b) is amended by:

(1) striking "AND" in the caption, inserting a comma after "3005," and inserting "AND 3019" after "3006";

(2) inserting "and in approving or disapproving any State program under section 3019" after "3006," in subparagraph (2); and

(3) adding the following new sentence at the end thereof: ": *Provided*, That any approved Hazardous Waste Management Program required by section 3019 shall remain in effect during the pendency of any proceeding to review an Administrator's action under section 3019.".

TITLE V.—TRANSPORTATION OF SOLID WASTE

SEC. 501. STANDARDS APPLICABLE TO THE TRANSPORTATION OF SOLID WASTE.

(a) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section 4012 at the end thereof:

"SEC. 4012. (a) STANDARDS APPLICABLE TO THE TRANSPORTERS OF SOLID WASTE.—Not later than 180 days after the date of enactment of this section, and after opportunity for public hearings, the Administrator, after consultation with the Secretary of Transportation and the States, shall promulgate regulations establishing such standards, applicable to transporters of solid waste in interstate commerce, as may be necessary to protect human health and the environment in connection with the interstate transportation of solid waste. Such standards shall include but need not be limited to requirements respecting—

"(1) recordkeeping concerning the types and quantities of solid waste being transported, and its source and delivery points;

"(2) compliance with a manifest system that sets forth the facility or facilities for which such waste is destined, and the fact that such waste arrived at a facility or facilities certified, licensed, or permitted under applicable Federal and State laws;

"(3) transportation of solid waste only to the solid waste management facility or facilities which the shipper designates on the manifest form;

"(4) notification of the types of consumer goods transported in the same vehicles in which solid waste is transported;

"(5) establishment of standards that protect public health and safety when consumer goods are transported in the same vehicles in which solid waste is or has been transported.".

TITLE VI.—FINANCIAL ASSISTANCE

SEC. 601. FEDERAL ASSISTANCE.

(a) Section 4008(a)(1) of the Solid Waste Disposal Act is amended by—

"(1) striking "and" after "fiscal year 1982"; and

"(2) by inserting after "10,000,000 for each of the fiscal years 1985 through 1988" the following: ", and $100,000,000 in funds for each of the fiscal years 1989 through 1993".

(b) Section 4008(a)(2) is amended by adding the following new subsection at the end thereof:

"(E) There are authorized to be appropriated 25,000,000 for each of the fiscal years 1989 through 1993 for the purposes of providing grants to States for the encouragement of recycling, resource recovery and resource conservation activities. Such activities shall include licensing and construction of recycling, resource recovery and resource conservation facilities within the State and the development of markets for recycled products.".

SEC. 602. RURAL COMMUNITIES ASSISTANCE.

(a) Section 4009(d) of the Solid Waste Disposal Act is amended by deleting "and $15,000,000 for each of the fiscal years 1981 and 1982 to carry out this section." and inserting in lieu thereof the following, ", $15,000,000 for each of the fiscal years 1981 and 1982, and $50,000,000 for each of the fiscal years 1989 through 1993 to carry out this section.".

(b) Section 4009(a) is amended by inserting "section 4004 and" before "4005".

[From the New York Times, Mar. 22, 1990]

REFUSE PILES IN NEW YORK: UNWANTED BUT GROWING

(By Allan R. Gold)

Fifteen months ago, in an effort to keep the giant Fresh Kills landfill from filling up to fast, New York City doubled the fee it charges private garbage haulers for the right to dump trash there. The tactic has worked well—almost too well.

Dumping at Fresh Kills—a rising pyramid of trash that rates as the world's largest landfill—has dropped by about 30 percent.

But now, Ohio, Kentucky and several other states—distant, cheaper destinations for some of the New York garbage—are threatening to impose import restrictions. People there resent being someone else's dumping ground, especially New York's, and besides, they have their own garbage crises.

$100 MILLION A YEAR

Closer to home, in the Greenpoint and Williamsburg sections of Brooklyn, residents are up in arms over what the state says has been a surge in transfer stations, where garbage is repackaged for transport to landfills upstate or to other states. Neighbors say they are smelly and noisy, and officials say some do not meet environmental guidelines.

As for the financial benefits of the higher fees, the private haulers have stayed away in such numbers that New York City's Sanitation Department says it is losing $100 million a year.

New York finds itself in a puzzle that illustrates just how limited its current waste-disposal options are. The situation offers perhaps the most dramatic illustration of the region's mounting garbage disposal problem since the "Mobro" garbage barge fiasco of about three years ago. At the time, a barge laden with Long Island trash was denied access to a dump by six states and three countries in the course of a 162-day, journey.

Almost nobody wanted that garbage, and refuse has become even less popular today, for many people in government and the waste industry.

The problem is that New York and many other states are running out of places to dump their garbage. For the most part, New York City relies for disposal on the Fresh Kills landfill. A state estimate several years ago predicted that capacity at the site would be exhausted by the year 2000.

In an attempt to extend the life of the landfill, the Sanitation Department in December 1988 raised the dumping fee for haulers of commerical waste. The increase, to $40 a cubic yard, or about $80 a ton, from $18 a cubic yard, sent the haulers scurrying for other disposal avenues.

Bredan Sexton, the Sanitation Commissioner, said yesterday that the city had expected only about 10 percent to 20 percent of the privately hauled waste to be diverted.

Mr. Sexton also said no one in government predicted the rapid increase in interstate shipments of waste as a result of the increase in the dumping fee.

"If we could have predicted that, it might have changed how we handled" the increase, he said, suggesting a phase-in period might have been employed.

The increase in truck traffic is readily apparent in some city neighborhoods.

"You can sit here on Canal Street and watch truck after truck going to the Holland Tunnel to go on to Kentucky and Ohio," said Michael Burke, a Sanitation Department official.

VERY ANGRY AT NEW YORKERS

The city will likely have to reckon with the increased waste exports soon.

At least Ohio, Pennsylanvia and Kentucky are considering legal changes to make it more difficult to import out-of-state waste.

"To be very frank, we are very angry at New Yorkers over making us your dumping ground. It is a situation we find intolerable," Richard Sahli, deputy director of the

Ohio Environmental Protection Agency, recently told a New York legislative hearing.

"Everyone remembers the garbage barge," said Senator Nicholas A. Spano, a Westchester Republican and vice chairman of the Legislative Commission on Solid Waste Management. "The trucks are going to be the garbage barges of the highway."

New York City has more than an interstate problem. The increased dumping fee had a direct impact on Greenpoint and Williamsburgh in Brooklyn. These are neighborhoods with industry, where residents are generally accustomed to dirty, noisy businesses.

WREAKED HAVOC

But some residents said they did not bargain for a big rise in the number of sites that serve as an intermediate stop for commercially generated garbage on its way out of state.

"The transfer stations have wreaked havoc," said Inez Pasher, a member of the local community board. The situation has improved since residents started to complain early last year about the smell of the operations and truck noise, Ms. Pasher said.

The State Commissioner of Environmental Conservation, Thomas C. Jorling, estimates that about 40 of the city's 200 or more transfer stations are in the Greenpoint-Williamsburg area.

Transfer stations that are properly run serve a useful purpose, Mr. Sexton said, by at least increasing the amount of garbage that is recycled. At the stations, trucks that have collected waste are emptied and often scoured for material that can be salvaged for sale. What remains is bundled and placed on trucks for shipment to a landfill, many times out of state.

Some stations have been shut down for not having proper permits, operations that Mr. Sexton described as "fly by night." He also acknowledged that the industry "grew faster than we or the state could regulate them." Residents of the area have complained bitterly about overlapping jurisdictions that have hurt enforcement efforts.

A lawyer representing several transfer stations, Lawrence B. Goldberg, acknowledged that there have been some abuses. But he said transfer stations were not responsible for the increased truck traffic, blame for which he placed squarely on the city because of the increased dumping fees.

In addition, Mr. Goldberg said city and state government were giving in to political pressure by unfairly cracking down on transfer stations.

SLUDGE: TOWN PEEVED AT POO-POO CHOO-CHOO

(By Christopher Rose)

SCHRIEVER, LA.—Folks who live along the railroad tracks get used to all the toxins, dioxins, chlorines and methanes that rumble by each day, but the 63 sleek black railroad cars that rolled into town three weeks ago are more than your everyday poison.

They are full of what the experts call "concentrated solids" or "treated municipal sewage," but everyone around here knows what that really means.

They call it the poo-poo choo-choo.

When the wind blows, they can smell it. They can see the flies, big as a child's thumb.

Worse yet, though the sludge is not considered hazardous, it comes from the North.

"This is horrible, terrible, disgusting," said Anne Carol Pennison, a real estate agent who lives 200 yards from the railroad cars that arrived from Maryland last month.

Pennison and her family have lived by the Schriever depot all their lives. They've evacuated for ammonia leaks, and fled when a derailment knocked out a bridge up the tracks, but the prospect of Yankee wastes rotting in their front yard is just too much to bear.

"Why did they bring this down here?" she asked. "Why do we always have to take someone else's garbage?"

"This is an insult to the people of Terrebonne Parish and to the state of Louisiana," said Fred Lemoine, parish public service administrator. "It's hard to believe that we're held in such low regard as to be blessed with this material. It's like the garbage barge revisited."

In many ways, the Schreiver waste train is similar to the notorious garbage barge, the floating trash heap from Long Island, N.Y., that wandered the high seas—including a visit to the Louisiana coast—in 1987 as her captain looked for a dump with a welcome mat.

The poo-poo choo-choo's journey began when Baltimore city officials contracted the firm of Metcalf and Eddy to haul away hundreds of thousands of tons of sludge from the city's backlogged system, according to Dan Martin, manager of GSX Land Treatment Inc. in White Castle, La. Metcalf and Eddy subcontracted with GSX to dispose of 12,000 tons, and that's when the trouble began.

The loaded freight cars from Baltimore created a logjam once they hit Louisiana, Martin said. The first stop was Donaldsonville, where residents complained of strong odors, prompting the city to file an injunction. GSX next rolled the train into Labadieville and began transferring the sludge to trucks for the final leg of the trip to White Castle for burial—a time-consuming process. As the trains backed up on Louisiana tracks, the whiff of controversy rose high.

Assumption Parish District Attorney Donald Carmouche threatened to sue GSX unless they ceased the waste transfer operation Labadieville.

The damning evidence, it seems, was a home video taken by a nearby resident that showed some of the waste spilling onto the tracks during the transfer.

"Gnats and flies swarmed the leaking cars," said the Thibodaux Daily Comet after viewing the video. "Some leaks resembled open faucets."

GSX, whose corporate base is in South Carolina, halted shipments from Baltimore and pulled out of Labadieville, parking the remaining 63 loaded cars in Schriever, where they are no more welcome.

"You've got a real proud people down here and we're tired of being a cesspool for the United States," said Terrebonne Parish pollution control administrator Al Leveron.

So GSX has shifted to a mode of damage control to protect its relationship with Louisiana.

"We're trying to get it out of here," Martin said, but GSX officials have discovered problems the garbage barge never faced.

While the barge floated in international waters looking for a home, Interstate Commerce Commission regulations and the Department of Transportation do not allow trains to wander so freely.

"We cannot legally move this train until we have a destination," Martin said. "Hopefully, it will be somewhere out in the sticks."

So far, no takers.

"How about the middle of the desert somewhere?" Pennison said.

"It doesn't matter to me where it goes, as long as it's out of here," said a Southern Pacific Railroad worker at the Schriever depot.

"They ought to take it back where it came from—right back to Boston."

Boston, Baltimore—it doesn't make any difference to the folks in Schriever, as long as it's anywhere but here.

[From Newsweek, Nov. 27, 1989]

BURIED ALIVE—THE GARBAGE GLUT: AN ENVIRONMENTAL CRISIS REACHES OUR DOORSTEP

At a distance, the yellow, granulated mounds rising 250 feet over Staten Island might be mistaken for sand dunes—if not for the stench. Fresh Kills is the largest city dump in the world, home to most of Gotham's garbage, 24,000 tons each day brought round-the-clock by 22 barges. "We get it all here—your plastics, your Styrofoams, even stoves and refrigerators," says supervisor William Aguirre. "It was a valley when it started [in 1948]. Now it's a mountain." By the year 2000, Fresh Kills will tower half again as high as the Statue of Liberty and fill more cubic feet than the largest Great Pyramid of Egypt—provided it lives that long. The State of New York claims Fresh Kills is leaching 2 million gallons of contaminated gunk into the ground water each day and has threatened to close the dump down in 1991. As a result, city sanitation commissioner Brendan Sexton left this message for newly elected Mayor David Dinkins: "Hi, Welcome to City Hall. By the way, you have no place to put the trash."

Neither do many American communities, from Philadelphia to Berkeley, Minneapolis to Jacksonville. More than two thirds of the nation's landfills have closed since the late 1970s; one third of those remaining will be full in the next five years. Federal law prohibits dumping trash into the ocean. Incineration is under attack on economic and environmental grounds. Recycling is gaining popularity, but currently only 11 percent of U.S. solid waste lives again as something else. And still the volume of garbage keeps growing—up by 80 percent since 1960, expected to mount an additional 20 percent by 2000. Not including sludge and construction wastes, Americans collectively toss out 160 million tons each year—enough to spread 30 stories high over 1,000 football fields, enough to fill a bumper-to-bumper convoy of garbage trucks halfway to the moon.

Municipal waste haulers aren't taking it there—yet. But as their own landfills close and disposal fees soar, many communities are trucking their trash across state lines and into rural areas. Some 28,000 tons of garbage travel the nation's highways each day; New York, Pennsylvania and New Jersey export 8 million tons a year. That practice can be costly, too: Long Island townships each spend an average of $23 million a year shipping garbage out of state. Increasingly, it incenses residents on the receiving end as well. "I'm all for taking care of our garbage needs, but New Jersey can take care of its own," says state Sen. Roger Bedford of Alabama, which has placed a two-year moratorium on accepting garbage not grown at home.

NIMBY (Not in My Backyard syndrome) is breaking out all over, frustrating efforts to build new landfills, expand old ones and site incinerators, transfer stations and recycling centers. NIMBY has been joined by

other acrimonious acronyms of the waste wars: GOOMBY (Get Out of My Backyard), LULU (Locally Undesirable Land Use) and NIMEY (Not in My Election Year). Greater Los Angeles has suffered them all in recent years. Angry citizens have three times blockaded the entrance to Lopez Canyon Landfill, hoping to close the last remaining city-owned dump. Officials of surrounding L.A. County say their canyons won't accept any more of the city's trash and Mayor Tom Bradley helped scuttle the proposed $235 million Lancer incinerator when political opposition to the project grew ferocious. As a result, "we actually have garbage trucks running around town everyday without a place to dump," says local environmentalist Will Baca.

That doesn't faze some unscrupulous drivers. As legal disposal grows more difficult, some private waste haulers simply unload their fetid cargo anywhere, from ghetto streets to forests. Even the Mafia is concerned about the lack of landfill space. Law-enforcement officials say that two New York mob families, which own carting companies, are trying to gain control of valuable Pennsylvania dumps. Worse still, some truckers who haul meat and produce to the East in refrigerated vehicles are carrying maggot-infested garbage back West in the same trucks. Congress is considering banning the practice, which carries serious health risks. "Would you serve potato salad from your cat's litter box?" asked Pennsylvania State University food-science professor Manfred Kroger at congressional hearings in August.

Junk Mail: The garbage crisis didn't appear overnight, of course. Environmentalists first warned of it in the 1970's, and some citizens conscientiously toted cans, bottles and paper to ragtag recycling centers. But there were scant markets for the recycled material and enthusiasm faded like last year's newsprint. The urgency seemed to wane as well: garbage, after all, isn't as frightening as toxic waste or as photogenic as the burning Amazon. Meanwhile, the throwaway society has grown ever more disposable, substituting squeezable plastic ketchup bottles for glass, generating 12.4 billion glossy mail-order catalogs each year and annually buying some 1 billion individual foil-lined boxes of fruit juice, complete with shrink wrapping and a plastic-encased straw on the side.

Ann: All I've been thinking about all week is garbage. I mean, I just can't stop thinking about it.

"Psychiatrist: What kind of thoughts about garbage?

Ann: I've just gotten real concerned over what's gonna happen . . . I mean, we've got so much of it . . . The last time I started feeling this way is when that barge was stranded and you know, it was going around the island and nobody would claim it . . ."—Opening lines of "sex, lies and videotape," 1989.

The saga of Islip's wandering garbage barge may have been to the trash crisis what the sinking of the Lusitania was to World War I. Ports as far away as Belize turned back the ship laden with 3,000 tons of Long Island filth in the spring of 1987, and nightly news stories starkly reminded Americans that what they toss out must go *somewhere.* Since then, 18 states and scores of municipalities have embarked on ambitious waste-reduction programs. Next July, Minneapolis and St. Paul will ban all plastic food packaging that won't degrade or can't be recycled; Nebraska will ban most disposable diapers in 1993. With amazing speed, recycling has shed its tie-dyed image, attracted big-business investment and political passion. "Nobody knew what the heck curbside recycling was two years ago," says Gary Mielke of Illinois's Department of Energy and Natural Resources; now 500,000 households in his state alone set their glass, paper and aluminum on the street in separate containers. The efforts seem to provide an outlet for a wide range of environmental angst. "People are so tired of hearing about oil spills and nuclear accidents and ozone—things they can't do anything about," Mielke observes. "Recycling is the way they can do their part."

Paper glut: Alas, it isn't that simple, as Minneapolis discovered last spring. Thousands of residents eagerly turned in their glass, cans and newspapers. But newsprint handlers were so inundated that rather than buying it for $12 a ton, some started charging $20 a ton just to haul it away. Success has threatened newspaper-recycling programs all over the country. Only eight U.S. paper mills are equipped to turn old newspapers into new newsprint, and their capacity is still geared more to the scale of Boy Scout paper drives than mandatory municipal collection. In August the nationwide glut of newsprint stood at 1 million tons. Industry officials say markets have improved since then, but they complain that too many cities launched into newspaper collection before securing purchasers. Washington, D.C., is among them: papers picked up in its two-month-old recycling program are piling up in a big storage pit. If a buyer isn't found, all those carefully sorted newspapers may simply be hauled off to a dump or an incinerator.

Many other efforts to reduce the nation's trash volume are working at cross purposes as well, leaving citizens who want to help wondering what to do and whom to believe. Sales of degradable disposable diapers are soaring; some communities now require degradable plastic grocery bags. Yet most experts dismiss such items as little more than marketing ploys that don't do much to reduce volume in landfills. Photodegradables decompose only in the presence of sunlight, which doesn't shine inside covered dumps. Many biodegradables rely on microorganisms to digest additives like cornstarch, but disintegration takes place very slowly in dry, oxygen-starved landfills. What's more, if degradables are mingled with recycled plastics, they can weaken the resulting products: picture your fence posts made of recycled plastic sagging in a couple of years. The rush to degradable plastics "is a joke," says Jack Hogan, a group vice president of Spartech Corp., which nevertheless makes the material. "Our company is responding to our customers, who are forced to do this because of legislation. But you and I will be part of history when they degrade in landfills.

Perhaps no consumer item better symbolizes the crisis—and the contradictions—than the polystyrene foam containers that keep McDonald's hamburgers warm and litter roadsides with such appalling frequency. McDonald's switched from paper to the plastic packaging 10 years ago amid concern over vanishing forests and paper-mill pollution, and was a leader in eliminating ozone-harming CFCs (chlorofluorocarbons) from polystyrene production. Now facing restrictions on the foam containers in nearly 100 communities, the company is scrambling to recycle the material. Last month 100 McDonald's in New England began asking customers to toss their polystyrene into separate trash cans; fledgling recycling centers then pound it into plastic pellets that can be used in such things as Rolodex file holders, cassette boxes and yo-yos. Someday, McDonald's envisions building whole restaurants out of recycled burger boxes. "This material has many, many uses," insists Ray Thompson, a spokesman for Amoco, which makes the boxes. "It only makes sense to enrich our waste stream with more polystyrene."

"It's one of those great mysteries of life in America," mutters the cartoon character Shoe as he puts his groceries away. "In just one day, how do two bags of ordinary groceries turn into three bags of garbage?"

Polystyrene makers insist that their abandoned trays, coffee cups and containers comprise less than 0.25 percent of the nation's trash. The biggest single component—41 percent by weight—is paper products, and their share has grown steadily, thanks in part to reams of computer printouts and competing regional phone books. Yard waste is the next biggest source by weight (18 percent before recycling), followed by metals (8.7 percent), glass (87.2 percent), food (7.9 percent), plastics (6.5 percent) and wood (3.7 percent). Toxic materials make up about 1 percent of the waste stream. They are supposed to be disposed of separately in facilities approved by the Environmental Protection Agency and carefully monitored for leakage. But many hazardous household products—from paint to nailpolish remover—slip through the EPA's guidelines.

Roughly 80 percent of all that stuff ends up in landfills. Some 6,000 remain nationwide, from unruly city dumps to state-of-the-art engineering marvels. Inside some methane gas is produced but not much else happens. "Practically nothing decomposes in a landfill," says University of Arizona anthropologist William Rathje, who has made a career excavating dumps from Tucson to Chicago. Rathje has found recognizable hot dogs, corncobs and grapes buried for 25 years, and readable newspapers dating back to 1952. The slow rate of degradation is actually a blessing, he says. If more of the contents did decompose, that would hasten the rate at which toxic inks, dyes and paints mixed with the leachate, posing more of a threat to ground water.

Landfill operators say that newer facilities pose few environmental dangers. "These are not just holes in the ground," says Bill Plunkett, spokesman for Waste Management, Inc., the nation's largest solid-waste-disposal firm. "They are highly engineered excavations which have expensive leachate- and gas-collection systems." In addition to taking in 2,500 tons of trash each day, Waste Management's 397-acre Settler's Hill landfill in Geneva, Ill., recovers enough methane to power 7,500 homes. The site will include two golf courses, a driving range, ski slopes, trails for horseback riding, jogging, biking, a lake and a picnic area. Still, NIMBY reigns supreme. Even when Waste Management offered $25 million to Chicago's Lake Calumet area for permission to expand a landfill there, residents weren't swayed. "No dumps, no deals," says state Rep. Clement Balanoff. "We have done more than our share."

Incinerators draw even more ire than landfills these days. "Resource recovery" plants were the bright hope of the 1970s energy crisis, promising to provide steam and electricity while simultaneously reducing trash volume by 90 percent. Some 155 incinerators are now in operation and 29

more are under construction. But an additional 64 have been blocked, canceled or delayed. The problems are partly economic: construction costs can run as high as $500 million, and the energy that incinerators produce is not cost-competitive, even though public utilities are required by law to purchase the power. But what worries residents more are the toxic air pollutants, including dioxins, that some incinerators release. Even the leftover ash can be toxic and should be disposed of as hazardous waste. In Philadelphia's own version of the Islip garbage barge, a ship carrying 28 million pounds of city incinerator ash was rejected by seven countries on three continents over a 22-month period. It was ultimately dumped last year, but the ship's owners refuse to say where.

Incinerator operators say that pollution controls such as high-temperature furnaces, scrubbers and bag houses virtually eliminate harmful emissions. They and environmentalists have dueled with scientific studies over how dangerous trash-burning can be. L.A.'s Lancer project was stopped after one test found it might cause an additional .118 case of cancer per million people. Detroit officials say the ash from their new $438 million incinerator is no more toxic than what remains in someone's fireplace. Yet the Detroit facility has repeatedly failed state ash tests, and in September it flunked air-pollution tests with mercury emissions four times Michigan's allowable level. Allen Hershkowitz, senior scientist at the Natural Resources Defense Council, believes that incineration *can* work safely. But he says too many U.S. operators see the environmental concerns as public-relations problems rather than serious calls for upgrading practices. Meanwhile, says Hershkowitz, the fast promises of incinerator operators have "conspired to blind public officials to the opportunities that recycling offers."

Recycling also holds the edge in creating new jobs, protecting the environment and conserving natural resources. EPA has set a goal of recycling 25 percent of the nation's waste by 1992. But success will depend largely on finding markets for the recycled products. "Most people think they put out the glass, aluminum and paper and they've recycled. In fact, all they've done is separate," says Edward Klein, who heads the agency's task force on solid waste. "Until those commodities are taken somewhere else and used again, you haven't recycled."

What follows is a status report on the potential markets for recyclable materials:

Aluminum: Turning bauxite into new aluminum is 10 times more expensive than reprocessing used cans. That's one key reason more than half of all aluminum beverage cans are recycled today—42.5 billion annually. Even so, Americans still toss out enough aluminum every three months to rebuild the nation's entire airline fleet.

Glass: Reusing old glass also costs less than forging virgin materials. To date, only 10 percent of it is recycled, but markets are growing steadily. Glass bottles can live again as "glassphalt" (a combination of glass and asphalt) and, of course, as other food containers. A California firm, Encore!, has even disproven the old adage that new wine can't come in old vessels. It grosses $3 million a year collecting and sterilizing 65,000 cases of empties each month and selling them back to West Coast wineries.

Yard waste: Composting America's fertile mounds of leaves and grass clippings could eliminate one fifth of the nation's waste—and as much as one third of L.A.'s total. But aside from backyard gardeners, there hasn't been much call for mulch. Pesticides and lawn chemicals also pose toxicology problems in compost heaps. Still, experts say that markets would grow if more municipalities followed Fairfield, Conn., which this fall opened a $3 million composting center to create topsoil for parks, playgrounds and public landscaping.

Plastics: The $140 billion-a-year plastics industry is at last waking up to recycling. Currently only 1 percent of plastics is recaptured, but manufacturers are scrambling to find new uses, from plastic "lumber" to stuffing for ski jackets. Procter & Gamble is making new Spic and Span containers entirely from recycled PET (polyethylene terephthalate, the stuff beverage bottles are made of) and hopes to turn even used Luvs and Pampers into plastic trash bags and park benches. There are still limitations. The Food and Drug Administration will not permit recycled plastic to serve or store food, since it cannot be decontaminated. Some products—like squeezable ketchup bottles—have up to six layers of polymers, which complicates separating. And some recycled plastic never looks new again. Tom Tomaszek, manager of Plastics Again, a polystyrene recycling center near Boston, says the pellets his plant produces come only in "army green," while manufacturers want white or clear. "The biggest problem," Tomaszek says, "is getting people away from the idea that new is better."

Paper: Industry officials like to boast that nearly 30 percent of all paper products consumed in this country are recycled—26 million tons a year, turning up in cereal boxes, toilet tissue, even bedding for farm animals. Still, that leaves more than 40 million tons clogging landfills and going up smokestacks annually. Tree-poor nations like Taiwan and Korea import some U.S. wastepaper. But matching supply, demand and reprocessing capacity at home will take time and coordination. U.S. recycling mills can actually use more high-quality white paper, like computer printouts, than communities are collecting. For newsprint and magazines, the opposite is true. (Currently, no U.S. mills turn recycled fibers into the kind of glossy, clay-coated paper that NEWSWEEK uses.) With burgeoning collection efforts, "we have the potential in this country to increase the supply [of wastepaper] overnight," says J. Rodney Edwards of the American Paper Institute. "But expanding the capacity to use it will take three to five years."

Historically, the American marketplace has been driven by *demand* for products, not *supply* of raw materials. But some lawmakers have concluded that the free market needs adjusting if recycling is to significantly dent the nation's garbage piles. Florida now taxes nonrecycled newsprint at 10 cents per ton. California and Connecticut have passed laws to require newspapers to use a rising percentage of recycled paper in coming years. Elsewhere, officials are looking for ways to force manufacturers to take more responsibility for the disposal of their products, long after they have left the factory. Some states are considering taxing products made with materials or packaging that can't be recycled. Deposits are another approach. One bill before Congress would require anyone who sells batteries to take them back and return them to an appropriate recycling facility. "We need to get the upstream side to recognize that the end of the pipeline has only so much capacity," says Lanny Hickman of the Governmental Refuse Collection and Disposal Association.

Receiving an environmental award from George Bush last week for his community recycling program, high-school student Allen Graves of North Hollywood, Calif., asked the President, "Does your office recycle?"

"I don't know," said Bush.

Busy, distracted citizens also need incentives to recycle. To that end, New York City plans to fine residents who don't comply with its nascent program: $25 for the first offense, $500 for four offenses in a six-month period, with landlords dunned up to $10,000 if their tenants don't cooperate. San Francisco is relying heavily on public education, reminding residents that recycling one aluminum can, for example, can save enough energy to run a TV for three hours. Nearby Berkeley has even tried gimmickry. Under its Eco-lotto program, city officials selected one household by random each week, rummaged through its trash and promised to award the homeowner $250 if no recyclables had been discarded. If the lucky household wasn't careful, the cash was rolled over into the next week's prize. Sadly, the pot rose to $4,500 before the city found a winner.

Charging citizens directly for the amount of trash they throw out may prove more effective. In many communities, garbage removal still comes as part of a general-service bill, so residents neve know how much it costs. Seattle changed that with "variable can rates" in the 1970s. Today residents pay $13.75 to have a single can of trash picked up four times each month, and $9 for each additional can. Faced with such fees, residents have been buying more recyclables, fewer packaged goods and more large-size boxes. Two thirds of Seattle households also signed up to have private haulers collect their recyclables and yard waste. Combined, those measures have cut Seattle's trash volume by 25 percent. City officials are still considering building an incinerator, but thanks to recycling, they hope it will be a smaller, cheaper one.

Seattle's program is considered a model of modern "integrated waste management"—in short, reducing and recycling as much trash as possible, then burning or burying the rest. Some local environmentalists still bitterly oppose incineration, but organizations from the Environmental Defense Fund to the Office of Technology Assessment say that the nation will need a judicious mix of all four methods to handle its trash in the future. Many experts believe that at best, the nation can recycle only about half of its garbage; recycling itself produces some residues that need to go to landfills. But those, too, can be used more efficiently. One Long Island firm, Landfill Mining Inc., has come up with a technique to "recycle" old dumps: digging through them to unearth reusable material like metal and glass. That allows the landfills to be lined and leaves room for more waste—or incinerator ash. "We can actually recycle the space," says founder Robert Flanagan.

The nation has only begun to focus its collective ingenuity on source reduction—generating less garbage in the first place. For that, citizens will need to rethink their priorities. It wasn't so long ago that Americans reused string and rubber bands, resharpened razors, threw food scraps into the stock pot and made grease into soap. (At the turn of the century, pigs were also part of waste management in many cities; 100 of them could eat a ton of garbage a day, creating low-cost meat and fertilizer.) The disposable society has brought many conven-

iences. Single-serving frozen dinners in microwavable trays do facilitate mealtime.

Wrapping fast-food utensils in plastic, cuts down on germs. Ketchup really does come out faster when the bottle can be squeezed. How much do those conveniences mean to us? Are they worth the price of a landfill or an incinerator next door?

Unfortunately, the trade-offs aren't so obvious. It has been far too easy, when taking out the sixth or seventh bag of trash in a week, to assume that the garbage truck will dump in someone else's backyard, or not to think about it at all. With rare exceptions during wartime, Americans have not been adept at making individual sacrifices for the common good. That mentality will have to change. Otherwise, the dumps will cover the country coast to coast and the trucks will stop in everybody's backyard.

TEEING OFF ON JAPAN'S GARBAGE

With their disposable chopsticks and triple-wrapped groceries, the Japanese are hardly more virtuous than Americans when it comes to generating trash: each person produces 1.9 pounds a day, compared with 3.5 pounds in the United States. But since the tiny country has even less landfill space than the United States, necessity has inspired a sophisticated system for handling trash. The key difference is that while Americans believe "there is a single solution to the garbage crisis, Japanese realize that burning, burying, recycling and reducing each has its place," says William Rathje of the University of Arizona.

For the Japanese, the solution of choice is recycling. In Tokyo, enterprising firms have traditionally toured neighborhoods, collecting newspapers, magazines and rags in exchange for new bathroom and facial tissue. Button-shaped batteries, containing toxic mercury, are returned to the store to be recycled. And although only a few years ago no Japanese would touch used goods, the latest trend is garage sales and flea markets, which give secondhand wares new life. About 40 percent of solid waste is recycled, including half the paper, about 55 percent of glass bottles and 66 percent of food and beverage cans. Some towns go further: residents of Zentsuji separate trash into 32 categories, from paper and glass to rags and appliances, and haul it all to collection spots.

Since the early 1970s, officials have strictly enforced mandatory separation of burnable from noncombustible trash. Burnable waste, 72 percent of the total after recycling, is trucked to incinerators, which reduce it in weight and volume by at least 80 percent. Every Japanese community has its own incinerator or access to one nearby (there are 1,899 garbage-burning plants, compared with the 155 large incinerators in the United States). Although the Japanese boast that their incinerators are clean, with waste gases scrubbed by electrostatic precipitators, officials monitor only four types of emissions, and there is controversy over whether toxic dioxins and furans—produced during combustion—are spewed out.

Nonburnable garbage is separated, melted and refabricated; ferrous metals are reclaimed. What's left, 24 percent of the total after recycling, becomes landfill at one of 2,411 sites—few of which resemble the ugly mounds in the United States. The verdant lawns of one of Tokyo Bay's two "Dream Islands," landfill that opened in 1957, are covered with a soccer field, baseball diamonds and a bicycling course; there is also a pool and indoor garden (both warmed by heat from the garbage-to-energy plant nearby). And next autumn Tokyo plans to open a golf course, campground and picnic area atop more garbage piled in the bay. The only clue that it isn't terra firma will be 70 12-foot pipes planted in the ground to carry off methane gas, from rotting kitchen waste.

Yet Japan has not conquered garbage. The overall recycling rate peaked at about 50 percent; it has dropped during the 1980s. And the country still makes too much of the stuff. Gleaming appliances and barely used furniture are discarded, and it's impossible to buy even a pencil without the salesclerk wrapping it. "Everything is wrapped in this country," laments Yasumichi Yamamoto, an official of Chiba City's Public Cleansing bureau. Partly as a result, Tokyo and three neighboring prefectures will have an excess of 3.43 million tons of garbage by 2005, and might have to ship it elsewhere. Before that happens, the government will probably promote greater recycling and changes in consumption patterns to reduce the amount of trash that its citizens generate. Garbage is one Japanese export without a market.

THE SUPPLY-SIDE THEORY OF GARBAGE

Another day, another 3.5 pounds of garbage to generate. Sound like a challenge? It's a snap to fulfill your quota. Brush you teeth, rinse, toss the paper cup. Shave with a disposable razor. Comb your hair—oops, a couple of comb teeth snapped off; out it goes. For breakfast, a single-serving cereal box and a juice-in-a-box. There's no time to do dishes, so use a paper bowl and plastic spoon. Off to work, buying a cup of coffee and newspaper on the way. And on through the day . . .

Every American seems to be doing his part; we're producing twice the solid waste per person as the Europeans. This dubious achievement, says Steve Romalewski of the New York Public Interest Research Group (NYPIRG), means that cutting down on trash is "a primary component in a safe and sensible solution to the garbage crisis." The less there is, the less that must be recycled, burned or buried. Known by the unglamorous name source reduction, its potential is huge. Packaging accounts for about one third of solid waste and throwaway items such as plastic utensils account for still more: 1.6 billion disposable pens, 2 billion disposable razors and 16 billion disposable diapers a year. "We have been a throwaway society," says Norman H. Nosenchuck, director of the New York State Division of Solid Waste. "We simply have to change our ways."

Thin diapers: Some changes are already here. In the last 20 years, the soft-drink industry has cut the plastic use in 2-liter bottles by 21 percent, the aluminum in cans by 35 percent and the glass in non-refillable bottles by 43 percent. Each cut saved money for the manufacturer. McDonald's now pumps syrup for soft drinks directly from delivery trucks into tanks in the restaurants, rather than shipping it in disposable cardboard containers. That saves 68 million pounds of packaging a year. Last week Procter & Gamble announced that it is test-marketing fabric-softener concentrate that the shopper purchases in small paper cartons, pours into a dispenser at home, adds water to and shakes. Those steps replace the plastic jugs of ready-made softener, reducing packaging by 75 percent. P&G's disposable Pampers diapers now come in a thin variety that does the job with half as much material. Aveda, a cosmetics firm in Minneapolis, is designing a metal makeup bottle that the consumer can take back to the store for a refill.

Further reductions will require more radical changes. All packaging exists for a reason. Concerns about tampering led to the plastic collars around products for aspirin to yogurt. Waxed-paper inner bags keep cereals in cardboard boxes fresh. But many products owe their existence to the quest for convenience and to marketing ploys. Today we use microwavable, throwaway trays of frozen foods rather than casserole dishes and buy microwave cake mix complete with a throwaway baking pan. Our kids tote juice boxes to the playground and play miniature Helmut Newtons with their Kodak Flings or Fujki disposable cameras. Toothpaste tubes come in boxes so stores can stack them easily; cereal boxes are bigger than needed so they make an impressive display on the store shelf. Cookies come neatly arranged in plastic trays inside paper bags. The list is as long as a supermarket aisle.

Americans won't give up their disposable lifestyle easily, but a little old-fashioned Yankee ingenuity can help. Office workers might make photocopies on both sides of the paper, halving the amount intended for the memo tray as well as, eventually, the circular file. But short of having the state set wages, there is little hope of making it cheaper to repair a radio than buy a new one.

White-cloth gentility: What if consumers had to pay up-front for their wastrel tastes? The Environmental Defense Fund, an environmental research and lobbying group, has proposed a sales or user tax based on the quantity of packaging in a product, and a national sales tax on disposable items like diapers, razors and plates. NYPIRG prefers a deposit on packages, to induce consumers to opt for minimal packaging or to at least return the containers for recycling. Rhode Island taxes fast-food packages already; the revenue is earmarked for a litter-cleanup program. None of the changes will be easy. Politicians like taxes even less than they do garbage dumps. And some family's livelihood depends on hawking disposable razors. But reducing garbage at the source will lessen the burden on incinerators, recycling programs and landfills, to say nothing of bringing a little white-cloth gentility to the school lunchroom.

[From the Chicago Tribune, Nov. 5, 1989]

EAST'S GARBAGE FILLING HEARTLAND

(By Casey Bukro)

Great waves of garbage are spilling into the Midwest.

Thousands of tons of it arrive from the Northeast each day, rolling in aboard trucks that may give no clue to their cargo as they hurtle along interstate highways and rumble down rural roads.

The disposal of garbage from Eastern homes and businesses is rapidly turning into a long-distance enterprise, one with major environmental and health implications but little regulation.

Northeastern states find it cheaper to transport their garbage hundreds of miles than to pay up to $130 a ton to bury it in local disposal sites that are filling fast.

Midwesterners find their landfills invaded by our-of-town garbage that robs them of local disposal space and could hasten the day when underground drinking-water supplies are threatened by toxic waste from leaking dumps.

"The checks came due from a disposable society this year," said Richard Sahli chairman of Ohio's Solid Waste Management Ad-

visory Council, who is asking Congress to adopt national solid waste planning policies so states cannot be bombarded with garbage from across state lines.

Among the consequences of this dump-on-you-neighbor approach:

Three Northeastern states—New Jersey, Pennsylvania and New York—export 8 million tons of garbage a year, much of it ending up in the Midwest.

This flood of our-of-state garbage is eating away at landfill space in Pennsylvania, Ohio, Michigan, Kentucky, Illinois and Indiana, as state and local officials try to plan for their own future garbage disposal needs.

Eager to cash in on high-paying opportunities to haul garbage, some trucking companies that send meat, produce and other food in refrigerated vans or dry trailers to the East Coast are using the same vehicles to haul maggotinfested garbage to Midwest dumps on the return trip.

The long-distance garbage trade has spawned trash brokers, landfill speculators, rogue truckers, garbage pirates and a flood of speeding trucks on the nation's highways.

Illinois also exports waste, although not to the extent or distance of Northeastern states. Metropolitan Chicago, which is expected to run out of landfill space by the mid-1990s, sends an estimated 40 percent of its garbage across state lines, to less expensive dumps up to 75 miles away in Wisconsin, Indiana and Michigan.

All of this is a sharp break from an earlier American tradition, in which solid waste disposal was considered a local matter.

Contrary to popular belief about the "town dump," garbage landfills are not always run by municipalities or other government bodies. Some dumps are privately owned and collect fees from garbage dumpers in the pursuit of profit.

Just 14 percent of the nation's 5,800 landfills fit this description, but they account for half of the nation's disposal space and almost all of the dumps that take out-of-state waste. More than half of the landfills are owned by government, but many of these are small rural garbage piles; the remainder are jointly owned or operated by governments and private industry.

"There is a misconception on the part of the general populace that these landfills are public utilities," said David Ehrlich, a Pennsylvanian who was linked with several leading landfills in the East and who recently was involved in the sales of three Indiana landfills to out-of-state buyers. They are profit-making enterprises, owned and operated by people who paid for them.

Fueling the thirst for revenue are federal pollution-control regulations that will take effect by 1991.

These rules will require many operators to install plastic liners to protect underground water from the liquid that can ooze out of dumps, to monitor landfills for leaks and to buy insurance to pay for future environmental damage.

The average cost of implementing these rules is expected to be $43,600 a year per landfill, and some operators are welcoming out-of-state garbage as fast as they can get it so they can fill their dumps before the new regulations take effect.

Americans were awakened to the national waste disposal crisis in 1987 by the garbage barge from Islip, N.Y., that wandered the world for months in search of a place that would accept its load. The trash ultimately was burned in a Brooklyn incinerator.

This episode was followed last year by the closure of dozens of East Coast beaches after medical wastes washed ashore.

This year, the symbol of the garbage crisis is the trash-filled tractor-trailer.

Hard-driving garbage vans roll hundreds of miles, often over Int. Hwy. 80, the garbage pipeline that links the East with 24 landfills that take out-of-state wastes.

It is estimated that 30 percent of the trucks entering Ohio from Pennsylvania are carrying garbage.

Around 28,000 tons of refuse travel over the nation's highways each day, often enclosed in tractor trailers that give no clue to their contents except the odor left in their wake.

Long-distance trash hauling was rare until about two years ago. Since then, it has grown into a $350 million business as Americans fill up their local dumps and find it easier or cheaper to export the wastes that are mounting rapidly in an affluent society infamous for its throwaway habits.

The total amount of garbage produced annually in the U.S. has risen 80 percent since 1960. Population growth accounts for part of the increase, but individual habits also are to blame: Each American now produces 3.6 pounds of household garbage a day, a 34 percent increase from 1960.

Nationally, that adds up to 162 million tons of garbage a year.

That's enough to bury 2,700 football fields in a layer of trash 100 feet deep.

The 8 million tons of garbage that New Jersey, Pennsylvania and New York export each year could fill Chicago's 110-story Sears Tower, the world's tallest building, 11 times.

And Americans are expected to produce 20 percent more waste by the turn of the century.

It is said that the nation is in danger of choking on its own garbage. By exporting, some states have decided to let others choke on theirs.

The National Solid Wastes Management Association in Washington hopes that export is only a temporary solution until Eastern states develop recycling programs, build garbage-burning plants that produce energy, and create more, landfills to ease their garbage crisis. Some of these projects are underway, although incinerators often attract fierce opposition as potential sources of air pollution.

"The problem is, that's a three- to seven-year process," said Michael Sheward, a spokesman for the association. "So the movement of garbage from one state to another becomes the temporary solution. It also becomes a way for a community to abdicate responsibility for its own disposal needs."

Waste transportation is a shell game in which some states that export garbage are also major importers. For instance, Pennsylvania sent out 1.5 million tons of trash last year, at the same time it was getting 2.8 million tons from other states.

The trend to trash exporting is sanctioned by a 1978 U.S. Supreme Court ruling that declared garbage an interstate commodity protected by the commerce clause of the U.S. Constitution. Solid waste cannot be banned from crossing state lines.

Thirty-three states in recent years have enacted or proposed legislation that is intended to exclude, limit or more closely regulate waste from other states. Some appear to run contrary to the high court decision, but these are yet to be tested in court.

The Supreme Court ruling was the result of a lawsuit Philadelphia filed in an attempt to stop New Jersey from trying to prevent out-of-state trash from filling up its landfills.

In an odd twist, New Jersey now is the nation's champion waste exporter, shipping away at least half of the 11 million tons of waste it produces each year. It is expected to send about 1.5 million tons this year to Ohio alone.

Gary Sondermeyer, a solid waste management official in New Jersey's Department of Environmental Protection, says his state is not retaliating for all the years it was a dumping ground for the East Coast.

"We've just come to the point where we've exhausted our landfill capacity," said Sondermeyer. The state now has 12 landfills in operation, compared with 400 before 1970. Many were filled, or closed because they were environmental hazards.

Ordinary landfills usually take household garbage mixed with commercial trash such as cardboard boxes, containers or restaurant wastes. They normally do not accept industrial wastes, such as toxic chemicals, or hospital, infectious or radioactive wastes.

However, household trash often contains paint, cleaning fluid, used motor oil and other toxic substances. More than half of the 1,194 sites designated by the U.S. Environmental Protection Agency as the nation's worst toxic waste hazards started as ordinary garbage dumps.

The EPA estimates that half the nation's garbage landfills could be filled and closed by 1995.

This, together with the rising trend in waste exports, is bound to pit states against one another in a rivalry for landfill space.

It is a conflict likely to keep courts and lawmakers busy for years.

Congress has stepped into the controversy over hauling garbage in trucks that also transport food.

"The thought of rotting garbage being hauled in food trucks is truly disgusting," said Rep. William Clinger (R., Pa.). Congress is conducting hearings on three bills to outlaw the practice.

Fears over garbage exports escalated in late October when the Indiana Department of Environmental Management went to court to block the transfer of 300 tons of Philadelphia garbage from five railroad boxcars to a privately owned landfill in Center Point, Ind.

The agency obtained a restraining order after learning that the Philadelphia garbage shippers had not applied for a permit to transfer the garbage from the train to trucks in a Terre Haute railroad yard.

"We were under the impression they were on the way back to Philadelphia," said Bettie Cadou, a spokeswoman for the state agency. "But [the next] evening, we were told the boxcars were back in Terre Haute. They had taken a circuitous route back to Terre Haute."

Indiana authorities threatened further legal action, and the garbage train finally left for Philadelphia two days later.

Though most of the nation's garbage is transported by truck, Conrail reports it earned $1.1 million last year hauling garbage in trains—to Ohio and Indiana.

ALONG AMERICA'S GARBAGE HIGHWAY

(By Casey Bukro)

WESTBOUND ON I-80.—A convey of four trucks appears in the rear-view mirror. They're coming fast.

They pass with a blast of wind, trailing a powerful stench. Bales of garbage are visible under mesh coverings draped across the high-walled truck beds.

They travel in a pack, swinging from left lane to right while passing cars on this stretch of Int. Hwy. 80 between Strattonville and Mercer, Pa.

The speedometer hits 75 in a 55-mile-an-hour zone as a motorist tries to keep up with the convoy. It's no use. The trucks weave around the cars in their path, and soon they are out of sight.

This is a close encounter with some of the rubbish haulers that boom along the garbage highway that slices through America's industrial heartland and part of the nation's breadbasket.

I-80 springs not far from the throb of busy Manhattan and the Statue of Liberty, passing near the dismal industrial city of Newark, N.J., and through New Jersey's swampy meadowlands.

The concrete ribbon goes on to link such cities as Cleveland, Toledo and Chicago.

In between, the scenery changes gradually from coastal swamps to the hazy green valleys of Pennsylvania, the pastures of Ohio, the cornfields of Indiana and Illinois.

There's heavy truck traffic all the way.

Going east, I-80 is a cornucopia of manufactured goods and food.

Going west, it is the trash trail by which the remnants of that great abundance come home to roost as refuse.

The highway and the roads that branch off it provide access to 24 landfills that accept out-of-state garbage.

At least 24,000 tons of East Coast garbage travels over I-80 every day. Following are some other encounters along the garbage highway.

An old refrigerator, a ripped mattress and the handlebars of a bicycle stand out among the mosaic of paper and plastic littering an I-80 exit ramp near Wilkes-Barre, Pa.

The sour smell of 21 tons of Brooklyn garbage fills the air as Mike Walt surveys his overturned rig and counts himself lucky to walk away unhurt.

Walt says he ran off the road because he encountered a motorist backing down the ramp.

His patrol car parked nearby, Pennsylvania State Trooper John Schmidt is not entirely convinced. "They take those ramps too fast," he says, but he does not ticket Walt.

Schmidt frowns as his gaze shifts from the wreckage to the parade of trucks roaring by on the interstate, urgently making time. State police officials estimate that 1,200 garbage laden trucks ply I-80 westbound in Pennsylvania each day.

"These garbage trucks," Schmidt mutters. "I could stop one and find at least two or three violations, either bad tires, leaking brakes, logs not up to date, no tail lights. There are a few reputable companies, but most of them are hauling junk and driving junk."

The conversation halts abruptly as Schmidt jumps into his car, makes a u-turn with his red light flashing, and pursues a speeding truck.

Nobody wants to touch the mess when a garbage van spills its cargo.

Police training did not prepare Cpl. Steve Byron of the Pennsylvania State Police for what he encountered in a truck stopped at a weigh station, where drivers must stop for safety inspections.

State police crawl under the trucks to check air hoses and other critical parts.

When Byron did this, he felt something pelting him from above. He looked up, and his blood ran cold.

"There were thousands and thousands of squirming maggots falling off the truck" through cracks in the floor of a trailer van carrying a load of garbage. It left a lasting impression.

"It's a mess to crawl under there," says Byron. "I'm not going to do it anymore."

Police talk of the hard-driving habits of some garbage truckers and their repeated weight and safety violations.

One trooper recalled a driver who was cited for 40 violations at a weigh station and ordered to park his unsafe truck until it could be towed. Instead, the driver sneaked back and drove the rig away. It was stopped a short distance later, westbound on I-80, by another trooper.

Pennsylvania State Police Cpl. Thomas Parry says the garbage drivers are not daunted by traffic tickets, and he believes the reason is simple arithmetic.

A speeding ticket might cost $100, says Parry, but drivers may earn several times that amount for just one load.

Curious about the backgrounds of these drivers, Parry began asking questions and learned that many are amateurs trying to make a fast buck.

"I would say they are running beyond their abilities," says Parry. "A lot of guys do it after 5 p.m., after their usual work, [or] they drive garbage Saturday and Sunday. They work at a gas station and take a load or two for extra money. . . . There must be hundreds of them. There's an awful lot of money in it."

The interstate highway system was designed to carry more automobile than truck traffic.

Projections envisioned 60 percent passenger cars and 40 percent trucks, but that ratio in Ohio is now reversed, according to Sgt. Steve Horsley of the Ohio State Highway Patrol post in Warren.

Ohio is the final destination for many of the long-haul garbage wagons.

Truckers also stop at the I-80 rest plazas, which usually feature a low-slung yellow-brick building with a fast-food restaurant, a game room, a gift shop and rest rooms.

Truckers complain that some of their trash-hauling colleagues have been known to drop one-ton bales of garbage at these rest stops, leaving a reeking reminder of their visit.

In one of these plazas near Toledo, trucker Steve Oliver of Tecumseh, Mich., is picking through the greeting-card rack in the gift shop. Oliver, who is transporting frozen food, says the garbage drivers tend to stand out.

"I've seen quite a few of them pulled over [by police]. I've seen quite a few try to dodge the scales" at weigh stations, Oliver says. "They tend to run in packs. They're not as independent as other drivers. . . . They have a bad name. Maybe it's because of what they haul."

By Mr. CHAFEE (by request):

S. 2469. A bill to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

S. 2470. A bill to provide for increased revenues for the maintenance of commercial harbors by the Army Corps of Engineers, and for other purposes; to the Committee on Finance.

WATER RESOURCES DEVELOPMENT LEGISLATION

● Mr. CHAFEE. Mr. President, I am introducing, by request, the administration's 1990 water resources development legislation for the U.S. Army Corps of Engineers.

I ask unanimous consent that copies of the bills and section-by-section analyses of the bills be reprinted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Protection of software development.
Sec. 6. Assistance to non-Federal public entities.
Sec. 7. Challenge cost-sharing program for the management of recreation facilities.
Sec. 8. Project interest and discount rates.
Sec. 9. Assistance to private entities.
Sec. 10. Recreation user fees at water resources development areas administered by the Department of the Army.
Sec. 11. Cost-sharing of Section 22, Planning Assistance to States.
Sec. 12. Cost-sharing of flood plain management services.
Sec. 13. Authorization of appropriations from the Harbor Maintenance Trust Fund.
Sec. 14. Administration of Harbor Maintenance Trust Fund.
Sec. 15. Creation of Marine Waterways Trust Fund.
Sec. 16. Period of environmental demonstration program.
Sec. 17. Magnetic levitation transportation system implementation plan.
Sec. 18. Overtime pay for emergency work.
Sec. 19. Emergency and disaster authority.

SEC. 2. DEFINITIONS.

a. For purposes of this Act, the term "Secretary" means the Secretary of the Army.

b. The terms "Indian" and "Indian tribe" have the meaning provided in section 450b of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 3. PROJECT AUTHORIZATIONS.

(a) The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, as modified by the Secretary in the letter to the Congress dated December 5, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,050,000, and an estimated first non-Federal cost of $17,250,000.

(2) PASSAIC RIVER MAINSTEM, NEW JERSEY AND NEW YORK.—The project for flood control, Passaic River Mainstem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, as modified by the Secretary in the letter to the Congress dated March 8, 1990, at a total cost of $913,500,000, with an estimated first Federal cost of $674,600,000, and an estimated first non-Federal cost of $238,900,000.

(3) MILL CREEK, TENNESSEE.—The project for flood control, Mill Creek, Tennessee: Report of the Chief of Engineers, dated April 21, 1988, as modified by the Secretary in the letter to the Congress dated December 12, 1989, at a total cost of $14,500,000, with an estimated first Federal cost of $7,250,000, and an estimated first non-Federal cost of $7,250,000.

(b) NOGALES WASH AND TRIBUTARIES, ARIZONA.—

(1) The Secretary is authorized to construct the project for flood control, Nogales Wash and Tributaries, Arizona, substantially in accordance with the Report of the Chief of Engineers dated February 28, 1989, as modified by the Secretary in the letter to the Congress dated March 15, 1990, at a total cost of $7,260,000, with an estimated first Federal cost of $5,435,000, and an estimated first non-Federal cost of $1,825,000.

(2) For the purpose of providing flood control benefits in the United States, the Secretary, on behalf of the United States and in consultation with the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, (hereinafter the Commission) is authorized to cooperate with the Government of Mexico and to transfer to the Commission the funds necessary to provide for associated construction, operation, and maintenance of flood warning gages in Mexico as may be allowed under such international agreements as may be concluded between the United States and Mexico.

SEC. 4. PROJECT MODIFICATIONS.

RAY ROBERTS LAKE, GREENBELT, TEXAS.—The project for navigation and other purposes, Ray Roberts Lake, Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965 (79 Stat. 1073) is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers dated December 24, 1987, at a total cost of $4,620,000, with an estimated Federal first cost of $1,732,500, and an estimated non-Federal first cost of $2,887,500.

SEC. 5. PROTECTION OF SOFTWARE DEVELOPMENT.

For the purpose of commercializing Federally developed technology through negotiation of a cooperative research and development agreement, the Secretary, acting through the Assistant Secretary of the Army (Civil Works), is authorized to withhold from the public Federally developed computer software that is subject to negotiation under a cooperative research and development agreement for up to two years or until execution of a cooperative research and development agreement pursuant to section 7 of the Water Resources Development Act of 1988 (102 Stat. 4022-23), whichever is less.

SEC. 6. ASSISTANCE TO NON-FEDERAL PUBLIC ENTITIES.

Section 3036(d)(2) of title 10, United States Code, is amended by striking it in its entirety and replacing it with the following:

"(2) Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States or, on a reimbursable basis, to a State or political subdivision of a State, an Indian tribe, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State or a political subdivision of a State, an Indian tribe, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands only if—

"(A) the services are consistent with the missions of the Chief of Engineers; and,

"(B) if the work to be undertaken on behalf of non-Federal interests involves Federal assistance, the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers."

SEC. 7. CHALLENGE COST-SHARING PROGRAM FOR THE MANAGEMENT OF RECREATION FACILITIES.

The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resources development projects under the jurisdiction of the Department of the Army. To implement the program, the Secretary is authorized to negotiate and enter into cooperative arrangements with non-Federal public and private entities. Under these arrangements, the Secretary may accept funds, materials and services from such entities to carry out the program at projects where recreation facilities and natural resources are being maintained with Federal funds.

SEC. 8. PROJECT INTEREST AND DISCOUNT RATES.

Section 80(b) of the Water Resources Development Act of 1974, Pub. L. 93-251, is amended to read as follows:

"(b) In the case of any project authorized before January 3, 1969, if the appropriate non-Federal interests have, prior to December 31, 1969, given satisfactory assurances to pay the required non-Federal share of project costs and a contract for physical construction of such project or separable element thereof has been awarded before December 31, 1990, the discount rate to be used in the computation of benefits and costs for such project or separable element shall be the rate in effect immediately prior to December 24, 1968, and that rate shall continue to be used for such project or separable element until construction has been completed, unless otherwise provided by a statute enacted after the date of enactment of this Act."

SEC. 9. ASSISTANCE TO PRIVATE ENTITIES.

The Secretary is authorized to accept orders to provide work or services to corporations, partnerships, limited partnerships, consortia, public and private foundations, or nonprofit organizations operating within the United States, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands; provided that such entities furnish in advance of fiscal obligation by the United States such funds as are necessary to cover any and all costs of such work or services; and provided further that, prior to providing any such work or services, the Secretary must first determine that the work or services to be provided are within the Civil Works mission of the Corps of Engineers and are in the public interest. The Secretary may provide such work or services, or any part thereof, by contract; however, prior to the Secretary providing any such work or services to any such entity, the entity must—

(1) certify to the Secretary that provision of such work or services is not otherwise reasonably and expeditiously obtainable from the private sector; and

(2) agree to hold and save the United States free from any damages due to any planning, design, construction, operation, or maintenance activities related to the work or services.

SEC. 10. RECREATION USER FEES AT WATER RESOURCES DEVELOPMENT AREAS ADMINISTERED BY THE DEPARTMENT OF THE ARMY.

(a) The second sentence of section 210 of the Flood Control Act of 1968 (82 Stat. 746; 16 U.S.C. 460d-3) is amended to read:

"Nothwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 460*l*-6a(b)), the Secretary of the Army is authorized to charge fees for the use of specialized recreation sites and facilities, including, but not limited to, improved campsites, swimming beaches, and boat launching ramps; however, the Secretary shall not charge fees for the use or provision of drinking water, wayside exhibits, general purpose roads, overlook sites, toilet facilities, or general visitor information. The fees shall be deposited into the special Treasury account for the Corps of Engineers that was established by section 4(i) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.D.C. 460*l*"-6a(i)).".

(b) Section 4 of the Land and Water Conservation Fund Act of 1965, as amended, (78 Stat. 897; 16 U.S.C. 460*l*-6a) is further amended by deleting the next to the last sentence of subsection (b).

SEC. 11. COST-SHARING OF SECTION 22, PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974, Public Law 93-251, as amended (42 U.S.C. 2952d-16), is further amended by:

(1) redesignating subsections (b) and (c) as (c) and (d), respectively; and

(2) inserting a new subsection (b) as follows: "(b) For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to this section, the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States or other non-Federal public bodies designated by the States. The Secretary shall phase in the cost sharing program by recovering approximately (1) 10 percent of the total cost of providing assistance in the Fiscal Year 1991; (2) 30 percent of the total cost in the Fiscal Year 1992; and (3) 50 percent of the total cost in the Fiscal Year 1993 and each of the succeeding fiscal years. The fees shall be deposited into the Federal account entitled, 'Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)' and shall be available until expended to carry out this section."

SEC. 12. COST-SHARING OF FLOOD PLAIN MANAGEMENT SERVICES.

Section 206 of the Flood Control Act of 1960, Public Law 86-645, as amended (33 U.S.C. 709a), is further amended by:

(1) redesignating subsection (b) as (c); and

(2) inserting a new subsection (b) as follows:

"For the purpose of recovering 50 percent of the total cost of providing services pursuant to this section, the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to

collect such fees from Federal and non-Federal interests and agencies. The Secretary shall phase in the cost sharing program by recovering approximately (1) 10 percent of the total cost of providing services in the Fiscal Year 1991; (2) 30 percent of the total cost in the Fiscal Year 1992; and (3) 50 percent of the total cost in the Fiscal Year 1993 and each of the succeeding fiscal years. The fees shall be deposited into the Federal account entitled 'Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)' and shall be available until expended to carry out this section."

SEC. 13. AUTHORIZATION OF APPROPRIATIONS FOR THE HARBOR MAINTENANCE TRUST FUND

Section 210(a) of the Water Resources Development Act of 1986, Public Law 99-662, is amended—

(1) by deleting "and" at the end of paragraph (1);

(2) by striking "not more than 40 percent" from the beginning of paragraph (2) and inserting in lieu thereof "up to 100 percent";

(3) by deleting the period at the end of paragraph (2) and inserting in lieu thereof "; and "; and,

(4) by adding a new paragraph (3) as follows:

"(3) into the Marine Waterways Trust Fund created by section 9511 of the Internal Revenue Code of 1986 amounts to reimburse up to 100% of the eligible expenditures incurred by the National Oceanic and Atmospheric Administration during each fiscal year beginning in fiscal year 1991 in carrying out its nautical charting and marine navigational safety programs and activities, including the nautical charting program, marine weather services, charting survey ship support, and marine tides and circulation programs; except that, no more than 0.01 percent of the value of the commercial cargo involved, as collected pursuant to section 4461 of the Internal Revenue Code of 1954 [now 1986], shall be available for carrying out the purposes of this paragraph during any single fiscal year."

SEC. 14. ADMINISTRATION OF THE HARBOR MAINTENANCE TRUST FUND.

(a) Section 9505(c)(1) of the Internal Revenue Code of 196 is amended by striking "(as in effect on the date of enactment of this section)" and inserting in lieu thereof "(as amended by section 14 of the Water Resources Development Act of 1990".

(b) Section 9505(c)(3) of the Internal Revenue Code of 1986 is amended by deleting it in its entirety and replacing it with the following:

"(3) to carry out section 15(d) of the Water Resources Development Act of 1990."

(c) Section 1403(b) of the Water Resources Development Act of 1986 is amended by striking it in its entirety.

(d) There is authorized to be appropriated to the Department of the Army out of the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1986, for each fiscal year $5,000,000, to be used by the Department of the Army to provide payment of all administration expenses incurred by the Department of the Army, the Department of the Treasury, and the Department of Commerce in administering the tax imposed by section 4461 of the Internal Revenue Code 1986.

SEC. 15. CREATION OF MARINE WATERWAYS TRUST FUND

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding after section 9510 the following new section:

"SEC. 9511. MARINE WATERWAYS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Marine Waterways Trust Fund', consisting of such amounts as may be—

"(1) transferred to the Marine Waterways Trust Fund from the Harbor Maintenance Trust Fund as provided in section 210(a) of the Water Resources Development Act of 1986, as amended by section 14 of the Water Resources Development Act of 1990; and,

"(2) appropriated to the Marine Waterways Trust Fund pursuant to section 16(b) of the Water Resources Development Act of 1990.

"(b) TRANSFER TO MARINE WATERWAYS TRUST FUND OF AMOUNTS FOR PURPOSES OF REIMBURSEMENT.—There are authorized to be appropriated to the Marine Waterways Trust Fund out of the Harbor Maintenance Trust Fund established by section 9505 of the Internal Revenue Code of 1954 [now 1986] such sums as may be necessary to reimburse the program costs described in subsection (c).

"(c) EXPENDITURES FROM MARINE WATERWAYS TRUST FUND.—Amounts in the Marine Waterways Trust Fund shall be available to the Department of Commerce, as provided by appropriations Acts, for reimbursement of up to 100% of the costs incurred in carrying out nautical charting and marine navigational safety programs and activities of the National Oceanic and Atmospheric Administration during each fiscal year beginning in fiscal year 1991, including—

"(1) the nautical charting program;

"(2) marine weather services;

"(3) charting survey ship support; and,

"(4) Marine tides and circulation programs."

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the general fund of the Treasury of the United States to the Marine Waterways Trust Fund for each fiscal year beginning in fiscal year 1991 such sums as may be necessary to pay the balance of all eligible expenditures incurred by the National Oceanic and Atmospheric Administration in carrying out its nautical charting and marine navigational safety programs and activities not provided by payments from the Harbor Maintenance Trust Fund under section 210(a) of the Water Resources Development Act, as amended by section 14 of the Water Resources Development Act of 1990.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 9510 the following new item:

"Sec. 9511. Marine Waterways Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1990.

SEC. 16. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) as amended, is further amended by striking out "5-year period" and inserting in lieu thereof "ten-year period".

(b) Section 1135(d) of such Act as amended is further amended by striking out "5 years" and inserting in lieu thereof "ten years".

SEC. 17. MAGNETIC LEVITATION TRANSPORTATION SYSTEM IMPLEMENTATION PLAN.

(a) The Secretary is authorized, in partnership with the Department of Transportation, and in coordination with the Department of Energy, the Environmental Protection Agency, and other interested Federal agencies, to conduct research and development associated with the development and implementation of a pilot program for an advanced Magnetic Levitation High Speed Transportation System (MAGLEV).

(b) To develop the concept designs, the Secretary is authorized to undertake collaborative research and development with one or more non-Federal entities, including State and local governments, colleges and universities, and corporations, partnerships, sole proprietorships and trade associations which are incorporated or established under the laws of any of the several states of the United States or the District of Columbia.

(c) Administrative provisions.—

(1) In carrying out subsection (b), the Secretary may enter into contracts or cooperative research and development agreements as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that the Secretary may provide up to 50 percent of the cost of each collaborative research and development project undertaken.

(2) The research, development, or use of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(3) The Secretary may withhold Federally developed technical information relating to computer software which may be subject to an agreement under subsection (b) until the intellectual property rights concerning the technology are determined by execution of an agreement pursuant to this subsection.

(d) Reports.—The Secretary, together with the Secretary of Transportation, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, or their designated representatives, shall prepare a joint report on the progress made under this subsection. The report shall be submitted to the Congress within two years of the date of enactment of this Act.

(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 18. OVERTIME PAY FOR EMERGENCY WORK.

a. Section 5547(b)(1) of title 5, United States Code, is amended by adding at the end thereof the following new sentence:

"The provisions of subsection (a) shall also not apply to the pay of any employee of the Army Corps of Engineers for any pay period in which such employee is assigned to work on, or in support of, emergency or disaster relief efforts undertaken in an area where there has been a determination or declaration by the President, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that an emergency or major disaster exists."

b. Section 5547(b)(2) is amended by inserting after the word "firefighter" the phrase "or Army Corps of Engineers".

c. Section 5547(b)(3)(b) is amended by inserting after the word "means" the following: ", with respect to the first sentence of paragraph (1),".

SEC. 19. EMERGENCY AND DISASTER AUTHORITY.

Section 5(a) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved

August 18, 1941, as amended (33 U.S.C. 701n), is further amended by striking "flood emergency preparation" in the first sentence and inserting in lieu thereof "preparation for emergency response to any natural disaster".

SECTIONAL ANALYSIS OF THE WATER RESOURCES DEVELOPMENT ACT OF 1990

INTRODUCTION

In 1986, after 16 years of stalemate on water project cost sharing, the Administration and the Congress reached agreement and the landmark 1986 Water Resources Development Act was signed into law.

As part of that compromise, there was a general understanding that a two-year cycle of water project authorization bills could be reestablished. This, the basis for what eventually became the Water Resources Development Act of 1988 was formed. In addition to establishing a two-year cycle for water project bills, the 1988 Act solidified the critical cost sharing reforms of the 1986 Act and adopted a pattern of limited size authorization bills to stay within realistic budget considerations.

It is now time to follow up with a Water Resources Development Act of 1990. Toward that end, the Department of the Army has developed proposed legislation for the 101st Congress.

We have identified several unifying themes or policies under which to develop a water bill for 1990. They are as follows:

Maintain the reforms of the Water Resources Development Acts of 1986 and 1988—Cost sharing principles and policy directives must be preserved, without exception.

Limit the number and cost of authorizations—The scope of legislation must be consistent with spending objectives and projects must be economically justified and environmentally sound.

Exclude "premature" projects—Projects that have not been fully reviewed by the Executive Branch must not be included.

Observe Federal/non-Federal responsibilities—New Program initiatives and special interest provisions that shift non-Federal responsibilities to the Federal government are unacceptable.

Advance the principles of cost recovery in construction, operation, and maintenance of Federal projects.

Utilize the Army Corps of Engineers expertise to assist other governmental agencies as a technical, scientific, and construction management resource.

We believe that adherence to these principles will assure passage of a Water Resources Development Act for 1990. It will help reinstate the biennial authorization process that is so important to strengthening partnerships with non-Federal sponsors and the orderly, predictable authorization and execution of Army's civil works mission. It will also provide for optimal use of Corps of Engineers technical, scientific and management capabilities.

SECTIONAL ANALYSIS

Section 1. Short Title; Table of Contents.

Section 2. Definitions.

Section 3. Project Authorizations.

This section includes water resources projects which have met all Executive Branch review requirements and are now ready to be authorized.

(a)(1) Coyote and Berryessa Creeks, California.—The project for flood control, Coyote and Beryessa Creeks, California, is based on the Report of the Chief of Engineers, dated February 7, 1989, as modified by the Secretary in the letter of Congress dated December 5, 1989.

The project is located in the cities of San Jose and Milpitas in the Santa Clara Valley immediately south of San Francisco Bay. Coyote and Berryessa Creeks drain about 372 square miles of an area composed of large industrial complexes and some residential development.

The selected plan is also the NED plan. The plan for Coyote Creek includes approximately four miles of Federal improvements and about two miles of improvements funded by the local sponsor. The project includes overflow channels and offset levees on Coyote Creek. The plan for Berryessa Creek consists of approximately four miles of channel improvements, a sedimentation basin, and offset levees. The project provides 100-year flood protection.

Based on October 1989 price levels, the estimated cost of the recommended plan is $56,300,000 of which $39,050,000 would be Federal. Annual O&M is a non-Federal responsibility and is estimated at $544,000. Average annual costs, based on 8⅞ percent discount rate and a 100-year period for economic analysis are $5,450,000 for Coyote Creek and $1,250,000 for Berryessa Creek. Average annual benefits are $5,650,000 for Coyote Creek and $1,630,000 for Berryessa Creek. The benefit-cost ratio is 1.1 for Coyote Creek, excluding benefits from work done by the sponsor for which credit would be given and for which costs have been included. Benefits for that work have not been specifically calculated, but, if included, would yield a benefit to cost ratio for the entire Coyote Creek project in excess of 1.3. For Berryessa Creek the benefit-cost ratio is 1.3. All benefits are flood damage prevention benefits.

The non-Federal sponsor is the Santa Clara Valley Water District. The sponsor supports implementation of the project.

(2) Passaic River Mainstem, New Jersey and New York.—The project for flood control, Passaic River Mainstem, New Jersey, is based on the Report of the Chief of Engineers dated February 3, 1989, as modified by the Secretary in the letter to Congress dated March 8, 1990.

The Passaic River Basin is a 935 square mile watershed in northeastern New Jersey and southeastern New York. It includes portions of Judson, Bergen, Essex, Passaic, Morris, Sussex, Union and Somerset Counties in New Jersey and Orange and Rockland Counties in New York. The Basin is located in the Greater New York City Metropolitan Area, within a 35 mile radius of New York City.

The recommended plan is the NED plan. The plan consists of large diversion tunnels, channel modifications, levees, floodwalls, preservation of natural flood storage areas and fish and wildlife mitigation measures. These measures provide protection against floods, ranging from 100-years to a 500-year event, to the Passaic River Basin's major flood damage areas.

Based on October 1989 price levels, the estimated cost of the recommended plan is $913,500,000 of which $674,600,000 would be Federal. Annual O&M is a non-Federal responsibility and is estimated at $2,200,000. Average annual costs, based on 8⅞ percent discount rate and a 100-year period for economic analysis are $96,000,000 and average annual benefits are $142,000,000. The benefit-cost ratio is 1.5.

The non-Federal sponsor is the State of New Jersey. The sponsor supports implementation of the project.

(3) Mill Creek, Tennessee.—The project for flood control, Mill Creek, Tennessee, is based on the Report of the Chief of Engineers, dated April 21, 1988, as modified by the Secretary in the letter to Congress dated December 12, 1989.

The Mill Creek Basin lies primarily within Nashville, Davidson County and Williamson County in central Tennessee. The recommended plan is the NED plan and consists of construction of two detention dams, one on Mill Creek and one on Sevenmile Creek, and widening a ¾-mile section of channel on Sevenmile Creek. In addition, the existing flood warning system will be modified to be compatible with the headwater dams. The project provides about 100-year flood protection. The flooding problem extends along Mill Creek for about 24 miles to Nolensville and along its primary tributary, Sevenmile Creek, for about 3 miles.

Based on October 1989 price levels, the estimated cost of the recommended plan is $14,500,000 of which $7,250,000 would be Federal. Annual O&M is a non-Federal responsibility and is estimated at $46,000. Average annual costs, based on 8⅞ percent discount rate and a 50-year period for economic analysis are $1,300,000 and average annual benefits are $2,000,000 and the benefit-cost ratio is 1.5. All benefits are flood damage prevention benefits.

The non-Federal sponsor is the Metropolitan Government of Nashville and Davidson County. The sponsor supports implementation of the project.

(b) Nogales Wash and Tributaries, Arizona.

Subsection (1) of this section authorizes the project for flood control, Nogales Wash and Tributaries, Arizona, based on the Report of the Chief of Engineers dated February 28, 1989, as modified by the Secretary in the letter to the Congress dated March 15, 1990.

The project is located adjacent to the United States-Mexico border, in central and northern portions of the City of Nogales, in Santa Cruz County, Arizona. The Nogales Wash is the major drainage system for the City of Nogales.

The recommended plan for the project is the NED plan and consists of two separable elements: (1) lateral collector channels along the U.S. side of the International Boundary to reduce flooding in downtown Nogales and provide 33-year level of protection and (2) Chula Vista channels to capture breakout flows from Nogales Wash and Potrero Creek and convey them around the Chula Vista/Pete Kitchen community to provide a 100-year level of protection.

Subsection (2) authorizes the Secretary, in consultation with the Secretary of State, acting through the Commissioner of the International Boundary Water Commission, to cooperate with Mexico in order to place flood warning gages on Mexican soil. The gages are features of the project authorized in subsection (a), and would be installed in Mexico to provide flood control benefits to the United States. The International Boundary Water Commission would provide support to the United States in the negotiations with Mexico to provide for construction, operation and maintenance of the flood warning gages in Mexico.

Based on October 1989 price levels, the estimated cost of the recommended plan for the entire project, including the flood warning gages, is $7,260,000, of which $5,435,000 would be Federal. The estimated cost for the flood warning gages to be installed in Mexico is approximately $120,000. Annual

O&M for the project is a non-Federal responsibility and is estimated at $14,000. Average annual costs, based on 8⅞ percent discount rate and a 100-year period for economic analysis are $678,000 and average annual benefits are $1,372,000. The benefit-cost ratio is 2.0.

The non-Federal sponsor is the Santa Cruz County Flood Control District. The sponsor supports implementation of the project.

Section 4. Project Modifications.

Ray Roberts Lake Greenbelt, Texas.—The Ray Roberts Lake Greenbelt, Texas, project is based on the Report of the Chief of Engineers dated December 24, 1987.

The project is located in the Dallas, Denton, and Forth Worth metropolitan area in north central Texas. The Rivers and Harbors Act of 1965, Section 301, contains authority for construction of both Ray Roberts Lake and Lewisville Lake, including additional lands (2,900 acres) for public use and access and new recreation development at Lewisville Lake.

The selected plan is a result of a Cost Authorization Change Study which was done at the request of the non-Federal sponsors. The recommended plan consists of acquisition and management of 1,600 acres in fee and/or a conservation easement along the 14 river mile stretch of the Elm Fork of the Trinity River between Ray Roberts Dam and Lewisville Lake for recreation purposes.

Based on October 1989 price levels, the estimated cost of the recommended plan is $4,620,000 of which $1,732,000 would be Federal. Annual O&M is a non-Federal responsibility and is estimated at $60,000. Average annual costs, based on a 8⅞ percent discount rate and a 50-year period for economic analysis are $554,200 and average annual benefits are $1,718,200. The benefit-cost ratio is 3.1.

The non-Federal sponsors are the Texas Parks and Wildlife Department and the cities of Dallas and Denton. The sponsors support implementation of the project.

Sec. 5. Protection of Software Development.—

Much of the interest expressed by non-Federal parties to collaborate with Army Corps of Engineers laboratories in the commercialization of Corps technology advances has focused on the development or fine tuning of Federaly developed technical information. Recently, the Corps expanded its technology transfer programs under the Construction Productivity Advancement Research (CPAR) program, which was authorized under section 7 of the Water Resources Development Act of 1988 (P.L. 100-676). This program enables the Corps to share the cost of research with a non-Federal partner.

Through our experience negotiating cooperative research and development agreements under CPAR, we have found that the non-Federal partner has had particular interest in Federally developed software, which, through improvement and commercialization, would be of value to the private sector. However, in many cases, the protections afforded under the various technology transfer, patent, and copyright laws do not apply to Federallly developed software during the pre-contractual bargining process. As a result, the Federally developed software could be obtained by the public through requests under the Freedom of Information Act, creating an exposure risk before a cooperative research and development agreement is concluded.

This proposal is aimed at protecting Federally developed software from disclosure when the information is subject to negotiation of a cooperative research and development act under the CPAR program.

The proposed legislation would create a limited exception to the Freedom of Information Act, covering a period not to exceed two years, beginning with negotiations of an agreement and ending with execution of a cooperative research and development agreement under section 7 of the Water Resources Development Act of 1988.

Sec. 6. Assistance to Non-Federal Public Entities.—

10 U.S.C. 3036(d)(2) authorizes the Chief of Engineers to provide services to another department, agency, or instrumentality of the United States or, on a reimbursable basis, to a state or political subdivison of a state. These services include but are not limited to studies and planning activities, engineering and design, construction managment, and training. Currently, these services may be provided to a state or political subdivision of a state only if the work to be undertaken on behalf of the non-Federal interests involves Federal assistance and the head of the department or agency providing the Federal assistance does not object to the provision of services by the Chief of Engineers. The present provision unduly limits the circumstances under which the Corps can provide reimbursable services. The proposed legislation would amend 3036(d)(2) so that the Chief of Engineers could conduct reimbursable work for a state or political subdivision of a state whether or not Federal assistance is involved. In addtion, under the existing provision the language of the statute clearly authorizes the Chief of Engineers to provide work or services to states or political subdivisons of states. However, the word "states" is not defined in the law; nor is it defined in title 10 of the United States Code. Without a broad definition of the word "states", it would be difficult to argue that the present provision applies to the commonwealths, territories, or possessions of the United States. There is a recognized need of such assistance in the commonwealth, territories, or possessions affiliated with the Untied States, and the proposed legislation will clarify that 10 U.S.C. 3036(d) applies to these entities.

Sec. 7. Challenge cost-sharing program for the Management of Recreation Facilities.—

The purpose of the proposed legislation is to authorize the Secretary of the Army to establish a "challenge" cost-sharing program for the management of recreation facilities and natural resources at water resources development projects under the Secretary's jurisdiction. This cost-sharing program challenges the non-Federal section to join in partnership with the Corps to manage recreation facilities and natural resources at projects where such facilities and resources are being maintained with federal funds. Specifically, it would permit the Secretary to enter into cooperative arrangements with non-Federal public entities, private groups, and individuals to accept donations of funds, materials, and services. A donation could be applied toward a specific facility or spread among facilities or projects, depending upon the terms of the particular cooperative arrangement. The legislation would not affect non-Federal cost-sharing requirements under other laws. This legislative proposal is consistent with the partnership concepts envisioned in the Water Resources Development Acts of 1986 and 1988. It recognizes the reality of Federal budgetary constraints and offers the non-Federal sector an opportunity to join in partnership with the Corps to greatly enhance the use of limited Federal dollars.

Sec. 8. Project Interest and Discount Rates.—

Section 80 of the Water Resources Development Act of 1974, P.L. 93-251, directs that the interest rate for discounting future benefits and computing costs be based on Water Resources Council formula published on 24 December 1968. In addition, Section 80 freezes the interest rates at the rate in effect immediately prior to 24 December 1968 for projects authorized prior to 3 January 1969 provided satisfactory assurances of local cooperation were received by 31 December 1969.

The "grandfather" clause has been with us now for 15 years and has set the base interest rate for these "grandfathered" projects at 3¼%. This has resulted in projects not being supported in today's environment of much higher interest rates. The original intent of providing a transition between old and new discount rate calculations has long since served its purpose. Also, projects not started in 15 years should not be expected to be judged on such outdated discount rates any longer. Therefore, legislation is proposed to introduce an expiration of December 31, 1990 for this "grandfather" clause by amending P.L. 93-251.

Sec. 9. Assistance to Private Entities.—

Under existing law, the Department of the Army can perform work or services for other Federal agencies and for states or political subdivisions of states. Currently, however, there is no similar authority to provide such assistance to the private sector, even though there may be a legitimate need for such assistance in an area within the Corps' expertise. The proposed legislation would provide authority for the Department of the Army to perform work or services which are within the civil works mission of the Corps of Engineers and which are in the public interest for corporations, partnerships, limited partnerships, consortia, public and private foundations, or nonprofit organizations, provided such entities certify that the work or services are not otherwise reasonable and expeditiously obtainable from the private sector; agree to hold and save the United States free from any damages due to any planning, design, construction, operation, or maintenance activities related to the work or services; and furnish funds to the United States to cover any and all costs of the work or services in advance of fiscal obligations by the United States.

Sec. 10. Recreation User Fees at Water Resources Development Areas Administered by the Department of the Army.—

The purpose of the proposal is to authorize the collection of recreation user fees for use of specialized recreation sites and facilities, including but not limited to, improved campsites, swimming beaches, and boat launching ramps at water resources development areas administered by the Department of the Army. Enactment of the legislation would remove existing restrictions on the authority of the Department of the Army to impose reasonable charges for use of certain developed recreational areas under its administration and would eliminate the requirement to provide one free campground at each project where camping is permitted. The legislation, however, is not intended to authorize the imposition of fees for general public access to water resources development projects.

The Department of the Army, through the Corps of Engineers, administers one of the largest systems of outdoor recreation in

the entire Federal Government. In the past, the bulk of the cost of operating and maintaining this extensive program has been borne by the general taxpayers even though an easily identifiable group—those who actually visited our recreation areas and used our facilities—derived a direct benefit at little or no cost to themselves.

Certainly, the availability of Federally subsidized outdoor recreation is of indirect benefit to all Americans. However, those who actually visit and use such areas derive greater benefit and should be expected to contribute a higher percentage of the costs of operating and maintaining those areas and facilities. A May 1986 study completed by Market Opinion Research of Detroit (and underwritten by the National Geographic Society and presented to the President's Commission on Americans Outdoors) gives us additional insight into current public opinion on this issue. As a part of the study, Market Opinion Research conducted a 2,000-interview telephone survey and found that a 55-percent majority of American adults thinks the costs of maintaining existing recreation areas should come mainly from user fees, rather than taxes.

Sec. 11. Cost-Sharing of Section 22, Planning Assistance to States.—

The purpose of this proposal is to authorize the Secretary of the Army to apportion the costs of providing water resources planning assistance furnished to states and entities designated by states under Section 22 of the Water Resources Development Act of 1974. The legislation would allow recovery of up to 50% of the program cost. The enactment of such legislation would enable the Secretary of the Army to maintain this successful program while reducing the program's budgetary impacts by applying the cost-sharing and beneficiary-pay principles of the Water Resources Development Act of 1986, P.L. 99-662. Under this program the Corps provides assistance to clearly identifiable beneficiaries who otherwise could use non-Federal sources for such services.

Section 22 of the Water Resources Development Act of 1974, P.L. 93-251, as amended (42 U.S.C. 1962d-16), authorizes the Secretary of the Army to provide planning assistance to States on the development, use, and conservation of water and related resources in drainage basins. The assistance provided under this program supports and supplements States' efforts and, in many cases, becomes an integral part of a State's overall comprehensive plan.

Application of the cost-sharing and beneficiary-pay principles of the Water Resources Development Act of 1986 will allow the Corps of Engineers to address current program demands. Consistent with the precept that the beneficiary of services should pay for at least a portion of those services, the proposed legislation would allow the Secretary of the Army to apportion up to 50 percent of program costs to the users of these services. Because beneficiaries of these programs have expressed concern over the hardships that would be brought about by initiating cost-sharing in one year, it is proposed that the cost-sharing be phased in over a three-year period, beginning at 10 percent in fiscal year 1991, 30 percent in 1992, and increasing to 50 percent in 1993.

Sec. 12. Cost-Sharing of Flood Plain Management Services.—

The purpose of this proposal is to authorize the Secretary of the Army to apportion up to 50 percent of the program costs of flood plain management services provided under Section 206 of the Flood Control Act of 1960 to beneficiaries of the services. The enactment of such legislation would enable the Secretary of the Army to maintain this successful program while reducing the program's budgetary impacts by applying the cost-sharing and beneficiary-pay principles of the Water Resources Development Act of 1986, P.L. 99-662. Under this program the Corps provides assistance to clearly identifiable beneficiaries who otherwise could use non-Federal sources for such services.

Section 206 of the Flood Control Act of 1960, P.L. 86-645, as amended (33 USC 709a), authorizes the Secretary of the Army to provide flood plain information and assistance upon request from other Federal agencies and from state, local and private interests to assist those entities in flood plain land use and development decision making.

During fiscal year 1989 alone, the Corps provided over 96,000 responses to requests involving potential flood plain development valued at over $15 billion. Requests for assistance have continually increased. Application of the cost-sharing and beneficiary-pay principles of the Water Resources Development Act of 1986 will allow the Corps of Engineers to meet current program demands. Consistent with the precept that the beneficiary of services should pay for at least a portion of those services, the proposed legislation would allow the Secretary of the Army to apportion 50 percent of the cost of these services. The Secretary would devleop procedures to recover approximately 50 percent of the cost of such services. Because beneficiaries of these programs have expressed concern over the hardships that would be brought about by initiating the cost-sharing in one year, it is proposed that the cost-sharing be phased in over a three-year period, beginning at 10 percent in fiscal year 1991, 30 percent in 1992, and increasing to 50 percent in 1993.

Sec. 13. Authorization of Appropriations From the Harbor Maintenance Trust Fund—

This proposal would amend section 210(a) of the Water Resources Development Act of 1986, P.L. 99-662, to authorize appropriations from the harbor maintenance trust fund to pay for up to 100 percent of the eligible operations and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States. The current law allows appropriations of funds to pay for up to 40 percent of such costs. This proposal would also authorize appropriations of funds from the harbor maintenance trust fund into the newly created marine waterways trust fund for the purpose of reimbursing up to 100 percent of the expenditures incurred by the National Oceanic and Atmospheric Administration in carrying out its nautical charting and marine navigational safety programs and activities. No more than .01 percent of the value of commercial cargo subject to the port user fee can be used to reimburse NOAA's costs during any single fiscal year.

Sec. 14. Administration of Harbor Maintenance Trust Fund.—

The Corps of Engineers has been advised by the United States Customs Service that Customs will not be able to sustain an adequate resource commitment, manpower and funds, to the administration of the Harbor Maintenance Trust Fund program unless a source of funding is found for the administration and enforcement of the program. Previously, Customs drew necessary funds from their Commercial Merchandising Processing Fee. A 1988 General Agreement for Tariff and Trade (GATT) user fee decision requires that Customs' Commercial Merchandising Processing Fee resources be dedicated only to Customs commercial activities. As a result of this decision, Customs' commitment to the harbor maintenance program will be scaled down to a maintenance level. This will most certainly result in a reduction of revenues from this source.

The Proposal would authorize appropriations from the Harbor Maintenance Trust Fund to pay administrative expenses incurred by the Department of the Army, the Department of the Treasury, and the Department of Commerce in administering the port use fee imposed by Section 4661 of the Internal Revenue Code of 1954.

Sec. 15. Creation of Marine Waterways Trust Fund.—

This proposal established a marine waterways trust fund in the Treasury of the United States. The funding sources for the newly created trust fund consist of transfers from the harbor maintenance trust fund and if necessary from appropriations out of the general revenues of the Treasury. Amounts in the marine waterways trust fund are to be used to reimburse up to 100 percent of the costs incurred in carrying out nautical charting and marine navigational safety programs and activities of NOAA during each fiscal year beginning in FY 1991. Funds for reimbursing NOAA's cost are to come first from transfers to the marine waterways trust fund from the harbor maintenance trust fund; however, no more than .01 percent of the value of the commercial cargo subject to the port user fee can be used for reimbursing NOAA's costs. In the event that there are not sufficient funds available from the harbor maintenance trust fund to reimburse all of NOAA's costs, the balance of the eligible expenditures may be obtained from an appropriation from the general funds of the Treasury.

Sec. 16. Period of Environmental Demonstration Program.—

Section 1135 of the Water Resources Development Act of 1986, P.L. 99-662, authorized the Secretary of the Army to carry out a demonstration program in the two-year period beginning on the date of enactment of the 1986 Act, November 17, 1986, for the purpose of making such modifications in the structures and operations of water resources projects constructed by the Secretary before the date of enactment of the 1986 Act which will improve the quality of the environment in the public interest. Section 1135 also requires that non-Federal interests share 25 percent of the cost of any modifications carried out under the section. Section 41 of the Water Resources Development Act of 1988, P.L. 100-676, extended the demonstration program period to 5-years.

The purpose of this proposal is to extend the program to 10-years in order to take advantage of any opportunities that may arise on any completed water resources project, as well as to demonstrate the viability of improving the quality of the environment and to allow potential cost sharing partners more time to obtain the necessary financing to support non-Federal participation. Presently, we are identifying and reviewing a number of demonstration proposals. However, because of continuing advancements in the environmental sciences and technology and identification of new environmental hazards it is impossible to identify today what demonstration programs will be needed in the future. The proposal would provide the Secretary of the Army with the

flexibility needed to respond to demonstration opportunities in a timely manner.

Sec. 17. Magnetic Levitation Transportation System Implementation Plan.—

Magnetic Levitation (MAGLEV) high-speed transportation systems offer a low-pollution, energy efficient means of ground transportation. High speed systems could be made available through the use of advanced MAGLEV technology. A combined Government/industry effort to develop a prototype MAGLEV system would enable the United States industry to become a world leader in MAGLEV and superconductor technology. That technology could greatly advance the transportation network in the United States and end our reliance on the existing foreign technology for high speed ground transportation.

The purpose of this proposal is to stimulate the private sector to develop an operational second-generation MAGLEV system having significant advantages over existing foreign technologies and utilizing the strengths of U.S. industry. To achieve this purpose, the proposal would authorize the Secretary, in partnership with the Secretary of Transportation, and in consultation with other Federal agencies, to provide for research and development of second generation MAGLEV technology. The development of this technology would include the design, construction, operation, testing, and evaluation of a prototype vehicle guideway system. The design work would be cost shared with private industry, pursuant to cooperative research and development agreements. These agreements would be tailored to meet the requirements of each non-Federal partner or partners, to maximize the potential for early commercialization of the MAGLEV technology.

Sec. 18. Overtime Pay for Emergency Work.—

The major natural disasters in 1989, i.e., Hurricane Hugo and the Loma Prieta earthquake, have made the Corps of Engineers acutely aware of the statutory limitation on overtime pay for civilian members directly involved in emergency response work. The purpose of the proposed legislation is to raise the pay period and yearly overtime ceilings for Corps of Engineers employees working on or in support of emergency or disaster relief efforts. The special pay provisions would be applicable only where there has been a determination or declaration by the President, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that an emergency or major disaster exists.

Sec. 19. Emergency and Disaster Authority.—

This proposal would authorize the Corps of Engineers to plan and prepare for response to any natural disaster. The Corps of Engineers is one of the leading federal agencies with a nationwide capability to respond quickly and effectively to requests for assistance during times of natural disaster. As a result of this capability, the Corps becomes extensively involved in a broad range of emergency activities: recent examples are Hurricane Hugo in the Caribbean and the southeastern United States; the Loma Prieta Earthquake in California; the severe drought situation in the central United States; tornadoes in Alabama; and, extensive flooding in many locations of the nation. This proposal will enable the Corps to plan, prepare for, and respond more effectively to the broad spectrum of natural disasters.

S. 2470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Harbor Maintenance Act of 1990".

SEC. 2. INCREASE IN HARBOR MAINTENANCE FEE.

Section 4461(b) of the Internal Revenue Code of 1986 is amended by striking out "0.04" and inserting in lieu thereof "0.125".

ANALYSIS OF THE HARBOR MAINTENANCE ACT OF 1990

The Water Resources development Act of 1986 established an ad valorem fee on commercial cargo loaded or unloaded at ports. The revenues from this fee are made available for a portion of the Army Corps of Engineers' maintenance activities at the Nation's harbors. This legislative proposal increases the ad valorem rate for the port user fee from its current 0.04 percent to 0.125 percent. The increased rate will allow recovery of up to 100 percent of the eligible operation and maintenance dredging program costs and will allow recovery of the costs of certain National Oceanic and Atmospheric Administration programs that benefit the commercial navigation industry.●

By Mr. FORD (for himself and Mr. LEAHY):

S. 2471. A bill to provide for a study of the National School Lunch Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STUDY OF NATIONAL SCHOOL LUNCH PROGRAM

Mr. FORD. Mr. President, I rise today to introduce legislation authorizing a comprehensive study of the National School Lunch Program. This important program, which dates back to 1946, was designed to safeguard the health and well-being of our children, as well as encourage the consumption of nutritious agricultural products. And for the most part, it has been a significant success. Today, the School Lunch Program operates in over 90 percent of our country's elementary and secondary schools. Recent studies show that well nourished children are better students, and are less likely to develop absentee or tardiness problems. The long-term benefits for our society are quite obvious.

The National School Lunch Program serves more than 24 million children nationwide, providing 4 billion lunches per year. In my home State of Kentucky, about 660,000 children benefit from this important Child Nutrition Program. Nearly 80 million meals were served in Kentucky under this program last year. Students may qualify for free or reduced price meals, depending upon their family income level. But about half of all meals go to students receiving paid meals under this program as an important source of nutrition. In my State, 54 percent of the lunches served were paid meals. States receive assistance in the form of cash or commodity reimbursements for each meal provided.

However, Mr. President, this program has changed in significant ways over the last 10 years. The last comprehensive Federal study of the operation of the National School Lunch Program was in 1979. In 1981, child nutrition programs were dramatically altered, and the Federal child nutrition budget was reduced by almost one-third. Additional income documentation and verification requirements were placed upon school food officials administering the School Lunch Program. And reimbursement levels provided for all meals were reduced from 18½ to 10½ cents. In Kentucky, this meant a decrease of more than 5 percent in the number of students who could be served the following year on a daily basis.

And the availability of bonus commodities, which are derived from farm program surpluses, has declined sharply in recent years. The amount received by schools for the School Lunch Program has decreased by more than $300 million, or about 70 percent, since 1987.

Last year, important legislative changes were made in an attempt to streamline compliance and accountability requirements under the act. I believe it is time to assess the impact of these changes.

And there are some who would like to change the School Lunch Program in equally significant ways for the decade ahead. Some would make this program, which was designed to benefit all children, a more targeted benefits program available only to children from lower income families. Others would demand more of State and local agencies and individual schools in achieving the goals of the program. There is some danger that additional requirements would drive schools from the program, to the detriment of all of our young people. I would suggest that any decision in this regard must be an informed decision. Mr. President, it is again time that we take a closer look at the operation of the School Lunch Program.

Mr. President, the study I am proposing today is straightforward. It would require the Secretary of Agriculture to analyze several important factors in assessing changes in the operation of the National School Lunch Program over the last decade. These include the impact of decreased bonus commodities on a State-by-State basis; indirect costs faced by school food service authorities; current costs of providing school lunches; the reasons why some schools have left the program and the impact on low-income children at those schools; and changes in responsibility during the last decade for both State officials and school food service authorities.

I would hope that this study assists in planning the long-term direction of

this important program. My colleagues on the Agriculture Committee took the lead in initiating several important changes in child nutrition programs last year, and will be seeking to improve other programs this year under the Leland Memorial Domestic Hunger Relief Act. I would hope that this study, in a small but important way, would complement these efforts and assist in any future improvements made to the National School Lunch Program. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2471

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 101. FINDINGS.

The Congress hereby finds that—

(1) the last comprehensive study of school nutrition programs was requested in 1979;

(2) in 1981, the Federal child nutrition budget was reduced by approximately one-third;

(3) the availability of bonus commodities to the National School Lunch Program has been reduced by $300 million since 1987;

(4) many schools are bearing significant increases in indirect cost assessments;

(5) there have been significant increases in administrative responsibilities in operating Federal child nutrition programs at both the State and local level; and

(6) there is limited national data with which to evaluate the impact of increased financial pressures upon the National School Lunch Program.

SEC. 201. PURPOSES.

The School Lunch Study will provide an updated analysis of the National School Lunch Program and will serve as a basis for evaluting changes to such program. This study will help to ensure that the National School Lunch Program is structured and administered in such as way as to provide the greatest number of children with nutritious meals.

SECTION 301. SCHOOL LUNCH STUDY.

The Secretary of Agriculture shall conduct a study of the National School Lunch Program to determine—

(a) the amount of bonus commodities lost, by state, since the 1987-88 school year;

(b) the amount of indirect costs assessed against local school food service authorities by schools;

(c) the current cost of providing a school lunch by component, including the costs of labor;

(d) why those schools that voluntarily dropped the National School Lunch Program during the 1990s made their decision to do so;

(e) if low-income children in schools that voluntarily dropped out of the National School Lunch Program continue to receive meals free of charge;

(f) the changes in responsibility, and costs associated with those changes, that have occurred since 1980 at the state agency level in the administration of the school programs at the state level;

(g) the changes in responsibility and costs to local school food service authorities of satisfying the federal administrative program requirements, including the cost of audits; and

(h) what school food service authorities charge students for non-free or reduced price meals.

SEC. 401. REPORT TO CONGRESS.

The Secretary shall submit a final report to Congress on the Study by no later than October 1, 1991.

By Mr. FOWLER (for himself and Mr. NUNN):

S. 2473. A bill to extend and revise the price support and related programs for the 1991 through 1995 crops of peanuts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PEANUT PRICE SUPPORT EXTENSION ACT

● Mr. FOWLER. Mr. President, I rise today to introduce, along with my colleague the distinguished senior Senator from Georgia, the Peanut Program Extension Act of 1990.

The peanut program has been one of the most successful and cost-effective measures of our farm policy. This bill will maintain the successful 1985 program with only technical changes. It will extend the current price support formula based on the cost of production. It has the support of the Georgia Peanut Producers Association, the Georgia Farm Bureau, the Georgia Peanut Commission, and the Southeastern Peanut Association.

Mr. President, Senator NUNN and I are extremely proud of the fact that our home State leads the Nation, and the world, in peanut production. Our farmers have done a good job. The peanut program has played its proper role, and supported itself at almost no cost to the taxpayers. The budget outlays for this program have actually declined since 1985. All we seek to do is to maintain this model partnership and continue our support for this important sector of our agricultural economy.●

By Mr. DASCHLE (for himself Mr. PRESSLER, and Mr. WIRTH):

S. 2474. A bill to authorize an exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

EXCHANGE OF CERTAIN LANDS

● Mr. DASCHLE. Mr. President, I rise today to join with my distinguished colleagues, Senator LARRY PRESSLER and Senator TIM WIRTH, in introducing a land exchange between South Dakota and Colorado.

Nearly a year ago I traveled to the Black Hills of South Dakota to join Homestake Mining Co. officials as they announced plans to transfer some of the most scenic, environmentally valuable land in South Dakota out of private ownership and into the hands of the Forest Service and the American public.

Since that time we have worked Homestake as it has developed the details of its proposed land swap, built understanding and support for the plan in the environmental community and with the public in South Dakota and Colorado.

The legislation I introduce today represents the result of this work. It authorizes a land swap involving Forest Service and Homestake lands in South Dakota and Colorado and represents a tremendous net gain for the public domain.

The lands to be provided to the Forest Service by Homestake Mining Co. will be among the crown jewels of their holding in South Dakota's Black Hills. They include some 20 miles and 1,250 acres of breathtakingly beautiful land along Spearfish Canyon and 8,125 highly accessible acres near Piedmont, SD. These lands and others, roughly 12,000 acres in all, will be added to the Black Hills National Forest in exchange for 1,415 remote acres of Forest Service land in Colorado.

I look forward to continuing to work with Homestake, with the Forest Service, with the distinguished members of our delegations from Colorado and South Dakota and with the public as we finalize and move this legislation forward this year.

I now ask unanimous consent that letters from the Natural Resources Users' Coalition and the South Dakota Wildlife Federation be printed in the RECORD at the conclusion of this statement. As these letters indicate, the outstanding efforts of the Forest Service and Homestake have already won this land transfer proposal consensus support in my State.

This among the most generous transfer plans I have seen offered to the public by any private party anywhere in my region. Homestake Mining Co. deserves commendation for the stewardship it has exercised over these lands in the past and for its willingness to place them back into the public domain.

I hope my colleagues will see fit to offer speedy approval for our legislation to accomplish that goal and look forward to successfully completing the effort we began with our announcement in the Black Hills last year.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATURAL RESOURCES USERS' COALITION,
Rapid City, SD, March 22, 1990.

RICH HARR,
Homestake Mining Co.,
Land Management Division, Lead, SD

DEAR MR. HARR: The NRUC is a coalition of 20 environmental and outdoor recreational oriented organizations with a total membership fluctuating between 3000 and 3500 persons. The NRUC Officers and Board of Directors unanimously and heartily endorse the proposed South Dakota-Colorado Land Exchange which would transfer approximately 14000 acres owned by Homestake Mining Co., located in the Black Hills of SD for approximately 1300 acres of U.S. Forest Service land in Summit County, Colorado. We see many advantages for increased public recreation and wildlife habitate en-

hancement by US Forest Service acquisition of the Homestake Mining Co. land in the Black Hills via the proposed exchange.

Sincerely,

GARY ENGEL,
President, NRUC.

SOUTH DAKOTA WILDLIFE FEDERATION,
March 7, 1990.

Mr. RICH HARR,
Homestake Mining Land Division,
Main Street, Lead, SD.

DEAR RICH: I would like to express my appreciation for the tour of the proposed land exchange areas conducted by the Homestake Land Management Division. As chairman of the Public Land Committee for the S.D. Wildlife Federation, I feel that the proposed exchange of Homestake Land in the Black Hills to the U.S. Forest Service for Forest Service Lands in Colorado, is a good proposal.

The presentation of the proposed exchange by yourself and Jim Wainwright, including the flight over the proposed areas and the tour by vehicle, helped clarify the value of these areas to the public. Several values are apparent and include valuable deer winter range and wildlife habitat, high quality trout fisheries, as well as aesthetic natural beauty, (Spearfish Canyon).

We feel this exchange would be beneficial from a national standpoint as well as for South Dakota, because of the numbers of people who come to the Black Hills from many other states to enjoy the recreational and scenic values.

We will encourage the U.S. House of Representatives and Senate to act favorably on this proposal.

Sincerely,

DON HAUSLE,
Chairman, Public Lands Committee.●

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 2475. A bill to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

ACQUISITION OF WILLIAM JOHNSON HOUSE

● Mr. LOTT. Mr. President, I am introducing legislation today, along with the senior Senator from Mississippi, Senator COCHRAN, which will amend Public Law 100-479, the Natchez National Historical Park, to authorize the acquisition of one very important piece of property for inclusion in the park. We are joining in the efforts of our colleague from the Fourth Congressional District in our State, Congressman MIKE PARKER, who introduced this bill on April 4 of this year in the House of Representatives. This historic property is referred to as the William Johnson House, which according to some authorities, may be the finest unit of the National Park System to address post Civil War/freed black history.

William Johnson was born a slave and was freed in 1820 by his white owner. He learned the profession of barbering, a popular trade among southern freed blacks, and at a young age became the owner of his own barber shop. By the late 1840's, he had aquired substantial land holdings and established himself as a planter as well as an urban businessman. Johnson's business and high standards of conduct placed him in a high position in Natchez free black society. Johnson was tragically murdered in 1851, however, his 2,000-page diary of his personal and business life continues to serve as one of America's most important historical chronicles.

As an author of Public Law 100-479 which established the Natchez National Historical Park, I know it was our intent to demonstrate many historical themes with the creation of this park on the bluffs on the Mississippi River in Natchez, MI. African-American history is a historical theme specifically designated by the National Park Service to be addressed by the Natchez National Park. No other property in Natchez can better demonstrate this than the William Johnson House.

This historic property would be used as a visitor reception area and exhibit area where the black history of Natchez would be interpreted. The upper floors of the home would be restored to the year 1851 and would interpret the life of Natchez's unique diarist.

Mr. President, I would also like to point out that this legislation does not require any additional appropriation over the authorized amount in Public Law 100-479. The property will be acquired with local and State funds.

Mr. President, I am confident that my colleague will recognize the importance of this historic property and will support this effort to allow the William Johnson house to be included in the Natchez National Historical Park.●

● Mr. COCHRAN. Mr. President, today I am joining my distinguished State colleague, Mr. LOTT, in introducing legislation to authorize the National Park Service to acquire the William Johnson House in Natchez, MS, for inclusion in the Natchez National Historical Park. This bill is identical to legislation introduced by our colleague in the other body Mr. PARKER, on April 4, 1990.

The William Johnson House is uniquely suited to interpret black history in the South. Although the Natchez National Historical Park Act authorizes acquisition of properties illustrating black contributions in the antebellum South, no properties in the park were owned by blacks. The William Johnson House was.

The house was the residence and business of one of America's most notable southern freedmen. Born a slave and freed at a young age, William Johnson became a prosperous merchant and planter in Natchez. He left a 2000-page diary, one of the most valuable commentaries we have on life in the antebellum South.

The legislation we are introducing today will not obligate the National Park Service to purchase the William Johnson House. State and local governments, with help from the private sector, will acquire the property and donate it to the Park Service. The Mississippi Department of Archives and History has already begun raising funds for the purchase, and plans call for restoration of the house and use of the downstairs for a comprehensive exhibit interpreting black history.

The experiences of black Americans in the antebellum South is a growing area of interest. Acquisition of the William Johnson House will enlarge our understanding of these experiences.

I urge Senators to support the passage of this legislation.●

By Mr. LEAHY (for himself, Mr. HUMPHREY, and Mr. KOHL):

S. 2476. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

COMPUTER ABUSE AMENDMENTS ACT

Mr. LEAHY. Mr. President, I am pleased to introduce the Computer Abuse Amendments Act of 1990 with my New England neighbor from New Hampshire. Senator GORDON HUMPHREY is an acknowledged Senate expert on computers, and I also thank Senator KOHL for joining us as an original cosponsor.

Technology is hurling us into the 21st century at speeds that leave lawmakers gasping. This bill catches up with some problems already out of hand, by strengthening laws against computer abuse, deterring malicious computer hacking, and aiding prosecution of computer crimes without criminalizing creative attempts at legitimate experimentation.

Americans are increasingly reliant on computers for research and communication in businesses, industries, education, and the govenrment.

A data base must be trustworthy to develop user confidence in the computer networks. But our demand for easy, swift access to information through fast-developing computer technology oftentimes trades off security for convenience.

Computer abuse can be a costly and damaging setback for all users when hackers enter programs and tamper with them.

The problem has no international boundary lines. Hackers from Australia were tracked down and arrested last month for fouling computer programs here at home.

Robert Morris, Jr., a brilliant but misguided graduate student, was convicted of violating the Computer Fraud and Abuse Act. Morris released a computer worm onto the INTERNET computer network.

Our committee has heard testimony of detective work that resulted in the conviction of computer spies who had successfuly broken into our defense computer network, trying to extract classified information—posing a real threat to national security. Dr. Clifford Stoll's testimony, incidentally, is a fascinating study of modern spy techniques and computer genius.

Our laws governing computer crimes are strong.

Director Sessions of the FBI testified last year that the Bureau uses a range of Federal statutes to investigate computer crimes, including the Computer Fraud and Abuse Act, title 18, United States Code, section 1030, et seq.; the Electronic Communications Privacy Act, title 18, United States Code, section 2510, et seq.; and the wire fraud statute, title 18, United States Code, section 1343.

The most recent crimes stress our need to strengthen our warning against computer vandalism of any kind.

The bill we introduce today amends the Computer Fraud and Abuse Act in these particulars.

Section 3(a) makes it a felony to transmit an unauthorized program or code that alters the informaton stored in that computer, if that damage exceeds $1,000, or involves medical records. Section 3(b) creates a penalty for the felony of up to 5 years in prison and/or a fine.

Section 3(a) also includes a parallel misdemeanor for recklessly transmitting a destructive computer program or code. The penalty in section 3(b) for the misdemeanor would be a fine and/or imprisonment for up to 1 year.

Section 3(c) defines the term "access" which is used throughout the Computer Fraud and Abuse Act. Section 3(d) creates a new, civil cause of action for compensatory or injunctive relief for victims.

The Technology and the Law Subcommittee will hold a hearing on this bill on April 27. I am particularly interested in receiving comments about the intent standard for the new misdemeanor, the new civil cause of action, and the definition of "access." I want to ensure that, in creating a private cause of action to boost deterrence, we do not open the floodgates to frivolous litigation. I also look forward to testimony from prosecutors and computer experts on the scope of the "access" definition, to be sure that it is technically sound and a useful tool for prosecuting computer crimes.

Mr. President, I want to thank Senator HUMPHREY and Senator KOHL once again for their hard work on this bill. I look forward to working with them at our upcoming hearing on the legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2476

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Abuse Amendments Act of 1990".

SEC. 2 FINDINGS.

The Congress finds that—

(1) the maintenance of the security and integrity of computer systems has become increasingly critical to national security, interstate and foreign commerce, communications, education, science, and technology in the United States;

(2) the deliberate abuse of computers and computer systems to cause damage, disruption, and interference with the efficient functioniing of computer systems has created significant problems for both government and nongovernment computer systems, and such abuse creates real and potential problems for national security, commerce, business, science, and education, and imposes significant burdens on interstate and foreign commerce;

(3) in light of rapid developments in computer technology, it is necessary to revise and clarify existing Federal laws governing computer security and abuse to assure that novel forms of serious computer abuse are clearly prohibited; and

(4) it is the intent of this Act to exercise the full scope of the powers of Congess under the Commerce Clause of the United States Constitution to regulate forms of computer abuse which arise in connection with, and have a significant effect upon, interstate or foreign commerce.

SEC. 3. AMENDMENTS TO THE COMPUTER FRAUD AND ABUSE ACT.

(a) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce of communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if the person causing the transmission intends that such program, information, code or command will damage, disrupt, alter, destroy, or misappropriate the functioning, use, programs, systems, databases, or other information of or contained in the affected computer or computer system and the transmission of the harmful component of the program, information, code, or command—

"(i) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(ii)(I) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any one-year period; or

"(II) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code or command to a computer or computer system if the person caused the transmission with reckless disregard for whether the transmission will damage, disrupt, alter, destroy or misappropriate the functioning, use programs, systems, databases, or other information of or contained in the affected computer or computer system and the transmission of the harmful component of the program, information, code, or command—

"(i) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(ii)(I) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any one-year period; or

"(II) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(b) PENALTY.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (2)(B);

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (30(B) by striking the period at the end thereof and inserting "; and"; and

(4) inserting at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) DEFINITION.—Section 1030(e) of title 18, United States Code, is amended—

(1) in paragraph (6), by striking "and" after the semicolon;

(2) in paragraph (7), by strking the period and inserting "; and";

(3) by adding after paragraph (7) the following new paragraph:

(8) the term 'access' means—

"(A) to gain access to the stored or displayed information or to the functions of a computer or computer system in such a way that such information can be seen or otherwise deciphered or such functions can be performed; or

"(B) to transmit, or cause the transmission of, a program, information, code, or command to a computer or computer system under circumstances where the person causing the transmission intends, or reasonably expects, that such program, information, or command will significantly damage, disrupt, alter, destroy, or misappropriate the functioning, use, programs, systems, databases, or other information of or contained in that computer or computer systems, whether or not the persons causing the transmission gains access in the manner described in subparagraph (A).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief.".

Mr. HUMPHREY. Mr. PRESIDENT, I am pleased to join with Senator LEAHY in introducing the Computer Abuse Amendments Act of 1990.

This legislation deals with an issue of great practical importance for Americans in all walks of life—the

computer systems which have become an indispenable tool for business, science, medicine, government, and countless other activities at home and in the workplace.

Our dependence on the efficient operation of computer systems and computer communications networks has increased geometrically over the past 10 years. We now take for granted the instantaneous communication, research cababilities, and countless other technological advances which the computer age has made possible. I might add that my concerns in this area are more than theoretical, since I use my Senate computer as an all-purpose tool for staying abreast of Senate business.

The national and international computer networks which allow the rapid exchange of information and ideas provide one of the great benefits of modern computer technology. But they also provide a window of vulnerability that can be exploited by those who seek to abuse and undermine our computer systems.

Over the past few years, incidents of serious computer abuse have increased markedly. The incidents range from the reckless experimentation of irresponsible computer "hackers" to the systematic efforts of foreign agents to gain unauthorized access to sensitive military data bases. Computer abusers have developed a complex arsenal of new techniques, including computer viruses and "worms," which result in the replication and retransmission of destructive programs to wreak havoc in computers throughout the country. It is only a matter of time before a computer virus or some other form of computer sabotage causes major damage to one of our financial institutions, medical information networks, or government information systems.

These incidents underscore the need for increased efforts to maintain the security and integrity of our interdependent computer systems and networks. Criminal computer abuse represents a significant threat to the Nation's commerce and security.

The broader solution to this problem lies in the development and implementation of more effective computer security systems and technology. But in the meantime, it is important that we update our computer crime laws to stay abreast of the rapid changes in computer abuse techniques.

The bill that Senator LEAHY and I introduce today is an important step in that direction.

Our bill amends the Computer Fraud and Abuse Act [CFAA] to eliminate potential gaps and ambiguities in that legislation. For example, the computer abuse crimes covered by the CFAA are all limited by the concept of "unauthorized access" to certain categories of computers. But experience has taught us that some of the most far-reaching forms of computer sabotage can be activated without gaining unauthorized access to the affected computer systems. For example, a destructive computer virus can be transmitted to a remote computer system even though the originator of the virus never gained personal "access" to that system. Our bill closes this potentially serious loophole in existing law.

The Computer Abuse Amendments Act also clarifies and expands the protection of computers provided by existing law. Whereas the CFAA's coverage was limited to "Federal interest computers" as defined in that act, our bill makes it clear that any computer used in interstate commerce or communications is protected against criminal computer abuse. The bill also provides necessary clarification of the kinds of computer harm which are covered by the CFAA. It also proposes a civil action enabling persons to obtain compensatory damages for losses caused by computer abuse crimes.

This bill was drafted after extensive study and consultation with knowledgeable persons in various sectors of the computer and software industries. I am especially pleased to stress that it represents a genuinely bipartisan approach to this important issue. Senator LEAHY's staff and my staff on the Technology and the Law Subcommittee have worked closely together in developing the bill's language.

The Computer Abuse Amendments Act represents a significant step in our efforts to contain the growing problem of criminal computer abuse. I urge my colleagues to support prompt enactment of this important bipartisan bill.

By Mr. PELL:

S. 2477. A bill to establish an Office of Recycling Research and Information in the Department of Commerce, to require research on the recycling of scrap automobile tires, and for other purposes; to the Committee on Environment and Public Works.

TIRE RECYCLING PROMOTION ACT

Mr. PELL. Mr. President, today I am introducing legislation to encourage the recycling of automobile tires as a viable substitute for tire incineration. Most important, the bill directs the Federal Government to provide States, cities, and towns the information necessary to close down tire incineration plants within their borders or adjacent borders. This legislation would also break new ground in creating markets for all recycled material by establishing an Office of Recycling Research and Information within the Department of Commerce.

Piles of used tires continue to grow, while plans for their incineration continue to move forward in many places, including areas in and around my home State of Rhode Island. I believe this legislation offers a good start to solving one of the worst plagues of our disposable society—used tires.

Although the focus of this legislation is the eventual elimination of tire incineration, there is another purpose served by this bill in the creation of an Office of Recycling Research and Information within the Department of Commerce. The Office of Recycling Research will act as clearinghouse for practical, market-oriented, research on recycling.

This legislation is a companion measure to a bill recently introduced in the House of Representatives by Congressman GEORGE HOCHBRUECKNER of New York. I want to thank Congressman HOCHBRUECKNER for the opportunity to bring this innovative legislation before the Senate. His leadership on recycling and other important environmental issues makes him a credit to the Congress and the people of Long Island.

The changes I have made to the Senate version of this bill reflect the unique problems of my home State of Rhode Island. It has been estimated that Rhode Island produces a million used tires a year. I have also been told that Rhode Island has the dubious honor of having the second largest used tire pile in America. However, the most alarming reality of the used tire glut for Rhode Island is the construction of a large tire incineration plant just over the western border of our State.

That is why I have included language in the bill to compel the Department of Commerce to use no less than one half of recycling research dollars for tire recycling research. I have also included language to steer research dollars to providing information of States, cities, and towns that want to shut down tire incineration facilities.

By Mr. BRADLEY:

S. 2478. A bill to provide for the extension of a Medicaid respite demonstration project; to the Committee on Finance.

MEDICAID RESPITE DEMONSTRATION PROJECT

● Mr. BRADLEY. Mr. President, I rise to introduce a bill to extend the New Jersey Medicaid Respite Care Demonstration Project for another 2 years.

The Senate Aging Committee recently held a hearing on the Medicaid Respite Care Demonstration Project at my request.

Mr. President, the demonstration project was originally intended for a full 4 years beginning in 1986. Delays in implementation has meant that it will only have provided services for 2 years before the expiration of the funding. A full-scale evaluation of the project is in progress through the State University of New Jersey at Rutgers. The program deserves a full 4 years of operation before meaningful conclusions can be drawn. It is my

hope that the program will serve as a blueprint for a national network of caregiver support under the Medicare Program. This bill, therefore, provides an extension for the respite care demonstration project for an additional 2 years.

Mr. President, the stories that I heard from both caregivers and providers of respite services moved me deeply. I am more convinced than ever of the need for supporting the enormous network of loving family caregivers who provide the overwhelming majority of care for disabled Americans in the home and the community. The New Jersey respite care project serves nearly 2,000 families a year. These are families who opt to keep their disabled members at home despite extensive sacrifices. One woman with three children spoke of her resolve to keep her mother with Alzheimer's disease at home with the family. Respite care allows her family to spend two Saturdays a month together in activities that are not disrupted by the constant demands of attending to her mother. Attending her son's baseball game or a family outing are activities that the Wagenblast's cannot take for granted. Respite care brings a semblance of normalcy to their lives and allows them to continue to love and care for their elder member in the way that feels right to them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID RESPITE DEMONSTRATION PROJECT EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by amending subsection (e) to read as follows:

"(e) DURATION.—The project under this section may continue until September 30, 1992."; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: "For the period beginning October 1, 1990, and ending September 30, 1992, Federal payments for the project shall not exceed amounts not expended under the project in the preceding fiscal year.".●

By Mr. SIMON:

S.J. Res. 289. Joint resolution to designate October 1990 as "Polish-American Heritage Month"; to the Committee on the Judiciary.

POLISH-AMERICAN HERITAGE MONTH

● Mr. SIMON. Mr. President, today I am introducing a joint resolution to designate October 1990 as Polish-American Heritage Month. Although I have been the sponsor of this measure since I joined this body, this year is particularly important.

About 1 year ago Solidarity's Lech Walesa and General Jaruzelski were putting the final touches on the Round Table Agreement resulting in an interim government. Now Lech Walesa is considering running for President, Tadeusz Mazowiecki is the Prime Minister of a multiparty, democratic Poland and the economy is being converted to a free market system.

Poland led the way in Eastern Europe in the transition from Communist dictatorship to multiparty democracy. Not long after Tadeusz Mazowiecki was sworn in as Prime Minister last August, the people of Hungary, East Germany, Czechoslovakia, Bulgaria, and Romania followed Solidarity's lead in pressing for free elections and free markets.

In light of Poland's historic role in the revolutions of 1989, this year's Polish-American Heritage Month will surely be a time of reflection and pride. Poland and America have always had historically close ties. Poles were among the first settlers to arrive in Jamestown, VA, in the 17th century. Poland's Constitution of May 3, 1791, was modeled directly on the Constitution of the United States.

Now, with the end of Communist domination, these ties are being renewed. In the 1989 SEED Act the United States pledged about $850 million over 3 years for developing Poland's new free market infrastructure, democratic institutions and environment. The recent visit of Prime Minister Mazowiecki highlighted the importance of our aid package as the Polish economy makes the difficult transition to a free market economy. Clearly, there is more we can and should do this year to cement Poland's newfound freedoms firmly in place.

Polish-American Heritage Month will enable us to put the dramatic changes of the last year in some kind of historical perspective. As the Polish people set up new political and economic institutions, we hope to be able to share in their difficulties and rewards.

Mr. President, I ask unanimous consent that the resolution marking Polish-American Heritage Month be printed in the RECORD in full.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 289

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the 17th century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor the greatest son of Poland, His Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader Lech Walesa and the Polish Government in holding a round table conference in February-April 1989, which led to a peaceful transition to a multiparty democracy;

Whereas Americans of Polish descent and Americans take great pride in the election of Tadeusz Mazowiecki as Prime Minister of Poland;

Whereas Americans of Polish descent and Americans support the struggle of the Polish people to move toward a free-market economy;

Whereas the Polish-American Congress is observing its 46th anniversary this year and is celebrating October 1990 as Polish-American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.●

By Mr. ARMSTRONG (for himself and Mr. GLENN):

S.J. Res. 290. Joint resolution to designate the week of July 22, 1990, through July 28, 1990, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War"; to the Committee on the Judiciary.

NATIONAL WEEK OF RECOGNITION AND REMEMBRANCE FOR THOSE WHO SERVED IN THE KOREAN WAR

● Mr. ARMSTRONG. Mr. President, June 25 of this year marked the 40th anniversary of the date on which the military forces of North Korea, organized, trained, and equipped by the Soviet Union, crossed the 38th Parallel and invaded the Republic of South Korea. Three days later, President Harry Truman ordered the Armed Forces of the United States to defend that beleaguered nation, and by the Fourth of July, U.S. Army forces, supported by the Navy and Air Force units, were engaged in combat with the North Korean invaders.

Encouraged by the prompt action of the United States, the United Nations condemned the North's act of aggression; and it created a United Nations Command to repel the invasion, to restore the territory of the Republic of Korea, and to protect the people of the Republic of Korea from Communist domination imposed by their neighbor from the north. In addition to the United States and South Korea, 20 other nations provided military

contingents, which served under the United Nations banner.

The fighting raged for more than 3 years as the United Nations fighting forces drove the North Koreans from the Republic of Korea and then stemmed the tide of Chinese Communist Army attacks. Active hostilities ended with an armistice signed on July 27, 1953. The provisions of the armistice agreement still constitute, among other things, a de facto boundary between the two Koreas—a boundary which is still defended, in part by United States troops serving under the United Nations command.

More than 5.7 million American servicemen and women were involved—directly or indirectly—in the Korean war. American casualties were heavy: more than 54,000 were killed, over 100,000 were wounded, and more than 8,000 are missing or unaccounted for.

At a ceremony on July 27, 1988, to celebrate the 35th anniversary of the signing of the armistice, Secretary of Defense Frank Carlucci said about them:

For America, the human legacy of the Korean War is the sterling performance of her uniformed sons and daughters who, uncomplaining, took up arms to defend a nation they never knew and a people they never met.

In a land so remote from America and America's consciousness, heroes came to the fore and the inner strength of our troops showed through. They fought brilliantly and tirelessly and enabled our Nation to achieve its aim, and to prove to ourselves and the World that America comes to the aid of its friends, defends its principles, and never retreats from freedom's fight.

Fought in a remote place and in the shadow of World War II, the Korean war became a victory forgotten by history, but it is remembered forever by those who fought freedom's battle, and those at home who suffered the loss of loved ones. Today, the importance of what they did 40 years ago is beginning to emerge through the mists of time. Forty million people in the Republic of Korea enjoy peace and freedom, still protected by the Armed Forces of the United States and South Korea as part of the United Nations Command. Perhaps, what we did as a nation in South Korea was one of the earliest signs of the end of Communist aggression and domination. It was a ripple that grew into waves of democracy which swept the world during 1989 and into the new decade.

Today, as a nation, we are beginning to accord those who served in our Armed Forces in those trying times the recognition that has been long overdue. In October 1986, Congress passed legislation to authorize the establishment of the Korean War Veterans Memorial in the Nation's Capital, to be sited on The Mall near the Lincoln Memorial, directly across the Reflecting Pool from the Vietnam Veterans Memorial. A magnificent design has been selected, and fundraising continues for its completion.

The joint resolution I offer today is an extension of the Nation's recognition and appreciation of those who carried the promise of freedom to that distant land so many years ago. This bill, and its companion in the House of Representatives, sets aside the week of July 22-29, 1990—the week that includes the anniversary date of the signing of the armistice which ended active combat in Korea—as a special week of recognition and remembrance for those who served in our Armed Forces in the Korean war. It also calls on the President to issue a proclamation calling for the national flag to be flown at half staff on all public buildings on July 27 in memory of those who died or who are missing as a result of the Korean war. The Presidential proclamation would also recommend the conduct of special activities and ceremonies in cities, towns, and States across the country in recognition and remembrance of those who served.

We in the Senate have led the way in the passage of similar resolutions in the past 2 years, and I urge your favorable consideration of this much deserved recognition for those who served in war so that others might enjoy the fruits of liberty and peace.●

By Mr. HATCH:

S.J. Res. 291. Joint resolution designating the week of October 14, 1990, as "National Standards Week"; to the Committee on the Judiciary.

NATIONAL STANDARD WEEK

Mr. HATCH. Mr. President, I rise today to introduce a joint resolution designating the week of October 14, 1990, as "National Standards Week." This week was chosen to coincide with "World Standards Day," which will be celebrated on October 14, 1990.

Mr. President, as you know, the United States is currently facing a large trade deficit. In response to this deficit, we have spent millions of dollars promoting U.S. products overseas and engaged in extensive negotiations with our major trading partners to try to open foreign markets to American products. However, I believe that we have overlooked one of the simplest and least expensive methods of making our products more competitive. I am talking about efforts to promote harmonized product standards.

Some of my colleagues may not be aware of the importance of product standards. Standards are the specifications, measurements, and other requirements that govern the manufacture and sale of products within a country. U.S. exports must meet the applicable foreign standards if they are to be eligible to be sold in a particular country. For this reason, any efforts we can make to help our trading partners write standards that include rather than exclude American products will go a long way toward opening those markets to our goods.

Last year, I helped guide through the Senate a bill which provides money for a standards writing specialist to be sent to Saudi Arabia to help the Saudis write product standards. During this project, I became acutely aware of the importance of standards and standards writing to our national interest. The project is jointly funded by the Department of Commerce and a group of private sector companies, and the standards expert is credentialed by the Government.

The benefits of the single small project are significant. For an investment of $250,000 in Government funds, it is estimated that exports to the six Persian Gulf nations which have adopted Saudi standards will increase by as much as $500 million. That means 15,000 new jobs and $15 million in tax revenues for the United States.

Mr. President, our foreign competitors are well aware of the importance of standards to international trade. Last year, while we were debating whether or not we would spend $250,000 for a standards expert in Saudi Arabia, the Japanese and Germans dispatched large teams to represent their countries in Saudi Arabia.

This situation points up the pressing need we have to raise the awareness of all Americans to the importance of product standards to our international competitiveness. I believe that a National Standards Week will help to focus national attention on this important issue, and I invite my colleagues to join me in sponsoring this joint resolution.

By Mr. RIEGLE (for himself, Mr. LEVIN, Mr. GORE, Mr. BURDICK, Mr. DECONCINI, Mr. GLENN, Mr. LAUTENBERG, Mr. METZENBAUM, Mr. CRANSTON, Mr. BENTSEN, Mr. KERRY, Mr. ROCKEFELLER, Mr. DIXON, Mr. BOREN, Mr. ADAMS, Mr. HOLLINGS, Mr. GRAHAM, Mr. LIEBERMAN, Mr. D'AMATO, Mr. CHAFEE, Mr. WILSON, Mr. DOMENICI, Mr. MCCLURE, Mr. BOSCHWITZ, Mr. HATCH, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. THURMOND, Mr. JEFFORDS, and Mr. COATS):

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day"; to the Committee on the Judiciary.

NATIONAL PHILANTHROPY DAY

● Mr. RIEGLE. Mr. President, today, I am pleased to be joined by 29 of my colleagues in introducing a resolution to designate November 16, 1990, as "Philanthropy Day." A similar resolu-

tion was approved last year with widespread support.

Philanthropy is deeply rooted in the American tradition. Literacy volunteers in our small towns and inner cities are the direct descendants of the men and women who built the one room schoolhouses in the vast frontier of 19th century America. From the charity of Ben Franklin, who raised money to build the first hospital in the United States, to the millions of people who donate to help make the United States the world leader in health research, philanthropic efforts have made an important mark on our Nation.

The Washington Monument can be seen as a strong symbol of the American spirit of giving. At George Washington's request, the Federal Government did not originally provide funding for the Washington Monument. People from all over the country and around the world got together to donate money and bricks to help construct it. To recognize that generosity, the names of individuals or groups who donated were inscribed on the monument stones.

National Philanthropy Day provides us with the opportunity to commend those who give of themselves. On past Philanthropy Days, thousands of people from all parts of the country have gotten together to mark the contributions of the citizens who have made a difference in their community. Today, I will mention two people who have strengthened our Nation by giving of themselves.

Dave Bing, a Piston great who was recently elected to the Basketball Hall of Fame, is now a successful businessman in Detroit. He is also a philanthropist who, with the help of a number of NBA players, raised $600,000 to enable the Detroit public schools to maintain a fall varsity sports season.

Not as well known, but also representative of the generous spirit of philanthropy is a woman from Grand Rapids named Maggie Fegal. Drawing on almost 50 years of experience serving her community, Ms. Fegal is more involved and energetic than ever. By organizing the Toughlove Program, an important support group; by serving in the Senior Senate; by helping to organize the community Meals on Wheels Program; and by bringing optimism and hard work to the variety of additional voluntary activities she is involved in, Maggie Fegal has made a real difference.

The spirit of philanthropy is stronger than ever. In no other time have so many citizens given so much time and money to create a better tomorrow. Although those who give of themselves do not ask for credit, we ought to recognize their generous spirit. I urge my colleagues who are not cosponsors to join and help make November 16, 1990, National Philanthropy Day.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 293

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 persons, including approximately 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $104,000,000,000 in 1988 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and organizations that aid and comfort the disadvantaged, sick, and elderly; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of the people who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

By Mr. PELL (for himself, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. COCHRAN, Mr. HATCH, Mr. DODD, Mr. JEFFORDS, Mr. SIMON, Mr. THURMOND, Ms. MIKULSKI, Mr. COATS, Mr. ADAMS, and Mr. DURENBERGER):

S.J. Res. 294. Joint resolution to designate May 4, 1990, as Department of Education Day; to the Committee on the Judiciary.

DEPARTMENT OF EDUCATION DAY

● Mr. PELL. Mr. President, this year marks the 10th anniversary of the creation of the U.S. Department of Education. As an original cosponsor of the legislation to create a Cabinet-level Department of Education, I am therefore proud to introduce a joint resolution to celebrate this 10th anniversary, and to urge my colleagues to join me in supporting it.

It is often said that education is primarily a State and local matter, and so it is. Over 90 percent of all funds spent on education in the United States are from State and local sources. This does not, however, reflect the small but critical role that Federal aid plays in the enhancement of education in our Nation.

Federal student aid—from Pell grants, to Stafford loans, to college work study, to Perkins loans, to supplemental grants, to graduate assistance programs—accounts for three-fourths of all aid available to students seeking a postsecondary education. Without the Federal presence, postsecondary educational opportunity and access would be very severely diminished.

Federal compensatory education assistance for the poor, as reflected in our proven and popular chapter 1 program, accounts for more than two-thirds of all the money that is spent in this area.

The Federal role in vocational education began in 1917, and it remains a vital and critical role today. While State and local spending may now outstrip the Federal contribution in dollars, the Federal policy remains critically important.

The same is true in a variety of other educational endeavors, be it impact aid, the TRIO Programs, adult education, libraries, or special education.

Most important, representation in the Cabinet means that the concerns of education are heard at the highest level of our Government. No longer does education take a back seat. It is at the table from the outset. That is how it should be.

For many years I have contended that the real strength and health of America cannot be measured by our weapons of destruction, our machinery of construction, or the amount of gold in Fort Knox. To my mind, the real strength and health of our Nation is found in the sum total of the education and character of our people.

Be it our industrial machinery, our scientific capabilities and accomplishments, our ability to build and maintain a strong defense, or our cultural advancements, all depend in large measure on the education of our people.

I may not always agree with the actions and decisions of officials in the Department of Education, but that by no means lessens my enthusiasm for the Department itself. If it has problems, then we must seek to solve them. If it has failings, then we must seek to overcome them. But the important fact is that it is there in the center of things, at the heart of the debate in the highest circles of our Government, which is precisely where the discussion of education should be.

Mr. President, I salute the Department of Education on this, its 10th birthday. I applaud it for a job well done during its first decade. But most important, I challenge those in the Department to build on what has been accomplished. It is without question that education should be one of our Nation's top priorities, and that those who labor on behalf of education, be they in the Department or the class-

room, should strive to achieve the education of excellence so very critical to our Nation's well-being. The Department has a very important role to play in our Government, but it is a role that depends, as does all of education, upon the people who staff it. Thus, on this 10th anniversary, I salute the Department, but I pay special tribute to the people who give it life and meaning.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 294

Whereas education is a vital national concern and a State and local responsibility fundamental to the progress and security of our Nation;

Whereas a continuing need exists to ensure that all Americans have equal access to educational opportunities that enable all Americans to achieve their fullest potential;

Whereas, on May 4, 1980, the United States Department of Education was created as a Cabinet-level agency to ensure that education issues receive proper attention at the Federal level and to coordinate the education activities of the Federal Government effectively;

Whereas the Department of Education administers important Federal programs to assist elementary, secondary, and postsecondary education; collects data and oversees research and assessment on America's schools and disseminates such information to educators and to the general public; identifies and focuses attention on the main issues and problems in education; enforces Federal statutes that prohibit discrimination in programs and activities receiving Federal funds; and ensures equal access and educational opportunity for all individuals; and

Whereas officials and employees of the Department of Education through dedication, diligence, loyalty, and integrity reflect the highest quality of public service and deserve recognition as the Department of Education celebrates its tenth anniversary: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 4, 1990, is designated as "Department of Education Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join with other members of the Committee on Labor and Human Resources in cosponsoring this resolution commemorating the 10th anniversary of the formation of the Department of Education. I am happy to be the ranking Republican member on the Education Subcommittee as we highlight this anniversary.

As we mark this milestone in the Department's history, we are fortunate to have a President who has made education a priority in his administration. As the "Education President," President Bush called together the Nation's Governors in September for a landmark summit on education. This 2-day meeting was only the third meeting of its kind in the history of our country.

At the summit, the President and Governors put forth the idea of national goals, and a list of six national education goals was recently adopted by the National Governors Association. I hope these national education goals will spur local schools to define their own educational goals and establish specific measureable outcomes to assess progress in areas of particular importance to their schools and communities. While our vision for education may be national in scope, its delivery rests squarely in the hands of local officials.

So as we celebrate this 10th anniversary, I hope that educators across the country will observe this event and recognize the work of the caring, committed individuals at the Department—both in Washington and across the country in the regional offices. I hope that local educators will also take time to reflect upon the achievements they have made and the goals to which they aspire.●

Mr. HATCH. Mr. President. This year marks the 10th anniversary of the creation of the Department of Education. In the last 10 years we have seen the public understanding of the importance of education grow dramatically. Former Secretary Terrel Bell, a fellow Utahn, instigated this self-examination with the famous document "A Nation at Risk," which forced all of us to take another look at our educational system and the needs of our people for better training and education. Since then, all 50 States have responded by enacting their own reforms and trying out new ideas.

President Bush and Secretary Cavazos have worked closely with the States to set new national goals for achieving educational excellence. We are entering a new era in education, a time when the Federal Government needs to work with local and State government leaders to encourage innovation. The Federal Government must provide more flexibility in Federal rules and regulations, while maintaining accountability, so that the unique needs of every local school district can be met. I commend the President and Secretary Cavazos for their willingness to do this. The efficacy of this policy will be proven in the next 10 years when students in the United States are the best educated in the world.

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. CRANSTON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 22

At the request of Mr. PRESSLER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 22, a bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem.

S. 101

At the request of Mr. SANFORD, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 101, a bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting, and for other purposes.

S. 176

At the request of Mr. HEINZ, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Utah [Mr. HATCH], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act.

S. 185

At the request of Mr. DIXON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 185, a bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian amd military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 421

At the request of Mr. FORD, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 421, a bill to amend the Petroleum Marketing Practices Act.

S. 434

At the request of Mr. REID, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 513

At the request of Ms. MIKULSKI, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from

West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 656

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 656, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 720

At the request of Mr. BOREN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 720, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit, and for other purposes.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. 874

At the request of Mr. FORD, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 874, a bill to establish national voter registration procedures for Presidential and Congressional elections, and for other purposes.

S. 980

At the request of Mr. MITCHELL, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 980, a bill to amend the Internal Revenue Code of 1986 to improve the effectiveness of the low-income housing credit.

S. 1006

At the request of Mr. LEAHY, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1006, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 1214

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1214, a bill to provide that ZIP code boundaries may be redrawn so that that they do not cross the boundaries of any unit of general local government.

S. 1216

At the request of Mr. SIMON, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Rhode Island [Mr. PELL], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1273

At the request of Mr. BOREN, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1308

At the request of Mr. BRADLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1308, a bill to amend title 39 of the United States Code to grant local governments the discretion to assign mailing addresses to sites within their jurisdiction.

S. 1349

At the request of Mr. PRYOR, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Georgia [Mr. FOWLER], and the Senator from Idaho [Mr. MCCLURE], were added as cosponsors of S. 1349, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements.

S. 1384

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1384, a bill to amend title XVIII of the Social Security Act to provide direct reimbursement under part B of Medicare for nurse practitioner or clinical nurse specialist services that are provided in rural areas.

S. 1452

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1452, a bill to amend the Communications Act of 1934 to require that communications services be more universally available and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1557

At the request of Mr. ROTH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1557, a bill to amend title 17, United States Code, to permit the unlicensed viewing of videos under certain conditions.

S. 1664

At the request of Mr. HEINZ, the namesof the Senator from New York [Mr. D'AMATO] and the Senator from Illinois [Mr. SIMON], were added as cosponsors of S. 1664, a bill to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941.

S. 1690

At the request of Mr. DODD, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1690, a bill to establish programs to improve foreign language instruction, and for other purposes.

S. 1791

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1791, a bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes.

At the request of Mr. ROCKEFELLER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1791, supra.

S. 1878

At the request of Mr. GRAHAM, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1878, a bill to amend title XIX of the Social Security Act to allow for State matching payments through voluntary contributions and State taxes.

S. 1890

At the request of Mr. THURMOND, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 1893

At the request of Mr. LAUTENBERG, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1893, a bill to reauthorize the Asbestos School Hazard Abatement Act of 1984.

S. 1903

At the request of Mr. HATCH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1903. a bill to amend the Public Health Service Act to establish Federal standards to ensure quality assurance in private sector drug testing programs, and for other purposes.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional State-wide service, and for other purposes.

S. 1977

At the request of Mr. DASCHLE, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1977, a bill to amend the U.S. Grain Standards Act to improve the competitive position of U.S. grain in international and domestic markets, to facilitate the communication of quality characteristics that final buyers of grain desire, to provide certain incentives to producers of high quality grain, and to improve the quality of farm-owned and federally owned reserve grain stocks, and for other purposes.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2025

At the request of Mr. HEINZ, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2025. a bill to amend the Internal Revenue Code of 1986 to make permanent certain expiring tax provisions.

S. 2039

At the request of Mr. COCHRAN, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Virginia [Mr. ROBB], the Senator from Missouri [Mr. DANFORTH], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2048

At the request of Mr. SARBANES, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Rhode Island [Mr. PELL], the Senator from Delaware [Mr. BIDEN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2077

At the request of Mr. GRASSLEY, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2077, a bill to amend the Federal Aviation Act of 1958 to limit the age restrictions imposed upon aircraft pilots.

S. 2079

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2079, a bill to amend the Immigration and Nationality Act to provide for temporary protected status for Lebanese nationals.

S. 2119

At the request of Mr. KASTEN, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2119, a bill to amend the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to increase the total amount of commitments which may be made to finance projects for housing and infrastructure in Israel for Soviet refugees, and for other purposes.

S. 2146

At the request of Mr. DASCHLE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2146, a bill to clarify the authority of the Small Business Administration to make disaster assistance loans to small businesses in case of disasters determined by the Secretary of Agriculture.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2176

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2176, a bill to provide better enforcement of the environmental laws of the United States, and for other purposes.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2188

At the request of Mr. COCHRAN, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2188, a bill to amend the Rural Development Act of 1972 to provide for the establishment of rural health and safety education programs, and for other purposes.

S. 2198

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2198, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 2222

At the request of Mr. BRADLEY, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Indiana [Mr. COATS], the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. STEVENS], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2222, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 2229

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Alabama [Mr. SHELBY], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2229, a bill to reauthorize the Head Start Act for fiscal years 1991 through 1994, and for other purposes.

S. 2234

At the request of Mr. DASCHLE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2234, a bill to extend the price support program for wool and mohair.

S. 2240

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Wisconsin [Mr. KOHL], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Tennessee [Mr. SASSER], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2240, a bill to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes.

S. 2244

At the request of Mr. GLENN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2244, a bill to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuisance species.

S. 2263

At the request of Mr. GORTON, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2263, a bill to authorize a certifi-

cate of documentation for the vessel *Captain Daryl.*

S. 2300

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2300, a bill to provide financial assistance to the Simon Wiesenthal Center in Los Angeles, CA, for the education programs of the Museum of Tolerance.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

S. 2312

At the request of Mr. SYMMS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 2314

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2314, a bill to amend the Agricultural Act of 1949 with respect to the level of milk price support in effect for 1991 through 1995.

S. 2327

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2327, a bill to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses.

S. 2337

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2337, a bill to amend the Trade Act of 1974 to provide for review by the Trade Representative of compliance by foreign countries with trade agreements.

S. 2349

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2349, a bill to establish in the Department of Commerce an Office of International Technology Monitoring.

S. 2356

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2366

At the request of Mr. BOND, the names of the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. COATS], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2366, a bill to encourage States to establish parents as teachers programs.

S. 2369

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2369, a bill to initiate actions under section 310 of the Trade Act of 1974 with respect to the trade barriers of Japan that are the subject of the structural impediments initiative.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2393

At the request of Mr. EXON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2393, a bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes.

S. 2400

At the request of Mr. ARMSTRONG, the names of the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. HELMS], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 2400, a bill to amend section 7430 of the Internal Revenue Code of 1986 with respect to eligibility of taxpayers to receive attorney fees and other costs.

S. 2408

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 2408, a bill to establish a system for labeling of plastic resin products, and to promote recycling of plastics and use of degradable plastics.

S. 2422

At the request of Mr. BOND, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2422, a bill to establish a research program for the development and implementation of new technologies in food safety, and for other purposes.

S. 2425

At the request of Mr. KERRY, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2425, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending and public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 2434

At the request of Mr. D'AMATO, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2434, a bill to permit the implementation of the Department of Transportation antidrug program rule for recipients of Federal mass transit assistance.

S. 2443

At the request of Mr. ARMSTRONG, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2443, a bill to amend the Internal Revenue Code of 1986 to provide that the rate of interest on overpayments and underpayments of tax be the same.

SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATE JOINT RESOLUTION 224

At the request of Mr. BYRD, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], the Senator from Texas [Mr. BENTSEN], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the month of May 1990 as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. THURMOND, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating the week of April 22 through April 28, 1990, as "National Crime Victims Rights Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. BOSCHWITZ, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from South Dakota [Mr. PRESSLER], the Senator

from Michigan [Mr. LEVIN], the Senator from Wyoming [Mr. WALLOP], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 248, a joint resolution to designate the month of September 1990 as "International Visitor's Month."

SENATE JOINT RESOLUTION 265

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM], the Senator from North Dakota [Mr. CONRAD], the Senator from Colorado [Mr. WIRTH], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 265, a joint resolution commemorating May 18, 1990, as the 25th anniversary of Head Start.

SENATE JOINT RESOLUTION 267

At the request of Mr. THURMOND, the names of the Senator from California [Mr. WILSON], the Senator from Kansas [Mr. DOLE], the Senator from Alabama [Mr. HEFLIN], the Senator from Washington [Mr. GORTON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Louisiana [Mr. BREAUX], the Senator from Texas [Mr. BENTSEN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 267, a joint resolution to authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 269

At the request of Mr. D'AMATO, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 269, a joint resolution authorizing and requesting the President to designate the second week of March 1990 as "National Employ the Older Worker Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY], was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate the week beginning June 10, 1990 as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Wyoming [Mr. WALLOP], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Prevention Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the names of the Senator from Missouri [Mr. BOND], the Senator from New Jersey [Mr. BRADLEY], the Senator from Indiana [Mr. COATS], the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Delaware [Mr. ROTH], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 278

At the request of Mr. ROCKEFELLER, the names of the Senator from Missouri [Mr. BOND], the Senator from Kentucky [Mr. FORD], the Senator from California [Mr. WILSON], the Senator from Alabama [Mr. SHELBY], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. EXON], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. D'AMATO], the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Mr. DIXON], the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. DODD], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Mexico [Mr. DOMENICI], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating July 19, 1990 as "Flight Attendant Safety Professionals' Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 281

At the request of Mr. DECONCINI, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alabama [Mr. SHELBY], the Senator from Washington [Mr. ADAMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Illinois [Mr. DIXON], the Senator from Utah [Mr. GARN], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 281, a joint resolution to designate September 13, 1990, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 282

At the request of Mr. WILSON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alabama [Mr. HEFLIN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 282, a joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. BOND], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE CONCURRENT RESOLUTION 53

At the request of Mr. BOSCHWITZ, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of Senate Concurrent Resolution 53, a concurrent resolution concerning Iranian persecution of the Baha'is.

At the request of Mr. DODD, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of Senate Concurrent Resolution 53, supra.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 96

At the request of Mr. FORD, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Virginia [Mr. ROBB], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Concurrent Resolution 96, a concurrent resolution to urge the administration in the strongest possible terms not to propose civil air transport services for inclusion under the General Agreement on Tariffs and Trade [GATT], or the proposed General Agreement on Trade in Services

[GATS], and to actively oppose any proposal that would consider civil air transport services as a negotiation item.

SENATE CONCURRENT RESOLUTION 102

At the request of Mr. DIXON, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 102, a concurrent resolution expressing the sense of Congress regarding the existing borders between Germany and Poland.

SENATE CONCURRENT RESOLUTION 112

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Concurrent Resolution 112, a concurrent resolution expressing the sense of the Congress that the United States should seek to obtain an advisory opinion for the International Court of Justice concerning the right of self-determination of the people of Lithuania.

SENATE CONCURRENT RESOLUTION 115

At the request of Mr. LAUTENBERG, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Virginia [Mr. ROBB], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Concurrent Resolution 115, a concurrent resolution to express the sense of the Congress regarding future funding of Amtrak.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 263

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD], was added as a cosponsor of Senate Resolution 263, a resolution to express the sense of the Senate regarding the need to establish a sound national transportation policy integrating all modes of transportation and maintaining a significant Federal role.

SENATE RESOLUTION 270

At the request of Mr. SIMON, the name of the Senator from Oklahoma [Mr. BOREN], was added as a cosponsor of Senate Resolution 270, a resolution expressing the sense of the Senate regarding the urgent famine situation in Ethiopia.

SENATE CONCURRENT RESOLUTION 122—ESTABLISHING THE ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. HATFIELD submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 122

Whereas a need exists to facilitate understanding, communication, and cooperation between Congress and the scientific education community;

Whereas the scientific education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers; and

Whereas secondary school science and mathematics teachers can provide insight into education programs that work effectively in the classroom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FELLOWSHIP PROGRAM.

(A) IN GENERAL.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate are authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education to establish an Albert Einstein Congressional Fellowship Program (referred to in this joint resolution as the "fellowship program"), which provides for each fiscal year, beginning with fiscal year 1991, two fellowhips within the House of Representatives (referred to in this joint resolution as the "House fellowships") and two fellowships within the Senate (referred to in this joint resolution as the "Senate fellowships").

(b) RESPONSIBILITIES.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate may enter into the agreement described in subsection (a), and fund fellowships as specified in section 4(a), only if the Triangle Coalition for Science and Technology Education—

(1) undertakes the application responsibilities referred to in section 2(a);

(@) participates in the evaluation referred to in section 3; and

(3) provides the funding for administration and evaluation costs referred to in section 4(b).

SEC. 2. SELECTION PROCESS.

(a) APPLICATION.—The Triangle Coalition for Science and Technology Education shall—

(1) publicize the fellowship program;

(2) develop and administer an application process; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives, in consultation with the Minority Leader of the House and with the chairmen and ranking minority party members of the Committee on Education and Labor of the House of Representatives and the Committee on Science, Space, and Technology of the House of Representatives, shall select the recipients of the House fellowships.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate, in consultation with the Minority Leader of the Senate and with the chairmen and ranking minority party members of the Committee on Labor and Human Resources of the Senate and the Committee on Commerce, Science, and Transportation of the Senate, shall select the recipients of the Senate fellowships.

(c) PLACEMENT OF FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives, in consultation with the Members referred to in subsection (c)(1), shall place one fellowship recipient on the staff of the Committee on Education and Labor of the House of Representatives, and one recipient on the staff of the Committee on Science, Space, and Technology of the House of Representatives. Either or both of these recipients may instead serve on the personal staff of a member of the House of Representatives.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate, in consultation with the Members referred to in subsection (c)(2), shall place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and one recipient on the staff of the Committee on Commerce, Science, and Transportation. Either or both of these recipients may instead serve on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Recipients shall be selected from a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of their skills, experience, and ability as science or mathematics teachers.

(e) COMPENSATION.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives shall fix the compensation of each recipient of a House fellowship.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate shall fix the compensation of each recipient of a Senate fellowship.

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of up to 1 year.

SEC. 3. EVALUATION.

The Chairmen of each committee referred to in section 2(b) and the Executive Director of the Triangle Coalition for Science and Technology Education shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as appropriate, an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SEC. 4. FUNDING.

(a) FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—FOr fiscal year 1991, the funds necessary to provide any House fellowships shall be paid from the contingent fund of the House of Representatives, but not to exceed a total of $37,500 for the House fellowships.

(2) SENATE FELLOWSHIPS.—For fiscal year 1991, the funds necessary to provide any Senate fellowships shall be paid from the contingent fund of the Senate, but not to exceed a total of $37,500 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Triangle Coalition for Science and Technology Education shall provide the funds necessary for the administration of the fellowship program and for the evaluation referred to in section 3.

● Mr. HATFIELD. Mr. President, Over the last 2 years I have been ac-

tively involved in efforts to increase public focus on the importance of mathematics and science education. I am tremendously pleased that this week the Senate Labor Committee will hold the initial hearing on S. 2114, the Excellence in Mathematics, Science and Engineering Education Act of 1990—introduced in February by Senator KENNEDY and me. With this legislation, we are beginning the process by which we will reverse current trends and begin to see significant improvement in our children's achievement in these areas in the next decade.

However, Mr. President, I remain concerned that the action we take at the Federal level be appropriate and responsive to the needs of our local and State educators. The success of our efforts to improve mathematics and science education in this country will not be measured in Washington. It will be measured in rural Oregon, in urban New York and in every city and town in between. We therefore cannot legislate in isolation. We need input from the foot soldiers on the front lines—our teachers. It is our responsibility to facilitate better understanding, communication, and cooperation between the scientific education community and Congress.

With the enactment in 1983 of the Economic Security Act, Congress established the Presidential Awards for Excellence in Science and Mathematics Teaching to identify outstanding middle school and high school teachers. To date, over 700 teachers have been invited to Washington to be recognized for their achievement, professionalism, and contribution to science and mathematics instruction. These are the true heroes of our impending revolution.

These teachers and other educators who have achieved similar recognition represent a body of experience and knowledge from which Congress can and should draw. Not only do we need their insight on effective programs, we need their experience on what works in our classrooms. We will benefit from their perspective on policies that will promote national progress to meet the recent goal set by the President, and reenforced by S. 2114, to assist our youth in making substantial gains in mathematics and science achievement by the year 2000.

Therefore Mr. President, I am pleased to introduce today legislation to establish the Albert Einstein Congressional Fellowship Program for our Nation's mathematics and science teachers. My legislation will provide two fellowships in the Senate and two fellowships in the House of Representatives for the 1991 fiscal year to allow teachers to participate in the policymaking process. Secondary school teachers of mathematics and science will be eligible to apply for a fellowship on the staff of a congressional committee concerned with education and science.

Mr. President, this small effort is intended to increase access by our teachers to the policymaking arena, and to bring to Congress new insights and the practical experience of secondary school science and mathematics educators. I believe this program will greatly enhance the legislative process.

This legislation has strong support across the country. Both the National Science Teachers Association and the National Council of Teachers of Mathematics have endorsed the legislation. The Triangle Coalition, a consortium of over 95 national organizations and over 30 affiliated local alliances representing business, industry, labor, scientific and engineering societies, assisted in the formulation of this legislation and strongly supports its enactment. I am also pleased that my colleague, Representative TOM SAWYER of Ohio, has introduced companion legislation in the House today.

I encourage the Senate, Mr. President, to recognize the need for active participation by our educators in the legislative efforts formulated at the Federal level. Given the magnitude of the emerging crisis in science and mathematics education, this need cannot be overstated.

National interest in improving our students' achievement in mathematics and science education is growing daily. In the last few weeks alone, both Newsweek and the Washington Post have featured articles on the need to broaden the pool of those interested in science. These articles clearly demonstrate, Mr. President, that improvement in mathematics and science education has become increasingly critical.

I ask unanimous consent that the two articles, entitled "Not Just for Nerds," and "Scientists Say Basic Research Is Hurt by Cut in New Grants," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SCIENTISTS SAY BASIC RESEARCH IS HURT BY CUT IN NEW GRANTS

(By William Booth)

The whole thing seemed so unscientific. But the members of the American Society for Cell Biology and the American Society for Biochemistry and Molecular Biology were concerned, incensed, alarmed. So, for the first time in their long histories, the two societies hired themselves a lobbyist.

"A lot of the membership thought it was repugnant," said William Lennarz, president of the biochemical and molecular biology society. "But I thought it was necessary."

Lennarz and his colleagues were disturbed by trends they see at the National Institutes of Health (NIH) and the National Science Foundation (NSF), the federal agencies that fund the majority of academic scientists in the United States—the "individual investigators" who run small research programs at the universities and who do basic, as opposed to applied, scientific research. It is basic research, the scientists point out, that makes the discoveries that go on to find practical application. Virtually all the medical advances reaching patients today came out of basic research laboratories a decade or more ago, when funding was richer.

"These mom-and-pop operations are the future of science in our country. And the bottom line is real simple: the number of new grants is going down, not up," said Lennarz, a professor at the State University of New York at Stony Brook.

Most of the country's scientists, including those who eventually work in industry, are trained by individual investigators supported by federal grants. As fewer new grants are awarded, Lennarz predicted that fewer young people will enter science. Some heads of research labs already say privately that some of the brightest young minds are already opting for careers outside of science because they "see the handwriting on the wall." Already, a young scientist's chance of winning support from the government, even after his research proposals are approved, is less than one in four.

Scientists contend that if current trends continue. America will lose its lead in basic science. "America stands on the top of the heap in biotechnology," Lennarz said. "But if we keep losing our young people, we're going to go the way we went with automobiles and steel."

The funding formulas are not without paradox, according to scientists. On the surface, the science agencies have their biggest budgets ever. But fewer and fewer new scientists are getting funded. In addition, many core programs in math, physics, engineering and biology are shriveling up, scientists say.

NIH is enjoying the largest budget in its history. President Bush requested $7.9 billion for fiscal 1991, up $350 million from the current fiscal year. NIH is supporting 20,300 grants this year, another record.

But most of these awards are "continuing grants," meaning that the scientist is simply getting the second, third or fourth year installment of money committed to the researcher by the government.

The grants that indicate current trends are the "new and competing renewal grants," those awards made to researchers who are applying for new funds or are competing against other scientists to renew federal support for their research. This year, NIH plans to award about 4,600 new and competing grants, down from a peak of 6,400 in 1987.

"That is what is alarming," Lennarz said.

Meanwhile, fewer and fewer of the grants approved by special peer review committees are actually funded. In the mid-1980s, the award rate peaked at 38 percent. In 1991, it is expected to be 24 percent, a historic low. In other words, only one-quarter of the research ideas judged worthy of pursuit will be supported.

A final straw, Lennarz said is the practice of subjecting grants to "downward negotiations" of between 10 and 14 percent after they are awarded. Despite the name, they are obligatory, across-the-board cuts.

At the NSF, the federal agency that funds non-medical, non-military research, the trends are similar. Even though the NSF budget may double from its 1987 level to $3.2 billion by 1994, scientists contend that many core programs at NSF are suffering.

"The rhetoric does not square with reality," said John C. Crowley, vice president of the Association of American Universities, which dissected the NSF budget recently.

"Most research programs are not gaining ground consistent with announced national goals and documented needs. Instead, they are weakening steadily. Despite good intentions on all sides, the game plan is losing."

Between 1988 and 1990, two-thirds of the competitive research programs in four of the largest research areas funded by NSF have been cut to below their 1988 levels, according to Crowley. "The programs that support the bulk of individual investigators are shrinking," Crowley said.

The reasons for the decline are many. Large projects consume some of the increases. For example, many biologists who do basic science fear that NIH's commitment to the Human Genome Project, an ambitious but rather mechanical crash program to decode all the genes that create a human, is siphoning funds from basic science. AIDS funding has also absorbed large portions of the increases at NIH.

At NSF, much of the increase in recent years has gone to programs to bolster science education, to give minorities and women greater access to science careers and to build special facilities such as telescopes and supercomputing centers.

"There is a problem at NSF and NIH, no question about it," said White House science adviser D. Allan Bromley.

Part of the problem, Bromley said, comes from the fact that NSF and NIH extended the length and size of grants a few years ago. He also said that there are now more young scientists than ever applying for federal funds. In addition, Bromley said Congress has also repeatedly given less to NSF than Presidents Reagan or Bush requested.

Crowley said that there was another problem, as well. "There is an imperative operating in politics that favors the new, the dramatic, the big," Crowley said. In this kind of atmosphere, the little guy gets squeezed. In Congress and the administration, "Everybody loves science, but it's nobody's No. 1 priority."

NOT JUST FOR NERDS

You may not recall the difference between DNA and the PTA, but you've no doubt heard about the science-literacy crisis. Every year brings a fresh set of revelations about America's seemingly boundless superstition and ignorance. Fully 40 percent of the nation's adults think alien creatures have visited Earth, according to studies by Jon Miller, director of Northern Illinois University's Public Opinion Laboratory. Only 45 percent of us know the planet revolves annually around the Sun, and just 46 percent have accepted that humans evolved from earlier species. The prescience era even has its acolytes in the White House. Ronald Reagan admits to being interested in astrology and permitted his wife's obsession with pseudoscience to influence the presidential schedule.

While hocus-pocus thrives in high places, one international study after another places U.S. school kids near the bottom of the heap in mathematical achievement. The Educational Testing Service reported last year that Korean 13-year-olds succeeded twice as often as Americans at solving a two-step mathematical problem, such as determining an average. Three times as many could design a simple scientific experiment. University of Michigan researchers have documented similar achievement gaps between Chinese and American children of various ages. Other investigators have shown that average Japanese 12th graders have a better command of mathematics than the top 5 percent of their American counterparts. Indeed, a 1989 report by the National Research Council estimates that three quarters of the nation's graduating high-school seniors leave school without the skills to survive a college-level math or engineering course.

These unrelenting poor results have managed to restore science education to the nation's list of unmet crises. Science—with its drab lab coats, pocket penholders and flaming Bunsen burners—suddenly seems more important. Brains are beautiful! The nation needs its nerds; maybe we all better become nerds. The alternative, say the mighty coalition of teachers, business leaders and public officials, is trouble. Without more and better technical education, the argument runs, future workers will be ill prepared for even the most routine jobs. The United States will lack the engineering talent to compete effectively in the new global economy. Worse yet, voters won't be able to make sensible decisions about waste management or global warming or genetic experimentation or new missile systems. None of those claims is beyond dispute—indeed, some scientists take issue with each of them—but no one denies that something is seriously wrong.

Open eyes: Science is simply a way of looking at the world. At root, it consists of asking questions, proposing answers and testing them rigorously against the available evidence. As the popular astronomer Carl Sagan wrote recently, "Science invites us to let the facts in, even when they don't conform to our preconceptions. It counsels us to carry alternative hypotheses in our heads and see which best match the facts." For all the natural forces it explains, science is a course in analytical thought.

Unfortunately, few American students ever get to taste real science, for few of the nation's schools teach it. All parties now seem to agree that American science education serves not to nurture children's natural curiosity but to extinguish it with catalogs of dreary facts and terms. "The questions we're all interested in concern the universe we live in, the way our bodies work, what the mind is, how all these things are integrated," says Stephen Toulmin, a physicist turned philosopher at Northwestern University. As most of us know firsthand, those aren't the kinds of questions that kids are encouraged to ponder. Instead, says Toulmin, "we teach them to solve differential equations, to handle test tubes without breaking them."

Whether out of boredom, laziness or the allure of other pursuits, American students are fleeing math and science in droves. By the third grade, half of all students don't want to take science anymore, says Edward Pizzini, associate professor of science education at the University of Iowa; by the eighth grade, only 1 in 5 wants to keep going. Fewer than half ever take a math or science course after the 10th grade, and only 1 percent study calculus, a subject pursued by 12 percent of Japan's high-school students. The proportion of college students who major in engineering is six times as high in Japan (4 percent) as in the United States (.7 percent). And the U.S.-born engineering doctorate is almost a thing of the past. Foreign nationals now receive a quarter of the natural-science Ph.D.s and more than half of the engineering Ph.D.s awarded in this country.

Sense of crisis: All of which raises economic concerns. Thanks largely to the influx of foreign graduate students, the nation's annual Ph.D. crop has so far held steady as a percentage of the population. But many analysts predict actual shortages of Ph.D. scientists by the mid-1990s unless more students are drawn into the pipeline—particularly more minority students. Historically, science and engineering have been overwhelmingly white, male enclaves; in a 1986 count, only 2.5 percent of the nation's engineers were black and even fewer Hispanic. But both of those groups are now growing fast as a percentage of the population, and the proportion of white males is declining. To keep up, science will have to attract more minority and female students.

Stirred by the sense of crisis, various groups—school boards, corporations, foundations, the federal government—have launched ambitious initiatives to help create a more science-savvy populace. Project 2061, a massive program sponsored by the American Association for the Advancement of Science, now has six teams of elementary educators working up a plan to revise the nation's primary schools. The National Science Teachers Association has its own nationwide "scope sequence and coordination project"; 10,000 members of the NSTA will meet this week in Atlanta to chart the crisis, among other things. The National Science Foundation is offering grants to states that want to revamp their science- and math-education programs. The National Research Council and the Smithsonian Institution have joined forces to set up a National Sciences Resources Center to train teachers and help bring real science into the schools. The list goes on.

These may all be worthy efforts. The current system is repelling vast numbers of Americans from a fascinating human endeavor, and it may be depriving the nation of a new generation of technical innovators. To the extent that better teaching can alleviate our ignorance and stoke the economy, no one is likely to oppose it. Nonetheless, a few apostates question whether the situation is as dire, or better teaching as sure a cure, as the science boosters proclaim. Will the demand for scientists and engineers really go unmet for any duration, they ask. Is a working knowledge of science in fact essential to productive employment? To good citizenship?

Morris Shamos, an emeritus professor of physics at New York University, thinks not. The impending manpower shortage, he argues, has never been unambiguously documented. "We have seen spot shortages of scientists and engineers in the past and will continue to see them in the future, simply because the supply cannot be turned on and off as quickly as the demand," he argues. "But the same is true of surpluses in the field, and we have seen times when engineers were pumping gas or driving cabs."

Professional scientists are not the education advocates' only concern. They warn that numerically controlled machines are fast replacing old drill presses, and that future autoworkers will have to manipulate robots rather than wrenches. Shamos counters that Americans have mastered all manner of gizmos—from personal computers to electronic machine tools—by reading the instructions or attending on-the-job training courses. The fact that few of us can explain what's going on inside these contraptions has yet to cripple us.

There would seem to be even less evidence that science illiteracy is locking people out of the white-collar work force. As Harper's editor Lewis Lapham has observed, "The society bestows its rewards on the talent for

figuring a market, not on the proofs of learning or the subtlety of mind." Ronald Reagan's superstitions didn't slow him down. Nor have Vice President Dan Quayle's scientific failings kept him from becoming chairman of the National Space Council. Why send astronauts to Mars? "We have seen pictures," he explained last fall, "where there are canals, we believe, and water. If there's water, that means there's oxygen. If oxygen, that means we can breathe. And therefore, from the information we have right now, Mars clearly offers the best opportunity to see if a man or a woman can be able to survive on that planet."

Atomic poetry: As for the argument that good citizenship requires a working knowledge of science, it's true that public-policy issues have become increasingly technical. It's also true that scientists are often as bitterly divided on them as the rest of us. People who are familiar with science can argue more effectively about the pros and cons of pesticides or nuclear power. But if science is needed for more effective debate, asks Harvey Brooks, emeritus professor of technology and public policy at Harvard, what about other disciplines? Central American history, say, or economics? What about geography? Just last year, young Americans placed last among 10 nations on a National Geographic quiz about the world's political boundaries. When adults were included, Americans placed sixth. But even then, only 32 percent could find Vietnam on a map. Fourteen percent could not find the United States.

None of this suggests that science doesn't matter. To say a president needn't understand biology is not to say he shouldn't. And trying to raise public awareness of history or geography hardly precludes doing the same with science. The reasons aren't all utilitarian. The insights of science rival those of poetry or music; the contemplation of atomic structure or speculation on the cosmic reaches offer mystery and elegance that would please any supple mind.

Unfortunately, none of us can begin to take in the expanding web of human knowledge; no amount of schooling will make us expert in every new drug, weapon, device, food additive or environmental issue. Since we can't know what's in every black box science sends our way, some critical perspective seems especialy important. Whether we gain that perspective via physics or philosophy is of little consequence. But gain it we must. The alternative is live by the judgment of experts who are no less fallible than we are.●

SENATE RESOLUTION 272—RELATIVE TO THE FAMINE IN THE SUDAN

Mr. SIMON (for himself, Mr. HUMPHREY, Mr. PELL, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. CRANSTON, Mr. HELMS, and Mr. MITCHELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 272

Whereas famine is a direct result of the ongoing civil war in Sudan;

Whereas the Government of Sudan and the Sudanese People's Liberation Army have used food as a political weapon;

Whereas 250,000 Sudanese people, one-quarter of them children, died of famine in 1988;

Whereas Operation Lifeline Sudan, initiated by the United Nations in the spring of 1989, with strong support of the U.S. Government, saved the lives of thousands of Sudanese people through the delivery of 110,000 metric tons of food;

Whereas as many as 760,000 Sudanese people, many of them in garrisoned government-held towns in southern Sudan are threatened with starvation;

Whereas the breakdown in October 1989 of the informal ceasefire and the resumption of intensified fighting hinder famine relief efforts by the international community; and

Whereas in November 1989, the Government of Sudan suspended all cooperation with humanitarian efforts to assist the people of southern Sudan;

Whereas the Government of Sudan and the Sudanese People's Liberation Army have reached agreement on Phase II of Operation Lifeline Sudan: Now, therefore be it

Resolved, That it is the sense of the Senate that—

1. the President should urge the Government of Sudan and the Sudanese People's Liberation Army to adopt an informal ceasefire in order to facilitate relief efforts;

2. the Sudanese People's Liberation Army should immediately cease shelling of the garrison town of Juba;

3. the Government of Sudan should not obstruct the activities of private voluntary organizations assisting with humanitarian relief activities; and

4. the President should encourage the Government of Sudan and the Sudanese People's Liberation Army to implement fully the agreement on Phase II of Operation Lifeline Sudan.

Mr. SIMON. Mr. President, on April 5 I submitted a resolution on the urgent food relief situation in Ethiopia. As a result of an error in the processing of the legislation following my action a second resolution I submitted on the hunger situation in Sudan was not also introduced. In addition, the CONGRESSIONAL RECORD for April 5 indicates in my statement that the Sudan resolution was submitted as Senate Resolution 270. That is incorrect: Senate Resolution 270, as submitted on April 5 concerns the situation in Ethiopia. Therefore, I am submitting today a similar resolution on the situation in Sudan.

The Horn of Africa is in crisis. War and drought once again threaten the lives of millions of people in Ethiopia and Sudan. Senators HUMPHREY, PELL, KASSEBAUM, KENNEDY, CRANSTON, HELMS, and MITCHELL joined me in submitting Senate Resolution 270 on Ethiopia and today join me in submitting a similar resolution on the situation in Sudan. We want to highlight the urgency of finding every possible way to get food relief to people in great need.

We want to impress upon both the Ethiopian and Sudanese Government the need to permit the safe transport of food. We ask the same of the rebel movements. We encourage the United Nations and the international community to respond to this urgent crisis. And we will continue to work with our own administration. I ask unanimous consent that the text of Senate Resolution 270, as introduced on April 5, and the text of Senate Resolution 272, as introduced today, be printed in the RECORD at this point.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

S. RES. 270

Whereas famine threatens the lives of some three million five hundred thousand to five million people in the northern Ethiopian provinces of Eritrea, Tigray, and Wello;

Whereas the major cause of the famine is ongoing civil war;

Whereas all parties to the conflict have deliberately put military objectives above the food needs of innocent civilians;

Whereas cross-border feeding operations are insufficient to meet the desperate needs;

Whereas the northern corridor through the Eritrean Port of Massawa, currently held by the rebel Eritrean People's Liberation Front, is critical to relief efforts to feed some one million five hundred thousand people in need in rebel and government-held areas;

Whereas the Government of Ethiopia has refused to accept the offer made by the Eritrean People's Liberation Front to allow international relief access through Massawa; and

Whereas the relief operation along the southern corridor through Wello Province must be expanded to reach the one million four hundred thousand people estimated to be at risk there: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) all parties to the conflict in Ethiopia must put humanitarian needs above military goals and adopt an immediate ceasefire;

(2) cross-border feeding operations should be expanded to their fullest capacity;

(3) the Government of Ethiopia should permit the Port of Massawa to be opened immediately for the purposes of international relief operations;

(4) the President should encourage all parties to the conflict to adopt an immediate cease-fire;

(5) the President should impress upon all nations supplying military assistance to the parties in the conflict the importance of their role in facilitating a cease-fire;

(6) the President should impress upon the Government of Ethiopia the urgent need of allowing relief access through the Massawa Port and along the northern corridor;

(7) the President should encourage the United Nations to take a more prominent role in coordinating relief efforts in Ethiopia;

(8) the President should call on the Soviet Government to continue to respons to the war and famine in Ethiopia by exerting increased pressure on the Ethiopian regime to allow for the full utilization of all available relief corridors; and

(9) the President should encourage European, African, and other leaders to help facilitate a cease-fire and emergency relief efforts.

S. RES. 272

Whereas famine is a direct result of the ongoing civil war in Sudan;

Whereas the Government of Sudan and the Sudanese People's Liberation Army have used food as a political weapon;

Whereas 250,000 Sudanese people, one-quarter of them children, died of famine in 1988;

Whereas Operation Lifeline Sudan, initiated by the United Nations in the spring of 1989, with strong support of the U.S. Government, saved the lives of thousands of Sudanese people through the delivery of 110,000 metric tons of food;

Whereas as many as 760,000 Sudanese people, many of them in garrisoned government-held towns in southern Sudan are threatened with starvation;

Whereas the breakdown in October 1989 of the informal ceasefire and the resumption of intensified fighting hinder famine relief efforts by the international community;

Whereas in November 1989, the Government of Sudan suspended all cooperation with humanitarian efforts to assist the people of southern Sudan; and

Whereas the Government of Sudan and the Sudanese People's Liberation Army have reached agreement on Phase II of Operation Lifeline Sudan: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

1. the President should urge the Government of Sudan and the Sudanese People's Liberation Army to adopt an informal ceasefire in order to facilitate relief efforts;

2. the Sudanese People's Liberation Army should immediately cease shelling of the garrison town of Juba;

3. the Government of Sudan should not obstruct the activities of private voluntary organizations assisting with humanitarian relief activities; and

4. the President should encourage the Government of Sudan and the Sudanese People's Liberation Army to implement fully the agreement on Phase II of Operation Lifeline Sudan.

AMENDMENTS SUBMITTED

NONDISCRIMINATORY TREATMENT OF PRODUCTS OF THE PEOPLES' REPUBLIC OF HUNGARY

MACK AMENDMENT NO. 1471

(Ordered to lie on the table.)

Mr. MACK submitted an amendment intended to be proposed by him to the bill (H.R. 1594) to extend nondiscriminatory treatment to the products of the Peoples' Republic of Hungary, as follows:

AMENDMENT No. 1471

On page 71, after line 12, insert the following new section:

SEC. . METAL OXIDE VARISTORS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9902.85.33	Metal oxide varistors (provided for in subheading 8533.40.00, 8541.10.00, or 8541.50.00)	Free	No change	No change	On or before 12/31/92".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry, or withdrawal from warehouse for consumption, of an article to which the amendment made by this section applies that was made—

(A) after December 31, 1988, and

(B) before October 1, 1990,

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

CHAFEE AMENDMENTS NOS. 1472 THROUGH 1480

(Ordered to lie on the table.)

Mr. CHAFEE submitted nine amendments intended to be proposed by him to the bill (H.R. 1594, supra), as follows:

AMENDMENT No. 1472

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.52 (relating to 2,5-dimethoxyacetanilide).

AMENDMENT No. 1473

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.61 (relating to 3-(4'-aminobenzamido)phenyl-β-hydroxyethylsulfone).

AMENDMENT No. 1474

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.25 (relating to 4-chloro-2-nitroaniline).

AMENDMENT No. 1475

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.86 (relating to 2,4-dichloro-5-sulfamoylbenzoic acid.

AMENDMENT No. 1476

On page 85, between lines 12 and 13, insert:

SEC. 2014. 50 PERCENT REDUCTION IN DUTY ON CERTAIN HEATING OIL.

(a) IN GENERAL.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new subsection:

"(h) REFINED HEATING OIL.—

"(1) RATE OF DUTY.—The rate of duty on any distillate or residual fuel oil that—

"(A) is described in subheading 271.00.10 of the HTS; and

"(B) is refined in a beneficiary country, is a rate equal to 50 percent of the general column 1 rate of duty under the HTS that would apply to such article but for this subsection.

"(2) ADMINISTRATION.—

"(A) The President shall proclaim the rates of duty imposed under paragraph (1).

"(B) The duty applied under paragraph (1) is in lieu of the duty provided for that article under general column 1 of the HTS."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 213(b) of the Caribbean Economic Recovery Act (19 U.S.C. 2703(b)(3)) is amended by inserting "except as provided in subsection (h)," before "petroleum" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 30th day after the date of the enactment of this Act.

AMENDMENT No. 1477

On page 17, between lines 21 and 22, insert the following new paragraphs:

( ) Heading 9902.84.42 (relating to certain narrow weaving machines).

( ) Heading 9902.84.45 (relating to certain wool carding and spinning machinery).

( ) Heading 9902.84.50 (relating to certain lace braiding machines).

AMENDMENT No. 1478

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.07 (relating to 2-[(3-nitrophenyl)-sulfonyl]ethanol).

AMENDMENT No. 1479

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.42 (relating to 4-chloro-2,5-dimethoxyaniline).

AMENDMENT No. 1480

On page 17, between lines 21 and 22, insert the following new paragraph:

( ) Heading 9902.29.45 (relating to 3,4-diaminophenetole dihydrogen sulfate).

SHELBY AMENDMENT NO. 1481

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 1594, supra, as follows:

Part 1 of subtitle A of title I of the bill is amended by adding at the end the following new section:

SEC. . GARMENTS TREATED AS WATER RESISTANT.

The Additional United States Note 2 to chapter 62 is amended by striking ", lining or inner lining".

DOLE (AND GRASSLEY) AMENDMENT NO. 1482

Mr. DOLE (for himself and Mr. GRASSLEY) proposed an amendment to the bill H.R. 1594, supra, as follows:

At the appropriate place, add the following:

SEC. . ETHYL TERTIARY BUTYL ETHER.

(a) IN GENERAL.—Subchapter I of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9901.00.52 Ethyl tertiary butyl ether (provided for in subheading 2909.19.10) and any mixture containing ethyl tertiary butyl ether	6.66¢/liter	No change (A, E, IL) 5.29¢/liter (CA).	6.66¢/liter	On or before 12/13/92 or the date before 12/31/92 on which Treasury regulation §1.40–1 is withdrawn or declared invalid".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in heading 9901.00.50 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall also apply to the corresponding rates of duty set forth in subheading 9901.00.52 of such Schedule.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

DOLE AMENDMENT NO. 1483

Mr. DOLE proposed an amendment to the bill H.R. 1594, supra, as follows:

At the appropriate place add:

That section 553 of the Tariff Act of 1930 (19 U.S.C. 1553) is further amended—

(a) by redesignating the text of such section as subsection (a) of such section; and

(b) by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), the entry for transportation in bond through the United States of any lottery ticket, printed paper that may be used as a lottery ticket, or any advertisement of any lottery, that is printed in Canada, shall be permitted without appraisement or the payment of duties under such regulations as the Secretary of the Treasury may prescribe, except that such regulations shall not permit the transportation of lottery materials in the personal baggage of a traveler.

This amendment shall be effective fifteen days after the date of enactment of this Act.

BIDEN AMENDMENT NO. 1484

Mr. BIDEN proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 85, after line 12, insert the following new section:

SEC. 2014. EXTENSION OF TRADE BENEFITS TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that:

(1) United States antinarcotics policy places a high priority on assisting the nations of the Andean region of South America, the source of 100 percent of the world's supply of cocaine;

(2) The President and Congress have recognized that United States trade and economic policies play an important role in the overall United States antidrug strategy in the Andes.

(3) The extension of special trade preferences for articles from the Andean region would help revitalize the national economies of the Andes and further United States antinarcotics policy in the region.

(b) SENSE OF CONGRESS.—The Congress urges the President to:

(1) Review the merits of extending the benefits provided under the Caribbean Basin Economic Recovery Act to the Andean region.

(2) Continue to explore additional mechanisms to expand trade opportunities for the Andean region, and report to Congress in a regular and timely fashion on the result of this review.

CRANSTON AMENDMENT NO. 1485

Mr. CRANSTON proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 59, before line 1, insert at the end of title I, subtitle A, part II, subpart B:

"9902.48.18 Toilet paper, of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (Provided for in Subheading 4818.10.00)	3.5%.	No change	No change	On or before 12/31/92.
"9902.48.19 Handerchiefs, cleansing or facial tissues or towels, all the foregoing of cellulose webbing or webs of cellulose fibers, in rolls of a width exceeding 15cm (Provided for in Subheading 4818.20.00)	3.5%.	No change	No change	On or before 12/31/92.

THURMOND AMENDMENT NO. 1486

Mr. THURMOND proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 17, between lines 21 and 22, insert:

( ) Heading 9902.29.27 (relating to tetraamino biphenyl).

DODD AMENDMENT NO. 1487

Mr. DODD proposed an amendment to the bill H.R. 1594, supra, as follows:

At the appropriate place in the bill add the following new section:

"SEC. . Trade Benefits for Nicaragua. Notwithstanding any other provision of law, the President is authorized to designate Nicaragua as a beneficiary developing country for the purposes of title V of the Trade Act of 1974, as amended, and as a beneficiary country under the Caribbean Basin Economic Recovery Act, and any such designation may remain effective for the duration of the calendar year 1990."

MACK (AND GRAHAM) AMENDMENT NO. 1488

Mr. MACK (for himself and Mr. GRAHAM) proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 71, after line 12, insert the following new section:

SEC. . METAL OXIDE VARISTORS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by inserting in numerical sequence the following new heading:

"9902.85.33 Metal oxide varistors (provided for in subheading 8533.40.00, 8541.10.00, or 8541.50.00)	Free	No change	No change	On or before 12/31/92".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a request filed with the appropriate customs officer after September 30, 1990 and before April 1, 1991, any entry, or withdrawal from warehouse for consumption, of an article to which the amendment made by this section applies that was made—

(A) after December 31, 1988, and

(B) before October 1, 1990,

and with respect to which there would have been a lower duty if the amendment made by this section had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on October 1, 1990.

DURENBERGER AMENDMENT NO. 1489

Mr. DURENBERGER proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 102, after line 11, insert the following new subsection:

(e) RAILROAD CARS.—Subparagraph (B) of section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(B)) is amended to read as follows:

"(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or".

On page 102, line 12, strike "(e)" and insert "(f)".

KERRY AMENDMENT NO. 1490

Mr. KERRY proposed an amendment to the bill H.R. 1594, supra, as follows:

On page 75, line 5, after "assembled" insert "or processed".

On page 75, line 7, after "components" insert "or materials".

On page 75, line 20, after "assembled" insert "or processed".

On page 75, line 21, after "components" insert "or materials".

On page 76, line 5, after "components" insert "materials".

NOTICES OF HEARINGS

SUBCOMMITTEE ON INNOVATION, TECHNOLOGY, AND PRODUCTIVITY

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's Subcommittee on Innovation, Technology and Productivity will hold a hearing on Friday, April 20, 1990. The subcommittee will examine the barriers to the sale of United States auto parts to Japanese auto companies located in the U.S. and abroad. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call Chuck Ludlan of the Committee staff at 224-5175, or Pauline Abernathy of Senator LEVIN'S staff at 224-6221.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on Tuesday, April 24, 1990, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 1289, the National Indian Forest and Woodland Enhancement Act and S. 2075, the Indian Environmental Regulation Enhancement Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on Monday April 30, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 1203, the Indian Economic Development Act of 1989; S. 1650, the Indian Employment Opportunity Act of 1989; and the Supreme Court's decision in Cotton Petroleum to be followed by a markup on S. 143, the Indian Development Finance Act, and other committee business.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on S. 1957, a bill to increase the purchase of commercial items by civilian agencies, on Thursday, April 26, at 2 p.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON MINERAL RESOURCES PRODUCTION AND DEVELOPMENT

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Production and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., April 19, 1990 to receive testimony concerning reclamation and bonding practices associated with hard rock mining on Federal and State lands.

The PRESIDING OFFICER. Without objection, it is soordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 19, 1990, at 10 a.m. to hold a hearing on drug prevention campaign.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, April 19, 1990, at 10 a.m. to hold hearings on exchange rates.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Production and Stabilization of Prices of the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, April 19, 1990, at 2 p.m. to hold a hearing in preparation for the 1990 farm bill. The hearing will address deficiency payment problems with regard to barley.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 19, 1990, at 9:30 a.m. on the nomination of Tommy G. Thompson of Wisconsin to be a member of the Board of Directors of the National Railroad Passenger Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 19, 1990, at 2 p.m. on the nomination of John K. Lauber of Maryland to be a member of the National Transportation Safety Board [NTSB].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSUMER

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on the Consumer, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 19, 1990, at 10 a.m. on H.R. 94, the Hotel/Motel Fire Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILIES, DRUGS AND ALCOHOLISM

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Children, Families, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, April 19, at 2 p.m., for a hearing on "Domestic and Family Violence."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, April 19, at 10 a.m., for a hearing on "Math and Science Education: Preparing for Our Environmental and Technological Future."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT,

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Armed

Services Committee, Subcommittee on Readiness, Sustainability and Support be authorized to meet in open session on Thursday, April 19, 1990, at 2 p.m. to receive testimony on Department of Defense base closures and realignments in review of S. 2171, the Department of Defense Authorization Act for fiscal year 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, April 19, 1990, at 9 a.m. in open session to receive testimony on the President's report on the U.S. military presence in East Asia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, April 19, beginning at 10 a.m., to conduct a hearing on S. 2183, the Water Resources Development Act of 1990 and other water resources issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOOSIER HEROES: VINCENNES FIRE CHIEF MAKES SUPREME SACRIFICE VOLUNTEERING TO HELP OTHERS

● Mr. COATS. Mr. President, the city of Vincennes mourns one of its local heroes, a man who made his mark as a volunteer and then died while volunteering to help others who were in serious trouble.

Recently, Lester Stewart, former fire chief of the Vincennes Volunteer Fire Department, died after he had stopped to help the victims of a three-vehicle wreck that sent eight people to the hospital. Stewart collapsed at the scene of the accident on Indiana Route 67 south of Bruceville after coming upon the two cars and a tractor-trailer which were involved in the wreck.

According to press accounts, the first car had hydroplaned on wet pavement and crossed the center line. The car then struck the rear wheels of the tractor-trailer. The driver of the second car swerved in order to avoid the accident occurring ahead. Upon collision both cars left the road, landing in deep ditches. Eight of the nine persons involved were injured and had to be sent by ambulance to the Good Samaritan Hospital in Vincennes. Six were later treated and released; the truck driver was the only person not taken to the hospital.

Chief Stewart was driving with his wife Esther on Indiana 67 between Vincennes and Bruceville when he spotted the accident. He stopped his car, got out to offer assistance, and saw a baby trapped in one of the cars. According to Esther Stewart, her husband climbed a twelve-foot bank in order to reach the vehicle, pulled a 10-month-old infant from the wrecked car, and handed the child to a firefighter who had driven to the scene. After rescuing the baby Stewart suddenly collapsed onto the tailboard of a fire truck. He was rushed to the Vincennes hospital, where he was pronounced dead. The coroner later ruled that death was caused by a heart attack. The child, Nicole Hagemeier, who was a passenger in a vehicle driven by her mother which had crashed when she tried to avoid the accident, was not seriously injured.

Concerning the tragic death of former Fire Chief Stewart, Assistant Fire Chief Richard Teising was quoted as saying: "He died doing what he had been doing for years, volunteering to help other people."

The citizens of Vincennes are mourning the untimely death at age 55 of one of its finest citizens. The infant and her mother are especially grateful for the courage of this former volunteer fire chief who just happened to be passing by that fateful evening. Fire Chief Lester Stewart's presence of mind, prompt action, and characteristically unselfish deed made a heroic difference that night of March 30, 1990.

Our heart-felt condolences go out to Esther Stewart and the Stewart family. And our gratitude goes to the brave volunteers of the Vincennes Fire Department and to volunteers everywhere who, like this Hoosier hero, put themselves on the line for the safety of others each and every day.●

A TRIBUTE TO TOM STUBBS

● Mr. KOHL. Mr. President, today I wish to take a moment to recognize a staff member of mine, Tom Stubbs, who has decided to leave my office to take a position in the private sector. I hope this decision was as hard for him to make as it is for me and my staff to accept.

Tom has been a valuable member of my staff—and will remain a valued friend—for a number of reasons. First, he knows what he is talking about. Tom is one of the most knowledgeable individuals I have met when it comes to issues regarding the Federal budget, business interests, and taxes. I realize he must have been frustrated when, on more than one occasion, I would ask him to review a difficult budget or tax issue for the 14th time. But he always did it—intelligently and comprehensively. In addition to his patient persistence, I could alway rely on Tom to challenge my inclinations. He always made sure that I heard all sides of an issue. And he always made sure that I knew which side he was on.

And that suggests the second reason I will miss Tom. Too often around here we are surrounded by people who say "yes, Senator." Those may be the only two words in the English language that do not come easily to Tom. He has strong beliefs, he has firm values, and he has the courage to express them. I may not have always appreciated his candor, but I always admired it. And even when I did not agree with him, I always understood an issue more fully after talking with him.

Finally, though, I think the strongest testament to Tom's character is the fact that he has been able to keep a healthy sense of perspective. While doing an amazing amount of work for me, he has also found time to go to law school and be a good father and husband. I do not know how he did it, but his wife Mimi continues to claim that she loves him, and his son, Justin, may not be able to speak yet but the look in his eyes when he sees his father is as eloquent statement of love as I have ever seen.

Tom was a great help to me. More importantly, I believe he helped the people of Wisconsin and the country. I will miss him; but I hope and suspect that we have not seen the last of him on the Hill. I wish him well.●

THE HOSPICE OF ST. JOHNS

● Mr. ARMSTRONG. Mr. President, I ask for the privilege today of bringing an outstanding Colorado success story to the attention of the U.S. Senate and the Nation at large. It is the story of the Hospice at St. Johns of Lakewood, CO.

It is a modern success story for two very fundamental reasons. First, the St. Johns Hospice represents a recognition that death is as profound a part of life as birth. It extends intelligent, sympathetic help to individuals facing death and assists families in a situation most of us find difficult to confront. Father Paul von Lobkowitz, founder and executive director of the Hospice, eloquently expresses the philosophy of St. Johns with his statement, "Everyone here is living, in many ways our patients are at the peak of their lives."

Second, St. Johns Hospice is a splendid example of how citizens can recognize a vital human need and directly assume the responsibility for meeting it. The concerned people who founded St. Johns Hospice and continue its operation did not seek government programs to resolve the need. They took direct action to change the situation

as it was in their power to change it. In so doing, they demonstrate once again the finest attributes of the character of the American people.

Mr. President, I ask to have printed in the RECORD a history of the Hospice of St. Johns entitled, "Where the Heart Finds Peace." I commend it to my colleagues and others who are interested in an example of success in meeting the needs of people at the local, personal level where solutions are most effective.

The history follows:

WHERE THE HEART FINDS PEACE

THE HISTORY OF THE HOSPICS OF ST. JOHN

The Hospice of St. John is a remarkable facility located in Lakewood, Colorado. It is operated and staffed by a group of people more dedicated and caring than almost any others I have ever known.

I first heard about the Hospice of St. John in 1984 when I was invited to attend the opening dedication of the Hospice's first free-standing building. Since that time, I have watched with interest as the staff and supporters of this unique facility have worked to build the best hospice in the nation. Their story is a compelling one.

St. John's Hospice offers dying people a place to go when they can find no other place to turn for help. Unique in the state and one of only nine facilities like it in the country, the Hospice is a place where the terminally ill can be secure in knowing that respect will be given to the quality and dignity of their lives. Patients at the Hospice have reached a point where no known cure is available for their illness. And they have decided to live the remainder of their lives in comfort rather than being submitted to further painful and almost certainly hopeless medical procedures.

Over 6,000 people have lived and died at the Hospice since its founding in 1977, 200 of those were AIDS patients. And yet, remarkably, the Hospice has never received any federal or state funding other than Medicaid and Medicare. Most patients are on Medicare, Medicaid and private insurance. And the Hospice relies on the generous donations of supporters of the Hospice, ongoing volunteer assistance, and available grant monies. Memorial contributions and fund raising efforts go on throughout the year.

The Hospice provides complete and compassionate medical care to its patients, 38 beds for adults and a nursery with 3 beds for children. And yet, care at the Hospice costs far less than it would at a traditional hospital. As a matter of tact, the Hospice provides care at a fraction of the cost of a hospital. The average hospital patient can expect to pay anywhere from $750 to $1,000 a day. By comparison, the Hospices cost is approximately $185 a day.

Statistics show that 11% of Medicare dollars go to the costs of patients in their last few weeks of life. At this stage, patients generally require costly and complicated medical treatment. The dramatic cost of health care is causing a health care crisis in this country. But the Hospice of St. John is offering excellent care at a fraction of the cost—without the funding of the federal or state government. Clearly, this type of facility may offer the alternative America needs to consider as a way to conquer future health care needs.

A commitment to service

While it is operated like a residence home, because of their illnesses, patients at the Hospice require more attention and more special medical care than is possible in their own homes. There are significantly more nurses per patient at the Hospice than one would find in a nursing home. And the Hospice staff provide patients with the medical care they cannot receive at home.

To meet the increased manpower needs this type of facility demands, the Hospice has come to rely on a tireless army of volunteers who provide a great deal of the personnel hours. They come from all walks of life and assist in all aspects of patient care. "We recorded over 10,000 hours of volunteer service at the Hospice in 1989," reported Pam Currier, director of volunteers. "That adds up to a savings of roughly $70,000 in wages alone. We have never had to advertise for help. Our volunteers come to us on their own. They are very giving people."

"The quality of service we provide really rests on the trained nurses and volunteers," Father Paul believes. "The Hospice owes its unique spirit largely to them. Many of our patients don't have families and the volunteers and nurses can become close friends. Even patients who have families often find it easier to confide in nurses and volunteers, because they aren't so emotionally involved."

Intense training programs are a part of the Hospice volunteer program. Each volunteer is asked to make a commitment to the Hospice and complete a series of training sessions. Hundreds of people who have volunteered their time over the years, many leaving only when their own age forces them to retire.

In many instances, there is an on-going relationship between the family of a patient and the Hospice. Many family members become volunteers after the death of their loved one. Don Thompson is an example. He was the President of a bank in Denver when his wife was admitted to the Hospice with Lou Gehrig's disease. She was a patient for several weeks. During her stay, Don spent a tremendous amount of time with her at the Hospice. After her death, he participated in the bereavement program where he met the daughter of another Hospice patient. The woman has just lost one of her parents and was going through a loss similar to Don's. They eventually married. Don gave up his job at the bank to become the Director of the Pastoral program at the Hospice. He served several years in that capacity and stepped down only recently when ill health forced him to retire.

A long history

The name plate on Father Paul's office door reads, "Father Paul Prince von Lobkowitz." The title is serious. He grew up in a castle in what is now Czechoslovakia and his lineage runs through history to half the great houses of Europe. In addition, he is an Orthodox priest and a monk of the Sovereign Order of St. John of Jerusalem, one of the surviving branches of the Knights of Malta. It is the Order that founded and operates the Hospice under contract with a volunteer, secular board according to state codes.

Founded in the 11th century, the Knights of Malta are the oldest order of knighthood in the world. The first Order members offered refuge, shelter and medical care to pilgrims on their way to Jerusalem during the Crusades. Today, the modern Hospice continues the mission of the Knights by offering care to those in need, namely individuals with terminal illness. Its mission, as it was in the beginning, is to serve the sick.

Many serve in the Order today as lay Knights. Denver's Knights of Malta volunteer their time and talents to the Hospice, working with patients and raising money to keep the facility afloat. They are a Christian organization, offering fellowhip and a life commitment to service. Father Paul is a religious Knight, having decided early in his life to take the monastic vows of poverty, celibacy, obedience and hospitality and serve as a nurse. And serve he has, in Africa, in East Pakistan (now Bangladesh), and since 1977 in Colorado.

In 1977 when he arrived in Colorado, Father Paul began working in a wing in Georgian House, a nursing home in Lakewood. There he established a hospice ward, the Hospice of St. John, managing six beds for the terminally ill. In 1984 the Hospice of St. John out-grew its space in Georgian House and moved into its present 38 bed facility.

Public recognition

Over the years, the Hospice of St. John has been recognized and honored for its tremendous work. Most of the local Denver television stations and newspapers including the Denver Post and the Rocky Mountain News have run feature stories on the Hospice, telling its story through the stories of its' patients. The national media has shown its' share of interest in the Hospice, too. Charles Kuralt reported on the Hospice for CBS. Tom Brokaw NBC did a program on AIDS that included coverage of the Hospice program. Sandle Stoddard, the author of the first hospice book in America called The Hospice Movement, did a program about the Hospice of St. John for Baltimore television station Channel 2.

In addition to media attention, the Hospice has gained the support of celebrities and performers. Actress Susan Sullivan has been a long-time friend of the Hospice. Her commitment has helped raise much-needed funds. The rock group Boston held a concert fundraiser for the Hospice. Stars from Hollywood and Las Vegas, performers in music, comedy and theater have come together for the benefit of the Hospice of St. John.

The patients are the real story

Oftentimes, we think of facilities like the Hospice as caring only for the elderly. That is not the case with the Hospice of St. John. In fact, the Hospice has cared for ten children in its' nursery over the years. One special child, Jessica Boyce, came to the Hospice not long after it re-located to its present location. Jessica started having medical trouble when she was about three months old. Over the three years that followed, slowly collapsed, congested lungs and seizures had left her dangerously ill many times. Batteries of tests and constant IVs had virtually ruined her tiny veins and she was being fed through a tube that ran directly into her stomach. By the time she was four, Jessica's fragile body had deteriorated so badly that her parents conceded the remainder of her life should be spent in comfort rather than being submitted to painful and almost certainly hopeless attempts at cures.

Jessica was admitted to the Hospice of Saint John just after her fourth birthday. She adjusted well to Hospice life. And while she did not recover, her condition stabilized somewhat. Over the years, she suffered several pneumonias. And no one was quite sure whether or not the small child could see.

She could not speak. But she bonded with many on the nursing staff, responding to touch, and she contributed greatly to the Hospice by visiting patients and bringing a feeling of life and joy to many of the other patients. Jessica died when she was eight.

Another remarkable patient at the Hospice was an elderly woman in her seventies who was a patient for several months. She was extremely ill and by the end had become quite frail. One Wednesday evening she received a call from her grandson in Kansas City. "I'd like to come and show you your great-grandchild," he said, "but I can't afford to fly. I will have to drive. I can leave after work on Friday evening and I promise to drive through the night. I can get there sometime after breakfast Saturday morning if you promise to hold on." The elderly woman took a turn for the worse that night. Her vital signs changed; her blood pressure dropped. The Hospice staff didn't think she would make it through the night. But she held on that night and through the next day and on through Friday. By Friday night her blood pressure was frighteningly low but she hung on all that night and at about 8:30 the next morning, Saturday, her grandson arrived with the child. The woman was unresponsive and completely still. "Wake up, Grandma," the young man pleaded, "your great-granddaughter is here." The woman opened her eyes, held out her hand to the child with a smile and died.

And I must share the story of Mary Jane Whitman. Mrs. Whitman was admitted to the Hospice in December of 1988. She was totally bedridden, suffering from three forms of cancer. Worse still, both of her hips were fractured so she couldn't even ride in a wheel chair. Early in January, she told Father Paul the story of her son who was in a band that she had helped start at Highlands Ranch High School. The members of the band were going to Florida to compete in a national band competition. Mrs. Whitman wanted terribly to go, but her illness made such a trip impossible. Father Paul told her that if she could get herself into a wheel chair, he would see to it that she went to Florida. Within a week, she was in a wheel chair.

So Father Paul made some phone calls, contacting friends of the Hospice in the Highlands Ranch area to help fund the trip. A grant was given that covered Mrs. Whitman's fare as well as that of her husband, her sister and Father Paul, who went along as her nurse. By monitoring her medication, she was able to travel comfortably. She felt no pain and was quite alert throughout the entire weekend. She watched her son and the band win some awards, took part in all of the day excursions around Disney World and the Epcot Center, and returned home the next Monday. Mrs. Whitman celebrated her 50th birthday the Friday after she returned from Florida. Soon thereafter, her condition changed. She died the following Friday evening.

The Hospice of St. John welcomes people of all ages, races, religions and national origins who are suffering from a terminal illness. Its mission is to offer physical, emotional and spiritual care to those who are passing through their final phase of life. The Hospice offers the expertise of experienced physicians, nurses, pastoral staff, social service, and bereavement counselors.

The facility strives to reach the needs of each individual patient. They are allowed to bring their pets—just like home. There is even a resident pet dog, Inky, who offers patients the comfort and companionship that only pets can offer. A volunteer oversees the daily round of the cocktail cart. And smoking is allowed out on the porch * * * as the terminally ill, no one would suggest it might ruin their health!

The Hospice is a place unto itself. Staff and patients learn to adjust to the constant face of death in a building in which everyone draws on their personal strengths to live and work in the heat of life's ultimate event.

To Father Paul von Lobkowitz, Founder and Executive Director, the Hospice is a place where the heart finds warmth and the soul finds peace. "Everyone here is living," Father Paul says, "In many ways our patients are at the peak of their lives. They are in crisis, true, but they absorb life like a sponge. Everything is more important when you are about to lose it."●

FAMILY FRIENDS

● Mr. PRYOR. Mr. President, as chairman of the Senate Special Committee on Aging, I would like to take this opportunity to draw the attention of my fellow Members to a outstanding intergenerational initiative known as Family Friends. This program brings together disabled children and older volunteers, who provide friendship and a helping hand to these children and their families.

Family Friends is a national demonstration program sponsored by the National Council on Aging, with funding for the Robert Wood Johnson Foundation. Tailoring each site to the specific needs and resources of the surrounding area, Family Friends is operating in a number of cities across the Nation, including Cleveland, Hartford, Los Angeles, Florida, Salt Lake City, Omaha, San Antonio, and Washington, DC.

Under Family Friends, volunteers 55 or over provide a broad range of services to disabled children. Volunteer visits occur at least once a week to the home of the child. Depending on the need, a volunteer may assist a child with disabilities in eating, dressing, or washing. The volunteer also may take him or her to the park, museum, or baseball game. For hard-pressed families, these outings may be all that stands between the disabled child and social isolation.

At the same time, a Family Friend volunteer provides the crucial break from care taking for the parent of a disabled child. As a result, a parent can take time to rest or to carry out other responsibilities, without neglecting the needs of the child. Program volunteers also are someone the parent can take to, providing solace when coping becomes difficult. Many of these older volunteers, who have the perspective that comes only with time and the coming to terms with loss, are especially effective in this role.

For program volunteers, Family Friends opens up opportunities to build a relationship with a child in need, as well as with members of the child's family. In providing needed assistance, volunteers earn the love of the disabled child and gain the fundamental sense of satisfaction that comes from helping others. When the lives of many elderly persons are haunted by isolation and loneliness such results are precious.

Of course, the most meaningful testimony to this program's value is spoken by those who participate in Family Friends. Although there are too many letters to cite here, I would like to take a moment to quote from a one or two that are representatives of the praise this program receives. For example, a Family Friends volunteer writes:

[W]hen people question my ability to deal with Family Friends, a program which has taught me how to help a family cope with an unusual situation of having an exceptional child, I tell them to try working with this program and they can find out how fulfilling it is to see a little flower grow and bloom into such a healthier and beautiful plant. To know that the little part I have played in this growth makes my heart swell with pride and with all the love I have given and received and seeing a little one look up, smile, and with impaired speech say—"I love you Ms. Bernie" * * *

Another letter, from a parent of a disabled child reads:

Rosemary comes for three hours on Friday afternoons and it is hard to express in words how much I look forward to that time * * * I enjoy seeing Michael and Rosemary interact. She talks to him constantly. They go on walks and read stories together. She swings with him and helps him play with his toys. They snuggle together in the rocking chair for quiet time.

Michael truly enjoys his time with Rosemary. Though he can't talk, his eyes and face light up at the mention of her name or the sight of her face * * * I enjoy talking to Rosemary too. Her experience with six children of her own is valuable to me * * * This program is a God-send. * * *

Mr. President, there are between 4.8 and 7.2 million children who suffer from chronic health conditions, while as many as 1 to 2 million need special help to feed, dress, or bathe themselves. Some 90 percent of all children with severe disabilities live at home. Family Friends was designed to fit the story behind these numbers, to lessen the often overwhelming reality parents face in raising a severely disabled child by drawing on the experience and good will of older Americans.

Family Friends has pioneered a successful approach to helping families with a disabled child who lives at home. It also has created new ways for older individuals to contribute to the lives of those in desperate need of their patience, experience, and generosity. Clearly, Family Friends is a proven success, and I applaud the vision and innovation of this program.●

LEW KING RANGERS

● Mr. McCAIN. Mr. President, this Saturday is a very special day in the lives of many Arizonans. On April 21, the Lew King Rangers will celebrate their 40th anniversary at Rawhide in Scottsdale, AZ. For years, the thousands of Arizonans who joined the Lew King Rangers and watched their show on TV are now grown with children of their own. Stars like Marty Robbins, Wayne Newton, Judy Kaye, Linda Carter, and Tanya Tucker were first introduced on the "Lew King Ranger Show." Lew King, Mr. Arizona, as he is sometimes called, is truly a legend in Arizona.

I salute Lew and his many years of bringing entertainment to children of all ages. On April 21, 1990, there will be a celebration in Arizona for Lew King and the Lew King Rangers. I hope that this event brings as much enjoyment to Lew as he has to so many over the years.●

ELECTION DAY IN TELPANECA

● Mr. SIMON. Mr. President, Representative RICHARD LEHMAN has written a firsthand account of election day in Nicaragua. He introduces us to voters in Telpaneca and the emotion and historic significance of the voting process in the town school. I encourage my colleagues to read Representative LEHMAN's account and ask that it be printed in the RECORD.

The statement follows:

The drive from Managua to Telpaneca takes about five hours depending on the condition of your car, which in Nicaragua is almost always bad. Halfway there is a town called Esteli where some of the most vicious fighting of the revolution occurred. Beyond Esteli the road narrows as the mountains open up. Sometimes you can see the ridge line marking the Honduran border in the distance.

There are some risks for travelers in this region but no one knows how great these risks are. Everyone we talked to had a different estimate. A good night's sleep ($7.50 for six persons) and the first rays of sun somehow suppressed our fears.

At Patacaguina we took a dirt road east and climbed the mountain for the last hour to Telpaneca. A power line, some scrawny cattle, a few chickens, pigs and an occasional campesino share this narrow corridor through the rugged chaparral. If one is going to get in trouble, this is where it will happen. "The road is safe till ten o'clock," a U.N. soldier assured me, "after that the only things out there are looking for each other."

Suddenly a remarkable event appeared in the remote gully below us. I counted 130 people standing in a long column stretched around a rural school room. Many had obviously walked a good distance to get there. They were waiting to vote. We stopped and took pictures as the line grew. It moved slowly but the people were patient, quiet and serious. The sign by the door read "Tu Voto Es Secreto" (Your Vote is Secret). It was amazing. Some of them were barefoot. Some were crippled. All of them were very poor. We sensed that something special was happening. We asked a man on his way to the polls who he was voting for. "UNO" he declared. "We need a change. Ten years and nothing good has happened." We asked about the Contras. "Some of them are down there voting," he replied.

It was a theme we had already heard in Managua. The great advantage FSLN (the Sandinista Front) enjoyed in the size of its campaign rallies and amount of visible activity was not reflected in the comments we were receiving on the street. People said they were tired of poverty, sick of war, and wanted U.S. help. UNO represented the change.

The first thing you see when you reach Telpaneca is a chapel standing alone on a hilltop. It is a charming sentinel (belying the town's real condition) and we got excited when we saw it. At 10:00 a.m. Mayor Ramon Gomez, a 30-year old Sandinista, greeted us and provided a fine home-cooked lunch. He was genuinely appreciative of the help Telpaneca has received from its sister city, Fresno, California. "Everyone here knows what Fresno has done," he said.

I took a stroll down the short dirt main street and made my first discovery. "Hello, come in," the slightly broken English caught me by suprise. I entered a sparsely stocked ag-hardware store and met Francisco Matamoros. "I live sometimes in Houston," the old man said showing me his American drivers license and social security card. I knew he probably didn't want to talk politics in front of his young customers but before leaving I ventured "inflation is pretty bad, isn't it?"

"Take it easy," he replied, shrugging me off with a smile.

Across the street I noticed a distinguished-looking old man sitting behind a desk doing some paperwork. "I'm 94," he said "and this is what I have left." He gestured to the building around him. "They (the Sandinistas) took everything else." "Were you compensated?" I asked. "No, they took my land and left me with just this. My children left—LA, Miami, Canada. There was no future for them here. We're too old to go," he said pointing to his wife behind the counter.

"What about the revolution?" "Revolution?" he interrupted. "I've seen four of them starting in 1909. I used to help the Americans when they were here," he said in reference to the brief U.S. intervention during 1909–10 and the subsequent U.S. occupation from 1912 to 1933. That was when Augusto Cesar Sandino, the Sandinista hero led the fight to drive the United States out and establish Nicaraguan independence. When he was killed, Anastasio Somoza the Dictator took over.

The old gentleman was a striking opposite to the young mayor down the street. He no doubt had been one of the "evil" land barons that the Sandinista revolution was all about. Yet he appeared very civil, gentle and family-oriented. As a farmer's son, I could appreciate his aversion to land "reform." Especially when it's your land that's being re-formed.

I thought about all the impoverished kids outside who would never get to Miami, much less Canada. To them, their suffering had been for his gain. I'm sure he had been very rich. What a biography his life would make, I thought.

That night when I asked the mayor about redistribution he replied, "Most of them (the land barons) just left when we took power. The rest we negotiated. Land distribution to the peasants is our policy." It occurred to me that land reform and nationalism, not communism, was what the revolution meant to these people. The peasants lived and worked for centuries in squalid conditions while the often absentee land barons lived the good life. Ultimately in 1979, after a bloody revolution, the peasants drove off their "oppressors" and took the land.

Unwittingly, this produced disastrous consequences. First, confiscating private property is a foolish policy for a nation needing to attract private capital. Second, they misjudged the U.S. response—war and sanctions. Consequently, the Cordoba (their currency) went from seven to one against the dollar in 1980 to 60,000 to one in 1990. Real income fell 90% during the period. Inflation was 1700% in 1989.

No politician could campaign on that record so the FSLN resorted to a slick Madison Avenue style hype campaign selling Daniel Ortega like soda pop. They offered no solutions, only the slogan "things will get better." UNO didn't have to offer anything but an alternative.

I went to the town school to see the voting. It was even more amazing than earlier. There were scores of people waiting to vote. They stood casually but very close together in a straight line. They were friendly but determined. I flashed my badge and entered the polling place with no idea how memorable the next half-hour would be.

To vote they knelt down on bare cement behind a cardboard facade and marked their secret ballots one at a time. Then they folded them purposefully and walked over to the ballot box where they carefully inserted them. It was so quiet you could hear the ballots reach the bottom. The next person in line looked on intently to see how his predecessor did it. I have never experienced a scene so moving. It was the most inspiring thing I will ever be privileged to witness. Our photographer would not leave the little room. He shot eight rolls of film. The turnout was 90% already.

We got in the town pickup truck (provided by the Sister City Committee of Fresno) and drove to the school that three Fresnans built last summer. As an avid mountain enthusiast, they could not have chosen a more breathtaking site for my senses—a magnificent perched overlook above a great expansive canyon with a tiered village in the distance on the other side. The stunning vista provided an almost surreal backdrop for the great human drama unfolding in the little school.

Again, they stood in long lines, back to belly, waiting for an hour or more. One man said he had to walk three miles each way. Another rode a burro and still another a goat. I never saw a single motorized vehicle at a polling place.

The children watched and were well behaved. Voting represented a strange new curiosity and it was happening in their school! I contemplated the future. They're watching and learning, I thought. This experience would be ingrained in their memories. Children watched their parents vote and render their opinions which would count just as much as the opinions of anyone else in the country, rich or poor. Who won was trivial compared with this.

Inside, one of the school teachers was acting as a poll worker. I asked her what she needed most. "Pencils, notebooks," she replied. "This, this" she said pointing to a chair.

A pregnant woman carefully sidestepped down a steep dirt path to cast her first free

ballot. It began to sprinkle and the wind came up but no one cared. A cow stuck his neck through the fence and swished his tail.

Back in town we met the local priest. "I've been here since 1941," he said "and things are worse now than they were then. We lost over 60 parishioners in the fighting during the last ten years. The government can't do anything."

I spent another hour with Mayor Gomez. He is a dedicated and sincere community leader. He is not very ideological. He was a teacher (mostly self-educated) who tried to set up schools throughout the area. The Front recruited him, he said. "They reached out to the young people and made them part of the action. That's why young people support them." His observation confirmed what we had sensed elsewhere.

I asked about communists in the FSLN and he replied that there were communists in UNO as well and that the communist party was listed separately on the ballot. He didn't seem too interested in them. "Can you work together with the opposition?" I asked. "Yes, we work with them. We have to get along—no problem."

Twelve-thousand people live here. There are no telephones and I didn't see any indoor plumbing. People were bathing and washing their clothes in the river alongside cattle. They cook outside so wood-gathering is a daily chore. Rural children do not beg. They play baseball with sticks and anything round.

The government built an impressive secondary school, the first ever in the area. Even critics concede the Sandinistas have done a good job improving access to education.

That night we slept in a 12' by 12' room, two on single spring bunks and three on the floor. Across the curtain door a young mother slept hugging her child. I'm told that the radio came on at three o'clock and announced the UNO victory. At dawn I caught the first rays of light through the slits where the old wood walls would not quite connect. The firefly that had entertained us vanished when the light emerged. We went to have breakfast with the mayor.

The mayor and his friends were sad but not disheartened by the national results. You could feel some tension in the streets caused by the uncertainty of young soldiers not knowing what to do or expect.

I went back to Francisco's store and asked him what the election results meant. "Maybe now I won't go to Houston," he said. "Now the U.S. will help us."

Before leaving we presented our gifts to Mayor Gomez. I told him that I hoped the relationship between Telpaneca and Fresno would become a model for a new relationship between the United States and Nicaragua. "Schools and clinics instead of war and sanctions." He nodded approvingly displaying some emotion.

After leaving some instructions with a helper, he drove behind us in the pickup all the way down the mountain to the paved road.●

TRIBUTE TO MATT F. THOMPSON

● Mr. MACK. Mr. President, I rise today to pay tribute to a great Floridian, Matt F. Thompson, who was recently selected from among more than 5,000 nominees as the Job Corps "National Volunteer of the Year."

The Job Corps utilizes public/private partnerships to assist the U.S. Department of Labor, private business, nonprofit organizations, and educational institutions to bring cost-effective educational and vocational training to thousands of economically disadvantaged young men and women throughout America.

Matt Thompson, a lifelong resident of Jacksonville, FL, is one of thousands of volunteers who worked with more than 50,000 Job Corps students last year. Since he began his volunteer service in 1987, Matt Thompson has personally assisted more than 700 Job Corps students by providing tutoring, counseling, locating employment opportunities for Job Corps students, and providing appropriate referrals.

As an assessment counselor for the city of Jacksonville, Mr. Thompson is responsible for conducting classes to assist welfare beneficiaries in gaining the skills necessary to get off of the welfare roster and onto the payroll of American business. His work with local agencies, private businesses, and State agencies has resulted in identifying and developing jobs for former Job Corps students.

In his inaugural address, President Bush called upon all Americans to return to the spirit of volunteerism. Matt Thompson exemplifies how countless thousands of Americans have answered the challenge by giving of themselves to their communities and their country. Mr. President, I am proud to have Matt Thompson as a constituent from the great State of Florida and congratulate him on being named Job Corps "Volunteer of the Year."●

EILEEN McGINLEY, BURLINGTON, VT

● Mr. LEAHY. Mr. President, Eileen McGinley of Burlington, VT, is a most remarkable woman. At 90 years old she is still an active artist and member of the community.

It has been the privilege of my wife and I to know Eileen for a number of years. We have one of her paintings hanging in the entranceway of our home. Recently, the local newspaper in Burlington did an article about Eileen and I ask to have it printed in the RECORD at this point.

The article follows:

[From the Burlington Free Press, Apr. 6, 1990]

OLD-FASHIONED PAINTING

(By Debbie Salomon)

Eileen McGinley insists on calling her landscape and still-life oils "affordable art." Price $50 to $500, including framing by her grandson. Arguing with a tiny, trim, 90-year-old greatgrandmother wouldn't be polite. Besides, she has creditable reasons.

"I want to sell these painting and give all the money to Dismas House," she states firmly. Dismas is a Burlington inter-faith, half-way house for former prisoners. So McGinley called the Chittenden Bank main office at Two Burlington Square to request display space available to local artists. Then she called the media with her story, supported by enough hard facts to bespeak her first profession: an Iowa newspaperwoman of the 1920s. "I guess you could say this is a one-woman show," she quipped, fully aware of the implication.

McGinley omitted only the critique.

She sees landscapes by the kinder, gentler light of a deeply religious person: "They're the work of the Lord," she says. Environmental upheavals have bypassed the transquil, seasonal scenes she translates, affordably, onto canvas to "help those young men get re-established in the outside world."

McGinley just can't travel as far to paint them any more, unless, for example, she spends the winter in Arizona. "I never drove a car. My husband used to drive me out into the mountains or fields near the places we lived in southern Vermont. He would read, I would paint."

After McGinley's husband died 20 years ago the outings stopped. The old mills and covered bridges remained peaceful; situations changed. "It wasn's safe; a painter friend and I waded out into a river to paint from a rock. A man approached us. He wasn't looking for solitude," she said.

After several such encounters, McGinley made do with painting close to home, from previous sketches, photographs or from a protected spot on the University of Vermont campus where Mount Mansfield dominates the background with the hovering presence of Mount Fugi.

Despite its content, McGinley's work isn't poster art. Her daisies in a pewter pitcher, tiger lilies in a bean pot and finely detailed bachelor buttons in milk glass vase carry the composition of Van Gogh. "Yachting on Lake Chaplain," the oldest of the 15 paintings on display during April, moves too vigorously with wind to have come from an age-weakened brush. "Sugar Shack" isn't sentimentalized with trappings.

"I learned to paint the old-fashioned way, in a class, when I was a teen-ager," she said. Painting was put aside while McGinley raised seven children. Artist friends provided advice and encouragement when she restarted during World War II. "I don't paint figures because I don't do them well enough. I call my work 'realism' or 'naturalism.' I haven't been to many European museums but I do like the French landscape painters, especially Monet—I'd love to see that Boston exhibit. If I could get there I'd see the annual flower show, too," she said.

McGinley painted for pleasure, or to give canvases to friends, until a guest (a nightclub entertainer, she says) saw stacks of her pictures in closets and under furniture. "Why don't you let me sell these for you?" she asked a surprised McGinley. Proceeds from this affordable art helped build a chapel at the Training School in Brandon where McGinley's youngest son, brain-damaged from encephalitis, has resided for years. Her work has been shown at St. Michael's College in Colchester, and once previously at the Chittenden Bank.

McGinley uses her age to excuse very little—"I'm just an ordinary person," she says. It's true painting is possible only during the day, using light from a window she had built into her kitchen. But she travels by city bus, attends Mass at least once a week, and is reading a book by William Manchester that "recalls the times through which I have lived." Her book—yes, she writes, but that's another one-woman

story—is about her parents' journey from an Irish sailing ship to life on the prairie. She did not find a publisher. McGinley may do a rewrite, aimed at a teen audience.

In the meantime, when the petite artists speaks, a representative of the Chittenden Bank listens: "Henry, could you hang my paintings a little lower, at eye level?"

It's not polite to argue with a lady 90 years old.●

COMPLIANCE WITH THE PLO COMMITMENTS COMPLIANCE ACT

● Mr. MACK. Mr. President, on March 19 the State Department submitted the first report required by Congress under the PLO Commitments Compliance Act, introduced last year by myself and the Senator from Connecticut [Mr. LIEBERMAN]. In requiring a report, the intent of Congress was to hold the Palestine Liberation Organization accountable for its commitments to renounce terrorism and recognize Israel's right to exist. The State Department report, unfortunately, glosses over much of the PLO's record since December 1988 in order to reach what I fear was a foregone conclusion: that the PLO has adhered to its commitments.

A number of analysts who have examined the State Department report disagree with its conclusion; they say the report, if not a whitewash, is close to it. The New Republic in its lead editorial on April 16, 1990, writes, "The central, irrefutable, and intrinsically troubling fact is that since [Yasir] Arafat renounced terrorism * * * PLO factions have regularly been launching attacks against Israel."

Barry Rubin, a senior fellow at the Washington Institute for Near East Policy, wrote in the Los Angeles Times, "The State Department report is full of misleading assertions and unfounded conclusions. * * * [It is] more likely to undermine than fortify U.S. policy." Rubin points out that the State Department's claim that it "has no evidence" that the many PLO attacks against Israel were "authorized or approved by the PLO executive committee" is disingenuous because the "PLO as a body has never carried out terrorist acts; these have always been committed by the constituent groups' military organizations."

Steve Emerson, in an op-ed in the Wall Street Journal, observes that even Egypt, which is generally pro-PLO, roundly condemned the PLO for justifying the murder of nine Israeli tourists near Cairo this February. PLO statements celebrating this and other terrorist acts were completely ignored in the State Department report. According to Emerson, the State Department rejects evidence from the Israeli Government based on interrogations of captured terrorists, refuses Israel's offer to interview them, then says it has "no evidence" that the targets of the attacks were civilians.

Emerson also charges that the State Department at first refused to call the incident in which a Palestinian steered an Israeli bus over a cliff—killing 15 Israelis and 1 American—terrorism until it had ruled out PLO responsibility.

By opening official talks with the PLO, an organization formally dedicated to the destruction of Israel and responsible for the murder of a number of American diplomats, the United States accepted a profound responsibility. That responsibility is to demand from the PLO that it transform itself and break fundamentally from its terrorist past.

The distortions and omissions of the State Department report indicate that the United States is unwilling to condemn, or even unequivocally criticize clear failures by the PLO to adhere to its commitments. It is hard to see how the U.S.-PLO dialog can be justified if these conditions continue.

I ask that a report by Anti Defamation League of B'nai B'rith, "PLO Terrorism 1989-1990: Violating the Terms of the U.S.-PLO Dialogue," and three opinion pieces from The New Republic, the Los Angeles Times, and the Wall Street Journal be included at this point in the RECORD.

The material follows:

[From the New Republic, Apr. 16, 1990]

TERRORISM LITE

Three times a year, by congressional mandate, the Bush administration must issue the Palestine Liberation Organization a report card, a written assessment of how closely it has abided by Yasir Arafat's forswearing of terrorism in December 1988. The first of these came in mid-March, and the PLO passed with flying colors. The State Department report asserts at the outset "that the PLO has adhered to its commitment . . . to renounce terrorism." Most who follow the Middle East will wonder about the honesty of such an unnuanced verdict, and even the uninitiated observer would have only to read the rest of the report to become similarly skeptical. Yes, it goes on to concede, at least nine of the thirty attacks launched against Israel by Palestinians since the PLO renounced terrorism have "involved constituent groups of the PLO." But this isn't to say, you understand, that the PLO hasn't kept its word.

The convolutions through which State Department logicians reached this conclusion are instructive. In most of these nine "border and rocket attacks," the report noted, "the intended target of the attack was unclear," and therefore can't be presumed to include civilians; thus it is impossible to say on which side of the PLO's fine line between "armed struggle" and "terrorism" these attacks fall. True, three PLO attacks were undeniably directed at civilians, such as a rocket attack on a border town in which an Israeli child was wounded (or "lightly wounded," as the report put it). But "we have no evidence . . . that the actions were authorized or approved by the PLO Executive Committee or by Arafat personally." Well, no, we don't. Even the new, upstanding Yasir Arafat hasn't yet opened the PLO's executive deliberations to C-SPAN. By this absurd standard of proof, it would be hard to prove that the PLO was ever involved in terrorism in a big way.

Now, it is true that the PLO isn't IBM, and that this chairman can't control the behavior of everyone who carries his logo. Though the Democratic Front for the Liberation of Palestine and the Popular Front for the Liberation of Palestine—both of which have plainly persisted in terrorism—occupy seats on the PLO's executive board, they are hardly Arafat's subordinates. (And still less is Arafat able to yank the leash of many fundamentalist militant Palestinians within the occupied territories, whose violence—which includes, by the way, the annual murder of many Palestinians suspected of collaboration—may in some sense be directed as pointedly at Arafat as at Israel). But bear in mind that various Palestinian terrorists once thought to be rogue groups—remember Black September?—turned out to be part of Fatah, Arafat's own PLO faction. Moreover, the U.S. dialogue that was officially sanctioned at the end of 1988 was not framed as being with Fatah alone, but with the PLO.

Besides, to get bogged down in a debate over what Arafat can and can't control, what he did and didn't approve, is to miss much of the point. The central, irrefutable, and intrinsically troubling fact is that since Arafat renounced terrorism, though Fatah itself has scaled down its direct involvement in terrorism, and perhaps ended it (Israel not implausibly contends otherwise), PLO factions have regularly been launching attacks against Israel. That means one of two things: either Arafat isn't trying to keep the PLO away from terrorism, or he isn't capable of doing so. Either way, one is forced to ponder the value of doing business with this man.

Of course, these two hypotheses aren't mutually exclusive, and both, as a matter of fact, have some truth. Still, there is value in distinguishing between them; it helps isolate what is most wrong-headed about the administration's bowdlerizing of the PLO's recent record.

The apparent aim is to keep the peace process alive. The decision in late 1988 to open communications with the PLO was premised on its continued renunciation of terrorism, and Secretary of State James Baker's fear seems to be that casting much doubt on Arafat's fidelity to this oath might lead Congress to step in and end the dialogue. So Baker chooses, in the name of the greater good, to see no evil.

This is dishonesty of the worst kind: the unproductive kind. Consider again our two hypotheses. To the extent that Palestinian terrorism continues because of Arafat's sheer impotence, things look bleak for the Middle East's immediate future in any event. For the Palestinian problem ever to reach peaceful resolution, Palestinians must have enough political coherence to entrust one person, or one organization, or at least one reasonably unified coalition, with their voice. Obviously, if Arafat and the PLO don't fit that bill, no one else now does. To be sure, if the peace process acquires momentum, and Arafat comes closer to the prize of real Palestinian statehood, his power within the PLO may in some measure grow. And certainly, in that regard, the lack of recent progress is far from being all Arafat's fault; the Israeli government hasn't been showering the Palestinian people with auspicious overtures. But the larger point remains: to the extent that the State De-

partment is right—that Arafat lacks the power to sharply curtail PLO terrorism—things look unpromising regardless of what the State Department does or doesn't say.

To the extent, on the other hand, that Arafat is able but unwilling to stifle terrorism, then things may look better—but only if his attitude changes. It is in this light that the danger of the administration's sophistry is most glaring. Obviously, if Arafat doesn't get his hand slapped when a few PLO missiles find their way into an Israeli town, missiles are likely to keep flying. And once they stop "lightly wounding" and start killing, lasting peace will be more remote than ever.

Actually, the State Department says it has slapped Arafat's hand. Shortly after insisting that he can't be blamed for the PLO's behavior, the report states: "We have made it clear to the PLO that these activities raise serious questions about the PLO's commitment to renounce terrorism. We are disappointed that the PLO has not found a more authoritative way to distance or disassociate itself from activities undertaken by constituent groups acting independently. . . ." Disappointed? At the first official meeting between the United States and the PLO, in December 1988, the United States warned that the new dialogue would be ended if terrorism "by the PLO or any of its factions" continued, and it stressed that the PLO would be expected to condemn publicly all Palestinian terrorism. Now, fifteen months later, PLO factions have persisted in terrorism, and Arafat and his colleagues have done their best to avoid clearly condemning it. (Last summer, after fourteen passengers on an Israeli bus were killed by a Palestinian terrorist, Bassam Abu Sharif, a close adviser of Arafat's, said, "This is not terror. Shamir and his government are the terrorists.") And now, the United States declares itself to be disappointed with the PLO's performance? How about an expression of, say, outrage? Or perhaps even words to this effect, stated publicly: "If terrorist attacks by the PLO continue at their present rate over the next year, we will have to reassess the value of sustaining a dialogue with the PLO."

The administration's aversion to issuing a warning even this fuzzy seems to lie in its fear that the bluff will be called: if Arafat can't or won't stifle terrorism, then the United States will sooner or later have to make good on its threat to stop talking to him, thus throwing a wrench into the works. But again, if Arafat is unable, even under pressure, even after the application of whatever political lubricant he possesses, to make the machine run, then the works are pretty thoroughly messed up to begin with. One more wrench is unlikely to hurt appreciably, and it could end up helping.

[From the Los Angeles Times, Mar. 22, 1990]

How Low Will We Stoop for Arafat?

(By Barry Rubin)

The State Department's new report on the PLO and terrorism may be the most intellectually devious government document since the Vietnam War era. Equally regrettable, this paper is more likely to undermine than to fortify U.S. policy.

Obviously, the Bush Administration chose to trim the facts to suit its thesis that the Palestine Liberation Organization has no involvement with terrorism. The serious miscalculation on which this decision is based—incarnated in the congressionally mandated report released on Monday—may come back to haunt Secretary of State James A. Baker III.

The United States had long demanded that the PLO stop using terrorism before we would negotiate with it. Yasser Arafat made such a promise in December, 1988, and a U.S.-PLO dialogue began. Thereafter, the government stance has been that it must, at least publicly, deny that the PLO is responsible for terrorism—in effect, becoming an apologist for Arafat—or it would have to end the dialogue and abandon the hopeful Israel-Palestinian peace process.

This is a foolish premise. It would have been untenable for a U.S. government to whitewash Soviet human-rights violations or other misdeeds as a condition for bilateral negotiations. Publicly criticizing such acts is basic diplomatic leverage.

The State Department is now in the situation of highlighting criticisms of Israel and rejecting any censure of the PLO. This refusal to be honest about PLO terrorism has seriously undermined Israeli confidence in the United States and makes it harder for Israel to make the concessions required in the peace process.

The U.S. stance also makes the PLO believe that it can get away with continued cross-border attacks on Israel. If the United States does not acknowledge the depredations of the PLO now, what would it do if a Palestinian state broke treaty commitments?

The State Department's report is full of misleading assertions and unfounded conclusions. To name just a few:

The report stresses the absence of evidence that the PLO leadership or Arafat has officially approved any terrorist operations since December, 1988. In fact, the PLO as a body has never carried out terrorist acts; these have always been committed by the constituent groups' military organizations.

The report suggests that three PLO member groups carrying out attacks are marginal, having little to do with the PLO command. In fact, they are the equal of Arafat's group, Fatah. The report does not mention that the leader of the PLO delegation in the dialogue is the No. 2 man in one of those groups.

Although Fatah has greatly reduced its terrorism, the Bush Administration refused to examine Israeli evidence of specific attacks involving Fatah cadres. The report does not even acknowledge the existence of these claims.

Particularly dangerous is the report's refusal to define attempted attacks across the Lebanon-Israel border as terrorist. The argument is that it is not clear what the targets were because Israel killed or captured the terrorists en route. The Administration willfully refused to examine captured evidence of intended targets or even public statements by the PLO member groups. Two Third World diplomats cynically told me that Israel should allow some PLO guerrillas to murder civilians in order to prove its claim.

The State Department says that the PLO has lived up to the resolution of the September, 1988, Palestine National Council. In fact, the State Department rejected that document at the time as not having met minimum U.S. criteria for the PLO's recognizing Israel and rejecting terrorism. The real test is whether the PLO lives up to the more forthcoming promises made by Arafat in Geneva in December, 1988.

The report does not tell members of Congress that the State Department's confidential talking points to the PLO demanded that it "publicly disassociate" itself "from terrorism by any Palestinian group operating anywhere." If any PLO group or its members committed terrorism, "We expect that you not only condemn this action publicly but also discipline those responsible for it, at least by expelling them from the PLO." Even Egypt's government has criticized Arafat's refusal to condemn such operations. To cite one example, Fatah's No. 2 man, Abu Iyad, defined an attack near the Israeli town of Dimona last year, in which three Israeli civilians were murdered, as a legitimate case of armed struggle.

The U.S.-PLO dialogue should continue. But the Israel-Palestinian peace process can only achieve an historic compromise—possibly including a national homeland for the Palestinians—if it is approached honestly. The U.S. government should not twist reality in order to defend the PLO's reputation.

(Barry Rubin, a senior fellow at the Washington Institute for Near East Policy, is author of "Inside the PLO; Officials, Notables and Revolutionaries," published by the institute.)

[From the Wall Street Journal, Mar. 22, 1990]

The Bush Administration's PLO Cover-Up

(By Steven Emerson)

A month ago, terrorists opened fire on a bus of Israeli tourists near Cairo. Nine Israelis were machine-gunned to death. When the Palestine Liberation Organization issued a statement that appeared to justify the attack, the Egyptian government made its fury known to the PLO and the world media. And what was the official American reaction to the PLO statement? Nothing. Not a word.

Refusal to criticize the PLO has now become a cornerstone of Bush administration policy. The latest manifestation of this disposition to whitewash the Palestinian group is the report that the State Department presented to Congress on Monday, as required by the PLO Commitments Compliance Act enacted last month.

In December 1988, Yasser Arafat told the world that he "renounced" terrorism and "recognized" the state of Israel. By uttering those magic words, Mr. Arafat immediately gained the recognition of the U.S. But Mr. Arafat has a long history of saying one thing and doing another. In fact, just one month before. Mr. Arafat had been denied a visa to the U.S. by the Reagan State Department because it found that, despite his claims that he had abandoned terror, he was directing terrorist acts through such front groups as Force 17 and the Hawaii Organization.

CONDEMN TERROR

At the first meeting between U.S. and PLO representatives in December 1988, the Americans told the PLO—according to a list of "talking points" recently published by the Israeli government—that the dialogue would be broken off if the PLO resumed terrorism: "No American administration can sustain the dialogue if terrorism continues by the PLO or any of its factions." In addition, the U.S. required the PLO to "publicly disassociate" itself from "terrorism by any Palestinian groups operating anywhere." Finally, the U.S. said that it expected the PLO to condemn any terrorist act carried out by "any element of the PLO" and to expel that element from the PLO.

The Bush administration maintains that the PLO has met those conditions. Monday's State Department report says, "the PLO has adhered to its commitment undertaken in 1988 to renounce terrorism."

But what about the numerous terrorist attacks on Israel since December 1988? The State Department report reluctantly acknowledge that nine "border attacks"— the new diplomatic euphemism for terrorist attacks—against Israel have been launched by "constituent groups of the PLO" over the past 14 months. Those incidents do not invalidate the report's conclusion, the report says, because "the intended target of the attack was unclear" except for three of the attacks in which the report concedes that "civilians appeared to be the target." But the three attacks directed at civilians were, the report insists, neither authorized nor approved by Mr. Arafat or the PLO Executive Committee.

All of this is dangerously misleading or positively untrue. The State Department report omits any mention of the multiple terrorist attacks carried out by groups that sit on the PLO Executive Committee, including raids by Mr. Arafat's Fatah group. Constituent groups of the PLO have openly taken credit for more than 18 attempted terrorist attacks on Israel from Labanon, Egypt, Jordan and the Mediterranean over the past 14 months. In the West Bank and Gaza, many Palestinians have been murdered at the explicit—and documented—direction of the PLO and Fatah.

As for the nine PLO that the State Department report does acknowledge, it is not true that there is no evidence about their targets. There is clear and compelling evidence that the intended target of each one of them was civilian.

To take just one example: On Jan. 26, three guerrillas armed with machine guns, grenades and explosives attempted to penetrate the northern Israeli border from Lebanon. Intercepted by Israeli soldiers, the squad was killed in a shootout. In the terrorists' possession, besides weapons, was a map revealing one—and only one—target: a kibbutz called Misgav Am. The group that claimed responsibility for the abortive Misgav Am attack—as well as five others that were equally unsuccessful—is the Democratic Front for the Liberation of Palestine, which sits on the PLO Executive Committee. One of the DFLP's senior officials, Yasser abd al-Rabbu, is the head of the PLO delegation to the U.S.-PLO dialogue in Tunis.

Confronted with this accumulation of evidence, State Department spokesman Adam Shub averred: "None of the cross-border attacks has succeeded, so we don't know what the targets would have been. Therefore we can't call them terrorist. We don't know what they were planning." The State Department dismisses the written evidence from the Misgav Am raid as "inconclusive." When offered transcripts of the confessions of captured terrorists by the Israeli government, the State Department said that the interrogations were not "reliable." When offered an opportunity to interview the captured guerrillas first-hand, the U.S. refused.

When the Bush administration finds itself unable to deny that an attack occurred, it blames some rogue Palestinian element, never the PLO itself. As Monday's report puts it, "We have no evidence in those cases or any others that the actions were authorized or approved by the PLO Executive Committee."

But this is to misunderstand how the PLO works. The PLO is an umbrella organization, and its central committees do not attempt to control the operations of its member groups. The issue is not, what does the PLO Executive Committee order or authorize; the issue is, are the groups that constitute the PLO complying with the commitment they collectively made to the U.S. in December 1988? As State Department spokesman Charles Redman said in March 1989, "If the PLO cannot or will not exercise such control, it raises questions concerning the commitment undertaken in the name of the PLO—indeed, questions about the PLO's ability to carry out its commitments."

The Bush administration is particularly at pains to avoid criticism of Mr. Arafat's own Fatah wing of the PLO. On Dec. 5, five guerrillas infiltrated the Israeli Negev from the Egyptian Sinai. They carried no identification and the labels in their clothes had been cut out—all they had were Kalashnikov rifles, explosives and 51 grenades. Israeli soldiers intercepted them.

Faced with incontestable documentation that the five were affiliated with Fatah, John Kelly, assistant secretary of state for Near East and South Asian Affairs, argued before Congress three weeks ago that while "there may have been Fatah members involved," they were "operating without sanctions from their leadership." In private conversation, though, State Department officials have admitted Fatah sponsorship of the attack. It is highly unlikely that Mr. Arafat, a man who insists on approving the smallest actions of his Fatah organization, down to the purchase of its fax machines, could have been unaware of it. The attack is not mentioned in the State Department report.

The contortions the Bush administration goes through to protect the PLO can verge on the grotesque. Last August, a Palestinian fundamentalist from Gaza wrenched the steering wheel of an Israeli bus away from the driver. The bus plunged into a ravine: 15 Israelis and one American were killed. The terrorist act was captured on television, and within six hours of the incident, the Israeli government had provided a detailed accounting of the attack.

The usual unnamed State Department official termed the event "senseless" and "tragic"—but categorically refused to label it an act of terrorism.

WHY THE DELAY?

Only after two days had elapsed—and after a bitter Israel protest that the Bush administration's failure to condemn the murder gave a "license to kill every Palestinian individual or organization"—did the State Department see fit to label it a terrorist attack. Why the two day delay? A State Department spokesman said at the time that the U.S. had only belatedly acquired the necessary information. But in fact, according to a senior U.S. official, the real reason was that the Bush administration was afraid that the mass slaying had been a PLO operation. Only when PLO responsibility was ruled out did the administration feel free to call it a terrorist operation.

Last summer, the Israelis dispatched Yigal Carmon, the Israeli government's adviser on counter-terrorism, to Washington with proof—maps, documents, leaflets—that, despite the American "talking points," PLO groups had not ceased their terrorist raids. He also brought tapes of speeches in Arabic by Mr. Arafat in which he condoned terrorist attacks.

State Department officials at first refused to meet with Mr. Carmon, before finally agreeing to a perfunctory meeting. But the Bush administration apparently did not feel confident that others would find Mr. Carmon's documents quite so uninteresting—so he was instructed not to speak to Congress and the media.

On March 1, Secretary of State James Baker testified before Congres. ". . . we have not received or seen evidence of complicity or encouragement or acquiescence by [Mr. Arafat] of terrorist activity." If Mr. Baker has not seen the evidence, it is because he has ordered his underlings not to collect it.

(Mr. Emerson, who writes frequently on foreign and intelligence matters, is the coauthor of the forthcoming book "The Fair of Pan Am 103: Inside the Lockerbie Investigation" Putman.) ●

PANAMA PACIFIC INTERNATIONAL EXPOSITION

● Mr. WILSON. Mr. President, February 20, 1990, marked the 75th anniversary of the Panama Pacific International Exposition, a world's fair committed to advancing such principles as toleration, cooperation, and mutual respect and admiration. The Gusty Foundation, chaired by Noel M. Stewart, is honoring this anniversary and the principles on which it was based on April 28, 1990. I would respectfully ask that my colleagues in the Senate join me in recognizing the social and historical importance of the exposition and its goals. I would also ask that the Gusty Foundation be commended for their noble efforts in honoring this momentous occasion as well.

The Panama Pacific Exposition celebrated the completion of the Panama Canal and the rebirth of San Francisco from the ruins of the great earthquake of 1906. Fifty-one counties of California, 33 States of the Nation, and 25 nations of the world were represented in an area of less than a square mile, transforming this small area into a microcosm of diverse cultural accomplishments and aspirations. the exposition became symbolic of a spirit of friendship and understanding between diverse peoples and political entities.

This spirit lives on today in the form of the Gusty Foundation, an organization devoted to restoring the tugboat *Gusty* to pristine condition and thereby keeping the ideals of the original exposition alive. The tugboat *Gusty* is one of the few surviving symbols of the original exposition. Used in the construction of the exposition lagoon its restoration will symbolize the continuing commitment of all involved to the ideals of the original exposition as well as provide the present generation with valuable insight to the history of California's shipping and fishing industries.

It is with great pride that I ask my Senate colleagues to join me in saluting the achievements of the Gusty Foundation in commemorating this

significant event in U.S. history. The reaffirmation of principles such as toleration, cooperation, and mutual understanding, inherent in such an achievement, should be applauded and emulated. Therefore, I consider it my privilege, as well as my duty, to commend the Gusty Foundation for its noble ideals and actions.●

DELTA QUEEN STEAMBOAT CO. CELEBRATES 100 YEARS OF STEAMBOATING

● Mr. JOHNSTON. Mr. President, I rise today to honor an important part of America's heritage. Originally used to transport crops and cargo, these vessels were later used for passenger transportation and have inspired the imaginations of young and old alike. I speak, of course, of the great steamboats of our country.

In the 19th century, steamboats were a common sight on our Nation's rivers. At one point during the century, there were more than 11,000 paddlewheelers on the Mississippi and Ohio Rivers alone. Steamboat navigation allowed our inland waterways to serve as highways of discovery for explorers, trappers, voyagers, and settlers of America's heartland.

Steamboats made an immeasurable contribution to the development of towns and businesses along the river banks. By supplying a reliable means of transporting goods such as cotton and sugar cane, these vessels helped businesses to spring up and later to thrive.

Images of the steamboat era evoke feelings of nostalgia in the American heart. Visions of southern belles, diamond studded gentlemen and such famous personalities as President Lincoln, General Grant, and Mark Twain fill the imagination with thoughts of romance and adventure. Today there is a company whose two steamboats serve to preserve that magical era. These "floating white wedding cakes," as they are sometimes called, are owned and operated by the Delta Queen Steamboat Co. of New Orleans which is celebrating its 100th anniversary this year. The company was founded by Capt. Gordon C. Greene whose family eventually owned 28 different steamers.

The only two overnight paddlers that remain from the thousands that once carried passengers are the *Delta Queen* and the *Mississippi Queen*. The former, listed on the National Register of Historic Places since 1970, and recently designated a National Historic Landmark, is the only authentic, fully restored, overnight steamboat in the world. The majestic *Mississippi Queen* was commissioned in 1976 and recalls the traditional lines of steamboats from bygone days. It is the most luxurious steamboat ever to navigate America's rivers. Both boats have unique charm. They combine the Victorian elegance of the steamboat era with the convenience and luxury of floating palaces.

Today I would like to recognize the contributions steamboats have made in American history, from transporting valuable freight to providing a deluxe mode of passenger travel. I salute the Delta Queen Steamboat Co. for its efforts to preserve the wonder, romance and adventure that is steamboating.●

INDEPENDENCE FOR THE REPUBLIC OF LITHUANIA

● Mr. WILSON. Mr. President, I rise this morning to salute the brave men and women of the Republic of Lithuania who dare to imagine a world beyond the shadow of Communist domination.

Armed only with the weapon of freedom's inspiration, the citizens of this Republic demand that the Soviet Union permit them to regain their independence.

The British historian Paul Johnson wrote that in the 20th century, the power of government to repress became much more evident than its power to liberate.

Johnson also reminded us, however, that alongside this tragedy of modern times, democracy also succeeded around the world to the greatest extent ever in history.

And so we now face the question of whether the Lithuanian people will continue to live under the tragedy of dictatorship or realize, as they would like, the promise of democratic pluralism.

I need not belabor the point, Mr. President, that these people now stand at a crossroads. But their fate will play a significant role in determining which of these two political options—the tragedy or the promise—shall become the rule rather than the exception in the governance of this globe.

President Bush understands this challenge. He knows that firm leadership from the United States in support of the captive nations of communism will help the Lithuanians secure their freedom.

President Gorbachev faces this challenge. He knows that communism has only proven efficient at murdering millions and producing stagnation. He has yet to confess the contradiction of trying to make Soviet society more just by only tinkering with a system designed to prohibit its own reform.

But Lithuania's independence is a necessary condition for Gorbachev's success as a reformer. His political position within the Kremlin can only weaken if the gridlock over this issue continues.

At the same time, Mr. President, the Lithuanian Government is not simply waiting for Gorbachev to negotiate. On the contrary, it has repeatedly invited him to do so.

President Landsbergis has offered to directly discuss every Soviet concern about Lithuania until both sides can reach an agreement.

He has explicitly acknowledged Soviet military interests in having a secure and stable border with Eastern Europe.

He has appealed for a close relationship of trade and economic exchange with Moscow.

He has directly offered to discuss the sensitive problems of service in the Red army by Lithuanian residents and the land ownership claims of the U.S.S.R.

And he has opened the door to a gradual, orderly withdrawal of his Republic from the Soviet Union.

The United States, Mr. President, must continue to actively support the Lithuanian Government on each of these points and work to achieve the needed international recognition for President Landsbergis so that he can go to the Kremlin as a credible leader of his people.

We cannot hesitate in reminding the Soviets that America, as one of the world's greatest birthplaces of liberty, will never stop defending Lithuania's natural right to sovereignty.

Gorbachev is running out of excuses. Rumbling tanks and puppet prosecutors will not solve either his problems or those of the Lithuanians. We must impress upon him the moral and political imperative to deal with President Landsbergis in a dialog leading to self-determination for his people.

I am confident, Mr. President, that the Lithuanian leaders will deliver the democratic promise to their land. They have once again taught the world a lesson that men and women can build institutions of tolerance and prosperity if they are only left free.

In this case, the solution exists. It only awaits implementation by a realistic Soviet state and a willing Lithuanian Government.●

BROWARD COUNTY, FL SENIORS HONORED

● Mr. GRAHAM. Mr. President, I would like to take this opportunity to honor several Broward County, FL seniors on the occasion of their March 14, 1990 induction to the Dr. Nan S. Hutchinson Broward Senior Hall of Fame.

It is my pleasure to congratulate Sara L. Pettis, Louise and Robert Creider, Nora L. Goldner, Faye Hollander, Lester B. Trussler, Marie Young, Joanna Bloneva Hayes Bradley, Gerald Kirschenberg, Irvin Footer, Adele Jacobs, Esther Grossman, and Rose R. Sandle for their extensive community servie efforts.

Each of these outstanding individuals have resided in Broward County for at least 10 years and consider south Florida their home. The seniors have volunteered with area hospitals, the Foster Grandparents Program, and the Meals on Wheels Program, among others. Many of these folks have logged in impressive volunteer schedules of tens of thousands of hours.

By honoring these seniors through induction at the Broward Senior Hall of Fame, they are being recognized for their unselfish dedication to the community. Senior citizens have been especially effective and generous in donating their time to volunteer service in Florida. That is why I introduced national service legislation in 1989 to promote senior citizens voluntarism and convened a hearing on elderly volunteers in Boca Raton, FL.

Mr. President, I ask you and my Senate colleagues to join me in congratulating these impressive Americans. Their commitment and accomplishments serve as an example to all of us, and I encourage them to continue their national service endeavors.●

EDWARD MARTENSON ARTICLE "PUBLIC SUPPORT: A CONTRACT WITH THE ARTS"

● Mr. DURENBERGER. Mr. President, much has been said lately about the Government's role in funding the arts, and the role of the National Endowment for the Arts in providing that funding. I ask to submit for the RECORD an article by Edward Martenson of the Guthrie Theater in Minneapolis that I believe carefully points out the societal benefits of Federal funding of the arts and the need for continued support.

The article follows:

PUBLIC SUPPORT: A CONTRACT WITH THE ARTS

(By Edward A. Martenson)

Taxpayer support for the arts is not a handout. It is recompense for public service.

In 1965, the government began to subsidize the arts modestly, in ways that were carefully designed to address some important public purposes. Specifically, these public purposes were:

(1) advancement of the arts, and elevation of American culture;

(2) de-centralization, or enhanced availability of indigenous art in all regions; and

(3) price moderation, so that the arts are affordable to all citizens.

These public purposes are consistent with, but not primary to, the priorities of the artists whose activities are subsidized. Understandably, their primary focus is on creativity and command of craft.

For artists, contributed support is simply a necessary source of funds. Good art may be commercial, but it is not necessarily so; most great art of the past was not. Because the marketplace alone never has supported all art of great merit, artists always have depended on subsidy.

This fact is of concern to the public as well as to artists and private philanthropists. While private philanthropy can ensure the availability of art to the private patrons, public support is our way of ensuring that the arts are not limited to wealthy persons in two or three urban centers. Government, therefore, has a distinct purpose within the framework of arts funding: in a democracy, the public interest demands that art must be available to the many, not to the privileged few.

While government is not obligated to support the arts, a free society is obligated to guarantee the freedom for expression that is art's lifeblood. Not less than in the field of journalism, an atmosphere of free expression is essential to the vigor with which artists perform their function in society. It is no more in the public interest to tame the arts than it would be to hamstring the press.

Because freedom of expression is inconsistent with an exercise of political approval over the content of artworks, the very concept of public arts support depends on political self-restraint. In effect, the public accepts the possibility of an art work that offends as a price to be paid for the greater good that stems from broad availability of the arts in general.

(That public support for the arts is a fragile concept, easily upset by lack of political restraint, is recognized most clearly by its opponents. If they can impose a narrow standard for acceptability of content, they know that artists themselves may come to repudiate public support.)

In general, it is most reasonable to regard public art support as a social contract between public and artists. The public desires cultural advancement, de-centralized availability of the arts and the absence of class-oriented price barriers; in exchange it agrees to respect the a priori requirement for an atmosphere of artistic freedom. The artists desire financial assistance, and in exchange they agree to produce and disseminate their work in ways that serve the public purposes described above.

Obviously, this fragile arrangement can be jeopardized when taxpayers are offended by artworks they have helped to finance. That they may be offended is both understandable and legitimate. Art sometimes reflects the extremes of social reality as well as its middle. Its subject matter is the human condition in all its forms, including aspects of our behavior that some might find more comfortable to deny.

The predictable desire to formulate public policy so as to avoid controversy is no more logical in arts support than it is in relation to government actions in defense, nuclear energy or highway planning. If the test for the appropriateness of government action were that it generated no strong opposition, there would have been no progress in civil rights, labor relations or the environment, nor would we ever succeed in identifying locations for prisons and nuclear waste.

(Recent events suggest that those who are patient with controversy over some government actions, but cannot abide it over arts grants, are precisely the people who don't think art is important enough to disagree about.)

The ability of the people to disagree among themselves is a source of strength for our democratic system. Not every disagreement is the government's business to resolve, most particularly if it arises from a matter of taste. Conservatives and liberals agree on this point, but a surprising number from both camps believe that financial participation creates an obligation on lawmakers to establish limits for the public taste.

The appropriate test for government arts support—the one applied to other government programs—is whether most of the people agree most of the time. Public arts support meets this test with bi-partisan flying colors, because the vast majority of it flows to artists and arts institutions that clearly benefit the public.

The arts have held up their end of the social contract, serving the public interest in ways both qualitative and demonstrably quantifiable. In the lifetime of the NEA, resident theater institutions have expanded from 25 to over 400; they are organized not-for-profit, and so work for public, not private gain; they are located in every region, not just in New York; they have extensive programs; and admission can be gained to most of them for the price of a movie. These are aspects of a public-spiritedness that stems from public support.

But the "contract" between artists and the public can remain strong only so long as public officials restrain themselves from exercising approval over the art's content. Unfortunately, political self-restraint is now undergoing its greatest test in 25 years of public arts support.

The burden of restraint is great for public officials precisely because they are public officials. Even on occasions when an artwork is outside the norms of good taste, lawmakers and the public could reasonably see it as an isolated case that does not affect the overall usefulness of public arts support. On the other hand, a lapse of restraint on the part of public officials necessarily involves an imposition of greater political control (whether or not liberal censorship is involved), and the result is diminished freedom of expression for all.

It is true that withholding of subsidy is not necessarily the same as censorship. But it also is true that withholding of subsidy on grounds of disagreeable content could not be lawfully selective. Such a practice would be a first amendment infringement. (For example, the government may not withhold price support payments from a farmer because he advertises his support of a particular political party or position.)

Those who approve of withholding subsidy on content grounds do not seem aware that guidelines regarding the public acceptability of political, sexual and religious themes would apply to all who apply for NEA support. For this reason, systematic review of content poses a threat to the creative independence of all artists and arts organizations, regardless of their place in the aesthetic spectrum. Even without official censorship, the effect could be the same.

Much misconception stems from the impression that the NEA paid the entire cost of the two photos exhibitions that stimulated the recent controversy, and that it therefore is solely responsible for their availability. In fact, this is not true. The NEA's authorizing statute generally requires at least a one-for-one match for its grant funds; an important implication is that federal money generally cannot flow into an arts project unless it also is validated by private gifts and audience interest. The NEA is far from alone in having seen merit in these projects, and it was a minority partner in financing them.

What damage would be caused by the breakdown of public arts support?

Some suppose that the "punishment" would be felt only by artists and arts institutions, and, of course, it is true that the financial shock to them would be significant. Artists—actors, orchestra musicians, ballet

dancers and writers, as well as visual artists—would be hungrier than they already are.

But the greater effect would be measured by a decline in the quality, quantity and scope of cultural services offered to the public. In particular, the arts would be far less able to pay attention to those important purposes that justified the public support in the first place.

Instead of a noble effort to elevate our civilization, we would embrace a cultural outlook that values only the lowest common denominator. Instead of trying to make the arts available in all regions, once again they would find financial sustenance only in the wealth-concentrated urban centers. And instead of trying to make the arts affordable to all, we would return to a time when the arts were only for the rich.●

ST. BARNABAS MEDICAL CENTER CELEBRATES 125 YEARS

● Mr. LAUTENBERG. Mr. President, on May 12, 1990, the St. Barnabas Medical Center in Livingston, NJ, will celebrate the 125th anniversary of its founding. I rise to congratulate this outstanding medical facility which has educated young doctors since 1880.

Over the years this outstanding medical facility, the first incorporated hospital under New Jersey law in the State, has been recognized throughout the country for its many achievements. The first kidney transplant in New Jersey was at St. Barnabas, and today the medical center is a national leader in treating end-stage renal disease and transplantation.

Thousands of critically burned patients have received treatment and care at the St. Barnabas Burn Center, New Jersey's only certified burn unit. Today St. Barnabas is one of the five leading gynecologic oncology centers in the Northeast, and its radiation oncology department is recognized for its treatment, training, and research programs. More than 70,000 babies have been delivered at St. Barnabas, and this year its high-risk maternity center will deliver over 5,000 infants.

I am pleased to commend the many achievements and contributions of this outstanding medical facility. I congratulate St. Barnabas as it celebrates its 125th year, and may its fine work continue for many more years to come.●

SALUTE TO THE RECYCLING EFFORTS OF ALCAN RECYCLING

● Mr. McCONNELL. Mr. President, I rise today to recognize the efforts a company in Kentucky is making to address three vital issues facing our Nation: solid waste management, energy conservation, and clean air. Alcan Recycling, a division of Alcan Aluminum Corp., recently opened the world's largest aluminum can recycling facility in Berea, KY.

This facility, Mr. President, will produce about 120,000 tons of recycled aluminum a year. To do so, the plant will operate 7 days a week, 365 days a year, recycling 6 billion cans annually. The facility will support about 100 industrial jobs and provide a substantial boost to the economy of the region.

Through its new recycling facility, Alcan is directly addressing the issue of solid waste management. Recycling is one of the four cornerstones of any responsible solid waste management program. The other three are source reduction, landfills, and combustion.

As our Nation's landfill capacity dwindles and local opposition discourages the siting of new landfills, we are rapidly running out of space to put our garbage. Combustion of solid waste involves certain environmental and health risks, and, again, local opposition has precluded siting of new combustion facilities. Recycling has, therefore, assumed an increasingly important role in municipal solid waste management. The Alcan facility in Berea will contribute significantly to the recycling efforts of the Nation in general and of Kentucky specifically.

Alcan is also addressing the issue of energy conservation. As a Nation, we need to reexamine our energy conservation policies. Environmental concerns and resource availability dictate that we must develop new ways to conserve our energy resources. Recycling in general, and recycling of aluminum in particular, is an important step in this direction. At the Alcan recyling facility, creating a new can from an old can requires only 5 percent of the energy needed to create a new can from virgin materials. I'm told that, in 1 year, the energy saved from aluminum recycling would light every home in Kentucky.

Finally, Mr. President, Alcan is addressing the issue of clean air. Clean air, as we all know, has become a very important issue in this Nation. This Congress will soon debate the first major overhaul of the Clean Air Act in 13 years. One of the problems with which we will wrestle is how to balance the need for clean air with the need to maintain a healthy, industrial-based economy. Well, Mr. President, Alcan is doing its part to balance these needs. Alcan's Berea recycling facility is equipped with over $9 million of state-of-the-art pollution control equipment, meaning that over 20 percent of the cost of the Alcan facility is devoted to clean air.

Mr. President, I am proud to represent in the Congress a company so committed to environmental stewardship. The executives and employees of Alcan are to be applauded for their foresight and their understanding of the challenges of our day and for their dedicated efforts to meet those challenges.●

HUTCHINSON ELEMENTARY SCHOOL'S ACCENT ON WRITING

● Mr. HOLLINGS. Mr. President, permit me briefly to salute the fine efforts by Hutchinson Elementary School in Herndon, VA, to stimulate and cultivate in its pupils a lively interest in quality writing.

Nobody ever said that writing is a simple skill. Sports writer Red Smith once remarked ironically, "Writing is easy. All you have to do is sit down at a typewriter and open up a vein." Nonetheless, there are few disciplines taught in our public schools that are more critical to the future success of our young people. Good, solid writing skills are the common denominator of success in virtually every major profession. Accordingly, the teachers and principals who place special emphasis on developing writing skills have truly got their eye on the ball.

Hutchinson Elementary has implemented a whole range of special initiatives aimed at encouraging its pupils to write. One of those initiatives is Young Authors' Week, which the school will observe during the week of April 30 to May 4. Guest speakers from a variety of professional backgrounds will visit the school to speak about the ways they use writing in their jobs and in their private lives.

Not only is Young Authors' Week a great idea educationally. It is also a superb example of a school's using its imagination to reach out to the surrounding community in order to enrich its curriculum. I would like to salute Principal Frank Mehm, as well as Ann Kavanagh, who is directing Young Authors' Week. Their innovative accent on writing is an idea that other schools can learn from.●

DICKINSON CHAMBER OF COMMERCE HONORS BUSINESS AND EDUCATION LEADERS

● Mr. CONRAD. Mr. President, the Dickinson, ND, Chamber of Commerce has honored Donna Fleming and William P. Reiter for their outstanding contributions in the fields of education and business and in community service. Mrs. Fleming is a proven leader and her contributions to Dickinson and the North Dakota education community are many--from chairperson of the Dickinson High School English Department to directing the North Dakota NEA Learning Lab. I am pleased that the community has honored her for her contributions. I ask that the article "Chamber to honor teacher, business person" from the Dickinson Press be printed in the RECORD.

The article follows:

[From the Dickinson (ND) Press, Mar. 27, 1990]

CHAMBER TO HONOR TEACHER, BUSINESS PERSON

The annual Chamber of Commerce Business and Education Banquet is being held tonight to recognize a local educator and business representative for outstanding contributions in their field and community.

This year, the awards will be presented to Donna Fleming and William P. Reiter.

Donna Fleming is an English teacher and department chair at Dickinson High School. She received her bachelor's degree in education from Mayville State University, and completed graduate work at North Dakota State University and the University of North Dakota. She also received a grant to study Chaucer in London, England and Carleton College. She is active in the Dickinson Education Association, served as a delegate to the Midwest Leadership Conferences and to the NEA national convention. She is chairperson of the North Dakota NEA Learning Lab, advisor of the student newspaper, "The Chronicle," and advisor of the Student Congress team. She received "Coach of the Year" award—Student Congress during 1988, has served on the advisory board and state planning committee for the State CloseUp, and participated in National CloseUp in Washington, D.C. during 1984–85.

Fleming has been recognized as a "Distinguished Teacher from North Dakota," Presidential Scholars Program, and a delegate to state and national Democratic conventions. She has served as a CommUniversity presentor, served on Northern Plains Ethnic Festival Committee and has taught Czech classes for Dickinson Arts Council and Dickinson Performing Arts Camp.

Highlights of her career including winning the state championship in Student Congress for five years in a row and being asked to chair the NEA Learning Lab. Her children include James, Michael, Randy and Allan Parke, Michelle and Will Fleming.

William P. Reiter is owner and manager of Reiter Welding, Inc., an oilfield service welding repair and manufacturing; Dakota Homes Inc.—oilfield living quarter rentals; and Reiter Satellite Systems—satellite sales and service.

He graduated from Dickinson High School and North Dakota State School of Science. He is married to Janet Reiter, and they are the parents of Brian, Tim, Jeff, Bradley and Sara.

Reiter has served as past president of North Dakota Metalworkers Association and advisory board of Trade Technical Division at Dickinson High School. He received the "KC of the Month" and "KC Family of the Month" awards, past president of Queen of Peace Parish Council and Trinity Booster Club, general chairman of 1990 Trinity Mardi Gras, and warden for the Knights of Columbus. He is a member of the Dickinson Chamber of Commerce, the Greater North Dakota Association, Knights of Columbus, Elks Lodge, German Hungarian Lodge, and Trinity Booster Club.

He said the highlights of his career was purchasing Reiter Welding from his father, designing and building the first Dakota Homes trailer, and establishing Reiter Satellite Systems.●

HARRIET ALEXANDER NATURE INTERPRETATIVE CENTER

● Mr. BOSCHWITZ. Mr. President, on April 12, I was privileged to visit the Harriet Alexander Nature Interpretative Center in Roseville, MN. Built with a $320,000 bequest from Harriet Alexander to the Roseville Central Park Foundation, this exciting new center has been furnished with many gifts from the private sector. The city of Roseville is funding the maintenance, instruction, and security, as well as the hiring of a part-time naturalist. It's thus an exciting example of how the public and private sectors are working well together in Roseville.

The center will provide environmental and nature programs for seniors, schoolchildren, families, organizations, and just about anyone interested in, or concerned about the environment. Covering 52 acres of mostly untouched land, the center already has lots of small animals and is expected to attract over 150 species of birds when completed.

It it another Minnesota example of thinking globally and acting locally to protect our precious environmental heritage. It is also an outstanding instance of private benefactors, many, many volunteers, and governments getting together to promote an environmental enterprise that will benefit everyone. Contributions, some large, some very small, have come in from most everybody in town—from the American Legion and VFW posts, from businesses and the Park Foundation itself, from small children sending in nickels and dimes.

President Bush has challenged us all to plant a billion new trees in the United States this year. Well, I planted one of them, a white pine, in Roseville last week, when I visited the center. They anticipate that volunteers will plant 10,000 seedlings, mostly pines and maples, in the nature center over the summer months.

The center will be formally dedicated on Earth Day, April 22. I was pleased to be able to visit the center last week and am very proud to be associated with the fine public spirited citizens of Roseville. And decades from now, their children and their grandchildren will visit those 52 wooded acres, listen to the birds, and be grateful for those people who had the foresight, imagination, and energy to create the Harriet Alexander Center.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Senator ROTH to participate in a program in England, sponsored by the Ditchley Foundation, from March 30–April 1, 1990.

The committee has determined that participation by Senator ROTH in the program in England, at the expense of the Ditchley Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Robert McArthur, a member of the staff of Senator COCHRAN, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the US-Asia Institute, from April 9–17, 1990.

The committee has determined that participation by Mr. McArthur in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Christopher Miske, a member of the staff of Senator PACKWOOD, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the US-Asia Institute, from April 9–17, 1990.

The committee has determined that participation by Mr. Miske in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Susanne Martinez, a member of the staff of Senator CRANSTON, to participate in a program in the People's Republic of China, sponsored by the Chinese People's Institute of Foreign Affairs in conjunction with the US-Asia Institute, from April 9–17, 1990.

The committee has determined that participation by Ms. Martinez in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Gordon MacDonald, a member of the staff of Senator HUMPHREY, to participate in a program in the People's Republic of China, sponsored by the Soochow University, from April 8–14, 1990.

The committee has determined that participation by Mr. MacDonald in the program in the People's Republic of China, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Edward Edens, a member of the staff of Senator WARNER, to participate in a program in Taiwan, sponsored by the Soochow University, from April 8–14, 1990.

The committee has determined that participation by Mr. Edens in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Maria Gomez, a member of the staff of Senator COATS, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from April 10 to 17, 1990.

The committee has determined that participation by Ms. Gomez in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mr. Jazwick, a member of the staff of Senator SYMMS, to participate in a program in Taiwan, sponsored by the Tunghai University, from April 10 to 17, 1990.

The committee has determined that participation by Mr. Jazwick in the program in Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Mary Hawkins, a member of the staff of Senator DECONCINI, to participate in a program in Germany, jointly sponsored by the Congress-Bundestag Staff Exchange and the United States Information Agency [USIA], from April 20 to May 6, 1990.

The committee has determined that participation by Ms. Hawkins in the program in Germany, at the expense of the Congress-Bundestag Staff Exchange and the United States Information Agency, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for John Balbach, a member of the staff of Senator HUMPHREY, to participate in a program in Germany, jointly sponsored by the Congress-Bundestag Staff Exchange and the United States Information Agency [USIA], from April 22 to May 6, 1990.

The committee has determined that participation by Mr. Balbach in the program in Taiwan, at the expense of the Congress-Bundestag Staff Exchange and the United States Information Agency, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Vicki Hicks, a member of the staff of Senator BURDICK, to participate in a program in Taiwan, sponsored by the Tunghai University, from April 10 to 17, 1990.

The committee has determined that participation by Ms. Hicks in the program in Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Jim Arbury, a member of the staff of Senator RIEGLE, to participate in a program in Germany, jointly sponsored by the Congress-Bundestag Staff Exchange and the United States Information Agency [USIA], from April 20 to May 6, 1990.

The committee has determined that participation by Mr. Arbury in the program in Germany, jointly sponsored by the Congress-Bundestag Staff Exchange and the United States Information Agency, is in the interest of the Senate and the United States.●

TRIBUTE TO MICHAEL VERSTANDIG, PRESIDENT OF WINDOW HEADQUARTERS, INC., RECIPIENT OF THE 1990 SBA AWARD

● Mr. D'AMATO. Mr. President, I rise today in recognition of the efforts of Mr. Michael Verstandig and his small business Window Headquarters, Inc., which through its remarkable efforts, has been chosen to receive a 1990 Small Business Administration Award.

In 1984, Window Headquarters [WH], Inc., was founded in Brooklyn, NY, by entrepreneur Michael Verstandig. At that time, Window Headquarters consisted of three employees—of which Mr. Verstandig was himself one—one truck, and a loan from the Small Business Administration. Despite its modest beginnings, however, Mr. Verstandig and his two partners, Daniel and David Malek, soon transformed WH into a well-managed and highly productive enterprise. WH currently employs 45 people, and operates seven offices throughout New York and abroad in Israel. As further illustration of its many successes, WH's sales have risen from $1 million in 1984 to over $8 million today, and the company's expansion and profits show no sign of receding.

Although, the outstanding business achievements produced by Mr. Verstandig's efforts are admirable, Window Headquarters, Inc., must also be commended for its commitment to its community. The company participates in a myriad of local volunteer organizations, such as the Halfloh Institute, Tomchei Shabbos, a social welfare organization, and the Young Israel of Staten Island, which sponsors religious programs for students. Moreover, WH not only offers its time, but also donates its doors and windows to needy organizations in the local community.

Small business is the backbone of the American economy: Its employs 6 out of 10 American workers, and produces greater than half of our country's goods and services. The furnishing of capital and long-term loans by the Small Business Administration is critical to the rejuvenation of the United States, and the successes of businesses such as Window Headquarters, Inc., are intrinsic to our overall economic health. For that reason, President Bush has again designated May 6 through May 12, 1990, as "Small Business Week," during which time the SBA will honor those companies such as Window Headquarters, Inc., that have not only shown great financial achievement, but also give something back to the community by creating jobs and increasing the State's productivity.

It gives me great pleasure to congratulate Window Headquarters, Inc., on its success, and I would like to personally thank Mr. Verstandig and the Small Business Administration for their vital contribution to America's future.●

HOOSIER HEROES: JIM CREWS COACHES READING ACES INTO A WINNING TEAM

● Mr. COATS. Mr. President, Jim Crews, head basketball coach at the University of Evansville, has another winner on his hands. Since he arrived in Evansville in 1985 Crews had molded that school's team, the Purple Aces, into a regional powerhouse. The number of Aces victories has risen from 8 the first year to 63 in the last 3 years. Even more significant perhaps is the fact that his players are not academic slouches. Last season, for instance, 8 of the 16 players had grade point averages of 3.0 or higher. One, Scott Haffner, became a first team Academic All-America, and is now a professional player in the NBA. Evidently Crew's crews are just as good in the classroom as they are on the court.

Flushed with such successes, Crews has been putting together another team known as the Jim Crews Reading Aces. Students in grades four through eight in the 20 elementary schools and 10 middle schools of the Evansville-Vanderburg school area are being recruited by their teachers to be members of this team.

The goal Crews has set for his new team is to excite students about reading. To become team players students must read certain numbers of pages assigned by teachers from library books, which the students choose. When the reading goals are reached,

the students win free admission to the Aces basketball games. They also receive certificates of merit from Crews and Purple Aces players. Teachers keep individual scorecards, stamping each player's card every time the student completes a specified number of pages. When all the squares are stamped in bright purple, the Aces' color, the student wins and it officially a Jim Crews Reading Aces.

Parents receive brochures explaining the program and goals set for their child. And each participating classroom is kept up to date on the students' achievements with large Reading Aces scorecards that hang in the rooms.

Nearly 8,400 students are currently enrolled in grades four through eight in area public schools, but not everyone may choose to participate in the program. However, Jack Humphrey, director of reading and special projects for the Evansville-Vanderburgh School Corporation, predicts that the project will be so popular that the stadium will be filled, and nearly all eligible students are expected to take part. Moreover, according to Tom Heaton, advertising manager of the Citizens Bank, the Reading Aces program is expected to be an annual event and in future years is likely to expand to include Evansville's parochial and private schools and many tristate schools as well.

The program is being supported by a number of Evansville area businesses, which are vitally interested in promoting literacy. One local corporation which is heavily involved is the Citizens Bank of Evansville. The idea for the Reading Aces program grew out of the bank's plan to underwrite a community service project that would benefit young people and feature local hero Jim Crews. Crews, himself an avid reader, suggested developing a reading program. Bank officials eagerly agreed, and Crews and the Citizens Bank began working with the Evansville-Vanderburgh school administrators and teachers to establish the Reading Aces.

According to the Evansville Courier, Crews applies the same principles that he has used in building winning basketball teams. "The only way you win at sports is to know—and practice—the basics," Crews is quoted as saying. "Reading is the basic building block for everything else you will learn. And reading also can be relaxing and enjoyable." Like Mr. William Vieth, president of Citizens Bank and CNB Bancshares, Coach Crews is convinced that children are America's most valuable resource, and education is the key to their future.

Mr. President, it is clear that without good reading skills, today's young people will be unable to compete in tomorrow's workplace. The Jim Crews Reading Aces program augments a number of other reading projects provided by the Evansville schools. The importance of this particular program is that it puts a well-known, popular sports figure, a person of considerable class and talent, at the head of a local effort to promote the importance and the joys of reading. It involves students, parents, teachers, businesses, the entire community in an effort which can only pay off in better education and more productive lives for youngsters. It gets everyone—especially students who need it the most—excited about reading.

For Coach Jim Crews, the Reading Aces poses another challenge and promises another victory. I congratulate him for spearheading this local program to encourage reading. And I salute the teachers and business leaders of Evansville, especially the Citizens Bank, for their work making the Reading Aces a success.

Mr. President, I ask that the text of an article on "Jim Crews Reading Aces" from the Winter 1990 issue of the University of Evansville magazine be printed in the RECORD at this point.

The article follows:

JIM CREWS READING ACES

In four years as basketball coach at the University of Evansville, Jim Crews has managed to accomplish what has eluded many of his peers.

He produces winners on the court and in the classroom. For example:

*The number of Aces victories since Crews arrived in 1985 has gone from eight to 16 to 21 to 26.

*Eight of last season's 16 players produced grade point averages of 3.0 or better, and one, Scott Haffner, was a first team Academic All-American.

*All 10 players who have finished their senior years under Crews at Evansville have graduated.

*Two members of this year's team—fifth year seniors Dan Godfread and Larry Brand—already have their bachelor's degrees and are enrolled in graduate school.

Now, Crews is lending his name and time to a new project that has little to do with basketball, but a lot to do with the classroom. The Jim Crews Reading Aces program was developed last summer as an incentive to increase and improve reading among all 10,000 children in grades four through eight in the Evansville-Vanderburgh School Corporation.

"I've always felt that athletics should be geared toward benefiting the kids," Crews says. "Those of us in athletics need to set examples for young people, and if this program can encourage kids to read and enjoy reading, we've accomplished something.

"It needs to be an ongoing process, though. We do no good by creating a reading program for six months or one year and then forgetting it. We need to encourage the kids, give them an opportunity to find out that reading can be both fun and educational, and then keep encouraging them as they get older."

Three different segments are involved in getting the Jim Crews Reading Aces program into the hands of 10,000 fourth through eighth graders. One is Citizens National Bank of Evansville, which is paying for the program. Citizens is publicizing it through advertisements and billboards, and is providing posters for each classroom and "scorecards" for each student to mark reading progress. The bank also picked up the tab for tickets to the Aces' February 8 game against the University of Detroit for all students who met their reading goals.

Secondly, the development of the reading program has been left to the experts—namely the teachers and administrators within the Evansville-Vanderburgh School Corporation. Each teacher has created reading goals for his or her students, and the students are then on the honor system in reporting their progress.

"We gave each school the option of being part of the Jim Crews Reading Aces program," says Dr. Jack Humphrey, supervisor of reading and special projects for the school corporation. "Not only did they all want to participate, but they all wanted to get started ahead of time. The enthusiasm for this program is outstanding, and much of the credit has to go to Coach Crews. People in the community have a high regard for him and the projects he undertakes."

Crews, of course, is the third segment in making the reading program go. He has been visiting schools and promoting the program since it was made public in October. After the Aces' season is completed, Crews and his players will personally present certificates at the schools to children who reached their reading goals at the end of the program.

"All of us can remember back to our school days when the teachers made us read as part of our assignments, and that often seemed like more work than fun," Crews says. "Our message here is that reading is not only important for your education, but that it can be fun, also. The kids are being given realistic goals to shoot for so they can feel a sense of accomplishment and if Aces basketball can help them get enthusiastic over reading, then that's great. After all, part of our responsibility is to give something back to young people."●

WALL STREET JOURNAL ENDORSES CONGRESSIONAL TERM LIMITATION

● Mr. HUMPHREY. Mr. President, a comprehensive editorial in the April 18 Wall Street Journal illustrates the driving force behind the concept of term limitation: the constituency. The Wall Street Journal points out that even as 70 percent of Congress opposes term limitation, the public supports it 2 to 1. The dichotomy between the public and Congress on the issue of term limitation is the very reason why that same public has so overwhelmingly embraced such a reform: Congress repeatedly disappoints its constituency on a host of crucial issues.

The public wants a representative, responsive government, whose primary concern lies outside of the beltway. Some say that the public has only to exercise electoral power, and place new and idealistic legislators into office. Yet elections have become 98.5 percent predictable, and in many districts no alternative candidate exists to challenge an incumbent. The public craves a far-reaching reform that is

Congress proof; one that will guarantee a steady flow of new talent into government.

Mr. President, we are public servants. Simply, if the public desires term limitation, we must serve them in that regard. I ask that the Wall Street Journal editorial appear in the RECORD following my remarks. I urge all Senators to act in their capacity as public servants, and heed the desires of those they serve.

The editorial follows:

[From the Wall Street Journal, Apr. 18, 1990]

LAWMAKERS FOR LIFE

As Congress goes back into session today, the gulf between legislators and the American people has never been greater. A recent Gallup survey found that 70% of House Members oppose the idea of limiting the number of congressional terms, while the public backed the idea two to one. Now a detailed New York Times/CBS poll has found that Members of Congress may be the only demographic group in the country that doesn't favor limits on terms. The rest of the country is frustrated with a legislature where the turnover is about that of the non-elected British House of Lords.

CURBING THE INCUMBENTS

Do you think there should be a limit to the number of times a member of the House of Representatives can be elected to a two-year term, or not?

[In percent]

	Favor	Oppose
Total sample	61	31
By party:		
Republicans	64	28
Democrats	60	30
Independents	58	33
By philosophy/ideology:		
Liberal	58	34
Moderate	64	30
Conservative	63	29
By Presidential preference:		
Voters pro-Bush	61	32
Voters anti-Bush	60	28
By race:		
White	61	31
Black	61	27
By gender:		
Men	57	35
Women	63	27

Sources: New York Times/CBS News poll. Survey of 1,515 adults conducted March 30–April 2, 1990, with a 3% margin of error.

The idea of limiting terms is overwhelmingly popular with Americans regardless of party, ideology or income. Women are more in favor of the idea than men. Martin Plissner, political director for CBS News, says he has "never seen an issue on which there was so little demographic variation." The message is clear. Dissatisfaction with Congress is almost universal.

The root of the problem with Congress is that barring major scandal, it is almost impossible to defeat an incumbent. In the past three elections, 96% or more of House incumbents who ran won. This lack of turnover has resulted in legislative arrogance, a dearth of new ideas and unaccountability. Congress just violated its legal budget deadline; where are the special prosecutors?

Franking privileges, huge staffs, gerrymandering and unfair campaign finance laws have combined to give incumbents a grossly unfair advantage. One out of four House districts this year likely will have an incumbent running with no major-party opposition—up from one out of five in 1988. One-candidate races are now spreading to the Senate. Democratic Arkansas Senator David Pryor had spirited competition in 1984 when he won with 57%; this year he has no opponent at all.

Senators have become just as brazen as their House brethren in shutting out competition. Take Republican Senator Larry Pressler's latest mailing to South Dakotans. It contains five pictures of the Senator and mentions his name 29 times on four pages. Last year, Mr. Pressler sent out more than 2.8 million pieces of mail, the equivalent of 10 pieces per household.

Critics of term-limits say that—franked mail or not—it's wrong to blame Congress for the now nearly 100% re-election rates since it is just as easy to vote against an incumbent as for. Michael Kinsley writes in the New Republic that if incumbents always win, it's because voters can't be bothered.

This presumes that voters can find out who the other candidate is. It is a political axiom that people won't vote for someone they know nothing about. That takes money, and skewed campaign finance laws combined with taxpayer-paid junk mail effectively mean that only incumbents have the cash to make themselves known and to be taken seriously by the media. Incumbents ended the 1988 elections with $63 million left over, while challengers were able to raise and spend a total of only $39 million.

Some complain that limiting terms would infringe on democracy by not allowing voters to elect whom they please. The polls indicate voters by two to one think the only way they can control Congress effectively is by limiting terms. We also note that these critics are not agitating in support of Ronald Reagan's call for repeal of the two-term limit for Presidents. A big problem of the current system limiting Presidents but not Congress is that this means political power is constantly tipped in a favor of the legislative branch.

Getting incumbents to reduce the advantages they have voted themselves is something like asking banks to leave their vaults unlocked. That's why the Washington, D.C.-based Americans to Limit Congressional Terms is asking states to call for a constitutional amendment to limit terms. It already has won in Utah and South Dakota. This fall, the group will try to get both incumbents and challengers to pledge they will not serve more than 12 years in office.

Self-imposed limits on officeholding were once part of this country's public-service ethic, with Members returning to private life after a couple of terms. As late as 1860, the average length of House service was four years. The number of freshmen in a new House never dipped below 30% until 1901. In the current House it is 8%.

Term limitation, once the accepted American tradition, has been replaced by congressional careerism. The opinion polls for term limitation show that the voters don't like the change. They now think the voluntary service limitation of the past must be made mandatory.●

POLISH KATYN MASSACRE COMMEMORATION

● Mr. RIEGLE. Mr. President, 1990 marks the 50th anniversary of the Polish Katyn massacre. This year, however, the commemoration of the massacre has brought unexpected news from the Kremlin. After decades of official denials, the Soviet Government reversed its rejection of responsibility for the massacre and admitted that Stalin's secret police had killed some 15,000 Polish officers and others after Soviet forces occupied parts of Poland in April and May 1940. This atrocity, which for years has fomented suspicion and ill will between the Poles and the Soviet Government, must never be forgotten.

That fateful spring is remembered bitterly by the Polish people, as Soviet authorities did not even allow access to the site in the Katyn Forest until 1988. It was only after Nazi storm troopers captured the region during World War II that the bodies of approximately 4,500 Polish officers were discovered. The Nazis and several international commissions, including the Red Cross, discovered documents in the uniforms of the soldiers and other direct evidence which revealed that Soviet secret police committed this heinous act of genocide in 1940. Until recently, however, the Soviets have blamed the Nazis for the crime, saying that the killings took place in 1941, while the Katyn Forest was in German hands. While the bodies of 4,500 people were found, 10,000 Poles interned at camps in Starobielsk and Ostashkow vanished without a trace. For thousands of Polish families, this is an outrage beyond compare.

The Katyn massacre and the Soviet denial of culpability for this tragedy have been at the center of bitter feelings among Poles toward the Soviet Government. This longstanding point of animosity reached a turning point, though, when on April 12, the Soviet Union officially admitted responsibility for the massacre and expressed "profound regret" to the Polish people and Government. Bronislaw Geremek, leader of Solidarity's political arm in Parliament and a close adviser to the Polish Government, believes that the Soviet Union's admission of guilt could lead to improved relations between Poland and the Soviet Union. He said:

This acceptance of guilt is important for Polish-Soviet relations. The words were pronounced that murder was committed and those who did it were named. These were words that we waited for a long time. It can be said that now, just now, the possibility is open that relations between Poland and the Soviet Union can be put on the right track.

Tass, the official press agency, expressed the Soviet Union's profound regret over the Katyn tragedy, calling it "one of the greatest crimes of Stalinism." Still, many Poles expect more than an admission of guilt. Solidarity leader Lech Walesa commented that while "It's good that criminals admit their crimes, * * * " there must be "punishment of those guilty of the genocide" and reparation for the survivor's families. Understandably, a simple apology for the slaughter of

thousands of Poles falls short of the amends that many Poles would have the Soviets make for this terrible crime.

I believe that commemoration of the massacre at Katyn is important because it forces us to remember the horror of the past so that we may never again experience such a tragic event. While I am glad that the Soviet Union has finally acknowledged responsibility for the Katyn massacre, the atrocity committed against the Polish people must never be forgotten. The President of Poland, Wojciech Jaruzelski, wrote eloquently about the memory of the victims of Katyn in the visitor's book at the site in the Katyn Forest on April 14, 1990:

They fought for an independent Poland. They died innocently, far removed from their families and homeland. They were faithful to Poland and to military honor until they breathed their last. In tribute and in lasting memory to Polish officers, victims of the cruel Stalinist regime.●

TRIBUTE TO BONNI ELLEN SMILES

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to an exceptional teacher and individual, Bonni Ellen Smiles, who sadly passed away on January 22, 1990.

The contributions of Mrs. Smiles to her students, her family, and her entire community were tremendous. The extent of her commitment was partly evidenced by the myriad of community and educational organizations to which she belonged. She was involved in the Jewish Secular Shul of Suffolk County, the East End Reading Council, the International Reading Association, the Port Jefferson Parent-Teachers Association, the Western Suffolk Teaching Center, the Smithtown Teachers Association, and the Special Education PTA. As a Cornell alumnus, Mrs. Smiles interviewed potential Cornell candidates, and was also a member of the Port Jefferson Village Long-Range Planning Committee.

Despite these many involvements, however, Mrs. Smiles was first and foremost a teacher. In these times of increasing concern over the quality of our students' education, it is more important than ever to praise those teachers whose dedication and ideals transform not only the lives of their students, but of their community as well.

Mrs. Smiles is survived by her husband, Peter, and her three sons, Adam, Joshua, and Jacob. Mrs. Smiles will be sorely missed by her family, friends, and students, and I would like to offer my sincere condolences to them all.●

RETIREMENT OF REV. ROBERT E. GIRTEN

● Mr. LUGAR. Mr. President, I take this opportunity to call to the attention of my colleagues Rev. Robert E. Girten, who recently announced his retirement from the position of executive director of the Wayne County Opportunities Industrialization Center, Inc. [OIC] in Richmond, IN. Since 1974, Reverend Girten has provided leadership to this community-based organization as its principal organizer and founder.

Since 1966, Reverend Girten has served as pastor of Mount Moriah Baptist Church and has devoted nearly a quarter of a century of service to his community and the State of Indiana. He established the Wayne County OIC, an affiliate of the national organization, which has provided adults with educational services, job training assistance, employment opportunities, and other services. Under Reverend Girten's leadership, programs were developed to address the youth of his community offering dropout prevention, remedial education, and skills development. In addition, Reverend Girten pioneered the establishment of low-income housing for the city of Richmond.

Born October 15, 1915, in Washington County, KY, Reverend Girten graduated from Bates High School in Danville, KY, before attending Simmons University, where he received baccalaureate degrees in theology and divinity. Reverend Girten is married and the father of three. His community activities include his service as past president of the NAACP local chapter, and past chairman of the Human Rights Commission.

I take great pleasure today in recognizing Rev. Robert E. Girten for his leadership and service to his community, the State of Indiana, and our Nation. On behalf of the citizens of Indiana, I wish him continued success as he begins the next chapter of his life.●

COMMEMORATING THE 25TH ANNIVERSARY OF VALLEY HIGH SCHOOL

● Mr. BRYAN. Mr. President, I rise today to celebrate the 25th anniversary of the founding of Valley High School in Las Vegas and to recognize the school's continuous service to the city of Las Vegas, Clark County, and the State of Nevada.

Since Valley High School opened in 1965, it has graduated approximately 19,000 young men and women. To meet the increasing demands of a thriving and rapidly growing Las Vegas, Valley High School has expanded to serve 2,760 students in grades 10–12, while maintaining a student body and faculty dedicated to the pursuit of excellence in education. Approximately 70 percent of Valley's graduates further their education at institutions of higher learning. In fact, in recent years the school has developed one of the largest advanced placement and international baccalaureate programs in the Nation. In May 1989, more than 500 dual credit exams were administered to the school's junior and senior classes.

Yet, Valley is also dedicated to the overall development of its students. Recognizing the numerous other talents of Las Vegas' young men and women, the school has encouraged creation of more than 40 clubs and organizations on campus, many of which are dedicated to serving the community. In addition, the school has developed a tradition of athletic excellence, achieving 49 Southern Zone titles and 33 State titles in the past 25 years.

There are many reasons for the economic and cultural expansion of the Las Vegas area and our State. However, we cannot overlook the invaluable contributions made to Las Vegas and our entire State by Valley High School alumni. Their talent and success cannot be more ably represented than by the accomplishments of Tara Silvestri, a 1985 graduate, who was selected this year as a Rhodes Scholar.

Mr. President, it is with great pride that I mark the week of April 23–27 as Valley High School's Silver Anniversary Week, in honor of the alumni, student body, faculty, and administration who have made Valley High School the outstanding institution that it is today, and to say thank you to everyone associated with this school for their never ending contributions to Nevada.

Mr. President, I ask that certain correspondence and a profile related to this event be printed in the RECORD.

The materials follows:

VALLEY HIGH SCHOOL,
Las Vegas, NV, March 5, 1990.

Hon. RICHARD BRYAN,
U.S. Senator, Las Vegas, NV.

DEAR SENATOR BRYAN: Valley High School is celebrating its 25th year of service to the City of Las Vegas, Clark County and the State of Nevada. Valley High School has contributed a vast number of accomplished graduates during that period of time to our city, state and nation. The high school has always been looked upon as one of the leading secondary high schools in the State of Nevada. In fact, in recent years the school has emerged with one of the largest Advanced Placement and International Baccalaureate programs in the nation. Our academic accomplishments received the ultimate compliment this year when Tara Silvestri, a 1985 graduate was selected as a Rhodes Scholar.

We have selected April 23–27 as our silver anniversary week. We plan to hold a ceremony on April 25 to recognize some of our distinguished graduates, Valley High School educators that have served over the past twenty five years and unveil an anniversary plaque. The keynote speaker for the evening will be our Rhodes Scholar, Tara Silvestri. We would be very honored if you

could attend and would, of course, place you on the agenda as an honored guest. A formal invitation will follow this letter at a later date.

We are soliciting your support for a proclamation for April 25th or the week of April 23-27 recognizing Valley High School's significant contributions to the city, county and state. If a proclamation is not appropriate, any form of recognition from our leading governmental agencies that would highlight our graduates, our student body, our parents, and the many educators who have served so capably at Valley High School would be truly appreciated.

Sincerely yours,

MIKE EDWARDS,
Principal, Valley High School.

SENATOR BRYAN: We really appreciate you placing our Silver Anniversary in the CONGRESSIONAL RECORD. The 2,760 students at Valley and the approximately 19,000 graduates will be honored.

Enclosed is a school profile and an invitation to the ceremony.

MIKE EDWARDS.

VALLEY HIGH SCHOOL 1965-90

Valley High School opened in 1965-66 with grades 8-11. In 1989-90, it is a large metropolitan high school of 2,760 students serving grades 10-12. The facility has 7½ acres under one roof. The school facility was originally designed for modular scheduling, was altered over the years to accommodate a more traditional program and in 1986-87 the facility was totally vacated for an entire year to remove all asbestos and to retrofit the school to meet the Nevada Fire Code Laws. The student body was housed for one year at Chaparral High School and returned to a new campus in 1987-88. The facility is, today, one of the most atheistically beautiful high schools in our nation.

From the very beginning, the school established a reputation for academic excellence. Approximately 70% of the graduates each year go on to further their education in institutions of higher learning. Valley High School graduates have made major contributions in the professional, political and business world. Today, the school has one of the largest Advanced Placement and International Baccalaureate programs in the nation. In May of 1989 more than 500 dual credit exams were administered to juniors and seniors at Valley High School. The students who graduate from the Advanced Placement and International Baccalaureate programs excel at our nation's most prestigious universities. The academic program received the ultimate compliment in 1990 when Tara Silvestri a 1985 graduate was named a Rhodes Scholar.

There are more than 40 clubs and organizations on campus. A high percentage of the clubs have a reputation for service to the community. The Key Club has been the flagship of the service oriented clubs, and it is recognized as one of the best Key Clubs in the Western United States. The marching band and symphonic band have traditionally received superior ratings in Nevada and California competitions. The songleaders and cheerleaders have qualified to compete in the national finals in their respective categories; both made the National Cheerleaders Association finals in Dallas, Texas this past year. Dance Bravo has been the leading dance group in the Clark County School District dance festival over the past decade and its instructor Miranda Ogawa, was named the Southwest Dance Instructor of the year in 1989.

Valley High School has a tradition of athletic excellence. The school has achieved 49 Southern Zone titles and 33 State titles in its athletic programs over the past 25 years. Most notable are 4 straight men's basketball championships, 6 state titles in baseball during the 1980's, 6 straight women's state tennis titles, 5 straight wrestling titles in the 1970's, and dominance in soccer since it became a competitive sport. This has all been accomplished without sacrificing the development of ethics, character and sportsmanship.

Testimony to Valley High School excellence comes in many forms. A survey conducted with Valley High School parents in March 1990 provided the school with a B+ on the question what grade best describes your overall opinion of Valley High School. The school's reputation with the most prestigious institutions of higher learning is constantly reinforced by the number of scholarships and/or acceptance of Valley High School graduates to these institutions.

Competitions are held throughout the United States in academics, athletics and activities. Valley High School is always at the forefront; it is recognized as a first class high school institution!●

COMMEMORATING THE CENTENNIAL OF THE 1890 MORRILL ACT AND CONGRATULATING ALABAMA A&M UNIVERSITY AND TUSKEGEE UNIVERSITY FOR THEIR UNSWERVING DEDICATION TO EXCELLENCE

●Mr. SHELBY. Mr. President, Alabamians are fortunate to have two preeminent institutions of higher education located in the State. Alabama A&M University and Tuskegee University, with their international reputation have played a vital leadership role in the development and growth of Alabama. The history of these universities is a history of black Americans, and a history of growth and change in America.

In 1890 the Congress recognized the importance of assisting the development of several universities. The outgrowth of this recognition was the second Justin Morrill Act of 1890. This act has helped these fine universities contribute to agriculture through teaching, research, and service. Overall, the commitment Alabama A&M and Tuskegee has to excellence is best shown through the programs established, degrees granted, the composition of faculty, and the relationship the universities have with the community. The institutions are uniquely qualified to provide a top quality education for all promising scholars.

Located in Huntsville, AL, A&M University is a multicultural and cosmopolitan institution with 45 foreign countries and 41 States represented among its students. More than 57 percent of the faculty hold doctorate degrees. The university's public service and community programs have been expanded through the small business development center, the child development center, the national youth sports program, the Upward Bound Program, and the agricultural extension services.

Tuskegee University was conceived by a strong coalition of local citizens and State legislators. Lewis Adams, a former slave and self-established leader of the black community was the first person to urge the establishment of a normal school for blacks. Tuskegee enrolls more than 3,500 students and its teaching faculty numbers more than 300. International students and faculty represent over 50 nations.

Tuskegee's current mission states in summary:

Tuskegee University accomplished its central purpose of developing leadership, knowledge and service through its undergraduate, graduate, professional, research, and outreach programs. Through these programs, students are encouraged not only to pursue careers but to be of service to the society and to remain active lifetime learners. The university seeks to instill a robust thirst for knowledge and a vibrant quest for wholesome patterns of personal and social ethics that have philosophical and spiritual depth. In the process, it seeks to help each student develop an appreciation for the finer traits of human personality, the beauty of the earth and the universe, and a personal commitment to the improvement of the human condition.

Without question, America has benefited from these universities' commitment to excellence. The incurable desire to learn is being cultivated on these two campuses. It is with great pleasure that today we officially recognize Alabama A&M University and Tuskegee University's laudable contributions.●

TRIBUTE TO DR. ADELE HANSEN WOOD

● Mr. INOUYE. Mr. President, recently, professional nursing lost one of its most outstanding national leaders, Dr. Adele Hansen Wood. Since 1978, nurses who sought to pursue careers as nurse scientists were most likely to have had some contact in person or by telephone with Dr. Wood. As director of the National Research Service Award Program of the Division of Nursing, Health Resources and Services Administration, U.S. Public Health Service, and as Chief of the Research Development and Review Branch of the National Center for Nursing Research at the National Institutes of Health, Dr. Wood encouraged, supported, and often motivated "her fellows" through conversations. She was always available to them: providing guidance through the labyrinth of the bureaucracy, helping to make choices about career directions, and keeping in touch even after they obtained their advanced degrees and had begun their research careers. She served as a role model for all nurses—

truly a most compassionate person and leader, ever mindful of finding ways to improve the quality of patient care through research.

Dr. Wood was a licensed clinical psychologist. She served as a member of the U.S. Navy Nurse Corps during World War II and the Korean conflict, completing her military service with the rank of Commander. Before joining the Division of Nursing, U.S. Public Health Service, she was an educational specialist with the Naval Health Sciences Education and Training Command, National Naval Medical Center, where she developed in-service training models and modules of instruction for which she received a Distinguished Service Award. Dr. Wood also served as nursing education consultant with J.B. Lippincott, educational psychologist with the Human Life Foundation, and a staff member of the Naval Medical Research Institute, Bethesda, and Naval Medical Research Unit No. 4 at Great Lakes Naval Training Center IL. Dr. Wood retired from the National Institutes of Health in June 1989; she died of cancer on February 27, 1990, in Ridgewood, NJ. She is survived by her sister, Ella H. (Mrs. Richard E.) Davies, 76 South Murray Avenue, Ridgewood, NJ.

As a living memorial to a person who helped so many individuals in their achievements in nursing as practitioners, teachers, administrators, and researchers, the American Nurses' Foundation [ANF] has established "The Dr. Adele H. Wood Research Grant Award" fund. Dr. Wood will also receive, posthumously, the first Distinguished Service Award of the American Academy of Nursing to be bestowed at its annual meeting in October 1990. Those of us who have been active in nursing issues will truly miss her guidance and vision. I am confident, however, that her "students" will keep her vision alive and flourishing.●

THE 25TH ANNIVERSARY OF HEAD START

● Mr. RIEGLE. Mr. President, I am pleased to join my people across the country in celebrating the 25th anniversary of the Head Start Program. Head Start has been a pioneer program in the area of early childhood development. Through innovative approaches, it has become one of the most successful of all Federal programs.

Research has shown that providing high-quality education and services for preschool children from low-income families is a very effective means of preparing these children for their formal school years and preventing many problems later on. The Head Start Program is successful because it recognizes that high-risk children can have many needs, that they require adequate nutrition and health care, as well as educational activities appropriate to their level of development. It also emphasizes parental involvement which is essential to helping each child develop to his or her potential.

The tragedy of Head Start is that we still do not reach all the children who need help. Only one in five eligible children are currently served. The President is proposing a $500 million increase for Head Start which would enable 180,000 more children to participate. I hope we will be able to fund this increase this year to bring these services to more families, and work toward making it possible for all eligible children to participate in Head Start. I believe this is an important investment in our Nation's future that will help these children become healthy and productive citizens and will also save us money in the long run.

This is an important year for Head Start because it is up for reauthorization. I am pleased to be a cosponsor of legislation to extend and expand this program. Our goal is to have all eligible 3- to 5-year-old children served by 1994. I am also cosponsoring a resolution to commemorate the 25th anniversary of Head Start to help highlight the importance of this program to our Nation's children.

I am encouraged by the attention now being given to early childhood issues. Part of the debate over the need for better and more widely available child care and enhanced early education reflects an increased awareness that helping our Nation's children early in life will also help prevent problems like delinquency and high dropout rates. I strongly believe that Head Start is critical to addressing these needs in our society and should be the cornerstone of early childhood programs.

I would like to express my support and appreciation for all those who participate in this program and work to make it successful. They are providing an invaluable service to our country and their contribution deserves our gratitude.

I am hopeful that we will be able to expand and extend this program so that it will continue to develop and provide high-quality comprehensive services to our Nation's children.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 101-16

Mr. GRAHAM. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Income Tax Convention with Spain, with Protocol, Treaty Document No. 101-16, transmitted to the Senate yesterday by the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I also ask unanimous consent that the treaty be considered as having been read the first time; that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, together with a related Protocol, signed at Madrid on February 22, 1990. I also transmit the report of the Department of State.

The convention is the first income tax treaty to be negotiated between the United States and Spain. Based in large part on model income tax treaties developed by the Department of the Treasury and the Organization for Economic Cooperation and Development, it also reflects changes in tax law resulting from the enactment of the Tax Reform Act of 1986.

The convention provides rules governing the taxation by each State of income derived by residents of the other State. The convention also contains provisions that prevent "treaty shopping" and authorize the exchange of information and administrative cooperation between the tax authorities of the two States.

I recommend that the Senate give early and favorable consideration to the convention and protocol and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1990.*

ORDER TO STAR PRINT SENATE REPORT NO. 101-103

Mr. GRAHAM. Mr. President, I ask unanimous consent that Report No. 101-103 be star printed to reflect the change I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, APRIL 20, 1990

RECESS UNTIL 8:30 A.M. AND MORNING BUSINESS

Mr. GRAHAM. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:30 a.m., Friday, April 20; that following the prayer, the Journal of the proceedings be deemed approved; that the time for

the two leaders be reserved for their use later in the day; and that following leader time there be 1 hour of morning business under the control of Senator NUNN for his and other members of the Armed Services Committee's usage; and that at 9:30 a.m., there be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF H.R. 1594 AT 10:30 A.M.

Mr. GRAHAM. Mr. President, I further ask unanimous consent that at 10:30 a.m. on Friday, April 20, the Senate resume consideration of H.R. 1594, the miscellaneous tariff bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:30 A.M. FRIDAY, APRIL 20, 1990

Mr. GRAHAM. Mr. President, I ask unanimous consent that at the conclusion of Senator SIMPSON's remarks the Senate stand in recess under the previous order until 8:30 a.m., Friday, April 20.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JERUSALEM RESOLUTION

Mr. SIMPSON. Mr. President, I thank my friend from Florida. I would just take an additional 6 or 7 minutes to complete some thoughts that were presented this morning by my friend and colleague, Senator DOLE. I accompanied him on the trip to the Middle East to visit with President Assad, to go on to Egypt and visit with President Mubarak, then to Jordan to visit with King Hussein, and then to Iraq to visit with President Saddam Hussein and then in to Israel to speak with all of the principal leaders in that country as they grapple with forming their government.

I just want to add my support to earlier comments made by our fine Republican leader regarding the Concurrent Resolution 106 concerning the status of Jerusalem. That thing apparently is taking on a life all of its own. It is a very curious thing to watch.

I, too, share some of the responsibility for agreeing to cosponsor the resolution without first checking into all of the possible ramifications of that resolution. I think of how many times on this floor when we are usually in the thick of combat and some lovely friend comes up to you and says, "Here's a resolution on whatever." You say, "What does it do?" "Well, it doesn't do anything, really. It probably is going to pass here 100 to nothing." And they usually do.

But let me tell you, ladies and gentleman and colleagues all, somebody knows every word that is in it. Every single word. And somewhere on the face of the globe it raises the most extraordinary passions. Maybe not here.

So we do these sense-of-the-Senate resolutions, and they roll out of here by the metric ton. I know staff are energized by them. You have to get up very early to see that some of the things get in some of them. Baseball; I remember the one on the baseball strike. That was one that we did, where we urged the termination of the baseball strike.

I think my fine friend from New Hampshire, Senator RUDMAN, commented on that very crisply. He said, "Who cares what the U.S. Senate feels about whether the baseball strike ends or not?"

Well, somebody did. And I understand that. Obviously the sponsors did. And they did it with very sincere motives and honest feelings.

But I can tell my colleagues that on this trip to the Middle East, it is very, very clear in Israel about the issue of Jerusalem being the capital city of Israel, which I really do not want to argue with in any great amount. But let me tell my colleagues, when we were in Jerusalem we visited with the Mayor of Jerusalem, Teddy Kollek, and so many of us know him and know what an extraordinary man he is, a man bigger than life, a loving, caring, remarkable person. He was saying to us—and I do not know how his words will be portrayed, but he was saying, in essence: That is not very helpful stuff. We all know what it says. It comes at a very sensitive time when we are forming a government. It is just a very difficult thing, that creates more problems than it should. Not that it is any less a feeling of mine too as he talked about his own feelings about what it was.

But it is now so firmly brought home to me, and it now is not the first time it has happened to me. I went to the Soviet Union 2 years ago. I was again vividly reminded of that trip. It was about a resolution we passed in early 1988 expressing something about a "sense of the Senate" on the millenium of the Christianization of the Ukraine or Kiev or Kievian Russe, in the Soviet Union.

It was worthwhile. It was one of those resolutions that all of us signed. It was one that passed probably by a voice vote, or if it passed by a recorded vote it passed 100 to 0 or 98 to 2.

I was sitting there at a meeting with council people or administrators in Kiev, and a man in a rage said, "Why did you people sitting at this table and being our guests, sign this resolution about the Christian elements of the Ukraine?"

And we said, "what was it again?"

And it disrupted the entire meeting.

Now, at every single Arab country where we were, we had to spend the first 20 minutes of the meeting talking about that resolution. And, meanwhile, it gives everybody a big excuse not to talk about peace. I think we ought to sober up and realize what we are doing with these resolutions. I know I am. I am not going to get involved in them anymore.

When somebody comes up to me and says, "Here is a sense-of-the-Senate resolution," I am going to say, "Are you sure it may not be a nonsense-of-the-Senate resolution?" Here it is then—something we just do not pay enough attention to. Somewhere outside of this Chamber somebody is paying extreme attention to it, using it, then, to disrupt what we ought to be about. And that is to be bringing about accord, instead of discord; bringing peace instead of opportunities to fight and scrap and wrestle over language in some country that very few of our colleagues have ever been to, while we are trying to talk to them about why do you not release our hostages? Why do you not give us the remains of Colonel Higgins? Why do you not start talking with the Israelis about peace? Instead we have to mess around with what we did on a certain sense-of-the-Senate resolution. Yes, we ought to sober up. And it does not have one thing to do with whether you are anti-Israeli or pro-Israeli. I regard it as a painful and valuable lesson to be learned.

As I say, those resolutions do have significance. They have awesome significance to somebody, somewhere; often a lot more than to someone in this Chamber. And we should inform ourselves and educate ourselves of the significance of these measures before we sign on to them.

So, that one well-meaning resolution sent waves through the Middle East and dealt a blow to the peace process. I can tell my colleagues, that is what it did. Instead of being able to focus on peace, we spent this inordinate amount of time talking about a resolution that most Senators, and I defy them to challenge it, did not even realize had been passed by the Senate on a voice vote.

Most of the cosponsors of it were gathered through calls and contacts from the Cloakroom within a period of an hour, probably in both Cloakrooms. You know the call we get. You are at your desk and have four constituents with you: The quick call is, "Do you want to get on this resolution about Israel?" "You bet—put me on." So, there we are.

I want to comment a bit more on it. Jerusalem is a city of great religious significance to Christians, Jews, and Moslems. Palestinians who have no present homeland have a deep and abiding connection with the city.

Meanwhile, we do that resolution and it was not helpful. It was a difficult diversion of extraordinary dimension. It need not have been.

I think that I have learned the lesson twice—actually three times. I hope I chamber that and keep it in memory. I urge my colleagues to take that message to heart as well. I guess if you get kicked in the head by a mule once, you deserve it. If you get kicked twice in the head by a mule, you are a fool.

So I hope we will pay close attention. And the next time one of our remarkable friends and colleagues comes up and says, "This one is easy, it is just a sense of the Senate, it does not really mean anything." I shall say "If it does not mean anything, then do not put it before us."

I know the able majority leader has just returned from the Soviet Union, and I also know he was confronted continually with the resolution which we passed about Lithuania right here on this floor, and it was a diversion for him too, I am certain.

So I hope all of us will come to realize the full impact of what we do with sense-of-the-Senate resolutions, especially when the sponsors, as they go through the Chamber, are saying, "It really does not do anything, but we should do it." I have given you three personal experiences where all it did was divert us from our cause and it was embarrassing and ill timed.

I also think it is a shame, I must say this, to Members of my own party in the House of Representatives, to cut loose on the minority leader about his remarks made in Israel when they do not even know what happened. I am very hurt and disappointed to see NEWT GINGRICH become part of that. That is not helpful at all. The purpose of it remains unknown to me unless it is just pressure to see who can be more pro-Israeli in this body. If that is all we are going to do here, then I do not need to have my credentials checked by anybody as to whether I am pro-Israeli. My parents were there for a lengthy time in the 1950's. I have the greatest respect and admiration for Israel—go look at my voting record.

But people who love to stir all this up—and they are there—are going to simply use this to see who is more pro-Israeli. Contact the members of this delegation that just returned, contact my respected colleague from Ohio, Seantor METZENBAUM, as to what happened. It was a tough one for him. It was a tough one for him to go to Iraq as an American Congressman of Jewish faith. He was tremendous in his dealings face to face with President Saddam Hussein. He was tremendous in his dealings with the leaders of Israel. He said, "I am a friend of yours. If your friends cannot talk to you in honest ways, what is friendship about?" I hope we will not let this slip into something that is at first anti-Israel, then anti-Semitic, and all of this stuff that goes with this ghastly exercise that we press upon each other. It is unbecoming and unattractive in every facet.

I thank the Chair for its patience and for taking the additional time of the body. In accordance with the previous order, I conclude with appreciation to the Chair.

RECESS UNTIL 8:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 8:30 a.m., Friday, April 20, 1990.

Thereupon, at 7:45 p.m., the Senate recessed until Friday, April 20, 1990, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate April 18, 1990, after the recess of the Senate, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

DANE FARNSWORTH SMITH, JR., OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA.

CHARLES H. THOMAS, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

ALAN PHILIP LARSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR.

THE JUDICIARY

RICHARD F. SUHRHEINRICH, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR BE SIXTH CIRCUIT VICE ALBERT J. ENGEL, RETIRED.

DAVID C. NORTON, OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA VICE SOLOMON BLATT, JR., RETIRED.

THE FOLLOWING-NAMED PERSONS TO BE ASSOCIATE JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS (NEW POSITIONS).

MARY ELLEN ABRECHT, OF THE DISTRICT OF COLUMBIA.

KAYE K. CHRISTIAN, OF THE DISTRICT OF COLUMBIA.

FREDERICK D. DORSEY, OF THE DISTRICT OF COLUMBIA.

ELLEN SEGAL HUVELLE, OF THE DISTRICT OF COLUMBIA.

JOSE M. LOPEZ, OF THE DISTRICT OF COLUMBIA.

JOAN Z. MCAVOY, OF THE DISTRICT OF COLUMBIA.

GREGORY E. MIZE, OF THE DISTRICT OF COLUMBIA.

PATRICIA A. WYNN, OF THE DISTRICT OF COLUMBIA.

OFFICE OF PERSONNEL MANAGEMENT

PATRICK E. MCFARLAND, OF VIRGINIA, TO BE INSPECTOR GENERAL, OFFICE OF PERSONNEL MANAGEMENT (NEW POSITION).

NATIONAL SCIENCE FOUNDATION

ARDEN L. BEMENT, JR., OF OHIO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994 (REAPPOINTMENT).

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (1H) WILLIAM C. BOWES, xxx-xx-xxxx U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

WILLIAM T GORMLEY, xxx-xx-xx...
ROBERT E MCDONALD, xxx-xx-xxxx
KENNETH F WAINNER, JR., xxx-xx-xxxx

To be lieutenant colonel

SUDHIR A JAITUNI, xxx-xx-xxxx
DONALD H JOHN, xxx-xx-xxxx
WILLIAM Y MCKEE, xxx-xx-xx...
ROBERT J STEPP, xxx-xx-xxxx

To be major

WILLIAM R BLACK, xxx-xx-xx...
ARNE HASSELQUIST, xxx-xx-xxxx
FRANCESCO R OLIVITO, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

ALAN M AKERS, xxx-xx-xxxx
THOMAS S BAILEY, JR., xxx-xx-xxxx
TERRELL COHEN, xxx-xx-xxxx
FREDERICK G GUERRA, JR., xxx-xx-xxxx
WAYNE K TANAKA, xxx-xx-xxxx

To be major

GREGORY C. BROWNING, xxx-xx-xxxx
WALTER J. JAMES, xxx-xx-xxxx
RICHARD L. PASCHEDAG, xxx-xx-xxxx
SUSAN J. SMYTHE, xxx-xx-xxxx

To be captain

BRADLEY J. NELSON, xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL SERVICES CORPS

To be lieutenant colonel

JOSEPH C. ARGYLE, xxx-xx-xxxx
STEPHEN B. CHRISMAN, xxx-xx-xxxx
JAMES W. COLE, xxx-xx-xx...
IVAN COVAS-MALDONADO, xxx-xx-xx...
JON F. FRANCO, xxx-xx-xxxx
HUNG-JEN FU, xxx-xx-xxxx
RIZALINA LLANES-RODAS, xxx-xx-xx...

THE FOLLOWING AIR FORCE OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, IN ACCORDANCE WITH SECTIONS 624 AND 1552, TITLE 10, UNITED STATES CODE, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

FREDERICK J. HOLLINGER, xxx-xx-xxxx
HUBERT C. WALKER, JR, xxx-xx-xxxx

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE (EFFECTIVE DATE FOLLOWS SERIAL NUMBER).

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. ROBERT C. BENNER, xxx-xx-xxxx 12/21/89
MAJ. RODNEY M. COWELL, xxx-xx-xxxx 1/9/90
MAJ. THOMAS P. CROUSER, xxx-xx-xxxx 1/7/90
MAJ. STEPHEN T. ELLIS, xxx-xx-xxxx 8/25/88
MAJ. RICKY B. GOWTHROP, xxx-xx-xxxx 1/21/90
MAJ. MICHAEL D. HARBECK, xxx-xx-xxxx 1/17/90
MAJ. WILBUR D. HOWARD, JR., xxx-xx-xxxx 12/15/89
MAJ. LAIRD R. JOHNSON, xxx-xx-xxxx 12/15/89
MAJ. MICHAEL R. JUDGE, xxx-xx-xxxx 12/21/89
MAJ. BRUCE D. MCGRAY, xxx-xx-xxxx 1/12/90
MAJ. DENNIS W. MENEFEE, xxx-xx-xxxx 1/12/90
MAJ. THOMAS L. MILLER, xxx-xx-xxxx 1/25/90

MAJ. EDWIN R. MIYAHIRA, xxx-xx-xxxx 12/21/89
MAJ. ROBERT E. MORAN JR., xxx-xx-xxxx 1/4/90
MAJ. PETER S. PAWLING, xxx-xx-xxxx 12/21/89
MAJ. DEAN R. PHILLIPS, xxx-xx-xxxx 1/7/90
MAJ. GARY A. READ, xxx-xx-xxxx 1/4/90
MAJ. WILLIAM J. SCHWARTZ, xxx-xx-xxxx 1/7/90
MAJ. JAMES M. SHOCK, xxx-xx-xxxx 1/6/90
MAJ. JAMES W. SILVER, xxx-xx-xxxx 1/4/90
MAJ. WILLIAM K. SMITH, xxx-xx-xxxx 1/7/90
MAJ. THOMAS J. STEICHEN, xxx-xx-xxxx 1/4/90
MAJ. ROY M. THOMPSON, xxx-xx-xxxx 1/6/90
MAJ. JEFFREY B. WILLIAMS, xxx-xx-xxxx 1/4/90
MAJ. ROBERT J. WILLSON, xxx-xx-xxxx 1/7/90
MAJ. MICHAEL B. WOOD, xxx-xx-xxxx 1/6/90

LEGAL CORPS

To be lieutenant colonel

MAJ. JOHN R. METTNER JR., xxx-xx-xxxx 1/6/90

CHAPLAIN

To be lieutenant colonel

MAJ. JOSEPH R. ROSS JR., xxx-xx-xxxx 11/30/89

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER IDENTIFIED WITH AN ASTERISK IS ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

WILLIAM R. REEHM, xxx-xx-xxxx
HANS J. SEARLES, xxx-xx-xxxx
HOMER W. WORRELL, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

GRANT H. MCALLISTER, xxx-xx-xxxx

To be major

MITCHELL C. SARTAIN, xxx-xx-xxxx

MEDICAL CORPS

To be major

* JOHN G. THOMAS, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING FIRST LIEUTENANT, U.S. MARINE CORPS, FOR APPOINTMENT TO THE GRADE OF CAPTAIN, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 6222:

DENNIS R. BURIAN

IN THE NAVY

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

R.W. BELOW
BRIAN W. BOOKER
R.N. BOWMAN
M.J. DEAN
ROBERT ELEVELD
C.S. FARRAR
BRYAN FRATELLO
DAVID D. GAMMELL
JEFFREY M. HANNA
JAMES E. HASSETT
M.P. KINGSTON
J.A. KONSTANZER
W.P. KRONEN
C.E. LARSON
PAUL R. LEMESTRE
G.L. MATHIS
SHAWN L. MCCRACKEN
FREDERICK M. OELRICH
DAVID A. POST
EUGENE R. RATHGEBER
ROBERT SILK
B.J. SOKOLOW
ROBERT TENCZAR
M.P. TETTE
J.R. THOMAS
DAVID M. TRZECIAKIEWICZ
S.D. WHITE
STEVEN P. WHITES
CLIFTON J. WILCOX
K.A. ZEHE

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JOHN A. HOUKOM
PAUL E. STOBIE

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 3385:

ARMY PROMOTION LIST

To be colonel

PHILLIP R. BELL, xxx-xx-xxxx
DENIS T. BRIMHALL, xxx-xx-xxxx
JAMES E. BURNES, xxx-xx-xxxx
JOHN A. CUSACK, xxx-xx-xxxx
BERNARD A. FONTAINE, xxx-xx-xxxx
SAYER L. FRISBIE, xxx-xx-xxxx
JAMES J. FULLER, xxx-xx-xxxx
LUCIUS A. FUNCHESS, JR., xxx-xx-xxxx
JAMES H. HADFIELD, xxx-xx-xxxx
DONALD M. HUBER, xxx-xx-xxxx
DANIEL A. JOHNSON, xxx-xx-xxxx
JOHN A. LACK, xxx-xx-xxxx
CLIFFORD W. LANT, JR., xxx-xx-xxxx
RONALD K. LAWRENCE, xxx-xx-xxxx
CHARLES A. LOWERY, xxx-xx-xxxx
HENRY J. MCFERRAN, JR., xxx-xx-xxxx
DUNCAN A. MONROE, xxx-xx-xxxx
MICHAEL J. MURPHY, xxx-xx-xxxx
GREGORY T. MURRAY, xxx-xx-xxxx
ANTHONY L. OIEN, xxx-xx-xxxx
NOEL R. PETTIT, xxx-xx-xxxx
ROBERT O. PRICE, JR., xxx-xx-xxxx
WALTER F. PUDLOWSKI, JR., xxx-xx-xxxx
CORNELIUS W. RICHARDSON, JR., xxx-xx-xxxx
JOSEPH B. RILEY, JR., xxx-xx-xxxx
JOHN R. SIKES, xxx-xx-xxxx
JOSEPH A. SOLMO, xxx-xx-xxxx
MILTON M. STAMPER, xxx-xx-xxxx
BILLY L. WARD, xxx-xx-xxxx
ERNEST E. WOOD, xxx-xx-xxxx

CHAPLAIN

To be colonel

LEONARD S. ALIMENA, xxx-xx-xxxx
ROBERT T. DRUMMOND, xxx-xx-xxxx
BILLY L. YORK, xxx-xx-xxxx

MEDICAL CORPS

To be colonel

ROBERT D. JENSEN, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

ERNEST R. ADKINS, xxx-xx-xxxx
RICHARD G. AUSTIN, xxx-xx-xxxx
DAVID A. BIALAS, xxx-xx-xxxx
JAMES W. BOOZER, xxx-xx-xxxx
RONALD I. BOTZ, xxx-xx-xxxx
JAMES A. BRUNSON, xxx-xx-xxxx
WILLIAM E. BURCH, xxx-xx-xxxx
RAYMOND C. BYRNE, JR., xxx-xx-xxxx
DALE A. CLINGERMAN, xxx-xx-xxxx
THOMAS D. COCHRAN, xxx-xx-xxxx
PETER F. COHEN, xxx-xx-xx...
MARGARETANNE M. COPPERNOLL, xxx-xx-xxxx
CONRAD J. DECUYPER, xxx-xx-xxxx
RICHARD M. DEVILLE, xxx-xx-xxxx
MARK G. FUELLENBACH, xxx-xx-xxxx
ROBERT C. GEORGE, JR., xxx-xx-xxxx
ROBERT J. GEORGE, xxx-xx-xxxx
RODNEY K. GREEN, xxx-xx-xxxx
TIMOTHY J. HARMON, xxx-xx-xxxx
JOSEPH H. HOTTES, xxx-xx-xxxx
STEPHEN J. HUMMEL, xxx-xx-xxxx
MICHAEL D. ISOM, xxx-xx-xxxx
MICHAEL D. JAMESON, xxx-xx-xxxx
CARROLL M. JANZEN, xxx-xx-xx...
SHELDON D. JOHNSON, xxx-xx-xxxx
DENNIS J. KLEPPICK, xxx-xx-xxxx
WILLIAM F. KUEHN, xxx-xx-xxxx
JAMES H. LAMBACK, xxx-xx-xxxx
EDWIN S. LIVINGSTON, xxx-xx-xxxx
HAROLD E. LOMENICK, xxx-xx-xxxx
THOMAS I. MAINEY, xxx-xx-xxxx
MICHAEL E. MALONE, xxx-xx-xx...
RICHARD G. MATSON, xxx-xx-xxxx
LOUIS A. MCCLOSKEY, JR., xxx-xx-xxxx
JACK E. NOEL, xxx-xx-xxxx
DARRELL P. POLLITT, xxx-xx-xxxx
XANTHAN W. POLK, JR., xxx-xx-xxxx
ROBERT S. PRITCHETT, xxx-xx-xxxx
EDWIN H. ROBERTS, JR., xxx-xx-xxxx
AARON L. ROGERS, JR., xxx-xx-xxxx
ROBERT A. SALVIANO, JR., xxx-xx-xxxx
TIMOTHY J. SANKEN, xxx-xx-xxxx
BRUCE M. SCHAFER, xxx-xx-xx...
SAM P. SCHAUMANN, xxx-xx-xxxx
DON V. SMITH, xxx-xx-xxxx
JAMES L. SMITH, xxx-xx-xxxx
RONALD L. SMITH, xxx-xx-xxxx
RICHARD H. STOKES, xxx-xx-xxxx
EDWARD L. STOUT, xxx-xx-xxxx
THOMAS E. TAYLOR, xxx-xx-xxxx
RICHARD L. THROCKMORTON, xxx-xx-xxxx
GORDON D. TONEY, xxx-xx-xxxx
DAN W. VAWTER, xxx-xx-xxxx
WILLIAM D. VOGT, xxx-xx-xxxx
KENNETH R. WALDREP, xxx-xx-xxxx
DEANIE R. WALKER, xxx-xx-xxxx
PAUL D. WALKER, JR., xxx-xx-xxxx
TRACY T. WARNOCK, xxx-xx-xxxx
JOHN G. WARREN, xxx-xx-xxxx
RICHARD C. YARBROUGH, xxx-xx-xxxx
SAMUEL R. YOUNG, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

GILBERT R. MABRY, xxx-xx-xxxx
ROBERT D. MOSS, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

SUSAN S. PELUSO, xxx-xx-xxxx
ROGER N. WHITING, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

HILDON H. SESSUMS, JR., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

LAWRENCE G. COOK, xxx-xx-xxxx
MILTON R. SCHOLZE, xxx-xx-xxxx

Executive nominations received by the Senate April 19, 1990:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JOSEPH G. SCHIFF, OF KENTUCKY, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE J. MICHAEL DORSEY.

DEPARTMENT OF THE INTERIOR

ANTHONY J. HOPE, OF CALIFORNIA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR A TERM OF 3 YEARS (NEW POSITION).

FEDERAL EMERGENCY MANAGEMENT AGENCY

OLIN L. GREENE, JR., OF OREGON, TO BE ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION, VICE CLYDE A. BRAGDON, JR., RESIGNED.

IN THE COAST GUARD

THE FOLLOWING OFFICER OF THE U.S. COAST GUARD RESERVE FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):
GEORGE R. MERRILEES.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF OF THE ARMY AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 3034:

To be general

GEN. GORDON R. SULLIVAN, xxx-xx-xxxx U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A);

To be general

GEN. ROBERT W. RISCASSI, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS COMMANDER IN CHIEF, UNITED STATES SPECIAL OPERATIONS COMMAND, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 167 AND 601:

To be general

LT. GEN. CARL W. STINER, xxx-xx-xxxx U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. GARY E. LUCK, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ALONZO E. SHORT, JR., xxx-xx-xxxx U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

CAPT. WILLIAM D. SULLINS, JR., xxx-xx-xxxx U.S. NAVAL RESERVE.

NURSE CORPS

To be rear admiral (lower half)

CAPT. MARYANNE T. IBACH, xxx-xx-xxxx U.S. NAVAL RESERVE.

EXTENSIONS OF REMARKS

LIONS, LAMBS AND PEACE TALKS

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LANTOS. Mr. Speaker, the Middle East peace process is too often painted in colors that fail to portray the siege climate Israel has continued to labor under. Israel knows that a lasting peace depends on lasting security, and any peace plan that tries, as an act of goodwill, to trade away strategic Israeli territory for an unsecured promise of peace, is doomed to fail.

Mr. Speaker, I insert the full text of Douglas J. Feith's article "Lions, Lambs and Peace Talks" as it appeared in the Washington Jewish Week on March 22, 1990. Mr. Feith reminds us of the failed attempts blindly to trade land for peace. As he noted, "* * * there is danger in confusing the promotion of peace with the promotion of peace treaties." I urge my colleagues to study Mr. Feith's article closely, and to consider his points as we debate our Nation's involvement in the Middle East's quest for peace.

The article follows:

[From the Washington Jewish Week, Mar. 22, 1990]

LIONS, LAMBS AND PEACE TALKS

(By Douglas J. Feith)

The current controversy over President Bush's Middle East peace diplomacy brings to mind an old Soviet story. It's about a foreigner who visits the Moscow Zoo:

"And here in this cage," the communist guide announces, "you see a lion reclining next to a lamb."

"That's an outstanding accomplishment!" the visitor exclaims.

"Actually," the guide confides, "it really isn't that difficult. Every few hours, we just have to put in a new lamb."

The administration seems to think this is a good time to urge the lions and the lambs in the Middle East to recline together.

For over two decades, every incoming U.S. administration has reviewed Arab-Isreali diplomatic options, concluded (on advice of the State Department's Near East Bureau) that the problem requires urgent, high-level U.S. diplomatic attention, and devised a "plan," invariably implying that Israeli's continuing hold on the territories captured in 1967 is a—perhaps the—principle impediment to peace in the region. That these plans invariably fail has never shaken the confidence of their proponents.

The Nixon administration promulgated in 1969 the so called Rogers Plan, named after the then-secretary of state. It advocated a virtual total withdrawal by Israel from the territories. Every U.S. peace plan since then has been, in essence, a variation on a theme by Rogers.

Like its predecessors, the Bush administration brings more impatience than comprehension to the task of engineering an Arab-Israeli peace. Secretary of State James Baker speaks of the urgency of progress. The Bush-Baker team treat the conflict as a promising project—that is, susceptible of diplomatic amelioration, if not solution at a reasonable cost—if only Washington acts quickly to prevent Israel from further consolidating its hold on the territories.

These assumptions require protection from inconvenient history. So administration policy makers have nothing to say about such questions as: Why the Arab world made war against the Jewish State before Israel acquired the territories? Why the Arab world rejected the Rogers Plan itself when it was first offered? Why those states roundly rejected the 1947 UN Partition Plan which would have afforded the Jews even less territory than they wound up with after the War of Independence. And why, during the 19 years (1948-67) in which the territories were under Arab control, no attempt was made to create an independent Palestinian Arab state there?

Nor has the administration dealt seriously with other fundamental questions: Is it prudent for the United States to pressure Israel into assuming substantial national security risks? Why should the United States want to warrant the dubious proposition that Israel's enemies could be prevented from taking advantage of Israeli concessions that would produce military vulnerabilities? In other words, could the United States make good on "security guarantees" designed to compensate Israel for territorial compromises?

Shunning such questions, the Bush administration has jumped into the same Rogers Plan rut in which our diplomacy has floundered for lo these many years. This is symptomatic of a failing that reaches beyond Middle East policy. When it comes to the role of peace diplomacy in international affairs, many of our policy makers learn nothing and forget nothing. Not even the stunning upheavals in Europe's communist bloc have stimulated a proper reappraisal.

Let us consider the ongoing political upheaval in Eastern Europe and the Soviet Union and its implications for the Arab-Israeli conflict. For years, the conventional wisdom held that the key to enhancing our security lay in peace diplomacy aimed at producing arms control agreements. Dissenters from the conventional wisdom—the "hardliners"—argued that arms control, at best, can make a marginal contribution to security. The key to peace, they said, is the demise of the aggressive totalitarian ideology of our antagonists. The "hardliners" prescription for peace was strong defenses combined with pressure on the Soviet bloc in the spheres of human rights and economics. For this they were denounced as unwilling "to give peace a chance."

As day after day communist leaders confess their oppression and aggressions and admit their treaty violations, the "hardliners" in the West have reasons to feel vindicated. Recent changes in the East bloc have yielded enormous security benefits for the West, none of which to the credit of arms control or peace diplomacy. None resulted from "restraint" in our defense programs or our making "concessions for peace."

The communist governments of Poland and Czechoslovakia were a security threat. But no one in the West views the Solidarity government of Poland or the Havel government in Czechoslovakia as a threat. And this is not because we have peace agreements with them. It is because of what we know of their leaders' philosophies and principles and popular support. We feel secure regarding these countries not because of any formalities but because they wish us no harm.

At no time in the last 40 years would an arms control or peace agreement with these East European countries have been more easily attained and more likely to have been implemented in good faith than at present. Yet such an agreement, which the conventional wisdom deemed highly significant and urgent just a few months ago, now appears superfluous (or in any event no big deal).

Various parties have for many years urged the Israeli government to adopt the view that the key to Israel's security is concluding peace agreements with its Arab neighbors. This diverted attention from the issue of whether those neighbors actually have peaceful intentions and onto the issue of what Israel might give them to induce them to join negotiations.

Peace, to be sure, is a many-splendored thing. But the formalities of an agreement are overrated. Moreover, there is danger in confusing the promotion of peace with the promotion of peace treaties.

Recent events in Eastern Europe remind us that it is not the job of the would-be victim of an aggressive ideology to offer concessions for peace. The interest of peace would not have been served if, in negotiations with the Soviets, NATO countries had chased agreements by making concessions that would have weakened Western defenses. We now see clearly that Western armaments have not been the cause of tension and conflict in Europe. They were a reflection of, and proper reaction to, the tension and conflict resulting from Soviet domination of Eastern Europe.

By the same token, the interests of peace in the Middle East would not be served if, in negotiations with its neighbors, Israel made concessions that weakened its defenses. Israel's control of the territories is not, in my view, the cause of Arab hostility toward the Jewish State any more than Western troops and arms in Europe were the cause of East-West tensions.

If anti-Israel ideology were tossed in history's dustbin, formal Arab-Israeli peace agreements would be both attainable and unnecessary. But the converse of this proposition has more immediate relevance: If Israel's neighbors still want to see Israel eliminated, then Israeli concessions may produce negotiated agreements but they will not produce peace.

The essential question is not who should negotiate or where or about what, but what are the intentions of relevant powers. The Egyptian-Israeli negotiations produced a

treaty because Sadat succeeded in convincing Israel that the Egyptian government no longer aspired to destroy the Jewish State. He made the case that Egypt wanted to recover the Sinai but would not use the land to launch aggressions against Israel. Egypt, as the most populous and powerful Arab state, was in a position to ensure that no other state could exploit Israel's territorial concession.

Unfortunately, the Bush administration's efforts to promote negotiations between the Israelis and the Palestinian Arabs lack the ingredients of success in the Sadat-Begin talks. The gravest deficiency is that the PLO has the ability to dominate, directly or indirectly, the Palestinian Arab participants and the PLO does not pass the good intentions test. For many reasons—the terms of its so-called covenant, its history of targeting children and civilian men and women, and recent incidents (that is since Arafat's putative renunciation of terrorism) of murders of Jews and assassinations of Arab political opponents in the territories—the PLO has, shall we say, a credibility problem.

The German strategist Clausewitz made the famous observation that war is the continuation of diplomacy by other means. The Israelis have grounds to suspect that, for the PLO, the so-called peace process is the continuation of war by other means.

The Bush administration's peace initiative is now off the tracks. Is the current derailment a Bad Thing? This depends, first of all, on one's view of whether current circumstances in the region are promising for peace negotiations—that is, whether sufficient, relevant parties have actually resolved themselves to live in peace. In that case, the negotiations would not be needed to "make peace" but only to memorialize the terms. And secondly, it depends on one's analysis of which side will likely benefit from delay.

In this latter regard, one must take note of the stream—one should say torrent—of Soviet Jews on their way to Israel. Hundreds of thousands. Perhaps as many as 700,000 over the next two years or so. And the total may reach a million. This is an event of historic and strategic significance. If it proceeds as envisioned, it will radically and favorably alter Israel's position economically, demographically and militarily. It will foil for decades the strategies of Israel's enemies.

The Arab world appreciates the momentous implications for the Arab-Israeli conflict of the recent changes in the communist world. Recently, the *New York Times* front page carried the following report from the Middle East:

"The changes sweeping through Eastern Europe represent a major strategic setback for Palestinians and other Arab, regional officials and experts say.

"The consensus of dozens of officials, scholars and businessmen interviewed in the Persian Gulf region and Western Europe is that Arabs, especially the Palestine Liberation Organization, have begun to see a steep decline in the open political, moral and material support that they received for more than a quarter of a century from Eastern Europe.

"Many of those interviewed expressed the view that the end of the cold war has upset basic Arab strategies for dealing with the 40-year Arab-Israeli conflict."

Complete resignation to the futility of fighting Israel—utter abandonment of the hope that efforts to kill Israelis, isolate the Jewish State abroad or demoralize Jews through rock-throwing or other means—may serve to pave the way to a negotiated peace. The Arabs have seen their military attacks fail time and again. They have seen their "oil weapon" exposed as a wooden sword. They have seen their intifada lose steam and evolve toward what is called the "intrafada"—the killing of Arabs by Arabs. They have seen Israel renewing diplomatic relations throughout Africa and now Eastern Europe. They are now seeing a demographic shift of strategic proportions in Israel's favor. One can only hope that at some point the great mass of people throughout the Arab world will reject the failed and costly ideology of war against Israel the way the people of Eastern Europe have rejected their own failed and costly ideology.

TRIBUTE TO SENIOR CITIZENS DAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Multipurpose Senior Center of my 17th Congressional District of Ohio, which is sponsoring Senior Citizens Day on May 15, 1990.

Senior Citizens Day has been celebrated throughout Ohio since 1976. It is a special day that recognizes and honors senior citizens for the contributions they make to our community. The theme of this years Senior Citizens Day is "A Partnership of Ages."

It is my honor to support this very important event. We owe a great deal to our senior Americans. They have worked hard to make our country a better place, and the least we can do is honor them with their own day.

Mr. Speaker, I would like to salute the senior cititzens of my district. They are very special people who deserve our gratitude and recognition. I am honored to represent these exceptional individuals.

TRIBUTE TO THE MIAMI BEACH DEVELOPMENT CORP.

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I ask my colleagues to join me in congratulating an innovative urban real estate development project in my congressional district, which has won the National Economic Development Partnership Award.

The Ocean Drive project and art deco district has been under redevelopment for several years. With its contribution to the emerging vibrant Miami Beach art deco district, the Miami Beach Development Corp., the Ocean Drive Association and the city of Miami Beach will be accepting the eighth annual National Council for Urban Economic Development.

A national panel of judges selected Ocean Drive based upon criteria including the substantial overall effect upon the local economy, net new jobs created or retained, net increases in the local tax base, spinoff private investment generated, and urban design and esthetic quality.

Ocean Drive completed the final stage of its improvement program that includes street reconstruction, sidewalk promenade and furnishings, greenbelt park landscaping and beach renourishment. The private sector rehabilitation of historic inns and art deco hotels is well underway.

Presentation of the award will be made to Neisen Kasdin as chairman of the Miami Development Corp. and to Tony Goldman as chairman of the Ocean Drive Association for the vital participation of the public and private sectors in this award winning project.

I congratulate all who are involved in this project, on a project extremely well done.

SALUTE TO ELLIOTT OWENS, A DRIVING FORCE BEHIND THE SUCCESS OF THE SHAW COMMUNITY CENTER'S FOOD COMMITTEE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FAUNTROY. Mr. Speaker, I rise today to pay special tribute to Mr. Elliott Owens, Jr., who has for more than 15 years been a driving force behind the success of the Shaw Community Center's Food Committee [Shaw Food Committee].

For many years the works of the Shaw Food Committee has helped to enrich Thanksgiving for hundreds of needy families in the Washington community. As a private sector businessman, Mr. Owens has given his time and commitment to several community programs which have enhanced the lives of hundreds of families in the District of Columbia.

Saturday, April 21, 1990, has been declared as Elliott Owens, Jr., Day in the District of Columbia. We will honor Mr. Owens at a prayer breakfast on that day to raise money for Thanksgiving baskets which will be distributed among needy city residents in November.

I especially commend Mr. Owens for his leadership on behalf of this important work. He has demonstrated his civic commitment and community service by utilizing his time, energy, creativity, and resources to aid this program that is dedicated to improving the quality of life for disadvantaged citizens of the District of Columbia.

INTRODUCTION OF UNDERGROUND STORAGE TANK ASSISTANCE AND GROUNDWATER PROTECTION ACT

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. STANGELAND. Mr. Speaker, I rise today to introduce legislation—the Underground Storage Tank Assistance and Groundwater Protection Act—which I believe will help small business owners fulfill Federal regula-

tions with regard to underground storage tanks while at the same time protecting our Nation's ground water.

My bill will provide loan guarantees and limited grants for leak prevention, closure, replacement, and upgrade of underground storage tanks.

Let me assure my colleagues that, in providing relief to small businesses, my bill will not in any way weaken ground water protection efforts or requirements under the Resource Conservation Recovery Act or any other law.

As many of you know, small businesses are having a difficult time finding funds to meet EPA's underground storage tank requirements relating to financial responsibility. Furthermore, banks have been hesitant to loan these businesses money for fear of default on the loan or third party liability. By implementing a Federal loan guarantee program, some of these fears should be allayed. This in turn will allow businesses to improve their underground storage tanks and thus reduce the pollution of ground water and protect human health and the environment.

Mr. Speaker, it makes good environmental and economic sense to provide a moderate level of financial assistance to small owners and operators—of tanks—throughout rural America. We help prevent both pollution of ground water and the closure of businesses providing essential community services. It's a fiscally responsible way to meet environmental goals while recognizing economic needs.

Let me also recognize other colleagues who have worked to address these and similar concerns regarding underground storage tank requirements. My bill contains some of the same provisions in bills introduced by Senator BAUCUS (S. 2175) and Congressman GLICKMAN (H.R. 4319).

I also commend Congressman MARLENEE and scores of other Members who have been instrumental in prodding EPA to address problems regarding impending financial responsibility deadlines. My bill is consistent with these and other efforts to meet small business needs without weakening environmental protection.

For all these reasons, Mr. Speaker, I urge my colleagues to join me in cosponsoring this bill.

SECTION BY SECTION ANALYSIS

SECTION 1

Short title: Underground Storage Tank Assistance and Groundwater Protection Act.

SECTION 2

Establishes underground storage tank loan guarantee and grant programs:

Loans: Provides loan guarantees for the closure, replacement, upgrade, and maintenance of release detection systems for underground storage tanks.

Those eligible for the loan are tank owners with 1 to 12 tanks, and on a case-by-case basis, owners of 13-99 tanks as determined by the Administrator of the Environmental Protection Agency if providing such assistance will increase environmental protection.

The amount of the guarantee may not exceed 90% of the aggregate cost of the activity, and the amount of the guarantee of any loan may not exceed $100,000.

The aggregate amount of guarantees outstanding may not exceed $180,000,000, of which not more than 25% will be made available for owners of 13-99 tanks.

Terms of agreement for the loan guarantee include full repayment in a period not to exceed 20 years and there must exist a reasonable assurance of repayment of the loan.

Grants: Grants are available to an eligible small business if the business is an essential community service, not less than three private lending institutions have declined to provide a loan, and a significant threat to human health and the environment is present.

Grants are available for owners in the 1-12 category and on a case-by-case basis to owners of 13-99 tanks as determined by the Administrator if providing such assistance will increase environmental protection.

The amount of the grant may not exceed 50% of the cost of the activity, and the aggregate amount of the grants may not exceed $20,000,000 a year. Not more than 25% of this aggregate amount should be for owners of 13-99 tanks.

Persons may obtain a loan/grant combination not to exceed 90% of the cost of the activity.

Authorization: These programs expire five years after the date of enactment.

Reporting: The Administrator is required to report to Congress each year on operations of the loan/grant programs and provide any recommendations for improved management of the programs.

SECTION 3

Amends the Solid Waste Disposal Act to insert make pollution prevention projects eligible for assistance by inserting "or threatened release" after "release" and defining "threatened release" to refer to a circumstance where, in the judgment of the Administrator, the failure to take corrective action will result in the release of petroleum.

SECTION 4

Amends the Internal Revenue Code to authorize the loan guarantee program and grant program, as well as authorizing the payment of administrative expenses incurred in connection with such programs.

VRYONIS CENTER TO OPEN THIS MONTH

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MATSUI. Mr. Speaker, it gives me great pleasure to stand before my colleagues today and call their attention to an exceptional educational institution that will officially open this month in Sacramento, CA: The Speros Basil Vryonis Center for the Study of Hellenism.

Originally founded in Los Angeles, CA, the Vryonis Center has relocated to the Sacramento area and will officially open its doors to the Sacramento community on April 22, 1990. The center is an educational institution dedicated to scholarly research of Greek civilization and culture; placing special emphasis on modern Greek history, society, economy, politics, and culture, including the social and cultural dynamics of the Greek-American community. The center's program will incorporate four interdependent areas of activities: Research and documentation, academic programs, scholarly publications, and a cultural outreach program.

This wonderful educational center is made possible by the financial support provided by Mr. Angelo K. Tsakopoulos and the hard work of numerous individuals who also are dedicated to increasing the public awareness of the contributions and effects of the Greek culture and institutions on other peoples and societies. I have no doubt that the operation of the Vryonis Center will be both successful and exciting. This fine establishment will be a welcome addition to the Sacramento community.

Mr. Speaker, I ask that my colleagues join me in congratulating those whose tireless efforts and dedication have made this ambitious program of expansion possible. I commend all of you on a job well done, and I offer my best wishes for the Speros Basil Vryonis Center's continued success.

TRIBUTE TO THE MERCY COLLEGE PEEKSKILL CENTER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FISH. Mr. Speaker, in the Hudson Valley of New York, we always have taken higher education seriously, and we are fortunate to have many fine colleges and universities.

One of these is Mercy College, which for 40 years has provided exceptional education to thousands of students. Today it draws students from all parts of New York and other parts of the country.

Its Peekskill branch, opened in 1978, has turned thousands of students into mature, responsible, well-educated adults. With Wiley A. Dickerson as dean, students get a solid grounding in academics, job readiness, career preparation, and self-awareness.

The Mercy College Peekskill Center also is making solid contributions to the Peekskill area. The school's High School Mentoring Program enables Mercy College students to be role models to high school students through tutoring and fun activities. Through another exceptional program, Community Outreach for the Homeless, students collect canned goods, toys, clothes, and money for the disadvantaged during the holidays and other parts of the year.

This college is on the move. Peekskill appreciates all it has done to turn our young people into responsible and caring citizens, and all its contributions to the greater Peekskill area.

On Friday, May 18, Peekskill will say thank you. The NAACP, the Nation's most preeminent civil rights organization, will salute the Peekskill branch of Mercy College with the Prominent Award of Recognition. No college is more deserving of this honor.

Congratulations, Mercy College Peekskill Center.

EARTH DAY DESERVES CLEAN AIR

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, this Sunday is Earth Day, the 20th anniversary of the original Earth Day celebrated in 1970. Let's take stock of how far we've come in those two decades.

The health cost of air pollution is $40 billion each year, according to the American Lung Association. It contributes to 50,000 premature deaths annually.

The Environmental Protection Agency estimates that 120 million people live in areas where the air is dangerously polluted.

In 1987, industries reported that they released 2.7 billion pounds of air toxics into the air, ground, and water.

These are not statistics to be proud of.

Yes, it will be costly to lower these numbers. Yes, it will raise the costs of some goods. And yes, spending the money to reduce air pollution emissions will save lives and improve the quality of life for everyone.

How far have we come since the first Earth Day? We're more aware of the problem and we know how to go about solving it. Our path for the next 20 years should be clear; a strong clean air bill is the first step.

TRIBUTE TO GERALD MARKS AND IRVING CAESAR

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. GREEN. Mr. Speaker, I rise today to recognize the well-known songwriting team of Gerald Marks and Irving Caesar for their contributions to the safety and welfare of the children of New York and the Nation. Gerald Marks is known for such outstanding songs as "All of Me" and "Is It True What They Say About Dixie?" Likewise, Irving Caesar is noted for such songs as "Tea For Two" and "Swanee." Marks and Caesar have also collaborated on a song book, "Sing a Song of Safety." That song book is a series of children's humorous musical lessons that have been sung in schools all over the world.

"Sing a Song of Safety" will soon be celebrating its 60th birthday. That occasion is in conjunction with National Safety Month, and "The Safe Kids Campaign," chaired by Dr. C. Everett Koop, former Surgeon General. On May 1, in an effort to mark those affairs, there will be a tribute to Gerald Marks, Irving Caesar, and their work, "Songs of Safety," at the Friars Club in New York.

At this time I should like to thank Gerald Marks and Irving Caesar, two gifted individuals, for their valiant contributions to the well-being of children.

RECOGNIZING MS. CANDACE McKEE ASHMUN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. COURTER. Mr. Speaker, it is my pleasure to recognize Ms. Candace McKee Ashmun on being this year's recipient of the New Jersey Pride Award for Energy and Environment. Ms. Ashmun, the president of the Association of New Jersey Environmental Commissions, has made an important contribution to our State.

The New Jersey Pride Award honors those individuals who have made significant contributions to their field and to the State of New Jersey. Candace Ashmun has been one of the prime movers in making natural resources an essential part of the State planning process. As a member of the Pinelands Commission, State Planning Commission, and as president of the Association of New Jersey Environmental Commissions, she has woven environmental concerns into the fabric of planning and regulatory system of the State. The cross-acceptance procedure, in which communities and the State are working together in the development of the State's Master Plan, were developed by her in her book, "The Cross Acceptance Game." In addition, Ms. Ashmun has been a director of the Upper Raritan Watershed Association, a member of the Governor's Council on the Outdoors, a member of the New Jersey Natural Resources Council, and a member of the Board of Trustees of the Middlesex-Somerset-Mercer Regional Study Council.

On this occasion of her award, I extend my congratulations to Ms. Candace McKee Ashmun and wish her continued success and best wishes for the future.

ACADEMIC EXCELLENCE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PORTER. Mr. Speaker, I am proud to represent one of the most highly educated constituencies in the United States. The public schools in my district are among the finest anywhere in the world.

It is with great pride that I take this opportunity to commend a fine student from Illinois. Carolyn Reinglass was recently named an Illinois State scholar, an honor that recognizes high school academic excellence and places her among the premier students in the State.

In addition, Carolyn was recently named a Moorhead scholar at the University of North Carolina—an appointment I consider among the most prestigious in the country. Carolyn's dedication to education serves as an example for all students.

Mr. Speaker, I am proud to represent Carolyn Reinglass in the Congress. I commend her for her achievements, and wish her the best of luck in the future.

A TRIBUTE TO PAULA FERREIRA

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Paula Ferreira, of Central Falls, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Paula and her classmates were able to achieve excellence. Paula and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Paula Ferreira and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Paula and her classmates good luck in the national competition.

EARTH DAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, the 20th anniversary of Earth Day will be a time of reflection and celebration for New Jerseyans. We have led America's way to improving the environment over the past years, and I have no doubt that we will once again be looked upon for our leadership in the future. However, absent the support of advocate groups, such as Friends from South Mountain Reservation and the North New Jersey Sierra Club, our State would have never made the progress it has in the prior two decades.

The environmental challenge for the 1990's is daunting. Twenty years after the conception of Earth Day, environmental mismanagement continues to threaten our planet. Traditional environmental concerns, upon which the first Earth Day was founded, have been exacerbated by other global crises, such as poverty and war. No longer is conservation exclusively an American ideal, environmental security has now become a global priority.

Progress has provided many benefits, but modern day neglect may eventually rob us of our most important asset. Consequently, preserving clean air and water, lush forests, and fertile soil will require a large diversion of resources that can only be acquired through a serious commitment from ourselves, our neighbors and our Government.

As a world leader, the United States has a unique opportunity to contribute to global environmental health. However, in a time of budget deficits more and more community and individual initiatives will be looked upon to support the Government's environmental efforts. Thinking globally and acting locally is therefore an appropriate theme for today's Earth Day celebration. Because in the end, it is each of us who must undergo the test if our efforts are not successful.

New Jersey continues its contribution to the environment through citizen responsibility and action. We participate immediately by recycling paper, glass, and metal, utilizing public transportation, regulating the detrimental effects of air toxins and properly disposing of our industrial waste. And we prepare for the future by seeking ways to enhance our air and water quality through expanding our infrastructural capacity to handle sewage and run-off effluent and choosing cleaner fuels.

The Earth Day celebration sends a signal to the world that America is preparing to address the environmental needs of the next century. Through the support Sierra Club and other advocates for the environment, New Jerseyans have become well prepared to meet those challenges, and I applaud their efforts.

NATIONAL LETTER WRITING CONTEST FOR TEENS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PENNY. Mr. Speaker, "Respecteen Speak For Yourself" is a national letter writing contest which allows teenagers to share their views on public policy matters with their Representatives in Congress. I am pleased that one of my constituents, Shannon McManimon of Rochester, MN, is the district finalist with her letter regarding school dropouts. Shannon clearly points out the benefits of getting an education. I agree with Shannon and have included the text of her letter.

ROCHESTER, MN,
February 12, 1990.

U.S. Representative TIM PENNY,
436 Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE PENNY: In the United States, high school dropouts are becoming a big problem. The approximate dropout rate is 25 percent, around 4,000 students per day.

There are many reasons students drop out. Often, kids in school are faced with failure. The students are not able to live up to others' expectations. If a student is held back one year, there is a 45 percent chance of that student dropping out before high school graduation.

I am proud that in 1984, Minnesota had the lowest dropout rate at four-percent, but even this is too high. To me, it is hard to believe that anyone could drop out when school offers so much: greater career choices, higher income, growth as a person, and greater self-respect.

I think that a driver's license should be revoked when a student drops out. Many states have enforced this law. Other ideas include annual school "report cards" that include attendance, test scores, etc. and the refusal of a job unless the applicant has a high school diploma.

I believe that making laws to prevent dropouts could possibly be the key to other problems. In school, programs teaching about drug and alcohol abuse prevention, AIDS, drunken driving, etc. could educate people on these subjects. If schools could use social workers and counselors to help students with personal problems, students may believe that school is the best idea.

I hope that you will consider high school dropouts as a serious problem and work to pass laws preventing dropouts. People truly do need educations.

Sincerely yours,

SHANNON MCMANIMON.

IN HONOR OF DALE COZART, CHIEF BORDER PATROL AGENT, SAN DIEGO SECTOR

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LOWERY of California. Mr. Speaker, I rise today to salute the recent accomplishments of an outstanding public servant now completing his 24th year of exemplary service to the U.S. Border Patrol.

For the past 3 years, often under difficult circumstances, Chief Border Patrol Agent Dale Cozart has faithfully served the people of the San Diego area. The 10-mile stretch along the Mexican border near San Diego is the scene of the largest number of illegal entries into the United States each year. And, as many Americans and Mexicans can attest, it is a place of high emotion, crime, and conflict, demanding both courage and patience from those who police it. Few have ever worked as effectively or heroically there as Dale Cozart.

Dale began his career with the Border Patrol in Brownsville, TX, and has risen steadily through the ranks winning the respect and admiration of his peers in each of his assignments. In 1986, he was rewarded and entrusted with overseeing all operations at the San Diego crossing. Needless to say, he has risen to the challenge of this impossible job. He has maintained order and compassion in a place which thrives on confusion.

Mr. Speaker, please join me in saluting the achievements of Chief Border Patrol Agent Dale Cozart as he leaves California for his native Texas and a new assignment. Always professional is his conduct, he has protected our country with a brave heart and a keen mind. We will all miss him.

EARTH DAY 1990: TAKING STOCK OF OUR ENVIRONMENTAL PROGRESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LAFALCE. Mr. Speaker, this week marks the 20th anniversary of Earth Day, a worldwide celebration designed to increase awareness of environmental problems and inspire citizens and government action to address them. In evaluating changes in the state of America's environment since the first Earth Day in 1970, I am most struck by how much more we know now than we did then. In 1970, the idea of hazardous waste had not entered our collective consciousness. American industry was spewing toxic materials into the air at a rate of over 200 million tons annually. We had not yet begun to investigate the invisible contaminants killing marine life, and thousands of dead fish were routinely washing up on our shores.

Today we continue to face serious land, air, and water quality problems. But much has changed since 1970. On the State, national, and international levels, we have educated ourselves extensively about the dangers of air pollution, solid and hazardous wastes, as well as toxic water contaminants. The knowledge we have acquired has led to the development of long-term strategies to eliminate these dangers.

In the past two decades, Congress has enacted a multitude of environmental initiatives. The grandfather of them all is the Clean Air Act of 1970, which for the first time set binding national standards for air quality, establishing health-based emissions standards for a number of widespread pollutants, to be met through the use of emission control technology. In compliance with the Clean Air Act, New York State has implemented an aggressive plan to reduce its emissions of sulfur dioxide, nitrogen dioxide, and carbon monoxide.

The tragedy at Love Canal, discovered in 1977, made it clear that we needed a comprehensive, long-term mechanism to pay for the cleanup of hazardous waste sites nationwide. To that end, I introduced the first Superfund legislation, which became the basis for the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]. The original law provided $1.6 billion for use in enforcement and cleanup efforts, and the Superfund reauthorization of 1986 provided $8.5 billion for use in 1987–91.

One year before Love Canal came to national attention, Congress passed the Resource Conservation and Recovery Act [RCRA] of 1976. RCRA establishes a framework for the safe disposal of all types of solid waste, from household trash to hazardous industrial waste. The act sets up a cradle-to-grave monitoring system through lists defining different types of wastes; official manifests tracking their movements; and performance standards for transportation, storage, and disposal facilities. RCRA requires States to have solid waste management plans; prohibits open dumping; and requires nonhazardous solid

waste to be disposed in sanitary landfills in compliance with EPA criteria.

New York State is to be commended for its efforts in handling solid wastes. The State has one of the most comprehensive and aggressive solid waste management programs in the Nation. The 1987 New York State solid waste management plan calls for 50 percent reduction, reuse, and recycling of waste by 1997. The State Solid Waste Management Act of 1988 sets a 1992 deadline for localities to adopt ordinances on source separation and segregation of recyclable materials from solid wastes. Since passage of the Returnable Container Act of 1983, New York has reduced its solid waste stream by 5 percent and its volume by 8 percent. Today there are 250 landfills in New York, as compared to 1,600 in 1964.

Prompted by concerns about our Nation's water supply, Congress in 1972 passed the Clean Water Act. The act set out the ambitious goal of eliminating all pollution discharge into public waters by the year 1985, with the interim goal of ensuring that all water be "fishable and swimmable" by 1983. To achieve these goals, the Clean Water Act required that all municipal sewage and industrial wastewater be treated before being discharged into waterways. The Federal Government has helped localities meet these requirements by providing grants to States for construction of sewage treatment plants. Limits were also put on the amounts of specific pollutants that could be discharged by these plants and by industrial facilities.

Pursuant to the Clean Water Act, New York State must issue permits requiring wastewater treatment plants; municipal sewer authorities, and industrial dischargers to sample and analyze their releases and report monthly to the State department of environmental conservation [DEC]. A recent study by the Niagara River Toxics Committee indicates that this permit system has played a key role in the dramatic reduction of toxic discharges into the Niagara River. In 1981–82, 2,740 pounds per day of organic and inorganic priority pollutants were discharged daily into the Niagara River. In 1987–88 this number had been cut to 390 pounds per day.

Nationwide, we have made significant improvements in cleaning up our water, land, and air. Still, the problems that remain call for sustained, aggressive action. This year Congress is considering a package of Clean Air Act amendments to further reduce sulfur dioxide, ozone, and toxic air pollutants across the country. The House Energy and Commerce Committee is now revising the RCRA to tighten regulations governing solid and hazardous wastes.

The threat to the environment is far from over, but 20 years after the first Earth Day there is a growing awareness of the problems and a growing commitment to deal effectively with those problems. That, at least, is a good beginning.

FIFTH ANNUAL SALUTE TO PASSAIC SEMI-PRO BASEBALL STARS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ROE. Mr. Speaker, there is nothing so truly American as the game of baseball. Like the spring itself, it returns every April and blossoms in a renewal of its affirmation as the true national pastime.

In my 8th Congressional District of New Jersey we have been, indeed, fortunate to have a rich baseball tradition down through the decades, a tradition that has been carried forth by the high level of competition in the Passaic County semi-pro league. On Friday, April 27, 1990, that tradition will again be celebrated with the fifth annual Salute to Passaic Semi-Pro Baseball at the Athenia Veterans Hall in Clifton, NJ.

Mr. Speaker, this year's event is truly special because it will honor six great men whose contributions made their era a golden one both for Passaic athletics in general and for the Passaic semi-pro league in particular. The honored group this year includes John J. Ryan, Herman "Hymie" Osofsky, Jack W. Brady, the late George Raymond Pickett, Joseph A. Stanek, and Augie Lio. I know that, as in past years, this dinner will be a great success, which will be a great tribute to the dedicated dinner committee, comprised of Ted Lublanecki, Charles Lajeskie, Ben Lublanecki, Jean Lublanecki, and Mike Ivanish.

Mr. Speaker, for the benefit of you and our colleagues, I would like to note some of the great accomplishments of these outstanding individuals:

Mr. John Ryan, who lives in Passaic Park, got into semi-pro baseball by keeping the 1927 Passaic High School team together for the summer. The team was called the "Ramblers." That winter Ryan strengthened the team with players from Rutherford, Garfield, and Clifton and named the team the "Passaic Pros." Ryan's team played in the Gersie League which had eight teams from Passaic, Garfield, Clifton, and Allwood.

Herman "Hymie" Osofsky, who retired in 1979, was vigorously involved in sports activities in Passaic for more than a half century. He served 32 years with the Passaic Department of Parks and Recreation, and for 25 years as the director of Passaic Bigger League Baseball and Pony League Baseball. He also organized the Inter-City Playground Basketball League.

Jack Brady distinguished himself from the time he was in high school in Massachusetts—where he earned varsity letters in five sports—to his election to the Bergen County Baseball Hall of Fame. For more than 40 years he was extremely active in numerous sports and organizations in Passaic. This includes 30 years as a coach, manager, and president of the Billy Deitch, Jr., Baseball League. He is also a longtime member of the Passaic Old Timers, Sons of St. Patrick, the Time Out Club, the Passaic Elks, and past commander—1965—of the Gerald V. Carroll Post, American Legion.

Jack Brady has received numerous honors, including beng named to the Bergen County Baseball Hall of Fame. He has also received the 1965 Commissioner Stanek Baseball Man of the Year Award, the Raybestos Manhattan Community Service Award, the 1975 Old Timers Hall of Fame Award, and the Passaic Independent Community Service Organization's Civic Service Award for 1978.

The late Joseph A. Stanek was one of the most outstanding parks commissioners in the history of Passaic, serving as superintendent of the Shade Tree Commission in the Passaic Parks and Public Property Department for more than 30 years. His efforts were responsible for the beautification of Passaic's parks and baseball fields. An Army veteran of World War I, Joseph A. Stanek was extremely active in veterans organizations and was a member of the New Jersey Shade Tree Commission.

The late George Raymond Pickett was an outstanding football and baseball coach at Passaic High School for 27 years, a career he began after completing his World War I service with the U.S. Navy. In the mid-1930's, he was appointed recreation supervisor in Passaic's Third Ward Park, a position he held for nearly 12 years. During that time he organized a highly successful instructional baseball league. He served as president of the Passaic Valley Conference and of the New Jersey State Interscholastic Athletic Association. In 1964 he was given the Joseph Stanek Award as "Baseball Man of the Year."

The late Agostino "Augie" Lio was one of the most colorful, likeable, and respected men in the history of Passaic area athletics. A gifted lineman and kicker, he earned lasting fame for his Thanksgiving Day field goal in 1935 that gave Passaic High School a 3–0 victory over Hackensack High School. Augio Lio received a scholarship to play football at Georgetown University, becoming the school's first All-American selection while also excelling in the 1941 Orange Bowl. He was named All-East for two consecutive seasons.

Following his highly successful collegiate career, Augie Lio went on to the National Football League where he enjoyed a career that lasted 7 years, 3 with the Detroit Lions, 2 with the Boston Yanks, 1 with the Philadelphia Eagles and 1 with the Baltimore Colts of the old All America Conference. He was named All-Pro in 1943 and 1946.

Upon completion of his football career in 1947, Augie Lio stayed close to sports, joining the sports department of the Passaic Herald News where he earned fame as a columnist and editor before retiring in 1985. He covered the New York Giants football team, the first 20 Super Bowls and numerous other major sporting events during his nearly four decades as an outstanding sportswriter.

Mr. Speaker all of these people, through their countless and diverse contributions, have enriched the heritage of baseball and athletics, not just in Passaic County, NJ, but the heritage of baseball wherever competitive sports are played throughout the world. I ask that you and our colleagues join me in saluting these outstanding individuals on their being honored in the fifth annual salute to Passaic semi-pro baseball.

EARTH DAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on April 22, 1970, awareness of environmental protection increased dramatically. A series of environmental occurrences gave rise to the first Earth Day. In towns and cities all over America, millions of citizens demonstrated their concern about air and water pollution and advocated the learning of ecology.

We can get an idea of the impact of Earth Day 1970 on the Nation by asking ourselves some key questions: What changes on the political scene did it bring? What has been achieved? How did it affect public attitudes on environmental issues? Can we see some sprouting seeds that might flower into a national conservation ethic?

According to Gaylord Nelson, the founder of Earth Day 1970, these questions can be answered fairly briefly. Gaylord's major objective in planning Earth Day 1970 was to organize a nationwide public demonstration so large it would get the attention of the politicians and force the environmental issue into the political dialog of the Nation. According to Mr. Nelson, it worked. By the sheer force of collective action on that one day, the American public forever changed the political landscape regarding environmental issues.

As we approach the 20th anniversary of Earth Day, we continue to witness threats that destroy our environment. World-wide efforts are underway to celebrate an occasion to help us recognize the difficulties we face today. Challenges like acid rain, global warming, habitat destruction, and stratospheric ozone depletion continue to linger on into the new decade.

Earth Day offers a special opportunity for everyone to participate by getting involved in a commitment to the protection of the environment. There are countless ways that each individual can participate. Recycling paper, planting a tree, using less energy, or buying recycled products are all simple methods which protect the environment. Everyone can educate themselves about the environment so that we have a better understanding of environmental issues as they unfold.

On Sunday, April 22, 1990, join the celebration of Earth Day in demonstrating to the world our commitment in preserving this planet. Become a team player and protect the environment.

ILIANA A. QUANDER—"WHY I AM PROUD OF AMERICA"

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FAUNTROY. Mr. Speaker, I want to pay tribute to a young Washingtonian and American who has recently won first place in the District of Columbia contest and seventh place honors in the Voice of Democracy broadcast scriptwriting contest. This year more than 137,000 students participated in the contest, competing for national scholarships, and Ms. Iliana A. Quander was among the 12 national scholarship awardees.

Each year for the last 43 years, this competion has been held. During 1961-62, the Veterans of Foreign Wars assumed sole sponsorship of the competition and expanded the scholarship awards to an actual stipend for 12 finalists, selected from all of the States of the United States. The scholarship awards are impressive and I want to express my gratitude to the Veterans of Foreign Wars for their leadership in this most important crusade—the stimulation and development of sustained interest in education by our young people.

But it is to our District of Columbia scholarship winner that I most want to pay tribute. She is an excellent role model and spokesperson for her peers in these challenging times. Ms. Quander's words follow:

"WHY I AM PROUD OF AMERICA"

My ultimate pride in America stems from Article I of the bill of Rights. It states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for redress of grievances."

Perhaps you still do not understand the extent of power that this gives the American people. Allow me to explain further. This means, my friends, that if one wishes to worship alien beings who one truly believes reveal themselves through our television sets, in America no one will stop you. It means that if your personal belief is that you are in fact Sigmond Freud reincarnated, and want to write a book about your life, in America no one will punish you.

It also means that if a group of people wish to Congregate for a certain cause—lets say their belief is that plants are people too and that their consumption be outlawed and considered murder (well there's no guarantee that Congress will pass a law on this matter)—but in America no one will stop them from peaceably rallying their cause.

In short, as long as there is no immediate danger to public welfare, we're allowed to express ourselves in almost anyway we see fit. And, if what we see fit includes rolling down the hill of the Washington Monument exclaiming, "I'm free! I'm free!" in America absolutely no one will question you.

Why am I proud of this madness? Well, living in America it is common for one to be promenading along only to encounter a variety of people expressing themselves, whether it be for a general cause or for their own.

For this I am proud. Because in many regimented societies, such as the Korean Society, one is expected to express the views and feelings of the masses, rather then the individual.

I have found that freedom of expression is not only a freedom, it is a right. Because to express one's self as an individual is to be human. The woman who walks on all fours and barks is just exercising her right to be human. The gentleman who would much rather date his shadow than one of his own kind is only being human.

This makes me proud. The fact that if one day I suddenly decided to leave civilization, and live off the fruits of my labor, no one except probably my father, will try to block my intentions.

And even if you are not one to worship alien beings, or to condemn plant consumption, or to roll down the hill of the monument, or to walk on all fours, or to date your shadow, do as I do and take pride in the fact that in America we have the right and the freedom to express ourselves in a way that is unique to each and every one of us.

After all, we are only human.

THE RENAISSANCE MAN: MALCOLM FORBES

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. STANGELAND. Mr. Speaker, in May 1989, I captained a bridge team comprised of Members of the House and Senate who played a match against a team of distinguished leaders of business and industry for charity. One of the members of the corporate team was the late Malcolm Forbes, chairman and editor-in-chief of Forbes Magazine, Inc. Forbes had been in the media business since 2 days after his graduation from Princeton. At that time he became owner and publisher of the Fairfield Times, a weekly in Lancaster, OH.

Forbes was a man of many talents and interests. He began his political career when he was elected to the Bernardsville Borough Council in 1949. Two years later he was elected to the New Jersey Senate, a post in which he served until 1958. He ran for the governorship of New Jersey in 1953, but was edged by the incumbent.

As a staff sergeant in World War II, Forbes won the Purple Heart and the Bronze Star with the following citation: "The initiative, resourcefulness, and alert action displayed by Saff Sergeant Forbes prevented possible encirclement of his battalion."

Forbes was the first person to successfully fly coast-to-coast across America in a hot air balloon—1973—setting six world records enroute. He was honored as Aeronaut of the Year in 1975.

Forbes was named Motorcyclist of the Year by Motorcyclist magazine in 1987. In 1988 he was named International Motorcyclist of the Year by the International World of Motorcycles.

Forbes had written several books, the latest of which—1988—is "They Went That-a-way * * *." Other works include "Fact and Comment," "The Sayings of Chairman Malcolm," "Around the World on Hot Air and Two Wheels," and "The Further Sayings of Malcolm Forbes.

Forbes received scores of honorary degrees, was involved in many philanthropic activities, was honored by leaders of many nations, and received dozens of awards for outstanding service and achievement.

Forbes was elected editor and publisher of Forbes magazine in 1954 on the death of his father. Three years later he became editor-in-chief. In 1960 the magazine began a growth spiral that has continued unabated.

His friends and country men will miss him greatly.

A TRIBUTE TO ALAN STEINER

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FISH. Mr. Speaker, I always have believed that people make the community, and that is true when you look at the life of Alan Steiner of Peekskill, NY.

For more than 15 years, Alan selflessly has devoted thousands of hours to serving the community he loves. His career is a shining example of an individual making a difference.

Alan is a native New Yorker, growing in Batavia, NY, where he attended public schools. After graduation he headed West, where he earned a bachelors from Valparaiso University in Indiana. He picked up a law degree from the State University in Buffalo, and then began his legal career at Westchester County Legal Services.

He stayed there 7 years, working well into the night and many weekends for those who could not afford attorneys.

Alan's civic-mindedness has persisted. He has put in many hours on behalf of Legal Awareness of Westchester, formerly known as Legal Awareness for Women. He sat on the board of the Community Action Program for more than 15 years. To help the needy pay for medical care, he helped start the Westchester Prepaid Health Services Plan. He also has remembered the homeless by providing legal help for the Family Resource Center, chairing the Preservation Co. of the Peekskill Area Health Center and serving on the Hudson Valley Task Force for the Homeless.

The list goes on. Alan Steiner is an individual who never tires of helping others.

For this, his community has said thanks. He has received the Pro Bono Service Award from the New York State Bar Association for the work he has done, at no cost, for individuals and organizations. He also has been awarded the Spirit of Westchester Award for making the Peekskill area a better place to live.

On Friday, May 18, the NAACP presents Alan with yet another honor, the Distinguished Service Award. Being recognized by America's pre-eminent civil rights organization is a high distinction, and is richly deserved by Alan Steiner.

RECOGNIZING DR. T. EDWARD HOLLANDER

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. COURTER. Mr. Speaker, it is my pleasure to congratulate Dr. T. Edward Hollander on being the recipient of this year's New Jersey Pride Award for Education. Dr. Hollander, the chancellor of the New Jersey Department of Higher Education, has made important contributions to our State.

The New Jersey Pride Award honors those individuals who have made significant contributions to their field and to the State of New Jersey. His vision guided the Governor's Excellence Initiatives Program for New Jersey's colleges and universities. He has been a preeminent leader in designing programs to keep New Jersey competitive in the world market by addressing rapidly changing technologies and sciences. At the same time, he has been a powerful force stimulating statewise interest in and concentration on the arts and humanities.

On this occasion of his award, I extend my congratulations to Dr. Hollander and wish him continued success and best wishes for the future.

A TRIBUTE TO SANDRA GONCALVES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State championship title in the bicentennial of the Constitution and Bill of Rights competition.

Sandra Goncalves, of North Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Sandra and her classmates were able to achieve excellence. Sandra and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Sandra Goncalves and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Sandra and her classmates good luck in national competition.

EDUCATING OUR YOUTH WORK FORCE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, education in science, engineering, and mathematics is crucial to our country's economic future. We must have a capable scientific and technological work force to remain economically competitive in a global economy. Educating our youth in these areas should be a top priority in the 1990's for us all. The involvement of our corporate citizens, in public-private partnerships, is one way to expose our children to advanced technology and prepare them for our scientific and technological workforce.

On April 23, 1990, I will have the pleasure of meeting with representatives of an innovative program that utilizes a variety of talents, resources, and expertise in such a public-private partnership. These partners are Merck and Co. and the community of East Orange, NJ. Merck & Co., a pharmaceutical firm headquartered in New Jersey, and its employees have lent their time, talents and resources to efforts established to help prepare our young people for bright and productive futures. It is the work of Merck's Dr. Cecil Pickett and Mr. Ibrahim Sharif, an active member of the East Orange community, as well as countless volunteers, that will make the difference in the lives of many of our young people.

Mr. Speaker, New Jersey's 10th Congressional District is truly fortunate to have good friends. I know my colleagues will want to join me as I thank Merck & Co. for being a good corporate citizen and congratulate the volunteers for jobs well done.

HONORING MR. EUGENE MICHAEL CIANFLONE

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LOWERY of California. Mr. Speaker, I rise today to call your attention to Mr. Eugene Cianflone, an outstanding citizen of San Diego who donates his time and talents to fellow veterans at the local veterans hospital.

Mr. Cianflone is presently one of 960 volunteers who spend more than 150,000 hours each year at the Veterans Medical Center. Not only does he bring love and compassion for the people he visits, but accompanied by his bugle, he rekindles the memories of a time gone by. Whether it be a request for a military theme or a hometown favorite, Eugene Cianflone knows them all. His music truly brightens the lives of those he serves.

But he does more than just perform. A veteran himself, he combines a sympathetic ear with an understanding heart, offering comfort and humor to the people who have valiantly served our country.

Over the years, Eugene has received some 1,000 commendations, 5 Presidential letters of appreciation, and more than 30 local awards. Mr. Speaker, please join me in further honoring this hero for his exemplary service to the veterans of the United States.

JASA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. GREEN. Mr. Speaker, since its founding in 1968, JASA [Jewish Association for Serv-

ices for the Aged] has developed into a principal voluntary agency in New York providing comprehensive services for the elderly. With the goal of helping older adults to remain in the community, JASA operates 22 social work counseling offices, 26 senior centers, 8 housing facilities for the well elderly, plus an extensive network of home care and community services in New York City, Nassau, and Suffolk Counties. JASA provides a place for older people to enjoy the benefits, as well as cope with the challenges of longer life. This year JASA has assisted 62,000 elderly persons and their families.

On June 14, JASA will celebrate 22 years of outstanding service to the elderly with a gala fundraiser. The event will be held in honor of JASA President Ruth Perelson and Chairman Carl Glick. These dedicated individuals have provided JASA with exemplary leadership and have contributed much to the JASA success story.

As JASA's president, Ruth Perelson has worked to increase community recognition and support for JASA's accomplishments. Through the public forums available to her—the press, radio, speeches at community occasions—she has told the JASA story and has been an effective advocate for senior citizens' needs. She has fostered a strong bond between trustees, staff, and senior citizens—those who serve as volunteers as well as those who receive JASA's services. Under her leadership, JASA has further expanded its services, giving priority to creating affordable housing with essential support services.

Ms. Perelson's leadership in other areas of New York community life has been equally impressive. Her affiliations include: Trustee and former associate treasurer, Board of Jewish Education of Greater New York; delegate, Domestic and Overseas Divisions Assemblies, UJA-Federation of Jewish Philanthropies of New York; personnel committee member, Council of Jewish Federations; and former trustee, Alumni Society of the Baruch School of Business, City College of New York. During Women's History Mouth, April 1989, Ms. Perelson received the New York City Council President's Award for outstanding leadership.

Likewise, under Carl Glick's enthusiastic leadership as chairman and former president of JASA, JASA established new programs to improve the quality of life for thousands of older adults. Services established under his tenure include: Project Crisis, the Mobile Geriatric Crisis Intervention Unit; JASA/Bayview Senior Center; JASA/Luna Park Senior Center; Services for the Aged, a home care program; and two housing facilities, the Evelyn and Louis A. Green Residences in Cooper Square and in Seagirt in the Rockaways. JASA's programs to assist the aged to remain in their own homes and enjoy their later life progressed significantly during Carl Glick's administration.

In addition to his work with JASA, Mr. Glick is president of the America-Israel Cultural Foundation; president emeritus of HIAS; director and chairman of the budget and finance committee of NYANA; member of 11 top boards and committees of UJA-Federation; and president of the Jewish Cultural Foundation of New York University.

The outstanding dedication and inspired support of Ruth Perelson and Carl Glick is truly impressive. It is most fitting that they should be honored on June 14, by JASA, the organization to which they have given their unflagging energy, unique talent, and enthusaiastic commitment.

SUPPORT THE USE OF TARGETED TAX-EXEMPT FINANCING

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to introduce legislation extending the sunset provision for "small-issue" industrial development bonds from September 30 of this year until December 31, 1995. I strongly support the use of targeted tax-exempt financing to encourage economic development, and feel that the changes made concerning the use of industrial development bonds over the last several years have created a targeted and viable program which deserves extension.

In this era of shrinking Federal resources we must target assistance to areas of greatest potential investment in our economic security. In my view, the current law appropriately targets the use of small-issue bonds to an area which does the most for our economy and our people: the manufacturing sector.

Manufacturing is important for a number of reasons, not least of which is the fact that it is a wealth creating activity, and one that is self-perpetuating. Most innovations and technological breakthroughs come as a part of the manufacturing process. We must support efforts to retain our domestic manufacturing capabilities. Although many argue that there is no problem since manufacturing has maintained its percentage of contribution to GNP, the fact remains that the total number of people involved as a percentage of the work force has diminished, and too much of the actual production of goods is moving overseas. This is not an inevitable fact. It is happening because we allow it to happen.

Furthermore, if we are to turn our trade deficit around, we must face the basic fact that we can no longer consume more than we produce. And to increase production means boosting the U.S. manufacturing base.

There are many approaches to address these issues and strengthen our industrial economy, but the essential element of any approach is finance. The ability of our smaller firms to achieve their full potential, both as a producer for the domestic market as well as for international markets, continues to be limited by the access to capital. With new opportunities opening and encourage investment capital in this area. Industrial development bonds are an important part of encouraging this development and for spurring further investment and development. This is why the small-issue IDB targeted to manufacturing is so important.

The use of IDB's in New York has had a proven track record in promoting local economic revitalization efforts. They are an important tool for State and local governments efforts in this area. This is particularly important considering the fact that over the last 10 years the Federal Government has been shifting many of its burdens to State and local governments, while financial assistance to these groups—in the form of tax benefits or grants—has diminished sharply. To allow the small-issue private activity bond program to lapse would be unconscionable. In these times of shifting burdens, such tax-exempt financing tools will become more and more important to local government.

Tax-exempt financing has been used effectively in the 30th District of New York to finance public/private ventures, and to leverage capital for job creating projects, not to mention the productive uses general obligation municipal bonds have been put toward. The productive capacity of the American economy depends upon a reliable infrastructure and the availability of capital to sustain that infrastructure.

The limitations placed on tax-exempt bonds in the 1986 tax-reform legislation have added an element of responsibility and cost effectiveness to the use of such bonds, whether they be "private activity" or "general obligation." However, I do feel that the arbitrage and refunding restrictions should be loosened and that the volume caps should be reevaluated. These are matters of the larger debate on tax-exempt financing, but I feel that it is important to raise these issues in the context of this bill.

We are still the world's leading military power, but our economic predominance no longer exists. We need to redevelop our infrastructure, and direct some of our efforts at home. However, we need to address these issues in a targeted and cost-effective manner. I feel strongly that this legislation is a step in the right direction. Continuing the tax exemption for small issue-bonds is a way of encouraging economic development from the grass roots in a fiscally responsible manner.

SUPPORT A FREEZE BUDGET

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PORTER. Mr. Speaker, when asked the most pressing problem facing the country, the people of the United States name many concerns—crime, drugs, homelessness, competitiveness. But repeatedly the same issue tops the list—the budget deficit.

You might think Congress would address the Nation's top priority, but unfortunately nothing could be farther from the truth.

Rather than making the difficult choices our constituents sent us here to make, we cave in to special interests and produce deficit after deficit. Each year it is the same. We convince ourselves that little progress is possible this year, but just wait until next year, or until after the next election, or whenever, so long as it isn't today.

Mr. Speaker, next week I will be introducing my own budget resolution that freezes spending in most of the functions of Government.

Defense spending will be cut to $292 billion and COLA's will be frozen, but demographic growth in entitlement program will remain. This will require us to prioritize spending within all 19 functions of Government, but it will result in real deficit reduction.

Such a plan doesn't come without pain, but it carries with it something the budgets we usually see don't—courage and honesty. I ask my colleagues to support this effort.

DE KLERK BOTTOM LINE REQUIRES THAT SANCTIONS BE MAINTAINED

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FAUNTROY. Mr. Speaker, what follows is an op-ed article by Washington Post columnist William Raspberry on South African President F.W. de Klerk's April 17 speech before Parliament. Raspberry's commentary offers ample reason why any effort by the Bush administration to have sanctions against South Africa lifted must be strongly resisted by Congress. Further, de Klerk's rejection of majority rule as "not suitable for a country like South Africa," underscores why additional sanctions must not be ruled out by Congress if Pretoria is to be convinced that nothing short of a genuine democracy—as outlined in the December 1989 United Nations Declaration on South Africa which our Government helped draft, and voted for—will lead to a normalizing of South Africa's international economic relations. By firmly reiterating his rejection of majority rule, de Klerk, in effect is stating that democracy is unsuitable for South Africa. And anything less than the establishment of democracy in South Africa necessarily implies continued white minority domination. President de Klerk cannot have it both ways: Stating that all South Africans will enjoy "a vote of equal value for every adult citizen," while rejecting the majoritarian democratic implications of such a claim. Let us hope, as Raspberry suggests, that "de Klerk was simply establishing a bargaining position to counter the ANC's one-man, one-vote stance." Mr. Speaker, given the eagerness of the administration to lift certain sanctions against South Africa as a reward to de Klerk for the preliminary steps he has taken, important though they undoubtedly are, I urge my colleagues to reflect on the assessment of Mr. Raspberry of President de Klerk's latest pronouncements.

[From the Wasington Post, Apr. 18, 1990]

DE KLERK'S REGRESSION

(By William Raspberry)

F. W. de Klerk, who a couple of months ago stirred the passions of those who hope for racial justice in South Africa, has now delivered the equivalent of a cold shower.

He remains in favor of "power sharing," he said in a major speech before the South African parliament, but for the first time he made clear that his view of power sharing does not embrace black majority rule, which he described as "unacceptable."

"We believe that majority rule is not suitable for a country like South Africa because it will lead to the domination, and even the suppression, of minorities."

De Klerk's renunciation of the notion of one-man, one-vote in a unitary system came just two weeks before his scheduled May 2 talks with Nelson Mandela—talks that were expected to set the stage for negotiations toward a new political arrangement that would accord full political rights to all South Africans. It isn't clear what effect his newest statement will have on those talks, but the guess here is that it will make matters a good deal more difficult.

Things were tough enough as it was. The government, pointing to continuing black-on-black violence, has been reluctant to lift the "state of emergency," which the black leadership insists is the major barrier to successful talks. And the black leadership, including Mandela's newly unbanned African National Congress, has refused to renounce armed resistance to apartheid, a refusal the government sees as the principal stumbling block.

The most hopeful sign that peaceful change was about to happen has been the manifest respect de Klerk and Mandela hold for one another.

The possibility remains that the de Klerk speech will leave that mutual respect unchanged. After all, Mandela, immediately after his release from 27 years' imprisonment, made a point of insisting that any new political dispensation protect the rights of the white minority. And de Klerk did stress his acceptance of "full political participation" by all South Africans, with "a vote of equal value for every adult citizen."

But his newly clarified view of "full political participation" is bound to disappoint the ANC Leadership, which seems to have been proceeding on the expectation of a one-man, one-vote arrangement—perhaps with some protections for the white minority, but nothing like de Klerk's notion of constitutional checks and balances, decentralization of power and "the requirement of consensus on controversial matters."

Since the dismantling of apartheid—the very foundation of South Africa's white minority rule—is indisputably "controversial," one reading of the de Klerk speech is that all the talk of breakthrough and fundamental change is nothing but smoke and mirrors.

The only thing that argues against such a reading is the boldness of the moves already taken by the fledgling de Klerk government. Mandela has been released. Some 33 outlawed organizations, including the ANC and the South African Communist Party, have been unbanned. Important political prisoners have been released, and there is serious talk of amnesty for activists who have violated the criminal codes for political purposes. (It is not yet clear whether exiles charged with such crimes as terrorism, insurrection and treason might be included in the amnesty.)

But if these moves suggest that de Klerk is serious, his Wednesday statement suggests serious—perhaps insurmountable—limits on his seriousness.

"We believe that majority rule is not suitable for a country like South Africa because it will lead to the domination and even the suppression of minorities," he said. "Majority rule provides a solution only for whichever group may constitute the majority, but entails great risks for the rights and values of minorities. That leads to a power struggle and domination and is not the right model for a country with a tremendously diverse population."

Perhaps de Klerk was simply establishing a bargaining position to counter the ANC one-man, one-vote stance. maybe some mutually acceptable arrangement will emerge from the negotiations, when—and if—they take place.

But the fear is that de Klerk's speech will needlessly complicate the May 2 "negotiations to negotiate"—unless the government at that time offers some dramatic new concession: for instance, an offer to grant a general amnesty and lift the state of emergency in exchange for a renunication of violence on the part of the ANC.

Surely it is possible for negotiators to work out arrangements for protecting the important interests of South Africa's white minority—including property rights and maintenance of a market economy. But first it will be necessary that all parties take the negotiations seriously. In that regard, the de Klerk speech, however reassuring it may have been for whites, didn't help a bit.

A TRIBUTE TO MARIANNA FORTE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Marianna Forte, of North Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Marianna and her classmates were able to achieve excellence. Marianna and her classmates along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Marianna Forte and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Marianna and her classmates good luck in the national competition.

CONGRATULATIONS TO ROBERT AND ELONNA McKIBBEN, THEIR NEW QUADRUPLETS, AND THEIR COMMUNITY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Robert and Elonna McKibben and their new quadruplets, who are from my 17th Congressional District of Ohio.

Life with four babies is both busy and happy. There is always something to do, whether it's feeding, changing a diaper, or dressing them. The McKibbens are fortunate to have received a great deal of help from their community. The Cortland Trinity Baptist Church, the First Baptist Church of Howland, and neighbors have all taken turns supplying the McKibbens with dinners. The community has also raised money to build an addition on to the McKibben's house, which cost about $50,000.

But the McKibbens have had their fair share of pain, however. Elonna McKibben was diagnosed as having cancer after the birth of her children. After she was diagnosed, she began using a controversial experimental drug called Can Cell, which she believes has cured her. A recent CAT scan has shown that Mrs. McKibben has no signs of cancer.

Mr. Speaker, I would like to congratulate Robert and Elonna McKibben on the birth of their four babies, Zachary, Brenna, Taryn, and Jade as well as wish them the best of luck. I would also like to commend the many people who have taken the time to help the McKibbens. These people have given of themselves unsparingly and are a shining example of what true friends and neighbors are. I am honored to have these people in my district.

LIMITED USE OF IRA FUNDS FOR FIRST-TIME HOME BUYERS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation which would remove a disincentive in the tax laws for limited use of IRA funds for the first-time purchase of a home. I am pleased to be joined in this effort by my colleague from Pennsylvania, Mr. SCHULZE. The proposal which I am introducing today is similar to measures proposed by Senator LLOYD BENTSEN as well as President Bush, but with one significant modification: This proposal would permit withdrawals on a penalty-free basis from existing IRA's for first-time home purchases by not only the home buyer, but also by their spouse, parent, or grandparent. Since the IRA account balance of older taxpayers, such as parents and grandparents, tend to have a larger account balance than those of younger taxpayers, I believe that this proposal would help reverse the decline of home ownership in this country, especially among the prime home buying ages of 25 to 34 years old. In many cases, these individuals are able to support a conventional mortgage, but are simply unable to set aside the needed funds for a downpayment on their first home.

Under this proposal, a taxpayer, as well as his or her spouse, parent, or grandparent would be allowed to withdraw up to $10,000 collectively to make a first-time purchase of a home. While the proposal would exempt withdrawn funds from the 10-percent penalty that is currently imposed under the income tax laws for premature withdrawals, any amounts withdrawn for first-time home purchases would be considered taxable income to the IRA account holder. The definition of a qualified first time home buyer would include any taxpayer who did not own an interest in a principal residence for the past 3 years. In addition, the purchase price of a home acquired with withdrawn IRA funds could not exceed 110 percent of the average area purchase price.

There is no question this country faces a critical problem in the area of housing affordability. During the previous decade, we witnessed a steady decline in the Nation's home ownership rate, reversing a 40-year trend of rising home ownership in this country. A particularly disturbing trend is that the largest decrease in home ownership was noticed by those under 25 years of age, and by those between the ages of 25 and 34. The combined home ownership rate of these two age groups declined by roughly 15 percent during the 1980's. Various studies have cited the inability of young people to save enough money for a downpayment as the single most compelling problem preventing these individuals from buying a home.

Mr. Speaker, investing IRA funds in a home is a very prudent investment. In addition, use of an IRA account to acquire a residence is totally consistent with the overall retirement purpose that IRA's were intended to serve. While adoption of this measure is not a panacea for curing the Nation's housing affordability epidemic, this legislation does constitute a positive, important first step.

RECOGNIZING JEROME H. LEMELSON

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. COURTER. Mr. Speaker, it is my pleasure to congratulate Mr. Jerome H. Lemelson on being the recipient of this year's New Jersey Pride Award for Science and Technology. Mr. Lemelson has made tremendous breakthroughs in the technology world, and has proven to be an important asset to our State.

The New Jersey Pride Award honors those individuals who have made significant contributions to their field and to the State of New Jersey. Mr. Lemelson holds more patents—over 450—than any other active American inventor. If you use a tape recorder, you are a beneficiary of Mr. Lemelson's genius; he conceived the drive motor used in nearly all tape recorders. One of his latest inventions is a thermometer that calls out the temperature measured. Originally invented to provide blind people who live alone with a means of taking their temperature, it is now being applied in hospitals by nurses' aides as a reinforcement to reduce erroneous readings.

On this occasion of his award, I extend my congratulations to Mr. Lemelson and wish him continued success and best wishes for the future.

A TRIBUTE TO KELLY FORCIER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Kelly Forcier, of Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Kelly and her classmates were able to achieve excellence. Kelly and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Kelly Forcier and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Kelly and her classmates good luck in the national competition.

FAMILY AND MEDICAL LEAVE ACT, H.R. 770—PART 1

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PENNY. Mr. Speaker, the House will soon be voting on a bill to grant extensive leave benefits to American workers. The Family and Medical Leave Act, H.R. 770, would require employers to grant 10 weeks of unpaid family leave over a 2-year period and 15 weeks of unpaid medical leave over a 1-year period to employees who work at least 20 hours per week and have worked for the same employer for at least 1 year.

Providing leave for employees to have a child or care for a sick relative is laudable. But

I believe it is crucial that these benefits be negotiated by employers and workers; not mandated by the Government. By federally mandating specific types and lengths of benefits, we effectively remove all flexibility from the process. Employees and employers find the best arrangement when both agree on a fringe benefit package tailored to their specific needs.

Extensive mandated benefits would create a heavy burden for small businesses. This is important to consider because 66 percent of the jobs held by young Americans, who are most affected by this policy, are provided by small employers. I fear that passage of this mandatory legislation could actually reduce the options that many employees now enjoy. It is obvious that most employers will have to drop other benefits to absorb the increased cost of complying with mandated family leave. Others fear that some employers would discriminate against those job applicants who are more likely to use leave. Employers across America have responded to changes in the workplace over the last several years. For example, the National Federation of Independent Business [NFIB] reports that 70 percent of its members already have agreements with employees to provide leave for the birth of a child.

If we are to consider mandating a leave program, I would favor maternity leave. Such a policy addresses one of the central conflicts two-career families face: how to care for a new born child while holding on to a job that brings needed income home to the family. This type of maternity leave benefit would also strike a fair balance between businesses and employees. Most employers could offer this limited leave option as part of a fringe benefit package without having to cut corners on other benefits to make up the cost.

I am including following this statement materials related to the Family and Medical Leave Act that may be of interest ot Members. In future extensions, I will expand on this statement, and include additional letters, statements, and analyses in opposition to the extensive mandate of benefits contained in H.R. 770.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC., February 8, 1990.

H.R. 770, THE FAMILY AND MEDICAL LEAVE ACT OF 1989

"FEEL GOOD" LEGISLATION THAT IS STILL A BAD IDEA

DEAR COLLEAGUE: Once again rumors are afloat that proponents are preparing to bring to the Floor H.R. 770, the Family and Medical Leave Act. In brief, H.R. 770, often misleadingly referred to as a "parental leave" bill, mandates that employers provide (1) at least 10 weeks of unpaid "family leave" every two years for the birth, adoption, or foster care placement of a child, or the care of a child or parent having a "serious health condition" and (2) at least 15 weeks of unpaid leave each year for an employee unable to work due to a "serious health condition." Health benefits must be continued through the period of leave, and the employee is guaranteed reinstatement to the same or equivalent position. Enforcement is through the Department of Labor or a private civil action with jury trials and damages allowed up to four times lost back pay.

The legislation is counterproductive to the interest of employees and employers: It is one of those unfortunate realities of life that employers have limited resources and that only a certain finite amount can be set aside for employee benefits. A federal mandate dictating what type of benefits must be provided only reallocates portions of the benefit budget to a favored class of employees (those identified by the legislation) at the expense of the rest. If one benefit is required, then another—perhaps one more desired by the employees of a particular company—is eliminated or reduced. Employers should be allowed the flexibility to tailor their benefit plans to the needs of their employees.

The structural framework established by the legislation is unworkable and fails to recognize the legitimate needs of an employer to orderly manage its workforce: Space prevents discussing these problems in detail, but some of the most significant are as follows:

1. H.R. 770 allows employees virtually unrestrained discretion as to when to take leave and when to return. The vague requirements that an employee provide "reasonable and practicable" notice so as not to "unduly disrupt" the operation of an employer lack any substance, and an employer may not even require advance notice of an employee's intent to return. In the meantime, the job in question msut be held open or be filled by a temporary.

2. The eligibility requirements for leave are, at best, few. The critical definition of "serious health condition" in the bill is so elastic as to be meaningless, and there is no requirement that leave be used for exigent or pressing circumstances. Indeed, time could be taken off even though an able-bodied spouse was at home or another relative was tending to the needs of the child or parent. Nor is there a requirement that the period of leave even be used for "family" purposes. The extended familial relationships created by the expansive definitions in the bill of "son or daughter" and "parent" exacerbate this problem.

3. The so-called "Key" employee exemption is no exemption at all as it is limited to the very highest paid employees, whose reinstatement would cause "grievous" economic harm. Would a nurse on an understaffed late shift or an emergency worker of some type meet this definition? Unlikely. Obviously, those workers who are truly critical to the operation of the employer are not necessarily those who are the highest paid. It is also difficult to envision, in any case, a situation in which reinstatement of an individual would result in "grievous" economic harm.

4. The enforcement mechanism is overly complex—indeed, its provisions comprise almost one-half of the entire bill—and would permit an employee to file a private cause of action or a complaint with the Department of Labor, replete with administrative law judge hearings. Possible damages, with jury trials, of up to four times lost back pay are unparalleled under other major labor law statutes.

The costs of this legislation will be considerable: The General Accounting Office (GAO), in November 1987, based on a limited study of two labor markets, put the cost of continued health insurance alone at $188 million (at a 50 or more employee coverage threshold) to $212 million (35 or more employees). In February 1989, GAO estimated these costs would have increased by about 30 percent. Given the unabated, well-publicized increases in health insurance costs, what will the costs be in another year? in two years? in three years? Further, GAO assumed that no costs (such as lost productivity) would be associated with an absent employee or the need to train a temporary replacement worker. In contrast, the American Society for Personnel Administration has estimated that costs for training replacement workers could be conservatively estimated at $56.28 million. Other expenses, such as those associated with litigation, will inevitably be incurred.

Need for the legislation: Of course, perhaps the problems with this legislation could be ignored if there was compelling evidence of a pressing need for its enactment. However, employers are increasingly addressing the family and individual needs of their employees, and this trend will undoubtedly continue as women comprise an ever greater portion of the workforce. A 1987 study by the Bureau of Labor Statistics (BLS) of over a million establishments (including small employers) demonstrated that approximately 63 percent of those surveyed had some type of flexible work schedule/child care policy for their employees. A 1988 BLS benefit plan survey of over 30 million employees at medium and large firms found that approximately 90 percent were covered by disability leave (which, under the Pregnancy Discrimination Act, must cover disability due to pregnancy, child birth, and related medical conditions) with some level of income replacement and that one-third were covered by formal benefit plans providing maternity leave to care for a newborn child; such leave was narrowly defined and considered separately from other leave benefits, such as sick leave or vacation leave, which might also be used for this purpose. Further, as the GAO noted, many employers no doubt accommodate their employees on an ad hoc basis.

Finally, you may wish to ask whether the level of constituent letters that you may have received on this subject indicates that there is a problem here which necessitates the enactment of nation-wide legislation.

We urge your opposition to H.R. 770.

Sincerely,

FRED GRANDY.
TIM PENNY.

INDIA HUMAN RIGHTS PROBLEMS CONTINUE

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DREIER of California. Mr. Speaker, I was hopeful that the election of Prime Minister V.P. Singh would improve the human rights situation in India. Unfortunately, questions and concerns continue. India remains the only democracy to prohibit Amnesty International from conducting human rights reviews, and the situation in Kashmir worsens daily.

I would like to submit a statement by a member of the British Parliament who personally visited India and shares his experience and views on this important situation.

PARLIAMENTARY DEBATES—HOUSE OF COMMONS—OFFICIAL REPORT

INDIA

Motion made, and Question proposed, That this House do now adjourn.—[Mr. Patnick.]

10 p.m.—Mr. Max Madden (Bradford, West): I am pleased to introduce a short debate on relations between Her Majesty's Government and India, the first such debate in the House for some considerable time, I have recently returned from a brief visit to India and I thank the authorities, especially the governor of the Punjab, for their assistance and co-operation, and a range of human rights organizations and their brave and dedicated members for their help and support during my visit.

My main purpose was to investigate human rights in the Punjab. With the intraciable problem of Northern Ireland much in my mind, I realize that no Britisher in India can feel superior when discussing human rights in the Punjab, where the forces of law and orders are pitched against terrorists. I talked to police officers in the Punjab who, like security officers in Northern Ireland, told me that many of the terrorists were gangsters who prayed on Sikhs and Hindus for money and power. Few, they argued, were motivated by dreams of an independent Khalistan.

I talk to human rights groups in the Punjab who, like their counterparts in Northern Ireland, told me that state violence and repression had alienated many in the Punjab, Sikh and Hindu, and had provoked widespread violence and terror. Both sides claimed, rightly I am sure, that all ordinary people in the Punjab, Sikh and non-Sikh, are sickened by violence and want an end to it. I talked to scores of those ordinary people and their stories were deeply disturbing.

I shall never forget the Sikh father whose 14-year-old daughter was raped and drowned by a police officer. The father was brutally beaten by police three times over two days. He was seeking the return of his daughter's body for cremation. He was warned that if he did not stop complaining, what had happened to his 14-year-old daughter would happen to his 7-year-old daughter. The father is refusing to wear shoes until he gets justice.

I shall not forget the young Sikh who was shot as a terrorist after he stood with his arms above his head in a field for five minutes. The police later admitted that they had made a mistake. Senior police officers saluted at the young man's cremation. His family is still waiting for the compensation that it was promised.

I shall not forget the relatives of the young man who was shot while marching in a Sikh religious festival. Again, the police admitted a mistake. His brother has been warned off pressing for police officers to be punished.

I shall not forget the 500 prisoners in the Amritsar security prison who lined up in the sun to meet me and my team. Each one was holding his record papers. There were more than 300 held on petty offences without bail. The youngest was a boy of 14 and a half who had been held in that prison for eight months without trial.

There were mothers and daughters who talked about their husbands and brothers, who had been abducted by the police months and even years ago. There were men and women who showed us bruises, scars, broken arms and broken legs that were the result of police interrogation. I shall never forget the men and women who complained of systematic police harassment, with regular house searches, property smashed, goods and money stolen, and threats of extortion of money to avoid imprisonment.

There is no doubt that Operation Bluestar, the Army code name for the attack on the Golden Temple in 1984, will never be forgotten or forgiven by most Sikhs. It defiled their holiest place and strengthened the view of many of them that the last Indian Government had embarked upon a deliberate policy of eradicating Sikhs, who form just 2 per cent of India's population. Such feelings were intensified by the massacre of 5,000 Sikhs in Delhi hours after the assassination of Mrs. Indira Ghandi and of many Sikhs in other parts of India.

In Delhi I visited some of the 1,200 widows struggling to bring up their families alone. One woman cried bitterly as she showed me the photographs of her dead husband and sons. She lost 18 relatives to the murderous mobs. From the window of a two-roomed tenament, home to a family of six, I looked down across a mud hut village which is home to 1,000 families who fled east Delhi to find relative safety with other Sikhs in west Delhi. With the monsoons this mud village becomes a sea of mud, with the summer heat a stinking cesspit. There are no drains, water supply or electricity; there are typhoid and cholera. The new governor of Delhi has promised these people a plot of land nearby where they can build decent homes. They hope that this promise will be kept and that the bulldozers will not return to demolish their huts.

None of these people, the victims of murderous communalism, believe that what happened was spontaneous. The mobs were organised. They were led. The plan was to kill as many male Sikhs as possible, including boys and even babies.

While the horror of the massacres will never dim, many Sikhs cheered last year's election of Mr. V. P. Singh as India's Prime Minister. The BJP, the Hindu fundamentalist party, appears opposed to Mr. Singh's pressing on with his plans, announced after his election victory, to secure reconciliation with the Sikhs in the Punjab. Elections to the Punjab state assembly are seen by Mr. Singh as a top priority. However, unless they are called by 11 May, President's rule will continue—and that will surely spark off more and escalating violence.

There are those inside and outside the Punjab who believe that a new settlement of the Punjab is possible. A federal solution, with the central Government retaining powers over foreign relations, defence and communications is widely supported. The Prime Minister and the new governor of the Punjab rightly stress that building confidence and trust is vital if reconciliation is to succeed. Early elections to the Punjab state assembly are seen by many as vital to that confidence-building process.

These should also, in the view of many, be independent machinery for monitoring human rights in the Punjab, together with independent machinery for investigating complaints against the police. Amnesty International, which has hitherto unfortunately been refused permission to visit the Punjab, could offer the governor and the Government of India valuable advice about how to establish that machinery.

During my visit Sikhs complained to me about a number of problems. They complained about there being no Sikh in the Cabinet or in any of the senior executive positions in the Punjab Government. They complained about the apparent bar on Sikhs reaching the most senior ranks of the Army. Many Sikhs believe that they are mistrusted. They resent the propaganda that has depicted the Sikh turban worldwide as a symbol of terrorism.

People living overseas, including British citizens of Sikh origin, find it difficult to visit their families and friends. I hope that the British Government will make representations to the Indian Government to make that easier. I also hope that they will make representations to the Indian Government urging them to allow young Sikhs from the Punjab to study in Britain and other overseas countries. At the moment, they experience great difficulty in obtaining student visas to study here or elsewhere.

If there is uncertainty about the future of the Punjab, there is great anxiety about the future of Kashmir. During my visit to Kashmir there were many reports of mass protests involving anything up to 1 millon people, with deaths, injuries and many more soldiers being deployed. It is now believed that between 200,000 and 300,000 security forces are deployed in Kashmir, and more are on the way. A permanent curfew has been in place for the past nine weeks.

Many argue that the people of Kashmir should be given a referendum in which they could vote freely and fairly for their future. There appear to be three options—for them to remain part of India, for them to join Pakistan or, the option that has been gaining support, for Kashmir valley to join Azad Kashmir and parts of Jammu, to become a new independent state.

During my visit, a promient Kashmiri business man who favoured the third option said:

We could become the Switzerland of Asia, with tourism and the careful development of our natural resources. The borders could be guaranteed internationally, safeguarded by the United Nations. A state of 10 million people, we could become a tranquil, prosperous buffer between India and Pakistan."

The Indian Government are making a serious mistake by alleging that there are those outside Kashmir and outside India who are instigating violence and disorder in Kashmir. In making those charges, the Indian Government's credibility is seriously undermined so long as they refuse permission to foreigners to visit Kashmir and so long as they stop the world's media reporting what is happening in Kashmir.

I hope that India's new Prime Minister will quickly see the difficulties that his Government will face if they continue that policy. I hope that he will allow visitors and the free reporting of what is happening in Kashmir. I hope the Indian Government will agree to a request that I made informally today to the Indian high commission for a parliamentary delegation from the House to be allowed to visit Kashmir shortly. I welcome the visit that is to be made to Kashmir next month by my right hon. Friend the Member for Manchester, Gorton (Mr. Kaufman).

Some 56 British Members of Parliament, representing all political parties and from all parts of the United Kingdom, have now signed and supported motions on the Order Paper calling for the people of Kashmir to be allowed to determine their own destiny.

At this time in Kashmir there are severe shortages of food and water. There are drastic evacuations of non-Muslims from Kashmir. The authorities are transferring large numbers of prisoners from Kashmir to the much hotter climate of Rajastan, and there

are worrying reports that death squads are being formed and trained. As I said earlier, there are reports of substantial extra troop deployments to Kashmir.

There can be no doubt that what has happened in the Punjab since 1984 scars the reputation of India, the world's largest democracy, and that the popular uprising in Kashmir threatens peace in the region. All true friends of India—we are all well aware of the deep affection and regard that you, Mr. Speaker, have for that country which is shared by many hon. Members—wish every good fortune to Mr. Singh and his Government in resolving the vexed and dangerous issues that threaten the future of his Government and, more important, the future and well-being of all the people of all religions of India.

I hope that the Minister can say tonight that the Government are anxious to make representations to the Indian Government—especially on my requests for more efforts to facilitate visits by British citizens of Sikh origin to the Punjab, to help young Sikhs to study overseas, to allow foreign nationals to visit Kashmir and to allow the foreign media to report what is happening in Kashmir.

I do not believe that the true friends of India would be unwilling to make such representations, because—as with any family—there are times when it is necessary for us to express our views robustly in private and, when the need arises, in public. The human rights position in the Punjab and the dangerous position in Kashmir, which seems to be deteriorating fast, call for the British Government to make such representations. Britain has a great historic responsibility for India's past, and it has a great responsibility now to speak up on behalf of people who have many relatives and friends there. The Kashmiri community are desperately worried about their families and their friends and are concerned about the future of their country. Sikhs, too, have great worries. I hope that the Minister will echo their concerns, and will make it clear that the British Government, in the spirit of true friendship, are prepared to make representations to the Indian Government.

DEPARTMENT OF VETERANS AFFAIRS HEALTH PROFESSIONALS COMPENSATION AND LABOR-RELATIONS ACT OF 1990

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MONTGOMERY. Mr. Speaker, I am introducing today, along with BOB STUMP, JOHN PAUL HAMMERSCHMIDT, and Dr. J. ROY ROWLAND, a measure that will enable the Department of Veterans Affairs [DVA] to deliver quality medicial care to eligible veterans by improving its ability to recruit and retain health care professionals. I know that many of my colleagues have received complaints from veterans in reference to their inability to receive health care. Although most of the complaints result from a lack of resources, in many instances we are finding that DVA medical centers are having extreme difficulty in recruiting physicians and nurses to fill existing vacancies. Medical centers are also losing both physicians and nurses at alarming rates. Something must be done to assure our veterans that not only will they be able to receive care, but the care they receive will be top quality. Hiring and retaining top-quality professional staff is the only way it can be done.

Many career nurses, physicians, and dentists have expressed their concern to the committee about the erosion of their DVA pay and other benefits when compared to other employment opportunities.

During the hearings and other oversight activities of the Committee on Veterans' Affairs, we have learned that there are three major areas of incentives for health professionals to come to work for the DVA: First, pay and other monetary compensation, second, the opportunity to conduct health research, and third, the opportunity to teach and train other health professionals. Historically, the DVA, through its affiliations with over 1,400 schools of health professions, has provided opportunities to teach and conduct research. In the last few years, research opportunities have been reduced due to level appropriations for research activities in the face of increasing costs, but the committee and the House continue to be supportive of DVA research efforts which have yielded such important results. The situation with regard to pay, however, has been different.

Currently, physicians and dentists are paid through a two-part system. One part is base pay which is related to the General Schedule for other Federal employees. The other part is special primary and special pay which Congress authorized several years ago. The creation of the special pay authority in 1975, Public Law 94-123, was due to the insufficiency of the base pay authority to recruit highly skilled health professionals. The base pay amounts have not been changed except for the comparability increases for all Federal employees.

In 1980, the Congress increased the maximum allowable special pay for physicians and dentists as part of Public Law 96-330. Since that time, there have been no changes in physician and dentist special pay. As part of Public Law 96-330, the Department of Veterans Affairs was required to make a report by December 31, 1988, and every 4 years thereafter on the compensation of DVA physicians and dentists compared to other employment opportunities, such as academia and the private sector. That report, commonly referred to as the "Quadrennial Report" which was finally provided to the Congress in October 1989, showed that in the last 4 years the salaries of physicians in academia and the private sector have increased substantially while salaries of DVA physicians have remained essentially static.

At a hearing held on October 25, 1989, by the Subcommittee on Hospitals and Health Care, testimony was received from the consulting firm hired to research the issue, the Klemm Analysis Group, Inc., that the salaries of DVA physicians in some medical specialties lag 33 percent or more behind national pay rates. This disparity has led to serious physician shortages in some specialties, either on a nationwide basis or in terms of a specific locale.

As of September 3, 1989, the Department reported 509 vacancies out of 7,075 full-time physician positions. However, this does not completely reflect the extent of the problem because the Department considers a vacancy to be filled if outside physicians are contracted for or hired on a part-time basis. For example, the number of part-time physicians employed by the DVA has grown from 5,065 in 1985 to 5,625 in 1988, while the number of full-time physicians has decreased from 7,207 in 1985, to 7,024 in 1988. Today, part-time physicians comprise approximately 44 percent of the total physician work force. Documents and testimony presented to the committee show that in almost all cases, the additional full-time equivalent employees [FTEE] that have been hired do not satisfy the specialty vacancies of that medical center. Instead, nonspecialists have been hired for specialty positions. Further, the DVA has determined that there are extraordinary difficulties nationwide in recruiting six specialties: Anesthesiology, specialized surgery, general surgery/urology, radiology, spinal cord injury, and psychiatry. Psychiatry, while not officially determined to be scarce nationally, was reported by witnesses at several hearings to have become very scarce nationwide in the last 2 to 3 years. In the case of chiefs of staff, the Klemm report showed that 17 positions have taken over 18 months to fill under current compensation limits.

Mr. Speaker, this bill should go a long way toward enabling the DVA to regain its competitive position in the medical manpower marketplace for physicians, dentists, and nurses. I will only briefly describe the features of this bill at this time: It is derived from both current law and the excellent information provided to the committee by many expert, interested sources.

Like current law, this bill would provide special pay for five characteristics of employment: Longevity or tenure of service, scarce specialty, geographic location, executive medicine, and board certification. This bill strengthens the ability of the DVA to target specific shortage specialties in specific geographical locations. This emphasis on unique characteristics of individual medical facilities allows local directors the opportunity to pay only what is required to recruit or retain physicians and dentists. The result is less costly and more effective.

The bill also contains protections from potential abuse in that any increases of special pay that exceed 50 percent of the previous year's special pay or decreases exceeding 25 percent of the previous years pay would require approval of the Secretary.

This bill also continues to emphasize the importance of full-time employment with the DVA by folding the primary special pay into the full-time pay. While not every medical facility would have the workload to justify full-time employment in every specialty, in general the testimony provided to the committee indicated that full-time employment should be encouraged. This emphasis is consistent with previous actions by the Congress since 1975.

Mr. Speaker, title II of this bill includes a nurse pay provision that this body passed last year in H.R. 1199. No agreement was reached with the Senate on nurse pay. However, the

serious shortage of nurses in the DVA system continues and has resulted in even more ward closures than we reported last year. I hope we are near agreement with the Senate on this issue, but I believe we need to reemphasize our concern.

Mr. Speaker, title III of this bill deals with labor-management relations and disciplinary procedures. For a number of years, the Department of Veterans Affairs and various employee organizations have advocated modernization of the manner in which grievances of health care employees and discipline of such employees are handled. In addition, there has been litigation between employee organizations, the DVA, and the Federal Labor Relations Authority because of confusion over the scope of reforms affecting other Government employees which did not affect DVA health care professionals appointed under title 38 authority. The bill would resolve these issues by explicitly requiring the Secretary to engage in collective bargaining over the hours and conditions of employment, except for those matters concerning professional conduct. It would revise the procedure applicable to major adverse actions arising out of professional conduct or competence to make those procedures more consistent with procedures which affect your Government employees, including a postdisciplinary appeals board. I am pleased to tell my colleagues that this provision of the bill is supported by the VA and the labor unions who have worked with us in drafting the legislation.

Title III of the bill would also require the Secretary to prescribe an alternative grievance resolution procedure covering minor disciplinary matters and cases in which employees elect no to utilize the negotiated grievance procedure.

Mr. Speaker, I believe that this measure needs to be enacted to permit the DVA medical care system to continue providing high-quality care to our Nation's veterans and I urge my colleagues to support the measure. My Subcommittee on Hospitals and Health Care will mark up the bill next Wednesday, April 25.

DECLINING U.S. COMPETITIVENESS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. RITTER. Mr. Speaker, many of us are concerned about declining U.S. competitiveness in high-technology sectors, including telecommunications, relative to what we see as a growing trend of foreign investment in U.S. high-technology markets. I take this opportunity to include in the RECORD a Wall Street Journal article announcing the entry of Nippon Telegraph and Telephone [NTT] in U.S. data communications services. NTT is the largest company in the world. Its $250 billion capital structure is eight times the size of AT&T. NTT becomes the latest of a number of Japanese companies to enter United States communications markets including Fujitsu, Hitachi, Matsushita, Mitsubishi, NEC, Kokusai Denshin Denwa, Nintendo, Recruit Co., and Toshiba. The importance of competing in the U.S. market is obviously underscored by this trend of foreign investment.

The Wall Street Journal article lists NTT's U.S. competitors in data communications services but fails to mention that, were it not for the modified final judgment [MFJ] restrictions, including most importantly the restriction on providing information services, the Bell companies would be among those U.S. companies best positioned to meet this foreign competitive challenge. I am concerned that while we debate the MFJ restrictions and address the surrounding controversy our Nation's information technology base is being siphoned off by large, powerful foreign companies, many of them subsidized by their home governments.

My concern is heightened by the recent U.S. Court of Appeals opinion reversing and remanding Judge Greene's decision not to allow the Bell companies to provide information services. They found that Judge Greene failed to base his decision on the public interest, despite the fact that all parties to the consent decree were unopposed to the Bells providing information services. Not only is this the clearest example to date of why Congress, not a Federal judge, should set national telecommunications policy, but to the extent that Japan and other foreign nations emerge as the winners in the MFJ debate, it would be potentially devastating to long term U.S. high-technology interests.

NTT UNIT TO VIE WITH U.S. FIRMS IN DATA COMMUNICATIONS SERVICES

(By John J. Keller)

NEW YORK.—A subsidiary of Japan's mighty Nippon Telegraph & Telephone Corp. plans to announce this morning that it will begin competing with U.S. companies that provide data communications services to Japanese companies doing business in the U.S.

The subsidiary, NTT Data Communications Systems Corp., has leased the top four floors in an office building in Jersey City, N.J., across the Hudson River from lower Manhattan. From there is plans to manage the data transmission facilities of its Japanese customers along with their office phone systems. It also plans to develop software and train its customers' employees to run corporate data networks. U.S. companies could become future targets for service, NTT said.

NTT Data, which ended 1989 with 7,000 employees and $2.7 billion in revenue, wouldn't comment on whether it will set up similar sites around the country. But such facilities would seem necessary to handle the data communications traffic of large corporate customers with multiple U.S. sites.

The project, which initially will cost less than $100 million, represents the largest investment yet by NTT Data in the U.S., according to a spokesman.

The attraction is quite obvious: At $40 billion in the U.S. alone, data communications services are hot and growing some 25% a year, according to Arthur D. Little Inc., Cambridge, Mass.

NTT Data's plans will put it in direct competition with such U.S. giants as American Telephone & Telegraph Co., General Motors Corp.'s Electronic Data Systems, and US Sprint Communications Co.—and Japanese newcomers. Telehouse International USA, a unit of Japan's long-distance company Kokusai Denshin Denwa, and Recruit America, a subsidiary of the giant Recruit conglomerate, are also trying to gain a foothold in the U.S. facilities-management business.

But analysts say that neither of these companies has the clout or resources of NTT Data. Meanwhile, U.S. data services companies have begun to set up shop in Japan. But it has been hard for them to attract corporate customers and meet Japan's stringent technical specifications, according to Victor Krueger, an analyst for San Jose, Calif.-based Dataquest Inc.

NTT Data's effort in this country isn't the first by an affiliate of NTT, which has eyed participation in the U.S. market ever since the 1984 breakup of AT&T. The U.S. now accounts for 38% of the $455 billion world telecommunications market, according to Dataquest, a market research concern. And the Japanese government has licensed other carriers to compete with NTT in several areas, including data communications services.

Because it is a domestic communications carrier, NTT is barred by Japanese law from making direct investments in business ventures outside Japan. But it can pursue its goals through arms-length subsidiaries such as NTT Data and affiliates such as NTT International, of which NTT owns just over 50%.

NTT International executives have set up a Delaware corporation called Dynamic Loop Corp. to make investments in various communications projects in the U.S. NTT International executives have repeatedly refused to comment on Dynamic Loop, a privately held company.

COMMANDER IN CHIEF TROPHY

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. HEFLEY. Mr. Speaker, I rise today to urge my colleagues to join me in congratulating the U.S. Air Force Academy football team in receiving the 1990 "Commander in Chief" trophy.

In a special ceremony at the White House, President Bush presented the three-sided trophy, which stands over 2 feet high and weighs in at 170 pounds, to 24 seniors from the winning team. Following the trophy presentation, President Bush graciously invited the team to tour the Oval Office and individually congratulated each player.

After the tour, I had the honor of escorting the team and its head coach, Mr. Fisher DeBerry, on a tour of the Capitol and then for lunch. I felt privileged to have the opportunity to spend some time with these fine young leaders during their special day in Washington, DC.

I'm very proud of the Falcons. They really deserve the award. The strong spirit and determination of these fine, young men combined with the terrific leadership and encouragement from Coach DeBerry and his staff, added up to a great team and terrific season.

In order to capture this year's award, the Falcons soundly defeated the Naval Academy in Annapolis by a score of 35 to 7 and the

U.S. Military Academy at West Point by 29 to 3.

The idea for the competition between the three academies was conceived in 1972. Since then, each one of the academies has won the trophy five times. Three other times, the teams have tied.

MASSACHUSETTS, BIRTHPLACE OF THE AMERICAN REVOLUTION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DONNELLY. Mr. Speaker, this past Monday marked the 96th celebration of Patriots' Day in Massachusetts, commemorating the battles of Lexington and Concord, which took place on this day, April 19, 1775. These famous battles marked the beginning of the American Revolution and our Nation's stuggle for freedom.

In addition to numerous parades, the annual running of the Boston Marathon and a Red Sox home game, Patriots' Day is celebrated by a re-enactment of the midnight ride of Paul Revere and William Dawes. Although Dawes participated in the original warning action, he never achieved the renown that Revere did.

On the eve of Patriots' Day, a rider dressed as Paul Revere waits on horseback on the Warren Bridge, watching for the "one if by land, two if by sea" lamp signal from the Old North Church. Seeing the lanterns, he starts his ride through the surrounding towns. Later he meets with the impersonater of Dawes, who has already sounded the alarm in other neighboring towns, and has been temporarily apprehended in Cambridge by Harvard students disguised as British soliders. The two then ride together into Lexington.

Mr. Speaker, the ride of Paul Revere and William Dawes, and the battles of Lexington and Concord marked a critical turning point in American history. As the Birthplace of the American Revolution, the people of the Commonwealth of Massachusetts have celebrated Patriots' Day in honor of the role their forefathers played in the founding of this Nation.

Finally, Mr. Speaker, I would like to share with my colleagues the official patriotic song of Massachusetts. The words and music were written by my constituent and friend, Bernard Davidson of Randolph, MA. It commemorates in song the important role that Massachusetts played in the birth of America.

MASSACHUSETTS, BECAUSE OF YOU OUR LAND IS FREE

Oh, Boston, Massachusetts
That's where I was born
Where two lanterns on a steeple
Brightened up the dawn
And I looked out all around me
And guess what I did see
A man a riding horseback
On the road to liberty
There was Paul Revere and Franklin
John Adams, Hancock, and me
Fighting for independence
Until our land was free
And I'm coming back to Boston
Lexington and Concord, too
Because my name is Freedom
And Massachusetts I love you
Oh, Massachusetts
My Massachusetts
Cradle of Liberty
Oh, Massachusetts
My Massachusetts
Because of you our land is free

Oh, Charleston, Massachusetts
On top of bunker Hill
Where the Muskets and the cannon
Now are very still
And the U.S. Constitution
Still master of the sea
Is guarding Boston Harbor
Where we threw out all the tea
We must always fight for freedom
On the land and on the sea
As did our founding fathers
Who died for Liberty.
So, I'm coming back to Boston
Lexington and Concord, too
Because my name is Freedom
And Massachusetts I love you

Oh, Massachusetts
My Massachusetts
Cradle of Liberty
Oh, Massachusetts
My Massachusetts
Because of you our land is free.

THE BRETHREN'S HOME'S VOLUNTEERS SHINE BRIGHTLY

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, we have all heard our President, Mr. Bush, mention his now famous thousand points of light, people helping people all across America. Well, I am proud to say, the light is shining brightly in Greenville, a town of 15,000 people in Darke County, OH. Next week, the Brethren's Home will honor 1,200 individuals who have performed 35,802 hours of volunteer service for that retirement community.

Young people, adults, local churches, and residents volunteered their time to do sometimes menial and seemingly insignificant chores to help out the older residents who live there. They did laundry, read books for those with poor eyesight, wrote letters, and shopped, among other things. Their efforts saved the need for 18 full-time staff members, the cost of which would have placed a serious burden on this church-supported retirement and nursing home facility.

These special volunteers are deserving of our recognition and appreciation for being a light in their community. I salute each and every one of you. Keep up the good work. I am proud to represent you in Congress. Mr. Speaker, it's great to know that one of the brightest points of light is shining in Greenville, OH.

LEGISLATION INTRODUCED PROVIDING FOR THE LONG-TERM REAUTHORIZATION OF THE NATIONAL MARROW DONOR PROGRAM

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. YOUNG of Florida. Mr. Speaker, over the past few weeks, I have corresponded at length with my colleagues about the National Marrow Donor Program—today's medical miracle that every day is saving the lives of otherwise terminally ill individuals.

More than 100,000 Americans, including this Member, have already volunteered to have their blood typed to be included in the national registry, and I have made arrangements for next Thursday to HLA type all of my colleagues who want to be a part of this very special program.

In just 2½ years, the National Marrow Donor Program has matched more than 320 donors and patients and is currently finding matches at the rate of 25 to 30 per month. The only limiting factor now on this program is recruiting enough volunteers to find a match for every one of the estimated 9,000 Americans each year who are in need of a marrow transplant. Because the chances of finding a matched, unrelated donor are just 1 in 20,000, we need a large and ethnically diverse registry of volunteers. Our current goal is a national registry of 250,000 potential donors and access internationally to more than 1 million volunteers.

Through my work on the House Appropriations Committee I have worked to establish and fund the national registry. The program originally was established through the Department of the Navy with funds I included in the fiscal year 1988 Defense appropriations bill. Subsequent funding was included in the fiscal year 1989 Defense appropriations bill.

With the strong support of the Energy and Commerce Committee, the Congress in 1988 approved legislation shifting oversight of the registry from the Navy to the National Institutes of Health. This 2-year authorization expires at the end of this fiscal year, so today, along with the distinguished chairman of the Energy and Commerce Subcommittee on Health, HENRY WAXMAN, I have introduced legislation that would provide for a long-term, 10-year reauthorization of the National Marrow Donor Program.

Much has been accomplished in the short time since this program has been activated. More importantly, it has given us the opportunity to save lives. Bone marrow transplantation is a treatment for more than 60 life-threatening blood disorders and very promising research is underway to expand its use for treatment for a number of cancers and other diseases. By providing for a long-term extension of this program, we can ensure continued Federal support for the operation of the National Marrow Donor Program, for the recruitment of thousands of volunteers, for the establishment of links with similar registries throughout the world, and for research into

countless new ways in which marrow transplants can be used to save lives.

Mr. Speaker, I look forward to working with Chairman WAXMAN, the ranking minority member ED MADIGAN, my colleagues MIKE BILIRAKIS and HOWARD NIELSON, and the other members of the Energy and Commerce Committee to expedite the consideration of this legislation to continue the great strides we have made through this program to give hope for the living gift of life to thousands of people throughout the world for whom there was little hope just a few short years ago.

THE DISTRICT'S YEAR UNDER WILLIAM BENNETT'S PLAN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. JACOBS. Mr. Speaker, "I'm gonna get a big club and knock your head off."—Brer Bear from Tales of Uncle Remus by Joel Chandler Harris.

We now have a year's worth of the dismal record of this administration's great drug fighter.

Like the impact of the Carter administration's great inflation fighter, and that of the weavers of the emperor's new clothes, his impact is best measured by the amount of our money he has spent.

They say that if you are not part of the solution, you are part of the problem.

I am sure Mr. Bennett is not part of our drug problem, but he very definitely is part of our fiscal one.

[From the Washington Post, Apr. 13, 1989]

THE DISTRICT'S YEAR UNDER WILLIAM BENNETT'S PLAN[1]

Feb. 14, 1989: Thirteen people are shot in the District, making it the District's bloodiest day in memory. "It brought back images of the St. Valentine's Day massacre," said Marvin Barnard, director of D.C. General Hospital's emergency room. Three victims died.

March 13: William J. Bennett is sworn in by President Bush as the new federal drug policy director. He tells reporters the District is "as bad as it can get," and that he wants to make the city a "test case" in the federal drug war.

March 20: D.C. Mayor Marion Barry calls for a military invasion of South America to solve the drug problem. "Send the Army, the Navy, the Air Force, the Marines, the Coast Guard. Burn up those fields, eradicate those coca leaves. . . . Stop it at the source." Barry says on ABC's "This Week With David Brinkley."

April 11: Bennett, calling the city "out of control," unveils an emergency $80 million plan to attack the city's drug problems. Among the proposals: Build a new federal prison and a new jail in the D.C. area, create a federal anti-drug task force to go after high-level traffickers, evict drug dealers from public housing projects and bring in additional federal prosecutors, drug agents and military intelligence analysts.

April 15: U.S. Bureau of Prisons states that 700-bed new D.C. area prison, costliest element in the Bennett plan, won't be built. Bennett aides blame political opposition to the proposed site at Fort Meade in Anne Arundel County.

April 17: Rayful Edmond III and Tony Lewis—believed to control as much as 20 percent of the cocaine and crack markets in the District—are arraigned on charges of conspiracy to distribute cocaine. Their arrests are the result of a two-year joint investigation conducted by the Drug Enforcement Administration, the FBI and D.C. police.

Oct. 17: Bennett's efforts are failing to make any discernible dent in the local drug trade, federal and city officials say at the six-month point in the federal drug policy director's plan. They cite his biggest failure as inability to relieve crowding in the city's prisons, noting that there is still no site for a 500-bed federal jail Bennett had promised.

Oct. 19: Bennett charges that local political leaders are undercutting his efforts to build the jail. "Politics has essentially put up the roadblocks. . . . We have not seen the kind of willingness at the local level to get the thing built."

Dec. 6: Edmond and 10 other defendants are convicted on conspiracy to distribute cocaine in the District in the city's longest and most expensive drug trial in the city's history.

Dec. 15: D.C. Police Chief Isaac Fulwood Jr. criticizes Bennett for underemphasizing treatment for drug users and failing to communicate with District officials. "Bennett's approach is absolutely wrong," Fulwood said. "I don't even know if he has an approach."

Jan. 1, 1990: The District homicide count for 1989 is reported at 437 deaths, making it the most murderous year in city history. An additional 127 were slain in Prince George's County, also a record.

Jan. 19: Mayor Barry is arrested on a charge of possession of cocaine at the downtown Vista Hotel.

April 11: A 72-year-old woman is beaten and robbed and then killed in her apartment in the 1400 block of Newton Street NW. She became the city's 131st homicide victim of 1990, leaving the city's homicide rate about on par with last year's

PLUMBERS AND GASFITTERS U.A. LOCAL UNION NO. 48 CELEBRATES 90TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, on April 21, 1990, I will have the pleasure of attending the 90th anniversary celebration for the Plumbers and Gasfitters U.A. Local Union No. 48.

This celebration will be in combination with the plumber apprentices' 19th annual awards dance. For 90 years Local Union No. 48 has worked to protect the interest of its membership while providing a comprehensive certified apprentice program for 44 years. However, local No. 48 has also taken an active role in the community as well. Currently, they are involved in a variety of charitable functions including, the Free Furnace Start Up Program, Dollars for Diabetes, and a charitable golf tournament for the Childrens Hospital at Johns Hopkins.

For any group or organization to be successful throughout the test of time, they must have a well organized and dedicated membership. Obviously, Plumbers and Gasfitters U.A. Local Union No. 48 possesses these qualities. Indeed, no organization can exist, especially for 90 years, without hard work and diligent attention from its members.

Perhaps it is most appropriate to recognize U.A. Local Union No. 48 not as a group, but as individuals. Undoubtedly, the success of Local Union No. 48 can be attributed to the efforts of each individual who together form a group.

Unfortunately, all too often we tend to forget that we must stand together and work together to achieve a common goal. Whether it be as a community, a work force, or a nation, we must not forget that together our unified presence is a necessity. I wish not to diminish the importance of the individual, I simply wish to stress that whatever the cause, unity and direction are a prerequisite for success.

As our Founding Fathers sought to secure their freedom, they never could have confronted Great Britain as 14 separate and rival colonies. They recognized the need for planned and deliberate action and together they conceive the greatest nation ever known to mankind. We should all take note because, for any endeavor to be successful it not only must be a unified effort but, it must also meet to the approval of the consensus and not exist to exclusively serve the needs or interest of one particular minority. Remember, it was Abraham Lincoln who said that if this Nation was to falter, that it would not be from abroad, but from within.

I have no doubt that just as our Nation continues to grow and prosper, U.A. Local Union No. 48 will continue to do the same. I feel secure that as long as both are allowed to operate, just as they were conceived, with good intentions and for the betterment of others, they both shall enjoy many more anniversaries to come.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I commend the membership of Plumbers and Gasfitters U.A. Local Union No. 48 on 90 years of hard work and dedication. I also wish to commend those apprentice graduates 'who were recognized during the Plumber Apprentices' Annual Awards.

Their names are as follows: Mr. Kevin L. Chmielewski, Mr. Paul F. Albert, and Mr. Michael G. Conley for top competitive exam scores. Those graduates recognized with perfect attendance awards are Mr. Dean W. Otte and Mr. Troy Almes for 4 years and Mr. Michael Conley for 1 year and those who displayed extra effort were Mr. Kevin L. Chmielewski and Mr. Ricky K. Goodman. Although the following names are not graduates, I feel that Mr. Paul W. Hahn, Jr., Mr. Stephen P. Kvasnovsky and Mr. Alan H. Kvasnovsky deserve special recognition as well, for these underclassmen have not only had perfect attendance but also have maintained the highest grades in their class. Mr. Speaker, these men truly exemplify the American spirit. Their eagerness to succeed, willingness to learn, and commitment and hard work are the very

characteristics that have made this Nation great. May they all have many happy and successful years ahead.

CONGRESS SHOULD TAKE A HARD LOOK AT THE STATUS OF PUERTO RICO

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FUSTER. Mr. Speaker, the other day I called to the attention of my colleagues a lengthy and well-reported article in the New York Times of April 7, 1990, which was headlined, "Statehood Is Seen as Setback for Economy of Puerto Rico." That article was based on a recently released study by the Congressional Budget Office which was entitled, "Potential Economic Impacts of Changes in Puerto Rico's Status Under S. 712."

Soon after the appearance in the Times of that article, which should be required reading among my colleagues as status plebiscite legislation for Puerto Rico makes its way through Congress, the Wall Street Journal published an article based on that same CBO study. I am inserting that article below because it, too, has portents about the enormous cost that statehood would represent to both Puerto Rico and the United States.

Mr. Speaker, as my colleagues are well aware, I favor no statehood for Puerto Rico, nor independence, but an enhancement of the existing commonwealth status. I have great respect for the institution of statehood but I do not believe it to be in the best interests of either Puerto Rico or the United States. On the other hand, commonwealth status has been a proven success story ever since it was created by Congress in 1952. It would work even better with the enhancements outlined in S. 712, which is known as the Puerto Rico Status Referendum Act.

The committee of jurisdiction in the other body marked up S. 712 last August, and hearings on a similar proposal have recently been held here and in Puerto Rico by the House Subcommittee on Insular and International Affairs.

These articles in the national press, Mr. Speaker, are reflecting the high expectations in Puerto Rico about the plebiscite, expectations that have been partly created in Washington itself. For example, President Bush went before a joint session of Congress early last year, and during the course of his speech told of his favoring statehood in the context of self-determination for Puerto Rico. Naturally, this was major news in Puerto Rico.

Then came the hearings on S. 712 before the Senate Energy and Natural Resources Committee—formerly the Senate Interior and Insular Affairs Committee. These all-day Senate hearings were televised live, and in their entirety, back to Puerto Rico. All of these things have had the effect of changing Puerto Rico's political reality, and Congress should take a closer look at what is going on, as the New York Times and the Wall Street Journal have been doing with these articles.

If Congress does not take a closer look, the relationship between the United States and Puerto Rico may become strained. If it is the intent of Congress not to take a closer look, then the people of Puerto Rico should be told that, so that they do not delude themselves.

Mr. Speaker, statehood is not really an alternative for Puerto Rico, as I think a careful reading of the Wall Street Journal article will show. And Congress cannot just walk away from this issue.

The Wall Street Journal article is attached.

[From the Wall Street Journal, April 13, 1990]

STATEHOOD PROPONENTS GAIN FAVOR IN PUERTO RICO AS DEBATE OVER ISLAND'S STATUS HEATS UP AGAIN

(By Jose de Cordoba)

SAN JUAN, PUERTO RICO.—Carlos Romero Barcelo often flies to Washington to argue that Puerto Rico should become the 51st state.

Thousands of Puerto Ricans "have bled for their country," he told a Senate committee last year. For example, a young Puerto Rican pilot was killed in the 1986 bombing raid on Libya, he said, yet the pilot's mother has no right to vote for the president who ordered the raid because she lives in Puerto Rico.

In Juncos, a hurricane-beaten town half an hour from here, an excited crowd gathers to hear Mr. Romero Barcelo, a former governor of Puerto Rico, preach his statehood message with a different emphasis. To the triumphant strains of the theme from "Rocky," he bounces onto a makeshift stage and enumerates statehood's potential benefits:

A person who now receives a $90 monthly check for food assistance would receive more than $130. Aid to families with dependent children would more than double to $200 a month. And, since a majority of Puerto Ricans make too little to pay federal income tax, "just for filling out the income-tax form, many people will get $910 back," the Yale-educated Mr. Romero Barcelo says. Almost overcome by emotion, Juan Hernandez, a retired accountant, shouts from the audience: "If we were a state, billions of dollars would roll down the street."

What is surprising in these days of U.S. budget deficits is that Washington's biggest proponent of sending those dollars rolling Puerto Rico's way is President Bush. (Just last week, a study released by the Congressional Budget Office said that under statehood, payments to Puerto Rico under U.S. entitlement programs would increase by $1.7 billion in 1992.)

To the dismay of U.S. corporations here, Mr. Bush is aligned with Mr. Romero Barcelo. It was Mr. Bush, a statehood supporter since his days as ambassador to the United Nations, who surprised everyone earlier last year by the last-minute insertion of a plea for statehood in an address he read to Congress. For President Bush, says Andrew Card, the White House's assistant chief of staff, the debate about economics, taxes and welfare is not the point. "It's more a human-rights, a civil-rights issue," says Mr. Card.

RED HOT

The issue of Puerto Rico's status is once again red hot here. Legislation moving through Congress would set a 1991 referendum on the island's future, giving voters a choice among statehood, a version of the present commonwealth system or independence. The issue has always deeply divided Puerto Rico. But now the tide of statehood is slowly rising.

Sooner or later, the island will be knocking at Congress's door. The question then will be: Is the U.S. ready to accept as a state what is in essence a Latin American country—densely populated. Spanish-speaking, culturally different and poor?

In Washington, where few are paying close attention, even fewer think Congress will act on the referendum bill this year. But here the status question is an obsession. Not much is heard about the principles of justice, democracy or patriotism Mr. Romero Barcelo elaborated on before Congress. Instead, the most talked-about question is money and who is going to get it—individuals or corporations.

Statehood advocates, for the first time in history ahead of commonwealthers in the polls, promise a welfare bonanza. They say the more than 50% of Puerto Rico's families that receive money for food and other welfare assistance would get a $2.3 billion yearly windfall.

CORPORATE GOLD MINE

Opponents of statehood—including a Who's Who of big multinationals that, although officially neutral, lobby vigorously behind the scenes in Washington—say statehood would mean the end of what has been a corporate gold mine. It would cost about 400 U.S. companies here federal tax exemptions valued at about $1.9 billion, and that in turn would mean a corporate exodus costing the island many of the 300,000 direct and indirect jobs the companies provide.

Like the statehooders, Gov. Rafael Hernandez Colon, the chief of the pro-commonwealth forces, seeks a richer piece of cake. He wants broadened powers for the commonwealth—for instance, the right not to apply certain federal laws to Puerto Rico—and more federal aid.

Mr. Hernandez Colon says his party probably won't go along with the plebiscite unless the commonwealth option is assured the same welfare payments available under statehood. He's against paying federal taxes. The governor doesn't see any problem with this, but Congress does. The independentistas, a tiny minority who get only about 5% of the vote in gubernatorial elections, propose dual Puerto Rican-U.S. citizenship for islanders born before independence is granted.

The debate is illuminating the complex relationship that ties the U.S. and Puerto Rico, which the U.S. seized at the end of the Spanish-American War in 1898. Puerto Ricans, citizens since 1917, have fought in all U.S. wars beginning with World War I. Yet, they can't vote for president, and are represented in Congress by a resident commissioner in the House who votes in committee but not on the floor. They pay no federal income taxes, but receive most federal benefits. (Federal transfer payments make up 31% of an average Puerto Rican's individual income. That's twice as high as the figure for mainland citizens.) Most Puerto Ricans have relatives in the U.S. and more than two million are in the U.S.

The island, with a population of 3.3 million, has a per-capita income of $5,653, about half that of Mississippi, the poorest state. But thanks to the U.S. factories lured here by the tax-exemption program and the welfare entitlements, the island, whose poverty once rivaled Haiti's, is Fat City by Latin American and Caribbean standards.

Last year, Puerto Rico imported about $9.4 billion of U.S. goods and exported $14.2 billon to the mainland. And among other measures of wealth, it boasts one of the

largest and most-profitable shopping malls in the U.S. (The J.C. Penney Co. store at the Plaza Las Americas mall chalked up sales last year of more than $70 million and is the 1,700-store chain's most-profitable location.)

LIFE PRESERVER

Most Puerto Ricans agree that if it weren't for the U.S. connection, the island, crowded and resource-poor, would be locked into extreme poverty. "Puerto Ricans hang onto the U.S. like a drowning man to a life preserver," says Alex Maldonado, a political analyst here.

Almost to a man, the island's cultural and intellectual elite are independentistas. But for the vast majority of the population, independence is a dirty word.

Antonio Colorado, the commonwealth government's development chief, worries about what life would be like if statehood wins and the federal tax exemption, known as Section 936, is repealed. He paints a grim picture—unemployment could jump to 35% from the present 14% (low for Puerto Rico), pushing one million Puerto Ricans to emigrate to the U.S. in search of work.

Last week's Congressional Budget Office study said a phase-out of Section 936 would hurt the island's development and eliminate as many as 100,000 jobs by the year 2000. "The economic situation in Puerto Rico would be black without 936," says Narmo Ortiz, the head of government relations for American Cyanamid Co.'s Puerto Rico unit.

DISTINCT CULTURE

Beyond the dollars and cents of the status debate, cultural issues are involved. Commonwealthers and independentistas worry that statehood would spell the end of Puerto Rico's distinct culture. "The question is, are people ready to push the button that will spell the end of one of the nationalities on the planet?" says Sen. Marco Rigau.

As it is, the island's culture already has been bent out of shape by its close encounter with the U.S. Sometimes the cultural clash takes on an absurdist tone. Luis Rafael Sanchez, a Puerto Rican writer, remembers that in 1952 the mayor of San Juan brought a planeload of snow to Puerto Rico so the island's poor children could see snow first hand.

The snow, gathered by children in New Hampshire, was met with great fanfare and escorted to a sports stadium. There, children bused from the city's meanest slums made snowmen, which in the hot Caribbean sun melted in the twinkling of an eye.

THE CENTRAL EUROPEAN ENVIRONMENTAL AND HEALTH IMPROVEMENT ACT OF 1990

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LAFALCE. Mr. Speaker, in January, I led a 13-member congressional delegation to central Europe. We visited Yugoslavia, Poland, East Germany, Hungary, and Czechoslovakia and met with the political leaders and economic experts of those nations. Our discussions focused on three issues: trade and investment, developing an enterprise sector, and people-to-people exchanges.

However, intruding palpably on our discussions of all these issues was the problem of environmental degradation. On our trip to central Europe we saw great hope and great expectations. But we also saw polluted rivers and the dull, gray, hazy hues of polluted skies. Wherever we went, wherever we looked, we could not escape the problem

Twenty years ago communities across America celebrated Earth Day. It proved to be a turning point in our efforts to clean up our environment. The series of events held around the Nation created the momentum leading to the creation of the Environmental Protection Agency. It resulted in passage of the Clean Air Act, and the adoption of stricter standards in the previously passed Clean Water Act.

The results have been encouraging. By 1983, a majority of U.S. surface waterways were deemed "fishable and swimmable." Great efforts have been made to clean up existing hazardous waste sites and the Resource Conservation and Recovery Act is designed to prevent future problems such as Love Canal.

Now, we are preparing to celebrate the second Earth Day with a week-long series of events. This time, the United States is not alone. Citizens from around the world, from Europe, to South America, to Southeast Asia and Japan are organizing their own activities to demonstrate their commitment to a cleaner environment.

While we may properly congratulate ourselves on the progress we have made, we must not be lulled into thinking that our task is complete, either here in the United States, or abroad. It is sobering to realize how much more progress remains to be made. In fact, we need only look to central Europe to get an idea of how we would be living had we not taken the steps we had. Indeed, the problems are daunting and can barely be exaggerated:

Sixty percent of the Vistula River, a main source of Poland's drinking water, is categorized by the authorities there as being too polluted for even industrial use because it would clog and corrode machinery. The Central Statistical Office in Poland simply classifies the Vistula as a sewer.

In the Upper Silesia region, the Polish Academy of Sciences notes an "appalling increase" in mental retardation because of metal particulates in the air. In addition, 30 to 45 percent of students are below international norms for weight, height, and other health parameters, and 10 to 15 percent of chronically ill.

Up to a quarter of Poland's farmland is so polluted with lead, zinc, mercury, and other metals that it is probably dangerous to grow crops in.

In Hungary, life expectancy is declining and mothers are protesting in the streets because of the respiratory problems the polluted air is causing their children. An estimated 10 percent of deaths in Hungary are directly related to the high levels of pollution.

Budapest has air pollution that reaches 30 times the levels considered safe by U.S. standards. The pollution is so bad that people line up to spend 15 minutes in "inhalitoriums," booths where people can breathe otherwise unavailable clean air.

Thirty percent of Czechoslovakia's forests are dying, another 20 percent are damaged.

Sulfur dioxide levels in Czechoslovakia are eight times higher than in the United States. In central Europe as a whole, over 17 million tons of sulfur is poured into the air annually according to a recent Wall Street Journal article. This is the equivalent of 5 million dump trucks full of the dangerous pollutant.

A secret Czech Government report estimates that pollution shortens life expectancy by 3 to 4 years in northern Czechoslovakia. The situation is so bad in this region that the Czech Government pays a bonus to those who live in the area for more than 10 years. Czechs call this sum "burial money."

In his inaugural address, Czech President Vaclav Havel emphasized the importance of facing the environmental crisis immediately.

Members of my delegation, and other Members of the Congress will be working with the administration over the next several years to accomplish the goal of economic development and political stability. On the issue of people-to-people exchanges, we can expect vastly expanded sister-city programs, exchanges between teachers, students, scientists, doctors, writers, and entrepreneurs. We expect that Peace Corps volunteers by the hundreds or thousands will be sent to central Europe.

American technology and modern business skills will also be exported to central Europe. That region has simply not kept up with the modern, increasingly globalized world economy. Accountants, lawyers, and management consultants will all have to contribute to building a modern framework for the growth of an enterprise economy in central Europe.

Already, entrepreneurs in the United States, western Europe, and Japan are seeking out investment opportunities for joint ventures in central Europe. This is an excellent approach to contribute the technology, expertise, and capital needed to jump-start these emerging market economies.

Nonetheless, the evolution of a Communist state into a market economy must necessarily take time—currencies must become convertible, banking and trade laws made compatible with modern commerce, appropriate regulations adapted, telephone and transit systems modernized, and linkages of all types with our society established. For our part, most-favored-nation status must be conferred; outdated Cocom restrictions ended; and Export-Import Bank and OPIC relationships developed.

Clearly, most of the attention of the world has been focused on the breathtaking political breakthroughs and the problems of transforming communism into market-based economies. But we cannot ignore the environmental nightmare which adversely affects central Europeans day in and day out in countless ways. Indeed, environmental degradation may well be the final and longest lasting legacy of the Stalinist period.

It threatens the health and the economies of the people of this region, and it affects nations outside of central Europe. Pollution is being poured into the Baltic Sea, damaging European fishing industries; powerplants burning high-sulphur coal are depleting the ozone

layer and increasing acid rain. And the problems are only getting worse. The reality is that in all of these countries there are few, if any, sewage treatment plants; few, if any, smokestack scrubbers; and almost no expertise and experience in dealing with environmental problems.

Why, many of my colleagues have asked, should we single out the environment for special action when there are many other problems that need addressing?

There are several answers to this question. Of course, we all know about the enormous strides that must be taken to successfully convert these nations into open market economies. Such aid will be the primary focus of the World Bank, IMF, and other development agencies active in central Europe. The private sector here, in Europe, and Japan have already begun to seek out investment opportunities, bringing with them the seeds of a successful transition—individual entrepreneurship.

But by making these environmental issues an immediate priority, we will be making a commitment to enhance the quality of life for tens of millions of people in a very basic way. Actions toward this end will also continue to pay returns in lower health costs, more productive workers, and thriving tourist economies far into the future. This emphasis will in no way reduce our concern and support for more general programs. However, it may help to ensure that environmental improvements, which are so necessary for the people and economies of central Europe, does not get reduced to a back burner issue.

While the United States is obviously short of funds, we still have the political power and the moral authority to exert leadership. Therefore, I urge my colleagues to join me in taking two immediate steps, contained in the legislation I am introducing today—the Central European Environmental and Health Improvement and Progress Act—to help alleviate the environmental burdens of emerging central European democracies:

First, the United States should promote debt-for-environment swaps, allowing bilateral loans to central Europe to be paid into a local currency fund to be devoted to environmental projects.

Second, establish an Environmental Trust Fund at the new European Bank for Reconstruction and Development.

The United States should allow all official debts owed to us by Poland and the other central European nations targeted in the bill—Hungary, Czechslovakia, and Yugoslavia—to be paid in local currency, which would then be invested in environmental cleanup programs. In doing so, we should not act alone, but ask other creditor nations to do the same.

Poland's debts to the industrialized democracies amount to about $30 billion—out of a total debt of $40 billion—of which $3 billion is owed the United States Government. Instead of repaying this debt, it has been rescheduled over and over again, most recently last month. That agreement put off any principal or interest payments for all of 1990 and the first quarter of 1991. It would no doubt be postponed again and again, ad infinitum.

In January, Poland's Prime Minister, Tadeusz Mazowiecki, sent a letter to these creditor governments calling the debt the main obstacle to the success of Solidarity's economic plan. Although no payments have been made in recent years, the spectre of a $40 billion debt hanging over a fragile economy creates a serious chill on needed foreign investment because no investor can have confidence in an economy that is constantly threatened with what is, in effect, foreclosure.

Other central European countries, such as Hungary, with the highest per capita debt burden in the world—$20 billion debt with a population of 10 million—owe most of their debts to commercial banks. For some of these nations, these commercial bank obligations are selling at deep discounts. We would expect that these commercial banks would be willing to do their share to relieve the debt burdens of central Europe, so long as their governments lead the way.

In 1953, the United States convened a meeting of our World War II allies to negotiate substantial foregiveness of West Germany's debts. As a result, Germany was freed from burdens it could not bear, and its economic growth, described now as miraculous, began. In all, $2.2 billion of Germany's debt to the United States, Britain, and France was forgiven. In 1989 dollars, this figure amounts to $10.9 billion.

Now that our foreign policy has finally achieved its ultimate aim in Europe, we should be no less generous to those countries whose economies have been saddled with inefficient and unworkable Communist economies.

Let us act in 1990 to help free these nations from debtors prison and put them on a path to economic as well as political freedom. Our leadership on this issue will set an example and pose a challenge to our partners in western Europe and Japan.

Equally important, we should look to a future of multilaterial cooperation in helping central Europe, starting with the establishment of the European Development Bank recently negotiated by the Bush Administration. Having completed the first step—agreement on the size and operations of the new bank—we should seek the creation of an Environmental Trust Fund within it, to be capitalized with contributions from the industrialized democracies at up to $20 billion over the course of the decade. The Trust Fund would make loans at highly concessionary rates supplementing local currency contributions with foreign currency needed for those environmental projects.

Under its charter, the EBRD will promote in the full range of its activities environmentally sound and sustainable development. This is a crucial commitment. However, additional steps are needed to clean up the legacy of pollution that poisons the region.

Trust fund loans must be made at concessionary rates because, unlike loans for projects such as roads, bridges, or business start-ups, environmental clean-up does not generate a specific stream of income that can be dedicated to repaying the loan. The trust fund should help solve problems, rather than saddling these emerging democracies with additional debts.

In the United States, a total of $81 billion was spent in 1987 for pollution control and abatement. Of this, $49 billion was spent by industry, the balance by the various levels of government. The U.S. Government spends $1.7 billion annually on Superfund, and an estimated additional $1 billion of clean up of nuclear facilities. None of these costs include, for example, the cost of catalytic converters on cars, which would likely add hundreds of millions of dollars to the total; this is counted as personal consumption. It is probably fair to estimate that the totals, in 1990, have come close to $100 billion.

In the United States, we have decided that private businesses must, as good corporate citizens, help bear the burden of keeping our skies, water, and land clean. Economically, this improves efficiency by including in the costs of production the costs of keeping the environment clean.

But central Europe does not have any private sector to help it bear these burdens. Instead, its industries have been owned and run by the state. It is one of the great ironies of our age that the Communist economies, the purported "workers' paradises," have produced more pollution than profit-oriented capitalist economies. Indeed, the statistics on health related problems resulting from pollution were treated as state secrets in countries where the theory, though clearly not the fact, was that the worker reigned supreme. The governments rightly feared the impact such facts would have on the beneficiaries of the Communist system.

The new governments of central Europe recognize the follies in this and are now all working toward the development of vibrant private sectors. However, until this develops, we must help handle the grave environmental threat they face through this modest-cost proposal.

All of us are hopeful that the economic ferment—joint ventures, direct investment, and individual entrepreneurship—will one day bear fruit. While we await that day, however, the industrialized democracies can help improve the lives of central Europeans in the short term by addressing the serious environmental problems of the region. Pushing forward with the new development bank and calling for the creation of an Environmental Trust Fund can quickly improve the quality of life and economies of these nations. The people of central Europe courageously demanded political freedom in 1989, and they were able to attain it essentially through their own efforts. But they will need substantial help if they are ever to be able to free themselves from environmental degradation.

To date, several western European nations have indicated an interest in helping with the environmental cleanup process. While these efforts are well worthwhile, they are almost by definition piecemeal. A true solution can only be achieved in a multilateral, well-coordinated approach to the problem.

Finally, I want to point out that U.S. businesses are in the forefront of the environmental technology needed to deal with these problems; this legislation would create an important overseas market for U.S. waste management and technology companies. This opportunity could prove to be of significant long-term benefit to our trade position in the world. Furthermore, it will anchor U.S. economic rela-

tions with the emerging market economies of central Europe, economies that will be the source of much of the economic growth as we approach the next century.

THE CENTRAL EUROPEAN ENVIRONMENTAL AND HEALTH IMPROVEMENT ACT OF 1990

In order to advance these goals, I am introducing today The Central European Environmental and Health Improvement Act of 1990. The bill seeks to achieve the goals I have just outlined by:

First. Authorizing the President to allow central European countries to pay back their loans from the U.S. Government to a trust fund targeted to each nation individually. These payments would be made in local currency, for use in paying for environmental cleanup projects.

Second. Establishing the Environmental Trust Fund within the European Bank for Reconstruction and Development. The Bank will rightfully emphasize long-term economic programs, particularly privatization of industry. It will also may be involved in balance-of-payments lending, an important short-term need for the region. But the Bank should also make the environment an equal priority.

Such an Environmental Trust Fund will make long-term loans at highly concessional rates to the emerging market economies. The loans will be used to build water purification plants, reduce plant emissions, clean up toxic waste dumps, and other projects designed to alleviate or prevent environmental problems.

Mr. Speaker, let us use the occasion of Earth Day to spur us into action beyond our borders. The text of my legislation follows:

H.R. 4569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF ENVIRONMENTAL TRUST FUND IN PROPOSED EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

(a) FINDINGS.—The Congress finds that—

(1) there has been overwhelming damage to the environment in the Central European countries with newly emerging market economies;

(2) there is a mounting threat to the health of the people living in such countries;

(3) the impact of such problems on the economies and the health of the people of such countries is severe, including—

(A) an increase in mental retardation among children due to metal poisoning from air pollution;

(B) so much pollution of farmland with lead, zinc, cadmium, and mercury that the land may be unsafe for use in growing crops;

(C) children and adults who suffer from extensive respiratory problems, including high levels of cancer, due to air pollution;

(D) children who suffer from congenital heart problems;

(E) an unusually high number of birth defects;

(F) the death or substantial damage of large percentages of forests; and

(G) potable water becoming increasingly scarce due to the pollution of rivers and lakes;

(4) the economic and political reforms taking place in such countries offer significant opportunities for restoration, protection, and enhancement of the environment, of public health, and of natural resources throughout the world;

(5) nongovernmental environmental organizations in such countries have been key actors in the process of political and economic reform, often at great risk to the leaders and members of such organizations; and

(6) full access to information and participation by such organizations and the general public in the planning and implementation of all bilateral and multilateral assistance to such countries is essential to realizing the goals of restoration, protection, and enhancement of the environment, of public health, and of natural resources in the region.

(b) ENVIRONMENTAL TRUST FUND.—The Secretary of the Treasury shall negotiate for the establishment within the European Bank for Reconstruction and Development of—

(1) an Environmental Trust Fund—

(A) from which long-term loans will be made at highly concessional rates of interest for projects designed to alleviate, eradicate, or prevent damage to the environment, including projects aimed at—

(i) water purification;

(ii) waste water treatment;

(iii) reducing the polluting emissions of power plants by applying technology such as scrubbers;

(iv) providing assistance in converting energy systems from coal to other, cleaner systems;

(v) managing solid waste, including cleaning up toxic waste dumps;

(vi) improving agricultural techniques to prevent ground and surface water pollution; and

(vii) end-use energy efficiency improvements on a large scale; and

(B) to which contributions will be made by the member countries of the institution on the same proportional basis as such countries make contributions to the institution; and

(2) requirements for detailed environmental impact assessment of all proposed operations with potentially significant environmental impacts, including requirements that comments will be solicited from the public at each stage of the assessment process, and that all assessment documents will be made available to the public in borrower and donor countries.

SEC. 2. SOVEREIGN DEBT OF CENTRAL EUROPEAN COUNTRIES WITH EMERGING MARKET ECONOMIES PAYABLE TO UNITED STATES IN LOCAL CURRENCIES FOR USE BY SUCH COUNTRIES FOR ENVIRONMENTAL PURPOSES.

(a) AUTHORITY OF THE PRESIDENT.—The President may permit any Central European country with an emerging market economy to pay, in the manner provided in subsection (b), such aggregate amounts of principal and interest payable on a liability of the country, incurred before the date of the enactment of this section, to the United States or any agency or instrumentality thereof, as the President may determine.

(b) MANNER AND SCHEDULE OF PAYMENTS.—If the President exercises the authority provided by subsection (a) with respect to an amount payable by a country, the country shall, in lieu of paying the amount on the date such payment would (but for this section) be due, pay into local currency accounts described in subsection (c), on each of the 1st 10 anniversaries of the due date, 1/10 of such amount, in an equivalent amount of the local currency of the country as determined by the official exchange rate for United States dollars.

(c) PAYMENTS PLACED IN TRUST FOR USE BY THE COUNTRY FOR ENVIRONMENTAL PURPOSES.—

(1) CREATION OF TRUSTS.—The United States shall establish a trust account for each Central European country with an emerging market economy. The United States shall own each such trust account.

(2) TRANSFERS TO TRUSTS.—Each payment made pursuant to this section by a Central European country with an emerging market economy shall be deposited in the trust account established for the country under paragraph (1).

(3) BENEFICIARIES.—The country from which payments made to the United States are deposited into a trust established under paragraph (1) shall be the beneficiary of the trust.

(4) TRUSTEE.—The Secretary of the Treasury shall be the trustee of each trust established under paragraph (1).

(5) EXPENDITURES FROM TRUSTS.—The Secretary of the Treasury shall authorize payments to be made from a trust established under paragraph (1) of this subsection to the government of the country that is the beneficiary of the trust only for projects described in section 1(b)(1)(A) or other economic development projects.

(6) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations specifying the manner in which a country must demonstrate a commitment to carrying out projects referred to in paragraph (5) before obtaining payments from the trust established for the country under paragraph (1).

(d) FACTORS TO BE CONSIDERED.—In determining whether and the extent to which the President will exercise the authority granted by subsection (a) of this section, the President shall treat each Central European country with an emerging market economy on a case-by-case basis taking into account the need for the country for financial resources and the commitment of the government of the country to carrying out projects described in subsection (c)(5).

SEC. 3. DEFINITION OF CENTRAL EUROPEAN COUNTRIES WITH NEWLY EMERGING MARKET ECONOMIES.

As used in this Act, the term "Central European countries with newly emerging market economies" means—

(1) the Czechoslovak Socialist Republic;

(2) the Hungarian People's Republic;

(3) the Polish People's Republic; and

(4) the Socialist Federal Republic of Yugoslavia.

AFL-CIO WORKS TO FREE JOE DOHERTY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MANTON. Mr. Speaker, I rise today to congratulate the membership of the AFL-CIO and their president, Lane Kirkland, on that union's recent unanimous adoption of a resolution in support of Joseph Patrick Doherty. Mr. Doherty is an Irish national who has been imprisoned in this country for nearly 8 years despite the fact he has never been charged with, or convicted of a crime here.

Mr. Speaker, it is fitting that the AFL-CIO has joined in the fight for justice for Joe Doherty because America's labor unions have always taken the side of the little man fighting the system for justice.

Mr. Speaker, I want to commend my colleagues attention to the AFL-CIO's recent letter to President Bush and resolution in support of Joseph Doherty and ask unanimous consent that they appear in the RECORD immediately following my remarks.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, April 4, 1990.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Pursuant to the unanimous action of the most recent AFL-CIO Convention, I am forwarding, under the cover of this letter, a copy of the Convention Resolution calling on "the Attorney General to grant bail to Joseph Doherty and, ultimately political asylum",

As the Resolution states in more detail, the nearly eight-year incarceration of Joseph Doherty in federal prison even though he "has never been convicted of—nor even charged with—the commission of any crime in this country" and even though "federal immigration judges have consistently rendered decisions in [his] favor . . . and against the government," raises the most serious civil liberties issues.

I speak for every delegate to the AFL-CIO Convention and all the working people those delegates represent in asking you to give Mr. Doherty's case your personal attention.

Sincerely,

LANE KIRKLAND,
President.

SUPPORT FOR JOSEPH PATRICK THOMAS DOHERTY

Whereas, Joseph Patrick Thomas Doherty began his seventh year in federal prison on June 18, 1989; and

Whereas, He has never been convicted of—nor even charged—with the commission of any crime in this country; and

Whereas, In the past six years, federal immigration judges have consistently rendered decisions in favor of Mr. Doherty and against the government in every proceeding initiated by the government; and

Whereas, Mr. Doherty would never dishonor those who have supported him by failing to respect and scrupulously abide by any and every condition imposed on him in conjunction with the grant of bail; therefore, be it

Resolved, That America has always been a place of asylum for the oppressed and a haven for the politically persecuted; and, be it further

Resolved, That the AFL-CIO petitions President George Bush and Attorney Genral Richard Thornburgh to implement the provisions of House Concurrent Resolution No. 62, introduced by U.S. Rep. Thomas Manton on February 28, 1989, which calls upon the Attorney General to grant bail to Joseph Doherty and, ultimately political asylum; and, be it further

Resolved, That copies of this resolution will be forwarded to President Bush and Attorney General Thornburgh and to all U.S. Congressmen who have not yet co-sponsored House Resolution 62 or Senate Resolution 62.

EARTH DAY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. HUNTER. Mr. Speaker, in honor of Earth Day, I would like to call attention to the efforts to save the California oak tree. This effort, led by many of President Bush's thousand points of light, will one day bring the California oak back to the majestic prominence it once enjoyed.

The article printed below, written by Robert O. Hunter, details many of the efforts to save the oak.

EARTH DAY

(By Robert O. Hunter)

California is a beautiful state—and much of its beauty lies in the rolling foothills, and the oak trees that are native here, rising from the seacoast to the elevations where they mingle with the pines. 1990 has been proclaimed the Year of the Oak by the California Oak Foundation, a non-profit group dedicated to protecting our native oaks and planting more. In many parts of the state the native oaks have been cut down, which prompted Senate Concurrent Resolution 60, authored by Senator Dan McCorquodale and 27 others, calling attention to the need to restore oak woodlands throughout the state.

Girl Scouts, Boy Scouts, 4-H Clubs, school organizations, and service clubs are being enlisted in the gathering of acorns, planting them in milk cartons, then re-planting the milk cartons with oak seedlings in them. Ranger Roger Wong of the Forest Service at Ramona explained to me recently that oak roots are more fragile than pine roots, for example, so that the procedure in planting oaks requires planting the slit milk-carton, with oak seedling in it, after cutting off the bottom of the carton. In this manner, the emerging oak roots are not disturbed. The U.S. Forest Service plants many oaks, along with pines each year on national forest land.

The California Oak Foundation is the moving force behind the Year of the Oak, and has two publications available from its office at 900 12th St., Suite 125, Sacramento, Cal. 95814, Keren Leigh is the secretary there. The publications include "Care of Native Oaks", which alerts tree owners to the hazards that oaks face in urban settings. The second publication, "How to Collect, Store, and Plant Acorns", was prepared in cooperation with the University of California's Hardwood Range Management Program, and gives the basic information needed by anyone planning an oak planting project. In California there are 7,300,000 acres classified as hardwood range, the official term for the beautiful California hill country that is dotted with oak trees.

Curricula being prepared by the Oak Foundation on the study of oaks, are offered by the Oak Foundation in three sets for schools in the state. Volunteers around the state have formed groups, and are already engaged in oak planting and oak maintenance. One such group, the Nature Conservancy's habitat restoration program at the Cosumnes River Preserve, is now in its third year, and has planted thousands of oaks in addition to weeding and maintaining seedlings on 73 acres of newly planted oak riparian forest. Of 5,955 acorns planted, first year survival was over 90%.

Generous grants are being made to another non-profit organization in California, People for Trees, for the purpose of planting and maintaining trees in cities as well as countrysides. This funding comes via the bond issue passed last year by California voters, and can do much to increase California's great heritage of beautiful and useful trees. In addition to information from the local People for Trees chapters, further information can be secured through the various county Farm Advisors' offices. Some cities, of which Visalia is a notable example, have city ordinances protecting oaks and municipal oak groves. Ginger Strong, at the city of Visalia, phone (209) 738-3522, is secretary of the California Oak Foundation.

THE SAVINGS AND LOAN RIOT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. OWENS of New York. Mr. Speaker, the costs of the savings and loans associations bailout continues to mushroom. Five hundred billion dollars is now considered the most honest and intelligent estimate of the cost of this monstrous adventure into socialized banking. A huge new Federal bureaucracy known as the Resolution Trust Corporation has erupted to administer this gargantuan effort. More than 6,000 people will be employed in this salvage operation before it ends. The long-awaited peace dividend resulting from a reduction in defense expenditures will now have to be poured into the bottomless pit of the S&L bailout.

Mr. Speaker, ordinary words and plain prose are not adequate to describe this giant public scandal. Perhaps the language of the new street poets, the Rap artists, can best describe this continuing fiscal atrocity.

Mr. Speaker, a continuing concern of mine is the education of school age children of America. I am particularly concerned about education in high schools and junior high schools where we begin to lose such a large number of our children. Several years ago my concern with education led me to set up a Martin Luther King Commission in my district which was primarily concerned with the improvement of education. Each year we sponsor essay, poetry, and art contests.

Last month this Central Brooklyn Martin Luther King Commission voted to initiate a Positive Rap Project designed to explore ways to use Rap, a teenage craze which often employs rhythm and rhyme in ways that are quite creative. There is considerable controversy about the substance of what is often being said; however, the format, the medium, is an exciting one. Our commission voted to seek ways to promote positive substance in the Rap style.

Although I am not a musician, the purely poetic component of the Raps has aroused my interest since I sometimes write poetry as an outlet for my political frustrations. Very few Federal actions have been as frustrating as the bailout of the Savings and Loan Associations.

Today my two concerns came together. As a way to illustrate some understanding of the young Rap artists I decided to write a few Rap style poems. My second attempt has focused on my frustration with the Congress and its silence on the S&L excesses. I would like to offer "The S and L Riot." This poem is dedicated to the millions of Americans who will never see the peace dividend because it will all be used to bail out the racketeering Savings and Loan Associations:

THE S AND L RIOT

There's a riot at the mint!
But you gotta be a gent
To break in here only MBA's
You must comprehend their deregulated ways.
There's a riot at the mint!
Don't just stand there
Kick the treasury door down
You know the auditors promised
That they wouldn't come around.
Despite bright daylight they'll take every cent
There's a riot at the mint!
No cop sirens will wail
No nice gents will they jail.
There's a riot at the mint!
You can't hole up here with a Honda
Bring your Lincoln, Cadillac, Mercedes or Rolls Royce
Champagne, Caviar—the very best when they rejoice.
Reagan was the host
Who gave them the most
But there's a new chump now
Hurry old boys wherever you are
Come and milk the golden cow
Push the RTC to give more milk
Wrap your rotten bankruptcy in priceless silk.
There's a riot at the mint!
You must comprehend their deregulated ways
No loot for anybody but MBA's.
There's a riot at the mint!
Don't you wish you were a gent?
Thoroughbreds race to the scene
All of their riders are mean.
When our mint is picked clean
Hear these haughty hogs all scream
That there's no free lunch!
Only this plump bunch
Deserves a national free lunch.
There's a riot at the mint!
None of these gents plan to repent
This rape is obscene
These gents are real mean
Keep your children inside
Teach them true national pride.
There's a riot at the mint!
There's a riot at the mint!

MEXICO MAKES PROGRESS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PEASE. Mr. Speaker, I would like to call attention to an important study just completed by the U.S. International Trade Commission: Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexico Relations, Phase I: Recent Trade and Investment Reforms Undertaken by Mexico and Implications for the United States.

This study highlights what some of my colleagues and I have been saying for a long time. In a relatively short period, Mexico has achieved a remarkable degree of trade liberalization for a developing country. Though there is still room for improvement, Mexico has dramatically opened its economy to foreign products and investment.

The executive summary of this report follows:

EXECUTIVE SUMMARY

This report covers the first phase of the Commission's investigation of Mexico's trade and investment reforms and the implications of those reforms for the United States. On October 18, 1989, the Commission received a request from the House Committee on Ways and Means to provide a comprehensive review of Mexico's recent trade and investment reforms and to explore experts' views on prospects for future U.S.-Mexican relations. In response to the Committee's request, the Commission instituted a two-phase study, investigation No. 332-282, under section 332(g) of the Tariff Act of 1930. Phase II, Prospects for Future United States-Mexican Relations, will be submitted to the Committee in October 1990.

OVERVIEW: THE MEXICAN ECONOMY

Prior to its recent reforms, Mexico's economic policies during the post-war era were highly interventionist and protective

Like many other developing countries, Mexico pursued industrialization through import substitution. It imposed formidable tariffs and nontariff barriers on imports and subsidized manufacturing industries. Moreover, the Government restricted direct foreign investment and foreign ownership of assets, controlled the peso exchange rate, restricted access to foreign exchange, assumed direct control of more than 1,000 business enterprises, and established complex regulations for others. These policies helped to develop the manufacturing sector, but they also created problems that contributed to the economic crises Mexico faced in the 1980s.

By the late 1970s, Mexico had accumulated a sizable debt that it could not service without additional loans

The world's commercial banks stopped lending to Mexico in the summer of 1982. On August 8, 1982, Mexico announced that it could not make scheduled payments on its $86 billion debt and turned to the IMF for assistance.

After the 1982 debt crisis, the Mexican economy began to expand in 1984, but the improvement was short-lived. By 1985, economic stagnation had again set in. New international financial agreements were reached in 1986

Major shocks, including a devastating earthquake in 1985 and dramatic declines in world oil prices, virtually halted Mexico's economic growth. Mexico obtained new agreements with the IMF, World Bank, and commercial bank creditors in 1986. In exchange, Mexico agreed to major reforms of its economic policies, including reductions in tariffs and restrictions on trade, liberalization of foreign investment, reductions in public spending, tax reform, divestiture of state-owned enterprises, and reform of domestic price controls.

On July 23, 1989, Mexico became the first country to reach a tenative new debt agreement under the Brady Plan

Mexico's commercial bank creditors agreed, for the first time, to forgive part of Mexico's medium- and long-term debts to them. The agreement also provides for a substantial reduction in interest rates on part of the debt, and for several billion dollars in new loans and other assistance.

GATT ACCESSION AND OTHER INTERNATIONAL DEVELOPMENTS

On November 26, 1985, President Miguel de la Madrid announced that Mexico would begin negotiations with GATT for membership. In August 1986, Mexico became the 92nd Contracting Party

Mexico first attempted to join the GATT in 1979. However, on March 18, 1980, President Jose Lopez Portillo announced that Mexico would delay its entry to GATT, based on various internal political and economic considerations.

Mexico agreed to become a signatory to five of the Tokyo Round Codes: licensing, customs valuation, antidumping, standards, and subsidies

Mexico signed three of the codes on July 26, 1987; the Standards Code was signed in January 1988. The Subsidies Code has yet to be signed.

Two "Understandings" between the United States and Mexico have emphasized the importance of liberalized bilateral trade

Most analysts agree that the 1987 Framework Understanding was a catalyst that improved U.S.-Mexican bilateral relations. The 1989 consultative Understanding Regarding Trade and Investment Talks created a parallel mechanism for industry-specific and cross-sectoral negotiations. Negotiations on various topics will be completed over the next several years; standards and petrochemicals have been chosen as the first topics.

Mexico is viewed as a moderate in the Uruguay Round; it has offered highly regarded proposals in three traditionally controversial areas

In the services negotiating group, Mexico has advocated the principle of "relative reciprocity." In intellectual property rights discussions, Mexico has proposed a balance between protection and development. In investment, it proposed a study of trade-related investment measures. During the investment discussions, Mexico was singled out by U.S. representatives as an example of a country that has eased investment restrictions without hampering development.

DEREGULATION AND PRIVATIZATION IN MEXICO

Based on the premise that excessive and obsolete regulations were largely responsible for inefficiency in the use of Mexican resources, Mexico has implemented a far-reaching program of deregulation

The Mexican Secretariat of Commerce and Industrial Development (SECOFI) has been given the mandate to make new rules that are simpler, less pervasive and rigid, and that allow more room for private initiative and competition. The extensive regulatory revision currently underway in Mexico amounts to a deregulation of the economy as a whole and paves the way for privatization in many areas.

Over 25 different areas of the Mexican economy have been deregulated or are currently being reviewed for deregulation

These areas include domestic motor carriers, telecommunications, petrochemicals, standards and packaging, the financial system, insurance, customs brokers, certain commodities (sugar, cacao, coffee), fishing, technology transfer, trade secrets, and agriculture.

Although many of the deregulations have been implemented only very recently, some implications are already emerging

For example, the liberalizing effect of the new trucking rules on the maquiladora industry is likely to reduce costs and improve economics of scale. Better opportunities for sales by U.S. agricultural exporters could result from the reorganization of Mexico's farm sector.

The Government of Mexico is proceeding with a program of privatization with the clear objective of divesting public enterprises in favor of private, including foreign investors

Mexican policymakers have stated their intention to reduce the public burden by subsidizing unprofitable enterprises and to generate revenues by the sale of state-owned entities.

As part of the privatization process, the Mexican Government has partially scaled down its participation in some sectors and completely withdrawn from others

For example, the Mexican Government has scaled down its participation in such areas as food processing, production of textiles, secondary petrochemicals, wood and paper products, and construction materials. The Government has reduced its presence in the automobile industry by selling Renault de Mexico. Sales of state-owned enterprises producing tructs, buses, tractors, motor, and autoparts have also taken place or are in progress.

In December 1982 the Government of Mexico owned 1,155 entities. As of February 1990, 801 of those entities have been divested or authorized for divestment

As of February 1990, the privatization process had been finalized for 619 companies and was still in progress for 182 companies. The companies that are yet to come up for sale are of larger size and complexity than those for which transactions have already been completed. Also, some of the new candidates for privatization operate in noncompetitive markets. Therefore they will require regulatory, financial, and operational adjustments before being offered for sale in a competitive market.

Mexican officials have encountered difficulties in selling a number of companies earmarked for divestment at a price they consider fair

This problem explains the relatively large number of entities for which authorized divestment has not yet been completed. A notable example of a difficult privatization effort is the Compania Minera de Cananea, Mexico's largest copper company and one of the largest copper mines in the world. Private investors are reluctant to assume Cananea's huge debts.

MEXICO'S TRADE REGIME

Mexico has reduced its maximum import tariff from a level of 100 percent in 1986 to a current level of 20 percent

This exceeds Mexico's commitment to the GATT to reduce its maximum tariff to 50 percent. Mexico's trade-weighted average tariff is currently about 11 percent—low by developing country standards.

As a result of major trade liberalization measures begun in mid-1985, Mexico has moved from an extremely restrictive import regime in which almost every item was subject to an import permit, to a regime in which quantitative restrictions now apply in only a few selected sectors of the economy. However, Mexico continues to maintain import permit requirements for roughly 330 items (about 3 percent of total number of tariff items)

For example, quantitative restrictions continue to apply for oil and oil derivatives, motor vehicles, pharmaceutical products, footwear, electronic equipment, and certain agricultural products. About 59 percent of the value of U.S. agricultural exports to Mexico require import permits. According to a recent GAO report, these requirements are significant barriers to U.S. agricultural exports to Mexico.

Mexico is currently considering or is in the process of liberalizing its rules regarding the three sectors that are regulated by industrial development plans

New rules regarding the automotive, pharmaceutical, and electronics sectors will open these traditionally protected sectors to foreign competition.

In 1986, Mexico enacted a statute containing antidumping and countervailing duty laws. Mexico has initiated countervailing duty investigations very seldom, however, a recent study identifies Mexico as the 5th most frequent initiator of antidumpings during the 1987-88 period, behind the United States, Canada, the European Community, and Australia

FOREIGN INVESTMENT

In May 1989, Mexico made sweeping reforms to its rules governing foreign investment

Without changing the 1973 law that significantly restricts foreign investment, Mexico has promulgated new rules that provide for greater transparency, increased foreign participation, and greater efficiency in the application process.

Among other things, the May 1989 foreign investment regulations include provisions that allow up to 100-percent foreign investment in companies in unclassified activities

The range of economic sectors expressly open to wholly foreign-ownership has been broadened significantly. Foreign investment of up to 100-percent is allowed in unclassified activities which account for 72.5 percent of the 754 economic activities that comprise the Mexican economy. Included are certain industries such as glass, cement, iron, steel, and cellulose for which administrative restrictions had previously restricted majority foreign participation. Of the remaining 207 classified activities, 40 more are open to 100 percent foreign investment, with prior approval. Moreover, majority foreign participation in many of the classified categories is possible through a temporary 20-year trust mechanism.

While the new foreign investment regulations affect a wide range of activities, the implications in several areas are especially noteworthy. For example, telecommunications is now considered a classified activity in which foreign investment is allowed up to 49 percent

Prior to the 1989 regulations, foreign participation in telecommunications services was prohibited.

In an effort to deregulate the petrochemical industry and provide greater opportunities for private investment, on August 14, 1989, Mexico announced a major reclassification of petrochemicals

Fourteen basic petrochemicals were reclassified as secondary, further reducing the list of basic petrochemicals from 34 to 20 products. In addition, the number of petrochemicals classified as secondary was drastically reduced from approximately 605 to 66 products as 539 products moved into the unrestricted tertiary category.

The limitation on foreign investment in the Mexican insurance industry has been relaxed

A new insurance decree lifts the prohibition on new foreign investment in the insurance industry and raises the allowable level of foreign participation from 15 percent to 49 percent.

In December 1989, Mexico published new regulations which open state banks to limited foreign participation

Under certain conditions, foreign investors are now able to obtain up to 34 percent ownership through new non-voting shares. Direct foreign participation is still prohibited.

In December 1989, a new maquiladora decree significantly changed the rules relating to the issue of maquiladoras selling products in Mexico

Under certain conditions, a maquiladora may now sell locally an amount equal to 50 percent of its total sales during the preceding 12 months. Local sales must be in addition to the maquiladora's pre-established level of exports. Therefore, to sell on the domestic market, a maquiladora must increase its production.

The 1989 maquiladora decree included significantly streamlined administrative procedures to encourage the expansion or establishment of a maquiladora

A "single window" was created at SECOFI to handle all administrative details. Under the prior regulatory framework, negotiations with 9 different government agencies was required.

The 1989 maquiladora decree creates a more predictable environment for long-term investments

The term for which maquiladora licenses are effective has been changed to an indefinite, open-ended period. Previously, such licenses (although routinely renewed) were valid for only 2 years. The new decree provides greater certainty for long-term investments.

CURRENT MEXICAN INTELLECTUAL PROPERTY PROTECTION

Mexican law and enforcement of intellectual property protection has undergone significant change over the past several years

Mexico has announced plans to strengthen process and product patent protection and improve the enforcement of trademarks and trade secrets. As a result of this action, Mexico has been removed from the U.S. Special 301 "Priority Watch List."

Prior to 1987, Mexican law provided no trade secret protection. Amendments in 1987 to the 1976 Law of Inventions and Trademarks (LIT) provides limited protection of trade secrets

Additional trade secret protection was provided in January 1990 with the promulgation of regulations liberalizing the regis-

tration of license agreements between foreign companies and Mexican subsidiaries.

REMEMBER OUR POW'S AND MIA'S

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, I would like to take a moment to share a poem I received from Ann Hultin of Devils Lake, ND. As Ann said in her letter to me, "We must pay attention to the hostages that have been held the longest. * * * These men are paying for our government's mistakes * * * [and] they should certainly be rescued. * * * Spring is coming and the longings for their native land must be strong." I hope the poem Ann has written will remind us of our responsibility to bring our dedicated countrymen home.

OUR MIA'S

To once again walk my native land,
In green grass and whispering trees.
To hear the lovely song of birds—
On the morning's tranquil breeze.
The loved ones left so long ago—
When last farewells were said.
Have they forgotten me at last
And given me up for dead?
Please hear my cry beloved ones—
I'm here—please hear my cry!
Think of me, don't leave me please—
In this strange land to die!

A SALUTE TO LOURDES P. AGUILA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I rise today to congratulate and commend Lourdes P. Aguila, general coordinator of Miami's Liga Contra el Cáncer/League Against Cancer. Recently, Lourdes was singled out as 1 of 19 recipients of the prestigious volunteer—The National Center 1990 President's Volunteer Action Award.

Instituted in 1982, the President's award was designed to honor outstanding volunteers and volunteer organizations and to call public attention to the many contributions which they make to our Nation. This is the most prestigious award ever given for volunteer service. Those who have been honored will visit Washington during National Volunteer Week.

Among the many wonderful things which Lourdes is involved in as general coordinator of Liga Contra el Cáncer, is the upcoming 14th annual telethon. It will be held on Sunday, May 6 and broadcasted live. It is an effort that involves over 1,000 volunteers. The telethon is expected to raise approximately $2½ million; over 200 telephone lines will be operated by volunteers in Miami alone. Other areas, such as Tampa, West Palm Beach, Belle Clades, Fort Lauderdale, and Hollywood will participate by satellite hookup and telephone.

This annual event is the Liga's principal fundraiser. According to Lourdes.

We get massive support from the public each year. South Floridians knows the importance of the League Against Cancer. Almost everyone has a relative or friend who has been helped by the league in a time of need—when cancer strikes and you have no adequate medical insurance or money to pay for treatment, the League is there to help.

As part of the effort to increase donations and awareness, a former patient of the Liga, Gonzalo Giannotti, age 24, is touring the State of Florida on a bicycle tour which will stop in Tallahassee. There Gonzalo will address the Florida legislature to help the Liga to obtain such needed State funds. This tour will cover 1,000 miles and last 26 days. It will reach its finish line on May 6.

Mr. Speaker, I would like to share with my colleagues the remarks which Gonzalo will make during his address to the Florida legislature on April 24.

On my half-way point of this bicycle tour of the state of Florida, that the League Against Cancer has named "Pedaling for Life", I feel a sense of tremendous pride and responsibility in addressing you on behalf of thousands of patients who are treated every year, and for the past fifteen, by the League Against Cancer.

The League Against Cancer, a unique institution in the United States, has provided treatment to almost 20,000 patients who simply cannot afford the high cost to battle this killer disease.

Over four years ago, I was diagnosed as having Hodgkin's Disease. At that point, my family did not have insurance or the means to face the expensive operation and radiation therapy that I required. The League Against Cancer took on my case and as you can see, today I an able to thank them and trying to raise funds and awareness in this sunshine state, where unfortunately the sun goes off over ninety times a day on people suffering from cancer.

When patients are diagnosed with cancer, and are unable to pay for their treatment, the League Against Cancer helps the State of Florida to save thousands of dollars, not to mention the relief that Jackson Memorial Hospital gets by not having to cope with its already congested waiting list. And as you know, when fighting cancer, time is crucial.

But the League Against Cancer survives through the generosity of the community and our annual telethon.

However, today, in the month of April, a few days away from the telethon, the League's building is being once again mortgaged, and we are already over one and a half million dollars in the red. And the number of patients keeps growing.

Think if you will, for a moment, the disastrous consequences for the State of Florida and these needy patients if the League Against Cancer would have to close its doors.

This is something that we as concerned Floridians cannot allow to occur.

Tomorrow in Washington, at the White House, Lourdes Aguila, General Coordinator and a founder volunteer of the League Against Cancer, will receive from the President of the United States the Volunteer Award, the highest award conferred upon charitable organizations. The League Against Cancer was chosen along with eighteen other among over 4,000 institutions nationwide.

As you can see, we need the League Against Cancer, Patients need the League Against Cancer.

But most importantly, the League Against Cancer needs your help.

May I respectfully submit to you, that through legislation you allocate one million dollars annually to the League Against Cancer, in order to keep the doors open, and help people win this formidable battle.

We need you.

Since its foundation in 1975, the Liga has served almost 20,000 people, including adults and children, from 38 countries. Many lives have been saved because of the work of more than 170 local physicians who donate their services and the hundreds of volunteers who work for the Liga, as well as the generosity of the Miami community. The money raised pays for hospital costs, cancer treatment, medications, and administrative costs, which are kept under 12 percent thanks to the extensive and dedicated volunteer network.

Mr. Speaker, I am proud to recognize Lourdes' wonderful contributions and example to eveyone in Miami, as well at that of the many volunteers who have given so selflessly of their time and energy toward the betterment of our community. And I salute Gonzalo Giannotti, a true example of the brave cancer patients who are helped every day by Liga's volunteers. Their strength is an inspiration to us all.

THE PEACE PARK ANTINUCLEAR COALITION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FAUNTROY. Mr. Speaker, I would bring to the attention of my colleagues the earnest endeavors of a coalition of citizens entitled "The Peace Park Antinuclear Vigil."

Though their efforts have often been against the dominate currents of public policy, their message is one of universal importance.

In a plan for global nuclear disarmament, they repeat their plea:

We pray that humankind will abandon the military course which the nations of the world have historically pursued . . . and turn instead to international agreements to replace the present chaos.

As we near "Earth Day, U.S.A., 1990," their plea takes on special poignance and meaning. Their pleas are jointly directed to the legislatures of both the Congress of the United States and the Supreme Soviet and its politboro in the form of a petition which was recently hand delivered to the Supreme Soviet by members of the coalition.

I would ask that we all remember the message they would have us carry to all corners of our precious Earth on this most important commemorative day.

A TRIBUTE TO MAUREEN DROHAN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize an outstanding student from my community who has earned honors along with her classmates for winning the 1990 Rhode Island State Championship title in the Bicentennial of the Constitution and Bill of Rights competition.

Maureen Drohan, of Providence, RI, attends Bishop Keough High School in Pawtucket, RI. This competition is held annually to test students' general knowledge of the Constitution as well as their ability to apply the Constitution to contemporary issues. The students were evaluated in three areas: Presentation, overall knowledge of the Constitution, and application of the principles of the Constitution. For Bishop Keough High School, this title was very special for the school finished second last year. Through hard work, combined with the excellent guidance and preparation by her teacher, Ms. Carol Costa, Maureen and her classmates were able to achieve excellence. Maureen and her classmates, along with Ms. Costa, will now travel to Washington, DC, in May to compete in the national competition against teams from across the Nation.

It is with great pleasure that I salute Maureen Drohan and the members of Ms. Costa's U.S. history class from Bishop Keough High School. Their outstanding knowledge of the Constitution and its principles serves as a reminder to us all about the importance of this great document for all Americans. I would like to wish Maureen and her classmates good luck in the national competition.

TRIBUTE TO RAYMOND J. VINCENT, RECIPIENT OF AMTRAK'S AWARD FOR VALOR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LEHMAN of Florida. Mr. Speaker, next week, Amtrak President W. Graham Claytor, Jr., will present Amtrak's Award for Valor to Raymond J. Vincent of Hialeah, FL, one of my constituents and a longtime Amtrak employee, for service truly above and beyond the call of duty.

Mr. Vincent, chief of on board passenger services on the Silver Star Florida-to-New York run, wrestled a gun from an apparently mentally deranged passenger who had just shot someone while conductor John F. Garrard grabbed the gunman and restrained him. Mr. Speaker, these heroic actions merit our recognition and thanks. I include hereafter a brief description of the events of that evening of July 3, 1989, and I know that all my colleagues join me in extending our congratulations to Raymond Vincent and John Garrard for a job well done.

The article follows:

PRESIDENT'S AWARD FOR VALOR

John F. Garrard, Assistant Passenger Conductor Transportation, Jacksonville.

Raymond J. Vincent, Chief, On Board Services Passenger Services, Miami.

The evening of July 3 seemed much like any other night aboard the New York-bound Silver Star, Amtrak Train No. 92: Big Apple-bound revelers looking forward to the July 4th holiday, families returning from summer vacation, grandparents on their way to pay a visit. Just the normal summer train trip from Florida to New York. Normal, this is, until the shot rang out in the vestibule of the baggage-dorm car.

The drama unfolded when an apparently mentally deranged passenger wandered into the vestibule of the train's lead car. The attendant told the man there was nothing in that direction but baggage and led the man back to his seat. Moments later, the man again headed into the vestibule. Another passenger, sensing the man was lost, stepped inside the vestibule to offer his assistance. The mentally deranged passenger pulled out a gun and shot the other passenger in the head.

Witnessing the shooting, the coach attendant raced back to the dining car where he found John Garrard and Ray Vincent. He told them what happened and they immediately ran to the scene, where they found the gunman still standing over his victim.

Without regard for his personal safety, John Garrard grabbed the gunman and wrestled him to the ground. Ray Vincent then took the gun away. The gunman was restrained with baggage tie straps and shut into a bathroom until police arrived on the scene.

Meanwhile, John and Ray returned to the mortally wounded passenger, administering first aid. They also helped calm and soothe terrified passengers.

Both John and Ray then calmly continued with their "normal" duties aboard this no-longer "normal" trip.

H.R. 4566

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am introducing H.R. 4566, the Medicare Malpractice Dispute Resolution Act of 1990. This bill will assure timely, equitable benefits for Medicare beneficiaries who are victims of malpractice and create the legal liability framework essential to eliminating costly and unnecessary defensive medical practices. Very simply, it reforms the process by which medical malpractice disputes are resolved.

While most people agree that this Nation's dispute resolution process for medical malpractice does not work well for patients or medical providers, H.R. 4566 takes a gaint step toward resolving some of the problems of the malpractice liability system. It provides greater equity to disabled and senior Medicare beneficiaries and ultimately reduces costs by eliminating unnecessary tests and procedures.

The goals of the current medical malpractice system are twofold: To protect patients from negligent medical practices, and to provide compensation for damages to victims of malpractice. The current system does a poor job of both for the majority and an even worse job for seniors. In fact, the current system deters people from filing for compensation because of the time it takes to pursue a claim and the cost of the process.

A recent comprehensive study by Harvard researchers on malpractice in New York concluded that eight times as many patients suffered an injury from negligence as filed a malpractice claims, and 16 times as many patients suffered as received compensation from malpractice claims. The same study found that a shocking 78 percent of the injuries for which claims were not filed were for patients over 70, years old.

Our current system discriminates against senior citizens in a number of ways: The elderly typically do not have the resources and are reluctant to bring a suit that will take years to resolve. With H.R. 4566 our senior citizens will have greater access to compensation for malpractice because the costs to pursue a complaint will be lower, the time in which a decision must be made will be limited, and the process will be less confusing and complicated.

The current system is plagued with high costs and inefficient practices:

Physicians spent $5 billion on malpractice insurance premiums in 1988.

Yet less than $3 billion was paid to injured plaintiffs.

Costs for malpractice insurance for physicians rose 100 percent between 1983 and 1985 while hospital costs rose 57 percent; the Consumer Price Index rose only 8 percent and the Medical Care Index rose 13 percent during the same period.

In response to today's legal environment, physicians order more tests and x-rays from laboratories, seek more consultations, and maintain more records to document their actions. The cost of these defensive, unnecessary services has been estimated at 15 percent to 30 percent of the Nation's total health care bill.

Access to medical care is gradually reduced because physicians leave practice early, limit the difficulty of the procedures they perform, refuse high risk patients, and restrict the specialties they enter. In a survey by the American College of Surgeons, 40 percent of their members did not accept high-risk cases in consultation, and 28 percent did not perform certain procedures because of the risk of malpractice suits.

The average malpractice case takes 2 to 5 years to litigate. In some States, for example, Illinois, it can take 7 years.

A report by the Harvard Medical Practice Study on New York hospitals found that out of the cases that led to moderate to severe disability, involved strong or certain evidence of negligence, and in which a malpractice claim was not filed. 78 percent of the injuries occurred in patients over the age of 70.

As a result of these problems, patients pay more for treatment and health insurance, physicians spend more time documenting and discussing each case, and the elderly are discouraged from seeking compensation. The delivery of obstetrical care and other specialties is harmed or limited, which has particularly affected access to care for poor women.

The American College of Obstetricians and Gynecologists reports that almost one in eight obstetricians has stopped performing deliveries (two-thirds of those before the age of 55) solely because of the risk of malpractice suits. And of the $450 million that Congress will allocate for neighborhood health clinics, approximately $50 million goes to malpractice insurance for this high risk patient group.

We cannot wait any longer to address the problems of the malpractice liability system. We need to insure that there are mechanisms that will prevent, identify, and correct malpractice, and provide victims with fair compensation. By correcting the problems of the system for disabled and senior Medicare beneficiaries, we will also lower the costs of liability and health insurance premiums, increase access to medical care, and improve the relationships between doctor and patient.

We know that alternative methods of dispute resolution work. It is time for the Federal Government to take a leadership role through Medicare, and set an example for the States to follow.

My bill has two parts: process reform and liability reform. Under process reform, my bill will:

Require binding arbitration for all Medicare beneficiaries and providers;

Recognize an arbitration process that may already be in place in certain states or establish an arbitration process that will be set up and run by qualified disputers; and

Streamline the process so that costs and the length of litigation are limited.

Under liability reform, my bill will:

Assure full compensation for medical costs and income replacement, limit non-economic damage awards and contingency fees, and adopt a uniform national statute of limitations; and

Apply a collateral source rule so awards reflect payments from other sources.

My proposal takes an important first step toward addressing the problems of the current system. It targets our Medicare beneficiaries who are most disadvantaged by today's system. H.R. 4566 will reduce the time and agony of the malpractice process, build on the best of arbitration experience, and create a package that will ultimately reduce costs while increasing equity.

A SALUTE TO NATIONAL HIGH SCHOOL ESSAY CONTEST WINNER PARAS P. MEHTA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DORNAN of California. Mr. Speaker, an April 3, 1990, Washington Post article decried the lack of educational preparation's in our public schools. The article painted a bleak picture. Assistant Secretary of Education Christopher T. Cross was quoted as saying that "youngsters who stand less than a year away from the voting booth have, as a group, a tenuous grasp of institutions and ideals that make freedom possible." This should be of great concern to all of us.

Fortunately, the news is not all bad. There are many teachers and students who work hard to set standards of excellence for all educators who follow. I am proud to bring to my colleagues' attention the winning entry of the United Nations Association of the United States 1989 National High School Essay Contest. The essay, written by Paras P. Mehta, a constituent of mine who is a senior at Cerritos High School, demonstrated that not all is "gloom and doom" in our public schools. Indeed, Paras Mehta's essay displays outstanding writing skills and sophisticated and thoughtful insight into the role of the United Nations in the World in which we live.

I commend Paras' achievement and extend my congratulations to Paras' parents and teachers. Mr. Speaker, I am honored to share this award-winning essay with all of my colleagues.

The essay follows:

UNITED NATIONS ASSOCIATION OF THE UNITED STATES 1989 NATIONAL HIGH SCHOOL ESSAY CONTEST WINNING ENTRY BY PARAS MEHTA, CHS JUNIOR

A quarter of a century ago, an American President, addressing this same assembly of sovereign states, issued a solemn warning to the peoples of the world: "Never have the nations of the world had so much to lose or so much to gain. Together we shall save our planet or together we shall perish in its flames. Save it we can and save if we must, and then shall we earn the eternal thanks of mankind and, as peacemakers, the eternal blessing of God."

Today, 28 years later, we find ourselves in a world not so different from the one confronted by our forebears. The threat of nuclear annihilation still holds hostage every individual on Earth. Billions of human beings continue to suffer under the iron hand of dictatorship and the merciless grasp of disease, hunger, and poverty. And today, more than ever before, the very Earth that sustains and nourishes us is showing signs of weakening under the oppression of man's exploitation.

But if the problems that face us today seem more insurmountable than ever before, we can take comfort in the knowledge that our potential to confront and overcome these challenges is also at its peak. We must first come to the understanding, however, that if one trend characterizes the change in world affairs since the signing of the Charter 44 years ago, it is the increasing interdependence of the countries of the world. As Secretary-General Trygve Lie noted in his first acceptance speech, the United Nations has been given a mandate "to build a firm foundation for the peace of the world. We may find difficulties and obstacles ahead of us. But the harder the task the higher the prize. It is the future of the whole civilized world which is at stake." And so it must be the responsibility of every civilized nation to partake in the solutions to the problems that threaten all of us. America makes a pledge today, and calls upon the nations of the world to join in its commitment, to a policy of internationalism in addressing the problems of the world. From war and peace, to hunger, to human rights, to the environment, we can achieve no more working separately then we could working together. We can either overcome global problems together, or we shall submit to them separately.

The success of internationalism in global cooperation is only now becoming apparent, just as a new, vital role for the United Nations is becoming more clearly defined. The achievement of a cease-fire in the Iran-Iraq War, the finale to over eight years of warfare, and the withdrawal of foreign troops from Afghanistan resulting from United Nations talks in Geneva concluded on April 14 of last year, both serve as powerful testimony to the abilities of this organization. Nevertheless, in the United States' vision of the United Nations and internationalism, the responsibility of the United Nations does not stop with the cease-fire in the Persian Gulf and the Geneva accords on Afghanistan. We have yet to settle the boundary conflicts between Iran and Iraq, and despite the withdrawal of foreign forces from Afghanistan, that nation still suffers from the illegitimate rule of a client government put in power against the will of the people. Thus, it is not enough that the United Nations accept the responsibility of solving world problems, but it must also commit itself to solving these problems completely; it is not enough that the United Nations serve as a peace maker, but it must serve as peace keeper as well; it is not enough that the United Nations strive to create peace, but it must also ensure that justice accompanies peace. Our work in the Persian Gulf and Afghanistan is far from over. But the beginnings of a lasting framework for regional and international security arrangements have been established.

The keystone of international security today is the continued progress of disarmament. The significance of the highly praised INF Treaty between the United States and the Soviet Union is truly two-fold. On one hand, it reflects a new era in United States-Soviet relations: the cold war has melted into warm cooperation and détente has been replaced by genuine goodwill. At the same time, the treaty marks historic movement towards the elimination of an entire class of nuclear warheads. Nevertheless, we still have far to travel in escaping from nuclear terror. We must now commit ourselves to the reduction of nuclear warheads carried by intercontinental ballistic missiles, the ulitmate threat to the security of mankind. The United States has noted Soviet President Mikhail Gorbachev's proposal for complete elimination of nuclear weapons by the year 2000, and we are eager to negotiate the overtures he has made. However, the United States remains solidly committed toward the need to achieve a conventional weapons balance in Europe. While we note with appreciation the proposed unilateral reductions made by Mr. Gorbachev in his address to this Assembly in 1988, we are convinced that further reductions are necessary to ensure the security of Europe and the success of further nuclear reduction.

On the issue of disarmament, the United States reiterates its commitment to the effort that was started sixty-four years ago: the elimination of the threat of chemical weapons. To this end, we continued to encourage multilateral talks, as in Paris, that aim towards the complete elimination of such devices. Finally, the United States reaffirms its dedication to the Nuclear Non-Proliferation Treaty and attempts to stop the spread of the deadly atom.

Last year, we celebrated the 40th anniversary of the Universal Declaration of Human Rights. To the United States, a nation committed to and built upon a tradition of equality, democracy, and human dignity, this document holds a special role in world affairs. Unfortunately, the status of human rights in the world remains quite distress-

ing. The United Nations must take a firm stand and ensure that all countries, large and small, powerful and weak, rich and poor, respect the equality and dignity of the individual and his rights. The United States remains committed towards helping those peoples around the globe who are struggling for greater democracy and human rights, as the United Nations is committed to do under its Resolution 36/102 on the "Implementation of the Declaration on the Strengthening of International Security." Nevertheless, the United States always favors voluntary and peaceful recognition of human rights by every government over violence within countries to enforce the principle of human rights. Still, however, no government can claim greatness when the dignity of its individual citizen is abased.

It is impossible to ignore, especially in countries of the Third World, the direct correlation between the absence of adequate human rights and the status of economic deprivation. And in all cases, the rising of economic standards of a people inevitably leads to an improvement in their dignity as human beings. In assisting developing nations, the United States remains committed to certain principles. First and foremost is the need for developing countries to help themselves, by improving human rights in order to increase the potential of their citizens, and by facilitating economic growth by maintaining peace in their foreign relation. Then, we should work to assist developing nations both through direct economic assistance and through a more beneficial economic policy. This policy should include providing the Third World with increasing industrialization, greater agricultural productivity, better medical facilities, lower trade barriers, and greater North-South cooperation. Moreover, Non-Governmental Organizations may potentially play the largest role in assisting developing nations to maximize their potential and the potential of their peoples.

Undoubtedly, the one problem that most threatens our nations and our planet itself is that of the changing environment around us. This problem is most obviously manifested in global warming trends. The United Nations Environmental Programme has estimated that future global warming patterns could result in a temperature increase of over 9 degree Fahrenheit. The resulting changes will ultimately affect the global sea level and climate patterns. The potential for disaster is great.

What makes this problem most complex is the fact that global warming trends are ultimately rooted in changes in the biosphere and atmosphere above. This is not the domain of any single nation, but the common heritage of mankind. And as such, it is for the nations of the world to solve together. First, the industrial nations of the world must collaborate to agree on worldwide limits on the emission of greenhouse gases. We must also attack the equally ominous problem of ozone depletion. The Sept. 15 Protocol on Substances that Deplete the Ozone Layer is one step in this endeavor. Finally, in addressing the global environment threat, we have yet another opportunity for cooperation between the developed and underdeveloped world. Reforestation to combat the pressing problem of desertification in both underdeveloped Africa and South America holds promise as a new way to make fertile once again important regions of the globe.

The challenges that these United Nations face today will be the ultimate test of our Charter and our commitment to its principles. We must realize, however, that the solutions to the problems that we face cannot be buried in partisan demagoguery but rather must be decided in the common interest of all mankind. This is the new mandate of internationalism that the people of the world have demanded and that our Charter envisions. Over the past 44 years, we have witnessed a unique growth in the number of independent nations. Let us declare today not our independence, but our interdependence, and with it, a new commitment to solving the problems of the world for the collective good of all mankind.

EARTH DAY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. UDALL. Mr. Speaker, with just 3 short days until the celebration of the 20th anniversary of Earth Day, it is appropriate for us to focus on the oft forgotten critical problem of worldwide shortages of usable freshwater resources.

Between 1950 and 1987, world population doubled from 2.5 billion to 5 billion. By the end of the decade, we are expected to add another billion people to our planet. While over 70 percent of the Earth's surface is covered by water, a tiny 3 percent of that is freshwater. Under the best circumstances—equitable distribution of water resources; clean, nonpolluted water; population distribution according to available water supplies; and effective water use strategies—we would have ample freshwater supplies. However, our wasteful and harmful practices place this most basic resource on the endangered list.

As we celebrate Earth Day on Sunday, we need to look ahead toward effective measures to ensure our freshwater supply. Most of our freshwater is used to grow food. A whopping 70 percent of all water use is irrigated agriculture. Irrigated lands have tripled since 1950. Unfortunately, irrigation is one of the most wasteful water uses. Only 37 percent of irrigation water actually contributes to crop growth. The remaining 63 percent is wasted. This sad fact calls for immediate action.

While personal water uses pales in comparison to agricultural use, it is one area where all of us can make a difference. This Earth Day, citizens around the world are making a personal commitment to change their practices and habits to make a difference. We use, on average, 9 gallons of water when we brush our teeth with the tap running. We use 100 gallons of water to wash the car. We use 5 to 7 gallons every time we flush the toilet—40 percent of total household freshwater use. By making a few changes in each of our lives, we can have a tremendous impact on preserving our freshwater supply.

"Fifty Simple Things You Can Do to Save the Earth," a book published by the Earth Works Group, spells out many opportunities for each of us to adopt environmentally sound practices in our own homes. Turning the faucet off while brushing your teeth will save 9 gallons of water each time. Washing the car with a sponge and bucket rather than the hose will save over 100 gallons of water. Using a plastic bottle to displace water in your toilet tank can save 8 to 16 gallons of water each day. Other practices like safe disposal of household chemicals and cleaners, watering lawns in the morning hours, and taking shorter showers can help protect our water supply.

This Sunday is a New Year's Eve celebration for the environment. Let's all make part of our environmental New Year's resolution a pledge to save water. Government, industry, and agriculture must pledge to address pollution, acid rain, and wasted irrigation water. Each of us must also pledge to change our personal habits to conserve and protect our water supply.

THE FOREIGN INVESTMENT POLICY-MAKING IMPROVEMENTS ACT OF 1990

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. SHARP. Mr. Speaker, foreign investment in this country has increased rapidly over the years, and the American public is unsettled by this trend. When we meet with our constituents, they often raise questions about the extent and implications of foreign ownership. Unfortunately, we lack some basic, coherent information on foreign investment, either to inform ourselves and our constituents, or to make the decisions that should be made on national security grounds.

A few months ago, in response to this problem, I, along with Representatives HAMILTON, JOHNSON, JACOBS, and LUKEN, introduced H.R. 4060, the Foreign Investment Policy Improvements Act. We have been very pleased with the favorable attention it has received. Our discussions with many experts in the field—in business, labor, academia and government—has led us to develop several refinements to H.R. 4060.

Yesterday, we—along with Representatives LYNN MARTIN, SANDER LEVIN, and DAVID BONIOR—introduced a new bill, H.R. 4520. The new legislation retains the three central elements of H.R. 4060.

First, it corrects a serious deficiency in the data now available on foreign investment by directing two Department of Commerce agencies to merge their data bases. Currently, the Bureau of Economic Analysis does surveys of foreign investors that lump all a business enterprise's economic activities into a single, broad category. The Bureau of the Census collects good industry-specific data from all American businesses on such items as employment, payroll, shipments, plant and equipment, and value-added. The list of foreign-owned firms from the BEA can be used on census files to develop equally good industry-specific measures of the size and performance of foreign-owned firms.

Second, pertinent data from this exercise would be made available to the President and officials he designates to consider the national security implications of certain foreign direct investments. It is very important that he and these officials have basic background informa-

tion on the past performance of the parties involved, and on the scope and performance of foreign ownership or control already within the industry.

Third, the bill would make the data available to the General Accounting Office to perform its historic and necessary function of oversight and independent analysis. That will engender confidence within the Congress that the data is being presented faithfully. It would also give us the ability to request specific analyses from the GAO of concern to Members of Congress, without our being in possession of the confidential business information itself.

H.R. 4520, our new bill, refines H.R. 4060 in several critical aspects. First, it directs the Secretary of Commerce to produce an annual report on foreign investment, industry by industry, so that a comprehensive, single reference exists. His department includes not only the two key statistical agencies (BEA and Census)—but also the International Trade Administration, ITA. The ITA issues an annual volume with a company by company description of expansions in foreign direct investment. More importantly, ITA also houses a large staff of industry experts who closely follow foreign investments in their respective industries. We now lack that regular channel for their analyses to come to us and the public.

The annual report from the Secretary of Commerce would bring together this practical, up to date industry expertise in the ITA with the statistical information available throughout the Government and the private sector. Only those Government officers and employees working on the annual report would have access to the appropriate data, provided they met the necessary safeguards for protecting confidentiality.

Second, H.R. 4520 would address another serious problem that plagues the BEA data: its lack of timeliness. Our bill requires the attention of a competent person at higher levels within the company than typically now occurs, and permits the Commerce Department to issue a subpoena or seek higher penalties for failure to comply with the International Investment and Trade in Services Survey Act.

Third, this legislation makes explicit, in the legislative language, our intent not to add to the paperwork burden on business, domestic or foreign.

The Federal Government already collects substantial information from foreign investors, but the Government does not organize and present that data in a way that answers questions instead of raising them. Our first priority should be to utilize fully the information already being collected.

HOLOCAUST REMEMBRANCE DAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. WEISS. Mr. Speaker, this Sunday, April 22, 1990, is Holocaust Remembrance Day. I rise in recognition of this important day. As painful as it is to speak about the Nazi torture and murder of millions of innocent people, we must never stop doing so. As the old Hassidic saying goes: "forgetfulness leads to exile while remembrance is the secret of redemption."

Notably, the East German Government recently acknowledged its country's role in the horrors of the Holocaust. On behalf of its people, the East German Parliament asked Jews around the world for forgiveness. It declared its willingness to contribute as much as possible to the healing of mental and physical sufferings of survivors and to provide just compensation for material losses.

Although this recognition and apology is long overdue, its importance cannot be overstated. The truth about the Holocaust must be known and continually recognized by everyone, Jew and gentile alike. History once forgotten repeats itself.

On Holocaust Remembrance Day 3,000 young people from countries around the world will march the 3-kilometer distance separating Auschwitz from Birkenau, the largest concentration camp complex built by the Nazi during World War II. They will retrace the steps of the "March of Death," which countless numbers of people were forced to take on their way to the gas chambers. This time, however, there will be a difference; it will be a "March of the Living." These teens will be actively affirming their commitment to keep alive the memory of those who perished at the hands of the Nazis. They will be marching to make sure that the world never forgets the black chapter of history known as the Nazi Holocaust.

LEGISLATION TO PROTECT VICTIMS OF CAMPUS CRIME

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. LEVINE of California. Mr. Speaker, today I introduce a bill that will address the needs of millions of disenfranchised Americans: the victims of crime. For far too long have they been cut out of the justice system, falling to the wayside to lick their wounds and begin the long healing process alone.

College students who are victims of crime are particularly in need of the protections in my bill. On their own for the first time, away from the comforts of home and far from support networks that have held them up all their young lives, these people are frequently the prey of violent criminals who find students vulnerable and easy victims. In fact, nearly 36 percent report being the victims of violent crime.

Tragically, the educational system, as it stands, contributes to the harrowing experiences that campus crime victims face. Because of the provisions under the General Education Reform Act, victims who choose to bring their cases before college judicial trials are denied knowledge of the outcome of those trials. Victims who have suffered not only the abuses of the crime itself, but have also been excluded from the trial except to present testimony are left with no sense of closure to the case. These victims currently have no right to know what punishment, if any, the accused was dealt. The perpetrator of a violent crime may never be removed from the campus or the victim's dormitory forcing the victim to confront his or her attacker daily. And without knowledge of the outcome of the judicial proceedings, victims can make no decisions concerning their own future. They do not know whether to transfer to a new school or residence in order to avoid their attackers, whether they will face the attacker in class each day, or whether the attacker has been removed from the college setting and no longer poses a threat to the victim and other students.

It is clear that college victims of crime must be afforded at least the few rights that are given to victims in the American judicial system. They must be able to make an informed choice regarding the measures they need to take in order to regain their sense of security and to continue with their lives as students. The bill I introduce today will allow colleges and universities to let victims know of the outcomes of the disciplinary hearings which they initiate. I urge my colleagues to support this legislation and protect the victims of crime whose needs and trauma are too often neglected by our judicial system.

IN MEMORY OF SENATOR SPARK MATSUNAGA

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. PICKLE. Mr. Speaker, I join my colleagues today in mourning the passing of our good friend and comrade, Senator SPARK M. MATSUNAGA of Hawaii, who died last Sunday after a long fight against cancer.

SPARK was first elected to the House of Representatives in 1963, the same year I first came to Congress. He served for 14 years in the House, becoming a deputy whip and serving on the Rules Committee. He won election to the Senate in 1977, and immediately gained a seat on the Finance Committee.

Senator MATSUNAGA was steadfast in his legislative interests, especially his advocacy of free trade, the peaceful exploration of space, and justice for Japanese-Americans who had been interned during the Second World War. His successful 9-year effort to pass legislation redressing the unjust internment of Japanese-Americans may have been one of his greatest legislative accomplishments.

SPARK MATSUNAGA was born on the island of Kauai, HI, in 1917. He graduated with honors from the University of Hawaii with a degree in education. Upon the outbreak of World War II, he joined the Army and served with distinction in Italy, earning the Bronze Star Medal and two Purple Hearts. After the war, he graduated from Harvard University law school in 1951 and served as an assistant prosecutor in Honolulu before entering into private practice.

SPARK MATSUNAGA was recognized for his ability and determination in his particular areas of legislative interest. He influenced legislation

through his charm and persuasion, and he was deeply loved by his colleagues.

SPARK MATSUNAGA enriched all our lives with his warmth and friendship. His innumerable contributions left this institution and this Nation far richer and better than he found them. He will be remembered and revered for his achievements.

On a personal basis, Mr. Speaker, SPARK MATSUNAGA was elected to the House of Representatives in the 88th Congress the same year that many of us were elected to this great body. We elected SPARK MATSUNAGA president of the 88th Congress, and he has remained our president ever since, even after he was elected to the Senate.

He was loved by all the Members and his charm and wit and friendliness helped keep us together as a group all these years. The 88th Club has met on or around St. Patrick's Day every year for over 26 years, and I think that is an all-time record for any one congressional class. SPARKY and his wife Helene were our leaders, were our inspiration, and they were the love of all.

Even as services are being held in Hawaii this week, I think Senator MATSUNAGA would like to know that the 88th Club remembers him with great fondness, and we drink a toast to him today. One of our members, Federal Judge William Hungate, has written a toast of the 88th Club, and I quote it to you: "88th, 88th, here's a toast to thee, banner class, the very best, in our history!" Mr. Speaker, SPARK MATSUNAGA was the very best in our history.

THE ULTIMATE QUEST: THE RACE TO DISCOVER THE BUILDING BLOCKS OF MATTER

HON. ROBERT A. ROE

OF NEW JERSEY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ROE. Mr. Speaker, on behalf of myself and the distinguished gentleman from Pennsylvania [Mr. WALKER], the ranking Republican member of the Committee on Science, Space, and Technology, I wish to submit the following article from the April 16 issue of Time magazine. The article discusses the important contributions of high-energy accelerators and the role of the Superconducting Super Collider [SSC] in keeping the United States in the forefront of particle-physics research.

The Committee on Science, Space, and Technology recently reported H.R. 4380, the Superconducting Super Collider Project Authorization Act of 1990. As chairman of the committee and ranking Republican member, we wholeheartedly seek the support of all our colleagues for this forward-thinking legislation.

THE ULTIMATE QUEST

(By Michael D. Lemonick)

The elevator doors opened into a cavernous room in an underground tunnel outside Geneva. Out came the eminent British astrophysicist Stephen Hawking, in a wheelchair as always. He was there to behold a wondrous sight. Before him loomed a giant device called a particle detector, a component of an incredible machine whose job is to accelerate tiny fragments of matter to nearly the speed of light, then smash them together with a fury far greater than any natural collision on earth.

Paralyzed by a degenerative nerve disease, Hawking is one of the world's most accomplished physicists, renowned for his breakthroughs in the study of gravitation and cosmology. Yet the man who holds the prestigious Cambridge University professorship once occupied by Sir Isaac Newton was overwhelmed by the sheer size and complexity of the machine before him. Joked Hawking: "This reminds me of one of those James Bond movies, where some mad scientist is plotting to take over the world."

It is easy to understand why even Hawking was awed: He was looking at just a portion of the largest scientific instrument ever built. Known as the large electron-positron collider, this new particle accelerator is the centerpiece of CERN, the European Organization for Nuclear Research and one of Europe's proudest achievements. LEP is a mammoth particle racetrack residing in a ring-shaped tunnel 27km (16.8 miles) in circumference and an average of 110 meters (360 ft.) underground. The machine contains 330,000 cubic meters (431,640 cu. yds.) of concrete and holds some 60,000 tons of hardware, including nearly 5,000 electromagnets, four particle detectors weighing more than 3,000 tons each, 160 computers and 6,600 km (4,000 miles) of electrical cables. Tangles of brightly colored wires sprout everywhere, linking equipment together in a pattern so complicated, it seems that no one could possibly understand or operate the device. In fact, it takes the combined efforts of literally hundreds of Ph.D.s to run a single experiment.

LEP and other large accelerators have been built to probe the nature of matter on a scale far smaller than that of the atom. The goal is to answer ancient and fundamental questions: What is the universe made of, and what are the forces that bind its part together? These questions cannot be answered without an understanding of what happened in the Big Bang, the unimaginably hot and dense fireball that 15 billion years ago gave birth to the universe and all it contains.

In a very real sense, accelerators are time machines that recreate the primordial fireball in miniature to unlock its secrets. The collision of two accelerated particles releases enormous bursts of energy. But that energy instantly condenses into a new array of particles, some of which may not have existed since the Big Bang.

This power to go back 15 billion years in time has touched off one of the most heated competitions in the history of science, a race that pits Europe's LEP against U.S. entries led by the powerful Tevatron at Fermi National Accelerator Laboratory (Fermilab) near Chicago and the Stanford Linear Accelerator Center (SLAC) in California. Huge teams of physicists at the rival centers are working day and night to discover the next new particle and to explain the behavior of those already found. In recent years, each lab has had its share of triumphs.

But none of the current generation of accelerators are big enough or powerful enough to re-create the very earliest fractions of a second after the Big Bank, where answers to the most intriguing mysteries are thought to lie. So U.S. physicists have embarked on a bold quest: the building of a colossal collider that will dwarf today's accelerators. Called the superconducting supercollider, it will have a tunnel that will circle for 87 km (54 miles) under the cotton and cattle country surrounding Waxahachie, Texas. Expected to be completed around the year 2000, the SSC will cost $7 billion to $8 billion.

That enormous price tag has fueled a growing controversy over how much the U.S. can afford to spend on such megaprojects, especially when the knowledge to be gained is so abstract. Critics complain that the money could be better spent on more practical goals, like fighting poverty and improving education. Some scientists, including many researchers in other branches of physics, fear that funding for the SSC will come out of their own budgets. Cynics have argued that the SSC is just another pork-barrel construction project, being foisted on the public by the powerful Texas congressional delegation and backed by a President from Texas.

Yet the support for a giant accelerator goes deeper than a desire for federal dollars. To many scientists and politicians, national pride is at stake. Proponents insist that the SSC is necessary to keep the U.S. in the forefront of particle-physics research. Americans dominated the field from the mid-1940s to the 1970s, but Europe's CERN started stealing much of the glory in the 1980s. Without the SSC, its proponents contend, many of the best American physicists will emigrate to Europe. In fact, the brain drain has already begun: last year, for the first time, the number of American experimenters working at CERN surpassed the total number of scientists from CERN's 14 member countries who had moved to U.S. research centers.

The international competition has spurred remarkable progress in the effort to understand nature's mysteries. Says theoretical physicist Steven Weinberg of the University of Texas in Austin: "Before, we had a zoo of particles, but no one knew why they were the way they were. Now we have a simple picture." That picture, known as the Standard Model, is based on a set of theories that attempt to describe the nature of matter and energy as simply as possible. The model holds that nearly all the matter we know of, from garter snakes to galaxies, is composed of just four particles: two quarks, which make up the protons and neutrons in atomic nuclei; electrons, which surround the nuclei; and neutrinos, which are fast-moving, virtually massless objects that are shot out of nuclear reactions. These particles of matter are, in turn, acted upon by four forces: the strong nuclear force, which binds quarks together in atomic nuclei; the weak nuclear force, which triggers some forms of radioactive decay; electromagnetism, which builds atoms into molecules and molecules into macroscopic matter; and gravity. An entirely separate set of particles—the bosons—are the agents that transmit these forces back and forth between particles, people and planets.

The basic "family" of particles is supplemented by two more exotic families, each of which has a parallel structure: two quarks, a type of electron and a type of neutrino. These two extra families are all but extinct in the modern universe, but they apparently existed in the searing heat of the Big Bang, and only accelerators can re-create them. In fact, all of the quarks in all of the families have been found or re-created—except for the one called the top, which is believed to be the heaviest of all (its mass is at least 90

times that of a proton). Because it would complete the set and thus vindicate decades of theory building, the top quark has become the object of an intensive international search. And because the top is so massive, it will take the energy of the most powerful accelerators to produce it.

But researchers will be awfully disappointed if all they succeed in doing is to fill out the known family tree of particles. Too much predictability can make science dull. Says Samuel Ting, an M.I.T. physicist and one of the head researchers at CERN: "I will only consider our experiment a success if we discover something really surprising—new types of quarks, for example—that would explode the standard theory."

Anyone able to take particle physics beyond the Standard Model will automatically win prizes, prestige and added power in the profession. The quest has attracted some of the most driven personalities in science. The leaders, including Ting, CERN director Carlo Rubbia and Stanford's Burton Richter, are known for their relentless ambitions, feisty competitiveness and monumental egos. All have already won Nobel Prizes, but that seems only to have increased their desire for greater achievements. In the rush to get results, they push their staffs mercilessly and are furious—at least in private—whenever they come in second.

It is this rivalry that speeds the accumulation of knowledge. Observes Jack Steinberger, another Nobel laureate at CERN: "Competition in science is not always a pretty thing, but it's always stimulating and productive." The search for the nature of matter requires brash risk takers because it is a venture into the unknown and perhaps the unknowable. Explains Roy Schwitters, director of the new SSC project: "The physics we do is like a voyage of discovery. You can imagine you're Columbus. We're setting sail to who knows where—a new world, we hope."

Only a few places are equipped to catch glimpses of that new world. A look at the major explorers:

FERMILAB

The machine most likely to find the top quark first is Fermilab's mighty Tevatron, which has been operating for 6½ years beneath the waving grasses of the Illinois prairie. In the Tevatron, strong magnets guide subatomic particles through a circular tunnel that is 6.4 km (4 miles) in circumference. The accelerator is built as a ring so that particles can go around the track again and again, picking up speed with each lap. The ring was built large so that the particles would not have to make sharp turns.

When the machine is running, one beam of particles travels in a clockwise direction while a separate beam goes the opposite way. After reaching maximum speed, the two beams are forced together, and the particles begin to smash head-on into one another, creating fireballs that are 400 million times as hot as the sun—but so tiny and short-lived that they pose no danger to the accelerator. The Tevatron can produce 50,000 such collisions in a single second. In each of these explosions, the original particles are transformed into a shower of new, short-lived particles. The collisions take place in a detector, which contains a giant magnet that bends the newly created particles in different directions. Scientists cannot see the fresh matter directly, but its characteristics are recorded in computers, and the trails it leaves can be pictured as brightly colored streaks on a video display screen.

Though the Tevatron is considerably smaller than CERN'S LEP, the collisions that Fermilab's accelerator produces are much more powerful. Reason: the Tevatron smashes protons into antiprotons, while LEP uses electrons and positrons.* Protons and antiprotons collide with much more force because they pack more energy than electrons and positrons. Think of it as if the Tevatron were crashing Mack trucks together, as opposed to Volkswagens.

The Tevatron collisions produce dense blizzards of particles. Most are uninteresting because they have been observed before, but the chances are relatively good that hidden somewhere in the debris is an exotic new particle. Finding it, though, is no easy task. One reason CERN chose to make LEP an electron-positron machine is because of its comparatively "clean" collisions: though fewer particles are produced, they are easier to locate and study.

Fermilab's physicists believe they have already seen what might be the top quark, but they will have to gather a lot more data to confirm such a discovery. Confidence is already building. Contends James Trefil, a George Mason University physicist: "If the top quark is going to be found, it is going to be found at Fermilab sometime in the next five to six years."

Fermilab is led by director John Peoples, who is widely respected for being a hands-on physicist. But experiments at the lab are not dominated by superstars, such as CERN'S Rubbia and Ting. Instead, the atmosphere is one of relative consensus and collegiality. Explains researcher Melvyn Shochet, who commutes to Fermilab from the University of Chicago: "We have pushed to set up a more democratic system, rather than an autocratic system where one person heads up the project." When one team of scientists goes off duty and another comes on, they often share an informal dinner right in the control room. "There's Chinese food with chopsticks, dripping all over the logbooks," says Fermilab physicist Drasko Jovanovic.

It would be a mistake, though, to assume that Fermilab's scientists are any less competitive than their rivals at other labs. The masters of the Tevatron positively gloated last year when they defeated Stanford in a race to measure the mass of the Z^0 particle, a boson that carries the weak force. Says Thomas Devlin, a Rutgers physicist working at Fermilab: "That was fun to beat out our West Coast colleagues. They were hopping mad for a time, but they learned they weren't the only ones to walk on water. It's time they recognized that we also can do good work."

CERN

"Many people doubted that Europe could pull off this venture," said French President Francois Mitterrand in a speech at the gala official opening of CERN's new accelerator last November, "but the achievement of LEP shows that Europe can harness its cultural diversity." In fact, LEP, which took more than four years and nearly $1 billion to build, is much more than a European showcase; it is a laboratory for the entire world. It has attracted scientists from 29 countries in both the West and the East. More than one-third of the Soviet Union's particle physicists are registered to work at CERN, as well as a quarter of their colleagues from China.

Most of LEP's 2,000 scientists are split into four teams, each of which operates one of the four particle detectors spread around the accelerator ring. The team leaders are Americans Ting and Steinberger and Italians Ugo Amaldi and Aldo Michelini. The groups compete just as fiercely with one another as they do with outside rivals, creating a setting that is more charged with tension than the comparatively fraternal atmosphere at Fermilab.

The tone and pace for the whole CERN operations is set by Rubbia, a pushy director with a thirst for glory and little patience for laggardly performances. Says one senior CERN researcher: "Rubbia is insensitive, abusive, intolerant and high-handed." Yet no one denies his brilliance, energy and vision. "He works incredibly hard," observes a staffer, "and every waking minute is dedicated to physics." Concedes a critic: "If he was not respected intellectually, he would not be able to get away with the way he behaves. The other mitigating factor is that he is rude to everybody, high and low; he doesn't discriminate." Says Rubbia: "This is my life. There are no half measures."

Rubbia's hard-living style has paid off. In the early 1980s he was leader of a CERN detector team that discovered the W and Z bosons, crucial linchpins in the Standard Model. That earned Rubbia and colleague Simon van der Meer the Nobel. But Rubbia sometimes goads his scientists into announcing results prematurely. In 1984, for example, he said CERN had found evidence of the top quark, but later had to retract the claim.

By all accounts, the toughest team to belong to at CERN is Ting's. The stern leader would never allow chopsticks and Chinese food in his control room—or any kind of refreshment, for that matter. He once sent a memo to his staff decreeing that there should be no tardiness, food, drink, joking or shooting the breeze in his lab. "Working for Ting," says one of his senior staffers, "requires the same sort of commitment as taking monastic vows back in medieval times. There is no room here for anybody who is not consumed by the desire to push back the frontiers of physics."

There are no doubt plenty of frontiers left for CERN to push back. Though LEP does not appear to be powerful enough to find the top quark, the "clean" electronic-positron collisions could reveal many other exotic phenomena. One long shot is the much-sought Higgs boson, named for British theoretical physicist Peter Higgs, one of the first to recognize its importance. According to some theories, the Higgs boson is what gives all particles their mass. The idea is that everything in the universe is awash in a sea of Higgs bosons, and particles acquire their mass by swimming through this "molasses."

But what the CERN researchers really expect, and hope to find is something totally unpredicted. "In science nobody really knows what is going to come next," says Rubbia. "We always pretend that we know the answers, but nature keeps advising us that we don't."

To keep finding new answers, Rubbia is determined to improve CERN's technology. He plans to boost LEP's power 50% in the next year or two. CERN is also trying to persuade its member nations to put up the money to build a proton-proton collider in the same tunnel with LEP. Called the large had ron collider, it would be four times as

* Antiprotons and positrons are examples of antimatter, a rare set of particles that mirror normal matter. A proton is positively charged, but an antiproton is negative. The counterpart of the negative electron is the positive positron.

powerful as the Tevatron and almost half as forceful as the proposed superconducting supercollider in Texas. Rubbia thinks he can finish the LHC several years ahead of the SSC and thus beat the Americans to many important discoveries. If the LHC measures up to Rubbia's expectations, SSC could end up standing for superfluous supercollider.

SLAC

Burton Richter, director of the Stanford Linear Accelerator Center, is the maverick of particle physicists. While others have recently concentrated on circular accelerators, he has touted the merits of linear models. His latest machine shoots streams of electrons and positrons down a straightaway and then loops them through two semicircular sections onto a collision course. Linear accelerators cannot produce nearly as many collisions as do circular models of comparable power, but Richter claims that the noncircular approach can be an economical way to make discoveries in the vanguard of physics.

Richter has already made his share of breakthroughs. In 1974 he found and named the psi particle, which gave physicists conclusive evidence that quarks really exist. For spotting the psi, Richter shared the Nobel with Ting, who found the same particle at the same time and called it the J. The particle now bears both names, but, says Richter, "when you're talking to Ting, you'd better call it the J/psi. When you're talking to me, call it the psi/J.

Last fall Richter did it again. He was using his new linear collider in a duel with his better-equipped rivals to measure the lifespan of the Z^0, the particle that carries the weak nuclear force back and forth between other particles. Just one day before CERN was set to announce its measurement, Richter called a press conference to put forward his own figure. The calculation was extremely significant because it provided strong evidence that only three families of matter exist. CERN's Steinberger was furious at being upstaged. "I guarantee our results are more accurate than Stanford's," he told the New York Times. "The people at Stanford knew perfectly well that we were going to do this. They timed their press conference to get in ahead of us, even though we have ten times as much useful data. They've done some nice work, but I don't like it when they try to beat us by one day."

Richter believes that LEP is the end of the line for circular electron-position colliders. He once calculated that a LEP-style machine with ten times LEP's power would have to be at least 2,700 km (1,680 miles) around. Thus Richter is convinced that linear colliders are the machines of the future. He is hoping to build a 7-to-8-km (4.4-to-5-mile) linear model that he figures could be five times as powerful as LEP. The only catch: it would require acceleration technology that has not yet been invented.

SUPERCONDUCTING SUPERCOLLIDER

For all Rubbia's and Richter's plans, the SSC will clearly have the best chance of unlocking the deep secrets of the universe. Its scale and complexity will make even LEP look puny. The 10,000 magnets will require as much steel as a battleship and enough superconducting wire to circle the earth's equator 25 times. The counterrotating beams of protons, each as thin as a fork's tine and containing quadrillions of particles, will whip around the ring-shaped tunnel 3,000 times, producing up to 100 million collisions, every second.

Building such a mammoth machine from scratch is scary even to Schwitters, a Harvard physicist and leading particle experimentalist who left Fermilab to take charge of the SSC. Says he: "We have to build the equivalent of the Fermilab complex and then the SSC itself." Moreover, since no one has ever built an accelerator of such size and power, each component will have to be reliably mass-produced, which will inevitably cause unanticipated problems. Schwitters is determined to use the best possible designs, even if Congress grimaces at the $7 billion-plus price tag. Former Fermilab director Leon Lederman, one of the early champions of the SSC, thinks it would be idiotic to cut corners on such a complex machine. Say he: "The worst thing in the world would be to build a machine that doesn't work, or one where you have to struggle along."

Another challenge facing Schwitters, who alternates between private fights with Government bureaucrats and public appearances in cowboy boots and a ten-gallon hat, is to recruit hundreds of physicists to work on the accelerator. That may not be so easy. Once it is built, the SSC will be a magnet for young, ambitious scientists. But since Congress will have to appropriate hundreds of millions of dollars each year for the next half-decade for the project, there is always a chance that the money will suddenly dry up, along with jobs. CERN's budget, on the other hand, is shouldered by 14 European governments, thereby spreading the risks and costs.

But for the top physicists, who will have no trouble finding jobs even if the SSC construction were to stop suddenly, the lure of the giant collider is irresistible. In fact, the leaders of the 500-scientist teams that will eventually run the SSC's enormous detector experiments are already beginning to organize. One such collaboration is being formed by Ting. Politically shrewd, he has wooed physicists from a number of weapons laboratories and Southeastern universities, which until now have not been powers in the field of particle physics. Observers expect he will run the experiment in the strictly hierarchical fashion he has displayed at CERN. At the same time, physicists from Lawrence Berkeley Laboratory, Fermilab, Argonne National Laboratory and Japan are drawing up a collaboration that will be run along the more democratic lines of Fermilab. The clash of cultures between the CERN and Fermilab styles of management may make the sociology of the SSC nearly as interesting as the science.

The science should be nothing short of spectacular. By the SSC's projected startup date of 2000, most of the *i's* and *t's* of the Standard Model should long since have been dotted and crossed. Finding the Higgs boson should complete the task. But, contends Columbia University's Frank Sciulli, "there are intrinsic limits to the model, and people believe those limits are going to show up in the SSC, along with a whole new layer of matter we didn't know of before."

The layer that theorists most eagerly hope for is a new class of matter called supersymmetric particles, whose existence is predicated on the so-called grand unified theories now being explored by physicists. Some think that supersymmetric particles are the long-sought components of "dark matter," the invisible stuff that is believed to make up 90% or more of the universe.

Supersymmetric particles could also give a boost to superstring theory, one of the hottest ideas in theoretical physics. Superstring theory holds that every particle is really a vibrating loop of stringlike material that exists in ten-dimensional space (most of these dimensions are confined to such a small scale that we never notice them). Whether the string takes on the role of a quark or an electron or a Higgs boson depends simply on how it vibrates.

Or the theorists may be on the wrong trail entirely. While such ideas as supersymmetry and superstrings may be elegant physics, the supercollider could just as easily reveal a subatomic monkey wrench. That could force a crisis in physics, followed by a far more basic set of theories than physicists now dream of. It may be, for example, that quarks are not fundamental after all, but are themselves made of still more basic building blocks. Some forward thinkers have already coined a name for the ingredients of quarks: preons.

But is finding such exotic particles worth the multibillion-dollar price tag of the SSC? Is it a good investment? No one can know what the payback will be, but past breakthroughs in physics have tended to create whole new industries. Radar, X rays, television, microwaves, semiconductors, computers, lasers—technologies that now produce as much as a quarter of the U.S. gross national product—stemmed from discoveries in quantum physics made between 1910 and 1930. "If all of the physics generated by the SSC and its cousins doesn't have a profound effect," says Lederman, "it will be the first time in history."

There is no reason for the U.S. to shoulder the full cost of the SSC. When the supercollider was first proposed, it was assumed that other countries would help support the project both scientifically and financially, much as CERN's LEP is backed by its participating nations. Several foreign governments have offered to do just that. The Japanese have made involvement in the SSC a high priority, and even India has offered to donate $50 million worth of goods and services. Unfortunately, nothing has come of these overtures. Part of the problem, insiders say, is lack of follow-through by the staff at the Department of Energy, which is overseeing the venture. But the SSC remains all-American largely because a few key Congressmen still believe that sharing knowledge about subatomic particles is somehow akin to sharing the secrets of the atom bomb.

Whether or not the U.S. pays the entire cost of the project, there are no guarantees that the SSC will yield practical results anytime soon or that the physicists will not be back ten years from now asking for an even costlier machine. In the end, the only real justification for building the supercollider is for its value to science, for what it may add to the storehouse of human knowledge. It is difficult to put a price on such a commodity. How much is it worth to know what matter is made of, or what happened in the very first moments after the Big Bang? The answer will vary from individual to individual. Some people think the space program was a big waste of money. Others believe it was worth the cost just for one picture of the earth floating like a fragile island of life in the black void of space.

Particle accelerators have come a long way since the 1930s, when they were literally no larger than a bread box. Since then, each bigger and better machine has pushed physics to a new energy level and has uncovered important and fascinating new facets of matter. If the SSC is built, it should do the same—taking yet another step in a

mind-stretching adventure whose end is not yet in sight.

NEED TO REDUCE THE FEDERAL BUDGET DEFICIT

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. SCHAEFER. Mr. Speaker, as the Congress considers various proposals for the fiscal year 1991 budget, it is important to recognize the main threat to our continued economic well-being. I am certain that the only issue that we can all agree on is the need to reduce the Federal budget deficit.

Our current year deficit is predicted to surpass $150 billion, and next year's will likely exceed $100 billion. Despite the well-known economic damage caused by our Federal deficit, Congress again appears unwilling to take meaningful action against it.

I do not believe that the American people are over-taxed; instead the Federal Government over-spends. Since fiscal year 1983 Federal revenues have increased every year. On average these increases have been over $55 billion a year. I find it hard to imagine that yearly revenue increases, ranging from 5 to 8 percent a year, cannot adequately fund Federal programs and leave enough for deficit reduction.

By controlling the yearly growth in Federal spending Congress can meet the Gramm-Rudman targets, and eventually balance the budget. This could be accomplished without tax increases, which only serves to fuel additional spending. New taxes will not reduce the deficit. In fact for every $1 in new taxes, the Federal Government spends $1.58. Although I am not a mathematician I can see that new taxes are counter-productive to this end.

That is why I am introducing a Concurrent Resolution that simply outlines the best means of addressing the budget deficit. This measure calls on the House and Senate to meet the fiscal year 1991 Gramm-Rudman target by limiting the growth in spending from the previous year. Also, to discourage attempts to raise taxes, it calls for any funds from such taxes to be placed in the Public Debt Reduction Fund. There it could not be used to increase spending, but instead would begin to reduce the outstanding debt to be paid by each new generation of Americans.

I urge my colleagues to cosponsor this simple formula for fiscal responsibility.

HONORING THE THROGGS NECK VOLUNTEER AMBULANCE CORPS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ENGEL. Mr. Speaker, in honor of National Volunteers' Week, I would like to recognize the fine work being performed in my district by the Throggs Neck Volunteer Ambulance Corps. Since 1979, the corps has provided community-based emergency medical care to the residents of Throggs Neck, Pelham Bay, Country Club, and LaSalle areas. Fully trained and State-certified emergency technicians, drivers, and attendants volunteer their time in order to make vital services available to the public.

The more than 100 members of the Throggs Neck Volunteer Ambulance Corps are all active in their community. In addition to the training it provides for its members, the corps also conducts classes that teach the public first aid and CPR. Corps members help organize and then participate in community parades. They also attend health fairs, where they share ideas and experiences with other volunteer groups and the public.

I have watched the corps grow into a strong, active community group, and I know it will continue to provide its important services for many more years to come. I congratulate the members for their fine work and thank them on behalf of my constituents. The Throggs Neck Volunteer Ambulance Corps truly embodies the spirit of American voluntarism that we are honoring in the U.S. Congress. It is a spirit that continues to makes the Throggs Neck community a great place to live and work.

FAIR WINDS AND FOLLOWING SEAS FOR LT. COMDR. SHAW COHE, U.S. NAVY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. GINGRICH. Mr. Speaker, it has come to my attention that Lt. Comdr. Shaw Cohe completed his tour as the Navy's Liaison Officer for Acquisition and Contracts with the Congress on April 16, 1990.

As the Navy's primary resident spokesman for these matters on Capitol Hill, Lieutenant Commander Cohe has performed in an extraordinary manner in support of the Navy and the members of this body. His unique expertise and extensive grasp of acquisition policy matters is well known and respected by me and so many of my colleagues. I believe that I share this view with almost 100 Members whom Lieutenant Commander Cohe personally escorted on congressional fact-finding delegations or supported with congressionally sponsored procurement seminars in their districts. These seminars have resulted in teaching tens of thousands of constituent businesses how to effectively and properly conduct business with the Navy.

Lieutenant Commander Cohe has also been instrumental in promoting and supporting congressional member and staff participation in the Naval War College's Global War Game. I can speak firsthand of the great value of this unique and rewarding experience.

Lieutenant Commander Cohe's dedication and commitment to the Navy and the Congress will be sorely missed. It gives me great pleasure today to pay tribute to Lieutenant Commander Cohe's outstanding service to the Congress and the Nation. On behalf of my colleagues, I extend the traditional Navy salutation of "fair winds and following seas" to Lieutenant Commander Cohe in his future Navy assignments.

THE TIME TO PROTECT THE GREAT LAKES IS NOW

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MOODY. Mr. Speaker, last week the International Joint Commission issued its Fifth Biennial Report on the Great Lakes Water Quality Agreement. Although there have been some areas of improvement, the report presented the strongest argument yet that the United States and Canada are doing far too little to prevent great damage to the environment of the Great Lakes.

Sunday is Earth Day 1990. Twenty years after Wisconsin Senator Gaylord Nelson sponsored the first Earth Day it is appropriate to recognize that protection of the environmental, human and wildlife health of the Great Lakes must be a top priority.

The Great Lakes Basin is one of the Nation's richest and most diverse ecosystems, as well as the home to over one-fourth of the country's population. Toxic air pollution, acid rain, ground water contamination, sewer runoff and ozone depletion have all contributed to the deterioration of the Great Lakes and their abundant resources, both plant and animal.

The IJC report underscores that people are also at risk because of environmental carelessness. Toxin-exposed fish from the Great Lakes pose health risks. A study of children whose mothers regularly ate Great Lakes fish during their pregnancies concluded that birth weights and infant motor and behavioral development had been adversely affected, and evidence points to chemical traces found in fish. Furthermore, residents of the Great Lakes region, particularly those in nonattainment urban areas along the lakes, are exposed each day to harmful toxics in the form of air pollution from factories and auto emissions.

In the past we have failed to adequately address the environmental problems facing the Great Lakes. Solving those problems only becomes more difficult the longer we put off makng the tough choices and a true commitment to protecting the environment.

Tough does not mean impossible, however, and it is all the more fitting that we recognize and take on the problems now when Congress is on the verge of passing comprehensive clean air legislation.

The report on the Great Lakes, Earth Day, the pending clean air legislation—all combine to emphasize that our environment is threatened and offers hope that, at long last, environmental protection is getting the attention it deserves. The International Joint Commisison concluded that:

Despite the significance of the Great Lakes and our collective rhetoric to restore and enhance them, we as a society continue to mortage their future by poisoning, suffocating, and otherwise threatening them be-

cause of insufficient knowledge, other priorities, and shortsightedness.

It is in our best interest to control environmental damage of the Great Lakes now. Our economy and our health depend on it.

As the House begins consideration of the clean air bill next month I urge my colleagues to support the passage of a strong environmental bill. It is time to make those choices and get tough for the sake of the Great Lakes, the sake of the people of this Nation, and for the sake of the Earth.

TRIBUTE TO PROF. DANIEL JOHN SCHROEDER

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ASPIN. Mr. Speaker, today I pay tribute to a great American scientist, Prof. Daniel John Schroeder. Dr. Schroeder is one of the 19 scientists working on the Hubbell space telescope. He is the only member of the Hubbell team who is from a small liberal arts institution, Beloit College in Beloit, WI.

The long-awaited Hubbell space telescope will blast into space aboard the space shuttle *Discovery.* The city bus size telescope is expected to do more for modern astronomy than Galileo's telescope did for his time. The Hubbell telescope will be free from the distorting effects of the Earth's atmosphere and it will increase the picture's resolution by 10 times that of any telescope on Earth.

Dr. Schroeder is the project's telescope scientist. This means that he is one of two men whose job it is to help the National Aeronautics Space Administration [NASA] ensure that the telescope exceeds the specifications established by the designing astronomers. Dr. Schroeder has been involved with the project for more than 15 years.

Dr. Schroeder's telescope is expected to launch from Cape Canaveral aboard the *Discovery* on April 24. The initial launch of the telescope was delayed because of the *Challenger* disaster in 1986. After the telescope goes through 3 months of orbital verification checks, the exploration phase will begin which will open an entirely new era in our astronomical understanding of the universe.

This new era of telescope development will allow astronomers to explore a volume of space 1,000 times larger than has been possible with earthbound instruments. With the Hubbell space telescope, Dr. Schroeder will attempt to find a distant galaxy, quasars and planets orbiting other stars.

Dr. Daniel John Schroeder has been a faculty member of Beloit College since 1963. He is currently the chair of the physics and astronomy department at the college. He was born in Manitowoc, WI in 1933. He earned his bachelor of science degree in 1955 from Beloit College and went on to receive his masters and Ph.d. degrees at the University of Wisconsin, Madison. Dr. Schroeder and his wife LaVerne have two children, James and Judy.

The residents of Beloit, WI, as well as the Nation are indebted to Daniel John Schroeder. His many years of work and dedication will enable us to see further and more clearly into the universe in which we live. Dr. Schroeder is truly one of America's greatest teachers and scientists.

RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS ACT OF 1989

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MAVROULES. Mr. Speaker, in an environment-conscious and import energy dependent society there is a clear need to improve our energy efficiency and utilize new energy resources. Energy efficiency improvements certainly decrease pollution. Along with better energy efficiency, renewable energy resources, which include those derived both directly and indirectly from solar energy, as well as other sources such as geothermal and tidal energy, offer the United States a viable alternative to increased dependence on fossil fuels from overseas markets.

Unfortunately, since 1980 national support for renewable energy resources has dropped significantly. Likewise, support for energy conservation programs has decreased 72 percent from $344 million in 1980 to $96 million in 1990 and renewable energy programs have been cut 87 percent, from $647 million in 1980 to $87 million in 1990. Along with this cut in funding has come a resulting decrease in the percentage of the worldwide market for renewable energy technologies controlled by U.S. companies. Three years ago, domestically produced technologies dominated the world market; now U.S. firms have less than one-third of the market for these technologies.

The New England region is known for being an energy-conscious region, and the people of New England, including Massachusetts, are acutely aware of the need to conserve fuels and find new sources of energy. Recognizing this several of my New England colleagues and I have established a bipartisan New England Congressional Energy Caucus. Its purpose is to focus on important energy issues affecting the New England region.

In my effort to improve energy conservation and environmental protection, I have cosponsored legislation which encourages the development of renewable energy technologies, H.R. 1216, the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989. This legislation establishes performance goals for DOE's renewable energy research programs; provides stable 3-year authorization levels for the renewable energy and energy conservation research programs; requires DOE to enter into joint ventures with industry; and expands efforts by Federal agencies to help market U.S. renewable energy products in foreign markets. This legislation, in the form of a companion bill in the Senate, S. 488, passed the House of Representatives on November 17, 1989, and was signed into law by the President on December 11, 1989 (Public Law 101-218).

On January 26, 1990, DOE Secretary James D. Watkins proposed initiatives to increase energy efficiency and the use of renewable energy resources. It is reassuring to see the administration join Congress in beginning to reverse the decline in support for these vital technologies.

Additionally, we have begun to further develop the necessary technologies to improve energy independence while simultaneously reducing pollution from fossil fuel use. We must build on this progress and regain our lead in worldwide manufacturing and development of renewable energy technologies.

The Department of Energy, after 8 months of public hearings on energy conservation and renewable resources, has issued an Interim Report on National Energy Strategy. This report has compiled ideas from all regions of the country on how to increase efficiency of energy use; to protect the environment while meeting our energy needs; to secure future energy supplies; and to encourage the development of technology to do these things. Its purpose is to build a consensus for a national energy policy in these areas, and, after a period of public comments in the summer of 1990, a final report will be issued in the spring of 1991.

In formulating this new policy, I encourage DOE to focus especially on the following areas. First, it is imperative that cost-effective renewable energy sources be developed, especially to provide electricity and heat for residential and commercial buildings. This is particularly important since it is more difficult to develop renewable sources for transportation. Because of the large capital investments necessary to build renewable energy systems for utilities, it is important for government to mitigate the cost of these systems for utilities. More needs to be done, however. I encourage DOE to explore additional possibilities in this area.

In addition, there is considerable potential for solar thermal, solar photovoltaic, and wind sources to contribute to our Nation's energy supply. I have been a leader in the support of solar energy/photovoltaic programs. Back in 1983, through my work on the House Armed Services and Small Business Committees, I sponsored legislation, which was adopted, to set up demonstration programs in photovoltaic technology. Again, it will take action on the national level to see that cost-effective technologies are developed and that these technologies be marketed to national and international markets. This will ensure that the United States, and U.S. firms, be on the cutting edge of new technologies and are able to reap the rewards of a large worldwide demand for these nonpolluting energy sources. This will also reduce our dependence on foreign energy sources and prevent dependence on foreign technology. It should also be a top priority that technology originally developed by the United States, not be taken over by foreign interests—for example, the purchase of Arco Solar by Siemans. Prudent Government policy will prevent this.

Finally, Government can play a role in encouraging the development of new technology to enhance environmental cleanup. One result of the original clean air bill was to spur devel-

opment of technology to clean up emissions from automobiles and powerplants. The catalytic converter and scrubbers are examples of this. This push to engineer new products must continue, with the beneficiary being not only a cleaner environment, but also an enhanced and invigorated technological base. As a member of the House Small Business and Armed Services Committees I plan to ardently work for adoption of a strong and comprehensive energy and environmental policy.

POST COLLEGE CELEBRATES CENTENNIAL

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ROWLAND of Connecticut, Mr. Speaker, I rise to bring to the attention of my colleagues the fact that Post College, in Waterbury, CT, will soon celebrate 100 years of excellence in education.

April 27 marks the centennial of this important institution. Over this period of time, Post has grown from a small shorthand school to a fully accredited baccalaureate institution serving over 1,800 students.

Post College ranks as the fourth largest business college in the State of Connecticut. They offer 12 bachelor's degrees in varying fields of study on the main campus as well as at 8 off-campus sites.

Mr. Speaker, Post College has made numerous contributions to the Waterbury area over the years. With over 6,000 alumni of record, Post College has likewise made many contributions to the State as a whole.

I have the privilege of representing Post College in the House. Today, it is a pleasure to mark 100 years of educational service by this fine institution.

ENVIRONMENTAL VIGILANCE ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. WYDEN. Mr. Speaker, it is appropriate on Earth Day to review our actions as stewards of this Earth. And one duty we have as stewards is to be watchful—to monitor the environment and be sure we are not harming it.

With all our environmental laws and agencies, you would think we would be doing a fairly good job of watching the environment. But the truth is, some things are falling between the cracks.

That came to light recently in the Pacific Northwest, when dioxin was discovered in the lower Columbia River. Now, the State of Oregon had been monitoring the polluters on its side of the river, and the State of Washington had been monitoring the polluters on its side of the river, but no one, not the States or the Federal Government, had been checking the river itself.

When the dioxin was discovered in river sediments, there was a great deal of finger pointing and arguing about who should have been watching for it—but the bottom line was, no one had been watching.

I've done some checking, and I've found that this situation is not unique. Many critical environmental resources, particularly those that cross State lines, are not being adequately monitored. And whether the problem is dioxins in our rivers or carcinogens in our air or toxins in our soil, someone ought to be watching.

That is why, today, I am introducing the Environmental Vigilance Act, a bill giving the Environmental Protection Agency the responsibility to identify critical environmental resources and to see that they are adequately monitored. EPA will periodically report to Congress on the need for additional monitoring efforts.

In cases where the agency finds a specific toxic substance or its natural byproducts posing a risk to the environment, the bill clarifies the agency's authority, under the Toxic Substances Control Act, to have the manufacturer of the substance monitor the substance's presence and effects in the environment.

Mr. Speaker, watchfulness is the first duty of responsible stewards. I invite my colleagues to join me in supporting this effort to keep watch on planet Earth.

THE SWISS AND THEIR GUNS

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DOUGLAS. Mr. Speaker, as we move into the period of time when we may begin debating issues like H.R. 4225 which would move toward gun control in America, I wanted to share with you the results of an article about Switzerland. The article appeared in the American Riflemen Magazine but having had a sister who lived in Switzerland for 10 years, I know only too well its accuracy. In a nation of 60 million people, 1 out of every 10 owns a fully automatic assault rifle with ammunition and yet Switzerland has the lowest murder by gun rate in Europe. It is lower than England which has very strict gun controls and is even a lower murder rate than Japan which basically prohibits guns. I think the myth of gun control is exploded in this very important article that I want to share with our constituents.

THE SWISS AND THEIR GUNS

(By David B. Kopel and Stephen D'Andrilli)

In the right to bear arms debate, pro-gun Americans point to Switzerland where almost every adult male is legally required to possess a gun. One of the few nations with a higher per capita rate of gun ownership than the United States. Switzerland has virtually no gun crime. Therefore, argue the pro-gunners, America doesn't need gun control.

Yet Handgun Control, Inc. (HCI), in its brochure "Handgun Facts," points to Switzerland as one of the advanced nations with "strict handgun laws." The brochure states that all guns are registered, and handgun purchases require a background check and a permit. Gun crime in Switzerland is virtually nonexistent. Therefore, concludes Handgun Control, America needs strict gun control.

Who's right? As usual, Handgun Control is wrong, but that doesn't necessarily make the pro-gun side right. Gun ownership in Switzerland defies the simple categories of the American gun debate.

Like America, Switzerland won its independence in a revolutionary war fought by an armed citizenry. In 1291, several cantons (states) began a war of national operation against Austria's Hapsburg Empire. In legend, the revolution was precipitated by William Tell, although there is no definitive proof of his existence.

Over the next century, the Swiss militia liberated most of Switzerland from the Austrians. The ordinary citizens who composed the militia used the deadliest assault weapons of the time, swords and bows. Crucial to the Swiss victory was the motivation of the free Swiss troops.

From the very first years of Swiss independence, the Swiss were commanded to keep and bear arms. After 1515, Switzerland adopted a policy of armed neutrality. For the next four centuries, the great empires of Europe rose and fell, swallowing many weaker countries. Russia and France both invaded, and the Habsburgs and later the Austro-Hungarian Empire remained special threats. But Switzerland almost always retained its independence. The Swiss policy was Prevention de la guerre par la volonté de se défendre. (Prevention of war by willingness to defend ourselves.)

During World War I. both France and Germany considered invading Switzerland to attack each other's flank. In World War II, Hitler wanted the Swiss gold reserves and needed free communications and transit through Switzerland to supply Axis forces in the Mediterranean. But when military planners looked at Switzerland's well-armed citizenry, mountainous terrain, and civil defense fortifications. Switzerland lost its appeal as an invasion target. While two World Wars raged, Switzerland enjoyed a secure peace.

At home, the "Swiss Confederation" developed only a weak central government, leaving most authority in the hands of the cantons or lower levels of government. The tradition of local autonomy helped keep Switzerland from experiencing the bitter civil wars between Catholics and Protestants that devastated Germany, France and England.

In 1847–48, liberals throughout Europe revolted against aristocratic rule. Only in Switzerland did they succeed, taking control of the whole nation following a brief conflict called the Sonderbrund War. (Total casualities were only 128.) Civil rights were firmly guaranteed, and all vestiges of feudalism were abolished.

Despite the hopes of German reformers, the Swiss did not send their people's army into Germany in 1848 to assist popular revolution there. When the German revolution failed, autocratic Prussia considered invading Switzerland, but decided the task was impossible.

As one historian summarizes: "Switzerland was created in battle, reached its present dimension by conquest and defended its existence by armed neutrality thereafter." The experience of Swiss history has made national independence and power virtually synonymous with an armed citizenry.

Today, military service for Swiss males is universal. At about age 20, every Swiss male goes through 118 consecutive days of recruit training in the Rekrutenschule. This train-

ing may be a young man's first encounter with his countrymen who speak different languages. (Switzerland has four official languages: German, French, Italian and Romansch.)

Even before required training begins, young men and women may take optional courses with the Swiss army's M57 assault rifle. They keep that gun at home for three months and receive six half-day training sessions.

From age 21 to 32, a Swiss man serves as a "frontline" troop in the Auszug, and devotes three weeks a year (in eight of the 12 years) to continue training. From age 33 to 42, he serves in the Landwehr (like America's National Guard); every few years, he reports for two-week training periods. Finally, from ages 43 to 50, he serves in the Landstrum; in this period, he only spends 13 days total in "home guard courses."

Over a soldier's career he also spends scattered days on mandatory equipment inspections and required target practice. Thus, in a 30-year mandatory military career, a Swiss man only spends about one year in direct military service. Following discharge from the regular army, men serve on reserve status until age 50 (55 for officers).

By the Federal Constitution of 1874, military servicemen are given their first equipment, clothing and arms. After the first training period, conscript must keep gun, ammunition and equipment an ihrem Wohnort ("in their homes") until the end of their term of service.

Today, enlisted men are issued M57 automatic assault rifles and officers are given pistols. Each reservist is issued 24 rounds of ammunition in sealed packs for emergency use. (Contrary to Handgun Control's claim that "all ammunition must be accounted for." The emergency ammunition is the only ammo that requires accounting.)

After discharge from service, the man is given a bolt rifle, free from registration or obligation. Starting in 1994, the government will give ex-reservists assault rifles. Officers carry pistols rather than rifles and are given their pistols at the end of their service.

When the government adopts a new infantry rifle, it sells the old ones to the public.

Reservists are encouraged to buy military ammunition (7.5 and 5.6 mm—5.56 mm in other countries—for rifles and 9 and 7.65 mm Luger for pistols, which is sold at cost by the government, for target practice. Non-military ammunition for long-gun hunting and .22 Long Rifle (LR) ammo are not subsidized, but are subject to no sales controls. Non-military, non-hunting ammunition more powerful than .22 LR (such as .38 Spl.) is registered at the time of sale.

Swiss military ammo must be registered if bought at a private store, but need not be registered if bought at a range. The nation's 3,000 shooting ranges sell the overwhelming majority of ammunition. Technically, ammunition bought at the range must be used at the range, but the rule is barely known and almost never obeyed.

The army sells a variety of machineguns, submachine guns, anti-tank weapons, anti-aircraft guns, howitzers, and cannons. Purchasers of these weapons require an easily obtained cantonal license, and the weapons are registered.

In a nation of six million people, there are at least two million guns, including 600,000 fully automatic assault rifles, half a million pistols, and numerous machineguns. Virtually every home has a gun.

Besides subsidized military surplus, the Swiss can buy other firearms easily, too. While long guns require no special purchase procedures, handguns are sold only to those with a Waffenerwerbsschein (purchase certificate) issued by a cantonal authority. A certificate is issued to every applicant over 18 who is not a criminal or mentally infirm.

There are no restrictions on the carrying of long guns. About half the cantons have strict permit procedures for carrying handguns, and the other half have no rules at all. There is no discernable difference in the crime rate between the cantons as a result of the different policies.

Thanks to a lawsuit brought by the Swiss gun lobby, semiautomatic rifles require no purchase permit and are not registered by the government. Thus, the only long guns registered by the government are full automatics. (Three cantons do require collectors of more than 10 guns to register.)

Gun sales from one individual to another are regulated in five cantons and completely uncontrolled in all the rest.

Retail gun dealers do keep records of over-the-counter gun transactions; transactions are not reported to or collected by the government. (This is also the policy in the U.S., during those periods the Bureau of Alcohol, Tobacco and Firearms feels like obeying the law.) In Switzerland, purchases from dealers of hunting long guns and of smallbore rifles are not even recorded by the dealer. In other words, the dealer would not record the sale of a .30-'06 hunting rifle, but would record the sale of a .30-'06 Garand, since.

Thus, Handgun Control's assertion that all Swiss guns, are registered is just plain wrong, and its claim that "Switzerland and Israel strictly control handgun availability" is more than a little inaccurate.

Anybody, including this author, can make mistakes about the complexities about foreign gun laws. Nevertheless, even the most careless authors ought to do better than Handgun Control's brochure "Handgun Facts," in which almost every "fact" about Switzerland is wrong.

But Handgun Control's misstatements are no worse than those contained in a highly biased Library of Congress book Gun Control Laws in Foreign Countries (which tax dollars paid for). That book claims that in Switzerland "the policy is not to provide automatic guns and other dangerous weapons to the general population"—an utter untruth, at least if one considers adults to be part of "the general population." The book also asserts that "the sale of handguns to individuals is restricted and reflects a clear Swiss government policy of keeping this strict control." Yet the only individuals who are "restricted" from buying handguns are children, the insane and ex-criminals.

If ever a nation had "a well-regulated militia," it is Switzerland. Nineteenth-century economist Adam Smith thought Switzerland the only place where the whole body of the people had successfully been drilled in militia skills.

Indeed, the militia is virtually synonymous with the nation. "The Swiss do not have an army, they are the army," says one government publication. Fully deployed, the Swiss army has 15.2 men per square kilometer; in contrast, the U.S.A. and U.S.S.R. have only .2 soldiers per square kilometer. Switzerland is 76 times denser with soldiers than either superpower. Indeed, only Israel has more army per square kilometer.

Switzerland is also the only Western nation to provide shelters fully stocked with food and enough supplies to last a year for all its citizens in case of war. The banks and supermarkets subsidize much of the stockpiling. The banks also have plans to move their gold into the mountainous center of Switzerland in case of invasion.

The nation is ready to mobilize on a moment's notice. Said one Swiss citizen-soldier, "If we start in the morning, we would be mobilized by late afternoon. That is why the gun is at home, the ammunition is at home. The younger people all have automatic rifles. They are ready to fight." Citizen-soldiers on their way to mobilization points may flag down and commandeer passing automobiles.

Since 1291, when the landsgemeinden (people's assemblies) formed circles in the village squares, and only men carrying swords could vote, weapons have been the mark of citizenship. As a Military Department spokesman said, "It is an old Swiss tradition that only an armed man can have political rights." This policy is based on the understanding that only those who bear the burden of keeping Switzerland free are entitled to fully enjoy the benefits of freedom.

In 1977, the Munchenstein Initiative proposed allowing citizens to choose social or hospital work over military duty. It was rejected at the polls, and in both houses of parliament (the Bundesversammlung's Nationalrat and Standerat). There are provisions for conscienctious objectors, but this group only numbers .2% of conscripts.

In 1978, Switzerland refused to ratify a Council of Europe Convention on Control of Firearms. Since then, Switzerland has been pressured by other European governments, which charge that it is a source for terrorist weapons. As a result, in 1982 the central government proposed a law barring foreigners in Switzerland from buying guns they could not buy in their own countries and also requiring that Swiss citizens obtain a license to buy any gun, rather than just handguns.

Outraged Swiss gun owners formed a group called "Pro Tell," named after national hero William Tell. In 1983, the Federal Council (the executive cabinet) abandoned the restrictive proposal because "the opposition was too heavy" and suggested that the cantons regulate the matter. A few months earlier, the Cantonal Council of Freiburg had already enacted such a law by a one-vote margin. A popular referendum overturned the law the next year, by a 60%-40% vote.

Whatever the effect of Swiss guns abroad, they are not even a trivial crime problem domestically. Despite all the guns, the murder rate is a small fraction of the American rate, and is less than the rate in Canada or England, which strictly control guns, or in Japan, which virtually prohibits them. The gun crime rate is so low that statistics are not even kept.

The suicide rate, though, is almost double the American rate. Guns are used in about one-fifth of all Swiss suicides compared to three-fifths of American and one-third of Canadian suicides.

It is not Switzerland's cultural makeup, or its gun policies per se, that explain that low crime rate. Rather, it is the emphasis on community duty, of which gun ownership is the most important part, that best explains low crime rate.

In Cities With Little Crime, author Marshall Clinard contrasts the low crime rate in Switzerland with the higher rate in Sweden, where gun control is more extensive. The higher Swedish rate is all the more surprising in view of Sweden's much lower population density and its ethnic homogeneity. One of the reasons for the low crime rate,

says Clinard, is that Swiss cites grew relatively slowly. Most families live for generations in the same area. Therefore, large, heterogenous cities with slum cultures, never developed.

Proud to have the weakest central government in the West. Switzerland is governed mainly by its 3.095 Einwohrnergemeinde (communes, sub-states of a canton). Several cantons still make their laws by the traditional Landsgemeinden system, whereby all eligible voters assemble in annual outdoor meetings.

Unlike the rest of Europe, the police force is decentralized. Judges and jurors are popularly elected. With less mobility and more deeply developed community ties, there is less crime.

Most democratic nations impose long prison terms more frequently than does America, but Switzerland does not. For all crimes except murder, the Swiss rarely inflict a prison term of more than a year: most serious offenders receive suspended sentences. As in Japan, the focus of the criminal justice system is on the reintegration of the offender into the community, rather than punishment.

As for the non-criminal Swiss, the saying is that everyone is his own policeman. Foreign visitors are surprised to see Swiss pedestrians always waiting at traffic lights, even when there is no traffic. The mass transit systems successfully depends on voluntary payment.

Clinard infers that strong central governments, weaken citizen initiative and individual responsibility. He concludes: "Communities or cities that wish to prevent crime should encourage greater political decentralization by developing small government units and encouraging citizen responsibility for obedience to the law and crime control."

In Nations Not Obsessed With Crime, Freda Adler comes to many of the same conclusions as Clinard. She, too, emphasizes the communal system of government—in which all laws are enacted by popular vote—and the stability of residential patterns.

Most Swiss still live in traditional patriarchial families. In fact, Switzerland has the lowest percentage of working mothers of any European country. While America was debating the Equal Rights Amendment, Switzerland was wondering whether women should be allowed to vote. (The long delay in female suffrage may have something to do with the equation of civil rights, and militia service.)

Schools are strict, and teenagers have less freedom than in most of the rest of Europe. Studies show that Swiss teenagers, unlike teenagers in other countries, feel closer to their parents than to their fellow teenagers. Communications between the generations are open.

Among the factors contributing to the inter-generational harmony is military service, which provides an opportunity for all groups of males to interact. Adults and youth share many sports, such as skiing and swimming.

Target shooting is another important shared pastime, with community awards and team trophies often displayed in restaurants and taverns. At the annual Feldschiessen weekend, more than 200,000 Swiss attend national marksmanship competitions.

In the home, writes John McPhee, "while a father cleans his rifle at the kitchen table his son is watching, and 'the boy gets close to the weapon.' " Marshall Clinard explains that because army weapons must be kept in the home ". . . much activity associated with the proper care of weapons, target practice, or conversations about military activities become common in the family. All of this, together with the other varied activities carried out in Switzerland across age lines, has served to inhibit the age separation, alienation, and growth of a separate youth culture that has increasingly become characteristic of the United States, Sweden, and many other highly developed countries. Although these factors represent only one aspect of a total Swiss way of life, they play no small part in the low crime rate and the crime trend."

Close analysis of Swiss gun laws also shows how silly it is for Handgun Control to point to Switzerland as a model. If—as Handgun Control claims—Switzerland's lenient licensing system is the reason Switzerland has so little handgun crime, then handgun Control ought to commit itself to reform of several American laws.

First of all, Handgun Control should oppose the gun prohibition laws in Washington, D.C., and other cities—since Switzerland proves that lenient licensing is all that is needed to stop gun crime.

Second, Handgun Control should work to repeal laws which prohibit Americans from owning howitzers, anti-aircraft guns, and other militrary weapons. Switzerland allows ownership of these weapons by anyone who can meet the simple requirements for a handgun license. And thanks to the "howitzer licensing" system there is no howitzer crime in Switzerland. Since Swiss-style handgun licensing is the main reason Switzerland has no handgun crime (claims Handgun Control), a Swiss-style system of howitzer licensing would also be a good idea for America.

Lastly, Handgun Control should reverse its policy, and work for repeal of America's ban on the possession of machine guns manufactured after 1986. Handgun Control should push America to adopt the Swiss policy: having the government sell machines guns at discount prices to anyone with an easily obtained permit.

It is not likely, though, that Handgun Control will follow the logic of its advertising, and work to let Americans own licensed machine guns and howitzers. But until Handgun Control does so, it should stop talking about what a good handgun licensing system Switzerland has.

If Handgun Control should stop its rhetoric about Switzerland, what should pro-gun Americans do? They can talk about Switzerland, but they cannot expect to win the American gun argument with the Swiss example.

Analysis of Switzerland does demolish the simplistic notion "more guns, more gun crime." More important than the number of guns is their cultural context. In Switzerland, guns are an important element of a cohesive social structure that keeps crime low.

While Switzerland is clear proof that guns are not in themselves "demons" (as one Denver priest recently claimed). Switzerland does not by itself prove the case against gun control in America. Indeed, author Clinard argues that strict gun controls are necessary in the U.S.

Clinard's argument cannot be dismissed out of hand. After all, few readers of this magazine would want America to adopt the lenient criminal sentencing practices of Switzerland. Opponents of lenient sentencing would argue, correctly, that America does not have the stable, integrated community structures of Switzerland. Thus, the American government must take a more coercive, authoritarian role in controlling prisoners, to make up for the lack of community controls.

The same point might be made about guns. Although guns are more available to the Swiss. Swiss gun culture is more authoritarian then America's. Gun ownership is mandatory community duty, not a matter of individual free choice. In Switzerland, defense of the nation is not a job for professional soliders or for people who join the army to learn technical skills for civilian jobs. Defense of the nation is the responsibility of every male citizen.

Thus, American gun owners must win the gun control argument based on conditions in America, not conditions in Switzerland. The implicit argument of Clinard (and of most American gun controllers) is that while the Swiss may be responsible enough to own even the deadliest guns, Americans are not.

Before rejecting this argument, American gun owners might wonder if an unmanned American mass transit system could count on payment by the honor code. Further, America obviously has a large criminal class of gun abusers, and Switzerland does not.

If strict gun control could actually disarm that criminal element in America, there might be an argument for gun control. But as Josh Sugarmann, former communications director for the National Coalition to Ban Handguns (NCBH), write in the Washington Monthly: "handgun controls do little to stop criminals from obtaining handguns."'

Sugarmann and NCBH favor gun control not to disarm criminals, but because they believe that non-criminals Americans cannot be trusted with handguns. The coalition's political affairs director, Eric Ellman, has said that "the majority of gun owners are not responsible. "Yet a look at the facts shows that more than 99% of American citizens who are not professional felons are just as suited for gun ownership as any Swiss militiaman.

Ordinary American citizens use guns compentently. Every 48 seconds, someone uses a handgun to defend himself against a crime (according to Florida State University's Gary Kleck, using data collected by liberal pollster Peter Hart in a poll paid for by the anti-gun lobby).

Regular American citizens do not shoot each other in moments of passion; the vast majority of such shootings are perpetrated by thugs with a record of violence and substance abuse.

And contrary to the claims of the anti-gun lobby. Americans are not so careless that they cannot be trusted with potentially dangerous objects like guns. Gun accidents account for less than 2% of the nation's 92,000 accidental deaths annually.

Suicides have little to do with gun availability. Japan has no guns, while Swizerland is deluged with every gun in the book, and both nations have the same suicide rate.

Of course the more that U.S. governments can do to make gun use in America even more responsible, the better. Switzerland shows how successful governments can be in promoting responsible gun use.

Elementary schools in America should have gun safety classes which teach children never to touch a gun unless a parent is present, and they should be taught to tell an adult if they see an unattended gun. The NRA actively promotes this idea, and the National Association of Chiefs of Police endorses it. But Handgun Control opposes this

reasonable, sensible safety measure. Has HCI gone off the deep end?

High schools and colleges wishing to offer target shooting as a sport should be allowed to do so. Unlike football or swimming, scholastic target shooting has never resulted in a fatality. The anti-gun groups oppose the sensible step of allowing the schools to offer students the safest sport ever invented. Have they gone off the deep end?

Finally, local governments should enact reasonable zoning laws which allow the construction of indoor shooting ranges (properly ventilated and sound insulated) in urban areas. In some cases, governments should subsidize the building of ranges. At target ranges, Americans can take lessons in gun responsibility, and practice safe gun handling skills. As you might expect, the anti-gunners oppose this simple safety measure too. They've gone off the deep end.

What have we learned from Switzerland? Guns in themselves are not a cause of gun crime; if they were, everyone in Switzerland would long ago have been shot in a domestic quarrel.

Cultural conditions, not gun laws, are the most importanat factors in a nation's crime rate. Young adults in Washington, D.C., are subject to strict gun control, but no social control, and they commit a staggering amount of armed crime. Young adults in Zurich are subject to minimal gun control, but strict social control, and they commit almost no crime.

America—with its tradition of individual liberty—cannot import Switzerland's culture of social control. Teenagers, women, and almost everyone else have more freedom in America than in Switzerland.

What America can learn from Switzerland is that the best way to reduce gun misuse is to promote responsible gun ownership. While America cannot adopt the Swiss model, America can foster responsible gun ownership along more individualistic, American lines. Firearms safety classes in elementary schools, optional marksmanship classes in high schools and colleges, and the widespread availability of adult safety training at licensed shooting ranges are some of the ways that America can make its tradition of responsible gun use even stronger.

A CONGRESSIONAL BIRTHDAY SALUTE TO GOV. EDMUND G. "PAT" BROWN, SR.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. ANDERSON. Mr. Speaker, it is with great admiration and respect that I rise today to pay tribute to California's elder statesman, my good friend Edmund G. "Pat" Brown, Sr. On April 24, 1990, Governor Brown will be celebrating his 85th birthday. This occasion gives me the opportunity to express my deepest appreciation for his many years of service to his fellow man.

After serving as the district attorney of San Francisco and later as California's State Attorney General, he was elected Governor in 1958. Having served under Governor Brown for 8 years as Lieutenant Governor of California, I can attest to his strong leadership and ability to get the job done. And yes, while California has produced a number of good Governors, Pat Brown is remembered as one of the great ones. As one who has been in public service for half a century, I view my years in Sacramento serving under Governor Brown among the finest.

Throughout his life's trials and tribulations, he has received the unending support and strength of his wife, Bernice. It is often said that behind every successful man, there is a woman. Mr. Speaker, one only needs to look at Pat and Bernice Brown to find the truth to this age old phrase. Governor Brown's dedication to public service provided a strong example for his children, Kathy and Gerry, who have also taken up the calling.

On this milestone event, Governor Edmund G. "Pat" Brown Sr.'s 85th birthday, my wife Lee, joins me in extending our heartfelt best wishes. We are both greatful for having had the opportunity to share in many of these wonderful years. We wish Pat, his wife Bernice, their children Kathy and Gerry, and all their grandchildren, all the best in the years to come.

EARTH DAY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. MOAKLEY. Mr. Speaker, this week marks the 20th anniversary of Earth Day. In September of 1988, then Vice President Bush campaigned across my congressional district and made a pledge to the people of the Commonwealth of Massachusetts that he was the man destined to fix the ocean. Fully 2 years later, Massachusetts and Boston Harbor have yet to realize a cent from the promise made by the Vice President during his photo opportunity at the harbor.

Was it political theater? Was it a brandishment? Or was it just another failed campaign pledge? Candidate Bush failed repeatedly to mention that it was the Reagan administration, of which he was a component, that continuely slashed EPA and Interior funding. The Reagan administration vetoed the Clean Water Act and that prevented any Federal support for the cleanup of Boston Harbor. The Clean Water had $100 million appropriated by the Congress for the cleanup of the harbor.

Two years later, as we reexamine the fiscal year 1991 budget, we realize that once again the administration has not put its money where its mouth is. Zero funding for the clean up of Boston Harbor, has clearly shown the residents of Massachusetts as well as committed environmentalists across this land that this administration's clean water and clean harbor track record is not to be taken seriously, and that if we are to see strides made in cleaning up America's waterways in this decade then we here in the Congress will have to start asking tough questions and following them up with practical, fiscally sound, and innovative approaches to ensuring clean urban waterways for our children in the 21st century.

ANTARCTICA WORLD PARK AND PROTECTION ACT OF 1990

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. RAHALL. Mr. Speaker, I was pleased to join our colleague, BRUCE VENTO, in introducing the Antarctica World Park and Protection Act of 1990 on April 4, 1990.

This legislation seeks to address the future of Antarctica and the question of whether the United States either will be a party to the exploitation of that continent's most fragile environment, or will be in the forefront of international efforts to preserve its unique ecosystem for the benefit of the global environment, scientific research and future genertions.

I think it is notable that this bill is being sponsored by the gentleman from Minnesota, the chairman of the Subcommittee on National Parks and Public Lands, and this gentleman from West Virginia, who chairs the Subcommittee on Mining and Natural Resources. Additional cosponsors include Representatives GEORGE MILLER, LAGOMARSINO, DELUGO, KOSTMAYER, OBERSTAR, WAYNE OWENS, and LEACH, all whom are paving the way for future bipartisan support from the array of commitees through which this legislation will travel. Moreover, this bill also enjoys the support of the chairman of the Committee on Interior and Insular Affairs, MO UDALL, and the chairman of the Committee on Foreign Affairs, DANTE FASCELL.

Due to a growing interest in the possible exploitation of Antarctic minerals, and the fact that the Antarctic Treaty of 1959—which provides for international cooperation on matters pertaining to scientific research—does not address nonliving resources, efforts began in earnest in 1981 among the consultative parties to the Treaty to devise a minerals regime for Antarctica. The consultative parties are the seven nations with territorial claims in Antarctica as well as 13 other countries, including the United States, involved in scientific research in Antarctica. These efforts culminated with an agreement adopted by the consultative parties in Wellington, New Zealand, in 1988 known as the Convention on the Regulation of Antarctic Mineral Resource Activities. This Convention establishes the regulatory framework for the prospecting, exploration, and development of mineral resources. On November 30, 1988, the United States became the 10th nation to sign the Convention. A total of 19 nations are party to the Convention.

It should be noted that this convention was adopted even though there is a great deal of uncertainty and debate on the extent of Antarctica's mineral wealth, and the ability to exploit it with existing technology. Even the American Mining Congress, in recent testimony before Congress, conceded that the region not only poses overwhelming obstacles to mineral exploration and development, but that any minerals likely to be found in Antarctica are abundant elsewhere and will continue to be readily available in the foreseeable future.

Nonetheless, the specter of mining in the fragile Antarctic environment, given credence

by an international agreement on mineral exploitation, is of great concern to many in this country and elsewhere.

This is a justifiable concern in light of the degradation of the Antarctic environment that is already taking place, not by developers, but by explorers and the very scientists charged with conducting research in Antarctica. A recent issue of Time magazine succinctly identified the situation as follows: "Over the years, human invaders have spilled oil into the seas, dumped untreated sewage off the costs, burned garbage in open pits, and let huge piles of discarded machinery slowly rust on the frozen turf."

To its credit, Australia was the first nation to announce that it would not sign the convention and would instead work for a permanent ban on the exploitation of Antarctica's mineral resources. Joined by France, Australia is now advancing a proposal for a new convention based on establishing a comprehensive framework for the protection of Antarctic's environment.

Both Australia and France are among the seven nations which have territorial claims in Antarctica and as such, their refusal to ratify the convention effectively blocks it from ever going into force. Despite this fact, the Bush administration strongly opposes abandoning the convention and is stubbornly pressing forward with various activities aimed at its ratification.

With this legislation, we are seeking to send a message to the world that the Bush administration's position is not necessarily the one held by the Congress of the United States.

The Democratic leadership of the Committee on Interior and Insular Affairs, in particular, is on record in support of the consideration of other alternatives than what is represented by the Convention on the Regulation of Antarctic Mineral Resource Activities. I, for one, am deeply concened that the course of action suggested by this convention will lead to irreversible adverse consequences on Antarctica's exceedingly fragil environment. The Antarctica World Park and Protection Act of 1990 would send a message to the rest of the convention members that the protection and management of the Antarctic is a preferable option.

The Antarctica World Park and Protection Act of 1990 would make it the national policy of the United States to protect and manage the lands and resources of Antarctica for the benefit of present and future generations of people of all nations. The Secretary of the Interior, acting through the Director of the National Park Service, would spearhead this effort. Although this legislation would provide a comprehensive approach toward protecting and managing the Antarctic, I would like to point out several provisions.

Under the bill, the Secretary would prepare both an inventory of Antarctica's resources and of the areas that are in need of restoration and special management due to past activities, and a general management plan appropriate for the management of Anarctica as a World Park. Copies of the inventory and plan would be sent by the Secretary of State to other nations. Beginning at the special consultative meeting of Antarctic Treaty parties in Chile in 1990, the United States would begin negotiating with the other Antarctic Treaty parties to establish Antarctica as a world park, to prohibit the prospecting, exploration, or development of mineral resources, and to minimize the adverse impacts on the environment of any ongoing or future activities.

In addition, this legislation would amend several environmental and historic preservation laws to further protect Antarctica. The Mining and Minerals Policy Act of 1970 would be amended to prohibit any mineral exploration or prospecting activity or mineral development activity in Antarctica by U.S. citizens. Any U.S. citizen or firm who violates this prohibition would be ineligible to obtain a Federal claim or mineral lease in the United States. In addition, the National Historic Preservation Act of 1966 would be amended to conform with the purpose of this legislation.

Mr. Speaker, the opportunity for the United States to protect and manage one of the world's last environmental refuges is now before the Congress. Without the necessary support, this opportunity could slip right through our fingers. I urge my colleagues to join Mr. VENTO and myself in supporting the Antarctica World Park and Protection Act of 1990.

SOVIETS SHOWING THEIR TRUE COLORS IN LITHUANIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. SOLOMON. Mr. Speaker, as we rush to reduce our defense budget we ought to pause long enough to learn the lessons being taught so clearly in Lithuania.

It should be obvious to everyone, Mr. Speaker, even to the greatest enthusiasts for glasnost, that Mr. Gorbachev is showing his true colors in crushing the freedom loving people of Lithuania.

And while we're at it, Mr. Speaker, we ought to encourage Norway, our ally, to give the brave Lithuanians the oil and gasoline they need, the fuel that Mr. Gorbachev is cutting off to make the Lithuanians submit to continued slavery.

But isn't this typical of the Communists? Isn't this proof they haven't changed one bit, despite their Western manners, their tailored suits, and mastery of modern PR techniques?

Over 50 years ago, the Soviets starved millions of Ukrainians to death rather than let them exercise even the most basic freedoms.

A few years after that, as part of a cynical deal with Hitler, Stalin gobbled up the Baltic States. Now, Stalin's heir and Time magazine's Man of the Decade won't let the Baltic States have their freedom.

The Lithuanians are fighting for their freedom, and we should do everything we can to help them.

THE NEWSPAPER RECYCLING INCENTIVES ACT OF 1990

HON. D. FRENCH SLAUGHTER, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. SLAUGHTER of Virginia. Mr. Speaker, as publicly elected officials, we have the responsibility to shape those policies which will better enable the American people to share in a commitment toward better preservation of our surroundings and an overall reduction of waste. Whether or not our efforts are directed toward cutting the Federal budget deficit through an elimination of spending or toward abating our national solid waste problems, we must stop wasting time. I believe that we, as Members of Congress, must also increase our role as active participants in the race toward effective waste elimination.

The national pollution statistics are startling. In the United States, we generate 3.5 pounds of municipal solid waste per person per day, representing a total generation of approximately 150 million tons for the entire population per year. Given that only 10 percent of this waste is recovered through recycling or other conversion methods, the need to improve our resource recovery system is imminent.

Recycling represents one of the most effective methods by which we can promote a healthier environment. By establishing greater incentives for recycling and resource conservation now, we can defeat the rising trends in pollution.

In this regard, I am pleased today to introduce the Newspaper Recycling Incentives Act of 1990, legislation to provide a tax credit to publishers of newspapers who use recycled newsprint. Some reliable estimates suggest that it takes some 18,000 trees to publish 1 Sunday edition of a major newspaper. When only 2.5 percent of newspaper in the United States is recycled, a recycled newsprint credit against income tax would encourage our newspaper publishers to purchase and print on paper with recycled fibers. The legislation I am proposing would offer, initially, a 15-percent credit to publishers who use paper consisting of at least 40 percent recycled newsprint materials.

It is my hope that the recycling newsprint tax credit bill will help the waste reduction and conservation campaign.

COMING AGE OF THE TILTROTOR

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. WELDON. Mr. Speaker, Congress must decide this year whether it will fund the V-22 Tiltrotor Aircraft Program. As everyone knows, our decision will have a major impact on national security. What many people aren't aware of is the fact that this military investment has enormous potential for huge payoffs

in civil transportation and industrial competitiveness.

The American Helicopter Society recently published an article, "The Coming Age of the Tiltrotor," outlining one aspect of the civil benefits of the V-22 Program. Mr. Speaker, I ask that this article be inserted in the RECORD, and urge all of my colleagues to consider its implications as we work to craft a Federal budget that meets the many needs of this Nation with increasingly limited resources.

Finally, Mr. Speaker, I urge those who believe that the United States must fully pursue development of the Tiltrotor aircraft to join the congressional Tiltrotor technology coalition, and work with us in legislative process to exploit this development which will keep America No. 1 in the aerospace industry.

[From the Vertiflite, March/April 1990]

THE COMING AGE OF THE TILTROTOR

(By Philip C. Norwine)

(In Part 1, published in the January/February issue of Vertiflite, Mr. Norwine discussed the history of the V-22 and tiltrotors, as well as a number of development studies and potential configurations for civil operations of the tiltrotor.)

NEW DESIGN CIVIL TILTROTOR AIRCRAFT

All-new designs [of tiltrotors for the civil role] started with an 8-place corporate executive or public service aircraft, which would be very similar in size and appearance to the present XV-15.

The next size studied was an all-new 19-place corporate aircraft which features a canard, V-tail, and mid-wing arrangement. This design has fixed engines, with only the rotor and transmission rotating. This size tiltrotor could be effectively used in emergency medical service.

The largest configuration studied was an all new 75 passenger commuter aircraft. This was configured with 15 rows of seats in a 3-2 abreast arrangement. As with all of the designs, it includes space for luggage and normal airliner amenities.

WHERE IS THE MARKET?

A market assessment of these configurations, [including those starting with the V-22 as a base, discussed in Part 1] found the largest requirement in the 36-45 seat range. This was driven by the high density intercity commuter market, which was the largest market segment. It is noted that the relatively small demand for the 31-place version is due in large part to this being the only unpressurized alternative.

FAA TAKES ACTION

In response to the National Aeronautics and Space Administration/Federal Aviation Administration/Department of Defense study results published in June 1987, the FAA took action. FAA Administrator, T. Allan McArtor, announced in June 1988 that the FAA would be ready for provisional certification of the V-22 by late 1992 (now 1993) and would be ready to certify a pressurized derivative by the end of 1995 (now 1996). This and other regulatory actions have been taken by the FAA to prepare for the advent of civil tiltrotor aircraft. Actual dates will depend on the combined planning and funding of aviation agencies, operators, and industry.

CIVIL TILTROTOR BENEFITS

Given the above indications of a marketplace, what are the civil benefits of a tiltrotor aircraft? The principle benefit a tiltrotor aircraft brings to civil aviation is that it does not need a runway. This significant characteristic, plus the en route turboprop speed and the fact that its range matches a large majority of current airport-airport traffic, brings with it an impressive list of attendant benefits to both the traveler and the community as a whole. Let me enumerate some of those benefits.

1. Tiltrotor will improve efficiency and extend economic life of the currrent infrastructure, e.g. airports.

The upward growth statistics in the U.S. air transportation system are now daily news, and it should be pointed out that much of Europe and some points in Asia are in even worse condition. Much can and will be done to alleviate both air and groundside congestion. In the wake of growing air traffic, hub-and spoke operating systems, and airline deregulation, one of the most visible issues is congestion and delay at most major airports.

The annual number of U.S. air passengers will exceed 500 million this year and will double again in a decade. This growth in travel demand is a principal reason why the FAA deems 16 airports to be "congested" (meaning they experience more than 20,000 hours cumulative delay). The FAA forecast that 58 airports will be congested by the year 2000. It is estimated that in 1988 congestion cost airlines $2 billion. Although the Department of Transportation is taking steps to alleviate delays, particulary during peak hours at major hubs, a number of aviation experts believe that congestion may soon become intolerable at many major airports. The fundmental limits to growth in air travel are airport, runway, and air space capacity. Ways are being taken to expand those limits efficiently and safely. To offset the trend, huge amounts of money are being programmed. In New York, up to $6 billion will be spent on airport improvements to get through the 1990's. A new airport in the New York region is out of the question. At DFW airport, a $3.5 billion airport improvement program was announced in October 1989 to get through this decade. But the limits to continued growth of coventional air travel ultimately remain.

One principal contributor is the inefficient use of available runway slots. Short haul and long haul aircraft use equivalent runway slots, which have equal benefit to travelers, but represent a great spread in economic benefit to operators. It is notable that for 41 percent of the flights arriving at the 10 busiest airports in the U.S., the average flight travels less than 300 miles. This statistic increases to 75 percent of all flights to Boston, where population centers are more concentrated, and decreases to 15 percent of flights to Denver, where the population is less dense.

New York is a prime example of runway economic inefficiency. Here, 56 percent of the slots accommodate 82 percent of the passengers while 44 percent of the slots accommodate only 18 percent of the passengers. Even more significant, of the 2,650 daily commercial operations from New York's three airports in 1988, 50 percent of the origins/destinations were within 300 miles of New York. What can be done? This is where a tiltrotor could show very high economic value.

For the 300-500 mile market, a tiltrotor transportation network would be a collector-feeder service for existing airports neither requiring runways nor occupying fixed wing approach or departure slots. It would also provide direct point to point (city to city) service. A tiltrotor system, supplementing existing fixed wing service, would delay the need for airport expansion or replacement as traffic demand continues to increase. What it provides in return is billions in additional revenue for the operators who would use the runway slots offloaded by tilt-rotor for longer range, higher revenue producing flights. Future airports could be remotely located, devoted to long haul traffic with tiltrotor connections to city centers in the region.

The best use of a tiltrotor occurs as the transportation system evolves and a national network of vertiports is constructed to service cities and non-aviation communities. This extension of the system would bypass airports completely, at far less fixed investment cost than is involved for airport expansion or relocation. In round numbers, air travel could be brought to some 200-300 widely dispersed vertiports for the same price as building one modern airport which serves only a single population center. Such a system would proclude or postpone the need for airport expansion.

2. Tiltrotor will save travel time for the passenger

It can be shown that over ranges of 100 to 500 miles, depending on the specific city pairs, a tiltrotor with a cruise speed of over 300 miles an hour, considering ground travel and normal airline procedures (independent of increasingly probable delays) promises to provide a passenger with 2-4 hours of portal-portal time savings per trip when compared with conventional jet transport. This means many overnight trips could be replaced with day trips to accomplish the same business purpose. Vacationers could extend usable vacation time by a whole day in many circumstances. It is interesting to realize that for short distance intercity travel, airline trips are mostly spent on the ground. At a distance of 700 miles, 50 percent of the total trip time is spent on the ground. For 300 mile trips, this increases to two-thirds of the trip time. In reviewing the delay statistics for the U.S. in 1988, it is amazing to realize that the cumulative delay cost over 50,000,000 lost hours of passengers' time. And it's getting worse.

3. Tiltrotor affords flexibility in destination sites

Some vertiports will be located at airports, using land already dedicated to aviaiton but not needed for fixed wing operations, with connections to long range aircraft. These will connect to small suburban vertiports in various cities within 300-500 mile range.

Those with vision realize that the two dimensional congestion in high density areas is overcome in the third dimension by a tiltrotor. An urban vertiport requires only a small area. A 4.5 acre facility can handle 3,000 passengers per day, or about a million passengers per year. Studies conducted under FAA auspices indicate that a "typical" vertiport for tiltrotor passenger services would range in cost from $11 million to $80 million, depending on whether it is in a suburban area, located over a river, or built over a highway.

Many cities are surrounded by highway networks. Selected locations on these roads could be bridged by a vertiport using already public property, in an existing noise environment. A bridge vertiport could bring together airport connections, rail or subway connections, plus road, car, and bus connections. Tiltrotor adds a new dimension and can offer intermodality with every other form of transportation.

As population shifts occur, new vertiports can be built to accommodate transportation needs at very low relative cost. This is in contrast to airports (or rail terminals) which remain fixed transportation nodes regardless of demographic changes. It is highly likely that further construction of airports, conveniently located to meet the needs of a shifting population, will be neither environmentally nor economically possible. By contrast, a tiltrotor system would provide flexibility to adjust to changing transportation needs by planning vertiports in advance of population growth, i.e. in low density areas. In fact, a tiltrotor transportation system will attract new centers of economic development.

Building tops, river piers, and super highways become usable sites for vertiport locations. Most cities are on rivers. Such sites afford excellent access to city centers without need for land space. One solution, planned by the Port Authority of New York and New Jersey, will bridge existing piers on the Hudson River to create a large vertiport adjacent to downtown New York.

4. Tiltrotor has low environmental impact

Vertiports, although not without cost and environmental concerns, require far less land space, as stated, and create far less environmental impact than do airports. Experience to date is that tiltrotor noise levels are considerably less than much smaller helicopters at takeoff and much lower than same weight fixed wing aircraft in cruise flight. According to the FAA/NASA/DoD study, tiltrotor noise will be well within Stage 3 fixed wing or helicopter levels. Additonally, because of its high angle approach and departure paths a tiltrotor characteristically presents a very small noise footprint, inconveniencing a relatively small area compared to other types of aircraft.

5. Tiltrotor requires modest fixed infrastructure investment.

It has been noted that the fixed investment for vertiports themselves (including ground access, parking, and terminals) is inexpensive in relative terms. Whereas $4-6 billion is required to build one airport (assuming site availability), it would cost far less for a total tiltrotor system, including aircraft development and production together with 18 vertiports. A network of vertiports around New York connected with a network of vertiports around Washington and Boston would serve a high percentage of the air travel on the Northeast corridor. It is interesting to note that a 300 mile radius from these cities reaches half of the U.S. population.

Additional needs are communication, navigation, and air traffic control systems which would be independent of but interrelated with ATC facilities already in place. Using GPS (Global Positioning System), a tiltrotor aircraft could operate safely providing true point to point service with a high degree of three dimensional navigation precision. It is noted that GPS is already planned as the eventual universal navigation system which, incidentally, will be useful to all forms of transportation. In the meantime, LORAN or equivalent would provide adequate point to point navigation for a tiltrotor system with an MLS approach control.

6. Tiltrotor can foster economic development.

The need for access to air transportation in today's economy is essential. When a tiltrotor transportation system becomes available, new economic nodes, i.e. commercial/industrial population centers, can be expected to develop around vertiports in previously uninhabited or under-developed land. As the capacity for services at major airports becomes increasingly saturated, efficient economic development would thus benefit from a tiltrotor reliever system, decentralizing economic nodes to points of new economic development remote from current airports.

Civil Tiltrotor Criticism

Having reviewed some of the benefits, some of the philosphical obstacles to the evolution of a civil tiltrotor system should be mentioned. There are always detractors to new ideas: those with parochial interests; those whose thinking is more guided by past experience than by future, opportunities; those who insist that anything new be measured within certain existing standards; those who simply fail to understand or are uninformed find various criticisms more readily than they find workable solutions.

"It Won't Work"

There are those who say, "it has been tried before, and it didn't work." This generally refers to several helicopter airport to downtown or intercity routes which have been operated with limited success. If helicopters haven't worked economically, why should tiltrotors?

First, the tiltrotor isn't a helicopter. It will operate at longer ranges and higher speeds; that is, at more productivity per unit investment. It will operate at higher levels of reliability and lower levels of cost. These factors will work to offset the higher initial cost of a tiltrotor.

Two non-economic reasons that helicopters have had limited success are lack of broad-based demand and lack of adequate heliports. These factors go together. From the congestion situation, which is given very limited discussion above, will come new levels of demand for air transportation alternatives which have not existed in the past. The helicopter has been a short distance convenience rather than a forecast 300 mile necessity. Heliports/vertiports will follow the demand for growth in service.

In this regard, one should look at the growth in the use of hospital heliports. What were once sacrosanct "quiet zones" have been transformed by helicopter emergency medical service (EMS). Today, there are 911 hospital heliports in America. When a need is clarified, the facilities will follow. I forecast that the demand for alternative (non-runway) air service will meet with open arms an effective, safe, and swift civil tiltrotor service within the decade.

"Tiltrotors Will Damage the Commuter Fixed Wing Market"

Many manufacturers are competing with fixed wing aircraft in the commuter market. In addition, an estimated 5,000 additional long haul jet transports will be added to the already taxed air transport system in the next decade. But the number of slots per runway are relatively fixed. Both the commuter airplane and the long range jet markets will flourish as long as there is runway space in a particular market region. As runway space reaches saturation, operators may be expected to seek higher economic return from available slots with larger, longer range aircraft. This would be possible if part of the traffic demand is transferred to non-runway tiltrotors.

A tiltrotor system will relieve runway traffic by operating between city centers independent of airports and/or in bringing air terminals. For some markets, the runway slots made available could increase capacity for either commuter airplanes or long range airplanes. That selection of aircraft is up to the operators. The tiltrotor, rather than harming, should thereby enhance the commuter market in many regions.

"Your Machine Is Too Complex for Commercial Service"

While it is granted that a tiltrotor has more mechanical parts than a fixed wing airplane, its mechanical reliability is in nearly the same category. Like a turboprop, it has a turboshaft engine with reduction gear box and propeller in each nacelle. These components are mounted on a common spindle for conversion. A ball-screw actuator, which is much like the flap actuator on a conventional airplane, moves the nacelle for vertical flight. Since it spends most of its life in an airplane mode flight, a tiltrotor's components and airframe accumulate no greater fatigue stress than any other airplane. Modern maintenance avoidance technologies plus on-board diagnostic systems assure on-condition maintenance equal to or better than most modern jet aircraft. It is noted in this regard that the two "low technology" XV-15's have been flying for 12 years with essentially no spare parts and very little mechanical difficulty. This record would be enviable for an aircraft in daily service and is truly remarkable for a research aircraft.

"It Won't be Allowed to Operate in Cities"

This is a time-honored objection. The same was said of barges, trains, street cars, automobiles, airplanes, and helicopters. Each in its day met serious community objection, but in each case public need led to public acceptance. Today, of course, this issue is tempered by environmental sensitivity. Locations in established public areas, as suggested above, with existing "acceptable" noise levels would not be adversely impacted with the addition of a vertiport. In the early days of the "steam carriage," the laws in Great Britain provided that at least three persons had to be employed to drive the steam carriage, and while the vehicle was in motion, at least one had to precede it on foot no less than 20 yards ahead. The city of Jacksonsville, Florida, in the early days of aviation, had a law that for the safety of the community, no airplane would be allowed to pass over the city at any height above 500 feet. Times change and attitudes change. Meeting needs requires education and acceptance.

It Costs Too Much

Saving the best for last, one runs into the "comparison syndrome" in regard to cost. The tendency in today's analytical world when evaluating anything new is to immediately find some way to "make a comparison" with the nearest existing alternative. The established measure of cost comparison in the transport industry is cost per seat mile. Critics are quick to first study the seat mile cost of a tiltrotor and say that since it costs more than an airplane it has no chance economically. This over-simplified assumption is sufficient for some to rule out the tiltrotor.

Although it flies like an airplane, a tiltrotor is not an airplane in the economic sense. One does not evaluate a taxi on a seat mile as if it were an air transport. If that were the case, an economist would never get in one. New economic measurements must be applied, which includes such aspects as portal to portal cost, the economic leverage of runway value for the operator, the major

reduction in fixed facilities cost, and the value of time to the tiltrotor passenger. These are all significant factors which require a tiltrotor be assessed by a different economic standard than those measures which are simply "historically available."

"What About Cost?"

What about cost? The FAA/NASA/DoD study stated "Tiltrotor is competitive with fixed-wing aircraft under certain conditions, especially when used in applications for which it is best suited, namely, when VTOL capability is desired for at least one end of a flight. In order for the civil tiltrotor to compete successfully with fixed-wing aircraft, a supporting infrastructure needs to be in place."

The study included a thorough cost analysis which reveals how a tiltrotor can be competitive. For example, in a 300 mile trip between two airports, the block time for a tiltrotor is equal to or less than a turboprop, or in most cases, a jet transport. However, a comparison from runway to runway doesn't take full advantage of the principal attribute to a tiltrotor. While it competes in time, it will not compete cost wide when so used. Ground transportation costs make up the difference.

Preliminary analysis of actual operating cost in the FAA/NASA/DoD economic analysis examined a 230 mile trip. In rough terms, the tiltrotor trip cost is projected to be $22 more per seat than a turboprop, but $36 less per seat than a helicopter. Consider, however, that each element in an air trip has a cost. When ground transportation cost is included, the total portal to portal cost will most often be in favor of a tiltrotor. This factor closes the cost loop! On a portal to portal trip of under 500-miles, given properly situated vertiports, trip time will always favor a tiltrotor. Looking at the question in this light, if these facts hold true, it's a dynamite market!

The challenge to the tiltrotor transportation system is that it must be perceived as affordable and economically justifiable at startup. The civil tiltrotor will not have the luxury of beginning its competitive life at square one; it will be born into an era of fixed-wing transportation that is fully matured and is known for its affordability.

Civil Intercity Tiltrotor in Europe

Looking at Europe, it is reported that 35 airports are now experiencing serious congestion levels aggravated by substantial air traffic control problems over the continent. With use of a tiltrotor, most of the continent is within two hours of London. Operating from uncongested vertiports near city centers, rapid air service could be added to the present system without burdening either airports or the converntional air traffic.

Civil Tiltrotor in Japan

In the island nation of Japan, a network of rapid transportation is needed. Tokyo is too crowded. As virtually all of the nation is within two hours of Tokyo by tiltrotor, there are various plans for spreading the development and financial centers to other parts of Japan. This will be made possible, in part, by adding a VTOL transportation system. Recommendations for such a system range from establishing a system of 50 heliports—or one per prefecture—to Heliport 600, which would divide Japan into 600 30km squares with one heliport/vertiport each, to the Japan Heli-Network or JHN 3300 concept, for which a national study has been established. In the JHN 3300 project, it is proposed to cover the entire Japanese archipelago with a complex of helicopter service in a network of 3300 heliports or one for every municipality in Japan. Services would include passenger, emergency medical, rescue, agricultural, media and business, etc., using both helicopter and tiltrotor.

Civil Tiltrotor in the U.S.

Within the U.S., I have no doubt that by the late 1990's, we will have a tiltrotor transportation system in the Northeast corridor, and that there will be plans for its expansion into other regions of the U.S. and many other industrial nations.

Although my view must be regarded as somewhat parochial, it is apparent to many observers that the tiltrotor is unique among various potentials for providing a truly effective new element in transportation. Tiltrotors will link populations centers with distant cities, suburbs, airports or proposed remote area airports where they interconnect with long haul aircraft. The tiltrotor's principal contribution, that of relieving airports which are on the verge of strangling with success, is by itself sufficient justification for national commitment to tiltrotor. Although principal emphasis has been on city-city transportation, the added value of tiltrotor aircraft in off-shore oil service, package express, emergency medical service in remote areas, public use in border control/drug interdiction, and coastal rescue operations, all add to quality of life in unmeasurable terms.

By all accounts, there is no more exciting technology on the transportation horizon today than the tiltrotor. Its value to public transportation in the 21st century can be likened to the impact of the airplane in the 20th century.

It is a great honor to have been selected for this prestigious lecture opportunity. I want to thank you, and to close with the observation that I believe Sir George Cayley would be an ardent supporter of the coming age of tiltrotor.

CELEBRATION OF EARTH DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mrs. MORELLA. Mr. Speaker, I have listened with great interest to my colleagues talking about Earth Day events around the country and I am very impressed with how far we have come since the first Earth Day 20 years ago. But the environmentalists are right: we should and must do more. One important way to accomplish this is to recognize the importance of what we are doing this week to celebrate Earth Day, and then to pledge ourselves to continue working toward these goals. Let me then, point out a few of the many projects which I have come in contact with or know about.

In celebration of Earth Day, I took the Metrorail to work today. The Washington Metrorail entices commuters to choose alternative transportation. It was a delight to reach my destination in 29 minutes, travel in a clean, safe environment, have time to read my paper, chat with constituents, and know that my car was not adding to the congestion and air pollution in the Washington metropolitan area. Congratulations and commendations to Montgomery County for offering riders free ride-on and Metrobus service to Metrorail.

Activities within the State of Maryland in which many of my constituents will participate include "Give a Day for the Bay," when on Saturday, April 21st, 150 volunteer groups will be cleaning up the Chesapeake Bay. I have been told that over 30,000 people will be participating in over 1,000 events having to do with the Chesapeake Bay.

Save Our Streams has organized an "Adopt-a-Stream" activity with a goal of having 5,000 miles of streams adopted. Already, they are over their goal and we are still 3 days away from April 22. At least one of my staffers has pledged a section of "her stream."

In the city of Baltimore, an international tree-planting will take place with Jean-Michel Cousteau, representing the Jacques Cousteau Society, helping Gov. William Donald Schaefer plant trees. Earlier today, I joined several of my colleagues in a tree-planting ceremony on the northeast side of the Capitol.

In neighboring Montgomery County, my congressional district, Sunday April 22 will be Rockville Science Day at Montgomery College. Programs that day will show how science affects our lives. With recycling as a theme, a rap singer will pay a musical tribute to recycling, and a demonstration will be given on how old paper is recycled.

Thinking worldwide, practicing locally, we can all work to make this Earth more livable.

U.S. MUST OPPOSE CUTTING OFF FUEL TO LITHUANIA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. OAKAR. Mr. Speaker, I rise in opposition to President Gorbachev's decision to begin tightening the economic noose around Lithuania.

The United States must respond unambiguously to the Soviet Union's decision. I urge President Bush to immediately communicate to President Gorbachev that cutting off any fuel to Lithuania is unacceptable.

Lithuania stands like David against Goliath, with faith and determination against formidable odds. In this hour of fear and uncertainty, the United States must do all that it can to strengthen our commitment to an independent and democratic Lithuania, free from foreign domination.

For two generations, we supported the aspirations of the Baltic peoples. This generation of Lithuanians now affirms its right to self-determination and its intention to rejoin the community of sovereign nations. As a Nation of free men and women, we cannot forget our commitment to freedom and independence throughout the world.

PRESIDENT MOBUTU OF ZAIRE SHOULD NOT BE CRITICIZED

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. BURTON of Indiana. Mr. Speaker, it has come to my attention that several Members of Congress recently made very disparaging remarks about the President of Zaire in committee. I believe such conduct is not only unprofessional, but also reflects poor taste.

Zaire suffers from the same problems as almost all of Africa: Problems of poverty, economic development, political evolution, and human rights. We ought to continue to press for improvement in all these areas. Indeed, President Mobutu has shown great responsiveness to demands for reform from the people of Zaire. But in all discussion of Zaire, in all fairness, there ought to be mention made of President Mobutu's very real achievements and contributions. After all, it was President Mobutu who stabilized the ethnic situation in Zaire and put an end to the rampant bloodshed of the early 1960's. It was President Mobutu who stood fast as one of America's few loyal allies in Africa throughout the 1960's and 1970's. And most recently, it was President Mobutu who played a key role in moving along the peace process in Angola. That peace process is showing signs of revival, and Mobutu continues to play a crucial part in it.

Friendship ought to count for something in this world, and at the very least, we ought to be fair when we raise our voices to criticize.

THE AFFORDABLE HOUSING FOR YOUNG AMERICANS ACT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. SCHULZE. Mr. Speaker, most young Americans today cannot afford to buy a first home. The rate of home ownership for young Americans is falling rapidly for the first time in recent history. Today, with my Ways and Means colleague, BOB MATSUI, I am introducing legislation to take a first step in providing affordable housing for young Americans.

The Affordable Housing for Young Americans Act would allow parents and grandparents to provide starter home seed money to their children and grandchildren from their individual retirement accounts. Recent studies show that the lack of an adequate downpayment is the chief reason young people can't afford a first home. By allowing IRA account transfers without penalty, our legislation would help provide the necessary funds for young Americans to buy their first home.

Mr. Speaker, a first home for a young couple is often the key in our society to ensuring upward mobility, personal savings, and social stability. I urge my colleagues to support this measure, drafted carefully to provide a new pool of capital for young Americans to afford the American dream of a first home.

I urge my colleagues to support our bipartisan legislation and take an urgently needed step in reversing the decline of home ownership by young Americans.

IN HONOR OF ARCHBISHOP DESMOND TUTU

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. DIXON. Mr. Speaker, I rise today to honor a man of tremendous courage, persistence, and vision. For well over a decade, Archbishop Desmond Tutu has been a prominent exponent of the horrors of apartheid in South Africa. With frank eloquence, Archbishop Tutu has spoken openly of the grave injustices suffered by black South Africans under a system explicitly predicated upon the notion that black and white should remain separate and unequal. In recent years, this Nobel laureate has raised the consciousness of millions worldwide and helped to persuade and inspire governments, institutions, and individuals to join the effort to peacefully dismantle the violent system of white minority rule in South Africa.

On May 17, Archbishop Tutu will be honored by the South African Refugee Scholarship Fund, a program he founded to enable student activists, forced to flee from their homes in South Africa and Namibia, to complete their education. The scholarship fund, administered by the Phelps-Stokes Fund, provides for tuition, room and board, transportation, books, and other basic services such as dental and medical care. Refugees now attend colleges and universities across the United States. The program boasts a 90-percent graduation rate and propels scholarship recipients into careers such as nursing, engineering, agronomy, and education which are crucial to the growth of Third World nations.

Born to a schoolteacher in the western Transvaal, Desmond Tutu attended high school in a black township outside of Johannesburg from 1945 to 1950. Unable to afford a medical education, he earned a teacher's diploma at Pretoria Bantu Normal College, and in 1954 received his B.A. degree through the University of South Africa. Having taught for 3 years, Tutu enrolled at a seminary outside Johannesburg, becoming deacon of that city's racially mixed St. Mary's Anglican Cathedral in 1960.

He studied and lectured in London for several years before returning to Johannesburg in 1975 as the first black Dean of the Anglican Church in South Africa. Tutu next assumed leadership of the South African Council of Churches. During this 7-year stewardship, the council provided legal and financial aid to victims of apartheid, detainees and the families of political prisoners, and Tutu spoke out against foreign investment in South Africa, openly supporting the aims—though not the tactics—of the then-banned African National Congress.

In 1984, Archbishop Tutu was awarded the Nobel Prize for Peace and became the first black Anglican Bishop of Johannesburg. In 1986, he was appointed Archbishop of Cape Town, in which capacity he continues. He has been Chancellor of the University of the Western Cape since 1988.

Recent concessions by the South African Government, such as the release of Nelson Mandela, the unbanning of the African National Congress, and the easing of certain restrictions on the rights of black South Africans under apartheid, can be attributed to the imposition of economic sanctions by nations and corporations which have heeded Archbishop Tutu's urgent appeals for action.

As the Southern African Refugee Scholarship Fund prepares to honor its distinguished founder, I ask you to join me in applauding the Herculean efforts of Archbishop Desmond Tutu to bring peace, freedom, justice, and opportunity to the oppressed black people of Southern Africa, and in wishing for him, his wife Leah and their four children long life and continued strength and success in their ongoing struggle to halt the violent cycle of death and deprivation imposed on the black people of Southern Africa by South African apartheid.

BEECHWOOD BISONS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. FEIGHAN. Mr. Speaker, I am here today to pay tribute to the Beachwood Bisons, high school basketball champs from Beachwood, OH. The Bisons finished the season with a 22–2 record, the best in school history, and good enough to win the first title of the Metropolitan Area Conference. The Bisons also gave us a thrill with their success in the State tournament, snagging the sectional title before falling in the district finals.

I would also like to recognize each and every player, coach, and school representative and to congratulate them for a fine season:

Players: Neal Jacobs, Rondell Lewis, Adam Stern, Troy Thomas, Derrick Britton, Mike Gottfried, David Kaye, Doug Bloom, Tony Britt, Chris Gates, Rodney Lemons, and Elliot White.

Pat Moore, head coach Dennis Honkala, assistant; Tom Michaels, assistant; Bill Schumacher, athletic director; Mike Sherer, trainer; Alan Rosenthal, team physician; Warren Snow, student trainer; Lee McMurrin, superintendent; Randy Boroff, principal; Joe LaGuardia, assistant principal.

Thanks again for a great season!

YOU WOULD HAVE TO CUT 700 THOUSAND-YEAR-OLD REDWOODS TO PAY THIS CORPORATE RAIDER'S YEARLY SALARY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. STARK. Mr. Speaker, too often the headlines about corporate raiders makes the average reader's eyes glaze over. What does it mean, they ask?

Let us put the salary of one of the more ruthless corporate raiders, Charles Hurwitz of Texas, in terms everyone can understand, redwoods. Hurwitz is chairman of the board of Maxxam Corp. which owns Pacific Lumber. Pacific Lumber has the largest holding of old growth redwoods in America.

Hurwitz was paid about $8 million. Pacific Lumber would have to cut 700 old-growth redwoods, each approximately 1,000 years old, to pay his salary.

Old-growth redwoods are being buzz sawed every working day to either pay this corporate raider's huge salary or to pay off the junk bonds with which he has saddled Pacific Lumber. This is wrong. These towering symbols of California and America deserve a better fate then to end up as an extra zero on Hurwitz's bonus check.

Let us also put Hurwitz's salary in perspective. His salary was more than the combined pay of the chairmen of General Motors, IBM, and General Electric. Hurwitz is one of the highest paid chairmen of the boards in America.

The price Americans are paying for that greed is the destruction of pristine old-growth redwood forests. Majestic and stately trees are being mined for quick profits. The heritage of California and America is being looted by an old-fashioned robber baron.

What has Hurwitz done for the local communities in northern California? He has hastened their demise by at least a decade by accelerating the cut of old growth. He is sending the logs to Japan rather than having them worked in the United States. Profits go in his pocket or for interest on junk bonds. More than anyone else the people in northern California should be outraged at the behavior of Hurwitz.

Mr. Speaker, I invite my colleagues to join me in cosponsoring pieces of legislation. The first is H.R. 3818, which would put a spectacular area known as the Headwaters Forest, scheduled for cut by Pacific Lumber, under study for inclusion in the Wild and Scenic Rivers Act. The second bill, H.R. 4168, would impose an excise tax of 35 percent of the value of the old-growth redwoods cut down.

Both of these measures are needed because of the mindless actions by a ruthless and greedy corporate raider. Every action taken by Hurwitz has been in the interest of greed and against the interest of employees and environmentalists. It is time to end this national tragedy.

HONORING HARVEY E. TAKACS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Ms. KAPTUR. Mr. Speaker, it is a privilege to introduce to my colleagues in the House of Representatives a man from my district who has dedicated his working life to building, developing, and strengthening the trade union movement in the Toledo area, especially for skilled tradespeople who operate as professional ironworkers. Mr. Harvey E. Takacs has achieved better hours, wages, and working conditions for those ironworkers to raise their economic standard in this craft higher than ever before. His steadfast determination has made him well known throughout local 55, as well as throughout the Greater Toledo area. He has been able to balance labor and management concerns for his union, a necessary prerequisite for equality in bargaining for long-term contracts acceptable to all parties. Those who have benefited from his hard work have the highest respect for this man. He is best known for living by the words, "An honest man's word is as good as his bond." His sincere personality and sterling reputation influence everyone he interacts with and results in a faultless impression. However, this is not the only commitment to which Harvey gives more than 100 percent of his energies. He has been a loyal and committed husband to Joyce for 40 years, caring and loving father of William and Robin, and affectionate and entrusted grandfather to Allison, Meredeth, and Brecken. On April 20, this well regarded man will retire from the ironworkers, after 43 years of hard work. He will be able to spend more of his time with his family and devote time to his other interests which are substantial and diverse.

Harvey began his career by following in his father's footsteps. His father had been a business agent for local 55, and Harvey joined the ironworkers profession as an apprentice at the age of 15. Shortly after, he began serving local 55 as an elected officer as part of the examining board and the executive board and has held offices such as business agent, president, and president-assistant business agent. Harvey has demonstrated his skill and made the most progress for the ironworkers in his 22 years as chairman of local 55 negotiating Committee. He has also served as a delegate to Northwestern Ohio Building and Construction Trades Council, and held the position of vice-president and president. Obviously, Harvey has been concerned throughout his career about the future of the ironworkers. He has served as chairman of the joint apprenticeship committee to make sure that the future ironworkers of Toledo will be just as strong an organization, if not stronger, than it is today. Mr. Takacs is also concerned with the quality of life for members currently working as ironworkers and has served as a trustee to local 55 pension fund, as well as senior labor trustee to Ironworkers' Health and Welfare Fund. Harvey Takacs has never taken small steps or restricted his vision only to his local. For 22 years, he has served the Ironworkers as a delegate to the Michigan, Great Lakes, and vicinity Ironworker's District Council. Also for the last 6 years, he has served in the capacity of financial security-treasurer for that organization.

On the international level, Mr. Takacs has been elected 5 consecutive times as a delegate to the international convention and has been selected as a member of the labor delegation to tour Israel. He has done his share of community service as well. Harvey is a member of the executive board of Substance Abuse Service Inc., better known as SASI, and is a member of the Toledo Dental Society Peer Review Committee.

Mr. Speaker, I am very honored to be able to recognize Harvey E. Takacs today. He has improved the quality of life for the ironworkers and all working people through his vision, strength, integrity, and honesty. During negotiations, he always tried to achieve what was best for our community and for the ironworkers because of his commitment and dedication. Because he has always been completely upfront with his feelings and opinions, I do not believe their is a single person who does not respect the positions that he holds. He has made a difference in Toledo, and for all workers and families in our Nation. It gives me great pleasure to share with you a glimpse of the hard work and accomplishments of Harvey E. Takacs. For all of these reasons, I hold the deepest respect and admiration for this man. He well embodies the words of John Fletcher, an English dramatist who wrote, "That soul that can be honest is the only perfect man."

"BIGHOUSE" GAINES: WINNINGEST COACH

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 19, 1990

Mr. NEAL of North Carolina. Mr. Speaker, the winningest coach in college basketball today is Clarence (Bighouse) Gaines of Winston-Salem State University. Only two college coaches in basketball history have won more than 800 games—Bighouse Gaines and the late Adolph Rupp of Kentucky.

And let me assure you, Mr. Speaker, that Coach Gaines hasn't finished yet. At age 66, after 44 seasons at Winston-Salem State, he has 806 wins and 395 losses, and shows no interest in retirement. He may well surpass the record of Coach Rupp, who had 875 wins.

On April 28, there will be a "Bighouse Gaines Tribute" in Winston-Salem at the Lawrence Joel Memorial Coliseum, giving thousands of Coach Gaines' admirers a chance to honor him at a black-tie dinner.

The honorary co-chairmen of this event are Earl (the Pearl) Monroe, who starred at Winston-Salem State before his NBA career in Baltimore and New York, and Billy Packer, the CBS basketball analyst, who lives in Winston-Salem and was himself a great player at Wake Forest. The tribute is being organized by Mrs. Claudette Weston and others in Winston-Salem.

Mr. Speaker, in Winston-Salem we are extremely proud of Bighouse Gaines. Not only is

he one of college basketball's greatest coaches; he is one of our finest and most effective community leaders.

He has helped and influenced thousands of young people—not all of them athletes—steering them through rough spots in their lives and inspiring them to make the most of their talents and opportunities.

In addition to his heavy duties at Winston-Salem State, he has been deeply involved in community activities, organizing youth sports and programs, and serving on more committees, boards, commissions, and fundraising campaigns than anyone could count.

Clarence Gaines was born and grew up in Paducah, KY. He was an All-American football player at Morgan State in Balitmore, where he got his nickname. A college official saw the 6-foot-5, 250-pound freshman Gaines get out of a car and remarked: "I've never seen anything bigger than you but a house."

Bighouse also played basketball, but mainly to stay in shape for football, and never dreamed he would wind up coaching the roundball game.

He graduated from Morgan State in 1945, intending to go to dental school at Howard University, but couldn't come up with $400 for tuition. Instead, he went to Winston-Salem State as an assistant coach, figuring to stay only a year. When head coach Brutus Wilson left in 1946, Gaines, with a year of experience, was named athletic director and head basketball coach—and has been there ever since.

On January 24, 1990, Bighouse coached his 800th victory as the WSSU Rams defeated Livingstone College, 79 to 70. Over 44 years, he has averaged more than 18 wins a season. He has won eight conference titles and the 1967 NCAA College Division Championship. He has had three losing seasons.

Bighouse Gaines already has been inducted into the Basketball Hall of Fame in Springfield, MS (as well as four other Halls of Fame) and has received numerous other honors, including the Paul Robeson Award.

Mr. Speaker, so that our colleagues and others may know more about this remarkable man, I ask that we include in the RECORD at this point two articles by Mike Mulhern in the Winston-Salem Journal entitled, "No. 800 for Bighouse" and "Gaines Hasn't Forgotten His Rough Road to No. 800," both published in January 1990. I also ask that we include an article by John X. Miller and John Myers, entitled "Coach Poised to Attain 800th Victory," from the January 19 USA Today.

The articles follow:

[From the Winston-Salem Journal, Jan. 25, 1990]

No. 800 for Bighouse—Gaines Reaches Milestone in His Illustrious Career as WSSU Basketball Coach

(By Mike Mulhern)

In his 44 years in Winston-Salem, Clarence "Bighouse" Gaines has been through it all, several times over.

With 800 victories, a national championship and Earl "The Pearl" Monroe in his scrapbook, as well as a hallowed spot in the basketball Hall of Fame, what else could a coach want?

Win No. 800 came last night, as Gaines' Rams pulled out a 79-70 victory over Livingstone in Salisbury. (Story, Page 33.)

But the real Bighouse Gaines isn't just the man whose name is on all the plaques and awards that fill trophy case after trophy case at Winston-Salem State University.

Earl Monroe may have become the most famous man to have played for Gaines, but Bill English, the other All-American of that era's national-championship team (he was "William" English then), may know the real Bighouse better than anyone else.

"When House brought me to Winston-Salem State back in 1965, I didn't have any parents, and I didn't have any shoes," English recalled. "'Son,' he told me, 'I'm going to give you an education. The rest you'll have to get on your own.

"He's been a father figure for me, literally. He helped me out as a player, and he's helped me out as a man."

English has endured more than his share of turmoil in the past few years. When his house burned down, he lost everything, including all the clippings about the February night in 1968 when he scored 77 points for Gaines.

Then he faced a medical crisis: surgery to remove two disks in his back. The last three seasons, English missed most WSSU games while recovering, his absence from Bighouse's bench did not go unnoticed. "Clara (Gaines) told me the other day: 'You know why Bighouse is winning again, don't you? It's because you're back,'" English said. "I told her: 'No, ma'am. I'm back because I love the man.'"

English, who runs the Martin Luther King city recreation center, is as huge as Gaines. He played with the Detroit Pistons after he graduated from WSSU in 1969.

"This is my 18th year as an assistant coach with House, and he has changed tremendously since I first met him in 1965. He's mellowed; when he coached Earl and us, he was tough. Now he's leaving the tough stuff for me. But Chief—we all call him the Chief—is still the intimidator. And I'm just happy to be back with him.

"You look at all the games Bighouse has won, and all you see are basketball games. But it's what he does behind the scenes that makes Bighouse what he really is. I know, because I've needed his help. When I had those two disks cut out of my back, he was right there for me, financially and as a friend."

English's eyes well up and his voice grows even softer as he looks out of his tiny office at the youngsters clamoring through the front doors into the rec center in the early afternoon.

"Bighouse and I realize that, when you work with a lot of kids like we both do, some of them are going to get into trouble," English said. "And coach has taught me to take the time to watch out for them when they need help. Coach doesn't leave anyone out in the cold. Coach don't forget about 'em. Not House."

The first thing one notices about Bighouse Gaines is not his size but rather his eyes. Then, you notice his style: folksy, talkative, inquisitive.

Only gradually do you begin to understand his real power: his quick insight, his ability to out-think you on whatever level, whichever subject.

He doesn't have an act he has to go into, a protective facade or routine; he's straight-up. And that's the way he likes it.

"When I go, I want to be remembered as a person who was a straight-shooter," Gaines said. "I try to be honest with everyone. And I expect that from them. I tell my kids, 'Never lie to me, because, if you ever get in any trouble, I may be the only friend you've got.'"

Gaines, now the president of the National Association of Basketball Coaches, didn't plan to spend his life winning 800 basketball games. He didn't expect to spend all those nights on the road with a bunch of teenagers, fighting the cruel vagaries of segregation.

When he arrived in Winston-Salem in the summer of 1945, he was simply looking for a brief job, to make a few bucks.

"I was going to be a dentist," he recalled. "I'd just finished up at Morgan State, and I'd been accepted into dental school at Howard University that fall. But I didn't have a quarter for tuition."

So he accepted a job offer to be assistant coach of everything at WSSU and somehow just never left.

"I guess sometimes the Lord bumps you in the right direction," he said. "I just stumbled into this place. And, at 22, I'd never seen so many pretty girls.

"We were a teacher's college back then, and all we could offer was a degree in elementary education." And now Gaines reveals one of his old recruiting secrets: "But I'd tell the kids that there were six girls for every boy."

Bighouse resisted all those charmers, though, and in 1950 married Clara, a Latin major from the University of Pittsburgh who had come South in the postwar years to find a job. She was teaching Latin at Atkins High School when Gaines began bringing his team over to play in the high school gym.

Clara realizes that he might have been a far richer and more famous man, with all his talents, if the social changes in American society had come sooner.

"But it all came too late for him," she said. "I've told him, if he were white, he'd be president of the United States. He's the CEO type. But he doesn't look back; he might as well not."

Bighouse may live in one of the most famous stretches of basketball highways in America. But as far as his fellow coaches in the Atlantic Coast Conference are concerned, Gaines might as well be playing ball on Mars. Certainly Dean Smith, North Carolina's renowned coach, must be on a first-name basis with Gaines? No, says Gaines: "I see him at meetings, but we live in two different worlds.

"Now, I have an excellent relationship with Billy Packer (the CBS sports analyst). When he was at Wake back in the early 1960s, he'd bring the whole team over here and scrimmage us.

"And I have a lot of admiration for Gene Hooks, Wake's athletics director; I think he does a heck of a job. But I don't think any of the Wake coaches have ever even been over to our campus."

The issue of race is one Gaines has faced every day of his 66 years. And he concedes that it's more than a little ironic that he is now joining the late Adolph Rupp, who coached at the University of Kentucky, as the only men to break the 800-victories mark.

Gaines, who is from Paducah, KY, knows well Rupp's reputation as a man not friendly to blacks.

"I don't think Rupp even had a black dog in his house," Gaines said dryly. And Gaines vividly remembers what life was like growing up in Kentucky, with his parents running a small hotel.

"Rupp had a heck of a record. But remember, who else was recruiting basketball players in the SEC besides him all those years? No one. The need to put an asterisk beside Rupp's name. It's pretty easy to dominate when no one else is offering much competition.

"I remember taking a course on athletic administration at Columbia University, back when I was getting my master's. The professor went into a session about black schools and black administrators. And what he told us, essentially, was the rule of the day was: If you can't keep them niggers in line, we'll find somebody who can.

"You can say, 'Oh, I'm not bitter, But. . . ."

GAINES HASN'T FORGOTTEN HIS ROUGH ROAD TO NO. 800

(By Mike Mulhern)

Life on Tobacco Road has changed a lot since Bighouse Gaines first came to Winston-Salem State. And over the past few weeks, as he rolled toward that magical 800th victory that came against Livingstone, the legendary basketball coach took time to reflect on his 44 seasons on the bench.

Tonight, before the Rams face Fayetteville State, Gaines will be honored by the CIAA, friends, former players and fellow professors. And today has been proclaimed "Bighouse Gaines Day" in the CIAA by Leon Kerry, the commissioner of the conference.

But the pregame hoopla, and all the attention he has received on the march to No. 800, will not wipe away the scars that remain from that era not so long ago when Gaines couldn't even buy his own ticket to watch an N.C. State basketball game in Raleigh.

"The first games I went to at N.C. State were rough," Gaines said. "We could only sit in the worst seats in the house, way up in the far corner of the rafters, with the chauffeurs and the waiters. And the only way we could even get a ticket was to have somebody else buy it for us.

"You couldn't understand it because you haven't been black, but these other coaches felt that a black guy couldn't do anything.

"I remember when we went to one basketball convention and Cal Irvin, the coach at A&T, was going to give a seminar. The sign they put up for his seminar read 'Cal Irvin. North Carolina A&T. On Our Basketball." You knew exactly what they were saying: 'nigger basketball.'

"And yet it' so hard to paint the true picture for you guys. When we drove the team to Baltimore, the only place we could stop between here and there was at Slaughter's Hotel in Richmond. And between here and Slaughter's there might not even be a place to stop and go the bathroom if you were black.

"Whenever we went to Georgia it was like that too. We tried to make sure we had enough gas to get to the Atlanta city limits.

"We took the team to Tuskeegee, Ala, once too, and couldn't find a place to stop.

"You sometimes ask yourself. 'Why did you stay here?' Well, you stayed here the first 20 years because there was no place to go.

"No, I'm not bitter about being black. But it's just so dammed inconvenient," said Gaines, his eyes betraying not bitterness but rather the sadness of it all. "It's all right to be proud and all, but . . .",

When he's not thrashing the blackboard in the gym, or admonishing a student to get his homework in on time, or working the phones in his office, Gaines likes to hang out a the Jetway Barber Shop, around the corner from his Eastside home, and play five-card tonk with the guys.

"When Bighouse walks through that door," said his wife Clara, sitting in the family's new garden-den and nodding toward the front of their home, "he puts all that school stuff out of his mind. I just wish he were a little more handy around the house, though.

"And that gruff act of his, he's really a soft patsy. He only pretends to be gruff."

Gaines office walls are adorned with mementos of basketball trips to nearly every corner of the world, South America, Africa, Europe, the Orient. "I've got a lot of gypsy in me, I guess," Gaines said. "I enjoying traveling."

But there are gaps, gaps Bighouse Baines works every day to try to fill. And the frustration shows on his face. Frustration, sadness, more than anger or bitterness.

"Do I feel respected by the big-power white coaches? Yes, I do . . . when you finally get them to listen to you," Gaines said. "Forget the black-white thing. I just don't think they're cognizant of life below Division I. Those $500,000-a-year coaches believe they're the last word on everything in this business. If I'm proud of anything I've done, I'm proud of having done my best just to let those guys know that Division II sports exist. You guys in the media keep raping us Division II schools, by focusing so much on Division I schools and pretending we don't even count.

"But if I get whipped in a poker game, I'm not going to complain about the hand I was dealt. You just prepare as best you can and go from there.

"And I've been here for more than 40 years, and things haven't changed that much really. Wake Forest can pick up $1.5 million for its athletic program without a sweat. And N.C. State, North Carolina and Duke can't even spend all the athletic money they get.

"I had a television show on WXII once, and our ratings were higher than the Wake Forest show. But I never got to watch it, because it didn't come on till midnight. And then they canceled it because they couldn't find any sponsors. But it can't be the economics, because 40 percent of the people in this town are black. Yet we even have trouble getting ads for our football programs.

"No, there are no spoils that come with all this. This entire department operates on $20,000 a year. And I haven't spent even $5,000 a year on recruiting since I've been here—and the big schools will spend more than that on their telephone bill alone."

In a sense, No. 800 was more than just a milestone for Bighouse Gaines, basketball extraordinaire. It was also a milestone for Winston-Salem State and the city of Winston-Salem.

But, Gaines said, "The city of Winston-Salem has never really accepted Winston-Salem State. If this deal is so important to Winston-Salem, you'd think more people would come out and take a look at what we're doing."

Bighouse Gaines is as at home and as dominating a presence at an Arts Council party or at the Winston-Salem Symphony as he is on 10th Street Bottom.

One of Gaines' biggest joys is his summer camp at WSSU. But this isn't a big-bucks summer camp like many top Division I coaches, and their bankers, enjoy. Gaines has spent the past 12 summers running what at times looks like a kid-salvaging project, as he tries to offer youngsters alternatives to the often drug-infested streets.

"I used to think little girls were all sugar and spice until I started this camp," Gaines said wearily. "Some of these we get will cuss you like a sailor. Their mothers send them here saying, "Bighouse, can you please do something with her?"

"And some of the boys will come up to me and say, 'Hey, Bighouse, I like your camp, and I want to go swimming now. Can you hold this for me?' And then they'll hand you $400 or $500. And you know where they probably got that kind of money.

"It's a challenge. And I keep a big belt here in my office, and if they act up, they get five good whacks. Sometimes it works, sometimes it doesn't. But you've never seen the defiance you'll see in some of these kids."

Gaines, though, loves a challenge.

"The number of wins is really somewhat insignificant to what this is all about—the kids are what's really important," Gaines said.

"I like the game, and I like people. And when you look at all the lives you've touched, and realize the environment you've taken them out of, that makes it worthwhile."

And, wistfully he recalls name after name, memory upon memory: Oris Hill, Willis Johnson, Carl Green Jack DeFates, Cleo Hill, Teddy Blount. . .

Ironically, Earl Monroe, the greatest player Gaines ever coached, didn't make it down for No. 800. His father died two weeks ago.

"And Earl is in bad shape right now, with arthritis from all those years of pounding the courts," said Bill English, Gaines assistant coach and an All-American center on the Monroe teams of the late 1960s. "Earl is hurting; he didn't even make it down for homecoming, and Earl never misses homecoming."

Winston-Salem State is a quiet, peaceful, somewhat sleepy, and rather middle-class college, all in all. There are more than a smattering of 300 Zs and other ritzy machines clogging the twisting campus streets, searching for one of those precious-few parking spots. Of its 2,500 students, 22 percent are white, most of them day students. Construction projects have raged all over campus for years now, after a generation of neglect. Nevertheless, the dorms remain less than first-class accommodations, and Gaines said the dining hall has been there since he first set foot on campus in 1945. One of the dorms, Gaines said, is so bad it should simply be torn down.

"Dean Smith, for example, has everything to work with at North Carolina," Gaines said. "We, though, because of lack of funding, don't have nearly the equipment. There are high schools in this state that have better weight rooms than we can afford here. And I feel we've been fortunate to accomplish what we have with the resources we have.

"The NCAA'S got that $1-billion television contract now. Well, what somebody ought to do is file a class-action suit against the NCAA to force it to share that wealth."

When Gaines started out at WSSU, he didn't even have a gym. "We played our games in what was really a boiler room," he said. "Man, you could set a zone in that place and the other team would need radar to get the ball inside."

Gains is a hands-on coach. He keeps his hands on the money, the key to the gym, and the keys to the bus. And he's not above

using his huge hands to keep his players in line, as English can attest.

"I got my nickname, 'App', from House in a game in '67, "English said with a grin." There were three seconds left in the game, and the score was tied, and House called timeout to set up a play for Earl to shoot. But when I got the ball, I drove to the corner and put up a perfect jumper that hit nothing but net.

"House charged out on the court and slapped the back of my head and yelled, 'You apple-head! I said get the ball to Earl.'

"From then on, when House said it was Earl's shot, it was Earl's shot. I've seen House come across the back of a bunch of heads. He knows how to make his point."

Even John Thompson has felt Gaines' heavy-handed touch.

"John and I drove back one day from Colorado Springs to Denver, and I really lectured him the whole way," Gaines said. "John could have made a bunch of money on the talk circuit, but he's just too abrasive.

"I once had to sit through a dinner with John Thompson on one side and Bobby Knight on the other. Now I think Bobby Knight is one of the greatest humanitarians I've ever known. But those two guys are certainly two of the orneriest SOBs you could ever meet . . . though still two of the nicest guys I've ever known."

Gaines looks lighter on his feet this season than he has in the last few. How much longer does he want to go on? He said he's not even thinking about retirement. Might he try to go for Adolph Rupp's all-time record of 875 wins?

"Coach loves basketball so much I don't think he'll ever get out of it," English said. "When we go out of town to a game, people keep coming up to him all night to shake his hand."

Indeed, it is one of the stranger sights in sports, walking into a foreign gym and watching Bighouse Gaines sitting up in the stands, shaking hands with almost-reverent friends. Grown men lift their kids to his face so he can smile on them.

English said, with some awe, "His presence is something you can just feel. Whenever you see Coach Gaines walking up those steps, you just feel different. You start working a little harder, coaching a little harder."

Gaines is as much an institution as he is a legend. "Hey, don't talk like that," Gaines said with a laugh. "Somebody wants to fire me every day."

When asked about his proudest accomplishments, Gaines pointed not to his many wins, but to the many players who came his way and left WSSU the better for it. And Gaines points with pride to his work in attempting to defuse the bitter racial crisis of the late 1960s in this area.

"Jim Hamilton, who was the athletic director at High Point College, and I would schedule a doubleheader each season," Gaines recalled. "But because of the strict segregation patterns back then, we could never play each other. Now, Jim—and you've got to understand him to understand this—is probably one of the whitest white men I've ever known. He finally said 'House, why are we wasting money? Let's just go ahead and play each other.' And we did."

English said those years, the Monroe years, were a watershed for Gaines. "In 1967 we found ourselves going into places where there were more whites than blacks," English said. "That's when whites started to respect Winston-Salem State and Coach Gaines. When we played St. Augustine's that year in Raleigh, we played it in the N.C. State gym, the only place that could hold all the people. And when we got back from winning the nationals, there were more whites than blacks at the airport to greet us.

"House has had a couple of opportunities to leave and go elsewhere. But we'd talk about it, and he'd say 'App, I'm not going.'

"A man knows when he's found a good home."

COACH POISED TO ATTAIN 800TH VICTORY—GAINES KEEPS GAME SIMPLE FOR GOING ON 43 SEASONS

(By John X. Miller and John Myers)

WINSTON-SALEM, N.C.—When you walk into the athletic center, you are struck by the sight of trophy cases filled with championship memorabilia, brick walls adorned with plaques and scarlet-and-white banners, testaments to a legendary coaching career.

Look closely. You're not at Indiana's Assembly Hall or Kentucky's Rupp Arena. Not even North Carolina's Dean Dome or UCLA's Pauley Pavilion. You're in the Clarence E. Gaines Center at Winston-Salem State University, and it's the house that "Bighouse" built.

For 43 seasons, Clarence "Bighouse" Gaines, 66, has coached and nurtured a college basketball program that has averaged more than 18 wins a season, produced NBA-caliber players and graduated hundreds of men.

Possibly this weekend, Gaines will surpass a threshold only one other college basketball coach, Kentucky legend Adolph Rupp, has crossed: winning 800 games in a career. His overall record is 799-390 after Thursday night's 82-69 victory against Livingstone College.

The milestone could come Saturday at home against North Carolina Central.

Times have changed, but certain things remain the same in Gaines' program. There is no longer an abundance of talent for Gaines' NCAA Division II program. Players prefer the larger, more glamorous Division I programs.

The talent drain aside, Gaines' program epitomizes the same traits today as it did during the glory days of black college basketball: work ethic, holistic understanding of the game and sound skills.

"Basketball is a simple game. People do everything they can to make it complicated," Gaines said. "You help kids master the fundamental skills, then everything falls in place."

How has he won almost 800 games, second only to Rupp's 875? With an up-tempo running style that changes from season to season depending on the caliber of players.

"We go with four basic patterns, teaching kids how to react to situations. Once a kid is able to read his opponent, then he can take what's there," said Gaines, who was inducted in the Naismith Basketball Hall of Fame in 1983.

"It's obvious he knows how to coach and has done it well for years," North Carolina coach Dean Smith said. "It's unfortunate that in the modern television era a lot of people haven't seen his teams play."

Growing up in Paducah, Ky., Gaines lived in the shadow of Rupp's program, but basketball did not fascinate him. He played at Morgan State College only to stay in shape for football, where he had an All-American career. He graduated from Morgan State in 1945 and first coached football at Winston-Salem.

But his legend started with his nickname, Bighouse.

It was given to him when Jimmy Carter, Morgan's business manager, saw the 6-5, 250-pounder get out of a car: "I've never seen anything bigger than you but a house."

While building a top program at Winston-Salem—his teams have won eight conference titles, the 1967 NCAA College Division championship and had only three losing seasons out of 43—Gaines has established a way of life.

"Developing the work ethic is important," Gaines said. "But it's hard to convince kids who have talent that they can't play only off that."

Now there's little time or money for recruiting, so Gaines relies on the same networks he has used for years. He maintains his program through contacts established years ago when segregation restricted black athletes to predominantly black campuses.

"I respect the things he's had to go through in order to achieve what he has," said Georgetown's John Thompson. "When I won the national championship, I pointed out there were several guys of color that had not been given the opportunity I had, and Bighouse was one of the people I was talking about."

Gaines was in large part responsible for Thompson getting Eric "Sleepy" Floyd, who captained Thompson's first NCAA Final Four team in 1982. "I called Bighouse and told him I needed a shooting guard, and he helped me get Eric."

In the 1950s and '60s, Gaines did most of his recruiting through a "key man" system—friends, coaches, former players and alumni who found promising high school players.

Black athletes and parents trust Gaines. He tells parents that "if the kid got nothing else, he'd get an education."

Earl Monroe, the All-American guard who led Winston-Salem to its 1967 NCAA College Division championship, later starred with the NBA's Baltimore (now Washington) Bullets and New York Knicks. He says if it wasn't for Gaines, he might not have gone to school.

Theodore Blunt, a starter for Gaines from 1963-66 and now a city councilman in Wilmington, Del., thanks Gaines for the opportunity to prove himself.

"What impressed me was Gaines' coming all the way to a North Philadelphia playground to watch me play and affording me the chance to get an education," Blunt said.

Harold Bell, a Rams player from 1959-63 and now a sports radio talk show host in Washington, D.C., summed it up best: "He taught me how to play the game of life."

Playing for Gaines means playing by his rules or not at all. He motivates his players to play with a certain amount of fear, but urges them to learn while sitting on the bench and to be ready when called.

"He teaches you that nobody will give anything and that you have to take it if you want it," said senior forward Toby Barber, who led Division II in rebounding (13.6) last year. "That gives you the attitude for working hard . . . to give it all you have."

Gaines has mellowed, but there is an unmistakable ire that players try to avoid.

What does Gaines see as his legacy? The boys he has turned into men, and his role as a catalyst for integration.

"It was a time when sports emerged as a rallying point for communities and fans," Gaines said. "The attitude and phenomenon carried over into other aspects of life. Sports had become a great social force."

Said Billy Packer, CBS basketball analyst who as a Wake Forest University guard played against Gaines' athletes during pickup games:

"He doesn't speak loud, and he doesn't speak long, but he speaks straight. He's one of the people in regard to race relations who has bridged the gap over the years."

When will Gaines quit?

"I enjoy what I am doing. As long as my health stays like it is, I'll continue. The Lord has blessed me in so many ways."